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8-25-80
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federal register

Book 1 of 2 Books
Monday, August 25, 1980

Highlights

56343 **Housing** VA increases maximum interest rate on guaranteed, insured and direct loans for homes and condominiums; effective 8-20-80

56788 **Petroleum Allocation** DOE/ERA amends Entitlements Program provisions related to the Strategic Petroleum Reserve; effective 8-29-80; comments by 9-10-80 (Part IX of this issue)

56682 **Social Services** HHS/HDSO relocates administrative regulations pertaining to social services programs; effective 8-25-80 (Part V of this issue)

56341 **Loan Programs—Interest** HUD/FHC increases FHA maximum interest rate on insured home mortgage loans; effective 8-20-80

56538 **Improving Government Regulations** DOT/Sec'y publishes semiannual agenda of regulations (Part II of this issue)

56358 **Taxes** Treasury/IRS proposes procedures and administration of certain excise taxes; comments by 10-24-80

56380 **Grant Programs—Minority Business** Commerce/MBDA clarifies eligible applicants for one to three awards for up to a total of $600,000 to help with minority business acquisition program; apply by 9-16-80

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

56732	**Oil** DOE/ERA amends crude oil supplier/purchaser regulations; effective 10–1–80 (Part VI of this issue)
56760	**Environmental Quality** DOD/Army publishes regulations regarding policy and procedures for implementing the National Environmental Policy Act; effective 8–25–80 (Part VIII of this issue)
56329	**Feed** USDA/CCC amends Emergency Feed Program regulations to increase maximum cost-share rate; effective 8–22–80, comments by 10–24–80
56349	**Contributions** FEC request comments by 9–24–80 on regulations dealing with contributions or expenditures by corporations or labor organizations for nonpartisan communications
56620, **56624**	**Airports** DOT/FAA revises regulations dealing with airport aid program and acquisition of public land for airport development; effective 3–21–80 and 8–25–80 (Part III of this issue) (2 documents)
56355	**Highways** DOT/FHA proposes amending regulations on administration and construction of forest highways; comments by 10–24–80
56742	**Loan Programs—Transportation** DOT/UMTA proposes requirements governing applications for use of funds for operating assistance; comments by 12–1–80 (Part VII of this issue)
56482	**Privacy** PS gives advance notice of proposed system of records modification
56375	**Environmental Protection** EPA proposes to designate fish cannery waste site in Pacific Ocean; comments by 10–24–80
56668	**Endangered and Threatened Wildlife** Interior/FWS amends provisions for the importation, exportation and transportation of wildlife; effective 9–24–80 (Part IV of this issue)
56494	**Sunshine Act Meetings**

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1980-81 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of Spearmint Oil produced in the Far West, by class, that may be freely marketed by handlers from the 1980 crop. The action is taken under Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West to promote orderly marketing conditions.

EFFECTIVE DATE: For the marketing year June 1, 1980 through May 31, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., (202) 447-5053. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant". The proposal was published in the August 5, 1980, issue of the **Federal Register** (45 FR 51818) and allowed until August 12, 1980, for filing comments. No comments were received.

It is found that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that: (1) The 1980-81 marketing year began June 1, 1980, and handlers have started handling oil; (2) producers are cutting spearmint hay, distilling oil, and delivering oil to handlers; (3) no useful purpose would be served by delaying the effective date of this action; and (4) the Committee held open meetings on May 22-23 and June 18, 1980, after giving notice thereof and interested persons were given the opportunity to submit information and views at those meetings.

The salable quantity and allotment percentage for each class of spearmint oil is established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon a recommendation and information submitted by the Spearmint Oil Administrative Committee. The Committee is the agency established under the order.

It is further found that establishing the salable quantity and allotment percentage for each class of oil as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, a new Subpart titled "Subpart—Salable Quantities and Allotment Percentages" and a new section under this subpart is added as follows:

Subpart—Salable Quantities and Allotment Percentages

§ 985.200 Salable quantities and allotment percentages—1980-81 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which began June 1, 1980, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 1,000,000 pounds and an allotment percentage of 85 percent.

(b) "Class 2" Oil—a salable quantity of 30,000 pounds and an allotment percentage of 50 percent.

(c) "Class 3" Oil—a salable quantity of 1,100,000 pounds and an allotment percentage of 75 percent.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 19, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 80-25819 Filed 8-22-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

[Amdt. 1]

7 CFR Part 1474

Emergency Feed Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation is amending its Emergency Feed Program regulations to increase the maximum cost-share rate to be paid to eligible livestock owners from two cents per pound of feed grain equivalent to three cents per pound of feed grain equivalent, and to provide a clarification of the standards for establishing feeding periods. The increase is necessary because the present pay limitation of 2 cents per pound is less than 50 percent of average feed cost in drought inflicted areas. The additional assistance is essential for continuing livestock production for many producers at the present time.

EFFECTIVE DATE: This regulation shall become effective August 22, 1980.

DATE: Comments must be received on or before October 24, 1980.

ADDRESS: Director, Emergency and Indemnity Programs Division, Agricultural Stabilization and Conservation Service (ASCS), USDA, P.O. Box 2415, Room 4095, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095, South Building, Washington, D.C. 20013, (202) 447-7997. The Final Impact Statement describing the options considered in developing this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not significant. Jerry W. Newcomb, Director, Emergency and Indemnity Programs Division, ASCS,

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USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because of the rapidly expanding drought area and the high prices currently being changed for livestock feed in drought afflicted areas.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be received for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Section 1105 of the Food and Agriculture Act of 1977 authorized the Secretary of Agriculture to implement an Emergency Feed Program (EFP) to assist in the preservation and maintenance of livestock in any area of the United States including Puerto Rico, Guam, and the Virgin Islands of the United States, where because of flood, drought, fire, hurricane, earthquake, storm or other natural disaster, the Secretary determines that an emergency exists. The objective of the program is to pay eligible livestock owners a portion of the cost of feed purchased to replace that which is nomally produced on the farm, but was not produced because of a disaster.

Discussions with ASCS State offices indicate that prices being paid for feed in the drought areas are currently exceeding six cents per pound. Continuation of the present two cents payment limitation would restrict most producers to only about a 33 percent cost-share, rather than a cost-share approximating 50 percent of the feed cost. The additional assistance is critical for continuing livestock production for many procedures during this period of cost-price squeeze on farm income. Also being included in this final rule is a clarification of standards for establishing feeding periods.

It has also been determined that the new payment limitation should be effective for all feeding periods beginning on or after July 1, 1980. The feeding period commences on the date on which an application for the program is filed by the producer.

The July 1, 1980 date has been chosen for the following reasons. First, this action is necessitated by the unusual severity of the 1980 drought. Applications for losses suffered as the result of the 1980 drought were just beginning to be filed at that time. Second, prior to July 1, 1980, in accordance with normal procedure, feeding periods were being established for 30 to 60 days. However, the severity of the drought necessitated the establishment of feeding periods for the entire crop year. This option was available for applications filed after July 1, 1980. Use of a date later than July 1, 1980 would, therefore, likely result in a substantial number of similarly situated producers being made subject to different payment limitations for the entire crop year simply because of the date on which their applications were filed. Third, the recent substantial rise in feed grain costs, on which basis the payment limitation is being raised, did not occur until mid-July. Consequently, it is appropriate that the new payment limitation be effective for applications filed on or after July 1, 1980.

The public is invited to submit written comments regarding these changes in the Emergency Feed Program, to the Director, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013. Persons submitting comments should include their names and address and give reasons for the comments. Copies of all written comments received will be available for review by interested persons in Room 4095 South Building, USDA during regular business hours.

The title and number of the federal assistance program that this Final Rule applies to this Title—Emergency Feed Program; Number—10.066 as found in the catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact specifically on area and community development. Therefore review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Proposed Rule

Accordingly, 7 CFR, Part 1475, §§ 1475.52, 1475.55, and 1475.56 are amended to read as follows:

1. In § 1475.52, paragraph (k) is revised.

§ 1475.52 Definitions.

* * * * *

(k) "Feeding period" means the period (1) beginning on the date of application and (2) ending on the date when additional feed is normally expected to become available but not later than the end of the grazing period when pasture is the only crop produced. At the request of the applicant, and with the concurrence of the county committee, the feeding period may be established for the period beginning on the date of the application and ending at the end of the crop year, if it is determined by the county committee that the nature and severity of the natural disaster warrant such action.

2. In § 1475.55, paragraphs (d)(3) and (e)(2) are revised.

§ 1475.55 Application and approval.

* * * * *

(d) *Determining loss of production.*

* * * * *

(3) Any loss of production otherwise computed shall be reduced: (i) by the amount of loss attributable to an acreage of pasture for which any deferred grazing payment may have been earned in the current crop year; (ii) by the amount of any payment under the Disaster Payment Program for feed grain computed in accordance with Part 713 of this chapter and (iii) by the amount of any benefits received through insurance or any other indemnification for current year feed lost either in storage or during production. Where the feeding period begins prior to July 1, 1980 such payment or reimbursement shall be converted to grain equivalent based on the larger of four cents per pound or the local market buying price of the crop at the time the applciation is filed. Where the feeding period begins on or after July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of six cents per pound or the local market buying price of the crop at the time the application is filed.

(e) *Determining feed available.* (1)

* * *

(2) The amount of feed otherwise determined to be on hand shall be (i) reduced by the amount of any purchased feed on hand; (ii) increased by the amount of any payment under the Disaster Payment Program for feed grain computed in accordance with Part 713 of this chapter and the amount of any benefits received through insurance or any other indemnification for current year feed lost either in storage or during production. Where the feeding period begins prior to July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of four cents per pound or the

local market buying price of the crop at the time application is filed. Where the feeding period begins prior to July 1, 1980. Where the feeding period begins on or after July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of six cents per pound or the local market buying price of the crop at the time the application is filed.

* * * * *

3. In § 1475.56, paragraph (a) and paragraph (c) are revised in their entirety.

§ 1475.56 Amount of assistance.

(a) Based on the presentation of acceptable evidence of purchase, the owner shall be reimbursed at the rate of 50 percent of the cost of eligible feed purchased (1) not to exceed two cents per pound of feed grain equivalent for feeding periods beginning prior to July 1, 1980 and (2) not to exceed three cents per pound of feed grain equivalent for feeding periods beginning on or after July 1, 1980. In no case may assistance be provided on an amount greater than the total feed allowance computed according to Section 1475.55(f)(3).

* * * * *

(c) Eligible costs of purchase feed are limited to the purchase price at the point of possession and may include: (1) Items of cost normally associated with the preparation of mixed feed. (2) The cost of leasing or purchasing temporary pasture, range or other grazing, *providing,* the resulting assistance does not exceed the smaller of 50 percent of the cost of the grazing per eligible animal unit per day or (i) 20 cents per day per animal unit for feeding periods beginning prior to July 1, 1980, or (ii) 30 cents per day per animal unit for feeding periods beginning on or after July 1, 1980. (3) The cost of feed for eligible livestock in a feed lot, *provided,* assistance is limited to the smaller of 50 percent of the cost per eligible animal unit per day or (i) 20 cents per day per eligible animal unit for feeding periods beginning prior to July 1, 1980, or (ii) 30 cents per day per eligible animal unit for feeding periods beginning on or after July 1, 1980.

Signed at Washington, D.C. on August 15, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80–26010 Filed 8–22–80; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–NW–12–AD; Amdt. 39–3821]

Boeing Model 707/720 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule—correction.

SUMMARY: This amendment corrects the final rule published earlier in this docket by adding language included in the Notice but inadvertently omitted in the rule which would make it clear that the amendment applies to the associated fittings as well as to the diagonal brace which is the subject of the rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: In the amendment published herein on June 30, 1980, (45 FR 43695), the words "and associated fittings" were inadvertently omitted following the words "nacelle strut diagonal brace" in the adoption of the amendment. The fittings associated with the brace were the subject of the NPRM requiring inspection. There were no adverse comments to this aspect of the proposal and it was not intended to omit the fittings from the inspection requirements. This is corrected herein.

Since this change is clarifying in nature, notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80–19583, appearing at page 43695 in the issue of Monday, June 30, 1980, is amended as follows:

The words "and associated fittings" are added immediately following the words "nacelle strut diagonal brace" in paragraph A.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 15, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80–25545 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–WE–38–AD; Amdt. 39–3897]

Hiller UH–12 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections for evidence of skin bond separation and root doubler delamination on main rotor blades on Hiller UH–12 helicopters. The AD is needed to prevent main rotor blade structural failure which could result in loss of control of helicopter.

DATE: Effective September 2, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from:

Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93275.

Also, a copy of service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or
Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION: There have been reports of Hiller Aviation main rotor blades P/N 53200–03 experiencing root doubler delaminations. As a result, a Hiller Aviation Service Letter dated June 11, 1979 was issued which required the doubler bonds to be visually checked before each flight and a recurring inspection every 50 hours. Since then, product improvements were made and the bond edges sealed on some main rotor blades. These blades have not experienced doubler delamination and are so designated by serial numbers in the adoption of the amendment as exceptions to this AD. Blades that have not been sealed continue to have doubler delamination and as a result are part of this AD.

A skin bond separation in flight at the tip of a Hiller Aviation main rotor blade P/N 53200–03 has occurred which resulted in excessive vibration and a forced landing. The skin of the blade had separated from the spar and the honeycomb a distance of approximately two feet from the tip. Sealant had not been applied to this blade.

Since the root doubler and skin delamination are likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires inspection of certain model main rotor blades on Hiller UH–12 Helicopters.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Hiller Aviation: Applies to Models UH–12D, UH–12E, UH–12E4, series helicopters, including military models, OH–23F, and OH–23G and all models converted by STC 178WE and STC 177WE, equipped with main rotor blades P/N 53200–03, serial numbers 038 through 286 except serial numbers 039, 040, 047, 048, 055, 057, 058, 062, 075, 076, 080, 083, 084, 087, 092, 093, 094, 107, 109, 123, 124, 133, 150, 151, 152, 153, 162, 169, 171, 184, 186, 187, 188, 193, 194, 195, 197, 202, 205, 209, 211, 213, 218, 220, 221, 227, 228, 229, 231, 232, 234, 235, 236, 237, 238, 243, 248, 253, 254, 256, 257, 258, 260, 262, 264, 266, 267, 271, 272, 273, 274, 279, 280, and 283.

Compliance is required as indicated, unless already accomplished.

To prevent possible main rotor blade failure due to the delamination of the doublers or the skin, accomplish the following:

(a) Upon receipt of this AD and prior to further flight:

(1) Visually check the main rotor blade root doubler area for evidence of delamination. This check includes all doublers on the leading and trailing edge surfaces, upper and lower, from the fork attachment plate to the tip of the outboard doubler. Delamination will be evidenced by a lifting of the doubler edges and/or cracks in the painted surface.

The check required by this AD may be performed by the pilot provided his logbook is endorsed by a properly rated mechanic to state that the pilot has been trained to conduct the check required by paragraph (a)(1) of this AD.

Note.—A maintenance record entry showing compliance and method of compliance with this AD is required by FAR 91.173 (also FAR 121.380 where appropriate).

(2) If delamination is found, comply with paragraph (g).

(b) Repeat preflight visual checks of the doubler area in accordance with paragraph (a) prior to all subsequent flights.

(c) Within 50 hours time in service from the effective date of this AD, inspect the main rotor blade root doubler area for evidence of delamination in accordance with paragraph 2.B of Hiller Aviation Service Letter 51–3A, dated June 11, 1979. If delamination is found, comply with paragraph (g).

(d) Thereafter, at intervals not to exceed 50 hours time in service since the inspection referenced in paragraph (c) above, repeat the inspection required by paragraph (c). If delamination is found, comply with paragraph (g).

(e) Within 100 hours time in service from the effective date of this AD, inspect main rotor blades for evidence of skin delamination in accordance with paragraph 2.A of Hiller Aviation Service Bulletin S/B UH–12–51–7, dated July 23, 1980. If delamination is found, comply with paragraph (h).

Note.—Particular attention should be given to the tip area wherein an incident of bond separation of the skin leading edge was reported.

(f) Thereafter, at intervals not to exceed 100 hours time in service since the inspection referenced in paragraph (e) above, repeat the inspection required by paragraph (e). If delamination is found, comply with paragraph (h).

(g) If the visual check or inspection of the main rotor blade root doublers indicates delamination, replace the blade with a like serviceable part before further flight.

(h) If the inspection of the main rotor blade reveals skin delamination, replace the blade with a like service part before further flight.

(i) Mark all rejected blades "Unairworthy" on the blade upper surface at the approximate mid-span with lettering at least 2 inches high, and using a metal stamp, mark "Unairworthy" on data plate.

(j) All checks and inspections are to be recorded in aircraft maintenance records.

(k) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 2, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on August 13, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80–25542 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–WE–24–AD; Amdt. 39–3896]

Sperry Flight Systems Avionics Division STARS Flight Director Instrument System; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an installation wiring change on the STARS Flight Director Instrument System. The AD is needed to prevent an erroneous glide slope display to the flight crew, which could occur under certain circumstances and cause the pilot to believe that the aircraft was on proper glide slope when, in fact, it was not, and was possibly in jeopardy of contacting the ground.

DATES: Effective September 29, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESS: The applicable service information may be obtained from:

Sperry Flight Systems, Avionics Division, P.O. Box 29000, Phoenix, Arizona 85036.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring an installation wiring change on STARS Flight Director Instrument System was published in the **Federal Register** on June 9, 1980 at 45 FR 38402. The proposal was prompted by a report of an invalid presentation of glide slope information on the Sperry Flight Systems, Avionics Division, STARS Flight Director System.

Interested persons have been afforded an opportunity to participate in the making of the amendment. There were two comments received in response to this NPRM. Both commentators concur with the adoption of this Airworthiness Directive. The manufacturer, one of the commentators, suggested clarifying language in certain places. The manufacturer also advised that they are correcting a typographical error in the Revision 1 date to the Sperry Technical Newsletter 23—1979–02 by issuing Revision 2 dated July 11, 1980 without change of technical content of the document. The FAA has incorporated the changes suggested by Sperry Flight Systems.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Sperry Flight Systems, Avionics Division: Applies to the STARS, (Sperry Three Axis Reference Systems), Flight Director Systems installed on aircraft certified in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible erroneous presentation of glide slope information, accomplish the following:

(a) Within the next 100 hours' time in service from the effective date of this AD, or within 60 days from the effective date of this AD, whichever occurs sooner, revise the circuit hook-up so that the +28V bias voltage into receptable J1–b, on the Sperry HSI RD 044 (P/N 2592920–44), RD 444 (P/N 2592920–444) is moved from the +28V dc source, (usually the Flight Director Circuit Breaker), to the +28V dc circuit breaker supplying the glide slope receiver.

Note.—Sperry Flight Systems Division, Maintenance Manual for STARS Flight Director Instrument System, Pub. No. 15–3321–01 dated 30 November 1969, revised 20 February 1980, shows proper connections.

Note.—Sperry Flight Systems Technical Newsletter 23–1979–02, Revision 1 dated March 20, 1979, and Revision 2 dated July 11, 1980 refer to this subject. Revision 2 was published to correct typographical error in Revision 1 issue date. The technical content is not changed.

Note.—Beech Aircraft Corporation letter 900 380–281 dated 19 March 1980 refers to STARS installation in Beech Model 90, 100 and 200 aircraft.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 29, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on August 13, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80–25543 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 80–ASW–16; Amdt. 39–3883]

Swearingen Models SA226–AT and SA226–TC Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Swearingen Models SA226–AT and SA226–TC airplanes so that the Chief, Engineering and Manufacturing Branch, ASW–210, may approve alternate methods of compliance with the AD. The amendment is needed to allow the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, to adjust the required relationship between the measurements required by paragraph (b) of the AD to account for allowable tolerance of the diameter of the cargo door click-clack receptacle holes.

DATES: Effective August 26, 1980.

ADDRESSES: The applicable service information may be obtained from the Director of Products Support, Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284.

These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Milton G. Martin, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas telephone number (817) 624–4911, extension 516.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–3758, 45 FR 29004, AD 80–09–08, which currently requires inspection of the latching mechanism of the aft cargo door to assure proper adjustment, operation, and structural integrity. After issuing Amendment 39–3758, the FAA determined that the required relationship between the measurements required by paragraph (b) of the AD may be altered without derogating an equivalent level of safety. It is, therefore, necessary that the Chief, Engineering and Manufacturing Branch, ASW–210, have the authority to adjust the required relationship between the measurements required by paragraph (b) of the AD. Therefore, the FAA is amending Amendment 39–3758 by adding a paragraph to allow the Chief, Engineering and Manufacturing Branch, ASW–210, to approve alternate methods of compliance.

Since this amendment provides alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3758, 45 FR 29004, AD 80–09–08 by adding the following new paragraph at the end thereof:

Alternate methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, Fort Worth, Texas.

This amendment becomes effective August 26, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Fort Worth, Texas, on August 5, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80–25546 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 79-NE-10; Amdt. 39-3894]

Airworthiness Directives; Sikorsky S-76A Series Helicopters, Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Sikorsky S-76A series helicopters certificated in all categories by changing part numbers that were stated incorrectly in the existing AD and by relaxing the existing compliance time interval for the horizontal stabilizer support structure fitting under specified conditions.

DATES: Effective—August 21, 1980. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Stephen J. Soltis, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3794, 45 FR 39833, AD 80-12-11. After issuing Amendment 39-3794, the FAA was advised that the manufacturer had changed the part numbers for the horizontal stabilizer support fitting spar clamps from 76070-20020-041 and -042 to 76070-20020-043 and -044.

Additionally, this amendment relaxes the existing compliance time interval for the 76080-20047-041 (76209-04001-106 reference) horizontal stabilizer support structure fitting only if the 76200-06000-059 horizontal stabilizer assembly with 2.4 pounds shot dampers is installed in conjunction with the 76070-20020-043 and -044 spar clamps.

Since a situation exists that requires immediate adoption of this regulation and such action will relax an existing requirement, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3794 (45 FR 39833), AD 80-12-11, as follows:

1. By striking out part numbers 76070-20020-041 and -042 as they appear in paragraphs 3.I.C. NOTE, 3.IV, 3.IV.A., and 3.V, and inserting part numbers 76070-20020-043 and -044 in lieu thereof.

2. By revising the compliance statement in paragraph 4.I. to read as follows:

Note.—Paragraphs 4.I.A., 4.I.B, and 4.I.C. remain the same.

"4. Aft Tail Cone Structure.

I. Compliance required, except as noted herein, before the accumulation of 100 hours time in service, unless already accomplished within the last 15 hours time in service, and thereafter at intervals not to exceed 15 hours time in service from the last inspection.

Exception: For aircraft incorporating all of the following modifications and installations, compliance required before the accumulation of 100 hours time in service, unless already accomplished within the last 30 hours time in service and thereafter at intervals not to exceed 30 hours time in service from the last inspection:

76080-20047-041, Production Modification Increased Bolt Diameter Stabilizer Fitting, Fitting Assembly (76080-20047-011, -012, -013, installation drawing (reference))

76200-06000-059, Horizontal Stabilizer (Retrofit Kit 76070-20003-013 (reference) 2.4 pounds shot total)

76070-20020-043 and -044, Fitting Assembly—Horizontal Stabilizer, Steel Retention Fittings (Kit Retrofit Horizontal Stabilizer Fitting Installation, 76070-20020-011 (reference))"

This amendment to FAR Part 39 becomes effective August 21, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 13, 1980.

J. Stiglin,

Acting Director, New England Region.

[FR Doc. 80-25547 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-SO-30, Amdt. No. 39-3895]

Piper Model PA-31 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Piper PA-31 series airplanes, equipped with turbocharged engines by allowing the FAA to adjust the repetitive inspection intervals upon review of substantiating data. The amendment is needed in order to avoid placing undue burden on operators with approved regular maintenance schedules different from the inspection schedules specified in the AD.

DATES: Effective September 1, 1980. Compliance as prescribed in body of AD.

FOR FURTHER INFORMATION CONTACT: Gil Carter, ASO-214, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3483 (44 FR 31941), AD 79-12-03, which currently requires the inspection of turbocharger exhaust flanges, couplings, and coupling bolts for cracks, damage and distortion on certain Piper Model PA-31 series airplanes. This AD also requires component replacement, if necessary. After issuing Amendment 39-3483, the FAA has determined that some operators have approved regular maintenance schedules which may vary from the inspection schedules specified in the AD and that compliance with the AD inspection schedules place an undue burden on these operators. Therefore, the FAA is amending Amendment 39-3483 by providing for adjustments to the repetitive inspection intervals specified in the AD upon review of substantiating data submitted to the FAA.

Since this amendment provides for adjustment to the inspection intervals and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3483 (44 FR 31941), AD 79-12-03, as follows:

Add the following paragraph after paragraph (g):

(h) Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, may adjust the repetitive inspection intervals specified above.

This amendment becomes effective September 1, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Ga., on August 13, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-25733 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-23]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Beaufort, S.C., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule redesignates the Beaufort, South Carolina, control zone from part-time to full-time. It is necessary to alter the control zone description to reflect the hours of operation.

EFFECTIVE DATE: October 30, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, June 23, 1980 (45 FR 41966), in which the Department of the Navy proposed to increase the operating hours of the control zone from part-time to full-time for operations at the Beaufort Marine Corps Air Station (MCAS). No objections were received in response to the notice.

Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (45 FR 356) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, October 30, 1980, by deleting all after the following:

Beaufort, S.C.

"* * * northeast of the RBN * * *"

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 15, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-25552 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-38]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone: San Antonio, Tex. (Randolph Air Force Base)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is an alteration of the control zone at San Antonio (Randolph AF Base), Texas. The intended effect of the action is to provide controlled airspace for aircraft executing new instrument procedures to Randolph AF Base. A review of the current control zone and the establishment of the Randolph Very High Frequency Omni Range Station (VOR) revealed the need for controlled airspace to protect aircraft executing instrument approach procedures.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The Randolph VOR has been commissioned and a review of the required airspace for the protection of aircraft executing instrument approaches to Randolph AF Base reveals that the control zone is in excess of the required controlled airspace. Reduction of the control zone area will not eliminate that airspace required for the protection of aircraft executing instrument approach procedures to Randolph AF Base. Since this action releases controlled airspace, circulation and public notice of this action is not considered necessary.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the San Antonio (Randolph AFB), Tex., control zone. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to Randolph AFB.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) is amended, effective 0901 GMT, October 30, 1980, as follows:

In Subpart F, 71.171 (45 FR 356), the San Antonio (Randolph AFB), Tex., control zone is altered as follows:

San Antonio (Randolph AFB), Tex.

That airspace within a 5-mile radius of Randolph AFB (latitude 29°31'43"N., longitude 98°16'40"W.), and within 1.5 miles each side of the 334° radial of the Randolph VOR (latitude 29°31'08"N., longitude 98°17'05"W.) extending from the 5-mile radius area to 6 miles northwest of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on August 14, 1980.

Paul N. McMullen,

Director, Southwest Region.

[FR Doc. 80-25550 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-26]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Russellville, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Russellville, Kentucky, 700-foot Transition Area. A public use standard instrument approach procedure has been developed for the Russellville-Logan County Airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: September 18, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Alton L. Matthews, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, June 23, 1980 (45 FR 41967), which proposed the designation of the Russellville, Kentucky, Transition Area. No objections were received from this notice.

This action provides controlled airspace protection for IFR operations including the VOR/DME Runway 24 instrument approach procedure, at the Russellville-Logan County Airport. The airport operating status is hereby changed from VFR to IFR.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901-GMT, September 18, 1980, by adding the following:

Russellville, Ky.

That airspace extended upward from 700 feet above the surface within a 6.5-mile radius of the Russellville-Logan County Airport (Lat. 36°47′57″N., Long. 86°48′40″W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 13, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-25549 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AAL-6]

Alteration of the Anchorage Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Anchorage, Alaska, transition area by designating a 9,500 foot MSL floor area southeast of Anchorage. This action provides more efficient air traffic service to the airspace users along with fuel savings by using radar vectoring procedures above 9,500 feet.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: On July 3, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Anchorage, Alaska, Transition Area by lowering the floor of controlled airspace to 9,500 feet MSL southeast of Anchorage (45 FR 45308). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. This is the same as that proposed in the notice. Section 71.181 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 445).

The Rule

This amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Anchorage, Alaska, Transition Area by lowering the floor of controlled airspace to 9,500 feet MSL southeast of Anchorage. This action lowers the transition area floor in a large area from the 090°T radial clockwise to the 165°T radial within a 172-mile radius of the Anchorage VORTAC. With the planned establishment of an en route ATC radar facility on Middleton Island, this airspace is needed to provide more efficient service to the airspace user. This would be accomplished by radar vectoring and direct flight in controlled airspace above 9,500 feet MSL.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., October 30, 1980, by amending the Anchorage, Alaska, Transition Area by deleting all the text after the words:

"within an 85-mile radius of the Anchorage VORTAC;" and substituting for them the words "that airspace extending upward from 9,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 090° radial clockwise to the 165° radial, excluding the portions within federal airways, Control 1310, Control 1218, the Middleton Island, Alaska, Johnstone Point, Alaska, Cordova, Alaska, and the Valdez, Alaska, transition areas and the Anchorage Oceanic Control Area; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 165° radial clockwise to the 090° radial excluding the portions within the United States, federal airways, Control 1218 and the King Salmon, Alaska, Transition Area."

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25727 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-PC-5]

Revocation of Eniwetok Island Control Area Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the Eniwetok Island control area extension. The U.S. Air Force has advised the FAA that there is no longer a military requirement for continued use of the Eniwetok NDB and the airspace to protect the instrument approach procedures associated with them. This action revokes the airspace associated with the cancelled procedures.

EFFECTIVE DATE: September 24, 1980.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to § 71.165 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the Eniwetok Island control area extension. All instrument approach procedures were suspended by NOTAM, and were deleted from publication on July 10, 1980. This action revokes the protected airspace associated with the procedures. Accordingly, I find good cause that notice and public procedure thereon are impractical and unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.165 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 355) is amended, effective 0901 G.m.t., September 24, 1980 by deleting the title and text of the Eniwetok Island control area extension in its entirely.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(a)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25729 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 18605/79-APC-1]

Establishment of Group II Terminal Control Area Honolulu, Hawaii

Correction

In FR Doc. 80-24378, appearing at page 54015 in the issue for Thursday, August 14, 1980, on page 54025, in the middle column, in the paragraph beginning "*Area F.*", in the fourth line, "northeast" should be corrected to read "northwest."

BILLING CODE 1505-01-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 80-ANW-10]

Amendment to Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action lowers the upper vertical limit of R-6713A, Whidbey Island, Wash., and deletes R-6713B and R-6713C, Whidbey Island, Wash., as a result of a change in the U.S. Navy's operational requirement for restricted airspace in this vicinity. This amendment reduces the burden on the public by returning airspace to public use.

EFFECTIVE DATE: September 24, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to lower the upper vertical limit of R-6713A, Whidbey Island, Wash., from 5,000 feet MSL to 1,000 feet AGL, and to delete in their entirety R-6713B and R-6713C, Whidbey Island, Wash. To reflect the deletion of subdivisions, R-6713A is designated as R-6713. The U.S. Navy's operational requirements have changed to the extent that restricted airspace above 1,000 feet AGL is no longer required to segregate hazardous activity from nonparticipating aircraft. Because this action reduces the burden on the public by restoring airspace to public use, I find that notice and public procedures are unnecessary. Parts 71 and 73 were republished in the **Federal Register** on January 2, 1980 (45 FR 346 and 726).

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) change the designated altitude of R-6713A to read "surface to 1,000 feet AGL" and delete R-6713B and R-6713C in their entirety. "R-6713A" is redesignated as "R-6713" to reflect the deletion of subdivisions.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.151 of Part 71 and § 73.67 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 346 and 726) are amended, effective 0901 G.m.t., September 24, 1980, as follows:

In § 71.151

"R-6713C Whidbey Island, Wash." is deleted.

In § 73.67

1. Under "R-6713A Whidbey Island, Wash."

a. "R-6713A" is deleted and "R-6713" is substituted therefor.

b. "Designated altitudes. Surface to 5,000 feet MSL (less exclusions)." is deleted and "Designated altitudes. Surface to 1,000 feet AGL." is substituted therefor.

2. "R-6713B Whidbey Island, Wash." title and text are deleted in their entirety.

3. "R-6713C Whidbey Island, Wash." title and text are deleted in their entirety.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C 1348(a), 1354(a)); sec. 6(c),

V 45 AG 25 80 UMI

Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 19, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25731 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 20628; Amdt. 1171]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendement establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

. . . *Effective October 30, 1980*

Saginaw, MI—Tri-City, VOR Rwy 5, Amdt. 12
Saginaw, MI—Tri-City, VOR Rwy 14, Amdt. 10
Saginaw, MI—Tri-City, VOR Rwy 23, Amdt. 11
Saginaw, MI—Tri-City, VOR Rwy 32, Amdt. [illegible]

. . . *Effective October 2, 1980*

Enterprise, AL—Enterprise Muni, VOR Rwy 5, Original
Chandler, AZ—Stellar Airpark, VOR-A, Original
Chandler, AZ—Stellar City Air Park, VOR Rwy 35, Original, cancelled
Oxnard, CA—Oxnard, VOR Rwy 7, Amdt. [illegible]
Oxnard, CA—Oxnard, VOR Rwy 25, Amdt. 6
Olney-Noble, IL—Olney, Noble, VOR/DME-A, Amdt. 3
Albia, IA—Albia Muni, VOR/DME-A, Amdt. 1
Forest City, IA—Forest City Muni, VOR/DME-A, Amdt. 1
Oelwein, IA—Oelwein Muni, VOR-A, Amdt. 1

Waverly, IA—Waverly Muni, VOR-A, Amdt. 1
Salina, KS—Salina Muni, VOR Rwy 17 (TAC), Amdt. 13
Cambridge, MD—Cambridge-Dorchester Muni, VOR-A, Amdt. 3
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 5, Amdt. 8
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 23, Amdt. 8
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 32, Amdt. 8
Mankato, MN—Mankato Muni, VOR Rwy 15, Amdt. 3
Mankato, MN—Mankato Muni, VOR/DME Rwy 15, Original
Mankato, MN—Mankato Muni, VOR Rwy 33, Amdt. 4
Mankato, MN—Mankato Muni, VOR/DME Rwy 33, Original
Gulfport, MS—Gulfport-Biloxi RGNL, VOR Rwy 13 (TAC), Amdt. 18
Monroe City, MO—Monroe City Regional, VOR/DME-A, Amdt. 1
Warrensburg, MO—Skyhaven, VOR Rwy 13, Amdt. 1
Warrensburg, MO—Skyhaven, VOR Rwy 18, Original
Wellsville, NY—Wellsville Muni Arpt-Tarantine Field, VOR-A, Amdt. 2
Lumberton, NC—Lumberton Muni, VOR Rwy 5, Amdt. 3
Lumberton, NC—Lumberton Muni, VOR Rwy 13, Amdt. 3
Waxhaw, NC—Jaars-Townsend, VOR/DME-A, Amdt. 1

. . . *Effective September 18, 1980*

Olathe, KS—Johnson County-Executive Airport, VOR Rwy 17, Amdt. 3
Olathe, KS—Johnson County-Executive Airport, VOR Rwy 35, Amdt. 7
Olathe, KS—Johnson County Industrial, VOR-A, Amdt. 2
North Platte, NE—Lee Bird Field, VOR Rwy 35, Amdt. 14

. . . *Effective September 4, 1980*

Lakeland, FL—Lakeland Muni, VOR Rwy 13, Amdt. 1
Lakeland, FL—Lakeland Muni, VOR Rwy 27, Amdt. 2
Muscatine, IA—Muscatine Muni, VOR Rwy 5, Original
Muscatine, IA—Muscatine Muni, VOR/DME Rwy 12, Original
Muscatine, IA—Muscatine Muni, VOR/DME-A, Amdt. 3, cancelled
Muscatine, IA—Muscatine Muni, VOR Rwy 23, Original
Muscatine, IA—Muscatine Muni, VOR Rwy 30, Original
Princeton, ME—Princeton Muni, VOR Rwy 15, Amdt. 8
Beaver Falls, PA—Beaver County, VOR Rwy 28, Amdt. 6

. . . *Effective August 8, 1980*

Spencer, IA—Spencer Muni, VOR Rwy 12, Amdt. 5
Spencer, IA—Spencer Muni, VOR Rwy 30, Amdt. 5

. . . *Effective August 4, 1980*

Hayward, WI—Hayward Muni, VOR Rwy 2, Amdt. 3
Hayward, WI—Hayward Muni, VOR Rwy 20, Amdt. 3

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

. . . *Effective October 30, 1980*

Saginaw, MI—Tri-City, LOC BC Rwy 23, Amdt. 6, cancelled

. . . *Effective October 2, 1980*

Chicago, IL—Chicago Midway, LOC Rwy 31L, Amdt. [illegible]
Chicago, IL—Chicago-O'Hare Intl, LOC Rwy 4L, Amdt. 16
Salisbury, MD—Salisbury-Wicomico County Regional, LOC (BC) Rwy 14, Amdt. 2
Greenville, MS—Greenville International, LOC BC Rwy 35R, Amdt. 6
Maxton, NC—Laurinburg-Maxton, SDF Rwy 5, Amdt. 1

. . . *Effective September 4, 1980*

Beaver Falls, PA—Beaver County, LOC Rwy 10, Original
Huron, SD—Huron Regional, LOC/DME BC Rwy 30, Amdt. 5

. . . *Effective August 7, 1980*

Houston, TX—William P. Hobby, LOC BC Rwy 22, Amdt. 20

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . *Effective October 30, 1980*

Perry, IA—Perry Muni, NDB Rwy 31, Amdt. 2
Saginaw, MI—Tri-City, NDB Rwy 5, Amdt. [illegible]

. . . *Effective October 2, 1980*

Key West, FL—Key West Intl'l, NDB-A, Amdt. 8
Chicago, IL—Chicago Midway, NDB Rwy 4R, Amdt. 9
Chicago, IL—Chicago Midway, NDB Rwy 13R, Amdt. 7
Chicago, IL—Chicago Midway, NDB Rwy 31L, Amdt. 7
Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 4L, Amdt. 13
Olney-Noble IL—Olney-Noble, NDB Rwy 3, Amdt. 7
Forest City, IA—Forest City Muni, NDB Rwy 33, Original
Cambridge, MD—Cambridge-Dorchester Muni, NDB Rwy 34, Amdt. 5
Easton, MD—Easton Muni, NDB Rwy 22, Amdt. 4
Greenville, MS—Greenville International, NDB Rwy 35L, Amdt. 3
Greenville, MS—Greenville International, NDB Rwy 35R, Amdt. [illegible]
Gulfport, MS—Gulfport-Biloxi RGNL, NDB Rwy 13, Amdt. 7
Wellsville, NY—Wellsville Muni Arpt-Tarantine Field, NDB Rwy 28, Amdt. 2
Lumberton, NC—Lumberton Muni, NDB Rwy 13, Amdt. 4
Maxton, NC—Laurinburg-Maxton, NDB Rwy 5, Amdt. 3
Denton, TX—Denton Muni, NDB Rwy 17, Amdt. 1
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 36, Amdt. 3

. . . *Effective September 18, 1980*

North Platte, NE—Lee Bird Field, NDB Rwy 30L, Amdt. 5
North Platte, NE—Lee Bird Field, NDB Rwy 35, Amdt. 7

. . . *Effective September 4, 1980*

Newton, KS—Newton City-County, NDB Rwy 17, Original
Newton, KS—Newton City-County, NDB Rwy 17, Amdt. 4, cancelled
Newton, KS—Newton City-County, NDB Rwy 35, Original
Greenville, MD—Greenville Muni, NDB Rwy 14, Original
Greenville, ME—Greenville Seaplane Base, NDB-A, Original

. . . *Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, NDB Rwy 10, Amdt. 6
Pittsburgh, PA—Allegheny County, NDB Rwy 28, Amdt. 20

. . . *Effective August 8, 1980*

Spencer, IA—Spencer Muni, NDB Rwy 30, Amdt. 5

. . . *Effective August 4, 1980*

Hayward, WI—Hayward Muni, NDB Rwy 20, Amdt. 8

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

. . . *Effective October 30, 1980*

Saginaw, MI—Tri-City, ILS Rwy 5, Amdt. 8

. . . *Effective October 2, 1980*

Oxnard, CA—Oxnard, ILS Rwy 25, Amdt. 4
Gainesville, FL—Gainesville Regional, ILS Rwy 28, Amdt. 8
Miami, FL—Tamiami, ILS Rwy 9R, Original
Tallahassee, FL—Tallahassee Muni, ILS Rwy 27L, Original
Chicago, IL—Chicago Midway, ILS Rwy 4R, Amdt. 6
Chicago, IL—Chicago Midway, ILS Rwy 13R, Amdt. 34
Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 4R, Amdt. 5
Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 27L, Amdt. 10
Salisbury, MD—Salisbury-Wicomico County Regional, Intl, ILS Rwy 32, Amdt. 3
Gulfport, MS—Gulfport-Biloxi RGNL, ILS Rwy 13, Amdt. [illegible]
Denton, TX—Denton Muni, ILS Rwy 17, Amdt. 1

. . . *Effective September 18, 1980*

North Platte, NE—Lee Bird Field, ILS Rwy 30R, Original

. . . *Effective September 4, 1980*

Lakeland, FL—Lakeland Muni, ILS/DME Rwy 5, Original
Newton, KS—Newton City-County, ILS Rwy 17, Original
Charlotte, NC—Douglas Muni, ILS Rwy 18R, Original
Huron, SD—Huron Regional, ILS Rwy 12, Amdt. 3

. . . *Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, ILS Rwy 10, Amdt. 1
Pittsburgh, PA—Allegheny County, ILS Rwy 28, Amdt. 24

. . . *Effective August 7, 1980*

Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, ILS Rwy 33, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . *Effective October 30, 1980*

Saginaw, MI—Tri-City, RADAR-1, Amdt. 4

. . . *Effective October 2, 1980*

Ft. Myers, FL—Page Field, RADAR-1, Original

Chicago, IL—Chicago-Midway, RADAR-1, Amdt. 22

. . . *Effective September 18, 1980*

Tallahassee, FL—Tallahassee Muni, RADAR-1, Amdt. 3

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective October 2, 1980*

Salina, KS—Salina Muni, RNAV Rwy 17, Amdt. 6

Monroe City, MO—Monroe City Regional, RNAV Rwy 27, Original

Warrensburg, MO—Skyhaven, RNAV Rwy 18, Original

. . . *Effective September 18, 1980*

North Platte, NE—Lee Bird Field, RNAV Rwy 12L, Original

North Platte, NE—Lee Bird Field, RNAV Rwy 12R, Amdt. 2

. . . *Effective September 4, 1980*

Newton, KS—Newton City-County, RNAV Rwy 17, Amdt. 2

. . . *Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, RNAV Rwy 10, Amdt. 4

. . . *Effective August 7, 1980*

Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, RNAV Rwy 33, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on August 15, 1980.

John S. Kern,

Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-25551 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM80-71; Order No. 100]

Electric Utilities; Order Discontinuing Reporting Requirements

August 18, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby discontinues FPC Form No. 12-A (18 CFR 141.52), and Form No. 12-D (18 CFR 141.55), which require various reports and information on the generation, transmission or distribution of electricity. These forms are eliminated because the Commission no longer needs the data reported thereon to carry out its regulatory responsibilities.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lewis, Federal Energy Regulatory Commission, Office of Electric Power Regulation, 825 N. Capitol Street, NE., Mail Stop 300 RB, Washington D.C. 20426 (202) 376-9227.

I. Background and Summary

The Federal Energy Regulatory Commission (Commission) by this rule eliminates from its regulations the following Federal Power Commission (FPC) forms and concomitant reporting requirements: Form No. 12-A, "Power System Statements for Class III, IV, and V Systems" (18 CFR 141.52); and Form No. 12-D, "Power System Statement for Class III Systems Having Annual Energy Requirements of Less Than 5,000,000 kWh and Class IV and V Systems Where Requested" (18 CFR 141.55).

Form No. 12-A requires the reporting of information on electric equipment, generation, energy received and delivered, system peaks, energy delivered to ultimate consumers, system dependable and assured capacity, and contemplated changes in capacity. Information required by this form is currently being collected for the Commission by the Energy Information Administration (EIA).

Form No. 12-D requires the reporting of information on generation, energy received and delivered, system peaks, energy delivered to ultimate consumers, contemplated changes in system generating plants, and electric equipment which the reporting company owned or operated. Information required by this form is now also collected by EIA.

The forms were devised and promulgated by the Federal Power Commission (FPC) (the Commission's predecessor agency) pursuant to the authority granted in sections 301, 309 and 311 of the Federal Power Act (FPA).[1] The authority under section 311 was transfered to the Secretary of Energy pursuant to section 301(b) of the Department of Energy Organization Act[2] (42 U.S.C. 7101, *et seq.*). The Secretary in turn delegated this authority to the Economic Regulatory Administration (ERA) (Department of Energy Delegation Order No. 0204-4 (10 CFR 1001.1)), and to the Commission to the extent necessary to perform its other functions (Delegation Order No. 0204-1, 42 FR 55637 (October 18, 1977)).

The Commission has determined, however, that the data required by Form Nos. 12-A and 12-D are not sufficiently central to its functions to justify continued collection of the data by this Commission. In view of this, the Commission is hereby eliminating from its regulations those sections which provide for the Commission's collection of the information pursuant to those forms.

II. Effective Date

The elimination of Form Nos. 12-A and 12-D simply amends the Commission's regulations to reflect that the Commission will no longer require the information gathered from these forms.[3] For this reason, the requirement to report information pursuant to these forms will be eliminated as of August 18, 1980.

The Commission accordingly finds that notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b), and that there is good cause under the 5 U.S.C. 553(d) to make the amendments in this rulemaking effective immediately.

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[1] Form Nos. 12-A and 12-D were established under FPC Order No. 183 and were amended by Order Nos. 224 and 312.

[2] Section 301(b) provides that powers vested in the FPC under the FPA and the Natural Gas Act (NGA) (15 U.S.C. 717) which were not transferred to the Commission by Title IV of the DOE Act are vested in the Secretary.

[3] The ERA, which is responsible for utilizing the information from these forms, has determined that it needs this information to perform its statutory responsibilities. The ERA is, however, authorized to propose and implement its own regulations and to obtain approval from the Office of Management and Budget for the future collection of the data.

(Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); Federal Power Act, as amended, (16 U.S.C. 792, *et seq.*); Department of Energy Delegation Order 0204–1, 42 FR 55637 (October 18, 1977); Department of Energy Delegation Order 0204–4 (10 CFR 1001.1))

For the foregoing reasons, Title 18 of the Code of Regulations is amended in Part 141 as provided below, effective immediately.

By the Commission.

Kenneth F. Plumb,
Secretary.

§§ 141.52 and 141.55 [Deleted]

1. Sections 141.52 and 141.55 are deleted in their entirety.

[FR Doc. 80-25749 Filed 8-22-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, 234

[Docket No. R80-860]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations increases the FHA maximum interest rate on insured home mortgage loans. The change is necessitated by the current realities of high discounts and declining availability of FHA financing. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure adequate supply of FHA financing.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202-426-4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA home mortgage insurance programs has been raised from 11.50 percent to 12.00 percent for level payment mortgages and to 12.50 percent for graduated payment mortgages (GPM).

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

2. In § 203.45 paragraphs (b) through (f) are redesignated paragraphs (c) through (g) and a new paragraph (b) is added as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

3. In § 203.46 paragraphs (c) through (j) are redesignated paragraphs (d) through (k) and a new paragraph (c) is added as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

4. Section 213.511(a) is amended to read as follows:

§ 213.511 [Amended]

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

5. Section 234.29(a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

6. In § 234.75 paragraphs (b) through (f) are redesignated paragraphs (c) through (g) and a new paragraph (b) is added as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

7. In § 234.76 paragraphs (c) through (j) are redesignated paragraphs (d) through (k) and a new paragraph (c) is added as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C. August 19, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80–25769 Filed 8–22–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Inforcement

30 CFR Parts 715, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Interpretative rule; Extension of Public Comment Period.

SUMMARY: The Office of Surface Mining is hereby extending the public comment period for the interpretive rule on durable rock fills, promulgated April 16, 1980, at 45 FR 26000, interpreting 30 CFR 715.15(d), 816.74 and 817.74. The comment period announced in 45 FR 48129, July 18, 1980, is extended for 30 days at the request of industry for the purpose of submitting to the Administrative Record *additional technical data*. The additional data will, upon submission, be available for public review and comment at the address noted below.

DATE: Comments on this interpretive rule must be submitted to the address below by the close of business on September 17, 1980.

ADDRESS: Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Room 153, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: For further information contact Raymond E. Aufmuth, Physical Scientist, Technical Services Division, Office of Surface Mining, 1951 Constitution Ave. NW., Washington, D.C. 20240 (202) 343–4022.

Dated: August 14, 1980.

Walter Heine,

Director.

[FR Doc. 80–25750 Filed 8–22–80; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

33 CFR Part 401

Saint Lawrence Seaway Development Corporation, Seaway Regulations; Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation.

ACTION: Final rule.

SUMMARY: This rule corrects errors which appeared in the recent publication (August 7, 1980) of a Final Rule amending existing seaway regulations (33 CFR Part 401) in the **Federal Register**.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315) 764–0271, Ext. 245.

SUPPLEMENTARY INFORMATION: On August 7, 1980, the Seaway Corporation published in the **Federal Register** (45 52376) a final rule amending existing Seaway Regulations. The amendments had been developed jointly with the Seaway Corporation's counterpart Canadian agency, the St. Lawrence Seaway Authority and had been published as proposed rulemaking on June 19, 1979 (44 FR 35256). This final rule supplements that published on August 7, 1980 by supplying language which was inadvertently dropped from the earlier publication. The changes and reasons for them, are discussed in detail in the earlier publication.

As noted in the earlier publication, the Seaway Corporation has determined that the expected impact of this regulation is so minimal that it does not warrant either a Regulatory Analysis or a formal Evaluation as required by the Secretary of Transportation's Order concerning Regulatory Policies and Procedures (44 FR 11034). It is expected to result in negligible cost to a few vessel owners. There should be no added cost to or impact on consumers and/or Federal, state and local governments.

Since these amendments supplement regulations already in effect, good cause exists for making them effective upon publication.

1. The caption of § 401.5 is revised to read as follows:

§ 401.5 Required equipment.

2. Section 401.71(b) is revised to read as follows:

§ 401.71 Signals—Explosive and hazardous cargo vessels.

* * * * *

(b) A hazardous cargo vessel shall display at the masthead or at an equivalent conspicuous position a "B" flag superior to numeral pennant number 1.

3. Section 401.80(b) is revised to read follows:

§ 401.80 Reporting dangerous cargo.

* * * * *

(b) The master of any vessel that takes on explosive or hazardous cargo while in the Seaway System shall report to the nearest Seaway station at least three hours prior to commencing transit the nature and quantity of the dangerous cargo and where it is stowed on the vessel.

4. Schedule II, "Table of Speeds*", is amended by revising entries 3 and 5 to read as follows:

From—	To—	Maximum speed over the bottom (knots)	
		Col. III	Col. IV
3. Upper Entrance.	Lake St. Francis.	8.6 (10 mph upb).	8.6 (10 mph upb).
Beauharnois Lock.	Buoy 27F	10.4 (12 mph dnb).	10.4 (12 mph dnb).
5. Lake St. Francis.	Snell Lock	8.6 (10 mph upb).	7.7 (9 mph upb).
Buoy 87F		10.4 (12 mph dnb).	10.4 (12 mph dnb).

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Washington, D.C., on August 18, 1980.

Saint Lawrence Seaway Development Corporation.

D. W. Oberlin,

Administrator.

[FR Doc. 80–25701 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Yellowstone National Park; Alcoholic Beverages

AGENCY: National Park Service

ACTION: Final rule.

SUMMARY: The National Park Service has determined that the regulations

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contained in 36 CFR § 7.13(i) controlling the use and possession of alcoholic beverages in Yellowstone National Park are unnecessary and should be rescinded. The 7.13(i) subsection is to be reserved for future park use. This activity is adequately covered by the regulations on intoxication (36 CFR § 2.16).

EFFECTIVE DATE: September 24, 1980.

FOR FURTHER INFORMATION CONTACT: John A. Townsley, Superintendent, Yellowstone National Park, Yellowstone National Park, Wyoming 82190, (307) 344–7381.

SUPPLEMENTARY INFORMATION:

Background

The Yellowstone National Park regulations which provide a minimum drinking age of 18 and control the scope of use, were promulgated several years ago and were consistent with surrounding State jurisdictions until 1977. The present minimum age for the use of alcohol in the adjoining states of Wyoming and Montana is 19 years. Since 1977, the number of law enforcement incidents relating to the inconsistency of the laws governing alcoholic beverages between the adjacent states and the park has placed an unnecessary burden on law enforcement personnel charged with the enforcement of these regulations.

The general regulations governing the use and possession of alcoholic beverages within all units of the National Park System found in 36 CFR § 2.16, provides that the minimum age for the sale, use or possession of alcoholic beverages is 21 years of age unless a lower age is prescribed by that State. Additional rules in this section also apply to the orderly control of alcoholic beverages.

After a thorough analysis of the Yellowstone National Park regulations in § 7.13, a determination was made not to revise the section to comply with the change made by the surrounding States but to delete the section so that 36 CFR § 2.16 of the general regulation would be applicable to the park and complimentary to the laws of the State in which the park is located.

The National Park Service has determined that it is impractical and unnecessary to provide a notice of proposed rulemaking on this action. Therefore, in accordance with 5 U.S.C. § 553(b)(B) and 43 CFR § 14.5(b) (3)(i), this document is published as a final rule. However, interested persons who wish to make comments or suggestions on this rule may do so by writing to the address noted at the beginning of this rulemaking. All comments received will be reviewed to determine if further revision is necessary.

Drafting Information

The following persons participated in the writing of this revision: John A. Townsley, Yellowstone National Park; and Harry DeLashmutt, National Park Service, Washington, D.C.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044, as amended, and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. § 3); 245 DM 1 (44 FR 23384); and National Park Service Order 77 (38 FR 7478), as amended)

L. E. Surles,

Acting Associate Director, Management and Operations.

§ 7.13 [Amended]

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by the recission of § 7.13(i) and reserved.

[FR Doc. 80–25830 Filed 8–22–80; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 4

Forms for Trademark Cases; Correction of Section Numbering

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Correction of final rule.

SUMMARY: This notice corrects an error in section numbering which was inadvertently made when the revised trademark forms were adopted on January 1, 1979.

EFFECTIVE DATE: August 25, 1980.

ADDRESS: Information regarding the revised trademark forms which were adopted on January 1, 1979 is available for public inspection in Room 11E10, Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Peter Harab by telephone at (703) 557–5380 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: FR Doc. 78–33097 which was published in the **Federal Register** of November 28, 1978 (43 FR 55395) and in the Official Gazette of January 2, 1979 (978 OG 118 and 978 TMOG 118) refers to section "4.16" in paragraph No. 15 on page 55400. The section number should be "4.16a."

FR Doc. 78–33097 is corrected as follows:

In paragraph No. 15 on page 55400, the two references to "4.16" are changed to read "4.16a."

Dated: August 5, 1980.

Margaret M. Laurence,

Acting Commissioner of Patents and Trademarks.

Approved: August 11, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80–25818 Filed 8–22–80; 8:45 am]

BILLING CODE 3510–16–M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by

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lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed home and condominium loans has not been sufficiently competitive to induce private sector lenders to make this type of VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rate applicable to home loans is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

The increase in the maximum interest rate is accomplished by amending §§ 36.4311(a) and 36.4503(a) of title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: August 19, 1980.

Max Cleland,

Administrator.

1. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12 per centum per annum, effective August 20, 1980, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 12 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 12 percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 15 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 210(c), 1803(c))

[FR Doc. 80-25778 Filed 8-22-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1569-3]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: U.S. Environmental Protection Agency (USEPA) approves a Michigan Air Pollution Control Commission Order submitted by the Commission as a revision to the Michigan State Implementation Plan (SIP). The Order was issued to the Detroit Edison Company on October 11, 1978 and extends the date that the company is required to meet the opacity limitation contained in the Federally approved Michigan SIP. The Order extends the date to December 31, 1981; and applies to Unit 6 at the Detroit Edison Company's generating facility in the City of St. Clair, East China Township, St. Clair County, Michigan.

Any Order which has been issued to a major source and extends the date for meeting the opacity limitations contained in the SIP must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act (CAA) 42 U.S.C. 7410.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Detroit Edison Company (Edison) operates power generation facilities in the City of St. Clair, East China Township, St. Clair County, Michigan. The plant is commonly known as the St. Clair Plant. The plant is located in an area designated attainment for the total suspended particulates (TSP) National Ambient Air Quality Standards (NAAQS). In accordance with old Rule 336.41 (revised Rule 336.1301 effective Janaury 18, 1980) of the Michigan Administrative Code, Edison requested authorization from the Michigan Air Pollution Control Commission (Commission), to operate Unit 6 at the St. Clair Plant until December 31, 1981, at an opacity greater than that otherwise authorized under the rule. Rule 336.41 (revised rule 336.1301) prohibits the discharge into the atmosphere from a single source of emission, a visible air contaminant with a density more than 20% opacity, except that a visible contaminant with a density of not more than 40% opacity may be emitted for not more than three minutes in any 60 minute period. The emission shall not be permitted on more than three occasions during any 24 hour period. Rule 336.41(c) (revised rule 336.1301(c)) authorizes an exception to the rule where compliance is not technically and economically feasible and all other requirements of the Commission's rules are being met.

The request for a revision was submitted to USEPA in February 23, 1979 as a proposed revision to the Michigan SIP. Additional information was submitted on June 17, 1979 and August 14, 1979. USEPA reviewed the Order and the technical support material, and proposed approval of the Order as a SIP revision on December 19, 1979 (44 FR 75187). In that notice, USEPA proposed approval of the extention of the compliance date to December 31, 1981. Interested parties were given until January 18, 1980 to submit written comments. No comments were received.

The Order requires the Company to complete installation of an electrostatic precipitator for Unit 6 by April 1, 1982. The Order also requires the company to be in compliance with Rule 336.41 (revised Rule 336.1301) after December 31, 1981. The company has informed USEPA that the discrepancy in the date for the completion of the installation of the electrostatic precipitator and the date of compliance is due to the fact that the unit will be shut down December 31, 1981 to enable the company to complete the installation of the electrostatic precipitator.

In the interim, Detroit Edison may operate Unit 6 during periods when the existing precipitator is not malfunctioning at an opacity of not greater than 55% computed as a six minute average. In accordance with the provisions of the January 18, 1978 St.

Clair Power Plant Order No. 194, during the malfunction of the existing precipitator for Unit 6, Detroit Edison may operate Unit 6 at an opacity of not greater than 65% computed as a six minute average. The above provisions are contained in the Consent Order and the supporting documentation demonstrates that this SIP revision will not interfere with the attainment and maintenance of the NAAQS.

The USEPA required contemporaneous testing of the mass particulate emissions and opacity to be performed at the St. Clair Plant. The requirement is to ensure that the particulate emission rate is being met during periods of noncompliance of the opacity standard. On March 19, 1980 Detroit Edison submitted results from their particulate stack tests conducted at the St. Clair Plant on June 6, 22, 23, and 30 and July 1 and 2, 1976 in accordance with MDNR's "Guidelines for Source Testing for Particulate." The opacity measurements were taken with a Lier-Siegler opacity meter which were determined to be valid methodology by the USEPA Surveillance and Analysis Division. The stack test data indicate that all six stacks at the St. Clair Plant are in compliance with the allowable mass emission rate for particulates of 0.15 lbs/1000 lb. exhaust. However, the stack test data also show that Unit No. 6 emissions exceed the allowable opacity limit of 40% for periods greater than 3 minutes.

Since results from contemporaneous stack tests have shown that all TSP sources at the plant comply with the existing mass emission limitation and the area is designated attainment for TSP, USEPA has determined that the SIP revision will not interfere with the attainment and maintenance of the NAAQS. Therefore, this notice takes final rulemaking action to approve as a revision to the Michigan SIP the Consent Order extending the compliance date to December 31, 1981, for Detroit Edison's St. Clair Plant, Unit No. 6 to meet the opacity limitations in Rule 336.41 (revised Rule 336.1301) of the MAPCC Rules and Regulations.

Final approval of the Order as a SIP revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the Order is already effective in the State of Michigan and federal approval imposes no additional requirement on the affected source.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." The Administrator has reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of section 110(a)(3) of the Clean Air Act and USEPA regulations in 40 CFR 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly, the revision is approved.

This Final Rulemaking is issued under the authority of sections 110 and 301 of the Clean Air Act as amended (42 USC 7410, 7601).

Dated: August 8, 1980.

Douglas Costle,
Administrator.

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding new paragraph (c)(27) as follows:

§ 52.1170 Identification of Plan.

* * * * *

(c) * * *

(27) On February 23, 1979, compliance schedules were submitted by the State of Michigan, Department of Natural Resources to USEPA for the Detroit Edison, St. Clair Power Plant. Additional material concerning the Final Order issued to the Detroit Edison, St. Clair Power Plant was submitted on June 17, 1979 and August 14, 1979.

2. Section 52.1175 is amended by adding a new line to the table as follows:

§ 52.1175 Compliance Schedules.

* * * * *

(e) * * *

* * * * *

Michigan

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
*	*	*	*	*
St. Clair County				
Detroit Edison Unit [illegible]	East China Township.	336.41	Oct. 11, 1978	Dec. 31, 1981.
*	*	*	*	*

[FR Doc. 80-24810 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1587-1; PP 9F2172/R263]

Trifluralin; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide and plant growth regulator trifluralin in or on grain crops (except fresh corn and rice grain): barley, barley forage, fodder, hay, and straw; sorghum, and sorghum forage and fodder at 0.05 part per million (ppm). The regulation was requested by Elanco Products Company. This rule establishes a maximum permissible level for residues of trifluralin on barley and sorghum.

EFFECTIVE DATE: Effective on August 25, 1980.

ADDRESS: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, 202–755–1397.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of March 27, 1979 (44 FR 18278) that Elanco Products Company, a Division of Eli Lilly and Company, Indianapolis, IN 46206 had filed a pesticide petition (PP 9F2172) with EPA. This petition proposed that 40 CFR 180.207 be amended by establishing a tolerance for residues of the herbicide and plant growth regulator trifluralin (alpha,alpha, alpha-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) in or on grain crops with a tolerance limitation of 0.05 ppm.

Notice was published on April 30, 1980 in the **Federal Register** (45 FR 28803) that Elanco Products Company had revised the petition (PP 9F2172) by proposing that 40 CFR 180.207 be amended by establishing a tolerance for the herbicide trifluralin in or on grain crops (except fresh corn and rice), barley (fodder, forage, hay, and straw), and sorghum (forage and fodder) at 0.05 ppm.

No comments were received in response to these notices of filing. The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the proposed tolerances include plant residue data; metabolism studies in plants and animals; rat acute oral toxicity studies with a lethal dose (LD50) varying from 2.8 to 6.0 milligrams (mg)/kilogram (kg) of body weigth (bw) depending on the inert ingredients in the formulations; two rat 2-year feeding studies with a non-observed effect level (NOEL) of 2000 ppm; a rat 4-generation reproduction study with the NOEL of 200 ppm; a rat continuous breeding study (approximately 8 litters from each female) with the NOEL of 2000 ppm; two dog 2-year feeding studies with the NOEL of 400 ppm; a dog breeding study with the NOEL of 400 ppm; and a rabbit teratology study with the NOEL of 450 ppm.

Oncogenicity tests conducted by the National Cancer Institute with trifluralin technical chemical in rats and mice indicate the chemical is not oncogenic in rats nor in male mice. Hepatocellular carcinomas and alveolar/bronchiolar adenomas were observed in female mice at a statistically significant higher incidence than untreated controls. Conclusions reached suggested the possiblity of a dipropylnitrosoamine contaminant which may have been responsible for eliciting the positive results in female mice. N-nitroso-di-n-propylamine (NDPA) was found in the trifluralin at concentrations of 84–88 ppm.

A preliminary notice was published in the **Federal Register** of August 30, 1979 (44 FR 50911) of determination and availability of a position document concerning trifluralin (Treflan®). After extensive review the Agency determined that the benefits outweighed the risk of all uses of trifluralin, if the formulated products contained less than 1 ppm total N-nitrosamine contamination. Thus, the current risks of using products containing trifluralin are far outweighed by the benefits.

Tolerances have previously been established for residues of trifluralin ranging from 0.05 ppm in a number of raw agricultural commodities to 2.0 ppm in or on mung bean sprouts. Based on the NOEL of 400 ppm 3-year dog chronic feeding study and a 100-fold safety factor, the acceptable daily intake (ADI) has been set at 0.1 mg/kg/day with a maximum permissible intake (MPI) of 6.0 mg/day of a 60-kg person. The established tolerances have a theoretical maximum residue contribution (TMRC) of 0.0429 mg/day in a 1.5 kg diet. The proposed tolerance in barley and sorghum at 0.05 ppm would contribute an additional 0.00004 mg/day/1.5-kg diet or an increase of 0.093 percent of the TMRC.

Since tolerances had been established at 0.05 ppm for field corn grain and wheat grain, the commodity grouping is expressed as grain crops (except fresh corn and rice grain).

The metabolism of trifluralin is adequately understood. An adequate analytical method is available for enforcement purposes, and the proposed tolerance level is adequate to cover residues of trifluralin in barley and sorghum.

There is no expectation of residues in meat, milk, poultry, or eggs. The pesticide is considered useful for the purpose of which tolerances are being sought, and it is concluded that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before September 24, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. Effective date: August 25, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(c)))

Dated: August 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator, for Pesticide Programs.

Therefore, Subpart C of 40 CFR is amended by alphabetically inserting the following raw agricultural commodities in § 180.207 to read as follows:

§ 180.207 Trifluralin; tolerances for residues

Commodity	Parts per million
* * * * *	
Barley, fodder	0.05
Barley, forage	0.05
Barley, hay	0.05
Barley, straw	0.05
* * * * *	
Grain, crops (except fresh corn and rice grain)	0.05
* * * * *	
Sorghum, fodder	0.05
Sorghum, forage	0.05
* * * * *	

[FR Doc. 80–25773 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 180

[PP OE2285/R259; FRL 1586–2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or Raw Agricultural Commodities; Biological Agency Bacillus Thuringiensis Berliner

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice establishes an exemption from the requirement of a tolerance for residues of the microbial insecticide *Bacillus thuringiensis* Berliner on beeswax and honey. This request was submitted by the Interregional Research Project No. 4 (IR-4). This rule will permit *Bacillus thuringiensis* Berliner in or on beeswax and honey.

DATE: Effective on August 25, 1980.

ADDRESS: Send comments to: Clinton Fletcher, Office of Pesticide Programs, Rm. E–124, Registration Division (TS–

767), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223) at the above address.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of June 13, 1980 (45 FR 40175) in response to a pesticide petition (PP OE2285) submitted to the Agency by the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903 on behalf of the IR–4 Technical Committee and the State Agricultural Experiment Stations. This petition requested that 40 CFR 180.1011 be amended by establishing an exemption from the requirement of a tolerance for residues of the biological agent *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities beeswax and honey. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. The data submitted in the petition and other relevant material have been evaluated.

The pesticide is considered useful for the purpose for which the tolerance is sought. Establishment of the tolerance will protect the public health. Therefore, the regulation amending 40 CFR Part 180 by revising § 180.1011 is set forth below.

Any person adversely affected by this regulation may, on or before September 24, 1980, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a "specialized" regulation not subject to the procedural requirements of Executive Order 12044.

Effective date August 25, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(e)).

Dated: August 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by revising paragraph (b) in § 180.1011 to read as follows:

§ 180.1011 Viable spores of the microorganism Bacillus thuringiensis Berliner; exemption from the requirement of a tolerance

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis* Berliner, as specified in paragraph (a) of this section, in or on beeswax and honey and all other raw agricultural commodities when it is applied either to growing crops, or when it is applied after harvest in accordance with good agricultural practices.

* * * * *

[FR Doc. 80–25796 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: This document amends the regulations pertaining to appeals to the Interior Board of Land Appeals to require service of notices of appeal, statements of reason, written arguments and briefs upon the Associate Solicitor, Division of Energy and Resources, or the appropriate Regional or Field Solicitor, Office of the Solicitor, Department of the Interior. This change will enable the Office of the Solicitor to participate more effectively in appeals proceedings.

EFFECTIVE DATE: September 24, 1980.

ADDRESS: Any inquiries should be addressed to: Chief Administrative Judge, Interior Board of Land Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Burski, (703) 557–9040, or Mr. Gary J. Fisher, (202) 343–5757.

SUPPLEMENTARY INFORMATION: The regulations at 43 CFR Part 4, Subpart E provide an appeal process to the Interior Board of Land Appeals. Section 4.413 of 43 CFR provides that an appellant must, among other things, serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs upon each adverse party named in the decision to be appealed, as well as upon the Associate Solicitor, Division of Energy and Resources. The amendment set forth below will require service of such documents on the Regional or Field Solicitor having jurisdiction over the state in which the subject matter of the appeal arises, rather than upon the Associate Solicitor, Division of Energy and Resources, *except* when appeals are taken from decisions of the Director of the U.S. Geological Survey, or the Director of the Bureau of Land Management, or the subject matter of the appeal involves mineral activities on the Outer Continental Shelf. The above documents will continue to be served on the Associate Solicitor, Division of Energy and Resources, in the latter three situations. The Regional or Field Solicitors will have the responsibility of notifying the Associate Solicitor, Division of Energy and Resources, of any appeals that raise questions or issues pertaining to national policies or programs of the Department of the Interior or the resolution of which could significantly impact Departmental programs or policies nationwide. This change will enable the Office of the Solicitor to participate more effectively in appeals proceedings.

The regulation is being published as a final rulemaking under 5 U.S.C. § 553(b)(3)(A) since it pertains to rules of agency practice and procedure. A thirty-day effective date for implementation of the regulation has been chosen to allow the public to become familiar with this change. The principal author of this rulemaking is Gary J. Fisher, Office of the Solicitor, Department of the Interior, Washington, D.C.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is hereby determined that publication of this rulemaking is not a major federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. § 4332(2)(C)) is required.

Accordingly, under the authority of 43 U.S.C. § 1201, Part 4, Subtitle A, Title 43 of the Code of Federal Regulations is amended as follows: § 4.413 is revised to read as follows:

§ 4.413 Service of notice of appeal and of other documents.

The appellant must serve a copy of the notice of appeal and of any statement of reasons, written arguments, or briefs on the Regional or Field Solicitor having jurisdiction over the State in which the appeal arose, or upon the Associate Solicitor, Division of Energy and Resources, when the appeals are taken from decisions of the Director, U.S. Geological Survey, or the Director, Bureau of Land Management, or the subject matter of the appeal involves mineral activities on the Outer Continental Shelf,

Address: Associate, Regional or Field Solicitor and States Served

Associate Solicitor, Division of Energy and Resources, U.S. Dept. of the Interior, Washington, D.C. 20240—n/a
Regional Solicitor, Northeast Region, U.S. Dept. of the Interior, Suite 306, One Gateway Center, Newton Corner, MA 02158—Pennsylvania, Indiana, Michigan, Minnesota, Ohio, Illinois, West Virginia, Wisconsin, Delaware, New Jersey, New York, the New England States, Maryland and Virginia.
Regional Solicitor, Southeast Region, U.S. Dept. of the Interior, 75 Spring Street, S.W., Suite 1328, Atlanta, GA 30303—Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Puerto Rico and the Virgin Islands.
Regional Solicitor, Rocky Mountain Region, U.S. Dept. of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225—Colorado, Wyoming, Nebraska, Kansas, Iowa and Missouri.
Field Solicitor, U.S. Dept. of the Interior, P.O. Box 1538, Billings, MT 59103—Montana, North Dakota and South Dakota.
Regional Solicitor, Intermountain Region, U.S. Dept. of the Interior, Suite 6201, Federal Bldg., 125 South State Street, Salt Lake City, UT 84138—Utah.
Regional Solicitor, Pacific Southwest Region, U.S. Dept. of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825—California, Nevada, Arizona and Hawaii.
Regional Solicitor, Pacific Northwest Region, U.S. Dept. of the Interior, Lloyd 500 Bldg., Suite 607, 500 N.E. Multnomah Street, Portland, OR 97232—Oregon and Washington.
Field Solicitor, U.S. Dept. of the Interior, Box 020, Fed. Bldg. & Courthouse 550 West Fort St., Boise, ID 83724—Idaho.
Field Solicitor, U.S. Dept. of the Interior, P.O. Box 1042, Santa Fe, NM 87501—Oklahoma, Texas, New Mexico, Arkansas and Louisiana.
Regional Solicitor, Alaska Region, U.S. Dept. of the Interior, 510 L Street, Suite 408, Anchorage, AK 99501—Alaska.

and each adverse party named in the decision appealed from, in the manner prescribed in section 4.401(c), not later than 15 days after filing the document.

Failure to serve within the time required will subject the appeal to summary dismissal as provided in § 4.402. Proof of such service as required by § 4.401(c) must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203), within 15 days after service unless filed with the notice of appeal.

Dated: August 15, 1980.

James A. Joseph,
Under Secretary.

[FR Doc. 80-25746 Filed 8-22-80; 8:45 am]
BILLING CODE 4310-17-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Community Food and Nutrition Programs; Character and Scope

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing an amendment to its final rule for the Community Food and Nutrition Program, published in the **Federal Register**, May 20, 1980 (45 FR 33788). The purpose of this amendment is two-fold: (1) to notify the T&TA applicants of the extension of the deadline for submitting applications; to provide sufficient time for applicants of T&TA grants to review the work programs of the winners in the local competition, and to design their T&TA programs accordingly; and (2) to make it clear that the provisions of the Rule on two-year programming do not apply to Headquarters and Regional T&TA applications. Based on CSA's published regulations implementing E.O. 12044, we have determined that this amendment is not significant.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Harold Gore, Community Services Administration, 1200 19th St. N.W., Washington, D.C. 20506, Telephone: (202) 632-6694, Teletypewriter: (202) 254-6218.

(Sec. 602, 78 Stat 530; 42 U.S.C. 2942)

Michael T. Blouin,
Assistant Director for Community Action.

In § 1061.50-13 *Current fiscal year application and review information,* paragraphs (a)(2) and (b)(3) of § 1061.50.13 are revised to read as follows:

§ 1061.50-13 Current fiscal year application and review information.

(a) * * *

(2) Applications from Headquarters and Regional T&TA applicants for one year programs, beginning January 1, 1981 and ending December 31, 1981, will be submitted to the appropriate CSA office not later than October 31, 1980.

(b) * * *

(3) The institution of two-year programming does not apply to Headquarters and Regional T&TA applicants, and does not preclude other applicants from applying for a one year grant if a particular set of proposed activities can be accomplished during a twelve-month period and further funding from CSA will not be required.

[FR Doc. 80-25832 Filed 8-22-80; 8:45 am]
BILLING CODE 6315-01-M

Proposed Rules

Federal Register
Vol. 45, No. 166
Monday, August 25, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1980–27]

Nonpartisan Communications by Corporations or Labor Organizations

AGENCY: Federal Election Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission requests comment on regulations at 11 CFR 114.4 dealing with contributions or expenditures by corporations or labor organizations for nonpartisan communications, particularly those subsections pertaining to contributions or expenditures for: Communications by a corporation to its stockholders and executive or administrative personnel and by a labor organization to its members; Candidate and party appearances on corporate or labor organization premises; Nonpartisan registration and voting information; and Nonpartisan registration and get-out-the-vote drives. In addition to comments on those subsections, the Commission also requests comments on four possible revisions of 11 CFR 114.4: (1) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting; (2) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the voting record of an officeholder; (3) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues; and (4) Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section. Further information is provided below under supplementary information.

DATES: Comments must be received on or before September 24, 1980.

ADDRESS: Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Patricia Ann Fiori, Assistant General Counsel, (202) 523–4143.

SUPPLEMENTARY INFORMATION: Under 2 USC 441b, corporations and labor organizations are prohibited from making contributions or expenditures "in connection with" a federal election. Certain exceptions from that general prohibition are set forth in the statute. These statutory exceptions permit a corporation or labor organization to make contributions or expenditures for communications or activities aimed at the corporation's or union's own restricted class. Thus, 2 USC 441b(b)(2) (A) and (B) specifically permit:

1. A corporation to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and their families or at its executive or administrative personnel and their families;
2. A labor organization to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its members and their families.

While the above statutory exceptions permit contributions or expenditures for communications or activities aimed at a corporation's or labor organization's restricted class, there are no comparable statutory exceptions carved out for communications or activities aimed at the general public. Commission regulations, however, do permit a corporation or union to use its treasury funds for communications or activities directed to individuals who are outside the restricted class—that is, to all employees of the corporation or labor organization or to the general public, provided that certain requirements are met. 11 CFR 114.4 (c) and (d) of Commission Regulations permit the following activities:

1. A corporation or labor organization may through various communications urge *employees* of the corporation or employees of the labor organization to register, to vote or to otherwise participate in the electoral process, provided that certain specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(1) (i) and (ii).)
2. A corporation or labor organization may reprint in whole and distribute to the *general public* official registration and voting information or materials, provided that certain specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(2).)
3. A corporation or labor organization may distribute to the *general public* voter guides and similar materials describing the candidates and their positions if the materials are obtained from a nonpartisan nonprofit organization and if other specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(3).)
4. A corporation or labor organization may participate in registration and get-out-the-vote drives aimed at the *general public* if the drive is jointly sponsored with and conducted by a nonpartisan nonprofit organization and if other specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(d).)

The above regulations thus specifically permit a corporation or labor organization to make nonpartisan registration and voting communications directly to the corporation's or union's *employees.* There is, however, no provision which specifically permits a corporation or labor organization to use its treasury funds to make such communications directly to the *general public.* Except for official materials prepared by a state government, current regulations specifically permit a corporation or labor organization to make contributions or expenditures for communications or activities directed to the general public only with the involvement of a nonpartisan nonprofit organization. (Note, however, that various Commission advisory opinions (such as AO 80–20 and AO 80–33) have expanded upon current regulations by permitting the expenditure of corporate funds for nonpartisan registration and voting communications directed to the

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general public without the involvement of a nonpartisan nonprofit organization.)

The Commission is considering the following four possible revisions to 11 CFR 114.4: (A) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting; (B) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the voting record of an officeholder; (C) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues; and (D) Should 11 CFR 114.4 be revised to include a provision permitting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section.

A. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting?

The Commission has issued several advisory opinions concerning corporate or union distribution of registration or voting communications to the general public. (See AO–78–102, AO–79–48, AO–80–20, AO–80–33, AO–80–45 and AO–80–55. See also OR 701, (OR 720, OR 728, OR 740, and AOR 1980–15.) On the basis of these opinions, regulations permitting corporations or labor organization to distribute non-partisan registration and voting communications to the general public would involve the following issues:

1. Does the registration or voting communication relate to a federal election?

Discussion: This issue involves the question of whether or not the registration or voting communication is covered by the Federal Election Campaign Act (FECA). A possible guideline on this issue would be: unless the communication is specifically directed to a State election, the communication would be deemed to relate to a federal election and therefore be covered by the FECA.

2. Does the communication fall within the news story/commentary exemption of 2 USC 431(9)(b)(i)?

Discussion: Any news story, commentary or editorial by a broadcasting station, newspaper or other periodical is exempt from the coverage of the FECA (except under certain circumstances where the facility is owned or controlled by a political party, committee or candidate). On the basis of this exemption, if a broadcaster or a newspaper is responsible for the content and production of a registration or voting communication, it would fall outside the prohibitions of 2 USC 441b. If, however, an entity which is neither a broadcaster nor a newspaper is responsible for the communication's content and production, it would not be exempt (e.g., a corporation or labor organization purchasing space in a newspaper for a registration or voting ad).

3. Is the communication partisan or nonpartisan?

Discussion: On the basis of Commission advisory opinions, a possible guideline would be: the communication would be considered partisan if it: mentions any candidate(s) or political party; urges the public to vote for any candidate(s), group(s) or party; or is directed at an identifiable group. In anaylzing the question of whether or not a communication is directed at a group, two approaches are possible. Under one approach a communication would be regarded as partisan only if an identifiable group is expressly mentioned in the communication (e.g. "Friends of labor should vote;" "Friends of business should vote;" or "vote" messages aimed at either an ethnic or economic group). An alternative approach would be to view a communication as partisan not only if it expressly mentions an identifiable group, but also if the communication is *implicitly* directed at an identifiable group. In determining whether a communication is implicitly directed at a group, the following factors would be considered:

a. What is the particular medium used? If a communication appears in a general circulation newspaper or over a general broadcasting station, it would not be considered partisan. However, if a communication appeared in a newspaper or over a broadcasting station which serves an identifiable group, it would be considered partisan.

b. What is the juxtaposition of the voting or registration communication? If a voting or registration communication and a partisan communication appears immediately after a partisan program, the communication would be considered partisan.

4. Does the communication simply identify the corporation or labor organization responsible for the communication or is a commercial product mentioned?

Discussion: There are two possible approaches to this issue. One approach would be to permit identification of the corporation or labor organization paying for the communication, but prohibit any message which promotes the organization or a commercial product. An alternative approach would be to permit identification of the corporation of labor organization and, in addition, permit messages which promote the organization or a commercial product. (See AOR 1980–15).

B. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the record of an officeholder?

The issue of whether a corporation of labor organization may use its treasury funds to prepare and distribute to the general public publications concerning the record of a candidate or officeholder is also raised in the context of § 114.4. Corporate publication and distribution of voting guides and records to the general public was the subject of two advisory opinions (AO 78–18 and AO 79–70), and of one advisory opinion request (AOR 1978–62) to which the Commission did not respond on the merits but instead found that the requestor had no standing. (See also OR 682, IC 544, OR 790, and OR 840.) On the basis of these opinions, regulations permitting corporations or labor organizations to use their treasury funds to prepare and distribute to the general public publications concerning the record of a candidate or officeholder would involve the following issues:

1. Does the publication concern a federal election?

Discussion: This issue involves the question of whether or not the publication falls within the scope of the FECA. A possible guideline to follow on this issue would be: if the publication discusse an individual running for federal office, it would be covered by the FECA.

2. Does the publication describe the positions of candidates on campaign issues or does the publication present a record of what an individual has done, such as a voting record of an officeholder?

Discussion: There are two possible approaches to this issue. Under one approach, the only publication which a corporation or union would be permitted to distribute directly to the general public would be the record of an officeholder. That record could include a description of the way an officeholder voted on any legislative measure or a description of any other official action of an officeholder with regard to legislative matters. Any other publications which describe candidates who are not officeholders or which describe candidates' positions on campaign issues would be considered voter guides. Voter guides are subject to the requirements of 11 CFR 114.4(c)(3)—that is, the guides could not favor one candidate or party over another and the guides would have to be obtained from a nonprofit, nonpartisan organization.

An alternative approach would be to permit a corporation or labor organization to distribute directly to the public publications which present a factual record of a candidate's past activities. Such presentations could include biographical information on the candidate, a listing of employment positions held by the candidate and a description of the actions taken by him or her in those positions. If the candidate is an officeholder, the description could include the candidate's record as an officeholder, for example, the way the candidate voted on legislative matters or the candidate's other official actions with regard to legislative matters. A publication which describes the candidates' position on campaign issues is a voter guide, subject to the requirements of 11 CFR 114.4(c)(3).

3. If the publication concerns the voting record of an officeholder, is it distributed during an election campaign?

Discussion: A possible guideline on this issue would be to prohibit a corporation or labor organization from distributing publications concerning the record of a candidate or officeholder within a specified time prior to an election. For instance, such distribution might be prohibited during an election year or during a three month period prior to an election; or such distribution might be permitted only for a certain period (e.g., 60 days) after a legislative session.

4. Could the manner in which the record is presented be viewed as supporting or opposing the candidate?

Discussion: This issue involves the question of whether or not the publication characterizes the candidate's record. Characterization would include a rating, a description of the record as for or against a certain position, or a statement of a discernable voting pattern.

One possible approach would be to prohibit a corporation or labor organization from preparing and distributing any publication which characterizes the record of a candidate. Another possible approach would be to permit a corporation or labor organization to distribute publications which characterize a candidate's record. Yet another alternative would be to prohibit the distribution of publications which characterize a candidate's record during an election campaign, but permit the distribution of such publications at any other time.

C. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues?

Discussion: In both its regulations and advisory opinions, the Commission has taken the position that a corporation or labor organization may distribute to the general pubic materials describing the positions of candidates only if those materials are obtained from a nonpartisan nonprofit organization. (See 11 CFR 114.4(c)(3) and AO 79-70.) The Commission is considering a revision to its regulations which would permit a corporation or labor organization to prepare and distribute directly to the general public materials describing the positions of candidates on various issues. Such a revision would permit the distribution of materials which contain either statements prepared by the candidates on various issues or statements which present the positions of candidates on various issues but are prepared by the labor organization or corporation.

D. Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section?

Discussion: 2 USC 441b contains a very broad prohibition against contributions or expenditures by corporations or labor organizations "in connection with" a federal election, and specifies only a few detailed exceptions to that prohibition. Therefore, the Commission may decide to include in 11 CFR 114.4 a provision which states that any activity which is not specifically permitted in that section is prohibited. On the other hand, the Commission may decide to include in 11 CFR 114.4 a provision which permits any activity which is indistinguishable from those activities specifically permitted under that section.

Dated: August 20, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80-25791 Filed 8-22-80; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-WE-36-AD]

McDonnell Douglas DC-10 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require modification of the left and right overwing (No. 3 door) evacuation slide or slide/raft packs and container assemblies installed on McDonnell Douglas Model DC-10 Series Airplanes. This AD is prompted by reports of instances in which the inflation system of the evacuation slide or slide/raft was not initiated automatically which could result in delay in airplane evacuation.

DATES: Comments must be received on or before November 3, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009.

The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60).

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary Airworthiness, Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. (213)-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communication should identify the

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regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the Rules Docket.

There have been reports that during production tests of the evacuation slides and slide/rafts installed at the overwing (No. 3) door on the McDonnell Douglas Model DC-10 aircraft, there were a significant number of instances in which the inflation sytem was not initiated automatically. Upon investigation it was determined that the kickout straps on the slide or slide/raft container were too short to eject the slide or slide/raft far enough onto the wing surface from within the cabin to automatically inflate the slide or slide/raft. In each instance where complete deployment did not occur the slide or slide/raft could have been inflated manually. Federal Aviation Regulations, however, require that the evacuation device be automatically erected upon initiation of emergency exit opening from inside the airplane. A review of the various design changes which have occurred since original certification was inconclusive in pinpointing any modification which may have adversely affected the automatic inflation sequencing. Further, no occurrence of this condition has been reported on in-service airplanes. Nevertheless, sufficient evidence exists supporting the potential for its occurrence that action designed to preclude such a possibility is deemed warranted.

Since this condition is likely to exist or develop on other airplane of the same type design the proposed AD would require modification of the slide or slide/raft container by lengthening the existing two straps and installing two new straps which will assure proper automatic deployment and erection of the evacuation devise on McDonnell Douglas DC-10 Series Airplanes.

Proposed amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -10F, -30, -30F and -40 Series Airplanes certified in all categories utilizing the following slide or slide/raft assemblies at the No. 3 door:

Manufacturer	Part No.
Left Hand Door	
Sargent, Industries, Pico Division.	5LD230500-112
	5LD230500-114
	5WD230500-101
	5WD230500-101 (DAW95)
	5WD230500-201
	5WD230500-201 (DAW95)
	5WD230500-401
	5WD230500-401 (DAW98)
Air Cruisers Company	24D29220-3
	24D30051-11
	24D30051-11 (DAW98)
	24D30051-13 (DAW98)
	24D30051-51
	24D30051-53 (DAW98)
	24D30051-91
Right Hand Door	
Sargent Industries, Pico Division.	5LD230600-112
	5LD230600-114
	5WD230600-101
	5WD230600-101 (DAW95)
	5WD230600-201
	5WD230600-201
	5WD230600-201 (DAW95)
	5WD230600-401
	5WD230600-401 (DAW95)
Air Cruisers Company	24D29220-4
	24D30051-21
	24D30051-21
	24D30051-21 (DAW98)
	24D30051-23 (DAW98)
	24D30051-61
	24D30051-63 (DAW98)
	24D30051-101

Compliance is required as indicated unless already accomplished. To prevent improper deployment of No. 3 door slide/slide raft accomplish the following:

At next slide or slide/raft assembly overhaul after the effective date of this AD but in no case exceeding three years from the effective date of this AD, unless already accomplished, modify the affected evacuation system assemblies and container assembly P/N AWD7446—503 (Douglas P/N) in accordance with Part 2, Accomplishment Instructions, of Douglas Service Bulletin No. 25-278 dated March 7, 1980.

Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

Alternative modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on August 13, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80-25544 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 80-AWA-13]

Proposed Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a temporary restricted area in the vicinity of Clear Creek, Alaska, to contain a major joint military exercise. The area would be included in the Continental Control Area. Federal Airways B-26 and V-444 would be excluded within the proposed restricted area. This action would prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted area during the time the area is in use by the military.

DATES: Comments must be received on or before September 24, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWA-13, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

Send comments concerning environmental and land use aspects to: Major Ronald S. Brooks, DOOS Headquarters, Alaskan Air Command, Elmendorf AFB, Alaska 99506. (907) 752-5346.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before September 24, 1980 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering amendments to § 71.109, § 71.125, § 71.151 and § 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would designate a temporary restricted area identified as R–2213, Clear Creek, Alaska, to contain a major joint military readiness exercise entitled BRIM FROST 81. The proposed restricted area would be included in the Continental Control Area. This exercise will provide training for several military commands operating under the sponsorship of the Department of the Air Force, Alaskan Air Command. The air activities associated with the exercise will be such that flight by nonparticipating aircraft cannot be safely conducted within the proposed temporary restricted area when it is in use by the military. These activities will consist of air operations such as close air support, air interdiction, tractical reconnaissance, aerial resupply, paradrops and aerial refueling. It is estimated that approximately 160 aircraft would be utilized to conduct approximately 100 fixed wing and 150 helicopter sorties daily. The boundary abutment to the existing Restricted Area R–2202A is necessary to accommodate inter-area transition into and out of R–2202A which will be used extensively during the exercises. Communications equipment would be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area when military activity permits. Additionally, a reverse charge telephone number and a VHF radio communications frequency would be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The proposed temporary restricted area would be designated as joint use to permit use by the controlling agency for nonparticipating VFR and IFR air traffic when the area is not in use by the military. The military would provide aerial access to private or public use land within the proposed area. Federal Airways B–26 and V–444 would be excluded within the proposed temporary restricted area during its designated period to facilitate participating aircraft performing maneuvers which are not compatible with the existence of an airway. The Department of the Air Force, Alaskan Air Command, will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). Sections 71.109, 71.125 and 71.151 of Part 71, and § 73.22 of Part 73 were republished in the **Federal Register** on January 2, 1980 (45 FR 306, 342, 346 and 680).

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.109, § 71.125, § 71.151 and § 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 306, 342, 346 and 680) as follows:

1. In § 71.109, under B–26, the following is added: "The airspace within Restricted Area R–2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981."

2. In § 71.125, under V–444, the following is added: "The airspace within Restricted Area R–2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981."

3. In § 71.151, between "R–2211 Blair Lakes, Alaska" and "R–2301 Ajo, Arizona" the following is added: "R–2213 Clear Creek, Alaska, from 0001 January 28, until 2359 local time February 3, 1981."

4. In § 73.22, after "R–2211 Blair Lakes, Alaska;" the following is added:

R–2213 Clear Creek, Alaska

Boundaries. Beginning at Lat. 64°41′00″N., Long. 147°55′00″W.; to Lat. 64°40′00″N., Long. 147°20′00″W.; to Lat. 64°20′00″N., Long. 147°00′00″W.; to Lat. 64°14′45″N., Long. 146°43′15″W.; thence along the East bank of the East Fork and Little Delta Rivers to Lat. 63°50′50″N., Long. 146°47′30″W.; to Lat. 63°56′00″N., Long. 147°02′00″W.; to Lat. 63°58′00″N., Long. 148°00′00″W.; to Lat. 64°23′00″N., Long. 148°05′00″W.; to point of beginning.

Designated altitudes. Surface to FL200.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Anchorage ARTCC.

Using agency. Alaskan Air Command, Elmendorf AFB, Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–25728 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 80–ARM–5]

Establishment of a Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of propoesed rulemaking

SUMMARY: This notice proposes to establish a new Jet Route J–175 between Cheyenne, Wyo., and Dubois, Idaho. J–175 would improve traffic in the Denver, Colo., terminal area. In addition, J–175 would provide a direct route for aircraft departing Denver and proceeding northwest thereby saving a significant amount of fuel.

DATES: Comments must be received on or before September 24, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 80–ARM–5, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations Branch, AAT–230, Airspace and Air Traffice Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rockey Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before September 24, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would establish a new jet Route J–175 fromn Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. This new jet route would aid controllers by establishing a jet route that is aligned with Standard Instrument Departures (SIDs) from Denver, Colo. In addition, a significant savings in fuel consumption would be realized by providing a direct route for aircraft departing Denver and proceeding northwest. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under § 75.100 "Jet Route No. 175 From Cheyenne, Wyo., via Laramie, Wyo., to Dubois, Idaho." is added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–25730 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 80–ACE–20]

Establishment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a new Jet Route J–182 between Goodland, Kans., and Razorback, Ark., via Wichita, Kans. J–182 would provide a direct route between Goodland and Razorback thereby improving traffic flow in these terminal areas and save fuel due to the shortened route.

DATES: Comments must be received on or before September 24, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 80–ACE–20, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before September 24, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would establish a new Jet Route J–182 between Goodland, Kans., and Razorback, Ark., via Wichita, Kans. This new jet route would improve departures/arrivals at Wichita, Kans., and permit more flexibility for maneuvering traffic in the area. Also, a significant savings in fuel consumption would be realized by providing a direct

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route for aircraft operating in this area. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under § 75.100 "Jet Route No. 182 From Goodland, Kans., via Wichita, Kans., to Razorback, Ark." is added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 19, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25732 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 934

Proposed Flower Garden Banks National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Extension of comment period.

SUMMARY: NOAA is extending the deadline for the inclusion of comments on the revised regulations in the final environmental impact statement (FEIS). As a result of a substantial number of responses attesting to the lack of time to prepare comments, NOAA is extending the date for inclusion of comments in the Flower Garden Banks National Marine Sanctuary FEIS to September 15, 1980.

DATE: Comments due September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Richard J. Podgorny, (202) 634-4236.

ADDRESS: Send comments and information to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: The regulations for the proposed Flower Garden Banks National Marine Sanctuary (the Sanctuary) were first proposed on Aptil 13, 1979, (44 FR 22081) and a draft environmental impact statement (DEIS) describing the effect of the proposed designation and regulations was issued concurrently. As a result of comments received on the regulations and the DEIS, and after consultation with interested Federal Agencies, NOAA revised the original proposed regulations.

These revised regulations were published on June 26, 1980 (45 FR 43205). At that time, it was stated that all comments received by July 25, 1980, would be considered in the preparation of the FEIS. However, a substantial number of responses were received attesting to the lack of time to prepare comments. Therefore, NOAA is extending the date for inclusion of comments in the FEIS to September 15, 1980. In addition, in order to assure that a broader spectrum of the public that will be most affected by the Sanctuary is aware of the present status of the Sanctuary proposal, notices will be placed in the major newspaper in the Texas-Louisiana region. Copies of the revised regulations will be available on request from the sanctuary Programs Office.

Dated: August 15, 1980.

Michael Glazer,

Assistant Administrator for Coastal Zone Management.

[FR Doc. 80-25357 Filed 8-22-80; 8:45 am]

BILLING CODE 3510-08-M

WATER RESOURCES COUNCIL

18 CFR Parts 703 and 740

State Water Management Planning; Proposed Program Guidelines

AGENCY: U.S. Water Resources Council.

ACTION: Cancellation of Kansas City, MO public hearing scheduled for August 26, 1980.

SUMMARY: This is to announce cancellation of the public hearing previously announced in the **Federal Register** , Vol. 45, No. 141, dated Monday, July 21, 1980, to be held on August 26, 1980, at 601 E. 12th Street, Room 114, Kansas City, Missouri, by the U.S. Water Resources Council, to solicit comments on the State Water Management Planning—Proposed Program Guidelines. This action has been necessitated due to the anticipated lack of participation in the hearing, however, all interested parties are encouraged to submit written comments with respect to the proposed guidelines by September 5, 1980, as previously annonuced. Additionally, the hearing scheduled to be conducted on August 28, 1980, in Washington, DC will be held as originally announced in the **Federal Register** , Vol. 45, No. 141, dated Monday, July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Denzel L. Fisher, Acting Director, State Programs Division, U.S. Water Resources Council, 2120 L Street, N.W., Washington, DC 20037, (202) 254-6446.

Wellington L. Hundley,

Program Manager.

[FR Doc. 80-26157 Filed 8-22-80; 11:02 am]

BILLING CODE 8410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 660

[FHWA Docket No. 80-16]

Forest Highways; Administration and Construction Provisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Comments are requested on a proposal that would amend existing regulations on the administration and construction of forest highways. The proposed amendment would coincide with a change in the statutory definition of forest highways and would revise and update existing procedures.

DATE: Comments must be received on or before October 24, 1980.

ADDRESS: Anyone wishing to submit written comments may do so, preferably in triplicate, to FHWA Docket 80-16, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Coles, Office of Highway Operations (HHO-13), 202-426-0460, or Mr. Lee J. Burstyn, Office of the Chief

Counsel (HCC–10), 202–4226–0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Currently, there are 22,000 miles of public roads in 40 States and Puerto Rico designated as forest highways. These highways are of special Federal interest because they provide access to the resources of the national forests. Forest highways also provide benefits to communities in or near national forest boundaries.

Forest highways are under the jurisdiction of, and maintained by, State of local authorities. The Federal Highway Administration (FHWA) administers the forest highway program in cooperation with the Forest Service (FS), United States Department of Agriculture. Under this program Federal funds are made available to State and local authorities for the construction and improvement of forest highways.

The regulations governing the forest highway program are codified in Part 660 of title 23, Code of Federal Regulations (23 CFR 660). Subpart A contains the procedures which are used to select forest highway projects for Federal funding and to administer the construction of those projects. Subpart B establishes a Forest Highway System and the procedures for classifying, numbering, and modifying forest highway routes.

The administration of the Forest Highway System was reviewed by the United States General Accounting Office (GAO) and was the subject of a report entitled "Federal Interests Should Receive More Consideration Under the Forest Highway Program" (CED–77–130, October 13, 1977.* The GAO report found that certain roads essential to the national forests were not being given sufficient consideration in the financing of forest highway improvements. For example, some 3,700 miles of forest roads were found to be ineligible for Federal funding because of legislative and administrative changes between 1970 and 1977. State and local funding then became the only source of funding for needed improvements on these routes. The GAO report recommended legislative action to permit those forest roads that were formerly considered forest highways to be eligible for funding under the forest highway program.

The Surface Transportation Assistance Act of 1978 (STAA) (P.L. 95–599) amended the definition of "forest highway" in § 101(a) of title 23, United States Code (23 U.S.C. § 101(a)). This amendment was recommended by the President in response to the GAO report.

The definition of forest highways in 23 U.S.C. § 101(a) is now broad enough to incorporate those roads which had become ineligible for Federal funding. It includes all forest roads which are under the jurisdiction of, and maintained by, a public authority and open to public travel. It allows the FHWA and the FS to develop a more integrated forest road system by extending funding to those highways which link the various Federal-aid highway systems (i.e., primary, secondary, etc.) with the forest development roads, which are administered by the FS.

The GAO report also recommended that the FHWA and the FS jointly develop and issue specific criteria for selecting projects for forest highway funding. Because of limited funds authorized for the program, the GAO recommended that project development and selection be based on sound criteria to assure that those projects that best meet the program's intent are given top consideration.

Section 660.103(b) of this proposed regulation would incorporate the new definition of forest highways which has been in effect since 1978. Section 660.109 would establish a formal program and project selection process based on specific criteria. The proposed process would also better protect the Federal interest in forest highways by providing a greater role for the FS in the development and selection of programs and projects.

It is also proposed to eliminate the current Forest Highway System as such. All references to the Forest Highway System in 23 CFR 660, Subpart A would be deleted and the entire Subpart B would be deleted (i.e., "vacated") from the CFR. The existing Forest Highway System was not established as a result of any statutory requirement, but rather was created as an administrative mechanism for designating forest highway routes. Under proposed § 660.105, forest roads would be designated as forest highways on the basis of three fundamental criteria, without reference to a formal Forest Highway System. This change is designed to eliminate unnecessary paperwork and administrative burdens in the forest highway program.

The proposed regulation would provide for consultation between the FHWA, the FS, State highway agencies, and local government agencies, as appropriate, in a number of important areas including the designation of forest highways (§ 660.105), program and project selection (§ 660.109), and maintenance (§ 660.115). The FHWA encourages agencies with an interest in forest highways to consult with each other on a regular basis and to share their expertise in all program areas.

This proposal represents a condensed version of the current regulation for administering forest highways. Extraneous material and requirements would be eliminated. Other provisions would be revised or supplemented with references to existing policies and procedures in order to improve the clarity and usefulness of the document.

Proposed § 660.111 retains the concept of a statewide or countywide forest highway agreement, with a project level agreement required only under certain specified conditions. It is intended that all existing agreements between the FHWA and cooperating agencies (i.e., "cooperators") would remain in effect under the proposed regulation.

Section 660.113 of the proposed regulation recognizes that forest highway projects may be constructed or administered directly by the FHWA under the FHWA's "direct Federal" procedures, or by a cooperator under normal Federal-aid highway program procedures. This section also indicates that the design standards approved for use by the FHWA in 23 CFR 625 apply to forest highways unless other standards are approved by the FHWA for use on a particular project.

Proposed § 660.117(a) recognizes that the Federal share of funding for forest highway projects may be any amount up to and including 100 percent, but also makes it clear that participation by cooperators is not required. However, the FHWA encourages cooperators to participate in project funding, as this allows Federal funds to be used for a greater number of projects. Proposed § 660.117(c) is a statement of the FHWA's existing policy which discourages the use of forest highway funds for right-of-way acquisition and maintenance. This policy is based on the same concept of making limited Federal funds available for as many projects as possible.

Section 204(d) of title 23, U.S.C., requires that all appropriations for forest highways be administered in conformity with regulations jointly approved by the Secretary of Transportation and the Secretary of Agriculture. That approval authority has been delegated to the Federal Highway Administrator and the Chief of the Forest Service respectively. The issuance of this notice of proposed rulemaking has been approved by both the FHWA and the FS as indicated by the signatures below.

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*This report is available from the U.S. GAO, Distribution Section, Room 4522, 441 G Street, NW., Washington, D.C. 20548. It is available for inspection and copying from the Office of Highway Operations (ATTENTION: HHO–13), Room 3110, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The aniticipated impact of this proposal is so minimal as to not require preparation of a full regulatory evaluation at this time.

In consideration of the foregoing, it is proposed to revise Chapter I, Part 660 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: August 14, 1980.

L. P. Lamm,

Executive Director, Federal Highway Administration.

R. Max Peterson,

Chief, Forest Service.

1. Part 660, Subpart A is revised to read as set forth below.

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

Subpart A—Forest Highways

Sec.
660.101 Purpose.
660.103 Definitions.
660.105 Designation of forest highways.
660.107 Apportionments.
660.109 Program and project selection.
660.111 Agreements.
660.113 Construction.
660.115 Maintenance.
660.117 Funding, records and accounting.

Authority: 16 U.S.C. §§ 1608–1610; 23 U.S.C. §§ 101, 204, 315; and 49 CFR 1.48(b).

Subpart A—Forest Highways

§ 660.101 Purpose.

To enhance local, regional, and national benefits by providing for the construction and maintenance of forest highways which serve the National Forest System (NFS) and its renewable resources.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. § 101(a), the following shall apply to this subpart:

(a) *Cooperator*—a State or local government agency which has jurisdiction over and/or maintenance responsibility for forest highways.

(b) *Forest highway*—a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

(c) *National Forest System*—lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the National Forest Management Act of 1976, as amended (16 U.S.C. § 1609(a)).

(d) *Open to public travel*—except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(e) *Renewable resources*—those matters within the scope of responsibilities and authorities of the FS as defined in the National Forest Management Act of 1976, as amended (16 U.S.C. § 1610), such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

§ 660.105 Designation of forest highways.

(a) The Federal Highway Administration (FHWA), in consultation with the FS, the State highway agency (SHA), and local government agencies, where appropriate, will designate forest highways from the forest roads which serve the NFS in each State.

(b) A forest road designated as a forest highway for purposes of this subpart will meet the following criteria:

(1) It is under the authority of a cooperator and open to public travel.

(2) It provides access, with adequate and safe public roads, between the renewable resources of the NFS which are essential to the local, regional, or national economy, and the communities, shipping points, or markets which depend upon those renewable resources.

(3) It serves other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS, or serves traffic of which a preponderance is generated by use of the NFS and its resources.

§ 660.107 Apportionments.

On October 1 of each fiscal year the FHWA will apportion the funds authorized for forest highways for that fiscal ear as follows:

(a) the FHWA will deduct such sums as deemded necessary for the administrative requirements of the FHWA and the necessary expenses of the FS.

(b) The balance of the authorization will be apportioned for expenditure by the FHWA according to the area and value of the land owned by the United States within the NFS, as certified to the FHWA by the FS.

§ 660.109 Program and project selection.

(a) For each fiscal year that funds are apportioned for forest highways, the FHWA will request that the FS and the SHA (acting for all cooperators in the State) each submit a list of projects proposed for financing with such funds, together with supporting data including:

(1) Data identifying and supporting the need for the project,

(2) A discussion of the benefits to be attained,

(3) A record of planning and surveys conducted, and

(4) A preliminary cost estimate and the proposed Federal share.

(b) The projects submitted to the FHWA for consideration should be listed in order of priority.

(c) Following receipt of the lists of projects and supporting data, the FHWA will conduct a joint conference with the FS and the SHA to resolve any disagreements and to select the projects which will be included in the programs for the current fiscal year and at least the next four years. If there are no disagreements, a conference will not be required. Projects included in each program will be jointly selected based upon a review of the data submitted pursuant to paragraph (a) of this section, the priority listing, and the following criteria:

(1) The development, utilization, protection and administration of the NFS and its renewable resources,

(2) The enhancement of economic development at the local, regional, and national level,

(3) The continuity of the transportation network serving the NFS and its dependent communities,

(4) The mobility of the users of the transportation network and the goods and services provided,

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users, and

(6) The protection and enhancement of the rural environment associated with the NFS.

(d) The recommended program of projects will be prepared by the FHWA and submitted to the FS and SHA for concurrence. Following concurrence, the SHA shall advise any other cooperators in the State of the projects included in the final program. The SHA shall also determine the amount of State and local participation required for the funding of each project.

V 45 AG 25 80 UMI

§ 660.111 Agreements.

(a) A forest highway agreement shall be entered into between the FHWA and each cooperator prior to the expenditure of any funds by the FHWA in the State, county, or other local jurisdiction involved. The forest highway agreement shall set forth the responsibilities of each party, including adherence to the applicable provisions of Federal statutes and regulations.

(b) A project agreement implementing the forest highway agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available to the FHWA for the project or any portion of the project.

(2) Federal funds are to be made available to a cooperator for any work.

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project.

§ 660.113 Construction.

(a) Forest highway projects will be constructed or administered by the FHWA unless otherwise provided for in an agreement approved under this subpart.

(b) Projects to be constructed or administered by the FHWA will be developed in accordance with FHWA procedures and the Federal Highway projects Nationwide Action Plan.[*] Projects to be constructed or administered by a cooperator shall be developed in accordance with Federal-aid procedures and the appropriate Environmental Action Plan approved by the FHWA under Part 795 of this chapter.

(c) No construction shall be undertaken on any forest highway project until plans, specifications and estimates have been reviewed by the cooperator and approved by the FS and the FHWA.

(d) Forest highway projects shall be constructed according to the standards in Part 625 of this chapter or those specifically approved by the FHWA for a particular project.

(e) The construction of forest highways will be performed by the contract method, unless construction by the FHWA or a cooperator on its own account is warranted under 23 U.S.C. § 204(c).

(f) Construction of any project shall not be accepted by the FHWA as completed until the project has been approved and inspected by the FS and the FHWA.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a forest highway shall have the responsibility for maintaining it, unless otherwise provided for in an agreement approved under this subpart. The cooperator shall consult with the SHA and the FS on matters regarding the adequacy of such maintenance.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible forest highway projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of construction, but participation shall not be required.

(b) Forest highway funds shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) Forest highway funds shall not be available for right-of-way acquisition or maintenance unless warranted by unusual circumstances.

(d) Cooperators which administer construction of forest highway projects and the SHA's shall maintain their forest highway records according to the provisions of Part 17 of this chapter.

(e) Funds provided to the FHWA by a cooperator in advance of construction will be deposited in the Treasury of the United States to the credit of "Cooperative Work, Forest Highways, Federal Highway Administration."

§§ 660.201—660.213 (Subpart B) [Reserved]

2. Part 660, Subpart B is vacated and reserved.

[FR Doc. 80-25684 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, 54, and 301

Procedure and Administration of Certain Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to Procedure and Administration with respect to chapters 41, 42, 43, and 44 excise taxes, black lung benefit trusts, and the unrelated business income tax. Changes in the applicable law were made by the Tax Reform Act of 1969, the Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976, and the Revenue Act of 1978. These regulations would provide the public with the guidance needed to comply with those Acts and would affect all persons liable for tax under chapters 41, 42, 43, and 44 of the Code.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 24, 1980. The amendments are proposed to be effective at varying dates dependent upon the effective date of the underlying excise tax.

ADDRESS: Send comments and request for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (EE-159-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53), Pension Excise Taxes (26 CFR Part 54), and the Regulations on Procedure and Administration (26 CFR Part 301) under various provisions of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations relating to procedure and administration of the excise taxes to present law, and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations was Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

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[*] Available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 53, 54, and 301 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.6012–2(e) is amended to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(e) *Charitable and other organizations with unrelated business income.* Every organization described in section 511(a)(2) which is subject to the tax imposed by section 511(a)(1) on its unrelated business taxable income shall make a return on Form 990–T for each taxable year if it has gross income, included in computing unrelated business taxable income for such taxable year, of $1,000 or more. The filing of a return of unrelated business income does not relieve the organization of the duty of filing other required returns.

* * * * *

Par. 2. Section 1.6012–3(a)(5) is amended to read as follows:

§ 1.6012–3 Returns by fiduciaries.

(a) *For estates and trusts.* * * *

(5) *Trusts with unrelated business income.* Every fiduciary for a trust described in section 511(b)(2) which is subject to the tax on its unrelated business taxable income by section 511(b)(1) shall make a return on Form 990–T for each taxable year if the trust has gross income, included in computing unrelated business taxable income for such taxable year, of $1,000 or more. The filing of a return of unrelated business income does not relieve the fiduciary of such trust from the duty of filing other required returns.

* * * * *

Par. 3. Paragraph (a)(2)(i) of § 1.6033–2 is amended by adding a new sentence at the end to read as follows:

§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

(a) *In general.* * * *

(2)(i) * * * For taxable years beginning after December 31, 1977, every section 501(c)(21) black lung trust shall file an annual information return on Form 990–BL or any other form prescribed by the Internal Revenue Service for that purpose.

* * * * *

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 4. A new paragraph (e) is added to § 53.6011–1 to read as follows:

§ 53.6011–1 General requirement of return, statement, or list.

* * * * *

(e) For taxable years beginning after December 31, 1977, every person liable for tax under section 4951, 4952, or 4953 (relating to taxes on self-dealing, taxable expenditures, and excess contributions involving black lung benefit trusts) shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for that purpose. The person liable for the tax shall include the information required by the form and its related instructions.

Par. 5. Section 53.6071–1 is amended by changing a cross-reference in paragraph (a) and adding a new paragraph (d). The amended and new paragraphs read as follows:

§ 53.6071–1 Time for filing returns.

(a) *General rule.* Except as otherwise provided in this section, a return required by § 53.6011–1 shall be filed at the time the private foundation or trust described in section 4947(a)(2) is required to file its annual information or tax return under section 6033 or 6012 (as may be applicable).

* * * * *

(d) *Taxes related to black lung benefit trusts.* Forms 990–BL and 6069 shall be filed on or before the 15th day of the fifth month following the close of the filer's taxable year.

PART 54—PENSION EXCISE TAXES

Par. 6. New § 54.6011–1 is added to read as follows:

§ 54.6011–1 General requirement of return, statement, or list.

(a) *Minimum funding standards or excess contributions for self-employed individuals.* Every employer liable for tax under section 4971, 4972 or 4973(c) shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto.

(b) *Tax on prohibited transactions.* Every disqualified person (as defined in section 4975(e)(2)) liable for the tax imposed under section 4975(a) with respect to a prohibited transaction shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto. The annual return on Form 5330 shall be filed with respect to each prohibited transaction and for each taxable year (or part thereof) of the disqualified person in the taxable period (as defined in section 4975(f)(2)) beginning on the date on which such prohibited transaction occurs.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 7. Section 301.6204–1 is amended to read as follows:

§ 301.6204–1 Supplemental assessments.

If any assessment is incomplete or incorrect in any material respect, the district director or the director of the regional service center, subject to the restrictions with respect to the assessment of deficiencies in income, estate, gift, chapter 41, 42, 43, and 44 taxes, and subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

Par. 8. Section 301.6211–1 is amended by revising paragraph (a) and the first sentence of paragraph (f) to read as follows:

§ 301.6211–1 Deficiency defined.

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax (income, estate, gift, or excise tax, as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by chapter 41, 42, 43, or 44. Any amount shown as additional tax on an "amended return," so-called (other than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.

* * * * *

(f) As used in section 6211, the term "rebate" means so much of an abatement, credit, refund, or other repayment as is made on the ground that the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or the excise tax imposed by chapter 41, 42, 43, or 44, is less than the excess of (1) the amount shown as the tax by the taxpayer upon the return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. * * *

Par. 9. Section 301.6212–1 is amended by revising paragraph (a), (b)(1), and the first sentence of paragraph (c) to read as follows:

§ 301.6212–1 Notice of deficiency.

(a) *General rule.* If a district director or director of a service center (or regional director of appeals), determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B, or excise tax imposed by chapter 41, 42, 43, or 44, of the Code, such official is authorized to notify the taxpayer of the deficiency by either registered or certified mail.

(b) *Address for notice of deficiency*—(1) *Income, gift, and chapter 41, 42, 43, and 44 taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in respect of income tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

* * * * *

(c) *Further deficiency letters restricted.* If the district director or director of a service center (or regional director of appeals) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar quarter (calendar year with respect to gifts made before January 1, 1971), estate tax with respect to the taxable estate of the same decedent, chapter 41, 43, or 44 tax of the taxpayer for the same taxable year, section 4940 tax for the same taxable year, or chapter 42 tax of the taxpayer (other than under section 4940) with respect to the same act (or failure to act) to which such petition relates.* * *

Par. 10. Section 301.6213–1 is amended by revising paragraph (a)(2) and by adding a new paragraph (e). These revised and added provisions read as follows:

§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.

(a) *Time for filing petition and restrictions on assessment.* * * *

(2) *Restrictions on assessment.* Except as otherwise provided by this section, by sections 6851 and 6861(a) (relating to terminaton and jeopardy assessments), by section 6871(a) (relating to immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership cases), or by section 7485 (in case taxpayer petitions for a review of a Tax Court decision without filing bond), no assessment of a deficiency in respect of a tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 of the Code and no levy or proceeding in court for its collection shall be made until notice of deficiency has been mailed to the taxpayer, nor until the expiration of the 90-day or 150-day period within which a petition may be filed with the Tax Court, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. As to the date on which a decision of the Tax Court becomes final, see section 7481. Notwithstanding the provisions of section 7421(a), the making of an assessment or the beginning of a proceeding or levy which is forbidden by this paragraph may be enjoined by a proceeding in the proper court. In any case where the running of the time prescribed for filing a petition in the Tax Court with respect to a tax imposed by chapter 42 or 43 is suspended under section 6213(e), no assessment of a deficiency in respect of such tax shall be made until expiration of the entire period for filing the petition.

* * * * *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213(a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6). Where the time for filing a petition with the Tax Court has been suspended under the authority of this paragraph (e), the extension shall not be reduced as a result of the correction being made prior to expiration of the period allowed for making correction.

Par. 11. Section 301.6501(c)–1 is amended by revising paragraph (c) to read as follows:

§ 301.6501(c)–1 Exceptions to general period of limitations on assessments and collections.

* * * * *

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return. For special rules relating to filing a return for chapter 42 and similar taxes, see §§ 301.6501(n)–1, 301.6501(n)–2, and 301.6501(n)–3.

Par. 12. Section 301.6501(e)–1 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 301.6501(e)–1 Omission from return.

* * * * *

(c) *Excise taxes*—(1) *In general.* If the taxpayer omits from a return of a tax imposed under a provision of subtitle D an amount properly includable thereon, which amount is in excess of 25 percent of the amount of tax reported thereon, the tax may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed. For special rules relating to chapter 41, 42, 43, and 44 taxes, see subparagraphs (2), (3), (4), and (5) of this paragraph.

(2) *Chapter 41 excise taxes.* If an organization discloses an expenditure in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such expenditure, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax under chapter 41 arising from such expenditure. If a taxpayer fails to so disclose an expenditure in its return (or in a schedule or statement attached thereto), the tax arising from the expenditure not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(3) *Chapter 42 excise taxes.* (i) If a private foundation omits from its annual return with respect to the tax imposed

by section 4940 an amount of tax properly includible therein which is in excess of 25 percent of the amount of tax imposed by section 4940 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(ii) If a private foundation or trust (as the case may be) discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), and 4953 arising from any transaction disclosed by such item. If a private foundation or trust (as the case may be) fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(4) *Chapter 43 excise taxes.* If a taxpayer discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4971(a), 4972, 4973, 4974, and 4975(a) arising from any transaction disclosed by such item. If a taxpayer fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. The applicable return for the tax under sections 4971, 4972, 4973 and 4974 is the return designated by the Commissioner for reporting the respective tax. The applicable return for the tax under section 4975 is the return filed by the plan used to report the act giving rise to the tax.

(5) *Chapter 44 excise taxes.* If a real estate investment trust omits from its annual return with respect to the tax imposed by section 4981 an amount of tax properly includible therein which is in excess of 25 percent of the amount of tax imposed by section 4981 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(d) *Exception.* * * *

Par. 13. New §§ 301.6501(n)–1, 301.6501(n)–2, and 301.6501(n)–3 are added which read as follows:

§ 301.6501(n)–1 Special rules for chapter 42 and similar taxes.

(a) *Return filed by private foundation, plan, or trust.* (1) A return filed by a private foundation, plan, or trust (as the case may be) with respect to any act giving rise to a tax imposed by chapter 42 (other than a tax imposed by section 4940), or by section 4975 shall be considered, for purposes of section 6501, to be the return of all persons required to file a return with respect to any such tax arising from such act, notwithstanding that all such persons have not signed the return. In the case of a private foundation that files a Form 990–PF (or a Form 5227 in the case of a nonexempt foundation described in section 4947(a)), which contains questions with respect to such taxes, the filing of such form by such foundation shall constitute the filing of a return with respect to any such act, even though the foundation incorrectly answered such questions.

(2) For purposes of section 4940, the return referred to in this section is the return filed by the private foundation for the taxable year for which the tax is imposed.

(b) *Failure of private foundation, plan, or trust to file.* The period of limitations on assessment and collection described in section 6501 does not begin with respect to any person liable for tax under chapter 42 (other than section 4940) or section 4975 arising from a given act, where the private foundation, plan, or trust (as the case may be) has not filed its required return that reports such act for the year in which the act (or failure to act) giving rise to liability for such tax occurred.

(c) *Example.* The provisions of this section may be illustrated by the following example:

Example. In 1973, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). On May 15, 1974, the private foundation files a Form 990–PF and answers all the questions thereon with regard to any acts of self-dealing (as defined in section 4941(d)) in which it may have engaged in 1973. Assuming that the foundation's return was not a false or fraudulent return nor made with the willful attempt to defeat tax, the period of limitations on assessment and collection under section 6501(a) shall start with respect to any tax under section 4941 imposed on D arising out of that transaction with such foundation.

§ 301.6501(n)–2 Certain contributions to section 501(c)(3) organizations.

If a private foundation makes a contribution to a section 501(c)(3) organization as provided in section 4942(g)(3), and a deficiency of tax of such foundation occurs due to the failure of the section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), then such deficiency may be assessed within one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

§ 301.6501(n)–3 Certain set-asides described in section 4942(g)(2).

Where a deficiency of tax of a private foundation results from the failure of an amount set aside by such foundation for a specific project to be treated as a qualifying distribution under section 4942(g)(2)(B)(ii)(II), such deficiency may be assessed within two years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

Par. 14. Paragraph (a) of § 301.6503(a)–1 is amended to read as follows:

§ 301.6503(a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.* (1) Upon the mailing of a notice of deficiency for income, estate, gift, chapter 41, 42, 43, or 44 tax under the provisions of section 6212, the period of limitation on assessment and collection of any deficiency is suspended for 90 days after the mailing of a notice of such deficiency if the notice of deficiency is addressed to a person within the States of the Union and the District of Columbia, or 150 days if such notice of deficiency is addressed to a person outside the States of the Union and the District of Columbia (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the 90th or 150th day), plus an additional 60 days thereafter in either case. If a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitaiton is suspended until the decision of the Tax Court becomes final, and for an additional 60 days thereafter. If a notice of deficiency is mailed to a taxpayer within the period of limitation and the taxpayer does not appeal therefrom to the Tax Court, the notice of deficiency so given does not suspend the running of the period of limitation with respect to any additional deficiency shown to be due in a subsequent deficiency notice.

(2) This paragraph may be illustrated by the following example:

Example. A taxpayer filed a return for the calendar year 1973 on April 15, 1974; the notice of deficiency was mailed to him (at an address within the United States) on April 15, 1977; and he filed a petition with the Tax Court on July 14, 1977. The decision of the Tax Court became final on November 6, 1978. The running of the period of limitation for assessment is suspended from April 15, 1977, to January 5, 1979, which date is 60 days after the date (November 6, 1978), on which the decision became final. If in this example the taxpayer had failed to file a petition with the Tax Court, the running of the period of limitation for assessment would then be suspended from April 15, 1977 (the date of notice), to September 12, 1977 (that is, for the 90-day period in which he could file a petition with the Tax Court, and for 60 days thereafter).

* * * * *

Par. 15. Section 301.6503(g)–1 is redesignated as § 301.6503(f)–1 and a new § 301.6503(g)–1 is added to read as follows:

§ 301.6503(g)–1 Suspension pending correction.

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments, the collection by levy, or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Commissioner has extended the time for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6).

Par. 16. A new § 301.6511(f)–1 is added which reads as follows:

§ 301.6511(f)–1 Special rules for chapter 42 taxes.

(a) *In general.* Claims for credit or refund of an overpayment of any tax imposed by chapter 42 shall be filed by the taxpayer within 3 years from the time a return was filed by the private foundation or trust (as the case may be) with respect to such tax, or within 2 years from the time the tax was paid, whichever of such periods expire the later.

(b) *Examples.* This section may be illustrated by the following examples:

Example (1). In 1972, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). The private foundation files a Form 990–PF on May 15, 1973, and discloses thereon that it has engaged in an act of self-dealing with D. D files a Form 4720 on July 2, 1973, and pays the amount of tax imposed by section 4941(a) with respect to such act of self-dealing. For purposes of this section, the return was filed on May 15, 1973, and any claim for credit or refund by D must be filed by May 17, 1976 (May 15, 1976, was a Saturday).

Example (2). Assume the same facts as in example (1) except that D filed a Form 4720 on July 1, 1974, and pays the tax on that date. D must then file any claim for credit or refund by July 1, 1976.

Par. 17. Section 301.6512–1 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 301.6512–1 Limitations in case of petition to Tax Court.

(a) *Effect of petition of Tax Court*—(1) *General rule.* If a person having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, gift, or excise tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 of the Code has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director or director of a service center (or a regional director of appeals) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in paragraph (a)(2) of this section.

* * * * *

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director, or director of a service center (or a regional director of appeals) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when a Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(1) After the mailing of the notice of deficiency, or

(2) Within the period which would be applicable under section 6511(b)(2), (c), (d) or (g) (see §§ 301.6511(b)–1, 301.6511(c)–1, 301.6511(d)–1, 301.6511(d)–2, and 301.6511(d)–3), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

* * * * *

§ 301.6601–1 [Amended]

Par. 18. Paragraph (d) of § 301.6601–1 is amended by striking out "or gift tax" and inserting in lieu thereof "gift, or chapter 41, 42, 43, or 44 tax."

Par. 19. Section 301.6653–1 is amended by revising so much of paragraph (c) as precedes paragraph (c)(2)(i) to read as follows:

§ 301.6653–1 Failure to pay tax.

* * * * *

(c) *Definition of underpayment*—(1) *Income, estate, gift, and chapter 41, 42, 43, and 44 taxes.* In the case of income, estate, gift, and chapter 41, 42, 43, and 44 taxes, an underpayment for purposes of section 6653 and this section is—

(i) The total amount of all deficiencies as defined in section 6211, if a return was filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, or

(ii) The amount of the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44, as the case may be, if a return was not filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return.

However, for purposes of paragraph (c)(1)(i) of this section, any amount of additional tax shown on the amended return, so called, filed after the due date of the return is a deficiency.

(2) *Other taxes.* In the case of any tax other than an income, estate, gift or chapter 41, 42, 43, or 44 tax, an underpayment for purposes of section 6653 and this section is the amount by which the tax imposed exceeds—

* * * * *

Par. 20. Section 301.6659–1 is amended by revising so much of paragraph (c)(1) as precedes example (1) and by revising paragraph (c)(2) to read as follows:

§ 301.6659–1 Applicable rules.

* * * * *

(c) *Deficiency procedures*—(1) *Addition to the tax for failure to file tax* *return.* (i) Subchapter B, chapter 63, of the Code (deficiency procedures) applies to the additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by section 6651 for failure to file a tax return to the same extent that it applies to such taxes. Accordingly, if there is a deficiency (as defined in section 6211) in the tax (apart from the addition to the tax) where a return has not been timely filed, deficiency procedures apply to the addition to the tax under section 6651. If there is no deficiency in the tax where a return has not been timely filed, the addition to the tax under section 6651 may be assessed and collected without deficiency procedures.

(ii) The provisions of paragraph (c)(1)(i) of this section may be illustrated by the following examples:

* * * * *

(2) *Additions to the tax for negligence or fraud.* Subchapter B of chapter 63 (deficiency procedures) applies to all additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by sections 6653 (a) and (b) for negligence and fraud.

* * * * *

Par. 21. Section 301.6861-1 is amended by revising its heading, by revising the first sentence of paragraph (a), and by adding a new paragraph (g) to read as follows:

§ 301.6861-1 Jeopardy assessments of income, estate, gift, and certain excise taxes.

(a) *Authority for making.* If a district director or director of a service center believes that the assessment or collection of a deficiency in income, estate, gift, or chapter 41, 42, 43, or 44 tax will be jeopardized by delay, then the director is required to assess such deficiency immediately, together with the interest, additional amounts, and additions to the tax provided by law. * * *

* * * * * *

(g) *Special rules for chapters 42 and 43 taxes.* For purposes of paragraph (a) of this section, the amount of a deficiency with respect to any tax imposed by section 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), 4971(a) or 4975(a) shall include the amount of additional tax imposed by section 4941(b), 4942(b), 4943(b), 4944(b), 4945(b), 4951(b), 4952(b), 4971(b) or 4975(b) for failure to correct the act (or failure to act) which gave rise to liability for the initial tax. For purposes only of determining the amount to be assessed with respect to such additional tax, the correction period (as defined in sections 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), and 4975(f)(6)) shall be considered to end on the day such jeopardy assessment is made.

Par. 22. Paragraph (a) of § 301.6862-1 and the heading of such section are amended to read as follows:

§ 301.6862-1 Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.

(a) If the district director believes that the collection of any tax (other than income, estate, gift, chapter 41, 42, 43, or 44 tax) will be jeopardized by delay, the director shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1)(i), (ii), or (iii) (relating to termination assessments) exists. For example, assume that a taxpayer incurs on January 18, 1977, liability for tax imposed by section 4061, that the last day on which return and payment of such tax is required to be made is May 2, 1977, and that on January 18, 1977, the district director determines that collection of such tax would be jeopardized by delay. In such case, the district director shall immediately assess the tax.

* * * * *

Par. 23. The heading and first sentence of paragraph (b) of § 301.6863-1 are amended to read as follows:

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

* * * * *

(b) *Additional conditions applicable to income, estate, gift, and chapter 41, 42, 43 and 44 tax assessments.* In the case of a jeopardy assessment of income, estate, gift, chapter 41, 42, 43, or 44 tax, the bond must be conditioned upon the payment of so much of the amount included therein as is not abated by a decision of the Tax Court which has become final, together with the interest on such amount. * * *

Par. 24. A new § 301.7422-1 is added which reads as follows:

§ 301.7422-1 Pendency of suit for purposes of the chapter 42 excise taxes.

(a) The "correction period" under sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, and 4975 shall be extended in certain circumstances while a refund suit referred to in section 7422 is pending. For purposes of such sections and the regulations thereunder, a suit for refund instituted under the provisions of this section shall be deemed to be pending until—

(1) The expiration of time allowed for filing a notice of appeal from a decision of the United States District Court, if no timely notice of appeal is filed; or

(2) The expiration of the time allowed for filing a petition for certiorari from a decision of the United States Court of Claims, or from a decision of the United Staes District Court which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof.

(b) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, rules similar to the rules applicable if such decision were the original decision shall apply.

(c) Example. The provision of this section may be illustrated by the following example:

Example. On December 14, 1973, 60 days after having received a notice of deficiency under section 6212 with respect to the taxes arising from an act of self-dealing, D files a Form 4720 with respect to such act for 1972 and pays the amount of initial tax. The payment of the tax extends the correction period, pursuant to § 53.4941(e)-1, until 90 days after payment. On February 1, 1974, D files a claim for refund, thereby extending the correction period pursuant to § 53.4941(e)-1 during the pendency of the claim plus an additional 90 days on May 1, 1974, the claim for refund is denied, and on July 1, 1974, D files a suit for refund in the United States District Court, thereby extending the correction period in accordance with § 53.4941(e)-1 during the pendency of the suit. On June 2, 1975, the Court denies D's claim for refund. D files a timely notice of appeal on June 16, 1975, thereby extending the correction period. On September 2, 1975, the Court of Appeals affirms the decision of the District Court. If D does not file a petition for certiorari with the United States Supreme Court, the correction period will end upon the expiration of the time to so file.

Par. 25. Immediately after § 301.7454-1 there is inserted the following new section § 301, 7454-2 to read as follows:

§ 301.7454-2 Burden of proof in foundation manager, etc. cases.

(a) *Foundation manager.* In any proceeding involving the issue whether

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a foundation manager as defined in section 4946(b) has "knowingly" participated in an act of self-dealing within the meaning of section 4941, participated in an investment which jeopardizes the carrying out of exempt purposes within the meaning of section 4944, or agreed to the making of a taxable expenditure within the meaning of section 4945, the burden of proof in respect of such issue shall be upon the Commissioner.

(b) *Trustee of a black lung benefit trust.* In any proceeding involving the issue whether a trustee of a trust described in section 501(c)(21) has "knowingly" participated in an act of self-dealing within the meaning of section 4951 or agreed to the making of a taxable expenditure within the meaning of section 4952, the burden of proof in respect of such issue shall be upon the Commissioner.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-25837 Filed 8-22-80; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 48

[LR-175-78]

Excise Tax on Fuel Used in Commercial Waterway Transportation; Public Hearing on Proposed Regulations.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the new excise tax on the use of fuel in commercial waterway transportation.

DATES: The public hearing will be held on September 25, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 11, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T. (LR-175-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4042 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, June 9, 1980 (45 FR 38412).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by September 11, 1980.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-25826 Filed 8-22-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation Operations Interim and Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Reopening of public comment period.

SUMMARY: The public comment period for the proposed rule revising the grandfather exemption as applied to prime farmland, which was published at 45 FR 25995, (April 16, 1980), is hereby reopened in response to public request in light of recent court decisions. The Court of Appeals for the District of Columbia on June 30, 1980, modified its May 2, 1980 decision on the Secretary's prime farmland rulemaking. *In re: Surface Mining Regulation Litigation,* No. 78-2190 (D.C. Cir., June 30, 1980). The Court deleted language in the opinion which suggested that industry's interpretation of the grandfather clause (which would have allowed extensive grandfathering) is reasonable and in keeping with the intent of Congress.

DATES: The new due date for public comments in 5 p.m. E.S.T. on September 4, 1980.

ADDRESSES: Written comments must be mailed or hand delivered to the Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edward Johnson, Agronomist, Office of Surface Mining, U.S. Department of the Interior, Room 117, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. (202) 343-5261.

Dated: August 19, 1980.

Paul L. Reeves,

Acting Director, Office of Surface Mining and Reclamation.

[FR Doc. 80-25779 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

(CGD 80-104)

Drawbridge Operation Regulations; Root River, Wis.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Racine, Wisconsin, the Coast Guard is considering changing the regulations governing the operations of the Main and State Street bridges across the Root River, Racine, Wisconsin, by permitting the draws of the Main Street bridge to remain closed for extended periods of time and revising the regulations on the State Street bridge by removing the restrictions during the navigation season. Also both bridges would require a two hour advance notice to effect an

opening during the winter months. This proposal is being made to accommodate an increase in vehicular traffic. This action may accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 26, 1980.

ADDRESS: Comments should be submitted to, and are available for examination at, the office of the Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, United States Coast Guard, 1240 East Ninth Street, Cleveland, Ohio 44199 (216) 522-3993.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The Commander, Ninth Coast Guard District, will evaluate all communications received and make a final determination on this proposal. The proposed regulations may be changed in the light of comments received. Drafting Information: The principal persons involved in drafting this proposal are: Robert W. Bloom Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Project Attorney, Lt. M. E. Reeves, Ninth Coast Guard District, Legal Officer.

Discussion of the Proposed Regulations

This requested change is being proposed because of a significant increase in vehicular traffic and to simplify the existing regulations. Under present regulations, the Main Street bridge may remain closed to the passage of vessels, Monday through Friday, except holidays, during the following periods: 7:30 a.m. to 8:10 a.m., 11:50 a.m. to 12:10 p.m., 12:50 p.m. to 1:10 p.m., 3:30 p.m. to 4:10 p.m. and 4:30 p.m. to 5:10 p.m. The State Street bridge may remain closed to the passage of vessels, Monday through Friday, except holidays, during the following periods: 6:30 a.m. to 7 a.m., 12 noon to 12:15 p.m. and 12:45 p.m. to 1 p.m. This proposal would remove restrictions on the State Street bridge and apply less confusing restrictions on the Main Street Bridge. In addition, it would allow the bridge owner to remove the bridgetenders during the winter months when navigation on the river is negligible, with a requirement that the bridges would open on signal upon a two hour advance notice.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.600(a)(1), (2) and (e) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.600 Root River, Racine, Wisconsin, Main Street and Street bridges.

(a)(1) *Main Street Bridge.* (i) From April 1 through December 1 from 6 a.m. to 6 p.m. the draw need only open on signal every 20 minutes (on the hour, 20 minutes after the hour and 20 minutes before the hour). The draw shall remain open long enough during these periods of time to allow all awaiting vessels to safely pass.

(ii) From December 2 through March 31 the draw shall open on signal if at least two hours notice is given.

(2) *State Street Bridge.* From October 16 through April 30, the draw shall open on signal if at least two hours notices is given.

* * * * *

(e) The owner of or agency controlling these bridges shall keep a copy of these regulations conspicuously posted both upstream and downsteam, either on the bridges or elsewhere in such a manner that it can be easiliy read from an approaching vessel at all times, with instructions stating exactly how notice is to be given to the authorized representative of the bridge owner to effect an opening during the periods of closure specified in paragraph (a)(1)(ii) and (a)(2) of this section.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: August 19, 1980.

A. F. Fugaro,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 80-25822 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 162

[CGD 79-151]

Inland Waterways Navigation Regulations—Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to revise certain Inland Waterways Navigation Regulations applicable to the Great Lakes region. Certain applicability provisions would be changed, substituting vessel length for tonnage. Additional changes, primarily editorial, would delete redundant and archaic requirements. The changes would enable the regulations to be more clearly understood and more easily enforced.

DATES: Comments must be received on or before October 9, 1980.

ADDRESSES: Comments may be mailed to Commandant (G-CMC/24) (CGD 79-151), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC, between 7:00 a.m. and 5:00 p.m. Monday through Thursday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G-WWM-2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593, telephone (202) 426-4958 between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 79-151) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If acknowledgement is desired, a stamped addressed post card should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information: The principal persons involved in the drafting of this proposal are: Lieutenant (jg) George W. Molessa, Jr., and Ensign Edward G. LeBlanc, Project Managers, Office of Marine Environment and Systems, and Lieutenant Collin Lau, Project Counsel, Office of the Chief Counsel.

Discussion of the Proposed Regulation

Enforcement responsibility for certain Inland Waterways Navigation Regulations was transferred from the U.S. Army Corps of Engineers to the

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Coast Guard on September 29, 1977 (42 FR 51758). At the time of the transfer, only minor changes, such as changing the term "District Engineer" to either "District Commander" or "Captain of the Port" as appropriate, were made to make the regulations compatible with Coast Guard operations.

The Coast Guard is now proposing to revise certain sections of the Inland Waterways Navigation Regulations which are applicable to the Great Lakes region and enforced by the Commander, Ninth Coast Guard District. The revision would retain substantially the same controls.

All references to tonnage would be deleted and comparable lengths substituted, however the applicability of the sections is not substantially affected. Using length in the applicability provision of each section would enable mariners to more easily determine which regulations are applicable to their vessel. Deleting the references to tonnage would also enhance enforcement of the regulations since length is more identifiable.

In some areas, speed limits would no longer apply to vessels 40 feet or less in length. For these waters, the Coast Guard feels that speed limits for small boats would be more appropriately established by local authorities.

References to patrol vessels and patrol signals would be deleted because they no longer exist.

References to government structures such as piers or breakwaters would be deleted. Any damages to such structures resulting from negligent operation or a marine casualty would be pursued as such.

References to sound signals would be deleted since they are covered in the Pilot Rules for the Great Lakes (33 CFR 90) and in 33 CFR 207.470.

Green Bay, Wisconsin would be included in the listing of harbors on Lake Michigan due to the increase in commercial traffic there.

Section 162.190 concerning Cape Vincent Harbor, New York, would be deleted. Since Cape Vincent Harbor is located within the International Section of the St. Lawrence Seaway, the Coast Guard feels that any speed limits would more appropriately be established by the St. Lawrence Seaway Development Corporation.

Sections 162.170 and 162.185 would be deleted. Buffalo and Rochester Harbors, New York would be addressed in proposed § 162.165.

The restricted area found in § 162.180 would be redescribed, making it more understandable, and relocated in Part 165—Safety Zones. The section would be renumbered as § 165.902.

Evaluation

The proposed regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Anaylsis, and Review of Regulations," dated May 22, 1980 and have been determined to be nonsignificant. An evaluation is not warranted because the expected impact of the proposed regulations is so minimal. The proposed rule causes no substantial change to the regulations.

In consideration of the foregoing, it is proposed that Part 162 and Part 165 of Title 33 of the Code of Federal Regulations be amended:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. By revising § 162.110 to read:

§ 162.110 Duluth-Superior Harbor, Minnesota and Wisconsin.

(a) No vessel greater than 100 feet in length may exceed 8 miles per hour in Duluth-Superior Harbor.

(b) In the Duluth Ship Canal:

(1) No vessel may meet or overtake another vessel if either vessel is greater than 150 feet in length (including tug and tow combinations).

(2) An inbound vessel has the right of way over an outbound vessel.

2. By revising § 162.115 to read as follows:

§ 162.115 Keweenaw Waterway, Michigan.

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour between Lily Pond and Pilgrim Point.

(b) No vessel may use either the Portage River harbor of refuge or the Lily Pond harbor of refuge longer than 24 hours unless given permission to do so by the Captain of the Port.

3. By revising § 162.120 to read as follows:

§ 162.120 Harbors on Lake Michigan.

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour in the harbors of Michigan City, Indiana; St. Joseph, South Haven, Saugatuck, Holland (Lake Macatawa), Grand Haven, Muskegon, White Lake, Pentwater, Ludington, Manistee, Portage Lake (Manistee County), Frankfort, Charlevoix, and Petroskey, Michigan.

(b) No vessel greater than 40 feet in length may exceed 4 miles per hour in the harbors of Menominee, Michigan and Wisconsin; Algoma, Kewaunee, Two Rivers, Manitowoc, Sheboygan, Port Washington, Milwaukee, Racine, Kenosha, and Green Bay, Wisconsin; and Waukegan, Illinois.

4. By revising § 162.125 to read as follows:

§ 162.125 Sturgeon Bay and the Lake Michigan Ship Canal; Wisconsin.

(a) In the Lake Michigan Ship Canal:

(1) No vessel may exceed 5 miles per hour.

(2) No vessel greater than 150 feet in length (including tug and tow combinations) may come about.

(3) No vessel 65 feet or greater in length (including tug and tow combinations (may either:

(i) enter or pass through the canal two or more abreast; or

(ii) overtake another vessel.

(4) No vessel may anchor or moor unless given permission to do so by the Captain of the Port.

(5) Each vessel must keep to the center, except when meeting or overtaking another vessel.

(b) In Sturgeon Bay and the Lake Michigan Ship Canal:

(1) Each laden vessel must be towed with at least two towlines. Each towline must be shortened to the extent necessary to provide maximum control of the tow.

(2) Each unladen vessel may be towed with one towline.

(3) No towline may exceed 100 feet in length.

(4) No vessel may tow another vessel alongside.

(5) No vessel may tow a raft greater than 50 feet in width.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

§ 122.130 [Deleted]

5. By deleting § 162.130.

6. By revising § 162.145 to read as follows:

§ 162.145 Monroe Harbor, Michigan.

(a) In the lake channel, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In the river channel:

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel may use a towline exceeding 200 feet in length.

7. By revising § 162.150 to read as follows:

§ 162.150 Maumee Bay and River, Ohio.

(a) In Maumee Bay (lakeward of Maumee River Lighted Buoy 49 (L/L No. 770)), no vessel greater than 100 feet in length may exceed 12 miles per hour.

(b) In Maumee River (inward of Maumee River Lighted Buoy 49 (L/L No. 770)):

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel greater than 100 feet in length (including tug and tow combinations) may overtake another vessel.

8. By revising § 162.155 to read as follows:

§ 162.155 Sandusky and Huron Harbors, Ohio.

(a) In Sandusky Harbor, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In Huron Harbor, no vessel greater than 40 feet in length may exceed 6 miles per hour, except in the outer harbor where no vessel greater than 40 feet in length may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

9. By revising § 162.160 to read as follows:

§ 162.160 Vermilion, Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, Ohio.

(a) In Vermilion Harbor, no vessel may exceed 6 miles per hour.

(b) In Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors where no vessel may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

10. By revising § 162.165 to read as follows:

§ 162.165 Buffalo and Rochester Harbors, New York

In Buffalo and Rochester Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors where no vessel may exceed 10 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

§ 162.170 [Deleted]

11. By deleting § 162.170.

12. By revising § 162.175 to read as follows:

§ 162.175 Black Rock Canal and Lock at Buffalo, New York.

In the Black Rock Canal and Lock, no vessel may exceed 6 miles per hour.

Note.—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

§§ 162.180, 162.185, and 162.190 [Deleted]

13. By deleting § 162.180.

14. By deleting § 162.185.

15. By deleting § 162.190.

PART 165—SAFETY ZONES

16. By adding a new § 165.902 to read as follows:

§ 165.902 Niagara River at Niagara Falls, New York.

(a) The following is a Safety Zone—The United States waters of the Niagara River from the crests of the American and Horseshoe Falls, Niagara Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

(33 U.S.C. 1221, 33 U.S.C. 1223, 33 U.S.C. 1231; 49 CFR 1.46)

Dated: August 20, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-25820 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Controlled Circulation Applications

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal would amend postal regulations to make the application procedures for controlled circulation mail privileges similar to procedures that currently exist for second-class mail privileges.

DATE: Comments must be received on or before September 24, 1980.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1640, L'Enfant Plaza, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Marie J. Chamberlin at 202/245-4663.

SUPPLEMENTARY INFORMATION: Publishers are presently required by postal regulations to file a written application at each post office where copies of a publication will be mailed at controlled circulation rates of postage. Application for controlled circulation mail privileges is made by letter since no Postal Service application form is presently available. Publishers have requested that the Postal Service make the application procedures for controlled circulation mail privileges similar to those for second-class mail privileges. Under the proposed change, a publisher will be required to maintain an office of publication where the original entry for controlled circulation mail privileges is authorized. Also, if copies of a controlled circulation publication are to be mailed at more than one post office, the publisher of the publication would be required to file an additional entry application at the office of original entry for each additional entry post office.

To facilitate postal transportation planning, publishers will be required to give 30 days notice on all requests for additional entries.

Domestic Mail Manual sections 541, 561.1, 561.5, 570, 583 and 584 would be changed to conform with the new application procedures, if adopted.

In addition, minor editorial changes would also be made to sections 521, 561, 584 and 585.

If this proposal is adopted, publishers of publications currently authorized controlled circulation mail privileges would be required to establish an original entry at the post office where the office of publication is located, or to indicate which office of entry will be the office of original entry. If a publication has controlled circulation mail privileges at more than one post office, any office not designated as the office of original entry would become an additional entry office.

Presently there are no application fees for controlled circulation mail privileges.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

Part 521—Description and Qualifications

Amend 521 to read as follows:

521.1 General. A publication, whether circulated free or to paid subscribers, is eligible for controlled circulation authorization if it meets *all* of the following qualifications:

a. Each issue must contain at least 24 pages;

b. No issue may contain more than 75 percent advertising (see 522);

c. The publication must be issued at regular intervals of four or more times a year;

d. The publication may not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control the publication; and

e. The name of the publication must be shown on the front/cover page in a

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position and in a style and size of type that make it clearly distinguishable from the publisher's name or from any other items on the front/cover page.

521.2 Issuance From an Office of Publication. The publisher of a controlled circulation publication must maintain an office at the location where the original entry for controlled circulation is authorized. The office of publication must be an office where the circulation records of the publication are maintained and are available for examination by postal officials during normal business hours.

Part 541—Controlled Circulation Applications

In Part 541, amend 541.2, 541.3 and 541.41 to read as follows:

541.2 Application Procedures.

.21 Original Application. Applications must be made on Form 3511, *Application for Mailing Under Controlled Circulation Privileges,* to the postmaster at the office serving the office of publication. Two copies of the issue published nearest to the date of application must accompany the application. These copies must meet the preparation requirements contained in 560. The copies must be marked to show the nonadvertising content and the percentage of nonadvertising content must be stated on the cover. If the publication is in a foreign language, a translation must accompany the application. A synopsis is usually sufficient.

.22 Additional Entry. If multiple entry points are desired, a Form 3512, *Application for Additional Entry or Reentry of a Controlled Circulation Publication,* must be filed by the publisher at the original entry post office 30 days prior to making a controlled circulation mailing at the proposed additional entry office(s). Postage for mailings presented prior to the expiration of the 30-day period must be made at the first-, third-, or fourth-class postage rates.

A separate form must be submitted for each desired additional entry office. A publisher may apply for permission to mail at additional entry post office(s) at the time of the original entry application. Two copies of the issue nearest the application date must accompany the application(s). These must be marked to show the nonadvertising content as described in 541.21.

541.3 Approving or Denying the Application. The postmaster will forward the application and one copy of the publication to his Mail Classification Center. The Mail Classification Center, after reviewing the application for completeness, will forward it and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. The General Manager, Domestic Mail Classification Division, Office of Mail Classification, rules on all controlled circulation applications. He will notify the postmaster whether the application was approved or denied. The postmaster will then notify the applicant.

541.4 Mailing While Application Pending.

541.41 General. A publisher may not mail at controlled circulation rates until the application for controlled circulation mail privileges is approved by the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. Postage at the applicable first-, third-, or fourth-class rates must be paid while the application is pending. Exception: If the publication is authorized second-class rates, the publisher may continue to pay second-class postage while the application for controlled circulation mail privileges for the publication is pending.

* * * * *

Part 542—Change in Title or Frequency

Amend 542 to read as follows:

542 Change in Title, Frequency or Office of Publication. An application for reentry must be filed on Form 3512, *Application for Additional Entry or Reentry of Controlled Circulation Publication,* whenever the name, frequency of issuance or location of the office of publication is changed. When the name or frequency changes, a Form 3512 must be filed at the post office of original entry. When the location of the office of publication is changed, a Form 3512 must be filed at the new mailing office. Two copies of the publication showing the new name, frequency or office of publication must accompany the application. These copies must be marked to show the nonadvertising content as prescribed in 541.21. A reentry application need not be filed if the office of publication is moved to a location served by the same original entry post office. An application for reentry is not required when only the ownership of the publication is changed. A separate Form 3512 must be filed for each reentry action requested.

Part 543—Revocation of Controlled Circulation Privileges

In Part 543, amend 543.1 to read as follows:

543.1 Notice by Postmaster. The Postal Service will revoke the controlled circulation authorization of any publication which fails to meet the requirements in 521. The postmaster will notify the General Manager, Domestic Mail Classification Division, when a publication is discontinued or when it fails to meet the conditions set forth in its authorization. The postmaster will include the publisher's current mailing address, title of the publication and its authorized frequency with any notice of discontinuance or failure to meet the requirements.

* * * * *

Part 561—Identification Statements in Copies

In Part 561, delete 561.5 and amend 561.1a, 561.1g and 561.2 to read as follows:

561.1 Information Required.

* * * * *

a. Name of Publication and Publication Number. The publication number includes an alpha prefix and is to be placed within parentheses immediately following or below the name of the publication, for example, *The Weekly Journal* (ISSN 9876–543X) or *The Civic Bulletin* (USPS 876–690). The publication number will be furnished to the publisher by the Office of Mail Classification and must be included in the publication within 90 days of the notification. The publication number may be omitted if it appears on the front/cover page.

* * * * *

g. Controlled Circulation Imprint. If the publication is authorized to be mailed at only one office, the imprint must read "Controlled Circulation Postage Paid at [insert name and ZIP Code of Office]." If the publication is authorized to mail at two or more post offices, the imprint must read "Controlled Circulation Paid at [insert name and ZIP Code of original entry office] and at Additional Mailing Offices." A notice of pending application must be imprinted to read "Application to Mail at Controlled Circulation Postage Rates is Pending at [insert name and ZIP Code of original entry office] (and at Additional Mailing Offices)."

* * * * *

561.2 Sample Format. The following is an example of a correctly prepared identification statement format:

> "MANAGEMENT WIDGETS (ISSN 7132–698X) is published daily except Sundays and holidays for $28 per year by Business Ideas Co., 44 South Street, Hyattsville, MD 20784. Controlled Circulation Postage Paid at Hyattsville, MD 20784 and at Additional Mailing Offices.
>
> POSTMASTER: Send address changes to MANAGING WIDGETS, Post Office Box 4, Boulder, CO 80302."

Part 570—Mailing

Amend 570 to read as follows:

570.1 Who May Mail. Only publishers of publications authorized controlled circulation mail privileges may mail at controlled circulation postage rates. Postage at the applicable first-, third- or fourth-class rate according to weight must be paid on all copies mailed by the general public.

570.2 Place of Mailing. A publisher may mail at the controlled circulation postage rates only at the post office(s) where an authorization for original entry or additional entry has been obtained. Mailings must be made between the times and at the locations designated by the postmaster of the office of mailing.

* * * * *

Part 583—Marked Copy

Amend 583 to read as follows:

583 Marked Copy. The publisher of the controlled circulation publication must submit a copy of each issue to the postmaster at the original entry office. In addition, the publisher must submit a copy of the issue being mailed with each mailing statement at each office of additional entry. All copies submitted must be marked by the publisher to show the nonadvertising content so that advertising content can be verified.

Part 584—Statistical Statement

Amend 584 to read as follows:

584 Statistical Statement. Publishers authorized controlled circulation mail privileges must complete a Form 8–C, *Pieces by Destination, Controlled Circulation Publication,* and submit it along with the mailing statement to the postmaster at each post office of mailing for the first mailing of each Postal Service fiscal year. A Form 8–C must be submitted with the mailing statement for the first mailing at each new office of entry after the controlled circulation authorization has been received by the publisher. Forms 3541–A and 8–C are distributed to publishers by the postmaster at the office of mailing. If the publisher fails to submit a Form 8–C, the Postal Service will not accept the publisher's mailing at the controlled circulation postage rates.

Part 585—Mailer's Records

Amend 585 to read as follows:

585 Publisher's Records. The publisher must maintain records to verify the number and weight of copies reported on Forms 3541–A at the office of publication. These records are subject to periodic review and audit by the Postal Service.

An appropriate amendment to 39 CFR 111.3 to reflect the changes will be published if these proposals are adopted.

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80–25940 Filed 8–22–80; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1585–1]

Approval and Promulgation of Implementation Plans; Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated partial conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester, and Rockland Counties) with regard to its ability to meet the requirements of Part D of the Clean Air Act. Today's notice discusses one of the conditions of EPA's approval and announces EPA's intent to find the provisions of the condition met. This condition required the State to submit to EPA on or before May 1, 1980 three separate listings of the transportation related studies, demonstration projects, and permanent projects committed to in its SIP. The State made its submission in response to this requirement on May 21, 1980.

DATES: Comments must be received on or before October 24, 1980.

ADDRESSES: Written comments should be submitted to: Charles S. Warren, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the submittal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10278.
U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903 B, 401 M Street S.W., Washington, D.C. 20460
New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.
New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790.
New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047.
New York State Department of Environmental Conservation, Region 3, 211 South Putt Corners Road, New Paltz, New York 12561.
New York State Department of Environmental Conservation, Region 3, 202 Mamaronech Avenue, White Plains, New York 10601.
New York State Department of Transportation, 1220 Washington Avenue, Building 5, Room 115, State Campus, Albany, New York 12232.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated conditional approval of parts of the New York State Implementation Plan (SIP) with regard to their ability to meet requirements of Part D of the Clean Air Act. The contents of these parts of the SIP and the history of their development are summarized in an EPA notice of proposed rulemaking, which was published in the **Federal Register** on December 10, 1979 (44 FR 70754). In addition, with regard to the remaining contents of the plan, concerning public transportation improvement measures, the reader is referred to an EPA notice of proposed rulemaking published on June 30, 1980 (45 FR 43794). Generally, the SIP contains regulations and other control measures aimed at attainment of the ozone and carbon monoxide national ambient air quality standards and public transportation improvement measures necessary to meet basic transportation needs. These measures were to be supported by plans, programs, projects, studies and other actions needed to insure the development, commitment and implementation of various transportation controls.

In its review of the SIP, EPA found that the commitments contained therein were not clear. As such, EPA's

December 10, 1979 **Federal Register** notice stated that the format of the proposed SIP revision, especially as it related to the discussion of transportation control measures, could lead to confusion that might hinder the ability of responsible agencies and the interested public to understand the plan's contents. This problem was found to be further complicated by the use of inconsistent terminology. It was often unclear whether an element in the plan was a study, permanent project, or a demonstration project. Thus, it was uncertain as to what actions were being committed to.

As a result of these shortcomings, in its May 21, 1980 **Federal Register** notice, EPA promulgated the following condition at 40 CFR 52.1674(e)(4):

> *On or before May 1, 1980, the State must submit to EPA three separate listings covering, respectively, all of the transportation related studies, demonstration projects and permanent projects committed to in the SIP.*

On May 21, 1980, the Commissioner of the New York State Department of Environmental Conservation submitted to EPA information which responded to this condition. Today's notice describes this State submittal as it relates to this condition and EPA's preliminary finding as to its adequacy.

II. State Submittal

A. Content

The State's May 21, 1980 submittal provided the required listing of permanent projects, demonstration projects, and transportation related studies committed to in the SIP for the New York City metropolitan area. Tables 1 and 2 of the submittal list permanent projects and demonstration projects, respectively. Table 3 is a description of two actions which, although not originally committed to in the SIP, are now being considered by the State as SIP commitments. Table 4 lists of all studies in the SIP, classified according to whether they are underway, committed to, or proposed.

In addition, the submittal includes two categories of information not discussed in today's notice of proposed rulemaking. The first is a narrative discussing the SIP development process. Among other things it suggests definitions for terms to be used in describing the process and discusses the nature of SIP commitments. This narrative will be the subject of a future **Federal Register** proposal by EPA. The second concerns information with respect to public transportation improvement measures for attainment of air quality standards and for meeting basic transportation needs. This information was treated in EPA's June 30, 1980 **Federal Register** notice and is not dealt with here.

The contents of Tables 1, 2 and 4 of the State's May 21, 1980 submittal are summarized in Figure 1.

Figure 1.—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980*

Measure	Studies	Permanent projects	Demonstration projects
A. Land use and development controls.	New York City: 1. Transit area zoning.	New York City: 1. Zoning revision for off street parking restrictions in Manhattan Central Business District. 2. Repeal all parking restrictions under 6 NYCRR Part 203 (in Manhattan after zoning revision).	None.
B. Parking restrictions.	New York City: 1. Transportation regulation administration. 2. Parking management. 3. Midtown Circulation Study Phases I and II. 4. Illegal parking. 5. Residential parking management study. Nassau County: 1. Selected central business districts. Suffolk County: 1. Selected central business districts. Westchester County: 1. "Various" studies.	New York City: 1. Reduction of legal on street parking space in Midtown Core. 2. Referral procedures for out-of-state violators. 3. Seek scofflaw vehicle transfer restriction. 4. Seek legislation to control scofflaw vehicles.	New York City: 1. Reduction of parking in Downtown and Midtown Manhattan.
C. Freight transportation.	New York City: 1. Intermodel rail freight study phases I and II. 2. Garment center goods movement. 3. Manhattan goods movement Phases I and II. 4. Impact of Transportation Control Plan on economy of Manhattan Central Business District. 5. Truck consolidation. 6. Goods movement patterns.	New York City: 1. Trailer on Flat Car (TOFC) terminal at High Bridge with increased clearances to the north. 2. Rail link to Brooklyn waterfront. 3. Designation of truck routes.	None.
D. Express bus and carpool lanes.	New York City: 1. Brooklyn Queens Expressway taxi lane. 2. Madison Avenue Express Street. 3. 49–50th Street improvements. 4. 42nd Street Transitway. 5. Bus and carpool lane opportunities. 6. Right hand curb bus. 7. Bus Priority zones. 8. Prospect Expressway high vehicle occupancy lanes. 9. Lower Broadway bus priority. 10. Toll booth bus lanes. 11. Eastside transit service. 12. Flatbush Avenue exclusive bus lanes. 13. 56th Street Transitway. 14. High occupancy lanes study. 15. Removal of Grand Army Plaza express bus layover.	New York City: 1. Fulton Street transitway. 2. Continue increased level of enforcement on express bus lanes on Manhattan Central Business District streets. 3. Improve bus lane signing on Manhattan street. 4. Rehabilitate FDR Drive. 5. Rehabilitate upper level of Queensboro Bridge.	New York City: 1. Additional bus priority lanes on 59th–60th Street corridor and another site to be identified on the east of Manhattan.

Figure 1.—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980—Continued*

Measure	Studies	Permanent projects	Demonstration projects
	16. 3rd Avenue bus layover between 32nd–37th Streets. 17. Herald Square layover. 18. Madison Square Park bus layover. 19. Church Street bus layover. 20. Extension of contra-flow approach to Battery Tunnel. 21. Non-CBD high occupancy vehicle incentive. 22. Express Bus Study—Phase II. 23. Private Bus Operators Assistance Study. Westchester County: 1. Tappan Zee Bridge high occupancy vehicle preference.		
E. Pedestrian priority zones.	New York City: 1. South Bronx transportation improvement planning. 2. Midtown pedestrian improvement project. 3. Herald/Greely Square improvement project. 4. Queens subway station impacts. 5. Staten Island Ferry Terminal II. 6. Lower Manhattan Transportation Management Program. 7. Flatbush Avenue pedestrian amenities. Westchester County: 1. Getty Square Mall. Nassau County: 1. Suburban pedestrian malls.	New York City: 1. Broadway Plaza. 2. 165th Street Mall. 3. Fulton Mall. 4. Nassau Street Mall. Nassau County: 1. Freeport Mall. 2. Hempstead Semi-Mall. Westchester County: 1. White Plains Mall Street. 2. New Rochelle Main Street Mall. 3. Peekskill Division Street Semi-Mall.	
F. Traffic flow improvements.	Regional: 1. Effectiveness of Transportation Systems Management (TSM). New York City: 1. South Richmond Transportation Study. 2. Westside Improvement Program. 3. Taxi vehicle-miles-traveled reduction study. 4. Improving street performance. 5. Traffic management—North Brooklyn Study. 6. Traffic management—N.W. Queens. 7. Capacity management of Manhattan streets & river crossings. 8. Flatbush Avenue TSM Study. 9. Metering of various high density sectors of central business district. 10. Various TOPICS type studies. 11. Before/after evaluation of Van Wyck surveillance. 12. Before/after evaluation of Integrated Motorist Information System. 13. Downtown Brooklyn Bus Study. 14. Manhattan "Valley" Transportation Study—(Phase I). 15. Various TOPICS Studies.	New York City: 1. Computerization of signal system. All Suburban Counties: 1. Continued advancement in suburban areas of computer signalization and spot Transportation System Management and Traffic Operations Program to Increase Capacity and Management (TOPICS) improvements.	New York City: 1. Van Wyck Expressway traffic management. Nassau County: 1. Northern Long Island Corridor Integrated Motorist Information System on Long Island Expressway Northern State Parkway, and Grand Central Parkway.

Figure 1.—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980—Continued*

Measure	Studies	Permanent projects	Demonstration projects
	16. Reduction of through trips on Manhattan streets. 17. Extension of strict traffic enforcement beyond Manhattan Central Business District. 18. Revisions of environmental regulations related to transportation. 19. Additional through movement street operations. 20. Computerized signals with bus priority.		
G. Alternate work schedules.	New York City: 1. Alternate work schedules for Manhattan Central Business District. 2. Alternative work schedules for non-Manhattan. Nassau County: 1. Work schedules and bike studies. Suffolk County: 1. Feasibility of staggered work hours.	New York City: 1. Port Authority Program in Manhattan, Phase I. Westchester County: 1. County government employees.	
H. Bicycles lanes and storage facilities.	New York City: 1. Bicycle pilot projects. 2. Comprehensive bikeway plan. 3. Verrazano bridge bikeway. Rockland County: 1. Rockland County bikeway study.		New York City: 1. Implement 4 bikelanes in New York City in commuter corridors of Brooklyn, Staten Island, Queens, and Manhattan. 2. North Bronx Bikeway. Westchester County: 1. Route 117. 2. Putnam Division Railroad Right of Way. 3. Bronx River Parkway.
I. Employer based programs.	New York City: 1. Transit employer incentives. 2. Transportation brokerage. 3. Data base for feasibility of exclusive lanes, carpools and employer programs.		Nassau County: 1. Nassau County-wide major employers university program. Westchester County: 1. Westchester County Commuter Vanpool Program.
J. Private car restrictions.	New York City: 1. Private car restriction policies.		
K. Park-and-ride and fringe parking.	New York City: 1. Central Business District Parking Study. Suburban Areas: 1. Commuter park-and-ride.	Suburban Areas: 1. Construct, expand or upgrade at least 14 park-and-ride lots providing at least 3000 new spaces by 1981.	New York City: 1. Implement at least one parking facility with feeder transit near Manhattan Central Business District. 2. Implement park-and-ride lots at 5 locations in outer boroughs of New York City.
L. Overall SIP coordination.	1. Evaluation of alternative strategies to achieve cleaner air in the region. 2. Air quality plan—technical studies. 3. N.Y. air quality plan alternatives, economic and financial impacts. 4. N.Y. State air quality implementation plan: progress reports to EPA. 5. Hot spot analysis; identification of potential carbon monoxide problem areas on the regional highway system—N.Y. 6. Interstate consistency among state air quality plans: Connecticut, New Jersey and New York. 7. Public participation in the SIP revision process. 8. Community & public involvement. 9. Carbon monoxide regional hot spot study.	Not Applicable.	Not Applicable.

B. Adequacy.

EPA's review focused on confirming that each project or study contained in the State's SIP revision submittal was similarly classified (i.e., as a permanent project, a demonstration project, or a study) and included in the State's May 21, 1980 listings. Generally these listings were found to be complete and accurate as to EPA's understanding of the classification system used in the SIP. However, the following omissions and apparent misclassifications were noted by EPA:

1. The SIP contains a permanent project to extend "trailor on flat car" rail service to the South Bronx (Vol. 2, p. 20-10). The listings identify this project as a "potential additional implementation action".

2. The following high occupancy vehicle priority projects identified as permanent projects in the SIP have been listed by the State as studies:

Brooklyn Queens Expressway exclusive bus and taxi lane (Vol. 2, p. 9-3).
Non-central business district high occupancy vehicle implementation program (Vol. 2, p. 9-12).
Extension of contraflow lane approaching Brooklyn Battery Tunnel from the Brooklyn Queens Expressway (Vol. 2, p. 9-11).

3. The 42nd Street Transitway demonstration project identified in the SIP (Vol. 1, p. IV-55) has been omitted from the demonstration project and listed as a study listing. In its submittal the State notes that reclassification of this project is consistent with comments made in EPA's December 10, 1979 **Federal Register** notice. However, the State apparently has misinterpreted EPA's position which was stated as: "* * * it would appear more appropriate to categorize it [the 42nd Street Transitway] as a "Reasonably Available Control Measure Subject to Transportation Planning Process Action." EPA was suggesting that the decision to implement the transitway as a demonstration project could be reassessed as feasibility studies are completed. Nevertheless, EPA is currently not aware of any finding that the transitway should not be pursued as a demonstration project. Therefore, EPA believes that this project should not only appear in the State's study listing, but also be listed as a demonstration project.

4. The study of carpool lanes to JFK International Airport identified in the SIP (Vol. 1, p. 26) has been omitted from the study listing.

5. "Several" high occupancy vehicle priority studies in Nassau and Suffolk Counties identified in the SIP (Vol. 2, p.

9–25) are not identified in the study listing.

6. The listing of permanent projects omits the following SIP commitments to pedestrian improvements:

South Bronx Hub transit mall (Vol. 2, p. 13–1)
Flatbush Avenue—pedestrian amenities program (Vol. 2, p. 13–10)
Yonkers Getty Square project (Vol. 2, p. 13–15).

However, these projects appear in the State's listing of studies.

7. The following permanent bicycle improvement projects identified in the SIP have been listed by the State as demonstration projects:

Four bike lanes in New York City commuter corridors (Vol. 2, p. 15–3)
North Bronx bikeway (Vol. 2, p. 15–2)
Westchester County bikeways (Route 117, Putnam Division Railroad right of way, Bronx River Parkway) (Vol. 2, p. 15–18).

8. The following permanent bicycle improvement projects identified in the SIP were omitted from the listings:

Eastern Queens from Flushing Meadow Park to Cummingham Park (Vol. 2, p. 15–3)
Grassland Road (Vol. 2, p. 15–18)
Old Croton Trailway (Vol. 2, p. 15–18)
Saw Mill River Parkway (Vol. 2, p. 15–18)
Hutchinson River Parkway (Vol. 2, p. 15–18)
Sprain Brook Parkway (Vol. 2, p. 15–18).

III. EPA Proposal

EPA proposes to find that, with the exceptions noted in Section II.B of today's notice, the State's May 21, 1980 submittal adequately meets the condition on approval of the New York SIP promulgated at 40 CFR 52.1674(e)(4). The purpose of requiring the submittal was to clarify the contents of the SIP with respect to transportation related studies and projects and not to alter the substantive commitments to them. Consequently, for purposes of requiring implementation and enforcement of the New York SIP, the projects and studies discussed in Section II.B of today's notice will be considered by EPA as originally committed to and as a part of the SIP. If the State wishes to revise its SIP to eliminate or reclassify any of these (or other) projects and studies, it is free to do so through the SIP revision process. Such requests for revision will be announced by EPA in the **Federal Register**. However, SIP revision requests must be developed and they must be supported by justification sufficient to meet the provisions of the Clean Air Act.

IV. Public Comment

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan for the New York City metropolitan area should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110 and 172 of the Clean Air Act and applicable EPA requirements in 40 CFR Part 51. This current SIP revision request was submitted to EPA in accordance with the appropriate CFR conditions.

EPA particularly invites comments from the Tri-State Regional Planning Commission (the Metropolitan Planning Organization for the New York City metropolitan area), its subcommittees, and any other agencies or organizations which have SIP-related responsibilities. Section 174(b) of the Clean Air Act requires that SIP revisions be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under Section 134 of Title 23 of the United State Code.

Comments received on or before October 24, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 908, New York, New York 10278.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: July 29, 1980.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 25795 Filed 8–22–80 8:45 am]

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40 CFR Part 60

[FRL 1588–7]

Standards for Performance for New Stationary Sources; Organic Solvent Cleaners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extention of public comment period and correction to proposed rule.

SUMMARY: On June 11, 1980, the Environmental Protection Agency proposed in the **Federal Register** (45 FR 39765) standards of performance for new, modified or reconstructed organic solvent cleaners. In this action, EPA also proposed to add Reference Method 23 to Appendix A of 40 CFR Part 60. Today's notice makes corrections to the proposed reference method, and extends the public comment period for the proposed rule from August 25, 1980, to October 24, 1980.

DATE: Written comments to be included in the record should be postmarked no later than October 24, 1980.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. OAQPS–78–12.

FOR FURTHER INFORMATION CONTACT: Mr. John D. Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5421.

SUPPLEMENTARY INFORMATION: In response to requests from several manufacturers of equipment and chemicals that would be affected by the proposed rule, the public comment period will be extended for 60 days from August 25, 1980, to October 24, 1980. These requests expressed the need to review more completely the large amount of information that is being developed, and to prepare written comments on the associated health, technological and policy related issues.

Make the following corrections: On page 39776 in the **Federal Register,** replace the last sentence in paragraph 4.3.2 Chromatographic Column as follows: "Calculation of area overlap is explained in Appendix C of 40 CFR part 61, Supplement A, 'Determination of Adequate Chromatographic Peak Resolution.'" On page 39783 in the **Federal Register**, replace paragraph 7.3.1 Analysis Audit as follows: "Immediately after the preparation of the calibration curve and prior to the sample analyses, perform the analysis audit described in Appendix C of 40 CFR Part 61, Supplement B: 'Procedures for Field Auditing GC Analysis'" (45 FR 26660).

Persons interested in this rulemaking are also reminded that a Subcommittee

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of the Agency's Science Advisory Board will be meeting to review the Agency's assessments of carcinogenicity and human exposure for a number of pollutants, including four to be regulated by this proposed rule: Methyl chloroform, methylene chloride, perchloroethylene and trichloroethylene. The Subcommittee on Airborne Carcinogens will meet to review these assessments on September 4–5 at EPA Headquarters, 401 M Street, S.W., Washington, D.C. For further details, see the full notice of the meeting at 45 FR 50652 (July 30, 1980).

Dated: August 20, 1980.

Edward Tuerk,

Acting Assistant Adminsitrator for Air, Noise, and Radiation.

[FR Doc. 80-26042 Filed 8-22-80; 8:45 am]

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40 CFR Part 228

[FRL 1574-6]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate a fish cannery waste site in the Pacific Ocean as an EPA approved interim ocean dumping site for the dumping of fish cannery wastes originating in American Samoa.

DATES: Comments must be received on or before October 24, 1980.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), Oil and Special Materials Control Division, EPA, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/472-2836.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and extended on January 16, 1980 (45 FR 3053 et seq.).

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation, as an EPA Approved Interim Ocean Dumping Site, of a fish cannery waste site located in the Pacific Ocean off American Samoa.

In 1974 Star-Kist Samoa and Van Camp Seafood obtained permission from the Government of American Samoa to dispose of dissolved air flotation (DAF) cell sludge on a five-acre site at Tafuna. Initially, the combined disposal volume was 15–16,000 gallons per day. The present combined volume is 35–40,000 gallons per day, and it is anticpated that this volume will more than double in five years. In 1976 Star-Kist obtained land at Futiga and moved its disposal operation there, while Van Camp continued to use the Tafuna site. Both sites have had repeated problems with inadequate percolation. Evaporation is minimal at both sites. Failure of the sludge to dewater properly has caused the disposal sites to become sources of noxious odors and disease vectors, hazards to human safety, and potential sources of drinking water well contamination.

In addition, the Star-Kist site at Futiga has been the source of two unauthorized discharges of sludge to Larsen Bay, which occurred when the disposal pond dikes failed. Use of this site ceased in June 1979. Star-Kist again shares the Tafuna site with Van Camp.

On March 9, 1979, the Chairman of the American Samoa Environmental Quality Commission requested that Star-Kist and Van Camp cease use of the sludge disposal sites effective December 31, 1979. On August 22, 1979, the American Samoa Director of Public Health modified the effective date to February 28, 1980. It has since been extended on a month-to-month basis.

In 1977 EPA determined that the dumping of fish wastes which contain any other wastes, including chemical coagulants, would not be excluded from the requirement for an ocean dumping permit, as provided for in section 220.1(c)(1) of the Ocean Dumping Regulations. Consequently, EPA Region IX has received ocean dumping permit applications from both Van Camp and Star-Kist for special permits to dump into ocean waters DAF sludge, stickwater, and press liquor at a combined rate of 101,200 gallons per day. Stickwater, or cooker juice, is formed in the precooking process where live steam contacts the fish, and the resulting wastewater contains high concentrations of natural organic material from the fish. Press liquor is wastewater resulting from the compaction of recovered fish waste solids in the fish meal process. Neither of these is subject to any treatment.

Both applicants have proposed that the same disposal site be designated and have jointly provided a dispoal site designation study. At the request of EPA Region IX, the National Enforcement Investigations Center (NEIC) evaluated the disposal alternatives for the DAF sludge. In a report dated March 1979, NEIC concluded that ocean disposal was the preferred alternative. In addition to ocean disposal of the sludge, the report recommended that the stickwater and press liquor be separated from other waste streams and disposed with the sludge in order to reduce the pollutant load discharge to Pago Pago Harbor.

Because there is no approved EPA ocean disposal site for these waste materials, EPA today proposes to approve a new ocean dumping site for the disposal of DAF sludge, stickwater, and press liquor under section 102(c) of the Act and section 228.4(b) of the Ocean Dumping Regulations and Criteria.

The proposed site is one nautical mile in diameter with its center located at 14d, 22' S. latitude, 170d 41' W. longitude. the proposed site is 2.9 nautical miles offshore of Tutuila Island. Depths at the site exceed 1,200 meters (4,000 feet).

No Environmental Impact Statement (EIS) has been prepared on this site. EPA has received sufficient information for an environmental assessment. The applicants provided a disposal site designation study, and NEIC has provided an evaluation of alternatives to ocean disposal. EPA proposes to designate the site on an interim basis for the ocean disposal of fish cannery wastes generated in American Samoa, where the applicants have demonstrated a need for ocean dumping, lack of alternatives to dumping, and compliance with EPA's marine environmental criteria. Interim designation is proposed because an alternative to pond disposal is urgently needed, and ocean dumping is the only available alternative. The material proposed for ocean disposal has no potential for significant environmental impact, and the proposed disposal site is located in an area where its use will not interfere with other activities in the marine environment. Interim designation would allow use of the site while the permittees are conducting monitoring during dumping operations and collecting the information needed to make a determination as to whether or not the site is suitable for permanent designation following completion of an IES. The interim designation would be made for a 24-month period to allow time for collection of the monitoring data and preparation of an EIS.

Section 228.6 of the Ocean Dumping Criteria lists 11 factors to be considered in selecting an ocean disposal site. Discussion of the proposed site in relation to these factors follows.

1. *Geographical position, depth of water, bottom topography, and distance from coast.* The geographical position of the proposed disposal site is off the southern coast of the Island of Tutuila in American Somoa. The proposed site is a circle one nautical mile in diameter centered at 14d 21′ 50″ south latitude and 170d 40′ 5″ west longitude. The water depth at this location is approximately 4,800 feet. The edge of the one nautical mile diameter circle closest to shore has a depth of about 4,000 feet, while the seaward side is approximately 5,500 feet deep. The bottom in this area appears to slope downward toward the southeast at a rate of about 25 percent. Because of the great depth, the detailed topography or other bottom characteristics are not known. The closest shoreline to the center of the proposed site is the airport runway fill area about 2.4 nautical miles to the northwest.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* The proposed site is located in the open South Pacific Ocean and is characterized by high clarity, very low nutrients, great depth, and very sparse pelagic organism density. The area that might be affected by the proposed discharge supports no known critical development of living resources. Pala Lagoon and Pago Pago Harbor, which may serve as nursery areas, are about 3.1 and 5.5 nautical miles respectively from the center of the proposed site and are not in the direction of transport.

3. *Location in relation to beaches and other amenity areas.* The Tutuila coastal area closest to the proposed site is the Tafuna coastline and the airport runway fill area to which access is restricted. The coastline is characterized by rugged sea cliffs with almost no sandy areas except for a small area by Fogagogo near Vai cove adjacent to the existing sewage outfall. Because of the general lack of ready access, and with the rough coastal and sea conditions, this coastal area is not used for recreational purposes involving water contact. Public amenity areas for beachgoers are rare on Tutuila, with the one most used being in Utulei in Pago Pago Harbor.

4. *Types and quantities of wastes proposed to be disposed of and proposed methods of release, including methods of packing the waste, if any.* The wastes to be disposed of are sludges resulting from the dissolved air flotation treatment of the wastewaters from the Star-Kist and Van Camp cannery operations in American Samoa. The principal quality factor of these sludges is the high organic content and resulting oxygen demanding character. There is no evidence of direct toxic effects or significant concentrations of heavy metals or pesticides in these sludges. The average amount of sludge to be disposed of is about 400,000 gallons per month, with approximately half coming from each cannery. It is expected that the expansion of operations over the next five years will result in approximately double the amount of sludge to be disposed. The proposed method of release will be to pump the sludge to below the water surface at a rate no greater than 500 gpm from a vessel moving within the disposal area at 5 knots. The controlled release rate, combined with the vessel speed, will insure that adequate initial dilution and subsequent disperson will occur to meet the high oxygen demand of the organic fish wastes while still meeting the water quality standard of at least 80 percent saturation. The subsurface disposal will help minimize the formation of a slick.

5. *Feasibility of surveillance and monitoring.* It is expected that frequent monitoring and surveillance by the permittees would be conducted for the first portion of the disposal program in order to confirm the compliance with the dissolved oxygen standard and to observe the fate of any slick that might form. Such monitoring and surveillance would be conducted from a second vessel utilizing a dissolved oxygen meter and probe with measurement and observation locations being established using a sextant to measure horizontal angles between three landmarks. If the first portion of the disposal program proves effective in meeting EPA and Government of American Samoa requirements, the frequency of monitoring could be reduced, possibly to four times a year.

6. *Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* The horizontal dispersion coefficient was measured in the nearshore area off the Tafuna coast and found to indicate good dispersion conditions. It is expected that dispersion in the open ocean area at the proposed disposal site is somewhat better than in the nearshore area because there are no restrictions on the size of eddy formations and the dispersing coefficient increase with scale can approximate the ⅔ power rate noted by Richardson's Law. Vertical mixing in the proposed disposal area is not restricted by any salinity or temperature stratification to at least a depth of 300 feet. Horizontal transport is due to the current structure, which consists of a wind-influence surface layer overlying an easterly setting lower layer that was measured to have an average speed of about 10 cm/sec at a depth of 100 feet. It is expected that the easterly subsurface current will transport the material from the proposed discharge operation offshore and away from the coral communities near the shoreline and on the Taema Bank. Any slick forming from the proposed discharge will be transported in the downwind direction and will dissipate due to bacteriological breakdown, weathering processes, and solubilization. The original formation of a slick is minimized by the planned subsurface discharge from the moving vessel.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* No known discharge or dumping has occurred in the area.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean.* The proposed disposal site was selected specifically to avoid the predominant shipping lanes approaching Pago Pago Harbor. Although the disposal site is within the general area covered by commercial and recreational fishing activity operating out of Pago Pago Harbor, no significant interference is expected. The disposal site is small in comparison to the fishing area and has no unique characteristics related to fishing activity. The cannery sludge, with proper dilution to minimize dissolved oxygen depletion, has no known detrimental effects on pelagic fish. Ocean disposal of the sludge essentially constitutes the return of a small portion of the organic material that was taken out of the same general area in the form of fish. No mineral extraction, desalination, or fish and shellfish culture activities occur or are planned in the proposed discharge area. In addition, the site has no unique or special characteristics that would give it scientific importance.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* A baseline water quality survey of the waters around American Samoa was conducted. The water quality can generally be

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characterized as being of high clarity, low nutrient content, and low phytoplankton concentration. Such a dilute base supports a food web of pelagic organisms of correspondingly low population densities. The pelagic fish are highly mobile and are not restricted to a specific location; consequently they would not be particularly susceptible to any possible detrimental effects that are site specific.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* The photic depth (depth to 1 percent incident light) is about 170 feet in the open ocean around American Samoa. Below this depth, the addition of nutrients has no significant effect, except to participate in the bacterial action on organic material. Above the photic depth, the potential for the development of undesirable plankton blooms depends on the average (not maximum) nutrient concentrations and on the exposure time. Since the material to be dumped is expected to sink, the exposure time in the photic zone would be too short for any significant growth response. Since the discharge is to a moving mass of water, no cumulative effect is anticipated from periodic discharges at the same location. Because of the great depth and the associated increase in sea water density, it is highly unlikely that any significant concentrations of discharged materials will accumulate on the bottom to affect the benthic ecosystem. Rather, it is expected that the organic sludge material will end up, along with much of the other sinking oceanic detritus, at the oxygen minimum zone some 1,000 to 3,000 feet below the surface.

11. *Existence at, or in close proximity to, the site of any significant natural or cultural features of historical importance.* No historically important natural or cultural features exist at or near the proposed discharge site.

The designation of the proposed American Samoa fish cannery wastes dump site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority on this site will be delegated to the Regional Administrator of EPA Region IX.

Interested persons may participate in this proposed rulemaking by submitting written comments within 60 days of the date of this publication to the address given above.

Although this proposed site designation may have substantial local impacts in the vicinity of the dump site and to those who use it, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

(33 U.S.C. Secs. 1412 and 1418)

Dated: August 18, 1980.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, Subchapter II of Chapter I of Title 40 is proposed to be amended by adding to Section 228.12(a) an ocean dumping site for Region IX as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(a) * * *

Approved interim dumping sites.

* * * * *

Fish Cannery Wastes Site—Region IX.

Location:

Latitude—14d 22′ S

Longitude—170d 41′ W (center point).

Size: 1 nautical mile in diameter.

Depth: 1,200 meters (4,000 feet).

Primary Use: Fish cannery wastes.

Period of Use: 24 months of continual use.

Restriction: Disposal shall be limited to not more than 130,000 tons per year of fish cannery wastes generated on the island of Tutuila, American Samoa.

[FR Doc. 80-25794 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

46 CFR Part 151

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes

AGENCY: U.S. Coast Guard, DOT.

ACTION: Extension of comment period for proposed rule.

SUMMARY: The Coast Guard published a proposed rule (CGD 80-001) in the **Federal Register** on July 3, 1980 for which comments were to have been received on or before August 18, 1980. Barge Owners have requested an extension of the comment period in order to collectively review the proposed changes. The Coast Guard agrees that the requested extension should be granted.

DATE: Consequently, the comment period will be extended to September 19, 1980.

ADDRESSES: Comments should be submitted to the Commandant (G-CMC/24), (CGD 80-001), U.S. Coast Guard, Washigton, D.C. 20593. Comments may be delivered to and will be available for inspection or copying from 7 a.m. to 5 p.m., Monday through Thursday, at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, Office of Merchant Marine Safety, (G-MHM-3/14), Room 1402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) (526-6262).

Drafting Information: The principal persons involved in drafting this proposal are Joseph J. Jakabcin, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

(46 U.S.C. 170, 379a: 49 CFR 1.46(n)(4) and (t))

Dated: August 20, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-25825 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-14-M

Notices

Federal Register
Vol. 45, No. 166
Monday, August 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Tattnall County Feeder Pig Sale, Glennville, Ga.; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., Name, and Location of Stockyard, GA–133 Tattnall County Feeder Pig Sale, Glennville, Ga.; *Date of Posting,* June 15, 1959.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective August 25, 1980.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 19th day of August, 1980.

Jack W. Brinckmeyer,
Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80–25851 Filed 8–22–80; 8:45 am]

BILLING CODE 3410–02–M

Trenton Livestock Market, Inc., Trenton, Fla.; Proposed Posting of Stockyards

The Chief, Rates and Registrations Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

FL–126 Trenton Livestock Market, Inc., Trenton, Fla.
MN–175 Hecksel Auction, Inc., Winsted, Minn.
MN–176 Minnesota Feeder Pig Markets, Inc., Elysian, Minn.
TX–319 Ranchers and Farmers Livestock, Inc., Uvalde, Tex.
TX–320 Van Alstyne Livestock Commission, Inc., Van Alstyne, Tex.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Chief, Rates and Registrations Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by September 10, 1980.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 19th day of August, 1980.

Jack W. Brinckmeyer,
Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80–25852 Filed 8–22–80; 8:45 am]

BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended August 15, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Aug. 12, 1980.............	37718	Air Caravane, Inc., c/o John E. Gillick, Kirby & Gillick, Suite 905, 1625 K Street, N.W., Washington, D.C. 20006. Amendment No. 1 to the Application of Air Caravane, Inc. for a new or amended foreign air carrier permit authorizing nonscheduled or charter foreign air transportation between any point or points in Canada and any point or points in the United States using large aircraft. Order 80–3–151 (March 20, 1980) Deferred processing of Air Caravane's application bcause the application did not, at that time, comply with the evidence requirements of Part 211. Accordingly, in order to comply with the requirements of Part 211 and Subpart Q of Part 302 of the Board's regulations as well as to set forth Air Caravane's current ownership, Air Caravane hereby submits, in acordance with Section 302.5 of those regulations, this amendment to its original application. Answers may be filed on or before September 9, 1980.

Subpart Q Applications—Continued

Date filed	Docket No.	Description
Aug. 13, 1980	38592	American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, N.W., Washington, D.C. 20036. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for the amendment of its certificate of public convenience and necessity for Route 137 to authorize it to engage in foreign air transportation between all points in the United States and points in the foreign countries listed: "1. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Jamacia, Haiti, Dominican Republic, St. Maarten, St. Kitts, Antigua, Guadeloupe, Martinique, Barbados, Grenada, Trinidad and Tobago, Curacao and Aruba. "2. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in the Bahamas Islands. * * * * * "4. Between a point or points in the United States (except Sarasota/Brandenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Belize, El Salvador, Guatemala, Honduras, Nicaragua and Panama. "5. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Belgium, the Netherlands and Luxembourg. "6. Between a point or points in the United States (except Sarasota/Brandenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in the Federal Republic of Germany." and that the new segment in its certificate for Route 134 added by Order 80-1-110 be replaced by the following additional segment in its certificate for Route 137: "8. Between a point or points in the United States (except Miami, Fla., New Orleans, La., Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Bench, Fla.) and a point or points in Costa Rica." Conforming Applications and Answers are due September 10, 1980.
	38599	Southwest Airlines Co., c/o Paul Y. Seligson, Wilner & Scheiner, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036. Application of Southwest Airlines Co. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate of public convenience and necessity authorizing it to perform scheduled air transportation of persons and property between the terminal point St. Louis, Missouri, on the one hand, and the alternate teminal points Harlingen, San Antonio, and Midland/Odessa, Texas, on the other hand. Answers are due by August 29, 1980.
	38604	American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, N.W., Washington, D.C. 20036. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests that segment 5 of its certificate for Route 137 be amended to read as follows: 5. Between the terminal point New York, N.Y.-Newark, N.J., and the coterminal points Santo Domingo and Puerto Plata, Dominican Republic. Conforming Applications and Answers are due by September 12, 1980.
	38605	Air Europe Limited, c/o Lester M. Bridgeman, 1750 New York Avenue, N.W., 210 United Unions Building, Washington, D.C. 20006. Application of Air Europe Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Regulations requests a foreign air carrier permit authorizing Air Europe to engage in foreign air transportation as follows: A. Between any point or points in the United Kindom of Great Britain and Northern Ireland and any point or points in the United States, either directly or via intermediate or beyond points in other countries, with or without stopovers. B. Between any point or points in the United States and any point or points not in the United Kingdom or the United States. Answers may be filed by Setember 12, 1980.
	38606	Air Florida, Inc., c/o Robert P. Silverberg, 2020 K Street, N.W., Suite 440, Washington, D.C. 2006. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its certificate of public convenience and necessity for Route 197-F, segment one thereof, to add as a U.S. coterminal point New York, New York and to add as a coterminal point Govenor's Harbour in the Bahamas, thereby authorizing it to engage in air transportation with respect to persons, property and mail as follows: Between the conterminal points New York, New York (through any suitable airport), Daytona Beach, Ft. Lauderdale, Gainesville, Jacksonville, Key West, Marathon, Miami, Orlando, Panama City, Pensacola, Tallahassee, Tampa-St. Petersburg-Clearwater and West Palm Beach, Fla., and the coterminal points Freeport, George Town, Great Harbor Cay, Marsh Harbor, Nassau, Rock Sound, Treasure Cay, Governor' Harbour and West End, Bahama Islands. Conforming Applications and Answers are due September 12, 1980.
	38609	Cascade Airways, Inc., c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036 Application of Cascade Airways, Inc. Pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its certificate of public convenience and necessity so as to authorize Cascade to engage in scheduled air transportation with respect to persons, property and mail between the following points: Between the terminal point Pocatello, Idaho and the terminal point Idaho Falls, Idaho. Conforming Applications and Answers are due September 12, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-25836 Filed 8-22-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36767]

Miami/New Orleans-San Jose, Costa Rica Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Friday, September 12, 1980, at 9:30 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before Thursday, September 4, 1980,* together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 20, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-25835 Filed 8-22-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37620]

Gladys K. Murphy v. Pan American World Airways, Inc.; Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., August 20, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-25834 Filed 8-22-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Hampshire Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on September 16, 1980, at the Federal Building, 275 Chestnut Street, Manchester, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the New England Regional Office of the Commission, 55

Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss the selection of program priorities for fiscal years 1981 and 1982.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-25778 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) of the Commission will convene at 12 Noon and will end at 10:00 p.m., on September 26, 1980, at the Old Mill Inn, 38–45 Vetrons Highway, New York, New York.

Persons wishing to attent this open meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss the coming programs.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-25774 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 Noon, on September 19, 1980, at the Imperial Hotel, Queen Elizabeth Room, 400 S.W. Broadway and Stark Street, Portland, Oregon 97205.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-25777 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on September 17, 1980, at Hoff, Wilson & Powell, P.C., 192 College Street, Burlington, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss report on Teacher Training Project, report on Domestic Abuse Bill and program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-25775 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

[Dept. Organization Order 15-10; Transmittal 503]

Office of Consumer Affairs; Organization Order

Effective date: August 6, 1980.

This order effective August 6, 1980 supersedes the material appearing at 44 FR 6977 of February 5, 1979.

Section 1. Purpose

.01 This Order prescribes the functions of the Office of Consumer Affairs.

.02 This revision changes the line of reporting authority to reflect that the Director, Office of Consumer Affairs now reports to the Secretary. In addition, the number of this Order has been changed to designate the Office as a Departmental Office reporting to the Secretary.

Section 2. General

The Office of Consumer Affairs is hereby continued as a Departmental Office in the Office of the Secretary. The Office shall be headed by a Director who shall report and be responsible to the Secretary of Commerce.

Section 3. Functions

The Office of Consumer Affairs shall conduct the Department of Commerce's consumer affairs program and serve as a liaison and advisory organization on matters affecting consumer affairs activities of State, county, and municipal governments, and in the private sector. In this capacity, the Office shall:

a. Plan and coordinate the consumer affairs program throughout the Department to assure that consumer views are considered in policy development.

b. Provide ongoing advice and assistance to operating units, Secretarial Representatives, and the field network, in the development and implementation of consumer-related programs. Analyze policies, programs, legislative proposals, etc., and identify consumer issues; help to develop positions responsive to consumer concerns.

c. Maintain contact with consumer organizations and other public groups and develop mechanisms to facilitate consumer involvement in Department activities and decision-making.

d. Serve as the point of contact in the Department for consumer inquiries, complaints, and requests for assistance.

e. Coordinate the Department's consumer affairs activities with other Federal, State, county, and municipal government agencies.

f. Develop information and educational activities for consumers and business. Advise the business community on being more responsive to consumer needs.

g. Perform other functions as assigned by the Secretary.

Section 4. Administrative Support

The Associate Deputy Secretary shall provide for and supervise the administrative arrangements for the Office of Consumer Affairs, as prescribed in Department Organization Order 10-11.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-25716 Filed 8-22-80; 8:45 am]

BILLING CODE 3510-17-M

V 45 AG 25 80 UMI

International Trade Administration

Plastic Animal Identification Tags From New Zealand; Notice of Initiation of Countervailing Duty Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of investigation.

SUMMARY: This notice is to advise the public that the Department of Commerce has received a petition in satisfactory form, and as a result is initiating an investigation to determine whether or not the Government of New Zealand is providing to manufacturers, producers or exporters of plastic animal identification tags, benefits which are bounties or grants (subsidies) within the meaning of the countervailing duty law. Unless this investigation is extended, the Department will make a preliminary determination not later than October 27, 1980, and a final determination not later than January 8, 1981.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377-5414.

SUPPLEMENTARY INFORMATION: On August 1, 1980, the Department of Commerce (the Department) received a petition in proper form from Y-Tex Corporation, Cody, Wyoming, alleging that the Government of New Zealand provides to manufacturers, producers or exporters of plastic animal identification tags (ear tags) certain benefits which are bounties or grants (subsidies) within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (19 U.S.C. 1303) (the Act). Because New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation.

The merchandise covered by this investigation is plastic animal identification tags provided for in item number 666.00 of the Tariff Schedules of the United States.

The Petitioner alleges that the Government of New Zealand provides subsidies in the form of income tax credits based on the domestic value added to an exported product. These credits are provided under the "Export Performance Taxation Incentive" (EPTI) program, administered by the Department of Trade and Industry and authorized under section 156A of the Income Tax Act of 1976. The EPTI provides a tax credit against income tax payable, and, for credit in excess of tax payable, a cash refund.

Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)) by reason of massive imports over a relatively short period of time. In the year ending March 31, 1980, imports of ear tags from the one producer for which information is available equaled 170 percent of the value of that firm's U.S. sales for the previous 12 month period.

In view of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of New Zealand provides subsidies on the production, manufacture or export of the ear tags.

Since ear tags enter the United States free of normal Customs duties, the International Trade Commission (ITC) must make a determination as to whether or not an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the merchandise. Therefore, in accordance with section 702(d) of the Act (19 U.S.C. 1671a(d)), the Department is providing to the ITC the information upon which the determination to initiate this investigation is based.

The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department.

In accordance with section 703(a) of the Act (19 U.S.C. 1671b(a)), the ITC will determine not later than September 15, 1980, whether or not there is a reasonable indication of such injury by reason of imports of plastic animal identification tags from New Zealand. If that determination is negative, the Department will terminate this investigation without further notice.

If the ITC determination is affirmative, pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the Department will issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a subsidy is being paid or bestowed within the meaning of the statute by October 27, 1980. If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than December 29, 1980.

If the preliminary determination is affirmative, and if the Department determines that critical circumstances exist within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)), then any suspension of liquidation ordered in accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)) shall apply to all unliquidated entries entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered.

Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), the Department will make a final determination no later than January 8, 1981. If the case is extended, the final determination must be made not later than March 16, 1981.

(Sec. 702(c)(2) of the Act (19 U.S.C. 1671a(c)(2)))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-25798 Filed 8-22-80; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

Correction

In FR Doc. 80-24532, published at page 54120, on Thursday, August 14, 1980, the "Highlight" on the cover of the issue should have reflected that Commerce/MBDA is soliciting applications from non-minority as well as minority applicants for one to three awards for up to a total of $600,000 to assist minority buyers in acquiring businesses; apply by September 16, 1980. Call Grants Administration Division at (202) 377-3165 if there are any questions.

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of Army

Performance Review Boards

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board for the Office of the Surgeon General.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of Army, the Pentagon, Washington, DC 20310, (202) 697-2169.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executives' appraisals from their respective commands or activities. Publication of this notice provides additions to the Performance Review Board for the Office of the Surgeon General previously published in 45 CFR, page 54122, dated August 14, 1980.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Enrique Mendez, Jr., M.D., Deputy Surgeon General—Chairman.
2. Brigadier General Robert T. Cutting, M.D., Director, Health Care Operations, Office of the Surgeon General.
3. Brigadier General Bernhard T. Mittemeyer, M.D., Director of Professional Services, Office of the Surgeon General.
4. Brigadier General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
5. Dr. F. K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
6. Dr. L. C. Johnson, M.D., Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.
7. Dr. G. F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Dr. W. R. Beisel, M.D., Deputy for Science, Walter Reed Army Institute of Research.
9. Dr. T. R. Sweeney, M.D., Ph.D., Scientific Advisor (Biochemistry), Walter Reed Army Institute of Research.
10. Dr. Lorenz E. Zimmerman, M.D., Associate Chairman, Center of Advanced Pathology, Armed Forces Institute of Pathology.
11. Dr. Samuel B. Formal, Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

Carol D. Smith, Chief,
Senior Executive Service Office.

[FR Doc. 80-25797 Filed 8-22-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 7, 1980; Tuesday, October 14, 1980; Tuesday, October 21, 1980; and Tuesday, October 28, 1980 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 19, 1980.

[FR Doc. 80-25814 Filed 8-22-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Review Panel on ASW; Advisory Committee Meeting

An ASW Review Panel under the Defense Science Board will meet in closed session on 16 September 1980 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The ASW Review Panel will review the technical aspects of ASW programs in the 16 September meeting.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 20, 1980.

[FR Doc. 80-25815 Filed 8-22-80; 8:45 am]

BILLING CODE 3810-70-M

EDUCATION DEPARTMENT

National Advisory Council on the Education of Disadvantaged Children

AGENCY: Education Department.

ACTION: Notice of meetings (committee and full council).

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming committee meetings (Impacts of Inflation on Title I Service Delivery; Educationally Disadvantaged Children with Special Needs & Dual Eligibilty; Federal Administration of Title I; State Administration of Title I) and full Council meeting of the National Advisory Council on the Education of Disadvantaged Children. This notice also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (Public Law 92-463, Section 10(a)(2)).

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DATES: September 18, 1980, Committee Meetings, 9 a.m.—12 noon September 18, 1980, Full Council Meeting, 1:00 p.m.—4:30 p.m. September 19, 1980, Full Council Meeting, 9:00 a.m.—4:30 p.m.

ADDRESS: Hubert H. Humphrey Building, 200 Independence Avenue, S.W. Rooms 407–403A, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Haywood, (202) 724–0114, National Advisory Council on the Education of Disadvantaged Children, Suite 1012, 425–13th Street, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The Committee and full Council meetings shall be open to the public.

AGENDA: The proposed agenda includes: continued discussion of committee work agendas and Council work agenda; discussion and approval of Council budget; and reports on issues related to Title I and the education of disadvantaged children. Records shall be kept of all Council proceedings, and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, 425–13th Street, N.W., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on August 18, 1980.

Alice S. Baum,

Executive Director, National Advisory Council on the Education of Disadvantaged Children.

[FR Doc. 80–25718 Filed 8–22–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–80–006; OFC Case No. 56430–4818–01–12]

Fuel Burning Installation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On February 4, 1980, Stone Container Corporation (Stone) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR part 500, *et seq.*

The MFBI for which the petition was filed is a field-erected boiler to be constructed at Stone's Coshocton, Ohio, Pulp and Paper Mill. The boiler, designated by Stone as No. 6 Boiler, will have a design heat input rate of 517 million Btu's per hour, a steam generating capacity of 360,000 pounds per hour and will be able to burn wood waste in a mixture with natural gas. Stone requested a permanent fuels mixture exemption for the MFBI in order to use a fuels mixture of wood waste and not more than 25 percent natural gas.

ERA accepted Stone's petition on March 4, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on March 11, 1980 (45 FR 15613). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. During this period interested persons were also afforded an opportunity to request a public hearing. The period expired April 25, 1980. No comments were submitted nor was a hearing requested.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis has been completed which recommends that ERA issue an order granting the requested permanent exemption to use a mixture of natural gas and wood waste in which the amount of natural gas used in the unit will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

ERA will issue a final order granting or denying the petition for a permanent exemption from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired, unless ERA etends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Analysis and a request for a public hearing are due on or before August 29, 1980.

ADDRESSES: Fifteen copies of written comments on the Tentative Staff Analysis shall be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA–FC–80–006 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

Terri L. Hamrick, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3119, Washington, D.C. 20461, Phone (202) 653–3675.

Douglas Mitchell, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue SW., Washington, D.C. 20585. Phone (202) 252–2967.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m–4:30 p.m.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (10 CFR, part 500 *et seq.*) (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of FUA. ERA also published a final rule relating to new facilities on June 6, 1980 (45 FR 38276 and 45 FR 38302), which became effective August 5, 1980. Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBI's unless an exemption for such use has been granted.

Stone is constructing at its Coshocton Pulp and Paper Mill, Coschocton, Ohio, a field-erected boiler which will have a design heat input rate of 517 million Btu's per hour, a steam generating capacity of 360,000 pounds per hour and will be capable of burning wood waste in a mixture with natural gas.

On February 4, 1980, in accordance with § 505.28 of the interim rules, Stone filed a petition with ERA requesting a permanent fuel mixture exemption for the boiler (designated as No. 6 Boiler by Stone) in order to burn a fuels mixture of wood waste and natural gas. Stone has certified that the total amount of natural gas proposed to be used in the No. 6 Boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by the unit.

Stone states that the wood refuse will contain, on the average, about 50 percent moisture. Stone contends that the use of natural gas in a mixture with the wood waste is necessary to provide adequate stabilization of ignition and combustion, and symmetry of fuel input to the boiler. Because of the large grate area in the boiler, adequate response to load changing cannot be obtained from firing only wood. Stone projects that wood consumption in the unit on an annual Btu heat input basis will be approximately 80 percent and natural gas will be 20 percent.

ERA's staff has reviewed the information contained in the record of this proceeding to date. Based upon that review, a Tentative Staff Analysis has been completed which recommends that an order be issued which would grant a permanent fuel mixture exemption for the No. 6 Boiler to use a wood waste/natural gas fuel mixture in that unit, provided that the amount of natural gas used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. This Tentative Staff Analysis also takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, should this exemption be granted, ERA will not exclude from the definition of primary energy source any fuel used for the purposes of ignition, start-up, testing, flame stabilization, and control of the No. 6 Boiler.

This recommendation is based upon the petitioner's demonstration, pursuant to Sections 212(d)(1) (A) and (B) of the Act, that a mixture of wood waste and natural gas will be used as a primary energy source in the unit, and that the amount of natural gas to be used will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

On the basis of the analysis performed by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Recommended Terms and Conditions

ERA's staff also has tentatively determined and recommends that any order granting the requested fuels mixture exemption to Stone should, pursuant to Section 214 of the Act, be subject to the following terms and conditions:

1. No petroleum, as that term is defined in Section 103(a)(4) of the Act, shall be used in the No. 6 Boiler.

2. The amount of natural gas used in the No. 6 Boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

3. In accordance with the reporting requirement in Section 505.28(d), Stone will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, each year after the effective date of the exemption, containing the following:

(a) A certification that the amount of natural gas used in No. 6 Boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of the company.

(b) Identification of the actual quantities of wood waste (in tons) and natural gas (in MCF) used in the No. 6 Boiler during the year, as well as the higher heating value (in Btu's per lb., per MCF) of those fuels. The following report format will be used:

Fuel type	Amount used (tons) (MCF)	Btu equivalent	Percent of annual fuel consumption

The Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemption. Such a decision shall, in accordance with Section 501.68 of the final rule, be based on the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C., on August 19, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25859 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-025; ERA Case No. 65016-9152-27-22]

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of exemption petition.

SUMMARY: On April 21, 1980, Owatonna Public Utilities (Owatonna) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption from the provisions of FUA are published in the implementing regulations at 10 CFR 501.3 and 503.41.

Owatonna proposes to install a 25,000 kilowatt natural gas/oil-fired gas combustion turbine unit, and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested exemption.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.64. In accordance with the provisions of Sections 701 (c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before October 9, 1980. A request for a public hearing may be made by any interested person by October 9, 1980.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA-FC-80-025 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:
William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461. Phone (202) 653-4055.

James W. Workman, Powerplants Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461. Phone (202) 653–4268.

Douglas Mitchell, Office of General Counsel, 6G–087 Forrestal Bldg., Washington, D.C. 20461. Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Owatonna has filed a petition for a permanent peakload powerplant exemption to use natural gas/petroleum as a primary energy source.

As part of its petition, Owatonna submitted a sworn statement by a duly authorized officer, Mr. David W. Martin, General Manager of Owatonna, as required by 10 CFR 503.41(b)(1). In his statement, Mr. Martin certified that the proposed natural gas/oil-fired combustion turbine will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

Mr. Martin also certified that the maximum design capacity of the powerplant is 25,000 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 37,500,000 Kwh.

In support of its petition Owatonna has also furnished information required by 10 CFR 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis) of the regulations.

Under the requirements of 10 CFR 503.41(b)(2), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

ERA retains the right to request additional relevant information from Owatonna at any time during the pendency of these proceedings where circumstances or procedural requirements may require.

The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on August 15, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–2586[illegible] Filed 8–22–80; 8:45 am]

BILLING CODE 6450–01–M

Kansas-Nebraska Natural Gas Co., Inc.; Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: On July 11, 1980, the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Kansas-Nebraska Natural Gas Company, Inc. ("KNNG") and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

I. Comments Received

The Office of Enforcement received one comment concerning the terms of the proposed Consent Order, which questioned two provisions of the proposed Consent Order. One question concerned the appropriateness of KNNG's making refund payments to the DOE rather than to KNNG's purchasers of butane and natural gasoline. The other concerned a prohibition against KNNG's purchaser's applying any "bank" of increased product costs. against their passthrough of any refund by means of a future price reduction in KNNG's sales of propane.

With respect to the refund of alleged overcharges in sales of butane and natural gasoline, the Consent Order provides for KNNG to make payment to the DOE "in order that the monies * * * may be distributed in a just and equitable manner." Since those products are not at this time "covered products," there would be uncertainty whether any portion of a refund by means of a price reduction in KNNG's sales of those products would be passed through by KNNG's purchasers to other levels of distribution in the same manner that any alleged overcharges were passed through at the time alleged violations occurred. Thus the Consent Order provides the opportunity for allegedly overcharged purchasers to make claims against the refund paid to the DOE.

With respect to the price reduction in sales of propane, it should be noted that increased costs of purchased propane have for several years been allocable by resellers as well as refiners to covered products other than propane. Thus any firm's "bank" of increased costs of purchased propane reflects both (1) market forces and (2) the firm's own election not to reallocate such increased costs for recovery in sales of other covered products. Moreover, the existence of a "bank" at the present time is not evidence as to whether the alleged overcharges were passed through by KNNG's purchasers at the time the alleged violations occurred.

Finally, the Consent Order does not by its terms require KNNG's purchasers to take any action at all. Rather, it permits KNNG the opportunity to submit plans which will ensure that a price rollback in sales of propane will be passed through on a dollar-for-dollar basis to propane consumers without any further action by the DOE. To the extent that KNNG's failure to secure the cooperation of its immediate purchasers prevents KNNG from submitting an appropriate plan, the Consent Order requires KNNG to pay the refund to the DOE for ultimate disposition. Therefore, the Office of Enforcement believes that the Consent Order provides adequate flexibility to achieve its purpose and

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adequate safeguards to protect the rights of all parties concerned.

II. Determination

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Kansas-Nebraska Natural Gas Company, Inc. is an appropriate resolution of the compliance proceedings described in the Notice published on July 11, 1980, and hereby gives Notice that the Consent Order is made effective by written notice to Kansas-Nebraska Natural Gas Company, Inc. on August 14, 1980.

Issued in Kansas City, Missouri on this 15th day of August, 1980.

Alan L. Wehmeyer,

Acting District Manager Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel.

[FR Doc. 80-25858 Filed 8-22-80; 8:45am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GP80-106]

Blocker Exploration Co., et al.; Application for Recovery of Production-Related Costs Under Section 110 of the NGPA

Issued: August 18, 1980.

Take notice that on July 1, 1980, Blocker Exploration Company, *et al.* (Applicant), 800 Bering Drive, Houston, Texas 77057, filed with the Federal Energy Regulatory Commission (Commission), an application for the recovery of production-related costs under section 271.1105 of the Commission's regulations (18 CFR 271.1105), and section 110 of the Natural Gas Policy Act of 1978 (NGPA).

Specifically, Applicant states that the gas subject to this application qualifies under section 102 of the NGPA. In addition, Applicant seeks authorization to collect an allowance for gathering and treating costs arising out of its contract for the sale of the gas to Intratex Gas Company (Intratex).

Applicant states it has entered into a transportation agreement with Seagull Pipeline Corporation (Seagull) pursuant to which Seagull will construct a pipeline to transport the gas to Intratex. The application covers the transportation of the gas for a total of 2.56 miles. Applicant states that although 1.24 miles will be within the lease, the minimum in-lease gathering would only be 1000 feet. In addition to the gathering costs, Applicant seeks reimbursement for the treating costs to reduce the water in the gas to pipeline requirements. The specific allowance which Applicant seeks to collect is 30 cents per Mcf. Any such allowance granted by the Commission under section 271.1105 of the Commission's regulations will be in addition to the otherwise applicable maximum lawful price.

Any person desiring to be heard or to protest this proceeding should, by September 24, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25886 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-601]

Central Illinois Public Service Co.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on August 11, 1980, tendered for filing pursuant to the Interconnection Agreement between Central Illinois Public Service Company and Public Service Company of Indiana, Inc., a Seventh Supplemental Agreement to become effective July 15, 1980.

Said Supplemental Agreement increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week.

A copy of Seventh Supplemental Agreement has been sent to the Public Service Company of Indiana, the Public Service Commission of Indiana, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25887 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-614]

Central Telephone & Utilities Corp., Notice of filing

August 18, 1980.

The filing Company submits the following:

Take notice that Central Telephone & Utilities Corporation (CTU) on August 12, 1980, tendered for filing proposed changes in its Federal Power Commission Electric Service tariffs Nos. 59,84,60,57,58,34,41,99,56,86,40 and 35.

CTU states that the filing is Supplement #1 to Service Schedule B, Emergency Service. This Supplement #1 to Service Schedule B, Emergency Service, provides for the deletion of paragraph 1, section 3, containing a 10% adder for transmission loss. Concurrently this Supplement #1 replaces the deleted item with paragraph. 1, section 3, which provides for inclusion of specific line losses associated with the delivery of emergency energy to the purchaser.

CTU states that copies of the filing were served on the Utilities currently served under Service Schedule B, and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with section 1.8 and 1.10. All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25888 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3229]

City of Nashua, N.H.; Application for Short-Form License (Minor)

August 15, 1980.

Take notice that the City of Nashua, New Hampshire (Applicant) filed on June 25, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for construction and operation of a water power project to be known as the Jackson Mills Project No. 3229. The project would be located on the Nashua River in Nashua, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Richard Cane, City Hall, Nashua, New Hampshire 03061.

Project Description—The proposed project would consist of: (1) an existing 33-foot high, 180-foot long concrete and stone masonry dam; (2) a 4-mile long reservoir with negligible storage capacity; (3) a new powerhouse containing two turbine-generator units with a total rated capacity of 1300 kW; and (4) appurtenant facilities. The proposed project would generate up to 5,450,000 kWh annually saving the equivalent of 8,950 barrels of oil or 2,500 tons of coal.

Purpose of Project—Energy produced at the project would be sold to the Public Service Company of New Hampshire for distribution to its customers.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 F.R. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 F.R. 61328, October 25, 1979.)

Comments, Protects or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 26, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25889 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3254]

Concord Electric Co.; Application for Preliminary Permit

August 15, 1980.

Take notice that the Concord Electric Company (Applicant, CEC) filed on July 14, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for proposed project No. 3254 to be known as the Sewall's Falls Project located on the Merrimack River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Douglas K. MacDonald, President, Concord Electric Company, One McGuire Street, P.O. Box 1338, Concord, New Hampshire 03301.

Purpose of Project—Project energy developed from Project No. 3254 would be used by the Applicant to reduce its purchased energy requirements from the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of one year, during which time the Applicant proposes that it would perform surveys and geologic investigations, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. CEC estimates the costs of studies under the permit would be approximately $41,500.

Project Description—The Applicant would utilize: (1) the existing Sewall's Falls Dam, a timber crib diversion dam, 497 feet long and 23 feet high; (2) the existing power canal 1,280 feet long; and (3) the existing reservoir with a surface area of 350 acres and a storage capacity of 1,630 acre-feet at a normal maximum surface elevation of 240.86 feet m.s.l. CEC intends to either renovate the existing, two section powerhouse or construct a new one, and install two identical 2,000 kW turbine-generator units, construct a new switchyard, and use two existing, six-mile long, 19-kV transmission lines. It is estimated that the annual generation would average 21.0 million kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the application filed by East Coast Energy Technology, Inc. Project No. 2965 on August 31, 1979, under 18 CFR 4.33 *as amended,* 44 FR 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before September 25, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25890 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-600]

Consumers Power Co.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers Power) on August 11, 1980, tendered for filing Amendment No. 3 to the Operating Agreement dated March 1, 1966 among Consumers Power Company, The Detroit Edison Company and The Toledo Edison Company. The 1966 Operating Agreement has previously been designated Consumers Power Company Rate Schedule FPC No. 22.

Consumers Power states that Amendment No. 3 modifies Service Schedule A (Emergency Service) of the 1966 Operating Agreement by increasing the maximum demand charge in any day for emergency power from $0.12 times to $0.14 times the greatest number of kilowatts delivered in any single hour of the day and rewrites Service Schedule D (Short Term Power) to increase the demand charge for short-term power from $0.70 to $0.85 per kilowatt per week. Consumers Power states that revised Service Schedule D also establishes a transmission service charge of one mill per kilowatt hour in the event that the short-term power originates with a third party. Consumers Power requests that the effective date of Amendment No. 3 be August 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25891 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-603]

Electric Energy, Inc.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Electric Energy, Inc. (EEInc.) tendered for filing a supplement to Rate Schedule FERC No. 8, dated August 11, 1980, and entitled Supplement to the Interim Supplemental and Surplus Power Agreement, Amendment No. 5. This agreement is between EEInc. and its Sponsoring Companies: Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU), and Union Electric Company (UE). The Sponsoring Companies concurred in the filing. EEInc. states that the filed supplement provides for compliance with § 35.23 of the Commission's regulations, as promulgated by Order No. 84, issued May 7, 1980.

According to EEInc. copies of this filing have been sent to the Sponsoring Companies, the Illinois Commerce Commission, the Kentucky Energy Regulatory Commission, the Missouri Public Service Commission and the United States Department of Energy.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in deteriming the appropriate action ot be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25892 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-623]

The Empire District Electric Co.; Proposed Tariff Change

August 18, 1980.

The filing Company submits the following:

The notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing an Amendatory Agreement to its Contract with the Southwestern Power Administration, FERC No. 78.

The amended rate provides for recovery of internal costs associated with pass-through energy in accordance with the requirements of Rule No. 84, Docket No. RM79-29. The proposed effective date for the Amendatory Agreement is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rule of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

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protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25893 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-622]

The Empire District Electric Co.; Proposed Tariff Change

August 18, 1980.

The filing Company submits the following:

Take notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing a proposed change in its Service Schedules ES, Emergency Service, and RE, Replacement Energy, supplements to an Electric Interchange Agreement, FERC No. 86, between EDE and Public Service Company of Oklahoma (PSO).

The amendments provide for recovery of costs associated with pass-through energy in accordance with the requirements of Rule No. 84, Docket No. RM79-29. The proposed effective date for the amendments is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission and PSO.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protest should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25894 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-4 (PGA80-2a) (IRP80-2a)]

Granite State Gas Transmission, Inc.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

August 15, 1980.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on August 5, 1980, tendered for filing Substitute Twenty-Ninth revised Sheet No. 3A in its FERC gas Tariff, Original Volume No. 1, containing proposed changes in rates for effectiveness of July 1, 1980.

According to Granite State the filing reduces the rates which the Company filed pursuant to the purchase gas cost adjustment provision in its tariff on May 30, 1980 for effectiveness on July 1, 1980. Granite State purchases its entire gas supply from Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) and Tennessee filed revised rates on July 18, 1980, reducing the rates, effective July 1, 1980, which Granite State had reflected in its previous purchased gas adjustments filing.

Granite State further states that its rate adjustment is applicable to its sales to Northern Utilities, Inc. (Northern), which is Granite State's sole jurisdictional customer. According to Granite State, the effect of the proposed rates contained on Substitute Twenty-Ninth Revised Sheet No. 3A on Northern's purchases from Granite State is an increase of $788,182 annually, based on purchases from Tennessee and sales to Northern for the twelve months ended April 30, 1980. Granite State further states that the revised rates reflect an estimated reduction of $37,882 annually in the rates previously filed for effectiveness on July 1, 1980.

According to Granite State, copies of the filing were served upon Northern and the regulatory commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Sept. 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25895 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-105]

Gulf Oil Corp.; Application for Production-Related Allowance Pursuant to Section 110 of the NGPA and Petition for Interim Relief

Issued: August 18, 1980.

Take notice that on July 2, 1980, Gulf Oil Corporation (Gulf) P.O. Box 3725, Houston, Texas 77001 filed with the Federal Energy Regulatory Commission (Commission) an application for a production-related allowance pursuant to section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, *et seq.* and the Commission's implementing regulations.[1]

Gulf's application states that on May 13, 1980, Gulf and Texas Gas Transmission Corporation (TGT) entered into a contract for a sale of Gulf's 100% interest in the gas produced from OSC lease numbers OCS-G 3479 and OCS G-3481, High Island Block 517 Field, offshore Texas. Under the terms of the TGT contract, Gulf will gather the gas to a point of interconnection on the High Island Offshore System and TGT will reimburse Gulf for the cost of gathering the gas in accordance with the gathering allowance permitted by the Commission.

In negotiating the sale of the gas, Gulf states that all prospective purchasers, including TGT, initially were willing to assume the cost and responsibility for the construction, operation and maintenance for the gathering line, but because Gulf was obligated to deliver gas to Texas Eastern onshore at Gulf'g Venice, Louisiana plant, it was necessary for Gulf to construct the gathering line and be reimbursed for its cost upon Commission approval of a gathering allowance. Gulf's application further indicates that the maximum lawful price applicable to the first sale of gas is governed by section 102 of the NGPA. Gulf states that to realize a recovery of the initial capital investment of $1,835,544 and the operating and overhead expense incurred over the life of the recoverable reserves, together with a 15 percent rate of return, Gulf is entitled to 5.81 cents per Mcf gathering allowance.

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[1] On July 2, 1980 Gulf also filed an application for a staff adjustment pursuant to section 502(c) of the NGPA. See Docket No. SA80-135.

Gulf also requests that the gathering allowance be made effective immediately subject to refund without suspension pending disposition of their application.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, of this Notice file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25896 Filed 8-22-80 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI77-412]

Phillips Petroleum Co.; Opinion No. 90: Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part

August 19, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Errata notice to Opinion No. 90.

SUMMARY: On July 25, 1980 the Commission issued Opinion No. 90, Phillips Petroleum Company, Docket No. CI77-412; 45 FR 52866 (August 8, 1980). By this Notice, typograpical errors in that Opinion are corrected.

FOR FURTHER INFORMATION CONTACT: John Conway, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-8150.

1. The fifth and sixth sentences of the paragraph accompanying note 10 and appearing on pages 8 and 9 of Opinion No. 90 (45 FR 52868-52869 (August 8, 1980)) should be read together as one sentence as follows:

In other cases, particularly cases involving flowing gas subject to the provisions of Opinion No. 749, costs may already have been incurred by the producer or pipeline but the parties seek to modify the contract in order the change the pattern of incurrence of these costs or to specify the party who will be responsible for additional costs for which no provision in the contract has been made.

2. The fifth sentence in the first full paragraph appearing on page 10 of the Opinion No. 90 (that paragraph begins: "The pipelines argue nonetheless * * *") (45 FR 52869 (August 8, 1980)) should read as follows:

Finally, and most importantly, the protection which the pipelines would derive from our regulations, for contractual arrangements which are entered into between pipeline and producer, does not, as we have noted, provide assurances for producers or affect the Commission's responsibilities to ensure proper ceiling rates for sales by producers.

3. The reference in the second sentence of the paragraph accompanying note 12 and appearing on page 13 of Opinion No. 90 (45 FR 52870 (August 8, 1980)) to "a new § 2.10 of the Statements of General Policy and Interpretations under the Natural Gas Act" should read "a new § 2.102 of the Statements of General Policy and Interpretations under the Natural Gas Act".

4. The reference in the last sentence of the paragraph accompanying note 14 and appearing on page 14 of Opinion No. 90 (45 FR 52870-52871 (August 8, 1980)) to "the standards specified in § 2.101(a)" should read "to the standards specified in § 2.102(a)".

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25772 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3175]

Alaska Power Authority; Application for Preliminary Permit

August 15, 1980.

Take notice that on May 9, 1980, the Alaska Power Authority (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3175 to be known as the Kisaralik River Project located on the Kisaralik River near Bethel, Alaska. Correspondence with the Applicant should be directed to: Mr. Eric Yould, Executive Director, Alaska Power Authority, 333 West 4th Avenue, Anchorage, Alaska 99501.

Project Description— The proposed project would consist of: (1) a rockfill dam topped by a 7-foot high concrete coping wall, for a total height of 308 feet; (2) an ungated side channel spillway; (3) a reservoir with a surface area of 6,700 acres and a storage capacity of 320,750 acre-feet at normal maximum water surface elevation 1,110 feet (msl); (4) a concrete-lined horseshoe shaped power tunnel, 650 feet long, through the right abutment of the dam; (5) an underground powerhouse containing two 15-MW generating units; (6) access facilities consisting of a 69-mile long winter access road from Bethel to the project site, a gravel airstrip, and a 2-mile long permanent road connecting the airstrip and aggregate borrow area to the powerhouse; and (7) a 69-mile long, 138-kV transmission line from the powerhouse to Bethel. The estimated average annual output of the proposed project would be 131,400 MWh.

Purpose of Project—Project power would be used to supply the energy needs of Bethel and numerous small villages surrounding Bethel.

Proposed Scope and Cost of Studies under Permit—During the 3-year term of the permit Applicant would: (1) conduct geological investigations, including core borings, in the vicinity of the proposed dam, intake structure, power tunnel and powerhouse: (2) perform surveys of the project area by on-the-ground survey crews and by aerial photogrammetry; (3) install a gauge on the Kisaralik River to refine estimates of expected flows to be used in reservoir operation studies; (4) prepare detailed cost estimates of project construction; (5) evaluate the economic and environmental aspects of alternative sources of energy and various development plans for the proposed project; and (6) determine the environmental impacts of the construction of the proposed project and develop mitigation measures. In conducting the above studies, all access would be by air. The work would be performed for the purpose of preparing an application for license.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 16, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 15, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 433(a) and (d), (as amended, 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 16, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25885 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CS80-176]

H & H Gas Co.; Application for "Small Producer" Certificate

August 15, 1980.

Take notice that Applicant listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with refernce to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on the application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No., CS80-176; *Date filed*, July 16, 1980; *Applicant*, H & H Gas Co., P.O. Box 967, Rangely, Colo. 81648.

[FR Doc. 80-25902 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-599]

Illinois Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 7 dated August 4, 1980, to the Interchange Agreement, dated March 15, 1973, between Iowa-Illinois Gas and Electric Company (IIGE) and Illinois Power.

Illinois Power indicates that this filing is made in compliance with FERC Order No. 84 in Docket No. RM79-29, which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power.

Illinois Power states that a copy of the filing was served upon IIGE, the Illinois Commerce Commission and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25898 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-595]

Illinois Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 12, dated August 8, 1980, to the Interconnection Agreement, dated March 1, 1964 between Commonwealth Edison Company (CE) and Illinois Power.

Illinois Power indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79-29, "which requires that revenues limits be placed on the operation of percentage adders in

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rate schedules used for the transmission or third party resale of electric power."

Illinois Power states that a copy of the filing was served upon CE and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25899 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-598]

Iowa-Illinois Gas & Electric Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company, Davenport, Iowa (Company) on August 11, 1980, tendered for filing a First Amendment dated August 6, 1980 to an Interchange Agreement of November 15, 1971 with the City of Geneseo, Illinois (City).

Company states the purpose of the Amendment, and its attendant original Exhibit A to the Agreement, is to provide for compliance adjustments pursuant to FERC Order No. 84 in respect of percentage adder rate components, and for this reason, the Amendment, and attendant original Exhibit A is proposed to become effective August 11, 1980.

According to the Company, copies of the filing have been mailed to the City and to the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25900 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-594]

Iowa Power & Light Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Iowa Power and Light Company (Iowa Power), on August 12, 1980, tendered for filing proposed changes in Iowa Power and Light Company FERC Rate schedule Nos. 39, 54, 46, 45, 53, 33, 35, 34 and 5, which sets forth rates for wholesale electric service to the City of Ames, Iowa, the Atlantic Board of Waterworks and Electric Light and Power Plant Trustees, Harlan Municipal Utilities, the Indianola Waterworks and Electric Light and Power Board of Trustees, Montezuma Municipal Light and Power, the City of Pella, Iowa, Union Electric Company, St. Joseph Light & Power Company and Omaha Public Power District.

These proposed Amendments provide for a common charge in the form of a fixed adder for transmission and /or purchased and resale services under existing Interchange Agreements. These amendments are needed to comply with Order No. 84, Docket No. RM79-29, of the Federal Energy Regulatory Commission, issued May 7, 1980.

Iowa Power requests that the Commission waive its prior notice requirements and accept these Amendments for filing with a retroactive effectve date of August 11, 1980. Iowa Power states that copies of the filing have been served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25901 Filed 8-22-80 8:45 am]

BILLING CODE 6450-85-M

[Volume 258]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 15, 1980.

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 JD NO     JA DKT          API NO      SEC D WELL NAME                              FIELD NAME                PROD    PURCHASER
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***********************************************************************************************
   WEST VIRGINIA DEPARTMENT OF MINES
***********************************************************************************************
*AIGT CORP/RITCHIE MINES P/S               RECEIVED:  07/22/80  JA: WV
 8047918                  4708504839 108    RITCHIE MINES #62                          RITCHIE MINES LEASE          11.0 CONSOLIDATED GAS SUP
*ALFRED E KNOBLER                          RECEIVED:  07/22/80  JA: WV
 8047825                  4701100552 107    ALBERT BARTRAM S-1                         MCCOMA                        0.0 COLUMBIA GAS TRANSMI
 8047824                  4701100559 107    CARVEL CHILDERS K-2                        MCCOMA                       70.2 COLUMBIA GAS TRANSMI
 8047826                  4709901579 107    LONNIE MAYS WELL #1                        STONEWALL                     7.0 COLUMBIA GAS TRANSMI
*ALLEGHENY LAND & MINERAL COMPANY          RECEIVED:  07/21/80  JA: WV
 8047804                  4709701730 108    A-661                                      UNION DISTRICT                0.0 CONSOLIDATED GAS SUP
 8047802                  4701701068 108    A-679                                      SOUTHWEST DISTRICT            0.0 CONSOLIDATED GAS SUP
 8047801                  4700100918 108    A-707                                      UNION DISTRICT                0.0 CONSOLIDATED GAS SUP
 8047803                  4701701080 108    A-730                                      SOUTHWEST DISTRICT            0.0 CONSOLIDATED GAS SUP
*ALLEGHENY LAND & MINERAL COMPANY          RECEIVED:  07/22/80  JA: WV
 8047823                  4709701961 103    A-754                                      WARREN DISTRICT              12.1 CONSOLIDATED GAS SUP
 8047906                  4709100170 103    A-777                                      KNOTTSVILLE DISTRICT          0.0 CONSOLIDATED GAS SUP
 8047910                  4709101944 103    A-788                                      KNOTTSVILLE DISTRICT          0.0 CONSOLIDATED GAS SUP
 8047911                  4709701902 103    A-794                                      WASHINGTON DISTRICT           0.0 CONSOLIDATED GAS SUP
 8047909                  4703302017 103    A-797                                      SARDIS DISTRICT               0.0 CONSOLIDATED GAS SUP
*ALPHA DRILLING FUND 1979 LTD              RECEIVED:  07/21/80  JA: WV
 8047799                  4708524505 103    J F DEEM M-911                             GRANT DISTRICT               18.0 CONSOLIDATED GAS SUP
 8047800                  4708524507 103    J F DEEM M-913                             GRANT DISTRICT               18.0 CONSOLIDATED GAS SUP
*APEX DRILLING FUND 1979 LTD               RECEIVED:  07/21/80  JA: WV
 8047809                  4708524366 103    KENNETH MAYES M-565                        MURPHY DISTRICT              20.0 CONSOLIDATED GAS SUP
 8047796                  4708524303 103    R TAYLOR M-851                             UNION DISTRICT               30.0 CONSOLIDATED GAS SUP
*ATLAS ENERGY CORP                         RECEIVED:  07/21/80  JA: WV
 8047813                  4704700822 108    RUTHCAROLLL #11 MCD-522                    SANDY RIVER DISTRICT         17.0 CONSOLIDATED GAS SUP
*BOMBER GAS & OIL CO                       RECEIVED:  07/22/80  JA: WV
 8047905                  4701303177 108    L G FLUHARTY #3                            CENTER                        1.1 CONSOLIDATED GAS SUP
*CABOT CORPORATION                         RECEIVED:  07/22/80  JA: WV
 8047923                  4703902917 108    B D BAILEY 1-376                           CABIN CREEK                   0.5 SOUTHERN PUBLIC SERV
 8047938                  4703900208 108    BLUE FLAME 10-859                          MALDEN                       11.2
 8047937                  4703902867 108    BLUE FLAME 5-872                           MALDEN                       12.1
 8047949                  4710900655 108    JOHN GILBERT TR 26-1553                    HUFF CREEK                   20.9
 8047939                  4701900005 108    KANAWHA-GAULEY 1-846                       FALLS                        17.2
 8047925                  4704700037 108    POCAHONTAS LAND 23-1279                    BROWNS CREEK                  7.3
 8047936                  4703900069 108    QUINCY COAL 17-684                         CABIN CREEK                   1.1
 8047924                  4703900086 108    QUINCY COAL 20-727                         CABIN CREEK                   1.4
 8047944                  4703900010 108    QUINCY COAL 4-658                          CABIN CREEK                   9.8
 8047940                  4703902929 108    QUINCY COAL 5-661                          CABIN CREEK                   1.4
 8047943                  4703900026 108    QUINCY COAL 8-662                          CABIN CREEK                  10.1
 8047945                  4701900330 108    HUDSON-PHILMAND-LAFOLLETTE 2-550           KANAWHA                       7.4
 8047920                  4703902921 108    S M STONE 1-360                            CABIN CREEK                  11.0 SOUTHERN PUBLIC SERV
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 07/21/80 JA: WV			
8047788		4703902162	108		ASA COFFMAN 820216	ROCKY FORK	3.5	COLUMBIA GAS TRANSMI
8047774		4709901689	108		COLUMBIA COAL FEE 809814	FIELD AREA B	0.4	COLUMBIA GAS TRANSMI
8047787		4704500918	108		DINGESS RUN COAL CO 809717	FIELD AREA B	0.5	COLUMBIA GAS TRANSMI
8047778		4701900835	108		KANAWHA GAULEY COAL & COKE 820022	FIELD AREA A	6.8	COLUMBIA GAS TRANSMI
8047777		4701900237	108		KANAWHA GAULEY COAL & COKE 820024	FIELD AREA A	8.7	COLUMBIA GAS TRANSMI
8047776		4701900238	108		KANAWHA GAULEY COAL & COKE 820028	FIELD AREA A	3.2	COLUMBIA GAS TRANSMI
8047786		4704500929	108		MONCO INCORPORATED 809833	FIELD AREA B	1.6	COLUMBIA GAS TRANSMI
8047785		4704700586	108		NEW RIVER & POCAHONTAS CONSOL COAL	FIELD AREA C	6.9	COLUMBIA GAS TRANSMI
-CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/22/80 JA: WV			
8047959		4703301932	103		A M MCCARTY 12568	WEST VIRGINIA OTHER A837	65.0	GENERAL SYSTEM PURCH
8047886		4700100956	103		ALFRED REED 12181	W VA OTHER A83772	24.0	GENERAL SYSTEM PURCH
8047849		4707700194	103		ALLEN COX 12555	WVA OTHER A83272	23.0	GENERAL SYSTEM PURCH
8047891		4704102179	103		BENNETT-HALL 12447	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8047842		4703301076	108		BUENA W BROWN 12387	WEST VIRGINIA OTHER A837	16.0	GENERAL SYSTEM PURCH
8047956		4704102534	103		C BURKE MORRIS 12554	W VA OTHER A83772	24.0	GENERAL SYSTEM PURCH
8047851		4709100169	103		CARL E MANEAR 12551	W-VA OTHER A-83772	23.0	GENERAL SYSTEM PURCH
8047836		4704900326	108		CHARLES H HIBBS 12276	WEST VIRGINIA OTHER A837	2.0	GENERAL SYSTEM PURCH
8047935		4710900773	108		CHARLESTON NATIONAL BANK 12411	PINEVILLE A59448	15.0	GENERAL SYSTEM PURCH
8047953		4700101077	103		CLINTON ADVIL 12564	W VA OTHER A83772	25.0	GENERAL SYSTEM PURCH
8047890		4703301912	103		COMMERCIAL COAL & COKE 12513	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8047838		4704700788	108		CONSOLIDATED COAL CO 12161	PINEVILLE FIELD AREA A59	13.0	GENERAL SYSTEM PURCH
8047839		4704700710	108		CONSOLIDATED COAL 12327	PINEVILLE FIELD AREA A59	19.0	GENERAL SYSTEM PURCH
8047957		4704700706	103		CONSOLIDATION COAL CO 12377	PINEVILLE FIELD AREA A59	24.0	GENERAL SYSTEM PURCH
8047874		4702103029	108		D & E STALNAKER 12496	W VA OTHER A83772	7.0	GENERAL SYSTEM PURCH
8047873		4701701896	108		D C STOUT 12477	WEST VIRGINIA OTHER A837	20.0	GENERAL SYSTEM PURCH
8047955		4701702296	103		D C STOUT 12558	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8047885		4700100946	103		D T PROUDFOOT 12182	W VA OTHER A83772	25.0	GENERAL SYSTEM PURCH
8047846		4700100657	108		DENZIL MAYLE 11694	WEST VIRGINIA OTHER A837	16.0	GENERAL SYSTEM PURCH
8047867		4707700186	103		DONALD HOLMES 12432	GREEN-GLADESVILLE 290235	67.0	GENERAL SYSTEM PURCH
8047840		4704102175	108		EDWIN GASTON 12490	WEST VIRGINIA OTHER A837	11.0	GENERAL SYSTEM PURCH
8047850		4707700195	103		EDWIN WOLFE 12579	GREEN-GLADESVILLE 290235	28.0	GENERAL SYSTEM PURCH
8047837		4704900324	108		EDYTHE WEBB 12380	WEST VIRGINIA OTHER A837	13.0	GENERAL SYSTEM PURCH
8047889		4702103402	103		ELTON BUSH 12520	W VA OTHER	23.0	GENERAL SYSTEM PURCH
8047835		4706700323	108		FITZWATER-MARKUS 11846	W VA OTHER A83772	18.0	GENERAL SYSTEM PURCH
8047848		4707700188	103		FRANK M SYPOLT 12460	GREEN-GLADESVILLE 290235	583.0	GENERAL SYSTEM PURCH
8047868		4707700191	103		GAY S LANHAM 12521	W VA OTHER A83772	28.0	GENERAL SYSTEM PURCH
8047871		4700100902	108		GUY D YOUNG 12304	WEST VIRGINIA OTHER A837	9.0	GENERAL SYSTEM PURCH
8047841		4704102147	108		J B LOVETT 12310	WEST VIRGINIA OTHER A837	13.0	GENERAL SYSTEM PURCH
8047880		4702102944	103		J E ARBUCKLE 12433	W VA OTHER A83772	31.0	GENERAL SYSTEM PURCH
8047954		4700101137	103		J J BARNOVER 12570	W VA OTHER A83772	28.0	GENERAL SYSTEM PURCH
8047875		4703300871	108		J M THRASH 11864	W VA OTHER A83772	18.0	GENERAL SYSTEM PURCH
8047869		4707700196	103		JOHN A DILL 12583	GREEN-GLADESVILLE 290235	45.0	GENERAL SYSTEM PURCH
8047843		4703301062	108		JOHN T WILLIAMS 12297	WEST VIRGINIA OTHER A837	19.0	GENERAL SYSTEM PURCH
8047844		4703301028	108		L J ALLEN 12080	WEST VIRGINIA OTHER A837	15.0	GENERAL SYSTEM PURCH
8047832		4710900748	108		LASH.LITZ BRADLEY 12005	PINEVILLE FIELD AREA A59	10.0	GENERAL SYSTEM PURCH
8047852		4700100667	108		LEAN W BUYEN 11780	WEST VIRGINIA OTHER A837	4.0	GENERAL SYSTEM PURCH
8047833		4709500485	108		LILLIE M MAPLE 12388	W VA OTHER A83772	7.0	GENERAL SYSTEM PURCH
8047834		4706700424	108		LUCILLE B SCHAMPER 12344	WEST VIRGINIA OTHER A837	7.0	GENERAL SYSTEM PURCH
8047872		4701701867	108		M T WILLIAMS 12307	W VA OTHER A83772	13.0	GENERAL SYSTEM PURCH
8047892		4704102532	103		MADGE PULTINEAR 12525	W VA OTHER A83772	40.0	GENERAL SYSTEM PURCH
8047866		4708100568	103		N B THOMPSON 11710	GREEN-GLADESVILLE 290235	75.0	GENERAL SYSTEM PURCH

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047893		4704700797	103		OLGA COAL CO 12441	PINEVILLE FIELD AREA A59	23.0	GENERAL SYSTEM PURCH
8047847		4707700187	103		CYPHA REED 12425	GREEN-GLADESVILLE 290235	610.0	GENERAL SYSTEM PURCH
8047958		4704700782	103		POCA LAND CORP 12367	PINEVILLE FIELD AREA A59	25.0	GENERAL SYSTEM PURCH
8047947		4703301602	108		R W SOMMERVILLE 8174	WEST VIRGINIA UNION A-85	10.0	GENERAL SYSTEM PURCH
8047952		4700100945	103		RUBY A BALL 12360	WEST VIRGINIA OTHER A837	107.0	GENERAL SYSTEM PURCH
8047960		4703301936	103		RUTH SMITH RILEY 12553	W VA OTHER A83772	32.0	GENERAL SYSTEM PURCH
8047887		4701701848	103		B F & F E JOSEPHS 12139	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8047894		4706100364	103		SARAH HART 11730	GREEN-GLADESVILLE 290235	211.0	GENERAL SYSTEM PURCH
8047946		4703301427	108		VIRGINIA B KYLE 4969	WEST VIRGINIA OTHER A-85	7.0	GENERAL SYSTEM PURCH
8047870		4700100686	108		W C STALNAKER 11856	W VA OTHER A83772	81.0	GENERAL SYSTEM PURCH
8047831		4704102174	108		WILLIAM WINANS 12407	WEST VIRGINIA OTHER A837	16.0	GENERAL SYSTEM PURCH
*COOPERATIVE OIL INVESTMENTS INC					RECEIVED: 07/22/80 JAI WV			
8047912		4708703219	103		A J WAGGONER #11	CLOVER (SPENCER DISTRICT	7.0	PENNZOIL
*DORAN & ASSOCIATES INC					RECEIVED: 07/21/80 JAI WV			
8047783		4703322130	103		A B LOWTHER #1 K-L-159	TENMILE	30.0	CONSOLIDATED GAS SUP
8047784		4704920693	103		B LAUGHLIN K-L-125	LINCOLN DISTRICT	30.0	CONSOLIDATED GAS SUP
8047782		4703322079	103		LEON WILSON K-L-201	SARDIS	30.0	CONSOLIDATED GAS SUP
8047775		4701722357	103		OKEY CLARK #1 K-L-169	GREENBRIER	30.0	CONSOLIDATED GAS SUP
8047779		4703322002	103		WADE SHAVER #1 K-L-178	TENMILE	30.0	EQUITABLE GAS CO
8047780		4703322007	103		WADE SHAVER #2 K-L-179	TEN MILE	30.0	EQUITABLE GAS CO
8047781		4703322008	103		WADE SHAVER #3 K-L-180	TENMILE	0.0	EQUITABLE GAS CO
*EAGLE GAS CO					RECEIVED: 07/21/80 JAI WV			
8047814		4703302349	108		CONSOL M12 WELL NO 73	CLAY DISTRICT	0.0	LUMBERPORT-SHINNSTON
*EASTERN AMERICAN ENERGY CORPORATION					RECEIVED: 07/21/80 JAI WV			
8047808		4702103570	103		WARDEN #1	GLENVILLE	6.0	CONSOLIDATED GAS SUP
*EASTERN AMERICAN ENERGY CORPORATION					RECEIVED: 07/22/80 JAI WV			
8047854		4702103541	107		C P SNIDER #3	GLENVILLE	25.0	EQUITABLE GAS CO
8047857		4702103535	107		G R LYNCH #2	GLENVILLE	0.0	EQUITABLE GAS CO
8047856		4702103527	107		J DAVIS #3	GLENVILLE	0.0	EQUITABLE GAS CO
8047845		4702103540	107		J W KEITH #4	GLENVILLE	0.0	EQUITABLE GAS CO
8047853		4702103536	107		L DAVIS #5	GLENVILLE	0.0	EQUITABLE GAS CO
8047855		4702103526	107		S C SIMMONS #4	GLENVILLE	0.0	EQUITABLE GAS CO
*ENERGY DEVELOPMENT CORP					RECEIVED: 07/22/80 JAI WV			
8047829		4704700793	108		EDC NO 6 - MCD-753	BIG SANDY	7.0	CONSOLIDATED GAS SUP
*FUEL RESOURCES DEVELOPMENT CO					RECEIVED: 07/22/80 JAI WV			
*8047942		4700120842	102		G BLACKWELL #1	VALLEY DISTRICT	60.0	CONSOLIDATED GAS SUP
*8047940		4700120024	103		R VOWLS #1	VALLEY DISTRICT	84.0	CONSOLIDATED GAS SUP
*8047941		4700120863	102		V ZIRCLE #1	VALLEY DISTRICT	16.0	CONSOLIDATED GAS SUP
*GARNER & GAWTHROP INC					RECEIVED: 07/22/80 JAI WV			
8047921		4703302381	108		FLANAGAN #1	A P FLANAGAN	4.8	PENNZOIL CO
*GEORGE JACKSON					RECEIVED: 07/22/80 JAI WV			
8047913		4701702546	108		LEEMAN MAXWELL 324	SOUTHWEST DISTRICT	2.5	CARNEGIE NATURAL GAS
*GLENN L HAUGHT & SONS					RECEIVED: 07/21/80 JAI WV			
8047790		4708524409	103		EDNA FOSTER M-874	GRANT DISTRICT	25.0	CONSOLIDATED GAS SUP
*J & J ENTERPRISES INC					RECEIVED: 07/21/80 JAI WV			
8047815		4700101272	103		M R -1-#1	VALLEY	50.0	CONSOLIDATED GAS SUP
*J W STONE					RECEIVED: 07/21/80 JAI WV			
8047812		4708700932	108		ANDREW PARKS WELL #1	LOONEYVILLE GAS FIELD	4.5	COLUMBIA GAS TRANSMI
*JACKSON GAS CO					RECEIVED: 07/22/80 JAI WV			
8047915		4704320054	108		WILLARD MILLER #2	JEFFERSON	0.2	PENNZOIL CO
*JOHNSON PRODUCING CO					RECEIVED: 07/21/80 JAI WV			
8047810		4702102179	108		D M LINGER #4	DEKALB	1.0	EQUITABLE GAS CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047791		4709702635	108		E U WILSON #1	BANKS	3.1	EQUITABLE GAS CO
8047806		4704102639	108		P B GOULD #1	SKIN CREEK	0.8	EQUITABLE GAS CO
*KEITH CRIMFIELD					RECEIVED: 07/22/80 JA: WV			
8047920		4701302805	108		B B SHIMER #1	ANAMURIAM	2.0	CONSOLIDATED GAS SUP
*NORMAN SLAUGHTER					RECEIVED: 07/22/80 JA: WV			
8047916		4700700783	108		G B HOWELL #9		2.5	EQUITABLE GAS CO
*NRM PETROLEUM CORPORATION					RECEIVED: 07/22/80 JA: WV			
8047917		4709702021	103		NEELEY #1	MIDDLE FORK RIVER	0.0	COLUMBIA GAS TRANSMI
*P & B OIL AND GAS CORPORATION					RECEIVED: 07/21/80 JA: WV			
8047805		4708500516	108		CLARICE LILLY #1	CHAPMANVILLE	4.8	CONSOLIDATED GAS SUP
8047811		4704500503	108		VIRGIL SANDERS #1	CHAPMANVILLE	4.8	CONSOLIDATED GAS SUP
*PENNZOIL COMPANY					RECEIVED: 07/21/80 JA: WV			
8047795		4703301753	108		NATHAN GOFF #14	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047792		4703301748	108		NATHAN GOFF #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047793		4703301749	108		NATHAN GOFF #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047794		4703301751	108		NATHAN GOFF #8	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
*PENNZOIL COMPANY					RECEIVED: 07/22/80 JA: WV			
8047933		4703301773	108		A D LAMSON #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047876		4703301841	108		B T STROTHER #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047878		4703301830	108		C W SMITH #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047877		4703301832	108		C W SMITH #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047882		4703301799	108		ELI MAXWELL #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047861		4703301900	108		ELIZABETH FLETCHER #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047879		4703301804	108		GENIUS PAYNE #15	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047864		4703301895	108		M FLANAGAN #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047863		4703301898	108		M FLANAGAN #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047862		4703301899	108		M FLANAGAN #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047881		4703301800	108		M G MOFFETT #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047880		4703301801	108		M G MOFFETT #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047931		4703301781	108		MIRAM LYNCH #11	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047930		4703301782	108		MIRAM LYNCH #12	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047929		4703301786	108		MIRAM LYNCH #24	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047928		4703301787	108		MIRAM LYNCH #27	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047927		4703301789	108		MIRAM LYNCH #29	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047932		4703301778	108		MIRAM LYNCH #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047858		4703301790	108		MIRAM LYNCH #30	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047884		4703301791	108		MIRAM LYNCH #31	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047883		4703301797	108		MIRAM LYNCH #44	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047934		4703301770	108		J D HITT #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047860		4703301909	108		JOHN FLAHERTY #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047965		4703301884	108		P C WILLIAMS #10	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047964		4703301886	108		P C WILLIAMS #12	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047963		4703301887	108		P C WILLIAMS #13	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047962		4703301888	108		P C WILLIAMS #17	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047961		4703301890	108		T H WILLIAMS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8047865		4703301892	108		T H WILLIAMS #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
*RHOADES MINING CORP					RECEIVED: 07/22/80 JA: WV			
8047919		4704100000	108		J W BURKHAMMER #2	COURT HOUSE	7.0	EQUITABLE GAS CO
*ROGERS & SCULL					RECEIVED: 07/21/80 JA: WV			
8047617		4704102187	108		C STEPHEN FINSTER NO 1 WELL	COURT HOUSE DISTRICT	14.7	EQUITABLE GAS CO
8047769		4701302988	103		JAMES B LAUGHLIN NO 1	LEE DISTRICT	0.0	CABOT CORP
*SENECA-UPSHUR PETROLEUM CO					RECEIVED: 07/22/80 JA: WV			

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                                                                   VOLUME  258        PAGE  005
 JD NO    JA DKT        API NO     SEC D WELL NAME                      FIELD NAME                   PROD     PURCHASER
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 8047914                4708320296 102   J M HUBER #58                  MIDDLE FORK                   35.0 EQUITABLE GAS CO
-SOUTHEASTERN GAS COMPANY              RECEIVED:  07/22/80  JA: WV
 8047830                4701520660 108   OSMAN E SWARTZ #T-114          UNION                         16.2 CONSOLIDATED GAS SUP
-STERLING DRILLING AND PROD CO INC     RECEIVED:  07/22/80  JA: WV
 8047966                4701501687 103   ALDI #27 SOP #187              BUFFALO DISTRICT              86.4 EQUITABLE GAS CO
-SWEETLAND LAND AND MINERAL CO         RECEIVED:  07/22/80  JA: WV
 8047859                4704302456 108   HOLLEY #3 METER 23660GPC1061   CARROLL                        6.2 PENNZOIL CO
-TEXAS INTERNATIONAL PET CORP          RECEIVED:  07/22/80  JA: WV
 8047968                4706700510 102   ANNA BRYAN #2                  JEFFERSON                     65.0 EQUITABLE GAS CO
 8047821                4701900378 102   C O WHITE #1                   MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047904                4701900395 102   C O WHITE #4                   MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047819                4701900291 102   CALVIN KENNEY #1               MOUNTAIN COVE                 40.0 EQUITABLE GAS CO
 8047827                4701900383 102   DARRELL E NUTTER #1            MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047897                4706700483 102   DONNA E MANN #1                GRANT                         65.0 EQUITABLE GAS CO
 8047967                4706700505 102   EDWIN BELL #C-3                JEFFERSON                     65.0 EQUITABLE GAS CO
 8047969                4706700509 102   EDWIN BELL ET AL #B-2          JEFFERSON                     65.0 EQUITABLE GAS CO
 8047895                4706700496 102   EDWIN BELL ET AL #1            GRANT                         65.0 EQUITABLE GAS CO
 8047899                4706700493 102   GEORGE A JARRELL #1            GRANT                         65.0 EQUITABLE GAS CO
 8047971                4706700503 102   GORDON LEGG ETAL #1            JEFFERSON                     65.0 EQUITABLE GAS CO
 8047900                4701900397 102   HAMPDEN COMP ET AL #B-1        MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047950                4706700508 102   HOWARD MASON ET AL #B-1        JEFFERSON                     65.0 EQUITABLE GAS CO
 8047972                4706700506 102   HOWARD MASON ET AL #1          JEFFERSON                     50.0 EQUITABLE GAS CO
 8047951                4706700498 102   J M TULLY ETAL #1              GRANT                         65.0 EQUITABLE GAS CO
 8047970                4706700499 102   KEENAN BURGESS UNIT #1         GRANT                         50.0 EQUITABLE GAS CO
 8047902                4701900389 102   MARY SPARKS #2                 MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047973                4706700511 102   MOWER LUMBER CO #B-1           JEFFERSON                     65.0 EQUITABLE GAS CO
 8047896                4706700418 102   MOWER LUMBER COMPANY #1        JEFFERSON                     65.0 EQUITABLE GAS CO
 8047820                4701900380 102   PENN CENTRAL TRANSPORTATION CO #1 MOUNTAIN COVE              40.0 EQUITABLE GAS CO
 8047903                4701900391 102   W H PENNINGTON ET AL #1        MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047898                4706700484 102   RACHEL J PECK UNIT #1          GRANT                         65.0 EQUITABLE GAS CO
 8047822                4701900360 102   SIGNAL KNOB LODGE G/U2 WELL #2 MT COVE                       40.0 EQUITABLE GAS CO
 8047818                4701900359 102   SIGNAL KNOB LODGE G/V1 WELL #1 MOUNTAIN COVE                 65.0 EQUITABLE GAS CO
 8047901                4706700392 102   TERRY EAGLE COAL CO #1         JEFFERSON                      0.0 EQUITABLE GAS CO
-UNION DRILLING INC                    RECEIVED:  07/21/80  JA: WV
 8047816                4709720166 108   G W SAMPLES 1001               BANKS DISTRICT                 3.5 COLUMBIA GAS TRANSMI
-UNION DRILLING INC                    RECEIVED:  07/22/80  JA: WV
 8047906                4709702028 103   J C & KYLE O GRADY #2 1539     BANKS DISTRICT                 0.0 COLUMBIA GAS TRANSMI
 8047907                4709701958 103   R B & MARGARET SMALLRIDGE #1 1504 MEADE DISTRICT              0.0 COLUMBIA GAS TRANSMI
-W M HOBSON                            RECEIVED:  07/21/80  JA: WV
 8047790                4701302893 108   FREED #3                       FREED 3 OIL & GAS CO           1.5 CONSOLIDATED GAS SUP
 8047807                4708522623 108   SNODGRASS #1                   OTHA COX                       1.3 SOUTHWESTERN DEVELOP
-WARREN R HAUGHT AGENT                 RECEIVED:  07/21/80  JA: WV

 8047797                4706524400 103   A B SIMMONS W-789              GRANT DISTRICT                18.0 CONSOLIDATED GAS SUP
-WEVA OIL CORP                         RECEIVED:  07/22/80  JA: WV
 8047922                4710500859 108   R B & R C NEWMAN #2            R B & R C NEWMAN #2            3.6 CONSOLIDATED GAS SUP
-ETNA GAS CO                           RECEIVED:  07/22/80  JA: WV
 8047828                4701120569 108   PETER I WILSON #1              MCCOMAS DISTRICT              12.8 PENNZOIL CO

 OTHER PURCHASERS
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 [illegible]                                      [illegible] GAS CO
 [illegible]                                      [illegible] GAS CO
 [illegible]                                      [illegible] GAS CO
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of three final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25879 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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[Volume 259]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued; August 15, 1978.

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JD NO      JA DKT        API NO      SEC D WELL NAME                          FIELD NAME                  PROD    PURCHASER
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**********************************************************************************************
   ALABAMA OIL & GAS BOARD
**********************************************************************************************
-EXXON CORPORATION                            RECEIVED:  07/23/80  JA: AL
 8048214   7-11-002PD    0105320140  107  SCOTT PAPER CO GU 1 #1              FLOMATON                    50.0  FLORIDA GAS TRANS CO
-GRACE PETROLEUM CORP                         RECEIVED:  07/23/80  JA: AL
 8048213   7-11-003 PD   0105720217  103  ALDRIDGE NO 6-3                     DAVIS CHAPEL               100.0  CORONADO TRANSMISSIO
-TEXACO INC                                   RECEIVED:  07/23/80  JA: AL
 8048215   7-11-001PD    0109920030  103  M J BYRD ET UX (26-13) 1            VOCATION (EXTENSION)        90.0
**********************************************************************************************
   COLORADO OIL & GAS COMMISSION
**********************************************************************************************
-AMOCO PRODUCTION CO                          RECEIVED:  07/23/80  JA: CO
 8048234   80-175        0506706297  103  BRIGGS GAS UNIT A WELL #1A          IGNACIO BLANCO             100.0  WESTERN SLOPE GAS CO
 8048239   80-185        0500106772  108  CHAMPLIN 117 AMOCO F #1             BANNER                       4.7  COLORADO INTERSTATE
 8048230   80-168        0512309348  108  ELMER WEBBER A #1                   WATTENBERG                  10.9  PANHANDLE EASTERN PI
 8048253   80-111        0502308099  108  HAROLD NELSON UNIT B #1             WATTENBERG                  18.0  PANHANDLE EASTERN PI
 8048232   80-99         0512309709  103  J W CUYKENDALL B WELL #1            WATTENBERG                   0.0  PANHANDLE EASTERN PI
 8048251   80-166        0512309560  108  JACK C NOEL UNIT #2                 HAMBERT                     10.8  PANHANDLE EASTERN PI
 8048240   80-179        0506706293  103  SNOOK GAS UNIT A WELL #1A           IGNACIO BLANCO             100.0  WESTERN SLOPE GAS CO
 8048249   80-188        0512309874  103  UPRR 62 PAN AM G U K WELL #2        WATTENBERG                  93.6  PANHANDLE EASTERN PI
 8048252   80-178        0506706296  103  WILDE GAS UNIT B WELL #1A           IGNACIO BLANCO             165.0  WESTERN SLOPE GAS CO
 8048235   80-172        0506706329  103  WIRT GAS UNIT A WELL #1A            IGNACIO BLANCO             220.0  WESTERN SLOPE GAS CO
 8048236   80-173        0506763280  103  WIRT GAS UNIT B WELL #1A            IGNACIO BLANCO             160.0  WESTERN SLOPE GAS CO
 8048233   80-174        0506706298  103  WIRT GAS UNIT C WELL #1A            IGNACIO BLANCO             100.0  WESTERN SLOPE GAS CO
-CONTINENTAL GAS TRANSMISSION                 RECEIVED:  07/23/80  JA: CO
 8048241   80-193        0500107220  103  #3-30 STATE                         WARLOCK                     20.0  PANHANDLE EASTERN PI
 8048248   80-194        0500107283  103  #4-30 STATE                         WARLOCK                     32.0  PANHANDLE EASTERN PI
 8048231   80-195        0500107396  103  CHAMPLIN #1-35                      QUAIL (AT TIME OF DRILLI   120.0  PANHANDLE EASTERN PI
 8048243   80-192        0500107385  103  1-28 MEYER                          CHIEFTAIN                   25.0  PANHANDLE EASTERN PI
 8048244   80-196        0500107384  103  1-32 BECKER                         HAWKEYE                     16.0  PANHANDLE EASTERN PI
-ENERGY MINERALS CORPORATION                  RECEIVED:  07/23/80  JA: CO
 8048245   80-191        0512306311  108  CARLSON #1                          WATTENBERG                  22.0  COLORADO INTERSTATE
 8048242   80-181        0512309030  103  JUNE #1                             ROGGEN                      25.0  CRYSTAL GAS RESOURCE
-KANSAS-NEBRASKA NATURAL GAS CO INC           RECEIVED:  07/23/80  JA: CO
 8048254   80-165        0512506256  102  STULP 1-2 (FORMERLY VONDERWAHI)     SCHRAMM                    126.0
-MACEY & MERSHON OIL INC                      RECEIVED:  07/23/80  JA: CO
 8048247   80-182        0512309716  103  STARKS #1                           WATTENBERG                  90.0  PANHANDLE EASTERN PI
-NORTHWEST EXPLORATION COMPANY                RECEIVED:  07/23/80  JA: CO
 8048250   80-155        0510307693  102  W D LAKE #1                         WILDCAT                     72.0  WESTERN SLOPE GAS CO
-NORTHWEST PIPELINE CORPORATION               RECEIVED:  07/23/80  JA: CO
*8048246   80-154        0506700000  108  IGNACIO 33-6 #6 (SECOND FILING)     IGNACIO BLANCO              17.0  NORTHWEST PIPELINE C
-RINCON OPERATING CO                          RECEIVED:  07/23/80  JA: CO
 8048237   80-186        0500906247  103  HUNT #1                             GREENWOOD                  253.0  COLORADO INTERSTATE
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                                                                                     VOLUME  259          PAGE  0[illegible]
JD NO    JA DKT       API NO     SEC D WELL NAME                          FIELD NAME                    PROD   PURCHASER
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*TEXAS OIL & GAS CORP                    RECEIVED:  07/23/80  JA: CO
 8048250  80-163      0500906255 103  PRAZEE A #1                         WALSH                        120,0 NUECES COMPANY
*VESSELS OIL & GAS CO                    RECEIVED:  07/23/80  JA: CO
 8048255  80-197      0512309764 103  BEARDEN #1                          WATTENBERG                     0,0 PANHANDLE EASTERN PI
*VESSELS OIL & GAS COMPANY               RECEIVED:  07/23/80  JA: CO
 8048236  80-187      0500107574 108  BROSCH-MEDOW NO 1                   ZENITH                        55,0 VESSELS GAS PROCESSI
***************************************************************************
   LOUISIANA OFFICE OF CONSERVATION
***************************************************************************
*WILLIAMS EXPLORATION COMPANY            RECEIVED:  07/23/80  JA: LA
 8048211  80-2321     1700120840 102  SCHULTZ NO 1                        MAXIE FIELD                 3066,0 LOUISIANA RESOURCES
 8048210  80-2320     1700120840 102  SCHULTZ NO 1-D                      MAXIE FIELD                 1097,0 LOUISIANA RESOURCES
***************************************************************************
   MICHIGAN DEPARTMENT OF NATURAL RESOURCES
***************************************************************************
*DART OIL & GAS CORPORATION              RECEIVED:  07/22/80  JA: MI
 8048103              2111300000 102  GILDE #14-25 (33046)                AETNA                         20,0 CONSUMERS POWER CO
*PETROTECH INC                           RECEIVED:  07/23/80  JA: MI
 8048209              2106500000 102  FRANKLIN E LYON UNIT #1-24          WILDCAT T2N-R2W SECTION        0,0 CONSUMERS POWER CO
***************************************************************************
   MONTANA BOARD OF OIL & GAS CONSERVATION
***************************************************************************
*MIDLANDS GAS CORPORATION                RECEIVED:  07/22/80  JA: MT
 8048109  6-80-127    2507121492 108  2770 1-27 RUBE                      BOWDOIN                       21,0 KANSAS-NEBRASKA NATU
*PATRICK PETROLEUM CORP OF MICHIGAN      RECEIVED:  07/22/80  JA: MT

 8048108  6-80-126    2509121275 102  GROSKURTH-PETERSEN #1-21            FISH-HOOK                     61,0 TRUE OIL CO
*SHELL OIL CO                            RECEIVED:  07/22/80  JA: MT
 8048111  6-80-129    2508321339 102  JENSEN 33-22                        WILDCAT (MONDAK WEST ARE      28,0 MONTANA DAKOTA UTILI
 8048106  5-80-123    2508321316 102  SCHEETZ 44-18                       MONDAK WEST                   22,5 MONTANA DAKOTA UTILI
 8048107  5-80-124    2508321317 102  SCHEETZ 44-19                       MONDAK WEST                   28,0 MONTANA DAKOTA UTILI
*SUN OIL COMPANY (DELAWARE)              RECEIVED:  07/22/80  JA: MT
 8048110  6-80-128    2509121280 102  L TRONSON NO 1                      MEDICINE LAKE                 20,0 TRUE OIL CO
*WESTERN NATURAL GAS COMPANY             RECEIVED:  07/22/80  JA: MT
 8048104  5-80-121    2504121300 108  GOGGINS 1-30 T-33N R-14E            FRESNO                        10,0 NORTHERN NATURAL GAS
 8048105  5-80-122    2504121288 108  SOMERS 1-29 T-33N R-13E             FRESNO                         6,0 NORTHERN NATURAL GAS
***************************************************************************
   OHIO DEPARTMENT OF NATURAL RESOURCES
***************************************************************************
*ADOBE OIL & GAS CORPORATION             RECEIVED:  07/22/80  JA: OH
 8048192              3415123128 103  S MIHALIK #1                        LAKE                          37,0 EAST OHIO GAS CO
*APPALACHIAN ENERGY INC                  RECEIVED:  07/22/80  JA: OH
 8048129              3401320310 103  A PRAMIK #1 A-E-150                 PULTNEY                       30,0 COLUMBIA GAS TRANSMI
 8048128              3401320307 103  J GIFFIN #2 A-E-143                 PULTNEY                       30,0 COLUMBIA GAS TRANSMI
*APPALACHIAN PETROLEUM CORP              RECEIVED:  07/22/80  JA: OH
 8048208              3416725353 103  JOHN BAKER #1                       ADAMS                          3,5 COLUMBIA GAS TRANSMI
 8048206              3416725250 103  ROGERS ET AL #3                     ADAMS                          3,5 COLUMBIA GAS TRANSMI
 8048205              3416725135 103  VELMA PETERS #3 (OHIO POWER)        ADAMS                          3,5 COLUMBIA GAS TRANSMI
*ARTEX OIL CO                            RECEIVED:  07/22/80  JA: OH
 8048175              3411925282 103  M JOHNSON 1-80                      MEIGS                         35,0
*BELDEN & BLAKE & CO 74                  RECEIVED:  07/22/80  JA: OH
 8048195              3415123195 103  J & S DAVIS #3-456                  OSNABURG                      36,5
 8048191              3415123118 103  M & C ROYER #5-459                  MARLBORO                      36,5
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*BEREA OIL AND GAS CORPORATION					RECEIVED: 07/22/80 JA: OH			
8048200		3415521357	103		CRAIN UNIT #1	VIENNA	12.0	EAST OHIO GAS CO
8048201		3415521356	103		KEIR UNIT #1	VIENNA	24.0	EAST OHIO GAS
*CARL M POSTON					RECEIVED: 07/22/80 JA: OH			
8048141		3407322309	103		WILLARD KIEFFER NO 3	BRENHOLTS	4.0	COLUMBIA GAS TRANSMI
*CHANSE PETROLEUM CORPORATION					RECEIVED: 07/22/80 JA: OH			
8048122		3400721137	103		LINEK-ROBINSON #2	LENOX	2.0	
8048123		3400721101	103		ROBINSON - CLARK #2	LENOX	2.0	
*CLARENCE K TUSSEL JR					RECEIVED: 07/22/80 JA: OH			
8048127		3400721337	103		M SIMMONS #1	MONROE	35.0	
8048126		3400721330	103		P NOVAK #1	KINGSVILLE	30.0	
8048125		3400721328	103		T SHELENBERGER #1	MONROE	30.0	
*CLAY COUNTY PRODUCTION CO INC					RECEIVED: 07/22/80 JA: OH			
8048182		3412724627	103		A ARKOUSE #1	READING	12.0	NATIONAL GAS & OIL C
*CLEARFORK OIL CO					RECEIVED: 07/22/80 JA: OH			
8048157		3411121974	103		BEN LARGENT #1	WASHINGTON	30.0	COLUMBIA GAS TRANSMI
*EDCO DRILLING & PRODUCING INC					RECEIVED: 07/22/80 JA: OH			
8048172		3411925123	103		1A BAKER	JACKSON	18.0	
8048135		3403123784	103		1A DUNCAN	BETHLEHEM	18.0	
8048173		3411925125	103		2B ARNOLD	JACKSON	18.0	
*ENTERPRISE GAS & OIL INC					RECEIVED: 07/22/80 JA: OH			
8048177		3412723649	103		STATE PEN #6	JACKSON	27.4	COLUMBIA GAS TRANSMI
*HOPEWELL OIL AND GAS DEVELOPMENT CO					RECEIVED: 07/22/80 JA: OH			
8048181		3412724576	103		FISHER #1	HARRISON	10.0	
*IRVIN PRODUCING COMPANY					RECEIVED: 07/22/80 JA: OH			
8048169		3411925028	103		HENRY JAMES #1	SPRINGFIELD	12.0	NATIONAL GAS & OIL C
8048167		3411925022	103		HERMAN BULLEN #1	WAYNE	12.0	NATIONAL GAS & OIL C
8048180		3412724524	103		KERMIT HOPE #1	SALT LICK	12.0	COLUMBIA GAS TRANSMI
8048168		3411925027	103		TIMOTHY KIMPEL #1	NEWTON	12.0	COLUMBIA GAS TRANSMI
*JUD NOBLE AND ASSOCIATES INC					RECEIVED: 07/22/80 JA: OH			
8048183		3413320514	103		DALLAS #2	EDINBURG	20.0	GENERAL ELECTRIC CO
8048190		3413322168	103		DALLAS #3	EDINBURG	20.0	GENERAL ELECTRIC CO
8048187		3413322124	103		COY UNIT #2	EDINBURG	20.0	GENERAL ELECTRIC CO
8048188		3413322138	103		ORIA #2	EDINBURG	20.0	GENERAL ELECTRIC CO
8048189		3413322139	103		ORIA #4	EDINBURG	20.0	GENERAL ELECTRIC CO
*L & M OPERATING INC					RECEIVED: 07/22/80 JA: OH			
8048178		3412723081	103		VAN ATTA #2	PIKE	5.5	FORAKER GAS LINE
8048130		3401921266	103		WENDELL PRICE #2	ORANGE	10.5	BONANZA GAS LINE
*LEADER EQUITIES INC					RECEIVED: 07/22/80 JA: OH			
8048160		3411923773	103		MARGARET R KNICELY #2	JEFFERSON	15.0	
*LESLIE OIL & GAS CO INC					RECEIVED: 07/22/80 JA: OH			
8048153		3410322197	103		T RICE WELL #3	SPENCER	10.0	COLUMBIA GAS TRANSMI
*MARTIN EXCAVATING INC					RECEIVED: 07/22/80 JA: OH			
8048147		3407522421	103		WAGERS #1	MECHANIC	9.2	COLUMBIA GAS TRANSMI
*NATIONAL PETROLEUM CORP					RECEIVED: 07/22/80 JA: OH			
8048156		3411121940	107		F CHRISTMAN #1	SUMMIT	15.0	TEXAS EASTERN
8048124		3400721273	103		H SMITH #1	LENOX	15.0	EAST OHIO GAS CO
8048121		3400720989	103		OHIO LAND & TIMBER #1	LENOX	15.0	EAST OHIO GAS CO
*NEW FRONTIER EXPLORATION INC					RECEIVED: 07/22/80 JA: OH			
8048194		3415123165	103		FREMONT RODOCKER #1	PIKE	34.0	
*OHIO NATURAL FUEL CO					RECEIVED: 07/22/80 JA: OH			
8048143		3407522240	103		CARROLL #1	KNOX	5.0	COLUMBIA GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048142		3407522238	103		CHARVAT #1	KNOX	5.0	COLUMBIA GAS
8048134		3403122086	103		CRIDER #1	CLARK	9.0	COLUMBIA GAS
*PARTNERS OIL COMPANY					RECEIVED: 07/22/80 JA: OH			
8048145		3407522376	103		EICHER #4-79C	KILLBUCK	100.0	COLUMBIA GAS TRANSMI
*PEDGECO INC					RECEIVED: 07/22/80 JA: OH			
8048152		3400923031	103		OHIO AGRICULTURAL EXT CAMP INC #1	EDEN	20.0	
*POI ENERGY INC					RECEIVED: 07/22/80 JA: OH			
8048186		3413322123	103		BECK-DAVIS #1	STREETSBORO	20.0	
8048185		3413322119	103		BECK-GRIFFITH-WILSON #5	STREETSBORO	55.0	
8048198		3415320755	103		HOPKINS #1	HUDSON	10.0	
8048197		3415320749	103		HOPKINS #2	HUDSON	10.0	
8048184		3413322073	103		PIERCE #3	FRANKLIN	35.0	
8048196		3415320699	103		REINTHAL #1	RICHFIELD	7.0	
*PYRAMID OIL & GAS COMPANY					RECEIVED: 07/22/80 JA: OH			
8048199		3415521336	103		MATEI UNIT #2	SOUTHINGTON	20.0	
*RMR PETROLEUM CO INC					RECEIVED: 07/22/80 JA: OH			
8048203		3416725089	103		DALE & ELIZABETH PITSINGER #2	LAWRENCE	200.0	
8048207		3416725283	103		DALE & ELIZABETH PITSINGER #4	LAWRENCE	200.0	
*ROBERT D CARSON & MARY V CARSON					RECEIVED: 07/22/80 JA: OH			
8048119	04966	3410521780	108		ELLIS-REED #1		6.6	COLUMBIA GAS TRANSMI
8048120	04978	3410521781	108		M V CARSON #1		6.6	COLUMBIA GAS TRANSMI
*RODGER V BOWERS					RECEIVED: 07/22/80 JA: OH			
8048179		3412724294	103		BOWERS-MCCLELLAN WELL #1	PIKE	3.0	COLUMBIA GAS TRANSMI
*ROWLEY & BROWN PETROLEUM CORP					RECEIVED: 07/22/80 JA: OH			
8048146		3407522409	103		BRUMME #3	KILLBUCK	47.0	COLUMBIA GAS TRANSMI
*ROYAL PETROLEUM CO - II					RECEIVED: 07/22/80 JA: OH			
8048139		3405320530	103		TARA DEVELOPMENT CORP WELL #4	ADDISON	5.0	COLUMBIA GAS TRANSMI
8048140		3405320534	103		TARA DEVELOPMENT CORP WELL #5	ADDISON	0.0	COLUMBIA GAS TRANS C
*RUBICON CORP					RECEIVED: 07/22/80 JA: OH			
8048144		3407522275	103		HARRY SCHLEGEL #1	MECHANIC	28.0	
*STRATA EXPLORATION INC LTD 80-3					RECEIVED: 07/22/80 JA: OH			
8048148		3407522427	103		#2 ALFRED FARR	MECHANIC	390.0	COLUMBIA GAS TRANS
*STULL INVESTMENT GROUP					RECEIVED: 07/22/80 JA: OH			
8048151		3400322707	103		DWIGHT GURBUCH #1	HARRISON POOL	25.0	COLUMBIA GAS TRANSMI
*SUPERIOR PETROLEUM SERVICES INC					RECEIVED: 07/22/80 JA: OH			
8048133		3401921315	103		STEARNS #A-2	ORANGE	86.0	M & B OPERATING INC
8048132		3401921314	103		STEARNS #A-3	ORANGE	86.0	M & B OPERATING INC
8048131		3401921313	103		STEARNS A-1	ORANGE	86.0	M & B OPERATING INC
*TALBOTT OIL & GAS CO					RECEIVED: 07/22/80 JA: OH			
8048155		3410521886	103		EMMETT MCCASKEY #2	RUTLAND	5.0	COLUMBIA GAS TRANSMI
8048154		3410521668	108		THOMAS AUTHENSON #1		5.6	COLUMBIA GAS TRANSMI
*TEMPLE OIL & GAS CO					RECEIVED: 07/22/80 JA: OH			
8048156		3411522063	103		HARRY FISHER #2	YORK	10.0	
*THE SENATTY CORPORATION					RECEIVED: 07/22/80 JA: OH			
8048166		3411925019	103		C SILEN #1	BLUE ROCK	25.0	EAST OHIO GAS CO
8048174		3411925127	103		R BENNETT #1	HARRISON	85.0	NATIONAL GAS CORP
8048161		3411924280	103		R HUNTER #1	BLUE ROCK	25.0	EAST OHIO GAS CO
8048165		3411925018	103		S COX #1	BLUE ROCK	25.0	EAST OHIO GAS CO
*THE OXFORD OIL CO					RECEIVED: 07/22/80 JA: OH			
8048162		3411924901	103		FLOYD ANDERSON #1	CLAY	10.0	
8048159		3411522076	103		HAROLD JADWIN #1	DEERFIELD	10.0	
8048193		3415123167	103		THOMAS HALL #2	MARLBORO	10.0	

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JD NO      JA DKT        API NO     SEC D WELL NAME                          FIELD NAME              PROD    PURCHASER
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-TIGER OIL INC                            RECEIVED: 07/22/80  JA: OH
 8048176                 3412122249 103   RUFUS E HENRY #1                   CENTER                  15.0 EAST OHIO GAS CO
-TOWER ENERGY CORP                        RECEIVED: 07/22/80  JA: OH
-8048202                 3415521370 103   J E ZELENAK #2                     NEWTON                  80.0
-WILLIAM F HILL                           RECEIVED: 07/22/80  JA: OH
 8048149                 3407522553 103   BOYD #5 (FORMERLY BERT SHAFFER)    KILLBUCK                 9.0 COLUMBIA GAS TRANSMI
 8048150                 3407522554 103   BOYD #6 (FORMERLY BERT SHAFFER)    KILLBUCK                 7.0 COLUMBIA GAS TRANSMI
-WILLISTON OIL & DEVELOPMENT CORP         RECEIVED: 07/22/80  JA: OH
 8048170                 3411925036 103   ALLISON #4                         MEIGS                    0.0
 8048163                 3411924919 103   ALLISON #5                         MEIGS                   14.6
 8048164                 3411924720 103   ALLISON #6                         MEIGS                   14.6
 8048171                 3411925108 103   WION #3                            MEIGS                   14.6
-WRAY PETROLEUM CORP OF OHIO              RECEIVED: 07/22/80  JA: OH
 8048136                 3405320166 102   ANISE E WOOD #1                    PERRY                    0.0
 8048138                 3405320403 102   CLARENCE CAMPBELL #1 (NEW)         PERRY                    0.0
 8048137                 3405320397 102   STANLEY HENDERSON #1               PERRY                    0.0
-WYNN OIL CO                              RECEIVED: 07/22/80  JA: OH
 8048204                 3416725099 103   C WHITING #1                       MUSKINGUM                8.0 RIVER GAS CO
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   UTAH DIVISION OF OIL,GAS, & MINING
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-AMERICAN QUASAR PETROLEUM CO             RECEIVED: 07/22/80  JA: UT
 8048112   K-107-9       4304330104 103   UPRR 9-1                           SEC 9 T2N-R7E           63.0 MOUNTAIN FUEL SUPPLY
-AMOCO PRODUCTION CO                      RECEIVED: 07/22/80  JA: UT
 8048115   K-121-2       4304330108 102   CHAMPLIN 372 AMOCO B WELL #1       ANSCHUTZ RANCH        2433.0 MOUNTAIN FUEL SUPPLY
-GAS PRODUCING ENTERPRISES INC            RECEIVED: 07/22/80  JA: UT
 8048113   K-110-9(B)    4304730425 103   NATURAL BUTTES 10-2-10-22          BITTER CREEK           459.0 COLORADO INTERSTATE
-GULF OIL CORPORATION                     RECEIVED: 07/22/80  JA: UT
 8048117   K-125-2       4304730609 102   KAYE STATE 1-16                    EAST NATURAL BUTTES    109.0
 8048116   K-125-1       4304730600 103   MORGAN STATE 1-36                  NATURAL BUTTES         150.0
-MAPCO PRODUCTION COMPANY                 RECEIVED: 07/22/80  JA: UT
 8048114   K-120-1(A)    4304730583 102   RBU 11-36B                         ISLAND                 365.0 PACIFIC GAS & ELECTR
-THE ANSCHUTZ CORPORATION                 RECEIVED: 07/22/80  JA: UT
 8048118   K-126-1       4304330112 102   ANSCHUTZ RANCH 27-1                ANSCHUTZ RANCH        3280.0 MOUNTAIN FUEL SUPPLY
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   WEST VIRGINIA DEPARTMENT OF MINES
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-ALLEGHENY LAND & MINERAL COMPANY         RECEIVED: 07/21/80  JA: WV
 8048026                 4709100174 103   A-798                              KNUTTSVILLE DISTRICT     0.0 CONSOLIDATED GAS SUP
 8048024                 4704102688 103   A-820                              COURT HOUSE DISTRICT     0.0 CONSOLIDATED GAS SUP
 8048027                 4709701960 103   A-828                              UNION DISTRICT           0.0 CONSOLIDATED GAS SUP
 8048028                 4709701963 103   A-831                              WASHINGTON DISTRICT      0.0 CONSOLIDATED GAS SUP
 8048029                 4709702018 103   A-849                              WASHINGTON DISTRICT      0.0 CONSOLIDATED GAS SUP
 8048022                 4701702493 103   A-851                              SOUTHWEST DISTRICT       0.0 CONSOLIDATED GAS SUP
 8048033                 4708300291 103   A-859                              MIDDLE FORK DISTRICT     0.0 COLUMBIA GAS TRANSMI
 8048023                 4701702549 103   A-861                              SOUTHWEST DISTRICT       0.0 CONSOLIDATED GAS SUP
 8048025                 4708504476 103   A-862                              UNION DISTRICT           0.0 CONSOLIDATED GAS SUP
 8048030                 4709702029 103   A-865                              WASHINGTON DISTRICT      0.0 CONSOLIDATED GAS SUP
 8048031                 4709702039 103   A-882                              WASHINGTON DISTRICT      0.0 CONSOLIDATED GAS SUP
 8048032                 4709702050 103   A-886                              UNION DISTRICT           0.0 CONSOLIDATED GAS SUP
-BOWSER GAS & OIL CO                      RECEIVED: 07/21/80  JA: WV
-8048040                 4701302944 108   L G PLUMANTY #2                    CENTER                   2.2 CONSOLIDATED GAS SUP
-COLUMBIA GAS TRANSMISSION CORP           RECEIVED: 07/21/80  JA: WV
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048093		4703902341	108		A B PETERS NO 2 809839	ROCKY FORK	1.5	COLUMBIA GAS TRANSMI
8048084		4703501226	108		CABOT CORPORATION 809572	FIELD AREA A	0.5	COLUMBIA GAS TRANSMI
8048088		4709901689	108		COLUMBIA COAL GASIF 809810	FIELD AREA B	2.6	COLUMBIA GAS TRANSMI
8048094		4703501247	108		B L CABOT ET AL 809653	FIELD AREA A	2.0	COLUMBIA GAS TRANSMI
8048092		4703902488	108		J T YOUNG ET AL 809733	ROCKY FORK	6.0	COLUMBIA GAS TRANSMI
8048085		4701900218	108		KANAWHA GAULEY COAL AND COKE 809795	FIELD AREA A	11.5	COLUMBIA GAS TRANSMI
8048091		4703902474	108		LILLIE BIGMAN ET AL 809841	ROCKY FORK	1.0	COLUMBIA GAS TRANSMI
8048089		4705900811	108		MINGO WYOMING COAL LAND CO 809676	FIELD AREA B	1.0	COLUMBIA GAS TRANSMI
8048090		4704301748	108		ZEB HILL-OHA HALE 820351	FIELD AREA B	5.5	COLUMBIA GAS TRANSMI
-CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/21/80 JA: WV			
8047993		4704102487	103		ARTA R LOUDIN 12536	W VA OTHER A83772	83.0	GENERAL SYSTEM PURCH
8048010		4706100375	103		BRUCE BLANEY 12485	W VA OTHER A83772	83.0	GENERAL SYSTEM PURCH
8048014		4705500077	103		BRUCE C RILEY 12532	PINEVILLE FIELD AREA A59	0.0	GENERAL SYSTEM PURCH
8048003		4704102725	103		C R MORRIS 12531	W VA OTHER A83772	100.0	GENERAL SYSTEM PURCH
8048007		4706100570	103		ELEANOR T DONLEY 12578	GREEN-GLADESVILLE 290235	35.0	GENERAL SYSTEM PURCH
8048016		4704900325	103		ERNEST E MOORE 12409-A	W VA OTHER A83772	25.0	GENERAL SYSTEM PURCH
8048012		4706100371	103		J RUSSELL SMITH 12408	GREEN-GLADESVILLE 290235	50.0	GENERAL SYSTEM PURCH
8047995		4704102181	103		JOHN A SUTTON 12449	W VA OTHER A83772	25.0	GENERAL SYSTEM PURCH
8047997		4704101987	108		JOSEPH GUM 11884	W VA OTHER A83772	10.0	GENERAL SYSTEM PURCH
8047996		4704102176	103		JOSEPH S HALL 12465	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8048004		4704102530	103		L W DAVIS 12540	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8048013		4706100367	103		M MIDLER 12478	GREEN-GLADESVILLE 290235	100.0	GENERAL SYSTEM PURCH
8047998		4703302137	103		MILTON S DAVIS 12598	W VA OTHER A83772	23.0	GENERAL SYSTEM PURCH
8048000		4703301937	103		PAUL S HORNOR 12528	W VA OTHER A83772	110.0	GENERAL SYSTEM PURCH
8048002		4704700771	103		POCA LAND CORP 12505	PINEVILLE FIELD AREA A59	50.0	GENERAL SYSTEM PURCH
8048001		4704700772	103		POCA LAND CORP 12506	PINEVILLE FIELD AREA A59	40.0	GENERAL SYSTEM PURCH
8048006		4704700775	103		POCA LAND CORP 12509	PINEVILLE FIELD AREA	23.0	GENERAL SYSTEM PURCH
8048005		4704700783	103		POCA LAND CORP 12510	PINEVILLE FIELD AREA A59	63.0	GENERAL SYSTEM PURCH
8048015		4705500073	103		POCA LAND CORP 12534	PINEVILLE FIELD AREA A59	23.0	GENERAL SYSTEM PURCH
8048008		4706100440	103		RALPH D NEAL 12537	GREEN-GLADESVILLE 290235	50.0	GENERAL SYSTEM PURCH
8047994		4704102182	103		S S GOODWIN 12450	W VA OTHER A83772	72.0	GENERAL SYSTEM PURCH
8048009		4706100376	103		SADIE M DALTON 12484	GREEN-GLADESVILLE 290235	45.0	GENERAL SYSTEM PURCH
8048011		4706100372	103		WAYNE DALTON 12482	GREEN-GLADESVILLE 290235	35.0	GENERAL SYSTEM PURCH
8047999		4703302078	103		WILLIAM L HORNER 12576	W VA OTHER A83772	83.0	GENERAL SYSTEM PURCH
-DENNIS D BLAUBER					RECEIVED: 07/21/80 JA: WV			
8048066		4702122467	108		M E GAINER #1	DEKALB	21.0	EQUITABLE GAS CO
-DORAN & ASSOCIATES INC					RECEIVED: 07/21/80 JA: WV			
8048083		4703322235	103		E ADAMS #1 K-L-119	UNION DIST	30.0	CONSOLIDATED GAS SUP
8048082		4703302062	103		JOHN MCDONALD #1 SVA K-L-142	CLAY	30.0	CONSOLIDATED GAS SUP
8048081		4701702484	103		R NICHOLSON #1 K-L-165	GREENBRIER	30.0	CONSOLIDATED GAS SUP
8048080		4701702443	103		R PECK #1 K-L-166	GREENBRIER	30.0	CONSOLIDATED GAS SUP
8048086		4704122864	103		U REXROAD #1 K-L-172	FREEMANS CREEK	30.0	CONSOLIDATED GAS SUP
8048087		4704122865	103		U REXROAD #2 K-L-173	FREEMANS CREEK	30.0	CONSOLIDATED GAS SUP
-E A BALLENGEE CO					RECEIVED: 07/21/80 JA: WV			
8048047		4708502705	108		HESTER DEEM #1	HESTER A DEEM	0.8	CONSOLIDATED GAS SUP
8048046		4708502059	108		STANLEY #1	GEORGE STANLEY FARM	1.6	CONSOLIDATED GAS SUP
-FOX DRILLING CO INC					RECEIVED: 07/21/80 JA: WV			
8047991		4700101114	107	D	AUVIL #1 (47-001-1114)	BELINGTON FIELD	12.0	COLUMBIA GAS TRANSMI
8047990		4700101109	107		CONNER #1 (47-001-1109)	BELINGTON FIELD	11.5	COLUMBIA GAS TRANSMI
8048017		4700101104	107		MCCAULEY #1 (47-001-1104)	BELINGTON	100.0	COLUMBIA GAS TRANSMI
8047992		4700101115	107		R K TALBOTT #1 (47-001-1115)	BELINGTON FIELD	11.0	COLUMBIA GAS TRANSMI
8047989		4700101107	107		STEMPLE #1 (47-001-1107)	BELINGTON	10.0	COLUMBIA GAS TRANSMI

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 JD NO    JA DKT          API NO     SEC D WELL NAME                 FIELD NAME                 PROD   PURCHASER
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 8048018                  4700101088 107   STEWART #1 (47-001-1088)  WELINGTON                 120.0 COLUMBIA GAS TRANSMI
 8047984                  4700101082 107   T POE #1 (47-001-1082)    WELINGTON FIELD            12.0 COLUMBIA GAS TRANSMI
-FRANCIS E CAIN                            RECEIVED:  07/21/80  JA: WV
 8048020                  4708504609 108   RACHEL LEMON HEIRS #4     MURPHY                      1.0 CONSOLIDATED GAS SUP
 8048021                  4708504610 108   RACHEL LEMON HEIRS #6     MURPHY                      1.0 CONSOLIDATED GAS SUP
-INDUSTRIAL GAS CORPORATION                RECEIVED:  07/21/80  JA: WV
*8048056                  4700501116 108   CASSINGHAM 6-174          SCOTT                       0.5 HOUDAILLE INDUSTRIES
*8048054                  4700501118 108   CASSINGHAM 6-189          SCOTT                       0.7 HOUDAILLE INDUSTRIES
*8048049                  4709901079 108   ETHEL GOODE A 1-1030      BUTLER                      0.9 HOUDAILLE INDUSTRIES
*8048050                  4709901039 108   HOARD BALDWIN 52-1019     STONEWALL                   1.9 HOUDAILLE INDUSTRIES
*8048078                  4709901229 108   HOARD BALDWIN 54-1065     STONEWALL                   2.2 HOUDAILLE INDUSTRIES
*8048079                  4709901147 108   LEACH-LYCANS 1-1055       BUTLER                      0.8 HOUDAILLE INDUSTRIES
*8048053                  4709900285 108   LOUISA COLLINS 1-662      GRANT                       2.0 HOUDAILLE INDUSTRIES

*8048077                  4709901233 108   W MATHEWS 2-1076          BUTLER                      1.0 HOUDAILLE INDUSTRIES
*8048076                  4709901369 108   MARIAN BURGESS C 6-1148   LINCOLN                     2.2 HOUDAILLE INDUSTRIES
*8048055                  4709901355 108   MARION BURGESS C 5-1130   LINCOLN                     1.1 HOUDAILLE INDUSTRIES
*8048064                  4703901626 108   OLLIS ARNOLD 1-904        WASHINGTON                 19.2 HOUDAILLE INDUSTRIES
*8048052                  4709900347 108   WILSON COAL LAND CO 39-700 LINCOLN                    1.8 HOUDAILLE INDUSTRIES
*8048051                  4709900633 108   WILSON COAL LAND CO 51-789 GRANT                      1.1 HOUDAILLE INDUSTRIES
*8048063                  4709900761 108   WILSON COAL LAND CO 55-800 LINCOLN                    1.1 HOUDAILLE INDUSTRIES
*8048062                  4709900790 108   WILSON COAL LAND CO 56-827 LINCOLN                    1.0 HOUDAILLE INDUSTRIES
*8048061                  4709900819 108   WILSON COAL LAND CO 59-839 LINCOLN                    2.0 HOUDAILLE INDUSTRIES
*8048060                  4709900820 108   WILSON COAL LAND CO 60-840 LINCOLN                    4.2 HOUDAILLE INDUSTRIES
*8048059                  4709900877 108   WILSON COAL LAND CO 69-883 LINCOLN                    1.9 HOUDAILLE INDUSTRIES
*8048058                  4709901274 108   WILSON COAL LAND CO 76-936 LINCOLN                    4.6 HOUDAILLE INDUSTRIES
*8048057                  4709901464 108   WILSON COAL LAND CO 78-938 LINCOLN                    9.4 HOUDAILLE INDUSTRIES
-J & J ENTERPRISES INC                     RECEIVED:  07/21/80  JA: WV
 8048035                  4700100924 103   B-134                     PHILIPPI                   40.0 CONSOLIDATED GAS SUP
 8048038                  4704102564 103   B-252                     HACKERS CREEK              40.0 CONSOLIDATED GAS SUP
 8048036                  4703302162 103   B-283                     EAGLE                      40.0 CONSOLIDATED GAS SUP
 8048037                  4703302171 103   B-291                     EAGLE                      40.0 CONSOLIDATED GAS SUP
 8048039                  4700101277 103   JJ-10-#1                  BARKER                     40.0 COLUMBIA GAS TRANSMI
 8048041                  4701702542 103   K-305-#1                  NEW MILTON                 40.0 COLUMBIA GAS TRANSMI
 8048040                  4701702870 103   K-811-#1                  WEST UNION                 40.0 COLUMBIA GAS TRANSMI
-J C BAKER AND SON INC                     RECEIVED:  07/21/80  JA: WV
 8047983                  4700700177 108   CALVIN WILLIAMS #2        SALT LICK                   1.2 CONSOLIDATED GAS SUP
 8047978                  4700701249 108   GLEN DUDLEY #1            SALT LICK                  15.0 CONSOLIDATED GAS SUP
 8047979                  4700701132 108   J C BAKER & SON INC #2    SALT LICK                   9.0 CONSOLIDATED GAS SUP
 8047980                  4700701053 108   LENA HARDMAN #1           SALT LICK                  15.0 CONSOLIDATED GAS SUP
 8047981                  4700701038 108   MRS GEORGE D HARDMAN #1   SALT LICK                   1.2 CONSOLIDATED GAS SUP
 8047982                  4700701020 108   OCIE PRICE #1             SALT LICK                   1.5 CONSOLIDATED GAS SUP
-KEY OIL COMPANY                           RECEIVED:  07/21/80  JA: WV
 8048044                  4708504412 103   DELMAS MCKINNEY #1        CLAY                       15.0
 8048045                  4710700942 103   EDNA B PERKINS #4         UNION                      10.0
 8048046                  4707300815 103   MILDRED UNCAPHER #1       LAFAYETTE                   9.0
 8048043                  4707300816 103   S K MCCULLOUGH #3         LAFAYETTE                  18.0
-LURAY LAND INC                            RECEIVED:  07/21/80  JA: WV
 8047986                  4704700579 100   HARMON NO 1               BIG CREEK DISTRICT         18.0 COLUMBIA GAS TRANSMI
-SOUTHWESTERN DEVELOPMENT COMPANY          RECEIVED:  07/21/80  JA: WV
 8047974                  4708502718 108   J W PRUNTY HRS #2         SMITHVILLE - BIG INJUN      0.0 CONSOLIDATED GAS SUP
 8047975                  4710500559 108   LUTHER WOLVERTON WELL     CAIRO-MUNDAY                0.0 CONSOLIDATED GAS SUP
 8047977                  4710500308 108   WILLIAM DAWSON WELL #6    CAIRO-MUNDAY                0.0 CONSOLIDATED GAS SUP
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 JD NO     JA DKT        API NO     SEC D WELL NAME                            FIELD NAME                PROD    PURCHASER
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 8047976                 4710500316 108   WILLIAM DAWSON WELL #7               CAIRO-MUNDAY                 0.0 CONSOLIDATED GAS SUP
-STERLING DRILLING & PROD CO INC         RECEIVED:  07/21/80  JA: WV
 8048034                 4700701447 103   ARGABRITE #173                       BIRCH DISTRICT              21.6 EQUITABLE GAS CO
-STERLING DRILLING AND PROD CO INC       RECEIVED:  07/21/80  JA: WV
 8048069                 4701501293 108   BETTY MCKENNEY #1                    BUFFALO DISTRICT            13.6 EQUITABLE GAS CO
 8048068                 4701501301 108   BOBBY LEE ROGERS #3                  BUFFALO DISTRICT            13.6 EQUITABLE GAS CO
 8048072                 4701501203 108   ELK RIVER COAL & LUMBER #41          HENRY DISTRICT               7.3 EQUITABLE GAS CO
 8048071                 4701501204 108   ELK RIVER COAL & LUMBER #42          HENRY DISTRICT               3.8 EQUITABLE GAS CO
 8048070                 4701501208 108   ELK RIVER COAL & LUMBER #43          HENRY DISTRICT              17.7 EQUITABLE GAS CO
 8048067                 4701501294 108   JOHN GILL #1                         BUFFALO DISTRICT            13.6 EQUITABLE GAS CO
 8048075                 4701501143 108   PITTSTON #34                         HENRY DISTRICT               8.6 EQUITABLE GAS CO
 8048074                 4701501144 108   PITTSTON #35                         HENRY DISTRICT               8.6 EQUITABLE GAS CO
 8048073                 4701501154 108   PITTSTON #39                         HENRY DISTRICT               3.8 EQUITABLE GAS CO
-TRIO PETROLEUM CORP                     RECEIVED:  07/21/80  JA: WV
 8047985                 4702102744 108   BAILEY NO 1                          GLENVILLE SOUTH             18.4 CONSOLIDATED GAS SUP
 8047986                 4702102741 108   DESPARD A NO 1                       GLENVILLE SOUTH             16.4 CONSOLIDATED GAS SUP
 8048019                 4702102820 107   GRIFFITH F NO 1                      GLENVILLE NORTH             30.4 EQUITABLE GAS CO
 8047987                 4700701209 108   HUMPHREYS NO 3                       HEATERS                     20.5 CONSOLIDATED GAS SUP
 8048065                 4702102768 108   YANCEY NO 1                          GLENVILLE NORTH             15.0 COLUMBIA GAS TRANSMI
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** U.S. GEOLOGICAL SURVEY - METAIRIE,LA
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-AMOCO PRODUCTION CO                     RECEIVED:  07/22/80  JA: LA  3
 8048096   G0-1207       1771540263 102   OCS-G-2928 #A-3                      SOUTH TIMBALIER           1825.0 TRUNKLINE GAS CO

 8048097   G0-1208       1771540263 102   OCS-G-2928 #A-3D                     SOUTH TIMBALIER           1815.0 TRUNKLINE GAS CO
-AMOCO PRODUCTION CO                     RECEIVED:  07/23/80  JA: LA  3
 8048223   G0-1300       1771140325 102   OCS-G-3160 WELL NO A-1               SHIP SHOAL                3650.0
-ARCO OIL AND GAS COMPANY                RECEIVED:  07/22/80  JA: LA  3
 8048095   G0-1008       1772140053 102   OCS-G 1611 #C-36                     SOUTH PASS BLOCK 61         58.4 SOUTHERN NATURAL GAS
 8048099   G0-1233       1770040300 102   OCS-G-2834 #A-4                      WEST CAMERON BLOCK           5.0 NORTHERN NATURAL GAS
-ARCO OIL AND GAS COMPANY                RECEIVED:  07/23/80  JA: LA  3
 8048219   G0-1231       1770040322 102   A-6                                  WEST CAMERON                 0.0 NORTHERN NATURAL GAS
 8048221   G0-1235       1770040315 102   OCS-G-2834 #A-5                      WEST CAMERON BLOCK        3600.0 NORTHERN NATURAL GAS
 8048218   G0-1230       1770040339 102   OCS-G-2834 #A-7                      WEST CAMERON BLOCK        3600.0 NORTHERN NATURAL GAS
 8048220   G0-1232       1770040370 102   OCS-G-2834 #A-8                      WEST CAMERON BLOCK        3600.0 NORTHERN NATURAL GAS
 8048217   G0-1229       1770040274 102   OCS-G-2834 #A-9                      WEST CAMERON BLOCK        5000.0 NORTHERN NATURAL GAS
-CHEVRON U S A INC                       RECEIVED:  07/22/80  JA: LA  3
 8048100   G0-1264       1770240936 102   OCS-G-2555 #4                        WEST CAMERON               930.0 NATURAL GAS PIPELINE
-CHEVRON U S A INC                       RECEIVED:  07/23/80  JA: LA  3
 8048224   G0-1311       1771540280 102   OCS-G-1241 #18-D                     SOUTH TIMBALIER            910.0 TRUNKLINE GAS CO
-CNG PRODUCING COMPANY                   RECEIVED:  07/23/80  JA: LA  3
 8048228   G0-1393       1771240211 102   D-1831                               SHIP SHOAL                 438.0
-GULF OIL CORPORATION                    RECEIVED:  07/22/80  JA: LA  3
 8048098   G0-1226       1771540304 102   OCS G-3336 WELL #D-9                 SOUTH TIMBALIER            100.0 TEXAS EASTERN TRANS
-GULF OIL CORPORATION                    RECEIVED:  07/23/80  JA: LA  3
 8048216   G0-1214       1771540289 102   OCS G-2624 WELL #B-9                 SOUTH TIMBALIER BLK 36    1000.0 TEXAS EASTERN TRANSM
-MCMORAN OFFSHORE EXPLORATION CO         RECEIVED:  07/23/80  JA:     3
 8048225   G0-1379       1770540386 102   OCS-G 3390 #11                       VERMILION                 4300.0 TRANSCONTINENTAL GAS
-MESA PETROLEUM                          RECEIVED:  07/23/80  JA: LA  3
 8048226   G0-1387       1771940188 102   WEST DELTA BLK 61 WELL A-10          WEST DELTA                1277.5 TENNESSEE GAS PIPELI
-TENNECO OIL COMPANY                     RECEIVED:  07/23/80  JA: LA  3
 8048227   G0-1388       1770740220 102   SOUTH MARSH ISLAND 252 NO 2          SOUTH MARSH ISLAND         300.0 TENNESSEE GAS PIPELI
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                                                                                   VOLUME  259          PAGE  009
 JD NO     JA DKT         API NO     SEC D WELL NAME                    FIELD NAME               PROD      PURCHASER
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*THE SUPERIOR OIL COMPANY                  RECEIVED:  07/23/80  JA: LA  3
 8048229   GO-1411        1770040207 102   OCS-0244 NO 13               WEST CAMERON                 900,0 MICHIGAN WISCONSIN P
*AMOCO PRODUCTION CO                       RECEIVED:  07/23/80  JA: TX  3
 8048222   GO-1243        4270940368 102   OCS-G-2698 #B-30             HIGH ISLAND AREA - SOUTH    1825,0 NORTHERN NATURAL GAS
*****************************************************************************************
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK
*****************************************************************************************
*V N OIL CO                                RECEIVED:  07/22/80  JA: OK  8
 8048101                  3511300000 103   BURRIS 2-B                   QUAPAW                       109,0 CITIES SERVICE GAS C
 8048102                  3511300000 103   PHAROAH 1-A                  QUAPAW                       109,0 CITIES SERVICE GAS C

 OTHER PURCHASERS
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8048048    CABOT CORP
8048049    HUNTINGTON ALLOYS INC
8048050    HUNTINGTON ALLOYS INC
8048051    HUNTINGTON ALLOYS INC
8048052    HUNTINGTON ALLOYS INC
8048053    HUNTINGTON ALLOYS INC
8048054    HUNTINGTON ALLOYS INC
8048055    HUNTINGTON ALLOYS INC
8048056    HUNTINGTON ALLOYS INC
8048057    HUNTINGTON ALLOYS INC
8048058    HUNTINGTON ALLOYS INC
8048059    HUNTINGTON ALLOYS INC
8048060    HUNTINGTON ALLOYS INC
8048061    HUNTINGTON ALLOYS INC
8048062    HUNTINGTON ALLOYS INC
8048063    HUNTINGTON ALLOYS INC
8048064    HUNTINGTON ALLOYS INC
8048076    HUNTINGTON ALLOYS INC
8048077    HUNTINGTON ALLOYS INC
8048078    HUNTINGTON ALLOYS INC
8048079    HUNTINGTON ALLOYS INC
8048202    COLUMBIA GAS TRANS CORP
8048246    EL PASO EXPLORATION
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BILLING CODE 64[illegible]-[illegible]-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extend such material is treated as condifential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary,

[FR Doc. 80-25882 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 260]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 18, 1980.

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JD NO      JA DKT        API NO     SEC D WELL NAME                              FIELD NAME                   PROD    PURCHASER
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**********************************************************************************
  TEXAS RAILROAD COMMISSION
**********************************************************************************
-A E RICHMOND                                 RECEIVED: 07/22/80  JA: TX
 8048441    15161       4204900000 103   H C GUTHRIE NO 1                        BROWN COUNTY REGULAR (MA     30.0 BRADY TEXAS MUNICIPA
-ADOBE OIL & GAS CORPORATION                  RECEIVED: 07/22/80  JA: TX
 8048477    15891       4247531893 103   BARSTOW #19 (NEW)                       SCOTT (CHERRY CANYON)       400.0 TRANSWESTERN PIPELIN
 8048574    16659       4210500000 108   STATE IU NO 1 42661                     FARMER (SAN ANDRES)          16.0 BIG LAKE GASOLINE PL
-ALEXANDER G KASPAR                           RECEIVED: 07/22/80  JA: TX
 8048512    16252       4246131440 103   J H SHIRK ESTATE ET AL NO 3             PRADEAN (DEVONIAN)           55.0 PHILLIPS PETROLEUM C
-AMOCO PRODUCTION CO                          RECEIVED: 07/22/80  JA: TX
 8048597    19474       4220330591 102   BRUNE-BURNETT GAS UNIT NO 1             L C G (PAGE)                109.0 UNITED GAS PIPELINE
 8048468    15864       4239330694 103   G A MAHLER WELL #2                      MENDOTA NW                  821.0 MICHIGAN WISCONSIN P
 8048469    15865       4239330665 103   J B WATERFIELD B WELL #2                NW MENDOTA (GRANITE WASH     18.0 MICHIGAN WISCONSIN P
 8048389    14419       4223300000 108   R C WARE B #5                           PANHANDLE                     9.8 SKELLY OIL CO
 8048390    14421       4223300000 108   R C WARE B #8                           PANHANDLE                     9.8 SKELLY OIL CO
-ARCO OIL AND GAS COMPANY                     RECEIVED: 07/22/80  JA: TX
 8048490    16110       4200331928 108   EMMA COWDEN #64                         EMMA                         11.1 EL PASO NATURAL GAS
 8048263    06223       4200331687 103   EMMA SAN ANDRES UNIT #10-54             EMMA                          4.5 EL PASO NATURAL GAS
 8048383    13447       4200310967 108   GOLDSMITH NSA CONSOLIDATED UNIT #1      NORTH GOLDSMITH CONSOLID      7.0 PHILLIPS PETROLEUM C
 8048385    13449       4200300318 108   GOLDSMITH NSA CONSOLIDATED UNIT #15     NORTH GOLDSMITH CONSOLID      1.2 PHILLIPS PETROLEUM C
 8048384    13448       4200310926 108   GOLDSMITH NSA CONSOLIDATED UNIT #4      NORTH GOLDSMITH CONSOLID      0.9 PHILLIPS PETROLEUM C
-B J GIERHART INC                             RECEIVED: 07/22/80  JA: TX
 8048382    12556       4246931414 102   J E MCCORD NO 1                         IDA WEITZ (2800)            182.0 ESPERANZA OIL & GAS
-BASS ENTERPRISES PRODUCTION CO               RECEIVED: 07/22/80  JA: TX
 8048591    17128       4210130258 103   C HAVINS NO 2                           STEScOTT                    450.0 PALO DURO PIPELINE C
 8048496    16132       4249531054 103   J B WALTON NO 104                       KEYSTONE (COLBY)             73.0 TRANSWESTERN PIPELIN

 8048497    16133       4249531024 103   J B WALTON NO 105                       KEYSTONE (COLBY)             91.0 TRANSWESTERN PIPELIN
 8048546    16540       4249531076 103   W A MCCUTCHEN NO 13 (KO)                KEYSTONE (COLBY)              0.0 TRANSWESTERN PIPELIN
-BILL FORNEY INC                              RECEIVED: 07/22/80  JA: TX
 8048386    13452       4229731874 103   A M STEINMEYER 2-U                      CHARLINE (FORNEY 4) FIEL    110.0 TRANSCONTINENTAL GAS
-C L GAGE JR                                  RECEIVED: 07/22/80  JA: TX
 8048257    06373       4249700000 103   FORTENBERRY FEE #1                      BOONSVILLE (BEND CONGL G     11.0 NATURAL GAS PIPELINE
-CHASE PRODUCTION CO                          RECEIVED: 07/22/80  JA: TX
 8048321    08255       4217900000 108   A COMBS 139 NO 1                        PANHANDLE                     1.0 PHILLIPS PETROLEUM C
 8048320    08254       4217900000 108   A COMBS 139 NO 2                        PANHANDLE                     0.5 PHILLIPS PETROLEUM C
 8048319    08253       4217900000 108   A COMBS 139 NO 4                        PANHANDLE                     1.0 PHILLIPS PETROLEUM C
 8048355    08273       4223300000 108   COBLE-KINGSTON NO 1                     PANHANDLE                     2.0 GETTY OIL CO
 8048356    08274       4223300000 108   COBLE-KINGSTON NO 2                     PANHANDLE                     1.0 GETTY OIL CO
 8048357    08275       4223300000 108   COBLE-KINGSTON NO 3                     PANHANDLE                     1.0 GETTY OIL CO
 8048358    08276       4223300000 108   COBLE-KINGSTON NO 4                     PANHANDLE                     1.0 GETTY OIL CO
 8048359    08277       4217900000 108   COMBS-WORLEY D NO 1                     PANHANDLE                     0.5 PHILLIPS PETROLEUM C
 8048317    08251       4217900000 108   COMBS-WORLEY D NO 2                     PANHANDLE                     0.5 PHILLIPS PETROLEUM C
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JD NO    JA DKT        API NO     SEC D WELL NAME                          FIELD NAME                  PROD  PURCHASER
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8048318   08252        4217900000 108    COMBS-WORLEY D NO 3               PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048348   08266        4206500000 108    MOORE-LANGDON #1                  PANHANDLE                    2.0 GETTY OIL CO
8048349   08267        4206500000 108    MOORE-LANGDON #3                  PANHANDLE                    2.0 GETTY OIL CO
8048350   08268        4206500000 108    MOORE-LANGDON #4                  PANHANDLE                    2.0 GETTY OIL CO
8048351   08269        4206500000 108    MOORE-LANGDON #5                  PANHANDLE                    3.0 GETTY OIL CO
8048352   08270        4206500000 108    MOORE-LANGDON #6                  PANHANDLE                    3.0 GETTY OIL CO
8048353   08271        4206500000 108    MOORE-LANGDON #7                  PANHANDLE                    2.0 GETTY OIL CO
8048354   08272        4206500000 108    MOORE-LANGDON #8                  PANHANDLE                    3.0 GETTY OIL CO
8048360   08278        4217900000 108    P A COUMLY #1                     PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048344   08262        4217900000 108    P A COUMLY #11                    PANHANDLE                    1.0 PHILLIPS PETROLEUM C
8048345   08263        4217900000 108    P A COUMLY #12                    PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048346   08264        4217900000 108    P A COUMLY #14                    PANHANDLE                    2.0 PHILLIPS PETROLEUM C
8048347   08265        4217900000 108    P A COUMLY #15                    PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048322   08256        4217900000 108    P A COUMLY #3                     PANHANDLE                    0.5 PHILLIPS PET CO
8048340   08257        4217900000 108    P A COUMLY #4                     PANHANDLE                    1.0 PHILLIPS PETROLEUM C
8048341   08258        4217900000 108    P A COOMLY #5                     PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048342   08259        4217900000 108    P A COUMLY #6                     PANHANDLE                    0.5 PHILLIPS PETROLEUM C
8048343   08260        4217900000 108    P A COOMLY #8                     PANHANDLE                    1.0 PHILLIPS PETROLEUM C
-CITIES SERVICE COMPANY                 RECEIVED:  07/22/80  JA: TX
8048470   15872        4249731496 103    ASHE SCOE D#6                     CAP YATES (CONSOLIDATED     60.0 CITIES SERVICE CO
-CLAUDE ROBINSON                        RECEIVED:  07/22/80  JA: TX
8048288   06472        4223300000 108    C L DIAL #8 LEASE 00911           PANHANDLE HUTCHINSON         0.0 PHILLIPS PETROLEUM C
8048289   06471        4223300000 108    J A WHITTENBURG #18 LEASE 00904   PANHANDLE HUTCHINSON         0.0 PHILLIPS PETROLEUM C
8048290   06470        4223300000 108    J A WHITTENBURG D #3 LEASE 03801  PANHANDLE HUTCHINSON         0.0 PHILLIPS PETROLEUM C
8048291   06469        4223300000 108    W B CHRISTIAN ETAL #4 LEASE #00789 PANHANDLE HUTCHINSON        0.0 PHILLIPS PETROLEUM C
-CLAYTON W WILLIAMS JR                  RECEIVED:  07/22/80  JA: TX
8048365   10852        4236500000 103    PARKER ESTATE GAS UNIT NO 1       CARTHAGE S E (COTTON VAL    35.0
-CLOVER ENERGY CORP                     RECEIVED:  07/22/80  JA: TX
8048592   17240        4220130963 102    WHELESS NO 2-T                    GUM GULLY W (COOK MTN) F    90.0 UNITED TEXAS TRANSMI
-COLORADO INTERSTATE GAS CO             RECEIVED:  07/22/80  JA: TX
8048461   15839        4234130056 108    BIVINS 47R                        WEST PANHANDLE (RED CAVE    19.0 (1) COLORADO INTERST
8048471   15873        4234100000 108    FEE 3R                            WEST PANHANDLE (RED CAVE    18.0 (1) COLORADO INTERST
8048464   15842        4237500000 108    MASTERSON B-53                    WEST PANHANDLE              19.0 (1) COLORADO INTERST
8048465   15843        4237500000 108    MASTERSON B58R                    WEST PANHANDLE (RED CAVE    18.0 (1) COLORADO INTERST
8048462   15840        4237500000 108    MASTERSON 20R                     WEST PANHANDLE (RED CAVE    17.0 COLORADO INTERSTATE
8048463   15841        4233900000 108    MASTERSON 51R                     WEST PANHANDLE (RED CAVE    18.0 (1) COLORADO INTERST
8048466   15844        4237530084 108    MASTERSON 62R                     WEST PANHANDLE (RED CAVE    19.0 (1) COLORADO INTERST
8048427   14847        4234130561 103    SNEED 11R                         WEST PANHANDLE (RED CAVE    31.0 COLORADO INTERSTATE
8048472   15875        4234100000 108    THOMPSON B-2                      WEST PANHANDLE              10.0 (1) COLORADO INTERST
-CONSOLIDATED OIL & GAS INC             RECEIVED:  07/22/80  JA: TX
8048467   15845        4234100000 108    J S GULEKE #1                     PANHANDLE WEST               6.0 PHILLIPS PETROLEUM C
-CONOCO INC                             RECEIVED:  07/22/80  JA: TX
8048310   07094        4213532904 103    GIST UNIT (19373) #112            FOSTER                       1.5 ODESSA NATURAL GASO

8048481   16090        4215130922 103    ROUND TOP PALO PINTO UNIT #16     ROUND TOP/PALO PINTO REE    62.0 LONE STAR GAS CO
8048364   10170        4213500000 108    WIGHT UNIT NO 7 20661             COWDEN NORTH                 0.4 AMOCO PRODUCTION CO
-CORPENINO ENTERPRISES                  RECEIVED:  07/22/80  JA: TX
8048311   07101        4223700000 103    BRYANT #1 RRC 19011               HUEFLE (POOL)                9.0 SOUTHWEST GAS PIPELI
8048312   07107        4229700000 103    WALLACE #3 RRC 74389              EAST DINERO (FRIO)          30.0 LU VACA GATHERING CO
-CRYSTAL OIL & LAND CO                  RECEIVED:  07/22/80  JA: TX
8048429   14879        4236530859 103    JERNIGAN NO 6                     PANOLA                      19.0 UNITED GAS PIPELINE
8048430   14880        4236530852 103    JERNIGAN NO 8                     PANOLA                      13.0 UNITED GAS PIPELINE
8048428   14878        4236530855 103    SOL JERNIGAN C NO 3               PANOLA                       3.0 UNITED GAS PIPELINE
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                                                                        VOLUME  260            PAGE  003
 JD NO     JA DKT         API NO      SEC D WELL NAME                        FIELD NAME                PROD      PURCHASER
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-CURTIS HANKAMER                          RECEIVED:  07/22/80  JA: TX
*8048547    16542         4223500000 108   LETA D CRAWFORD #1                SIXTY-SEVEN (CANYON)        16.0 CRA INC
*8048546    16544         4223500000 108   LETA D CRAWFORD #2                SIXTY-SEVEN (CANYON)        16.0 CRA INC
*80-8531    16494         4223500000 108   LETA D CRAWFORD #4                SIXTY-SEVEN (CANYON)        16.0 CRA INC
-DAVIS OIL COMPANY                        RECEIVED:  07/22/80  JA: TX
 8048549    16548         4203931377 102   DOYLE PRATER #2                   PRATER                     180.0 FLORIDA GAS TRANSMIS
 8048270    03626         4228531263 102   PAT HERMES                        LAVACA RIVER                 0.0 TEXAS EASTERN TRANSM
 8048532    16495         4205730898 102   TRAYLOR D SELLS #1                NULTY (FRIO 8800)           40.0 CHANNEL INDUSTRIES G
-DELRAY OIL INC                           RECEIVED:  07/22/80  JA: TX
 8048482    16092         4208331573 103   JIMMIE G GRESSETT WELL NO 1       GRESSETT                    55.0 LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION             RECEIVED:  07/22/80  JA: TX
 8048498    16142         4242130229 103   ATHA NO 2                         TEXAS HUGOTON              100.0 NORTHERN NATURAL GAS
-DONALD C SLAWSON OIL PRODUCER            RECEIVED:  07/22/80  JA: TX
 8048503    16165         4221131095 103   JARVIS #2-217                     CANADIAN SE (MORROW UPPE  1800.0 NORTHERN NATURAL GAS
-EDWIN L COX                              RECEIVED:  07/22/80  JA: TX
 8048432    15045         4247531833 103   EDWARDS NO 5                      CHANAR (TUBB)               36.0 WARREN PETROLEUM CO
-EL PASO NATURAL GAS COMPANY              RECEIVED:  07/22/80  JA: TX
 8048575    16664         4208726025 108   BETENBOUGH A #3                   PANHANDLE EAST BROWN DOL     4.0 EL PASO NATURAL GAS
 8048578    16667         4208726068 108   EMMERT #1                         PANHANDLE EAST BROWN DOL    53.7 EL PASO NATURAL GAS
 8048576    16665         4248326074 108   FOSTER #2                         PANHANDLE EAST              16.6 EL PASO NATURAL GAS
 8048580    16669         4243531003 108   HALBERT #3                        SONORA CANYON UPPER         24.0 EL PASO NATURAL GAS
 8048577    16666         4217923720 108   HOWARD #1                         PANHANDLE WEST BROWN DOL    25.1 EL PASO NATURAL GAS
 8048581    16670         4248326141 108   LAYCOCK B #1                      PANHANDLE EAST-BROWN DOL    10.5 EL PASO NATURAL GAS
 8048582    16671         4248326142 108   LAYCOCK B #2                      PANHANDLE EAST BROWN DOL    22.1 EL PASO NATURAL GAS
 8048579    16668         4248320071 108   LAYCOCK 3-B                       PANHANDLE EAST BROWN DOL    24.7 EL PASO NATURAL GAS
 8048583    16673         4208726158 108   MAGNOLIA #1                       PANHANDLE EAST BROWN DOL    23.0 EL PASO NATURAL GAS
 8048584    16674         4208726215 108   NICHOLSON F #1                    PANHANDLE EAST BROWN DOL     8.6 EL PASO NATURAL GAS
-ENSERCH EXPLORATION INC                  RECEIVED:  07/22/80  JA: TX
 8048315    07445         4218330389 103   HORTON-DICKSON NO 14              WILLOW SPRINGS (COTTON V   123.0 WESTERN GAS CORP
-EXXON CORPORATION                        RECEIVED:  07/22/80  JA: TX
 8048559    16580         4226130429 103   MRS S K EAST 94-D (03025)         RITA (9-6 II)              800.0 NAT GAS P L CO OF AM
-FISHER-WEBB INC                          RECEIVED:  07/22/80  JA: TX
 8048380    12216         4244100000 103 D STOCKTON NO 1                     LAKE ABILENE (4000)        250.0 MATRIX LAND CO
 8048381    12218         4236332015 103   TURNER NO 1                       LONE CAMP (STRAWN)         150.0 BRAZOS FUEL CO
-FORTUNE DRILLING COMPANY INC             RECEIVED:  07/22/80  JA: TX
 8048514    16378         4223531355 103   MURPHY 1149 #1                    CAL (CANYON)                18.2 NORTHERN NATURAL GAS
-GETTY OIL COMPANY                        RECEIVED:  07/22/80  JA: TX
 8048455    15720         4243330933 103   FLOWERS CANYON SAND UNIT #167     FLOWERS (CANYON SAND)        2.0 CITIES SERVICE CO
 8048456    15721         4210300000 103   NORTH MCELROY UNIT WELL NO 3238   MCELROY                     20.0 PHILLIPS PETROLEUM C
-GOLDSTON OIL CORPORATION                 RECEIVED:  07/22/80  JA: TX
 8048516    16391         4223931410 103   BERTHA DELL MCDOWELL UNIT NO 4    GABRYSCH (6300)             73.0 UNITED GAS PIPE LINE
-GRACE PETROLEUM CORPORATION              RECEIVED:  07/22/80  JA: TX
 8048316    07593         4224903763 103   STELZIG-ZWERNEMAN #7              AMARGOSA                    50.0 NATURAL GAS PIPELINE
-GULF OIL CORPORATION                     RECEIVED:  07/22/80  JA: TX
 8048431    14906         4250530597 103   FERNANDO CUELLAR ESTATE WELL NO 3 UREBENO (LOBO)              20.0 TENNESSEE GAS PIPELI
 8048448    15476         4213500000 108   GOLDSMITH SAN ANDRES UNIT NO 8012 GOLDSMITH                    2.8 PHILLIPS PETROLEUM C
 8048447    15475         4213500000 108   GOLDSMITH SAN ANDRES UNIT NO 1333 GOLDSMITH                   12.1 PHILLIPS PETROLEUM C
 8048491    10146         4249531062 103   KEYSTONE CATTLE COMPANY WELL #347 KEYSTONE (COLBY)           278.0 CABOT CORP
 8048459                  4237132828 103   L BOWMAN ET AL NO 1               U S M (QUEEN)               35.0 NORTHERN NATURAL GAS
-H V RISIEN                               RECEIVED:  07/22/80  JA: TX
 8048314    07423         4220130899 108   C G HOOKS ET AL NO 17             HOOKS (SHALLOW)              3.0 TRUNKLINE GAS CO

-HENRY PETROLEUM CORP                     RECEIVED:  07/22/80  JA: TX
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JD NO	JA DKT	API NO	SFC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048517	16393	4207930954	103		HICKMAN #1	LEVELLAND	21.0	AMOCO PRODUCTION CO
-MNG OIL COMPANY					RECEIVED: 07/22/80 JA: TX			
8048518	16394	4243530164	108		ALICE JONES 3 #1 55522	SAWYER (CANYON)	11.0	INTRATEX GAS CO
8048550	16550	4243531463	108		ASKEW 46 #1 72878	SAWYER (CANYON)	16.0	INTRATEX GAS CO
8048433	15070	4243531455	103		BROWN 78 #1 72536	SAWYER (CANYON)	132.0	INTRATEX GAS CO
8048434	15072	4243531962	103		BROWN 78 #3 74616	SAWYER (CANYON)	7.0	INTRATEX GAS CO
8048519	16395	4243530148	108		BYRD 7 #1 52980	SAWYER (CANYON)	5.0	INTRATEX GAS CO
8048435	15074	4243531994	103		FAWCETT 130 #3 75055	SAWYER (CANYON)	336.0	INTRATEX GAS CO
8048473	15878	4243532153	103		FIELDS 20 #4 83639	SAWYER (CANYON)	403.0	INTRATEX GAS CO
8048551	16551	4243530975	108		FIELDS 23 #2 73870	SAWYER (CANYON)	5.0	INTRATEX GAS CO
8048552	16552	4243531372	108		FIELDS 49 #2 72537	SAWYER (CANYON)	19.0	INTRATEX GAS CO
8048554	16554	4243130139	108		FOSTER 4 #1 61164	CREDO E (CISCO UPPER)	14.0	INTRATEX GAS CO
8048436	15078	4243532105	103		GALBREATH 67 #2 80965	SAWYER (CANYON)	39.0	INTRATEX GAS CO
8048437	15079	4243532091	103		GALBREATH 67 #3 80336	SAWYER (CANYON)	68.0	INTRATEX GAS CO
8048438	15080	4243532093	103		GALBREATH 91 #2 80318	SAWYER (CANYON)	296.0	INTRATEX GAS CO
8048555	16555	4243531387	108		JOHNSON 62 #3 70566	SAWYER (CANYON)	4.0	INTRATEX GAS CO
8048520	16399	4243531226	108		JONES 187 #1 66401	SAWYER (CANYON)	3.0	INTRATEX GAS CO
8048556	16556	4243130576	108		MCENTIRE 5 #2 72566	CREDO E (CISCO UPPER)	7.0	INTRATEX GAS CO
8048521	16400	4241330326	108		MEADOR A #1 66582	SAWYER (CANYON)	11.0	INTRATEX GAS CO
8048557	16557	4241330328	108		MEADOR E #1 66751	SAWYER (CANYON)	19.0	INTRATEX GAS CO
8048474	15885	4243531971	103		SHANNON 52 #4 83439	SAWYER (CANYON)	424.0	INTRATEX GAS CO
8048449	15568	4243532087	108		SHURLEY 110 #3 80372	SAWYER (CANYON)	19.0	INTRATEX GAS CO
8048475	15886	4243532182	103		SIMMONS 73 #1 83529	SAWYER (CANYON)	617.0	INTRATEX GAS CO
8048476	15887	4243532179	103		VANDERSTUCKEN 34 #5 83029	SAWYER (CANYON)	293.0	INTRATEX GAS CO
8048558	16558	4243130605	108		WILKINSON 10 #2 74551	CREDO E (CISCO UPPER)	20.0	INTRATEX GAS CO
8048553	16553	4243130206	108		WILKINSON 13 #1 65158	CREDO E (CISCO UPPER)	14.0	INTRATEX GAS CO
-INTEGRAL ENERGY CORP					RECEIVED: 07/22/80 JA: TX			
8048424	14716	4232130912	102		STATE TRACT 303 WELL #3-L	OYSTER LAKE W (2900)	91.2	DOW CHEMICAL CO
-JOHN H HENDRIX CORP					RECEIVED: 07/22/80 JA: TX			
8048445	15262	4216531493	103		NORTHEAST LOOP GAS UNIT NO 4 #1	NORTHEAST LOOP (YATES)	36.0	NORTHERN NATURAL GAS
-JOHN L COX					RECEIVED: 07/22/80 JA: TX			
8048391	14590	4246131382	103		AMACKER B WELL NO 1 RRC #07760	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048392	14591	4246131400	103		AMACKER C WELL NO 1 RRC #07884	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048393	14592	4246131409	103		AMACKER 7 WELL NO 1 RRC #07867	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048394	14593	4246131410	103		ANDOVER WELL NO 1 RRC #07822	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048395	14595	4246131405	103		CARLETON B WELL NO 1 RRC #07812	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL GAS
8048396	14596	4246131421	103		CAROLYN WELL NO 1 RRC #07890	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048397	14598	4246131419	103		CLARA WELL NO 1 RRC #07848	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048398	14600	4246131394	103		COWDEN WELL NO 1 RRC #07869	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048399	14602	4246131416	103		FELMONT-MORGAN B NO 1 RRC 07871	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048406	14609	4246131364	103		FELMONT-OWENS B #3 RRC #07774	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048404	14607	4246131362	103		FELMONT-OWENS B WELL NO 1 RRC 07774	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048405	14608	4246131363	103		FELMONT-OWENS B NO 2 RRC #0774	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048407	14610	4246131365	103		FELMONT-OWENS B NO 4 RRC 0774	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048400	14603	4246131358	103		FELMONT-OWENS WELL NO 1 RRC #07803	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048401	14604	4246132359	103		FELMONT-OWENS WELL NO 2 RRC #07803	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048402	14605	4246131360	103		FELMONT-OWENS WELL NO 3 RRC #07803	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C
8048403	14606	4246131361	103		FELMONT-OWENS WELL NO 4 RRC #07803	SPRABERRY (TREND AREA)	8.0	PHILLIPS PETROLEUM C
8048409	14612	4246131407	103		H F NEAL ESTATE NO 2 RRC #07736	SPRABERRY	10.0	PHILLIPS PETROLEUM C
8048408	14611	4246131368	103		H F NEAL ESTATE NO 1 RRC 07736	SPRABERRY (TREND AREA)	8.0	PHILLIPS PETROLEUM C
8048410	14613	4217330936	103		IRMA WRAGE WELL NO 1 RRC #25441	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL GAS
8048411	14614	4217330939	103		IRMA WRAGE WELL NO 2 RRC #25441	SPRABERRY (TREND AREA)	12.0	EL PASO NATURAL GAS
8048412	14616	4246131401	103		JTL WELL NO 1 RRC #07789	SPRABERRY (TREND AREA)	12.0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048413	14618	4246131391	103		LANGFORD 13 WELL NO 2 RRC #07575	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048414	14619	4246131402	103		LYNCH B WELL NO 1 RRC #07831	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048415	14620	4246131404	103		LYNCH C WELL NO 1 RRC #07854	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048416	14621	4246131355	103		MANN WELL NO 1 RRC #07819	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048417	14623	4246131354	103		NEAL HEIRS WELL NO 1 RRC #07773	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
8048418	14624	4246131418	103		NEAL 12 WELL NO 1 RRC #07916	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL GAS
8048419	14625	4246131392	103		NEAL 34 #1 RRC #07802	SPRABERRY (TREND AREA)	8.0	EL PASO NATURAL GAS
8048420	14626	4246131393	103		NEAL 35 WELL NO 1 RRC #07792	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL GAS
8048421	14627	4246131436	103		SABINE WELL NO 1 RRC #07921	SPRABERRY (TREND AREA)	8.0	PHILLIPS PETROLEUM C
8048422	14628	4246131434	103		TAYLOR 31 WELL NO 1 RRC #07908	SPRABERRY (TREND AREA)	8.0	PHILLIPS PETROLEUM C
-JOHN Q MCCABE					RECEIVED: 07/22/80 JA: TX			
8048565	16628	4241300000	108		DELONG #1	VELREX SW (CANYON)	5.5	CRA INC
-JONES-O'BRIEN INCORPORATED					RECEIVED: 07/22/80 JA: TX			
8048595	19002	4207330366	108		O STOCKTON #1	PERCY WHEELER (TRAVIS PE	9000.0	UNITED GAS PIPE LINE
-KARL HEHMEYER & ASSOCIATES,LTD					RECEIVED: 07/22/80 JA: TX			
8048366	10952	4229700000	102		NO 3 JOSEPHINE MCCLELLAND	SUNRISE (QUEEN CITY)	180.0	
-KELLY BELL					RECEIVED: 07/22/80 JA: TX			
8048371	11590	4221530895	102		NO 1 CANO UNIT	CANO - MEXICO (7630)	0.0	INTRASTATE GATHERING
-KEY PRODUCTION CO INC					RECEIVED: 07/22/80 JA: TX			
8048444	15206	4220330609	103		W H SMELLEY SR ID #83237	ALPINE (TRAVIS PEAK)	0.0	ARKANSAS LOUISIANA G
-KILROY COMPANY OF TEXAS INC					RECEIVED: 07/22/80 JA: TX			
8048388	14354	4220130884	102		MARIE WISE NO 1-L	SOUTH SATSUMA (7300)	73.0	UNITED TEXAS TRANSMI
8048387	14353	4220130884	102		MARIE WISE NO 1-U	S SOUTH SATSUMA (7150)	365.0	UNITED TEXAS TRANSMI
-KIMBALL PRODUCTION COMPANY					RECEIVED: 07/22/80 JA: TX			
8048483	16095	4223300000	108		J A WHITTENBURG NO 1	PANHANDLE	1.5	GETTY OIL CO
8048484	16096	4223300000	108		J A WHITTENBURG NO 2	PANHANDLE	1.5	GETTY OIL CO
8048485	16097	4223300000	108		J A WHITTENBURG NO 4	PANHANDLE	1.5	GETTY OIL CO
8048486	16098	4223300000	108		J A WHITTENBURG NO 5	PANHANDLE	1.5	GETTY OIL CO
8048487	16099	4223300000	108		J A WHITTENBURG NO 6	PANHANDLE	1.5	GETTY OIL CO
8048488	16100	4223300000	108		J A WHITTENBURG NO 7	PANHANDLE	1.5	GETTY OIL CO
8048489	16101	4223300000	108		J A WHITTENBURG NO 8	PANHANDLE	1.5	GETTY OIL CO
8048533	16512	4223300000	108		SMITH SEC 10 NO 2	PANHANDLE	3.5	PHILLIPS PETROLEUM C
8048534	16513	4223300000	108		SMITH SEC 10 NO 3	PANHANDLE	3.5	PHILLIPS PETROLEUM C
8048535	16515	4223300000	108		SMITH SEC 10 NO 6	PANHANDLE	3.5	PHILLIPS PETROLEUM C
-L JACK GROSS PRODUCTION					RECEIVED: 07/22/80 JA: TX			
8048439	15095	4206500000	108		BURNETT G-3	PANHANDLE (CARSON)	11.0	PHILLIPS PETROLEUM C
-MALLARD EXPLORATION INC					RECEIVED: 07/22/80 JA: TX			
8048458	15782	4210332055	103		J B TUBB STATE NO 9	SAND HILLS (MCKNIGHT)	370.0	WARREN PETROLEUM CO
-MCMORAN EXPLORATION CO					RECEIVED: 07/22/80 JA: TX			
8048367	10980	4235531297	102		STATE TRACT 349 WELL NO 2-L	RED FISH BAY (ZONE 23) (	125.0	UNITED GAS PIPELINE
-MEWBOURNE OIL COMPANY					RECEIVED: 07/22/80 JA: TX			
8048536	16521	4229530663	103		FRASS 68 ID #04470	FRASS (TONKAWA)	0.0	TRANSWESTERN PIPELIN
8048480	16052	4229530671	103		GENEVIEVE NOWLIN UNIT WELL #1	S W LIPSCOMB (CLEVELAND)	19.0	NORTHERN NATURAL GAS
8048457	15753	4235730891	103		POPE #1 ID #83071	HANSFORD (UPPER MORROW)	180.0	TRANSWESTERN PIPE LI
-MGF OIL CORP					RECEIVED: 07/22/80 JA: TX			
8048501	16162	4222731904	103		COLEMAN NO 1	ACKERLY (DEAN SAND)	13.1	
8048502	016163	4231732077	103		COX WELL NO 1	SULPHUR DRAW (DEAN 8790)	16.2	PHILLIPS PETROLEUM C
-MICHAELSON PRODUCING CO					RECEIVED: 07/22/80 JA: TX			
8048525	16477	4210532256	103		UNIVERSITY 9 #4	FARMER (SAN ANDRES)	6.0	BIG LAKE GAS CORP
8048526	16478	4210532257	103		UNIVERSITY 9 #5	FARMER (SAN ANDRES)	6.0	BIG LAKE GAS CORP
-MITCHELL ENERGY CORPORATION					RECEIVED: 07/22/80 JA: TX			
8048268	05067	4249730174	108		C L GAGE #3	BOONSVILLE BEND CONGLOME	5.4	NATURAL GAS PIPELINE

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 JD NO     JA DKT         API NO     SEC D WELL NAME                      FIELD NAME                 PROD     PURCHASER
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 8048425    14841         4249731450 103   DEAVER (CADDO CONGL) #2-2 19402 ALVORD (CADDO CONGL)        21,0 NATURAL GAS PIPELINE
 8048426    14842         4249731471 103   DEAVER (CADDO CONGL) #5-9 19402 ALVORD (CADDO CONGL)        19,0 NATURAL GAS PIPELINE
 8048249    04062         4223731272 108   L A WORTHINGTON #22 18306       KEN-RICH (CONG)             11,1 NATURAL GAS PIPELINE
 8048478    15939         4237330210 103   PARISH ETAL #1 72499            HORTENSE (WOODBINE)         38,0 HOUSTON PIPELINE CO
 8048460    15828         4223732632 103   Z H BORDEN #3                   GILLEY WEST (ATOKA CONGL    80,0 CITIES SERVICE GAS C
-MOBIL OIL CORP                            RECEIVED:  07/22/80  JA: TX
 8048513    16308         4232700000 108   ROY PARKS NO 10                 PARKS PENNSYLVANIAN          4,3 MOBIL OIL CORP ET AL
-MONSANTO COMPANY                          RECEIVED:  07/22/80  JA: TX
 8048273    02791         4207930968 103   CALVIN #34-1 #62291             LEVELLAND                    4,4 CITIES SERVICE CO
 8048272    02792         4207930955 103   CALVIN #40-1 #62291             LEVELLAND                   10,0 CITIES SERVICE CO
 8048275    02789         4207930962 103   CALVIN #40-2 #62291             LEVELLAND                    9,1 CITIES SERVICE CO
 8048274    02790         4207930967 103   CALVIN #40-3 #62291             LEVELLAND                    4,6 CITIES SERVICE GAS C
 8048276    02788         4207931011 103   CALVIN #40-5 #62291             LEVELLAND                    6,3 CITIES SERVICE GAS C
 8048539    16524         4207931088 103   CALVIN NO 39-11                 LEVELLAND                    4,9 CITIES SERVICE GAS C

 8048542    16527         4207931081 103   CALVIN NO 39-12                 LEVELLAND                   10,4 CITIES SERVICE GAS C
 8048543    16528         4207931064 103   CALVIN NO 39-2                  LEVELLAND                    5,4 CITIES SERVICE GAS C
 8048541    16526         4207931065 103   CALVIN NU 39-6                  LEVELLAND                    2,9 CITIES SERVICE GAS C
 8048540    16525         4207931049 103   CALVIN NO 39-7                  LEVELLAND                    5,1 CITIES SERVICE GAS C
 8048537    16522         4207931062 103   CALVIN NO 40-15                 LEVELLAND FIELD              8,7 CITIES SERVICE GAS C
 8048538    16523         4207931082 103   CALVIN NO 40-16                 LEVELLAND FIELD              5,5 CITIES SERVICE CO
-MOORE MCCORMACK OIL & GAS CORP            RECEIVED:  07/22/80  JA: TX
 8048593    18776         4221530821 102   SAL DEL REY 1-B-T               CONNIE (8300)              438,0 NATURAL GAS PIPELINE
-MORMAC OIL & GAS CO                       RECEIVED:  07/22/80  JA: TX
 8048368    10995         4240931290 102   J J WELDER NO 1-T               PAPALOTE WEST (5100)       360,0 TRANSCONTINENTAL GAS
-NEIL K SHAW                               RECEIVED:  07/22/80  JA: TX
 8048566    16630         4204900000 108   H E WILSON #1                   BROWN COUNTY REGULAR         8,2 LONE STAR GAS COMPAN
 8048567    16631         4204900000 108   H E WILSON B #1                 BROWN COUNTY REGULAR         6,6 LONE STAR GAS CO
-PANTHER OIL CO                            RECEIVED:  07/22/80  JA: TX
 8048523    16418         4221932687 103   PANTHER C NO 10                 LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048524    16419         4221932688 103   PANTHER C NO 11                 LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048507    16235         4221931904 103   PANTHER C NO 3                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048508    16236         4221931964 103   PANTHER C NO 4                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048509    16237         4221931963 103   PANTHER C NO 5                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048510    16238         4221932490 103   PANTHER C NO 7                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048511    16239         4221932491 103   PANTHER C NO 8                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
 8048522    16417         4221932676 103   PANTHER C NO 9                  LEVELLAND (SAN ANDRES)       9,7 AMOCO PRODUCTION CO
-PAUL E CAMERON JR INC                     RECEIVED:  07/22/80  JA: TX
 8048378    12168         4220100000 102   GUY L JEANES #1 ID #75516       MGW (COOK MOUNTAIN)         36,0 TEXAS UTILITIES FUEL
 8048379    12169         4220100000 102   ROY SEABURG #1 ID NO 75274      MGW (COOK MOUNTAIN)         38,0 TEXAS UTILITIES FUEL
-PENNZOIL PRODUCING COMPANY                RECEIVED:  07/22/80  JA: TX
 8048362    09326         4236530711 103   COLLINS UNIT NO 2               CARTHAGE/COTTON VALLEY      70,0 UNITED GAS PIPE LINE
 8048266    05174         4236530576 102   HUDSON-JOHNSON UNIT NO 2-C      CARTHAGE/TRAVIS PEAK-HUD   700,0 UNITED GAS PIPE LINE
 8048267    05173         4236530589 102   TROSPER NO 1 C                  BETHANY/TRAVIS PEAK/TROS   700,0 UNITED GAS PIPE LINE
-PHILLIPS PETROLEUM COMPANY                RECEIVED:  07/22/80  JA: TX
 8048586    16713         4213520100 108   (21556) N PENWELL UNIT #123     PENWELL                      0,8 EL PASO NATURAL GAS
*8048560    16598         4223300000 108   BELLE NO 1                      PANHANDLE HUTCHINSON         0,4 EL PASO NATURAL GAS
 8048369    11037         4221131036 102   BOWERS E NO 2                   WASHITA CREEK (MORROW UP  3300,0 NATURAL GAS PIPELINE
*8048561    16599         4223300000 108   COCKRELL RANCH #40              PANHANDLE HUTCHINSON         1,4 SKELLY
*8048585    16711         4200310353 108   EMBAR-B NU 34 (33073)           GOLDSMITH N (SA-CONS)       22,0 EL PASO NATURAL GAS
*8048562    16600         4223300000 108   HAILE W B NO 8A                 PANHANDLE HUTCHINSON         7,2 SKELLY
 8048587    16723         4249530277 108   MCCABE NO 41 (21555)            HALLEY                       3,0 EL PASO NATURAL GAS
 8048589    16728         4213505085 108   PENWELL UNIT #107 (21556)       PENWELL                      8,7 EL PASO NATURAL GAS
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 JD NO     JA DKT          API NO     SEC D WELL NAME                 FIELD NAME                 PROD    PURCHASER
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 8048588    16727         4213520360 108   N PENWELL UNIT #19 (21556) PENWELL                       1,5 EL PASO NATURAL GAS
*8048563    16601         4223300000 108   NEIL J R NO 3              PANHANDLE HUTCHINSON          5,8 EL PASO NATURAL GAS
 8048590    16731         4223330740 103   SNOW NO 16                 PANHANDLE HUTCHINSUN         22,0 EL PASO NATURAL GAS
*8048564    16602         4223300000 108   TURNER-KENT A NO 31        PANHANDLE HUTCHINSUN         19,5 GETTY
-POLK & PATTON INC                        RECEIVED: 07/22/80  JA: TX
 8048443    15164         4236731575 103   BLAIR-WOODY UNIT NO 1      DICEY (CONGLOMERATE)        100,0 NATURAL GAS PIPELINE
 8048442    15163         4223732602 103   ETHEL BROWN A NO 1         PERRIN SW (CONGL 4850)      200,0 SOUTHWESTERN GAS PIP
-POST PETROLEUM COMPANY INC               RECEIVED: 07/22/80  JA: TX
 8048423    14686         4233306540 103   KIRK #66-A                 SHIRLEY (TONKAWA)           365,0 NORTHERN NATURAL GAS
-ROLLUM CO                                RECEIVED: 07/22/80  JA: TX
 8048479    15941         4228531421 103   C E WILLIAMS NO 1-A        ESPERANZA (2750)            100,0 LOVACA GATHERING CO
-ROMINES AND WARNER                       RECEIVED: 07/22/80  JA: TX
 8048375    12017         4223300000 108   J A WHITTENBURG WELL NO 1  PANHANDLE - HUTCHINSON C      0,0 PHILLIPS PETROLEUM C
 8048376    12018         4223300000 108   J A WHITTENBURG WELL NO 4  PANHANDLE - HUTCHINSON C      0,0 PHILLIPS PETROLEUM C
 8048377    12019         4223300000 108   J A WHITTENBURG WELL NO 6  PANHANDLE - HUTCHINSON C      0,0 PHILLIPS PETROLEUM C
 8048372    12013         4217900000 108   W C ARCHER WELL NO 1       PANHANDLE GRAY COUNTY         1,4 GETTY OIL CO
 8048373    12014         4217900000 108   W C ARCHER WELL NO 2       PANHANDLE GRAY COUNTY         1,4 GETTY OIL CO
 8048374    12015         4217900000 108   W C ARCHER WELL NO 3       PANHANDLE GRAY COUNTY         1,4 GETTY OIL CO
-SAXON OIL COMPANY                        RECEIVED: 07/22/80  JA: TX
 8048568    16640         4249530392 103   M B WARD #5                KEYSTONE (SAN ANDRES)         2,3 TRANSWESTERN PIPELIN
 8048569    16643         4238331365 103   TURNER A #2                SPRABERRY (TREND AREA)       15,0 NORTHERN NATURAL GAS
 8048570    16648         4238331356 103   UNIVERSITY 10-9 #1         SPRABERRY (TREND AREA)       29,0 NORTHERN NATURAL GAS
 8048571    16650         4238331359 103   UNIVERSITY 10-9 #4         SPRABERRY (TREND AREA)       24,0 NORTHERN NATURAL GAS

-SHELL OIL CO                             RECEIVED: 07/22/80  JA: TX
 8048309    06967         4250131625 103   DENVER UNIT 5516           WASSON                      253,0 SHELL OIL CO
-SIMPSON-MANN OIL PRODUCERS               RECEIVED: 07/22/80  JA: TX
 8048499    16155         4239931376 103   WEBB #1-136                URBAN (MILES)                90,0 MID-PLAINS PIPELINE
-SUBURBAN PROPANE GAS CORP                RECEIVED: 07/22/80  JA: TX
 8048515    16385         4223531369 103   BAKER S NO 1               BAKER RANCH (CANYON)         73,0 NORTHERN NATURAL GAS
-SUN OIL COMPANY (DELAWARE)               RECEIVED: 07/22/80  JA: TX
 8048504    16221         4245900000 108   SIDNEY P VICTORY NO 1      EAST TEXAS                    0,3 WARREN PETROLEUM CO
 8048505    16222         4218300000 108   SUE ST JOHN NO 1           EAST TEXAS                    0,4 WARREN PETRULEUM CO
 8048506    16223         4218300000 108   W D LACY NO 3              EAST TEXAS                    0,4 ATLANTIC RICHFIELD C
-TENNECO OIL COMPANY                      RECEIVED: 07/22/80  JA: TX
 8048265    05545         4238900000 108   CALDWELL NO 1              OLDS (DELAWARE)               3,1 CONOCO INC
 8048313    07272         4237132520 103   HOLMES #32                 MILLARD                       1,4 LARCO GAS CURP
 8048370    11170         4217930642 103   WORLEY 34A                 PANHANDLE GRAY COUNTY        36,0 PHILLIPS PETROLEUM C
-TEXACO INC                               RECEIVED: 07/22/80  JA: TX
 8048596    19191         4203900000 102   A R RUCKS FEE WELL #2      DANBURY SW                    0,0 NATURAL GAS PIPELINE
 8048264    05936         4217900000 108   MCLARTY LESTER B #11       PANHANDLE EAST               19,0 COLTEXO CURP
 8048363    09926         4246100000 108   UPTON M FEE #1             SPRABERRY (TREND AREA)       10,6 EL PASO NATURAL GAS
-TEXAS OIL & GAS CORP                     RECEIVED: 07/22/80  JA: TX
 8048594    18793         4248131040 102   GANN A #2                  TWIN BASIN (FRIO 6550) P    115,0 UNITED GAS PIPELINE
 8048572    16657         4224931055 103   MINTEN B #1                FALFURIAS (8050)             60,0 UNITED GAS PIPELINE
 8048500    016159        4228531281 102   STOVALL O WELL #1          S W SPEAKS (YEGUA 5813)     127,0 TEXAS EASTERN TRANSM
 8048492    16124         4223500000 103   WINTERBOTHAM #1            DOVE CREEK (CANYON D)       900,0 COLUMBIA GAS TRANSMI
 8048493    16125         4223500000 103   WINTERBOTHAM #2            DUVE CREEK (CANYON D)       375,0 COLUMBIA GAS TRANSMI
 8048494    16126         4223500000 103   WINTERBOTHAM B #1          DOVE CREEK (CANYON D)       290,0 COLUMBIA GAS TRANSMI
 8048495    16127         4223500000 103   WINTERBOTHAM C #1          DOVE CREEK (CANYON D)       310,0 COLUMBIA GAS TRANSMI
 8048527    16480         4223500000 103   WINTERBOTHAM D #2          DOVE CREEK (CANYON D)       275,0 NORTHERN NATURAL GAS
 8048573    16658         4208931045 103   YOUENS GAS UNIT WELL #2    CECIL NOBLE (WOOTEN)         35,0 TENNESSEE GAS PIPELI
-TEXAS PACIFIC OIL COMPANY INC            RECEIVED: 07/22/80  JA: TX
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048277	02040	4221932425	103		CENTRAL LEVELLAND UNIT NO 211-A	LEVELLAND	3.3	AMOCO PRODUCTION CO
8048450	15680	4221932639	103		CENTRAL LEVELLAND UNIT WELL #219	LEVELLAND	32.2	AMOCO PRODUCTION CO
8048451	15681	4221932638	103		CENTRAL LEVELLAND UNIT WELL #220	LEVELLAND	1.8	AMOCO PRODUCTION CO
8048452	15682	4221932644	103		CENTRAL LEVELLAND UNIT WELL #221	LEVELLAND	2.6	AMOCO PRODUCTION CO
8048453	15683	4221932643	103		CENTRAL LEVELLAND UNIT WELL #222	LEVELLAND	1.5	AMOCO PRODUCTION CO
8048454	15684	4221932641	103		CENTRAL LEVELLAND UNIT WELL #224	LEVELLAND	3.7	AMOCO PRODUCTION CO
8048528	16481	4221932700	103		SOUTHEAST LEVELLAND UNIT NO 242	LEVELLAND/SAN ANDRES	0.7	AMOCO PRODUCTION CO
8048529	16482	4221932699	103		SOUTHEAST LEVELLAND UNIT NO 243	LEVELLAND/SAN ANDRES	10.7	AMOCO PRODUCTION CO
8048530	16483	4221932698	103		SOUTHEAST LEVELLAND UNIT NO 244	LEVELLAND/SAN ANDRES	16.3	AMOCO PRODUCTION CO
*TEXLAN OIL CO INC					RECEIVED: 07/22/80 JA: TX			
8048440	15150	4207300000	102		PARSONS R L #1 (RRC ID NO 80528)	PARSONS (RODESSA-HILL)	180.0	DELHI GAS PIPELINE C
*TOM KIDD OIL PROPERTIES					RECEIVED: 07/22/80 JA: TX			
8048446	15370	4205900000	102		J H MCFARLANE A 3-24 RRC ID#82330	TILTON (HOPE UPPER) FIEL	260.0	DELHI GAS PIPELINE C
*TRAVELERS OIL CO					RECEIVED: 07/22/80 JA: TX			
8048262	06540	4223300000	108		BAMBINO #5 RRC #01181	PANHANDLE-HUTCHINSON COU	2.7	PHILLIPS PETROLEUM C
8048279	06570	4223300000	108		BULLWHEEL #2 RRC #02146	PANHANDLE-HUTCHINSON COU	3.7	PHILLIPS PETROLEUM C
8048278	06571	4223300000	108		BULLWHEEL #3 RRC #02146	PANHANDLE-HUTCHINSON COU	3.7	PHILLIPS PETROLEUM C
8048323	06572	4223300000	108		BULLWHEEL #4 RRC #02146	PANHANDLE-HUTCHINSON COU	3.7	PHILLIPS PETROLEUM C
8048324	06573	4223300000	108		BULLWHEEL #5 RRC #02146	PANHANDLE-HUTCHINSON COU	3.7	PHILLIPS PETROLEUM C
8048282	06567	4206500000	108		BURK #1 RRC #02475	PANHANDLE-CARSON COUNTY	6.7	GETTY OIL CO
8048281	06568	4206500000	108		BURK #2 RRC #02475	PANHANDLE-CARSON COUNTY	6.7	GETTY OIL CO
8048280	06569	4206500000	108		BURK #3 RRC #02475	PANHANDLE-CARSON COUNTY	6.7	GETTY OIL CO
8048328	06577	4223300000	108		BUSH #1 RRC #03060	PANHANDLE-HUTCHINSON COU	0.5	PHILLIPS PETROLEUM C
8048329	06579	4223300000	108		BUSH #4 RRC #03060	PANHANDLE-HUTCHINSON COU	0.5	PHILLIPS PETROLEUM C
8048259	06559	4223300000	108		DAVIS #2 RRC #03223	PANHANDLE-HUTCHINSON COU	1.5	PHILLIPS PETROLEUM C
8048299	06601	4223300000	108		GEORGE #1 RRC #01986	PANHANDLE-HUTCHINSON COU	3.3	PHILLIPS PETROLEUM C
8048300	06602	4223300000	108		GEORGE #3 RRC #01986	PANHANDLE-HUTCHINSON COU	3.3	PHILLIPS PETROLEUM C
8048301	06603	4223300000	108		GEORGE #4 RRC #01986	PANHANDLE-HUTCHINSON COU	3.3	PHILLIPS PETROLEUM C
8048306	06608	4206500000	108		HELMS #1 RRC #02001	PANHANDLE-CARSON COUNTY	12.5	PHILLIPS PETROLEUM C
8048307	06609	4206500000	108		HELMS #2 RRC #02001	PANHANDLE-CARSON COUNTY	12.5	PHILLIPS PETROLEUM C
8048308	06611	4206500000	108		HELMS #4 RRC #02001	PANHANDLE-CARSON COUNTY	12.5	PHILLIPS PETROLEUM C
8048283	06565	4223300000	108		HERRING #7 #01688	PANHANDLE-HUTCHINSON COU	0.9	
8048285	06563	4223300000	108		JAKE #1 RRC #02696	PANHANDLE-HUTCHINSON COU	3.2	PHILLIPS PETROLEUM C
8048284	06564	4223300000	108		JAKE #3 RRC #02696	PANHANDLE-HUTCHINSON CU	3.2	PHILLIPS PETROLEUM C
8048258	06560	4223300000	108		JOLLY #1 RRC #00994	PANHANDLE-HUTCHINSON COU	0.3	PHILLIPS PETROLEUM C
8048287	06561	4223300000	108		JOLLY #2 RRC #00994	PANHANDLE-HUTCHINSON COU	0.3	PHILLIPS PETROLEUM C
8048286	06562	4223300000	108		JOLLY #3 RRC #00994	PANHANDLE-HUTCHINSON COU	0.3	PHILLIPS PETROLEUM C
8048325	06574	4223300000	108		NEIL #1 RRC #00926	PANHANDLE-HUTCHINSON CO	2.0	PHILLIPS PETROLEUM C
8048326	06575	4223300000	108		NEIL #2 RRC #00926	PANHANDLE-HUTCHINSON COU	2.0	PHILLIPS PETROLEUM C
8048327	06576	4223300000	108		NEIL #3 RRC #00926	PANHANDLE-HUTCHINSON COU	2.0	PHILLIPS PETROLEUM C
8048335	06588	4223300000	108		NOBLE #2 RRC #00995	PANHANDLE-HUTCHINSON COU	1.3	PHILLIPS PETROLEUM C
8048336	06590	4223300000	108		NOBLE #4 RRC #00995	PANHANDLE-HUTCHINSON COU	1.3	PHILLIPS PETROLEUM C
8048337	06591	4223300000	108		NOBLE #5 RRC #00995	PANHANDLE-HUTCHINSON COU	1.3	PHILLIPS PETROLEUM C
8048338	06592	4223300000	108		OATES #1 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048293	06595	4223300000	108		OATES #11 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048294	06596	4223300000	108		OATES #12 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048295	06597	4223300000	108		OATES #16 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048296	06598	4223300000	108		OATES #17 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048297	06599	4223300000	108		OATES #18 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048298	06600	4223300000	108		OATES #19 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048339	06593	4223300000	108		OATES #4 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C
8048292	06594	4223300000	108		OATES #6 RRC #00981	PANHANDLE-HUTCHINSON COU	0.7	PHILLIPS PETROLEUM C

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JD NO     JA DKT        API NO     SEC D WELL NAME                    FIELD NAME                  PROD     PURCHASER
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8048333    06585        4223300000 108   SKIATEX #10 RRC #01017       PANHANDLE-HUTCHINSON COU        2.6  PHILLIPS PETROLEUM C
8048334    06586        4223300000 108   SKIATEX #11 RRC #01017       PANHANDLE-HUTCHINSON COU        2.6  PHILLIPS PETROLEUM C
8048330    06580        4223300000 108   SMITH #1 RRC #00723          PANHANDLE-HUTCHINSON COU        3.5  PHILLIPS PETROLEUM C
8048331    06581        4223300000 108   SMITH #2 RRC #00723          PANHANDLE-HUTCHINSON COU        3.5  PHILLIPS PETROLEUM C
8048332    06582        4223300000 108   SMITH #3 RRC #00723          PANHANDLE-HUTCHINSON COU        3.5  PHILLIPS PETROLEUM C
8048261    06541        4223300000 108   STEVENSON #1 RRC #01595      PANHANDLE-HUTCHINSON COU        7.1  DIAMOND SHAMROCK COR
8048302    06604        4223300000 108   SULLIVAN #1 RRC #01296       PANHANDLE-HUTCHINSON COU        2.8  PHILLIPS PETROLEUM C
8048303    06605        4223300000 108   SULLIVAN #2 RRC #01296       PANHANDLE-HUTCHINSON COU        2.8  PHILLIPS PETROLEUM C
8048304    06606        4223300000 108   SULLIVAN #3 RRC #01296       PANHANDLE-HUTCHINSON COU        2.8  PHILLIPS PETROLEUM C
8048305    06607        4223300000 108   SULLIVAN #4 RRC #01296       PANHANDLE-HUTCHINSON COU        2.8  PHILLIPS PETROLEUM C
8048260    06542        4223300000 108   TRACT #2 RRC #00952          PANHANDLE-HUTCHINSON COU        0.6
-UNION OIL COMPANY OF CALIF               RECEIVED:  07/22/80  JA: TX
 8048271   03582        4237131756 107   MOORE UNIT #1 WELL #2 (76125) GOMEZ (ELLENBURGER)        2920.0 EL PASO NATURAL GAS
-WALTER EXPLORATION INC                   RECEIVED:  07/22/80  JA: TX
 8048544   16537        4237132751 103   MCDONALD-STATE NO 1          PUTNAM (WOLFCAMP)               0.0  TRANSWESTERN PIPELIN
-WARREN PETR CO A DIV OF GULF OIL CO      RECEIVED:  07/22/80  JA: TX
 8048361   09208        4210331960 103   P J LEA ET AL #96            LEA (SAN ANDRES)               12.0  EL PASO NATURAL GAS
-WES-TEX DRILLING COMPANY                 RECEIVED:  07/22/80  JA: TX
 8048545   16538        4203330917 103   BLAGRAVE NO 1                ACKERLY (DEAN SAND)             2.0  GETTY OIL CO
-WORLD PRODUCERS INC                      RECEIVED:  07/22/80  JA: TX
 8048598   19564        4236731648 102   C M MCCULLOH #1              MOBY DICK (CONSL)              60.0  NATURAL GAS PIPELINE

OTHER PURCHASERS
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8048531     NORTHERN NATURAL GAS CO
8048547     NORTHERN NATURAL GAS CO
8048548     NORTHERN NATURAL GAS CO
8048560     PANHANDLE EASTERN PL CO
8048561     GETTY OIL CO
8048562     GETTY OIL CO
8048563     PANHANDLE EASTERN PL CO
8048564     NORTHERN NAT GAS CO
8048589     PANHANDLE EASTERN PIPELINE CO
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.203 and 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25883 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 261]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 18, 1980.

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 JD NO     JA DKT        API NO     SEC D WELL NAME                              FIELD NAME                 PROD     PURCHASER
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*******************************************************************************************
   NEW MEXICO DEPARTMENT OF ENERGY & MINERALS
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*AMERADA HESS CORPORATION                       RECEIVED:  07/24/80  JA: NM
 8048691                 3002510420 108   E WOOD #6                              EUNICE                     19.0 NORTHERN NATURAL GAS
 8048692                 3002503302 108   STATE HE F 1                           EUMONT                      2.9 PHILLIPS PETROLEUM C
*AMOCO PRODUCTION CO                            RECEIVED:  07/24/80  JA: NM
 8048684                 3004521147 108   CANDELARIA GAS COM #1 (2ND FILING)     AZTEC - PICTURED CLIFFS    19.0 EL PASO NATURAL GAS
 8048683                 3004521079 108   NYE GAS COM C #1 (2ND FILING)          BLANCO - PICTURED CLIFFS   18.0 EL PASO NATURAL GAS
 8048685                 3004508776 108   STATE GAS COM BG #1 (2ND FILING)       BLANCO - MESA VERDE        19.0 EL PASO NATURAL GAS
*BLACKWOOD & NICHOLS CO LTD                     RECEIVED:  07/24/80  JA: NM
 8048682                 3004501047 108   NORTHEAST BLANCO UNIT WELL NO 2-20     BLANCO MESAVERDE SW 20-3   20.0 EL PASO NATURAL GAS
*EL PASO NATURAL GAS COMPANY                    RECEIVED:  07/24/80  JA: NM
 8048686                 3003920683 108   SAN JUAN 28-7 UNIT #171 PC & CH        SOUTH BLANCO-PICTURED CL   14.0 EL PASO NATURAL GAS
*J GREGORY MERRION&ROBERT L BAYLESS             RECEIVED:  07/24/80  JA: NM
*8048687                 3003908089 108   ATLANTIC #1                            BLANCO PIC CLIFFS SOUTH/   16.0 EL PASO NATURAL GAS
*MANANA GAS INC                                 RECEIVED:  07/24/80  JA: NM
 8048693                 3004523015 108   CLARENCE #1                            BLOOMFIELD-FARMINGTON       2.8 EL PASO NATURAL GAS
*PHILLIPS PETROLEUM COMPANY                     RECEIVED:  07/24/80  JA: NM
 8048690                 3002526378 108   E VACUUM GB/SA UNIT TR 2720 NO 005     VACUUM GB/SA                2.0 EL PASO NATURAL GAS

 8048699                 3002526383 103   E VACUUM GB/SA UNIT TR 2801 NO 006     VACUUM GB/SA                8.0 EL PASO NATURAL GAS
 8048701                 3002526381 103   E VACUUM GB/SA UNIT TR 2913 NO 006     VACUUM GB/SA                2.0 EL PASO NATURAL GAS
 8048700                 3002526380 103   E VACUUM GB/SA UNIT TR 2913 NO 008     VACUUM GRAYBURG/SAN ANDR    4.0 EL PASO NATURAL GAS
 8048702                 3002526400 103   E VACUUM GB/SA UNIT TR 3202 NO 008     VACUUM GRAYBURG/SAN ANDR   54.0 EL PASO NATURAL GAS
 8048703                 3002526394 103   VACUUM GB/SA UNIT TR 0524 NO 001       VACUUM GRAYBURG/SAN ANDR   38.0 EL PASO NATURAL GAS
 8048705                 3002526379 103   VACUUM GB/SA UNIT TR 2738 NO 005       VACUUM GB/SA                1.0 EL PASO NATURAL GAS
 8048694                 3002526518 103   VACUUM GB/SA UNIT TR 3202 NO 009       VACUUM GB/SA               46.0 EL PASO NATURAL GAS
 8048696                 3002526389 103   VACUUM GB/SA UNIT TR 3315 NO 006       VACUUM GB/SA                3.0 EL PASO NATURAL GAS
 8048697                 3002526520 103   VACUUM GB/SA UNIT TR 3328 NO 003       VACUUM GB/SA                2.0 EL PASO NATURAL GAS
 8048704                 3002526401 103   VACUUM GB/SA UNIT TR 3332 NO 001       VACUUM GRAYBURG/SAN ANDR   24.0 EL PASO NATURAL GAS
 8048698                 3002526402 103   VACUUM GB/SA UNIT TR 3374 NO 002       VACUUM GB/SA               11.0 EL PASO NATURAL GAS
 8048695                 3002526525 103   VACUUM GB/SA UNIT TR 3456 NO 007       VACUUM GRAYBURG/SAN ANDR   10.0 EL PASO NATURAL GAS
*READ & STEVENS INC                             RECEIVED:  07/24/80  JA: NM
 8048689                 3000560371 108   LUCKY LAKE NO 2                        LUCKY LAKE SOUTH-QUEEN      2.0 PHILLIPS PETROLEUM C
*TENNECO OIL COMPANY                            RECEIVED:  07/24/80  JA: NM
 8048688                 3004110615 108   BURGLAND #1                            CHAVEROO SAN ANDRES         3.5 CITIES SERVICE OIL C
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   WEST VIRGINIA DEPARTMENT OF MINES
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*BETA DRILLING FUND 79 LTD                      RECEIVED:  07/25/80  JA: WV
 8048757                 4708524444 103   HARRY MOATS M-881                      GRANT DISTRICT             18.0 CONSOLIDATED GAS SUP
 8048765                 4708524486 103   NELLIE BRADEN M-875                    MURPHY DISTRICT            18.0 CONSOLIDATED GAS SUP
*CONSOLIDATED GAS SUPPLY CORPORATION            RECEIVED:  07/25/80  JA: WV
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048724		4703300738	108		A B STOUT 11691	WEST VIRGINIA OTHER A037	6.0	GENERAL SYSTEM PURCH
8048726		4709701566	108		B C RADABAUGH 11808	W VA OTHER A03772	13.0	GENERAL SYSTEM PURCH
8048708		4703301967	103		C W ROBINSON 12589	WEST VIRGINIA OTHER 1258	30.0	GENERAL SYSTEM PURCH
8048706		4700501249	103		CHARLESTON NAT BANK 12349	PINEVILLE FIELD AREA A59	23.0	GENERAL SYSTEM PURCH
8048721		4700501087	108		CHARLESTON NATIONAL BANK 12522	PINEVILLE FIELD AREA A59	3.0	GENERAL SYSTEM PURCH
8048707		4701900413	103		CHARLESTON NATIONAL BANK 12617	WEST VIRGINIA OTHER A057	45.0	GENERAL SYSTEM PURCH
8048720		4700100966	108		CLARENCE PUE 12517	WEST VIRGINIA OTHER A037	7.0	GENERAL SYSTEM PURCH
8048748		4704700812	103		CONSOLIDATED COAL CO 12611	PINEVILLE A59442	40.0	GENERAL SYSTEM PURCH
8048747		4704700805	103		CONSOLIDATED COAL CO 12612	PINEVILLE A59442	45.0	GENERAL SYSTEM PURCH
8048746		4704700801	103		CONSOLIDATED COAL CO 12614	PINEVILLE FIELD AREA A59	41.0	GENERAL SYSTEM PURCH
8048719		4700100727	108		DELLETT CROSTON 12007	WEST VIRGINIA OTHER A037	3.0	GENERAL SYSTEM PURCH
8048717		4700100678	108		DORA B ANDRICK 11845	WEST VIRGINIA OTHER A037	7.0	GENERAL SYSTEM PURCH
8048713		4703302159	103		DORA E MCWHORTER 12608	WEST VIRGINIA OTHER A057	25.0	GENERAL SYSTEM PURCH
8048727		4710900743	108		EUGENE M COOK 11789	PINEVILLE FIELD AREA A59	12.0	GENERAL SYSTEM PURCH
8048716		4704700608	108		GLADYS B COOKE 11575	PINEVILLE FIELD AREA A59	17.0	GENERAL SYSTEM PURCH
8048710		4703302055	103		GUINN-MINTER 12591	WEST VIRGINIA OTHER A057	23.0	GENERAL SYSTEM PURCH
8048736		4703300854	108		HIRAM EDMONDS 11831	W VA OTHER A03772	5.0	GENERAL SYSTEM PURCH
8048714		4704102148	103		J B SNYDER 12311	W VA OTHER A03772	27.0	GENERAL SYSTEM PURCH
8048751		4709500669	103		J VICTOR AVERS 12563	WEST VIRGINIA OTHER A057	23.0	GENERAL SYSTEM PURCH
8048738		4704101968	108		JIM GILLOOLY 11747	W VA OTHER A03772	16.0	GENERAL SYSTEM PURCH
8048723		4701302522	108		LOUIS BENNETT 11739	W VA OTHER A03772	18.0	GENERAL SYSTEM PURCH
8048734		4703300832	108		MAE GASTON 11826	W VA OTHER A03772	16.0	GENERAL SYSTEM PURCH
8048739		4704102184	108		MARY C BURNSIDE 12488	W VA OTHER A03772	11.0	GENERAL SYSTEM PURCH
8048749		4707700189	103		MILES L COBUN 12459	GREER-GLADESVILLE 290235	150.0	GENERAL SYSTEM PURCH
8048712		4703302157	103		NORA E DAVISSON 12607	WEST VIRGINIA OTHER A057	25.0	GENERAL SYSTEM PURCH
8048750		4707700200	103		PAULINE F SMITH 12609	GREER-GLADESVILLE 290235	35.0	GENERAL SYSTEM PURCH
8048715		4704700773	103		POCAHONTAS LAND CORP 12587	PINEVILLE FIELD AREA A59	30.0	GENERAL SYSTEM PURCH
8048725		4706700305	108		ROBERT M BELL 11620	WEST VIRGINIA OTHER A037	7.0	GENERAL SYSTEM PURCH
8048718		4700100681	108		RUTH W DAYTON 11798	WEST VIRGINIA OTHER A037	21.0	GENERAL SYSTEM PURCH
8048735		4703300835	108		VANCE WARD 11833	W VA OTHER A03772	17.0	GENERAL SYSTEM PURCH
8048737		4704101909	108		W B LAMSON 11619	WEST VIRGINIA OTHER A037	3.0	GENERAL SYSTEM PURCH
8048709		4703302094	103		W J LAW 12590	WEST VIRGINIA OTHER A057	23.0	GENERAL SYSTEM PURCH
8048711		4703302086	103		WILLIAM L HORNOR 12592	WEST VIRGINIA OTHER A057	23.0	GENERAL SYSTEM PURCH
8048722		4703300708	108		WIRT W POST 11561	WEST VIRGINIA OTHER A037	19.6	GENERAL SYSTEM PURCH
-E & C GAS CO					RECEIVED: 07/28/80 JA: WV			
8048728		4703300034	108		EC-2	SARDIS DISTRICT	8.0	EAGLE GAS CO
-EAGLE GAS CO					RECEIVED: 07/28/80 JA: WV			
8048731		4703320135	108		C P WOOD WELL NO 71	COAL DISTRICT	4.0	LUMBERPORT-SHINNSTON
8048732		4703320097	108		OKEY LYON	EAGLE DISTRICT	12.0	LUMBERPORT-SHINNSTON
8048729		4703320082	108		T J LYON WELL NO (60) #1	EAGLE DISTRICT	10.0	LUMBERPORT-SHINNSTON
8048733		4703320078	108		VIRGINIA R MARTIN WELL NO (59) #1	EAGLE DISTRICT	8.0	LUMBERPORT-SHINNSTON
-GAMMA DRILLING FUND 79 LTD					RECEIVED: 07/25/80 JA: WV			
8048761		4708524472	103		LUCY L SIX W-901	GRANT	18.0	CONSOLIDATED GAS SUP
8048762		4708524473	103		LUCY L SIX W-902	GRANT	18.0	CONSOLIDATED GAS SUP
8048763		4708524480	103		RALPH SIX W-905	GRANT	18.0	CONSOLIDATED GAS SUP
8048764		4708524481	103		RALPH SIX W-907	GRANT	18.0	CONSOLIDATED GAS SUP
-GLENN L HAUGHT & SONS					RECEIVED: 07/25/80 JA: WV			
8048752		4708524218	103		A J LAYFIELD W-686	GRANT DISTRICT	24.0	CONSOLIDATED GAS SUP
8048753		4708524419	103		A J LAYFIELD W-687	GRANT DISTRICT	24.0	CONSOLIDATED GAS SUP
8048754		4708524420	103		A J LAYFIELD W-688	GRANT DISTRICT	24.0	CONSOLIDATED GAS SUP
8048755		4708524427	103		M MOATS W-706	GRANT DISTRICT	24.0	CONSOLIDATED GAS SUP
8048756		4708524430	103		M MOATS W-709	GRANT DISTRICT	24.0	CONSOLIDATED GAS SUP

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                                                                                 VOLUME  261          PAGE  003
 JD NO    JA DKT          API NO     SEC D WELL NAME                          FIELD NAME              PROD      PURCHASER
 -----    ------          ------     --- - ---------                          ----------              ----      ---------
-JOHNSON PRODUCING CO                    RECEIVED:  07/25/80  JA: WV
 8048745                 4709702010 108   A M GOULD #1                         MEADE                        4.2 EQUITABLE GAS CO
 8048743                 4709702004 108   B B MARTIN #1                        MEADE                        4.2 EQUITABLE GAS CO
 8048778                 4702121752 108   E D FULTON #6 6A                     GLENVILLE                    4.7 EQUITABLE GAS CO
 8048742                 4709702003 108   G W SIMMONS #1                       MEADE                        0.4 EQUITABLE GAS CO
 8048744                 4709702009 108   G W SIMMONS #2                       MEADE                        0.4 EQUITABLE GAS CO
 8048779                 4702121756 108   HERRON #1 (ARBUCKLE)                 GLENVILLE                    1.3 EQUITABLE GAS CO
 8048741                 4704102561 108   J FINSTER #3                         COURTHOUSE                   1.8 EQUITABLE GAS CO
 8048740                 4702102179 108   J W VANNOY #2                        DEKALB                       5.8 EQUITABLE GAS CO
 8048777                 4702121725 108   J W WOLF #3                          GLENVILLE                    5.9 EQUITABLE GAS CO
 8048776                 4702121201 108   P W BARTLETT #1                      DEKALB                       3.1 EQUITABLE GAS CO
-MEGA DRILLING FUND 79-2 LTD             RECEIVED:  07/25/80  JA: WV
 8048758                 4708524458 103   HAROLD GOFF W-888                    UNION DISTRICT              18.0 CONSOLIDATED GAS SUP
 8048759                 4708524459 103   HAROLD GOFF W-889                    UNION DISTRICT              18.0 CONSOLIDATED GAS SUP
 8048760                 4708524460 103   HAROLD GOFF W-890                    UNION DISTRICT              18.0 CONSOLIDATED GAS SUP
-PETROLEUM DEVELOPMENT CORP              RECEIVED:  07/25/80  JA: WV
 8048771                 4704102160 108   A W HALL #1                          WESTON - JANE LEW            0.0 CONSOLIDATED GAS SUP
 8048772                 4704102161 108   A W HALL #2                          WESTON - JANE LEW            0.0 CONSOLIDATED GAS SUP
 8048768                 4703301214 108   ALDEN ROGERS #1                      BRIDGEPORT                   0.0 CONSOLIDATED GAS SUP
 8048766                 4703301187 108   BERNARD CURK #2                      GLADE RUN                    0.0 CONSOLIDATED GAS SUP
 8048773                 4704102167 108   D FORINASH #1                        WESTON - JANE LEW            0.0 CONSOLIDATED GAS SUP
 8048770                 4703301223 108   HAFER-COURTNEY #1                    BRIDGEPORT                   0.0 CONSOLIDATED GAS SUP
 8048769                 4703301222 108   MARY L COSTILOW #1                   BRIDGEPORT                   0.0 CONSOLIDATED GAS SUP
 8048774                 4704121700 108   N L JENKINS #1                       WESTON-JANE LEW             18.0 CONSOLIDATED GAS SUP
 8048767                 4703301199 108   V RAYMOND #1                         BRIDGEPORT                   0.0 CONSOLIDATED GAS SUP
 8048775                 4709100140 108   WILLIAM SMITH #1                     PRUNTYTOWN                   0.0 CONSOLIDATED GAS SUP
-V L HORNOR INVESTMENT CO                RECEIVED:  07/25/80  JA: WV
 8048730                 4703320125 108   JACKSON BEESE WELL NO W-5            CLAY DISTRICT                6.0 EAGLE GAS CO
******************************************************************************************
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM
******************************************************************************************
-SOUTHLAND ROYALTY CO                    RECEIVED:  07/24/80  JA: CO  4
 8048663  COA-0338-80     0506706374 103   RED MESA #1                         UNDESIGNATED                30.0 NORTHWEST PIPELINE C
-AMOCO PRODUCTION CO                     RECEIVED:  07/24/80  JA: NM  4
 8048675  NM-4884-79      3003906094 108   FRED PHILLIPS E #1                  TAPACITO - PICTURED CLIF    21.0 NORTHWEST PIPELINE C
 8048640  NM-0370-80      3003922179 103   JICARILLA CONTRACT 146 WELL #10E    BASIN DAKOTA                41.0 NORTHWEST PIPELINE C
 8048611  NM-0371-80      3003922174 103   JICARILLA CONTRACT 146 WELL #21E    BASIN DAKOTA               122.0 NORTHWEST PIPELINE C
 8048659  NM-0448-80-A    3002526354 103   SOUTH MATTIX UNIT #36               FOWLER DRINKARD              1.0 EL PASO NATURAL GAS
-ARCO OIL AND GAS COMPANY                RECEIVED:  07/24/80  JA: NM  4
 8048670  NM-0366-80      3003922252 103   JICARILLA #112                      W LINDRITH (GALLUP/DAKOT   125.0 EL PASO NATURAL GAS
-CONOCO INC                              RECEIVED:  07/24/80  JA: NM  4
 8048627  NM-0430-80      3002526486 103   BRITT B NO 26                       NMFU                        30.0 WARREN PETROLEUM
 8048605  NM-0431-80-B    3002526540 103   BURGER B-20 NO 2 (BLINEBRY)         NMFU                        24.0 WARREN PETROLEUM CO
 8048604  NM-0431-A       3002526540 103   BURGER B-20 NO 2 (TUBB)             NMFU                        79.0 WARREN PETROLEUM CO
 8048628  NM-0440-80      3002526565 103   LYNN A NO 6                         NMFU                        51.0 EL PASO NATURAL GAS
 8048606  NM-0432-80-A    3002526511 103   WARREN UNIT NO 78(TUBB)             NMFU                        25.0 WARREN PETROLEUM CO
 8048607  NM-0432-80-B    3002526510 103   WARREN UNIT NO 78(BLINE BRY)        NMFU                         4.0 WARREN PETROLEUM CO
-EL PASO EXPLORATION CO                  RECEIVED:  07/24/80  JA: NM  4
 8048614  NM-0404-80      3003906063 108   JICARILLA 123 C #12                 SOUTH BLANCO-PICTURED CL    18.0 NORTHWEST PIPELINE C
-EL PASO NATURAL GAS COMPANY             RECEIVED:  07/24/80  JA: NM  4
 8048671  NM-0397-80      3002500000 108   CARLSON FED #2                      JALMAT-YATES GAS            20.0 EL PASO NATURAL GAS
 8048613  NM-0403-80      3004500000 108   CLEVELAND #5                        FULCHER KUTZ-PICTURED CL    24.0 EL PASO NATURAL GAS
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048651	NM-0386-80	3004520812	108		DAY A #12	BLANCO-PICTURED CLIFFS G	20.0	EL PASO NATURAL GAS
8048681	NM-0394-80	3004520494	108		FEUILLE #2	BLANCO-PICTURED CLIFFS G	23.0	EL PASO NATURAL GAS
8048620	NM-0410-80	3004523720	103		HARDIE E #1A	BLANCO MESAVERDE	130.0	EL PASO NATURAL GAS
8048680	NM-0393-80	3004520988	108		HEATON #28	BLANCO-PICTURED CLIFFS G	21.0	EL PASO NATURAL GAS
8048622	NM-0412-80	3004523713	103		HEATON #5A	BLANCO MESAVERDE	110.0	EL PASO NATURAL GAS
8048655	NM-0417-80	3004520531	108		HUERFANO UNIT #186	BASIN-DAKOTA GAS	15.0	EL PASO NATURAL GAS
8048656	NM-0421-80	3004520764	108		HUERFANO UNIT #213	BASIN-DAKOTA GAS	16.0	EL PASO NATURAL GAS
8048642	NM-0375-80	3004523709	103		KING #1A	BLANCO MESAVERDE	100.0	EL PASO NATURAL GAS
8048673	NM-0396-80	3003920255	108		KLEIN #14	OTERO-CHACRA GAS	24.0	EL PASO NATURAL GAS
8048677	NM-0387-80	3003905206	108		LINDRITH UNIT #83	SOUTH BLANCO-PICTURED CL	18.0	EL PASO NATURAL GAS
8048648	NM-0380-80	3004523842	103		MARSHALL #1E	BASIN DAKOTA	70.0	EL PASO NATURAL GAS
8048647	NM-0379-80	3004523844	103		MCADAMS #5E	BASIN DAKOTA	80.0	EL PASO NATURAL GAS
8048650	NM-0383-80	3003906802	108		RINCON UNIT #26	SOUTH BLANCO-PICTURED CL	18.0	EL PASO NATURAL GAS
8048649	NM-0381-80	3003921973	103		RINCON UNIT #99A	BLANCO MESAVERDE	220.0	EL PASO NATURAL GAS
8048678	NM-0388-80	3003907002	108		RIPLEY #3	BLANCO-MESAVERDE GAS	18.0	EL PASO NATURAL GAS
8048654	NM-0416-80	3003921045	108		SAN JUAN 27-4 UNIT #115	TAPACITO-PICTURED CLIFFS	18.0	EL PASO NATURAL GAS
8048629	NM-0441-80	3003907171	108		SAN JUAN 27-4 UNIT #18	BLANCO-MESAVERDE GAS	11.0	EL PASO NATURAL GAS
8048630	NM-0442-80	3003906888	108		SAN JUAN 27-5 UNIT #51 MV & PC	SOUTH BLANCO-PICTURED CL	24.0	EL PASO NATURAL GAS
8048644	NM-0420-80	3003906774	108		SAN JUAN 27-5 UNIT #93	SOUTH BLANCO-PICTURED CL	20.0	EL PASO NATURAL GAS
8048652	NM-0414-80	3003907330	108		SAN JUAN 28-5 UNIT #1	BLANCO-MESAVERDE GAS	10.0	EL PASO NATURAL GAS
8048623	NM-0413-80	3003907242	108		SAN JUAN 28-7 UNIT #109	BLANCO-MESAVERDE GAS	9.0	EL PASO NATURAL GAS
8048621	NM-0411-80	3004523428	103		SAN JUAN 32-9 UNIT #5A	BLANCO MESAVERDE	110.0	EL PASO NATURAL GAS
8048653	NM-0415-80	3004511364	108		SAN JUAN 32-9 UNIT X #70	BLANCO-MESAVERDE GAS	20.0	EL PASO NATURAL GAS
8048679	NM-0392-80	3004506406	108		SCHWERDTFEGER A #2	SOUTH BLANCO-PICTURED CL	20.0	EL PASO NATURAL GAS
8048645	NM-0377-80	3004523988	103		SHARP #1A	BLANCO MESAVERDE	180.0	EL PASO NATURAL GAS
8048646	NM-0378-80	3004523815	103		SHARP #2A	BLANCO MESAVERDE	180.0	EL PASO NATURAL GAS
8048672	NM-0395-80	3003920371	108		VAUGHN #13	BASIN-DAKOTA GAS	18.0	EL PASO NATURAL GAS
8048641	NM-0374-80	3004523772	103		WARREN #1A	BLANCO MESAVERDE	150.0	EL PASO NATURAL GAS
8048643	NM-0376-80	3004523771	103		WARREN #3A	BLANCO MESAVERDE	150.0	EL PASO NATURAL GAS
-MNG OIL COMPANY					RECEIVED: 07/24/80 JA: NM 6			
8048599	NM042280102	3001526250	102		WILSON & FEDERAL #4 NM18644	SIOUX YATES	18.0	EL PASO NATURAL GAS
8048600	NM042280103	3001526250	103		WILSON & FEDERAL #4 NM18644	SIOUX YATES	18.0	EL PASO NATURAL GAS
-JEROME P MCHUGH					RECEIVED: 07/24/80 JA: NM 6			
8048639	NM-0372-80	3004512113	108		PRICE #1	BASIN DAKOTA	19.0	EL PASO NATURAL GAS
-JOHN E SCHALK					RECEIVED: 07/24/80 JA: NM 6			
8048674	NM-4382-79	3003921137	108		SCHALK 29-4 WELL #5	CHOZA MESA PICTURED CLIF	0.0	NORTHWEST PIPELINE C
-LADD PETROLEUM CORPORATION					RECEIVED: 07/24/80 JA: NM 6			
8048676	NM-0337-80	3004500000	103		FEDERAL A #2-E	BASIN DAKOTA	432.5	SOUTHERN UNION GATHE
-LIVELY EXPLORATION COMPANY					RECEIVED: 07/24/80 JA: NM 6			
8048635	NM 0282-80	3004521010	108		LIVELY #1	SAN JUAN	13.5	EL PASO NATURAL GAS
-MCCLELLAN OIL CORPORATION					RECEIVED: 07/24/80 JA: NM 6			
8048664	NM-0347-80	3000560559	102		J J FEDERAL NO 1 WELL NM 12687	WILDCAT (ABO) 4034-52 42	90.0	TRANSWESTERN PIPELIN
8048665	NM-0348-80	3000560584	102		MM FEDERAL NO 1 WELL NM 0559993	WILDCAT (ABO) 4034-52 42	106.0	TRANSWESTERN PIPELIN
-NORTHWEST EXPLORATION COMPANY					RECEIVED: 07/24/80 JA: NM 6			
8048632	NM-0444-80	3004320434	102		NATANI #2	UNNAMED CHACRA	24.0	
-NORTHWEST PIPELINE CORPORATION					RECEIVED: 07/24/80 JA: NM 6			
8048637	NM-0289-80	3003921813	103		SJ 30-5 48 DK	BASIN DAKOTA	36.0	NORTHWEST PIPELINE C
8048636	NM-0288-80	3004523635	103		SJ 32-8 #40	BLANCO MESAVERDE	32.0	EL PASO NATURAL GAS
-ODESSA NATURAL CORPORATION					RECEIVED: 07/24/80 JA: NM 6			
8048610	NM-0367-80	3003922196	103		CHACON JICARILLA D-16	CHACON DAKOTA ASSOCIATED	0.0	EL PASO NATURAL GAS
-PERRY R BASS					RECEIVED: 07/24/80 JA: NM 6			
8048668	NM-035180103	3001522909	103		BIG EDDY UNIT NO 73	WILDCAT MORROW	400.0	NATURAL GAS PIPELINE
8048669	NM-035280103	3001522966	103		BIG EDDY UNIT NO 76	WILDCAT MORROW	650.0	NATURAL GAS PIPELINE

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                                                                        VOLUME  261          PAGE  005
JD NO     JA DKT          API NO     SEC D WELL NAME                           FIELD NAME               PROD    PURCHASER
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-RINCON OPERATING CO                     RECEIVED:  07/24/80  JA: NM  4
 8048634   NM-0159-80     3004523396 103   UTE DOME FEDERAL #1                 UTE DOME                  0.0
-SOUTHLAND ROYALTY CO                    RECEIVED:  07/24/80  JA: NM  4
 8048638   NM-0296-80     3001504282 108   GISSLER A #4                        FREN                      7.0 PHILLIPS PETROLEUM C
 8048612   NM-0453-80     3004523749 103   HANKS #11-E                         BASIN DAKOTA             80.0 SOUTHERN UNION GATHE

 8048660   NM-0450-80     3003922009 103   JICARILLA 101 #6                    BLANCO MESA VERDE       125.0 GAS CO OF NEW MEXICO
 8048661   NM-0451-80-B   3003922072 103   JICARILLA 101 #8                    BLANCO MESA VERDE       100.0 GAS CO OF NEW MEXICO
 8048662   NM-0451-80-A   3003922072 103   JICAHILLA 101 #8                    BLANCO PICTURED CLIFFS   75.0 GAS CO OF NEW MEXICO
 8048601   NM-0425-80     3002526567 103   QUERECHO #1                         SOUTH CORBIN             29.0 PHILLIPS PETROLEUM C
-SUPRON ENERGY CORPORATION               RECEIVED:  07/24/80  JA: NM  4
 8048633   NM-0445-80     3004513303 108   NICKSON #1                          BALLARD P C               9.6 GAS CO OF NEW MEXICO
 8048657   NM-0446-80     3004513319 108   NICKSON #2                          BALLARD PICTURE CLIFFS    4.1 GAS CO OF NEW MEXICO
 8048658   NM-0447-80     3004505752 108   NICKSON #3                          BALLARD PICTURE CLIFFS    4.0 GAS CO OF NEW MEXICO
 8048608   NM-0433-80     3004505801 108   NICKSON #4                          BALLARD PICTURE CLIFFS    3.5 GAS CO OF NEW MEXICO
 8048609   NM-0434-80     3004505768 108   NICKSON #5                          BALLARD PICTURE CLIFFS    5.0 GAS COMPANY OF NEW M
 8048624   NM-0435-80     3004505723 108   NICKSON #6                          BALLARD PICTURE CLIFFS    2.7 GAS CO OF NEW MEXICO
 8048625   NM-0436-80     3004505730 108   NICKSON #7                          BALLARD PICTURE CLIFFS    4.1 GAS CO OF NEW MEXICO
-TENNECO OIL COMPANY                     RECEIVED:  07/24/80  JA: NM  4
 8048602   NM-0429-80     3004523800 103   DELHI-TAYLOR #5-E                   BASIN DAKOTA            500.0 EL PASO NATURAL GAS
 8048603   NM-0430-80     3004523799 103   DELHI-TAYLOR 6-E                    BAIN DAKOTA             500.0 EL PASO NATURAL GAS
 8048618   NM-0408-80     3004523294 103   M JACKSON #2-A                      BASIN DAKOTA            737.0 EL PASO NATURAL GAS
 8048616   NM-0406-80     3004523824 103   HUGHES #5                           BASIN DAKOTA            500.0 EL PASO NATURAL GAS
 8048619   NM-0409-80     3004523825 103   HUGHES #6                           BASIN DAKOTA            500.0 EL PASO NATURAL GAS
 8048615   NM-0405-80     3004523816 103   TAPP #3                             BASIN DAKOTA            500.0 EL PASO NATURAL GAS
 8048617   NM-0407-80     3004523967 103   TAPP #4                             BASIN DAKOTA            500.0 EL PASO NATURAL GAS
-UNION OIL COMPANY OF CALIF              RECEIVED:  07/24/80  JA: NM  4
 8048666   NM-035080102 3002526440 102   LAGUNA DEEP UNIT FEDERAL #2           EAST GEM (MORROW)       730.0 LLANO INC
 8048667   NM-035080103 3002526440 103   LAGUNA DEEP UNIT FEDERAL #2           EAST GEM (MORROW)       730.0 LLANO INC
-YATES PETROLEUM CORPORATION             RECEIVED:  07/24/80  JA: NM  4
 8048631   80-0443-NM     3000560649 102   GYP MO FEDERAL NO 1                 WILDCAT                   0.0 TRANSWESTERN PIPELIN
 8048626   NM-0438-80     3001522978 103   LECHUGUILLA CANYON UNIT NO 4        WILDCAT                   0.0 EL PASO NATURAL GAS

 OTHER PURCHASERS
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8048687    NORTHWEST PIPELINE CORP
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25884 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-602]

Kansas City Power & Light Co.; Proposed Tariff Change

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Kansas City Power & Light Company (KCPL) tendered for filing proposed Addenda to the following listed Service Schedules for the indicated companies and municipalities.

Customer and Service Schedule

- Baldwin City, Kansas
  - Schedule E–MPA–1, Supplement No. 9 to KCPL's Rate Schedule FERC No.
- Carrollton, Missouri
  - Schedule E–MPA–1, Supplement No. 9 to KCPL's Rate Schedule FERC No. 86
- Garnett, Kansas
  - Schedule G–MPA, Supplement No. 8 to KCPL's Rate Schedule FERC No. 78
- Marshall, Missouri
  - Schedule G–MPA, Supplement No. 11 to KCPL's Rate Schedule FERC No. 83
- Missouri Public Service Company
  - Schedule D, Supplement No. 5 to KCPL's Rate Schedule FERC No. 53
  - Schedule SE, Supplement No. 6 to KCPL's Rate Schedule FERC No. 53
- Ottawa, Kansas
  - Schedule E–MPA, Supplement to undesignated Rate Schedule filed in FERC Docket No. ER80–510
- The Empire District Electric Company
  - Schedule B, Supplement No. 2;
  - Schedule C, Supplement No. 3;
  - Schedule D, Supplement No. 4; and
  - Schedule G, Supplement No. 7; KCPL's Rate Schedule FERC No. 88
- The Kansas Power and Light Company
  - Schedule D, Supplement No. 2 to KCPL's Rate Schedule FERC No. 55
- Union Electric Company
  - Schedule II, Supplement No. 5 to KCPL's Rate Schedule FERC No. 63
- Associated Electric Cooperative, Inc.
  - Schedule SE, Supplement No. 4 and Schedule E–MPA–1, Supplement No. 5 to KCPL's
  - Rate Schedule FERC No. 31A
- Northern States Power Company; Interstate Power Company; Iowa Public Service Company; Omaha Public Power District; St. Joseph Light & Power Company
  - Schedule I, Schedule III, Schedule IV and Schedule V to the Twin Cities-Iowa-Omaha-Kansas City 345 KV Interconnection Coordinating Agreement, Supplement No. 5 to KCPL's Rate Schedule FERC No. 67

KCPL states that the purpose of this filing is to update the filed Service Schedules to comply with FERC Order No. 84 and requests and effective date 60 days from the date of this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25903 Filed 8-22-80; 8:45am]

BILLING CODE 6450-85-M

[Docket Nos. RP78-37, et al.]

Lawrenceburg Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

August 15, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, on or before September 2, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
7/22/80	Lawrenceburg Gas Transmission Corp.	RP78–37, *et al.*	Report.
7/24/80	Great Lakes Gas Transmission Co.	RP79–10	Do.
7/30/80	El Paso Natural Gas Co.	RP78–18	Do.
8/1/80	Great Lakes Gas Transmission Co.	RP79–10	Do.
8/6/80	Southern Natural Gas Co.	G–4264	Do.

[FR Doc. 80-25904 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-139]

The Louisiana Land & Exploration Co.; Application for Adjustment

August 18, 1980.

Take notice that on July 31, 1980, The Louisiana Land and Exploration Company (LL&E), P.O. Box 60350, New Orleans, LA 70160 filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3301, *et seq.* LL&E petitions for a modification to, exception from, and/or exception to 18 CFR 273.202(b) of the Commission's Regulations. In addition, LL&E requests interim relief to permit it to continue collecting the section 102 NGPA price pending action on its application for adjustment.

Specifically, LL&E seeks relief from the time limit imposed under the interim collection procedures set forth in section 273.202(b) of the Commission's Regulations for the LL&E Fee #6 Well, Lake Hatch Field, Terrebonne Parish, Louisiana. LL&E requests that the time limit for the interim collections for this well be extended from July 31, 1980, until October 31, 1980.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's

V 45 AG 25 80 UMI

Rules of Practice and Procedure, Order No. 24 issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR § 1.41(e). All Petitions to intervene must be filed on or before September 9, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-25905 Filed 8-22-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-592]

Monongahela Power Co. and West Penn Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on August 8, 1980 tendered for filing on behalf of Monongahela Power Company and West Penn Power Company, two of the electric utility members of the integrated Allegheny Power System, Modification No. 10 dated August 1, 1980 to the Operating Agreement dated June 1, 1971 between Monongahela Power Company, West Penn Power Company, Appalachian Power Company, Ohio Power Company, and Wheeling Electric Company, three of the electric utility members of the integrated American Electric Power System, designated Monongahela Rate Schedule FERC No. 5, West Penn Rate Schedule FERC No. 5, Appalachian Rate Schedule FERC No. 55, Ohio Power Rate Schedule FERC No. 73, and Wheeling Rate Schedule FERC No. 5.

Modification No. 10: (1) provides that the energy cost for third party Short-Term and Limited Term transactions shall be the out-of-pocket cost of such energy (which in each case includes any losses incurred) plus the maximum of 1 mill per kilowatt hour in order to comply with the Commission's orders in Docket RM79-29 and in the case of Monongahela and West Penn to comply with the condition imposed by the Commission in that connection in Docket ER80-195; (2) adds a specific section dealing with third party emergency transactions which (a) imposes a demand charge of 2 mills in the case of the American Electric Power System companies and 1.7 mills in the case of the Allegheny Power System companies for such third party transactions and provides that the energy cost shall be the out-of-pocket cost of such energy (which in each case includes any losses incurred) plus a maximum of 1 mill per kilowatt hour; and (3) increases the demand charge from 20¢ to 24¢ per kilowatt week for Short-Term and from 85¢ to $1.00 per kilowatt month for Limited Term third party transactions when the supplying group is the Allegheny Power System companies.

Allegheny Power Service Corporation notes that the increases in demand charges for Short-Term and Limited Term third party service will make those charges the same as those charged by the American Electric Power System companies and which have been included for these services in filings with other systems interconnected with the Allegheny Power System companies.

APSC requests waiver of certain of the Commission's requirements to allow these modifications to become effective 60 days after the "filing date" and states that since Emergency, Short-Term and Limited-Term Power and Energy transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate, it is impossible to estimate the effect on revenues which would result from Modification No. 10.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-25906 Filed 8-22-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 2629]

The Village of Morrisville, Vt.; Application for Major License

August 15, 1980.

Take notice that an application was filed November 17, 1966, and revised on January 29, 1980, and June 16, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r), by the Village of Morrisville for a major license for the Morrisville Project. The proposed project would be located on the Lamoille River, Elmore Pond Brook, and the Green River in Lamoille County, Vermont. Correspondence with the Applicant on this matter should be addressed to: Mr. Robert B. Page, Superintendent, Morrisville Water and Light Department, Morrisville, Vermont 05661; and Kleinschmidt and Dutting, Consulting Engineers, 73 Main Steet, Pittsfield, Maine 04967.

Project Description—The project would comprise the following existing facilities: (1) *Cadys Falls Plant* consisting of: a concrete gravity dam 371 feet ling with a 186-foot long spillway with crest elevation of 576.89 U.S.G.S. datum and 3.5-foot high flashboards; a reservoir with a surface area of 150 acres at pond elevation 580.39; a 9-foot diameter penstock extending from an intake 1,100 feet downstream to a surge tank, from which two penstocks extend to the powerhouse; two hydroelectric units at 600 kW and 700 kW capacity; and appurtenant facilities; (2) *Morrisville Plant* consisting of: a concrete gravity dam 250 feet long; two spillways: one, a part of the dam, 216 feet long with crest at elevation 627.79 and 4-foot flashboards; and the other 80 feet long with crest elevation at 629.78 and 2-foot flashboards in a 150-foot long concrete wall; a small pond; two 150-foot long penstocks, one 7 feet in diameter, the other 10 feet, extending from the intake to the powerhouse; two hydroelectric units of 600 kW and 1,200 kW capacity; and appurtenant facilities; (3) *Elmore Lake Storage Reservoir* consisting of: a concrete weir 36-foot long which raises the lake 4 feet above natural level with crest at elevation 1,139.0 feet, and storage for power use downstream of 700 acre-feet; and (4) *Green River Storage Reservoir* consisting of: a concrete arch dam constructed to elevation 1,225 feet and an earth dike 20 feet high and 250 feet long with a 60-foot long spillway in the arch dam with crest elevation at 1,220 (a stilling pool for the spillway being formed by a 20-foot high weir topped by flashboards); a storage reservoir of 17,400 acre-feet; a 6-foot diameter penstock from the dam to the upper gate house for future power facilities; and a presently unconstructed powerhouse which would have an installed capacity of 2,000 kW.

Project power is and will be used by the Applicant for public utility purposes.

Computing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 20, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later then Feb. 17, 1981. Since this application was filed during the term of a preliminary permit, any party intending to file a competing application should review 18 CFR 4.33(h). A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), *as amended* 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be hard or to make any protest about this application should file a petiiton to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the apropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 20, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-25871 Filed 8-22-80 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. G-5716, et al.]

Northern Natural Gas Producing Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

August 15, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-5716D, August 7, 1980	Northern Natural Gas Producing Company, Nine Greenway Plaza, Suite 26700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Finney and Grant Counties, Kansas.	To release gas for irrigation fuel.	
G-7642D, August 8, 1980	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Stevens County, Kansas.	To release gas for irrigation fuel.	

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-25907 Filed 8-22-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP80-128]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

August 15, 1980.

Take notice that on August 1, 1980, Northwest Pipeline Corporation (Northwest) tendered for filing with the Commission, its FERC Gas Tariff, First Revised Volume No. 1 which, when accepted for filing and permitted to become effective, will supercede Northwest's currently effective FERC Gas Tariff, original Volume No. 1. Additionally, Northwest is tendering for filing and acceptance Fifth Revised Sheet No. 1 and Original Sheet Nos. 1-A, 1-B and 1-C to its FERC Gas Tariff, Original Volume No. 2.

As more fully explained in the instant filing, the basic purpose for the complete revision of Northwest's current tariff is to:

(1) Increase certain sections of the tariff to allow for future expansion;

(2) Revise certain provisions to reflect current operating conditions;

(3) Eliminate rate schedules and/or provisions in the General Terms and Conditions no longer in effect;

(4) Enhance interpretation and clarity of provisions throughout the tariff;

(5) Provide a consistent reference to the Federal Energy Regulatory Commission; and

(6) To update Northwest's index to its Volume No. 2 Tariff.

The proposed effective date of the instant filing is September 1, 1980. A copy of this filing is being served on Northwest's jurisdictional customers and state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25908 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-620]

Ohio Edison Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Ohio Edison Company on August 12, 1980, tendered for filing a proposed change in its FERC electric service tariff FERC No. 66, an amendment No. 4 to the Interconnection Agreement between The Dayton Power and Light Company and Ohio Edison Company. The amendment provides that the rate for Interchange Power from a third party shall be the cost of such power plus transmission losses and a demand charge of 2 mills per KWH if Ohio Edison is the supplying party and 1.3 mills per KWH if Dayton is the supplying party and provides that energy charge for Short Term Power shall be out-of-pocket cost plus ten percent but if purchased from a third party shall be the cost of such energy plus 1 mill per KWH plus the transmission losses of the supplying party.

The Dayton Power and Light Company has concurred with the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file at the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25909 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-621]

Ohio Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (Ohio Power) tendered for filing on August 13, 1980, a new rate schedule, Modification No. 12 between Ohio Power and The Cleveland Electric Illuminating Company (CEI). This Modification provides for the sale of System Unit Power by Ohio Power and the purchase by CEI of electric power and electric energy associated therewith for the contract period and in the demand quantities as follows: August 1, 1980–December 31, 1980—400,000 kW.

Applicant has requested the Commission to accept the Amendment for filing on or before August 1, 1980 as it intends to commence the sale of System Unit Power to CEI as of that date.

The proposed demand rate for System Unit Power of $5.35 per kilowatt month would yield anticipated revenues on 400,000 kW of sales of $31,373,600 over the five-month contract period. There have been no previous sales of System Unit Power between the parties.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25910 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket N. RP80-129]

State of Ohio Ex Rel. William J. Brown (Attorney General); Complaint

August 18, 1980.

Take notice that on August 4, 1980, William J. Brown, Attorney General of the State of Ohio, filed a complaint regarding the tariff provisions and purchased gas cost adjustment charges of Columbia Gas Transmission Corporation, Columbia LNG Corporation, Consolidated Gas Supply Corporation and Consolidated System LNG Company.

This complaint, which was filed pursuant to Section 13 of the Natural Gas Act of 1938 and Section 1.6 of the Commission's Rules of Practice and Procedure, alleges that the aforenamed companies and corporations have committed violations of their tariffs by failing to institute "minimum bill" provisions contained therein, by attempting to pass on to customers the capital costs of nonutilized or underutilized facilities through the PGA clause, while allegedly violating both the just and reasonable standard of the Natural Gas Act and the public policy embodied in Opinion Nos. 622 and 622-A.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25874 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-424]

Pacific Gas Transmission Co.; Staff Inspection

August 15, 1980.

Take notice that on August 21 and August 22, 1980, the Commission staff and a representative of the sponsors of the Rocky Mountain Pipeline project will conduct an environmental inspection of the pipeline route proposed in the above-referenced docket. Alternative routes will also be viewed. The primary alternative route to be inspected involves portions of the pipeline systems of Northwest Pipeline Corporation and El Paso Natural Gas Company.

For further information, please call Kenneth Frye at 202-357-9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25911 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-612]

South Carolina Electric & Gas Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, South Carolina Electric & Gas Company (SCE&G) tendered for filing an Amendment to certain rate schedules contained in SCE&G's interconnection agreements with Carolina Power & Light Company, Duke Power Company, and the South Carolina Public Service Authority. SCE&G states that the Amendment being filed is a unilateral change being made by SCE&G for the purpose of complying with FERC Order No. 84 issued on May 7, 1980, in Docket No. 79-29.

According to SCE&G, copies of this filing have been sent to the affected Companies and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25912 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. RP78-36 and RP80-49]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

August 18, 1980.

Take notice that Southern Natural Gas Company (Southern) on August 12, 1980 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would reduce revenues from jurisdictional sales and service by approximately $20,259,000 from rates proposed in Southern's July 24, 1980 PGA filing to become effective on July 1, 1980.

Southern states that this filing includes a revised tariff sheet with a proposed effective date of August 1, 1980. On June 30, 1980 Southern filed revised tariff sheets with a proposed effective date of August 1, 1980 which reflected reduced rates as provided for in Stipulation III of Southern's Docket No. RP78-36 and current gas costs as provided for in Southern's July 1, 1980 PGA filing made on May 30, 1980. However, on July 24, 1980 Southern made a supplemental PGA filing pursuant to the Commission's Order issued June 30, 1980 which reflected a reduction of .677¢ in the commodity and one part rates. This filing reflects the reduction in gas costs as provided for in Southern's July 24, 1980 PGA filing.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25870 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP78-68]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

August 15, 1980.

Take notice that on Aug. 1, 1980, United Gas Pipe Line Company (United) tendered for filing Substitute Fifty-First Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 187, Substitute Sixth Revised Sheet No. 226, Substitute Seventh Revised Sheet No. 289-A, Substitute Fourth Revised Sheet No. 397, Substitute Fourth Revised Sheet No. 401, Substitute Fourth Revised Sheet No. 407, Substitute Fourth Revised Sheet No. 448, Substitute Third Revised Sheet No. 593, Substitute Third Revised Sheet No. 625, Substitute Second Revised Sheet No. 651, Substitute Fourth Revised Sheet No. 685, Substitute Second Revised Sheet No. 753, Substitute Second Revised Sheet No. 771, Substitute First Revised Sheet No. 832, Substitute Fourth Revised Sheet No. 909, Substitute First Revised Sheet No. 926, Substitute Fifth Revised Sheet No. 957, Substitute First Revised Sheet No. 993, Substitute First Revised Sheet No. 1018, Substitute First Revised Sheet No. 1055, Substitute First Revised Sheet No. 1073, Substitute First Revised Sheet No. 1090, Substitute Third Revised Sheet No. 1156, Substitute First Revised Sheet No. 1173, Substitute First Revised Sheet No. 1196, Substitute First Revised Sheet No. 1234, Substitute First Revised Sheet No. 1256, Substitute Original Sheet No. 1274, Substitute Original Sheet No. 1296, Substitute Original Sheet No. 1319, Substitute Original Sheet No. 1340, Substitute Original Sheet No. 1359, Substitute Original Sheet No. 1412, Substitute Original Sheet No. 1430, Substitute Original Sheet No. 1446, Substitute Original Sheet No. 1478, Alternate Substitute Original Sheet No. 1522, Substitute Original Sheet No. 1541, and Substitute Original Sheet No. 1571 of its Original Volume No. 2. These proposed tariff sheets reflect rates computed in accordance with the terms of the settlement, including a reduction in the settlement rates pursuant to Article XI to reflect a reduced income

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tax allowance effective December 1, 1979.

United has requested that the Commission waive its notice requirements and authorize United to place the settlement rates reflected on the revised tariff sheets in effect as of August 1, 1980. Such action will permit United to compute and made refunds in accordance with the settlement for all deliveries from December 1, 1978 to July 31, 1980 and will prevent accumulation of refund amounts attributable to the difference between the rates placed in effect under the RP78–68 filings and the settlement rates after July 31, 1980.

Copies of the proposed tariff sheets have been mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25872 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–468]

United Gas Pipe Line Co.; Application

August 18, 1980.

Take notice that on July 30, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–468 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation of a tap to enable Entex, Inc. (Entex), a successor in interest to United Gas, Inc., to provide gas service for a residential subdivision, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a tap on its existing 10-inch Bogalusa line near Collins, Covington County, Mississippi. Applicant states that pursuant to the terms and conditions of an existing service agreement between it and Entex, Applicant through Entex makes gas service available to the Laurel, Mississippi, Service Area which service includes supplying rural consumers through taps and rural service lines serving various communities and their adjoining environs.

Applicant asserts that it has been informed by Entex that the proposed tap is required to supply a high priority residential subdivision located near Collins, Mississippi. The proposed tap is estimated to cost $1,200 which cost would be met by funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25873 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–616]

Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing Company submits the filing:

Take notice that Wisconsin Public Service Corporation on August 12, 1980, tendered for filing revised Service Schedules A, B, D, E, and F to the Master Interconnection Agreement with Wisconsin Power and Light Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon Wisconsin Power and Light Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980 Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25875 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–617]

Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Wisconsin Public Service Corporation on August 12, 1980 tendered for filing revised Service Schedules B, D, E, and F to the Partial Requirements Service Agreements with the City of Manitowoc and Consolidated Water Power Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon the City of Marshfield, City of Manitowoc and Consolidated Water Power Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25876 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–618]

Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing company submits the following:

Take notice that Wisconsin Public Service Corporation on August 12, 1980 tendered for filing revised Service Schedules A, B, D, E, and F to the Power Pool Agreement with Wisconsin Power and Light Company and Madison gas and Electric Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon Wisconsin Power and Light company and Madison Gas and Electric Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25877 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–615]

Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing company submits the following:

Take notice that Wisconsin Public Service Corporation on August 13, 1980, tendered for filing revised Service Schedules A, C, D, E, and F to the Interconnection and Interchange Agreement with Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25878 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51115; FRL 1586–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–184; September 28, 1980; PMN 80–190, October 3, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Rick Green, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any subtance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN of new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section

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5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51115]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 15, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-184

Close of Review Period. October 28, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Manufacturing site—East-north central region, U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of: Castor oil fatty acid, benzoic acid, epoxy resin, fumaric acid, styrene, and *N,N*-dimethyl ethanol amine.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The substance will be used in an open use that will release less than 50 kilograms (kg) of the substance to the environment per year. The use may involve potential exposure to skin and eyes.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	25,000	75,000
2d year	75,000	300,000
3d year	300,000	400,000

Physical/Chemical Properties.

	Polymer solution	Dried polymer
Solid content	61.7 percent	
Density	1.04 g/ml	1.22 g/ml.
Solubility in water		5.0 percent 020°C.

	Polymer solution	Dried polymer
Number average molecular weight	2600-2800	
Weight average molecular	6600-6950	
Flash point (closed cup)	125°F	Above 212°F.
Residual monomer	0.6 percent	
pKa	6.8	
Elemental analysis		Percent C=77.00 Percent H=7.21 Percent O=15.79.
Chemical oxygen demand	2,150,000	(μgO/g).

Toxicity of Raw Materials. 9-11 fatty acid. Not considered a hazardous material under current regulation of the Occupational Safety and Health Act.

Benzoic acid. Prolonged contact of benzoic acid with the skin may cause irritation and have a keratolytic effect. The oral LD_{50} in rats is 2,530 mg/kg. Acute and chronic toxicity by ingestion is low.

Solid epoxy resin. The skin and eye exposure in rabbits has not been found to cause irritation or sensitization. The oral LD_{50} in rats is about 30,000 mg/kg.

Fumaric acid. The oral LD_{50} in rats is 10,700 mg/kg and the skin LD_{50} in rabbits is 20 g/kg. Dust may be irritating to nose and eyes because of mildly acidic nature.

Styrene. The oral LD_{50} in rats is 5,000 mg/kg (minimally toxic). The American Conference of Governmental Industrial Hygienists (ACGIH) has established a Threshold Limit Value (TLV) of 100 ppm to protect against narcosis and irritation.

Dimethylethanolamine. Slightly toxic by ingestion and slightly toxic through the skin. The oral LD_{50} in rats is 2,340 mg/kg and the skin LD_{50} in rabbits is 1,370 mg/kg. Vapors may irritate nose and throat.

Cumene hydroperoxide. Moderately toxic by oral route and severely toxic by inhalation. The oral LD_{50} in rats is 382 mg/kg and the inhalation LD_{50} in rats is 220 ppm per 4 hours. Skin contact causes chemical burns.

Xylene. The oral LD_{50} in rats is 4,300 mg/kg. The ACGIH has established a TLV of 100 ppm to protect against irritation and systemic effects.

Butyl cellosolve. The oral LD_{50} in rats is 1,480 mg/kg. The ACGIH has established a TLV of 50 ppm to protect against irritation and systemic effects.

Occupational Exposure

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration	
			Hr/Da	Da/Yr	Average	Peak
Manufacture	Inhalation Dermal	8	24	46		1-10 ppm.
Disposal	Inhalation Dermal	2	25	10		0-1 ppm.

Environmental Release/Disposal. The manufacturer estimates that less than 50 kg of the substance will be released to the environemnt per year. Each reactor at the manufacturing plant is equipped with an exhaust and fume condenser. The effluent (air borne) is also treated by an exhaust fume scrubber. Scrubber water goes to biological treatment lagoons with a sixty-day retention period. Sludge is transported by state licensed carriers to a state licensed landfill.

PMN 80–190.

Close of Review Period. November 2, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Copolyester from dimethyl terephthalate, alpha, omega-hydroxy terminated aliphatic hydrocarbons; and a ployalkylene glycol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Thermoplastic elastomeric resin for the production of tubing, hose, molded articles, and wire jacketing.

Production Estimates. Confidential.

Physical/Chemical Properties

Hardness, Shore D—50 points.
Melting point—187°C.
Thermogravimetric analysis:
  Initial decomposition temperature (N_2)—295°C.
  Extrapolated decomposition temperature (N_2)—371°C.
Specific gravity—1.20.
Solubility—Soluble in chloroform and orthochlorophenol; insoluble in water and acetone.

[FR Doc. 80–25810 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

[PP OG2300/T260; FRL 1586–3]

Mobay Chemical Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On July 16, 1980 temporary tolerances were established for residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol in or on fresh apples and fresh grapes at 1 part per million (ppm).

FOR ADDITIONAL INFORMATION CONTACT: Eugene Wilson, Product Manager (PM) 21, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–349, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202/755–1806).

SUPPLEMENTARY INFORMATION: On December 3, 1979 and May 6, 1980, Mobay Chemical Corp., Agricultural Chemicals Division, PO Box 4913, Kansas City, MO 64120 requested that tolerances be established for residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite, beta-(4-chlorophenoxyl)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol in or on fresh apples and fresh grapes at 1 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permits that were issued under the Federal Insecticide, Fungicide, and Rodenticide Act as amended, 92 Stat. 819; 7 U.S.C. 136.

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and the experimental use permits be used with the following provisions:

1. The total amount of the pesticide to be used will not exceed the amounts authorized in the experimental use permits.

2. Mobay Chemical Corp. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and, on request, make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on December 31, 1982. Residues not in excess of the temporary tolerances remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 136a(j)))

Dated: August 18, 1980.

Herbert Hamson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–25811 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP 180474; FRL 1585–4]

New Jersey Department of Environmental Protection Crisis Exemption for Pirimicarb on Apples To Control Aphids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the New Jersey Department of Environmental Protection (hereafter referred as as "New Jersey") availed itself of a crisis exemption to use pirimicarb on 2,400 acres of apples to control green and rosy apple aphids.

DATE: The crisis exemption became effective on June 12, 1980. By denying the specific exemption under the Federal Insecticide, Fungicide, and Rodenticide Act on June 19, 1980, EPA withdrew New Jersey's right to exercise a crisis exemption for use of pirimicarb.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–0223.

SUPPLEMENTARY INFORMATION: New Jersey stated that dimethoate is the only insecticide recommended for control of green and rosy apple aphids on apples during the summer in New Jersey for its integrated pest management program. According to New Jersey, growers are complaining about the increased difficulty of controlling aphids with dimethoate and other registered aphicides. New Jersey also reported that Pirimor, which contains the active ingredient pirimicarb, can be used in the integrated program for aphid control without upsetting the European red mite/predator balance. According to New Jersey, the use of pirimicarb would prevent substantial economic losses in apple orchards.

New Jersey planned to make a maximum of three applications in a program that would end by August 1, 1980. Application of Pirimor 50W was being made at a rate of 1 ounce active ingredient per 100 gallons of spray, with up to 4 ounces of active ingredient per acre. Application was made by ground equipment by State-certified applicators.

EPA determined that since there were alternative registered, effective pesticides for the control of aphids on apples, the definition of an emergency was not met. Accordingly, EPA denied the request for a specific exemption and withdrew New Jersey's right to exercise a crisis exemption for use of pirimicarb.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: August 18, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–25803 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

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[OPTS 90000; FRL 1585-3]

Toxics Integration Information Series and Toxics Integration Policy Series; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of the Toxics Integration Policy Series Information Series and the Toxics Integration Policy Series. The Information series will provide information on the status of assessment and regulation of chemical substances throughout the Environmental Protection Agency. The Policy Series is designed as an information forum for discussion and development as of policy and implementation approaches for integrated management of chemical substances.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxics Substances (TS-799), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION: Section 9 of the Toxic Substances Control Act (TSCA), Pub. L. 94-469, requires the Environmental Protection Agency to integrate and coordinate the various Federal activities involved with controlling toxic substances whenever regulatory action is contemplated or initiated under this Act.

The Toxics Integration Information Series will provide basic information on the status of assessment and regulation of chemical substances throughout the Environmental Protection Agency. In addition, the series will provide locator and reference information regarding groups and Agencies chartered with chemical substance research, assessment, and regulatory missions. Finally, the series will contain occasional publications analyzing scientific, technical, and business information regarding chemical substances and groups of substances that will be useful to EPA and other decisionmakers.

The Toxics Integration Policy Series will provide a forum for discussion and development of policy and implementation approaches for integrated management of chemical substances throughout the Environmental Protection Agency and the Federal government as well as the State level.

Ordering

Documents in these series will be distributed by the Industry Assistance Office. To order any of the documents in the series, write or call the Industry Assistance Office. To have your name placed on the mailing list to receive notices of future documents as they become available in the Toxics Integration Information Series and the Toxics Integration Policy Series, please complete and return the coupon below to the Industry Assistance Office. (Address above.)

Name ______________________

Company/Organization ______________________

Address or P.O. Box ______________________

City, State, and Zip ______________________

After the initial supply of each document is exhausted, copies can be purchased from the National Technical Information Service (NTIS), whose reference number can be found in the OPTS comprehensive List of Scientific and Technical Reports, also available from the Industry Assistance Office.

This notice announces the availability of four documents in the Toxics Integration Information/Policy Series.

The first, *Perspectives on the Top 50 High Production Chemicals,* reviews the information sources available on 50 high production chemicals from a regulatory, marketing, and chemistry perspective. This document describes the types of information readily available on individual chemicals with special reference to the regulatory status of these chemicals; it comparatively displays TSCA Chemicals in Commerce Inventory data for these chemicals as well as data from other information sources. The document also briefly discusses the impact of projected energy shortages on the manufacture of these chemicals.

The second document, *Overview of Federal Toxics Programs* (in press), describes the organizational and regulatory settings through which 17 major Federal programs deal with toxic chemicals in terms of research, assessment and regulation. This directory allows the reader to understand the various Federal programs that can impact a toxic chemical through the many phases fo its life cycle.

The third document now available in this series is a *Directory of Federal Coordinating Groups for Toxic Substances,* March 1980. This directory provides a ready reference to facilitate communications between Federal agencies concerned with toxics control.

The fourth document is the intitial publication in the companion Toxics Integration Policy Series which is designed as a forum for both staff and estramural studies of cross-cutting toxic chemical policy and implementation issues. This publication, *State Administrative Models for Toxic Management,* describes the three primary management mechanisms that State governments are using to oversee both environmental and chemical regulatory programs to provide for integrated approaches for chemical control.

Dated: August 18, 1980.

Walter W. Kovalick, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80-25804 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

[PP 5G1590/T255; FRL 1586-5]

Tricyclazole; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On June 13, 1980 temporary tolerances were established for the combined residues of the fungicide tricyclazole (5-methyl-1,2,4-triazolo (3,4-*b*)-benzothiazole) and its metabolites 1,2,4-triazolo (3,4-*b*)-benzothiazole-5-methanol in or on rough rice (rice grain with hulls) at 8 parts per million (ppm); in liver and kidney of cattle, swine, horses, goats, poultry, and sheep at 0.3 ppm; and in milk and eggs at 0.03 ppm.

FOR FURTHER INFORMATION CONTACT: Eugene Wilson, Product Manager (PM) 21, Registration Division, (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202-755-1806.

SUPPLEMENTARY INFORMATION: On April 28, 1980 and May 26, 1980, Elanco Products Company, P.O. Box, 1750, Indianapolis, IN 46206 submitted a pesticide petition (PP 5G1590) to the EPA. The petition requested that temporary tolerances be established for the combined residues of the fungicide tricyclazole (5-methyl-1,2,4-triazolo (3,4-*b*)-benzothiazole) and its metabolite 1,2,4-triazolo (3,4,-*b*)-benzothiazole-5-methanol in or on rough rice (rice gain with hulls) at 8 ppm; in liver and kidney of cattle, swine, horses, goats, poultry, and sheep at 0.3 ppm; and in milk and eggs at 0.03 ppm.

These tolerances are to permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide

Act (Pub. L. 80–104, 61 Stat. 163, as amended by Pub. L. 92–516, 86 Stat. 975; Pub. L. 94–140, 89 Stat. 754, Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136.)

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and experimental use permit be used with the following provisions:

1. The total amount of the active fungicide to be used will not exceed the amount authorized in the experimental use permit.

2. Elanco Products Company will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on August 21, 1981. Residues not in excess of the amount remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(1), 68 Stat. 561, (21 U.S.C. 346a(j)))

Dated: August 18, 1980.

Herbert Hamson,

Acting Director, Registration Division, Office of Pesticide Program.

[FR Doc. 80–25809 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1586–8; PP 6G2330/T250]

Mobay Chemical Corp.; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On May 29, 1980, EPA established a temporary tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methlethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity grapes at 0.1 ppm.

FOR FURTHER INFORMATION CONTACT: Eugene Wilson, Product Manager (PM) 21, Registration division (TS–767), Office of Pesticide Programs, Rm. E–349, 401 M Street, SW, Washington, DC 20460, 202/755–1806.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp. Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120, submitted a pesticide petition (PP 6G2330) to the EPA. The petition requested that a temporary tolerance be established for the combined residues of the namatocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity grapes at 0.01 ppm.

This temporary tolerance would permit the marketing of the above raw agricultural commodity treated in accordance with an experimental use permit concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80–104, 61 Stat. 163, as amended by Pub. L. 92–516, Pub. L. 94–140, 89 Stat. 754, Pub. L. 95–396, 92 Stat. 819, 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of a temporary tolerance would protect the public health. The temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized in the experimental use permit.

2. Mobay Chemical Corp. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires on December 31, 1982. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408 (j), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: August 18, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–25806 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1586–7; OPTS–51116]

Resin From Monocarboxylic Acids, Polyhydric Alcohols, Dibasic Acid Anhydride, Polycarboxlyic Acid Anhydride, and a Silicone Resin; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 5, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Kirky Maconaughey, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances complied by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commerical purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the

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Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitiled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 5, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51116]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604).

Dated: August 19, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-159.

Close of Review Period. October 5, 1980.

Manufacturer's Identity. International Minerals & Chemical Corp. Mundelein, IL 60060.

Specific Chemical Identity. Claimed confidential. Generic name provided: Resin from monocarboxylic acids, polyhydric alcohols, dibasic acid anhydride, polycarboxylic acid anhydride, and a silicone resin.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Vehicle in an exterior coating for naval vessels which will be used for applications above the water line.

Production Estimates. Approximately one million pounds per year.

Physical/Chemical Properties (Resin).

Acid number—38.

Melting point—Undetermined.

Physical State—Semi-solid or liquid.

Color—8 Maximum (Gardner).

Vapor pressure—Undetermined.

Partition coefficient—Undetermined.

Toxicity Data (Starting materials).

Polyhydric alcohol (I). Acute oral toxicity (mouse) LD_{50}: >25 g/kg. Acute oral toxicity (guinea pig) LD_{50}: >4 g/kg. Primary skin irritation (rabbit): mildly irritating. Primary eye irritation (rabbit): severely irritating.

Polyhydric alcohol (II). No data available.

Dibasic acid anhydride. Acute oral toxicity (rat) LD_{50}: 4 g/kg. Primary skin irritation (rabbit): mildly irritating. Primary eye irritation (rabbit): Severely irritating.

Polycarboxylic acid anhydride. Acute oral toxicity (mouse) LD_{50}: 2,210 mg/kg.

Alkoxyalkanol (diluent). Acute oral toxicity (human) LDL_o: 50 mg/kg. TLV-TWA: (skin): 50 ppm.

Aliphatic alcohol (diluent). Acute oral toxicity (human) LDL_o: 500 mg/kg. TLV-TWA: 100 ppm.

Exposure. The manufacturer states that two to three people may be exposed to the PMN substance for about one-half to two hours each, 35 times a year.

Disposal. The submitter states that disposal will not be necessary, however, in case of spill, the substance will be absorbed by a mineral absorbent and removed to an approved chemical waste disposal site. Waste water with 6% caustic solution used to clean reactor will be removed from the site by a certified waste disposal service once a year.

[FR Doc. 80-25807 Filed 8-22-80; 8:45am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATION COMMISSION

[FCC 80-386]

[CC Docket No. 80-339; Transmittel Nos. 2258, et. al.]

ITT World Communications Inc., et. al.; Instituting Investigation; Memorandum Opinion and Order

In the matter of ITT World Communications, Inc., Transmittal Nos. 2258, 2259, 2260; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616; TRT Telecommunications, Corp., Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431; Western Union International Caribbean, Inc., Transmittal No. 224; Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service.

Adopted: July 1, 1980.

Released: August 8, 1980.

By the Commission:

1. Presently before the Commission are petitions requesting rejection or, alternatively, suspension and investigation of a series of proposed tariff revisions filed by various International Record Carriers (IRCs).[1] The revisions purport to "unbundle" international telex rates, that is, establish separate charges for terminals, tielines, and transmission and implement expanded gateways and additional domestic operating areas for international telecommunications service.[2] For the reasons to be discussed below, we consider the proposed tariff revisions to be a step forward in accomplishing the unbundling of international telex rates. Thus, we will allow them to become effective. However, there are a number of issues that need further resolution, and for this reason, we will order an investigation.

I. Background and Petitioners Contentions

2. The subject tariff filings were made in response to our recent orders in Docket No. 21005, *Interface of the International Telex Service with the Domestic Telex and TWX Services (Unbundling* order), 76 F.C.C. 2d 61 (1980), and Docket No. 19660, *International Record Carriers' Scope of Operations in the Continental United States (Gateways* order), 76 F.C.C. 2d 115 (1980). In the *Unbundling* order we required the IRCs to file separate cost-based rates for terminal equipment, access lines, and transmission. 76 F.C.C. 2d at 78, 80–81, 83. In the *Gateways* order, we provided that the expansion of the number of domestic points of IRC operation would be conditioned upon the unbundling of the telex rate structure. 76 F.C.C. 2d at 145, 146, 154.

3. At the present time, international telex customers access each of the IRCs either directly by a dedicated tieline plus telex machine[3] or indirectly by interconnection with Western Union. In the latter situation, the customer uses a Western Union provided access line to the domestic telex or TWX networks plus the appropriate terminal equipment obtained from Western Union or another vendor.[4] Under current tariff provisions, TRT offers a $0.55 per minute reduction from the basic country-to-country international rates to all customers who are directly-connected to the TRT switch, while ITT, RCA, WUI, and WUI Caribbean offer the same $0.55 per minute discount only to those directly connected customers who pay for their own tielines and terminal equipment. In addition, all customers who are directly connected to ITT, RCA, WUI, and WUI Caribbean and pay bundled rates receive free paper and other supplies; in the case of TRT, all customers directly connected receive free supplies. For customers not directly connected, each IRC gives a $0.55 per minute reduction to those who pay for their own interconnecting telex or TWX call. Those who make a so-called "free" call on Western Union telex or TWX facilities pay the IRC the full international telex rate.[5]

4.The above rate structures, which were implemented in late 1979, were characterized as "optional unbundling" by the IRCs. Customers retained the option of paying the undiscounted (or bundled) country-to-country rates which had been in the tariffs all along. ITT, which filed the first such proposal, stated that it already had a fair number of customers who provided their own terminals and tielines or otherwise obtained access to the ITT switch, and who objected to paying the same usage rate as other customers. Thus, ITT offered, at the customer's option, a $0.30 per minute discount to those who accessed the ITT switch at their own expenses. Voicing the need to remain competitive with ITT, the other IRCs also chose to offer a discount. Shortly thereafter, RCA increased the amount to $0.55 per minute, which set off another round of matching by the other IRCs.

5. In the *Unbundling* order, we acknowledged that the optional unbundling was a step in the right direction, but determined that it has not gone far enough. Recognizing that the bundled rate structure has led to to a proliferation of terminals and tielines, we conclude that so long as some bundled rates exist, there will be a danger of economic waste. By contrast, we concluded that with complete unbundling, users and the public interest as a whole would be better served because all would know the true costs of telex service and would thus be able to weigh those component costs against the benefits to be derived. 76 F.C.C. 2d at 80–81. Thus, we directed each of the IRCs to completely unbundle its rates on a cost supported basis. 76 F.C.C. 2d at 80–83.

6. This brings us to the present filings. With the exception of calls originating in Puerto Rico and the Virgin Islands, all telex rates for ITT, RCA, TRT, and WUI would be reduced by $0.55 per minute. In other words, the $0.55 discount in existing tariffs would be built into the basic rates. Customers having direct access to the IRC switch would either provide terminal equipment at their own expense or rent terminal equipment at the rates presently listed in each of the IRC's leased channel tariffs. Customers of ITT, RCA, and WUI would furnish their own access lines at their own expense. Customers of TRT would either furnish their own access lines or rent them from TRT at $20 per month to any point within the Standard Metropolitan Statistical Area (SMSA) for each of TRT's operating areas. Customers of ITT, RCA, and WUI would pay separately for their own paper and other supplies. TRT, however, would provide supplies to its direct access customers at no charge. Customers accessing each IRC through Western Union would be charged the reduced basic rates if they paid Western Union for their telex or TWX call. Those calling an IRC's so-called "free" access number would be charged an additional $0.55 per minute.

7. The situation for calls originating in Puerto Rico and the Virgin Islands

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[1] For the remainder of this order, ITT World Communications Inc. will be known as ITT, RCA Global Communications, Inc. will be RCA, TRT Telecommunications Corporation will be TRT, and Western Union International, Inc. and its subsidiary Western Union International Caribbean, Inc. will be WUI and WUI Caribbean, respectively.

[2] Western Union Telegraph Company (Western Union) has filed petitions to reject, or in the alternative to suspend and investigate the revisions under ITT Transmittal No. 2258, RCA Transmittal Nos. 4610, 4613, and 4614, TRT Transmittal Nos. 909 and 911, WUI Transmittal No. 1430, and WUI Caribbean Transmittal No. 224. Trans-Lux Corporation (Trans-Lux) has filed petitions to suspend and petitions to reject the revisions under ITT Transmittal Nos. 2258, 2259, and 2260, RCA Transmittal Nos. 4610 and 4611, TRT Transmittal Nos. 909, 910, and 911, WUI Transmittal No. 1430, and a petition to reject the revisions under WUI Caribbean Transmittal No. 224. In addition, ITT has filed a petition to reject or, in the alternative, to suspend and investigate the revisions under TRT Transmittal Nos. 909 and 911. Responsive pleadings have been filed by the various parties.

We have also received letters from several small telex users. They complain that the reduction in transmission rates would not compensate for the new terminal equipment and access line charges they would pay under mandatory unbundling, and this would result in their paying significantly higher amounts for service. In essence, these users disagree with our policy of mandatory unbundling adopted earlier. *See* para. 5 below. Because these issues have already been fully discussed in our *Unbundling* order, we will not readdress them here. *See* Docket No. 21005, *Interface of International Telex Service with the Domestic Telex and TWX Services*, 76 F.C.C. 2d 61, 78–80 (1980).

[3] Direct access lines are connected to gateway cities only. However, as a result of the *Gateways* order, we are permitting the expansion of the number of domestic points of operaton upon the satisfactory unbundling of the telex rate structure.

[4] In the *Unbundling* order, we directed that Graphnet Systems, Inc. and other carriers offering domestic telex-compatible service be provided interconnection with the IRCs for through international telex service upon demand. 76 F.C.C. 2d at 77, 83.

[5] The call is free only in the sense that the customer does not incur any additional charge above the normal country-to-country rate. However, the Western Union charges associated with these calls are paid to Western Union by the IRCs and are included in the overall revenue requirement of the country-to-country usage rates.

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would be somewhat different. Rather than incorporating the $0.55 per minute discount in its basic international rates, WUI Caribbean would continue to apply existing undiscounted rates to customers accessing the IRC's switch by way of a so-called "free" telex call. Those who pay for their own telex call to WUI Caribbean, or those who provide their own tieline and terminal equipment, would receive a $0.55 per minute discount. WUI Caribbean proposes to lease telex machines at the terminal equipment rates listed in its private line tariffs. Paper and other supplies would be supplied at the customer's expense. ITT, RCA, and TRT take a different approach. They propose to follow the same plan as for the mainland except that RCA and TRT would not charge $0.55 per minute additional to those customers accessing the IRC switches by way of a "free" telex call originating with the local telex carriers. ITT, on the other hand, would require that those accessing its switch by way of the local telex carrier pay for their local calls to the local carrier.

8. In its petitions, Western Union argues that each of the IRCs has failed to justify its rates for terminal equipment, and that its equipment has in fact been underpriced in violation of Section 201(b) of the Act, 47 U.S.C. § 201(b).[6] It further contends that each IRC has failed to justify its transmission charges, and has discriminated against customers originating calls with Western Union by charging those customers $0.55 per minute for calling the IRC's so-called "free" access number. In addition, Western Union claims that RCA, in contravention of Section 61.38 of the Rules, 47 C.F.R. 61.38 has not provided data concerning savings associated with the anticipated reduced utilization of Western Union's domestic telex and TWX facilities to access inbound customers located in each of the new RCA operating areas.

9. Trans-Lux also questions the reasonableness of terminal equipment charges in each of the IRC tariffs. Lastly, ITT contends that TRT's failure to unbundle paper supplies is contrary to the Commission's unbundling policy and, moreover, that TRT's proposal to lease access lines for $20 within the SMSA of an operating area is noncompensatory and contrary to unbundling policy.

II. Discussion

A. Transmission Charges

10. Western Union argues that the IRCs have failed to provide cost justification for their proposed overseas transmission charges as required by Section 61.38 of the Rules, 47 C.F.R. 61.38, and the *Unbundling* order. The IRCs, on the other hand, claim that they have already submitted cost justification data with their optional unbundling tariffs. Further, they contend that in Docket No. 20778, the *International Audit*, 75 F.C.C. 2d 726 (1980), the Commission concluded that a full cost of service study would not be useful.

11. On the facts before us, we do not consider the traditional Section 61.38 data for the transmission charges to be warranted at this time. The provision of full cost support data for basic transmission rates is not essential to the review of these filings, as our primary purpose here is to evaluate the reasonableness of the proposed unbundling. As a separate matter, the procedures for deriving such information is now being developed by the staff as a result of our findings in the *International Audit*, 75 F.C.C. 2d at 727–28.

12. Although we may later initiate a proceeding in which we require the IRCs to provide a complete justification for their basic transmission rates, at this time our concern is to ensure that the objectives of the *Unbundling* order are met. To this end, we intend to examine the costs for the items that are unbundled from the transmission charges, that is, the terminal equipment, local access lines, and supplies. By looking at the cost justification for these items, and assessing whether they are properly supported, we may determine whether the unbundled transmission rates have been sufficiently reduced. In other words, as each item is unbundled from transmission, it will correspondingly reduce the revenue requirement to be recovered by way of the transmission rate.

13. Other expense and investment shifts affecting transmission charges also result from either unbundling or adding the new IRC operating areas. First, there will be an increase in IRC utilization of domestic landline haul facilities and increased domestic transmission responsibilities resulting from the expansion of gateways and operating areas. Furthermore, there will be reductions in both inbound and outbound hinterland access traffic to the IRC networks.

14. We find that the data before us concerning each of the above factors appear incomplete for purposes of determining whether transmission charges have been properly reduced. Although it is claimed by the filing IRCs that much of the above data was submitted with the optional unbundling tariffs which became effective in late 1979, the situation there may be readily distinguished from present circumstances. At the time we allowed the various optional unbundling revisions to go into effect, we considered them a step forward. The *Unbundling* rulemaking proceeding, however, was still pending. Accordingly, there was no need to decide at that point whether the IRC support data would be adequate for the purposes of complete unbundling. Now, that question is squarely before us, we are required to take a hard and fresh look at the data on the basis of the significantly broader issue.

15. On review, we find that the data on hand and the arguments of petitioners raise serious questions concerning the adequacy of each IRC's proposed unbundling of terminal equipment and access lines from transmission charges. In particular, the IRC's unbundling of terminal equipment costs has not been satisfactorily supported, as the existing tariff rates relied upon appear too low. Accordingly, we find it necessary to set for investigation each of the unbundling proposals. In investigating these proposals we shall focus on the question of whether the new transmission rates constitute a just and reasonable unbundling of the former rates under Section 201(b) of the Act. To this end, should we find that the costs of terminal equipment, access lines, and supplies have not been fully unbundled from transmission rates such that the transmission rates are too high, we will prescribe new charges which represent a just and reasonable unbundling of all rate elements.

B. Terminal Equipment Charges

16. Western Union and Trans-Lux each argue that the IRCs have not provided the economic data and justification for their terminal equipment charges as required by Section 61.38 of the Rules. In addition they claim that the equipment rates, in particular the rate of $46.00 per month for an M32 ASR telex terminal, are non-compensatory and thus unreasonably low in violation of Section 201(b) of the Act. In support, they point out that these equipment rates have been in effect for many years without change and that they are considerably lower than the rates charged by other suppliers of the same equipment.

17. To begin our analysis, we acknowledge that the terminal

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[6] Section 201(b) requires that all charges, practices, classifications, and regulations for and in connection with communications services be just and reasonable.

equipment rates for leased channel service have been in existence for many years. Moreover, these rates already apply to telex users who wish to lease a machine from an IRC. Because neither a rate change nor a new rate is involved, there is no requirement for the IRCs to provide Section 61.38 data for terminal equipment. Thus, the omission of such data is insufficient basis for rejection of the filing.

18. Nevertheless, the fact that a rate is on file with this Commission does not create a presumption of lawfulness, regardless of its time on file. *See, e.g., Carterfone,* 13 F.C.C. 2d 420, *recon. denied,* 14 F.C.C. 2d 571 (1968). *See also Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Railway Co.,* 284 U.S. 370, 389 (1932); *Southern Railway Company* v. *Prescott,* 240 U.S. 632, 638 (1916). The terminal equipment rates in question have been in the IRC tariffs without modification for a number of years, some for well over ten years. During that period, we have seen periods of unparalleled inflation and other changed economic conditions. As a result, we have no way of knowing whether the terminal equipment rates are compensatory, even if it is assumed they were properly justified at the time they were filed. Furthermore, the IRCs' allegations that certain factors, such as increased efficiency, will compensate for inflation are insufficient comfort in the absence of a proper showing to this effect. In any case, as a consequence of our *Unbundling* order, IRC equipment rates will take on added significance for what figures to be a new and larger set of customers and carriers. Therefore, it is incumbent upon us to make fresh determinations of their lawfulness.

19. As with transmission charges, we do not consider the previously submitted proposals in connection with IRC optional unbundling to be sufficient for present purposes. *See* paras. 12–15 above. The time has come, in other words, for the IRCs to develop updated cost support material for their terminal equipment charges.

20. In this regard, we are mindful of the IRCs' contentions that it makes little sense to investigate these charges at a time when we are considering deregulation of terminal equipment. *Unbundling* order, 76 F.C.C. 2d at 82. However, the proposed reductions in transmission rates are based, in part, on the revenue requirement shifts resulting from the unbundling of terminal equipment. Therefore, we need reliable information to ascertain whether the costs of terminal equipment have been completely unbundled from the transmission charges. Stated differently, in the event we deregulate this terminal equipment, we would still wish to satisfy ourselves that all vestiges of terminal equipment costs have been removed from transmission to ensure against cross-subsidization between regulated and unregulated activities. *Cf. Second Computer Inquiry, Docket No. 20828,* 77 F.C.C. 2d —, FCC 80-189, released May 2, 1980, at paras. 162–67, where a transition period has been fixed before deregulating terminal equipment to avoid this very problem.

21. Accordingly, we shall investigate whether the terminal equipment charges are just and reasonable. To this end, we will require the carriers to justify these rates by, among other things, providing historical and projected data concerning expenses and investment. The specific justification we deen necessary is listed in the Appendix.

C. Local Access Lines

22. In its petition, ITT takes issue with TRT's proposal to allow customers to obtain for $20 per month a local access line that will connect TRT's switch to a customer's telex machine located within the SMSA for that switch. ITT argues that this charge is not a calculated average of the expected cost of a tieline because TRT's tariff also allows a customer to have TRT act as that customer's agent in obtaining local access connections from the local domestic carrier, passing on the charge to the customer. In effect ITT argues a customer would opt to lease the facility from TRT at the $20 monthly rate only if the charge imposed by the underlying carrier would be greater than $20 per month. ITT therefore concludes that TRT would in fact be subsidizing many customer tielines in violation of the Commission's requirement for cost-based unbundling.

23. We find that ITT raises a valid question concerning TRT's proposed charge. TRT bases its $20 rate on the average cost to it of a representative group of tielines accessing its points of operation. In our view, however, this derivation fails to properly account for the likelihood that customers would lease local access lines through TRT as agent where the underlying carrier's charge is less than $20 per month. Moreover, TRT has provided access line costs based on traditional access arrangements rather than estimates of the costs of accessing the expanded points of operation, which include SMSAs rather than city boundaries. As a part of our investigtion, therefore, we shall require TRT to justify its proposed local access line charge by, among other things, providing data as outlined in the Appendix which include projected expenses and investment.

24. With respect to the other IRCs, as justification for their proposed unbundling of transmission charges, we shall require that they provide historical data on local access line investment and expenses as listed in the Appendix. By examining the IRCs' costs of providing tie lines prior to unbundling, we will be able to make a determintion as to whether the proposed revisions sufficiently reduce transmission charges.

D. Paper and Other Supplies

25. ITT complains that TRT's continuing to provide paper and other supplies at its own expense is contrary to the intent of the *Unbundling* order. TRT answers that the bundling of supplies is valid because their cost is causally related to usage, and that the first mention of supplies is in the Commission's denial of stay of the *Unbundling* and *Gateways* orders. According to TRT, deciding the issue in the context of denying a stay is invalid. Nevertheless, the carrier purports to be willing to unbundle supplies if the Commission desires.

26. In our order denying stay of Docket No. 21005 *Unbundling*) and Docket No. 19660 (*Gateways*), we clarified our intention that supplies be unbundled from telex transmission charges, 77 F.C.C. 2d —, FCC 80-197, released April 14, 1980, at para. 13. TRT has been unable to persuade us otherwise because, as we see it, customers who originate their calls by way of a domestic carrier cannot take advantage of the "free" supplies, and customers who are directly connected to TRT should have the option of obtaining paper and other supplies from any source. Nevertheless, because the issue of unbundling supplies was not specifically mentioned until the order denying stay, we consider it appropriate to give TRT an opportunity to fully address the matter. Therefore, we will investigate that portion of TRT's present tariff that provides for paper and other supplies at the carrier's expense.

27. In addition, we will require the other IRCs' full cost of providing supplies if we are to determine whether this component of the revenue requirement has been removed from the transmission rate. Accordingly, as part of the investigation, we shall require each IRC to provide expense and investment data for paper and other supplies as listed in the Appendix.

E. Domestic Transmission of Outbound Traffic

28. Western Union contends that the subject tariff revisions would in effect

selectively eliminate country-to-country rates in a manner which discriminates against the customers of Western Union and other domestic carriers. Western Union explains that IRC customers accessing the IRCs at their operating points would not pay an additional charge for transmission from the IRC operating point to its overseas switch. On the other hand, customers accessing the IRC switch by way of Western Union and other domestic carriers must either pay for their own call, or in the case of Western Union, may call the IRCs so called "free" access number and be charged an additional $0.55 per minute. Western Union points out that no IRC has demonstrated that it costs any more to pay another carrier for the domestic call than to provide the domestic transmission itself.

29. In response, the IRCs argue that the cost to Western Union subscribers of domestic transmission would be considerably reduced if Western Union were to agree to interconnect at each of the new IRC domestic operating centers. They also contend that the proposed rate structure comports with Commission policy by giving the customer an economic choice, that is, either accessing the IRC by leasing a terminal and tieline, or utilizing Western Union facilities and paying the additional charge. Under this view, a customer with both domestic and international telex needs would choose according to its volume of service. Finally, TRT attempts to show that its incremental cost of providing domestic transmission is considerably less than its payment for use of Western Union's telex and TWX.

30. In order to address Western Union's allegations of unlawful discrimination, we must take a practical look at the IRCs' proposed rate scheme under their expanded operations. The IRCs propose to offer international telex service from each of their domestic operating centers at the same country-to-country rate. In other words, the customer must first access the IRC network before the country-to-country rate would apply. Western Union, however, in essence seeks to have the country-to-country rate concept applied beyond the IRCs' networks to the point of call origination. Under this view, the IRCs would in effect be required to absorb the charges imposed by Western Union or another carrier for access to the IRCs' networks.

31. We do not agree that the proposal IRC limitation of country-to-country rates to their own networks raises questions of unlawful discrimination. Under this scheme a customer would be free to access the IRC of its choice at any point (presumably the nearest) of operation. Thus, all customers could take advantage of country-to-country rates once they had obtained access to an IRC operating center, either through Western Union, another carrier, or through the lease of their own terminal and tieline. Although the IRCs would impose a $.55 charge for a "free" access call direct to the IRC switch in New York or San Francisco, customers retain the option of accessing the IRCs at other points and can elect the method which best suits their needs. Under these circumstances we see no need to investigate the proposed revisions.

32. This leaves us with the problem that the data provided by the IRCs fails to establish that they have reduced the transmission charges sufficiently to reflect the savings they realize by no longer adsorbing the cost of hinterland access for outbound traffic. Therefore, as part of our investigation, we will require each IRC to provide investment and expense data concerning the domestic transmission of outbound traffic. These data are to be divided into two categories. One will involve calls to an IRC switch originating with Western Union or other domestic carriers. For this group we request historical and projected data. The second category concerns the domestic transmission to be provided by the IRCs from their new operating centers. Here, of course, only projected data will be suitable. The information required is listed in detail in the Appendix.

F. Domestic Transmission of Inbound Traffic

33. In its petition, Western Union complains that RCA's data fails to reflect the cost savings which unbundling will generate in connection with the handling of inbound traffic. Savings, it says, will be realized from the fact that some customers who now receive inbound telex calls by way of Western Union would receive them by direct lines or dataphone type services once unbundling takes place and the IRCs begin to operate in the new areas. RCA disagrees, claiming that any potential reduction in payments to Western Union would be offset by additional expenses which RCA expects to incur in establishing the new operating areas and by reductions in accounting rates with foreign administrations.

34. Significantly, though, RCA has failed to present any data in support of its argument. In fact, with the exception of WUI, none of the IRCs shows its projected savings, and no IRC describes in sufficient detail the additional investment and expenses it anticipates. Thus, we have no basis for knowing how the savings compare with the additional investment and expenses. For this reason, as part of the investigation, we shall require all IRCs to provide the projected savings resulting from unbundling and the establishment of new operating areas, as well as the projected additional investment and expenses associated with the domestic transmission of inbound traffic. The specific information requested is listed in the Appendix.

III. Conclusions and Investigation Procedure

35. For reasons already explained, there is no clear basis for rejection. Investigation of these revisions, however, is warranted in view of the substantial questions of lawfulness which have been raised regarding the degree to which a cost-supported unbundling has been achieved. Again, the purpose of this investigation is to determine whether the charges for each of the unbundled service features are just and reasonable and whether the transmission charges have been sufficiently reduced in view of the concomitant reduction in the revenue requirements associated with transmission. At the completion of the investigation, we expect to be in a position to either accept the unbundling proposals or to prescribe specific unbundling plans for each of the IRCs.

36. To this end, we will require each of the IRCs to provide certain expense and investment information concerning terminal equipment, local access, provision of paper and other supplies, domestic transmission of inbound and outbound messages, and access to the networks by the domestic carriers for inbound and outbound messages. The specifics in this regard are spelled out in the Appendix and the text of this order.

37. Given the specific nature of the issues involved, we do not find an oral evidentiary hearing warranted. In our judgment, a "paper" proceeding will be adequate. *See, e.g., Resale and Shared Use of Common Carrier Services and Facilities,* 60 F.C.C. 2d 261 (1976), *recon. granted in part,* 62 F.C.C. 2d 588, *aff'd sub nom. American Telephone and Telegraph Company* v. *FCC,* 572 F.2d 17 (2d Cir.), *cert. denied,* 99 S. Ct. 213 (1978) (formal evidentiary hearing not required when parties have been given an opportunity to present their views by way of written submissions). The burden of proving whether the unbundling proposals are just and reasonable shall lie with the filing carriers.

38. Turning to the question of whether the tariff filings should be suspended, we find that the public would benefit from allowing the tariffs to go into effect at this time. Although the underlying support for the tariffs raises questions of lawfulness, we find that the proposed revisions are an impetus in the direction of the complete unbundling we have already found to be in the public interest. Thus, on one level, they satisfy the requirement of the *Gateways* order (76 F.C.C. 2d at 145 (that the IRCs unbundle the terminals and local access lines from the transmission charges. Therefore, we consider it appropriate to allow the IRCs to implement their proposed expansion of gateways and new domestic operating centers.

39. Examining the specifics of the proposed revisions, we find that those customers who access the IRCs by way of Western Union will be paying the same amounts as they have been under optional unbundling. The same is true for gateway customers who provide their own local access and telex machine. The major difference between the two tariffs is that under optional unbundling a customer in a gateway can obtain a tieline and telex machine at no additional charge by paying the bundled rate, whereas under the new proposals, a customer must provide his own access line and may either provide his own terminal equipment or rent the equipment from the IRC.[7] Although we question whether the equipment rental charge is properly cost-supported, we nevertheless find that on balance, the proposed tariffs are preferable to the present situation.

40. In regard to TRT's proposed $20 monthly rate for local access lines, we do not find that suspension is warranted. Even if the rate is assumed to be too low, as ITT contends, we do not find that the potential for harm to competitors exists during the pendency of an investigation because, at the present time, customers of TRT are getting the same access lines at no charge while paying the unbundled telex rate.[8]

41. Accordingly, it is ordered, pursuant to Sections 4(i)–(j), 201–205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i)–(j), 201–205, and 403, that an investigation is instituted into the following issues:

(1) Whether each of the charges for teletypewriter equipment listed in ITT's Tariff F.C.C. No. 43, RCA's Tariff F.C.C. No. 58, TRT's Tariff F.C.C. No. 63, WUI's Tariff F.C.C. No. 4, and WUI Caribbean's Tariff F.C.C. No. 3 are just and reasonable and otherwise lawful.

(2) Whether the local access charges proposed by TRT in its Transmittal No. 909 as revisions to its tariff F.C.C. No. 60 are just and reasonable and otherwise lawful.

(3) Whether the charges for international telex service as proposed by ITT in its Transmittal No. 2258 as revisions to its Tariff F.C.C. No. 12, by RCA in its Transmittal Nos. 4610 and 4613 as revisions to its Tariff F.C.C. No. 90 and in its Transmittal No. 4614 as revisions to its Tariff F.C.C. No. 88 (international marine mobile telex service), by TRT in its Transmittal No. 911 as revisions to it Tariff F.C.C. No. 64, by WUI in its Transmittal No. 1430 as revisions to its Tariff F.C.C. No. 5, and as listed by WUI Caribbean in its Tariff F.C.C. No. 2 have been sufficiently reduced from the bundled charges previously listed in the same tariffs and referred to earlier in this order so as to fully reflect all of the investment and expense shifts resulting from the unbundling of international telex rates.

(4) Whether the provision of paper and other supplies without charge to the customer as a part of the TRT's international telex service listed in its Tariff F.C.C. No. 64 is just and reasonable and otherwise lawful.

42. It is further ordered, That, with the respect to each of the above issues, the burden of introduction of evidence and burden of proof are placed upon each carrier whose tariffs are under investigation.

43. It is further ordered, That ITT, RCA, TRT, WUI, WUI Caribbean, Trans-Lux, and Western Union shall be named parties to this proceeding.

44. It is further ordered, That ITT, RCA, TRT, WUI, and WUI Caribbean shall submit their direct cases on the above issues within 60 days of the release of this order. Such direct cases shall include, but shall not be limited to, the data requested in the Appendix to this order. Other parties may file their reply cases or comments within 30 days thereafter. ITT, RCA, TRT, WUI, and WUI Caribbean may file their responses within 15 days thereafter.

45. It is further ordered, That the Chief, Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify issues, dates, and procedures, if necessary to provide for a fuller record and more efficient proceeding.

46. It is further ordered, That the petitions to reject or, in the alternative, to suspend and investigate, filed by Western Union and ITT Are Granted to the extent indicated and otherwise are denied.

47. It is further ordered, That the petitions to reject filed by Trans-Lux are denied

48. It is further ordered, That the petitions to suspend and investigate filed by Trans-Lux are granted to the extent indicated and otherwise are denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The following information is to be provided as a part of the carrier's direct case for the tariff investigation initiated by this order. All data must be accompanied by reference to its source, basis of development, and derivation.

I. Terminal Equipment—Separately for models 32 KSR, 32 ASR, T–100, 28, Other:

A. Investment—historical (average for the 12 months ended December 31, 1979):
   1. First cost as shown in accounting records
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve
   5. Number of units and minutes

B. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. First cost
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve ratio if different from A4 above
   5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

D. Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

II. Local Access Lines:

A. Investment—historical (average for 12 months ended Dec. 31, 1979):
   1. First cost as shown in accounting records
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve

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[7] Under optional unbundling, all of TRT's gateway customers receive the $0.55 discount, even if TRT provides the access line and terminal equipment. Nevertheless, we consider TRT's proposed tariff to be preferable to its optional unbundling tariff, because TRT will no longer be giving away terminals and tielines at no charge.

[8] The terminal equipment charges are not subject to our suspension power because they are already in the tariff and, as such, do not constitute a new or revised rate. *See* Section 204(a) of the Act, 47 U.S.C. § 204(a).

   5. Number of units and minutes

B. (For TRT only) Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. First cost
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve ratio if different from A4 above
   5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

D. (For TRT only) Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

III. Provision of Paper and other supplies:

A. Investment—historical (average for the 12 months ended Dec. 31, 1979)

B. Expenses—historical (for 12 months ended Dec. 31, 1979)

IV. Domestic Carrier—access to IRC network [1] (outbound traffic):

A. Investment—historical (average for the 12 months ended Dec. 31, 1979):
   1. First cost as shown in accounting records
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve
   5. Number of units and minutes

B. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. First cost
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve ratio if different from A4 above
   5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

D. Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

V. Domestic Landline Haul by IRCs with Expanded Gateways (not applicable to WUI Caribbean):

A. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. First cost as shown in accounting records
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve
   5. Number of units and minutes

B. Expenses—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

VI. Inbound Traffic (assuming unbundling and expanded gateways):

A. Savings for each year 1980 through 1983 (specify)

B. Additional investment—average projected for each year, 1980 through 1983:
   1. First cost
   2. Associated capitalized costs and loadings (specify each item)
   3. Working capital
   4. Depreciation reserve
   5. Number of units and minutes

C. Additional expense—projected for each year, 1980 through 1983:
   1. Maintenance
   2. General and administrative
   3. Sales and marketing
   4. Taxes other than FIT
   5. Depreciation
   6. FIT
   7. Other (specify)
   8. Provision for return

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[1] This will for the most part comprehend the outbound traffic originated by Western Union Telex and TWX subscribers.

[FR Doc. 80-25863 Filed 8-22-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-339; Transmittal No. 2258, et. al.]

ITT World Communications Inc. et. al.; Memorandum Opinion and Order

Adopted: July 1, 1980.

Released: August 8, 1980.

In the matter of ITT World Communications Inc., Transmittal Nos. 2258, 2259, 2260; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616; TRT Telecommunications Corp., Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal 1430, 1431; Western Union International Caribbean, Inc. Transmittal No. 224; FTC Communications, Inc., Transmittal No. 69; revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service.

By the Chief, Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is a petition by Western Union Telegraph Company (Western Union) requesting rejection or, alternatively, suspension and investigation of proposed tariff revisions filed by FTC Commuications, Inc. (FTCC).[1] The revisions purport to "unbundle" international telex rates, that is, establish charges for terminals, tielines, and transmission and implement expanded gateways and additional domestic operating areas for international telecommunications service.

2. FTCC's proposed tariff revisions follow the same pattern as those recently filed by other International Record Carriers (IRCs) in response to the Commission's *Unbundling* order, Docket 21005, *Interface of the International Telex Service with the Domestic Telex and TWX Services*, 76 F.C.C. 2d 61 (1980). These comparable revisions are described in paragraph 6 of Order FCC 80-386, adopted July 1, 1980.[2] That order fully considered the contentions of Western Union and others in support of rejection, or suspension and investigation, and designated the telex unbundling proposals of each of the other IRCs for investigation. The issues raised by Western Union here are similar to those it raised in regard to the other IRCs' tariff filings. As a result, we do not see any need to repeat that analysis, and we will consolidate FTCC's proposed revisions into the investigation.

3. Accordingly, it is ordered, pursuant to Sections 4(i)-(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154 (i)-(j), 201-205, and 403, and Section 0.291 of the Commission's Rules

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[1] Also before us is an opposition pleading filed by FTCC.

[2] Pursuant to Special Permission No. 80-340 granted July 2, 1980, FTCC, in Transmittal No. 74, deleted a provision which would have provided for a $.05 per minute charge for calling an INWATS number to access FTCC. We have previously rejected a similar proposed tariff revision filed by ITT World Communications Inc. for failure to obtain authority to provide INWATS access as required by Section 214 of the Communication Act, 47 U.S.C. § 214. *ITT World Communications Inc.*, Transmittal No. 2256, released July 1, 1980.

47 C.F.R. § 0.291, that an investigation is instituted into the following issues:

(1) Whether each of the charges for teletypewriter equipment listed in FTCC's Tariff F.C.C. No. 17 are just and reasonable and otherwise lawful.

(2) Whether the charges for international telex service as proposed by FTCC in its Transmittal No. 69 as revisions to its Tariff F.C.C. No. 16 have been sufficiently reduced from the bundled charges previously listed in the same tariffs so as to fully reflect all of the investment and expense shifts resulting from the unbundling of international telex rates.

4. It is further ordered, That, with respect to each of the above issues, the burden of introduction of evidence and burden of proof are placed upon FTCC.

5. It is further ordered, That this investigation shall be consolidated with the investigation ordered in *ITT World Communications Inc. (ITT),* FCC 80-386, adopted July 1, 1980.

6. It is further ordered, That the parties shall be subject to the same procedural dates as listed in paragraph 44 of *ITT,* FCC 80-386.

7. It is further ordered, That FTCC's direct case shall include, but shall not be limited to, the data requested in the Appendix to *ITT,* FCC 80-386.

8. It is further ordered, That the petition to reject or, in the alternative, to suspend and investigate, filed by Western Union is granted to the extent indicated above and is otherwise denied.

Thomas J. Casey,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-25862 Filed 8-22-80; 8:45 am]

BILLING CODE 6712-01-M

Notification List; Mexican Standard Broadcast Stations

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

May 30, 1980.

Mexican List No. 295

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
XEQW	Merida, Yuc., N. 20°59'00", W. 89°38'44" (PO 2/KW/D, 0.200/KW/N)	2.000D/*.350N*	ND-U-180	*550 kHz* U	III	323	120	443	
(New)	Cd Obregon, Son., N. 27°29'37", W. 109°55'40"	1.000	ND-D-175	*610 kHz* D	III	323	120	339	12-1-80
XEKC	Oaxaca, Oax., N. 17°13'43", W. 96°43'18" (Change to 1460 kHz)	5.000D/1.000N	DA-2	*680 kHz* U	II				
						....	....	....	12-1-80
(New)	SN Juan D Los L, Jal., N. 21°15'00", W. 102°19'21"	.500	ND-D-175	*720 kHz* D	II	308	90	308	12-1-80
XELTZ	*El Puertecito, Ags., N. 21°57'21", W. 102°16'14"* (Previously notified Loreto, Zac., N. 21°16'16", W. 101°58'56", 5/KW/D, 0.250/KW/N)	*3.300D/.100N*	ND-U-175	*740 kHz* U	II	306	120	253	12-1-80
XEFZ	Monterrey, N.L., N. 25°40'11", W. 100°18'26" (Previously notified 0.500/KW/D, 0.100/KW/N)	.500D/*.500N*	ND-U-175	*740 kHz* U	II	306	120	253	
(New)	Tacambaro, Mich., N. 19°14'32", W. 101°29'15"	.500	ND-D-175	*750 kHz* D	II	262	120	276	12-1-80
XEVA	Villahermosa, Tab., N. 18°00'31", W. 92°53'34" (PO 5/KW/D, 0.200/KW/N)	*10.000D/.500N*	ND-U-175	*790 kHz* U	III	213	120	*330*	
XEHT	Huamantla, Tlax, *N. 19°18'40", W. 97°55'32"*	.500	ND-D-179	*810 kHz* D	II	276	90	295	Immediately
(New)	Leon, Gto., N. 21°07'12", W. 101°40'38"	.200	ND-D-175	*830 kHz* D	II	234	120	246	12-1-80
(New)	Sn Diego, Pue, N. 20°26'30", W. 97°41'54"	.200	ND-D-175	*830 kHz* D	II	237	120	249	12-1-80
XEZOL	Cd Juarez, Chih., N. 31°42'45", W. 106°23'38"	1.000D/.500N	ND-U-*175*	*860 kHz* U	II	246	*120*	*229*	12-1-80
(New)	Villaflores, Chis., N. 16°14'05", W. 93°13'56"	.500	ND-D-175	*870 kHz* D	II	226	120	238	12-1-80
(New)	Hopelchen, Camp., N. 19°45'53", W. 89°49'30"	1.000	ND-D-175	*920 kHz* D	III	214	120	225	12-1-80
XETAA	Torreon, Coah., N. 25°33'16", W. 103°27'44" (PO 1/KW/D, 0.200/KW/N)	*5.000D/*.200N	ND-U-175	*920 kHz* U	III	241	120	197	
(New)	Tlaxiaco, Oax., N. 17°15'59", W. 97°40'58"	.700	ND-D-190	*930 kHz* D	III	266	120	266	12-1-80

V 45 5 AG 25 80 UMI

Mexican List No. 295—Continued

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
(New)	Jiquilpan, Mich., N. 19°58′07″, W. 102°43′43″	.500	ND-D-190	*950 kHz* D	III	259	120	259	12-1-80
XEROF	El Fuerte, Sin., N. 26°14′25″, W. 108°42′33″ (PO 1/KW/D, ND-D-190)	*5.000D*/.500N	ND-U-178	*950 kHz* U	III	256	120	205	
(New)	Apizaco, Tlax., N. 19°26′47″, W. 98°10′00″	1.000	DA-D	*980 kHz* D	III				12-1-80
(New)	Apizaco, Tlax., N. 19°26′47″, W. 98°10′00″	.100	ND-D-175	*1010 kHz* D	II	195	120	205	12-1-80
(New)	Izucar de Mtrs., Pue., N. 18°36′17″, W. 98°30′20″	.500	ND-D-190	*1020 kHz* D	II	241	120	241	12-1-80
XEBD	Perote, Ver., *N. 19°34′27″, W. 97°15′04″* (PO 0.250/KW/D)	1.000	ND-D-175	*1100 kHz* D	II	201	90	200	Immediately
XELEO	Leon, Gto., *N. 21°07′08″, W. 101°41′01″* (PO 5/KWS/D)	5.000D/*0.250N*	ND-D-184, DA-N.	*1110 kHz* U	II	221	90	221	
(New)	Zacatecas, Zac., N. 22°48′45″, W. 102°34′35″	5.000	ND-D-190	*1210 kHz* D	II	203	120	203	12-1-80
(New)	Tejupilco, Mex., N. 18°53′30″, W. 100°09′54″	.500	ND-D-178	*1250 kHz* D	III	177	120	165	12-1-80
XELTZ	Loreto, Zac., N. 22°16′16″, W. 101°58′56″ (Delete) (Vide 740 kHz)	.500	ND-D-179	*1260 kHz* D	III	177	120	164	
XESY	Magdalena, Son., N. 30°37′45″, W. 111°03′42″ (Delete)	.200	ND-D-190	*1320 kHz* D	III	186	120	186	
(New)	Durango, Dgo., N. 24°14′53″, W. 104°39′39″	1.000	ND-D-190	*1330 kHz* D	III	185	120	185	12-1-80
(New)	Libres, Pue., N. 19°29′48″, W. 97°44′00″	.500	ND-D-175	*1350 kHz* D	III	144	120	151	12-1-80
XEVSD	Villa Const, BCS, N. 25°35′00″, W. 111°45′00″ (PO 1/KW/D, 0.15/KW/N)	*5.000D/.200N*	ND-U-190	*1440 kHz* U	III	171	120	171	
(New)	Nacajuca, Tab., N. 18°08′09″, W. 93°00′41″	.500	ND-D-190	*1440 kHz* D	III	171	120	171	12-1-80
XEKC	Oaxaca, Oax., N. 17°03′45″, W. 96°44′00″ (PO 680 kHz)	1.000D/*.100N*	ND-U-190	*1460 kHz* U	III	169	120	169	12-1-80
XEACE	Mazatlan, Sin., N. 23°12′54″, W. 106°22′17″ (PO 1/KW/D, ND-D-206)	1.000D/*.100N*	ND-U-*175*	*1470 kHz* *U*	III	167	120	*127*	
(New)	[illegible]que, Chis., N. 17°31′39″, W. [illegible]1°59′01″	1.000	ND-D-190	*1480 kHz* D	III	167	120	167	12-1-80
XEME	Valladolid, Yuc., *N. 20°41′53″, W. 88°12′28″*	.500D/.500N	ND-U-175	*1490 kHz* U	IV	148	90	148	Immediately
(New)	Coahuayana, Mich., N. 18°45′09″, W. 103°40′30″	.500	ND-D-190	*1540 kHz* D	II	*160*	*120*	*160*	12-1-80
(New)	Puebla, Pue., N. 18°59′54″, W. 98°13′33″	1.000	DA-D	*1570 kHz* D	II				12-1-80
XERCP	Pureperd, Mich., N. 19°57′00″, W. 102°00′30″	.200	ND-*D-190*	*1600 kHz* D	III	154	120	154	12-1-80

Richard J. Shiben,
Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 80-25864 Filed 8-22-80; 8:45 am]

BILLING CODE 6712-01-M

Mexican Standard Broadcast Station; Notification List

List of new stations, proposes changes in existing stations, deletions and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

March 31, 1980.

Mexican List No. 294

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							Number radials	Length (feet)	
XEGTO	*Arperos*, Gto., *N. 21°06'02", W. 101°23'53"*. (PO Guanajuato, N. 21°02'23", W. 101°11'05", 0.250/KW/U).	5.000D/.250N	DA-D, -N-176	*600 kHz* U	III	345	120	345	
(New)	Mazatlan, Sin., N. 23°11'55" W. 106°25'20". (Delete).	5.000D/1.000N	DA-2	*600 kHz* U	III				
XEZ	Merida, Yuc., N. 20°57'52", W. 89°33'00". (PO 1/KW/D, ND-D-175).	5.000d/1.000N	ND-U-*188*	*600 kHz* U	III	413	120	410	
XEIS	Cd Guzman, Jal., N. *19°42'45", W. 103°28'27". (Shares antenna with XEBC, 990 kHz)*.	5.000	ND-D-190	*670 kHz* D	II	*318*	*90*	318	Immediately.
XEORO	Guasave, Sin., N. 25°35'08", W. 108°28'10". (PO 0.500/KW/D).	1.000D/*1.000N*	ND-D-175, *DA-N*	*680 kHz* *U*	II	318	90	341	
XEFZ	Monterrey, N.L., N. 25°40'11", W. 100°18'26".*(Previously on 1110 kHz)*.	.500D/.100N	ND-U-175	*740 kHz* U	II	306	120	253	
XEDGO	Durango, Dgo., *N. 24°02'43", W. 104°35'54"*.	1.000	ND-D-177	*760 kHz* D	II	269	90	315	Immediately.
XELN	Linares, N. L., N. 24°52'21", W. 99°33'22". (P.O. 1.000/KW/D).	1.000D/*100N*	ND-U-175	*790 kHz* U	III	295	90	262	
XEZOL	Cd Juarez, Chih., N. 31°42'45", W. 106°23'38",	1.000D/.500N	ND-U-190	*860 kHz* U	II	286	120	286	Oct. 1, 1980.
XEUG	Guanajuato, Gto., N. 21°01'01", W. 101°15'20".	.500	ND-D-175	*970 kHz* D	III	197	90	253	Immediately.
XEOW	Mazatlan, Sin., N. 23°17'01", W. 106°25'09". (PO 1/KW/D, 0.250/KW/N).	*5.000D/.400*	ND-U-187	*970 kHz* U	III	246	120	246	
XEBC	Cd Guzman, Jal., *N. 19°42'45", W. 103°28'27". (Shares antenna with XEIS, 670 kHz)*.	1.000D/.100N	ND-U-187	*990 kHz* U	II	*318*	*90*	*318*	Immediately.
(New)	Tacambaro, Mich., N. 19°13'07", W. 101°28'50".	1.000	ND-D-175	*990 kHz* D	II	224	120	189	Oct. 1, 1980.
XEHL	Guadalajara, Jal., N. *20°48'18", W. 103°28'28"*. (PO 10/KW/D, 5/KW/N).	50.000D/5.000N	ND-U-*190*	*1010 kHz* U	II	*246*	120	*246*	
(New)	Villaflores, Chis., N. 16°14'02", W. 93°15'29".	2.500	ND-D-190	*1040 kHz* D	II	237	120	237	Oct. 1, 1980.
XEAU	Monterey, N.L., N. 25°40'11", W. 100°18'21". (*Vide 1090 kHz*). (Shares antenna with XERG, 690 kHz).	.500	ND-D-175	*1080 kHz* D	II	230	120	160	
XEAU	Monterrey, N.L., N. 25°40'11", W. 100°18'21". (PO 1080 kHz).	2.500D/.250N	ND-U-175	*1090 kHz* U	II	230	120	160	Oct. 1, 1980.
XEFZ	Monterrey, N.L., N. 25°40'11", W. 100°18'26". (Delete—Vide 740 kHz).	.500	ND-D-175	*1110 kHz* D	II	191	90	204	
XEYH	Hermosillo, Son., N. *29°04'29", W. 110°57'30"*. (PO Bahia De Kino, N. 28°49'45", W. 111°56'40").	1.000	ND-D-175	*1170 kHz* D	II	210	90	*177*	Oct. 1, 1980.

Mexican List No. 294—Continued

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							Number radials	Length (feet)	
XERB	Cozumel, Q.R., N. 20°29'02", W. 86°54'19". (PO 1510 kHz).	5.000D/.100N	ND-U-175	*1170 kHz* U	II	....	....	....	Oct. 1, 1980.
XEOG	Ojinaga, Chih., N. 29°33'18", W. 104°24'07". (PO 1/KW/D, 0.150/KW/N, ND-U-177).	1.000D/*.250N*	ND-D-177, DA-N	*1260 kHz* U	III	197	90	164	
XEMW	San Luis Rio C., Son., N. 32°29'15", W. 114°46'50". (PO 1270 kHz).	1.000/.250N	ND-U-175	1260 kHz U	III	203	120	133	Oct. 1, 1980.
XENX	Mazatlan, Sin., N. 23°11'55", W. 106°25'20". (*Change to 1290 kHz*).	3.000D/.250N	ND-U-175	*1270 kHz* U	III	175	90	175	
XEMW	San Luis Rio C., Son., N. 32°29'15", W. 114°46'50". (Change to 1260 kHz). (*Shares antenna with XECB, 1450 kHz*).	1.000D/1.000N	ND-D-193, DA-N	1270 kHz U	III	205	120	203	
XEPV	Papantla, Ver., *N. 20°28'55", W. 97°19'02"*.	1.000D/.250N	ND-U-*197*	*1270 kHz* U	III	*194*	120	*213*	Immediately.
XENX	Mazatlan, Sin., N. 23°11'55", W. 106°25'20". (PO 1270 kHz).	10.000D/.250N	ND-U-175	*1290 kHz* U	III	175	90	175	Oct. 1, 1980.
XEUD	Tuxtla Gtz, Chis., N. 16°45'06", W. 93°07'03".	1.000D/.500N	ND-U-214	*1360 kHz* U	III	297	120	180	Immediately.
XEUAA	Aquascalientes, Ags., N. *21°54'44", W. 102°19'01"*. (PO 1520 kHz).	.500	ND-D-*182*	*1370 kHz* D	III	*161*	120	*161*	Oct. 1, 1980.
XERUY	Merida, Yuc., N. 20°52'17" W. 89°37'39". (PO 1400 kHz).	10.000D/1.000N	ND-D-190, DA-N	*1390 kHz* U	III	177	120	177	Oct. 1, 1980.
XEFS	Izucar De M., Pue., N. 18°36'22", W. 98°27'32". (PO .250/KW/D).	.350D/*.100N*	ND-U-150	*1400 kHz* U	IV	105	90	105	
XERUY	Merida, Yuc., N. 20°52'17", W. 89°37'39". (Change to 1390 kHz).	1.000D/.250N	ND-U-190	*1400 kHz* U	IV	177	120	177	
XERB	Cozumel, Q. R., N. 20°29'02", W. 86°54'19". (*Change to 1170 kHz*).	5.000	DA-D	*1510 kHz* D	II	....	....	....	
XEJPM	Cardel, Ver., N. *19°11'56", W. 96°16'25"*. (PO 0.500/KW/D, ND-D-190, 50/120/50).	5.000	DA-D	*1510 kHz* D	II	....	....	....	
XEYQ	Fresnillo, Zac., N. 23°07'50", W. 102°49'54".	1.000D/*.500N*	ND-D-187, *DA-N*	*1510 kHz* U	II	161	120	161	October 1, 1980.
XEUAA	Aguascalientes, Ags., N. 21°54'44", W. 102°19'01". (*Change to 1370 kHz*).	.250	ND-D-190	*1520 kHz* D	II	161	120	161	
XEJPV	Zaragoza, Chih., *N. 31°38'30", W. 106°22'08"*.	1.000	ND-D-*195*	*1560 kHz* D	II	174	120	*164*	Immediately.
XEAK	Acambaro, Gto., *N. 20°02'23", W. 100°43'50"*.	500D/.200N	ND-U-175	*1600 kHz* U	III	184	120	184	Oct. 1, 1980.

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 80-25653 Filed 8-22-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Dream, Inc.; Proposed Retention of S & M Insurance Agency

Dream, Inc., Melbourne, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of S & M Insurance Agency, Melbourne, Iowa.

Applicant states that the proposed subusidiary would continue to engage in general insurance agency activities in a town with a population of less than 5,000. These activities would be performed from offices of applicant's subsidiary in Melbourne, Iowa, which is the geographic area to be served. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsoud banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1980.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25843 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

Jesup Bancshares, Inc.; Formation of Bank Holding Company

Jesup Bancshares, Inc., Jesup, Iowa, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers State Bank, Jesup Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25842 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

MultiLine, Inc.; Acquisition of Bank

Multi-Line Inc., Tampa, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 11.3 percent of the voting shares of First Florida Banks, Inc., Tampa, Florida. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25840 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

Philip Bancorporation, Inc.; Formation of Bank Holding Company

Philip Bancorporation, Inc., Philip, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 84.1 percent of the voting shares of First National Bank in Philip, Philip, South Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25841 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

SBC, Inc.; Formation of Bank Holding Co.

SBC, Incorporated, Countryside, Illinois, has applied for the Board's approaval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of State Bank of Countryside, Countryside, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25844 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

Springtown Bancshares, Inc.; Formation of Bank Holding Co.

Springtown Bancshares, Inc., Siloam Springs, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.52 per cent of the voting shares of First National Bank, Siloam Springs, Arkansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25839 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 13, 1980 (FCC, NRC) and August 18, 1980 (FCC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 12, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests an extension-without-change clearance of Form 349-R, Application for Renewal of FM Booster Station License. Form 349-R, is required by § 73.3539 of the Commission's Rules and Regulations. The form is used for renewing FM Booster Station Licenses. The FCC estimates that respondents number approximately 7 and that burden for completing an application will average 7 hours.

The FCC requests clearance of new Form 847, Examination Credit Certificate. Form 847 is required by amendments to Parts 13, 81, 83, and 87 of the Commission's Rules and Regulations. Due to the elimination of the 3rd Class Operator Permit, there is a change in the order of administering examinations. The easier examination on rules and operating practices (elements 1 and 2) will be given only after passing the more difficult technical examination on electronic theory (element 3). If an applicant passes element 3, but fails elements 1 and 2, the FCC will issue a one-year credit certificate (Form 847 filed by applicant and then stamped with FCC seal), to spare the applicant the burden of retaking the passed examination. The FCC estimates approximately 200 forms will be received annually and that 5 minutes will be required per form.

The FCC requests reinstatement of form 915, Priority Request and Certification. Form 915 will be filed by users of Private Line Communications Services provided by Communications Common Carriers in applying for restoration of these services on a priority basis in the event of failure pursuant to FCC Rules and Regulations (§ 64.401 and Appendix A to Part 64). The FCC states that Form 915 has been revised. The FCC estimates that approximately 500 requests will be received annually and that respondent burden will average one hour per response.

Nuclear Regulatory Commission

The NRC requests an extension-without-change clearance of Form 241, Reports of Proposed Activities in Non-Agreement States. The report informs the NRC of locations and dates of activities conducted in Non-Agreement States by Agreement State licensees (not to exceed 180 days a year) under general license of 10 CFR Part 150.20. Form 241 must be filed with the NRC, Office of Inspection and Enforcement Regional Office, at least three days prior to engaging in each such activity. The NRC estimates that approximately 200 reports will be filed annually and that time to complete the form will average 15 minutes.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-25827 Filed 8-22-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Guidelines for Respiratory Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction to final notice.

SUMMARY: This document makes certain corrections in the schedules of guidelines for Medicare program reimbursement for respiratory therapy services published in the **Federal Register** on June 3, 1980 (45 FR 37527).

FOR FURTHER INFORMATION CONTACT: Alton Cobb, 301-594-9773.

SUPPLEMENTARY INFORMATION: In FR Document No. 80-16811 published on June 3, 1980, the following corrections are made:

1. On page 37528, first column, first full paragraph in, the third and fourth line from the bottom in that paragraph should be revised by substituting for the phrase "payments for respiratory therapy services", the phrase "payments for the services of registered respiratory therapists."

2. On page 37528, second column, under the heading "Binding Contract Exception", the last sentence of the paragraph should be revised as follows:

Binding Contract Exception

A hospital or other institution that has contracted with a therapist or other supplier organization to furnish therapy services may be granted an exception, as specified in 42 CFR 405.432(f)(1), from the application of the guidelines for nonregistered and noncertified therapists. This exception may be granted if the hospital or other institution has a binding contract in writing with the therapist or supplier organization which was entered into prior to the date the guidelines are published. The exception may be granted for the contract period, but not longer than one year from this date. During any binding contract exception period which may be granted, the cost of services furnished by nonregistered and noncertified therapists will be evaluated under 42 CFR 405.432(c)(5). No binding contract exception that was granted with respect to the services of registered and certified therapists under the guidelines published October 6, 1978, will be extended or renewed as a result of publication of this update.

3. On page 37528, second column, item 1, under the heading "Methodology for Determining Hourly Salary Equivalency and Standard Travel Allowance Amounts", second paragraph, insert the word "Therefore" before "If" in the second sentence and make "If" lower case.

4. On page 37528, third column, the fifth sentence of the second full paragraph should be deleted, so that the paragraph reads as follows:

The salary data have been updated to account for inflation by using the most recently available figure for overall hospital wages as determined by BLS (BLS Employment and Earnings Bulletin line SIC-806 for September 1979). This figure was compared with the comparable figure for the month of the BLS triennial hospital wage survey (September 1978) to obtain an overall percentage increase. This percentage was then applied to the September 1978 respiratory therapy salary data. Using the updated 1978 data has resulted in certain of the guideline amounts for registered respiratory therapists being lower than the amounts which were published in the **Federal Register** on October 6, 1978. This is because the factor used to update the 1975 BLS data, which formed the basis of the initial guidelines for respiratory therapists, overestimated the rate of increase between 1975 and 1978.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance, and 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 18, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80-25745 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 6 and 7, 1980, in Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunity.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health

[FR Doc. 80-25787 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, October 2 and 3, 1980 at the National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland.

The meeting will be open to the public on October 2 from 8:30 a.m. to approximately 4:30 p.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on October 2 from approximately 4:30 p.m. until recess and continue to be closed from 8:30 a.m. until adjournment on October 3, 1980 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496-5717; will provide summaries of the meetings and rosters of the Council members as requested.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-7465, will provide substantive program information.

V 45 AG 25 80 UMI

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

Note.—NIH programs are not covered by OMB circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-25783 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Allegy and Infectious Diseases Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, September 29, 30, and October 1, 1980 at the Rocky Mountain Laboratory, National Institute of Allergy and Infectious Diseases, Hamilton, Montana.

The meeting will be open to the public on September 29 from approximately 9:00 to 9:30 a.m., and from 1:30 p.m. to appoximately 5:00 p.m. On September 30 the meeting will be open to the public. This will be to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463, the meetings of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on September 29, 1980. The meeting of the full Council will be closed from 8:30 a.m. until adjournment on October 1 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmalogical Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-25785 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Eye Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, September 21, 22, 23, and 24, 1980, Bethesda, Maryland.

The National Advisory Eye Council's standing subcommittee, the Vision Research Program Planning Subcommittee, will meet at 7:30 p.m., September 21, 1980, in the Kenwood Suite of the Bethesda Marriott Hotel, 2 Pooks Hill Road, Bethesda, Maryland, for the purpose of reviewing an outline of the new five-year planning document scheduled for publication in late 1981. Attendance by the public will be limited to space available.

The full National Advisory Eye Council will meet September 22, 23, and 24, 1980, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. until noon on Monday, September 22, for opening remarks by the Director, National Eye Institute, discussion of procedural matters and presentations by the extramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 1 p.m. for the remainder of the day on Monday, September 22, and all day on Tuesday and Wednesday, September 23 and 24, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A-25, AC 301/496-5248, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-25784 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Neurological and Communicative Disorders and Stroke Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, October 2 and 3, 1980, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 9 a.m. until approximately 11:30 a.m. on October 2, 1980, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 11:30 a.m. on October 2, 1980, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on October 3, 1980, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator

Awards, Research Career Development Awards, and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion or personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-25782 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, October 1, 1980, at 1 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 1 p.m. to approximately 3 p.m. on October 1, 1980, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 3 p.m. to adjournment on October 1, 1980. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-25781 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Heart, Lung, and Blood Advisory Council and Its Manpower Subcommittee and Research Subcommittee; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 25, 26, and 27, 1980, National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on September 25 from 9:00 a.m. to approximately 4:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held September 24, 1980 at 8:00 p.m. in Building 31, Conference Rooms 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on September 25 from 4:00 p.m. until recess and on September 26 from 9:00 a.m. to adjournment on September 27 for the review, discussion, and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment on September 24, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (301) 496-7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

[FR Doc. 80-25780 Filed 8-22-80; 8:45 am]

BILLING CODE 4110-08-M

National Institute of General Medical Sciences; Meeting

Notice is hereby given of the Second Conference on Supportive Therapy in Burn Care sponsored by the National Institute of General Medical Sciences on October 9 and 10, 1980 at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 9, 1980, from 7:00 p.m. to adjournment and on October 10, 1980, from 8:00 a.m. to adjournment. The agenda items will include the presentation of new work being

V 4 5 AG 2 5 80 UMI

performed in the areas of fluid resuscitation, infection, metabolism, smoke inhalation, and excision since the November 1978 Conference, and presentations will be made by Institute staff on research and research training opportunities related to trauma and burns. Attendance by the public will be limited to space available.

Emilie A. Black, M.D., Assistant Director for Clinical Research, National Institute of General Medical Sciences, 5333 Westbard Avenue, Room 925, Bethesda, Maryland 20205, phone 301/496–7373 will provide additional information.

(Catalog of Federal Domestic Assistance Program No. 13.821, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–25788 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08–M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on October 6, 1980 in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. to 5:00 p.m. on October 6, will be open to the public. The Committee will discuss the current status of Division of Lung Diseases' programs and Committee plans for fiscal year 1981. Attendance by the public will be limited to the space available.

Mr. York Onnen, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) and (4) and (5) of that Circular.

Dated: August 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80–25786 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Approval of Petition for Reassumption of Jurisdiction Over Indian child Custody Proceedings by the Colville Confederated Tribes

August 12, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of petition for reassumption of jurisdiction over Indian child custody proceedings.

SUMMARY: The Colville Confederated Tribes have filed a petition with the Interior Department to reassume exclusive jurisdiction over child custody proceedings involving Indian children who reside or are domiciled on the Colville reservation in Washington. The Assistant Secretary—Indian Affairs has reviewed the petition and determined that tribal exercise of jurisdiction is feasible and that the tribe has a suitable plan for exercising such jurisdiction. this notice constitutes the official approval of the Colville Confederated tribes' petition by the Interior Department.

EFFECTIVE DATE: The Colville Confederated tribes shall reassume exclusive jurisdiction October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Office of the Regional Solicitor, Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E., Multnomah Street, Portland, Oregon 97232, telephone (503) 231–2125.

SUPPLEMENTARY INFORMATION: The authority for the Assistant Secretary—Indian Affairs to publish this notice is contained in 25 U.S.C. § 1918(c), 25 CFR § 13.14 and 209 DM 8.

The principal author of this document is Louise Zokan, Division of Social Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

Section 108 of the Indian Child Welfare Act of 1978, Pub. L. 95–608, 92 Stat. 3074, 25 U.S.C. § 1918, authorizes Indian tribes that occupy a reservation as defined in 25 U.S.C. § 1903(10) over which a state asserts jurisdiction over Indian child custody proceedings pursuant to federal statute to reassume jurisdiction over such proceedings.

To reassume such jurisdiction a tribe must first file a petition in the manner prescribed in 25 CFR Part 13. The petition is then reviewed by the Interior Department using criteria set out in 25 CFR § 13.12. If the Department finds that the tribe has submitted a suitable plan and that tribal exercise of jurisdiction is feasible, the petition is approved by publication in the **Federal Register**. Tribal reassumption becomes effective 60 days after publication.

Notice that the Colville Confederated Tribes had submitted a petition for reassumption of jurisdiction was published in the **Federal Register** on April 1, 1980 F.R. Vol. 45 No 64. The following notice is based on the Interior Department's review of that petition:

Notice

This is notice that a petition for tribal reassumption of jurisdiction over Indian child custody proceedings filed by the Colville Confederated Tribes is approved effective 60 days after publication of this notice in the **Federal Register.**

The geographic area subject to the reassumption of jurisdiction is the land known as the Colville Indian Reservation.

Thomas W. Fredericks,

Acting Deputy, Assistant Secretary—Indian Affairs.

[FR Doc. 80–25800 Filed 8–22–80; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Call for Oil Shale Technology Nominations; Clarification of Due Date for Call for Technology Nominations

The closing date for the Call for Expressions of Interest in Oil Shale Technologies is hereby extended from October 14, 1980, to October 16, 1980, in order to make the 60 day call period consistent with the date of publication of the Call. The anticipated date for the Call for Tract Specific Nominations remains unchanged at approximately January 15, 1981. During the period from October 16, 1980, to approximately January 15, 1981, the Bureau of Land Management will continue development of tract delineation and tract selection criteria in preparation for tract delineation following the close of the Call for Tract Specific Nominations.

Reference: The Call for Technology Nominations which this announcement amends appears in the **Federal Register** 54873, August 18, 1980.

Guy R. Martin,
Assistant Secretary, Land and Water Resources.
August 19, 1980.

[FR Doc. 80-25720 Filed 8-22-80; 8:45 am]
BILLING CODE 4310-10-M

Oklahoma; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice calling for expressions of leasing interest in Federal coal.

SUMMARY: This call for expressions of coal leasing interest is to integrate potential lessees' data and needs into the coal activity planning phase of the Federal coal management program in the Western Interior Federal Coal Production Region, Oklahoma Subregion. The data received from this call along with data from the Bureau of Land Management (BLM) and the Geological Survey (GS), will be used to delineate preliminary tracts within the Southeast Oklahoma Management Framework Plan (MFP) which will be considered for possible leasing.

DATE: Responses to this notice will be accepted until October 24, 1980.

ADDRESSES: Responses should be sent to:

Homer G. Meyer, Area Manager, Bureau of Land Management, Room 548, 200 NW Fifth, Oklahoma City, Oklahoma 73102, Telephone (405) 231-4481.

and to:

E. L. Johnson, Area Geologist, U.S. Geological Survey, 6136 East 32nd Place, Tulsa, Oklahoma 74135, Telephone (918) 581-7631.

FOR FURTHER INFORMATION CONTACT: Marie Larragoite, Bureau of Land Management, P.O. Box 1449, New Mexico State Office, Santa Fe, New Mexico 87501, Telephone (505) 988-6227.

SUPPLEMENTARY INFORMATION: This notice is to advise the public that the official call for expression of leasing in the areas acceptable for further consideration for coal leasing in the Western Interior Coal Region (Southeast Oklahoma Subregion) is now in effect. The Southeast Oklahoma Subregion includes areas in the six counties of Atoka, Coal, Haskell, Le Flore, Latimer, and Pittsburg. Detailed information including a Summary Brochure, maps and additional supportive information on the areas found acceptable for further consideration for coal leasing are available from the BLM Oklahoma Resource Area Headquarters and the U.S. Geological Survey at the addresses provided above.

This call for expressions of interest is the first step in activity planning in the Southeast Oklahoma Subregion under the Federal coal management program (43 CFR 3420.4-2). The results of this call will provide significant information that will be used to delineate preliminary tracts within the Subregion that might be offered for lease sale. Preliminary tracts will be delineated in areas that were found acceptable for further consideration for coal leasing during the land-use planning process.

A major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the tracts which will be considered prior to a lease sale.

Expressions of interest from small businesses and public bodies are actively invited in accordance with the provisions of 43 CFR 3420.1-4 which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses. Leases issued to small business firms under the stated provisions may be competed for and assigned only to small businesses meeting the requirements of 13 CFR 121.3-9.

Expressions of leasing interest should include the following data (where applicable):

1. Quantity needs (total tonnage, average tons per year, and year during which production would commence) for both coal producers and users.
2. Quality needs (types and grades of coal) for both producers and users.
3. Location.
   a. Tract desired by mining companies (narrative description with a diagram on a surface minerals management map which is available for purchase from the BLM State Office at the address given above).
   b. Public and private industry user facilities in the region.
   c. If no location is indicated, but other specific data are provided, the expression will still be considered. In such cases, the joint BLM/GS/OSM tract delineation team will locate an appropriate tract.
4. Type of mine.
   a. Surface or underground.
   b. Technique of mining (i.e., longwall, room and pillar, dragline, etc.).
5. Proposed uses of coal.
   a. By mining companies.
   b. By public and private industries.
6. Where coal would be consumed (include extra-regional markets, plant output and location).
   a. Within the Westen Interior (Oklahoma Subregion).
      (1) Electric powerplant.
      (2) Synfuels plant.
      (3) Other (specify).
   b. Outside the Western Interior (Oklahoma Subregion).
      (1) Electric powerplant.
      (2) Synfuels plant.
      (3) Other (specify).
7. Transportation needs (i.e., railroads, pipelines, etc.).
   a. Existing facilities.
   b. Contingency or other sources.
8. Information relating to mineral ownership.
   a. Information on surface owner consents previously granted (e.g., a description of the location of the property, whether consents are transferable, etc.). On any areas where surface owner consent is not transferable, Federal coal leasing cannot occur.
   b. Commitments from fee coal owners or commitments for associated non-Federal coal.

Entities submitting expressions of interest under the small business or public body provisions described above should state that the submissions are for possible small business or public body set-asides and should also supply proof of small business or public body status. An individual, business entity or public body may participate and submit expressions of leasing interest under this call.

An expression of leasing is not an application. The sale and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so. The preliminary tracts delineated as a result of this call will be ranked and selected by the regional coal team in accordance with the provisions of 43 CFR 3420.4.

Any expressions of leasing interest may include supportive nonproprietary data. Such data may include, but are not limited to, location and quantities and types of coal (including coking coal) desired, time frames for development, proposed uses of coal, technical coal data, commitments between private surface and coal owners and adjacent land owners or lessees, and basic development proposals. Expressions which identify quantity and quality of coal and timing of need without specifying a location shall be given as serious consideration in activity planning as those that specify a location. Data which are considered proprietary should not be submitted to the BLM as part of an expression of leasing interest. Instead, proprietary coal data may be submitted separately for information purposes to the GS Area Geologist at the address provided above.

Expressions of leasing interest submitted to BLM or data submitted separately to GS should include the name, address, and telephone number of a contact person who can provide additonal information or clarification.

All information submitted to BLM under this subpart shall be available for public inspection and copying upon request.

Dated: August 20, 1980.

Larry L. Woodard,

Acting State Director.

[FR Doc. 80-25849 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-84-M

Oklahoma; Requesting Filing of Pre-Existing Surface Owner Consent for Surface Coal Mining

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of pre-existing surface owner consent for surface coal mining.

SUMMARY: This notice is to advise the public that pursuant to 43 CFR 3427, valid written consent for surface coal mining, given by qualified surface owners prior to August 4, 1977, may be filed with the Bureau of Land Management Oklahoma Resource Area Headquarters at the address given below.

In addition, the consent documents should contain evidence that the qualified surface owners have agreed: (1) to permit a coal operator to enter and commence surface coal mining of Federal coal; (2) whether the right to enter and commence mining is transferable to whoever may make the successful bid in a lease sale for a tract which includes the lands to which the consent applies; (3) to describe any financial or other consideration given or promised in return for a permission, including in-kind consideration; (4) to describe any consideration given in terms of type or method of operation or reclamation for the area; (5) to provide any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (6) to provide a full and accurate description of the area covered by the permission.

These pre-existing consents, when filed, will be used by the Western Interior Regional Coal Team to assist in determining, during the tract delineation, ranking, and selection process, the competitive nature of the possible lease tracts. The Oklahoma Subregion consists of the counties of Atoka, Coal, Haskell, Le Flore, Latimer and Pittsburg.

Valid written consents on lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal government, will be accepted until at least 30 working days prior to the publication of a lease sale notice of the specific lands involved, in accordance with 43 CFR 3427.2. However, submission of consent documents that currently exist will allow early consideration in the Federal coal activity planning process. The lack of a valid written consent at this time will not preclude consideration of coal tracts during the tract delineation, ranking, and selection process.

DATE: All pre-existing surface owner consents for the Western Interior Coal Production Region, Oklahoma Subregion, are to be received at the address given below by October 24, 1980.

ADDRESSES: Written consents, or evidence thereof, should be sent to: Homer G. Meyer, Area Manager, Bureau of Land Management, Room 548, 200 NW Fifth, Oklahoma City, Oklahoma 73102, Telephone (405) 231-4481.

Dated: August 20, 1980.

Larry L. Woodard,

Acting State Director.

[FR Doc. 80-25850 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Ozark National Scenic Riverways Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, as amended by Pub. L. 94-409, 90 Stat. 1247, that a meeting of the Ozark National Scenic Riverways Advisory Commission will be held on Friday, September 12, 1980, at 10:00 a.m., CST, at the Riverways' Headquarters on U.S. Highway 60 in Van Buren, Missouri.

The Commission was established by Pub. L. 88-492, 78 Stat. 609, 16 U.S.C. 460m-6, to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Ozark National Scenic Riverways.

The members of the Commission are as follows:

Dr. Oscar Hawksley, Warrensburg, Missouri (Chairman).
Mr. H. C. Daniel, Van Buren, Missouri.
Mr. Carlton E. Bay, Salem, Missouri.
Mr. Cecil J. Brallier, Houston, Missouri.
Mr. Henry F. Luepke, Jr., St. Louis, Missouri.
Mr. Edward Hodge, Eminence, Missouri.

The purpose of this meeting is to review with the Commission progress on the General Management Plan, report on Ozark Trail progress, provide a research update, answer any questions regarding the approved Land Acquisition Plan, explain the Concessions Evaluation Program, and provide information on Youth Programs within the Park.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Arthur L. Sullivan, Superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Missouri 63965, telephone 314-323-4236.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Ozark National Scenic Riverways' Headquarters in Van Buren, Missouri.

Dated: August 12, 1980.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 80-25857 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Rule 19; Ex Parte No. 241; 13th Rev. Exemption No. 141]

Aberdeen & Rockfish Railroad Co. et al.; Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous plain gondola cars less than 61-ft.; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC-RER No. 6410-F, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Aberdeen and Rockfish Railroad Company
  Reporting Marks: AR
Atlantic and Western Railway Company
  Reporting Marks: ATW
Bessemer and Lake Erie Railroad Company
  Reporting Marks: BLE
Chicago, West Pullman & Southern Railroad Company
  Reporting Marks: CWP
Columbus and Greenville Railway Company
  Reporting Marks: CAGY
Consolidated Rail Corporation
  Reporting Marks: BCK–CNJ–CR–DLW–EL–ERIE–LV–HY–HYC–PE–PAE–PC–PCA–PRR–RDG–TOC–RR
East St. Louis Junction Railroad Company
  Reporting Marks: ESLJ
Illinois Terminal Railroad Company
  Reporting Marks: ITC
The Lake Terminal Railroad Company*
  Reporting Marks: LT
Louisiana Midland Railway Company
  Reporting Marks: LOAM
Louisville and Nashville Railroad Company*
  Reporting Marks: CIL–LN–MON–NC
Maryland and Delaware Railroad Company
  Reporting Marks: MDDE
Octoraro Railway, Inc.
  Reporting Marks: OCTR
The Pittsburgh and Lake Erie Railroad Company
  Reporting Marks: PLE
Seaboard Coast Line Railroad Company*
  Reporting Marks: ACL–SAL–SCL
Southern Railway Company
  Reporting Marks: SOU
St. Louis-San Francisco Railway Company
  Reporting Marks: SLSF
Wisconsin and Southern Railroad Company
  Reporting Marks: WSOR
Upper Merion and Plymouth Railroad Company
  Reporting Marks: UMP

Effective August 15, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., August 13, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80–25767 Filed 8–22–80; 8:45 am]

BILLING CODE 7035–01–M

[Rule 19, Ex Parte No. 241, 44th Rev. Exemption No. 129]

Atlanta & Saint Andrews Bay Railway Co. et al.; Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffice offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–F, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
  Reporting Marks: ASAB
Boston and Maine Corporation
  Reporting Marks: BM
Chicago, Milwaukee, St. Paul and Pacific Railroad Company
  Reporting Marks: MILW
Chicago, West Pullman & Southern Railroad Company
  Reporting Marks: CWP
Columbus and Greenville Railway Company
  Reporting Marks: CAGY
Delaware and Hudson Railway Company
  Reporting Marks: DH
Green Mountain Railroad Corporation
  Reporting Marks: GMRC
Illinois Terminal Railroad Company
  Reporting Marks: ITC
Louisville and Nashville Railroad Company*
  Reporting Marks: LN–CIL–MON–NC
Louisville, New Albany & Corydon Railroad Company
  Reporting Marks: LNAC
Manufacturers Railway Company
  Reporting Marks: MRS
Maryland Midland Railway Company
  Reporting Marks: MMID
Missouri-Kansas-Texas Railroad Company
  Reporting Marks: MKT
Missouri Pacific Railroad Company
  Reporting Marks: CEI–MI–MP–TR
New Hope and Ivyland Railroad Company
  Reporting Marks: NHIR
North Stratford Railroad Corporation
  Reporting Marks: NSRC
Seaboard Coast Line Railroad Company*
  Reporting Marks: ACL–SAL–SCL
St. Louis-San Francisco Railway Company
  Reporting Marks: SLSF
St. Louis-Southwestern Railway Company
  Reporting Marks: SSW
Southern Pacific Transportation Company
  Reporting Marks: SP
Southern Railway System
  Reporting Marks: SOU–CG–NS–SA

Effective August 15, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., August 13, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80–25765 Filed 8–22–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-5F)]

Consolidated Rail Corp. Abandonment at River Junction and Cuba Junction in Livingston, Allegany, and Cattaraugus Counties, N.Y.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided July 29, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Consolidated Rail Corporation of a line of railroad known as the River Line extending from railroad milepost 358.1 at River Junction to milepost 390.7 at Cuba Junction, a distance of 32.6 miles in Livingston, Allegany and Cattaraugus Counties, NY, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (197). A certificate of public convenience and necessity permitting abandonement was issued to Consolidated Rail Corporation. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 9, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 9, 1980.

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*Additions.

*Addition

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25760 Filed 8-22-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recpvery of Fuel Costs

Decided: August 19, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, and 12, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4 percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. August 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins and Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 .... 63.5¢

Date of Current Price Measurement and Price per Gallon (Including Tax)

August 18, 1980 .... 113.4¢

	Transportation performed by—			
	Owner operator (1)	Other (2)	Bus carrier (3)	UPS (4)
Average percent fuel expenses (including Taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[1] 2.1
Percent surcharge allowed	13.0	2.3	5.0	[2] 1.3

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80-25764 Filed 8-22-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. Broadening amendments will not be accepted after August 25, 1980, except for good cause shown.

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environments nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or

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the application of a non-complying applicant shall stand denied.

Decided July 29, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams. (In MC–F–14388 Member Krock not participating).

(In MC–F–14425, Board Member Taylor dissented: The instant application should be rejected for two reasons. In the first instance the authority sought here is contrary to and prohibited by the order of the Commission, Division 3 in No. MC–F–12935, dated March 10, 1977, wherein the parties herein, among others, were ordered to take "such steps as may be necessary to insure that the operating rights and business activities of each of the carriers herein shall be under its sole dominion, control, and responsibility." Thus it is clear that any change in that order must be obtained by reopening the proceeding in No. MC–F–12935. In addition, the instant application fails to show how or by what method applicants would control Tiger Transportation, Inc. Obviously, ownership of 30% of the outstanding capital stock is not sufficient to give control through stock ownership, nor is there any evidence to show that the owners of the remaining 70% of Tiger's capital stock would be willing to permit applicants to assume control through management.)

JIM EDDLEMAN, an individual, d.b.a. J & J CATTLE CO., (J & J) (3395 Wright Street, Wheat Ridge, CO 800 3)—purchase (portion)—TOMAHAWK TRUCKING, INC., (Tomahawk) (Box), Vernal, UT 84078). Representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, CO 80203. J & J seeks authority to purchase that portion of the interstate operating rights of Tomahawk contained in Certificates No. MC–115092 (Sub-Nos. 30 and 77F), which authorize the transportation, as a motor common carrier, over irregular routes, of (1) *foodstuffs,* (except in bulk), from Delta, CO, to points in AR, AZ, CA, IL, IN, IA, KS, LA, MI, MN, MO, NE, OH, OK, TX, and WI, and (2)(a) *unfrozen canned foodstuffs,* from the facilities of Kuner Empson Co., at Brighton, CO, to points in AZ, and (b) *meats, meat products and meat byproducts and articles distributed by meat-packing* houses, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Litvak Meat Packing Co., and Flavorland Industries, Inc., at Denver, CO, to points in AZ and CA, restricted in (2) above to the transportation of traffic originating at the named origin and destined to the named destinations. J & J is a motor common carrier pursuant to authority awarded in FC–78477. (Hearing site: Denver, CO, or Salt Lake City, UT.)

Note.—Applicantion for temporary authority has been filed.

MC–F–14425F, filed June 1, 1980. STANLEY L. WATKINS (P.O. Box 489, Shelby, MT 59474) and WARREN C. SHEPARD (P.O. Box 2730, Missoula, MT 49801) (Individuals)—CONTROL—TIGER TRANSPORTATION, INC. (Tiger) (P.O. Box 2248, Missoula, MT 59806). Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. Stanley L. Watkins and Warren C. Shepard own, respectively, 20 and 10 percent of the stock of Tiger. This Tiger stock is currently held in blind trust pursuant to Commission proceeding in MC–F–12935. Individuals seek authority to assume control over their Tiger stock. Individuals also own Eugene Tripp Trucking, a motor common carrier, operating under authority issued in Certificates in MC–143328 and sub-numbers thereunder. The operating rights to be controlled are contained in Tiger's certificate in MC–140196 (Sub-No. 28) which authorizes the transportation, as a motor common carrier, over irregular routes, of *flour,* from Billings, MT, to points in CA. (Hearing site: Missoula, MT.)

No. MC–F–14127, republication, filed August 15, 1979. Applicant WELCH TRUCKING INC. The application was originally published in the Federal Register in Volume 44, No. 108, page 54608, omitting the destination point of Houston, TX, from the authority acquired in No. MC–127668 (Sub-No. 2) for hides from Phoenix, AZ. In order to provide accurate notice of the commodities and territory involved in the application, the portion of the authority published incorrectly is being republished.

Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting hides from Denver, Pueblo, Colorado Springs, Montrose, Grand Junction, Durango, and Cortez, CO, Lubbock, El Paso, Dallas, Fort Worth, Amarillo, Hereford, Plainview, and Friona, TX, Gymon, OK, and Albuquerque and Clovis, NM, to Phoenix, AZ, and from Phoenix, AZ, to Laredo, Houston, Forth Worth, and Dallas, TX, for the account of Southwest Hide Co., Phoenix, AZ.

MC–F–14427F, filed June 18, 1980. CURLEY'S TRUCKING, INC. (CURLEY'S) (Box 1898, Monahans, TX 79756)—purchase—J. E. COX AND SONS, INC. (COX) (P.O. Box 1352, San Angelo, TX 76901). Representative: George L. Fowler, 115 West 5th Street, Odessa, TX 79761. Curley's seeks to purchase all of the operating rights of Cox, as set forth in No. MC–41610 and Sub-No. 12 thereunder. By the same application, Curley's Inspection Service, Inc. of Monahans, TX, and in turn, Willie Curley Beard, also of Monahans, TX, who controls Curley's Inspection Service, Inc. through stock ownership, seek authority under the same section to acquire control of the said operating rights and properties of Cox through the transaction. Cox is authorized to operate as a motor common carrier, in interstate or foreign commerce, pursuant to Certificate No. MC–41610 and Sub-No. 12 thereunder, which essentially authorize the transportation of machinery, materials, equipment, and supplies used in, or in connection with the discovery, development, processing, transmission and other activities concerning natural gas and petroleum, and their products and by-products, between certain Texas and New Mexico points. Curley's operates as a motor common carrier, in interstate or foreign commerce, pursuant to Certificate No. MC–98868 (Sub-No. 2), to transport various types of equipment, materials, and supplies used in the petroleum and other industries between all points in Texas. (Hearing sites: Odessa or San Angelo, TX.)

MC–F–14437F, filed June 27, 1980. GROSS & HECHT TRUCKING, INC. (Grosse) (35 Brunswick Avenue, Edison, NJ 08817)—Purchase—A & B EXPRESS CO., INC. (A & B) (P.O. Box 514, Edison, NJ 08817). Representative: R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Gross seeks to purchase the contract carrier operating rights and property of A & B, involving the permit in No. MC–141795 (Sub-No. 2). A & B's only remaining authority, in No. MC–141795 (Sub-No. 1), will be cancelled and A & B liquidated. Transco Group, Inc. and Arthur M. Goldberg seek authority to acquire control of said rights and property through the transaction. The permit is No. MC–141795 (Sub-No. 2) authorizes the transportation of *citrus products, non-alcoholic and beverage concentrates,* between the facilities of Tropicana Products, Inc., at Kearny, NJ, on the one hand, and, on the other, points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, under contract with

Tropicana Products. (Hearing site: New York, NY.)

MC–F–14388, filed May 12, 1980. BI-RITE AUTO TRANSPORT, INC., (Bi-Rite) CONTROL-DEALERS AUTO TRANSPORT, INC. (Dealers) (both of 1902 West North Grand Avenue, Porterville, CA 93257) and in turn, Osco Hensley, Jr. acquiring control of such rights through the transaction. Representative: Miles L. Kavaller, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Bi-Rite is purchasing the stock of Dealers which holds interstate operating rights in Docket No. MC–136683 which authorize the transportation as a motor common carrier, over irregular routes, of (1) used motor vehicles which have been repossessed, embezzled, stolen, or damaged (a) from points in AR, CT, CO, FL, KY, IL, IN, ID, LA, MA, ME, MO, MI, MT, NE, NC, NY, OH, RI, SC, TN, and WY to points in CA; (b) from points in TX to points in AZ: (c) from points in AZ and WA to points in NV; (d) from points in UT to points in AZ; (e) between points in CA, on the one hand, and, on the other, points in AZ, NJ, ND, NV, NM, OK, OR, TX, UT and WA; (2) wrecked, embezzled, or stolen automobiles, by tow-away, or drive-away under the vehicles' own power, from points in the United States (except Alaska and Hawaii) to Los Angeles, CA; (3) used motor vehicles which have been repossessed, embezzled or stolen, in secondary movements, in truck-away service, from points in CA to points in CO, and (4) used automobiles, in truck-away service, between Phoenix, AZ, on the one hand, and, on the other, Los Angeles, and San Diego, CA. Bi-Rite operates as a motor common carrier, in interstate or foreign commerce, pursuant to a certificate issued June 12, 1980 in No. MC–144400, authorizing the transportation of used automobiles and trucks, in secondary movements, in truckaway service, between points in CA and NV, between CA and NV and AZ, CO and UT, Anaheim, Fresno, and Los Angeles, CA to Boise, Burley and Nampa, ID, and under temporary authority in No. MC–144400 (Sub-No. 1 TA) to transport used automobiles, with exceptions between named points in CA on the one hand, and, on the other points in AZ, CO, NV and UT. Impediments: (1) There are several duplications of authority involving the same commodities. These include Bi-Rites authority in MC–144400 between points in CA and NV and that of Dealers in MC–136683 between points in CA on the one hand, and, on the other points in NV; BI-Rites between points in CA and NV on the one hand, and, on the other points in AZ, CO and UT, and Dealers from points in CO to points in CA, between points in CA on the one hand, and, on the other points in AZ and UT, from points in CA to points in CO, between Phoenix, AZ, on the one hand, and, on the other Los Angeles, and San Diego, CA. (2) There is a fitness question relating to the issue of unauthorized and premature consummation and an issue of duplicating authority obtained by false pretenses by Bi-Rite in No. 144400 by failing in its request for authority to advise the Commission that is has prematurely acquired control of Dealers holding similar authority. In addition questions of fitness are raised where an applicant (Bi-Rite) acquires control of a protestant (Dealers) during the processing of a pending proceeding.

MC–F–14434, filed June 20, 1980. The O.K. Trucking Company (O.K.) (3000 East Cresentville Road, Cincinnati, OH)—Control and Merger—Anderson Motor Services, Inc. (Anderson) (Georgetown Walk Office Center, 7525 Revenridge Drive, St. Louis, MO 63119). Representatives: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH, 45202 and Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO, 64105. O.K. seeks authority to acquire the capital stock of Anderson and to merge the operating rights and property of the latter into O.K. By the same application Harold L. Holmes, Arthur C. Litton II and Arthur C. Menne (each of whose address is listed as the same as O.K.'s), who controls O.K. through 100 percent ownership of O.K.'s voting stock, and 89.7 percent ownership of O.K.'s non-voting stock, seek authority to acquire control of the said motor carrier operating rights and properties of Anderson, through the transaction. O.K. proposes to purchase the stock for a total price of $4,500,000. Anderson is authorized to operate as a motor common carrier, in interstate or foreign commerce, pursuant to certificate issued in MC–109095 and sub-numbers thereunder, which authorize the transportation of general commodities with the usual exceptions, over the following routes: Regular Routes. (1) Between Indianapolis, IN and Cleveland, OH serving no intermediate points; (2) Between East Alton, IL and Indianapolis, IN serving no intermediate points; (3) Between St. Louis, MO and Akron, OH serving the intermediate and off-route of Indianapolis and Pendleton, IN., those in the St. Louis, MO-East St. Louis, IL Commercial Zone, as defined by the Commission in 1 M.C.C. 656, Robertson, MO, the site of the Ford Motor Company plant, near Robertson, the site of Lambert Airfield, and Ferguson, MO; (4) Between Pendleton, IN., and Akron, OH serving the intermediate points of Fort Wayne, IN, Toledo and Cleveland, OH and points in OH within ten miles of Cleveland; (5) Between Lodi, OH and Akron, OH for operating convenience only, with no service to or from Lodi, OH and serving no intermediate points; (6) Between Akron, OH and Cleveland, OH for operating convenience only serving no intermediate points; (7) Between Tiffin, OH and Junction U.S. Highway 20 and OH Highway 113, for operating convenience only, serving no intermediate points. Irregular Routes: (8) (a) Between Indianapolis, IN and points within 10 miles of Indianapolis; (b) Between Akron, OH and points within 10 miles of Akron; (9) Empty equipment only, over regular routes between St. Louis, MO. and East Alton, IL; (10) Alternate Routes for Operating Convenience Only in connection with operations held by carrier on May 1, 1952, between St. Louis, MO and Indianapolis, IN on the one hand, and, on the other, Cleveland and Akron, OH with service at the termini of each route for the purpose of joinder only, (a) between Junction OH Hwy 4 and U.S. 224 near Atica, OH on the one hand, and, on the other, Junction U.S. Hwys 224 and 42 at Lodi, OH; (b) Between Junction U.S. Hwy 30N and OH Hwy 19 near Bucyrus, OH, on the one hand, and, on the other, Junction U.S. Hwys 30S and 42 at Mansfield, OH; (c) Between Junction U.S. Hwys 30S and 25 near Lima, OH, on the one hand, and, on the other, Junction U.S. Hwys 30S and 42 at Mansfield, OH; (d) Between Junction U.S. Hwys 36 and 25 near Piqua, OH, on the one hand, and, on the other, Junction U.S. Hwys 30N and 42 at Mansfield, OH; (e) Between Junction IN Hwys 67 and U.S. Hwy 27 near Bryant, IN, on the one hand, and, on the other, Junction U.S. Hwys 67 and U.S. Hwy 27 near Bryant, IN, on the one hand, and, on the other, Junction U.S. Hwys 25 and 224 near Findlay, OH; (f) Between Junction U.S. Hwy 224 and OH Hwy 18 near Tiffin, OH, on the one hand, and, on the other, Junction U.S. Hwy 20 and OH Hwy 18 near Bellevue, OH; (11) Alternate Route for Operating Convenience Only Between East Alton, IL and St. Louis, MO, serving no intermediate points, and serving the termini for the purpose of joinder only; and subject to the restriction that such route shall not be used in the transportation of any shipment moving between St. Louis, and points in the St. Louis, MO.—East St. Louis, IL. Commercial Zone, 1 M.C.C. 656, on the one hand, and East Alton, or any point on carrier's route east thereof to and including Mulberry Groove, IL, on the other. Regular Routes: (12) Serving the site of The B.F. Goodrich Company approximately 13 miles east of Fort Wayne, IN in Milan Township, Allen County, IN., as an off route point in connection with carrier's presently authorized regular route operations to and from Fort Wayne. (13) Between Junction U.S. Hwy 24 and IN Hwy 14, and Junction U.S. Hwy 224 and OH Hwy 15; (14) Alternate Routes for Operating Convenience Only: (a) Between Junction U.S. Hwys 20 and 250, at or near Norwalk, OH and Junction U.S. Hwys 250 and 24, in connection with carrier's presently authorized regular route operations between Fort Wayne, IN and Akron, OH, serving no Intermediate points, and serving Junction U.S. Hwys 20 and 224 for the purpose of joinder only;

(b) Between Junction U.S. Hwy 20 and OH Hwy 18, and Junction U.S. Hwy 42 and OH Hwy 18, at or near Medina, OH and U.S. Hwy 20, and Junction OH Hwy 18 and U.S. Hwy 42 for the purpose of joinder only. Irregular Routes: (15) Between points in the St. Louis, MO—East St. Louis, IL, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in St. Louis County, MO, beyond the said commercial zone, except Valley Park, MO. Regular Routes: (16) Serving the plant sites of Browning Arms Co., and Tenbrook Co., at or near Arnold, MO, as off-route points in connection with carrier's authorized regular route operations. (17) Service is authorized to and from points (a) in the Cincinnati, OH Commercial Zone, as defined by the Commission, and (b) points in Marion County, IN, all as intermediate and off route points in connection with carrier's regular route operations authorized herein. (18) Serving Letts and Westport, IN, as off route points in connection with carrier's regular route operations authorized herein. (19) Between points in IN, as follows: (a) From Junction U.S. Hwy 421 (formerly IN Hwy 29) and U.S. Hwy 50 over U.S. Hwy 50 to Holton, and return over the same route: (b) From Greensburg over IN Hwy 46 to Junction IN Hwy 101 (formerly portion IN Hwy 48), thence over IN Hwy 101 to Junction IN Hwy 48, thence over IN Hwy 48 to Lawrenceburg, and return over the same route; (c) From Junction IN Hwys 48 and 148 near Wrights Corner, N. over IN Hwy 148 to Aurora, and return over the same route: (d) From Shelbyville over IN Hwy 9 to Hope, and return over the same route. Service is authorized to and from all intermediate points; (e) From Indianapolis over U.S. Hwy 421 (formerly IN Hwy 29) to Junction U.S. Hwy 250 and Junction U.S. Hwys 250 and 50, thence over U.S. Hwy 50 to Aurora, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Adams, St. Paul, Waldron, and Prescott, IN. (f) From Junction U.S. Hwy 421 (formerly IN Hwy 29) and IN Hwy 244 near Meltzer, IN, over IN Hwy 244 to Junction IN Hwy 3, and return over the same route. Service is authorized to and from all intermediate points and the off route point of Blue Ridge, IN. (g) From Osgood over IN Hwy 350 to Aurora, and return over the same route. Service is authorized to and from the intermediate points of Delaware, Pierceville, Milan, Moores Hill, Sparta, and Wilmington, IN. (h) From Oldenburg over IN Hwy 229 to Napoleon, and return over the same route. Service is authorized to and from the intermediate points of Batesville and Ballstown, IN. (i) From Junction IN Hwys 48 and 101 about 3 miles south of Sunman, IN, over IN Hwy 101 to Junction U.S. Hwy 50, and return over the same route. Service is authorized to and from the intermediate point of Milan, IN. (j) Between Aurora, IN, and Cincinnati, OH, serving the intermediate point of Lawrenceburg, IN. (20) Between Milan, IN, and Aurora, IN serving all intermediate points and off-route points within 7 miles of Milan. (21) Alternate Routes for Operating Convenience Only: Between Junction IN Hwys 244 and 3 near Milroy, IN, and Greensburg, IN, serving no intermediate points, in connection with carrier's regular routes authorized herein. (22) Between Junction IN Hwys 46 and 101 (near Penntown, IN), and Cincinnati, OH, serving no intermediate points, nor the Junction of IN Hwys 46 and 101. Regular Routes: Serving Pilot Grove, MO, as an off route point in connection with carrier's authorized regular operations. (24) Serving points in the St. Louis, MO–East St. Louis, IL Commercial Zones, as defined by the Commission, as of route points in connection with carrier's presently authorized regular operations. (25) Serving points in the Kansas City, MO–Kansas City, KS Commercial Zone as defined by the Commission, as off route points in connection with carrier's presently authorized regular route operations. (26) Between St. Louis, MO, and Weldon Springs, MO, serving no intermediate points; (27) Between Junction MO Hwy 94 and St. Charles County Hwy N and Junction St. Charles County Hwy N and U.S. Hwy 61, serving all intermediate points. (28) Between Augusta, MO, and St. Louis, MO, serving the intermediate points of Klondike, Matson, Defiance, Hamburg, Toonerville, Weldon Springs, Harvester, and St. Charles, MO. (29) Between East St. Louis, IL, and Kansas City, KS, serving all intermediate points (except points on U.S. Hwy 40 between Kansas City, MO, and Boonville, MO) and serving the off-route points of Rush Hill, New Franklin, Fulton, Manchester, Kirkwood, Webster Groves, Clayton, North Kansas City and Independence, MO, and Madison, Granite City, Alton, Wood River, and Belleville, IL. (30) Between Wentzville, MO, and St. Charles, MO, serving the intermediate point of the Weldon Spring Ordnance Plant site. (31) Between Blue Springs, MO, and Kansas City, MO, serving no intermediate points, and serving the off route points of Lake City, MO and the Lake City Ordinance Plant site. Irregular Routes: (32) Between the MO points specified in the two regular route descriptions immediately above, on the one hand, and, on the other, points authorized in the eighth and ninth regular route descriptions above. (33) Serving the facilities of Rimpull Corporation, located at or near Olathe, KS, as an off route point in connection with applicant's regular route operations to and from Kansas City, KS. O.K. is a motor common carrier operating, in interstate or foreign commerce, under authority issued in MC–2245 and subnumbers thereunder, in the States of Illinois, Indiana, Kentucky, Ohio, Pennsylvania, West Virginia and Wisconsin.

Notes.—(1) Application has not been filed for temporary authority under 49 U.S.C. 10928 or 11349.

(2) There is a directly related application filed the same date, by O.K. in Finance Docket No. 29395 by which, following approval of the application MC–F–14434, and merger, O.K. seeks authority to issue promissory notes to the sellers of Anderson's stock in a total principal amount not to exceed $3,500,000, payable in twenty equal quarterly installments with interest at the rate of ten percent per annum on the unpaid balance which will be secured by mortgages on equipment, real estate and the involved operating rights of Anderson. The mortgage is to be held in escrow by the Fifth Third Bank of Cincinnati, OH. In addition O.K. proposes to borrow not in excess of $2,000,000 from the latter Bank, represented by a mortgage on O.K.'s rolling stock, payable in equal monthly installments over a period of five years bearing interest at the rate of one-half percent per annum over prime rate of the Bank on the unpaid balance, the proceeds of which loan will be used to pay the Mercantile Trust Company approximately $1,350,000 representing the amount due by Anderson to Mercantile under a revolving credit

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arrangement. (Hearing site: Washington, D.C.)

Agatha L. Mergenovich
Secretary.

[FR Doc. 80-25766 Filed 8-22-80; 8:45 am]
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[Volume No. 26]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack, and Crate

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 381 (Sub-16(M1F)) (Notice of Filing of Petition To Modify Certificate), filed May 9, 1980. Petitioner: GENOVA EXPRESS LINES, INC., P.O. Box 136, 484 Clayton Rd., Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* certificate in MC-381 Sub 16, issued January 4, 1980 (pursuant to MCF-13063) authorizing transportation, over irregular routes, of (l) *agricultural commodities, canned goods, and packed fruits,* from Hammonton, NJ, to New York, NY, Philadelphia, PA, and Baltimore, MD, (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY, Philadelphia, PA, and Baltimore, MD, to Hammonton, NJ, (3) *lime and limestone,* from Norristown, Plymouth Meeting, Malvern, and Cedar Hollow, PA, to points in that part of NJ bounded by a line beginning at Glassboro and extending in a northeasterly direction to Berlin, NJ, then in an easterly direction through Indian Mills, NJ, to Chatsworth, NJ, then in a southeasterly direction to Manahawkin, NY, then in a southwesterly direction through Oceanville to Somers Point, NJ, then in a northwesterly direction through Mays Landing and Malaga, NJ, to Glassboro, (4) *canned and processed foods and bakery products,* from Bridgeton and Cedarville, NJ, and points in Atlantic County, NJ, to points in DE, MD, NY, PA, and DC, (5) *tin cans, glass bottles, cartons and packing materials,* used in or incidental to the packaging of the commodities specified above, from points in DE, MD, NY, PA, and DC, to Bridgeton and Cedarville, NJ, and points in Atlantic County, NJ. By the instant petition, petitioner seeks to modify the above authority to read: (1) *such commodities* as are used in and dealt by chain, grocery, and food business houses, and (2) *materials, equipment, and supplies* used in the distribution and sale of the commodities in (1) above, between points in NJ, DE, MD, NY, PA, and DC.

MC 2260 (Sub-3(M1F)) (Notice of Filing of Petition To Modify Certificate), filed September 28, 1979. Petitioner: O. MITCHELL BELT, d.b.a. M. J. BELT & SON, 525 4th St., P.O. Box 479, Parkersburg, WV 26101. Representative: J. M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Petitioner holds a motor *common carrier* certificate in MC-2260 Sub 3 issued November 20, 1975, authorizing transportation, over irregular routes, transporting, as pertinent, *general commodities,* (except those of unusual value, classes A and B explosives, paper, paper products, and waste paper, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Parkersburg, South Parkersburg and Vienna, WV, to points within 25 miles of Parkersburg, WV. By the instant petition, petitioner seeks to modify the above territorial description to read between Parkersburg, South Parkersburg, Vienna, and points in Wood County, WV, on the one hand, and, on the other, points in OH and WV within 25 miles of Parkersburg.

MC 12850 (Sub-1 (M2F)) (Notice of Filing of Petition To Modify License), filed June 26, 1980. Petitioner: DOMENICO TOURS, INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Petitioner holds a brokerage license in MC 12850 Sub-1 authorizing petitioner to engage in operations as a *broker,* as pertinent, of *passengers and their baggage,* in special and charter operations, between points in the U.S. (except AK and HI). Petitioner is authorized to engage in the specified operations as a broker at Bayonne, NJ. By the instant petition, petitioner seeks to modify its license to include brokerage operations located at Philadelphia, PA.

MC 40640 (Sub-2 (M1F)) (Notice of Filing of Petition To Modify Certificate), filed April 9, 1980. Petitioner: NEALON TRUCKING, INC., 26 Alice St., Binghamton, NY 13901. Representative: Robert J. Nealon (same address as petitioner). Peititoner holds a motor *common carrier* certificate in MC 40640 Sub-2 issued August 1, 1967, authorizing transportation, over irregular routes, of *iron and steel articles,* as described in Groups I, II, and III of Appendix V in Descriptions in Motor Carrier

Certificates, 61 M.C.C. 209, from Conklin, NY, to points in ME, NH, VT, MA, RI, CT, NJ, PA, DE, and MD. By the instant petition, petitioner seeks to modify the above authority to read: *iron and steel articles*, between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT.

MC 44801 (Sub-12F (M1F)) (Notice of Filing of Petition To Modify Certificate), filed January 8, 1980. Petitioner: DICK HARRIS & SON TRUCKING CO., INC., 4000 Harris Lane, Lynchburg, VA 24501. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 44801 Sub-12F issued December 3, 1979, authorizing transportation, over irregular routes, of *such commodities* as are produced or used by a printing plant (except ink and ink ingredients, in bulk), between Lynchburg, VA, Hickory, NC, and Des Moines, IA. By the instant petition, petitioner seeks to modify the above authority by substituting the language "the facilities of Meredith/Burda, Inc. near Newton, NC," for Hickory, NC.

MC 55822 (Sub-15 (M1F)) (Notice of Petition for Modifcation of Permit), filed May 15, 1980. Petitioner: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, Ohio 45426. Representative: Richard Schaefer (same as applicant). Petitioner holds a contract carrier permit in MC 55822 (Sub-15), issued June 14, 1976, transporting by motor vehicle, in interstate or foreign commerce, over irregular routes *Paper* and *paper articles*, and *material, supplies, and equipment* used in connection with the manufacture, distribution or sale of the aforementioned articles, except in bulk, between Riegelsville, Milford, Warren Glen, and Hughesville, N.J., on the one hand, and, on the other, points in OH, IL, IN, MT, WI, KY, TN, MO, IA, and MN. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Riegel Products Corporation, of Milford, NJ. By the instant petition, petitioner seeks to modify the above authority by amending the permit to read as follows: "To operate as a *contract carrier* by motor vehicle, in interstate of foreign commerce, over irregular routes transporting *General Commodities* (except Classes A & B explosives, commodities in bulk, household goods and commodities requiring special equipment) between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities of James River Corporation, including its affiliates and subsidiaries under a continuing contract(s) with the James River Corporation of Richmond, VA."

MC 71593 (Subs-17 and 18 (M1F)) (Notice of Filing of Petition To Modify Certificates), filed April 29, 1980. Petitioner: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: David W. Swenson (same as applicant). Petitioner holds motor *common carrier* certificates in (1) MC–71593 Sub 17F, issued February 1, 1980, and (2) MC–71593 Sub 18F, issued February 1, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, (Sub 17) *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, Harrisburg, PA, and Washington, DC, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Sub 18) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, Cleveland, Columbus, and Toledo, OH, Detroit, MI, Indianapolis, IN, and Harrisburg, PA, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on Freight Forwarder bills of lading. By the instant petition, petitioner seeks to modify the authority as follows: (Sub 17) (as modified) between Washington, DC, and points in MD AND PA, on the one hand, and, on the other, points in IL, WI, and MO. (Sub 18) (as modified) between points in OH, MI, IN, and PA, on the one hand, and, on the other, points in IL, WI, and MO. Both Subs will retain the restriction . . . moving on Freight Forwarder bills of lading.

MC 85130 (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 23, 1980. Petitioner: BRADLEY'S EXPRESS, INC., 130 Bodwell St., Avon, MA 02322. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07066. Petitioner holds a motor *common carrier* certificate in MC–85130 issued April 18, 1967, authorizing transportation, over regular routes, as pertinent, of (1) *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Thompsonville, CT, as an off-route point in connection with carrier's regular-route operations authorized herein to and from Hartford, CT, service at Thompsonville, CT, shall be restricted to the delivery to or receipt from connecting carriers of interline traffic which has originated at or is destined to points beyond Thompsonville, CT, (2) *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Middletown, CT, and New York, NY, serving the intermediate point of New Haven, CT, the off-route points of East Hampton, Portland, Moodus, and Higganum, CT, and Newark, NJ, and the intermediate and off-route points in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 665: (a) from Middletown over Alternate U.S. Hwy 6 (formerly CT Hwy 14) to Meriden, CT, then over U.S. Hwy 5 to New Haven, CT, and then over U.S. Hwy 1 to New York, and return over the same route, and (b) from Middletown over CT Hwy 17 (formerly CT Hwy 15) to New Haven, CT, then as specified above to New York, and return over the same route, (3) *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (a) between Middletown and Hartford, CT, serving the intermediate points of Cromwell, Rocky Hill and Weathersfield, CT, over CT Hwy 9, and (b) between Bridgeport, and Middletown, CT, serving the intermediate and off-route points of Stratford, Milford, West Haven, New Haven, North Haven, Wallingford, and Meriden, CT, from Bridgeport over U.S. Hwy 1 to New Haven, CT, then over Alternate U.S. Hwy 5 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Alternative U.S. Hwy 5, then over Alternate U.S. Hwy 5 to Meriden, CT, then over Alternate U.S. Hwy 6 to Middletown, and return over the same route. By the instant petition, petitioner seeks to modify the above authorities to read as follows: *general commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between Middletown, CT, and New York, NY, serving all intermediate points and points in Connecticut as off-route points, (a) from Middletown over Alternate U.S. Highway 6 (formerly CT Hwy 14) to Meriden, CT, then over U.S.

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Highway 5 to New Haven, CT, and then over U.S. Highway 1 to New York, and return over the same route, (b) from Middletown over Connecticut Highway 17 (formerly CT Hwy 15) to New Haven, CT, then as specified above to New York, and return over the same route, (2) between Middletown, and Hartford, CT, serving all intermediate points and points in CT as off-route points, over CT Hwy 9, and (3) between Bridgeport and Middletown, CT, serving all intermediate points and points in CT as off-route points, from Bridgeport over U.S. Hwy 1 to New Haven, CT, then over Alternate U.S. Hwy 5 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Alternate U.S. Hwy 5, then over Alternate U.S. Hwy 5 to Meriden, CT then over Alternate U.S. Hwy 6 to Middletown, and return over the same route.

MC 85530 (Sub-3 (M1F)) (Notice of Filing of Petition To Modify Certificate) filed May 9, 1980. Petitioner: BLALOCK TRUCK LINE, INC., 318 Nassau St., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Petitioner holds a motor *common carrier* certificate in MC–85530 Sub 3 issued March 5, 1979, authorizing transportation, over irregular routes, as pertinent, of (A) *general commodities* (except commodities in bulk, classes A and B explosives and other dangerous commodities, household goods as defined by the Commission, automobiles, trucks, buses, and motor homes), between points in Charleston County, SC, on the one hand, and, on the other, points in SC, and (B) *general commodities* (except commodities in bulk, explosives, automobiles, trucks, buses, and mobile homes), between points in Charleston County, SC. By the instant petition, petitioner seeks to modify the exceptions by (1) substituting in (A) "liquid petroleum products in bulk in tank trucks" for "commodities in bulk", and (2) substituting in (B) "petroleum products in bulk" for "commodities in bulk."

MC 85970 (Sub-12F (M1F)) (Notice of Filing of Petition To Modify Certificate) filed June 30, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Warren A. Goff, 2008 Clark Tower, 6100 Poplar Ave., Memphis, TN 38137. Petitioner holds a motor *common carrier* certificate in MC–85970 Sub 12F, issued July 30, 1979, authorizing transportation, over irregular routes, of *carpet cushion, rubber compound, molded rubber products and products relating thereto, and materials, equipment, and supplies* used in the manufacture of all of the above commodities (except commodities in bulk), between Dyersburg, TN, on the one hand, and, on the other, points in the U.S. (except those in AK, HI, and TN), restricted to traffic originating at or destined to the facilities of Colonial Rubber Works, Inc., at Dyersburg, TN, and Newbern Rubber, Inc., at Newbern, TN. By the instant petition, petitioner seeks to modify the above territorial description to read: "between points in the U.S. (except AK and HI)".

MC 85970 (Sub-18F (M1F)) (Notice of Filing of Petition To Modify Certificate) filed June 30, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1624 Hornbrook St., Dyersburg, TN 38024. Representative: Warren A. Goff, 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. Petitioner holds a motor *common carrier* certificate in MC–85970 Sub 18F, June 16, 1980, authorizing transportation, over irregular routes, transporting *printed matter, and materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of printed matter, between the facilities of W.F. Hall Printing Company, at or near Dresden, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). By the instant petition, petitioner seeks to modify the above territorial description to read "between points in the U.S. (except AK and HI).

MC 95540 (Sub-567 (M1F)) (Notice of Filing of Petition To Modify Certificate) filed September 27, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds a *common carrier* certificate in No. MC–95540 (Sub No. 567) issued January 20, 1966 authorizing transportation over irregular routes of: (1) *Canned goods* in mixed loads with frozen foods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended; and *frozen foods* in mixed loads with canned goods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended, from points in CA to points in AL, AR, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, ND, OK, SD, TN, WI, and WY, and (2) *Agricultural commodities* as defined in Section 203(b)(6) of the Act, as amended, when transported at the same time and in the same vehicle with canned goods or frozen foods (otherwise authorized), from points in AZ and CA, to points in AL, AR, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, ND, OK, SD, TN, WI, and WY. By the instant petition. Petitioner seeks to substitute in the first paragraph the description "Foodstuffs" in lieu of canned goods and frozen foods moving in mixed loads with agricultural commodities as defined in Section 203(b)(6) of the Act and to substitute in the second paragraph the description "Foodstuffs" in lieu of canned goods or frozen foods.

MC 95540 (Sub-1109F (M1F)) (Notice of Filing of Petition to Modify Certificate), filed May 23, 1980. Petitioner: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Florida 33802. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, Northwest, Washington, DC 20004. Petitioner holds motor *common carrier* Certificate in MC–95540 (Sub 1109F) issued January 18, 1980, authorizing transportation, over irregular routes, of *chemicals* (except commodities in bulk), between points in NC on the one hand, and, on the other, points in the United States (except AK and HI). By the instant Petition. Petitioner seeks to modify the authority so as to delete the bulk commodities exception.

MC 103490 (Sub-75F (M1F)) (Notice of Filing of Petition to Modify Certificate), filed April 28, 1980. Petitioner: PROVAN TRANSPORT CORP., 210 Mill St., Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Petitioner holds motor *common carrier* certificate in MC–103490 (Sub 75F) issued February 26, 1980, authorizing transportation, over irregular routes, of *chemicals,* in bulk, in tank vehicles, from Stony Point, NY, to points in the U.S. (except AK and HI). By the instant petition, petitioner seeks to modify the above authority by adding the provision that MC–103490 Sub 75F may be joined with Certificate MC–103490 Sub 36, issued January 25, 1972. NOTE: Petitioner would request to tack as follows: (1) at Stony Point, NY (NY east of U.S. Hwy 11 and south of U.S. Hwy 20) to provide service from New York NY and points in Essex, Hudson, Passaic, Somerset and Union Counties, NJ (Sub 36) to points in the U.S. (except AK and HI) (Sub 75F); (2) at Stony Point (points in NY within 200 miles of Stamford, CT), to provide service from Stamford, CT, (Sub 36) to points in U.S. (except AK and HI) (Sub 75F); (3) at Stony Point (Rockland County, NY) to provide service from New York, NY, points in Rockland, Orange, Putnam, Dutchess, Westchester, Tioga, Broome, Portland, Chenango, Herkimer, Fulton, Montgomery, Otsego, Schoharie, Delaware, Albany, Rensselaer, Schenectady, Saratoga, Washington, Columbia, Greene, Ulster, Dutchess, Sullivan, Nassau, and Suffolk Counties, NY, and Fairfield County, CT (Sub 36) to points in the U.S. (except AK and HI) (Sub 75F).

MC 107012 (M1F) (Notice of Filing of Petition for Modification of Certificate), filed May 12, 1980. Petitioner: NORTH AMERICAN VAN LINES, P.O. Box 988, Fort Wayne, IN. Representative: David D. Bishop (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC–107012 issued December 27, 1971, authorizing transportation in interstate or foreign commerce, over irregular routes, in part, (para 23a) *new furniture, new commercial and institutional fixtures, and new store and office equipment,* all uncrated (except new office and business machines), from points in TX to points in the U.S. (including AK but excluding points in HI, CT, DE, IL (other than Chicago, IL), IN, ME, MA, MD, MI, MO, NH, NJ, NY, OH, PA, RI, VT, WV, WI, and DC, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to modify the authority above by removing the "uncrated" restriction.

MC 111545 (Sub-Nos. 54 and 75) M1F (Notice of Filing of Petition to Modify Certificate), filed June 2, 1980. Petitioner: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC–111545 (Sub-No. 54), issued October 5, 1967, authorizing transportation over irregular routes, as pertinent, of *Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith* (restricted to commodities which are transported on trailers), between Chattanooga, TN, and points within 175 miles thereof. Petitioner also holds a motor *common carrier* certificate in MC–111545 (Sub-No. 75), issued January 28, 1970, authorizing transportation over irregular routes, of *Commodities, the transportation of which because of size or weight requires the use of special equipment,* between Chattanooga, TN, and points within 175 miles of Chattanooga, TN, except points in MS. By the instant petition, petitioner seeks to modify (1) the territory in Sub-No. 54 to read "between points in VA, TN, SC, NC, MS, KY, GA, and those points in AL within 175 miles of Chattanooga, TN," and (2) the territory in Sub-No. 75 to read "between points in VA, TN, SC, NC, GA, KY, and those points in AL within 175 miles of Chattanooga, TN."

MC 113265 (Sub-4 (M1F)) (Notice of filing of petition to modify certificate), filed November 19, 1979. Petitioner: ATLANTA-ASHEVILLE MOTOR EXPRESS, INC., P.O. Box 345, Conley, GA 30027. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds *common carrier* certificate MC 113265 (Sub 4) issued March 5, 1968, authorizing transportation, over regular routes of, *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and liquid commodities, in bulk, in tank vehicles). Between Lake Junaluska, NC, and Franklin, NC, serving the intermediate points of Copperhill, TN, and Blue Ridge, GA: From Lake Junaluska over U.S. Highway 19 to Ranger, NC, then over U.S. Highway 64 to Ducktown, TN, then over TN Highway 68 to the TN–GA State line, then over GA Highway 5 to Blue Ridge, GA, then over U.S. Highway 76 to junction GA Highway 69, then over GA Highway 69 to the GA–NC State line, then over NC Highway 69 to Hayesville, NC, then over U.S. Highway 64 to Franklin, NC, and return over the same route. Restriction: The service authorized herein is subject to the following conditions: No transportation shall be performed between Blue Ridge, GA, and Copperhill, TN, on the one hand, and on the other, Atlanta, GA. The authority granted herein is restricted against interline or tacking, by carrier, with Atlanta Motor Lines, at Blue Ridge, GA, or Copperhill, TN, for through service between Asheville, NC, and Chattanooga, TN. By the instant petition, Petitioner seeks to modify the authority as follows: Serving all intermediate points on the described route and the elimination of the restrictions stated above.

MC 116280 (Sub-20F (M1F)) (Notice of filing of petition to modify certificate), filed June 9, 1980. Petitioner: W. C. MCQUAIDE, INC., 153 Macridge Ave., Johnstown, PA 15904. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48084. Petitioner holds a motor *common carrier* certificate in MC 116280 Sub 20F, issued August 9, 1979, authorizing transportation, over irregular routes, of *general commodities* limited to individual articles not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day, on bills of lading of freight forwarders regulated under Title 49 U.S.C. Section 10561, between points in Pennsylvania, Jefferson, Ashtabula, Trumbull, Mahoning, and Cuyahoga Counties, OH; Chautauqua, Chemung, Broome, and Orange Counties, NY; Warren, Mercer, and Camden Counties, NJ; New Castle County, DE; Baltimore and Washington Counties, MD; and Hancock, Brooke, Ohio, and Monongalia Counties, WV, restricted against the transportation of shipments having an immediately prior or subsequent movement by air. By the instant petition, seeks to modify the above authority by deleting the restriction which limits transportation to traffic moving "on bills of lading of freight forwarders regulated under Title 49 U.S.C. Section 10561."

MC 118610 (Sub-30F (M1F) (Notice of filing of Petition to Modify Certificate), filed May 30, 1980. Petitioner: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, KY 42301. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Petitoner holds a motor *common carrier* certificate in MC 118610 (Sub 30F), issued March 28, 1980, which authorizes transportation, over irregular routes, of *(1) contractors' equipment the transportation of which requires by reason of size or weight the use of special equipment, and (2) tools, parts, and supplies for the commodities named in (1),* between the facilities of (a) Rimpull Corporation, at or near Olathe, KS, and (b) Modern Welding Company at Bowling Green, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks removal of the restriction and modification of the territorial description so as to read: "Between Olathe, KS, Bowling Green, KY, and Owensboro, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI)".

MC 124151 (Sub-8 (M1F)) (Notice of Filing of Petition to Modify Territorial Description), filed June 17, 1980. Petitioner: VANGUARD TRANSPORTATION, INC., Lafayette St., Carteret, NJ 07008. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Petitioner hold motor *common carrier* certificate in MC–124151 (Sub-8F) served June 12, 1980. MC–124151 (Sub-8F) authorizes the transportation over irregular routes, as pertinent, *liquid chemicals* and *petroleum products* in bulk, in tank vehicles, from points in Bergen, Essex, Hudson, Middlesex and Union Counties, NJ, to points in MA, CT, RI, NY, NJ, PA, DE, and MD. By the instant petition, petitioner seeks to modify the territorial description, authorizing round trip movements, so to read as follows: *Liquid chemicals and petroleum products,* in bulk, in tank vehicles, between points in Bergen, Hudson, Essex, Middlesex and Union counties, NJ, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, DE, and MD.

MC 125416 (M1F), MC 125416 (Sub-1) (M1F), and MC 125416 (Sub-2) (M1F), (notice of filing of petition to modify certificates), filed August 20, 1979, previously noticed in the **Federal Register** issue of March 7, 1980, and republished this issue. Petitioner: FLORA SERVICE, INC., 817 Flora St., Elizabeth, NJ 07201. Representative: Arthur R. Jones (same address as applicant). Petitioner holds motor *common carrier* authority in certificates (A) in MC–125416, issued September 1, 1965, authorizing, as pertinent, transportation over irregular routes, of (1) *wrecked and disabled motor vehicles* (except mobile homes and house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, and (2) *replacement vehicles* for the wrecked or disabled motor vehicles specified in (1) above, by use of wrecker equipment only, between specfied points; (B) in MC–125416 Sub 1, issued September 1, 1965, authorizing, as pertinent, transportation over irregular routes, of *stolen and repossessed motor vehicles* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by the use of wrecker equipment only, between specified points; and (C) in MC–125416 Sub 2, issued April 30, 1970, authorizing, as pertinent, transportation over irregular routes, of *wrecked, disabled, stolen, and repossessed motor vehicles* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between specified points. By the instant petition, petitioner seeks to remove the restriction in (A)(1) and (2), (B), and (C) above which reads "by use of wrecker equipment only" and replace in lieu thereof "in truckaway service".

Note.—The purpose of this republication is to include MC–125416 Sub 1 and MC–125416 Sub 2 as part of the petition for modification.

MC 125844 (Sub-23(M1F) (notice of filing of petition to modify certificate), filed June 2, 1980. Petitioner: BIO-MED-HU, INC., 1901 Outer Loop, Louisville, KY 40219. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Petitioner holds a motor *common carrier* certificate in MC–125844 Sub 23, issued December 27, 1971, authorizing transportation, over irregular routes, of (1) *placentae, derivatives of placentae, placentae compounds, blood, derivatives of blood, cells, tissues, organs, cellular secretions, tissue and cellular culture and media, interferon, enzymes, antiserum, immunosuppressants, immunovaccine, antigens, and antibodies*, between points in the U.S. (except AK and HI). (2) *materials, equipment and supplies* used with the commodities set forth in (1) above when moving in the same vehicle and with such commodities, and at the same time, between points in UT, TX, OK, NM, NE, AZ, CO, IL, IN, IA, KS, CT, DE, MD, MA, MO, NJ, NY, OH, PA, RI, WI, MI, WV, and DC, and (3) *materials, equipment and supplies* used in the commodities set forth in (1) above, between points in the U.S. (except points in UT, TX, OK, NM, NE, AZ, CO, IL, IN, IA, KS, CT, DE, MD, MA, MO, NJ, NY, OH, PA, RI, WI, MI, WV, and DC). Restriction: The authority granted in (3) above is restricted against the transportation of traffic between Memphis, TN, and Little Rock, AR, on the one hand, and, on the other points in TN, AR, MO, AL, KY, and MS. Restriction: The authority granted in (1) (2) and (3) herein is restricted against the transportation of traffic between Weir-Cook Municipal Airport, at or near Indianapolis, IN, on the one hand, and, on the other, points in Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Decatur, Delaware, Fayette, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Howard, Jackson, Jay, Jennings, Johnson, Lawrence, Madison, Martin, Miami, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Randolph, Rush, Shelby, Tippecanoe, Tipton, Vigo, Wabash, White, Allen, Whitley, Huntington, Kosciusko, Wells, Jefferson, Fulton, Adams, Ripley, Vanderburgh, Gibson, Pile, and Knox Counties, IN. By the instant petition, petitioner seeks to modify the authority by eliminating paragraph (2) and (3) and substituting a new paragraph (2), as follows: (2) *materials, equipment, and supplies* used with the commodities set forth in (1) above, between points in the U.S. (including AK and HI).

MC 127974 (Sub-1)(M1F) (notice of filing of petition to modify certificate), filed June 2, 1980. Petitioner: P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, NJ 08610. Representative: Alan Kahn, 14th Floor, Land Title Building, 100 S. Broad Street, Philadelphia, PA 19110. Petitioner holds a motor *common carrier* Certificate in MC–127974 Sub 1, issued June 30, 1969, authorizing transportation, over regular routes, of *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined by the Commission, and commodities in bulk, from New York, NY, to Washington, D.C.: From New York over U.S. Highway 1 to Washington. From New York, NY, to points in Massachusetts and Connecticut, as follows: From New York over U.S. Highway 1 to New London, CT, thence over Connecticut Highway 84 to the Connecticut-Rhode Island State Line, thence over Rhode Island Highway 3 to Providence, RI, and thence over U.S. Highway 1 to Boston, MA. From New York to Providence, RI, as described above, thence over U.S. Highway 7 to New Bedford, MA. From New York over U.S. Highway 1 to New Haven, CT, thence over U.S. Highway 5 to Hartford, CT (also from New York over U.S. Highway 1 to junction U.S. Highway 7, thence over U.S. Highway 7 to Danbury, CT, and thence over U.S. Highway 6 to Hartford), thence over U.S. Highway 5 to Springfield, MA, thence over U.S. Highway 20 to junction Massachusetts Highway 9, and thence over Massachusetts Highway 9 to Boston, MA. From New York to Springfield, as described above, thence over U.S. Highway 5 to Holyoke, MA. Service is authorized to all intermediate points restricted to delivery only, and from all off-route points in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 655, restricted to pickup only. Return over the above routes to the above-specified origin points with no transportation for compensation except as otherwise authorized. By the instant Petition, petitioner seeks to modify the above-described regular route operations to convert the same to two-way operations, in lieu of the existing one-way service, and to change the service authorizing paragraph so that it will read: Service is authorized to and from all intermediate points on the above-described routes.

MC 133841 (Sub-3)(M1F) (notice of filing of petition to modify certificate) filed June 23, 1980. Petitioner: DAN BARCLAY, INC., 362—Main St., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* certificate in MC–133841 Sub 3 issued January 3, 1979 authorizing transportation, over irregular routes, transporting (1) *machinery, environmental and solar equipment*, and (2) *materials, equipment, and supplies* used in the manufacture or sale of the above-described commodities (except commodities in bulk), between the facilities of Curtiss Wright Corp., located at or near Wood-Ridge, NJ, on the one hand, and, on the other, points in NJ, NY, CT, PA, OH, DE, MD, VA, and NC, restricted to shipments originating at or destined to the above-named points. By the instant petition, petitioner seeks to modify the above authority by adding engines to the commodity description.

MC 134922 (Sub-184)(M1F) (notice of filing of petition to modify certificate), filed June 9, 1980.Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Petitioner holds motor common carrier Certificate in MC 134922 Sub 184 issued on June 23, 1977, authorizing operation as a common carrier, by motor vehicle, over irregular routes transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, foodstuffs, paper and paper products, alcoholic and malt beverages, motor vehicle parts, supplies and accessories, commodities having a subsequent or prior movement by water and commodities requiring special equipment) Between the Yellow Creek Port Terminal and Industrial area, located in Tishomingo County, MS, on the one hand, and, on the other, points in the U.S. (except TN, NC, MS, AL, GA, SC, FL, HI, IL, IN, KY, MO, OH, NE, points in Dallas, Grayson and Tarrant Counties, TX; Minneapolis and St. Paul, MN and their Commercial Zones, Kansas City, KS and points in its Commercial Zone; Little Rock, AR and Monroe, LA). By the instant petition, Petitioner seeks to modify the above authority by removing the commodity exceptions of foodstuffs, paper and paper products, alcoholic and malt beverages, motor vehicle parts, supplies and accessories, and commodities having a subsequent or prior movement by water. And also, the territorial exceptions of TN, NC, MS, AL, GA, SC, FL, IL, IN, KY, MO, OH, NE, points in Dallas, Grayson and Tarrant Counties, TX; Minneapolis and St. Paul, MN and their Commercial Zones; Kansas City, KS and points in its Commercial Zone; Little Rock, AR; and Monroe, LA.

MC 134922 (Sub-203) (MIF) (notice of petition for modification of certificate), filed April 28, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price (same as applicant). Petitioner holds a motor *common carrier* certificate in MC 134922 (Sub-203), issued on August 23, 1977, authorizing operation to engage in the transportation of interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, those described in Mercer Extension Oil Field Commodities, 74 M.C.C. 459, those requiring the use of special equipment, foodstuffs, and alcoholic and malt beverages), between Searcy, LA, on the one hand, and, on the other, those points in the U.S. in and west of LA, AR, MO, IA and MN (except (a) AK and HI, and (b) from the plantsite of Nalco Chemical Company, at Garyville, LA, to points in NM, AZ, CO, UT, NV, CA, WY, MT, ID, OR and WA). *Restriction:* The authority granted herein is restricted to the following conditions: The authority granted herein is restricted to the transportation of traffic having a prior or subsequent movement by rail. Said authority is restricted to the extent it authorizes the transportation of Classes A and B Explosives shall be limited to point of time to a period expiring August 23, 1982. By the instant Petition, Petitioner seeks to modify the above authority by removing the commodity exceptions of foodstuffs and alcoholic and malt beverages; the territorial exceptions (b) from the plantsite of Nalco Chemical Company, at Garyville, LA, to points in NM, AZ, CO, UT, NV, CA, WY, MT, ID, OR and WA; and the Restriction pertaining to the transportation of traffic having a prior or subsequent movement by rail.

MC 135283 (Sub-56) (MIF) (notice of petition for modification of certificate), filed June 6, 1980. Petitioner: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *common carrier* certificate in MC 135283 (Sub-56), issued May 16, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and foodstuffs), between the facilities of Howland Manufacturing Corp., Ag Tronic, Inc., and Caldwell Manufacturing Company, at or near Kearney, NE, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NE), restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks to modify the authority by removing the foodstuffs restriction and also the restriction * * * to traffic originating at or destined to the named facilities.

MC 138510 (Sub-8) (MIF) (notice of filing of petition to modify permit), filed July 1, 1980. Petitioner: RICCI TRANSPORTATION CO., INC., Odessa Ave. and Aloe St., Pomona, NJ 08240. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Petitioner holds a motor *contract carrier* permit in MG 138510 (Sub-8), issued May 31, 1978, authorizing transportation, over irregular routes, of (1) *laminated furniture and laminated furniture parts, uncrated,* from Pleasantville, NJ, to points in AZ, FL, GA, IL, KY, MD, NY, NC, PA, TN, TX, and DC, and (2) *materials and supplies* used in the manufacture of laminated furniture and laminated furniture parts, from the destination points named in (1) above to Pleasantville, NJ, under a continuing contract(s) with International Wood Products, Inc., restricted in (2) above against the transportation of commodities in bulk, and further restricted in (2) above against the transportation of lumber, lumber products, and composition board from points in TX to Pleasantville, NJ. By the instant petition, petitioner seeks to modify the above authorities by substituting Milmay, NJ for Pleasantville, NJ as an origin in (1), as a destination in (2) and as a reference in the restriction.

MC 139021 (Sub-4), (MIF) (notice of filing of petition to modify certificate), filed May 13, 1980. Petitioner: INTERSTATE AUTO TRANSPORT, INC., 325 U.S. 20, P.O. Box 251, Michigan City, IN 46360. Representative: Robert W. Loser II, 320 North Meridian St., Chamber of Commerce Bldg., Indianapolis, In 46204. Petitioner holds a motor *common carrier* certificate in MC 139021 (Sub-4), issued August 31, 1977, authorizing transportation, over irregular routes, of *used cars and used pick-up trucks,* in truckaway service, between points in MI, OH, MN, WI, IL, and IN, restricted to the handling of shipments originating at or destined to an automobile auction site. By the instant petition, petitioner seeks to modify the above authority by deleting the above restriction.

MC 139151 (MIF) (notice of filing of petition to modify certificate), filed November 20, 1979. Petitioner: CANUS TRUCKING LTD.,150 Sutherland Ave., Winnipeg, Manitoba, CD R2W–5K4. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030Fifteenth St. N.W., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 139151 issued August 26, 1975 authorizing transportation, over irregular routes, as pertinent, of *waste paper,* from the ports of entry on the U.S.-Canada Boundary line, between the U.S. and Canada, at or near Noyes, MN, to points in ND, MN, WI, IA, and IL. By

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the instant petition, petitioner seeks to modify the above commodity description to read "paper."

MC 139193 (Sub-40) (MIF) notice of filing of petition to modify permit, filed May 8, 1980. Petitioner: ROBERT & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, N.W., Suite 300, Washington, D.C. 20006. Petitioner holds *contract carrier* authority in MC 139193 (Sub-40), issued April 20, 1978, to operate in interstate or foreign commerce, by motor vehicle, over irregular routes, transporting; (1) *beverage bases, syrups, canned and preserved fruits, ice cream and desert toppings, sauces, flavoring extracts and compounds, and salad dressings* (except commodities in bulk, in tank vehicles), from the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN to points in that part of the United States in and east of ND, SD, NE, KS, OK, and TX (except TN), and (2) *frozen, canned and preserved fruits, salad dressings, flavoring extracts and compounds and equipment, materials, and supplies* used in the manufacture and distribution of the commodities set forth in (1) above (except commodities in bulk, in tank vehicles), (a) from points in that part of the United States in and east of ND, SD, NE, KS, OK, and TX (except TN), to the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN, and (b) from the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN, to the facilities of J. Hungerford Smith Co., Inc., at Modesto, CA. By the instant petition, petitioner seeks to modify the authority by adding to part (2)(b) "and Hayward, CA" to the named destination.

MC 140389 (M2F) and (Subs-9(M1F), 19(M1F), 21(M1F), and 32F(M1F)), and MC 20783 (MIF) (notice of petition to modify certificates), filed June 6, 1980. Petitioner. OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Petitioner holds motor *common carrier* Certificates (I) in MC 140389, issued September 1, 1977, authorizing, as pertinent, transportation over irregular routes, of (a) *rugs, carpets and textile products,* from Dalton, Archer, Calhoun, Rossville, LaGrange, Summerville, Athens, Ringgold, Columbus, Cartersville, LaFayette and Chamblee, GA, and Memphis, Chattanooga, Knoxville, Sweetwater, and Rockwood, TN, to points in CO, MT, and WY, restricted to traffic originating at the named origin points, (b) *textile and textile products,* from points in TN, to points in WA, OR, ID, and UT, (c) *carpeting and rugs,* from Calhoun, Dalton, LaFayette, Tennille, La Grange, Lyerly, White, Rome, Ringgold, Cartersville, Rabun Gap, Rossville, and Archer, GA, Scottsboro, AL and Chattanooga, Memphis, Nashville, and Sweetwater, TN, to points in ID, OR, UT, and WA, (d) *rugs, carpets, carpeting and textile products,* from Knoxville, TN and points in GA, to points in NV, and (e) *textile products,* from points in GA, to points in CO, WY, MT, ID, UT, NV, OR, and WA; (II) in MC–140389 (Sub-9) issued May 31, 1978, authorizing transportation over irregular routes, of *rugs, carpets, and textile products,* from points in GA to points in AZ, CA, and NM; (III) in MC 140389 (Sub-19), issued August 3, 1978, authorizing transportation over irregular routes, of *rugs, carpets, and carpeting,* from Winchester, TN, to points in AZ, CA, CO, MT, NV, NM, and WY; (IV) in MC–140389 (Sub-21), issued April 5, 1979, authorizing transportation over irregular routes, of *cotton factory products,* from points in GA (except Atlanta), NC (except Greensboro), SC, and those points in that part of AL on and east of U.S. Hwy 31, to points in WA, OR, ID, and UT; (V) in MC 140389 (Sub-32F), issued August 6, 1979, authorizing transportation over irregular routes, of *rugs, carpets, and textile products,* (except tire cord yarn), from points in GA to points in AL, LA, MS, and points in TN on and west of U.S. Hwy 31 and 31W; and (VI) in MC 20783, issued July 26, 1967 to Tompkins Motor Lines, Inc. which petitioner currently operates pursuant to MC–F 13069, authorizing, as pertinent, transportation over irregular routes, of *cotton-factory products,* from points in GA (except Atlanta), NC (except Greensboro), SC, and those points in that part of AL on and east of U.S. Hwy 31, to Nashville, TN. By the instant petition, petitioner seeks to consolidate and modify the above authorities to authorize transportation over irregular routes, of *rugs, carpets, carpeting, textiles, and textile products,* from points in AL, GA, NC, SC, and TN, to points in AL, LA, and MS, those points in TN on and west of U.S. Hwys 31 and 31W, and those points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI).

MC 141932 (Sub-12) (M1F) (notice of petiton for modification of certificate), filed April 28, 1980. Petitioner: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 141932 (Sub-12F), issued February 1, 1980, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles and corrugated boxes,* (except commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Borden Chemical Co., Division of Borden, Inc., at or near (a) Charlotte, NC, (b) Cleveland, OH, (c) Cockeysville, MD, (d) Dallas, TX, (e) Elizabeth and Gloucester City, NJ, (f) Elk Grove Village and Illiopolis, IL, (g) Griffin, GA, (h) Memphis, TN, (i) Minneapolis, MN, (j) North Andover, MA, (k) Tampa, FL, and (l) Yonkers, NY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks to modify the authority as follows: Add (m) Carson and Oakland, CA, (n) Denver, CO and (o) Seattle, WA on the one hand, and, on the other, points in the U.S. (except AK and HI) in lieu of the last part of the authority stated in the Sub-12, enlarging to all points in U.S. (except AK and HI) and eliminating present restriction.

MC 145829 (Sub-12) (M1F), filed April 21, 1980, (M2F) and (M3F) and (M3F), filed June 23, 1980 (notice of petitions to modify permit). Petitioner: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *contract carrier* Permit in MC 145829 (Sub-12), issued August 5, 1980, authorizing transportation over irregular routes, of *such merchandise* as is dealt in by wholesale, retail, chain, grocery, department stores, and food business houses (except glass containers and commodities in bulk), and in connection therewith *equipment, materials, and supplies* used in the conduct of such business (except glass containers and commodities in bulk), between points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, NC, SC, WV, GA FL, AL, LA, MS, TN, and DC, under a continuing contract(s) with J. M. Fields, Inc. By the instant petition, petitioner seeks to modify its permit (1) in M1F by adding Purex Corporation, Ltd. as an additional contracting shipper, (2) in M2F by adding Ragu Foods, Inc. as an additional contracting shipper, and (3) in M3F by deleting the exception of glass containers from the above commodity description.

MC 146422 (Sub-3) (M1F) (notice of filing of petition to modify permit) filed June 19, 1980. Petitioner: Delbert F. Johnston, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman

Street, Denver, CO 80203. Petitioner holds a motor *contract* carrier permit in MC 146422 (Sub-3F), issued May 20, 1980, authorizing transportation, over irregular routes, of: (1) *brick and building materials,* from the facilities of Summit Pressed Brick and Tile Co., at or near Pueblo, and Trinidad, CO, to points in ID, IL, KS, NE, NM, OK, TX, UT, WI, and WY under continuing contract(s) with Summit Pressed Brick and Tile Co., of Pueblo, CO; and (2) *refractories, materials, equipment, and supplies used in the manufacture and installation of refractories* between the facilities of A. P. Green Refractories Co., at or near Pueblo, CO, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IA, KS, MO, MT, NE, NM, OR, TX, UT, WA and WY, under continuing contract(s) with A. P. Green Refractories Company, of Mexico, MO. Petitioner seeks to modify the above authority by adding California as a destination state under Part (1) of the application.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 24, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *general rules of practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 138420 (Sub-35F) (republication), filed April 13, 1979, previously noticed in the **Federal Register** issue of August 28, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53063. A Decision by the Commission, Review Board Number 2, decided June 2, 1980, and served June 19, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes transporting *paper and paper products, and plastic products,* from Ashland, Green Bay, Menasha, Neenah, and Wausau, WI, to points in IN, KY, MI, MN, MO, OH, and those in Illinois on and south of U.S. Hwy. 136 restricted to the transportation of traffic originating at the facilities of American Can Company. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulations. The purpose of this republication is to broaden the commodity description.

MC 141532 (Sub-32F) (republication), filed July 24, 1978, published in the **Federal Register** issue of October 12, 1978, and republished this issue. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. A Decision of the Commission, *Review Board 2,* decided June 22, 1979, and served July 11, 1979, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting, *asbestos cement, plastic pipe, asphalt roofing, asphalt shingles, and asphalt rolls,* from the facilities of Johns-Manville Sales Corporation in California to points in Idaho and Montana; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

Motor Carrier Operating Rights Applications Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to suppplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 133655 (Sub-226F), filed June 25, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Paper and paper produsts;* and (2) *Equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products, between points in AR, CO, KS, LA, OK, and TX on the one hand, and, on the other, points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, BA, WV, and DC.

Note.—Applicant states the purpose of this application is to eliminate an interline in connection with applicant's affiliate.

Permanent Authority Decisions Volume; Decision-Notice

Decided: August 5, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *rules of practice* (49 CFR

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1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is Published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and described in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protest, filed on or before September 24, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Liverman, and Eaton. Member Liberman not participating.

MC 12769 (Sub-1F), filed April 1, 1980. Applicant: MRS. ROBERTA A. ADAMS, d.b.a. ADAMS TOURS, 125 N. Hill St., P.O. Box 217, Itasca, TX 76055. Representative: Bobby Adams (same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker at Ft. Worth and Amarillo, TX, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in the United States, including AK and HI.

MC 12948 (Sub-2F), filed June 6, 1980. Applicant: AMITY TRAVEL SERVICE, INC., 2827 Brownsville Rd., Pittsburgh, PA 15227. Represntative: Peter Dixon (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Pittsburgh, PA, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Ohio, Brook, Hancock and Marshall Counties, WV, and extending to points in the United States and Canada, including AK and HI.

MC 130405F, filed May 9, 1980. Applicant: COSMO TRAVEL SERVICE, LTD., 2020 Memorial Ave., Lynchburg, VA 24501. Representative: Mark Pestronk, 117 N. Fairfax St., Alexandria, VA 22314. To engage in operations, in interstate or foreign commerce, as a *broker,* at Lynchburg, VA, in arranging for the transportation of *passengers and their baggage,* in charter operations, beginning and ending at points in VA, and extending to points in the U.S. (including AK but excluding HI).

MC 130879F, filed April 25, 1980. Applicant: LUCKY TOURS, INCORPORATED, 1616 Pacific Ave., Suite 301, Atlantic City, NJ 08401. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017. To engage in operations, in interstae or foreign commerce, as a *broker* at Atlantic City, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in the U.S. and extending to Atlantic City, NJ.

MC 130889F, filed May 6, 1980. Applicant: CITIZENS BROKERAGE AGENCY, INC., 17 North Payne St., Elmsford, NY 10523. Representative: John Catterson, 6 East 43rd St., New York, NY 10017. To engage in operations, in interstate or foreign commerce, as a *broker,* at Elmsford, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* including sporting team equipment, in special and charter operations, between points in Rockland and Westchester Counties, NY, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 130902F, filed May 9, 1980. Applicant: DONNA POLOVOY, d.b.a. POLOVOY TOURS, 3107 Northbrook Road, Baltimore, MD 21208. Representative: Donna Polovoy (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Baltimore, MD, and points in Baltimore County, MD, in arranging for the transportation, by motor vehicle, of passengers and their baggage in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending in Baltimore, MD, and points in Baltimore County, MD, and extending to points in the U.S. (including AK and HI).

MC 130911, filed May 19, 1980. Applicant's name and address are TRAFFIC MANAGEMENT, INC., 3101–D Asbury Avenue, Charlotte, NC 28206. The name under which operations will be performed is TMI DISTRIBUTION SYSTEMS. Applicant is represented by

Jim Huddleston in this proceeding whose address is 3101–D Asbury Avenue, Charlotte, NC 28206. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jim Huddleston, President and shareholder, Harold Barkley, Sec/Treasurer and shareholder, Wayne Bradbury, shareholder, Marc Agulla, shareholder, Gilbert Glassburg, shareholder, (same address as applicant). The daily operations will be managed by Jim Huddleston whose business address is 3101–D Asbury Avenue, Charlotte, NC 28206. Applicant is affiliated with the following shipper or warehouse: None.

MC 130930, filed June 2, 1980. Applicant's name and address are CARMICHAEL INTERNATIONAL SERVICE, 1282 West Second Street, Los Angeles, CA 90026. The name under which operations will be performed is CARMICHAEL INTERNATIONAL SERVICE/CIS OCEANAIR SERVICES. Applicant is represented by ENRICO SALVO in this proceeding, whose address is 1282 West Second Street, Los Angeles, CA 90026. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Enrico Salvo, President and shareholder, Herbert S. Fischer, Vice President, Anita Salvo, Sec/Treasurer (same addres as applicant), Bernard Rochman, Vice President—air import, 477 North Oak Street, Inglewood, CA 90301, and Lawrence Gray, Vice President—air export, 1614 West Temple Street, Los Angeles, Ca 90026.The daily operations will be managed by Enrico Salvo whose business address is 1282 West Second Street, Los Angeles, CA 90026. Applicant is affiliated with the following shipper or warehouse: None.

MC 130935F, filed June 5, 1980. Applicant: JAMES L. MALTESE, d.b.a. LYNDALE GROUP TRAVEL AND ENTERTAINMENT SERVICES, 96 South Turnpike Rd., Wallingford, CT 06492. Representative: Robert E. Wnek, 420 Highland Ave., P.O. Box 520, Cheshire, CT 06410. To engage in operations, in interstate or foreign commerce, as a *broker,* at Wallingford, CT and Wantagh, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, beginning and ending at New York, NY, points in CT, and points in Nassau and Suffolk Counties NY, and extending to points in the U.S. (except AK and HI).

MC 130937F, filed May 6, 1980. Applicant's name and address are IVORY FORWARDING, INC., 1356 N.W. Second Ave., Boca Raton, FL 33432. The name under which operations will be performed is IVORY FORWARDING, INC. Applicant is represented by Martin J. Leavitt in this proceeding whose address is 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: A. P. Little, President, Lyle D. Fox, Vice President, Ronald Field, Vice President, A. P. Little, Director, all the above have the same address as applicant, D. Russell Wagstaff, Director, 20225 Goddard Rd., Taylor, MI 48180, Gene E. Gann, Director, 300 So. Livernois, Detroit, MI 48209, W. John Roberts, Director, 300 So. Livernois, Detroit, MI 48209, and Ivory Van Lines, Inc., Shareholder. The daily operations will be managed by A. P. Little, whose business address is 1356 N.W. Second Ave., Boca Raton, FL 33432. Applicant is affiliated with the following shipper or warehouse: McLouth Steel Corporation Service Warehouse Corporation.

MC 130948F, filed June 13, 1980. Applicant: WORLD GUIDE TRAVEL AGENCY, 301 Brookline Ave., Cherry Hill, NJ 08002. Representative: Thomas D. Hart, 1079 Van Hook St., Camden, NJ 08104. To engage in operations, in interstate or foreign commerce, as a *broker,* at Cherry Hill and Camden, NJ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in charter operations, beginning and ending at Camden, NJ, and extending to points in the U.S.

MC 130951F, filed May 27, 1980. Applicant: OLYMPIC TRAILS BUS CO., INC., 50 South 20th St., Irvington, NJ 07111. Representative: John T. Hildemann, P.O. Box D, Newark, NJ 07105. To engage in operations, in interstate or foreign commerce, as a *broker,* at Irvington, NJ, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Essex and Union Counties, NJ, and New York, NY, and extending to points in the U.S. (except AK and HI).

MC 130968F, filed June 27, 1980. Applicant's name and address are TRANSPORTATION MANAGEMENT CONSULTANT'S INC., 22 South Holmdel Rd., Holmdel, NJ 07733. The name under which operations will be performed is TRANSPORTATION MANAGEMENT CONSULTANT's INC. Applicant is represented by Rick A. Rude in this proceeding whose business address is Suite 611, 1730 Rhode Island Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners) and the first five principal shareholders, with their appropriate titles: Paul A. Dexter, V. President, Director, and shareholder, One the Circle, Passaic, NJ 07094, and Vincent Guariglia, President, Director and shareholder, 218 Cashel Dr., Aberdeen, NJ. 07733. The daily operations will be managed by Paul A. Dexter whose business address is 22 South Holmdel Rd., Holmdel, NJ. 07733. Applicant is affiliated with the following shipper or warehouse: Northeast Distribution Services, Inc.

MC 130969F, filed June 30, 1980. Applicant's name and address are FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. The name under which operations will be performed is FTLI TRUCK BROKERS. Applicant is represented by Austin L. Hatchell in this proceeding whose business address is P.O. Box 2165, Austin, TX 78768. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners) and the first five principal shareholders, with their appropriate titles: Byron Fogleman, President, Director, and shareholder, P.O. Box 1504, Crowley, LA 70526; Rudy Fogleman, 1st Vice-President, Director, and shareholder, P.O. Box 1504, Crowley, LA 70526; E. R. Fogleman, Jr., 2nd Vice-President, P.O. Box 1504, Crowley, LA 70526; Thelma Chappius, Secretary/Treasurer, P.O. Box 1504, Crowley, LA 70526; and Larry E. Fogleman, shareholder. The daily operations will be managed by Larry Fogleman whose address is P.O. Box 1504, Crowley, LA 70526. Applicant is affiliated with the following shippers or warehouses: None.

MC 130970F, filed June 26, 1980. Applicant: WILLIAM GULICK, d.b.a. AMERICA BUS TOURS, 463 Selby Boulevard North, Worthington, OH 43085. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. To engage in operations, in interstate or foreign commerce, as a *broker* at Worthington, OH, in arranging for the transportation of *passengers and their baggage,* in special or charter operations, beginning and ending at points in Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Madison, Marion, Perry,

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Pickaway, Ross, and Union Counties, OH, and extending to points in the U.S. (except AK and HI).

FF–528F, filed July 1, 1980. Applicant: HEARTLAND FORWARDING CO., P.O. Box 129, St. Clair, MO 63077. Representative: William H. Shawn, 1730 M St. N.W., Suite 501, Washington, DC 20036. To operate as a freight forwarder, in interstate commerce, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, and WI.

Motor Carrier Alternate Route Deviations—Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 24, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 730 (Deviation 44), filed August 11, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). Carrier proposes to operate as a common carrier by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Kansas City, MO over U.S. Hwy 50 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 61, and then over U.S. Hwy 61 to Memphis, TN and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, MO over U.S. Hwy 40 to Wentzville, MO, then over By-pass U.S. Hwy 40 to St. Louis, and then over Interstate Hwy 55 to Memphis, TN, and return over the same route.

MC 2229 (Deviation 35), RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247, filed August 8, 1980. Carrier proposes to operate as a common carrier by motor vehicle in interstate or foreign commerce, transporting general commodities, with certain exceptions, over a deviation route as follows: From: El Paso, TX over IS Hwy to its junction with IS Hwy 15 near San Bernardino, CA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From El Paso, TX over IS Hwy 10 to its junction with IS Hwy 25, then over IS Hwy 25 to its junction with IS Hwy 40, then over IS Hwy 40 to its junction with IS Hwy 15, then over IS Hwy 15 to its junction with IS Hwy 10 near San Bernardino, CA and return over the same route.

MC 29910 (Deviation 48), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Ft. Smith, AR 72902, filed July 14, 1980, as amended July 31, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kernersville, NC over NC Hwy 68 to junction U.S. Hwy 158, then over U.S. Hwy 158 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Roanoke, VA, then over U.S. Hwy 11 to Harrisburg, PA, then over Interstate Hwy 78 to junction U.S. Hwy 22 near Scotch Plains, NJ, then over U.S. Hwy 22 to junction U.S. Hwy 1 at Newark, NJ, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kernersville, NC over U.S. Hwy 70 to junction U.S. Hwy 1 at Raleigh, NC, then over U.S. Hwy 1 to Newark, NJ and return over the same route.

MC 111231 (Deviation 69), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764, filed August 1, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, IL over US Hwy 36 to junction US Hwy 24, then over US Hwy 24 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, IL over US Hwy 66 to junction unnumbered Hwy near Mt. Olive, IL, then over unnumbered Hwy to junction US Hwy 66, then over US Hwy 66 to junction IL Hwy 3, then over IL Hwy 3 to junction US Hwy 66, then over US Hwy 66 to junction US Hwy 71 near Carthage, MO, then over US Hwy 71 to Kansas City, MO and return over the same route.

MC 111231 (Deviation 70), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764, filed August 4, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Denver, CO over Interstate Hwy 70 to junction US Hwy 287, then over US Hwy 287 to junction TX Hwy 183, then over TX Hwy 183 to Dallas, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, CO over Interstate Hwy 70 to junction US Hwy 69 near Kansas City, KS, then over US Hwy 69 to junction US Hwy 75, then over US Hwy 75 to Dallas, TX and return over the same route.

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 24, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1427 (Deviation 1), NEW MEXICO TRANSPORTATION COMPANY, INC., 515 N. Main St., P.O. Box 1494, Roswell, NM 88201, filed August 4, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Las Cruces, NM over Interstate Hwy 10 to El Paso, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From El Paso, TX over US Hwy 54 to Alamogordo, NM, then over US Hwy 70 to Las Cruces, NM and return over the same route.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *general rules of practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Montana Docket T-5052 filed May 15, 1980. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102. Representative: John L. Mohr, 111 West Main Street, P.O. Box 217, Laurel, MT 59044. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except those of unusual value, dangerous expolosives, commodities in bulk, and those injurious or contaminating to other lading from and to or between the following points or areas: Serving all points and places from Lewistown, MT, along US Hwy No. 87 to Great Falls, MT, the serving all points and places along interstate 87 from Great Falls, MT, to Havre; MT, serving all points and places along US Interstate No. 91 from Great Falls, MT, to Shelby, MT, then serving all points and places from Shelby, MT, over US Hwy No. 2 to Browning, MT, then serving all points and places from Browning, MT, to Great Falls, MT, over US Hwy No. 89; serving Belgrade, MT, from Bozeman, MT, over US Interstate No. 90; and serving all points and places along Road No. 384 from Hardin, MT. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

Montana Docket T-5090 filed June 19, 1980. Applicant: MERCHANTS DELIVERY & STORAGE, 1410 North 1st Street, Hamilton, MT 59840. Representative: John R. Davidson, Suite 805, First Bank Bldg., Billings, MT 59101. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Property (except ashes, trash, waste, refuse, rubbish and garbage) between Darby, MT and Sula, MT over US Hwy 93 and between Darby, MT and the West Fork Ranger Station over US Hwy 93 to junction with Montana Hwy 473, then over Montana Hwy 473 to the West Fork Ranger Station, and return over the same routes, serving all intermediate points and The Trapper Sreek Job Corps Camp. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket T-9783 filed July 18, 1980. Applicant: HENRIETTA W. VAGELE, d.b.a. CEDAR HILL TRUCKING, Cedar Hill, Selkirk, NY 12158. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Lumber, Building materials, and cast iron stoves—between Albany, Rensselaer and Schenectady Counties on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State, Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket 77-223-T filed June 25, 1980. Applicant: BENSON B. BROOKS d.b.a. WAREHOUSE ASSOCIATES, P.O. Box 18284, Spartanburg, SC 29318. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (usual exceptions): between the Warehouse Associates warehouse operations in South Carolina and points and places in South Carolina. Restricted: To shipments owned by customers of Warehouse Associates. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Notices Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the pupose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 24, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including

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the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

MC 2229 (Sub-240F), filed May 5, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities,* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Denver, CO, and Seattle, WA, serving the intermediate and off-route points of Portland, OR, Centralia, Chehalis, Everett, Longview, Olympia, Tacoma and Van Couver, WA and serving the junction of IS Hwy 80N) and IS Hwy 15 for the purpose of joinder only: From Denver, CO over IS Hwy 25 to junction US Hwy 30, then over US Hwy 30 (or IS Hwy 80 and 80N to Portland, OR, then over IS Hwy 5 to Seattle, WA (also from Denver, CO over the above route to junction IS Hwy 80N and US Hwy 395, then over US Hwy 395 to junction US Hwy 12, then over US Hwy 12 to junction IS Hwy 82, then over IS Hwy 82 to junction IS Hwy 90, then over IS Hwy 90 to Seattle, WA) and return over the same route, (2) between Denver, CO and seattle, WA serving no intermediate points: From Denver, CO over IS Hwy 25 and US Hwy 87 to junction IS Hwy 90, then over IS Hwy 90 (or Hwy 10) to Seattle, WA and return over the same route, and (3) between the junction of IS Hwy 80N and IS Hwy 15 (or US 91) and the junction of IS Hwy 15 (or US 91) and IS Hwy 90 serving no intermediate points and serving the junction of IS Hwy 80N and IS Hwy 15 (or US 91) and the junction of IS Hwy 15 (or US 91) and IS Hwy 90 for the purpose of joinder only: From the junction of IS Hwy 80N and IS Hwy 15 (or US 91) over IS Hwy 15 (or US 91) to the junction of IS Hwy 90 and return over the same route. Applicant intends to tack this authority with its otherwise authorized operations. *The sole purpose of this application is to substitute single-line for joint-line operations.*

MC 43038 (Sub-494F), filed May 2, 1980. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, Box CS 5027; Southfield, MI 48037. Representative: Paul H. Jones (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles* (except trailers), in secondary movements, in truckway service, between points in FL, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 110988 (Sub-29F), filed June 16, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* (1) from points in DE, MD, MA, NJ, NY, OH, PA, and WV, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OR, TX, UT, and WI, and (2) from points in IL and WI to points in CT, MD, and MA. (Hearing site: Chicago, IL.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 118318 (Sub-52F), filed May 22, 1980. Applicant: IDA–CAL FREIGHT IN LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, between points in CA, ID, OR, and WA. (Hearing site: Boise, ID.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 121699 (Sub-8F), filed June 26, 1980. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a common carrier, by motor vehicle (A) transporting *general commodities* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment). 1. (a) From Nashville, TN, via I–40 to junction with TN Hwy 22, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties, and return over the same route, (b) From Nashville, TN via U.S. Hwy 70 to Huntingdon, TN, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties and return over the same route, and (c) Via any and all connecting roads and Highways between I–40 and U.S. Hwy 70 between Nashville, TN and TN Hwy 22, for operating convenience only in connection with routes (a) and (b) above. 2. (a) From Memphis, TN via U.S. Hwy 51 to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Memphis and the said Obion County line) and return over the same route, (b) From Memphis, TN via I–40 to junction with U.S. Hwy 45 near Jackson, TN, thence via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties (but serving no intermediate points between Memphis and the said Weakley County Line) and return over the same route. *Restriction:* Restricted against tacking with carrier's authority held as of August 17, 1977. Routes (a) and (b) above shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. 3. (a) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45W, thence via U.S. Hwy 45W to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said Counties (but not serving intermediate points between Jackson and the said Obion County Line), and return over the same route;(b) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said Counties (but serving no intermediate points between Jackson and the said Weakley County Line) and return over the same route. *Restriction:* The authority in routes (a) and (b) above is restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN and points in its commercial zone, on the one hand, and, on the other, that which originates at, is destined to, or interlined at Nashville, TN and Memphis, TN and points in their respective commercial zones. The two routes granted herein shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. (B) Transporting *Boxes or crates, wood or wood and wire combined, materials equipment and supplies* used in the manufacture and distribution thereof, over irregular routes, (a) between Martin, TN and Toledo, OH, and (b) between Martin, TN and Toledo, OH, on the one hand, and, on the other, points in the United States in and east of TX, AR, MO, KS, IA, and MN.

Note.—Authority sought in (A) above involves conversion of carrier's presently held certificates of registration.

MC 121699 (Sub-9F), filed June 26, 1980. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a common carrier, by motor vehicle (A) transporting *general commodities,* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment). 1. (a) From Nashville, TN, via I-40 to junction with TN Hwy 22, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties, and return over the same route, (b) From Nashville, TN via U.S. Hwy 70 to Huntingdon, TN, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties and return over the same route, and (c) Via any and all connecting roads and highways between I-40 and U.S. Hwy 70 between Nashville, TN and TN Hwy 22, for operating convenience only in connection with routes (a) and (b) above. 2. (a) From Memphis, TN via U.S. Hwy 51 to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Memphis and the said Obion County line) and return over the same route, (b) From Memphis, TN via I-40 to junction with U.S. Hwy 45 near Jackson, TN, thence via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties (but serving no intermediate points between Memphis and the said Weakley County Line) and return over the same route. *Restriction:* Restricted against tacking with carrier's authority held as of August 17, 1977. Routes (a) and (b) above shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. 3. (a) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45W, thence via U.S. Hwy 45W to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said Counties (but not serving, intermediate points between Jackson and the said Obion County Line), and return over the same route; (b) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said Counties (but serving no intermediate points between Jackson and the said Weakley County Line) and return over the same route. *Restriction:* The authority in routes (a) and (b) above is restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN and points in its commercial zone, on the one hand, and, on the other, that which originates at, is destined to, or interlined at Nashville, TN and Memphis, TN and points in their respective commercial zones. The two routes granted herein shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. (B) Transporting *wheels, hubs, tires, brakes, brake parts, spindles, chemicals, paint, equipment, materials and supplies* used in the manufacture thereof (except commodities in bulk), over irregular routes, (a) between Dresden, TN and Des Moines, IA, and (b) between Dresden, TN and Des Moines, IA, on the one hand, and, on the other, points in the United States in and east of TX, AR, MO, KS, IA, and MN.

Note.—Authority sought in (A) above, involves conversion of carrier's presently held certificates of registration.

MC 123048 (Sub-483F), filed June 5, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum products* (except commodities in bulk), betwen Alcoa, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Knoxville, TN, or Washington, DC.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

Permanent Authority Decisions Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: August 4, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 24, 1980.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantially). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

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Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant if fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before September 24, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 36556 (Sub-46F), filed May 28, 1980. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and prepared foodstuffs* (except in bulk, in tank vehicles), from Cedar Grove, Clyman, Fond du Lac, Fort Atkinson, and Ripon, WI, to points in IL (except Boone, Cook, DuPage, Kane Lake, McHenry, Will and Winnebago Counties), IN, MI, and OH, and Louisville KY, and St. Louis, MO. (Hearing site: Chicago, IL.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operation.

MC 57697 (Sub-23F), filed May 14, 1980. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Authority sought to operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting: (1) *Building materials when also construction materials*, (a) between points in UT, on the one hand, and, on the other, points in WY and MO. (b) Between points in WY, NE, IA, MO and KS, on the one hand, and, on the other, points in ID, MT, AZ, NV, other than Mineral County, WA and OR north of the 44th parallel. (2) *Building materials when also iron and steel articles as described in ExParte No. MC-45, Descriptions in Motor Carrier Certificates, Appendix V, 61 M.C.C. 276*, between points in OR on the south of the 44th parallel, on the one hand, and, on the other, points in WY, KS, NE, MO and IA. (3) *(A) Construction, telephone and power line materials when also iron and steel articles as decribed in ExParte No. MC-45, Descriptions in Motor Carrier Certificates, Appendix V, 61 M.C.C. 276 and (B) Construction, telephone and power line materials when also structural steel, pipe or commodities, the transportation of which by reason of size and weight requires the use of special equipment*, between points in WA, OR, north of the 44th parallel, MT, ID, NV, UT and AZ, on the one hand, and, on the other, points in IA, KS, NE, except North Platte, Ogallala and Chappell, and SD. (4) *Building, construction, telephone and powerline materials*, between points in WY, on the one hand, and, on the other, points in IA, KS, SD and NE (except North Platte, Ogallala and Chappell, NE). (5) *Construction materials*, between points in CA, on the one hand, and, on the other, points in IA, KS, SD and NE). (except North Platte, Ogallala and Chappell, NE). (6) *Building materials*, between CA, on the one hand, and, on the other, points in WY and MO. (7) *Construction materials*, except in bulk, between UT, on the one hand, and, on the other, points in SD, NE (except North Platte, Ogallala and Chappell, NE), IA and KS. (8) *Machines, other than farm, maximum 5,000 pounds each, when also commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment*, between UT, on the one hand, and, on the other, points in WY, IA, KS, NE and MO. (9) *Machines, other than farm, maximum 5,000 pounds each, when commodities which by reason of size or weight, requires special handling or the use of special equipment, and commoodites (except commodities in bulk, motor vehicles, motor vehicle cabs and bodies, class A and B explosives and boats), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling of the use of special equipment*, between points in OR, WA, AZ (except Cochise County), NV (except points in Mineral County), and ID, on the one hand, and, on the other, points in MO, IA, NE, KS and WY. (10) *Machines, other than farm, maximum 5,000 pounds each when also machinery, (except in bulk) which by reason of size or weight, require special handling or the use of special equipment and machinery which does not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as machinery, which by reason of size or weight requires special handling or the use of special equipment*, between points in CA, on the one hand, and, on the other, points in WY, NE, IA, MO and KS. (11) *Irrigation supplies when also (A) commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special* *equipment when moving in the same shipment on the same bill of lading as commodities which by reason or size or weight require special handling or the use of special equipment or (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; or (C) pipe and pipe fittings (except iron and steel) and or (D) construction materials,* between points in UT, on the one hand, and, on the other, points in WY, NE, IA, MO and KS. (12) *Irrigation supplies when also (A) commodities (except commodities in bulk), which by reason of size or weight, require special handling or machinery, boilers, storage tanks and parts therefor; structural steel, and contractor's outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; or (B) pipe, (except commodities in bulk, and iron and steel), and for (C) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except commodites in bulk,* between points in ID, NV (except points in Mineral County), and AZ (except points in Cochise County), on the one hand, and, on the other, points in WY, KS, NE, IA and MO. (13) *Bulk and service station equipment, each article to weigh a maximum of 5,000 pounds when also commodities, the transportation of which because of size or weight requires the use of special equipment,* between points in OR and WA, on the one hand, and, on the other, points in KS, NE, SD, and IA. (14) *Bulk and service station equipment, each article to weigh a maximum of 5,000 pounds, when also machinery, the transportation of which by reason of size or weight requires the use of special equipment,* between points in MT, ID, NV, UT and AZ, on the one hand, and, on the other, points in NE, KS, SD, and IA. (15) *Bulk and service station equipment, when also machines, other than farms, maximum 5,000 pounds, each,* between points in WY, on the one hand, and, on the other, points in IA, KS, MO and NE. (16) *(1) Irrigation and sprinkling systems and (2) parts and accessories for the commodities named in (1) above, when also pipe and pipe fittings (except iron and steel commodities in bulk) which are also construction materials, or supplies,* between points in CA, on the one hand, and, on the other, AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI, WY and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress, TX. (17) *(1) Irrigation and sprinkling systems, and (2) parts and accessories for commodities in (1) above when also (A) pipe and pipe fittings and (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* between points in UT, ID, AZ (except points in Cochise County, AZ) and NV (except Mineral County, NV), on the one hand, and, on the other, AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI, WY and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress Counties, TX. (18) *(1) Irrigation and sprinkling systems, and (2) parts and accessories for the commodities named in (1) above when also (A) commodities which by reason of size or weight, require special handling or the use of special equipment, and commodities (except commodities in bulk, motor vehicles, motor vehicle cabs and bodies, class A and B explosives and boarts), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commmodities which by reason of size or weight require special handling or the use of special equipment, and (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* between WA and OR, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress Counties, TX. (19) *Oil-well casings, pipe and supplies when also construction materials (except commodites in bulk) and iron and steel articles, as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except mining and construction materials, equipment and supplies, and commodities in bulk)* between points in CA, on the one hand, and, on the other, points in WY.

(20) *Oil-well casings, pipe, and supplies when also (A) commodities which by reason of size or weight, require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* between OR, WA, ID, AZ (except points in Cochise County) and NV (except points in Mineral County), on the one hand, and, on the other, points in WY. (21) *Oil-well casings, pipe, and supplies when also pipe (except commodities in bulk, and iron and steel),* between points in ID, AZ, (except Cochise County), and NV (except Mineral County), on the one hand, and, on the other, points in WY. (22) *Oil-well casings, pipe, and supplies when also (A) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; (B) pipe and pipe fittings (except iron and steel); and (C) construction materials, except commodities in bulk,* between points in UT, on the one hand, and, on the other, points in WY. Restriction: All of the above authorities are restricted against (1) being used (a) for interlining or interchanging traffic involving the transportation of building and construction equipment having any prior or subsequent movement by F–B Truck Line Company, or any successor thereof, or (b) in the event F–B Truck Line Company and Lester Smith Trucking, Inc. or their successors should merge their operations, as a basis for performing any through operations with respect to the commodities described in (a) above and (2) the transportation of commodities in bulk, in tank vehicles, and coal. The sole purpose of this application is to substitute single line for joint-line operations. (Hearing site: Denver, CO or Salt Lake City, UT.)

MC 106644 (Sub-288F), filed May 7, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III, P.O. Box 916, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* the transportation of which because of size or weight require the use of special equipment, and (2) *self-propelled articles* each weighing 15,000 pounds or more, between points in GA, FL, AL, and SC on the one hand, and, on the other, points in ME, NH, VT, KS, and MN.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 111496 (Sub-36F), filed May 21, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a common carrier by motor vehicle in interstate or foreign commerce over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Shelby, MT and the international boundary line between the U.S. and Canada at or near Sweetgrass, MT, serving all intermediate points: from Shelby over U.S. Hwy 2 to junction U.S. Hwy 91, then over U.S. Hwy 91 to the international boundary line between the U.S. and Canada. Note: The sole purpose of this application is to substitute single line for joint line operations.

Note.—Applicant states it intends to tack and interline the authority sought with its presently authorized routes.

MC 145606 (Sub-3F), filed March 11, 1980. Applicant: JUNIUS ELMORE, JR., 815 East 2nd St., Cheyenne, WY 82001. Representative: Junius Elmore, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are used in or dealt in by wholesale, retail, dealers, repair and distribution business of automotive vehicles, motor vehicles, and machinery including farming, construction and mining machinery, from points in CO to points in WY, and (2) *general commodities,* from Cheyenne, Wheatland and Green River, WY, to points in WY, restricted to traffic having an immediate or subsequent movement in piggy back service.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 4, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 55898 (Sub-Nos. E7, E16, E18, E20), filed December 9, 1975. Applicant: DECATO BROS, INC., Heater Road, Lebanon, NH 03766. Representative: David M. Marshall, 135 State St., Suite 200, Springfield, MA 01103. MC 55898 (E7): *Lumber,* from points in Caledonia, Orange, and Windsor Counties, VT, to points in NY. (Gateway eliminated: points in VT and NH). MC 55898 (E16): *Lumber,* from points in MA to points in VT on and north of U.S. Hwy 4. (Gateway eliminated: points in NH). MC 55898 (E18): *Lumber,* from points in MA on and east of I Hwy 91 to Walton, NY. (Gateway eliminated: points in NH).

MC 55898 (E20): *Forest products,* between points in VT, on the one hand, and, on the other, points in MA in and east of Worcester County. (Gateway eliminated: points in NH). MC 55898 (E21): *Pre-fabricated wood buildings,* complete or in sections, (except in sections mounted on wheeled undercarriages equipped with hitchball connector), from points in VT to points in the U.S. (except points in MA and points in NY east of I Hwy 81). (Gateway eliminated: points in NH).

MC 83539 (Sub-E133), filed May 29, 1975. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Kenneth Weeks (same as above). (1) *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, and *parts* thereof when moving in connection with such commodities; (2) *such self-propelled articles* each weighing 15,000 pounds or more, which may be included in heavy machinery and *related machinery, tools, and supplies* moving in connection therewith, restricted in (2) to commodities transported on trailers, between points in NM and north of Valencia, Torrance, Guadalupe, Curry, DeBoca and Roosevelt Counties, on the one hand, and, on the other, points in ID in and north of Idaho County. (Gateway eliminated: points in CO and MT).

MC 83539 (Sub-Nos. E610, 612, 616, 617, 618) filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Kenneth Weeks (same as above). (1) *Commodities,* the transportation of which because of the size or weight, require the use of special equipment, and, parts thereof when moving in connection with such commodities; (2) *self-propelled* articles, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith restricted in (2) to commodities which are transported on trailers: (E610) between points in CO, on the one hand, and, on the other, points in VA (Wichita, KS, and points in TN within 50 miles of Nashville*); (E612)(a) between points in AL, on the one hand, and, on the other, points in AL in and east of Limestone, Morgan, Cullman, Blount, Jefferson, Shelby, Chilton, Autauga, Montgomery, Bullock, Barbour and Henry Counties, and (b) between points in AL, on the one hand, and, on the other, points in MO in and north of St. Louis, Franklin, Gasconade, Osage, Cole, Moniteau, Morgan, Pettis, Johnson, and Jackson Counties (points in TN within 50 miles of Nashville*); (E616) (a) between points in VA in and north of Giles, Montgomery, Roanoke, Bedford, Campbell, Appomattax, Buckingham, Fluvannah, Goochland, Henrico, Hanover, King William, King and Queen, Gloucester, Matthews, Middlesex, Essex, Westmoreland, Richmond, Northumberland and Lancaster Counties, on the one hand, and, on the other, points in AL in and west of Madison, Morgan, Cullman, Jefferson Bibb, Perry, Dallas, Wilcox, Monroe, and Baldwin Counties; and (b) between points in VA, on the one hand, and, on the other, points in AL in west and north of Madison, Morgan, Winston, Marion and Larmar Counties (points in TN within 50 miles of Nashville*); (E617) between points in LA, on the one hand, and, on the other, points in WY (Wichita, KS, and points in CO*); and (E618) between points in AZ, on the one hand, and, on the other, points in CT (points in CO and UT*). (Gateway eliminated: asterisked).

MC 107403 (Sub-E747) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals* (except fly ash), in bulk, in tank vehicles, from points in OH within 150 miles of Monongahela, PA, to points in NV, UT, NM, CO, ID, MT, WA, OB and CA. (Gateway eliminated: Charleston, WV.)

MC 118831 (Sub-E155) filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263.

Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Liquid petrochemicals,* in bulk, in tank vehicles, between Orangeburg, SC on the one hand, and, on the other, points in SC on and west of a line beginning at North Augusta extending along US Hwy 25 to Greenwood, then along US Hwy 178 to the NC–SC State line. (Gateway eliminated: Richmond County, GA.)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25769 Filed 8-22-80; 8:45 am]

BILLING CODED 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Marine Transportation Sub-group of the Independent Area Task Force (IATF) of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Friday, September 12, 1980. The Sub-group will meet in the B–100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 3:00 p.m.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established the IATF and NACOA. The IATF will be responsible for the preparation of preliminary recommendations in the areas of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Sub-group on Marine Transportation, Dr. Don Walsh, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discusssion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Mr. Ed Cannon, the Staff Member for the Marine Transportation Sub-group. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-25853 Filed 8-22-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

DATE: September 18, 1980
TIME: 9:00 a.m. to 5:00 p.m.
ROOM: 314
PROGRAM: This meeting will review applications submitted for the Libraries Humanities Projects Programs, Division of Public Programs for projects beginning after January 15, 1981.

DATE: September 19, 1980
TIME: 9:00 a.m. to 12:00 noon
ROOM: 314
PROGRAM: This meeting will review applications submitted for the Libraries Humanities Projects Programs, Division of Public Programs for projects beginning after January 15, 1981

DATE: September 22, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1134
PROGRAM: This meeting will review applications submitted to the General Research Programs for Basic Research: Cultural Studies projects, Division of Research Programs, for projects beginning after December 1, 1980.

DATE: September 23, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1134
PROGRAM: This meeting will review applications submitted to the General Research Programs for Basic Research; Cultural Studies projects, Division of Research Programs, for projects beginning after December 1, 1980.

DATE: September 29, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

DATE: September 30, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

DATE: October 1, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-25792 Filed 8-22-80; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in

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Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment changes the surveillance requirements for verifying the operability of the power operated valves in the containment spray system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 7, 1980 (NRC #8007110204), (2) Amendment No. 33 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of August, 1980.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 25847 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-458, 50-459]

Gulf States Utilities (River Bend Units 1 and 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that, by petition dated July 21, 1980, the Union of Concerned Scientists (UCS) requested that construction at the River Bend Units of the Gulf States Utilities Company be halted. Allegations of questionable practices relative to plant construction form the basis for the request. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations and, accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, LA 70775.

Dated at Bethesda, Maryland, this 18th day of August 1980.

For the Nuclear Regulatory Commission.

R. C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 80-25848 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric & Power Co.; Issuance of Amendment to License NPF-7

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to License NPF-7 for Fuel Loading and Low Power Testing, issued to the Virginia Electric and Power Company (licensee), which allowed certain exceptions to Appendix A of the Technical Specifications for operation of the North Anna Powe Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment permits the licensee to conduct the water hammer demonstration test as presented in our Safety Evaluation, dated August 1980.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. The activity authorized by the amendment is encompassed by the overall action involving the proposed issuance of an operating license for which prior public notice was issued in the **Federal Register** on May 25, 1973 (38 FR 13772).

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the amendment is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) the application for amendment, dated July 9, 1980, (2) Amendment No. 2 to NPF-7, and (3) the Commission's related Safety Evaluation concerning the water hammer demonstration test.

All of the items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the local public document rooms in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901 and at the Office of the Board of Supervisors, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093. A copy of items 2 and 3 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 18th day of August, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-25846 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-10]

Commonwealth Edison Co. (Dresden Nuclear Power Station Unit No. 1); Issuance of Director's Decision Under 10 CFR 2.206

On April 16, 1979, notice was published in the **Federal Register** (44 FR 22529) that Ms. Kay Drey had requested by petition dated March 19, 1979, that the Nuclear Regulatory Commission (the Commission) prepare an Environmental Impact Statement on Commonwealth Edison Company's proposed chemical decontamination of its Dresden Nuclear Power Station Unit No. 1. The Director has treated this request as a request for action under 10 CFR 2.206.

By petition dated September 20, 1979, Ms. Marilyn Shineflug, on behalf of the Illinois Safe Energy Alliance, requested public hearings on the decontamination based on the the lack of assurance that the NRC would issue an environmental impact statement. Notice of receipt of the petition was published in the **Federal Register** November 7, 1979 (44 FR 64577). By petition dated March 13, 1980, Mr. Robert Goldsmith, on behalf of Citizens for Better Environment and Prairie Alliance supported Ms. Drey's petition requesting the preparation of an environmental impact statement.

Although the results of the Commission's staff review indicate that the chemical decontamination proposed for Dresden 1 will not significantly affect the quality of the human environment, I have concluded that an environmental impact statement should be prepared because of significant interest and concern expressed by members of the public. The staff has by separate action issued a Draft Environmental Statement. The requests of Ms. Drey and Mr. Goldsmith are, therefore, granted. The public hearings requested by Ms. Shineflug were predicated on the lack of assurance that the NRC would issue an environmental impact statement. Since the NRC has issued the statement, such hearings will not be necessary.

Copies of the Director's Decision, and the staff's response to the petition (Appendix A) enclosed thereto are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. 20555 and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. The Draft Environmental Statement may be examined in these locations. A copy of the decision and Appendix A will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's regulations the decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes a review of this decision within that time.

Dated at Bethesda, Maryland this 26th day of June 1980.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-25869 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 48-04585-01]

Lakeview Hospital, Order To Show Cause and Order Suspending License (Effective Immediately)

I

Lakeview Hospital, 10010 West Blue Mound Road, Wauwatosa, Wisconsin (the "Licensee") is the holder of Byproduct Material License No. 48-04585-01 (the "License") issued by the Nuclear Regulatory Commission (the "Commission"). The License authorizes the possession of byproduct material and its use for medical diagnostic purposes. The License was originally issued on January 19, 1959 and has been amended periodically since. The present expiration date of the License is January 31, 1985.

II

In response to an allegation of improper use of radioactive materials at Lakeview Hospital, an investigation was conducted by representatives of the NRC Region III (Glen Ellyn, Illinois) Office on August 1, 6, and 7, 1980 into the Licensee's activities. The results of this investigation indicated that:

1. License Condition 12 states that licensed material shall be used by or under the supervision of D. E. Lindley, M.D., J. A. Thurow, M.D., or N. Barber, M.D. (the authorized users).

Contrary to the above, inadequate supervision has been exercised over the use of licensed material, in that, since 1976, patients were routinely given approximately twice the dose prescribed by the licensee's procedures without the consent or supervision of the authorized users.

2. 10 CFR 30.51(a) requires that "Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31-35 of this chapter shall keep records showing the receipt, transfer, and disposal of such byproduct material."

Contrary to the above, since 1976, the Licensee has failed to maintain accurate records with regard to the transfer and disposal of licensed material. The licensee routinely recorded the administration of licensed material to patients in amounts which reflected adherence with the quantity prescribed by the licensee's procedures. In fact, the licensee administered approximately twice the prescribed dosage to some patients and the records of the licensee did not reflect this fact.

3. License Condition 18 states that licensed material shall be possessed and used in accordance with statements, representations and procedures contained in the application dated March 22, 1979, and the letter dated April 20, 1979. The application states that calibration of the dose calibrator will be in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix D, which requires, in part, quarterly linearity tests and annual accuracy tests.

Contrary to the above, no quarterly linearity or annual accuracy tests had been performed between May 1, 1979 and August 7, 1980.

4. License Condition 18 states that licensed material shall be possessed and used in accordance with statements, representations and procedures listed in the application dated March 22, 1979 and the letter dated April 20, 1979. The application states that calibration of the GM survey meter will be in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix D, which requires, in part, an annual calibration of survey instruments.

Contrary to the above, the Eberline E-120 GM survey meter had not been calibrated between May 1, 1979 and August 7, 1980.

5. License Condition 18 states that all licensed material shall be possessed and used in accordance with the statements, representations and procedures contained in the application dated March 22, 1979 and the letter dated April 20, 1979. The application states that area surveys will be performed in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix I, which requires in part: (1) that daily radiation area GM surveys be performed in generator elution, dose preparation and patient injection areas; and (2) that weekly radiation area GM and wipe test surveys be performed in all other lab areas.

Contrary to the above, daily radiation area GM surveys required in the generator elution, dose preparation and patient injection areas and the weekly radiation area GM surveys required in all other laboratory areas had not been performed between May 1, 1979 and August 7, 1980, and weekly wipe tests were not conducted between April and October 1979.

6. 10 CFR 20.401(c)(3) requires that records of disposal of licensed material made pursuant to 10 CFR 20.303, "Disposal by Release to Sanitary Sewer Systems," shall be maintained until the Commission authorizes their disposition.

Contrary to the above, on July 28, 1980 approximately 16 millicuries of Tc-99m DTPA were released to the sanitary sewer, and no record of this release was maintained.

III

From the foregoing, it is apparent that the Licensee has demonstrated inadequate management of its program. Accordingly, the Director, Office of Inspection and Enforcement, has determined that License No. 48-04585-01 should be revoked. The Director has also determined that, because of the public health, safety, and interest, no

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prior notice is required and, pursuant to 10 CFR 2.202(f), License No. 48-04585-01 should be suspended immediately pending further Order.

IV

In view of the foregoing, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 20, 30, and 35, it is hereby ordered that:

1. Effective immediately, License No. 48-04585-01 is suspended, and accordingly the License shall forthwith cease and desist from any further use of byproduct material in its possession; and

2. The Licensee shall immediately place all byproduct material in its possession in locked storage and, with respect to such storage, shall comply with the applicable provisions of 10 CFR Part 20, "Standards for Protection Against Radiation," or transfer such material to a person authorized to possess such material; and

3. The Licensee shall show cause, in the manner hereinafter provided, why License No. 48-04585-01 should not be revoked.

V

The Licensee may, within twenty-five days of the date of this Order, show cause by filing a written answer to this Order under oath or affirmation. The Licensee may also request a hearing within the said twenty-five day period. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. Any answer filed shall specifically admit or deny each allegation made in section II, above, and may set forth the matters of fact and law upon which the Licensee relies. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. An answer or request for hearing shall not stay the temporary effectiveness of this order. Upon failure of the Licensee to file an answer within the time specified, the Director, Office of Inspection and Enforcement, will without further notice, issue an Order revoking License No. 48-04585-01.

VI

In the event a hearing is held, the issues to be considered at such a hearing shall be:

(a) whether the Licensee was in noncompliance with the Commission's regulations and the conditions of its License No. 48-04585-01 as specified in section II, and

(b) whether License No. 48-04585-01 should be revoked.

Dated at Bethesda, Md. this 11th day of August, 1980.

For the Nuclear Regulatory Commission

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-25665 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment consists of revised TS figure 3.10-3, which specifies the excore monitor symmetric offset alarm band for the LOCA limiting conditions for operation. The change accounts for the potential increase in power peaking due to the four-step insertion of the control element assemblies, allowed by TS 3.10.A.1, to reduce the guide tube wear.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1980, (2) Amendment No. 49 to License No. DPR-36, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of August, 1980.

For the Nuclear Regulatory Commission

Leon B. Engle,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-25666 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility; Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-40, issued to Omaha Public Power District, which revised a license condition and the Technical Specifications for operation of the Ft. Calhoun Station, Unit No. 1 (the facility) located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment changes License Condition 3.A and the Technical Specifications to authorize operation at 1500 Megawatts thermal power.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on September 7, 1979 (44 FR 52389). On October 8, 1979 a petition was filed by H. Kirshen and the Natural Resources Committee of the Citizens Advisory Board of the Metropolitan Area Planning Agency. No other petition or request for a hearing was filed. The petition was subsequently withdrawn and the proceeding dismissed on February 8, 1980 by Order of the Atomic Safety and Licensing Board (45 FR 10495, February 15, 1980).

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated July 17, 1979, as supplemented by letters dated October 30, and December 4, 1979, January 30, February 12 and 25, March 12, May 21, and June 26, 1980, (2) Amendment Nos. 47 and 50 to License No. DPR-40, (3) the memorandum from the ACRS dated August 11, 1980, and (4) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 15th day of August, 1980.

For the Nuclear Regulatory Commission.

Leon B. Engle,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80–25866 Filed 8–22–80; 8:45 am]

BILLING CODE 7590-01-M

Petitions for Rulemaking; Issuance of Quarterly Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Quarterly Report.

SUMMARY: The Nuclear Regulatory Commission has issued the June 30, 1980, Quarterly Report on Petitions for Rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

ADDRESSES: A copy of this report, designated NRC Petitions for Rulemaking—June 30, 1980, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301-492-7086.

Dated at Bethesda, Maryland this 15th day of August, 1980.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80–25923 Filed 8–22–80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment deletes satisfied License Condition 2.C.(3)(p) regarding the decay heat removal system suction bypass valves.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensees' filing dated January 11, 1979, (2) Amendment No. 29 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80–25867 Filed 8–22–80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

August 20, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB published a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the forms;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviwer of your intent as early as possible.

The timing and format of this notice have been changed to make the publiciation of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Managemeant and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Economic, Statistics, and Cooperatives Service
Honey survey
Annually
Honey producers, 12,000 responses, 2,000 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Food and Nutrition Service
Food stamp redemption certificate FNS 278,278–3, 4, & 5
Other (see SF–83)
Retail food stores and wholesale food concerns, 23,722,951 responses, 395,382 hours
Charles A. Ellett, 395–7340

Science and Education Administration
24 forms for conducting assessment of conduct of expanded food and nutrition education program in selected sites
Single time
EFNEP participants, 2,100 responses, 2,100 hours
Charles A. Ellett, 395–7340

Reinstatements

Food and Nutrition Service
Annual report of participation by Charitaele institutions
Semi-annually
State agencies responsible for USDA distribution, 56 responses, 56 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

New Forms

Bureau of the Census
IRS income tax forms for sole proprietors, partnerships, and small corporations
IRS 1040,1065, & 1120S
Single time
Sole proprietors, partners, and small corporations, 10,000,000 responses, 83,333 hours
Off. of Federal Statistical Policy & Standard, 673–7974

National Bureau of Standards
Survey: NBS update
NBS–1159
Single time
Editors, reporters on select mailing list, 2,800 responses, 280 hours
William T. Adams, 395–4814

Reinstatements

Economic Development Administration
Current and projected permanent employee and payroll
Data
ED–612
Annually
Employers, 1,400 responses, 1,400 hours
William T. Adams, 395–4814

DEPARTMENT OF ENERGY

Agency Clearance Officer—Diane W. Lique—633–8526

Revisions

DOE Uniform Contractor Reporting System—Volume I
EIA–188
On occasion
DOE Contractors 213,706 responses, 1,695,330 hours
Jefferson B. Hill, 395–7340

Prime Supplier's Monthly Report
FIA–25
Monthly
Prime suppliers of petroleum products, 3,600 responses, 34,200 hours
Jefferson B. Hill, 395–7340

Weekly Refinery Report
EIA–161
Weekly
Petroleum refineries, 9,152 responses, 12,356 hours
Jefferson B. Hill, 395–7340

Weekly Bulk Terminal Stocks of Industrial Products
EIA–162
Weekly
Bulk Terminal operators, 4,316 responses, 15,106 hours
Jefferson B. Hill, 395–7340

Weekly Pipeline Stocks of Finished Products
EIA–163
Weekly
Pipeline operators products, 4,004 responses, 15,616 hours
Jefferson B. Hill, 395–7340

Weekly Import Report
EIA–165
Weekly
Petroleum importers, 2,860 responses, 8,008 hours
Jefferson B. Hill, 395–7340

Weekly Total Stocks of Crude Oil
EIA–164
Weekly
Crude oil refiners, 9,152 responses, 17,389 hours
Jefferson B. Hill, 395–7340

Survey of Surplus Natural Gas Supplies
ERA–400
Quarterly
Pipeline producers and distributors of natural gas, 1,200 responses, 100 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Office of the Secretary
Data Form for Consumer Publications Bibliography
OS–15–80
Single time
State, county and city government consumer offices, 2,250 responses, 143 hours
Barbara F. Young, 395–6880

Revisions

Social Security Administration

Annual report of earnings
SA–777, 7770
Annually
Beneficiaries who had earnings during taxable year, 1,500,000 responses, 250,000 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for parent's insurance benefits
SSA–7–F6
On occasion
Dependent parent of a deceased worker, 1,400 responses, 210 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for child's insurance benefits
SSA–4–F6
On occasion
Comp. by or on behalf of child liv. wage earner ent. social security, 925,000 responses, 77,083 hours
Barbara F. Young, 395–6880

Social Security Administration
Statement of claimant or other person
SSA–795
On occasion
Claimant for benefits under titles II and XVI, 505,500 responses, 126,375 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for mother's and father's insurance benefits
SSA–5–F6
On occasion
Spouses of deceased workers with children in their care, 180,000 responses, 27,000 hours
Barbara F. Young, 395–6880

Social Security Administration
Statement for redetermining continuing eligibility for SSI payments
SSA–8200–F4
Annually
Aged, blind and disabled SSI recipients, 1,533,000 responses, 766,500 hours
Barbara F. Young, 395–6880

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

Revisions

Policy development and research
Annual housing survey—SMSA sample group DD–1 questionnaire and control card
AHS–51, 52, 53, 54LA, 54L2, 54L(SP), and 56L
On occasion
Households in 15 SMSA's, 112,000 responses, 70,560 hours
Off. of Federal Statistical Policy & Standard, 673–7974

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

Change form—Recognitions and agreements
OPM 913–B
On occasion
Federal agencies, 1,625 responses, 406 hours
Edward C. Springer 395–4814

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653–6890

New Forms

Client and field interviewer questionnaires
Single time
Small business clients, 300 Responses, 150 hours
Edward C. Springer, 395–4814

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2146

Revisions

VA application for home loan guaranty
26–1802A
On occasion
Lenders and veterans, 301,000 responses, 150,500 hours
Laverne V. Collins, 395–6880

Reinstatements

Comprehensive evaluation of health services
10–1465 A&B
On occasion
VA patients, 40,000 responses, 8,000 hours
Laverne V. Collins 395–6880

C. Louis Kincannon,
Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–25861 Filed 8–22–80; 8:45 am]

BILLING CODE 3110–01–M

Privacy Act; New Systems

The purpose of this notice it to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between August 8, and August 15, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Defense

System Name:

Uniformed Services University of the Health Sciences Personnel Files.

Report Date:

July 31, 1980.

Point of Contact:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg., Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Uniformed Services University of the Health Sciences proposes to fully automate a system of records which consists of the personnel files of the University. The system will be used for documenting the work experience of applicants and USUHS personnel and for notification of key personnel in case of emergency during non-working hours. Biographical data will be used for providing background information on University students to lecturers.

System Name:

Personal Property Program.

Report Date:

July 29, 1980.

Point of Contact:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg., Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Department of the Navy Proposes a new system of records to provide a record of personal property, shipping

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and storage data and to facilitate accurate delivery and payment. The file contains individuals' applications for shipment and/or storage related shipping documents and records of payment, delivery and inspection of personal property.

Department of Housing and Urban Development

System Name:

HUD Child Care Center Files.

Report Date:

July 28, 1980.

Point of Contract:

Mr. William A. Medina, Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Summary:

The Department of Housing and Urban Development proposes to amend an existing system of records to more accurately reflect the categories of individuals covered by the system. The current published system description is written in such a way that only data on current enrollees appears to be contained in the system. The amendment is proposed to accurately identify the fact that information pertaining to applicants, current enrollees, and former enrollees is maintained. The HUD Child Care Center Files is a manual system of records consisting of applications both of perspective children and Center personnel; enrollment forms of the children; health records of children and staff; evaluation forms of children and staff; and progress and other pertinent data relating to current and former enrollees.

Veterans Administration

Matching Program Report:

Compensation/Pension and Education Match.

Report Date:

July 31, 1980.

Point of Contact:

Mr. Donald J. Nelson, Director, Risk Analysis (53), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Summary:

The Veterans Administration pursuant to Section 5 of the Office of Management and Budget's Matching Guidelines proposes to conduct a matching program. The program will identify Federal Government employees who owe the Veterans Administration money from benefits overpaid, provided erroneously, or who have defaulted on education or home loans. The VA intends to match records on these individuals with the personnel records on Federal employees maintained by the Office of Personnel Management to identify those debtors who are also Federal employees. The objectives of the match are to eliminate from the pension rolls those Federal employees whose Federal salary makes them ineligible for the program; to reduce the amount of benefit overpayments and loan defaults by referring cases to the Federal employer agencies so that appropriate administrative action can be taken; to refer cases to the United States Attorneys or District Counsels for enforced collection where appropriate. The Veterans Administration estimates that potential recoveries will range from $1.2 million to $1.5 million versus $1,000 to $5,000 to acquire the data files needed to conduct the match.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25828 Filed 8-22-80; 8:45 am]

BILLING CODE 3110-01-M

POSTAL SERVICE

Privacy Act of 1974; System of Records Modification

AGENCY: U.S. Postal Service.

ACTION: Advance notice of proposed changes to records system description.

SUMMARY: The primary purpose of this document is to provide notice of the Postal Service's proposal to automate leave usage records of those employees who participate in the Program for Alcoholic Recovery (PAR), USPS 120.140.

DATE: Comments must be received by September 24, 1980.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, W., S.W., Washington, D.C. 20260, or delivered to Room 3321 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected at Room 3321 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. A. Scott Hamel, (202) 245-4142.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to keep automated leave usage records on employees who participate in the Program for Alcoholic Recovery (PAR). This information would help individual PAR counselors track leave usage by program participants thereby aiding the counseling process. Also, it would provide the Postal Service with the ability to evaluate the success of the program in specific geographic areas.

Several security techniques would be implemented to protect the privacy of PAR participants: (a) personal identifiers within the system would be encoded; (b) minimal retention periods would be established for working documents; (c) the flow of the information between the field and the Postal Data Centers would be channeled through specific points; and (d) Postal Data Center personnel would not be included in any automated records.

It is important to note that counseling or medical information from PAR case files would not be automated. This proposed tracking and reporting system would merely extract leave hours from existing automated records, i.e., the Postal Service Payroll System which is already defined as a Privacy Act system of records.

System Modification Due to Implementation of Automation

The Postal Service proposes to extract and report leave usage information about PAR program participants from its payroll processing system (USPS 050.020). Reports would be distributed to PAR program personnel in order to improve the ability to assess the success of the PAR program. Accordingly, the Postal Service proposes to revise the affected records system, Personnel Records—Program for Alcoholic Recovery (PAR), USPS 120.140, as follows:

USPS 120.140

SYSTEM NAME:

Personnel Records—Program for Alcoholic Recovery (PAR), USPS 120.140.

SYSTEM LOCATION:

Change to read, "PAR offices, regional headquarters and Postal Data Centers."

CATEGORIES OF INDIVIDUALS:

Change to read, "USPS employees who volunteer for or are referred to the Program."

* * * * *

STORAGE:

Change to read: "Printed forms and paper files. Sick Leave and Leave Without Pay information is stored on computer media."

* * * * *

SAFEGUARDS:

Change to read: "These restricted files are maintained in locked file cabinets with limited access to PAR personnel and in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers."

RETENTION AND DISPOSAL:

Change to read: "1. Case card is destroyed six years following close of case file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing."

* * * * *

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-25790 Filed 8-22-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11310; 812-4701]

Bankers Life Co., and Bankers Life Co. Separate Account B; Application

August 19, 1980.

Notice is hereby given that Bankers Life Company ("Bankers Life"), a stock life insurance company organized under the laws of the state of Iowa and Bankers Life Company Separate Account B (the "Variable Account"), 711 High Street, Des Moines, IA 50307, a separate account of Bankers Life registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on July 10, 1980, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Variable Account was established by Bankers Life's Board of Directors pursuant to Iowa law for the purpose of investing contributions received under certain variable annuity contracts issued in conjunction with plans which may or may not qualify for special tax treatment under Section 403(b) of the Internal Revenue Code of 1954, as amended.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System (the "System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Sections 27(c)(1), 22(e), and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investing company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the state's matching contributions for the

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purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Bankers Life will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice Is Further Given that any interested person may, not later than September 15, 1980 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 15, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–25744 Filed 8–22–80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21679; 70–6348]

Georgia Power Co.; Application

August 15, 1980.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to issue and sell up to $125,000,000 aggregate principal amount of its First Mortgage Bonds having a term or not less than five nor more than 30 years ("new Bonds"), and to sell the same at competitive bidding for the best price obtainable but for a price to Georgia of not less than 98% nor more than 101¾% of the principle amount thereof, plus accured interest. The new Bonds will be issued under the Indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as heretofore supplemented by various Indentures supplemental thereto, and as to be further supplemented by a Supplemental Indenture to be dated as of October 1, 1980.

It is difficult to determine, under present bond market conditions, whether it would be more advantageous to Georgia to sell the new Bonds having a 30-year or some shorter term. It is proposed, therefore, that Georgia decide on the term of the new Bonds after the date of the public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding. For such reasons, it is also proposed that Georgia may designate a lesser aggregate principal amount of the new Bonds to be issued and sold than that previously specified in the public invitation for proposals, and that Georgia reserve the right in its discretion to designate a principal amount or term for the new Bonds different from that theretofore specified by notice to prospective bidders not less than 24 hours prior to the time of the bidding.

Georgia will provide that none of the new Bonds will be redeemed for a five year period commencing with the first day of the month of issuance at a regular redemption price if such redemption is for the purpose or in anticipation of refunding such new Bond through the use, directly or indirectly, of funds borrowed by Georgia at an effective interest cost to Georgia of less than the effective interest cost to Georgia of the new Bonds. Such limitation will not apply to redemption at a special redemption price by operation of the sinking or improvement fund or the maintenance and replacement provisions of the Indenture or by the use of proceeds of released property. Georgia also will convenant that it will not redeem any of th new Bonds, in any year prior to the fifth year after the issuance of the new Bonds, through the operation of the sinking or improvement fund provisions in a principal amount which would exceed the improvement fund requirement attributable to the new Bonds.

Georgia also proposes to issue up to $75,000,000 of Preferred Stock, without par value, but with a stated value of up to $100 per share ("new Preferred Stock"), and to sell such securities at competitive bidding for the best price obtainable but for a price to Georgia of not less than 100% nor more than 102% of the stated value per share, which shall also be the public offering price per share. In addition, Georgia proposes to pay to the purchasers of the new Preferred Stock compensation for their services in pruchasing and making a public offering of such shares, which compensation shall be included as a part of the competitive bidding of the new Preferred Stock.

The terms of the new Preferred Stock will be established by amendment to the charter of Georgia. Georgia may also make provision for a cumulative sinking fund for the benefit of the new Preferred Stock which would retire not more than 5% annually of the number of shares initially issued, commencing five years or later after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares. Georgia will provide that no share of the new Preferred Stock will be redeemed for a year period commencing with the first day of the month of issuance, if such redemption is for the purpose or in anticipation of refunding such share directly or indirectly through the incurring of debt, or through the issuance of stock ranking equally with or prior to the new Preferred Stock as to dividends or assets, if such debt has an effective interest cost to Georgia or such stock has an effective dividend cost to Georgia of less than the effective dividend cost to Georgia of the new Preferred Stock.

Georgia states that it may request that either sale be excepted from the competitive bidding requirements of Rule 50. Georgia proposes to use the proceeds from the sales of the new Bonds and the new Preferred Stock primarily for the repayment of outstanding short-term indebtedness, if any, and the payment of costs incurred in its on-going construction program, estimated for 1980 at $806.7 million.

Statement of the fees, commissions and expenses to be incurred in connection with each transaction will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Georgia Public Service Commission. It is stated that no other state or federal regulatory authority, other than this commission, has jurisdiction over the proposed transactions.

Georgia states that any amendment to this application-declaration seeking authority to issue and sell the new Preferred Stock will be filed not less than ten business days prior to the proposed effective date of the supplemental order relating thereto. Georgia will concurrently serve a copy of any such amendment upon any person who had, not later than September 8, 1980, requested a hearing on or advice as to whether a hearing is ordered with respect to the new Preferred Stock. Any person so served may then, not less than five business days prior to the proposed effective date of the supplemental order, request a hearing on the terms and conditions of the proposed offering of new Preferred Stock.

Notice is further given that any interested person may, not later than September 8, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25743 Filed 8-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11308; 811-1388]

Huyler's; Application

August 19, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Huyler's, c/o Barnes, Hickam, Pantzer & Boyd, 1313 Merchants Bank Building, Indianapolis, Indiana 46204 ("Fund"), registered under the Act as a closed-end, non-diversified, management investment company has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of New York on June 6, 1881, and registered under the Act on May 5, 1966. Prior to becoming an investment company the Fund was engaged in the business of manufacturing and selling manifolds and other components for gas burners which operations were sold on January 3, 1963.

The Fund did not file a registration statement pursuant to the Securities Act of 1933 to make a public offering of shares of its capital stock. On January 31, 1970, the Fund was merged into Altamil Corporation, a Delaware manufacturing corporation. Prior to the merger the Fund filed an application for an order of the Commission pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the proposed merger of the Fund into Altamil Corporation. A notice of the filing of that application was issued on August 13, 1969 (Investment Company Act Release No. 5773), and an order pursuant to Section 17(b) of the Act exempting the proposed merger from the provisions of Section 17(a) of the Act was issued on September 9, 1969 (Investment Company Act Release No. 5809). By letter dated February 14, 1970, counsel for the Fund advised the Commission that the Fund had ceased to exist as a corporate entity. The Fund has not filed any of the periodic reports required by the Act since 1970. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any person may not later than September 15, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–25742 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17076; SR–MSE–80–12]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 19, 1980.

On June 19, 1980, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would assign to the MSE Committee on Specialist Assignment and Evaluation certain duties currently performed by the MSE Committee on Floor Procedure, regarding the examination, assignment, evaluation, and suspension of specialists.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16959, 20 SEC Docket 615 (July 22, 1980)) and by publication in the **Federal Register** (45 FR 47283 (July 14, 1980)). No comments were received with respect to the rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–25739 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17075; SR–MSE–80–11]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 19, 1980.

On June 10, 1980, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change deleting from its rules all references and rules pertaining to MSE's organization, operation and regulation of an options market, while retaining its rules applicable to the handling of orders and the conduct of accounts relating to options trading.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16918, June 23, 1980) and by publication in the **Federal Register** (45 FR 45046, July 2, 1980). No comments were received regarding the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–25740 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–7719]

Southwest Florida Banks, Inc.; Application to Withdraw From Listing and Registration

August 18, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

1. Southwest Florida Banks, Inc. (the "Company") is listed and registered on the Amex and, pursuant to a Registration Statement on Form 8–A which became effective on July 7, 1980, the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock and the preferred stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its stocks.

2. This application relates solely to withdrawal of the common stock and the preferred stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stocks on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 9, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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[1] An amendment which made certain technical changes to the original filing was filed with the Commission by the MSE on July 22, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25741 Filed 8-22-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1886]

Illinois: Declaration of Disaster Loan Area

Franklin, Jackson, Randolph and Williamson Counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by winds, heavy rains and hail which occurred on June 28, 1980 and July 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 2, 1981, and for economic injury until the close of business on May 1, 1981, at: Small Business Administration, District Office, 219 South Dearborn Street, Room 438, Chicago, Illinois 60604, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25760 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1890]

Indiana; Declaration of Disaster Loan Area

Rush County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by tornado, heavy rains and high winds which occurred on July 9, 1980 through July 10, 1980. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 2, 1980, and for economic injury until the close of business on May 1, 1981, at: Small Business Administration District Office, New Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25754 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1888]

Indiana; Declaration of Disaster Loan Area

The area of 1400 Block of 119th Street, in the City of Whiting, Lake County, Indiana, constitutes a disaster area because of damage resulting from a fire which occurred on July 6, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 29, 1981, at: Small Business Administration, District Office, New Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25755 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1897]

Iowa; Declaration of Disaster Loan Area

The following 30 counties and adjacent counties within the State of Iowa constitute a disaster area as a result of natural disasters as indicated:

County	Natural disaster	Date
1. Adair	Excessive rainfall and flooding	5/30/80, 6/2-7/80.
	Hailstorm and windstorm	6/6-7/80
2. Audubon	Rainstorm, high winds and hail	6/6/80.
3. Cass	Windstorm, heavy rainfall and hailstorm	6/6/80.
4. Cerro Gordo	Hail	5/29 and 6/18/80.
5. Cherokee	Hailstorm	6/7/80.
6. Dallas	Heavy rains and hail	5/28, 5/31, 6/1 and 6/6/80.
7. Delaware	Hailstorm and excessive rainfall and high winds	6/2/80.
8. Grundy	Storm—rain and hail	6/6/80.
9. Dubuque	Heavy rains, hail and wind	6/2/80.
10. Hamilton	Winds and hail	6/6/80.
11. Hardin	Hailstorm	6/6/80.
12. Harrison	Hail	6/6/80.
	Hail and heavy rains	6/14 and 6/18/80.
13. Humboldt	Hail, wind and rain	6/6/80.
14. Jackson	Heavy rain, hail and wind	6/6/80.
15. Jasper	Hailstorm	6/18/80.
16. Lucas	Excessive rainfall and hail	6/1-6/21/80.
17. Madison	Hailstorm	6/6 and 6/7/80.
18. Marion	Severe thunderstorms, high winds and hail	6/6, 7, 13, 14, and 6/18/80.
19. Mills	Storms, high wind, hail, heavy rain	6/2, 15 and 6/18/80.
20. Monona	Hail, heavy rain	6/14 and 6/18/80.
21. Page	Wind and hailstorm	6/12/80.
22. Polk	Hail	6/18/80.
23. Pottawattamie	Rain, heavy wind and hail	6/14-6/15/80.
24. Shelby	Wind, rainstorm, flooding, hail	6/6/80.
25. Story	Hailstorm	6/18/80.
26. Van Buren	Excessive hail and wind	6/14/80.
27. Wapello	Flood, hail and windstorm	6/2-6/15/80.
28. Warren	Hail, wind, rain, tornado	6/14/80.
29. Woodbury	Hail, heavy rain, high winds	6/18/80.
30. Wright	Hail, heavy rain, high wind	6/6/80.

Eligible persons, firms and organizations may file applications for physical damage until the close of business on February 9, 1981 and for economic injury until May 8, 1981, at: Small Business Administration, District Office, 210 Walnut Street, Room 749, Des Moines, Iowa 50309, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 8, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25762 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1896]

Kentucky; Declaration of Disaster Loan Area

Mason County and adjacent counties within the State of Kentucky constitute a disaster area as a result of damage caused by an earthquake, which occurred on July 27, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 9, 1980, and for economic injury until the close of business on May 8, 1981, at: Small Business Administration, District Office, Federal Office Building—Room 188, 600 Federal Place, Louisville, Kentucky 40201, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 8, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25756 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1898]

Missouri; Declaration of Disaster Loan Area

Crawford, Jefferson, Miller, Maries and Washington Counties and adjacent Counties within the State of Missouri constitute a disaster area as a result of damage caused by wind and rain storm which occurred on July 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981, at: Small Business Administration, District Office, Mercantile Tower—Suite 2500, One Mercantile Tower, St. Louis, Missouri 63101, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25759 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1901]

New York; Declaration of Disaster Loan Area

The area of 1611–1619 Westchester Avenue and 1203–1209 Morrison Avenue, in the City of New York, Bronx County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on June 7, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981, at: Small Business Administration, District Office, 26 Federal Plaza—Room 3100, New York, New York 10007, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-25763 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1887]

Ohio; Declaration of Disaster Loan Area

Pickaway County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by heavy rain, high wind and tornado which occurred on July 12, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 29, 1981; at: Small Business Administration, District Office, Federal Building—U.S. Court House, 85 Marconi Boulevard, Columbus, Ohio 43215, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25761 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1892]

Pennsylvania; Declaration of Disaster Loan Area

The area of 700 Block of Philadelphia Avenue, South side, between South 7th and 8th Street and North side of Gompus Avenue between South 7th and 8th Street, in the Town of Indiana, Indiana County, Pennsylvania, constitutes a disaster area because of damage resulting from a fire which occurred on June 27, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 30, 1981, at: Small Business Administration, District Office, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 31, 1980.,

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25753 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public meeting at 9:00 a.m., Tuesday, September 16, 1980, in the Board Room, National Bank of Commerce, 1525 Elm Street, Dallas, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For furher information, write or call Emly S. Atkinson, District Director, U.S. Small Business Administration, 1100 Commerce Street, Dallas, Texas 75242—(214) 767-0600.

Dated: August 18, 1980.

Michael B. Kraft

Deputy Advocate for Advisory Councils.

[FR Doc. 80-25758 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1900]

Texas; Declaration of Disaster Loan Area

The following 47 counties within the State of Texas constitute a disaster area as a result of natural disaster as indicated:

County	Natural disaster(s)	Date(s)
Atascosa	Drought	5/16/80-7/22/80
Austin	Drought	5/19/80-7/18/80.
Bastrop	Drought	6/1/80-7/21/80.
Bexar	Drought	10/1/79-6/22/80.
Cochran	Drought	6/1/80-7/21/80
	Hailstorm	6/18/80
	Windstorm	6/1/80.
Coleman	Drought	6/1/80-7/21/80.
Comanche	Drought	6/1/80-7/21/80.
Concho	Drought	6/1/80-7/22/80.
Delta	Drought	4/1/80-7/22/80.
Eastland	Drought	6/1/80-7/21/80.
Edwards	Drought	6/1/80-7/21/80.
Ellis	Drought	6/1/80-7/21/80.
Fort Bend	Drought	4/15/80-7/21/80.
Freestone	Drought	6/1/80-7/21/70.
Frio	Drought	4/22/80-7/24/80.
Guadelupe	Drought	10/1/79-7/22/80.
Hall	Drought	6/1/80-7/21/80.
Hartley	Drought	6/1/80-7/21/80.
Henderson	Drought	6/1/80-7/22/80.
Hidalgo	Drought	5/1/80-7/21/80.
Hill	Drought	5/8/80-7/21/80
	Hail	4/24/80-5/16/80.
Jack	Drought	6/1/80-7/21/80.
Kent	Drought	6/1/80-7/18/80.
Knox	Drought	6/1/80-7/22/80.
Lamb	Drought	6/1/80-7/22/80.
Leon	Drought	6/1/80-7/21/80.
Liberty	Drought	6/1/80-7/23/80.
Live Oak	Drought	7/1/79-7/18/80
	Severe Freeze	4/14/80.
Llano	Drought	6/1/80-7/23/80.
Marion	Drought	6/20/80-7/21/80.
Matagorda	Drought	5/18/80-7/18/80.
McLennan	Drought	5/1/80-7/22/80.
Medina	Drought	4/21/80-7/22/80.
Menard	Drought	6/1/80-7/21/80.
Mills	Drought	6/1/80-7/22/80.
Nueces	Drought	6/1/80-7/22/80.
Parker	Drought	6/1/80-7/23/80.
Red River	Drought	6/23/80-7/22/80.
San Saba	Drought	6/1/80-7/21/80.
Scurry	Drought	6/1/80-7/21/80.
Sterling	Drought	8/1/79-7/11/80.
Stonewall	Drought	9/1/79-7/21/80.
Tom Green	Drought	6/1/80-7/25/80.
Travis	Drought	5/15/80-7/21/80.
Uvalde	Drought	3/22/80-7/22/80.
Van Zandt	Drought	5/10/80-7/10/80.
Wharton	Drought	6/1/80-7/21/80.

Eligible persons, firms and organizations, may file applications for loans for physical damage until the close of business on February 12, 1981, and for economic injury until the close of business on May 12, 1981, at:

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242.

Small Business Administration, District Office, One Allen Center, Suite 705, 500 Dallas, Texas 77002.

Small Business Administration, District Office, 222 E Van Buren, Suite 500, Harlingen, Texas 78550.

Small Business Administration, District Office, 712 Federal Office Bldg. U.S. Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401.

Small Business Administration, District Office, 727 East Durango, Room A513, Federal Building, San Antonio, Texas 78206; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 12, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-25757 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1894]

Wisconsin; Declaration of Disaster Loan Area

Chippewa, Clark, Dunn, Eau Claire, La Crosse, Marathon, Monroe, Pierce, St. Croix and Vernon Counties and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by heavy rain, winds, lightning and tornadoes which occurred on June 5, 1980 through June 8, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 6, 1980, and for economic injury until the close of business on May 7, 1981, at: Small Business Administration, District Office, 212 East Washington Avenue—Room 213, Madison, Wisconsin 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 7, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25751 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No.189]

Wisconsin; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Chippewa, Dunn, Eau Claire and Pierce and adjacent counties within the State of Wisconsin constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about July 15, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 24, 1980, and for economic injury until close of business on April 24, 1981, at: Small Business Administration, District Office, Federal Building, Room 246, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

A. Vernon Weaver,

Administrator.

[FR doc. 80-25752 filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0189]

Issuance of License; Kitty Hawk Capital Ltd.

On June 16, 1980, a Notice was published in the **Federal Register** (45 FR 40750), stating that Kitty Hawk Capital, Ltd., located at 2195 First Union Plaza, Charlotte, N.C. 28282, has filed an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980) for a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business July 26, 1980, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 04/04-0189 to Kitty Hawk Capital Ltd.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 20, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-25914 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0239]

Mapleleaf Capital Corp.; Application for a License To Operate as a Small Business Investment Company.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR Section 107.102 (1980)), under the name of Mapleleaf Capital Corporation, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Edward Barton Scott, President, Treasurer, Director, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042.
Terry J. Coburn, Vice President, Director, 1043 Woodside Drive, Dollard des Ormeaux, Quebec.
Arthur A. Lane, Secretary, 190 Riverside Drive, New York, New York 10024.
Mapleleaf Management Ltd., c/o Eaton, Van Winkle & Greenspoon, 600 Third Avenue, New York, New York 10016. Investment Advisor, 100 percent of Class B Common Stock.
Michael Kourday, Director, 5 Ruxview Ct., #102, Ruxton, Maryland 21202.
W. Kennedy B. Middendorf, Director, Box 1700, Laurel Hollow, Syosset, New York 11791.
Air Canada as Trustee for Air Canada Pension Trust Fund, 28.6 percent of Class A Common Stock.
North American Life Assurance Company, 14.3 percent of Class A Common.
Northern Telecom Pension Trust Fund, 28.6 percent of Class A Common.
Pension Fund Society of the Royal Bank of Canada, 28.6 percent of Class A Common.

(Percentages of Class A shareholders have been rounded).

Mapleleaf Management Ltd. (MML) is the sole beneficial owner of the initial 87,500 shares of Class B Common Stock. MML has eight beneficial owners; the owners of 10 percent or more of the common stock of MML are:

Edward Barton Scott, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042, 51.0 percent.
Gordon D. Ewart, President, Frontier Petroleum Corp., 836 Fifth Avenue, SW., Calgary, Alberta, Canada T2P OM5, 25.1 percent.
John W. Hemmer, 230 Park Avenue, New York, New York 10017, 10.4 percent.

There will be two classes of stock authorized: 2.5 million shares of Class A Common and 625,000 shares of Class B Common. Initially 350,000 shares of Class A Common will be issued at ten dollars per share, and 87,500 shares of Class B Common at one cent per share, with a resultant paid-in capital and paid-in surplus of $3,500,875. Applicant proposes to conduct its operations principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 20, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-25916 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1899]

Michigan; Declaration of Disaster Loan Area

Berrien, Calhoun, Jackson, Wayne and Washtenaw counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by high wind and thunderstorms which occurred on July 16, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 14, 1980 and for economic injury until the close of business on May 13, 1981, at: Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Michigan 48226

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 13, 1980.

William H. Mauk Jr.,

Acting Administrator

[FR Doc. 80-25918 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1859; Amdt. No. 2]

Montana; Declaration of Disaster Loan Area

The above declaration and amendment thereto (see 45 FR 42918 and 45 FR 49004) are hereby amended to include Missoula County and adjacent counties within the State of Montana, as a result of ash fallout from the eruption of Mount St. Helens on May 18 through May 21, 1980. All other information remains the same, i.e., the termination date for "other" physical damage is the close of business on August 18, 1980; for physical "crop losses" at the close of business on December 19, 1980; and for economic injury at the close of business on March 19, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 28, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25917 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-1-M

[Declaration of Disaster Loan Area No. 1851; Amdt. No.1]

Nebraska; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 41560) is amended by extending the termination date for accepting physical disaster loan applications only for physical damage resulting from severe storms and tornadoes beginning on or about June 3, 1980, from close of business August 4, 1980, until the close of business September 3, 1980. All other information remains the same; i.e., the termination date for filing applications for economic injury until the close of business on March 4, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 7, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25920 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1878); Amdt. 1]

Nebraska; Declaration of Disaster Loan Area

The above declaration (see 45 FR 51328) is hereby amended by adding the following six counties, as a result of natural disasters indicated:

County	Natural disaster	Date
Butler	Hailstorms	6/14 and 6/18/80.
Douglas	High winds, rain and hail.	6/12 and 6/14/80.
Hall	Hail, wind and rain	6/18/80.
Nance	Wind, hail	6/14/80.
Perkins	Hail	6/15, 16 and 6/18/80.
Scotts Bluff	Hail, heavy rains	6/14/80.

All other information remains the same, i.e., the termination date for filing applications for physical damage is the close on business of January 23, 1981, and for economic injury at the close of business on April 24, 1981, at: Small Business Administration, District Office, 19th and Farnum Streets, 2nd Floor, Omaha, Nebraska 68102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: August 11, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-25921 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5265]

Pacific Capital Fund, Inc.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), has been filed by Pacific Capital Fund, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Victor H. Gallego, 3227 Adelaide Way, Belmont, California 94402, President, Director, General Manager, .994% Stockholder.

Oscar C. Ongpin, 1532 Tarrytown, San Mateo, CA 94401, Secretary, Chief Financial Officer, Director, .006% Stockholder.

Jose Y. Lunchengco, 8 Bowie Road, Rolling Hills, CA 90274, Assistant Secretary, Director.

Benedicto V. Yujuico, 69 Santiago Avenue, Atherton, CA 94025, Director, 50% Stockholder.

Teresita M. Yujuico, 69 Santiago Avenue, Atherton, CA 94025, Director, 49% Stockholder.

The Applicant, a California corporation, with its principal place of business at 500 Airport Boulevard, Suite 400, Burlingame, California 94010, will begin operations with $1,000,000 of paid-in capital and paid-in surplus derived from the sale of 100,600,000 shares of common stock.

The Applicant will conduct its activities primarily in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Burlingame, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Michael K. Casey,

Associate Administrator for Investment.

August 20, 1980.

[FR Doc. 80-25915 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the Federal Register the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supercede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of P.L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective September 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 11.255% per annum.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 80-25922 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1821; Amdt. 6]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 29153), amendment #1 (see FR 37798), amendment #2 (see 45 FR 42106), amendment #3 (see 45 FR 42106), amendment #4 (see 45 FR 43919) and amendment #5 (see 45 FR 51329 are amended by adding the following:

County	Natural disaster(s)	Date(s)
Swisher	Hailstorm, tornado and high winds.	5/28/80.
Wheeler	Tornado and high winds.	5/28/80.

V 45 AG 25 80 UMI

And adjacent counties within the State of Texas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on October 22, 1980, and for economic injury until the close of business on January 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 13, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-25919 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 80-8]

Senior Executive Service Performance Review Boards; Membership

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards established by DOT under the Civil Service Reform Act.

FOR FURTHER INFORMATION CONTACT: Robert S. Smith, Director, Office of Personnel and Training, and Executive Secretary, DOT Executive Resources Board, (202) 426-4088.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 (CSRA), which created the Senior Executive Service, requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, CSRA requires each agency to establish one or more Performance Review Boards (PRB), the function of which is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRB's.

Issued in Washington, D.C., on August 19, 1980.

Robert L. Fairman,

Deputy Assistant Secretary for Administration.

Department of Transportation Senior Executive Service Performance Review Boards

Office of the Secretary

Carl T. Horton, Special Assistant to the Secretary
Rosalind A. Knapp, Assistant General Counsel for Legislation
Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement
Robert G. Prestemon, Director, Office of Programs and Evaluation
Walter R. Boehner, Director, Office of Budget
Karen S. Lee, Deputy Assistant Secretary for Administration
Raymond J. Sander, Director, Office of Management Planning
Robert H. Kessler, Director, Office of Financial Systems
Charles Swinburn, Deputy Assistant Secretary for Policy and International Affairs
Donald F. Mazziotti, Deputy Assistant Secretary for Policy and International Affairs
Donald R. Trilling, Deputy Director, Office of Intermodal Transportation
Voyce J. Mack, Deputy Director, Office of International Programs
Richard F. Walsh, Director, Office of Transportation Economic Analysis
Judith Stone, Director, Office of Consumer Liaison
Alfonso Linhares, Director, Office of Technology Sharing

Office of the Inspector General

Joseph A. Sickon, Assistant Inspector General for Auditing, Department of Housing and Urban Development
Wallace Busbee, Assistant Inspector General for Auditing Veterans Administration
Raymond F. Randolph, Assistant Inspector General for Auditing, Small Business Administration

United States Coast Guard

Thomas F. Garnett, Associate Director for Labor Relations, Office of Personnel and Training, Office of the Secretary
RADM James P. Stewart, Chief of Staff
RADM William H. Stewart, Chief, Office of Personnel
RADM Wayne E. Caldwell, Chief, Office of Marine Environment and Systems
RADM William P. Kozlovsky, Comptroller

Federal Aviation Administration

Robert J. Aaronson, Associate Administrator for Airports Programs
Albert P. Albrecht, Associate Administrator for Engineering and Development
Paul J. Baker, Director, Central Region
Wayne J. Barlow, Director, Great Lakes Region
Louis J. Cardinalli, Director, Southern Region
Benjamin Demps, Director, Aeronautical Center
Robert L. Faith, Director, Alaskan Region
Charles R. Foster, Director, Northwest Region
Walter S. Luffsey, Associate Administrator for Aviation Standards
John D. Mattson, Director, Western Region
Clark Onstad, Chief Counsel
Murray E. Smith, Director, Eastern Region
Arthur Varnado, Director, Rocky Mountain Region
Leon C. Watkins, Director, Office of Civil Rights
Charles E. Weithoner, Associate Administrator for Administration
Robert E. Whittington, Director, New England Region
B. Hughel Wilkins, Associate Administrator for Policy and International Aviation Affairs
Robert O. Ziegler, Director, Pacific-Asia Region

Federal Highway Administration

Lorenzo Casanova, Associate Administrator for Safety
Daniel Markoff, Associate Administrator for Administration
Richard D. Morgan, Associate Administrator for Engineering and Traffic Operations
R. Edward Quick, Director, Office of Civil Rights

Alternate Members:

Rex C. Leathers, Regional Administrator, Region 4
William H. Ravenel, Chief Counsel

Federal Railroad Administration

Robert E. Gallamore, Deputy Administrator
Raymond K. James, Chief Counsel
Steven R. Ditmeyer, Associate Administrator for Policy and Program Development
Frederick G. Bremer, Associate Administrator for Administration
William E. Loftus, Associate Administrator for Federal Assistance

National Highway Traffic Safety Administration

Michael Finkelstein, Associate Administrator for Rulemaking
Charles Livingston, Associate Administrator for Traffic Safety Programs
R. Rhoads Stephenson, Associate Administrator for Research and Development
Lynn L. Bradford, Associate Administrator for Enforcement
Barry Felrice, Associate Administrator for Plans and Programs
Dan L. Scott, Associate Administrator for Administration
Frank A. Berndt, Chief Counsel

Urban Mass Transportation Administration

Lillian C. Liburdi, Deputy Administrator
Harold B. Williams, Director, Office of Civil Rights
Margaret M. Ayres, Chief Counsel
Robert H. McManus, Associate Administrator for Planning, Management, and Demonstrations
Charles H. Graves, Director, Office of Planning Assistance

Alternate Member:

Charles Broxmeyer, Director, New Systems and Automation Division

Research and Special Programs Administration

Larry D. Nelson, Deputy Administrator
John D. Hodge, Associate Administrator for Policy, Plans, and Administration
Gregory T. Haugan, Director, Transportation Programs Bureau
Leon D. Santman, Director, Materials Transportation Bureau
William J. Driscoll, Chief Counsel.

[FR Doc. 80-25813 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-62-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Color Television Receivers

The following letters of instruction concerning the implementation of orderly marketing agreements with Korea and Taiwan on color television receivers were sent from Ambassador Robert D. Hormats to Robert E. Chasen, Commissioner of Customs on August 15, 1980.

C. Michael Hathaway,
Assistant General Counsel.

August 15, 1980.

Mr. Robert E. Chasen,
Commissioner of Customs,
U.S. Customs Service,
1301 Constitution Avenue, NW.,
Washington, D.C. 20228.

Dear Commissioner Chasen: This letter further amends our previous letter to you dated July 2, 1980, concerning the operation of the new orderly marketing agreement with Korea on color television receivers as it effects TSUS(A) items 685.1125, .1126, .1127, .1128, .1129, .1135, .1144, .1455, .1456, .1458, .1460, and .1564.

Imports from Korea occurring during the period July 1, 1980, through September 28, 1980, which were exported prior to July 1, 1980, should be charged to the second restraint period, and in accordance with Headnote 6(f), Part 2, Appendix TSUS, and additional 50,000 sets will be added to the restraint level for the second restraint period (136,000 plus 50,000 equals 186,000). In the event an excess over this amount occurs, or if sets exported prior to July 1 are imported after September 28, 1980, those sets of a screen size in excess of 12 inches or incompelete sets with picture tubes should be charged to the third restraint period. Overages of sets of a screen size of 12 inches or less (TSUS(A) items 685.1125 and .1126), and incomplete sets (TSUS(A) item 685.1564) exported prior to July 1, 1980, and imported during the period from July 1, 1980, through September 28, 1980, should be charged to the second restraint period. Should any excess of these sets occur, they should be listed in reported statistics with a footnote stating: "Imports in excess of 186,000 sets are subject to consultations conducted by the United States Trade Representative."

This letter will be published in the **Federal Register.**

Sincerely,

Robert D. Hormats.

August 15, 1980.

Mr. Robert E. Chasen,
Commissioner of Customs,
U.S. Customs Service,
1301 Constitution Avenue, NW.,
Washington, D.C. 20228.

Dear Commissioner Chasen: This letter further amends our previous letter to you dated July 2, 1980, concerning the operation of the new orderly marketing agreement with Taiwan on color television receivers as it effects TSUS(A) items 685.1125, .1126, .1127, .1128, 1129, .1135, .1144, .1455, .1456, .1458, .1460, and .1564.

Imports from Taiwan occurring during the period July 1, 1980, through September 28, 1980, which were exported prior to July 1, should be charged to the second restraint period. In the event an excess occurs, or is sets exported prior to July 1 are imported after September 28, 1980, those sets of a screen size in excess of 12 inches or incomplete sets with picture tubes should be charged to the third restraint period. Sets of a screen size of 12 inches or less (TSUS(A) items 685.1125 and .1126), and incomplete sets (TSUS(A) item 685.1564) exported prior to July 1, 1980, and imported during the period from July 1, 1980, through September 28, 1980, should continue to be charged to the second restraint period and overages listed in reporting statistics with a footnote stating: "—— units imported on or after (the date the second period level is filled) are subject ot consultations conducted by the United States Trade Representative."

This letter will be published in the **Federal Register.**

Sincerely,

Robert D. Hormats.

[FR Doc. 80-25697 Filed 8-22-80 8:45 am]

BILLING CODE 3190-01-M

V 45 AG 25 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 166
Monday, August 25, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[FR 1532]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: August 21, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGES IN MEETING: An Executive Session for the discussion of personnel matters will be held beginning at 9 a.m. preceding the open meeting.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1587-80 Filed 8-20-80; 4:56 pm]

BILLING CODE 6715-01-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 28, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Application to Increase Accounts of an Insurable Type by Purchase of Branch Offices—Westdale S&LA, Los Angeles, California INTO Homestead S&LA San Francisco, California.
Limited Facility Application—First FS&LA of Newton, Newton, Kansas.
Service Corporation Application—Suburban FS&LA, Flossmoor, Illinois.
Extention of Time to Open a Satellite Office—First S&LA of Fort Myers, Fort Myers, Florida.
Application for Bank Membership and Insurance of Accounts—Wawel FS&LA, Wallington, New Jersey.
Branch Office Applicaiton—Hollywood FS&LA, Hollywood, Florida.
Branch Office Application—Coral Gables FS&LA, Coral Gables, Florida.

No. 380, August 21, 1980.

[S-1592-80 Filed 8-21-80; 3:50 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., August 21, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Request for a Commitment to Insure Accounts—First Oklahoma Savings and Loan Association of Tulsa, Tulsa, Oklahoma.

Announcement is being made at the earliest practicable time.

No. 383, August 21, 1980.

[S-1589-80 Filed 8-21-80; 12:22 pm]

BILLING CODE 6720-01-M

4

POSTAL RATE COMMISSION.

"FEDERAL REGISTER" CITATION FOR PREVIOUS ANNOUNCEMENT: 45 FR 53941, August 13, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE OPEN MEETING: 11 a.m., Tuesday, August 19, 1980.

CHANGE IN THE MEETING: Rescheduled for 11:00 a.m., Tuesday; September 9, 1980.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, Secretary, Postal Rate Commission, 2000 L Street NW., suite 500, Washington, D.C. 20268, 202-254-3880.

[S-1588-80 Filed 8-21-80; 10:46 am]

BILLING CODE 7715-01-M

Reader Aids

Federal Register

Vol. 45, No. 166

Monday, August 25, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
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Presidential Documents:

523-5233	Executive Orders and Proclamations
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[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of July 1, 1980)

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Book 2 of 2 Books
Monday, August 25, 1980

56538 Part II—
DOT: Improving Government Regulations—Regulations Agenda and Review List; Semi-Annual Summary

56620 Part III—
DOT/FAA: Airport Aid and Development Programs; Environment Impact References and Handbook

56668 Part IV—
Interior/FWS: Importation, Exportation and Transportation of Wildlife; Final Rules

56682 Part V—
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DOE/ERA: Crude Oil Supplier/Purchaser Rule

56742 Part VII—
DOT/UMTA: Section 5 Operating Assistance Regulations

56760 Part VIII—
DOD/Engineers: Environmental Quality: Policy and Procedures for Implementing the National Environmental Policy Act (NEPA)

56788 Part IX—
DOE/ERA: Mandatory Petroleum Allocation Regulations; Strategic Petroleum Reserve Entitlements—will consist of approximately 4 pages.

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federal register

Monday
August 25, 1980

Part II

Department of Transportation

Office of the Secretary

Improving Government Regulations, Regulations Agenda and Review List; Semi-Annual Summary

V 45 AG 25 80 UMI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. I

23 CFR Chs. I and II

33 CFR Chs. I and IV

41 CFR Ch. 12

46 CFR Chs. I and III

49 CFR Chs. I–VI

[OST Docket No. 59; Notice 80–2]

Improving Government Regulations, Department Regulations Agenda and Review List; Semi-Annual Summary

AGENCY: Department of Transportation.

ACTION: Department Regulations Agenda and Review List.

SUMMARY: The Regulations Agenda is a semi-annual summary of each proposed and each final regulation that the Department of Transportation expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The Regulations Review List is a semi-annual summary of the existing regulations that the Department of Transportation has selected for review and possible revocation or revision. The Agenda and the Review List provide the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the Agenda and the Review List are 400 Seventh Street, SW., Washington, D.C. 20590, except for the Federal Aviation Administration and the St. Lawrence Seaway Development Corporation, which are located at 800 Independence Avenue, SW., Washington, D.C. 20591, *and the U.S. Coast Guard, which is located at 2100 Second Street, S.W., Washington, D.C. 20593.*

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda or the Review List, in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–4723.

Specific

For further information about any particular item on the Agenda or the Review List, contact the individual listed in the column headed "Contact" for that item.

SUPPLEMENTARY INFORMATION:

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Background

Improvement of government regulations has been a prime goal of the Carter Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12044 ("Improving Government Regulations"; 43 FR 12661; March 24, 1978; *subsequently extended by Executive Order 12221; 45 FR 44249; July 1, 1980)* the Secretary of Transportation issued the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The Policies and Procedures include a requirement that the Department prepare a semi-annual Department Regulations Agenda for publication in the **Federal Register.** The Agenda summarizes each proposed and each final regulation that the Department expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The regulatory policies and procedures also include a requirement that the Department prepare a semi-annual list of existing regulations it has selected for review and possible revocation or revision for publication in the **Federal Register.**

The Agendas and Review Lists are based on reports submitted by the initiating offices by the last working days of June and December each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda and Review List is prepared and published in the **Federal Register.** The Department's last Regulations Agenda and Review List was published in the **Federal Register** on February 28, 1980 (45 FR 13312). The next one is scheduled for publication in the **Federal Register** on February 26, 1981.

Definitions

The Agenda and the Review List cover all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary—

(a) Requires a Regulatory Analysis or is otherwise costly;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transportation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register.**

(b) Is governed by short-term statutory or judicial deadlines.

(4) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A Regulatory Analysis is required for each proposed regulation that—

(1) Will result in an annual effect on the economy of $100 million or more;

(2) Will result in a major effect on the general economy in terms of costs, consumer prices, or production;

(3) Will result in a major increase in costs or prices for individual industries, levels of government, or geographic regions;

(4) Will have a substantial impact on the United States balance of trade; or

(5) The Secretary or head of the initiating office determines deserves such an analysis.

Explanation of Information on the Regulations Agenda

The Regulations Agenda is divided by initiating offices. For each initiating office there is a subdivision for: (1) significant regulations, (2) nonsignificant regulations, and (3) routine and frequent nonsignificant regulations. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) a short descriptive title; (2) a summary; (3) the earliest expected date for a decision on whether to issue the proposed or final regulation; (4) a contact office official who can provide additional information, including advice on how to obtain documents referenced in the Agenda; and (5) the related regulatory citation in the Code of Federal Regulations. If final action has been taken on an item included on the previous semi-annual Agenda, that item is still contained in this Agenda and the final action is indicated under the "Summary" column of that item.

For a significant regulation, the summary includes: (1) a description of the proposed or final regulation; (2) a brief statement as to why it is considered significant; (3) *a listing of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Analysis or Evaluation, an Environmental Impact Statement (EIS) and an Urban Impact Analysis;* (4) a brief statement of why the regulation is needed; (5) the legal basis for the action being taken; (6) the past and anticipated chronology of the development of the regulation including any final action taken since the last semi-annual Agenda and (7) the related regulatory citation in the Code of Federal Regulations. It should be noted that, even though a Regulatory Analysis is not required for some items on the Agenda, either because the criteria are not met or because the regulatory project is covered by earlier regulatory requirements, the Department requires an economic analysis for all of its regulations. *This economic analysis is contained in the Regulatory Evaluation.*

For nonsignificant regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it is contained in parentheses immediately following the short descriptive title of the regulation. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number. The Federal Highway Administration also provides an FHPM number at this point for easier reference by those who use the Federal-aid Highway Program Manual (FHPM). The numbers following the FHPM represent, respectively, the volume, chapter, section and subsection at which the material is located in the FHPM.

In the "Earliest Expected Decision Date" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a date in this column is not an indication that a proposal or a final rule will be issued on that date; it is the earliest date on which a final decision is expected to be made on whether to issue the document listed. If any document is issued, publication in the **Federal Register** would follow within a few days. These dates are based on current schedules. Subsequently received information could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

It should be noted that some of the items on the Agenda result from programs that were established to review existing regulations and revoke or revise those regulations that the initiating office determined were not achieving their intended purpose. Projects under regulatory development that resulted from a review of existing regulations to determine whether they should be revoked or revised are preceded by the word "**Review**" in the "Title" column. Because some reviews can be large-scale undertakings, and because there are already a number of these in the regulatory development process, the Department thought it would provide the public with valuable information if it indicated not only which regulatory reviews are under consideration but also which reviews have now reached the stage where proposed revisions are being, or have been, prepared. The number of regulatory projects that an initiating office can handle is limited by available resources. Therefore, the number of projects in the regulatory development stage limits the number of reviews that can be added.

Explanation of Information on the Regulations Review List

The Regulations Review List is divided by initiating offices. For each office, it provides the following information: (1) a short description of the existing regulations involved, including the related citation to the Code of Federal Regulations; (2) a brief description of the reasons for each selection; (3) a contact office or official who can provide additional information; and (4) the target date for completing the review and determining the corrective course of action to be taken. The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12044 and the Department of Regulatory Policies and Procedures. If final action has been taken on an item included on the previous semi-annual Review List, that item is still contained in this Review List and the final action is indicated under the "Reasons for Selection" column for that item.

General

To allow for easier use of the Agenda and for quick comparison with earlier Agendas, the Department has instituted the following additional procedures in the Agenda: (1) Items listed on the Agenda or Review List retain the same order in each semi-annual publication. (2) New items are added at the end of the appropriate portion of the Agenda or Review List and are identified by an asterisk on the left side of the "Title" when first added. (3) New substantive information added to items that were on an earlier Agenda or Review List is printed in italics.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semi-Annual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the **Federal Register** every year during August and February. By using the Agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the Agenda. This Appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the Agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our Agenda is intended primarily for the use of the public. In each of the six Agendas that we have issued, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the Agenda easier to use. We have, for example, tried to give as many **Federal Register** and *Code of Federal Regulations* citations as possible so that the public can easily check source documents when they are needed for more information; we also have tried to maintain the same order in the list of the regulations in the Agenda, adding new items at the end and putting new information in italics so that it would be easier for the public to follow the development of a regulation from one Agenda to the next. We would now like to ask you, the public, to make suggestions or comments on how the Agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from Agenda-to-Agenda? Do you find that the format for setting out the information enables you to use the Agenda easily? Do you find that the explanation of the information in the Agenda and the Review List is clearly explained in the preamble to the Agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12044, we are also seeking suggestions on existing regulations that should be included on our Review List; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Address" paragraph above.

Innovative Regulatory Techniques

On June 13, 1980, President Carter asked each Federal agency with regulatory responsibilities to review their programs and find areas where innovative regulatory techniques can be applied. The President also asked that each agency expedite the development and implementation of flexible alternatives now under consideration. The Department of Transportation is now reviewing its regulations pursuant to the President's request and is searching for regulatory areas where the application of innovative regulatory techniques would be appropriate. The Department invites the assistance of the public in this search.

The particular techniques having shown promise that were noted by the President are 1) the creation of marketable rights; 2) the use of economic incentives; 3) the use of performance standards; 4) the use of market-oriented compliance measures; 5) the enhancement of competition; 6) the use of information disclosure; 7) the use of voluntary standards; and 8) the tailoring of standards to distinguish among categories of regulated entities ("tiering"). More complete descriptions of these innovative techniques are set forth in Appendix D. The Department of Transportation is already using these techniques in many regulatory programs. However, the views of the public are solicited with respect to other regulatory programs where these techniques can be applied effectively to reduce the burdens on regulated entities or to reduce governmental costs. If you have any suggestions, please send them to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Address" paragraph above. Additional information on the innovative techniques program can be obtained by contacting the person listed in the "For Further Information Contact; General" paragraph above.

Purpose

The Department is publishing this Regulations Agenda and Review List in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible.

This publication in the **Federal Register** does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded.

If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda or the Review List, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, D.C.

Acting Secretary of Transportation.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

OST

Office of the Secretary

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Title VI Civil Rights Regulation	**A. Description:** The proposed regulations would assemble in one package all DOT procedures and requirements concerning all recipients of financial assistance under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4).	Robert J. Coates, (202) 426–4754.	NPRM *November 1980.*
	B. Why Significant: Substantial public interest is anticipated and it will affect all of the DOT elements and the administration of all grant programs.		
	C. Analysis: Regulatory Evaluation		
	D. Need: The Department has an existing Title VI regulation dating from 1970, and a Title VI order promulgated by Secretary Coleman on Jan. 19, 1977, and reaffirmed by Secretary Adams in March of that year. A new regulatory package is being developed to replace the previous layering of regulations.		
	E. Legal Basis: 42 U.S.C. 2000d–4		
	F. Chronology: The proposal is currently under review. When the review is completed, *the proposed regulation* will be submitted to the Department of Justice for approval.		
	G. Citation: 49 CFR pt. 21		
Minority Business Enterprise Program.	**A. Description:** This regulation would implement the requirements of DOT Order 4000.7A for DOT operating elements to take affirmative action to assure that minority business enterprises participate in Departmental procurement and financial assistance programs.	Robert Ashby, (202) 426–4723.	*Action Complete. (financial assistance programs rule)*
	B. Why Significant: Substantial public interest is anticipated given the proposed action's potential impact on DOT's procurement and assistance programs.		*FR September 1980. (direct contracts rule)*
	C. Analysis: Regulatory Evaluation		
	D. Need: To implement the provisions of the DOT Order 4000.7A by providing detailed instructions for carrying out the affirmative action requirements of the Order. To implement the 1978 amendments to the Small Business Act.		
	E. Legal Basis: Executive Order 11625; Executive Order 12138; 49 U.S.C. 1730; 45 U.S.C. 803; P.L. 95–599; P.L. 95–507; 4 U.S.C. 471 et seq.; Title 23 of the U.S.C.; 23 U.S.C. 401 et seq.; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).		
	F. Chronology: NPRM was published on May 17, 1979 (44 FR 28928). The comment period closed on July 16, 1979. *The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). A final rule covering DOT's direct procurement activities is expected to be issued in July 1980.*		
	G. Citation: 49 CFR Part 23		
Financial Assistance to Participants in Rulemaking Proceedings (Docket No. 48).	**A. Description:** This proposal would permit, but not require, each agency of the Department to fund eligible members of the public for the reasonable and actual costs of preparing and presenting their views at selected agency rulemaking proceedings.	Sam Podberesky, (202) 426–4723.	Further action to be determined.
	B. Why Significant: This issue concerns a matter on which there is substantial public interest and controversy and would have a significant impact on the operating administrations and the Office of the Secretary.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

OST

Office of the Secretary

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	C. Analysis: Regulatory Evaluation **D. Need:** This rule would substantially increase the number of active, informed, and independent participants at many rulemaking proceedings within the Department, thereby increasing the diversity and balance of views presented to the Department, and enhancing the Department's knowledge of the interests likely to be affected by its proposed rules. **E. Legal Authority:** The Department's rulemaking authority under the Department of Transportation Act, 49 U.S.C. 1651 *et seq.*, and related statutes. **F. Chronology:** On Jan. 13, 1977, the Department published regulations for a one-year demonstration program to provide financial assistance to certain participants in rulemaking proceedings of NHTSA. (42 FR 2863). At the same time, the Department issued an ANPRM, inviting public comments on the feasibility, wisdom, and scope of a permanent Department-wide program of financial assistance. Upon conclusion of the demonstration program, NHTSA evaluated the program and recommended that the Department establish an amended version of the program throughout the Department. On March 16, 1978, the demonstration program in NHTSA was extended until the Secretary decided whether to issue final, permanent Departmental regulations (43 FR 10918). On January 23, 1979, the regulation governing the NHTSA financial assistance demonstration program was revised to improve its administration. The Department is not in a position at this time to proceed with the issuance of an NPRM in view of the action taken by Congress, on the Department's Fiscal Year 1980 appropriations, to eliminate funding for the demonstration program. **G. Citation:** 49 CFR pt. 5		
Public Availability of Information	**A. Description:** This involves a revision of DOT's Freedom of Information Act regulations. Specific areas to be revised may include the fee schedule and the policy on waivers of fees for public interest groups and the press. **B. Why Significant:** Substantial public interest **C. Analysis:** Regulatory Evaluation **D. Need:** Freedom of Information Regulations need periodic revision to keep current with changes in case law, policy, and implementation costs. **E. Legal Basis:** 5 U.S.C. 552 (Freedom of Information Act) **F. Chronology:** The regulations were last revised in 1975. (40 FR 7915) A new revision is currently under internal development. **G. Citation:** 49 CFR pt. 7	Rebecca Lima Dailey (202) 426-4542.	NPRM *September 1980.*
*Nondiscrimination on the Basis of Handicap.	**A. Description:** The Department is considering certain additions and changes to its rules forbidding discrimination against handicapped persons in DOT programs. This rulemaking package will consist of *two* parts: (1) an NPRM that would amend section 27.71 of the existing DOT section 504 rule, to clarify requirements pertaining to Federally-assisted airports; (2) an NPRM that would add a new section 27.77 to the 504 rule, to cover financial assistance programs of NHTSA.	Robert C. Ashby (202) 426-4723.	NPRM *September 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

OST

Office of the Secretary

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	B. Why Significant: The section 504 rule is a controversial regulation affecting all parts of DOT as well as many providers and users of DOT-funded or operated programs. Additions and changes to the rule will be of considerable interest to the public. **C. Analysis:** Regulatory Evaluation **D. Need:** These regulatory actions would clarify and complete the FAA and NHTSA portion of the 504 rule. **E. Legal Basis:** Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794). **F. Chronology:** The Final Rule establishing the Department's section 504 regulations was published May 31, 1979 (44 FR 31442). **G. Citation:** 49 CFR Part 27		

OST

Office of the Secretary

Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Consolidation of Transportation Grants to U.S. Territories.	The regulation would comply with Title V of Pub. L. 95-134 which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. NPRM was published on 1/8/79 (44 FR 1765) (49 CFR pt. 29).	Greg Dahlberg, (202) 426-9605.	FR *September 1980.*
Maintenance of and Access to Records Pertaining to Individuals.	Revision of the Department's Privacy Act regulations. Notice of incorporation by reference published on 8/28/78. NPRM published 12/4/78 (43 FR 56682) (49 CFR pt.10).	John Windsor, (202) 426-1887.	FR *October 1980.*
Official Seal	Revision of regulations governing description and use of the Department's seal (49 CFR pt. 3).	Sam Podberesky, (202) 426-4723.	FR *November 1980.*
Rulemaking procedures	Amendments to the Office of the Secretary regulations on notice-and-comment rulemaking. (49 CFR pt. 5).	Sam Podberesky, (202) 426-4723.	*Further action to be determined.*
Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs.	This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. NPRM published on October 22, 1979 (44 FR 60946).	Leslie Baldwin, (202) 426-4388.	FR *August 1980.*
*Amendments to Department Organizational Manual.	These amendments would update the Department's Organizational Manual to reflect changes in the organizational structure, nomenclature, and delegation of the Department.	Jack Lusk, (202) 426-4723.	FR *August 1980.*
*Part-time Career Employment Program.	This regulation would convert certain full-time positions in the Department to permanent part-time positions, in accordance with the Federal Employees' Part-Time Career Employment Act of 1978.	Bill Parent, (202) 426-2164.	NPRM *August 1980.*
*Comments on Relocation of Standard Time Zone Boundary in the State of Alaska.	Comments are being requested on the Department's decision to move Juneau, Alaska, and parts of the surrounding area from the Pacific time zone to the Yukon time zone. NPRM was published on June 9, 1980 (45 FR 38423) (49 CFR 71).	Jack Lusk, (202) 426-4723.	FR *September 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG

U.S. Coast Guard

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Review: Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (Docket No. CGD 79-116 and 79-116a.	**A. Description:** Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk. **B. Why Significant:** Considered significant because this is the result of a Presidential initiative. **C. Analysis:** Regulatory Evaluation, Environmental Impact Statement, Inflationary Impact Statement. **D. Need:** Most pollution incidents are the result of personnel error; consequently the minimum qualifications of persons involved in handling pollution substances should be specified. **E. Legal Basis:** 86 Stat. 427, as amended (46 U.S.C. 391a); Sec 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(n)(4). **F. Chronology:** Environmental Analysis and Inflationary Impact Statement completed February, 1977. NPRM published April 25, 1977 (42 FR 21190). Public hearing June, 1977. Extensive comments were received on this NPRM and it was withdrawn on April 30, 1979. A revised NPRM is being prepared. **G. Citation:** 33 CFR pt. 155; 46 CFR pts. 12, 13, 30, 31, 35, 70, 90, 98, 105, 151, 153, and 157.	CDR Hess, (202) 426-2251.	NPRM *August 1980.*
Review: *Proposed Design Standards for Tank Barges* (Docket No. CGD 75-083). Upgrade Existing Tank Barge Construction (Docket No. CGD 75-083a).	**A. Description:** This action would comprise two regulatory projects centered on tank barge construction standards which resulted from Presidential initiatives of March 17, 1977, directing study of the tank barge pollution problem. One project will address new barge construction while the other will pertain to existing barges. **B. Why Significant:** Considered significant due to substantial Congressional and public interest. **C. Analysis:** Regulatory Analysis, Environmental Impact Statement. **D. Need:** Increased public awareness of the oil pollution problem, as well as international and domestic interest in this area have made increased design standards necessary as a means of reducing the possibility of pollution. **E. Legal Basis:** Sec. 201, 86 Stat 427, as amended (46 U.S.C. 391a). **F. Chronology:** The upgrade of tank barge construction standards was published as a NPRM in the ***Federal Register*** of December 24, 1971 (36 FR 24960). As a result of the 63 written comments received, it was decided that the standards needed to be studied further, especially as they would apply to existing barges. In 1974, the Coast Guard and the Maritime Administration performed a joint study of the tank barge pollution problem which found that certain construction techniques might provide a significant advantage for eliminating oil pollution from tank barges. However, the study had several weaknesses and regulatory action was not taken.	LCDR Johnson, (202) 426-4431; LCDR Rock, (202) 426-2183.	Notice of future actions the Coast Guard intends to take *March, 1981.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG

U.S. Coast Guard

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	In July 1977, the Coast Guard began a reexamination of the tank barge construction standards. It was determined that new construction should be treated separately from existing barges. An ANPRM concerning impacts related to existing barges was published on June 14, 1979 (44 FR 34440). A NPRM on the standards for new construction was published on June 14, 1979 (44 FR 34440). Public hearings were held on August 2, 1979 (Washington, D.C.), August 15, 1979 (Seattle); August 23, 1979 (New Orleans); September 5, 1979 (Washington, D.C.); and September 7, 1979 (St. Louis). Comment period ended September 30, 1979. The comment period was extended to December 1, 1979. The decision date is scheduled for April, 1980. *Supplemental Notice published March 13, 1980 (45 FR 16438). National Academy of Sciences (NAS) study will be conducted February 15, 1980, through January 31, 1981. Rulemaking has been deferred until completion of the NAS study.* **G. Citation:** 46 CFR pts. 32–40		
Review: Pollution Prevention, Vessels and Oil Transfer Facilities (Docket No. CGD 75–124a).	**A. Description:** Would reduce accidental or intentional discharge of oil or oily wastes during vessel operations. **B. Why significant:** This regulation is the significant part of Docket No. CGD 75–124. Substantive changes to the NPRM are proposed so that a supplemental NPRM is needed. It is considered significant due to opposition from the owners/operators of offshore marine service vessels and inland waterways vessels to the oil-water separator requirements of 33 CFR 155.330. Also, considerable expense may be incurred by the towing service to install separators and monitors or alarms, if alternative measures are not used. Without these sections, the remainder of CGD 75–124 is non-significant and *was published as a final rule on January 31, 1980 (45 FR 7156).* **C. Analysis:** Regulatory Evaluation **D. Need:** (1) Necessity to reduce the number of oil spills. (2) Clarification of existing rules. (3) Additional requirement for oil-water separators under the 1973 International Convention for the Prevention of Pollution from Ships. **E. Legal Basis:** Section 311(i)(1) (C) and (D) of the Federal Water Pollution Control Act, as amended; 33 U.S.C. 1321(i)(1) (C) and (D). **F. Chronology:** NPRM published June 27, 1977 (42 FR 32670). Supplemental NPRM published October 27, 1977 (42 FR 56625). Public Hearings held: New Orleans, LA. 11/22/77, St. Louis, MO. 11/30/77, Wash., D.C., 11/28/77. **G. Citation:** 33 CFR 155.330 thru 155.410	*Lt. B. Balch,* (202) 426–9578.	NPRM *September 1980.*
Segregated Ballast For Oil Tankers (Docket No. CGD 77–058).	**A. Description:** On March 17, 1977 President Carter directed the Secretary of Transportation to issue new rules for oil tanker standards which were to include segregated ballast on all tankers and double bottoms on all new tankers which call at American ports. The provisions of these proposed regulations have been changed by the February 1978 Intergovernmental Maritime consultative Organization (IMCO) Conference to include Crude Oil Washing (COW) and Clean Ballast Tanks (CBT). **B. Why Significant:** This rulemaking is considered significant because of substantial Congressional and public interest.	Mr. J. Angelo, (202) 426–4431 CDR Ireland, (202) 426–2167.	*Action complete.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG

U.S. Coast Guard

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	C. Analysis: Regulatory Analysis, Environmental Impact Statement.		
	D. Need: As part of the President's initiatives to reduce accidental pollution and operational oil pollution resulting from normal tanker operations.		
	E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95–474, (46 U.S.C. 391a).		
	F. Chronology: NPRM was published May 16, 1977 (42 FR 24868). As a result of the IMCO 2/78 Tanker and Pollution Prevention Conference a new NPRM was issued. This rulemaking was also mandated by the Port and Tanker Safety Act of 1978. NPRM published February 12, 1979 (44 FR 8984). Hearings were held on March 21, 1979 in Washington, D.C., and March 28, 1979 in San Francisco. Interim Final Rule published November 19, 1979 (44 FR 66502). *Final Rule published June 30, 1980 (45 FR 43705).*		
	G. Citation: 33 CFR pt. 157		
Review: Construction and Equipment; Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (Docket No. 77-069).	**A. Description:** Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by Intergovernmental Maritime Consultative Organization (IMCO) which would increase safety levels of existing ships carrying gas.	LCDR Pluta, (202) 426-2160.	ANPRM September 1980.
	B. Why Significant: This is significant because it involves a large number of existing U.S. and foreign flag ships which carry liquefied gas and is the subject of substantial public interest.		
	C. Analysis: Regulatory Analysis		
	D. Need: Increased use of liquefied gases has intensified the problems associated with this product. Since this product has unique properties and dangers, a dedicated set of regulations is needed to address them.		
	E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95–474, (46 U.S.C. 391a): See 6(d)(1), 80 Stat 937 (49 U.S.C. 1655(b)(1)). This rulemaking is also mandated by the Port and Tanker Safety Act of 1978..		
	F. Chronology: An Advance Notice of Proposed Rulemaking was published June 30, 1977 (42 FR 33353). This action is also mandated by the Port and Tanker Safety Act of 1978. Recent events have created a need for additional information. We intend to publish an additional ANPRM.		
	G. Citation: 46 CFR pts. 31, 34, 38, 40, 54, 98, 154		
Review: Licensing of Pilots (Docket No. CGD 77-084).	**A. Description:** This proposal would require recency of service for each route upon which a pilot is authorized to serve; licenses would be issued with tonnage limitations commensurate with pilot experience; and consideration of shiphandling simulator training for pilots of very large vessels including Very Large Crude Carriers (VLCC).	CDR Norman, (202) 426-2240.	NPRM August 1980.
	B. Why Significant: Considered significant because there is substantial interest among marine personnel on this matter with opposition expected from Federal pilots.		
	C. Analysis: Regulatory Evaluation		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG **U.S. Coast Guard**

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	D. Need: Increased ship size has led to unusual handling characteristics with which some pilots may not be familiar. This rule will allow use of simulator training for these kinds of vessels. **E. Legal Basis:** 46 U.S.C. 214, 224, 230, 233, 237; 49 U.S.C. 1655(b)(1). **F. Chronology:** A Regulatory Analysis and Work Plan were completed 10/78. A public hearing will probably be held shortly after the publication of the NPRM. **G. Citation:** 46 CFR pt. 10		
Tank Vessel Operations Regulations, Puget Sound (Docket No. CGD 78–041).	**A. Description:** This regulation would govern the operation of tank vessels in the Puget Sound area to protect against environmental harm resulting from vessel or structure damage, destruction, or loss. **B. Why Significant:** This is considered a significant rulemaking due to Congressional and public interest. In addition it may generate controversy among the public, environmentalists, and the oil industry. **C. Analysis:** Regulatory Evaluation, Environmental Impact Statement. **D. Need:** To reduce the possibility of environmental harm resulting from oil spills in Puget Sound by governing the operation of tankers to reduce the risk of collision or grounding. **E. Legal Basis:** Port and Waterways Safety Act (33 U.S.C. 1221). **F. Chronology:** Secretary Adams signed 180 day Interim Rule on March 14, 1978 prohibiting entry of oil tankers in excess of 125,000 Deadweight Tons in Puget Sound March 23, 1978 (43 FR 12257). ANPRM published March 27, 1978 (43 FR 12840) with public hearing held April 20–21, 1978. NPRM published April 12, 1979 (44 FR 21974). Public hearings were held in Washington State on June 11–14 1979. The interim navigation rule will remain in effect until cancelled (44 FR 36174). *The Puget Sound rulemaking has been broken into three parts: 78–041 Tank Vessel Operations, 78–041a Puget Sound VTS Service Area, and 78–041B, Puget Sound VTS General Rules. 78–041b, the General Rules, were published as a final rule on July 21, 1980 (45 FR 48822). The Puget Sound VTS Service Area portion (041a) was reclassified as nonsignificant and future issues of the agenda will list it in the nonsignificant section. A supplemental notice on the new nonsignificant portion was published on July 21, 1980 (45 FR 48826). The Tank Vessel Operations (041) portion remains significant. A supplemental NPRM announcing tanker/tug risk analysis tests was published on July 21, 1980 (45 FR 48827).* **G. Citation:** 33 CFR pts. 160, 161	*Mr. Ziegfeld, (202) 755–6146.*	*FR December 1981.*
Personnel Safety and Health Requirements for Industrial Vessels. (Docket No. CGD 80–15).	**A. Description:** This regulation would develop health and safety requirements for Industrial vessels. *(This regulation has been reclassified as a nonsignificant regulation. It is now listed in the nonsignificant portion of this Agenda.).*	LT Cashman, (202) 471–5150.	*NPRM December 1980.*
Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf (Docket CGD 79–077).	**A. Description:** This regulation would develop personnel safety and health requirements for artificial island, fixed installations and other devices on the Outer Continental Shelf (OCS). *(This regulation has been reclassified as a nonsignificant regulation. It is now listed in the nonsignificant portion of this Agenda.).*	LT Cashman (202) 472–5160.	*NPRM December 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

U.S. Coast Guard

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Revision of 46 CFR 157.20-5, Division into Three Watch Regulation (Docket No. CGD 78-037).	**A. Description:** This revision would require an adjustment in vessel manning requirements, to bring them into line with current legislation. It would change the requirements which identify personnel who must be used on the three watches and personnel who may be employed in a day working status. **B. Why Significant:** Involves a matter that is of significant interest to the public. Also, opposition is anticipated from the maritime labor unions. **C. Analysis:** Regulatory Evaluation. **D. Need:** The regulations in this section no longer reflect present CG policy and need updating. **E. Legal Basis:** R. S. 4463, as amended (46 U.S.C. 222); Section 2 of the Seamen's Act of 1915, as amended (49 Statute 1933; 46 U.S.C. 673). **F. Chronology:** Prepared Work Plan 5/78. Legislative action affecting this regulation is anticipated in Congress. Pending the outcome of this action, work on this regulation has been suspended. **G. Citation:** 46 CFR 157.20-5	CDR McCowen (202) 426-2240.	*Withdrawn.*
Drawbridge Operation Regulations—Newark Bay and Passaic and Hackensack Rivers, New Jersey (Docket No. CGD 78-173).	**A. Description:** Would amend the regulations to provide more equitable balance between the needs of land and marine modes of transportation in scheduling drawbridge openings and generally update the regulations. **B. Why Significant:** Involves coordination with other agencies within DOT and is a matter of significant public interest. **C. Analysis:** Regulatory Evaluation **D. Need:** Increased use of rail, road, and water transportation in this heavily industrialized and heavily populated area, mariners' complaints of long delays before bridge openings, and a general need to update existing regulations. **E. Legal Basis:** Sec. 5, 28 Stat. 362, 33 U.S.C. 499; 80 Stat. 937, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5). **F. Chronology:** A fact-finding public hearing was held November 17, 1977 to provide the basis for formulating the proposed rule. *NPRM published February 28, 1980 (45 FR 16203). Public hearings were held in Newark, N.J. and Rutherford, N.J. on April 23, 1980.* **G. Citation:** 33 CFR 117.200	Mr. F. Teuton, (202) 426-0942.	*FR September 1980.*
Review: Eight-Hour Day, Voluntary Overtime (Docket No. CGD 78-146).	**A. Description:** Under 46 CFR 157.20-10, no licensed officer or seaman should be required to be on duty more than eight hours in any one day except in extraordinary conditions. The regulations do not address overtime and do not consider any possible "fatigue factor.". **B. Why Significant:** Involves a matter that is of public interest. In addition, opposition may be forthcoming from maritime labor unions, or management, or both. **C. Analysis:** Regulatory Evaluation	CDR McCowen, (202) 426-2240.	*Withdrawn.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG

U.S. Coast Guard

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	D. Need: In recent years Coast Guard studies have shown that a "fatigue factor" must be recognized as having a profound effect on one's reaction time, judgment, and well being. **E. Legal Basis:** Section 2 of Seaman Act of 1915, as amended. (49 Stat. 1933; 46 USC 673). **F. Chronology:** Prepared Work Plan 1/79. Submission to OST May 1979. *Withdrawn March 6, 1980.* **G. Citation:** 46 CFR 157.20–10		

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U.S. Coast Guard

Nonsignificant Regulations [1]

Title	Summary	Contact	Earliest expected decision date
Vessel Traffic Service (VTS), Bervick, Bay, La, (Docket 73–186).	Would codify certain operating procedures now being done under local order. (33 CFR pt. 161).	LTJG Molessa, (202) 426–4958.	NPRM *August 1980.*
Review: Cargo Location Signs and Cargo Information Cards on Barges (Docket No. CGD 73–243).	Requires notification to the vessel's crew of the hazards and locations of dangerous cargoes carried on barges. NPRM published March 29, 1979 (44 FR 18709) Supplemental NPRM published June 7, 1979. Comment period extended to June 29, 1979. *FR published March 20, 1980 (45 FR 17999).* (46 CFR pt. 35).	Mr. R. Query, (202) 426–1217.	*Action complete.*
VTS Houston-Galveston, Texas (Docket No. CGD 74–029).	Would make mandatory a now voluntary vessel traffic service. (33 CFR pt. 161).	LTJG Molessa, (202) 426–4958.	NPRM *August 1980.*
Review: Revision of Electrical Regulations (Docket No. CGD 74–125).	Would generally revise and update the electrical regulations to conform with latest technology and to include steering requirements for vessels other than tank vessels. This project was downgraded from significant. Supplemental NPRM published March 3, 1980 (45 FR 13982).	LCDR Mowery, (202) 426–2206.	*FR October 1980.*
Pilot Ladders and Powered Pilot Hoists (Docket No. CGD 74–140).	Would establish new regulations for pilot hoists and revise regulations for pilot ladders and chain ladders. NPRM published July 23, 1979. (44 FR 43016). Publication of FR deferred pending evaluation of comments. (46 CFR pts. 160, 163).	Mr. R. Markle, (202) 426–1445.	FR *September* 1980.
Review: Fixed Fire Extinguishing Systems on Uninspected Vessels (Docket No. CGD 74–284).	Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. (46 CFR 162.029).	Mr. K. Wahle, (202) 426–1444.	NPRM *August* 1980.
Elevators and Dumbwaiters (Docket No. CGD 75–001).	Would adopt the 1978 American National Standards Institute (ANSI) code with certain modifications for vessel construction. NPRM published April 5, 1976 (41 FR 14386). (46 CFR pt. 58).	Mr. B. Jackson, (202) 426–2206.	FR *November* 1980.
Review: Compatibility of Bulk Liquid Cargoes (Docket No. CGD 75–059).	Would establish cargo loading standards to prevent the intermingling of cargo likely to create dangerous conditions. (46 CFR pt. 150) *NPRM published March 27, 1980 (45 FR 30132).*	Mr. R. Query, (202) 426–1217.	*FR September 1980.*
VTS New Orleans (Docket No. CGD 75–112).	If approved, would have made voluntary system mandatory. Rulemaking discontinued pending a special study. *Notice of withdrawal published February 11, 1980 (45 FR 9011).*	LTJG Molessa, (202) 426–4958.	Withdrawn.

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[1] For this Agenda, the Coast Guard nonsignificant regulations have been reorganized. They are now in numerical order by docket number. Docket numbers will now be assigned in a manner that will permit this numerical order to be retained while new regulatory projects are still listed at the end of the agenda.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Review: Ocean Operator (Docket No. CGD 75-178).	Proposed licensing requirements for rank of ocean operator. NPRM published March 14, 1977 (42 FR 13844). *This has been* withdrawn pending legislative activity. (46 CFR pts. 157 and 186).	CDR McGowen, (202) 426-2240.	*Withdrawn.*
Opening signals for Drawbridges (Docket No. 75-237).	If approved, would establish uniform signals for opening drawbridges. *NPRM published June 1980 (45 FR 43226)* (33 CFR pt. 117).	Mr. Teuton, (202) 426-1380.	*FR November 1980.*
Review: Advance Notice of Arrival (Docket No. CGD 75-238).	Would require advance notice to Captain of the Port (COTP) of vessel arrivals, departures and hazardous conditions. NPRM published June 15, 1978 (43 FR 25958). Public hearing held October 12, 1978 in Washington, D.C., and October 20, 1978 in Houston, Texas. Interim Final rules published November 5, 1979 (44 FR 63672). (33 CFR pt. 161).	LT *Allen,* (202) 426-1927.	FR *September 1980.*
Review: Stability Standards for Towing and Offshore Vessel Hull Forms (Docket No. CGD 76-018).	Would establish intact stability standards for both towing and free-route modes of subject vessels. ANPRM published April 12, 1976 (41 FR 15349). (46 CFR pt. 42).	Mr. F. Perrini, (202) 426-2187.	NPRM *August* 1980.
Exposure Suits on Great Lakes Vessels (Docket No. CGD 76-033a).	Specification and vessel requirements for low-temperature exposure suits. NPRM published June 8, 1978 (43 FR 25000). *FR published April 10, 1980 (45 FR 24471).* (46 CFR pts. 33, 35, 71, 75, 78, 91, 94, 97, 99, 160, 189, 192).	Mr. R. Markle, (202) 426-1445.	*Action complete.*
Review: Subdivision and Stability of Passenger Vessels (Docket No. CGD 76-053).	Proposes more flexible regulations by allowing alternate compliance with Intergovernmental Maritime Consultative Organization as an alternative to existing requirements. (46 CFR pts. 73, 74).	Mr. J. Howell, (202) 426-2187.	NPRM *August 1980.*
Pilotage Requirements (Docket No. CGD 76-060).	Would clearly delineate when and in what areas pilots are required. (46 CFR 157.20-40).	CDR McCowan, (202) 426-2240.	NPRM *December* 1980.
Review: Stability Standards for Hopper Dredges (Docket No. CGD 76-080).	Would improve capability of a dredge to withstand flooding caused by damage to hull or interior piping. NPRM published December 10, 1979 (44 FR 70791). (46 CFR pt. 93).	Mr. D. Ewing (202) 426-2187.	FR August 1980.
Cargo Monitors on Tank Vessels (Docket No. CGD 76-088b).	Proposed requirements for installation and use of cargo monitors. NPRM published June 27, 1977 (42 FR 32684). (33 CFR pt. 157).	LT Cool, (202) 426-2168.	*Supplemental NPRM October 1980.*
Review: Deepwater Port Safety Zone Regulations (Docket No. CGD 76-096).	Would establish regulations for safety zones at U.S. Deepwater Ports. *NPRM published February 14, 1980 (45 FR 10172).* (33 CFR pt. 150).	Mr. F. Martin, (202) 472-5052.	*FR September 1980.*
Review: Casualty Reporting (Docket No. CGD 76-170).	Would update the regulation by changing the monetary and other damage criteria. As a result of numerous comments a revised NPRM was published. NPRM published October 19, 1978 (43 CFR 48982). Correction published October 23, 1978 (43 FR 49316). NPRM published December 3, 1979 (44 FR 69308). (46 CFR 4.05).	CDR Blomquist, (202) 426-1455.	*FR August 1980.*
Review: Radar Observer Endorsement for Personnel (Docket No. CGD 76-193a).	Would require specialized training in use of radar equipment. This will be a supplemental notice based on a document published earlier. (48 CFR Pt. 10).	CDR Hess, (202) 426-2251.	NPRM *August 1980.*
Review: Shipboard Fumigation Standards (Docket No. CGD 76-206).	Proposed operational requirements for fumigation procedures on vessels. (46 CFR pt. 147a).	LT Norris, (202) 426-1577.	NPRM *August 1980.*
Review: Exemption for Cargo Vessels in Alaska Serving Remote Villages (Docket No. CGD 76-223).	Would allow special uses for specific vessels serving in the Alaskan Trade. (46 CFR pts. 6, 30, 42, 43, 70, 90, and 151; 33 CFR pt. 1).	LTJG Murray, (202) 426-2190.	*FR October 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Requirement to Stop to Permit Boarding (Docket No. CGD 76-232).	Would require boat operators to stop when ordered to do so by CG Boarding Officer. (33 CFR pt. 177).	*Mr. R. Dewees,* (202) 426-4176.	NPRM September 1980.
Review: Marine Safety Investigations (Docket No. CGD 77-018).	Would implement investigation authority under Ports and Waterways Safety Act. NPRM published January 25, 1979 (44 FR 5368). (33 CFR pt. 168).	LT Allen, (202) 426-1927.	FR *September 1980.*
Damage Stability, Subchapter "O" Barges (Docket No. CGD 77-027).	Would apply damage stability requirements for chemical vessels to ocean chemical barges. (46 CFR 151.10-10).	Mr. F. Perrini, (202) 426-2187.	NPRM *October 1980.*
Ocean Dumping Surveillance Equipment Requirements, (new Part) (Docket No. CGD 77-029).	Would establish equipment requirements to conduct surveillance to prevent unlawful dumping of material into ocean waters. NPRM published December 13, 1979 (44 FR 72188). (33 CFR pt. 158).	LCDR Voyik, (202) 755-7938.	*FR September 1980.*
Review: Suspension & Revocation Proceedings—Consolidation of Regulations (Docket No. CGD 77-037).	Would combine disparate regulations to clarify the appeal process. *No substantive changes will be made.* (46 CFR pts. 1,5).	LT McDaniel, (202) 426-9776.	*FR September 1980.*
Review: Designation of Oceanographic Vessels (Docket No. CGD 77-081).	Would *establish standard procedures for designating oceanographic research vessels and allow their exemption from certain manning requirements.* (46 CFR pt. 188).	CDR McCowen, (202) 426-*2240.*	NPRM *August 1980.*
Vessel Traffic Service (VTS) New York, N.Y. (Docket No. CGD 77-087).	Establishes regulations for vessel traffic service in New York Harbor. NPRM published February 16, 1978 (43 FR 6906). Final Rule published August 2, 1979 (44 FR 45381). Effective date suspended indefinitely September 24, 1979 (45 FR 50005) (44 FR 2133). (33 CFR pt. 161).	Mr. F. Schwer, (202) 426-4958.	Rule published, effective date pending equipment installation.
Requirement for First Purchaser List Kept by Boat Dealers (Docket No. CGD 77-115).	Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notice to alert of safety defects. (33 CFR pt. 179).	Mr. Ellison, (202) 426-1065.	NPRM *September 1980.*
Review: Waterfront Facilities (Docket No. CGD 77-128.	Would revise waterfront facility regulations by consolidating and updating general regulations. ANPRM published April 10, 1978 (43 FR 15108). (33 CFR pts. 126-32).	LT Allen, (202) 426-1927.	NPRM *August 1980.*
Review: Amendments to Alternative Compliance (Docket No. CGD 77-136).	Would provide editorial improvement and clarification of existing regulations. (33 CFR pt. 87).	Mr. T. Foley, (202) 426-4958.	*NPRM September 1980.*
Review: Miscellaneous Changes to *46 CFR 56.* (Docket No. CGD 77-140).	Would update Title 46, Subchapter F—Marine Engineering. (46 CFR pt. 56).	LCDR Jenkins, (202) 426-2160.	NPRM *October 1980.*
Review: Acceptance of American Society of Mechanical Engineers (ASME) "U" or "UM" *Pressure* vessels (Docket No. CGD 77-147).	Would accept pressure vessels bearing the ASME "U" or "UM" stamp without U.S. Coast Guard inspection. (46 CFR pt. 54).	Mr. H. Hime, (202) 426-2160.	NPRM *December* 1980.
Review: Amendments to Customs Regulations for Boats (Docket No. CGD 77-157).	Would amend the Joint Coast Guard Customs regulations for imported boats. Minor revision to improve administration of the regulations. NPRM completed and forwarded to U.S. Customs Service. (19 CFR pt. 12).	*LT Newman,* (202) 426-1065.	NPRM *September 1980.*
Damage Stability Standards for Great Lakes Vessels (Docket No. CGD 77-162).	Would establish subdivision and stability standards for commercial vessels operating on the Great Lakes.	Mr. Howell, (202) 426-2187.	ANPRM August 1980.
Review: Establishment of Second-Class Ocean Operator (Docket No. CGD 77-176).	Would establish qualification for a second operator on small passenger vessels required to have more than one Ocean Operator on Board. NPRM published March 23, 1978 (43 FR 12218). This project has been suspended pending current legislative activity. (46 CFR pts. 157,186 and 187).	CDR McCowen, (202) 426-2240.	Further action to be determined.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Review: Amendment to Navigation Safety Regulations (Docket No. CGD 77-183).	Would relax some navigation requirements for Great Lakes and provide editorial corrections. NPRM published September 4, 1979 (44 FR 51620). *FR published March 24, 1980 (45 FR 18924).* (33 CFR pt. 164).	Mr. T. Foley, (202) 426-2240.	*Action complete.*
Revision of Navigation Safety Regulations (Docket No. CGD 77-196).	*This docket was previously titled "Designation of Confined or Congested Waters." 33 CFR Part 164 is being revised. This revision would amend existing navigation safety regulations and incorporate changes in electronic position fixing devices and electronic relative motion analyzers, delete references to confined or congested waters, and resolve certain other ambiguities. (33 CFR Pt. 164).*	*Mr. L. Stephey, (202) 426-4958.*	*NPRM October 1980.*
Lifesaving Systems for Great Lakes Vessels (Docket No. CGD 77-202).	Would amend regulations for lifeboats and other equipment to improve chances of personnel survival following abandonment of vessel. This project has been redocketed and will apear in future agendas under the number CGD 77-202. Re-docketed from No. CGD 75-033. (46 CFR Subchapters D, H, I, T, and Q).	Mr. R. Markle, (202) 426-1445.	NPRM *January 1981.*
Review: Second Class Operator for Towing Vessels (Docket No. CGD 77-204).	Would allow for able seaman service on ocean going vessels to be credited toward second class towboat license. NPRM published May 25, 1978. This proposal has been suspended pending current legislative activity (43 FR 22653). (46 CFR pt. 10).	CDR Norman, (202) 426-2240.	Further action to be determined.
Review: Halon 1301 Fire Extinguishing Systems for Merchant Vessels (Docket No. CGD 77-232).	Would allow Halon 1301 for specific types of installations. (46 CFR 164.035).	Mr. R. Eberly, (202) 426-2197.	NPRM *September 1980.*
Navigation Lights for Small Vessels (Docket No. CGD 77-233).	Would specify approval procedures and installation requirements for International Rules navigation lights for small vessels. NPRM published September 7, 1978 (43 FR 39946). (33 CFR pt. 89).	Mr. L. Gray, (202) 426-4027.	*Supplemental NPRM August 1980.*
Review: Safety Orientation for Passenger Vessels (Docket No. CGD 78-009).	Alerts passengers to locations and use of safety devices. NPRM published June 29, 1978 (43 FR 28426). *FR published February 19, 1980 (45 FR 11108).* (46 CFR pts. 26 and 185).	LCDR Rock, (202) 426-2183.	*Action complete.*
Officers On Uninspected Vessels (Docket No. CGD 78-027).	The amendement would clarify 46 CFR 157.30-10 regarding the number of deck officers and engineers to be on board uninspected vessels.	CMDR McCowen (202) 426-2240.	NPRM *November* 1980.
Hazardous Substances, Pollution Prevention for Vessels and Marine Transfer Facilities (Docket No. CGD 78-032).	Would establish regulations for pollution prevention for hazardous substances for vessels and marine transfer facilities. (33 CFR pts. 154, 155 and 156).	*S. Mojonnier, (202) 426-9578.*	ANPRM *October 1980.*
Substitute Licenses/Merchant Documents in Suspension Marine Cases (Docket No. CGD 78-033).	Would allow the issuance of a substitute license/Merchant Marine Document pending the outcome of a hearing.	LT McDaniel, (202) 426-9776.	*Withdrawn.*
Liquefied Natural Gas Waterfront Facility (Docket No. CGD 78-038).	Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Materials Transportation Bureau, RSPA. ANPRM published August 3, 1978 (43 FR 34362). Will merge with CGD 77-128. Supplemental ANPRM published March 8, 1979 (44 FR 12693). (33 CFR pt. 126).	LT Dickman, (202) 426-1927.	NPRM *August 1980.*
Tows Navigating the Pass Manchac Bridge, LA (Docket No. CGD 78-050).	Provides for regulation of tows navigating the waters in the vicinity of the Pass Manchac Bridge, LA. NPRM published December 21, 1978 (43 FR 59524). Correction published January 29, 1979 (44 FR 5680). *Final Rule published June 26, 1980* (45 FR 43166). (33 CFR pt. 162).	LTJG Molessa, (202) 426-4958.	*Action complete.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Review: St. Mary's River, Vessel Traffic Service (Docket No. CGD 78-079).	Would revise and restate existing anchorage and navigation regulations for St. Mary's River, re-promulgating them under the authority of the Ports and Waterways Safety Act. (33 CFR pt. 161).	Mr. T. Foley, (202) 426-4958.	NPRM *August 1980.*
Notification of Marine Casualties (Docket No. CGD 78-098).	If approved, would require vessels within a certain distance of United States coasts to notify the Coast Guard of certain casualties. Further action on this project depends on the outcome of a study suggested in response to the ANPRM. ANPRM published April 16, 1979 (44 FR 22476). (33 CFR pt. 124 transferred to 161).	LT Allen, (202) 426-1927.	Study pending.
Marine Investigation Regulations (Docket No. CGD 78-105).	Would clarify the Coast Guard's subpoena power in marine investigation proceedings. (46 CFR pt. 4).	LCDR Miller, (202) 426-1455.	*Withdrawn.*
Aluminum Hatch Covers Aboard Tank Vessels (Docket No. CGD 78-121).	Would prohibit aluminum hatch covers on tank vessels, because they can melt down in ship-board fires. (46 CFR 32.60-1).	Mr. R. Eberly, (202) 426-2197.	NPRM *September 1980.*
Review: Bulk Chemical Tanker Update (Docket No. CGD 78-128).	Would update and revise standards for self-propelled vessels carrying hazardous liquid. (46 CFR pt. 153).	LCDR Trainer, (202) 426-1217.	NPRM *May 1980.*
Review: Accessibility of Fire Extinguishers on Boats (Docket No. CGD 78-137).	Would require boat operators to keep portable fire extinguishers in a readily accessible location. (46 CFR pt. 25).	*Mr. Dewees, (202) 426-4176.*	NPRM *October 1980.*
Review: Private Electronic Aids to Navigation (Docket No. CGD 78-145).	Would delete the prohibition of Private Aids to Navigation to provide uniform regulatory treatment. (33 CFR pt. 66).	LT Johnson, (202) 426-1974.	NPRM *August* 1980.
Inland Waters Navigation Regulations—Waters Connecting Lake Huron and Lake Erie (Docket No. CGD 78-151).	Would modernize existing regulations. (33 CFR pt. 162).........	Mr. LaRue, (202) 426-4958.	NPRM *August 1980.*
Review: Tables of Vessels Examined or Inspected under Various Coast Guard Regulations (Docket No. CGD 78-152).	Would update tables in various parts of Title 46 to reflect the new requirements implemented by the recently published Mobile Offshore Drilling Unit Regulations.	LT M. Rolman, (202) 426-2190.	*Withdrawn.*
Review: Survey Period for Oil Lubricated Tailshafts with Mechanical Seals (Docket No. CGD 78-153).	Would extend the drawing interval for oil lubricated tailshafts with mechanical seals. NPRM published November 1, 1979 (44 FR 62915). (46 CFR pt. 63).	LT M. Rolman, (202) 426-2190.	FR *September 1980.*
Review: Mandatory Marking of Obstructions (Docket No. CGD 78-156).	Would clarify and consolidate the requirements for marking of obstructions. (33 CFR pt. 64).	LT Johnson, (202) 426-1974.	NPRM *September* 1980.
Review: Private Aids to Navigation and State Aids to Navigation (Docket No. CGD 78-157).	Would codify and clarify the Aids to Navigation regulations concerning State and Private Aids to Navigation. (33 CFR pt. 66).	LT Johnson, (202) 426-1974.	NPRM September 1980.
Review: Mandatory Markings for Artificial Islands Installations, and other Devices (Docket No. CGD 78-158).	Would revise the marking regulations to bring them into agreement with the latest procedures. (33 CFR pt. 67).	LT Johnson, (202) 426-1974.	NPRM September 1980.
Review: Aids to Navigation—General Interference with, Damages to and Charges for Aids to Navigation (Docket No. CGD 78-159).	Would codify revise and clarify the existing regulations. (33 CFR pts. 60, 62, 66, 70, 74, and 76).	LT Johnson, (202) 426-1974.	NPRM September 1980.
Review: General Revision to Subchapter N (Docket No. CGD 78-160).	Proposed general revisions to Subchapter N, Artificial Islands and Fixed Structures on the Outer Continental Shelf. Revisions to include changes made necessary by new legislation and the Coast Guard Commercial Diving Rules. *NPRM published May 1, 1980 (45 FR 29072).* (33 CFR pt. 140).	LCDR T. Barrett, (202) 472-5160.	*FR October 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Review: Termination of Windsurfer Exemption (Docket No. CGD 78-163).	Would determine whether to continue an exemption that allows operators of Windsurfer boats to not carry Personal Flotation Devices. ANPRM published March 29, 1979..	*Mr. Dewees,* *(202) 426-4176.*	NPRM *May 1980.*
Approval of Inflatable Personal Flotation Devices (PFDs) (Docket No. CGD 78-174).	Would establish performance standards for inflatable PFDs and procedures for granting *product* approval to these devices. ANPRM published March 15, 1979 (46 CFR pt. 160).	*LT Weiss,* (202) 426-1444.	NPRM *January 1981.*
Offshore Oil Lightering (Docket No. CGD 78-180).	Would establish requirements for vessel to vessel transfers of oil or hazardous materials if the cargo is bound for a U.S. port. NPRM published May 31, 1979 (44 FR 31486). (33 CFR pt. 156).	LT J. Balch, (202) 426-9578.	*Supplemental NPRM September 1980.*
Review: Amendment to Hull Identification Requirements (Docket No. CGD 79-013).	Would further delineate responsibility for marking boats with a hull identification number. Would require a second number inside the boat to aid in identification of stolen boats. (33 CFR pt. 181).	*Mr. Ellison,* *(202) 426-1065.*	NPRM *September 1980.*
Review: Stability Subchapter (Docket No. CGD 79-023).	Would bring together all the existing stability regulations and identifiable past practice into a single subchapter including a part pertaining to the carriage of passengers and separate parts pertaining to cargoes, vessl use and special types.	Mr. D. Ewin, (202) 426-2187.	NPRM *January 1981.*
Port and Tanker Safety Act Delegations Under Section 9, Ports and Waterways Safety Act (Docket No. CGD 79-026).	Would delegate to Captains of the Port authority and responsibility to prohibit vessel operations and cargo transfers which may be unsafe. (33 CFR pt. 160). NPRM published December 3, 1979 (44 FR 69306) (33 CFR pt. 160).	LT *Allen,* *(202) 426-1927.*	FR *August* 1980.
Revision of Approval of Cargo Containers (Docket No. CGD 79-027).	Establishes domestic administrative machinery for the implementation and administration of the International Convention for Safe Containers (CSC). NPRM published November 29, 1979 (44 FR 68495). *FR published June 2, 1980. (45 FR 37212).*	Mr. C. Hochman, (202) 426-1577.	*Action complete.*
Installation, Maintenance, and Inspection of Pilot, Accommodation and Chain Ladders; and Powered Pilot Hoists (Docket No. CGD 79-032).	Would establish inspection procedures and timetables for embarkation apparatus.	LTJG Murray, (202) 426-2190.	NPRM *November* 1980.
Limited Access Areas (Docket No. CGD 79-034).	Would realign limited access area regulations in 33 CFR. (33 CFR pts. 125, 127, 128, and 165).	LT Allen, (202) 426-4956.	FR *August 1980.*
Steering Gear; Drills and Tests (Docket No. CGD 79-038).	Would require all inspected vessels over 100 gross tons and foreign vessels over 1600 gross tons to have written procedures for loss of steering control, and conduct log emergency steering drills. Docket No. CGD 79-038a incorporates changes to Title 46 CFR and CGD 79-038b incorporates changes to Title 33 CFR.	LT Rolman, (202) 426-1464.	NPRM *January* 1980.
Crane Operator Qualifications and Standards for Offshore Crane Design Inspection, Testing and Operation (Docket No. CGD 79-059).	Would develop requied qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection and testing. ANPRM published January 10, 1980 (45 FR 2052). (33 CFR pt. 146 and 46 CFR pt. 92).	LTJG Silka, (202) 472-5160.	NPRM *September 1980.*
Revocation of Sitka and Wrangell, Alaska as Ports of Documentation. (Docket No. CGD 79-0606).	Revokes the designation of Sitka and Wrangell, Alaska as Ports of Documentation as listed in 46 CFR 66.05-1. NPRM published October 4, 1979. *F.R. Published February 14, 1980 (45 FR 9930)* (44 FR 57137).	LTJG Heyl, (202) 426-2299.	*Action complete.*
46 CFR Subchapter D, Tank Vessels Corrections and Clarifications to conform to Title 33 CFR (Docket No. CGD 79-061).	Would eliminate conflicting requirements in Titles 46 and 33 CFR for minimum bolts per flange on transfer connections, fixed piping. In addition, eliminates confusion in tank barge security and smoking regulations.	LTJG Murray, (202) 426-2190.	NPRM *August 1980.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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USCG

U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Marine Personnel Safety Standards (Docket No. CGD 79-065).	Would develop a new Subchapter prescribing general personnel safety standards for inspection vessels and offshore facilities. (Subchapter V).	LT Zedan, (202) 426-2190.	NPRM *December* 1980.
COLREGS Demarcation Lines Boston Harbor Entrance (Docket No. CGD 79-066).	Moves the Colregs Demarcation Line of Boston Harbor Entrance several NPRM published November 8, 1979. (44 FR 64843) *FR Published March 10, 1980 (45 FR 15175)* (33 CFR pt. 82).	LTJG Molessa, (202) 426-4958.	*Action complete.*
Stowage of Lifeboats and Liferafts (Docket No. CGD 79-072).	Would amend various subchapters to require inspected vessels under 1600 gross tons, on coastwise voyage and having widely separated accommodation or working spaces, to carry inflatable liferafts in those areas capable of accommodating 50 percent of the people on board. NPRM published December 3, 1979 (44 FR 69311) *Supplemental NPRM published May 27, 1980 (45 FR 35366).*	LT Zedan, (202) 426-2190.	*FR November 1980.*
Unregulated Hazardous Working Conditions on the Outer Continental Shelf (OCS) (Docket No. CGD 79-073).	Would identify any presently unregulated hazardous working conditions on the OCS and if necessary regulate such conditions. (33 CFR Subchapter N). ANPRM published September 20, 1979. (44 FR 54499).	LCDR Barrett, (202) 472-5160.	*Withdrawn.*
*Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf (Docket No. CGD 79-077).	This regulation would develop personnel safety and health requirements for artificial island, fixed installations and other devices on the Outer Continental Shelf (33 CFR Subchapter No; 46 CFR Subchapters 1A and V.).	Lt. Cashman, (202) 471-5150.	NPRM December 1980.
Vessel Personnel Licensing and Certification Standards of Foreign Counties (Docket No. CGD 79-081(a)).	Establishes procedures for verification of training, qualification and watchkeeping standards of personnel serving on foreign tank vessels. *Interim FR Published April 7, 1980 (45 FR 23425).*	LCDR D. Struck, (202) 755-8684.	Interim FR *August* 1980.
Foreign Tank Vessel Manning Levels (Docket No. CGD 79-081(b)).	Would establish minimum manning levels for foreign tank vessels while operating on U.S. Navigable Waters.	LCDR D. Struck, (202) 755-8684.	NPRM *September* 1980.
Review: Tank Vent Height (Docket No. CGD 79-083).	Corrects vent height regulations in 46 CFR 56.50-85 to agree with 46 CFR 45.133. NPRM published January 7, 1980 (45 FR 1431). *FR published April 21, 1980 (45 FR 26711).*	Mr. D. Ewing, (202) 426-2187.	*Action complete.*
Amendment to Application of Vessel Numbers (Docket No. 79-087).	Would delete date of birth and citizenship data from application for vessel number.	*Mr. Dewees,* (202) 426-4176.	NPRM *November* 1980.
Shipment of Bulk Hazardous Waste by Water (Docket No. CGD 79-095).	Would establish requirements for transportation of bulk hazardous wastes.	Mr. R. M. Query (202) 426-1217.	NPRM *September* 1980.
U.S. Coast Guard Reserve (Docket No. CGD 79-105).	Would update the administrative regulations pertaining to the Coast Guard reserve.	CAPT Grover (202) 426-2348.	*FR December 1980.*
Merchant Mariner's Documents for Industrial Workers (Docket No. 79-109).	Would establish regulations for endorsements to merchant marine documents for special skills of industrial workers.	LCDR Struck, (202) 426-2240.	NPRM December 1980.
Inland Waterways Navigation Thimble Shoals (Docket No. CGD 79-120).	Would make two existing regulations consistent. (33 CFR pts. 128 and 162).	Mr. *Le Blanc,* (202) 426-4958.	NPRM *January 1981.*
Applications for Exemptions for SBT, CBT or COW, for Existing Vessels in Specific Trades (Docket No. CGD 79-126).	Would establish procedures for exemption from Segregated Ballast (SBT), Clean Ballast (CBT), or Crude Oil Washing (COW), for existing vessels in specific trades. *NPRM published May 22, 1980 (45 FR 34306).*	LCDR A. Spackman, (202) 426-4431.	*FR January 1981.*
Joint U.S. Canada Vessel Traffic Management regulations for the Pacific region (Docket No. CGD 79-131).	Would implement the provisions of an Agreement for a Cooperative Vessel Traffic Management System for the Pacific Region. (33 CFR pt. 161).	CDR Cruickshank, (202) 426-1940.	NPRM *October 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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U.S. Coast Guard

Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Shipboard Noise Abatement (Docket No. CGD 79-134).	Would develop noise abatement standards (noise levels, hearing conservation program, etc.) for inspected vessels over 100 gross tons. (Will be included in subchapter V).	LT Zedan, (202) 426-2190.	NPRM *January 1981.*
Start-in-Gear Protection (Docket No. CGD 79-137).	Would establish a requirement for manufacturers of outboard engines producing more than 115 lbs of thrust to have a feature that would prevent the engine from being started while the transmission was in gear. *NPRM published March 24, 1980 (45 FR 18987); comment due July 24, 1980 (33 CFR 181 and 183).*	Mr. L. Granholm, (202) 426-4027.	*FR January 1981.*
Review: Great Lakes Pilotage Regulations (Docket No. CGD 79-138).	Increases the basic rates for Great Lakes Pilotage by five percent and adds a new class to the range of pilotage units. NPRM published January 17, 1980 (45 FR 1431) comment due February 21, 1980. *FR published February 21, 1980 (45 FR 13076).*	Mr. J. Hartke, (202) 755-8685.	*Action complete.*
Review: Requirement of Shipping Papers for Unslaked Lime *(Docket No. CGD 79-141).*	Removes the Coast Guard's requirements for the carriage of shipping papers for bulk shipments of unslacked lime. *NPRM published February 28, 1980 (45 FR 13138). Final Rule published May 12, 1980 (45 FR 31110).*	Mr. J. McAnulty, (202) 426-1578.	*Action complete.*
Review: Special Service Load Line Vessels, Hurricane Season (Docket No. CGD 79-142).	Would allow manned vessels with special service load lines to be operated during the hurricane season if the provisions of a Coast Guard approved heavy weather plan are followed. *NPRM published April 21, 1980 (45 FR 26722).*	Mr. D. Ewing, (202) 426-2187.	*FR January 1981.*
Permanently Moored Tank Barges *(Docket No. CGD 79-143).*	Would clarify the inspection and certification standards for permanently moored tank barges.	LTJG Olds, (202) 426-2190.	ANPRM *September* 1980.
Review: Inland Waterways Navigation Great Lakes (Docket No. CGD 79-151).	Would update existing regulations in 33 CFR pt. 162.	LTJG Molessa, (202) 426-4958.	NPRM *September* 1980.
Electronic Relative Motion Analyzer (Docket No. CGD 79-148).	Would require an electronic relative motion analyzer to be carried by all tankers of 10,000 gross tons or above. *NPRM published February 21, 1980 (45 FR 11790).*	Mr. F. Schwer, (202) 426-4958.	*FR August 1980.*
Review: Tank Vessels Transferring Outer Continental Shelf Oil (Docket No. CGD 79-152).	Would require vessels transferring Outer Continental Shelf oil from offshore oil exploration or production facilities to have segregated ballast tanks, dedicated clear ballast tanks, or special ballast arrangements. *NPRM published May 1, 1980 (45 FR 29087).*	LCDR R. Tweedie, (202) 426-4431.	*FR January 1981.*
Review: Load Line Equivalent Regulations (Docket No. CGD 79-153).	Would rearrange existing regulations in 46 CFR 42, Load Line, to comply with International Maritime Consultative Organization Resolution A.320(IX).	Mr. D. Ewing, (202) 426-2187.	NPRM *September* 1980.
Deepwater Port Liability Fund Requirements. (Docket No. CGD 79-158).	Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deep water port sites. (33 CFR pt. 150).	Mr. F. Martin, (202) 472-5052.	NPRM *August* 1980.
Review: Tank Stop Valves (Docket No. CGD 79-159).	Would amend the regulations for tank stop valves to make them applicable to sluice gates and sluice valves as well as piping systems.	LCDR Jenkins, (202) 426-2160.	NPRM *September* 1980.
Modification to Line Throwing Device Requirements. (Docket No. *CGD 79-160).*	Would modify the regulation requiring a linethrowing device only in cargo vessels over 500 gross tons and passenger vessels on international voyages.	LTJG Olds, (202) 426-2190.	NPRM *August* 1980.
Review: Revocation of Obsolete Specifications I (Docket No. CGD 79-165a).	Would revoke approval specifications for wood life floats and obsolete floating water lights.	Mr. F. Thompson, (202) 426-2174.	FR *August* 1980.
Review: Revocation of Obsolete Specifications II (Docket No. CGD 79-165b).	Would revoke approval specifications for cork and balsa ring life buoys and material specifications for cork and balsa.	Mr. F. Thompson, (202) 426-2174.	*NPRM* August 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Nonsignificant Regulations —Continued

Title	Summary	Contact	Earliest expected decision date
Review: Painters for Life Floats and Buoyant Apparatus (Docket No. CGD 79-167).	Would require life floats and buoyant apparatus to have painters that are secured to the vessel.	Mr. R. Markle, (202) 426-1444.	NPRM *January* 1980.
Launching Devices for Liferafts (Docket No. CGD 79-168).	Proposed specification for approval of devices used for launching inflatable liferafts. (46 CFR pts. 160 and 163). Re-docketed from No. CGD 75-217.	Mr. *McCall,* (202) 426-1445.	NPRM *December* 1980.
Review: License in Temporary Grades (Docket No. CGD 79-173).	Would provide for licenses in Temporary Grades or Special Endorsements or Licenses to Permit Temporary Service.	LCDR D. Struck, (202) 755-8684.	NPRM *September* 1980.
Disclosure of Safety Standards and Country of Registry (Docket No. CGD 79-180).	Would update 46 CFR 80.10 in compliance with 46 U.S.C. 362(b).	LT Zedan, (202) 426-2190.	FR September 1980.
Shipboard Asbestos Standards (Docket No. CGD 79-181).	Would develop safety standards threshold values, etc., for use of asbestos on inspected vessels. (Will be included in Subchapter V).	LT Zedan, (202) 426-2190.	NPRM September 1980.
Primary Health Care and Qualifications of Seamen. (Docket No. CGD 79-182).	Would implement health standards and qualifications of seamen and provide for training/experience in medical care for vessels.	CDR Parrow, (202) 472-4242.	*Withdrawn.*
Update of Subchapter O Cargo List (Docket No. CGD 80-001).	Would update the subchapter O cargo table in 46 CFR 151.05.	Mr. J. Jakabcin, (202) 426-2559.	NPRM *August* 1980.
Update of the Subchapter D Cargo Lists (Docket NO. CDG 80-002).	Would update the Subchapter D Cargo Lists (46 CFR 30-40). *NPRM published April 14, 1980 (45 FR 23575).*	Mr. C. Payne, (202) 426-2559.	FR *August* 1980.
*Prince William Sound VTS Amendment (Docket No. CGD 80-010).	Would update Prince William Sound Vessel Traffic System regulations (33 CFR).	Mr. E. LaRue, (202) 426-4958.	NPRM November 1980.
*Emergency Position Indicating Radiobeacons (EPIRBS) (Docket No. 80-24).	Would require use of EPIRB's on vessels operating on the Great Lakes.	Mr. Markle, (202) 426-1444.	NPRM December 1980.
*Update Incorporations by Reference (Docket No. CGD 80-46 and 47).	Will update private standards incorporated by reference in Boating Safety standards (33 CFR Pt. 183). NPRM published June 9, 1980 (45 FR 38417).	Mr. Gray, (202) 426-4027.	FR September 1980.
*Comments on Draft Consumer Affairs Program (Docket No. CGD 80-62).	Would establish a consumer affairs program throughout the U.S. Coast Guard.	Mr. O'Brien, (202) 426-2290.	FR December 1980.
*Valve Inspection for Thermal Fluid Heaters (Docket No. 80-64).	Would clarify the inspection standards for valves on thermal heaters.	LTJG Olds, (202) 426-2190.	NPRM September 1980.
*Carriage of Liquefied Gases (Docket No. 80-65).	Would establish regulations for carriage of liquefied gas under 46 CFR 38.05.	Mr. Rowek, (202) 426-1217.	NPRM October 1980.
*Personnel Safety and Health Requirements for Industrial Vessels (Docket No. CGD 80-15).	This regulation would develop health and safety requirements for industrial vessels. (46 CFR Subchapters 1 and 1A.).	Lt. Cashman, (202) 471-5150.	NPRM December 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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USCG

U.S. Coast Guard

Routine and Frequent Non-significant Regulations

Title	Total	Contact	Decision date
Safety/Security Zone Regulations	10	LCDR McDonald, (202) 426-1927.	*August 1980–August 1981.*
Anchorage Area Regulations	16	Mr. Ziegfeld, (202) 426-1940.	*August 1980–August 1981.*
Drawbridge Regulations	90	Mr. F. Teuton, (202) 426-1380.	*August 1980–August 1981.*

FAA

Federal Aviation Administration

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Flammability Standard for Crewmember Uniforms (Docket No. 14451).	**A. Description:** Proposed revision to establish flammability specifications for crewmember uniforms that will provide protection against heat and flame. **B. Why Significant:** This proposal is considered a significant rulemaking project due to substantial public interest and potential cost to airlines. **C. Analysis:** Regulatory Analysis **D. Need:** To establish basic flammability specifications for crewmember uniforms, since clothing now used is made of conventional fabrics which may be ignited under many of the emergency conditions that may result.. **E. Legal Basis:** Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1422), Sec. 6(c) DOT Act (49 U.S.C. § 1655(c)). **F. Chronology:** Prior to April 1974, a number of informal conferences were held with members of the public including the Association of Flight Attendants (AFA), regarding flammability of flight attendant uniforms. A project was established to examine AFA claims regarding uniform flammability. National Bureau of Standards (NBS) Center for Fire Research was selected as research contractor. ANPRM No. 75-13 was issued March 16, 1975 (40 FR 11737), to solicit public information and comments. A follow-up contract was established with the NBS to evaluate comments and conduct further testing. the contract was extended through August 1979. The results of the contractual effort are being used in the development of the NPRM. *A public hearing was held on May 28 and 29, 1980, to further explore the technical and economic factors that would be involved in implementing flammability standards. Participants in the hearing agreed to explore nonregulatory solutions to the problems raised by AFA.* **G. Citation:** 14 CFR Part 121	William J. Sullivan, (202) 755-8716.	NPRM *March 1981.*
Parts Manufacturer Approvals (Docket No. 17147).	**A. Description:** Proposes to revise the Parts Manufacturer Appoval application and reporting requirements and provisions related to showing identicalness of parts. **B. Why Significant:** The proposed revision is considered to be significant because it is controversial. **C. Analysis:** Regulatory Evaluation	William J. Sullivan, (202) 755-8716.	*SNPRM September 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FAA

Federal Aviation Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	D. Need: Differences of opinion exist with respect to the methods available for showing identicalness of parts. Also the Parts Manufacturer Approval application and reporting requirements may be unnecessarily burdensome.		
	E. Legal Basis: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, (49 U.S.C 1354(a), 1421, and 1423).		
	F. Chronology: Project No. 76-257-R was initiated December 23, 1975. NPRM No. 77-19 was published in the Federal Register (42 FR 43985). Comment period later reopened until January 4, 1978 (NPRM No. 77-19A, 42 FR 61048) and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM dealing with other subjects will be handled separately. *We expect to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) in September 1980.*		
	G. Citation: 14 CFR Pt. 21		
Review: Part 91 Upgrade	**A. Description:** To upgrade the general aviation standards applicable to the operation of certain large aircraft, when not operated as an air carrier and to revise certain regulations applicable to commercial operators and air travel clubs.	William J. Sullivan, (202) 755-8716.	FR October 1980.
	B. Why Significant: This is considered significant due to substantial public interest in the constraints to be proposed for safer operations of large aircraft under the regulations.		
	C. Analysis: Regulatory Evaluation		
	D. Need: Experience indicates that these proposed regulations are necessary to replace the current regulations with clearer regulations that are based upon safety, rather than economic criteria.		
	E. Legal Basis: Secs. 313(a) and 601-610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421-1430) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).		
	F. Chronology: The NPRM was published in the Federal Register on November 11, 1979 (44 FR 66324). The closing date for comments was February 19, 1980.		
	G. Citation: 14 CFR Pt. 91		
Review: Operations Review Notice No. 7 (Docket No. 17669).	**A. Description:** Proposes to revise the flight and duty time limitations and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft, and air travel clubs.	William J. Sullivan, (202) 755-8716.	*SNPRM October 1980.*
	B. Why Significant: This proposal is considered a significant regulation because of the controversy associated with the complexity and enforcement problems of the current rules.		
	C. Analysis: Regulatory Evaluation		
	D. Need: This proposal is needed to eliminate the complexity of the current regulations and to assure that flight and duty time limitations are based upon today's operating environment.		
	E. Legal Basis: Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Federal Aviation Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	F. Chronology: The proposals contained in this notice are based on related proposals discussed at the December 1975 Operations Review Conference. The notice was published in the Federal Register on February 27, 1978 (43 FR 8070), with a closing date of May 30, 1978, for public comments. The initial comment period was extended by supplemental notice on May 25, 1978 (43 FR 22540), to July 14, 1978, with reply comments allowed on or before August 18, 1978. *We expect to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) in October 1980.* **G. Citation:** 14 CFR Pts. 121 and 123.		
Review: Operations Review Notice No. 14.	**A. Description:** Proposes to establish regulations for flight and duty time limitations and rest requirements for flight attendants used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft and air travel clubs. **B. Why Significant:** This proposal is considered a significant regulation because there is substantial public interest in it. **C. Analysis:** Regulatory Evaluation **D. Need:** Because flight attendants perform important duties relating to the safety of flight, flight and duty time limitations and rest requirements are necessary to prevent excessive fatigue from adversely affecting the performance of those duties. **E. Legal Basis:** Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). **F. Chronology:** The proposals contained in this notice are based on related proposals discussed at the December 1975, Operations Review Conference. **G. Citation:** 14 CFR Pts. 121 and 123.	William J. Sullivan, (202) 755-8716.	NPRM *August 1981.*
Administrative User Charges. (Docket No. 19110).	**A. Description:** This notice proposes to revise existing FAA fees for aircraft registration and for recording conveyances affecting title to, or any interest in, aircraft. In addition, it proposes to establish fees for FAA certification of pilots, instructors, and other airmen, including medical certification. It is intended that this proposed rule will provide for the recovery of expenses that the FAA incurs in these activities. The proposed action would be in accordance with the sense of the Congress. **B. Why Significant:** This proposal is considered a significant project because it involves an area of substantial public interest and controversy. **C. Analysis:** Regulatory Evaluation **D. Need:** This proposal will provide for the recovery of expenses that the FAA incurs in these activities and is in accordance with the sense of Congress. **E. Legal Basis:** Secs. 313, 503, 505, 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1401, 1403, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), Title V; Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)).	John M. Rodgers, (202) 426-3420.	FR *October 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FAA

Federal Aviation Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	F. Chronology: NPRM published on April 20, 1978 (43 FR 16924). The closing date for comments was July 19, 1978. **G. Citation:** 14 CFR Pts. 47, 49, 61, 63, 65, 67, 143, and 187.		
Wind Shear. (Docket No. 19110)	**A. Description:** Proposed revision to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots. **B. Why Significant:** This action is considered a significant project because it will generate substantial public interest and will be controversial. **C. Analysis:** Regulatory Evaluation **D. Need:** As a result of several accidents involving wind shear, the FAA believes it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions. **E. Legal Basis;** Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). **F. Chronology:** In 1975, the FAA began a two year effort to develop a wind shear program. As part of the program, FAA began work to develop a wind shear warning and pilot aiding device which has achieved encouraging results. Following the initial announcement of this proposal it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. The ANPRM was published on May 3, 1979 (44 FR 25807) and comment period closed August 3, 1979. **G. Citation:** 14 CFR Pt. 121	William J. Sullivan, (202) 755-8716.	NPRM *October 1980.*
*Stage 2 Operating Noise Limits for Airplanes Engaged in Foreign Air Commerce (Dockets 13582 and 14317).	**A. Description:** Proposed amendment to apply the Operating Noise Limits rule to certain currently excepted airplanes to meet present Federal noise standards in accordance with a phased time schedule ending on January 1, 1985. *This significant regulatory project has been cancelled. A similar regulatory project that implements Title III of the Aviation Safety and Noise Abatement Act of 1979 has been added to the nonsignificant portion of this Agenda.*	James Densmore, (202) 755-9468.	*Cancelled.*
*Stage 3 Requirements for Issuance of Standard Airworthiness Certificates.	**A. Description:** Proposed amendment would require all aircraft added to the U.S. domestic fleet after specified dates to meet FAR Part 36, Stage 3 noise limits. **B. Why Significant:** This proposal is considered significant because of its potential to shift production away from older, noisier, and less fuel efficient airplanes. The proposal may involve substantial public interest. **C. Analysis:** Regulatory Analysis **D. Need:** To provide further relief and protection to the public from aircraft noise. **E. Legal Basis:** Section 611 of the Federal Aviation Act of 1958 (as amended). **F. Chronology:** A related proposal was presented in NPRM 72-19, published 7/25/72 (37 FR 14813). *This project has been canceled.* **G. Citation:** 14 CFR Part 36	James Densmore, (202) 755-9468.	*Cancelled.*

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FAA

Federal Aviation Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
*Metropolitan Washington Airports Policy.	**A. Description:** Develop and implement a comprehensive policy and regulations (1) defining the respective roles of Washington National and Dulles International Airports, and (2) governing the future use, operation, development and maintenance of those airports. **B. Why Significant:** The proposed policy is of substantial interest to the public, potentially affecting State and local governments and the aviation community. **C. Analysis:** Regulatory Evaluation **D. Need:** The lack of a firm, long-range policy has substantially hindered maximum effective and efficient management of the airports. Planning and funding processes have necessasrily been limited to relatively short-term objectives. Efforts to lessen the impact of the airports on surrounding communities continue to be hampered by the absence of well-defined policy goals and guidelines. Aircraft operators using the airports have been similarly disadvantaged with respect to long-term planning and objectives. **E. Legal Basis:** Sections 307 and 611 of the Federal Aviation Act (49 U.S.C. 1348 and 1431); D.C. Code Title 2-1602, Section 2 (54 Stat. 658) and Sections 4 and 8 (64 Stat. 770). **F. Chronology:** A Notice of Proposed Policy was published March 23, 1978 (43 FR 12141). The NPRM was published January 21, 1980 (45 FR 4314). *The comment period closed April 15, 1980.* **G. Citation:** 14 CFR Pts. 93 and 159.	Charles Erhard, (703) 557-0972.	FR *August* 1980.
*Allocation of "Slots" at Washington National Airport.	**A. Description:** Proposed amendment to establish procedures for allocating the hourly number of instrument flight operations (takeoffs and landings) or "slots" that may be reserved at Washington National Airport (WNA) in accordance with the FAA's High Density Rule. **B. Why significant:** This proposal is considered a significant rulemaking project due to substantial public interest and potential costs to airlines. **C. Analysis:** Regulatory Analysis **D. Need:** The Civil Aeronautics Board and the Department of Justice have expressed concerns about continuing the antitrust immunity under which the airline scheduling committees currently allocate slots at WNA. A new method of allocation may become necessary. **E. Legal basis:** Sections 103, 306, 307(a), (b), and (c), and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1303, 1347. 1348(a), (b), and (c), and 1354(a)); § 6(c) DOT Act (49 U.S.C. § 1655(c)); Sec. 2, Act for the Administration of Washington National Airport, 54 Stat. 688. **F. Chronology:** The CAB in conjunction with the FAA commissioned the Polinomics Research Laboratories, Inc., to research the allocation problem. A report of its findings has been prepared. Another report by Econ, Inc. analyzing a slot allocation auction procedure has been prepared under an FAA contract. **G. Citation:** 14 CFR Part 93	Harvey Safeer, (202) 426-3331.	NPRM: To be decided.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Title	Summary	Contact	Earliest expected decision date
Third Attitude Gyro, Ground Proximity Warning System, and Cockpit Voice Recorders.	Proposed amendment to add instrument and equipment requirements (1) to require a third gyroscopic attitude instrument, independently powered in case of total aircraft electrical failure, on all multiengine turbojet powered airplanes not already required to have a third gyroscopic attitude and (2) to require a ground proximity warning system and a cockpit voice recorder on all turbojet powered airplanes configured with 6 or more passenger seats. (14 CFR Pts. 23, 25, 91, and 121).	William J. Sullivan, (202) 755-8716.	NPRM *December 1980.*
Review: Aircraft Engine Regulatory Notice (Docket No. 16919).	Proposed amendment to resolve a number of regulatory issues raised by engine manufacturers and to update those standards. (14 CFR Pts. 23, 25, 27, 29, and 33).	William J. Sullivan, (202) 755-8716.	NPRM *August 1980.*
Instrument Approach Procedures ...	Proposed rule to clarify prescribed conditions for approach and landing under specified weather conditions. *The NPRM was published March 6, 1980 (45 FR 14801). The comment period closed May 6, 1980.* (14 CFR Pts. 91 and 121).	William J. Sullivan, (202) 755-8716.	*FR October 1981.*
Triennial Aircraft Registration Report (Docket No. 18958).	*The* rule *establishes* a requirement that holders of a Certificate of Aircraft Registration file a report with the FAA Aircraft Registry on the current eligibility of the aircraft for registration, whenever three years have elapsed since the Registry has received information indicating registration eligibility. The NPRM was published 4/26/79 (44 FR 24573.) *The Amendments were published March 31, 1980 (45 FR 20772).* (14 CFR Pt. 47).	Virginia Swimmer, (405) 686-2284.	*Action complete.*
Airport Noise Regulations (Docket No. 16279).	Environmental Protection Agency's proposed revision to require airport noise certification as a condition for Airport and Airway Development Act funding. The NPRM was published on 11/22/76 (41 FR 51522). (14 CFR Pt. 91).	Richard Tedrick, (202) 755-9027.	FR *September* 1980.
Review: Operations Review Notice No. 11.	Proposed revision to update and improve the rules applicable to mechanic certification, repair stations and aircraft equipment. (14 CFR Pts. 121, 145, and 183).	William J. Sullivan, (202) 755-8716.	NPRM *August 1980.*
Review: Operations Review Notice No. 12.	Proposed extensive revisions to update and improve regulations applicable to aircraft maintenance, preventive maintenance, rebuilding and alteration of aircraft. (14 CFR Pts. 43 and 91).	William J. Sullivan, (202) 755-8716.	NPRM *August 1980.*
Review: Operations Review Notice No. 13.	Proposed miscellaneous revisions and other editorial and clarifying changes to (14 CFR Pts. 43, 63, 65, 91, 105, 121, 123, 127, 143, 145, and 147).	William J. Sullivan, (202) 755-8716.	NPRM *December 1980.*
Review: Operations Review Amendment No. 8 (Docket No. 17897).	The amendment updates and improves airmen and crewmembers rules, training programs, flight operations, dispatching, records and reports of air carriers and commercial operators and scheduled air carriers with helicopters. NPRM published on 5/11/78 with comment period closing on 9/25/78 (43 FR 35518). *This amendment was published June 16, 1980 (45 FR 41586).* (14 CFR Pts. 121 and 127).	William J. Sullivan, (202) 755-8715.	*Action complete.*
Review: Operations Review Notice No. 9 (Docket No. 18241).	*The amendment* updates and improves equipment, maintenance, and operating rules of aircraft, airmen certification, certificated operators and agencies, flight attendants and training requirements. The NPRM was published on 8/17/78 (43 FR 36464). *The amendment was published July 10, 1980 (45 FR 46736).* (14 CFR Pts. 63, 65, and 121).	William J. Sullivan, (202) 755-8716.	*Action complete.*
Review: Part 91 Notice (Docket No. 16431).	The agency conducted a Regulatory Review Conference of 14 CFR Part 91, Subpart B, in September 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications. (14 CFR Pt. 77).	*James Burns,* (202) 426-*3656.*	NPRM *September* 1980.

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Title	Summary	Contact	Earliest expected decision date
Review: Part 91 Review Lost Communications (Docket No. 16431).	The FAA conducted a Regulatory Review Conference of 14 CFR Pt. 91 Subpart B, in September 1977, in order to update that part. This action will cover the special proposal on lost communications.	*James Burns,* (202) 426-*3656.*	NPRM September 1980.
Pearson Airpark (Docket No. 18311).	Proposal to exclude persons from the requirement of communicating with Portland Tower while operating in the Pearson Airpark Traffic Pattern. The NPRM was published on Sept. 28, 1978 (43 FR 44549). (14 CFR Pt. 93).	*James Burns,* (202) 426-*3656.*	FR *August 1980.*
Review: Objects Affecting Navigable Airspace (Docket No. 16920).	Proposal to amend regulations including areas such as notice requirements, obstruction standards, aeronautical studies, determinations, antenna farm areas and discretionary review/petition procedures. Notice of Review was published on 6/19/78 (43 FR 26322). (14 CFR Pt. 77).	*Harold Becker,* (202) 426-8777.	NPRM *October 1980.*
Reimbursement of Security Screening Costs (Docket No. 17326).	*This Special Federal Aviation Regulation (SFAR) establishes a* procedure for compensating air carriers for certain security screening costs in foreign air transportation. The NPRM was published on 10/31/77 (42 FR 56957). *The SFAR was published July 28, 1980 (45 FR 49913).* (14 CFR Pt. 121).	R. P. Jones, (202) 426-8409.	FR *Action complete.*
Civil Helicopter Noise Certification (Docket No. 13410).	This project would establish noise certification levels and procedures for civil helicopters. An ANPRM was published 12/28/73, (38 FR 35487). The NPRM was published 7/19/79 (44 FR 42410). The comment period closed 11/19/79. (14 CFR Pt. 36).	Richard Tedrick, (202) 755-9027.	FR *September* 1980.
Implementation of OMB Circular A-95 (Docket No. 17337).	Final procedures and regulations implementing OMB Circular A-95 (coordination of Federal assistance programs with State, areawide, and local planning agencies), based on public comment on interim procedures in Special Federal Aviation Regulation 35 (42 FR 59476, 11/17/77). (14 CFR Pt. 152).	John Gable, (202) 426-8090.	FR *September* 1980.
Implementation of Energy Policy (Docket No. 16617).	Implementation of the Energy Policy and Conservation Act. The NPRM was published on 3/31/77. (42 FR 17135). (14 CFR Pt. 11).	Charles M. Hoch, (202) 755-9717.	FR *September 1980.*
Review: Update of Part 139	Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting and rescue requirements. (14 CFR Pt. 139).	Bill Southerland, (202) 426-3087.	NPRM *August 1980.*
Delayed Landing Flap Procedure for Turbojet-Powered Airplanes (Docket No. 15020).	Proposed regulation which would require that landing flap setting for turbojet-powered airplanes be delayed until at or below 1,000 feet above airport elevation for purpose of noise abatement on approach and landing. The NPRM was published on 11/29/76 (41 FR 52396). *The withdrawal was published June 26, 1980 (45 FR 43203).* (14 CFR Pt. 91).	William J. Sullivan, (202) 755-8716.	*Withdrawn.*
Protective Breathing Equipment	Proposed rule to establish minimum performance standards and operating rules for protective breathing equipment. (14 CFR Pts. 25, 29, 37, 91 and 121).	William J. Sullivan, (202) 755-8716.	NPRM *February 1981.*
Supplemental Oxygen	Proposed rule to permit certain widebody turbojet airplanes to operate up to flight level of 45,000 feet above sea level without requirements for the pilot to use supplemental oxygen. (14 CFR Pts. 25, 29, 37, 91, and 121).	William J. Sullivan, (202) 755-8716.	NPRM *February 1981.*
Review: Metropolitan Washington Airports Regulations.	Proposed revision to reflect changed operational conditions and policies and to simplify, clarify and consolidate the regulations pertaining to the National Capital Airports. (14 CFR Pt. 159).	Charles Anderson, 703-557-1433.	NPRM *December 1980.*
Miscellaneous Minor Amendments.	Proposed nonsubstantive amendments that are routine, editorial and clarifying in nature. (14 CFR Pts. 23, 25, 37, 45, 61, 63, 65, 91, and 121).	William J. Sullivan, (202) 755-8716.	NPRM *August 1980.*

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Title	Summary	Contact	Earliest expected decision date
Aircraft Owners and Pilots Association (AOPA) Petition to Revise Part 91 (Docket No. 18334).	Proposed amendment based upon AOPA petition to revise regulations in a format and language more understandable by pilots. The petition states that the proposed changes are not intended to significantly change the substance of the present regulations. An ANPRM was published *January 22, 1979.* (44 FR 4571). (14 CFR Pt. 91).	William J. Sullivan, (202) 755-8716.	NPRM *January 1981.*
Foreign Airman Certification.	Proposed amendments to establish priorities for processing applications by foreign airmen for U.S. Airman Certificates. (14 CFR Pts. 61, 63, 65, and 67).	William J. Sullivan, (202) 755-8716.	NPRM June *1981.*
Noise Standards for Propeller Driven Agricultural and Firefighting Airplanes (Docket No. 16382).	Proposed regulation to restrict the operation of agricultural and firefighting airplanes which do not comply with the noise limits of Appendix F of 14 CFR Part 36. The NPRM was published *December 23, 1976* (41 FR 56065). (14 CFR Parts 21, 36, and 91).	*James Densmore,* (202) 755-*9468.*	FR *October 1980.*
Recording of Aircraft Titles and Security Documents—Notice of Lien (Docket No. 14236).	Proposed amendment to prescribe specific procedures for filing Noice of Lien with the Aircraft Registry. This proposal would also require release of the Notice filed upon satisfaction of the lien. The NPRM was published January 13, 1975 (40 FR 2445). (14 CFR Part 49).	Virginia Swimmer, (405) 686-2284.	FR *September 1980.*
Cessna Finance Petition. (Docket No. 17311).	Petition for rulemaking to amend Part 47 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract. The ANPRM was published 10/20/77 (42 FR 55891). *The NPRM was published May 22, 1980 (45 FR 34826). The comment period was extended to August 21, 1980.* (14 CFR Pt. 47).	Virginia Swimmer, (405) 688-2284.	*FR December* 1980.
Review: Airport Aid Program. *(Docket No. 19430).*	Revision of 14 CFR Part 152 updates airport aid requirements in accordance with Airport and Airway Development Act Amendments of 1976. The NPRM was published 8/9/79 (44 FR 46858). The Comment Period closed 10/9/79. (14 CFR Pt. 152). *The amendment was published May 22, 1980. (45 FR 34782).*	Paul Galis, (202) 426-3050.	*Action complete.*
Security Requirements Applicable to U.S. Commuter Air Carriers Certificate Holders. (Docket No. 19726).	Proposed rule to implement safety standards mandated by the Airline Deregulation Act of 1978, and insure that commuter air carrier passengers enjoy the same level of security as persons traveling on air carriers holding Certificates of Public Convenience and Necessity from the CAB. The NPRM was published 11/1/79 (44 FR 63048). Comment period closed 1/28/80. (14 CFR Pt. 121).	R. P. Jones, (202) 426-8409.	FR *October* 1980.
Heater Air Ducts	Proposed rule to require that ventilating and combustion air ducts be made of fireproof materials whenever such ducts are located near combustion heaters. (14 CFR Pt. 23). NPRM issued 2/21/80. Comment period closes 4/28/80.	William J. Sullivan, (202) 426-8716.	FR *October* 1980.
Blood Alcohol Level Tests	Proposed rule which will subject Certificated Flight Crewmembers suspected of being under the influence of alcohol to blood-alcohol tests and establish a specific blood-alcohol content level at which a pilot is considered to be intoxicated. (14 CFR Pts. 61 and 91).	William J. Sullivan, (202) 426-8716.	NPRM *August 1980.*
Review: Airworthiness Review Amendment No. 8 Miscellaneous and Procedural Amendments (Docket No. 14779).	Proposed amendments to improve and update the airworthiness standards contained in the regulations that apply to the type certification of aircraft, engines, propellers, related operating and maintenance rules, and procedural requirements. The NPRM was published July 11, 1975. (40 FR 29140) (14 CFR Pts. 1, 21, 26, 27, 31, 33, 35, 43, and 45).	William J. Sullivan, (202) 755-8716.	FR *August 1980.*

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Title	Summary	Contact	Earliest expected decision date
Microwave Landing System (MLS).	Proposed rule to recognize the MLS selected by ICAO and to prescribe measuring standards and procedures for the approval, installation, operation, and maintenance of such systems on non-Federal navigation facilities. (14 CFR Pt. 171).	William Redeen, (202) 426-8634.	NPRM *December 1980.*
Tires Retrofit (Docket No. 19793)...	Proposed rule to require installation of improved tires on certain turbojet transport category airplanes. The NPRM was published 11/27/79. (41 FR 68759). The comment period closed 2/27/79. (14 CFR Pt. 91).	William J. Sullivan, (202) 755-8716.	FR *October* 1980.
Updating of References to FAA Environmental Requirements.	The amendment requires compliance with the revised FAA environmental order that contains policies and procedures for considering environmental impacts. The revised order has been published in the **Federal Register** for comment. Therefore a formal NPRM will not be issued, since it would not result in the receipt of additional useful information. *The amendment was published August 25, 1980* (14 CFR Pts. 152, 154, and 1955).	Lynne Pickard, (202) 426-3263.	*Action complete.*
Revision of Applicability of Part 139.	Proposed amendment to require the certification of airports serving commuter air carriers, as well as air carriers holding certificates of public convenience and necessity from the CAB. This revision would respond to the Airline Deregulation Act of 1978 and ensures that passengers traveling aboard commuter air carriers enjoy the same level of safety as passengers traveling aboard CAB certificated air carriers (14 CFR Part 139).	Jose Roman, Jr., (202) 426-3087.	NPRM *September* 1980.
Advanced Simulation (Docket No. 19758).	*The amendment permits* additional flight crew training in advanced flight training simulators. The NPRM was published 11/13/79 (14 FR 65550). The Comment Period was extended until 2/15/80 (45 FR 3324). *The amendment was published June 30, 1980 (45 FR 44176).* (14 CFR Parts 61 and 121).	William J. Sullivan, (202) 755-8716.	*Action complete.*
Technical Standard Orders (TSO's) Revision Program (Docket No. 19589).	*The* amendment includes a new procedure to expedite the issuance of standard for materials used on civil aircraft. In accordance with Executive Order 12044, these new procedures would result in less burdensome requirements which will expedite TSO issuance, and will result in the substantial reduction of regulatory material. The NPRM was published 10/1/79 (44 FR 56370). The Comment Period closed 12/3/79. *The amendment was published June 9, 1980 (45 FR 28342).* (14 CFR Parts 23 and 37).	Edward P. Faberman, (202) 264-3235.	*Action complete.*
Review: Rotorcraft Airworthiness Standards (Docket No. 18689).	Proposed extensive revisions to update and improve regulations applicable to helicopters and their operations. In view of recent technological advances in helicopter design and recent operating experience with new helicopter capabilities, there is a need to upgrade the rules regarding the helicopter airworthiness standards and operating requirements. (14 CFR Parts 1, 27, 29, 33, 43, 45, 61, 91, 121, 127, 133, and 135).	William J. Sullivan, (202) 755-8716.	NPRM *November* 1980.
Review: Light Transport Airplane Airworthiness Standards (Docket No. 18600).	Proposed new Part to establish airworthiness standards for a new light transport category of multiengine airplanes having a maximum seating capacity of 60 and a maximum gross weight of 50,000 pounds to accommodate the future needs of the commuter and air taxi industry. (14 CFR Parts 1, 21, 36, 91, and 135).	William J. Sullivan, (202) 755-8716.	NPRM *August* 1980.
Minimum Equipment Lists (MEL).....	Proposed amendment to clarify existing MEL provisions by combining the MEL regulatory authority contained in Parts 91, 121, 133, 135, and 137 into a single regulatory section in Part 91. (14 CFR Parts 91, 121, 133, 135, and 137).	William J. Sullivan, (202) 755-8716.	NPRM *August* 1980.

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Title	Summary	Contact	Earliest expected decision date
Hang Gliding	Proposed addition to FAR Part 101 to designate general safety rules for hang gliding in order to accommodate increasing hang gliding activity in the National Airspace System. (14 CFR Part 101).	*James Burns,* (202) 426-*3656.*	NPRM *October* 1980.
Notification/Reporting of Parachute Jump Altitudes.	Proposed amendment to require that notification of a parachute jump be made to Air Traffic Control in terms of mean sea-level (MSL) or above ground level (AGL). (14 CFR Part 105).	*James Burns,* (202) 426-*3656.*	NPRM *October* 1980.
Parachute Jumps In Terminal Control Areas (TCA's).	Proposed amendment to FAR Part 105 would require an ATC authorization for a nonemergency parachute jump into, or within, a terminal control area. (14 CFR Part 105).	William Broadwater, (202) 426-3731.	NPRM *December* 1980.
Air Traffic Rules for High Density Traffic Airports.	Proposed amendment to deal with the allocation of instrument flight operations (takeoffs and landings) to users of high density traffic airports. (14 CFR Part 93).	William Broadwater, (202) 426-3731.	*Cancelled.*
Air Traffic Speed Rule	Proposed amendment to permit departing aircraft at or above 5,000 feet within the confines of the TCA to operate in excess of the present 250-knot limit. (14 CFR Part 91).	William Broadwater, (202) 426-3731.	*Cancelled.*
Operations in Airport Traffic Areas.	Proposed amendment to require all aircraft within an airport traffic area to establish and maintain communications with the airport traffic control tower. (14 CFR Part 91).	*James Burns,* (202) 426-*3656.*	NPRM *December* 1980.
Notice of Construction, Alteration, Activation, and Deactivation of Airports.	Proposed amendments to require persons proposing to construct, alter, activate, or deactivate a civil or joint use airport to provide prior notice of such actions to the Administrator. (14 CFR Part 157).	*Keith Potts,* (202) 426-3731.	NPRM November 1980.
Terminal Control Areas (TCA's): Honolulu (Docket No. 18605 APC-1).	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. The NPRM was published December 17, 1979 (44 FR 73114). The comment period closed March 17, 1980 (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	FR *August* 1980.
Terminal Control Areas (TCA's): Phoenix.	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. *The NPRM was published April 7, 1980 (45 FR 23457). The comment period was extended to August 6, 1980.* (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	FR *October* 1980.
Terminal Control Areas (TCA's): Tampa.	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). NPRM published February 4, 1980 (45 FR 7559). Comment period closes 5/5/80.	*Keith Potts,* (202) 426-3731.	FR *September* 1980.
Terminal Control Areas (TCA's): San Diego (Docket No. 18605 AWE-17).	Terminal Control Areas (TCA's) reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. The NPRM was published December 6, 1979 (44 FR 70177). The Comment Period closed February 5, 1980. *The Amendment was published March 20, 1980 (45 FR 18336). (14 CFR Part 91).*	William Broadwater, (202) 426-3731.	*Action complete.*
Terminal Control Areas (TCA's): Fort Lauderdale/*Miami.*	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	NPRM *September* 1980.
Terminal Control Areas (TCA's): Orlando.	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	NPRM August 1980.

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Title	Summary	Contact	Earliest expected decision date
Terminal Control Areas (TCA's): Memphis.	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	NPRM November 1980.
Terminal Control Areas (TCA's): Portland.	Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71).	*Keith Potts,* (202) 426-3731.	NPRM December 1980.
Dulles Access Road	Amendment to implement the Secretary's decision to permit four-person carpools to use the Dulles Airport Access Highway. The NPRM was published January 14, 1980 (45 FR 2661). The comment period closed February 29, 1980. *The Amendment was published April 1, 1980 (14 FR 21211).* (14 CFR Part 152).	Edward Faggen, (703) 557-8123.	*Action complete.*
Update List of Advisory Circulars	Spot Amendment to update the list of advisory circulars contained in Appendix I which include certain programming, design, and construction standards for airport development projects submitted for approval under the Airport Aid Program. (14 CFR Part 152).	James Burnett, (202) 426-3057.	FR *September* 1980.
Metropolitan Washington Airport: Solicitation of funds and Distribution of Literature.	Developed constitutionally acceptable standards controlling the solicitation of funds and the distribution of literature. Such control may be exercised only to the extent required to permit the agency to operate the airports safely and efficiently without infringing on the First Amendment rights of the people involved in these activities. *The NPRM was published March 27, 1980 (45 FR 20424). The comment period closed May 12, 1980. The amendment was published May 27, 1980 (45 FR 35314).* (14 CFR Pt. 159).	Edward Faggen, (703) 557-8123.	*Action complete.*
Implementation of EPA JT3D Smoke Standards for In-Use Engines.	Proposed amendment is required to implement and enforce EPA revision to their smoke standards for JT3D Airplane Engines. *The NPRM was published April 14, 1980 (45 FR 25350). The comment period closes June 28, 1980.* (14 CFR Part 11).	E. M. Ballenzweig, (202) 755-8933.	*FR November 1980.*
Implementation of EPA 1981 Gaseous Emissions Standards and Revised Test Procedures.	Proposed amendment would implement expected major revision in EPA standards for aircraft engine emissions.	E. M. Ballenzweig, (202) 755-8933.	NPRM *August* 1980.
*Stage 2 Operating Noise Limits for Airplanes Engaged in Foreign Air Commerce.	Proposed rules to implement Title III of the Aviation Safety and Noise Abatement Act of 1979. The NPRM was published April 14, 1980 (45 FR 25355). The comment period closes June 28, 1980. (14 CFR Part 36).	James Densmore, (202) 755-9468.	FR August 1980.
*Operations Review Notice No 8A (Docket No 17897).	Proposed amendment to require that all flight attendants remain seated at their assigned stations during taxing except to perform duties related to the safety of the airplane and its occupants. NPRM published June 19, 1980 (45 FR 41956) (14 CFR 121 and 127).	W. J. Sullivan, (202) 755-8716.	FR December 1980.
*Carriage of Candidates	The amendment codifies Special Federal Aviation Regulation (SFAR) 37 which allow persons not in the air transportation business to receive limited payments for carriage of candidates in Federal elections without the carriage being considered a commercial operation. The amendment was published June 26, 1980 (45 FR 43160) (14 CFR Parts 91, 121, 127, and 135).	W. J. Sullivan, (202) 755-8716.	Action complete.
*National Federation of the Blind (NFB)—Carriage of Canes.	Petition for rulemaking to permit the stowage of a blind person's flexible cane in a readily accessible location, on all passenger-carrying flights, so that the cane would be available to that person in case of evacuation of an aircraft in an emergency situation.	W. J. Sullivan, (202) 755-8716.	NPRM August 1980.

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Title	Summary	Contact	Earliest expected decision date
*Redelegation of Authority	The revision redelegates authority from the Director, Flight Standards Service, to the Director of Flight Airworthiness or the Director of Flight Operations, as appropriate. The amendment was published July 17, 1980 (45 FR 47837) (14 CFR Parts 11, 91, 121, 135, and 137).	W. J. Sullivan, (202) 755-8716.	Action complete.
*Modification of Aircraft Registration Markings.	Proposed amendment to increase height of markings from 3 inches to 12 inches on certain fixed-wing aircraft, decrease height of markings from 20 inches to 3 inches on airships and balloons, and retain the 3-inch height of markings on experimental amateur-built, and experimental exhibition aircraft. NPRM published July 31, 1980 (45 FR 50810) (14 CFR 39).	W. J. Sullivan, (202) 755-8716.	FR December 1980.
*Terminal Control Area (TCA): Kansas City.	Proposed modification of existing Terminal Control Area to reduce size of TCA, where not needed, to provide safe and efficient use of the terminal area.	B. Keith Potts, (202) 426-3731.	NPRM August 1980.
*Special Airport Traffic Area and Communication Rule.	Proposed amendments to establish special airport traffic areas for certain Canadian airports that are adjacent to the U.S.-Canadian border and which have operating air traffic control towers; the amendments would also require aircraft communications with those towers while operating in the area.	B. Keith Potts, (202) 426-3731).	NPRM November 1980.

FAA

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Routine and Frequent Nonsignificant Regulations

Title	Summary	Contact	Decision date
	Approximate Number		
Other Items:			
Part 95 Instrument Flight Rules Altitudes.	2500	William J. Sullivan, (202) 755-8716.	*July 1, 1980–June 30, 1981*
Airworthiness Directives	300	William J. Sullivan, (202) 755-8716.	*July 1, 1980–June 30, 1981*
Standard Instrument Approach Procedures.	2800	William J. Sullivan, (202) 755-8716.	*July 1, 1980–June 30, 1981*
Airspace Actions	525	*Keith Potts, (202) 426-3731.*	*July 1, 1980–June 30, 1981*

FHWA

Federal Highway Administration

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Title	Summary	Contact	Earliest expected decision date
Review: Outdoor Advertising Control and Acquisition.	**A. Description:** This regulation would provide a definition of "effective control" of outdoor advertising as required by 23 U.S.C. 131. It would also set further requirements for signs exempt from control under the statute and establish the basic framework for State development of police power regulations and procedures. The regulation would also outline the requirements for Federal participation in the acquisition of compensable nonconforming outdoor advertising devices. **B. Why Significant:** This proposal may involve substantial public interest, is controversial and involves important Departmental policy.	Richard Moeller, (202) 245-0021.	NPRM *Date to be Determined.*

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Title	Summary	Contact	Earliest expected decision date
	C. Analysis: Regulatory Evaluation		
	D. Need: This regulation is necessary for the maintenance of national uniformity in the outdoor advertising control program. Since 23 U.S.C. 131 is regulatory in nature, it is necessary to establish and maintain minimum Federal program requirements.		
	E. Legal Basis: 23 U.S.C. 131, 148, and 315; 49 CFR 1.48		
	F. Chronology: The proposal involves the consolidation of two existing regulations, 23 CFR pt. 750, subpts. D and G, and one interim regulation 23 CFR pt. 750, subpt. E. The regulations have been in effect since September 16, 1975 and July 29, 1974, respectively. The interim regulations have been in effect since October 18, 1976. The proposed consolidation will be issued as an NPRM. An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. A Notice published June 15, 1979 (44 FR 34516) announced a hearing site change and a change in hearing procedures. On June 25, 1979 (44 FR 37100), a Notice announced amendments to the Highway Beautification Act by the Surface Transportation Assistance Act of 1978. A Notice published on July 12, 1979 (44 FR 40781) announced the establishment of a National Advisory Committee on Outdoor Advertising and Motorist Information. On July 23, 1979 (44 FR 43236), a Notice announced the availability of a report on Directional and Informational Sign Standards and Systems. This report is to be considered as part of the reassessment of the Highway Beautification Program.		
	G. Citation: 23 CFR pt. 750, subpt. C. (FHPM 7-6-2)		
Review: Air Quality Guidelines	**A. Description:** The regulation would establish administrative procedures regarding: (1) conformity of highway plans, programs, and projects with air quality implementation plans, and (2) priority to highway improvements with air quality benefits. This regulation would be a revision of existing FHPM 7-7-9, Air Quality Guidelines.	Harter M. Rupert, (202) 426-4836.	NPRM *September* 1980.
	B. Why Significant: This Regulation is considered significant because it affects another Federal agency and may be controversial.		
	C. Analysis: Regulatory Evaluation		
	D. Need: Currently, permanent administrative procedures on funding sanctions, priority of highway improvements with air quality benefits, and conformity of highway plans, programs, and projects with air quality implementation plans are lacking even through the existing Air Quality Guidelines were amended on November 19, 1979 (44 FR 66193) to provide interim procedures. These regulations are a result of the Clean Air Act Amendments of 1977 which became law in August 1977.		
	E. Legal Basis: Clean Air Act Amendments of 1977. (42 U.S.C. 7401).		

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Title	Summary	Contact	Earliest expected decision date
	F. Chronology: A joint EPA/FHWA Notice on Sec. 176(a) of the Clean Air Act Amendments, which covers only project approval sanctions, was published June 11, 1979 (44 FR 33473). An NPRM proposed for *September* 1980 would provide regulations on Sections 176(c) (conformity with air quality implementation plans), and 176(d) (priority to improvements with air quality benefits). Interim procedures were published November 19, 1979 (44 FR 66193). **G. Citation:** 23 CFR pt. 770. (FHPM 7-7-9)		
Employee Safety and Health Standards (Docket No. MC-64).	**A. Description:** This regulation would provide safety and health standards to govern employees engaged in the operation, maintenance, and loading and unloading of motor vehicles, designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration (OSHA). **B. Why Significant:** This proposal may have a significant impact on OSHA. **C. Analysis:** Regulatory Evaluation **D. Need:** These standards are designed to eliminate uncertainty with regard to the jurisdictional authority of the OSHA and to improve safety and health standards for employees of motor carriers. **E. Legal Basis:** 49 U.S.C. 304 and 1655 **F. Chronology:** An NPRM was issued March 2, 1978 (43 FR 8566) and the closing date for the comment period was May 31, 1978. A Notice on June 9, 1978 (43 FR 25145) extended the comment period to June 30, 1978. *As a result of the analysis of the comments, another NPRM is being considered.* **G. Citation:** 49 CFR pt. 399	Gerald J. Davis, (202) 426-9767.	*NPRM November* 1980.
Minimum Cab Space Dimensions (Docket No. MC-79).	**A. Description:** this regulation would specify minimum size for the cab portion of the regulated commercial vehicles manufactured after a certain date. **B. Why Significant:** This proposal has the potential of being costly if extensive changes to cab configuration become necessary. **C. Analysis:** Regulatory Analysis **D. Need:** Changes in truck technology and maximum limitation on size by States have led to the development of reduced cab space in favor of increased cargo space to remain within State length limitations, possibly having negative impact on safe operations and driver work place. **E. Legal Basis:** 49 U.S.C. 304 and 1655 **F. Chronology:** An ANPRM was issued on February 14, 1978 (43 FR 6273). Comment period closed on July 14, 1978. *A review of present cab sizes was conducted and a report issued on February 27, 1980.* **G. Citation:** 49 CFR pt. 393	Gerald J. Davis, (202) 426-9767.	*Further action to be determined.*
Review: Construction Contract Equal Opportunity Compliance Procedures.	**A. Description:** This regulation would prescribe policies and procedures to standardize the implementation of the equal opportunity contract compliance program, including compliance reviews, consolidated compliance reviews, and the administration of areawide plans.	Edward W. Morris, Jr., (202) 426-0471.	NPRM *October 1980.*

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Title	Summary	Contact	Earliest expected decision date
	B. Why Significant: There is substantial public interest relative to this regulation. **C. Analysis:** Regulatory Evaluation **D. Need:** To standardize the implementation of the equal opportunity contract compliance program. **E. Legal Basis:** 23 U.S.C. 112(b) and 140(a) **F. Chronology:** *DOT/FHWA recently entered into a Memorandum of Understanding with the Department of Labor/Office of Federal Contract Compliance Programs relative to respective responsibilities under Executive Order 11246 and Title 23.* **G. Citation:** 23 CFR pt. 230, subpt. D. (FHPM 2-2-3)		
Geometric Design Criteria for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways (Docket No. 78-10).	**A. Description:** This regulation would contain criteria intended to provide additional flexibility in some of the basic geometric features of design, primarily those in which modification would result in appreciable savings in costs and other impacts while improving safety. **B. Why Significant:** This regulation is considered significant because the adoption of new design criteria specifically for RRR projects has proven to be controversial. **C. Analysis:** Regulatory Analysis **D. Need:** To implement the 1976 amendment to 23 U.S.C. 101 redefining "construction" to include resurfacing, restoration, and rehabilitation. Geometric design criteria are needed to effectively administer a RRR program for preservation work on the Federal-aid highway systems. **E. Legal Basis:** 23 U.S.C. 101, 109, 315, and 402; 49 CFR 1.48(b). **F. Chronology:** An ANPRM published August 25, 1977, (42 FR 42876) offered three alternatives. A Notice published October 28, 1977 (42 FR 56751) extended the comment-period for the ANPRM to November 22, 1977. A notice of withdrawal of the ANPRM was published January 9, 1978 (43 FR 2734). Because of the adverse comments, all alternatives were rejected and FHWA decided to develop a new set of criteria for Resurfacing, Restoration, and Rehabilitation (RRR) projects. An NPRM was published on August 23, 1978 (43 FR 37556). A correction to the NPRM was published September 12, 1978 (43 FR 40539). A Notice published on October 19, 1978 (43 FR 48658) extended the comment period for the NPRM to January 4, 1979. On May 23, 1979 (44 FR 29921) FHWA published as a Notice a status report on the creation of an internal task force appointed to evaluate comments received on the NPRM and make recommendations to the Administrator. **G. Citation:** 23 CFR pt. 625	Alvin R. Cowan or Seppo Sillan, (202) 426-0312.	NPRM *September 1980.*
Certification of Motor Vehicle Size and Weight Enforcement (Docket No. 77-21).	**A. Description:** *This rule revises existing regulations dealing with annual certifications by the States that all size and weight laws are being enforced. It establishes an enforcement program that FHWA must approve, against which the States' efforts are measured each year.* **B. Why Significiant:** The regulation is significant because failure on the part of the State is cause for the withholding of Federal-aid highway project approval. **C. Analysis:** Regulatory Evaluation	Wm. F. Bauch, (202) 426-1993.	*Action complete.*

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Title	Summary	Contact	Earliest expected decision date
	D. Need: This regulation is needed to implement 23 U.S.C. 141, Enforcement of Requirements, as amended by the Surface Transportation Assistance Act of 1978. **E. Legal Basis:** 23 U.S.C. 141 **F. Chronology:** A NPRM was issued January 16, 1978, (43 FR 2683) with comments due April 15, 1978. Thirty comments were received. A NPRM was published March 14, 1979 (44 FR 15639), with comments due by June 12, 1979. *Final Rule published August 7, 1980 (45 FR 52365.)* **G. Citation:** 23 CFR 658.9 (FHPM 6-8-5)		
Withdrawal of Interstate Segments and Substitution of Alternative Projects. (Docket No. *77-29).*	**A. Description:** This regulation would implement Sections 103(e)(2) and 103(e)(4) of Title 23 U.S.C., as amended by the Federal-Aid Highway Act of 1976 and the Surface Transportation Assistance Act of 1978 (STAA). Section 103(e)(2) provided for the withdrawal of nonessential Interstate routes and the substitution of alternative Interstate routes, however, the STAA amended this Section to prohibit the designation of any Interstate routes or portions thereof under the authority of this paragraph after the date of enactment of STAA. Section 103(e)(4) provides for the withdrawal of nonessential Interstate routes and the substitution of other transportation projects, both highway and non-highway by dates specified in the Surface Transportation Assistance Act of 1978. **B. Why Significant:** There is substantial public interest and controversy concerning this proposal. **C. Analysis:** Regulatory Analysis **D. Need:** This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-Aid Highway Act, as amended by the Surface Transportation Assistance Act of 1978. **E. Legal Basis:** 23 U.S.C. 103(e)(2) and 103(e)(4) **F. Chronology:** The current substitution regulations were issued on June 12, 1974. The Federal-Aid Highway Act Amendments of 1974 and the Federal-Aid Highway Act of 1976 amended the original statutory provisions enacted by the Federal-Aid Highway Act of 1973. Provisions of the Surface Transportation Assistance Act of 1978 were incorporated prior to issuing the NPRM. NPRM published January 10, 1980 (45 FR 2296). **G. Citation:** 23 CFR pt. 476 subpt. D and pt. 450	FHWA L. A. Staron, (202) 426-0404 or F. Calhoun, (202) 426-0762;. UMTA Richard White, (202) 472-6991.	FR *September 1980.*
Hours of Service of Drivers (Docket No. MC-70-1).	**A. Description:** The Federal Highway Administration (FHWA) is proposing a revision of the regulations pertaining to hours of service limitations for commercial vehicle drivers engaged in interstate or foreign commerce. **B. Why Significant:** This proposal may be controversial and could have a major cost impact on the motor carrier industry. **C. Analysis:** Regulatory Analysis **D. Need:** This action is being taken in response to numerous petitions and requests from public interest groups, labor organizations, and individual drivers for the revision of these regulations. **E. Legal Basis:** 49 U.S.C. 304 and 1655	Gerald J. Davis, (202) 426-9767.	NPRM *January 1981.*

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Title	Summary	Contact	Earliest expected decision date
	F. Chronology: An ANPRM which stated that FHWA was considering an extensive review of the Hours of Service of Drivers regulation was published on February 12, 1976 (Docket MC-70, Notice 76-14, 41 FR 6275). A second ANPRM was issued on May 22, 1978 (43 FR 21905) setting forth three plans for comments. A notice of public hearings was published August 29, 1978 (43 FR 38608). Public hearings were held in 7 major cities. *Further analytical research is underway and an NPRM is being considered when that research is completed. The recordkeeping requirements imposed by the current regulation will also be reviewed as part of this action. A request for comment relating to this regulation based on a petition filed by owner operator requesting longer driving and working hours was issued on January 14, 1980 (45 FR 5781). The closing date for comments was May 23, 1980.* **G. Citation:** 49 CFR pt. 395		
Review: Environmental Impact and Related Statements.	**A. Description:** *These regulations* would implement the National Environmental Policy Act and Section 138 of the Federal-Aid Highway Act. It would specify the procedures to be used by FHWA in the preparation and processing of Environmental Impact and Section 4(f) statements. *These regulations are being developed jointly with the Urban Mass Transportation Administration (UMTA).* **B. Why Significant:** These regulations will involve substantial public interest and controversy and will implement important Departmental policy. **C. Analysis:** Regulatory Evaluation **D. Need:** Executive Order 11991 authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement the National Environmental Policy Act. **E. Legal Basis.** These revisions are required because of regulations which were promulgated by CEQ. **F. Chronology:** The CEQ regulations were published for public comment in the Federal Register on June 9, 1978. (43 FR 25230). Final CEQ regulations were published November 29, 1978 (43 FR 55978). An NPRM was published October 15, 1979 (44 FR 59438). On Nobember 19, 1979, the original deadline for comments of November 14, 1979 was extended to December 3, 1979 (44 FR 66213). A Notice published December 31, 1979 (44 FR 77293) contained interim instructions to FHWA field offices for compliance with the CEQ regulations and DOT Order 5610.1C of September 18, 1979 which was published October 1, 1979 (44 FR 56420). **G. Citation:** 23 CFR pt. 771. (FHPM 7-7-2)	FHWA Dale Wilken, (202) 426-4093;. UMTA John Collins, (202) 426-1908.	FR *September* 1980.
Review: Urban Transportation Planning Process; **Review:** Transportation Improvement Program.	**A. Description:** Revisions to these regulations would implement the provisions of Section 169 of the Surface Transportation Assistance Act of 1978, accommodate simplifying recommendations made by FHWA's Regulations Reduction Task Force, and implement the transportation planning aspects of the 1977 Clean Air Act Amendments. **B. Why Significant:** These are significant regulations since they significantly impact the Urban Mass Transportation Administration (UMTA) and involve important Department policy. **C. Analysis:** Regulatory Evaluation	FHWA Sam Rea, (202) 426-2961;. UMTA Bob Kirkland, (202) 426-4991.	*Withdrawn.*

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Title	Summary	Contact	Earliest expected decision date
	D. Need: Continuing review has identified areas where added flexibility will not impair effectiveness. Air quality planning must be included in accordance with the DOT-EPA Memorandum of Understanding. **E. Legal Basis:** 23 U.S.C. 104(f)(3), 134 and 315 **F. Chronology:** The recommendations of the FHWA Regulations Reduction Task Force were adopted in October 1977. Following agreement with UMTA and EPA, insofar as air quality is concerned, proposed regulatory changes will be prepared. *The broader Federal Register issuance on environmental action plans and urban planning supercedes issuance of this regulation. See Agenda entry on "Transportation Planning and Environmental Process Guidelines (Action Plans)" below.*. **G. Citation:** 23 CFR pt. 450, subpt. A and C. (FHPM 4-4-2 and 4-4-6).		
Equal Employment Opportunity on Federal-aid Highway Construction Contracts.	**A. Description:** This regulation would simplify procedures relating to Equal Employment Opportunity on Federal-aid highway construction contracts. **B. Why Significant:** The regulation concerns a matter on which there is substantial public interest. **C. Analysis:** Regulatory Evaluation **D. Need:** This regulation is needed to achieve administrative effectiveness and efficiency. **E. Legal Basis:** 23 U.S.C. 140 and 315 **F. Chronology:** An NPRM will be published in *December* 1980. **G. Citation:** 23 CFR pt. 230, subpt. A. (FHPM 6-4-1-2)	K. L. Ziems, (202) 426-4847.	NPRM *December 1980.*
Non-Urbanized Area Public Transportation (Docket No. 78-40).	**A. Description:** Proposed regulation would finalize procedures for the administration of a continuing program of non-urbanized area public transportation including operating subsidies. **B. Why Significant:** The proposed new program involves FHWA and UMTA and impacts State and local transportation programs. **C. Analysis:** Regulatory Evaluation **D. Need:** The proposed regulation would finalize procedures for the administration of the non-urbanized area public transportation assistance program. **E. Legal Basis:** Section 18 of the Urban Mass Transportation Assistance Act of 1964, as amended. **F. Chronology:** A DOT Rural and Small Urban Working Group has summarized the policy issues for the Section 18 program. Interim operating procedures were issued as an emergency regulation December 13, 1978 (43 FR 58308), and a 90-day comment period was established. **G. Citation:** 23 CFR pt. 825	FHWA Sheldon G. Strickland, (202) 426-0153;. UMTA Kay Regan, (202) 427-7037.	NPRM *October 1980.*
Major Urban Transportation Investment (Docket No. 78-21).	**A. Description:** The proposed regulation requires that State and local transportation officials conduct an analysis of alternatives for all major urban transportation investments for highway or public transportation.	FHWA V. Paparella, (202) 426-0215;. UMTA Joel Ettinger, (202) 426-2360.	Further action to be determined.

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Title	Summary	Contact	Earliest expected decision date
	B. Why Significant: The proposed rule involves important Departmental policy and major urban investments of the Urban Mass Transportation Administration and the Federal Highway Administration. **C. Analysis:** Regulatory Evaluation **D. Need:** The increased flexibility in the use of Federal-aid highway funds for mass transit-related activities has led to the need for a single investment policy for both Federal Highway Administration and Urban Mass Transportation projects to ensure that Federal funds are used effectively. **E. Legal Basis:** 23 U.S.C. 134 and 315 and 49 U.S.C. 1601 et seq. **F. Chronology:** An NPRM was published in the Federal Register on December 7, 1978 (43 FR 57478). The Department of Transportation will make a later determination concerning what action to take with respect to this rulemaking. **G. Citation:** 23 CFR pt. 455, subpt. A and B, and 49 CFR pt. 620.		
Certification of Speed Limit Enforcement (Docket No. 78-41).	**A. Description:** The regulation would revise the procedure used by the States: (1) in monitoring speeds on highways with a 55 mile per hour speed limit, (2) in calculating a statewide value for the percentage of all traffic exceeding 55 miles per hour on such highways and (3) certifying annually that they are enforcing the 55-mile per hour National Maximum Speed Limit. **B. Why Significant:** *This regulation* would have substantial impact on state and local governments and on NHTSA programs *and is being developed in corrdination with NHTSA.* **C. Analysis:** Regulatory Evaluation **D. Need:** This regulation is needed to implement the modified 55 mph enforcement provisions of the Surface Transportation Assistance Act of 1978. **E. Legal Basis:** 23 U.S.C. 141, 154 **F. Chronology:** An NFRM was published in the Federal Register November 5, 1979. (44 FR 63680). While this rulemaking is underway, the States are meeting the requirements of 23 U.S.C. 141 and 154 by following the instructions contained in two Federal Register notices published as an emergency rule and an extension to an emergency rule: 43 FR 59464, December 20, 1978 and 44 FR 55592, September 27, 1979 respectively. Comment period closed January 9, 1980. **G. Citation:** 23 CFR 658.7	William F. Bauch, (202) 426-1993.	FR September 1980.
Buy America Requirements (Docket No. 78-35).	**A. Description:** This regulation would establish provisions for the protection of domestic structural steel on construction projects with an estimated cost of $450,000 or more. **B. Why Significant:** This regulation involves a matter which may become controversial or arouse significant public interest. **C. Analysis:** Regulatory Analysis	K.L. Ziems, (202) 426-4847.	NPRM *September 1980.*

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Title	Summary	Contact	Earliest expected decision date
	D. Need: This regulation is required to implement the provisions of Section 401 of the Surface Transportation Assistance Act of 1978. **E. Legal Basis:** Section 401 of the Surface Transportation Assistance Act of 1978; P.L. 95–599. **F. Chronology:** An emergency regulation was issued on November 17, 1978 (43 FR 53717). FHWA asked for comments, and the comment period closed on January 17, 1979. **G. Citation:** 23 CFR 635.410		
Interstate Maintenance Guidelines (Docket No. 78–43).	**A. Description:** This regulation establishes guidelines describing criteria applicable to the Interstate system to ensure that the conditions of these routes are maintained at the level required by the purposes for which they were designed. Each State must certify each year to the FHWA that it has a maintenance program for the Interstate system to meet these guidelines once they are established. **B. Why Significant:** These guidelines may involve substantial public and State highway agency interest. **C. Analysis:** Regulatory Analysis **D. Need:** This regulation is necessary to insure the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization. Since 23 U.S.C. 116 is regulatory in nature, it is necessary to establish Federal maintenance guidelines or level of service. **E. Legal Basis:** 23 U.S.C. 109(m), 315; 49 CFR 1.48(b) **F. Chronology:** An ANPRM was published on January 2, 1979 (44 FR 69). NPRM published August 9, 1979 (44 FR 46882). *Final rule published March 31, 1980 (45 FR 20791).* **G. Citation:** 23 CFR pt. 635	Paul E. Cunningham, (202) 426–0436.	*Action complete.*
Transportation Planning and Environmental Process Guidelines (Action Plans).	**A. Description:** This ANPRM would request comments on the need for revisions to the urban transportation planning requirements (23 CFR 450, Subparts A and C and 49 CFR 613, Subpart B, the Major Urban Mass Transportation Investment Policy (41 FR 41512, September 22, 1976), and the Environmental Process Guidelines (23 CFR 795). **B. Why Significant:** The ANPRM would cover areas of substantial public interest and important Department policies. **C. Analysis:** Regulatory Evaluation **D. Need:** Concerns have been raised over the complexity of these requirements and the relationship between planning and other program areas. Further, national concerns such as air quality and energy are not fully reflected in present regulations. **E. Legal Basis:** 23 U.S.C. 104(f)(3), 109(h), 134, 307, and 315, and the Urban Mass Transportation Act of 1964 as amended.	FHWA Sam Rea, (202) 426–2961; UMTA Bob Kirkland, (202) 426–4991.	ANPRM *under consideration.*

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Title	Summary	Contact	Earliest expected decision date
	F. Chronology: The FHWA Regulations Reduction Task Force recommended changes to the Urban transportation planning requirements. Discussion of potential areas for changes have been initiated between FHWA and UMTA. **G. Citation:** 23 CFR 450, Subparts A and C, 49 CFR 613, Subpart B, and 23 CFR 795.		
*Minimum Levels of Financial Responsibility.	**A. Description:** Section 30 of the Motor Carrier Act of 1980, Pub. L. 96-296 (signed July 1, 1980) gives the Secretary of Transportation the authority to phase in over a two-year period, the minimum levels of financial responsibility for motor carriers set by the Act. **B. Why Significant:** It has been determined that this proposal may have substantial impact on the motor carrier or insurance industry. **Analysis:** Regulatory Evaluation **Need:** The purpose of the financial responsibility provision of the Act is to create incentives for the motor carrier industry to focus on the safety aspects of highway transportation and to assure the general public that a motor carrier maintains an adequate level of financial responsibility sufficient to satisfy claims covering public liability, property damage, and environmental restoration. **E. Legl Basis:** The Motor Carrier Act of 1980, Pub. L. 96-296 Section 30. **F. Chronology:** Advance Notice of Proposed Rulemaking will be published in August 1980. **G. Citation:** None.	Gerald Davis, (202) 426-9767.	ANPRM August 1980.

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Title	Summary	Contact	Earliest expected decision date
Review: New Research and Development (R&D) Studies and Work Programs (Docket No. 79-21).	This regulation would cover the starting of new R&D studies and the programming of R&D work funded with Federal-Aid highway funds. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pts. 530 and 540; FHPM 5-4-1).	Harry H. Hersey, (703) 557-5257.	FR *August* 1980.
Review: R&D Management—General.	This regulation would have covered the management of R&D studies using Federal-aid highway funds. It will be withdrawn because the content is covered by other regulations. An NPRM was published September 27, 1979 (44 FR 55766) (23 CFR pt. 520; FHPM 5-2-1).	Harry H. Hersey, (703) 557-5257.	To be withdrawn *August* 1980.
Review: R&D Reports and Implementation Activities (Docket No. 79-21).	This regulation would cover documentation of the results of R&D studies funded with Federal-aid highway funds without State matching to finance pooled fund studies. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pt. 544; FHPM 5-4-3).	Harry H. Hersey, (703) 557-5257.	FR *August 1980.*

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Review: Federal-Aid Funds Without State Matching (Docket No. 79–21).	This regulation would cover the use of Federal-aid highway funds without State matching to finance pooled fund studies. An NPRM was published September 27, 1979 (44 FR 55766) (23 CFR pt. 560; FHPM 5-6-1).	Harry H. Hersey, (703) 557-5257.	FR *August* 1980.
Review: R&D Management Option (Docket No. 79–21).	This regulation would provide alternate administrative procedures for State highway agencies which meet specified management standards. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pt. 524; FHPM 5-2-4).	Harry H. Hersey, (703) 557-5257.	FR *August* 1980.
Review: *Highway Planning Program Administration* (Docket No. 78–24).	This regulation would reflect recent policy changes in management of the highway planning and research program, e.g., allowing separate projects for components of the program (urbanized area planning, statewide planning, research and development), and applying matching rates to time periods rather than a fiscal year fund, etc. NPRM was published January 11, 1979 (44 FR 2400). As a result of comments received to the Docket, as well as internal FHWA coordination, it was decided to combine 23 CFR Part 450, Subpart B, Metropolitan Planning Funds with this regulation since both deal with program administration. This will delay publication of the final rule by approximately 6 months (23 CFR Part 420, Subpart A and Part 450, Subpart C; FHPM 4-1-2-1).	R. B. Puckett, (202) 426–0175.	FR *September* 1980.
Review: Public Road Mileage for Apportionment of Highway Safety Funds, Safer Off-System Roads Funds and Hazard Elimination Funds.	The revised regulation would expand the existing one, which includes only Highway Safety Funds, to include the other listed programs in the revised title. (23 CFR pt. 460; FHPM 4-5-3).	D. W. Briggs, (202) 426–0199.	NPRM *September 1980.*
Review: Procedures for Abatement of Highway Traffic Noise and Construction Noise (Docket No. 78–33).	This revision would make substantial reductions in the detailed procedures and interpretive information in the existing regulation. This is being done pursuant to the FHWA Regulation Reduction Task Force recommendations. An ANPRM was published December 6, 1978 (43 FR 57161). (23 CFR pt. 772; FHPM 7-7-3).	H. M. Rupert, (202) 426–4836.	NPRM *August 1980.*
Review: General Policy and Definitions.	This regulation would prescribe the general policy of FHWA regarding the acquisition of real property for highway and related purposes and defines certain terms used in FHWA right-of-way acquisition regulations. (23 CFR pt. 710; FHPM 7-1-1).	Douglas A. Wubbels, (202) 426–0142.	To be withdrawn August 1980.
Review: State Highway Department Responsibilities (Docket No. 76–7).	This regulation would prescribe the general responsibility of a State highway department in the acquisition of rights-of-way for the Federal-aid highway systems. An amendment to the existing regulation was published on August 31, 1978, eliminating the requirement for State highway agencies to submit the annual Real Property Acquisition Report (43 FR 38818). (23 CFR pt. 710; FHPM 7-1-2).	Douglas A. Wubbels, (202) 426–0142.	NPRM *August 1980.*
Review: Reimbursement Provisions.	This regulation would set forth provisions governing reimbursement to a State highway department for right-of-way costs incurred in connection with Federal or Federal-aid highway projects. (23 CFR pt. 710; FHPM 7-1-3).	Douglas A. Wubbels, (202) 426–0142.	NPRM *August 1980.*
Review: Civil Rights	This regulation would prescribe the general policy of the FHWA in the area of civil rights relative to the right-of-way acquisition function. (23 CFR pt. 710; FHPM 7-1-4).	Dougals A. Wubbels, (202) 426–0142.	To be withdrawn August 1980.
Review: The Real Property Acquisition Function-Policy.	This regulation would prescribe FHWA policy regarding the real property acquisition function. (23 CFR pt. 712; FHPM 7-2-1).	Tom Johns, (202) 426–0142.	NPRM *August 1980.*
Review: The Acquisition Function—General Provisions and project Procedures.	This regulation would prescribe FHWA project provisions and procedures regarding the acquisition of real property for highway and highway related projects. (23 CFR pt. 712; FHPM 7-2-2).	Tom Johns, (202) 426–0142.	NPRM *August 1980.*

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Title	Summary	Contact	Earliest expected decision date
Review: The Acquisition Function—General provisions and Project Procedures—Functional Replacement Of Real Property in Public Ownership.	This regulation would prescribe FHWA policies on functional replacement of real property in public owership. (23 CFR pt. 712; FHPM 7-2-2-1).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: The Acquisition Function—Negotiations.	This regulation will be combined with the regulation on general acquisition policy (FHPM 7-2-1). (23 CFR pt. 712; FHPM 7-2-3).	Tom Johns, (202) 426-0142.	To be withdrawn August 1980.
Review: The Acquisition Function—Administrative Settlements, Legal Settlements, and Court Awards.	This regulation will be combined with the regulation on reimbursement provisions (FHPM 7-1-3). (23 CFR pt. 712; FHPM 7-2-4).	Tom Johns, (202) 426-0142.	To be withdrawn August 1980.
Review: Appraisal and Appraisal Review Policy.	This regulation would establish FHWA requirements for the preparation and review of appraisal reports for the acquisition of lands necessary for Federal-aid highway projects. (23 CFR pt. 720; FHPM 7-3-1).	Gerald Kennedy, (202) 426-0142.	NPRM September 1980.
Review: Property Management......	This regulation would prescribe FHWA policies and procedures for the management of real property acquired in connection with Federal-aid highway projects. (23 CFR pt. 713; FHPM 7-4-1).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: Disposal of Right-of-Way..	This would prescribe FHWA polices and procedures for disposal of portions of highway right-of-way no longer needed for highway purposes. (23 CFR pt. 713; FHPM 7-4-2).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: Junkyard Control and Abatement.	This regulation would provide definition of "effective control" of junkyards per 23 U.S.C. 136. It would identify alternative methods for abating nonconforming junkyards and establish the basic framework for State development of police power regulations and procedures. It would also identify items which are eligible for Federal participation in the various abatement techniques such as screening, removal, and relocation. An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. (23 CFR pt. 751; FHPM 7-6-4).	Richard Moeller, (202) 245-0021.	NPRM *July 1981.*
Review: Relocation Assistance—General.	This regulation would prescribe the general provisions and procedures for the uniform implementation and conduct of the nationwide relocation assistance program to assure the fair and equitable treatment of persons displaced by highway programs. (23 CFR pt. 740; FHPM 7-5-1).	Robert Moore, (202) 426-0116.	NPRM *September 1980.*
Review: Relocation Assistance—Relocation Services.	This regulation would set forth the requirement for that portion of the relocation program dealing with the services and assistance to be made available to persons displaced by or adversely affected by highway and related projects. (23 CFR pt. 740; FHPM 7-5-2).	Robert Moore, (202) 426-0116.	NPRM *September 1980.*
Review: Relocation Assistance—Moving Payments.	This regulation would prescribe the moving payments and other benefits available to individuals, families, businesses, farm operations, nonprofit organizations, and owners of outdoor advertising devices forced to relocate due to highway activities. (23 CFR pt. 740; FHPM 7-5-3).	Robert Moore, (202) 426-0116.	NPRM *December 1980.*
Review: Relocation Assistance—Replacement Housing Payments.	This regulation would prescribe the payments and eligibility requirements for home owners and tenants forced to vacate their dwellings located on lands needed for highway purposes. (23 CFR pt. 740; FHPM 7-5-4).	Robert Moore, (202) 426-0116.	NPRM *December 1980.*

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Title	Summary	Contact	Earliest expected decision date
Review: Relocation Assistance—Mobile Homes.	This regulation would set forth the special provisions for payments and benefits applicable to owners and occupants of mobile homes located on lands required for highway purposes. (23 CFR pt. 740; FHPM 7-5-5).	Robert Moore, (202) 426-0116.	NPRM *December 1980.*
Review: Relocation Assistance—Replacement Housing As Last Resort.	This regulation would implement Section 206 of Public Law 91-646 and prescribe the procedures and methods for providing replacement housing "as a last resort" when it is determined that a Federal or Federal-aid project cannot proceed to actual construction because comparable replacement housing is not available for persons to be displaced from their dwellings because of such construction. (23 CFR pt. 740; FHPM 7-5-6).	Robert Moore, (202) 426-0116.	NPRM *December 1980.*
Review: Land Service Facilities	This regulation would establish FHWA policy on participation in costs of facilities to provide or restore access to affected real property. (23 CFR pt. 712; FHPM 7-2-2-2).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: Right-of-Way Revolving Fund.	This regulation would prescribe FHWA policy on acquisition of right-of-way with funding pursuant to 23 U.S.C. 108(c). (23 CFR pt. 712; FHPM 7-2-7).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: Management of Airspace.	This regulation would prescribe FHWA policy on the use of airspace on Federal-aid highways for nonhighway purposes. (23 CFR pt. 713; FHPM 7-4-3).	Tom Johns, (202) 426-0142.	NPRM *August 1980.*
Review: Bond Issue Projects	This regulation would prescribe policies and procedures for the use of Federal funds in aiding the States in the retirement of the principal of bonds, pursuant to 23 U.S.C. 122. (23 CFR pt. 140; FHPM 1-4-8).	J. E. Lewis, (202) 426-0562.	FR *October 1980.*
Review: Advance Construction of Federal-aid Projects.	This regulation would prescribe procedures for the construction by a State of projects on any of the Federal-aid systems, in advance of apportionment of Federal-aid funds, or in lieu of apportioned funds for the Interstate System only, and for the subsequent reimbursement to the State of the Federal share of the cost of the project, pursuant to 23 U.S.C. 115 as amended. (23 CFR pt. 630; FHPM 6-3-2-7).	K. C. Kippley, (202) 426-0673.	FR *September 1980.*
Review: Reimbursement for Employment of *Public* Employees on Federal-aid Projects.	This regulation would prescribe policies and procedures governing the extent to which Federal funds may participate in the cost of salaries and wages and related labor costs, incurred by public forces of State highway departments, counties, cities, or other political subdivisions. (23 CFR pt. 140; FHPM 1-4-5).	J. E. Lewis, (202) 426-0562.	FR *September 1980.*
Review: Disqualifying Offenses, Drugs.	The FHWA is considering amending the Disqualification of Drivers regulation (49 CFR 391.15) by reviewing and enlarging that group of substances and drugs, whose use by drivers, operating commercial motor vehicles, is forbidden and is considered a disqualifying offense. (49 CFR pt. 391).	Gerald J. Davis, (202) 426-9767.	NPRM *August 1980.*
Review: Visual Acuity	The FHWA is considering amending the Physical Qualification for Drivers regulation (49 CFR 391.41) by reviewing and determining minimum visual acuity in each eye separately as well as binocular acuity for commercial vehicle drivers. (49 CFR pt. 391).	Gerald J. Davis, (202) 426-9767.	NPRM September 1980.
Review: Forest Highways	This regulation would contain administrative procedures applicable to Forest Highway projects administered by direct Federal Offices and State highway agencies. (23 CFR pt. 660; FHPM 6-9-2-1).	R. C. Coles, (202) 426-0460.	NPRM *August* 1980.
Review: Erosion and Sediment Control on Highway Construction Projects.	This regulation would prescribe practices for the prevention and abatement of erosion and sediment damage on highway projects. (23 CFR pt. 650; FHPM 6-7-3-1).	Stanley Davis, (202) 472-7690.	FR *December 1980.*

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Title	Summary	Contact	Earliest expected decision date
Review: Permits for Highway Work in or Adjacent to Streams.	This regulation would contain procedures dealing with permits and include memoranda of understanding with the Coast Guard and the Corps of Engineers as appendices. (23 CFR pt. 650; FHPM 6-7-1-1).	Stanley Davis, (202) 472-7690.	FR *December 1980.*
Review: Coordination of Water Resources Development Projects.	This regulation would prescribe policy and procedures for the coordination and financing of highway—water resources development projects. (FHPM 6-1-1-4).	Edward D. Johnson, (202) 426-0334 or Stanley Davis, (202) 472-7690.	FR *August 1980.*
Review: Required Contract Provisions—Federal-aid Contracts.	This regulation would update and clarify the required contract provisions for Federal-aid construction contracts. (23 CFR pt. 633; FHPM 6-4-1-1).	K. L. Ziems, (202) 426-4847.	FR *September 1980.*
Review: Contract Procedures (Docket No. 78-16).	This regulation would simplify Federal-aid contract procedures. NPRM was published on August 18, 1978 (43 FR 36685). (23 CFR pt. 633; FHPM 6-4-1-6).	K. L. Ziems, (202) 426-4847.	FR *September 1980.*
Review: Contract and Force Account, Justifications Required for Force Account Work.	This regulation would simplify procedures relating to Federal-aid construction work performed by other than competitively awarded contract. (23 CFR pt. 635; FHPM 6-4-1-14).	K. L. Ziems, (202) 426-4847.	*FR August 1980.*
Review: General Materials Requirements.	This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. (23 CFR pt. 635; FHPM 6-4-1-16).	K. L. Ziems, (202) 426-4847.	NPRM *August 1980.*
Review: Authorization to Proceed to Physical Construction.	This regulation would update procedures relating to authorization of physical construction. This revision will not be made within the next year. (23 CFR pt. 635; FHPM 6-4-2-1).	K. L. Ziems, (202) 426-4847.	*Withdrawn.*
Review: Landscape and Roadside Development (Docket No. 78-2).	This regulation would prescribe policies and procedures relating to highway landscaping and plant establishment, safety rest areas and information centers and systems, and scenic strips in connection with Federal-aid Highway Projects. *Joint use and joint development and access for the handicapped at Interstate Rest Area Facilities.* Interim Final Regulations published May 5, 1978 (43 FR 19390). (23 CFR pt. 752; FHPM 6-2-5-1).	Ken Rickerson, (202) 426-0314.	FR *November 1980.*
Resurfacing, Restoration and Rehabilitation (RRR) Work.	This regulation would set forth policy and project procedures for implementing RRR program as it relates to pavement design practices. (FHPM 6-2-4-2).	Leon M. Noel, (202) 426-0327.	FR *September 1980.*
Review: Skid Resistant Surface Design.	This regulation would set forth pavement design policy as it pertains to skid resistance on Federal-aid highway projects. An NPRM was published April 10, 1980 (45 FR 24505). (23 CFR 828) (FHPM 6-2-4-3).	Leon M. Noel, (202) 426-0327.	*FR date to be determined.*
Selection of Pavement Type	This regulation would set forth policy for the selection of pavement type on Federal-aid projects, (FHPM 6-2-4-4).	Leon M. Noel, (202) 426-0327.	*ANPRM August 1980.*
Review: Traffic Control Devices on Federal-aid and Other Streets and Highways.	This regulation would prescribe the policies and procedures of FHWA relative to obtaining basic uniformity in the visible features and functioning of traffic control devices on all highways open to public travel in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways. An NPRM was published September 27, 1979 (44 FR 55598). (23 CFR pt. 655; FHPM 6-8-3-1).	Donald P. Ryan, (202) 426-0411.	FR *August 1980.*
Review: Motorists Aid Systems	This regulation would provide policies and procedures relating to motorist-aid systems on Federal-aid highways. (23 CFR pt. 655; FHPM 6-8-3-3).	Robert Harp, (202) 426-0411.	FR *October 1980.*
Review: Traffic Surveillance and Control.	This regulation would establish policies and procedures relating to the expenditure of Federal-aid funds for traffic surveillance and control measures and equipment to reduce congestion, improve traffic flow and increase safety. (23 CFR pt. 655; FHPM 6-8-3-4).	Robert Harp, (202) 426-0411.	FR *October 1980.*

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Title	Summary	Contact	Earliest expected decision date
Review: Relinquishment of Highway Facilities.	This regulation would prescribe Federal Highway Administration procedures relating to relinquishment of highway facilities. (23 CFR pt. 620; FHPM 6-1-1-8).	R. J. Kreklau, (202) 426-0334.	NPRM *September* 1980.
Review: Reimbursement for Railroad Work.	This regulation would prescribe policies and procedures on reimbursement to the States for railroad work done on projects undertaken pursuant to the provisions of 23 CFR pt. 646 B. (23 CFR pt. 140; FHPM 1-4-3).	J. A. Carney, (202) 426-0104.	NPRM *September 1980.*
Review: Utility Relocation and Adjustment.	This regulation would prescribe the policies and procedures for the adjustment and relocation of utility facilities on Federal-aid highway projects and projects under the direct supervision of the Federal Highway Administration. An ANPRM was published March 8, 1979 (44 FR 12209). (23 CFR pt. 645; FHPM 1-4-4).	J. A. Carney, (202) 426-0104.	*August 1980.*
Review: Accommodation of Utilities.	This regulation would prescribe policies and procedures for accommodating utility facilities on the rights-of-way of Federal and Federal-aid highway projects. *A NPRM was published April 17, 1980 (45 FR 26280).* (23 CFR pt. 645; FHPM 6-6-3-2).	J. A. Carney, (202) 426-0104.	*FR January 1981.*
Review: Railroad Highway Projects.	This regulation would prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities. The FHWA has determined that issuance of an ANPRM would not benefit this rulemaking process. (23 CFR pt. 646; FHPM 6-6-2-1).	J. A. Carney, (202) 426-0104.	NPRM *September 1980.*
Review: Project Agreements	This regulation would prescribe the forms and procedures for the preparation and execution of the project agreements required by 23 U.S.C. 110(a) for Federal-aid projects. ANPRM published December 6, 1979 (44 FR 70191). (23 CFR pt. 630; Subpt. C; FHPM 6-3-1-1).	L. Pettigrew, (202) 426-0334.	NPRM December 1980.
Review: Exemption from Preparing Driver's Daily Logs for Operations Between Certain Fixed Locations (Docket No. MC-70-2).	This regulation would propose to exempt certain drivers from preparing the driver's log when they operate *from* specified fixed locations day after day within the allowable hours of service. ANPRM published on November 9, 1978 (43 FR 58418). (*49* CFR pt. 395).	Gerald J. Davis, (202) 426-9767.	NPRM *August 1980.*
Review: Rear End Underride Protection (Docket No. MC-77).	This regulation would propose to provide improved rear end protection on heavy motor vehicles manufactured after a certain date to prevent the underriding of vehicles which impact the rear of those vehicles. (49 CFR pt. 393).	Gerald J. Davis, (202) 426-9767.	NPRM *December 1980.*
Review: 100-Mile Exemption-Driver's Logs (Docket No. MC-78).	This regulation increases the present 50-mile radius exemption from the daily log requirement to a radius of 100-miles. NPRM published on October 13, 1978 (43 FR 55109). *Final rule published April 3, 1980 (45 FR 22042). (49 CFR pt. 395).*	Gerald J. Davis, (202) 426-9767.	*Action complete.*
Toxic Gases in Truck Cabs (Docket No. MC-80).	This regulation would set maximum toxic gas levels in truck cabs. ANPRM published January 1978 (43 FR 120). NPRM published June 18, 1979 (44 FR 34992). (49 CFR pt. 392).	Gerald J. Davis, (202) 426-9767.	*Further action to be determined.*
Ambient Temperature in Heavy Duty Truck Cabs (Docket No. MC-81).	This regulation would set maximum permissible ambient temperatures in truck cabs. ANPRM published on February 8, 1978 (43 FR 5397). (49 CFR pt. 399).	Gerald J. Davis, (202) 426-9767.	NPRM *November* 1980.
Review: Relocation Assistance-Moving Payments-Moving Expense Schedules.	This regulation would set forth the FHWA approved moving expense schedules which are applicable to all residential moves necessitated by all Federal programs administered by all Federal agencies. These schedules are reviewed and updated by each State highway agency on a semiannual basis and approved by FHWA prior to final publication in the Federal Register semiannually. (49 CFR pt. 25; FHPM 7-5-3).	Robert Moore, (202) 426-0116.	FR *August* 1980.

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Title	Summary	Contact	Earliest expected decision date
Roadway Drainage	This regulation would provide FHWA policy and procedures for the design of roadway drainage systems for conveying runoff from highways. (23 CFR pt. 650).	Philip L. Thompson, (202) 472-7690.	NPRM *December* 1980.
Uniform Criteria for Warning Devices at Railroad-Highway Grade Crossings (Docket No. 78-13).	This regulation would issue uniform nationwide criteria for the selection of various types of warning devices to be installed at railroad-highway grade crossings. ANPRM published August 10, 1978 (43 FR 35491) and June 12, 1980 (45 FR 40062). (23 CFR 625, 646, and 655).	*Justin True,* (202) 426-0411.	*NPRM March 1981.*
Review: Guide for Bicycle Facilities (Docket No. 79-3).	This regulation establishes design and construction *guidelines* for bikeways. ANPRM published on February 8, 1979 (44 FR 7979). *NPRM published August 4, 1980 (45 FR 51720).* (23 CFR pts. 652 and 663).	*James Kirchensteiner,* (202) 426-0314.	NPRM *FR January 1981.*
Review: The General Part of the Federal Motor Carrier Safety Regulations.	The FHWA is considering amending Part 390 in the first step of a general revision of the FMCSR. The purpose of the revision is to improve and simplify the regulations (49 CFR pt. 390).	Gerald J. Davis, (202) 426-9767.	NPRM *August 1980.*
Appalachian Highway Procedures	This regulation revision would reflect the recent legislative change in the participation percentage for Appalachian funds and would make several minor changes to existing procedures. *Recent policy decision by the Appalachian Regional Commission will delay publication of the NPRM by approximately six months.* (23 CFR pt. 633, subpt. B; FHPM 6-9-10-1).	R. B. Puckett, (202) 426-0175.	NPRM *December 1980.*
Carpool and Van Pool Projects	This regulation revision would reflect the required changes brought about by the Surface Transportation Assistance Act of 1978 plus related program modifications. NPRM published December 10, 1979 (44 FR 70753) (23 CFR pt. 656; FHPM 4-8-3).	Barbara Reichart, (202) 426-0210.	*FR August 1980.*
National Bridge Inspection Standards.	This regulation provides guidance and establishes procedures concerning the national bridge inspection standards in accordance with Section 124 of the Surface Transportation Assistance Act of 1978. Final Rule published May 1, 1979 (44 FR 25434). *Comments received on the final rule have been reviewed and no revisions will be published.* (23 CFR pt. 650 Subpt. C).	Stanley Gordon, (202) 472-7697.	*Action complete.*
State Highway Safety Agency (Docket No. 79-10).	This rule would replace the existing Joint FHWA/NHTSA Orders on State agencies with a new Part 1251, State Highway Safety Agency in Title 23, Code of Federal Regulations. It proposes to establish new requirements for the authority and function of State highway safety agencies. NPRM published June 21, 1979 (44 FR 36204) and a revised NPRM published December 6, 1979 (44 FR 70192). (23 CFR 1251).	FHWA J. L. Rummel, (202) 426-2131 NHTSA *George Reagle, (202) 426-0068.*	*FR September 1980.*
State Matching of Planning and Administration Cost.	This Notice establishes NHTSA and FHWA policy on State planning and administration costs associated with carrying out a highway safety program under the Highway Safety Act with a new Part 1252, State Matching of Planning and Administration Costs in Title 23, Code of Federal Regulations. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and specifies when the State will have to comply with the requirement. NPRM was published on July 16, 1979 (44 FR 41244). An Amendment to the NPRM was published August 28, 1979 (44 FR 50063). *Final rule published on July 14, 1980 (45 FR 47144).* (23 CFR pt. 1252).	FHWA J. L. Rummel, (202) 426-2131. NHTSA *George Reagle, (202) 426-0068.*	*Action complete.*

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Title	Summary	Contact	Earliest expected decision date
Innovative Project Grants	This rule would provide criteria, procedures, and policies for administration of Innovative Project Grants under 23 U.S.C. 407 when funds are appropriated. ANPRM published July 19, 1979 (44 FR 42233). NHTSA has primary responsibility for this action. (23 CFR pt. 1217).	FHWA J. L. Rummel, (202) 426-2131. NHTSA *Charles Livingston, (202) 426-0837.*	NPRM *September 1980.*
Bicycle Grant Program	This rule revises existing procedures for the Bikeway Demonstration Program to include the bicycle grants program authorized under Section 141 of the Surface Transportation Assistance Act of 1978. The FHPM title will be changed to Bicylce Grant Program. NPRM published January 3, 1980 (45 FR 952). *Final Rule published May 1, 1980. (45 FR 29015).* (23 CFR pt. 663; FHPM 6-9-14).	Tom Jennings or Ken Rickerson, (202) 426-0314.	*Action complete.*
Accessibility of Highway Rest Area Facilities to Handicapped Persons.	This proposed rule would require that rest area facilities on Interstate highways be made totally accessible to handicapped persons. The proposal would conform the language of the FHWA rule to the requirements of the Department's Section 504 regulation, which establishes requirements for handicapped accessibility. *This proposal is being combined with the rule on Landscape and Roadside Development listed above.* (23 CFR pt. 752).	Ken Rickerson, (202) 426-0314.	*Withdrawn.*
Manual on Uniform Traffic Control Devices.	The Manual on Uniform Traffic Control Devices (MUTCD) contains the national standards for traffic control devices erected on all streets and highways open to public travel. These standards are constantly under review and revisions of individual standards are published from time to time. This Agenda will now *provide notice of* the *standards that are currently under review as possible amendments to the MUTCO (23 CFR 625 and 655).*		
	(1) An ANPRM published January 3, 1980 (45 FR 982). Approximately 40 standard items. Docket closed July 1, 1980.	*J. C. Partlow, (202) 426-0411.*	*NPRM October 1980.*
	(2) An ANPRM published June 19, 1980 (45 FR 41600). Approximately 20 standard items. Docket closes February 1, 1981.	*J. C. Partlow, (202) 426-0411.*	*NPRM April 1981.*
	(3) A NPRM published January 24, 1980, (45 FR 5750). Docket closed March 24, 1980.	*Robert E. Conner, (202) 426-0411.*	*FR August 1980.*
Review: Water Supply and Sewage treatment at Safety Rest Areas.	This regulation would update policy for providing safe and adequate water supply and sewage treatment at safety rest areas. (23 CFR pt. 650, subpt. E; FHPM 6-7-3-3).	R. Baumgardner, (202) 472-7690.	FR *August 1980.*
Application for and Obligation of Federal-Aid Funds for Education and Training.	This regulation increases the Federal share available for tuition and direct educational expenses, 23 U.S.C. 321(b). Public Law 96-106 increased the allowable Federal Share from 70 percent to 75 percent. *Final rule published January 28, 1980 (45 FR 6477). (23 CFR pt. 260).*	Jack T. Coe, (202) 426-9141.	*Action complete.*
Review: Federal-Aid Highway Systems.	This regulation would prescribe policy regarding Federal-aid Highway Systems to reflect amendments contained in the 1976 and 1978 Highway Acts. *The recent decision to combine this directive and FHPM 4-6-6-1. Priority Primary Routes (23 CFR pt. 470, subpt. c), will delay publication of the NPRM by approximately 90 days (23 CFR pt. 470, subpt. A).*	R. B. Puckett, (202) 426-0175.	NPRM *August 1980.*

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Title	Summary	Contact	Earliest expected decision date
Design Standards for Highways	This regulation would amend the existing geometric design standards for highways for new construction and major reconstruction of Federal-aid highways by replacing several publications incorporated by reference in 23 CFR Part 625 with a single new publication. Public comments will be requested on the geometric design criteria as presented in a draft of the new publication *A Policy on Geometric Design of Highways and Streets* prepared by the American Association of State Highway and Transportation Officials. *NPRM published February 14, 1980 (45 FR 10236).* (23 CFR Part 625, FHPM 6-2-1-1).	Wilson B. Harkins, (202) *426-0313*.	*FR September 1981.*
Design and Construction Requirements for Highway Pedestrian Overpasses and Underpasses.	The intent of this regulation is to develop standards for the design and construction of pedestrian overpasses and underpasses for accessibility and usability by physically handicapped persons (per March 7, 1979, Agreements with Architectural and Transportation Barriers Compliance Board).	Ali Sevin and Larry King, (202) 426-0306 or Lee Burstyn, (202) 426-0761.	NPRM *October 1980.*
Assignment of Motor Carrier Safety Ratings.	The Federal Highway Administration is responsible for determining and reporting to the ICC a safety rating for each carrier applicant seeking operating authority from the ICC. This regulation formalizes current procedures. NPRM published November 23, 1979 (44 FR 67193). (49 CFR pt. 385).	James Jeglum, (202) 426-1724.	FR *August* 1980.
Payback Regulation Amendments	Federal Highway Administration regulations in 23 CFR Part 480 prescribe the circumstances under which states must repay the Federal Government for the Federal contribution to the purchase of property for Interstate highway projects that are later withdrawn. Congress, in Public Law 96-106, amended 23 U.S.C. 103(e) to change the circumstances under which repayment must be made. This regulation would incorporate the legislative changes in 23 CFR Part 480.	L. A. Staron, (202) 426-0404.	NPRM *September* 1980.
Review: Archeological and Paleontological Salvage.	This regulation *covers* procedures for implementing the provision of Title 23, U.S.C., Section 305, involving the use of Federal highway funds for archeological and paleontological salvage on Federal and Federal-aid highway projects. It *will be* withdrawn because the content is covered by other regulations. (23 CFR pt. 765; FHPM 7-7).	Larry Isaacson, (202) 426-9173.	*Regulation To Be Rescinded September 1980.*
Qualification of Drivers	This notice will request comments on continuing the regulation which provides that no waiver for handicapped drivers will be granted to drivers of buses or trucks transporting hazardous materials. *NPRM was published on June 12, 1980 (45 FR 39672).* (49 CFR pt. 391.49).	Gerald J. Davis, (202) 426-9767.	*Further action to be determined.*
Review: Compliance With Motor Carrier Noise Standards.	The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g., grassy areas. NPRM published April 3, 1980 (45 FR 22120). Further action will be determined following review of the comments to the docket. (49 CFR pt. 325).	Gerald J. Davis, (202) 426-9767.	*FR November 1980.*
Maximum Weight of Trucks on Interstate System Highways: Variable Local Suspension Axles: Dummy Axles: Interpretation and Application of the Bridge Formula.	This notice would provide guidance on the use of Variable Local Suspension Axles and Dummy Axles in the Bridge Formula, which is used to determine the maximum weight of motor vehicles permitted to use the Interstate System highways in accordance with 23 U.S.C. 127. ANPRM published December 6, 1979 (44 FR 69586). A Notice on March 10, 1980 (45 FR 15588) extended the comment period to June 2, 1980. (23 CFR pt. 657).	David Oliver (202) 426-0825.	Further action to be determined.

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*State Internal Audit Responsibility.	This rule would update existing requirements for internal audits conducted by the States under the Federal-aid highway program. (23 CFR 12; FHPM 1-9-1-1).	Harvey Wood, (202) 426-0563.	NPRM August 1980.
*Reimbursement Vouchers.............	This revision would establish uniform policy for withholding requirements to adequately protect the Federal interest in projects administered by State highway agencies. The revision would also incorporate current policies for closing projects and filing final vouchers. (23 CFR 104A; FHPM 1-4-6).	Harvey Wood, (202) 426-0563.	NPRM October 1980.
*Skid Accident Reduction Program.	This rule would set forth policy for development and implementation of a program in each State designed to reduce the number and severity of wet weather accidents. (FHPM 8-2-3-1).	Donald Kamnikar, (202) 426-2131.	NPRM August 1980.
*The use of 4-way flashers on slow moving vehicles.	This action will consider changing the regulations to allow the use of 4-way flashers to warn of potential hazards.	Gerald Davis, (202) 426-9767.	NPRM November 1980.
*Rear Vision Mirrors (Docket MC-80).	The regulation would serve to clarify the rule change published May 1, 1979. (49 CFR 393).	Gerald Davis, (202) 426-9767.	NPRM September 1980.
*Miscellaneous Amendments—FMCSR.	Clarifies and updates sections. FR issued July 10, 1980 (45 FR 46423).	Gerald Davis, (202) 426-9767.	Action complete.
*REVIEW: The need for first-aid kits on buses.	Comments will be requested on the need to continue requiring first-aid kits on interstate buses. (49 CFR 393).	Gerald Davis, (202) 426-9767.	NPRM November 1980.
*Transportation of Migrant Workers.	This rule would revise regulations for the transportation of migrant workers in interstate commerce to ensure their safe transportation. (49 CFR 398).	Gerald Davis, (202) 426-9767.	ANPRM August 1980.
*Education and Training Programs.	This amendment would extend the period of time for which a grant recipient may receive financial support from 12 months of full-time study to 24 months of full-time study. (23 CFR 260A).	Larry Jones, (202) 426-3100.	FR August 1980.
*Administrative Hearings..................	This rule is proposed to provide a general procedure for administrative hearings. This proposed rule would allow the Administrator to initiate administrative proceedings on discretion, or on complaint, and would govern procedure under such proceedings. (23 CFR 20).	Hugh T. O'Reilly, (202) 426-0780.	NPRM October 1980.
*Disqualification of Drivers (traffic records).	The proposed rule would require the disqualification of interstate truck and bus drivers based on the driver's traffic or accident record.	Gerald Davis, (202) 426-9767.	ANPRM October 1980.
*Selection of Motor Carriers for Survey.	FHWA is considering the publication of criteria for the selection of carriers for safety and hazardous materials surveys.	Gerald Davis, (202) 426-9767.	NPRM January 1981.
*Rulemaking Procedures	The proposed rule would provide procedures for processing petitions for rulemaking and related matters.	Stan Abramson, (202) 426-0761.	NPRM September 1980.

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Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Light Truck Fuel Economy Rulemaking (Docket No. FE 78–01).	**A. Description:** Would set average fuel economy standards for *model years 1983–1985 light trucks with gross vehicles weight ratings of 8500 pounds or less.*	Richard Strombotne, (202) 426–0846.	*Model Years 1983 thru 1985, FR September 1980.*
	B. Why Significant: The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.		
	C. Analysis: Regulatory Analysis		
	D. Need: Conservation of petroleum		
	E. Legal Basis: Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 2002.		
	F. Chronology: NPRM issued 12/31/79. (44 FR 77199). *Comment period closed December 31, 1979. Final Rule to be issued in October 1980. Model Year. 1982 Final Rule published March 31, 1980 (45 FR 20871).*		
	G. Citation: 49 CFR pt. 533		
Passenger Automobile Fuel Economy Rulemaking.	**A. Description:** *Analysis to determine what fuel economy standards should be established for the time frame beyond MY 1985. The primary constraint to the achievement of higher corporate average fuel economy (CAFE) is likely to be the industry's inability to support the requisite capital investments. Post-1985 actions require a comprehensive evaluation of total resources available to the manufacturers. Therefore, it is proposed that such action go forward simultaneously for passenger cars and trucks. The post-1985 fuel economy standards are being thoroughly considered as part of the Department's auto industry study and will not be pursued in rulemaking until that study is complete and submitted to the President.*	Richard Strombotne, (202) 426–0846.	*Further action to be determined.*
	B. Why Significant: The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.		
	C. Analysis: Regulatory Analysis		
	D. Need: Conservation of petroleum		
	E. Legal Basis: Motor Vehicle Information and Cost Savings Act, as amended 15 USC 2002, *as amended 15 U.S.C. 2002 Sec 502(a)(4).*		
	F. Chronology: *NPRM for Model Years 1981–1984 issued February 17, 1977, (42 FR 19321). Final Rule for Model Years 1981–1984 issued June 27, 1977 (42 FR 33534). Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981–85 Passenger Automobiles—June 1979.*		
	G. Citation: *49 CFR pt. 531*		
Confidential Business Information (Docket No. 78–10).	**A. Description:** Would codify existing method of processing confidential information from manufacturers.	Frank Berndt, (202) 426–9511.	Further action to be determined.
	B. Why Significant: This rule considered significant because of the controversial nature of confidential business information.		
	C. Analysis: Regulatory Evaluation		
	D. Need: To assure the manufacturer a more predictable process of information gathering and to streamline and speed up NHTSA use of data.		

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Title	Summary	Contact	Earliest expected decision date
	E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended, and the Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 1381; 15 USC 2002. **F. Chronology:** NPRM issued 5/25/78. (43 FR 22412). The Agency is reconsidering the regulation in light of recent court decisions in this area and recent proposals by other agencies for similar regulations. Further action postponed indefinitely pending further analysis. **G. Citation:** 49 CFR pt. 512		
Heavy Duty Vehicle Brake Systems (Docket 79–03). (Formerly Air Brake *Systems*).	**A. Description:** Would establish a new Air Brake Standard (No. 130) for trucks, buses, and trailers over 10,000 pounds gross vehicle weight rating, to replace Air Brake Standard No. 121. This new standard will include requirements for hydraulically braked heavy trucks and buses. **B. Why Significant:** The rule is considered significant because of the level of public and Congressional interest. **C. Analysis:** Regulatory Evaluation **D. Need:** *To correct the inadequacies in Standard No. 121 resulting from many revisions and Court action,* and to include hydraulically braked heavy trucks and buses not previously included. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended. **F. Chronology:** ANPRM issued 2/15/79. (44 FR 9783). Comment period closed 4/16/79. Research is being conducted. **G. Citation:** 49 CFR 571.121	A. Malliaris, (202) 426–0842.	*Research underway.*
Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems).	**A. Description:** Would establish long term agency interest in such advanced braking systems concepts as antilock systems, automatic brake adjustors for heavy trucks and buses, and disc brakes for heavy trucks and buses. **B. Why Significant:** This rule is considered significant because of the level of public and Congressional interest. **C. Analysis:** Regulatory Analysis **D Need:** To establish long term plans for truck braking regulations. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended. **F. Chronology:** *ANPRM issued February 28, 1980 (45 FR 13155), Research underway.* **G Citation:** 49 CFR 571.121, 49 CFR 571.105–75	A. Malliaris, (202) 426–0842.	*Research underway.*
Multipiece Rims on Trucks and Buses. (Docket No. 71–19).	**A. Description:** NHTSA is examining the need to issue a performance requirement for multipiece rims because of their potential for explosive separation. The requirement could result in the elimination of the multipiece rims on new vehicles. **B. Why Significant:** This rulemaking is considered significant because of the level of interest shown by users and manufacturers of these rims, and because of the cost impacts. **C. Analysis:** Regulatory Analysis	A. Malliaris, (202) 426–0842.	Further action to be determined.

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Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	D. Need: Balance the safety hazards associated with the use of these rims against the added costs of using safer single-piece rims. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended. **F. Chronology:** ANPRM issued March 5, 1979. (44 FR 12072). Comments received June 4, 1979. Cost and impact study *results are being analyzed.* **G. Citation:** 49 CFR 571.120		
Bumper Standard	**A. Description:** NHTSA released an updated cost-benefit analysis on the bumper standard on June 1, 1979. It concluded that an amendment to the existing standard is not warranted at this time. **B. Why Significant:** This rulemaking is considered significant because of the level of interest shown by Congress and bumper manufacturers, and because of the cost impacts to consumers. **C. Analysis:** Regulatory Evaluation **D. Need:** Congress has asked for a cost benefit study analyzing the merits of 2.5 mph bumpers vs. 5.0 mph bumpers. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended. **F. Chronology:** ANPRM issued 3/1/79. (44 FR 11569). Comment period closed 4/30/79. Task Force organized and contractor began work on Bumper Study, April 2, 1979. Final report published June 1, 1979. **G. Citation:** 49 CFR pt. 581	Michael Brownlee, (202) 426-1740.	Further action to be determined.
Information Gathering Powers (Docket 78-01).	**A. Description:** Codifies the Agency's information gathering powers under its various authorizing statutes and set forth the rights of respondents to that process. **B. Why Significant:** This rule is considered significant because of interest shown by manufacturers. **C. Analysis:** Regulatory Evaluation **D. Need:** To inform the public of the procedures to be followed by this Agency in connection with its information gathering efforts and of the rights they have with respect to those information gathering powers. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended. **F. Chronology:** Interim FR published 12/27/77 (42 FR 64628). *Final Rule issued May 1, 1980 (45 FR 29032).* **G. Citation:** 49 CFR Part 410	Frank Berndt, (202) 426-9511.	*Action complete.*
Pedestrian Protection	**A. Description:** Would reduce adult pedestrian lower torso and leg injuries and child injuries through modification of the bumper, grille, and hood edges. (49 CFR 571). **B. Why Significant:** The rule is considered significant because of the design impact on the automotive industry, and cost and other impacts. Preliminary reviews indicate that the rule would be costly as defined by Executive Order 12044.	A. Malliaris, (202) 426-0842.	NPRM *Early 1981.*

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Title	Summary	Contact	Earliest expected decision date
	C. Analysis: Regulatory Analysis **D. Need:** To develop a countermeasure to reduce a portion of the pedestrian fatalities and injuries resulting from pedestrian involvements with passenger cars. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended. **F. Chronology:** None yet **G. Citation:** 49 CFR Part 571		
*Crashworthiness Ratings	**A. Description:** Would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public. **B. Why Significant:** This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. **C. Analysis:** Regulatory Analysis **D. Need:** To provide consumers with comparative information on the crashworthiness performance of new car models. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended. 15 U.S.C. 1941, Section 201(d); 15 U.S.C. 1401, Section 112(d). **F. Chronology:** None yet. **G. Citation:** 49 CFR Ch. 5	Michael Brownlee, (202) 426-1740.	NPRM January 1981.
*Air Brake Systems	**A. Description:** Would reinstate the 60 mph stopping distance requirement in standard No. 121, without a no wheel lock-up requirement, to replace the one invalidated by the Ninth Circuit Court of Appeals decision: *PACCAR, INC. v. NHTSA 573 F 2d 632.* This will be an interim action while research and analysis is underway to develop requirements for a new Standard No. 130. **B. Why Significant:** The rule is considered significant because of the level of public and Congressional interest. **C. Analysis:** Regulatory Evaluation **D. Need:** To prevent degradation of current braking performance as a result of the Court's action while research and analysis is underway to support a new Standard No. 130. **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended. **F. Chronology:** None yet **G. Citation:** 49 CFR 571.121	A Malliaris, (202) 426-0842.	NPRM June 1981.

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Title	Summary	Contact	Earliest expected decision date
Seat Belt Assemblies (Docket No. 74-14).	Would improve seat belt comfort, convenience, reliability and effectiveness by prescribing parameters for performance of seat belt assemblies. (49 CFR 571.208). NPRM issued 12/20/79 (44 FR 77210).	A. Malliaris, (202) 426-0842.	FR November 1980.
School Bus Crash Protection (Docket No. 73-03).	Would amend *49 CFR* 571.3 definitions to include a subclassification for "School Activities Bus" and amend FMVSS 222 as it would apply to this vehicle class. (49 CFR 571.222).	A. Malliaris, (202) 426-0842.	*Withdrawn pending further action.*
Adjudicative Procedures Fuel Economy.	Would establish procedures and rules of practice for adjudications to enforce the fuel economy provisions in Title V of the Motor Vehicle Information and Cost Savings Act. This was issued as an interim final rule 10/16/78 (43 FR 47507-28). Public comments were invited. (49 CFR pt. 511).	Stephen Wood, (202) 426-2992.	FR *August* 1980.
Door Locks and Door Retention Components.	This technical amendment would clarify existing test procedures and extend the applicability of FMVSS 206 such that present side door requirements cover transverse rear doors. (49 CFR 571.206).	A. Malliaris, (202) 426-0842.	NPRM *November 1980.*
Fields of Direct View (Docket No. 70-7).	This proposal would establish requirements for the maximum allowable size of obstructions in the field of view of drivers, the luminous transmittance of glazing, and the location and functional characteristics of sun visors. NPRM issued 11/6/78. (43 FR 51677).	A. Malliaris, (202) 426-0842.	FR *May 1981.*
Rear View Mirrors (Docket No. 71-3a).	This proposal would amend FMVSS 111 to: a) reduce the blind areas by upgrading mirror visability using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or fold-away tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. NPRM issued 11/6/78. (43 FR 51657). (49 CFR 571.111).	A. Malliaris, (202) 426-0842.	FR *May 1981.*
Hydraulic Brake Systems (Docket No. 70-27).	This proposal would extend the applicability of FMVSS 105-75 from passenger cars to cover on a general basis, multi-purpose passenger vehicles, buses, and trucks with a Gross Vehicle Weight Rating (GVWR) of 10,000 lbs. or less. The notice proposes extending the standard on a limited basis to trucks, buses, and MPVs (Motor Passenger Vehicles) with a GVWR of more than 10,000 lbs. NPRM issued 10/18/79. (44 FR 60113). (49 CFR 571.105-75).	A. Malliaris, (202) 426-0842.	FR *May 1981.*
Brake System Inspectability	Would require vehicle modifications in order to inspect for certain levels of brake degradation in accordance with proposed test procedures and criteria for measurement.	A. Malliaris, (202) 426-0842.	*Further action to be determined.*
Theft Protection (Docket No. 1-21).	Would amend existing standard to require separate keys for doors and ignition, door lock modifications, internal control of hood latch, modification in ignition wiring and ignition key alarm. Would apply to passenger cars, light trucks and vans. NPRM issued 5/1/78. (43 FR 18577). (49 CFR 571.114).	A. Malliaris, (202) 426-0842.	FR *November 1980.*
Lamps, Reflective Devices, and Associated Equipment (Docket No. 69-19).	This *will not* revise the minimum size requirement of lenses used on moped stop lamps. It is in response to a petition that the current requirements are excessively stringent. Interim final rule issued 8/31/78. (43 FR 38831), Comment period closed 10/30/78. Three comments received and reviewed for consideration in issuisng of final rule. *Final Rule issued March 3, 1980 (45 FR 13736).* (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	*Action complete.*

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Title	Summary	Contact	Earliest expected decision date
Consumer Information—Wet Stopping Distance.	Develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces. (49 CFR *575.105)*.	Michael Brownlee, (202) 426–1740.	NPRM *March 1981.*
Bumper Standard	Extend the bumper height requirements to all vehicles under 10,000 lbs. GVWR. Increase the extent to which the vehicle population has matching bumpers, thereby reducing the underride/override problem in vehicle to vehicle accidents involving a light truck, van or multipurpose vehicle. (49 CFR pt. 581). Further action postponed indefinitely pending further analysis.	Michael Brownlee, (202) 426–1740.	*Withdrawn pending further action.*
Rear Lighting and Signalling	Would establish requirement for the separation of function of rear lighting and signalling and establish requirements for the location of brake lights. (49 CFR 571.108).	A. Malliaris, (202) 426–0842.	NPRM *February 1981.*
Battery Explosions	Would establish performance requirements and labeling of batteries to *reduce* the incidence of battery explosions while jump starting. (49 CFR 571).	A. Malliaris, (202) 426–0842.	NPRM *November 1980.*
Interior Noise Levels	Would establish maximum allowable interior noise levels in all heavy trucks by extending the current Bureau of Motor Carrier Safety requirement to new vehicles. NPRM was not issued in September 1979 as originally planned and is postponed indefinitely pending further analysis.	A. Malliaris, (202) 426–0842.	*Withdrawn pending further action.*
Controls & Displays (Docket No. 1–18).	Would amend the standard to include several symbols adopted by the International Standards Organization (ISO). *(49 CFR 571.101).*	A. Malliaris, (202) 426–0842.	*Further action to be determined.*
Speedometers and Odometers. (Docket No. 76–06).	A final rule issued 3/22/79 responded to petitions for reconsideration by deleting the 10% limit on distance between graduation on speedometer scales, increasing the leadtime for speedometer accuracy and odometer tamper resistance and clarifying the irreversibility option for odometers. (44 FR 17500). An NPRM was issued 3/22/79 (44 FR 17532) to amend FMVSS 127 with regard to replacement odometers and proposing refinements in irreversibility option for odometers. *FR issued June 16, 1980 (45 FR 90585).* (49 CFR 571.127) .	A. Malliaris, (202) 426–0842.	Action complete.
Truck Rear Underride Protection	Would require protective devices to *reduce* vehicle penetration under the rear-ends of heavy trucks and trailers *(without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices).*	A. Malliaris, (202) 426–0842.	*NPRM December 1980.*
Fuel System Integrity (Docket No. 73–20).	Would establish specific performance requirements in Safety Standard No. 301–75 for non-metallic fuel tanks (plastic tanks) used in motor vehicles. ANPRM issued 6/2/79. (44 FR 33441). Further action postponed indefinitely pending further analysis.	A. Malliaris, (202) 426–0842.	Further Action to be determined.
Tire Identification and Recordkeeping.	Would require ID on outward facing sidewall of motor vehicle tires. (49 CFR pt. 574).	A. Malliaris, (202) 426–0842.	NPRM *July 1981.*
Consumer Information—Acceleration and Passing Ability and Tire Reserve Load.	Amends the Consumer Information Regulations by deleting the acceleration and passing ability items and modifies the class of vehicles to which the tire reserve load provisions apply. NPRM issued 3/15/79 (44 FR 15748). *Final Rule published July 14, 1980 (45 FR 47152).*	Michael Brownlee, (202) 426–1740.	*Action complete.*
Motorcycle Helmets	This technical amendment increases the percentage of helmet sizes covered by FMVSS 218 by testing large and extra-large helmets with the medium (size "C") headform. Currently, only medium size helmets are covered. NPRM issued 9/27/79. (44 FR 55612). (49 CFR 571.218) *Final Rule issued March 10, 1980. (45 FR 15179).*	A. Malliaris, (202) 426–0842.	*Action complete.*

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Title	Summary	Contact	Earliest expected decision date
Windshield Retention and Windshield Zone Intrusion.	This technical amendment changes the crash test requirements for FMVSS 212 and 219 for trucks manufactured in more than one stage. NPRM issued 8/2/79. (44 FR 45426). (49 CFR 571.212, 571.219). *FR published April 3, 1980 (45 FR 22044).*	A. Malliaris, (202) 426-0842.	*Action complete.*
Side Door Strength	This technical amendment *will* change the test requirements for FMVSS 214 to allow the seats to remain in the car during the side door crush test. The seats currently must be removed. NPRM issued 6/2/79 (44 FR 33444). (49 CFR 571.214). *Final Rule issued March 17, 1980. (45 FR 17015).*	A. Malliaris, (202) 426-0842.	*Action complete.*
Glazing Materials	This technical amendment would delete the abrasion resistance requirements for certain types of glazing used on side windows of light trucks and vans. NPRM issued 9/27/79. (44 FR 55610). (49 CFR 571.205).	A. Malliaris, (202) 426-0842.	FR *September* 1980.
Vehicle Speed Control (Docket No. 79-06).	Trailways Bus Company petitioned for a FMVSS to require road speed governors for all commercial vehicles. A request for comments was published in the Federal Register on 3/19/79 with a closing date of 8/17/79. (44 FR 16461). Further Agency action will await results from *long range* research.	A. Malliaris, (202) 426-0842.	Further action to be determined.
New Pneumatic Tires	Amendment would delete Appendix A (Tire Tables) of FMVSS 109 to ease introduction of new tire concepts and to add criteria to insure compatibility of new concepts with existing tire types. (49 CFR 571.109). The originally planned ANPRM will not be issued; instead, the Agency is proceeding with a less comprehensive NPRM.	A. Malliaris, (202) 426-0842.	NPRM *September 1980.*
Odometer Disclosure	Amends disclosure requirements to allow the States to use an abbreviated disclosure statement on all State-supplied transfer documents, as well as on certificates of title. NPRM issued 5/14/79 (44 FR 28032). *Final Rule issued January 3, 1980 (45 FR 784).*	John Womack, (202) 426-1834.	*Action complete.*
State Highway Safety Agencies	This Joint NHTSA-FHWA rule would replace the existing Joint FHWA/NHTSA Orders on State agencies with a new Part 1251, *State Highway Safety Agency* in Title 23, Code of Federal Regulations. It proposes to establish new requirements for the authority and function of State highway safety agencies. NPRM published June 21, 1979 (44 FR 36204) and a revised NPRM published December 6, 1979 (44 FR 70192). (23 CFR pt. 1251).	George Reagle, (202) 426-0068.	*FR September 1980.*
State Matching of Planning and Administration Costs (Docket 79-12).	This joint FHWA-NHTSA notice establishes NHTSA and FHWA policy on State planning and administration costs associated with carrying out a highway safety program under the Highway Safety Act with a new Part 1252, *State Matching of Planning and Administration Costs* in Title 23, Code of Federal Regulations. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and specifies when the State will have to comply with the requirement. NPRM was published on July 16, 1979 (44 FR 41244) An Amendment to the NPRM was published August 28, 1979 (44 FR 50063). *Final Rule published July 14, 1980 (45 FR 47144)* (23 CFR pt. 1252).	George Reagle, (202) 426-0068.	*Action complete.*
Innovative Project Grants (Docket 79-11).	This joint FHWA-NHTSA rule would provide criteria, procedures, and policies for administration of Innovative Project Grants under 23 U.S.C. 407 when funds are appropriated. ANPRM published July 19, 1979 (44 FR 42233). NHTSA has primary responsibility for this action. (23 CFR pt. 1217).	Charles Livingston, (202) 426-0837.	*NPRM September 1980.*

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Title	Summary	Contact	Earliest expected decision date
Low Tire Pressure Warning	Would require installation of a tire low pressure warning indicator to warn drivers when inflation pressure drops below recommended pressure.	A. Malliaris, (202) 426-0842.	*ANPRM September 1980.*
Commercial Vehicle Conspicuity	Would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights). *ANPRM issued May 27, 1980 (45 FR 35405)* (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	*Further action to be determined.*
Side Door Strength	Would upgrade and extend FMVSS 214 requirements to light trucks, vans and MPVs. ANPRM issued 12/6/79. (44 FR 70204). *Public meeting held in Washington on January 31 and February 1, 1980.*	A. Malliaris, (202) 426-0842.	Further action to be determined.
Child Restraint Tether Anchorages.	Would require anchorages for use with child restraint systems equipped with a top tether strap.	A. Malliaris, (202) 426-0842.	*NPRM September 1980.*
Rear View Mirrors	Would require rearview mirrors in vans equipped with rear windows. *NPRM issued December 31, 1979. (44 FR 77224). Comments received February 14, 1980.* (49 CFR 571.111).	A. Malliaris, (202) 426-0842.	*FR May 1981.*
New Pneumatic Tires	Amendment to FMVSS 110 would specify a minimum tire reserve load. (49 CFR 571.110).	A. Malliaris, (202) 426-0842.	NPRM *August 1981.*
Heavy Duty Vehicle Brake Systems.	Requires brakes on all wheels of heavy duty trucks and buses. *FR issued 6/9/80 (45 FR 38380) (49 CFR 571.121).*	A. Malliaris, (202) 426-0842.	*Action complete.*
Lamps, Reflective Devices, and Associated Equipment.	This proposal would require the headlights and taillights of motorcycles to be illuminated at all times when the engine is running. This action resusits from a granted rulemaking petition. (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	NPRM *January 1981.*
Lamps, Reflective Devices, and Associated Equipment.	This proposal would remove the dimensional specifications for headlamp retaining rings. This action results from a granted rulemaking petition. (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	NPRM *January 1981.*
*Test Dummies	This amendment allows the use of a new foaming agent in making dummy flesh parts and revises the adult dummy neck calibration. NPRM issued 12/18/78 (43 FR 58843). *Final Rule issued June 16, 1980 (45 FR 40595).* (49 CFR pt. 572).	A. Malliaris (202) 426-0862.	*Action complete.*
*Impact Protection for the Driver from the Steering Control System.	This technical amendment would revise the test requirements of FMVSS 203 to permit force loads in excess of 2,500 pounds for a cumulative period not to exceed 3 milliseconds. (49 CFR 571.203).	A. Malliaris (202) 426-0862.	NPRM *December* 1980.
*Tire Selection and Rims Non-Passenger Cars.	These technical amendments would clarify existing requirements or resolve minor specific technical problems. (49 CFR 571.120).	A. Malliaris, (202) 426-0842.	NPRM October 1980.
*Lamps, Reflective Devices, and Associated Equipment.	The technical amendment to FMVSS 108 requires that side marker photometric measurements be tested on the basis of vehicle length rather than width. This action results from a granted rulemaking petition (49 CFR 571.108). NPRM issued September 7, 1978 (43 FR 39839). Final Rule issued July 3, 1980 (45 FR 45287).	A. Malliaris, (202) 426-0842.	Action complete.
*Lamps, Reflective Devices, and Associated Equipment.	This proposal for a technical modification to FMVSS 108 would require that rear lamp reflex reflector tests be changed to require a 10 instead of a 7 inch test diameter size. The action results from a granted rulemaking petition (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	NPRM December 1980.
*Lamps, Reflective Devices, and Associated Equipment.	This notice for comments is for a possible technical modification to FMVSS 108 to have special tests for waterproof boat trailer lights. This action results from a granted rulemaking petition (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	Notice for Comments July 1980.

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Title	Summary	Contact	Earliest expected decision date
*Glazing Materials	Would update FMVSS 205 by referring to latest edition of companion commercial standard (ANS Z-26), thereby permitting use of modern materials.	A. Malliaris, (202) 426-0842.	NPRM December 1980.
*School Bus Body Joint Strength	Would amend FMVSS 221 to modify the exempt status of maintenance access panels.	A. Malliaris, (202) 426-0842.	NPRM December 1980.
*Lamps, Reflective Devices, and Associated Equipment.	This notice for comments is for a possible amendment to FMVSS No. 108 to modify headlamp configurations and for a possible addition or tests for plastic headlamps (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	Notice for Comments February 1981.
*Lamps, Reflective Devices, and Associated Equipment.	This proposal for a technical modification would correct a previous amendment that inadvertently modified a lamp vibration test when making other changes to FMVSS No. 108 (49 CFR 571.108).	A. Malliaris, (202) 426-0842.	NPRM October 1980.
*Glazing Materials	Interpretative amendment issued to remove inconsistencies which penalize use of higher performance glazing in lower performance applications. Final Rule published July 14, 1980 (45 FR 47150).	A. Malliaris, (202) 426-0842.	Action complete.
*Flammability of School Bus Interior Materials.	Would utilize guidelines prescribed by UMTA to define flammability characteristics of School Bus Interior Materials.	A. Malliaris, (202) 426-0842.	ANPRM August 1980.
*Seat Belt Assemblies	Would amend FMVSS 209 to exempt load limiting belts used with air bag systems from elongation requirements.	A. Malliaris, (202) 426-0842.	NPRM July 1980.
*Seat Belt Assemblies	Would amend FMVSS 209 to modify resistance to light test procedures. NPRM issued 5/1/80 (45 FR 29102).	A. Malliaris, (202) 426-0842.	FR December 1980.
*Highway Safety Plan	Would revise Volume 102, *Highway Safety Plan*, of the Highway Safety Program Manual to clarify confusing provisions, to eliminate redundancies, to establish program priorities, to improve management and financial processes, and to reflect the increase role mandated for the central state highway safety agencies. (23 U.S.C. § 402).	Chuck Livingston, (202) 426-0837.	NPRM September 1980.
Fuel Economy Exemptions			
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-01).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Avanti Motor Corp. (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	NPRM *August 1980,* FR *October 1980.*
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-03).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Checker Motors. NPRM issued 10/23/78 (43 FR 49336). *Final Rule issued February 14, 1980 (45 FR 9935).* (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	*Action complete.*
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-02).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Rolls-Royce Motors, Inc. (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	NPRM *August 1980, FR October 1980.*
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-04).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Aston Martin Lagonda. *NPRM issued April 10, 1980 (45 FR 24511).* (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	*FR August 1980.*
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-05).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Excalibur Automobile Corp. (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	NPRM *August 1980.*
Exemption from and Establishment of Fuel Economy Standard.	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Lamborghini, S.p.A. *Firm did not sell vehicles in 1979 or 1980.* (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	*Unknown.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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NHTSA National Highway Traffic Safety Administration

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Exemption from and Establishment of Fuel Economy Standard.	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Maserati, S.p.A. (49 CFR pt. 525).	R. Strombotne, (202) 426-0846.	NPRM *August 1980*, FR *October 1980*.

FRA Federal Railroad Administration

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Strobe Lights on Locomotives (Docket No. RSGC-2).	**A. Description:** Lighted warning devices that include strobe lights have been shown to be more readily visible than normal lighting devices. FRA is considering requiring the installation of strobe lights on locomotives. **B. Why Significant:** Degree of controversy reflected by response to ANPRM. **C. Analysis:** Regulatory Analysis.......... **D. Need:** Grade crossing accidents represent the single largest group of railroad related fatalities each year. Available data indicate that the conspicuity of locomotives may be a factor in many of these accidents. Limited research with one railroad has indicated that equipping locomotives with strobe lights will improve their conspicuity and may lead to a reduction in these accident statistics. **E. Legal Basis:** The Federal Railroad Safety Act of 1970 (45 U.S.C. 431); Locomotive Inspection Act (45 U.S.C. 22 et seq.). **F. Chronology:** The ANPRM was published March 7, 1978 (43 FR 9328). NPRM was published June 18, 1979 (44 FR 34982). **G. Citation:** Will be 49 CFR pt. 222..........	John A. McNally, (202) 426-9178.	FR *September 1980*.

FRA Federal Railroad Administration

Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Railroad Bridge Safety Standards...	The proposed rule would establish safety standards for inspection and rating of load capacity for railroad bridges.	William R. Paxton, (202) 426-0912.	ANPRM *September 1980*.
Railroad Noise Emission Compliance Regulations (Docket No. RNE-1.	The proposed rule would amend FRA Railroad Noise Emission compliance Regulations to reflect EPA Standards for fixed railroad facilities that were published on January 4, 1980; 45 FR 1252 (49 CFR pt. 210).	John A. McNally, (202) 426-9178.	NPRM *December 1980*.
Rules, Standards, and Instructions for Railroad Signal Systems:	The proposed rule would seek to make miscellaneous technical amendments to the signal inspection rules (49 CFR pt. 236). To be included in general revision of Part 236 after completion of General Safety Inquiry; see FRA Reviews Under Consideration.	William R. Paxton, (202) 426-0912.	Action deferred pending completion of general safety inquiry.
Safety Standards for Cabooses (Docket No. RSC-76-6).	The proposed rule would seek to establish comprehensive safety standards for cabooses.	Robert E. Abbott, (202) 426-9186.	NPRM *July 1981*.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FRA

Federal Railroad Administration

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Rail Services Assistance to States Under Section 5 of the DOT Act (FRA Economic Docket No. 4).	This action would amend 49 CFR pt. 266 to implement proposals offered by the grantees at a recent public meeting, and to make changes necessitated by the enactment of the Local Rail Services Assistance Act of 1978. Interim regulations published on August 30, 1979 (44 FR 51128). *FRA is currently working with interested parties to implement comments and suggestions.*	Larry A. Friedman, (202) 426-7737.	FR *August 1980.*
Review: Locomotives (Docket No. LI-6).	Outgrowth of regulatory review in general safety inquiry. Revision and updating of regulations to reflect technological advances and eliminate requirements that are no longer necessary for safety (49 CFR *pts. 229 and 230).* NPRM published May 21, 1979 (44 FR 29604). *Final rule published March 31, 1980 (45 FR 21092).*	Arthuer T. Ireland, (202) 426-9186.	*Action complete.*
Review: Track Safety Regulations.	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements (49 CFR pt. 213). NPRM published September 6, 1979 (44 FR 52104).	William R. Paxton, (202) 426-0912.	*Notice of withdrawl of NPRM September 1980.*
Review: Safety Appliance Standards.	Outgrowth of regulatory review in general safety inquiry. Revised standards for new and existing equipment (49 CFR pt. 231).	Ralph R. Smith, (202) 426-9187.	*September 1980.*
Review: Power Brake Rules............	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements (49 CFR pt. 232).	Ralph R. Smith, (202) 426-9187.	*December 1980.*
Review: Signal and Communication Systems.	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements of Parts 235 and 236.	S.H. Stotts, (202) 426-0912.	*February 1981.*
Amendments to Regulations Implementing Section 905 of the 4R Act.	The amendments to 49 CFR pt. 265 would implement section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976 for contracts on the Northeast Corridor Improvement Project by supplementing P.L. 95-507 to provide coverage for smaller contracts, for women-owned businesses, and for verification of a contractor's status.	Gregory B. McBride, (202) 472-5438.	FR *February 1981.*
*Final guidelines to Rock Island Railroad Transition and Employee Assistance Act Service Continuation.	Final guidelines issued by FRA stating procedures under which the public may submit applications for directed service under the Rock Island Railroad Transition and Employee Assistance Act (RITEA Act, Pub. L. 96-254). Proposed guidelines were published on June 26, 1980 (45 FR 43302). Final guidelines were published July 14, 1980 (45 FR 47296).	Douglas Taylor, (202) 472-5410.	Action complete.

FRA

Federal Railroad Administration

Routine and Frequent Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Rules for Use of Radio in Train Operations (Docket No. RSOR-5).	This final rule *establishes* a penalty schedule for violations of radio rule requirements (49 CFR pt. 220). *Final Rule published May 8, 1980 (45 FR 30443).*	John A McNally, (202) 426-9178.	*Action complete.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA

Urban Mass Transportation

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Withdrawal of Interstate Segments and Substitution of Alternative Projects (Docket No. 77-9).	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Richard White, (202) 472-6991.	FR *October* 1980.
Private Enterprise Participation in Federally-Assisted Programs.	**A. Description:** Pursuant to Sections 3(e) and 8(e) of the UMT Act, as amended, UMTA plans to publish procedures regarding the involvement of private mass transit operators in federally-assisted programs. **B. Why Significant:** While these regulations would implement statutory requirements, this is a controversial issue for both the transit industry and private operators. **C. Analysis:** Regulatory Evaluation **D. Need:** To resolve an area of continuing controversy **E. Legal Basis:** Sections 3(e)(1) and (2), and Section 8(e) of the UMT Act, as amended. **F. Chronology:** 8(e) was added to the Urban Mass Transportation Act by the Federal Public Transportation Act of 1978. NPRM to be prepared by *November* 1980. **G. Citation:** 49 CFR pt. 619	Edward Gill, (202) 426-1908.	NPRM *November* 1980.
Paratransit Policy	**A. Description:** UMTA will publish a policy regarding the availability of federal assistance for public and private operators in the provision of paratransit services. In addition, an ANPRM will be issued seeking comments on development of more specific guidelines concerning paratransit and the involvement of private operators in the planning and provision of service. Paratransit services addressed in the policy are meant to encompass those forms of collective passenger transportation which provide flexible, shared-ride service to the general public, or to special categories of users (such as elderly or handicapped persons) on a regular and predictable basis, but which do not necessarily operate on fixed schedules or over prescribed routes. **B. Why Significant:** The regulation is expected to have a direct or indirect effect on competition. **C. Analysis:** Regulatory Evaluation **D. Need:** To provide uniform guidance to public and applicant. **E. Legal Basis:** The UMT Act, 49 U.S.C. *1602 & 1604* **F. Chronology:** ANPRM to be prepared and issued by *December* 1980. **G. Citation:** None	Douglas Birnie, (202) 426-4060.	ANPRM *December* 1980.
Urban Transportation Planning Process/Transportation Improvement Program.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Bob Kirkland, (202) 426-4991.	*Withdrawn.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA

Urban Mass Transportation

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Environmental Procedures	**A. Description:** These regulations *would* prescribe UMTA procedures for environmental assessments and preparation of environmental impact statements on major agency actions significantly affecting the quality of the human environment. **B. Why Significant:** UMTA policy in this area may be expected to be of substantial interest to both UMTA grantees and the public. **C. Analysis:** Regulatory Evaluation **D. Need:** To provide uniform guidance to the public and applicants. **E. Legal Basis:** National Environmental Policy Act; DOT Order 5610.1; Section 14 of UMT Act; Council on Environmental Quality Regulations implementing NEPA (40 CFR pts. 1500–1508 (43 FR 55978)). **F. Chronology:** An NPRM was issued on October 15, 1979 (44 FR 59438). Comments were originally invited through November 14, 1979. The comment period was extended to December 3, 1979 in a notice in the Federal Register on November 19, 1979 (44 FR 66213). **G. Citation:** 49 CFR pt. 622	John Collins, (202) 426–1908.	FR *September* 1980.
Public Transportation to Non-Urbanized Areas.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Kay Regan, (202) 472–7037.	NPRM *October 1980.*
Major Urban Transportation Investment.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Joel Ettinger, (202) 426–2360.	Further action to be determined.
"Buy America" Requirements of Surface Transportation Assistance Act of 1978.	**A. Description:** These regulations implement section 401 of the Surface Transportation Assistance Act of 1978, which provides, with exceptions, that funds authorized may not be obligated for urban mass transportation projects unless materials and supplies are of United States origin. These regulations were issued as a final rule but comments were solicited until February 15, 1979 and changes will be made based on the comments received. *A separate NPRM will also be issued addressing several issues raised during the comment period.* **B. Why Significant:** There is substantial public interest concerning these regulations because of their impact in urban mass transportation projects. **C. Analysis:** Regulatory Evaluation **D. Need:** These regulations implement section 401 of the Surface Transportation Assistance Act of 1978. **E. Legal Basis:** 49 U.S.C. 1602 note; P.L. 95–599, Section 401. **F. Chronology:** The statute creating this provision was signed by the President on November 6, 1978 and required immediate implementation. The emergency final rule was published on December 6, 1978. (43 FR 57144) Comments were invited through February 15, 1979. UMTA is currently analyzing the comments received and will issue revised final regulations in *September 1980.* **G. Citation:** 49 CFR pt. 660	John Collins, (202) 426–1908.	Revised FR *September 1980.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA

Urban Mass Transportation

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Regulation Implementing the Nondiscrimination Section of the Urban Mass Transportation Act.	**A. Description:** The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet.	Edward Gill, (202) 426-1906.	NPRM *December* 1980.
	B. Why Significant: Substantial public interest is anticipated.		
	C. Analysis: Regulatory Evaluation		
	D. Need: Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.		
	E. Legal Basis: Section 19 of the UMT Act (49 U.S.C. § 1615).		
	F. Chronology: Section 19 was added to the UMT Act in November 1978 by the Federal Public Transportation Act of 1978.		
	G. Citation: 49 CFR Chapter VI		
Minority Business Enterprise Requirements—Transit Vehicle Manufacturers.	**A. Description:** The recently issued DOT Rulemaking *concerning* Participation by Minority Business Enterprises (*March 31, 1980, 45 FR 21172*) contains a provision that transit vehicle manufacturers are required to have an UMTA-approved MBE program in order to be eligible to bid on UMTA-assisted transit vehicle procurements. UMTA is proposing guidelines for these MBE programs which will become part of the DOT regulations. Once the guidelines are finalized, transit vehicle contracts would be exempted from the MBE program of UMTA recipients. This regulation would be part of the DOT MBE regulations.	Irvin Bromall, (202) 426-2285.	NPRM *October 1980.*
	B. Why Significant: Substantial public interest is anticipated given the potential impact on transit vehicle manufacturers.		
	C. Analysis: Regulatory Evaluation		
	D. Need: To implement the DOT MBE requirements for application to transit vehicle manufacturers.		
	E. Legal Basis: 49 U.S.C. 1615; E.O. 11625		
	F. Chronology: DOT NPRM issued on May 17, 1979 (44 FR 28928); *DOT FR issued March 31, 1980 (45 FR 21172);* UMTA NPRM to be issued by *October 1980.*		
	G. Citation: 49 CFR pt. 23		
*Materials Fire Safety Standards for Rail Rapid Transit and Light Rail Transit Vehicles.	**A. Description:** The proposed regulations would establish standards for flammability and smoke emission and toxicity of materials used in Rail Rapid Transit and Light Rail Transit Vehicles.	Robert Haught, (202) 426-9545.	NPRM September 1980.
	B. Why Significant: The proposed regulations could have a substantial impact on a major transportation safety problem.		
	C. Analysis: Regulatory Evaluation		
	D. Need: The proposal would establish materials fire safety standards to minimize the fire threat in Rail Rapid Transit and Light Rail Transit vehicles. The standards are directed primarily at new vehicle construction.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA

Urban Mass Transportation

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	E. Legal Basis: Sections 3 and 5 of the UMT Act, as amended. **F. Chronology:** NPRM expected to be issued by September 1980. **G. Citation:** 49 CFR Chapter VI		
*Safety Information Reporting and Analysis System for Rail Transit Systems.	**A. Description:** UMTA is proposing regulations that would establish a requirement for periodic reporting of accidents and casualty information that occur in Rail Rapid Transit and Light Rail Transit operations. **B. Why Significant:** The proposed regulations could have a substantial impact on a major transportation safety problem. **C. Analysis:** Regulatory Evaluation **D. Need:** Information collected will be used to maintain cognizance of the status of rail transit safety, ascertain the need for improvements in rail transit safety, and establish research and development projects for safety improvements. **E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended, and Section 107 of the National Mass Transportation Assistance Act of 1974. **F. Chronology:** NPRM expected to be issued by September 1980. **G. Citation:** 49 CFR Chapter VI.	Lloyd Murphy, (202) 426-6588.	NPRM September 1980.
*Maintenance Requirements	**A. Description:** UMTA is considering a policy along with implementing regulations that would require each mass transit operator to maintain facilities and equipment purchased with UMTA funds consistent with practices necessary to adequately provide for safety, comfort, and preservation and expansion of transit service. **B. Why Significant:** This proposal concerns a matter on which there may be substantial controversy and it initiates a substantial change in policy. **C. Analysis:** Regulatory Evaluation **D. Need:** There is a substantial Federal interest in assuring that maximum use is made of Federal money. The contemplated policy and regulations would: (a) increase performance and useful life of equipment and facilities; (b) minimize replacement costs; and (c) result in cost savings. **E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended. **F. Chronology:** ANPRM to be issued in September 1980 **G. Citation:** None	Charlotte Adams, (202) 472-6997.	ANPRM September 1980.
*Bus Rehabilitation Program, UMTA Docket 80-A.	**A. Description:** UMTA is proposing regulations to implement a policy in which it will participate in the rehabilitation of older buses. The regulations would set out the guidelines for eligibility and participation in the program. **B. Why Significant:** Substantial controversy was generated upon publication of the NPRM. **C. Analysis:** Regulatory Evaluation	Charlotte Adams, (202) 472-6997.	FR September 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA Urban Mass Transportation Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	D. Need: To provide a national funding basis for a bus rehabilitation program and to ensure the prudent use and maximum effectiveness of Federal and local money. **E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended. **F. Chronology:** NPRM published February 11, 1980 (45 FR 9244). Comments were invited through May 2, 1980 (after an extension of the comment period). Based on the substantial controversy generated upon publication of the NPRM, this proposal was reclassified as a significant regulation. **G. Citation:** 49 CFR pt. 640		

UMTA Urban Mass Transportation Administration

Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Charter Bus Regulations.	These regulations provide more detailed information regarding the restrictions placed on charter bus operations in section 3(f) of the UMT Act, 49 U.S.C. 1601. UMTA received considerable comments as a result of an ANPRM dated December 29, 1976 (41 FR 56680) and a hearing held thereafter and it is now planning to issue an ANPRM for comment. (49 CFR pt. 604).	Ernesto Fuentes, (202) 426-1906.	ANPRM *September 1980.*
Innovative Techniques and Methods Set-Aside.	These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation services *(49 CFR pt 645..*	Joseph Goodman, (202) 426-4984.	NPRM *September 1980.*
Rail Transit Car Testing	These regulations would prescribe policy guidance for the testing of rail transit cars, the test schedule to be followed and requirements of the tests to be performed *(49 CFR Pt. 662).*	Robert Haught, (202) 426-9545.	NPRM *September 1980.*
Miscellaneous Amendments—Organization, Functions, and Procedures.	These amendments will reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration (49 CFR pt. 401).	Patricia Colbert, (202) 426-4011.	FR *September 1980.*
Public Hearing Requirements	UMTA's regulations implement Section 5(i)(3) of the Urban Mass Transportation Act of 1964, as amended. This section requires a public hearing or an opportunity for a public hearing prior to increases in general levels of transit fares or substantial changes in service. A notice of proposed rulemaking was published on July 16, 1979 (44 FR 41272). Comments were invited through August 30, 1979. *FR published April 17, 1980 (45 FR 26298) (49 CFR Part 635). The final rule invited comments through June 20, 1980 on UMTA's treatment of "substantial changes in service." The comments received are currently being reviewed and analyzed.*	Charlotte Adams, (202) 472-6997.	*Further Action to be Determined.*
Investigation of Safety Hazards in Urban Mass Transportation Systems.	These regulations would establish the policy and proceedings to be followed in the implementation of Section 107 of the National Mass Transportation Assistance Act of 1974, including the investigation of an unsafe condition, the requiring of a plan for correcting an unsafe condition, and the withholding of financial assistance until such a plan is approved or implemented.	William Rhine, (202) 426-9545.	NPRM *November 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA

Urban Mass Transportation Administration

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Human Resource Needs in Transit Industry.	Section 20 of the Urban Mass Transportation Act of 1964, as amended, provides that the Secretary of Transportation, through UMTA, may provide financial assistance for national and local programs that address human resource needs as they apply to public transportation activities. It is intended that the number of minority and female employees in the public transportation field will be increased and that the quality of opportunities will be increased through outreach, training, and management development. The proposed regulations would set out the types of potential eligible projects and the requirements that a project must meet to receive Section 20 funds.	Irvin Bromall, (202) 426-2285.	NPRM *October 1980.*
Maintenance of Effort Requirements.	These regulations would implement Section 5(f) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604(f)), which deals with maintenance of effort by designated recipients of Federal mass transportation funds. The maintenance of effort requirement is imposed to ensure that state and local support and mass transportation non-farebox revenues will be maintained for provision of mass transportation services. The proposed regulations would implement 1978 legislative changes giving recipients of funds greater flexibility in meeting the requirements. A Notice of Proposed Rulemaking was published on August 27, 1979 (44 FR 50068). Comments were invited through October 11, 1979. *(49 CFR Part 635).*	Candace Noonan, (202) 472-6997.	*FR September 1980.*
Standards and Procedures for Thirty Party Contracts.	These standards and procedures would provide guidance on third party contracting by recipients of Federal assistance from UMTA. They would implement OMB Circular A-102, Attachment B and Attachment O. A Notice of Proposed Rulemaking was published on September 20, 1979 (44 FR 54513). Comments were invited through November 15, 1979. The comment period was extended to January 3, 1980 in a notice published in the ***Federal Register*** on November 1, 1979 (44 FR 62918). *(49 CFR Part 666).*	Arlan Eadie, (202) 426-2710.	FR *October* 1980.
Capital Assistance Grants to Meet Special Needs of Elderly and Handicapped (16(b)(2) Program).	UMTA is proposing regulations governing the administration of Section 16(b)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1612(b)(2)). This program provides assistance in meeting the transportation needs of elderly and handicapped persons, where existing transportation services are unavailable, insufficient, or inappropriate. The regulations would set application procedures, and detail the role of the States in the program.	Al Lim, (202) 472-6997.	NPRM *September 1980.*
Bus Rehabilitation Program	UMTA is proposing regulations to implement a policy in which it will participate in the rehabilitation of older buses. The regulations would set out the guidelines for eligibility and participation in the program. *NPRM published February 11, 1980 (45 FR 9244). Comments were invited through May 2, 1980. This regulation has been reclassified and now appers in the Significant portion of the Agenda. (49 CFR 640).*	Charlotte Adams, (202) 472-6997.	*FR August 1980.*
Regulations Governing Formula Operating Assistance Grants to Urbanized Areas.	These regulations would streamline the policies and procedures governing the Operating Grant Program of Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604). Included in the regulations would be application procedures, general program requirements, and project management requirements. *(49 CFR pt. 650).*	*James McQueen, (202) 426-4050.*	NPRM *August 1980.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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UMTA **Urban Mass Transportation Administration**

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Project Management Guidelines for Grantees.	These regulations would provide grantees with guidelines and procedures to be applied in administering UMTA grants, cooperative agreements, and loans. These guidelines are intended to assist grantees in meeting various grant management responsibilities and reporting requirements. (*49 CFR pt. 658*).	Timothy Wolgast (202) 426-4011.	NPRM *August 1980.*
Guidelines for Preparation and Submission of Transportation Improvement Program (TIP).	These regulations would provide external guidance for the preparation and submission of the Transportation Improvement Program (TIP) pursuant to Joint Planning Regulations of UMTA and FHWA (23 CFR pt. 450; 49 CFR pt. 631). The information contained in these regulations presents current statutory and UMTA requirements pertaining to TIP. The intent of the regulations is to clarify and facilitate the preparation and submission of the TIP.	Timothy Wolgast, (202) 426-4011.	NPRM *September* 1980.
Application Instructions for Capital Assistance Projects.	These regulations would provide program information and application instructions and procedures for capital assistance under Sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, and for assistance for Interstate Substitution and Federal-Aid Urban Systems (FAUS) non-highway Public Mass Transit Projects under the Federal-Aid Highway Act of 1973.	Charlotte Adams, (202) 472-6997.	NPRM *September* 1980.
Stockpiling of Buses *(UMTA Docket 80-B).*	These regulations would provide guidance concerning the evaluation of requests by grantees for permission to stockpile older buses being replaced with UMTA assistance. *NPRM published March 3, 1980 (45 FR 13994). Comments were invited through APril 16, 1980.* (*49 CFR 641*).	Charlotte Adams, (202) 472-6997.	*FR September* 1980.
Application Procedures for Technical Studies Grants.	The regulations would provide guidance and set out requirements for the preparation of Technical Studies Grant applications for funds made available under Section 8 of the UMT Act, as amended. Section 8 funds are available for technical studies for the planning, engineering, design and evaluation of mass transportation systems and projects in urban and urbanized areas.	James Getzewich, (202) 426-4991.	NPRM August 1980.

SLSDC **Saint Lawrence Seaway Development Corporation**

Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Tariff of Tolls Amendment	Incorporation of surcharge provisions of Seaway Closing Procedures into 33 CFR Part 402.	Robert D. Kraft, (202) 426-3574.	*FR July 1980.*
Operational Regulations	Periodic update of 33 CFR Part 401 operational regulations developed, for the most part, jointly with the Seaway Authority of Canada.	Frederick A. Bush, (315) 764-0271.	*FR July 1980.*

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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RSPA

Research and Special Programs Administration

Significant Regulations

Title	Summary	Contact	Earliest expected decision date
Highway Routing of Radioactive Materials (Docket No. HM-164).	**A. Description:** This regulation would establish routing requirements for the highway carriage of radioactive materials. **B. Why Significant:** There is substantial public interest and controversy over the regulation and it would have a significant impact on the Federal Highway Administration. **C. Analysis:** Regulatory Evaluation **D. Need:** To provide a basis for deciding whether Federal routing requirements are necessary for the highway transportation of hazardous materials. **E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808 **F. Chronology:** Administrative ruling on Federal pre-emption: Published a public notice and invitation to comment on Aug. 15, 1977 (42 FR 41202): Public hearing (New York) was held on Nov. 10, 1977 (42 FR 64487); Ruling published April 20, 1978 (42 FR 16945); Rulemaking: ANPRM issued Aug. 17, 1978 (43 FR 36492); Public hearing (Washington) was held on Nov. 29, 1977. NPRM issued January 31, 1980 (45 FR 7140.) *Published NPRM announcing dates and locations of five public hearings on March 6, 1980 (45 FR 14609). Two additional hearings announced May 15, 1980 (45 FR 32030). All hearings completed..* **G. Citation:** 49 CFR pt. 177	M. Morris, (202) 426-2075.	FR November 1980.
Development of New Standards for Transportation of Hazardous Waste Materials (Docket No. HM-145A).	**A. Description:** *Establishes* new standards and procedures for the transportation of hazardous waste materials. **B. Why Significant:** This regulation *has* a significant impact on the operating administrations and the Environmental Protection Agency (EPA). **C. Analysis:** Regulatory Evaluation **D. Need:** These standards are necessary to govern the transportation of hazardous waste materials and to provide consistency with the hazardous waste materials regulations promulgated by EPA under the Resource Conservation and Recovery Act. **E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808 **F. Chronology:** NPRM jointly developed with EPA; public hearing held on Oct. 26, 1977 (42 FR 51625); NPRM issued May 25, 1978 (43 FR 22626); public hearing on NPRM held on June 20, 1978 (43 FR 22626). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated..* **G. Citation:** 49 CFR pts. 171, 172, 173, 174, 175, 176, and 177.	A. Roberts, (202) 426-0656.	*Action complete.*
Development of New Standards for Liquefied Natural Gas (LNG) Facilities (Docket No. OPSO-46).	**A. Description:** Comprehensive new standards would be proposed for the siting, design, construction, operation, and maintenance of LNG facilities. **B. Why Significant:** Major rulemaking, due to substantial public interest and controversy, and due to potential danger of large-scale LNG spills.	L. Furrow, (202) 426-2392.	Action Complete for Siting, Design, and Construction; FR *October* 1980 for Operation and Maintenance.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Research and Special Programs Administration

Significant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
	C. Analysis: Regulatory Evaluation **D. Need:** The concerns of Federal, State, and local agencies over LNG safety. **E. Legal Basis:** 49 U.S.C. 1672 **F. Chronology:** ANPRM published April 21, 1977 (42 FR 20076); NPRM (siting, design, and construction): published February 8, 1979 (44 FR 8142); NPRM (operation and maintenance): published February 11, 1980 (45 FR 9220); Final Rules (siting, design, and construction). Published February 11, 1980 (45 FR 9184)). Final rules (operation and maintenance): *October 1980. Petitions for reconsideration of seismic design standards under consideration, to be answered by Federal Register publication in August, 1980.* **G. Citation:** 49 CFR pt. 193 (new)		
*Tank Car Safety Improvements: Specifications and Retrofit (Docket No. HM-175).	**A. Description:** This project would extend the puncture and thermal protection systems now required for DOT 112 and 114 tank cars to existing DOT 105 tank cars and to other newly constructed tank cars. (New construction of DOT 105 tank cars is addressed in Docket No. HM-174, Safety Improvement Program for DOT 105 Tank Cars.) **B. Why Significant:** There is substantial public interest in tank car safety and in retrofit issues. **C. Analysis:** Regulatory Evaluation **D. Need:** To determine the extent to which current thermal and puncture standards should be applied to the existing DOT 105 tank car fleet, and to other similarly used tank cars. **E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808 **F. Chronology:** ANPRM published July 21, 1980 (45 FR 48668); public comment period to close October 16, 1980.	L. A. Peterson, (202) 426-0897.	NPRM *January 1981.*

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Research and Special Programs Administration

Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Intermodal Portable Tanks (Docket No. HM-167).	Proposed standards for new specifications for portable tanks and procedures for use of these portable tanks for certain hazardous materials. NPRM published Dec. 11, 1978 (43 FR 58050). (49 CFR 107.400-.407, 178.271, 178.272).	E. Altemos, (202) 426-0656.	FR *August 1980.*
Review: Recodification of Radioactive Requirements (Docket No. HM-169).	Proposed consolidation, simplication and recodification of the existing requirements applicable to the transportation of radioactive materials to make them compatible with latest revised international standards as promulgated by the International Atomic Energy Agency. NPRM published Jan. 8, 1979 (44 FR 1852). (New pt. 127 to 49 CFR).	R. Rawl, (202) 426-2311.	FR *April 1980.*
Safety Improvement Program for DOT 105 Tank Cars *(Docket No. HM-174).*	Consideration of possible changes to current safety performance standards of DOT 105 tank cars (49 CFR pt. 179). *NPRM concerning thermal standards for new tank cars, and coupler retrofit, published July 21, 1980 (45 FR 48671).*	W. Black, (202) 426-2748.	*FR November 1980.*

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Research and Special Programs Administration

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Cryogenic Liquids (Docket No. HM-115).	Proposed standards and procedures for the transportation of cryogenic liquids, (NPRM published Mar. 8, 1979). (44 FR 12826) (49 CFR 172.101, 173.316). Hearing (Washington, D.C.) held on April 17, 1979. Comment period extended to October 9, 1979 to permit further consideration of issues raised in hearing.	P. Seay, (202) 755-4906.	FR *October* 1980.
Hazardous Materials Aboard Aircraft (Docket No. HM-168).	*Establishes* standards for the safe operation of aircraft having certain hazardous material aboard. NPRM published Dec. 11, 1978 (43 FR 57928). (49 CFR pts. 107, 171, 175). *FR published May 27, 1980 (45 FR 35329). Effective October 1, 1980.*	E. Mazzullo, (202) 426-2075.	*Action complete.*
Availability of Shipping Papers to Emergency Response Personnel (Project 259-78).	Proposal to require shipping papers covering hazardous materials to be made available by train crew to emergency personnel. This proposal has been reconsidered and has become a part of Project 289-79, Miscellaneous Hazardous Materials Communications Regulations (49 CFR pts. 171-177).	*L. Metcalfe, (202) 426-0656.*	NPRM June *1981.*
Use of United Nations Materials Shipping Descriptions (Docket No. HM-171).	*I*ncorporation of *optional* shipping descriptions and serial numbers from United Nations regulations covering the transport of dangerous goods. NPRM published July 26, 1979 (44 FR 43864). (49 CFR 172.102). *FR published May 22, 1980 (45 FR 34560). Voluntary compliance date modified and public hearing scheduled for July 31, 1980 (45 FR 43761) while petition for reconsideration evaluated. Effective November 20, 1980, unless otherwise stated.*	E. Altemos, (202) 426-0656.	*Action complete.*
Definition of a Flammable Solid (*Project 118-71).*	*Consideration of new standards for classifying a material as a flammable solid. Previously part of Docket HM-118, which was terminated May 22, 1980 (45 FR 34560) to permit publication of ANPRM.*	C. Schultz, (202) 426-2311.	*ANPRM January 1981.*
Radiation Exposure for Transportation Workers (Project 263-78).	Consideration of methods which will reduce radiation exposure levels to transportation workers (New Sections). Proposal converted to ANPRM to permit development of basic data.	R. Rawl, (202) 426-2311.	ANPRM *September 1981.*
Requirements for Radioactive Materials (Docket No. HM-152).	Revision of certain sections of pt. 175 which will reduce the exposure to radioactive materials for passengers aboard aircraft (49 CFR pt. 175). NPRM published June 21, 1977 (42 FR 37427). *FR published March 27, 1980 (45 FR 20097). Effective October 1, 1980.*	R. Rawl, (202) 426-2311.	*Action complete.*
Forbidden Materials (Docket No. HM-159).	*Establishes* standards to add the names of materials to the Hazardous Materials Table that are known to be too hazardous to be permitted in commercial transportation. NPRM published July 26, 1979 (44 FR 43861). (49 CFR 172.101). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.*	C. Schultz, (202) 426-2311.	*Action complete.*
Review: Reclassification of Operating Procedures For Motor Vehicles (Project 261-78).	Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177 (49 CFR pt. 177).	*R. Toth,* (202) 426-1700.	NPRM *July 1981.*
Hazardous Polluting Substances (Docket No. HM-145B).	*Establishes* new classification for materials designated as hazardous polluting substances by EPA under the Clean Water Act. NPRM published Feb. 22, 1979 (44 FR 10676). (49 CFR pts. 171-177). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.*	L. Metcalfe, (202) 426-0656.	*Action complete.*
Use of Interested Inspectors for Cylinder Inspections (Docket No. HM-74A).	Proposal would result in ending of "Interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cyclinders (NPRM published Mar. 17, 1976 (44 FR 11179). (49 CFR pt. 178).	H. Mitchell, (202) 426-2075.	NPRM *January 1981.*

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Research and Special Programs Administration

Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Hazardous Materials Communications Regulations (Docket No. HM-126B).	Changes to shipping paper, marking, labeling, and placarding requirements (49 CFR pts. 171-177). NPRM published Nov. 8, 1979 (44 FR 65020). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.*	A. Roberts, (202) 426-0656.	*Action complete.*
Display of Hazardous Materials Identification Numbers (Docket No. HM-126A).	*Establishes* a numerical identification code for hazardous materials for use in emergencies. NPRM published June 7, 1979 (44 FR 32972). Supplemental NPRM published on July 26, 1979 (44 FR 43858). (49 CFR pt. 172). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.*	L. Metcalfe, (202) 426-0656.	*Action complete.*
Development of Training Requirements for Drivers of Cargo Tank Motor Vehicles (Project 270-78).	Development of minimum driver training requirements necessary to prevent unintentional releases of hazardous materials. (49 CFR pt. 177). *ANPRM delayed pending studies now in progress.*	*R. Toth,* (202) 426-1700.	ANPRM February *1981.*
Specification for 55-gallon Plastic Drum (Project 278-78).	Proposal to authorize use of 55-gallon capacity plastic drums with certain hazardous materials. (49 CFR pt. 178).	M. Gigliotti, (202) 755-4906.	NPRM *February 1981.*
Development of Standards and Requalification Tests for Cargo Tank Hoses (Project 271-78).	Development of standards and periodic tests to prevent rupture of hoses used to load and unload cargo tanks. (49 CFR pts. 173, 177).	*R. Toth,* (202) 426-1700.	ANPRM *March 1981.*
Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel (Project 279-78).	Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode. (49 CFR pt. 176).	L. Gibson, (202) 426-1577.	NPRM *September* 1980.
Oxidizing Materials Definition, Criteria and Proposed Regulations (Project 160-71).	Development of new standards for classifying a material as an oxidizing material. (49 CFR pt. 173).	C. Schultz, (202) 426-2311.	ANPRM *June 1981.*
Attendance of Cargo Tanks During Transportation (Project 272-78).	Proposed revision of attendance requirements to include transportation activities other than loading and unloading. (49 CFR pt. 178).	*R. Toth,* (202) 426-1700.	NPRM *May 1981.*
Consolidation of Specifications and Establishment of Performance Standards for Specification Bags (Docket No. HM-153).	Consolidation of specifications and development of performance standards for specification bags. Sufficient data have been developed to proceed with publication of NPRM.	M. Gigliotti, (202) 755-4906.	NPRM *November 1980.*
Organic Peroxide Requirements (Project 186-72).	Proposed listing of and packaging requirements for organic peroxides. (49 CFR Parts 172, 173). May be combined with Project 160-71, Oxidizing Materials Definition, Criteria and Proposed Regulations. (49 CFR pt. 173).	C. Schultz, (202) 426-2311.	ANPRM *June 1981.*
Odorization of Gas (Project 277-78).	Proposed odorization requirements for certain compressed gases. This proposal has been reconsidered and will become a part of Project 289-79, Miscellaneous Hazardous Materials Regulations. (49 CFR pt. 173).	L. Metcalfe, (202) 426-0656.	NPRM June *1981.*
Aluminum Cylinder Specification (Project 228-73).	Development of specifications for aluminum cylinders. (49 CFR pts. 173, 178).	A. Mallen, (202) 755-4906.	NPRM *August* 1980.
Matches (Project 281-78)	Proposed revision and simplification of requirements concerning matches (49 CFR pts. 172, 173).	H. Mitchell, (202) 426-2075.	NPRM *February 1981.*
Marking and Record Retention for Cylinders *(Docket No. HM-172).*	Proposed revision and clarification of cylinder marking requirements; deletion of approval for changes to owner markings, user markings, and serial numbers; deletion of submission requirements for cylinder test reports and substitute record retention requirement. *NPRM published Feb. 14, 1980 (45 FR 9960).* (49 CFR pts. 173, 178).	H. Mitchell, (202) 426-2075.	*FR November* 1980.
Fusion Welding of Multi-Unit Tank Car Tanks (Project 252-77).	Proposed requirements to authorize fusion welding of multi-unit tank car tanks. (49 CFR pt. 178).	A. Mallen, (202) 755-4906.	NPRM *May 1981.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Etiologic Agents (Docket No. HM–142).	Proposed new standards and procedures for the transportation of etiologic (ie. disease-causing) agents. (49 CFR pt. 173).	C. Schultz, (202) 426–2311.	NPRM *March 1981.*
Standards to Reduce Spill size Risks Associated with Pipeline Transportation of Highly Volatile Liquids such as Liquid Petroleum Gas (Docket No. PS–53).	Proposal would require valve spacing or other requirements to minimize the amount of commodity or vapor that can spread into populated areas in event of a spill, NPRM published September 5, 1978, (43 FR 39402). Amended NPRM published September 13, 1979. (44 FR 53187). (49 CFR pt. 195).	F. Robinson, (202) 426–2392.	FR *August* 1980.
Standards to Reduce Pipeline Failure Rates in Piplines carrying Highly Volatile Liquids (LPG/NH_3) (Docket No. PS–55).	Testing or operating requirements would be proposed to assure the safe operation of existing pipelines transporting highly volatile liquids. NPRM Published November 7, 1978, (43 FR 52500). (49 CFR pt. 195).	*F. Robinson,* (202) 426–*2392.*	FR *August 1980.*
Requirements for Reporting Gas Incidents (Docket No. OPS–49).	The present reporting forms would be revised to provide additional and more appropriate information about gas safety problems and to require reports from certain systems not now covered. NPRM issued June 5, 1978 (43 FR 24478). Comment period was extended to July 7, 1978 (43 FR 30590). Supplemental Notice to NPRM of June 5, 1978, published March 5, 1979. (44 FR 12070). (49 CFR pt. 191).	R. Langley, (202) 426–*2392.*	FR *November 1980.*
Design and Construction of Pipelines Carrying Hazardous Volatile Liquids (Docket No. PS–56A).	Additional or more stringent design and construction standards would be proposed for pipelines carrying highly volatile liquids. ANPRM published February 5, 1979, (44 FR 6961). Proposed NPRM would permit the addition of water to ammonia in pipelines. (49 CFR pt. 195). *NPRM published February 7, 1980 (45 FR 8323).*	K. Minhas, (202) 426–2082.	*FR September 1980.*
Retention of Radiographic Film	Recordkeeping requirement for radiographic film would be revoked for hazardous liquid pipelines (49 CFR pt. 195).	F. Robinson, (202) 426–2392.	NPRM October 1980.
Offsetting Longitudinal Weld Seams on Adjacent Pipe Lengths (Docket No. OPSO–48).	Construction requirement for offsetting weld seams on adjacent pipe lengths in hazardous liquid pipelines would be revoked (49 CFR pt. 195). NPRM published September 26, 1977. (42 FR 48900).	*K. Minhas,* (202) 426–*2082.*	FR *August* 1980.
Time Required to Hydrostatically Test a Hazardous Liquids Pipeline *(PS–63).*	An 8-hour minimum time period would be proposed for hydrostatically testing hazardous liquid pipelines. *NPRM published March 13, 1980 (45 FR 16230). (49 CFR pt. 195).*	*F. Robinson,* (202) 426–*2392.*	FR *August 1980*
Placing Longitudinal Weld Seams in Upper Pipe Half *(PS–66).*	Proposal would require location of longitudinal weld seams in the upper half of pipe during construction of hazardous liquid pipe lines. *ANPRM published March 27, 1980, (45 FR 20142). (49 CFR pt. 195).*	F. Robinson, (202) 426–2392.	*NPRM December 1980.*
Heat Treatment of Hard Spots in Steel Pipe. *(PS–58).*	Allowable temperature for heat treating hard spots in steel pipe would be increased. NPRM published September 13, 1979, (44 FR 53185). (49 CFR pt. 192).	P. Cory, (202) 426–*2082.*	FR September 1980.
Qualifying Components for Use in Gas Pipelines. *(PS–64).*	General criteria would be proposed for qualifying the use of pipeline components other than the pipe itself. *NPRM published March 3, 1980 (45 FR 13783).* (49 CFR pt. 192).	*L. Furrow,* (202) 426–2392.	*FR February 1981.*
Transportation of Natural and Other Gas by Pipeline (PS–57).	Requirements for procedures and instrumentation for use in monitoring gas for odorants would be proposed. NPRM published February 22, 1979 (44 FR 10604). (49 CFR pt. 192).	P. Cory, (202) 426–*2082.*	FR *September* 1980.
Leak Survey (PS–62)	Present leak survey requirements would be amended in accordance with practices necessary for safety. (49 CFR pt. 192). NPRM published December 13, 1979 (44 FR 72201).	P. Cory, (202) 426–*2082.*	FR November 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Nonsignificant Regulations—Continued

Title	Summary	Contact	Earliest expected decision date
Interior Piping (PS-67)	The adequacy of existing standards with regard to safety problems concerning interior piping would be examined and new standards may be proposed. *ANPRM published April 3, 1980 (45 FR 22118).* (49 CFR pt. 192).	R. Langley, (202) 426-*2392.*	*NPRM March 1981.*
Procedures To Guard Against Blasting Effects in Gas Pipelines.	Proposed standards requiring gas pipeline operators to have procedures to protect facilities affected by blasting. (49 CFR pt. 192).	*R. Langley, (202) 426-2392.*	NPRM *January 1981.*
Location, Size, and Operating Pressure of Pipelines (PS-61).	Operators would be required to maintain maps and records to identify the location, size, and operating pressure of all pipelines. ANPRM published November 29, 1979 (44 FR 68493). (49 CFR pt. 192).	R. Langley, (202) 426-*2392.*	NPRM April 1981.
Hot Taps in Gas Pipelines (PS-60).	Operators would be required to identify a pipeline by pressure monitoring or other means before performing a hot tap on it. (49 CFR pt. 192). NPRM published November 29, 1979 (44 FR 68491).	R. Langley, (202) 426-*2392.*	FR October 1980.
Excavation Damage (PS-59)	Operators would be required to participate in a program to prevent excavation damage to underground pipelines (49 CFR pts. 192 and 195). NPRM published November 15, 1979 (44 FR 65792).	R. Simmons, (202) 426-2082.	FR November 1980.
Reporting Abnormal Operations at LNG Facilities.	Requirements for reporting abnormal operations at LNG facilities would be proposed. (49 CFR pt. 193).	*L. Furrow,* (202) 426-*2392.*	ANPRM December 1980.
Review: Line Markers on Navigable Waterways for Pipelines.	The required number, size, and location of line markers along navigable waterways, including definition of "navigable waters" would be made more appropriate. (49 CFR pt. 192).	R. Simmons, (202) 426-2082.	*ANPRM August* 1980.
Cargo Tank Corrosion (Project 285-79).	Consideration of the effects of corrosion to the structural integrity of cargo tanks. Would establish a prescribed test for the degree of corrosion of cargo tanks (49 CFR pt. 178).	A. Mallen, (202) 755-4906.	NPRM August *1981.*
Miscellaneous Hazardous Materials Communications Regulations (Project 289-79).	Development of miscellaneous proposals dealing with the communications regulations such as odorization of gas and availability of shipping papers to emergency response personnel. (49 CFR pt. 172).	L. Metcalfe, (202) 426-0656.	NPRM June *1981.*
*Joining Plastic Pipe (Docket No. PS-54).	Qualifications for procedures and personnel in joining plastic pipe revised. NPRM published Oct. 23, 1978 (43 FR 49334). Final rule published July 23, 1979 (49 FR 42968). Revised final rule published Feb. 11, 1980 (45 FR 9931). (49 CFR pt. 192).	P. Cory, (202) 426-2392.	Action complete.
*Transportation of Wet Electric Storage Batteries (Docket No. HM-173).	Would establish new standards for transportation of wet cell electric storage batteries, and for wet cell battery equipped wheelchairs on passenger-carrying aircraft. Separated from Docket No. HM-166 due to public interest. NPRM published May 21, 1979 (44 FR 29503). Hearing announcement and request for comment published Feb. 28, 1980 (45 FR 13153). (49 CFR pt. 173).	E. Mazzullo, (202) 426-2075.	FR *November* 1980.
*Elimination of Certain Reporting Requirements (Docket No. HM-36A (49 CFR pt. 171).	The MTB has analyzed the hazardous materials incident data base and believes that continued reporting of incidents involving certain materials would be of minimal value when weighed against the burden placed upon the carriers who are required to prepare and submit incident reports. NPRM published June 16, 1980 (45 FR 40628).	R. Abis, (202) 472-2726.	FR November 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Research and Special Programs Administration

Routine and Frequent Nonsignificant Regulations

Title	Summary	Contact	Earliest expected decision date
Conversion of Individual Exemptions to Regulations of General Applicability (Docket No. HM-139).	NPRM approximately every four months; with FR targeted approximately two months thereafter.	D. Raines, (202) 472-2726.	August 1980-August 1981.
Minor Regulatory Adjustments to Regulations of General Applicability (Docket No. HM-166).	NPRM approximately every four months; with FR targeted approximately two months thereafter.	D. Raines, (202) 472-2726.	August 1980-August 1981.
Matter Incorporated by Reference *(hazardous materials)*. (Docket No. HM-22).	NPRM every six months; with FR targeted two months thereafter.	J. Horning, (202) 426-2075.	August 1980-August 1981.
Withdrawal of Certain Delegations of Authority to the Bureau of Explosives (Docket No. HM-163).	Prior responsibilities delegated to the Bureau of Explosives would be withdrawn in series of rulemaking actions. NPRM every three months; with FR targeted two months thereafter. The final rule under this docket is expected to be published in the first half of 1980.	D. Raines, (202) 472-2726.	August 1980-August 1981.
Matter Incorporated by Reference *(pipelines)*.	Documents incorporated by reference would be updated to later published editions. NPRM every six months, with FR three months later.	R. *Simmons*, (202) 426-2082.	August 1980-August 1981.

REVIEW LIST

USCG

U.S. Coast Guard

Regulations selected for review	Reasons for selection	Contact	Target date
Charges for Duplicate Medals and Sales of Personal Property, Equipment or Services and Rental (33 CFR 1.26).	Length of time since last evaluated: changing economic factors.	Mr. A. Bell, (202) 426-1863.	May 1980.
Agency regulations regarding the Coast Guard Reserve Program (33 CFR pt. 8).	Length of time since last evaluated and need to reflect changed procedures.	CAPT Grover, (202) 426-2348.	July 1979.
Boating Safety: Equipment Requirement Personal Flotation Devices (33 CFR 175.15).	Length of time since last evaluated; Research and Development project initiated to determine need for carriage regulations revision.	LCDR Schmect, (202) 426-4176.	August 1980.
Boats and Associated Equipment: Safe Loading (33 CFR pt. 183, subpart C).	Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply.	Mr. L. Gray, (202) 426-4027.	January 1981.
Boats and Associated Equipment: Safe Powering (33 CFR pt. 183, subpart D).	Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply.	Mr. L. Gray, (202) 426-4027.	July 1980.
Boats and Associated Equipment: Flotation Standards (33 CFR pt. 183).	Length of time since last evaluated; standards may be limited in applicability.	Mr. L. Gray, (202) 426-4027.	August 1980.
*Licensing of Merchant Seamen.....	Reporting requirements associated with licensing may be a burden for the public.	CAPT Hand, (202) 426-1500.	March 1981.
*Vessel Documentation....................	These regulations contain public reporting requirements which have been effect for many years and should be reviewed.	Mr. Yglesias, (202) 426-1494.	March 1981.
*Oil Transfer and Oil Pollution.........	These regulations may contain overlapping reporting requirements that could be eliminated.	CAPT Corbett, (202) 426-2010.	May 1981.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FAA Federal Aviation Administration

Regulations selected for review	Reasons for selection	Contact	Target date
*49 CFR Part 61, Certification of Pilots and Flight Instructors.	Evaluation of possibilities of reducing reporting burden impacts on users.	William Sullivan, (202) 755-8716.	March 1981.

NHTSA National Highway Traffic Safety Administration

Regulations selected for review	Reasons for selection	Contact	Target date
Side Door Strength (49 CFR 571.214).	Public Interest	Frank Ephraim, (202) 426-1574.	Published 8/30/79. (44 FR 50878).
Exterior Protection (49 CFR 571.215) and 49 CFR pt. 581).	Cost and Public Interest	Frank Ephraim, (202) 426-1574.	*Fall 1980.*
Fuel System Integrity (49 CFR 571.301).	Cost, Safety Benefits and Public Interest	Frank Ephraim, (202) 426-1574.	*Spring 1981.*
School Bus Protection (49 CFR 571.220).	Public Interest. An analysis of methods to evaluate the effects of these standards has, so far, not yielded a viable approach. The agency announced the withdrawals on July 10, 1980 (45 FR 46461).	Frank Ephraim, (202) 426-1574.	*Withdrawn.*
School Bus Body Joint Strength (49 CFR 571.221).	Public Interest. An analysis of methods to evaluate the effects of these standards has, so far, not yielded a viable approach. The agency announced the withdrawals on July 10, 1980 (45 FR 46461).	Frank Ephraim, (202) 426-1574.	*Withdrawn.*
School Bus Seating System (49 CFR 571.222).	Public Interest	Frank Ephraim, (202) 426-1574.	*Summer 1981.*
Tire Reserve Load (49 CFR 575.102).	Public Interest. Proposal to modify this requirement withdrawn. Notice published June 14, 1980 (45 FR 47512).	Michael Brownlee, (202) 426-1740.	*Completed.*
Acceleration and Passing Ability (49 CFR 575.106).	Public Interest. Requirement that manufacturers supply information on acceleration and passing ability to vehicle's first purchaser and prospective purchasers deleted. FR published June 14, 1980 (45 FR 47512).	Michael Brownlee, (202) 426-1740.	*Completed.*
Air Brakes (49 CFR 571.121)	Cost, Safety Benefits and Public Interest	Frank Ephraim, (202) 426-1574.	Contractor final report completed October 1979.
Hydraulic Brakes (49 CFR 571.105).	Cost and Safety Benefits	Frank Ephraim, (202) 426-1574.	Fall 1981.
Lamps, Reflective Devices and Associated Equipment (49 CFR 571.108).	Cost, Safety Benefits	Frank Ephraim, (202) 426-1574.	December 1980.
Head Restraints (49 CFR 571.202).	Costs	Frank Ephraim, (202) 426-1574.	Spring 1981.
Seating Systems (49 CFR 571.207).	Costs	Frank Ephraim, (202) 426-1574.	Summer 1981.
Child Seating Systems (49 CFR 571.213).	Public Interest	Frank Ephraim, (202) 426-1574.	Preliminary Review Spring 1981.

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NHTSA National Highway Traffic Safety Administration

Regulations selected for review	Reason for selection	Contact	Target date
Occupant Protection (49 CFR 571.208).	Cost, Safety Benefits and Public Interest	Frank Ephraim, (202) 426-1574.	Automatic Belts, Air Cushion Restraints or other Automatic Systems Plan update Fall 1980 First Report Spring 1981.
*Impact Protection for the Driver from the Steering Control System (49 CFR 571.203) and Steering Control Rearward Displacement (49 CFR 571.204).	Safety Benefits	Frank Ephraim, (202) 426-1574.	Fall 1980.
*Windshield Glazing Materials (49 CFR 571.205).	Costs, Safety Benefits	Frank Ephraim, (202) 426-1574.	Fall 1981.
*Windshield Mounting (49 CFR 571.212).	Costs, Safety Benefits	Frank Ephraim, (202) 426-1574.	Fall 1981.

FRA Federal Railroad Administration

Regulations selected for review	Reasons for selection	Contact	Target date
General Safety Inquiry	FRA has initiated a General Railroad Safety Inquiry to obtain information from the public to assist in evaluating and improving its safety program. A series of public hearings, each focused on a single regulatory topic, have been scheduled as indicated below.		
Topic: Power Brakes (49 CFR pt. 232).	Hearing notice published August 8, 1978 (43 FR 36659). Hearing held on September 13 and 14, 1978. Rulemaking to be initiated; see listing under Nonsignificant Regulations.	R. Mowatt-Larssen (202) 426-0924.	Completion *July 1980.*
Topic: Signal and Communication Systems (49 CFR pts. 235 and 236).	Hearing notice published December 12, 1978 (43 FR 58100). Public hearing rescheduled for February 21 and 22, 1978. Notice of change in hearing dates published in Federal Register on January 3, 1979 (44 FR 925). Hearing held February 22 and 23, 1979. Rulemaking to be initiated; see listing under Nonsignificant Regulations.	R. Mowatt-Larssen (202) 426-0924.	Completion *July 1980.*
*Reducing Reporting and Recordkeeping Burdens (49 CFR Parts 228, 258, 260, and 268.	The Federal Railroad Administration (FRA) has selected the following regulations to be reviewed to determine whether the substantial reporting and recordkeeping burdens they impose on the public, including small businesses, can be decreased or eliminated.	Part 228—Mr. Lawrence I. Wagner (202) 426-8836.	Completion December 1980.
	Part 228—Hours of Service for Railroad Employees	Parts 258, 260 and 268 Mr. Lawrence A. Freidman (202 426-7737.	
	Part 258—Regulations Governing Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended.		
	Part 260—Regulations Governing Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended.		
	Part 268—Merger and Consolidation Procedures		

RSPA Research and Special Programs Administration

Regulations selected for review	Reasons for selection	Contact	Target date
Shippers-General Requirements for Shipments and Packagings (49 CFR pt. 173) (includes the following items):.			

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

REVIEW LIST

RSPA Research and Special Programs Administration

Regulations selected for review	Reasons for selection	Contact	Target date
Electric Storage Batteries Wet (49 CFR 173.260).	Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards. *See Transportation of Wet Cell Electric Batteries (Docket No. HM-173).*	J. Horning, (202) 426-2075.	*September 1980.*
Charcoal (49 CFR 173.162)	do	J. Horning, (202) 426-2075.	September 1980.
Flammable solid; definitions criteria (49 CFR 173.150).	Inquiries; lack of objective regulatory standard	J. Horning, (202) 426-2075.	September 1980.
Toxic materials; definitions, criteria, and proposed regulations (49 CFR 173.326, 173.343).	Need for quantitative criteria	J. Horning, (202) 426-2075.	*September 1981.*
Welding of steel in Gas Pipelines (49 CFR pt. 192. subpt. E).	Present requirements to be examined in light of changes in technology.	L. Furrow, (202) 426-2392.	Action complete.
Maintenance of Gas Pipelines (49 CFR pt. 192, subpt. M).	The performance required by the maintenance standards needs clarification as indicated by extent of interpretations generated by these standards.	L. Furrow, (202) 426-2392.	Action complete.
Line Markers (49 CFR 195.410)	The requirement of installation of markers at navigable waterways needs clarification as indicated by extent of interpretations. NPRM scheduled in June 1980.	F. Robinson, (202) 426-2392.	Action complete.
Hydrostatic Testing (49 CFR pt. 195, Subpart E).	There is a need to clarify present standards as indicated by extent of interpretation.	F. Robinson, (202) 426-2392.	November 1980.
Welding Requirements (49 CFR pt. 195, Subpart D).	Present requirements to be examined in light of changes in technology.	F. Robinson, (202) 426-2392.	November 1980.
Petroleum Gas Systems (49 CFR pt. 192).	There is a need to *develop appropriate* regulations	W. Dennis, (202) 426-2392.	November 1980.
Master Meter and LPG Distribution Systems (49 CFR pt. 192).	There is a need to simplify current standards for small systems such as master meter systems.	R. Langley, (202) 426-2082.	December 1980.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

United States Coast Guard (USCG)

Anyone desiring a copy of a USCG regulatory document listed in the Agenda should write to: U.S. Coast Guard, G—CMC/*TP24, 2100 Second St. S.W., Washington, D.C. 20593.*

The request should reference the name of the document and the associated regulatory docket (CGD) number which can be found in this Agenda together with the listing of the document. Persons wishing to be placed on mailing lists for all notices and rules to be issued by the USCG or for notices and rules dealing with a particular area should indicate this clearly for proper handling.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which descibes the application procedure, by calling 202-426-8058 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591.

Federal Highway Administration (FHWA)

The FHWA is in the process of establishing a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Persons may selectively choose to receive rulemaking materials in a number of separately identified program categories from the Code of Federal Regulations, Title 23. Those wishing to take advantage of the FHWA consumer mailing list may obtain additional information by writing to: Consumer Affairs Representative, Office of Public Affairs, Room 4208, Federal Highway, Administration, 400 7th Street, SW., Washington, D.C. 20590.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Federal Highway Adminstration, 400 7th Street, SW., Washington, D.C. 20590.

Federal Railroad Administration (FRA)

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590.

National Highway Traffic Safety Administration (NHTSA)

Persons who desire to obtain a copy of any other regulatory document to be issued by the NHTSA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-0679.

Urban Mass Transportation Administration (UMTA)

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Urban Mass Transit Administration, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1909.

Saint Lawrence Seaway Development Corporation (SLSDC)

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the appropriate address specified below: *For contact persons with (202), telephone area code:* (name of contact person), Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591. *For contact persons with (315) telephone area code:* (name of contact person), Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662.

Research and Special Programs Administration (RSPA)

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mrs. Marge J. Sands, Information Services Division, DMT-43, Materials Transportation Bureau, 2409 2nd Street, S.W., Washington, D.C. 20590.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, (202) 426-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG—Bruce Novak, Marine Safety Council, USCG Headquarters Building, *Room 2418, 2100 Second Street, S.W., Washington, D.C. 20593.* Telephone: 202/426-1477.

FAA—Edward Faberman, Office of Chief Counsel, Regulation and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Telephone: 202/426-3644.

FHWA—Dennis Judycki, Office of the Administrator, 400 7th Street, S.W., Room 4218, Washington, D.C. 20590. Telephone: 202/426-0848.

FRA—Mike Haley, Office of Chief Counsel, 400 7th Street, S.W., Room 8211, Washington, D.C. 20590. Telephone: 202/472-9042.

NHTSA—Roger Tilton, Office of Chief Counsel, 400 7th Street, S.W., Room 5219, Washington, D.C. 20590. Telephone: 202/426-9511.

UMTA—Ed Gill, Office of Chief Counsel, 400 7th Street, S.W., Room 9320, Washington, D.C. 20590. Telephone: 202/426-1906.

SLSDC—Bob Kraft, Office of Chief Counsel, 800 Independence Ave., S.W., Room 814, Washington, D.C. 20591. Telephone: 202/426-3574.

RSPA—Doug Crockett, Office of Program Support, 400 7th Street, S.W., Room 8434, Washington, D.C. 20590. Telephone: 202/472-2698.

OST—Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, S.W., Room 10421, Washington, D.C. 20590. Telephone: 202/426-4723.

Appendix C—Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand deliver comments on advance notices and notices of proposed rulemaking:

USCG—Marine Safety Council, 2100 2nd Street, S.W., Room 2418, Washington, D.C. 20593. Working Hours: 7:00-5:00 [Monday-Thursday].

FAA—Rules Docket, Office of Chief Counsel, Regulation and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Working Hours: 8:30-5:00.

FHWA—Docket Room, 400 7th Street, S.W., Room 4205, Washington, D.C. 29590. Working Hours: 7:45-4:15.

FRA—Docket Clerk, 400 7th Street, S.W., Room 8211, Washington, D.C. 20590. Working Hours: 8:30-5:00.

NHTSA—Docket Room, 400 7th Street, S.W., Room 5108, Washington, D.C. 20590. Working Hours: 7:45-4:15.

UMTA—Docket Clerk, 400 7th Street, S.W., Room 9320, Washington, D.C. 20590. Working Hours: 8:30-5:00.

SLSDC—800 Independence Ave., S.W., Room 814, Washington, D.C. 20591. Working Hours: 8:30-5:00.

RSPA—Docket Branch, 400 7th Street, S.W., Room 8426, Washington, D.C. 20590. Working Hours: 8:30-5:00.

OST—Docket Clerk, 400 7th Street, S.W., Room 10421, Washington, D.C. 20590. Working Hours: 9:00-5:30.

Appendix D

Innovative Regulatory Techniques

As explained in the preamble, the public's views are solicited with respect to the Department's regulatory programs where the innovative regulatory techniques can be applied effectively to reduce the burden on regulated entities or to reduce governmental costs. The following are descriptions of particular techniques noted by the President:

Enhance Competition

An agency seeks to achieve a valid regulatory goal through generally increasing its sensitivity to market structure by for example, removing barriers to and constraints on competition.

Marketable Rights

In place of detailed government controls, an agency limits private-sector rights to engage in a specific activity or to use scarce resources, but allows private parties to exchange, trade, or sell these rights. The agency maintains overall control while letting the affected parties arrange the detailed allocation of rights in the free market.

Economic Incentives

An agency provides economic incentives that are supplements or alternatives to government standards and regulations by structuring fees or subsidies to encourage the private sector to achieve regulatory goals. Incentives replace rigidly enforced regulatory standards.

Performance Standards

An agency replaces design standards which specify strict means of compliance with more general standards based on overall performance levels. Firms or businesses are free to find the most efficient way of complying with the standards.

Information Disclosure

An agency requires that users or consumers be provided with information choices among competing goods and services and be free to choose on the basis of that information. The agency may provide information directly to the public (e.g., uniform tire grading quality standards).

Voluntary Standard Setting

An agency supplements or substitutes direct Federal regulation with voluntary standards developed and enforced by the regulated sectors.

Compliance Reform

An agency replaces or supplements government compliance monitoring and enforcement with other mechanisms, such as third-party monitoring, supervised self-certification, and economically-based penalties (e.g., third party inspection of emergency equipment aboard ships).

Tiering

An agency takes into account the size and nature of regulated organizations when it develops or revises its regulations (e.g., certain FAA, RSPA, and NHTSA exemptions).

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federal register

Monday
August 25, 1980

Part III

Department of Transportation

Federal Aviation Administration

Airport Aid and Development Programs; Environmental Impact References and Handbook

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 152, 154, and 155

[Docket No. 20580; Amdt. No. 152-11, 154-2, and 155-1]

Airport Aid Program, Acquisition of U.S. Land for Public Airports, Release of Airport Property From Surplus Property Disposal Restrictions; FAA Environmental Orders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments revise Federal Aviation Regulations dealing with the airport aid program and the acquisition of public land for airport development by updating references to the FAA environmental orders. The orders contain detailed guidance for considering environmental impacts of Federal airport actions. These amendments also add a provision requiring compliance with those orders to Federal Aviation Regulations dealing with release of airport property from surplus property disposal restrictions. These amendments are necessary because of recent revisions in FAA environmental guidance required by the Council on Environmental Quality. The revisions are expected to result in a reduction of paperwork, the reduction of delays, and the production of better decisions.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Lynne Sparks Pickard, Community and Environmental Needs Division (APP-600), Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone number (202) 426-3263.

SUPPLEMENTARY INFORMATION:

General

These amendments revise references to procedures for processing airport development actions affecting the environment in Part 152, Airport Aid Program, and Part 154, Acquisition of U.S. Land for Public Airports under the Airport and Airway Development Act of 1970, of the Federal Aviation Regulations. Those procedures are contained in Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts," and in FAA Order 5050.4, "Airport Environmental Handbook." Part 155, Release of Airport Property from Surplus Property Disposal Restrictions, is also being amended to require the submission of an environmental assessment in conformance with those orders.

Interested persons were afforded an opportunity to comment on Appendix 6 of proposed FAA Order 1050.1C by a notice in the **Federal Register** on June 4, 1979 (44 FR 32094) and by direct mailing of advance copies of draft Appendix 6 to aviation organizations. Draft Appendix 6 contained procedural and substantive guidance for airport environmental documents and included the material that has now been printed separately in the new Airport Environmental Handbook. This handbook is being published elsewhere in this issue of the **Federal Register.**

In addition, the regulations of the Council on Environmental Quality (CEQ), which FAA Order 1050.1C implements, were published for comment in the **Federal Register** on June 9, 1978 (43 FR 25230). They had already received extensive input from the public, the business community, State and local governments, and Federal agencies. In view of these numerous opportunities for public review and comment and in light of the comments received in response to the June 4, 1979, notice, the FAA has determined that a formal notice of proposed rulemaking would not result in the receipt of additional useful information.

CEQ Regulations

On November 29, 1978, the Council on Environmental Quality published its final regulations establishing uniform procedures for implementing the procedural provisions of the National Environmental Policy Act (43 FR 55978). The purpose of those regulations is to reduce paperwork, reduce delays, and produce better decisions. Under Part 1507 of the CEQ regulations (40 CFR Part 1507), Federal agencies must adopt any necessary implementing procedures, after public comment and CEQ review.

FAA Order 1050.1C, published in its final form on January 10, 1980 (45 FR 2244), amends FAA's environmental policies and procedures in response to the CEQ regulations. The order is a comprehensive treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 to the revised order, like Appendix 6 to the previous order (FAA Order 1050.1B), applies to specified Federal actions associated with airport programs. The FAA has also developed new Order 5050.4 which is a self-contained handbook for Federal airport actions. It includes the text of Appendix 6, material cross-referenced in that appendix, and substantive detailed guidance on the form and content of environmental assessments, environmental impact statements, and findings of no significant impact. Compliance with Order 5050.4 assures compliance with Appendix 6 to FAA Order 1050.1C.

Changes in Environmental Order

Appendix 6 to FAA Order 1050.1C and the Airport Environmental Handbook differ in several ways from Appendix 6 of FAA Order 1050.1B. The changes are as follows:

A major runway extension has been redefined as a runway extension which upgrades an existing runway to permit usage by noisier aircraft. These are aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway as measured at one or more of the measuring points used to determine compliance with Federal Aviation Regulations, Part 36.

In accordance with § 1506.5(c) of the CEQ regulations (40 CFR 1506.5(c), an airport sponsor may not assume any responsibility for the preparation of draft and final environmental impact statements, unless the sponsor qualifies as a joint lead agency.

In accordance with § 1506.5(c) of the CEQ regulations (40 CFR 1506.5(c)), a contractor preparing draft and final environmental impact statements must be selected by the lead agency or by a cooperating agency, rather than by the airport sponsor. The contractor must execute a disclosure statement specifying that it has no financial or other interest in the outcome of the project.

Additional airport actions have been specifically identified as categorically excluded from environmental processing requirements, based upon FAA experience with judging which types of actions have the potential for significant impacts and which do not.

The applicability of procedures to conveyances of airport land and to releases of airport land have been further explained to clarify previous uncertainties in interpretation.

The application of design, art, and architecture to airport projects has been provided for in accordance with Notice DOT N5610.4, "Implementation of Decision to Address Environmental Design Considerations in Environmental Impact Statements" (February 27, 1978).

The format and content of the environmental assessment, environmental impact statement, and finding of no significant impact have been revised to comply with the letter and spirit of the CEQ regulations as well as regulations implementing other environmental statutes.

Thresholds of significance have been delineated for each category of potential environmental impact in order to assist airport sponsors and FAA field personnel in evaluating whether or not impacts are significant. In addition, each environmental impact category has been updated to reflect recent environmental laws and regulations.

The Day/Night Level (Ldn) is the FAA's acceptable cumulative noise methodology for use in initial noise analysis. (An exception is the use of the Community Noise Equivalent Level where required to meet state requirements as in California.) Other cumulative noise methodologies, including Equivalent Noise Level (Leq) which would have been alllowed under the proposed revision of Order 1050.1C, have been deleted, in the interest of having one cumulative noise methodology which is acceptable to the FAA, the Environmental Protection Agency, and the Department of Housing and Urban Development.

Sponsors will no longer be required to make available for public hearings an environmental assessment on runway extensions which are not major runway extensions. Runway extensions that are not considered major are excluded from the requirement to prepare an environmental assessment, if they do not otherwise have likely significant impacts.

A new procedure has been provided for formal FAA acceptance of a sponsor's environmental assessment. After this acceptance the assessment becomes a Federal document in accordance with §§ 1506.5(b) and 1508.9 of the CEQ regulations (40 CFR 1506.5(b) and 1508.9).

Assurances, findings, and conclusions that may be required for an action have been made as part of the decision on the action, rather than part of the environmental approval. CEQ regulations require distinct separation of the environmental approval and the Federal decision on the proposed action.

The FAA's application of low capital or noncapital alternatives to proposed actions has been emphasized and clarified in accordance with commitments made to CEQ to strengthen this area.

The implementation of commitments to mitigate environmental impacts has been emphasized and expanded upon in accordance with § 1505.3 of the CEQ regulations (40 CFR 1505.3).

Tiering, as defined in 40 CFR 1508.28, has been specifically applied to types of airport actions.

Finally, in accordance with DOT Order 5610.1C "Procedures for Considering Environmental Impacts" (44 FR 56420; October 1, 1979), time limitations on the validity of draft and final environmental impact statements have been established; prior finding affirmations have been deleted and replaced by written re-evaluations; and the conditions for preparing supplements to draft final environmental impact statements have been expanded upon.

Paperwork Reduction

The reduction of paperwork and of administrative delay expected to result from these revisions of FAA environmental guidance are in harmony with the national policy expressed by the President in Executive Order 12044 on "Improving Government Regulations" and Executive Order 12174 on "Paperwork."

Rule Changes

Section 152.111(c)(7) requires that the sponsor submit an environmental assessment with its preapplication for Federal assistance, if one is required by Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts." The reference to this revised order was added to Part 152 by Amendment No. 152–10. The section is now being amended to require that the assessment also be prepared in conformance with FAA Order 5050.4, "Airport Environmental Handbook."

This same addition has been made to § 152.117(b)(4), of Part 152, which requires that a notice of opportunity for a public hearing state that an environmental assessment is available for review, if an assessment is required. It has also made to paragraph II B of Appendex D to Part 152, which requires a sponsor seeking FAA approval of a new or revised airport layout plan to submit an environmental assessment with the plan.

Section 154.7(b)(14) has required the submission of an environmental impact assessment report, prepared in conformance with applicable DOT and FAA orders, with an application for conveyance of a property interest under Part 154. This amendment updates that requirement by referencing FAA Orders 1050.1C and 5050.4. It also eliminates reference to the DOT order, since the handbook incorporates the applicable DOT requirements and compliance with it results in compliance with the DOT order. The terminology in this section has also been updated, and the section has been revised to make it clear that an environmental assessment must be submitted only if one is required by the FAA orders.

The requirement for an envirnomental assessment has been added to Part 155. New § 155.11(c)(12) will now require the submission of an environmental assessment, if one is required by Appendix 6 and the handbook, with a request for release from surplus property disposal restrictions.

Since these amendments relate to public grants, and the implementation target date set by CEQ was July 30, 1979, good cause exists for making them effective in less than 30 days.

Cost Evaluation

Compliance with FAA Order 5050.4 is expected to bring about the results which CEQ's regulations aim at, namely the reduction of paperwork, the reduction of delays, and the production of better decisions. The final regulatory evaluation prepared in connection with this project, and available in the regulatory docket, describes these benefits at length.

Changes that will reduce paperwork include reducing the length of environmental impact statements, narrowing the scope of the environmental impact statement process, and eliminating duplication wherever possible. Delays will be reduced by, among other things, integrating the assessment process into early planning, emphasizing interagency cooperation, and ensuring the swift and fair resolution of disputes. Finally, the quality of decisions is expected to be better because these revisions will help ensure that environmental information is of high quality, accurate, objective, subjected to public scrutiny, and available to public officials before decisions are made and before actions are taken.

The new procedures are expected to be somewhat more costly to the Federal Government than the previous procedures. The reason for this is CEQ's emphasis on and specific delineation of certain Federal responsibilities in the assessment process. Under the CEQ regulations, draft and final environmental impact statements must be prepared directly by the lead agency or under direct contract to the lead agency. Federal agencies are to serve as cooperating agencies for the preparation of the environmental impact statements. Interdisciplinary skills are demanded of impact statement preparers, and a list of the preparer's professional qualifications is required in impact statements. A greater emphasis has been placed on Federal independent evaluation of, and responsibility for, analyses of environmental impacts, and on monitoring mitigation measures and reporting on this monitoring. These and

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other responsibilities will result in increased cost to the governmental sector.

In this connection the FAA has established a number of environmental positions within the Airports Program to augment skills and reduce environmental processing delays. However, these positions are being filled within authorized levels and will result in no increase in cost to the program.

There will be an increase needed in contract funds so that the FAA may directly contract for assistance in environmental impact statement preparation, in lieu of allowing airport sponsors to contract for this work, and for assistance in evaluation of environmental analyses as necessary. Approximately $1 million in contract funds is estimated to be required annually. In addition, to comply with the CEQ's instructions to fund the support of cooperating agencies, an amount of $450,000 is estimated to be required annually.

The increase in the economic burden on the Federal Government will be offset to an unquantified extent by a decrease in the economic burden on airport sponsors. This decrease will result primarily from the streamlining of the environmental assessment required to be submitted to the FAA by sponsors and the preparation of more environmental documentation by, or under direct contract to, the FAA, instead of by, or under direct contract to, sponsors. A decrease in the economic burden on sponsors will be reflected in a decrease in the amount of Federal grant-in-aid funds (Airport Development Aid Program and Airport Planning Grant Program) paid to sponsors to fund the allowable Federal percentage of environmental study efforts.

An allowable alternative which the CEQ regulations and FAA Order 5050.4 recognize is for a draft and final impact statement to be prepared by a contractor selected and guided by the FAA, but paid by the sponsor. To the extent that Federal funds are insufficient to accommodate the demand, sponsors may elect this option. The total dollar value estimated to be required under the new regulation is not affected by this option.

In summary, to the extent that there will be increased direct Federal costs in preparing environmental documents for the Airports program, there will be decreased expenditures on the part of airport sponsors and the FAA's airport grant programs.

Clearinghouse Review

Part 152 of the Federal Aviation Regulations applies to the Airport Development Aid Program and the Planning Grant Program. These programs are listed in the Catalogue of Federal Domestic Assistance as program numbers 20.102 and 20.103, respectively. The procedures of Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of Federal and Federally-assisted programs and projects apply to these programs.

Adoption of the Amendment

Accordingly, Parts 152, 154, and 155 of the Federal Aviation Regulations (14 CFR Parts 152, 154, and 155) are amended, effective August 25, 1980, as follows:

PART 152—AIRPORT AID PROGRAM

1. By revising § 152.111(c)(7) to read as follows:

§ 152.111 Application requirements: airport development.

* * * * *

(c) * * *

(7) The sponsor's environmental assessment prepared in conformance with Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 24, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

* * * * *

2. By revising § 152.117(b)(4) to read as follows:

§ 152.117 Public hearings.

* * * * *

(b) * * *

(4) State that a copy is available of the sponsor's environmental assessment, if one is required by Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 25, 1980), and will remain available, at the sponsor's place of business for examination by the public for a minimum of 30 days, beginning with the date of the notice, before any hearing held under the notice.

* * * * *

3. By amending paragraph II B of Appendix D to Part 152 to read as follows:

Appendix D

* * * * *

II. * * *

B. *Airport Layout Plan Approval.* A sponsor seeking FAA approval of a new or revised airport layout plan shall submit with the plan an environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980) and FAA Order 5050.4 "Airport Environmental Handbook" (45 FR —; August 25, 1980), if an assessment is required by Order 5050.4.

* * * * *

PART 154—ACQUISITION OF U.S. LAND FOR PUBLIC AIRPORTS

4. By amending § 154.7 by revising paragraph (b)(14) to read as follows:

§ 154.7 Form and content of application for conveyance.

* * * * *

(b) * * *

(14) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

* * * * *

PART 155—RELEASE OF AIRPORT PROPERTY FROM SURPLUS PROPERTY DISPOSAL RESTRICTIONS

5. By amending § 155.11 by adding new paragraph (c)(12) to read as follows:

§ 155.11 Form and content of requests for release.

(c) * * *

(12) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR ; August 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office

headquarters or any airports district office.

(Secs. 11 through 27 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1711 through 1727); § 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR § 1.47(f)(1)); 50 U.S.C. App. §§ 1622–1622c)

Note.—The FAA has determined that this document involves regulations which are not significant under Executive Order 12044, as implemented by Department of Transportation, Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to Lynne Sparks Pickard, Community and Environmental Needs Division (APP–600), Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

Issued in Washington, D.C., on July 29, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80–25669 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Environmental Handbook

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of FAA Airport Environmental Handbook.

SUMMARY: The FAA Airport Environmental Handbook provides instructions and guidance for preparing and processing the environmental documents for airport development proposals and other airport actions.

EFFECTIVE DATE: March 21, 1980.

FOR MORE INFORMATION CONTACT: Lynne Sparks Pickard, Community and Environmental Needs Division (APP-600), Office of Airport Planning and Programing, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C., 20591; telephone number (202) 426-3263.

SUPPLEMENTARY INFORMATION: FAA Order 5050.4, "Airport Environmental Handbook," provides instructions and guidance for preparing and processing environmental documents for airport development proposals and other airport actions under Part 152, Airport Aid Program, Part 154, Acquisition of U.S. Land for Public Airports under the Airport and Airway Development Act of 1970, and Part 155, Release of Airport Property from Surplus Property Disposal Restrictions, of the Federal Aviation Regulations. Amendments to these parts which require compliance with the Airport Environmental Handbook are being published elsewhere in this issue of the **Federal Register** (Amendments 152-11, 154-2, and 155-1).

This handbook is part of the FAA's response to the regulations of the Council on Environmental Quality (CEQ) which establish uniform procedures for implementing the procedural provisions of the National Environmental Policy Act (43 FR 55978; November 29, 1978). The purpose of those regulations is to reduce paperwork, reduce delays, and produce better decisions. Under Part 1507 of the CEQ regulations (49 CFR Part 1507), Federal agencies must adopt any necessary implementing procedures, after public comment and CEQ review.

FAA Order 1050.1C entitled "Policies and Procedures for Considering Environmental Impacts," published in its final form on January 10, 1980 (45 FR 2244), amends FAA's environmental policies and procedures in response to the CEQ regulations. The order is a comprehensive treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 to the revised order, like Appendix 6 to the previous order (FAA Order 1050.1B), applies to specified Federal actions associated with airport programs.

The Airport Environmental Handbook, FAA Order 5050.4, is a self-contained handbook for Federal airport actions. It includes the text of Appendix 6, material cross-referenced in that appendix, and substantive detailed guidance on the form and content of environmental assessments, environmental impact statements, and findings of no significant impact. Compliance with Order 5050.4 assures compliance with Appendix 6 to FAA Order 1050.1C.

Accordingly, FAA publishes the following Order 5050.4 entitled "Airport Environmental Handbook."

(National Environmental Policy Act of 1969 as amended [42 U.S.C. 4321 et seq.]; the Environmental Quality Improvement Act of 1970, as amended [42 U.S.C. 4371 et seq.]; Section 309, Clean Air Act, as amended [42 U.S.C. 7609]; Sec. 4(f), Department of Transportation Act of 1966, as amended [49 U.S.C. 1653(f)]; Executive Order 11514, dated March 4, 1970, as amended by Executive Order 11991, dated May 24, 1977; 40 CFR Parts 1500-1508; DOT Order 5610.1C [44 FR 56420; September 18, 979])

Issued in Washington, D.C., on August 15, 1980.

Robert J. Aaronson,

Associate Administrator for Airports.

Airport Environmental Handbook

March 21, 1980

Department of Transportation, Federal Aviation Administration

Foreward

Order 1050.1C, Policies and Procedures for Considering Environmental Impacts, was published in the **Federal Register** on January 10, 1980 (45 FR 2244). It was prepared in response to the Council on Environmental Quality's (CEQ) Regulations to amend FAA's environmental policies and procedures. Order 1050.1C provides in a single comprehensive document the essential treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 of Order 1050.1C prescribes environmental requirements and procedures in conjunction with specified Federal actions associated with airport programs. It includes several cross-references to the basic text of the order and references to the CEQ Regulations which would need to be consulted for a comprehensive understanding of the requirements for compliance with NEPA in considering airport actions. Appendix 6 does not contain detailed information on the form and content of environmental assessments and environmental impact statements.

This order includes the text of Order 1050.1C, Appendix 6 (we have added Purpose and Distribution paragraphs to Chapter 1), plus most of the cross-referenced material and extensive instructions on the form and content of environmental documents. It is intended for use by FAA Airports personnel, airport sponsors, and others involved in airport actions as a self-contained document including all the essential information needed to meet both procedural and substantive environmental requirements. Compliance with this order constitutes compliance with Order 1050.1C for airport actions.

Order 1050.1C establishes policy and procedures for agency-wide compliance with environmental requirements. Any changes in Order 1050.1C which pertain to airport actions will be reflected by appropriate changes in this order.

Paul L. Galis,

Acting Director, Office of Airport Planning and Programming.

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Chapter 1. Introduction and Definitions

1. *Purpose.* This order provides instructions and guidance for preparing and processing the environmental assessments of airport development proposals and other airport actions as required by various laws and regulations.

2. *Distribution.* This order is distributed in Washington headquarters to the branch level in the Offices of Airport Planning and Programming, Airport Standards, Environment and Energy, and the Chief Counsel; to all regional Airports divisions to the branch level; and to all Airports district/field offices and the Airports and Logistics Branch.

3. *Council on Environmental Quality (CEQ) Terminology.* CEQ Regulations implementing the National Environmental Policy Act of 1969 (NEPA) were published in the **Federal Register** on November 29, 1978. (Hereinafter, references to the CEQ Regulations shall simply identify the paragraph; e.g., CEQ 1508.1.) CEQ 1508.1 states "The terminology of this part shall be uniform throughout the Federal government."

4. *Federal Aviation Administration (FAA) Terms.* Order 1000.15A, FAA Glossary, dated December 18, 1975, contains terms which recur most often in agency communications. This order includes several terms used in airport planning and development.

5. *Airports Program Environmental Definitions.* The following terms used for airport actions are in addition to those defined in CEQ 1508.

a. *Federal Action.* The Federal action as far as the Airports Program is concerned may be any of the following:

(1) Adoption of the National Airport System Plan.

(2) Approval of an airport location.

(3) Approval of an airport layout plan or revisions to an airport layout plan.

(4) Approval of funding for airport development.

(5) Requests for the conveyance of government land under section 23 of the Airport and Airway Development Act of 1970, as amended, (Airport Act) for development or improvement of a public airport.

(6) Approval of release of airport land.

b. *Federal Environmental Approval.* This is a determination by the approving official that the requirements imposed by applicable environmental statutes and regulations have been satisfied by a finding of no significant impact or a final environmental impact statement. It is not an approval of the Federal action.

c. *Finding of No Significant Impact with Section 16(c)(4) Coordination.* This is a finding of no significant impact as defined in CEQ 1508.13 which, because the project involves airport location, a major runway extension, or runway location, must be coordinated with the Department of the Interior (DOI) and the Environmental Protection Agency (EPA) in accordance with the Airport Act, section 16(c)(4).

d. *Written Reevaluation.* This is an evaluation prepared by the FAA responsible official of a draft or final impact statement or a finding of no significant impact with section 16(c)(4) coordination which has exceeded the three-year time limitation specified in paragraph 102, Chapter 10. This evaluation will either conlcude that the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new environmental document.

e. *Approving Official.* This is the FAA official who has the authority to approve findings of no significant impact or final environmental impact statements per Chapters 6 and 9.

f. *Responsible Official.* This is an FAA employee designated with overall responsibility to furnish guidance and participate in the preparation of environmental impact statements, to evluate the statements, and to take responsibility for the scope and content of the statements. This person may be authorized to evaluate and accept environmental assessments prepared by airport sponsors and may direct scoping activities for the FAA.

g. *Decisionmaker.* This is the FAA official who has authority to approve airport layout plans, approve funding for airport development, or otherwise approve the Federal action.

h. *Sponsor.* This is any public agency eligible to receive Federal financial assistance under the Airport Act or anyone proposing an airport action for which a Federal authorization is required.

i. *Major Runway Extension.* This is a runway extension which upgrades an existing runway to permit usage by noisier aircraft.

j. *Major New Construction or Expansion of Passenger Handling and Parking Facilities.* This is development on an airport to accommodate one or more increments of a planned total increase in scheduled air carrier enplanements of at least 25 percent over current enplanements. This increase shall also be at least 100,000.

k. *Design, Art, and Architectural Application.* Design is the process of arranging physical spaces, materials, and objects to perform specific functions with emphasis on the relationship of the resulting product to human and environmental factors. Design quality is judged by broader criteria than functional performance alone. Design includes architecture, landscape architecture, graphics, interior design, and engineering. Art includes objects or works of art which are placed in or on an airport facility primarily for aesthetic reasons. Architectural application means the arrangement of structural materials, landscaping, or site development to produce an aesthetically pleasing and functional environment.

l. *NEPA Section 102(2)(D) States.* Such states are those whose agencies or officials, having statewide jurisdiction and responsibility for implementing major Federal actions funded under a program of grants to states, prepare environmental impact statements required by NEPA, section 102(2)(C).

m. *"NEPA-Like" State or Local Agencies.* Such states or agencies are those which are subject to state or local requirements comparable to NEPA requirements for environmental impact statements according to CEQ 1506.2(c). Such agencies, unless specifically barred by other law, shall be joint lead agencies with the FAA and to the fullest extent possible jointly prepare environmental impact statements.

n. *Noisier Aircraft.* For purposes of this order, noisier aircraft are aircraft over 12,500 pounds which are at least three decibels louder than aircraft currently using a runway as measured at one or more of the measuring points used to determine compliance with Federal Aviation Regulations, Part 36. (An aircraft more heavily loaded than the same aircraft currently using the runway under similar conditions may be a noisier aircraft under this definition.)

o. *Project Involving Airport Location.* This is a project by a public sponsor for land acquisition or other development at an airport which has not previously been eligible for Airport Development Aid Program funds because:

(1) It did not exist, or

(2) It was privately owned.

6. *Funding.* Resources to implement the provisions of this order shall be requested through the normal annual budget process.

7.–9. *Reserved.*

Chapter 2. General Requirements and Responsibilities

10. *General.* a. Airport sponsors and the FAA shall carefully consider and weigh environmental amenities and values in a timely manner in evaluating proposed Federal actions relating to airport planning and development, utilizing a systematic interdisciplinary approach and involving local and state officals and individuals having expertise. The environmental assessment and consultation process is to provide officials and decisionmakers, as well as members of the public, with an understanding of the potential environmental impacts of the proposed action. The final decision is to be made on the basis of a number of factors. Environmental considerations are to be weighed as fully and as fairly as non-environmental considerations. The FAA's objective is to enhance environmental quality and avoid or minimize adverse environmental impacts that might result from a proposed Federal action in a manner consistent with the FAA's principal mission to provide for the safety of aircraft operations.

b. Unless categorically excluded by this order, an environmental assessment and environmental impact statement or finding of no significant impact are required for proposed Federal actions related to airports. In accordance with Department of Transportation (DOT) policy and with the CEQ Regulations, it is intended that a single environmental document meet Federal, State, and local requirements.

11. *Overview of Environmental Process.* a. The process for consideration of the environmental effects of a proposed action involves a number of steps, beginning with the airport proprietor or sponsor. The relative responsibilities of the sponsor and the FAA are summarized in the following paragraphs. Intergration of environmental considerations in early planning and involvment of the public are discussed in Chapter 5. Subsequent chapters present detailed instructions on content, processing, and approval of environmental documents.

b. To facilitate an understanding of the process, a flow diagram (Appendix 1) is presented at the end of this handbook. Appendix 1 is broken down into four sheets:

(1) Sheet 1 depicts the process from identification of the problem by the sponsor, through initial review of the sonsor prepared environmental assessment, to development of the environmental assessment as an FAA document. This sheet also identifies an early decision point on whether or not the action falls in the categorical exclusion category per the listing in paragraph 23. If the FAA determines after initial review of the sponsor's proposal that the action is in this category, no environmental assessment is necessary.

(2) Sheet 2 begins with a key FAA determination based on the environmental assessment on whether the action requires preparation of an environmental impact statement. If this answer is yes, sheet 2 outlines the process of scoping, developing, and processing of a draft environmental impact statement by FAA through review of comments and preparation of the proposed final document.

(3) Sheet 3 describes the process if it is determined that an environmental impact statement is not necessary. In

this case, it is first determined if limited Federal agency coordination is necessary pursuant to section 16(c)(4) of the Airport Act. If it is, a proposed finding of no significant impact is prepared, coordinated, and approved as indicated in the flow diagram. Otherwise, a finding of no significant impact may be prepared and approved without further coordination. A final decision on the action is then made after environmental approval.

(4) Sheet 4 is a continuation of Sheet 2. It represents the environmental and funding approval processes for actions which have required the preparation of an environmental impact statement. Environmental approval action is taken in either headquarters or the region depending on approval authority as described in paragraph 95. A final funding decision is made subsequently and includes a record of decision incorporating assurances and mitigation measures identified in the environmental impact statement (reference paragraph 98). The funding decision may also be made in headquarters or the region depending on approval authority. Note that the environmental and funding approvals are not necessarily made at the same level or by the same official. These distinctions are amde in the flow diagram and in the definitions in Chapter 1, paragraphs 3e and g.

12. *Sponsor's Responsibility.* Sponsors of airport projects are responsible for identifying the problem, developing conceptual alternatives, and preparing an environmental assessment as more fully explained in Chapter 5. In the Airports Program, an environmental assessment prepared by the sponsor shall systematically examine each potential impact to determine if the impact is significant. The document shall be developed in coordination with appropriate local, state, and Federal agencies, with community involvment as described in this handbook, and in direct consultation with FAA. It is important that the material contained therein be objective, complete, and accurate in order for it to serve as the basis for the preparation of the FAA's environmental documents. The sponsor's resonsibility also extends to providing additional data and information to the FAA when required to assist in its review of environmental impacts and in the preparation of environmental documents. The environmental assessment shall draw upon the appropriate disciplines of the natural and social sciences and the environmental design arts.

13. *FAA Responsibility.* In brief, under the Airports Program the FAA is responsible for analyzing the environmental impacts and consequences of a proposed Federal action involving airports, for the environmental assessment and related documents, and ultimately for approving or disapproving the environmental documents and the Federal action. Although an environmental assessment submitted by an airport sponsor may be used in whole or in part, the FAA is responsible for the facts, opinions, and judgments upon which the environmental determination is based. It is, therefore, incumbent upon the FAA to assure that all documentation presents a full, accurate, and fair assessment of the environmental consequences of the proposed action.

14. *Use of Contractors.* If contractors are to be involved, see paragraph 76 for details.

15. *Role of Lead and Cooperating Agencies. The various roles of the lead agency are described in CEQ 1501.5 through 1501.8. CEQ 1501.5 generally describes the role of the lead agency when more than one agency is involved in an action. CEQ 1501.6 describes the relationship with cooperating agencies. CEQ 1501.7 and 1501.8 define the role of the lead agency in the scoping process and in setting time limits. More specific information on the involvement of the lead and cooperating agencies in the preparation of environmental impact statements is contained in paragraphs 74 and 75.*

16. *Preparation of Environmental Documents.* Responsibilities and authority of state and local agencies will vary depending upon the state or local requirements, jurisdictional responsibilities, and expertise. This is discussed in Chapter 7.

17. *Early NEPA Involvement in Planning.* In accordance with NEPA, environmental consideration shall be identified early in the planning process. Chapter 5 discusses the implementation of this requirement in airport planning.

18. *Public Involvement.* a. Citizen involvement, where appropriate, should be initiated at the earliest practical time and continued throughout the development of the proposed project in order to obtain meaningful input. Examples of citizen groups are: environmental, conservation, public service, education, labor, business, or aviation and airspace user organizations, and citizen advisory committees.

b. While requests for Federal airport actions originate with a local public agency, the involvement of the community at large is a necessary element in the decisionmaking process. An effective opportunity to comment at appropriate stages in the decisonmaking process shall be provided to communities, citizen groups, and other individuals affected by airport proposals submitted to the FAA. They shall also be provided an oportunity to review and comment on draft and final statements. In order to provide an effective opportunity for comment when significant portions of the affected public have a native language other than English, environmental documents may be provided or public hearings conducted in such native language.

c. In accordance with section 16(d) of the Airport Act, the opportunity for public hearings shall be offered on any action involving location of a new airport, location of a new runway, or extension of a runway. For other actions, a public hearing shall be considered in accordance with the guidelines contained in paragraph 49. FAA Advisory Circular 150/5050-4, Citizen Participation in Airport Planning, has additional specific guidance on community involvement. Standard procedures for Federal agency public involvement are stated in CEQ 1506.6.

19. *Reserved.*

Chapter 3. Environmental Action Choices

20. *General. a. In the Airports Program, Federal actions which require environmental processing generally involve the approval of specific projects at specific airports. A series of projects may be grouped into an overall plan for development, with successive phases being contingent upon other events such as a projected increase in traffic or a change in the aircraft using the airport. Such programs for development will usually be the subject of tiered environmental actions (see paragraph 101 and CEQ 1508.28).*

b. On occasion, such as for the development of a new National Airport System Plan which is based upon new criteria for the inclusion of airports in the plan, an environmental impact statement will be prepared for a broad action. This action is the adoption of a formal plan upon which future agency actions will be based.

c. All Federal actions fall in one of three categories:

(1) Those normally requiring an environmental impact statement (CEQ 1508.11).

(2) Those requiring an environmental assessment (CEQ 1508.9).

(3) Those which are normally categorically excluded (CEQ 1508.4).

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21. *Actions Normally Requiring an Environmental Impact Statement. a. The following Federal actions will normally require an environmental impact statement:*

(1) Adoption of a new National Airport System Plan which is based upon significantly different criteria for inclusion of specific airports from criteria used in the previous plan.

(2) First time airport layout plan approval or airport location approval (see paragraphs 30 and 32) for an air carrier airport located in a standard metropolitan statistical area.

(3) A new runway capable of handling air carrier aircraft at an air carrier airport in a standard metropolitan statistical area.

b. Even though these actions normally require an environmental impact statement, the preparation of the environmental impact statement will usually be preceded by an environmental assessment. If the environmental assessment demonstrates that there are no significant impacts, the action shall be processed as a finding of no significant impact instead of an environmental impact statement.

22. *Actions Normally Requiring an Environmental Assessment.* a. Federal financial participation in, or airport layout plan approval of, the following categories of development actions shall be subject to the analysis of an environmental assessment and subsequent decision as to whether to prepare an environmental impact statement or a finding of no significant impact.

(1) Airport location.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening which would permit use by a noisier aircraft than that for which the pavement was previously designed.

(5) Major new construction or expansion of passenger handling or parking facilities with Federal funding.

(6) Land acquisition associated with all the above items plus any land acquisition which causes relocation of residential or business activities or involves land covered under section 4(f) of the Department of Transportation Act of 1966, as amended (hereinafter section 4(f)).

(7) Establishment or relocation of an instrument landing system, an approach lighting system, or runway end identification lights (when airport development aid funds are used).

(8) An airport development action that falls within the scope of paragraph 24 or which involves any of the following:

(a) Use of section 4(f) land.

(b) Effect on property included in or eligible for inclusion in the National Register of Historic Places or other property of state or local historical, architectural, archeological, or cultural significance.

(c) Wetlands, coastal zones, or floodplains.

(d) Endangered or threatened species.

b. FAA requests for conveyance of government land for airport purposes under section 23 of the Airport Act (see paragraph 34 for more detailed instructions).

c. Federal release of airport land (see paragraph 35).

d. The actions identified in this paragraph shall be supported through one of the following action choices based upon an environmental assessment.

(1) Environmental impact statements.

(2) Findings of no significant impact (see paragraphs 27 and 28).

e. Actions identified in this paragraph may be the subject of written reevaluations of previously approved environmental impact statements or findings of no significant impact. (See paragraph 103).

23. *Categorical exclusions.* Paragraphs 21 and 22 identify specific airport actions such as major runway extensions which require, as a minimum, an environmental assessment. Paragraph 24 identifies extraordinary circumstances which create a requirement for environmental assessment of actions otherwise excluded. For any specific FAA airport project or program action, paragraphs 21, 22, 24, and 26 shall be reviewed. Unless specifically covered by those paragraphs, the following items are categorically excluded from the requirement for formal environmental assessment.

a. Runway, taxiway, apron, or loading ramp construction or repair work including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets and jet blast facilities, except where such action will create environmental impacts off airport property.

b. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems.

c. Installation of miscellaneous items including segmented circles, wind or landing direction indicators or measuring devices, or fencing.

d. Construction or expansion of passenger handling or parking facilities including pedestrian walkway facilities.

e. Construction or repair of entrance and service roadway within airport property and relocation of these type roads except where they connect to a public highway or street.

f. Grading or removal of obstructions on airport property and erosion control actions with no off-airport impacts.

g. Landscaping generally, and landscaping or construction of physical barriers to diminish impact of airport blast and noise.

h. Land acquisition associated with any of the above items.

i. Acquisition of: noise suppression or measuring equipment, security equipment required by rule or regulation for the safety or security of personnel and property on the airport (14 CFR Part 107), safety equipment required by rule or regulation for certification of an airport (14 C.F.R. Part 139) or snow removal equipment.

j. Issuance of airport planning grants.

k. Airport Development Aid Program actions which are tentative and conditional and clearly taken as a preliminary action to establish a sponsor's eligibility under the Program.

l. Retirement of the principal of bond or other indebtedness for terminal development.

m. Issuance of airport policy and planning documents including advisory circulars on planning, design, and development programs not intended for direct implementation or issued by FAA as administrative and technical guidance to the public.

n. Issuance of certificates and related actions under the Airport Certification Program (14 CFR Part 139).

o. Advisory actions as described in paragraph 25.

p. Any items identified in other appendices of this order as categorical exclusions. These items are not normally included in airport actions. There may be circumstances when such items, especially those associated with airways facilities, may be shown on an airport layout plan or included in an airport development action.

24. *Extraordinary Circumstances.* Proposed Federal actions, normally categorically excluded, which have any of the following characteristics shall be the subject of an environmental assessment. The FAA will determine, in accordance with paragraph 51, whether the action will be the subject of an environmental impact statement or finding of no significant impact.

a. An action that is likely to have an effect that is not minimal on properties protected under section 106 of the Historic Preservation Act of 1966, as amended, or section 4(f).

b. An action that is likely to be highly controversial on environmental grounds. A proposed Federal action is considered highly controversial when the action is opposed by a Federal, state, or local government agency or by a substantial number of the persons affected by such action on environmental grounds. If the responsible official has any doubt whether a given number of opposing persons is "substantial," that doubt shall be resolved by discussion with APP-600 to determine if the action should be processed as a highly controversial one.

c. An action that is likely to have a significant impact on natural, ecological, cultural, or scenic resources of national, state, or local significance, including endangered species, wetlands, floodplains, coastal zones, prime or unique farmland, energy supply and natural resources, or resources protected by the Fish and Wildlife Coordination Act.

d. An action that is likely to be highly controversial with respect to the availability of adequate relocation housing. In an action involving relocation of persons or businesses, a controversy over the amount of the acquisition or relocation payments is not considered to be a controversy with respect to availability of adequate relocation housing.

e. An action that is likely to:

(1) Cause substantial division or disruption of an established community, or disrupt orderly, planned development, or is likely to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located; or

(2) Cause a significant increase in surface traffic congestion.

f. An action that is likely to:

(1) Have a significant impact on noise levels of noise sensitive areas;

(2) Have a significant impact on air quality or violate the local, state, or Federal standards for air quality;

(3) Have a significant impact on water quality or contaminate a public water supply system; or

(4) Be inconsistent with any Federal, state, or local law or administrative determination relating to the environment.

g. Other action that is likely to directly or indirectly affect human beings by creating a significant impact on the environment.

25. *Advisory Actions.* Some Federal actions, such as airspace actions, are of an advisory nature and are neither permissive nor enabling. Actions of this type are not ordinarily major Federal actions, and environmental assessments or statements are not required as a condition for accomplishing the action. If it is known or anticipated that some subsequent Federal action would require processing in accordance with environmental procedures, the FAA shall so indicate in the advisory action.

26. *Cumulative Impact.* a. In determining whether an environmental impact statement is required for a proposed Federal action, it is necessary to consider the overall cumulative impact of the proposed action and the consequences of subsequent related actions. CEQ 1508.7 states that "'Cumulative impact' is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time."

b. CEQ 1508.25 defines three types of actions to be considered in determining the scope of an EIS as follows:

"(a) Actions (other than unconnected single actions) which may be: (1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements. (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously. (iii) Are interdependent parts of a larger action and depend on the larger action for their justification. (2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement. (3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequencies (sic) together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement."

c. For airport actions, the effect of a number of decisions about a complex of projects can be individually limited to the extent that a finding of no significant impact or categorical exclusion would appear to be appropriate for each project; however, when considered together, the projects may have a considerable cumulative impact. In both environmental assessments and environmental impact statements, the total proposal must be considered. In the context of the CEQ Regulations, the total proposal includes the proposed action and all other actions related to it. The following are some examples:

(1) Land acquisition and a future runway extension.

(2) Runway extension and road relocation, when the road needs to be moved to accommodate the extension.

(3) Grading for an Instrument Landing System and future installation of the ILS.

(4) Apron work for terminal area relocation which necessitates highway rerouting which in turn involves housing relocation. Terminal area relocation is the principal action justifying the project, but the effect on community disruption or other impacts due to the highway or housing relocation must be included in assessing the total proposal.

(5) An initial runway extension and a second phase extension when the total length is predicated on reasonable foreseeable demand forecasts (e.g., 10 years).

d. In determining when to consider the effects of actions by other agencies in the airport vicinity, the potential for combined significant impact shall be evaluated. For example, new highway construction and airport expansion in combination may create significant air quality impacts. Extensive earth moving from more than one project may combine to cause severe erosion or flooding problems.

e. For further detail on the treatment of present and related future actions, see Chapter 10.

27. *Findings of No Significant Impact Requiring Airport Act Section 16(c)(4) Coordination.* a. This action choice occurs when the proposed action involves the location of an airport, the location of a runway, or the major extension of a runway but does not have significant impacts. A finding of no significant impact shall be supported by an environmental assessment, prepared in accordance with Chapter 5, substantiating the determination that the proposed action will not significantly alter the airport's impact on its surrounding environment.

b. Pursuant to section 16(c)(4) of the Airport Act, DOI and EPA shall be consulted. The FAA shall forward a copy of the proposed finding of no significant impact (and environmental assessment) to both agencies and advise them that, although the project is not expected to significantly affect the quality of the human environment, they are being consulted pursuant to section 16(c)(4).

c. FAA processing and approval of this action choice are described in Chapter 6.

28. *Findings of No Significant Impact Not Requiring Section 16(c)(4) Coordination.* This action choice applies to those projects which do not have significant impacts, do not fall under section 16(c)(4) of the Airport Act, and are not categorically excluded under paragraph 23. Content, processing, and approval of this action choice are described in Chapter 6.

29. *Supplements.* The choice of preparing a supplement to a previously prepared draft or final environmental impact statement or to a finding of no significant impact with section 16(c)(4) coordination is appropriate in some instances of tiering, or when significant changes occur affecting the validity of previously prepared documents, or when significant new information is brought to light. Paragraph 104 discusses requirements for supplements.

Chapter 4. Special Instructions

30. *Airport Layout Plan Approvals.* a. *Applicability.* This paragraph applies to approvals of new or revised airport layout plans showing development actions identified in paragraphs 21 and 22a. It does not affect airport layout plan approvals prior to January 1, 1970. Other paragraphs of this handbook apply to Federal participation in development actions even if shown on an airport layout plan approved prior to January 1, 1970. (See CEQ 1506.12(b).)

b. *General.* Proposals to construct new runways, runway extensions, terminal buildings, or other major and supportive development are shown on an airport layout plan. Inclusion on the plan signifies that the proposed development has been identified by public sponsors for planning purposes. It does not represent a commitment by the sponsor to implement the indicated development. FAA reviews the planned development with respect to safety, efficiency, utility, and environmental impact. FAA's approval does not represent a commitment to provide financial assistance to implement the proposed plan. Environmental documents for airport layout plan approvals are subject to tiering as explained in detail in paragraph 101b(4). Tiering results in either an unconditionally or a conditionally approved airport layout plan.

c. *Approval.* (1) When all items of development covered by paragraphs 21 and 22a have been the subject of environmental approvals pursuant to the provisions of this order, the airport layout plan may be approved unconditionally.

(2) When such environmental action has not been completed, the airport layout plan may be approved subject to the following condition which shall be included in the airport layout plan approval letter:

"The approval indicated by my signature is given subject to the condition that the proposed airport development identified by item herein as requiring environmental processing shall not be undertaken without prior written environmental approval by the FAA."

(3) The approval letter shall identify, by item, those items shown on the airport layout plan which are covered by paragraphs 21 and 22a which have not yet been environmentally approved by FAA.

(4) The FAA approval of an airport layout plan shall be indicated as follows:

(a) The FAA unconditional approval shall be shown on the face of the airport layout plan by use of the term "approved."

(b) The FAA conditional approval shall be shown on the face of the airport layout plan by use of the term "conditionally approved," with a cross-reference to the airport layout plan approval letter.

31. *Planning Grants.* a. Planning grants are not considered major Federal actions for purposes of section 102(2)(C) of NEPA. Neither are planning grants considered to be airport development projects for purposes of section 16(c)(4) of the Airport Act. Therefore, a finding of no significant impact or an environmental impact statement is not required for issuance of the grant. However, environmental considerations should be included as an integral part of master planning. The airport layout plan, which is one element of a master plan, is the vehicle through which the FAA acts with respect to airport planning and which is subject to the requirements in paragraph 30. Environmental actions may be taken to cover either the ultimate plan as developed by the study or stages of such development, depending on the independent utility of each stage and the certainty of ultimate development. Two major elements of an environmental assessment—noise and land use—are included in studies conducted under a planning grant for airport noise control and land use compatibility. See paragraph 41 for more information on the sponsor's planning process.

b. In the context of airport development, public meetings or other planning meetings held in conjunction with master planning may be expanded to incorporate some of the principles of scoping as described in paragraph 74, especially when it is reasonable to expect that the master plan will identify needed development which has the potential for significant environmental impacts.

32. *Airport Location Approval.* The location of new airports or existing privately owned airports is subject to the appropriate environmental approval prior to receiving first time Federal aid. If location selection is made as an initial phase of a master planning study, the environmental assessment shall take into account enough of the ultimate planned development to assure that, with the best available information, the selection is based upon considerations that the need for and benefits of future development of the site outweigh any adverse environmental impacts.

33. *Land Acquisition.* Public sponsors may have the authority to acquire land adjacent to existing airports or for new airports without prior approval by the FAA. Such action could prejudice or preclude a favorable decision by the FAA on proposed changes in airport layout or development which would use the land thus acquired or on requests for reimbursement for the property. When FAA is notified or becomes aware of a possibility that such a situation may be occurring, FAA shall advise the public sponsor that such action must be consistent with pertinent environmental policy as expressed in this order, that the manner in which the particular property was acquired will be carefully considered by the FAA prior to approval of future FAA actions involving the property, and that particular attention will be given by the FAA to its responsibilities under section 4(f) to insure that a special effort is made to preserve the natural beauty of the countryside, public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. Particular attention shall also be given by the FAA to actions by a sponsor involving wetlands, floodplains, coastal zones, endangered species, properties in or eligible for inclusion in the National Register of Historic Places, and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. A sponsor which has acquired land without prior approval by the FAA shall demonstrate to the satisfaction of the FAA that the acquisition was consistent with the policies expressed in this order and has not prejudiced full and objective consideration of alternatives or limited possible implementation of a preferable alternative.

34. *Conveyances of Land.* a. Airport sponsors may request conveyance of government owned land under section

23 of the Airport Act for the development, improvement, or future use of a public airport. This covers land for a new airport, expansion of an existing airport, protection of aerial approaches, and future airport projects. FAA Order 5170.1, entitled Transfer of Federal Lands, Section 23, of the Airport and Airway Development Act of 1970, contains FAA's procedures for such land transfers. The sponsor shall normally be required to include with the request to FAA for the land an environmental assessment in accordance with Chapter 5. An environmental assessment is not required if the use of the land falls within the scope of paragraph 23, Categorical Exclusions. The FAA responsible official shall consult with the Federal agency controlling the land to assure that environmental documentation meets the needs of the controlling agency as well as of the FAA. If an environmental impact statement is required, the FAA may act as either joint lead agency with the controlling agency or as a cooperating agency with jurisdiction by law and may request further information from the sponsor in order to complete the analysis of significant impacts.

b. The FAA may include environmental mitigation measures as covenants in the deed or patent which transfers the land or in an Airport Development Aid Program grant agreement for a project on the land.

c. FAA Order 5170.1 instructs "Where there is other Government land adjoining that which is being requested for an airport, an easement interest should be requested as necessary to protect the airport. This involves sufficient control to clear and protect the aerial approaches to the airport, to maintain freedom from electronic interference, or smoke-producing activities, and the right to overfly any land or any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport." The FAA responsible official shall pay particular attention to recommending that the FAA request such additional land as allowed and as determined necessary for compatible land use.

35. *Releases of Airport Land.* a. When a sponsor accepts a Federal airport development grant or a conveyance of Federal surplus property for airport purposes, the sponsor incurs specific obligations with respect to the uses of the property. FAA action is required to release a sponsor from obligations in the event the sponsor desires to sell the airport land. This action requires an appropriate environmental assessment in accordance with the provisions of this order. The assessment shall address the known and immediately forseeable environmental consequences of the release action and, as with other Federal actions regarding land, appropriate coordination with Federal, state, or local agencies shall be completed for applicable areas of environmental consideration (e.g., historic and archeologic site considerations, section 4(f) lands, wetlands and coastal zones, endangered species). In all cases, coordination with the State Historic Preservation Officer is required.

b. In making the final determination, the responsible Federal official shall consider the effects of covenants which will encumber the title and the extent of Federal ability to enforce these covenants subsequent to the release action. The standard conditions of release relative to the right of flight, including the right to make noise from such activity and the prohibition against erection of obstructions or other actions which would interfere with flight of aircraft over the land released, may be considered as mitigating factors in the environmental assessment especially regarding noise impacts and land use compatibility. When the intended use of released land is consistent with uses described and covered in a prior environmental assessment, the prior data and analysis may be used as input to the present assessment. When the conditions as set forth in Chapter 10 apply, a written reevaluation may be used to support the property release.

c. In some cases, another Federal agency may be the lead agency that is responsible for the preparation of an environmental asessment and environmental impact statement, if required. In these circumstances, the FAA may be a cooperating agency. To support the release action, the FAA may then adopt the environmental document prepared by the other agency in accordance with the provisions of CEQ 1506.3.

d. Long term leases which are not related to aeronautical activities or airport supprt services (i.e., convenience concessions serving the public such as shelter, ground transportation, food and personal services) and which require the FAA's consent for the conversion of dedicated airport property to the status of revenue producing property have, for all practical purposes, the effect of a release and shall be subject to an environmental asessment. Long term leases are normally those exceeding 20 years.

36.–39. *Reserved.*

Chapter 5. Early Planning, Preparation of Environmental Assessments, A–95 Review, Public Hearings

40. *Initiation of Environmental Process.* The environmental process begins at the local level with the airport sponsor. An overview of the process is discused in paragraph 11 and a flow diagram is presented in Appendix 1 at the end of this handbook with the steps numbered for ease of reference. CEQ 1501.2 states "Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts." At this early point in time, the sponsor may be engaged in any one of the following activities which may be expected to result in a Federal action:

a. An airport master planning study (presumably leading eventually to approval of a new or revised airport layout plan or of a grant for construction).

b. An airport site selection study.

c. A new airport layout plan or a revision.

d. Formulation of an airport development project.

e. Plans to obtain government land for airport purposes through a conveyance under section 23 of the Airport Act.

f. Plans to obtain a release of airport land.

41. *Sponsor's Planning Process.* a. *General.* Steps 1, 2, and 3 in Appendix 1 indicate the minimum action expected from the sponsor to start the process. The sponsor identifies a problem and develops conceptual alternatives to solve it. These first three steps may involve a considerable amount of effort. In the case of a master planning study, for example, problem identification would involve inventory, forecasts, demand/capacity analyses, and the determination of facility requirements. The possible alternative ways to provide the required facilities would constitute the planning alternatives. From these alternatives, the sponsor may make a choice which is identified as the proposed action. In choosing among alternatives, environmental factors play a role. CEQ 1501.2(b) states "Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses." Consequently, in developing alternatives and in choosing a proposed course of action, environmental feasibility should influence choices, as should safety, economic, and technical feasibility. The amount of environmental detail at this early planning stage should

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be commensurate with other planning analyses being undertaken by the sponsor and will obviously vary greatly between a comprehensive master planning study, for example, and a small development proposal. When a master planning study is done, the sponsor is encouraged to incorporate aircraft nose control land use compatibility planning and other environmental planning techniques in the study as a basis for subsequent environmental assessment. Whether it is possible at this stage for the sponsor to choose a proposed action among alternatives depends upon the type and complexity of the problem. If the identified problem is lack of sufficient airfield runway capacity or need for a new airport, the alternatives may be numerous and sufficiently complicated to preclude an obvious solution at this early stage. On the other hand, a problem such as providing additional apron space or locating a crash/fire/rescue building may be simple enough that relatively little effort is required to identify the problem, explore the relatively limited options, and choose the proposed action.

b. *Design, Art, and Architectural Application.* (1) Design, art, and architectural considerations are applicable to airport actions involving airport location; extensive earthmoving or other disruption of the natural environment or aesthetic integrity of an area; terminal and access road develoment; and to any development which may affect sensitive locations such as parks historic sites, or other public use areas. Such considerations shall be reflected in any environmental assessment prepared to the extent relevant.

(2) Applicability may best be determined by early consultation with appropriate local or state art or architecture councils or other organizations having special interest or experience in design, art, and architecture. The environmental assessment shall reflect such consultation which may be done directly or through the A–95 clearinghouse coordination.

(3) Consideration of the design arts in the preliminary design stage of project development is encouraged and shall be reflected in the environmental assesment to the extent information is available. Emphasis should be placed on design factors which will complement and support establishment of functional, efficient, and safe airport facilities while reflecting local, cultural, and architectural heritage considerations.

(4) Examples of the application of design, art, and architecture in airport actions include the following:

(a) The adverse effects of encroachment into residential or recreational area or disruption of scenic vistas may be minimized through appropriate design considerations. Architectural treatment of facilities can reflect and blend in with nearby architectural style. Painting or shielding of structures such as landing aid supports may reduce adverse visual impact as long as there is no interference with the safe performance of the facility.

(b) Actions which involve extensive earthmoving may create disruption of the landscape visible from great distances. Normal application of sound design and engineering principles will assure the control of erosion and provide adequate drainage. Extra care in slope design and plantings will help minimize adverse visual and other environmental impacts.

(c) Relocation of streams or other water courses in channels which reflect the natural characteristics of the existing stream may be more aesthetically pleasing and cost less than replacement by concrete sluiceways. Bank stabilization by appropriate plantings may improve appearance as well as control erosion.

(d) New facilities or major terminal expansion may provide an excellent means to recognize and reflect notable architectural, cultural, or ethnic assets of the area. Such influences may be reflected in interior design, landscaping, or architectural treatment.

(5) Whether or not a particular airport action requires the preparation of an environmental assessment, the FAA shall encourage airport sponsors to apply the principles of good design, art, and architectural treatment in anything they do which affects interface between the airport facilities and the public. To facilitate a better understanding of such policy and to provide advice, the FAA has available through its regional offices a slide/sound presentation entitled "First and Lasting Impression" and a companion report, "Design, Art and Architecture—A Study of Airports."

42. *FAA's Initial Advice and Review.* FAA personnel in regional offices and airports district offices will advise sponsors during the planning process. The locations and phone numbers of these offices are contained in Advisory Circular 150/5000–3D (or subsequent updates). The FAA's first required environmental review is indicated in step 4 of Appendix 1. This review has two basic objectives. The first objective is to determine whether the FAA agrees that a problem exists, that the problem has been correctly identified, and that appropriate alternative solutions have been proposed. In evaluating whether the proposal has been properly defined and whether the appropriate range of actions and alternatives is being considered, FAA will apply CEQ 1502.4 and 1508.25. If the FAA is not satisfied, further consultation with the sponsor will be undertaken to resolve areas of disagreement. The second objective of this review is to determine whether the proposed action is one of categorical exclusion. Both paragraphs 23 and 24 shall be examined before a final determination is rendered by the FAA that a proposed action is a categorical exclusion. A categorical exclusion requires no further environmental processing, and the proposed Federal action may be approved by the FAA decisionmaker.

43. *Requirement for Environmental Assessment.* All proposed actions which are not categorical exclusions require an environmental assessment prepared by the airport sponsor. An environmental assessment is defined in CEQ 1508.9 and further elaborated on in 1501.3 and 1501.4. The completion of an environmental assessment shall normally precede the FAA's decision to prepare an environmental impact statement since the environmental assessment is a document used by the FAA to determine whether potential impacts appear to be significant. There are proposals, however, which normally require the preparation of an environmental impact statement per paragraph 21 or on which the FAA and the sponsor agree initially that impacts will be significant. In these cases, the FAA and sponsor may determine that the scoping process should not await completion of the environmental assessment. For these proposals, the sponsor's preparation of the environmental assessment shall be done concurrently with scoping as allowed in CEQ 1501.7(b)(3). If tiering is involved, sponsors should consult Chapter 10 and request special advice from the FAA prior to preparing an environmental assessment.

44. *FAA Role in Environmental Assessment.* The environmental assessment process is shown in steps 7 through 12 of Appendix 1. The FAA has responsibility in four ways:

a. Advice and assistance to the airport sponsor during the environmental assessment preparation.

b. Review of the environmental assessment (per step 8, Appendix 1) to determine its adequacy for a public hearing and review pursuant to Office of Management and Budget (OMB) Circular A–95 (Revised). At this time, the FAA will insure that the cover page of the environmental assessment contains a notification that the environmental assessment has been prepared by the sponsor and that it will become a Federal document only after it is evaluated and signed on the cover page by the FAA responsible official.

c. Final review of the environmental assessment (per step 12, Appendix 1) at which point the FAA independently evaluates and takes responsibility for the environmental assessment per CEQ 1506.5(b). If not satisfied with the environmental assessment, the FAA may request the sponsor to correct deficiencies and resubmit it.

d. The decision to prepare either an environmental impact statement or a finding of no significant impact (step 13, Appendix 1) based on final review of the environmental assessment and completion of certain impact categories as necessary to make judgments on the significance of anticipated impacts.

45. *Early Coordination.* CEQ 1501.4(b) states, "The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing [environmental] assessments . . ." and in section 1506.2(b) "Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law." The FAA encourages the sponsor to undertake early coordination with appropriate Federal, state, and local agencies, industry groups, environmental agencies, and the community in the environmental assessment process. Such coordination shall be initiated as appropriate during the sponsor's planning process and development of alternatives and continue during the preparation of the environmental assessment prior to the formal coordination during the A–95 review process. Early coordination can serve a number of purposes. It is an aid in the identification of environmental impacts and can help trigger advance planning of measures to mitigate environmental effects, including changes in project design. The community can be provided with timely information and have its opinions heard at the earliest formative stage of the project, which may avoid serious controversy later on. The amount of early coordination advisable will depend on the complexity, sensitivity, and anticipated environmental impacts of the proposal. Information received during early coordination may be used in the environmental assessment.

46. *Purposes of Environmental Assessment.* CEQ 1508.9 indicates that the environmental assessment is a concise document. It is the FAA's intention to adhere strongly to this instruction and to require only enough analysis in the environmental assessment for the following purposes:

a. To understand the problem and identify reasonable alternative solutions, including the proposed action.

b. To determine whether any potential impacts are significant, which would trigger the environmental impact statement process.

c. To provide the basis for the FAA's finding of no significant impact if the proposed action has no significant impacts.

d. To identify and satisfy special purpose Federal laws, regulations, and executive orders.

e. To identify and satisfy state and local laws and regulations applicable to the proposal.

f. In completing the above, to indicate agencies consulted (and to identify cooperating agencies for environmental impact statement preparation purposes).

In airport actions, inclusion of the proposed action in a. above would apply if the sponsor had chosen an action among alternatives. In reference to d. above, more specific information is included in paragraph 47e. Another purpose, not included above, is to identify any permits, licenses, or other entitlements required by the proposal.

47. *Format and Content of Environmental Assessment.* The environmental assessment shall incorporate some selected items of information required for an environmental impact statement in CEQ 1502.10. The information in the environmental assessment will, however, be in more abbreviated form than in an environmental impact statement. The following information is required:

a. *Cover Sheet.* This page is labeled "Environmental Assessment," identifies the airport, indicates that the environmental assessment was prepared by the airport sponsor (or for the sponsor by a contractor), and has the following notification at the bottom:

"This environmental assessment becomes a Federal document when evaluated and signed by the responsible FAA official.

Responsible FAA Official ————————
Date" ————————

b. *Purpose and Need.* This section shall identify the problem, the requested Federal action, and the timeframe for such action. Relevant statistical information supporting the fact that a problem exists shall either be included here or appended. Current and projected activity statistics shall be provided.

c. *Alternatives (Including Proposed Action).* (1) The CEQ Regulations include specific directions on the consideration of alternatives. While these directions are concerned with the environmental impact statement, they are also applicable to an environmental assessment, although in less finished detail than in an environmental impact statement. Applicable CEQ sections are:

(a) *Section 1502.1.* The environmental impact statement ". . . shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

(b) *Section 1502.2(e).* "The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker."

(c) *Section 1502.14.* The environmental impact statement ". . . should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public."

(d) *Section 1502.14(a).* Agencies shall "Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."

(e) *Section 1502.14(b).* Agencies shall "Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits."

(f) *Section 1502.14(c).* Agencies shall "Include reasonable alternatives not within the jurisdiction of the lead agency."

(g) *Section 1502.14(d).* Agencies shall "Include the alternative of no action."

(h) *Section 1502.14(f).* Agencies shall "Include appropriate mitigation measures not already included in the proposed action or alternatives."

(2) The FAA responsible official shall apply the above CEQ directions and shall judge whether the alternatives put forward by the sponsor are sufficient for the environmental assessment. The range of alternatives considered shall be commensurate with the identified problem and the anticipated impacts. In any case, the no action alternative shall be considered. Low capital or noncapital alternatives such as the development and upgrading of reliever/satellite airports, the establishment of quotas, and the use of pricing systems shall be considered for proposed actions involving the addition of airfield

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capacity to high activity air carrier airports where there exists one or more of the following constraints—safety, airspace limitations, land limitations, airport ground access, environmental impacts, financial limitations, political constraints.

(3) The Alternatives section of the environmental assessment shall include:

(a) A list of alternatives considered, including the proposed action, with only enough description to explain them. For each alternative, any connected or cumulative actions shall be included (CEQ 1508.25(a)(1) and (2)).

(b) Identification of the sponsor's proposed action if one has been chosen.

(c) A concise statement explaining why any initial planning alternatives have been elimiated from study.

(d) A listing under each alternative of any areas of potential significant impact or a statement that the alternative has no significant impacts per the threshold analyses performed under paragraph 47e below. The environmental assessment shall indicate whether an alternative is being analyzed on the basis of mitigation measures assumed to be built into it.

(e) A listing under each alternative of any applicable Federal, state, or local special purpose laws and regulations and potentially required permits and licenses (reference CEQ 1502.25(a)).

(f) Graphics as appropriate to aid in understanding the alternatives. These would be of value in showing alternative runway configurations, for example, although not useful in dealing with alternative transportation modes.

d. *Affected Environment.* CEQ 1502.15 shall be followed, in particular the sentence in this section which directs that "The descriptions [of the affected environment] shall be no longer than is necessary to understand the effects of the alternatives." This section may highlight important background material, such as previous development and environmental actions which help to explain the present proposal. It may also include such items as bond actions, action by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the project which do not properly belong in another section of the document. The Affected Environment section of the environmental assessment includes:

(1) A location map, vicinity map, and airport layout plan.

(2) Existing and planned land uses and zoning in the affected airport vicinity, including affected residential areas, public parks, wildlife and waterfowl refuges, wetlands, floodplains, farmlands, coastal zones, recreation areas, and historic facilities and archeological sites.

(3) Nearby schools and places of public assembly, hospitals, shopping areas, and adjacent political jurisdictions affected by the proposed development.

(4) Population, industrial and commercial growth characteristics, and assumptions used to justify the project and determine secondary impacts only if these are relevant to the proposal.

(5) Any contemplated future actions, including facility installations and procedural actions, which have not been included in the Alternatives section and which should be described to show their relationship to the proposal and to show the sponsor's intentions regarding their environmental assessment and development.

(6) Other planned and developed activities in the affected area (e.g., highways and other transportation projects, housing development and relocation, etc.) which are interrelated to the proposal and/or which would produce cumulative impacts.

e. *Environmental Consequences—Specific Impact Categories.* A brief examination of each of the applicable potential impact areas below shall be done and documented to determine if the impact may be significant. During the environmental assessment process, required specific consultation such as historic and cultural resource consultation with the State Historic Preservation Officer shall be accomplished. For the proposed action and reasonable alternatives, including the no action alternative, each of the following applicable impact categories shall be systematically examined.

(1) *Noise.*

(a) No noise analysis is needed for proposals involving utility or basic transport type airports whose forecast operations in the period covered by the environmental assessment do not exceed 90,000 annual adjusted propeller operations or 700 annual adjusted jet operations ("adjusted" as defined in Report No. FAA-AS-75-1, Developing Noise Exposure Contours for General Aviation Airports). These numbers of propeller aircraft operations result in cumulative noise levels not exceeding 60 Day/Night Level (Ldn) more than 5,500 feet from start of takeoff roll or 65 Ldn on the runway itself. Adjusted jet operations of 700 or less do not produce a 60 Ldn contour using this method. Note that the Cessna Citation 500, the Gates Learjet 35A, and any other jet aircraft producing equivalent or less levels of noise are quieter than many propeller aircraft under 12,500 pounds and therefore may be counted as propeller aircraft rather than jet aircraft.

(b) A noise analysis is needed for proposals which individually or cumulatively involve airport location, runway location, major runway extension, or runway strengthening at any airport which is either:

1 Larger than basic transport,

2 Utility or basic transport at which forecast operations exceed those defined in (a) above,

3 Highly controversial because of noise impacts (reference paragraph 24b), or

4 Anticipated frequent usage by special aircraft such as helicopters in proximity to noise sensitive areas.

(c) When required by (b), an initial noise analysis may be accomplished by using Report No. FAA-AS-75-1 to develop contours of equal noise exposure using the Ldn cumulative noise methodology or by making a single point analysis using Report No. EPA 550/9-77-450, Calculation of Day/Night Levels (Ldn) Resulting from Civil Aircraft Operations. Such analyses shall be sufficient to identify whether any existing or planned noise sensitive areas outside airport boundaries would be exposed to noise levels exceeding 65 Ldn for present conditions and forecast conditions with and without the preferred alternative. Single point analysis where the flight paths cross airport boundaries may be sufficient for making this determination. The analysis shall consider the effects of other related actions, including installation of navigational aids and air traffic control procedures, reflecting as applicable the results of coordination with affected FAA operating services.

(d) If the initial noise analysis indicates that there are no existing or planned noise sensitive areas (as described in paragraph 85b) within the current or projected 65 Ldn OR that the cumulative increase in noise levels in such areas within 65 Ldn does not exceed 3 Ldn over that created without the project, no further analysis is necessary and it may be assumed that there would be no significant noise impact. To determine the amount of increase, it is necessary to consider the cumulative effects of related actions as more particularly described in paragraph 26 as well as the effects of any noise abatement procedures which exist. If these thresholds are exceeded, additional noise analysis is needed, as described in paragraph 85a.

(e) The text of the environmental assessment shall include a description of any mitigation measures existing or planned to minimize noise impacts. If a noise analysis is required, sufficient information shall be presented to permit lay and technical readers to relate the noise level data used to an understanding of its potential effects. The text and graphics shall support the conclusions reached on noise impacts. The graphics shall include map(s) of the existing airport, proposed airport development, and the airport vicinity. Existing and planned land uses shall be illustrated, including the location of the nearest noise sensitive area(s). The illustrations shall be large enough and clear enough to be readily understood. When noise contours are developed, they shall be superimposed on a land use map(s) by prominent, legible lines and be clearly labeled.

(f) The above paragraphs refer to Ldn as the methodology to use for noise analysis. An acceptable exception is use of the Community Noise Equivalent Level (CNEL) where required to meet state requirements as in California. The Noise Exposure Forecast (NEF) methodology may also be used in environmental assessments or other analyses begun prior to the effective date of the order.

(2) *Compatible Land Use.*

(a) The compatibility of existing and planned land uses in the vicinity of an airport is usually associated with the extent of noise impacts related to that airport. In this context, if the noise analysis described above concludes that there is no significant impact, a similar conclusion usually may be drawn with respect to compatible land use. However, if the proposal would result in other impacts exceeding thresholds of significance which have land use ramifications (for example, disruption of communities, relocation, induced socioeconomic impacts, wetlands, floodplains, coastal zones, critical habitat of endangered or threatened species), the effects on land use shall be analyzed in this context and described accordingly under the appropriate impact category with any necessary cross-refereces to the Compatible Land Use section to avoid duplication.

(b) The Land Use section of the environmental assessment shall include documentation to support the required sponsor's assurance under section 18(a)(4) of the Airport Act that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. The assurance must be related to existing and planned land uses.

(c) FAA officials shall contact the sponsor and representatives of affected communities to encourage the development of appropriate compatible land use controls early in the project planning stage. The environmental assessment shall document what is being done by the jurisdiction(s) with land use control authority, including an update on any prior assurance. It is recognized that not all airport sponsors have direct jurisdictional control. However, sponsors are public agencies with a voice in the affairs of the community in which the airport development is undertaken and should be required, as a minimum, to use their best effort to assure proper zoning or other land use controls near the airport. Depending on the sponsors' capability, "appropriate action" could range from extension of such influence to acquisition of land in fee. It is the FAA official's responsibility to determine that appropriate action constituting reasonable assurance, has been or will be taken. FAA Advisory Circular 150/5050-6, Airport-Land Use Compatibility Planning, presents guidance for airport sponsors and planners to help achieve compatibility between airports and their environs.

(3) *Social Impacts.*

(a) The principal social impacts to be considered are those associated with relocation or other community disruption which may be caused by the proposal. If the proposal will not involve the need to relocate any residence or business; alter surface transportation patterns; divide or disrupt established communities; disrupt orderly, planned development; or create an appreciable change in employment, then no specific analysis is needed and a summary statement to this effect will be sufficient in the environmental assessment.

(b) If relocation of residences is involved, the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 must be met. Sufficient information is needed in the environmental assessment to assure that the relocation can be managed. Such information may need to be obtained from secondary or community sources. If the assessment indicates any insufficiency in available housing or a high degree of controversy with respect to availability (reference paragraph 24d), the action shall be construed as having potential significant social impacts and will require additional analysis as indicated in paragraph 85c. For purposes of the environmental assessment, the following information shall be provided.

1 Estimate of the numbers of individuals and families as well as the characteristics of the households to be displaced (e.g., minorities, income levels, renter or owner, tenure, elderly, large families).

2 Impact on the neighborhood and housing to which relocation is likely to take place.

3 Indication of ability to provide adequate relocation housing for the types of families to be displaced. Include a discription of special relocation advisory services to be provided, if any, for the elderly, handicapped, or illiterate regarding interpretation of benefits or other assistance available.

(c) If relocation of any business (including farm operations) is involved, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 requires that the owner be offered assistance in finding a location and reestablishing the business. Evidence to this effect shall be included in the environmental assessment. If the business relocation will create a severe economic hardship on the community, additional analysis is required in an environmental impact statement.

(d) If the proposal would result in alteration of surface transportation patterns or otherwise divide or disrupt established communities or orderly, planned development, such disruption shall not be considered significant unless there is a noticeable increase in congestion or access time to community facilities, recreation areas, or places of residence or business or other disruption which cannot be prevented or minimized. The environmental assessment shall document, to the extent applicable, measures taken to avoid significant disruption by such means as rerouting, street widening, or changes in land use patterns to minimize the effects of the project.

(e) The environmental assessment shall reflect the results of any consultation with local officials or with relocation or other social agencies or community groups regarding the social impacts of the proposed action.

(4) *Induced Socioeconomic Impacts.* For major airport development proposals there is the potential for induced or secondary impacts on surrounding communities. When such potential exists, the environmental assessment shall describe in general terms such factors as shifts in patterns of population movement and growth, public service demands, and changes in business and economic activity to the extent influenced by the airport development. Induced impacts will normally not be significant except where there are also significant impacts in other categories, especially noise,

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land use or direct social impacts. In such circumstances, a more thorough analysis of induced effects may be needed in an environmental impact statement.

(5) *Air Quality.*

(a) Section 176(c) of the Clean Air Act Amendments of 1977 states in part that no Federal agency shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a State Implementation Plan after it has been approved or promulgated under section 110. The Act requires that, in developing the Plan, the states must designate all areas as Nonattainment for those pollutants which do not meet air quality standards and as Prevention of Significant Deterioration for those pollutants which do currently meet standards but are controlled to prevent further significant deterioration beyond acceptable limits. State Implementation Plans may include one or more Transportation Control Plans approved by the metropolitan planning organization(s). It is FAA's responsibility to assure that Federal airport actions conform to state Plans for controlling areawide air pollution impacts.

(b) If the proposed Federal action involves airport location, development which would cause or allow an increase in aircraft operations, or major new construction or expansion of passenger handling or parking facilities with Federal funding, paragraph (c) below shall be reviewed to determine if an air quality analysis needs to be done for the environmental assessment. For other types of airport proposals, no air quality analysis is normally required for the environmental assessment; normally it may be assumed that there is no potential for significant air quality impacts. There may be exceptional actions, such as a proposed release of airport property for an industrial complex, which occur very infrequently and require FAA judgment on a case-by-case basis of how much and what kind of air quality information is needed.

(c) For the following four conditions, if *1* applies, then *2* and *3* do not. However, if *1* is not applicable, then *2* and *3* must be examined since an airport may be located in an area which is designated Nonattainment for some pollutants and Prevention of Significant Deterioration for other pollutants. An analysis pursuant to the National Ambient Air Quality Standards may be necessary per *4*.

1 If the proposed Federal action meets the conditions in *a* or *b* below, no air quality analysis is needed unless there is doubt raised by the state air quality board, the designated air quality region, the EPA, or others regarding inclusion in the Transportation Control Plan or conformity with the State Implementation Plan OR the state has established aircraft activity thresholds that trigger indirect source review. In such a situation, the airport sponsor shall contact the FAA for guidance. The environmental assessment shall include a letter from the air quality board or region supporting the applicable condition.

a The action is included in and consistent with an areawide Transportation Control Plan as determined by the state air quality board or designated air quality region.

b The action is not included in a Transportation Control Plan OR is in a location where there is no approved Transportation Control Plan or State Implementation Plan AND review by the air quality board or region ascertains that no analysis is needed.

2 If the proposed Federal action is in an area designated as Prevention of Significant Deterioration for pollutants subject to Prevention of Significant Deterioration review (presently only sulfur dioxide and particulates), no analysis of these pollutants is needed unless a large point source, such as a power plant on the airport, is involved in the action. Airport actions generally are not considered to be large point sources subject to Prevention of Significant Deterioration review.

3 If the airport location or proposed development is NOT in a Transportation Control Plan, is NOT otherwise exempted, and IS in an area designated as Nonattainment for a particular pollutant or pollutants, the Clean Air Act Amendments of 1977 require that, prior to development, the agency must demonstrate that there will be an improvement in air quality with regard to that pollutant or that the increased emissions of the pollutant are within the available growth increment of the approved State Implementation Plan. To demonstrate either of these conditions, an emission inventory or modeling exercise of the Nonattainment pollutants for existing and forecast conditions shall be done for the environmental assessment. If this analysis shows that either condition would be met, it may be assumed that there would be no significant impact with regard to the Nonattainment pollutant or pollutants. If neither condition would be met, further detailed analysis in an environmental impact statement is required under paragraph 85e.

4 No Air quality analysis is needed to ascertain conformance with National Ambient Air Quality Standards unless such need is indicated by the air quality board or air quality region. If needed, the analysis usually can be limited to an emissions inventory for each alternative considered in the enviromental assessment. Contact with the state or local air pollution control agency will provide information and requirements for a specific area.

(d) In any case, the environmental assessment shall include any measures to be incorporated in the action to minimize adverse air quality effects, including control of air pollution during construction.

(e) The Airport Act requires that Airport Development Aid Program applications for projects involving airport location, runway location, or a major runway extension shall not be approved unless the governor of the state in which the project is located certifies that there is "reasonable assurance" that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards.

1 To establish a "reasonable assurance," applicable standards and implementation requirements must have been established and an official designated who has authority to enforce compliance with the standards. When standards have not been approved but applicable standards have been promulgated by the EPA, EPA's approval shall be obtained. Lack of objection to air and water quality considerations as set forth in the environmental assessment or environmental impact statement may be construed as EPA approval.

2 While the air and water quality certifications shall be included in the environmental assessment or environmental impact statement whenever possible, their inclusion is not a prerequisite to approval of a finding of no significant impact or final environmental impact statement if the document includes evidence from the governor or appropriate state official indicating a reasonable expectation that the certification will be given. The state's certification or the EPA's approval must be received, however, before the project can be approved by the FAA.

(6) *Water Quality.*

(a) The Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (commonly referred to as the Clean Water Act), provides the authority to establish water quality standards, control discharges into surface and subsurface waters, develop waste treatment management plans and practices, and issue permits for discharges (section 402) and for dredged or fill material (section 404). The environmental assessment shall include sufficient description of design, mitigation measures, and construction controls applicable to the proposal to demonstrate that state water quality standards and any Federal, state, and local permit requirements can be met. Such factors as storm and sanitary sewer design, requirements for additional water supplies or waste treatment capacity, erosion controls to prevent siltation, provisions for containing fuel spills and waste water from aircraft washing, designs to preserve existing drainage or to minimize dredge and fill, and location with regard to an aquifer or sensitive ecological area such as a wetlands area shall be considered to the extent applicable to the individual proposal.

(b) Early consultation with local, state, and Federal agencies charged with implementation of water quality regulations and issuance of permits will normally identify any deficiencies in the proposal with regard to water quality or any additional information necessary to make judgments on the significance of impacts. The environmental assessment shall reflect the results of consultation with regulating and permitting agencies and with agencies that must review permit applications, such as the U.S. Fish and Wildlife Service, which may have specific concerns. Such consultation should be started at an early stage of the environmental assessment and may be completed during the A–95 review.

1 A water quality certification is required under the Airport Act for approval of an Airport Development Aid Program application for a project involving airport location, a major runway extension, or a runway location. The requirement for information in the environmental asssessment concerning this certification is the same as for an air quality certification as described in paragraph 47e(5)(e) above.

2 Consultation with the EPA regional office shall be undertaken if there is the potential for contamination of an aquifer designated by the EPA as a sole or principal drinking water resource for the area pursuant to section 1424(e) of the Safe Water Drinking Act, as amended.

3 The Fish and Wildlife Coordination Act applies to any proposal which would affect water resources (i.e., wetlands; groundwater; impoundment, diversion, deepening, controlling, modifying, polluting, dredging or filling of any stream or other body of water). For this situation instructions in paragraph 47e(9)(c) below apply.

4 A National Pollutant Discharge Elimination System permit under section 402 of the Clean Water Act is required for discharges into navigable waters, a section 404 permit is required for dredged or fill material in navigable waters, and a section 10 permit under the Rivers and Harbors Act of 1899 is required for obstruction or alteration of navigable waters. "Navigable waters" have been very broadly defined in EPA regulations (reference 40 C.F.R. Part 230, Appendix A) and encompass most bodies of water (including wetlands) and their tributaries. EPA is charged with the overall responsibility for section 402 permits, and the U.S. Army Corps of Engineers for section 404 and section 10 permits. States, under specified conditions, have the authority to issue these permits. Other state and local permits pertaining to water quality may also be required. Consultation with appropriate officials is necessary to determine which permits apply; what information is needed to obtain permits; and whether a permitting agency anticipates a problem given the nature, location, and possible impacts of the proposal.

(c) For most airport actions, significant impacts on water quality can be avoided by design considerations, controls during construction, and other mitigation measures. If the environmental assessment, the appropriate consultation as described in paragraph (b) above, and the A–95 coordinatioin demonstrate that water quality standards can be met, that no special water related problem exists, and that no anticipated permit difficulty is indicated, it may be assumed that there would be no significant impact on water quality. The environmental assessment shall include documentation from regulating and permitting agencies and list required permits. No further analysis is necessary.

(d) If the environmental assessment and early consultation show the potential for exceeding water quality standards, identify water quality problems which cannot be avoided or satisfactorily mitigated, or indicate difficulties in obtaining required permits, an environmental impact statement may be required. Further analysis is described in paragraph 85f.

(7) *Department of Transportation Act, Section 4(f).*

(a) Section 4(f) provides that the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or any land from a historic site of national, state, or local significance as determined by the officials having jurisdiction thereof unless there is no feasible and prudent alternative to the use of such land and such program includes all possible planning to minimize harm.

1 Any part of a publicly owned park, recreation area, refuge, or historic site is presumed to be significant unless there is a statement of insignificance relative to the whole park by the Federal, state, or local official having jurisdiction thereof. Any such statement of insignificance is subject to review by the FAA.

2 Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes. National wilderness areas may serve similar purposes and shall be considered subject to section 4(f) unless the controlling agency specifically determines that section 4(f) is not applicable.

3 Where property is owned by and currently designated for use by a transportation agency and a park or recreation use of the land is being made only on an interim basis, a section 4(f) determination would not ordinarily be required.

4 Where the use of a property is changed by a state or local agency from a section 4(f) type use to a transportation use in anticipation of a request for FAA approval, section 4(f) shall be considered to apply, even though the change in use may have taken place prior to the request for approval or prior to any FAA action on the matter. This is especially true where the change in use appears to have been undertaken in an effort to avoid the application of section 4(f).

(b) If the action involves the taking or other use of any section 4(f) land as described in (a), the initial assessment shall determine if the requirements of section 4(f) are applicable. When there is an actual physical taking of section 4(f) land in conjunction with an airport proposal, there is no latitude for judgment regarding section 4(f) applicability. When there is no physical taking but there is the possibility of use of or adverse impacts to section 4(f) land, the FAA must determine if the activity associated with the proposal conflicts with or is compatible with the normal activity associated with this land. The proposed action is compatible if it would not affect the normal activity or aesthetic value of a public park, recreation area, refuge, or historic site. When so construed, the action would not constitute use and would not,

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therefore, invoke section 4(f) of the DOT Act.

(c) If is is determined that section 4(f) is applicable and there are no feasible or prudent alternatives which would avoid such use under the criteria indicated in paragraph 83d, the effect on the 4(f) land shall be discribed in detail. The description of the land shall include size, activities, patronage, access, unique or irreplaceable qualities, relationship to similarly used lands in the vicinity, or other factors necessary to determine the effects of the action and measures needed to minimize harm. Such measures may include replacement of land facilities and design measures such as planting or screening to mitigate any adverse effects. Replacement satisfactory to the Secretary of the Interior is specifically required for recreation lands aided by the DOI's Land and Water Conservation Fund and for certain other lands falling under the jurisdiction of the DOI. The environmental assessment shall include evidence of concurrence or efforts to obtain concurrence of appropriate officials having jurisdiction over such land regarding actions proposed to minimize harm.

(d) If Federal grant money was used to acquire the land involved (i.e., open space under HUD, various conservation programs under DOI), the environmental assessment shall include evidence or reference to appropriate communication with the grantor agency.

(e) Whether or not Federal agency lands are involved, the documentation shall reflect consultation with the DOI and, as pertinent, HUD or USDA.

(f) The above instructions apply regardless of the extent of impact and shall be reflected in the environmental assessment. When section 4(f) applies and agencies which have jurisdiction agree that the effects of the action will be satisfactorily mitigated (e.g., by replacement "in kind" of a park or portion thereof), the action may be considered not to have significant section 4(f) impacts and no further analysis is needed. No objection by affected agencies may be construed as agreement for this purpose. If an agency which has jurisdiction advises that mitigation measures will not avoid significant effects, additional in-depth study and consultation may be necessary for inclusion in an environmental impact statement as described in paragraph 85g.

(8) *Historic, Architectural, Archeological, and Cultural Resources.*

(a) Two basic laws apply to this category of impact. Thresholds concerning both of these laws must be examined in the environmental assessment.

1 The first law is the National Historic Preservation Act of 1966, as amended, which established the Advisory Council on Historic Preservation to advise the President and the Congress on historic preservation matters, to recommend measures to coordinate Federal historic preservation activities, and to comment on Federal actions affecting properties included in or eligible for inclusion in the National Register of Historic Places. The Advisory Council's most recent procedures for the "Protection of Historic and Cultural Properties" (36 CFR Part 800) were published in the **Federal Register** on January 30, 1979. Subparagraph (b) below specifies requirements under the National Historic Preservation Act of 1966, as amended.

2 The second law is the Archeological and Historic Preservation Act of 1974 which provides for the survey, recovery, and preservation of significant scientific, prehistorical, historical, archeological, or paleontological data when such data may be destroyed or irreparably lost due to a Federal, federally licensed, or federally funded project. The DOI Heritage Conservation and Recreation Service's "Statement of Program Approach" was published in the **Federal Register** on March 26, 1979, (40 F.R. 18117) to advise on the manner in which this latter law will be implemented. Subparagraph (c) specifies requirements under the Archeological and Historic Preservation Act of 1974.

(b) The following are requirements under the National Historic Preservation Act of 1966, as amended.

1 An initial review shall be made to determine if any properties in or eligible for inclusion in the National Register of Historic Places are within the area of the proposed action's potential environmental impact. The "area of the proposed action's potential environmental impact" is that geographic area within which direct and indirect impacts generated by the proposed action could reasonably be expected to occur and thus cause a change in the historic, architectural, archeological, or cultural qualities possessed by the property. The National Register criteria shall be applied to all such identified properties. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register. If no properties in or eligible for inclusion in the National Register have been identified within the area of the proposed action's environmental impact, this information shall be documented in the environmental assessment with the letter from the State Historic Preservation Officer and a record of any other analysis or survey undertaken. No further analysis is needed.

a To aid in identifying properties, the Heritage Conservation and Recreation Service publishes the complete National Register listing each February in the Federal Register with updates each month. In addition, the State Historic Preservation Officer must be consulted for advice. State Historic Preservation Officer coordination may be accomplished through the A–95 process. Assistance may also be obtained from local officials, historical societies, museums, or academic institutions having jurisdiction or expertise with regard to such properties.

b If the State Historic Preservation Officer recommends the need for a professional cultural resource survey of the environmental impact area, the airport sponsor shall contact the FAA for a determination on whether such a survey is required for the environmental assessment. The FAA, in making this determination, should follow the recommendations of the State Historic Preservation Officer if the Officer provides good reason for believing that previously unidentified eligible historic, architectural, archeological, or cultural properties are within the area of the proposed action's environmental impact.

2 If any property in or eligible for inclusion in the National Register has been identified within the area of the proposed action's environmental impact, the Advisory Council on Historic Preservation's Procedures for the Protection of Historic and Cultural Properties shall be used to determine if the proposed action will have any effect on the property. Initially the Criteria of Effect (36 C.F.R. Part 800.3(a)) shall be applied in consultation with the State Historic Preservation Officer. If this criteria indicates and the Officer agrees that the proposal would not directly or indirectly affect those historic, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register criteria, a Determination of No Effect shall be documented in the environmental assessment with the relevant State Historic Preservation Officer letter. No further analysis is needed. If the airport sponsor and the State Historic Preservation Officer disagree on a proposed Determination of No Effect, the matter shall be referred to the FAA for resolution.

3 If the application of the criteria in 36 C.F.R. Part 800.3(a) indicates an effect on properties, the Criteria of Adverse

Effect (36 C.F.R. 800.3(b)) shall be applied. If it is determined and the State Historic Preservation Officer agrees that there would be no adverse effect, supporting documentation for a Determination of No Adverse Effect as specified in 36 C.F.R. 800.13(a) together with the written views of the State Historic Preservation Officer shall be forwarded to the Advisory Council on Historic Preservation for review by the Executive Director. Unless an objection is noted by the Executive Director within 30 days of receipt of adequate documentation, such documentation shall be included in the environmental assessment and no further analysis is needed. Disagreement on the determination of No Adverse Effect between the sponsor and the State Historic Preservation Officer or the Advisory Council shall be referred to the FAA for resolution as provided for in 36 C.F.R. 800.6(a)(2).

4 If an adverse effect on properties is indicated, a Determination of Adverse Effect shall be included in the environmental assessment with supporting documentation. A preliminary case report shall be prepared as specified in 36 C.F.R. 800.13(b), either as part of the environmental assessment or as a separate document, and submitted to the FAA for the Advisory Council's consultation process. It cannot be assumed that impacts are insignificant on properties in or eligible for inclusion in the National Register of Historic Places. Further consultation and analysis under the guidance of the FAA will be necessary as described in paragraph 85h.

(c) Following are the requirements under the Archeological and Historic Preservation Act of 1974.

1 If no information is made available through the National Register of Historic Places, the State Historic Preservation Officer, the A-95 review, or other persons or organizations with expertise that there is reason to believe that significant scientific, prehistoric, historic, archeological, or paleontological resources will be lost or destroyed by the proposed action, no further analysis under this Act is needed for the environmental assessment. It may be assumed that there would be no impact on such resources.

2 If the above consultation indicates the need for a professional resource survey of the area to be impacted, the airport sponsor shall contact the FAA for advice as described under subparagraph (b)*1* above. If a survey is performed and indicates no significant resources within the area, the results of the survey shall be documented in the environmental assessment. The survey itself shall be appended to the environmental assessment or referenced if it is voluminous. No further analysis is necessary to show that the impact is not significant.

3 If consultation and/or a survey are inconclusive with regard to the location of resources or the significance of resources, the airport sponsor may include a commitment in the environmental assessment to halt construction if resources are uncovered in order for a qualified professional to evaluate the importance of the resources and for recovery activity to occur. Such a commitment may enable the environmental document to be approved and the action to proceed without more extensive preliminary investigation. It is a matter of FAA judgment on a case-by-case basis whether such an approach is reasonable. If the FAA agrees, no further analysis is necessary; it may be assumed for purposes of the environmental assessment that the impact is not significant.

4 If consultation and/or a survey identify significant resources within the area of the proposed action's potential environmental impact, the National Register criteria shall be applied and the steps outlined under subparagraphs (b) *1* through *4* followed pursuant to the provisions of the National Historic Preservation Act of 1966, as amended. If a Determination of No Effect or No Adverse Effect can be made per subparagraph (b)*2*, or (b)*3*, *respectively, it may be assumed that the impact is not significant. The environmental assessment shall document the appropriate determination. No further analysis is necessary.*

5 If an adverse effect on significant resources is indicated, the sponsor shall consider project modifications that will avoid the loss or destruction of the resources and thereby not necessitate salvage. Resource salvage is generally less preferable than preservation in situ. If a commitment by the sponsor to preservation in situ reverses an adverse effect determination, the environmental assessment shall include the commitment and the supporting documentation of no adverse effect. No further analysis is necessary.

6 If a determination of adverse effect cannot be avoided, the instructions in subparagraph (b)*4* apply and further consultation and analysis under the guidance of the FAA will be necessary as described in paragraph 85h.

(d) If the proposal involves the taking or use of any publicly or privately owned land from a historic or archeological site of national, state, or local significance which is included in or eligible for inclusion in the National Register of Historic Places, section 4(f) of the DOT Act also applies. The section 4(f) instructions and paragraph 47e(7) above must be followed.

(9) *Biotic Communities (including both flora and fauna).*

(a) If the proposal would take or impact a publicly owned wildlife or waterfowl refuge of local, state, or national significance, the instructions in paragraph 47e(7) are to be followed to prepare the appropriate documentation required by section 4(f) of the DOT Act.

(b) Consideration of endangered and threatened species is required for all proposals under the Endangered Species Act Amendments of 1978. Instructions in paragraph 47e(10) below relate specifically to this Act.

(c) If the proposal would affect water resources (i.e., wetlands; groundwater; impoundment, diversion, deepening, controlling, modifying, polluting, dredging, or filling of any stream or other body of water), the Fish and Wildlife Coordination Act applies. Consultation is to be initiated with the U.S. Fish and Wildlife Service and with the state agency having administration over wildlife resources. Letters are to be obtained from the Fish and Wildlife Service and the state agency on the wildlife aspects of the proposal for the purposes of determining the possible damage to wildlife resources and of determining means and measures that should be adopted to prevent the loss of or damage to wildlife resources as well as to provide concurrently for the development and improvement of such resources.

1 If the letters from the Fish and Wildlife Service and the state agency indicate substantial damage to wildlife attributable to the proposal which will not be mitigated to a minimal level, the proposal is considered to be one with potential significant impacts. Further evaluation shall be performed under FAA direction as described in paragraph 85i.

2 If the letters from the Fish and Wildlife Service and the state agency indicate only minimal impacts, it may be assumed that there would be no significant impact on biotic communities. The environmental assessment shall include the letters from the Fish and Wildlife Service and the state agency and shall also include such justifiable means and measures to mitigate wildlife impacts as should be adopted to obtain maximum overall project benefits. No further analysis as described below is needed.

(d) If the proposal would not affect water resources as described in subparagraph (c) above, the Fish and

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Wildlife Coordination Act does not apply. In this case, a series of thresholds are to be examined to determine if there is the potential for significant impact on biotic communities. The four subparagraphs below should be reviewed in the order given to determine which one applies to the proposal; e.g., if subparagraph *1* applies, the remainder do not and no further analysis is needed.

1 If the proposal would impact only man-dominated areas such as previously disturbed airport property, populated areas, or farmland, it may be assumed that there would be no significant impact on biotic communities.

2 If the proposal would impact other than man-dominated areas but the impacts would primarily be transient rather than permanent, such as dislocation or other impacts due to construction activities, it may be assumed that there would be no significant impact on biotic communities. The environmental assessment shall document the transient nature of the impacts and any mitigation measures. Mitigation measures may include:

a Erosion controls to protect adjacent biotic areas and aquatic communities.

b Phasing of construction to avoid breeding or nesting periods and to promote escape routes for mobile species.

c Landscape restoration to reconstitute existing habitat or create new habitat.

3 If the proposal would cause only a minor permanent alteration of existing habitat, it may be assumed that there would be no significant impact on biotic communities. "Minor alteration" generally refers to the removal of a few acres of habitat which represent a small percentage of the area's inventory or which support a limited variety or number of common wildlife species. "Minor alteration" is not applicable if the action involves removal of relatively small areas which are sensitive tracts occupying a strategic position in the vicinity or which supports rare (meaning not common) species or which constitute a large percentage of the remaining habitat of a particular kind. The environmental assessment shall not merely cite "minor alteration" but shall document the basis for the assumption of no significant impact and shall also document any mitigation measures.

4 If the proposal would involve the removal of a sizeable amount of habitat, of habitat which supports rare species, or of a small, sensitive tract but the accompanying loss of plant communities and displacement of wildlife do not result in a significant long term loss to the area, it may be assumed that there would be no significant impact on biotic communities. In this case consider that, although displaced wildlife may move to adjacent land areas, a long term loss will accrue by virtue of reduction of the wildlife carrying capacity of the overall area. When wildlife habitat is removed, the possibility that the remaining habitat is insufficient in size and quality to continue to support all resident species must be considered. The input from the A-95 coordination and other informal coordination as necessary is to be used to determine the significance of the impacts. The environmental assessment shall document the impacts and mitigation measures and shall include supporting letters. Mitigation measures may include:

a Design adjustments to minimize impact on sensitive areas or species.

b Purchase of contiguous habitat as a preserve for dislocated wildlife or as a buffer zone.

(e) If the evaluation, using the thresholds in subparagraph (d), does not lead to the assumption that there would be no significant impact on biotic communities, the proposal is considered to be one with potential significant impacts. Further evaluation shall be performed under FAA direction as described in paragraph 85i.

(10) *Endangered and Threatened Species of Flora and Fauna.*

(a) Section 7 of the Endangered Species Act Amendments of 1978 requires each Federal agency to insure that "any action authorized, funded, or carried out by such agency . . . does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee. . . ."

(b) The procedure to be followed to determine impacts on endangered or threatened species and on critical habitat varies depending on whether the proposed action has a significant impact on the environment or not. Any major Federal action designed primarily to result in the building of man-made structures and which significantly affects the quality of the human environment is defined as a "construction project" by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. This includes Federal actions such as permits, grants, licenses, and other forms of Federal authorization or approval which may result in construction. As soon as it appears that a proposed action will have a significant impact and therefore result in the preparation of an environmental impact statement, the sponsor shall institute the procedure below. In order to minimize delay, sponsors are encouraged to initiate this procedure as soon as thresholds in paragraph 47e are exceeded during the sponsor's assessment of the proposed action.

1 As required by section 7(c) of the Endangered Species Act Amendments, information shall be requested by FAA from the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whichever has jurisdiction, on whether any species which is listed or proposed to be listed may be present in the area affected by the proposed action. If the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that no such species are present, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment shall include the letter from the Fish and Wildlife Service or National Marine Fisheries Service. No further analysis is necessary.

2 If, however, the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that endangered or threatened species may be present in the area affected by the proposed action, a biological assessment shall be prepared to identify whether the species or critical habitat are likely to be affected by the action and what those effects would be. If this biological assessment indicates no effects on the species or critical habitat, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment shall include the biological assessment. No further analysis is necessary. The FAA shall forward the biological assessment to the Fish and Wildlife Service or the National Marine Fisheries Service for its records.

3 If the biological assessment indicates an effect on endangered or threatened species or on critical habitat, the proposal is considered to be one with potential significant impact. Consultation under section 7(a) of the Endangered Species Act Amendments of 1978 and further evaluation shall be performed under FAA direction as described in paragraph 85j.

(c) For proposed actions which are not "construction projects," the procedure below shall be followed.

1 The list of Endangered or Threatened Wildlife and Plants shall be consulted to determine whether there are any such species in the area affected by the proposed action. If there are not, this information shall be included in the environmental assessment. No further analysis is necessary.

2 If there are endangered or threatened species in the area affected by the proposed action, the environmental assessment shall include an analysis of anticipated impacts on such species and their critical habitats. If this analysis shows that the proposed action would not affect endangered or threatened species or adversely modify their critical habitat, it may be assumed that impacts are not significant. No further analysis is necessary.

3 If the environmental assessment indicates an impact on endangered or threatened species or on critical habitat, the proposal is considered to be one with potential significant impact. Consultation under section 7(a) of the Endangered Species Act Amendments of 1978 and further evaluation shall be performed under FAA direction as described in paragraph 85j.

(11) *Wetlands.*

(a) Wetlands are defined in Executive Order 11990, Protection of Wetlands, as "those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction." Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds." Wetlands also include estuarine areas, tidal overflows, and shallow lakes and ponds with emergent vegetation. Furthermore, the wetlands ecosystem includes those areas which affect or are affected by the wetland itself; e.g., adjacent uplands or regions upstream and downstream. Areas covered with water for such a short time that there is no effect on moist soil vegetation are not included within the definition of wetlands nor are the permanent waters of streams, reservoirs, and deep lakes.

(b) Wetlands are valuable ecological systems. They can serve to accumulate, convert, store, and supply basic nutrients; provide habitat for many kinds of wildlife; serve to regulate the flow of runoff waters and cleanse them of pollutants; provide a buffer against storm waters and help reduce flooding; serve as water recharge areas; and provide a scientific and recreational resource. The importance of wetlands to the Nation was reemphasized in Executive Order 11990, issued May 24, 1977. This executive order provides that Federal agencies:

1 Avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, and

2 Avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

a that there is no practicable alternative to such construction, and

b that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(c) A proposal is considered to affect wetlands if it would involve development in a wetlands area; involve dredging, filling, draining, channelizing, diking, impounding, or otherwise directly impact a wetlands area; involve disturbing the water table of an area in which a wetland lies; or indirectly affect a wetland by impacting regions upstream or downstream or inducing secondary development. If there is uncertainty on whether an area is a wetland, the U.S. Fish and Wildlife Service or the local or state natural resource agency shall be contacted for further information.

(d) If the proposal does not affect a wetlands area, a sentence to this effect in the environmental assessment is sufficient. No further analysis is necessary.

(e) If the proposal would affect a wetlands area and there is a practicable alternative which solves the problem and avoids the wetlands impact, this alternative should become the proposed action. The term "practicable" means feasible. Whether another alternative is practicable depends on its feasibility in terms of safety, meeting transportation objectives, design, engineering, environment, economics, and any other applicable factors. Some additional cost alone does not necessarily make an alternative impractical since such cost may be recognized as necessary and justified to meet national wetlands policy objectives. If a practicable alternative is put forward as the new proposed action, no further wetlands analysis is necessary. The environmental assessment should document that the initial proposed action was eliminated from further study because of wetland impacts.

(f) If the proposal would affect a wetland and there is no practicable alternative, the following instructions apply:

1 The environmental assessment shall include information on the location, types, and extent of wetland areas that might be affected by the proposed action. This information may be obtained from the Fish and Wildlife Service or state or local natural resource agencies.

2 Evaluations of other categories of impacts as described under paragraph 47e are to be used to determine whether impacts on wetlands appear to be significant. Consideration shall be given to impacts on water quality, including effects on water supply and recharge capability, interference with surface and subsurface water courses, siltation and sedimentation, biotic community disruption, flood and storm hazards, development of secondary (induced) activities or services, and construction. The wetlands discussion in the environmental assessment may simply summarize and reference applicable discussions under other impact categories. Incorporate in an evaluation of impact on wetlands all practicable measures to minimize harm which will be implemented. These may include, but are not limited to:

a Modification of the design, construction, or operation of the facility, including collection of pavement surface runoff to prevent direct discharge into sensitive areas.

b Waste treatment.

c Development of compatible land uses.

d Special construction controls.

3 Early review of proposed actions shall be provided for agencies with special interest in wetlands. Such agencies include state and local natural resource and wildlife agencies, the Fish and Wildlife Service, the National Marine Fisheries Service, the Corps of Engineers, and EPA. This review may be combined as much as possible with the A–95 review. Those agencies which have permitting actions described below shall be asked to advise if they foresee any difficulty issuing such permits based on the initial assessment that the proposal has no practicable alternative which would avoid the wetland and that all possible mitigation measures have been taken. Such advice should include recommendations regarding additional measures which could be taken to enable their subsequent favorable action on such permits. Letters from these agencies shall be incorporated into the environmental assessment and their opinions used to determine significance of impacts and to pinpoint

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potential problems in proceeding toward approval of the environmental document.

4 Specific consultation is requird under the Fish and Wildlife Coordination Act with the U.S. Fish and Wildlife Service and the state agency having administration over the wildlife resources. For this analysis, documentation, and significance threshold, refer to paragraph 47e(9)(c) above.

5 The environmental assessment shall identify any permits that are required. Permit requirements for proposals affecting wetlands may include those identified below, which are further explained in paragraph 47e(6)(b).

a Section 402. Airport runoff into the surrounding environment may be considered to be a discharge subject to a Federal or state National Pollutant Discharge Elimination System permit pursuant to the Clean Water Act when the surrounding environment is a wetlands area.

b Section 404. Most wetlands are considered to be "navigable waters" for the purposes of the Clean Water Act.

c Section 10 of the Rivers and Harbors Act of 1899. Under this Act, wetlands may also fall under the permit requirements of the Corps of Engineers due to obstruction or alteration of navigable waters.

d State Permit. The proposal may be required to comply with a state wetlands permit system.

6 An opportunity shall be provided for early public review of any proposals involving wetlands. This may be accomplished through early coordination by the sponsor per paragraph 45, use of the A-95 dissemination per paragraph 48e, or the opportunity to review the environmental assessment prior to a public hearing when one is held for proposed actions as described in paragraph 49.

7 A wetlands which is in or adjacent to a coastal area may be subject to a state coastal zone management program. In this situation, the instructions in paragraph 47e(13) below shall also be followed.

8 Section 4(f) of the DOT Act may apply if wetlands are publicly owned lands as described in paragraph 47e(7). Wetlands subject to a publicly owned protective easement for provision of food and nesting to migratory waterfowl are considered to be publicly owned land of a wildlife and waterfowl refuge under section 4(f). The instructions in paragraph 47e(7) are to be followed for section 4(f) situations.

9 If the above analyses indicate any significant impacts on wetlands, the instructions under paragraph 85k are to be followed.

(12) *Floodplains.*

(a) Floodplains are defined in Executive Order 11988, Floodplain Management, as "the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year;" i.e., the area that would be inundated by a 100-year flood.

(b) Executive Order 11988 directs Federal agencies to "take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. . . ." DOT Order 5650.2, Floodplain Management and Protection, contains DOT's policies and procedures for implementing the executive order. The DOT order further defines the natural and beneficial values served by floodplains as including, but not limited to "natural moderation of floods, water quality maintenance, groundwater recharge, fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, and forestry." The executive order and the DOT order establish a policy to avoid taking an action within a 100-year floodplain where practicable. Every effort must be made to minimize the potential risks to human safety and property damage and the adverse impacts on natural and beneficial floodplain values.

(c) If the proposed action and reasonable alternatives are not within the limits of a base floodplain (i.e., 100-year flood area) and would not indirectly support secondary development within a base floodplain nor otherwise significantly impact a base floodplain, it may be assumed that there are no floodplain impacts. No further analysis is necessary.

1 To determine the limits of base floodplains, the Federal Insurance Administration (FIA) maps are the primary reference. A Flood Insurance Rate Map or Flood Insurance Study Report shall be consulted first. If neither of these maps is available, a Flood Hazard Boundary Map may be used to determine if the proposed action and alternatives are clearly out of the base floodplain. If the proposed action or any alternative appears to be near or inside the approximate boundaries of the Flood Hazard Boundary Map, more detailed boundary information must either be obtained or developed using the best available method meeting acceptable professional engineering standards. The delineation of floodplain limits shall take proper account of previous alterations to the floodplain by flood retention works or other elements of the built environment. If a 100-year floodplain designation is in question, the FIA or the Corps of Engineers shall be contacted for information.

2 To determine whether other impacts are of concern to a base floodplain even though the proposed action is outside the floodplain, the evaluations of other categories of impacts as described in paragraph 47e are to be used with particular attention to potential effects on natural and beneficial floodplain values of water pollution, increased runoff from impermeable surfaces, alteration of hydrologic patterns, induced secondary development, and construction impacts. Consideration of impacts shall include proposed methods to minimize harm and to restore and preserve natural and beneficial floodplain values affected. In most cases, conceptual design as opposed to detailed engineering will be sufficient to help establish the adequacy of mitigation measures. Mitigation measures include:

a Construction controls to minimize erosion and sedimentation.

b Design of the facility to allow adequate flow circulation and preserve free, natural drainage.

c Use of pervious surfaces where practicable.

d Control of runoff.

e Waste and spoils disposal so as not to contaminate ground and surface water.

f Control of use of pesticides, herbicides, and fertilizer.

g Maintenance of vegetative buffers to reduce sedimentation and delivery of chemical pollutants to the water body.

h Land use controls (Executive Order 11988 directs Federal agencies to take floodplain management into account in evaluating land use plans and to acquire land and water resource use appropriate to the degree of hazard involved).

(d) If the analysis performed in accordance with the preceding paragraph indicate significant impacts on a base floodplain, a statement to this effect shall be included in the environmental assessment. Further analysis appropriate for an environmental impact statement is contained in paragraph 85.1.

(e) If the proposed action and reasonable alternatives are within the limits of a base floodplain, this is considered by DOT Order 5650.2 to be a floodplain encroachment. If the proposed action includes relocation housing built or moved to a new site within a base floodplain, this also constitutes encroachment. It is not encroachment if the only step being taken in the floodplain is the relocation of persons into existing housing units. In this latter situation, potential occupants shall be advised if the relocation housing is located in a base floodplain and be offered alternative comparable housing at their option.

(f) It is DOT policy, in accordance with Executive Order 11988, to avoid where practicable encroachments in base floodplains by DOT actions. If there is a practicable alternative which solves the problem and avoids the encroachment, this alternative shall become the proposed action. The term "practicable" is defined under Wetlands Impact in paragraph 47e(11)(e) above. If a practicable alternative is put forward as the new proposed action, no further analysis is necessary if the new proposed alternative does not otherwise significantly inmpact the base floodplain. The enviromental assessment shall document that the initial proposed action was eliminated from further study because of base floodplain encroachment.

(g) If the proposed action and reasonable alternatives would encroach within the limits of a base floodplain, the following instructions apply:

1 The environmental assessment shall indicate briefly why the action is proposed to be located in a floodplain and why there are not considered to be any practicable alternatives outside the base floodplain.

2 The environmental assessment shall include the map information, analyses, and proposed mitigation measures described under subparagraph (c) above and shall also consider any risk to, or resulting from, the airport action in the base floodplain, including long term loss of available flood storage volume. In addition to measures listed under subparagraph (c), mitigation measures for base floodplain encroachments may include:

a Commitments to special flood related design criteria.

b Elevation of facilities above base flood level.

c Location of nonconforming structures and facilities out of the floodplain.

d Minimizing fill in floodplains.

3 The environmental assessment shall indicate if the encroachment would result in one or more of the construction or flood related impacts listed below. If so, the encroachment is considered by DOT Order 5650.2 to be a significant encroachment. It is not contemplated that detailed design would be necessary in order to determine whether there is a significant encroachment. (A significant encroachment will require a Federal finding as part of any favorable decision on the action that there is no practicable alternative and that the action conforms to applicable state and/or local floodplain protection standards.) A significant encroachment involves:

a A considerable probability of loss of human life.

b Likely future damage associated with the encroachment that could be substantial in cost or extent, including interruption of service on or loss of a vital transportation facility.

c A notable adverse impact on natural and beneficial floodplain values.

4 The environmental assessment shall indicate if the proposed action is in a special flood hazard area designated by the FIA or proposed to be so designated. Special flood hazard areas are shown as zones A or V on Flood Hazard Boundary Maps. Under the Flood Disaster Protection Act of 1973, Federal agencies are prohibited from providing financial assistance for acquisition or construction of buildings in areas which have been designated by the FIA as special flood hazard areas for at least one year and which are in communities that are not participating in the national flood insurance program.

5 The environmental assessment shall identify any state and local floodplain regulations and standards that must be adhered to, indicate whether the proposed action will conform, and name the state and local agencies having jurisdiction.

6 An opportunity shall be provided for early public review of base floodplain encroachments. This may be accomplished through existing public involvement procedures as indicated in paragraphs 45, 48e, and 49. Any public hearing presentations shall include identification of encroachments. If one or more of the alternatives under consideration include significant floodplain encroachments, any public notices, notices offering the opportunity for a public hearing, public hearing notices, and notices of the availability of environmental assessments shall make reference to that fact.

(h) If no significant encroachment within a base floodplain is involved as defined in subparagraph (g)*3* above, it may be assumed that there would be no significant floodplain impact. No further analysis and no special floodplains findings are necessary.

(i) If a significant encroachment is involved which could result in either loss of life or substantial future damage or both but would not result in notable adverse impacts on natural and beneficial floodplain values, these circumstances do not by themselves require the preparation of an environmental impact statement. CEQ 1508.14 states that ". . . economic or social effects are not intended by themselves to require preparation of an environmental impact statement." While further consideration on the floodplains aspects of the proposed action would be prudent on the part of the sponsor and the FAA before proceeding, a finding of no significant impact is the appropriate action choice in this circumstance assuming there are no other significant environmental impacts associated with the action. The findings delineated in paragraph 94b(6) would be required for the project decision.

(j) If a significant encroachment is involved which would result in notable adverse impacts on natural and beneficial floodplain values, this would require the preparation of an environmental impact statement and further analysis as described in paragraph 85.1.

(13) *Coastal Zone Management Program.*

(a) Detailed procedures for determining Federal consistency with approved coastal zone management programs are contained in the National Oceanic and Atmospheric Administration (NOAA) Regulations (15 CFR Part 930). The sections most relevant to airport actions are subpart D, Consistency for Activities Requiring a Federal License or Permit, and subpart F, Consistency for Federal Assistance to State and Local Governments. If there is no approved state program, the instructions below do not apply. However, the environmental assessment shall in any case consider impacts on coastal areas. This may be done through analyses performed under other impact categories (e.g., water quality, biotic communities, construction impacts) as appropriate, using the thresholds established under these respective categories. If thresholds of significance are exceeded, a more detailed coastal area and/or marine analysis may be necessary in an environmental impact statement. Coastal areas may also be designated as wetlands and require the special treatment described in paragraph 47e(11) above.

(b) The principal means used to determine if a proposed Federal action is consistent with an approved coastal zone management program is through the A–95 clearinghouse review process as described in paragraph 48. To the extent possible, the information provided shall include a detailed description of the proposed action and any associated facilities sufficient to permit an assessment of their probable coastal zone effects and consistency

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with the provisions of the approved coastal zone management program. If, through the A–95 process, the state coastal zone management agency does not object to the proposed action, no further action is necessary. The environmental assessment shall document the result of such coordination.

(c) Approval of airport layout plans could by definition in the NOAA Regulations be a Federal permitting action subject to subpart D. Unless this activity has specifically been identified in a given state's coastal zone management program or unless a state coastal zone management agency specifically advises the sponsor and FAA through A–95 or review of an environmental impact statement that an airport layout plan approval action would significantly affect a coastal zone, subpart D of the NOAA regulations will not apply and no further action is needed. If subpart D applies, the applicant must provide more specific information including a consistency certificate, and the state agency has up to six months within which to register objection.

(d) If the state coastal zone management agency objects to the proposed action on the basis of failure to provide sufficient information, it must describe the nature of the information needed to determine consistency with the coastal zone management program. Otherwise, any objection must identify how the proposed action is inconsistent with specific elements of the management program and alternative measures which, if adopted, would permit consistency. The objection shall also provide information on the right to appeal to the Secretary of Commerce pursuant to subpart H of the NOAA Regulations. Such appeal must be made within 30 days of notice of the objection. When an objection has been raised which cannot be satisfied by providing additional information or otherwise be resolved through informal discussions to avoid the need for an appeal as provided in subpart H, the sponsor may file a notice of appeal as soon as possible and notify the FAA accordingly. The action shall not be approved unless such an objection is successfully appealed.

(e) As a result of an appeal, the Secretary of Commerce may find that the action is "consistent with the objectives and purposes of the [Coastal Zone Management] Act" and permissible even though it is inconsistent with a state's management program. Such finding may be made on the basis that the action:

1 Furthers one or more of the competing national objectives or purposes defined in the Act;

2 Will not cause adverse impacts on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest;

3 Will not violate the requirements of the Clean Air Act or Clean Water Act; and

4 No reasonable alternative exists which permits the action to be consistent with the management program.

Such a finding by the Secretary of Commerce shall become part of the environmental documentation prior to any approval action.

(f) The nature and timing of the requirements related to actions affecting a coastal zone are such that any issues raised should normally be resolved by the sponsor during the environmental assessment process. Successful resolution will usually mean that any impact with respect to an approved coastal zone management program is not significant and no further information is needed.

(14) *Prime and Unique Farmland.*

(a) If any farmland is to be converted to other uses as a direct result of the proposed action or induced development, the local office of the USDA shall be contracted to determine if the farmland is identified as prime or unique. If it is not prime or unique, the contact shall be documented in the environmental assessment; no further analysis is necessary.

(b) If prime or unique farmland is to be converted, the environmental assessment shall describe present uses of the farmland, the amount to be converted compared with the total amount of such land in the area, and any proposed mitigation measures. The local USDA office should be asked to review this information and, unless the USDA indicates that the conversion constitutes a potential significant loss, no further assessment is needed except to document the result of the USDA review.

(c) If the USDA does indicate a potential significant loss, the instructions in paragraph 85n apply.

(15) *Energy Supply and Natural Resources.*

(a) Energy requirements associated with the action fall generally into two categories:

1 Those which relate to changed demands for stationary facilities (e.g., airfield lighting and terminal building heating). For purposes of the environmental assessment, the proposal shall be examined to identify any proposed major changes in stationary facilities which would have a measurable effect on local supplies. If there are major changes, power companies or other suppliers of energy shall be contacted to determine if projected demands can be met by existing or planned source facilities.

2 Those which involve the movement of air and ground vehicles. Increased consumption of fuel by aircraft need only be examined if average ground movement or runup times are increased substantially without offsetting efficiencies in operational procedures or if the action includes a change in flight patterns, such as from noise abatement procedures, which adds noticeably to flight times. Ground vehicles' fuel consumption shall be examined only if the action would add appreciably to access time or if there would be a substantial change in movement patterns for on-airport service or other vehicles.

(b) Use of natural resources other than for fuel need be examined only if the action involves a need for unusual materials or those in short supply.

(c) For most airport actions, changes in energy or other natural resource consumption will not result in significant impacts. If the environmental assessment identifies problems with demands exceeding supplies, changes in aircraft or ground vehicle use which would greatly increase fuel consumption, or the proposed substantial use of natural resources in short supply, additional analysis will be required in an environmental impact statement per paragraph 85o. Otherwise, it may be assumed that impacts are not significant.

(16) *Light Emissions.*

(a) The sponsor shall consider the extent to which any lighting associated with an airport action will create an annoyance among people in the vicinity of the installation. The following information shall be included in the environmental assessment whenever the potential for annoyance exists:

1 Site location of lights or light system.

2 A brief description of the light system as to its purpose, method of installation (pole or ground mounted), beam angle, intensity, color, flashing sequence, and other pertinent characteristics of the particular system and its use.

3 Measures to lesson any annoyance, such as shielding or angular adjustments.

(b) Only in unusual circumstances, as for example when high intensity strobe lights would shine directly into people's homes, will the impact of light emissions be considered sufficient to warrant special study and a more detailed examination of alternatives in an environmental impact statement. Normally, it may be concluded that no significant impact would occur.

(17) *Solid Waste Impact.*

(a) Airport actions which relate only to airfield development (runways, taxiways, and related items) will not normally include any direct relationship of solid waste collection, control, or disposal other than that associated with the construction itself (reference paragraph 47e(18)).

(b) Terminal area development may involve circumstances which require consideration of solid waste impacts. Preliminary review should indicate if the projected quantity or type of solid waste generation or method of collection or disposal will be appreciably different than would be the case without the action. If there is an appreciable difference, consultation with local officials shall determine if there is any potential problem with either capacity of available disposal facilities or location which may violate any local, state, or Federal regulations. Special attention shall be given to the control of hazardous waste.

(c) Consultation with local officials shall also determine the location of all solid waste disposal facilities within or planned to be within 1,500 meters of all runways planned to be used by piston-type aircraft and within 3,000 meters of all runways planned to be used by turbojet aircraft. A preliminary study of disposal sites within the above distances should determine if a potential bird hazard exists and if the affected planned runways need to be modified. (Meters used in lieu of feet per EPA.)

(d) The environmental assessment shall document the results of the consultation; the nature of any potential problems, including the siting of runways in the vicinity of active or planned solid waste disposal facilities; and the manner in which waste products will be controlled to comply with any applicable regulations. If it is necessary to explain a problem concerning solid waste system loading resulting from terminal development, an estimate of current and projected quantities of waste production and disposal capacity shall be included. Only if there are significant unresloved issues will additional analysis be needed in an environmental impact statement.

(18) *Construction Impacts.*

(a) Specific effects during construction which may create adverse environmental impacts include noise of construction equipment on the site, noise and dust from delivery of materials through residential streets, creation of borrow pits and disposal of spoil, air pollution from burning debris, and water pollution from erosion. The extent to which any of these effects are subject to local, state, or Federal ordinances or regulations shall be discussed as applicable together with measures to be taken to conform with such requirements.

(b) In general, impacts during construction are of lesser magnitude than long term impacts of the proposed action. Many of the specific types of impacts which could occur will be covered in the descriptions of other impact categories. To the extent not discussed elsewhere, this item shall include a general description of the type and nature of the construction and measures to be taken to minimize potential adverse effects. As a minimum, reference shall be made to the incorporation in project specifications of the provisions of Advisory Circular 150/5370–7, Airport Construction Controls to Prevent Air and Water Pollution.

(c) Only in unusual circumstances, as for example construction in an ecologically sensitive area or construction involving substantial urban effects, would this impact category be considered to create significant consequences which may not be adequately mitigated. It is a matter of FAA judgment to determine if such circumstances exist and require the preparation of an environmental impact statement.

f. *Environmental Consequences—Other Considerations.* To the extent not covered in the Specific Impact Categories under paragraph 47e, the Environmental Consequences section of the environmental assessment shall include discussion of the following:

(1) "Possible conflicts between the proposed action and the objectives of Federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned" (CEQ 1502.16(c)). If the proposal is not reasonably consistent with plans, goals, policies, or controls that have been adopted for the area in which the airport is locate, an environmental impact statement is required.

(2) ". . . [A]ny inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned)" (CEQ 1506.2(d). If the proposal is inconsistent with a Federal, state, or local law or administrative determination relating to the environment, an environmental impact statement is required.

(3) "Means to mitigate adverse environmental impacts . . ." (CEQ 1502.16(h)) which were not included in the Alternatives section and are important in judging the significance of an impact or in supporting a section 16(c)(4) finding that "the proposed action includes all possible steps to minimize any adverse effects."

(4) Degree of controversy on environmental grounds. If the proposal is highly controversial with regard to an impact that is determined to be significant according to the thresholds in paragraphs 47e and 85, an environmental impact statement is required. Otherwise, no further analysis is needed and a finding of no significant impact may be prepared.

g. *Preparers.* The preparers of an environmental assessment shall be identified, and other information on the preparers per paragraph 87 shall subsequently be made available to the FAA if an environmental impact statement is prepared.

h. *Appendices.* The environmental assessment shall have appended to it the following:

(1) Any documentation supporting statements in the body of the environmental assessment, including methodologies and sources used. Such documentation should be minimal in an environmental assessment.

(2) An air and water quality certification pursuant to section 16(e) of the Airport Act if one is required and has been obtained at this stage.

(3) A listing of agencies and persons consulted and any responses.

(4) Evidence that A–95 coordination has taken place, comments and recommendations received through the A–95 review process, and responses to such comments.

(5) A summary of citizen involvement, evidence of the opportunity for a public hearing if required under section 16(d) of the Airport Act, and a summary of issues raised at any public hearing held.

(6) Any cost-benefit analysis that the sponsor has done. See CEQ 1502.23 for more specific information when a cost-benefit analysis is being considered for the proposed action.

48. *A–95 Review Process.*

a. Review of proposed Airport Development Aid Program actions by state and local government organizations routinely occurs through procedures set forth in OMB Circular A-95 (Revised). The purpose of the A–95 clearinghouse process is to assure that proposed federally assisted programs and projects are reviewed and evaluated in advance in terms of their potential impact on or conflict with statewide or areawide comprehensive planning or upon the plans and programs of local governments. In the case of proposed actions which are not Airport Development Aid Program actions, it is suggested that the sponsor consider use of the A–95 review procedure to solicit input to the environmental assessment from state and local agencies in order to reduce the need for independent contacts with affected agencies.

b. The A–95 clearinghouse process for projects is set forth in Special Federal Aviation Regulation, Part 35.

c. Under A–95 procedures, sponsors are required to notify the appropriate clearinghouses as soon as project planning has developed in sufficient detail to inform the clearinghouses of the nature and scope of the development proposed to be undertaken for which Federal assistance will be sought. This should take place at least 60 days prior to the date the sponsor submits its preapplication form requesting Federal assistance.

d. During the initial clearinghouse review period, the preapplication for Federal aid may be completed. This period may also be used to complete the requirement for public hearings, if applicable. The A–95 procedure includes provisions for consideration of the project's probable impact on the environment and input from areawide and local agencies authorized to develop and enforce environmental standards or which have expertise or jurisdiction with respect to environmental impacts. An appropriate vehicle to solicit such input is the environmental assessment.

e. The clearinghouse should be asked to inform known interested groups of the project. If either the sponsor or FAA has knowledge of such groups, this information should be given to the clearinghouse. During this same period, the clearinghouse may act as liaison between the agencies affected and the sponsor, arranging meetings and such other forms of consultation as may be necessary to work towards resolution of any problem raised by the proposed project.

f. The comments and recommendations received through the A–95 clearinghouse process become input to the sponsor's environmental assessment and ultimately must be reported and appropriately addressed in the FAA's environmental documentation.

49. *Public Hearing.*

a. If a new airport location, a new runway, or an extension of an existing runway is involved, the sponsor must afford the opportunity for public hearings as required by section 16(d)(1) of the Airport Act. The public hearing opportunity shall normally be afforded prior to formal submission of a sponsor's environmental assessment.

b. In deciding whether a public hearing is appropriate in other cases, the FAA and sponsor shall consider the provisions of CEQ 1506.6(c)(1) and (2); i.e., whether there is:

"(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

"(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. . ."

c. In preparing for a public hearing, the sponsor is required to comply with the requirements in section 152.73 of the Federal Aviation Regulations. Notice of the hearing is required to be published in an areawide or local newspaper of general circulation and shall include:

(1) The intent to undertake the proposed airport development, with a concise description of the proposed development;

(2) The opportunity for a public hearing;

(3) The scheduling of a public hearing (time, date, and place), if requested by interested parties; and

(4) The availability and location of an environmental assessment if one is required by paragraph 21, 22, or 24; or a statement that, in accordance with FAA Order 5050.4, Airport Environmental Handbook, the proposed development will not have a significant effect on the environment and is categorically excluded from the requirement to prepare an environmental assessment.

d. Additional information concerning the public hearing is contained in Advisory Circular 150/5100–7A. Hearings may be held by the sponsor simultaneously with the A–95 review process. An environmental assessment, if required by the FAA, is to be made available for public examination at least 30 days prior to the hearing and so indicated in the hearing notification. Comments received through the A–95 process should be made available at the public hearing if the A–95 process has been completed.

e. A detailed summary of issues raised in public hearings is to be included in an environmental assessment. A hearing transcript need not be included, but at least one copy of the transcript must be obtained by the sponsor for the record. The sponsor must furnish a copy of the transcript to the FAA upon request.

50. *FAA Submission.*

a. The sponsor shall revise the environmental assessment as necessary as a result of the A–95 review, any public hearing, and other input and shall submit a completed assessment per paragraph 47 to the FAA. The environmental assessment shall be submitted, depending upon the type of action proposed, at any time in the project formulation but not later than at submission of the sponsor's preapplication for Federal aid or the sponsor's request for either FAA approval of a new or revised airport layout plan, FAA approval of an airport location, conveyance of government lands for airport purposes under section 23 of the Airport Act, or FAA approval of a release of airport land.

b. The FAA may require corrections or additional information from the sponsor before accepting the environmental assessment. The FAA's acceptance of the environmental assessment will be indicated on the cover page by the signature of the responsible FAA official. From this point on the environmental assessment is a Federal Document for which the FAA is responsible. The number of copies of the environmental assessment submitted to the FAA shall be determined by consultation with the FAA and, for findings of no significant impact, shall include a copy designated as a reproducible master which must be of good quality.

c. If no environmental assessment is required by the FAA, such as for runway extensions which are not major runway extensions, and a public hearing is held, the sponsor shall submit a written report to the FAA which summarizes the issues raised, alternatives considered, conclusion reached, and reasons for the conclusion. The sponsor must furnish a copy of the transcript to the FAA upon request. The responsible official shall review the written report to determine whether the action should remain a categorically excluded action or whether it appears to be covered by conditions set forth in paragraph 21, 22, or 24.

51. *FAA Completion of Environmental Assessment and Decision.*

a. The FAA is responsible for making the judgment, based on the environmental assessment and any other known information, of whether the action choice will be an environmental impact statement or a finding of no significant impact and shall inform the sponsor of this decision.

b. If no thresholds indicating the potential for significant impact are exceeded for the proposed action, the environmental assessment, when evaluated and accepted by the FAA, will have been completed. The FAA decision will be to prepare a finding of no significant impact.

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c. If some thresholds are exceeded, the environmental assessment may not have been completed when it is evaluated and accepted from the sponsor by the FAA, and the FAA may not be able to make a decision on the appropriate action choice until completing further evaluation and consultation. This situation may occur for two reasons. One is that a number of thresholds of significance may produce borderline cases which require further FAA evaluation, in consultation with appropriate officials having jurisdiction and expertise, in order to make a final judgment on whether impacts are significant. The second reason is that there are some consultations, such as the section 7(a) consultation under the Endangered Species Act Amendments or the consultation with the Advisory Council on Historic Preservation, which are required when specific categories of impacts may be of significant concern and for which the FAA rather than the sponsor must take the lead. When enough evaluation and applicable consultations have been completed by the FAA to judge for each category of impact whether the impact is significant or not, the FAA shall complete the documentation of the environmental assessment and make its decision on the action choice.

d. In order to minimize overall environmental processing time, sponsors should inform the FAA as soon as they find that their initial analysis exceeds thresholds of significance. Consultations can then be initiated without delay and advice offered on what the needs for additional information for more detailed analysis are likely to be. These further actions need not be delayed until the sponsor's final submission of the environmental assessment but can be pursued simultaneously with the environmental assessment preparation.

e. To assist in resolving uncertainties on whether impacts are significant, it may be prudent to initiate scoping prior to a firm final decision to prepare an environmental impact statement and prior to issuing a Notice of Intent per CEQ 1501.7. Scoping, under these circumstances, may eliminate from detailed study all issues as insignificant and thereby lead the responsible FAA official to determine that a finding of no significant impact is the appropriate action choice. If the FAA has announced a decision to prepare an environmental impact statement and issued a Notice of Intent to this effect, CEQ 1501.7(c) provides the authority to revise previous determinations on the significance of impacts when applicable.

52. *Availability of Environmental Assessments.* After the FAA has evaluated and accepted the environmental assessment, this document shall be made available to the public pursuant to CEQ 1506.6.

53.–59. *Reserved.*

Chapter 6. Finding of No Significant Impact

60. *Requirement for Finding of No Significant Impact.*

a. CEQ 1501.4(e) provides that the Federal agency shall "Prepare a finding of no significant impact (section 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement." Section 1508.13 defines a finding of no significant impact as ". . . a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (section 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared." The FAA shall evaluate the environmental assessment to determine if an alternative which provides a good solution to the problem has no significant impacts. Unless there is an overriding reason for not selecting such an alternative, the FAA shall then proceed with the preparation of a finding of no significant impact. This decision point is identified as step 13 in Appendix 1. The process for a finding of no significant impact is shown in steps 14 through 23 of Appendix 1.

b. For the FAA Airports Program there are two types of findings of no significant impact. The first type shall be designated simply "Finding of No Significant Impact" and includes proposed actions which have been found by the FAA not to have a significant impact on the environment and which require no sepcific coordination under the Airport Act. The second type shall be designated "Finding of No Significant Impact/Section 16(c)(4) Coordination" and includes proposed actions which do not have a significant impact, but do require coordination with DOI and EPA pursuant to the Airport Act.

61. *Special Considerations.* There are several special assurances, conclusions, and findings which apply to Airport Development Aid Program projects, to projects involving the use of section 4(f) lands, to projects involving the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and to other environmental areas. If any of these special assurances, conclusions, or findings apply to a proposed action, they must be based on appropriate analyses and evidence in the finding of no significant impact, although the findings themselves will not be made until the decision on the Federal action per paragraph 67c.

62. *Format and Content.*

a. The CEQ Regulations do not specify a format for the finding of no significant impact. CEQ 1508.13 does briefly indicate content of the document: "It [the finding of no significant impact] shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (section 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference."

b. Both types of Airports Program findings of no significant impact shall use the following documentation.

(1) A heading which shall read: "Department of Transportation, Federal Aviation Administration, Finding of No Significant Impact (or) Finding of No Significant Impact/Section 16(c)(4) Coordination."

(2) The airport name, location, and proposed Federal action.

(3) Reasons why the FAA has determined that the proposed action will have no significant impacts, referencing the environmental assessment. CEQ 1502.2(b) states ". . . there should be only enough discussion to show why more study is not warranted."

(4) Mitigation measures which are a condition of Federal approval.

(5) The environmental assessment with its appendices.

(6) For Airport Development Aid Program projects, a letter from the sponsor giving specific land use assurances if the FAA is not satisfied that the information in the environmental assessment provides a satisfactory basis for making a standard assurance pursuant to section 18(a)(4) in the grant.

63. *Coordination.*

a. *General.* Appropriate Federal, state, and local coordination shall be completed as described in Chapter 5 for applicable areas of environmental consideration. In all cases, coordination with the State Historic Preservation Officer is required. In addition, other informal coordination as may be considered prudent by the region may be carried out to safisfy the FAA regarding the extent of specific impacts. All proposed findings of no significant impact shall be reviewed by affected FAA program divisions and staff officials at the regional level before presentation for approval. Findings of no significant impact which are not section 16(c)(4) actions may be approved

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without headquarters level review or other formal Federal review unless such review is required under some special purpose law, regulation, or executive order. This is shown as step 15 in Appendix 1.

b. *Section 16(c)(4) Actions.*

(1) Section 16(c)(4) of the Airport Act requires consultation with DOI and EPA regarding the effects which a new airport, new runway, or major runway extention may have on natural resources. Proposed findings of no significant impact which are section 16(c)(4) types of actions shall be distributed for formal Federal review as follows:

(a) One copy to the Office of Airport Planning and Programming (Attention: APP-600).

(b) Five copies to EPA regional offices.

(c) The same number of copies to DOI as required for draft environmental impact statements, sent directly to the same address in Washington as given in paragraph 91.

(d) Copies to the Department of Agriculture (USDA) or the Department of Housing and Urban Development (HUD) if section 4(f) land under their jurisdiction is involved.

(2) Copies shall be accompanied by a transmittal letter explaining the purpose of the consultation. A time limit for review of not less than 45 days after receipt of the ltter shall be established after which it may be presumed that the agency consulted has no comment. Differences of opinion that develop as a result of section 16(c)(4) consultation shall be resolved at the field level to the extent possible. Unresolved issues, including objections on the adequacy of the assessment of impacts or alternatives or objections to the proposed section 16(c)(4) action, shall be identified and called to the attention of the approving official. The roles of DOI and EPA are of consultation, not concurrence, on section 16(c)(4) actions. After consultation, it is FAA's responsibility to give due consideration to the comments received and to make the decision as to whether the action should be approved as a finding of no significant impact. Reference steps 16 through 20 of Appendix 1.

(3) The copy received by the Office of Airport Planning and Programming shall receive limited review for the purpose of evaluating the quality of the proposed finding of no significant impact/section 16(c)(4) coordination. No concurrence by the Office of Airport Planning and Programming on individual 16(c)(4) actions is required. No further distribution is made within FAA or DOT headquarters.

c. *Special Circumstances.* CEQ 1501.4(e)(2) provides that "In certain limited circumstances . . . the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin." The circumstances in CEQ 1501.4(e)(2) are "(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement . . ." (see paragraph 21b). "(ii) The nature of the proposed action is one without precedence." The responsible official shall determine if the circumstances in CEQ 1501.4(e)(2) apply. The 30-day public review period may run concurrently with the Federal review for section 16(c)(4) actions.

64. *Approval.*

a. The decision to approve a finding of no significant impact may be made by the FAA approving official. In addition to the information on format and content provided in paragraph 62, the final document shall include other material which contributes to the finding, including documentation of EPA and DOI coordination for 16(c)(4) actions.

b. Section 16(c)(4) coordinations require review by the regional counsel for legal sufficiency. If a proposal involves section 4(f), the finding of no significant impact shall also be reviewed for legal sufficiency by the regional counsel (steps 19 and 20, Appendix 1).

c. The Federal approval shall include the following: "After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(C) of NEPA.

Approved:——— Date:—
Disapproved:——— Date:—"

65. *Final Distribution.* After a finding of no significant impact/section 16(c)(4) coordination is approved, the region shall send one copy of the approved package to EPA, DOI (in Washington), CAB (for air carrier airports), and APP-600 for record purposes. (If no change have been made since the circulation of the package, no addition copy of the circulated document need be included in the final package sent to APP-600.) Otherwise, distribution of approved findings of no significant impact outside the region is not required. However, the document shall be made available upon request per CEQ 1506.6 (step 21, Appendix 1).

66. *Public Availability.* CEQ 1501.4(e)(1) states "The agency shall make the finding of no significant impact available to the affected public as specified in section 1506.6." The regional office shall comply with section 1506.6 and shall formulate a system for announcing the availability of the finding of no significant impact through appropriate media in the area affected and in cooperation with the sponsor of the project. The announcement shall indicate the availability of the finding of no significant impact for review which shall include FAA regional and district offices, the sponsor's office, and other appropriate locations of general public access. Copies of findings of no significant impact shall be provided, on request, free of charge or at a fee commensurate with the cost of reproduction (step 22, Appendix 1).

67. *Decision and Implementation.*

a. Immediately following the approval of a finding of no significant impact, the decision may be made on the Federal action (step 23, figure 1).

b. Mitigation measures which were made a condition of approval of the finding of no significant impact shall be included in the decision as well as the steps taken to assure appropriate commitment and follow-up of mitigation measures. Proposed changes in or deletions of mitigation measures which were a condition of approval of the finding of no significant impact must be reviewed by the same FAA offices which reviewed the original document and must be approved by the official who originally approved the finding of no significant impact.

c. A record of decision is not required for findings of no significant impact. However, prior to the Federal action and based upon the data presented in the finding of no significant impact, the decisionmaker must reach and document the appropriate conclusions, findings, or assurances. These assurances shall be incorporated in a letter or other documentation attached to the Federal action and signed by the FAA decisionmaker.

d. If the decisionmaker wishes to take an action which was included as an alternative in the finding of no significant impact and which involves a special interest (e.g., section 4(f) land, endangered species, wetlands, historic site, or others), the FAA shall first complete any required evaluation and consultation that has not been done.

supplementing the original finding of no significant impact, prior to taking the action. Supplements to findings of no significant action shall be reviewed and approved as appropriate for the type of action (i.e., whether or not pursuant to section 16(c)(4)).

e. If the alternative on which the decisionmaker now wishes to take action has potential significant impacts, the FAA shall issue a notice of intent to prepare an environmental impact statement and commence scoping.

68.–69 *Reserved.*

Chapter 7. Environmental Impact Statement Preparation

70. *General.* This chapter and the subsequent two chapters describe the preparation, content, and processing of an environmental impact statement pursuant to section 102(2)(C) of NEPA. The process leading to a decision by FAA to prepare an environmental impact statement is described in Chapter 5. The circumstances of the proposed action which warrant the preparation of an environmental impact statement are contained in paragraphs 47e, 47f, and 85. This chapter explains the purpose of an environmental impact statement and the manner in which it is to be prepared. It describes the scoping process, the assignment of responsibilities for input, and contracting for environmental impact statement preparation (see steps 24 through 29 in Appendix 1).

71. *Purpose.* CEQ 1502.1 states that "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions."

72. *Implementation.*

a. To achieve the purpose in CEQ 1502.1, environmental impact statements are to be prepared in the manner prescribed in CEQ 1502.2.

b. CEQ 1502.6 provides that "Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process. . . ."

c. Other sections of the CEQ Regulations which apply generally to the preparation of environmental impact statements and their application to airport actions include sections 1502.4(a) and (b), 1502.5, and 1502.8.

(1) CEQ 1502.4(a) states in part that "Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined" and that "Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement."

(2) CEQ 1502.4(b) provides that "Agencies shall prepare statements on broad actions [such as the adoption of new agency programs or regulations] so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking." In the Airports Program, the principal example of an environmental impact statement for a broad action is the one prepared in conjunction with the National Airport System Plan.

(3) CEQ 1502.5 provides that "An agency shall commence preparation of an environmental impact statement as close as possible to the time that the agency is * * * presented with a proposal * * *" For airport actions, formal preparation shall normally commence with the scoping process immediately after it is determined by the FAA responsible official at the region or airports district office level that an environmental impact statement is necessary. This decision point is identified in the flow diagram (Appendix 1) as step 13. Nothing in this order shall preclude earlier commencement of the gathering of information and preparation for the scoping process as described in paragraph 74, below.

(4) CEQ 1502.8 states that "Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them."

(5) CEQ 1501.8 describes the circumstances when the setting of time limits for the NEPA process may be appropriate and the factors which should be considered.

73. *Limitations.* CEQ 1506.1 deals with limitations on actions during the NEPA process. Key provisions of CEQ 1506.1 which relate to proposals for airport actions include the following:

a. "(a) Until an agency issues a record of decision [described in paragraph 98 of this order] * * * no action concerning the proposal shall be taken which would:

(1) "(1) Have an adverse environmental impact; or

(2) "(2) Limit the choice of reasonable alternatives."

b. "(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved."

c. "(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance."

74. *Scoping.*

a. The general requirement for scoping is contained on CEQ 1501.7 which provides that "there shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping." The responsible official shall assume a key role in managing the preparation of an environmental impact statement. (In the context of scoping, the responsible official is the official in charge of preparation of the environmental impact statement for the lead agency. Where joint lead agencies are involved, the other agency(s) may share in the responsibility for scoping with the FAA.) Scoping is a major element. The responsible official shall take the lead in the scoping process, including issuing the notice of intent, inviting the participation of other agencies and interested persons pursuant to CEQ 1501.7(a)(1), determining the issues to be analyzed in depth, and assigning responsibilities for inputs to the environmental impact statement. CEQ 1501.7 further describes these steps in detail.

b. (1) The first step is described in section 1501.7 as follows: "As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (section 1508.22) in the **Federal Register** * * *." Regions shall follow regional counsel procedures for filing notices in the **Federal Register** through the Office of the Chief Counsel, Rules Docket.

(2) The notice of intent in section 1508.22 "* * * means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

"(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held."

"(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement."

(3) A scoping meeting, per se, is not a requirement for every action requiring an environmental impact statement. Depending on the nature and complexity of the project, some or all of the information needed during the scoping process may be obtained by letter or telephone.

(4) If for some reason there is a lengthy period between the time a decision is made to prepare an environmental impact statement and the actual preparation, section 1507.3(e) provides that "* * * the notice of intent * * * may be published at a reasonable time in advance of preparation of the draft statement."

c. (1) Section 1501.7 further provides that the lead agency shall "Determine the scope (section 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement." Scope as defined in CEQ 1508.25 "* * * consists of the range of actions, alternatives, and impacts to be considered * * *"

(a) To determine the range of actions, the problem as described in the environmental assessment shall be carefully reviewed. The proposed action and any actions functionally related to it (see paragraph 26) must be clearly understood.

(b) Alternatives shall be reviewed in this context, identifying those which need to be rigorously explored and objectively evaluated as well as those which can be eliminated (see paragraph 47c).

(c) The range of impacts and areas requiring further study shall be determined by review of the environmental assessment and the criteria set forth in paragraphs 47e, 47f, and 85. Those impact categories which fall below the threshold of significance in the environmental assessment normally do not need further study or description in the environmental impact statement.

(2) Establishing a clear definition of the Federal action, the alternatives, and the impacts needing detailed study (as well as those which do not) early in the scoping process should help considerably in managing the environmental impact statement preparation process.

75. *Assigning Responsibilities.*

a. An integral part of the scoping process is the allocation of assignments for preparation of the environmental impact statement by the responsible official among the lead and cooperating agencies (step 26, Appendix 1). This process is intended to assure, among other things, that applicable environmental permits, licenses, and other consultation requirements are identified in the environmental impact statement.

b. Federal agencies which shall be invited by the responsible official to be cooperating agencies are those with jurisdiction by law in areas which may be affected by airport development.

c. Federal agencies with special expertise may also be asked to be cooperating agencies.

d. If a Federal agency that is requested to be a cooperating agency replies pursuant to CEQ 1501.6(c) that it will not participate, two copies of such letter shall be sent to APP-600 which will forward one copy to the Office of the Assistant Secretary for Policy and International Affairs, P-1. A copy of the draft environmental impact statement shall be sent to such agency. If that agency has adverse comments on the draft, the matter shall be referred to APP-600 for subsequent discussion with CEQ through P-1.

e. The definition of a cooperating agency in CEQ 1508.5 includes the provision that "A State or local agency of similar qualifications [i.e., jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal] or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency." To the extent that such agencies have not provided sufficient information during the A-95 review process or other earlier consultation, their use as cooperating agencies in the environmental impact statement preparation is encouraged. Their inputs may be especially important in areas which have been identified as significant environmental issues and where specific environmental laws and regulations are involved. The respective roles of Federal and state or local agencies in given areas (e.g., impacts on fish and wildlife resources) shall be clearly identified and understood in the assignment of responsibilities for environmental impact statement inputs.

f. The airport sponsor shall be one of the key participants in the scoping process and shall be kept abreast of the areas of impact being studied, especially those which have a direct effect on the operation of its airport. The sponsor shall be apprised of mitigation measures or alternatives being proposed and shall be consulted regarding its ability or willingness to carry out provisions which may subsequently be imposed as grant conditions or other means to reduce environmental harm. The sponsor may also be the principal linkage with the affected communities in assuring, for example, that all reasonable measures have been or will be taken to provide compatible land uses in the airport environs.

g. It is incumbent upon the responsible official, in assigning responsibilities and managing the environmental impact statement preparation, to assure that those providing input appreciate the need for timely submittal and focus of the analysis on the pertinent issues at hand. This official shall monitor progress and coordinate efforts to avoid duplication or misunderstanding among the parties involved and assure that necessary areas are covered. The schedule for preparation of each item of information shall take into consideration any dependencies that may exist. For example, it may not be possible to complete analysis in one area without having obtained information from another. The objective of the responsible official is the production of a draft environmental impact statement which will deal sufficiently with the critical and significant issues to avoid or minimize critical comments during the required review period to follow.

76. *Contracting.*

a. Chapter 2 describes in general the requirements and responsibilities of the FAA and state and local agencies in meeting the requirements of NEPA and the CEQ Regulations. The degree to which state and local agencies can be involved is dependent upon whether a state agency has statewide jurisdiction or what type of state or local environmental laws or regulations exist. These distinctions are important in determining what roles agencies may play in the preparation or contracting for the preparation of an environmental impact statement as discussed below.

b. (1) State agencies with statewide jurisdiction pursuant to section 102(2)(D) of NEPA may act as joint lead agencies for the preparation of the environmental impact statement as long as the FAA furnishes guidance and participates in such preparation and independently evaluates the statement prior to its approval and adoption (reference NEPA, section 102(2)(D)(ii) and (iii)). (Also see paragraph 5.1 for the definition of NEPA 102(2)(D) states.)

(2) Agencies subject to state or local requirements comparable to NEPA shall be joint lead agencies (unless specifically barred by some other law) in cooperation with FAA. Such cooperation, in the works of CEQ 1506.2(c), "* * * shall to the fullest extent possible include joint environmental impact statements."

(3) State or local agencies which do not qualify as lead agencies under the conditions given in (1) and (2) above may not be lead agencies but may be cooperating agencies if they have jurisdiction by law or special expertise with respect to environmental impacts involved.

c. CEQ 1506.5(c) provides that "* * * any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under section 1501.6(b), a cooperating agency." Further, it is intended that "* * * the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest."

d. Under the provisions set forth above and when a determination has been made to have a contractor prepare the environmental impact statement, the contractor shall be selected either by the FAA *or:*

(1) A state agency with statewide jurisdiction and responsibility for action per section 102(2)(D) of NEPA.

(2) A state or local agency which is subject to state or local requirements comparable to NEPA ("NEPA-like" state or local agency).

A cooperating agency may also select contractors. However, its role is limited to providing information and analyses within its own area of special expertise or jurisdiction. It may obtain such data by contract under its own selection procedures. It would not be expected to select a contractor to prepare the entire FAA environmental impact statement.

e. In any case where a contractor prepares an environmental impact statement, section 1506.5(c) requires that "Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency [for its portion], specifying that they have no financial or other interest in the outcome of the project." Furthermore, "* * * the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents."

f. When an agency as defined in paragraph d above elects to use a contractor to prepare an environmental impact statement, the contractor may be under contract either to that agency or the sponsor as long as the contractor is selected by the lead agency. The selection processes to be used will be based on principles in Advisory Circular 150/5100–9. This advisory circular was written to provide guidance to airport sponsors in the selection and employment of architectural, engineering, and planning consultants under the FAA Airport Development Aid and Planning Grant Programs. However, its principles apply to the selection of contractors to prepare environmental impact statements. The selection criteria and procedures therein shall be applied to the fullest extent applicable—with the obvious exception that FAA (or another lead agency) makes the selection. Further, the selecting agency must advise potential contractors of the requirement to sign the disclosure statement described in paragraph e above. The disclosure statement shall include language equivalent to the following: "We, (*name of firm*), do hereby certify that we have no financial or other interests in the execution or outcome of the proposed development at (*airport*)."

77. *Use of Information.*

a. CEQ 1506.5(c) specifically provides "Nothing * * * is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency."

b. The use of information obtained in the manner set forth above may obviate the need for extensive contractual efforts in preparing an environmental impact statement. It must be cautioned, however, that any information received from the airport sponsor or others shall be used only after evaluation and acceptance of its contents by the FAA. Further, to the extent that the information represents a significant background paper, the names and qualifications of those persons primarily responsible for its preparation together with the identification of persons responsible for particular analyses shall be listed for incorporation in the list of preparers of the environmental impact statement (see paragraph 87).

78. *Preparation of a Draft Environmental Impact Statement.* As a result of the scoping process, the responsible official should have a detailed analysis of the significant issues and impacts from the various cooperating agencies and others who were assigned responsibilities as described in paragraph 75. The responsible official's task of preparing the environmental impact statement at this point involves collating the results, conducting a detailed evaluation, and adding the necessary cover sheet, summary, etc., as may be needed to compete the document and prepare it for circulation. If a contractor has been hired to prepare the environmental impact statement, the responsible official is still required to independently evaluate the statement and be responsible for its scope and contents. When in-house expertise is insufficient to evaluate independently, it may be necessary to supplement FAA expertise with either cooperating agency or independent contactor assistance. A detailed description of the environmental impact statement contents and processing of the completed document are given in Chapters 8 and 9.

79. *Reserved.*

Chapter 8. Environmental Impact Statement Contents

80. *Format.*

a. CEQ 1502.10 recommends a standard format, which is to be followed for Airports Program environmental impact statements, as follows: "(a) Cover Sheet. (b) Summary. (c) Table of Contents. (d) Purpose of and Need for Action. (e) Alternatives Including Proposed Action * * *. (f) Affected Environment. (g) Environmental Consequences * * *. (h) List of Preparers. (i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent. (j) Index. (k) Appendices (if any)."

b. CEQ 1502.11 through 1502.18 require the inclusion of specific information in respective sections of the environmental impact statement. The following paragraphs provide additional instructions.

81. *Cover Sheet, Summary, and Table of Contents.*

a. The cover sheet shall include the information required in CEQ 1502.11 plus a heading as follows: "Department of Transportation, Federal Aviation Administration, Draft (or Final) Environmental Impact Statement. This statement is submitted for review pursuant to the following public law requirements: [List those applicable; e.g., section 102(2)(C) of the National Environmental Policy Act of 1969, section 16(c)(4) of the Airport and Airway Development Act of 1970, as

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amended, section 4(f) of the Department of Transportation Act of 1966]."

b. In addition to the requirements of CEQ 1502.12, Airports Program environmental impact statement summaries shall highlight evidence in the environmental impact statement which supports required assurances and indicate mitigation measures which are proposed. The summary of the final environmental impact statement shall specify any mitigation measures which are a condition of approval and identify any monitoring to be done. In addition, the final environmental impact statement summary shall identify the environmentally preferable alternative or alternatives and the FAA's preferred alternative (in most cases, the proposed action), including reasons for these choices.

82. *Purpose of and Need for the Action.* CEQ 1502.13 states "The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing alternatives including the proposed action." Normally, the purpose and need as described in the environmental assessment will suffice for purposes of the environmental impact statement.

83. *Alternatives, Including the Proposed Action.*

a. CEQ 1502.14 states that "This section is the heart of the environmental impact statement." Further, it is to be "Based on the information and analysis presented in the sections on the Affected Environment [paragraph 84] * * * and the Environmental Consequences [paragraph 85] * * *." Paragraph 47c includes key references and extent of analysis of alternatives in the environmental assessment. During scoping, the environmental assessment shall be reviewed for those alternatives which should be dropped from further consideration. However, eliminated alternatives are to be identified in the environmental impact statement with a simple explanation of why no further investigation was necessary. Alternatives covered in the environmental assessment may require expansion of certain portions. During the scoping process (paragraph 74), those areas needing additional work shall be identified.

b. Both section 16(c)(4) of the Airport Act and section 4(f) of the DOT Act require a finding that "no feasible and prudent alternative" exists. The terms "feasible" and "prudent" are separate criteria and refer to sound engineering principles and sound judgment, respectively. A construction alternative, for example, may be feasible if, as a matter of sound engineering principles, it can be built. It may not be prudent, however, because of safety, policy, environmental, social, or economic consequences. The environmental documentation must show that no feasible and prudent alternative exists when all factors (safety, national policy, efficiency, economic, social, and environmental) are considered.

c. When section 16(c)(4) of the Airport Act is applicable, the FAA shall authorize no project under the Airport Development Aid Program involving airport location, a major runway extension, or runway location found to have an adverse effect unless he shall render a finding in writing, following a full and complete review, that no feasible and prudent alternative to the project exists and that all possible steps have been taken to minimize such adverse effect. The environmental impact statement must include sufficient information to support such a conclusion where applicable. However, the section 16(c)(4) finding is not made until the final decision on the action is rendered (see paragraph 98).

d. Project development involving section 4(f) of the DOT Act does not necessarily fall within the processing requirements of NEPA, section 102(2)(C). However, regardless of which action choice is appropriate, the documentation must contain an assessment of alternatives and evidence of planning to minimize harm to the section 4(f) land. To comply with section 4(f), it is necessary to show that a rejected alternative to a proposed action presents unique problems or that the costs or community disruption it entails reach extraordinary magnitudes. For additional guidance relative to section 4(f), see paragraphs 47e(7) and 85g.

e. A no practicable alternative finding is required for construction activity in a wetland area and for significant encroachment on a floodplain. This finding is further explained in paragraphs 47e(11)(e) and 47e(12)(g)3.

f. CEQ 1505.2 requires that an agency's record of decision specify the alternative or alternatives which were considered to be environmentally preferable. Whether an alternative is "environmentally preferable" is a matter of judgment on the part of the responsible official when considering the potential environmental impacts of the various alternatives considered.

84. *Affected Environment.* CEQ 1502.15 states that "The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement." The description of the affected environment as contained in the environmental assessment (reference paragraph 47d) will usually suffice for the environmental impact statement, unless these is a particular significant impact area for which additional data may be necessary to understand the effects.

85. *Environmental Consequences.* Per CEQ 1502.16, "This section forms the scientific and analytic basis for the comparisons under section 1502.14 [alternatives, as described in paragraph 83 above]. It shall consolidate the discussions of those elements required by sections 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) [alternatives] as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in section 1502.14. It shall include discussions of:

a. "Direct effects and their significance [reference section 1508.18 for definition of 'effects' both direct and indirect] * * *

b. "Indirect effects and their significance * * *

c. "Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See section 1506.2(d) [Elimination of duplication with State and local procedures].)

d. "The environmental effects of alternatives including the proposed action. The comparisons under section 1502.14 will be based on this discussion.

e. "Energy requirements and conservation potential of various alternatives and mitigation measures.

f. "Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

g. "Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

h. "Means to mitigate adverse environmental impacts (if not fully covered under section 1502.14(f))."

Specific environmental impact areas to be discussed "as much as is necessary to support the comparisons [of alternatives]" are described in detail in the following subparagraphs. Impacts shall be analyzed for each alternative, including the proposed action which is treated in detail in the environmental impact statement. The draft statement shall include, under appropriate impact categories, all applicable permit or license requirements and shall indicate any known problems with obtaining them. The draft statement shall also report on the status of any special consultation required (such as consultation under the Endangered Species Act Amendments, the National Historic Preservation Act, the Fish and Wildlife Coordination Act, etc.).

a. *Noise.*

(1) Paragraph 47e(1) presents the requirements for a noise analysis and the information needed in an environmental assessment. When an initial analysis indicates that the circumstances in 47e(1)(d) are exceeded, then an additional time above threshold type analysis shall be done. Using a methodology approved by the FAA, the data shall include as a mimimum the average duration above 65 to 115 decibels (in 10 decibel intervals) for existing and planned noise sensitive areas. The data shall be presented for a 24-hour day in evening (7 p.m. to 10 p.m.) and night (10 p.m. to 7 a.m.) periods on a grid pattern not to exceed 3,000-foot intervals. Equal noise exposure contours shall be developed for each alternative (including the no action alternative) considered in detail in the environmental impact statement whenever any land use planning or noise abatement procedures are assoicated with the project. Such contours shall include at least the 65 and 75 Ldn or 65 or 75 CNEL and shall be developed using the same data base as used for the time above analysis for each reasonable alternative.

(2) The text and graphics developed for the environmental assessment shall be reviewed and refined as necessary. Aerial photographs, when available, may be very helpful in illustrating the relationship of the airport to surrounding land uses and development. When the proposal will result in an increase in noise sensitive areas or numbers of people exposed to noise impacts and is highly controversial on this basis, the analysis shall include directly or by reference discussion of potential effects of noise on hearing, communication, and sleep interference, both for outdoor and indoor activities giving appropriate consideration to the effects of construction, climate, and lifestyles. Inclusion of data on background or ambient noise levels is helpful in this regard. Selective monitoring to obtain such data is encouraged when such data is not otherwise available. Other discussion such as effects of noise on animals shall be included only to the extent relevant to the situation and based on available and reliable source data, which may be referenced.

(3) The analysis shall include noise from sources other than aircraft operations when the effects are comparable with or exceed aircraft noise. The result of any monitoring done to verify or refine noise data shall be included.

(4) Mitigation measures which are in effect or proposed, including noise abatement procedures and land acquisition, shall be described and the relationship to the proposal explained.

b. *Land Use.* When significant noise impacts occur over noise sensitive areas (e.g., residential neighborhoods; educational, health, and religious structures and sites; and outdoor recreational, cultural, and historic sites), the analysis shall include a discussion of the noise impact over each such area under various alternatives compared to existing conditions. This includes size and location of residential areas exposed to specific noise levels, numbers of people and schools affected, and such other information as may be appropriate. Any mitigation measures to be taken in addition to those associated with noise impacts or relocation, such as insulation, changes in zoning, or other land use controls, shall be discussed. The greater the degree of existing and potential impacts over noise sensitive areas, the closer attention shall be paid to the requirements of section 18(a)(4) of the Airport Act, as described in paragraph 47e(2). The development and adoption of airport noise control and land use compatibility studies may be helpful in this regard.

c. *Social Impacts.* As set forth in paragraph 47e(3), when the environmental assessment indicates the potential for significant impact because of relocation or other community disruption, additional analysis is needed in the environmental impact statement to describe the degree of impact and measures to minimize such adverse effects. If an insufficiency of available relocation housing is indicated or has engendered a high degree of controversy, a thorough analysis of efforts made to remedy the problem shall be reflected in the environmental impact statement including if necessary provision for housing of last resort as authorized by section 206(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. If business relocation would cause appreciable economic hardship on the community, if significant changes in employment would result directly from the action, or if community disruption is considered substantial, the environmental impact statement will include a detailed explanation of the effects and the reasons why significant impacts cannot be avoided.

d. *Induced Socioeconomic Impacts.* When the environmental assessment pursuant to paragraph 47e(4) indicates substantial induced or secondary effects directly attributable to the proposal, a detailed analysis of such effects shall be included in the environmental impact statement. As pertinent and to the extent known or predictable, such factors as effects on regional growth and development patterns, spin-off jobs created, and induced impacts on the natural environment shall be described.

e. *Air Quality.*

(1) Paragraph 47e(5) describes the requirements for air quality analyses for an environmental assessment. When the thresholds in paragraph 47e(5)(c) are exceeded or when the responsible official otherwise judges that a significant or highly controversial air quality issue exists, additional analysis shall be performed in consultation with the State air quality board, designated air quality region, and/or the EPA, as appropriate. The type of analysis required depends on the particular situation and the information needed by the State or Federal air quality officials who will be reviewing the results. If thresholds have been exceeded for a designated Nonattainment pollutant, pollution offset procedures must be taken in accordance with the EPA guidelines implementing section 173 of the Clean Air Act Amendments. Inclusion of state and Federal agencies with air quality expertise in the scoping process as cooperating agencies will be helpful in identifying other specific analyses to be undertaken such as the investigation of hot spots, monitoring, or modeling.

(2) In general, modeling can be considered to be one of two types—proportional and dispersion.

Proportional models are useful in assessment of impacts of emissions on an area or regional basis, particularly the precursor pollutants such as hydrocarbon and nitrogen oxide (which are precursors to oxidants). Proportional models may also be used to determine impacts of pollutants with local significance (carbon monoxide, nitrogen dioxide, sulfur dioxide, and particulates). Dispersion modeling is limited to pollutants with local significance. Details on appropriate use of these models may be obtained by consultation with the FAA's Office of Environment and Energy.

(3) Alternative mitigation measures may be included in detailed analyses. The air quality certification requirement for Airport Development Aid Program applications for projects involving airport location, runway location, or a major runway extension is described in paragraph 47e(5)(e).

f. *Water Quality.* Paragraph 47e(6) deals with the examination of potential water quality impacts in an environmental assessment. When the thresholds identified in paragraph 47e(6)(c) indicate the potential for significant water quality impacts, additional analysis in consultation with affected agencies will be necessary. Specific information or studies may be required by state or Federal officials with specific water quality types of jurisdiction or permit responsibility. The type of analysis required depends on the particular situation and may be determined through agreements reached during scoping. The water quality certification requirement for projects involving airport location, runway location, or a major runway extension is discussed in paragraph 47e(5)(e).

g. *Department of Transportation Act, Section 4(f).* Application of paragraph 47e(7) will identify if section 4(f) of the DOT Act is involved in the proposal. The environmental assessment will reflect the results of early consultation, including identification of the effects and acceptable mitigation measures. When the threshold in paragraph 47e(7)(f) is exceeded, the FAA shall consult with the officials having jurisdiction over the section 4(f) lands and other agencies as necessary. The environmental impact statement shall thoroughly analyze and document alternatives that would avoid the section 4(f) land and provide detailed measures to minimize harm.

h. *Historic, Architectural, Archeological, and Cultural Resources.*

(1) The initial requirements for the evaluation of historical, architectural, archeological, and cultural resources are presented in paragraph 47e(8). If the thresholds in paragraph 47e(8)(b)*4* or 47e(8)(c)*6* are exceeded, further examination is necessary as indicated below under the appropriate law to which the threshold applies. If section 4(f) is involved as determined according to the instructions in paragraph 47e(8)(d), the analysis indicated in paragraph 85g will apply if the impact on 4(f) land is significant. The DOT 4(f) section of the environmental impact statement may cross reference the historical/archeological analysis.

(a) National Historic Preservation Act of 1966, as amended.

1 When a determination of adverse effect has been made, the consultation procedures of the Advisory Council on Historic Preservation (36 C.F.R. Part 800.4(d) shall be followed. Two weeks prior to a formal request for review to the Advisory Council the responsible official shall notify APP-600, and APP-600 shall consult with the Office of the Assistant Secretary for Policy and International Affairs. The responsible official shall submit the preliminary case report and request comments from the Council, notify the State Historic Preservation Officer, and proceed with the consultation. (If the FAA is already preparing a draft environmental impact statement because of other significant impacts, this draft statement can be submitted as the preliminary case report. Circulation of the draft statement will constitute a request for Council comments if the FAA so requests in the cover letter transmitting the draft.) The sponsor shall provide information and participate in the consultation process with and under the guidance of the FAA.

2 The consultation process includes consideration of feasible and prudent alternatives to avoid the adverse effects on National Register or eligible property, of mitigation measures, and of accepting adverse effects. The FAA has the final judgment on whether the appropriate action choice is an environmental impact statement or a finding of no significant impact. Advice from the Advisory Council and the State Historic Preservation Officer may assist the FAA in making this judgment.

a If the consulting parties agree on an alternative to avoid or satisfactorily mitigate adverse effects, a memorandum of agreement shall be executed specifying how the proposed action will proceed to avoid or mitigate the adverse effects. In this case, the FAA may complete the environmental assessment by including in it the memorandum of agreement and may prepare a finding of no significant impact.

b If the consulting parties determine that there are no feasible and prudent alternatives that could avoid or satisfactory mitigate the adverse effects but that it is in the public interest to proceed with the proposed action, a memorandum of agreement shall be executed. This memorandum may specify recording, salvage, or other measures that shall be taken to minimize adverse effects before the proposed action proceeds. It is likely that, in this circumstance, the impact on National Register or eligible properties will be considered significant and require the preparation of an environmental impact statement.

3 The Advisory Council on Historic Preservation may be a cooperating agency in the preparation of an environmental impact statement. Information developed for and during the consultation process will be sufficient for purposes of environmental impact statement documentation. The final impact statement shall include comments of the Advisory Council and a copy of any memorandum of agreement. (If a memorandum of agreement has been executed prior to circulation of a draft environmental impact statement, the memorandum shall be included in the draft.) Within 90 days after carrying out the terms of a memorandum of agreement, the FAA is required to report to all signatories on the actions taken.

(b) Archeological and Historic Preservation Act of 1974.

1 When a determination of adverse effect has been made, the instructions in subparagraphs (a) *1, 2,* and *3* apply except that the Heritage Conservation and Recreation Service may be a cooperating agency for purposes of environmental impact statement preparation.

2 If salvage is involved, the FAA may use not more than 1 percent of the Federal share of the project for this purpose except that the 1 percent limitation does not apply if the project involves $50,000 or less.

3 If the FAA finds in the course of project construction that significant resources will be irrevocably lost or destroyed, the FAA must notify the Heritage Conservation and Recreation Service of this situation and include information relevant to the matter. The FAA then has a responsibility to take action in accordance with the Archeological and Data Preservation Act to recover, protect, and preserve such resources.

i. *Biotic Communities (including both flora and fauna).*

(1) Paragraph 47e(9) presents the requirements for the analysis of biotic community impacts and the information needed in an environmental assessment. When the initial analysis indicates that the thresholds in subparagraph (c) or (d)

are exceeded, the FAA shall make the judgment on the significance of potential impacts. The FAA will consult with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, state or local wildlife agencies, and others as necessary in order to make this judgment.

(2) If impacts are judged to be significant, further detailed analysis may include:

(a) Use of aerial photographs and field reconnaissance to verify biotic community types and to observe wildlife or its traces.

(b) Determining the significance of various habitats proposed for removal and species that would be displaced, including the importance of flora and fauna species inhabiting the area, the range of various species, and the location of nesting and breeding areas.

(c) A more detailed analysis of other impact areas (e.g., noise, air quality, water quality, induced development) as may be necessary to determine biotic impacts.

(d) Mitigation measures.

(e) A judgment as to what extent the proposed action and its alternatives will alter ecological systems.

(3) If the proposed project affects water resources and thereby invokes the Fish and Wildlife Coordination Act, the FAA shall give full consideration to the recommendations of the Fish and Wildlife Service and the state wildlife agency and shall assure that the project plan includes such justifiable means and measures for wildlife purposes as the FAA finds should be adopted to obtain maximum overall project benefits.

(4) If significant biotic community impact relates either to use of section 4(f) lands or to endangered or threatened species, those sections of the environmental impact statement may incorporate or cross-reference the biotic community analysis as appropriate.

j. *Endangered and Threatened Species of Flora and Fauna.*

(1) Paragraph 47e(10) presents the requirements for the analysis of potential impacts on endangered and threatened species and the information needed in an environmental assessment. When the threshold in paragraph 47e(10)(c)*3* or (d)*3 is exceeded, the FAA shall forward the environmental assessment (or separate biological assessment) to the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whichever has jurisdiction, together with a request to initiate consultation under section 7(a) of the Endangered Species Act Amendments of 1978.*

(2) If the biological opinion from the Fish and Wildlife Service or the National Marine Fisheries Service concludes that the proposed action is not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat, the FAA may conclude that impacts are not significant. On the other hand, the biological opinion may conclude that the proposed action does pose jeopardy and may suggest reasonable and prudent alternatives to avoid jeopardizing species or adversely modifying critical habitat. In this case, if the FAA and the airport sponsor accept an alternative proposed by the Fish and Wildlife Service or the National Marine Fisheries Service or propose another alternative which proves acceptable to these Services, the FAA may also conclude that impacts are not significant.

(3) If neither of the above conditions in paragraph (2) apply, the potential impact is considered significant. In the preparation of an environmental impact statement, the FAA shall request the Fish and Wildlife Service or National Marine Fisheries Service to be a cooperating agency on the basis of its jurisdiction. Further detailed analysis may consider:

(a) Any previously unconsidered mitigation measures or project modifications which would lessen impacts so as not to jeopardize species or destroy or modify critical habitat.

(b) Whether further biological assessment would be profitable to pursue in terms of likelihood of changing the biological opinion.

(c) Whether the FAA or the airport sponsor will request an exemption under section 7(g) of the Endangered Species Act Amendments.

k. *Wetlands.*

(1) Paragraph 47e(11) presents the requirements for the analysis of impacts on wetlands and the information needed in the environmental assessment. When the initial analysis indicates that the applicable thresholds are exceeded or when an agency having special interest in a wetlands area indicates potential significant impacts of the proposal, the FAA shall examine all relevant factors and make the judgment on the significance of the impacts. The FAA will consult as necessary with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Corps of Engineers, the EPA, and state and local natural resource and wildlife agencies in order to make this judgment. Any of these agencies may become cooperating agencies on the basis of their jurisdiction or expertise. Permitting agencies may become joint lead agencies. The FAA shall make every effort to assure that any environmental document prepared by the FAA meets the needs of permitting agencies. (Reference paragraphs 75b and 75c.)

(2) If impacts are judged to be significant, further detailed analysis shall include the following as applicable to the proposal:

(a) Considerations specified in Executive Order 11990, Protection of Wetlands:

1 "public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;"

2 "maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources;"

3 "other uses of wetlands in the public interest, including recreational, scientific, and cultural uses."

(b) An opinion, based on the above considerations, of the proposal's overall effect on the survival and quality of the wetlands.

(c) Aeronautical safety, transportation objectives, economics, and other factors bearing on the problem.

(d) Further consideration of the practicability of any alternatives.

(e) Inclusion of all practicable measures to minimize harm.

(3) Pursuant to the Fish and Wildlife Coordination Act, the FAA shall apply the instructions contained in paragraph 85i above.

(4) If a state Coastal Zone Management Program or section 4(f) of the DOT Act are significantly involved, the instructions under paragraphs 85m and 85g respectively, are to be followed.

1. *Floodplains.*

(1) Paragraph 47e(12) presents the requirements for the analysis of impacts on floodplains and the information needed in the environmental assessment. When the initial analysis indicates that the applicable thresholds established in paragraph 47e(12)(d) or 47e(12)(j) are exceeded, the FAA shall prepare an environmental impact statement. Federal, state, or local agencies with floodplain jurisdiction and expertise may become cooperating agencies.

(2) Further analysis shall include the following as applicable to the proposal:

(a) A more detailed analysis of other impact areas (e.g., water quality, induced development, construction impacts) as may be necessary to determine more precisely the impacts on the natural and beneficial floodplain values, including alterations to the present flood storage volume and flooding cycle.

(b) A more detailed assessment of the risk to human life and potential future damage to the transportation facility or other property within the floodplain.

(c) Aeronautical safety, transportation objectives, economics, and other factors bearing on the problem.

(d) Further consideration of the practicability of any alternatives.

(e) Inclusion of all practicable measures to minimize harm and to restore and preserve the natural and beneficial floodplain values affected. Commitments to later compliance with special flood related design criteria or the imposition, in advance, of protective conditions may be warranted in some situations.

(f) Evidence that the action conforms to applicable state and/or local floodplain protection standards.

m. *Coastal Zone Management Program:*

(1) The procedures for determining consistency with approved state coastal zone management programs are outlined in paragraph 47e(13). If a state which has such a program raises an objection based on inconsistency of the proposed action with its program, FAA shall not approve such action unless the objection is satisfied or successfully appealed by the sponsor to the Secretary of Commerce. The process will normally be completed prior to a determination by the FAA whether or not an environmental impact statement is needed for the proposal. If any issues remain that have not been resolved regarding the relationship of the action to an approved coastal zone management program, such issues shall be identified in the scoping process and resolved in the environmental impact statement. In this situation, the state coastal zone management agency shall be invited to participate in the scoping process.

(2) If there is no approved state program for a coastal area and there appear to be significant impacts per paragraph 47e(13)(a), the FAA shall consult as necessary with state and Federal agencies with jurisdiction and expertise to determine any additional needs for detailed coastal and marine studies.

n. *Prime and Unique Farmland.*—If upon review of the environmental assessment the local USDA office finds that potential significant environmental impacts exist according to the threshold established in paragraph 47e(14)(c), additional analysis is needed in the environmental impact statement. The FAA shall ask USDA to be a cooperating agency. The analysis may evaluate the impacts on agricultural production in the area, any disruption of the farming community either as a direct result of construction or by changes in land use associated with the action, and measures to minimize the harm. Such measures may include adjustment in the action to reduce the amount of prime or unique farmland taken out of production or retaining as much of the land as possible for agricultural use by incorporation into compatible land use plans.

o. *Energy Supply and Natural Resources.*—Additional analysis in an environmental impact statement is needed if the examination as described in paragraph 47e(15) indicates that the thresholds are exceeded. Such analysis shall include additional detail as needed to fully explain the degree of the problem and measures to be taken to minimize the impact. Measures such as more efficient airfield design, ground access improvements, or energy efficient building design shall be considered and described where applicable and incorporated in the action to the extent possible. The Department of Energy may be a cooperating agency and be of assistance in determining additional specific analysis needed and in judging the seriousness of impacts.

p. *Light Emissions.*—The description of potential annoyance from airport lighting and measures to minimize the effects as contained in an environmental assessment per paragraph 47e(16) will usually be sufficient for an environmental impact statement, in which case no further analysis is necessary. Further consideration may concentrate on previously unconsidered mitigation measures and alternatives. It is possible that the responsible FAA official will judge that a special lighting study is warranted.

q. *Solid Waste Impacts.*—The information in the environmental assessment as discussed in paragraph 47e(18) will usually be sufficient to describe any solid waste impacts related to the action. Only if significant problems are anticipated with respect to meeting any applicable local, state, or Federal regulations on solid waste management will any additional information or analysis be needed. Additional data may include results of any further consultation with affected agencies and measures to be taken to minimize the impacts. Disposal which would adversely affect water quality or other impact categories may be discussed under those categories or appropriately cross-referenced.

r. *Construction Impacts.*—The environmental assessment shall usually contain sufficient discussion of construction impacts, per paragraph 47e(19), to obviate the need for any further information in an environmental impact statement. In an unusual circumstance where a construction impact would create significant consequences which cannot be mitigated, a more thorough discussion is needed, including the results of contacts with those agencies which have concerns and the reasons why such impacts cannot be avoided or minimized to insignificant levels.

s. *Design, Art, and Architectural Application:*

(1) The environmental assessment will normally include appropriate discussion of the application of design, art, and architecture in mitigating adverse visual and other environmental impacts and encouraging enhancement of the environment. In this context, the determination of "significant" impacts in this category sufficient of itself to require preparation of an environmental impact statement is usually not relevant nor is there need for more extensive detailed analysis in an environmental impact statement. The environmental assessment shall be reviewed, however, to assure that appropriate consideration has been given as discussed in paragraph 41b.

(2) FAA can encourage but cannot impose application of design, art, and architectural principles on an airport sponsor. Therefore, if additional information or analysis is needed in an environmental impact statement, it shall be discussed with and agreed upon by the sponsor. It should be noted that extensive detailed design concepts are not usually developed until after the environmental action has been completed. FAA Order 5100.35, Design, Art, and Architecture in Airport Development, prescribes guidelines for treating and promoting design, art, and architectural objectives in Airport Development Aid Program projects.

86. *Adverse Impacts Which Cannot Be Avoided, Short Term Uses and Long Term Productivity, and Irreversible and Irretrievable Commitments of Resources.*—These subjects shall be covered under the heading "Environmental consequences" in the environmental impact statement and need not be repeated in separate sections. The various impact categories described in paragraph 85 shall normally include and identify those adverse impacts which cannot be avoided. These discussions shall also examine, as applicable, the extent to which the proposal involves tradeoffs between short term environmental gains at the expense of long term losses or long term gains at the expense of short term losses and the extent to which the proposal forecloses or broadens future

options. The extent to which the proposal would irreversibly and irretrievably curtail the range of beneficial uses of the environment shall be identified where significant. If new, unusual, or limited sources or types of materials are involved in a project, a quantitative estimate and description shall be included. Normally, labor and materials required to accomplish an airport development project do not significantly curtail the range of beneficial uses of the environment. Depletion of materials in short supply or significant irreversible changes in natural and cultural resources shall be covered.

87. *List of Preparers, List of Parties to Whom Sent:*

a. CEQ 1502.17 requires that "The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement . . . Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages."

b. CEQ 1506.5(a) states "If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement then . . . the agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers."

c. CEQ 1506.5(c) states with regard to environmental impact statements: "If the document is prepared by contract, the responsible Federal official . . . shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents." The names of the persons responsible for the independent evaluation shall be included in the list of preparers.

d. A list of agencies and organizations and persons to whom copies of the statement have been sent shall also be included.

88. *Index and Appendices:*

a. An index shall be included at the end of an environmental impact statement to assist the reader and facilitate review.

b. When an appendix is used, CEQ 1502.18 requires that it: "(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference. . . . (b) Normally consist of material which substantiates any analysis fundamental to the impact statement. (c) Normally be analytic and relevant to the decision to be made. (d) Be circulated with the environmental impact statement or be readily available on request."

89. *Miscellaneous.*—CEQ 1502.21, .22, and .24 discuss in detail "incorporation by reference," "Incomplete or unavailable information," and "Methodology and scientific accuracy," respectively. These sections should be reviewed for appropriate treatment of these instructions in an environmental impact statement.

Chapter 9. Environmental Impact Statement Processing

90. *General:*

a. This chapter applies to proposed Federal actions requiring an environmental impact statement. The process for an environmental impact statement is shown in steps 30 through 46 of Appendix 1.

b. Environmental impact statements shall be reviewed by affected FAA program divisions and staff officers at the regional level prior to filing or public review. This internal review is to assure that related foreseeable agency actions by other FAA elements are properly covered in the draft statement and are coordinated with the appropriate action office so that commitments which are the responsibility of other divisions or offices will be carried out.

c. For adoption of another agency's environmental impact statement, refer to CEQ 1506.3.

91. *Distribution for Federal Review of Draft Environmental Impact Statements.*—The FAA region or airports district office shall distribute the draft environmental impact statement, per steps 30 through 35 of Appendix 1, as follows:

a. *Distribution for Headquarters Review.*—Five copies of the draft environmental impact statement, including the A–95 comments and the summary sheet, are to be forwarded to the Office of Airport Planning and Programming, APP–600, which shall be responsible for further distribution within the FAA and the Office of the Secretary of Transportation.

b. *Distribution and Coordination for Intergovernmental Review:*

(1) Per CEQ 1503.1, comments on the draft environmental impact statement shall be obtained from or requested of appropriate Federal, state, and local agencies including affected local jurisdictions.

(2) Federal agencies with jurisdiction by law or special expertise shall be asked to comment.

(3) For instructions on circulation of the summary in lieu of the full environmental impact statement, see CEQ 1502.19.

(4) Draft statements shall be coordinated with the appropriate regional offices of other Federal agencies having jurisdiction by law or special expertise except that statements to be coordinated with any component of DOI, DOC, or the Department of Energy (DOE) shall be sent directly to their Washington headquarters at the following address:

(a) Assistant Secretary—Program Policy, Attention: Director, Environmental Project Review, U.S. Department of the Interior, Washington, D.C. 20240.

(b) Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Division of NEPA Affairs, Department of Energy, Room 4G064, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (only for airport actions having major energy-related consequences).

(5) Agencies will normally receive one copy of the draft environmental impact statement except as follows:

(a) Five copies of draft statements shall be sent to the appropriate regional office of the EPA.

(b) DOI shall receive:

1 Twelve copies (seven of the final) for projects in each state except those listed in *2* and *3* below.

2 Thirteen copies (eight of the final) for the projects in North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

3 Fourteen copies (nine of the final) for projects in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(6) One copy of draft statements on air carrier airports shall be sent to: Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20420.

c. *Availability to the Public.*—The draft environmental impact statement shall be made available for public review per CEQ 1506.6. Notices of availability shall specifically identify the person in the FAA to contact for status or other information on the environmental impact statement. Normally, this person will be the same as the one listed on the cover sheet per CEQ 1502.11(c) (also see paragraph 81a).

d. *Filing with EPA.*—The draft environmental impact statement shall be filed with EPA per CEQ 1506.9. The EPA will subsequently publish a notice in the **Federal Register** per CEQ 1506.10 which will begin the 90-day period after which the Federal action can be taken. Five copies of the draft statement shall be sent to: Office of Environmental Review, EIS Filing Section (A-104), U.S. Environmental Protection Agency, Room 2119, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Telephone: (202) 245-3006).

e. *Establishing Time Limits.*—Pursuant to CEQ 1506.10(c), in seeking comments FAA regional airports divisions may establish a time limit of not less than 45 days from publication of the notice by EPA per d above and receipt by other gencies for reply after which, if no comments are received, it may be presumed that the agency consulted has no comments to make. Fifteen-day extensions will normally be granted when requested by other agencies. When DOT section 4(f) is involved, a 60-day review period is normally required by DOI. Time limits shall take into account the magnitude and complexity of the statement and degree of public interest in the proposal.

92. *Comments on the Draft Environmental Impact Statement:*

a. CEQ 1503.3 addresses specificity of comments. If the responsible official considers that the comments received by a commenting agency have not been made in accordance with the intent of this section, consultation with that agency may be undertaken to rectify discrepancies.

b. It is expected that the extent of comments on the draft will be reduced commensurate with the degree of involvement of the commenting agencies in the scoping process. Problems raised by commenting agencies in the draft review which were thought to have been resolved during scoping may be discussed with or assigned to those agencies for resolution.

c. Comments from EPA are categorized by impact and statement adequacy according to the following criteria:

(1) The impact is rated by EPA as: LO—Lack of Objections, ER—Environmental Reservations, or EU—Environmentally Unsatisfactory.

(2) The statement adequacy is categorized by EPA as: 1—Adequate, 2—Insufficient Information, or 3—Inadequate.

93. *Recirculation of the Draft.*—CEQ 1502.9(a) instructs that "If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

94. *Preparation and Review of Final Environmental Impact Statements:*

a. Final environmental impact statements shall be prepared in accordance with CEQ 1503.4 (step 36 in Appendix 1). The contents of a final environmental impact statement shall be those described for the environmental assessment in paragraph 47 as expanded and elaborated on during the more detailed analyses of significant issues, as discussed in paragraphs 80 through 86, and as revised following review of the draft statement. The final statement shall contain a concise status report (which may be included in the summary or an appendix) on the compliance or anticipated compliance with permit or license requirements.

b. The environmental impact statement shall include evidence and required consultation to support any assurances if applicable to the Federal action. The assurances themselves will not be made until the record of decision.

(1) For all airport development there shall be evidence to support the following Airport Development Aid Program grant assurances as required by the Airport Act.

(a) The project is reasonably consistent with existing plans of planning agencies for development of the area (section 16(c)(1)(A));

(b) Fair consideration has been given to the interest of communities in or near the project location (section 16(c)(3));

(c) Appropriate action has been or will be taken to restrict, to the extent reasonable, the use of land in the vicinity of the airport to purposes compatible with airport operations (section 18(a)(4));

(d) Appropriate air and water quality certificates have been or will be obtained (section 16(e)) for projects involving airport location, runway location, or a major runway extension.

(2) For actions involving an airport location, runway location, or major runway extension pursuant to section 16(c)(4) of the Airport Act and found to have an adverse effect, there shall be evidence to support a conclusion that:

(a) There is no feasible and prudent alternative, and

(b) All possible steps have been taken to minimze adverse effects.

(3) For actions involving the use of lands subject to section 4(f) of the DOT Act, there shall be evidence to support a conclusion that:

(a) There is no feasible and prudent alternative to the use of such land, and

(b) The project includes all possible planning to minimize harm to such lands resulting from such use.

(4) For actions involving the displacement and relocation of people, there shall be evidence to support assurances that:

(a) Fair and reasonable relocation payments and assistance have been or will be provided pursuant to provisions in Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) Comparable decent, safe, and sanitary dwellings available on an open occupancy basis are on the market or will be built if necessary prior to actual displacement.

(5) For actions involving new construction directly or indirectly affecting wetlands, there shall be evidence to support assurances that:

(a) There is no practicable alternative to such construction, and

(b) The proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

(6) For actions involving a significant encroachment on a floodplain, there shall be evidence to support assurances that:

(a) There is no practicable alternative, and

(b) The action conforms to applicable state and/or local floodplain protection standards.

(7) For actions within or affecting land or water uses in an area covered by an approved state coastal zone management program, there shall be evidence to support an assurance that the action is consistent with the approved state coastal zone management program to the fullest extent practicable. (If the action is determined to be inconsistent with the state's approved program, the Federal agency shall not approve the action except upon a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coastal Zone Management Act or necessary in the interest of national security.)

c. CEQ 1504 establishes procedures for "environmental referrals" to CEQ by Federal agencies with disagreements on the environmental effects of a proposal. When a notice of intended referral has been received on an Airports Program environmental impact statement, a copy of the notice shall be forwarded to APP-600 which will advise P-1. Every effort shall be made to resolve the issues prior to processing the final environmental impact statement. Resolution of issues shall be documented in the final statement. Notification in writing to the FAA from the referring agency indicating that its objections have been resolved shall be obtained to ovviate the requirement for concurrence in the final statement by P-1.

95. Approval of Final Environmental Impact Statements:

a. *Delegation to FAA.*—Final approval authority on environmental impact statements for airport actions has been delegated to the FAA but subject to prior concurrence by the Assistant Secretary for Policy and International Affairs, P-1, for the following categories of actions (Any actions identified in (1) through (5) below which involve DOT section 4(f) also require concurrence by the DOT General Counsel.):

(1) Any new airport serving a metropolitan area (construed as a standard metropolitan statistical area unless specifically directed otherwise).

(2) Any new runway or runway extension for an airport, any part of which is located in a standard metropolitan statistical area and is either certificated under section 612 of the Federal Aviation Act of 1958, as amended, or used by large aircraft (except helicopters) of commercial operators.

(3) Any action to which a Federal, state, or local government agency has expressed opposition on environmental grounds.

(4) Any action for which the Assistant Secretary for Policy and International Affairs requests an opportunity to review and concur in the final statement or for which FAA requests such review and concurrence by that office.

(5) Any action for which a notice of intended referral to CEQ has been received from another agency per CEQ 1504 and the objections have not been resolved (see paragraph 94c).

b. *Draft Record of Decision.*—P-1 requires that a draft record of decision accompany, but not be part of, any final statement sent through that office for concurrence. This draft record of decision is for environmental review purposes only and does not constitute a review by P-1 of the Airports Program's project or funding decision. This draft record of decision shall state what the FAA's preferred alternative is, include the information specified in CEQ 1505.2 (b) and (c), indicate what environmental commitments (if any) are to be included as a condition for a favorable decision on the preferred alternative and how these will be implemented (e.g., special condition in grant agreement, property conveyance deed, plans and specifications), and incorporate proposed applicable assurances. The draft record of decision need not include project or funding information which is not relative to environmental approval.

c. *Airports Program Approval Authority:*

(1) The Associate Administrator for Airports has final impact statement approval authority for any action in the categories specified in paragraph 95a, subject to prior review for legal sufficiency by the Chief Counsel and concurrence by the Assistant Secretary for Policy and International Affairs.

(2) The Assistant Secretary may determine, after review of a draft statement, that a final statement on an action covered by paragraph 95a can be processed without prior concurrence by that office. In such case, the approval authority by the Associate Administrator for Airports may be delegated to the region on a case-by-case basis.

(3) Those actions in (2) above for which the Associate Administrator for Airports has delegated approval authority and all other environmental impact statements may be approved by the regional director or his designee. Approval may be given after review for legal sufficiency by regional counsel and subject to prior concurrence by the Director, Office of Airport Planning and Programming, and the Chief Counsel, when such concurrence is deemed necessary upon headquarters' review of the draft statement or when requested by the regional director. All actions involving section 4(f) of the DOT Act are subject to review for legal sufficiency by Chief Counsel in headquarters (steps 37 through 45, Appendix 1).

d. *Headquarters Review:*

(1) When final approval of an environmental statement is retained in headquarters, the headquarters coordination is initiated when statements are received in the Office of Airport Planning and Programming. Copies are forwarded by APP-600 to the Office of the Chief Counsel for review for legal sufficiency, and then to appropriate elements of the Office of the Secretary of Transportation when required for review and concurrence, with a request for response within 15 to 30 days, depending upon the complexity of the statement. During headquarters review, the statement is revised as necessary or information added. The statement, with any comment, is then submitted to the Associate Administrator for Airports for approval (steps 38 through 41, Appendix 1).

(2) When approval authority is delegated to the regional director and concurrence by headquarters is requested, two copies are to be forwarded to APP-600 for action (step 44, Appendix 1).

e. *Approval.*—As the mechanism for approval of a final statement, a declaration approximately as follows shall be added to the summary. Signature and date blocks shall be added for the concurrence of appropriate offices and approval or disapproval of the approving official (step 41 or 45, Appendix 1).

"After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969."

96. Notification and Distribution of Approved Final Environmental Impact Statement:

a. *General.* Distribution by the region or airports district office of approved final statements to EPA, other agencies and organizations, and the public shall, insofar as possible, be simultaneous so as to avoid unnecessary inquiries and insure that all interested parties have a fair opportunity to review the documentation (step 46, Appendix 1). If there have been only minor changes to the draft, the procedure in CEQ 1503.4(c) may be used for circulation of less than the entire document. The region shall notify APP-600 when distribution has been completed.

b. *Distribution to EPA.*—The FAA regional office preparing the final environmental impact statement shall forward to the appropriate EPA regional office one copy of the final statement if it was categorized LO-1. Otherwise, five copies shall be sent to EPA. In the event that EPA has comments on a final impact statement, the FAA regional office shall make every reasonable effort to resolve any conflicting issues. If the issues cannot be resolved, the matter shall be referred to APP-600.

c. *Distribution to the Office of Environment and Energy.*—The region shall send one copy to AEE-1 for information and for ultimate transmission to the DOT library.

d. *Distribution to the Civil Aeronautics Board*—The region shall send one copy of statements for air carrier airports to the CAB address listed in paragraph 91a(6) for information.

e. *Distribution to DOI.*—The region shall send to the DOI address listed in paragraph 91a(4)(a) the number of copies listed in paragraph 91a(5)(b).

f. *Other Distribution by the Region.*—A copy of the final environmental impact statement shall also be sent to each Federal, state, and local agency and private organization which made substantive comments on the draft statement and to individuals who requested a copy of the final statement or who made substantive comments on the draft. The sponsor shall also be sent a copy as well as the appropriate state and areawide clearinghouses unless otherwise designated by the governor. A copy of the approved final statement shall be sent to APP–600 for information unless APP–600 has retained a copy when approved by the Associate Administrator for Airports. When the number of commentors is such that distribution in this manner is impractical, alternative arrangements shall be made after consultation with EPA and DOT, through APP–600.

g. *Availability to the Public:*

(1) Additional copies shall also be made available by the region to the public for review by distribution to appropriate locations accessible to the general public.

(2) The availability of the final statement shall be announced by the region in the appropriate local media in a manner similar to the announcement method for the draft environmental impact statement.

h. *Filing with EPA.*—The region shall distribute to EPA the required five copies of the final statement for **Federal Register** notification. The region shall forward the copies directly to the address listed in paragraph 91d. A copy of the transmittal to EPA shall be forwarded to APP–600 for record purposes.

i. *Timing of Decision.*—In accordance with CEQ 1506.10(b) "No decision on the proposed action shall be made or recorded [see paragraph 98] . . . until the later of the following dates: (1) Ninety (90) days after publication of the notice described above [by EPA per paragraph 91d] . . . for a draft environmental impact statement. (2) Thirty (30) days after publication of the notice described above [by EPA per paragraph 96h above] . . . for a final environmental impact statement."

j. *Comments Before Decision.*—CEQ 1503.1(b) provides that "An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision.. . ."

97. *Other Availability of Final Statements.*—In addition to the availability and distribution of approved final environmental impact statements, final statements proposed for approval shall normally be made available upon request in FAA offices for inspection by the public and by Federal, state, or local agencies prior to final approval and filing with EPA. Such statements shall carry a notation that they have not been approved and filed.

98. *Decision:*

a. Following the review periods prescribed in CEQ 1506.10, the FAA decisionmaker may make a decision on the Federal action (see steps 47 through 53 of Appendix 1). The environmental impact statement and other environmental documents shall be included in the administrative record and made available to the decisionmaker. CEQ 1505.2 requires a record of this decision and specifies information to be included in the record of decision. CEQ 1505.2(b) states "An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions." The Airports Program's statutory mission is to promote the development of a safe and efficient nationwide airport system adequate to meet the current and projected growth in aviation, and this mission is to be given appropriate weight in any final decision on an action. Based upon the data presented in the environmental impact statement and other relevant considerations, the record of decision shall also include the appropriate assurances, conclusions, or findings as delineated in paragraph 94b.

b. The record of decision shall include any mitigation measures which were made a condition of the approval of the environmental impact statement. Proposed changes in or deletions of mitigation measures which were a condition of approval of the environmental impact statement shall be reviewed by the same FAA offices which reviewed the final statement and must be approved by the environmental impact statement approving official.

c. If the decisionmaker wishes to take an action which was included within the range of alternatives of an approved environmental impact statement but was not the agency's preferred alternative as identified in the final statement, the decisionmaker shall first coordinate a new draft record of decision for concurrence with the same FAA and DOT offices whose concurrence was required for approval of the final statement. These offices may concur without comment, may concur on the condition that specific mitigation measures be incorporated in the record of decision, may request that a supplement to the environmental impact statement be prepared and circulated, or may nonconcur. The decisionmaker shall not approve the Federal action over a nonconcurrence.

d. If the alternative the decisionmaker now wishes to take action on involves a special interest (e.g., section 4(f) land, endangered species, wetlands, historic sites, or others), the FAA shall first complete any required evaluation and consultation that has not been done, supplementing the original environmental impact statement, prior to taking the action. Supplements to environmental impact statements shall be reviewed and approved in the same manner as the original document.

99. *Implementation of Environmental Commitments:*

a. In accordance with CEQ 1505.3, "Mitigation . . . and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency." This section of the CEQ Regulations further specifies actions which the lead agency shall take to implement environmental commitments. The FAA shall take steps as appropriate to the action, through special conditions in grant agreements, airport location approvals, property conveyance deeds, releases, airport layout plan approvals, and contract plans and specifications and shall monitor these as necessary to assure that representations made in the environmental documentation with respect to mitigation of impacts will be carrier out.

b. Generally, the following guidelines apply to the inclusion of special environmental assurances in grant agreements, property conveyance deeds, releases, and airport layout plan approvals:

(1) Include actions or commitments by the airport sponsor, if any, which are critical to the decision.

(2) Include significant measures for mitigation of adverse impacts.

(3) Include actions to be taken by the sponsor to identify mitigating measures or to encourage others to take mitigating measures.

(4) Include special commitments to ensure compatibility of the airport with the surrounding area.

(5) Do not include in grant agreements standard items that are incorporated in project plans and specifications.

(6) Do not include assurances which are found to derogate safety. APP–600 shall be contacted to discuss disposition of any previously approved environmental commitments which appear to fall into this category.

c. Any significant deviation from prescribed action that may reduce protection to the environment must be submitted through APP-600 to P-1 for concurrence if the approved statement was concurred in by P-1.

Chapter 10. Tiering, Time Limitations, Written Reevaluations, Supplements

100. *General.*—After a draft or final environmental impact statement or a finding of no significant impact has been prepared, there are circumstances which involve further environmental documentation. These are discussed in the following paragraphs.

101. Tiering:

a. Tiering is defined in CEQ 1508.28 and further discussed in CEQ 1500.4(i), 1502.4(d), and 1502.20. CEQ 1508.28 states that tiering is appropriate when the sequence of analyses is:

(1) "From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis."

(2) "From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe."

b. In the Airports Program, tiering is most applicable in the circumstances listed below. Care must be exercised when tiering not to separate actions which are functionally related and have no independent utility.

(1) Program statements (as for new legislation or a new National Airport System Plan) followed by site specific statements as required.

(2) Environmental documents resulting from master planning covering specific short term projects, in a long term development context, to be followed at a later time when further specific projects become ripe for decision.

(3) Environmental documents for airport location approvals to be followed at a later time by specific development projects as the need develops. The subsequent environmental analysis or statement will then focus on the development which is proposed for decision and exclude from consideration the issue of airport location (including other airport sites as reasonable alternatives to the proposed action) since this has already been decided.

(4) Environmental documents for airport layout plan approvals (see paragraph 30). Tiering for airport layout plan approvals may work in either of two ways:

(a) All of the development on an airport layout plan may be environmentally approved (i.e., an unconditionally approved airport layout plan) if appropriate analyses have been completed and applicable assurances (such as for DOT section 4(f), relocation, wetlands, floodplains, coastal zone management programs) can be made. The appropriate environmental action choice for any future Federal actions involving development on an unconditionally approved airport layout plan would be either a written reevaluation or a supplement (see paragraphs 103 and 104, respectively). Tiering is more likely to be applied in this manner to airport layout plans which have resulted from master planning as described in subparagraph (2) above.

(b) More immediate range development shown on an airport layout plan may be environmental approved with deferral or environmental action on later stages of development because the time is not ripe for decision on these stages. This situation may occur either with or without master planning having been done. The latter method of tiering will result in conditionally approved airport layout plans. At the time that the later development is proposed for decision, a new environmental analysis or statement will be required.

c. For instructions relative to summarizing, referencing, and making available previously tiered environmental documents, see CEQ 1502.20.

102. Time Limitations for Environmental Documents:

a. The time limitations below have been established for all DOT environmental impact statements. The time limitations in subparagraph (2) apply to final environmental impact statements approved after July 30, 1979, and apply effective July 30, 1982, to final statements approved prior to July 30, 1979.

(1) A draft environmental impact statement may be assumed valid for a period of three years. If the final statement is not submitted within three years from the date of the draft statement circulation, a written reevaluation of the draft shall be prepared by the responsible Federal official to determine whether the consideration of alternatives, impacts, existing environment, and mitigation measures set forth in the draft statement remain applicable, accurate, and valid. If there have been changes in these factors which would be significant in the consideration of the proposal, a supplement to the draft statement or a new draft statement shall be prepared and circulated.

(2) With regard to approved final impact statements, four sets of conditions have been established:

(a) If major steps toward implementation of the proposed action (such as the start of construction, substantial acquisition, or relocation activities) have not commenced within three years from the date of approval of the final statement, a written reevaluation of the adequacy, accuracy, and validity of the final statement shall be prepared. If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, a new or supplemental environmental impact statement shall be prepared and circulated.

(b) If the proposed action is to be implemented in stages or requires successive Federal approvals, a written reevaluation of the continued adequacy, accuracy, and validity of the final statement shall be made at each major approval point which occurs more than three years after approval of the final statement and a new supplemental statement prepared, if necessary.

(c) If major steps toward implementation of the proposed action have not occurred within the timeframe (if any) set forth in the final statement or, if no timeframe is set forth, within five years from the date of approval of the final statement, the written reevaluation required by (a) or (b) above shall be referred to the same concurring authority that concurred in the environmental impact statement.

(d) If the proposed action has been restrained or enjoined by court order or legislative process after approval of the final statement, the five-year period may be extended by the time equal to the duration of the injunction, restraining order, or legislative delay.

b. For Airports Program environmental actions, the above time limitations shall also apply to preliminary section 16(c)(4) findings of no significant impact which have been circulated to EPA and DOI and to final approved section 16(c)(4) findings of no significants impact.

103. Written Reevaluations.—When required by paragraphs 102a(1), a(2)(a), and a(2)(b) above, the responsible official shall prepare a written reevaluation of the continued applicability, adequacy, accuracy, and validity of a draft or final impact

statement. There is no requirement for a specific format or content, for coordination, or for publication of this written reevaluation. It shall include the name of the FAA responsible official and the date prepared and shall become part of the administrative record on the action. No further processing is required unless the written reevaluation indicates that a supplemental or new draft or final impact statement is necessary.

104. Supplements:

a. CEQ 1502.9(c) defines two circumstances requiring the preparation of supplements to draft or final impact statements, as follows:

(1) "The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(2) "There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts."

b..A change in the proposed action, in the environmental circumstances, or in the agency's decision (reference paragraph 98) may cause a supplement to a draft or final impact statement to be prepared soon after the original document. If a reasonable alternative which is significantly different from alternatives considered in the draft is identified, a supplement shall be prepared. A supplement is not required if the only change is the development of additional data, provided such data are not in conflict with the environmental impact statement. In other cases, a supplement may be required because the time limitation on an environmental document has been exceeded and a written evaluation has indicated that the contents of the original document are no longer applicable, adequate, accurate or valid per paragraph 102.

c. The format and contents of a supplement are not specified and are expected to vary depending on the extent of the changes. A supplement is likely to be in the form of either:

(1) A separate document which discusses the changed circumstances, identifies the parts of the original environmental document which have been affected, and presents the new data.

(2) Changes to the original environmental document in the form of new pages to replace existing pages and/or new pages to be added.

d. Supplements are subject to the same circulation and filing requirements as the original environmental document and to the same approval level (unless a new element is present which would raise the required approval level). Scoping is not required. A supplement is considered part of the documentation for decisionmaking. If a supplement changes a record of decision, a new record of decision must be issued after the required 30-day review period.

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Appendix 1

FLOW DIAGRAM OF
ENVIRONMENTAL PROCESS.

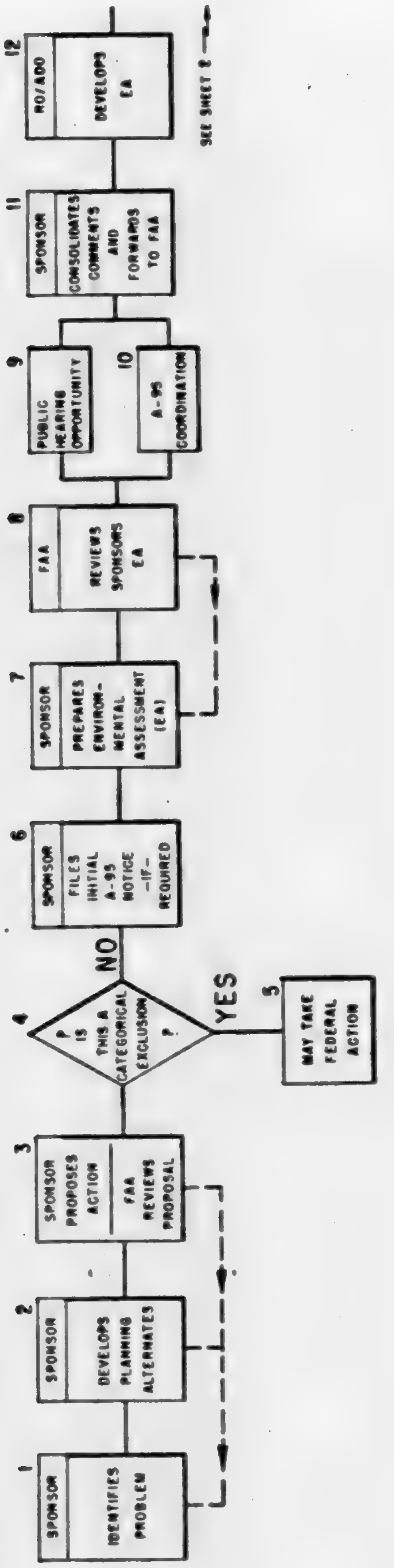
1
SPONSOR
IDENTIFIES PROBLEM
2
SPONSOR
DEVELOPS PLANNING ALTERNATES
3
SPONSOR PROPOSES ACTION
FAA REVIEWS PROPOSAL
4
? IS THIS A CATEGORICAL EXCLUSION ?
YES
5
MAY TAKE FEDERAL ACTION
NO
6
SPONSOR
FILES INITIAL A-95 NOTICE —IF— REQUIRED
7
SPONSOR
PREPARES ENVIRON-MENTAL ASSESSMENT (EA)
8
FAA
REVIEWS SPONSORS EA
9
PUBLIC HEARING OPPORTUNITY
10
A-95 COORDINATION
11
SPONSOR
CONSOLIDATES COMMENTS AND FORWARDS TO FAA
12
RO/ADO
DEVELOPS EA
SEE SHEET 2

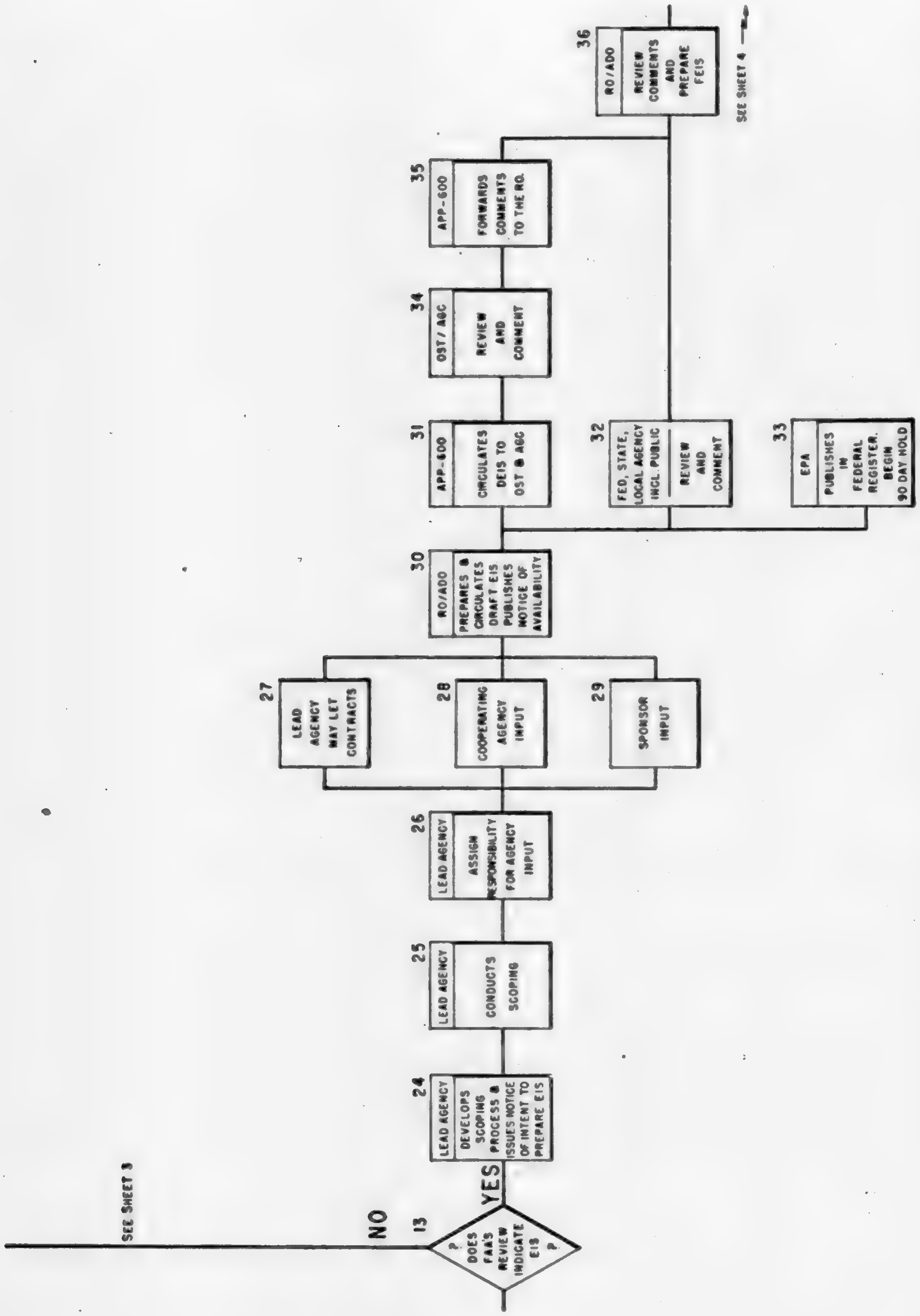
13
DOES FAA'S REVIEW INDICATE EIS ?
NO
SEE SHEET 3
YES
24
LEAD AGENCY
DEVELOPS SCOPING PROCESS & ISSUES NOTICE OF INTENT TO PREPARE EIS
25
LEAD AGENCY
CONDUCTS SCOPING
26
LEAD AGENCY
ASSIGN RESPONSIBILITY FOR AGENCY INPUT
27
LEAD AGENCY MAY LET CONTRACTS
28
COOPERATING AGENCY INPUT
29
SPONSOR INPUT
30
RO/ADO
PREPARES & CIRCULATES DRAFT EIS PUBLISHES NOTICE OF AVAILABILITY
31
APP-600
CIRCULATES DEIS TO OST & AGC
32
FED, STATE, LOCAL AGENCY INCL. PUBLIC
REVIEW AND COMMENT
33
EPA
PUBLISHES IN FEDERAL REGISTER. BEGIN 90 DAY HOLD
34
OST/AGC
REVIEW AND COMMENT
35
APP-600
FORWARDS COMMENTS TO THE RO.
36
RO/ADO
REVIEW COMMENTS AND PREPARE FEIS
SEE SHEET 4

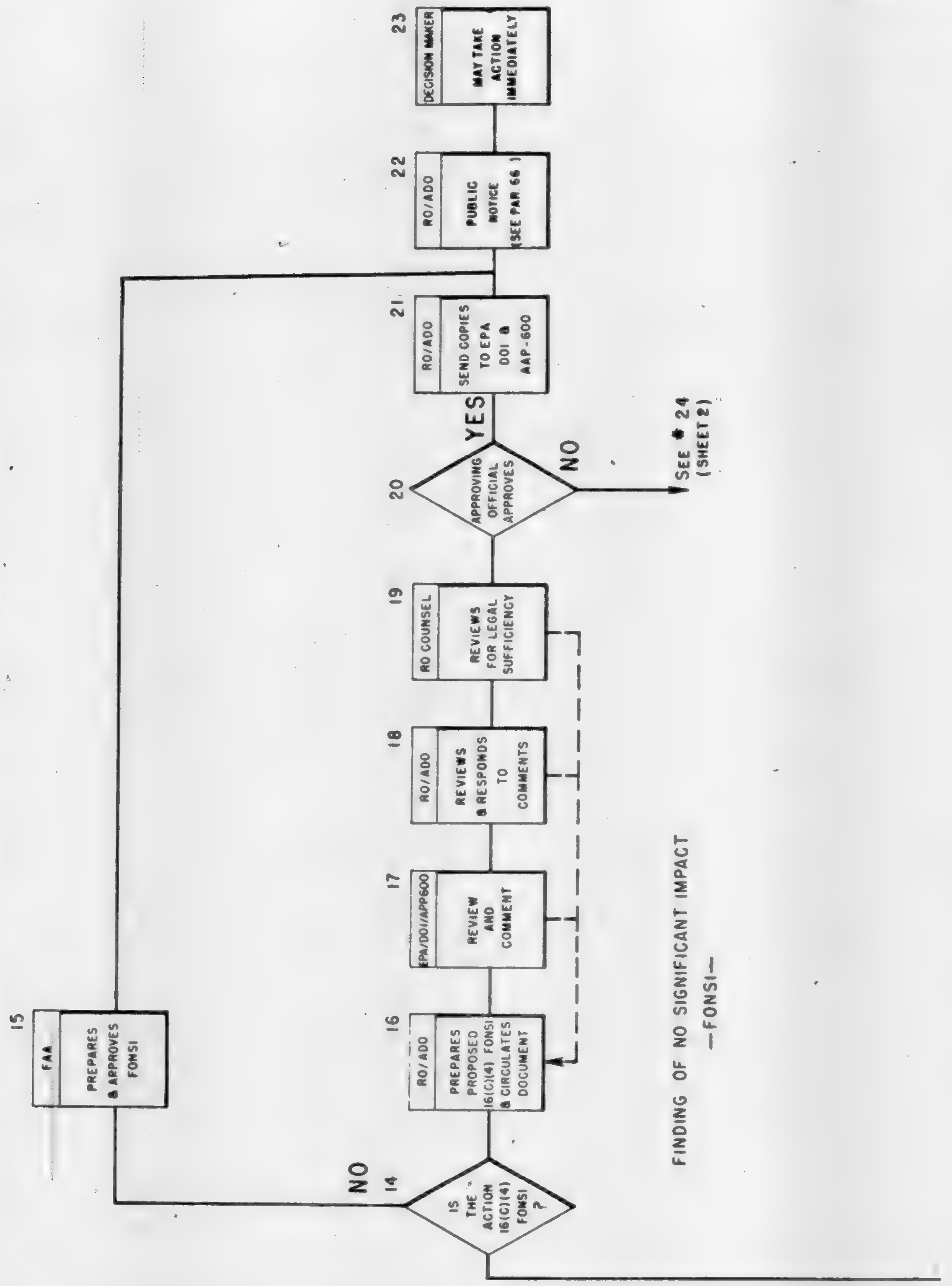
14
IS THE ACTION 16(C)(4) FONSI ?
NO
15
FAA
PREPARES & APPROVES FONSI
16
RO/ADO
PREPARES PROPOSED 16(C)(4) FONSI & CIRCULATES DOCUMENT
17
EPA/DOI/APP600
REVIEW AND COMMENT
18
RO/ADO
REVIEWS & RESPONDS TO COMMENTS
19
RO COUNSEL
REVIEWS FOR LEGAL SUFFICIENCY
20
APPROVING OFFICIAL APPROVES
YES
NO
SEE * 24 (SHEET 2)
21
RO/ADO
SEND COPIES TO EPA DOI & AAP-600
22
RO/ADO
PUBLIC NOTICE (SEE PAR 66)
23
DECISION MAKER
MAY TAKE ACTION IMMEDIATELY

FINDING OF NO SIGNIFICANT IMPACT
—FONSI—

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Appendix 1

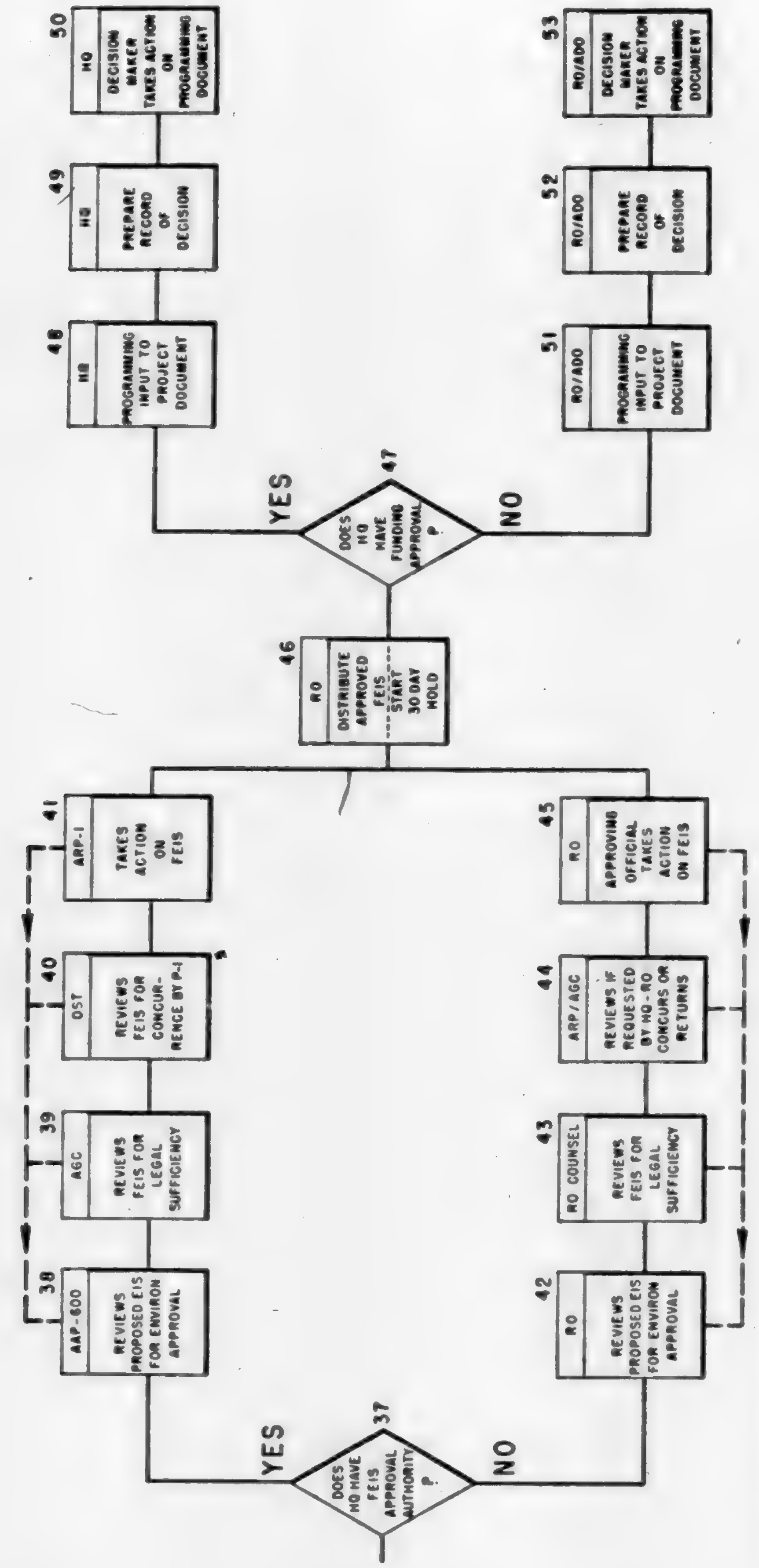
37
DOES HQ HAVE FEIS APPROVAL AUTHORITY ?
YES
NO
38 AAP-600
REVIEWS PROPOSED EIS FOR ENVIRON APPROVAL
39 AGC
REVIEWS FEIS FOR LEGAL SUFFICIENCY
40 OST
REVIEWS FEIS FOR CONCURRENCE BY P-1
41 ARP-1
TAKES ACTION ON FEIS
42 RO
REVIEWS PROPOSED EIS FOR ENVIRON APPROVAL
43 RO COUNSEL
REVIEWS FEIS FOR LEGAL SUFFICIENCY
44 ARP/AGC
REVIEWS IF REQUESTED BY HQ-RO CONCURS OR RETURNS
45 RO
APPROVING OFFICIAL TAKES ACTION ON FEIS
46 RO
DISTRIBUTE APPROVED FEIS
START 30 DAY HOLD
47
DOES HQ HAVE FUNDING APPROVAL ?
YES
NO
48 HQ
PROGRAMMING INPUT TO PROJECT DOCUMENT
49 HQ
PREPARE RECORD OF DECISION
50 HQ
DECISION MAKER TAKES ACTION ON PROGRAMMING DOCUMENT
51 RO/ADO
PROGRAMMING INPUT TO PROJECT DOCUMENT
52 RO/ADO
PREPARE RECORD OF DECISION
53 RO/ADO
DECISION MAKER TAKES ACTION ON PROGRAMMING DOCUMENT

[FR Doc. 80-25670 Filed 8-22-80; 8:45 am]

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federal register

Monday
August 25, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Importation, Exportation and Transportation of Wildlife; Final Rules

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 10, 13, and 14

Importation, Exportation and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking implements provisions of the Endangered Species Act of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Lacey Act, the Black Bass Act, and other statutes administered by the Service, by amending certain regulations governing the importation, exportation, and transportation of wildlife. The temporary permission to do business granted in the **Federal Register** on March 5, 1974 (39 FR 8357), to all persons engaged in business as importers or exporters of wildlife is replaced by a licensing system which regulates all persons who import or export wildlife for grain or profit. The licensing system is intended to improve the Service's ability to monitor wildlife traffic, protect wildlife resources, and communicate with persons most affected by subsequent Service rulemakings. Controls on the exportation of wildlife, including declaration requirements, have been added to complement those in effect for the importation of wildlife. These controls, implementing obligations regarding certain wildlife exports placed on the Service by the Endangered Species Act of 1973 and the Convention, are expected to provide the Service with previously lacking information on export volume, in total and by species, and should further the Service's ability to protect wildlife resources. The definition of "fish or wildlife," the cornerstone of the regulatory scheme, has been broadened to include species not currently covered, yet remains restrictive enough to exclude domestic varieties of animals. Some ports through which certain wildlife may enter or leave the United States have been changed to coincide with actual wildlife traffic patterns, or to accommodate importers of personally owned pet birds or certain antique articles who must comply with the port of entry requirements of other Federal agencies. Finally, the container marking requirements derived from the Black Bass and Lacey Acts have been simplified.

EFFECTIVE DATE: September 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION:

Background

The Service enforces a variety of laws relating to the importation, exportation, and transportation of wildlife. Some of these laws apply only to certain species of wildlife, while others are of general applicability. Based on these laws, the Service regulates with varying emphasis the importation, exportation, and transportation of wildlife along the functional lines of wildlife transactions. This organization provides uniform rules and procedures for controlling the movement of wildlife within a comprehensive, understandable, and workable system.

The Service has reviewed these regulations which are enforced by the Service with the cooperation of the U.S. Customs Service and other Federal and State agencies. In its review, the Service found the need to resolve ambiguities, clarify requirements or procedures, or institute changes in procedures. This rulemaking is intended to accomplish these tasks.

In addition, both the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, hereinafter referred to as the "ESA") and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as the "Convention" or by the acronym CITES) obligate the United States to control the exportation of certain wildlife and plants. As a result, this rulemaking contains a general revision of regulations regarding the exportation of wildlife.

Also, section 9(d) of the ESA (16 U.S.C. 1538(d)) makes it unlawful for any person to engage in business as an importer or exporter of fish or wildlife, other than certain shellfish and fishery products, without first having obtained permission from the Secretary of the Interior. On March 5, 1974, the Service granted temporary permission to all such persons by a notice in the **Federal Register** (39 FR 8357). That notice indicated that rules for obtaining permission on a more permanent basis would be promulgated at a later date.

On March 27, 1978 (43 FR 12830-12837), the Service published a proposed rulemaking to amend its regulations pertaining to the importation, exportation, and transportation of wildlife, to meet the needs and obligations addressed above. All interested parties were invited to submit written comments which might contribute to the formulation of a final rulemaking. Additionally, in response to many requests, public hearings were held on October 6 and 12, 1978, in Denver, Colorado, and Washington, D.C., respectively, in which oral testimony was given by individuals who had requested to testify following the public hearing notice published in the **Federal Register** on August 23, 1978 (43 FR 37473). All written comments and hearing testimony have been considered in preparation of this rulemaking.

Summary of Comments

The comment period ran from March 27, 1978, to May 26, 1978, and was reopened on August 23, 1978, until October 31, 1978. A total of 630 responses (including oral testimony) were received and have been classified by origin as follows:

Government (State and Federal)	21
Research (Medical and University)	6
Zoos, Museums	20
Conservation Groups	13
Pet Industry	39
Furriers	65
Taxidermists	281
Trappers	20
Breeders	8
Designated Port Requests	44
General Public	113

The following is a summary of the comments arranged by topic; a discussion of any issue raised under a topic by a particular interest group, where applicable; and the Service's response to the comments, including changes from the proposed rulemaking, except corrections to typographical errors or minor technical or editorial changes.

Definition of "Fish or Wildlife"

A number of comments found the proposed definition of "fish or wildlife" in § 10.12 overbroad. The Service attempted to use the ESA definition, but encountered difficulties. The ESA definition does not exclude domestic animals; therefore, the regulations would have to be riddled with exceptions for the importers or exporters of domestic animals or their products, otherwise those importers or exporters would generally be required to use certain Customs ports and file a Declaration for Importation or Exportation of Wildlife (USFWS Form 3-177), and would be subject to sanctions if they did not. Instead, the Service has retained the word "wild" used in the former definition, which restricts the applicability of the regulations to those animals normally found in a wild state, whether or not bred, hatched, or born in captivity. At the same time the definition has been broadened to include species covered by the ESA. Without providing specific exceptions, varieties of domestic animals have been eliminated from the rules coverage, which the Service has no need to monitor or control and those for which any attempt would be practically impossible. Furthermore, any ambiguity which may arise by basing exceptions on the word "domestic" is eliminated. No statutes enforced by the Service define that term, yet "wild" is defined by the Lacey Act (18 U.S.C. 42).

Import/Export License

By far the greatest number of comments addressed the Service's proposal to implement section 9(d) of the ESA by requiring any person who engages in business as an importer or exporter of wildlife to be licensed. Section 9(d) of the ESA, as noted above, makes it unlawful "for any person to engage in business as an importer or exporter of fish or wildlife * * * without having first obtained permission from the Secretary (of the Interior)." On its face section 9(d) applies to all wildlife as defined by the ESA, not to just endangered or threatened wildlife as suggested by many commenters. In addition, the permission required from the Secretary may take the form of a license or permit. These three terms, permission, license, and permit, were used interchangeably when section 9(d) was drafted by Congress.

Numerous commenters responded that there are adequate laws in force to monitor the import/export traffic in wildlife. The Service is aware that many persons required to be licensed by this rulemaking are covered by regulations promulgated by other agencies. However, the Service regulations provide a comprehensive scheme involving only wildlife resources. Through licensing the Service will be able to identify those persons who engage in business as importers or exporters of wildlife, which will in turn improve communications between the Service and these licensees, who are most likely to be affected by subsequent Service rulemakings. Further, the ESA requires more than the mere permission of the Secretary for a person to engage in business as an importer or exporter of wildlife. Such persons are subject to recordkeeping, inspection, and reporting requirements. Again, through licensing, these requirements can be enforced, with sanctions available for noncompliance.

The definition of "engage in business as an importer or exporter of wildlife" has been redefined. The word "continuously" has been deleted, and the activity involving the importation or exportation of wildlife need only be "for gain or profit." Strictly construed, the Service could not enforce the licensing provision with the adverb "continuously" included; importers or exporters whose activities are substantial, but intermittent, would remain unregulated. Importers or exporters have also been alerted that a license may be required even though they are not considered to be importers or exporters by the customs laws of the United States. Divergence from customs law is found in the definition of "import" under section 3(10) of the ESA, 16 U.S.C. 1532(10), which states explicitly that customs law is not controlling. Similar admonishments have been included under the import/export license.

A substantial number of commenters requested that the issuance of import/export licenses be mandatory and not discretionary, and that a grandfather clause be applied to all current importers or exporters. As noted above, the Service has for some time operated under a grandfather clause. On March 5, 1974 (39 FR 8357), the Service granted temporary permission to all persons engaged in business as an importer or exporter of wildlife, and specified that regulations would be promulgated establishing a system for obtaining permission on a more permanent basis. Issuance, denial, suspension, revocation, and renewal of these licenses are governed by the general permit procedures of Part 13. For clarity, a reference to Part 13 has been included under § 14.93(f). Also, § 13.21(b) removes much of the discretion the Service has in deciding whether to issue a license. A license shall be issued unless one of the stated conditions exists, whereupon the issuance becomes discretionary. For this reason § 14.93 contains the language "may," but the discretion of the Service is substantially limited.

Administrative review of the denial of a license is available under § 13.21(d). The Service is currently developing more explicit regulations in this area, and for the procedure to be followed when a violation of the license is alleged, including criteria for the suspension or revocation of a license.

Section 14.93(c) has been added to allow applicants for a license to continue to engage in business under the temporary permission of the Secretary of the Interior until the application has been finally acted upon by the Service, if a complete application is received by the Service on or before December 31, 1980. Concern of the pet industry that too much time would elapse between promulgation of the proposal and issuance of licenses should be alleviated by this provision.

Several commenters expressed the view that licenses should be valid indefinitely, or for some period greater than the two years provided. The Service believes that the two-year period, which is consistent with the time period for licenses issued by other Federal agencies, will enable the Service to maintain current and valid information on licensees, a task made otherwise difficult by the relatively high turnover rate of many of the businesses to be licensed.

The inclusion or deletion of certain persons required to be licensed resulted in opposition from a number of the affected groups. Taxidermists, which were the largest single group submitting comments, objected strenuously. However, only taxidermists importing or exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens are required to be licensed. These taxidermists are responsible for the movement of wildlife and are involved in its shipping. It was frequently argued that they are only agents of the importer or exporter. Ownership of the wildlife, however, is not a prerequisite to the licensing requirement; consignees and others are also included. For this reason freight forwarders are also included over strenuous objections. Freight forwarders are often consignees of wildlife shipments. When a shipment is received, any evidence of the consignor is usually obliterated and the shipment is forwarded. Therefore, a wildlife shipment cannot be traced from the supplier to the purchaser or ultimate consignee, or from the purchaser or ultimate consignee to the supplier without guaranteed access to the records of the freight forwarder.

Section 14.91(c)(4), as it appeared in the proposed rulemaking, has been deleted, and laboratory research suppliers, who actually import the overwhelming percentage of animals imported for research purposes, have been shifted to subparagraph (c)(1) of the same section along with the addition of biological suppliers. Scientific researchers are not generally utilizing wildlife for commercial purposes, and their suppliers are otherwise covered by this section. Thus, the Service is still able to monitor the import/export traffic in wildlife without interfering with scientific research. That same section when read in conjunction with § 14.92(b)(3), providing for an exception to the licensing requirement for public

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scientific or educational institutions, also proved to be ambiguous. New subparagraph (c)(4) of § 14.91 has been changed by the deletion of the word "manufacture" because it is inapplicable to items which have already been made into products.

The licensing exception provided to certain persons under § 14.92(b) generally includes persons already regulated by other governmental agencies whose importation or exportation of wildlife is incidental to their primary business purpose. An exception is also provided for governmental agencies and nonprofit organizations. These excepted categories have been redrawn to depict more accurately the persons covered and to indicate that, although a license is not required, other requirements remain in effect including recordkeeping. As described below, the Service is not requesting that a duplicate set of records be compiled, but only that the required information on any importation or exportation of wildlife be maintained, including the disposition of the wildlife. The disposition requirement was omitted from the proposal, but has been added to implement fully section 9(d)(2) of the ESA, 16 U.S.C. 1538(d)(2), which requires records to be kept which fully and correctly disclose the subsequent disposition of any imported or exported wildlife.

The exceptions to the licensing requirement given to importers or exporters of certain wildlife are derived from section 9(d) of the ESA, 16 U.S.C. 1538(d), except the one for captive-bred wildlife. The named captive-bred species were exempted because they are readily distinguished and considered by the Department of Agriculture to be domestic animals.

The application and recordkeeping requirements of the license were felt by many to be excessive, objectionable, and unnecessarily costly to the licensee. The proprietary information which must be included in the application has been simplified, by eliminating the need to furnish a copy of any corporate charter and bylaws.

The recordkeeping requirements of § 14.93(c) are not as burdensome as they might appear. The rulemaking does not direct either licensees or excepted persons to keep an additional set of records; it merely requires as a condition of licensing or as a requirement for certain persons to be excepted that certain information, as set forth in § 14.93(c) or § 14.92(b), be included as a part of whatever business records are presently maintained, and that such records be retained for a period of five years, which is consistent with the statute of limitations for laws administered by the Service. The requirement that the records fully and correctly disclose the subsequent disposition by the licensee or excepted person of the wildlife imported or exported may be met by records which are specimen-specific, on an inventory basis, or a combination of the two depending upon the normal business practice of the importer or exporter. It should be noted that a report of these records is required only if requested.

Finally, the $50 license fee has been retained. This fee is authorized by section 11(f) of the ESA, 16 U.S.C. 1540(f), which allows the Service to "* * * charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act including processing applications and reasonable inspections." A $50 fee spread over two years is reasonable, and should help defer the costs of administering the program.

Definition of "Export"

The proposed definition of export has been deleted. The general meaning of export has been clearly defined by the Supreme Court as "to carry or send abroad." *Canton Railroad Co.* v. *Rogan,* 340 U.S. 511, 515 (1951). Also, utilization of judicial interpretations provides the flexibility necessary to deal with diverse factual situations which, depending on the circumstances, may or may not fall within the beginning of the export process.

Wildlife Declarations

Several commenters questioned the basis for providing an exception under § 14.64(b)(1) to the requirement that a Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) be completed, when the wildlife being exported is not intended for sale and the value is under $250. This exemption adopts the monetary amount provided by the Department of Commerce to exempt one from completing a Shipper's Export Declaration, 16 CFR 30.55. These exportations would clutter any statistical compilation and because of the manner in which the exception is drawn involve wildlife not otherwise specifically regulated by the Service.

The Service also overlooked the possibility that injurious wildlife could be exported without filing an export declaration. This oversight has been corrected and an export declaration must be completed for the exportation of injurious wildlife. Previously, these exportations were undocumented. Now data can be collected to determine if injurious wildlife is being reexported from the United States.

Inspection and Clearance

Many comments referred to the clearance requirements formerly found in Subpart D, which were designated "[Reserved]." This device is used where the provision is removed (*i.e.,* deleted) but reference to it maintains the integrity of the regulations and avoids the subsequent confusion which renumbering may cause.

Other comments were generally split between those which found the revised clearance procedure too lenient and those which found it too strict. One commenter argued that the new § 14.52(c) which replaces § 14.41 does not assure that the Lacey Act, 18 U.S.C. 43, is effectively enforced. For instance, documentation is no longer required to show that wildlife has been lawfully taken in the country of origin, when that country does not require any permit or document. The Service, however, believes that if the foreign country does not require official documentation, the documents presented upon importation will often be of doubtful reliability. Furthermore, under § 14.53(a), clearance may be refused whenever, under all the circumstances, there are reasonable grounds to believe that the Lacey Act, or any other Federal law or regulation, has been violated. Also, the Service has rejected suggestions to require only that documentation which physically accompanies the shipment. An importer must present all permits or other documents required by the laws or regulations of any foreign country, and clearance may be refused if they are not available or authentic.

Several commenters wanted inspection and refusal of clearance to be mandatory rather than discretionary and felt these activities should be conducted only by inspectors or agents of the Service. Others commented that the inspection and clearance requirements already involve too much delay. The inspection and clearance procedure adopted continues the past practice, with slight modification. The Service believes this procedure has been effective and expedient. In some situations where unreasonable delay is involved, clearance may be conducted by Customs officers, subject to post-clearance inspection and investigation by the Service. Clearance by either Service or Customs officers does not constitute a certification of the legality of an importation under the laws or regulations of the United States.

Although widlife exports may be subject to detention for inspection, no export clearance procedure has been adopted. However, a procedure for permit validition by the Service prior to exportation remains as a permit condition for wildlife exports requiring either an export permit or a reexport certificate under the ESA or the Convention.

A description of the steps which may be taken when wildlife is refused clearance has been deleted. It would be impossible to specify in advance the appropriate procedure for each factual situation involving a refusal of clearance.

Marking Requirements

In response to a number of comments, § 14.82(a) has been simplified. The marking requirement may be satisfied by conspicuously marking on the outside of each package or container the word "fish" (or "wildlife" as appropriate) or the common name and attaching an invoice or packing list to the outside of just one package or container in the shipment. The use of the confusing term "generic" has also been omitted and scientific names need not be used if the alternatives to the marking requirement are followed. One commenter suggested that telephone numbers be placed on containers in the event of an emergency. Although not required by these regulations, anyone subject to the marking requirement may include such information.

Ports

1. *Generally.* Most commenters felt the activities which could be conducted at certain ports are too limited. The basis for regulations in this area is section 9(f) of the ESA, 16 U.S.C 1538(f). The designated port is the keystone of the importation and exportation process. No particular conditions are placed on the use of these ports. From these the Service has expanded to recognize border and special ports, through which certain wildlife may be moved, and recognized that certain wildlife may move through any port. This scheme involves balancing the convenience to the importer or exporter with the restrictions imposed by a limited number of Service personnel.

If the wildlife requires a permit or certificate under 50 CFR Parts 16, 17, 18, 21, or 23 it must move through a designated port unless an exception to that requirement is applicable. Otherwise, the convenience of the importer or exporter has been given considerable attention.

To ease the burden on persons applying for designated port exception permits the number and kinds of the wildlife involved need only be provided "where such number and kinds can be determined." This should provide enough flexibility in the issuance of permits to import or export wildlife at nondesignated ports where the species and amount are not determined in advance. However, identification of the wildlife must occur at the time of importation, except for scientific specimens which must be described within 180 days of the importation date.

Section 14.14 has been divided into subsections (a) and (b) in order to draw the distinction between the designated port in-transit requirement for imports into the United States and the exception from the designated port requirement provided for foreign in-transit shipment through the United States.

Section 14.19 has been divided into subsections (a), (b), and (c) to allow exports as well as imports through special ports for wildlife originating in or intended for final destination as appropriate, in the geographic locations specified for those special ports.

2. *Designated port requests.* A number of requests were made to designate Houston, Texas; Dallas, Texas; Denver, Colorado; San Diego, California; Boston, Massachusetts; and Washington, D.C., as ports where the importation or exportation of wildlife is authorized. Other comments sought the designation of certain border ports or objected to the deletion of others. As noted in the proposal these changes are in response to the volume of wildlife traffic through certain ports.

A substantial interest was demonstrated in designating Dallas/Ft. Worth as a port of entry. The Service found those comments persuasive, particularly after reviewing the volume of wildlife traffic through that area. As soon as possible the Service will attempt to establish Dallas/Ft. Worth as a designated port, subject to the availability of additional funds and resources with which to staff the port. For other cities the Service is continuing to study the situation and appreciates the evidence submitted on behalf on these cities. However, funding and personnel limitations preclude any expansion or reformulation of the list at this time.

3. *Designated port exceptions for personally owned pet birds and certain antique articles.* It has been brought to the attention of the Service that the Department of Agriculture has special regulations governing the importation of personally owned pet birds. Provisions have been added to allow for their importation at ports designated by the Department of Agriculture, and to allow clearance by Customs officials if Service personnel are unavailable.

Similarly, the U.S. Customs Service is proposing regulations to allow the importation of certain antique articles made from endangered or threatened wildlife. The Endangered Species Act Amendments of 1978 (Pub. L. 95–632, November 10, 1978, hereinafter referred to as the "Amendments") amended the ESA (16 U.S.C. 1539(h)) to permit the importation of certain antique articles (other than scrimshaw) which: (1) Were made before 1830, (2) are composed in whole or in part of any endangered or threatened species listed under 50 CFR 17.11 or 17.12, (3) have not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973, and (4) are entered at certain ports. Scrimshaw is defined in a 1976 amendment to the ESA, 16 U.S.C. 1539(f), as "any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea."

Also under the amendments, the Secretary of the Treasury, after consultation with the Secretary of the Interior, is authorized to establish by regulation the documentation necessary for the importation of the specified antique articles and to designate a port or ports within each Customs region at which the articles must be entered.

Therefore, to coordinate with U.S. Customs Service regulations, importers of the above-described antique articles may use ports designated by Customs. Articles which are allowed entry by Customs are not required to be cleared by the Service. However, a completed Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) must be filed before release from Customs custody with the District Director of Customs, who will forward the form to the Service. Any article not entered by Customs will be treated as an import subject to all applicable Service regulations.

4. *Shellfish and fishery products.* Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port of entry, unless they are listed as endangered or threatened species under Part 17. The exception for these items found in § 1421 is no longer limited to the listed portions of the Tariff Schedules of the United States (T.S.U.S.).

Plants

Several commenters, including State or Federal agencies and conservation

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groups, questioned why the proposal made no provision for controlling import/export traffic in plants. While the Service recognizes that it has the responsibility under the ESA for designating ports for the importation and exportation of plants as well as wildlife, the Service does not desire to act in this regard without input from the Department of Agriculture. Representatives of the Service have met with officials from the Department of Agriculture's Animal and Plant Health Inspection Service in order to develop plans to enforce the ESA with respect to plants. However, it should be pointed out that such implementation was not intended as a part of this rulemaking when it was proposed. The Service feels that the best course of action is to implement the licensing program for wildlife with this rulemaking and to resolve the plant questions at a later date.

Other Comments

Many commenters felt an environmental impact statement should be completed. In response, the Service completed an environmental assessment, which is noted below. Also, a number of commenters felt an economic impact statement should be completed. This document has since been replaced by a regulatory analysis. As also noted below, the Service has determined that a regulatory analysis is not required.

Description of the Final Rulemaking

The final rules contain the provisions enumerated below:

1. The definition of "fish or wildlife" at § 10.12 is broadened to include any arthropod, coelenterate, or other invertebrate; and clarified to include any wild animal, whether or not bred, hatched, or born in captivity.

2. The border port status of Tok Junction, Alaska; Norton, Vermont; Noyes, Minnesota; Oroville, Washington; and San Luis, Arizona, is terminated. Border port status is conferred on Alcan, Alaska; Jackman, Maine; Pembina, North Dakota; and Lukeville, Arizona.

3. Tampa, Florida, is no longer a Customs port of entry authorized for the importation of tropical, ornamental, and aquarium fish.

4. Section 14.17 allows personally owned pet birds to be imported at any port designated under 9 CFR Part 92 as a port of entry for pet birds, if the provisions of 9 CFR Part 92 are met. Under § 14.54(c) clearance may be obtained from Customs officers if a Service officer is not available within a reasonable time.

5. Section 14.21 is modified to conform to section 9(f)(1) of the ESA which excepts shellfish or fishery products imported for human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes from the designated port requirements, unless a permit or certificate is required by Part 17.

6. Section 14.22 allows certain antique articles, as defined, to be imported at ports designated by Customs. Under § 14.55(c) clearance of these articles by the Service is not required if they are allowed entry by Customs. If entry is refused the article will be treated as an import subject to all applicable Service regulations.

7. Export controls are accomplished by adding the word "exportation" where appropriate in the existing rules. The effect is to require most wildlife exports to occur at either a designated, border, or special port, unless an exception is available. Wildlife exports are subject to detention for inspection and inspection, but not clearance. The clearance requirements still apply only to wildlife imports. However, export permits or reexport certificates issued under 50 CFR Parts 17 or 23 include as a permit condition a procedure for permit validation by the Service prior to exportation.

8. The Convention has placed certain obligations on the United States to require import permits, export permits from the country of origin, or reexport certificates from the country of reexport for certain wildlife (50 CFR Part 23). In order to properly implement the Convention obligations, subpart D (foreign documentation) of Part 14 is deleted in its entirety. Instead, to obtain clearance for any wildlife under § 14.52 an importer must make available to a Service officer all permits or documents (including reexport certificates) required by the laws or regulations of any foreign country or the United States.

9. Subpart E of Part 14 restates the inspection provisions of the ESA (16 U.S.C. 1540(e)(3)). It requires that all wildlife imported at a designated port be cleared by a Service officer. Provisions are made for clearance by Customs officers of live animals imported at designated ports when a Service officer is temporarily unavailable. Wildlife lawfully imported under §§ 14.15, 14.16, or § 14.19 may also be cleared by Customs officers. However, any Customs inspection and clearance is subject to subsequent investigation by the Service.

10. Subpart F of Part 14 includes a new § 14.63, which requires a completed Declaration for Exportation of Fish or Wildlife (USFWS Form 3–177) to be filed with the Service prior to the exportation of any wildlife. This subpart also allows scientists importing unidentified wildlife for taxonomic or faunal survey purposes to file a declaration describing the imported wildlife in general terms, with an amended declaration to be filed at a later date after there has been an opportunity to identify the wildlife.

11. The container marking requirements of subpart H of Part 14 are altered to accommodate the accepted commercial practice of the shipping industry, by providing an abbreviated marking alternative when an invoice or packing list is attached to the outside of a package or container in the shipment.

12. A new Subpart I is added to Part 14 to implement the import/export licensing provisions of section 9(d) of the ESA, 16 U.S.C. 1538(d). The new Subpart I identifies certain persons who are required to be licensed, exempts certain wildlife from the licensing requirement, exempts certain persons provided certain recordkeeping and inspection conditions are satisfied, and provides for the administration of licenses by the Service. The application procedure, additional license conditions, and the duration of the license provisions are found in § 14.93. Provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in Part 13.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that issuance of these rules is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The primary author of this rulemaking is Mr. John T. Webb, Division of Law Enforcement, (202) 343–9242.

Regulations Promulgation

Accordingly, Subchapter B of Chapter I Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

PART 10—GENERAL PROVISIONS

§ 10.12 [Amended]

1. Amend § 10.12 by adding the following definition in alphabetical order:

* * * * *

"The term 'fish or wildlife' means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof."

* * * * *

PART 13—GENERAL PERMIT PROCEDURES

§ 13.3 [Amended]

2. Amend § 13.3 by adding the following sentence to the end of the existing text:

* * * As used in this Part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

* * * * *

§ 13.11 [Amended]

3. Amend § 13.11(d) by adding to the end of the table of fees the following:

* * * * *

Import/export license (Part 14 of this subchapter)	$50.00

* * * * *

§ 13.12 [Amended]

4. Amend § 13.12(a)(6) by deleting the reference to "§ 14.42" and substituting a reference to "§ 14.52(c)."

5. Amend § 13.12(b) by adding to the table of reference, after "Symbol marking * * * 14.83," the following:

* * * * *

Import/export license	14.93

* * * * *

6. Revise Part 14 to read as follows:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

Sec.
14.1 Purpose of regulations.
14.2 Scope of regulations.

Subpart B—Importation and Exportation at Designated Ports

14.11 General restrictions.
14.12 Designated ports.
14.13 Emergency diversion.
14.14 In-transit shipments.
14.15 Personal baggage and household effects.
14.16 Border ports.
14.17 Personally owned pet birds.
Sec.
14.18 Marine mammals.
14.19 Special ports.
14.20 Exceptions by permit.
14.21 Shellfish and fishery products.
14.22 Certain antique articles.

Subpart C—Designated Port Exception Permits

14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.
14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.
14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Wildlife

14.51 Inspection of wildlife.
14.52 Clearance of imported wildlife.
14.53 Refusal of clearance.
14.54 Unavailability of Service officers.
14.55 Exceptions to clearance requirements.

Subpart F—Wildlife Declarations

14.61 Import declaration requirements.
14.62 Exceptions to import declaration requirements.
14.63 Export declaration requirements.
14.64 Exceptions to export declaration requirements.

Subpart G—[Reserved]

Subpart H—Marking of Containers

14.81 Marking requirement.
14.82 Exceptions and alternatives to the marking requirement.
14.83 Symbol marking permit.

Subpart I—Import/Export Licenses

14.91 License requirement.
14.92 Exceptions to license requirement.
14.93 License application procedure, conditions, and duration.

Authority: Lacey Act (18 U.S.C. 42–44); Endangered Species Act of 1973 (16 U.S.C. 1538(d)–(f), 1540(f); Marine Mammal Protection Act of 1972 (16 U.S.C. 1382); Migratory Bird Treaty Act (16 U.S.C. 704, 712); Act of August 31, 1951, Ch. 376, Title 5, sec. 501 (31 U.S.C. 483a); Black Bass Act (16 U.S.C. 852c).

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the importation, exportation, and transportation of wildlife.

§ 14.2 Scope of regulations.

The provisions in this part are in addition to, and do not supersede other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and transportation of wildlife.

Subpart B—Importation and Exportation at Designated Ports

§ 14.11 General restrictions

Except as otherwise provided in this part, no person may import or export any wildlife at any place other than a Customs port of entry designated § 14.12.

§ 14.12 Designated ports.

The following Customs ports of entry are designated for the importation or exportation of wildlife and are referred to hereafter as "designated ports:"

(a) Los Angeles, California;
(b) San Francisco, California;
(c) Miami, Florida;
(d) Honolulu, Hawaii;
(e) Chicago, Illinois;
(f) New Orleans, Louisiana;
(g) New York, New York; and
(h) Seattle, Washington.

§ 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency must proceed as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

§ 14.14 In-transit shipments.

(a) Wildlife destined for a point within the United States may be imported into the United States at any port if such wildlife proceeds as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

(b) Wildlife moving in-transit through the United States from one foreign country to another foreign country is exempt from the designated port requirements of this part, if such wildlife is not unloaded within the United States.

§ 14.15 Personal baggage and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage may be imported into or exported from the United States at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to or from the United States may be imported or exported at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw fur; raw, salted, or crusted hide or skin; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

§ 14.16 Border ports.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Canada or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Alaska—Alcan;
(2) Idaho—Eastport;
(3) Maine—Calais, Houlton, Jackman;
(4) Massachusetts—Boston;
(5) Michigan—Detroit, Port Huron, Sault Sainte Marie;
(6) Minnesota—Grand Portage, International Falls, Minneapolis-St. Paul;
(7) Montana—Raymond, Sweetgrass;
(8) New York—Buffalo-Niagara Falls, Champlain;
(9) North Dakota—Dunseith, Pembina, Portal;
(10) Ohio—Cleveland;
(11) Vermont—Derby Line, Highgate Springs; and
(12) Washington—Blaine, Sumas.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Mexico or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Arizona—Lukeville, Nogales;
(2) California—Calexico, San Diego-San Ysidro; and
(3) Texas—Brownsville, El Paso, Laredo.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, or 21 of this Subchapter B, wildlife lawfully taken by U.S. residents in the United States, Canada, or Mexico and imported or exported for noncommercial purposes, may be imported or exported at any Customs port of entry.

§ 14.17 Personally owned pet birds.

Any person may import a personally owned pet bird at any port designated under, and in accordance with, 9 CFR Part 92.

§ 14.18 Marine mammals.

Any person subject to the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and who is authorized to import such marine mammal in accordance with the Marine Mammal Protection Act of 1972 and implementing regulations (50 CFR Parts 18 and 216) may import such marine mammal at any port or place.

§ 14.19 Special ports.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands, may be imported through those Customs ports of entry named hereafter for the respective State or Territory of final destination:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
(2) Puerto Rico—San Juan; and
(3) Virgin Islands—San Juan, Puerto Rico.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which originates in Alaska, Puerto Rico, or the Virgin Islands, may be exported through the following Customs ports for the respective State or Territory:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
(2) Puerto Rico—San Juan; and
(3) Virgin Islands—San Juan, Puerto Rico.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which has a final destination of Guam or which originates in Guam may be imported or exported, as appropriate, through the port of Agana, Guam.

§ 14.20 Exceptions by permit.

Wildlife may be imported into or exported from the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to Subpart C of this part.

§ 14.21 Shellfish and fishery products.

Except for wildlife requiring a permit pursuant to Part 17 of this subchapter, shellfish and fishery products, imported or exported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port of entry.

§ 14.22 Certain antique articles.

Any person may import any article (other than scrimshaw, which is hereby defined as any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea) that was made before 1830, is composed in whole or in part of any endangered or threatened species listed under § 17.11 or § 17.12 of this subchapter, and has not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973, at any port designated under 19 CFR 12.26 for the importation of such antique articles.

Subpart C—Designated Port Exception Permits

§ 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife for scientific purposes at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port for scientific purposes must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The scientific purpose or uses of the wildlife to be imported or exported;

(2) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port; and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following condition: Permittee shall file such reports as specified on the permit, if any.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Benefit to a *bona fide* scientific research project, other scientific purpose, or facilitation of the exchange of preserved museum specimens;

(2) The kind of wildlife involved and its place of origin;

(3) The reasons why the exception is requested; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife, in order to minimize deterioration or loss, at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to minimize deterioration or loss must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show that an importation or exportation at a designated port would result in a substantial deterioration or loss to the wildlife); and

(4) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are to be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Likelihood of a substantial deterioration or loss of the wildlife involved;

(2) The kind of wildlife involved and its place of origin; and

(3) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid more than 2 years from the date of issuance.

§ 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife in order to alleviate undue economic hardship at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedures.* Applications for permits to import or export wildlife at a nondesignated port to alleviate undue economic hardship must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported, where such number and kinds can be determined, and a description of the form in which it is to be imported, such as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The name and address of the supplier or consignee;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show the monetary difference between the cost of importation or exportation at the port requested and the lowest cost of importation or exportation at the port through which importation or exportation is authorized by Subpart B without a permit); and

(5) A statement as to whether exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following conditions:

(1) Permittee shall file such reports as specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) The difference between the cost of importing or exporting the wildlife at the port requested and the lowest cost of importing or exporting such wildlife at a port authorized by these regulations without a permit;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) The kind of wildlife involved, including its form and place of origin; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Wildlife

§ 14.51 Inspection of wildlife.

Subject to applicable limitations of law, Service officers may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation.

§ 14.52 Clearance of imported wildlife.

(a) Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by a Service officer prior to release from detention by Customs officers. Such clearance does not constitute a certification of the legality of an importation under the laws or regulations of the United States.

(b) Clearance by a Service officer may be obtained only at designated ports (§ 14.12), at border ports (§ 14.16), at special ports (§ 14.19), or at a port where importation is authorized by a permit issued under Subpart C of this part. Any wildlife released without a Service officer's clearance or clearance by Customs for the Service under authority of § 14.54 must be returned forthwith to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer, or the importer's agent, shall make available to a Service officer:

(1) All shipping documents (including bills of lading, waybills and packing lists or invoices);

(2) All permits or other documents required by the laws or regulations of the United States;

(3) All permits or other documents required by the laws or regulations of any foreign country; and

(4) The wildlife being imported.

§ 14.53 Refusal of clearance.

Any Service officer, or Customs officers acting under § 14.54, may refuse clearance of imported wildlife when there are reasonable grounds to believe that:

(a) A Federal law or regulation has been violated;

(b) The correct identity of the wildlife has not been established (in such cases, the burden is upon the owner, importer, or consignee to establish such identity);

(c) Any permit or other documentation required for clearance of such wildlife is not available or is not authentic; or

(d) The importer, or the importer's agent, has filed an incorrect or incomplete declaration for importation as provided in § 14.61.

§ 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by a Service officer before Customs clearance and release. However, if a Service officer is not available within a reasonable time, live wildlife may be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(b) *Border and special ports.* Wildlife lawfully imported at Canadian or Mexican border ports under § 14.16, or into Alaska, Puerto Rico, or the Virgin Islands, under § 14.19, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(c) *Permit imports.* Wildlife imported at a nondesignated port in accordance with the terms of a valid permit issued under Subpart C of this part, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(d) *Personal baggage and household effects.* Wildlife lawfully imported at any port of entry under § 14.15, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(e) *Personally owned pet birds.* Personally owned pet birds lawfully imported at a port of entry under § 14.17, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

§ 14.55 Exceptions to clearance requirements.

Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, clearance is not required for the importation of the following wildlife:

(a) Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Marine mammals lawfully taken on the high seas by United States residents and imported directly into the United States; and

(c) Certain antique articles as specified in § 14.22 which have been released from custody by Customs officers under 19 U.S.C. 1499.

Subpart F—Wildlife Declarations

§ 14.61 Import declaration requirements.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177), signed by the importer or the importer's agent, shall be filed with the Service at the time and place where clearance under § 14.52 is requested, unless the wildlife is to be transshipped under bond to a different port for release from custody by Customs officers under 19 U.S.C. 1499 or is a certain antique article as specified in § 14.22, in which case the Form 3–177 shall be filed with the District Director of Customs at that port before release from Customs custody. All applicable information requested on the Form 3–177 shall be furnished, and the importer, or the importer's agent, shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

§ 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for importation of shellfish and fishery products imported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for importation of the following:

(1) Fish taken for recreational purposes in Canada or Mexico;

(2) Game mammals or birds from Canada or Mexico for which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs Form 3315) has been filed with the U.S. Customs Service:

(3) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a Form 3–177 must be filed for raw or dressed furs; for raw, salted, or crusted hides or skins; and for game or game trophies where the exception in paragraph (b)(2) of this section does not apply; and

(4) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving

their residence to the United States, except that a delcaration must be filed for raw or dressed furs; and for raw, salted, or crusted hides or skins.

(c) *General declarations for certain specimens.* Notwithstanding the provisions of § 14.61, scientific specimens imported for scientific institutions for taxonomic or faunal survey purposes may be described in general terms on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177), provided an amended Form 3–177 specifically describing the wildlife imported is submitted to the Service within 180 days after the filing of the general declaration. Extensions of this 180 day period may be granted by the Director.

§ 14.63 Export declaration requirements.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) signed by the exporter, or the exporter's agent, shall be filed with the Service prior to the export of any wildlife at the port of exportation as authorized in subpart B of this part. All applicable information requested on the Form 3–177 shall be furnished, and the exporter or the exporter's agent shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

§ 14.64 Exceptions to export declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish and Wildlife (form 3–177) does not have to be filed for the exportation of shellfish and fishery products imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for the exportation of the following:

(1) Wildlife which is not intended for sale where the value of such wildlife is under $250; and

(2) Wildlife products or manufactured articles, including game trophies, which are not intended for sale and are worn as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States.

Subpart G—[Reserved]

Subpart H—Marking of Containers

§ 14.81 Marking requirement.

Except as otherwise provided in this subpart, no person may ship, transport, carry, bring or convey any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

§ 14.82 Exceptions and alternatives to the marking requirement.

(a) The requirements of § 14.81 may also be met by (1) conspicuously marking on the outside of each package or container the word "Fish" (or "Wildlife" as appropriate) or the common name and (2) securely attaching to the outside of one package or container in the shipment an invoice or packing list which contains the name and address of the consignee and shipper and which accurately states the number or other appropriate measure of quantity of each species contained in the shipment.

(b) The requirements of § 14.81 do not apply to packages or containers containing:

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products, that have been bred and born in captivity if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Furs, hides or skins that are shipped, transported, carried, brought or conveyed in interstate commerce if the names and addresses of the shipper and consignee are clearly and conspicuously marked on the outside thereof; and

(3) Wildlife shipped, transported, carried, brought, or conveyed in interstate or foreign commerce where such packages or containers are clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 14.83.

§ 14.83 Symbol marking permit.

(a) *General.* The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 14.81.

(b) *Application procedures.* Applications for symbol marking permits must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The estimated number and kinds of wildlife to be transported in interstate or foreign commerce, described by scientific and common names;

(2) Form in which transported, such as "raw skins," "fur garments," "pearl strands," or "fine leather goods;"

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) A detailed statement of the reasons why the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(5) At the option of the applicant, a suggested symbol which is desired; provided that assignment of such symbol is subject to the discretion of the Director.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to use symbol marking are subject to the following special conditions:

(1) The entire symbol must be clearly and conspicuously marked on the outside of each package;

(2) The symbol, together with other identifying numbers or characters, must appear on all shipping documents relating to the packages or containers, and on all declarations required by §§ 14.61 and 14.63; and

(3) The permittee shall, from the effective date of the permit, maintain complete and accurate records of all wildlife identified by the symbol which is actually shipped, transported, carried, brought, or conveyed in interstate or foreign commerce. The records must include a general description of the form of the wildlife, the number of items, the common and scientific names, a description of the package or container, the method of shipment, the date and place of shipment, and the air waybill or bill of lading number. Subject to applicable limitations of law, such records shall be open to inspection, auditing, or copying by Service officers during regular business hours.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Whether the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(2) The kind of wildlife involved and its place of origin.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

Subpart I—Import/Export Licenses

§ 14.91 License requirement.

(a) *Prohibition.* Except as otherwise provided in this subpart, it is unlawful after December 31, 1980, for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

(b) *Definition.* As used in this subpart, the phrase "engage in business as an importer or exporter of wildlife" means for a person to devote time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife whether or not such person is an importer or exporter within the meaning of the customs laws of the United States.

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who engage in the following activities:

(1) Persons importing or exporting wildlife for trade, sale, or resale, such as animal dealers, animal brokers, pet dealers and pet suppliers, and laboratory research suppliers;

(2) Persons importing or exporting wildlife in the form of fur for tanning, manufacture, or sale, such as fur trappers, fur dealers, fur brokers, and fur manufacturers;

(3) Persons importing or exporting wildlife in the form of hides and skins for tanning, manufacture, or sale, such as hide and skin dealers, hide and skin brokers, leather dealers, and leather brokers;

(4) Persons importing or exporting wildlife products (such as garments, bags, shoes, boots, jewelry, rugs, or curios) for sale, such as wholesalers, retailers, distributors, and brokers;

(5) Taxidermists importing or exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens; and

(6) Freight forwarders.

§ 14.92 Exceptions to license requirement.

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following wildlife without procuring an import/export license:

(1) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are imported or exported for purposes of human or animal consumption;

(2) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes; and

(3) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products if the animals have been bred and born in captivity.

(b) *Certain persons.* The following persons may engage in business as importers or exporters of wildlife without procuring an import/export license: *Provided,* That such persons keep such records as will fully and correctly disclose each importation or exportation of wildlife made by them and the subsequent disposition made by them with respect to the wildlife, and that subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to such persons' places of business, an opportunity to examine their inventory of imported wildlife and the records required above, and an opportunity to copy such records:

(1) Common carriers;

(2) Customs house brokers;

(3) Public museums, or other public, scientific or educational institutions, importing or exporting wildlife for research or educational purposes and not for resale;

(4) Federal, State, or municipal agencies;

(5) Circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, or transfer of such wildlife.

§ 14.93 License application procedure, conditions, and duration.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a license authorizing the applicant to engage in business as an importer or exporter of wildlife.

(b) *Application procedure.* Applications for import/export licenses must be submitted to the appropriate Special Agent in Charge (see § 10.22 of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) A brief description of the nature of the applicant's business as it relates to the importation or exportation of wildlife, e.g., "live animal dealer," "fur broker," "taxidermist," "retail department store," and "pet shop;"

(2) If the application is in the name of a business, a statement disclosing the names and addresses of all partners and principal officers;

(3) A statement of where books or records concerning wildlife imports or exports will be kept;

(4) A statement of where inventories of wildlife will be stored; and

(5) Name, address, and telephone number of the officer, manager, or other person authorized to make records or wildlife inventories available for examination by Service officials.

(c) *Applications for licenses received by the Service on or before December 31, 1980.* If a complete application for an import/export license is received by the appropriate Special Agent in Charge on or before December 31, 1980, the applicant may engage in business as an importer or exporter of wildlife until the application has been finally acted upon by the Service.

(d) *Additional license conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, import/export licenses are subject to the following special conditions:

(1) The licensee shall, from the effective date of the license, keep such records as will fully and correctly disclose each importation or exportation of wildlife made by the licensee and the subsequent disposition made by the licensee with respect to such wildlife. The records must include a general description of the form of the wildlife, such as "live," "raw hides," or "fur garments;" the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; the date of the subsequent disposition of the wildlife; the manner of disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and the name and address of the person who received the wildlife pursuant to such disposition, if applicable;

(2) Licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) Licensees shall maintain such books and records for a period of five years;

(4) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the licensee's places of business, an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept under paragraph (d)(1) of this section, and an opportunity to copy such records;

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(5) Licensees shall, upon written request by the Director, submit within 60 days of such request a report containing the information required to be maintained by paragraph (d)(1) of this section; and

(6) An import/export license is only permission to engage in business as an importer or exporter of wildlife. Such a license is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

(e) *Duration of license.* Any license issued under this section expires on the date designated on the face of the license. In no case will the license be valid for more than 2 years from the date of issuance.

(f) *Issuance, denial, suspension, revocation, or renewal of license.* Additional provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in Part 13 of this Subchapter B.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-25735 Filed 8-22-80; 8:45 am]

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Monday
August 25, 1980

Part V

Department of Health and Human Services

Office of Human Development Services

Relocation of Social Services Programs Regulations

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Chapters II and XIII

Relocation of 45 CFR Parts 220, 222, 226, 228, 229, and 231 from 45 CFR Chapter II to Chapter XIII, and a Restatement of 45 CFR Part 225 and Certain Sections of Part 205

AGENCY: Office of Human Development Services (HDS), Department of Health and Human Services (HHS).

ACTION: Final regulations.

SUMMARY: Chapter XIII of title 45 of the Code of Federal Regulations (CFR) has been designated as the locus of all HDS regulations. Accordingly, these final rules relocate all of the program regulations and either repeat or relocate most of the administrative regulations pertaining to the social services programs under the Social Security Act, from 45 CFR Chapter II to 45 CFR Chapter XIII.

The regulations also include two technical amendments. The first is a cross-reference to the Office of Personnel Management's revised "Standards for a Merit System of Personnel Administration." The second revises the staff development (training) requirements for social services programs in the Territories by cross-referencing to the training requirements for the financial assistance programs in the Territories. In addition, we have incorporated several recently published final regulations.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Johnnie U. Brooks, Room 722-E, HHH Building, Department of HHS, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 472-4415.

SUPPLEMENTARY INFORMATION:

Background

The Office of Human Development Services (HDS) is relocating the social services program regulations for titles I, IV-A, IV-B, X, XIV, XVI(AABD), and XX of the Social Security Act from 45 CFR Chapter II to Chapter XIII of the Code of Federal Regulations. In addition, certain administrative regulations related to these programs in 45 CFR Parts 205, 225, 226, and 229 are moved to or repeated in Chapter XIII. This relocation is the result of the 1977 HEW reorganization in which the Social and Rehabilitation Service was abolished and its constituent administrations were moved to other Department of Health, Education, and Welfare (HEW) principal operating components. At that time, the Administration for Public Services was moved to HDS. Chapter XIII of title 45 of the CFR is the locus of all HDS regulations.

Subchapter J (Social Services for Individuals and Families under Titles I, IV-A, X, XIV, and XVI(AABD) of the Social Security Act) and Subchapter K (Social Services for Individuals and Families under Title XX of the Social Security Act) will contain the following Parts which are relocated in Chapter XIII: Part 220 (Social Services for Children and Families under Titles IV-A and IV-B); Part 222 (Social Services for Aged, Blind, and Disabled under Titles I, X, XIV, and XVI(AABD)); Part 226 (Purchase of Service Requirements for Services under Titles I, IV-A, X, XIV, and XVI(AABD)); Part 228 (Social Services for Individuals and Families under title XX); Part 229 (Standard Setting Requirements for Facilities where SSI Recipients Reside); and Part 231 (Child Abuse and Neglect: Provisions Applicable under Titles IV-A and IV-B of the Social Security Act). Part 225 (Training and Use of Subprofessionals and Volunteers); and most of the sections of Part 205 (General Administration—Public Assistance Programs) which pertain to the social services programs under the Social Security Act are repeated in Chapter XIII.

There have been no policy changes made in these regulations, nor has there been any rewriting except to change Social and Rehabilitation Service to Office of Human Development Services; to correct cross-references due to other recoding and recently published rules (e.g., HEW Day Care Regulations); to delete in Part 222 the reference to title VI, a predecessor program to title XX for social services to the aged, blind, and handicapped; and to clarify in which jurisdictions the various titles are operating.

Since Chapter II of 45 CFR has been designated for the use of the Office of Family Assistance (OFA), Social Security Administration (SSA), the regulations which govern their programs (some of which were combined with social services rules), remain in their current location. Therefore, 45 CFR Part 225 and the applicable sections of Part 205 are repeated, (except for references to financial assistance), rather than relocated in Chapter XIII. In addition, we have made certain deletions in Parts 205 and 1391 to conform to 45 CFR Part 74.

Technical Amendments

Personnel Administration

The statutes for the social service programs authorized by titles I, IV-A, X, XIV, XVI(AABD), and XX of the Social Security Act require, as State plan requirements, that State agencies shall establish and maintain personnel standards on a merit basis that are found by the Secretary to be necessary for the proper and efficient operation of the programs. The Department has ruled that State agencies must conform to standards issued by the Office of Personnel Management (OPM), formerly the U.S. Civil Service Commission.

OPM published revised "Standards for a Merit System of Personnel Administration," (Vol. 44, No. 34, **Federal Register**, 10238-10264, 2/16/79). Two technical amendments are being made to cross-reference those revised standards. The title XX regulation regarding personnel administration (Merit System), fomerly found at 45 CFR 228.8, is retitled Standards of Personnel Administration, revised, and relocated in 45 CFR 1396.8. For the Territories, regulations for personnel administration under titles I, IV-A, X, XIV, and XVI(AABD) were found at 45 CFR 205.200. This rule vacates 45 CFR 205.200, revises its contents, and relocates it in 45 CFR 1391.50. The revisions remove duplicative language and reporting requirements, thus simplifying procedures for State agencies.

Staff Development

The regulations implementing the social services programs in the Territories specify that the State plans for titles I, IV-A, X, XIV, and XVI(AABD) must provide for staff and volunteers, a staff development (training) program in accordance with 45 CFR 205.202. The purpose of this requirement is to improve the operation of the State's social services programs and to insure a high quality of service.

These rules contain a technical amendment to the current regulations for staff development (training) in the Territories. They make the final regulations recently published by the Office of Family Assistance (OFA) on training for the financial assistance programs applicable to the social services programs under titles I, IV-A, X, XIV, and XVI(AABD). We agree with the policies contained in the OFA regulation. Furthermore, since the same agency administers all the financial assistance programs as well as social services in these jurisdictions, we believe it is administratively desirable for training regulations to be made as uniform as possible. This rule therefore, vacates 45 CFR 205.202 and places the new requirements in 45 CFR 1392.10 and 1393.8 as appropriate.

Incorporation of Recently Published Final Regulations

The following final rules, recently published in the **Federal Register**, are incorporated in these regulations in order to provide an up-to-date compilation of regulations applicable to the social services programs:

—45 CFR Part 71—HEW Day Care Regulations. These regulations are cross-referenced in 45 CFR 1392.10 and 1392.18 for titles IV–A and IV–B, and in 45 CFR 1396.42 and 1396.86 for title XX.

—Technical amendments to 45 CFR Part 228 pertaining to the disclosure of information required by P.L. 95–142.

—Technical amendments to 45 CFR Parts 220, 222 and 228 to insure that rules governing the social services programs comply with the Department's grant administration requirements as contained in 45 CFR Part 74.

Changes in the Regulations Concerning Titles IV–A and IV–B

When 45 CFR Part 220 was written, and until September 1978, titles IV–A and IV–B (services for children and families under AFDC, and child welfare services, respectively) were administered by the Administration for Public Services (APS) and its variously named predecessor agencies. Also, the title IV–B statute directed that the same State agency (with specified exceptions) which administered the title IV–A program was to administer the title IV–B program. Thus, Part 220 is written so that regulations for titles IV–A and IV–B are applicable to both programs in many respects. In September 1978, as part of the Departmental reorganization, the administration of the title IV–B program was moved from APS to the Administration for Children, Youth and Families (ACYF), another HDS unit. ACYF will revise the regulations for title IV–B once H.R. 3434 has been enacted and will place them in Subchapter G of 45 CFR Chapter XIII, Part 1355. Until that time, however, the regulations for title IV–B remain unchanged but are relocated in 45 CFR Part 1392.

In addition, 45 CFR Part 231 regarding child abuse and neglect, which is also applicable to both titles IV–A and IV–B, is placed in a new Subpart E of 45 CFR Part 1392.

Unlike the program regulations which pertain to title IV–B, we are not relocating those Sections of 45 CFR Part 205, and Part 225 that apply to title IV–B, but are leaving them in their current location for that program as well as for the financial assistance programs.

The Next Step

Concurrent with this relocation, we began an "Operation Common Sense" review of these regulations. This entails policy considerations, rewriting for clarity and simplicity, and possible reorganization of the material. The products of that effort will be issued as proposed regulations.

Waiver of Proposed Rulemaking

We find there is good cause to waive notice of proposed rulemaking because none of these regulations contain any substantive changes, and merely relocate HDS's rules, except for the technical amendments discussed earlier.

The day care regulations (which we cross-reference), were previously available for comment when published in the *FR* as an NPRM. The technical amendment in relation to the staff development regulations in the Territories, was also available for public comment when published as an NPRM by OFA, SSA.

Redesignation Information

Following the Departmental reorganization, as a first step in consolidating all HDS regulations in 45 CFR Chapter XIII, an outline of Subchapter designations was published in the **Federal Register**, November 15, 1977 (42 FR 59087). This outline designated Subchapter J as the location for the social services program regulations administered by APS and Subchapter K as the location for the APS–Work Incentive program (WIN) regulations.

It soon became clear that for clarity and flexibility, HDS needed an additional Subchapter, particularly to separate the regulations for the title XX program from the regulations for the social services programs in the Territories.

Therefore, Subchapter J in Chapter XIII is being redesignated from Subchapter J—*The Administration for Public Services, Social Services for Individuals and Families Program* to Subchapter J—*Social Services for Individuals and Families under Titles I, IV–A, X, XIV, and XVI(AABD) of the Social Security Act.*

Subchapter K in Chapter XIII is being redesignated from Subchapter K—*The Administration for Public Services, Work Incentive program* to Subchapter K—*Social Services for Individuals and Families under Title XX of the Social Security Act.*

A new Subchapter L will be created to accommodate the regulations governing the Work Incentive program when they are transferred to Chapter XIII at a later date.

Tentative Outline of Subchapters

Subchapter J—Social Services for Individuals and Families under Titles I, IV–A, X, XIV, and XVI(AABD) of the Social Security Act.
Part 1390—General Policies and Procedures on Grants to States for Services.
(Part 1390 which will contain 45 CFR Parts 201, 204, 213, and Section 205.5 will be established at a later time.)
Part 1391—General Administration and State Plan Requirements.
Subpart A—General Administration.
Subpart B—(Reserved).
Subpart C—Personnel Management.
Subpart D—Purchase of Services.
Part 1392—Service Programs for Families and Children: Title IV (Parts A and B) of the Social Security Act.
Part 1393—Service Programs for Aged, Blind, or Disabled Persons: Titles I, X, XIV, and XVI(AABD) of the Social Security Act.
Subchapter K—Social Services for Individuals and Families under Title XX of the Social Security Act.
Part 1394—General Policies and Procedures on Grants to States for Services.
(Part 1394 which will contain 45 CFR Parts 201, 204, 213 and Section 205.5 will be established at a later time.)
Part 1395—General Administration and State Plan Requirements.
Part 1396—Social Services Programs for Individuals and Families under Title XX of the Social Security Act.
Part 1397—Standard Setting Requirements for Medical and Non-Medical Facilities Where SSI Recipients Reside.

Subchapter Redesignation Table

Subchapter J

Old Part and New Part

45 CFR Part 205—45 CFR Part 1391.
45 CFR Part 220—45 CFR Part 1392.
45 CFR Part 222—45 CFR Part 1393.
45 CFR Part 225—45 CFR 1391.51.
45 CFR Part 226—45 CFR 1391.70, 1391.71.
45 CFR Part 231—45 CFR Part 1392, Subpart E.

Subchapter K

Old Part and New Part

45 CFR Part 228—45 CFR Part 1396.
45 CFR Part 229—45 CFR Part 1397.

Redesignation Table for 45 CFR Part 205

Old Section and New Section

45 CFR 205.30—45 CFR 1391.2; for titles I, IV–A, X, XIV, XVI(AABD).
45 CFR 205.50—45 CFR 1391.3; for titles I, IV–A, X, XIV, XVI(AABD). 45 CFR 1396.10; for title XX.
45 CFR 205.60—45 CFR 1391.4
45 CFR 205.70—45 CFR 1391.5
45 CFR 205.100—45 CFR 1391.6
45 CFR 205.101—45 CFR 1391.7
45 CFR 205.120—45 CFR 1391.8
45 CFR 205.130—45 CFR 1391.9
45 CFR 205.145—45 CFR 1391.10
} for titles I, IV–A, X, XIV, XVI(AABD)

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45 CFR 205.150—45 CFR 1392.64; for titles IV-A and IV-B. 45 CFR 1393.89; for titles I, X, XIV, XVI(AABD). 45 CFR 1395, Subpart A for title XX.
45 CFR 205.170—45 CFR 1391.11; for titles I, IV-A, X, XIV, XVI(AABD).
45 CFR 205.200—45 CFR 1391.50; for titles I, IV-A, X, XIV, XVI(AABD). 45 CFR 1396.8; for title XX.
45 CFR 205.200—45 CFR 1392.10; for title IV-A. 45 CFR 1393.8; for titles I, X, XIV, XVI(AABD).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Programs No. 13.642, Social Services for Low Income and Public Assistance Recipients; No. 13.645, Child Welfare Services—State Grants; No. 13.810, Assistance Payments—State and Local Training.)

This regulation has been reviewed under the criteria in Executive Order 12044. It does not require a regulatory analysis, since it does not meet the threshold of criteria on economic impact.

Dated: June 6, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

Approved: August 15, 1980.

Nathan J. Stark,

Acting Secretary.

A. 45 CFR Parts 205 and 225 are amended as follows to remove references to the social services programs under titles I, IV-A, X, XIV, XVI (AABD), and XX and to reserve two sections whose contents have been placed elsewhere. The regulations in Parts 205 and 225 will continue to be applicable to the financial assistance and child welfare services programs as indicated.

1. The table of contents is revised as follows:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Sec.
205.5 Plan amendments.
205.10 Hearings.
205.20 [Reserved]
205.25 Eligibility of supplemental security income beneficiaries for food stamps or surplus commodities.
205.30 Methods of administration.
205.35 [Reserved]
205.40 Quality control system.
205.41 Reduction of FFP for incorrect payments by States.
205.45 Federal financial participation in relation to State emergency welfare preparedness.
205.50 Safeguarding information for the financial assistance programs.
205.60 Reports and maintenance of records.
205.70 Availability of agency program manuals.
205.100 Single State agency.
Sec.
205.101 Organization for administration.
205.120 Statewide operation.
205.130 State financial participation.
205.145 [Reserved]
205.146 Specific limitations on Federal financial participation under title IV-A.
205.150 Cost allocation.
205.160 Non-expendable personal property.
205.170 State standards for office space, equipment, and facilities.
205.190 Standard-setting authority for institutions.
205.200 [Reserved]
205.202 [Reserved]

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

2. 45 CFR 205.30 is revised as follows:

§ 205.30 Methods of administration.

State plan requirements: A State plan for financial assistance under title I, IV-A, X, XIV or XVI (AABD) of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

3. The heading and text of 45 CFR 205.50 is revised as follows:

§ 205.50 Safeguarding information for the financial assistance programs.

(a) *State plan requirements.* A State plan for financial assistance under title IV-A of the Social Security Act, except as provided in paragraph (d) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV-A, the plan or program of the State under title IV-B, IV-C, or IV-D, or under title I, X, XIV, XVI (AABD), XIX, or XX or the supplemental security income program established by title XVI (SSI). Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs; and

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Under the requirements of this paragraph (a)(1)(i), disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name and address any such applicant or recipient shall be prohibited; and certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94-12, the Tax Reduction Act of 1975, (see § 235.40 of this chapter) shall be considered to be for a purpose directly connected with the administration of the plan.

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients:

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and amounts of assistance provided (unless excepted under paragraph (d) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual including wage information (see § 205.51) obtained from the agency administering the State unemployment compensation laws or from the Social Security Administration;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving financial assistance is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance programs.

(iii) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(iv) In the event of the issuance of a subpeona for the case record or for any agency respresentative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(3)(i) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make these provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(ii) All information about wages (including that described in § 205.51) will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information about wages will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(b) [Reserved]

(c) *State plan requirements for programs of financial assistance in Puerto Rico, the Virgin Islands, and Guam.* A State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section and also provide for disclosure of information concerning applicants and recipients for use by public officials who require such information in connection with their official duties. Under this requirement, such information shall be available only to public officials who certify in writing that:

(1) They are public officials as defined by State or Federal law of general applicability; and

(2) The information to be disclosed and used is required in connection with their official duties.

(d) *Exception.* In respect to a State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act, exception to the requirements of paragraph (a)(1)(iii) of this section may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

4. 45 CFR 205.60 is revised as follows:

§ 205.60 Reports and maintenance of records.

(a) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, and the provision of financial assistance. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of financial assistance, and basis for discontinuing assistance.

In addition, records kept under a State's IV–A plan will include the individual's social security number.

(2) Under title IV–A, the State agency will establish and maintain statistical records regarding the effect of the use of wage information received from agencies administering State unemployment compensation laws and from the Social Security Administration. The records will include—

(i) The number and dollar value of case closings per month;

(ii) The number and dollar value of grant reductions per month; and

(iii) The number and dollar value of grant increases per month.

5. 45 CFR 205.70 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 205.70 Availability of agency program manuals.

State plan requirements. A State plan for financial assistance under title I, IV–A, IV–B, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, need and amount of assistance, and recipient rights and responsibilities will be maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

* * * * *

6. 45 CFR 205.100 is revised as follows:

§ 205.100 Single State agency.

(a)(1) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) [Reserved]

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies,

rules, and regulations promulgated by the State agency.

7. 45 CFR 205.101 is revised as follows:

§ 205.101 Organization for administration.

(a) A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) Where applicable, a State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the act shall identify the organizational unit within the State agency which is responsible for operation of the plan and shall include a description of its organization and functions and an organizational chart of the unit.

(c) [Reserved]

8. 45 CFR 205.120 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 205.120 Statewide operation.

(a) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

* * * * *

9. 45 CFR 205.130 is revised as follows:

§ 205.130 State financial participation.

State plan requirements:

(a) A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) State (as distiguished from local) funds will be used in both assistance and administration; and

(2) State and Federal funds will be apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

(b) A State plan under title I, IV–A, X, XIV, or XVI (AABD) of the Act must provide further that State funds will be used to pay a substantial part of the total costs of the assistance programs.

(c) [Reserved]

10. 45 CFR 205.145 is deleted and reserved as follows:

§ 205.145 [Reserved]

* * * * *

11. 45 CFR 205.150 is amended by revising paragraphs (a)(1)(i) and (a)(2) to read as follows:

§ 205.150 Cost allocation.

(a) *State plan requirements.* A State plan for financial assistance under titles I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) The single State Agency will have an approved cost allocation plan on file with the SSA, OFA Regional Commissioner, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and SSA, OFA regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single State agency is located (unless specifically waived by the Regional Commissioner); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(2) The single State agency shall revise its cost allocation plan whenever the allocation method shown in the existing plan is outdated due to organizational changes within the State agency, changes in Federal law or regulations, or other similar changes.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

* * * * *

12. 45 CFR 205.170 is amended by revising the introductory text to read as follows:

§ 205.170 State standards for office space, equipment, and facilities.

State plan requirements: A State plan for financial assistance under title I, IV–A, X, XIV, or XVI(AABD) of the Social Security Act must provide that:

* * * * *

13. 45 CFR 205.190 is amended by revising the introductory text of paragraph (a) and revising paragraphs (a) (1) and (2) to read as follows:

§ 205.190 Standard-setting authority for institutions.

(a) *State plan requirements.* If a State plan for financial assistance under title I, X, XIV, or XVI(AABD) of the Social Security Act includes aid or assistance to individuals in institutions as defined in § 233.60(b) (1) and (2) of this chapter the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to SSA, OFA upon request:

* * * * *

14. 45 CFR 205.200 is vacated and reserved and the content revised and relocated to 45 CFR 1391.50.

§ 205.200 [Reserved]

15. 45 CFR 205.202 is vacated and reserved and the content revised and relocated to 45 CFR 1392.10 and 1393.8.

§ 205.202 [Reserved]

PART 225—TRAINING AND USE OF SUBPROFESSIONALS AND VOLUNTEERS

16. 45 CFR 225.2 is amended by revising the introductory text and paragraph (a)(1) to read as follows:

§ 225.2 State plan requirements.

The State plan for financial assistance programs under titles I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act for Guam, Puerto Rico and the Virgin Islands or for child welfare services under title IV–B of the Act must:

(a) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan for financial assistance under titles I, IV–A, X, XIV, or XVI (AABD), of recipients: and will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives:

* * * * *

17. 45 CFR 225.3 is revised to read as follows:

§ 225.3 Federal financial participation.

Under the State plan for financial assistance programs under titles I, IV–A, X, XIV, XVI (AABD) or for child welfare services under title IV–B of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER J—SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES UNDER TITLES I, IV-A, X, XIV, AND XVI (AABD) OF THE SOCIAL SECURITY ACT

B. A new Part 1391 is established to contain the same rules in 45 CFR Parts 205 and 225 to apply to the social services' programs in the Territories, and to relocate 45 CFR Part 226 to read as follows:

PART 1391—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

Subpart A—General Administration

Sec.
1391.1 [Reserved]
1391.2 Methods of administration.
1391.3 Safeguarding information for the social services programs.
1391.4 Reports and maintenance of records.
1391.5 Availability of agency program manuals.
1391.6 Single state agency.
1391.7 Organization for administration.
1391.8 Statewide operation.
1391.9 State financial participation.
1391.10 [Reserved]
1391.11 State standards for office space, equipment, and facilities.

Subpart B—[Reserved]

Subpart C—Personnel Management

Sec.
1391.50 Standards of personnel administration.
1391.51 Training and use of subprofessionals and volunteers.

Subpart D—Purchase of Services

Sec.
1391.70 Purchase of services: State plan requirements.
1391.71 Purchase of services: Federal financial participation.

Subpart A—General Administration

§ 1391.1 [Reserved]

§ 1391.2 Methods of administration.

State plan requirements: A State plan for services under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

§ 1391.3 Safeguarding information for the social services programs.

(a) *State plan requirements.* A State plan for services under title IV–A of the Social Security Act, except as provided in paragraph (d) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV–A, the plan or program of the State under title IV–B, IV–C, or IV–D, or under title I, X, XIV, XVI (AABD), XIX, or XX or the supplemental security income program established by title XVI (SSI). Such purposes include establishing eligibility, determining amount of assistant, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs; and

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Under the requirements of this paragraph (a)(1)(i), disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name and address any such applicant or recipient shall be prohibited; and certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94–12, the Tax Reduction Act of 1975 (see § 235.40 of this chapter), shall be considered to be for a purpose directly connected with the administration of the plan.

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients;

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and services provided (unless excepted under paragraph (d) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving services is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the services programs.

(iii) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(iv) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(3) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make such provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

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(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(b) [Reserved]

(c) *State plan requirements for services programs in Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.* A State plan for services under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section and also provide for disclosure of information concerning applicants and recipients for use by public officials who require such information in connection with their official duties. Under this requirement, such information shall be available only to public officials who certify in writing that:

(1) They are public officials as defined by State or Federal law of general applicability; and

(2) The information to be disclosed and used is required in connection with their official duties.

(d) *Exception.* In respect to a State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act, exception to the requirements of paragraph (a)(1)(iii) of this section may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

§ 1391.4 Reports and maintenance of records.

(a) *State plan requirements.* A State plan for services under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of social services. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of social services, and basis for discontinuing services.

§ 1391.5 Availability of agency program manuals.

State plan requirements. A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, recipient rights and responsibilities, and services offered by the agency, will be maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

(b)(1) A current copy of such material will be made available without charge or at a charge related to the cost of reproduction for access by the public through custodians who (i) request the material for this purpose, (ii) are centrally located and publicly accessible to a substantial number of the recipient population they serve, and (iii) agree to accept responsibility for filing all amendments and changes forwarded by the agency.

(2) Under this requirement the material, if requested, must be made available without charge or at a charge related to the cost of reproduction to public or university libraries, the local or district offices of the Bureau of Indian Affairs, and welfare or legal services offices or organizations. The material may also be made available, with or without charge, to other groups and to individuals. Wide availability of agency policy materials is recommended.

(c) Upon request, the agency will reproduce without charge or at a charge related to the cost of reproduction the specific policy materials necessary for an applicant or recipient, or his representative, to determine whether a fair hearing should be requested or to prepare for a fair hearing; and will establish policies for reproducing policy materials without charge, or at a charge related to cost, for any individual who requests such material for other purposes.

§ 1391.6 Single State agency.

(a)(1) *State plan requirements.* A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) [Reserved]

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies, rules, and regulations promulgated by the State agency.

§ 1391.7 Organization for administration.

(a) A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) Where applicable, a State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the act shall identify the organizational unit within the State agency which is responsible for operation of the plan and shall include a description of its organization and functions and an organizational chart of the unit. (See also 45 CFR Part 1392 for requirements concerning the organization for the administration of programs under title IV–A and B of the act, and 45 CFR Part 1393 for programs under title I, X, XIV, or XVI (AABD) of the act.)

(c) [Reserved]

§ 1391.8 Statewide operation.

(a) *State plan requirements.* A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) It shall be in operation, through a system of local offices, on a statewide basis in accordance with equitable standards for assistance and administration that are mandatory throughout the State;

(2) If administered by political subdivisions of the State, the plan will be mandatory on such political subdivisions;

(3) The State agency will assure that the plan is continuously in operation in all local offices or agencies through;

(i) Methods for informing staff of State policies, standards, procedures and instructions; and

(ii) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

(b) [Reserved]

§ 1391.9 State financial participation.

State plan requirements:

(a) A State plan for services under title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) State (as distinguished from local) funds will be used for both services and administration; and

(2) State and Federal funds will be apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

(b) A state plan for services under title I, IV-A, X, XIV, or XVI (AABD) of the Act must provide further that State funds will be used to pay a substantial part of the total costs of the services programs.

(c) [Reserved]

§ 1391.10 [Reserved]

§ 1391.11 State standards for office space, equipment, and facilities.

State plan requirements: A State plan for services under title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will establish and maintain standards for office space, equipment, and facilities that will adequately and effectively meet program and staff needs. Under this requirement, offices must be well marked and clearly identifiable in the community as a public service.

(b) The State agency will assure that the standards are continuously in effect in all State and local offices or agencies, including agency suboffices, and special centers through:

(1) Making information about the standards available to State and local staff and other appropriate persons;

(2) Regular planned evaluation of housing and facilities by regularly assigned staff through visits, reports, controls and other necessary methods;

(3) Methods for enforcement when necessary to secure compliance with State standards.

Subpart B—[Reserved]

Subpart C—Personnel Management

§ 1391.50 Standards of personnel administration.

The State plan for services under title I, IV-A, X, XIV, and XVI (AABD) of the Act shall provide that methods of personnel administration will be established and maintained in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900. These standards incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91-648, Section 2, 84 Stat. 1909), prescribed by the Office of Personnel Management pursuant to Section 208 of the Intergovernmental Personnel Act of 1970, as amended.

§ 1391.51 Training and use of subprofessionals and volunteers.

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

(a) *Definitions.*

(1) The classification of subprofessional staff as community service aides refers to persons in a variety of positions in the planning, administration, and delivery of health, social, and rehabilitation services in which the duties of the position are composed of tasks that are an integral part of the agency's service responsibilities to people and that can be performed by persons with less than a college education, by high school graduates, or by persons with little or no formal education.

(2) "Full-time or part-time employment" means that the person is employed by the agency and his position is incorporated into the regular staffing pattern of the agency. He is paid a regular wage or salary in relation to the value of services rendered and time spent on the job.

(3) The term "Volunteer" describes a person who contributes his personal service to the community through the agency's human services program. He is not a replacement or substitute for paid staff but adds new dimensions to agency services, and symbolizes the community's concern for the agency's clientele.

(4) "Partially paid volunteers" means volunteers who are compensated for expenses incurred in the giving of services. Such payment does not reflect the value of the services rendered, or the amount of time given to the agency.

(b) *State services plan requirements.* The State plan for social services under titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act must:

(1) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(i) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan under title I, IV-A, X, XIV, or XVI, of recipients; and will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(ii) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(iii) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, pre-service and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(iv) An organized training program, supervision, and supportive services for subprofessional staff; and

(v) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(2) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(i) A position in which rests responsibility for the development, organization, and administration of the

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volunteer program, and for coordination of the program with related functions;

(ii) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(iii) A program for organized training and supervision of such volunteers;

(iv) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(v) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

(c) *Federal financial participation.* Under the State plan for social services under titles I, IV-A, X, XIV, and XVI (AABD) of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

Subpart D—Purchase of Services

Editorial Note.—This Editorial Note is applicable to §§ 1391.70 and 1391.71. At 40 FR 45818, Oct. 3, 1975, the regulations in 45 CFR Part 226, now 45 CFR 1391.70 and 1391.71, were superseded by 45 CFR Part 228 (40 FR 27354, June 27, 1975), now 45 CFR Part 1396, except that sections 1391.70 and 1391.71 continue in effect for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands for the operation of service programs under titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act.

§ 1391.70 Purchase of services: State plan requirements.

(a) A State plan under Title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act, which authorizes the provision of services by purchase from other State or local public agencies, from nonprofit or proprietary private agencies or organizations, or from individuals, must, with respect to services which are purchased:

(1) Include a description of the scope and types of services which may be purchased under the State plan;

(2) Provide that the State or local agency will retain continuing, basic responsibility for determination as to:

(i) The eligibility of individuals for services; and

(ii) The authorization, selection, quality, effectiveness, and execution of a plan or program of services suited to the needs of an individual or of a group of individuals;

(3) Provide that the State agency will work with established and newly organized suppliers of purchased services to provide consultation and technical assistance, to assure satisfactory performance in providing such services, including periodic review, and to develop new and more effective approaches and methods of delivering purchased services;

(4) In the case of services authorized under the Vocational Rehabilitation Act, provide that such services will be obtained from the State vocational rehabilitation agency when that agency is willing and able to provide them, and that such services will be purchased from another source only when they are not obtainable from the State vocational rehabilitation agency;

(5) Assure progressive development of arrangements with a number and variety of agencies and other sources which meet applicable standards as to quality of services and rates of payment, with the aim of providing opportunities for individuals to exercise choice with regard to the source of purchased service;

(6) Assure that the sources from which services are purchased are licensed, approved as meeting State licensing standards, meet applicable accrediting standards, or in the absence of licensing or accrediting standards, meet standards or criteria established by the State agency to assure quality of service, including standards appropriate for services provided by new self-help groups and other organizations for which licensing or accrediting do not exist; and

(7)(i) Provide for the establishment of rates of payment for such services which:

(A) Do not exceed the amounts reasonable and necessary to assure quality of services, and in the case of services purchased from other public agencies, are in accordance with the cost reasonably assignable to such services; and

(B) Whenever possible are based on consideration of full cost of the services;

(ii) Describe the methods used in establishing and maintaining such rates; and

(iii) Indicate that information to support such rates of payment will be maintained in accessible form.

(b) In the case of services provided, by purchase, as emergency asssistance to needy families with children under Title IV-A, the State plan may provide for an exception from the requirements in paragraphs (a)(5), (6), and (7) of this section, but only to the extent and for the period necessary to deal with the emergency situation.

(c) All other requirements governing the State plans listed in paragraph (a) of this section are applicable to the purchase of services, including:

(1) General provisions such as those relating to single State agency, fair hearings and grievances, safeguarding of information, civil rights, and financial control and reporting requirements; and

(2) Specific provisions as to the programs of services such as those on required services, State-wideness and maximum utilization of other agencies providing services, to the extent feasible.

§ 1391.71 Purchase of services: Federal financial participation.

(a) Federal financial participation is available in expenditures for purchase of services under the State plans listed in § 1391.70 to the extent that payment for purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of service and, in the case of services purchased from other public agencies, the cost reasonably assignable to such services.

(b) Services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under Title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act and which are included under the approved State plan.

(c) Payments for subsistence (including payments for foster care), other items of individual or family need normally included in assistance payments, and medical or remedial care or services are not considered to be service costs. However, Federal financial participation is available in expenditures for the purchase of services which include subsistence or medical care items (as contrasted with payments made to provide financial or medical assistance), such as:

(1) Subsistence and medical care when they are included as an essential component of the furnishing of services in an institutional setting and cannot be separately identified, such as in a comprehensive rehabilitation center; and

(2) Under Title IV-A of the Act, medical care, for such items as:

(i) Family planning services; and

(ii) Medical examinations required for child care staff, when not otherwise available.

(For details as to these and other special conditions, see the pertinent regulations, such as those for emergency assistance to needy families with children, § 233.120 of this chapter, and services to children and families under Title IV-A of the Act, to be published at a later date.)

[Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302]

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF THE SOCIAL SECURITY ACT

C. 45 CFR Parts 220 and 231, now located in Chapter II, are transferred to 45 CFR Chapter XIII, Subchapter J, and redesignated as a new Part 1392 to read as follows:

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

Editorial Note: At 40 FR 45819, Oct. 3, 1975, Part 220 (relocated in Part 1392) was amended and the extent of its applicability limited. Part 228 (relocated in Part 1396) 40 FR 27354, June 27, 1975), of this chapter supersedes Part 220 (relocated in Part 1392) with the following exceptions:

1. Regulations in this part relating to child welfare services under Part B of title IV of the Social Security Act, remain effective for the 50 States and the District of Columbia.

2. Regulations in this part pertaining to the operation of services programs (under titles I, IV-A, IV-B, X, XIV, and XVI (AABD) of the Social Security Act), remain in effect for Puerto Rico, Virgin Islands, and Guam and are now applicable to the Commonwealth of the Northern Mariana Islands.

4. Regulations in this part pertaining to the Work Incentive Program (WIN) are superseded by 45 CFR Part 224 (40 FR 43181, Sept. 18, 1975).

However, statutes affecting the social services programs have been enacted since the provisions of this Part 220 (relocated in Part 1392) were originally published. Therefore, relevant sections of the following acts must be applied in implementing Part 220 (relocated in Part 1392): (1) Social Security Amendments of 1972 (Pub. L. 92-603); (2) Revenue Sharing Act (Pub. L. 92-512); (3) extension of Renegotiation Act (Pub. L. 93-66); and (4) Pub. L. 93-233.

Subpart A—Mandatory Provisions

Sec.
1392.1 General.

Organization and Administration

1392.2 Single organizational unit.
1392.3 Full-time staff for services.
1392.4 Advisory committees.
1392.5 Use of professional staff.
1392.6 Use of subprofessional personnel.
1392.7 Use of volunteers.
1392.8 Relationship and use of other agencies.
1392.9 Delivery and utilization of services.
1392.10 Training.
1392.11 Appeals, fair hearings and grievances.

Manadatory Services Applicable to Title IV, Part A

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Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); Sec. 118 of Pub. L. 96-86.

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Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Mandatory Provisions

§ 1392.1 General.

(a) The State plans for AFDC services in Puerto Rico, the Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands, and for CWS in the Territories, the 50 States and the District of Columbia, pursuant to title IV, parts A and B of the Social Security Act must, with respect to the administration of the service programs for families and children,

(1) Contain provisions committing the State to meet the requirements in this subpart;

(2) Contain provisions committing the State to progress in the extension and improvement of services;

(3) Indicate the steps to be taken to meet the requirements; and

(4) For title IV-B, provide for the submission of such implementation and progress reports as may be specified.

(b) The State plans for services under title IV-A must contain provisions committing the State to comply with 45 CFR Part 74.

Organization and Administration

§ 1392.2 Single organizational unit.

(a) There must be a single organizational unit, within the single State agency, at the State level and also at the local level to provide or supervise all services to families and children included in the State plan for title IV, parts A and B. Within the single organizational unit the same subunits must be responsible for setting service policies and furnishing services for both AFDC and CWS cases. Specific services may be delegated within the agency for services common to other groups (e.g., homemaker service for the aged), provided that this does not tend to create differences in the quality of services for AFDC and CWS cases. (This requirement does not apply to States where the AFDC and CWS programs were administered by separate agencies on Jan. 2, 1968.)

(b) Such unit must, under the direction of its chief officer (who, at the State level, is not the head of the State agency), be responsible for:

(1) Development of policy and the maintenance of policy control for all parts of the service program.

(2) Direct program supervision of the local agency or otherwise be in a position to assure proper program implementation.

(c) The State plan must also include the structure of such unit and show its place in the overall welfare agency and the distribution of responsibilities among the major divisions within the unit.

§ 1392.3 Full-time staff for services.

(a) The functions of arranging or providing services to individuals should, to the maximum extent feasible, be performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There must be adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there must be progress toward the objective of relieving all staff of nonservice functions. (This does not exclude service at intake, i.e., providing information, screening and referral within the agency and community for all families and children seeking agency help; and determining need for specific services.)

§ 1392.4 Advisory committees.

(a) An advisory committee on AFDC and CWS programs must be established at the State level and at local levels where the programs are locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation may be established. The State plan must show that the advisory committee will:

(1) Advise the principal policy setting and administrative officials of the agency and have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(2) Include representatives of other State agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of assistance or services or their representatives who shall constitute at least one-third of the membership. Such recipients or their representatives must be selected in a manner that will assure the participation of the recipients in the selection process and that they are representative of recipients of assistance or services.

(3) Be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations.

(4) Be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) An advisory committee on day care services must be established at the State level, either as a separate committee, or all or a part of the advisory committee on AFDC and CWS programs may be assigned this function. In either event, the committee must have at least one-third of its membership drawn from recipients or their representatives; and include representatives of agencies and groups concerned with day care or related services, i.e., other State agencies, professional or civic or other public or nonprofit private agencies, organizations or groups.

(c) The State plan must also show the structure and functions of the State and local committees for AFDC and CWS programs and for day care services; their relationship to other boards and committees associated with the State and local agencies; the system for selecting recipients or their representatives; and assure that the State committee for AFDC and CWS programs will be established no later than 90 days after plan approval.

§ 1392.5 Use of professional staff.

(a) There must be adequate numbers and suitable qualifications for personnel drawn from social work and other appropriate disciplines to plan, develop and supervise services and to provide specialized services to families and children; and there must be an adequate system of career development and progression for such individuals.

(b) The State plan must also include:

(1) The staffing pattern for professional positions carrying out the service functions.

(2) An explanation of how the quantity and quality of services will be maintained in instances where the number of professional personnel performing eligibility and service functions results in a caseload or workload higher than that in effect during fiscal year 1968.

§ 1392.6 Use of subprofessional personnel.

(a) No later than July 1, 1969 provision must be made for the training and effective use of subprofessional staff in the programs of services to families and children, including part-time or full-time employment of recipients and other persons of low income. (The term "subprofessional," as used here, means persons with less than college education, a high school graduate or a person with little or no formal education.)

(b) The State plan must also include:

(1) The methods of recruitment and selection, as will offer opportunities for employment of such persons.

(2) A career service plan that permits such persons to enter employment at the subprofessional level and progress to positions of increasing responsibility and remuneration.

(3) An organized training program, supervision and supportive assistance for such staff.

(4) Annual progression in the utilization of increasing numbers of such staff until there is optimal use of subprofessional staff in achieving the service goals for families and children.

§ 1392.7 Use of volunteers.

(a) No later than July 1, 1969, provision must be made for the training and effective use of nonpaid or partially paid volunteers representing various age groups, specifically including senior citizens and young persons, in the service programs for families and children and assisting related advisory committees.

(b) The State plan must also include:

(1) The methods of recruitment and selection which will assure participation of volunteers of all income levels.

(2) A program for organized training and supervision of such volunteers.

(3) Assignment to a specific position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions.

(4) Provision for meeting the costs incident to volunteer service.

(5) Annual progression in the utilization of volunteers until such use is sufficient for the achievement of the service goals for families and children.

§ 1392.8 Relationship and use of other agencies.

(a) There must be maximum utilization of and coordination with other public and voluntary agencies, including with respect to the latter their experience as well as their facilities, providing services similar or related to the services provided under the plan, where such services are available without additional cost.

(b) Consideration must be given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services and such use must be based on a determination that required program standards will be met, a comparison of the effectiveness with which the services are likely to be rendered and the anticipated costs thereof.

(c) The State plan must show ways in which public and voluntary agencies will be used, including types of services to be purchased.

§ 1392.9 Delivery and utilization of services.

(a) There must be progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services.

(b) The State plan must also provide for continued assessment and necessary adaptations to achieve this requirement.

§ 1392.10 Training.

(a) For social services programs under title IV–A, the State agency shall:

(1) Provide for a training program to improve the operation of the program and to assure a high quality of service; and

(2) Implement its training program in accordance with the requirements of 45 CFR 235.61 through 235.65, except that copies of the annual training plan required by 45 CFR 235.62(c) shall be made available upon request to the Regional Administrator, Office of Human Development Services.

(3) Notwithstanding 45 CFR 235.62, 235.63 and 235.64, effective April 1, 1981, establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

(b) For child welfare services programs under title IV–B:

(1) There must be staff development on a continuing, progressive and comprehensive basis for all staff responsible for the development and provision of services. Such staff development shall include orientation, in-service training and educational leave. Provision shall be made for increasing each year the number of educational leaves for professional training to assure an adequate number of professional staff for these programs; and

(2) The State agency shall, effective April 1, 1981, establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

§ 1392.11 Appeals, fair hearings and grievances.

(a) There must be provision for a fair hearing, under which applicants and recipients may appeal denial of or exclusion from a service program, failure to take account of recipient choice of service or a determination that the individuals must participate in the service program. The results of appeals must be formally recorded and made available to the State advisory committee and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal.

(b) There must be a system through which recipients may present grievances about the operation of the service program.

(c) The State plan must also describe the system for appeals and grievances and the methods of informing recipients of their right to appeal.

Mandatory Services Applicable to Title IV, Part A

§ 1392.15 General.

The State plan:

(a) Must assure that responsibility is assumed for the provision of services to all appropriate persons receiving aid and others in the home whose needs were considered in determining eligibility for such aid, as called for under each of the requirements in §§ 1392.16–1392.25; and

(b) Must be specific in its identification of the services to be provided or purchased and the families and children to whom they will be available.

§ 1392.16 Service plan.

(a) A service plan must be developed and maintained on a continuous basis for each family and child who requires service to maintain and strengthen family life, foster child development and achieve permanent and adequately compensated employment.

(b) By January 1, 1970, a service plan must be developed for each family and child in the current caseload and, within 1 year following approval for financial assistance for those added to the caseload after March 31, 1969.

(c) Such plans must be developed in cooperation with the family and must be responsive to the needs of each individual within the family, while taking account of the relation of individual needs to the functioning of the family as a whole. Families shall have the right to accept or reject such plans. (See 45 CFR Part 224 for special provisions on refusal without good cause under the WIN program and referral of Unemployed Fathers to the WIN program.)

(d) Service plans must, as a minimum, include the objectives and content of the service requirements in §§ 1392.15–1392.24.

(e) Each service plan must be reviewed as often as necessary, but at least annually, to assure that it is practically related to needs and is being effectively implemented.

§ 1392.17 Employment objectives.

(a) Services must be provided to assist all appropriate persons to achieve employment and self sufficiency.

(b) Priority must be given to screening the entire caseload, and new cases as added, to identify those persons who are immediately referrable for training and employment and development service plans for them.

(c) With respect to employment objectives, there must be as a minimum:

(1) Identification of individuals currently ready or with potentials for employment or training.

(2) Determination of the individuals appropriate for referral to programs offering training and employment services and referral of such individuals. (See 45 CFR Part 224 for policies governing referrals to the Work Incentive Program.)

(3) General and specialized diagnostic assessments (e.g., vocational, rehabilitation, education, medical, and psychological) of health, learning, and other limitations that prevent involvement in employment or training.

(4) Plans to insure that training and employment lead to stability of employment in jobs which take full advantage of the individual's potential.

(5) Provisions of services necessary to deal with personal and family barriers which prevent or limit individuals in their use of training and in their achievement of stable employment.

(6) Provision for utilization of public and voluntary agencies in the fields of vocational rehabilitation, health, vocational, and other education, including special attention to the capabilities of rehabilitation centers and workshops, community action agencies, neighborhood centers, and similar organizations.

§ 1392.18 Child care services.

(a) Child care services, including in-home and out-of-home services, must be available or provided to all persons referred to and enrolled in the Work Incentive Program and to other persons for whom the agency has required training or employment. Such care must be suitable for the individual child; and the caretaker relatives must be involved

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in the selection of the child care source to be used if there is more than one source available. However, when there is only one source available, the caretaker relatives must accept it unless they can show that it is unsuitable for their child. The child care services must be maintained until the caretaker relatives are reasonably able to make other satisfactory child care arrangements.

(b) Progress must be made in developing varied child care resources with the aim of affording parents a choice in the care of their children.

(c) All child care services must meet the following standards:

(1) *In-home care.* (i) Homemaker service under agency auspices must meet the standards established by the State agency which must be reasonably in accord with the recommended standards of related national standard setting organizations, such as the Child Welfare League of America and the National Council for Homemaker Services.

(ii) Child care provided by relatives, friends, or neighbors must meet standards established by the State agency that, as a minimum, cover age, physical and emotional health, capacity and time of the caretaker to provide adequate care; hours of care; maximum number of children to be cared for; feeding and health care of the children.

(2) *Out-of-home care.* (i) Day care facilities, used for the care of children, must be licensed by the State or approved as meeting the standards for such licensing and day care facilities and services must comply with the standards of the Federal Interagency Day Care Requirements which are in effect through September 30, 1980, and the requirements of section 422(a)(1) of the Social Security Act (see § 1392.56).

(ii) Beginning October 1, 1980, FFP is available for the costs of out-of-home child day care services only if all the requirements of 45 CFR Part 71 are met.

(d) Both in-home and out-of-home child care provided for persons referred to the WIN program must be a service cost rather than an assistance cost.

§ 1392.19 Foster care services.

Effective July 1, 1969, services must be provided for children receiving aid in the form of foster care under title IV—part A, to:

(a) Assure placement appropriate to the needs of each child.

(b) Assure that the child receives proper care in such placement.

(c) Determine continued appropriateness of and need for placement through periodic reviews, at least annually.

(d) Improve the conditions in the home from which the child was removed, so that the child may be returned to his own home, or otherwise plan for the placement of the child in the home of other relatives, adoptive home or continued foster care, as appropriate.

(e) Work with other public agencies that have responsibility for the placement and care of any such children to assure that these agencies carry out their responsibilities in accordance with their agreement with the State agency administering or supervising the administration of AFDC.

§ 1392.20 Prevention or reduction of births out-of-wedlock.

There must be a program to prevent or reduce the incidence of births out-of-wedlock and to otherwise strengthen family life. Services to prevent and reduce births out-of-wedlock must be extended progressively to all appropriate adults and youths, with initial priority for mothers who have had children born out-of-wedlock within the 2 preceding years or who are currently pregnant out-of-wedlock and for youths living in conditions immediately conducive to births out-of-wedlock. Services must be provided for fathers of such children.

§ 1392.21 Family planning services.

(a) Family planning services must be offered and provided to those individuals wishing such services, specifically including medical contraceptive services (diagnosis, treatment, supplies, and followup), social services and educational services. Such services must be available without regard to marital status, age, or parenthood. Individuals must be assured choice of method and there must be arrangements with varied medical resources so that individuals can be assured choice of source of service. Acceptance of any services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for the receipt of any other service or aid under the plan. Medical services must be provided in accordance with the standards of other State programs providing medical services for family planning (e.g., maternal and child health services).

(b) Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

(c) If a State authorized sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F.

§ 1392.22 Services to meet particular needs of families and children.

Services must be provided to families and children as follows:

(a) Assist children to obtain education in accordance with their capacities.

(b) Improve family living through assisting parents to overcome homemaking and housing problems.

(c) Assist in reuniting families.

(d) Assist parents in money management, including consumer education.

(e) Assist parent in child rearing.

(f) Offer education for family living.

(g) Evaluate the need for, and in appropriate cases provide for, protective and vendor payments and related services.

§ 1392.23 Protective services and cooperation with courts.

(a) Protective services must be provided to children receiving aid who are found to be in danger of or subject to neglect, abuse or exploitation.

(b) There must be a specific plan whereby the State or local agency will bring cases of child abuse, neglect or exploitation to the attention of appropriate courts or law enforcement agencies. The same criteria for referral to courts or law enforcement agencies must be used as are used by the State or local agency for all other parents and children. There must be continued cooperation with such courts and officials to assist in planning of the child to serve his best interests.

§ 1392.24 Services related to health needs.

Services must be provided to families and children with health needs through identifying needs for preventive and remedial medical services; locating organizations or individuals who are willing to provide quality services on a dignified basis and helping to solve any problems which may prevent them from obtaining needed medical services and from making optimum use of the services available.

Mandatory Services Applicable to Title IV, Part B

§ 1392.40 Child welfare services.

(a) The State plan must assure progressive extension of child welfare services so that such services will be available in all political subdivisions by July 1, 1975, for all children in need of them; including annual progress in one or more of the following dimensions:

(1) Covering additional political subdivisions;

(2) Reaching additional children in need of services;

(3) Expanding the range of services provided;

(4) Improving the quality of services through additional trained child welfare personnel.

(b) The State plan must provide that:

(1) As a basis for giving priority in extending the provision of child welfare services to communities with the greatest need for such services, there will be a reasonable and objective method for assessing this need, taking into consideration their relative financial need.

(2) As a minimum, there will be child welfare services to children in their own homes and the provision of foster care of children.

(3) There will be a case plan, including diagnostic evaluation and plan for treatment, when a child is accepted for child welfare services; and periodic review of such plan.

(4) Child welfare services will be available on the basis of need for services and shall not be denied on the basis of financial need, legal residence, social status or religion.

(5) Child welfare services will not be limited to AFDC cases.

Other Requirements Applicable to Title IV, Parts A and B, as Indicated

§ 1392.45 Community planning (applicable to IV-A and B).

(a) There must be progress in developing State and local agency leadership for participation in community affairs which will result in the development of community resources necessary to achieve program objectives of title IV, parts A and B.

(b) The State plan must also show the steps to be taken to achieve this objective, including the staffing for this function.

§ 1392.46 Reports and evaluations (applicable to IV-B).

Such reports and evaluations must be furnished to the Secretary as he may specify showing the scope, results and costs of services for families and children.

§ 1392.47 Implementation by local agencies (applicable to IV-A and B).

(a) The State agency must have methods of assuring that local agencies are meeting the plan requirements.

(b) The State plan must also describe the methods to be used to carry out this requirement.

§ 1392.48 [Reserved]

§ 1392.49 Other plan requirements for child welfare services under title IV-B (see also Subpart D of this part).

(a) *Single State agency.* (1)(i) The State plan shall designate a State agency as the single agency for the administration of the plan or for supervision of the administration of part of the plan by local agencies.

(ii) Effective July 1, 1969, the State plan must provide that the State agency responsible for the State plan approved under title IV-A will also administer or supervise the administration of the plan under title IV-B, except that—

(A) If on January 2, 1968, the State agency administering the plan under title IV-B is different from the State agency responsible for the State plan approved under title IV-A, the requirement in this subdivision (ii) shall not apply so long as such agencies are different; or

(B) If on January 2, 1968, the local agency administering the plan approved under title IV-B is different from the local agency administering the plan approved under title IV-A, the requirement in paragraph (a)(1)(ii) of this section shall not apply with respect to such local agencies so long as such agencies are different.

(2) The State plan shall set forth the authority of the State agency under State law for the administration of the program. Where there is administration by local agencies, the plan shall set forth the legal basis for such administration or for the supervision of such administration by the State agency. Citations to all directly pertinent laws and copies of all interpretations of such laws by appropriate State officials, and citations to all directly pertinent interpretations of laws by courts, shall be furnished as part of the plan.

(b) *Organization for administration.* The State plan shall describe the organization of the State agency for the administration of the plan and of any local agencies engaged in such administration. It shall also describe the methods of administration utilized by the State agency in the administration of the plan and by any local agencies engaged in such administration. Where there is administration by local agencies, the State plan shall describe the nature and extent of the supervision exercised by the State agency.

(c) *Personnel standards.* (1) There shall be, with respect to the employees of the State agency and those of local agencies, personnel administration on a merit basis which shall be in accordance with current Federal Standards for a Merit System of Personnel Administration in 45 CFR Part 70. The State plan shall contain necessary materials relating to personnel administration to permit evaluation for compliance with the said Standards for a Merit System of Personnel Administration.

(2) The State plan must provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in 45 CFR 70.4. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

(d) *Coordination with services under AFDC.* There shall be coordination between child welfare services and services in AFDC with a view to provision of welfare and related services which will best promote the welfare of such children and their families.

(e) *Reports.* The State plan shall provide that the State agency will make such reports with respect to any and all phases of the State program of child welfare services in such form and containing such information as HDS may find necessary to assure the correctness and verification of such reports.

Subpart B—Optional Provisions

§ 1392.50 General.

If a State elects under title IV-A to provide services for additional groups of families and children, i.e., current applicants or former or potential applicants and recipients of public assistance, the State plan must—

(a) Identify such group or groups and specify the services to be made available to such group;

(b) Contain provisions committing the State to meet the requirements in this subpart; and

(c) Indicate the steps to be taken to meet those requirements.

Services in Aid to Families With Dependent Children

§ 1392.51 Range of optional services.

(a) The Social Security Act (sec. 406(d)) defines the full range of family services in AFDC as follows:

"* * * services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

(b) The full range of or selected family services, and child welfare services as defined in this subpart, may be included except for those services excluded in § 1392.61.

(c) Following are types of selected services:

(1) *Child care services.* Child care services provided to families other than those required in § 1392.15, must meet the standards required in that section.

(2) *Emergency assistance—services.* Emergency assistance in the form of services to needy families with children, including migrants, may be provided. Such services must be planned and staffed, so as to assure immediate accessibility and prompt response, and separate policy instructions relating to emergency assistance must apply. (These separate policies do not apply to use of title IV–B funds.)

(3) *Educational and training services.* Educational and training services may be included where the Work Incentive Program has not been initiated in a local jurisdiction or is inadequate in scope or size to meet the needs of recipients; or where the Work Incentive Program has been initiated and there is an agreement with representatives of the Labor Department that these services are not available to recipients. Full use must be made of services available through the Employment Service.

(4) *Legal services.* Legal services may be included for families desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services).

§ 1392.52 Coverage of optional groups for services.

(a) The agency may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Families and children who are current applicants for financial assistance.

(2) Families and children who are former applicants or recipients of financial assistance.

(3) Families and children who are likely to become applicants for or recipients of financial assistance, i.e., those who:

(i) Are eligible for medical assistance as medically needy persons, under the State's title XIX plan.

(ii) Would be eligible for financial assistance if the earnings exemption granted to recipients applied to them.

(iii) Are likely, within 5 years, to become recipients of financial assistance.

(iv) Are at or near dependency level including those in low-income neighborhoods and among other groups that might otherwise include more AFDC cases, where services are provided on a group basis.

(4) All other families and children for information and referral service only.

(b) All families and children in the above groups, or a selected reasonable classification of families and children with common problems or common service needs, may be included.

Child Welfare Services

§ 1392.55 Range of optional services and groups to be served.

(a) The Social Security Act (sec. 425) defines the full range of child welfare services as follows: " * * * public social services which supplement, or substitute for, (1) parental care and supervision for the purpose of preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day care or other child care facilities."

§ 1392.56 Day care services.

(a) If day care services are included under title IV–B, they must meet the standards required in § 1392.18(c)(2), and in addition, the State plan must indicate compliance with the following:

(1) Cooperative arrangements with State health and education agencies to assure maximum utilization of such agencies in the provision of health and education services for children in day care.

(2) An advisory committee on day care services as set forth in § 1392.4(b).

(3) A reasonable and objective method for determining the priorities of need, as a basis for giving priority, in determining the existence of need for day care, to members of low-income or other groups in the population and to geographical areas which have the greatest relative need for the extension of day care.

(4) Specific criteria for determining the need of each child for care and protection through day care services.

(5) Determination that day care is in the best interests of the child and the family.

(6) Provision for determining, on an objective basis, the ability of families to pay for part or all of the cost of day care and for payment of reasonable fees by families able to pay.

(7) Provision for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of his health and development.

(8) Provision of day care only in facilities (including private homes) which are licensed by the State or approved as meeting the standards for such licensing.

Subpart C—Federal Financial Participation

§ 1392.60 General.

The regulations in this subpart deal separately with Federal financial participation in the costs of services under the AFDC and Child Welfare Services programs because these programs have different legal provisions governing the extent of Federal funding. However, in general there are no differences in the kinds of services or methods of providing services under these two programs.

§ 1392.61 Federal financial participation; AFDC.

(a) General. Federal financial participation is available in expenditures for—

(1) Properly and efficiently administering the plan;

(2) Providing the services for the groups of families and children; and

(3) Carrying out the activities described in subparts A and B of these regulations that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

(b) *Persons eligible for service.* Federal financial participation is available under this section only for services provided to:

(1) A child or relative who is receiving aid under the plan and to any essential person living in the same household as such relative and child.

(2) The groups defined in § 1392.52; current applicants for aid, former and potential applicants or recipients and other individuals requesting information and referral service only. In respect to any child or relative who has formerly been an applicant for or recipient of aid, counseling and casework services may be provided. Other services may be provided only to those children or relatives who have received aid within the previous 2 years or who qualify under the definition of potential applicants or recipients.

(c) *Sources for furnishing services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff; and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Provisions governing costs of certain services.* (1) Medical and assistance costs. Federal financial participation under this section will not be available in expenditures for subsistence and other assistance items or for medical or remedial care or services, except:

(i) For subsistence and medical care when they are provided as essential components of a comprehensive service program of a facility and their costs are not separately identifiable, such as, in a rehabilitation center, a day care facility or a maternity home;

(ii) For medical and remedial care and services as part of family planning services;

(iii) For required medical examinations for persons caring for children under agency auspices, when not otherwise available or not included in purchase arrangements;

(iv) For identifying medical problems of children in child care facilities; or

(v) For medical diagnosis and consultation when necessary to carry out service responsibilities, e.g., for recipients under consideration for referral to training and employment programs.

(2) Vocational rehabilitation services Federal financial participation is not available in the costs of providing services for the disabled as defined in the Vocational Rehabilitation Act except pursuant to an agreement with the State agency administering the vocational rehabilitation program. This applies to provision of services by staff of the agency and purchase.

(3) Federal financial participation is available in the costs of the following:

(i) Staff in providing services related to foster care, i.e., recruitment, study, and approval of foster family homes, services to children in foster care and their parents, and work with foster parents and staff of child-caring institutions. Vendor payments for foster care are assistance payments and are, therefore, not subject to the service rate of Federal financial participation.

(ii) Work related to child care resources to be used by the agency, i.e., the costs of staff engaged in the development, recruitment, study, approval, and subsequent evaluation of out-of-home child care resources, except the costs of staff primarily engaged in the issuance of licenses or in the enforcement of standards; study, approval, and subsequent evaluation of in-home care arrangements; and in the provision of technical assistance to improve the quality of child care.

(iii) Services provided in behalf of families and children, e.g., community planning, assuring accessibility to entitled service resources; and studies of service needs and results.

(iv) Certain services to assist individuals to achieve employment and self-sufficiency:

(A) Payments for additional expenses of individuals that are attributable to their participation in training or work experience projects, e.g., transportation, lunches, uniforms. (Not applicable to assistance recipients earning wages, including employment or on-the-job training, or on special work projects under Work Incentive Program, since such expenses will be deducted in determining net income.)

(B) Medical examinations that are necessary to determine physical and mental health conditions for training or employment.

(C) Education and training as provided in § 1392.51(c)(3).

(v) Agency staff engaged in locating and planning with deserting or putative fathers; assessing potentials and determining appropriate actions; developing voluntary support; assisting relatives to file petitions for the establishment of paternity; reuniting families; and cooperative planning with appropriate courts and law enforcement officials.

(e) *Federal financial participation for child care services.* Child care expenditures for WIN participants must be charged as a service expenditure and separately identified since Federal funds for this purpose come from a separate appropriation. Child care expenditures for other AFDC cases may be charged as a service expenditure or included as a financial assistance expenditure subject to matching under the title IV–A formula, depending on how the State plan specifies. Where child care is provided as a service the payment may be made either to the vendor of the service directly or to the recipient for payment by him. In either case documentation is needed in the form of statements of the type and quantity of services rendered for each recipient (receipted by vendor when the service payment is made directly to the recipient) to establish the fact that the expenditure was for services.

(f) *Rates and amounts of Federal financial participation (FFP) and cost allocation requirements for Puerto Rico, the Vrigin Islands, (delete) Guam, and the Commonwealth of the Northern Mariana Islands.* (1) FFP at the 60 percent rate is available for the service costs identified in paragraphs (d) and (c) of this section; and for training and staff development including costs of training provided to welfare staff by courts or law enforcement officials.

(2) FFP at the 50 percent rate is available for emergency services.

(3) For family planning services and referral for participation under the Work Incentive Program for any fiscal year beginning on or after July 1, 1967, the Federal share to:

(i) Puerto Rico shall not exceed $2 million.

(ii) The Virgin Islands shall not exceed $65,000.

(iii) Guam shall not exceed $90,000. Notwithstanding the limitations in paragraph (a)(3) of this section any funds which may become available under § 1396.52(c)(3) of this chapter may be used for any service activities under titles I, IV–A, X, XIV or XVI (AABD).

(4) Federal financial participation at the 50% rate is available in the costs of income maintenance activities and emergency assistance.

(5) Salaries and related expenses of staff who perform both service and income maintenance functions must be allocated between the two types of activities as a basis for claiming FFP at the rates specified in paragraphs (f) (1), (2) and (4) of this section. For purposes of this paragraph, income maintenance functions means all activities related to basic maintenance, i.e., determination of initial and continuing eligibility for financial and medical assistance and for food stamps. (*Provided.* That all members of the household are included in the assistance unit) and the authorization for purchase of coupons if prepared by the worker who determines eligibility for food stamps; furnishing of checks, warrants or food stamps for which the family is eligible; maintaining the case in payment or certification status; providing emergency services; and performing other related activities required in the administration of the income maintenance program.

(g) *Federal financial participation in the work incentive program.* (1) Federal financial participation at the rate of 90 percent is available in the costs of self-support services (and the related administrative costs) provided by the separate administrative units in accordance with 45 CFR 224.15(c).

(2) The amount of Federal funds available for Federal financial participation at the rate of 90 percent, as appropriated by Congress, will be apportioned among the States according to methods prescribed by the Secretary.

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(3) This paragraph does not apply to Puerto Rico, the Virgin Islands, (delete) Guam, and the Commonwealth of the Northern Mariana Islands.

§ 1392.62 Federal financial participation; CWS.

(a) *Federal share.* The Federal share of service programs under title IV–B shall be at the rate specified in or promulgated pursuant to section 423 of the Act.

(b) *Persons eligible for service.* (1) Federal financial participation under title IV–B is available to serve all families and children in need of child welfare services without respect to whether they are receiving AFDC.

(2) Expenditures for care of children it, foster family homes, group homes, institutions, family day care homes or day care centers, or for care of unmarried mothers in foster family homes, group homes, institutions, or independent or other living situations, shall be for those children or unmarried mothers for whom the public welfare agency, through its child welfare services program, accepts responsibility for providing or purchasing such care. This responsibility includes; determining the need for such care and that the type of care is in the best interest of the child and his family or of the unmarried mother, determining the ability of the family to contribute to the cost of care; and developing a plan for continuing supervision of the child or unmarried mother in care.

(c) *Sources of services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff, and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Kinds of expenses included.* Federal financial participation is available for expenditures for the following purposes: personnel services; professional education; institutes, conferences and short-term courses; foster care of children; care of unmarried mothers; day care of children; purchase of homemaker services, specialized services; return of runaway children; research and special facilitative services; merit system costs; advisory committees; membership fees; supplies, equipment and communication; and occupancy and maintenance of space.

§ 1392.63 Relationship of costs under parts A and B of title IV.

(a) There must be methods of allocating the costs of providing services under the child welfare services program and providing services under the AFDC program.

(b) Service expenses that jointly benefit title IV–A and B programs may be allocated between them using any reasonable basis or may be charged entirely to IV–A, or B if they are considered to be of primary benefit to such program. The title IV–A program may be considered to be primarily benefited if the number of AFDC children served represents at least 85 percent of the total children served. The 85 percent computation may be based on local agency totals or on statewide totals.

(c) The one exception to the policy expressed above in paragraph (b) of this section pertains to educational leave. States can elect to charge educational leave totally either to AFDC under title IV–A, or child welfare services under title IV–B, without regard to the proportion of time devoted to either program before or after educational leave. The only condition to be met is that the person returning from educational leave be employed in the single organizational unit supervising or providing all services for families and children under title IV–A and/or title IV–B of the Social Security Act, as amended. Where a single organization unit has not been established an allocation of costs must be made in accordance with existing policy.

§ 1392.64 Provisions common to title IV–A and B.

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) *Restrictions on State's share.* The State's share in claiming FFP under both Parts A and B of title IV shall be in accordance with 45 CFR 1396.53.

§ 1392.65 Amount of Federal funding.

(a) The amount of Federal funds available for services under title IV–A is dependent upon the availability of and extent of matching State funds, except as stated in § 1392.61(f), for Puerto Rico, Virgin Islands, (Delete), Guam, and the Commonwealth of the Northern Mariana Islands.

(b) The amount of Federal funds under title IV–B may not exceed the amount available under the allotment formula prescribed by law. The availability of these funds is dependent upon State expenditures, matched according to the formula prescribed by law.

§ 1392.66 Nonexpendable personal property: Conditions for FFP.

Federal financial participation in State claims for nonexpendable personal property is governed by 45 CFR 1396.93.

Subpart D—Other Provisions Governing Child Welfare Services Programs

§ 1392.70 Meaning of terms.

Unless the context otherwise requires, the following terms, as used in this subpart have the following meanings:

(a) "Act" means title IV, part B of the Social Security Act, 42 U.S.C. 601–626.

(b) "HDS" means the Office of Human Development Services in the Department of Health and Human Services.

(c) "State" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.

(d) "State agency" means the public welfare agency of a state which has been designated as the single agency for the purposes of administering or supervising the administration of a State plan for child welfare services.

(e) "Local agency" means the public welfare agency of a political subdivision of a State which is engaged in the administration of that part of the State plan that pertains to the locality and which, in such administration, is under the supervision of the State agency.

(f) "Offical forms" means forms supplied by HDS to State agencies for submitting required information and requests.

(g) "Children" means those individuals under the age of 21 years who are homeless, dependent, neglected or in danger of becoming delinquent regardless of the fact that they also may fall into other categories, and for whom services under the State program of child welfare services are authorized by State law.

(h) "Child welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purposes set forth in section 425 of the Act.

(i) "Establishing, extending, and strengthening" means stabilizing, increasing where necessary and desirable the applicability of, and making stronger the State program of child welfare services and undertaking new child welfare services where necessary and desirable for meeting the unmet needs of children.

(j) "State plan" means the plan developed jointly by the State agency and HDS for establishing, extending and strengthening the State program of child welfare services, taking into account the conditions of such program, the needs of children and the potential for meeting the unmet needs of children through Federal financial participation. It includes the basic plan and the annual budget pursuant to § 1392.71.

§ 1392.71 The State plan; the annual budget; submission, approval, duration, purpose, revision.

(a) *Submission, approval, duration.* Upon adoption by the State of a State plan (including a basic plan and an annual budget jointly developed by the State agency and HDS, it shall be certified by a duly authorized officer of the State agency and submitted to HDS for approval. Upon approval the State plan shall be in effect for the purposes of the Act. The basic plan, as approved and as it may be revised in accordance with paragraph (d) of this section from time to time, shall remain in continous effect without periodic renewal. The annual budget, as it may be revised in accordance with paragraph (d) of this section during the fiscal year, shall be in effect only for the fiscal year for which it is approved.

(b) *Basic plan, content, purpose.* The basic plan, as a part of the State plan, shall be a narrative description, together with appropriate illustrations, of the total State program of child welfare services. It shall be developed in accordance with instructions as to form and subject matter issued by HDS. A basic plan which is in effect in accordance with paragraph (a) of this section shall be the State plan for the purpose of allotment to the State of sums appropriated under the Act. From time to time, as determined by HDS, a new plan may be required of all States.

(c) *Annual budget, content, purpose.* The annual budget, as a part of the State plan, shall be jointly developed annually for the fiscal year and submitted by the State agency on official forms to HDS for approval. It shall be a statement certified by a duly authorized officer of the State agency, which includes proposed and estimated expenditures for carrying out those items described in the basic plan which the State agency and HDS have agreed upon as establishing, extending, and strenthening the State program of child welfare services for the fiscal year. The annual budget, upon approval, and subject to applicable provisions of the Act, the regulations in this subpart and the basic plan, shall be the State plan for the fiscal year for purposes of determining the amount of the Federal share of the total sum expended thereunder, and making payments to the State out of the sums allotted to it for the fiscal year.

(d) *Revision.* The State plan shall be revised whenever necessary because of any material change in the program provided by the plan, in the organization, policies or operations relating to the program, or any changes in pertinent law, and as may otherwise be deemed necessary by HDS. Revisions are subject to joint development by the State agency and HDS, and shall be submitted to HDS, certified by a duly authorized officer of the State agency, for approval. Revisions shall be incorporated into the State plan and shall be in effect for the purposes of the Act upon, and in accordance with, the approval. Except when it is not feasible for a revision to the annual budget to be submitted to HDS a reasonable time in advance of being carried out by the State agency, approval of revisions shall be prospective.

§ 1392.72 [Reserved]

§ 1392.73 Allotment of Federal funds.

Section 421 of the Act prescribes the following method for determining a State's allotment for State child welfare services for each fiscal year:

(a)(1) From the sums appropriated for each fiscal year for grants to States for State child welfare services, each State shall be entitled to an allotment of $70,000, and

(2) Each State shall be entitled to an allotment from the remainder of the sums appropriated of an amount which bears the same ratio to such remainder as the product of the population of such State under the age of 21 and its allotment percentage bears to the sum of the corresponding products of all the States.

(b) The "allotment percentage" for any State shall be 100 per centum less the State percentage, which is that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and the allotment percentage for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands shall be 70 per centum.

§ 1392.74 Payments from allotments.

Payments to a State from the sums available from its allotments under section 421 of the Act shall be computed and made pursuant to sections 422 and 423 of the Act, as follows:

(a) For any fiscal year the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States except that the Federal share shall in no case be less than 33⅓ per centum or more than 66⅔ per centum, and the Federal share for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands shall be 66⅔ per centum.

(b) Estimates: Prior to the beginning of each fiscal quarter an authorized official of the State agency should submit to HDS on official forms an estimate of the amount of the Federal share which it will require from the sums available from its allotments under section 421 of the Act in carrying out the annual budget during such quarter.

(c) Payments: On the basis of the annual budget and the quarterly estimates the State agency submits, the Commissioner of the Administration for Children, Youth, and Families shall issue a grant award to each State. The award shall be made from the sums available from each State's allotment for the Federal share of the estimate, reduced or increased by any overpayment or underpayment to the State for any prior quarter not previously adjusted.

(d) The Departmental Federal Assistance Financing System (DFAFS) shall advance funds for the grant to the State under the procedures in Subpart K of 45 CFR Part 74, Treasury Circular No. 1075, and the DFAFS Recipient Users Manual.

§ 1392.75 [Reserved]

§ 1392.76 [Reserved]

§ 1392.77 Fiscal year to which expenditures chargeable.

An expenditure under an annual budget will be charged to that Federal fiscal year in which the obligation was incurred: *Provided,* That obligation incurred in 1 fiscal year for services and expenses continuing into the next fiscal year may be charged to the allotment for either year when consistent with the plan and with State laws, rules, and regulations governing the expenditure of State appropriated funds. Such budgets and expenditure reports as are required by HDS will be prepared on this basis. For the purposes of this section and § 1392.78, "obligation" shall mean only bona fide encumbrances or commitments which are supported by contracts or other evidence of liability

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consistent with State purchasing procedure.

§ 1392.78 Liquidation of obligations.

All obligations of the State agency incurred in carrying out the annual budget shall be liquidated within 2 years after the close of the fiscal year in which the obligation was incurred unless otherwise authorized by HDS.

§ 1392.79 [Reserved]

§ 1392.80 Apportionment of costs.

Where an expenditure is made for the benefit of this program and any other programs, the amount to be charged as a cost of carrying out the State plan shall be governed by the cost principles specified by Subpart Q of 45 CFR Part 74.

§ 1392.81 [Reserved]

§ 1392.82 Effect of payments.

Neither approval of the State plan nor any payments to the State pursuant thereto shall be deemed to waive the failure of the State to observe before or after such administrative action any Federal requirements or the right or duty of the Federal Government to withhold funds by reason thereof.

§ 1392.83 Promulgation.

The Federal shares and the allotment percentages shall be promulgated between October 1 and November 30 of each even-numbered year, as required by and with the effect given by section 423(c) of the Act.

§ 1392.84 Reallotment of funds.

Under section 424 of the Act the amount of any allotment to a State under section 421 of the Act for any fiscal year which the State certifies will not be required for carrying out the State plan shall be available for reallotment to other States in accordance with the following:

(a) On or before dates fixed by HDS each State shall certify on an official form whether or not it will require the full amount of its allotment for carrying out the State plan for the fiscal year. If it is certified that the full amount will not be required, the certification shall contain the amount of the allotment not so required. If it is certified that the full amount will be required, and if the State has need for and will be able to use sums in excess of its allotment in carrying out the State plan, the State agency may so state in a letter to HDS together with an estimate of the amount of such sums.

(b) The total amount certified by States as not being required for carrying out their State plan for the fiscal year shall be tentatively apportioned among those States which have stated need for and capacity to use sums in excess of their allotments in carrying out their plans: *Provided,* That in no event shall the amount of such apportionment to a State exceed the estimated amount of its request under paragraph (a) of this section, and any excess shall be tentatively apportioned among the remaining States. HDS promptly shall notify such States of such tentative apportionment. Each such State, after taking into consideration the amount of the tentative apportionment to it, shall notify HDS on or before a date fixed by HDS whether or not it desires to continue to be considered for purposes of the reallotment.

(c) In the event that all such States notify HDS that they desire to continue to be considered for purposes of the reallotment, each State shall develop jointly with HDS a revision to the State plan covering the amount tentatively apportioned to it.

(d) In the event that a State notifies HDS that it does not desire to continue to be considered for purposes of the reallotment the tentative apportionment shall be recomputed without the withdrawing State. Each of the remaining States shall be notified of the recomputation and shall develop jointly with HDS a revision to the State plan covering the amount tentatively apportioned to it under the recomputation.

(e) Reallotment shall be made among those States which have plan revisions pursuant to paragraph (c) or (d) of this section and which HDS determines (1) have need in carrying out their State plan for the additional funds and (2) will be able to use such additional funds during the fiscal year.

(f) In computing the amount of the reallotted funds to each State consideration shall be given to the population under the age of 21 and the per capita income of each such State as compared with the population under the age of 21 and the per capita income of all such States participating in the reallotment.

(g) Any amount reallotted to a State shall be deemed part of its allotment under section 421 of the Act.

§ 1392.85 [Reserved]

Subpart E—Child Abuse and Neglect: Provisions Applicable Under Titles IV-A and IV-B of the Social Security Act

§ 1392.90 Scope.

This subpart contains provisions to implement the requirements of paragraph (3) of Section 4(b) of Pub. L. 93–247, the Child Abuse Prevention and Treatment Act of January 31, 1974. The State plan requirements are applicable to all IV-B agencies and to title IV-A agencies that administer programs or projects related to child abuse and neglect.

§ 1392.91 Definitions.

As used in this subpart:

(a) "Act" means the Social Security Act.

(b) "Child" means a person under the age of eighteen.

(c) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare.

(d) "Harm or threatened harm to a child's health or welfare" can occur through: Non-accidental physical or mental injury; sexual abuse as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter: *Provided, however,* That when a parent or guardian legitimately practicing his religious beliefs fails to provide specified medical treatment for a child, such failure alone shall not be considered neglect.

(e) "A person responsible for a child's health or welfare" includes the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

§ 1392.92 State plan requirements.

A State plan under title IV-B of the Act and under title IV-A, if the single State agency for IV-A administers any program or project related to child abuse or neglect, shall:

(a) *State laws or legally binding administrative procedures.* Include a certification by the State Attorney General that there are in effect State laws or legally binding administrative procedures for the reporting of known or suspected instances of abuse or neglect of children up to age 18, for investigation of such reports, and for action pursuant to the results of investigation.

(b) *Provision for reporting.* Certify that the State or the State or local agency administering the program under Part A or B of title IV of the Act:

(1) Provides for the reporting of known or suspected instances of child abuse and neglect;

(2) Complies with all State laws and legally binding administrative procedures regarding such reporting; and

(3) If it enters into agreement for purchase of services or for the performance of any aspect of a program or project related to child abuse or

neglect, includes a requirement for the provider to report instances of child abuse or neglect.

(c) *Prompt investigation.* Provide that, upon receipt of a report of known or suspected instances of child abuse or neglect, regarding a child covered by the State's child welfare services program under title IV–B, or a program or project related to child abuse or neglect administered or supervised by the title IV–A agency, the State or local agency will promptly initiate an investigation to substantiate the accuracy of the report, unless, under State law or legally binding administrative procedures, such responsibility is exclusively reserved to some other agency, or unless the report involves the acts or omissions of the State or local agency itself. In the latter case, the investigation must be conducted by a different agency or organization.

(d) *Action upon a finding of abuse or neglect.* Provide that, upon a finding of abuse or neglect resulting from an investigation required pursuant to paragraph (c) of this section, the State or local agency will take immediate steps to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care, who may be in danger of abuse or neglect.

(e) *Confidentiality of records.* Certify that the State or local agency has in effect methods to preserve the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child, and his parents or guardians, in accordance with 45 CFR 1391.3. For purposes of this section, the provisions of 45 CFR 1391.3 are applicable to title IV–B.

(f) *Cooperation among agencies.* Certify that law-enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services in relation to prevention, identification, and treatment of child abuse and neglect cooperate with the State or local agency in carrying out the IV–B program and any projects or programs administered under title IV–A.

PART 1393—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, OR XVI (AABD) OF THE SOCIAL SECURITY ACT

D. 45 CFR Part 222, now located in Chapter II, is transferred to 45 CFR Chapter XIII, Subchapter J, and redesignated as a new Part 1393 to read as follows:

PART 1393—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI (AABD) OF THE SOCIAL SECURITY ACT

Editorial Note: At 40 FR 45818, Oct. 3, 1975, the regulations in Part 222 relocated in Part 1393 were superseded by Part 228 relocated in Part 1396 (40 FR 27354, June 27, 1975), except that Part 222 relocated in Part 1393 remains in effect for Puerto Rico, the Virgin Islands and Guam for the operation of services programs under titles I, X, XIV and XVI (AABD) of the Social Security Act. This Part also applies to services programs under these titles in the Commonwealth of the Northern Mariana Islands.

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§ 1393.92 Nonexpendable personal property: Conditions for FFP.

Authority: Sec. 11.02, 102–103, 1002–1003, 1402–1403, 1602–1603 of the Social Security Act, 42 U.S.C. 1302, 302–303, 1202–1203, 1352–1353, 1382–1383 (AABD); Sec. 118 of Pub. L. 96–86.

Subpart A—Mandatory Provisions for All Service Programs

§ 1393.1 General.

A State plan under title I, X, XIV, or XVI of the Social Security Act that provides for any services to aged, blind, or disabled persons in Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands must—

(a) Describe the services available under the State plan to current applicants and recipients;

(b) Identify which, if any, of the optional groups described in § 1393.55 are also eligible for services;

(c) Specify the services to be made available to each such group;

(d) Commit the State to comply with the requirements in this Subpart; and

(e) Commit the State to comply with the requirements of 45 CFR Part 74.

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§ 1393.2 Advisory committees.

(a) An advisory committee on aged, blind, and disabled must be established at the State level and at the local levels where the programs are locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation may be established. The advisory committee, which may be combined with AFDC–CWS advisory committee (as required in 45 CFR 1392.4) will:

(1) Advise the principal policy setting and administrative officials of the agency and have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(2) Include representatives of other State agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of assistance or services or their representatives who shall constitute at least one-third of the membership.

(3) Be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations.

(4) Be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) The State agency must maintain information about the structure and functions of the State and local advisory committees with representation from the aged, blind, and disabled; their relationship to other boards and committees associated with the State and local agencies; and the system for selecting recipients or their representatives. The State advisory committee for aged, blind, and disabled must be established no later than 120 days after plan approval.

§ 1393.3 Training and use of subprofessionals and volunteers.

The State agency must conform to the regulations in 45 CFR 1391.51, Training and Use of Subprofessionals and Volunteers.

§ 1393.4 Relationship to and use of other agencies.

(a) There must be maximum utilization of and coordination with other public and voluntary agencies, including with respect to the latter their experience as well as their facilities, providing services similar or related to the services provided under the plan, where such services are available without additional cost.

(b) Consideration must be given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services and such use must be based on a determination that required program standards will be met, and a comparison of the effectiveness with which the services are likely to be rendered and the anticipated costs thereof.

(c) The State plan must show ways in which public and voluntary agencies will be used including types of services to be purchased, if any.

(d) The State agency must conform to the regulations in 45 CFR 1391.70 and 1391.71 regarding purchase of services.

§ 1393.5 Availability of services.

All of the services contained in the State plan must be available, accessible, and provided with reasonable promptness to all eligible persons needing the services.

§ 1393.6 Notification of available services.

Each applicant and recipient must be informed of the services available from the agency and extended an opportunity to express his need and to request services.

§ 1393.7 Freedom to accept or reject services.

Eligible individuals must be free to determine whether to accept or reject service from the agency.

§ 1393.8 Training.

The State agency shall:

(a) Provide for a training program to improve the operation of the program and to assure a high quality of service; and

(b) Implement its training program in accordance with the requirements of 45 CFR 235.61 through 235.65, except that copies of the annual training plan required by 45 CFR 235.62(c) shall be made available upon request to the Regional Administrator, Office of Human Development Services.

§ 1393.9 Appeals, fair hearings, and grievances.

(a) There must be provision under the agency's established fair hearings procedures for a fair hearing under which applicants and recipients may appeal denial of or exclusion from a service program or failure to take account of recipient choice of a service. Provisions governing fair hearings in relation to financial and medical assistance shall apply. The results of appeals pertaining to services must be formally recorded and made available to the State advisory committee on services and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal.

(b) There must be a system through which recipients may present grievances about the operation of the service program.

§ 1393.10 Reports.

The State shall submit to the Secretary such reports as the Secretary may require concerning the use of Federal funds and the cost of services for aged, blind, or disabled persons.

§ 1393.11 Special service units.

If the State agency establishes special service units in metropolitan or rural settings, it must maintain information on the specific purposes and functions of such special service units.

§ 1393.12 Services for protective payment cases.

If the State plan provides for protective assistance payments on behalf of recipients, there must be provision of services to such recipients in accordance with applicable policies (see 45 CFR 234.70).

§ 1393.13 Services for aged leaving mental hospitals.

If the State plan under title I or XVI (AABD) provides for assistance payments to aged individuals in mental hospitals, the plan must provide for services to such recipients when leaving such hospitals, in accordance with the requirements of section 2(a)(12)(C) or section 1602(a)(16)(C) of the Social Security Act.

Subpart B—Additional Mandatory Provisions for Federal Financial Participation at 75 Percent

§ 1393.20 General.

A State plan under title I, X, XIV, or XVI (AABD) to be eligible for 75 percent Federal financial participation in the costs of providing services, must:

(a) Commit the State to meet the requirements of this subpart.

(b) Commit the State to progress in the extension and improvement of services.

(c) Provide for the submission of such implementation and progress reports as may be specified.

Organization and Administration

§ 1393.21 Policy and program development and implementation.

In administering the program there must be:

(a) A State level position (or positions) with authority and responsibility for the direction and development of the adult services program.

(b) The use of State staff to supervise local agency performance in developing, maintaining, improving, and extending services, to assure proper program implementation.

§ 1393.22 Individual service plans.

There must be assessment of the individual's service needs and implementation of individual service plans in all cases where it is agreed between the agency and the applicant, or the person applying on his behalf, for service that service is needed. Each plan must be reviewed as often as necessary but at least annually, to assure that it is practically related to the individual's needs and is being effectively implemented. Each service plan and the services provided must be recorded.

§ 1393.23 Full-time staff for services.

(a) The functions of arranging or providing services to individuals should, to the maximum extent feasible, be performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There must be adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there must be progress toward the objectives of relieving all staff of nonservice functions. (This includes service at intake, i.e., providing information, screening, and referral within the agency and community for all aged, blind, or disabled persons seeking agency help; and determining need for specific services.)

§ 1393.24 Use of professional staff.

There must be adequate numbers and suitable qualifications for personnel drawn from appropriate disciplines, e.g., social work, rehabilitation counseling, home economics, to plan, develop, and supervise services and, when applicable, to provide specialized services to aged, blind, or disabled persons; and there must be an adequate system of career development and progression for such individuals.

§ 1393.25 Caseloads and workload standards.

The State agency must make available on request an explanation of how the quantity and quality of services will be maintained in instances where the number of personnel performing direct service functions results in a caseload or workload higher than that in effect during fiscal year 1968 for the service programs in the States which qualified for Federal financial participation at the 75-percent rate.

§ 1393.26 Bilingual interpreters.

Provision must be made for bilingual staff or interpreters when there are substantial numbers of non-English-speaking applicants and recipients.

§ 1393.27 Delivery and utilization of services.

(a) There must be progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services.

(b) The State plan must also provide for continued assessment and necessary adaptations to achieve this requirement.

§ 1393.28 Public information program.

There must be provision for a continuing program of public information specifically designed to assure that information about all the services the State agency provides in its plan, and how they may be secured, is effectively and appropriately promulgated throughout the State in a manner calculated to reach current and potential applicants and recipients for service and sources of referral of potential applicants. When there are substantial numbers of non-English-speaking applicants and recipients the informational materials must also be published in the native language most commonly used in the area.

Mandatory Services

§ 1393.40 General.

The State plan must provide for the required services (§§ 1393.41–1393.45) to be made available to all persons eligible under the State plan.

§ 1393.41 Information and referral services.

Such services must be available, without regard to eligibility for assistance or other service, to any aged, blind, or disabled person seeking information or advice with respect to his needs which can properly be met by the provision of direct information or referral to appropriate community resources.

§ 1393.42 Protective services.

Services must include, but are not limited to:

(a) Arranging for medical (including psychiatric) services to evaluate, and whenever possible, safeguard and improve the circumstances of those with serious impairments.

(b) Arrangements for guardianship, commitment, or other protective placement when necessary by the agency directly or through referral to another appropriate agency.

(c) Provision of services to assist individuals to move from situations which are, or are likely to become, hazardous to their health and well-being.

(d) Cooperating and planning with the courts as necessary on behalf of individuals with serious mental impairments.

§ 1393.43 Services to enable persons to remain in or to return to their homes or communities.

Services must include, but are not limited to: (a) Assistance in locating suitable independent living arrangements or arrangements for placement in foster family or protected care settings.

(b) Enlisting the help of interested relatives, friends, and other resources to assist the person to remain in or to return to the community and to maintain himself in the selected environment.

(c) Assisting the individual to carry out necessary medical, health, and health maintenance plans.

(d) Assistance in securing any additional special arrangements or supportive services that will contribute to a satisfactory and adequate social adjustment of the individual.

§ 1393.44 Services to meet health needs.

Services must include but are not limited to:

(a) Assistance in securing necessary diagnostic, preventive, remedial, ameliorative, and other health services (including prosthetic, orthotic, and assistive aids) available under Medicare, Medicaid (or other agency health services program) and from other agencies or providers of health services.

(b) Assistance in making arrangements for transportation to and from health resources.

(c) Planning with the individual relatives, or other appropriate persons, to assist the individual in carrying out medical recommendations.

(d) Maintaining necessary liaison with the physician, nurse, institution, or other provider of health services to assure the provision of social services necessary to carry out medical recommendations.

(e) In medical emergencies, obtaining services of a physician; arranging care of dependents and other social services required as a result of the individual's medical emergency.

(f) Providing, as necessary, the services of escorts and bilingual interpreters, who, whenever possible, shall be subprofessional staff who are residents of neighborhoods in which the persons reside.

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§ 1393.45 Self-support services for the handicapped.

Such services must include but are not limited to:

(a) Exploring interests and potentials for self-support in whole or in part.

(b) Individual counseling, necessary to deal with family barriers which prevent or limit individuals in their use of training and employment opportunities.

(c) Providing for referral to and use of public and voluntary agencies in the fields of vocational rehabilitation, health, education, and employment, including special attention to the capabilities of rehabilitation centers and sheltered workshops, community action agencies; neighborhood centers, and similar organizations.

§ 1393.46 Homemaker services.

By April 1, 1974, State plans must provide for homemaker services which must:

(a) Include home management, home maintenance, and personal care services for adults who are determined by the agency to need this service.

(b) Be in accord with the recommended standards of related national standard setting organizations such as the National Council for Homemaker Service.

§ 1393.47 Special services for the blind.

By April 1, 1974, State plans must provide for special services for the blind.

§ 1393.50 Community planning.

(a) There must be provision for community planning by the staff of the agency at the State and local levels, with authority and responsibility assigned to assure development and utilization of community services and resources to meet the needs of low-income groups.

Subpart C—Optional Provisions and Services

§ 1393.55 Coverage of optional groups for services.

(a) The agency may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Aged, blind, or disabled persons who are former applicants for or recipients of financial assistance who request services or on whose behalf services are requested. See § 1393.86(b) for Federal financial participation.

(2) Aged, blind, or disabled persons who request services, or on whose behalf services are requested, and who are likely to become applicants for or recipients of financial assistance, i.e., those who:

(i) Are not money payment recipients but are eligible for medical assistance under the State's Title XIX plan.

(ii) Are likely, within 5 years, to become recipients of financial assistance.

(iii) Are at or near dependency level, including those in low income neighborhoods and among other groups that might be expected to include more aged, blind, or disabled assistance cases than other low-income groups, where the services are provided on a group basis.

(b) All aged, blind, or disabled persons in the above groups or a selected reasonable classification of such persons with common problems or common service needs may be included.

§ 1393.56 Range of optional services.

A State may elect to include in its State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act provision for optional services as provided for in §§ 1393.57–1393.61 in the costs of which 75 percent Federal financial participation is available, provided that the State plan also meets all of the requirements contained in Subparts A and B of this part.

§ 1393.57 Services to individuals to improve their living arrangements and enhance activities of daily living.

Services may include any or all of the following individual service items: Housing improvement and assistance services; services to adults in foster care; day care; chore services; home delivered meals; companionship services; education services related to consumer protection and money management; and homemaker services.

§ 1393.58 Services to individuals and groups to improve opportunities for social and community participation.

Services may include any or all of the following individual service items: Assistance in obtaining recreational and educational services; opportunities to participate in volunteer and paid service roles with various community agencies and organizations; provision of social group services in agency or other settings, e.g., neighborhood centers, multipurpose senior centers.

§ 1393.59 Services to individuals to meet special needs.

(a) Services may include any or all of the following individual service items: Legal services for persons desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services); family planning; services for such groups as alcoholics, drug addicts, and mentally retarded individuals; special services to the blind, deaf, and other disabled individuals.

(b) Regarding the provision of family planning services:

(1) If a State authorizes abortions, Federal financial participation in State claims is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

(2) If a State authorizes sterilization, it must comply with the provisions of 42 CFR Part 441, Subpart F.

§ 1393.60 Other services.

A State may submit other optional services for consideration and approval by the Department of Health and Human Services.

§ 1393.61 Consultant services.

A State may use those services which consist of advice and consultation provided by persons who are expert in such matters as medical (including psychiatric), social, legal, educational, psychological, nutritional, and employment problems of individuals, for the purposes of assisting agency staff, as necessary, in diagnosing and developing service plans to meet individual applicant or recipient needs and in the development and evaluation of agency service programs.

Subpart D—Definitions

§ 1393.65 Chore services.

Chores services means services in performing light work, or household tasks which eligible persons are unable to do for themselves because of frailty or other conditions and which do not require the services of a trained homemaker or other specialist. Chore services may include such activities as: Help in shopping, lawn care, simple household repairs, running errands, etc.

§ 1393.66 Community planning.

Community planning means activities of the staff of the agency, at the State and local levels, in providing leadership in the planning, development, extension, and improvement of the broad range of services, facilities, and opportunities required to prevent dependency for low income adults and to meet the current and anticipated service needs of all aged, blind, or disabled applicants and recipients. Staff activities include work with other agencies, organizations, and interested citizens' groups, including State and local commissions on aging and the blind, in stimulating community support and action on behalf of all the aged, blind, or disabled so that in developing and extending community services to the total group, applicants and recipients will also benefit.

§ 1393.68 Day care services.

Day care services means services provided during the day to eligible persons in a protective setting approved by the State agency for purposes of personal care and to promote their social, health, and emotional well being through opportunities for companionship, self-education and other satisfying leisure time activities.

§ 1393.69 Education services related to consumer protection and money management.

Education services related to consumer protection and money management mean services that help eligible persons learn how to manage household budgets effectively and to use sound consumer practices.

§ 1393.70 Home delivered meals.

Home delivered meals means service which consists of preparing and delivering one or more hot meals daily to the homes of eligible persons who are unable to obtain or prepare nourishing meals.

§ 1393.71 Homemaker services.

Homemaker services means home management and maintenance services, and personal care services, provided to maintain, strengthen and safeguard the functioning of eligible persons in their own homes where no responsible person is available for this purpose.

§ 1393.72 Housing improvement and assistance service.

Housing improvement and assistance services means services, in cooperation with the applicant or recipient, landlord, and others to assist in the upgrading of substandard rental housing in which the applicant or recipient resides; to obtain repairs to his own home if substandard or unsuitable; or to find other housing in the community suitable and adequate to his needs at prices which he can afford to pay; and to help to increase the supply and availability of safe and suitable housing for applicants or recipients who have housing problems through cooperative community planning activities with appropriate individuals and groups in the community.

§ 1393.73 Protective services.

Protective services means a system of services (including medical and legal services which are incidental to the service plan) which are utilized to assist seriously impaired eligible individuals who, because of mental or physical dysfunction, are unable to manage their own resources, carry out the activities of daily living, or protect themselves from neglect or hazardous situations without assistance from others and have no one available who is willing and able to assist them responsibly.

§ 1393.74 Services to adults in foster care.

Services to adults in foster care means services to eligible persons to assure placement in settings approved by the appropriate State and/or local authority and suitable to the needs of each individual; assure that the person receives proper care in such placement; and to determine continued appropriateness of and need for placement through periodic reviews, at least annually.

§ 1393.75 Services to meet health needs.

Services to meet health needs mean services provided for the purpose of assisting eligible persons to attain and retain as favorable a condition of health as possible by helping them to identify and understand their health needs and to secure and utilize necessary medical treatment as well as preventive and health maintenance services including services in medical emergencies.

§ 1393.76 Social group services.

Social group services mean use of group methods to provide eligible persons with opportunities for group experiences. Such experiences can help individuals to cope with personal problems, develop capacities for more adequate social and personal functioning, relieve social isolation, develop friendships and mutual aid, and increase understanding between the group and the agency.

§ 1393.77 Special services for the blind.

Special services for the blind means services related to age, presence of other disabilities and amount of residual vision. Such services may include assistance in securing mobility training, personal care, home management and communication skills; also arrangements for talking book machines and obtaining special aids and appliances to solve or reduce problems arising from blindness as well as help in securing safety items, particularly those necessary to assure safe housing and prevent accidents. Arrangements for educational counseling to assure appropriate classroom placement and when timely, guidance from a school and/or rehabilitation program to prepare for a vocation are essential for the young blind to reach their full potential. Additionally, services may include referral of parents of blind children to agencies with special counseling competence in this field.

Subpart E—Federal Financial Participation

§ 1393.85 General.

Federal financial participation is available in expenditures as found necessary by the Secretary:

(a) For the proper and efficient administration of the plan.

(b) For the costs of providing the services for the groups of aged, blind, or disabled.

(c) For carrying out the activities described in Subparts A, B, and C of this part that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

§ 1393.86 Persons eligible for services.

Federal financial participation is available under this subpart only for services provided to:

(a) An aged, blind, or disabled person applying for or receiving assistance under the plan.

(b) The groups defined in § 1393.55, former and potential applicants or recipients who request services or on whose behalf services are requested, and other individuals requesting information and referral service only. In respect to any aged, blind, or disabled person who has formerly been an applicant for or recipient of assistance, counseling and casework services may be provided. Other services may be provided only to those aged, blind, or disabled persons who have received assistance within the previous 2 years or who qualify under the definition of potential applicants or recipients (see § 1393.55(a)(2)).

§ 1393.87 Sources for furnishing services.

Federal financial participation is available for services furnished:

(a) By State or local agency staff, i.e., full- or part-time employed staff; and volunteers, or

(b) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

§ 1393.88 Provisions governing costs of certain services.

(a) *Medical and assistance costs.* Federal financial participation will not be available under this subpart in expenditures for subsistence and other assistance items or for medical or remedial care or services, except:

(1) For subsistence and medical care when they are provided as essential components of a comprehensive service program in a facility and their costs are not separately identifiable, such as, in a

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rehabilitation center, day care facility, or neighborhood service center.

(2) For medical and remedial care and services as part of family planning services;

(3) For medical diagnosis and consultation when necessary to carry out service responsibilities, e.g., for recipients under consideration for referral to training and employment programs.

(b) *Vocational rehabilitation services.* Federal financial participation is not available in the costs of providing vocational rehabilitation services for handicapped individuals as defined in the Vocational Rehabilitation Act except pursuant to an agreement with the State agency administering the rehabilitation program. This applies to provision of services by staff of the agency and purchase.

(c) *Services related to adult foster care.* Federal financial participation is available in the costs of staff in providing services related to adult foster care, i.e., recruitment, study, and approval of foster family homes (except staff primarily engaged in the issuances of licenses or in the enforcement of standards); services to adults in foster care, and work with foster families and staff of institutions caring for adults, such as homes for the aged. Payments for the foster care itself are assistance payments and are, therefore, not subject to the service rate of Federal financial participation.

(d) *Services provided in behalf of aged, blind, or disabled persons.* Federal financial participation is available for services provided in behalf of aged, blind, or disabled persons, e.g., community planning; assuring accessibility to resources to which the person is entitled; and studies of service needs and results.

§ 1393.89 Conditions for FFP.

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) *Restrictions on State's share.* The State's share in claiming FFP under this part shall be in accordance with 45 CFR 1396.53.

§ 1393.90 Rates of Federal financial participation.

(a) *FFP at the 75 percent rate.*

(1) General. FFP is available at the rate of 75 percent for the eligible service costs identified in § 1393.88, for training and staff development, and for other costs specified in Paragraph (a)(2) of this section, provided that the State plan meets all of the requirements of Subparts A and B of this Part.

(2) *Kinds of expenses for which FFP is available at the 75 percent rate:*

(i) Salary and travel costs of service workers (including volunteers) and their supervisors giving full-time to services, and for staff entirely engaged (either at State or local level) in developing, planning, and evaluating services.

(ii) Salary costs of service-related staff such as supervisors, clerks, secretaries, and stenographers, which represent that portion of the time spent in supporting full-time service staff.

(iii) Related expenses of staff performing service or service-related work under Paragraphs (a)(2) (i) and (ii) of this section in proportion to their time spent on services. Such related expenses include communication, equipment, supplies, and office space.

(iv) Other expenses related to the provision of service in support of full-time service staff, including a portion of the salary costs of any agency person (except the service worker who must be on a full-time basis) who is working part-time on service functions (either at the State or local agency level). Such expenses include the portion of salary costs of supervisors related to supervision of service work, a portion of fiscal costs related to services, a portion of research costs related to services, a portion of salary costs of field staff, etc.

(3) *Definitions applicable to this section:*

(i) Full-time service work means the performance of functions related to the provision of services by persons assigned exclusively to such functions, regardless of the number of hours they are employed.

(ii) Service work means the activities of staff in providing the services and carrying out the related responsibilities specified in Subparts A, B, and C of this Part. This includes services to families and children, and referring questions from former and potential recipients about income maintenance and medical benefits to staff responsible for those programs. It does not include securing information or taking actions in respect to determining initial and continuing eligibility for financial or medical assistance or to change the amount of financial assistance being provided.

(iii) Service-related work means activity of staff other than service workers which is necessary to fully administer a service program. This includes activities of secretaries, stenographers, and clerks serving service staff; of supervisors of service workers and their supervisors; of staff responsible for developing and evaluating service policies; and of staff collecting and summarizing financial and statistical data on services.

(iv) Staff means persons individually or in groups performing service or service-related work. This includes professional, subprofessional (e.g., recipients and other workers of low income), and volunteer staff.

(b) *FFP at the 50 percent rate.* FFP is available at the rate of 50 percent for the following:

(1) Salaries and travel of workers carrying responsibility for both services and financial or medical eligibility functions, supervisory costs related to such workers, and all or part of the salaries of supporting secretarial, stenographic, or clerical staff depending on whether they work full-time or part-time for the workers specified in this Paragraph (b)(1).

(2) Salaries and travel of staff primarily engaged in developing processes for, or determining eligibility for financial or medical assistance and their supervisors and supporting staff.

(3) Expenses related to staff described in Paragraphs (b) (1) and (2) of this section, such as for communication, equipment, supplies and office space.

(4) Other expenses of administration not specified at the 75 percent rate.

§ 1393.91 [Reserved]

§ 1393.92 Nonexpendable personal property: Conditions for FFP.

Federal financial participation in State claims for nonexpendable personal property is governed by 45 CFR 1396.93.

[44 FR 20432, Apr. 5, 1979]

SUBCHAPTER K—SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES UNDER TITLE XX OF THE SOCIAL SECURITY ACT

PART 1395—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

E. A new Part 1395, Subpart A is established to contain the same rules in 45 CFR 205.150 to apply to the social service program under title XX to read as follows:

PART 1395—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

Subpart A—General Administration

Sec.
1395.1 [Reserved]
1395.2 Cost allocation.

§ 1395.1 [Reserved]

§ 1395.2 Cost allocation.

(a) *State plan requirements.* A State for services under title XX of the Social

Security Act must provide that: (1) The single or appropriate State Agency will have an approved cost allocation plan on file with the HDS Regional Administrator, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and Office of Human Development Services (HDS) regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single or appropriate State agency is located (unless specifically waived by the HDS Regional Administrator); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(The estimated costs are included solely to permit evaluation of the methods of allocation and therefore approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for Federal financial participation.)

(ii) Contain such other information as is necessary to document the validity of the cost allocation methods and procedures; and

(iii) Include methods and procedures for:

(A) Allocating the costs as specified in this paragraph (a)(1) of the State department in which the State agency is located between Federally-aided and non Federally-aided programs;

(B) Identifying, of the costs applicable to more than one of the Federally-aided programs, those applicable to each of the separate programs, in accordance with program classifications specified by the Secretary; and

(C) Segregating costs in paragraph (a)(1)(iii)(B) of this section by service and income maintenance functions, where applicable, and by such other classifications as are found necessary by the Secretary;

(2) The single or appropriate State agency shall revise its cost allocation plan whenever the allocation method shown in the existing plan is outdated due to organizational changes within the State agency, changes in Federal law or regulations, or other similar changes.

(b) *Federal financial participation.* (1) As a condition for receipt of Federal financial participation in administration services (excluding purchased services) and training for any quarterly period, a State's claim for such expenditures must be in accord with a cost allocation plan on file with and approved by the HDS Regional Administrator for that period.

(2) If a State agency fails to submit for any quarter a cost allocation plan revising an outdated plan as required by paragraph (a)(2) of this section, or the submitted revision has not been approved, the HDS Regional Administrator in reviewing the expenditures claimed for such quarter, shall: (i) Defer payment of any amount he believes to be overstated; or (ii) Disallow any amount which he determines to be overstated.

(3) If a State does not have any cost allocation plan on file with the HDS Regional Administrator, payment will be made only for those costs of administration, services, and training which are entirely chargeable to a function or activity within a given title having one rate of Federal financial participation. Payment for the remaining cost of administration, services and training which requires an allocation method, will be disallowed.

(4) Any costs disallowed under paragraph (b)(2) and (b)(3) of this section may be reclaimed after the HDS Regional Administrator approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent such reclaimed amounts are supported by the approved plan.

(5) Within 60 days of receipt of a cost allocation plan, the HDS Regional Administrator shall give to the State written notice of approval or written notice of changes required for approval.

(6) The time frames specified in 45 CFR 201.15 and the procedures set forth in § 201.15(c) are applicable to deferral of claims made pursuant to paragraph (b)(2) of this section.

[(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))]

PART 1396—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

F. 45 CFR Part 228, now located in Chapter II is transferred to 45 CFR Chapter XIII, Subchapter K, and redesignated as a new Part 1396 as follows:

PART 1396—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Subpart A—Scope and Definitions

Sec.
1396.0 Scope of program.
1396.1 Program definitions.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

1396.4 State plan requirements.
1396.5 Appropriate State agency.
1396.6 State financial participation.
1396.7 Statewide operation.
1396.8 Standards of personnel administration.
1396.9 Requirement to obtain certain information.
1396.10 Safeguarding information.
1396.11 Residency requirements.
1396.12 Standards for institutions or foster homes.
1396.13 Standards for child day care services.
1396.14 Fair hearings.
1396.15 Amendments to State plan.
1396.16 Submittal of State plan and amendments for approval by the Secretary.
1396.17 Reports and maintenance of records.
1396.18 Maintenance of effort.
1396.19 Noncompliance.

Subpart C—Comprehensive Annual Services Program Plan

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Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); Sec. 118 of Pub. L. 96–86.

Subpart A—Scope and Definitions

§ 1396.0 Scope of program.

(a) Federal financial participation is available, in accordance with title XX of the Social Security Act and this Part, with respect to expenditures under a State program for the provision of services, to low income individuals and families, directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

§ 1396.1 Program definitions.

As used in this Part:

Act means the Social Security Act, as amended:

Assistant Secretary means the Assistant Secretary for Human Development Services (HDS) of the U.S. Department of Health and Human Services.

Categories of individuals means groupings of persons on the basis of common characteristics such as recipient status (AFDC, SSI, Medicaid), income level, age, physical or mental condition or any other characteristic that the State specifies in its comprehensive annual services plan.

Family means one or more adults and children, if any, related by blood, or law, and residing in the same household. Where adults, other than spouses, reside together, each may be considered a separate family by the State. Emancipated minors and children living under the care of individuals not legally responsible for that care may be considered one-person families by the State.

Fiscal year means the Federal fiscal year unless otherwise specified.

FFP means Federal financial participation.

Geographic area means any identifiable area encompassed within the State.

Indian tribal council means the official Indian organization administering the government of an Indian tribe, but only with respect to those tribes with a reservation land base. This includes Inter Tribal Councils whose membership tribes have reservation status.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians or any Indian Tribe, band, nation, or other organized group or community which is so recognized as an Indian Tribe by any State commission, agency, or authority which has the statutory power to extend such recognition.

Medical or remedial care means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and which care is provided by or under the direct supervision of such a medical practitioner or other health professionals licensed by the appropriate professional organization.

Monthly gross income means the monthly sum of income received from sources identified by the U.S. Census Bureau in computing median income. (See § 1396.66.)

Room means shelter only; and *board* means 3 meals a day or any other full nutritional regimen.

Secretary means the Secretary of U.S. Department of Health and Human Services.

Services plan means the State Comprehensive Annual Services Program Plan under section 2004 of the Act.

SSI (*Supplemental Security Income*) means monthly cash payments made by the Social Security Administration to an aged, blind or disabled individual who meets the requirements for such aid under title XVI of the Act, and also includes State supplementary payments made by a State on a regular basis to an individual receiving SSI, or who would, but for his income, be eligible to receive such benefits, as assistance based on need in supplementation of such benefits.

State means the 50 States and the District of Columbia.

State agency means the appropriate State agency, designated by the chief executive officer of the State or as otherwise provided by the laws of the State, to administer or supervise the administration of the State's program, and except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

State plan means the State plan under section 2003 of the Act.

Title XX means title XX of the Social Security Act.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

§ 1396.4 State plan requirements.

Each State which establishes a services plan under title XX shall operate it under a State plan, approved as meeting the requirements of § 1396.5 through 1396.16.

§ 1396.5 Appropriate State agency.

(a) *Designation of appropriate State agency.* The State plan shall provide:

(1) For the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of a State agency with authority to administer or supervise the administration of the State's program under title XX; and

(2) For a description of the appropriate State agency, and inclusion of an organizational chart showing location of the agency within the State Government.

(b) If on December 1, 1974, a separate agency administered or supervised the service program for the blind under title VI, such agency may continue to do so for title XX. Both agencies shall use the same program year.

(c) *Administration of title IV–B of the Act.* Under title IV–B of the Act, the State agency shall administer or supervise the administration of title IV–B of the Social Security Act unless, prior to December 1, 1974, title IV–A and IV–B of the Act were administered by separate agencies.

(d) *Legal authority.* The Attorney General of the State shall submit a certification identifying the State agency and certifying the legal authority under which such agency administers or supervises the administration of the State program including the authority to make rules and regulations governing the administration of the program.

(e) *Authority and responsibility of the agency.* There shall be maintained within the appropriate State agency the authority and responsibility for:

(1) The State plan;

(2) The services plan;

(3) The projection of estimated expenditures;

(4) The accountability for Federal funds;

(5) The establishing and maintaining of standards for the determination of eligibility;

(6) The administration or supervision of the administration for the provision of services;

(7) Operating the program on a Statewide basis;

(8) Complying with any program reporting requirements;

(9) Maintaining a working relationship between the Secretary and the State; and

(10) Overall supervision, control and oversight of title XX activities.

(f) *Administrative support agreements.* In carrying out the responsibilities under paragraph (e) of this section, the State agency may enter into agreements with other public agencies and private entities to procure administrative support. A local agency administering the program under the supervision of the State agency may also enter into such agreements.

§ 1396.6 State financial participation.

A State plan under title XX shall provide that State funds will be included in meeting the cost of the program.

§ 1396.7 Statewide operation.

A State plan shall provide that the State's program for the provision of services described in its services plan shall be in effect in every political subdivision of the State. Every part of every political subdivision shall be part of a geographic area described in the services plan.

§1396.8 Standards of personnel administration.

The State plan shall provide that methods of personnel administration will be established and maintained in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900. These standards incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, section 2, 84 Stat. 1909), prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970, as amended.

§1396.9 Requirement to obtain certain information.

The State plan shall provide that the State require the following providers of title XX services to comply with the requirements of §1396.72 regarding submission of information concerning ownership or control and past business transactions:

(a) Each private provider (other than an individual practitioner or group of practitioners) with whom the State or local agency contracts for medical or remedial care (as defined in §1396.1); and

(b) Each private agency with whom the State or local agency contracts for health-related homemaker services (as defined in §1396.72(a)(4)).

§1396.10 Safeguarding information.

State plan requirements. A State plan under title XX of the Social Security Act must provide that—

(a) Pursuant to State statute which imposes legal sanctions:

(1) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with the administration of that program, the plan of the State approved under Part A of title IV, the plan of the State developed under Part B of that title, the Supplemental Security Income program established by title XVI, or the plan of the State approved under title XIX. Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

(2) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients.

(3) Publication of lists or names of applicants and recipients will be prohibited.

(b) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(1) Types of information to be safeguarded include but are not limited to:

(i) The names and addresses of applicants and recipients and services provided;

(ii) Information related to the social and economic conditions or circumstances of a particular individual;

(iii) Agency evaluation of information about a particular individual;

(iv) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(2) The release or use of information concerning individuals applying for or receiving services is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the services programs.

(3) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(4) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through

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proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(5) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(c) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make such provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(d) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(1) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(2) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(3) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

§ 1396.11 Residency requirements.

The State plan shall provide that no requirements as to duration of residence or citizenship will be imposed as a condition of participation in the State's program for the provision of services.

§ 1396.12 Standards for institutions or foster homes.

Where a services plan includes services to individuals living in institutions or foster homes, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards which are reasonably in accord with recommended standards of national standard setting organizations concerned with standards for such institutions or homes including standards related to admissions policies, safety, sanitation, and protection of civil rights. For purposes of this section, "institution" includes all residential facilities providing for group living.

§ 1396.13 Standards for child day care services.

Where a services plan provides for child day care services, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards for licensing, registration, certification, or approval of such services which are reasonably in accord with recommended standards of national standard setting organizations for such services including standards related to admissions policies for facilities providing such services, safety, sanitation and protection of civil rights.

§ 1396.14 Fair hearings.

The State plan shall provide for a system of hearings under which applicants for, or recipients of, services or an individual acting on behalf of an applicant or recipient, may appeal denial, reduction, or termination of a service, or failure to act upon a request for service with reasonable promptness. Under this requirement, the procedures and provisions of 45 CFR 205.10 shall apply.

§ 1396.15 Amendments to State plan.

The State plan shall provide that it will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any State law, organization, policy, or State agency operation.

§ 1396.16 Submittal of State plan and amendments for approval by the Secretary.

Upon adoption by the State of a State plan, or an amendment to a State plan, it shall be certified by a duly authorized officer of the State agency and submitted to the Regional Administrator, HDS, in accordance with 45 CFR Part 201.

§ 1396.17 Reports and maintenance of records.

(a) Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary; and shall retain such records for such periods as are prescribed by the Secretary.

(b) The State agency shall make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

§ 1396.18 Maintenance of effort.

Each State which participates in the program shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions for the provision of services during each services program year with respect to which payment is made under this Part is not less than the aggregate expenditures from such appropriated funds for the provision of services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, X, XIV, or XVI, or Part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under this Part, for each fiscal year any part of which is included in that services program year, with respect to expenditures, other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under § 1396.52 of this part. Where such sum totals appropriated include privately donated funds that are identifiable and documented, such donated funds are not considered part of the aggregate expenditures from appropriated funds.

§ 1396.19 Noncompliance.

(a) *Withholding of payment.* If the Secretary, after reasonable notice and opportunity for a hearing to the State, in accordance with 45 CFR Part 213, finds that the plan of the State no longer complies with any of the requirements of §§ 1396.5 through 1396.16, that in the administration of the plan, there is a substantial failure to comply with any of those requirements, or that there is a substantial failure to comply with the requirements of § 1396.17 or 1396.18, he shall, except as provided in paragraph (b) of this section, notify the State that further payments will not be made to the State under this part until he is satisfied that there will no longer be any such failure to comply.

(b) *Alternate 3 percent penalty.* The Secretary may suspend implementation of any termination of payments under paragraph (a) of this section for such period as he deems appropriate and, alternatively, reduce the amount otherwise payable to the State under this part for expenditures during that period by 3 percent for each requirement set forth in §§ 1396.5 through 1396.18 with respect to which there was a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any failure to comply.

Subpart C—Comprehensive Annual Services Program Plan

§ 1396.20 Conditions for FFP.

(a) The State's final services plan shall meet all requirements of this Subpart and of § 1396.50; if it does not (except for family planning services provided pursuant to § 1396.26(h)), there will be no FFP in expenditures for services under the services plan.

(b) FFP will be available in expenditures under the final services plan for services that are provided:

(1) No earlier than 90 days after a proposed services plan has been published and made available for public review and any corrections necessary to bring such proposed plan into compliance with all requirements of §§ 1396.21 through 1396.33 have been published, with 45 days for public comment; and

(2) No earlier than the date of publication of a final services plan that meets all requirements of §§ 1396.21 through 1396.35 (if applicable).

§ 1396.21 Establishment of program year.

The State shall establish the beginning of the Federal fiscal year or the fiscal year of the State government as the beginning of the State's services program year. In order to exercise this option, the State may have a program year of less than 12 months or may extend the program year to 15 months.

§ 1396.22 Services plan.

(a) The Chief Executive Officer of the State, or such other official as the laws of the State shall provide, shall publish in both proposed and final form the Comprehensive Annual Services Plan (hereinafter in this part referred to as the services plan) prepared by the State agency prior to the beginning of each services program year. The proposed and final services plans shall meet all requirements of this Subpart.

(b) The final services plan shall also include: (1) A summary of the public comments; including the State's response to the comments; and

(2) An explanation of differences between the proposed and final services plan, if any and the reasons therefor.

§ 1396.23 Program goals and objectives.

(a) The services plan shall provide that services offered are directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(b) The objectives to be achieved under the program shall be directed to the goals in paragraph (a) of this section, and shall be stated in the services plan in measurable terms so that an assessment may be made of the extent to which they are achieved.

§ 1396.24 Individuals to be served.

The proposed and final services plans shall:

(a) Specify which of the categories of individuals described in §1396.60 will be provided services in the forthcoming program year: describe the income levels for eligibility, and include the Statewide definition of family in accordance with § 1396.1;

(b) If the State limits services to individuals with certain characteristics, describe the limitations imposed for each category in sufficient detail to enable individuals to know if they are likely to meet the eligibility requirements, e.g., one parent families whose income is not more than 80 percent of the median income; mentally retarded SSI recipients, or alcohol abusers whose income does not exceed 50 percent of the median income;

(c) Specify which of the categories to be served will be charged a fee;

(d) Include the fee schedule, specifying any variations by service or by geographic area, as permitted under § 1396.62; and

(e) Specify whether family planning services, information and referral services, and services to prevent or remedy neglect, abuse, or exploitation will be provided without regard to income.

(f) If the State is determining eligibility on a group basis in accordance with § 1396.61, the services plan shall so state and describe any specific conditions or characteristics (other than income), that must be met or that individuals must have so that they will know if they might qualify to receive a particular service for which eligibility is determined on a group basis. Conditions or characteristics that may be used by the State as a basis for determining that a service is to be offered on a group eligibility basis may include one or more of the following: the nature of the service, characteristics of persons to receive the service (such as age, physical or mental condition, place of residence, single parenthood, common problems, etc.), location of the service site(s), nature of the community where the service will be provided, or other factors which lead the State to reasonably conclude that substantially all the persons to whom the services will be offered are members of families which have a monthly gross income of no more than 90 percent of the State's median income, adjusted for family size.

§ 1396.25 Availability of services by geographic area.

For the purpose of delivering services described in the service plan, the State agency may divide the State into geographic areas, but only if such geographic areas encompass the entire State, including Indian reservations. The State shall consider, in defining geographic areas, the boundaries of planning areas of other human services programs. If the State chooses to establish such geographic areas, the services plan shall:

(a) Describe those geographic areas;

(b) Provide that the services described in § 1396.26(f) will be available to eligible individuals' in every geographic area; and

(c) Where different services are made available to a category of individuals in different geographic areas, provide that the services furnished in a geographic area will be available to all eligible individuals in that category who reside in that area.

§ 1396.26 Services.

The services plan shall: (a) Describe each discrete service, including the service(s) which is (are) available to individuals on the basis of group determination of eligibility, in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service. For purposes of this paragraph, services such as "child welfare services", "services to alcoholics", or "protective services" are not discrete services but rather clusters of services, each of which shall be separately described. If medical or remedial care or room or board as described in §§ 1396.40 and 1396.41 are part of a service, the plan shall so specify in describing that service.

(b) Specify the effective date when each discrete service is available if the effective date is other than the beginning of the program year. For each discrete service that is to be offered in a prescribe time frame, specify the effective date on which that service is available and the effective date on which that service is to be discontinued. (See § 1396.50(a)(2).)

(c) Specify the method of delivery for each service, i.e., directly by the State agency, by a provider (public or private), or both;

(d) Indicate the relationship of each service to one or more of the program goals and one or more of the program objectives specified in § 1396.23;

(e) Specify the categories of individuals in each geographic area to whom each service will be provided, including any services provided on a group basis;

(f) Include among the services to be provided in each geographic area:

(1) At least three services for SSI recipients;

(2) At least one service directed at each of the program goals specified in §1396.23.

(g) Describe the foster care services required under section 408 of the Act to be provided to all recipients of AFDC–FC, if such services are available under title XX;

(h) Describe any family planning services that will be provided pursuant to section 402(a)(15) of the Act. Failure to include such family planning services will not constitute a deficiency in the services plan. However, failure to provide family planning services pursuant to section 402(a)(15) of the Act may result in a loss of FFP to the State under its AFDC program.

§ 1396.27 Estimates of individuals to be served and expenditures.

In order to provide residents of the State with information on the scope of the services program, the services plan shall include estimates of State and Federal expenditures applicable to the title XX program as follows:

(a) For each discrete service, a list of estimated expenditures and estimated numbers of individuals to be served, by each category of eligible individuals and by each geographic area;

(b) Estimated expenditure for the forthcoming program year; and

(c) A comparison of estimated aggregate non-Federal expenditures for the forthcoming program year with those of the preceding completed program year.

§ 1396.28 Program resources.

(a) The services plan shall indicate how the State intends to finance its title XX program by providing an estimate of the funds to be used from the State's title XX allotment, and by separately identifying and estimating State and local appropriated funds, and the aggregate of donated and other funds to be used to meet the expenditures under the program. ("Other funds" include any State or local funds used in the title XX program that are in excess of the State's allotment ceiling so long as such funds are administered in accordance with all requirements of this Part.)

(b) Where a State program year is the same as the Federal fiscal year, States shall include in the services plan the full amount of the federal allotment. Where a State program year extends through more than one Federal fiscal year, States shall include in the services plan the full amount of the federal allotment for both fiscal years. The services plan shall also indicate the proportion of each Federal fiscal year encompassed by the State's program year.

§ 1396.29 Program coordination and utilization.

The services plan shall describe:

(a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) Title IV–A, AFDC (including WIN);

(ii) Title IV–B; Child Welfare Services;

(iii) Title XVI, SSI; (see paragraph (b)(3) of this section regarding State services plan content on standards for facilities housing SSI recipients); and

(iv) Title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, developmentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) The service plan shall contain:

(1) A general description of the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(2) A general description of the steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

(3) Information on standards established by designated standard-setting authorities for residential facilities for SSI recipients, as follows:

(i) A summary (listing of the items) of each standard established for each type of facility in which the State has determined that a significant number of SSI recipients resides or will reside, in accordance with 45 CFR 1397.20(a); and

(ii) The name and address of each standard-setting agency designated in accordance with 45 CFR 1397.10, and a statement that interested individuals may obtain from such agencies without charge a single copy of:

(A) A complete set of standards for each type of facility;

(B) The procedures used in the State to ensure the enforcement of each standard;

(C) The criteria for waiving each standard and a list of the names and addresses of facilities and the standards for which they have been granted waivers; and

(D) The list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

§ 1396.29–a Timing for initial publication of standards for residential facilites for SSI recipients.

States shall publish the information about standards required under § 1396.29(b)(3) no later than the publication dates of their services plans for their first title XX program year starting after October 1, 1977.

§ 1396.30 Organizational structure.

The services plan shall:

(a) Describe the organizational structure of the State agency through which the program will be administered, including where individuals may apply for services and have their eligibility determined;

(b) Provide a brief description of the State's use of volunteers and volunteer activities or an estimated number of volunteers; and

(c) Identify the point in its organizational structure of the level of staff where it has placed authority;

(1) To make the decision for the State that it is not feasible to furnish child day

care in a day care center or group day care home which complies with Federal staffing standards; and

(2) To furnish child day care by granting a waiver of otherwise applicable Federal staffing standards in a day care center or group day care home which serves few title XX funded children (see § 1396.42(c)(2)) and meets applicable State staffing standards.

§ 1396.31 Needs assessment.

(a) The services plan shall describe the steps taken to assure that the needs of all residents of, and all geographic areas in, the State are taken into account in development of the services plan. The description shall include data sources used (or to be used).

§ 1396.32 Planning, evaluation and reporting.

The services plan shall describe the planning, evaluation, and reporting procedures and activities the State has carried out or plans to carry out in connection with its services program. Examples of these procedures and activities which may be described include the following:

(a) *Planning.* Relationship with the State budget process and the legislature; input from other State, regional and local planning units and from local general purpose governmental units; citizen organizations and individuals; relationship of needs assessment and service resources inventory to setting of program priorities and allocation of resources.

(b) *Evaluation.* Purpose, scope and timing of current and proposed evaluations, and the schedule for dissemination of evaluation results.

(c) *Reporting.* Description of planned formal reports, such as reports to elected officials or to the public (but excluding reports furnished to HDS, and the schedule for issuance.

§ 1396.33 The public review process.

A State's services plan does not become effective for its services program year until the public review process is completed in accordance with §§ 1396.33, 1396.34, and 1396.35 (if applicable).

(a) *Purpose.* The purpose of the public review process is to enable the residents of each State to participate meaningfully in the State decision making processes with respect to the States services plan. The public review process is intended to assure that each State has provided opportunity for prior public participation of title XX clients, title XX advisory groups, public and private organizations, public officials and the general public in needs assessment, identification of priorities and allocation of resources throughout the development of the services plan. (See § 1396.29)

(b) *Scope.* The public review process shall include at least:

(1) Publication of the proposed services plan and a display advertisement describing that plan, and a summary of the plan, if any, at least 90 days before the beginning of the program year, with a 45-day period for public comment;

(2) Consideration of, and public access to, comments received;

(3) Publication of any corrections required to bring the proposed services plan into compliance with the requirements of §§ 1396.21 through 1396.33;

(4) Publication of the final services plan and a display advertisement announcing its publication no earlier than 45 days after publication of the proposed services plan;

(5) Publication of any necessary corrections to the final plan;

(6) Publication of any proposed amendments to the final plan with a 30-day period for comments;

(7) Publication of any corrections required to bring the proposed amendment into compliance with the requirements of §§ 1396.21 through 1396.33;

(8) Publication of the final amendments; and

(9) Publication of any necessary corrections to the final amendment;

(10) Public access to copies of the proposed and final services plans.

(c) *Approval prior to publication.* Prior to publication, the proposed and final services plans shall each be approved by the Governor or such other official as the laws of the State provide.

(d) *Retention of published services plans.* Copies of the proposed and final services plans shall be retained for at least three years in specified local public offices and made available for public and Federal inspection throughout the program year.

(e) *Handling of public comments.* (1) Written comments on the proposed services plan shall be considered by the State agency if received within 45 days after publication of the display advertisement announcing publication and availability of the proposed services plan; and

(2) Such comments shall be retained for at least 3 years for inspection by the public and by Federal officials.

(f) *Display advertisement; general requirements.* (1) A display advertisement is one prepared for and published within the main news section of a newspaper; advertisements placed in the legal or classified sections of a newspaper do not meet this requirement.

(2) Such advertisement must be published in the newspaper of widest circulation (and in foreign languages or foreign language newspapers where appropriate) in each geographic area described in the proposed and final services plans.

(g) *Display advertisement for the proposed plan.* A display advertisement shall at least:

(1) Specify the beginning and ending dates of the program year;

(2) Include a brief description of the services to be offered under the services plan;

(3) Describe the categories of individuals to be served:

(i) Identify those whose eligibility is based on income maintenance status (AFDC or SSI); and

(ii) Specify the maximum dollar amount of income that a family of four can have and still be eligible on the basis of income status; and

(iii) Indicate that such dollar amount is adjusted by family size.

(4) If the State has different income levels for different services, or different income levels for different geographic areas, specify that those different income levels are described in the proposed plan and in the plan summary (if the State has published a summary);

(5) Indicate beginning and ending dates of the 45-day period for public review and comment.

(6) Specify a toll-free telephone number that can be called to obtain without charge either a copy of the proposed plan or a summary thereof; or state that such copies can be obtained by calling a specified local public agency in each county, such as the local social services agency.

(7) Identify a local public agency in each county such as the social services agency where copies of the proposed services plan are available for public review; available for distribution to the public either free (if no summary is provided) or at a reasonable cost; or where copies of the proposed service plan may be ordered, if distributed from another source; and

(8) Specify the address where written comments may be sent and, if there are to be public hearings on the proposed plan, the location, date, and time for such hearings; or state that information concerning the hearings can be obtained by calling a specified toll-free number or by telephoning specified local agencies after a given date.

(9) Include a statement that the plan includes information on standards for non-medical and medical (other than those certified for Medicaid or

Medicare) residential facilities for SSI recipients; a system for enforcing the standards; and the names and addresses of standard-setting authorities who will respond to requests for information on standards, their enforcement, waivers, and the identity of deficient facilities.

(h) *Summary of proposed services plan.* If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

(1) The beginning and ending dates of the program year;

(2) The categories of individuals including any limitations, who are eligible for services;

(3) The categories of individuals to whom a fee will be charged if they wish to be provided services under the services plan;

(4) Fee schedules, including any variations by service or by geographic area;

(5) A description of each discrete service to be provided under the plan;

(6) The services that will be made available to each category of individuals in each geographic area under the services plan;

(7) For each service, estimated expenditures, and estimated numbers to be served by each category of eligible individuals and by each geographic area;

(8) Amount of the Federal allotment to the State and the amounts of State and local appropriated funds and of other funds to finance the services program; and

(9) A toll-free telephone number that can be called to obtain information on where to apply for services or the name of a local public agency in each county where applications for services will be accepted.

(10) A listing of the items that comprise each standard established for each type of residential facility where a significant number of SSI recipients resides or is likely to reside, and the name and address of each standard-setting authority from which interested individuals may obtain, without charge:

(i) A full copy of each standard;

(ii) A copy of the procedures used in the State to insure enforcement of the standards;

(iii) A copy of the criteria for waiving each standard and a copy of the list giving the names and addresses of facilities granted waivers; and

(iv) A copy of the list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

(i) *Display advertisement of the final services plan.* The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefor (including any differences in the standards for residential facilities for SSI recipients, or facts about the standard-setting authorities);

(3) A toll-free telephone number that can be called to obtain information about the services plan and where to apply for services; or the name of a local public agency in each county, where information regarding the services plan will be made available and where applications for services will be accepted;

(4) The name of a local public agency in each county where copies of the final services plan are available for public review and distribution to the public either free or at a reasonable cost; and

(5) The location where public comments on the proposed services plan are available for review.

§ 1396.34 Regional review of proposed and final services plans.

(a) *Proposed services plan.* (1) Not later than 5 working days after publication of the proposed services plan, the State shall submit to the HDS Regional Administrator the following: 7 copies of the proposed services plan and its summary, if any; a dated copy of the display advertisement: the names of the newspapers in which the display advertisement appeared; and the geographic areas covered by those newspapers.

(2) The HDS Regional Administrator will review the materials submitted to determine whether all requirements of §§ 1396.21 through 1396.33 have been met.

(3) Within 10 working days following receipt of the materials described in paragraph (a)(1) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that those materials meet all the requirements of this subpart, or will specify the deficiencies that must be corrected in accordance with § 1396.35. For purposes of this paragraph, a display advertisement which does not meet each requirement of paragraphs (f) and (g) of § 1396.33, or a proposed services plan which does not comply with each required item under §§ 1396.21 through 1396.32 and 1396.33(c) is deficient.

(4)(i) If correction(s) to the proposed services plan or to the display advertisement announcing the proposed services plan is necessary, the State shall submit to the HDS Regional Administrator no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the proposed services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the proposed services plan.)

(B) For correction(s) to the display advertisement announcing the proposed services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of receipt of the materials submitted pursuant to paragraph (a)(4)(i) (A) and (B) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that the correction meets the requirements of §§ 1396.21 through 1396.32, 1396.33(c), and 1396.35; and that the State is free to publish its final services plan following expiration of the 45-day comment period; or will specify the additional correction that must be made in accordance with § 1396.35.

(b) *Final services plan.* (1) Not later than 5 working days after publication of the final services plan, the State shall transmit to the HDS Regional Administrator; 7 copies of such plan; a dated copy of the display advertisement; and a statement containing the date of publication of the final services plan; the names of newspapers where the display advertisement appeared; and the geographic areas in the services plan covered by those newspapers;

(2) The Regional Administrator will review the materials submitted to determine whether all requirements of §§ 1396.21 through 1396.33 have been met;

(3) Within 5 working days following receipt of the materials described in paragraph (b)(1) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that the final services plan meets all the requirements of §§ 1396.21 through 1396.33, or will specify the deficiencies that must be corrected in accordance with § 1396.35. For purposes of this paragraph (b)(3), a display advertisement that does not meet all requirements of § 1396.33(i), or a final services plan that does not comply with each requirement of §§ 1396.21 through 1396.32, and 1396.33(c) is deficient.

(4)(i) If correction(s) to the final services plan or to the display advertisement announcing the final services plan is necessary, the State shall submit to the HDS Regional Administrator no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the final services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the final services plan.)

(B) For correction(s) to the display advertisement announcing the final services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of the receipt of the materials specified in paragraph (b)(4)(i) (A) and (B) of this section, the HDS Regional Administrator will notify the State agency in writing that the correction(s) meets all the requirements of §§ 1396.21 through 1396.32, 1396.33(c), and 1396.35; and that the final services plan is in effect: or specify the additional corrections that are required before the plan can become effective.

§ 1396.35 Correction of proposed and final services plans and display advertisements.

(a) A display advertisement which is deficient shall be corrected by publication of correct information for each deficient item in a display advertisement in all newspapers in which the original display advertisement appeared.

(b) A deficient proposed or final services plan shall be corrected by publishing the following information in a display advertisement in all newspapers in which the original advertisement appeared:

(1) The items being corrected;

(2) A statement that corrected pages for insertion in the plan are available without charge; and

(3) A toll-free number or the address of the local public office where corrected pages may be obtained.

(c) For correction of a proposed services plan, the display advertisement shall contain the information specified in paragraph (b) of this section and also indicate the beginning and ending dates of the new 45-day comment period on the corrected plan, and the method for submitting comments.

§ 1396.36 Amendments to final services plan.

(a) Amendments to the final services plan are necessary at least when:

(1) Change is to be made in the period of time encompassed by the program year (See § 1396.21);

(2) Geographic areas are to be realigned; or

(3) Any of the following changes are to be made, whether applicable Statewide or only in particular geographic areas:

(i) Specific services are to be added or deleted;

(ii) Fees are to be changed, or the charging of fees is to be initiated or discontinued; or

(iii) The categories of individuals to be served are to be changed.

(b) Any amendment to a final services plan shall be prepared by the state agency and approved, published, and made generally available to the public by the Chief Executive Officer or such other official as the laws of the State provide in the following manner:

(1) The proposed amendment shall be published in a display advertisement in the newspaper of widest circulation (and in foreign languages or foreign language newspapers, where appropriate) in each geographic area in which the change has impact, and shall provide for a public comment period of at least 30 days. The display advertisement shall contain at least:

(i) A description of the proposed changes and the reasons therefor, and the proposed effective date of the changes which shall be no earlier than 30 days after publication of the proposed changes;

(ii) The method for public comment and where comments will be received; and

(iii) The beginning and ending dates of the 30 day period for public comment.

(2) Not later than 5 calendar days after publication of the proposed amendment, the State shall submit to the HDS Regional Administrator 7 copies of the proposed amendment and a dated copy of the display advertisement which announced the proposed amendment.

(3) The HDS Regional Administrator will review the proposed amendment(s) to determine whether applicable requirement(s) of §§ 1396.21 through 1396.33 have been met. Within five working days following receipt of the amendment(s) the Regional Administrator will notify the director of the State Agency in writing that the amendment meets the applicable requirement(s) of §§ 1396.21 through 1396.33 or will specify deficiencies.

(4) Corrections to the proposed amendment(s) shall be made in accordance with the procedures for corrections to the proposed plan as described in § 1396.34(a)(4) except that the period for public review and comment prior to publication of the final amendment is 30 days.

(5) No earlier than 30 days following the publication of the proposed amendment, the final amendment shall be published as a display advertisement in each newspaper in which the proposed amendment was published. This display advertisement shall contain at least:

(i) A description of the final amendment of the services plan;

(ii) The effective date of the amendment;

(iii) An explanation of the State's response to the public comments; and

(iv) An explanation of the differences between the proposed and final amendments if any and the reasons therefor.

(c) The effective date of an amendment shall be no earlier than the date of publication of the final amendment.

(d)(1) Notwithstanding paragraph (c), of this section, when a State amends its services plan so that it may provide family planning services without regard to income, or determine eligibility on group basis for the provision of a service, the final amendment to the services plan may have a retroactive effective date of October 1, 1975 (or later, depending on when the State began providing the particular service specified in the amendment). FFP is available for a service which is the subject of an amendment made in accordance with this paragraph (d)(1), *Provided*, That the service was in the State's services plan when the service was delivered.

(2) The State shall publish the proposed and final amendments to the services plan, in accordance with the provisions of this section, and specify therein the relevant retroactive dates.

(e) Not later than 5 calendar days following publication of the final amendment the State agency shall submit to the HDS Regional Administrator 7 copies of the final amendment and a dated copy of the display advertisements which announced the final amendments.

(f) The HDS Regional Administrator will review the final amendment(s) to determine whether applicable requirement(s) of §§ 1396.21 through 1396.33 have been met. Within 5 working days following receipt of the amendment(s) the Regional Administrator will notify the director of the State agency in writing that the amendment meets the applicable requirement(s) of §§ 1396.21 through 1396.33 or will specify deficiencies.

(g) Corrections to the final amendment(s) shall be made in accordance with procedures for

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corrections to the final plan as described in § 1396.35(b).

Subpart D—Limitations: Services

§ 1396.39 General.

FFP is available for services provided to eligible individuals pursuant to the State's services plan only if the requirements set forth in the sections of this subpart are met.

§ 1396.40 Minor medical and remedial care.

(a) FFP is not available for medical and remedial care, other than family planning services, except when they are an integral but subordinate part of a service described in the services plan, and the medical and remedial care is not available to the individual under the State's approved title XIX plan and to the extent the individual or the provider is not eligible to receive payment under title XVIII for the provision of the service to the individual.

(b) Medical and remedial care are deemed to be integral but subordinate components of a service if:

(1) They are necessary to achieve the objective of that service and not merely to correct a medical condition; and

(2) The specific medical and remedial care are described and included in the State's services plan along with the description of the service of which they are an integral but subordinate part. For example, in describing child day care services, a State could describe (itemize) medical examinations, dental screening, and immunizations as integral but subordinate parts of the child day care service.

(c) [Reserved]

(d) FFP is not available for medical or remedial care or health-related homemaker services purchased from a private provider for any period during which the provider fails to comply with § 1396.72 that requires disclosure about ownership, control interests, and certain information about past business transactions.

§ 1396.41 Room or board.

(a) FFP is not available for room or board under a services plan, except when provided in emergency shelter under § 1396.46, or as an integral but subordinate part of another service and then only for a period of not more than six consecutive months for any one placement.

(b) Room or board is deemed to be as an integral but subordinate component of a service if:

(1) It is necessary to achieve the objective of that service and not merely to provide food and shelter; and

(2) Room or board are included in the State's services plan along with the description of the service of which it is an integral but subordinate part, and is provided in accordance with all applicable requirements under this Part.

(c) Room or board under this Part shall not be considered an integral but subordinate part of a service when provided to an individual in a foster family home or other facility such as a foster care institution or other facility whose primary purpose is to provide board, room and care or supervision.

(d) As used in this section, the term *placement* means an uninterrupted period of time during which an individual takes up, or is placed in, residence in a facility other than his usual place of residence, for the purpose of undergoing a specific regimen of services or treatment according to a prescribed plan.

§ 1396.42 Child care standards.

(a) FFP is available for child care services provided under a services plan only where the following standards are met:

(1) *In-home care.* (i) When homemaker service is utilized for this purpose, it meets standards established by the State or by an Indian tribal council, in accordance with § 1396.13, which are reasonably in accord with recommended standards of national standard setting organizations concerned with this type of home care for children.

(ii) When other caretakers are utilized for this purpose, such care meets standards established by the State or by an Indian tribal council, in accordance with § 1396.13, which, as a minimum, cover the caretaker's age, health, capacity and available time to properly care for children; minimum and maximum hours to be allowed per 24 hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children.

(2) *Out-of-home care.* (i) Facilities used to provide day care outside a child's own home are licensed by the State, an Indian tribal council, in accordance with § 1396.13, or approved as meeting the standards for such licensing.

(ii) Such facilities and care meet the 1968 Federal Interagency Day Care Requirements, except that:

(A) Subdivision III of such requirements with respect to educational services is recommended but not required.

(B) Required staffing standards for children under age 3 in day care centers and group day care homes are: 1 adult for each child under 6 weeks of age; 1 adult to 4 children, ages 6 weeks through 36 months. (States may, at their option, require fewer children per adult.)

(C) Required staffing standards for school age children in day care centers are: at least 1 adult to 15 children, ages 6–10; and at least 1 adult to 20 children, ages 10–14.

(b) The requirements in paragraph (a)(2)(ii) of this section are in lieu of otherwise applicable requirements under section 522(d) of the Economic Opportunity Act of 1964 with respect to child day care services under title XX.

(c) Notwithstanding the Federal staffing requirements for out-of-home child care services set forth in paragraph (a)(2)(ii)(B) of this section:

(1) FFP is available after October 1, 1975 for title XX child day care services so long as day care centers and group day care homes providing day care services to children 6 weeks of age to 6 years of age apply staffing standards which:

(i) Are the State staffing standards which are in effect at the time the child day care services are provided;

(ii) Are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975; and

(iii) Are no lower, in the case of a particular day care center or group day care home, than the corresponding standards actually being met in such center or home on September 15, 1975.

(2)(i) After September 7, 1976 when States find that it is not feasible to furnish day care (partly or totally funded under title XX) for children of any age in a day care center or group day care home that complies with Federal staffing standards, they may furnish day care services in a center or group day care home which does not meet such Federal standards if the following two requirements are met:

(A) The day care center or group day care home complies with applicable State staffing standards; and

(B) The day care center or group day care home serves few title XX children. (For a group day care home, few title XX children means not more than 20 percent of the total number of children served at any given time in that group day care home. For a day care center, few title XX children means either five children or not more than 20 percent of the total number of children served at any given time in the center.)

(ii) States shall establish criteria against which to assess the non-feasibility of their use of a day care center or group day care home which complies with Federal staffing standards. The critieria shall be based on the geographic location of the facility or its accessibility to the recipient of day care services. The criteria shall not be based on cost factors. States shall maintain a record of the waiver for each facility in terms of these criteria.

(d) After October 1, 1975, in applying Federal staffing standards, States shall be required to count the children of the operator of a family day care home only if they are under 6 years of age.

(e) Beginning October 1, 1980, FFP is available in the costs of out of home child day care services provided under a services plan only if all the requirements prescribed in 45 CFR Part 71 are met. These requirements supersede those in paragraphs (a)(2)(ii), (b), (c), and (d) of this section.

§1396.43 Educational services.

FFP is not available for any educational service made generally available through any State or local education agency to residents of the State without cost and without regard to their income. To the extent a fee is imposed on any resident, FFP is available only for such fee.

§1396.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

(a) FFP is available for services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons only under the following conditions:

(1) The services provided are separately identifiable in the services plan (generalized description such as "services to nursing home patients" or "services to increase socialization skills" are unacceptable under this provision).

(2) Such services are provided by other than the facility in which the individual is living. This requirement is not met if the services are provided by:

(i) Staff or contractors who are under the professional direction or direct supervision of the facility; the facility exercises control of the employment, tenure or compensation of such staff or contractors or makes assignments or alters the service regimen provided by them; or

(ii) Staff of like facilities under reciprocal arrangement.

(3) Such services are also provided to individuals who:

(i) Are not living in a hospital, skilled nursing facility, intermediate care facility (including any such hospitals or facilities for mentally retarded), or prison; and

(ii) Are residents of any part of a geographic area that is within the catchment area of such facility.

(b) FFP is not available for:

(1) Inherent responsibilities of a facility such as food, clothing, shelter, general maintenance and administration (including the detention function), general supervision and personal care; or

(2) Activities that are intrinsic to the purpose of such facility, as determined by facility charter, State law or standards, relevant licensing or certification requirements, or Federal or State court decisions.

(c) For purposes of this section:

(1) *"Prison"* means any State or local correctional institution or facility for the confinement of individuals charged with or convicted of criminal offenses. The term does not include separate juvenile correctional facilities nor community-based residential service facilities, such as half-way houses.

(2) *Separate juvenile correctional facility* means one that is located in a separate building or buildings; is served by separate day-to-day operational staff; and provides a separate and distinct program of services.

(3) *Skilled nursing facility (SNF)* means an institution primarily engaged in providing to inpatient skilled nursing care and related services for patients requiring medical or mursing care, or rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(4) *Intermediate care facility (ICF)* means an institution which provides on a regular basis, health related care and services to individuals who do not require the degree of care which a hospital or SNF is designed to provide, but who because of their mental or physical condition require health related care and services above the level of room or board which can be made available to them only through institutional facilities.

(5) *Hospital* means an institution which is primarily engaged in providing, by or under the supervision of physicians, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(d) Services in separate juvenile correctional facilities may be provided by staff of the facility. However, FFP is not available for inherent responsibilities of the facility (e.g., food, clothing, shelter, and managing and carrying out the detention function).

§ 1396.45 Special services provided by foster family homes.

(a) A foster family home is a home licensed or approved by appropriate State or local authority or an Indian tribal council on Indian reservations, in accordance with § 1396.12, to provide board and care including parenting for children and oversight for adults.

(b) *Special services provided by foster family home.* FFP is not available for activities described under paragraph (a) of this section, but is available for special services provided by a foster family home to an individual living in that home, only upon documentation, by an appropriately qualified professional person who is other than the placement worker, that:

(1) The individual requires an identified special service because of a health (physical or mental) condition, an emotional or behavioral problem; and

(2) The caregivers are capable by virtue of special training of providing the needed service.

(c) Nothing in this section precludes the provision of any other service in the services plan to eligible individuals living in foster family homes when provided by other than the foster family.

§ 1396.46 Emergency shelter.

(a) FFP is available for emergency shelter as a protective service to any child, including runaways, only under the following conditions:

(1) The child is in danger of abuse, neglect or exploitation;

(2) The need for emergency shelter is documented by personnel authorized by State law to place children; or by an Indian tribal council; and

(3) Emergency shelter is provided for not in excess of 30 days in any 6 month period, which may be consecutive or may accumulate over more than one stay.

(b) Emergency shelter may be provided in facilities such as foster family homes, institutions, and group homes.

§ 1396.47 Payments to recipient for services.

FFP is available in cash payments made to a recipient for a service already rendered to him, upon presentation of a bill for, or presentation of a receipt of payment for, such service if he was eligible under the services plan for the service at the time it was provided and if the purchased service:

(a) Is identified in the services plan;

(b) Was authorized by the State agency prior to its purchase and meets applicable standards, if any; and

(c) Was secured by the individual within a period of time and at a cost which were approved by the State agency.

§ 1396.48 Confidentiality regarding services to drug and alcohol abusers.

States providing services to drug and alcohol abusers shall safeguard information about such services and recipients by applying the provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (as amended by section 122(a) of Pub. L. 93–282), as implemented by regulations at 42 CFR Part 2.

Subpart E—Limitations: Financial

§ 1396.50 Services and individuals covered in the services plan.

(a) FFP is available with respect to any expenditures for the provision of any service for any individual only when:

(1) The State's services plan meets the requirements of Subpart C, and

(2) The final services plan (including any amendments published in final) in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual.

(3) The State plan is approved as meeting the requirements of Subpart B of this Part.

§ 1396.51 Matching rates.

(a) *Seventy-five percent FFP.* FFP is available at the 75 percent rate for service costs and for personnel training and retraining directly related to the provision of services under the services plan.

(b) *Ninety percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 90 percent rate for costs of family planning services provided under the services plan.

(c) *One hundred percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 100 percent rate up to the State's share of the additional allotments described in § 1396.52(b)(3) for:

(1) Day care services provided to children in day care centers, group day care homes, and family day care homes, which are licensed by the State for child day care services and otherwise meet the requirements of § 1396.42(a)(2) as modified by the provisions of § 1396.42 (c) and (d);

(2) Day care services provided to children in their own homes in accordance with § 1396.42(a)(1); and

(3) Staff activities in direct support of the child day care services such as: licensing homes or facilities used by title XX children, monitoring title XX child care services delivery, and training staff in accordance with Subpart H of this Part.

§ 1396.52 Allotments to States.

(a) *Basic Limitation.* The amount of Federal funds payable to the 50 States and the District of Columbia under this Part for any fiscal year with respect to expenditures for services under the services plan (other than expenditures for personnel training or retraining directly related to the provision of services) may not exceed the allotment set forth in this section.

(b) *Allotments for fiscal years beginning after June 30, 1976.* (1) The allotment of each State for each fiscal year beginning after June 30, 1976 shall be an amount which bears the same ratio to $2,500 million as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary prior to the first day of the third month of the preceding fiscal year, on the basis of the population of each State and of all the States as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(3)(i) The basic allotment described in paragraph (b)(1) of this section shall be increased by an amount which bears the same ratio to $40 million for the transition quarter (July 1, 1976 through September 30, 1976) and to $200 million in FY 1977, 1978 and 1979 as the population for such State bears to the population of all States. The amount of these additional allotments payable to each State shall be the lesser of:

(A) The amount of each additional allotment; or

(B) The amount of actual expenditures incurred for the provision of child day care services and for grants by States to child day care providers for the employment of welfare recipients.

(4) *Exception:* The basic allotment specified in paragraph (b)(1) of each State for FY 1979 shall be an amount which bears the same ratio to $2.7 billion as the population of each State bears to the population of all the States.

(c) *Certification of allotment need.* (1) Each fiscal year, each State shall certify to the Secretary, within 30 days after the beginning of the fiscal year, whether the amount of its allotment is greater or less than the amount needed by the State for such fiscal year and, if so, the amount by which the amount of such allotment is greater than such need.

(2) If any State certifies in accordance with paragraph (c)(1) of this section, that the amount of its allotment for any fiscal year is in excess of its need for such year, the amount of the limitation of such State for such year shall be adjusted downward by the amount of such excess.

(3) Of the amounts made available pursuant to paragraph (c)(2) of this section, the Secretary shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under Section 1108 of the Act for the purpose of matching the expenditures of such jurisdictions for services pursuant to sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5) of the Act, except that if the amounts made available pursuant to paragraph (d)(2) of this section are less than $16,000,000, such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(d) *Date of Expenditure.* For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the State or local agency makes payment or the date to which the expenditure was allocated pursuant to the cost principles of Subpart Q of 45 CFR Part 74 and the cost allocation procedures of 45 CFR 1395.2. In the case of local administration, the date of expenditures by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to October 1, 1975, and other factors relevant to the purposes of this section.

(e) *Procedures for making grants to States.* See 45 CFR Part 201.

§ 1396.53 Restrictions on State's share in claiming FFP.

(a) Subpart G of 45 CFR Part 74 shall be followed in meeting the State's share in claiming FFP for the services program, including training and other adminstrative functions except:

(1) Goods or services provided in-kind from private sources may not be used as the State's share. Services of volunteers are private in-kind contributions.

(2) Donated funds from private sources must:

(i) be transferred to the State agency and under its adminstrative control;

(ii) be donated to the State agency, without restrictions as to use, except that the donor may specify either or both of the following—

(A) the services, administration, or training for which the funds are to be used, if the donor is not a sponsor or operator of a program to provide such services, adiministration, or training.

(B) the geographic area in which the serivces are to be provided

(iii) not be used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(b) For purposes of this Part, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and member agencies are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

(c) In-kind contributions from public agencies, which do not meet the definition of third-party public agency in § 1396.53(d), must be valued in accordance with the cost principles specified in Subpart Q of 45 CFR Part 74.

(d) Under this Part a third-party public agency means any public entity (including Indian tribes) except—

(1) Units of the State government; and

(2) Units adminstering local governments in a State whose title XX program is State supervised and locally administered.

(e) The effective date of paragraph (c) of this section is October 1, 1980.

§ 1396.54 [Reserved]

§ 1396.55 [Reserved]

§ 1396.56 Fifty Percent Rule.

(a) If one-half of the Federal funds to which the State is otherwise entitled is greater than the amount of the aggregate expenditures (combined State and Federal) made under the program for individuals identified in this paragraph, such Federal funds will be adjusted so the total Federal reimbursement does not exceed twice the amount of the total expenditures in behalf of those individuals:

(1) Who are receiving aid and under the plan of the State approved under part A of title IV or who are eligible to receive such aid; or

(2) Whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of title IV, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid; or

(3) With respect to whom supplementary security income benefits under title XVI or State supplementary payments, are being paid, or who are eligible to have such benefits or payments paid with respect to them; or

(4) Whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him; or

(5) Who are eligible for medical assistance under the plan of the State approved under title XIX.

(b) In accounting for costs for services to meet the requirements of paragraph (a) of this section:

(1) In lieu of accounting for the status of each person receiving a service on the basis of group determination of eligibility, States may use generally accepted statistical sampling procedures.

(2) Regarding services to persons who receive services without regard to income (family planning services, services to prevent or remedy abuse, neglect or exploitation of children and adults, and information and referral services). States may use any appropriate method, including generally accepted sampling procedures or allocation of costs to the services provided these persons in the same ratio as the known cost of all other services distributed for the 50 percent rule.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

§ 1396.60 Persons eligible and access to services.

(a) *Conditions for FFP.* FFP is available in expenditures for services to individuals provided that:

(1) The service is included in the State's services plan;

(2) The individual who receives the service is a member of one of the categories covered by the State's services plan; and

(3) Such individual was eligible under the provisions of this section and those of § 1396.61 at the time of receipt of the service.

(b) *Categories of individuals who may receive services—*

(1) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

(i) Recipients of AFDC;

(ii) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and

(iii) Recipients of SSI benefits or State supplementary payments.

(2) *Income status.* Individuals other than those described in paragraph (b)(1) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 1396.62. Income status individuals include those whose eligibility is determined on a group basis.

(3) *Without regard to income.* Individuals may be provided family planning services under § 1396.63, information or referral services under § 1396.64, or services to prevent or remedy neglect, abuse, or exploitation of children or adults under § 1396.65, without regard to income at State option if the State so provides in its services plan.

(c) *Median income.* (1) On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four for each State and for the 50 States and the District of Columbia. This promulgation shall be used for purposes of determining eligibility and establishing fees in the following Federal or State fiscal year.

(d) *Income levels as baselines for fee imposition.*

(1) Except for individuals whose eligibility is determined on a group basis, individuals whose eligibility is based on income status shall be subject to imposition of a fee for service (in accordance with § 1396.62) if their family's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted for family size.

(2) The median incomes (at 80 percent and 115 percent) as calculated in paragraph (d)(1) of this section for a family of four, shall be adjusted for family size according to the following percentages:

(i) One person—52 percent.

(ii) Two person family—68 percent.

(iii) Three person family—84 percent.

(iv) Four person family—100 percent.

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(v) Five person family—116 percent.

(vi) Six person family—132 percent.

(vii) For each additional family member above six persons, the State shall add 3 percentage points to the percentage for a family of six.

(3) For discretionary fees applicable to persons who are at or below the lower level median income described in paragraph (d)(1) of this section, or are eligible on the basis of income maintenance status, or who may receive services without regard to income, see § 1396.62(b).

(e) *Income levels for services.* So long as the State observes the baselines for income levels for imposition of fees established pursuant to paragraph (d)(1) of this section, it may establish income levels for services:

(1) At any level lower than 115 percent of the median income of the State;

(2) At different levels for different services under the services plan;

(3) At different levels for different categories of individuals;

(4) At different levels in different geographic areas; or

(5) At different levels for different sizes of families within the limits for eligibility and fees set forth in paragraph (d)(2) of this section.

(f) *Opportunity to apply.* The State shall assure that each individual wishing to do so has an opportunity to apply for services without delay. The State shall use the following intake process for individuals seeking service:

(1) *Determination of eligibility.*

(i) When eligibility must be determined on an individual basis, the State shall require a written signed application containing the necessary information.

(A) The application shall be in a form prescribed by the State and the applicant shall certify that the information submitted is correct.

(B) The application may be filed by the applicant himself or by his authorized representative; or where the applicant is incompetent or incapacitated or in an emergency, by someone acting responsibly for him, including agency staff.

(ii) No written application is necessary for services available without regard to income.

(iii) No written application is necessary for individuals whose eligibility is determined on a group basis.

(2) *Request for services.* Except as described in paragraph (f)(2)(iv)(B) of this section, the State shall document each request for service for purposes of FFP as well as for fair hearings and as evidence of the voluntary nature of the request for service. Documentation may be accomplished through submission of a written request by an individual needing service or his representative, or by the recording of information elicited by the agency, except that a request for family planning services (whether or not it is a "universal" service) must be in writing in order to verify that it was requested voluntarily. With respect to the following:

(i) When an individual has had eligibility determined on an individual basis, the written application for eligibility determination may be deemed a request for services (unless the State has a separate process for requesting services), and may serve as initial documentation. Subsequent requests for services from such an eligible individual shall be documented as described in paragraph (f)(2) of this section.

(ii) For protective services, an acceptable alternative to a request for services is a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult.

(iii) For requests for information and referral services, the State shall establish a procedure for documenting the number and nature of the requests.

(iv) When eligibility is determined on a group basis in accordance with § 1396.61, requests for services shall be handled in one of two different ways:

(A) If the state has established specific conditions (other than income) or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility, the State shall, in the intake process, elicit information necessary to determine whether an individual meets the specified conditions or has the characteristics for membershp in the group (e.g.—if eligibility for homemaker services to teenage parents maintaining their own homes in public housing is determined on a group basis, the intake process shall elicit a statement regarding age, parenthood, address, and maintenance of one's own home).

(B) If the State has concluded solely on the basis of the nature of a service and/or the location where it will be provided (e.g.—recreation services in specified senior centers or day care services for migrant children), that substantially all of the individuals who would apply for the service are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no information need be elicited at intake or documentation made except as to the numbers served. The presence of the individual at the service site or participation in the service is deemed a request for services.

(g) *Prompt action on eligibility applications and requests for service.* (1) A decision shall be made on all applications within time standards established by the State agency pursuant to § 1396.5, but not to exceed 30 calendar days from the date of application.

(2) The agency shall notify applicants about their eligibility within 15 calendar days after it makes a decision. The date of each notification shall be entered in the case record. Applicants found to be eligible shall be notified orally or in writing; those found to be ineligible shall be notified in writing unless the requested service is provided by that agency to them through another funding source.

(3) Unless a service is denied, the State shall provide the service requested with reasonable promptness. "Provide the service" means actual provision of the service or arrangement for its provision at an appropriate later date. "Reasonable promptness" is accomplished when the State provides the service:

(i) Within 15 calendar days after notification of eligibility; or

(ii) Within 30 calendar days after acceptance of a request for service.

If the service is denied, the State shall notify the applicant in writing of the denial within these same time limits.

(h) *Notification of right to a fair hearing.* At the time of application or request for services, each individual shall be given information about the right to request and obtain a fair hearing, in accordance with § 1396.14.

§ 1396.61 Determination and redetermination of eligibility.

(a) *Methods of determining (or redetermining) eligibility.* (1) Standards and methods for determination of eligibility will be consistent with the objectives of the program, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(2) States may establish any method or methods, including a declaration method, for determining individual eligibility in accorance with §§ 1396.60 and 1396.66.

(i) A determination of individual eligibility means a decision reflected in the State's records, based on a dated and signed application and sufficient information which would lead a reasonable person to conclude that the criteria set forth in § 1396.60 have been met and the individual is eligible to receive services on the basis of income or income maintenance status.

(A) *Documentation method* means that the State has sought and obtained verification regarding the source and amount of the gross family monthly income of the individual applying, or has verified his income maintenance status.

(B) *Declaration method* means acceptance of an individual's statements regarding the source and amount of his family's gross monthly income, and the income maintenance status (as described in § 1396.60(b)(1) of any member of the family.

(ii) (For group determination of eligiblity, see subparagraph (3) of this paragraph and § 1396.60(f)(2)(iv).)

(3)(i) States may determine eligibility on a group basis if, upon consideration of one or more of the following factors, with respect to a particular service to be provided on a group eligibility basis, they can reasonably conclude without individual determination that substantially all members of the group who receive the particular service are members of families with monthly gross incomes of not more than 90 percent of the State's median income, adjusted for family size:

(A) The geographic area in which a particular service is provided;

(B) The characteristics of the community in which the service is provided;

(C) The nature of the service provided;

(D) The conditions, other than income, of eligibility to receive the service; or

(E) Other factors surrounding provision of the service.

(ii) "Substantially all" means that no less than 75 percent of the persons provided a service on the basis of group eligibility determination shall be members of families whose gross monthly incomes are no more than 90 percent of the State's median income, adjusted for family size.

(iii) There are no mandatory fees, as defined in § 1396.62(a), for persons whose eligibility is determined on a group basis.

(iv) Group determination of eligibility may be used for any service except, that for child day care, it is limited to the children of migratory workers.

(4) States may use one method for determining eligibility for all services, categories of individuals and geographic areas, or they may use different methods for different services, different categories of individuals and different geographic areas.

(5) States shall have available for Federal review a written description of the method(s) they have established for determining and redetermining eligibility.

(b) *Conditions for FFP.* (1) Regardless of the method chosen for determination or redetermination of eligibility:

(i) FFP is available in the cost of services provided prior to the actual date of an initial determination of eligibility only if such determination is made within 30 days of the date of application and the individual is properly determined to have been eligible when the services were initiated.

(ii) When a recipient of services was improperly determined to be eligible, FFP is not available in the cost of services provided during the period of improperly determined eligibility.

(2) When an individual properly determined to be eligible on the basis of information available to the agency at the time of determination of eligibility is subsequently found ineligible, FFP is available until the end of the month in which he is determined ineligible or through the period of time services are required to be provided under 45 CFR 205.10 regarding fair hearings. A proper determination of eligibility is a determination which is based on a correct assessment on the information available to the agency at the time of such determination, provided that all information necessary to make a determination is available; a proper redetermination is one which meets those criteria and, in addition, is made within the time limits established by paragraph (c) of this section.

(c) *When redetermination shall be made.* (1) Redetermination of eligiblity shall be made for persons whose eligibility is determined on an individual basis:

(i) When required on the basis of information the agency has obtained about anticipated changes in the individual's situation;

(ii) Promptly, not to exceed 30 days, after information is obtained about changes which have occurred in the individual's circumstances that may make him ineligible; and

(iii) Periodically, but not less frequently than every 6 months except that for individuals whose family gross monthly income at the time of determination is derived exclusively from pensions, or social security benefits, or SSI, or a combination thereof, redetermination may be made at 12-month intervals.

(2) If the State has established specific conditions or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility (and, in accordance with § 1396.60(f)(2)(iv)(A), has elicited information at intake that individuals applying for the service meet the conditions or have the characteristics for membership in the group), it shall, unless the characteristic is irreversible (such as being above a certain age), redetermine the eligibility of these individuals as follows:

(i) When the conditions or characteristics established by the state are apt to change in regard to an individual (such as place of residence, marital status, children living in the home), the State shall ascertain not less frequently than every 6 months whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group; or

(ii) When the conditions or characteristics established by the State are not apt to change substantially in regard to an individual (such as a physical disability), the State shall ascertain not lees frequenlty than once a year whether persons receiving the service on a group eligiblity basis still meet the conditions or have the characteristics which made them members of the group.

(iii) When an individual no longer meets the conditions or has the characteristics required for group membership, the State shall discontinue providing the service to the individual on the basis of group eligibility determination by the end of the month in which such a finding is made or at the end of the period of time services are required to be provided to the individual under 45 CFR 205.10 regarding fair hearings.

(d) *Validation of "substanctically all" basis for establishing a group.* (1) Each group of persons receiving a service on the basis of group determination of eligibility shall be subject to a validation check or whether at least 75 percent of those receiving the service are members of families with gross monthly incomes of no more than 90 percent of the State's median income, adjusted for family size.

(2) States shall conduct their initial validation check not later than 6 months after they have started providing a service to individuals on the basis of group eligibility. (If a State claims expenditures for services on a group determination of eligibility basis retroactively, as permitted to October 1, 1975, the validation shall be made by no later than June 30, 1977.)

(3) After the initial validation, States shall thereafter conduct such validations for the same group no less frequently than once a year.

(4) The validations may be conducted on a sample basis. States shall maintain a record of how the test was conducted, and document the process used and the findings.

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(5) In order to determine whether at least 75 percent of the persons who receive a particular service on the basis of group eligibility are in families with the specified income level. States shall take into account the findings made on members of the group, as described in the services plan.

(6) If a State finds that *less* than 75 percent of the persons receiving a particular service on the basis of group eligibility meet the specified income standard, the State shall, within 75 days following such a finding:

(i) Discontinue by the end of the month in which the 75th day occurs, claiming FFP for expenditures incurred for the service provided to persons in that particular group whose eligibility has been determined on a group basis;

(ii) Amend the State's services plan to either delete the service, or to provide a new basis for determination of eligibility to continue the service;

(iii) If the State decides to continue the service, FFP is available, in accordance with the amended services plan, for providing the service:

(A) On the basis of eligibility, individual; or

(B) On the basis of group eligibility if the State changes the conditions or characteristics relative to the group and has a reasonable basis on which to conclude that with such modification, at least 75 percent of the individuals served would then be members of families with the specified monthly gross income.

(e) *Who makes the determination.* Determinations of eligibility shall be made by the State agency, or, pursuant to written contract in accordance with Subpart G, by a provider of services.

(f) *Outside contacts.* (1) When the provider agency determines eligibility, it shall inform the applicant or recipient that, if it is necessary to contact outside sources (including employers) and the applicant or recipient wishes to keep the service confidential, he is entitled to request that such contacts be made by the State agency; and

(2) The State agency, upon notification of the individual's request, shall make the outside contacts and relay the information to the provider.

(g) *State monitoring of eligibility process.* Whether the determination of eligibility is made by the State or the provider, the State shall establish and implement a continuing monitoring procedure to test the ability of its method(s) for determining eligibility to correctly make those determinations and shall, where erronious determinations are disclosed, take action designed to eliminate such errors. A monitoring procedure under this paragraph may include the use of statistically valid samples. Periodic reports on the State agency's monitoring procedures, findings, and actions under this paragraph will be required pursuant to § 1396.17(b).

§ 1396.62 Fees for services.

(a) *Mandatory fees.* FFP is available for a service provided to an individual whose eligibility is based on income status if his family's monthly gross income is between 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted as to family size, only if a fee or other charge, based on a fee schedule in accordance with paragraph (c) of this section, is imposed.

(b) *Discretionary fees.* (1) A State may impose a fee or other charge for any service to any individual who is eligible for services based on income maintenance status or is eligible based on income status and whose family's monthly gross income is less than 80 percent of the median income of a family of four in the State, adjusted for family size, or the median income for a family of four in all States, adjusted for famiy size, whichever is less, but only if the fee or other charge is based on a fee schedule in accordance with paragraph (c) of this section.

(2) A State may impose a fee on individuals who are provided services without regard to income (family planning services, information or referral services, or services to prevent or remedy abuse, neglect or exploitation of children and adults). The fee shall be based on a fee schedule in accordance with paragraph (c) of this section and be described in the State's services plan in accordance with § 1396.24(c).

(c) *Criteria for fees.* (1) Fees established by the State agency:

(i) May be different for different services;

(ii) May be different for different geographic areas;

(iii) Shall be reasonably related to the individual's income; and

(iv) Shall not exceed the cost of the service to the title XX agency.

(2) Where several services are provided concurrently to an individual, the total fees imposed shall not exceed the amount reasonably related to his income.

(d) *Methods of collection.* The State agency shall:

(1) Establish methods for the collection of any fee or other charge imposed; and

(2) Maintain evidence of a reasonable effort to collect such fee or charge.

(e) *Disposition of fees collected.* Fees collected from service recipients may not be used as the non-Federal matching share. However, at State option, fees may:

(1) If provided for in the purchase of service agreement, be retained by the provider and used to expand the title XX service to eligible individuals under that contract; or

(2) Be used to reimburse the provider if the contract so specifies, for costs above the negotiated rate when it is lower than the going rate in the community for the service. Any amount remaining after such reimbursement to the provider for these costs shall be deducted from the amount of expenditures for which FFP is claimed;

(3) Be deducted from service expenditures before FFP is claimed; or

(4) If collected by the State in direct delivery of a service, be retained by the State and used only to expand the service to eligible individuals.

(f) Under this provision, FFP is not available in the costs of any service when a provider imposes a fee or charge other than that set by the State agency, pursuant to the purchase of service agreement under § 1396.70(a)(7), described in the State's services plan pursuant to § 1396.24(c) and (d), and formulated in accordance with paragraph (c) of this section.

§ 1396.63 Family planning services.

(a) FFP is available in the cost of family planning services provided without regard to income.

(b) For purposes of this part, family planning services means counseling, educational and medical services (including diagnosis, treatment and continuing supervision, necessary laboratory examinations and tests, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of, a physician) to enable individuals (including minors) voluntarily to limit their family size, to space their children, or to correct infertility.

(c) If a state authorizes sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F, except that the State plan requirement under 42 CFR 441.252 does not apply to the title XX program.

(Sec. 101, Pub. L. 95-205, 91 Stat. 1461, December 9, 1977; Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

§ 1396.64 Information and referral services.

FFP is available only for information about services provided under title XX and related service programs, brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral, and referral to and follow-up with those community resources which provide or make available such services; and (b) only when provided by an agency that has information and referral as a specific recognized function and that has a staff with identifiable tasks relating to information and referral.

§ 1396.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

(a) FFP is available without regard to income for services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, only as follows:

(1) With respect to children, only when provided with respect to an individual under the age of 18 harmed or threatened with harm through non-accidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. For purposes of this section, runaways are presumed to be harmed or threatened with harm.

(2) With respect to adults, only when provided with respect to individuals 18 years of age or older unable to protect their own interests, harmed or threatened with harm through action or inaction by another individual or through their own actions due to ignorance, incompetence or poor health; resulting in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter, or clothing, deprivation of entitlements due them, or wasting of their resources.

(3) In each case, the State agency shall document the circumstances which lead it to believe that the individual is subject to, or at risk of, abuse, neglect or exploitation.

(4) No later than six months after the case has been opened, the State agency shall redocument and evaluate the circumstances then existing with respect to abuse, neglect or exploitation for the purpose of ascertaining if the individual still meets the conditions for services without regard to income. Such redocumentation and evaluation of the circumstances shall take place thereafter no less frequently than at six-month intervals if the case remains open.

(b) Except in the case of runaways, no individual shall be deemed to meet the conditions specified in paragraph (a) (1) or (2) of this section merely because he belongs to a particular class (e.g., mentally retarded, aged, juvenile delinquents); each person shall be individually determined to meet the specified criteria.

(c) States may include in their services plan, subject to the limitations of Subpart D, any appropriate service which they plan to provide to prevent or remedy abuse, neglect or exploitation of children or adults as set forth in this section.

§ 1396.66 Monthly gross income.

(a) Monthly gross inccome means the monthly sum of income received by an individual from the following sources that are identified by the U.S. Census Bureau in computing the median income:

(1) *Money wages or salary*—i.e., total money earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned, before deductions are made for taxes, bonds, pensions, union dues, and similar purposes.

(2) *Net income from nonfarm self-employment*—i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

(3) *Net income from farm self-employment*—i.e., gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter, or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not State and Federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income.

(4) *Social Security* includes Social Security pensions and survivors' benefits, and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the U.S. Government.

(5) *Dividends, interest (on savings or bonds), income from estates or trusts, net rental income or royalties* include dividends from stockholdings or membership in associations, interests on savings or bonds, periodic; receipts from estates or trust funds, net income from rental of a house, store, or other property to other, receipts from boarders or lodgers, and net royalties.

(6) *Public assistance or welfare payments* include public assistance payment such as AFDC, SSI, State Supplemental Payments, and general assistance.

(7) *Pensions and annuities* include pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company; periodic receipts from annuities or insurance.

(8) *Unemployment compensation* means compensation received from government unemployment insurance agencies or private companies during periods of unemploymernt and any strike benefits received from union funds.

(9) *Worker's compensation* means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person.

(10) Alimony.

(11) Child support.

(12) *Veterans' pensions* means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-servicemen as GI insurance premiums.

(b) *Exclusions from monthly gross income.* Excluded from computation of monthly gross income are the following:

(1) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;

(2) Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act;

(3) Money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be

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counted as income from self-employment);

(4) Withdrawals of bank deposits;

(5) Money borrowed;

(6) Tax refunds;

(7) Gifts;

(8) Lump sum inheritances or insurance payments;

(9) Capital gains;

(10) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;

(11) The value of USDA donated foods;

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;

(13) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(14) Earnings of a child under 14 years of age (no inquiry shall be made);

(15) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(16) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act; and

(17) Home produce utilized for household consumption.

Subpart G—Purchase of Service

§ 1396.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with the provisions of Subpart P of 45 CFR Part 74 where applicable, and the requirements of this Subpart. (Subpart P of 45 CFR Part 74 is not applicable when property or services of one unit of government or governmental agency are acquired from another government or another agency of the same government.) Purchase-of-service contracts or agreements made with public or private agencies or individuals in accordance with 45 CFR 1391, Subpart D, shall be deemed to conform to the requirements in this section through December 31, 1976.

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this part with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of 45 CFR Part 74, the contract shall:

(1) Include all terms of the contract in one instrument, be dated, and be executed by authorized reresentatives of all parties to the contract prior to the date of implementation;

(2) Have a definite effective and termination date for the provision of services;

(3) Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain criteria in accordance with Subpart F which shall be used by the provider for such determinations and specify that the provider will inform individuals of their right to fair hearings in accordance with § 1396.14;

(5) Provide for a stated number of units of services and costs in such a way that the unit rate of cost of service and the total cost of the contract may be determined;

(6) Specify the method and source of payment to the provider, including collection and disposition of fees, if applicable;

(7) Specify that no fees shall be imposed by the provider other than those set by the State in accordance with § 1396.62 and described in the services plan;

(8) Include a statement that the provider meets applicable State or Federal standards as specified in this part;

(9) Specify the locations of facilities to be used in providing services;

(10) Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, and for safeguarding information in accordance with § 1396.10;

(11) Provide that any subcontracts permitted by the contract shall be subject to the requirements of this Part; and that the provider is responsible for the performance of any subcontractor;

(12) Specify requirements for fiscal and program responsibility billing, records, controls, reports, and monitoring procedures; and

(13) Provide for making available information to support the State's claim for FFP, including verification of eligibility, and of the services provided.

(14) In the case of a private provider of medical or remedial care or health-related homemaker services, include a provision that the provider will comply with the requirements of § 1396.72 regarding submission of certain information about ownership or control, past business transactions, and certain other disclosing entities.

(b) The requirements of this section may be satisfied by a simple printed contract form so long as all items described in paragraph (a) of this section are contained therein.

(c) The provisions of this section do not apply when services are obtained directly by the recipient and payment is made to him. (See § 1396.47.)

(d) A written contract is not required for purchase of services from an individual provider who has no direct service employees or subcontractors provided:

(1) The State's statute of frauds does not preclude the agency from enforcing its unwritten contract with the provider; and

(2) The State agency maintains documentation of the terms of the unwritten contract negotiated with the individual provider, including all applicable items specified in paragraph (a) of this section.

§ 1396.71 Rates of payment.

(a) FFP is available for expenditures for services only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service.

(b) Rates of payment for services purchased from private agencies and third-party public agencies (see § 1396.53(d)) may be established on the basis of competitive bidding or negotiation, utilizing any reasonable methods for establishing competitive rates, including the Principles for Determining Costs under Subpart Q of 45 CFR Part 74.

(c) Rates of payment for services purchased from public agencies which are not third-party public agencies shall not exceed the cost of those services determined in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74.

(d) The State agency shall maintain records which describe and support the rates of payment and the methods used to establish and maintain such rates.

(e) Public Health Service grant funds from program specified in 42 CFR Part 50 of the Health Services Funding regulation (as well as any matching funds required to earn those grant funds) which have been made available under a grant to a health service project, if not required to be used to finance cost of services to individuals eligible for services under title XX, shall not be deemed by the State agency to be available to reduce the costs otherwise subject to reimbursement under title XX.

§ 1396.72 Disclosure of information about ownership and business transactions.

(a) *Definitions.* For purposes of this section, § 1396.73, and § 1396.9, the following definitions apply:

(1) *Agent* means any person (including a corporation, where applicable) to whom a provider delegates the authority to obligate or act.

(2) *Convicted* means that a Federal, State or local court has entered a judgment of conviction, regardless of whether an appeal from that judgment is pending.

(3) *Group of practitioners* means two or more providers of medical or remedial care who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

(4) *Health-related homemaker services* means homemaker services provided for persons who need personal care and other appropriate services in the home because they have medical problems.

(5) *Indirect ownership interest* means any ownership interest in an entity that has ownership interest in the provider. The term includes an ownership interest in any entity that has an indirect ownership interest in the provider.

(6) *Managing employee* means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over the hospital, nursing facility, or other institution, organization, or agency, or who, directly or indirectly, conducts the day-to-day operations of the institution.

(7) *Other disclosing entity* means any other title XX disclosing entity and any entity that does not participate in title XX, but is required to disclose certain information of ownership or control because of participation in any of the programs established under titles V, XVIII, or XIX of the Social Security Act. This includes:

(i) A provider, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) furnishing services under the Medicare program;

(ii) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Act or under a State Medicaid plan; or

(iii) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare of the Act, or both, or for purposes of a State Medicaid plan.

(8) *Ownership interests* means the possession of equity in the capital, the stock, or the profits of the provider.

(9) *Person with an ownership or control interest* means a person (including, where appropriate, a corporation) who:

(i) Has an ownership interest of 5 percent or more in the provider;

(ii) Has an indirect ownership interest equal to 5 percent or more in the provider;

(iii) Has a combination of direct and indirect ownership interests equal to 5 percent or more in the provider;

(iv) Is the owner of an interest of 5 percent or more in any obligation secured by the provider, if the interest equals at least 5 percent of the value of the property or assets of the provider;

(v) Is an officer or director of a provider which is organized as a corporation or association; or

(vi) Is a partner in a provider which is organized as a partnership.

(10) *Provider* means a private nonprofit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency to deliver services funded under title XX.

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either $25,000 or 5 percent of the total operating expenses of the provider.

(12) *Subcontractor* means an individual, agency, or organization which by contract:

(i) Assumes major management functions of a provider (including determination of eligibility); or

(ii) Agrees to deliver specific services which a provider has agreed to deliver under contract with the State or local agency.

(13) *Supplier* means an entity from which a provider purchases goods and services used in fulfilling a contract with the State or local agency.

(14) *Wholly owned supplier* means a supplier wholly owned by the provider or wholly owned by a person or persons holding ownership or control interests in the provider.

(b) *Disclosure about ownership and control interests.* (1) Prior to the approval of a contract for the purchase of medical or remedial care or health-related homemaker services, a private provider must furnish to the State or local agency:

(i) The name and address of each person with an ownership or control interest in the provider or in any subcontractor in which the provider has direct or indirect ownership of 5 percent or more; and

(ii) The name and address of any other private provider or any other disclosing entity in which a person with an ownership or control interest in the provider also has an ownership or control interest. The provider shall request this information in writing from any person with an ownership or control interest in the provider. The provider shall also keep copies of all these requests and the responses to them, make them available to the Secretary or the State agency upon request, and advise the State agency when there is no response to a request.

(2) If a provider reports more than one name of persons described in paragraph (b)(1) of this section, and any of the persons named are related to each other as spouse, parent, child, or sibling, it shall report this fact.

(c)(1) A State or local agency shall not approve or renew a contract or shall terminate an existing contract with a private provider of medical or remedial care or of health-related homemaker services, if the provider fails to disclose ownership or control information required under this section.

(2) Federal financial participation is not available for payments made to a private provider who fails to disclose ownership or control information as required by this section.

(d) *Disclosure about certain business transactions.* (1) A private provider of medical or remedial care or of health-related homemaker services shall provide, in response to a specific written request by the Secretary or State agency, complete information about:

(i) The ownership of any subcontractor with whom the provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and

(ii) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(2) The provider shall furnish such information within 35 days of a request of the Secretary, and shall respond to a request by a State agency within the period specified in regulations of the State agency.

(3) FFP is not available in expenditures for medical or remedial care or health-related homemaker services furnished by a provider who

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fails to comply with subparagraphs (1) and (2) of this paragraph.

§1396.73 Disclosure of information about individuals convicted of crimes.

(a) *Disclosure.* (1) Any hospital, nursing facility, or other institution, organization, or agency for which funding is, or will be claimed under title XX for the purchase of any social service, medical or remedial care, or health-related homemaker services shall disclose to the State title XX agency, the name of any person:

(i) Who has an ownership or control interest in, or is an agent or managing employee of, the hospital, nursing facility, institution, organization, or agency; and

(ii) Who has been convicted of a criminal offense related to the person's involvement in any programs under titles XVIII, XIX, or XX of the Social Security Act since the inception of these programs.

(2) This requirement applies to purchases made under a purchase of services contract or those made under an administrative support contract. It also applies whether the services are provided directly or under a subcontract.

(3) This information shall be provided to the State agency prior to the approval or renewal of a contract for purchase of social services, medical or remedial care, or health-related homemaker services.

(b) *Reports to the Inspector General.* The State agency shall notify the Inspector General of the Department of Health and Human Services within 20 working days of the receipt of any application or request for participation which discloses the name of a person described in paragraph (a), and shall provide the name to the Inspector General. The State agency shall also notify the Inspector General of any action it takes on the application or request.

(c) *State agency denial or termination of provider participation.* (1) The State agency may refuse to enter into or renew a purchase of services contract, or otherwise refuse to approve a provider for participation under title XX, if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under titles XVIII, XIX, or the title XX social services program.

(2) The State agency may refuse to enter into or may terminate a contract if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

Subpart H—Training and Retraining

§1396.80 Conditions for FFP.

FFP is available in expenditures for personnel training and retraining that is directly related to the services program if the State meets all requirements of this Subpart. The training may include in-service training, and short- and long-term training at educational institutions. FFP in such training expenditures may be claimed inside or outside the State's allotment for services and is available at the 75 percent rate. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with §1396.20.

§1396.81 Who may be trained.

FFP is available for training only the following individuals:

(a) State agency staff employed in all classes of positions which directly relate to the operation of the Title XX program;

(b) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(c) Service delivery personnel employed by providers (and in instances where the provider agency also determines eligibility for service, eligibility determination personnel employed by providers) only when:

(1) A purchase of service contract or a purchase of service and eligibility determination contract is in effect in accordance with Subpart G; and

(2) The training provided is directly related to the provision of services or the determination of eligibility under the contract; and

(3) The provider personnel, during or immediately following the training period, participate in the provision of services or determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided; and

(d) Persons preparing for employment in the State agency in all classes of positions which directly relate to operation of the title XX program.

(e) Individual providers who are currently under contract pursuant to Subpart G including, not limited to:

(1) Foster family caregivers who need training to enable them to provide special services (as specified in § 1396.45) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(2) Family or in-home day caregivers to enable them to provide services to eligible individuals already in their care or to prepare them to receive eligible individuals who need such services, if the home is used within the period covered by the contract;

(f) Individuals who provide services paid for by the recipient, as provided in § 1396.47, if training is directly related to such service, and

(g) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

§ 1396.82 Grants to educational institutions.

(a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met:

(1) Grants are made: (i) For the purpose of developing, expanding, or improving training for employees of the State agency and of providers, or persons preparing for employment with the State agency; (ii) For an educational program (curriculum development, classroom instruction, and related field instruction) that is directly related to the title XX program and provision of services; and (iii) For not more than three years, renewable subject to the provisons of paragraph (b) of this section;

(2) Grants are available only to post secondary, undergraduate and graduate educational institutions and programs that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body shall be accredited by, have pre-accreditation status from, or have applied for, accreditation by such body. (45 CFR Part 149 specifics the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the **Federal Register** periodically. See also "Nationally Recognized Accrediting Agencies and Associations" dated June 1975 and published by the Department of Education).

(3) The State agency has written policies establishing conditions and procedures for such grants; and

(4) Each grant specifies objectives in terms of how the educational program is related to the title XX services program and how it is designed to meet the State agency's manpower needs.

(b) An evaluation of the educational program funded by each grant is made no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the HDS Regional Office to determine whether the conditions and objectives specified in the grant are being met.

(c) If a majority of the panel members finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

§ 1396.83 Financial assistance to trainees.

(a) FFP is available for expenditures in the costs of training persons specified in § 1396.81, if the following conditions are met, and within the specified limitations:

(1) State agency employees and service delivery personnel and eligibility workers of provider agencies who are in attendance full-time at training programs for 8 consecutive workweeks or longer have a legally binding commitment to continue to work in the State or provider agency for a period of time at least equal to the period for which financial assistance is granted.

(2) Persons preparing for employment in the State agency are:

(i) Selected by the State agency and accepted by the school;

(ii) Pursuing educational programs approved by the agency; and

(iii) Legally committed to work for the State agency for a period of time at least equal to the period for which financial assistance is granted if employment is offered within 6 months after training is completed. If not employed by the State agency, such persons shall keep the agency informed of their employment status for one year.

(b) *State agency responsibilities.* The State agency shall:

(1) Offer employment to the individual preparing for employment in the State agency during the 6 months following completion of the training, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and

(2) Evaluate the training programs.

(c) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determing net costs for FFP.

§ 1396.84 Activities and costs matchable as training expenditures.

Costs matchable as training expenditures include:

(a) *State agency employees.* (1) For State agency employees in full-time training programs of eight consecutive work weeks or longer (with no assigned agency duties); salaries (including fringe benefits), or stipends, dependency allowances, travel, and education costs (that is, tuition, books, and supplies);

(2) For State agency employees in full-time training programs of less than eight consecutive work weeks: per diem, travel and educational costs:

(3) For State agency employees in part-time training programs (part of work week, evenings, mornings): Education costs.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), assigned full time to training functions with respect to State agency or provider agency staff: salaries, fringe benefits, travel and per diem. (Costs of staff spending less than full time on training for the title XX program, including costs of other State agency staff under the supervision of the State agency Director of Staff Development, must be allocated according to the time actually spent on such training.)

(c) *State agency training activities.* (1) For experts outside the State agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the title XX program: cost of use of space, postage, teaching supplies, and purchaser or development of teaching materials and equipment—for example, books and audio visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel, and education costs.

(e) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs, provided there is a contract with the State agency which includes such training; such costs are not included in the cost of services purchased from the provider agency; and such costs are reasonably assignable to title XX training:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training programs of less than 8 consecutive work weeks: per diem, travel, and education costs;

(3) For provider agency employees on part-time educational leave: education costs;

(f) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to State title XX agency staff or provider agency staff eligible for training under § 1396.81 salaries and fringe benefits, travel and per diem.

(g) *Provider agency training activities.* (1) For experts outside the provider agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching supplies and purchase or development of teaching materials and equipment—for example books and audio-visual aids.

(h) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

(1) *Payments to educational institutions.* Under conditions specified in § 1396.82, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance; teaching materials and equipment—for example, books and audio-visual aids.

§ 1396.85 Activities and costs not matchable as training expenditures.

FFP is not available for the following as expenditures outside the State's allotment for social services. Such expenditures are matchable as administrative costs (not training expenses) under the State's allotment for services.

(a) Salaries of newly-employed workers in the State agency or a provider agency while are in orientation;

(b) Salaries of State agency employees who attend training programs less than full-time for a period of less than eight consecutive work weeks;

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

(d) Attendance at meetings or conferences of professional organizations; and

(e) Employment of students on a temporary basis, such as in the summertime.

§ 1396.86 Training of title XX child day caregivers.

Notwithstanding § 1396.81, effective April 1, 1981, the State agency shall establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

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Subpart I—General Provisions

§ 1396.90 Expenditures for which Federal financial participation is available.

General:

(a) Federal financial participation is available only for expenditures which are made in accordance with grant administration requirements set forth in 45 CFR Part 74, and, where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) Under this Part, expenditures for the following are also considered appropriate in addition to those allowable costs listed in 45 CFR Part 74;

(1) Costs of transportation (such as tokens or tickets); and medical examinations, when necessary for the development of a services plan or when precedent to obtaining a service for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act. Contracts for medical examinations or other health-related services under an administrative support agreement are subject to the disclosure provisions of § 1396.72 and § 1396.73.

(2) Costs of State advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(3) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(4) Cost to the agency for the use of volunteers in the program; and

(5) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the State agency in developing, planning, monitoring, and evaluating the services program.

§ 1396.91 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part in expenditures for—

(a) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(b) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment, except to the extent of depreciation or use allowances in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74; and

(c) Housing costs for families and individuals including rent, deposits, purchase, construction, major renovation or repair.

§ 1396.92 Federal financial participation in State Claims for Abortions.

Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

§ 1396.93 Nonexpendable personal property: Conditions for FFP.

(a) *Basis and Purpose.* This section prescribes rules on availability of FFP for acquisition and depreciation of nonexpendable personal property and on accounting for and managing the property.

(b) *Definitions.* As used in this section, unless the context indicates otherwise:

"Book value" of property traded in means acquisition cost minus the amount depreciated through the date of trade-in. (If the State claimed FFP in the acquisition cost when it acquired the property, the book value is zero.)

"Depreciation expense" means the portion of the acquisition cost assignable to a particular time period of the estimated useful service life of the property.

"Nonexpendable personal property" means tangible property of any kind, except real property, that has a useful life of more than one year and an acquisition cost of $300 or more per unit.

(c) *Availability of FFP.* Except as provided in paragraph (d) of this section, FFP is available in expenditures for nonexpendable personal property only in the depreciation expense, or an annual use allowance of 6⅔ percent of acquisition cost, applicable to the period for which the property is used in the social services program.

(d) *Exceptions based on acquisition cost and use of property.* (1) Except as specified in paragraphs (d)(2), (d)(3), and (d)(4), the State agency may claim FFP in full in expenditures for acquiring nonexpendable personal property costing less than $5,000. In the case of property acquired with a trade-in, this $5,000 limitation is applied to the amount paid for the new property plus the book value of the property traded.

(2) Subject to the rules governing reasonable and necessary rates in § 1396.71(a), a State agency may claim FFP in full during the year of purchase, without regard to the $5,000 limitation in paragraph (d)(1), for motor vehicles to which it has title and that are used for:

(i) Social services delivery program by the State or local agency or by a provider of services under a contract with either of them; or

(ii) Administration of the social services program by the State or local agency.

(3) FFP is available only on the basis of paragraph (c) of this section if the property is acquired by a provider under a cost reimbursement contract with the State agency, unless the State agency has title to the property and the contract provides for the return of the property or its residual value at the completion of the contract.

(4) In the case of property acquired by the State agency for use by organizational units of that agency, or of a parent agency, that are treated as indirect cost centers or pools in a HDS cost allocation plan, FFP is available only in accordance with paragraph (c) of this section or on the basis of indirect costs negotiated by HHS.

(e) *Distribution of costs.*—(1) *Costs of property used in a single activity.* The State agency may charge costs directly to a single activity that has a separate rate of FFP, if the property is being used exclusively for that activity at the time of expenditures for the property.

(2) *Costs of property used in more than one activity.* The State agency must distribute costs by one of the following methods:

(i) Using cost centers or pools and allocation bases that will distribute the costs consistent with use of the property at the time of expenditures. The agency must distribute any credits for property sold or retained for use in non-Federal programs in a manner consistent with the method used to distribute expenditures when the property was acquired (see 45 CFR 74.139 for HHS policies on disposition).

(ii) Using a common distribution factor for all property or for classifications of property (e.g., costs of desks may be distributed by number of staff employed in each activity). For property sold or retained for use in non-Federal programs, the agency must distribute credits to programs or activities by using the same distribution factors that are applied to expenditures for property acquired in the quarter in which credits occurred.

G. 45 CFR Part 229, now located in Chapter II, is transferred to Chapter XIII, Subchapter K, and redesignated as a new Part 1397 as follows:

PART 1397—STANDARD SETTING REQUIREMENTS FOR MEDICAL AND NONMEDICAL FACILITIES WHERE SSI RECIPIENTS RESIDE

Sec.
1397.0 Scope.
1397.1 Definitions.
1397.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

Sec.
1397.20 Responsibilities of designated standard-setting authorities.
1397.30 State certification to the Department of Health and Human Services.

Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

§ 1397.0 Scope.

This part requires States, effective October 1, 1977, to create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of recipients of Supplemental Security Income (SSI) benefits resides or is likely to reside. SSI residents who live in relevant facilities which violate any of the standards will be subject to a reduction in their SSI payments by the Social Security Administration. The reduction will be in an amount equal to any State supplementary benefit or other payment made by the State for any medical or remedial care provided them by the facility.

§ 1397.1 Definitions.

For purposes of this part:

(a) *Any category of institutions, foster homes, and group living arrangements* means residential facilities which provide both room and board *and* continuous protective oversight to the residents and are:

(1) Non-medical or medical facilities of any size (other than those certified for participation in the Medicaid or Medicare programs) which are publicly or privately operated on a nonprofit for-profit basis.

(b) *Medical or remedial care* means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and the care is provided by or under the direct supervision of a medical practitioner or other health professional licensed by the State or credentialed by the appropriate professional organization.

§ 1397.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

(a) Each State shall determine the kinds of residential facilities (as defined under § 1397.1) in which a significant number of SSI recipients resides or is likely to reside.

(b) Each State shall create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of any standards for the residential facilities identified in accordance with paragraph (a) of this section.

§ 1397.20 Responsibilities of designated standard-setting authorities.

Each standard-setting authority shall, effective October 1, 1977:

(a) *Establish standards.* (1) The standards shall be appropriate to the needs of the SSI recipients residing in the facilities and to the character of the facilities involved. In addition, they shall govern such matters as:

(i) Admission policies (including a continuous needs assessment and referral to appropriate resources);

(ii) Safety;

(iii) Sanitation (cleanliness and hygienic procedures); and

(iv) Protection of civil rights (under the United States Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws).

If a standard-setting authority has standards already in place, including those listed in subparagraphs (i) through (iv) of paragraph (a)(1) of this section, the standards meet the requirement.

(2) Under this requirement, the authority may provide for waivers of a standard under specified criteria.

(3) The authority shall notify the public and providers about the need for affected facilities to meet its standards.

(4) The authority shall provide the State's title XX agency, annually (as arranged with that agency), with a summary of each standard for each kind of facility, for publication in the title XX services plans.

(b) *Established procedures for enforcing the standards.* The enforcement procedures shall include:

(1) Periodic inspection of facilities;

(2) Provision of technical assistance; and

(3) Use of a warning system which provides for an opportunity for a deficient facility to comply and for the residents to move out if the facility fails to do so. The standard-setting authority shall establish specific time periods:

(i) For a deficient facility to carry out a plan approved by the standard-setting authority to correct any violation of a standard which cannot be waived; and

(ii) For the standard-setting authority, if the facility fails to comply, to arrange for informing in writing all residents of the facility (including, where appropriate, the families, guardians, or representative payees of SSI residents) of the standard which the facility does not meet, and of the time period during which residents may relocate if they wish before the authority reports the deficient facility to the Social Security Administration. The standard-setting authority shall also provide all residents with a list of approved facilities and agencies which will help them move if they wish. The purpose is to let the residents know they do not have the protection of the standard, and to give them time and assistance to move if the absence of the standard endangers them or penalizes their SSI benefit.

(c) *Report deficient facilities to the Social Security Administration.* (1) At the conclusion of the relevant time period(s) given a deficient facility to correct violation of a standard or for residents to move out of a facility, as described in paragraph (b)(3) of this section, each designated standard-setting authority shall report to the appropriate Regional Office of the Social Security Administration the name and address of any facility which no longer meets the standards and the effective date of the violation. The purpose is to enable the Social Security Administration to reduce SSI benefits to SSI residents living in a facility in violation of standards, in accordance with the requirements of Section 505 of Pub. L. 94-566, "The Unemployment Compensation Amendments of 1976."

(2) If and when a deficient facility again meets the standards, the standard-setting authority shall notify the Social Security Administration of the effective date of its approval of the facility.

(d) *Maintain and make records available.* (1) *Maintenance of records.* Each authority shall:

(i) Keep a record of the details of each violation of a standard by a facility; and

(ii) If a standard is waived, maintain a record including the name and address of each facility granted a waiver, the standard waived, and the justification for waiving it.

(2) *Availability of records to the public.* Each authority shall make available without charge to interested individuals a single copy of:

(i) A complete set of standards for each type of facility;

(ii) The procedures used in the State to insure the enforcement of standards;

(iii) The list of facilities (name and address) that have been granted waivers of each standard, including the justification for the waiver; and

(iv) The list of facilities (name and address) found in violation of a standard, including the details of each violation.

§1397.30 State certification to the Department of Health and Human Services.

(a) Each State shall cerify annually to the HHS, official in the Regional Office who receives title XX plans, that:

(1) It has created or designated an authority or authorities to establish, maintain, and insure the enforcement of standards, in accordance with §1397.10;

(2) It has made available, without charge, information about full standards, enforcement proceedings, and, where applicable, waivers of standards, and violations of standards by specific facilities, as required under §1397.20(d)(2);

(3) It has published in the State's title XX proposed and final annual services plans:

(i) A summary of the content of each standard established for each type of facility, in accordance with § 1397.20(a); and

(ii) The name and address of each designated standard-setting authority from which interested individuals may obtain, without charge, the information about full standards, enforcement procedures, waivers of standards, and violations, in accordance with § 1397.20(d); and

(4) Each standard-setting authority has reported to the relevant Social Security Administration Regional Office the names and addresses of facilities which are in violation of standards, in accordance with § 1397.20(c):

(b) The certification shall be in the form of a factual statement signed by the Chief Executive of the State or his designee and submitted within the first quarter following the beginning of a State's title XX program year.

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Part VI

Department of Energy

Economic Regulatory Administration

Crude Oil Supplier/Purchaser Rule

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DEPARTMENT OF ENERGY

Enconomic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-02]

Crude Oil Supplier/Purchaser Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the crude oil supplier/purchaser rule (the "rule") set forth at section 211.63 of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). The amendments provide for the removal from the scope of the rule of any domestic crude oil the first sale of which is exempt from the Mandatory Petroleum Price Regulations (10 CFR Part 212). The amendments also release suppliers from any requirement under the rule to supply crude oil to major refiners.

EFFECTIVE DATE: October 1, 1980.

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SUPPLEMENTARY INFORMATION:

I. Background
II. Descriptions of Proposals and Summaries of Responsive Comments
III. Response to Comments and Amendments Adopted
IV. Procedural Matters.

I. Background

On April 28, 1980, we issued a notice of proposed rulemaking to give notice of and obtain public comment on proposed amendments to the crude oil supplier/purchaser rule (44 FR 29770, May 5, 1980). The proposed amendments and proposed alternatives thereto were designed to reduce to varying degrees the rule's application to crude oil sales transactions. We announced in that notice our intention to adopt that proposal, or a modified version thereof, which we determined would permit greatest relaxation of the rule, consistent with the purposes of the Emergency Petroleum Allocation Act of 1973 (EPAA).

Each of the proposals set forth in the May 1980 notice is described below and is followed by a summary of the public comments addressing that proposal.

II. Descriptions of Proposals and Summaries of Responsive Comments

A. Proposal to Restrict Applicability of Supplier/Purchaser Rule to Small Refiners

Description of Proposal. Based on our preliminary finding that only small refiners require the supply protection afforded by the supplier/purchaser rule to assure continued competitive viability, we proposed to amend the rule to provide for the allocation of crude oil supplies only to small refiners. In order to prevent small refiners from developing any increased dependence on the rule, however, the proposal only provided for the allocation to each small refiner of crude oil volumes up to but not to exceed those volumes received by that small refiner in January 1980 pursuant to the supplier/purchaser rule.

In order to insure a continuous distribution chain from producer to small refiner, we proposed a sixty-day supplier-notification period during which a small refiner would upwardly certify to each January 1980 supplier the volumes of crude oil supplied by that supplier to the small refiner in January 1980 pursuant to a supplier/purchaser relationship. Each supplier receiving such a certification from a small refiner would upwardly certify these volumes to its January 1980 suppliers. Those suppliers would in turn upwardly certify to those firms from which they received crude oil in January 1980 pursuant to the rule. This process would be continued until the small refiner's certifications reached the producer level.

Following the supplier/notification period, each supplier in a small refiner's distribution chain (as determined by the supplier-notification process) would be entitled in any month to receive from its suppliers crude oil volumes equal to those certified by that supplier on behalf of the small refiner.

Under the primary proposal, the supplier/purchaser rule would allocate separately for each regulatory tier of crude oil. Because price-controlled crude oil is declining in volumes each month, the proposal included alternative methods by which suppliers would prorate the declining volumes of price-controlled oil.

Comments Received. As of July 2, 1980, the announced closing date for submitting public comments on the May 1980 proposals, we had received eighty written comments. Thirty-nine of these commenters also made oral presentations at the public hearing held in Washington, D.C. on May 29-30, 1980.

Those submitting comments included thirty-six small refiners; four large independent refiners; the fifteen major integrated oil companies; six resellers; six associations representing refiners; six crude oil producers; two assocations representing crude oil producers; the State of New Mexico; the State of Alaska; and the U.S. Department of Justice.

Thirteen of the thirty-six small refiners commenting supported the primary proposal to restrict applicability of the supplier/purchaser rule so as to provide for the continued allocation of both price-controlled and price-decontrolled crude oil only to small refiners. These thirteen small refiners argued that a modification of the rule to release suppliers from further obligations to major and large independent refiners would permit small refiners to claim a more equitable share of domestic crude oil production. Some of these commenters also emphasized that by taking such action now the ERA would increase the potential viability of small refiners following total deregulation.

Several small refiners indicated conditional support for the primary proposal. Some of these firms asserted that a more appropriate means of mitigating the difficulties of small refiners would be to amend the crude oil entitlements program to effectively equalize all refiners' crude oil acquisition costs. Such action, they reasoned, would permit small refiners to relax their efforts to secure price-controlled crude oil. However, if the suggested revisions to the entitlements program were not forthcoming, restriction of the supplier/purchaser rule's benefits to small refiners would be favored. There was some very limited sentiment expressed by small refiners that this group would fare as well or better if the supplier/purchaser rule were eliminated entirely. However, such expressions appeared generally to come from small refiners that started their refining operations after the supplier/purchaser rule was adopted and which, therefore, have not received as much benefit from the rule as other small refiners.

The four large independent refiners commenting on the May 1980 proposals were unanimously opposed to the primary proposal. All of these firms recommended complete elimination of the rule, as opposed to a rule that would benefit only small refiners. However, they argued that the ERA is incorrect in its conclusion (as indicated in the preamble to the May 1980 proposals) that the ability of large independent refiners to secure both domestic and foreign supplies is significantly greater than that of small refiners. Therefore, they argued that large independent refiners should be treated the same as small refiners in the event the ERA decided that the rule should be continued in a limited form. Some large independent refiners also indicated that continued allocation of price-controlled crude oil to all refiners would be acceptable. These commenters argued that such action would not tend to foster the special interest of any particular segment of the refining industry and would be a means of preventing abuses that might occur if price-controlled crude oil is suddenly made available to the free market.

The major integrated oil companies generally questioned the efficacy of a regulatory policy that would provide a competitive advantage to small refiners only until the expiration of the EPAA. These firms also advised that adoption of the primary proposal would create havoc in the crude oil distribution system as producers, marketers, and refiners struggled to work through the ERA's proposed upstream certification process. These firms argued that, in view of the administrative burdens that the primary proposal would entail, adoption of the proposal would be inconsistent with the stated purpose of the ERA's proposals and would be unjustified in view of the short time the ERA's allocation authority will remain in effect. In this regard, most commenters opposing the primary proposal, in addition to some small refiners that supported the proposal, indicated that the proposed supplier-notification period would create substantial practical and administrative difficulties. The majors generally agreed that small refiners should begin now to reduce their dependence upon regulations that further their special interests in order to reduce the possibility of an extension of the EPAA.

At least eight of the major refiners supported our proposal to completely eliminate the supplier/purchaser rule. However, several of the major refiners would leave the rule essentially as it is. Since these latter firms believe that the higher bona fide offer provisions afford little supply protection with respect to price-decontrolled crude oil, they believe that a gradual, efficient process of decontrol would be accomplished by means of the conversion (as the result of phased deregulation) of price-controlled crude oil to price-decontrolled status.

Commenting resellers, most of which were firms with substantial investments in crude oil transportation facilities, uniformly opposed the primary proposal. These firms (as well as some other commenters) thought the proposal was infeasible, since in many instances it would necessitate splitting the stream of production from a property. They stressed that tremendous administrative problems as well as inefficient utilization of gathering systems would result if the rule were amended so as to necessitate the splitting of production streams. Therefore, resellers would prefer that the supplier/purchaser rule remain in essentially unchanged form until October 1981, if the alternative is an excessive increase in administrative burden. However, resellers uniformly were in favor of complete elimination of the rule and generally did not view the rule as a necessary adjunct to the price regulations. Resellers expressed concern over the increasing number of firms in the market that do not own transportation facilities, but buy and sell crude oil. Since the proposal would remove from the rule's scope supplies that have heretofore gone to large refiners, these resellers believe the proposal could increase the opportunities of non-transporting marketers.

The six refiners' associations were evenly divided in their responses to the primary proposal, depending on the character of the firms they represent. Generally, those associations whose constituencies are comprised entirely of small refiners in business prior to the supplier/purchaser rule's implementation, supported the primary proposal. An association representing small refiners which generally began operations after the rule's adoption would prefer complete elimination of the rule in order to put all refiners on an equal footing. An association representing independent refiners declined to support the primary proposal if not modified to provide for continued allocation to large independent refiners.

The three independent producers which specifically addressed the primary proposal were opposed to its implementation. The two associations representing independent producers also opposed the proposal. Generally, the comments of these firms indicated strong support for complete elimination of the rule in order to allow producers greater flexibility in determining with whom they will conduct business and on what terms. However, the producing segment also discussed the impracticality of any rule that would necessitate the splitting of crude oil production streams and indicated that continuation of the rule in its present form would be preferable to the complexities presented by the primary proposal.

While the State of New Mexico would support any relaxation of the supplier/purchaser rule, it would most favor the rule's complete elimination in order to have the greatest degree of flexibility in directing New Mexico's state royalty oil in accordance with the State administration's policy. The U.S. Department of Justice submitted comments in support of the Department's view that the DOE's subsidies for small refiners have generally been unjustified. The Justice Department recommended elimination of the supplier/purchaser rule in its entirety. The State of Alaska would support the continued operation of the rule if amended to remove any restrictions on advance termination clauses and to remove price-decontrolled crude oil from its scope in order to give the State sufficient flexibility in directing state royalty oil.

B. First Alternative Proposal

Description of Proposal. Since we believed that the allocation of price-decontrolled crude oil to small refiners might not be a factor significantly affecting the competitive viability of these firms, we proposed alternatively to amend the supplier/purchaser rule to provide only for the allocation of lower tier crude oil and upper tier crude oil to small refiners. This proposal would be accomplished by means of essentially the same certification process as that proposed under the primary proposal. We also were of the opinion that this first alternative proposal would promote our objective of easing the transition to a totally deregulated marketplace, since the volume of price-controlled crude oil will decrease each month as phased deregulation progresses and the operation of the supplier/purchaser rule would thereby diminish as well.

Comments Received. Fourteen small refiners specifically commented on the

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proposed first alternative amendment. Ten of these firms opposed the first alternative proposal either on the same grounds as those small refiners that opposed the primary proposal or because they felt the first alternative proposal would not insure adequate supply protection. In regard to this latter position, several small refiners indicated strong disagreement with the ERA's suggestion that the allocation of price-decontrolled crude oil is not a factor significantly affecting the competitive viability of small refiners. These firms discussed their problems in obtaining crude oil of qualities appropriate to their refining operations and facilities at any price.

The comments of the large independent and the major refiners, as well as the comments of other respondents which expressed opposition to the primary proposal, generally indicated that they would oppose the first alternative proposal on the same grounds that they opposed the primary proposal.

C. Second Alternative Proposal

Description of Proposal. While the primary and first alternative proposals reflected our preliminary conclusion that only small refiners were dependent on the supplier/purchaser rule for access to adequate supplies, we recognized that the lack of a regulatory allocation scheme might hinder the equitable distribution of any price-controlled crude oil released from the scope of the rule.

Furthermore, we questioned whether the possible benefits that might be derived from releasing a substantial portion of price-controlled crude oil from the rule's scope would be justified in view of the increased opportunities and incentives to violate the price regulations that such action might create. With these uncertainties in mind, we also proposed for comment a second alternative proposal that would retain the existing supplier/purchaser rule for lower tier and upper tier crude oil but would exempt price-decontrolled oil from the scope of the rule altogether. Implementation of this proposal would make the upstream certification requirements under the primary and first alternative proposals unnecessary.

Comments. While a few small refiners appreciated the lesser administrative inconvenience that would arise under the second alternative proposal, the comments of many small refiners indicated that continued allocation of price-controlled crude oil to large independent and, especially, major refiners would remove the opportunity to increase their share of price-controlled crude oil, a factor they deem necessary if they are to be in a competitive stance following total deregulation.

While a few large refiners gave limited approval to the second alternative proposal, these firms generally preferred that the rule remain essentially in its current form or be eliminated entirely. These firms saw little difference between the current rule and the second alternative proposal other than the potential confusion in the marketplace if the proposal were implemented. All six trade associations representing refiners were opposed to the second alternative proposal, generally because they could not see how small refiners would be benefited by such a rule in view of the fact that most of the crude oil that might be freed from allocation controls would nevetheless be controlled by the major integrated oil companies.

Representatives of the producing segment of the industry again indicated their preference for immediate elimination of the rule in its entirety. However, these commenters showed some limited support for the second alternative proposal in the absence of immediate removal of the rule, since producers would thereby gain a greater degree of flexibility than they now enjoy.

D. Third Alternative Proposal

Description of Proposal. We also requested comments on a proposal to eliminate the supplier/purchaser rule entirely if we determined that small refiners would not be adversely affected by the removal of the rule's protection.

Comments. Most small refiners' trade associations were vigorously opposed to the elimination of the rule, since they believe that it is necessary that small refiners secure access to greater volumes of domestic crude oil, especially price-controlled crude oil, in order to be on a competitive footing when they enter a totally deregulated marketplace. However, nine small refiners indicated support for complete elimination of the rule. Some of these firms first refined crude oil after the supplier/purchaser rule was adopted. Consequently, they have derived less benefit from its operations, but, as they point out, they have nevertheless survived. These firms, as well as a few other small refiners, believe they would be in a better position to secure supplies if the rule were eliminated entirely.

Three large independent refiners and eight major refiners would find total elimination of the rule acceptable. However, several of these firms believe it would be advisable simply to wait while phased deregulation gradually eliminates the utility of the supplier/purchaser rule. While resellers to some extent share the view that phased deregulation would effect a smooth transition to total deregulation, they also expressed concern that complete elimination of the supplier/purchaser rule would permit other marketers which do not transport crude oil even greater opportunities to corner supplies by questionable means.

Representatives of the crude oil producing industry were unanimously in favor of complete removal of the rule. This group expressed the view that even after complete recision of the supplier/purchaser rule independent producers would have a vested interest in promoting small refiners as a means of increasing the number of firms that would be in a position to bid competitively for their production following total deregulation.

The State of New Mexico and the U.S. Department of Justice recommended complete elimination of the supplier/purchaser rule.

E. Sales by Small Refiners

Description of Proposal. Based on our belief that the ability of small refiners to secure replacement supplies of crude oil is more limited than that of larger refiners, we also proposed to adopt an amendment that would provide that the supplier/purchaser rule would no longer require a small refiner to supply crude oil to another firm. We stated that this proposal might be implemented either by amending the current provisions of § 211.63 or in conjunction with any of the other proposals (other than complete elimination of the rule).

Comments. Only nineteen commenters responded directly to the proposal to release small refiners from all supply obligations under the rule, including those to other small refiners. Support for the proposal came from the small refining segment of the industry and two resellers. Those voicing opposition to the proposal included two small refiners, three major refiners, a reseller, and one refiners' trade association. Generally, it appeared that those firms which might regain the use of supplies from the proposal's implementation supported such action, while those which might thus lose supplies opposed such action. The view was also expressed that the proposal was unnecessary and another example of favoritism to small refiners.

F. Proposed Amendments to Termination Provisions

1. *Bona Fide Offer:*

Description of Proposal. We stated that if we determined to reduce the operation of the supplier/purchaser rule we would nevertheless continue to permit a producer to terminate any relationship with respect to any barrels of crude oil which the purchaser fails to meet a permissible higher bona fide offer. We proposed, however, to amend § 211.63(d)(1)(iii) to provide that a producer may not rely upon a higher bona fide offer for termination purposes, unless the higher offer is made for a minimum period of ninety days. Furthermore, the higher offer would not be considered bona fide for termination purposes unless the supplier's current purchaser is provided with both the name of the offeror and the terms of the offer in writing and has been allowed fifteen days to meet the higher offer.

Comments. While only thirteen small refiners specifically addressed the proposed changes to the bona fide offer provisions, these firms almost unanimously supported the proposal, as did two refiners' trade associations. They asserted that the vagueness of the current bona fide offer provisions allows too much opportunity for a supplier to divert supplies to another purchaser without any intention to supply that other purchaser on a continuing basis, in order to withdraw from an existing supplier/purchaser relationship. The proposed bona fide offer criteria were also supported by several firms other than small refiners. These firms expressed concern over the current lack of specificity in the bona fide provisions, which they believe allows greater opportunity to speculate in the marketplace. However, a few firms took the position that the ERA should not be taking action to reinforce these provisions in view of the brief time during which the regulations will remain in effect.

2. *Waiver and Advance Termination Clauses:*

Description of Proposal. In Interpretation 1979–18, *Arizona Fuels Corporation,* (44 FR 60266, August 19, 1979), the DOE determined that current regulations allow consent to terminate a supplier/purchaser relationship to be given in advance only if a specific termination date is stipulated and the other requirements of § 211.63(d)(1)(iii) are met. The DOE has also determined that in particular, limited circumstances a supplier may validly terminate a supplier/purchaser relationship in reliance on a purchaser's prior written, express and knowing waiver of its rights under § 211.63, if recognition of such waiver will not thwart the legislative policy which the supplier/purchaser rule was designed to effectuate. (Interpretation 1977–7, *State of Alaska,* 42 FR 31143, June 20, 1977). We believe that in some instances purchasers have been able to secure supplies only by complying with the supplier's demand that the purchaser give advance consent to termination or "waive" any rights under § 211.63.

In view of the above considerations, we proposed to amend § 211.63(d) to provide that advance termination and "waiver" clauses in contracts entered into after such time as this proposal might be finalized would be of no effect and therefore provide no basis for termination of a supplier/purchaser relationship by the supplier. On the other hand, in light of our desire to maximize market flexibility and to prepare for future decontrol, we also proposed in the alternative to remove any restrictions concerning the utilization of advance termination and "waiver" clauses.

Comments. Those small refiners that commented on this proposal generally gave strong support to the notion of providing that advance termination and waiver clauses entered into prospectively would not provide a basis for a supplier to terminate a supplier/purchaser relationship. A few commenters opposed the abrogation of waiver and advance termination clauses since such practices will soon be permissible in a deregulated market.

Two commenting producers indicated that they believe there should be no restrictions on the use of waiver and advance termination clauses, since such freedom is necessary to give them adequate discretion in choosing those firms with which they will do business. The State of Alaska also favored the absence of any restrictions on these practices, since it would then have greater flexibility in directing the distribution of its state royalty oil.

3. *Higher Bona Fide Offer by Small Refiner:*

Description of Proposal. We proposed in the event we determined to adopt the primary proposal or the first alternative proposal, to retain those provisions permitting termination of a supplier/purchaser relationship if the producer receives a higher bona fide offer from another prospective purchaser. However, we also proposed an alternative amendment to those provisions relating to higher bona fide offers, to provide that any supplier which is in a small refiner's distribution chain would be permitted to terminate a supplier/purchaser relationship with respect to any volume of price-controlled crude oil in reliance on a higher bona fide offer only if the higher offer was made by another small refiner and the supplier's present small refiner purchaser failed to meet the higher offer.

Comments. Several small refiners and two refiners' trade associations were supportive of the proposal. The comments of those opposing the proposal felt that such a rule would provide too much special consideration for small refiners. Some commenters felt that the proposal would be of little practical significance if the first alternative proposal were adopted, since refiners generally pay the ceiling price in order to retain their supplies. Furthermore, if the primary proposal were adopted, such a restriction would be unnecessary if the regulations were clarified to state explicitly that the payment of a premium for the price-decontrolled portion of a stream or volume of crude oil cannot be construed as a higher bona fide offer for the price-controlled portion of that crude oil.

4. *Elimination of Unnecessary Transactions:*

Description of Proposal. We believe that the greatest economic efficiency and benefit to refiners occurs in those instances where the distribution chain includes only those transactions necessary to insure delivery of crude oil to the refiner. Therefore, we proposed that any final rule issued in this proceeding provide that any supplier (producer or reseller) and any purchaser (reseller or refiner) involved in any refiner's crude oil distribution chain may eliminate any intermediate suppliers and purchasers so long as such action would not result in the diversion of crude oil supplies required by the rule to be delivered to the ultimate refiner-purchaser. We further proposed that a refiner be permitted to substitute a new reseller for any reseller currently supplying the refiner, without the consent of the producer or other supplier which supplies the refiner's current reseller, if the new reseller offers to purchase crude oil from the current reseller's supplier on the same terms as the current reseller.

Comments. Four small refiners, three major refiners and two refiners' trade associations responded to the ERA's proposal to allow a refiner and any upstream supplier to eliminate any intervening suppliers and purchasers. These firms generally supported the proposal as a means of controlling the burgeoning impact of crude oil "traders" in the marketplace. Several firms also supported the proposal that a refiner be permitted to substitute a new reseller for an existing one without the consent of the producer or existing reseller's supplier. These commenters stated that such an amendment would promote greater efficiency in the marketplace and provide refiners the same discretion currently enjoyed by producers.

5. *Termination in Anticipation of Sales to Small Refiner:*

Description of proposal. Section 211.63(d)(1)(ii) currently provides that a supplier/purchaser relationship may be terminated by a producer with respect to stripper crude oil, provided that after termination such crude oil will be sold to or sold for resale to a small refiner which will process the stripper crude oil. Since some small refiners have indicated that this provision generally is too restrictive to be of significant benefit to small refiners, we requested both comments as to the utility of this provision in its present form and suggestions as to how the provision might be appropriately modified. We specifically requested comments as to whether the provision should be expanded to cover any category of price-decontrolled oil, as well as to whether the requirement that a small refiner process the crude oil should be continued. We stated that we might eliminate this provision entirely or modify the provision to cover all categories of price-decontrolled crude oil and/or permit a small refiner to exchange or sell crude oil received pursuant to this provision.

Comments. The seven small refiners and one refiners' trade association which commented on this proposal were in favor of its adoption (especially if the rule continues to allocate crude oil to larger firms), since they believe it would enhance the ability of small refiners to obtain adequate supplies. Major refiners commenting on the proposal voiced the concern that adoption of the proposal could, by increasing the dependence of small refiners on the rule, generate support for an extension of the EPAA.

III. Response to Comments and Amendments Adopted

A. Primary Proposals and Proposed Alternatives to Primary Proposal

In light of the comments received, we have determined that in order to best further the purposes of the EPAA, including the objectives of phased decontrol, we should adopt essentially a combination of the first and second alternative proposals, as modified in light of the comments.

First, we have determined that continued allocation of price-decontrolled crude oil pursuant to the supplier/purchaser rule is unnecessary to further the objectives of the EPAA. Under the current regulations, the bona fide offer provision to a large degree eliminates supply protection for price-decontrolled crude oil. Therefore, to minimize regulatory interference with market mechanisms we are eliminating entirely from the scope of the supplier/purchaser rule the allocation of price-decontrolled crude oil.

Second, consistent with the first alternative proposal, we have determined that during the transition to a decontrolled domestic market small refiners have a continuing need for the protection of the supplier/purchaser rule with respect to price-controlled crude oil. In light of the comments, however, we have also determined that large independent refiners should likewise continue to receive the protections of the supplier/purchaser rule with respect to price-controlled crude oil. Our tentative determination that major refiners do not need the protections of the rule with respect to price-controlled oil was confirmed in the comments.

Third, in light of the unanimous opposition to the complicated certification provisions in the first alternative proposal, we are not adopting any certification requirements. Rather, to minimize administrative burdens and any problems associated with the implementation of the new rule, we are essentially retaining the present supplier/purchaser rule, but eliminating from its scope sales of price-controlled crude oil to major refiners and all sales of price-decontrolled crude oil. Thus, supplier/purchaser relationships for price-controlled oil between producers and resellers, between producers and refiners (other than major refiners) between resellers, and between resellers and refiners (other than major refiners) will remain in effect. This ensures that supply systems for small and independent refiners will remain intact. It also necessarily means that relationships between producers and resellers, and between resellers, that were intermediate to the ultimate relationship to a major refiner, will remain in effect even though the major refiner will no longer have a protected supplier/purchaser relationship. However, as more fully discussed below, in order to promote market efficiency today's amendments will permit *any* refiner, regardless of whether it is itself protected by the rule, to terminate any relationship between two resellers with respect to crude oil purchased by that refiner.

Our purpose in retaining all of these producer/reseller and reseller/reseller relationships is not to benefit resellers, but rather to protect the small and independent refiners that ultimately receive crude oil through resellers. We recognize that maintenance of all these reseller relationships will protect some resellers whose price-controlled crude oil is not ultimately sold to small and independent refiners, but we believe that by simply retaining these existing relationships the purpose of protecting the supply systems of small and independent refiners will be furthered without a complicated certification process. Moreover, the modified reseller substitution rule, discussed below, will to a large degree allow for elimination of unnecessary resellers from a supplier/purchaser supply system.

Inherent in our amendment to eliminate price-decontrolled crude oil from the scope of the supplier/purchaser rule is the phasing out of the rule as greater volumes of crude oil become exempt from first sale price restrictions. In this way, we believe, those refiners that remain protected under the rule will gradually have their protection diminished, and this gradual process will enable them to prepare for total decontrol. Moreover, by eliminating from the supplier/purchaser rule that crude oil sold to major refiners, we will be allowing small and independent refiners to acquire those volumes that were formerly dedicated to the majors under the rule.

We recognize that in allocating only price-controlled crude oil we are not allocating the entire stream of crude oil from a particular property.[*] We also recognize that there may be administrative and technical considerations with respect to certain properties that create problems in splitting the stream between different first purchasers. Nothing in the amendment we are adopting requires producers to split streams not already split. In requiring maintenance of a supplier/purchaser relationship with respect to the price-controlled volumes, the rule makes no requirement with respect to the price-decontrolled volumes. Producers are free to sell the price-decontrolled volumes to the same purchaser as the price-controlled volumes or to a different purchaser. This decision will be a business decision taken in light of relevant factors, including any costs or administrative and logistical difficulties involved in splitting the stream. If some resellers are able to devise methods for economically and practically splitting streams, this ability may make them attractive candidates to producers under the reseller substitution rule.

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[*] Under the current rules, the entire production of a property is allocated by means of supplier/purchaser relationships. Large properties with multiple purchasers of the production may already have so-called split-stream supplier/purchaser relationships. Even where the entire production of a property is allocated under the current rule to a single purchaser, the termination provisions of the current rule provide for termination of a relationship with respect to any crude oil subject to the relationship. Thus, the relationship could be terminated with respect to a portion of the entire production, resulting in a split stream.

In discussing our second alternative proposal, we noted our concern that elimination of the supplier/purchaser rule with respect to price-controlled crude oil would create an incentive for pricing violations as new purchasers attempted to obtain those volumes. In adopting our amendments, we have mitigated this concern by limiting the price-controlled crude oil exempt from the rule to that crude oil heretofore sold to majors. Nevertheless, we wish to note that § 210.62(c), the normal business practices rule, forbids any practice which constitutes a means to obtain a price higher than is permitted by the regulations. Offering a higher than market price for the price-decontrolled portion of a stream of oil formerly sold to a major refiner, for example, in order to obtain the price-controlled portion that is no longer subject to the supplier/purchaser rule would be such a prohibited practice.

Specifically, in light of all of the considerations discussed above, we are amending the "scope" section of the rule, § 211.63(a), to eliminate from the scope of the supplier/purchaser rule (1) price-decontrolled crude oil and (2) crude oil not sold to a reseller, small refiner, or independent refiner. No change is made to § 211.63(b), the "general rule." Section § 211.63(c) is amended to conform with the change in the scope of the rule to include only price-controlled oil. Also, we have added a new paragraph (4) to this section, which is intended to clarify resellers' responsibilties as volumes of price-controlled oil diminish.

B. Other Proposals

1. *Wavier and Advance Termination Clauses:*

As noted in Part II above, we proposed in the alternative either to prohibit such clauses absolutely or to allow them without restriction.

The purpose of the amendments adopted today is generally to decrease regulatory restrictions with regard to supplier/purchaser relationships, so long as the diminishing volumes of price-controlled crude oil currently being supplied to small and independent refiners are protected. In light of this general purpose of the amendment and in view of the comments on this issue, we have determined to loosen restrictions on these clauses, but in light of small refiners' concerns we are not eliminating all restrictions.

Specifically, we are amending § 211.63(d)(1)(i) to create two separate, allowable forms of termination clauses. The first, which applies to all supplier/purchaser relationships, retains the current rule regarding termination clauses, slightly reworded. This section would not change the requirement for a specified termination date (*see especially* Interpretation 1979–18, *Arizona Fuels Corporation, supra*). The requirement in the current rule to obtain the consent of subsequent purchasers is modified to make clear that only the consent of those subsequent purchasers protected by the supplier/purchaser rule is required. The second form of termination clause applies only to new supplier/purchaser relationships created after the effective date of this amendment. With respect to these relationships, if a contract entered into after the effective date of this amendment expressly so provides, either the supplier or purchaser may terminate the relationship without obtaining the permission of subsequent purchasers. Moreover, the requirement for a specified termination date is not applicable.

The primary reason for the substantial change with respect to future relationships is to enable the former sellers to major refiners to sell price-controlled oil to small and independent refiners with an assurance that by so doing they will not, by reason of § 211.63(b)(2), be creating a new supplier/purchaser relationship into which they would be frozen. Under the amended supplier/purchaser rule we are adopting, while new contracts with respect to price-controlled oil would in the absence of a termination or waiver clause create a new supplier/purchaser relationship (unless the purchaser is a major refiner), the seller can assure by including such a clause that the contract will be terminable according to its terms without regard to the supplier/purchaser rule.

One exception to this new broad termination and waiver provision is the situation where a producer or refiner substitutes a reseller pursuant to the reseller substitution provision described below. If these substitutions could create new supplier/purchaser relationships for purposes of this provision, the possibility that a supplier might insist on a waiver or termination clause could create a severe disincentive to a refiner to substitute a new upstream reseller or itself in place of the existing reseller. Similarly, a producer might be inclined to replace his current reseller solely to create a new relationship where he could insist on a waiver or termination clause. Accordingly, to maintain neutrality with respect to substitutions, new relationships arising from substitutions under the reseller substitution provision will not be considered a new supplier/purchaser relationship for purposes of the waiver or termination clause provision.

2. *Elimination of Unnecessary Transactions (Reseller Substitution):*

As indicated in Part II of this preamble, we proposed that suppliers and purchasers be able to substitute or eliminate intermediate suppliers or purchasers so long as the change did not divert crude oil from the protected refiners. This proposal was made in recognition of the fact that the supplier/purchaser rule is not aimed at protecting resellers and in light of our desire to enable the market to achieve the most efficient distribution system between producers and refiners. The comments generally supported this proposal. Moreover, as indicated above, to avoid burdensome certification requirements we have left in place reseller relationships not strictly required to assure supplies to small and independent refiners; these relationships heretofore involved in moving supplies to major refiners should also be subject to modification where such action would promote maximum efficiencies.

Accordingly, we are generally adopting this proposal as modified in light of the general amendment adopted. Moreover, we are retaining the current regulatory provision allowing producers to substitute new resellers, but have modified it to make such substitution more easily accomplished. These changes are made in order to minimize regulatory interference with market mechanisms and to promote economic efficiency. In restoring a greater amount of flexibility with respect to the reseller market, we are furthering competition in the distribution and marketing of crude oil.

Specifically, we are creating a new § 211.63(d)(3) that would delineate the circumstances under which a producer or a refiner may substitute or eliminate a reseller with respect to price-controlled crude oil. This provision would not apply to price-decontrolled oil because it would no longer be subject to the supplier/purchaser rule. Paragraph (i) of the new § 211.63(d)(3) allows a producer to substitute a new reseller for his current reseller without the approval of subsequent purchasers, so long as the producer assures that the subsequent purchasers having supplier/purchaser relationships under the rule will receive the same volumes on the same terms as they would have from the

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previous reseller. We believe that this provision will enable resellers to compete effectively for new business on the basis of the services they can sell to the producer, and will enable producers to pick resellers on the basis of services.

Paragraph (ii) of this new section allows a refiner to terminate *any* supplier/purchaser relationship protected by the rule involving a reseller in the series of relationships involving a given crude oil between the refiner and the producer. That is, the refiner may terminate a relationship even to which it is not a party, as well as a relationship to which it is a party, with respect to crude oil it purchases. The refiner then can purchase directly from the producer or remaining reseller or substitute a new reseller of its own choosing. However, the refiner cannot terminate the relationship between the producer and the first purchaser without the agreement of the producer. The services performed by some resellers on behalf of producers can be extremely important to the producer, and only with the producer's permission should another reseller take that place. This provision could be used, for example, in the following series: Producer—Reseller A—Reseller B—Reseller C—Refiner. The refiner could substitute itself for Resellers B and C. It could substitute Reseller C for Reseller B. Or it could substitute Reseller D for Resellers B and C. Or, with the producer's agreement, the refiner could purchase directly from the producer or could substitute another reseller for Resellers A, B, and C. In each case the series of transactions would be shortened to the probable benefit of the refiner. We believe this provision will enable resellers to compete for new business with refiners by offering possible lower prices to refiners by reduced numbers of transactions between the producer and the refiner. It should be noted that even a refiner that itself is not a party to any protected supplier/purchaser relationship (e.g., a major refiner) may under this substitution provision terminate a protected relationship between resellers with respect to crude oil supplied to the refiner. Similarly, for example, a small refiner that purchases crude oil from a reseller under a contract waiving the supplier/purchaser rule can also make use of the substitution rule with respect to that reseller and other resellers in the distribution system for that oil.

As explained above, new relationships created as a result of a reseller substitution are not deemed new relationships for purposes of the waiver or termination clause provision. This is to ensure that substitutions are made for legitimate business reasons and not merely to enable a firm to insist upon a waiver or termination clause. As a corollary to this exception to the new waiver and termination provision, we are adopting a new paragraph (iii) to prevent substitutions merely to create a protected supplier/purchaser relationship where one did not exist prior to the substitution. For example, as noted above, a small refiner that purchases price-controlled crude oil from a reseller under a contract that waives the supplier/purchaser rule can make use of the reseller substitution rule to terminate upstream supplier/purchaser relationships, thus shortening the series of transactions between the refiner and the producer. In so doing, however, the refiner should not be able to create a protected relationship under the supplier/purchaser rule, when it did not have such a protected relationship before the substitution. Otherwise, the substitution might be made only to achieve protection under the supplier/purchaser rule and not for legitimate business reasons. Accordingly, we have included this paragraph (iii) to assure that, where the series of transactions between the producer and the refiner are not all protected supplier/purchaser relationships under this rule, while terminations and substitutions can be made for those relationships that are protected, those substitutions will not by reason of the general supplier/purchaser rule create any new protected relationships.

3. *Other Proposals:*

We are not adopting the proposals that (1) would exempt small refiners from supply obligations, (2) would amend the bona fide offer provision (which has only been conformed in light of the change to the scope of the rule), or (3) would have expanded § 211.63(d)(1)(ii) to other types of decontrolled oil besides stripper crude oil (in light of the changed scope of the rule, this provision has been totally deleted). After consideration of the comments, and in light of the changed scope to the rule, we determined that the problems or questions which led us to make these proposals were either eliminated or substantially alleviated by the changes we did adopt.

V. Procedural Matters

A. *Section 404 of the DOE Act*

Pursuant to the requirements of Section 404(a) of the Department of Energy Act (DOE Act, 42 U.S.C., section 7101 *et seq.*, Pub. L. 95–91, as amended) we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. On June 30, 1980, following an opportunity to review the proposal pursuant to which this rule is being adopted, the FERC informed the ERA that it declined to determine that it may significantly affect any of its function.

B. *National Environmental Policy Act*

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C., *et seq.*), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and applicable DOE regulations for compliance with NEPA.

C. *Executive Order 12044*

Executive Order 12044 (43 FR 12661, March 23, 1978) requires that a regulatory analysis be prepared for all significant regulations which are likely to have a major impact. The ERA prepared a draft regulatory analysis in conjunction with the formulation of the May 1978 proposals issued in this proceeding. A summary of that analysis was provided in the May 1978 notice of proposed rulemaking. A final regulatory analysis has been prepared after reviewing the comments received in this proceeding. Copies of this analysis are available for inspection in the DOE Freedom of Information Office, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A summary of the ERA's final regulatory analysis supporting today's amendments follows.

Summary of the Final Regulatory Analysis of Amendments to Supplier/Purchaser Rule

The Final Regulatory Analysis is generally consistent with the assumption in the Draft Regulatory Analysis and Notice of Proposed Rulemaking that any relaxation of the supplier/purchaser rule which does not jeopardize the continuation of supplies to small refiners will have the effect of freeing up volumes of crude oil for potential purchase by small refiners.

The Draft Regulatory Analysis had used data for the month of April 1979 in describing the volumes and percentages of various tiers of crude oil purchased by the various classes of refiners. The Final Regulatory Analysis generally overcomes the limitations of using one month's data by displaying data for the full calendar year 1979. Furthermore, inasmuch as major objections were received in public comments that large independent refiners did not have the purchasing knowledge and economic power to protect themselves from limitations of crude oil supply as do major refiners, the Final Regulatory Analysis separates large independent refiners from large integrated (major) refiners in the data tables.

The Analysis shows that, for first purchases subject to the supplier/purchaser rule, large independent refiners' circumstances are much more similar to those of small refiners than to those of major refiners. When purchases of price-controlled oil by refiners are considered for 1979, the major refiners are shown to have purchased 83.5 percent of all lower tier oil and 65.8 percent of all upper tier oil purchased by refiners, while the large independent refiners and small refiners shared the remainder. Examining first purchases data in another way, major refiners are shown to have obtained 82.6 percent of all of their first purchases as price-controlled oil, while small refiners obtained only 62.3 percent of their first purchases as price-controlled oil. The large independent refiners obtained 89.2 percent of their first purchases as price-controlled oil, but this figure is substantially inflated by the influence of Sohio's access to Alaskan North Slope (upper tier) crude oil. This is revealed by the fact that, for the large independent refiners, 9.3 percent of their first purchases were lower tier oil, while 79.9 percent was upper tier oil.

Eliminating first purchases of crude oil by large integrated refiners from the protection of the supplier/purchaser rule will make substantial additional volumes potentially available to small refiners, as documented by analyzing the source of first purchases for major refiners for the month of December 1979. During this month, major refiners made 87 percent of their first purchases of lower tier oil either from affiliated companies or from other major refiners. For upper tier oil, the portion purchased from affiliates and other major refiners was 85 percent. These volumes will most likely continue to be bought and sold between these firms notwithstanding the removal of the supplier/purchaser rule. However, the volumes of lower tier and upper tier oil purchased from sources other than affiliates or other majors (small refiners and independent producers) will become potentially available for purchase by small refiners. These volumes are substantial—5.6 million barrels of lower tier and 7.6 million barrels of upper tier oil in December of 1979. This represents about 50 percent of the amount of price-controlled oil purchased by small refiners from all sources in an average month in 1979. Thus, even if only 15 or 20 percent of the volumes purchased by major refiners and removed from the supplier/purchaser rule is available to small refiners, the incremental amounts available to small refiners will be substantial.

The Final Regulatory Analysis also displays volumes and percentages of first purchases for non-price-controlled oil and describes generally the effect of removing this category of oil from the application of the supplier/purchaser rule. Inasmuch as the effect of the rule on sales of this oil had been limited only by the requirements of the bona fide offer provisions of the rule, it is not expected that the recision of these requirements will have any major impact on the acquisition of decontrolled oil by any particular group of refiners.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621: E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., August 18, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. 10 CFR 211.63 is revised to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

(a) *Scope.* This section provides for the allocation of crude oil produced in the United States the first sale of which is subject to the ceiling price limitations of Part 212 of this chapter, other than crude oil which is the subject of (1) purchases and sales made to comply with § 211.65 of this subpart; (2) sales of crude oil made pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations; (3) a sale to other than a reseller, small refiner or independent refiner; and (4) the first sale of any domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1, 1976.

(b) *General rule.* (1) All supplier/purchaser relationships with respect to crude oil within the scope of paragraph (a) of this section which were in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 shall remain in effect for the duration of this program; *provided, however,* that any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.

(2) Once any first sale, purchase of exchange or domestic crude oil is made which is exempt from this rule pursuant to paragraph (a)(4) of this section, or once the sale, purchase or exchange of any domestic crude oil that has at anytime been the subject of a supplier/purchaser relationship under paragraph (b)(1) of this section is made in accordance with this section to a firm that was not the purchaser thereof on January 1, 1976, or has not continued to purchase that crude oil without interruption since December 31, 1975, a supplier/purchaser relationship between the seller and purchaser shall be established thereafter under this section as though it had been in effect on January 1, 1976.

(3) The provisions of this paragraph (b) shall not (i) operate to validate any supplier/purchaser relationship in effect on January 1, 1976 where the purchaser of the domestic crude oil involved was not the lawful purchaser thereof under the provisions of this section as in effect at any time prior to February 12, 1976, or (ii) impair any purchaser's right to continue to receive the volumes of domestic crude oil flowing to it on December 1, 1973 or such later date at which its supplier/purchaser relationship was established under this section as in effect prior to February 12, 1976.

(c) *Supply obligations and purchase rights.* (1) Obligations and rights incident to supplier/purchaser relationships under this section applicable to crude oil production from a property (as defined in Part 212) in a given month shall not exceed the actual production for the month from that property of crude oil the first sale of which is subject to the ceiling price limitations of Part 212 of this chapter.

(2) Where the volume of such crude oil produced by a property in a given month is below December 1975 levels, the supply obligations under this section for that production shall be reduced for that

month as to each January 1, 1976 purchaser of that production on a prorata basis, based on the respective volumes purchased by each such purchaser in December 1975.

(3) Increased production of such crude oil from a property over December 1975 production levels shall be sold proportionately to the same purchaser or purchasers that are entitled to purchase the December 1975 levels of such crude oil production of that property under this section.

(4) A purchaser of crude oil subject to this section that receives a prorata reduction or increase of such crude oil pursuant to paragraphs (c) (2) or (3) of this section or this paragraph shall likewise prorate any supply obligations with respect to such oil that such purchaser may have under this section.

(5) In the event that a property which produces crude oil subject to this section is transferred to a new owner, the obligation to supply the January 1, 1976 purchasers of that property's crude oil production shall attach to the new owner and new supplier/purchaser relationships subject to this section shall be established on that basis.

(6) In the event that a refinery to which crude oil subject to this section is supplied is transferred to a new owner, the right to purchase such crude oil shall for purposes of this section be transferred to the new owner of the refinery and a new supplier/purchaser relationship subject to this section shall be established on that basis.

(d) *Termination of supplier/purchaser relationships.* Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(1) *Mutual Consent.* (i) A purchaser and supplier may mutually agree to terminate their relationship, as evidenced by their written consent thereto, together with notice of the termination date, if all subsequent purchasers of the crude oil involved that have a supplier/purchaser relationship with respect to such crude oil have consented to such termination in writing;

(ii) With respect to any new supplier/purchaser relationship created after September 30, 1980, other than ■ relationship created pursuant to paragraph (d)(3) of this section, a purchaser and supplier may mutually agree to terminate their relationship, as evidenced in a contract entered into on or after October 1, 1980, expressly waiving the requirements of paragraphs (b) and (c) of this section or providing for the termination of a supplier/purchaser relationship.

(2) *Bona Fide Offer.* A producer (as defined in Part 212 of this chapter) may terminate its supplier/purchaser relationship with its present purchaser with respect to any crude oil as to which that purchaser refuses, within a fifteen day period after receipt of written notice of any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser, to meet that offer.

(3) *Substitution of Resellers.* (i) A producer (as defined in Part 212 of this chapter) may terminate its supplier/purchaser relationship under this section with a reseller purchasing crude oil from that producer, if the producer directly or by means of a substitute reseller supplies to the purchasers of the terminated reseller those volumes of the producer's crude oil that they were entitled to receive from the terminated reseller pursuant to this section, on the same terms as the terminated reseller supplied those volumes.

(ii) A refiner may terminate any reseller's supplier/purchaser relationship under this section involving crude oil purchased by that refiner, whether or not the refiner is a party to that relationship, if the refiner substitutes itself or a reseller of its choosing in place of the terminated reseller, except that where the first purchaser of crude oil from the producer is to be replaced by the refiner or substitute reseller, the producer must agree to the replacement.

(iii) Notwithstanding paragraph (b)(2) of this section, no new supplier/purchaser relationship is created for purposes of this section if prior to ■ substitution under this paragraph (3) there did not exist a series of supplier/purchaser relationships under this section between the producer and refiner with respect to particular crude oil.

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August 25, 1980

Part VII

Department of Transportation

Urban Mass Transportation Administration

Section 5 Operating Assistance Regulations

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR 650

[Docket No. 80-M]

Section 5 Operating Assistance Regulations

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is proposing regulations setting forth requirements governing applications for uses of funds for operating assistance authorized by Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq. hereafter referred to as the UMT Act.) The proposed regulation would streamline and codify existing requirements and guidelines relating to the Section 5 program and propose guidance and requirements in key areas where none currently exists.

DATE: Comments must be received by December 1, 1980.

ADDRESS: Comments must be submitted to UMTA Docket No. 80-M, 400-7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: James McQueen, Office of the Administrator, (202) 426-4050.

SUPPLEMENTARY INFORMATION: All comments recieved before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible.

The Administrator has determined that this is a non-significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979). Under the DOT Order, a full evaluation is not warranted because the expected economic impact of the proposed regulations is minimal. The proposed regulation sets out application requirements and requirements concerning use of funds for an operating assistance program.

The provisions of OMB Circular A-95 apply to this Notice of Proposed Rulemaking. It covers the following program as listed in the Catalog of Federal Domestic Assistance (CFDA): 200507 Urban Mass Transportation Capital and Operating Assistance Formula Grants.

Discussion of Proposed Regulation

Section 5 of the UMT Act authorizes funds for capital or operating expenditures for mass transportation system in urban areas. This proposed regulation describes requirements governing applications for and uses of these funds for operating assistance. When final, the regulation will supersede existing guidance in UMTA Circular 9050.1, "Application instructions for Section 5 Operating Assistance Projects" (hereafter referred to as the "Section 5 Circular").

The intent of the proposed regulations is to streamline and codify existing requirements and guidance relating to the Section 5 program and to set out guidance and requirements in key areas where none currently exists.

Existing procedures are being modified in a way that will increase the efficiency of the Section 5 program, reduce paperwork burdens on grantees and speed the approval of operating assistance grants. These modifications are consistent with President's Carter's efforts to reduce the paperwork burden throughout the Federal government and reflect the commitment of the Administrator to reduce burdens on grantees consistent with an effective, useful Federal role.

Overview of Operating Assistance Program

Funds authorized by Section 5 of the UMT Act are apportioned among urbanized areas using formulas based on demographic and transportation factors. (The formulas are described in Sections 5(a)(1), (2) and (3) of the UMT Act). These funds are apportioned directly to urbanized areas of 200,000 or more population and to States for allocation by the Governor to urbanized areas with less than 200,000 population.

Designated recipients play a key role in the Section 5 program. Pursuant to the UMT Act, designated recipients apply for, receive and dispense the apportioned funds. To encourage coordinated mass transportation operations within urbanized areas, UMTA will accept applications for operating assistance only from designated recipients. A public agency which is not a designated recipient may receive operating assistance, but only with the concurrence of the appropriate designated recipient and only if the designated recipient submits an application and executes a grant agreement on its behalf.

For urbanized areas of 200,000 population or more, designated recipients are selected by the Governor, principal elected officials of the area and operators of publicly owned mass transportation services within the area. In such areas, State and regional public mass transportation agencies must be included as designated recipients. In areas of less than 200,000 population, the Governor or the Governor's designee is the designated recipient; the Governor may and sometimes does designate recipients within these urbanized areas.

The distribution of funds authorized by Section 5(a) (1), (2) and (3) within an urbanized area between operating and capital uses and among recipients is a local decision to be made by the Metropolitan Planning Organization (MPO) representing the principal elected officials of the area. The MPO makes these decisions in cooperation with public mass transportation operators and designated recipients of the area. Once a decision on the distribution of Section 5 funds is made, an operating assistance project has been included in the program of projects in the annual element of the area's transportation improvement program (TIP) and the annual element approved by UMTA, an application for the operating assistance project may be approved. Operating assistance funds may only be used for projects to maintain or improve mass transportation services to or within urbanized areas. This may be accomplished by operation, lease, contract with private or public transportation companies, or other means. Operating assistance funds may not be used for intercity service or non-transit purposes.

Proposed Changes

The proposed regulation implements three important changes to current procedures governing the application and use of operating assistance as described in the Section 5 Circular (9050.1).

One change modifies the current requirement in the Section 5 Circular that a public hearing be held on all operating assistance grant applications. Section 650.60 of the proposed regulation requires a public hearing on applications for an operating assistance grant only if a written request for a hearing is submitted.

A second change is the incorporation of procedures to permit operating assistance grants meeting certain conditions to be funded under an expedited process. This process, described in Section 650.69, permits a grantee to renew an existing operating assistance grant provided that: the amount of Section 5 funds available to the urbanized area is not exceeded, the renewal is in an approved annual element, and the renewal is covered by a certification by the Secretary of Labor that employees of the transit system will not be adversely affected by the project.

UMTA will permit the programming of multiyear operating assistance projects to assure that the succeeding year's operating assistance is included in a approved annual element at an early stage. This procedure will eliminate delays in approving operating assistance grants due to unintended delays in approving the annual element.

Multiyear employee protection agreements for operating assistance projects are encouraged to enable continuing certification that employees of the transit system are not adversely affected by such projects. The Department of Labor has agreed that such certifications are possible if mutually agreed to by the mass transportation operator and affected labor organizations. Such agreements, which are already in force in some areas, will reduce unintended delays in approving these routine grants.

A third change in § 650.94 permits applicants to reference data reported pursuant to Section 15 of the UMT Act (i.e., Section 15 data) instead of submitting the maintenance of effort documentation for operating assistance applications currently required by the Circular provided that the Section 15 data are comparable to the data used in the application.

Another difference between the proposed regulation and the current Section 5 Circular is the treatment of requirements which are covered in detail by other regulations such as Maintenace of Effort (MOE), Non-discrimination, and Charter and School Bus Operations. The proposed regulation refers the reader to the appropriate regulation for detailed coverage of the requirements. Currently, the Circular includes summary material and key requirements of each of the regulations.

The proposed regulation continues the reduction of paperwork begun in the current Section 5 Circular by eliminating:

Required descriptions of local procedures for assuring half-fares during non-peak hours for elderly and handicapped persons. The proposed regulation provides a comprehensive statement of UMTA requirements; and by the signed assurances, the grantee certifies that the requirements are met;

Exhibit C (Transit System and Urbanized Area Description). The information is included in short range transit plans prepared by the operator; and

Exhibit D (Public Hearing and Standard Certification). The proposed regulation does not require the submission of the notice of hearing. The certification currently required by the Section 5 Cicular is continued.

Contents of Regulation

This proposed regulation focuses on application procedures and related aspects of the Section 5 operating assistance program. Similar requirements for capital projects will appear in a future regulation. Program execution and related project management requirements currently covered in Circular 9050.1, will be covered in UMTA Circular 5010.1, "UMTA Project Management Guidelines for Grantees" which will be issued in the near future.

Contents of the proposed regulation are divided into six subparts and an appendix. Subpart A introduces the regulation and defines terms used in the regulation. Subpart B describes categories of funds for operating assistance, eligible uses, availability of funds and eligible recipients. Subpart C describes requirements recipients must satisfy to be eligible to receive operating assistance funds. Subpart D describes requirements which proposed operating assistance projects must satisfy before they may be funded. Subpart E defines revenue, cost and budget information used in operating assistance grant applications. Subpart F describes the contents of an application for operating assistance. The Appendix provides additional explanatory information to assist the completion of applications.

Accordingly, it is proposed that a new Part 650 be added to Title 49 of the Code of Federal Regulations to read as follows:

PART 650—SECTION 5 OPERATING ASSISTANCE REQUIREMENTS

Subpart A—General

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650.2 Purpose of Regulation.
650.4 Applicability.
650.5 Definitions.
650.7 Waiver.

Subpart B—Operating Assistance Funds: Uses and Availability

650.10 Purpose of Subpart.
650.12 Uses of Funds.
650.14 Apportionment of Funds.
650.16 Availability of Funds.
650.18 Recipients.
650.20 Grantees.

Subpart C—Requirements of Grantees

650.30 Purpose of Subpart.
650.32 Legal, Financial and Technical Capacity.
650.34 Opinion of Counsel.
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650.40 Section 15 Reporting System.
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Subpart D—Project Requirements

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650.54 Environmental, Social and Economic Impacts.
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Public Hearings

650.60 Hearing Requirements.
650.62 Content of Notices.
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650.66 Multiple Project Hearing.
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Subpart E—Project Financing

650.80 Purpose.
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650.84 Revenue: Federal Share/Local Match.
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650.90 Purpose.
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650.94 Applications for Base Year Operating Assistance Grants.
650.96 Renewing Operating Assistance Grants.
650.98 Grant Agreements.
650.100 Project Management.

Appendices

Authority: 49 U.S.C. 1604; 49 CFR 1.51.

PART 650—OPERATING ASSISTANCE FORMULA GRANT REGULATIONS

Subpart A—General

§ 650.2 Purpose of Regulation.

This part describes requirements governing application procedures and uses of operating assistance funds authorized by Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq., hereafter referred to as the UMT Act).

§ 650.4 Applicability.

This part applies to all operating assistance projects and to all recipients of operating assistance, such as State and local public bodies. The provisions

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of this part govern the award and administration of all financial assistance under the Section 5 operating assistance program, except as otherwise provided by statute or regulation.

§ 650.5 Definitions.

As used in this part:

(a) "Administrator" means the administrator of the Urban Mass Transportation (UMTA).

(b) "Annual Element" means a list of transportation improvements projects proposed for implementation during the first program year, and may include multiyear operating assistance projects.

(c) "Department" means the U.S. Department of Transportation (DOT).

(d) "Governor" means any Governor of the fifty States and Puerto Rico, and the Mayor of the District of Columbia.

(e) "Level of Effort" (LOE) means the amount contributed from State and local government funds and non-farebox transit revenues, and expended on the operation of mass transportation service in an urbanized area for a given local fiscal year. Pursuant to the UMT Act, LOE includes advertising concessions and property leases for transit purposes and excludes reimbursement payments for the transportation of school children.

(f) "Maintenance of Effort (MOE)" means the average of the LOE for the two local fiscal years preceding the project year.

(g) "Mass Transportation" means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides service to the general public or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

(h) "Public transportation" means mass transportation.

(i) "Urbanized area" means an area so designated by the Bureau of the Census, within the boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which at a minimum, encompasses the entire urbanized area within a State as designated by the Bureau of the Census.

(j) "Transportation Improvement Program" means a staged multiyear program of transportation improvements, including an annual element.

(k) "UMT Act" means the Urban Mass Transportation Act of 1964, as amended, (49 U.S.C. 1601 et seq.).

§ 650.7 Waiver.

The Administrator may grant a waiver concerning any requirement in this Part, on a case by case basis, if he determines that it is in the public interest to grant the waiver.

Subpart B—Operating Assistance Funds: Uses and Availability

§ 650.10 Purposes of subpart.

This subpart describes categories of operating assistance authorized by Section 5 of the UMT Act, including uses and limitations of each category, period of availability of the funds, and eligible recipients.

§ 650.12 Uses of funds.

(a) Two categories of operating assistance are authorized by Section 5 of the UMT Act: (1) Sections 5(a)(1) and 5(a)(2) authorize funds for operating assistance or capital grants to mass transportation systems.

(2) Section 5(a)(3) authorizes funds for operating assistance to commuter rail operations only for funds appropriated during fiscal year 1979, and thereafter for capital or operating assistance to any fixed guideway system, including commuter rail and rapid rail and other exclusive guideway systems such as busways and light rail lines that are on separate rights-of-way.

(b) Operating assistance funds may only be used to maintain or improve mass transportation services to or within urbanized areas through operation, lease, contract or other means.

(c) Funds authorized in Section 5(a) of the UMT Act are apportioned according to formulas in that section. UMTA publishes a list of actual apportionments in the Federal Register each year shortly after enactment of legislation appropriating such funds.

§ 650.14 Apportionment of funds.

(a) Funds authorized by Sections 5(a)(1), (2) and (3) of the UMT Act are apportioned—(1) Directly to urbanized areas of 200,000 persons or more population; and

(2) To States for urbanized areas of less than 200,000 population.

(b) The Governor of each State is responsible for the allocation of funds apportioned to the State in paragraph (a)(2) above to urbanized areas of less than 200,000 population as follows:

(1) The Governor is required to develop procedures to assure that the funds are allocated among the urbanized areas in a fair and equitable manner. Such procedures must consider the following:

(i) The allocation if funds were apportioned to urbanized areas directly.

(ii) The financial needs of each urbanized area for planned mass transportation projects.

(iii) The period remaining in the current funding authorization.

(2) The Governor shall submit annually to the appropriate UMTA regional office a report describing—(i) Procedures used to allocate funds among urbanized areas, and the name and address of the person to contact for additional information about the allocation and related procedures;

(ii) Funds from the current funding authorization already allocated to each urbanized area; and

(iii) Any allocation of funds among urbanized areas from the most recent apportionment which differs from what it would have been if funds had been apportioned directly.

(3) The Governor's allocation may not exceed the total of the most recent apportionment to the State plus carryover funds available from previous apportionments to the State.

(c) The Governor shall inform the appropriate UMTA regional office in writing of his or her intent to change the allocation in the report and provide a justification for such an action.

(d) The Administrator will not approve a grant to an urbanized area which would result in a larger cumulative allocation to the urbanized area than the area would have received under a direct apportionment until receiving the Governor's report required in paragraph (b)(2) above.

§ 650.16 Availability of funds.

(a) Funds authorized by Sections 5(a) (1), (2), and (3) of the UMT Act are available for obligation for a period of three years following the close of the fiscal year for which they are apportioned. The balance of any apportionments to States or designated recipients which remains unobligated at the end of the period of availability will be added to UMTA funds available in the succeeding year in the same category as the funds were originally apportioned.

(b) Funds allocated by the Governor of a State to urbanized areas of less than 200,000 population will be available for the year in which they are allocated. The balance of any allocations to such urbanized areas which remain unobligated at the end of that year will be returned to the Governor for reallocation in the same category as the funds were originally apportioned.

(c) The Governor shall—(1) Reallocate unobligated funds according to the financial needs of the urbanized areas for planned mass transportation projects, giving priority to the financial needs of the urbanized areas yielding the unobligated funds; and

(2) Comply with reporting provisions of § 650.14(c).

§ 650.18 Recipients.

(a) *Designated Recipients.* (1) The Governor, responsible local officials and publicly-owned operators of mass transportation services shall jointly designate a recipient or recipients to apply for, receive and dispense funds for urbanized areas of 200,000 or more population, pursuant to Section 5(b)(1) of the UMT Act as follows:

(i) To the extent possible, a single recipient shall be designated for each urbanized area or for contiguous urbanized areas.

(ii) Any statewide or regional agency or instrumentality responsible under State laws for financing, construction, or operating directly, by lease, contract or otherwise of public transportation services shall be named a designated recipient by the Governor, responsible local officials and publicly-owned operators of mass transportation services.

(2) The Governor or the Governor's designee is the designated recipient for urbanized areas under 200,000 persons in population.

(3) Designations remain in effect until amended or rescinded.

(b) *Other Recipients.* (1) Public agencies may receive and dispense funds with the concurrence of the designated recipient. In such cases, the designated recipient applies for funds on behalf of the public agency, and the public agency receives and dispenses the UMTA funds pursuant to a supplemental agreement executed by the designated recipient and the public agency.

(2) The supplemental agreement should—(i) Confer on the public agency the right to receive and dispense grant funds;

(ii) Transfer to the public agency all rights, obligations and responsibilities under the grant agreement; and

(iii) Release the designated recipient from any liability under the grant agreement.

§ 650.20 Grantees.

(a) A grantee is the eligible recipient of operating assistance funds which has the legal responsibility for carrying out the operating assistance project, directly, by lease or contract, or otherwise.

(b) A grantee may be either a designated recipient or public agency with a supplemental agreement with a designated recipient.

(c) All grantees must have the legal capacity to—(1) Apply for, receive and dispense Federal funds for transit purposes;

(2) Submit project applications to UMTA; and

(3) Enter into formal project agreements with UMTA.

Subpart C—Requirements of Grantees

§ 650.30 Purpose of subpart.

This subpart sets out the requirements with which grantees must comply under the Section 5 program.

§ 650.32 Legal, financial and technical capacity.

Each grantee shall submit information to assist the Administrator in determining that the grantee has the legal, financial and technical capacity to carry out the project. Such information must include—(a) An opinion of counsel establishing the legal eligibility of the grantee;

(b) A formal authorizing resolution from the governing body of the grantee; and

(c) A total and summary of the sources of non-Federal revenues to be applied to the project as required by § 650.84 of Subpart D.

§ 650.34 Opinion of counsel.

Each application must contain—(a) An opinion of counsel establishing the legal eligibility of the grantee to apply for and receive a Federal grant, and to execute the project; and

(b) A certification by the attorney of the grantee that there is no pending or threatening litigation which might adversely affect the execution of the proposed project and that there is no legal impediment to the responsible official or grantee making applications for operating assistance.

§ 650.36 Authorizing resolution.

(a) Each application must contain a resolution from the governing body of the grantee formally authorizing the grantee to—(1) Execute and file an application on its own behalf with UMTA (through the designated recipient if the grantee is not the designated recipient) to aid in the financing of public transportation projects;

(2) Execute and file any assurances or other documents required by the Department;

(3) Furnish such additional information as the Department may require in connection with the application or the project;

(4) Set forth and execute affirmative minority business policies in connection with project procurement needs; and

(5) Execute other such functions as are necessary to carry out the operating assistance project.

(b) A single resolution may be used to authorize the filing of more than one application. This resolution must indicate the specific applications for which filing is being authorized.

(c) Only individuals designated by the authorizing resolution may sign the application form and other documents relating to the application and its resulting grant agreement.

(d) The resolution may also authorize individuals to execute grant agreements with UMTA. If this authorization is not in the original resolution, a second resolution authorizing the grantee to execute the grant agreement must be submitted to UMTA prior to execution of the grant agreement.

§ 650.40 Section 15 reporting system.

The Administrator shall not approve any application for Section 5 operating assistance unless the grantee and the user of the funds, if different from the grantee—(a) Can report according to the uniform system of accounts and records prescribed in 49 CFR Part 630, "Uniform System of Accounts and Reporting System"; and

(b) Has submitted the reports required in 49 CFR Part 630.

§ 650.42 Maintenance of effort.

Each applicant and grantee, if they are different, shall demonstrate compliance with the Maintenance of Effort Regulation, 49 CFR Part 635 Subpart B. This regulation requires that the total of State and local funds and certain non-farebox mass transit revenues applied to eligible operating expenses in the year for which operating assistance is sought not be less than the average contribution from such sources in the two preceding local fiscal years. Failure to meet this average level of contributions, except under specific circumstances, will result in commensurate reduction in formula apportioned funds.

§ 650.44 School bus operations.

Mass Transportation operators who engage in school bus operations are subject to the regulations governing school bus operations by recipients of UMTA funds in 49 CFR Part 605, "School Bus Operations."

§ 650.46 Charter bus operations.

Mass Transportation operators who engage in charter bus operations are subject to the regulations governing charter bus operations by recipients of UMTA funds in 49 CFR Part 604, "Charter Bus Operations."

§ 650.48 Nondiscrimination.

Each applicant and grantee, if they are different, is subject to the following

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concerning non-discrimination: (a) UMTA Circular 1155.1—UMTA Equal Employment Opportunity Policy and Requirements for Grant Recipients.

(b) UMTA Circular 1160.1—Interim Guidelines for Title VI—Information Specific to UMTA Programs.

(c) 49 CFR Part 27—Non-discrimination on Basis of Handicapped in Federally-Assisted Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

Subpart D—Project Requirements

§ 650.50 Purpose of subpart.

This subpart sets out requirements which must be met by a project proposed for operating assistance.

§ 650.52 Planning.

Pursuant to Section 5(g) of the UMT Act and 23 CFR 450 Subpart C, "Planning Assistance Standards," the Administrator shall not approve a grant for an operating assistance project unless the project is part of the program of projects in an approved annual element of the Transportation Improvement Program (TIP).

§ 650.54 Environmental, social, and economic impacts.

The procedures that a grantee must follow in meeting environmental requirements and the other requirements of Section 5(i)(1) of the Act are set out in 23 CFR Part 771.

§ 650.56 Private mass transportation companies.

If the operating assistance project will be used to provide, by contract or otherwise, for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing private mass transportation company, the application must contain sufficient information to permit the Administrator to find that the assistance is essential to the program of projects in the annual element of the TIP and that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies. This information must include—(a) A description of the nature and extent of the competitive or supplemental public and private mass transportation services;

(b) An explanation of why the operation assistance is essential to the program of projects in the annual element of the TIP; and

(c) A description of the extent to which private mass transportation companies in the urbanized area participate in the program of projects in the annual element.

§ 650.58 Employee protection.

(a) A grantee shall make fair and equitable arrangements to protect the interests of employees affected by an UMTA grant, as required by Section 13(c) of the UMT Act.

(b) Section 13(c) of the UMT Act is administered by the Department of Labor in accordance with guidelines published in 29 CFR Part 215.6. Section 215.6 of the guidelines sets out the information that must be included in a grant application. Section 215.6 of the guidelines sets out procedures for recurring operating assistance grants.

(c) Each application must contain information to assist the Secretary of Labor in certifying that fair and equitable arrangements have been made to protect affected employees. Such information must include the names and addresses of labor unions representing employees of the transit systems to be assisted and of other transportation systems which will be affected.

(d) The grant agreement will specify the terms and conditions of the arrangements, as certified by the Secretary of Labor.

§ 650.59 Half fare for elderly and handicapped persons

(a) Each grantee shall submit an assurance certifying that during non-peak hours mass transportation services assisted by the project will charge elderly and handicapped persons no more than one-half the normal peak hour fare.

(b) Eligibility for half fare during non-peak hours may be determined by the transit operator, but must include—(1) All persons 65 years of age or older; and

(2) All handicapped persons as defined in 12(c)(4) of the UMT Act.

(c) Operators may exclude some conditions which appear to meet the functional definition of "handicapped", including, but not limited to, pregnancy, obesity, drug or alcohol addiction, and certain conditions otherwise recognized as handicapped which do not fall within the statutory definition (e.g., loss of a finger, some chronic heart or lung conditions, and controlled epilepsy).

(d) The eligibility of individuals who would be included under the requirements of paragraph (b) of this section may not be restricted solely on the basis of—(1) Residence;

(2) Income;

(3) Employment Status;

(4) Ability to operate an automobile; or

(5) Other criteria which exclude groups of individuals who otherwise meet the statutory definition.

(e) Persons with temporary incapacities or disabilities shall be considered handicapped by a transit operator if the temporary condition lasts more than 90 days.

(f) Operators may require an individual to prove eligibility for half fare. If an operator does require proof of eligibility, the operator shall publish procedures to establish proof. The procedures may include the following:

(1) Designating agencies authorized to certify eligible persons.

(2) Requiring certification of handicap by a physician.

(3) Charging a reasonable fee for issuing a special identification card.

(4) Recognizing those identifications which may be used as establishing eligibility (e.g., Medicare cards).

(g) An operator shall establish collection procedures for charging eligible individuals no more than one-half the peak hour fare during non-peak hours.

(h) Each operator shall notify the public of—(1) The non-peak half-fare provisions; and

(2) Any public hearing on requirements for participation.

Public Hearings

§ 650.60 Hearing requirements.

(a) Each grantee shall—(1) hold a public hearing on each proposed operating assistance project; or

(2) provide the opportunity for a public hearing on each proposed operating assistance project by publishing a notice that a hearing will be held if a written request for a hearing is received.

(b) If a written request for a hearing is received by a grantee after publication of the notice required by paragraph (a)(2) of this section, the grantee shall hold a hearing.

(c) Each grantee shall submit a certification that the opportunity for a public hearing was provided and that a hearing was held if a written request for a hearing was received.

(d) Notices required by paragraph (a) of this section 650.62(b) must be published in a newspaper of general circulation in the grantee's urbanized area and, where possible, in newspapers oriented to minority communities in the urbanized areas.

§ 650.62 Contents of notices.

(a) Each notice required by § 650.60 of this subpart must describe the proposed project in detail sufficient to inform the public of the following: (1) The project period.

(2) The name of the grantee.

(3) The nature and location or service areas of the project.

(4) The name(s) of the mass transportation operator(s) to be assisted.

(5) The estimated cost of the project, including the Federal and local shares, and an indication of the anticipated sources of the local share.

(6) A statement that any person interested in a public hearing must request, in writing, that the hearing be held.

(7) A statement that if a written request is received, a hearing will be held.

(8) The name of the person and the address to which the written request must be sent.

(9) The deadline for submission of requests (at least 30 days after publication of the notice).

(10) The information required by 49 CFR 604.15(b), if the mass transportation operator to be assisted by funds from the project engages in charter bus operations.

(11) The information required by 49 CFR 604.15(b), if the mass transportation operator to be assisted by funds from the project engages in school bus operations exclusively for the transportation of students or school personnel.

(12) A statement that interested persons or agencies will be afforded the opportunity to be heard at the hearing with respect to the social, environmental, and economic aspects of the project, and that these views may be presented orally or in writing.

(13) A statement that a copy of the application is available for public inspection along with its location.

(b) If a written request for a hearing is received, the grantee shall publish a notice of intent to hold a public hearing. The notice must be published at least 30 days before the hearing. If a local or State law concerning public hearings provides different requirements, these requirements may be followed. The notice must state that an operating assistance project will be the subject of the hearing and include the date, time, and location of the hearing.

§ 650.64 Transpcript of hearing.

If a public hearing is held, the grantee shall—

(a) Make a verbatim transcript of the hearing;

(b) Maintain the transcript on file until the project is closed out; and

(c) Make the transcript available for public inspection.

§ 650.66 Multiple project hearing.

If an applicant submits more than one application to UMTA at one time, a single notice of intent to hold a public hearing may be published for all of the proposed projects.

§ 650.67 Adequacy of notice and hearing.

If UMTA determines that the notice of intent to hold a public hearing, the notice of public hearing or the public hearing itself (if held) was inadequate to give parties with significant social, economic, or environmental interests an adequate opportunity to present their views with regard to the proposed project, UMTA may require the applicant to publish an additional notice or to conduct an additional hearing.

§ 650.70 Fare changes and substantial changes in service.

(a) The regulations implementing Section 5(i)(3) of the Umt Act require that a public hearing be held prior to any fare change and prior to any substantial change in service.

(b) The regulations are set out in 49 CFR Part 635 Subpart A.

SUBPART E PROJECT FINANCING

§ 650.80 Purpose.

This subpart defines revenues, costs and budget information used in operating assistance grant applications.

§ 650.82 Net project cost.

Net project cost is the difference between eligible operating expenses described in § 650.86(b) and farebox and other revenues which are not eligible for inclusion in the local match—the amount of eligible expenses to be covered by local revenue and Federal operating assistance.

§ 650.84 Revenue: Federal share/local match.

(a) The amount contributed to meeting net project cost from non-Federal sources constitutes the local match. All local and State revenues generally are eligible for inclusion in the local match with the exception of farebox revenues. In a limited number of situations, Federal funds may be eligible for inclusion in the local match. Eligibility of such Federal funds for inclusion in the local match must be documented by the grantor Federal agency.

(b) The Federal share of any operating assistance project shall not exceed the local match, the currently available apportionment to the urbanized area plus any carryover funds available from past years or 50 percent of the net project cost incurred on an accrual basis in the provision of public transportation services during the project period.

(c) Profit from non-transit operations may be included in the local match to the extent that such revenues are actually applied to cover eligible operating expenses.

(d) Federal and local matching funds may only be applied to eligible operating expenses (described in § 650.86(b)) incurred on an accrual basis in providing mass transportation services during the project period.

§ 650.85 Disbursement of operating assistance funds.

(a) If the mass transportation operator is also the grantee, UMTA funds provided under the grant will flow directly to the operator.

(b) If the mass transportation operator is a public entity but different from the grantee, the grantee may direct that UMTA funds provided under the grant—

(1) flow directly to the operator; or

(2) be made jointly payable to the grantee and the operator.

(c) If the mass transportation operator is a private entity, funds will flow directly to the grantee.

(d) If the operating assistance project provides funds to more than one mass transportation operator, payments will be made directly to the grantee.

(e) In all cases of joint payments, both parties must jointly submit requests for payment.

§ 650.86 Operating expenses.

(a) *Ineligible Expenses.* Actual or estimated expenses during the project year for activities not related to the provision of mass transportation to or within the grantee's urbanized area are ineligible for operating assistance and may not be included in the computation of net project cost, pursuant to Federal Management Circular 74–4 and 5(d)(1) of the UMT Act. Such activities include, but are not limited to the following:

(1) Charter bus operations.

(2) School bus operations (i.e., operations for the exclusive transportation of school students not the carrying of students in regularly scheduled mass transportation services).

(3) Sightseeing services.

(4) Freight haulage.

(5) Maintenance of non-transit vehicles.

(6) Intercity transportation.

(7) Mass transportation services wholly outside of the Urbanized area.

(8) Capitalized costs or expenses recognized as part of and reimbursable under another UMTA project. This includes both the value of cash contributions and in-kind services provided as the local share of projects such as the following:

(i) UMTA capital grants (e.g., administrative expenses reimbursed under the capital grant).

(ii) UMTA technical studies projects.

(iii) UMTA research, development, and demonstration projects.

(iv) Demonstration projects funded fully or in part by non-Federal public or

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private entities. However, under certain circumstances demonstration project expenses (other than UMTA-funded) may be eligible, and the non-Federal payments to cover such expenses may be used as local share to match Section 5 operating assistance. At an applicant's request, UMTA will consider the eligibility of demonstration project expenses on a case-by-case basis.

(9) Contra-expenses, revenue items which directly offset transit expenses, including the following:

(i) Interest income earned on working capital.

(ii) Proceeds from the sale of equipment in excess of the depreciated value (Private Operators only).

(iii) Cash discounts and refunds which directly offset accrued expenses.

(iv) Insurance claims and reimbursements which directly offset accrued liabilities.

(v) State fuel tax rebates to public operators.

(b) *Eligible expenses.* Eligible operating expenses are limited to direct labor, material and overhead expenses incurred on an actual basis by an operator to provide mass transportation services in the urbanized area during one local fiscal year. Expenses for contractual services directly incident to the management and operation of transportation services and which are not otherwise reimbursed are included. Operating expenses eligible for operating assistance include, but are not limited to, the following:

(1) Fuel, wages and other expenses incurred in the operation of mass transportation services to or within the urbanized areas.

(2) Pension benefits and contributions to a pension plan, only if actually paid and only up to a maximum of the current year accrual.

(3) The value of contributed services.

(4) Purchase of service contracts for mass transportation services within or to the urbanized area.

(5) Interest and other financial costs associated with borrowing to provide capital for the payment of current operating expenses.

(6) Expenses associated with special mass transportation services for the elderly and handicapped.

(7) Amortization of leasehold improvements.

(8) For private operators, a reasonable return on investment ("profit") is an eligible expense. Grantees shall submit information to assist the Administrator in determining the reasonableness of the return on investment for private operators, including the return authorized the operator by the appropriate regulatory agency and the including interest and related financing costs.

Subpart F—Application Procedures

§ 650.90 Purpose.

This subpart describes application procedures for operating assistance.

§ 650.92 Definitions.

As used in this subpart:

(a) "Base year" means the first 12 month period of a grant awarded after the effective date of these regulations.

(b) "Grant renewal" means the extension of an operating assistance grant for a period of 12 months in accordance with procedures in § 650.96.

(c) "Project year" means the 12 month period for which operating assistance is requested.

(d) "Multiyear project" means a project for two or more years of operating assistance funds.

§ 650.94 Applications for base year operating assistance grants.

(a) An application for the base year of an operating assistance grant must be submitted by a designated recipient.

(b) A designated recipient may submit an application for an operating assistance grant on behalf of a public agency with which it has executed a supplementary agreement, pursuant to § 650.18(b) of Subpart B.

(c) An application for the base year of an operating assistance grant shall include the following:

(1) A supplemental agreement signed by the designated recipient if the grantee will not be the designated recipient.

(2) Signed assurances certifying compliance with requirements of this part.

(3) Opinion of counsel and certification of no pending litigation which might threaten the ability of the grantee to carry out the project.

(4) Authorizing resolution from the applicant's governing body.

(5) Employee protection submission.

(6) Submission for any charter or school bus service operated.

(7) Justification of assistance for service in competition with private companies.

(8) Report describing consideration given to environmental, social, economic and other effects of the project.

(9) The following forms:

(i) Standard Form 424, Application for Federal Assistance, signed by the applicant.

(ii) Form OMB 80-RO-186, Part III—Budget Information.

(iii) UMTA Project Budget Form, signed by the applicant's chief financial officer.

(iv) Level of Effort Schedules for the project year, project year minus one, project year minus two and the MOE computation as required by 49 CFR Part 635 Subpart B.

(d) Grantees may certify that the MOE requirement is met and reference Section 15 reports covering the same 12 month period as the MOE schedules in the application under provisions of the Maintenance of Effort Regulation, 49 CFR Part 635 Subpart B. Conditions allowing the use of this procedure are described in the regulation.

§ 650.96 Renewing operating assistance grants.

(a) An operating assistance grant may be renewed if the requirements of Subpart D are met, the grantee has an employee protection agreement which will continue in effect during the 12 month period of the renewal grant and the renewal grant is in an approved annual element. A project is in an approved annual element if it is included in—

(1) The approved annual element of the project year TIP (the current procedure); or

(2) The approved annual element of the TIP of a previous year as a multiyear operating assistance project.

(b) Operating assistance grants are ineligible for renewal if—(1) The grantee has an employee protection agreement which will not be in effect for at least the 12 month period covered in the renewal application; or

(2) Transit operations will undergo a change in scope during the period for which assistance is sought requiring renegotiation of the employee protection agreement.

(c) Renewal of an operating assistance grant will constitute agreement by the grantee to terms and conditions in the base year grant agreement.

(d) An application for renewal of an operating assistance grant beyond the base period shall include the following:

(1) Certification of no pending litigation which might threaten the ability of the grantee to carryout the project.

(2) Certification that all previous submissions except the forms listed below remain valid.

(3) The following forms: (i) Standard Form 424, Application for Federal Assistance, signed by the applicant.

(ii) Form OMB 80 RO-186, Part III—Budget Information.

(iii) UMTA Project Budget Form, signed by the applicant's chief financial officer.

(iv) LOE schedules for the project year and project years minus one and minus two, and the MOE computation as required by 49 CFR Part 635 Subpart B. Grantees may certify that LOE is covering the same 12 month period as the application under provisions in 49 CFR Part 635 Subpart B.

§ 650.98 Grant agreements.

(a) Grant agreement documents shall be signed by the grantee and the grantee's attorney for the base year grant within 60 days of grant approval.

(b) Provisions of the base year grant agreement become binding on the grantee for each renewal of the base year grant once the renewal application is approved.

§ 650.100 Project management.

(a) Base year grants and renewals must be executed in conformance with procedures in UMTA Circular 5010, "UMTA Project Management Guidelines for Grantees."

(b) Close out of base year grants and renewals shall be executed in conformance with UMTA Circular 5010.

Appendix

This appendix lists the contents of applications for operating assistance and provides instructions for filling out the application and budget forms. Contents of base year applications are listed below. Only submissions marked by an asterisk are required when renewing a grant.

1. *Documentation of Eligibility:*

—Supplementary agreement (if grantee not designated recipient) § 650.18(b)

—Opinion of counsel and certification of no pending threatening litigation—§ 650.34*

—Authorizing resolution—§ 650.36

2. *Assurances and Certifications of Compliance Required by this Regulation:*

—Half fares for elderly and handicapped persons—§ 650.54

—Public hearing—§ 650.60

Required by Other Regulations

—"Title VI"—UMTA Circular 1160.1—Interim Guidelines for;

Title VI—Information Specific to UMTA Programs

"504—49 CFR Part 27—Non-discrimination on the Basis of Handicap in Federally-Assisted Programs and Activites Receiving or Benefiting from Federal Financial Assistance.

3. *Documentation of Compliance:*

Required by This Regulation

—Justification of operating assistance for any service that competes with private mass transportation companies—§ 650.56

Employee protection information—§ 650.56

Required by Other Regulations

Maintenance of effort submission (see Application and Budget Forms)

—Submission for any Charter Bus Operations as required by 49 CFR Part 604

—Submission for any School Bus Operations as required by 49 CFR Part 605

4. *Application and Budget Forms*:*

—Form SF 424: Application for Federal Assistance

—Form OMB 80–RO–186 Part III: Budget Information

—UMTA Project Budget Form

—Maintenance of Effort Summary and Level of Effort Schedules as required by 49 CFR Part 635

Instructions for Completing Application and Budget Forms

1. Form SF 424—Application for Federal Assistance
2. Form OMB 80–RO–186 Part III: Budget Information
3. UMTA Project Budget Form

BILLING CODE 4910-57-M

V 45 AG 25 80 UMI

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OMB Approval No. 29-R0218

FEDERAL ASSISTANCE

SECTION I—APPLICANT/RECIPIENT DATA

1. TYPE OF ACTION (*Mark appropriate box*)
- ☐ PREAPPLICATION
- ☐ APPLICATION
- ☐ NOTIFICATION OF INTENT (Opt.)
- ☐ REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION
- a. NUMBER
- b. DATE *Year month day* 19

Leave Blank

3. STATE APPLICATION IDENTIFIER
- a. NUMBER
- b. DATE ASSIGNED *Year month day* 19

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name :
- b. Organization Unit :
- c. Street/P.O. Box :
- d. City :
- e. County :
- f. State :
- g. ZIP Code:
- h. Contact Person (*Name & telephone No.*) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (*From Federal Catalog*)
- a. NUMBER ☐☐☐ • ☐☐☐
- b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
- A—State
- B—Interstate
- C—Substate District
- D—County
- E—City
- F—School District
- G—Special Purpose District
- H—Community Action Agency
- I—Higher Educational Institution
- J—Indian Tribe
- K—Other (*Specify*):

Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
- A—Basic Grant
- B—Supplemental Grant
- C—Loan
- D—Insurance
- E—Other

Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (*Names of cities, counties, States, etc.*)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
- A—New
- B—Renewal
- C—Revision
- D—Continuation
- E—Augmentation

Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF:
- a. APPLICANT
- b. PROJECT

15. TYPE OF CHANGE (*For 12c or 12e*)
- A—Increase Dollars
- B—Decrease Dollars
- C—Increase Duration
- D—Decrease Duration
- E—Cancellation
- F—Other (*Specify*):

Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE *Year month day* 19

17. PROJECT DURATION *Months*

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ *Year month day* 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (*Name, City, State, ZIP code*)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶

a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached.

	No response	*Response attached*
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE
- a. TYPED NAME AND TITLE
- b. SIGNATURE
- c. DATE SIGNED *Year month day* 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED *Year month day* 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. DEFERRED
- ☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ *Year month day* 19

34. STARTING DATE *Year month day* 19

35. CONTACT FOR ADDITIONAL INFORMATION (*Name and telephone number*)

36. ENDING DATE *Year month day* 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION

a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.

b. FEDERAL AGENCY A-95 OFFICIAL (*Name and telephone no.*)

424-101

STANDARD FORM 424 PAGE 1 (10-75)

Prescribed by GSA, Federal Management Circular 74-7

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SECTION IV—REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

BILLING CODE 4910-57-C

Standard Form 424: Application for Federal Assistance

Standard Form 424 is now required with each application for Federal assistance in accordance with Federal Management Circular 74-7. As such, Standard Form 424 now replaces Part I of Form OMB 80-RO-186 as the basic application for Federal assistance. Part III of Form OMB 80-RO-186 is still required with each application.

The following are instructions for completing Form 424. Most are self explanatory. However, additional guidance for completing certain items on this form for Section 5 operating assistance applications is provided below:

Item

1. The box labeled "application" should always be checked. Section 5 does not utilize a preapplication procedure.

2. (a) The project application number will usually be assigned by UMTA upon receipt of the application. Therefore, this box may be left blank. If a project number has been assigned by UMTA at the time of program TIP Annual Element approval, enter this number.

(b) Enter the date on which the application is submitted to UMTA.

3. Requirements for State A-95 Clearinghouse review do not apply to Section 5 operating assistance projects. Leave this item blank.

4. The "legal applicant" should always be the recipient.

5. Self-explanatory.

6. (a) The "program number" for all Section 5 projects is 20.507.

6. (b) The "program title" for all Section 5 projects is "Formula Grants."

7. The project desciption should identify the specific transit operator(s) to be assisted and the project period. For example: "Operating assistance for the Transit Authority for the period July 1, 1976, through June 30, 1977".

8. Self-explanatory.

9. Applications for base year Section 5 operating assistance should be represented as "Basic Grants." Renewals and amendments to approved grants should be represented as "Supplemental Grants."

10. Name the urbanized area(s) from whose Section 5 apportionments the project will be funded.

11. Enter the urbanized area's population.

12. Self-explanatory.

13. (a) Enter the amount of Section 5 operating assistance requested.

(b) Enter the portion of the local share which is contributed by the applicant.

(c) Enter the portion of the local share which is contributed by State government agencies.

(d) Enter the portion of the local share which is contributed by government agencies, other than the applicant.

(e) Enter amount of the other revenues applied against eligible operating expenses (e.g., farebox revenues).

(f) The total of the above items should equal the amount of eligible operating expenses for the project year.

14. Self-explanatory.

15. Self-explanatory (Use only if requesting an amendment to an approved project).

16. The "project start date" should be the first day of the local; fiscal year for which assistance is sought.

17. The "project duration" should usually be 12 months.

18. Self-explanatory.

19. Self-explanatory.

20. Enter: UMTA, Washington, DC 20590.

21. Page 2 of Form 424 provides space for additional remarks. Typically additional remarks are not expected. However, where a project is to be funded with Section 5 funds apportioned to more than one urbanized area, use this space to indicate breakdown of UMTA funds requested among the urbanized areas" apportionments.

22. For Section 5 operating assistance projects, leave blank.

23. The individual who signs this item must be the same individual authorized by resolution to execute and file application for Section 5 operating assistance.

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PART III – BUDGET INFORMATION
Page 1

OMB NO. 80 RO-186

SECTION A – BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non Federal (d)	Federal (e)	Non Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

* SECTION B – BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e, Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

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PART III – BUDGET INFORMATION

Page 2

OMB NO. 80-R0186

SECTION C – NON FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D – FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non Federal					
15. TOTAL	$	$	$	$	$

SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F – OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

Form OMB 80–R0–186 Part III—Budget Information

This two-page form, including Section A-F, is required in all applications for Section 5 operating assistance. This form must accompany Form 424 in each application.

Instructions for preparing—the Part III—Budget Information form are detailed below:

Section A—*Budget Summary.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only lines 1 and 5 will be used.
2. In Column (a), enter "operating assistance."
3. In Column (b), enter 20.507.
4. Leave Column (c) and (d) blank; these do not apply to Section 5 operating assistance projects.
5. In Column (e), enter the amount of Section 5 operating assistance requested.
6. In Column (f), enter the amount of local share.
7. In Column (g), enter the sum of the two preceding entries.

Section B—*Budget Categories.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only columns (1) and (5) will be used.
2. Enter the amount of eligible transit operating expenses or the; project period on line (k).
3. To the extent possible, analyze the amount entered on line (k) among the expense categories on lines (a) through (j).
4. Enter the amount of revenue applied against eligible transit operating expenses which is not includable as local share (e.g., farebox revenues) on line (7).

Section C—*Non-Federal Resources.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only lines 8 through 12 will be used. On line 8 in column (a), enter Section operating assistance.
2. The purpose of this section is to analyze the source of the local share. Enter the total local share in column (e). This amount should equal the amount entered in Section A, column (f).
3. Analyze the amount entered in column (e) among the source categories in columns (b), (c) and (d). These amounts should conform to the information entered in Item #3 on Form 424.

Section D—*Forecasted Cash Needs.*

1. In the column labeled "total for 1st year" enter the amounts of Section 5 operating assistance requested, the amount of local share, and the total on lines 13, 14 and 15, respectively.
2. In the remaining columns, allocate the amounts shown in the first column to indicate the estimated drawdown of Federal funds during the project period. Quarters refer to Project year quarter.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project.

This section does not apply to Section 5 operating assistance projects. Leave blank.

Section F—Other Budget Information

Use this section to provide additional information needed to clarify entries in the preceding sections, if any.

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PROJECT BUDGET

For the Period: ______________________________

Transit Operator(s): ______________________________

Grantee: ______________________________

(1) Total Operating Expenses (Itemize)

____________________ $
____
____
____
____

TOTAL OPERATING EXPENSES: $ __________ $__________(1)

(2) Less Eliminations

(a) Less Ineligible Expenses (Itemize).

____________________ $
____
____

(b) Less Non-Mass Transportation Expenses (Itemize)

____________________ $
____
____

(c) Less Contra-Expenses (Itemize)

____________________ $
____
____

(d) Less Other Exclusions (Itemize)

____________________ $
____
____

TOTAL ELIMINATIONS: $ __________ $__________(2)

(3) ELIGIBLE OPERATING EXPENSES (Line 1 - Line 2) $____________(3)

(4) Less Farebox and Other Revenue Not
Includable as Local Share (Itemize)

____________________ $
____
____________________ ____________

TOTAL FAREBOX AND OTHER
REVENUE APPLIED AGAINST
ELIGIBLE EXPENSES NOT
INCLUDABLE AS LOCAL SHARE: $ $____________(4)

(5) NET PROJECT COST (Line 3 - Line 4) $____________(5)

(6) Local Share (Itemize)

____________________ $
____
____
____
____
____________________ ____________

LOCAL SHARE: $ $____________(6)

(7) NET EXPENSES BEFORE APPLYING UMTA FUNDS
(Line 5 - Line 6) $____________(7)

(8) UMTA FUNDS REQUESTED $____________(8)

Prepared By: ____________________

Title: ____________________

Date: ____________________

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Project Budget Form

A sample project budget format is provided. The budget is developed by Section 5 grantees on the basis of revenue and expense statements and is submitted with each application for operating assistance. The budget—

1. Describes an operating assistance project in terms of eligible expenses.

2. Demonstrates the manner in which the eligible expenses are covered by transit operating revenues, State/local government funds, other non-Federal income sources, and UMTA operating assistance. This representation is particularly important because of the statutory requirement that UMTA assistance be used only to cover eligible operating expenses. To ensure that this requirement is met, non Federal funds are first subtracted from total eligible expenses, leaving "new expenses before applying UMTA funds."

3. Demonstrates the required matching of Federal funds by a "local match."

4. Demonstrates the "maintenance of effort." Funds included in the level of effort for given Project Year are automatically included in "local share;" however, because certain other revenues not subject to maintenance of effort are also eligible as local share, the calculation is a separate but essential element of the project budget. The MOE/LOE data required by 49 CFR Part 650 Subpart B must be attached to the project budget described herein or included in Section 15 data referenced in the application.

Base line items contained in a budget are:

1. Operating Expenses—described in 650.86

2. Eliminations—described in 650.86(a)

4. Farebox and Other Revenue Not Includable as Local Share

5. Net Project Cost

6. Local Share—all funds provided to meet the maintenance of effort requirement (49 CFR, Part 635, subpart B) and certain other transit revenues not subject to maintenance of effort which can be matched by UMTA funds.

8. UMTA Funds Requested—This is the amount determined to be the maximum UMTA share, based upon the project budget lines itemized in the preceding page. The UMTA share can be up to 50% of the net project cost. If local share is less than or equal to 50% of net project cost, it can be matched dollar-for-dollar with UMTA operating assistance, subject to the availability of formula funds and the TIP. If the local share is greater than 50% of net project cost, UMTA operating assistance can only cover the net expenses before applying for UMTA funds.

The project budget format is intended to fully and as accurately as possible describe the actual or projected accrual of transit operating expenses, the identification of expenses eligible for UMTA assistance, the application of transit revenues to cover such expenses, the application of State and local government funds and other sources of local share, and the resulting eligibility for UMTA operating assistance.

Where an applicant applies on behalf of two or more individual transit operators under one operating assistance project, the budget should represent aggregated statements of project year revenues and expenses.

Appropriate documentation in support of the project budget may be provided to demonstrate the proper allocation of revenues to non-operating expenses, the availability of local share funds, and such other reconciliations as may be necessary to clarify estimates or projections of financial conditions during the project year.

In preparing Section 5 project budgets, applicants should itemize entries under each revenue and expense category. The number of lines provided in the format should be expanded by applicants whenever necessary to accommodate additional entries. Some lines (e.g., "other exclusions") may not be needed by individual applicants. It is particularly important that the itemization of revenues and expenses be sufficient for UMTA to verify the calculations of eligible operating expense, net project cost, local share and eligible UMTA assistance.

Applicants whose project budget exhibit is based upon estimates should notify UMTA whenever significant deviations from such estimates are experienced—Whether they occur before or after project approval. Deviations which affect the eligibility for operating assistance in the amount requested should be reported promptly to maintain the accuracy of data on file for each project.

(49 U.S.C. 1604; 49 CFR 1.51)

Theodore C. Lutz,

Administrator.

[FR Doc. 80-25621 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-57-M

federal register

Monday
August 25, 1980

Part VIII

Department of Defense

Corps of Engineers, Department of the Army

Environmental Quality: Policy and Procedures for Implementing the National Environmental Policy Act (NEPA)

V 45 AG 25 80 UMI

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 230

[ER 200-2-2]

Environmental Quality: Policy and Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is hereby issuing final rules to provide procedural guidance for implementing the National Environmental Policy Act of 1969, 42 U.S.C. 4231 et seq., in compliance with the regulations of the Council on Environmental Quality (CEQ) 40 CFR Parts 1500–1508. These procedures as set forth below, together with the CEQ regulations, apply to the Civil Works program of the Corps of Engineers and supersede Engineer Regulation 1105–2–507, Preparation and Coordination of Environmental Statements, 15 April 1974.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Richard L. Makinen, Office of Environmental Policy, Directorate of Civil Works HQDA (DAEN–CWR–P) Washington, D.C. 20314, (202) 272–0120.

SUPPLEMENTARY INFORMATION: These final procedures, in the form of ER 200–2–2, establish policy and provide procedural guidance for preparing and processing environmental documents in support of Civil Works functions. The procedures adopt the CEQ regulations and provide guidance on other environmental review and consultation requirements which may be undertaken concurrently with the NEPA process. On June 29, 1979, the Corps published proposed rules (44 FR 38292) in the **Federal Register** to revise its procedures to supplement the NEPA regulations issued by CEQ. During the commenting period, thirteen letters of comment were received on the proposed rules. Two letters were from Federal agencies, seven letters were from State agencies, one letter was from a City agency, two letters were from private industry, and one letter from a conservation organization. The full text of all comments received is on file and available for public inspection in Room 7132, Pulaski Building, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Ave., N.W., Washington, D.C. 20314. Subsequent to receipt of comments, the Corps prepared a final version of the regulation, which was submitted to the Council on Environmental Quality (CEQ) for its review in accordance with 40 CFR 1507.3(a). After conducting its review, CEQ sent comments and recommended changes to the Corps. The principal points of concern raised by those submitting written comments and the Corps responses are discussed below. All other comments not specifically discussed have nonetheless been carefully reviewed an considered in developing these final regulations.

Categorical Exclusions. Several commentors noted that the categorical exclusions were too broad and would allow too many actions to be excluded from the NEPA process. This part was rewritten to exclude only minor real estate management and disposal actions with a history of no or little impact, with the condition that the district engineer should be alert for extraordinary circumstances where normally excluded actions would have significant environmental effects and require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). For categorical exclusions related to Regulatory Permit actions discussed in Appendix B, the regulations were revised to eliminate the "preliminary determination" concept or case-by-case determination, whether the permit action is categorically excludable or whether it requires an EA or EIS. The revised regulations provide that each district engineer may develop a list of proposed categorical exclusions appropriate to that district as defined in 40 CFR 1508.4. Federal, state, and local agencies and the public will be notified of the proposed listing through separate public notice procedures and provided a 90-day comment period. Upon completion of these procedures, the district engineer will forward the proposed list of categorical exclusions to the Office of the Chief of Engineers. The lists will be reviewed and consolidated for Corps-wide consistency and forwarded to CEQ for approval. After approval a public notice shall be issued announcing the final list. However, because of the general permit program (nationwide or regional) currently in effect covering routine, minor permit applications, the Corps expects minimal use of categorical exclusions. Subsequent public notices for site specific permit actions falling within such categories will state that the action is considered to be a categorical exclusion so that commenting agencies and the public will have the opportunity to demonstrate that extraordinary circumstances exist which may require the preparation of an EA or EIS.

Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). Two commentors requested clarification of Corps procedures for announcing the availability of and circulating the EA and FONSI. The regulation was revised to require a 30-day circulation of the EA and FONSI to agencies, organizations, and the general public known to have an interest in the project for all Corps feasibility studies of limited scope when the EA is used in place of an EIS. In other Corps actions (except regulatory permits where a public notice procedure is used) a notice of availability of the FONSI will be sent to agencies, organizations and members of the public known to have an interest in the proposed action in accordance with 40 CFR 1501.4(e)(1).

Emergency Actions. Several commentors suggested clarifying changes to this part of the regulation to insure that any emergency action excluded from the EIS process should be limited to actions necessary to control the immediate impacts of the emergency. This part of the regulation has been revised to remove emergency actions from categorical exclusions. The new part lists emergency actions which the district engineer may undertake without observing the provisions of this regulation to prevent or reduce risks to life, health or property, or severe economic losses. However, major post-disaster restoration activities will be coordinated with CEQ concerning appropriate alternative NEPA arrangements.

EIS Page Limit. Several commentors objected to the concept of the 50 page limit for an EIS included within a feasibility report. The Corps believes that the limits are realistic and will help to achieve the goal of a concise and useful document. The 50 page limitation was based on a thorough analysis of the volume of the text, tables, etc. needed to address CEQ's EIS requirements in a typical EIS and not duplicate lengthy documentation contained in the main report and appendixes which can be appropriately referenced. Accordingly, Appendix A of the regulation was revised to delete the mandatory approval to exceed 50 pages.

Alternatives. Several commentors raised questions concerning the range of alternatives to be considered for regulatory permit actions. Inherent in the criteria and the direction provided in Appendix B is the concept that an alternative must be "reasonably foreseeable." This means that there must be some indication that the alternative may reach fruition and excludes "far-fetched" or "pie-in-the sky" alternatives that must be considered in the decisionmaking process. Accordingly, the EIS shall document a range of reasonable alternatives which would satisfy the purpose and need for which the applicant has submitted his proposal. One commentor suggested that alternatives considered in the EIS should not be limited to only those which would satisfy the purpose and need given by the applicant, but also should include alternatives of modified purposes and needs. The Corps will consider reasonable alternatives including alternatives that are beyond the capability of the applicant or outside the jurisdiction of the Corps in order to evaluate the relative environmental impacts of the applicant's proposed activity. The no action (permit denial) alternative encompasses alternatives which are found to be preferable alternatives as determined by the public interest review process, and which are outside the scope of the applicant's reasonable capabilities, purposes and needs.

The Pre-application Consultations. One commentor recommended expanded guidance on pre-application consultations with potential private applicants where future Corps permit approvals are foreseeable. A new paragraph has been added which directs the district engineer to establish local procedures and policies (including an appropriate publicity program) to advise potential permit applicants of the pre-application consultation process where future Corps permitting actions may be required. Potential applicants would be advised of the required public interest review including preparation of an environmental document and attendant reviews, and other actions, including scoping, if appropriate.

Accordingly, the Corps of Engineers amends 33 CFR by deleting Section 209.410 and adding a new Part 230 as set forth below:

§ 209.410 [Deleted and Reserved]

1. Section 209.410 deleted and reserved;

2. Addition of a new Part 230 to read as follows:

Dated: August 14, 1980.

For the Chief of Engineers:

Forrest T. Gay, III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

A new Part 230 is to be added as follows:

PART 230—POLICY AND PROCEDURES FOR IMPLEMENTING NEPA

Sec.

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230.8 Emergency actions.
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230.24 Agency decision points.
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230.26 General considerations in preparing Corps EIS.
Appendix A Organization and content of EIS for feasibility studies.
Appendix B Environmental operating procedures and documents for regulatory functions.
Appendix C Processing procedures for Corps EIS.
Appendix D Categorical exclusions for Real Estate Mgmt & Disposal Actions.

Authority: 16 U.S.C. 470 et seq., the "National Environmental Policy Act of 1969", as amended.

§ 230.1 Purpose.

This regulation provides policy and procedural guidance to supplement the Council on Environmental Quality (CEQ) final regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508, November 29, 1978). It includes introductory discussions (§ 230.1–.5), guidance on typical classes of actions requiring environmental documents (§ 230.6–.8), definitions of the various NEPA reports (§ 230.9–.13), guidance on procedural requirements (§ 230.14–.22), and other considerations related to NEPA reports and this regulation (§ 230.23–.26).

§ 230.2 Applicability.

This regulation is applicable to all OCE elements and all field operating activities having responsibility for preparing and processing environmental documents in support of Civil Works functions.

§ 230.3 References.

(a) Executive Order 11514, Protection and Enhancement of Environmental Quality, 5 March 1970, as amended by Executive Order 11991, 24 May 1977 (42 FR 26967, 25 May 1977).

(b) Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971 (36 FR 8921, 15 May 1971)

(c) Executive Order 11988, Floodplain Management, 24 May 1977 (42 FR 26951, 25 May 1977)

(d) Executive Order 11990, Protection of Wetlands, 24 May 1977 (42 FR 26961, 25 May 1977)

(e) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979 (44 FR 1957, 9 January 1979)

(f) Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

(g) Clean Water Act (formerly known as the Federal Water Pollution Control Act) 33 U.S.C. 1344 (hereinafter referred to as Section 404)

(h) Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(i) Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.*

(j) Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

(k) Federal Water Project Recreation Action Act, 16 U.S.C. 668aa–668ee.

(l) Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

(m) Historic Sites Act 1935, as amended, 16 U.S.C. 461

(n) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*

(o) Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 *et seq.*

(p) National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* (hereinafter referred to as NEPA)

(q) National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

(r) Preservation of Historic and Archeological Data Act of 1974, as amended, 16 U.S.C. 469 *et seq.* (Also referred to as the "Reservoir Salvage Act" of 1960, as amended).

(s) River and Harbor Act, March 3, 1899 (30 Stat. 1151, 33 U.S.C. 401 and 403) and (30 Stat, 1152, 33 U.S.C. 407)

(t) Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 *et seq.*

(u) "Navigable Waters, Discharge of Dredged or Fill Material," (40 CFR 230.1–230.8), Environmental Protection Agency.

(v) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969," (40

V 45 AG 25 80 UMI

CFR 1500–1508, 29 November 1978), Council on Environmental Quality.

(w) "Protection of Historic and Cultural Properties" (36 CFR 800, 30 January 1979), Advisory Council on Historic Preservation.

(x) "Procedures for Evaluating of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)" (18 CFR Part 713, 14 January 1980), Water Resources Council.

(y) Regulatory Programs of the Corps of Engineers 33 CFR 320–329 (42 FR 37122–37164, 19 July 1977)

(z) CEQ Memorandum of 30 August 1976, Analysis of Impacts on Prime and Unique Farmlands in EIS.

(aa) ER 200–2–1
(bb) ER 310–1–5
(cc) ER 1105–2–32
(dd) ER 1105–2–50
(ee) ER 1105–2–129
(ff) ER 1105–2–200
(gg) ER 1105–2–460
(hh) ER 1105–2–502
(ii) ER 1105–2–811
(jj) ER 1105–2–903
(kk) ER 1105–2–920
(ll) ER 1105–2–921
(mm) ER 1130–2–401
(nn) ER 1130–2–405
(oo) ER 1130–2–406
(pp) ER 1130–2–412
(qq) ER 1130–2–413
(rr) ER 1165–2–400
(ss) ER 360–1–10
(tt) ER 1165–2–501

§ 230.4 Definitions.

(Also refer to applicable Corps of Engineers Regulations and 40 CFR 1508).

(a) *Administrative Actions.* Administrative actions are defined as report or permit approval (where the report, project, or permit approval is contingent upon 30-day FEIS review), initial land acquisition or award of the initial construction or maintenance contract.

(b) *Environmental review and consultation requirements.* Federal policies, including Public Laws and Executive Orders, which require reporting officers to consult, coordinate or otherwise interact with other agencies to produce a finding, determination, conclusion, opinion, evaluation or other decision statement concerning a specific type or class of environmental resources.

(c) *NEPA document*—An Environmental Assessment (EA), FONSI, Draft EIS, Final EIS, EIS Supplement, Draft Supplement EIS, Final Supplement EIS, and Supplemental Information Report.

(d) *Responsible Officials.* Each district engineer is considered as the designated Corps NEPA official who is responsible for agency compliance of NEPA related actions originating within their district boundaries. District engineers may also be designated as the responsible Corps official to provide agency views on other agency's EIS. At the Headquarters level, the Office of Environmental Policy Development HQDA (DAEN–CWR–P) WASH DC 20314 (phone number 202–272–0120) is responsible for overall review of Corps NEPA compliance and other questions concerning the requirements of this regulation. This office will serve as the central point of contact for information on Corps NEPA documents. HQDA (DAEN–CWP–P) WASH DC 20314 (phone number 202–272–0131) will serve as the central point of contact for the review of other agencies EIS and related NEPA documents.

§ 230.5 Policy.

The U.S. Army Corps of Engineers, under the direction and supervision of the Secretary of the Army, will continue to implement vigorously the National Environmental Policy Act of 1969, applicable environmental quality statutes and the regulations of the Council on Environmental Quality in carrying out its Civil Works mission consistent with statutory responsibilities and other essential considerations of national policy. From the initiation of project planning through design, construction and operation and maintenance, and in developing decisions in the regulation of activities affecting waters of the United States, the goals and policies of NEPA will be considered to insure decisions in the public interest. To this end, the Corps will:

(a) Follow a systematic interdisciplinary approach to integrate the natural and social sciences and the environmental design arts in planning and decisionmaking.

(b) Undertake early and continuing interchange of views with concerned agencies, groups and the public by the use of the scoping process.

(c) Integrate the requirements of NEPA with other planning and environmental review and consultation requirements.

(d) Prepare and make available to the public environmental documents for Corps actions and activities. Documents shall be clear, concise, emphasize significant issues and be supported by necessary environmental analysis.

(e) Explore, study and analyze all reasonable alternatives, including non-structural alternatives, with a view to selecting a plan or approving an action that can best satisfy specified needs.

(f) Identify and make provisions for preserving unique cultural and biological resources, such as historic and archeological sites and threatened, endangered, and other significant species and their habitats.

(g) Utilize regulatory authorities to protect the waters of the United States including their adjacent wetlands and apply the same environmental criteria to Corps actions and activities.

(h) Implicit in this policy are four general environmental goals:

(1) To preserve unique and important ecological, aesthetic, and cultural values of our national heritage.

(2) To conserve and use wisely the natural resources of our nation for the benefit of present and future generations.

(3) To restore, maintain, and enhance the natural and man-made environment in terms of its variety, beauty, and other measures of quality.

(4) To create new opportunities for the American people to use and enjoy their environment.

§ 230.6 Actions Normally Requiring an EIS.

Listed below are types of Corps of Engineers actions which normally require the preparation of an EIS, although in certain cases an EA may be adequate (see § 230.7).

(a) *Legislation.* A legislative EIS will be prepared to accompany a bill or legislative proposal to Congress recommended by or with significant cooperation and support of the Corps of Engineers (exclusive of appropriations) significantly affecting the quality of the human environment. A Legislative EIS shall be prepared to conform to the requirements of these regulations except as provided in 40 CFR 1506.8(b).

(b) *Feasibility Studies.* Feasibility studies are planning actions conducted in accordance with the ER 1105–2–200 series of regulations. Studies resulting in recommendations by the reporting officer are documented in feasibility reports, which include Preauthorization Survey Reports, Post Authorization Advanced Engineering and Design (AE&D) Planning Reports, Significant Post Authorization Change (S–PAC) Reports and Detailed Project Reports (DPR). Where an EIS or EIS supplement is required it shall be integrated with the Main Report in the feasibility document and noted on the front cover as an Environmental Impact Statement. ER 1105–2–920 and Appendix A of these regulations provide guidance on the organization and content of reports and EIS for feasibility studies, respectively.

(1) *Survey Studies.* Survey studies are undertaken in response to specific Congressional Resolutions or by an item

in an Act and, if completed through Stage 3 planning, result in a Survey Report.

(2) *Post Authorization Advanced Engineering and Design (AE&D) Planning Report.* The Phase I GDM is the report which provides the affirmation or reformulation of an authorized project. The Phase II GDM is the report which presents the results of the detailed design and cost estimate studies. Under certain conditions the Phase I GDM may be combined with the Phase II GDM in a combined AE&D planning and design memorandum. Projects in this category will be reviewed to determine the adequacy of the final EIS on file at the time the project was authorized and what type of further NEPA documentation is required. Refer to § 230.10, .11(b) and Appendix C for discussion on the use of an EA or EIS supplements.

(3) *Continuing Authorities Studies.* Continuing authorities studies are prepared under one of the following authorities for authorization by the Chief of Engineers or the Secretary of the Army;

Sec. 3, Flood Control Act of 1945 (Snagging and clearing for navigation)
Sec. 205, Flood Control Act of 1948 (Small flood control projects)
Sec. 208, Flood Control Act of 1954 (Snagging and clearing for flood control)
Sec. 107, River and Harbor Act of 1960 (Small navigation projects)
Sec. 103, River and Harbor Act of 1962 (Small Beach erosion projects)
Sec. 111, River and Harbor Act of 1968 (Mitigation for navigation shore damages)
Sec. 202, Water Resources Development Act of 1976 (Drift and debris removal—commercial harbors)

Such studies generally result in Detailed Project Reports (DPR) which serves as a general design memorandum and provides the basis for approval of a project for construction.

(c) *Projects in a Construction Status.* This category includes authorized projects or separable project features or units, or major rehabilitation projects in a construction category. Actions in this category include the preparation of Feature Design Memorandum, Design Memorandum for Major Rehabilitation Projects, plans and specifications, and construction activities. Refer to § 230.11(b) and Appendix C for discussions on further NEPA documentation.

(d) *Operation, and Maintenance (O&M).* This category includes channel maintenance dredging and disposal activities, certain rehabilitation projects, the operation of dam and lake projects, lock and dam operations, aquatic plant control program and significant changes in the management of lands and project resources. Priority effort will be assigned to the preparation of an EIS for remaining O&M actions involving annually recurring dredging and disposal operations for which a final EIS has not been filed. A lesser priority effort will be assigned to any remaining O&M action on other completed projects.

§ 230.7 Actions Normally Requiring on Environmental Assessment (EA) but Not Necessarily an EIS.

Listed below are types of Corps actions which require at least the preparation of an EA.

(a) *Feasibility Studies.* Certain feasibility studies, such as some survey or continuing authorities studies with a limited range of planning objectives and plans, may be sufficiently analyzed and reviewed through the preparation and circulation of an EA together with the Finding of No Significant Impact (FONSI). For other Phase I GDM and certain Phase II GDM, which may include a PAC, the EA together with the FONSI will be included in the Main Report in place of an EIS.

(b) *Projects in a Construction Status.* Certain feature design studies which result in changes to the project but do not result in a S–PAC may also be sufficiently treated through the use of an EA.

(c) *Operation and Maintenance.* An EP may be prepared to analyze changes in O&M activities including new disposal areas not discussed in the final EIS covering the O&M activity and for certain infrequent or once-only minor O&M activities, such as infrequent maintenance dredging and disposal operations, infrequent reservoir debris removal and post-flooding shoal removal operations, public use area modifications or relocations, habitat improvement projects, modifications to existing project structures and facilities and certain rehabilitation projects.

(d) *Real Estate Management and Disposal Actions.* All real estate management and disposal actions not categorically excluded by Appendix D require an EA or an EIS, including:

(1) Disposal of a Civil Works project or portions of project properties not reported as excess to the General Services Administration.

(2) Grants of easements for oil and gas pipelines involving disturbances to earth, air or water.

(3) Interchanges of land with other Federal agencies.

(4) Disposals of real property for public port and industrial purposes.

(5) Grants of easements for road rights-of-way involving disturbances to earth, air or water.

(6) Grants of leases or easements for sewage or water treatment facilities and land fills.

(e) *Regulatory Permits.* See Appendix B.

§ 230.8 Emergency actions.

District engineers shall respond to emergency situations which may have a significant environmental impact without observing the provisions of this regulation. However, this exemption shall apply only to an immediate action which the district engineer determines is necessary to prevent or reduce risks to life, health, or property, or severe economic losses. When an emergency action covered by this section is taken which may have a significant environment impact, and is considered major in scope, e.g., extensive or lengthy restoration following a disastrous event, DAEN–CWO in coordination with DAEN–CWR–P will consult with CEQ concerning appropriate alternative NEPA arrangements. Emergency actions include:

(a) Emergency and disaster recovery actions performed under Public Law 99, 84th Congress, 69 Stat. 186, 33 U.S.C. 701n;

(b) Emergency actions directed by the Federal Emergency Management Agency (FEMA) under the provisions of Public Law 93–288 except where FEMA determines than an EA or EIS is required, the reporting officer will provide all necessary information to FEMA upon request.

(c) Other emergency actions, as determined by the district engineer, which do not permit delays necessary to process environmental documents such as emergency streambank or shoreline protection under provisions of Section 14 of the FCA of 1946; emergency dam, stilling basin or lock inspection; sunken vessel removal from navigable waters; etc.

(d) Emergency regulatory permit actions will be processed in accordance with 33 CFR 325.

§ 230.9 Environmental assessments (EA).

(a) *Purpose.* An EA is a brief document which provides sufficient information on potential environmental effects of the proposed action and its alternatives, to the district engineer, to determine if an EIS is required and to assist the district engineer in complying with NEPA whether or not an EIS is necessary. The district engineer is recognized as the responsible Corps NEPA official who will make this determination in the FONSI prepared for the proposed action. It shall be the responsibility of the district engineer to keep the public informed of the availability of the EA and FONSI (see § 230.10 and 40 CFR 1506.6). For regulatory permit actions refer to Appendix B for guidance on public involvement.

(b) *What to Prepare.* An EA will be prepared and processed for those actions which are normally covered by an EA (§ 230.7), actions which normally require an EIS but under certain situations are not considered to be a significant action as discussed in § 230.6, (feasibility studies) or where the nature of the action is one without precedent. A separate EA is not required for those actions discussed in § 230.6 where an EIS will normally be prepared or for actions categorically excluded discussed in Appendix D. If a public meeting is to be held in connection with the proposed action the EA shall be made available to public at least 15 days in advance of such meeting.

(c) *Format.* While no special format is required, the EA should include a brief discussion of the need for the proposed action, its environmental impacts, alternatives to the proposed action and a list of the agencies, interested groups and the public consulted. The EA is not intended to be a substitute for an EIS and should not follow the EIS format in 40 CFR 1502.10. The document, supported by necessary appendixes or technical data to be retained by the district, is to be concise for meaningful review and decision (5–15 pages), using an interdisciplinary approach with disciplines appropriate to the scope of environmental issues expected with the proposed action and its alternatives. An EA may be supplemented or revised, as required. The EA must show compliance with appropriate environmental quality protection statutes and other environmental review requirements as discussed in § 230.25. In the case of feasibility studies where an EA is used in place of an EIS, the Main Report and EA will be circulated for concurrent consultation and comment to Federal and Federal-state agencies having jurisdiction by laws or special expertise to accomplish this consultation or coordination process.

§ 230.10. Finding of No Significant Impact (FONSI).

A FONSI shall be prepared by the district engineer or delegated official to accompany an EA prepared for a proposed action when, as a result of the analysis included in the EA, it is concluded that the proposed action will not have significant effects on the environment. The FONSI will be based on the information analyzed in the EA, reflecting pertinent data obtained from cooperating Federal agencies having jurisdiction by law and/or special expertise and the interested public. It shall briefly present the reasons why the action will not have a significant impact on the quality of the human environment and state that an EIS is not required. The FONSI should not directly duplicate any of the information contained in the EA but incorporate it by reference. In the case of feasibility studies, where a tentative determination has been made based on an EA that an EIS will not be prepared, the unsigned FONSI together with the EA will be included within the Main Report and circulated for review and comment to agencies, groups and members of the public who have expressed an interest in the project for a 30-day period (40 CFR 1501.4(e)(2)). A notice of availability of the EA and report will be sent to all other parties on the mailing list at this time. The same number of copies of the document(s) shall be circulated as a draft EIS except that only one copy shall be sent to Director, Office of Environmental Review (A–104), EPA, Wash., DC 20460. After review of the comments received the district engineer will prepare a comment-response display format (similar to that prescribed for an EIS) and attach it to the EA. If the district engineer determines after review of the comments that the proposed action will not have significant effects on the environment, the FONSI will be signed and included with the EA in the Main Report. If the district engineer determines after review of the comments received that an EIS should be prepared, procedures outlined in Appendix A shall be followed. In all other Corps actions discussed in § 230.7 which do not require circulation of the FONSI as outlined in 40 CFR 1501.4(e)(2), except for EPA review as noted below, the FONSI will be signed and placed in the project file. A copy of the FONSI and EA shall be sent to the concerned Regional Administrator(s) of EPA requesting agency comments within 15 working days under Section 176(c) and 309 of the Clean Air Act, as amended. Upon completion of the documentation, a notice of availability of the FONSI will be sent to concerned agencies, organizations an members of the public known to have an interest in the proposed action in accordance with 40 CFR 1501.4(e)(1).

§ 230.11 Environmental Impact Statements (EIS).

An EIS will be prepared for all Civil Works activities when the proposed action is expected to have significant effect upon the quality of the human environment. Types of activities which normally require the preparation of an EIS are listed in § 230.6. Activities which may require an EIS, as determined by the findings of the EA, are listed in § 230.7.

(a) *Format.* (1) *Draft EIS.* Draft EIS prepared for feasibility studies and regulatory permits shall follow the format outlined in Appendix A and B, respectively. A draft EIS prepared for all other Corps actions shall follow the format outlined in 40 CFR 1502.10 through 1502.18 except that a public involvement section will be included within the main text following the list of preparers, as discussed in § 230.19(c) 40 CFR 1502.7 discusses page limits, 40 CFR 1502.19 discusses circulation and 40 CFR 1503 discusses the commenting process.

(2) *Final EIS.* Final EIS prepared for feasibility studies shall follow the guidance in Appendix A. A final EIS prepared for all other Corps actions including regulatory permits, may take the form of an "abbreviated" document described in 40 CFR 1503.4(c) if the changes in response to comments and Corps internal review are minor and consist of factual corrections and/or are confined to explanations of Corps actions, citing authorities or reasons which support the agency position. With this revised procedure the draft EIS is incorporated by reference into the final EIS resulting in a savings of time, money and paper work. Letters transmitting the draft EIS should advise addresses of the probable use of this procedure so that the draft EIS and appendixes may be retained for future reference in reviewing the final EIS. The format for an abbreviated final EIS prepared under this revised procedure will, as a minimum, consist of a new title page, summary, errata or correction sheet(s), comments and responses and a brief public involvement section. The transmittal letter shall note the filing date and availability of the draft EIS. However, in filing the abbreviated final EIS with EPA (Washington Office), five copies of the draft EIS shall be included in the transmittal. If the comments on the draft EIS raise significant issues, present new reasonable and feasible alternatives, or other important matters not addressed in the draft EIS, a final EIS following the format outlined in 40 CFR 1502.10 shall be utilized. District engineers shall be responsible for determining the type of final EIS to prepare.

(b) *Supplements.* A Supplement to the draft or final EIS on file will be prepared whenever significant impacts resulting from changes in the proposed plan or new significant impact information, criteria or circumstances relevant to environmental considerations impact on the recommended plan or proposed action as discussed in 40 CFR 1502.9(c). A supplement to a draft EIS will be prepared, filed and circulated in the same manner as a draft EIS and will be titled "Supplement I, Supplement II, etc. Appropriate sections in the final EIS and Record of Decision will address the new information or changes as amended by the supplement and as a result of the comments received on the draft and supplement EIS. A supplement to a final EIS will be prepared and filed first as a *draft* supplement and then as a *final* supplement. Both documents will be filed and circulated in the same manner as a draft and final EIS. Supplements to a draft or final EIS filed before 30 July 1979 may follow the format of the previously filed EIS. Supplements to a draft EIS filed after this date will follow the format outlined in 40 CFR 1502.10 or Appendixes A or B, as appropriate. References to the draft or final EIS being supplemented should be used to eliminate repetitive discussions in order to focus on the important issues and impacts. The transmittal letter to EPA as well as the cover sheet shall clearly identify the title and purpose of the document as well as the title and filing date of the previous EIS being supplemented and how copies can be obtained. The decision will be made on the proposed action by the appropriate Corps official after the final supplement has been on file for 30 days, and a Record of Decision will be prepared and signed.

(c) *Tiering and Program EIS.* Tiering, as discussed in 40 CFR 1502.20 and 1508.28 may be undertaken in certain types of Corps actions where the use of a broad programmatic EIS to be followed with site specific EIS or EIS supplements will concentrate on the significant decision-making issues at each level or stage of phased implementation and environmental review. The initial program EIS must present sufficient information regarding the generic impacts of the proposed action so that the decision makers can make a reasoned judgement on the merits of the action at the present stage of planning or development and exclude from consideration issues already decided or not ready for decision. The program EIS should identify data gaps and discuss future plans to supplement the data and prepare and circulate site specific EIS or EIS supplements, as appropriate, at each stage of phased implementation or major Corps decision points.

(d) *Supplemental Information Reports.* Whenever it is clearly understood that an EIS supplement is not necessary but where is only necessary to provide supplemental information to a point of concern discussed in the final EIS (and such point of concern was considered in making the decision on the proposed action), a supplemental information report will be prepared and filed with EPA. A separate category of information reports will be listed in EPA weekly list of EIS availability published in the **Federal Register.** The report will be circulated for information to concerned agencies and the interested public who provided comments on the draft and/or final EIS at the same time it is filed with EPA. No administrative waiting periods are required. For postauthorization planning reports a supplemental information report may be used to indicate compliance with environmental protection statutes, Executive orders, etc., not completed at the time the project was authorized. It will be attached as an appendix to the Main Report and circulated along with the draft report. It will be filed with EPA when the report is approved. District engineers will provide eight (8) copies of the report to appropriate elements within OCE or to the division engineer, as appropriate, for filing with EPA. The supplemental information report, together with the previously filed final EIS, may also be utilized as the document addressing the Section 404 evaluation for Corps projects in AE&D or construction status not included within a planning report or SPAC sent to Congress under Section 404(r).

(e) *Other Reports.* District engineers may also publish periodic fact sheets and other informational documents on long-term or complex EIS to keep the public informed on the status of the proposed action. These documents will not be filed with EPA.

§ 230.12 Record of decision.

The Record of Decision shall include the requirement in 40 CFR 1505.2 containing (a) a statement of what the decision was, (b) an identification of the environmentally preferable alternative or alternatives, (c) a discussion of economic, technical and agency statutory missions and other essential considerations of national policy balanced by the responsible official in making the decision, and (d) a statement of whether all practicable means to avoid or minimize environmental harm from the alternative selected, and if not, why not. This discussion shall identify mitigation measures and include a summary of any monitoring or enforcement program as applicable for any mitigation committed as part of the decision. In addition, it shall discuss compliance with Section 404 and other environmental statutes or Executive Orders having a bearing on the final decision. In the case of regulatory permit actions, see Appendix B. A Record of Decision will be completed to document the Corps final decision or recommendation to Congress on a proposed action requiring an EIS. The Record of Decision replaces the Statement of Findings (ER 1105–2–509) which is recinded by this regulation. The Record of Decision will be signed at the level approving the action and/or filing the final EIS. A notification letter of issuance of a Record of Decision, together with a signed copy of the Record of Decision, shall be sent to the Director, Office of Environmental Review (A–104), EPA, 401 M Street, S.W., WASH DC 20460 to close the administrative record for the EIS. This entry will indicate the Corps final procedural NEPA compliance with the CEQ regulations. A signed copy of the Record of Decision shall also be sent to concerned agencies, organizations and members of the public known to have an interest in the project. For Corps Survey Reports and AE&D planning reports requiring congressional authorization, the Secretary of the Army (S/A) will approve the report and sign the Record of Decision when the report is transmitted to Congress. For certain AE&D planning reports, continuing Authority Reports, Major Rehabilitation Reports and certain construction projects requiring OCE approval, the Director of Civil Works after review of the comments received following the filing of the final EIS will approve the project and sign the Record of Decision. For Administrative AE&D planning reports delegated to the division engineer for approval, certain projects in a construction category, completed projects in operations and maintenance and real estate actions, the Division Engineer after review of the comments received following the filing of the final EIS will approve the project and sign the Record of Decision. In the case of O&M and certain construction projects involving the disposal of dredged or fill material into waters of the U.S., the signing of the Record of Decision may be deferred until after completion of all public interest review requirements but prior to initiation of the proposed action when compliance was not attained concurrently with the circulation and review of the NEPA document. The district engineer preparing the EIS will be responsible for preparing the draft Record of Decision for signature of the

Division Engineer, Director or S/A as appropriate. It will accompany the letters of comment and Corps responses received on the final EIS as discussed in § 230.19(d). After signing the Record of Decision the approving official will transmit a copy to the district engineer for distribution to concerned agencies, organizations and members of the public. A Record of Decision is not required for decisions on proposals that do not require an EIS.

§ 230.13 Monitoring and mitigation.

District engineers shall be responsible for preparing reports which will provide information on the current status of environmental monitoring and authorized mitigation measures undertaken on Corps projects in accordance with 40 CFR 1505.3. These reports will be made available to cooperating and commenting agencies who proposed mitigation measures which were adopted by the Corps. Reports will not be required for those Corps actions with a final EIS on file as of 30 July 1979 except where environmental monitoring and/or authorized mitigation measures were underway or established in the final EIS. Budget requests will recognize the importance and timing of authorized monitoring and mitigation features and include necessary funds to insure phased project development.

§ 230.14 Lead and cooperating agencies.

(a) *Lead Agencies.* Where another Federal agency is directly involved with the Corps in an action or group of actions directly related to each other because of their functional interdependence or geographical proximity, consideration should be given to the designation of a lead agency to assume responsibility for the preparation of an EIS to cover all of the Federal actions involved. This determination should be accomplished by letter or memorandum of agreement between the district or division engineer and the regional office of the agency following the procedures outlined in 40 CFR 1501.5(c). If the question of lead agency designation cannot be resolved by the district or division engineers, the administrative record will be forwarded to HQDA (DAEN–CWZ–P) WASH DC 20314 for review and possible resolution prior to requesting resolution by CEQ as outlined by 40 CFR 1501.5(e) and (f).

(b) *Joint Lead Agencies.* The use of a joint lead agency designation with another Federal agency as provided for in 40 CFR 1501.5(b) may also be utilized in certain Corps actions, primarily regulatory, where more than one agency is involved in the environmental review and approval or authorization of the proposed action. This joint lead determination should be documented by letter or memorandum prior to initiation of EIS preparation.

(c) *Cooperating Agencies.* As soon as practicable after a determination has been made to prepare an EIS and the lead agency designation issue resolved (if appropriate), the district engineer shall request any other Federal agency having jurisdiction by law or special expertise with respect to any environmental effect involved in the proposal to become a cooperating agency. This request, usually directed to the regional office of the agency, may be accomplished by invitation to participate in the scoping process or by a separate letter requesting coordination. In the case of feasibility studies where the scoping process is integrated within the Corps planning process, a separate letter will be required. For Corps actions where an EIS will not be required, coordination with Federal agencies having jurisdiction by law or special expertise will be requested by separate letter or public notice at the time the EA is initiated. See § 230.25 for a listing of Federal agencies and applicable environmental review and consultation requirements. Duties and responsibility of cooperating agencies are outlined in 40 CFR 1501.6.

(d) *Corps as a Cooperating Agency.* Where the Corps is not the lead or joint-lead agency for a proposed action, and has been requested to become a cooperating agency, district engineers shall participate and review the EIS work of the lead agency relevant to the Corps area of expertise or jurisdiction by law (i.e., flood control, navigation, hydropower and regulatory functions). This coordination will insure that the draft EIS produced will satisfy the procedural and statutory requirements of the Corps and could possibly be adopted as a Corps EIS in accordance with 40 CFR 1506.3. Duties and responsibilities of a cooperating agency are discussed 40 CFR 1501.6 (b) and (c). In more complex actions where the Corps has been asked to participate beyond providing available information, routine coordination and review, and involves reimbursement of non-routine services (requests for personnel, etc.), or where more than one district or division may be involved, a memorandum of agreement with the lead agency should be prepared.

§ 230.15 Scoping.

Early agency and public participation planned and incorporated into the conduct of all Corps EIS actions will be referred to as "Scoping". This is a mandatory process and shall begin as soon as practicable after a determination is made to prepare an EIS. Refer to 40 CFR 1501.7 for a complete discussion on scoping requirements. For those actions discussed in § 230.6 where an EIS will normally be prepared, the scoping process will be initiated when the EIS preparation commences. The notice of intent for these actions will be prepared in accordance with ER 200–2–1 with special reference to 40 CFR 1507.3(e) and § 230.7 of Appendix A on the timing of the notice for Survey Studies. For all other Corps actions listed in § 230.6, the scoping process will begin at the earliest time practicable preceded by the notice of intent. The provisions of 40 CFR 1501.7 shall be applied in the development of an EIS for the proposed action. The use of scoping meetings is optional. However, meetings are encouraged where public input to the EIS is not generally obtained by regular communication, notices, etc. Such input could include public perception of the action, identification of major issues and environmental values, and development of alternatives and mitigation plans. No formal scoping process need be undertaken for those Corps actions categorically excluded or for actions which do not normally require an EIS. However, coordination with Federal agencies having jurisdiction by law or special expertise will be required during the preparation of the EA to identify issues relating to compliance with environmental review and consultation requirements.

§ 230.16 Notice of intent.

A notice of intent to prepare a draft EIS for publication in the **Federal Register** is discussed in ER 200–2–1. District engineers will provide a copy of the notice of intent to the Director, Office of Environmental Review (A–104), EPA, Washington, D.C. 20460 and to the appropriate regional office(s) of EPA at the time the notice is sent to the **Federal Register**.

§ 230.17 Filing requirements.

Draft and final EIS, EIS supplements and supplemental information reports shall be filed with EPA no earlier than they are also circulated to all parties on the project mailing list. Five (5) copies should be sent to: Director, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. District engineers shall file draft EIS, Supplements to a draft EIS, and draft supplements directly with EPA. Final EIS and final supplements shall be filed by appropriate elements within OCE for Survey Reports, AE&D planning reports requiring Congressional authorization, DPR, certain Phase I and Phase II GDM, and certain construction projects requiring OCE approval. Division engineers shall file final EIS and final supplements for administrative Phase I GDM and certain Phase II GDM and construction projects delegated to the division engineer for approval, completed projects in operations and maintenance, and real estate actions. Final EIS or final supplements for permit actions will be filed by the district engineer after appropriate reviews by division and the incorporation in the EIS of division's comments. Supplemental information reports will be filed with EPA by the office approving the action and/or filing the final EIS. OCE and/or division will notify field office counterparts when to circulate the final EIS or final supplement and will not file the final document with EPA until notified by the district engineer that distribution of the document has been completed.

(a) *Timing Requirements.* EPA will publish a notice in the **Federal Register** each week (generally on Friday) listing environmental documents filed during the preceding week. The Friday date always starts the review period even if the notice appears the following Monday or later. No administrative action will be taken regarding the proposed action sooner than 90 days after a draft EIS has been filed with EPA as noticed in the **Federal Register**, or sooner than 30 days after the final EIS has been filed with EPA and noticed in the **Federal Register.** The 30-day minimum period of review for the final EIS may run concurrently with the minimum 90-day period if the final EIS is filed within 90-days after a draft EIS is filed. However, district engineers shall allow not less than 45 days for comment on the draft EIS. In unusually large or complex actions consideration should be given to a period longer than 45 days for review and comment on the draft EIS.

(b) *Expedited Filing.* In certain cases where the proposed action must be undertaken within critical time restraints or because of compelling reasons of national policy, a shortend review period may be recommended. In such cases, district engineers will provide the necessary information and facts to HQDA(DAEN–CWZ–P) WASH DC 20314 for consultation with EPA for a reduction in the precribed review periods. EPA may also extend the review periods on certain actions as described in 40 CFR 1506.10(d).

(c) *Timing Requirements on Supplements.* The minimum period or review for a draft and final supplement is the same as the review period for a draft and final EIS as discussed in § 230.17(a). Draft and final supplements covering project design changes or actions not having a bearing on the overall project for which a final EIS has been filed, will observe the minimum review periods for only those actions addressed in the supplement and not curtail other ongoing or scheduled actions on the overall project which have already complied with the procedural requirements of NEPA. No minimum administrative waiting periods are required for supplemental information reports discussed in § 230.11(d).

(d) *Timing Requirements During Departmental Reviews.* Final EIS included within Corps Survey and AE&D planning reports circulated by OCE for Departmental review to concerned Federal agencies and the affected State(s) will be given a 90-day review period. All other parties known to have an interest in the proposed action not contacted by OCE will be given the normal 30-day review period with the review beginning with the notice of availability published in the **Federal Register.**

§ 230.18 Availability.

Draft and final EIS and supplements, except for certain appendixes as provided in 40 CFR 1502.18(d), shall be made available to all public agencies, groups and individuals known to have an interest in the proposed action. A notice of availability of the EIS document will be sent to all others on the mailing list. Copies of the EIS will also be furnished in response to requests from the public. All parties not receiving a complete set of appendixes shall be advised of the location of a complete set such as (local public libraries, planning agencies, etc.) or how they may be obtained, including the cost. In certain cases the district engineer may circulate the EIS summary in lieu of the entire EIS. However, the procedures outlined in 40 CFR 1502.19 must be carefully followed. The district engineer should consult with the division engineer prior to using this procedure. Single copies will be furnished without charge to individuals on the mailing list and individuals requesting copies. For multiple copy requests, reproduction costs may be recouped from the requestor but shall not be greater than the actual costs of reproducing copies required to be sent to other Federal agencies. Copies of comments received from other Federal agencies on a draft EIS prior to the availability of the final EIS and other related EIS documents shall be made available to the requestor in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552) without regard to the exclusion for interagency memoranda where such memoranda transmits comments of Federal agencies on the environmental impact of the proposed action.

§ 230.19 Comments.

District engineers shall request the comments of Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, and any appropriate Federal, State or local agency which is authorized to develop and enforce environmental standards. Comments will also be requested from state and local clearinghouses in accordance with OMB Circular A–95 (Revised). District engineers shall maintain and periodically update the mailing list and provide timely notices of NEPA related public meetings, workshops, etc. and the availability of environmental documents to all those parties on the list as well as notifying the general public through such means as newspapers or other local media. (See discussion in 40 CFR 1506.6 (a) and (b) (1) and (3).

(a) *Time Extensions.* Requests for extension of time to review and comment on an EIS, either oral or written, will be considered on a case by case basis. Timeliness of distribution of the document, prior agency involvement in the proposed action, and the action's scope and complexity will be used in making this determination. A lack of response may be presumed to indicate that the agency contacted has no comment to make, except that cooperating Federal agencies with jurisdiction by law, special expertise or authorized to enforce environmental standards shall be requested to comment even if the reply is that it has no comment. Time extensions of at least 15 days will be granted to timely requests for the entire draft EIS when only the summary of the draft EIS was circulated.

(b) *Public Meetings and Hearings.* If a public meeting or hearing is held in connection with an EIS for a proposed action, the draft EIS will be made available to the public at least 15 days in advance of the meeting or hearing (unless the meeting is a scoping meeting as discussed in § 230.15). Public meetings or hearings, other than those required by Corps regulations, will be at the option of the district engineer and should be held whenever an exchange of views and information would be beneficial. (40 CFR 1508.6(c).)

(c) *Comments Received on the Draft EIS.* Comments on the draft EIS that raise significant issues, present new reasonable or feasible alternatives or other important matters not addressed in the draft EIS shall receive responses in the final EIS in accordance with 40 CFR 1503.4(a). A public involvement section shall be included in the main text following the list of preparers for each EIS prepared by the Corps. In the draft EIS this section will briefly describe the public involvement program or scoping process undertaken during the conduct of the study and/or development of the draft EIS. Significant environmental concerns or issues related to the proposed action which surfaced as a result of the scoping process and had a major influence on the proposed action and how such concerns were incorporated into the draft EIS will also be discussed in this section. A list of parties receiving copies of the draft EIS will be included in this section. In the final EIS this public involvement section will be expanded to include a discussion of substantive issues, new alternatives or new data requiring clarification or resulting in changes or modifications of the proposed action. Issues or questions may be appropriately consolidated or grouped, with the source(s) of the comment identified. The discussion shall include references to appropriate paragraphs in the text of the final EIS where a thorough discussion of the significant issues raised new alternatives considered or other important matters can be found. A list of parties providing comments on the draft EIS will be included in this Section. Copies of all letters received (or summaries thereof where numerous repetitive "form" letters are received), together with Corps responses, may be included in the main text of the EIS if a limited number are received, or included in an Appendix when a large number of comments are received. In any case, all comments shall accompany the EIS whether or not the comment is thought to merit individual discussion in the main text. Use of the single-page correspondence-response reduced display format is recommended as a way to reduce reviewing time, assure all comments are responded to and make the review less confusing. Pages reproduced in this format should be placed in the EIS to read from left to right (normal left margin turned to become the top of the page). Reduction should be limited to one-half size in order to remain readable. A table of contents showing the commentor's name and the page(s) where the letter and responses are located will be placed at the beginning of the Section. Letters will be arranged as follows: Federal, State, groups or organizations and the public. See Appendix A, § 230.6(i)(6) for specific guidance on presenting comments on EIS for feasibility studies.

(d) *Comments Received On the Final EIS.* Letters of comment received during the 30-day review period on the final EIS, or 90-day review in the case of a final EIS for a feasibility study sent out for Departmental review, will be answered by district engineers or OCE, as appropriate. Responses shall indicate how substantive issues raised by the comments have been addressed citing authorities or rationale which support the Corps position. In the case of Survey or AE&D planning reports where the final report and EIS, BERH or MRC report, and the proposed Chief's report are circulated for review, all incoming state and agency letters responding to OCE request for review will be answered, if appropriate, by DAEN–CWP. Letters sent to the district engineer in response to circulation of the documents to other interested organizations and members of the public will be answered, if appropriate, by the district engineer. After the review period is over, DAEN–CWP will provide copies of all incoming state and agency letters received in OCE to the district engineer for use in preparing the draft Record of Decision. For all other Corps actions except permit actions, five (5) copies of all incoming letters (even if the letters do not require a response) together with the district engineer's response (as appropriate) and the draft Record of Decision will be submitted to the division engineer or appropriate element within OCE whoever filed the final EIS. After review of the draft and final EIS and the comments received and Corps responses, the Division Engineer (for those actions which the Division Engineer has approval authority), Director of Civil Works or S/A will sign the Record of Decision. For permit actions the district engineer will, after making the decision, sign the Record of Decision unless the action is forwarded to higher authority for a decision. In the case of a letter recommending a referral under 40 CFR 1504, reporting officers will notify (DAEN–CWZ–P) and request further guidance. The Record of Decision will not be signed nor any action taken on the proposal until the referred case is resolved.

(e) *Commenting on Other Agencies EIS.* District engineers shall review and comment on draft EIS or related NEPA documents prepared by other Federal, state and local agencies when the environmental impacts of the proposed action are related to the Corps jurisdiction by law or special expertise, as provided in 40 CFR 1503.2 and .3. Unless otherwise directed, the district engineer in whose area the proposal is located will review and provide comments directly to the appropriate agency within the time period specified with a copy provided to DAEN–CWP–P. In the case of Federal, national or geographic program EIS: legislative; or other major policies; DAEN–CWP–P may designate a district or division engineer to provide a coordinated agency reply to the agency or request review and comment from Corps field offices for a coordinated agency reply to be signed at OCE or higher level. Comments on another agency draft EIS should be specific and may address either the adequacy of the EIS or the merits of the alternatives discussed, or both, restricted to jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and .26. As a cooperating agency the Corps will always provide comments on another Federal agency draft EIS even if the response is no comment. The specificity of comments in these cases are discussed in 40 CFR 1503.3 (c) and (d). If comments are prepared on another agency's final EIS one copy shall be furnished to Director, Office of Federal Activities, A–104, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460 and a copy provided to DAEN–CWP–P. Copies of comments on state or local final EIS which are unrelated to the Federal NEPA program will not be furnished to EPA.

§ 230.20 Integration with state and local procedures.

District engineers shall cooperate, to the fullest extent practicable, with State and local agencies to reduce duplication between Corps NEPA actions and those required by State and local requirements (40 CFR 1506.2 (b), (c) and (d)). Normally, this cooperation will consist of providing information on regulatory responsibilities with respect to the proposed action to determine the extent and degree of involvement of the Corps and whether an assessment or joint EIS is desirable. If the proposed State or local action falls within the Corps' area of NEPA activities, the concerned district engineer, as a joint lead agency, shall cooperate with the State or local agency in fulfilling State environmental impact statement requirements (if applicable) as well as Federal NEPA laws so that one document will comply with all applicable laws. An EIS produced as a joint Corps-State or local agency document will be prepared and processed in accordance with applicable sections and appendixes of these regulations.

§ 230.21 Adoption of EIS.

The district engineer may adopt or prepare a supplement to another Federal agency's draft or final EIS or portion thereof provided that it meets the standards for an adequate EIS. However, the need to adopt and supplement another agency's EIS concerning a proposal which involves the authorities or regulatory responsibilities of the Corps can be minimized or avoided if the district engineer carefully follows the procedures in 40 CFR 1501.6 (cooperating agencies). If the Corps becomes a cooperating agency it may adopt without recirculating the EIS of a lead agency provided it contains the necessary information to support the Corps decision making in compliance with NEPA. If the Corps is not a cooperating agency and a decision is made to adopt another agency's EIS, the district engineer will review the criteria set forth in 40 CFR 1506.3(b) to determine whether to recirculate it as a final or a draft. In either case the document will be recirculated with a new cover, cover sheet, summary and distribution list. This package will be attached to the front of the agency's EIS. The cover sheet will clearly identify the EIS as a Corps EIS and the summary will describe the basis for the Corps adoption with a brief description of Corps involvement with the proposed action. Circulation, filing and review period will be the same as a regular EIS. If a decision is made to supplement another agency's EIS or portion thereof where the other agency's EIS does not provide sufficient information to enable the Corps to support its decision making, the district engineer will adopt the other agency's EIS or portions of it and simultaneously or thereafter supplement it. The supplement cover sheet and summary will describe the basis for the Corps adoption. The other agency's EIS or portions thereof will be attached and circulated for review with the Corps supplement. Where another agency's EIS is adopted for purposes of a Corps decision on a proposed action, a Record of Decision will be prepared in accordance with § 230.12.

§ 230.22 Limitations on actions during the NEPA process.

Limitations on Corps action during the NEPA review process are discussed in § 230.17. State and local agencies and private applicants should be made aware of the early stage involvement provisions of 40 CFR 1506.1(b) with respect to the Corps foreseeable regulatory responsibilities (refer to Appendix B). If a district engineer decides to prepare a programatic EIS, the limitations set forth in 40 CFR 1506.1(c) will apply to the extent practicable, but are not binding unless the program EIS is legally required. District engineers will carefully review proposed interim actions to be undertaken while work on a program EIS is in progress so as not be prejudice the ultimate decision on the program.

§ 230.23 Predecision referrals.

If the district engineer determines after review of another agency's Final EIS that the proposed action would be environmentally unsatisfactory with respect to the Corps area of expertise or jurisdiction by law, the case will be sent through division to reach (DAEN–CWZ–P) not later than 15 days after the final EIS was filed for review and processing to CEQ. The referral must be delivered to CEQ not later than 25 days after the final EIS was filed. The referral shall only be used after timely, but unsuccessful efforts have been undertaken to resolve the issue with the other agency. Such advice and/or a request for additional information to permit an analysis of the proposed action associated with the Corps area of expertise or regulatory responsibilities shall be contained in the district engineers comments on the other agency's draft EIS. Every effort should be made to resolve the problem(s) prior to the preparation of the final EIS. However, if an agreement cannot be reached, the district engineer shall prepare the referral in accordance with the procedures outlined in 40 CFR 1504.3. Corps actions referred to CEQ under this procedure by another Federal agency or by EPA under Section 309 of the Clean Air Act (42 U.S.C. 7609) shall be transmitted immediately to (DAEN–CWZ–P) for further guidance. District engineers receiving potential referral advice or requests for additional information from another Federal agency in comments on a draft EIS, shall, to the extent practicable, provide the necessary information and/or attempt to resolve the differences prior to filing the final EIS on the proposed action.

§ 230.24 Agency decision points.

(a) *General.* The instructions contained in Appendix C discuss the timing and integration of EIS preparation and processing in relation to major decision points in the Corps Civil Works Program. For major decision points for regulatory permit actions see 33 CFR 325 and Appendix B. Analyses of environmental data obtained during the early stages of planning, project development, operations and maintenance and management actions will provide the reporting officer with a basis to make a determination of the significance of the proposed action and whether an EA, EIS or EIS supplement will be required. Where the district engineer determines that the proposed action will not have a significant effect on the environment based on the EA, the district engineer will sign the FONSI based on the completed EA. EA and FONSI prepared for actions other than regulatory which normally require an EIS (feasibility studies) or are without precedent shall be circulated for public review and comment for 30-days before the FONSI is signed by the reporting officer in accordance with 40 CFR 1501.4(e)(2). Determinations based on an EA are reversible should controversy or other circumstances occur which require an EIS or supplement to be prepared.

(b) *Feasibility Studies.* In the case of feasibility studies discussed in § 230.6, the environmental document is an integral part of the Main Report and circulated to agencies and the public for review. However, where an EIS is included within the Main Report, the EIS must be a self-contained document which can be read and understood without constant reference to the Main Report. This procedure insures that environmental data and analyses are given equal consideration with other factors and are made available to agency decisionmakers at the time when they will be of most value in reviewing and deciding on a proposed action. The Main Report and EIS for Survey and legislative AE&D planning reports will accompany the Final Report of the Chief of Engineers when the proposed action is forwarded for ASA (CW) and Executive review and ultimately to Congress. The Record of Decision will be signed by the S/A. DPR and AE&D planning reports approved at the OCE level will have the Director of Civil Works sign the Record of Decision. The Record of Decision for administrative AE&D planning reports will be signed by the Division Engineer.

(c) *Construction, O&M and Management Actions.* In the case of authorized and completed projects, environmental documents will be prepared, circulated for review and comment, and made available to agency decisionmakers for review (including comments received) prior to reaching a decision on the proposed construction, maintenance, real estate or management action. The Record of Decision as discussed in § 230.12 will be signed by

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the Corps official approving the action after the final EIS or final EIS supplement has been on file for 30 days. When the district engineer determines that the proposed action will not have a significant effect on the environment based on the EA, the district engineer will sign the FONSI and approve the action based on the completed EA. No administrative action shall be taken on the proposed project until the Record of Decision or the FONSI has been signed.

§ 230.25 Environmental review and consultation requirements.

The following paragraphs list the principal environmental review and consultation requirements applicable to Corps Civil Works actions. In accordance with 40 CFR 1502.25, the following procedures outline how environmental review and consultation requirments may be undertaken concurrently with the circulation of the appropriate NEPA document. See Appendix A, paragraph 6b, for guidance on addressing environmental review and consultation requirements in feasibility studies and 33 CFR 320–329 for Corps regulatory permits. To the maximum extent possible, the district engineer will undertake early coordination to insure that environmental reviews required by these laws are done concurrently with the preparation of the EA or draft EIS so that the results of these reviews are integrated with the EA or draft EIS.

(a) *Federal Statutes.* (1) *Preservation of Historical Archeological Data Act of 1974 (16 U.S.C. 469 et seq.) which amends the Act of June 27, 1960, also referred to as the "Reservoir Salvage Act of 1960, amended; National Historic Preservation Act of 1966, as Amended, 16 U.S.C. 470 et seq.; Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971.* District engineers shall undertake certain studies and coordinate with appropriate state historic preservation officers, the Heritage Conservation and Recreation Service, the Advisory Council on Historic Preservation, and other groups with cultural resources expertise to identify and determine potential effects of proposed Corps actions on significant cultural resources. The draft EIS or EA may serve as the document requesting consultation with the Advisory Council pursuant to Section 106 of the National Historic Preservation Act and other authorities, as appropriate. The results of the coordination and consultation related to cultural resources shall be discussed in the Final EIS or EA and noted in the Record of Decision of FONSI in accordance with ER 1105–2–460. In the case of regulatory permits, policies related to cultural resources are provided in Appendix C of 33 CFR 325.

(2) *Clean Air Act, as amended, (42 U.S.C. 7609).* District engineers shall provide the Regional Administrator(s) of EPA copies of Corps EIS and EIS supplements on proposed actions to obtain written views and comments on the environmental impact of any matter relating to EPA's authorities from the standpoint of public health or welfare or environmental quality under Section 309 of the Act and the determinations and findings required by Section 176(c) of the Act to assure the conformity of Corps proposed actions to each state implementation plan (SIP). In the case of an EA and FONSI prepared for Corps actions, coordination with EPA is discussed in § 230.10.

(3) *Clean Water Act of 1977, (Federal Water Pollution Control Act Amendments of 1972) 33 U.S.C. 1251 et seq.* Evaluation of the effects of the discharge of dredged or fill material into waters of the United States, including consideration of the Section 404(b)(1) Guidelines, shall be included in an EA, EIS or EIS Supplement prepared for all Corps actions in planning, design and construction where the recommended plan or approved project involves the discharge of dredged or fill material into waters or the United States. In the case of Survey Reports (optional) and Legislative and Administrative AE&D Planning and Design Reports, the Section 404 evaluation will be discussed briefly in the body of the EIS or EIS Supplement and included as Appendix to the Main Report. Compliance with the Act will be noted in the Record of Decision. This procedure will satisfy Section 404(r) of the Act, upon submittal of the EIS to Congress, in lieu of issuing a public notice and obtaining a state water quality certificate. The same procedure will apply to projects in a construction category except that the 404 evaluation will be included as an appendix to the EIS or EIS Supplement or submitted as a supplemental information report to a final EIS field after 5 September 1975.

In the case of a Survey Report where the Section 404 evaluation has not been completed (optional), this information will be noted in the conclusions section of the report and EIS or EA. In case of a project authorized by Section 201 of P.L. 89–298, where a state water quality certificate is required, the Section 404 evaluation will be included with the EIS and the document filed with EPA but can not be sent to Congress under provisions of Section 404(r). In EIS cases involving a continuing authority project where a state water quality certificate is required, the certificate must be obtained before a decision is made on the project and the Record of Decision is signed. States requiring Corps final project approval prior to issuing a certificate must be advised of the Corps policy in this matter. District engineers shall provide the state with necessary detailed information it may need to issue the certificate. Where an EA is prepared for Corps actions in post-authorization planning, design and construction, and the project involves the discharge of dredged or fill material into waters of the United States, the 404 evaluation will be included with the EA and circulated for review and comment. Should a FONSI be prepared, the 404 evaluation will also be included in the FONSI after obtaining a state water quality certificate and approval of the project. In the case of completed projects in the O&M category involving the discharge of dredged material into waters of the United States, compliance (partial, full, etc.) with Section 404, state water quality certification and disposal permit requirements will be noted in the FONSI or Record of Decision prepared for the action. However, the 404 evaluation need not be included as an appendix to the EA or EIS and can be processed after the NEPA document has been filed but prior to actual commencement of the action. In the case of regulatory permit actions, compliance shall be in accordance with applicable provisions of 33 CFR 320 et seq. and Appendix B of this regulation.

(4) *Coastal Zone Management Act of 1972, as Amended, 16 U.S.C. 1451 et seq.* Proposed Corps projects and activities significantly affecting land or water uses in the coastal zone of a state or territory must be coordinated with the appropriate state agency responsible for administering the state's approved coastal management program. Coordination should be initiated early in the planning or scoping process to insure compliance with the consistency provisions of the Act (Section 307). In the case of feasibility studies, the consistency determination shall be summarized in the Main Report and EIS or EA and included as an Appendix to Main Report. In other Corps actions, except regulatory permits, the consistency determination will be noted in the EIS or EA and included as an Appendix, if necessary. For regulatory permits, compliance with the Act will be in accordance with 33 CFR 325.2.

(5) *Endangered Species Act of 1973, as Amended, 16 U.S.C. 1531 et seq.* District engineers shall initiate early coordination with the appropriate

Regional Director of the Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS) to determine if any listed endangered or threatened species or species proposed for listing or their critical habitat may be present in the area of the proposed Corps action. The results of this coordination and/or consultation as required by Section 7 of the Act, as amended, shall be discussed in the main report and included in the EA, final EIS or EIS supplement prepared for the proposed action. Copies of pertinent correspondence, biological assessments, opinions, consultants reports or other related information shall be provided as an Appendix to the Main Report or final EIS, as appropriate, with the conclusions and/or recommendations noted in the EIS and Record of Decision or FONSI, as appropriate. In the case of regulatory permits not requiring an EIS, the results of the coordination obtained by circulation of the public notice will be included within the EA prepared for the proposed permit action.

(6) *Estuary Protection Act (16 U.S.C. 1221 et seq.)* District engineers shall provide copies of EA or EIS on project plans and reports submitted to Congress affecting estuaries and their natural resources to the Department of the Interior for reviews and comment. The Secretary of the Interior has 90 days after receipt of plans and reports to make recommendations. This review can be accomplished when the project plans and reports and EA or EIS are circulated for Departmental (90-day) review.

(7) *Federal Water Project Recreation Act (16 U.S.C. 460–1–12 et seq.)* In planning Federal projects, district engineers shall give full consideration to opportunities afforded by the project for outdoor recreation and fish and wildlife enhancement. District engineers shall provide review copies of reports and accompanying EA or EIS to the Department of the Interior in regard to recreation and fish and wildlife activities for conformance with the comprehensive nationwide outdoor recreation plan formulated by the Secretary of the Interior.

(8) *Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.* District engineers shall initiate early coordination with the appropriate Regional Director of the Fish and Wildlife Service (FWS), the appropriate Regional Director of the National Marine Fisheries Service (NMFS) and the head of the agency responsible for fish and wildlife for the state in which the proposed action will occur. The results of this coordination shall be discussed in the EIS in order to identify the concerns of the fish and wildlife agencies. In the case of feasibility studies the final fish and wildlife report will be included as an Appendix to the final Main Report and EA or EIS when the reporting officer transmits the report to higher authority. All recommendations presented by the fish and wildlife agencies shall be addressed in the text of the main report or included in the EA or EIS. In other Corps actions the final fish and wildlife report (if applicable) will be discussed in the EA or final EIS and included as an Appendix to the EA or final EIS prepared for the action, except for regulatory permit actions which are coordinated and processed under provisions of 33 CFR 320.4(c). Planning aids and other detailed fish and wildlife data and information received from the FWS, NMFS or the state should be referenced in the report or EIS as appropriate and need not be circulated with the documents unless the material is needed to clarify issues or provide an administrative record having a bearing on the project.

(9) *Land and Water Conservation Fund Act (16 U.S.C. 4601 et seq.)* Requirements are similar to Federal Water Project Recreation Act which require coordination with Interior to review conformance with the comprehensive outdoor recreation plan formulated by Interior.

(10) *Marine Protection Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 et seq.* District engineers will be responsible for compliance with Section 102 Guidelines of the Act for proposed Corps actions involving the transportation of dredged material by vessel for the purpose of dumping it in ocean waters pursuant to Section 103 of the Act. Interim policy guidance for Corps studies and projects on this matter has been previously provided. Guidance for Corps operations and maintenance actions is provided in 33 CFR 209.145. Guidance for Corps regulatory permits is provided in 33 CFR 320 et seq. In the case of feasibility studies involving possible ocean dumping of dredged material, the evaluation of the need for ocean dumping including the availability of alternatives to ocean dumping will be incorporated into the main report as part of the multiobjective planning process and noted in the EIS. In other Corps actions, except regulatory permits, the evaluation and findings will be noted in the EIS and included as an Appendix to the EIS or EIS supplement. In the case of an EA, the evaluation and finding, together with pertinent correspondence will be included within the document in place of an EIS. Inclusion of the evaluation and findings in the EA or EIS documents for Corps studies and projects circulated for public review and comment will provide or satisfy the requirements of the opportunity for public review. For regulatory permits, compliance with the Act will be in accordance with 33 CFR 320 et seq. The public notice procedure used for regulatory permits will provide or satisfy the requirements of the opportunity for public review.

(11) *National Historic Preservation Act (16 U.S.C. 470a, et seq.)* See paragraph (1) above.

(12) *National Environmental Policy Act (42 U.S.C. 4321 et seq.)* District engineers will show compliance by indicating partial compliance when the draft EIS or EIS supplement is filed and full compliance when the Record of Decision is signed. In the case of an EA, full compliance will be noted when the FONSI is signed.

(13) *River and Harbor Act (33 U.S.C. 401 et seq.)* No requirements for Corps projects or programs authorized by Congress. (Requirements of the Act fulfilled by Corps planning actions)

(14) *Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.* No requirements for Corps activities.

(15) *Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.)* In planning for the use and development of water and related land resources, district engineers shall consider designated components and potential national wild, scenic and recreational river areas. Although the Department of the Interior (or Agriculture for river segments in national forests) have not prepared guidelines to facilitate implementation of the Act, district engineers should regularly request updates of rivers listed for study or designation as wild, scenic or recreational in order to identify and evaluate the effects of any proposed Corps action which may conflict with the purpose of the Act. If a proposed Corps action is located on or may effect a designated river, the district engineer shall examine alternative uses of the river and inform the appropriate Secretary of any studies or activities that are underway. The results of this coordination shall be discussed in the report and included in the accompanying EA, EIS or EIS supplement prepared for the proposed action. Compliance will be noted in the EA or EIS and FONSI or Record of Decision.

(b) *Executive Orders.*—(1) *Executive Order 11988, Floodplain Management, 24 May 1977.* Policy guidance implementing the executive order for all

Corps Civil Works actions is contained in ER 1165–2–26, dated 15 May 1979. In the case of feasibility studies, implementation of the Executive Order will be incorporated into the Main Report as part of the multiobjective planning process, noted in the EIS and included as an Appendix to the main report, if necessary. Existing policies and procedures related to regulatory permits 33 CFR 320 et seq. fulfill the requirements of the Executive Orders and should continue to be followed. For all other Corps actions the results of the required assessment and evaluation together with the determination and finding shall be discussed briefly in the EA or EIS and included as an Appendix, if necessary.

(2) *Executive Order 11990, Protection of Wetlands, 24 May 1977.* Reporting officers will be responsible for compliance with applicable provisions of the Executive Order for projects and programs for which a draft or final EIS is filed on or after 1 October 1977. Interim policy guidance on this matter has been previously provided. In the case of the feasibility studies the results of the analyses and findings related to wetlands will be incorporated into the Main Report as part of the multiobjective planning process, noted in the EA or EIS and included as an Appendix to the Main Report, if necessary. In other Corps actions, except regulatory permits, the analyses and findings will be discussed in the EA or EIS and included as an Appendix, as appropriate. Inclusion of the analyses and findings in the EIS documents for Corps studies and projects circulated for public review and comment will satisfy the opportunity for early public review requirements of Section 2(b) of the Executive Order. For regulatory permits, compliance with the Executive Order will be in accordance with 33 CFR 320 et seq. The opportunity for early public review through publication of a Public Notice will satisfy the requirements of this section in the case of regulatory permits.

(3) *Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979.* General policy guidance for all Department of Defense components is contained in the Department of Defense final rules implementing Executive Order 12114 published in the **Federal Register** of 12 April 1979 as 32 CFR Part 197. Procedural requirements for Corps Civil Works studies and projects are discussed below. Procedural requirements for Corps regulatory permit actions having significant effects on the environment outside of the United States are discussed in 33 CFR 322.

(i) The district engineer through the division engineer responsible for the activity will notify DAEN–CWP–E, –C, or –W as appropriate, of an impending action which may impact on another country and that environmental studies are necessary to determine the extent and significance of these impacts. The district engineer will inform DAEN–CWP whether entry into the country to study the base condition is necessary.

(ii) DAEN–CWP will notify the State Department, Office of Environmental and Health (OES/ENH) of the district engineers concern, and whether a need exists at this point to officially notify the foreign nation of our intent to study potential impacts. Depending on expected extent and severity of impacts, or if entry is deemed necessary, the matter will be referred to the appropriate foreign desk for action.

(iii) As soon as it becomes evident that the impacts of the proposed actions are considered significant, DAEN–CWP will notify the State Department. The State Department will determine whether the foreign embassy needs to be notified, and will do so if deemed appropriate requesting formal discussions on the matter. When the International Joint Commission (IJC) or the International Boundary and Water Commission, United States and Mexico (IBWC) is involved in a study, the State Department should be consulted to determine the foreign policy implications of any action and the proper cause of action for formal consultations.

(iv) Any press releases or report documents dealing with impact assessments in foreign nations should be made available to the appropriate foreign desk at the State Department for clearance and coordination with the foreign embassy prior to public dissemination.

(v) Assessments of Impacts of Civil Works projects on foreign countries should not be incorporated into any EIS, but the EIS will include notation that an assessment of impacts on foreign countries has been made in compliance with the Executive Order and will be available (as cleared by the Foreign Embassy involved) at the field office for inspection.

(c) *Executive Memorandum Analysis of Impacts on Prime and Unique Farmlands in EIS, CEQ Memorandum, 30 August 1976.* District engineers will be responsible for including an analysis of the effects of proposed actions on prime and unique farmland in the course of preparing environmental documents. Interim policy guidance on this matter has been previously provided. In the case of feasibility studies, the results of the evaluation will be incorporated into the Main Report as part of the multiobjective planning process and discussed in the appropriate sections of the EIS. In all other Corps actions the results of the evaluation will be discussed in the appropriate sections of the EA of EIS.

(d) *Other.* Other environmental treaties, laws, Executive Orders, regulations etc. as may be required by the proposed action.

§ 230.26 General considerations in preparing Corps EIS.

EIS for Corps Civil Works activities shall be prepared and processed in accordance with Appendix A through D and pertinent Sections of this regulation, CEQ regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508), and the following:

(a) *Interdisciplinary Preparation.* EIS shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (40 CFR 1502.6). Environmental investigations should be undertaken simultaneously with and to the same depth and scope as other study or project related investigations. EIS shall be coordinated with and reviewed by district and division counsel. A list of the names, expertise, experience, professional discipline and role of the persons who were primarily responsible for the preparation of the EIS shall be included. See paragraph 6h of Appendix A for suggested guidance on format (40 CFR 1502.17).

(b) *Incorporation by Reference.* EIS shall incorporate material by reference wherever possible in accordance with 40 CFR 1502.21. The incorporated material must be cited in the EIS and its contents briefly described. Footnotes should be used rarely; only where their use greatly aids the reader's understanding of the point discussed. Citation in the EIS of material incorporated by reference should be made by indicating an author's last name and date of the reference in parentheses at the appropriate location in the EIS. The list of references will be placed at the end of the EIS. Only information sources actually cited in the text should appear in the reference list. The reference list shall include the author's name and the date and title of the publication. Personal communications should also be listed with the person's employing office, date of communication and type of communication (e.g. letter, telephone, interview, etc.). Cited material must be reasonably available for inspection by interested parties within the time allowed for comment (40 CFR 1502.21).

(c) *Incomplete or Unavailable Information.* Refer to 40 CFR 1502.22 (a) and (b) for guidance in preparing an EIS when there are data gaps or lack of information relevant to significant adverse impacts bearing on the decision on the action. Particular attention shall be given to the requirement in the case of projects where relevant information essential to a reasoned choice among alternatives is not known and the overall costs of obtaining it are either exorbitant or beyond existing scientific capability. In such situations the EIS should include a worst case analysis.

(d) *Methodology and Scientific Accuracy.* Refer to 40 CFR 1502.24. Methodologies, techniques, and other scientific sources used to arrive at information presented in the EIS or relied upon for conclusions shall be cited at appropriate locations in the EIS and included in the list of references.

(e) *Cost-Benefit Analysis.* Refer to 40 CFR 1502.23. In the case of feasibility studies, limited plan economic data will be displayed for the final array of alternatives in accordance with Appendix A. For other Corps actions, limited project economic data relevant to the choice among alternatives will be displayed, as appropriate (e.g. cubic yard cost for O&M dredging). When a cost-benefit analysis is prepared, the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities shall be discussed. See Appendix B for regulatory permits.

(f) *Contractual Relationships.* The use of outside professional services (contractors) for the preparation of basic data for EA and EIS for Corps actions shall be in accordance with 40 CFR 1506.5(b) and (c). The reporting officer shall assist the contractor in the preparation of the document and independently evaluate and be responsible for its scope, content and accuracy. The names of the person(s) responsible for this independent evaluation and contractor participants shall be included in the list of principal preparers as discussed in paragraph 6h of Appendix A. Reporting officers shall prepare and have contractors execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project. See Appendix B for regulatory permits.

(g) *Use of Regulation.* This regulation shall become effective on publication and will be used for the preparation and processing of all NEPA related documents prepared for Civil Works activities except for the requirements of publishing a notice of intent to prepare a draft EIS (ER 200-2-1) which became effective 12 February 1979. Draft EIS and draft supplements filed with EPA after 30 July 1979 must comply with these regulations. Final EIS and final supplements should, but need not comply with these regulations if the draft EIS or draft supplement for the proposed action was filed with EPA before 30 July 1979 (40 CFR 1506.12).

Appendix A.—*Feasibility Studies: Organization and Content of EIS's and Scoping*

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1. *Purpose.* This appendix provides guidance on the organization and content of Environmental Impact Statements (EIS) incorporated into Corps feasibility reports, including Survey Reports, Phase I General Design Memorandum (GDM) and Detailed Project Reports (DPR's). It also provides guidance on the timing of Corps feasibility study actions to meet CEQ's scoping requirements.

2. *References.*

a. 40 CFR 1500–1508
b. ER 11-2-220
c. ER 18-2-2
d. ER 200-2-1
e. ER 1105-2-10
f. ER 1105-2-32
g. ER 1105-2-50
h. ER 1105-2-129
i. ER 1105-2-200
j. ER 1105-2-210
k. ER 1105-2-220
l. ER 1105-2-230
m. ER 1105-2-240
n. ER 1105-2-250
o. ER 1105-2-460
p. ER 1105-2-502
q. ER 1105-2-800
r. ER 1105-2-920
s. ER 1105-2-921

3. *Background.* a. The Corps multiobjective planning process (ER 1105-2-200 series) integrates the substantive requirements of NEPA, the U.S. Water Resource Council's Principles and Standards (P&S), and related environmental policies. Thus, feasibility reports documenting the results of studies conducted in accordance with the ER 1105-2-200 series will contain the analysis required by NEPA as integral parts of the report. The organization of feasibility reports reinforces this concept by including a concise EIS within the Main Report (ER 1105-2-920).

b. The EIS must be clearly identified on the front cover of the feasibility report document and placed directly behind the last page of the Main Report. The EIS is a part of the Main Report and therefore will not be identified as an attachment or appendix. For ease of identification the EIS should be setout by the use of colored paper. It shall be presented as an analytical, self supporting document which informs decisionmakers and the public of the reasonable alternatives and their environmental effects and analyze measures which would avoid or minimize adverse impacts or enhance the quality of the human environment. Material detailed in the Main Report may be incorporated by reference in the EIS where the effect is to avoid duplication without sacrificing the self-supporting nature of the document and the ability of the agencies and the public to review and comment on the EIS. However, a reviewer should not have to refer to the Main Report or appendixes to have a clear understanding of the alternatives and their environmental impacts. References are to be provided should the reviewer require additional detailed technical information relative to the environmental consequences of the proposed action and reasonable alternatives considered.

c. The following paragraphs present the page limit, organization and content requirements for EIS included in feasibility reports, and guidance on scoping requirements in feasibility studies. Requirements of 40 CFR 1500–1508 are incorporated by reference where applicable.

4. *Page Limits.* a. Reference: 40 CFR 1500.4(a), 1502.7, 1502.11, 1502.12, 1502.15, and 1502. 17.

b. EIS prepared for feasibility studies will not duplicate lengthy documentation of the substantive requirements of NEPA contained elsewhere in the Main Report and Appendixes. However, pertinent information discussed in other sections of the main report and appendixes, may, by necessity, be duplicated in the alternative section of the EIS to serve as the analytical focal point of the document in order to clearly define the environmental issues and provide a basis for choice by the decisionmaker and the public. Based on an OCE analysis, and in accordance with the objective in the NEPA regulations to reduce paperwork, the average length of an EIS included in Feasibility Reports should not normally exceed 50 pages (single-spaced typed, pages numbered sequentially).

5. *EIS Organization.* a. Reference: 40 CFR 1502.10.

b. The EIS will follow the format in Section 1502.10. Each paragraph in each section of the text of the EIS will be numbered for ease of reference.

6. *EIS Contents.*—a. *Cover Sheet.* (1) Reference: 40 CFR 1502.10(a) and 1502.11.

(2) An example cover sheet is presented at Table 1.

(3) A statement shall be included on the cover sheet which states that information, displays, etc., referred to in the Main Report

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or appendixes is incorporated by reference into the EIS.

(4) In all cases the estimated date for comments shall include sufficient time for mailing, receipt and preparing F. R. notice by EPA and required 45-day review for draft EIS. In the case of the final EIS, leave the date blank. The appropriate Corps office filing the final EIS will date stamp the document.

b. *Summary.* (1) Reference: 40 CFR 1502.2(d), 1502.10(b), 1502.12, 1502.16(c), 1502.20, 1502.25, 1506.2(d), 1506.3(d) and 1506.10(b)(2).

(2) This chapter will inform the reader of the major factors which were considered in and influenced planning related decisions. It shall be presented in the following four discussions.

(3) Major Conclusions and Findings. Present the rationale for the study's NED Plan, EQ Plan (or least environmentally damaging plan), and tentatively selected plan in a Draft EIS: the rationale for study's NED Plan, EQ Plan (or least environmentally damaging plan), selected plan and recommended plan in a Final EIS: and other major conclusions and findings of the district engineer (for example, Section 404, E.O. 11988 and E.O. 11990 findings).

(4) Area of Controversy. Describe the issues that were the subject of major disagreement among public interests during the course of the study. Describe the outcome of any resolved controversies.

(5) Unresolved Issues. Describe the unresolved major disagreements among study area interests and actions proposed or taken to resolve disagreements.

(6) Relationship to Environmental Protection Statutes and Other Environmental Requirements. Describe the relationship of each plan included in the Stage 3 final array of alternatives to the requirements of environmental laws, executive orders and other policies; the objectives of Federal, State and local land use plans, policies and controls applicable to the study area and other related State and Local plans and laws; and any Federal requirements for permits, license and other entitlements needed to implement the detailed plans. An Example similar to that presented at Table 2 is recommended for this presentation.

(7) References to adoption of a previously prepared EIS and supplementing an EIS under the tiering concept (see 40 CFR 1502.20), and references to an EIS meeting the criteria of 30 CFR 1506.3(d) or 1506.10(b)(2) should be included in this chapter, as appropriate.

c. *Table of Contents.* (1) Reference: 40 CFR 1502.10(c).

(2) Even though the EIS is included as a part of the Main Report, page numbering of the EIS shall be independent of the Main Report. EIS pages will be numbered sequentially as EIS–1, EIS–2, EIS–3, . . . etc.

d. *Need for and Objectives of Action.* (1) Reference: 40 CFR 1502.4(a), 1502.10(d) and 1502.13.

(2) This chapter will explain concisely to the reader why the Corps became involved in the study and what public concerns and consequent planning objectives were identified as the basis for plan formulation. It shall be presented in the following three discussions.

(3) Study Authority. Identify the study's authorizing document and summarize the Congressional intent for undertaking the study.

(4) Public Concerns. Describe the public concerns and related resource management needs (problems and opportunities) which were identified in the study.

(5) Planning Objectives. State the planning objectives which were derived from the aforementioned resource management needs and employed in plan formulation.

e. *Alternatives.* (1) Reference: 40 CFR 1502.1, 1502.2, 1502.2(e), 1502.4(a), 1502.10(e), 1502.14, 1502.16(h), 1502.23, 1505.1(e) and 1508.27.

(2) This chapter is the heart of the EIS. It will identify and describe all reasonable and feasible alternatives considered, and the assessment and evaluation of the most responsive solutions (detailed plans). It shall be presented in the following discussions.

(3) Plans Eliminated from Further Study. Briefly describe each plan considered in late Stage 2 planning but not included in the Stage 3 final array of alternatives. Present the rationale for eliminating such plans.

(4) Without Conditions (No Action). Briefly describe the without conditions that are expected to occur in the absence of any Federal action to address the planning objectives. If non-Federal actions to address the planning objectives are included in the without conditions assumptions (as in the case of water supply and power-related planning objectives), describe such actions and identify the agency(ies) or group(s) responsible for their implementation and any mitigation requirements of such actions.

(5) Plans Considered in Detail. Briefly describe each plan included in the Stage 3 final array of alternatives. Summarize each plan description, implementation responsibilities (Federal and non-Federal), and any mitigation requirements (including fish and wildlife "compensation," cultural resources "data recovery," endangered species "conservation," etc.). Identify the designated NED and EQ Plans (or least environmentally damaging plan), and the selected, or tentatively selected, plan.

(6) Comparative Impacts of Alternatives. Describe in a comparative form, the base and without condition, the impacts of the detailed plans on significant resources, and plan economic characteristics (i.e. total costs, net benefits, benefit-cost ratio). An example similar to that presented at Table 3 is recommended for this presentation. However, where a comparative table is used, the Environmental Effects section shall contain a detailed analysis of the environmental consequences of each alternative including the proposed action and shall provide sufficient back-up analysis for the comparative table.

(7) All discussions concerning the without condition and Stage 3 final array of alternatives must be presented consistently and sufficiently in the same level of detail such that any option could be selected based on the presentation. This approach will aid the decision-making process by "sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public" (40 CFR 1502.14) and minimize document revision should the selected plan or recommendations change.

(8) Plan location maps, section views, the study's System of Accounts and other graphics and tables presented elsewhere in the Main Report or Appendixes should be referenced in the EIS to avoid duplication.

f. *Affected Environment.* (1) Reference: 40 CFR 1502.10(f) and 1502.15.

(2) This chapter will briefly describe study area existing and without conditions in the following discussions:

(3) Environmental Conditions. Briefly describe the major characteristics of the study area's natural and human resources to provide the reader with a general understanding of physical, ecological, social, cultural and economic conditions. This discussion will normally not exceed one page.

(4) Significant Resources. Describe each significant resource included in the Comparative Impacts of Alternatives discussion, including its location, quantity and quality. This discussion should explain to the reader what is significant and why it is significant. In identifying resources to be included in this discussion, those specifically mentioned in Section 122, 1970 R & HA, PL 91–611 will be addressed. If they are found not significant in the study area this fact will be noted. In further identifying and characterizing resources, consideration should be given to the following criteria for resource significance:

(a) Resources identified in the laws, regulations, guidelines or other institutional standards of national, regional and local public agencies should be considered significant (e.g. sites listed on the National Register of Historic Places, species included in State "endangered species" lists, natural open space identified in local land use plans, etc.) Resources identified in the guidelines of certain private groups may also be considered (e.g. bird species on the National Audubon Society's "Blue List", historic properties of the National Trust for Historic Preservation, etc.).

(b) Resources meeting certain study-specific technical criteria for measuring characteristics that may be critical to resource existence should be considered significant. Technical criteria may include, but are not limited to, measurement of resource scarcity, fragility, resiliency, reproducibility and tolerance. For example, spawning habitat for a study area fish species may be abundant at a regional level but scarce in a local study area.

(c) Resources specifically identified as a concern by public interests should be considered significant. For example, a local farm association may identify certain tracts of productive agricultural land as important to the community's economic well-being.

(d) Resources which, if effected by a plan, would violate an institutional standard, meet a study-specific technical criterion, or become the subject of public concern should be considered significant. For example, a currently abundant game habitat could become scarce due to the effect of a certain plan.

g. *Environmental Effects.* (1) Reference: 40 CFR 1502.9(a), 1502.10(g), 1502.16 and 1502.22.

(2) This chapter will briefly describe the effects of each detailed plan on the previously described significant resources. Its purpose is to provide the reader with a detailed analysis of the impacts described in the Comparative Impacts of Alternatives discussion. Where a comparative table is used in the Comparative Impacts of Alternatives Section, the Environmental Effects section shall contain a detailed analysis of the environmental consequence of each alternative including the proposed action and shall provide sufficient back-up analysis for the comparative table.

(3) Discussion in this chapter should be subheaded with the names of the previously described significant resources to assist the reader in quick and easy reference. For example, if a study's significant resources were identified as shown at Table 3 (listed as column headings), the subheadings in this chapter would be "Blue River Wetlands," "Fort America Historic Site," etc. When using this approach, the discussion under each subheading will describe the effects of each plan on the subject resource. Plans with no effect on a resource should be noted.

(4) If an effect is described as being adverse, the discussion of that effect shall include an indication of the completeness and availability of information in accordance with 40 CFR 1502.22. If information related to an adverse effect meets the criteria stated in 40 CFR 1502.22(b)(1) and (2), the discussions required in 1502.22(b) shall be included in the EIS before it is made available to the public.

(h) *List of Preparers.* (1) Reference: 40 CFR 1502.6, 1502.10(h), 1502.17 and 1507.2(a).

(2) An example List of Preparers is presented at Table 4. The study manager, an EIS coordinator and any consultant(s) should be identified in the list, as appropriate. Only people primarily responsible for preparing the document will be listed.

(i) *Public Involvement.* (1) Reference: 40 CFR 1502.9(b), 1502.10(i), 1503.1, 1503.4(a) and (b), 1506.6 and 1506.9.

(2) This chapter will briefly describe public involvement in the study to inform the reader of how public views guided and were incorporated into the study's decision-making process. It shall be presented in the following four discussions.

(3) Public Involvement Program. Briefly describe the means used to involve the public in the study and the major results of such involvement, including scoping activities.

(4) Required Coordination. Briefly describe any remaining required coordination with other agencies or groups, particularly coordination that is to be satisfied by circulation of the EIS for review and comment.

(5) Statement Recipients. List agencies, groups and individuals to whom copies of the EIS are sent. If a list of individuals receiving the EIS is extensive the word "Individuals" may be entered at the end of the list, followed by a reference to the Report Appendix and page number(s) presenting the full list of individuals.

(6) Public Views and Responses. In a draft statement, briefly describe public views that had a major influence on the study and how such views are incorporated into the study's decision-making process. In a final statement, include this draft statement discussion and a brief discussion of all substantive comments received on the draft which resulted in major changes in the study's decision factors (as described in the EIS Chapter 1 Summary) or those items specified in 40 CFR 1503.4(a)(1)–(3) and (5). Such changes should also be noted in appropriate discussions elsewhere in the final statement. The discussion will include references to other paragraphs and pages in the Main Report and Appendixes which present more thorough analyses of EIS comments and the district's responses, and the full text of comments received. Copies of comments shall not be included directly in the EIS but rather included in the Public Views and Responses Appendix in accordance with ER 1105–2–920, Appendix B, paragraph 3b(1).

j. *Index, References and Appendixes.* (1) Reference: 40 CFR 1500.4(j), 1502.10(j) and (k), 1502.18, 1502.21 and 1506.4.

(2) An index, list of references and appendixes will be combined as shown at table 5. The purpose of the table is to provide the reader with an alphabetized subject index with references to the EIS Main Report and Report Appendixes for each subject.

(3) Inclusion of a reference in the table will constitute incorporation of the cited material into the EIS by reference. No other lists of reference, bibliographies or other appendixes shall be included in the EIS.

7. *Scoping.*—a. *General.* (1) Reference: 40 CFR 1501.4(d), 1601.7, 1507.3(e), 1508.22 and 1508.23.

(2) CEQ's NEPA regulations state: "As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (1508.22) in the *Federal Register* except as provided in 1507.3(e)" (40 CFR 1501.7). The Notice of Intent shall, in part, "Describe the proposed action and possible alternatives" (40 CFR 1508.22(a)). CEQ's NEPA regulations also state:

"Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by 1501.7 may be published at a reasonable time in advance of preparation of the draft statement." (40 CFR 1507.3(e))

(3) In feasibility studies, a selected (or tentatively selected) plan is not identified until Stage 3 planning, prior to Milestone 6. Inasmuch as Milestone 6 is accomplished upon the reporting officer's submittal of a Draft Report (including a Draft EIS, as necessary) to higher authority, a Notice of Intent must be issued sufficiently in advance of Milestone 6 to allow adequate time for the EIS scoping process. The earliest prior time when a Notice of Intent could be issued would be in late Stage 2, following the completion of Milestone 5, when the reporting officer and higher authority have concurred in the final array of alternatives to be studied in detail during Stage 3 planning. While a single plan will not have been selected at this time, a "proposal" as defined in 40 CFR 1508.23, will have been identified. The "proposal" will be the final array of alternatives, one of which usually may be designated the selected plan (prior to Milestone 10). For feasibility studies, this "proposal" should be described in the Notice of Intent, Summary Items 1 and 2 required in ER 200–2–1, Appendix A. Publication of a Notice of Intent following Milestone 5 is consistent with the provisions of 40 CFR 1501.7, 1507.3(e) and related CEQ requirements.

(4) The district engineer may elect to publish a Notice of Intent following Milestone 5 but prior to the Formulation Stage Public Meeting if it is determined that a "scoping meeting" will be conducted and that such a meeting should be combined with an otherwise required public meeting. "Scoping meetings" are not required but may be conducted at the discretion of the district engineer.

(5) The intent of the scoping process is not limited to the preparation of EIS's in feasibility studies. Many of specific requirements included in CEQ's scoping process were integral parts of feasibility planning prior to promulgation of 40 CFR 1500–1508. These requirements, including the need for early and ongoing public participation in all aspects of the study, will continue to be met as a normal planning function prior to the publication of a Notice of Intent and the subsequent initiation of the formal EIS scoping process.

b. *Timing of Feasibility Study Actions to Meet Scoping Requirements.* The specific requirements of the scoping process, as defined in 40 CFR 1501.7, should be accomplished in accordance with the following paragraphs to the extent practicable. Cited milestones should be adjusted for Phase I studies in accordance with ER 18–2–2. Adjustments should also be considered for Continuing Authorities Studies where milestones are not applicable and planning Stages 2 and 3 may be combined. Scoping actions conducted at the discretion of the reporting officer are indicated by an asterisk (*).

(1) *Early Stage 1, following Milestone 1.* The following actions are taken (and continued or repeated as necessary throughout planning) with respect to environmental considerations in the study:

(a) Invite public participation (40 CFR 1501.7(a)(1)).

(b) Determine environmental scope and significant issues to be analyzed (40 CFR 1501.7(a)(2)).

(c) Eliminate not significant and previously covered environmental issues (40 CFR 1501.7(a)(3)).

(d) Indicate other related environmentally documents (40 CFR 1501.7(a)(5)).

(e) Hold a "scoping meeting" (40 CFR 1501.7(b)(4)).*

(2) *Stage 1, prior to Milestone 2.* The following actions are taken (and continued or repeated as necessary throughout planning) with respect to environmental considerations in the study.

(a) Allocate assignments for environmental analyses and reports (40 CFR 1501.7(a)(4)).

(b) Identify other environmental review and consultation requirements (40 CFR 1501.7(a)(6)).

(c) Indicate timing relationships between environmental analyses and planning-decision making (40 CFR 1501.7(a)(7)).

(d) Set time limits (study schedule) (40 CFR 1501.7(b)(2)).*

(3) *Early Stage 2, following Milestone 2.* "Scoping" determinations can be revised at this or at any subsequent time whenever it is necessary to do so (40 CFR 1501.7(c)).

(4) *Late Stage 2, following Milestone 5, usually prior to the Formulation Stage Public Meeting.* A Notice of Intent may be published at this time or any subsequent time prior to Stage 3, Milestone 6 (40 CFR 1501.7). Publication of a Notice of Intent will initiate the formal EIS scoping process.

(5) *Late Stage 2, following Milestone 5, in conjunction with the Formulation Stage Public Meeting.* An EIS "scoping meeting" may be conducted in conjunction with the Formulation Stage Public Meeting or any subsequent time prior to Stage 3, Milestone 6 (40 CFR 1501.7(b)(4)).*

(6) *Stage 3, prior to Milestone 6.* The following actions are taken with respect to environmental considerations in the EIS:

(a) Determine scope and significant issues to be analyzed (40 CFR 1501.7(a)(2)).

(b) Eliminate not significant and previously covered issues (40 CFR 1501.7(a)(3)).

(c) Allocate assignments for EIS preparation (40 CFR 1501.7(a)(4)).

(d) Indicate other related environmental documents (40 CFR 1501.7(a)(5)).

(7) *Not Applicable.* The following scoping requirements are met by previously established requirements and, therefore, are not accomplished by a particular action in planning during any given study:

(a) Set page limits (40 CFR 1501.7(b)(1))*; page limits are established in 40 CFR 1502 and ER 200-2-2.

(b) Set time limits (40 CFR 1501.7(b)(2))*; EIS review time limits are established in 40 CFR 1506.10 and ER 200-2-2.

(c) Adopt procedures for combining assessment and scoping requirements (40 CFR 1501.7(b)(3))*; combined impact assessment, public involvement and study management processes are established in the ER 1105-2-200 series and supporting regulations.

Table 1.—*Draft Coversheet Environmental Impact Statement*

Proposed Plan for Recreational Navigation and Wetland Habitat at Port Anytown American County, Va.

The responsible lead agency is the U.S. Army Engineer District, Gotham. The responsible cooperating agency is the U.S. Fish and Wildlife Service.

Abstract: Port Anytown is a small community in American County at the mouth of the Blue River. The Gotham District has investigated public concerns of the Port Anytown study area related to inadequate facilities for recreational navigation and the decline of the Blue River wetlands. Of the eleven plans initially considered, four were selected for detailed study. Plan 1, consisting of navigation channels and extensive breakwaters, would meet all navigation needs and destroy the wetlands. Plan 2, consisting of navigation channels and wetland acquisition, would meet some navigation needs and preserve the wetlands. Plan 3, consisting of wetland acquisition and management would not meet navigation needs and enhance the wetlands. Plan 4, consisting of navigation channels, limited breakwaters and wetlands acquisition, would meet most navigation needs and preserve the wetlands. Plan 4 has been tentatively selected based on its performance in addressing the identified public concerns and its net positive contributions to the goals of National Economic Development and Environmental Quality.

Send your comments to the district engineer by 1 January 1980. If you would like further information of this statement, please contact: Mr. John Smith, U.S. Army Engineer District, Gotham, 100 Main Street, Gotham, Virginia 10101, Commercial Telephone: (800) 555-1212, FTS Telephone: 555-1212.

Note.—Information, displays, maps, etc. discussed in the Port Anytown Main Report are incorporated by reference in the EIS.

Table 2.—*Relationship of Plans to Environmental Requirements Protection Statutes and Other Environmental Requirements*

[Name of Selected, or Tentatively Selected, Plan]

Federal Statutes	Plan 1	Plan 2	Plan 3	Plan 4
Archeological and Historic Preservation Act, as amended, 16 U.S.C. 469 *et seq.*	Partial	Partial	Partial	Partial
Clean Air Act, as amended, 42 U.S.C. 7401, *et seq*	Full	Full	Full	Full.
Clean Water Act, as amended (Federal Water Pollution Control Act), 33 U.S.C. 1251 *et seq.*	Full	Full	Full	Full.
Coastal Zone Management Act, as amended, 16 U.S.C. 1451, *et seq.*	N/A	N/A	N/A	N/A.
Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq*	Full	Full	Full	Full.
Estuary Protection Act, 16 U.S.C. 1221, *et seq*	N/A	N/A	N/A	N/A.
Federal Water Project Recreation Act, as amended, 16 U.S.C. 460-1(12), *et seq.*	Full	Partial	Full	Partial.
Fish and Wildlife Coordination Act, as amended, U.S.C. 661, *et seq.*	Etc	Etc	Etc	Etc.
Land and Water Conservation Fund Act, as amended, 16 U.S.C. 4601—4601-11 *et seq.*				
Marine Protection, Research and Sanctuaries Act, 22 U.S.C. 1401 *et seq.*				
National Historic Preservation Act, as amended, 16 U.S.C. 470a, *et seq.*				
National Environment Policy Act, as amended, 42 U.S.C. 4321, *et seq.*				
Rivers and Harbors Act, 33 U.S.C. 401 *et seq.*				
Watershed Protection and Flood Prevention Act, 16 U.S.C. 1001, *et seq.*				
Wild and Scenic Rivers Act, as amended, 16 U.S.C. 1271, *et seq.*				
Etc				

Table 2.—*Relationship of Plans to Environmental Requirements Protection Statutes and Other Environmental Requirements* —Continued

[Name of Selected, or Tentatively Selected, Plan]

Federal Statutes	Plan 1	Plan 2	Plan 3	Plan 4
Executive Orders, Memoranda, etc.:				
Floodplain Management (E.O. 11988)				
Protection of Wetlands (E.O. 11990)				
Environmental Effects Abroad of Major Federal Actions (E.O. 12114).				
Analysis of Impacts on Prime and Unique Farmlands (CEQ Memorandum, 30 Aug 76).				
Etc				
State and Local Policies:				
(List appropriate State and local policies and laws, e.g., a State "NEPA").				
Land Use Plans:				
(List appropriate Federal, State and local land use plans, policies and control not previously listed).				
Required Federal Entitlements:				
(List Federal permits, licenses and other entitlements needed to implement the plan, e.g., NPDES permit from EPA).				

NOTES.—The compliance categories used in this table were assigned based on the following definitions:

a. Full compliance—All requirements of the statute, E.O., or other policy and related regulations have been met.
b. Partial compliance—some requirements of the statute, E.O., or other policy and related regulations remain to be met.
c. Noncompliance—None of the requirements of the statute, E.O., or other policy and related regulations have been met.
d. Not Applicable—N/A statute, E.O., or other policy not applicable.

Table 3.—*Comparative Impacts of Alternatives*

[Name of Selected, or Tentatively Selected, Plan]

Base condition and alternatives	Blue River wetlands	Fort America historic site	Endangered yellow trout habitat	Blue River class "A" water quality	Marine-related employment
Base condition	Available: 1,000 acres.	Available: site on National Register of Historic Places (NRHP).	Available: 10 acres.	Available: 15 river-miles.	Available: 10 full-time equivalent (FTE) employees.
Without condition (No action).	Available: 200 acres. Impact: 0 acres.	Available: site on NRHP. Impact: None year.	Available: 10 acres. Impact: 0 acres/year.	Available: 10 river-miles. Impact: 0 river-miles/year.	Available: 10 FTE employees. Impact: 0 FTE employees/year.
Plan 1	Available: 0 acres. Impact: −350 acres/year.	Available: site on NRHP. Impact: loss of base condition visual setting due to unavoidable introduction of visible elements.	Available: 0 acres. Impact: −10 acres/year.	Available: 0 river-miles. Impact: −10 river-miles/year.	Available: 40 FTE employees. Impact: +27.5 FTE employees/year.
Plan 2	Available: 200 acres. Impact: [illegible] acres/year.	Available: site on NRHP. Impact: none.	Available: 0 acres. Impact: −10 acres/year, miles/year.	Available: 10 river-miles. Impact: 0 river/year.	Available: 20 FTE employees. Impact: +9.5 FTE employees.
Plan 3	Available: 1,500 acres. Impact: +775 acres/year.	Available: site on NRHP. Impact: none.	Available: 10 acres. Impact: 0 acres/year.	Available: 10 river-miles Impact: 0 river-miles/year.	Available: 10 FTE employees. Impact: 0 FTE employees/year.
Plan 4	Available: 200 acres. Impact: 0 acres/year.	Available: site on NRHP. Impact: none.	Available: 8 acres. Impact: −2 acres/year.	Available: 10 river-miles. Impact: 0 river-miles/year.	Available: 40 FTE employees. Impact: +27.5 FTE employees/year.

NOTES.—1. Base condition year = 1990. 2. Period of analysis = 100 years.

Table 4.—*List of Preparers*

The following people were primarily responsible for preparing this Environmental Impact Statement:

Name	Discipline/expertise	Experience	Role in preparing EIS
Mr. William Brown	Biology/general, fisheries.	2 years, lab assistant, American Biology Co.; 4 years, EIS studies, Gotham District.	Effects on Fishery Resources and Public Health.
Dr. Richard Green	Archeology	17 years, Professor of Prehistoric Archeology, Anytown University.	Consultant on Cultural Resource Impacts.
Mr. Thomas Jones	Engineering/civil, water resources.	5 years, civil engineer, Ubildum, Inc.; 3 years, planner, Gotham District.	Study Manager, Formulation of Alternatives, Needs Assessment
Mr. John Smith	Biology/wildlife	6 years, EIS studies, Gotham District	EIS Coordinator, Effects on Wildlife Resources.

Table 4.—*List of Preparers*—Continued

The following people were primarily responsible for preparing this Environmental Impact Statement:

Name	Discipline/expertise	Experience	Role in preparing EIS
Ms. Mary White	Chemistry/water	3 years, EIS studies, Gotham District	Effects on Water Quality.
Mr. Michael Yost	Economics/industrial, social.	2 years, industrial site analyist, Bencos Consultants; 6 years, economic studies, Gotham District.	Socio-Economic Effects.
Mr. Tom Black	Landscape architect/site planning and beautification.	4 years, site planner, Design Concepts Inc. of New York; 7 years EIS studies, Gotham District.	Effects on Natural Beauty and Landscape Aesthetics.

Table 5.—Index, References and Appendixes

[Name of Selected, or Tentatively Selected, Plan]

Subjects	Study documentation		
	Environmental Impact Statement	Main Report (References Incorporated)	Report Appendixes (References Incorporated)
Affected Environment	Pp. EIS 21-25, para. 4.01	Pp. 22-29	App. A, pp. A-11—A-143.
Alternatives	Pp. EIS 13-20, para. 3.01	Pp. 35-97	App. B, pp. B-3—B-210.
Areas of Controversy	Pp. EIS 6-7, para. 1.05	P. 4, pp. 63-64	App. C, pp. C-5—C-17; App. X, pp. X-10—X-22.
Comparative Impacts of Alternatives.	Etc	Etc	Etc.
Cover Sheet			
Environmental Conditions			
Environmental Effects			
List of Preparers			
Major Conclusions and Findings			
Need for and Objectives of Action.			
Planning Objectives			
Plans Consisted in Detail			
Plan Eliminated from Further Study.			
Public Concerns			
Public Involvement			
Public Involvement Program			
Public Views and Responses			
Relationship to Environmental Requirements.			
Required Coordination			
Resource No. 1			
Resource No. 2			
Significant Resources			
Statement Recipients			
Study Authority			
Summary			
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Unresolved Issues			
Without Conditions (No Action)			

NOTE.—Replace, in alphabetical sequence, with the subject titles developed for significant resources (see paragraph 6g).

Appendix B

Environmental Operating Procedures and Documents for Regulatory Functions

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1. *Introduction.* Because of the diverse geographic areas and types of activities covered by this regulation, it is likely that interpretive problems may arise from time to time. In keeping with Executive Order 12044 and the policy stated in the CEQ regulation implementing NEPA (40 CFR 1500.2), where interpretive problems arise and consideration of all other factors do not give a clear indication of a reasonable interpretation, the interpretation (consistent with the spirit and intent of NEPA) which results in the least paperwork and delay will be used.

2. *General.* This appendix provides guidance on the environmental requirements of 40 CFR 1500–1508 for Corps Civil Works field operating agencies with regulatory permits responsibilities. Where guidance in this appendix is not specific, the reader is referred to the basic regulation (ER 200–2–2). Where guidance is not specific in both this appendix and in the basic regulation, the reader is referred to 40 CFR 1500–1508.

3. *Development of Information and Data.* The district engineer (division engineer in the case of New England and Pacific Ocean divisions) may require the applicant to furnish appropriate information that the district engineer considers necessary to allow preparation of an EA or EIS. This information shall include appropriate data necessary to properly evaluate reasonable alternatives to the applicant's proposal and to fully describe all such reasonable alternatives in the appropriate environmental document. The applicant should be advised that there is no assurance that favorable action will ultimately be taken on the application. In such situations where relevant information is missing or incomplete and the costs of obtaining it are exorbitant or the means to obtain it are not known, the district engineer should include a "worst-case" analysis (see 40 CFR 1502.22) in the appropriate environmental document if the district engineer believes the applicant's proposal may be approved. The district engineer may require the applicant to furnish any additional information necessary to properly assess the impacts of the applicant's proposed project and to evaluate alternatives under paragraph 11b(5) of this appendix. The district engineer shall assure the conduct of an independent evaluation and shall be responsible for the accuracy of the information submitted by the applicant.

4. *Elimination of Duplication with State and Local Procedures.* See paragraph 20 basic regulation.

5. *Informing the Public.* Several paragraphs of this appendix (paragraphs 7, 8, 10, 12, and 18) and 33 CFR 325 provide information regarding district engineers making available to the public certain environmental documents in accordance with 40 CFR 1506.6. The district engineer may, if resources are available, go beyond this regulation and inform the public of various other environmental and decision processes that have occurred.

6. *Pre-Application Consultation for Major Applications.* In accordance with 40 CFR 1501.2(d) and the guidance in 33 CFR 325, the district engineer shall establish local procedures and policies including an appropriate publicity program to advise potential permit applicants of the pre-application consultation process where future Corps permitting actions may be required. At the earliest possible time, the district engineer (or designated staff) shall inform potential applicants of the required public interest review including the preparation of an environmental document and attendent reviews, and other actions including the scoping process, if appropriate.

7. *Categorical Exclusions.* In addition, each district engineer may develop a supplemental list of proposed categorical exclusions as defined in 40 CFR 1508.4 appropriate to that district; notify other Federal, state, and local agencies and the general public through separate public notice procedures with a minimum 90 day comment period; and, if deemed necessary, hold a public hearing. The district engineer shall then forward the list through the division engineer to DAEN–CWO–N. Following review for Corps-wide consistency, the list will be forwarded to CEQ for approval. A public notice shall be issued at the conclusion of these procedures announcing the final list. This list may be revised from time to time using these public notice procedures. After adoption of categorical exclusion categories, public notices on site specific applications falling within such categories shall state that the application is considered to be a categorical exclusion so that commenting agencies and the public will have the opportunity to demonstrate that extraordinary circumstances exist on a particular application, thus requiring the preparation of an EA.

8. *EA/FONSI Document.* (See 40 CFR 1508.9 and 1508.13 for definitions).

a. *Environmental Assessment (EA).* The district engineer shall prepare an EA as soon as practicable after all relevant information has been made available to the district engineer (i.e., after the comment period for the public notice announcing receipt of the permit application has expired) and prior to preparation of the Findings of Fact (FOF). The alternative portion of the EA shall follow paragraph 11b(5) of this appendix. However, when the EA confirms that the impact of the applicant's proposal is not significant, there are no "unresolved conflicts concerning alternative uses of available resource . . ." (Section 102(2)(E) of NEPA), and the proposed action is a water dependent activity, the EA need not include a discussion on alternatives to the proposal. In all other cases the EA must address all the alternatives, as discussed in paragraph 11b(5) of this appendix, that go before the ultimate decision maker. This discussion will include suggested means by which the environment might be protected and by which adverse impacts could be reduced by conditioning of the permit. The EA shall be a brief document (5–15 pages) primarily focusing on whether or not the entire project subject to the permit requirement could have significant effects on the environment but shall not be used to justify a decision. (For example, where a utility company is applying for a permit to construct an outfall pipe from a proposed power plant, the EA must assess the direct and indirect environmental effects and alternatives of the entire plant.) The EA shall conclude with a FONSI (See 40 CFR 1508.13) or a determination that an EIS is required.

b. *Responsibilities in Preparing EA.* If information for an EA is undertaken by an outside consultant or prepared by the applicant, the district engineer is responsible for independent verification and use of the data, evaluation of the environmental issues, and for the scope and content of the EA. Preparation of an EA shall be based on considerations discussed in 40 CFR 1501, 1506 and 1508 and the instruction contained in paragraph 9 of the basic regulation.

c. *FONSI.* If, the district engineer determines that a permit proposal's impact is not significant, the district engineer shall include a FONSI (See 40 CFR 1508.13) at the end of the EA. The combined document (i.e., both the EA and the FONSI) shall be dated, signed, and placed in the permit record. Where the district engineer has delegated authority to sign permits on his behalf, he may similarly delegate the signing of the EA/FONSI document. The FONSI will be based on information contained in the EA and other pertinent data obtained from cooperating Federal agencies having jurisdiction by law or special expertise, the interested public, the applicant, and Corp's expertise.

9. *Findings of Fact (FOF).* In accordance with 33 CFR 325, the District Engineer shall prepare as a separate document a FOF for every permit application not requiring an EIS. The FOF may reference the EA to avoid duplication.

10. *Environmental Impact Statement—General.*

a. *Determination of Lead and Cooperating Agencies.* When the district engineer concludes that the applicant's proposed activity may significantly affect the quality of the human environment and the district engineer believes that a permit may be warranted, the district engineer will first determine whether any other Federal agencies are involved. The district will contact any such other Federal agencies to determine their respective role(s) in the overall Federal action, i.e., that of lead agency, joint lead agency, or cooperating agency.

b. *Corps as Lead Agency.* When the Corps is lead agency, it will be responsible for funding the entire EIS except for those portions which come under the jurisdiction of other Federal agencies. Staff support from other Federal agencies beyond the immediate jurisdiction of those agencies may be cost reimbursed by the Corps under written agreement.

c. *Corps as Cooperating Agency.* If another agency is the lead agency as set forth by the CEQ regulations (40 CFR 1501.5 and 1501.6(a) and 1508.16), the district engineer will coordinate with that agency as a cooperating agency under 40 CFR 1501.6(b) and 1508.5 to insure that agency's resulting EIS may be adopted by the Corps for purposes of exercising its permit authority. As a cooperating agency the Corps will be responsible to the lead agency for providing that environmental information which is directly related to the regulatory matter involved and which is required for the preparation of an EIS and any inherent funding involved. This in no way shall be construed as lessening the district engineer's ability to request the applicant to furnish appropriate information as discussed in paragraph 3 of this appendix.

When the corps is a cooperating agency because of a regulatory permit action, the district engineer will, in accordance with 40 CFR 1501.6(b)(4), "make available staff support at the lead agency's request" to enhance the latter's interdisciplinary capability provided the request pertains to the Corps permit action covered by the EIS. Beyond this, Corps staff support will generally be made available to the lead agency to the extent practicable within its own responsibility and available resources. Any assistance to a lead agency beyond this will normally be by written agreement with the lead agency providing for a cost reimbursible basis for Corps resources expended. If the district engineer thinks a public hearing should be held and another agency is the lead agency, the district engineer may request that the lead agency hold a joint public hearing and provide reasons why the joint hearing will be helpful. The district engineer should offer to take an active part in the hearing and ensure coverage of Corps concerns.

d. *Additional Information from Applicant Relating to EIS Preparation.* In cases where a Corps EIS is required, the district engineer may require the applicant to furnish appropriate additional information that the district engineer considers necessary to allow preparation of the EIS. The district engineer shall assist the applicant by outlining the types of information required. Early draft submittals of data may be made by the applicant to the district engineer for advisory review by appropriate disciplines either within the district engineer's staff or other agencies. This procedure envisions Corps or agency mark-up and informal comment and return to the applicant with brief time schedules to avoid unnecessary delays in the preparation process. The single point of contact designated within the district staff to effectively coordinate the regulatory process (33 CFR 325) shall also coordinate this process.

e. *Scoping Process.* The district engineer shall include the applicant in the scoping process with a view that the scope of the material to be submitted by the applicant will be sufficient. The scoping process should develop the topical scope of the pending EIS and allow the applicant to be advised of the data and information required by the district engineer. The scoping process shall be conducted by the element within the district that is responsible for preparing the EIS, but shall in any case, involve and include the single district regulatory staff coordinator for the proposed regulatory (and NEPA) action.

f. *Contracting.* The district engineer may prepare an EIS either with its own in-house staff or by choosing a contractor. In choosing a contractor who reports directly to the district engineer, the procedures of 40 CFR 1506.5(c) will be followed. Where the district engineer is aware of any conflict of interest concerning the outcome of the proposed permit action which the proposed contractor may have, the district engineer shall not select that contractor. Where the information base required for an EIS is prepared by a consultant employed by the applicant with a view that the resulting information will meet the district engineer's request for additional information which may be used by the district engineer in preparing an EIS, the district engineer will i) advise the applicant and/or his consultant of the Corps' information requirements, and ii) meet with the application and/or his consultant from time to time and provide him with the district engineer's views regarding adequacy of the data that is being developed (including how such data will be viewed in light of any possible conflict of interest which the consultant may have). The applicant and/or his consultant may either accept or reject the district engineer's guidance. However, the district engineer may require the applicant to resubmit any previously submitted data which the district engineer considers inadequate or inaccurate. The district engineer must specify the portion of information which is in contention. In all cases, the district engineer shall ensure the conduct of an independent evaluation of the information submitted and shall be responsible for its accuracy. This shall be documented in the record. Both the names of the principal preparers and those responsible for the independent evaluation shall be included in the EIS (see CFR 1506.5(a)).

g. *Change in EIS Determination.* If the district engineer has previously published a notice of intent to prepare an EIS, or has already prepared and distributed a Draft EIS, the district engineer may at any time determine an EIS is no longer required due to (1) reevaluation of the original determination, (2) reduced scope of the proposal, (3) receipt of additional information, or (4) sufficient evidence in the record to support denial of the proposal. If the EIS process is curtailed, the distict engineer shall notify in writing the Office, Chief of Engineers, the appropriate Corps division office, the appropriate EPA Regional Administrator, the Office of Environmental Review of the Environmental Protection Agency, Washington, DC, and the public of his determination.

h. *Permit Denial Anticipated.* The EIS process may follow through the completion of the final EIS stage even though denial of the application is anticipated if the record is not sufficient to support denial without completion of the final EIS process or if, in the district engineer's opinion, the public interest would be better served if the EIS process were completed. However, if denial is anticipated, the district engineer may informally notify the applicant that, although a final decision has not been made, the district engineer anticipates denial of the permit with the view that this applicant may wish to modify his proposal. If the case will be elevated to higher authority for decision, any EIS process must be completed prior to any such elevation. In this instance the district engineer should not limit the alternatives from which higher authority must choose. The district engineer shall forward to higher authority his views on comments received on the final EIS or final supplement to the final EIS.

i. *Time Limits.* If, in addition to time requirements the district engineer might otherwise set, the Corps is asked by an applicant to set time limits for the various stages in the NEPA process under 40 CFR 1501.8, the district engineer shall set time limits in accordance with the guidelines presented in 40 CFR 1501.8. These time limits shall be set in the best judgment of the district engineer based on past experience. Because problems beyond the control of the district engineer occasionally arise, any time limits set cannot be considered absolutely binding. When the Corps is a cooperating agency in a permit related action, the district engineer will make every reasonable effort to adhere to the time limits imposed by the lead agency.

j. *Definition of Corps Action.* For regulatory permits, the Corps action is issuance of a permit or issuance of a permit with conditions. For regulatory permits, denial of a permit application is considered "no action" on the part of the Corps.

11. *Organization and Content of Draft EIS's.*

a. *General.* This section gives detailed information for preparing Draft EIS for regulatory permit applications that significantly affect the quality of the human environment. When the Corps is the only lead agency, this Draft EIS format and these procedures will be followed. When the Corps is one of the joint lead agencies, the joint lead agencies will mutually decide which agency's format and procedures will be followed. When the Corps is a cooperating agency, the district engineer will ensure that the Corps' information requirements are contained in the lead agency's Draft EIS. In either case, the EIS should assess the direct and indirect environmental effects and alternatives on the entire project including the portion directly subject to the permit requirement.

b. *Format.*

(1) *Cover Sheet.*

(a) Ref. 40 CFR 1502.11.

(b) The "person at the agency who can supply further information" (40 CFR 1502.11(c)) is the regulatory action officer handling that permit action.

(c) The cover sheet shall identify the EIS as a Corps permit action and state the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction.

(2) *Summary.* In addition to the requirements of 40 CFR 1502.12, this section shall identify the proposed action as a Corps permit action stating the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction; it shall also summarize the purpose and need for the proposed action as described in paragraph 11(b)(4) below, and it shall briefly state the beneficial/adverse impacts of the proposed action.

(3) *Table of Contents.*

(4) *Purpose of and Need for the Proposal.* This section shall briefly recognize that every application has both an applicant's purpose and need and a public purpose and need. These may be the same when the applicant is a governmental body or agency. In most instances when an EIS is required and the applicant is not a governmental body or agency, the applicant is a member of the private sector engaged in providing a good or service for profit. At the same time, the applicant is requesting a permit to perform work which, if approved, is considered in the public interest (i.e., provides a public benefit). This public benefit shall be stated in as broad, generic terms as possible. For instance, the need for a water intake structure requiring a Corps permit as part of a fossil fuel power plant shall be stated as the need for energy and not be limited to the need for cooling water. In a similar way, the need for housing near canals or near marinas, etc., shall be expressed as the need for shelter and not as the need for recreation near water.

(5) *Alternatives.*

(a) Ref. 40 CFR 1502.14

(b) *Alternatives to be considered.* The EIS shall document a reasonable number and range of alternatives which would satisfy the purpose and need (as described in paragraph 11(b)(4) above) for which the applicant has submitted his proposal. The EIS (or EIS supplement) must address all the practicable alternatives that go before the ultimate decision maker (see 40 CFR 1505.1(e)). If the decision maker's proposed action on a permit application was not included as one of the alternatives in the final EIS and it differs substantively from those alternatives which were discussed, a draft and final supplemental to the final EIS as discussed in paragraph 16 of this appendix, must be prepared and circulated. However, new alternatives not previously discussed in a draft EIS may be included in the final EIS if they are variants of alternatives described in the draft EIS. The alternative section shall discuss the environmental impacts of the applicant's proposal and alternatives in comparative form. A chart is highly recommended as a means of providing easy, side by side, analysis of the impacts of the proposal and its alternatives. Only those features and impacts that are significant and comparable shall be compared side by side. In depth evaluation will normally be limited to those reasonable alternatives which are both practical and:

(i) Within the capability of the applicant and within the jurisdiction of the Corps of Engineers. (These alternatives may encompass the Corps alternative to issue the permit as requested or to issue with mitigating conditions. It may also encompass the alternative to deny the permit with a view toward accomplishing the objective of the proposal by the applicant (or by any other party) by some other means or at some other site still within Corps jurisdiction.)

(ii) Within the capability of the applicant but outside the jurisdiction of the Corps of Engineers. (This alternative may include denial of the permit with a view toward accomplishing the objective of the proposal by the applicant (or any other party) outside of Corps jurisdiction.)

(iii) Reasonably foreseeable, beyond the capability of the applicant but *within* the jurisdiction of the Corps of Engineers. (This alternative may include the do-nothing or deny alternative, with a view toward the satisfaction of the public and/or private need by some other entity beyond the control of the applicant but within the jurisdiction of the Corps of Engineers).

(iv) Reasonably foreseeable, although beyond both the capability of the applicant *and* outside the jurisdiction of the Corps of Engineers. (This alternative may include the do-nothing or deny alternative, with a view toward the satisfaction of the public and/or private need by some other entity beyond the control of the applicant and beyond the scope of the Corps of Engineers.)

The EIS should clearly identify alternatives discussed in detail by the above categories. While these alternatives are to be discussed in depth, the level of in-depth evaluation of each may vary dependent upon the ranking of the alternatives in order of the likelihood that they may be accomplished. For non-water dependent activities which may affect floodplain values, the district engineer shall include in his EA or EIS a discussion of the availability of practicable alternatives outside the floodplain pursuant to Executive Order 11988.

(c) 40 CFR 1502.23 states a cost-benefit analysis shall be incorporated into the EIS when such an analysis is "relevant to the choice among alternatives . . . being considered for the proposed action." For regulatory permits, cost-benefit ratios need not be prepared on proposed actions as they relate to the efficiency of the proposal or the efficiency of the enterprise in the private sector. However, baseline economic data and its interpretation is appropriately included in an EIS when the data shows a measurable impact on the public (e.g. the price variation of energy when produced by a coal-fired generating plant versus nuclear plant or hydropower).

(d) *Disclosure of Preferred Alternative.* For regulatory permit actions, the Corps takes an impartial position whether to issue or deny a particular application until the public interest review is complete. At no time is the Corps a proponent of any action. It simply determines whether or not certain actions proposed by applicants are in the public interest and under what circumstances such proposals, if modified, would be in the public interest. The Corps' actual decision that is made by the final decision maker will be stated in the Record of Decision. This does not negate the requirement under 40 CFR 1505.2(b) for the district engineer to objectively state the "environmentally preferred alternative."

(e) *Mitigation.* Guidance on mitigative measures which may be considered when evaluating permit applications is given in 33 CFR 325.4.

(6) *Affected Environment.* Ref. 40 CFR 1502.15

(7) *Environmental Consequences.*

(a) Ref. 40 CFR 1502.16

(b) Ref. to 33 CFR 325 for definitions of primary effects, secondary effects, and other impacts.

(c) Except for Federal projects meeting the requirements of Section 404(r) of the Clean Water Act, the Section 404(b)(1) analysis under the Clean Water Act may, but need not necessarily, be included in the EIS at the discretion of the district engineer. The information required by the 404(b)(1) guidelines, when included, will be integrated into the text of the EIS.

(8) *List of Preparers.* Ref. 40 CFR 1502.17

(9) *Public Involvement.*

(a) References: 40 CFR 1502.9(b), 1502.10(i), 1503.1, 1503.4, 1506.6, and 1506.9.

(b) This section shall briefly describe the public's involvement in the EIS process. It shall (i) briefly state the means used to involve the public including the scoping process, any public hearings held, etc., (ii) briefly state the Federal, State, and local agencies, organizations, and individuals (in this order) to whom copies of the statement have been sent, (iii) if a final EIS include copies of the public's comments on the draft EIS and the Corps responses to those comments. This portion shall include any responsible opposing views as well as the Corps responses to those issues raised. See paragraph 19c, "Comments Received on The Draft EIS" of basic regulation.

(10) *Appendixes.* The appendix portion of the EIS should contain background and supporting data and studies while the text of the EIS should contain data stating baseline information and anticipated impacts of the proposal. One guideline to be used in this regard is to place the data in the EIS text itself when to do otherwise would cause the reader to refer frequently to the appendix in order to understand the EIS text. Any remaining information not able to be incorporated by reference in accordance with 40 CFR 1502.21 should be placed in the appendix. Placing as much data, studies, etc., into the draft EIS appendixes, within the above guidance, has the additional advantage that such information need only be referenced in the final EIS, not additionally reproduced in the final EIS.

(11) *Index.* The index of an EIS is to be designed to provide for easy reference to items discussed in the main text of the EIS. These items are to be listed in the index in alphabetical order and page(s) and paragraph number(s) given for each item. The index shall be placed at the very end of the EIS document.

12. *Notice of Intent.* The district engineer shall follow the guidance in ER 200–2–1 in preparing a notice of intent to prepare a Draft EIS for publication in the **Federal Register**. A notice of intent announcing a proposed Draft EIS for regulatory permit actions shall identify the action as a regulatory permit action in the title of the notice as listed in the Table of Contents to the **Federal Register**.

13. *Public Hearing.* If a public hearing is to be held pursuant to 33 CFR 327, and a draft EIS is to be considered at the public hearing, the district engineer will make the draft EIS available to the public at least 15 days in advance of the hearing (unless the purpose of the hearing is to provide information for the draft EIS). If a hearing request is received from another agency having jurisdiction as provided in 40 CFR 1506.6(c)(2), the district engineer shall initiate coordination for a joint hearing with that agency whenever appropriate. Unless the district engineer concurs that such a hearing is required under 33 CFR 327 he will not independently conduct a hearing.

14. *Organization and Content of Final EIS.* The organization and content of the final EIS shall follow the guidance in paragraph 11a(2) of the basic regulation. The EIS is not a decision document and the filing of a final EIS is not to be considered a decision on a permit application. Nor is an EIS to be prepared to justify a decision. An EIS is prepared to provide information on which a decision is based. Filing the final EIS is merely one of the administrative steps which must be taken to comply with the procedural provisions of NEPA in accordance with CEQ regulations when processing a permit application which may significantly affect the quality of the human environment. Permit issuance cannot occur until 30 days after the final EIS has been noticed in the **Federal Register** by EPA and the Record of Decision signed.

15. *Comments Received on the Final EIS.* For permit cases to be decided at the district level, the district engineer will carefully review and consider all comments received on the final EIS before making a final decision on the applicant's proposal but need not reply to those parties providing comments on the final EIS. For permit cases elevated to higher authority for a decision, the district engineer shall forward the incoming letters together with appropriate responses to the substantive comments to higher authority along with the case. In the case of a letter recommending a referral under 40 CFR 1504, the district engineer will follow the guidance in paragraph 23 of this appendix.

16. *EIS Supplement.* a. See 40 CFR 1502.9(c)(1) and paragraph 11b of basic regulation when a supplement to either a draft or final EIS is required.

b. A supplement to a draft EIS will require a 45-day minimum comment period. Note that there is no draft supplement or final supplement to a draft EIS, only a supplement to a draft EIS. The final EIS will encompass all information presented in both the draft EIS and the supplement to the draft EIS.

c. A supplement to a final EIS will be prepared as both a draft supplement to the final EIS and a final supplement to the final EIS. The 45- and 30-day minimum comment periods, respectively, are required. No final action shall be taken on the applicant's proposal sooner than 90-days after the draft supplement has been filed with EPA. See 40 CFR 1502.9(c)(4).

d. Supplements will be prepared in the EIS format described in paragraph 11 of this appendix. References to the draft or final EIS being supplemented should be used extensively to eliminate repetitive discussion. The supplements should primarily be concerned with and should discuss the significance of impacts resulting from the changes, new information, or circumstances relevant to the environmental or other concerns which impact or have a bearing on the applicant's proposal.

17. *Supplemental Information and Other Reports.* Paragraphs 11(d) and (e) of the main text provide background information and guidance for supplemental information reports. Supplemental information reports are not required by 40 CFR 1500. Therefore, regulatory permit field elements need not prepare them. However, should a district engineer feel the public interest would be better served by distributing such supplemental information reports to the public, he may do so at his discretion. Unless specifically requested none are to be forwarded to DAEN–CWO–N.

18. *Public Notice Announcing Availability of Draft, Final EIS and EIS Supplements.* In order to notify the interested public of its opportunity to comment on draft and final EIS and any EIS supplements, the district engineer shall issue a public notice as soon as practicable after the filing notation has been published in the **Federal Register.** This notice should be furnished to all parties receiving any earlier notices, all parties receiving any previous copies of the EIS, and all others who have expressed an interest in the application as well as those parties listed in 40 CFR 1506.6 as appropriate. When the Corps is a cooperating agency, the district engineer may, but is not required, to distribute public notices in accordance with this paragraph. The public notice should include:

a. A brief summary of the application (applicant work, date(s) of other notice(s), dates of any previous EIS (draft, supplement to the draft, final, draft supplement to the final), date(s) of hearing(s) if held;

b. Opportunity to comment to the district engineer on the EIS or EIS supplement until the deadline date projected by the comment period (required by 40 CFR 1506.10 and paragraph 16 of Appendix B) which began with notation in the **Federal Register** that the EIS or EIS supplement had been filed;

c. A statement that the comments received on the EIS or EIS supplement will be evaluated and considered in arriving at a final decision on the application; and

d. Information on how interested parties can obtain or have access to the EIS or EIS supplement.

19. *Filing Requirements.* District engineers will file draft and final EIS and any EIS supplements directly with EPA after appropriate review by the respective division office and the incorporation in the EIS of division's comments. Five (5) copies shall be sent to Director, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Draft and final EIS and any appropriate supplements shall be mailed (with the required number of copies) to those agencies, groups, and individuals known to have an interest or who have requested they receive such copies for the proposal in question and in accordance with 40 CFR 1502.19, 1503.1, and 1506.6. At the same time they are mailed to EPA for filing, one copy of each draft and final EIS, and EIS supplements when appropriate, shall be forwarded to HQDA (DAEN–CWO–N) WASH DC 20314. The transmittal letter to OCE shall include the status of the permit application, a list of the objectors, the issues involved, whether the case is in litigation, and a preliminary determination whether the permit decision will be made at the district level. 40 CFR 1506.10 describes the timing of an agency action when an EIS is involved.

20. *Expedited Filing.* 40 CFR 1506.10 provides information on allowable time reductions and time extensions associated with the EIS process. When an applicant's proposed action must be undertaken within critical time restraints or because of compelling reasons of national policy, a shortened review period may be recommended. In such cases, the district engineer will provide the necessary information and facts to HQDA (DAEN–CWZ–P) WASH DC 20314 (with copy to DAEN–CWO–N) for consultation with EPA for a reduction in the prescribed review periods.

21. *Record of Decision.* In those cases involving an EIS, the Findings of Fact will be called the Record of Decision and shall incorporate the requirements of 40 CFR 1505.2. The Record of Decision is not to be included when filing a final EIS. The Record of Decision is not to be prepared nor signed until 30 days after the final EIS has been noticed in the **Federal Register** by EPA. To avoid duplication, the Record of Decision may reference the EIS.

22. *Predecision Referrals by Other Agencies for Regulatory Permits.* If the district engineer receives comments on a draft EIS from another Federal agency advising of a potential referral to CEQ under 40 CFR 1504, the district engineer shall, to the extent practicable, provide the necessary information and/or attempt to resolve the differences prior to filing the final EIS on the proposed action. In all cases the final decision-maker, as set forth in 33 CFR 325.8, will wait the 30 day comment period following filing of the final EIS before making his final decision. If this decision is contrary to the position of the agency which has indicated an intent to refer the matter to CEQ, the decision-maker will notify the agency and CEQ of his proposed decision. The referring agency will then have 25 calendar days to actually refer the case to CEQ under 40 CFR 1504 if it so chooses. If a referral is made, the decision-maker will transmit the referral to (DAEN–CWZ–P) and (DAEN–CWO–N) for further guidance.

23. *Review of Other Agencies' EIS.* If the district engineer determines after review of another agency's draft EIS that the proposed action (which must involve a Corps permit action) is inadequate with respect to the Corps permit action, the district engineer shall attempt to resolve the differences concerning the Corps permit action prior to the filing of the final EIS by the other agency. If these attempts are unsuccessful and, upon review of another agency's final EIS the district engineer finds that final EIS is inadequate with respect to the Corps permit

action, the district engineer shall supplement the final EIS with either an EA or a draft and final supplement to that agency's final EIS.

24. *Monitoring.* Monitoring compliance with permit requirements shall be carried out in accordance with 40 CFR 1505.3 and as deemed necessary under 33 CFR 325. For those permit actions for which an EIS has been prepared and the Corps is the lead agency, the district engineer shall, upon written request, make available to the public the results of relevant monitoring. Appropriate mitigation and other conditions shall be a part of the permit as specified in 33 CFR 325. For those permit actions for which an EIS has been prepared and the Corps is the lead agency, the district engineer shall, upon written request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which the Corps adopted in making its permit decision.

Appendix C

Processing Corps EIS

EIS prepared for Corps Civil Works actions will be processed in accordance with the instructions contained in this Appendix and applicable paragraphs in the regulation.

Title

1. Survey Studies
2. Continuing Authority Studies
3. Post Authorization Advanced Engineering and Design (AE&D)
4. Projects in a Continuing Construction Category
5. Completed Projects in an Operations and Maintenance Category
6. Regulatory Permits
7. Real Estate Managment and Disposal Actions
8. EIS Processing Instructions for ASA (CW) Review

1. *Survey Studies.* Environmental considerations shall be integrated into the multiobjective planning process in accordance with the ER 1105–2–200 series. Documentation and related processing requirements based on 40 CFR 1500–1508 are discussed below for the three planning stages.

a. *Stage 1 Planning.* No separate, formal NEPA-related documents are required during Stage 1 Planning. Environmental considerations will be included in the Reconnaissance Report (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920).

b. *Stage 2 Planning.* Environmental considerations will be included in Stage 2 documentation submitted to Division for the Stage 2 Checkpoint Conference (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920).

c. *Stage 3 Planning.* A Draft Survey Report, consisting of a draft of the Main Report (which includes a Draft EIS) and Appendixes, will be submitted to Division to accomplish Milestone 06 (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920). Circulation of the Draft Survey Report and filing of the Draft Survey Report and EIS with EPA (Milestone 09) will be accomplished at least 15 days before the Stage 3 Public Meeting is conducted.

(1) The number of copies of the Draft Survey Report to be distributed to accomplished Milestone 09 is as follows:

(a) Three (3) copies to HQDA (DAEN–CWP–E, C or W, as appropriate) WASH DC 20314.

(b) Three (3) copies to the appropriate division engineer (not applicable to NED and POD).

(c) Five (5) copies to EPA (Washington Office) for filing (See paragraph 17).

(d) One or more copies to public agencies, private groups and individuals known to have an interest in the study. A notice of availability will be sent to all others on the mailing list.

(2) District engineers shall insure that the Draft Survey Report and EIS will be filed with EPA no earlier than they are also circulated to parties on the study mailing list.

(3) The complete Draft Survey Report and EIS, including all report Appendixes, will be provided in the distribution required by paragraphs 1c (1) (a)–(c) above. Other groups and parties on the study mailing list known to have an interest in the study will receive, as a minimum, the draft of the Main Report (which includes a Draft EIS) and the report appendix titled Public Views and Responses. (See ER 1105–2–920, Appendix B, paragraph 3). In cases where the other report Appendixes are exceedingly voluminous, consideration should be given to including in the distribution only those Appendixes that will be of particular interest to each recipient. For example, it may not be necessary to provide a state fish and game agency with a copy of the Social and Cultural Resources Appendix. If this approach is used, an annotated Bibliography of Report Appendixes (citing the title, preparation date and cost and a summary of the contents for each Appendix, as well as instructions for obtaining copies of Appendixes) should be attached to the Report. In any case, Appendixes will be provided upon request.

(4) A news release announcing the availability of the draft may also be issued by the reporting officer releasing the document.

d. *Division Review.* After the Stage 3 public meeting and public review of the Draft Survey Report and EIS, the district engineer will finalize the Survey Report, including preparation of the final EIS. In accordance with paragraph 19c and Appendix A all comments and appropriate responses will be included in the Public Views and Responses Appendix. Significant issues and/or substantive comments received will be discussed in the Public Involvement chapter in the main text of the final EIS. The Final Survey Report, which will include the final EIS as a part of the Main Report will be submitted to the division engineer for review, approval and transmittal to the Board of Engineers for Rivers and Harbors (BERH) or Mississippi River Commission (MRC) in the case of Survey Reports prepared for Mississippi River and Tributaries projects. For the purpose of this regulation, only the acronym BERH will be used since the review functions of MRC and BERH are identical. (Milestone 10). Although the EIS in the main report is identified as a "final" at this stage of processing, it should be clear to all those requesting a copy that it is an "Interim Document Under Agency Review—Subject to Revision" and will become the agency's final EIS when it is filed with EPA after BERH and OCE review.

e. *BERH Review.* BERH will review the EIS at the same time as it reviews the Final Survey Report. The report and EIS should be compatible. If BERH review requires minor revisions to the plan as recommended by the reporting officers, minor changes to the EIS reflecting plan revisions shall be noted in the BERH report. If BERH action results in major revisions to the plan recommended by the reporting officer and the revisions are variants of the plan or alternatives described in the draft EIS, an addendum to the final EIS will be prepared by BERH (with assistance from the reporting officer, as required). This addendum "package" will be identified as an "Addendum to the Final EIS—Environmental Consequences of the Modifications Recommended by the Board of Engineers for Rivers and Harbors—project name." The format shall include an abstract on the cover page, recommended changes to the reporting officer's proposed plan, rationale for the recommended changes, environmental consequences of the recommended changes and the name, expertise/discipline, experience, and role of the principal preparer(s) of the addendum. Letters received during BERH review which provide new pertinent information having a bearing on the modifications recommended by BERH will be attached to the addendum.

f. *Departmental Reviews.* The Main Report including the final EIS, together with the proposed report of the Chief of Engineers and the BERH report, will be filed with EPA at the same time as it is circulated for 90-day Departmental review to the concerned state(s) and Federal agencies at the Washington level (Milestone 13). District engineers will circulate the Proposed Chief's report, BERH report, and the Main Report and final EIS to parties on the project mailing list not contacted by OCE (groups and individuals known to have an interest in the study or who provided comments on the draft EIS) allowing the normal 30-day period of review. Copies of report appendixes circulated with the draft need not be circulated with the Main Report and final EIS except for the Public Views and Responses Appendix which shall accompany all final EIS. All letters of comment received on the Main Report and final EIS together with OCE responses (including the responses of the district engineer as discussed in paragraph 19d) and the draft Record of Decision will be included with other papers furnished at the time the final Chief's Report is transmitted to ASA (CW) for further review and processing. (Milestone 15).

g. *Executive Reviews.* After completion of review, the Chief of Engineers will sign his final report and transmit the report and accompanying documents to ASA (CW). ASA (CW) will transmit the entire report to the WRC for technical review. After technical review the WRC will prepare its findings and return the report to ASA (CW) who will transmit the report to OMB requesting its views in relation to the program of the President (Milestone 16). The WRC and OMB packages will not contain copies of the draft Record of Decision. After OMB provides its views, ASA (CW) will sign the Record of Decision and transmit the report to Congress (Milestones 17–19). A letter of issuance inclosing a copy of the Record of Decision will be sent to the Washington Office of EPA with a copy of the letter to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the proposed action.

2. *Continuing Authority Studies.*—a. *General.* The Detailed Project Report (DPR) as discussed in paragraph 6b(3), is the decision document for Continuing Authority Studies and will be prepared in draft and final format including a draft and final EIS and FONSI (as appropriate) within the bound document. The DPR should follow the format of a survey report as discussed in ER 1105–2–920.

The organization, format and content of the EIS will be in accordance with the guidance in Appendix A. If an EA and FONSI are used, they will be prepared in accordance with paragraphs 9 and 10 and included within the DPR in place of the EIS. Since the proposed action normally requires an EIS, the EA and unsigned FONSI will be circulated with the DPR.

b. *Preparation and Draft Review.* As soon as practicable after initiation of the study, a Notice of Intent, as discussed in paragraph 16, will be prepared and published in the **Federal Register** if the district engineer determines that an EIS will be prepared for the proposed action. Following the essential planning stage documentation, the district engineer will prepare the draft DPR including the draft EIS within the DPR, and circulate it to agencies, groups and individuals known to have an interest in the study. A notice of availability will be sent to all others on the mailing list. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. In the case of an EA, only one copy of the report and the EA shall be furnished to the Washington office of EPA. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWP–E, C, or W as appropriate) WASH DC 20314, and three to the division engineer). District engineers shall insure that the Draft Report and EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list. If a late stage public meeting is held in connection with the proposed action, the Draft Report and EIS should be available to the public at least 15 days before the meeting. A news release announcing the availability of the document may also be issued when the draft is filed with EPA.

c. *Agency Review.* After review and evaluation of comments received the district engineer will finalize the DPR, including preparation of the final EIS within the DPR. Comments and responses will be handled in accordance with paragraph 19c, and Appendix A. In the case of an EA, the comments and responses will be handled the same as for an EIS. The district engineer will sign the FONSI and include it with the EA in the final DPR. Eleven (11) copies of the Final DPR will be transmitted to the division engineer for review and approval of the technical aspects of the proposed action. After review the division engineer will transmit eight (8) copies of the Final DPR to HQDA (DAEN–CWP–E, C or W as appropriate) WASH DC 20314 for further processing. Appropriate elements within OCE will review the Final DPR and EIS and file it with EPA in accordance with paragraph 17 with a copy provided to ASA(CW). District engineers will be advised when OCE review is completed so that the Final DPR and EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list.

d. *Final Review.* Letters of comment on the Final DPR including the final EIS, will be answered by the district engineer on an individual basis. Five (5) copies of all incoming letters and the district engineer's reply, as appropriate together with a draft of the Record of Decision, will be submitted through division to the appropriate element within OCE who filed the Final DPR. After review of all incoming comments and Corps responses, the Director of Civil Works will sign the Record of Decision and approve the project. A letter of issuance together with a copy of the Record of Decision will be sent to the Washington Office of EPA with a copy to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

3. *Post Authorization Advanced Engineering and Design (AE&D).*— a. *Phase I GDM.* The Phase I GDM (AE&D Planning Report) as discussed in paragraph 6b(2), is the decision document at this first phase of post-authorization planning for those projects authorized for construction, those authorized for post authorization planning only and those cases where a combined post authorization planning and design report is considered advisable. It will follow the format prescribed for survey reports as discussed in ER 1105–2–920 and procedures outlined in ER 1105–2–30 for OCE or division approval or congressional action. After receipt of Phase I planning study funds, the district engineer will review the final EIS that was filed with the project was authorized and make a determination what type of further NEPA documentation may be required. If the Phase I study indicates that the environmental effects of the plan as proposed have not changed significantly from that which was authorized, and were adequately and fully covered in the final EIS, no further documentation is required except to note the availability of the previously filed final EIS. An EA may be used to demonstrate compliance with environmental review and consultation requirements not completed at time of authorization, as discussed in paragraph 25, except if the final EIS is to be submitted to Congress under Section 404(r) in which case a Supplemental Information Report addressing the Section 404 evaluation shall be utilized, together with the previously filed final EIS, as the documents submitted to Congress under Section 404(r). If the Phase I review indicates that there are significant impacts resulting from changes in the project which would significantly affect the quality of the human environment, a draft and final EIS supplement, prepared in accordance with paragraph 11.b. will be included within the draft and final Phase I GDM. Projects administratively combined for AE&D planning and design (Phase I and II) will undergo similar review, and EA or EIS documentation as necessary will be prepared.

(1) *Legislative Phase I GDM.* EIS documentation for Phase I GDM prepared for projects authorized for Phase I planning only which require BERH and Departmental review will be processed similar to survey studies as discussed in paragraph 1c, d, e, f and g of this Appendix. This documentation may vary from a statement indicating that no further NEPA documentation is required (no significant change) to a draft and final EIS supplement (where the environmental effects of the plan, as reformulated, are significant).

(2) *Administrative Phase I GDM.* EIS documentation for Phase I GDM prepared for projects authorized for construction including Section 201 projects which can be approved by the division engineer, or under certain conditions by OCE, may vary from a statement of no change to a draft and final EIS supplement as noted above.

b. *Phase II GDM.* The Phase II GDM (AE&D Design Report) presents the results of the detailed design and cost estimate studies. It may be used the same as the Phase I GDM as a basis for Congressional modification of an existing authorization. For projects authorized for Phase I planning only, the Phase I GDM must be submitted to Congress before design studies are initiated. For projects authorized for construction, the timing of initiation of design studies is discussed in ER 1110–2–1150. In either case the Phase I GDM together with the proper NEPA documentation will be reviewed during design studies to determine if the environmental effects of the recommended project were adequately discussed. If the design review indicates no significant changes, no further EIS documentation is required except to reference the previously filed documents in the Phase II GDM. If the environmental effects have changed significantly, a draft and final EIS supplement will be required.

c. *Preparation and Draft Review.* The organization and content for an EIS supplement included within the Phase I GDM will follow the guidance in Appendix A. The EIS supplement for the Phase II GDM will follow the format outlined in 40 CFR 1502 and will be prepared and circulated as a separate, self supporting document except if extensive reformulation studies are required in which case it may be combined and circulated with the Phase II GDM. A Notice of Intent, as discussed in paragraph 16 will be prepared and published in the **Federal Register** if the district engineer determines that a draft EIS supplement will be prepared. The Draft Phase I GDM or Phase II GDM if applicable including the draft EIS supplement or separate draft EIS supplement will be circulated to agencies and groups and individuals known to have an interest in the project. A notice of availability will be sent to all others on the project mailing list. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. In the case of an EA, only one copy of the report and the EA and unsigned FONSI shall be furnished to the Washington office of EPA. For Legislative Phase I GDM, six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWP–E, C, or W as appropriate) WASH DC 20314, and three to the division engineer). For Administrative Phase I GDM, three (3) copies will be transmitted to the division engineer. For Phase II GDM, either three or six copies will be transmitted to higher authority depending on the level of approval of the proposed action. District engineers shall insure that the Draft Phase I or Phase II GDM and EIS supplement or separate draft EIS supplement will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. If a public meeting is held in connection with the proposed action the draft should be available to the public at least 15 days before the meeting. A news release announcing the availability of the draft may also be issued when it is filed with EPA.

d. *Agency Review.* After review and evaluation of comments received the district engineer will finalize the Phase I or II GDM including preparation of the final EIS supplement within the Main Report or as a separate final EIS supplement. Comments and responses will be handled in accordance with paragraph 19c and Appendix A. Eleven (11) copies of the final Phase I or Phase II GDM will be transmitted to the division engineer for review and processing. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWP–E, C, or W; or DAEN–CWE–BB as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the division engineer will file the final Phase I or II GDM and EIS supplement or separate final EIS supplement with EPA in accordance with paragraph 17 for those AE&D actions which the division engineer has approval authority. Copies of the transmittal letter will be provided to OCE and the district engineer. Appropriate elements within OCE will review the Final Phase I or II GDM and EIS supplement or separate final EIS supplement and file it with EPA for those AE&D actions requiring OCE approval with a copy provided to ASA(CW). Legislative AE&D Planning Reports will be processed similar to survey studies as discussed in paragraph 1 of this Appendix.

e. *Final Review.* Letters of comment received on the final Phase I GDM and EIS supplement may be answered by OCE or the district engineer depending on whether the Phase I GDM is legislative or administrative. In the case of an Administrative Phase I GDM, five (5) copies of all incoming letters with the district engineers reply, as appropriate, together with a draft of the Record of Decision will be submitted to the appropriate Corps office which filed the final EIS supplement. In the case of a Legislative Phase I GDM, processing will be similar to Survey Reports discussed in paragraph 1. For Phase II GDM, letters of comment will be answered by the district engineer. Five (5) copies of all incoming letters with the district engineer's reply together with a draft Record of Decision will be submitted to the appropriate Corps office which filed the final EIS supplement. After review of the NEPA documents and comments and responses the appropriate Corps Official or ASA(CW) will sign the Record of Decision and approve the action. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the proposed action.

4. *Projects in a Continuing Construction Category.*

a. *General.* District engineers will review the existing filed NEPA document(s) covering the proposed construction project to determine if there are any significant environmental impacts resulting from design changes or any new circumstances which have occurred since completion of the Phase II GDM. If there are no significant impacts or new circumstances, no further NEPA documentation is required. However, where there are significant impacts resulting from design changes or new circumstances have occurred, a draft and final EIS supplement as discussed in paragraph 11b will be prepared. EIS for projects in a construction category without an EIS having been previously filed will be prepared in accordance with 40 CFR 1502.

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS if one was not previously filed or EIS supplement for the proposed construction project, a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register**. Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS or EIS supplement and circulate it to agencies, groups and individuals on the mailing list known to have an interest in the project for review and comment. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWO–C or CWE–BB, as appropriate) WASH DC 20314, and three (3) to the division engineer). Only three (3) copies will be sent to the division engineer for those actions which the division engineer has approval authority. District engineers shall insure that the draft EIS or EIS supplement will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. If a public meeting is held in connection with the proposed action the draft EIS should be made available to the public at least 15 days before the meeting. A notice announcing the availability of the draft will be sent to all others on the project mailing list. Appropriate news media may also be notified when the draft is filed with EPA.

c. *Agency Review.* After receipt and evaluation of comments received the district engineer will prepare the final EIS or final EIS Supplement. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWO–C or CWE–BB, as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the appropriate Corps office will file the final EIS or EIS supplement in accordance with paragraph 17. A copy of the final EIS will be sent to ASA (CW) for actions approved at OCE. A copy of the final EIS will be provided to appropriate elements in OCE for actions approved at the division level. OCE or the division engineer shall insure that the final is filed no earlier than it is also circulated by the district engineer to parties on the project mailing list.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of Decision will be submitted to the appropriate Corps office filing the final EIS. After review of the NEPA documents and comments and responses, the appropriate Corps official will sign the Record of Decision. A copy of the signed Record of Decision will be sent to appropriate Corps offices. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

5. *Completed Projects in an Operation and Maintenance Category.*

a. *General.* District engineers will review operation and maintenance (O&M) activities to determine if the final EIS filed when the project was authorized adequately discusses the proposed action. If the environmental effects of the O&M actions have not changed significantly, or no new circumstances have occurred, no additional EIS documentation will be required. If the review indicates that there may be significant impacts resulting from changes in the proposed O&M action or new circumstances have occurred, an EA or draft EIS supplement will be prepared. Projects completed prior to NEPA or completed projects without a final EIS will require an EA or EIS covering the proposed O&M activity as discussed in paragraph 6d or 7c. The EIS will follow the format outlined in 40 CFR 1502. Consideration should be given to the use of a program EIS to group similar types of O&M activities as discussed in paragraph 11c. A separate O&M EIS should be prepared where the activity is unique or where substantial environmental controversy presently exists or can reasonably be expected to exist.

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS or EIS supplement for the proposed O&M action a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register**. Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS or EIS Supplement and circulate it for review and comment to agencies, groups and individuals on the project mailing list known to have an interest in the project. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWO–M) WASH DC 20314, and three to the division engineer). District engineers shall insure that the draft EIS will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. A notice of availability of the draft EIS will be sent to all others on the mailing list and appropriate news media.

c. *Agency Review.* After receipt and evaluation of comments received the district engineer will prepare the final EIS or final EIS Supplement. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWO–M or CWE–BB, as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the appropriate Corps office will file the final EIS or EIS supplement in accordance with paragraph 17. A copy of the final EIS will be sent to ASA (CW) for actions approved at OCE. A copy of the final EIS will be provided to appropriate elements in OCE for actions approved at the division level. OCE or the division engineer shall insure that the final is filed no earlier than it is also circulated by the district engineer to parties on the project mailing list.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of Decision will be submitted to the appropriate Corps office filing the final EIS. After review of the NEPA documents and comments and responses, the appropriate Corps official will sign the Record of Decision. A copy of the signed Record of Decision will be sent to the appropriate Corps offices. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

6. *Regulatory Permits.* See Appendix B.

7. *Real Estate Management and Disposal Actions.*

a. *General.* Whenever the district engineer determines that a proposed real estate management and disposal action is a major Federal action having a significant effect upon the human environment, an EIS will be prepared and processed as follows:

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS for the proposed action, a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register**. Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS and circulate it for review and comment to agencies, groups and individuals on the project mailing list known to have an interest in the proposed action. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–REM–I) WASH DC 20314, and three to the division engineer). District engineers shall insure that the draft EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list. A notice of availability of the draft EIS will be sent to all others on the mailing list and appropriate news media.

c. *Agency Review.* After receipt and evaluation of comments received, the district engineer will prepare the final EIS. Eight (8) copies of the final EIS will be transmitted to the division engineer for review and processing. After review, the division engineer will file the final EIS with EPA in accordance with paragraph 17. A copy of the final EIS and transmittal letter will be provided DAEN–REM–I and the district engineer. The division engineer shall insure that circulation of the final EIS by the district engineer will be completed no later than when it is filed with EPA.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of the Decision will be submitted to the division engineer. After review of the NEPA documents and comments and responses and approval of the action, the division engineer will sign the Record of the Decision. A copy of the Record of Decision will be returned to the district engineer with a copy provided to DAEN–REM–I. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA with a copy to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and interested members of the public.

8. *EIS Processing Instruction for ASA (CW) Review.* Appropriate elements within OCE will provide a copy of the final EIS or final EIS Supplement to ASA (CW) at the time of filing with EPA for Corps actions requiring OCE approval except for survey reports and legislative planning reports which will be furnished to ASA (CW) for transmittal to Congress at a later date. These actions include all Continuing Authority Studies and certain AE&D Planning and Design Reports and certain projects in a construction category. ASA (CW) will not require copies of the final EIS for Corps actions which are filed by the division or district engineer.

Appendix D

Categorical Exclusions for Real Estate Management and Disposal Actions

In accordance with 40 CFR 1508.4 the following actions, which individually or cumulatively have no significant impact on the quality of the human environment, are excluded from the requirement for preparation of an EA or EIS. Nevertheless, district engineers should be alert for extraordinary circumstances where normally excluded actions would have significant environmental effects and thus require an EA or EIS. Also, district engineers in their discretion may require the preparation of an EA or an EIS when a decision on the action in question could result in public controversy or potential litigation, or if for some other reason environmental review and analysis prior to reaching a decision would serve the public interest. *NOTE:* Even though an EA or EIS is not legally mandated for any Federal action falling within one of the following "categorical exclusions", that fact does not exempt any Federal action from procedural or substantive compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

1. Grant of leases and licenses to accomplish the highest and best use or authorized project purposes for:

a. Agricultural and grazing purposes.

b. Public park and recreational purposes.

c. Commercial concession purposes.

d. Private recreational purposes.

e. Miscellaneous purposes of a minor nature such as lakeshore protection and improvements, steps, lights etc.

f. Use and occupancy of existing buildings, facilities, and real property.

2. Grants of leases, licenses, permits and easement, for use of excess or surplus real property.

3. Grants of leases for Government-owned housing.

4. Exchanges of excess real property and interests therein for property required for project purposes.

5. Grant easement for rights-of-way which do not involve significant disturbances to earth, air, or water:

a. Minor access roads or streets.

b. Minor electric power, telephone, telegraph and other communication lines.

c. Minor oil and gas pipelines; water, sewer, and irrigation pipelines, pumping plants and appurtenant facilities.

d. Minor canals, ditches, dikes, retarding structures, etc. used in connection with fish and wildlife conservation and development programs.

6. Grants of consents to use Government-owned easement areas.

7. Grants of licenses issued pursuant to the Secretary of the Army's general administrative authority which do not involve significant disturbances to earth, air or water:

a. Telephone and telegraph facility purposes.

b. Removal of sand, gravel, rock, and other borrow material.

c. Oil and gas seismic and gravitymeter survey and exploration purposes.

8. Grants of permits for archeological and historical investigations.

9. Renewal and minor amendment of existing leases, licenses, easements, permits, consents, and other documents evidencing authority to use Government-owned real property.

10. Reporting excess or surplus real property to the General Services Administration for disposal.

11. Disposal of lands or release of deed restrictions to cure encroachments.

12. Disposal of excess easement areas to the underlying fee owner.

13. Disposal of existing buildings and improvements for off-site removal.

14. Sale of existing cottage site areas.

15. Return of Public Domain lands to the Department of the Interior.

16. Transfer or permit of lands to other Federal agencies (NEPA compliance is the responsibility of the other Federal agency).

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Monday
August 25, 1980

Part IX

Department of Energy

Economic Regulatory Administration

Mandatory Petroleum Allocation Regulations; Strategic Petroleum Reserve Entitlements

V 45 AG 25 80 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-27]

Mandatory Petroleum Allocation Regulations; Strategic Petroleum Reserve Entitlements

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule; and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Entitlements Program regulations (10 CFR 211.67) so as to achieve the same effect as if lower tier crude oil were directly allocated to the Federal Government for the Strategic Petroleum Reserve (SPR). This final rule is being adopted to implement the Congressional directive set forth in section 805(a) of the Energy Security Act (ESA, Pub. L. 96-294) signed on June 30, 1980. The amendments adopted provide for the issuance of entitlements to the Federal Government for upper tier and uncontrolled domestic crude oil and imported crude oil acquired for the SPR so that the Government will pay lower tier prices for such oil.

DATES: Effective date of final rule: August 29, 1980. Written comments are due by 4:30 p.m., e.d.t., September 10, 1980.

ADDRESSES: All comments should be sent to Office of Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-80-27, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4055.

Cynthia Ford (Hearing Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3971.

David A. Welsh (Office of Petroleum Operations), Economic Regulatory Administration, Room 6212-A, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3475.

Josette Maxwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202-D, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3256.

Harry A. Jones (Strategic Petroleum Reserve Office), Room 410, 1726 M Street, N.W., Washington, D.C. 20461 (202) 634-5510.

Samuel M. Bradley or Jeffrey D. Stoermer (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-6754 or 252-6911.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments Adopted
III. Effective Date of the Final Rule
IV. Procedural Requirements

I. Background

On June 30, 1980, the ESA, Pub. L. 96-294, was signed into law by the President. Section 801 of the ESA amended section 160 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 42 U.S.C. section 6240, to require the President immediately to undertake and continue crude oil acquisition for the SPR, at a level sufficient to assure that storage of crude oil in the SPR will be increased at an average rate of at least 100,000 barrels per day (B/D) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter.

Section 805(a) of the ESA directs the President to amend the Entitlements Program regulations no later than August 29, 1980, so as effectively to allocate lower tier crude oil to the Federal Government for storage in the SPR.[1] According to the Conference Report, the effect of this amendment to the Entitlements Program will be to enable DOE to obtain a greater amount of oil for storage in the SPR given the limited financial resources available.[2]

The Conference Report also indicates that as an incentive for the Government to purchase the lowest price uncontrolled oil it can obtain, it is Congress' intention that the per barrel entitlement benefit that the Government receives when it purchases uncontrolled crude oil for the SPR not exceed the difference between the average cost of uncontrolled oil and the average lower tier price. In other words, the value of the entitlement benefit to the Government will be the same irrespective of whether the Government purchases high-priced oil on the spot market or oil at the average price for uncontrolled oil.

Section 805(c) of the ESA requires that proceeds received by the Government be placed in a special Treasury account and appropriates such proceeds in that account for fiscal year 1981 for acquisition of crude oil for the SPR.

The current Entitlements Program regulations provide that suppliers of imported crude oil to the SPR will receive entitlements as if the imported oil had been processed in a domestic refinery. See § 211.67(d)(6) and (d)(7). The effect of these provisions is to reduce the Government's cost for imported crude oil to approximately the national average cost of crude oil for all refiners. As discussed in the next section of this preamble, the final rule adopted today eliminates these provisions.

II. Amendments Adopted

As noted above, under current regulations imported oil supplied to the SPR already qualifies for entitlement benefits. The amendments adopted today utilize that regulatory framework with three major changes. First, in accordance with the statutory requirement, the entitlement benefits will accrue to each barrel of oil, other than lower tier oil, rather than only to imported oil. Second, again in accordance with the statutory requirement, the value of the entitlement benefit will not be limited to a "runs credit," but rather will be the actual price of an entitlement with respect to uncontrolled oil acquired for the SPR, and the difference between the average prices for upper tier oil and lower tier oil with respect to upper tier oil acquired for the SPR. Third, rather than provide the entitlement benefit to the supplier of the oil to the SPR, as is done under the current regulations, the United States Government will be added to the entitlements list. The list will reflect the number of entitlements issued to the Government for oil supplied to the SPR and the number of entitlements the Government is required to sell. The reason for this change is that some potential suppliers to the SPR, including firms not heretofore participating in the Entitlements Program, have been reluctant to contract for partial payment in entitlements. While this difficulty was not unmanageable when the benefit was on the order of $5 (the approximate value of a runs credit), under the new amendment the value of the entitlement will be on the order of $25. Sellers of oil are likely to be reluctant to lower the direct payment by the Government for their oil by such an amount in expectation of reimbursement from the Entitlements Program. Elimination of the present system of partial payment to oil suppliers through entitlements may encourage additional suppliers to offer oil for sale for the SPR. Moreover, adjusting the amount withheld from the Government's direct payments to suppliers in light of later entitlements requires estimation of the future entitlement value with subsequent adjustments in light of the actual value. All of these problems are avoided by adding the United States Government to the entitlements list to receive entitlements directly.

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[1] Section 805(a) of the ESA provides as follows:

Sec. 805(a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchase after September 30, 1981, for storage in such reserve.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

[2] House Conference Report No. 96-1104, 96th Congress, 2d Session, p. 318 (June 19, 1980).

To effect these changes, we are amending § 211.67(a) to add a new paragraph (7). This paragraph provides for the issuance of entitlements to the Federal Government for crude oil, other than lower tier oil, purchased for or obtained by exchange or matching purchase and sale for the SPR. The Government will receive one full entitlement for each barrel of uncontrolled oil delivered to the SPR, and a fractional entitlement for each barrel of upper tier oil delivered to the SPR. With respect to non-ANS upper tier oil, that fraction is the difference between the weighted average cost to refiners of upper tier oil (other than ANS) and the weighted average cost to refiners of lower tier oil, divided by the entitlement price. With respect to ANS upper tier oil, the fraction is the difference between the weighted average cost to refiners of ANS upper tier oil and the weighted average cost to refiners of lower tier oil, divided by the entitlement price. The entitlement price and refiners' costs used in computing these entitlements will be that price calculated and those costs reported for the month prior to the month in which oil is delivered to the SPR. These entitlements will be reflected in the Entitlements Notice in the month following the month in which the oil is delivered to the SPR, as is the current regulatory practice for deliveries of imported oil to the SPR.

Where crude oil is delivered to the SPR pursuant to an exchange or matching purchase and sale of oil belonging to the United States, the entitlements issuable to the Federal Government will be calculated on the basis of the oil given up by the United States, rather than on the basis of the oil actually delivered to the SPR. That is, the Federal Government will be issued entitlements based on the category of oil (upper tier, ANS upper tier, or uncontrolled) and the volume of each category that it has given up in the exchange or sale. This is in recognition of the fact that the exchange or matching purchase and sale is the equivalent of supplying the Government's oil to the SPR without the uneconomical transportation of that oil. In addition, the supplier of oil to the SPR pursuant to an exchange or matching purchase or sale is deemed to retain the oil given up. For example, if Naval Petroleum Reserves (NPR) oil were exchanged for lower tier oil delivered to the SPR, the Federal Government would be issued a full entitlement for each barrel of NPR oil given up, and the supplier of the lower tier oil would report the lower tier oil delivered to the SPR in the supplier's crude oil receipts. This treatment of exchanges for entitlements purposes with respect to the firm supplying the oil to the SPR is consistent with their treatment under the old SPR entitlements provisions. *See* § 221.67(d) (6) and (7). The provisions of § 211.67(g)(2) have been incorporated by reference so that refiners will include the volumes of crude oil given up in such transactions in their crude oil receipts at the time such volumes would be included in a refiner's crude oil receipts under § 211.67(g)(2).

Section 211.67(c) is amended to add the Federal Government as a seller of any entitlements issued to it.

Section 211.62 is amended by revising the definition of "national domestic crude oil supply ratio" to provide that any entitlements issued to the Federal Government are subtracted from the numerator of the ratio. In addition, the definition of the ratio is amended to reflect the current regulatory practice of subtracting from the numerator of the ratio the entitlements issued pursuant to orders by the Office of Hearings and Appeals in exception cases and adding to the denominator of the ratio the barrels considered to be crude oil under the petroleum substitutes program.

Sections 211.67(d)(6) and (7) and 211.67(m)(5) are deleted in light of the SPR entitlements being issued to the Federal Government rather than to refiners.

Section 211.66(k) is deleted because there is no longer a need for refiners to report deliveries to the SPR. The SPR will itself report deliveries.

III. Effective Date of the Final Rule

As mentioned previously, section 805(a) of the ESA directs that this final rule be promulgated and made effective by August 29, 1980. Therefore, August 29, 1980, will be the effective date of this rule. Entitlements will be issued to the Government for oil delivered to and accepted for delivery to the SPR in the month of September 1980 and in each month thereafter. Thus, for example, if any oil is accepted for delivery to the SPR in September 1980, the SPR would report the receipt of such oil by October 5, 1980. The August Entitlements Notice published in October 1980 would list the number of entitlements issued to the Federal Government for the September receipt.

IV. Procedural Requirements

Section 805(a)(3) of the ESA provides that the "President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Act or any other law or regulation specifying procedural requirements."

The Conference Report states that this provision was added to ensure that the statutory deadline for issuing these amendments, sixty days from enactment of the ESA (August 29, 1980), would be met. The conferees urged, however, that normal administrative procedures be followed to the extent possible consistent with meeting the statutory deadline.

Section 553(d) of Title 5, United States Code, normally requires publication of a final rule 30 days prior to its effective date. The purpose of this provision is to provide those affected by a new regulation adequate opportunity to read and understand the new regulatory requirements before they are actually subject to them. This rule does not provide the full 30 day comment period. Nevertheless, we seek comments on the rule we are adopting. Comments should be submitted by 4:30 p.m., e.d.t., September 10, 1980, to the address set forth in the "ADDRESSES" section of this Rule. Comments should be identified on the outside envelope and on the document submitted with the designation "SPR Entitlements," Docket No. ERA–R–80–*27*. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room 5B–138, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; Energy Security Act, Pub. L. 96–295; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 12231, 45 FR 52139)

In consideration of the foregoing, Part 211 of Chapter II, Title 10, of the Code of Federal Regulations is amended as set forth below, effective August 29, 1980.

Issued in Washington, D.C., August 21, 1980.

Hazel R. Rollins,

Economic Regulatory Administration.

1. Section 211.62 is amended by revising the definition of "national domestic crude oil supply ratio" to read as follows:

§ 211.62 Definitions.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 212.67(e), the number of entitlements issuable pursuant to orders under subpart D of part 205, and the number of entitlements issuable under § 211.67(a)(4), § 211.67 (a)(6), and § 211.67(a)(7), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month, the number of barrels considered as crude oil under § 211.67(a)(5) for that month, and fifty percent (50%) of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

* * * * *

§ 211.66 [Amended]

2. Section 211.66 is amended by deleting paragraph (k).

3. Section 211.67 paragraph (a)(7) is added and paragraph (c) is revised to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) * * *

(7)(i) For each month commencing with the month of August 1980, the United States Government shall be issued entitlements for crude oil purchased for, delivered to, and accepted for delivery to the Strategic Petroleum Reserve in the following month. The number of entitlements issued shall be calculated in accordance with the provisions of subparagraphs (iii) through (vi) of this paragraph (a)(7).

(ii) In any case where the United States Government acquires from a refiner or other firm crude oil for the Strategic Petroleum Reserve pursuant to an exchange or matching purchase and sale transaction, no crude oil shall be deemed to have transferred by that refiner or other firm in that exchange or transaction and such volumes of crude oil deemed to have been retained by a refiner shall be included in that refiner's crude oil receipts under the provisions of § 211.67(g)(2), and the United States Government shall be issued entitlements for the month prior to the month in which such crude oil is delivered to and accepted for delivery to the Strategic Petroleum Reserve. The number of entitlements issued shall be calculated in accordance with the provisions of subparagraphs (iii) through (vi) of this paragraph (a)(7) on the basis of the volume of crude oil given up by the Government in any such exchange or transaction.

(iii) One entitlement shall be issued for each barrel of imported crude oil and each barrel of domestic crude oil the first sale of which is not subject to the ceiling price limitations of Subpart C of Part 212 of this chapter.

(iv) A fraction of an entitlement shall be issued for each barrel of upper tier crude oil other then ANS upper tier crude oil, the numerator of which is the difference between the reported weighted average cost per barrel to refiners of upper tier crude oil other than ANS upper tier crude and the reported weighted average cost per barrel to refiners of lower tier crude oil, and the denominator of which is the entitlement price.

(v) A fraction of an entitlement shall be issued for each barrel of ANS upper tier crude oil, the numerator of which is the difference between the reported weighted average cost per barrel to refiners of ANS upper tier crude oil and the reported weighted average cost per barrel to refiners of lower tier crude oil, and the denominator of which is the entitlement price.

(vi) The calculations in paragraphs (a)(7)(iv) and (a)(7)(v) of this section shall be based on the entitlement price fixed for, and the weighted average costs reported for, the month prior to the month in which the crude oil is delivered to the Strategic Petroleum Reserve.

(b) * * *

(c) *Required sale of excess entitlements.* For each month, commencing with the month of February 1976, each refiner that has been issued a greater number of entitlements for that month than the number of barrels of deemed old oil (as calculated under paragraph (b)(2) of this section) included in its adjusted crude oil receipts shall sell such excess entitlements, and the United States Government and any eligible firm (other than a refiner) that has been issued entitlements shall sell such entitlements.

* * * * *

4. Section 211.67 is amended by deleting and reserving paragraphs (d)(6) and (d)(7), and by deleting paragraph (m)(5).

[FR Doc. 80-26043 Filed 8-22-80; 8:45 am]

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federal register

Tuesday
August 26, 1980

Highlights

57102 **Fair Housing** HUD/FHEO provides guidance concerning nondiscrimination in advertising the sale, rental, financing or other services in connection with residential real estate; effective 9-22-80 (Part III of this issue)

56800 **Mortgage Insurance** HUD/FHC issues interim rule defining conditions under which mortgagees may accept conveyance of fire damaged property not covered or inadequately covered by fire insurance; effective 9-22-80; comments by 10-27-80

56839 **Grant Programs—Community Development Block Grants** HUD/CPD proposes regulations designed to clarify policy regarding use of escrow accounts in connection with rehabilitation loans or grants; comments by 10-27-80

56954 **Metric System** MB invites comment on draft consumer program and recommend ways it can strengthen its efforts in area of consumer affairs; comments by 10-30-80

56863 **Loan Programs—Health Education Assistance** ED announces that the variable interest rate on loans shall be at annual rate of 11 percent

57002 **Health Care** HHS/PHS/HRA lists health manpower shortage areas (Part II of this issue)

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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56866 **Grant Programs—Natural Gas** DOE anticipates funding projects in small towns or communities in an effort to determine commercial feasibility of locally producing unconventional gas resources; proposals due by 9–15–80

56818 **Credit** FRS proposes for public comment two interpretations of regulation which implements equal credit opportunity; comments by 10–20–80

56802 **Excise Taxes** Treasury/IRS issues final rules relating to use of blockage or similar factors in determining value of private foundation's noncharitable assets and proposes regulations relating to set-asides made by private foundations; comments by 10–27–80

56795 **Truth in Lending** FRS issues deferral of mandatory effective date regarding calculation and disclosure of annual percentage rates; effective 8–20–80

56805, 56808 **Government Procurement** GSA issues rules concerning nondiscrimination by reason of age in donation of Federal surplus personal property and amends regulations dealing with special contracting officer responsibilities in procurement of consulting services; effective 8–26 and 10–3–80 (2 documents)

56849 **Railroads** ICC extends time to comment on notice of proposed rulemaking concerning traffic protective conditions in consolidation proceedings; comments by 10–30–80

56817 **Food Distribution** USDA/FNS extends comment period on proposal to amend regulations which permit agencies to employ commercial or institutional facilities to process USDA-donated foods; comments by 9–25–80

56794 **Butter** USDA/FSQS revokes regulations governing sanitary inspection of renovated butter; effective 8–26–80

56816 **Improving Government Regulations** OPM publishes semiannual agenda of regulations

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Rules and Regulations

Federal Register
Vol. 45, No. 167
Tuesday, August 26, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service: Department of the Army

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment extends the total time period of employment from not to exceed 2 years to not to exceed 4 years, for seven positions of professors, instructors, and education specialists with the U.S. Army Command and General Staff College, which are excepted under Schedule B since it is impracticable to examine competitively for these positions.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: John Polaschik, Department of the Army, 202-325-9650.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager

Accordingly, 5 CFR 213.3207(a)(1) is revised as set out below:

§ 213.3207 Department of the Army.

* * * * *

(a) U.S. Army Command and General Staff College. (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-25961 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; National Endowment for the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Humanist Administrator for the Implementation Grants Program, GS-1701-12, in the Division of Education Programs, National Endowment for the Humanities, is excepted under Schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: Alan L. Taylor, National Endowment for the Humanities, 202-724-0356.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3282(b)(30) is added as follows:

§ 213.3282 National Foundation on the Arts and the Humanities

* * * * *

(b) National Endowment for the Humanities * * *

(30) Until September 30, 1980, one position of Humanist Administrator for the Implementation Grants Program, GS-1701-12, Division of Education Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-25962 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service: Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority permitting agencies to implement the requirements of section 2 of Executive Order 11804, providing for a program of alternate service for the return of Vietnam era draft evaders and military deserters, because the authority is no longer needed.

EFFECTIVE DATE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3102(j) is revoked, as follows:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(j) [Revoked].

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-25955 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service: Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revises the authority for positions on the emergency staff assisting in resettlement of Cuban refugees to: (1) substitute the term "entrants" for "refugees"; and (2) include Haitians as well as Cubans. This Schedule A exception is still appropriate because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: July 16, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: David Mischel, Department of Health and Human Services, 202-245-1943.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3116(k)(1) is revised, as follows:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(k) Office of the Secretary.

* * * * *

(1) Not to exceed 500 staff positions, GS-15 and below, for an emergency

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staff to assist in the resettlement of the current wave of Cuban and Haitian entrants. Employment under this authority may not exceed September 30, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–25963 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service: Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Employment and grade-level limitations for temporary, intermittent and seasonal field assistant positions with the Department of the Interior which are excepted from the competitive service under Schedule A are increased to 180 days a year and GS–7 for all positions. Appointments to such positions in Alaska no longer require prior OPM approval. Exception of these positions under Schedule A continues to be appropriate because it continues to be impracticable to examine for them.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Teresa C. Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3112 (a)(4), (a)(8) and (a)(9) are revised to read as follows:

§ 213.3112 Department of the Interior.

(a) *General.* * * *

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

* * * * *

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25956 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service: International Communication Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Five positions of Supervisory International Exchange Officer (Reception Center Director) located in New Orleans, New York, Miami, San Franciso, and Honolulu, are excepted under Schedule A because it is impracticable to hold an examination for them.

EFFECTIVE DATE: June 20, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Boyd Harris, International Communication Agency, 202–724–1865.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3128(b) is added as set out below:

§ 213.3128 International Communication Agency.

* * * * *

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in ICA's field offices of New Orleans, New York, Miami, San Francisco and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–25957 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service: National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that one position of Assistant Director, Artists-in-Schools Program, Office for Partnership, GS–301–13, in the National Endowment for the Arts is excepted under Schedule A until September 30, 1980, because any examination for the position is impracticable.

EFFECTIVE DATE: June 16, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3182 is amended by adding paragraph (a)(1), as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.*

(1) Until September 30, 1980, one position of Assistant Director, Artists-in-Schools Program, Office for Partnership, GS–301–13.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25959 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service: National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Assistant Director for Fellowships, National Endowment for the Humanities, is excepted under Schedule B because it is impracticable to hold a competitive examination for it. In addition, one position of Humanist Administrator in the Division of Fellowships and Seminars, NEH, is moved from Schedule A to Schedule B to better reflect the continuing impracticability of holding a competitive examination for it.

EFFECTIVE DATE: May 22, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Eric J. Oleson, National Endowment for the Humanities, 202–724–0356.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3182(b)(26) is revoked and 5 CFR 213.3282(b) (23) and (24) are added, as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

* * * * *

(b) National Endowment for the Humanities * * *

(26) [Revoked]

* * * * *

§ 213.3282 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities* * * *

(23) Until September 30, 1980, one Assistant Director for Fellowships, Division of Fellowships and Seminars.

(24) Until September 30, 1980, one Humanist Administrator, Independent Study and Research Program, Division of Fellowships and Seminars.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80–25960 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service: Small Business Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that exception to the time limit of Schedule A 213.3132(a) may be made with prior Office of Personnel Management approval. This amendment is made to cover unusual circumstances which may justify exception to the time limit.

EFFECTIVE DATE: June 25, 1980.

FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3132(a) is revised, as follows:

§ 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25958 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 534

Pay Under Other Systems

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These final regulations, published as interim regulations on August 10, 1979, are issued pursuant to Section 407 of Title IV of the Civil Service Reform Act of 1978. They make two restrictions regarding the reduction of an individual's basic pay to a lower pay rate in the Senior Executive Service. First, a senior executive's basic pay rate can only be reduced one rate in the ES basic pay schedule in any 12 month period. Second, a senior executive who converted to the Senior Executive Service under the initial implementation phase cannot, while a member of the Senior Executive Service, have basic pay reduced below the amount he or she was paid just prior to conversion.

EFFECTIVE DATE: September 25, 1980.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632–6820.

SUPPLEMENTARY INFORMATION: On August 10, 1979 (44 FR 47029), the Office of Personnel Mangement published interim regulations pursuant to subchapter VIII of chapter 53 of title 5, U.S.C. by adding a new Subpart D to 5 CFR Part 534.

The comment period which was for 60 days from the date of publication ended on October 9, 1979. The only comment which the Office received questioned our use of the term "rate of pay" in § 534.402. The commenting agency pointed out that various Office issuances had guaranteed charter SES members (those who converted under the initial implementation phase) that their salary would never be reduced below their payable salary at the time of conversion to SES and suggested that this guarantee be stated more exactly in § 534.402. This suggestion was adopted. The phrase "basic payable salary" has been substituted for the phrase "rate of pay" in § 534.402.

Subpart D of Part 534 is being issued as a final regulation. OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, Subpart D of 5 CFR Part 534 is revised to read as follows:

Subpart D—Setting Individual Basic Pay Under the Senior Executive Service

534.401 Reducing individual pay to a lower rate in the Senior Executive Service.
534.402 Restrictions on reducing the pay of senior executives who converted under Subpart C of Part 317 of this chapter.

Authority: 5 U.S.C. 5385.

Subpart D—Setting Individual Basic Pay Under the Senior Executive Service

§ 534.401 Reducing individual pay to a lower rate in the Senior Executive Service.

Reductions of basic pay under the provisions of section 583(c) of title 5, United States Code, may not reduce an individual's pay more than one rate in the ES pay schedule in a 12 month period.

§ 534.402 Restrictions on reducing the pay of senior executives who converted under Subpart C of Part 317 of this chapter.

The rate of basic pay of an Executive in the Senior Executive Service who entered the Service under the Conversion provisions of Subpart C of Part 317 of this chapter cannot be reduced below the basic payable salary for that individual immediately prior to converting to the Service during an appointment in the Service.

[FR Doc. 80–25964 Filed 8–25–80; 8:45 am]

BILLING CODE 6325–01–M

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Almonds Grown in California; Expenses of the Almond Board of California, and Rate of Assessment for the 1980–81 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1980–81 crop year, to be collected from handlers to support activities of the Board which locally administers the Federal marketing order covering almonds grown in California.

DATES: Effective July 1, 1980 through June 30, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Board, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective time until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular crop year shall apply to all assessable almonds handled from the beginning of such year which began July 1, 1980. To enable the Board to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Board. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further public comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from J. S. Miller (202) 447–5053.

§ 981.330 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Board during the 1980–81 crop year, will amount to $8,798,833.

(b) The rate of assessment for said year payable by each handler in accordance with § 981.81 is fixed at 2.8 cents per pound of almonds (kernelweight basis), less any amount credited pursuant to § 981.41 but not to exceed 2.5 cents per pound of almonds (kernelweight basis).

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 20, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 80–25949 Filed 8–25–80; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1862

Collections

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction-Deletion.

SUMMARY: At page 37904 of the **Federal Register** for Friday, June 29, 1979, the Farmers Home Administration published a Revision-Redesignation to delete Part 1862 and add a new Part 1951 Subpart B. Part 1862 was mentioned as deleted in the "Supplementary Information" section but inadvertently was not mentioned in the body of the document as being deleted. Part 1862, Chapter XVIII, Title 7 in the Code of Federal Regulations should have been deleted. Therefore, Part 1862 is hereby deleted from the Code of Federal Regulations.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Linsley, Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250, (202) 447–4057.

Dated: August 19, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80–25953 Filed 8–25–80; 8:45 am]

BILLING CODE 3410–07–M

Food Safety and Quality Service

7 CFR Part 2871

Sanitary Inspection of Process or Renovated Butter

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document revokes the regulations governing the sanitary inspection of process or renovated butter. The statutory provision, under which these regulations were promulgated, has been repealed. Therefore, such regulations are no longer legally valid.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Chief, Dairy Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7473.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

Background

Under Executive Order 12044 and Secretary's Memorandum 1955, the Food Safety and Quality Service (FSQS) is required to review its existing regulations and determine ways for improving them in such areas as clarity, legality, and necessity. In January 1980, the FSQS Regulatory Review Task Force commenced its review of the regulations governing the inspection and grading services of manufactured or processed dairy products. During this review, the Task Force found that the Process or Renovated Butter Act, (26 U.S.C. 4811–4819, 4821–4822 and 4826) was repealed on October 4, 1976, (Tax Reform Act of 1976, Pub. L. 94–455, 90 Stat. 1814). Section 4817 (26 U.S.C. 4817) had authorized inspection of process or renovated butter and provided for the issuance of rules and regulations by the Secretary of Agriculture which were promulgated under Part 2871, Title 7 of the Code of Federal Regulations (7 CFR

2871). Due to the fact that the statutory authority for Part 2871 has been repealed, these regulations are without legal effect.

PART 2871 [REVOKED]

In consideration of the foregoing, 7 CFR 2871 which covered the sanitary inspection of process or renovated butter is hereby terminated.

Since the statutory authority upon which these regulations were based has been repealed by Congress, it does not appear that any additional relevant information would be made available to the Administrator by allowing opportunity for the filing of public comments in this proceeding. Furthermore, since the Secretary is not presently providing any inspection service under these regulations, this termination action will not have any direct or immediate impact on any program. Therefore, preliminary notice and public rulemaking procedures are found to be impracticable and contrary to the public interest, and good cause is found for making this document effective less than 30 days after publication in the **Federal Register**.

Done at Washington, D.C. on: August 21, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-25951 Filed 8-25-80; 8:45 am]

BILLING CODE 3410-DM

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0239]

Truth in Lending; Calculation and Disclosure of Annual Percentage Rates Deferral of Mandatory Effective Date

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Deferral of mandatory effective date.

SUMMARY: The Board is deferring the mandatory effective date for compliance with revisions to Regulation Z (Truth in Lending) regarding calculation and disclosure of the annual percentage rate and other credit terms. The revisions were adopted with an effective date of January 10, 1980, but creditors were not required to comply with the new provisions until October 1, 1980 (44 FR 77139, December 31, 1979). In the interim, creditors have been permitted to utilize either the existing or the amended rules. After adoption of the amendments, the Truth in Lending Simplification and Reform Act was enacted and the Board recently proposed a substantially revised Regulation Z to implement the act. The regulation must be adopted by the Board by April 1, 1981, but compliance will be optional until April 1, 1982. In order to avoid the need for creditors to assimilate two sets of changes in the regulation within a relatively short period, the Board is deferring the mandatory effective date of the annual percentage rate amendments to coincide with the mandatory effective date of the revised regulation. Creditors wishing to implement all changes at one time may begin doing so when the Board adopts the final regulation. Until April 1, 1982, creditors may either continue to rely on the existing annual percentage rate rules or begin complying with the amended annual percentage rate provisions.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Ellen Maland, Section Chief (202-452-3667) or Margaret Stewart, Senior Attorney (202-452-2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On December 31, 1979, the Board adopted revisions to Regulation Z relating to the calculation and disclosure of the annual percentage rate and other credit terms (44 FR 77139). The amendments were designed to simplify and clarify the requirements of the regulation with regard to these provisions and involved revisions to §§ 226.5 and 226.8 of the regulation and to Supplement I, § 226.40, which sets forth the technical equations and instructions for determining the annual percentage rate under the actuarial method.

For the most part, the changes made provide greater flexibility and protection to creditors and do not appear to require major changes in calculation tools and creditor practices. However, because the revisions do require creditors to analyze and review existing tools and practices in order to fully assimilate the changes, compliance with the new rules was made optional until October 1, 1980. Creditors were permitted to put the revisions into effect prior to that time, but could continue to follow the previous rules until October, in the event that they required a longer period of adjustment.

After adoption of the annual percentage rate changes, Congress enacted the Truth in Lending Simplification and Reform Act (Title VI of Public Law 96-221, the Depository Institutions Deregulation and Monetary Control Act of 1980). That act requires the Board to have in place a completely revised Regulation Z by April 1, 1981, with a mandatory effective date of April 1, 1982. Creditors may comply with the new regulation immediately upon its adoption by the Board. At the time of adoption of the annual percentage rate revisions, the ultimate passage of the new act was in doubt. Adoption of the new regulation, as a result of the revised act, will require significant revisions by creditors in their procedures and forms, as well as retraining of personnel.

The Board believes that creditors should not be required to undertake two separate reviews within a short period, but should instead be permitted to assimilate all changes at one time. The Board is therefore deferring the mandatory date for compliance with the annual percentage rate revisions from October 1, 1980, to April 1, 1982, to coordinate those revisions with the general revision to Regulation Z pursuant to the Truth in Lending Simplification and Reform Act. This action means that creditors will continue to have the option of complying with either the previous or the new annual percentage rate rules, but that option will be available until April 1, 1982, instead of October 1, 1980.

The Board wishes to emphasize that the deferral is designed to ease the burden of absorbing regulatory change and not to provide an opportunity for further changes in the annual percentage rate provisions. No extensive revisions to either these portions of the regulation or Supplement I are contemplated as a result of the deferral. However, the Board's staff has received several questions regarding this material which may warrant further study. For example, several commenters have questioned the manner in which unit-periods for single-payment transactions must be determined under Supplement I. After analysis by the staff, the Board will determine whether any further specific changes should be proposed. Any adjustments that might result from such a review should relatively minor and would be made only after thorough consideration of their impact on creditors that have already invested in new calculation tools and procedures. No changes are anticipated which would invalidate changes already made by creditors in reliance on the previously announced Board actions.

The Board has determined that compliance with the provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date would be impracticable in view of the

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short time available before the October mandatory effective date. No Board action on this matter was taken earlier because the extent of the regulatory burden imposed by changes in the regulation could not be assessed until passage of the Truth in Lending Simplification and Reform Act and the publication for comment of the revised regulation implementing the act. Therefore, pursuant to 5 U.S.C. §§ 553(b)(3)(B) and 553(d)(3), the Board is deferring the mandatory effective date of October 1, 1980, without notice and prior opportunity for comment.

Pursuant to Section 105 of the Truth in Lending Act (15 U.S.C. § 1604 (1970)), the Board delays from October 1, 1980 to April 1, 1982, the amendment of original § 226.5(a) and the rescission of original §§ 226.5 (b) through (e), Interpretations §§ 226.502, 226.503 and 226.505, and Supplement I to Regualtion Z, as described at 44 FR 77144, December 31, 1979. The January 10, 1980, effective date for revised § 226.5, new §§ 226.8(r) and 226.8(s), and revised Supplement I remains unchanged.

By order of the Board of Governors, August 20, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-25993 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 80F-0070]

Indirect Food Additives; Adhesives Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of 2-[(2-aminoethyl)amino]ethanol as a component of adhesives intended for food-contact use. This action is based on a petition filed by Dow Chemical Co.

DATES: Effective August 26, 1980; objections by September 25, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of March 21, 1980 (45 FR 18480) announced that a food additive petition (FAP 9B3450) had been filed by Dow Chemical Co., Box 1847, 2040 Dow Center, Midland, MI 48640, proposing that § 175.105 *Adhesives* (21 CFR 175.105) of the food additive regulations be amended to provide for the safe use of 2-[(2-aminoethyl)amino]ethanol as a component of adhesives intended for food-contact use.

Having evaluated data in the petition and other relevant material, the Food and Drug Administration finds that the food additive regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.105 by alphabetically adding a new compound to paragraph (c)(5) to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances and Limitations

* * * * *

2-[(2-aminoethyl)amino]ethanol (CAS Reg. No. 111-41-1).

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 25, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is request shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 26, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 19, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25934 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 176

[Docket No. 79F-0455]

Antistatic and/or Antifogging Agents in Food-Packaging Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an antistatic agent in polypropylene films which contact food. This action responds to a petition filed by Toray Industries, Inc.

DATES: Effective August 26, 1980. Objections by September 25, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George H. Pauli, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of January 15, 1980 (45 FR 2909), announced that a food additive petition (FAP 9B3444) had been filed by Toray Industries, Inc., 2-Nihonbashi-Muromachi 2-Chome, Chuo-Ku Tokyo 103, Japan, proposing that the food additive regulations be amended to provide for use of the mixture prepared by reacting ethylene oxide with octadecylamine and further reacting this product with sodium monochloroacetate and sodium hydroxide, as an antistatic agent in polypropylene films.

Having evaluated data in the petition and other relevant material, FDA concludes that § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21

U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.3130(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in foodpacking materials.

* * * * *

(b) * * *

List of substances	Limitations
* * *	* *
N,N-Bis(2-hydroxyethyl) octadecylamine, Chemical Abstracts Service Registry No. 10213-78-2, *N*-(2-hydroxyethyl)-*N*-octadecylglycine (monosodium salt), Chemical Abstracts Service Registry No. 66810-88-6, and *N,N*-Bis(2-hydroxyethyl)-*N*-(carboxymethyl) octadecanaminum hydroxide (inner salt), Chemical Abstracts Service Registry No. 24170-14-7, as the major components of a mixture prepared by reacting ethylene oxide with octadecylamine and further reacting this product with sodium monochloroacetate and sodium hydroxide, such that the final product has: A nitrogen content of 3.3-3.8 percent; a melting point of 42°-50° C; and a pH of 10.0-11.5 in a 1 percent by weight aqueous solution.	For use only as an antistatic agent at levels not to exceed 0.45 percent by weight in polypropylene films complying with § 177.1520 of this chapter, and used for packaging food of types I, II, III, IV, V, VI-B, VII, VIII, and IX described in table 1 of § 176.170(c) of this chapter, and under conditions of use B through H described in table 2 of § 176.170(c). The average thickness of such polypropylene film shall not exceed 0.002 inch
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 25, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 26, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 19, 1980.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25936 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 178

[Docket No. 80F-0032]

Ethyl Alcohol; Indirect Food Additives: Adjuvants, Production Aids and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the use of ethyl alcohol as a substitute for isopropyl alcohol when used with di-*n*-alkyl(C_8-C_{10})dimethyl ammonium chlorides in sanitizing solutions. The agency is taking this action in response to a petition filed by Lonza, Inc.

DATES: Effective August 26, 1980. Objections by September 25, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of February 15, 1980 (45 FR 10448) that a petition (FAP 9H3464) had been filed by Lonza, Inc., 22-10 Rte. 208, Fair Lawn, NJ 07410, proposing that the food additive regulations be amended to provide for the safe use of ethyl alcohol as a substitute for isopropyl alcohol as a component of sanitizing solutions containing di-*n*-alkyl(C_8-C_{10})dimethyl ammonium chlorides for use on food-processing equipment and utensils and on food-contact surfaces in public eating places.

Having evaluated data in the petition and other relevant material, FDA concludes that paragraph (b)(17) of § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) should be amended as set forth below.

The agency further concludes that, for clarification, an editorial change should be made in paragraph (b)(17) to state clearly that the average molecular weights specified refer only to the di-*n*-alkyl(C_8-C_{10})dimethyl ammonium chlorides.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.1010 by revising paragraph (b)(17) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(17) An aqueous solution containing di-*n*-alkyl(C_8-C_{10})dimethyl ammonium chlorides having average molecular weights of 332-361 and either ethyl alcohol or isopropyl alcohol. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

* * * * *

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and the evidence supporting that document, may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 25, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and

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analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 26, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 19, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25935 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 510, 520, 522, 524, 526 and 558

CEVA Laboratories, Inc.; Change of Sponsor For Several New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the change of sponsor for several new animal drug applications (NADA's) from Abbott Laboratories to CEVA Laboratories, Inc., and to add CEVA to the list of sponsors of approved NADA's. Supplemental NADA's filed by CEVA provide for this change:

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212, filed several supplemental NADA's providing for a change of sponsor from Abbott Laboratories. By letter, Abbott Laboratories confirmed the change of sponsors to CEVA. The regulations are amended to reflect the change. The NADA's affected are:

NADA, Product

6–623—Caparsolate Sodium Injection (Arsenamide sodium).
8–422—Seleen Suspension (Selenium disulfide)
10–092—Gallimycin Premix (Erythromycin thiocyanate)
12–123—Gallimycin Injectable (Erythromycin thiocyanate)
33–157—Spectam Scour Halt (Spectinomycin dihydrochloride)
35–157—Gallimycin Poultry Formula (Erythromycin phosphate)
35–455—Gallimycin 36 Solution for Mastitis (Erythromycin thiocyanate)
38–661—Spectam Water Soluble (Spectinomycin dihydrocloride)
40–040—Spectam Injectable (Spectinomycin dihydrochloride)
98–379—Cystorelin (GnRH) (Gonadorelin diacetate tetrahydrate)
102–656—Gallimycin Poultry Formula (Erythromycin thiocyanate).

This action, the change of sponsor of several NADA's, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977; 42 FR 64367), approval of this action did not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 520, 522, 524, 526, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragrpah (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *
(1) * * *

Firm name and address and Drug labeler code

* * * * *

CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212, 050604.

* * * * *

(2) * * *

Drug labeler code, Firm name and address

* * * * *

050604—CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212.

* * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 520 is amended:

§ 520.823 [Amended]

a. In § 520.823 *Erythromycin phosphate,* in paragraph (b) by deleting "043731" and inserting in its place "050604."

§ 520.2122 [Amended]

b. In § 520.2122 *Spectinomycin dihydrochloride oral solution,* in paragraph (b)(1) by deleting "043731" and inserting in its place "050604."

§ 520.2123b [Amended]

c. In § 520.2123b *Spectinomycin dihydrochloride pentahydrate soluble powder,* in paragraph (b) by deleting "043731" and inserting in its place "050604."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. Part 522 is amended:

§ 522.144 [Amended]

a. In § 522.144 *Arsenamide sodium aqueous injection,* in paragraph (c) by deleting "043731" and inserting in its place "050604."

§ 522.1078 [Amended]

b. In § 522.1078 *Gonadorelin diacetate tetrahydrate injection,* in paragraph (b) by deleting "043731" and inserting in its place "050604."

c. In § 522.2120, by revising paragraph (b) to read as follows:

§ 522.2120 Spectinomycin injection.

* * * * *

(b) *Sponsor.* See No. 043731 for use as in paragraph (d)(3) of this section; see No. 050604 for use as in paragraph (d)(1), (2), and (4) of this section.

* * * * *

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.2101 [Amended]

4. Part 524 is amended in § 524.2101 *Selenium disulfide suspension,* in paragraph (b)(1) by deleting "043731" and inserting in its place "050604."

PART 526—INTRAMAMMARY DOSAGE FORMS NOT SUBJECT TO CERTIFICATION

5. Part 526 is amended in § 526.820 by adding paragraph (b), to read as follows:

§ 526.820 Erythromycin.

* * * * *

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.248 [Amended]

6. Part 558 is amended in § 558.248 *Erythromycin thiocyanate,* in paragraphs (a)(1) and (e)(1)(i) by deleting "043731" and inserting in its place "050604" and in paragraph (e)(1)(ii), and (iii), (iv), (v), and (vi) under "Sponsor" by inserting "050604" for all items.

Effective date. August 26, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 18, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-25734 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 524

Cuprimyxin Cream; Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffman-LaRoche, Inc., providing for safe and effective topical use of an antimicrobial cream for treatment of dermal infections in horses.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Hoffman-LaRoche, Inc., Nutley, NJ 07110, filed supplemental NADA 93-029 providing for use of cuprimyxin cream in treatment of bacterial, yeast, and fungal infections of the skin, hair, and external mucosae of horses, in addition to the current approval for the same conditions of use in dogs and cats. The agency is approving addition of horses to the product's labeling without the clinical investigations that were conducted in that species being strictly controlled evaluations as defined by 21 CFR 514.111(a)(5). The agency is granting a waiver from strictly controlled evaluations having concluded that the following information constitutes substantial evidence that the drug will have the effect it is represented to have under the conditions of use recommended in the labeling:

(1) The susceptibility to cuprimyxin of casual micro-organisms (bacteria, fungi, and yeasts) isolated from horses, in addition to several other animal species has been demonstrated in extensive *in vitro* studies.

(2) The course of the topical infections caused by the subject micro-organisms exhibits a well-known commonality in all mammals.

(3) The effectiveness and safety of cuprimyxin cream in dogs and cats are supported by several years of professional use.

(4) Extensive, well-controlled studies in several laboratory animal species and with all classes of infecting organisms (bacteria, yeasts, fungi), singly and in mixed infection, have consistently demonstrated a high degree of activity for cuprimyxin formulation against these micro-organisms.

(5) Clinical trials in horses have demonstrated the same high degree of effectiveness previously demonstrated in other mammalian species.

(6) Bioequivalence and bioavailability of the product, for the stated conditions of use, have been well established for mammalian species.

Accordingly, the regulations are amended to reflect the approval of cuprimyxin as a broad spectrum antibacterial and antifungal cream for the topical treatment of certain dermal infections in horses.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.520 by revising paragraph (c)(1) to read as follows:

§ 524.520 Cuprimyxin cream.

* * * * *

(c) *Conditions of use.* (1) Cuprimyxin is a broad spectrum antibacterial and antifungal cream for the topical treatment of superficial infections in horses, dogs, and cats caused by bacteria, dermatophytes (*Trichophyton* spp., *Microsporum* spp.) and yeast (*Candida albicans*) affecting skin, hair, and external mucosae.

* * * * *

Effective date. This amendment is effective August 26, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 18, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-25937 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Monensin, Bacitracin Methylene Disalicylate, Roxarsone; New Animal Drugs, for Use in Animal Feed

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing for safe and effective use of a bacitracin methylene disalicylate (MD) range and an increased roxarsone range in combination with monensin in finished broiler feeds. The application was filed by Elanco Products Co.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, filed a supplemental NADA (49-464) providing for use of 10 to 25 grams of bacitracin MD and 11.3 to 45.4 grams of roxarsone per ton of finished broiler feed in combination with 90 to 110 grams of monensin (as monensin sodium) per ton. Elanco currently has approval for use of 25 grams of bacitracin MD and 11.3 to 22.7 grams of roxarsone in combination with 90 to 110 grams of monensin per ton of feed. The regulations are amended to provide for the new dosage ranges for bacitracin MD and roxarsone in the combination feeds. The feeds are used for increased rate of weight gain, improved feed efficiency, and as an aid in prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

The approval of this combination is subject to the Bureau's supplemental approval policy (see the **Federal Register** of December 23, 1977 (42 FR 64367)). This approval poses no

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increased human risk from exposure to residues of the new animal drugs bacitracin, roxarsone, and monensin because the number of food-producing animals receiving medication will not significantly increase, and because the combination consists of drugs which will not be administered at higher dosage levels, for longer duration, or for different indications than in effect. Accordingly, under the Bureau's supplemental approval policy, this approval did not require reevaluation of the safety and efficacy data supporting the parent applications.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, and Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.355 by revising paragraph (f)(1)(xii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(xii) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin methylene disalicylate, 10 to 25 grams, and roxarsone, 11.3 to 45.4 grams.

* * * * *

Effective date. This amendment is effective August 26, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 18, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-25938 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Tylosin; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) held by Hubbard Milling Co., providing for the safe and effective use of a 10-gram-per-pound premix for making complete swine feeds.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Hubbard Milling Co., 424 N. Front St., Mankato, MN 56001, is sponsor of an NADA (48-645) submitted on its behalf by Elanco Products Co. The NADA provides for use of a 10-gram-per-pound tylosin premix for making a complete swine feed which is used for increased rate of weight gain and improved feed efficiency. The application was approved by letter of February 14, 1972. At that time, the regulations were not routinely amended to reflect each approval. This document revises the regulations to reflect this approval.

Approval of this NADA relied on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this NADA was authorized by Elanco. This action, codification of a previously approved NADA, did not involve reevaluation of the drug's safety and effectiveness in NADA 12-491 or 48-645.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.111(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Foods and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by adding a new paragraph (b)(72) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(72) To 012190: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. August 26, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 18, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-25939 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. 80-836]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Condition of Property—Adjustment for Damage or Neglect

AGENCY: Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: This interim rule will amend the current regulation at Section 203.379 by redefining the conditions under which mortgagees may convey fire damaged property not covered by fire insurance (or inadequately covered) at the time of the damage, or assign a mortgage on such property. Additionally, it will amend those regulations at Sections 203.402(c) and 204.322(a) to bring them into compliance. Mortgagees have long claimed, with good cause, that the present rules have resulted in substantial financial losses where the mortgagee has, despite its best efforts, been unable to secure sufficient insurance coverage. Those present rules and procedures also have imposed an unnecessary reporting burden upon mortgagees and reviewing burden upon HUD field offices.

DATES: Effective date: September 22, 1980.

Comments due: October 27, 1980.

ADDRESS: Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban

Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. All relevant material received on or before October 27, 1980 will be considered before adoption of a final rule. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Julius M. Williams, Director, Single Family Loan Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6700. This is not a toll free number.

SUPPLEMENTARY INFORMATION: This interim rule will redefine the conditions under which the Department will accept a conveyance of fire damaged property (or accept an assignment of the mortgage on such property) when the fire insurance policy has been terminated or renewal refused by the carrier and the mortgagee has been unable to obtain insurance adequate to protect its continuing interest at reasonable rates. Such conveyance (or assignment) will be accepted without deduction from the mortgage insurance benefits for such damages, except to the extent that the mortgagee has received a recovery from an insurance carrier. In order to qualify for this, the mortgagee must certify that at the time the mortgage was insured the property was covered by adequate fire insurance, that adequate coverage was later cancelled or renewal refused and that the mortgagee made a diligent but unsuccessful effort to secure replacement coverage or coverage under a FAIR Plan (as defined in 24 CFR Section 1905.1(i)) which was adequate to protect the mortgagee's continuing interest. The rule will remove the current requirement that the mortgagee notify the Commissioner within 30 days of the cancellation of the insurance or refusal to renew. The rule also will define "reasonable rate" and "sufficient to protect the mortgagee's continuing interest."

This interim rule will make no change in Section 203.379(a) of the current regulations applicable to conveyances of property by the mortgagee subject to a deduction for the cost of repair or the insurance recovery received, whichever is greater. The interim rule will delete the reference in the current rule to "hazard insurance."

Both Sections 203.402(c) and Section 204.322(c) will be amended to cite 203.379(c). These are technical changes.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

The Department is issuing this as an Interim Rule after determining that it would not be contrary to the public interest to do so. Mortgagees have long claimed, with good cause, that the present rules have resulted in substantial financial losses where the mortgagee has, despite its best efforts, been unable to secure sufficient insurance coverage. Those present rules and procedures also have imposed an unnecessary reporting burden upon mortgagees and reviewing burden upon HUD field offices.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044. Accordingly, the Department will amend Chapter II of Title 24 CFR Sections 203.379, 203.402(c), and 204.322(c) as follows:

* * * * *

§ 203.379 Adjustment for damage or neglect.

If the property has been damaged by fire, flood, earthquake, or tornado, or, for mortgages insured on or after January 1, 1977, the property has suffered damage due to failure of the mortgagee to take action as required by Section 203.377, such damage shall be repaired prior to conveyance of the property or assignment of the mortgage to the Secretary, except under the following conditions:

(a) If the prior approval of the Commissioner is obtained, there shall be deducted from the insurance benefits the Commissioner's estimate of the cost of repairing such damage or any insurance recovery received by the mortgagee, whichever amount is the greater.

(b) If the property has been damaged by fire and was not covered by fire insurance at the time of the damage, or the amount of insurance coverage was inadequate to protect the mortgagee's continuing interest, only the amount of insurance recovery received by the mortgagee, if any, shall be deducted from the insurance benefits, provided the mortgagee certifies that:

(1) At the time the mortgage was insured, the property was covered by fire insurance in an amount and under such terms sufficient to protect the mortgagee's continuing interest, and

(2) Coverage in such amount or under such terms was later cancelled (for reasons other than nonpayment of premium) or renewal was refused by the insuring company, or the mortgagee was unable to secure coverage sufficient to protect its continuing interest, and

(3) The mortgagee has made diligent, though unsuccessful, efforts, within 30 days and at least annually thereafter, to secure replacement coverage or coverage under a FAIR Plan, as defined in 24 CFR Section 1905.1(i), administered by the Federal Emergency Management Agency and coverage in such amount and under such terms was not available at a reasonable rate, and

(4) The mortgagee took such actions as were required by Section 203.377.

(c) As used in this section "reasonable rate" shall mean a rate which is not in excess of the rate or advisory rate set by the principal State-licensed rating organization for essential property insurance in the voluntary market, or if coverage is available under a FAIR Plan, the FAIR Plan rate.

(d) As used in this section "sufficient to protect the mortgagee's continuing interest" shall mean an amount which will permit recovery of not less than the amount necessary to repair the damage in the case of a partial loss or to pay the mortgage in full in the case of a total loss.

* * * * *

§ 203.402 Items included in payment-conveyed properties.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in Section 203.379(c).

* * * * *

§ 204.322 Items included in payment.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in Section 203.379(c), prorated to the date of disposition of the property.

* * * * *

(Sections 203 and 211 of the National Housing Act, as amended; 12 USC 1709 and 1715b.)

Issued at Washington, D.C. on July 8, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-25833 Filed 8-25-80; 8:45 am]

BILLING CODE 4210-01-M

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[T.D. 7714]

Individual Retirement Arrangements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 45 FR 52782 (August 8, 1980) of the full text of the regulations which were the subject of Treasury Decision 7714 relating to individual retirement arrangements under sections 219, 402, 403, 408, 4973 and 4974 of the Internal Revenue Code of 1954.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1974. This correction is to be effective the same date.

FOR FURTHER INFORMATION CONTACT: William E. Gibbs of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3430, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1975, the **Federal Register** published a notice of proposed rulemaking (40 FR 7661) which proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 219, 402, 403 and 408 of the Internal Revenue Code of 1954. A new part, containing regulations under Code sections 4973 and 4974, Pension Excise Taxes (26 CFR Part 54), was also proposed. A correction was published in the **Federal Register** on March 5, 1975 (40 FR 10187). A supplemental notice was published on November 19, 1975 (40 FR 53593). A notice which withdrew and reproposed part of the notice of February 21, 1975, was published in the **Federal Register** on March 23, 1979 (44 FR 17754). The amendments were proposed to conform the regulations to section 2002 of the Employee Retirement Income Security Act of 1974. The purpose of these amendments made by the Treasury decision was to provide guidance to the public for compliance with the law, and affect individuals who maintain IRA's and institutions which sponsor IRA's.

Need For a Correction

As published, the full text of the regulations which were the subject of Treasury Decision 7714 contained an error relating to the approval by the IRS as being a determination of the form of an account, annuity, or endowment contract and not a determination of merits.

Correction of Publication

Accordingly, the publication of the full text of the regulations which were the subject of FR Doc 80-24001 (45 FR 52782, August 8, 1980) is amended by the following correction:

Section 1.408-6(d)(4)(iii)(B)(11), at 45 FR 52797, is corrected by revising it to read as follows:

§ 1.408-6 Disclosure statements for individual retirement arrangements.

* * * * *

(d) *Requirements.* * * *

(4) *Disclosure statements.* * * *

(iii) * * *

(B) * * *

(11) The Internal Revenue Service approval is a determination only as to the form of the account, annuity, or endowment contract, and does not represent a determination of the merits of such account, annuity, or endowment contract.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 80-26130 Filed 8-25-80; 8:45 am]

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26 CFR Part 53

[T.D. 7715]

Foundation Excise Taxes; Taxable Years Beginning After December 31, 1975; Reduction in Value for Blockage or Similar Factors

AGENCY: Internal Revenue Service Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the use of blockage or similar factors in determining the value of private foundation's noncharitable assets consisting of listed securities issues for purposes of determining the amount foundations must distribute annually for charitable purposes. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide foundation managers with the guidance needed to comply with that Act and affect all foundations that hold listed securities issues for which reductions in value due to blockage or related factors are appropriate.

EFFECTIVE DATE: Taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: David E. Dickinson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3218).

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1980, the **Federal Register** published proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4942(e)(2)(B) of the Internal Revenue Code of 1954 (45 FR 15945). These amendments were proposed to conform the regulations to section 1303(a) of the Tax Reform Act of 1976 (90 Stat. 1715). No public hearing was requested or held. After consideration of the two comments received in response to the notice of proposed rulemaking, those amendments are adopted by this Treasury decision with the change described below.

Explanation of Provisions

Old Law

Under section 4942(e)(2) as it existed prior to the Tax Reform Act of 1976 and § 53.4942(a)-2(c)(4)(i)(*b*) of the regulations, estate tax valuation methods were to be used to value noncharitable assets of private foundations consisting of listed securities issues.

New Law

Section 4942(e)(2)(B) established certain new, more explicit rules for valuing a private foundation's noncharitable assets consisting of listed securities issues. In determining the value of such securities for minimum charitable expenditures purposes, their fair market value (determined without regard to any reduction in value) is not to be reduced unless, and only to the extent that, a private foundation establishes that as a result of a certain factor or combination of factors enumerated in the statutory provision, the securities could not be liquidated within a reasonable period of time except at a price less than such fair market value. Any reduction in value is to be made only for one or more of these reasons and must not in the aggregate exceed 10 percent of the fair market value of the securities.

Final Regulations

These amendments to the regulations explain that the new law applies only to assets that are securities issues described in § 53.4942(a)-2(c)(4)(i)(*a*) (generally, securities issues for which quotations are readily available, referred to in this preamble as "listed securities issues"). See § 53.4942(a)–2(c)(4)(i)(*c*).

They give as an example of a "forced or distressed sale" under section 4942(e)(2)(B)(iii) of the Code the situation where securities cannot be sold on the open market without first being registered under the Securities Act of 1933. See § 53.4942(a)–2(c)(4)(i)(*c*)(*3*).

One public comment received objects to this rule, which requires unregistered shares of a listed securities issue to be valued first by reference to market quotations for the listed issue and then discounted under section 4942(e)(2)(B), if applicable, to reflect the fact that the shares are unregistered. Instead, as the comment is understood, the lack of registration should first be taken into account in determining the "fair market value" of the shares before applying factors, such as blockage, listed in section 4942(e)(2)(B) (i), (ii), and (iii).

It is clear that enactment of section 4942(e)(2)(B) responded to congressional concerns that excessive discounts were being claimed in making valuations of listed securities issues. It is believed that the valuation mechanism contemplated in section 4942(e)(2)(B) must begin with undiscounted market quotations for the listed issue and then allows reductions in this beginning value to the extent but only to the extent, permitted by section 4942(e)(2)(B) (i), (ii), or (iii) and subject to the overall discount limitation of 10 percent. Adoption of this commentator's suggestion would only continue opportunities for excessive discounts which Congress sought to prevent in enacting section 4942(e)(2)(B).

Further, the commentator's suggested formula would necessarily involve an initial calculation based solely upon lack of registration and completely ignore the size of the block of unregistered stock, the size of the block being a factor to take into account only later under section 4942(e)(2)(B)(i). It is seriously doubted that such a calculation reasonably could be made.

The regulations, as proposed, effectively provide that if a private foundation owns unlisted securities of a corporation (issuer) that owns assets comprising listed securities issues, those underlying listed securities issues are to be valued using market quotations or in accordance with the new rules, if applicable. The second commentator objected to this rule as contrary to the statute, which on its face applies to listed securities issues owned by the private foundation as opposed to an intermediate holding company. The commentator did, however, correctly suggest that the reason for this rule was to prevent foundation's avoiding section 4942(e)(2)(B) simply by incorporating its investment portfolio as a holding company. While the commentator had no objection to a regulatory rule which addressed this potential avoidance situation, it objected to application of the rule to cases where the private foundation held only a small minority interest in the unlisted holding company.

In response to this comment, the final regulations amending § 53.4942(a)–2(c)(iv)(*a*) provide that if a private foundation owns voting stock of an unlisted issuer and has, or together with disqualified persons or another private foundation has, effective control of the unlisted issuer within the meaning of § 53.4943–3(b)(3)(ii), then to the extent that the issuer's assets consist of listed securities issues, such assets are to be valued monthly on the basis of market quotations or in accordance with section 4942(e)(2)(B), if applicable, in determining the net worth of the issuer.

Finally, the final regulations revoke the obsolete version of section 4942 from the CFR and set forth the effective date of the new and old rules. See § 53.4942(a)–2(c)(4)(i)(*b*), new last two sentences.

Drafting Information

The principal author of these proposed regulations was David E. Dickinson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the regulations proposed to be prescribed as final Foundation Excise Tax Regulations (26 CFR Part 53) published as a notice of proposed rulemaking in the **Federal Register** for March 12, 1980 (45 FR 15945) are hereby adopted as proposed with the following change:

Paragraph 4 is revised to read as follows:

Par. 4. Two sentences are inserted between the second and third sentences of § 53.4942(a)–2(c)(4)(iv)(*a*), as follows:

§ *53.4942(a)–2 Computation of undistributed income.*

* * * * *

(c) *Minimum investment return.* * * *

(4) *Valuation of assets—* * * *

(iv) *Other assets.* * * *

(*a*) * * * If, however, a private foundation owns voting stock of an issuer of unlisted securities and has, or together with disqualified persons or another private foundation has, effective control of the issuer (within the meaning of § 53.4943–3(b)(3)(ii)), then to the extent that the issuer's assets consist of shares of listed securities issues, such assets shall be valued monthly on the basis of market quotations or in accordance with section 4942(e)(2)(B), if applicable. Thus, for example, if a private foundation and a disqualified person together own all of the unlisted voting stock of a holding company which in turn holds a portfolio of securities of issues which are listed on the New York Stock Exchange, in determining the net worth of the holding company, the underlying portfolio securities are to be valued monthly by reference to market quotations for their issues unless a decrease in such value is authorized in accordance with section 4942(e)(2)(B). * * *

* * * * *

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 8, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Accordingly, 26 CFR Part 53 is amended as follows:

PART 53—FOUNDATIONS AND SIMILAR EXCISE TAXES

§ 53.4942 [Revoked]

Paragraph 1. Section 53.4942 is revoked.

Par. 2. Two sentences are added to the end of § 53.4942(a)–2(c)(4)(i)(*b*) to read as follows:

§ 53.4942(a)–2 Computation of undistributed income.

* * * * *

(c) *Minimum investment return.* * * *

(4) Valuation of assets—(i) *Certain securities.* * * *

(*b*) * * * This paragraph (c)(4)(i)(*b*) applies only for taxable years beginning before January 1, 1976. See section 4942(e)(2)(B) and paragraph (c)(4)(i)(*c*) of this section for special valuation rules that apply for subsequent taxable years.

* * * * *

Par. 3. Sections 53.4942(a)–2(c)(4)(i)(*c*) and 53.4942(a)–2(c)(4)(i)(*d*) are redesignated as §§ 53.4942(a)–2(c)(4)(i)(*d*) and 53.4942(a)–2(c)(4)(i)(*e*), respectively, and a new § 53.4942(a)–2(c)(4)(i)(*c*) is added to read as follows:

§ 53.4942(a)–2 Computation of undistributed income.

* * * * *

(c) *Minimum investment return.* * * *

(4) *Valuation of assets*—(i) *Certain securities.* * * *

(*c*) For purposes of this subdivision (i) and with respect to taxable years

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beginning after December 31, 1975, if the private foundation can show that the value of securities determined on the basis of market quotations as provided by subdivision (i)(*a*) does not reflect the fair market value thereof because—

(*1*) The securities constitute a block of securities so large in relation to the volume of actual sales on the existing market that it could not be liquidated in a reasonable time without depressing the market.

(*2*) The securities are securities in a closely held corporation and sales are few or of a sporadic nature, and, or

(*3*) The sale of the securities would result in a forced or distress sale because the securities could not be offered to the public for sale without first being registered under the Securities Act of 1933 or because of other factors,

then the price at which the securities could be sold as such outside the usual market, as through an underwriter, may be a more accurate indication of value than market quotations. On the other hand, if the securities to be valued represents a controlling interest, either actual or effective, in a going business, the price at which other lots change hands may have little relation to the true value of the securities. No decrease in the fair market value of any given class of securities determined on the basis of market quotations as provided by subdivision (i)(*a*) shall be allowed except as authorized by this subdivision, and no such decrease shall in the aggregate exceed 10 percent of the fair market value of such class of securities so determined on the basis of market quotations and without regard to this subdivision.

* * * * *

Par. 4. Two sentences are inserted between the second and third sentences of § 53.4942(a)–2(c)(4)(iv)(*a*), as follows:

§ 53.4942(a)–2 Computation of undistributed income.

* * * * *

(c) *Minimum investment return.* * * *

(4) *Valuation of assets*—* * *

(iv) *Other assets.* * * *

(*a*) * * * If, however, a private foundation owns voting stock of an issuer of unlisted securities and has, or together with disqualified persons or another private foundation has, effective control of the issuer (within the meaning of § 53.4943–3(b)(3)(ii), then to the extent that the issuer's assets consist of shares of listed securities issues, such assets shall be valued monthly on the basis of market quotations or in accordance with section 4942(e)(2)(B), if applicable. Thus, for example, if a private foundation and a disqualified person together own all of the unlisted voting stock of a holding company which in turn holds a portfolio of securities of issues which are listed on the New York Stock Exchange, in determining the net worth of the holding company, the underlying portfolio securities are to be valued monthly by reference to market quotations for their issues unless a decrease in such value is authorized in accordance with section 4942(e)(2)(b).

[FR Doc. 80–28131 Filed 8–25–80; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Designation of Certain State and Local Fair Employment Practices Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain State and local fair employment practices agencies so that they may handle employment discrimination charges within their jurisdiction, filed with the Commission. This amendment adds the Bloomington, (Illinois) Human Relations Commission to the list of 706 agencies.

Additionally, changes in nomenclature are being made with regard to two previously designated agencies.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E St., N.W., Washington, D.C. 20506, telephone 202/634–6040.

SUPPLEMENTARY INFORMATION: Publication of this amendment to Sec. 1601.74(a) effectuates the designation of the following agency as a 706 Agency: Bloomington (Illinois) Human Relations Commission.

In addition to the new designation, changes are being made regarding two previously designated Agencies. The name "Illinois Fair Employment Practices Commission" is changed to read "Illinois Department of Human Rights," and the "California Fair Employment Practices Commission" is changed to read "California Department of Fair Employment and Housing."

With the addition of the above mentioned agency and noted corrections 29 CFR § 1601.74 (a) and (b) are amended as follows:

§ 1601.74 Designation and notice agencies.

(c) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ill.) Human Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Commission
California Department of Fair Employment and Housing
Charleston (W. Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Fairfax County (Va.) Human Rights Commission
Florida Commission on Human Relations
Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Huntington (W. Va.) Human Relations Commission
Idaho Commission on Human Rights
Illinois Department of Human Rights
Indiana Civil Rights Commission

Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Nebr.) Commission on Human Rights
Madison (Wis.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Minn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division of Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Nebr.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Rights
Prince Georges County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Minn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wash.) Human Rights Commission
Sioux Falls (S. Dak.) Human Relations Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Ohio) Human Relations Department
Tacoma (Wash.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W. Va.) Human Rights Commission
Wichita (Kans.) Commission on Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wisconsin State Personnel Commission
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 20003-12(a))

Signed at Washington, D.C. this 20th day of August 1980.

For the Commission.

John E. Rayburn,

Director, State and Local Division.

[FR Doc. 80-26149 Filed 8-25-80; 8:45 am]

BILLING CODE 6570-06-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1-4

[FPR Amdt. 207]

Special Types and Methods of Procurement Consulting Services

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The Federal Procurement Regulations are amended to add a new Subpart 1-4.8 dealing with special contracting officer responsibilities pertaining to the procurement of consulting services. The new coverage implements responsibilities placed on contracting officers by Office of Management and Budget (OMB) Circular No. A-120, dated April 14, 1980. The intended effect is to ensure that prescribed agency management controls over the procurement of consulting services are effectively applied and documented.

EFFECTIVE DATE: October 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

The table of contents for Part 1-4 is amended by deleting the entry reserving subparts 1-4.7 and 1-4.8 and adding the following entries:

Subpart 1-4.7 [Reserved]

Subpart 1-4.8—Consulting Services

1-4.800 Scope of subpart.
1-4.801 General.
1-4.802 Definition.
1-4.803 Contracting requirements.
1-4.804 Contract data reporting.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

Subpart 1-4.7 is reserved as follows:

Subpart 1-4.7 [Reserved]

Subpart 1-4.8 is added to read as follows:

Subpart 1-4.8—Consulting Services

§ 1-4.800 Scope of subpart.

This subpart implements Office of Management and Budget (OMB) Circular No. A-120 with respect to the responsibilities of the contracting officer when contracting for consultant services. It does not deal with the basic policy and other guidelines for the use of consulting services discussed in the Circular.

§ 1-4.801 General.

OMB Circular No. A-120 places on the contracting officer the responsibility for determining whether a procurement is for consulting services and for ensuring that certain management controls prescribed by the Circular have been adhered to and documented in the contract file.

§ 1-4.802 Definition.

(a) "Consulting services" means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management. These services are normally provided by persons and/or organizations considered to have knowledge and special abilities that are not generally available within the agency.

(b) The following examples are provide to assist contracting officers in identifying when a consulting services procurement exists:

(1) Advice on or evaluation of agency administration and management, such as:

(i) Organizational structures.

(ii) Reorganization plans.

(iii) management methods,
(iv) Zero-base budgeting procedures,
(v) Mail-handling procedures,
(vi) Records and file organization,
(vii) Personnel procedures,
(viii) Discriminatory labor practices,
(ix) Agency publications,
(x) Internal policies, directives, orders, manuals, and procedures, and
(xi) Management information systems.

(2) Advice on or evaluation of agency program management, such as:
(i) Program plans,
(ii) Acquisition strategies,
(iii) Assistance strategies,
(iv) Regulations,
(v) Assistance or procurement, solicited or unsolicited technical and cost proposals,
(vi) Legal aspects,
(vii) Economic impacts,
(viii) Program impact, and
(ix) Mission and program analysis.

(c) The conduct of research and development and technology assessments are not consulting services. However, contract task assignments for consulting services given to Federally Funded Research and Development Centers are included in the definition.

§ 1-4.803 Contracting requirements.

(a) The contracting officer is responsible for determining whether a requested solicitation or procurement action, regardless of dollar value, is for consulting services. The contracting officer's determination shall be final. Before processing any solicitation or procurement action for consulting services, the contracting officer shall ensure that the following requirements have been adhered to and are completely documented in the official contract file:

(1) Every requirement for consulting services shall be determined appropriate and be fully justified in writing in accordance with agency procedures implementing OMB Circular No. A-120. Justifications are required to contain a statement of need and a certification that the consulting services contemplated do not unnecessarily duplicate any previously performed work or services.

(2) Work statements shall be specific and complete and shall specify a fixed period of performance for the service to be provided.

(3) Contracts for consulting services shall be competitively awarded to the maximum extent practical to ensure reasonable costs.

(4) An appropriate disclosure is required of, and warning provisions shall be given to, the prospective performer(s) to avoid conflicts of interest. For example, conflicts of interest may exist when the personal, business, or professional activities of contractors or their employees place them in positions of conflict or apparent conflict between the their private interests and the public interests of the United States with respect to their duties or responsibilities under Government contracts.

(5)(i) All consulting service contracts shall be approved at a level above the organization sponsoring the activity in accordance with agency procedures implementing the approval requirements of OMB Circular No. A-120.

(ii) All consulting service contracts awarded during the fourth quarter of the fiscal year shall be approved in writing at the second level above the organization sponsoring the activity.

(b)(1) Proper administration and monitoring of consultant service contracts shall be emphasized to ensure satisfactory performance.

(2) Contracting officers shall maintain records of surveillance activities and contract administration actions in the official contract files.

§ 1-4.804 Contract data reporting.

Contracting officers shall ensure that awards over $10,000 are identified as consulting service contracts on either the agency's data collection form (which conforms to the requirements of the Federal Procurement Data System) or Standard Form 279, FPDS Individual Contract Action Report, for input into the Federal Procurement Data System (see § 1-1.341, Supp. 1, FPR Temp. Reg. 48).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: October 3, 1980.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 80-25970 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Part 5-1

[APD 2800.2 CHGE]

General; Definition of Terms; Procurement Responsibility and Authority

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Chapter 5, General Services Administration Procurement Regulations, is amended to add new subparts 5-1.2, Definition of Terms, and 5-1.4, Procurement Responsibility and Authority. This action results from a revision in designations of heads of procuring activities within GSA and the responsibility and authority of individuals so designated. The intended effect is to ensure compliance with the prescribed policy.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

PART 5-1—GENERAL

The table of contents for Part 5-1 is amended to add new subparts 5-1.2 and 5-1.4, as follows:

Subpart 5-1.2 Definition of Terms

5-1.206 Head of the procuring activity.

Subpart 5-1.4 Procurement Responsibility and Authority

5-1.401 Responsibility of the head of the procuring activity.

1. A new subpart 5-1.2 is added as follows:

Subpart 5-1.2 Definition of Terms

§ 5-1.206 Head of the procuring activity.

"Head of the procuring activity" means (i) the Assistant Administrator for Acquisition Policy, (ii) Commissioners of Services, (iii) the Archivist of the United States, or (iv) Regional Administrators.

2. A new subpart 5-1.4 is added as follows:

Subpart 5-1.4 Procurement Responsibility and Authority

§ 5-1.401 Responsibility of the head of the procuring activity.

(a) The head of the procuring activity (HPA) is responsible for the implementation and maintenance of an effective and efficient program for the procurement of supplies and services (including construction and leasing) assigned to the activity.

(b) The HPA shall establish adequate controls to ensure compliance with applicable laws, regulations, procedures, and good management practices.

(c) The HPA, in addition to other assigned or designated authorities, has unlimited contracting officer authority. However, the authority may not be redelegated.

(d) The Assistant Administrator for Acquisition Policy, as authorized by the Administrator, is solely responsible for delegations of contracting officer authority, in accordance with the contracting officer warrant program.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 18, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-25976 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Part 5-1

[APD 2800.2 Chge. 4]

General Policies; Waivers Under Wage and Price Standards for Federal Contractors

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Chapter 5, General Services Administration Procurement Regulations, is amended to prescribe procedures for requesting waivers from the requirements for wage and price standards for Federal contractors. This action supplements Federal Procurement Regulations Temporary Regulation No. 56, July 15, 1980, which requires that such waivers be approved by the head of the agency. The intended effect is to ensure compliance by contracting personnel with the FPR temporary regulation.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

PART 5-1—GENERAL

The table of contents for Part 5-1 is amended to add a new Subpart 5-1.3 as follows:

Subpart 5-1.3—General Policies

5-1.340 Waivers under wage and price standards for Federal contractors.

A new Subpart 5-1.3 is added as follows:

Subpart 5-1.3—General Policies

§ 5-1.340 Waivers under wage and price standards for Federal contractors.

Requests for waivers from the requirements of paragraphs 1-1.340 (h) and (i) in OFPP Policy Letter No. 78-6 (published as Attachment A, FPR Temp. Reg. 56, July 15, 1980), shall be forwarded by the Heads of Services and Regional Administrators through the Assistant Administrator for Acquisition Policy (V) to the Administrator of General Services for approval, as provided in paragraph 5.b. of FPR Temporary Regulation 56.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 15, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-25977 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Ch. 101

[FPMR Temp. Reg. G-43]

Use of Cash To Procure Emergency Domestic Passenger Transportation Services Costing More Than $100

AGENCY: Transportation and Public Utilities Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation grants authority to Federal agency heads to allow the use of cash for the procurement of emergency domestic passenger transportation services exceeding $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

DATES: Effective date: August 26, 1980. Expiration date: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Wolf, Assistant Commissioner, Office of Transportation Audits (202-275-5466).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G, to read as follows:

August 8, 1980.

Federal Property Management Regulations—Temporary Regulation G-43

To: Heads of Federal agencies.

Subject: Use of cash to procure emergency domestic passenger transportation services costing more than $100.

1. *Purpose.* This regulation provides policy and procedures revising § 101-41.203-2 to allow the use of cash for the procurement of emergency transportation services costing more than $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on April 1, 1982, unless sooner revised or superseded.

4. *Applicability.* This regulation applies to heads of all Government agencies that are subject to the audit authority of GSA under 31 U.S.C. 244.

5. *Background.* The General Services Administration has authority for the audit and adjustment of payments to carriers and forwarders furnishing transportation for the account of the United States and for prescribing uniform procedures and transportation-related forms governing the accounting of these payments. SF 1169, U.S. Government Transportation Request (GTR), is used for the procurement of passenger transportation services. However, § 101-41.203-2 grants to agencies the option of requiring travelers to use cash instead of GTR's where the passenger transportation services cost more than $10 but do not exceed $100 for each authorized trip.

6. *Revised policy.* a. The policy and procedures in § 101-41.203-2(a) are amended by adding after the last sentence, the following:

"Under emergency circumstances, where the use of GTR's is not possible, heads of agencies may authorize travelers to exceed the $100 limitation when procuring passenger transportation services. To justify the use of cash in excess of $100 instead of GTR's when procuring passenger transportation services, both the Government agency head and the traveler will certify on the travel voucher the reasons for this use."

b. Section 101-41.203-2(c) is amended to require the retention of travel vouchers at the site for audit purposes as follows:

"(c) Travelers using cash to purchase individual passenger transportation services shall procure these services direct from carriers and shall account for those expenses on their travel vouchers, furnishing passenger coupons or other evidence as appropriate in support thereof. Moreover, travelers shall assign to the Government the right to recover any excess payments involving carriers' use of improper rates. That assignment is preprinted on the travel voucher and shall be initialed by the traveler. Travel vouchers shall be maintained in the agency to be available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see § 101-11.404-2), provides instructions for the disposal of these travel vouchers."

7. *Authority limited to agency heads.* Authority for authorizing and approving the use of cash in excess of $100 for the procurement of emergency

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transportation services shall be retained by the agency head, or his or her deputy, and shall not be redelegated.

8. *Requirements.* Authorization for the use of passenger transportation services costing more than $100 shall be made in advance of the actual travel unless emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the traveler shall obtain written approval from the agency head, or his or her deputy, at the earliest practicable time.

9. *Employee responsibility and documentation.* Travelers shall certify on their travel vouchers the reason for their use of cash in excess of $100 for the procurement of passenger transportation services. Specific authorization or approval shall be stated on the travel voucher and retained for the record. In the absence of specific authorization or approval, the traveler shall be responsible for all additional costs involved for this travel, such as the use of foreign-flag carriers, first-class travel, or more costly modes.

10. *Effect on other directives.* When the provisions of this regulation are in conflict with other regulations and related directives, the provisions of this regulation will govern.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–25972 Filed 8–25–80; 8:45 am]

BILLING CODE 6820-AM-M

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41 CFR Part 101–44

[FPMR Amendment H–126]

Nondiscrimination by Reason of Age in the Donation of Federal Surplus Personal Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends certain GSA policies and procedures concerning donation of Federal surplus personal property. The changes are necessary to comply with section 214 of the Comprehensive Older Americans Act Amendments of 1978 (Pub. L. 94–478) and the Age Discrimination Act of 1975 (Pub. L. 94–135) concerning nondiscrimination by reason of age.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George W. Kinney, Director, Donation Division (703–557–0307).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

1. The table of contents for Part 101–44 is amended by revising the heading for Subpart 101–44.2 as follows:

Subpart 101–44.2—Donations to Public Agencies and Eligible Nonprofit Tax-Exempt Activities

2. Sections 101–44.001–4 and 101–44.001–14 are revised to read as follows:

§ 101–44.001–4 Donee.

"Donee" means a service educational activity; a State, political subdivision, municipality, or tax-supported institution acting on behalf of a public airport; a public agency using surplus personal property in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; an eligible nonprofit tax-exempt educational or public health institution or organization; the American National Red Cross; a public body; an eleemosynary institution; or any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

§ 101–44.001–14 State agency.

"State agency" means the agency in each State designated under State law as responsible for the fair and equitable distribution within the State of all donations of surplus property to public agencies to be used for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older individuals, and to eligible nonprofit tax-exempt activities for education and public health purposes, including research for any such purposes, and for use in programs for older individuals.

Subpart 101–44.1—General Provisions

3. Section 101–44.108–1 is amended by adding an introductory statement, revising the introductory material in paragraph (a), and revising paragraph (b) to read as follows:

§ 101–44.108–1 Drugs, biologicals, and reagents other than controlled substances; and certain shelf-life items.

(a) Surplus drugs, biologicals, and reagents that are in Federal Supply Class 6505 and are not required to be destroyed as provided by § 101–45.505 may be donated to public agencies for authorized public purposes and to eligible nonprofit tax-exempt activities. When the report of excess or other communication from the holding activity listing drugs, biologicals, and reagents indicates any items that are unfit for human use, GSA will not offer these items for donation. Controlled substances (as defined in § 101–43.001.4) shall not be donated.

* * * * *

(b) Shelf-life items determined to be surplus in accordance with § 101–43.313–9(i) shall be made available for donation screening for authorized public purposes, for eligible nonprofit tax-exempt activities, and for public airport purposes, under the provisions of § 101–44.109. Before donation, drugs, biologicals, and reagents other than controlled substances, except those requiring refrigeration or deep freeze and those that are exempted from the provisions of § 101–43.313–9, shall be processed as provided in this § 101–44.108–1.

* * * * *

4. Section 101–44.108–2. *Donations of aircraft* is amended by revising the caption in paragraph (b) to read as follows:

§ 101–44.108–2 Donations of aircraft.

* * * * *

(b) *Donations of aircraft to public agencies and eligible nonprofit tax-exempt activities.*

* * * * *

5. Section 101–44.110 is revised to read as follows:

§ 101–44.110 Transfer orders for surplus personal property.

All transfers of surplus personal property to the State agencies for donation for authorized purposes to public agencies and eligible nonprofit tax-exempt activities, to service educational activities, and to public airports shall be accomplished by use of Standard Form (SF) 123, Transfer Order for Surplus Personal Property, and SF 123–A, Transfer Order-Surplus Personal Property (Continuation Sheet). The original and five copies of SF 123 shall be forwarded to the appropriate GSA regional office for approval, and an informational copy shall be sent to the holding activity.

6. Section 101–44.118 is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 101–44.118 Nondiscrimination.

* * * * *

(d) Section 303 of the Age Discrimination Act of 1975 provides that "no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

(e) These titles apply to programs covered by Subpart 101–6.2. Any complaints alleging violations of these titles or any inquiries concerning applicability to the programs covered by this Part 101–44 shall be referred to the Commissioner, Federal Property Resources Service (D), General Services Administration, Washington, DC 20406.

Subpart 101-44.2—Donations to Public Agencies and Eligible Nonprofit Tax-Exempt Activities

7. Section 101–44.200 is revised to read as follows:

§ 101-44.20 Scope of subpart.

This subpart prescribes the authorities, responsibilities, policies, and methods governing the donation of surplus personal property within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa to:

(a) Any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety;

(b) Educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, educational radio and television stations licensed by the Federal Communications Commission, museums attended by the public, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for purposes; or

(c) Any State or local government agency, and any nonprofit organization or institution agency and nonprofit activity which receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

8. Section 101–44.204 is amended by revising paragraph (a)(2) to read as follows:

§ 101-44.204 Certification and agreement by a State agency.

(a) * * *

(2) The property is usable and needed by a public agency for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older individuals, by an eligible nonprofit organization or institution which is exempt from taxation in the State under section 501 of the Internal Revenue Code of 1954, for the purpose of education or public health (including research for any such purpose) or by an eligible nonprofit tax-exempt activity for programs for older individuals;

* * * * *

9. Section 101–44.207 is amended by revising the introductory paragraph; revising paragraph (a)(17) and adding paragraphs (a)(27) and (b)(2)(vii); revising paragraphs (c) and (c)(12) and (13), and adding paragraph (14); revising paragraphs (f)(1)(ii) and (iii); and revising paragraph (g) to read as follows:

§ 101-44.207 Eligibility.

This section sets forth the standards, guidelines, and procedures for determination of eligibility for public agencies and eligible nonprofit tax-exempt activities in each State to participate in the surplus personal property donation program, to receive surplus property through a State agency, and to use this property for the purposes authorized by the Federal Property and Administrative Services Act of 1949, as amended, and by section 214 of the Older Americans Act of 1965, as amended.

(a) * * *

(17) "Nonprofit tax-exempt activity" means an institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax-exempt under the provisions of section 501 of the Internal Revenue Code of 1954.

* * * * *

(27) "Programs for older individuals" means any State or local government agency or any nonprofit tax-exempt activity which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

(b) * * *

(2) * * *

(vii) *Programs for older individuals.* State or local government agencies which receive funds appropriated for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1965, are eligible to receive surplus property through donation. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

(c) *Eligibility of nonprofit tax-exempt activities.* Surplus personal property may be donated through the State agency to nonprofit tax-exempt activities, as defined in this section, within the State, such as:

* * * * *

(12) Museums attended by the public;

(13) Libraries, serving free all residents of a community, district, State, or region; or

(14) Organizations or institutions which receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, and multipurpose senior centers.

* * * * *

(f) * * *

(1) * * *

(ii) Status of the applicant as a public agency or as an eligible nonprofit tax-exempt activity (Evidence shall be included in the file that the applicant is a public agency or has been determined to be nonprofit and tax-exempt under section 501 of the Internal Revenue Code of 1964.);

(iii) Details concerning the applicant's public program activities or, when it is an eligible nonprofit tax-exempt activity, the specific programs and facilities operated by the applicant (Sufficient details and specifics should be available so that the State agency can determine the program eligibility qualifications of the applicant, including any of those activities defined in § 101–44.207(a).); and

* * * * *

(g) *Needs and resources.* In order that the State agency in distributing property can give fair and equitable consideration to the relative needs and resources of the donees within the State and their ability to use the property, the State agency may require each

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applicant, when submitting an application for eligibility determination, to provide a statement on the types and kinds of equipment, vehicles, machines, or other items of property needed by the applicant for use in the applicant's particular public programs, or, in the case of eligible nonprofit tax-exempt activities, the authorized programs to be served by the use of the equipment and the scope of these programs. The State agency may also request any financial information needed to evaluate the relative financial needs and resources of the applicant.

* * * * *

10. Section 101–44.208 is amended by revising paragraph (b) to read as follows:

§ 101–44.208 Property distributed to donees.

* * * * *

(b) *Donation purpose.* At the time donable surplus property is acquired by a donee, the donee's authorized representative shall indicate on the State agency's distribution document the primary purpose for which the property is to be used. In the case of public agencies, such usage could be for public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, museums, State Indians, or programs for older individuals. When the property is to be used for a combination of these purposes or for some other public purpose, the distribution document shall so indicate. With respect to nonprofit institutions or organizations, the purpose shall be shown as education, public health, museums, or programs for older individuals.

* * * * *

Subpart 101–44.49—Illustrations of Forms

11. Section 101–44.4901–123–1 (b)(i) is revised to read as follows:

§ 101–44.4901–123–1 Instructions for preparing and processing Standard Form 123.

* * * * *

(b) *Processing SF 123.—(1) Public agencies and eligible nonprofit tax-exempt activities.*

(i) Upon a determination that surplus property is necessary and useful for public agencies and eligible nonprofit tax-exempt activities, the State agency shall prepare and submit an original and five copies of SF 123 to the appropriate GSA office and shall send an information copy to the holding agency. The State agency official shall sign in block 13b. When the location of the property is different from that of the holding agency, an additional copy may be sent to the location for informational purposes. Block 11, "Pickup of Shipping Instructions," shall be completed, as well as blocks 13 b and c.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–25971 Filed 8–25–80; 8:45 am]

BILLING CODE 6820–96–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Docket No. 20828]

Second Computer Inquiry; Extension of Time Granted in Part

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file replies to oppositions to petitions for reconsideration in Docket 20828 (Second Computer Inquiry).

SUMMARY: In response to a motion filed by American Telephone and Telegraph Company, the Acting Chief, Common Carrier Bureau, has, on delegated authority, further extended the time for the filing of replies to oppositions to petitions for reconsideration of the Commission's decision in the Second Computer Inquiry. The time for the filing of replies is extended from August 25, 1980 to September 5, 1980.

DATE: Replies to oppositions to petitions for reconsideration must be filed on or before September 5, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: H. Russell Frisby, Jr., Common Carrier Bureau, (202) 632–9342.

Order

Adopted: August 18, 1980.

Released: August 20, 1980.

In the matter of amendment of § 64.702 of the Commission's rules and regulations (Second Computer Inquiry), Docket No. 20828. See also 45 FR 52389, August 7, 1980.

1. American Telephone and Telegraph Company (AT&T) has requested an extension of time from August 25, 1980 to September 24, 1980 for the filing of replies to oppositions to petitions for reconsideration of the Commission's *Final Decision,* 77 FCC 2d 384 (1980). In support of its request AT&T states that a thirty day extension of time is needed to provide AT&T and others with sufficient time to review the oppositions and prepare effective replies.

2. Oppositions to petitions for reconsideration were filed on August 4, 1980. To the extent additional time is warranted to respond to the oppositions, an extension of time until September 5, 1980 appears to be reasonable and in the public interest as it will provide parties with adequate time to address the various issues. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's rules on delegation of authority, that AT&T's motion for extension of time is GRANTED to the extent set forth herein and otherwise denied. Replies to oppositions to petitions for reconsideration shall be filed on or before September 5, 1980.

Thomas J. Casey,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80–26013 Filed 8–25–80; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Directed Service Order No. 1482]

Car Service; Various Railroads—Directed Service—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order No. 1482.

SUMMARY: Pursuant to Section 104 of Pub. L. 96–254 (May 30, 1980) the Commission is directing various carriers named in the Appendix to provide service over described lines of the Chicago, Rock Island & Pacific Railroad Company, debtor (William M. Gibbons, Trustee) (Rock Island or RI).

This directed service order is being issued on the basis of a directed service certification by the Secretary of Transportation.

DATE: Effective date: This directed service order shall become effective at 12:01 a.m. (central time) on August 16, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard J. Schiefelbein, (202) 275–0826

or

Joel E. Burns, (202) 275–7849.

SUPPLEMENTARY INFORMATION:

Decision of the Commission

Background

The Rock Island has been in bankruptcy proceedings since 1975. In September 1979, its cash flow position became so severe as to prevent the continuation of normal rail operations. Accordingly, we issued Directed Service Order No. 1398 (and supplements thereto) directing the Kansas City Terminal Railway Company (KCT) to provide service under 49 U.S.C. 11125 as a subsidized "directed rail carrier" (DRC) over the Rock Island rail system. *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289, 478, 718 (1979–80) (44 FR 56343, October 1, 1979). That order expired on March 23, 1980.

In order to provide for the continuation of essential rail services, we issued various service orders and directed service orders, without federal subsidy, authorizing several railroads to provide interim service over Rock Island lines on a voluntary basis. Our unsubsidized directed service orders issued under 49 U.S.C § 11125 expired on May 31, 1980, in accordance with statutory time limits.

On May 30, 1980, Pub. L. 96–254 ("Rock Island Railroad Transition and Employee Assistance Act" or "RITEA") was enacted. Section 104 of RITEA provides that the Commission shall, notwithstanding the provisions of 49 U.S.C. 11125 or Pub. L. 96–131, order directed service for a period not to exceed 90 days over any line of the Rock Island if the Secretary of Transportation finds and certifies to the Commission a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and that either (a) grains or foods are ready to be shipped to market, or (b) a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail or facilities for purposes for providing rail services, and there is a reasonable expectation that such transaction will be consummated. RITEA further provides that the Secretary may make available to the Commission not more than $15 million for purposes of providing directed service.

The Secretary of Transportation made a directed service certification to the Commission pursuant to section 104 of RITEA, with respect to Rock Island's lines listed in the appendix. The certification is incorporated in this decision by this reference. A summary of the certification is attached as an appendix.

Discussion and Conclusions

Section 104 of RITEA requires the Commission to direct service for a period not to exceed 90 days over any RI line for which the Secretary of Transportation makes an appropriate certification to the Commission. The Secretary has made the appropriate certification for Rock Island's lines described in the appendix. Therefore, we shall direct the named DRCs to perform operations over the certified lines.

We will direct service for the period for which the Secretary of Transportation has certified that need for service over the line exists.

Because of the emergency nature of the situation and the need for immediate action, we are issuing this decision without advance public notice and hearings. The Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, subchapter II, does not require prior notice or hearing where such procedure would be impracticable or inconsistent with the public interest, 5 U.S.C. 553(b)(B). Further, in view of the continuing emergency with respect to service over Rock Island lines, good cause exists to make this decision effective immediately.

The terms and conditions of this directed service are set forth below.

Terms and Conditions

Effective date—DSO No. 1482 shall be effective at 12:01 a.m. (central time) on August 16, 1980.

Expiration date—Unless modified by the Commission, this order will remain in effect, with respect to each particular DRC, according to the terms set forth in the appendix.

Operations—The DRCs are authorized respectively, to operate over the RI tracks described in the appendix. Operation over the designated tracks includes use of facilities and appurtenances thereto that are necessary or reasonably related to train operations, including but not limited to: Yards, yard facilities; maintenance facilities; communication, electrical, and signal facilities, locomotive and car repair facilities; scales; etc.

Reimbursement procedures.—Reimbursement for directed service operations under this decision shall be subject to the provisions of 49 CFR Part 1126, *Submission of Cost Data to Justify Reimbursement for Directed Service.* To ease the fiscal burdens involved in commencing service under the directed service order, any DRC may elect to use the optional three-stage funding procedure established in our directed service regulations 49 CFR 1126.3. This flexible procedure was established by us to provide for initial, interim, and final funding to assist a DRC in meeting the startup and subsequent cash requirements involved in directed service.

In an effort to facilitate further the ability of the DRCs to meet startup costs we shall partially relax the reporting requirements associated with initial funding requests under § 1126.3(b). At present, initial funding requests must be documented by three items: (i) A brief description of the DRC's initial operating plan for the directed service; (ii) a statement of its immediate cash requirements; and (iii) a statement of forecasted costs and revenues. See 49 CFR 1126.3(b)(i-iii). To streamline the initial funding process, we shall permit the DRC to omit from its "initial operating plan" certain data which we would ordinarily require.

Section 1126.3(b)(i) requires the DRC's initial operating plan to outline the following information: (1) The frequency and schedule of service planned; (2) the personnel and equipment to be utilized; (3) the crew change and interchange points to be observed; (4) any immediate maintenance and repair work required; and (5) its fuel and supply needs. However, startup funds may well be needed by the DRC before it can determine this information. Therefore, we will permit a DRC to apply for initial funding under 49 CFR 1126.3(b) without filing an initial operating plan containing all the information requested by § 1126.3(b)(i). Rather, the DRC's initial operating plan need only contain the information which it has available to it at the time of its application for initial funding. The DRC shall, however, submit an updated operating plan as soon as one is developed. Initial funding to cover start-up costs may not exceed the estimated net cost of directed service. If the DRC's start-up costs exceed the estimated net cost of directed service, the DRC may borrow the additional funds necessary to commence operations and claim reimbursement for interest on the loan as a cost of directed service. The Commission will not be responsible for the reimbursement of any costs beyond those agreed to by the Secretary of Transportation and the DRCs or in excess of the statutorily available funds under 45 U.S.C. 1003 (Section 4 of RITEA).

The issuance of this directed service order does not preclude interested rail carriers (including the DRC) from filing petitions with the Commission to operate over portions of the RI on a

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noncompensated basis under section 122 of Pub. L. 96-254 or similar provisions.

Track Safety—The DRCs are not authorized to expend funds to rehabilitate the track above the level necessary to provide the service certified by the Secretary of Transportation without prior approval of the Commission. The DRCs may make necessary repairs in order to keep the line operable.

A DRC, with the Trustee's consent, may enter Rock Island property before commencing operations in order to perform repairs necessary to make the line operable. Entry prior to the service period shall be at the DRC's own risk and expense with respect to insurance, casualties, and rent. Direct costs of repair work prior to the directed service period, necessary to make the line operable at the level of service specified for directed operations, may be claimed as reimbursable cost of directed service. Reimbursement for these costs may not be claimed until directed service has commenced. DRC may, however, borrow funds as needed in order to perform these repairs and claim interest expense as a reimbursable cost.

Cars and Operating Equipment—In operating the involved RI lines, each DRC shall use its own cars and operating equipment.

Employees—To the maximum extent practicable, the DRC shall hire former employees of Rock Island necessary to perform directed service over Rock Island properties. Rock Island employees hired during the directed service period do not assume an employment relationship with the DRCs. The DRC's work rules, rates of pay, and employment conditions will apply. Rock Island seniority roster shall apply.

Preservation of RI Estate—During the period of its operation of RI's lines, the DRCs shall be responsible for preserving the value of the lines to the RI estate. The DRCs shall thus have an affirmative duty to perform that degree of maintenance necessary to avoid deterioration of the lines and related facilities, unless otherwise agreed.

Liabilities and expenses—We shall treat as compensable costs of directed service all liabilities and expenses arising out of wrecks or derailments, personal injury claims and actions, and damage to or destruction of property on directed service lines. Prior to commencing operations, each DRC shall obtain necessary insurance in an amount reasonably estimated to cover major liabilities and expenses of this kind. All liabilities arising out of directed service, but not finally determined as of expiration of the directed service period, should be covered by the DRCs' Casualty Loss reserves.

Both reserves and the cost of appropriate insurance may be claimed as reimbursable costs of directed service. For outstanding claims covered by insurance, deductible amounts may be included in the reserve accounts.

Reserve accounts may be included in the directed service cost form only if contingent liabilities not covered by (or in excess of) insurance have been incurred during directed service by not finalized in amount. Those amounts shall be dispensed to the DRC as the respective liabilities are finalized and certified by the Commission for payment. See *Regional Rail Reorg. Act—Submission of Cost Data*, 348 I.C.C. 251, 278 (1975) (*Submission of cost Data I.*)

Compensation for RI lines and facilities.—The Bankruptcy Court has approved abandonment by the Trustee of the entire Rock Island system. Compensation for use of Rock Island tracks in directed service under RITEA presents a situation different from that presented in *Lehigh & New England Ry. Co.* v. *I.C.C.*, 540 F.2d 71 (3d Cir. 1976), *cert. denied* 429 U.S. 1061 (1977) (LNE case). In the *LNE* case we concluded that compensation need not be paid by a DRC for use of tracks and related facilities unless directed service should be profitable. That decision was based to a large extent on the conclusion that directed service confers substantial benefits on the owner of the line, by relieving the owner of its duty to provide service during the period of directed operations. The Bankruptcy Court's action has relieved the RI Trustee of these duties. Therefore, we believe that the Rock Island estate should be compensated for the use of Rock Island tracks and related facilities used in directed operations, whether or not those operations are profitable.

In *St. Louis-San Francisco Railway Company—Compensation Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)*, ——— I.C.C. ——— (decided April 7, 1980), 45 FR 25401 (April 15, 1980) (*Frisco Compensation* case) we set reasonable compensation terms for use of RI tracks during interim operations under 49 U.S.C. 11123. We believe that the terms set forth in the *Frisco Compensation* case will also provide for payment of just and reasonable compensation for use of RI tracks in directed service operations under section 104 of RITEA. Therefore, DRC shall pay the Trustee, as a reimbursable expense of directed service, compensation for use of Rock Island tracks and related facilities in accordance with the *Frisco Compensation* formula.

Rates—The DRCs shall adopt any existing local Rock Island rates or may establish new through or local rates on not less than one day's notice to the Commission and the public. Transit rates may not be adopted or established.

Operational Difficulties—Any operational or other difficulties associated with the authorized operations shall be resolved by the DRC and any other affected party through negotiated agreement or, failing agreement, by the Commission's Railroad Service Board.

Reporting Requirements—The DRCs shall submit to the Commission, on a monthly basis, reports on the directed service operations. These reports shall include summaries of the traffic handled, the revenues collected, and the expenses incurred in the directed service operations, in a form to be specified by the Commission's Bureau of Accounts. Revenue, expenses, and statistics resulting from directed service operations shall be internally maintained separate from the DRC's usual railroad operations.

We find:

1. The Secretary of Transportation has made a directed service certification to the Commission, pursuant to section 104 of Pub. L. 96-254, with respect to Rock Island's lines described in the appendix.

2. The designated DRCs are capable of performing directed service over the lines certified by the Secretary.

3. This decision will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

49 CFR 1033. Various Railroads—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

It is ordered:

(1) *Entry*—Each DRC is directed to enter upon and operate RI's lines described in the appendix pursuant to this directed service order under and section 104 of Pub. L. 96-254. Entry, by each DRC, respectively, shall occur and continue in accordance with the terms set forth in the appendix. Each DRC shall notify the Commission of its entry on the property immediately after such entry takes place.

(2) *Other Matters*—Operations under this order shall conform with the directions prescribed above and the directed service certification of the Secretary of Transportation.

(3) *Commission Filings*—All submissions filed in this proceeding

should refer to "DSO No. 1482" and be sent to the following Commission offices in the Commission's Headquarters at 12th and Constitution Avenue, NW., Washington, DC 20423:

- Office of the Secretary (Room 2215) (original)
- Section of Finance (Room 5417), Office of Proceedings (3 copies)
- Section of Rail Service Planning (Room 7375), Office of Policy and Analysis (3 copies)
- Railroad Service Board (Room 7115) (3 copies)

(4) *Applicability*—The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

(5) *Modifications*—The Commission retains jurisdiction to modify, supplement or reconsider this order at any time.

(6) *Initial and Interim finding*—All correspondence to the Commission containing requests for initial and interim funding shall be addressed to: James B. Thomas, Jr., Director, Bureau of Accounts, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

Envelopes containing such requests shall have the notation "Rock Island-DS" typed on the lower left corner.

(7) *Costs and revenues*—The DRC shall record the costs and revenues attributable to directed service in the manner prescribed in this decision and in 49 CFR Part 1126, 44 FR 6156, 6879 (1979), subject to the limitations set forth in the directed service certification of the Secretary of Transportation.

(8) Service on Parties—This decision shall be served on all parties. This decision shall also be served upon the American Short Line Railroad Association and upon the Association of American Railroads, Car Service Division (as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement).

(9) *Notice to General Public*—Notice of this decision shall be given to the general public by: (a) Depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC; and (b) filing a copy with the Director, Office of the Federal Register.

(10) *Effective Date*—This decision and order shall be effective at 12:01 a.m. (central time) on August 16, 1980.

(11) *Expiration Date*—Unless otherwise modified by the Commission, this decision and order will expire with respect to the various DRCs in accordance with the terms set forth in the appendix.

Decided: August 15, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum commented with a separate expression. Chairman Gaskins and Commissioner Gilliam absent and not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum, Commenting: I urge the Secretary of Transportation and his delegate, the Federal Railroad Administrator, not to rely on section 104 as a solution to the Rock Island problem. As this Commission learned when it directed service under 49 U.S.C. 11125, the availability of federal subsidies is a powerful incentive for private parties to avoid the hard business of rationalizing the railroad industry. A situation in which "a lack of rail service exists which cannot be resolved by a grant of interim operating authority" is the likely result.

I am sensitive to the difficulties faced by shippers, state and local governments, and other regional interests affected by the demise of the Rock Island. I must point out, however, that while directed service may appear to be an easy way to deal with an urgent problem—such as the need to move grain at a particular season—it is actually counterproductive. Ninety days of directed service means the loss of ninety days that could have been used to discover and implement a lasting, private-sector solution. The short-term relief provided by directed service is not worth its cost in tax dollars or lost opportunities.

Appendix—Rock Island Lines Certified for Directed Service under Rock Island Transition and Employee Assistance Act—Pub. L. 96-254 (May 30, 1980)

1. A. *Carrier.* Wabash Valley Railroad Company, a wholly owned subsidiary of Morrision-Knudsen Company, Inc.

B. *Certification Date.* August 8, 1980.

C. *Discription of Lines.*

(1) Subdivision 7, mainline track extending eastward from Phillipsburg, KS, milepost 283.9 to Mahaska, KS, milepost 170.3; and

(2) Subdivision 20-B, branchline track extending southeast from Belleville, KS, milepost 226.1 to Manhattan, KS, milepost 143.3

D. *Service Period.* Beginning on or about September 1, 1980, and continuing for ninety days, dates inclusive.

E. *Frequency of Service.* Not less than two trains per week.

F. *Reimbursement.* In no event shall the aggregate of compensation paid or payable by the United States exceed $1,000,000 for the total directed service period.

[FR Doc. 80-25943 Filed 8-25-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; Opening of the Erie National Wildlife Refuge, Pa., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Erie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Bill McCoy, Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pennsylvania 16327, Telephone No. 814-789-3585.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Erie National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Erie National Wildlife

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Refuge is permitted from September 1, 1980 through December 31, 1980, in accordance with all State and Federal regulations subject to the following special conditions: Field possession of migratory game birds is prohibited in areas of the refuge closed to migratory game bird hunting. Such hunting is permitted only on the designated area, as shown on maps available at refuge headquarters.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of rabbits, woodchucks, raccoons, squirrels, grouse, quail, pheasants, skunks, oppossums, and foxes is permitted from October 18, 1980 through February 28, 1981 on portions of the Erie National Wildlife Refuge. Maps showing the open hunting areas are available at refuge headquarters.

Hunting shall be in accordance with all State regulations governing hunting of small game, furbearers, and foxes, subject to the following special conditions: That portion of the refuge situated between Pennsylvania Routes 27 and 173 is closed to hunting with firearms from September 1, 1980 through November 22, 1980. Hunting of fox and raccoon is permitted only on that portion of the refuge located north of Route 27. All fox and raccoon hunters must have a special use permit in possession when hunting on the refuge. Permits may be secured at the refuge headquarters.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Erie National Wildlife Refuge, Pennsylvania, is permitted from October 4, 1980 through January 3, 1981. The open hunting area is shown on maps available at refuge headquarters.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer, subject to the following special conditions: All hunters, except archery hunters, shall be required to wear a minimum of 400 total square inches of a safety fluorescence orange color material. A permit is required for all deer hunting. Permits may be secured at refuge headquarters and must be returned via mail or in person within 10 days of the close of the respective season. Failure to return the permit will result in loss of hunting privileges the following year. Refuge hunters are prohibited from engaging in target practice or random shooting in all refuge hunts. The use of alcoholic beverages is not permitted on the refuge when visiting for the purpose of hunting.

All hunting area maps are available at refuge headquarters and from the Regional Director, One Gateway Center, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that the Erie Refuge hunting seasons be held concurrent with the Pennsylvania State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

George C. Balzer, Jr.,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 19, 1980.

[FR Doc. 80-25979 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Opening of the Oxbow National Wildlife Refuge, Mass., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Oxbow National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 10, 1980 through December 31, 1980).

FOR FURTHER INFORMATION CONTACT: David Beall, Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776, Telephone No. 617-443-4661.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Oxbow National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of woodcock and snipe on the Oxbow National Wildlife Refuge, Massachusetts, is permitted on the area designated by signs as open to hunting.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland birds and small game on the Oxbow National Wildlife Refuge, Massachusetts, is permitted on the area designated by signs as open to hunting.

These open areas, comprising 600 acres, are shown on maps available at refuge headquarters, Sudbury, Massachusetts, or from the Area Manager, U.S. Fish and Wildlife Service, Area Office, P.O. Box 1518, Concord, New Hampshire 03301. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds and upland game, subject to the following special conditions:

(1) Possession of slugs or buckshot is prohibited.

(2) Possession of a weapon other than a shotgun is prohibited.

(3) Vehicles are restricted to the designated parking at the south end of Oxbow National Wildlife Refuge accessible from the Still River Depot Road. Entry by routes other than by the county road, Still River Depot Road, is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative needs require that the Oxbow Refuge hunting seasons be held concurrent with the Massachusetts State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

George C. Balzer, Jr.,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 19, 1980

[FR Doc. 80-25980 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 167
Tuesday, August 26, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Semiannual Agenda of Regulations; Rescheduled Projects

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking; semi-annual agenda projects rescheduled.

SUMMARY: This document gives notice of regulation projects on the December 1979 agenda which have been rescheduled for publication later than originally planned. It includes brief descriptions of the status of each project and new proposed publication dates.

DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Manager, (202) 254-7086.

SUPPLEMENTARY INFORMATION: On December 4, 1979, the Office of Personnel Management (OPM) published (FR Doc. 79-36232, 44 FR 69651) the Semi-annual Agenda of Regulations Under Review or Development from January 1 through June 30, 1980. A number of the regulatory projects listed in that agenda have been delayed for various reasons. This document gives notice of the delayed projects, their status, and their proposed new publication dates.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

The following projects are delayed indefinitely pending approval of the revision of E.O. 9830:

CFR or other authority	Title	Brief description	Knowledgeable official
5 CFR Parts 1 through 9	Civil Service Rules	In conjunction with an extensive revision of Executive Order 9830 (2-24-47) concerning Federal Personnel Administration, a proposal is being considered to eliminate the Civil Service Rules. This project may necessitate a number of regulatory revisions. The proposal will be coordinated with Departments and agencies covered by the current rules.	Anne Kirby (202) 632-6898
5 CFR Part 305	Executive Assignment System	Revision of existing regulations to reflect changes in the Executive Assignment System resulting from the establishment of the Senior Executive Service.	Ann Ugelow (202) 632-6820
5 CFR Part 307	Veterans Readjustment Appointments	Transfer of existing regulations to Part 720	Don Smith (202) 254-3058
5 CFR 316.302	Term Employment	Transfer of existing regulations on term appointments for veterans to Part 720.	Don Smith (202) 254-3058.
5 CFR 316.402	Temporary Limited Employment	Transfer of existing regulations on temporary limited appointments for veterans to Part 720.	Don Smith (202) 254-3058.
5 CFR Part 720, Subpart C	Federal Women's Program	Proposed regulations to implement expected revision of E.O. 9830; establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	A. Diane Graham or Diane Herrmann (202) 632-6870
5 CFR Part 720, Subpart D	Hispanic Employment Program	Proposed regulations to implement expected revision of E.O. 9830; establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	A. Diane Graham or Roceliz Velez, (202) 632-6800.
5 CFR Part 720, Subpart E	Selective Placement Program	Proposed regulations to implement expected revision of E.O. 9830 and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	A. Diane Graham or Hedwig Oswald, (202) 632-4437.
5 CFR Part 720, Subpart F	Upward Mobility Program	Proposed regulations to implement expected revision of E.O. 9830; establishing legal basis for the program and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979).	A. Diane Graham or Curtestine Boardley, (202) 632-6256.
5 CFR Part 720, Subpart G	Veterans Employment Program	Transfer of existing regulations from Parts 307 and 316 to Part 720, to coincide with the VEP's placement within the organizational structure of OPM (Oct. 1, 1979).	A. Diane Graham or Donald Smith, (202) 254-3058.

The other delayed projects, their status, and proposed new publication dates are as follows.

CFR or other authority	Title	Brief description	Status
5 CFR Part 214	Senior Executive Service positions	New Part to cover definitions of general and career-reserved positions as well as career type positions in the excepted service for the purpose of determining appointment in the Senior Executive Service. This will be issued in final.	Unplanned higher priority work intervened in the development of this regulation. Due to staff changes, work has been reassigned, and this package should be completed by the end of September.
5 CFR Part 293	Personnel Records and Files	After input from agencies and OPM offices, add a Subpart D to this Part that will prescribe procedures for the maintenance of employee performance appraisal records..	A preliminary draft of revised Part 293 was circulated to the IAG and labor organizations for comment before proposed rulemaking. The comments were reviewed and the proposed rulemaking package has begun internal clearances.
5 CFR Part 294	Availability of Official Information	Will be revised to reflect current judicial interpretations of the provisions of the Freedom of Information Act (5 U.S.C. 552).	Because much of the material in Part 294 will be moved to other parts of 5 CFR, coordination between responsible offices has taken longer than anticipated. Revision of the part is pending indefinitely.

CFR or other authority	Title	Brief description	Status
Pub. L. 95-454, Civil Service Reform Act, Title VI, Sec. 601.	Personnel Research Programs and Demonstration Projects.	Final regulations which add new Part 470 to implement programs for conducting research and demonstration projects	Drafting of the proposed regulations for Part 470 was delayed while experience was gained in handling the Navy Demonstration Project through its public notice, comment, hearing and implementation periods. The proposed regulations will follow completion of internal procedures for processing demonstration projects.
5 CFR Part 534	Pay under other systems	Pay regulations for the Senior Executive Service. Some material will be issued in final.	These regulations have been drafted and the package is in clearance before submission to the Director for approval. Estimated publication date is September 1980
5 CFR Part 731	Suitability	Authorities, disqualification standards, rating actions, and appeals rights. Will be revised to reflect (1) the recent reorganization of the former CSC, (2) the OPM's policy of increased delegation of its decision-making authorities to agencies.	This revision was delayed pending evaluation of the impact of decisions in *Jane Doe* v. *United States Civil Service Commission* and other recent court cases on the process of determinations of suitability. Estimated publication will be January 1981.
5 CFR Part 732	Security and Related Determinations	Reemployment eligibility and action by the OPM	This package was delayed pending evaluation of the impact of decisions in *Jane Doe* v. *United States Civil Service Commission* and other recent court cases on security program procedures. Estimated publication will be January 1981.
Executive Order 11222, May 6, 1965	Standards of Ethical Conduct for Government Officers and Employees.	Revision of Executive Order 11222 affecting Standards of Conduct	A position paper on this subject was presented at the April 1980 Ethics Conference. Additional study and agency input are required before a proposed draft Executive Order can be submitted to OMB in October 1980.
5 CFR Part 752	Regulatory requirements for taking adverse actions under the Senior Executive Service.	Amends Part 752 to implement new Subchapter V of Chapter 75 of title 5, U.S.C. To be issued in final.	Unplanned higher priority work intervened in the completion of this package. Due to staff changes, the work was reassigned and coordination between offices in OPM is scheduled for October 1980.
5 CFR 870.501; 5 CFR 871.501	Conversion of Regular Life Insurance Coverage; Conversion of Optional Life Insurance Coverage.	Proposed rules authorizing OPM to order extension of time limit for conversion to private contract where timely conversion was prevented due to administrative error.	Initial contact on this subject between the Compensation Group and FEGLI has disclosed problems with the further development of this proposal. These problems are currently being studied. No publication date has been estimated.
5 CFR 890.401	Conversion of Health Benefits Coverage.	Proposed rules authorizing OPM to order extension of time limit for conversion to private contract where timely conversion was prevented due to administrative error.	A proposal on this package was furnished to health benefits carriers for their review and comment. Analysis has been made of the comments, and a staff study is being done to determine the feasibility of continuing this project.
Pub. L. 95-256	Elimination of Age 70 Mandatory Retirement.	Proposed revision of rules to implement recent amendments to the CSR law.	Before these conforming language changes can be issued, procedures and criteria are being reviewed and issues must be resolved. Estimated publication date is 10/1/80.
5 CFR 890.303(d)	FEHB; Continuation of Enrollment	Proposed regulations to provide continued health benefits coverage for certain survivor annuitants.	Draft regulations are now going through the internal clearance process.

[FR Doc. 80-26037 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Food Distribution Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of comment period on proposed rules.

SUMMARY: Notice is hereby given to extend the comment period an additional 30 days for the proposed rules on processing USDA-donated foods published on June 24, 1980 (45 FR 42303-42312). Comments originally were to be received on or before August 25, 1980.

The Department has received several inquiries concerning the length of the comment period from both groups and interested individuals who are presently compiling their comments on the proposed rule. The number of public comments received by the Food Distribution Division to date has been minimal.

For the above reasons and because the Department would like to allow for a maximum number of public comments prior to developing the final rule, the comment period is extended to September 25, 1980.

DATE: To be assured of consideration, comments must be received on or before September 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwena K. Tibbits, (202) 447-8386.

ADDRESS: Comments should be sent to: Darrel E. Gray, Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-8371). Comments may be inspected at 500 12th Street, SW., Room 610, Washington, D.C., during normal business hours (8:30 a.m. to 5:00 p.m., Mondays through Fridays).

Dated: August 22, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-26156 Filed 8-25-80; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 319

Foreign Quarantine Notices; Flag Smut (Foreign Strains); Proposed Rulemaking and Public Hearing

Correction

In FR Doc. 80-21903, appearing on page 48905, in the issue of Tuesday, July 22, 1980, make the following corrections:

1. On page 48906, second column, the fourteenth line should have read: "of *Triticum* spp. (wheat), of *Aegilops* spp., or of any intergeneric cross which includes *Triticum* spp. (wheat) or *Aegilops*".

2. On page 48907, first column, the seventh line of the fourth paragraph should have read: "People's Republic of China. Turkestan is now part of the People's Republic of China,".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 1030

Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago Regional order be decreased temporarily for the months of September, October and November 1980. This action was requested by cooperative associations representing a majority of producers supplying the market to prevent uneconomic shipments of milk.

DATE: Comments are due on or before September 2, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202-447-5661.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of September, October and November 1980.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 not later than September 2, 1980. Please submit two copies of the documents filed. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during September. Further, the proposed change provides some reduction of pooling standards and will not require extensive preparation or substantial alteration in method of operation for handlers.

All written submissions made pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1030.7(b) that are applicable during the months of September, October and November. It has been requested that they be changed temporarily for 1980 as follows:

	Percentage		
Month	Present	Requested	Point change
September	30	25	−5
October	36	25	−10
November	36	25	−10

Pursuant to the provisions of § 1030.7(b)(5) the supply plant shipping percentages set forth in § 1030.7(b) may be increased or decreased by up to 10 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to remove the need for milk shipments to such plants merely to qualify a supply plant.

The cooperative associations requesting the temporary revision indicated that their producer receipts are about 8 percent over last year. In their view, if the temporary reduction is not granted, about 75 to 90 million pounds of producer milk would need to be depooled each month during September through November, 1980. The proposed reduction in shipping percentages may prevent uneconomic movements of milk merely for purposes of pool plant qualification. Also, the reduction may assure that some producers who have been regularly associated with the market can continue to share in pool proceeds.

Accordingly, it may be appropriate to reduce the pool supply plant shipping percentages for the months of September, October and November 1980.

Signed at Washington, D.C., on August 20, 1980.

H. L. Forest,
Director, Dairy Division.

[FR Doc. 80-25850 Filed 8-25-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0203]

Equal Credit Opportunity; Proposed Board Interpretations; Consideration of Income; Disclosure of Reasons for Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Board interpretations

SUMMARY: The Board is proposing for public comment two interpretations of its Regulation B, which implements the Equal Credit Opportunity Act. The first proposed interpretation discusses the meaning of the regulatory requirement that a creditor not "discount or exclude from consideration" an applicant's income because it derives from alimony, child support, separate maintenance, part-time employment, retirement benefits, or public assistance. The second proposed interpretation addresses the issue of how a creditor should select and disclose the principal reason or reasons for an adverse credit decision. These interpretations derive from questions that have been raised about the application of Regulation B to credit scoring systems, but the basic principles apply as well to judgmental systems.

DATE: Comments must be received on or before October 20, 1980.

ADDRESS: Comments (which should refer to Docket No. R-0203) may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or may be delivered to Room B-2223 in the Board Building, 20th Street and Constitution Avenue, N.W., Washington, D.C., between 8:45 a.m. and 5:15 p.m. on business days. Comments may be reviewed in Room B-1122 of the Board Building during those same hours.

FOR FURTHER INFORMATION CONTACT: Stanley D. Mabbitt, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: Last year the Board received several requests for clarification of how certain provisions of its Regulation B apply to the operation of numerical credit scoring systems.[1] In

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[1] Basically, credit scoring is the use of statistical techniques to assign points or weights to various applicant characteristics (e.g. income, credit history)

Footnotes continued on next page

response to these requests, the Board asked for public comment (44 FR 23865, April 23, 1979) on four questions about Regulation B's application to credit scoring systems:

- May a credit scoring system score the fact that an applicant has more than one job or multiple sources of income, and may it score secondary income differently from primary income?
- How must a scoring system consider the amount of an applicant's income derived from part-time employment, pension, or alimony?
- How must a creditor using a scoring system select the specific reasons for adverse action?
- Under what circumstances may a creditor employing a credit scoring system use the reasons for adverse action contained in Regulation B's model statement?

The Board received nearly 300 written comments from members of the Congress, federal and state agencies, industry, and academics. The comments expressed a wide diversity of views about how Regulation B's rules should apply to credit scoring systems. Generally, creditors (retailers, oil companies, banks, and trade associations) claimed that a properly designed credit scoring system is an accurate, objective mechanism for determining creditworthiness. In order to preserve the empirical and statistical character of such a system, they suggested that a creditor be allowed wide latitude to include in or exclude from a particular system the amount and sources of an applicant's income depending on whether those factors were related in a statistically significant way to creditworthiness as established by the creditor developing the system. They also advocated that wide latitude by given to determining the most appropriate way for selecting and disclosing the principal reason or reasons for an adverse credit decision.

Consumer commenters (including several members of the Congress and a number of individual consumers) generally were concerned that the Board not reduce or eliminate what they perceived as the basic protections already afforded by the law. Thus, they were opposed to allowing creditors the degree of flexibility sought by the industry because of the concern that that flexibility might be used to mask illegally discriminatory practices.

The multiplicity of viewpoints, lack of consensus, and underlying technical complexity of the questions raised in the comment process led to a through reconsideration of the issues and the policy options available. Based upon that review the Board has decided to issue for public comment two proposed interpretations. Both proposed interpretations affirm the Board's conclusion, based upon an analysis of the comments and the Equal Credit Opportunity Act, that the rules in Regulation B generally apply uniformly to all creditors, whether evaluating creditworthiness judgmentally or through a credit scoring system.

The first proposal (Interpretation § 202.601) addresses several issues concerning consideration of income and income reliability. Three general principles are stated at the outset in the proposed interpretation, and the proposal then elaborates on how those priciples apply in several different factual situation where guidance was sought from the Board. In issuing the interpretation for comment, the Board is particularly interested in knowning whether the explanation of how the basic principles apply in different contexts is needed to provide the necessary guidance, or whether the specificity adds an undesirable degree of complexity or is otherwise unnecessary.

The second proposal (Interpretation § 202.901) sets forth several principles governing the selection and disclosure of reasons for adverse action. The proposal then explains how those principles are applied. Again, the Board invites comment on whether the additional explanatory material in the proposal is desirable. In addition to the interpretation in the second proposal, the Board is considering the desirability of encouraging or requiring creditors to indicate to the applicant the type of credit evaluation system used—whether judgmental or credit scoring—and to describe briefly the method of selecting the principal reason or reasons for adverse action. These explanations might further the congressional purpose of educating consumers about why they were denied credit and how they might improve their creditworthiness. On the other hand, requiring or even encouraging these additional disclosures, however brief, would increase compliance costs and burdens. Therefore, the Board specifically asks for comment on the merits of these possible disclosures.

For these reasons and under the authority granted in § 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(a)), the Board issues for public comment the following two proposed interpretations of Regulation B (12 CFR Part 202):

§ 202.601 Consideration of income.

(a) *Introduction.* Questions have arisen about the rules in Regulation B governing consideration of income—particularly as those rules apply to the operation of a credit scoring system. [2] In resolving those issues, the Board wishes to make clear that the provisions of Regulation B generally apply equally to all forms of credit analysis—whether performed judgmentally or through the use of a credit scoring system. [3]

(b) *Basic principles.* There are three basic principles that govern consideration of income under Regulation B. First, the regulation does not require consideration of income by a credit evaluation system. But, if income is considered at all by a credit system, a creditor must treat income relied upon by an applicant that is derived from alimony, child support, separate maintence, part-time employment, retirement benefits, or public assistance at least as favorably as income from any other source. [4] Second, where consideration of protected income would have no effect on the credit decision, the creditor is not required to consider it. Third, a creditor may consider, evaluating the circumstances of each case, the likelihood that any income relied upon—regardless of its source—will be received consistently and in a timely manner during the term

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Footnotes continued from last page

or other factors relevant to the transaction (e.g. type of security) in order to predict the likelihood that the applicant will satisfactorily repay the credit. In Regulation B, an empirically and statistically derived credit scoring system is contrasted with the judgmental evaluation performed by a credit officer or committee; compare the definition of "a demonstrably and statistically sound, empirically derived credit system" in § 202.2(p) with the definition of "judgmental system of evaluating applicants" in § 202.2(t).

[2] Section 202.6(b)(5) states in relevant part:

> A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of the applicant because of a prohibited basis or because the income is derived from part-time employment, or from an annuity, pension, or other retirement benefit; but a creditor may consider the amount and probably continuance of any income in evaluating an applicant's creditworthiness. Where an applicant relies on alimony, child support, or separate maintanance payments in applying for credit, a creditor shall consider such payments as income to the extent that they are likely to be consistently made. Factors that a creditor may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time that the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor. . . .

[3] The only differences in evaluation procedures for the two methods of judging creditworthiness that are sanctioned by the law relate to consideration of age and receipt of public assistance (see § 202.6(b)(2)(ii) and (iii)).

[4] For the purpose of this interpretation, income derived from any source mentioned in § 202.6(b)(5)—alimony, child support, separate maintenance, part-time employment, retirement benefits, or public assistance—is referred to as "protected income."

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of the credit extension. If a creditor follows these principles in good faith, it will be acting in compliance with the income consideration rules in Regulation B. The remainder of this interpretation explains how these principles apply in different contexts.

Paragraphs (c)–(e)—Illustration of the Application of General Principles

(c) *Equal treatment of protected income.* (1) As long as protected income is treated at least as favorably as the amount of income from any other source, a creditor using a credit scoring system may comply with the income consideration rule of Regulation B (i) by scoring the amount of any protected income as one or more characteristics in the system, (ii) by adding it to the amount of other income scored, or (iii) by judgmentally considering it outside of the system. A credit scoring system will not be deprived of its status as a demonstrably and statistically sound, empirically derived credit system because it aggregates protected income, which by itself would not be selected as a predictive characteristic, with other income. Similarly, the fact that a creditor using a credit scoring system might consider protected income outside the system would not change the status of the system for Regulation B purposes.

(2) Generally, a creditor may consider the nature and number of any income sources, as long as protected income is treated at least as favorably as income from other sources.[5] A creditor may consider, for example, that an applicant has two sources of income—employment and investments—and may consider what those sources are. If the applicant also relies upon alimony and retirement payments, the creditor could not consider the alimony and retirement income less favorably than the employment or investment income because of the type of income or the number of sources. Similarly, a creditor could not consider employment income less favorably than other income because it was derived from several part-time jobs.

(d) *Consideration of protected income.* (1) The rule prohibiting the discounting or exclusion of protected income does not require consideration of that income where its consideration would have no effect on the credit decision. Thus, if a creditor would approve an application without considering any income at all, it would not have to consider protected income. If income is considered but the amount of protected income is not needed for approval, the protected income need not be considered. Also, if a portion of any protected income would be sufficient to support approval, then any portion or type of that income not needed for approval would not have to be considered. In each case, the creditor's practice would be permissible because no adverse action would have been taken.

(2) Similarly, if a creditor would take adverse action without considering income at all, then the creditor need not consider the applicant's income regardless of its source because consideration of income would not change the result. For example, a creditor might reject an application because of the applicant's credit history, notwithstanding the amount or sources of the applicant's income.

(3) If, on the other hand, a creditor considers any portion of the income relied upon in an application, it would have to consider any protected income relied upon before it could take adverse action. For example, if an applicant's employment income were not sufficient to repay the credit, the creditor would have to consider, at least as favorably as the applicant's employment income, any alimony, retirement, or public assistance income relied upon by the applicant. In addition, the creditor may not discourage the applicant from disclosing the existence of protected income if the applicant chooses to rely on that income.

(e) *Considering reliability of income.* A creditor may consider the likelihood that any income relied upon—regardless of its source—will be received consistently and in a timely manner during the term of the credit extension. In considering the reliability of any protected income, a creditor must make its evaluation on an individual basis, taking into account the circumstances of each case.

(f) *Prospective effect.* This interpretation shall have prospective effect only after being promulgated in final form.

§ 202.901 Disclosure of reasons for adverse action.

(a) *Introduction.* The Board has been asked for an interpretation of § 202.9 of Regulation B regarding the selection and disclosure of the reasons for adverse action where a credit scoring system is used alone or in conjunction with a judgmental evaluation.[6] Although the issue has arisen in the context of credit scoring, the Board wishes to make clear that, as a general principle, the provisions of Regulation B apply equally to both judgmental and credit scoring systems of credit evaluation.

(b) *Basic principles.* The reasons for adverse action disclosed under §§ 202.9(a)(2) and (b)(2) must relate to those factors actually scored or reviewed by the creditor, and no factor or factors may be arbitrarily excluded from the pool of factors subject to disclosure. While the optimal disclosure for either a judgmental or numerical system would identify the minimum adjustments that the applicant would have to make in order to be approved for credit, that disclosure may be beyond the capability of many credit scoring and judgmental systems. Moving away from the optimal disclosure, there is no one best method for selecting the reason for the adverse decision, nor is there an absolute number of reasons that should be disclosed. Whatever method of selection is used, the creditor must use the same selection method for all applications that are evaluated under the same credit evaluation procedures and standards of creditworthiness, although the creditor may change the method from time to time.

Paragraphs (c)–(e)—Illustrations of the Application of General Principles

(c) *Disclosure of reasons where adverse action is automatic.* Many credit systems contain features that call for automatic adverse action on an application because one or more factors in the applicant's record are so adverse that they cannot be offset by other factors. Examples of automatic adverse action factors might be the applicant's previous declaration of bankruptcy or the fact that the applicant is a minor. When an application is declined because of an automatic adverse action factor, the creditor must disclose the specific factor or factors that resulted in the adverse decision.

(d) *Relationship of reasons for adverse action to factors in the applicant's record.* (1) If an application is not automatically declined but is evaluated and rejected, the question arises as to what information from the applicant's record must be included in the pool from which the reason for the adverse decision is selected. Generally, the reason for the adverse decision must relate to the factors actually scored or evaluated by the creditor, and no factors may be arbitrarily excluded from the pool.

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[5] Under § 202.6(b)(1) a creditor may never consider that income is derived from public assistance unless, in a judgmental evaluation, it is considered under § 202.6(b)(2)(iii) for the purpose of determining a pertinent element of creditworthiness.

[6] Section 202.9(a)(2) states in relevant part: Any notification given to applicant against whom adverse action is taken shall be in writing and shall contain . . . a statement of specific reasons for the action taken.

Section 202.9(b)(2) states in relevant part: A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in checklist or letter form or may use all or a portion of the sample form printed [in this subsection], which, if properly completed, satisfies the requirements of subsection (a)(2)(i). Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

(2) Thus, in a judgmental system, the reason disclosed must relate to the factors in the applicant's record actually reviewed by the person or persons making the decision. If the creditor's policies or procedure limit the specific factors considered, only those specific factors should be included in the pool. If the creditor's decision is based exclusively on a credit scoring system, the reason disclosed must relate to only those factors actually scored or weighted in the system. The reason may not relate to factors not processed by the credit scoring system. If the credit evaluation system employs both judgmental and credit scoring elements, the factors to which the reason must relate will be determined by whether the adverse action resulted from the judgmental or numerical assessment of the application. Thus, if the creditor scores an application in the initial stage of evaluation and the application is rejected, the reason for adverse action must relate to only those factors scored or weighted in the system. If the application is approved in the initial credit scoring stage and is then considered judgmentally and rejected, the reason disclosed must relate to the factors judgmentally reviewed in the applicant's record.

(e) *Selecting the reason for the adverse decision.* (1) The question arises as to how the reason for adverse action should be selected. In many circumstances, whether the creditor uses a judgmental or credit scoring system, an adverse decision results because the combination of factors being considered indicates that extending credit would be too risky or not sufficiently profitable given current economic conditions. Because it is the combination of factors, when considered together, that led to the adverse action, it is often difficult and perhaps impossible to infer that any single factor "caused" the creditor to take the adverse action.

(2) The optimal disclosure for either a judgmental or numerical system would identify the minimum adjustments that the applicant would have to make in order to be approved for credit. It would also include full consideration of all interactions among factors that might follow from any change in an applicant's characteristics. While the optimal disclosure may be beyond the capability of many credit scoring and judgmental systems, it is the goal that creditors should attempt to achieve in developing specific disclosure policies and procedures.

(3) Moving away from the optimal disclosure, there is no one best method for selecting the reason for the adverse decision, nor is there an absolute number of reasons that should be disclosed. Whatever method of selection is used, the creditor must use the same selection method for all applications that are evaluated under the same credit evaluation procedures and standards of creditworthiness, although the creditor may change the method from time to time.

(4) One acceptable method of selecting the factors would be to select the factor, holding all others constant, that would require the smallest degree of change (in terms of its contribution to the overall assessment of the application) in order for the applicant's request to be approved. The creditor would advise the applicant of the type of change required, though not necessarily the degree. Specifically, in a credit scoring system, the creditor would select the factor requiring the smallest degree of change that would enable the applicant to achieve the minimally acceptable score. No specific number of factors need be selected; but, if more than one are selected and disclosed, they should be listed in ascending order, beginning with the factor that requires the least amount of change. The creditor should also advise the consumer that, if the factor were changed sufficiently and no other aspects of the applicant's profile relevant to the credit decision changed, the applicant would meet the creditor's minimum standards for credit or for further processing of the application (e.g. a credit history check). The implicit assumption underlying this method is that the factors requiring the least amount of change are more mutable and, therefore, easier for the applicant to modify than factors requiring a greater amount of change.

(f) *Use of sample disclosure form.* Finally, the question arises as to the extent to which creditors may use the sample form in § 202.9(b)(2) to disclose the reason for an adverse decision when the factors considered do not correspond exactly to the checklist of reasons on the sample form. If the sample notice does not clearly and accurately state the reasons for the adverse decision with sufficient specificity, it must be modified. For example, in a system that scores the number of credit references from banks, an applicant with references from department stores, finance companies, and thrift institutions receives no points for them. Checking "insufficient credit references" on the adverse action notice is not specific enough. Disclosing "no bank references" would suffice. Thus, if the sample notice does not provide a clear and accurate statement of the reason or reasons for the adverse decision, its use by a creditor does not comply with the regulation.

(g) *Prospective effect.* This interpretation shall have prospective effect only after being promulgated in final form.

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By order of the Board of Governors, August 20, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-26019 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 221, 250, 255, and 298

[Economic Regs. Dockets 38021 and 38348; EDR-396B and EDR-404B]

Prescribed Airline Counter and Ticket Notices; Denial of Request for Extension of Comment Period

Dated: August 21, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Denial of request for extension of comment period.

SUMMARY: The CAB is denying a request for a second extension of the comment period in its rulemaking to simplify required airline notices to passengers on tickets and at ticket counters. The motion was submitted by the Air Transport Association of America (ATA).

DATES: Comments by: August 15, 1980. Reply comments by: September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5158.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-396, (45 FR 25817, April 16, 1980), the Board proposed to revise and simplify its required airline notices to passengers on tickets and at ticket counters. On June 18, 1980, by EDR-396A, (45 FR 42317), the Board, at the request of the International Air Transport Association (IATA), extended the initial and reply comment due dates for EDR-396 from June 16, 1980 and July 7, 1980 to August 15, 1980 and September 3, 1980. On June 25, 1980, the Board, in a separate

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proceeding (EDR–404, 45 FR 42629), proposed to prevent tariffs from automatically becoming part of the airline/passenger contract, and to require airlines to give passengers actual notice of the terms of the contract. Later the Board, at ATA's request, extended the initial and reply comment due dates for EDR–404 from August 4, 1980 and August 25, 1980 to September 3, 1980 and September 23, 1980. (EDR–404A, 45 FR 52820).

The Air Transport Association of America (ATA) has submitted a motion to consolidate EDR–396 and EDR–404, because they address similar issues. ATA states in the motion that these two rulemakings should be considered in the context of a larger proceeding which addresses all the problems of getting information to passengers. The motion also includes a request to extend the due dates for the receipt of initial and reply comments in EDR–396 to conform to those in EDR–404.

The motion to consolidate will be considered by the Board. The delegation of authority under which requests to extend comment periods are considered does not extend to motions to consolidate.

In view of the fact that the comment period for EDR–396 has already been extended 60 days beyond the original 60–day period, ATA has not offered a sufficient reason for the proposed extension, especially since it made its request shortly before the end of the comment period. Coincident comment closing dates are not a prerequisite to consolidation, so denying them would not foreclose that issue. Accordingly, I do not find good cause to further extend the comment period for EDR–396.

Under the authority delegated by the Board in 14 CFR 385.20(d), the request to extend the comment period is denied.

(Secs. 204(a) and 411 of the Federal Aviation Act of 1958, as amended, 72 Stat 743, 769; 49 U.S.C. 1324, 1381)

By the Civil Aeronautics Board.

Mark Schwimmer,

Acting Associate General Counsel.

[FR Doc. 80–26129 Filed 8–25–80; 8:45 am]

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14 CFR Parts 241 and 314

[EDR–406A/PDR–72A, Docket No. 38483]

Uniform System of Accounts and Reports for Certificated Air Carriers; Employee Protection Program; Extension of Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Extension of comment period.

SUMMARY: At the request of the Counsel of the Association of Flight Attendants, the CAB extends until September 8, 1980, the filing date for comments in a rulemaking proceeding to implement the agency's responsibilities under the Employee Protection Program established by the Airline Deregulation Act.

DATES: Comments by: September 8, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 38483, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Michael Schopf, Deputy General Counsel, 202–673–5234, or Steven B. Farbman, Trial Attorney, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–5340.

SUPPLEMENTARY INFORMATION: By EDR–406/PDR–72, 45 FR 49291, July 24, 1980, the Board proposed procedures for implementing its responsibilities under the Employee Protection Program embodied in section 43 of the Airline Deregulation Act, Pub. L. 95–504. This program provides for Federal payments to certain airline employees who are dislocated or who have their compensation reduced "on account of a qualifying dislocation." The Board is responsible for determining when a "qualifying dislocation" has taken place; the program is otherwise administered by the Secretary of Labor.

The comment deadline set by EDR–406/PDR–72 was August 25, 1980. Counsel for the Association of Flight Attendants asked for an extension of this period until September 8, 1980, citing an unusually heavy workload in support of the request.

Because of the importance of the issues presented in this proceeding and because the Board is especially interested in receiving the views of airline employees, there is good cause to allow the requested 2-week extension of time. The request is therefore granted.

Accordingly, under authority delegated in 14 CFR 385.20(d), the time for filing comments on EDR–406/PDR–72 is extended to September 8, 1980.

(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743) (49 U.S.C. 1324))

Richard B. Dyson,

Associate General Counsel.

[FR Doc. 80–25942 Filed 8–25–80; 8:45 am]

BILLING CODE 6320–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–17074, File No. S7–843]

Extension of Comment Period on Proposed Amendments of Rules 17a–1 and 17a–6 Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: On July 8, 1980, the Commission published for comment proposed amendments to its rules governing record retention, production and destruction by self-regulatory organizations in order to extend the requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board. The Commission is extending the period for submitting comments until October 10, 1980.

DATE: Comments should be submitted on or before October 10, 1980.

ADDRESS: Persons wishing to submit written comments should file 6 copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7–843 and will be available for public inspection at the Commission's Public Reference Room, Room, 6101, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Judith Axe, Division of Market Regulation, Securities and Exchange Commission, Room 351A, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2415.

SUPPLEMENTARY INFORMATION: On July 8, 1980, the Commission published for comment Proposed Amendments to Rules 17a–1 and 17a–6 [17 CFR 240.17a–1, 17a–6] under Section 17(a) of the Securities Exchange Act of 1934 which, if adopted, would extend the record retention, production and destruction requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board.

Presently, Rule 17a–1 requires national securities exchanges and registered securities associations to keep, and to permit copying by members of the Commission's staff of, all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities. Rule 17a–1 also requires that such records be kept for ■ period of not less than five years subject to the provisions of Commission Rule 17a–6 which permits the early destruction or conversion to microfilm or other recording media of records maintained under Rule 17a–1, pursuant to a record destruction plan filed with and approved by the Commission.

Notice of the request for comments was given by Securities Exchange Act Release No. 34–16966 (July 8, 1980) and by publication in the **Federal Register** (45 FR 47160 (July 14, 1980)). Interested persons were invited to submit written data, views, and arguments prior to August 15, 1980. Interested persons have indicated to the Commission that an extension of the comment period would be in the public interest.

Accordingly, the Commission today has extended the period for the submission of written data, views and arguments concerning the foregoing proposed amendments until October 10, 1980.

By the Commission.

George A. Fitzsimmons,
Secretary.
August 19, 1980.

[FR Doc. 80-25999 Filed 8-25-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273, and 274

High-Cost Natural Gas: Production Enhancement Procedures; Notice of Public Hearing

[Docket No. RM80–50]

Issued August 22, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of public hearing.

SUMMARY: On July 25, 1980, the Commission proposed to adopt regulations under section 107(c)(5) of the Natural Gas Policy Act of 1978 (45 FR 51219, August 1, 1980) to provide ■ special incentive maximum lawful price for certain natural gas produced from wells upon which production enhancement work is performed after May 29, 1980. In the Notice of Proposed Rulemaking issued in this docket on July 25, 1980, the Commission announced a public hearing to be held in Washington, D.C. on August 26, 1980. The Notice stated also that an additional public hearing may be held in an appropriate city outside of Washington, D.C. if sufficient interest in such a hearing is expressed. Such interest has been expressed to the Commission. Therefore, a hearing shall be held in Denver, Colorado on September 4, 1980 starting at 2:00 p.m. If necessary the hearing will be continued on the morning of September 5, 1980 at 9:00 a.m. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a request, either written or by telephone, is received by the Secretary of the Commission prior to 12:00 noon on September 3, 1980. The hearing shall be conducted in the manner described in the Notice of Proposed Rulemaking

DATE: Request to participate by 12:00 noon on September 3, 1980. Public hearing to begin at 2:00 p.m. on September 4, 1980.

ADDRESS: Requests to participate must be made to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 [(202) 357–8400] (refer to Docket No. RM80–50).

The public hearing will be held at the Holiday Inn in downtown Denver, 15th and Glenarm Place, Denver, Colorado 80202 [(303) 573–1450] (Silver Heels Room).

FOR FURTHER INFORMATION CONTACT:
Jeffrey H. Fink, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8111, 825 North Capitol Street, N.E. Washington, D.C. 20426, (202) 357–8460; or
Roger Coven, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4001, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–9124.

Lois D. Cashell,
Acting Secretary

[FR Doc. 80-26193 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 77P-0300]

Canned Peaches; Standards of Identity and Quality

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standards of identity and quality for canned peaches to provide for chunky style canned peaches and to adopt, insofar as practicable, the quality aspects of the Recommended International Standard for Canned Peaches developed by the Codex Alimentarius Commission and proposals by Libby, McNeill & Libby, Inc., the Canners League of California, and the United States Department of Agriculture regarding such standards. This action would promote honesty and fair dealing in the interest of consumers and would facilitate international trade.

DATES: Comments by October 27, 1980. The agency periodically announces by notice in the **Federal Register** mandatory uniform effective dates for compliance with food labeling requirements. The current mandatory uniform effective date is July 1, 1981 (43 FR 44830). The agency proposes that any final regulation based upon this proposal become effective in accordance with a new mandatory uniform effective date for compliance with food labeling requirements to be announced by the agency in a future **Federal Register** notice, but not sooner than 1 year following publication in the **Federal Register** of any final regulation based upon this proposal.

ADDRESS: Written comments, data, or information are to be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance ■ Recommended International Standard for Canned Peaches, First Revision, 1975 (CAC/RS 14–1969) (Codex standard). A petition has been filed by Libby, McNeill & Libby, Inc., 200 S. Michigan Ave., Chicago, IL 60604, proposing amendment of the United States standards of identity and quality for canned peaches to provide for an additional optional style of canned peaches designated "chunky." The Food Safety and Quality Committee (formerly the Standards Committee) of the Canners League of California (CLC), 1007 L St., Sacramento, CA 95814, and the Food Safety and

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Quality Service, United States Department of Agriculture (USDA), in addition, have requested that the requirements for minimum size in halves and quarters styles and uniformity of size in whole, halves, and quarters styles be deleted from the U.S. standards of quality for all canned fruits, including peaches. The CLC also has requested that the Codex limitation on pits and pit material not be adopted.

FDA issued a final regulation in the **Federal Register** of February 7, 1975 (40 FR 5762) amending the standard of identity for canned peaches under 21 CFR 145.170 in consideration of identity provisions of the Codex standard. Also, FDA issued a proposal in the **Federal Register** of December 9, 1977 (42 FR 62282) to amend numerous standards of fill of container to establish minimum average drained weights for certain canned foods, which included canned peaches. Although FDA is proposing to amend the standard of identity to provide for "chunky" style peaches and is publishing the entire Codex standard, the agency is proposing at this time no further amendments to the U.S. standards of identity and fill of container based on the Codex standard.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under treaty obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country; insofar as features dealt with by the Codex standard are concerned, products that do not comply, whether domestic or imported, will not be permitted to be distributed without restrictions under the name and description laid down in the standard. The restrictions that may be imposed are not incorporated in the Codex standard; these elective restrictions are left to the legislation and regulations of the individual countries. A participating country which concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had a standard of quality in 21 CFR 145.170 for canned peaches as established under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), (the act). There are also voluntary grade standards for marketing, developed by the United States Department of Agriculture (USDA), for canned clingstone peaches and canned freestone peaches. There is no substantial conflict between the U.S. standard and the Codex standard. This proposal to amend the U.S. standard of quality for canned peaches and to adopt, insofar as practicable, the Codex standard is based on FDA's opinion that the amend standard will promote honesty and fair dealing in the consumers' interest and will facilitate international trade.

In proposing to align, to the extent possible, the U.S. standard of quality with the Codex standard, FDA has noted certain differences of the composition and format of the Codex standard from the U.S. standard. The units of measurements in the U.S. standard are stated in either units of the U.S. customary system (pounds, inches), units of the international (metric) system or both, but the Codex standard uses only the metric system. The agency recognizes that the metric system generally is used throughout the world and in the United States for technical purposes and that it may eventually be adopted by this country for common usage. Therefore, FDA proposes that the international metric system be used in the U.S. standard of quality for canned peaches with the equivalent units of the U.S. customary system shown parenthetically.

The Codex standard sometimes uses subjective terms in stating its requirements. FDA maintains that these terms are not precise enough to be legally enforceable, and the agency has omitted them from the proposal.

Notice of the issuance of a temporary marketing permit to Libby, McNeill & Libby to market test a new style of canned peaches designated as "chunky" was published in the **Federal Register** of September 17, 1976 (41 FR 40205). The "chunky" style of canned peaches consisted of units greater than 0.5 inch (in the smallest dimension) and less than 1.75 inches in the largest dimension. In conjunction with a request for extension and amendment of the permit and in accordance with 21 CFR 130.17, Libby, McNeill & Libby submitted a petition to amend the standards of identity and quality for canned peaches to provide for "chunky" style as an optional style of pack. Libby, McNeill & Libby reported that information obtained under the temporary marketing permit reflected a significant product acceptance by consumers due to the taste (flavor) and size (shape) of the peaches as demonstrated by repeat purchases. The petition did not provide a definition for "chunky" style.

FDA is not aware of any difficulties that Libby, McNeill & Libby had in complying with these size definitions during the market testing period. FDA also notes that to establish such dimension requirements in the definition of "chunky" style peaches is consistent with the difinition for canned pineapple chunks as provided for in 21 CFR 145.180(a). FDA also notes that styles such as halves, quarters, slices, and diced are clearly defined without specific size specifications. FDA believes, however, that the style "chunky" would not be clearly defined in relation to the style "pieces or irregular pieces" without specific size specifications. Therefore, FDA proposes amendment of the standard of identity for canned peaches by redesignating 21 CFR 145.170(a)(2)(iii)(*g*) as 21 CFR 145.170(a)(2)(iii)(*h*) and providing in 21 CFR 145.170(a)(2)(iii)(*g*) for chunky peaches as an optional style defined as consisting of peeled pitted peaches cut into parts 13 millimeters (0.5 inch) or greater in the smallest dimension and 44 millimeters (1.75 inches) or less in the largest dimension. It also proposes that "chunky" may be alternatively designated "chunks" in 21 CFR 145.170(a)(4)(ii).

The petition proposed that the standard of quality require that the units be predominately greater than 0.5 inch (in the smallest dimension) and less than 1.75 inches in the largest dimension. Libby, McNeill & Libby subsequently advised that predominately greater than 0.5 inch in the smallest dimension and less then 1.75 inches in the largest dimension means that not more than a total of 25 percent by weight of the fruit shall be small pieces, defined as pieces that will pass through a screen with 0.5 inch openings, or large pieces, defined as pieces greater than 1.75 inches along the longest cut edge. FDA was further advised by Libby, McNeill & Libby that the allowance proposed is based on the percent of the drained weight of the food (constents of the container).

In a subsequent communication, Libby, McNeill & Libby requested, for purposes of clarification, that the regulation state that not more than 25 percent of the drained weight of the contents of the container consist of units that will pass through an opening 13 millimeters (0.5 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

FDA, therefore, proposes in 21 CFR 145.170(b)(1)(iii)(*b*) that for "chunky" style canned peaches not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.5 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

FDA also proposes in 21 CFR 145.170(b) that the quality requirements for maturity, peel, blemished units, trimmed units, crushed or broken units, and pits and pit fragments shall be applicable to "chunky" style canned peaches.

The final rule amending the U.S. standards of identity and quality for canned peaches will be based upon consideration of the Libby, McNeill & Libby, Inc. petition, the CLC and USDA requests and the quality aspects of the following Codex standard, together with comments and supporting data received in response to this proposal, and other available information. FDA proposes to adopt the most reasonable criteria for ensuring the quality of canned peaches based on the information submitted thus far and the agency's experience in regulating the quality of canned fruits.

[CAC/RS 14–1969: Rev. 1]

Recommended International Standard for Canned Peaches

1. *Description*

1.1 *Product Definition*

Canned peaches is the product (a) prepared from peeled, stemmed, fresh or frozen or previously canned mature peaches of commercial canning varieties, conforming to the characteristics of the fruit of *Prunus persica L.*, but excluding nectarine varieties, (b) packed with or without a suitable liquid packing medium, nutritive sweeteners, and seasoning or flavouring ingredients appropriate to the product, and (c) processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal Type*

Peaches of distinct varietal types shall be designated:

1.2.1 Freestone—where the pit separates readily from the flesh; or

1.2.2 Clingstone—where the pit adheres to the flesh.

1.3 *Colour Type*

Peaches of distinct varietal differences shall be designated:

1.3.1 Yellow—varietal types in which the predominant colour ranges from pale yellow to rich red-orange.

1.3.2 White—varietal types in which the predominant colour ranges from white to yellow-white.

1.3.3 Red—varietal types in which the predominant colour ranges from pale yellow to orange-red and with variegated red colouring other than that associated with the pit cavity.

1.3.4 Green—varietal types in which the predominant colour ranges from pale green to green when fully ripe.

1.4 *Styles*

1.4.1 Whole—unpitted whole peaches.

1.4.2 Halves—pitted and cut into two approximately equal parts.

1.4.3 Quarters—pitted and cut into four approximately equal parts.

1.4.4 Sliced—pitted and cut into wedge-shaped sectors.

1.4.5 Diced—pitted and cut into cube-like parts.

1.4.6 Pieces—(or irregular pieces)—pitted and comprising irregular shapes and sizes.

1.5 *Types of Pack*

1.5.1 Regular Pack—with liquid packing medium.

1.5.2 Solid Pack—practically all fruit with very little free flowing liquid.

2. *Essential Composition and Quality Factors*

2.1 *Packing Media*

2.1.1 Where a packing medium is used, it may consist of:

2.1.1.1 Water—in which water or any mixture of water and peach juice is the sole liquid packing medium;

2.1.1.2 Dry sweetener—without added liquid but with permitted dry sweeteners, namely, sucrose, invert sugar, dextrose, dried glucose syrup and such slight amounts of steam, water, or natural juice as occur in the normal canning of the product;

2.1.1.3 Syrup—in which water is combined with sucrose, invert sugar, dextrose, dried glucose syrup and glucose syrup and classified on the basis of cut-out strength as:

Extra Light Syrup—not less than 10° Brix.
Light Syrup—not less than 14° Brix.
Heavy Syrup—not less than 18° Brix.
Extra Heavy Syrup—not less than 22° Brix.

2.1.2 The cut-out strength shall be determined on average, but no container may have a Brix value lower than that of the next category below.

2.2 *Other Ingredients*

Nutritive sweeteners, spices, vinegar, peach pits, and peach kernels.

2.3 *Quality Criteria*

2.3.1 Definitions

2.3.1.1 Blemishes: surface discolouration and spots that definitely contrast with the overall colour and which may penetrate into the flesh. Examples include bruises, scab and dark discolouration.

2.3.1.2 Broken: considered a defect only in whole, halved, and quartered canned peaches in liquid media pack. The unit must be severed into definite parts, and all of such portions that equal the size of a full-size unit are considered one unit in applying the allowance herein.

2.3.1.3 Peel: that which adheres to peach flesh or is found loose in the container.

2.3.1.4 Pit (or stone): considered a defect in all styles except whole and except when whole peach pits or peach kernels are used as seasoning ingredients. Pit material includes whole pits and pieces (including mature pit points) that are hard and sharp. Very small pit fragments of less than 5 mm in greatest dimension which do not have sharp point or edges are disregarded.

2.3.1.5 Trim: considered a defect only in whole, halved, and quartered canned peaches in liquid media packs. The trimming must be excessive and includes serious gouges (whether due to physical trimming or other means) on the surface of the units which definitely detract from the appearance.

2.3.2 Colour

The colour of the product shall be normal for the colour type. Portions which were obviously near or part of the pit cavity and which after canning may become slightly discoloured are considered to be of normal characteristic colour. Canned peaches containing special ingredients shall be considered to be of characteristic colour when there is no abnormal discolouration for the respective ingredient used.

2.3.3 Flavour

Canned peaches shall have a normal flavor and odour free from flavours or odours foreign to the product and canned peaches with special ingredients shall have a flavour characteristic of that imparted by the peaches and the other substances used.

2.3.4 Texture

The peaches shall be reasonably fleshy and may be variable in tenderness but shall neither be mushy nor excessively firm in liquid media packs and shall not be excessively firm in solid packs.

2.3.5 Uniformity of Size

2.3.5.1 Whole, Halves, Quarters—in 95% by count of units that are most uniform in size, the weight of the largest unit shall be no more than twice the weight of the smallest unit, but if there are less than 20 units, one unit may be disregarded. Where a unit has broken in the container, the combined broken pieces are considered as a single unit.

2.3.5.2 Other styles—(there are no requirements for size uniformity).

2.3.6 Defects

The product shall be substantially free from defects such as extraneous material, pit (stone) material, peel, blemished units, and broken units. Certain common defects shall not be present in amounts greater than the following limitations:

Defects	Liquid media packs	Solid packs
Blemish and Trim	30% by count	3 units per 500g
Broken (whole, halves, quarters).	5% by count	(not applicable)
Peel (Average)	Not more than 15 square centimetres aggregate area per kg.	Not more than 30 square centimetres aggregate area per kg.
Pit or Pit Material (Average).	1 pit or its equivalent [1], per 5 kg.	1 pit or its equivalent [1], per 5 kg.

[1] One pit for this allowance is: one whole pit; or one large piece, the equivalent of one-half pit or larger; or up to three small hard pieces, the total mass of which is smaller than one-half pit.

2.3.7 Classification of "Defectives":

A container that fails to meet one or more of the applicable quality requirements as set out in subsections 2.3.2 through 2.3.6 (except peel and pit materail which are based on an average) shall be considered a "defective".

2.3.8 Acceptance

A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.3.7 when:

(a) for those requirements which are not based on averages, the number of "defectives", as defined in subsection 2.3.7, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969); and

(b) the requirements which are based on sample average are complied with.

3. *Food Additives*

Flavours	*Maximum level*
Natural fruit essences	Not limited.
Other natural flavours and their identical synthetic equivalents except those which are known to represent a toxic hazard [1].	Not limited.

[1] Temporarily endorsed.

Antioxidant

L-ascorbic acid, 550 mg/kg in the end product.

4. *Hygiene*

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. CAC-RCP 2–1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

5. *Weights and Measures*

5.1 *Fill of Container*

5.1.1 Minimum Fill

The container shall be well filled with peaches and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.2 Classification of "Defectives"

A container that fails to meet the requirement for minimum fill (90% container capacity) of sub-section 5.1.1 shall be considered a "defective".

5.1.3. Acceptance

A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

5.1.4 Minimum Drained Weight

5.1.4.1 The drained weight of the product shall be based on the weight of distilled water at 20°C which the sealed container will hold as follows, except that the requirements do not apply to "Whole Style".

	Heavy syrup (percent)	Light syrup (percent)	Solid pack (percent)
Clingstone type	57	59	84
Freestone type	54	56	82

5.1.4.2 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6. Labeling

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 The Name of the Food

6.1.1 The name of the product shall include:

(a) the designation: "peaches";

(b) a declaration of any seasoning which characterizes the product, e.g. "with X", when appropriate;

(c) the varietal type: "freestone" or "clingstone", as appropriate.

6.1.2 The following shall be included as part of the name or in close proximity to the name of the product:

(a) the colour type: "yellow", "white", "red" or "green" as appropriate.

(b) the packing medium: "water", the name of the dry sweetener, "extra light syrup", "light syrup", "heavy syrup", or "extra heavy syrup", as appropriate.

6.1.3 The following shall be so stated on the label as to be easily discernible by the consumer:

(a) the style: "whole", "halves", "quartered", "sliced", "diced", "pieces", or "irregular pieces", as appropriate.

(b) the type of pack: "solid pack" if of this type.

6.2 *List of Ingredients*

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(b) and (c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

6.2.2 If ascorbic acid is added to preserve colour, its presence shall be declared in the list of ingredients as ascorbic acid.

6.3 *Net Contents*

The net contents shall be declared by weight in either the metric ("Systeme International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 *Name and Address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of Origin*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7. *Methods of Analysis and Sampling*

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1. *Method of Sampling*

Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

7.2 *Determination of Drained Weight*

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentraius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36–1970, *Determination of Drained Weight—*Method I). Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20° C which the sealed container will hold when completely filled.

7.3 *Syrup Measurements (Refractometric Method)*

According to the A.O.A.C. (1965) method (Official Methods of Analysis of the A.O.A.C., 1965, *29.011:* (Solids) by Means of Refractometer (4) Official, Final action (and 43.009 and 43.008)). Results are expressed as % m/m of sucrose ("degrees Brix"), with correction for temperature to the equivalent at 20° C.

The USDA has established voluntary U.S. Standards for Grades of Canned Clingstone Peaches (7 CFR 2852.2561–2852.2575) and, separately, U.S. Standards for Grades of Canned Freestone Peaches (7 CFR 2852.2601–2852.2615). The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches were revised May 16, 1978 (43 FR 20957) and June 22, 1979 (44 FR 36363), respectively. The revisions converted the standards for grades to attribute type standards, eliminated the separate grade criteria for solid pack, and provided for various defect classifications according to the severity or frequency of occurrence. The classifications are minor, major, sever and critical, with the most liberal allowances for minor defects and the most restrictive allowances for the critical defects. The USDA voluntary grade standards for canned clingstone and freestone peaches also provide combined tolerances for blemished units, extraneous vegetable material, poor color, mechanical damage (e.g., partial slices and shelly and gouged units in sliced style) and workmanship (e.g., slivers and slabs in sliced style).

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Therefore, it is not possible to provide a specific tolerance for some quality factors for comparison purposes in the discussion below. The USDA grading manual for canned clingstone and freestone peaches and the regulations governing Inspection and Certification of Processed Fruits and Vegetables and Related Products contained additional information on the action levels and tolerances for peel, crushed, or broken units, and pit material.

In many respects the provisions of the present U.S. standard of quality, the USDA voluntary grade standards for canned clingstone peaches, the USDA voluntary grade standards for canned freestone peaches, and the Codex standard are identical. The following is a comparison of what that agency believes to be the principal differences among these standards. FDA particularly requests comments with available supporting data on these differences. Following each item of comparison is the action FDA proposes to take.

Color

The Codex standard, 2.3.2, states that the color of the product shall be normal for the color type and that portions which were obviously near or part of the pit cavity and which after canning may become slightly discolored are considered to be of normal characteristic color. The USDA voluntary grade standards for canned clingstone and freestone peaches states that poor color is a "severe" defect in Grade C. The USDA grading manuals for canned clingstone and freestone peaches state that for "poor" color the unit may possess discoloration due to oxidation, pit pigmentation, or other causes which seriously affect the appearance or eating quality or both. Peach color models are used by USDA for color evaluation. The Codex standard and the USDA voluntary grade standards do not provide an objective means for evaluating color. The U.S. standard makes not reference to color except for discolorations that are blemishes (21 CFR 145.170(b)(1)(v)).

FDA agrees that the color of canned peaches should be normal. In the absence of an objective method for enforcement, however, the agency is not providing for color requirements in this proposal. FDA notes, however, that if the food is sufficiently abnormal in color, it may be found in violation of section 402 of the act (21 U.S.C. 342).

Flavor and Odor

The Codex standard, 2.3.3, states that the peaches shall have a normal flavor and odor and be free of foreign flavors of odors. The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches have substantially the same provision. Neither the Codex standard nor USDA voluntary grade standards provide an objective means for determining compliance. The U.S. standard has no provision related to flavor or odor.

FDA agrees that the flavor and odor of canned peaches should be normal. However, in the absence of an objective method for enforcement, the agency is not providing for flavor and odor requirements in this proposal. FDA notes, however, that if the food is abnormal in flavor or odor, it may be found in violation of section 402 of the act (21 U.S.C. 342).

Texture and Maturity

The Codex standard, 2.3.4, states that cannned peaches shall be reasonably fleshy and may be variable in tenderness, but shall be neither mushy nor excessively firm in liquid media packs and shall not be excessively firm in solid packs. The USA voluntary grade standards for canned clingstone and freestone peaches refer to texture tenderness as "chartacter" defects. The USDA grading manuals for canned clingstone and freestone peaches state that photoguides, if available, and the feel of the units are used in the determination of character and that a 10-percent tolerance for "poor" units is allowed for Grade C. Neither the Codex nor the USDA voluntary grade standards provide an objective means for evaluating texture or maturity. The U.S. standard, 21 CFR 145.170(b)(1)(i), requires that all units be pierced by a weight of not more than 300 grams (10.6 ounces) when tested according to the procedure provided in 21 CFR 145.170(b)(2). The U.S. standard sets not limit on mushiness.

Although extreme mushiness in canned peaches is not desirable, the agency does not consider it to be in the public interest to discourage the packing of well-ripened fruit. The procedure for determining lack of ripeness (hardness) now in the U.S. standard is a reproducible, objective test. Therefore, FDA proposes to retain the requirements as set forth below in 21 CFR 145.170(b)(1)(i).

Minimum Size (Weight)

The Codex standard has no minimum size requirements. The USDA voluntary grade standards for canned clingstone and freestone peaches, published in the **Federal Registers** of May 16, 1978 (43 FR 20957) and June 22, 1979 (44 FR 36363), respectively, deleted minimum size as a factor of quality. The U.S. standard, 21 CFR 145.170(b)(1)(ii), for halves and quarters styles of canned peaches requires the weight of each unit to be not less than 3/5 ounce (17 grams) and 3/10 ounce (8.5 grams), respectively. The U.S. standard, which does not contain a statistical sampling and acceptance procedure, is based on the premise that each container either does or does not meet the requirements. In its voluntary grading program, USDA has used a statistical sampling and acceptance procedure similar to that in the Codex standard (2.3.8 and 7.1). The USDA voluntary grade standards, however, contain an attribute-type sampling and acceptance procedure.

USDA and CLC have requested deletion of the minimum size (weight) requirements from the standards of quality for all canned fruits. USDA states that zero tolerances, which allow no divergence for each unit from the range of sizes for the fruit permitted for that unit, are difficult to enforce uniformly, and are not statistically sound when the sample size is variable. It recommends that the standards of quality be amended, as was the standard of quality for canned apricots, to delete the zero tolerance requirements. Further, USDA argues that the minimum size of the units is no longer appropriate as a factor of quality because small units are not necessarily of poor quality. But USDA notes that canners do not have any difficulty complying with the requirements because the small units are mechanically separated and diverted to suitable styles or pack.

CLC states that deletion of the minimum size requirements for weight is in the interest of the canners maintaining economical and efficient operations and avoiding increased costs to consumers. That group also contends that minimum size requirements in the current standard of quality do not benefit the consumer in that they are of "cosmetic significance" and do not present direct relationships between the quality and edibility of the individual fruit units.

Recognizing the impossibility of enforcing a zero tolerance on the permissible range of size variation for every unit of canned fruit the agency is proposing elsewhere in this document the adoption of the Codex sampling and acceptance procedure for the determination of compliance with the quality criteria. The criteria and sampling plans for measuring compliance are given in 21 CFR 145.3(o) and (p).

The minimum size requirements are based upon substantial evidence in the record of the 1939 hearing on the

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standard of quality for canned peaches. The findings of fact, made on the basis of the hearing and published in the **Federal Register** of December 22, 1939 (4 FR 4922), state that canned peach halves and quarters that are of standard quality have a minimum size of ⅗ ounce (17 grams) and ³⁄₁₀ ounce (8.5 grams), respectively, and that these minimums are less than those adopted by the packers of over 97 percent of the canned peaches produced in the United States.

The amendment of the standard of quality for canned apricots to delete the minimum size requirements, referred to by USDA, was based on substantial evidence discussed in the proposal published in the **Federal Register** of May 16, 1970 (35 FR 7654), that deletion of the requirements was in the interest of the consumer. The National Canners Association (now the National Food Processors Association) submitted evidence to show that (1) consumers had ceased to regard the size of apricot halves and quarters as an indication or quality; (2) horticulture changes since 1939 voided that basis for the size limitation; a trend toward a smaller crop and a smaller average apricot size coupled with the increased consumer demand for canned apricots could result in a serious economic disadvantage to the consumer unless smaller satisfactory apricots were permitted for use; and (4) the sales of apricots in smaller can sizes had increased, and smaller apricot units provided for a better fill. No such data were submitted in support of a showing that the present minimum size requirements for canned peaches are incompatible with the promotion of honesty and fair dealing in the interest of consumers, nor does the agency agree that minimum size should not be a factor of quality. FDA notes, further, that USDA admits that canners do not have difficulty complying with these requirements. In the absence of data in support of the deletion of these requirements, FDA is proposing no change in the U.S. standard of quality on this point as set forth below in 21 CFR 145.170(b)(1)(ii).

Uniformity of Size (Weight)

Whole, Halves, and Quarters

The Codex standard, 2.3.5, states that for whole, halves, and quarters styles in 95 percent by count of the units that are most uniform in size, the weight of the largest unit shall be not more than twice the weight of the smallest unit, but if there are less than 20 units in the container, one unit may be disregarded. Where a unit has broken in the container, the combined broken pieces are considered as a single unit. The U.S. standard of quality, 21 CFR 145.170(b)(1)(iii), for whole, halves, and quarters styles, requires the weight of the largest unit in the container to be not more than twice the weight of the smallest unit. The U.S. standard, since it does not contain a statistical sampling and acceptance procedure, is based on the premise that each container either does or does not meet the requirement. The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches state that each unit within the sample having excessive variation in uniformity of size in whole, halves, and quarters styles is a "minor defect." The USDA grading manuals for canned clingstone and freestone peaches state for whole, halves, and quarters styles that only the apparent large units or the apparent small units are to be measured and each unit that varies in diameter more than one centimeter (0.4 inch) from the predominant diameter in the sample is counted as one minor defect.

CLC and USDA have requested that the uniformity of size requirement be deleted from the U.S. standard. As with its request for deleting the minimum size requirements for halves and quarters styles, CLC contended that these requirements are cosmetic, do not benefit the consumer, and do not present a direct relationship to quality. A preliminary review of the results of a study on the weight and diameter relationship, conducted during the 1978 packing season and available from the Chief of the Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, USDA, tends to support its request, CLC subsequently stated. USDA stated that the uniformity of size requirement causes unnecessary production and quality control costs, particularly with the No. 10 cans (3.09 kilograms or 109 ounces) where the probability of a unit exceeding twice the weight of the smallest unit is the greatest. Moreover, USDA argued that there is no device on the production line to reduce the variation in the weight of the individual fruit units, and that hand sorting is costly and not very accurate.

USDA stated that it tested the ability of several of its inspectors to array several samples of 30 peach halves visually in order of weight. It stated that the lightest and heaviest units were rarely on the ends of the array and sometimes one was as much as eight positions away from an end. This "weight variation regulation," it stated, therefore, causes not only unnecessary production costs but quality control costs as well. It is one of the most time consuming quality factors to check, USDA continued, as many units must be weighed to find the lightest and heaviest units in the sample.

USDA further stated that it believes that consumers judge uniformity of size on the basis of relative diameter and not weight. To test this belief, it stated that it made up samples in which the weight of the largest unit exceeded twice the weight of the smallest unit and had them evaluated subjectively for uniformity by USDA employees (clerical as well as inspectors) and nongovernment employees. Many of the samples, it stated, were found to be acceptable. On the other hand, samples which were prepared in compliance with the uniformity of size requirement were generally found to be less acceptable.

FDA does not agree with CLC and USDA requests that the uniformity of size requirement for whole, halves, and quarters styles should be deleted from the canned peaches standard. FDA recognizes that the present uniformity of size (weight) requirement may be obsolete due to changes in industry operating procedures since 1939. FDA also recognizes that peaches are mechanically sorted according to diameter and not weight, and, therefore, the requirement, if possible, should be based on diameter. FDA obtained from USDA the data, referred to by CLC, relating to the study of the weight and diameter relationship conducted during the 1978 packing season. The data represent the analyses for weight and diameter of the 2,570 individual peach halves in 398 containers of canned peaches produced by 7 packing plants in California. The containers varied in size from 227 grams (8 ounces) containing 3 to 4 peach halves to 3.09 kilograms (109 ounces) containing 29 to 34 peach halves. Statistical analyses of the data, which are on file with the FDA Hearing Clerk, reveal a poor correlation between weight and diameter (width) of peach halves. But FDA believes that a uniformity of size requirement based on variation in the diameter is reasonable and would promote honesty and fair dealing in the interest of consumers and alleviate many of the problems discussed by CLC and USDA. FDA believes that the arguments set out above regarding the uniformity of size requirement for halves style should be equally applicable to whole and quarters styles because all three are size graded in a similar manner.

Based on the evaluation of the data, the agency proposes to delete the uniformity of size requirement for canned peaches in whole, halves, and quarters styles which is based on weight of the individual peach units and, instead, proposes, as set forth below in 21 CFR 145.170(b)(1)(iii), a requirement that the diameter (width) of the largest unit is not more than 1.5 centimeters (0.6 inch) greater than the diameter (width) of the smallest unit. FDA points out that the proposed 1.5-centimeters measurement is inseparably inked in its statistical derivation with a requirement that no unit be eliminated from cans containing fewer than 20 units and that [illegible] units are to be eliminated from cans with more than 20 units. Therefore, FDA is not proposing that any units be disregarded if there are fewer than 20 units in the container, but proposes that in containers with more than 20 units, 2 units may be disregarded in making the determination. Where a unit has broken in the container, the combined broken pieces are to be reassembled to approximate a single unit of the appropriate style.

Peel

The Codex standard, 2.3.6, allows an average of 15 square centimeters (2.33 square inches) of peel in liquid media packs and 30 square centimeters (4.65 square inches) in solid packs per 1,000 grams (35.3 ounces) net weight. The Codex standard, 2.3.1.3, states that the peel is that which adheres to the peach flesh or is found loose in the container. The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches permit, in liquid media packs anu solid packs, an average of one square inch of peel per 16 ounces (14.2 square centimeters per 1,000 grams) of net content in peeled canned peaches. The U.S. standard, 21 CFR 145.170(b)(1)(iv), contains the same requirement as the USDA voluntary grade standards.

The Codex limitation for peel in liquid media packs is essentially the same as the limitation in the USDA voluntary grade standards and the U.S. standard. The agency has no basis to adopt the less stringent Codex requirement for solid packs. Therefore, FDA proposes in 21 CFR 145.170(b)(1)(iv) adoption of the Codex provision for liquid media packs as applicable to both liquid media packs and solid packs.

Blemished and Trimmed Units

The Codex standard, 2.3.6, provides [illegible] limit on the total number of blemished and excessively trimmed units in a container. The total may not exceed 30 percent by count in liquid media packs and 3 blemished units per 500 grams (17.65 ounces) in solid packs. The Codex standard, 2.3.1.1, defines blemishes as surface discoloration and spots that definitely contrast with the overall color and which may penetrate into the flesh, e.g., bruises, scab and dark discoloration. The Codex standard, 2.3.1.5, states that the trim limitation is applicable in whole, halves, and quarters styles packed in liquid media and the trimming must be excessive and includes serious gouges (whether due to physical trimming or other means) on the surface of the units which definitely detract from the appearance. The U.S. standard, 21 CFR 145.170(b)(1) (v) and (vi), provides that for all styles not more than 20 percent by count of the units may be blemished with scab, hail injury, discoloration, or other abnormalities and that for whole, halves, quarters, and sliced styles all units are untrimmed or are so trimmed as to preserve the normal shape. The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches state that blemished means any unit which is affected by scab, hail injury or discoloration to the extent that the appearance or eating quality is affected. The USDA voluntary grade standards for canned clingstone and freestone peaches considers excessively trimmed as "gouged" in all styles except diced, halves and pieces, and pieces or irregular pieces.

In FDA's opinion, it is preferable to have separate limitations for blemished units and trimmed or gouged units in that they represent two distinct quality defects common to canned peaches. Blemished units must be visually sorted out as the fruit passes on an inspection belt. But it is not practicable to sort out every blemished unit, and inevitably some will pass into the finished canned product. Trimmed or gouged units, however, result from the intentional removal of blemishes from individual units. If the normal shape has not been preserved, the agency maintains that the trimmed unit should then be used for dice or pieces or irregular pieces. FDA considers the present limitations on blemished and trimmed units as set forth in 21 CFR 145.170(b)(1) (v) and (vi), respectively, to be reasonable and therefore proposes no change, except that the requirements shall also apply to "chunky" style. The agency proposes, however, to include in the limitation on blemishes a definition of a blemish based on the Codex definition.

Crushed or Broken Units

The Codex standard, 2.3.6, provides that for whole, halves, and quarters styles, in liquid media packs, not more than 5 percent by count may be broken. Codex does not provide a limitation for broken units in solid packs. Codex, 2.3.1.2, states that broken units must be severed into definite parts and that all portions that equal the size of a full size unit are considered one unit. The U.S. standard, 21 CFR 145.170(b)(1)(vii), provides a limitation for all styles, except mixed pieces of irregular sizes and shapes, of 5 percent by count for broken (or crushed) units in containers of 20 or more units and not more than one unit in containers of less than 20 units. A unit that has lost its normal shape because of ripeness and bears no mark of crushing is not considered crushed or broken. The amendment to the U.S. standard of identity for canned peaches, published in the **Federal Register** of February 7, 1975 (40 FR 5762), changed the name of the optional style "mixed pieces of irregular sizes and shapes" to "pieces" or " irregular pieces." The USDA grading manuals for canned clingstone and freestone peaches contain a tolerance (AQL) of 6.5 percent for crushed or broken units (not due to ripeness) in whole, halves, and quarters styles.

The agency is not aware of any reason to propose the adoption of the less stringent Codex provision. Therefore, FDA is proposing no change in the U.S. standard, 21 CFR 145.170(b)(1)(vii), except that the requirement shall also apply to "chunky" style.

Pits and Pit Fragments (Material)

The Codex standard, 2.3.6, provides a limitation of one pit or the equivalent per 5 kilograms (176 ounces) in liquid media packs and solid packs. Codex, 2.3.6, defines a pit as one whole pit; or one large piece, the equivalent of one-half pit or larger; or up to three small hard pieces, the total mass of which is smaller than one-half pit. Codex, 2.3.1.4, states that the limitation on pits and pit material is considered a defect in all styles except whole and when whole peach pits or peach kernels are used as seasoning ingredients. It further states that pit material includes whole pits and pieces (including mature pit points) that are hard and sharp and that very small pit fragments of less than 5 millimeters (0.2 inch) in their greatest dimension which do not have sharp points or edges are to be disregarded. The USDA voluntary grade standards for canned clingstone peaches and canned freestone peaches, except for whole styles, state that the peaches are practically free from pit material. The presence of pits and pit fragments (material) is not a factor of quality under the U.S. standard. CLC stated that current industry practices and the experience of California peach canners indicate that canned peaches should be substantially free from pit material and that "a pit fragment tolerance (such as

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the excessively restrictive criteria described in Codex) is inconsistent with the many variable factors influencing such defects." The incidence of pit material, CLC continued, is in part influenced by factors which are seasonal in nature and dependent upon the climatic conditions which influence fruit growth characteristics. CLC stated that the automatic equipment now used and the quality control programs of the processors represent the most efficient and economic method for pit removal and that the cost of production would dramatically increase should a pit fragment allowance such as that provided for by Codex be adopted. CLC concluded that FDA is therefore urged to maintain the current status in this regard.

CLC later stated that, in cooperation with USDA, it had initiated during the 1978 packing season a study of pit and pit material to assist in the development of appropriate tolerance for USDA voluntary grade standards utilizing cumulative sum sampling (CUSUM) procedures. CUSUM is an online statistical sampling procedure used in USDA inspections and grading services. An analysis of the data, CLC stated, indicates that canned peaches are, in accordance with industry practice, substantially free from pit material. CLC stated, however, that to further confirm the conclusion and to recognize the influence of seasonal factors, the study is continuing. CLC stated that it would be inappropriate to adopt the Codex provision based on available information. CLC stated that the data, information, and results of the study are available from the Chief of the Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, USDA.

The available data, information, and results were requested and received from USDA and are on file with the FDA Hearing Clerk. The data do not represent individual containers on which a requirement established by FDA may be based. Also, data were not included for the first 15 days of the canning season. Therefore, it is not possible without making unwarranted assumptions to fully assess the impact of the Codex requirement on a major section of the U.S. peach canning industry. It appears, however, that all styles of canned freestone peaches and, with the exception of sliced and diced styles, all canned clingstone peaches could meet the requirement. USDA believes that there may be a greater probelm with pit fragments than indicated by the data and is collecting data for FDA through the entire 1979 California peach-canning season. Rather than delaying further consideration of the Codex standard, FDA is proposing in 21 CFR 145.170(b)(1)(viii) to adopt the provisions of the Codex standard. FDA will consider the additional data, information, and results from the 1979 season as comment to the proposal.

Acceptance Procedure

The Codex standard, 2.3.7, defines as a defective, any container that fails to meet one or more of the quality requirements (except for peel and pit material which are based on the sample average). It further provides, 2.3.8, that a lot shall be regarded as meeting the standard of quality for canned peaches when the number of defectives does not exceed the acceptance number in the 1969 FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL 6.5) or when a lot is in compliance with requirements that are based on sample averages. The USDA voluntary grade standards for canned clingstone and freestone peaches provide for sampling and acceptance on the basis of an attribute-type standard. The U.S. standard does not prescribe sampling plans or an acceptance procedure.

The agency believes that statistical sampling plans and an acceptance procedure will provide consumers and manufacturers with more informative product requirements. Therefore, FDA proposes in 21 CFR 145.170(b)(3) to adopt statistical sampling plans and an acceptance procedure based on the Codex standard, as set forth in 21 CFR 145.3 (o) and (p), for determining compliance with provisions of the quality standard.

Labeling of Substandard Quality

The U.S. standard, 21 CFR 145.170(b)(3), provides specific lebeling requirements for canned peaches which fail to meet the standard of quality. The Codes standard is silent on the disposition of canned peaches that fail to meet the standard.

FDA proposes in 21 CFR 145.170(b)(4) retention of the U.S. provision as it provides a means of disposing of canned peaches which fail to meet the standard of quality. It also proposes to provide for the substandard labeling of canned peaches that fail to meet the uniformity of size requirements for whole, halves, and quarters styles and chunky style in 21 CFR 145.170(b)(1)(iii)(*a*) and (*b*), respectively, and as discussed earlier in this proposal.

The agency periodically announces by notice in the **Federal Register** mandatory uniform effective dates for compliance with food labeling requirements. The current mandatory uniform effective date is July 1, 1981 (43 FR 44830). The agency proposes that any final regulation based upon this proposal become effective in accordance with a new mandatory uniform effective date for compliance with food labeling requirements to be announced by the agency in a future **Federal Register** notice, but not sooner than 1 year following publication in the **Federal Register** of any final regulation based upon this proposal.

The agency has determined under 21 CFR 25.24(a)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 145 be amended in § 145.170 by revising paragraphs (a)(2) (iii) and (4)(ii) and (b), to read as follows:

§ 145.170 Canned peaches.

(a) * * *

(2) * * *

(iii) *The optional styles of the peach ingredients*—

(*a*) *Whole*—consisting of whole peeled unpitted peaches.

(*b*) *Halves*—consisting of peeled pitted peaches cut into two approximately equal parts.

(*c*) *Halves and pieces*—consisting of a mixture in which the peeled pitted peach halves are more than 50 percent by weight.

(*d*) *Quarters*—consisting of peeled pitted peaches cut into four approximately equal parts.

(*e*) *Slices*—consisting of peeled pitted peaches cut into wedge-shaped sectors.

(*f*) *Dice*—consisting of peeled pitted peached cut into cubelike parts.

(*g*) *Chunky*—consisting of peeled pitted peaches cut into parts 13 millimeters (0.5 inch) or greater in the smallest dimension and 44 millimeters (1.75 inches) or less in the largest dimension.

(*h*) *Pieces or irregular pieces*—consisting of peeled pitted peaches cut into parts of irregular shapes and sizes.

* * * * *

(4) * * *

(ii) The color type and style of the peach ingredient as provided for in paragraph (a)(2) (ii) and (iii) of this section and the name of the packing medium specified in paragraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "Solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that "Halves" may be alternately designated as "Halved", "Halves and pieces" as "Halved and pieces", "Quarters" as "Quartered", "Slices" as "Sliced", and "Dice" as "Diced". Pieces or irregular pieces shall be designated "Pieces", "Irregular peices", or "Mixed pieces of irregular sizes and shapes". "Chunky" may be designated as "Chunks". The terms "Cling" and "Free" may be used as optional designations for "Clingstone" and "Freestone", respectively. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor, or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s); as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "   sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3)(i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(*a*) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(ii) of this section; and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

* * * * *

(b) *Quality.* (1) The standard of quality for canned peaches is as follows:

(i) *Maturity.* All units tested in accordance with the method prescribed in paragraph (b)(2) of this section are pierced by a weight of not more than 300 grams (10.6 ounces).

(ii) *Minimum size.* In the case of halves and quarters styles, the weight of each unit is not less than 17 grams (0.6 ounce) and 8.5 grams (0.3 ounce), respectively.

(iii) *Uniformity of size*—(*a*) *Whole, halves and quarters.* In the case of whole, halves, and quarters styles, the diameter (width) of the largest unit is not more than 1.5 centimeters (0.6 inch) greater than the diameter (width) of the smallest unit. In containers with more than 20 units, 2 units may be disregarded in making the determination. Where a unit has broken in the container, the combined broken pieces are to be reassembled to approximate a single unit of the appropriate style.

(*b*) *Chunky.* In the case of chunky style, not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.5 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

(iv) *Peel.* Not more than 15 square centimeters aggregate area of peel per 1000 grams (1.05 square inches per 16 ounces) of net weight. Include any peel adhering to the peach or loose in the container.

(v) *Blemished units.* Not more than 20 percent by count of the units in the container are blemished, e.g., with scab, hail injury, discoloration, or other abnormalities. Blemished units are units which contain surface discolorations that definitely contrast with the overall color and may penetrate into the flesh.

(vi) *Trimmed units.* In the case of whole, halves, quarters, slices, and chunky styles, all units are untrimmed or are so trimmed as to preserve normal shape of the units.

(vii) *Crushed or broken units.* In the case of whole, halves, halves and pieces, quarters, slices, dice and chunky styles, not more than 5 percent by count of the units in containers of 20 or more units and not more than 1 unit in containers of fewer than 20 units are crushed or broken. A unit that has lost its normal shape because of ripeness and bears no mark of crushing shall not be considered crushed or broken.

(viii) *Pits and pit fragments.* In the case of all styles, except whole peaches and when whole peach pits or peach kernels are used as seasoning ingredients, not more one pit or the equivalent is present per 5 kilograms (176 ounces) of net weight. A pit is defined as consisting ot one whole pit; or one large piece, the equivalent of one-half pit or larger; or up to three small hard pieces, the total mass of which is smaller than one-half pit. Pit fragments of less than 5 millimeters (0.2 inch) which do not have sharp points or edges are not considered as pit material.

(2) Canned peaches shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 29 millimeters (1.125 inches) inside diameter, with vertical sides; or rectangular in shape, 19 millimeters (0.75 inch) by 25 millimeters (1 inch) inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of 19 millimeters (0.75 inch). Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with a rectangular peel surface at least 13 millimeters (0.51 inch) by 25 millimeters (1 inch) cannot be trimmed. Test the piece by means of a round metal rod 4 millimeters (0.16 inch) in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams (3.53 ounces). Set the receptable so that the surface of test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams (0.45 ounce) per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) Determine compliance as specified in § 145.3(o) except that a lot shall be deemed to be in compliance for peel, pits, and pit material based on the average of all samples analyzed according to the sampling plans set out in § 145.3(p).

(4) If the quality of canned peaches falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality defined in § 130.14(a) of this chapter, in the manner

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and form therein specified; however, if the quality of the canned peaches falls below standard with respect to only one of the factors of quality specified in paragraph (b)(1)(i) through (viii) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, as specified after the corresponding designation of paragraph (b)(1) of this section which the canned peaches fail to meet, as follows: (i) "Not tender"; (ii) "Small halves" or "Small quarters" as the case may be; (iii) (*a*) "Mixed sizes"; (*b*) "Undersized and/or oversized pieces"; (iv) "Excess peel"; (v) "Blemished"; (vi) "Unevenly trimmed"; (vii) "Partly crushed or broken"; (viii) "Contains pits or pit fragments". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "peaches" and any words and statements required or authorized to appear with such name by paragraph (a)(2) of this section.

* * * * *

Interested persons may, on or before October 27, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12044 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food Standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption.

Dated: August 15, 1980.
Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 80-25726 Filed 8-25-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 320

[Docket No. 80N-0191]

Phenothiazine Products; Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to establish bioequivalence requirements for certain oral and suppository drug products categorized as phenothiazines. This action is taken because available data suggest that the various marketed brands of the phenothiazines may not have a comparable therapeutic effect. The proposed regulation would ensure the bioequivalence of different brands of these phenothiazine drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by October 27, 1980. It is proposed that the final regulation based on this proposal be effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry J. Malinowski, Bureau of Drugs (HFD-525), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1640.

SUPPLEMENTARY INFORMATION: Regulations in Subpart C of Part 320 (21 CFR Part 320, Subpart C) set forth procedures for the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, to propose and to establish a bioequivalence requirement for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. The authority to issue bioequivalence regulations was delegated to the Director and Deputy Director of the Bureau of Drugs by 21 CFR 5.79.

Data available to FDA suggest that, based on the criteria set out in § 320.52 (21 CFR 320.52), there is well-documented evidence of actual bioequivalence differences among currently marketed brands of both oral and suppository formulations of phenothiazine products produced by various manufacturers. Therefore, based on the following evidence, the Director of the Bureau of Drugs tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for the following phenothiazines: Acetophenazine maleate, butaperazine maleate, carphenazine maleate, chlorpromazine, chlorpromazine hydrochloride, fluphenazine hydrochloride, mesoridazine besylate, perphenazine, piperacetazine, prochlorperazine, prochlorperazine maleate, promazine hydrochloride, promethazine hydrochloride, thioridazine, thioridazine hydrochloride, trifluoperazine hydrochloride, triflupromazine, triflupromazine hydrochloride, and trimeprazine tartrate.

Background

The phenothiazines are presented together because they are members of a class of drug products that have close structural similarity and similar pharmacological, physiochemical, and pharmacokinetic properties. Because of these similarities, the agency believes that all products covered in this section, in addition to meeting various criteria under § 320.52 on an individual drug basis, also meet the criterion of § 320.51(a)(3).

The phenothiazines, used primarily as tranquilizers and antiemetics, are among the most widely used drugs in the practice of medicine. In psychiatric patients, the phenothiazines are used to treat symptoms commonly associated with acute and chronic psychoses. The drugs thus appropriately find use in the therapy of schizophrenia, organic psychoses, and the manic phase of manic depressive illness.

On the basis of the substituent in positions 10 and 2, the structures of the phenothiazine derivatives are shown below (Refs. 1 and 14):

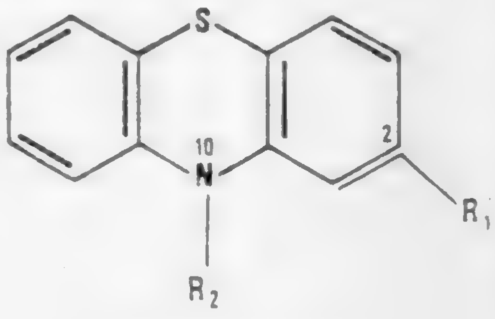

PHENOTHIAZINE

Phenothiazine (R_1 AND R_2 = -H)

	R_1	R_2
Promethazine	$-H$	$-CH_2CH(CH_3)N(CH_3)_2$
Promazine	$-H$	$-CH_2-CH_2-CH_2-N(CH_3)_2$
Chlorpromazine	$-Cl$	$CH_2-CH_2-CH_2-N(CH_3)_2$
Triflupromazine	$-CF_3$	$CH_2-CH_2-CH_2-N(CH_3)_2$
Trimeprazine	$-H$	$-CH_2CH-(CH_3)CH_2-N(CH_3)_2$
Fluphenazine	$-CF_3$	$CH_2-CH_2CH_2C_4H_8N_2-CH_2CH_2OH$
Perphenazine	$-Cl$	$CH_2-CH_2CH_2C_4H_8N_2-CH_2CH_2OH$

Phenothiazine (R_1 AND R_2 = –H)—Continued

	R_1	R_2
Prochlorperazine	$-Cl$	$-CH_2CH_2CH_2-C_4H_8N_2-CH_3$
Trifluoperazine	$-CF_3$	$-CH_2CH_2CH_2-C_4H_8N_2-CH_3$
Thioridazine	$-SCH_3$	$-CH_2-CH_2-C_5H_9N(CH_3)$
Acetophenazine	$-COCH_3$	$-CH_2CH_2CH_2-C_4H_8N_2-CH_2CH_2OH$
Butaperazine	$-COCH_2CH_2CH_3$	$-CH_2CH_2CH_2-C_4H_8N_2-CH_3$
Carphenazine	$-COCH_2CH_3$	$-CH_2CH_2CH_2-C_4H_8N_2-CH_2CH_2OH$
Mesoridazine	$S(0)CH_3$	$-CH_2CH_2-C_5H_9N(CH_3)$
Piperacetazine	$COCH_3$	$-CH_2CH_2CH_2-C_5H_9N-CH_2CH_2OH$

Phenothiazines are strong amines with alkaline properties. The negative logarithm of dissociation constant (pKa) values for protonated phenothiazine derivatives range from 7.5 to 9.4. The drugs are usually available as salts of various acids which have a wide range of water solubility. The hydrochlorides are freely soluble in water, whereas the free bases and maleate salts are practically insoluble in water, but are soluble in common organic solvents.

Phenothiazines have a three-ring structure in which two benzene rings are linked by a sulfur and a nitrogen atom. Substitutions in positions 2 and 10 of the phenothiazine molecule influence its pharmacological activity. The phenothiazine derivatives are alkylamino substituted on the nitrogen atom at the 10-position of the parent phenothiazine ring. All the phenothiazines used in psychiatry have a three carbon bridge between the atom of the ring and the side chain nitrogen atom (Ref. 1). Substitution of a hydrogen atom in position 2 by a chlorine atom increases the potency of phenothiazines for altering psychotic behavior in humans (Ref. 2). A $-CH_3$ substitution in this position greatly enhances antipsychotic and antiemetic potency as well as a tendency to produce extrapyramidal symptoms (Refs. 1, 2, and 3). The most potent antipsychotic compounds are those which have a piperazine group in the substituent on the *N*-atom in the 10 position (Refs. 1, 3, and 4).

The various phenothiazine drugs differ from each other only in the degree of their activity and in the intensity of their side effects (Refs. 1, 4, and 5). The differences in the degrees of activity make some of the drugs more potent but not necessarily more effective than others. Differences in the intensity of side effects make some congeners more appropriate than others for certain patients; for instance, thioridazine produces fewer extrapyramidal effects than chlorpromazine (Refs. 4, 5, and 6). Large scale studies by the National Institute of Mental Health have shown that no compound is more clinically effective than chlorpromazine (Ref. 7).

The phenothiazines, through their actions on the central and autonomic nervous systems, affect many different sites in the body. In the central nervous system, phenothiazines act primarily at the subcortical level on the ventricular formation, hypothalamus and limbic system, and produce sedation without hypnosis or anesthesia, blockade of conditioned avoidance behavior, antiemetic affects, alteration of temperature regulation, alterations in skeletal muscle tone, analgesia, facilitation of seizure discharge and endocrine changes (Refs. 1, 3, and 6). In the autonomic nervous system, the action of phenothiazines results in cholinergic blocking effects, alpha-adrenergic blocking effects, adrenergic potentiating effects, antiserotonin effects, and prevention in the uptake of biological amines (Ref. 1 and 3).

Phenothiazines should be readily absorbed from the gastrointestinal tract and parenteral sites. From 60 to 70 percent of an orally administered dose is rapidly removed from the portal circulation by the liver, and there is a very active enterohepatic circulation (Ref. 1, 3, and 6). After absorption the phenothiazines are rapidly distributed in all the body tissues. High concentrations of unchanged drug occur in the brain; metabolites predominate in the lung, liver, kidney, and spleen (Refs. 4 and 5).

The phenothiazines are metabolized primarily in the liver via oxidation, hydroxylation, demethylation, sulfoxide formation, and conjugation with glucuronic acid. Approximately half of the metabolites of the commonly used phenothiazines are found in the urine, the rest in the feces. The ultimate residence time of phenothiazines in the body is exceedingly long. Various metabolites and even free drug are detectable in the urine of hospitalized mental patients for 6 to 8 months after discontinuation of these drugs (Ref. 1).

Phenothiazines have a high therapeutic ratio. Most phenothiazines have a relatively flat dose-response curve and as a result can be used over a wide range of dosages (Ref. 1). The most dangerous effects of phenothiazines are those resulting from hypersensitivity reactions, particularly blood dyscrasias, jaundice, and dermatological reactions (Refs. 1, 3, and 5). Toxic reactions are considered extensions of the expected pharmacological actions of the drugs and include extrapyramidal effects (such as parkinsonism), dyskinesia, and akathisia. Phenothiazines have been implicated in agranulocytosis far more frequently than any other class of drugs, and it is the most frequently reported blood disorder associated with phenothiazine therapy (Refs. 5 and 6). Mild leukopenia occurs in many patients who are given large doses of phenothiazines for prolonged periods; the leukocyte count returns to normal as treatment is discontinued. Other reported blood disorders include eosinophilia, thrombocytopenia, aplastic anemia, and granulocytopenia. Although the incidence of blood disorders is low, the mortality rate is high.

Phenothiazines

The following table enumerates the antipsychotic doses and pharmacological effects of selected phenothiazines (Ref. 1):

Drug	Antipsychotic daily dose		Extra pyramidal effects	Antiemetric effects	Sedative effects	Hypotensive effects
	Usual (mg)	Extreme (mg)				
Chlorpromazine	300–800	30–2000	Moderate	Moderate	High	Moderate
Promazine	500–1000	50–1600	Moderate	Moderate	Moderate	High.
Triflupromazine	50–200	50–400	High	High	High	Low.
Fluphenazine	2–10	1–25	High	High	Moderate	Low.
Perphenazine	8–32	4–64	High	High	Low	Low.
Prochlorperazine	75–100	15–150	High	High	Moderate	Low.
Trifluoperazine	4–15	2–64	High	High	Moderate	Low.
Thioridazine	100–600	50–800	Low	Low	Moderate	Moderate

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On the basis of similarity of chemical structure, indistinguishable pharmacological action, same toxic manifestations, similar physicochemical properties, etc., all phenothiazines are considered as a class.

Evidence To Establish a Bioequivalence Requirement

The Director has considered the following criteria as set forth in § 320.52 *Criteria and evidence to establish a bioequivalence requirement* in determining that a bioequivalence requirement should be established:

1. *Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment of prevention of a serious disease or condition.* The very nature of the mental illnesses treated with phenothiazines mandates the use of bioavailable/bioequivalent drug products. These medically important drugs are typically used in the treatment of schizophrenia, organic psychosis, and the manic phase of manic depressive illness. Symptoms may include thought disorders, manic autistic behavior and mannerisms, blunted effect, withdrawal, antisocial behavior, paranoia, and perceptual disturbances. Such patients are often so disabled by the severity of their illness that they cannot give legal consent. Because of the nature of these disorders, toxic effects or lack of efficacy that may be associated with the use of bioinequivalent phenothiazine drug products may go unrecognized by the physician. The 1979 Final Task Force Report of the American College of Neuropsychopharmacology (ACNP) points out that "often any aberration in clinical symptoms is ascribed to the idiosyncracies of the patient and rarely ascribed to differences in drug products." It was the Task Force's opinion that bioavailability/bioequivalence and pharmacokinetics should be of major importance in the clinical use of psychotropic drugs because of the nature of the patient population, the need for chronic use of such drugs, and the extensive metabolism of psychotropic agents (Refs. 1 and 19).

The potential harm associated with the use of bioinequivalent products is realized when it is known that certain plasma concentrations are required for clinical improvement. A report (Ref. 8) of a study of plasma levels of chlorpromazine suggests that schizophrenic patients with negligible plasma levels of chlorpromazine (less than 30 nanograms per milliliter (ng/mL)) are not likely to imporve clinically. Most patients who showed significant clinical improvement achieved plasma levels of 150–300 ng/mL or higher. Patients in whom phenothiazine therapy is being initiated may not respond, therefore, if the product lacks sufficient bioavailability. Thus a potential exists for situations in which patients stabilized on a particular phenothiazine product would become unstable when switched to a less bioavailable product. The same study (Ref. 8) also reported that patients who manifested toxicity in the form of tremors or convulsions showed chlorpromazine plasma levels of 750–1000 ng/mL. Thus, if a more bioavailable product were substituted in the regimen of a patient controlled on less available forms, toxic extrapyramidal symptoms could appear. Because of the potential for these undesirable symptoms, it is essential that each phenothiazine product have consistent and equivalent bioavailability.

2. *Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.* A bioavailability study submitted to the Food and Drug Administration by a firm in support of its abbreviated new drug application documented a bioequivalence problem. The study, a two-way crossover comparison of the test drug with a reference drug revealed:

1. The test drug absorbed at a significantly slower rate than the reference drug;
2. The peak plasma levels occurred at 8 hours for the test drug, whereas the reference drug peaked within 4 hours after administration;
3. Although both drugs yielded the same area under the concentration-time curve (AUC), the variability in absorption of the test drug was approximately 234 percent greater than the reference drug;
4. The coefficient of variation for total absorption was 190 percent for the test drug and 78 percent for the reference drug.

These data show very erratic absorption of the test drug in the human subjects.

Bioavailability of various dosage forms of chlorpromazine has been studied under an FDA contract (Ref. 10) to develop a sensitive and linear pharmacological assay (pupilometry). Comparison of miotic responses resulting from entravenous and liquid oral doses shows that the intravenous doses of the drug infused over a time interval of 30 minutes were about 11 times as efficient in eliciting the first peak effect as the liquid doses of chlorpromazine. These large differences in response, according to the investigators, are due to large differences in rates of absorption coupled with the rapid rate of metabolism of chlorpromazine.

As part of the same contract, the investigators compared as a measure of bioavailability (Ref. 11), the miotic responses in 13 subjects administered 50-, 25-, and 10-milligram tablets and liquid oral concentrates. This study revealed that tablet bioavailability was 41, 77, and 48 percent less than equivalent doses of 50, 25, and 10 mg of syrup. These findings demonstrate that the bioavailability of solid oral dosage forms of chlorpromazine may be significantly less that the oral liquid concentrate. Also, oral chlorpromazine liquid concentrate is not totally absorbed (is less bioavailable) in comparison to an intravenous dose.

Desta and Pernarowski (Ref. 12) determined the dissolution rate profile of two brands of chlorpromazine hydrochloride tablets which had been shown in a study by Bankier and Mathewson to give differences in clinical effectiveness (Ref. 13). The study revealed significant differences in the dissolution profile of two brands. Although one brand dissolved 60 percent in 5.7 minutes, the other required 35.4 minutes for the same amount to go into solution.

3. Physicochemical evidence that: (a) *The active drug ingredient has a low solubility, e.g., less than 5 milligrams per 1 milliliter, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children).* Perphenazine, prochlorperazine maleate, and piperacetazine are practically insoluble in water (Ref. 14). Carphenazine maleate is slightly soluble in water. Butaperazine maleate has a solubility of 2.5 mg/mL in water (Ref. 14). As used here, the term "practically insoluble" is defined as a solubility of less than .05 mg/mL, while "slightly soluble" means a solubility of more than 1 mg/mL.

(b) *The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute (rpm) in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug* *application.* Dissolution testing performed by FDA laboratories in 1977 on 8 samples of 50 mg chlorpromazine hydrochloride tablets from seven manufacturers revealed a wide variation in the dissolution rates of the marketed products. The percentage of drug dissolved in 40 minutes in water ranged from 0.8 to 98.6 percent. Seven samples of 25 mg, 100 mg, and 200 mg chlorpromazine hydrochloride tablets were also tested in 1977. Five samples (one each of 25 mg and 200 mg tablets and three samples of 100 mg tablets) of the seven samples tested dissolved less than 50 percent in 40 minutes (Ref. 15). Two manufacturers' products gave consistent low dissolution results on all marketed strengths of chlorpromazine hydrochloride tablets (Ref. 15).

Recent dissolution testing of chlorpromazine hydrochloride tablets was conducted by FDA laboratories using the rotating basket method at 50 rpm in 900 milliliters of 0.1*N* hydrochloric acid at 37° C. This methodology is set forth in USP XX, which became official July 1, 1980, for chlorpromazine hydrochloride with a specification requiring not less than 80 percent dissolution of the labeled amount of chlorpromazine hydrochloride in 30 minutes (Ref. 16).

Three of five samples of the 25-mg tablets and four of five samples of the 50-mg tablets failed the proposed USP dissolution test. Table 1 below shows the percent chlorpromazine hydrochloride dissolved in 30 minutes from the products which failed to meet the USP proposed specification (Ref. 16).

Table 1

	Percent dissolved
25-mg product:	
A	0.8
B	20.1
C	70.3
50-mg product:	
A	71.2
B	35.1
C	76.1
D	66.5

4. *Pharmacokinetic evidence that there is a rapid metabolism of the therapeutic moiety in the intestinal wall or liver during the process of absorption (first pass metabolism) so the therapeutic effect and/or toxicity of such drug product is determined by the rate as well as the degree of absorption.* Phenothiazines in general and chlorpromazine in particular have a relatively large first pass effect (Ref. 9). This phenomenon leads to widely varying steady-state blood levels. Increasing the dose for such drug products can cause a disproportionate increase in the peak concentration and possibly lead to a toxic response.

A study conducted by Dahl, et al., offers evidence or presystemic sulfoxidation of chlorpromazine. Eight patients received chlorpromazine as a single 50-mg intramuscular dose, a single 100-mg oral dose, and oral maintenance dosing with 100 mg twice a day. The amount of time allowed to elapse between treatments was 1 week and 2 days, respectively. Chlorpromazine sulfoxide (considered to be clinically inactive) was not found in the plasma samples collected after the I.M. dose, but was found following the single oral dose and in even higher concentrations following multiple dosing. The areas under the sulfoxide curves compared to the areas under the correspounding chlorpromazine curves were on the average 18 percent and 31 percent following single and multiple oral dosing, respectively. Such observations suggest that chlorpromazine sulfoxide is formed in the gastrointestinal lumen or the intestinal wall. It was also observed that there were smaller areas under the plasma concentration curves within one dosage interval after 33 days of maintenance dosing than there were for single oral dose curves. The authors propose that this decrease was due to presystemic metabolism, the extent of which was increased due to induction of drug-metabolizing enzymes in the gut wall or adaption of gastrointestinal microorganisms (Ref. 17).

Another study describes the use of mass fragmentography to measure levels of chlorpromazine and chlorpromazine sulfoxide in 21 samples of whole blood. Comparisons were made of the ratio of chlorpromazine to chlorpromazine sulfoxide. Following intravenous administration of 15 or 25 mg of drug, this ratio was approximately 20 to 1. Following oral administration to eight subjects (5 subjects received 25 mg of chlorpromazine syrup and 3 received prodrug), the ratio ranged from approximately 2 to 1 to 3 to 1. Such ratios indicate a strong amount of metabolism in the intestinal wall, the liver, or both (Ref. 18).

The Bioequivalence Requirement

On the basis of these data, the Director tentatively concludes that the evidence meets one or more of the criteria set forth in § 320.52 and proposes to establish a bioequivalence requirement for single active ingredient oral solid dosage form (immediate release only), oral suspension, and suppository drug products containing the following phenothiazines: acetophenazine maleate, butaperazine maleate, carphenazine maleate, chlorpromazine, chlorpromazine hydrochloride, fluphenazine hydrochloride, mesoridazine besylate, perphenazine, piperacetazine, prochlorperazine, prochlorperazine maleate, promazine hydrochloride, promethazine hydrochloride, thioridazine, thioridazine hydrochloride, trifluoperazine hydrochloride, triflupromazine, triflupromazine hydrochloride, and trimeprazine tartrate.

The proposed bioequivalence requirement applies to all manufacturers of these drug products. Each manufacturer of an immediate-release oral solid dosage form or oral suspension phenothiazine drug product, except a manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies which have been found acceptable by FDA, would be required to conduct an in vitro dissolution test comparing its drug product to a specified reference material, and to conduct an in vivo bioavailability study comparing its drug product to a specified reference material. Each manufacturer of a suppository phenothiazine drug product, except a manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies which have been found acceptable by FDA, would be required to conduct an in vivo bioavailability study comparing its drug product to a specified reference material.

The Director advises that, whenever possible, the reference material listed in the Guidelines is a drug product subject to an approved full NDA which contains in vivo data demonstrating the bioavailability of the drug product, and in vitro dissolution data indicating that the drug product meets the proposed in vitro bioequivalence requirement. In exceptional cases, for example in instances where no approved full NDA holder has conducted an acceptable bioavailability study, other factors may be considered, as deemed appropriate by the agency. The selection of a drug product as the reference material does not imply superiority of the drug product in any way, but is intended only to provide for a common standard for the determination of bioequivalency.

Under the proposed requirement the oral solid dosage form test drug product and reference material would meet the in vitro portion of the bioequivalence requirement if each has a dissolution rate of not less than 80 percent in 30 minutes. The test is to be conducted using 900 mL of 0.1*N* HCl at 37° ±0.5° C, USP apparatus 1, and a basket speed of 50 revolutions per minute (rpm). The Director advises that this proposed specification conforms to the specifications for chlorpromazine hydrochloride in the U.S.P. XX. The oral suspension test drug product and reference material would meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 80 percent in 30 minutes. The test is to be conducted using 900 mL of 0.1*N* HCl at 37° ±5° C, USP apparatus 2, and a paddle speed of 25 rpm. The number of dosage units to be tested is to be determined by reference to the official U.S.P. acceptance table for dissolution testing.

Samples of the reference material run in comparison to a test drug product are to be tested in the same manner as the test drug product. If the samples from one lot of the reference material do not meet the applicable dissolution specifications for the product, additional lots, up to a total of three, must be tested. If none of the three lots of reference material tested meet the applicable dissolution specification, the manufacturers would be required to notify FDA of the failure, prior to any in vivo testing. The agency does not anticipate that, in the normal course, a manufacturer will have to test more than one lot of the reference material.

The in vivo data must show that the test drug product meets the following conditions:

1. The test drug product and the reference material differ by no more than 30 percent in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, rate of absorption (measured by time to attain peak plasma level (Tmax) or the absorption constant (Ka)), peak plasma levels (Cmax), area under the plasma concentration-time curves (AUC), and minimum plasma concentrations at steady state.

2. In at least 70 percent of the subjects the test drug product is at least 70 percent as bioavailable as the reference material, using each subject as his or her own control, that is, administering both the reference product and the test product to each subject using a crossover procedure.

In addition, the analytical and statistical techniques used must be sufficiently sensitive to detect those differences in rate and extent of absorption that are not attributable to subject variability.

The Director proposes that multiple dose, steady state studies of oral solid dosage form and oral suspension-phenothiazine drug products be recommended in the guidelines for in vivo testing. Statistical examination of data from single dose studies attempted by firms has revealed wide intersubject variation and analytical variation. Because of such variation, 40 to 60 subjects would be required in single-dose studies to produce meaningful results. Alternatives to the use of such large numbers of subjects are the performance of steady-state studies or full clinical trials. The Director believes that steady-state studies are the preferable alternative.

The Director proposes that a manufacturer of a phenothiazine oral solid dosage form or oral suspension drug product selected by FDA as the reference material or a manufacturer of a oral solid dosage form or oral suspension drug product subject to proposed § 320.200 who has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of that drug product which FDA has found acceptable under the provisions of proposed § 320.200(d) would be required to conduct in vitro dissolution testing on its drug product to demonstrate consistent dissolution performance. A manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of proposed § 320.200 would be required to conduct an in vivo bioavailability study comparing the reference material with a solution or suspension containing an equivalent amount of the reference material.

A manufacturer of a drug product subject to proposed § 320.200 who has previously conducted in vivo bioavailability/bioequivalence studies (e.g., to meet requirements for approval of an abbreviated new drug application (ANDA) for a drug product covered by drug efficacy study implementation (DESI) notice), may request FDA to evaluate these studies to determine whether they are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To correlate in vivo data with in vitro data, the Director proposes that the same batch of both the test product and the reference material that were used in the in vitro tests be used in the in vivo test, unless a manufacturer has conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material had to be used in the in vitro test because the reference material did not meet the applicable dissolution specifications, the batch which does meet the applicable dissolution specification must be used in the in vivo test.

General guidelines for in vivo testing are set forth in § 320.25 (21 CFR 320.25). Draft guidelines for in vivo testing and for in vitro dissolution testing of phenothiazines are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposed section is named in the guideline for in vivo bioavailability studies for phenothiazines.

The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days following the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days following the effective date of the final regulation. The proposed effective date of the final regulation is 30 days following the date of its publication in the **Federal Register.** The Director believes this will be sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA.

The Director advises, however, that the agency may recommend that a manufacturer conduct a pilot study in certain instances, e.g., when an analytical assay methodology has not been utilized previously in an in vivo bioavailability/bioequivalence study, or where optional sampling times have not been previously determined. The recommendation that a pilot study be conducted will be contained in the Guidelines for In Vivo Bioavailability Studies. An extension of up to 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. The Food and Drug Administration (FDA) encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evaluate or can otherwise document the need for an extension, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), requiring either an approved NDA or an ANDA as a condition to market the product lawfully. Marketing of such a drug product must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

The Director advises that a manufacturer of a drug product unable to meet either the in vitro or in vivo specifications required by § 320.200 would be required to reformulate the drug product.

After the effective date of the final regulation establishing a bioequivalence requirement, each manufacturer, under § 320.56 (21 CFR 320.56), will be required to conduct the in vitro dissolution test on a sample of each batch of the oral phenothiazines to ensure batch-to-batch uniformity. The Director further proposes to require that the dissolution test be part of a manufacturer's stability testing program. If the dissolution falls below the dissolution specification after the product has been marketed, the batch would be subject to regulatory action.

References

Copies of all references cited below are on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen there from 9 a.m. to 4 p.m., Monday through Friday.

1. Goodman, L. S. and A. Gilman, eds., *The Pharmacological Basis of Therapeutics*, 5th ed., The MacMillan Co., New York, 1975, pp. 156–166, 169–174.

2. Burger, Alfred, ed., *Medicinal Chemistry, Part II*, 3d ed., Wiley Interscience, New York, 1970, pp. 1410–1439.

3. DiPalma, J. R., *Drill's Pharmacology in Medicine*, 3d ed., McGraw-Hill, New York, 1969, pp. 337–348, 354–355.

4. F. Th. v. Brucke, et al., *The Pharmacology of Psychotherapeutic Drugs*, Springer-Verlag, New York, pp. 3–4, 24–29, 32–36.

5. Shader, Richard I., A. DiMascio and Associates, *Psychotropic Drug Side Effects*, The Williams and Wilkins Co., Baltimore, MD, 1970, pp. 1–3, 77–85, 92–106, 164–186.

6. Burger, Alfred, ed., *Drugs Affecting the Central Nervous System*, Vol. 2, Marcel Dekker, New York, 1968, pp. 327, 330–335, 351–356, 386–389.

7. National Institute of Mental Health, Psychopharmacology Service Center Collaborative Study Group, "Phenothiazine Treatment in Acute Schizophrenia," *Archives of General Psychiatry*, 10:246, 1964.

8. Rivera-Calimlim, L., L. Castaneda and L. Lasagna, "Effects of Mode of Management on Plasma Chlorpromazine in Psychiatric Patients," *Clinical Pharmacology and Therapeutics*, 14:978, 1973.

9. Riegelman, S. and W. Sadee, "Which Drugs Can and Should Be Monitored Today and Tomorrow," *in* Clinical Pharmacokinetics, Levy, G., ed., American Pharmaceutical Association, p. 169, 1974.

10. Smolen, V., H. Murdock, Jr., and E. Williams, "Bioavailability Analysis of Chlorpromazine in Humans From Pupilometric Data," *Journal of Pharmacology and Experimental Therapeutics*, 195(3):404, 1975.

11. Smolen, V. F., et al., "Pharmacological Response Data for Comparative Bioavailability Studies of Chlorpromazine Oral Dosage Forms in Humans: I. Pupilometry," *Journal of Clinical Pharmacology*, 15:734, 1975.

12. Desta B. and M. Pernarowski, "The Dissolution Characteristics of Two Clinically Different Brands of Chlorpromazine HCl Tablets," *Drug Intelligence and Clinical Pharmacy*, 7:406, 1973.

13. Bankier, R. G. and F. A. L. Mathewson, "A Clinical Study of Mesoridazine and Chlorpromazine in Relapsed Schizophrenic Patients," *Diseases of the Nevous System*, 33:529, 1972.

14. Osol, Arthur, et al., eds., *Remington's Pharmaceutical Sciences*, 15th ed., Mack Publishing Co., Easton, PA, 1975, pp. 749, 1022, 1025–1026.

15. "Chlorpromazine Dissolution Results from Dallas Laboratory," May 6, 1977.

16. Hezeau, Curtis J., Supervisory Chemist DAL/DO, FDA internal memorandum to Dr. V. K. Prasad, Chief Biopharmaceutics Branch, "Summary Chlorpromazine HCl Dissolution Results," May 8, 1979.

17. Dahl, Svein G. and R. E. Strandjord, "Pharmacokinetics of Chlorpromazine After Single and Chronic Dosage," *Clinical Pharmacology and Therapeutics*, 21(4):437–448, 1977.

18. Friedel, R. O., "Relationship of Pharmacological Models of Bioavailability of Chlorpromazine With Drug and Metabolite Blood Levels," Psychopharmacology Bulletin, 12:4, pp. 63–64, October 1976.

19. "Final Task Force Report on Biovailability and Bioequivalency of Psychotropic Drugs," edited by Dr. T. Itil, Dr. B. Cabana, and Dr. A. DiSanto, prepared May 30, 1979.

The agency has carefully considered the potential environmental impacts of this proposal, and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement, therefore, will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the office of the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended by adding new § 320.200 to Subpart D, to read as follows:

§ 320.200 Certain oral and suppository phenothiazines.

(a) *Applicability*—(1) *In vivo testing.* The in vivo bioequivalence requirements of this section apply to all single active ingredient oral solid dosage form (immediate release only), oral suspension, and suppository drug products containing the following phenothiazines: Acetophenazine maleate, butaperazine maleate, carphenazine maleate, chlorpromazine, chlorpromazine hydrochloride, fluphenazine hydrochloride, mesoridazine besylate, perphenazine, piperacetazine, prochlorperazine, prochlorperazine maleate, promazine hydrochloride, promethazine hydrochloride, thioridazine, thioridazine hydrochloride, trifluoperazine hydrochloride, triflupromazine, triflupromazine hydrochloride and trimeprazine tartrate.

(2) *In vitro testing.* The in vitro bioequivalence requirements of this section apply to all single active ingredient oral solid dosage form (immediate release only) and oral suspension phenothiazine drug products listed in paragraph (a)(1) of this section.

(b) *Initial in vitro portion of the bioequivalence requirement for oral solid dosage forms and oral suspensions*—(1) *General.* Each manufacturer of an oral solid dosage form or oral suspension drug product that is subject to this section, except for manufacturers of referenc material and manufacturers of products previously tested for in vivo which are subject to paragraph (b)(5) of this section, shall conduct an in vitro dissolution test by the dissolution procedure set forth in the official U.S.P. comparing samples from a lot of the drug product with samples from a lot of the reference material specified by the Food and Drug Administration. The number of dosage units of the test drug product and the reference material to be tested is determined by reference to the U.S.P dissolution acceptance table. If the samples from the lot of the reference material do not meet the applicable dissolution specification of the product, test additional lots of reference material, up to a total of three lots until a reference lot which meets the applicable dissolution specification is tested. If none of the three lots of reference material tested meets the applicable dissolution specification, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, prior to any in vivo testing.

(2) *Specific requirements for oral solid dosage form test drug products.* (i) The test is to be conducted using 900

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milliliters of 0.1*N* HCl, U.S.P. apparatus 1, and a basket speed of 50 revolutions per minute.

(ii) The test drug product meets the in vitro portion of the bioequivalence requirement if it has a dissolution of not less than 80 percent in 30 minutes.

(3) *Specific requirements for oral suspension test drug products.* (i) The test is to be conducted using USP apparatus 2, 900 milliliters of 0.1*N* HCl, and a paddle speed of 25 revolutions per minute.

(ii) The test drug product meets the in vitro portion of the bioequivalence requirement if it has a dissolution of not less than 80 percent in 30 minutes.

(4) *Specific requirements for reference material.* Each manufacturer of a specified reference material shall conduct an in vitro dissolution test on one batch of the reference material using the USP dissolution procedure and the USP dissolution acceptance table in determining the number of samples to be tested. In addition, the in vitro test must meet the requirements of paragraph (b) (2) or (3) of this section, whichever is applicable.

(5) *Specific requirements for oral solid dosage form and oral suspension products previously tested in vivo to demonstrate bioavailability/bioequivalence.* If a manufacturer of an oral solid dosage form or oral suspension drug product subject to this section has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product and the studies have been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, the manufacturer shall conduct an in vitro dissolution test on one batch of its drug product using the USP dissolution procedure and the USP dissolution acceptance table in determining the number of samples to be tested. In addition, the requirements of paragraph (b) (2) or (3) of this section, whichever is applicable, must be met.

(6) *Submission of test results.* Each manufacturer of an oral solid dosage form or oral suspension drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *In vitro requirement for each batch.* An in vitro dissolution test must be performed on each batch of oral solid dosage form and oral suspension drug product subject to this section. The test procedure, specifications to be met, and number of samples to be tested must meet the requirements of paragraph (b) (1) and (2) or (3) of this section. It is not necessary, however, to compare samples of the reference material with the batch of drug product being tested.

(d) *In vivo portion of the bioequivalence requirement.* (1) Each manufacturer of a drug product subject to this section, except a manufacturer of the reference material, or a manufacturer who has conducted in vivo bioavailability/bioequivalence studies in humans before the effective date of this section which have been found acceptable under the provisions of paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product with the reference material.

(2) The test drug product meets the in vivo portion of the bioequivalence requirement in humans if the following conditions are met:

(i) The test drug product and the reference material do not differ by more than 30 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), rate of absorption (measured by time to attain peak plasma levels (Tmax) or the absorption constant (Ka)), area under the plasma concentration-time curves (AUC) and minimum plasma concentrations at steady state.

(ii) In at least 70 percent of the subjects, the test drug product is at least 70 percent as bioavailable as the reference material, using each subject as his or her own control, i.e., administering both the reference product and the test product to each subject using a crossover procedure.

(iii) The analytical and statistical techniques used are sufficiently sensitive to detect those differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material for in vivo studies that has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section shall conduct an in vivo bioavailability study in humans comparing its product (i.e, the reference material) with an oral solution or oral suspension containing an equivalent amount of the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of up to 180 days upon request if the manufacturer can document the need for an extension, by, for example, submitting a protocol for review or demonstrating that pilot studies are required before starting the tests.

(5) Each manufacturer of a drug product subject to this section who has previously conducted one or more in vivo bioavailability/bioequivalence studies before the effective date of this section may request an evaluation of these studies to determine whether they are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Each request is required to contain the new drug application number, the established (generic) name of the product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) Each manufacturer requesting this evaluation, who holds an approved or pending full new drug application for the drug product, shall submit the request to the Division of Neuropharmacological Drug Products (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer requesting this evaluation who holds an approved or pending abbreviated new drug application for the drug product shall submit the request to the Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(e) *Inclusion of bioequivalence data in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section currently marketed under a full or abbreviated new drug application shall submit the required in vitro and in vivo data in the form of a supplement to the application. Each manufacturer of a drug product subject to this section that is not marketed on the effective date of the final regulation shall include the required in vitro and in vivo data in the original full or abbreviated new drug application submitted to the Food and Drug Administration.

(f) *Failure to meet bioequivalence requirement.* Any manufacturer of a drug product subject to this section who is unable to meet either the in vitro or the in vivo specifications required by this section will be required to reformulate the drug product.

(g) *Reference material and guidelines for testing.* (1) The reference material to be used in the in vivo and in vitro tests is specified in the "Guidelines for In

Vivo Bioavailability Study for Phenothiazines." The same batch of the test drug product and the reference material used in the in vitro test are to be used in the vivo test, unless a manufacturer conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material had to be used in the in vitro test because the reference material did not meet the applicable dissolution specifications, the batch which does meet the applicable dissolution specifications must be used in the in vivo test.

(2) Guidelines for conducting in vivo and in vitro tests of phenothiazines are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods or modifications to the bioequivalence requirement for in vitro or in vivo testing as set forth in this section may be used if evidence is submitted demonstrating that the modifications will ensure the bioequivalence of the drug to an extent equal to, or greater than, the methods set forth in this section. The data should be submitted to, and approved before use by, the Director, Division of Biopharmaceutics (HFD-520), Food and Drug Administration. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons may, on or before October 27, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessement supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 15, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 25941 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-832]

Community Development Block Grants; Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: HUD is proposing to amend a regulation governing Grant Administration Requirements in the Community Development Block Grant (CDBG) program. This proposed regulation is designed to clarify policy regarding the use of escrow accounts in connection with rehabilitation loans or grants made to a property owner by block grant recipients under the CDBG program.

DATE: Comments must be received on or before October 27, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 Seventh Street, SW, Washington, D.C., 20410. Each comment should include the commentator's name and address and must refer to the docket number indicated in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Czarniecki, Office of Urban Rehabilitation and Community Reinvestment, Department of Housing and Urban Development, Washington, D.C., 20410, 202-755-5887. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: As used in this proposed rule, an escrow account is an account which is established by a block grant recipient with a private lending institution for the benefit of a private property owner. When a rehabilitation grant or loan is made by a block grant recipient, block grant funds may be drawn down and deposited into an escrow account. As costs are incurred and work satisfactorily completed, the rehabilitation contractor is paid from funds in this account.

The underlying purpose for most escrow accounts is to permit the utilization of small contracting firms in the block grant recipient's rehabilitation program. The escrow account procedure is used principally for two reasons: It provides faster payment than is often possible under a recipient's normal payment procedures, and it also provides certain knowledge that funds are readily available to pay contractors. These features are particularly important to small contracting firms, often minority owned, which may not possess sufficient financial resources to carry receivables for the period covering the normal local payment cycle, and who are either unable to obtain working capital financing or can obtain financing only at prohibitive rates. These contractors require the timely progress payments that escrow accounts make possible. In such cases, utilizing an escrow account procedure serves a legitimate program purpose.

A finding of no significant environmental impact has been prepared in accordance with 24 CFR Part 50. A copy of the finding is available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C., 20410.

This rule is not listed in the Department's Semiannual Agenda of Significant Rules, published pursuant to Executive Order 12044.

Accordingly, the Department proposes to amend 24 CFR Part 570 by Revising § 570.503 to read as follows:

§ 570.503 Cash withdrawals.

(a) Except as provided in § 570.513, which covers lump sum drawdowns for financing the rehabilitation of privately owned properties, the timing and amount of cash withdrawals from the U.S. Treasury by the recipient for activities which are free from all conditions specified pursuant to § 570.311 or § 570.433(b)(2) shall be in accordance with U.S. Department of the Treasury regulations on withdrawal of cash from the Treasury for advances under Federal programs (31 CFR Part 205), as incorporated in HUD handbook 1900.23 Rev., Letter of Credit Procedures—Treasury Regional Disbursing Office System.

(b) Escrow accounts may be used in connection with a rehabilitation financing program for the provision of loans or grants to property owners when the deposit of grant funds into such accounts for timely disbursements to rehabilitation contractors is essential to program needs for the utilization of small contracting firms, or to achieve participation by minority contractors.

(1) In such cases, the timing and amount of a drawdown for deposit into the escrow account with respect to any loan or grant shall be subject to the following limitations:

(i) The deposit shall not be made unless a construction contract has been executed by the contractor selected to do the rehabilitation work, and all work and disbursements in payment of the contract are scheduled to be completed within 18 months or less from the date of the deposit.

(ii) The deposit shall not be made if it would result in an amount in the escrow account in excess of disbursement needs for up to 6 months from the date of the deposit.

(2) Such escrow accounts may also include supplemental funds needed to complete the rehabilitation work such as commitments from a recognized lending institution, or a grant or loan from other Federal, State, or local rehabilitation programs as well as cash provided by the borrower. The escrow account shall be separate and distinct from all other accounts maintained by the block grant recipient, and be for the sole purpose of depositing rehabilitation loan or grant funds plus any such supplemental funds.

(3) Interest income on the deposit which is not to be applied to payment of the contractor or credited to the borrower of a rehabilitation loan under the terms of the loan or grant agreement with the property owner, shall be treated as program income of the block grant recipient.

(4) Escrow accounts may be established on an individual or master account basis. A master account shall provide for adequate accounting of each owner's equity.

(c) To the maximum extent practicable, program income shall be disbursed prior to making additional draws from the letter of credit to finance approved community development activities (including local option activities) as follows:

(1) Program income in the form of repayments to a revolving fund, other than a fund to finance the rehabilitation of privately owned properties as provided for in § 570.513, established to carry out an approved activity, shall be substantially disbursed from such fund before additional draws are made from the letter of credit for the same activity.

(2) All other program income shall be substantially disbursed for any approved activity before additional draws are made from the letter of credit.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.))

Issued at Washington, D.C., July 3, 1980.

Walter G. Farr, Jr.,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 80-25838 Filed 8-25-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[EE-156-78]

Set-Asides Made by Private Foundations; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to set-asides made by private foundations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act and would affect all private foundations.

DATE: Written comments and requests for a public hearing must be delivered or mailed by October 27, 1980. The amendments are proposed to be effective for taxable years beginning after December 31, 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE-156-78, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Kerby of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-156-78, 202-566-3422 (Not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(g)(2) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1302(a) of the Tax Reform Act of 1976 (90 Stat. 1713) and are to be issued under the authority contained in sections 4942(g)(2) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1713, 68A Stat. 917; 26 U.S.C. 4942(g)(2), 7805).

Explanation of Proposed Regulations

Section 4942(a) of the Code imposes an excise tax on private foundations for failure to distribute income for charitable purposes. To avoid liability, a private foundation must make "qualifying distributions" each year equal to the foundation's "distributable amount." An amount "set aside" in one year for a specific project, but actually paid out in future years, may be treated as a qualifying distribution in the year set aside if it is approved in advance by the Commissioner of Internal Revenue. To obtain such approval under prior law, section 4942(g) required a private foundation to (1) establish that the amount set aside would be paid for the specific project within five years, and (2) establish the "suitability" of the set-aside to achieve the goals of the specific project. As amended by section 1302 of the Tax Reform Act of 1976, section 4942(g) now provides an alternative to the second requirement under which a private foundation must distribute minimum amounts of cash or its equivalent during specific "test" years.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Charles Kerby of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

26 CFR Part 53 is proposed to be amended by revising paragraph (b) of section 53.4942(a)-3 to read as follows:

§ 53.4942(a)-3 Qualifying distributions defined.

* * * * *

(b) *Certain set-asides.—(1) In general.* An amount set aside for a specific project that is for one or more of the purposes described in section 170(c) (1) or (2)(B) may be treated as a qualifying distribution in the year in which set aside (but not in the year in which actually paid), if the requirements of section 4942(g)(2) and this paragraph (b) are satisfied. The requirements of this paragraph (b) are satisfied if the foundation establishes to the satisfaction of the Commissioner that the amount set aside will be paid for the specific project within 60 months after it is first set aside, and

(i) The set-aside satisfies the suitability test described in subparagraph (2) of this paragraph, or

(ii) With respect to a set-aside made in a taxable year beginning after December 31, 1974, the foundation satisfies the cash distribution test described in subparagraph (3) of this paragraph.

(2) *Suitability test.*—(i) *In general.* The suitability test is satisfied if the foundation establishes to the satisfaction of the Commissioner that the specific project for which the amount is set aside is one that can be better accomplished by the set-aside than by the immediate payment of funds. Specific projects that can be better accomplished by the use of a set-aside include, but are not limited to, projects in which relatively long-term grants or expenditures must be made in order to assure the continuity of particular charitable projects or program-related investments (as defined in section 4944(c)) or where grants are made as part of a matching-grant program. Such projects include, for example, a plan to erect a building to house the direct charitable, educational, or other similar exempt activity of the foundation (such as a museum building in which paintings are to be hung), even though the exact location and architectural plans have not been finalized; a plan to purchase an additional group of paintings offered for sale only as a unit that requires an expenditure of more than one year's income; or a plan to fund a specific research program that is of such magnitude as to require an accumulation of funds before beginning the research, even though not all of the details of the program have been finalized.

(ii) *Extension of 60 month payout period.* In any case in whicha set-aside satisfies the suitability test, the period for paying the amount set aside (as described in § 53.4942(a)-3(b)(1)) may, for good cause shown, be extended by the Commissioner.

(3) *Cash distribution test; in general.* The cash distribution test is satisfied if—(i) The specific project for which the amount is set aside will not be completed before the end of the taxable year in which the set-aside is made,

(ii) The foundation actually distributes, in cash or its equivalent, the "start-up period minimum amount" described in subparagraph (4) of this paragraph during the foundation's start-up period, and

(iii) The foundation actually distributes, in cash or its equivalent, the "full-payment period minimum amount" described in subparagraph (5) of this paragraph in each taxable year of the foundation's full-payment period.

(4) *Minimum distribution required during start-up period.*—(i) *Start-up period.* For foundations created before January 1, 1972, the start-up period is the four taxable years immediately preceding the taxable year beginning in calendar year 1976. For foundations created after December 31, 1971 (or for organizations that first become foundations after that date), the start-up period is the four taxable years following the taxable year in which the foundation was created (or otherwise became a foundation).

(ii) *Start-up period minimum amount.* The amount that a foundation must actually distribute in cash or its equivalent during the foundation's start-up period is not less than the sum of—

(*a*) Twenty percent of the foundation's distributable amount (as determined under section 4942(d)) for the first taxable year of the start-up period,

(*b*) Forty percent of the foundation's distributable amount for the second taxable year of the start-up period,

(*c*) Sixty percent of the foundation's distributable amount for the third taxable year of the start-up period; and

(*d*) Eighty percent of the foundation's distributable amount for the fourth taxable year of the start-up period.

(iii) *Timing of distributions.* The requirement that a foundation distribute the start-up period minimum amount during the start-up period is a requirement that such amount be distributed before the end of the start-up period, and is not a requirement that any portion of such amount be distributed in any one taxable year of the start-up period.

(IV) *Distribution actually made during start-up period.* In general, only a distribution actually made during the start-up period is taken into account in determining whether a foundation has distributed the start-up period minimum amount. However, in the case of a foundation created after December 31, 1971 (or an organization that first became a foundation after that date), a distribution actually made during the first taxable year of the foundation's existence (the year immediately preceding the first taxable year of the foundation's start-up period) may be treated as a distribution actually made during the start-up period.

(v) *Examples.* The provisions of this subparagraph (4) may be illustrated by the following examples.

Example (1). F, a private foundation created on January 1, 1975, uses the calendar year as its taxable year, The start-up period for F is January 1, 1976 through December 31, 1979. F has distributable amounts under section 4942(d) for taxable years 1976 through 1979 in the following amounts: 1976, $100,000; 1977, $120,000; 1978, $150,000; 1979, $200,000. F's start-up period minimum amount is the sum of the following amounts: 20% of $100,000 ($20,000); 40% of $120,000 ($48,000); 60% of $150,000 ($90,000); and 80% of $200,000 ($160,000); which equals $318,000. Thus F is required to actually distribute at least $318,000 in cash or its equivalent during the start-up period.

Example (2). F, a private foundation created in 1969, uses the calendar year as its taxable year. F's start-up period is the calendar years 1972 through 1975. F makes two cash distributions in 1972. The first distribution is made on account of a set-aside made in 1969. Under section 4942(g), that distribution is treated as a qualifying distribution made in 1969. The second distribution is treated under section 4942(h) as made out of F's undistributed income for 1971. In addition, F makes a cash distribution in 1976 that is treated under section 4942(h) as made out of F's undistributed income for 1975. In determining whether F has distributed its start-up period minimum amount within the start-up period, the 1972 distributions are both taken into account because they were actually made during F's start-up period. The 1976 distribution is not taken into account, however, because that distribution was not actually made during F's start-up period.

(5) *Minimum distribution required during full-payment period*—(i) *Full-payment period.* A foundation's full-payment period includes each taxable year that begins after the end of the foundation's start-up period.

(ii) *Full-payment period minimum amount.* The amount that a foundation must actually distribute in cash or its equivalent in a taxable year of the foundation's full-payment period is not less than 100 percent of the foundation's distributable amount determined under section 4942(d) (without regard to section 4942(i)) with respect to the taxable year.

(iii) *Carryover of distributions in excess of full-payment period minimum amount.* If, in a taxable year beginning after December 31, 1975, a foundation distributes an amount in excess of the full-payment period minimum amount for the taxable year, the excess shall be used to reduce the full-payment period minimum amount in the taxable years in the adjustment period. The amount of

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reduction in each successive taxable year of the adjustment period shall be equal to such excess less the full-payment period minimum amount for any taxable year in the adjustment period to which the excess was previously applied. The taxable years in the adjustment period are the five taxable years immediately following the taxable year in which the excess distribution is made. If during any taxable year of the adjustment period another distribution in excess of the full-payment period minimum amount is made, such excess shall not be taken into account until any earlier excess has been completely applied against full-payment period minimum amounts during its adjustment period.

(iv) *Distributions actually made during a taxable year.* Except as described in subdivision (ii) of subparagraph (6), only a distribution actually made during a taxable year of the full-payment period is taken into account in determining whether a foundation has distributed the full-payment period minimum amount.

(v) *Examples.* The provisions of this subparagraph (5) may be illustrated by the following examples:

Example (1). F, a private foundation created on January 1, 1973, uses the calendar year as its taxable year. F has a start-up period of January 1, 1974, through December 31, 1977, and a full-payment period that includes every taxable year beginning after December 31, 1977. F's distributable amount (as determined under section 4942(d)) for 1978 is $500,000. Thus, F's full-payment period minimum amount for 1978 is $500,000. During 1978 F distributes $100,000 in cash to Charity X and $400,000 in cash to Charity Y on account of a set-aside made in 1973. F has distributed its full-payment period minimum amount for 1978 because it has made actual cash distributions during that year which total $500,000. However, F has made qualifying distributions (as determined under section 4942(g)) with respect to 1978 of only $100,000. In order to avoid liability for the tax on undistributed income under section 4942(a), F must distribute or set aside an additional $400,000 before January 1, 1980.

Example (2). Assume the facts as stated in Example (1) except that in 1978 F makes cash distributions totaling $600,000. Since the total cash distributions made in 1978 ($600,000) exceed the full-payment period minimum amount for 1978 ($500,000), there exists a $100,000 excess which must be used by F to reduce its full-payment period minimum amounts for the years 1979–1983 (the taxable years in the adjustment period with respect to the 1978 excess). Therefore, if F's distributable amount (as determined under section 4942(d)) for 1979 is $500,000, F's full-payment period minimum amount for 1979 is $400,000 ($500,000 – $100,000).

(6) *Failure to distribute minimum amounts*—(i) *In general.* Except as described in subdivision (ii) of this subparagraph (6), if a foundation fails to actually distribute the start-up period minimum amount during the start-up period, or the full-payment period minimum amount during a taxable year of the full-payment period, then any set-aside made by the foundation that was not approved by the Commissioner under the suitability test described in subparagraph (2) of this paragraph will not be treated as a qualifying distribution. Further, any set-aside made after such a failure to so distribute a minimum amount will be treated as a qualifying distribution only if the Commissioner approves the set-aside under the suitability test. In any case in which a set-aside ceases to be treated as a qualifying distribution as a result of a failure to distribute a minimum amount, a foundation may be assessed a deficiency under section 4942(a) within the period described in section 6501(n)(3).

(ii) *Correction of certain failures to distribute.* If a foundation's failure to distribute the full-payment period minimum amount during a taxable year of the full-payment period was not willful and was due to reasonable cause, and, within the correction period described in section 4942(j)(2), the foundation distributes cash or its equivalent in an amount not less than the difference between the full-payment period minimum amount for the taxable year and the amount actually distributed during the taxable year, the additional distribution will be treated for purposes of subparagraph (5) of this paragraph as made during the taxable year. If a foundation fails to distribute the full-payment period minimum amount during a taxable year of the full-payment period because such amount can be determined only after the end of the taxable year, the failure to make an additional distribution within a reasonable time after the end of the taxable year will be considered evidence of a willful failure to distribute the full-payment period minimum amount during the taxable year.

(7) *Approval requirements*—(i) *Time for application.* When, with respect to a set-aside, a foundation must establish certain facts to the satisfaction of the Commissioner, the Commissioner's approval must be applied for before the end of the taxable year in which the amount is set aside. In all cases the Commissioner will either approve or disapprove the set-aside in writing. An otherwise proper set-aside will not be treated as a qualifying distribution under this paragraph (b) with respect to a taxable year if the Commissioner's approval is not sought before the end of the taxable year in which the amount is actually set aside.

(ii) *Information required; suitability test.* To obtain approval by the Commissioner for a set-aside under the suitability test of section 4942(g)(2)(B)(i) and subparagraph (2) of this paragraph, the foundation must write to Commissioner of Internal Revenue, Attention: E:EO:T, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, and include—

(*a*) A statement describing the nature and purposes of the specific project and the amount of the set-aside for which approval is requested;

(*b*) A statement describing the amounts and approximate dates of any planned additions to the set-aside after its initial establishment;

(*c*) A statement of the reasons why the project can be better accomplished by set-aside than by the immediate payment of funds;

(*d*) A detailed description of the project, including estimated costs, sources of any future funds expected to be used for completion of the project, and the location or locations (general or specific) of any physical facilities to be acquired or constructed as part of the project; and

(*e*) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the amounts to be set aside will actually be paid for the specific project within a specified period of time that ends not more than 60 months after the date of the first set-aside, or a statement showing good cause why the period for paying the amount set aside should be extended (including a showing that the proposed project could not be divided into two or more projects covering periods of no more than 60 months each) and setting forth the extension of time required.

(iii) *Information required; cash distribution test.* To obtain approval by the Commissioner for a set-aside under the cash distribution test of section 4942(g)(2)(B)(ii) and subparagraphs (3), (4), and (5) of this paragraph, the foundation must write to Commissioner of Internal Revenue, Attention: E:EO:T, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, and include—

(*a*) A statement describing the nature and purposes of the specific project for which amounts are to be set aside;

(*b*) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the amounts set aside for the specific project will actually be paid for the specific project within a specified period of time that ends not more than 60 months after the date of the first set-aside;

(*c*) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the project will not be completed before the end of the taxable year of the foundation in which the set-aside is made;

(*d*) An account of the distributable amounts determined under section 4942 (d) for any past taxable years in the foundation's start-up period and the foundation's full-payment period; and

(*e*) An account of actual payments made in cash or its equivalent, for purposes described in section 170(c)(1) or (2)(B), during past taxable years in the foundation's start-up period and the foundation's full-payment period.

(8) *Evidence of set-aside.* A set-aside approved by the Commissioner shall be evidenced by the entry of a dollar amount on the books and records of a private foundation as a pledge or obligation to be paid at a future date or dates. Any amount which is set aside shall be taken into account for purposes of determining the foundation's minimum investment return under § 53.4942(a)–2(c)(1), and any income attributable to such set-aside shall be taken into account in computing adjusted net income under § 53.4942 (a)–2(d).

(9) *Contingent set-aside.* In the event a foundation is involved in litigation and may not distribute assets or income because of a court order, the foundation may (except as provided in § 53.4942 (a)–2 (e) (1) (i) or (ii) seek and obtain a set-aside for a purpose described in § 53.4942 (a)–3(a)(2). The amount to be set aside shall be equal to the amount of income the foundation is precluded from distributing, but only to the extent that the assets or income held pursuant to court order are taken into account in determining the foundation's distributable amount for the taxable year. In the event that the litigation encompasses more than one taxable year, the foundation may seek additional contingent set-asides. Such amounts must actually be distributed by the last day of the taxable year following the taxable year in which the litigation is terminated. Amounts not distributed by the close of the appropriate taxable year shall be treated as described in § 53.4942 (a)–2(d)(2)(iii)(*c*) for the succeeding taxable year.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–26132 Filed 8–25–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

29 CFR Part 2520

Proposed Regulations Relating to Reporting and Disclosure for Short Plan Years

AGENCY: U.S. Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation that would, under certain circumstances, permit the administrator of an employee benefit plan incurring a plan year of seven or fewer months' duration to defer engaging an independent qualified public accountant and including an opinion rendered by such accountant in the annual report of the plan, as would otherwise be required under section 103 of the Employee Retirement Inocme Security Act of 1974 (the Act). The proposed regulation, if adopted, would affect the participants, beneficiaries, trustees, and administrators of such plans.

DATES: Written comments must be received by the Department on or before October 28, 1980. It is contemplated that this regulation, if adopted, would be effective immediately upon adoption, and that it would apply prospectively.

ADDRESS: Interested persons are invited to submit written data, views, or arguments (preferably three copies) to: Section 2520.104–50, Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. All written submissions will be available for public inspection at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: John Malagrin, Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20016, 202–523–8684, or J. Scott Galloway, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, 202–523–8658 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed regulation that would permit the administrator of an employee benefit plan to defer the requirement set forth in section 103(a)(3)(A) of the Act to include an opinion of an independent qualified public accountant in the annual report for the first of two consecutive plan years, one of which is a plan year of seven or fewer months' duration, provided that certain conditions are satisfied.

A. Background

Section 103(a)(3)(A) of the Act provides that the administrator of an employee benefit plan shall engage an independent qualified public accountant to examine the financial statements of the plan and to render an opinion as to certain matters. Pursuant to section 103(a)(3)(A) of the Act and 29 CFR § 2520.103–1, the accountant's report or opinion must generally be included in each annual report published with respect to a plan.[1] In accordance with section 104(a) and (b) of the Act, a copy of such annual report, including the report of the public accountant, is to be filed with the Secretary and furnished to the participants in the plan upon request.

The Department has received eight petitions[2] in which administrative relief from the statutory requirements described above has been requested in situations where a plan year of less than a full year's duration resulted when a plan was established or commenced operations, or from a change in the plan year, a merger of plans, or a termination of a plan. These petitions generally suggest that a deferral of the audit requirement for the first of two consecutive plan years, one of which is a short plan year, would result in cost savings that would outweigh any advantage that might be derived from conducting two separate audits. In each of these applications, the short plan year was of no more than seven months' duration.

In view of the similarity of the circumstances described in the petitions, the Department has decided to propose this regulation, which would generally extend relief with respect to plans incurring a short plan year of seven or fewer months' duration, subject to certain conditions. With respect to welfare plans, the proposed regulation would constitute a simplified method of reporting and disclosure pursuant to section 104(a)(3) of the Act.[3] With respect to pension plans, the proposed regulation would constitute an alternative method of compliance pursuant to section 110 of the Act.[4]

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[1] The Department has expected certain employee benefit plans from the audit requirement. For example, § 2550.104–46 waives the examination and report of an accountant for plans with fewer than 100 participants.

[2] These petitions were submitted by or on behalf of Tyler Pipe Industries Profit Sharing Plan (V–1024); retirement plans of Akzona Incorporated and subsidiaries (V–1022); pension plans of Eastmet Corporation and the subsidiaries thereof (V–1046); pension plans of West Point Pepperell Incorporated (V–1143); Air America Retirement Plan (V–1194); Carpenters Local 1098 Pension Trust, Education and Training Trust, and Health and Welfare Trust (V–1218); Rollock Incorporated Retirement Plan (V–1256); and First Bank System Health Care Plan (P–1725AV). These petitions are available for public inspection.

B. Description of the Proposed Regulation

A plan administrator may not utilize the relief afforded by the proposed regulation unless the plan incurs a plan year of no more than seven months' duration, which occurs when a plan is established or commences operations, when a plan is merged or consolidated with another plan or plans, when a plan is terminated, or when the annual date on which the plan year begins is changed.[5] None of the short plan years with respect to which relief was requested in the above mentioned petitions was longer than seven months. No evidence has been provided to the Department that where a plan year is more than seven months long, there is a need for such relief which outweighs the need for the protections afforded to plan participants and beneficiaries by the yearly audit requirement contained in section 103 of the Act.

The proposed regulation would permit a plan administrator to defer the audit requirement contained in section 103(a)(3)(A) of the Act for the first of two consecutive plan years, one of which is a short plan year, and to file an audited statement for that plan year when he files the annual report for the immediately following plan year, provided that certain conditions are satisfied. The annual report for the first of the two plan years must contain unaudited financial statements and appropriate schedules, an explanation why the short plan year is of only seven or fewer months' duration, and a statement that the annual report for the immediately following plan year will contain the report of an independent qualified public accountant with respect to the financial information for both of the plan years. The annual report for the second of the two plan years must contain the financial statements and accompanying schedules for that plan year and the financial statements and accompanying schedules for the first of the two plan years, with respect to which the independent qualified public accountant renders an opinion, the report of the accountant for both plan years, and a statement by the accountant identifying any material differences between the unaudited financial information contained in the annual report for the first of the two plan years and the audited information for that plan year contained in the annual report for the immediately following plan year.

The independent qualified public accountant would be permitted to conduct his examination with respect to the first of the two plan years at the same time as his examination regarding the immediately following plan year.

The relief afforded by the proposed regulation would be available to plan administrators of plans filing an annual report in conformity with section 103 of the Act and to plan administrators of plans electing to file an annual report in conformity with the limited exemption or alternative method of compliance prescribed in § 2520.103–1(b) (which includes filing Form 5500). Thus, plans using the limited exemption or alternative method of compliance would be required to file a Form 5500 and any other information prescribed in section 2520.103–1(b), except for the independent qualified public accountant's report and any information which would be prepared by such accountant in providing his report. In the following year, plans using the limited exemption or alternative method of compliance would be required to file an annual report (including the accountant's report) for the second of the two plan years in accordance with § 2520.103–1(b), financial information for the first of the two plan years, and an accountant's report relating to that first plan year.

It should be noted that the relief afforded by the proposed regulation would be specifically conditioned upon satisfaction of all the applicable requirements contained therein. Consequently, under the proposed regulation, a plan for which the audit requirement would be deferred for the first of two consecutive plan years would be required to satisfy all the requirements specified in paragraph (b)(2) of the proposed regulation for the second of the two plan years, even if circumstances occurred which would otherwise relieve the plan of any filing requirements pertaining to that second plan year. For example, if the number of participants in the plan decreased during the first plan year, so that at the beginning of the second plan year the plan covered fewer than 100 participants, the waiver of the accountant's examination and report for plans with fewer than 100 participants (§ 2520.104–46) would not be available for the second plan year even though the plan would otherwise meet the conditions for the waiver.

C. Miscellaneous

The Department has determined that this proposed regulation is a significant regulation within the meaning of the Department's guidelines for improving government regulations (44 FR 5570, January 26, 1979).

The Department intends to make this proposed regulation effective immediately upon its adoption as a final regulation because it will grant an exemption from various reporting and disclosure requirements of Part 1.

D. Statutory Authority

The proposed regulation set forth below is issued under the authority of sections 104, 110 and 505 of the Act [29 USC 1024, 1029 and 1135].

Proposed Regulation

In consideration of the matters discussed above, it is proposed to amend Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding thereto a new § 2520.104–50, reading as follows:

§ 2520.104–50 Short plan years, deferral of accountant's examination and report.

(a) *Definition of "short plan year."* For purposes of this section, a short plan year is a plan year, as defined in section 3(39) of the Act, of seven or fewer months' duration, which occurs in the event that—(1) a plan is established or commences operations; (2) a plan is merged or consolidated with another plan or plans; (3) a plan is terminated; or (4) the annual date on which the plan year begins is changed.

(b) *Deferral of accountant's report.* A plan administrator is not required to include the report of an independent qualified public accountant in the annual report for the first of two consecutive plan years, one of which is a short plan year, provided that the following conditions are satisfied:

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[3] In pertinent part, that section authorizes the Secretary of Labor to provide for simplified reporting and disclosure for welfare plans if he finds that any of the reporting and disclosure requirements of Title I of the Act are inappropriate as applied to welfare plans.

[4] Section 110 authorizes the Secretary of Labor to prescribe an alternative method by which a pension plan or class of pension plans may satisfy any requirement of Part 1 of Title I of the Act if he determines that: (1) the use of such alternative method is consistent with the purposes of Title I of the Act and provides adequate disclosure to participants and beneficiaries in the plan, and adequate reporting to the Secretary; (2) application of the requirement of Part 1 of Title I with respect to which relief is being granted would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved; and (3) the application of Part 1 of Title I of the Act would be adverse to the interests of plan participants in the aggregate.

[5] The Department is aware that a short plan year may occur in the situations described above. The Department solicits comments as to any other situations in which a short plan year may result.

(1) The annual report for the first of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with the requirements of section 103(b) of the Act and regulations promulgated thereunder;

(ii) An explanation why one of the two plan years is of seven or fewer months' duration; and

(iii) A statement that the annual report for the immediately following plan year will include a report of an independent qualified public accountant with respect to the financial statement and accompanying schedules for both of the two plan years.

(2) The annual report for the second of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with section 103(b) of the Act and regualtions promulgated thereunder with respect to the second of the two consecutive plan years, and the financial statements and accompanying schedules with respect to which the accountant renders an opinion relating to the first of the two plan years;

(ii) A report of an independent qualified public accountant with respect to the financial statements and accompanying schedules for both plan years; and

(iii) A statement by the accountant identifying any material differences between the unaudited financial information relating to, and contained in the annual report for, the first of the two consecutive plan years and the audited financial information relating to that plan year contained in the annual report for the immediately following plan year.

(c) *Accountant's examination and report.* The examination by the accountant which serves as the basis for the portion of his report relating to the first of the two consecutive plan years may be conducted at the same time as the examination which serves as the basis for the portion of his report relating to the immediately following plan year. The report of the accountant shall be prepared in conformity with section 103(a)(3)(A) of the Act and regulations thereunder.

Signed at Washington, D.C. this 20th day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-25881 Filed 8-21-80; 10:25 am]

BILLING CODE 4510-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 1588-8]

Discretionary Authority; Requirements Relating to the Use of Discretionary Authority and State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this proposal is to solicit additional comments on the November 27, 1979 proposed rulemaking (44 FR 67675) entitled "Discretionary Authority." The public is encouraged to submit written comments on determining when a modification is "substantive."

DATES: Comments must be received on or before October 27, 1980.

ADDRESS: Written comments should be sent to Jane Kelly, Control Programs Operations Branch, MD-15, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Jane Kelly, FTS: 629-5365; (919) 541-5365.

SUPPLEMENTARY INFORMATION: On November 27, 1979, a proposal was published in the **Federal Register** (44 FR 67675) concerning the use of discretionary authority by State and local agency officials. The proposal would require a State to submit plan revision when the State exercised its discretionary authority to make "substantive modifications" to the SIP. Several commenters questioned the need for this proposed rulemaking. In addition to the public participation rationale that was discussed in the November 27, 1979 proposal, EPA proposes this rule to assure consistency of the Federally recognized and enforceable SIP and the State regulations to give EPA the opportunity to review revisions to the SIP and determine whether they meet the requirements of Section 110(a)(2) of the Clean Air Act, and finally, to assure that the plans are modified only in those ways set forth in 110(i) of the Act.

The comment period for the November 27, 1979, proposal closed on February 25, 1980. Several comments were submitted pertaining to the use of the term "substantive modification" when referring to those discretionary actions that were subject to plan revisions. Many commenters thought the vagueness of the term "substantive" would cause misinterpretations and inconsistencies. To meet these commenters' concerns, EPA is today soliciting comments on the appropriate definition of "substantive" including what criteria should be used to determine if a SIP modification is "substantive." EPA intends to have this provision apply to, among other things, compliance schedules, sampling and testing methods, emission and other standards, and variances. EPA also solicits comment on whether States should be required to submit as SIP revisions variances that last for a short period of time, such as four or six months, if such a variance does not extend a compliance date beyond the plan attainment date.

Comments on other aspects of the proposed rulemaking of November 27, 1979, are being evaluated. Only comments on the matters discussed in this notice should be submitted at this time.

Dated: August 15, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-26128 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1584-8]

Approval and Promulgation of Implementation Plan: Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: On July 29, 1980, the State of Ohio submitted to the USEPA, pursuant to Part D of the Clean Air Act (Act) as amended in 1977, its procedures for the review and issuance of permits to new sources proposing to locate within areas designated as nonattainment. The purpose of this notice is to announce receipt of the submittal; to discuss the results of USEPA's reviews; and to propose rulemaking action on the submittal.

DATE: To be considered, comments must be recieved by USEPA no later than September 25, 1980. For further information on the comment period, see Supplementary Information below.

ADDRESS: Address comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the submittal are available at the address cited above and at:

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Richard J. Clarizio, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On March 3, 1978, (43 FR 8962) and on October 5, 1978, (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act, USEPA designated certain areas as not meeting the National Ambient Air Quality Standards (NAAQS) for total suspended particulates, sulfur dioxide, carbon monoxide, photochemical oxidants, and nitrogen dioxide. Part D of the Clean Air Act (Act) added in 1977 requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for those areas designated as nonattaiment for any or all of the above mentioned pollutants. EPA's criteria concerning what will constitute an approvable Part D SIP are summarized in a **Federal Register** notice published on April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In order to be approvable, each SIP must require permits for the construction and operation of new or modified major stationary sources of the above mentioned pollutants. These permits must be issued in conformance with the statutory requirements of sections 172 and 173 of the Act and the regulatory requirements of 40 CFR 51.18. In a July 29, 1980 submittal to USEPA, the Governor of Ohio indicated that to satisfy these requirements, the State is relying on its existing permit regulations and interim procedures based on its existing authority. The State has committed itself to revise its regulations by October 1, 1981 to refine the criteria used in issuing permits. USEPA has evaluated the July 29, 1980 submittal using the requirements for an approvable New Source Review program. USEPA's proposed rulemaking action can take one of three forms: approval, disapproval, or conditional approval. For minor deficiencies, USEPA proposes to approve the SIP on the condition that the State provide strong assurances that the deficiency will be corrected in accordance with a schedule to be negotiated betwen the State and the USEPA Regional Office. The use of conditional approvals is discussed in the July 2, 1979 **Federal Register** (44 FR 38583) and the November 23, 1979 **Federal Register** (44 FR 67182).

A thirty day comment period is being provided to enable publication of final action on this submittal as expeditiously as possible because final action on this SIP revision may remove the new source growth prohibitions of the Clean Air Act. Furthermore, USEPA believes that the thirty days provide the public with ample time to review and comment on today's proposed rulemaking.

To assist the public in preparing comments on the proposed SIP revision a summary of the principal requirements for a new source review program is presented below.

Summary of Requirements for a NSR Program

1. Type of Program

The Act requires that each SIP must provide for new source growth through an emission offset program or by a planned margin for growth [section 173(1)].

2. Enforceability

Any emission reduction required under 173(1)(A) must be legally binding and enforceable before the permit may be issued. [Section 173(1) and the sentence of Section 173 after subsection (4)].

3. Lowest Achievable Emission Rate (LAER)

The proposed major source or major modification must comply with the lowest achievable emission rate (LAER), as defined in section 171(3) of the Act. [Section 173(2)].

4. Demonstration of Compliance for Commonly Owned Sources

All major sources in the state owned or operated by the owner or operator of the proposed major source or major modification must be in compliance (or on a schedule for compliance) with the Act. [Section 173(3)].

5. Analysis of Alternatives

Section 172(b)(11)(C) requires a program for the analysis of alternate sites, sizes, production processes and environmental control techniques for those hydrocarbon and carbon monoxide stationary sources proposing to locate in ozone or carbon monoxide nonattainment areas which have been granted additional time to demonstrate attainment of either of these NAAQS.

Summary of State's New Source Review Program

In the July 29, 1980 letter transmitting the NSR SIP revision, the Governor of Ohio indicated that the Ohio EPA will sumit revised regulations which refine the criteria utilized by the Director of the Ohio EPA when issuing new source permits under section 173 of the Act. These revised regulations will be submitted to USEPA by October 1, 1981. Until the revised regulations are submitted the State of Ohio will use interim procedures based on its existing authority to review applications and issue permits for new sources proposing to locate within designated nonattainment areas.

The State of Ohio's permit procedures are contined in Chapter 3745-31 of the Ohio Administrative Code. Chapter 3745-31 is part of the existing federally enforceable SIP for Ohio and establishes the requirements for the issuance of permits to install new sources of pollution. Before the State issues a permit to install, the State Air Director must determine that the source will be in full compliance with applicable laws. Applicable laws are defined in rule 01 of Chapter 3745-31 to include the Clean Air Act and regulations of the Administrator of the USEPA. Based on this authority, the Ohio EPA has developed the interim procedures discussed below for reviewing applications and issuing permits for new sources proposing to locate within designated nonattainment areas.

To account for emissions from new sources proposing to locate in nonattainment areas, the State will utilize both emission growth allowances and the emission offset approach. An emission growth allowance will be used in those nonattainment areas which demonstrate attainment by December 31, 1982 and have an adequate emissions growth allowance available.

The State will utilize the offset approach in those nonattainment areas which do not achieve attainment by December 31, 1982, or in those nonattainment areas which demonstrate attainment by December 31, 1982 but do not have a sufficient growth allowance available to "offset" the emissions from the proposed new major source.

The State will utilize its reasonable further progress (RFP) demonstration to determine if the emissions from a particular new source would potentially interfere with an area's ability to meet the annual emission reduction goals established in its revised SIP.

If the State determines that no growth allowance is available, the State will require the new source to provide an offset for its emissions. The offset can be provided by the new source internally or provided by other sources externally. Internal offsets are federally enforceable as conditions of the permit. Thus, no SIP revison is necessary for internally supplied offsets. External emission offsets, however, are not federally enforceable unless there is a SIP revision requiring the emission reduction supplied by the external source. The State of Ohio has committed itself to submit external offsets to USEPA as SIP revisions.

Under the State's existing permit authority, each permit must be issued in accordance with the requirements of section 173 of the Act. Therefore, the State will require proposed sources to comply with the lowest achievable emission rate as defined in section 171(3) of the Act. The State will also require any necessary emission reductions to be legally binding prior to the issuance of a permit. In addition, the State will require a demonstration that all major stationary sources owned or operated or controlled by the owner or operator of the proposed source are in compliance or are on a schedule for compliance.

Finally, under the State's existing permit authority, each permit must be issued in accordance with the rquirements of section 172(b)(11)(A) of the Act. This section requires a program for the analysis of alternate sites, sizes, production processes and environmental control techniques for those hydrocarbon and carbon monoxide stationary sources proposing to locate in ozone or carbon monoxide nonattainment areas which have been granted additional time to demonstrate attainment of either of these NAAQS.

USEPA Evaluation and Proposed Rulemaking

USEPA has evaluated the NSR SIP revision submitted by the State and believes that revisions to the State regulations are necessary to specifically define how the NSR program is to be conducted and what is required of the permit applicant and the Director of the Ohio EPA before the permit is issued to a new or modified source wishing to locate in a designated nonattainment area. USEPA interprets the State's existing permit regulations and the interim procedures based on its existing authority as legally sufficient to ensure that until final regulations are submitted, any permit for a new source proposing to locate in a nonattainment area will be issued in accordance with the new source requirements of the Act and USEPA regulations. It should be noted that before a permit is issued to a new source of pollution in a designated nonattainment area, all of the requirements of Part D of the Act must be satsified in that nonattainment area for the specific pollutant which the new source will emit.

USEPA proposes to approve Ohio's NSR SIP revision if two conditions are satisfied. First, USEPA proposes to approve Ohio's NSR program on the condition that the State assure that each permit it issues satisfies the requirements of section 173 of the Act. Secondly, prior to final rulemaking the State must submit a description of the interim procedures it will follow to satisfy the requirements of Section 172(b)(11)(A) of the Act.

Finally, USEPA proposes to approve Ohio's NSR SIP revision on the condition that the State submit, after the completion of State rulemeking procedures, revised regulations which refine the criteria used by the Director to issue new source permits under section 173 of the Clean Air Act. The Governor, in the July 29, 1980 letter, committed to submit such regulations by October 1, 1981. USEPA believes that this commitment and schedule to correct the deficiency are acceptable.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the order or whether it may follow other "specialized" procedures. I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator, and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-25816 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1588-2]

Approval and Promulgation of State Implementing Plans; Proposal Rulemaking of Approval of Colorado State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking

SUMMARY: EPA today is proposing to approve Regulation No. 7, "Control of Volatile Organic Compounds (VOC)" since it requires reasonably available control technology (RACT) for sources specified under EPA's Group I Control Technique Guidelines (CTG). EPA requests comments on this proposed action. In addition EPA is requesting specific comments on whether the exemption of VOC with a vapor pressure lower than 1.5 psia from a wastewater separator represents RACT requirements.

DATES: Comments due September 25, 1980.

ADDRESSES: Comments should be addressed to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

Copies of the materials submitted by the Governor of Colorado and comments received on this proposal may be examined during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Region VIII, Suite 200, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), Mail Code PM-213, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

SUPPLEMENTARY INFORMATION: Section 172(b)(3) of the Clean Air Act requires the application of reasonably available control technology (RACT) to stationary sources of volatile organic compounds (VOC) in areas in the State of Colorado which have not attained the national ambient air quality standard for ozone. The 1979 SIP revision was required to include RACT on those categories of sources for which EPA had published Control Technique Guidelines (CTGs) prior to January 1978. *See* 44 FR 20376 (April 4, 1979), 44 FR 30583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 3761

V45 AG 26 80 UMI

(September 17, 1979), and 44 FR 67182 (November 23, 1979).

In EPA's October 5, 1979, final rulemaking (44 FR 57405), EPA conditionally approved the portion of the Colorado SIP related to VOC source control (Regulation No. 7), EPA noted the following minor deficiences:

1. VOC is defined as having vapor pressure of 0.1 pounds per square inch, which is considerably less restrictive than EPA's definition of 0.1 millimeter of mercury or ASTM test method D2369–73.
2. The controls for surface coating, cutback asphalt and degreasing do not represent RACT, since they are not equivalent to control measures supported by the technical information in EPA's Control Technique Guidelines (CTG) for VOC.
3. The requirement for an approved balanced vapor-recovery system should specifically refer to the Colorado RACT design criteria.
4. The regulation provides an exemption for barometric-type condensors in use at petroleum refineries.

On July 18, 1979, in a letter to EPA, the Commission committed to revising Regulation 7 by July 1, 1980. On October 5, 1979, EPA conditionally approved Regulation 7 and proposed (44 FR 57428) that the State correct these deficiences on the following schedule:

October 1, 1979—Draft regulations submitted to EPA

November 1, 1979—Notice of public hearing

January 3, 1980—Public Hearing

March 1, 1980—Adopt new regulation

EPA solicited comment on the acceptability of this schedule and one commentor pointed out that State administrative requirements made the March 1, 1980 deadline unattainable. EPA extended the deadline to April 10, 1980 (45 FR 7802, February 5, 1980).

On June 5, 190 the Governor of Colorado submitted to EPA the following amended rules:

Repeal and repromulgation of regulation No. 7 "A Regulation to Control Emissions of Volatile Organic Compounds" and revisions to common provisions regulation as they relate to changes in Regulation No. 7.

The 15 source categories covered by the revised regulation are:

1. Section VI—Tank truck loading terminals.
2. Section VI—Bulk gasoline plants.
3. Section VI—Gasoline service stations—Group I control.
4. Section VI—Petroleum storage tanks.
5. Section VIII—Petroleum processing and refining.
6. Section IX—Can coating.
7. Section IX—Metal coil coating.
8. Section IX—Fabric coating.
9. Section IX—Paper products coating.
10. Section IX—Automobile coating.
11. Section IX—Metal furniture coating.
12. Section IX—Magnet wire coating.
13. Section IX—Large appliance coating.
14. Section X—Solvent metal cleaning.
15. Section XI—Cutback asphalt.

EPA believes the revised Regulation No. 7 addresses and remedies deficiencies identified in the October 5, 1979, rulemaking. However, EPA is requesting comments on the exemption of wastewater separators which utilize VOC with a vapor pressure less than 1.5 psia, from RACT requirements. In addition, EPA has reviewed the revisions to Regulation No. 7 in relation to the respective CTG for each type of emission source. The CTGs provide information on available control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes the revised Regulation No. 7 represents RACT for Group I CTG sources.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: July 25, 1980.

Gene A. Lucero,

Deputy Regional Administrator.

[FR Doc. 80-26001 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1588-3]

State of Texas: Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Texas has revised the air quality attainment designation for an area with respect to ozone. The State has changed the Ector County area from nonattainment to attainment.

On February 6, 1980, the State of Texas submitted the revision to EPA, in Texas Air Control Board (TACB) Resolution R80–1. This notice proposes approval of the revision to the air quality attainment designation for Ector County, Texas, and solicits public comment on this proposed action.

DATES: Comments must be recieved on or before September 25, 1980.

ADDRESSES: Submit comments to Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d) of the Clean Air Act, amended 1977 directed each State to submit to the Administrator a list identifying areas within the State and their status with regard to attainment of the National Ambient Air Quality Standards (NAAQS). On March 3, 1978 at 43 FR 9038, the Administrator promulgated attainment status designations for the State of Texas for ozone and other pollutants. These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations.

Section 107(d)(5) of the Clean Air act allows a State to revise and resubmit as appropriate an amended list of areas to the Administrator. On February 8, 1979 EPA promulgated a revised ozone standard that raised the level of the standard from 0.08 ppm to 0.012 ppm. Based upon this revised standard the State of Texas has amended its list, thus revising the original designation of the Ector County area from nonattainment to attainment. on February 6, 1980 in TACB Resolution R80–1 this revision was submitted to EPA.

Redesignation of Ector County

In Air Quality Control Region (AQCR) 218, the Ector County area is designated as nonattainment for primary ozone standards in the March 3, 1978 **Federal Register** (43 FR 9038). The Ector County area is under consideration for revision from nonattainment to attainment based upon EPA's revised ozone standard from 0.08 ppm to 0.12 ppm. A review of the information supporting redesignation has indicated that the average annual exceedances for the years 1977, 1978, and 1979, are less than or equal to one, thus meeting EPA's criteria for attainment. The exceedances of the ozone NAAQS in Ector County are as follows:

Year	Exceedances[1]	
	Actual	Estimated
1977	2	2.4
1978	0	0
1979	0	0

[1] Average annual exceedances equals 0.8.

Based upon the above data, EPA proposes to redesignate the Ector County area from nonattainment to attaiment.

This notice of proposed rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

Dated: July 16, 1980.

Frances E. Phillips,

Deputy Regional Administrator.

[FR Doc. 80-26000 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte No. 282 (Sub-5)]

Rulemaking Concerning Traffic Protective Conditions in Railroad Consolidation Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to comment on notice of proposed rulemaking.

SUMMARY: A Notice of Proposed Rulemaking in this proceeding was published at 45 FR 46461 (July 10, 1980). The notice proposed a rule to treat the imposition of traffic protective conditions in future railroad consolidation proceedings, and to interpret existing traffic protective conditions imposed in past railroad consolidation proceedings. Comments were required to be filed in 60 days.

In response to a petition for extension by the Commission's Office of Special Counsel, a decision was entered extending the comment period 30 days to October 8, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both. From this information a service list shall be prepared and distributed. General comments must be served on all parties on the service list. Comments concerning the retention of the "DT&I conditions" in a specific proceeding need only be served on the applicants in that proceeding. Replies may be permitted at a later date.

DATES: The comment period is extended to October 30, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both.

FOR FURTHER INFORMATION CONTACT: Barry A. Cohen, (202) 275-7933.

By the Commission, Edward E. Guthrie, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26039 Filed 8-25-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol 45, No. 167
Tuesday, August 26, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 2:00 p.m., Tuesday, September 9, 1980, in the Main Conference Room, Seventh Floor, Covington and Burling, 888 16th Street, N.W., Washington, D.C.

The Committee will meet to discuss a report on forum shopping and the race to the courthouse and proposed recommendations.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this meeting contact Linda A. Sedivec at the Office of the Chairman of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037 (202/254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.

[FR Doc. 80–26003 Filed 8–25–80; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Mount Henry, Taylor-Hilgard, and West Pioneer Wilderness Study Areas; Beaverhead, Gallatin, and Kootenai National Forests, Beaverhead, Gallatin, Madison, and Lincoln Counties, Mont.; Public Hearing

Notice is hereby given that public hearings will be held on proposals for the future management of the Mount Henry, Taylor-Hilgard, and West Pioneer Wilderness study areas comprised of approximately 560,000 acres, and on the Bureau of Land Management Intensive Inventoried Roadless Area No. 079 comprised of approximately 1,500 acres.

The hearing sessions will begin at 1:00 p.m. on the date and locations listed below:

Libby, Mont., October 28, Moose Hall, 422 California Avenue.
Bozeman, Mont., October 30, Gallatin County Law and Justice Center Auditorium, 1615 South 16th Avenue.
Dillon, Mont., November 5, Western Montana College, Main Auditorium.
Helena, Mont., November 6, Colonial Motor Hotel, 2301 Colonial Drive.

The Draft Environmental Impact Statement containing maps and information about the proposals may be obtained after September 28, 1980, from any of the following addresses:

Forest Supervisor, Beaverhead National Forest, P.O. Box 1258, Dillon, Mont. 59725.
Forest Supervisor, Kootenai National Forest, P.O. Box AS, Libby, Mont. 59923.
Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, Mont. 59715.
Regional Forester, USDA Forest Service, P.O. Box 7669, Missoula, Mont. 59807.

Individuals and organizations may express their views by appearing at any one of the hearing sessions or may submit written comments for inclusion in the official record to the Regional Forester, P.O. Box 7669, Missoula, Mont. 59807. Those persons wishing to present oral testimony should notify the Regional Forester at the above address by October 20. They should also advise at what hearing session or sessions they wish to present their oral testimony.

Written views must be received by November 28 to be included in the hearing record.

Dated: August 20, 1980.

Douglas R. Leisz,
Acting Chief, Forest Service.

[FR Doc. 80–25975 Filed 8–25–80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Eastern Iowa Light & Power Cooperative; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with a proposed loan guarantee commitment to Eastern Iowa Light and Power Cooperative (Eastern Iowa) headquartered in Wilton, Iowa.

The proposed loan guarantee will be used by Eastern Iowa to complete the conversion of their Fair Station Unit No. 2 from a pressurized furnace to a balance draft unit. The project is presently under construction and is approximately 30 percent complete. The plan is completely owned and operated by Eastern Iowa.

Eastern Iowa has prepared an Environmental Report and REA has prepared an Environmental Assessment concerning the possible loan guarantee.

REA's independent evaluation of the environmental effects of the project by Eastern Iowa leads to the following conclusions: (1) there is no need for REA to prepare an Environmental Impact Statement in connection with the proposed loan guarantee commitment; and (2) the proposed financial assistance to Eastern Iowa does not represent a major Federal action that will significantly affect the quality of human environment.

Based on REA's independent evaluation including the REA Environmental Assessment and the Borrower's Environmental Report, a Finding of No Significant Impact was reached in accordance with Sections IV-B and D of REA Bulletin 20–21.

Copies of REA's Finding of No Significant Impact and REA's Environmental Assessment may be reviewed in the office of the Director, Power Supply Division, Room 5829, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or at the office of Eastern Iowa Light and Power Cooperative, 600 East Fifth Street, Wilton, Iowa 52778. Copies may be obtained upon request at the addresses given above.

Dated at Washington, D.C., this 18th day of August 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-25952 Filed 8-25-80; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Colorado River Water Quality Improvement Program

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of scoping meeting prior to preparation of a draft supplement to the Colorado River water quality improvement program final environmental impact statement.

FOR FURTHER INFORMATION CONTACT: George D. McMillan, State Conservationist, Soil Conservation Service, 4012 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone (801) 524-5050 (CML) or 588-5050 (FTS).

SUMMARY: **Federal Register** Vol. 45, No. 85 (pages 28785-28786) dated April 30, 1980, provided the Notice of Intent by the Soil Conservation Service to prepare a supplement to the Colorado River Water Quality Improvement Program Final Environmental Impact Statement of May 19, 1977. The supplement will include additional data on the onfarm and selected lateral work anticipated to be accomplished under ongoing USDA programs in the Colorado River Basin. The April 30 notice in the **Federal Register** also provides additional background information on the need for a supplement and invites participation and consultation of all agencies and persons with special expertise, legal jurisdiction, or interest to assist in the preparation of the draft document.

On Tuesday, September 9, 1980, a scoping meeting will be held to identify and discuss and environmental issues to be addressed in a draft supplemental environmental impact statement (EIS) for the onfarm conservation measures in the Uintah Basin Unit, Utah. The meeting will be in the basement conference room of the Zion First National Bank Building, 108 North 2nd East, Roosevelt, Utah 84066, at 8:00 p.m.

Any comments or questions regarding preparation of the draft supplemental EIS or the scoping meeting should be directed to J. Dean Maxwell, Environmental Specialist, Soil Conservation Service, U.S. Department of Agriculture, Room 4012 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone (801) 524-5054 (CML) or 588-5054 (FTS).

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

August 21, 1980.

(Title II of the Colorado River Basin Salinity Control Act. Pub. L. 93-320; Section 6 of the Watershed Protection and Flood Prevention Act. Pub. L. 83-566; The Soil Conservation and Domestic Allotment Act. Pub. L. 74-46; and the following Catalog of Federal Domestic Assistance Programs: No. 10.063-Agricultural Conservation Program: No. 10.902-Soil and Water Conservation; and No. 10.906-River Basin Surveys and Investigations. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 80-26148 Filed 8-25-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 38596]

Marco Island Airways, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., August 20, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-26138 Filed 8-25-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-8-119; Dockets 37949, 36595]

Southwest Airlines Co. for an exemption to implement a "Ticknet" plan and Investigation into the Competitive Marketing of Air Transportation; Application

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of August, 1980.

By Order 80-5-202, adopted May 29, 1980, we granted an exemption to permit Southwest Airlines Co. to institute a new program of ticket sales and agent compensation called "Ticknet." Under the new program of retail sales distribution, which would replace Southwest's usual method of agency sales, Southwest would sell to travel agents (contractors) books of ten one-way Ticknet coupons at a discount of 10 percent from the applicable individual tariff fare, plus tax. The agents would resell individual tickets to the public and retain discretion to determine the retail price level.

By petition dated August 8, 1980, the American Society of Travel Agents, Inc., (ASTA) requests revocation of the exemption granted in Docket 37949, Order 80-5-202. ASTA simultaneously filed a motion for consolidation of Docket 37949 into Docket 36595, *Investigation into the Competitive Marketing of Air Transportation.*

In support of its petition, ASTA states that travel agents will not be able to operate effectively and in the best interests of their clients under Southwest's plan. It understands and supports our desire to permit some experimentation and changes in the relationship between travel agents and airlines while the *Competitive Marketing Case* is proceeding, but it asserts that implementation of Southwest's "net fare" program woud go to the heart of the issues which are to be explored in the *Competitive Marketing Case* before the parties are given a fair opportunity to make their cases in a hearing. ASTA argues that the Ticknet program would force travel agents to maintain a pre-paid ticket inventory; and therefore travel agents would act as retailers instead of as agents who promote, market, and sell airline tickets on behalf of airlines. It believes that we should consider such a fundamental change in the relationship between travel agents and airlines in the *Competitive Marketing Case.*

ASTA also expresses concern about several problems wich assertedly are presented by Ticknet: first, Southwest requires full prepayment for tickets before they are sent to agents and although agents may have to wait 10 days to receive Southwest's Ticknet books through the mail, Southwest provides no alternative pick up service for distributing its tickets; second, since agents have to purchase books of at least 10 of any type of fare, travel agents who seldom sell a particular Southwest fare would still have to prepay for books of tickets showing that fare; third, agents and their clients cannot use credit cards; and fourth, Southwest's tickets do not inform consumers how much denied boarding compensation they are entitled to, if eligible, and under what conditions.

ASTA notes that, in some instances, travel agents have no choice but to deal with Southwest; since it is the only carrier operating at Dallas' Love Field, travel agents who have clients who want to use that airport must sell Southwest tickets. ASTA argues that the harmful effects of Southwest's "Ticknet" plan will be felt most heavily by smaller business; the majority of travel agents

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who formerly sold Southwest tickets will not have the capital to do so; thousands of small travel businesses could be destroyed if this type of plan should spread to other carriers; and the "Ticknet" plan should not be implemented until its implications are thoroughly examined in the *Competitive Marketing Case.*

In support of its motion for consolidation of Dockets 36595 and 37949, ASTA states that the full details of Southwest's Ticknet plan were not known until recently, when Southwest presented travel agents with Ticknet contracts; it is now clear that the basic changes that Ticknet would make in the relationship between airlines and travel agents, and in the way tickets are sold, significantly relate to and affect the most basic issues in the *Competitive Marketing Case;* the serious implications of Ticknet should be examined in that proceeding; consolidation will not be unduly burdensome or unduly delay the proceedings; and Southwest should be made a party to the *Competitive Marketing Case* because it plans to implement its Ticknet plan without waiting for the outcome of that proceeding. ASTA also comments that it did not make a motion for consolidation at or before either of the Prehearing Conferences in Docket 36595 because Southwest had not filed its Ticknet proposal with us at the time of the main Prehearing Conference; the second Prehearing Conference was limited by the Administrative Law Judge to only two issues; and the Southwest exemption application and ASTA response were then pending.

In answer to ASTA's petition for revocation of exemption, Southwest states that during the period since we approved its proposed Ticknet program it has spent an enormous amount of time and money preparing for actual implementation of the program on August 15, 1980. As of August 8, 1980, it had received contracts for Ticknet participation executed by 226 travel agencies and accompanied by 202 Ticknet orders with checks for a total of $1.38 million in Ticknet coupons. Southwest has filled all of these Ticknet orders by the mailing of Ticknet coupons to the agencies. The carrier comments that the 226 travel agents who signed Ticknet contracts apparently disagreed with ASTA's belief "that travel agents will not be able to operate effectively and in the best interests of their clients under Southwest's plan"; and 167 or 82.7 percent of its Ticknet orders ranged from $1,000 to $10,000.

In Southwest's view, ASTA seeks revocation of the exemption authority to frustrate the voluntary participation of its own members in a competitive retail marketing plan which ASTA itself has previously declared legal and which it did not oppose when presented to the Board. Southwest believes that ASTA has waived any rights it might have to protest the Ticknet exemption and is estopped to do so; and the public interest in experimentation with free enterprise in the airline industry will suffer if carriers willing to be innovative can be misled into spending considerable resources on programs never actuated because of the belated opposition of third parties, who, first, knowledgably acquiesced in the experiment and later, knowledgably stood by in silence as a consequential investment was made in its implementation.

Southwest points out that its "General Information" sheet, which it mailed to prospective contractors, includes the following statement: "You should allow 10 days for mailing and processing when calculating your ordering cycles. We will be able to effect a 24 hour turn-around on your orders once they are received at Southwest. The remaining time must be allowed for mailing. . . . ." It argues that the "10 days" was just a cautionary warning concerning the current speed of the mails and not even an ingredient of the Ticknet program.

Southwest asserts that the public interest clearly dictates continuation of the Ticknet exemption—so that meaningful factual data can be developed pertaining to the *Competitive Marketing Case.* It requests that we act on an emergency basis to deny ASTA's petition for revocation since the persistence of uncertainty about the legality or permanency of Ticknet will dilute the effectiveness of the experiment, deter participation, and pollute the accuracy of results.

In answer to ASTA's motion for consolidation of Dockets 36595 and 37949 for hearing and for full participation by Southwest as a party in Docket 36595, Southwest states that the motion should be denied for the following reasons: (1) The motion is not timely filed. (2) ASTA is seeking to involve Southwest in the potentially lengthy litigation in Docket 36595, so that the time, effort, and expense expended by Southwest in Docket 36595 will cause it to reassess the cost/benefit ratio of Ticknet continuance. The only issue in Docket 37949, it asserts, was whether Southwest or travel agents desiring to contract with it should be allowed to experiment with Ticknet during the pendency of Docket 36595. This issue is not closely realted to any of the substantive issues in Docket 36595. Southwest was the only party in Docket 37949, and it is not a party in Docket 36595; therefore, the dockets do not "involve substantially the same parties." (3) In Order 80-5-202, we have already determined the appropriate relationship between Southwest and Docket 36595 by ordering that "Southwest Airlines Co. . . . submit, in the *Investigation into the Competitive Marketing of Air Transportation,* Docket 36595, information regarding the operation and effect of the Ticknet fare program in the manner deemed appropriate by the Administrative Law Judge in that case."

In reply to the answer filed by Southwest,[1] ASTA states that its original position on Ticknet was based on the belief that every effort should be made to try to accommodate the Board's transitional policy toward full deregulation; after all of the details of implementation of the Ticknet plan were revealed, it became clear that many travel agents could not live with the plan, or could do so only at great hardship, and many agents had no effective choice but to accept the plan because of the limited competitive options to Southwest's service; because other airlines have not chosen to seriously compete with Southwest in terms of price, agents cannot fulfill their obligations to clients by simply routing passengers on the flights of other carriers; and ASTA should not be chastised for its ultimate judgment that the issues raised were so serious as to warrant the filing of a petition to revoke exemption. ASTA argues that Southwest is far more able to bear the cost of deferring Ticknet than small travel agents are able to bear the cost of its implementation.

ASTA notes that, to the extent that agents do not or cannot pass on the cost of prepaying for Ticknet books to consumers, the agents will suffer an effective reduction in commission earnings—and this reduction is the only known example of a reduction in agents' compensation since domestic commissions were opened to competitive determination. ASTA asserts that in the absence of genuine competitive alternatives, the Southwest Ticknet plan is being imposed on agents on a take-it-or-leave-it basis and they are powerless to deal with the situation; Southwest's data on deposits, rather than proving "voluntary participation," simply shows that many agents have no practical options—they must deal with Southwest on its terms or lose their market altogether; if it were otherwise, the agents would simply have declined to carry out the terms of the Ticknet exemption.

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[1] ASTA filed a motion for leave to file an unauthorized document on August 12, 1980. We will grant the motion.

ASTA considers it unlikely, under the terms of the actual contract revealed after the exemption was granted, that agents will experience significant cost reductions in complying with the advance payment, risk of loss and risk of ticket shortages aspects of the contract. It alleges that the discount on Ticknet books of 10 percent, less than one percentage point above the prior commission rate for cash sales, does not begin to compensate for the cost of funds necessary to acquire a complete supply of Ticknet books in all fare denominations.

We have decided to permit Southwest to go forward with its Ticknet plan and we will deny ASTA'a petition for revocation of the exemption from sections 401 and 403 of the Act granted to agents who contract with Southwest in Order 80-5-202. We invited experimentation with the net fare concept in the *Investigation into the Competitive Marketing of Air Transportation*, Order 79-9-65, and we believe, as we previously stated, that Southwest's Ticknet program is a reasonable response to our invitation.

We must first take into account the timing of ASTA's petition. Southwest's assertion that a substantial commitment of time and money to Ticknet, taken in reliance on our exemption made without ASTA objection, would be frustrated if the exemption is now revoked seems fully credible.

On the other hand, the extent and nature of any harm to agents is speculative at this point. Further, the possibility of harm from the Southwest plan is reduced by the fact that Southwest is not a member of the ATC Area Settlement Plan, has no published joint fares and sells only approximately 20 percent of its tickets through travel agents, as opposed to an average 50-60 percent for other domestic carriers. In view of the historic pattern of Southwest ticket sales and the limited character of its operations, Ticknet is clearly a limited net fare experiment. Under these circumstances, and in view of our continued belief that the public interest warrants introduction of such limited "net fare" experiments for evaluation in Docket 36595, we will not restrict Southwest's market flexibility.

We will dismiss the motion of ASTA for the consolidation of Dockets 36595 and 37949. We have already acted to have the operation and effect of the Ticknet fare program considered in the *Investigation into the Competitive Marketing of Air Transportation* by requiring Southwest and travel agents who contract with it to sell its tickets to submit information concerning their experience in the marketplace to the Administrative Law Judge presiding over that proceeding. Any further "net fare" proposals will be considered on their individual merits with a full opportunity for all interested parties to be heard.

Accordingly,

1. We dismiss the motion of the American Society of Travel Agents, Inc., for the consolidation of Dockets 36595 and 37949;

2. We deny the petition of the American Society of Travel Agents, Inc., for revocation of the exemption granted Southwest Airlines Co. in Order 80-5-202, May 29, 1980 and grant its motion to file an unauthorized document; and

3. We will serve a copy of this order on the American Society of Travel Agents, Inc; Southwest Airlines Co.; and all parties in the *Investigation into the Competitive Marketing of Air Transportation*, Docket 36595.

We will publish this order in the **Federal Register**.

By the Civil Aeronautics Board:

Phylis T. Kaylor [2]

Secretary.

[FR Doc. 80-26137 Filed 8-25-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 12-80]

Foreign-Trade Zone No. 31, Granite City, Ill.; Application for Temporary Site

Notice is hereby given that the Tri-City Regional Port District, grantee of Foreign-Trade Zone No. 31 in Granite City, Illinois, has applied to the Foreign-Trade Zones Board (the Board) for authority to temporarily expand its zone to include, until December 31, 1983, a 95,000 square foot warehouse in Granite City, Illinois, within the St. Louis Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 18, 1980. Tri-City was created as an Illinois incorporated port district under Illinois Revised Statutes, Chap. 19, Sec. 284, et seq. Authority to apply for the right to establish and operate foreign-trade zones was added to its charter in 1975 (Illinois P.A. 79-613, Sec. 1).

Foreign-Trade Zone No. 31 was authorized by the Board on September 6, 1977 (Board Order No. 122). The zone consists of a 47-acre site within the 127-acre Tri-City Industrial Center on the western limits of Granite City, Illinois. The zone is adjacent to the Chain of Rocks Canal and within the St. Louis Customs port of entry. A 100,000 square foot warehouse is planned for the site.

The application seeks temporary zone status for an existing 95,000 square foot warehouse known as the Tri-City Grocery Warehouse. It is located at 1630 South State Street, Granite City, Illinois, within 2 miles of the approved site. The temporary site will allow the grantee to provide warehousing services while construction of the warehouse on the permanent site is being completed. Fox Industries leases and operates the temporary site, and will operate the zone. Prospective tenants have indicated intent to use the zone for warehousing and distribution of medical equipment and instruments, sporting goods, liquor, and optical instruments.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of John J. Da Ponte, Jr. (Chairman), Executive Secretary, Foreign-Trade Zones Board; William L. Duncan, District Director, U.S. Customs Service, St. Louis District, 120 S. Central Avenue, St. Louis, Missouri 63105; and Colonel Robert J. Dacey, District Engineer, U.S. Army Engineer District St. Louis, 210 Tucker Blvd. N., St. Louis, Missouri 63101.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1980.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 120 South Central Avenue, St. Louis, Missouri 63105.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets, N.W., Room 6886-B, Washington, D.C. 20230.

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[2] All Members concurred.

Dated: August 20, 1980.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 80-25998 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Department of Interior; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket number: 80-00215. Applicant: Department of Interior, U.S. Geological Survey, Geol. Division, Br. of Elect. & Geomag, P.O. Box 25046, Denver Federal Center, Denver, Colorado 80225. Article: Coincident-loop Time Domain Electromagnetic System. Manufacturer: Geoex Pty. Ltd., Australia. Intended use of article: The article is intended to be used to study the electrical-conductivity of the earth, particularly the properties of mineral deposits and surrounding rocks. Experiments will be conducted to (1) apply the coincident-loop TDEM system to the study and characterization of mineral deposits and other geologic features and (2) to use the results obtained with the TDEM system to guide development of better multi-method geophysical strategies of mineral exploration and characterization of subsurface geologic structure.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides it detection capability by use of a single-loop or coincident-loop time domain electromagnetic system. The National Bureau of Standards advises in its memorandum dated July 14, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational And Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-26022 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

Mount Sinai School of Medicine, et al; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket number: 80-00356. Applicant: Mount Sinai School of Medicine, 1 Gustave Levy Place, New York, N.Y. 10029. Article: Replacement Parts for Free-Flow Electrophoresis Apparatus, Model FF5. Manufacturer: Bender and Hobein, West Germany. Intended use of article: The article is intended to be used for studies of kidney brush-border and basolateral membranes isolated and purified by free flow electrophoresis. Experiments are carried out on the two isolated membrane populations. The membranes form vesicles, or "mini-cells" with only one of the two types of membranes found in vivo and devoid of metabolism. Using these vehicles, the renal handling of organic anions can be segregated to pure membrane events without any cellular interaction, specifically, metabolism by mitochondria. Application received by Commissioner of Customs: June 26, 1980.

Docket number: 80-00357. Applicant: Midwest Center for Mass Spectrometry, Department of Chemistry, University of Nebraska-Lincoln, Lincoln, Nebraska 68588. Article: Gas Chromatograph/Mass Spectrometer/System Model MS-80. Manufacturer: KRATOS Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used for research projects that involve identification and quantitative analysis of organic materials. These projects will include:

1. Complex mixture analysis by capillary column GC/MS.
2. Trace analysis at the parts-per-trillion level.
3. Exact mass measurements using GC/MS.
4. Alternating electron ionization/chemical ionization.
5. Identification and structure proofs of pure compounds using EI and CI mass spectrometry.

Some research projects will be conducted by graduate students for credit in the course "Dissertation Research." Application received by Commissioner of Customs: June 30, 1980.

Docket number: 80-00358. Applicant: Department of Commerce, National Bureau of Standards, Washington, D.C. 20234. Article: High Power X-Ray Rotating Anode Generator, RU-200. Manufacturer: Rigaku Denki, Japan. Intended use of article: The article is intended to be used for studies of various materials of industrial and scientific importance including:

1. Corrosion-resistant coatings as they relate to interface strains in Ni and Cu.
2. Order-disorder transformations in FeAl, CoPt, Pt_3Si, and CuAu.
3. Structure of thin glasses such MgF_2.
4. Rapid solidification in TiCu, NbNi.
5. Passive films (vitreous and amorphous oxide films).

Experiments to be conducted will consist of:

1. Energy dispersive analysis for residual stress evaluation.
2. X-ray topography with x-ray image magnification.
3. Anomalous scattering experiments near absorption edges to resolve structure ambiguities.
4. Inelastic and absorption spectroscopy.

Application received by Commissioner of Customs: June 30, 1980.

Docket number: 80-00359. Applicant: The University of Texas at Tyler, 3900

University Blvd., Tyler, Texas 75701. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biological specimens including human tissues and fluids, laboratory animals, plant tissues, procaryotic cells, and viruses. The experiments to be conducted will be varied and include: tumor pathology, morphological studies of unicellular organisms and viruses, comparative studies at the light and electron microscopic levels of both plant and animal tissues, and coagulation properties of blood. In addition, the article will be used to train graduate students in the use of electron microscopy. Application received by Commission of Customs: July 1, 1980.

Docket number: 80-00360. Applicant: University of Utah, Department of Chemistry, Salt Lake City, Utah 84112. Article: Electron Spectrometer, ESCALAB 5. Manufacturer: Vacuum Generators Scientific, United Kingdom. Intended use of article: The article will be used for studying the surface chemistry and physics of metals and semiconductors in single-crystal form. Principle experiment to be performed is angle-resolved x-ray photoelectron spectroscopy with the goal of determining surface bonding geometries of atoms. Application received by Commissioner of Customs: July 1, 1980.

Docket number: 80-00365. Applicant: Food and Drug Administration, Bureau of Biologics, Building 29A, Room 1B03, 8800 Rockville Pike, Bethesda, MD 20205. Article: Mass Spectrometer, Model MS-50. Manufacturer: Kratos, Ltd., United Kingdom. Intended use of article: The article is intended to be used for the ongoing studies which include but are not limited to:

(1) The structural determination of bacterial polysaccharides used in vaccines.

(2) Analysis of glycoconjugates, to adequately understand capsular polysaccharide biosynthesis in bacteria.

(3) Structural studies of the source of contamination of vaccine preparations.

(4) Structural determination of contaminants to allow the decision about products safety to occur more quickly.

(5) Determine the covalent structure for a variety of peptides and proteins found in allergenic, bacterial, viral and recombinant products.

Application received by Commissioner of Customs: June 30, 1980.

Docket number: 80-00366. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Turbo Molecular Pump, #120, Manufacturer: Cameca, France. Intended use of article: The article is an accessory to an existing ion microprobe being used to determine the trace element concentrations and isotopic ratios on small (1-10μ) sample areas of natural minerals and ores and synthetic laboratory minerals. Experiments will be conducted to obtain an understanding of the processes governing geochemical distribution of the elements in terrestrial and lunar materials. This article will give deeper and cleaner vacuum for the microprobe thus providing better data. Application received by Commissioner of Customs: July 1, 1980.

Docket number: 80-00367. Applicant: Princeton University, Forrestal Campus, Plasma Physics Laboratory, Procurement Department, P.O. Box CN-17, Princeton, New Jersey 08544. Article: Hollow Copper Conductors for TF Coils. Manufacturer: Kabel-Und Metallwerke, West Germany.

Intended use of article: The article is intended to be used for manufacture of Toroidal Field Coils of Tokamak Fusion Test Reactor a device designed to oonvert fusion energy into electricity in a more economical, safer process than the fission reactions now in use. The conductors are to carry both electrical current and coolant requirements for coil performance. Experiments will be conducted to determine the economic feasbility of converting fusion energy into useable heat by fusing tritium and deuterium atoms in a confined space.

Application received by Commissioner of Customs: July 1, 1980.

Docket number: 80-00368. Applicant: Princeton University, Plasma Physics Laboratory, Forrestal Campus, Procurement Department, P.O. Box CN-17, Princeton, N.Y. 08544. Article: Machined Forging of Non-Permeable Stainless Steel. Manufacturer: Japan Steel Works, Japan. Intended use of article: The articles form the inner and outer structure held together by two stainless steel side plates containing the Toroidal Field Coils that form a part of the TFTF Tokamak Fusion Reaction, a device designed to convert fusion energy into electricity in a more economical, safer process than the fission reactions now in use. Experiments will be conducted to determine the economic feasibility of converting fusion energy into useable heat by fusing tritium and deuterium atmons in a confined space. Application received by Commissioner of Customs: July 1, 1980.

Docket number: 80-00361. Applicant: Thomas S. Clarkson Memorial College of Technology, Potsdam, New York 13676. Article: NMR Spectrometer, Model FX-90Q(I) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for varied research projects, including but not limited to:

1. Conformational studies of coenzyme A analogs.

2. Magnetic resonance studies of enzyme active sites.

3. Magnetic resonance studies of bacterial nitrogen metabolism.

4. Quantitative determination of plasmoalogens and other phospholipids from tissue extracts using ^{31}P as an analytical tool.

5. Aggregation of bile salts in aqueous solutions.

6. Studies of catalysis by metal carbonyl cluster complexes.

7. Hydration of carbonyl and related compounds.

8. Cmr of copper and zinc coordination complexes and proteins.

9. Studies of metal-oligopeptide complexes.

10. Studies of binuclear Mo (V) and Cu (II) complexes.

11. Experiments involving dynamics of polynucleotides relevant to the lac operator gene.

12. NMR studies of lead (IV) compound.

In addition, the article will be used in chemistry courses to teach an appreciation of how bonding between atoms leads to various physical and chemical properties. Application received by Commissioner of Customs: July 1, 1980.

Docket number: 80-00362. Applicant: Solar Energy Research Institute, 1617 Cole Boulevard, Golden, CO 80401. Article: NBX, X-Ray Microanalysis System. Manufacturer: Cameca, France. Intended use of article: The article is intended to be used for studies of surfaces, thin films bulk crystals and interfaces of various elements and organic and inorganic compounds used in photovoltaic devices. The article is to be used to determine the elemental composition and structural arrangements of these materials as part of a program to improve the efficiency and reliability of solar cell devices. The objectives pursued in the course of the investigations will be the determination of chemical composition of the surfaces and iterfaces and evaluation of crystalline and defect structures of materials used in solar cell devices. This determination will provide information useful for evaluating candidate materials, for providing insight into degradation mechanisms, and for identifying possible improvements in the materials and devices. Application received by Commissioner of Customs: June 30, 1980.

Docket number: 80-00363. Applicant: University of Tennessee College of Medicine, Department of Pathology, 858 Madison Avenue, Memphis, TN 38163. Article: Electron Microscope, Model EM 10C. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biological tissues, i.e., brain muscle, skin, bone, and liver as well as pathological specimens from brain, muscle, peripheral nerve, liver, kidney, bone and skin. Various experiments will be conducted in order to determine particular ultrastructural properties occurring under experimental or pathological conditions and to correlate these properties with functional states, i.e., clinical, biochemical, and physiological. The article will also be used by pathology residents and graduate students learning techniques of tissue preparation and analysis. Application received by Commissioner of Customs: June 30, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Eductional and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-26020 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket number: 80-00135. APPLICANT: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, CA 94804. Article: Kratos MS-25S Gas Chromatograph/Mass Spectrometer System and accessories. Manufacturer: Kratos/AEI, United Kingdom. Intended use of article: The article is intended to be used by faculty, graduate students and Pharm. D. candidates to obtain: (1) High quality, high sensitivity mass spectra on organic substances occurring primarily as complex mixtures isolated from biological matrices; and (2) ultra high sensitivity measurements of the quantitative occurrence of specific organic and chemotherapeutic agents or mixtures therof and fractions isolated from physiological fluids, tissue and cell cultures, biopsy materials, etc. as well as toxic substances from environmental samples. Experiments in biomedical and pharmaceutical research and related environmental toxicology will support multicomponent qualitative analystic studies and quantitative studies will be carried out on trace amounts of substances isolated from complex chemical and biological millieux using stable isotopically labelled synthetic specific analogs. Studies of the products of chemical reactions aimed at developing a knowledge of reaction mechanisms will also be carried out. The article will also be used for educational purposes in the courses: Organic Chemistry Laboratory (Chemistry 117), Qualitative Organic Analysis (Chemistry 165), and Mass Spectrometry (a graduate course in the Chemistry 200 series). The general objective of these courses is to train students in the analytical methodology for identification and qualitative structure determination of unknowns and knowns in complex mixtures isolated from biological and medical millieux. Application received by Commissioner of Customs: January 10, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article detects 0.1×10^{-9} grams methyl stearate injected onto a gas chromatographic column with a signal to noise (S/N) ratio of 20:1 using the electron impact source or a S/N ratio of 10:1 with the electron impact/chemical ionization source.

The Department of Health, Education and Welfare advises in its memorandum dated June 6, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument of apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-26021 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

University of Texas at Austin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket number: 80-00198. Applicant: The University of Texas At Austin, Department of Physics, Austin, Texas 78712. Article: High Resolution Electron Loss Spectrometer, ELS 22. Manufacturer: Leybold-Heraeus, West Germany. Intended use of article: The article is intended to be used for investigations of vibrational spectra of adsorbates to understand surface chemical processes. Application received by Commissioner of Customs: February 20, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of resolving vibrational energy losses in electron collisions with molecules absorbed on surfaces.

The National Bureau of Standards advises in its memorandum dated July 11, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-26023 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

University of Minnesota; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket number: 80-00175. Applicant: University of Minnesota, Department of Psychology, 75 East River Road, Minneapolis, MN 55455. ARTICLE: Visual Pattern Stimulator. Manufacturer: Joyce Electronics, United Kingdom. Intended use of article: The article is intended to be used in the investigation of pattern perception and binocular interaction during visual perception studies. The investigations will be conducted for diagnosis and understanding of visual malfunction. In addition, the article will be used for class demonstrations in the course PSY 5-031 Perception.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article rotates its raster through 0 to 360 degrees under the control of an applied voltage of ± 5 volts.

The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-26024 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

High-Level Programming Languages as Federal Standards

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing Standards. At the present time, four high-level programming languages either are, or are being considered for adoption as Federal Information Processing Standards (FIPS). These languages are COBOL (FIPS 21-1, which is based upon ANSI X3.23-1974), FORTRAN 77 (ANSI X3.9-1978), Minimal BASIC (ANSI X3.60-1978), and PASCAL.

The purpose of this notice is to request comments about the advantages or disadvantages of accepting other high-level programming languages as FIPS. NBS is particularly interested in information necessary to determine the feasibility, cost, and benefits of specific high-level programming language standards to the Federal Government. Comments on any high-level programming language are welcome; however, comments on the following languages would be particularly useful:

—ANSI standard PL/1 as described in "ANS Programming Language PL/1," X3.53-1976;
—APL, which is now being developed by the ANSI Committee X3J10; and
—Ada, which has been developed by the Department of Defense.

In preparing these comments, the respondent should keep in mind the following criteria:

—the availability of an appropriate language specification;
—the acceptability of the standard to Federal agencies, vendors, and the general community of users;
—the present or anticipated need for a high-level programming language in application areas for which the language is suited; and
—the economic importance of those application areas to the Federal Government.

Where an ANSI standard exists, e.g. X3.53 for PL/1, the comments should be directed at the possibility of adopting that version rather than any other language variations referred to by the same or similar names.

Individual Federal agencies are not required to implement all FIPS languages and may choose to limit themselves to specific languages for managerial or technical reasons. Additional FIPS languages permit increased flexibility but can impose higher costs in developing, supporting, and maintaining additional systems and language dependent software.

Information of importance to planning for future FIPS languages includes: the impact of a new programming language on the other languages being considered for inclusion in the Federal inventory; the various costs and benefits which would result if the proposed language were to be so included; and the impact of the proposed language on the ability of Federal agencies to accomplish their missions, on the efficiency with which the agencies' computational facilities are utilized, and on the non-Federal computing community of both users and vendors.

Interested parties may submit comments in writing to the Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. All comments should be submitted on or before November 24, 1980. Telephone inquiries should be directed to Dr. Selden Stewart at (301) 921-3485.

Dated: August 20, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-25996 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Licensing of Ocean Thermal Energy Conversion Facilities and Plantships; Request for Information From Relevant Federal Departments and Agencies

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Requirement for Federal Agencies with Functions Relevant to Ocean Thermal Energy Conversion Facility and Plantship Licensing to Advise the National Oceanic and Atmospheric Administration of their Functions and Responsibilities.

DATE: Written statements are to be submitted to NOAA by October 2, 1980.

V 45 AG 26 80 UMI

FOR FURTHER INFORMATION CONTACT: Samuel A. Bleicher, Deputy General Counsel, National Oceanic and Atmospheric Administration, Room 5814, Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–4080.

SUMMARY: On August 3, 1980, President Carter signed into law the Ocean Thermal Energy Conversion Act of 1980 (Pub. L. 96–320). The Act establishes a comprehensive program under which NOAA is authorized to issue licenses for ownership, construction, and operation of ocean thermal energy conversion facilities and plantships. In the coming months NOAA will be undertaking, in close coordination with the Department of Energy and other relevant agencies, appropriate measures to implement the Act, including developing comprehensive regulations; initiating a 5-year program to assess the environmental effects of ocean thermal energy conversion facilities and plantships; and seeking international action and cooperation to encourage development of ocean thermal energy conversion as a commercial energy technology and to provide for the protection of the marine and coastal environment from any adverse impact which might occur as the result of such commercial development.

SUPPLEMENTARY INFORMATION: Section 102(a) of the Act provides for consultation between NOAA and other Federal agencies or departments in developing ocean thermal energy conversion facility and plantship licensing regulations. Section 102(c) requires the heads of such agencies having expertise concerning, or jurisdiction over, construction or operation of ocean thermal energy conversion facilities or plantships, to transmit written statements to the Administrator of NOAA regarding their expertise or statutory responsibilities pursuant to the Act or any other Federal Law not later than 60 days after enactment of the Act (that is, by October 2, 1980). If unable to prepare a full statement by October 2, 1980, agencies may submit an informal statement of their expertise or jurisdiction by the deadline.

Specifically named in the Act and expected to respond are the Secretary of Energy, Administrator of the Environmental Protection Agency, Secretary of the Department in which the Coast Guard is operating, the Secretary of the Interior, and the Chief of Engineers of the United Staes Army Corps of Engineers.

Dated: August 19, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 80–25854 Filed 8–25–80; 8:45 am]

BILLING CODE 3510–12–M

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of the Army, Chief, Intellectual Prop. Division, Otjag, Room 2D 444, Pentagon, Washington, DC 20310.

Patent Application 6–087 115: Laser Photochemical Synthesis and Coating of Optical Fiber; filed Oct. 22, 1979.
Patent Application 6–089 826: Touch Screen Target Designator; filed Oct. 31, 1979.
Patent Application 6–100 685: Microprocessor Controlled Digital Detector; filed Dec. 5, 1979.
Patent Application 6–112 587: Preparation of HNS from HNBB Using oxygen; filed Jan. 16, 1980.

U.S. Department of The Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent 4,198,759: Optical Plummet Azimuth Reference Assembly; filed Aug. 25, 1978, patented Apr. 22, 1980; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Pat. Branch, Administrative Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782.

Patent Application 6–099 812: Direct Extraction Process for the Production of a White Defatted Food-Grade Peanut Flour; filed Dec. 3, 1979.
Patent Application 6–118 886: A process for Producing a Powdered Flavoring Material. Filed Feb. 6, 1980.

U.S. Department of Commerce, National Technical Information Service, Office of Government Inventions and Patents, Springfield, VA 22161.

Patent Application 6–126 591: Handcuff Improvements; filed Mar. 3, 1980.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, DC 20545.

Patent Application 6–000 740: High-Voltage Crowbar Circuit with Cascade-Triggered Series Ignitions; filed Jan. 3, 1979.
Patent Application 6–003 561: Method and Means for Measurement and Control of Pulsed Charged Beams; filed Jan. 15, 1979.
Patent Application 6–018 099: Magnetohydrodynamic (MHD) Channel Corner Seal; filed Mar. 6, 1979.
Patent Application 6–018 211: Fuel Cell Oxygen Electrode; filed Mar. 7, 1979.
Patent Application 6–028 741: Multiplexer and Time Duration Measuring Circuit; filed Apr. 10, 1979.
Patent Application 6–035 158: Ceramic Components for MHD Electrode; filed May 2, 1979.
Patent Application 6–037 077: Cooperative Heat Transfer and Ground Coupled Storage System; filed May 8, 1979.
Patent Application 6–039 427: Gas Cleaning Apparatus; filed May 15, 1979.
Patent Application 6–042 462: Nondestructive Method for Detecting Defects in Photodetector and Solar Cell Devices; filed May 25, 1979.
Patent Application 6–047 447: Cyclic Thermochemical Process for Producing Hydrogen Using Cerium-Titanium Compounds; filed June 11, 1979.
Patent Application 6–047 449: Apparatus for Generating Nonlinear Pulse Patterns; filed June 11, 1979.
Patent 4,159,635: Isokinetic Air Sampler; filed Aug. 24, 1978, patented Jul. 3, 1979; not available NTIS.
Patent 4,161,351: All-Reflective Optical Target Illumination System with High Numerical Aperture; filed May 7, 1976; patented July 17, 1979; not available NTIS.
Patent 4,161,950: Electrosurgical Knife; filed Aug. 1, 1975, patented July 24, 1979; not available NTIS.
Patent 4,162,142: Tritium Labeling of Organic Compounds Deposited on Porous Structures; filed Jun. 29, 1978; patented Jul. 24, 1979; not available NTIS.
Patent 4,162,157: Secondary Hardening Steel Having Improved Combination of Hardness and Toughness; filed May 15, 1978; patented Jul. 24, 1979; not available NTIS.
Patent 4,162,158: Ferritic Fe-Mn Alloy for Cryogenic Applications; filed Dec. 28, 1978; patented Jul. 24, 1979; not available NTIS.
Patent 4,162,401: High-Resolution, Cryogenic, Side-Entry Type Specimen Stage; filed May 17, 1978; patented Jul. 24, 1979; not available NTIS.

Patent 4,163,516: Method for Joining Metal by Solid-state Bonding; filed Dec. 28, 1977; patented Aug. 7, 1979; not available NTIS.
Patent 4,164,069: Method of Preparing a Positive Electrode for an Electrochemical Call; filed Apr. 28, 1978; patented Aug. 14, 1979; not available NTIS.
Patent 4,169,884: Hydrogen Production from Water Using Copper and Barium Hydroxide; filed Aug. 17, 1978; patented Oct. 2, 1979; not available NTIS.
Patent 4,170,135: Coaxial Cavity for Measuring Level of Liquid in a Container; filed Sept. 26, 1978; patented Oct. 9, 1979; not available NTIS.
Patent 4,172,926: Electrochemical Cell and Method of Assembly; filed Jun. 29, 1978; patented Oct. 30, 1979; not available NTIS.
Patent 4,173,327: Solid Handling Valve; filed Jun. 1, 1977; patented Nov. 6, 1979; not available NTIS.
Patent 4,175,929: Process for Control of Pollutants Generated During Coal Gasification; filed Aug. 29, 1978; patented Nov. 27, 1979; not available NTIS.
Patent 4,180,484: Ceramic Component for Electrodes; filed Jun. 14, 1978; patented Dec. 25, 1979; not available NTIS.
Patent 4,180,555: Process for Producing Hydrogen from Water Using Cobalt and Barium Compounds; filed Aug. 17, 1978; patented Dec. 25, 1979; not available NTIS.
Patent 4,180,775: Magnetic Thin-Film Split-Domain Current Sensor-Recorder; filed Mar. 16, 1977; patented Dec. 25, 1979; not available NTIS.

U.S. Department of the Navy, Assistant Chief For Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent Application 6–117 162: Electrically Conductive Polymeric Compositions; filed Jan. 31, 1980.
Patent Application 6–136 227: Generation of Intense, High-Energy Ion Pulses by Magnetic Compression of Ion Rings; filed Apr. 1, 1980.
Patent Application 954 058: Improved Method of Infrared Laser Soldering; filed October 23, 1979.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, DC 20546.

Patent Application 6–106 192: Automatic Thermal Switch; filed Dec. 21, 1979.
Patent Application 6–126 138: Controlled Overspray Nozzle; filed Feb. 29, 1980.
Patent Application 6–128 230: Memory-Based Parallel Data Output Controller; Filed Mar. 8, 1980.
Patent Application 6–129 778: Computer Circuit Card Puller; filed Mar. 12, 1980.
Patent Application 6–129 780: Amplified Wind Turbine Apparatus; filed Mar. 12, 1980.
Patent Application 6–129 793: Microwave Switching Power Divider; filed Mar. 12, 1980.
Patent Application 6–129 798: Process for the Preparation of Polycarboranylphosphazenes; filed Mar. 12, 1980.
Patent Application 6–129 799: Carboranylcyclotriphosphazenes and their Polymers; filed Mar. 12, 1980.
Patent Application 6–135 038: Method and Device for Destructive Detection of a Substance; filed Mar. 28, 1980.
Patent Application 6–135 056: Electrical Servo Actuator Bracket; filed Feb. 20, 1980.
Patent 4,191,505: Wind Wheel Electric Power Generator; filed Feb. 24, 1978; patented Mar. 4, 1980; not available NTIS.
Patent 4,193,570: Active Nutation Controller; filed Apr. 19, 1978; patented Mar. 18, 1980; not available NTIS.
Patent 4,194,115: Method and Means for Helium/Hydrogen Ratio Measurement by alpha Scattering; filed Nov. 7, 1978; patented Mar. 18, 1980; not available NTIS.
Patent 4,195,244: Cds Solid State Phase Insensitive Ultrasonic Transducer; filed Jul. 26, 1978; patented Mar. 25, 1980; not available NTIS.

[FR Doc. 80-25932 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton Textile Products from Pakistan

August 21, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for cotton gloves and mittens from Pakistan in Category 331 to 285,714 dozen pairs and deducting 1979 overshipments of 27,287 pairs; and increasing the consultation levels for men's and boys' cotton shirts in Category 340 to 41,667 dozen and for cotton skirts in Category 342 to 61,798 dozen during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: Under the terms of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, agreement has been reached, at the request of the Government of Pakistan, to increase the consultation levels for cotton textile products in Categories 331, 340 and 342 during the agreement year which began on January 1, 1980. Overshipments from 1979 amounting to 27,287 dozen pairs are being deducted from the increased level for Category 331 and the United States Government has decided also to control imports in Category 342 at the newly-increased level in the same manner at Categories 331 and 340 are currently being controlled.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76572) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the consultation levels for cotton textile products in Categories 331, 340 and 342 during the agreement year which began on January 1, 1980 and will control imports in Category 342 during that period at the increased level in the same manner as Categories 331 and 340 are presently controlled. Imports in Category 342 during the January-May period of 1980 have amounted to 18,726 dozen and will be charged, as will imports in the category during the remainder of the agreement year. In addition, overshipments from 1979 in the amount of 27,287 dozen pairs are being deducted from the increased level of restraint for Category 331. The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to implement the aforementioned adjustments.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

August 21, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 20, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of

Janualy 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 26, 1980 and for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 331, 340 and 342, produced or manufactured in Pakistan, in excess of the following adjusted levels of restraint:

Category	Adjusted 12-month levels of restraint[1]
331	258,427 dozen pairs.
340	41,667 dozen.
342	61,798 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979. Imports in Category 342 during the January-May period of 1980 have amounted to 18,728 dozen.

Cotton textile products in Category 342 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in Category 342 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1448(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-25981 Filed 8-25-80; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of New System of Records.

SUMMARY: The purpose of this document is to announce the intention of the Consumer Product Safety Commission to create a new Management Information System, a system of records designed to track and manage the allocation of its resources.

DATES: Comments must be received by October 27, 1980.

ADDRESSES: Comments should be sent to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, Phone (202) 634-7770.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission intends to revise its Management Information System in a way which will make it a system of records within the Privacy Act.

The Commission currently uses a Management Information System to produce periodic printed reports which present staff time, and other cost information, broken down by program, by project, and by organizational unit. Information used in the system is derived from forms periodically submitted by Commission employees. These forms contain the employee's name, identifying number, organizational unit code and, on a day-to-day and total reporting period basis, the number of regular and overtime work hours charged to each program and project or to leave or administrative tasks. Additional cost information, including the salary of each employee, is derived from the Commission's computerized accounting system.

Under the present system, forms called Daily Activity Records are submitted by employees twice each month, and the reporting period totals are transcribed onto punch cards, and entered into a computer. The computer matches the entered data with accounting system data in order to calculate and print reports of total staff hours worked and cost totals for each program, project and organizational unit. After computer processing has been completed and verified, the original Daily Activity Records, the punch cards, and the corresponding computer records are all destroyed. Until now, the Management Information System has not been used to disseminate data on individual employees.

The Commission now intends to modify its Management Information System to retrieve information on the time charged by individual employees by projects within organizational units, and to issue periodic printed reports which will include this information. Also, the Commission will retain the employee Daily Activity Records and the corresponding punch cards and computer records for one year to permit correction or verification of the printed reports. The expanded reports will enable the Commission to more effectively manage its resources.

If no adverse comments are received from the public, the Office of Management and Budget, or the Congress, the new system of records will be implemented on October 27, 1980.

Dated: August 21, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

CPSC-22

SYSTEM NAME:

CPSC Management Information System—CPSC-22

SYSTEM LOCATION:

Consumer Product Safety Commission, Associate Executive Director for Administration, 5401 Westbard Avenue, Bethesda, Maryland 20207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CPSC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work and leave hours charged by individual employees against CPSC programs, projects, and organization categories. The data included are: Program Codes, Project Codes, Organization Codes, Reporting Period, Employee Name and CPSC Employee Number, and hours charged.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to produce periodic printed reports which show total employee time and costs allocated to Commission programs and projects by organizational elements. The cost information includes information derived from the Commission's accounting system. Some of the reports will display the time charged by individual employees by programs and projects within organizational elements.

These reports are distributed to CPSC managers and staff at all levels as a management tool to:

(a) Inform project managers of time worked by individuals on specified program and project activities.

(b) Assure accurate reporting and recording of time worked on Agency programs and projects.

(c) Track the agency's work in terms of programs and projects;

(d) Assist in the preparation of the CPSC Fiscal Year Operating Plan;

(e) Assess achievement of planned goals established in the CPSC Fiscal Year Operating Plan;

(f) Identify resource allocation deficiencies;

(g) Provide an historical record of Agency program, project, and organization resource expenditures;

(h) Assure effective distribution of staff skills for planned workloads;

(i) Provide reports to top level management on Agency accomplishment.

Printed reports produced by the system are distributed to project leaders, management, and supervisory personnel within the Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Records are maintained in hard copy, on computer punch cards, and on computer magnetic media.

RETRIEVABILITY

Records are retrievable by any of the data items on the records.

SAFEGUARDS

Access to individual computer records is restricted to staff of the Associate Executive Director for Administration through the use of special computer identification codes. Hard copy individual records and punch cards are kept in locked file cabinets with access also restricted to the staff of the Associate Executive Director for Administration. Management Information System data will not be used as evidence against the supplying employee in employee performance evaluations or adverse actions.

RETENTION AND DISPOSAL

Individual hard copy employee records, punch cards, and computer records, other than time and cost totals, are retained for not more than one year. Disposal is accomplished through magnetic disc or magnetic tape erasure for computer-stored records, and direct disposal into trash for hard copy individual records and punch cards.

SYSTEM MANAGERS AND ADDRESS:

Associate Executive Director for Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Information in these records is furnished by the employees to whom it pertains.

[FR Doc. 80-25948 Filed 8-25-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Advisory Committee on the Air Force Historical Program Meeting

August 14, 1980.

The Advisory Committee on the Air Force Historical Program will hold a meeting on September 11–12, 1980 from 8:30 a.m. to 4:00 p.m. at Bolling Air Force Base (AFB), D.C., Building 5681, 3rd Floor Conference Room.

The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open to the public. Topics to be discussed include: Organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Lieutenant Colonel John A. Phillips, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767-5764.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-25946 Filed 8-25-80; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Privacy Act of 1974; Notice of New System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of a new system of records.

SUMMARY: The Office of the Secretary of Defense publishes a notice of a new system of records, DMRA&L 21.0 entitled "Department of Defense Dependents Schools (DoDDS) Grievance Records," which incorporates information contained in OPM's system of records OPM/GOVT-2, "Grievance Records," which is being deleted from OPM's annual republication of systems of records (September 1980).

DATE: This system shall be effective September 25, 1980.

ADDRESS: Chief, Management Employee Relations Branch, Personnel Division, Office of Dependents Schools, Department of Defense, 2461 Eisenhower Avenue, Room 120, Alexandria, Va. 22331.

FOR FURTHER INFORMATION CONTACT: Mr. James S Nash, telephone: 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15604) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29590) May 5, 1980
FR Doc. 80-15479 (45 FR 34034) May 21, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980
FR Doc. 80-23575 (45 FR 51880) August 5, 1980

This system does not fall within the purview of Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

Dated: August 21, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

DMRA&L 21.0

SYSTEM NAME:

Department of Defense Dependents Schools (DoDDS Grievance Records.

SYSTEM LOCATION:

Office of Dependents Schools, 2461 Eisenhower Avenue, Room 120, Alexandria, Virginia 22331; six regional offices located in London, England; Wiesbaden, Germany; Karlsruhe, Germany; Madrid, Spain; Okinawa, Japan; and Panama; in principals' offices of DoDDS schools; and at the servicing civilian personnel offices at various military installations.

V 45 AG 26 80 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees who have submitted grievances in accordance with U.S.C. 2302, and 5 U.S.C. 7121, or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to grievances filed by DoD Dependents Schools (DoDDS) employees under 5 U.S.C. 2302, and 5 U.S.C. 7121. These case files contain all documents related to the grievances, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that DoDDS may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2302, and 5 U.S.C. 7121.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

This information is used by the DoDDS in the creation and maintenance of records of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by reference.

External users, uses, and purposes:

These records and information in these records are used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual, in response to an inquiry from that congressional office, made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 USC 2906.

g. To dislcose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

h. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties, exclusive representation concerning personnel policies practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom the records are maintained, by case number, and by subject matter of the grievance.

SAFEGUARDS:

These records are maintained in locked metal file cabinets, with access only to authorizewd DoDDS employees and servicing civilian personnel offices.

RETENTION AND DISPOSAL:

These records are disposed of not sooner than 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Mr. Paul Wolfe, Chief, Management Employee Relations Branch, Personnel Division, Office of Dependents Schools, 2461 Eisenhower Avenue, Room 120, Alexandria, Virginia, 22331, telephone: 202-325-0690.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction 81.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By Agency officials.

d. From related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.

None.

[FR Doc. 80-25947 Filed 8-25-80; 8:45 am]

BILLING CODE 3810-70-M

DELAWARE RIVER BASIN COMMISSION

[Docket No. D-80-36]

Spring Meadow Trout Hatchery; Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an adversary hearing on the water supply and waste treatment application of the Spring Meadow Trout Hatchery, upon complaint of Lower Milford Township and private citizens residing in Lower Milford Township, Lehigh County, Pennsylvania. The hearing will be held at the Lower Milford Township Fire Company No. 1, Limeport Pike, Limeport, Pennsylvania, on September 16, 1980, beginning at 10:00 a.m. and will be continued on October 1, beginning at 10:00 a.m.

Spring Meadow Trout Hatchery has an application before the Delaware River Basin Commission for approval of three wells providing a combined yield of about 1.3 million gallons per day (900 gallons per minute) for use in conjunction with a surface water supply to provide water flow to the raceways as required to raise trout. The surface water supply involves diversions of about 432,000 gallons per day (300 gallons per minute) from an unnamed tributary of the South Branch of Saucon Creek. Treated waste water will be returned to the creek.

Under Commission rules, any person other than the applicant, desiring to participate in the adversary hearing is required to file with the Commission a statement of specific objections to the application, as described above, on or before 5:00 p.m., September 12, 1980. Technical reports of experts to be offered at the hearing, if any, are also required to be delivered to the Commission on or before 5:00 p.m., September 12, 1980.

W. Brinton Whitall,
Secretary.
August 19, 1980.

[FR Doc. 80-26004 Filed 8-25-80; 8:45 am]
BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Proceedings Scheduled for August, 1980

AGENCY: Department of Education.

ACTION: Notice of Education Appeal Board Proceedings scheduled for August 1980.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of Indiana,* Docket No. 6-(36)-77, for August 27, 1980, and in the *Appeal of the State of Indiana,* Docket No. 7-(53)-79 for August 28, 1980. This notice also advises readers that interested third parties may apply to intervene in the appeal proceedings.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB-6), Washington, D.C. 20202. Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on April 3, 1980 (45 FR 22634).

Prehearing Conferences

The Education Appeal Board has scheduled prehearing conferences in two audit appeals for the month of August 1980:

(1) *Appeal of the State of Indiana,* Docket No. 6-(36)-77. The prehearing conference is scheduled for August 27, 1980, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In its appeal, Indiana is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary for Elementary and Secondary Education). The Deputy Commissioner found that in fiscal year 1973, three local educational agencies used Federal funds made available under Title I of the Elementary and Secondary Education Act of 1965 for projects that did not concentrate Title I services on eligible educationally deprived children in the project areas. The Deputy Commissioner also found that in fiscal year 1973, the State and local educational agencies overstated administrative costs. The Deputy Commissioner requested a refund of $1,635,958.00 from the State.

(2) *Appeal of the State of Indiana,* Docket No. 7-(53)-79. The prehearing conference is scheduled for August 28, 1980, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In its appeal, Indiana is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education. The Deputy Commissioner determined that, during fiscal years 1974 and 1975, the State educational agency and certain local educational agencies misspent Federal funds that those agencies received to administer and operate programs for migrant children under Title I of the Elementary and Secondary Education Act of 1965. Accordingly, the Deputy Commissioner requested a refund of $240,493.00 from the State.

Intervention

Section 100d.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the two appeals listed above.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB-6), Washington, D.C. 20202, telephone (202) 245-7835.

(Catalog of Federal Domestic Assistance Number not applicable.)

(20 U.S.C. 1234)

Dated: August 20, 1980.

Shirley M. Hufstedler,
Secretary of Education.

[FR Doc. 80-26134 Filed 8-25-80; 8:45 am]
BILLING CODE 4000-01-M

Health Education Assistance Loan Program; Variable Interest Rate for Quarter Ending September 30, 1980

AGENCY: Department of Education.

ACTION: Variable Interest Rate for Quarter Ending September 30, 1980.

The Secretary announces that for the three-month period ending September 30, 1980 the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11 percent.

Using the regulatory formula (45 CFR 126.13(a)(2) and (3)), the Secretary would normally compute the variable rate for this three-month period by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.5 from the average bond equivalent rate of 91-day Treasury bills for the preceding calendar quarter (9.84 percent), and rounding the result (6.34 percent) upward to the nearest one-eighth of one percent (6.375). Thus, the variable rate for this three month period would normally be 13.375 percent.

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three-month period shall be reduced to the highest one-eighth of one percent which would result in an average rate not in excess of 12 percent for the twelve-month period concluded by those three months. For the three previous quarters the variable interest at the annual rate has been as follows: 11⅞ percent for the quarter ending December 31, 1979; 12⅝ percent for the quarter ending March 31, 1980; and 13¼ percent for the quarter ending

June 30, 1980. Therefore, in order to maintain an average rate of 12 percent for the twelve month period ending September 30, 1980, the variable interest rate for the quarter ending September 30, 1980, will be at an annual rate of 11 percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans, Part I of OMB Circular A-95 does not apply to this program.)

Shirley Hufstedler,

Secretary of Education.

Dated: August 21, 1980.

[FR Doc. 80-26136 Filed 8-25-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER80-635]

Northern States Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company (Northern States) on August 12, 1980, tendered for filing Supplement No. 4 to the Twin Cities-Iowa-Kansas City 345 KV Interconnection Coordination Agreement. The parties to the Agreement are Northern States, Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, St. Joseph Light & Power Comany and Kansas City Power & Light Company.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commission on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20526, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commisson in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26104 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-636]

Northern States Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company (Northern States) on August 12, 1980, tendered for filing Supplement No. 6 to the Twin Cities-Iowa-St. Louis 345 KV Interconnection Coordinating Agreement. The parties to the Agreement are Interstate Power Company, Iowa Electric Light and Power Company, Iowa-Illinois Gas & Electric Company, Iowa Public Service Company, Iowa Southern Utilities Company, Northern States and Union Electric Company.

The Company indicates that this filing is made in response to Order No. 84, issued by the Commission on May 7, 1980, in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26105 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-628]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 Modification No. 10 and Modification No. 11 to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 33 which represents a Facilities and Operating Agreement with Duquesne Light Company. These proposed Modifications are stated to be a filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26106 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-644]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No.—which represents an Interconnection Agreement with The Toledo Edison Company (TE). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26107 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-639]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 74 which represents an Interconnection Agreement with American Municipal Power-Ohio, Inc. (AMPO). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26108 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-628]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Ohio Power Company on August 12, 1980, tendered for filing Modification No. 10, dated August 1, 1980 and Modification No. 11, dated August 10, 1980, to the Facilities and Operating Agreement dated September 6, 1962 between Dusquesne Light Company and Ohio Power Company designated Rate Schedule FERC No. 33.

The Company indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26109 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-641]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 32 which represents an Interconnection Agreement with Columbus & Southern Ohio Elec. Co. (C&SOE). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26110 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-642]

Ohio Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 36 which represents an Interconnection Agreement with The Dayton Power & Light Company (DP&L). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26111 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Projects Nos. 3105 and 3106]

Power Authority of the State of New York; Approval by Operation of Law

Issued: August 18, 1980.

Take notice that the Commission agreed at its meeting of August 13, 1980, to take no action on the applications for an exemption from licensing for the Ashokan Project No. 3105 and the Kensico Project No. 3106 filed on March 27, 1980, by the Power Authority of the State of New York.

Accordingly, the exemptions are deemed granted by operation of law on August 18, 1980, under § 4.93(d) of the

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Commission's Rules of Practice and Procedure [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in § 4.94 of the Commission's regulations [18 CFR 4.94].

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26126 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-651]

Richmond Power & Light Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of it affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 70 which represents an Interconnection Agreement with Richmond Power & Light Company (RP&L). This proposed Supplement is stated to be an interim filing in complinace with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26112 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Cancellation of Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Cancellation of Meeting.

Notice is hereby given of the cancellation of the meeting of the Program Liaison Committee of the National Advisory Council on Adult Education, August 21–22, 1980, Room 323, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. as published in the **Federal Register** on August 6, 1980, volume 45, No. 153 (45 FR 52194).

Signed at Washington, D.C., on August 19, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-26036 Filed 8-25-80; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Education

Assessment Policy Committee, National Assessment of Educational Progress; Meeting

Notice is hereby given that the Assessment Policy Committee of the National Assessment of Educational Progress (NAEP) will meet on September 24–25, 1980 at the Gramercy Inn, 1616 Rhode Island Avenue, NW, Washington, DC 20036. The session on September 25 will commence at 9:00 a.m. and terminate at 5:00 p.m.; and the session on September 25 will commence at 9:00 a.m. and terminate at the conclusion of the agenda.

The Assessment Policy Committee is established under section 405(k)(2)(A) of the General Education Provisions Act, as amended by section 1242 of the Education Amendments Act of 1978. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of results, and studies to evaluate and improve the form and utilization of NAEP.

NAEP is a periodic survey of the knowledge, skills, understandings, and attitudes of young Americans. During this meeting, the Assessment Policy Committee will review and discuss plans for an intensive review of the assessment, Committee By-laws, Fiscal Year 1981 operational plans, and policy, management and other administrative matters.

The entire meeting will be open to the public. Interested persons are invited to attend the meeting. In order to assure adequate seating arrangements, persons likely to attend the meeting may contact the following person: Mr. Dunlap Scott, National Assessment of Educational Progress, 1860 Lincoln Street, Rm 700, Denver, CO 80295, (303) 830–3721.

Dated: August 12, 1980.

Martin Milrod,

Project Officer.

[FR Doc. 80-05920 Filed 8-25-80; 8:45 am]

BILLING CODE 4000-05-M

DEPARTMENT OF ENERGY

Department of Energy Act; Program Solicitation—Unconventional Gas

SUMMARY: The Department of Energy, Region IV, desires to receive and consider for support proposals for exploratory drilling of wells in DOE, Region IV, to help determine the commercial feasibility of locally producing and utilizing unconventional gas resources. For purposes of this PS, the definition of "unconventional gas" is limited to natural gas trapped in coalbeds and Devonian shale. Funding of four to six projects in small towns or rural communities is anticipated. The total funding for all awards under this PS is $400,000 in FY–80. The government reserves the right not to make any awards. The PS will be issued o/a August 8, 1980; proposals due by September 15, 1980. To qualify for evaluation under the PS, the proposer must meet the following criteria:

1. The proposer must be a representative of a State, political subdivision or Indian tribe.
2. The proposal shall include a statement of intent from the potential user to develop the resource or cause the development of the utilization system (end use).
3. No proposals will be accepted for sites outside of DOE, Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee).
4. Each proposal must be valid for 200 days after the closing date of this PS.
5. The project must provide testing of at least one new or existing well for the purpose of resource confirmation.

FOR FURTHER INFORMATION REGARDING THIS PROGRAM SOLICITATION, PLEASE CONTACT: Walter C. Butler, Jr., Contracting Officer, or Ms. Barbara R. Till, Contracts/Grants Specialist, Region IV, Department of Energy, Contract/Grants Branch, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone (404) 881–2887 or 881–2879.

Potential proposers desiring to receive a copy of the PS should request it in writing: Ms. Barbara R. Till, U.S. Department of Energy, 1655 Peachtree Street, N.E., Atlanta, GA 30367.

Issued in Washington, D.C., August 22, 1980.

Berton J. Roth,

Acting Deputy Director, Procurement and Contracts Management Directorate.

[FR Doc. 80-26229 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-022]

Powerplant and Industrial Fuel Use Act of 1978—Special Temporary Public Interest Exemptions

AGENCY: Economic Regulation Administration, Department of Energy.

ACTION: Notice establishing the scope of the first day of a public hearing on petitions for special temporary public interest exemptions.

SUMMARY: On March 21, 1980, the Economic Regulatory Administration [ERA] of the Department of Energy published in the **Federal Register** (45 FR 18423) notice of receipt of petitions filed pursuant to 10 CFR 508 for special temporary public interest exemptions from the prohibitions of sections 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). On the same date, ERA published (45 FR 18425) a proposed order which would grant the requested exemptions pursuant to the authority of section 311(e) of FUA and 10 CFR 508.

Publication of the notice of receipt of petitions commenced a 45 day comment period pursuant to section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing during that same period, which ended on May 5, 1980. The Process Gas Consumers Group, the American Iron and Steel Institute and the Georgia Industrial Gas Group (hereafter referred to collectively as the Group), filed written comments and requested a public hearing on the petitions for exemptions.

Scope of First Day of the Public Hearing: ERA published in the **Federal Register** (45 FR 50384) a notice of a public hearing to be held on the petitions for temporary public interest exemptions in Washington, D.C., on Monday, August 25, 1980, at the Forrestal Building Auditorium, Room GE-086, 1000 Independence Avenue, S.W., Washington, D.C., commencing at 9:30 a.m. The notice of public hearing stated in part that interested persons who wished to participate in the public hearing must submit an outline of the anticipated content of their presentaiton not later than August 11, 1980. Upon review of the submitted documents, it has been determined that the first day of the public hearing should be limited to certain preliminary matters. These preliminary matters are the procedures governing the hearing and the scope of issues to be considered at the hearing. There will be no oral or written presentations or examination of participants on the first hearing day.

The hearing will reconvene on Wednesday, September 3, 1980, in Washington, D.C., at the Forrestal Building Auditorium, Room GE-086, 1000 Independence Avenue, S.W., Washington, D.C., commencing at 9:30 a.m.

A public file (collectively designated as OFC Case Number 50514-1267-03-41 City of Chanute, et al.) containing the record of these proceedings to date, including the comments received on the notice of proposed order which would grant the special temporary public interest exemptions and other documents and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C., Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on August 20, 1980.

Sincerely,

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25928 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-654]

Appalachian Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Company (APCo), tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission APCo Rate Schedule No. 52 which represents an Interconnection Agreement with Tennessee Valley Authority (TVA). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practices and Procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection..

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26046 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-655]

Appalachian Power Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Company (APCo), tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission APCo Rate Schedule No. 16 which represents an Interconnection Agreement with Virginia Electric and Power Company (VEPCO). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26047 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RE80-44]

Arkansas-Missouri Power Co.; Notice of Application for Exemption

August 20, 1980.

Take notice that Arkansas-Missouri Power Company, on March 31, 1980, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48, (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Part 290, Subparts B–E.

In its application for exemption, Arkansas-Missouri Power Company states that it should not be required to file the specified data due to the upcoming merger between Arkansas-Missouri Power Company and Arkansas Power & Light Company. After the merger, Arkansas-Missouri Power Company will become a Division of Arkansas Power & Light Company. This change in physical plant will necessarily alter the character of the cost of service information generated. Thus, the pre-merger information will not be data which will be useful in evaluating rate matters in that it will not reflect the post-merger business environment of the utility.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 10, 1980. Within that 45-day period, such person must also serve a copy of such comments on Arkansas-Missouri Power Company, Post Office Box 628, Blytheville, Arkansas 72315.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26048 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-661]

Central Illinois Public Service Co.; Notice of Filing

August 20, 1980.

The filing company submits the following:

Take notice that on August 13, 1980, Central Illinois Public Service Company tendered for filing a supplement to Rate Schedule FERC No. 72, dated August 7, 1980, and entitled Revision No. 7 to Interconnection Agreement dated February 18, 1972 among Central Illinois Public Service Company, Illinois Power Company and Union Electric Company. This supplement provides for compliance with Section 35.23 of the Commission's regulations, as promulgated by Order No. 84 issued May 7, 1980.

Copies of this filing have been sent to Illinois Power Company, Union Electric Company and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 26049 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-474]

Cities Service Gas Co.; Notice of Application

August 20, 1980.

Take notice that on July 31, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73124, filed in Docket No. CP80-474 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline taps, measuring, regulating and appurtenant facilities to enable Applicant to render natural gas service to authorized local natural gas distribution companies for resale to 6 rural customers pursuant to right-of-way easements and gas storage leases or to serve same directly if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that these right-of-way grantors have requested service for which Applicant proposes to construct and operate the following facilities:

1. Tap Applicant's McLouth Storage 20-inch pipeline in Leavenworth County, Kansas, and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Leola Berkley.
2. Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Kay County, Oklahoma, and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Charles D. Davis.
3. Tap Applicant's Ottawa-Sedalia 12-inch transmission pipeline in Johnson County, Missouri, and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Marion Gee.
4. Tap Applicant's Wichita 16-inch loop transmission pipeline in Sedgwick County, Kansas, and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Gyan J. Khicha.
5. Tap Applicant's East Lynne 4-inch transmission pipeline in Cass County, Missouri, and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Judy Nylund.
6. Tap Applicant's Oklahoma City 20-inch transmission pipeline in Cleveland County, Oklahoma, and construct mesuring, regulating, and appurtenant facilities for delivery of natural gas to Don Spillman.

Applicant anticipates that natural gas would be provided for Leola Berkley and Gyan J. Khicha on a direct sale basis, and gas would be sold to Cities Service Company for resale to the other four customers.

It is estimated that the total of the proposed facilities would be approximately $4,488 which would be financed from funds on hand. Applicant estimates that each customer would require an average of approximately 250 Mcf of natural gas per year.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinimg the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26050 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-619]

The Cleveland Electric Illuminating Co. et al.; Notice of Amendment to Interconnection Agreement

August 20, 1980.

The filing company submits the following:

Take notice that on August 12, 1980, the CAPCO Group filed Amendment No. 6 effective as of August 11, 1980, to the CAPCO Basic Operating Agreement dated as of January 1, 1975, as amended, which is filed with the Commission under the following Rate Schedule designations:

Rate Schedule

The Cleveland Electric Illuminating Company—FERC No. 13
Duquesne Light Company—FERC No. 14
Ohio Edison Company—FERC No. 120
Pennsylvania Power Company—FERC No. 29
The Toledo Edison Company—FERC No. 26

Amendment No. 6 modifies the terms of the CAPCO Basic Operating Agreement to comply with recently enacted Section 35.23 of part 35, Subchapter B of Chapter I, Title 18, Code of Federal Regulations.

No new facilities will be installed nor will existing facilities be modified in connection with the proposed Amendment. It is requested that Amendment No. 6 become effective as of August 11, 1980.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice should, on or before September 9, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The documents referred to herein are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26051 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-662]

Columbus and Southern Ohio Electric Co.; Notice of Changes in Rates and Charges

August 20, 1980.

The filing company submits the following: Take notice that Columbus and Southern Ohio Electric Company on August 13, 1980, tendered for filing, Modification No. 3 to the Interconnection Agreement dated May 17, 1977 between Columbus and Southern Ohio Electric Company and the Ohio Edison Company designated Columbus and Southern Ohio Electric Company Rate Schedule FERC No. 27.

Section 1 of Modification No. 3 provides for an increase in the minimum charge for emergency energy from 17.5 to 30.0 mills/kwh, limits the adder in such 3rd party transactions to 1.0 mill/kwh and establishes a demand charge of 2 mills/kwh for energy purchased from the system of a third party. Section 2 establishes a 1 mill/kwh maximum charge for Short Term power reserved from a third party. Section 3 establishes a 1 mill/kwh maximum energy charge of Interchange power purchased from a third party. Section 4 establishes a 1 mill/kwh maximum energy charge for Limited Term power reserved from a third party.

Applicant states that there were no third party transactions between the companies during the 12 month period ending December, 1979. Furthermore, since the use of such power services cannot be accurately estimated, it is not possible to estimate the increase, if any, in revenues resulting from the modification. Applicant states that Modification No. 3 is submitted to reflect the increased cost of supplying emergency energy and to satisfy the filing requirements of part 35.23, Subchapter B of Chapter I, Title 18 CFR and Commission Order No. 84 Docket No. RM79-29 issued May 7, 1980 and effective June 11, 1980.

Copies of the filing were served upon the Ohio Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capital Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protest should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26052 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-657]

Columbus and Southern Ohio Electric Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following: Take notice that Columbus and Southern Ohio Electric Company on August 13, 1980 tendered for filing, Modification No. 3 to the Interconnection Agreement dated April 1, 1977 between Columbus and Southern

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Ohio Electric Company and the Cincinnati Gas and Electric Company designated Columbus and Southern Ohio Electric Company Rate Schedule FERC No. 26.

Section 1 of Modification No. 3 provides for an increase in the minimum charge for emergency energy for 17.5 to 10.0 mills/kwh, limits the adder in such 3rd party transactions to 1.0 mill/kwh and establishes a demand charge of 2 mills/kwh for energy purchased from the system of a third party. Section 2 establishes a 1 mill/kwh maximum charge for Short Term power reserved from a third party. Section 3 establishes a 1 mill/kwh maximum energy charge of Interchange power purchased from a third party. Section 4 establishes a 1 mill/kwh maximum energy charge for Limited Term power reserved from a third party.

Applicant states that there were no third party transactions between the companies during the 12 month period ending December, 1979. Furthermore, since the use of such power services cannot be accurately estimated, it is not possible to estimate the increase, if any, in revenues resulting from the modification. Applicant states that Modification No. 3 is submitted to reflect the increased cost of supplying emergency energy and to satisfy the filing requirements of part 35.23, Subchapter B of Chapter I, Title 18 CFR and Commission Order No. 84, Docket No. RM79-29 issued May 7, 1980 and effective June 11, 1980.

Copies of the filing were served upon The Cincinnati Gas and Electric Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26053 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-486]

Consolidated Gas Supply Corp.; Notice of Application

August 20, 1980.

Take notice that on August 7, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-486 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to render a long-term firm storage service for East Tennessee Natural Gas Company (East Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized in Docket No. CP74-444 to render a short-term storage service for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) and that Tennessee in turn was authorized in Docket No. CP77-431 to utilize this storage service to render a storage service for East Tennessee, one of its jurisdictional resale customers. Applicant herein proposes to render a storage service directly for East Tennessee, and Tennessee has agreed to assist in the effectuation of the proposed storage service by transporting gas to and from storage for East Tennessee's account.

Applicant states that the proposed storage service consists of a storage capacity quantity of 513,500 dekatherms (dt) equivalent and a storage demand quantity of 4,669 dt equivalent of natural gas. Applicant proposes the service be rendered on a firm basis in accordance with its Rate Schedule GSS.

Applicant states that no additional facilities are required in connection with the proposed service because deliveries of gas for injection and withdrawal would be made at existing interconnections between Applicant's and Tennessee's pipeline facilities. Further, it is stated, Applicant's storage facilities are adequate to meet existing markets including the proposed storage service on a colder-than-normal design winter basis through March 31, 1983, and that the proposed storage service would not adversely affect Applicant's storage inventory margins on a colder-than-normal design winter basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26054 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-473]

Duke Power Co.; Order Accepting for Filing Proposed Rates and Proposed Interim Rates, Suspending Proposed Interim Rates, Granting Summary Disposition, Granting Intervention, and Establishing Hearing Procedures

Issued August 19, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On June 20, 1980, Duke Power Comapny (Duke) filed a proposed increase in rates for firm power service to 37 municipal customers, 15 electric cooperative customers, 3 public utilities and 1 private wholesale customer.[1] The proposed rates would result in an increase in revenues of approximately $26,251,000 (12.62%) for the twelve months ending December 31, 1980. Duke requests that the Commission analyze the increase on the basis of these "proposed rates." Nevertheless, Duke requests permission to charge "reduced rates"[2] contained in the company's filing, as of September 1, 1980, subject to refund. Under Duke's proposal, these "reduced rates" would be charged on an interim basis until such time as a final determination of the just and reasonable rates has been made by the Commission; Duke would retain the right to prospectively collect rates higher than the "reduced rates," up to the level of the "proposed rates." Duke states that the proposed effective date of the "reduced rates" is intended to correspond to the effective date of the company's new industrial rate which date now appears to be September 1, 1980.

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[1] See Attachment A for list of customers and rate schedule designations.

Notice of the filing was issued on July 1, 1980, with responses due on or before July 21, 1980. On July 18, 1980, Lockhart Power Company (Lockhart), a wholesale customer of Duke, filed a conditional protest. Lockhart expressed no position on the merits of the rate increase filing, but requested that the increase not be made effective prior to the effective date of a rate increase submitted by Lockhart on June 27, 1980 (Docket No. ER80-490), which is predicated, in part, on increased purchased power costs under Duke's proposed rates.

On July 21, 1980, a petition to intervene was filed by North Carolina Edison Membership Corporation, Blue Ridge Electric Membership Corporation and the South Carolina Electric Cooperatives of Blue Ridge, Broad River, Laurens, Little River and York (Cooperatives). Cooperatives request (1) permission to intervene, (2) suspension of the proposed interim rates to become effective, subject to refund, on September 1, 1980, and (3) initiation of a hearing. While stating that they are in the midst of settlement negotiations with Duke, Cooperatives identified various items in the cost of service which they consider to be inappropriate. According to Coopertives, the major objectionable items are (1) the use of the average of beginning and end of year plant balances for estimating test year rate base, (2) the inclusion of compensating bank balances in the working capital calculation, (3) a cash working capital allowance of 45 days, (4) the failure to properly synchronize interest expense for tax purposes with the interest component of the return requested, and (5) allocation of EPRI and EEI contributions to the wholesale customers.

Also on July 21, 1980, a petition to intervene was filed by the ElectriCities of North Carolina and certain municipal wholesale customers in South Carolina (Municipals) which are wholesale customers of Duke. Municipals request permission to intervene and concur in Duke's request that the "reduced rates" be suspended until September 1, 1980. Also, Municipals take exception to a number of items in Duke's cost of service including (1) the use of the average of beginning and end of year plant balances, (2) use of 45 days for the cash working capital allowance, and (3) the provision for shipping and disposal costs of spent nuclear fuel with no allowance for possible reprocessing.

Discussion

Our preliminary review of Duke's filing indicates that it has included Accumulated Deferred Investment Tax Credit (ADITC) amounts in determining the common equity component of its capital structure. We have consistently held that ADITC should be reflected proportionately in the capital structure or not at all.[3] We shall therefore summarily dispose of this issue. Inasmuch as the dollar value of the issue is minor in reference to the overall cost of service, Duke will not be required to refile its capital structure and rates to reflect this determination prior to the conclusion of this proceeding.[4]

We also note that Duke has functionalized general plant on a basis other than wage and salary ratios. In accordance with our policy on this matter, Duke shall have the burden of showing that the use of wage and salary ratios is unreasonbale as applied to the Comapny.[5]

Our review further indicates that neither the "proposed rates" nor the "reduced rates" have been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend the "reduced rates" as ordered below. We shall also order a hearing to be convened at which the petitioners will be permitted to pursue the matters raised in their pleadings.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances have been shown here. The Commission notes that Duke has agreed unilaterally to place the interim "reduced rates" in effect subject to refund during the proceeding in this docket, with the final "proposed rates" to become effective prospectively only upon final Commission approval. In view of this agreement and because the petitioning customers concur in the proposed effective date, which is designed to coincide with Duke's increase in rates to its large retail industrial customers, we believe we should exercise our discretion to suspend the interim "reduced rates" permitting these rates to take effect subject to refund on September 1, 1980. These interim rates shall be collected subject to refund pending the outcome of an investigation into the justness and reasonableness of Duke's proposed and interim rates.[8]

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[2] The "reduced rates" would increase annual revenues by approximately $22,522,184 (10.82%).

[3] *Carolina Power and Light Company*, Opinion No. 19, August 2, 1978 (slip at 6-10); *Public Service Company of New Mexico*, Docket Nos. ER79-478 and ER79-479, Order issued August 28, 1979 (slip at 4).

[4] *Id.*

[5] *Minnesota Power & Light Co.*, Docket Nos. E-9499, E-7502, ER76-2, Order issued October 30, 1978; *Missouri Public Service Co.*, Docket No. ER80-108, Order issued January 22, 1980).

[6] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission, —— F.2d —— (D.C. Cir. May 30, 1980).*

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

We find that participation in this proceeding by the petitioners may be in the public interest and we shall therefore grant the petitions to intervene.

The Commission orders: (A) The rates identified herein as Duke's "proposed rates" are hereby accepted for filing and the effectiveness of those rates is deferred so that they may become effective, if at all, prospectively only following a final Commission order determining just and reasonable rates in this proceeding.

(B) Duke's proposed interim "reduced rates" are hereby accepted for filing and suspended to become effective on September 1, 1980, subject to refund pending the outcome of a hearing on both the "reduced rates" and the "proposed rates."

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(D) Lockhart Power Company, the Cooperatives, and the Municipals shall be permitted to intervene in this proceeding pursuant to Section 1.8(a) of the Commission's Regulations, subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) Summary disposition is hereby ordered with respect to Duke's treatment of Accumulated Deferred Investment Tax Credits. This summary disposition of this matter shall be reflected in revised rates to be filed by Duke at the conclusion of these proceedings.

(F) Duke must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general plant.

(G) The Commission Staff shall serve top sheets in this proceeding on or before November 6, 1980.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within 10 days after the service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hall voted present.

Kenneth F. Plumb,
Secretary.

Duke Power Company, Docket No. ER80-473

Rate Schedule Designations Schedule No. 10—Municipalities and Public Utility Companies

Note.—These rate schedule designations incorporate the set of rates found on the company's proposed Ninth Revised Leaf Nos. 40 and 42 to Schedule Nos. 10 and 11.

Supplement number	Supersedes supp. number	FPC rate schedule number	Customer
18	15	225	City of Albemarle, N.C.
14	13	155	Town of Bostic, N.C.
13	12	258	City of Cherryville, N.C.
17	16	245	City of Concord, N.C.
15	14	232	Town of Cornelius, N.C.
14	13	254	Town of Dallas, N.C.
13	12	257	Town of Drexel, N.C.
19	18	237	Town Forest City, N.C.
55	52	227	City of Gastonia, N.C.
14	13	255	Town of Granite Falls, N.C.
13	12	264	City of High Point, N.C.
12	11	251	Town of Huntersville, N.C.
15	14	260	City of Kings Mountain, N.C.
16	15	230	Town of Landis, N.C.
10	8	267	City of Lexington, N.C.
14	13	229	Town of Lincolnton, N.C.
17	16	246	Town of Maiden, N.C.
18	17	238	City of Monroe, N.C.
19	18	261	City of Morganton, N.C.
8	7	266	City of Newton, N.C.
14	13	234	Town of Pineville, N.C.
29	28	235	City of Shelby, N.C.
16	15	240	City of Statesville, N.C.
18	17	231	City of Abbeville, S.C.
11	10	259	Clemson University, S.C.
12	11	249	City of Clinton, S.C.
7	6	269	Town of Due West, S.C.
31	30	241	City of Easley, S.C.
16	15	243	Commission of Public Works, Gaffney, S.C.
27	26	250	Commissioners of Public Works, Greenwood, S.C.
22	21	226	City of Greer, S.C.
21	20	244	Commission of Public Works, Laurens, S.C.
10	9	268	City of Newberry, S.C.
16	15	242	Town of Prosperity, S.C.
28	27	228	City of Rock Hill, S.C.
9	8	263	Town of Seneca, S.C.
11	10	256	Town of Westminster, S.C.
14	13	236	Heath Springs Light and Power Company (S.C.).
19	18	252	Lockhart Power Company (S.C.).
13	12	262	South Carolina Electric and Gas Company (Town of Chappels, S.C.).
Schedule No. 11—Cooperatives			
35	34	131	Blue Ridge EMC (N.C.).
67	66	248	Crescent EMC (N.C.).
51	50	134	Davidson EMC (N.C.).
27	26	136	Haywood EMC (N.C.).
24	23	137	Pee Dee EMC (N.C.).
30	29	138	Piedmont EMC (N.C.).
71	64	139	Rutherford EMC (N.C.).
40	39	140	Surry-Yadkin EMC (N.C.).
42	36	141	Union EMC (N.C.).
7	6	270	Wake EMC (N.C.).
85	82	142	Blue Ridge Elec. Coop., Inc. (S.C.).
63	57	143	Broad River Elec. Coop., Inc. (S.C.).
110	109	144	Laurens Elec. Coop., Inc. (S.C.).
36	35	145	Little River Elec. Coop., Inc. (S.C.).
75	74	146	York Elec. Coop., Inc. (S.C.).

Yadkin, Incorporated
Supplement No. 1 to
Supplement No. 2 to
Supplement No. 10 to
Rate Schedule FPC No. 11.

[FR Doc. 80-26055 Filed 8-25-80; 8:45 am]

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[8] We construe Duke's agreement to defer the use of its "proposed rates" until the outcome of this proceeding as a filing under Section 205(d) of the Federal Power Act. As the Court of Appeals held in *City of Kaukauna* v. *FERC,* 581 F.2d 993, 996–97 (D.C. Cir. 1978):

> * * * Section 205's provision for automatic effectuation of rate increases when no Commission-ordered suspension period is extant serves simply to govern implementation of new rates absent private agreement and does not curb the parties' freedom contractually to erect further barriers to the achievement of the change. And though the Commission may not withhold a supplier's new rate beyond the maximum statutory suspension period, the Act in no way prevents the supplier from agreeing to defer its operation until later . . . [T]he parties remain at liberty to supplement the obligations attending Section 205 by appropriate language in their contracts.

[Project No. 3235]

Greater Lawrence Sanitary District; Application for Exemption for Small Conduit Hydroelectric Facilities

August 18, 1980.

Take notice that on July 3, 1980, the Greater Lawrence Sanitary District (District) filed, pursuant to § 30 of the Federal Power Act [16 U.S.C. § 823(a)], an application for exemption from licensing for a proposed small conduit hydroelectric facility. The proposed hydroelectric facility, FERC Project No. 3235, would be located at the District's existing wastewater treatment plant in North Andover, Essex County, Massachusetts. Water would be obtained from the existing effluent pipe at the plant which discharges into the Merrimack River. Correspondence with the Applicant should be directed to: Mr. Donald A. George, Executive Director, Greater Lawrence Sanitary District, P.O. Box 325, North Andover, Massachusetts 01845.

Purpose of the Project—Power from the project would be utilized by the wastewater treatment plant itself to reduce its operating budget.

Project Description—The project would consist of: (1) an existing 5-foot diameter, 650-foot long, concrete outlet pipe; (2) a powerplant containing a single 250-kW turbine-generator unit; (3) a new 5-foot diameter, 175-foot long, concrete outlet pipe; and (4) appurtenant facilities. The powerplant would generate up to 1,063,000 kWh annually saving the equivalent of 1,745 barrels of oil or 500 tons of coal.

Agency Comments—The U.S. Fish and Wildlife services and the Massachusetts Division of Fisheries and Wildlife are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. (A copy of the application may be obtained directly from the Applicant.) No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commisison will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before September 26, 1980. The Commission's address is: 825 North Capitol Street N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26056 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-646]

Indiana and Michigan Electric Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 67 which represents an Interconnection Agreement with Central Illinois Public Service Co. (CIPS). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26057 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-645]

Indiana & Michigan Electric Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Company (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 20 which represents an Interconnection Agreement with Commonwealth Edison Company (CE). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26058 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-647]

Indiana and Michigan Electric Co.; Notice of Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 21 which represents an Interconnection

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Agreement with Indianapolis Power & Light Company (IP&L). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26059 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-63]

Iowa Southern Utilities Co.; Application for Exemption

August 20, 1980.

Take notice that Iowa Southern Utilities Company on June 2, 1980 filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under § 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement for the June 30, 1982 filing that the load data for the large rate classes shall be based on sample metering rather than borrowed data or best estimates as specified in Section D; §§ 290.404(g)(1) and 290.405.

In its application for exemption, Iowa Southern Utilities Company states that it should not be required to use sample metering in lieu of borrowed data for the June 30, 1982 filing for the following reasons: (1) Iowa Southern is a very small utility compared to most of the utilities required to do load research and its cost for sample metering are proportionately much higher. Costs of sample metering are approximately the same for each rate class regardless of the number of customers served. Iowa Southern has calculated that the increased cost to its customers for sample metering is approximately 0.2% of present rates. (2) Load data for the large rate classes can be acquired from a larger utility to substitute for sample metering. This data is of good quality and fairly represents the load data for the large rate classes on the Iowa Southern system. (3) Magnetic tape recorders required for sample metering will soon be outmoded by solid state recorders now being introduced on the market. Investment in equipment subject to early obsolescence is not prudent.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of a general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 10, 1980. Within that 45-day period such person must also serve a copy of such comments on Iowa Southern Utilities Company, 300 Sheridan Avenue, Centerville, Iowa 52544.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26060 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-656]

Kentucky Power Co.; Filing

August 20, 1980.

The filing Company submits the following: I11Take notice that American Electric Power Service Corporation on behalf of its affiliate, Kentucky Power Company (KP), tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission KP Rate Schedule No. 14 which represents an Interconnection Agreement with East Kentucky Power Coop., Inc. (EKPC). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26061 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-490]

Lockhart Power Co.; Order Accepting for Filing and Suspending Proposed Rates, Denying Motion for Summary Judgment, Granting Intervention, and Establishing Hearing Procedures

Issued: August 19, 1980.

On June 27, 1980, Lockhart Power Company (Lockhart) submitted for filing a proposed rate increase for full requirements service to the City of Union, South Carolina (Union).[1] The proposed increase would result in an increase in revenues of approximately $298,659 (13.99%) for the 12 month period ending August 30, 1981. Lockhart states that almost all of the proposed increase it is requesting is the result of the increased costs that will be incurred for power and energy purchased from Duke Power Company (Duke) when that company's recent wholesale rate filing becomes effective.[2] Therefore, Lockhart requests that its rate increase be made effective on September 1, 1980, to coincide with the proposed effective date for Duke's submittal.

Notice of the filing was issued on July 8, 1980, with responses due on or before July 28, 1980. On July 28, 1980, Union filed a protest, petition to intervene, request for suspension and motion for summary judgment. Union requests, *inter alia,* (1) that it be permitted to intervene in this proceeding; (2) that summary disposition be granted with respect to the elimination of unamortized rate case expense and the functionalization by Lockhart of general plant, administrative and general expenses, and payroll taxes on a basis other than wage ratios; (3) that a hearing be held on the proposed rates; and (4) that the proposed increase be suspended for the full five months. Alternatively, Union requests that the portion of the increase arising from increased purchased power costs due to Duke's proposed rate increase (Docket No. ER80-473) be permitted to become effective concurrently with Duke's revised rates and that the remaining part of the increase be suspended for five months. Union also raises objections to a number of other cost of service items including the proposed rate of return, the inclusion of production fuel stocks in rate base, and the calculation of allocation factors and losses.

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[1] *Rate Schedule Designation*

(1) Supplement No. 7 to Rate Schedule FPC No. 2 (Supersedes Supp. No. 6) Description: North Station

(2) Supplement No. 7 to Rate Schedule FPC No. 3 (Supersedes Supp. No. 6) Description: South Station

[2] On June 20, 1980, Duke Power Company filed a proposed rate increase to 56 of its wholesale customers including Lockhart. Duke Power Company's proposed increase has been assigned Docket No. ER80-473. Duke's submittal consists of (1) a "proposed rate" which Duke seeks to impose prospectively only, after a Commission determination of the justness and reasonableness of the rates, and (2) an interim "reduced rate" for which Duke has proposed an effective date of September 1, 1980. Lockhart's proposed rates in this docket are based on Duke's interim "reduced rate."

Discussion

Lockhart has not utilized labor ratios in functionalizing its general plant. We shall require Lockhart to meet the burden of showing that the use of labor ratios for the functionalization of general plant is unreasonable as applied to it, not merely that its alternative method might be reasonable. This requirement is consistent with prior Commission action.[3] The other items for which Union requests summary judgment as well as the remaining issues identified in Union's pleading may be addressed at the hearing which we will order to be convened.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall therefore accept Lockhart's proposed rates for filing and suspend the rates, as ordered below. We also find that participation in this proceeding by Union may be in the public interest and we shall therefore grant the petition to intervene.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. We note that Lockhart's rate proposal is predicated in large part on the increase in rates proposed by Duke in Docket No. ER80-473. Since, by order considered concurrently with the instant order, we are suspending Duke's interim rate proposal to become effective subject to refund on September 1, 1980, we believe we should exercise our discretion to suspend the instant rates correspondingly and permit the rates to take effect on September 1, 1980, subject to refund.

In addition, because of the relationship between Duke's proposed increase and that of Lockhart, we shall subordinate the outcome of the instant proceeding to the outcome of Docket No. ER80-473. In the event that reductions are subsequently required with respect to Duke's interim rates, Lockhart shall be required to adjust its proposed rate change accordingly.

The Commission orders

(A) Lockhart Power Company's proposed rates are hereby accepted for filing and suspended to become effective September 1, 1980, subject to refund.

(B) The City of Union's requests for summary disposition are hereby denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(D) The City of Union, South Carolina is hereby permitted to intervene in this proceeding pursuant to Section 1.8(a) of the Commission's Regulations, subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) The Commission Staff shall serve top sheets in this proceeding on or before November 5, 1980.

(F) The rates ultimately approved in this proceeding are subject to the outcome of the proceedings in Docket No. ER80-473, and shall be adjusted to reflect any final order of the Commission that may require a reduction of Duke's interim rates in Docket No. ER80-473.

(G) Lockhart Power Company must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing general plant.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within 10 days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the

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[3] *See, Gulf States Utilities Company,* Docket No. ER80-57, Order issued December 28, 1979; *Upper Peninsula Power Company,* Docket No. ER79-107, Order issued February 12, 1979; *Missouri Utilities Company,* Docket No. ER79-21, Order issued February 2, 1979; *see also,* Opinion Nos. 20 and 20-A, issued August 3, 1978, and October 30, 1978, respectively.

[4] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* ——— F.2d——— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

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Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hall voted present.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26062 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-465]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

August 20, 1980.

Take notice that on August 1, 1980, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-465 a petition to amend the order issued January 24, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize it to provide a firm transportation service for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order of January 24, 1979, it was authorized to transport a daily quantity of up to 25,000 Mcf of natural gas, on a best-efforts basis, from an undersea valve on its 12-inch South Marsh Island Block 7 lateral, located in South Marsh Island Area Block 287, offshore Louisiana, to an existing onshore point of interconnection between the pipeline systems of Petitioner and Natural located at Petitioner's Lake Arthur Station in Cameron Parish, Louisiana. It is further stated that such transportation service was contemplated by the parties as being an interim arrangement which was to continue until Petitioner placed in service certain offshore pipeline facilities or until December 31 1979, whichever first occurred with the order having an additional proviso that Petitioner would continue to provide said transportation service for Natural until some other means was available for the transportation of Natural's gas.

Petitioner states that pursuant to the terms and conditions set forth in a transportation agreement dated March 27, 1980, between it and Natural it has agreed to provide a firm transportation service for Natural's South Marsh Island Block 288 gas supplies. Upon commencement of such firm service, it is stated, the parties have agreed to terminate the interim arrangement.

Petitioner proposes herein to implement the terms of its March 27, 1980, agreement with Natural. It is stated that the points of delivery and receipt along with the contract demand of 25,000 Mcf per day are identical to the provisions of the interim arrangement. It is further stated that Petitioner would charge Natural a monthly rate of $6.58 for each Mcf of contract demand and would retain 1.5 percent of the quantity of gas delivered to it at the point of receipt as compensation for compressor fuel usage.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26063 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-480]

Michigan Wisconsin Pipe Line Co.; Application

August 20, 1980.

Take notice that on August 1, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-480 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a change in service from Rate Schedule SGS-1 to Rate Schedule CD-1 for St. Joseph Light and Power Company (St. Joseph) commencing September 1, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically it is stated that St. Joseph has informed Applicant that it desires to change its presently effective service agreements under Applicant's Rate Schedule SGS-1 having a total contract demand of 11,403 Mcf and annual contract quantity of 2,068,340 Mcf to a service agreement under Applicant's Rate Schedule CD-1 with these entitlements stated in dekatherms.

Applicant states that the requested change would not result in any increase in peak day or annual entitlement nor adversely effect its ability to meet the requirements of its other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26064 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-637]

Northern States Power Co.; Revision in Service Schedule Pursuant to Commission Order No. 84

August 20, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company, on August 12, 1980, tendered for filing revisions in Service Schedule with the listed utilities:

City of Kenyon
City of LeSueur
City of Madelia
City of Delano
City of Fairfax
City of Glencoe
Heartland Consumers Power District
City of Melrose
City of Janesville
City of Lake Crystal
City of Marshall
City of New Ulm
City of Redwood Falls
City of Sleepy Eye

Revisions were made in the following Service Schedules:

"C"—Emergency and Scheduled Outage Energy.
"D"—Operating Reserve.
"G"—Operational Control Energy.
"H"—Peaking Power.
"I"—Short Term Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26065 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-470]

Northwest Pipeline Corp.; Application

August 20, 1980.

Take notice that on July 30, 1980, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP80-470 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon during the 12-month period commencing December 22, 1980, various field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed facilities would not exceed $3,000,000. Applicant requests waiver of the single-project cost limitation of $500,000 prescribed by Section 157.7(g). It proposes to increase the single project limitation to $1,000,000. Such a waiver is necessary, states Applicant, because of continuing increases in the cost of equipment and expenses incident to the installation of equipment. Such costs, it is asserted, would be financed from cash on hand, from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26066 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RE80-43]

Portland General Electric Co.; Application for Exemption

August 20, 1980.

Take notice that Portland General Electric Company, on March 26, 1980, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost-of-service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Sections 290.202(a)—average hourly energy costs, 290.303(a)—typical hourly marginal energy costs, 290.303(g)—marginal energy cost by costing period and 290.501—accounting costs calculations.

In its application for exemption, Portland General Electric Company states that it should not be required to file the specified data for the following reasons:

1. Hourly average and marginal energy cost information for the reporting year would not be meaningful in explaining daily patterns of energy costs on the system. This circumstance is caused by the resource mix of thermal and hydro with storage capability which allows PGE to dispatch its system with cost-minimizing time frames much longer than a single typical day of a given month.

2. The requirement to calculate the accounting costs of providing service would not be meaningful because the Oregon Public Utility Commissioner does not presently require or consider accounting cost-of-service studies in rate proceedings. Long-run incremental cost studies presently provide all rate spread information.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority

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having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 25, 1980. Within that 45-day period such person must also serve a copy of such comments on Portland General Electric Company, 121 S. W. Salmon Street, Portland, OR 97204.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26067 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-477]

Texas Eastern Transmission Corp., Application

August 20, 1980

Take notice that on August 1, 1980, Texas Eastern Transmission Corporation (Applicant), One Houston Center, Houston, Texas 77002, filed in Docket No. CP80-477 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of gas purchase facilities to enable it to take supplies of natural gas into its pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant state that it obtained natual gas supplies pursuant to Section 7 of the Natural Gas Act from Houston Pipe Line Company (HPL) according to the terms of an agreement dated February 16, 1979. To receive these supplies an interconnection was constructed at a point of intersection of the two systems in Matagorda County, Texas, it is stated. Applicant indicates that when its authority terminated on April 11, 1979, the purchase was continued pursuant to a new contract dated April 11, 1979, under Section 311(b) of the Natural Gas Policy Act of 1978 (NGPA). It is stated that the Matagorda County interconnection was included in Applicant's budget authorization issued January 3, 1979, in Docket No. CP79-53, but because of the Commission's Order No. 56 the interconnection was not included in the final report of Docket No. CP79-53.

According to Applicant, the Commission stated in Order No. 56 issued November 1, 1979, that facilities intended to implement purchases under NGPA Sections 311(b) and 312 could be constructed under a blanket gas purchase facility authorization only if construction had commenced after May 18, 1979. Applicant requests authorization for the construction of the Matagorda County interconnection pursuant to Section 7(c) of the Natural Gas Act so as to conform to the requirements of Order No. 56. The cost of the facility is stated to have been $186,410.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26068 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-479]

Transcontinental Gas Pipe Line Corp.; Application

August 20, 1980.

Take notice that on August 1, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-479 an application pursuant to Section 7(c) of the Natural Gas Act for the certificate of public convenience and necessity authorizing it to transport natural gas for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to transport on an interruptible basis up to 10,000 Mcf of gas per day for Mid Louisiana pursuant to an agreement between the parties dated June 9, 1980. The purpose of such transportation would be to assist Mid Louisiana in receiving quantities of natural gas into its system which Mid Louisiana would purchase in Block 281, West Cameron Area, offshore Louisiana, it is said.

Applicant asserts that subject to the terms of its agreement with Mid Louisiana, it would receive up to 10,000 Mcf of gas per day from Texas Eastern Transmission Corporation (Texas Eastern) at an existing interconnection near Ragley, Beauregard Parish, Louisiana, or any other mutually agreeable point of interconnection between the systems of Applicant and that of Texas Eastern. Applicant further asserts it would then redeliver thermally equivalent quantities to Mid Louisiana at existing points of interconnection near Ethel, East Feliciana Parish, Louisiana, and Hester, St. James Parish, Louisiana.

For such transportation service, Applicant states that it would initially charge Mid Louisiana 5.72 cents per dekatherm (dt) equivalent delivered to Ethel and 7.47 cents per dt equivalent delivered to Hester. The transportation service would be for a period of ten years from the date of initial deliveries and from year to year thereafter, it is said.

It is asserted that the subject transportation service would enable Mid Louisiana to receive gas which it has purchased from Block 181 into its system thereby helping Mid Louisiana maintain adequate and reliable supplies for its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26069 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-476]

Transwestern Pipeline Co.; Application

August 20, 1980.

Take notice that on August 1, 1980, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-476 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of gas-purchase facilities in Ward County and Reeves County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) it entered into an agreement with Oasis Pipe Line Company (Oasis) dated December 19, 1978, whereby Oasis gathers and transports natural gas for redelivery to Applicant at two points of interconnection constructed in Ward County and Reeves County, Texas. The Reeves County interconnection was constructed in December 1978 pursuant to budget authorization, it is said. According to Applicant, the Ward County interconnection was initially to be constructed under Applicant's blanket authorization for gas-purchase facilities issued January 16, 1979, in Docket No. CP79-55 but with the advent of the Commission's Order No. 56 issued November 1, 1979, the facilities were not included in the final report in Docket No. CP79-55. Applicant states that the Ward County interconnection was completed in March 1979.

Applicant asserts that the Commission stated in Order No. 56 that facilities to implement purchase under Section 311(b) and 312 of the NGPA could be constructed under a blanket gas purchase facility authorization only if construction had commenced after May 18, 1979.

Applicant requests the Commission to authorize the construction of the Ward County and Reeves County interconnections pursuant to Section 7(c) of the Natural Gas Act so as to conform to the requirements of Order No. 56. Construction of these facilities cost $1,150,125, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26070 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-483]

United Gas Pipe Line Co.; Application

August 20, 1980.

Take notice that on August 5, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-483 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sale and delivery of natural gas to Entex, Inc. (Entex), the new operator of the Tenaha Distribution System (Tenaha) located in the Town of Tenaha, Shelby County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued March 6, 1979, in Docket No. CP78-156 it was authorized to provide Tenaha with a maximum daily quantity (MDQ) of natural gas of 665 Mcf per day pursuant to a service agreement between Applicant and Tenaha dated September 28, 1977.

Applicant states that Entex, a local distributor, has informed Applicant by letter dated July 9, 1980, that as of July 1, 1980, it has assumed operation of Tenaha and would be purchasing natural gas in accordance with the terms of said service agreement.

Accordingly, Applicant proposes herein to continue to make gas available to Tenaha through Entex. Applicant asserts that such continuation of service would be implemented without any changes in MDQ or in its operation and would necessitate no additional facilities. Applicant further asserts that it would render the proposed service without detriment to its presently authorized customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before

September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28071 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-664]

Wisconsin Electric Power Co.; Filing

August 20, 1980.

The filing Company submits the following:

Take Notice that Wisconsin Electic Power Company (Wisconsin Electric) on August 13, 1980, tender for filing an Amendment, effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Wisconsin Power and Light Company (Power and Light).

This amendment, modifies Service Schedules A-Limited Term Power, B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy of the Interconnection Agreement, dated June 7, 1971, to provide for an energy transmission rate between Wisconsin Electric and Power and Light pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 31 and Power and Light Rate Schedule FERC No. 90. Wisconsin Electric and Power and Light maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Power and Light and also that a copy of the herein filing has been mailed to the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to entervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28072 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-663]

Wisconsin Electric Power Co.; Filing

August 20, 1980.

The filing Company submits the following

Take Notice that Wisconsin Electric Power Company (Wisconsin Electric) on August 13, 1980, tendered for filing an Amendment effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Wisconsin Public Service Corporation (Public Service).

This amendment, modifies Service Schedules A-Limited Term Power, B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy of the Interconnection Agreement, dated December 23, 1969, to provide for an energy transmission rate between Wisconsin Electric and Public Service pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 30 and Public Service Rate Schedule FERC No. 30. Wisconsin Electric and Public Service maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Public Service and also that a copy of the herein filing has been mailed to both the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28073 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS71-1117, et al.]

John F. Riddell, Jr. (Riddell Petroleum Corp.), et al., Applications for "Small Producer" Certificates [1]

August 19, 1980.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date Filed	Applicant
CS71-1117	[1]7/15/80	John F. Riddell, Jr. (Riddell Petroleum Corporation), First City Natl. Bank Building, Houston, Texas 77002
CS71-608	[2]6/23/80	Robert Tilly Arnold and The Arnold Corporation, 500 Jefferson Building, Houston, Texas 77002
CS71-609	[3]6/23/80	Isaac Arnold III and the Arnold Corporation, 500 Jefferson Building, Houston, Texas 77002
CS71-610	[4]6/23/80	Antoinette Arnold and the Arnold Corporation, 500 Jefferson Building, Houston, Texas 77002
CS72-662	[5]6/26/80	The C. H. and Marjorie Lyons Trust and Culver Halls Lyons (The C. H. and Majorie Lyons Trust for Culver Hall Lyons), Suite 1500 Beck Bldg., Shreveport, La. 71101
CS73-505	[6]7/8/80	Indian Wells Oil Company (Kathol Petroleum Inc.), 920 North Jefferson, Kearney, Missouri 64060
CS80-160	6/18/80	Imperial Oil Company of California, P.O. Box 789, Houston, Texas 77001
CS80-161	6/20/80	Malcolm G. Baker, 1404 Dunlavy, Houston, Texas 77019
CS80-162	6/23/80	Lewis Energy Corporation, 2316 United Bank Center, Denver, Colorado 80290
CS80-163	6/17/80	David B. McConnell, 293 Leo Avenue, Shreveport, La. 71105
CS80-164	6/26/80	Post Corporation, Box 31, Stafford, Kansas 67578
CS80-171	7/7/80	L & M Gas Co. (Wetzel Lusher Well #2), Rt. #2, Branchland, W.VA. 25506
CS80-165	6/27/80	Nielson Energy Limited, P.O. Box 370, Cody, Wyoming 82414
CS80-166	6/30/80	Texas Eagle Oil Company, 811 Executive Plaza, 210 W. Sixth St., Fort Texas 76102
CS80-167	6/16/80	C-Bar Production Co., P.O. Box 3857, Midland, Texas 79702
CS80-168	6/16/80	W. D. Collier Ranch, P.O. Box 3857, Midland Texas 79702
CS80-169	6/16/80	WJC Engineering & Management, P.O. Box 3857, Midland, Texas 79702
CS80-170	7/1/80	Betty D. Mortimer, 8700 Crownhill, Suite 506, San Antonio, Texas 78209
CS80-172	7/8/80	Robert B. Coleman, P.O. Box 501, Midland, Texas 79702
CS80-173	7/16/80	The Frank Parkes Foundation, Inc., Box 245, Hooker, Okla. 73945
CS80-174	7/16/80	Norma Jean Roupe, 941 Northeast 49th Street, Oklahoma City, Okla. 73105
CS80-175	7/16/80	Vivian S. Payne, 941 Northeast 49th Street, Oklahoma City, Okla. 73105
CS80-177	7/15/80	Toce Oil Co., Inc., P.O. Box 52401, Lafayette La. 70505
CS80-178	7/15/80	Toce Properties, Inc., P.O. Box 52401, Lafayette, La. 70505
CS80-179	7/22/80	Arthur Arnold, 5250 Greenwood Rd., P.O. Box 9099, Shreveport, Louisiana 71109
CS80-180	7/24/80	Catus Resources, Inc., 2210 Mercantile Bank Building, Dallas, Texas 75201
CS80-181	7/25/80	Black Jack Resources, Inc., 4545 Post Oak Place, Suite 180, Houston, Texas 77027
CS80-182	7/28/80	Agarita Oil Company, P.O. Box 333, Corpus Christi, Tex. 78403
CS80-183	7/29/80	Barney E. Green, P.O. Box 763, Hobbs, NM 88240
CS80-184	7/30/80	Clovelly Drilling & Development Co., Inc., One Shell Square, Suite 1440, New Orleans, Louisiana 70139
CS80-185	7/30/80	Lake Pontchartrain Gas Producing Company Inc., One Shell Square, Suite 1440, New Orleans, Louisiana 70139
CS80-186	7/30/80	Pine Parine Oil Co., Inc., One Shell Square, Suite 1440, New Orleans, Louisiana 70139
CS80-187	8/1/80	Sage Drilling Co., Inc., 222 Sutton Place, Wichita, Kansas 67202
CS80-188	8/1/80	NWN Joint Venture, P.O. Box 458, Harleton, Texas 75651
CS80-189	7/22/80	Frances Dorchester Harrell, 8700 Crownhill, Suite 506, San Antonio, Texas 78209
CS80-190	8/7/80	Nicor Supply Inc., 1700 West Ferry Road, Naperville, Illinois 60540
CS80-191	8/8/80	W. A. Robinson, 1100 Milam Building, Suite 580, Houston, Texas 77002
CS80-192	8/11/80	McM Petro One, Ltd., P.O. Box 809, Brewton, Alabama 36427

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[1] Being noticed to reflect that effective 8-1-79, Riddell Petroleum Corporation was liquidated and John F. Riddell, Jr., acquired a one-half (1/2) interest in all working interest properties formerly owned by Riddell Petroleum Corporation, therefor, John F. Riddell, Jr., is presently a certificate holder under this Small Producer Certificate.

[2] Letter from Applicant requesting that The Arnold Corporation be added as a holder of the small producer certificate in Docket No. CS71-608.

[3] Letter from Applicant request that The Arnold Corporation be added as a holder of the small producer certificate in Docket No. CS71-609.

[4] Letter from Applicant requesting that The Arnold Corporation be added as a holder of the small producer certificate in Docket No. CS71-610.

[5] The Trust instrument provides that 50% of all trust property be distributed to Culver Hall Lyons at age 30. He became age 30 on 5-19-80 and Letter from Applicant is requesting that the small producer certificate issued under Docket No. CS72-662 be amended to include Culver Hall Lyons, Individually.

[6] Being noticed to reflect a name change from Kathol Petroleum, Inc., to Indian Wells Oil Company effective 12-30-76.

[FR Doc. 80-26113 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-2588, et al.]

Sohio Petroleum Co. (Successor to Sohio Natural Resources Co.); Petition To Amend Certificates of Public Convenience and Necessity, To Amend Applications, To Redesignate Rate Schedules and To Redesignate Pending Proceedings

August 18, 1980.

On March 17, 1980, a petition was filed by Sohio Petroleum Company (formerly: Sohio Natural Resources Company) advising the Commission of its change in name effective December 1, 1979, and requesting the Commission to amend the respective Certificates of Public Convenience and Necessity currently held by Sohio Natural Resources Company to reflect Sohio Petroleum Company as the holder thereof, to accordingly amend the related Gas Rate Schedules, and to substitute Sohio Petroleum Company, for Sohio Natural Resources Company in all pending proceedings before the Commission.

The various dockets, related rate schedules and purchasers are listed on the Appendix hereto.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 5, 1980, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Appendix—Sohio Petroleum Co. (Successor to Sohio Natural Resources Co.)

Dockets, Gas Rate Schedules, and Purchaser

FERC Gas rate schedule No.	Certificate docket No.	Purchaser
2	G-2588	Montana-Dakota Utilities Co.
3	G-4361	Tennessee Gas Pipeline Co.
4	G-4360	Do.
5	G-4359	Trunkline Gas Co.
6	G-4267	Tennessee Gas Pipeline Co.
11	G-4582	Texas Eastern Transmission Corp.
14	G-4602	Texas Gas Transmission Corp.
20	G-5214	Tennessee Gas Pipeline Co.
24	G-5668	Texas Gas Transmission Corp.
26	G-5928	Transcontinental Gas Pipe Line Corp.
28	G-9491	Texas Eastern Transmission Corp.
29	G-10274	Natural Gas Pipeline Co. of America
32	G-10773	Do.
33	G-11086	Do.
35	G-11668	Texas Eastern Transmission Corp.
36	G-12719	Colorado Interstate Gas Co.
37	G-12839	Natural Gas Pipeline Co. of America
38	G-13334	Panhandle Eastern Pipeline Co.
42	G-14247	United Gas Pipe Line Co.
43	G-14569	Texas Gas Transmission Corp.
45	G-17012	El Paso Natural Gas Co.
46	G-13135	Southern Natural Gas Co.
47	G-17791	Michigan Wisconsin Pipe Line Co.
48	G-13973	Transcontinental Gas Pipe Line Corp.
49	G-11450	Florida Gas Transmission Co.
51	G-19421	Northern Natural Gas Co.
52	G-19457	Columbia Gas Transmission Corp.
54	C160-489	Southern Natural Gas Co.
57	C161-638	Texas Gas Transmission Corp.
58	C161-780	Cities Service Gas Co.
59	C1161-1662	Natural Gas Pipeline Co. of America
60	C162-337	Transcontinental Gas Pipe Line Corp.
61	C162-596	Panhandle Eastern Pipeline Co.
63	G-11580	Northern Natural Gas Co.
64	G-18957	El Paso Natural Gas Co.
72	C162-826	Tennessee Gas Pipeline Co.
73	C162-1523	El Paso Natural Gas Co.
76	C163-411	Northern Natural Gas Co.
77	C163-514	El Paso Natural Gas Co.
78	C163-514	Do.
79	C163-514	Do.
80	C163-514	Do.
81	C163-514	Do.
82	C163-514	Do.
83	C163-514	Do.
84	C163-514	Do.
87	C163-1567	Panhandle Eastern Pipeline Co.
88	C164-213	Natural Gas Pipeline Co. of America
89	C164-342	Mountain Fuel Supply Co.
[illegible]	C162-600	El Paso Natural Gas Co.
95	C162-813	Do.
97	C162-883	Do.
98	C162-1022	West Lake Natural Gasoline Co.
99	C163-395	Do.
100	C162-535	El Paso Natural Gas Co.
102	C165-684	Michigan Wisconsin Pipe Line Co.
103	C165-104	Panhandle Eastern Pipeline Co.
104	C165-121	Cities Service Gas Co.
106	C165-260	Mississippi River Transmission Corp.
107	C165-175	Northern Natural Gas Co.
108	C165-319	Do.
109	C165-662	Colorado Interstate Gas Co.
110	C165-663	Phillips Petroleum Co.
111	C165-664	Colorado Interstate Gas Co.
112	C165-665	Panhandle Producing Co.
113	C165-666	Do.
114	C165-667	Panhandle Producing Co.
115	C165-718	Texas Gas Transmission Corp.
116	C165-802	Do.
117	C165-1050	Lone Star Gas Co.
118	C163-125	Northern Natural Gas Co.
119	C163-126	Natural Gas Pipeline Co. of America
120	C163-1376	Do.
121	C161-77	South Texas Natural Gas Gathering Co.
122	C161-79	Do.
123	C166-44	Transcontinental Gas Pipe Line Corp.
124	C166-193	Do.
125	C165-1153	Tennessee Gas Pipeline Co.
127	C167-19	Transcontinental Gas Pipe Line Corp.
128	C167-159	Northern Natural Gas Co.
129	C167-199	Do.
130	G-4098	Lone Star Gas Co.
132	C168-226	Transcontinental Gas Pipe Line Corp.
133	G-3784	Do.
134	G-3784	Tennessee Gas Pipeline Co.
135	G-3784	United Gas Pipe Line Co.
137	G-17906	El Paso Natural Gas Co.
138	C161-618	Natural Gas Pipeline Co. of America
139	C169-119	Northern Natural GAs Co.
140	C168-1428	Phillips Petroleum Co.
142	C169-159	Northern Natural Gas Co.
145	C169-307	Phillips Petroleum Co.
146	C169-308	Do.
147	C169-321	Do.
148	C169-333	Do.
149	C169-721	Northern Natural Gas Co.
150	C169-779	Do.
151	C170-750	Transcontinental Gas Pipe Line Corp.
152	C169-766	Kansas-Nebraska Natural Gas Co., Inc.
153	C169-849	Colorado Interstate Gas Co.
154	C171-93	Panhandle Eastern Pipeline Co.
155	C171-287	Pioneer Gas Products Co. and Oklahoma Natural Gas Gathering Corp.
156	C171-441	Panhandle Eastern Pipeline Co.
160	C174-320	Texas Gas Transmission Corp.
161	C167-137	Transcontinental Gas Pipe Line Corp.
162	C175-524	Colorado Interstate Gas Co.
163	C175-644	Northern Natural Gas Co.
164	C175-770	Do.
165	C176-8	El Paso Natural Gas Co.
167	C177-175	Do.
168	C176-807	Northern Natural Gas Co.
169	C178-251	Cities Service Gas Co.
170	C178-565	Michigan Wisconsin Pipe Line Co.
171	C178-612	El Paso Natural Gas Co.
172	C179-9	Northwest Pipeline Corp.

[FR Doc. 80-26115 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3056]

South San Joaquin Irrigation District; Approval by Operation of Law

August 18, 1980.

Take notice that the Commission agreed at its meeting of August 13, 1980, to take no action on the application for an exemption from licensing for the Woodward Project No. 3056, filed on

February 20, 1980, by the South San Joaquin Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on August 18, 1980, under § 4.93(d) of the Commission's regulations (18 CFR 4.93(d)), subject to the standard terms and conditions set forth in § 4.94 of the Commission's regulations (18 CFR 4.94).

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26127 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 80-607]

Southwestern Electric Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that the Southwestern Electric Power Company on August 12, 1980, tendered for filing a letter agreement dated August 5, 1980, revising Section 4.1 of Service Schedule RE dated March 23, 1971, amended November 10, 1975, also identified as SWEPCO Supplement No. 1 to Supplement No. 7 to Rate Schedule FERC No. 59 and Central Louisiana Electric Company Supplement No. 1 to Supplement No. 5 to Rate Schedule FERC No. 4.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commission on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26116 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-608]

Southwestern Electric Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Southwestern Electric Power Company filed, on August 12, 1980, a letter agreement dated August 8, 1980, revising Section 4.1 of Service Schedule RE dated October 30, 1970, amended October 27, 1975, also identified as SWEPCO Supplement No. 1 to Supplement No. 14 to Rate Schedule FERC No. 26 and Public Service Company of Oklahoma Supplement No. 1 to Supplement No. 19 to Rate Schedule FERC No. 118.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commission on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26117 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-609]

Southwestern Electric Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Southwestern Electric Power Company on August 12, 1980, tendered for filing a letter agreement, dated August 8, 1980, revising Section 4.1 of Service Schedule RE dated October 30, 1970, as amended by letter agreement dated November 3, 1975, also identified as SWEPCO Supplement No. 1 to Supplement No. 9 to Rate Schedule FERC No. 47 and Akansas Power & Light Company Supplement No. 1 to Supplement No. 11 to Rate Schedule FERC No. 20.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commisison on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26118 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-610]

Southwestern Electric Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Southwestern Electric Power Company filed, on August 12, 1980, a letter agreement dated August 8, 1980, revising Section 4.1(c) of Service Schedule ES dated October 30, 1970, amended May 29, 1974, also identified as SWEPCO Supplement No. 17 to Rate Schedule No. 26 and Public Service Company of Oklahoma Supplement No. 1 to Supplement No. 20 to Rate Schedule FERC No. 118.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commission on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26119 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-611]

Southwestern Electric Power Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Southwestern Electric Power Company on August 12, 1980 tendered for filing a letter agreement dated August 8, 1980, revising Section 4.1(c) of Service Schedule ES dated October 30, 1970, as amended by letter agreement dated June 11, 1974, also identified as SWEPCO Supplement No. 9 and Supplement No. 14 to Rate Schedule No. 47 and Arkansas Power & Light Company Supplement No. 1 to Supplement No. 10 to Rate Schedule FERC No. 20.

The Company indicates that this filing is made in response to Order No. 84 issued by the Commission on May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriated action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26121 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

Southwestern Public Service Co.; Notice of Filing

[Docket No. ER80-634]

August 19, 1980.

The filing Company submits the following:

Take notice that on August 12, 1980, Southwestern Public Service Company tendered for filing the following amended service schedules:

Rate schedule	Service schedule	Party served	Cancelling
FPC No. 57	A—Short term firm power service.	Public Service Co. of Oklahoma	Service Schedule A, Short Term Firm Power Service (a part of Rate Schedule FPC No. 57).
FPC No. 57	ES—Emergency service	Public Service Co. of Oklahoma	Supp. No. 3.
FPC No. 58	A—Short term firm power service.	West Texas Utilities Co	Supp. No. 1.
FPC No. 78	ES—Emergency service	Central Telephone & Utilities	Supp. No. 2.
FERC No. 81	A—Firm power schedule	City of Brownfield, Texas	Supp. No. 1.
FERC No. 81	A—Emergency service	City of Brownfield, Texas	Supp. No. 2.
FERC No. 82	ES—Emergency service	New Mexico Electric Service Co. and Lea Co. Electric Cooperative.	Supp. No. 3.
FERC No. 83	A—Firm power schedule	City of Floydada, Texas	Supp. No. 1.
FERC No. 83	B—Emergency service	City of Floydada, Texas	Supp. No. 2.

This filing is being made to bring these tariffs into compliance with Part 35.23 of the Regulations Under the Federal Power Act issued May 7, 1980 in Docket No. RM79-29. These changes to the tariffs will limit the price of energy purchased by Southwestern from outside its system and resold to the cost of the purchased power, including incremental losses resulting from the transaction, plus one mill per kilowatt hour.

Any person desiring to be heard or to protest said application should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice (18 CFR 1.8 and 1.10). All Protests or petitions must be filed on or before September 8, 1980. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant party to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Rules of Practice. This filing is on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26121 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-4820, et al.]

Texaco Inc., et al., Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

August 19, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4820 D, July 17, 1980	Texaco Inc., P.O. Box 430, Bellaire, Texas 77401	Tennessee Gas Pipeline Company, Raymondville Field, Kenedy and Willacy Counties, Texas.	Release of Lease	
CI73-221 C, June 24, 1980	Amoco Production Company, 1754 Amoco Building, Denver, Colorado 80202.	Northern Natural Gas Company, Bearpaw Field, Hill County, Montana.	(1)	
CI79-636 C, July 18, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Trunkline Pipeline Company, South Timbalier Block 156 Field, Offshore Louisiana.	(2)	
CI80-442 A, July 25, 1980	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Trunkline Gas Company, East Cameron Block 104, Offshore Louisiana.	Applicant is filing under Gas Purchase Contract date July 1, 1980.	
CI80-447 A, July 28, 1980	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Brazos A-17 , Field, Offshore Texas.	Applicant is filing under Gas Purchase and Sales Agreement dated June 19, 1980.	
CI80-457 A, July 31, 1980	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Houston, Texas 77018.	Tennessee Gas Pipeline Company, Ship Shoal Block 149 Field, Offshore Louisiana.	Applicant is filing under Gas Purchase Contract dated July 10, 1980.	
CI80-458 A, July 31, 1980	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Houston, Texas 77018.	Tennessee Gas Pipeline Company, South Timbalier Block 36 Field, Block 31, Offshore, Louisiana.	Applicant is filing under Gas Purchase Contract dated July 8, 1980.	
CI80-459 A, August 4, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Natural Gas Pipeline Company of America Block A-414, High Island Area, Offshore Texas.	Applicant is filing under Gas Purchase Contract dated May 8, 1980.	
CI80-467 A, August 5, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Transcontinental Gas Pipe Line, High Inland Block A-475, Offshore Texas.	(3)	
CI80-470 B, August 7, 1980	Goldking Production Company, 900 First City Natl Bank Bldg., Houston, Texas 77022.	Transcontinental Gas Pipe Line, Lafourche Crossing, Lafourche Parish, Louisiana.	Reserves are depleted.	

[1] Applicant is filing under Gas Sales Contract dated 8/15/69, amended by Amendment dated 7/12/78.

[2] Applicant is filing under Gas Sales Contract dated 8/1/79.

[3] Applicant is willing to accept a certificate conditioned as to price in accordance with the NGPA of 1978.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-26122 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP75-73]

Texas Eastern Transmission Corp.; Determination by the Designated Commissioner

August 18, 1980.

Take notice that Chairman Curtis, the designated Commissioner pursuant to section 1.28 of the Commission's rules of practice and procedure, determined that the filing made in this docket on August 14, 1980, by Conoco, Inc., should be treated as an appeal by Conoco, pursuant to § 1.28(c) of the rules, of the presiding judge's order issued herein on August 5, 1980. The judge's order denied Conoco's motion to quash subpoenas issued by the judge to two of Conoco's employees requiring the employees to appear as witnesses at the hearing scheduled to be held in this proceeding on August 19, 1980.

While it was determined that an interlocutory appeal under section 1.28 did not at this time properly lie before the designated Commissioner because of failure of Conoco to seek under § 1.28(b)(1) a referral by the Administrative Law Judge, it was determined in the interest of time, administrative efficiency and certainty, and in the absence of any finding that any party would suffer substantial harm by immediate consideration, that § 1.28(b)(1) should be waived so that the appeal could be considered at this time.

Chairman Curtis determined that no extraordinary circumstances had been demonstrated by Conoco warranting referral at this time of the appeal to the full Commission. The matter was, therefore, not referred to the Commission and may be reviewed by the Commission when it considers the proceeding with respect to which the ruling is made.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26123 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP71-29, et al. (Phase II)]

United Gas Pipe Line Co.; Intent To Act

Issued: July 30, 1980.

On June 30, 1980, Gulf States Utilities filed a motion requesting the opportunity to present oral argument or, in the alternative, to file a response to briefs opposing exceptions to the initial decision issued May 30, 1980. Briefs opposing exception are not due to be filed for several weeks. We cannot determine at this time whether additional oral or written argument will be necessary or desirable. We will take the motion under advisement pending review of the initial decision and the subsequent pleadings of the participants.

The Commission Orders: Decision on the motion filed by Gulf States Utilities on June 30, 1980, is deferred pending the further order of the Commission.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26124 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-469]

United Gas Pipe Line Co.; Notice of Application

August 19, 1980.

Take notice that on July 30, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-469 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a change in rate schedules for service to the Town of Cameron, Louisiana (Cameron), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was heretofore authorized in Docket No. CP71-89, as amended, to supply Cameron through Extex, Inc. (Entex), successor in interest to United Gas, Inc. a local distributor under Applicant's Rate Schedule G-S, pursuant to the service agreement between Applicant and Entex dated November 17, 1971. Applicant states that on May 2, 1979, it filed a superseding service agreement, dated April 17, 1979, between it and Entex which provides that service to Cameron be changed from Applicant's Rate Schedule G-S to Rate Schedule DG-S.

Accordingly, Applicant proposes herein to implement the described changes in its rate schedules so as to reflect service to Cameron under Applicant's Rate Schedule DG-S.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26125 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-652]

Appalachian Power Co.; Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Company (APCo), tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission APCo Rate Schedule No. 24 which represents an Interconnection Agreement with Carolina Power & Light Company (CP&L). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26074 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-653]

Appalachian Power Co.; Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Company (APCo), tendered for filing on or before August 11, 1980 a Supplement A to the Federal Energy Regulatory Commission APCo Rate Schedule No. 18 which represents an Interconnection Agreement with Duke Power Company (DUKE). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26075 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-52]

Buchanan's Shell; Filing of Petition

August 19, 1980.

Take notice that Buchanan's Shell on June 17, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before September 3, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Ave. S.W. Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26076 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2959]

City Light Department, City of Seattle; Denying Intervention

August 19, 1980.

The City of Seattle (Applicant) filed on August 28, 1979 and supplemented on December 5, 1979, an application for a preliminary permit for a proposed water power project to be known as the Tolt River-South Fork Project, FERC No. 2959. The proposed project would consist of an existing reservoir and dam and include a proposed 25,000-foot-long penstock and a new powerhouse.

Public notice of the application was made on January 23, 1980 with March 31, 1980 as the last day for interested parties to file any comments, protests, or petitions to intervene. The Tulalip Tribes of Washington ("Tribes") filed a petition to intervene. The grounds for intervention are substantially similar to those set forward by the National Marine Fisheries Service, whose timely petition to intervene was granted April 29, 1980. No good cause for the late filing of the Tribes' petition to intervene has been shown.

The Applicant filed on May 20, 1980 an answer in opposition to the Tribes' petition.

The Tribes environmental concerns for the project will be addressed under the studies authorized by any preliminary permit that will be issued for this project. Moreover, in its answer to the Tribes' petition, the Applicant has stated that it has consulted and will continue to consult with interested persons, including the Tribes, during the course of its studies.

Therefore, pursuant to § 375.302 of the Commission's regulations, 45 FR 21216 (1980), *amending* 18 CFR 3.5(a) 1979, the petition to intervene by the Tulalip Tribes of Washington is denied for failure to conform to § 1.8 of the Commission's regulations, 18 CFR 1.8 (1979).

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26077 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-613]

Duke Power Co.; Filing of Amendment to Rate Schedules

August 19, 1980.

The filing company submits the following:

Take notice that Duke Power Company on August 11, 1980, tendered for filing a uniform Amendment to the designated paragraphs of the following rate schedules:

Rate schedule number and company	
Duke FERC No. 9—Southern Co. Services:	
Service Schedule A (Emergency).	Sec. 3.1.
Service Schedule B (Interchange Power).	Sec. 3.2.
Service Schedule E (Short Term).	Sec. 4.1(a), 4.1(b).
Service Schedule F (Special Short Term).	Sec. 4.1(A), 4.1(B).
Duke FERC No. 10—Carolina Power & Light:	
Service Schedule B (Spinning Reserve).	Sec. 4.13, 4.22.
Service Schedule C (Limited Term Power).	Sec. 4.12, 4.14.
Service Schedule D (Short Term Power).	Sec. 3.11, 3.12(b).
Service Schedule H (Other Energy).	Sec. 3.1(b).
Duke FERC No. 8—South Carolina Electric & Gas Co.:	
Service Schedule A (Spinning Reserve).	Sec. 4.13, 4.22.
Service Schedule B (Short Term Power).	Sec. 3.11(b), 3.12(b).
Service Schedule C (Limited Term Power).	Sec. 4.12, 4.14.
Service Schedule E (Other Energy).	Sec. 3.1(b).
Duke FERC No. 4—Appalachian Power Co.:	
Service Schedule A (Emergency Service).	Sec. 3.1.
Service Schedule C (Interchange Power).	Sec. 3.2.
Service Schedule E (Short Term Power).	Sec. 2.12, 2.13.
Service Schedule F (Limited Term Power).	Sec. 2.12, 2.13.

The Amendment to said interconnection agreements was made for the purpose of complying with the Federal Energy Regulatory Commission's Order No. 84 issued May 7, 1980, which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power. The Amendment sets the charge for miscellaneous and unquantifiable incremental costs incurred in providing such transmission services at the level of 1 mill/kwh as provided in said Order.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26078 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-457]

East Tennessee Natural Gas Co.; Application

August 19, 1980.

Take notice that on July 22, 1980, East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP80-457 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional delivery point for Gallatin Natural Gas System (Gallatin Natural) and one for Citizens Gas Utility District of Scott and Morgan Counties (Citizens Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct new interconnecting, measuring, and related and appurtenant facilities at a point near Gallatin, Summer County, Tennessee, to serve Gallatin Natural and at a point near Wartburg, Morgan County, Tennessee, to serve Citizens Gas and to operate these facilities as new delivery points to Gallatin Natural and Citizens Gas, respectively. Applicant states that Gallatin Natural and Citizens Gas are existing customers under Applicant's Rate Schedules G and SG, respectively, and that the volumes of gas sold through the proposed facilities would be within each customer's existing contract volume and curtailment quantity entitlements.

It is asserted that the new delivey points are required to enable both Gallatin Natural and Citizens Gas to serve the needs of high priority consumers within their service areas and to help improve the reliability of their service within their respective service areas.

Applicant estimates that the facilities for Gallatin would cost $61,970 while the facilities for Citizens Gas would cost $58,720. It is stated that these costs would be met from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1890, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petiton for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26079 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-23 (PGA80-2) (DCA80-2) and (IPR80-2)]

Eastern Shore Natural Gas Co.; Tariff Filing

August 19, 1980.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on August 11, 1980, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective September 1, 1980

Sixteenth Revised Sheet No. 5.
Sixteenth Revised Sheet No. 6.
Second Revised Sheet No. 7.
Sixteenth Revised Sheet No. 10.
Sixteenth Revised Sheet No. 11.
Sixteenth Revised Sheet No. 12.

Eastern Shore states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment including a PGA Reduction due to Incremental Pricing Surcharges, to reflect a Demand Charge Adjustment, to reflect a Deferred Gas Cost Adjustment and to calculate the projected Incremental Pricing Surcharges. This filing is being made in accordance with Sections 20 and 21 of Eastern Shore's FERC Gas Tariff and the Purchased Gas Cost Adjustment reflects rates payable to Eastern Shore's suppliers during the period September 1, 1980 through February 28, 1981.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26080 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-130]

El Paso Natural Gas Co.; Tariff Filing

August 19, 1980.

Take notice that on August 8, 1980, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Seventh Revised Sheet No. 67-D to El Paso's FERC Gas Tariff, Original Volume No. 1. Said tariff sheet, when accepted for filing and permitted to become effective, will modify Section 19.7, *Surcharge Adjustment*, of El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") in order to provide for the phasing out of the separate surcharge determinations applicable to El Paso's East-of-California ("EOC") and California customers which are provided for under El Paso's currently effective PGAC.

El Paso states that by Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint, issued February 16, 1977, at Docket Nos. RP72-150, *et al.*, the Commission approved and adopted El Paso's Stipulation and Agreement dated and filed with the Commission on August 6, 1976. Said Stipulation and Agreement provided that, *inter alia*, costs associated with El Paso's Rhodes Storage Field injections and withdrawals would be assigned directly to the EOC customers through the operation of El Paso's Account 191, Unrecovered Purchased Gas Cost. Such direct attribution commenced June 1, 1977, and is accomplished through the determination of separate surcharge adjustments for El Paso's EOC and California customers.

El Paso states that on March 14, 1980, it filed a petition to amend the Commission's order issued August 1, 1979, at Docket No. CP76-87, requesting authorization to withdraw from Rhodes Reservoir (i) injected cushion gas for delivery, subject to El Paso's operational capabilities, to those EOC customers originally curtailed during 1973 in order to provide such volumes of cushion gas for injection into the Rhodes Reservoir and (ii) native gas for utilization by El Paso as a part of its general system-wide supply. El Paso stated in said petition that, upon the commencement of the withdrawal of the injected cushion gas, it would, *inter alia*, transfer the undepreciated and unamortized plant facilities from the storage function to the production function.[1] El Paso further advised the Commission that it would shortly file applications seeking the necessary Commission authorizations in order to implement the abandonment of Rhodes Reservoir as a storage facility.

El Paso states that, in light of the proposed transfer of the Rhodes Reservoir plant facilities from the storage function to the production function and the utilization of the Rhodes Reservoir native gas as a part of El Paso's general system-wide supply available to both EOC and California customers, it is proposing to modify its currently effective PGAC provision in order to provide for a singular surcharge adjustment which will be uniformly applied under all EOC and California rate schedules. In effect, El Paso is proposing to reinstitute the procedures for making entries to Account 191, similar to those which were utilized prior to the Stipulation and Agreement at Docket Nos. RP72-150, *et al.* commencing on January 1, 1980.

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[1] El Paso filed with the Commission on August 5, 1980, pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure, a settlement offer which, while reserving the question of the disposition of the injected cushion gas, reflects the unanimous agreement of all active parties that El Paso would be permitted immediately to, *inter alia*, commence the production of the "native" gas in Rhodes Reservoir for delivery and sale as a part of its system supply and transfer its net undepreciated and unamortized investment in Rhodes Reservoir facilities from a production function to a storage function.

It is stated that under the operation of its PGAC provision, El Paso is permitted to adjust its rate April 1 and October 1 of each year to recover costs attributable to purchased gas costs which are either in effect at the time of the applicale rate change or estimated to be incurred during the six-month period such rates are to be effective. El Paso is also permitted to recover the balance in the EOC and California subaccounts of its Account 191, as of the last day of the month ending three (3) months prior to the applicable adjustment date (*i.e.*, December 31 and June 30 for El Paso's April 1 and October 1 PGAC notice of rate changes, respectively). El Paso further states that its rates which have been placed into effect pursuant to said PGAC provision, including those rates authorized as of April 1, 1980, and currently in effect, have been designed to extinguish the December 31, 1979, balance in each of said subaccounts of Account 191. Since the balance in each of said subaccounts will approach zero by recoveries to be made through the collection of surcharges which are included in El Paso's rates during the period April 1, 1980, through September 30, 1980, El Paso states that January 1, 1980, will be the most administratively feasible time to reinstitute the booking of accruals and recoveries to a joint Account 191.

El Paso states that an effective date of January 1, 1980 will permit it to develop a surcharge in the calculation of its PGAC notice of rate change to be filed on or before August 29, 1980, that will be based on actual entries made to the joint account during the complete six-month period ending June 30, 1980. Said surcharge will be uniformly collected from all of El Paso's jurisdictional customers, irrespective of customer categories, commencing on October 1, 1980. El Paso further states that since it projects that potential credit amounts attributable to June, 1980, activity [2] will create a near zero balance in the joint Account 191 as of June 30, 1980, El Paso's EOC and California customers will benefit equally from the reduced surcharge to be effective during the period October 1, 1980, through March 31, 1981.

El Paso has requested that the Commission grant such waivers of the Commission's Regulations as may be necessary in order to accept the tendered tariff sheet for filing and permit it to become effective as of January 1, 1980.

El Paso states that copies of the filing were served upon all interstate transmission system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should on or before August 29, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26081 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-624]

Empire District Electric Co.; Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing a proposed change in its Service Schedule L, Peaking Power Service, a supplement to an Electric Interchange Agreement, FERC No. 69, between EDE and Kansas Gas and Electric Company (KGE).

The Amendment provides for a one mill limit for the energy charge adder in accordance with Rule No. 84, Docket No. RM79-29. The effective date proposed for the Amendment is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission and KGE.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26082 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-625]

Empire District Electric Co.; Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing a proposed change in its Service Schedule H, Peaking Power Service, a supplement to an Electric Interchange Agreement, FERC No. 88, between EDE and Kansas City Power and Light Company (KCPL).

The Amendment provides for a one mill limit for the energy charge adder in accordance with Rule No. 84, Docket No. RM79-29. The effective date proposed for the Amendment is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission and KCPL.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

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[2] Such potential credits are attributable to amounts which will be determined in accordance with the contingent refund obligation provisions set forth in Section 5.A.2. of Article V, *Contingent Refunds for Revenues in Excess of Settlement Cost of Service*, of El Paso's Stipulation and Agreement as Restated and Amended dated January 16, 1980, at Docket No. RP79-12 (Extension) which was approved by the Commission's letter order dated May 30, 1980. On July 29, 1980, El Paso filed a motion at Docket No. RP79-12 for authorization to effectuate said Stipulation and Agreement subject to certain conditions which will protect El Paso from undue prejudice in the event the Commission's order approving the extension is reversed on appeal. Such motion is currently pending before the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26083 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-626]

Empire District Electric Co., Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing proposed changes in its Service Schedules ES, Emergency Service, and RE, Replacement Energy, supplements to an Electric Interchange Agreement, FERC No. 45, between EDE and Arkansas Power and Light Company (APL).

The amendments provide for recovery of costs associated with pass-through energy in accordance with the requirements of Rule No. 84, Docket No. RM79-29. The proposed effective date for the amendments is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission and APL.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26084 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. ER80-308, ER80-466, and ER80-58, et al.]

Georgia Power Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Waiver of Notice Requirements and Certain Filing Requirements, Granting Intervention, Terminating Prior Docket, Consolidating Proceedings, and Establishing Procedures

Issued: August 18, 1980.

On June 19, 1980, Georgia Power Company (Georgia Power) tendered for filing a proposed superseding Interchange Contract with Crisp County Power Commission (Crisp County) which provides for emergency assistance, short-term capacity and economy interchange service.[1]

Georgia Power and Crisp County are parties to an interconnection agreement (original agreement) dated July 31, 1974. The agreement provides for the sale of supplemental power to Crisp County and for the exchange of emergency, scheduled maintenance and economy energy. The term of the agreement was until May 31, 1980, to be continued thereafter on a year to year basis unless canceled by either party.

On March 28, 1980, in Docket No. ER80-308, Georgia Power filed a notice of termination pursuant to Section 35.15 of the Commission's regulations in order to cancel the existing agreement as of May 31, 1980. Georgia Power stated that termination of the agreement by its own terms would not affect the operation or reliabilty of its interconnections with Crisp County because subsequent to the original agreement Crisp County entered into a long-term power sales contract with the Municipal Electric Authority of Georgia (MEAG)[2] which obligates MEAG to supply all of Crisp County's power requirements in addition to those satisfied by its own resources.[3] Thus, Crisp County could obtain its supplemental power from MEAG, rather than Georgia Power.

Notice of the filing in Docket No. ER80-308 was issued on April 4, 1980, with comments, petitions or protests due on or before April 25, 1980. Crisp County filed a petition to intervene on April 22, 1980. Crisp County asserted that Georgia Power provided several vital back-up services in conjunction with its own generation which are not available under the current supplemental power arrangement with MEAG and that termination of emergency, scheduled maintenance and economy energy interchanges would directly affect the "continued operation and electrical integrity of Crisp County's generation sources."

On May 8, 1980, Georgia Power filed an amendment to the notice of cancellation requesting an extension of the proposed effective date for termination of the original agreement until June 30, 1980, so as to permit the parties time to further negotiate a mutually acceptable superseding interchange arrangement.

On June 19, 1980, Georgia Power tendered for filing the instant submittal which, as indicated above, provides for emergency assistance, short-term power and economy interchange service. Under the proposed agreement, changes for ecomomy service would be assessed on a split-savings basis. The rates for emergency and short-term power would be derived in accordance with a cost of service formula which permits periodic recalculation of capacity and energy charges. A manual has been submitted as a supplement to the interchange contract which contains a description of the methodology and procedure to be used for calculating capacity and energy charges. In addition, the agreement includes an informational schedule which reflects the charges derived from the application of the formulary rate.

Georgia Power requests waiver of the Commission's notice requirements to allow for a July 1, 1980 effective date; withdrawal of its notice of cancellation filed in Docket No. ER80-308; and termination of that docket.

Notice of the filing in Docket No. ER80-466 was issued on June 24, 1980, with comments, petitions and protests due on or before July 15, 1980.

On July 18, 1980, the Office of Consumers' Utility Counsel for the State of Georgia, filed an untimely petition to intervene. The petitioner raises no substantive issues but urges that residential and small business consumers served by Georgia Power have a substantial interest which may be affected and which is not adequately represented by the existing parties to this proceeding.

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[1] The proposed superseding Interchange Contract would supplant the existing agreement between the parties in Georgia Power Company's Rate Schedule FERC No. 791. *See*, Appendix A for rate schedule designations.

[2] In 1975, MEAG was established pursuant to statute "for the purpose of providing an adequate, dependable and economical wholesale supply of electricity" to political subdivisions of the State of Georgia. MEAG has entered into long-term power sales contracts with 46 cities and Crisp County which obligate MEAG to supply bulk power requirements.

[3] Crisp County owns and operates a coal-fired steam generating unit, a gas-fired combustion turbine and four hydroelectric units which collectively supply a portion of Crisp County's requirements.

Discussion

Our review indicates that the proposed rates and formulas have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept for filing the rates and formulas for these services and suspend their operation as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against exessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that *"any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permited by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that the instant submittal is in the nature of a settlement and that Crisp County has not objected to the proposed effective date. In addition, Georgia Power's filing relates to new services for which no appropriate rate schedule is presently on file. Accordingly, we believe we should exercise our discretion to suspend the rates and formulas for emergency assistance and short-term power for only one day. These circumstances also support Georgia Power's request for waiver of the Commission's notice requirements. Hence, we shall waive the notice requirements and permit the proposed rates for emergency assistance and short-term power to become effective subject to refund on July 2, 1980.

As the rate for economy interchange service is not based on a formula, but is predicated on a split-savings approach, consistent with the industry standard, the Commission will accept the economy interchange service schedule for filing, waive the notice requirement and grant an effective date of July 1, 1980.

On October 31, 1979, in Docket No. ER80-58, Southern Company Services, Inc., (SCSI) filed on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Operating Companies) an interchange contract between Florida Power and Light Company (FP&L) and the Operating Companies.[6] That agreement provides for the same services involved in the instant submittal and contains virtually identical cost of service formulas. By order issued February 12, 1980, in Docket No. ER80-58, the Commission set for investigation and hearing the justness and reasonableness of the proposed rate levels and the proposed formulary method for determining future rate levels.[7]

In Docket No. ER80-58, and subsequent Southern Company dockets, the Commission has consistently taken the position that if a formulary rate which has not been found to be just and reasonable operates to increase rates, subsequent filings must be made under Section 205 of the Federal Power Act. Therefore, any subsequent revision to the capacity charges developed under the suspended formulary rate shall be filed by Georgia Power as a change in rate within 60 days before its proposed effective date. However, we shall waive the full filing requirements of section 35.13 of the Commission's regulations as to subsequent revisions on condition that any increased capacity charges shall be collected subject to refund pending the outcome of the hearing ordered. This is consistent with our action in Docket No. ER80-58 and in subsequent proceedings involving cost of service formulas.

Because of the similarity between the formula rates in this docket and the formula rates contained in other Southern Company filings, the instant docket will be consolidated with Docket Nos. ER80-58, *et al.* In addition, in light of the change in service and the filing of a superseding agreement for service to Crisp County, Georgia Power's request to withdraw its notice of termination in Docket No. ER80-308 will be granted and that docket will be terminated.

We find that participation in this proceeding by the Consumers' Utility Counsel of the State of Georgia may be in the public interest and we shall grant the petition to intervene out of time.

The Commission orders: (A) Georgia Power's request for waiver of the Commission's notice requirements is hereby granted.

(B) The rates and formulas for emergency assistance and short-term power contained in the proposed superseding interchange agreement applicable to service during the calendar year 1980 are hereby accepted for filing and suspended for one day to become effective July 2, 1980, subject to refund.

(C) The proposed rate for economy interchange service is hereby accepted for filing, to become effective July 1, 1980.

(D) We hereby grant waiver of the full filing requirements contained in Section 35.13 of the regulations for future changes in capacity charges made in accordance with the formulas filed herein on the condition that Georgia Power agree to collect any increased charges under the formulas subject to refund pending Commission investigation. Georgia Power shall file any changes in capacity charges under the formulas with the Commission within 60 days before their proposed effective dates.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness

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[4] *Connecticut Light and Power Company* v. *F.E.R.C.*, ——F.2d—— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[6] The Operating Companies and SCSI are subsidiaries of the Southern Company.

[7] *See* Docket Nos. ER80-58 and consolidated Docket Nos. ER80-65, ER80-160 (Florida Power Corporation), ER80-243 (Jacksonville Electric Authority), ER80-262 (Florida Power and Light Company), ER80-343 (Savannah Electric and Power Company) and ER80-415 (Mississippi Power and Light Company).

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and reasonableness of the rates and formulas proposed by Georgia Power in these dockets.

(F) This proceeding is hereby consolidated with Docket Nos. ER80–58, ER80–65, ER80–160, ER80–243, ER80–262, ER80–343 and ER80–415 for purposes of hearing and decision.

(G) Georgia Power is hereby granted leave to withdraw the notice of termination in Docket No. ER80–308 and that docket is hereby terminated.

(H) The Office of Consumers' Utility Counsel of the State of Georgia is hereby permitted to intervene in this proceeding subject to the Commission's Rules and Regulations; *Provided, however,* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *Provided, further,* that the admission of this intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Rate Schedule Designations

Docket No. ER80–466

Dated: (1)–(5) July 1, 1980; (6) undated.
Filed: June 19, 1980.

Company and designation	Description
(1) Georgia Power Company, Rate Schedule FERC No. 803 (Supersedes Rate Schedule FPC No. 791).	Interchange Contract.
(2) Supplement No. 1 to Rate Schedule FERC No. 803.	Emergency Assistance (Service Schedule A).
(3) Supplement No. 2 to Rate Schedule FERC No. 803.	Short Term Power (Service Schedule B).
(4) Supplement No. 3 to Rate Schedule FERC No. 803.	Economy Interchange (Service Schedule C).
(5) Supplement No. 4 [illegible] Rate Schedule FERC No. 803.	Allocation Methodology Manual.
(6) Supplement No. 5 to Rate Schedule FERC No. 803.	Informational Schedule (Rates for Schedules A and B January 1–December 31, 1980).

[FR Doc. 80–26085 Filed 8–25–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–650]

Indiana & Michigan Electric Co.; Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 24 which represents an Interconnection Agreement with Public Service Company of Indiana, Inc. (PSI). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26086 Filed 8–25–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–649]

Indiana & Michigan Electric Co.; Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 22 which represents an Interconnection Agreement with Northern Indiana Public Service Co. (NIPS). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this appliction are on file with the Commission and are availalbe for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26087 Filed 8–25–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–648]

Indiana & Michigan Electric Co.; Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Co. (I&ME) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission I&ME Rate Schedule No. 68 which represents an Interconnection Agreement with Consumers Power Co. and The Detroit Edison Co. (MC). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application shoud file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26088 Filed 8–25–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–627]

Indiana & Michigan Electric Co.; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Company (I&ME) tendered for filing on or before August 12, 1980, Modification No. 14 and Modification No. 15 to the Federal Energy Regulatory Commission Rate Schedule No. 23 which represents an Interconnection Agreement with Illinois Power Company. These proposed Modifications are stated to be a filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26089 filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-638]

Iowa-Illinois Gas & Electric Company; Notice of Filing

August 19, 1980.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company, on August 12, 1980, tendered for filing a Third Amendment dated August 8, 1980 to an Interchange Agreement of July 30, 1968, with the Union Electric Company.

Iowa-Illinois states the purpose of the Amendment, and its attendant original Exhibit A, is to provide for compliance adjustments pursuant to FERC Order No. 84 in respect of percentage adder rate components. The filing is proposed to become effective upon its acceptance by the Commission or as otherwise specified according to its rules and regulations.

According to Iowa-Illinois, copies of the Amendment and attendant Exhibit A have been mailed to Union Electric Company, the Missouri Public Service Commission, the Illinois Commerce Commission, and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26090 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-629]

Kansas Gas & Electric Co.; Notice of Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that Kansas Gas and Electric Company on August 12, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 130.

The proposed tariff change applies to various Service Schedules which are a part of an Interconnection Agreement with Associated Electric Cooperative, Inc., Public Service Company of Oklahoma and Union Electric Company and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon the parties involved and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspeciton.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26091 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-631]

Kansas Gas & Electric Co.; Notice of Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that Kansas Gas and Electric Company on August 12, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 75.

The proposed tariff change applies to the Economy and Emergency Service Schedules with Oklahoma Gas and Electric Company and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon Oklahoma Gas and Electric Company and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26092 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-630]

Kansas Gas & Electric Co.; Notice of Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that Kansas Gas and Electric Company on August 12, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 92.

The proposed tariff change applies to the Emergency Service Schedule with

Omaha Public Power District and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon Omaha Public Power District and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26093 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-633]

Kansas Gas & Electric Co.; Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that Kansas Gas & Electric Company on August 12, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 83.

The proposed tariff change applies to the Economy and Emergency Service Schedules with The Empire District Electric Company and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon The Empire District Electric Company and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this applicaiton are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26094 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-632]

Kansas Gas & Electric Co.; Tariff Change

August 19, 1980.

The filing company submits the following:

Take notice that Kansas Gas & Electric Company on August 12, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No. 97.

The proposed tariff change applies to the Economy and Emergency Service Schedules with Public Service Company of Oklahoma and is necessary to eliminate the 10% adder to purchased power sales by KGE as orderd in FERC Rule 84.

Copies of the filing were served upon the Public Service Company of Oklahoma and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26095 filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3055]

Merced Irrigation District; Approval by Operation of Law

Issued: August 18, 1980.

Take notice that the Commission agreed at its meeting of August 13, 1980, to take no action on the application for an exemption from licensing for the Richard B. Parker Project No. 3055, filed on February 20, 1980, by the Merced Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on August 18, 1980, under Section 4.93(d) of the Commission's regulations [18 C.F.R. § 4.93(d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 C.F.R. § 4.94], Article 2 of which requires compliance with the following conditions imposed by the U.S. Department of the Interior:

1. The project shall not cause greater quantities of water to be diverted than that which would be required for irrigation demands alone;
2. The project shall not result in operation changes (rate of diversion) which would adversely impact the Merced River fishery by reason of increased fluctuations or reductions in flow (instantaneous measurement);
3. The project shall not be used by the licensee as a basis for refusing to provide sufficient instream flow (Merced River) as may be determined necessary during future hearings or other project licensing procedures.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26096 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3233]

City of Mena, Ark.; Application for Preliminary Permit

August 18, 1980.

Take notice that the City of Mena (Applicant) filed on July 1, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§791(a)-825(r)) for proposed Project No. 3233 to be known as the Iron Fork Creek Hydroelectric Project to be located on the Iron Fork Creek near the City of Mena, in Polk County, Arkansas. Correspondence with the Applicant should be directed to: Mayor Paul Autry, 629 Mena Street, Mena, Arkansas 71953.

Project Description—The proposed project would consist of existing project works including: (1) Iron Fork Dam, an earthfill structure 1,450 feet long and 88 feet high; (2) a reservoir with surface area of 303 acres at elevation 1,089.5 feet m.s.l., and storage capacity of 4,600 acre-feet; and new project works to include (3) an intake structure and penstock(s); (4) a powerhouse with an installed capacity of 400 kW; (5) a 13.8-kV transmission line approximately 7 miles long; and (6) other appurtenances.

Applicant estimates the annual generation would average about 1.44 million kWh.

Purpose of Project—Project energy would be sold to the local utility company or utilized directly by the City of Mena, Arkansas for municipal purposes at its proposed water treatment plant.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months. During the term of the permit Applicant would accumulate hydrological records, compile data, size generator units, develop a plan of operation, determine method and phasing of construction of the project, finalize its feasibility report, and if feasible, prepare an application for FERC license. Applicant estimates the cost of studies under a preliminary permit and preparation of an application for license would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application or preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 25, 1980. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 26, 1980. The Commission's address is: 825 North Capital Street, N.E. Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26097 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5]

Montana Power Co.; Petition To Fix Annual Charge for Use of Indian Lands

August 18, 1980.

Take notice that on May 22, 1980, the Confederated Salish and Kootenai Tribes of Flathead Reservation, Montana (Tribes) submitted a petition requesting that the Commission determine by hearing a reasonable annual charge for the use of Tribal land to be paid by Montana Power Company, the Licensee for Kerr Project No. 5. The Tribes assert that the annual charge paid to them by the Licensee should be readjusted as of May 22, 1980, when the initial license expired, and thereafter for each annual license period until issuance of a new license, or until such time as a federal takeover takes place. The Tribes claim that the current payment made is no longer a reasonable annual charge.

On June 17, 1980, Montana Power Company responded stating that the petition should be dismissed because no readjustment can become effective under the annual or any successor license until May 20, 1985. Absent such dismissal, the Company requests that the Tribes' Petition be designated for hearing at the earliest practicable date.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before October 3, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The petition is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26098 filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-288]

Mountain Fuel Supply Co.; Petition To Amend

August 19, 1980.

Take notice that on July 30, 1980, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-288 a petition to amend the order issued November 21, 1979, in said docket pursuant to Section 7(c) of the natural Gas Act so as to authorize the transportation of natural gas for Natural Gas Pipeline Company of America (Natural) from an enlarged area pursuant to a March 27, 1980, amendatory agreement between Petitioner and Natural, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order of November 21, 1979, it was authorized to transport natural gas from Natural in the Bonanza area of Uintah County, Utah, pursuant to the terms of a gas purchase and transportation agreement between Petitioner and Natural; dated October 3, 1978. A portion of the transportation volumes are also purchased by Petitioner, it is said. Petitioner asserts the volumes of gas subject to said agreement are delivered to it by Natural at a point on Petitioner's intrastate gathering facilities located in Township 9 South, Range 23 East, Uintah County, and/or at other points mutually agreed upon. It is further asserted that Petitioner redelivers equivalent volumes at an existing point of interconnection between the facilities of Petitioner and Colorado Interstate Gas Company (CIG) at the Kanda Exchange Point located in Sweetwater County, Wyoming. It is said that CIG than redelivers such volumes of gas to Natural.

Petitioner asserts that Natural has acquired additional supplies of natural gas in the Bonanza area from acreage that is remote from Natural's exisitng transmission system. Petitioner further asserts that it has transmission facilities in the Bonanza area and is willing to transport the additional supplies for Natural under the provisions of a March 27, 1980, amendatory agreement with Natural.

Accordingly, Petitioner proposes herein to amend the order in the instant docket to authorize the transportation of natural gas from an enlarged area pursuant to the March 27, 1980, amendatory agreement with Natural.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26099 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-463]

National Fuel Gas Supply Corp.; Application

August 19, 1980.

Take notice that on July 25, 1980, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP80-463 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing with the date of the order herein, and operation of facilities to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities each calendar year would not exceed $3,218,688, with no single project to exceed $804,672. It is stated that these facilities would be financed with internally generated funds and/or interim short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not seve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26100 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP80-31]

National Fuel Gas Supply Corp.; Proposed Changes in Gas Tariff

August 19, 1980.

Take notice that on August 11, 1980, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its Gas Tariff, to be effective December 1, 1979.

Original Volume No. 1

Original Sheet Nos. 36D and 37D and First Revised Sheet Nos. 37B and 37C superseding First Revised Sheet Nos. 45, 37B and 37C, respectively.

These corrective tariff sheets are issued to comply with order of the Federal Energy Regulatory Commission in Docket No. RP80-31 dated June 19, 1980, to provide the following: (1) a provision that supplier refunds received but not flowed-through will accrue interest in accordance with Section 154.67 (d)(2)(iii) of the Commission's Regulations from the date of receipt to the date of disbursement, and (2) a provision that the sum of the amount of all gas costs subject to incremental pricing, as reflected in both Account 192.1 and 192.2, be utilized in Section 19 Part 3.3 in determining the Actual Incremental Pricing Surcharge.

A copy of this filing was served on the following:

Mercer Gas Company, National Fuel Gas Distribution Corporation, Cook Gas Company, North East Heat & Light Company, The Peoples Natural Gas Company, Public Service Commission of the State of New York, Pennsylvania Public Utility Commission, Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections

1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26101 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-459]

Natural Gas Pipeline Co. of America; Application

August 19, 1980.

Take notice that on July 23, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-459 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities in the Steve Field, Bowie County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon a 3-inch meter station and related appurtenant facilities which were installed to receive gas purchased from General American Oil Company of Texas (General American) and Petro Granda, Inc. (Petro) in the Steve Field, Bowie County, Texas. Applicant states that production from the C. C. Hairston No. 1 Well terminated in September 1976 due to depletion of reserves. It is also stated that the well has been plugged and abandoned and the leases have expired. Applicant states that it has independently determined that there are no remaining salable recoverable gas reserves which can be produced from this well. It is stated that as a result of these findings, Applicant has entered into a termination agreement with Petro dated May 22, 1978. Applicant also asserts that both Petro and General American have received permission and approval to abandon their sales to Applicant.

Applicant indicates that the 3-inch measuring station and related above ground salvable facilities would be removed and retained in stock until needed for reuse at another facility and that all other facilities would be abandoned in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26102 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-7]

North Penn Gas. Co.; Proposed Changes in FERC Gas Tariff

August 19, 1980.

Take notice that North Penn Gas Company (North Penn) on August 4, 1980, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective September 1, 1980.

The change in rates contained in this filing reflects an increase of 23.162¢ per Mcf pursuant to § 14.1 (PGA Clause) of North Penn's tariff to reflect supplier rates which will be in effect on September 1, 1980.

Additionally, this filing reflects a surcharge credit of 29.823¢ per Mcf pursuant to § 14.2 and § 14.3 of North Penn's tariff which results from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period January 1, 1980 through June 30, 1980; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with Commission Regulations; a carry-over balance from the surcharge credit effective for the period September 1, 1979 through February 29, 1980; and that portion of emergency gas sale revenues as required pursuant to § 157.50 of the Commission's Regulations.

North Penn respectfully requests a waiver of any of the Commission's Rules and Regulations as may be required to permit Sixty-Fifth Revised Sheet No. PGA-1 and Second Revised Sheet No. 15H, submitted herewith, to become effective September 1, 1980, as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26103 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-84]

Seasweet Crabmeat Co.; Filing of Petition for Review Under 42 U.S.C. 7194

August 19, 1980

Take notice that Seasweet Crabmeat Co. on July 22, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977

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Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before September 3, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Ave. S.W. Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26114 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of July 14 through July 18, 1980

During the week of July 14 through July 18, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Center for Constitutional Rights, New York, New York, BFA-0301, request for information

The Center for Constitutional Rights filed an Appeal from a denial by the Director of the Office of Classification of a request for information which the organization had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that portions of a classified memorandum withheld under Exemptions 1 and 3 could be declassified and released to the public.

Requests for Exception

Airport Exxon, South San Francisco, California, BEO-0389, motor gasoline

Airport Exxon filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period inasmuch as it had acquired the outlet after the date of its imposition and should therefore have been in a position to know the outlet's new allocation prior to leasing it. Accordingly, exception relief was denied.

Archie's Standard Service, New Hope, Minnesota, BEO-0073, motor gasoline

Archie's Standard Service filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently profitable with its present allocation to allow the firm to realize the intended benefits of its investment in acquiring the outlet. Accordingly, exception relief was denied.

Florence Car Wash, Los Angeles, California, BEO-0761, motor gasoline

Florence Car Wash filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to allow the current owner of Florence to realize a benefit from its investment in the outlet. Accordingly, exception relief was granted, and the outlet's base period allocation of motor gasoline was increased.

Gulf Oil Corp., Tulsa, Oklahoma, BXE-0988, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. Exception relief was granted to permit Gulf to sell at upper tier ceiling prices 62.35 percent of the crude oil produced from the Kiefer Unit.

Miller-Claborn Oil Co., Ashdown, Arkansas, DEE-4183, motor gasoline

Miller-Claborn Oil Company filed a Statement of Objections to the issuance in final form of a Proposed Decision and Order which tentatively determined that the firm's request for an increased base period allocation of motor gasoline should be denied. Citing its stabilized price and supply situation, Miller-Claborn Oil Company later withdrew its Statement of Objections. Accordingly, exception relief was denied.

National Car Rental System, Dubois, Pennsylvania, DEE-7848, motor gasoline

National Car Rental System filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship or gross inequity as a result of DOE regulations. Accordingly, exception relief was denied.

Novato Unified School District, Novato, California, BEO-0529, motor gasoline

The Novato Unified School District filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the School District sought an increase in its allocation of motor gasoline. In considering the request, the DOE found that the School District was not suffering a serious hardship or gross inequity as a result of DOE allocation regulations. Accordingly, exception relief was denied.

Oak Park I-210 Shell, Lake Charles, Louisiana, DEO-0346, motor gasoline

Oak Park I-210 Shell filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship, gross inequity, or unfair distribution of burdens as a result of the DOE regulatory program. Accordingly, exception relief was denied.

Patricia Park DX, Des Moines, Iowa, BEO-0369, motor gasoline

Patricia Park DX filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its bas period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently profitable with its present allocation to allow the firm to realize the benefits of its investment in acquiring the outlet. Accordingly, exception relief was denied.

Price Bros., Inc., Lynden, Washington, BEO-0502, motor gasoline

Price Bros., Inc. filed an Application for Exception in which it sought an increased base period allocation of motor gasoline for a retail outlet which it operates. On November 19, 1979, the Western Regional Center of the Office of Hearings and Appeals issued a Proposed Decision and Order tentatively denying Price's exception request. Price filed a Statement of Objections in which it alleged that construction on the highway adjacent to its outlet impaired its sales volumes during the updated base period. The DOE granted exception relief on the basis of the Criteria established in *Harrison Gas and Oil*, 4 DOE ¶ 81,033 (1979), concluding that the applicant had been adversely affected in a significant manner due to anomalous circmstances during the updated base period. The exception relief granted increased Price's base period allocation to the average level of gasoline sales which the firm attained after completion of the road construction.

Ron's Skelly service Red Oak, Iowa, DEE/7641 motor gasoline

Ron's Skelly Service filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to realize the intended benefits of a capital investment it had made in its retail sales outlet. Accordingly, exception relief was granted.

Seaview Petroleum Company, Washington, D.C., DEE–6942, crude oil

Seaview Petroleum Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211.67 (Entitlement Program) in which the firm sought permission to sell entitlements for the crude oil which the firm purchased to establish an initial, or starting inventory for its new refinery. In considering the request, the DOE found that the operation of the Entitlements Program produces a grossly inequitable result by inordinately increasing Seaview's crude oil acquisition costs for that portion of seaview's crude oil purchases that will never be used as runs to stills. Exception relief was necessary to enable Seaview to share in the beneftis of the Mandatory Petroleum Price Regulations which are generally available to other refiners of domestic crude oil. Accordingly, exception relief was granted. Important issues discussed in the Decision and Order include (i) the appropriate method to be utilized in calculating a refiners necessary inventory level, (ii) the appropriate method to be utilized in determining the dollar amount of exception relief.

Sharpstown Texaco, Houston, Texas, DEE–5152, motor gasoline

Sharpstown Texaco filed an Applicaiton for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

Solvang California, Solvang, California, DEE–5121, motor gasoline

Solvang, California filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the town sought an increase in the supplies of motor gasoline available to it. In considering the request, the DOE found that Solvang, California had failed to submit substantive evidence which would demonstrate that it was experiencing an unfair distribution of the burdens resulting from the shortage of motor gasoline. Accordigly, exception relief was denied.

Toy Enterprizes, Milwaukee, Wisconsin, BEO–1062, motor gasoline

Toy Enterprizes filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period inasmuch as it had acquired the outlet after the date of its imposition and was therefore in a position to know the outlet's new allocation prior to acquiring it. Accordingly, exception relief was denied.

Triangle Shell and Lutwyche's Shell, Baltimore, Maryland, DEO–0180, DEO–0347, motor gasoline

Triangle Shell and Lutwyche's Shell filed Applications for Exception from the provisions of 10 C.F.R., Part 211 in which the firms sought increases in their 1972 adjusted base period allocations of motor gasoline to reflect their increased purchases during 1978. The firms subsequently stated that the change in base period had made exception relief unnecessary, and asked that their Applications be dismissed. The DOE stated that it is generally not its policy to dismiss Applications for Exception once a Proposed Decision and Order is issued, but it determined that it was appropriate in this case since the relief requested was no longer necessary. Accordingly, the Applications were dismissed.

Vernon Auto Wash, Inc., Vernon, Connecticut DEE–7447, motor gasoline

Vernon Auto Wash, Inc., filed an Application for Exception from the provisions of 10 C.F.R., Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a Proposed Decision and Order issued to Vernon, the DOE found that Vernon's gasoline purchases during the updated base period were unrepresentative of the outlet's normal level of operations because Vernon's employees' mismanaged the outlet during this period and actively discouraged motorists from purchasing gasoline. The DOE also found that Vernon was unable to operate profitably in the absence of exception relief, and, that the firm would be forced into bankruptcy unless its monthly gasoline allocation was increased. Accordingly, the DOE tentatively concluded that Vernon's monthly allocation of motor gasoline should be increased from approximately 28,500 gallons to 40,000 gallons. In considering Vernon's Objections to the Proposed Order, the DOE affirmed its initial determination that an allocation of 40,000 gallons per month is sufficient to ensure the commercial viability of the outlet. The DOE rejected the firm's contention that market forces prevent it from realizing the maximum permissible mark-up of 16.8 cents per gallon on its gasoline sales. The DOE noted that the applicant's survey of its competitors' retail gasoline prices demonstrated that Vernon could realize the maximum permissible mark-up without pricing its gasoline at noncompetitive levels. Therefore, the DOE rejected Vernon's request for an additional increase in its allocation of gasoline and established the firm's monthly allocation at 40,000 gallons.

Requests for Modification and/or Rescission

DOE Richland Operations Office, Richland, Washington, BMR–0046, Freedom of Information

The Richland Operations Office of the Department of Energy filed an Application for Rescission/Modification of a Decision and Order issued on May 8, 1980, which granted an Appeal of the denial of a request for information made pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R., Part 1004. In considering the Application, the DOE found that the Applicant had failed to show the existence of significantly changed circumstances as defined in 10 C.F.R. § 205.135(b)(2) upon which to base its request. Accordingly, Applicant's request was denied.

South Bradenton Amoco, Bradenton, Florida, BMR–0047, motor gasoline

On June 6, 1980, South Bradenton Amoco (South Bradenton) filed a Request for Modification or Rescission of a Decision and Order which the Department of Energy issued to it on April 10, 1980. In its request, the firm argued that the DOE had erred in denying it an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that South Bradenton had presented no new material facts, or shown that there existed in this proceeding a substantial change in the facts or circumstances underlying the April 10, 1980 Decision and Order, which would warrant modification or rescission.

739 Corp., Lord's Valley, Pennsylvania, BMR–0050, BEL–0055, motor gasoline

739 Corporation filed an Application for Modification or Rescission in which the firm requested the modification of certain provisions of a Decision and Order which the Office of Hearings and Appeals issued to it on May 23, 1980. In considering the request, the DOE found that the May 23 Decision and Order inadvertently reproduced an error which had occurred in the Proposed Decision and Order, in which the new allocation proposed in the text of the Decision and the allocation tentatively approved in the ordering paragraphs were different. Accordingly, the Application for Modification or Rescission was granted and the firm's base period allocation of motor gasoline was increased for six months. In view of the considerations of the merits of 739's Application for Modification or Rescission, the Application for Temporary Exception was dismissed.

Motion for Evidentiary Hearing

Power Management, Inc., Harlingen, Texas, DRH–0051, DRD–0051, crude oil

On April 7, 1980, Power Management, Inc. (PMI) perfected the filing of a Motion for Evidentiary Hearing and a Motion for Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the DOE Southwest Enforcement District on August 30, 1979. In its Motion for Evidentiary Hearing, PMI requested permission to present testimonial evidence and cross-examine knowledgeable DOE officials concerning the contentions raised in its Statement of Objections. In considering the request, the DOE determined that the firm had failed to establish that any of its contentions involved material, factual disputes that could best be resolved by the quesitoning of witnesses at an evidentiary hearing. Accordingly, the Motion for Evidentiary Hearing was denied. In its Motion for Discovery, the firm requested that it be afforded the opportunity to depose the DOE officials who conducted the audit of PMI which served as the basis for the Proposed Remedial Order. The DOE concluded, however, that the firm had failed to show that such depositions were necessary in order to obtain relevant and material evidence. Accordingly, PMI's Motion for Discovery was also denied.

Remedial Orders

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name, Case No., and Location

Don Little d.b.a. Clark Super 100, BRW-0056, Roselle, IL
James Pratte d.b.a. Jim's Texaco, BRW-0057, N. Aurora, IL
Ken de Paola d.b.a. Seventeenth and Harrison Service, BRW-0058, Maywood, IL

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Guam Oil & Ref. Co.,/Chevron USA, Inc., BEJ-0102, Washington, DC

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Allison Oil Co. BEN-0048, Ardmore, OK
Husky Oil Company, BEN-1248, Denver, CO
Industrial Fuel and Asphalt of Indiana, Inc., BEN-0962, Washington, DC

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Airport Shopping Center, BEO-0071, Neosho, MO
Armstrong Self-Service, BEO-0318, Callahan, FL
Barkhousen Brothers, BEO-0390, BEO-0391, Hilmar, CA
Brown's Mobil, BEO-1024, Brazil, IN
Dilly's Serv. Station, BEO-0326, Hastings, NE
Friendly Oil Co., BEO-0699, Alhambra, CA
Gelco Courier Service, BEO-0723, San Francisco, CA
Huntington Corner Grocery, BEO-0012, Camano Island, WA
Mr. Gleem Car Wash, BEO-0745, Houston, TX
Parker Supply Co., Inc., BEO-0357, Birmingham, AL
Vern's Serv. Center, DEE-5755, Torrance, CA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Air Conditioning & Refrigeration Inst., BEE-0618
Allison Oil Co., DST-3034
Cibro Pet. Products, Inc., BEA-0387
Consumer Energy Council of America, BSG-0012
Dan's Arco, DEE-7931
Fill-N-Wash, Inc., DRO-0339
Husky Oil Company, BEL-1248
Ross Production Co., DRO-0142
Slant/Fin Corp., BEE-0704.
St. Johns Oil Co., Inc., DEE-2262; DES-2262

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Deputy Director, Office of Hearings and Appeals.
August 20, 1980.
[FR Doc. 80-26133 Filed 8-25-80; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1588-1]

Motor Vehicle Pollution Control; Waiver of Oxides of Nitrogen Emission Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Hearing to Consider Applications for Waivers.

SUMMARY: This notice announces a public hearing to consider applications for waiver of the 1981 and 1982 oxides of nitrogen (NOx) emission standard applicable to diesel-powered light-duty vehicles.

Nissan Motor Company, Ltd. (Nissan) has informed EPA of its intention to request a waiver of the 1981-1982 NOx emission standard for its diesel light-duty vehicles pursuant to section 202(b)(6)(B) of the Clean Air Act (Act) by August 29, 1980. EPA plans to hold a public hearing on this waiver application and any others which EPA may receive in time for consideration at the hearing.

DATES: This notice announces that EPA will hold a public hearing beginning at 8 a.m. on September 19, 1980, on any NOx waiver applications it receives by September 9, 1980. Interested parties should submit proposed testimony for the hearing to the Director of EPA's Manufacturers Operations Division (EN-340) by September 16, 1980. Interested parties should also submit any relevant written comments by October 3, 1980, to ensure that the Administrator can consider those comments in deciding on the waiver applications.

ADDRESSES: EPA will hold the consolidated public hearing at the GSA Auditorium, General Services Administration, 7th and D Streets, S.W., Washington, D.C. 20460. All public portions of waiver applications and other relevant information will be available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Docket Number EN-80-19).

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Schwartz, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Background:

Section 202(b)(6)(B) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(6)(B)(1977), allows any manufacturer to petition the Administrator of EPA for waiver of the 1981-1984 model year NOx standard of 1.0 gpm. The Administrator, after notice and opportunity for public hearing, may waive the standard for any class or category of light-duty vehicles manufactured during the four model year period, beginning in model year 1981, up to a maximum level of 1.5 gpm, if the manufacturer can show that the waiver is necessary to permit diesel engine technology to be used on the subject vehicles. The waiver may be granted if the Administrator determines:

(i) That the waiver will not endanger public health;

(ii) That the waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act, and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

Guidelines for diesel NOx waiver applications were published in the **Federal Register** at 43 FR 30341, July 14, 1978, in order to apprise manufacturers of the information deemed necessary to demonstrate that a waiver should be granted.

II. Waiver Application

In an August 7, 1980, letter to the Administrator, Nissan informed EPA of its intention to submit an application for waiver of the 1981–1982 NOx emission standard for its diesel passenger cars by August 29, 1980.

EPA has scheduled a public hearing to consider this application and any other diesel NOx waiver applications received on or before September 9, 1980, at the GSA Auditorium, General Services Administration, 7th and D Streets, S.W., Washington, D.C. 20460 commencing at 8 a.m. on September 19, 1980. EPA encourages any manufacturers still planning to request NOx waivers to file their applications by the deadline so that the Administrator can review as many outstanding waiver applications as possible in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceeding will greatly facilitate the Administrator in making timely decisions.

In order to grant a waiver, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. The Administrator is not required to make his determination solely on the record of the hearing, and may consider any additional information as well. All information considered by the Administrator for this waiver decision will be included in public docket EN–80–15.

III. Hearing Procedures

The public hearing will provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the waiver requests at issue. Any party desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material with the Director of EPA's Manufacturers Operations Division at the address listed above not later than September 16, 1980. If feasible, these parties also should submit at least 25 copies of their statements or material for the hearing record for general circulation to the Presiding Officer at the time of the hearing. In addition, any person may submit written questions at any time during the hearing, which the hearing panel may propound to witnesses to the extent practicable. Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until October 3, 1980, to ensure their consideration as part of the waiver decision.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentations, directing participants to submit corroborative material in writing and, to the extent possible, notifying participants of the time at which they may appear.

Presentations by the participants should address the considerations set forth in detail by the guidelines for submission of waiver requests published in the **Federal Register**, 43 FR 30341, July 14, 1978. Participants should be prepared to respond to questions from the Hearing Panel on the following issues:

1. Whether a waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which an applicant request a waiver;
2. Whether the waiver would endanger the public health;
3. Whether the waiver would result in significant fuel savings at least equal to the fuel economy standard applicable under the Energy Policy and Conservation Act ("EPCA");
4. Whether the technology utilized in the class or category for which a waiver is sought: (a) has a potential for long-term air quality benefit, and (b) has the potential to meet or exceed the average fuel economy standard applicable under EPCA at athe expiration of the waiver, and;
5. The level of NO_x emissions, not to exceed 1.5 gpm, which an applicant's diesel vehicle class or category could meet in each of the model years for which an applicant requests a waiver.

A verbatim record of the proceedings will be available for public inspection in public docket EN–80–15. Any interested party may request a copy of the transcript from the hearing reporter during the hearing at that party's own expense. Interested parties also may obtain copies of other documents in the public docket as provided in 40 CFR Part 2.

Dated: August 19, 1980.

Richard D. Wilson,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80–26002 Filed 8–25–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1585–2]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of January 1, 1980 and January 31, 1980.

Appendix I contains a listing of draft environmental impact statements review and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the EPA source of review as set forth in Appendix IV.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing included the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of

EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1980 report; the backlog of reports should be eliminated over the next two months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808.

Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 15, 1980.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review.

Appedix I.—*Draft Environmental Impact Statements for Which Comments Were issued Between Jan. 1, 1980 and Jan. 31, 1980*

Identifying No.	Title	General nature of comment	Source for copies of comments
	Corps of Engineers		
DS-COE-A35083-CA	Los Angeles Harbor Deepening Project, Los Angeles County, California	LO2	J
D-COE-B32002-CT	New Haven Harbor Coastal Development, New Haven, New Haven County Connecticut	LO2	B
D-COE-F07008-MI	Belle River Power Plant, St. Clair, St. Clair County, Michigan	LO2	F
D-COE-K32022-CA	Sacramento River Deep Water Ship Channel, Yolo, Sacramento, Solano and Contra Costa Counties, California.	ER2	J
D-COE-K36036-CA	Telegraph Canyon Creek Flood Control, Chula Vista, San Diego County, California	LO1	J
D-COE-K39010-CA	Colorado River Bank Stabilization, Blythe, Riverside, County, California	LO2	J
	Department of Agriculture		
D-AFS-F61009-MI	Manistee River, Wild and Scenic River Study, Crawford, Kalkaska, Missaukee, Wexford, Manistee, and Oscoda Counties, Michigan.	LO1	F
D-SCS-G36080-OK	Hoyle Creek Watershed, Major County, Oklahoma	LO1	G
	Department of Commerce		
RD-NOA-A90041-OO	Proposed Channel Islands Marine Sanctuary	LO1	A
	Department of the Interior		
D-IBR-L61134-OO	Salmon Falls Division, Upper Snake River Project, Idaho and Wyoming	LO1	K
RD-OSM-A01058-OO	Implementation of Program Policies for Federal, State, and Indian Abandoned Mine Land Reclamation Under Title IV of the Surface Mining Control and Reclamation Act of 1977 (OSM-EIS-2).	LO2	A
	Department of Transportation		
DS-FHW-A41949-MI	I-69, US 127 to Existing I-69, West of Morrice, Clinton and Shiawassee Counties, Michigan	EU1	F
DS-FHW-A42024-IL	FAP Route 406, IL-406, Lincoln To Morton, Logan and Tazewell Counties, Illinois	ER2	F
D-FHW-B50000-OO	Connecticut River Bridge Crossing, Walpole, Cheshire County, New Hampshire and Rockingham, Windham County, Vermont.	LO2	B
D-FHW-B50001-NH	Notre Dame Bridge Replacement, Manchester, Hillsborough County, New Hampshire (FHWA-NH-EIS-79-01-D).	LO2	B
D-FHW-C40044-NY	Newburg Riverfront Arterial, Riverfront Boulevard, Orange County, New York	LO2	C
D-FHW-D40076-MD	MD-410 Extension, Baltimonre/Washington Parkway to Pennsy Drive, Prince Georges County, Maryland.	LO2	D
D-FHW-D40079-WV	Appalachian Corridor G., Chattaroy to Miller Creek, Mingo County, West Virginia	EU3	D
D-FHW-D40080-VA	East-West Expressway, Cities of Hampton and Newport News, Virginia	ER2	D
D-FHW-E40182-TN	TN-67, Appalachian Corridor "B" to TN-37 in Elizabethtown, Washington, Johnson and Carter Counties, Tennessee.	ER2	E
D-FHW-E40183-FL	Branan Field Road to Chaffee Road, Duval and Clay Counties, Florida	LO2	E
D-FHW-E40184-TN	TN-3, Thomas/101 to I-55, Crump Interchanges, Memphis, Shelby County, Tennessee	LO1	E
D-FHW-E53004-SC	Railroad Relocation and Consolidation, Grade Crossing Elimination, City of Columbia, Richland County, South Carolina.	LO2	E
D-FHW-F40143-MN	US 10, Improvement, Wadena to Motley, Ottertail, Wadena, Todd and Morrision Counties, Minnesota.	ER2	F
D-FHW-F40144-IL	IL-5, US 20/I-84 Improvement, Galena River Bridge, Prospect Street to Third Street, Galena, Daviess County, Illinois.	LO1	F
D-FHW-H40091-KS	US-54 and West Street Interchange, I-235 and Maple Street Interchange, Wichita, Sedgwick County, Kansas (FHWA-KS-EIS-76-03-D).	LO2	H
D-FHW-J40050-ND	Mott Rainbow Arch Bridge Replacement, Cannonball River, North Dakota	LO1	I
D-FHW-K40070-CA	CA-49 and CA-108, Sonora, Bypass, Construction, Tuolumne County, California	LO2	J
	Federal Energy Regulatory Commission		
D-FRC-L36070-AK	Swan Lake Project, No. 2911, Licenses, Tongass National Forest, Alaska	LO2	K
	Department of Housing and Urban Development		
D-HUD-B89013-MA	Wellington Station Area Development (UDAG), Medford, Middlesex, County, Massachusetts (HUD-RO1-DEIS-79).	ER2	B
D-HUD-F89007-MI	University City Rehabilitation Project No. 2, Development Plan, Detroit, Wayne County, Michigan	ER2	F
D-HUD-J85026-UT	Foothills Planned Development, Salt Lake County, Utah	ER2	I
	Nuclear Regulatory Commission		
DS-NRC-A06147-OR	Pebble Springs Nuclear Power Plant, Gilliam County, Oregon	LO1	K

Appedix I.—*Draft Environmental Impact Statements for Which Comments Were issued Between Jan. 1, 1980 and Jan. 31, 1980*—Continued

Identifying No.	Title	General nature of comment	Source for copies of comments
	OHIO RIVER BASIN COMMISSION		
D-ORB-E34016-KY	Kentucky and Licking River Basins, Regional Water and Land Resources	LO2	E
D-ORB-E34017-OO	Big Sandy and Guyandotte River Basin Regional Water and Land Resources Plan, Kentucky and West Virginia.	LO1	E
	U.S. POSTAL SERVICE		
D-UPS-H81006-MO	Espansion of Building and Parking Facilities, Westport Station, 200 Westport Road, Kansas City, Jackson County, Missouri.	LO2	H
	VETERANS ADMINSTRATION		
D-VAD-E81019-TN	Land Acquisition and Construction, Spinal Cord Injury Unit, Memphis, Shelby County, Tennessee.	LO1	

Appendix II.—*Definitions of Codes for the General Nature of EPA Comments*

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision he made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Jan. 1, 1980 and Jan. 31, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
F-COE-32006-MD	Rock Hall Harbor, Small Navigation Project, Kent County, Maryland.	EPA's concerns were adequately addressed in the final EIS. However, EPA feels that water quality tests should be carried out.	D
F-COE-E35022-NC	Lockwoods Folly Inlet, Brunswick County, North Carolina.	EPA's concerns were adequately addressed in the final EIS	E
F-COE-G32026-AR	Mississippi River, Improvement, Helena Harbor, Phillips County, Arkansas.	EPA's conerns were adequately addressed in the final EIS	G
	DEPARTMENT OF AGRICULTURE		
F-AFS-E65021-SC	Timber Management Plan, Piedmont Block, Sumter National Forest, South Carolina.	EPA's concerns were adequately addressed in the final EIS	E
FS-REA-G07006-TX	San Miguel Lignite Unit 1, Atascosa County, Texas.	EPA's concerns were adequately addressed in the final supplement	G
F-REA-G07016-NM	Escalante Generating Plant, Related Transmission Facilities, McKinley County, New Mexico.	EPA's concerns were adequately addressed in the final EIS	G
F-SCS-J36016-WY	Upper North Laramie River Watershed Project, Albany County, Wyoming.	EPA's concerns were adequately addressed in the final EIS	I
F-SCS-K36031-CA	Lower Pine Creek Watershed, Flood Protection, California.	EPA's concerns were adequately addressed in the final EIS	J

V 45 AG 26 80 UMI

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Jan. 1, 1980 and Jan. 31, 1980*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
		DEPARTMENT OF TRANSPORTATION	
F-CGD-A52125-00	Regulatory Analysis, Regulations to Implement the Results of the International Conference on Tanker Safety and Pollution Prevention.	EPS's concerns were adequately addressed in the final EIS.	A
F-FHW-D40073-MD	I-95, Fort McHenry Tunnel, Dredging and Disposal, Baltimore, Maryland.	EPA's concerns were adequately addressed in the final EIS. However, EPA did have several comments to be addressed during the section 404 permitting process directed at possible upland disposal sites that were discussed in the final EIS, and at dredging and monitoring aspects of the project.	D
F-FHW-E40124-SC	US 176, Relocation and Widening Union City, Spartanburg and Union Counties, South Carolina.	EPA continues to have environmental reservations regarding air and noise impacts. EPA feels that there is not enough information regarding the assumption(s) utilized in the "predetermined" air quality analysis to ensure it is representative of a "worst case" situation. EPA requests that the aforementioned agreement be submitted for review including details of the air quality analysis which formed the basis for this agreement.	E
F-FHW-E40150-FL	Port Everglades Expressway, FL-817, Construction, Broward County, Florida.	EPA is still concerned about possible noise impacts resulting from moving the Port Everglades Railroad alignment in close proximity to residential areas.	E
FS-FHW-E40151-FL	FL-74 to Canal C-23, FL-9/I-95, Martin and Palm Beach Counties, Florida.	Generally, EPA's concerns were adequately addressed in the supplement to the final EIS. However, EPA recommended design changes which would intercept runoff from the proposed project. EPA made several comments regarding air quality.	E
F-FHW-F40063-OH	I-675, I-75 to Existing I-675, near Dayton, Montgomery and Greene Counties, Ohio.	EPA's concerns were adequately addressed in the final EIS. The decision to limit construction has eliminated the cause of several EPA concerns.	F
F-FHW-J40023-CO	CO-13 through Rifle Project F, Garfield County, Colorado.	EPA's concerns were adequately addressed in the final EIS.	I
F-FHW-J40033-CO	CO-133 Improvement, Hotchkiss to Paonia Dam, Delta and Gunnison Counties, Colorado.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommends that water quality be protected during construction and operation and that erosion control measures be implemented.	I
F-FHW-J40042-ND	US 2, Souris River Crossing, Towners to Rugby, Ward and McHenry Counties, North Dakota.	EPA continues to have environmental reservations on the project as proposed. Specifically, the overview section of the EIS is inadequate in that it only proposes partial replacement of the wetland acres that will be filled in by the project nor does this proposal meet the policy objectives of EO 11990 or DOT Order 5601.1b.	I
		DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-F85041-IL	Poplar Hills Development, Hoffman Estates, Illinois.	EPA's concerns were adequately addressed in the final EIS. However, EPA has concerns about the adequacy of sewage treatment facilities and for the long range water supply.	F
F-HUD-K85021-HI	Gentry-Waipo Development, Waipo, Oahu, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
		TENNESSEE VALLEY AUTHORITY	
F-TVA-G01003-NM	Crownpoint Uranium Mining Project, McKinley County, New Mexico.	EPA continues to have environmental reservations with the proposed project action since its implementation may significantly affect both the socioeconomics and water resources of the area. Furthermore, EPA requests the TVA and Mobil Oil Corporation (MOC) consider using the in-situ leaching method of ore recovery wherever feasible and environmentally sound.	G
		DEPARTMENT OF THE INTERIOR	
FS-BLM-A67005-FL	Phosphate Leasing, Osceola National Forest, Florida.	EPA continues to believe that implementation of any of the alternative actions which involve issuance of preference right leases would be unsatisfactory from the standpoint of environmental quality. In EPA's opinion it will be impossible to satisfactorily mitigate the destruction of 28,000+ acres of the Osceola ecosystem. In view of the present supplies of phosphate on private land and the inability to restore mined land to current use, we strongly recommend that no leases for phosphate mining in Osceola National Forest should be issued at this time. EPA has referred this proposal to the Council on Environmental Quality pursuant to section 309(b) of the Clean Air Act.	A
F-IBR-K28006-AZ	Salt Gila Aqueduct and Transmission, Central Arizona Project, Arizona.	EPA's concerns were adequately addressed in the final EIS. However, EPA highlighted several areas of concern relating to water quality issues on the Central Arizona Project..	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Jan. 1, 1980 and Jan. 31, 1980*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
FS-COE-A30071-NY	Beach Erosion Control and Hurricane Protection, East Rockaway Inlet to Rockaway Inlet, New York	C
	DEPARTMENT OF AGRICULTURE	
F-AFS-J65084-MT	Hoodoo-Fisher Mountain Planning Unit, Land Management Plan, Kootenai National Forest, Lincoln County, Montana	I
F-AFS-J07008—MT	Land Management Plan, Wolf Planning Unit, Kootenai National Forest, Flathead Couhty, Montana	I
F-REA-J07008-CO	Colorado-Ute Coal-fired Power Plant, Craig Station Unit 3, Moffat County, Colorado	I

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Jan. 1, 1980 and Jan. 31, 1980*—Continued

Identifying No.	Title	Source of review
DEPARTMENT OF TRANSPORTATION		
F-FHW-C40030-NY	NY-9, Cedar Place to Beach Road, Village of Ossining, Westchester County, New York	C
F-FHW-E40166-NC	I-85, Charlotte Bypass, NC-273 to US 29/NC-49, Gaston and Mecklenburg Counties, North Carolina	E
F-FHW-H40043-NB	NB-63 and US 6 Improvements, Ashland, Saunders County, Nebraska (FHWA-NEB-EIS-75-11-F)	H
INTERSTATE COMMERCE COMMISSION		
F-ICC-H53001-00	Purchase of Rock Island Railroad Line, New Mexico to Missouri (Docket 28799, 29028)	H

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Jan. 1, 1980 and Jan. 31, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
R-COE-A86159-00	33 CFR Part 232, Water Resources Policy and Authorities, Establishment of Wetlands (44 FR 61308).	EPA recommends the rules include an explanation that projects to be exempted from permit requirements under section 404(r) of the Clean Water Act require that the section 404(b)(1) guidelines be considered in an environmental impact statement submitted to Congress prior to discharge of dredged or fill material and prior to authorization of funds by Congress. EPA also recommends that the proposed rule include policy guidance and criteria justification for decisionmaking as to whether or not construction will take place in a wetland.	A
A-COE-D35022-00	Stage 1 Reconnaissance Report, Delaware River Dredging Disposal Study, Trenton, New Jersey to Indiana River Inlet and Bay, Delaware.	EPA concurs with the establishment of a cooperative interagency planning effort to assist in the regional plan.	D
A-COE-K36040-99	Alternatives Environmental Working Paper, Truckee Meadows Investigation.	EPA raised several concerns relating to the section 404(b) guidelines	J
DEPARTMENT OF AGRICULTURE			
R-ASC-A99147-00	7 CFR Part 700, 1980 Rural Clean Water Program (RCWP), Proposed Rules (44 FR 76202).	EPA recommends addition of a preface to explain that the final RCWP rules apply only to implementation of this one year experimental program. EPA presumes any new congressional authorization would require a new EIS as is required for all major Federal actions significantly impacting the environment.	A
DEPARTMENT OF THE INTERIOR			
R-BLM-A60108-00	43 CFR Groups 2700, Sale of Public Lands (44 FR 61880).	EPA recommends clarification as to what criteria will be applied in identifying tracts of public lands to be deferred for sale. A list of disposal criteria, including those mentioned in the Federal Land Policy and Management Act, would help clarify how tracts of public land will be selected.	A
R-BLM-A65136-00	43 CFR Part 2800, Federal Land Policy and Management Act, Management of Right-of-Way and Related Facilities on Public Lands and Reimbursement of Costs.	EPA suggests that if the action does not require an EIS, a description of the proposed mitigation measures should also be required by the authorizing officer. EPA recommends the environmental protection plan provide broad guidance as to when an EIS will be prepared. We suggest explicit guidance be provided as to when the authorized officer may require the holder of a right-of-way grant to furnish a bond.	A
DEPARTMENT OF TRANSPORTATION			
A-FAA-D51015-VA	Concept Study, Washington National Airport, Overrun Area Enlargement, Arlington County, Virginia.	EPA made several comments and recommendations including the FAA's continued analysis of alternatives.	D
A-FAA-J52000-WY	Amendment, Frontier Airlines Boeing 737, Jackson Hole Airport, Teton County, Wyoming.	EPA wrote to FAA indicating that the revisions had inadequately addressed potential noise impacts on the Grand Teton National Park.	I
A-FHW-D40036-VA	Water Quality and Ecological Resources Technical Report, I-95 Location and Preliminary Design Study, Richmond to Petersburg, Virginia.	EPA made several recommendations to minimize the impacts associated with channelization and wetland areas.	D
A-FHW-D40082-MD	Draft Air Quality Analysis, I-195, I-95 to Baltimore/Washington Airport, Maryland.	EPA has reviewed the draft air quality analysis and has no objections to the project as proposed.	D
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
A-HUD-G85133-TX	Additional Information, Sugarmill Subdivision, Sugar Lane, Fort Bend County, Texas.	EPA's concerns have been adequately addressed	G

Appendix VI.—*Source for Copies of EPA Comments*

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30308

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203

J. Director of Public Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108

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K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

[FR Doc. 80-25805 Filed 8-25-80; 8:45 am]
BILLING CODE 6560-01

[OPTS-53016; FRL 1586-6]

Premanufacture Notices Status for July 1980

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for July 1980.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on a specific chemical substance.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Paige Beville, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-8816.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal REgister** on May 15, 1979 (44 FR 28558). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has 90 days to review a PMN once the agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances that EPA has added to the Inventory during the month. Therefore, EPA is publishing the July, 1980 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, 401 M ST., SW, Washington, DC 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-53016]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's, and other documents in public record may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 18, 1980.

Walter W. Kovalick, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

Premanufacture Notices Status Report for July, 1980

PMN No.	Identify/generic name	FR citation	Expiration date
I. Premanufacture Notices Received During the Month			
80-154	Generic name: Reaction products of [(amino-disubstitutedcarbomonocyclic) azo]carbomonocyclesulfonic acid and [(amino-monosubstituted-carbomonocyclic)azo] carbomonocyclesulfonic acid with carbonic dichloride.	45 FR 51647. (8/4/80)	Sept. 30, 1980.
80-155	Cyclohexanehexacarboxylic acid, penta sodium salt	45 FR 51262. (8/1/80)	Do.
80-157	Generic name: Halogenated polyimide	45 FR 51264. (8/1/80)	Oct. 4, 1980.
80-158	Polymer of: Epoxy resin, maleic anhydride, butanol, styrene, methacrylic acid.	45 FR 51264. (8/1/80)	Do.
80-159	Generic name: Resin from monocarboxylic acids, polyhydric alcohols, dibasic acid anhydride, polycarboxylic acid anhydride, and a silicone resin.	In preparation	Nov. 3, 1980.
80-160	Generic name: Hydrolyzed starch-poly-(acrylonitrile) copolymer.	45 FR 51262. (8/1/80)	Oct. 6, 1980.
80-161	Polymer of 2,2-dimethyl; 1,3-propanediol; 2,2,4-trimethyl, 1,3-pentanediol; butendioic acid.	45 FR 51646. (8/4/80)	Do.
80-162	Generic name: Lignosulfonate reaction product with an alkenoic acid and an inorganic salt.	45 FR 51274. (8/1/80)	Do.
80-163	Generic name: Monosubstituted dialkyl aniline	45 FR 51910. (8/5/80)	Oct. 13, 1980.
80-164	Generic name: Disubstituted indole	45 FR 51910. (8/5/80)	Do.
80-165	Ethanedioic acid, di-*N*-butyl ester	45 FR 51272. (8/1/80)	Do.
80-166	Generic name: Carbocyanine dye	45 FR 51908. (8/5/80)	Do.
80-167	Generic name: Arylhydrazide	45 FR 51908. (8/5/80)	Do.
80-168	Generic name: Disubstituted pyrazoloquinazolone	45 FR 51908. (8/5/80)	Do.
80-169	Generic name: Disubstituted pyrazoloquinazolone carboxaldehyde.	45 FR 51908. (8/5/80)	Do.
80-170	Zinc dibutyl dithiocarbamate dibutylamine complex	In preparation	Oct. 14, 1980.
80-171	Generic name: Polyester plasticizer	In preparation	Do.
80-172	Generic name: Polyisobutenyl succinic anhydride reaction products with substituted ethanol.	45 FR 52241. (8/6/80)	Do.
80-173	Generic name: Polyester of: Adipic acid, phthalic anhydride, trimethylol propane, ethylene glycol, and diethylene glycol.	In preparation	Oct. 15, 1980.
80-174	Generic name: Polyester reaction product with toluene diisocyanate acrylate terminated.	45 FR 52243. (8/5/80)	Do.
80-175	Generic name: Alkyd resin polymer, fatty acid, and urethane modified.	In preparation	Oct. 16, 1980.
80-176	Generic name: Oxirane, polymer with methyl oxirane, 1,1'-methylenebis(4-isocyanatocyclohexane), and (2-hydroxyethyl)-2-propenoate.	In preparation	Oct. 19, 1980.
80-177	Generic name: Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate.	In preparation	Do.
80-178	Generic name: Isocyanate terminated urethane prepolymer	In preparation	Do.
80-179	Generic name: Polymer of mixed alkyl acrylates	In preparation	Do.
80-180	Generic name: Polymer of: Carbomonocyclic carboxylic acid, alkanediol, and 2,5-furandiol.	In preparation	Oct. 22, 1980.

Premanufacture Notices Status Report for July, 1980

I. Premanufacture Notices Received During the Month—Continued

PMN No.	Identify/generic name	FR citation	Expiration date
80-181	Benzenemethanamiunium, *ar*-bromoethenyl-*N,N,N*-trimethylchloride (or sulfate), polymer with diethenylbenzene, diisopropenylbenzene, and 2-methyl-1, 3-butadiene.	In preparation	Oct. 19, 1980.
80-182	Generic name: Alkanedioic acids mixed alkanolamines salt	In preparation	Oct. 21, 1980.
80-183	Generic name: Dimethylaminopropyl fluoroalkyl adducts	In preparation	Oct. 22, 1980.
80-184	Polymer of: Castor oil fatty acid, benzoic acid, epoxy resin, fumaric acid, styrene, and *N,N*-dimethyl ethanol amine.	In preparation	Oct. 28, 1980.
80-185	Generic name: Polymer of hydroxyethyl acrylate, styrene, 2-ethylhexyl acrylate, alkyl methacrylate, substituted alkyl acrylate, and alkyl mercaptan.	In preparation	Do.
80-186	*N*-Methyl-2,4-dinitro-*N*-phenyl 6-(trifluoromethyl) benzeneamine.	In preparation	Do.
80-187	Generic name: 1-Amino-4-substituted-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid.	In preparation	Do.
80-188	Generic name: Primary amyl nitrates	In preparation	Do.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identify/generic name	FR citation	Expiration date
80-26	Generic name: Substituted heteromonocylce derivative of 1,4-hexadiene, polymer with ethene and 1-propene.	45 FR 44397. (7/1/80)	Aug. 4, 1980.
80-27	Generic name: Substituted heteromonocycle derivative of 1,4-hexadiene, polymer with ethene and 1-propene.	45 FR 44397. (7/1/80)	Do.
80-93	4,7-Methano-1*H*-Inden-5-o1-3a, 4,5,6,7,7a-hexahydro-dimethyl.	45 FR 34999. (5/23/80)	Aug. 3, 1980.
80-94	Generic name: Monosubstitutedbenzene-sulfonamide	45 FR 34999. (5/23/80)	Do.
80-95	Generic name: Monosubstitutedbenzene sulfonyl chloride	45 FR 34999. (5/23/80)	Do.
80-96	Generic name: Monosubstitutedbenzenediazonium chloride	45 FR 34999. (5/23/80)	Do.
80-97	Generic name: Trisubstitutedtriazine	45 FR 34999. (5/23/80)	Do.
80-98	Generic name: Monosubstituted alkanimidic acid, alkyl ester.	45 FR 34999. (5/23/80)	Do.
80-99	Generic name: Hydroxy functional acrylic	45 FR 37280. (6/2/80)	Aug. 5, 1980.
80-100	Dimethyl 1,4-benzenedicarboxylate, polymer with 1,6-hexanediol, 2,2-dimethyl-1, 3-propanediol, 1,3-benzene dicarboxylic acid, and 1,6-hexanedioic acid.	45 FR 37280. (6/2/80)	Do.
80-101	1,3-Isobenzofurandione, polymer with 1,6-hexanediol, 3,3-dimethyl-1,3-propanediol, 2-ethyl-2-hydroxymethyl-1-1, 3-propanediol, 2-ethyl-2-hydroxymethyl-1,3-propanediol, and 2,2-dimethyl-3-hydroxypropyl-2,2-dimethyl-3-hydroxypropionate.	45 FR 37280. (6/2/80)	Do.
80-102	Generic name: 5-[6-(3-substituted phenylamino)4-chloro-(1,3,5-triazin-2-yl)-amino]-3-(3-substituted-2-hydroxy-5-sulfophenylazo)-4-hydroxy-naphthalene-2,7-disulfonic acid, copper complex, salt.	45 FR 37279. (6/2/80)	Aug. 17, 1980.
80-103	Generic name: Styrene-maleic anhydride-methyl methacrylate polymer.	45 FR 41058. (6/17/80)	Aug. 17, 1980.
80-104	Generic name: Polymer of cyclo aliphatic diisocyanate, 2-oxohexanethyleneimine, hydroxy alkyl alkyl alkanediol.	45 FR 37727. (6/17/80)	Do.
80-105	Monoethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.	45 FR 37727. (6/17/80)	Aug. 19, 1980.
80-106	Diethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.	45 FR 37727. (6/17/80)	Do.
80-107	Triethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.	45 FR 37727. (6/17/80)	Do.
80-108	Hydrogenated petroleum hydrocarbon resin	45 FR 41060. (6/17/80)	Aug. 20, 1980.
80-109	Generic name: 3-(1-Amino-2-sulfo-4-anthraquinonylamino)-benzene sulfon-3-substituted anilide.	45 FR 41063. (6/17/80)	Do.
80-110	Generic name: 2-(2-Methylsubstituted) ethyloxycarbonylsubstituted) phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Aug. 25, 1960.
80-111	Generic name: 2-((2-Methylsubstituted) ethyloxycarbonylsubstituted phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Do.
80-112	Generic name: 2-((2-Methylsubstituted) ethyloxycarbonylsubstituted) phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Do.
80-113	Generic name: (2-(2-Methylsubstituted)phenyl) diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Do.
80-114	Dioxo, (Methylheteropolycyclic), diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Aug. 25, 1980.
80-115	Generic name: (Dioxoheteropolycyclic), diheteropolycyclic heteropolycycle.	45 FR 42018. (6/23/80)	Do.

Premanufacture Notices Status Report for July, 1980

PMN No	Identity/generic name	FR citation	Expiration date
II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued			
80-116	Generic name: (2-Substitutedphenyl), diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Do.
80-117	Generic name: Salt form of acrylic acid-acrylate copolymer	45 FR 41064 (6/17/80)	Aug. 26, 1980
80-118	Generic name: A polymer of styrene, hydroxy functional monomers, esters of acrylic and methacrylic acid.	45 FR 42017 (6/23/80)	Aug. 27, 1980
80-119	Generic name: 2-(di-(dimethyl, substituted-carbonomonocyclic) alkyl) (methyl, carboxysubstituted) benzene, (methyl-substituted) ethyl ester.	45 FR 42013 (6/23/80)	Do.
80-120	Generic name: Methyl, trisubstitutedhetero-polycycle	45 FR 42013 (6/23/80)	Do
80-121	Generic name: 1-Substituted-3, 5-dimethyl-4-substitutedbenzene.	45 FR 42013 (6/23/80)	Do
80-122	Generic name: 2-(di-(3,5-dimethyl-4-substitutedphenyl) hydroxyalkyl)-(methyl, carboxy-substituted) benzene, (methyl-substituted) ethyl ester.	45 FR 42013 (6/23/80)	Do
80-123	Generic name: 2-(di-(3,5-dimethyl-4-substitutedphenyl) hydroxyalkyl)-(methylsubstituted) benzene.	45 FR 42013 (6/23/80)	Do
80-124	Generic name: Amine disalts of aliphatic dicarboxylic acids	45 FR 44396 (7/1/80)	Do.
80-125	Isophthalic acid, terephthalic acid, dimer acid, propylene glycol, and neopentyl glycol polyester.	45 FR 42016 (6/23/80)	Do
80-126	Resin from tall oil fatty acids, trimethylolpropane, trimethylolethane, phthalic anhydride, and benzoic acid.	45 FR 43866 (6/30/80)	Do.
80-127	Generic name: Polymer product of an acrylate ester and a polyhydroxy compound.	45 FR 42012 (6/23/80)	Do.
80-128	Generic name: Polyester resin CR1214-1	45 FR 44396 (7/1/80)	Aug. 31, 1980
80-129	Generic name: Poly(amide-ester) resin X2-669	45 FR 44394 (7/1/80)	Sept. 3, 1980
80-130	Generic name: Poly(amide-ester) resin X2-600	45 FR 44394 (7/1/80)	Do.
80-131	2-[2-[4-(2-hydroxyethoxy)phenyl] ethenyl]-4,6-bis(trichloromethyl)-1,3,5-triazine.	45 FR 43461 (6/27/80)	Do.
80-132	Generic name: Acidic phenyltetrazole derivative	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80-133	Generic name: Substituted nitroaromatic	45 FR 43864 (6/30/80)	Do.
80-134	Generic name: Nitro acid	45 FR 43864 (6/30/80)	Do
80-135	Generic name: Substituted propane	45 FR 43864 (6/30/80)	Do.
80-136	12-Molybdosilicic acid	45 FR 46207 (7/9/80)	Sept. 15, 1980.
80-137	Generic name: Benzeneamine, 4,4′-methylene bis [*N*-(1-methylhexylidene].	45 FR 48243 (7/18/80)	Do.
80-138	Generic name: Benzeneamine, 4,4′-methylene bis [*N*-(1-methylbutylidene]:	45 FR 48243 (7/18/80)	Do.
80-139	Generic name: Epón 1004, soya fatty acid, styrene acrylic acid, and di-tertiary butyl peroxide.	45 FR 46199 (7/9/80)	Do.
80-140	Generic name: Polymer of: Epoxy resin, styrene, diallyl amine, dimethyl amino propyl methacrylamide, 2-ethyl hexyl methacrylate, and isobutoxy methylacrylamide.	45 FR 46199 (7/9/80)	Do.
80-141	Generic name: Substituted-(substituted-alkenyl)-heteropolycyclic salt.	45 FR 49157 (7/23/80)	Sept. 17, 1980.
80-142	Neopentyl glycol, dimerized fatty acid polymer	45 FR 49150 (7/23/89)	Sept. 21, 1980.
80-143	Generic name: Complex of *p*-phenylphenol and an alkyl amine.	45 FR 46202 (7/9/80)	Do.
80-144	Generic name: Amineextended alpha-*w*-hydroxy-poly[oxy(methyl-1,2-ethanediyl)]polymer with 1,3-diisocyanatomethylbenzene.	45 FR 49149 (7/23/80)	Do.
80-145	Generic name: Methyl-(substituted)-(disubstituted) carbomonocycle.	45 FR 49157 (7/23/80)	Do.
80-146	Phosphorodithioic acid, *O,O′*-di (isohexyl, isoheptyl, isooctyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 23, 1980.
80-147	Phosphorodithioic acid, *O,O′*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters.	45 FR 49153 (7/23/80)	Do.
80-148	Supra castor fatty acid, tall oil fatty acid, trimethylolpropane, pentaerythritol, phthalic anhydride, and para-tert butylbenzoic acid alkyd polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-149	Generic name: Soya fatty acid, supra castor fatty acid, benzoic acid, phthfalic anhydride, maleic anhydride, and pentaerythritol alkyl polymer.	45 FR 49155 (7/23/80)	Sept. 25, 1980.
80-150	Generic name: Safflower fatty acid type, phthalic anhydride, maleic anhydride, trimethylolpropane, pentaerythritol alkyd polymer.	45 FR 49155 (7/23/80)	Do.
80-151	Generic name: Substituted-(substitutedvinyl)-heteropolycyclic salt.	45 FR 49152 (7/23/80)	Sept. 25, 1980.
80-152	Poly(vinylacetate-co-butyl acrylate, tertoctylacrylamide)	45 FR 49151 (7/23/80)	Do.

Premanufacture Notices Status Report for July, 1980

III. Premanufacture Notices for Which the Notice Review Period Has Ended During the Month

(Expiration of the notice review period does not signify that the chemical has been added to the Inventory)

PMN No	Identify/generic name	FR citation	Expiration date
80-34	Generic name: Phosphorodithioic acid, dialkyl ester, $C_{12\text{-}14}$ tert-alkylamine salts.	45 FR 35001 (5/23/80)	July 23, 1980.
80-35	Generic name: Substituted phenol, reaction products with $C_{22\text{-}30}$ alkenes.	45 FR 35001 (5/23/80)	Do.
80-73	Generic name: Salt of: Formaldehyde, 4-(phenylamino)-substituted-benzene polymer and 2-butenedioic acid, 1,4-cyclohexanedimethanol, 2,4-diisocyanato-1-methylbenzene, 1,2-ethanediol, 2-oxepanone, and 5-substituted-1,3-benzenedicarboxylic acid polymer.	45 FR 30127 (5/7/80)	July 2, 1980
80-75	Polymer of: 12-Hydroxy stearic acid and epoxy resin	45 FR 30127 (5/7/80)	Do.
80-76	Generic name: Alkyd resin TV79-0777	45 FR 30127 (5/7/80)	Do.
80-77	Generic name: Alkyd resin X4-779	45 FR 30127 (5/7/80)	Do.
80-78	Generic name: Bis(Substituted alkyl) 1,2-cyclohexanedicarboxylate.	45 FR 30131 (5/7/80)	July 7, 1980.
80-80	Amides from diethylenetriamine and methyl tallowate compounds with diethylsulfate.	45 FR 30130 (5/7/80)	Do.
80-81	Generic name: Methylphenylsubstituted-heteromonocylic salt	45 FR 30131 (5/7/80)	July 8, 1980
80-82	Polymer of: Epoxy resin, diallylamine, 2-ethyl hexyl methacrylate, hydroxy ethyl acrylate, dimethylamino propyl methacrylamide, and dimethylolpropionic acid.	45 FR 31489 (5/13/80)	July 17, 1980.
80-83	Generic name: Unsaturated polyester resin based on six monomers including maleic anhydride, phthalic anhydride, an alkylene glycol, and an alkylene ether glycol.	45 FR 32772 (5/19/80)	July 28, 1980
80-84	Generic name: Polyester reaction product with isophorone diisocyanate and hydroxypropyl acrylate.	45 FR 30132 (5/7/80)	July 20, 1980
80-85	Generic name: Copolymer of substituted ethenylheterocycle and substituted ethylbenzene.	45 FR 31489 (5/13/80)	July 21, 1980
80-86	Generic name: Alkene dicarboxylic acids, alkane dicarboxylic acid, resin, pentaerythritol, and diaminoalkane polyamide.	45 FR 30687 (5/9/80)	Do
80-87	Generic name: Alkene dicarboxylic acid, alkane dicarboxylic acid, alkane carboxylic acid, and diaminoalkanes polyamide.	45 FR 30687 (5/9/80)	Do.
80-88	Generic name: Cyanoalkyl carbomonocyclicsulfonate	45 FR 32772 (5/19/80)	July 22, 1980
80-89	Copolymer of isononanoic acid, phthalic anhydride, maleic anhydride, and pentaerythritol polymer (subject of PMN 80-55) and formaldehyde; butylated and 2-ethylhexylated urea polymer.	45 FR 32426 (5/16/80)	Do.
80-90	Generic name: Dimethyl (substituted)-heteromonocyclic salt	45 FR 32426 (5/19/80)	July 23, 1980
80-91	Generic name: 1,3-Naphthalenedisulfonic acid, 6,6'-[1,2-ethenediylbis [(3-sulfo-4,1-phenylene)azo]]bis-[4-amino-5-hydroxy, compounded with tris-(substituted ethyl)-ammonium hydroxide (1:6).	45 FR 32772 (5/19/80)	July 30, 1980
80-92	Polymer of: Tall oil fatty acid, styreneallyl alcohol copolymer, acrylic acid, and styrene.	45 FR 32771 (5/19/80)	Do

IV. New Chemical Substances That EPA Has Added to the Inventory During the Month

5AHQ-0979-0016	National Starch and Chemical Corp.	N-Methanesulfonyl-*p*-toluene sulfonamide	44 FR 59955 (10/17/79).
5AHQ-0979-0019A	Ferro Corp	Benzene, ethenyl-tribromo derivative homopolymer.	44 FR 67523 (11/26/79).
80-7	International Minerals and Chemical Corp.	Polymer of dehydrated castor oil, trimethylolethane, phthalic anhydride, and benzoic acid.	45 FR 12901 (11/27/80).
80-16	Humko Sheffield	Stearyl stearamide	45 FR 11904 (2/22/80).
80-32	Ethyl Corp	Zinc salt of dialkyl dithio-phosphate	45 FR 18477 (3/21/80).
80-80	Grestco Dyes and Chemical Inc.	Amides from diethylenetriamine and tallow ester compounds with diethylsulfate.	45 FR 30130 (5/7/80).
80-88	Ciba-Geigy Corp	Cyanoalkyl carbomonocyclicsulfonate	45 FR 32772 (5/19/80).

[FR Doc. 80-25808 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

V 45 AG 26 80 UMI

[FRL 1570-8]

Consumer Affairs Program in Compliance With Executive Order 12160; "Providing for Enhancement and Coordination of Federal Consumer Programs"

Correction

In FR Doc. 80-24576, appearing on page 54420 in the issue of Friday, August 15, 1980, make the following correction:

In the "**Summary:**", the tenth line should have read: "determine whether and in what manner the several EPA offices that deal with complaints could supply".

[PW-23; FRL 1587-4]

Ciba-Geigy Corp.; Withdrawal of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has submitted a withdrawal for a pesticide petition (PP 8F2046) for residues of the insecticide/miticide methidathion (*0,0*-dimethyl phosphorodithioate S-ester with 4-(mercaptomethyl)-2-methoxy-delta 2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodities corn grain at 0.05 part per million (ppm) and corn fodder at 2.0 ppm.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-303, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202-426-2635).

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of March 3, 1980 (43 FR 8844) that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, submitted a pesticide petition (PP 8F2046) proposing that 40 CFR 180.298 be amended by establishing tolerances for residues of the insecticide/miticide methidathion (*0,0*-dimethyl phosphorodithioate S-ester with *4*-(mercaptomethyl)-2-methoxy-delta 2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodities corn grain at 0.05 ppm and corn fodder at 2.0 ppm.

Ciba-Geigy Corp. has withdrawn this petition without prejudice to further filing in accordance with the regulation (40 CFR 121.52) pertaining to section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: August 18, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26012 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 50495; FRL 1587-5]

FMC Corp.; Extension of Experimental use Permit

The Environmental Protection Agency (EPA) has issued an extension of an experimental use permit to the following applicant. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA producers with respect to the use of pesticide for experimental purposes.

279-EUP-69. FMC Corp., Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 277 pounds of the insecticide permethrin on lettuce, soybeans, and tomatoes to evaluate contol of various insects. A total of 875 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texes, Virginia, and Washington. The program is effective from July 14, 1980 to July 14, 1980. The permit is being issued under the condition that all crops will be destroyed or used for research purposes only. (PM 17, Franklin D. R. Gee, Rm. E-343, 202/426-9417)

Persons wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding this permit should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: August 18, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26011 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50491, FRL 1588-6]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

201-EUP-68. Shell Oil Suite 200, 1025 Connecticut Avenue, Washington, D.C. 20036. This experimental use permit allows the use of 1,645 pounds of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)beneazeneacetate on cotton to control various insects. A total of 1,640 acres are involved. The program is authorized only in the States of Alabama, Arizona, Georgia, Louisiana, Mississippi, South Carolina, and Texas. The program is effective from June 20, 1980 to June 20, 1981. (A permanent tolerance for the residues of the insecticide on cotton has been established § 180.377) (PM 17, Franklin D.R. Gee, Rm. E-341, 202/426-9417)

No. 241-EUP-95. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 400 pounds of the herbicide pendimethalin (N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine) on wheat to evaluate control of weeds. A total of 325 acres are involved. The program is authorized only in the States of Arizona and California. The experimental use permit is effective from September 1, 1980 to September 1, 1981. A temporary tolerance for the residues of pendimethalin on wheat grain and wheat straw has been established. (PM-25, Robert J. Taylor, Rm. E-359, 202/755-2196).

6704-EUP-23. U.S. Fish and Wildlife Service, Building 16, Denver, Federal Center, Denver, CO 80225. This experimental use permit allows the use of 717 pounds of the rodenticide fumigant mixture sodium nitrate and charcoal in ground squirrel burrows to evaluate control of ground squirrels. A total of 32 acres are involved. The program is authorized only in the State of Montana. The program is effective from May 14, 1980 to September 1, 1980. (PM-16, William H. Miller, Rm. E-343, 202/426-4206).

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: August 19, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26016 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[PW-21; FRL 1587-7]

Mobay Chemical Corp.; Withdrawal of a Food Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On November 2, 1978, the EPA gave notice (43 FR 51132) that Mobay Chemical Corp. PO Box 4913, Kansas City, MO 64120, had filed a food additive petition (FAP 8H5194). The petition proposed establishment of a food additive tolerance for residues of the insecticide *O,S*-dimethyl phosphoramidothioate in dried peppers (including flakes) at 18 parts per million (ppm).

Mobay Chemical Corp. has withdrawn this petition without prejudice to future filing in accordance with the regulations (40 CFR 121.52) pertaining to Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: August 19, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26008 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1588-4; PP 7G1888/T262]

Profenofos; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the insecticide profenofos (*0*-(4-bromo-2-chlorophenyl)-*0*-ethyl *S*-propyl phosphorothioate) and its metabolites converted to 4-bromo-2-chlorophenol and calculated as *0*-(4-bromo-2-chlorophenyl)-*0*-ethyl *S*-propyl phosphorothioate in or on the raw agricultural commodities cottonseed at 3 parts per million (ppm); eggs and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; and milk at 0.01 ppm.

ADDRESS: William H. Miller, Product Manager (PM) 16, Registration Division (TS-769), Office of Pesticide Programs, Rm: E-343, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William Miller (202-426-9458) at the above address.

SUPPLEMENTARY INFORMATION: EPA issued a renewal of temporary tolerances that published in the **Federal Register** on August 22, 1979 (44 FR 49302) to Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro, NC 27409. The petition (PP 7G1888) requested a one-year renewal of the temporary tolerance to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136). These temporary tolerances will expire August 16, 1980.

Ciba-Geigy Corp. requested an extension of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use that is being renewed under FIFRA. A related document extending feed additive tolerances for residues of profenofos in cottonseed hulls and soapstock appears elsewhere in this issue of the **Federal Register**.

The scientific data reported and all other relevant material have been evaluated, and it has been determined that extension of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are being extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the insecticide to be used must not exceed the amount authorized in the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire October 17, 1980. Residues not in excess of 3 ppm remaining in or on cottonseed; 0.05 ppm remaining in eggs and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; and 0.01 ppm remaining in milk after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 136a(j)))

Dated: August 15, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26018 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP C30176A; FRL 1588-5]

Receipt of Application To Conditionally Register Pesticide Product Containing New Active Ingredient; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends a notice that published in the **Federal Register** on March 28, 1980 (45 FR 20543).

DATE: Written comments must be received on or before September 25, 1980.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-341, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (202-426-9417) at the above address.

SUPPLEMENTARY INFORMATION: On April 18, 1980 EPA issued a notice that published in the **Federal Register** (45 FR 205543) that Conrel, Albany International Co., 110 A St., Needham Heights, MA 02149 had submitted to the EPA an application to conditionally register a pesticide product entailing a changed use pattern. Peach and prune trees were inadvertly omitted from that notice. Conrel requested an amendment to the previous notice to include these trees.

The application is amended to read: "EPA File Symbol 36638-G. Conrel, Needham Heights, MA 02149. Nomate

V 45 AG 26 80 UMI

Borer—GARD. Active Ingredient: (*E,Z*)-3, 13-octadecadien-1-o1-acetate 0.1% and (*Z,Z*)-3, 13-octadecadien-1-o1 acetate 38% which have not been included in a previously registered pesticide product. The application purposes that the pesticide be classified for general use as an insecticide to disrupt the mating of the peachtree borer and lesser peachtree borer on peach, almond, apricot, cherry nectarine, prune, and plum trees."

(Sec. 3(c)(4), 86 Stat. 72; (7 U.S.C. 136a))

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26017 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[PF-194; FRL 1587-6]

Shell Chemical Co.; Filing of a Food Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of a food additive petition by Shell Chemical Company proposing to establish tolerances for the insecticide cyano (3-phenoxy-phenyl)methyl-4-chloro-alpha-(1-methylethyl) benseneacetate (pydrin) on dried apple pomace at 20 parts per million (ppm) and dried tomato pomace at 10 ppm, under the Federal Food, Drug, and Cosmetic Act.

ADDRESS: Written comments and inquiries should be directed to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/426-9741.

Written comments may be submitted while the petition is pending before the Agency. The comments are to be identified by the document control number "[PF-194]" and the petition number (PP OH5266).

All written comments filed pursuant to this notice of filing will be available for public inspection in the Product Manager's Office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: Shell Chemical Company, Suite No. 200, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, has submitted a pesticide petition (PP OH5266) to EPA proposing to amend 21 CFR Part 193 and Part 561 by establishing tolerances for the residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate (pydrin) in or on the following commodities:

Commodities	Parts per million
Dried apple, pomace	20
Dried tomato, pomace	10

(Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: August 18, 1980.

Herbert Harrison,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26009 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

[PP 6G1667/T261; FRL 1587-8]

Tebuthiuron; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the herbicide tebuthiuron (*N*-[5-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites in or on the raw agricultural commodities pasture grasses and grass hay at 20 parts per million (ppm).

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-769), Office of Pesticide Programs, Rm. E-359, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202-755-2196).

SUPPLEMENTARY INFORMATION: EPA issued a renewal of the temporary tolerances that published in the **Federal Register** of June 19, 1979 (44 FR 35288) to Elanco Products, Co., Div. of Eli Lilly and Co. P.O. Box 1750, Indianapolis, IN 46206. The petition (PP 6G1667) requested a one-year renewal to permit both the continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

Elanco has requested a one-year renewal of the tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued under FIFRA.

The scientific data reported and all other relevant material have been evaluated, and it was determined that renewal of the temporary tolerances would protect the public health. Therefore, the tolerances have been renewed on the condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The amount of pesticide to be used must not exceed the amount authorized in the experimental use permit.
2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of the product, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA of the Food and Drug Administration.

These temporary tolerances expire July 9, 1981. Residues not in excess of these temporary tolerances remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the expermiental use permit is revoked or if any experience with pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 346(a)(j))

Dated: August 18, 1980.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26014 Filed 8-25-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1241]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

The following listing of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration and applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Petitions for Reconsideration

Subject: Simplification of the Licensing and Call Sign Assignment Systems for Stations in the Amateur Radio Service. (Docket No. 21135)

Filed By: David R. Siddall, (K3ZJ) President for Capitol Hill Amateur Radio Society, (W3KSS) on 7-11-80.

Applications for Review

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Camp LeJeune, North Carolina) (Docket No. 21383)

Filed By: Lloyd D. Young, Attorney for Francon, Inc. on 7–7–80.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–23035 Filed 8–25–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 15, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–3117–1.

Filing Party: Thomas D. Wilcox, Wilcox & Sharood, P.C., 1899 L Street, N.W., Suite 705, Washington, D.C. 20036.

Summary: Agreement No. T–3117–1, between Maher Terminals, Inc. (Maher) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines), modifies the basic agreement between the parties, under which Maher furnishes the Lines comprehensive container terminal, stevedoring and LCL cargo handling (Container Freight Station) services for the Lines' vessels at Elizabeth, New Jersey. The purpose of the modification is to make certain administrative and financial changes, and to extend the agreement for an additional three-year term with an additional two-year renewal option.

Agreement No.: T–3157–1.

Filing Party: George A. Quadrino, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. T–3157–1, between Maher Terminals, Inc., (Maher) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsue O.S.K. Lines, Ltd., Nippon Yusen Kaisha, and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines), modifies the basic agreement which provides for the three-year operation (with renewal options) of a container chassis management service by Maher at its marine terminal located in Port Elizabeth, New Jersey. Pursuant to the terms of the basic agreement, the Lines furnish Maher a fleet of container chassis to be utilized by Maher in a common pool for each and all of the Lines. Maher provides the necessary management services for the movement and control of the chassis. The purpose of the modification is to extend the agreement for an additional three-year period, with another two-year renewal option.

Agreement No.: T–3920.

Filing Party: Stanley P. Hebert, Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2264, Oakland, California 94604.

Summary: Agreement No. T–3920, between the Port of Oakland (Oakland) and Marine Terminals Corporation (Terminals), provides for the two-year nonexclusive preferential assignment (with year-to-year renewal options) to Terminals of certain premises in the "Port Area" of Oakland, California, for the purpose of docking, loading, unloading vessels, and uses incidental thereto. As compensation, Terminals will pay Oakland 85 percent of revenue from dockage, wharfage, wharf demurrage and storage; however, Terminals will pay 90 percent of revenue received on military cargo when Terminals does not perform service and obtains revenue from the service and facilities charges. Oakland is guaranteed a minimum annual compensation of $650,000. Terminals will either file a tariff with Oakland, subject to Oakland's review and control, or may elect to use and be bound by Oakland's tariff. The rate control exercised by Oakland does not include the charge designated as "Service and Facilities Charge."

Agreement No.: T–3922.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. Box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T–3922 between the Administrative Board of the Municipal Piers of Ponce (Administrative Board) and Leopoldo Fontanillas, Inc., (Lessee) provides for the lease of 1,500 sq. ft. in Warehouse No. 3, Ponce, to be utilized as an office; a 1,800 sq. ft. bin in the warehouse for equipment storage; and a covered area of 1,800 sq. ft. to be used for the storage of heavy equipment. The lease will run for three years. The Lessee will pay the Administrative Board a total monthly rental of $510. The facilities are to be used by the Lessee for its business of handling freight through the Port of Ponce.

Agreement No.: T–3923

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. Box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T–3923 between the Administrative Board of the Municipal Piers of Ponce (Administrative Board) and Luis A. Ayala Colon, Sucres, Inc. (Lessee), provides for the Lessee to lease from Administrative Board, land comprising 703.7627 sq. meters located in Ponce Playa, with a cement paved area of 5,980 sq. ft. The lease is to run for four years. Lessee will compensate Administrative Board in the amount of $360 per month for rental of the premises. The facilities are to be used exclusively by the Lessee for the maintenance and care of equipment used by Lessee in its work of handling freight at the leased facilities.

By Order of the Federal Maritime Commission.

Dated: August 21, 1980.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80–26139 Filed 8–25–80; 8:45 am]

BILLING CODE 6730–01–M

Petitions Filed

The Federal Maritime Commission hereby gives notice that the following petition(s) have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petition(s) and the justification(s) offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the petition(s) at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on the petition(s), including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 15, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed petition(s). Comments shall discuss with particularity allegations that the petition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the petition(s) and the statement should indicate that this has been done.

Agreement No.: 9522 DR-10.

Filing Party: Leo S. Fisher, Billig, Sher & Jones, P.C., Attorneys for the Med-Gulf Conference, 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 9522 DR-10 enlarges the geographic scope of the Conference's Dual Rate Contract applicable to the Italian Section to encompass points in Italy including Islands.

By Order of the Federal Martitime Commission.

Dated: August 21, 1980.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-26140 Filed 8-25-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Annual Report; Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463— and Circular A-63, revised, of the Office of Management and Budget notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1979 Annual Report.

The Report summarizes the activities and recommendations of the Committee to the Director, Office of Personnel Management in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1979.

Single copies of the Report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Office of Personnel Management, Room 1340, 1900 E Street, NW., Washington, D.C. 20415.

The Report may be otherwise examined and/pr copies obtained at the above office and address between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, legal holidays excluded.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

August 20, 1980.

[FR Doc. 80-25966 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

Open Committee; Cancellation of Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in 45 FR 54440 of August 15, 1980, that meetings of the Federal Prevailing Rate Advisory Committee would be held on September 4, 1980 and September 11, 1980. Notice is hereby given that the meetings scheduled for those dates have been cancelled.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

August 18, 1980.

[FR Doc. 80-25965 Filed 8-25-80; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 18, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (Insurance activities; Des Peres, Missouri): to engage through its indirect subsidiary, Citicorp Homeowners, Inc., in the indirect sale of property and casualty insurance protecting personal and real property subject to a security agreement with CHI and to the extent permissible under applicable state insurance laws and regulations at offices of CHI in Atlanta, Chattanooga, Columbia, Indianapolis, Louisville, Roanoke, Springfield, Towson and Winston-Salem and will serve CHI customers in the following states: Kentucky, Maryland, North Carolina, South Carolina and Tennessee. Each of these offices serves one or more of the following states: Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Western Bancorporation, Los Angeles, California (mortgage banking and insurance activities; Texas): to engage through its subsidiary, Western Bancorp Mortgage Company, in operating a mortgage banking company including making, acquiring, selling, and servicing real estate construction loans on its own account or for the account of others, and acting as agent or broker with respect to credit life and credit accident and health insurance and mortgage disability and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by Western Bancorporation or its subsidiaries. These activities would be conducted from an office in Dallas, Texas, serving Colorado, Montana, New Mexico, Wyoming, Idaho, Utah, Arizona, Nevada, California, Oregon, Washington, and Texas.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25992 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

Citizens Bancorp.; Formation of Bank Holding Company

Citizens Bancorp, Maud, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank, Maud, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25990 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

First Bank Systems, Inc.; Proposed Acquisition of Tower Mortgage Corporation

First Bank System, Inc., Minneapolis, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire assets of Tower Mortgage Corporation, Minneapolis, Minnesota.

Applicant states that its subsidiary, FBS Homes, Inc., would engage in the origination, purchase, sale, servicing, and brokering of real estate financing of all types and engaging in incidental activities pertaining to the conduct of a mortgage lending and servicing business. The mortgage servicing activities would be performed from offices of Applicant's subsidiary in Minneapolis, Minnesota, and the mortgage brokerage activities from offices in Dallas, Texas; Tulsa, Oklahoma; Houston, Texas; St. Louis, Missouri; Miami, Florida; Atlanta, Georgia; and Kansas City, Missouri, and the geographic areas to be served are the metropolitan areas of Dallas and Houston, Texas; St. Louis and Kansas City, Missouri; Tulsa, Oklahoma; Miami, Florida; and Atlanta, Georgia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 19, 1980.

Board of Governors of the Federal Reserve System, August 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25991 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

Barrington Bancorporation, Inc.; Formation of Bank Holding Company

Barrington Bancorporation, Inc., Barrington, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Barrington State Bank, Barrington, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25925 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

Houston Bancshares, Inc.; Acquisition of Bank

Houston Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of North Side Bank, Houston, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 19, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25926 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

Northwood Financial Services Corp.; Formation of Bank Holding Company

Northwood Financial Services Corporation, Northwood, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Northwood State Bank, Northwood, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal System, August 19, 1980.

Cathy L. Petrysbyn,

Assistant Secretary of the Board.

[FR Doc. 80-25924 Filed 8-25-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-80-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Tennessee Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25994 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-25-M

[E-80-21]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the California Public Utilities Commission involving gas and electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the California Public Utilities Commission involving the application of the San Diego Gas and Electric Utility for an increase in its gas and electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-26045 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-AM-M

[GSA Bulletin FPR 37; Federal Procurement Supplement 7]

Companies Not in Compliance With the Voluntary Wage and Price Standards

August 15, 1980.

To: Heads of Federal agencies.

1. *Purpose.* This supplement provides a complete relisting of all companies that have been determined to be, and are now, in noncompliance with the Voluntary Wage and Price Standards formulated under Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* Attachment A is the July 17, 1980, letter from the Administrator, Office of Federal Procurement Policy, to GSA and DOD. The letter includes the list of companies that are in noncompliance with the Voluntary Wage and Price Standards. The list supersedes the list previously published in GSA Bulletin FPR 37, Supplement 6.

4. *Cancellation.* This bulletin cancels GSA Bulletin FPR 37, Supplement 6, dated June 24, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

July 17, 1980.

Memorandum to: The Secretary of Defense, The Administrator of General Services.
From: Karen Hastie Williams, Administrator, Office of Federal Procurement Policy.
Subject: Companies not in compliance with the Voluntary Wage and Price Standards.

The Council on Wage and Price Stability has determined that the following companies are not in compliance with the Voluntary Wage and Price Standards formulated pursuant to Executive Order 12092 (43 FR 51375). The list is current as of July 15, 1980.

Company	Original date listed
Cement Division compliance unit of Ideal Basic Industries, Inc., P.O. Box 8789, Denver, Colorado 80201.	June 15, 1979
Northwestern Steel and Wire Co., 121 Wallace Street, Sterling, Illinois 61081, DUNS Number 00-526-3157.	July 24, 1979.
Mason Contractors of DuPage County, P.O. Box 129, Mount Prospect, Illinois 60056, DUNS Number 99-106-2472.	July 24, 1979.
American Hoechst Corporation, Route 202-206, North Somerville, New Jersey 08876.	Oct. 23, 1979
Burlington Northern Air Freight, Inc., a unit of Burlington Northern, Inc., 176 East 5th Street, St. Paul, Minnesota 55010, DUNS Number 04-834-1788.	July 2, 1980.
Hotels Division and Hotel-Casinos Division, compliance units of Hilton Hotels Corporation, 9880 Wilshire Blvd., Beverly Hills, California 90210, DUNS Number 00-693-0531 (limited to Hotels Division and Hotel-Casinos Divisions).	July 10, 1980.
Murphy Oil, Domestic Marketing and Refining Division, a compliance unit of Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas 71730, DUNS Number 00-805-3712.	July 15, 1980.

This supersedes the previous list promulgated by OFPP memorandum of June 3, 1980. It should be noted that with respect to certain companies, the compliance unit or geographical area of noncompliance has been specified. In addition, the company's "DUNS Number" in many cases has been added to assist in the identification of the noncompliant company. These numbers are

V 45 AG 26 80 UMI

also used in conjunction with the Federal Procurement Data System.

Pursuant to the terms of Office of Federal Procurement Policy Letter 78-6 dated December 27, 1978, I request that you publish this information in a defense Acquisition Circular and Federal Procurement Regulations Bulletin.

Company	Original date listed
Dundee Cement Company and its subsidiary Santee Portland Cement Company, P.O. Box 122, Dundee, Michigan 48131.	May 2, 1980
Hayatt Hotels compliance unit of Hyatt Corporation (which includes all hotels owned or managed by the Hyatt Corporation), 9701 W. Higgins Road, Rosemont, Illinois 60018.	May 20, 1980
Air Conditioning and Refrigeration Contractors Association, 870 Market Street, San Fancisco, California 94102, DUNS Number 99-106-2548.	May 30, 1980
Industrial Contractors (UMIC, Inc.), P.O. Box 1005, Tiburon, California 94920, DUNS Number 99-106-2555.	May 30, 1980
Plumbing Heating Piping Employers Council, 36 Tiburon Blvd., Mill Valley, California 94941, DUNS Number 99-106-2563.	May 30, 1980
Residential Plumbing and Merchanical Contractors of North California, 1545 B Palos Verdes Mall, Walnut Creek, California 94596, DUNS Number 99-106-2571.	May 30, 1980
Santa Clara Valley Contractors Association, 400 Reed Street, Santa Clara, California 95050, DUNS Number 99-106-2589.	May 30, 1980
National Gypsum Company, 4100 First International Building, Dallas, Texas 75270.	Jan 21, 1980
Crown Central Petroleum Corp., One North Charles, P.O. Box 1168, Baltimore, Maryland 21203.	Mar 25, 1980
Gust K. Newberg Company & Assoc. (out of compliance only in Will County and vicinity, Illinois), 2040 North Ashland Avenue, Chicago, Illinois 60614, DUNS Number 00-693-1869.	Mar 25, 1980
Mid-America Regional Bargaining Association, 228 North LaSalle Street, Chicago, Illinois 60601, DUNS Number 99-106-2514.	Mar 25, 1980
Contractors Association of Will and Grundy Counties, 254½ Rusy Street, Joilet, Illinois 60435, DUNS Number 99-106-2522.	Mar 25, 1980
Residential Construction Employees Council, 1010 Jorie Boulevard, Suite 112, Oak Brook, Illinois 60521, DUNS Number 99-106-2530.	Mar 25, 1980
Koch Fuels, Inc., a compliance unit of Koch Refining Company, P.O. Box 31, Gloucester City, N.J. 08030.	Apr 2, 1980
Church's Fried Chicken, Inc., P.O. Box BH001, San Antonio, Texas 78284.	Apr. 2, 1980
Monolith Portland Cement Co., P.O. Box 3303 Terminal Annex, Suite 201, Glandale, California 91202.	Apr 16, 1980
SCOA Industries, Inc., 155 East Broad Street, Columbus, Ohio 43215.	Oct. 23, 1979
National Electrical Contractors Association (Oregon-Columbia Chapter), 201 S.W. Arthur Street, Portland, Oregon 97201, DUNS Number 99-106-2480.	Oct 23, 1979
The Eureka Company, 1201 East Bell Street, Bloomington, Illinois 61701, DUNS Number 00-116-3823.	Nov. 27, 1979
Portland Association of Plumbing, Heating and Cooling Contractors (two noncomplying agreements), 0612 S.W. Idaho, Portland, Oregon 97201, DUNS Number 06-509-2300.	Nov 27, 1979
Sheetmetal Association, Inc., c/o 3434 S.W. Water Avenue, Portland, Oregon 97201, DUNS Number 99-106-2498.	Nov.27, 1979
San Diego Contracting Lathers Association, 7855 Ostrow Street, San Diego, CA 92111, DUNS Number 99-106-2506.	Nov 27, 1979
"All other" compliance unit of Gifford-Hill & Company, Inc. (which includes all products exclusive of transportation, irrigation and metal building products), 8435 Stimmons Freeway, P.O. Box 47127, Dallas, Texas 75247.	Dec 27, 1979
Boston Distributors, a compliance unit of Cook United, Inc., 16501 Rockside Road, Cleveland, Ohio 44137.	Jan 21, 1980

[FR Doc. 80-26041 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-61-M

[D-80-4]

Delegation of Authority to the Secretary of Agriculture

1. *Purpose.* This delegation authorizes the Secretary of Agriculture to lease space for firm term leases of up to 5 years in designated nonmajor urban centers and outside of urban centers.

2. *Effective date.* This delegation became effective on March 17, 1980.

3. *Expiration date.* This delegation expires on March 17, 1985.

4. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Agriculture to perform all functions in connection with the leasing of space for the sole purpose and use of the Department of Agriculture in the nonmajor urban centers designated in attachment A and outside of urban centers.

b. This authority shall extend to leasing space for firm term leases of up to 5 years under authority contained in section 210(h)(1) of the above-cited act.

c. The Secretary of Agriculture may redelegate this authority to any officer, official, or employee of the Department of Agriculture.

d. This authority shall be exercised in accordance with the requirements of all applicable statutes and regulations and shall remain in force and effect not to extend beyond March 17, 1985.

Dated: August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

Attachment A—Nonmajor Urban Centers

- Aberdeen, S. Dak.:
  - Brown County
- Abilene, Tex.:
  - Jones County
  - Taylor County
- Albany, Ga.:
  - Dougherty County
- Albany, Ill.:
  - Whiteside County
- Alexandria, La.:
  - Rapides Parish
- Allentown-Bethelem-Easton, Pa.-N.J.:
  - Lehigh County, Pa.
  - Northampton County, Pa.
  - Warren County, N.J.
- Altoona, Pa.:
  - Blair County
- Amarillo, Tex.:
  - Potter County
  - Randall County
- Ann Arbor, Mich.:
  - Washtenaw County
- Athens, Ga.:
  - Clarke County
- Atlantic City, N.J.:
  - Atlantic County
- Augusta, Ga.-S.C.:
  - Richmond County, Ga.
  - Aiken County, S.C.
- Augusta, Maine:
  - Kennebec County
- Bakersfield, Calif.:
  - Kern County
- Bay City, Mich.:
  - Bay County
- Beaumont-Port Arthur, Tex.:
  - Jefferson County
  - Orange County
- Bismark, N. Dak.:
  - Bureligh County
- Brownsville-Harlingen-San Benito, Tex.:
  - Cameron County
  - Chittenden County
- Butte, Mont:
  - Silver Bow County
- Calexico-El Centro, Calif.:
  - Imperial County
- Canton, Ohio:
  - Stark County
- Casper, Wyo.:
  - Narrona County
- Cedar Rapids, Iowa:
  - Linn County
- Champaign-Urbana, Ill.:
  - Champaign County
- Charleston, W. Va.:
  - Kanawha County
- Charlotte, N.C.:
  - Mecklenburg County
  - Union County
- Charlottesville, Va.:
  - Albemarle County
- Chattanooga, Tenn.-Ga.:
  - Hamilton County, Tenn.
  - Walker County, Ga.
- Clinton, Okla.:
  - Cluster County
- Cody, Wyoming:
  - Park County
- Columbia, Mo.:
  - Boone County
- Columbus, Ga.-Ala.:
  - Chattahoochee County, Ga.
  - Muscogee County, Ga.
  - Russell County, Ala.
- Concord, N.H.:
  - Merrimack County
- Corpus Christi, Tex.:
  - Nuaces County
- Davenport-Rock Island-Moline, Iowa-Ill.:
  - Scott County, Iowa
  - Henry County, Ill.
  - Rock Island County, Ill.
- Decatur, Ill.:
  - Macon County
- Dubuque, Iowa:
  - Dubuque County
- Duluth-Superior, Minn.-Wis.:
  - St. Louis County, Minn.
  - Douglas County, Wis.

- Durango, Colo.:
- Elkins, W. Va.:
  - Randolph County
- Erie, Pa.:
  - Erie County
- Eugene, Oreg.:
  - Lane County
- Evansville, Ind.-Ky.:
  - Vanderburgh County, Ind.
  - Warrick County, Ind.
  - Henderson County, Ky.
- Fayetteville, N.C.:
  - Cumberland County
- Flint, Mich.:
  - Genesee County
  - Lapeer County
- Fort Collins, Colo.:
  - Larimer County
- Fort Lauderdale-Hollywood, Fla.:
  - Broward County
- Fort Smith, Ark.-Okla.:
  - Crawford County, Ark.
  - Sebastian County, Ark.
  - Le Flore County, Okla.
  - Sequoyah County, Okla.
- Frankfort, Ky.:
  - Franklin County
- Gadsden, Ala.:
  - Etowah County
- Gainesville, Fla.:
  - Alachua County
- Galveston-Texas City, Tex.:
  - Galveston County
- Grand Forks, N. Dak.:
  - Grand Forks County
- Grand Island, Nebr.:
  - Hall County
- Grand Junction, Colo.:
  - Mesa County
- Great Falls, Mont.:
  - Cascade County
- Greeley, Colo.:
  - Weld County
- Green Bay, Wis.:
  - Brown County
- Greenville, S.C.:
  - Greenville County
  - Pickens County
- Greenwood, Miss.:
  - Le Flore County
- Hamilton-Middleton, Ohio:
  - Butler County
- Helena, Mont.:
  - Lewis and Clark County
- Hot Spring, Ark.:
  - Garland County
- Huron, S. Dak.:
  - Beadle County
- Idaho Falls, Idaho:
  - Bonneville County
- Jackson, Mich.:
  - Jackson County
- Jackson, Tenn.:
  - Madison County
- Jefferson City, Mo.:
  - Cole County
- Johnstown, Pa.:
  - Cambria County
  - Somerset County
- Kalamazoo, Mich.:
  - Kalamazoo County
- Kenosha, Wis.:
  - Kenosha County
- Klamath Falls, Oreg.:
  - Klamath County
- Lafayette, La.:
  - Lafayette Parish
- Lake Charles, La.:
  - Calcasieu Parish
- Lancaster, Pa.:
  - Lancaster County
- Lansing, Mich.:
  - Clinton County
  - Eaton County
  - Ingham County
- Laredo, Tex.:
  - Webb County
- Lawton, Okla.:
  - Comanche County
- Lewiston-Auburn, Maine:
  - Androscoggin County
- Lexington, Ky.:
  - Fayette County
- Lima, Ohio:
  - Allen County
- Logan, Utah:
  - Cache County
- Lorain-Elyria, Ohio:
  - Lorain County
- Lubbock, Tex.:
  - Lubbock County
- Lynchburg, Va.:
  - Amherst County
  - Campbell County
- Macon, Ga.:
  - Bibb County
  - Houston County
- Madison, Wis.:
  - Dane County
- Manhattan, Kans.:
  - Riley County
- McCook, Nebr.:
  - Red Willow County
- Medford, Oreg.:
  - Jackson County
- Meridian, Miss.:
  - Lauderdale County
- Midland, Tex.:
  - Midland County
- Monroe, La.:
  - Ouachita Parish
- Morgantown, W. Va.:
  - Monongalia County
- Muncie, Ind.:
  - Delaware County
- Muskegon-Muskegon Heights, Mich.:
  - Muskegon County
- Muskogee, Okla.:
  - Muskogee County
- Newport News-Hampton, Va.:
  - York County
- Odessa, Tex.:
  - Ector County
- Olympia, Wash.:
  - Thurston County
- Paterson-Clifton-Passaic, N.J.:
  - Bergen County
  - Passaic County
- Pensacola, Fla.:
  - Escambia County
  - Santa Rosa County
- Peoria, Ill.:
  - Peoria County
  - Tazewell County
  - Woodford County
- Pierre, S. Dak.:
  - Hughes County
- Pittsfield, Mass.:
  - Berkshire County
- Portland, Maine:
  - Cumberland County
- Portsmouth, N.H.:
  - Rockingham County
- Provo-Orem, Utah:
  - Utah County
- Pueblo, Colo.:
  - Pueblo County
- Racine, Wis.:
  - Racine County
- Rapid City, S. Dak.:
  - Pennington County
- Reading, Pa.:
  - Berks County
- Reno, Nev.:
  - Washoe County
- Rochester, N.Y.:
  - Livingston County
  - Monroe County
  - Orleans County
  - Wayne County
- Rockford, Ill.:
  - Boone County
  - Winnebago County
- Rolla, Mo.:
  - Phelps County
- Rome, Ga.:
  - Floyd County
- Saginaw, Mich.:
  - Saginaw County
- St. Albans, Vt.:
  - Franklin County
- St. Joseph, Mo.:
  - Buchanan County
- Salem, Oreg.:
  - Marion County
  - Polk County
- Salina, Kans.:
  - Saline County
- Salisbury, Md.:
  - Wicomico County
- San Angelo, Tex.:
  - Tom Green County
- San Jose, Calif.:
  - Santa Clara County
- Santa Barbara, Calif.:
  - Santa Barbara County
- Santa Fe, N. Mex.:
  - Santa Fe County
- Scottsbluff, Nebr.:
  - Scotts Bluff County
- Scranton, Pa.:
  - Lackawanna County
- Sheridan, Wyo.:
  - Sheridan County
- Sioux City, Iowa-Nebr.:
  - Woodbury County
  - Dakota County, Nebr.
- Sioux Falls, S. Dak.:
  - Minnehaha County
- South Bend, Ind.:
  - St. Joseph County
  - Marshall County
- Spartanburg, S.C.:
  - Spartanburg County
- Springfield-Chicopee-Holyoke, Mass.:
  - Hampden County, Mass.
  - Hampshire County, Mass.
- Springfield, Ill.:
  - Sangamon County
- Springfield, Mo.:
  - Greene County
- Springfield, Ohio:
  - Clark County
- Steubenville-Wierton, Ohio-W. Va.:
  - Jefferson County, Ohio
  - Brooke County, W. Va.
  - Hancock County, W. Va.
- Stillwater, Okla.:
  - Payne County

Tacoma, Wash.:
  Pierce County
Tallahassee, Fla.:
  Leon County
Temple, Tex.:
  Bell County
Terre Haute, Ind.:
  Clay County
  Sullivan County
  Vermillion County
  Vigo County
Texarkana, Tex.-Ark.:
  Bowie County, Tex.
  Miller County, Ark.
Toledo, Ohio-Mich.:
  Lucas County, Ohio
  Wood County, Ohio
  Monroe County, Mich.
Treton, N.J.:
  Mercer County
Tuscaloosa, Ala.:
  Tuscalossa County
Tyler, Tex.:
  Smith County
Utica-Rome, N.Y.:
  Herkimer County
  Oneida County
Vallejo-Napa, Calif.:
  Napa County
  Solano County
Vicksburg, Miss.:
  Warren County
Virgin Islands:
  The entire Territory
Waco, Tex.:
  McLennan County
Waterloo, Iowa:
  Black Hawk County
Wentchee, Wash.:
  Chelan County
Wheeling, W. Va.-Ohio:
  Marshall County, W. Va.
  Ohio County, W. Va.
  Belmont County, Ohio
Wichita, Kans.:
  Butler County
  Sedgwick County
Wichita Falls, Tex.:
  Archer County
  Wichita County
Wilmington, Del.-N.J.-Md.:
  New Castle County, Del.
  Salem County, N.J.
  Cecil County, Md.
Wilmington, N.C.:
  New Hanover County
Yakima, Wash.:
  Yakima County
York, Pa.:
  Adams County
  York County
Yuma, Ariz.:
  Yuma County

[FR Doc. 80-25933 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0143]

Bio-Dynamics/BMC; Panel Recommendation on Petition for Reclassification

Correction

In FR Doc. 80-2274 appearing at page 51284 in the issue for Friday, August 1, 1980, make the following corrections:

1. On page 51285, in the second column, the third paragraph, the tenth line reads "leukocyturia. Nitrofuranton in urine at a" should be corrected to read "leukocyturia. Nitrofurantoin in urine at a".

2. Also on page, 51285, in the third column, the first paragraph, the third line from the bottom reads "indicator content. For this information a" should be corrected to read "indicator content. From this information a".

BILLING CODE 1505-01-M

[Docket No. 80D-0242]

"Fast Track" Drug Classification for New Animal Drugs; Availability of Revised Guidline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of a revised guideline to aid sponsors of new animal drugs in determining whether their drug qualifies for a priority review and to set forth the procedures which the sponsor of such drugs should follow to help expedite the agency's review. The agency invites written comments on the guideline.

ADDRESS: The guideline is available for public examination at, and comments may be submitted to, the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies are available from the Information Services Staff (HFV-5), Bureau of Veterninary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Myron Rosenberg, Bureau of Veterinary Medicine (HFV-102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Prior to marketing a new animal drug, the sponsor is required to submit an application to FDA under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)) to establish that the new animal drug is safe and effective for use. The agency reviews the application and determines whether the data support the safe and effective use of the drug as proposed by the sponsor.

The Bureau of Veterinary Medicine (BVM) has established a "fast track" review system so that important new animal drugs can be made available for use as quickly as possible. Under the fast track system, new animal drug applications (NADA's) for products that are new molecular entities and that demonstrate important therapeutic gain will be given an expedited review by being placed ahead of other NADA's in the review process. The safety and effectiveness criteria required for approval remain the same.

To implement the fast track review system BVM prepared a guideline to help sponsors of new animal drugs determine whether their new animal drug qualifies for fast track review. When a drug meets the classification criteria for fast track review the sponsor may request that the drug be given a priority review starting in the investigational new animal drug (INAD) stage. The original guideline and a revised guideline were provided to trade and professional associations on January 25, 1980 and May 9, 1980, respectively, for dissemination to their members.

BVM has again revised the guideline so that the Bureau may, on its own initiative, make the determination that an animal drug product is eligible for inclusion in the fast track review system.

Requests for single copies of the guideline ("Fast Track" Drug Classification Guideline, July 23, 1980) should be addressed to the Information Services Staff (HFV-5), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. A copy of the guidleline along with the original guideline and the May 9, 1980 revised guideline are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Such comments will be considered in determining whether amendments to or revisions of the guideline are warranted. Comments should be in four copies (except that individuals may submit single copies of coments), identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p. m., Monday through Friday.

Dated: August 13, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-25440 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0211]

Ciba-Geigy Corp.; Filing of Food Additive Petition

Correction

In FR Doc. 80-19300 appearing at page 43474 in the issue for Friday, June 27, 1980, in the first paragraph of the **Supplementary Information** section, in the fifth line, "(FAP 0B2514)" should read "(FAP 0B3514)".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-1018]

General Prototype Housing Costs for One- to Four-Family Dwelling Units

Correction

In FR Doc. 80-24531 appearing at page 54210 in the issue for Thursday, August 14, 1980, in the **"DATE"** paragraph, the effective date period beings on August 14, 1980 and not August 14, 1981 as printed.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Colorado; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1G, the following described lands are hereby deleted as the Alamosa County Known Geothermal Resources Area, effective May 9, 1980:

(6) Colorado—Alamosa County Known Geothermal Resources Area (Revoked)

New Mexico Principal Meridian, Colorado

T. 38 N., R. 12 E.,
  Sec. 11;
  Secs. 13 to 15, inclusive;
  Secs. 23 to 26, inclusive;
  Sec. 34.
T. 38 N., R. 13 R.,
  Secs. 18 and 19.

The deleted area described aggregates 6,761 acres, more or less.

Dated: July 9, 1980.

John B. Trippe,

Conservation Manager Central Region.

[FR Doc. 80-25986 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-31-M

Colorado; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1G, the following described lands are hereby deleted from the Valley View Known Geothermal Resources Area, effective May 9, 1980:

(6) Colorado—Valley View Known Geothermal Resources Area (Revision)

New Mexico Principal Meridian, Colorado

T. 45 N., R. 10 E.,
  Secs. 3 and 4;
  Secs. 10 and 11;
  Sec. 15.

The deleted area described aggregates 3,186 acres, more or less.

Dated: July 9, 1980.

John B. Trippe,

Conservation Manager, Central Region.

[FR Doc. 80-25987 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-31-M

Colorado; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1G, the following described lands are hereby deleted from the Mineral Hot Springs Known Geothermal Resources Area, effective May 9, 1980:

(6) Colorado—Mineral Hot Springs Known Geothermal Resources Area (Revision)

New Mexico Principal Meridian, Colorado

T. 46 N., R. 9 E.,
  Secs. 22 to 25.

The deleted area described aggregates 1,280 acres, more or less.

Dated: July 9, 1980.

John B. Trippe,

Conservation Manager Central Region.

[FR Doc. 80-25988 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-31-M

Utah; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020, and delegations of authority in 220 Departmental Manual 4.1H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1G, the following described lands are hereby deleted from the Thermo Hot Springs Known Geothermal Resources Area, effective May 9, 1980:

(44) Utah—Thermo Hot Springs Known Geothermal Resources Area (Revision)

Salt Lake Meridian

T. 29 S., R. 13 W.,
  Secs. 26 and 27;
  Secs. 33 to 35, inclusive.
T. 30 S., R. 13 W.,
  Sec. 17.

The deleted area described aggregates 3,840 acres, more or less.

Dated: July 9, 1980.

John B. Trippe,

Conservation Manager, Central Region.

[FR Doc. 80-25989 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the Natinal Register were received by the Heritage Conservation and Recreation Service before August 15, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 10, 1980.

Sarah G. Oldham,
Acting Chief, Registration Branch.

FLORIDA

Calhoun County

Blountstown, *Old Calhoun County Courthouse,* 314 E. Central Ave.

Dade County

Miami Beach, *Beth Jacob Social Hall and Congregation,* 301 and 311 Washington Ave.

Duval County

Jacksonville, *El Modelo Block,* 513 W. Bay St.

Leon County

Tallahassee, *Gallie's Hall and Buildings,* Off FL 61.

Marion County

Ocala, *Marion Hotel,* 108 N. Magnolia Ave.

Palm Beach County

Boca Raton, *Boca Raton Old City Hall,* 71 N. Federal Hwy.
Boca Raton, *Florida East Coast Railway Passenger Station,* Off FL 808.

Volusia County

Ormond Beach, *Ormond Hotel,* E. Granada Blvd.

GEORGIA

Colquitt County

Moultrie, *Colquitt County Jail,* 126 1st Ave., SE.

Dougherty County

Albany, *Davis, John A., House,* 514 Pine Ave.

Telfair County

McRae, *South Georgia College Administration Building,* College St.

ILLINOIS

OPERA HOUSES OF WESTERN ILLINOIS THEMATIC RESOURCES. Reference—see individual listing under Fulton, Henderson and Schuyler Counties.

Fulton County

Ellisville, *Ellisville Opera House (Opera Houses of Western Illinois Thematic Resources)* Main and Mechanic Sts.

Henderson County

Raritan, *Raritan Opera House (Opera Houses of Western Illinois Thematic Resources)* Main and Short Sts.

Schuyler County

Rushville, *Phoenix Opera House (Opera Houses of Western Illinois Thematic Resources)* 116 W. Lafayette St.

INDIANA

Jefferson County

Hanover, *Crowe-Garritt House,* 172 Crowe St.

LOUISIANA

Avoyelles Parish

Evergreen vicinity, *Lone Pine,* Off LA 361.
Marksville, *Bordelon, Hypolite, House,* LA 1.

Lincoln Parish

Ruston vicinity, *Wilder House,* NW of Ruston.

Orleans Parish

New Orleans, *Aldrich-Genella House,* 4801 St. Charles Ave.

Ouachita Parish

Monroe vicinity, *Logtown Plantation,* S of Monroe.

Rapides Parish

Cheneyville vicinity, *Trinity Episcopal Church,* Bayou Rapides.

St. Helena Parish

Greensburg, *Greensburg Land Office,* Courthouse Sq.
Greensburg, *Old St. Helena Parish Jail,* Off LA 10.

St. Landry Parish

Washington vicinity, *Homeplace,* N of Washington on LA 182.
Washington vicinity, *Macland Plantation House,* 3.4 mi. N of Washington on LA 10.

St. Mary Parish

Baldwin vicinity, *Heaton House,* N of Baldwin on Charenton Rd.
Franklin, *Bittersweet,* 301 Main St.

Tangipahoa Parish

Amite, *Episcopal Church of the Incarnation,* 111 E. Olive St.

Union Parish

Farmerville vicinity, *Edgewood,* 1 mi. W of Farmerville on Bernice Hwy.

Vernon Parish

Anacoco vicinity, *Holly Grove Methodist Church,* SW of Anacoco.

MARYLAND

Baltimore (independent city).
Tivoli (Marble Hall) 1301 Woodbourne Ave.

MASSACHUSETTS

Norfolk County

BLUE HLLS AND NEPONSET RIVER RESERVATIONS MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Canton, *Green Hill Site; Ponkapoag Site; Redman Farm House:* Milton, *Blue Hills Headquarters; Brookwood Farm; Comfort Station; Eliot Memorial Bridge; Great Blue Hill Observation Tower; Great Blue Hill Weather Observatory; Massachusetts Hornfels-Braintree Slate Quarry; Metropolitan District Commission Stable; Old Barn; Refreshment Pavillion;* Quincy, *Chickatawbut Observation Tower; Lyon's Turning Mill;* Randolph, *Ponkapoag Camp of Appalachian Mountain Club.*

MICHIGAN

Oakland County

Clarkston vicinity, *Sashabaw Presbyterian Church,* NE of Clarkston at 5331 Maybee Rd.

MINNESOTA

Nicollet County

St. Peter, *St., Peter Central School,* 300 S. 5th St.

MISSOURI

St. Louis (independent city).
Lambert-Deacon-Hull Printing Company Building, 2100 Locust St.

NEBRASKA

Cass County

Plattsmouth, *McLaughlin-Waugh-Dovey House,* 414 B Ave.

NEW HAMPSHIRE

Merrimac County

Pittsfield, Pittsfield Center *Historic District,* NH 28 and NH 107.

Rockingham County

Exeter, *Exeter Waterfront Commercial-Historic District,* Chestnut Hill Ave., Water, Franklin, Pleasant, High and Chestnut Sts.

NEW JERSEY

Monmouth County

Holmdel, *Holmdel Dutch Reformed Church,* 41 Main St.

NEW MEXICO

Bernalillo County

Albuquerque, *Old Albuquerque Historic District,* Off NM 194.

NEW YORK

Monroe County

Riga, *Riga Academy,* 3 Riga-Munford Rd.

Ulster County

Cragsmoor vicinity, *Chetolah (George Inness, Jr. Estate)* S of Cragsmoor on Vista Maria Rd.

NORTH CAROLINA

Camden County

Camden vicinity, *Lamb-Ferebee House,* NW of Camden on NC 343.

Chatham County

Pittsboro vicinity, *Hadley House and Grist Mill,* NW of Pittsboro on SR 2165.

Chowan County

Edenton, *Speight House and Cotton Gin,* E. Church St.

Cleveland County

Shelby, *Webbley,* 403 S. Washington St.

Cumberland County

Fayetteville, *Westlawn,* 1505 Fort Bragg Rd.

Davidson County

Lexington vicinity, *Sowers, Philip, House,* SR 1162.

V 45 AG 26 80 UMI

Thomasville vicinity, *Brummel's Inn,* N of Thomasville.

Franklin County

Franklinton, *Savage, Dr. J. A., House,* 124 College St.

Guilford County

Colfax vicinity, *Beeson, Col. Isaac, House,* S of Colfax.

Greensboro, *Buffalo Presbyterian Church,* 16th and Church Sts.

Greensboro, *Foust, Julius I., Building,* 1000 W. Spring Garden St.

Whitsett vicinity, *Holly Gate,* NC 61.

Haywood County

Waynesville, *Way, Dr. J. Howell, House,* 301 S. Main St.

Hertford County

Ashoski vicinity, *Mulberry Grove,* SW of Ashoskie.

Moore County

Carthage, *Bruce-Dowd-Kennedy House,* Monroe and Rockingham Sts.

Nash County

Rocky Mount, *Machaven,* 306 S. Grace St.

Scotland County

Johns vicinity, *McRae-McQueen House,* SW of Johns on U.S. 501.

NORTH DAKOTA

Ward County

Minot, *U.S. Post Office,* 100 1st St., SW.

OKLAHOMA

Osage County

Hominy, *Drummond, Fred, House,* 305 N. Price Ave.

OREGON

Jackson County

Prospect vicinity, *Union Creek Historic District,* OR 62.

Multnomah County

Portland, *Dekum, The,* 519 SW. 3rd St.

Portland, *Seven Hundred Five Davis Street Apartments,* 2141 NW. Davis St.

Wasco County

The Dalles, *Moody, Malcolm A., House,* 300 W. 13th St.

SOUTH CAROLINA

Laurens County

Laurens, *Laurens Historic District,* U.S. 221 and U.S. 76.

[FR Doc. 80-25599 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

[4310-84]

Initiation of Planning Activity in Billings Resource Area, Montana

In accordance with 43 CFR 1601.3(g) Notice is hereby given of resource planning activity now underway.

(1) Description of the proposed planning action:

Preparation of the Billings Resource Area Resource Management Plan (RMP). This RMP will be based upon existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). This RMP and accompanying Environmental Impact Statement (EIS) will provide the basis for resource allocations and will define and guide subsequent management decisions within the Billings Resource Area. The RMP/EIS is scheduled for completion by September 30, 1984.

(2) Identification of the geographic area to be planned:

The area consists basically of the following block of south central Montana counties: Wheatland, Golden Valley, Musselshell, Sweet Grass, Stillwater, Yellowstone, Carbon and Big Horn. It also incompasses a small piece of Wyoming's Big Horn County immediately north of Lovell as part of the Pryor Mountain Wild Horse Range. The public lands are fairly well blocked in Carbon County, but over the remainder of the Resource Area, the pattern is quite scattered and intermingled with private and State lands.

(3) The general types of issues anticipated:

The completed plan will make allocations of the various resources present, including (but not limited to) vegetation allocations to domestic livestock, wildlife, and watershed based on the Bureau's Site Vegetation Inventory Method (SVIM). The plan will identify areas acceptable for further consideration for coal leasing. The plan will also address the high demand for off road vehicle use on public lands in close proximity to the metropolitan area of Billings. Other major issues to be addressed are Area of Critical Environmental Concern and Wilderness Study Area recommendations to Congress.

(4) The disciplines to be represented on the interdisciplinary team:

Disciplines will include wildlife biology, hydrology, soils science, range management, forestry, geology, minerals, archeology, visual resource management, recreation, economics, and sociology.

(5) The kind and extent of public participation activities:

BLM will provide the public an opportunity to comment on the issues as developed by BLM and to surface any new issues. During the two year inventory phase, individuals and special interest groups may meet one on one with BLM specialists—as the planning process proceeds, the public will be asked to bercome more formally involved through workshops, open houses, and public meetings. Where appropriate, mass mailings will be used to solicit comment on issues and alternatives as they are developed. The District Advisory Council will be asked to be involved in RMP preparation. Local planning boards, State, local governments and other Federal land management agencies will be contacted in an effort to keep BLM's RMP consistent with the plans being developed by these various entities.

(6) The times, dates, and locations scheduled for public meetings, conferences, or other public participation:

Activities will be announced via the appropriate news media. Public review and a 30 day comment period on the RMP criteria are scheduled between January 1, 1981, and January 31, 1981. The criteria will be presented to interest groups and the Advisory Council during this period. Public review of alternative objectives is scheduled for June, 1983 with public review of the draft RMP/EIS in May, 1984.

(7) The name, title, address, and telephone number of the Bureau of Land Management Official who may be contacted for further information follows:

Glenn W. Freeman, District Manager, Drawer 1160, Lewistown, Montana 59457. (406-538-7461).

(8) The location and availability of documents relevant to the planning process:

Documents will be available for public review in the Billings Resource Area Office, 810 East Main Street, Billings, Montana.

Dated: August 18, 1980.

Glenn W. Freeman,

District Manager.

[FR Doc. 80-26044 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-84-M

[Coal Exploration License Application M 48728]

Montana; Invitation

August 18, 1980.

Members of the public are hereby invited to participate with Wesco Resources, Inc., in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Rosebud and Powder River Counties, Montana:

T. 2 S., R. 44 E., P.M.M.,
  Sec. 12: SE¼SE¼;
  Sec. 24: NE¼NW¼.

T. 2 S., R. 45 E., P.M.M.,
  Sec. 18: SE¼NE¼, SE¼SE¼;
  Sec. 30: NE¼SW¼, SE¼SE¼;
  Sec. 32: SE¼NW¼.
T. 3 S., R. 45 E., P.M.M.,
  Sec. 4: NW¼SW¼, SE¼SW¼;
  Sec. 8: NW¼NE¼.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Wesco Resources, Inc., P.O. Box 1181, Billings, Montana 59103. Such written notice must refer to serial number M 48728 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in this newspaper, whichever is later. This Notice will be published for two consecutive weeks.

The proposed exploration plan is fully described and will be conducted pursuant to an exploration plan to be approved by U.S. Geological Survey and the Bureau of Land Management. Copies of the exploration plan as submitted by Wesco Resources, Inc., may be examined during normal business hours at the Bureau of Land Mangement State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Edgar D. Stark,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-26005 Filed 8-25-80; 8:45 am]
BILLING CODE 4310-84-M

[W-71819]

Wyoming; Application

August 15, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Natural Gas Company of Minneapolis, Minnesota, filed an application for a right-of-way to construct a 6-inch pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 87 W.,
  Sec. 30, lot 3, SE¼SW¼.
T. 19 N., R. 88 W.,
  Sec. 2, lot 2.
T. 20 N., R. 88 W.,
  Sec. 2, E½SE¼;
  Sec. 12, NW¼NW¼;
  Sec. 14, NW¼NE¼, E½W½;
  Sec. 26, E½W½.

The proposed pipeline will transport natural gas from the Federal No. 1 Well in section 2, T. 19 N., R. 88 W., and the UPRR No. 1 Well in section 35, T. 20 N., R. 88 W., into Colorado Interstate Gas Company's existing pipeline in section 30, T. 21 N., R. 87 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-26006 Filed 8-25-80; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Land Mangement

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on September 17-18, 1980, beginning at 9 a.m. in the Borough Assembly Chambers, Upper Mill Bay Road, Kodiak, Alaska.

The meeting will cover the following principal subjects:

—Discussion of the call for nominations, Kodiak sale 61

—Discussion of proposed mitigating measures, Cook Inlet sale 60

—Resource portrayals, North Aleutian Shelf sale 75

—Phase I status report, Eastern Gulf sale 55

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying 3 weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276-2955.

Dated: August 15, 1980.

Esther C. Wunnicke,
Manager, Alaska OCS Office.

[FR Doc. 80-26007 Filed 8-25-80; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Endangered Species Convention; Enforcement Policy Concerning the Listing for the Family Cactaceae in Appendix II of the Convention

AGENCIES: U.S. Fish and Wildlife Service, Interior, and Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

ACTION: Notice of enforcement policy.

SUMMARY: This document gives notice that the U.S. Departments of the Interior and Agriculture have determined that the term "all species in the Americas" for the family Cactaceae (cactus) in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) means all species that are native to the Americas regardless of where physically located. This document also announces that enforcement of restrictions based on this policy will begin September 15, 1980. This action is necessary for the purpose of conforming enforcement practices with the intent of the Convention.

DATE: Effective date of enforcement policy, September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240, (703) 235-2418. Mr. Thomas McIntyre, Assistant to the Director of the National Program Planning Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 647, Federal Building, Hyattsville, MD 20782, (301) 436-7707.

SUPPLEMENTARY INFORMATION: Under the provisions of the Endangered Species Act of 1973, as amended (Act), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) the U.S. Department of the Interior (USDI) is responsible for managerial activities which pertain to wildlife and plants, enforcement activities which pertain to the interstate movement of wildlife and plants, and enforcement activities which pertain to the international movement of wildlife and nonterrestrial plants, while the U.S. Department of Agriculture (USDA) is responsible for enforcement of provisions of the Act and Convention which pertain to the importation, exportation, or reexportation of terrestrial plants.

The Act and Convention impose, among other things, certain restrictions on the international movement of specified wildlife and plants depending on whether they are listed in Appendix I, II, or III of the Convention. This includes a system of documentation for the international movement of the specified wildlife and plants for the purpose of preventing over-exploitation of such wildlife and plants (see 50 CFR Chapter I).

The term "all species in the Americas" for plants of the family Cactaceae (terrestrial plants having the common name of cactus), is listed in Appendix II of the Convention. This term has been thought to refer to the location of certain plants of the family Cactaceae, i.e., certain plants of the family Cactaceae that are physically located in the Americas. Accordingly, Convention documentation has not been required for the international movement of such plants of the family Cactaceae unless the plants were moved from a location in the Americas.

Upon reexamination of this issue concerning specimens of the family Cactaceae, it has been determined that the Convention listing of "all species in the Americas" refers to all species of the family Cactaceae that are native to the Americas, and does not relate to the current physical location of plants. This is consistent with the intent of the Convention to regulate "species" (scientific classifications) of wildlife and plants listed in Appendix II of the Convention (see Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, Appendix II Interpretation Notes 1, 3, and 7), and is consistent with the listings for all other wildlife and plants listed in Appendix II of the Convention.

Also, it should be noted that the listings for species of the family Cactaceae in Appendix II of the Convention include all specimens of the family Cactaceae (cultivated or found wild) regardless of where physically located. Appendix II of the Convention (restated in 50 CFR 23.23(d)) lists two categories of the family Cactaceae, i.e., (1) all species in the Americas, and (2) all species of Rhipsalis. Based on the expertise of botanists at USDI it appears that except for certain species of the separately listed genus Rhipsalis, all species of the family Cactaceae are native to the Americas, even though some of the more than 2,000 species of the family Cactaceae native to the Americas have been introduced and established in other parts of the world.

Therefore, any plants of the family Cactaceae, including plants previously treated as excluded from Appendix II status, will be required to have appropriate Convention documentation at the time of importation into the United States, or at the time of exportation or reexportation from the United States. However, in order to provide reasonable notice of the imposition of restrictions, USDI and USDA have decided that enforcement activities in accordance with this policy should not begin until September 15, 1980.

Accordingly, effective September 15, 1980, all specimens of species of the family Cactaceae (cultivated or found wild) regardless of where physically located, and regardless of the place of shipment will be considered to be listed in Appendix II of the Convention and subject to all of the applicable requirements of the Act and Convention, and regulations thereunder (see 50 CFR Chapter I).

Dated: August 19, 1980.

Ronald E. Lambertson,

Director, U.S. Fish and Wildlife Service.

Dated: August 19, 1980.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-25721 Filed 8-25-80; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Exemptions Under Provision of Rule 19 of Mandatory Car Service Rules Ordered in Ex Parte No. 241

Service Date: August 21, 1980.

To: All Railroads

Upon further consideration of the exemptions listed below, and the recision of the Mandatory Car Service Rules effective 11:59 p.m., August 23, 1980. *It is ordered,* under authority vested in me by Car Service Rule 19, of the Mandatory Car Service Rules ordered in Ex Parte No. 241, the following numbered exemptions are vacated.

Revised Exemption No. 1
Exemption No. 4
Exemption No. 5
Exemption No. 6
Forty-Fourth Revised Exemption No. 12
Second Revised Exemption No. 44
Exemption No. 63
Eighty-Eighth Revised Exemption No. 90
Exemption No. 93
Exemption No. 94
Exemption No. 95
Revised Exemption No. 105
Revised Exemption No. 111
Exemption No. 116
Revised Exemption No. 121
Exemption No. 122
Exemption No. 127
Twentieth Revised Exemption No. 128
Forty-Fourth Revised Exemption No. 129
Exemption No. 132
Fifth Revised Exemption No. 133
Exemption No. 134
Thirteenth Revised Exemption No. 141
Revised Exemption No. 143
Second Revised Exemption No. 149
Exemption No. 153
Third Revised Exemption No. 156
Fourth Revised Exemption No. 157
Second Revised Exemption No. 173
Second Revised Exemption No. 174

This order shall become effective at 11:59 p.m., August 23, 1980.

Issued at Washington, D.C., August 18, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-26040 Filed 8-25-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplying grants of operating authority.

Findings: With exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section to the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the

Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 10, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-016

Decided August 14, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 52460 (Sub-280F), filed August 12, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, ME, MO, MN, MS, NC, ND, NE, OH, OK, SC, SD, TN, TX, and WI.

MC 75830 (Sub-20F), filed August 11, 1980. Applicant: INTER-CITY TRANSPORT & MOTOR COMPANY, INC., Liggett Addition, P.O. Box 88, Buckhannon, WV 26201. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Interbake Foods, Inc., of Richmond, VA.

MC 78400 (Sub-89F), filed August 12, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *iron castings*, from Waupaca, WI, Pryor, OK, and Chicago and St. Charles, IL, to Sullivan, MO.

MC 97710 (Sub-8F), filed August 11, 1980. Applicant: PETERS TRUCK LINES, INC., 1540 Lucas Road, Yreka, CA 96097. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. Over regular routes, transporting *general commodities* (except those of unusual value, commodities in bulk, and household goods as defined by the Commission), between Modesto and Tulare, CA, over U.S. Hwy 99, serving all intermediate and off-route points in Merced, Madera, Kings, Fresno, and Tulare Counties, CA. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its data of issue.

Note.—Applicant intends to tack the above authority with its existing regular-route authority.

MC 111201 (Sub-52F), filed August 8, 1980. Applicant: J. N ZELLNER & SON TRANSFER COMPANY, a corporation, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *metal containers and metal container components*, between points in Lee County, SC, and Shelby County, TN, on the one hand, and, on the other, points in Jefferson County, AL, Lake County, FL, and Mecklenburg County, NC.

MC 115181 (Sub-43F), filed August 11, 1980. Applicant: HAROLD M. FELTY, INC, R.D. No. 1, Box 148, Pine Grove, PA 17962. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *coal*, from points in Dauphin, Schuylkill, and Lebanon Counties, PA, to Newark, NJ, and Baltimore, MD.

MC 117940 (Sub-367F), filed August 11, 1980. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *general commodities* (except commodities in bulk, in tank vehicles), between the facilities of or used by Minnesota Mining and Manufacturing Company or its subsidiaries at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The certificate to be issued here, to the extent that it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring 5 years from the date of issuance.

MC 119750 (Sub-5F), filed August 8, 1980. Applicant: PERKINS MOTOR TRANSPORT, INC., P.O. Box 218, Savage, MN 55378. Representative: Jack L. McGraw (same address as applicant). Transporting *rubber tires and tubes*, which because of size or weight require the use of special equipment, between the facilities of UniRoyal, Inc., at Eau Claire WI, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the above named facilities.

MC 120901 (Sub-3F), filed August 13, 1980. Applicant: C & K PETROLEUM TRANSPORTERS, INC., Church Lane, Middle Island, NY 11953. Representative: George Carl Pezold, 120 Main St., Huntington, NY 11743. Transporting *liquid petroleum products and gasohol*, between Philadelphia, PA, and points in CT, NJ, and NY.

MC 133591 (Sub-112F), filed August 12, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *such commodities* as are dealt in by retail department stores, from Liberty, MO, to points in CA.

MC 136511 (Sub-104F), filed August 13, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. N W., Washington, DC 20001. Transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in WV, on the one hand, and, on the other, points in AL, AR, AZ, CT, FL, GA, IA, ID, IL, IN, KS, KY, MA, MD, MI, MN, MO, MS, NC, NE, NJ, NY, OH, PA, SC, TN, TX, UT, VA, VT, WI, and WV, restricted to traffic originating at or destined to the facilities of Kraft, Inc.

MC 141951 (Sub-2F), filed August 11,1980. Applicant: MARY DICK AND HOLLIS A. DICK, a partnership, d.b.a. HOLLIS A. DICK, Box 37, Bethany, IL 61914. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *vegetable oil and vegetable oil blends*, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S.

MC 142310 (Sub-28F), filed August 11,1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *foodstuffs* from

Jacksonville, IL, to points in IA, MN, ND, SD, and WI.

MC 144621 (Sub-22F), filed August 13,1980. Applicant: CENTURY MOTOR LINES, INC., Box 66, 52275 U.S. Highway 31, North 46637, South Bend, IN 46624. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting (1) *buffing, polishing, and cleaning compounds, personal care products, and foodstuffs* (except commodities in bulk), (a) from the facilities of Alberto-Culver Co., at or near Melrose Park, IL, to points in AZ, CA, GA, ID, MA, NJ, NY, PA, and TX, (b) from the facilities of Alberto-Culver Co., at or near Sparks, NV, to points in AZ, CA, ID, OR, and WA, and (c) from the facilities of Alberto-Culver Co., at or near Atlanta, GA, to points in FL, IL, MD, NJ, and NY, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) in the reverse direction.

MC 146830 (Sub-3F), filed August 11,1980. Applicant: JACK POOLE, INC., Rural Route 2, Box 373, Manhattan, KS 66502. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *pipe,* between points in OK and TX, on the one hand, and, on the other, points in Graham, Ellis and Rooks Counties, KS, and Red Willow and Hitchcock Counties, NE.

MC 148370 (Sub-9F), filed August 7,1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *steel wire rod, steel wire, brass wire,* (2) *fasteners,* and (3) *materials and supplies* used in the manufacture of fasteners, between points in the U.S., under continuing contract(s) with Continental Screw, a Unit of Amca International Corporation of New Bedford, MA.

MC 149170 (Sub-17F), filed August 11, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57117. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *alcoholic beverages and wines* (except in bulk), and (2) *non-alcoholic beverages,* in mixed loads with the commodities in (1) above, (except in bulk), from points in CA, IL, IN, KY, MA, MI, NY, OH, and TN, to the facilities of Midland Distributors, Inc., at Sioux Falls, SC. Condition: The person or persons who appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-18F), filed August 11, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57117. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, SD, to points in IN, OH, KY, LA, MS, AL, and AR. Condition: The person or persons who appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-19F), filed August 11, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57117. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting *drugs,* from Cincinnati, OH, to points in the U.S. (except AK and HI).

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[Volume No. OP1–017]

Decided: August 15, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 19201 (Sub-140F), filed August 12, 1980. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th St. and Parkside Ave., Philadelphia, PA 19131. Representative: W. F. Cuthbert (same address as applicant). Over *regular routes,* in foreign commerce only, transporting *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between Buffalo, NY, and the port of entry on the international boundary line between the U.S. and Canada at Niagara Falls, NY, over Interstate Hwy 190, serving no intermediate points, restricted to traffic having a prior or subsequent movement by rail.

Note.—Applicant proposes to provide a substituted motor-for-rail service.

MC 75320 (Sub-230F), filed August 11, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, P.O. Box 22567, Jackson MS 39205. *Over regular routes,* transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in OH and IN as off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 117940 (Sub-366F), filed August 8, 1980. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Hwy. 12, Maple Plain, MN 55359. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), from the facilities used by Charter Oak Shippers Cooperative Association, Inc., and its members, in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139080 (Sub-5F), filed August 12, 1980. Applicant: LAMP DELIVERY SERVICE CORPORATION, Rt. 3, N. Brady Street, Rd., Davenport, IA 52804. Representative: Patrick H. Smyth, Suite 401, 19 South LaSalle St., Chicago, IL 60603. Transporting *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Amway Corporation, of Des Moines, IA.

MC 143291 (Sub-4F), filed August 12, 1980. Applicant: RAYLS BROS. TRANSFER, INC., Box 342, North Dixie Hwy., Hoopeston, IL 60942. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *such commodities* as are dealt in or used by drug and food business houses, between points in Clark County, IN, on the one hand, and, on the other, points in IL, MI and WI.

Volume No. OP2–022

Decided: August 14, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 1783 (Sub-36F), filed August 11, 1980. Applicant: BLUE LINE EXPRESS, INC., 260 D.W. Highway South, Nashua, NH 03060. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036. Transporting *insulating materials, mineral wool, fibrous glass materials, and fibrous glass products,* (except commodities in bulk), from Delmar and Rotterdam Junction, NY, to points in ME, NH, and VT.

MC 80443 (Sub-43F), filed August 11, 1980. Applicant: OVERNIGHT

EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *electrohydraulic testing equipment,* from Minneapolis, MN, to points in the U.S.; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electrohydraulic testing equipment, in the reverse direction.

MC 103993 (Sub-1060F), filed August 11, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *iron and steel articles,* between points in Cook County, IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 108393 (Sub-151F), filed August 8, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Ave., Hinsdale, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *such commodities* as are dealt in, used by, sold by or distributed by manufacturers of cosmetics, toilet preparations and jewelry (except commodities in bulk, in tank vehicles), between points in the U.S., under a continuing contract(s) with Avon Products, Incorporated, of New York, NY.

MC 121082 (Sub-18F), filed August 11, 1980. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. Transporting *drugs, hospital supplies, intravenous solutions, and toilet preparations,* from points in Wayne, Oakland, and Macomb Counties, MI, to points in OH on and south of U.S. Hwy 36.

MC 121082 (Sub-19F), filed August 11, 1980. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. Transporting *general commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, VT, NJ, MA, RI, CT, NY, NJ, DE, and PA, on the one hand, and, on the other points in ME, VT, NH, MA, RI, CT, NY, NJ, DE, PA, CA, WV, MD, DC, KY, IL, IN, OH, and MI, restricted to the transportation of packages or articles not exceeding 100 lbs. in weight, moving in shipments not exceeding 500 lbs. in weight from one consignor at one location to one consignee at one location in a single day, moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102 of the Interstate Commerce Act. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 121222 (Sub-6F), filed July 29, 1980. Applicant: KING MOTOR LINE, INC., 1607 North Ripley Street, Montgomery, AL 36104. Representative: R. S. Richard, 57 Adams Avenue, Montgomery, AL 36197. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank vehicles, and those requiring special equipment), I. (1) between Mobile, AL, and Greenville, AL, over U.S. Hwy 31, serving all intermediate points and serving all points in Mobile and Baldwin Counties, AL, as off-route points; (2) between Greenville AL, and Montgomery, AL: from Greenville, over AL Hwy 10 to Camden, AL, then along AL Hwy 28 to junction AL Hwy 21, then along AL Hwy 21 to junction U.S. Hwy 80, then along U.S. Hwy 80 to Montgomery, AL, and return over the same route, serving all intermediate points and the off-route points of Forest Home, Allenton and Letohatchee, AL; (3) between Atmore AL and Montgomery, AL: from Atmore, over AL Hwys 21 and 41 to Camden, AL, then along AL Hwy 41 to U.S. Hwy 80, at Selma, AL, then along U.S. Hwy 80 to Mongomery, AL, and return over the same route, serving all intermediate points, and points in Dallas, Montgomery and Baldwin Counties as off-route points; and from Mongomery, AL over U.S. Hwy 31 to Greenville, AL, and return over the same route, serving all intermediate points. II. (a) between Mobile, AL, and Pensacola, FL, over U.S. Hwy 90, and return over the same route, serving all intermediate points; (b) between Mobile, AL and Pensacola, FL, over Interstate Hwy 10, and return over the same route, serving all intermediate points; (c) between Mobile, AL and Pensacola, FL; from Mobile over U.S. Hwy 31 to Atmore, AL, then along AL Hwy 21 to the AL–FL State line, then along FL Hwy 97 to junction U.S. Hwy 29, then along U.S. Hwy 29 to Pensacola, FL, and return over the same route, serving all intermediate points; (d) between Mobile, AL and Pensacola, FL, over U.S. Hwy 98, and return over the same route, serving all intermediate points; (e) between Selma, AL, and Pensacola, FL: from Selma over U.S. Hwy 80 to Mongomery, AL, then along U.S. Hwy 31 to Flomaton, AL, at the AL–FL State line, then along U.S. Hwy 29 from Flomaton, AL to Pensacola, FL, and return over the same route, serving Forest Home, Allenton, and Letohatchee, AL, as off-route points; (f) between Montgomery, AL and Pensacola, FL: from Montgomery over U.S. Hwy 80 to junction AL Hwy 21, then along AL Hwy 21 to Camden, AL then along AL Hwys 21 and 47 to Monroeville, AL, then along AL Hwy 41 to junction U.S. Hwy 31, at or near Brewton, AL, then along U.S. Hwy 31 to Flomaton, AL, at the AL–FL State line, then along U.S. Hwy 29 to Pensacola, FL, and return over the same route, serving all intermediate points; (g) between Montgomery, AL and Mobile, AL, over Interstate Hwy 65 to Mobile and return over the same route, serving all intermediate points; (h) between Monroeville, AL and Pensacola, FL: from Monroeville over AL Hwy 21 to Atmore, AL, then along AL Hwy 21 to the AL–FL State line, then along FL Hwy 97 to junction U.S. Hwy 29, then along U.S. Hwy 29 to Pensacola and return over the same route, serving all intermediate points; (i) between Selma, AL an Pensacola, FL: from Selma, AL, over AL Hwy 41 to Camden, AL, then along AL Hwy 10 to junction U.S. Hwy 31, then along U.S. Hwy 31 to Flomaton, AL, at the AL–FL State line, then along U.S. Hwy 29 to Pensacola and return over the same route, serving all intermedate points; (j) in connection with the routes described in (a) through (i) above, authority is sought to serve all points in Dallas, Montgomery, Mobile and Baldwin Counties, AL, and Escambia and Santa Rosa Counties, FL, as off-route points. Note: in II above, applicant seeks to extend its operations to certian AL and FL points, with joinder at Mobile, Flomaton and Atmore, AL. Applicant also intends to interline at Montgomery, Selma, Monroeville, and Mobile, AL, and at Pensacola, FL. Condition: In (I) above, applicant seeks to convert its intrastate authority. Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request of Certificates of Registraton in Nos. MC-121222 Subs 1, 2, and 3, issued August 4, 1967, April 26, 1967, and May 8, 1969, respectively.

MC 121272 (Sub-8F), filed August 11, 1980. Applicant: HESS TRUCKING CO., a corporation, 1000 W. Chocolate Ave., Hershey, PA 17033. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) between Hershey and Ephrata, PA over U.S. Hwy 322, (2) between Hershey and Allentown, PA: from Hershey over U.S. Hwy 422 to Reading, then over U.S. Hwy 222 to Allentown, and return over the same route, (3) between Hershey and Mansfield, PA: from Hershey over U.S. Hwy 322 to junction U.S. Hwy 15, then over U.S. Hwy 15 to Mansfield, and return over the same route, (4) between Lickdale and Lancaster, PA over PA Hwy 72, (5) between Carlisle and Morgantown, PA over I–76, (6) between Carlisle and Mt. Holly Springs, PA over PA Hwy 34, (7) between Carlisle and Reading, PA: from Carlisle over U.S. Hwy 11 to junction I–83, then over I–83 to junction I–283, then over I–283 to junction PA Hwy 283, then over PA Hwy 283 to Lancaster, then over U.S. Hwy 222 to Reading, and return over the same route, (8) between Carlisle and Great Bend, PA over I–81, (9) between junction I–81 and I–78 at or near Bordnersville, PA, and Easton, PA over I–78, (10) between Millersburg and Matamoras, PA over U.S. Hwy 209, (11) between Sunbury and Reading, PA over PA Hwy 61, (12) between Sunbury and Scranton, PA: from Sunbury over PA Hwy 147 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Scranton, and return over the same route, (13) between Bloomsburg and Centralia, PA over PA Hwy 42, (14) between Wilkes-Barre and Allentown, PA over PA Hwy 309, (15) between junction I–78 and PA Hwy 9 near Allentown, PA, and Scranton, PA over PA Hwy 9, (16) between junction U.S. Hwy 22 and PA Hwy 33 at or near Hecktown, PA, and Scranton, PA: from junction U.S. Hwy 22 and PA Hwy 33 at or near Hecktown, over PA Hwy 33 to junction I–80, then over I–80 to junction I–380, then over I–380 to Scranton, and return over the same route, (17) between E. Stroudsburg, PA and junction I–80 and U.S. Hwy 15, near Milton, PA over I–80, (18) between Matamoras and Mansfield, PA over U.S. Hwy 6, (19) between Matamoras and Scranton, PA over I–84, (20) between Williamsport and Sayre, PA over U.S. Hwy 220 (21) between Lancaster, PA and the PA–MD State Line: from Lancaster over PA Traffic Route 272 to Wakefield, then over U.S. Hwy 222 to the PA–MD State Line, (22) between Lancaster and Wrightsville, PA: from Lancaster over U.S. Hwy 30 to junction PA Traffic Route 441 near Columbia, PA to junction PA 462, then over PA 462 to Wrightsville, and return over the same route, (23) between Reading and Douglassville, PA over U.S. 422, (24) between Macungie and New Berlinville, PA over PA Traffic Route 100, (25) between Lancaster and Gap, PA: from Lancaster over PA Traffic Route 462 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction PA Traffic Route 41, then over PA Traffic Route 41 to Gap, and return over the same route. Serving all intermediate points in Routes 1 through 25 above, and serving as off-route points those points in Cumberland County, PA, on and east of PA Hwy 34, and those points in PA on and east of a line beginning at the NY/PA State Line and extending southwardly along U.S. Hwy 15 to Allenwood (Union County), PA, then along the Susquehanna River southwardly to the MD/PA State Line (excluding points in Chester, Delaware, Philadelphia, Montgomery and Bucks Counties, PA).

Note:—The purpose of this application is to convert applicant's irregular route authority to regular route authority.

MC 128633 (Sub-29F), filed August 11, 1980. Applicant: LAUREL HILL TRUCKING CO., a corporation, 614 New County Road, Secaucus, NJ 07094. Representative: William J. Augello, 120 Main Street, Huntington, NY 11743. Transporting *such commodities* as are dealt in by department stores, between points in the U.S., under continuing contract(s) with May Department Stores Co., and its subsidiaries and divisions.

MC 128633 (Sub-30F), filed August 11, 1980. Applicant: LAUREL HILL TRUCKING CO., a Corporation, 614 New County Rd., Secaucus, NJ 07094. Representative: William J. Augello, 120 Main St., Huntington, NY 11743. Transporting (1) *trade show exhibits, displays, and store fixtures,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Dimensional Communications, Inc., of Northvale, NJ.

MC 135082 (Sub-115F), filed August 11, 1980. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE., Albuquerque, NM 87106. Representative: D. F. Jones (same address as applicant). Transporting (1) *gypsum and gypsum products,* and (2) *materials* used in the manufacture or gypsum and gypsum products, from Albuquerque, NM, Hutchinson, KS, Denver, CO, and Pryor, OK, to points in CA, KS, NV, OK, TX, UT, WY, ID, OR, WA, AZ, NM, and CO.

MC 138882 (Sub-372F), filed August 11, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *supermarket continuity promotional materials* (except in bulk) between points in the U.S. (except AK and HI).

MC 139642 (Sub-7F), filed August 8, 1980. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 East Fourth St., Tulsa, OK 74103. Transporting *such commodities* as are dealt in by wholesale or retail discount or variety stores (except commodities in bulk), between points in the U.S. under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR.

MC 141532 (Sub-92F), filed August 11, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff, and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in Utah County, UT, on the one hand, and, on the other, points in the U.S.

MC 141932 (Sub-37F), filed August 11, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and *non-exempt food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between the facilities of Borden Chemical Co., Bristol-Myers Co., William T. Burnett & Co., Inc., Charlotte Freight Association, Inc., Diamond Crystal Salt Company, Diamond/Sunsweet, Inc., Empire Freezers of Syracuse, Inc., Freezer Queen Foods, Inc., Georgia Pacific Corp., W. R. Grace & Co., Greater Atlanta Shippers Association, Inc., Husky Industries, Inc., Keyes Fibre Company, E. & F. King & Co., Inc., Lithonia Lighting Company, M&M/MARS, Division of Mars, Inc., McCain Foods, Inc., New Hampshire Shippers Cooperative, Inc., Ocean Spray Cranberries, Inc., Potato Service, Inc., Procter & Gamble Company, Quaker State Oil Refining Corporation, Statler Tissue Company, Transtop, Inc., Union Camp Corporation, Webster Industries, Inc., Clark-Franklin/Kingston Press, Print Mail, Inc., and Spencer Press, Inc., on the one hand, and, on the other, points in the U.S. Condition: Issuance of this Certificate is conditioned upon coincidental cancellation of all of the carriers existing certificates, as requested, and concurrent cancellation of all pending authorities.

MC 144622 (Sub-181F), filed August 11, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting (1) *power pumps, working heads, parts* for power pumps and working heads, and *measuring power pumps*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Allen County, IN, and Dyer and Marion Counties, TN, on the one hand, and, on the other, points in the U.S.

MC 147993 (Sub-3F), filed August 11, 1980. Applicant: C. H. MASLAND & SONS, a corporation, 50 Spring Rd., Box 40, Carlisle, PA 17013. Representative: J. Roger Gratz (same address as applicant). In foreign commerce only, transporting *motor vehicle parts and accessories* used in the manufacturing of cars, trucks, and trailers, between ports of entry along the international boundary line between the U.S. and Canada and points in the U.S., under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 150332 (Sub-1F), filed August 11, 1980. Applicant: SUNBURY TRANSPORT, LTD., P.O. Box 3217, Stn. B, Cliff St., Fredericton, N.B. Canada, E3A 5G9. Representative: Fritz R. Kahn, Suite 1100, 1660 L St. NW., Washington, DC 20036. Transporting *forest products, lumber and wood products* (except furniture), between points in the U.S., under continuing contract(s) with (1) J.D. Irving, Limited, of Saint John, New Brunswick, Canada, and (2) Woodland Improvement Corporation, of Fort Kent, ME. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

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Decided: August 19, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 52473 (Sub-13F), filed August 8, 1980. Applicant: BEHNKE, INC., 77 South Monroe St., Battle Creek, MI 49017. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48923. Transporting *paper and paper articles*, between points in the U.S., under continuing contract(s) with St. Regis Paper Company, of New York, NY.

MC 108393 (Sub-152), filed August 12, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Hinsdale, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting (1) *electrical and gas appliances and parts* for electrical and gas appliances, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances, between points in the U.S., under continuing contract(s) with Whirlpool Corporation, of Benton Harbor, MI.

MC 128343 (Sub-54F), filed August 12, 1980. Applicant: C-LINE, INC., Tourlellot Hill Rd., Chepachet, RI 02903. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Benny's, Inc., of Esmond, RI.

MC 151533F, filed August 13, 1980. Applicant: BESTWAY FREIGHT LINES, LTD., 1749 Wilbur Cross Hwy., Berlin, CT 06037. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *steel, steel panels, and parts* for steel panels, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the Commodities in (1) above, between the facilities of Morin Building Products Co., Inc., at Bristol, CT, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 151533 (Sub-1F), filed August 12, 1980. Applicant: BESTWAY FREIGHT LINES, LTD., 1749 Wilbur Cross Highway, Berlin, CT 06037. Representative: Gerald A. Joseloff, 80 State Street, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *microwave transmission equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of microwave transmission equipment, between the facilities of Cablewave Systems, Inc., at North Haven, CT, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI).

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Decided: August 8, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 100666 (Sub-335F), filed August 4, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *forest products, lumber, and lumber and wood products* (except furniture), *composition board, and building and construction materials*, between points in the U.S. (except AK and HI).

MC 110656 (Sub-17F), filed July 28, 1980. Applicant: PARKER MOTOR FREIGHT, INC., 5692 South U.S. Highway 131, Petoskey, MI 49770. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), A. Service Routes: (1) Between Grand Rapids, MI, and Detroit, MI, over I–96, (2) Between Cadillac, MI, and Detroit, MI, from Cadillac over U.S. Hwy 131 to junction MI Hwy 115, then over MI Hwy 115 to junction U.S. Hwy 10 and then over U.S. Hwy 10 to Detroit, and return over the same route, (3) Between junction U.S. Hwy 10 and U.S. Hwy 23 and junction U.S. Hwy 23 and I–96 over U.S. Hwy 23, (4) Between junction I–75 and U.S. Hwy 10 (near Pontiac, MI) and Detroit, MI over I–75, (5) Between Grand Rapids, MI, and Cadillac, MI, over U.S. Hwy 131, and (6) Serving all intermediate points on the routes described in Paragraphs A(1) through (4) above, all points in Kalkaska County, MI and those within three miles of the routes described in Paragraphs A(1) through (4) above as off-route points and the commercial zones of all authorized points. Restriction: Service at points on the routes described in Paragraphs A(1) through (4) above is restricted to the transportation of traffic which carrier either receives at or delivers to its authorized points north of Cadillac, MI (not including Cadillac) and excluding service to such points lying north of Cadillac, MI as are on and east of I–75. B. Alternate Routes for Operating Convenience Only: (1) Between Lansing, MI, and junction U.S. Hwy 27 and U.S. Hwy 10 over U.S. Hwy 27, (2) Between Lansing, MI, and junction U.S. Hwy 27 and I–75 over U.S. Hwy 27, (3) Between junction MI Hwy 37 and MI Hwy 113 and junction MI Hwy 55 and MI Hwy 115, from junction MI Hwy 37 and MI Hwy 113 over MI Hwy 37 to junction MI Hwy 115 and then over MI Hwy 115 to junction MI Hwy 55, and return over the same route, (4) Between junction U.S. Hwy 27 and U.S. Hwy 10 and East Jordan, MI, from junction U.S. Hwy 27 and U.S. Hwy 10 over U.S. Hwy 27 to junction I–75, then over I–75 to junction MI Hwy 32 and then over MI Hwy 32 to East Jordan, and return over the same route, (5) Between junction U.S. Hwy 27 and I–75 and East Jordan, MI, from junction U.S. Hwy 27 and I–75 over I–75 to junction MI Hwy 32 and then over MI Hwy 32 to East Jordan, and return over the same route, (6) Between junction I–75 and MI Hwy 72 and junction MI Hwy 72 and U.S. Hwy 131 over MI Hwy 72, (7) Between Lansing, MI, and Flint, MI, from Lansing over I–69 to junction MI Hwy 21 and then over MI Hwy 21 to Flint, and return over the same route, (8) Between junction I–96 and MI Hwy 59 and Pontiac, MI over MI Hwy 59, (9) Between Saginaw, MI, and junction MI Hwy 46 and U.S. Hwy 131 over MI Hwy 46, (10) Between Flint, MI, and Grand Rapids, MI, over MI Hwy 21, (11) Between Flint, MI, and Grand Rapids, MI, from Flint over MI Hwy 56 to junction MI Hwy 21 and then over MI Hwy 21 to Grand Rapids, and return over the same route, (12) Between junction of County Road 42 and U.S. Hwy 131 at Alba, MI and Mackinaw City, MI, from junction County Road 42 and U.S. Hwy 131 over County Road 42 to junction MI Hwy 32, then over MI Hwy 32 to junction I–75 and then over I–75 to Mackinaw City, and return over the same route, and (13) Between junction I–75 and U.S. Hwy 10 (near Bay City, MI) and junction I–75 and U.S. Hwy 27 (south of Grayling, MI) over I–75. Service over the routes and at points on the routes described in Paragraph B above shall include the right to join such routes, including any point on such routes, with otherwise authorized route(s).

Note.—This is an application to convert certificates of registration to a certificate of public convenience and necessity.

MC 117686 (Sub-268F), filed August 4, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions on Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, and TN.

MC 117686 (Sub-287F), filed August 6, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting (1) *primary metal products; inc. galvanized,* (except coating or other processing) as described in Item 33 of the Standard Transportation Commodity Code Tariff; and (2) *fabricated metal products* (except ordinance) as described in Item 34 of the Standard Transportation Commodity Tariff, between points in AR, IN, IA, GA, LA, MN, MO, NE, NC, WA, and WI.

MC 126346 (Sub-44F), filed August 4, 1980. Applicant: HAUPT CONTRACT CARRIER, INC., P.O. Box 1023, Wausau, WI. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are used in the manufacture of ships, between points in the U.S. under continuing contract(s) with Upper Penninsula Ship Building Company, of Ontonagon, MI.

MC 134866 (Sub-1F), filed July 31, 1980. Applicant: COURY MOTOR FREIGHT, 580 Ottowa Ave., St. Paul, MN 55107. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission) from Balsam Lake, Garfield, Lincoln, Osceola, St. Croix Falls, and points in Polk County, WI, to Minneapolis, MN.

MC 136786 (Sub-232F), filed August 5, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. erd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions on Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S. (except AK and HI).

MC 138026 (Sub-34F), filed July 31, 1980. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 1890 South Chris Ln., Anaheim, CA 92805. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Los Angeles, CA 90017. Transporting, *acetylene, in bulk,* between points in LA, TX, AL, FL, KS, LA, MS, OK, and TN.

MC 138157 (Sub-250F), filed July 31, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting, *general commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between points in the U.S. Condition: Prior or coincidental cancellation, at carrier's written request, of its permit in MC 138157 and subs thereto.

MC 143127 (Sub-73F), filed August 1, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Transporting (1) *medical supplies and equipment,* and (2) *materials,* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S.

MC 145487 (Sub-3F), filed August 4, 1980. Applicant: SMITH TRUCK BROKERAGE, INC., P.O. Box 974, Willmar, MN 56201. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *confectionery products,* between points in the U.S., under continuing contract(s) with Willmar Cookie Co., of Willmar, MN.

MC 145966 (Sub-4F), filed August 4, 1980. Applicant: NELSEN BROS, INC., P.O. Box 613, Nebraska City, NE 68410. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln NE 68501. Transporting *such commodities* as are dealt in or used by producers and distributors of beverages and fruit juices, between points in the U.S., restricted to traffic originating at or destined to the facilities of Shasta Beverages, Inc.

MC 149446F, filed August 1, 1980. Applicant: McDOWELL TRUCKING, INC., 4622 So. Bishop St., Chicago, IL 60609. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. Transporting *such commodities* as are dealt in or sold by wholesale and retail grocery outlets (except commodities in bulk), between the facilities of Armour Dial, Inc., at or near Montgomery, IL, on the one hand, and, on the other, points in the U.S.

MC 150127 (Sub-1F), filed August 6, 1980. Applicant: COMMANCHE EXPRESS LINES, INC., P.O. Box 451, Jeffersonville, IN 57130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting *agricultural gypsum, limestone, and decorative stone,* (except commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 150656 (Sub-3F), filed August 4, 1980. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 154, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez

Rd. W., Bradenton, FL 33507. Transporting *building insulation materials and parts, materials, accessories and supplies* used in the manufacture or distribution of building insulation materials (except commodities in bulk), between Belivdere, IL, on the one hand, and, on the other, points in the U.S.

MC 150656 (Sub-4F), filed August 5, 1980. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 154, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. W., Bradenton, FL 33507. Transporting *(1) indusrial fans and blowers and (2) parts, materials, accessories and supplies* used or useful in the manufacture or distribution of industrial fans and blowers (except commodities in bulk), between Glendale Heights and Marengo, IL, on the one hand, and, on the other, points in the U.S.

MC 150666 (Sub-3F), filed August 4, 1980. Applicant: R. C. MOTOR TRANSPORT, INC., 5750 So. Monroe, Hinsdale, IL 60521. Representative: Paul J. Maton, 10 So. La Salle St., Suite 1620, Chicago, IL 60603. Transporting *meat and meat products,* between points in the U.S. under continuing contract(s) with Agar Food Products, Inc., of Chicago, IL.

MC 151466F, filed August 5, 1980. Applicant: SOUTHERN PARK LIMO SERVICE, INC., 133 Boardman-Poland Rd., Boardman, OH 44512. Representative: A Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *passengers and their baggage,* in special and charter operations, between points in the U.S., restricted to the transportation of nor more than 16 passengers in any one vehicle (not including the driver and crew of the vehicle), under continuing contract(s) with Sutton's Tours and Travel Service, Inc., of Boardman, OH. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4–015

Decided: August 12, 1980.

By the Commission, Review Board Number, Members, Carleton, Joyce and Jones. Member Carleton not participating.

MC 1117 (Sub-33F), filed August 6, 1980. Applicant: M.G.M. TRANSPORT CORP., 70 Maltese Dr., Totowa, NJ 07512. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048. Transporting *such commodities* as are dealt in or used by department stores, (1) between New York, NY, on the one hand, and, on the other, points in GA, SC, NC, and VA, and (2) between Atlanta, GA, on the one hand, and, on the other, points in SC and NC.

MC 59117 (Sub-76F), filed August 5, 1980. Applicant: ELLIOTT TRUCK LINE, INC., 101 E. Excelsior, P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting, *metallic ores; non-metallic minerals* (except fuels) *chemicals or allied products; petroleum or coal products and clay, concrete or stone products,* as set forth in paragraphs (10), (14), (28), (29), and (32) of Revised STCC Major Industry Grouping.

MC 134286 (Sub-169F), filed August 6, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Edward A. O'Donnell (same address as applicant). Transporting *meats, meat products, meat byproducts and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the U.S.

MC 135646 (Sub-5F), filed August 7, 1980. Applicant: DERVAN CARTAGE SERVICE, INC., 1020 Coastline Ave., P.O. Box 123, Albany, GA 31702. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cordele, GA on the one hand, and, on the other, points in Atkinson, Baker, Ben Hill, Berrien, Brooks, Calhoun, Coffee, Clay, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Early, Echols, Grady, Irwin, Lanier, Lee, Lowndes, Macon, Miller, Mitchell, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Telfair, Terrell, Thomas, Tift, Turner, Webster, Wilcox, Worth, Jeff Davis, and Peach Counties, GA, and (2) between Thomasville, Cordele, and Albany, GA, on the one hand, and, on the other, points in Liberty, Gulf, Bay, Calhoun, Washington, Jackson, Franklin, Wakulla, Leon, Jefferson, Madison, Hamilton, Suwannee, Lafayette, Taylor, and Gadsden Counties, FL, restricted to traffic having a prior or subsequent movement by rail.

MC 143267 (Sub–117F) filed August 7, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, DC 20005. Transporting (1) *clay, concrete, glass or stone products* as described in Item 32 of the Standard Transportation Commodity Code Tariff, (2) *primary metal products, inc., galvanized* (except coating or other allied processing) as described in Item 33 of the Standard Transportation Commodity Code Tariff, (3) *fabricated metal products* (except ordnance) as described in Item 34 of the Standard Transportation Commodity Code Tariff, and (4) *pipe and pipe fittings* not included in (1), (2), and (3) above, between those points in the U.S. in and east of MT, WY, CO, and NM.

Volume No. CP5–008

Decided: August 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 113658 (Sub–39F) filed August 5, 1980. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80022. Representative: Richard J. Loose (same address as applicant). Transporting *meats, meat products, meat byproducts and aticles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 113678 (Sub–889F) filed August 8, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *non-exempt food or kindred products and by-products* between points in the U.S.

MC 114569 (Sub–375F) filed August 1, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *meats, meat products, meat by-products and articles distributed by meat packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the U.S.

MC 117878 (Sub-18F), filed August 5, 1980. Applicant: DWIGHT CHEEK d.b.a. DWIGHT CHEEK TRUCKING, P.O. Box 31538, Amarillo, TX 79120. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from points in Finney County, KS, to those points in the U.S. in and west of MT, WY, CO, OK, AR, and LA.

MC 119789 (Sub-710F), filed August 4, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting *foodstuffs* (except in bulk) from points in Orange, San Joaquin, Monterrey, and Santa Cruz Counties, CA to Freehold, South Kearny, and Secaucus, NJ, Fulton and Oswego, NY, and Burlington, WI.

MC 121568 (Sub-46F), filed August 7, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting *malt beverages and nonalcoholic beverages,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dallas, TX, Detroit, MI, St. Louis, MO, and points in TN.

MC 140829 (Sub-370F), filed July 31, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: George L. Hirschbach, 920 West 21st St., South Sioux City, NE 68776. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI). Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of all existing certificates.

MC 144428 (Sub-12F), filed August 7, 1980. Applicant: TRUCKADYNE, INC., Route 16, Mendon, MA 07156. Representative: Joseph A. Reed (same address as applicant). Transporting (1) *abrasives,* and *materials and supplies* used in the manufacture and use of abrasives, between points in the U.S., under continuing contract(s) with Micro Abrasives Corporation, or Westfield, MA.

MC 145128 (Sub-1F), filed August 6, 1980. Applicant: MARKET SUPPORT SERVICES, INC., 4653 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Ronald N. Cobert, 1730 M St., NW, Suite 501, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with John-Jeffrey (Baltimore) Corporation, of Baltimore, MD, and John-Jeffrey Corporation, of Gloucester City, NJ.

MC 146108 (Sub-1F), filed August 6, 1980. Applicant: BIG T TRANSFER, INC., 1814 Gillett Ave., Louisville, KY 40216. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. Transporting (1) *charcoal, charcoal briquettes, fireplace logs, and wood chips,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. under a continuing contract(s) with The Kingsford Company, of Louisville, KY.

MC 150339 (Sub-3F), filed August 1, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Maryland Cup Corporation, of Owings Mills, MD.

MC 151378F, filed July 31, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John P. Clark (same address as applicant). Transporting (1) *vinyl and leather goods,* and (2) *materials, equipment, and supplies* used in their manufacture and distribution between Washington, MO, on the one hand, and, on the other, St. Louis, MO, and Kansas City, MO.

MC 151378 (Sub-1F), filed July 31, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John F. Clark (same address as applicant). Transporting (a) *milking machines, dairy farm equipment, peening machines, tanks, and industrial cleaning equipment* (except commodities requiring special equipment), and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (a), between Washington and Berger, MO, on the one hand, and, on the other, St. Louis, MO, and Kansas City, MO.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25770 Filed 8-25-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 10, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP2–021

Decided: August 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 144693 (Sub-5F), filed August 11, 1980. Applicant: GLENN'S TRUCK SERVICE, INC., No. 1 Produce Row, St. Louis, MO 63102. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149443F, (correction) filed July 8, 1980, published in the **Federal Register**, issue of August 6, 1980, and republished, as corrected, this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Oark, KS 66207. Representative: John M. Records (same as applicant), Robert E. DeLand (same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Yellow Forwarding Co., of Overland Park, KS. The purpose of this republication is to correct the territorial description to include the portion that shows that applicant is under contract with the above.

Volume No. OP4–011

Decided: August 8, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 59957 (Sub-65F), filed August 5, 1980. Applicant: MOTOR FREIGHT EXPRESS, Arsenal and Toronita St., P.O. Box 1029, York, PA 17405. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 105566 (Sub-226F), filed August 4, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 130977F, filed July 31, 1980. Applicant: KENNETH CLARK COMPANY, INC., 120 Route #3, Millersville, MD 21108. Representative: Wayne K. Clark (same address as applicant). To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 146637 (Sub-4F), filed August 4, 1980. Applicant: YANKEE REFRIGERATED XPRESS, INC., 5500 Tacony St., Philadelphia, PA 19137. Representative: Linda Brendlinger, P.O. Box 5996, Philadelphia, PA 19137. Transporting *non-exempt food or kindred products*, between Coolidge, Deerfield, Friend, Holcomb, Kendall, Lakin, Lydia, Medway, Menno, and Syracuse, KS, on the one hand, and, on the other, points in the U.S.

MC 151426F, filed August 1, 1980. Applicant: UNI-CARRIER, INC., 7886 Quincy St., Willowbrook, IL 60521. Representative: Joseph Winter, 29 So. LaSalle St., Chicago, IL 60603. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151467F, filed August 5, 1980. Applicant: DERROLD DEATHERAGE, d.b.a. DEATHERAGE TRUCKING, RR #1, Box 5, Russell, KS 67665. Representative: David Earl Tinker, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP4–016

Decided: August 12, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 35807 (Sub-113F), filed August 7, 1980. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 115496 (Sub-133F), filed August 7, 1980. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 134906 (Sub-10F), filed August 7, 1980. Applicant: CAPE AIR FREIGHT, INC., P.O. Box 161, Shawnee Mission, KS 66201. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP5–007

Decided: August 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones

MC 76449 (Sub-31F), filed August 8, 1980. Applicant: NELSON'S EXPRESS, INC., 675 No. Market St., Millersburg, PA 17061. Representative: Dale G. Wolfgang (same address as applicant). Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 130979F, filed August 1, 1980. Applicant: EARL COLEMAN, d.b.a. EARL'S AGENCY, 430 Maple Avenue Aurora, IL 60505. Representative: Anthony E. Young 29 South LaSalle Street, Chicago, IL 60603. To arrange for the transportation of *general commodities* (except household goods) between points in the U.S.

MC 141878 (Sub-11F), filed August 8, 1980. Applicant: DIRECT COURIER, INC., 800 N. Taylor, St., Arlington, VA 22003. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 142909 (Sub-10F), filed August 6, 1980. Applicant: TIMBER TRUCKING, INC., 35 South 600 West, Salt Lake City, UT 84101. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 143239 (Sub-7F), filed August 8, 1980. Applicant: JAMOUR, INC., d.b.a. QUICK COURIER SERVICE, 123 N. 23rd St., Philadelphia, PA 19103. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 149449F, filed August 1, 1980. Applicant: WALTER R. McLAUGHLIN, 2915 Bristol Rd., Warrington, PA 18976. Representative: Alan Kahn, Barry D. Kleban, 1430 Land Title Bldg., 100 S. Broad St., Philadelphia, PA 19110. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151449F, filed August 4, 1980. Applicant: ARCHER COURIER SYSTEMS, INC., 855 Avenue of the Americas, New York, NY 10001. Representative: Lawrence Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

Note.—The person or persons who appear to be engaged in common control with applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25737 Filed 8-25-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission on or before September 25, 1980. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 26, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before September 25, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, except as otherwise noted.

Volume No. 305

Decided: July 30, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and James.

MC 15975 (Sub-29F), filed June 26,1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting *malt beverages,* from Detroit, MI, to points in IL, IN, MO, OH, OK, PA, NJ, GA, and TX.

MC 20824 (Sub-47F), filed June 27,1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC., OF INDIANA, 2141 S. High School Rd., Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Marshall, Paris, and Robinson, IL, as off-route points in connection with carrier's presently authorized regular-route operations.

MC 52614 (Sub-13F), filed June 25,1980. Applicant: R. S. POWELL, INCORPORATED, P.O. Box 338, Madison Heights, VA 24572. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* transporting materials and supplies used in the manufacture and distribution of cast iron products (except in bulk in tank vehicles), between points in Burlington County, NJ, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MA, MD, MS, MI, NC, NH, NJ, NY, OH, PA RI, SC, TN, VA, VT, WV, and DC, under continuing contract(s) with Griffin Pipe Products Company, of Oak Brook, IL.

MC 53965 (Sub-178F), filed July 1, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, 2130 South Ohio, Salina, KS 67401. Representative: John Jandera, 641 Harrison St., Topeka, KS 66603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Junction U.S. Hwy 281 and Interstate Hwy 80 and Cheyenne, WY, over Interstate Hwy 80, serving Cheyenne for purpose of interline and interchange only.

MC 94265 (Sub-358), filed June 26, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs,* (1) from Minneapolis and Eden Pairie, MN, to Greenville and Taylor, SC; and (2) from Greenville and Taylor, SC, to points in FL, GA, NC, SC, AL, TN, VA, and WV.

MC 107515 (Sub-1383F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between the facilities of Streamline Shippers Association, at or near Los Angeles, CA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 107515 (Sub-1385F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting (1) *plumbing fixtures and fittings,* and (2) *parts and supplies* for plumbing fixtures and fittings, from the facilities of American Standard at (a) Tiffin, OH, to points in AR, LA, MN, ND, OK, SD, and TX; and (b) New Orleans, LA, to points in AL, AZ, AR, CA, GA, KS, MS, MO, NM, and TX.

MC 107515 (Sub-1387F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *fabric,* from Dover, GA, and points in SC to facilities of Borden, Inc., at Columbus, OH, and Glen Cove, NY.

MC 107515 (Sub-1388F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *store fixtures and shelving,* from Pittsburgh, PA to points in the U.S. (except AK and HI).

MC 107515 (Sub-390F), filed June 20, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities as are dealt in or used by drug stores and cosmetic dealers,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Clairol, Inc.

MC 108404 (Sub-4F), filed June 26, 1980. Applicant: MERCHANTS DELIVERY MOVING AND STORAGE CO., a Corporation, 1211–1223 State Street, Racine, WI 53404. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *household goods,* as defined by the Commission, between points in Racine County, WI, on the one hand, and, on the other, points in AR, CT, KS, KY, MA, MD, NJ, OK, TN, TX, VA, and WV.

MC 109865 (Sub-17F), filed June 26, 1980. Applicant: VALLEY TRANSPORTATION, INC., 516 Oxford Road, Oxford, CT 06483. Representative: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, beginning and ending at points in Hartford, New Haven, and Fairfield Counties, CT, and extending to Atlantic City, NJ.

MC 110325 (Sub-149F), filed April 23, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, MO, and St. Louis, MO, over Interstate Hwy 70, serving the intermediate points of Columbia, MO, and the off-route points in Boone, Callaway, and Cole Counties, MO, and serving St. Louis, MO, for purposes of joinder only, and (2) between Columbia, MO, and Tulsa, OK, from Columbia over U.S. Hwy 63 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction MO Hwy 5, then over MO Hwy 5 to junction Interstate Hwy 44, then over Interstate Hwy 44 to Tulsa, and return over the same route, serving Jefferson City, MO, as an intermediate point and serving Springfield, MO, for purposes of joinder only.

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MC 117815 (Sub-338F), filed June 26, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting (1) *meats, meat products, meat byproducts and articles distributed by meat-packing houses* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) and *pickles*, and (2) *foodstuffs* (except those described in (1) above), from the facilities of Oscar Mayer & Co., Inc., in IL, IA, and WI, to Sherman, TX.

MC 118535 (Sub-153F), filed June 26, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Tim Tiona, Jr. (same address as applicant). Transporting (1) *salt and salt products*, and (2) *materials and supplies* used in the agricultural, water treatment, food processing, grocery and institutional supply industries, in mixed loads with salt products, from Grand Saline, TX, to points in KY, MS, and TN.

MC 127834 (Sub-124F), filed June 23, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *iron and steel articles*, from the facilities of Republic Steel Corporation, at or near Cedar Springs, GA, to points in NC, SC, TN, AL, VA, and KY.

MC 129455 (Sub-42F), filed June 25, 1980. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). *Contract carrier*, transporting *materials, equipment and supplies* used in the manufacture and distribution of toilet preparations (except in bulk), from points in ND, SD, MT, WY, CO, NM, AZ, UT, NV, ID, CA, WA, and OR, to Morristown, NJ, under continuing contract(s) with the Mennen Company, of Morristown, NJ.

MC 133655 (Sub-225F), filed July 1, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities as are dealt in or used by office supply companies and food business houses* (except commodities in bulk, and those which because of size or weight require the use of special equipment), between Dallas, TX, on the one hand, and, on the other, Oklahoma City, OK, and New Orleans, LA, restricted to traffic originating at or destined to the facilities of United Stationers Supply Company.

MC 135524 (Sub-152F), filed July 1, 1980. Applicant: G. F. TRUCKING COMPANY, a Corporation, P.O. Box 229, 1028 W. Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *iron and steel articles, aluminum articles, plastic articles, and hardware*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Mercer County, PA, and those in OH, on and east of OH Hwy 14, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 135895 (Sub-107F), filed June 26, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) (a) *motor vehicle exhaust mufflers, muffler assemblies, tail pipes, tail pipe assemblies, and flexible tubing*, and (b) *accessories* for (a) above, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities described in (1)(a) above (except commodities in bulk and those requiring special equipment), between the facilities of Walker Manufacturing, Inc., at or near (a) Aberdeen, MS, (b) Arden, NC, (c) Harrisonburg, VA, (d) Jonesboro, AR, (e) Seward, ND, and (f) Greenville, TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 135895 (Sub-108F), filed July 1, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Transporting (1) *plastic and metal containers, and fittings and closures* for plastic and metal containers, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk and those requiring special equipment), between the facilities of Armstrong Containers, Inc., in GA, IL, LA, and TX, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, KS, KY, LA, MO, MS, NC, OK, SC, TN, and TX.

MC 138635 (Sub-107F), filed July 1, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *automotive parts and automotive accessories*, from Los Angeles, CA, to Jacksonville, FL.

MC 140644 (Sub-2F), filed June 26, 1980. Applicant: SURE WAY TRUCK SERVICE, INC., R.R. #2, Auburn, IN 46706. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier*, transporting *cheese* (1) from Auburn, IN, to Cambridge, OH, and points in PA, WV, VA, NC, and SC; and (1) from Cambridge, OH, to points in AL, FL, GA, KY, TN, PA, WV, VA, NC, and SC, under continuing contract(s) with County Line Cheese Co., Inc., of Auburn, IN.

MC 141175 (Sub-2F), filed July 1, 1980. Applicant: GARLEPIED TRANSFER, INC., P.O. Box 10624, 319 Butterworth St., Jefferson, LA 70181. Representative: Emile J. Garlepied (same address as applicant). Transporting *plastic materials* (except in bulk), between the facilities of Dow Chemical, at or near Plaquemine, Baton Rouge, Port Allen, LA, on the one hand, and, on the other, New Orleans, LA.

MC 141684 (Sub-7F), filed June 26, 1980. Applicant: COMMAND CARGO CORPORATION, 8700 Larkin Road, Savage, MD 20863. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Command Cargo Corporation at or near Laurel, MD, on the one hand, and, on the other, points in VA, MD, DE, PA, WV, and DC.

MC 141804 (Sub-458F), filed June 30, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *foodstuffs* (except those requiring mechanical refrigeration), from the facilities of Mac's Old Plantation Crackling Company, at or near Dallas, TX, to Anaheim, CA, and Mobile, AL, restricted to traffic originating at the named origin.

MC 142684 (Sub-3F), filed June 28, 1980. Applicant: B. C. LINES, INC., 8 South Main St., Millbury, MA 01527. Representative: Robert G. Parks, 20 Walnut St., Wellesley Hills, MA 02181. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip sightseeing and pleasure tours, in special operations, beginning and ending at Worcester, MA, and extending to Lincoln Greyhound Park, at Lincoln, RI.

MC 142935 (Sub-18F), filed June 2, 1980. Applicant: PLASTIC EXPRESS, 2999 La Jolla St., Anaheim, CA 92806. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Transporting *building materials*, from Dallas, TX, to Denver, CO.

MC 143594 (Sub-27F), filed July 1, 1980. Applicant: NATIONAL BULK TRANSPORT, INC., 624 Holcomb Bridge Rd., Suite 13, Roswell, GA 30075. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *liquid chemicals*, in bulk, in tank vehicles, from Midland, MI, Knoxville, TN, Deer Park, TX, Linden, NJ, Charleston, WV, and Columbus, GA, to the facilities of (a) ABCO Industries and (b) Worth Chemicals Company, at Spartanburg, SC.

MC 143775 (Sub-155F), filed June 11, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transport *plastic* (except in bulk) and *plastic articles*, from Cleburne, TX, to Winchester, VA, and points in AZ and CA .

MC 143775 (Sub-156F), filed June 13, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting (1) *glass containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of (1) above, between the facilities of Midland Glass Company, at or near (a) Cliffwood, NJ; (b) Henryetta, OK; (c) Shakopee, MN; (d) Terre Haute, IN, and (e) Warner Robins, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143775 (Sub-157F), filed June 23, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *charcoal and wood residuals*, in containers, from Lukeville, AZ, to points in the U.S. (except AK and HI).

MC 143775 (Sub-158F), filed June 27, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting (1) *floor coverings*, and (2) *materials and supplies* used in the maintenance and installation of floor coverings, from Chatsworth, and Rome, GA, Madison, IN, Ames, IA, and Philadelphia, and Willow Grove, PA, to points in CA.

MC 143775 (Sub-160F), filed July 1, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *malt beverages*, from Detroit, MI, to points in AR, IL, IN, IA, KY, MD, MO, NY, NC, OH, PA, SC, TN, VA, WI, and DC.

MC 144305 (Sub-7F), filed June 26, 1980. Applicant: McCAIN TRANSPORT, INC., 5 Wade Road, Washburn, ME 04786. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Contract carrier*, transporting (1)(a) *non-alcoholic beverages*, and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (1)(a) above, from points in GA, IL, and MA, to the facilities of Coca-Cola Bottling Co. of Presque Isle, in ME, under continuing contract(s) with Coca-Cola Bottling Co. of Presque Isle, of Presque Isle, ME; and (2)(a) *foodstuffs* and (b) *supplies* used in the manufacture and distribution of foodstuffs, (i) between ports of entry on the international boundary line between the United States and Canada in MI, on the one hand, and, on the other, points in IL, MI, and TX, (ii) between ports of entry on the international boundary line between the U.S. and Canada in N.Y. on the one hand, and, on the other, points in IL and NY; and (iii) between ports of entry on the international boundary line between the U.S. and Canada in ME, on the one hand, and, on the other, points in FL, IL, NJ, and NY, under continuing contract(s) with McCain Foods, Ltd., of Florenceville, M.B., Canada.

MC 145054 (Sub-38F), filed June 26, 1980. Applicant: COORS TRANSPORTATION CO., a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1600 Lincoln Street, Denver, CO 80264. Transporting *juices*, from Anaheim, CA, to Denver, CO.

MC 147585 (Sub-7F), filed June 25, 1980. Applicant: DICK WELLER, INC., Shoham Rd., Warehouse Point, CT 06088. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. Transporting *such commodities* as are dealt in or used by retail clothing stores, from West Bridgewater, Worcester and Taunton, MA, and Arlington, TX, to points in the U.S. (except AK and HI).

MC 148974 (Sub-2F), filed June 2, 1980. Applicant: LYNN R. WELLS & RUSSELL D. WELLS, d.b.a. KETTLE CREEK TRANSPORTATION, 12555 Herring Rd., Black Forest, CO 80908. Representative: Lynn R. Wells, 12725 Herring Rd., Black Forest, CO 80908. *Contract carrier*, transporting (1) *lumber, particleboard, and hardboard*, from Emmett, ID, Missoula, MT, Sweet Home, Lakeview, and Portland, OR, Tacoma and Longview, WA, Los Angeles, Burney, McCloud, and Oroville, CA, Albuquerque, NM, New Orleans, LA, Galveston, TX, St. Joseph, MO, Terre Haute, IN, Piketon and Millersburg, OH, Union City, PA, Cortland, NY, Memphis, TN, Dalton, GA, Wayzata, MN, Goodman, WI, Dubuque, IA, Peking, IL, Mohawk and Newberry, MI, Concord, AR, Natchez, MS, Camden, AL, Robinsville, NC, Pamplico, SC, Winchester, VA, Kenova, WV, and London, KY, to Black Forest, CO, under continuing contract(s) with Wellco Hardwoods, of Black Forest, CO; and (2) *lumber and asphalt roofing*, from Kamiah, Kooskia, Lewiston and Grangeville, ID, Columbia Falls, Kalispell, Darby and Fortine, MT, Culp Creek and Roseburg, OR, Arden and Bellingham, WA, Anderson and Ft. Bragg, CA, Lubbock and Dallas, TX, and Oklahoma City and Tulsa, OK, to Black Forest, CO, under continuing contract(s) with Black Forest Lumber, of Black Forest, CO.

MC 150214 (Sub-1F), filed June 25, 1980. Applicant: J. N. CARR TRANSPORT, INC., 351 Market Street, Espy, PA 17815. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *dairy products*, from Elmira, Horseheads, and Waverly, NY, and South Waverly, PA, to those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 150565F, filed April 18, 1980, previously published in the FR issue of July 17, 1980 as MC 150563F. Applicant: SUNBELT EXPRESS, INC., 909 South Powell St., Sprindale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753.

Note.—This partial republication corrects the docket number.

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Decided August 1, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2229 (Sub-244F), filed June 27, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Transporting *reinforcing steel*, between Collierville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 28088 (Sub-56F), filed June 25, 1980. Applicant: NORTH & SOUTH LINES, INC., 2710 So. Main St., Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425—13th St., NW., Washington, DC

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20004. Transporting *frozen foods,* from Gilroy, CA, to points in the U.S. in and east of LA, AR, MO, IA, and MN.

MC 107478 (Sub-74F), filed June 30, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (1) *traffic control products, pavement marking compounds, ballotini, and glass beads,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, distribution, and installation of the commodities named in (1) (except commodities in bulk), between the facilities of Pave-Mark Corporation at points in Cobb County, GA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 108589 (Sub-33F), filed July 1, 1980. Applicant: EAGLE EXPRESS COMPANY, a Corporation, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Pulaski, McCreary, Wayne, Russell, Adair, and Clinton Counties, KY, on the one hand, and, on the other, points in TN, NC, SC, GA, AL, IN, IL, MI, and MS.

Note.—Applicant intends to tack this authority with its existing authority.

MC 108589 (Sub-34F), filed July 1,1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Over *regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cookeville and Smithville, TN, serving all intermediate points and serving points in DeKalb and Putnam Counties, TN, as off-route points, from Cookeville over Interstate Hwy 40 to junction Tennessee Hwy 56, then over Tennessee Hwy 56 to Smithville, and return over the same route.

MC 108859 (Sub-76F), filed October 28, 1979, previously noticed in the FR issue of March 6, 1980. Applicant: CLAIRMONT TRANSFER CO., a Corporation, 1803 Seventh Ave., North, Escanaba, MI 49820. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Transporting (1) *grey iron and ductile castings and agricultural implements,* (2) *lawn, garden, and snow removal equipment,* (3) contractor's, construction, mining, lumber mill, marine, industrial, and material handling materials, equipment and supplies, and (4) *materials, equipment and supplies* (except scrap and waste materials, commodities in bulk, or those requiring the use of special equipment), used in the manufacture or distribution of commodities named in (1), (2), and (3) above, between the facilities of (a) Beatrice Foods Co., Brillion Iron Works Division, at or near Brillion, WI; (b) Ariens Co., Inc., at or near Brillion, WI; (c) Gilson Brothers Company, at or near Plymouth, New Holstein, and Oostburg, WI; and (d) The Manitowoc Company, Inc., at or near Manitowoc, WI, on the one hand, and, on the other, those points in IL on and north of U.S. Hwy 36, and points in IN, MI, and OH. (Hearing site: Chicago, IL.)

Note.—This republication corrects the commodity and territory descriptions.

MC 111729 (Sub-767F), filed March 26, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). Transporting *machine parts, replacement and repair; toner for copying machines, printing paper* (other than newsprint), *stationery, stationery supplies, and chilled metal shot,* (1) between Boston, MA, on the one hand, and, on the other, points in CT, ME, NH and RI, (2) between Secaucus, NJ, on the one hand, and, on the other, points in Adams, Bedford, Berks, Blair, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntington, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuykill, Snyder, Sullivan, Susquehana, Tioga, Union, Wayne, Wyoming and York Counties, PA, and points in CT, ME, MA, NH, NY, and RI, (3) between Pennsauken, NJ, on the one hand, and, on the other, points in DE, MD and PA, (4) between Syracuse, NY, on the one hand, and, on the other, points in PA, (5) between Webster, NY, on the one hand, and, on the other, points in Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Cuyahoga, Erie, Franklin, Geauga, Guernsey, Harrison, Holmes, Huron, Knox, Lake, Licking, Lorain, Mahoning, Medina, Muskingum, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas and Wayne Counties, OH, and points in CT, DE, ME, MA, MD, NH, NJ, PA, RI, and DC, (6) between Springfield, VA, on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland Counties, PA and points in DE, MD, NJ, and DC, (7) between Charlotte, NC, on the one hand, and, on the other, points in SC and VA, (8) between Cleveland, OH, on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland Counties, PA, (9) between points in Ohio, on the one hand, and, on the other, points in WV, (except those in Berkeley, Brooke, Grant, Hampshire, Hancock, Hardy, Jefferson, Marshall, Mineral, Morgan, Ohio, Pendleton, Tucker and Wetzel, Counties, WV, (10) between Detroit, MI, on the one hand, and, on the other, Indianapolis, IN, points in IN on and north of U.S. Hwy 24, and points in OH, (11) between Kansas City, MO, and Wichita, KS, (12) between St. Louis, MO, on the one hand, and, on the other, points in IL and IN, (13) between Omaha, NE, on the one hand, and, on the other, points in IA and SD, (14) between Minneapolis, MN, on the one hand, and, on the other, points in IA, ND, SD, and WI, (15) between Portland, OR, on the one hand, and, on the other, points in WA, (16) between Seattle, WA, on the one hand, and, on the other, points in OR, and (17) between Des Plaines, IL, on the one hand, and, on the other, points in Allen, Auglaize, Brown, Butler, Champaign, Clark, Clinton, Clermont, Defiance, Darke, Franklin, Fulton, Greene, Hamilton, Hancock, Henry, Highland, Logan, Lucas, Mercer, Miami, Montgomery, Ottawa, Paulding, Preble, Putnam, Sandusky, Seneca, Van Wert, Warren, Wood, and Williams Counties, OH, and points in IN, IA, MI, MO, and WI. (Hearing Site: Washington, DC or Rochester, NY.)

MC 16519 (Sub-85F), filed March 24, 1980. Applicant: FREDERICK TRANSPORT LTD., R.R. 6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW, Washington, DC 20005. In foreign commerce only, transporting (1) *iron and steel articles, aluminum and aluminum products, zinc and zinc products, and non-ferrous metals,* (a) from the ports of entry on the international boundary line between the U.S. and Canada in MI and NY to points in the U.S. (except AK, AZ, CA, CO, HI, ID, MT, NV, MN, OR, UT, WA, and WY), and (b) from points in IL, IN, MI, MO, NE, NY, OH, PA, TX, and WI, to the ports of entry on the international boundary line between the U.S. and Canada in NY and MI; and (2) (a) *prefabricated metal building products,* and (b) *materials and supplies* used in the manufacture of prefabricated metal building products, from Connersville, IN, and Ambridge, PA, to the ports of entry on the international boundary line between the U.S. and Canada in NY and MI.

MC 120618 (Sub-27F), filed June 27, 1980. Applicant: SCHALLER TRUCKING CORP., 5700 W. Minnesota St., Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. Transporting (1) *empty bins and scrap aluminum,* from points in IN, MI, and OH, to Massena, NY, and (2) *aluminum castings, auto parts, and empty bins,* from Messena, NY, to points in IN, MI, and OH.

MC 121568 (Sub-30F), filed May 19, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37211. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *plastic articles, and materials, equipment, and supplies* used in the distribution of plastic articles, from the facilities of the Tupperware Company, at or near Halls, TN, to points in LA. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 121568 (Sub-44F), filed June 30, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same address as applicant). Transportating *plastic articles and materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except in bulk), between Halls, TN, on the one hand, and, on the other, points in the United States in and east of MT, CO, WY, and NM (except TX and LA).

Note 1.—Applicant intends to tack with existing authority at Halls and Memphis, TN.

Note 2.—The person or persons who appear to be engaged in common control must either file an application under 49 USC 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 129908 (Sub-46F), filed May 5, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 SW 15th St., Oklahoma City, OK 73107. Representative: John S. Odell (same address as applicant). Transporting (1) *aircraft parts and aircraft ground support equipment,* and (2) *parts and accessories* for the commodities in (1) above, between points in the U.S. (except Ak and HI), restricted to traffic originating at or destined to the facilities of Trans World Airlines.

MC 135568 (Sub-5F), filed June 26, 1980. Applicant: CHRISTIE RIGGING & TRUCKING CO., a Corporation, 182 Oakwood Dr., Glastonbury, CT 06033. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Transporting *sound reducing equipment, air-moving equipment, and machinery parts,* between the facilities of the Aetna Manufacturing Corp. at or near Hartford, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145538 (Sub-1F), filed February 22, 1980. Applicant: J. D. VICKERS TRUCKING, INC., PO Box 1201, North Wilkesboro, NC 28569. Representative: J. D. Vickers, 19 1090 Fairchild Rd., Winston-Salem, NC 27105. Transporting *dry fertilizer and dry fertilizer ingredients,* in bulk and in bags, between points in Forsyth and Davidson Counties, NC, on the one hand, and, on the other, points in Campbell, Chesterfield, Patrick, Henry, Pittsylvania, Mecklenburg, Franklin, Carroll, Grayson, Floyd, Brunswick, Roanoke, and Halifax Counties, VA.

MC 146149 (Sub-18F), filed June 30, 1980. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *auto parts, building materials, sporting goods, infant articles, and new furniture,* and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI). Condition: Any certificate issued in this proceeding is subject to prior or coincidental revocation of authority in MC-142897 Subs 1, 2, 5, 6, 10, and 11, and also any authority that may be granted in MC-142897 Sub 16F.

MC 147299 (Sub-2F), filed March 6, 1980. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. LaSalle St., RM 1620, Chicago, IL 60603. Transporting (1) *food products,* and (2) *supplies* used in the manufacture of the commodity in (1) above, between Plymouth, IN, on the one hand, and, on the other, points in IL, IA, KY, MO, MN, OH, MI, WI, and TN.

Note.—Dual operations may be involved.

MC 147488 (Sub-7F), filed June 16, 1980 (republication). Applicant: BURT CLIFFORD TRANSPORT, INC., Box 400, Ruthven, Ontario, Canada NOP 2GO. Representative: Wilhelmina Boersma, 1600 First Federal Blig., Detroit, MI 48226. In foreign commerce only, transporting *glassware,* frpm ports of entry on the international boundary line between the United States and Canada at those points in MI on the Detroit and St. Clair Rivers to the facilities of Diamond Glass Company at Royersford, PA.

Note.—Previously published on July 24, 1980, as MC-147438 Sub 7F.

MC 149219 (Sub-2F), filed May 8, 1980. Applicant: GERALD TRANSPORT CHAMBLY, INC., 3730 Grande Ligne, Chambly, Quebec, Canada J3L 4A7. Representative: Adrien R. Paquette, 200 St. James Street West, No. 900, Montreal, Quebec, Canada H2Y 1M1. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in marine containers, and (2) marine containers, between those ports of entry on the international boundary line between the United States and Canada in NY, VT, NH, and ME, on the one hand, and, on the other, points in VT, NH, MA, CT, ME, NY, NJ, DE, MD, RI, PA, OH, IN, and IL, restricted to traffic having a prior or subsequent movement by water.

MC 149498F, filed May 16, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl MS 39208. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers of hardware, building and construction materials, electrical and gas products, mill works, lumber, lumber products, wood products, wood byproducts, pallets, furniture, and fixtures (except commodities in bulk), between points in MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149498 (Sub-1F), filed May 22, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl, MS 39208. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by lawn and garden equipment manufacturers (except commodities in bulk), between Tupelo, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

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MC 149498 (Sub-2F), filed May 24, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl, MS 39208. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by food business houses, institutional suppliers, and restaurant suppliers (except commodities in bulk), between points in MS and AL, on the one hand, and, on the other, points in the U.S (except AK and HI).

MC 149509F, filed May 29, 1980. Applicant: FRANK D. J. DAL GALLO TRUCKING, INC., 300 East Lake Street, Mount Shasta, CA 96067. Representative: Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 96067. Transporting *wood residuals,* between points in Shasta, Siskiyou, Tehama and Modoc Counties, CA, on the one hand, and, on the other, points in OR. Condition: Subject to coincidental cancellation at applicant's written request of Permit MC 142529 (Sub-1).

MC 150278 (Sub-1F), filed July 2, 1980. Applicant: BODIN'S INC., P.O.Box 687, 208 Wilson Ave, Bayfield, WI 54814. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Contract carrier,* transporting *such commodities* as are dealt in by grocery and food business houses, between Chicago, IL, on the one hand, and, on the other, Superior, WI, under continuing contract(s) with Twin Ports Grocery Company, of Superior, WI.

MC 150738 (Sub-1F), filed June 25, 1980. Applicant: HORNOI TRANSPORT, INC., P.O. Box 934, Miles City, MT 59301. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, between points in MT, on the one hand, and, on the other, points in ND.

MC 150839F, filed December 7, 1979, published in the **Federal Register** issue of April 3, 1980 as FF-513 Sub 1, and republished as corrected this issue. Applicant: MURPHY WAREHOUSE COMPANY, 701 24th Ave. SE, Minneapolis, MN 55414. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), from the facilities of Murphy Warehouse Company at Minneapolis, MN to Grand Forks, Fargo and Whapeton, ND, Eau Claire, La Crosse, Superior, Altoona, Chippewa Falls and Menomonie, WI, Sioux Falls, Brookings, and Watertown, SD, and points in MN, restricted to traffic originating at the named facilities.

Note.—This republication reflects the correct MC No. assigned and adds the state of MN to the destination which was erroneously deleted in the previous publication.

MC 151059F, filed July 2, 1980. Applicant: COWBOY OIL COMPANY, a corporation, P.O. Box 47, Woods Cross, UT 84087. Representative: F. Robert Reeder, P.O. Box 11989, Salt Lake City, UT 84147. *Contract carrier,* transporting *crude oil, scrubber oil, and condensate,* from points in Sweetwater County, WY, to the facilities of Morrison Petroleum Company, at Woods Cross, UT, under continuing contract(s) with Morrison Petroleum Company, of Woods Cross, UT.

MC 151169F, filed June 20, 1980. Applicant: TRANS WORLD OIL CORPORATION, 1633 26th St., P.O. Box 1839, Santa Monica, CA 90406. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting *petroleum and petroleum products,* between points in SC, NC, FL, and GA, restricted to the transportation of traffic originating at or destined to the facilities of USA Petroleum Corporation, USA Gasoline Corporation, Supersave Petroleum Corporation, Colonial Oil Company, Colonial Service Stations, Inc., Houston Oil Company, and Oasis Petroleum Corporation.

MC 151199F filed June 30, 1980. Applicant: MOTOR RAIL DELIVERY, INC. OF CHICAGO, 2075 West 43rd St., Chicago, IL 60609. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. Transporting *general commodities* between Chicago, IL, on the one hand, and, on the other, points in WI on and south of a line beginning at the Mississippi River at Prairie du Chien, WI, and extending over U.S. Hwy. 18 to junction Interstate Hwy. 90 near Madison, WI, then over Interstate Hwy. 90 to junction Interstate Hwy. 94, then over Interstate Hwy. 94 to Lake Michigan at Milwaukee, WI; points in IL on and north of U.S. Hwy. 36; points in IN on, north, and west of a line beginning at the IL–IN State line and extending over U.S. Hwy. 36 to junction U.S. Hwy. 31, and then over U.S. Hwy 31 to the IN–MI State line; points in MI on, south, and west of a line beginning at Lake Michigan at Benton Harbor, MI, and extending over Interstate Hwy. 94 to junction U.S. Hwy. 131, and then over U.S. Hwy. 131 to the MI–IN State line; points in IA on and east of U.S. Hwy 61; and points in MO on, north, and east of a line beginning at the MO–IA State line and extending over U.S. Hwy. 61 to junction U.S. Hwy. 36, and then over U.S. Hwy. 36 to the MO–IL State line, restricted to shipment in trailers or containers having a prior or subsequent movement by rail or water. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Volume No. 319

Decided: August 8, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 8310 (Sub-13F), filed April 25, 1980. Applicant: JEFF'S TRUCKING, INC., 408½ Main Street, Waupun, WI 53963. Representative: Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, WI 53105. Transporting (1) *kitchen appliances, furnaces, and heaters,* (2) *parts and accessories* for the commodities in (1) above, and (3) *metal stampings, and castings,* between Beaver Dam, WI, on the one hand, and, on the other, Minneapolis, MN, and Dubuque, IA.

MC 147710 (Sub-2F), filed May 19, 1980, and previously noticed in **Federal Register** issued of July 22, 1980. Applicant: ACE CAB OF ELKHART, INC., 300 East High St., Elkhart, IN 46514. Representative: Willard Chester, 317 West Franklin St., P.O. Box 1261, Elkhart, IN 46514. *Contract carrier,* transporting *passengers and their baggage,* in special and charter operations, between points in Elkhart County, IN, on the one hand, and, on the other, points in IL, IN, MI, and OH, under continuing contract(s) with Consolidated Rail Corporation, of Elkhart, IN.

Note.—This republication clarifies the authority sought.

MC 147861 (Sub-4F), filed March 26, 1980, and previously noticed in **Federal Register** issue of July 10, 1980. Applicant: THE STANDISH CORPORATION, 339 South Leonard, Liberty, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *brass, bronze and copper pipe and fittings,* (1) from Wynne, AR, to Independence, Springfield, Cape Girardeau, and St. Louis, MO, Council Bluffs and Des Moines IA, and Omaha and Lincoln, NE, and (2) from Independence, MO, to Council Bluffs and Des Moines, IA, Omaha and Lincoln, NE, and St. Louis, MO.

Note.—This republication shows Omaha and Lincoln, NE, as destination points in (1) and (2) above.

MC 150640 (Sub-1F), filed April 23, 1980, and previously noticed in the

Federal Register issue of July 15, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Avenue, Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier,* transporting *scrap materials, metals, stainless steel, batteries, and reconditioned steel containers, including tubs,* between points in Monroe County, NY, on the one hand, and, on the other, New York, NY, points in Nassau and Suffolk Counties, NY, and points in AL, CT, IL, IN, KY, MA, MI, MO, NJ, OH, PA, and TN, under continuing contract(s) with Krieger Waste Paper Co., of Rochester, NY.

Note.—This republication includes the States of CT, MA, MI, and TN.

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Decided: August 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 114211 (Sub-425F), filed November 26, 1979, and previously noticed in **Federal Register** issue of March 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in, or used by manufacturers and dealers of agricultural and industrial equipment (except commodities in bulk), between points in the U.S. (including AK, but excluding HI).

Note.—This republication clarifies the commodity description.

MC 121060 (Sub-120F), filed November 9, 1979, and previously noticed in **Federal Register** issue of March 20, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting (1) *construction materials,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of The Celotex Corporation at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication clarifies the territorial description.

MC 144061 (Sub-14F), filed January 25, 1980, and previously noticed in **Federal Register** issue of April 22, 1980. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Ave., Wyckoff, NJ 07481. Representative: Jack L. Schiller, 345 Webster Ave., Brooklyn, NY 11230. *Contract carrier,* transporting (1) *liquid chemicals,* in bulk, from the facilities of Amoco Chemicals Corporation, at or near Willow Springs and Wood River, IL, and Griffith, IN, to points in the U.S. (except AK and HI), and (2) *liquid chemicals,* in bulk, from Wood River, IL, to Joliet, IL, restricted in (2) to traffic having a prior movement by water, under continuing contract(s) in (1) and (2) above with Amoco Chemicals Corporation of Chicago, IL.

Note.—This republication removes the restriction in part (1), shows Willow Springs, IL, and Griffith, IN, as additional origin points in (1), and shows Wood River, IL, as the origin point in (2).

MC 149351 (Sub-1F) filed April 29, 1980, and previously noticed in **Federal Register** issue of August 13, 1980. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry Street, Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. *Contract carrier,* transporting *plastic articles,* from Winchester, VA, to points in ID, MT, OR, WA, WY, CO, NE, ND, SD, TX, and WI, under continuing contract(s) with Rubbermaid Commercial Products, Inc., of Winchester, VA.

Note.—This republication shows TX and WI as destination states.

Passenger

MC 124421 (Sub-1F) filed April 15, 1980. Applicant: 88 TRANSIT LINES, INC., Arentzen Boulevard, Charleroi, PA 15022. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *passengers* and their *baggage* in the same vehicle with passengers; (1) in round-trip charter and special operations, from points in (a) that portion of Allegheny County, PA bounded on the west and north by U.S. 19 and the city of Pittsburgh, on the east by the Monongahela River to the intersection of PA Hwys 835 and 885, at or near the Clairton-Glassport Bridge, then by a line from that point to the borough of South Versailles, including the city of Pittsburgh; (b) that portion of Westmoreland County, PA, on and west of a line extending from the junction of PA Highway Legislative Route 61424, and the Fayette County-Westmoreland County Line, northward to the junction of the Youghiogheny River and the Westmoreland County Line at the borough of Robbins, PA; (c) that portion of Washington County, PA on and east of a line beginning at the intersection of PA Highway Legislative Route 62176, and the Washington County-Fayette County Line, then northward to the intersection of U.S. Hwy 40 and PA Highway Legislative Route 62079, then northward to the intersection of U.S. Hwy 10 and the Allegheny County-Washington County line; (d) that portion of Fayette County, PA, on north, and west of a line extending from the borough of East Millsboro to the junction of U.S. Hwy 51 and PA Highway Legislative Route 26026, and from that junction to the intersection of PA Highway Legislative Route 26086, and the Fayette County-Westmoreland County line, to points in the U.S. (including AK, but excluding HI) and return. (Hearing site: Pittsburgh, PA.)

MC 146450 (Sub-1F) filed August 6, 1979, and previously noticed in **Federal Register** issue of February 20, 1980. Applicant: UNITED CHARTER SERVICE, INC., 375 South Mayfair Ave., Daly City, CA 94015. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at San Francisco, CA, and extending to Carson City, NV, and points in Douglas, Storey, and Washoe Counties, NV, limited to the transportation of not more than 15 passengers in any one vehicle.

Note.—This republication shows Carson City, NV, and Douglas, Storey, and Washoe Counties, NV, in lieu of Carson City, NY, and Douglas, Storey, and Washoe Counties, NY.

Passenger

MC 150840 (Sub-1F), filed June 30, 1980. Applicant: HERBERT G. STEPHENS d.b.a. STEPHENS TOURS SERVICE, 710 Owens St., Rockville, MD 20850. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, restricted to the transportation of not more than 15 passengers in the same vehicles (not including the driver), beginning and ending at points in MD, VA, and DC, and extending to points in the U.S., (except AK and HI).

Volume No. OP4-006

Decided: July 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 11207 (Sub-547F), filed April 15, 1980. Applicant: DEATON, INC., 317 Ave. W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (1) *fabricated iron and steel articles,* and (2) *iron and steel castings,* (a) from points in Harrison County, TX, to points in the U.S. (except AK and HI), and (b) from Dallas, Houston, Lubbock, and San Antonio, TX, to points in the U.S.

(except AK and HI), restricted in (b) to traffic originating at the facilities of Cobb Industries, Inc., its customers, or suppliers.

MC 21866 (Sub-155F), filed April 4, 1980, previously noticed in the **Federal Register** issue of July 10, 1980, and republished this issue. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting (1) *cement, brick, asphalt coatings, steel and plastic tanks, and potting compounds,* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between Mertztown (Berks County), PA, on the one hand, and, on the other, points in the U.S. (except AK, HI and PA), restricted to the transportation of traffic originating at or destined to the facilities of Atlas Minerals & Chemicals, Inc.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 21866 (Sub-175), filed June 30, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Richardson Company and its subsidiaries.

MC 29886 (Sub-374F), filed May 20, 1980, previously noticed in the **Federal Register** issue of May 20, 1980, and republished this issue. Applicant: DALLAS & MAVIS FOWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *commodities* the transportation of which because of size or weight, requires the use of special equipment, and (2) *self-propelled articles* each weighing 15,000 lbs, or more, when transported on trailers, between points in CT, DE, IL, IN, IA, KY, NH, MD, ME, MA, MI, MO, NJ, NY, OH, PA, RI, VT, WV, VA, WI and DC.

Note.—The purpose of this republication is to correct the territorial description.

MC 51146 (Sub-846F), filed May 16, 1980, previously noticed in the **Federal Register** issue of July 17, 1980, and republished this issue. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *glass products* (except commodities in bulk), from the facilities of Pittsburgh Corning Corporation, at (a) Port Alleghany, PA, and (b) Sedalia, MO, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, and WI.

Note.—The purpose of this republication is to include VA as a destination point.

MC 78687 (Sub-104F), filed February 12, 1980, previously noticed in the **Federal Register** issue of April 3, 1980 and republished this issue. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. Transporting *fly ash,* in bulk, in tank vehicles, (1) from Indiana, Shelocta, Homer City, and Huff, PA, to points in NY, OH, DE, VA, WV, IN, VT, MA, and CT, and (2) between points in NY, restricted in (2) to prior or subsequent movements by rail.

Note.—The purpose of this republication is to (1) correctly state the territorial description in (1), and (2) to correctly state that the restriction applies to (2).

MC 89697 (Sub-30F), filed June 3, 1980. Applicant: KRAJACK TANK LINES, INC., 480 E. Westfield Ave., Roselle Park, NJ 07204. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *liquid chemicals, and waste liquid chemical materials for recycling,* in bulk, in tank vehicles, between the facilities of Marisol, Inc., at Middlesex, NJ, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, ME, KS, OK, and TX.

MC 93147 (Sub-20F), filed May 28, 1980, previously noticed in the **Federal Register** issue of July 22, 1980, and republished this issue. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Transporting (a) *batteries, flashlights, lamps, store display racks, electrical equipment and parts,* (except commodities in bulk), and (b) *materials, equipment and supplies* used in the manufacturing, sale and distribution of those commodities in (a), between Cerritos, Pasadena, and San Francisco, CA, Hartford, New Britain, Wallingford, Waterbury, and Oakville, CT, Wilmington, DE, Atlanta, GA, Chicago, IL, Red Oak, IA, Lawrence, Medford, Taunton, Wilmington, and Worcester, MA, Marysville, MO, Berlin, Voohersville, and Manchester, NH, Edison and Saddlebrook, NJ, Lockport, NY and Schenectady, NY, Asheboro, Ashville, Greensboro and Greenville, NC, Cleveland, Edgewater, and Freemont, OH, Portland, Or, Kingsport and Memphis, TN, Dallas, TX, and Burlington, ST. Albans, and Bennington, VT, restricted to traffic originating at or destined to the facilities of Union Carbide Corporation.

Note.—The purpose of this republication is to delete "chemicals" from the commodity description.

MC 98807 (Sub-4F), filed June 16, 1980. Applicant: RAJAC, INC., P.O. Box 1080, Kenner, LA 70063. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Transporting (1)(a) *machinery, materials, supplies and equipment* in connection with the discovery, development and production of natural gas and petroleum, and (b) *petroleum products,* in bulk, between points in LA, and (2) *commodities which, because of size or weight, require the use of special equipment, and parts thereof,* and *utility poles,* from points in LA south of U.S. Hwy 190 at the MS–LA State line, west to LA Hwy 12, and continuing west to the LA–TX State line.

Note.—This application is to convert a Certificate of Registration involving the same commodities within the state of LA. This application is filed in conjunction with an application by Petroleum Transport Company to transport gasoline, distillate fuel and aviation fuel, in bulk, in tank vehicles, from Jefferson County and Brazoria County, TX to points in LA. These companies are commonly owned and operated. A consolidated hearing of these two applications is requested. The parties intent to continue the lease of the certificate if converted.

MC 98807 (Sub-5F), filed June 16, 1980. Applicant: PETROLEUM TRANSPORT COMPANY, a corporation, P.O. Box 1080, Kenner, LA 70063. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Transporting *gasoline, distillate fuel, and aviation fuel,* in bulk, in tank vehicles, from points in Jefferson and Brazoria Counties, TX, to points in LA. Condition: The issuance of a certificate in this proceeding is conditioned upon either (a) the coincidental cancellation of Certificate of Registration No. MC–98807 Sub-No. 2, at applicant's written request, or (b) the successful conversion of that certificate of public convenience and necessity in No. MC–98807 Sub-No. 2.

MC 107006 (Sub-9F), filed April 14, 1980, and previously noticed in the **Federal Register** issue of July 10, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212.

Contract carrier, transporting *wood and wood products,* (except commodities in bulk), between the facilities of Buckeye Wood Products Inc., and its subsidiaries Union Cabinet Co., and Paint Valley Pallet Co., at or near S. Charleston, Milford Center, and Bainbridge, OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, NY, PA, TN, WI, and WV, under continuing contract(s) with Buckeye Wood Products Inc. and its subsidiaries Union Cabinet Co. and Paint Valley Pallet Co., of South Charleston, OH.

Note.—This republication is to reflect the correct name of the supporting shipper in this proceeding.

MC 115826 (Sub-581F), filed March 3, 1980, previously noticed in the **Federal Register** issue of May 13, 1980, and republished this issue. Applicant: W. J. DIGBY, INC., A Nevada Corporation, 6015 East 58th Ave., Commerce City, CO 80022. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of alcoholic beverages, and wine, from the facilities of Heublein, Inc., at or near Hartford, CT, to points in AZ, CA, CO, GA, ID, IL, IN, KS, KY, MI, MN, MO, MT, NE, NV, OK, SD, TN, UT, WI, and WY, restricted to the transportation of traffic originating at the named facility.

Note.—The purpose of this republication is to correct the commodity description.

MC 115826 (Sub-584F), filed April 1, 1980, previously noticed in the **Federal Register** issue of July 10, 1980, and republished this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting (1) *oils, cleaning and washing compounds, wax, textile softeners, fire-proofing compounds, fatty acids, and chemicals* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Emery Industries, Inc., at (a) Santa Fe Springs and Los Angeles, CA, (b) Cincinnati, OH, (c) Lock Haven, PA, (d) Mauldin, SC, and (e) Linden, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to include "oils" in the commodity description.

MC 119777 (Sub-380F), filed June 5, 1980, previously noticed in the **Federal Register** issues of March 27, 1980, and June 3, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *construction forms, and construction form material,* and (2) *scaffolding, and scaffolding material,* between points in the U.S. (except AK and HI), restricted to the transportation of shipments originating at or destined to the facilities and jobsites of the Ceco Corporation.

Note.—The purpose of this republication is to correctly state the restriction.

MC 119777 (Sub-458), filed February 4, 1980, previousely noticed in the **Federal Register** issue of April 15, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *non-ferrous metals, alloys, molybenum, ores, concentrates, copper, and copper crystals,* and (2) *materials, equipment, and supplies* used in the production and mining of the commodities in (1) above, between points in Pima County, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correctly state the commodity description.

MC 120427 (Sub-33F), filed September 17, 1980, and previously noticed in the **Federal Register** issue of March 14, 1980. Applicant: WILLIAMS TRANSFER, INC., 2128 East Hwy #30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Transporting *meats, meat products and meat byproducts and articles distributed by meat packing houses,* from Denison, Carroll, Iowa Falls, Sioux City, Ft. Dodge, and Des Moines, IA, Crete, Lincoln, and Omaha, NE, to points in MT, WY, CO, NM, WA, OR, NV, ID, AZ, and UT, restricted to the transportation of traffic originating at the facilities of Farmland Foods, Inc., at or near the named origins.

Note.—This republication is to correctly reflect the territorial description.

MC 136786 (Sub-194F), filed December 17, 1979, previously noticed in the **Federal Register** issue of April 1, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *cheese, cheese foods, and cheese spreads,* from La Crosse, WI, to Richmond, CA, Santa Fe Springs, CA, Carthage, MO, Garland and Houston, TX, Denver, CO, Landover, MD, and Bellevue, WA.

Note.—The purpose of this republication is to correct the destination point published as Bellevue, MD to Bellevue, WA.

MC 142206 (Sub-1F), filed June 30, 1980. Applicant: SPORT AND WATER SAFETY INSTITUTE, LTD., 3365 Main St., College Park, GA 30337. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Fl.—Lenox Towers So., Atlanta, GA 30326. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in GA on, north and west of a line beginning at the GA-NC State line and extending along U.S. Hwy 441 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the GA-AL State line, those in Bibb County, GA, south of U.S. Hwy 80 and those in Crisp County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of passengers having a prior movement by air.

MC 143127 (Sub-70F), filed April 7, 1980, previously noticed in the **Federal Register** issue of July 10, 1980, and republished this issue. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Transporting *adhesives,* from Paxton, IL, to Columbus, OH, Philadelphia, PA, Tucker, GA, and Winchester, MA.

Note.—The purpose of this republication is to modify the territorial description.

MC 143696 (Sub-21F), filed June 30, 1980. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Contract carrier,* transporting *machinery,* and *materials, equipment and supplies* used in the manufacture and distribution of machinery, between points in the U.S. (except AK and HI), under continuing contract(s) with Tom Taylor Machinery Company, Inc., of Houston, TX.

MC 144547 (Sub-6F), filed December 19, 1979, previously noticed in the **Federal Register** issue of April 1, 1980, and republished this issue. Applicant: DURA-VENT TRANSPORT CORPORATION, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., N.W., Washington, DC 20006. *Contract carrier,* transporting *truck parts and accessories,* from points in the U.S. (except AK and HI), to Fremont, CA, under continuing contract(s) with Universal Filter Supply, Inc.

Note.—The purpose of this republication is to correct the territorial description.

MC 145657 (Sub-3F), filed October 9, 1979, previously published in the **Federal Register** issue of March 14, 1980, and

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republished this issue. Applicant: K & R TRUCKING CO., a corporation, P.O. Box 63, Dacus Rd., Preston GA 31824. Representative: Henry L. Crisp, P.O. Box J, Americus, GA 31709. Transporting (1) *agricultural lime and gypsum,* from points in Lee County, AL, and Hamilton, Madison, Taylor, Jefferson, Jackson, and Leon Counties, FL, to those points in GA on, south, and west of a line beginning at the GA–AL State line and extending along U.S. Hwy 80 to junction Interstate Hwy 75, and then along Interstate Hwy 75 to the GA–FL State line, and (2) *lumber,* from points in Stewart, Webster, and Sumter Counties, GA, to points in AL, AR, FL, KY, LA, MS, NC, SC, TN, and VA.

Note.—The purpose of this republication is to correctly state the territorial description in (1) above.

MC 146546 (Sub-2F), filed July 26, 1979, previously noticed in the **Federal Register** issue of March 6, 1980, and republished this issue. Applicant: LUCARJO CARRIERS, 4643 Prescott St., Lincoln, NE 68506. Representative: John W. Arnett (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of furniture, between the facilities of Harris of Pendleton, at Lincoln, NE, on the one hand, and, on the other, points in IA, IL, IN, OH, PA, NJ, NY, MA, CT, MD, DE, WV, VA, AR, MS, AL, OK, KS, TX, MN, WI, MI, TN, CO, MO, and DC, under continuing contract(s) with Harris of Pendleton, of Lincoln, NE.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 148766 (Sub-3F), filed March 3, 1980. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: Michael H. Lennox, 7700 N. Broadway, Oklahoma City, OK 73113. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Oklahoma City and Chickasha, OK: From Oklahoma City over U.S. Hwy 62 to the junction of the H. E. Bailey Turnpike, then over the H. E. Bailey Turnpike to junction Hwy 277, then over U.S. Hwy 277 to junction U.S. Hwy 281 at or near Richards Spur, OK, then over U.S. Hwy 281 to Anadarko, OK, then over U.S. Hwy 62 to Chickasha, and return over the same route, serving all intermediate points and serving the off-route points of Cyril and Apache, OK.

MC 150487F, filed March 12, 1980. Applicant: THOMAS KELSEY, 2557 Airport Hwy., Toledo, OH 43609. Representative: Charles E. Bloom, 2917 Lagrange St., Toledo, OH 43608. Transporting *wrecked or disabled motor vehicles,* between those points in IL on and east of Interstate Hwy 57, those points in IN on and north of Interstate Hwy 70, and those points in PA on and west of Interstate Hwys 81 and 83, and points in OH and MI.

MC 150796 (Sub-1F), filed June 16, 1980. Applicant: CLIFFORD A. PERKHURST, 1229 Dakota No., Huron, SD 57350. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), under continuing contract(s) with Leisure Technology, Inc., of Huron, SD.

MC 150927F, filed May 30, 1980. Applicant: HORIZON TRANSPORT, INC., 13101 N.E. Whittaker Way, Portland, OR 97204. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204. Transporting (1) *building materials,* (2) *lumber and lumber products,* other than those in (1), (3) *iron and steel articles,* (4) *forest products,* (5) *contractor's equipment materials and supplies,* (6) *feed and feed ingredients,* (7) *baling twine* and (8) *fertilizer and fertilizer additives,* between points in WY, CO, NM, ID, UT, AR, WA, OR, NV, and CA.

MC 151067 (Sub-1F), filed June 8, 1980. Applicant: TWILIGHT TRUCKING, LTD., 4319 78th Ave., Edmonton, Alberta, Canada T6B 2N3. Representative: Dale Thiessen (same address as applicant). In foreign commerce only, transporting *poly vinyl chloride resins,* in bags, from ports of entry on the international boundary line between the U.S. and Canada at points in MT, ID, and WA, to points in CA, OR, WA, UT and NE.

MC 151127 (Sub-1F), filed June 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Contract carrier,* transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, CO, and NM, under continuing contract(s) with Aluminum Company of America, of Pittsburgh, PA.

MC 151266 (Sub-1F), filed June 30, 1980. Applicant: YOWELL TRANSPORTATION SERVICE, INC., 1840 Cardington Rd., Dayton, OH 45409. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Contract carrier,* transporting (1) *analog and digital electronic machines and systems,* and (2) *materials, equipment, and supplies* used in the manufacture and operation of the commodities in (1) above, between points in the U.S. (except AK and HI), under continuing contract(s) with Systems Engineering Laboratories, Inc., of Fort Lauderdale, FL.

MC 151306F, filed June 24, 1980. Applicant: THE TRAVEL TRUST, INC. d.b.a. TTT, 912 Main St., Sharpsburg, PA 15215. Representative: Joseph Matas (same address as applicant). Transporting *passengers and their baggage,* in special and charter operations, and sightseeing and pleasure tours, between points in PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, RI, SC, TN, VT, VA, WV, OH, and DC.

MC 151307F, filed June 8, 1980. Applicant: TREFFLE & REID LECLERC, a partnership, P.O. Box 1095, Grand Falls, New Brunswick, Canada. Representative: Adrien R. Paquette, 200 St. Jacques St., West, Suite 900, Montreal, Quebec, Canada, H2Y 1M1. In foreign commerce only, transporting *passengers and their baggage,* in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada at points in NY, VT, NH, and ME, and extending to points in ME, NH, VT, CT, RI, MA, NY, NJ, DE, PA, MD, VA, GA, NC, SC, FL, and DC.

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Decided: August 15, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Liberman not participating.

MC 21866 (Sub-163F), filed May 27, 1980, and previously noticed in the FR issue of July 24, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *plastic and plastic products* (except commodities in bulk), from Reading, PA, and Wytheville, VA, to points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Polymer Corporation or Polypenco, Inc.

Note.—This republication is to correctly reflect the territorial description.

MC 29647 (Sub-47F), filed June 10, 1980, previously noticed in the **Federal Register** issue of July 22, 1980, and republished this issue. Applicant: CHARLTON BROS. TRANSPORTATION CO., INC., P.O. Box 2097, Hagerstown, MD 21740. Representative: Charles E. Creager, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) and containers or trailers, between points in DE, MD, WV, VA, PA, NJ, and DC, restricted to traffic having a prior or subsequent movement by rail, water or air.*

Note.—The purpose of this republication is to corectly state the commodity description.

MC 75406 (Sub-51F), filed February 15, 1980, previously noticed in the FR issue of May 13, 1980, and republished this issue. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 So. Fourth St., St. Louis, MO 63118. Representative: Joseph E. Rebman, 314 No. Broadway, Suite 1330, St. Louis, MO 63102. Transporting (1) *agricultural insecticides and agricultural fungicides,* and (2) *tree and weed killing compounds,* (except commodities in bulk), between Helena and West Helena, AR, and Clarksdale, MS.

Note.—The purpose of this republication is to correctly reflect the commodity description. Applicant proposes to tack with existing authority and to interline with other carriers.

MC 119777 (Sub-489F), filed June 23, 1980, previously noticed in the FR issue of July 24, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *component parts, materials, equipment, and supplies* (except commodities in bulk), used in connection with or in the manufacture of mobile homes and recreational vehicles, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Elixir Industries, Inc., its customers, or its suppliers.

Note.—The purpose of this republication is to correct the commodity description.

MC 141376 (Sub-7F), filed April 10, 1980. Applicant: CERTARO TRUCKING COMPANY, A Corporation, 14 Muller Rd, Oakland, NJ 07436. Representative: Joseph R. Siegelbaum, 17 Academy St, Newark, NJ 07102. *Contract carrier,* transporting (1) *chemicals, cleaning, washing, scouring and defoaming compounds* and (2) *materials, equipment and supplies* used in the manufacture and sale of such commodities, in temperature-controlled vehicles (except commodities in bulk), (a) between Kearny, NJ, Houston, TX, and Chicago, IL, on the one hand, and, on the other, points in CA, OR, WA, ID, and WY; and (b) between Houston, TX, and Chicago, IL, under continuing contract(s) with Drew Chemical Corporation, at Boonton, NJ. (Hearing site: New York, NY or Newark, NJ.)

MC 142686 (Sub-39F), filed February 20, 1980. Applicant: MID-WESTERN TRANSPORT INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Contract carrier,* transporting (1) *refrigeration equipment,* and (2) *materials and supplies* used in the manufacture, distribution and installation of refrigeration equipment, between Waynesboro, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Frick Co., and under continuing contract(s) with Frick Co., of Waynesboro, PA.

MC 142686 (Sub-40F), filed February 22, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Contract carrier,* transporting *steel products,* between Rockford, IL, and Reading, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Carpenter Technology, and under continuing contract(s) with Carpenter Technology, of Reading, PA.

MC 144986 (Sub-3F), filed January 18, 1980, and previously noticed in the **Federal Register** issue of July 10, 1980. Applicant: STAHLER TRUCKING & LEASING, INC., 208 East Harrison St., Wapakoneta, OH 45895. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. *Contract carrier,* transporting *foodstuffs, and materials and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), between Bedford Heights and Columbus, OH, on the one hand, and, on the other, points in U.S. (except AK and HI), under continuing contract(s) with Lancaster Colony Corporation, and its subsidiaries, of Columbus, OH.

Note.—This republication is to include the contracting shipper's subsidiaries.

MC 145366 (Sub-3F), filed April 21, 1980. Applicant: VENABLE TRUCKING COMPANY, INC., Rt. 1, Box 313, Odenville, AL 35120. Representative: John W. Cooper, 200 Woodware Bldg., 1927 1st Ave. North, Birmingham, AL 35203. Transporting (1) *sand,* in bulk, from the facilities of Tri State Sand Company, Inc. in or near Tishomingo, MS, and Camden, TN, to those points in the U.S. in and east of MN, IA, MO, KS, OK, TX, and (2) *slag and crushed stone,* from points in AL to points in MS.

MC 146226 (Sub-2F), filed April 11, 1980. Applicant: J. and P. Trucking Co., Inc., P.O. Box 457, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, Clearfield, PA 16830. Transporting (1) *foodstuffs,* from Lincolnton, NC, Winchester, Timberville, VA, and Martinsburg, WV, to points in the U.S., and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), in the reverse direction.

MC 150316 (Sub-1F), filed May 23, 1980, previously noticed in the **Federal Register** issue of July 22, 1980, and republished this issue. Applicant: ROBERT M. HARRIS, Star Rte., Box 134, Buckingham, VA 23921. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Contract carrier, transporting (1)(a) *stone and stone products,* and (b) *steel and aluminum articles,* from the facilities of Allen Morrison, Inc., at Lynchburg, VA to points in CA, CT, GA, IL, IN, ME, MD, MA, MI, MN, MO, NC, NJ, NH, NY, OH, OR, PA, SC, VT, VA, WV, and WI, and (2) *aluminum, cement, mortar, surface coatings, steel, cardboard, lumber and pallets,* in the reverse direction, under continuing contract(s) with Allen Morrison, Inc.

Note.—The purpose of this republication is to include NY as a destination state in (1) above.

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Decided: August 8, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill

MC 19306 (Sub-2F), filed April 14, 1980. Applicant: R. J. TAYLOR AND G. G. TAYLOR CO., 180 Jefferson Blvd., Warwick, RI 02886. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW, Washington, DC 20036. *Contract carrier,* transporting *general commodities,* between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. Restriction: The service to be performed by the above-named carrier is limited to a service in which said carrier leases trucks with drivers to the shippers for the transportation of such shippers' property.

MC 78787 (Sub-53F), filed June 30, 1980. Applicant: PACIFIC MOTOR

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TRUCKING COMPANY, a corporation, P.O. Box 990, Burlingame, CA 94010. Representative: John MacDonald Smith, 813 Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105. *Contract carrier,* transporting (1) *motor vehicles,* in truckaway and driveaway service, in initial movements, between points in the U.S., and (2) *motor vehicles,* in truckaway and driveaway service, in secondary movements, between points in the U.S. under continuing contract(s) with General Motors Corporation, of Detroit, MI.

MC 109026 (Sub-27F), filed June 26, 1980, previously noticed in the **Federal Register** issue of July 29, 1980, and republished this issue. Applicant: MANNING MOTOR EXPRESS, INC., P.O. Box 685, Glasgow, KY 42141. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Glasgow, KY, on the one hand, and, on the other, points in OH.

Note.—Applicant intends to tack with its existing authority. The purpose of this republican is to correct the tacking statement.

MC 114457 (Sub-577F), filed June 30, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting *(1) toilet preparations, soap products, and (2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Minnetonka, Inc.

MC 118776 (Sub-50F), filed June 30, 1980. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *wood pulp, dishes, plates and trays, packing partitions, egg cartons, and molded pulp,* from Hammond, IN, to points in MN, MO, KS, and WI.

MC 119777 (Sub-495F), filed June 27, 1980, previously noticed in the **Federal Register** issue of July 29, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 E, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Transporting *roofing and roofing materials* (except in bulk), from Tuscaloosa, AL to points in FL, GA, TN, AR, MS, and LA.

Note.—The purpose of this republication is to insert GA in lieu of CA in the territorial description.

MC 120727 (Sub-9F), filed June 27, 1980. Applicant: GALLATIN-PORTLAND FREIGHT LINES, INC., Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5011 Poplar Ave., Memphis, TN 38137. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, and Paragould, AR: From Memphis over Interstate Hwy 55 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Jonesboro, AR, then over Arkansas Hwy 1 to Paragould, and return over the same route, serving the intermediate points of Marked Tree, Trumann and Jonesboro, AR.

MC 125786 (Sub-2F), filed July 1, 1980. Applicant: AMSTUTZ TRUCKING CO., a Corporation, 14077 Sanford, Milan, MI 48160. Representative: Robert E. McFarland, 2855 Coolidge-Suite 201A, Troy, MI 48084. *Contract carrier,* transporting (1) *slit steel,* and (2) *steel, and materials, equipment and supplies* used in the manufacture and production of slit steel, between points in the U.S., under continuing contract(s) with Dundee Slitting, Inc., of Britton, MI.

MC 125786 (Sub-3F), filed July 1, 1980. Applicant: AMSTUTZ TRUCKING CO., a Corporation, 14077 Sanford, Milan, MI 48160. Representative: Robert E. McFarland, 2855 Coolidge-Suite 201A, Troy, MI 48084. *Contract carrier,* transporting (1) *slit steel,* and (2) *steel, and materials, equipment and supplies* used in the manufacture and production of slit steel, between points in the U.S., under continuing contract(s) with Cardinal Metal Products, Inc., of Britton, MI.

MC 135797 (Sub-337F), filed June 25, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P. P. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting (1) *such commodities* as are dealt in or used by manufacturers of pillows and cushions, fiberglass products, and paper and paper products, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dallas and Weatherford, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142857 (Sub-6F), filed April 10, 1980. Applicant: MCC TRANSPORTATION CO., INC., Rt. 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L. St., N.W., Washington, DC 20036. *Contract carrier,* transporting *malt beverages,* and *materials and supplies* used in the distribution of malt beverages, between points in the U.S., under continuing contract(s) with distributors of Adolph Coors Co., in AR.

MC 144606 (Sub-14F), filed June 17, 1980. Applicant: DUNCAN SALES & LEASING CO., INC., 714 East Baseline Rd., Buckeye, AZ 85326. Representative: Donald W. Powell, 1833 N. Third St., Phoenix, AZ 85004. *Contract carrier,* transporting (1) *plastic articles and plastic materials,* and (2) *equipment and supplies* used in the manufacture and distribution of plastic articles and plastic materials (except commodities in bulk), between points in the U.S., under continuing contract(s) with Mobil Chemical Co., Plastics Div., of Macedon, NY. Condition: Person or persons who appears to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 148956 (Sub-1F), filed June 3, 1980. Applicant: UNITED CHEMICAL CARRIERS, INC., 15812 La Monde St., Hacienda Heights, CA 91745. Representative: Bobbie F. Albanese, 13215 East Penn St., Suite 310, Whittier, CA 90602. *Contract carrier,* transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals (except commodities in bulk), between points in the U.S., under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 149166 (Sub-1F), filed June 27, 1980. Applicant: VIA EXPRESS, INC., 3151 Diablo Ave., Hayward, CA 94545. Representative: J. H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Via Express, Inc., at Hayward, CA, on the one hand, and, on the other, points on and within a line beginning at Fort Bragg, CA and extending along CA Hwy 1 to Carmel, CA, then along CA Hwys 1 and 68 to the junction of CA Hwys 68 and 183, and U.S. Hwy 101, then along U.S. Hwy 101 to the junction of CA Hwy 166, then along CA Hwy 166 to the junction of CA

Hwy 99, then along CA Hwy 99 to the junction of CA Hwy 65, then along CA Hwy 65 to the junction of CA Hwy 198, then along CA Hwy 198 to the junction of CA Hwy 245, then along CA Hwy 245 to the junction of CA Hwy 180, then along CA Hwy 180 to the junction of Clovis Ave., then along Clovis Ave. to the junction of Herndon Ave., then along Herndon Ave., to the junction of CA Hwy 41, then along CA Hwy 41 to the junction of CA Hwy 49, then along CA Hwy 49 to the junction of Interstate Hwy 50, then along Interstate Hwy 50 to the junction of CA Hwy 89, then along CA Hwy 89 to the junction of Interstate Hwy 80, then along Interstate Hwy 80 to Truckee, CA, then along Interstate Hwy 80 to the junction of CA Hwy 49, then along CA Hwy 49 to the junction of CA Hwy 20, then along CA Hwy 20 to the junction of CA Hwy 70, then along CA Hwy 70 to the junction of CA Hwy 149, then along CA Hwy 149 to the junction of CA Hwy 99, then along CA Hwy 99 to the junction of Interstate Hwy 5, then along Interstate Hwy 5 to the junction of CA Hwy 273, then along CA Hwy 273 to the junction of Interstate Hwy 5, then along Interstate Hwy 5 to the junction of CA Hwy 20, then along CA Hwy 20 to the junction of CA Hwy 1, including points on the portions of the specified Hwys.

MC 150357F, filed March 13, 1980. Applicant: AUBREY ALLEN, Rt. No. 2, Linville, TN 38472. Representative: Hugh C. Howser, Jr., 300 James Robertson Parkway, Nashville, TN 37201. *Contract carrier,* transporting (1) *salad dressings and condiments,* and (2) *fish batter,* and *fish dressings and condiments,* from the facilities of Mike Rose Food Company, at Nashville, TN, to the Shoney's Restaurants, and Captain D's Restaurants, at points in TN, GA, NC, and VA, under continuing contract(s) with Mike Rose Food Company, of Nashville, TN.

MC 150546 (Sub-1F), filed June 3, 1980. Applicant: S-J TRANSPORTATION CO., E. Millbrooke Ave., P.O. Box 91, Woodstown, NJ 08098. Representative: S. H. Jones, Jr. (same address as applicant). Transporting *waste materials,* (except nuclear and radio-active materials), between points in AL, AR, CT, FL, GA, IL, KY, LA, MO, ME, MA, NC, OH, RI, SC, TN, TX, VA, WV, WI, MD, MI, MS, NH, NJ, DE, NY, IN, PA, VT, and DC.

MC 151177 (Sub-1F), filed June 30, 1980. Applicant: ATI, INC., 123 Harper Rd., Portsmouth, VA 23707. Representative: Herbert Alan Dubin, 818 Connecticut Ave., N.W., Washington, DC 20006. Transporting *automobiles,* from the Ports of Portsmouth, Chesapeake, and Norfolk, VA, to those points in the U.S. in and east of WI, IL, KY, TN, and MS.

W-587 (Sub-32F), filed March 4, 1980. Applicant: FOSS L & T CO., 660 W. Ewing St., Seattle, WA 98119. Representative: Timothy G. Brewer (address same as applicant). To engage in operation, in interstate commerce, as a *common carrier* by water, in the transportation of freight cars, loaded or empty and in the performance of a *freight car ferry service,* between Port of Seattle, Port Townsend, and Port Angeles, WA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25738 Filed 8-25-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment in United States v. White Ready-Mix Concrete Co., et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed Final Judgment and a Competitive Impact Statement ("CIS") have been filed with the United States District Court for the Northern District of Ohio, Eastern Division, in *United States* v. *White Ready-Mix Concrete Co., et al.,* Civil Action No. C77-1062. The Complaint, filed in October of 1977 as a companion to a criminal misdemeanor case, alleges that seven corporations—White Ready-Mix Concrete Company; Terminal Ready-Mix, Inc.; Medina Supply Company; Consumers Builders Supply Company; Buckeye Materials Company; Balsam Corporation; and West Side Timber and Concrete Corporation—conspired to restrain trade in the sale of ready-mix concrete in the Lorain, Ohio area. The corporations, along with five of their principals plead *nolo contendre.* The proposed Judgment applies to each of the corporate defendants except West Side Lumber and Concrete Company which was dismissed from the civil case in 1979 based on its representation that it had left the ready-mix business and had no intention of reentering.

The proposed Judgment enjoins the defendants from engaging in or renewing the alleged conspiracy, prohibits certain price communications between and among the defendants and other ready-mix concrete companies, and requires each defendant to establish a program to insure compliance by its officers and employees with the Judgment. The CIS describes the terms of the Judgment and the background of the action.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebreeze Federal Building, Cleveland, Ohio 44199.

Joseph H. Widmar,
Director of Operations.

United States District Court for the Northern District of Ohio, Eastern Division

United States of America, Plaintiff, v. White Ready-Mix Concrete Co.; Terminal Ready-Mix, Inc.; Medina Supply Company; Consumers Builders Supply Company; Buckeye Materials Co.; and Balsam Corporation, Defendants. Civil No. C77-1062. Judge Thomas D. Lambros, Filed: August 8, 1980.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff: Sanford M. Litvack, *Assistant Attorney General;* Joseph H. Widmar, Charles F. B. McAleer, John A. Weedon, David F. Hils, *Attorneys, Department of Justice,* James R. Williams, *United States Attorney,* William J. Oberdick, Dan Aaron Polster, *Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone: (216) 522-4014.*

For the Defendants: Gerald A. Messerman, *Counsel for White Ready-Mix Concrete Co.,* John M. Wilsman, *Counsel for Consumers Builders Supply Company;* John M. Pincura III, *Counsel for Terminal Ready-Mix, Inc.; John J. McClatchey, Counsel for Balsam Corporation;* Joseph L. McEntee, Jr., *Counsel for Medina Supply Company;* James M. Porter, *Counsel for Buckeye Materials Co.*

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United States District Court for the Northern District of Ohio, Eastern Division

United States of America, Plaintiff, v. White Ready-mix Concrete Co.; Terminal ready-Mix, Inc.; Medina Supply Company; Consumers Builders Supply Company; Buckeye Materials Co.; and Balsam Corporation, Defendants. Civil No. C77-1062, Filed: August 8, 1980.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on October 5, 1977, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

Ordered, Adjudged, and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment, the term:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity; and

(B) "Ready-mix concrete" means a mixture of cement and other materials, such as sand, stone, water, and, at times, additives.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person to determine, establish, fix, raise, stabilize, maintain, or adhere to prices or other terms or conditions for the sale of ready-mix concrete to any third person.

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) Communicating to any producer, distributor, or seller of ready-mix concrete any information concerning prices at which, or terms or conditions upon which, ready-mix concrete is then being sold or offered for sale by said defendant;

(B) Communicating to any producer, distributor, or seller of ready-mix concrete any information concerning:

(1) Future prices at which, or terms or conditions upon which, ready-mix concrete will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell ready-mix concrete;

(C) Requesting from any person any information which said defendant could not communicate without violating subparagraphs (A) or (B) hereof;

(D) Urging, influencing, or suggesting to any other seller of ready-mix concrete that he quote or charge a specified price or a price within a specified range or that he adopt any specified term or condition of sale for ready-mix concrete.

VI

Nothing in Sections IV or V of this Final Judgment shall prohibit any defendant from:

(A) Communicating information to any person in the course of, and related to, negotiation for, entering into, or carrying out a bona fide purchase or sale transaction with such other person;

(B) Advertising to the public or trade generally present or future prices at which, or terms or conditions upon which ready-mix concrete is being or will be sold or offered for sale.

VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every written bid or quotation for ready-mix concrete a written certification, in substantially the form set forth in Appendix A attached hereto, signed by an officer or employee of such defendant having authority to determine the price bid or quoted and responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of this Final Judgment.

VIII

Each defendant is ordered and directed to:

(A) Furnish a copy of this Final Judgment within thirty (30) days after the date of its entry to each of its officers and other persons having any responsibility for the pricing or sale of ready-mix concrete;

(B) Furnish a copy of this Final Judgment to each new person who succeeds one of the persons described in subparagraph (A) hereof within thirty (30) days after each such person assumes such position;

(C) Obtain from each person furnished a copy of this Final Judgment pursuant to subparagraphs (A) and (B) hereof a signed receipt therefor, which receipt shall be retained in the defendants' files;

(D) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof a statement, in substantially the form set forth in Appendix B attached hereto, advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the penalties which may be imposed upon him and upon such defendant for violation of this final Judgment;

(E) Hold, within forty (40) days after the date of entry of this Final Judgment, and meeting of the persons described in subparagraph (A) at which meeting such persons shall be instructed concerning the defendant's and their obligations under this final Judgment. For a period of ten (10) years from the date of entry of this Final Judgment, similar meetings shall be held at least once a year, which shall also be attended by persons described in subparagraph (B) hereof; at the meetings held in the first and tenth year after the entry of this Final Judgment, the instructions concerning the obligations under this Final Judgment shall be given by defendant's counsel;

(F) Provide the plaintiff, each year, before the anniversary of the entry of this Final Judgment, an affidavit as to the fact of its compliance with subparagraphs (B), (C), (D), and (E) hereof;

(G) Establish and implement a plan for monitoring compliance by the persons described in subparagraph (A) of this Section with the terms of the Final Judgment; and

(H) File with this Court and serve upon the plaintiff, within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact of its compliance with subparagraphs (A), (C), and (D) hereof.

IX

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of its ready-mix concrete business that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court and serve upon the plaintiff its consent to be bound by this Final Judgment.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant

Attorney General in charge of the Antitrust Division made the defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XII

This Final Judgment shall terminate ten (10) years from the date of its entry.

XIII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

Appendix A

The undersigned hereby certifies that to his best knowledge and belief the attached bid has not been prepared in collusion with any other seller of ready-mix concrete, and that the prices and other terms and conditions thereof have not been and will not be communicated by or on behalf of the bidder to any other seller of ready-mix concrete prior to any official opening of said bid.

Dated:

Signature of Employee Having Authority to Determine the Price Bid or Quoted

Appendix B

Notice

Re: *U.S. v. White Ready-Mix Concrete Co.*

Attached hereto is a copy of a Final Judgment entered ———, 1980 in the captioned case. We are required to provide this to you, and you should read it carefully. The provisions of the Final Judgment contained in Sections IV, V and VII apply to you, and violation of these provisions by you may subject the Company to a fine and may subject you to a fine and imprisonment.

United States District Court for the Northern District of Ohio, Eastern Division

United States of America, Plaintiff, v. White Ready-Mix Concrete Co.; Terminal Ready-Mix Inc.; Medina Supply Company; Consumers Builders Supply Company; Buckeye Materials Co.; and Balsam Corporation, Defendants. Civil No. C77-1062, Judge Thomas D. Lambros. Filed: ———.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On October 5, 1977, the United States filed a civil antitrust Complaint alleging that seven corporations had conspired to fix prices in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that, beginning at least as early as 1972 and continuing thereafter at least until December 20, 1974, the defendants engaged in a combination and conspiracy to fix, raise, stabilize, and maintain the prices of ready-mix concrete in the Lorain area (Lorain County, Ohio).

The Complaint seeks a judgment by the Court that the defendants engage in an unlawful combination of conspiracy in restraint of trade in violation of the Sherman Act. It also asks the Court to enjoin and restrain the defendants from such activities in the future. The defendants named in the Complaint are: White Ready-Mix Concrete Co.; West Side Lumber & Concrete Corporation; Terminal Ready-Mix Inc.; Medina Supply Company; Consumers Builders Supply Company; Buckeye Materials Co.; and Balsam Corporation.

All of the original defendants in this action have previously pleaded *nolo contendere* to criminal misdemeanor charges concerning the same combination and conspiracy alleged in the Complaint. Five individuals, each from one of the corporate defendants, also pleaded *nolo contendere* to criminal misdemeanor charge. The Court sentenced the corporate defendants to fines ranging from $7,500 to $35,000. This civil case had been held in abeyance until the crimial charges were resolved.

The Court dismissed West Side Lumber & Concrete Corporation from this civil case in August, 1979. West Side and its President, George F. Persons, represented to the Court that West Side was no longer engaged in the business of producing or selling ready-mix concrete, and that neither West Side nor any of its principals had any intention of reentering the ready-mix concrete business. The United States did not oppose West Side's motion for dismissal. As a result of this dismissal, West Side Lumber & Concrete Corporation is not a party to the proposed Final Judgment.

II

Description of the Practices Giving Rise to the Alleged Violation of the Antitrust Laws

Ready-mix concrete is a mixture of cement and other materials, such as sand, stone, water, and, at times, additives. During the period covered by the Complaint, the defendants produced and sold ready-mix concrete in the Lorain area to contractors, builders, and others on the basis of written or oral price quotations rendered to such customers. These customers used ready-mix concrete in the construction, repair, alteration, and improvement of highways and other paved surfaces, and governmental, institutional, commercial, industrial, and residential foundations and structures.

During the period specified in the Complaint, the defendants were among the leading ready-mix concrete suppliers in the Lorain area. During the three-year period from January 1972 through December 1974, the defendants had total gross sales of ready-mix concrete in the Lorain area of approximately $13 million.

The Complaint alleges that the defendants engaged in an illegal combination and conspiracy beginning at least as early as 1972 and continuing thereafter at least until December 20, 1974, which consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to fix, raise, stabilize, and maintain the prices of ready-mix concrete in the Lorain area.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(a) prices of ready-mix concrete in the Lorain area were fixed, raised, stabilized, and maintained at artificial and non-competitive levels;

(b) competition in the sale of ready-mix concrete in the Lorain area was restrained; and

(c) customers in the Lorain area were deprived of the benefits of free and open competition in the market for ready-mix concrete.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest. Accordingly, Section XIII of the proposed Final Judgment states that entry of this Final Judgment is in the public interest.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint.

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Specifically, Section IV provides that the defendants are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing, or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person to determine, establish, fix, raise, stabilize, maintain, or adhere to prices or other terms or conditions for the sale of ready-mix concrete to any third person.

Section V further enjoins the defendants from communicating with each other or with any other ready-mix concrete company about the prices or terms of sale of ready-mix concrete.

Since ready-mix concrete producers often sell ready-mix concrete to each other, and since they sometimes advertise or publicize their prices, there are two limited exceptions to the prohibitions set forth in Sections IV and V of the proposed Final Judgment. These exceptions, contained in Section VI of the proposed Final Judgment, provide that nothing in Sections IV or V of the Judgment shall prohibit the defendants from communicating information for a *bona fide* purchase or sale or from advertising prices of ready-mix concrete to the public or trade generally.

Section VII of the proposed Final Judgment orders each defendant, for a period of five (5) years from the date of entry of the Judgment, to affix to every written bid or quotation for ready-mix concrete a written certification that the bid or quotation was not the result of any discussion, communication, agreement, understanding, plan, or program between the defendant and any other person.

Section VIII of the proposed Final Judgment orders the defendants to furnish a copy of the Final Judgment to each of their officers and other persons who has any responsibility for the pricing or sale of ready-mix concrete. Successors of those persons are also to be furnished a copy of the Judgment. Each copy of the Judgment so provided will have attached a statement informing the recipient that a violation of the Final Judgment could result in a fine for the company and a fine and imprisonment for the individual. Section VIII also requires each defendant to hold a meeting every year for ten years at which the persons described above are instructed on their obligations and their company's obligations under the Final Judgment. The defendants are required to monitor compliance of those persons with the Final Judgment.

The proposed Final Judgment is applicable to each of the defendants and to their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise (Section III). Section IX of the proposed Final Judgment requires that, if a defendant sells the assets of its ready-mix concrete business, the purchaser must agree to be bound by the Final Judgment and must so inform the Court and the United States.

Section XII makes the final Judgment effective for ten years from the date of its entry.

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I (jurisdiction of the Court), Section X (investigation and reporting requirements), and Section XI (retention of jurisdiction by the Court).

It is anticipated that the relief provided by the proposed Final Judgment will have a salutory effect on competition in the ready-mix concrete market in the Lorain area. Not only have the defendants been enjoined from future collusive behavior, but they are also required to provide copies of the Final Judgment to each of their officers and other persons having any responsibility for the sale or pricing of ready-mix concrete. In addition, those people must meet annually to be instructed about their responsibilities under the Judgment. It is anticipated that these provisions will reduce the possibility of future violations.

IV

Remedies Avialable to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to John A. Weedon, Chief, Great Lakes Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070). These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register.**

All comments will be given due consideration by the Department of Justice. The Department remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Further, Section X of the proposed Final Judgment provides that the Court retains jurisdiction over this action for the life of the Final Judgment and that the parties may apply to the Court for such order as may be necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment after its entry.

VI

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial on the merits and on relief. The Division considers the proposed Final Judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the Complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Respectfully submitted, John A. Weedon, David F. Hils, *Attorneys, Department of Justice;* William J. Oberdick, Dan Aaron Polster, *Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, (Telephone: 216–522–4014).*

[FR Doc. 80–25931 Filed 8–25–80; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Revocation of Registration; James E. Outler, M.D.

On May 9, 1980, James E. Outler, M.D., of Warner Robins, Georgia, was indicted by a grand jury of the United States District Court for the Central District of Georgia. The first fifteen counts of the indictment charged Dr. Outler with unlawfully and intentionally distributing and dispensing, and causing to be distributed and dispensed, quantities of Schedule III and IV controlled substances in violation of 21 U.S.C. 841(a)(1). The remaining five counts of the indictment charged Dr. Outler with unlawfully possessing quantities of Schedule II controlled substances. A trial jury found Dr. Outler guilty on each of the twenty counts referred to above.

On June 25, 1980, Dr. Outler filed with the Drug Enforcement Administration [DEA] a consent to the revocation of his DEA certificate of registration, AO1201348. As part of this consent document, Dr. Outler stipulated that he has been convicted of felony offenses relating to controlled substances and that he has surrendered his license to practice medicine in the State of Georgia, and waived his right to a hearing and other administrative process to which he would have otherwise been entitled under 21 U.S.C. 824.

On June 27, 1980, the Honorable Wibur D. Owens, Jr., United States District Judge, entered judgment of conviction with respect to each of the twenty counts on which Dr. Outler had been tried. Judge Owens sentenced Dr. Outler to be imprisoned for a period not to exceed seven and one-half years to be followed by a ten year special parole term. Judge Owens suspended the imposition of sentence on several counts and imposed special conditions of probation providing that Dr. Outler not practice medicine anywhere in the United States without the prior approval of the Court and that he not engage in any employment or occupation in which he will be directly or indirectly involved with controlled substances.

The Administrator has reviewed this matter and finds that James E. Outler, M.D. has been convicted of felony offenses relating to controlled substances and that he is no longer authorized to handle controlled substances as a practictioner under the laws of the State of Georgia. The Administrator concludes that there are statutory grounds for the revocation of Dr. Outler's registration under 21 U.S.C. 824(a)(2) and 824(a)(3). Accordingly, and in consideration of Dr. Outler's consent thereto, the Administrator orders that DEA certificate of registration AO1201348, previously issued to James E. Outler, M.D., be, and it hereby is, revoked, effective immediately.

Dated: August 21, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-26015 Filed 8-25-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-9175]

Arrow Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980 in response to a worker petition received on June 23, 1980 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers at Arrow Company, Atlanta, Georgia (TA-W-9175). The workers produce shirts.

The investigation revealed that another petition (TA-W-8055) has also been filed on behalf of the same group of workers at Arrow Company, Atlanta, Georgia. Since the identical group of workers is the subject of the ongoing investigation (TA-W-8055), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26030 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9169]

Arrow Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980 in response to a worker petition received on June 23, 1980 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers at Arrow Company, Bremen, Georgia (TA-W-9169). The workers produce shirts.

The investigation revealed that another petition (TA-W-8056) has also been filed on behalf of the same group of workers at Arrow Company, Bremen, Georgia. Since the identical group of workers is the subject of the ongoing investigation (TA-W-8056), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26031 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9172]

Arrow Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980 in response to a worker petition received on June 23, 1980 which was filed on behalf of workers and former workers of Arrow Company, Carbon Hill, Alabama. The workers produced men's shirts.

During the course of the investigation, it was established that all workers of Arrow Company, Carbon Hill, Alabama were separated from employment in November, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is June 18, 1980 and, thus, workers terminated prior to June 18, 1979 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 13th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26033 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9236]

Arrow Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980 in response to a worker petition received on June 23, 1980 which was filed on behalf of workers and former workers of Arrow Company, Huntingdon, Pennsylvania. The workers produced men's shirts.

During the course of the investigation, it was established that all workers of Arrow Company, Huntingdon, Pennsylvania were separated from employment in October, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is June 19, 1980 and, thus, workers terminated prior to June 19, 1979 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 13th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26034 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9665]

Bundy Corp., Bundy Tubing Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974 an investigation was instituted on August 4, 1980 (TA-W-9665) in response to a worker petition which was filed on behalf of workers at Bundy Corporation, Bundy Tubing Division, Warren, Michigan. The workers produce small diameter steel tubing.

On May 19, 1980, an investigation was initiated in response to a worker petition

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received on May 7, 1980 filed on behalf of workers producing small diameter steel tubing at Bundy Corporation, Bundy Tubing Division, Warren, Michigan (TA-W-8077).

Since the identical group of workers is the subject of the ongoing investigation (TA-W-8077), the investigation for TA-W-9665 has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26029 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8597]

Chronar Corp.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974 an investigation was instituted on June 9, 1980 in response to a worker petition which was received on May 23, 1980 which was filed on behalf of workers at Chronar Corporation, Princeton, New Jersey. The workers produce watches and watch parts.

On April 28, 1980, a petition filed on behalf of the same group of workers was received (TA-W-8018). On July 17, 1980 workers of Chronar Corporation, Princeton, New Jersey were certified eligible to apply for trade adjustment assistance.

Since the identical group of workers was certified eligible to apply for trade adjustment assistance under petition TA-W-8018, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26032 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9477]

Gibraltar Steel, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a worker petition received on May 28, 1980 which was filed on behalf of workers and former workers producing strip steel at the Gibraltar Steel, Incorporated, Buffalo, New York.

The Notice of the Investigation was published in the **Federal Register** on July 21, 1980 (45 FR 49705-8). No public hearing was requested and none was held.

On May 21, 1980, a petition was filed on behalf of the same group of workers (TA-W-8661).

Notice of Investigation was published in the **Federal Register** on June 9, 1980 (45 FR 40257-8). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation, TA-W-8661, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26036 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8312]

H. Kenzer; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 27, 1980 in response to a worker petition received on April 29, 1980 which was filed on behalf of workers and former workers producing ladies' coats, suits, and rainwear at H. Kenzer, New York, New York.

Section 221(a) of the Trade Act of 1974 states that a petition for a certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative.

During the course of the investigation, it was established that the petitioners are not authorized representatives of workers at H. Kenzer, New York, New York. Consequently, the investigation has been terminated.

Signed at Washington, D.C. the 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26027 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8311]

Season Best; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 27, 1980 in response to a worker petition received on April 29, 1980 which was filed on behalf of workers and former workers producing ladies' coats, suits, and rainwear at Season Best, New York, New York.

Section 221 (a) of the Trade Act of 1974 states that a petition for a certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative.

During the course of the investigation, it was established that the petitioners are not authorized representatives of workers at Season Best, New York, New York. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26028 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8985]

Textile Trim, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980 in response to a worker petition received on June 11, 1980 which was filed on behalf of workers and former workers producing soft trim assembly at the Fair Haven, Michigan plant of Textile Trim, Incorporated.

On May 21, 1980 a petition was filed on behalf of the same group of workers (TA-W-8724).

Since the identical group of workers is the subject of the ongoing investigation TA-W-8724, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26035 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 22733) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period July 21-25, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criterion has not been met.

TA-W-7513, 7963; Marx Audra Co., Inc., Dunbee, Combex & Marx, Glendale, West Virginia

Investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

I hereby certify that the aforementioned determinations were issued during the period August 4-8, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, during normal working hours or will be mailed to persons who write to the above address.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26025 Filed 8-25-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 11-15, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 22 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determination

In each of the following cases it has been concluded that at least one of the following criteria.

TA-W-7509; Florsheim Shoe Co., Mexico, Missouri

Investigation revealed that criterion (2) has not been met.

TA-W-7931, 8278, 8279; Revere Sugar Corp., Brooklyn, N.Y., Charlestown, Massachusetts, Chicago, Illinois

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of refined sugar did not increase as required for certification.

TA-W-8924; R&A Tool & Engineering Co., Westland, Michigan

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools & die are negligible.

TA-W-9656; Meyers Olds, GMC., Bellerville, Illinois

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9040; Collins & Aikman; Faith, North Carolina

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of auto carpeting did not increase as required for certification.

TA-W-8910; Accurate Pie & Mfg. Corp., Detroit, Michigan

Investigation revealed that workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8210; B&H Shake Company, Forks, Washington

Investigation revealed that criterion (3) has not been met. Sales declines at the subject firm resulted from a general decline in demand for shakes and shingles which occurred in 1980.

TA-W-8200; Lake Creek Enterprises, Forks, Washington

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8787; Westigan, Inc., Itmann, West Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal & coke did not increase as required for certification.

TA-W-7998; Goodyear Tire & Rubber, Lawton, Oklahoma

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the plant.

TA-W-8108; Kelly Carbide Corp., Roseville, Michigan

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8721; Canon Coal Co., Washington, Pennsylvania

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal & coke did not increase as required for certification.

TA-W-7859; Pugsley Cedar Production, Lake Stevens, Washington

The investigation revealed that criterion (3) has not been met. Separations from the subject firm were due to a general decline in demand for shakes and shingles which occurred in early 1980.

TA-W-7818; Adria Industries Corp., Brooklyn, New York

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that imports did not contribute importantly to worker separations at the firm.

TA-W-8660; Goodyear Tire & Rubber Co., San Angelo, TX

A certification was issued covering all workers of the firm engaged in employment related to the testing of earthmover tires who became separated on or after December 31, 1979.

TA-W-7987; Donald Peckerman, Inc., Newark, New Jersey

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased

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imports did not contribute importantly to worker separations at the firm.

TA–W–7828; Uniroyal Tire Co., Ardmore, Oklahoma

The investigation revealed that criterion (3) has not been met. Separations from the subject firm occurred during only one month in 1980 and were short term on nature.

TA–W–8791; Uniweave Corporation, Paterson, New Jersey

The investigation revealed that criterion (3) has not been met. Aggregate U.S. Imports of finished fabric did not increase as required for certification.

TA–W–7964; National Standard Co., Niles, Michigan

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of wire did not increase as required for certification and that layoffs from the subject firm were short term in nature.

TA–W–8264; Stevens Paper Mill, Inc., Windsor, Connecticut

The investigation revealed that criterion (3) has not been met. Aggregate U.S. Imports of electrical board did not increase as required for certification.

TA–W–8819; General Electric Company–Major Appliances Business Group, Detroit, Michigan

The investigation revealed that criterion (3) has not been met. Aggregate U.S. Imports of major appliances did not increase as required for certification.

TA–W–9136; Metallurigical, Inc., Minneapolis, Minnesota

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7441, 8929; Dana Corp., Reading, Pennsylvania

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8302; Anaconda, Inc., Muskegon, Michigan

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Magnet wire did not increase as required for certification.

TA–W–8073; Rico Machine Co., Inc., Bristol, Rhode Island

The investigation revealed that criterion (2) has not been met.

TA–W–8847; S&C Coal Co., Itmann, West Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–8809; J. R. Clark, Co., Sidney, Ohio

Investigation revealed that criterion (1) has not been met.

TA–W–7983; McMillan Shingle, Inc., Grand Ronde, Oregon

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

In each case of the following cases, it has been concluded that all of the critirion have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–8580; International Shoe, Eldorado Springs, Missouri

A certification was issued covering all workers of the firm separated on or after August 1, 1979.

TA–W–7883; Fair Shake Co., Inc., Forks, Washington

A certification was issued covering all workers of the firm separated on or after April 17, 1979.

TA–W–7703; Carlina Knitting Co., Linderhurst, N.Y.

A certification was issued covering all workers of the firm separated on or after May 1, 1979.

TA–W–8784; American Crystal Sugar Co., Rocky Ford, Colorado

A certification was issued applicable to the following workers of the subject firm separated on or after July 13, 1980: Harold A. Arnold, Dan Becker, Steven S. Busch, Willard C. Frazier, Leland Hamm, Rhoda Hanson, LeRoy McGuire, Jr., Edward Kidder, Donald Poulignot, Shirley M. Schmidt, Albert Switser, William Norris.

I hereby certify that the aforementioned determinations were issued during the period August 11–15, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Signed at Washington, D.C., this 20th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–26026 Filed 8–25–80; 8:45 am]

BILLING CODE 4510–28–M

LEGAL SERVICES CORPORATION

Grants and Contracts

August 20, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Northwestern Legal Services in Erie, Pennsylvania to serve Cameron, Elk, Forest, McKean, Potter and Venango Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Service Corporation, Philadelphia Regional Office, 101 North 33rd Street,
Philadelphia, Pennsylvania 19104.

[FR Doc. 80–25983 Filed 8–25–80; 8:45 am]

BILLING CODE 6820–35–M

METRIC BOARD

Draft Consumer Program

AGENCY: United States Metric Board.

ACTION: Draft Consumer Program.

SUMMARY: Executive Order No. 12160 established a Consumers Affairs Council and directed agencies to review and, when warranted, revise their procedures to assure that consumer needs are met. In compliance with this order, the United States Metric Board is publishing this draft program.

COMMENT: Members of the public are urged to comment on or before October 30, 1980 on this draft and recommend ways in which the United States Metric Board (USMB) can strengthen its efforts in the area of consumer affairs.

ADDRESS: Comments and recommendations should be sent in writing to: United States Metric Board, Office of General Counsel, 1815 N. Lynn Street suite 600, Arlington, Virginia 22209 703/235-2917.

FOR FURTHER INFORMATION CONTACT: Theodore S. Farfaglia, General Counsel, U.S. Metric Board, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209 703/235-2917.

Introduction

The USMB is an independent agency of the Federal Government created by the Metric Conversion Act of 1975 (Pub. L. 94-168) to coordinate and plan the increasing voluntary use of the metric system in the United States. The Board consists of a Chairman and sixteen Members appointed by the President with the advice and consent of the Senate. Members are representatives of all walks of American life: Labor, small business, industry, retailing, science, engineering, education, state and local government, and four at-large members to represent consumers and other interests.

I. Consumer Affairs Perspective

The USMB supports the direction contained in Executive Order 12160 that agencies have an identifiable, accessible person with responsibility for coordination and oversight of the agency's consumer activities and proposes to establish within the Office of the Executive Director a position of Consumer Specialist. The Consumer Specialist shall report directly to the Executive Director of the USMB and be a professional consumer affairs person with experience working with people on consumer issues. The major duties of the Consumer Specialist shall include, but not be limited to:

A. Assessing consumer concerns and needs relative to metrication and, through participation at senior staff meetings and other means, assuring the inclusion of a consumer perspective in the development of rules, policies, programs and legislation.

B. Working closely with the operational offices of the Board: assist in the review of metric conversion plans; suggest the direction for consumer oriented research projects; assist in the planning of consumer projects; work on consumer outreach at Board meetings and public forums; conduct consumer forums; review complaint data and provide recommendations on kinds and amounts of informational material needed to serve consumers; and carry out other related activities, as required.

C. Utilizing existing consumer advisory mechanisms, such as the U.S. Office of Consumer Affairs; the proposed committee of the National Council of State Metrication that will deal with consumer affairs; the Consumer Affairs Subcommittee of the Metrication Operating Committee, Interagency Committee on Metric Policy; the Consumer Liaison Committee of the American National Metric Council; and the consumer affairs offices of individual Federal agencies, as well as contacting national and local consumer groups and activists to insure that the consumer perspective is fully understood and considered by the Board and staff. Within one year of appointment, the Consumer Specialist will assess the effectiveness of these mechanisms and contacts, and make recommendations as to the necessity for creating a Consumer Advisory Committee.

II. Consumer Participation

The Consumer Program of the Board shall be the responsibility of the Consumer Specialist with assistance from the other divisions of the Board. Every major consumer organization in the United States has been contacted by letter and advised of the existence and functions of the USMB and requested to designate a metric coordinator as a point of continuing contact.

The predominant specifications which define consumer participation in conversion planning activities established under the auspices of the USMB are those which flow from the requirements of Section 6(2) of the Metric Conservation Act of 1975 which directs the USMB to provide for appropriate procedures or guidelines under which metric conversion plans may be developed for review by the USMB.

The USMB has developed interim operational procedures and has published them (44 FR 65940). Comments are being solicited on the Proposed Interim Private Sector Metric Conversion Planning Guidelines until August 1, 1980.

Those guidelines address the necessity of consumer participation as well as representation of all interested parties in metric conversion planning activities and organized committees. The guidelines provide an open conversion planning process that the consumer may have access to in the following ways:

A. Direct attendance and observation of conversion planning committee meetings.

B. Requests made directly to conversion planning committees for agendas, minutes and other meeting records.

C. Request made to the USMB for relevant materials transmitted to USMB by conversion planning committees.

As private sector metric conversion plans are submitted for review, the Consumer Specialist will analyze them to determine if meaningful consumer participation is needed and is reflected. Where consumer participation is deemed necessary and is not reflected, that sector will be asked to formulate appropriate consumer participation programs before the plan will be considered for approval. The sector plan must demonstrate how consumer concerns will be analyzed and considered within the context of the proposed metric conversion.

The USMB Research Program is updated each Federal Planning Cycle by solicitation of interested parties for suggested research projects and objectives. This research call will be reviewed by the Consumer Specialist to ensure that adequate consumer contact is made so that consumer concerns and issues can be defined independently or as salient research tasks within other more technical research issues.

The Board conducts Public Forums in selected cities throughout the United States which provide opportunity for comment to the USMB on metric matters by all citizens. Announcements of the time and place of these Forums is made through paid newspaper advertisements; multilingual public service radio and TV announcements distributed to local media; press releases; and written notification to consumer organizations and other groups in the immediate and surrounding areas.

Assistance is also provided by the U.S. Office of Consumer Affairs in contacting interested consumer programs. Notice of all public meetings is also provided in the **Federal Register**. Additionally, follow-up letters are sent to all members of the public who attend forums and Board meetings inviting them to write or call us with any questions.

In the case of public hearings on a specific metric issue, the Consumer Specialist, coordinating with the Office of Research, Coordination and Planning and the Office of Public Awareness and Education, will identify and solicit effective consumer presentations.

III. Informational Materials

The Office of Public Awareness and Education prepares and publicly disseminates a wide variety of educational and informational materials. Press releases are distributed free of charge to everyone on the USMB mailing list including approximately 400 consumer organizations. Radio public

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service announcements are produced and distributed to educate consumers about increased use of the metric system in the marketplace. Newspaper articles will be produced to advise the general public of research activities and other USMB programs.

USMB produces and distributes a publication describing the agency's responsibilities and the services it offers. USMB's annual reports will be distributed to all major consumer organizations with a cover letter soliciting questions or comments from consumers. Informational materials are displayed and made available to consumers who attend USMB meetings and public forums. A bibliography of reference material on the metric system will be compiled as an information source for the public.

Additionally, within 90 days of the effective date of this Consumer Program, the Consumer Specialist and the Office of Public Awareness and Education will assess informational material referenced above for the adequacy of those materials to inform consumers in the following areas:

A. The Board's functions, services and responsibilities as well as explanation of the Metric Conversion Act of 1975.

B. The impact of metric conversion on the consumer in the marketplace.

C. The method of consumer participation in USMB activities.

D. Materials that make the Board meetings more understandable to consumers who attend these meetings. The meeting materials shall include appropriate information covering USMB responsibilities and the Metric Conversion Act of 1975, the meeting agendas with summaries of discussion topics, opportunities for specific consumer participation at the meetings, opportunities for consumer response after the meeting and the name of the USMB Consumer Specialist.

Within 30 days of this assessment, the Consumer Specialist and the Office of Public Awareness and Education will recommend changes to informational materials in deficient areas. The production of such informational materials is normally the responsibility of the Office of Public Awareness and Education.

IV. Education and Training

The Consumer Specialist shall be responsible for educating the staff about the requirements of the Executive Order and the elements of the USMB response to the Order. Semiannual briefings shall be conducted by the Consumer Specialist for the Senior Staff. A summary of each briefing, along with the Executive Order and USMB Program, shall be circulated to each staff member.

Upon request of a particular office director, the Consumer Specialist shall conduct a briefing for the staff of that office.

Should a significant change be made by the Board in the Consumer Program, the Consumer Specialist shall by written memorandum inform the Staff of the substance and nature of the change.

The Consumer Specialist shall assist the senior staff to define operating plan initiatives to address specifically the question of technical assistance programs within USMB. The Consumer Specialist shall, at least semiannually, address the question of technical assistance programs within the USMB and make recommendations to the Board.

V. Complaint Handling

Within 90 days after the effective date of this plan, the Consumer Specialist will log complaints and monitor requests for information as to category, source and content.

The Office of Public Awareness and Education will have overall responsibility for responding to all complaints and requests for information from the general public. The Office of Research, Coordination and Planning will respond to requests for technical information, technical assistance, and complaints that cannot be routinely handled by the Office of Public Awareness and Education. All complaints and requests for information shall be responded to within 30 days. Consumers will be notified by USMB of referral of their letters to another agency. Response letters to consumers must outline proposed USMB action, identify agency contact for further information and specify expected resolution date, all when appropriate.

Public awareness of the agency will be heightened through USMB publications, radio and TV spots and involvement in a variety of public appearances and events. Announcements will give USMB address and a special post office box number to facilitate communications. These announcements will encourage consumers to contact the agency if they have questions or concerns about metric usage. USMB consumer informational materials will explain complaint handling procedures, response times, and authority in handling complaints.

The Consumer Specialist shall organize and compile monthly, quarterly and yearly complaint statistics by source, subject, nature, state and other categories. The Consumer Specialist will analyze Office of Public Awareness and Education reports. Discussion of this complaint study will be regularly included on the agenda of Senior Staff meetings. Presentations to Senior Staff and the Board shall be made by the Consumer Specialist. The Consumer Specialist has the responsibility to suggest policy, program, or other changes to address the findings of the complaint data.

Oversight

The Consumer Specialist shall report directly to the Executive Director and shall apprise the Executive Director of the potential impact on consumers of particular policy initiatives under development for review within the agency.

Issued at Arlington, Virginia on the 19th day of August 1980.

Malcolm E. O'Hagan,

Executive Director.

[FR Doc. 80-25799 Filed 8-25-80; 8:45 am]

BILLING CODE 6820-94-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-483 and STN 50-486]

Union Electric Co.; Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for facility operating licenses from the Union Electric Company (the applicant) to possess, use, and operate the Callaway Plant, Units 1 and 2, two pressurized water nuclear reactors (the facilities), located on the applicant's site in Callaway County, Missouri. The reactors are designed to operate at a core power level of 3411 megawatts thermal, with an equivalent net electrical output of approximately 1,500 megawatts. These units reference the Standardized Nuclear Unit Power Plant System (SNUPPS) Final Safety Analysis Report, dated October 19, 1980.

The Environmental Report is expected to be filed and accepted by February 1981. Upon receipt of the Environmental Report, a separate notice of receipt will be published by the Commission, including an appropriate notice of hearing.

The Commission will consider the issuance of facility operating licenses to the Union Electric Company which would authorize the applicant to possess, use and operate the Callaway Plant, Units 1 and 2, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) the completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facility was authorized by Construction Permits Nos. CPPR-139 and CPPR-140, issued by the Commission on April 6, 1976. Construction of Unit 1 is anticipated to be completed by April 1982, and construction of Unit 2 is anticipated to be completed by October 1986.

Prior to issuance of any operating licenses, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By September 15, 1980, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses. By September 25, 1980, any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules and Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by September 25, 1980. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the applicant. Any questions or requests for additional information regarding the contents of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(1)(i)-(v) and § 2.714(d).

For further details pertinent to the matters under consideration, see the application for facility operating licenses, dated October 19, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251, and at the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130. As they become available, the following documents may be inspected at the above locations: (1) the applicant's Environmental Report, (2) the safety evaluation report prepared by the Commission's staff; (3) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (4) the proposed facility operating licenses; and (5) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 19th day of August 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-25829 Filed 8-25-80; 8:45 am]

BILLING CODE 7590-01-M

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OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 19, 1980.

Agency: Office of Management and Budget.

Action: Notice of Meeting.

Summary: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel I (Energy, Natural Resources, and the Environment) of the President's Commission for a National Agenda for the Eighties. The meeting is scheduled for August 28, 1980, from 2:00 p.m. until 4:30 p.m., at William James Hall, Room 1550, Harvard University, Cambridge, Masachusets.

The purpose of the meeting is to discuss the environment and regulation agendas for the 1980's.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

For further information contact: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80–25845 Filed 8–25–80; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

Notice of Visits

August 18, 1980.

Notice is hereby given that the Special Assistant to the Chairman will visit the Bulk Mail Center, U.S. Postal Service, in Largo, MD, on September 8 for the purpose of acquiring a general knowledge of postal bulk mail operations.

A report of the visit will be on file in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 80–25913 Filed 8–25–80; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21683; (70–5894)]

Gulf Power Co. and Mississippi Power Co.; Proposal by Associate Electric Utility Companies To Allocate Costs of Coal Hopper Cars

August 20, 1980.

Notice is hereby given that Gulf Power Company, ("Gulf") P.O. Box 1151, Pensacola, Florida 32520, and Mississippi Power Company ("Mississippi"), P.O. Box 4079, Gulfport, Mississippi 39501, each an electric utility subsidiary of The Southern Company, a registered holding company, have filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9, 10 and 13(b) of the Act and Rules 43, 87(a)(3), 90 and 91 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf and Mississippi are parties to a letter agreement dated July 28, 1976 ("Letter"), relating to the Victor J. Daniel, Jr. Electric Generating Plant ("Plant"), consisting of two coal-fired units of 500,000 kilowatts (nameplate capacity) each. The various transactions provided for by the Letter, which will result in Gulf and Mississippi each owning an undivided 50% interest in the Plant, were approved by order of the Commission dated September 28, 1976 (HCAR No. 19696).

Mississippi and Gulf each has purchased 230 rapid discharge hopper cars to transport coal to the Plant. Mississippi's purchase of its cars in 1978 was approved by the Commission's order dated May 16, 1978 (HCAR No. 20543), and Gulf's purchase of its cars in 1980 was approved by the Commission's order dated February 8, 1980 (HCAR No. 21414). While Gulf and Mississippi desire that each own as tenants in common an undivided 50% interest in such coal cars, the Letter makes no express provision therefor.

Accordingly, it is proposed that, as soon as practicable after the receipt of necessary regulatory approval ("First Settlement Date"), Mississippi and Gulf each will convey to the other, free and clear of all liens and encumbrances, other than excepted encumbrances as defined in the respective transferee's first mortgage indenture, an undivided 50% interest in the coal cars then owned by it. In addition, at such time Mississippi will make up to Gulf such payment as is necessary to equalize their respective investments, net of accumulated depreciation, in such cars. At July 1, 1980, such payment would have amounted to approximately $1,300,000.

It is stated that the railroad cars are being and will be used to transport coal to the Plant, for which there is a common fuel stockpile to be jointly owned by Gulf and Mississippi in accordance with the Letter. It is further stated that, therefore, the proposed transaction is entirely consistent with the provisions of the Letter and the various transactions provided for therein.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 12, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–25982 Filed 8–25–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21682; (70–6485)]

The Southern Co.; Proposal by Holding Company To Act as Surety on a Supersedeas Bond of Its Subsidiary

August 20, 1980.

Notice is hereby given that The Southern Company ("Southern"), Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to the

Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to act as one of two sureties on a bond of its subsidiary, Alabama Power Company ("Alabama"), in connection with Alabama's appeal in a rate proceeding. The second surety on the bond will be Joseph M. Farley, who is president of Alabama. The Alabama Public Service Commission ("APSC") on July 29, 1980, entered an order granting a retail electric rate increase of Alabama of $30.6 million annually based upon a test period ended November 30, 1979. The rates requested by Alabama would have increased the test period revenue by approximately $122.3 million annually. Alabama plans to file a notice of appeal to the Supreme Court of Alabama and plans to petition that court for authority to place into effect, subject to refund under supersedeas bond, the portion of the requested increase denied by the APSC order. The State of Alabama statutes which permit the court to grant supersedeas require, as a condition precedent to placing the contested rate increase in effect subject to refund, that a bond be furnished in double the estimated approximate amount by which revenues would be increased in six months by reason of the increased rates sought. Two or more sureties are required on the bond. Additional bond on like conditions must be provided each six months as long as the appeal is pending and the supersedeas is in effect.

Alabama estimates that the amount of the supersedeas bond, if the maximum requested supersedeas relief is granted by the court, would be approximately $100,000,000, which is twice the estimated increased revenue from the refundable rates for the first six months of the supersedeas period. Alabama has been advised that such a bond can be obtained from a commercial surety company only with difficulty and with a required premium of over $75,000 for the first six months' premium. The premium for additional bonds for subsequent six-month periods may be expected to increase so as to reflect increased usage and added revenue attributable to the increased rates. In order for Alabama to avoid the substantial premium costs attendant upon use of a commercial surety, Southern proposes to act as surety on Alabama's bond for no premium, fee or other compensation. Approval of this bond by the court would be expected.

Southern proposes to act as surety on the supersedeas bond for the revenues during the initial period of six months from the date of delivery thereof and to execute as surety such further bonds or renewals or extensions as may be required to permit Alabama to keep the proposed rates in effect until the questions raised in the appeal have been finally determined, without the necessity of having to pay the substantial premiums required by the use of a commercial surety.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $3,200, including legal fees of $800. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 12, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25984 Filed 8-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17078; File No. SR-NASD-80-16]

National Association of Securities Dealers, Inc.; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 31, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follow:

SOR's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendments to Section(2)(e)(iv) of Part I of Schedule C under Article I, Section 2(d) of the Association's By-Laws. New language is italicized.

(iv) Each person required to register and qualify as a Registered Options Principal must, prior to or concurrent with such registration, be or become qualified pursuant to Part II hereof as a General Securities Representative and also qualified pursuant to Part II, Section (2)(d) hereof as a Registered Options Representative. *This requirement shall not apply, however, to those individuals who are designated as Compliance Registered Options Principals in accordance with Section 21(b) of Appendix E to Section 33 of the Rules of Fair Practice and who, pursuant to that Section, are required to have no sales functions.*

SRO's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to exempt Compliance Registered Options Principals (CROPs), who, by rule, must have no sale functions, from the requirement to qualify and become registered as General Securities and Registered Options Representatives prior to or concurrent with their registration as Registered Options Principals (ROPs). Absent such an exemption, these persons would be compelled to take and pass both the Series 4 and Series 7 qualification examinations administered by the Association before they would be recognized and accepted by the NASD as CROPs. The Association believes no purpose is served by requiring an individual who must be devoid of any sales related functions to take and pass a registered representative examination in order to assume a position as a non-sales CROP. Any person designated as a non-sales CROP who ceases to function in that capacity shall, prior to being recognized by the Association as a ROP, be required to qualify as a General Securities and Registered Options Representative.

SRO's Statement of Basis Under the Act for Proposed Rule Change

It is the responsibility of the Association, under Section 15A(g)(3) of the Act, to implement appropriate qualification standards for persons seeking entrance into the securities industry.

Comments Received From Members, Participants or Others on Proposed Rule Changes

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

The Association believes that the proposed rule change imposes no burden on competition. The proposal would in fact lessen the burdens imposed upon those firms affected by the requirement to employ a non-sales CROP.[1] Upon approval of the Schedule C amendment, in order to be recognized by the Association as a non-sales CROP an individual would have to take and pass a single examination (Series 4—Registered Options Principal). Absent such an amendment, unless already qualified, such an individual would be required to complete successfully both the Series 4 and the Series 7 examinations in order to become registered as a CROP with the Association.

* * * * *

Within 35 days of the date of publication of this notice in the **Federal Register** (on or before September 30, 1980), or within such longer period (i) as the Commission may designate up to 90 days of such date (November 24, 1980) if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 16, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 20, 1980.

[FR Doc. 80-25985 Filed 8-25-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 0006]

Allied Lending Corp.; Expansion of Small Business Lending Corporation Operating Territory

Notice is hereby published in the **Federal Register** that Allied Lending Corporation's operating territory has been expanded nationwide. Allied may lend in cooperation with franchisors, distributors, wholesalers, and small business investment companies (SBIC's) (other than those companies in Allied's own SBIC portfolio). Allied, as a non-bank lender under § 120.4(b) of the 13 CFR is fully responsible for servicing its SBA loan portfolio. Allied Lending Corporation continues to have SBA's permission to centrally process all of their SBA loans through our Washington, D.C. District Office. After giving consideration to this expansion request and other pertinent information, SBA issued, on February 4, 1980, an approval letter to this effect.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: August 19, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26135 Filed 8-25-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1847; Amendment No. 2]

Idaho; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 41110) and Amendment No. 1 (See 45 FR 49004) are amended by extending the termination date for accepting physical applications for physical damage from the eruption on May 18, 1980, of Mount St. Helens, from August 1, 1980, to September 30, 1980. All other information remains the same; i.e., the termination date for filing applications for economic unjury until the close of business on March 2, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 27, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26146 Filed 8-25-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1895]

Illinois; Declaration of Disaster Loan Area

McLean County and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by high winds which occurred on July 5, 1980. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 14, 1980, and for economic injury until the close of business on May 14, 1981, at: Small Business Administration, District Office, 219 South Dearborn Street, Room 436, Chicago, Illinois 60604, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 13, 1980.

Williama H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26142 Filed 8-25-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1871; Amendment No. 1]

Kansas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 48758), is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Clark	Wind, rain and hail	6/16-6/22/80
Comanche	Wind, rain and hail	6/16-6/22/80

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[1] An analysis of available FOCUS and Assessment Report information for yearend 1978 and 1979 has revealed that there are approximately 49 NASD members who are required to employ a non-sales CROP.

County	Natural disaster(s)	Date(s)
Decatur	Wind, rain and hail	6/16–6/22/80
Greeley	Wind, rain and hail	6/16–6/22/80
Sherman	Wind, rain and hail	6/15–6/22/80
Wallace	Wind, rain and hail	6/16–6/22/80
Wichita	Wind, rain and hail	6/16–6/22/80

and adjacent counties within the State of Kansas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on January 14, 1981, and for economic injury until the close of business on April 14, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80–26147 Filed 8–25–80; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 1889]

Montana; Declaration of Disaster Area

The following 21 counties and adjacent counties within the State of Montana constitute a disaster area because of physical damage resulting from natural disasters (all drought) during the periods noted below:

Counties	Dates
Big Horn	10/1/79–6/16/80.
Blaine	4/15/80–5/25/80.
Custer	9/21/79–6/12/80.
Daniels	4/1/80–6/3/80.
Fallon	10/79–6/9/80.
Carter	10/79–6/9/80.
Dawson	Spring/summer 1980.
Garfield	9/21/79–6/12/80.
McCone	1980 crop year.
Musselshell	10/1/79–6/1/80.
Petroleum	10/1/79–6/16/80.
Phillips	3/1/80–6/9/80.
Powder River	11/2/79–6/12/80.
Prairie	Spring/summer 1980.
Richland	Spring/summer 1980.
Roosevelt	1980 crop year.
Rosebud	1980 crop year.
Sheridan	4/1/80–6/3/80.
Treasure	1980 crop year.
Valley	4/1/80–6/6/80.
Wibaux	Spring/summer 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 5, 1981, and for economic injury until the close of business on May 5, 1981, at: Small Business Administration, District Office, 301 South Park Avenue, Room 528, Drawer 10054, Helena, Montana 59601, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 5, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80–26141 Filed 8–25–80; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Birmingham, Alabama, will hold a public meeting at 9:30 a.m., Wednesday, October 1, 1980, South Twentieth Building, 908 South 20th Street, Room 202, (2nd floor), Birmingham, Alabama, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama—(205) 254–1341.

Dated: August 21, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Council.

[FR Doc. 80–26144 Filed 8–25–80; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Change in Scheduled Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, has changed the date for its public meeting from Friday, September 12, 1980, to be held on Tuesday, October 7, 1980, at 10:00 a.m., at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7323 (7th Floor), Honolulu, Hawaii, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call David K. Nakagawa, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850—(808) 546–8950.

Dated: August 21, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–26143 Filed 8–25–80; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 1844; Amendment No. 2]

Washington; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 37798) and Amendment #1 (See 45 FR 49004) are amended by extending the termination date for accepting physical applications for physical damage from the eruption on May 18, 1980, of Mount St. Helens, from July 22, 1980, to September 20, 1980. All other information remains the same; i.e., the termination date for filing applications for economic unjury until the close of business on February 23, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 27, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80–26145 Filed 8–25–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Customs Service

[063419]

Receipt of American Manufacturer's Petition To Classify Speedometers and Odometers Used on "Exercisers"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer requesting the classification of speedometers and odometers used on "exercisers" (stationary exercise cycles) under the provision of bicycle speedometers, rather than under the provisions for other parts of bicycles, or for other revolution counters, or for sport, gymnastic, athletic, or playground equipment and parts thereof

DATE: Interested parties may comment on this petition, and comments (preferably in triplicate) must be received on or before September 25, 1980.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Simon Cain, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5727).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of speedometers for use on bicycles and exercisers. The petitioner contends that speedometers used on exercisers should be classifiable under the provision for bicycle speedometers in item 711.93, Tariff Schedules of the United States (TSUS), rather than under the provision for parts of bicycles in item 732.42, TSUS, or under the provision for revolution counters or other speedometers in item 711.98, TSUS, or under the provision for sport, gymnastic athletic, or playground equipment and parts thereof in item 735.20, TSUS.

Speedometers of a type chiefly used on exercisers, such as double-gear hub drive speedometers constructed so that the drive chain is attached to the right hand side of the front wheel, are classifiable as other speedometers in item 711.98, TSUS. However, speedometers of a type chiefly used on bicycles, such as standard single-gear, are classifiable as bicycle speedometers in item 711.93. TSUS.

Comments

Pursuant to section 175.21(a) of the Customs Regulation (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b) of the Customs Regulations (19 CFR 103.8(b), 175.21(b)) during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a), of the Customs Regulations (19 CFR 175.21(a)).

Dated: July 31, 1980.

Salvatore E. Carmagno,

Director, Office of Regulations and Rulings.

[FR Doc. 80-25987 Filed 8-25-80; 8:45 am]

BILLING CODE 4810-22-M

Debt Management Advisory Committee; Meetings

Notice is hereby given, pursuant to Section 10 of Pub. L. 92-463, that a meeting will be held in the Federal Reserve Bank of New York on September 22, 1980 of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session and the preparation of a written report for the Secretary of the Treasury on September 22, 1980.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5 (May 16, 1979), I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such a meeting be closed to the public.

My reasons for this determination are as follows: The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. of 552b.

Dated: August 20, 1980.

Robert Carswell,

Deputy Secretary.

[FR Doc. 80-25944 Filed 8-25-80; 8:45 am]

BILLING CODE 4810-25-M

Deletion of Privacy Act Systems of Records

AGENCY: Department of the Treasury, Office of the Secretary, Office of Revenue Sharing.

ACTION: Deletion of the following eight systems of records under the Privacy Act: OS 00.121, OS 00.124, OS 00.125, OS 00.126, OS 00.129, OS 00.130, OS 00.131, and OS 00.143.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of the Treasury, Office of the Secretary, Office of Revenue Sharing, gives notice of the deletion of the following eight systems of records and the reasons therefor:

Treasury/OS 00.121—Auditors' Address File (45 FR 18679, March 21, 1980), Treasury/OS 00.124—ORS Governors' Address File (45 FR 18679, March 21, 1980), Treasury/OS 00.125—ORS Governors and Governors' Authorized Representatives List (45 FR 18680, March 21, 1980), Treasury/OS 00.126—Office of Revenue Sharing, Intergovernmental Relations Division Mailing List (45 FR 18680, March 21, 1980), Treasury/OS 00.130—ORS Senate, House and Governors' Address File (45 FR 18681, March 21, 1980), and Treasury/OS 00.131—ORS State Attorneys General Records (45 FR 18681, March 21, 1980).

The information in the above six systems cannot be retrieved by an individual's name, social security number, or other identifying number and are, therefore, not Privacy Act Systems of Records.

Treasury/OS 00.129—ORS Public Affairs Personnel File (45 FR 18680, March 21, 1980), and Treasury/OS 00.143—Chief Counsel for Revenue Sharing Personnel (45 FR 18682, March 21, 1980).

The files in the above two systems are no longer maintained by the Office of Revenue Sharing and are being returned to the individuals to whom they pertain.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Linda K. Zannetti, Departmental Disclosure Officer, 1500 Pennsylvania Avenue, Washington, DC 20220.

Dated: August 15, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 80-25880 Filed 8-25-80; 8:45 am]

BILLING CODE 4810-25-M

[Department circular, Public Debt Series No. 27-80]

Treasury Notes of November 15, 1985; Series F-1985

August 20, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Notes of November 15, 1985, Series F-1985 (CUSIP No. 912827 LA 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 3, 1980, and will bear interest from that date, payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 1985, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3 The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 27, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 26, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in mulitples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3 All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6 Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determinaiton of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, September 3, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, August 29, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-25927 Filed 8-21-80; 2:00 pm]

BILLING CODE 4810-40-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Notice of Extended Benefit Period in All States

This notice announces the beginning of a national Extended Benefit Period in all States, effective on August 24, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or the nation reaches the high levels set in the Act. An Extended Benefit Period in each State actually begins at the beginning of the third week after the week for which there is an "on" indicator. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

There is a national Extended Benefit "on" indicator for a week if the United States Secretary of Labor determines that, for the thirteen week period ending with that week, the average rate of insured unemployment (seasonably adjusted) for all States equalled or exceeded 4.5 per centum. Whenever there is a national "on" indicator under the Act, and Extended Benefit Period will commence in every State in which an Extended Benefit period is not already in effect, on the first day of the third week following the week for which there was an "on" indicator.

During an Extended Benefit Period, individuals who are unemployed and qualified may receive up to 13 weeks of Federal-State Extended Benefits, after they have exhausted their rights to regular unemployment benefits under State laws and benefits under the federal unemployment compensation programs for federal government employees and for ex-servicemen and ex-servicewomen. An Extended Benefit Period in any State will last for a minimum period of 13 weeks, and will end with the third week after which there is both a State and national "off" indicator in accordance with the State's unemployment compensation law and the Federal-State Extended Unemployment Compensation Act of 1970.

Determination of "On" Indicator

The United States Secretary of Labor has determined, in accordance with Section 203(d)(1) of the Federal-State Extended Unemployment Compensation Act of 1970, that the average rate of insured unemployment (seasonably adjusted) for all States for the period consisting of the week ending on August 9, 1980, and the immediately proeceding twelve weeks, equalled or exceeded 4.5 per centum.

Therefore, I have determined in accordance with the Federal-State Extended Unemployment Compensation Act of 1970 and applicable requlations, and as authorized by Secretary of Labor's Order No. 4-75, dated April 16, 1975 (published in the **Federal Register** on April 28, 1975, at 40 FR 18515), that there was a national Extended Benefit "on" indicator for the week ending on August 9, 1980, and that an Extended Benefi Period begins on August 24, 1980, in all States not currently in Extended Benefit Periods.

Information for Claimants

The Extended Benefit Period announced in this notice will last for not less than thirteen weeks in any State. During the Extended Benefit Period in a State, eligible individuals will be able to receive up to thirteen weeks of Extended Benefits.

The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who is an "exhaustee" (as defined in the Act and in Section 615.5 of Title 20, Code of Federal Regulations) of regular benefits payable under State unemployment compensation laws and under the federal unemployment compensation laws for federal government employees and for ex-servicemen and ex-servicewomen.

Persons who believe they may be entitled to Extended Benefits in any State (including the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands), or who wish to inquire about their rights under this program, should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on August 22, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-26299 Filed 8-25-80; 11:49 a.m.]

BILLING CODE 4510-30-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 167
Tuesday, August 26, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-289 Amdt. 2, August 20, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 21, 1980 board meeting.

TIME AND DATE: 9:30 a.m., August 21, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 14. Docket 36508—Jamaire's notice to terminate service at El Dorado/Camden, Arkansas. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1593-80 Filed 8-22-80; 9:39 am]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:15 p.m. on Thursday, August 21, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider two matters relating to agreements between the Federal Deposit Insurance Corporation and First Pennsylvania Corporation, Philadelphia, Pennsylvania, and First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

The meeting was held on the sixth floor of the FDIC Building located at 550, 17th Street, N.W., Washington, D.C.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Direrctor William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(A)(ii)).

Dated: August 21, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1594-80 Filed 8-22-80; 11:05 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in time of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the closed meeting of the Corporation's Board of Directors scheduled for 2:30 p.m. on Monday, August 25, 1980, will be held instead at 11:30 a.m. on Monday, August 25, 1980, in the Board Room on the sixth floor of the FDIC Building located at 550, 17th Street, N.W., Washington, D.C. No earlier notice of the change in the time of the meeting was practicable.

Dated: August 22, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1596-80 Filed 8-22-80; 3:28 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in time of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the open meeting of the Corporation's Board of Directors scheduled for 2:00 p.m. on Monday, August 25, 1980, will be held instead at 11:00 a.m. on Monday, August 25, 1980, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C. No earlier notice of the change in the time of the meeting was practicable.

Dated: August 22, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1597-80 Filed 8-22-80; 3:28 pm]

BILLING CODE 6714-01-M

5

[NM-80-30]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, August 26, and Thursday, August 28, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first six items on the agenda are open to the public; the last two items will be closed under Exemptions 12 and 2, respectively, of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Collision of Coast Guard Cutter *Blackthorn* and U.S. Tankship *Capricorn*, Tampa Bay, Florida, January 28, 1980, and *Recommendations* to the U.S. Coast Guard.
2. *Aircraft Accident Report*—Transamerica, Inc., Lockheed L-188, N8590, Salt Lake City, Utah, November 18, 1979.
3. *Highway Accident Report*—Head-on Collision of a Sedan with a Pickup Truck, U.S. Route 64, near Perry, Oklahoma, February 23, 1980, and *Recommendations* to the Federal Highway Administration, the National Highway Traffic Safety Administration, and the State of Oklahoma.
4. *Special Study*—General Aviation Accidents: Postcrash Fires and How to Prevent or Control Them, and *Recommendations* to the Federal Aviation Administration.
5. *Regulation*—Part 830, Notification and Reporting of Aircraft Accidents or Incidents.

6. *Marine Accident Report*—Collision of U.S. Tankship *Exxon Chester* and Liberian Freighter M.V. *Regal Sword* in the Atlantic Ocean near Cape Cod, Massachusetts, June 18, 1979, and *Recommendations* to the U.S. Coast Guard and the Exxon Company.

7. *Opinion and Order*—Petition of Pierce, Dkt. ME–78; disposition of mariner's appeal.

8. *Discussion* of agenda items for Board meetings.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–462–6022.

August 21, 1980.

[S-1590-80-M Filed 8-21-80; 8:45 am]

BILLING CODE 4910-58-M

6

[NM-80-31]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, September 2, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Head-on Collision of Amtrak Train No. 82 and Seaboard Coastline Line Extra 2771, Lakeview, North Carolina, April 2, 1980, and *Recommendation* to the Federal Railroad Administration.

2. *Marine Accident Report*—Liberian Tank Vessel M/V *Seatiger*, Explosion and Fire, Sun Oil Terminal, Nederland, Texas, April 19, 1979, and *Recommendations* to U.S. Coast Guard, the American Bureau of Shipping, and Sunoco Terminals, Inc.

3. *Special Study*—Safety of Plastic Pipe in the Natural Gas Distribution Process.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

August 21, 1980.

[S-1591-80 Filed 8-21-80; 3:41 pm]

BILLING CODE 4910-58-M

7

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on September 11, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: August 22, 1980.

[S-1595-80 Filed 8-22-80; 2:33 pm]

BILLING CODE 7600-01-M

8

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on September 24, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: August 22, 1980.

[S-1596-80 Filed 8-22-80; 12:34 pm]

BILLING CODE 7600-01-M

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federal register

Tuesday
August 26, 1980

Part II

Department of Health and Human Services

Public Health Service, Health Resources Administration

List of Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

V 45 AG 26 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service, Health Resources Administration

List of Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

1. Purpose

This notice provides a list of health manpower shortage areas updated as of April 30, 1980, and designated by the Secretary of Health and Human Services under the authority of section 332 of the Public Health Service Act.

2. Background

Section 332 of the Public Health Service Act, as amended by Pub. L. 94-484 (the Health Professions Educational Assistance Act of 1976), provides that the Secretary of Health and Human Services shall designate health manpower shortage areas based on criteria established by regulation. Health manpower shortage areas are defined in section 332 to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health manpower. Section 332 further requires that the Secretary publish a list of the designated geographic areas, population groups, and facilities. The list of areas is to be reviewed at least annually, and revised as necessary. The Health Resources Administration's Bureau of Health Professions has been assigned the responsibility for designating these areas.

Public or non-profit entities in (or with a demonstrated interest in) these areas are eligible to apply for assignment of National Health Service Corps personnel to provide health services in, or to, the areas. These areas are also eligible service areas for Public Health Service scholarship programs, and entities located in the areas are eligible to apply for (or receive preference for) certain grant programs under the Public Health Service Act.

3. Development of List

Criteria for designating health manpower shortage areas were published by the Department of Health, Education, and Welfare as Interim-Final regulations (42 CFR Part 5) in the **Federal Register** of January 10, 1978. Criteria were defined for each of seven health manpower types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary manpower). The Bureau of Health Professions then compared these criteria with available data on counties and small areas throughout the country and developed preliminary listings of areas which tentatively appeared to meet the criteria. These preliminary listings were submitted to the appropriate Health Systems Agencies (HSAs), State Health Planning and Development Agencies (SHPDAs), and Governors for their review and recommendation. In addition, the many requests received for designation of particular areas, population groups, or facilities were also submitted to the appropriate HSAs, SHPDAs, and Governors for review and recommendations.

The Bureau of Health Professions reviewed each designation request, together with any recommendations received on individual requests or on the preliminary listings, and determined whether or not each area involved met the shortage criteria. The results were provided by letter to the requesting agency or individual, with copies to other appropriate agencies and to interested organizations and persons. These letters constituted the official notice of designation as a health manpower shortage area or disapproval of recommendations for such designation.

The list below includes all those areas, population groups, and facilities which had been so designated by the Bureau of Health Professions as of April 30, 1980. This list updates the list which appeared in the **Federal Register** of August 6, 1979, and supersedes all previously published lists of health manpower shortage areas.

In the case of veterinary manpower shortage area designations, the list as presented here does not include areas in degree-of-shortage groupings 4 and 5 (i.e., those areas which have shortages of companion animal veterinarians only). We plan to revise the criteria for designation of veterinary manpower shortage to include only those areas with shortages of food animal veterinarians, due to the limited resources available to support services by health professionals in the various types of health manpower shortage areas.

4. Format of List

For each type of manpower, the list of areas is arranged by State. Within each State, the list is first presented by county. In those cases where a portion (or portions) of a county has been designated, or a population group or facility designation has been made, the name of the service area, population group, or facility involved is listed under the county name. Following the county listing, a list of the designated service areas is presented, showing their component parts in terms of civil divisions or census tracts. Following the service area listing, a list of the designated population groups is presented, showing the geographic area where each population group resides. Finally, this is followed by a listing of the designated facilities showing their location.

Beside each designated area, the appropriate "degree-of-shortage" group is indicated, corresponding to the criteria for these groupings contained in the Interim-Final regulations. (Group 1 represents areas with the highest degree of shortage, Group 2 with the next highest degree of shortage, etc.)

In addition to the specific listings included in this notice, all Indian tribes which meet the definition in section 4(d) of Pub. L. 94-437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with primary medical care and dental manpower shortages. These automatic designations of Indian tribes, unless otherwise noted in the listing, have been assigned to degree-of-shortage group 4.

5. Future Updates of List of Designated Areas

The list below consists of those areas which had been designated as of April 30, 1980. Additional areas are being designated continuously, and future updates of the list will be published periodically in the **Federal Register.** In particular, it should be noted that some additional areas have been designated by letter since April 30, 1980, and the appropriate agencies and persons notified of the designation. Although officially designated, these areas are not included in the list below, because they had not yet been added to the computerized data base at the time this list was generated.

Any designated area listed below is subject to possible withdrawal from designation if new information is received by the Bureau of Health Professions indicating that the situation in the area has changed or that erroneous or incomplete data were used in making the original designation.

For further information on these designations, to request additional designations, or to request withdrawal of any designation, please contact:

Richard C. Lee,
Chief, Distribution Studies Branch,
Division of Health Professions Analysis,
Bureau of Health Professions,
Health Resources Administration,
Center Building,
Room 4-44,

3700 East-West Highway,
Hyattsville, Maryland 20782.

All requests for designations or withdrawals should be based on the criteria as published in the regulations.

Dated: July 3, 1980.

Henry A. Foley, Ph. D.,

Administrator, Health Resources Administration.

PRIMARY CARE

Alabama

County Listing

County name	Degree of shortage group
Autauga	01
Baldwin:	
Service area, Bay Minette	04
Barbour	01
Bibb	04
Blount	03
Bullock	01
Butler	03
Calhoun:	
Service area, Etowah	04
Chambers:	
Service area, La Fayette	01
Cherokee	02
Chilton	02
Choctaw	01
Clarke	03
Clay	04
Cleburne	01
Colbert:	
Service area, Cherokee	01
Conecuh	01
Coosa	01
Covington:	
Service area, South East Covington	03
Service area, North Covington	01
Crenshaw	03
Cullman	02
Dale	01
De Kalb	02
Elmore	02
Etowah:	
Service area, Etowah	04
Fayette	02
Geneva	03
Greene:	
Service area, Greene-Hale	03
Hale:	
Service area, Greene-Hale	03
Henry	01
Houston:	
Service area, East Houston	01
Jackson	02
Jefferson:	
Service area, Pratt City	01
Service area, Warrior-Morris	02
Jefferson:	
Service area, Roosevelt City	02
Lamar	03
Lawrence	02
Lauderdale:	
Service area, Waterloo	02
Limestone	04
Lowndes	01
Macon	04
Madison:	
Service area, Triana	02
Marengo	03
Marion	01
Mobile:	
Service area, Davis Area Community	01
Service area, Bayou La Batre	01
Monroe	04
Montgomery:	
Service area, South Montgomery	01
Perry	04
Pickens	01
Pike	03
Randolph	02
Russell:	
Service area, Cottonton/Hurtsboro	01
St Clair	03
Sumter:	
Service area, Black Belt Community	01
Talladega:	
Service Area, Munford	01
Service Area, Childersburg CCD	01
Service Area, Lincoln-Estaboga CCD	03
Tallapoosa	03
Tuscaloosa:	
Service Area, Tuscaloosa	01
Walker	02
Washington	01
Wilcox	02
Winston	02

PRIMARY CARE—Continued

Alabama

Service Area Listing

Service area name	Degree of shortage group
Bay Minette	04
County—Balwin:	
Parts of County	
C.T. 101	
C.T. 102	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106	
Bayou La Batre	01
County—Mobile:	
Parts of County	
C.T. 66 (Parts)	
C.T. 67 (Parts)	
C.T. 72 (Parts)	
C.T. 73 (Parts)	
Black Belt Community	01
County—Sumter:	
Parts of County	
Gainsville Div.	
Livingston Div. (EPPS TWN)	
Panola/Geiger Div.	
Cherokee	01
County—Colbert:	
Parts of County	
Cherokee CCD	
Childersburg CCD	01
County—Talladega:	
Parts of County	
Childersburg Div.	
Cottonton/Hurtsboro	01
County—Russell:	
Parts of County	
Cottonton-Seale	
Hurtsboro	
Davis Area Community	01
County—Mobile:	
Parts of County	
C.T. 2	
County—Mobile:	
Parts of County	
C.T. 3	
C.T. 4.01	
C.T. 4.02	
C.T. 5	
C.T. 6	
East Houston	01
County—Houston:	
Parts of County	
Columbia	
Gordon	
Etowah	04
County—Calhoun:	
Parts of County	
Piedmont Div.	
Ohatchee Div.	
Webster Chapel-Alexandria Div.	
County——Etowah	
Greene-Hale	
County—Greene	
County—Hale	03
La Fayette	01
County—Chambers:	
Parts of County	
Lafayette Div.	
Lincoln-Estaboga CCD	03
County—Talladega:	
Parts of County	
Lincoln-Estaboga Div.	
Munford	01
County—Talladega:	
Parts of County	
Munford	
North Covington	01
County—Covington:	
Parts of County	
Red Level	
Rosehill-Gantt	
Pratt City	01
County—Jefferson:	
Parts of County	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 14	
Roosevelt City	02
County—Jefferson:	
Parts of County	
C.T. 105	
C.T. 131	
C.T. 133	
C.T. 136	
C.T. 137	
South East Covington	03
County—Covington:	
Parts of County	
Florala CCD	
South Montgomery	01
County—Montgomery:	
Parts of County	
Hope Hull	
Pine Level	
Ramer	
Triana	02
County—Madison:	
Parts of County	
C.T. 106 (E.D. 8, 15)	
C.T. 110 (E.D. 9A, 9B, 10, 11, 18, 19A)	
C.T. 112 (E.D. 12, 178, 208, 212)	
Tuscaloosa	01
County—Tuscaloosa:	
Parts of County	
C.T. 116 through 119	
Warrior-Morris	02
County—Jefferson:	
Parts of County	
C.T. 113	
C.T. 114	
Waterloo	02

Alaska

County Listing

County name	Degree of shortage group
Aleutian Islands Div.	01
Anchorage Div.	
Population group: Low-income of Anchorage	04
Angoon Div.:	
Service area, Juneau	04
Barrow Div.	01
Bethel Div.	01
Bristol Bay Div.:	
Service area, Bristol Bay	03
Bristol Bay Boro. Div:	
Service Area, Bristol Bay	03
Juneau Div.:	
Service area, Juneau	04
Kenai-Cook Inlet Div.	01
Kobuk Div.	01
Kuskukwim Div.	01
Matanuska-Sustina Div.	04
Nome Div.	01
Outer Ketchikan Div.	01
Prince of Wales Div.	01
Skagway-Yakutat Div.:	
Service area, Juneau	04
Southeast-Fairbanks Div.	01
Upper Yukon Div.	01
Valdez-Chitina-Whitt Div.	02
Wade Hampton Div.	01
Yukon-Koyukuk Div.	01

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Alaska

Service Area Listing

Service area name	Degree of shortage group
Bristol Bay	03
County—Bristol Bay Div.	
County—Bristol Bay Boro. Div.	
Juneau	04
County—Angoon Div.	
County—Juneau Div.	
County—Skagway-Yakutat Div.	

Alaska

Population Group Listing

Popluation group name	Degree of shortage group
Low-income population	04
County—Anchorage Div.:	
Parts of County	
Municipality of Anchorage	

Arizona

County Listing

County name	Degree of shortage group
Apache:	
Service area, South Central Apache County	04
Service area, White Mountain Indian Reservation	03
Cochise:	
Service area, Cataline	03
Service area, Bowe	01
Service area, Tombstone City area	03
Coconino:	
Service area, Williams	02
Gila:	
Service area, Globe-Miami-superior	03
Service area, White Mountain Indian Reservation	01
Service area, Payson	04
Maricopa:	
Service area, South Phoenix	02
Service area, El Mirage	01
Service area, Town of Guadalupe	02
Navajo:	
Service area, Kayenta	01
Service area, Winslow	04
Service area, Hopi Indian Reservation	01
Service area, White Mountain Indian Reservation	03
Pima:	
Service area, Cataline	01
Service area, Marana MSA	02
Service area, El Rio	01
Pinal:	
Service area, Cataline	01
Service area, Globe-Miami-superior	03
Service area, Central/West Pinal Co.	01
Santa Cruz	01
Yavapai:	
Service area, Seligman	02
Yuma:	
Service area, Northern Yuma County	01
Service area, Somerton Clinic target area	01

Arizona

Service Area Listing

Service area name	Degree of shortage group
Bowie	01
County—Cochise:	
Parts of County	
Bowie CCD	
Catalina	01
County—Cochise:	
Parts of County	
Benson CCD	
County—Pima:	
Parts of County	
C.T. 47.07	
County—Pinal:	
Parts of County	
Oracle Junction (in San Manuel Div.)	
Central/West Pinal Co.	02
County—Pinal:	
Parts of County	
Maricopa/Stanfield	
Casa Grande	
Eloy	
Coolidge	
Florence	
El Mirage	01
County—Maricopa:	
Parts of County	
C.T. 405 (southern ½)	
C.T. 608	
C.T. 609	
El Rio	01
County—Pima:	
Parts of County	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 8 through 12	
County—Pima:	
Parts of County	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25.01	
C.T. 37.01	
C.T. 37.02	
C.T. 37.03	
C.T. 38	
C.T. 39	
Globe-Miami-Superior	03
County—Gila:	
Parts of County	
Globe Div.	
Miami Div.	
Young & Roosevelt Tonto Div	
County—Pinal:	
Parts of County	
Superior-Ray Div.	
Hopi Indian Reservation	01
County—Navajo:	
Parts of County	
Hopi Division	
Kayenta	01
County—Navajo:	
Parts of County	
Navajo Monument Div.	
Marana Msa	02
County—Pima:	
Parts of County	
Marana CCD	
Northern Yuma County	01
County—Yuma:	
Parts of County	
Parker Division	
Payson	04
County—Gila:	
Parts of County	
Christopher Creek	
County—Gila:	
Parts of County	
Gisela	
Jakes Corner	
Kahls Ranch	
Payson	
Pine	
Rye	
Strawberry	
Tonto Div.	
Tonto Village	
Seligman	02
County—Yavapai:	
Parts of County	
Ashfork Div.	
Somerton Clinic Target Area	01
County—Yuma:	
Parts of County	
Somerton	
Wellton (Part)	
South Phoenix	02
County—Maricopa:	
Parts of County	
C.T. 1151 through 1161	
C.T. 1162.01	
C.T. 1162.02	
C.T. 11673 through 1167	
South-South Central Apache County	04
County—Apache:	
Parts of County	
Round Valley Division	
St. John Division	
Puerco Div.	
Tombstone City Area	03
County—Cochise:	
Parts of County	
Tombstone Pl. (Pt of Tombstone Div.)	
Town of Guadalupe	02
County—Maricopa:	
Parts of County	
Town of Guadalupe	
White Mountain Indian Reservation	03
County—Apache:	
Parts of County	
Mcnary Division	
County—Gila:	
Parts of County	
Reservation Division (Part)	
County—Gila:	
Parts of County	
Reservation Division	
Williams	02
County—Coconino:	
Parts of County	
Williams	
Winslow	04
County—Navajo:	
Parts of County	
C.T. Little Colorado Div.	

Arkansas

County Listing

County name	Degree of shortage group
Arkansas:	
Service area, Arkansas County	01
Ashley	02
Bradley	04
Calhoun	01
Clark:	
Service area: Southern Clark Co.	02
Clay	03
Cleveland	02
Crawford	03
Franklin	01
Fulton:	
Service area: Horseshoe Bend	03
Grant	04
Howard:	
Service area: Dierks	01
Izard:	
Service area: Horseshoe Bend	03
Jefferson:	
Service area: Northeast Jefferson County	01
Facility: Arkansas correctional facilities	02
Lafayette	01
Lawrence	04
Lee	02
Lincoln	01
Little River	02
Logan	02
Lonoke	02
Mississippi	04
Monroe	03
Montgomery	01
Nevada:	
Service area: Stephens service area	01
Newton	01
Quachita	
Service area: Stephens service area	01
Perry	01
Phillips:	
Service area: Elaine	01
Pike:	
Service area: Dierks	01
Prairie	01
Pulaski:	
Service area: East Central Pulaski	01
Scott	02

Arkansas

County Listing

County name	Degree of shortage group
Searcy	01
Sebastian:	
Service area: Diamond service area	01
Sevier:	
Service area: Dierks	01
Sharp	03
Stone	02
Union:	
Service area: Stephens service area	01
Service area: Strong	01
Van Buren	04
Washington:	
Service area: West Washington	02
Woodruff	03

Arkansas

Service Area Listing

Service area name	Degree of shortage group
Arkansas County	01
County—Arkansas:	
Parts of County	
Chester Township	
Stanley Township	
Keaton Township	
Crochett Township	
Barton Township	
Garland Township	
Brewer Township	
Bayou Meto Township	
La Grue Township	
Prairie Township	
Point De Luce Township	
Arkansas Township	
Diamond Service Area	01
County—Sebastian:	
Parts of County	
Diamond Twp	
Hartford Twp	
Jim Fork Twp	
Mississippi Twp	
Sugarloaf Twp	
Dierks	01
County—Howard:	
Parts of County	
Baker Township	
Blue Ridge Township	
Burg Township	
Clay Township	
Duckett Township	
Holly Creek Township	
Madison Township	
Mountain Township	
Muddy Fork Township	
Sulpher Spring Township	
Umpire Township	
County—Pike:	
Parts of County	
Mountain Township	
Eagle Township	
Self Creek Township	
White Township	
Muddy Fork Township	
County—Sevier:	
Parts of County	
Jefferson Township	
East Central Pulaski	01
County—Pulaski:	
Parts of County	
C.T. 1 through 13	
C.T. 18	
C.T. 25	
C.T. 26	
C.T. 28	
C.T. 40.01	
Elaine	01
County—Phillips:	
Parts of County	
Jamesbush	
Lake	
Mooney	
Searcy	
Tappan	
Horseshoe Bend	03
County—Fulton:	
Parts of County	
Union	
County—Izard:	
Parts of County	
Baker	
Franklin	
Jefferson	
New Hope	
Violet Hill	
Northeast Jefferson County	01
County—Jefferson:	
Parts of County	
Old River Township	
Villemont Township	
Barraque Township	
Bolivar Township	
Jefferson Township	
Pastoria Township	
Washington Township	
Dudley Township	
Roberts Township	
Plum Bayou Township	
Dunnington Township	
Bogy Township	
Southern Clark Co.	02
County—Clark:	
Parts of County	
Missouri Twp	
Stephens Service Area	01
County—Nevada:	
Parts of County	
Jackson	
Leake	
County—Quachita:	
Parts of County	
Bragg	
Bridge Creek	
Jefferson	
Lafayette	
Liberty	
Marion	
Smackover	
County—Union:	
Parts of County	
Boone	
Van Buren	
Strong	01
County—Union:	
Parts of County	
Harrison Twp	
Lapile Twp	
West Washington	02
County—Washington:	
Parts of County	
Boston Twp	
Cane Hill Twp	
Cove Creek Twp	
Dutch Mills Twp	
Illinois Twp	
Mars Hill Twp	
Morrow Twp	
Price Twp	
Prairie Grove Twp	
Rheas Hill Twp	
Starr Hill Twp	
Valley Twp	
Vineyard Twp	
Weddington Twp	

Arkansas

Facility Listing

Facility name	Degree of shortage group
S. Arkansas Correctional Facilities	02
County—Jefferson:	
Parts of County	
Tucker Prison	
Women's Unit	
County—Lincoln:	
Parts of County	
Cummins Prison	

California

County Listing

County name	Degree of shortage group
Alameda:	
Service area, East Alameda	03
Service area, Albany-Berkeley N.W./Berkeley S.W.	03
Population Group: Sp. Spkg./Med. Ind (Union Co.)	02
Alpine:	
Service area, Markleeville	01
Amador:	
Service area, Pine Grove/Silver Lake	02
Service area, Sutter Creek/Plymouth	04
Butte:	
Service area, Feather Falls	01
Service area, Yuba Foothills/Feather Falls	01
Calaveras:	
Service area, West Point/Wilseyville	01
Contra Costa:	
Population group: Oakley/Bethel/Byron/Brentwood	01
Del Norte	04
El Dorado:	
Service area, Georgetown	03
Fresno:	
Service area, Southeast Fresno	01
Service area, Firebaugh/Mendota	01
Glenn:	
Service area, Orland	04
Humboldt:	
Service area, Trinidad	03
Service area, Mad River	01
Inyo:	
Service area, Death Valley	01
Kern:	
Service area, Arvin/Lamont	03
Service area, Boron	03
Service area, Lake Isabella	04
Service area, Frazier Park	02
Service area, Buttonwillow	01
Service area, Wasco/Shafter	02
Lake:	
Service area, Clearlake Highlands MSA	02
Lassen:	
Service area, North Lassen	01
Service area, Honey Lake	01
Los Angeles:	
Service area, Highland Pk/Linc. Hts/Mt Wash./El Sereno	03
Population: Spanish-speaking & Med Ind Pop of Boyle Hts	01
Service area, East La/City Terrace/Maravilla	02
Service area, Commerce	02
Service area, Pico Rivera	04
Service area, Monterey Park/Rosemead	03
Service area, North El Monte/South El Monte	03
Service area, Industry/La Puente/Baldwin	02
Service area, Avalon/Goodyear/Main	04
Service area, Maple/Santa Barbara	01
Service area, Florence/Huntington Park	04
Service area, Maywood Bell/Southgate	03
Service area, Dominquez/W. Compton/Willowbrook	03
Service area, Figueroa/Firestone/Green Meadows/Watts	04
Service area, Palmdale	02
Service area, Newhall	02
Madera:	
Service area, Oakhurst-North Fork	02
Population group, Mig./Sp. Spkg. Pop (Madera)	01
Marin:	
Service area, Bolinas-Stinson	01
Mariposa:	
Service area, Coulterville	01
Mendocino:	
Service area, Point Arena	01
Service area, Covelo	01
Service area, Northwest Mendocino	01
Merced:	
Service area, Northern Merced	03
Population group, Mig./Sp. Spkg (Greater Merced)	02
Population group, Sp-Spkg/Mig & Sea Pop (Los Bandos-Dos Palos)	01
Modoc:	
Service area, Tule Lake-Butte Valley	01
Service area, Adin-Lookout	01
Mono:	
Service area, North Mono	01
Monterey:	
Service area, Seaside	02

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California

County Listing

County name	Degree of shortage group
Service area, Soleded	01
Orange:	
Population group, Indochinese Pop. of Orange	02
Placer:	
Service area, Colfax-Summit	01
Riverdale:	
Service area, Blythe	02
Service area, Lower Coachella Valley	01
Sacramento:	
Service area, Galt	01
San Benito	04
San Bernardino:	
Service area, Wrightwood	01
San Diego:	
Service area, Alpine	02
Service area, Mountain Empire	01
Service area, Palomar-Laguna	03
Service area, Southwest San Diego	04
Service area, San Ysidro	02
San Francisco:	
Service area, Merced His/Visitation Valley	02
San Joaqiun:	
Population group, Inner City Stockton Res (Migr&Seas Frmwkr)	04
San Luis Obispo:	
Service area, Nipomo/Arroyo Grande	02
Santa Barbara:	
Service area, Cuyama Valley	01
Santa Clara:	
Service area, Loma Prieta School District	02
Santa Cruz:	
Service area, Loma Prieta School District	02
Siskiyou:	
Service area, Happy Camp	04
Service area, Siskiyou	01
Service area, Tule Lake-Butte Valley	01
Solano:	
Service area, Vacaville	04
Sonoma:	
Service area, Russian River	02
Service area, Cloverdale/Geyserville	04
Stanislaus:	
Population group, Mig./Sp. Spkg. (SW Stanislaus)	02
Service area, West Modesto	01
Trinity:	
Service area, Mad River	01
Tulare:	
Service area, Springville	01
Tuolumne:	
Service area, Groveland	01
Service area, Stanislaus/Yosemite	01
Service area, Tuolumne City	01
Ventura:	
Population group, the Developmentally Disabled in Ventura, Calif	02
Yolo:	
Service area, Esparto	01
Yuba:	
Service area, Yuba Foothills/Feather Falls	01

California

Service Area Listing

Service area name	Degree of shortage group
Adin-Lookout	01
County—Modoc:	
Parts of County	
Adin-Look	
Albany-Berkeley N.W./Berkeley S.W.	03
County—Alameda:	
Parts of County	
C.T. 4201 through 4206	
C.T. 4218 through 4223	
C.T. 4230 through 4234	
C.T. 4240	
Alpine	02
County—San Diego:	
Parts of County	
Alpine Division	
Arvin/Lamont	03
County—Kern:	
Parts of County	
C.T. 62 through 64	
Avalon/Goodyear/Main	04
County—Los Angeles:	
Parts of County	
C.T. 2281 through 2289	
C.T. 2291 through 2294	
C.T. 2311	
C.T. 2318	
C.T. 2319	
C.T. 2328	
C.T. 2391 through 2396	
C.T. 5328	
C.T. 5329	
Blythe	01
County—Riverside:	
Parts of County	
Palo Verde Div.	
Cuckwalla Div.	
Bolinas-Stinson	01
County—Marin:	
Parts of County	
C.T. 1321	
Boron	03
County—Kern:	
Parts of County	
C.T. 55.02	
C.T. 56 through 59	
Buttonwillow	01
County—Kern	
Parts of County	
C.T. 33.01 (Part—Blk Grp 1-3,951)	
C.T. 37	
C.T. 42 (Part—Blk Grp 1)	
C.T. 45 (Part—Blk Grp 1-3,5)	
Clearlake Highlands MSA	02
County—Lake	
Parts of county	
Lower Lake/Middletown CCD	
Upper Lake/Clear Lake Oaks CCD (Partial)	
Cloverdale/Geyserville	04
County—Sonoma	
Parts of County	
Cloverdale/Geyserville	
Colfax-Summit	01
County—Placer	
Parts of County	
Colfax-Summit Div.	
Commerce	02
County—Los Angeles	
Parts of County	
C.T. 5323.01	
C.T. 5323.02	
Coulterville	01
County—Mariposa	
Parts of County	
Coulterville	
Covelo	01
County—Mendocino	
Parts of County	
Covelo	
Cuyama Valley	01
County—Santa Barbara	
Parts of County	
Cuyama Division	
Death Valley	01
County—Inyo	
Parts of County	
E.D. 23 of Death Valley Div.	
E.D. 24 of Death Valley Div.	
E.D. 25 of Death Valley Div.	
E.D. 26 of Death Valley Div.	
Dominquez/W. Compton/Willowbrook	03
County—Los Angeles	
Parts of County	
C.T. 5406	
C.T. 5407	
C.T. 5408	
C.T. 5409.01	
C.T. 5409.02	
C.T. 5410.01	
C.T. 5410.02	
C.T. 5411 through 5415	
C.T. 5425 through 5432	
C.T. 5433.01	
C.T. 5433.02	
C.T. 5434	
C.T. 5440	
East Alameda	03
County—Alameda	
Parts of County	
C.T. 4048	
C.T. 4077	
C.T. 4078	
C.T. 4082 through 4098	
C.T. 4101 through 4104	
C.T. 4049 through 4068	
C.T. 4070 through 4076	
East LA/City Terrace/Maravilla	02
County—Los Angeles	
Parts of County	
C.T. 5303 through 5319	
Esparto	01
County—Yolo	
Parts of County	
C.T. 115	
Feather Falls	01
County—Butte	
Parts of County	
Feather Falls	
Figueroa/Firestone/Green Meadows/Watts	04
County—Los Angeles	
Parts of County	
C.T. 2397 through 2409	
C.T. 2411 through 2418	
C.T. 2421 through 2429	
C.T. 2431	
C.T. 5349	
C.T. 5350	
C.T. 4351.01	
C.T. 5351.02	
C.T. 5352 through 5354	
C.T. 5404	
Firebaugh/Mendota	01
County—Fresno	
Parts of County	
Firebaugh Div.	
Mendota Div.	
Florence/Huntington Park	04
County—Los Angeles	
Parts of County	
C.T. 5325 through 5332	
C.T. 5335	
C.T. 5345	
C.T. 5347	
C.T. 5348	
Frazier Park	02
County—Kern:	
Parts of County	
C.T. 33.02	
C.T. 60 (part)	
Galt	01
County—Sacramento:	
Parts of County	
C.T. 94	
C.T. 95	
Georgetown	03
County—El Dorado:	
Parts of County	
C.T. 306	
C.T. 309 (Coloma & Lotus)	
Groveland	01
County—Tuolumne:	
Parts of County	
Groveland	
Happy Camp	04
County—Siskiyou:	
Parts of County	
Happy Camp CCD	
Highland Pk./Linc. Hts./Mt. Wash./El Sereno	03
County—Los Angeles:	
Parts of County	
C.T. 1831 through 1833	
C.T. 1835 through 1838	
C.T. 1851 through 1853	
C.T. 1991 through 1999	
C.T. 2011 through 2017	
C.T. 5307	
Honey Lake	01
County—Lassen:	
Parts of County	
Honey Lake Div.	
Industry/La Puente/Baldwin	02
County—Los Angeles:	
Parts of County	
C.T. 4047 through 4052	
C.T. 4069 through 4073	
C.T. 4075 through 4079	
C.T. 4081 through 4086	
Lake Isabella	04

California

Service Area Listing

Service area name	Degree of shortage group
County—Kern:	
Parts of County	
C.T. 51.01	
C.T. 52	
Loma Prieta School District	02
County—Santa Clara:	
Parts of County	
Lexington Division (part)	
County—Santa Cruz:	
Parts of County	
San Lorenzo Valley (part)	
Scotts Valley Division (part)	
Lower Coachella Valley	01
County—Riverside:	
Parts of County	
C.T. 456	
Mad River	01
County—Humboldt:	
Parts of County	
Dinsmore Div.	
County—Trinity:	
Parts of County	
Mad River Div.	
Maple/Santa Barbara	01
County—Los Angeles:	
Parts of County	
C.T. 2214.01	
C.T. 2214.02	
C.T. 2215.01	
C.T. 2215.02	
C.T. 2216.01	
C.T. 2216.02	
C.T. 2217.01	
C.T. 2217.02	
C.T. 2218	
C.T. 2219	
C.T. 2221 through 2227	
C.T. 2244 through 2247	
C.T. 2264 through 2267	
Markleeville	01
County—Alpine:	
Parts of County	
Markleeville	
Maywood Bell/Southgate	03
County—Los Angeles:	
Parts of County	
C.T. 5333	
C.T. 5334	
C.T. 5336	
C.T. 5337	
C.T. 5338.01	
C.T. 5338.02	
C.T. 5339 through 5343	
C.T. 5344.01	
C.T. 5344.02	
C.T. 5355	
C.T. 5356.01	
C.T. 5356.02	
C.T. 5357 through 5362	
Merced Hts./Visitation Valley	02
County—San Francisco:	
Parts of County	
C.T. 255 through 264	
C.T. 312	
C.T. 313	
C.T. 314	
C.T. 605	
Monterey Park/Rosemead	03
County—Los Angeles:	
Parts of County	
C.T. 4322	
C.T. 4329	
C.T. 4336	
C.T. 4813	
C.T. 4817	
C.T. 4818	
C.T. 4820 through 4828	
Mountain Empire	01
County—San Diego:	
Parts of County	
Mountain Empire Division	
Newhall	02
County—Los Angeles:	
Parts of County	
C.T. 1081	
C.T. 1082	
C.T. 9200.01	
C.T. 9200.02	
C.T. 9200.03	
C.T. 9201	
C.T. 9203.01	
C.T. 9203.02	
C.T. 9203.03	
Nimpomo/Arroyo Grande	02
County—San Luis Obispo:	
Parts of County	
Arroyo Grande Division	
North El Monte/South El Monte	03
County—Los Angeles:	
Parts of County	
C.T. 4315	
C.T. 4323 Through 4328	
C.T. 4331 through 4335	
C.T. 4337 through 4340	
North Lassen	01
County—Lassen:	
Parts of County	
Big Valley	
Madeline Plains	
North Mono	01
County—Mono:	
Parts of County	
Mono North	
Northern Merced	03
County—Merced:	
Parts of County	
Hilmar-Irwin Division	
Livingston-Delhi	
Snelling Division	
Atwater Divsion	
Northwest Mendocino	01
County—Mendocino:	
Parts of County	
Laytonville-Leggett	
Oakhurst-North Fork	02
County—Mandera:	
Parts of County	
Oakhurst-North Fork CCD	
Orland	04
County—Glenn:	
Parts of County	
Orland CCD	
Palmdale	02
County—Los Angeles:	
Parts of County	
C.T. 9100 through 9110	
Palomar-Laguna	03
County—San Diego:	
Parts of County	
Palomar-Laguna Division	
Pico Rivera	04
County—Los Angeles:	
Parts of County	
C.T. 5504.01	
C.T. 5504.02	
C.T. 5005 through 5010	
C.T. 5021 through 5025	
C.T. 5026.01	
C.T. 5026.02	
Pine Grove/Silver Lake	02
County—Amador:	
Parts of County	
Pine Gove/Silver Lake	
Point Arena	01
County—Mendocino:	
Parts of County	
Point Arena	
Russian River	02
County—Sonoma:	
Parts of County	
C.T. 1537	
1543 (South portion)	
San Ysidro	02
County—San Diego:	
Parts of County	
C.T. 100	
C.T. 101.01	
C.T. 101.02	
C.T. 102	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 132.01	
C.T. 132.02	
C.T. 133.03	
C.T. 133.04	
Seaside	02
County—Monterey:	
Parts of County	
Seaside Div	
Siskiyou	01
County—Siskiyou:	
Parts of County	
Etna	
Ft. Jones	
Soledad	01
County—Monterey:	
Parts of County	
Soledad Div	
Southeast Fresno	01
County—Fresno:	
Parts of County	
C.T. 4	
C.T. 12	
C.T. 13	
C.T. 14.01	
C.T. 15	
Southwest San Diego	04
County—San Diego:	
Parts of County	
C.T. 36	
C.T. 45 through 54	
Springville	01
County—Tulare:	
Parts of County	
C.T. 27 (Springville)	
Stanislaus/Yosemite	01
County—Tuolumne: Parts of County	
Stanislaus/Yosemite	
Sutter Creek/Plymouth	04
County—Amador:	
Parts of County	
Sutter Creek/Plymouth	
Trinidad	03
County—Humboldt:	
Parts of County	
North Coastal Division	
Tule Lake-Butte Valley	01
County—Modoc:	
Parts of County	
Tule Lake	
County—Siskiyou	
Parts of County:	
Tule Lake CCD	
Butte Valley CCD	
Tuolumne City	01
County—Tuolumne:	
Parts of County	
Tuolumne City	
Vacaville	04
County—Solano:	
Parts of County	
C.T. 2529 through 2532	
Wasco/Shafter	02
County—Kern:	
Parts of County	
C.T. 39 through 45	
West Modesto	01
County—Stanislaus:	
Parts of County	
C.T. 15 through 17	
C.T. 22 through 25	
C.T. 31	
West Point/Wilseyville	01
County—Calaveras:	
Parts of County	
West Point/Wilseyville	
Wrightwood	01
County—San Bernardino:	
Parts of County	
Mt. Baldy/Wrightwood	
Yuba Foothills/Feather Falls	01
County—Butte:	
Parts of County	
Feather Falls Div.	
County—Yuba:	
Parts of County	
Yuba Foothills Div.	

California

Population Group Listing

Population group name	Degree of shortage group
Indochinese Pop. of Orange	02

California

Population Group Listing

Population group name	Degree of shortage group
County—Orange:	
Parts of County	
Indochinese Pop.	
Inner City Stockton Res. (Migr. & Seas. Frmwkr)	04
County—San Joaquin:	
Parts of County	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 6	
C.T. 7	
C.T. 8	
C.T. 19	
C.T. 20	
C.T. 23	
C.T. 24	
C.T. 25	
Mig./Sp. Spkg. Pop. (Madera)	01
County—Madera:	
Parts of County	
C.T. 4 (Mig. & Sp. Spkg. Pop.)	
C.T. 5 (Mig. & Sp. Spkg. Pop.)	
C.T. 6 (Mig. & Sp. Spkg. Pop.)	
C.T. 7 (Mig. & Sp. Spkg. Pop.)	
C.T. 8 (Mig. & Sp. Spkg. Pop.)	
C.T. 9 (Mig. & Sp. Spkg. Pop.)	
C.T. 10 (Mig. & Sp. Spkg. Pop.)	
Mig./Sp. Spkg. Pop. (Greater Merced)	02
County—Merced:	
Parts of County	
Merced	
Merced Rural	
Planada-La Grand	
Mig./Sp. Spkg. (SW Stanislaus)	02
County—Stanislaus:	
Parts of County	
Patterson	
Newman	
Oakley/Bethel/Byron/Brentwood	01
County—Contra Costa:	
Parts of County	
C.T. 3010 (Low Inc. Span. Spkg.)	
C.T. 3020 (Low Inc. Span. Spkg.)	
C.T. 3031 (Low Inc. Span. Spkg.)	
C.T. 3040 (Low Inc. Span. Spkg.)	
Sp. Spkg./Med. Ind. (Union Co.)	02
County—Alameda:	
Parts of County	
C.T. 4380 through 4384	
C.T. 4401 through 4403	
C.T. 4414	
C.T. 4415	
C.T. 4441 through 4446	
Sp.-Spkg. Mig. & Sea. Pop. (Los Banos-Dos Palos)	01
County—Merced:	
Parts of County	
Dos Palos Division	
Los Banos Division	
Spanish-Spkng. & Med. Ind. Pop. of Boyle Hts	01
County—Los Angeles:	
Parts of County	
C.T. 2031 through 2039	
C.T. 2041 through 2049	
The Developmentally Disabled in Ventura County	02
County—Ventura:	
Parts of County	
The Developmentally Disabled in Ventura	

Colorado

County Listing

County name	Degree of shortage group
Adams:	
Service area, Commerce City	02
Alamosa	04
Arapahoe:	
Service area, Eastern Plains Area	02
Archuleta	01
Baca	04
Bent	04
Boulder:	
Service area, LaFayette	04
Conejos:	
Service area, San Luis Valley	01
Costilla:	
Service area, San Luis Valley	01
Crowley:	
Population group, Crowley/Otero (Low Income Pop.)	01
Custer	01
Dolores	01
El Paso:	
Population group, Colorado Springs (Low Income Pop.)	01
Gilpin:	
Service area, Central City	01
Hinsdale	01
Kiowa	02
Las Animas	02
Lincoln	02
Logan	04
Montezuma	01
Montrose:	
Service area, Nucla	04
Otero:	
Population group, Crowley/Otero (Low Income Pop.)	01
Ouray	01
Park:	
Service area, Fairplay	01
Prowers	04
Pueblo:	
Service area, Avondale	01
Rio Blanco	04
Routt	01
Saguache	03
San Juan	01
San Miguel	01
Sedgwick:	
Service area, Avondale	01
Teller:	
Service area, Cripple Creek	01
Washington	01
Weld:	
Population group, Mig./Seas. Farmworkers	02
Yuma	03

Colorado

Service Area Listing

Service area name	Degree of shortage group
Avondale	01
County—Pueblo:	
Parts of county	
C.T. 30.01 (Avondale)	
C.T. 30.02 (Avondale)	
C.T. 31.02 (Avondale)	
C.T. 32 (Avondale)	
C.T. 33 (Avondale)	
C.T. 34 (Avondale)	
Central City	01
County—Gilpin:	
Parts of County	
Central City Div	
Commerce City	02
County—Adams:	
Parts of county	
C.T. 87.02 (Commerce City)	
C.T. 87.03 (Commerce City)	
C.T. 88.01 (Irondale City)	
C.T. 88.02 (Adams City)	
C.T. 89.01 (Commerce City)	
C.T. 89.52 (South Welby)	
Cripple Creek	01
County—Teller:	
Part of County	
Cripple Creek Div	
Eastern plains area	02
County—Arapahoe	
Fairplay	01
County—Park:	
Parts of County	
Alma TWN	
Fairplay TWN	
Jefferson TWN	
Lafayette	04
County—Boulder:	
Parts of County	
C.T. 129	
Nucla	04
County—Montrose:	
Parts of County	
Nucla Divison	
San Luis Valley	01
County—Conejos	
County—Costilla	

Colorado

Population Group Listing

Population group name	Degree of shortage group
Colorado Springs (Low Income Pop):	01
County—El Paso:	
Parts of County	
CT. 22 (low income pop.)	
CT. 23 (low income pop.)	
CT. 26 (low income pop.)	
CT. 27 (low income pop.)	
CT. 30 (low income pop.)	
Crowley/Otero (low income pop.)	01
County—Crowley:	
Parts of County	
Low income pop.	
County—Otero:	
Parts of County	
Low income pop.	
Mig/Seas. Farmworkers	02
County—Weld:	
Parts of County	
Mig./Seas. Farmworkers	

Connecticut

County Listing

County name	Degree of shortage group
Fairfield:	
Service area, Southeast Bridgeport	01
Service area, Central Bridgeport	01
Service area, South West Bridgeport	01
Service area, North Central Bridgeport	01
Service area, Southwest Stamford	01
Service area, South Norwalk	03
Hartford:	
Service area, Enfield	02
Service area, North-North Central Hartford	04
Service area, Charter Oak/Rice Hts	01
New Haven:	
Service area, Fair Haven	01
Service area, Brooklyn/South End/Hopeville/East End	02
Service area, Waterville/Buck's Hill	01
Service area, Boulevard/Lower North End/Long Hill	03
Service area, West Haven	03
Service area, West Rock/Newhallville	02
New London:	
Service area, New London	01
Windham:	
Service area, Northeast Windham	03

Connecticut

Service Area Listing

Service area name	Degree of shortage group
Boulevard/Lower North End/Long Hill	03
County—New Haven:	
Parts of County	
C.T. 3502	
C.T. 3503	
C.T. 3504	
C.T. 3508	
C.T. 3512	
Brooklyn/South End/Hopeville/East End	02
County—New Haven:	
Parts of County	
C.T. 3505	
C.T. 3506	

Connecticut

Service Area Listing

Service area name	Degree of shortage group
C.T. 3513	
C.T. 3514	
C.T. 3517	
Central Bridgeport	01
County—Fairfield:	
Parts of County	
C.T. 713 through 717	
Charter Oak/Rice Hts	01
County—Hartford:	
Parts of County	
C.T. 5046	
C.T. 5049	
Enfield	02
County—Hartford:	
Parts of County	
C.T. 4762 (Windsor Locks Town)	
C.T. 4763 (Windsor Locks Town)	
C.T. 4801 (Enfield Town)	
C.T. 4802 (Enfield Town)	
C.T. 4803 (Enfield Town)	
C.T. 4804 (Enfield Town)	
C.T. 4805 (Enfield Town)	
C.T. 4806 (Enfield Town)	
C.T. 4807 (Enfield Town)	
C.T. 4808 (Enfield Town)	
C.T. 4809 (Enfield Town)	
C.T. 4810 (Enfield Town)	
C.T. 4811 (Enfield Town)	
C.T. 4812 (Enfield Town)	
C.T. 4813 (Enfield Town)	
C.T. 4771 (Suffield Town)	
C.T. 4772 (Suffield Town)	
C.T. 4761 (Windsor Locks Town)	
Fair Haven	01
County—New Haven:	
Parts of County	
C.T. 1421 through 1426	
New London	01
County—New London:	
Parts of County	
C.T. 6901 through 6907	
North Central Bridgeport	01
County—Fairfield:	
Parts of County	
C.T. 728	
North-North Central Hartford	04
County—Hartford:	
Parts of County	
C.T. 5008 through 5010	
C.T. 5012 through 5015	
C.T. 5017	
C.T. 5018	
C.T. 5035	
C.T. 5037	
Northeast Windham	03
County—Windham:	
Parts of County	
Brooklyn	
Canterbury	
Eastford	
Killingly	
Plainfield	
Pomfret	
Putnam	
Sterling	
Thompson	
Woodstock	
South Norwalk	03
County—Fairfield:	
Parts of County	
C.T. 418	
C.T. 419	
C.T. 422	
C.T. 423	
Southwest Bridgeport	01
County—Fairfield:	
Parts of County	
C.T. 702 through 706	
Southeast Bridgeport	01
County—Fairfield:	
Parts of County	
C.T. 740 through 744	
Southwest Stamford	01
County—Fairfield:	
Parts of County	
C.T. 222	
C.T. 223	
Waterville/Buck's Hill	01
County—New Haven:	
Parts of County	
C.T. 3522 through 3525	
West Haven	03
County—New Haven:	
Parts of County	
C.T. West Haven Twn	
West Rock/Newhallville	02
County—New Haven:	
Parts of County	
C.T. 1412 through 1415	

Delaware

County Listing

County name	Degree of shortage group
New Castle:	
Service area, City of Wilmington	02
Service area, Odessa-Middletown-Townsend	03
Sussex:	
Service area, Milton	02

Delaware

Service Area Listing

Service area name	Degree of shortage group
City of Wilmington	02
County—New Castle:	
Parts of County	
C.T. 1	
C.T. 8	
C.T. 9	
C.T. 17	
C.T. 20	
C.T. 154 through 156	
Milton	02
County—Sussex:	
Parts of County	
Selbyville-Frankford CCD	
Millsboro CCD	
Milton CCD	
Odessa-Middletown-Townsend	03
County—New Castle:	
Parts of County	
C.T. 166 through 169	

Delaware

Population Group Listing

Population Group Name	Degree of shortage group
Med. Ind. Children of W. Sussex Co.	01
County—Sussex:	
Parts of County	
Bridgeville-Greenwood CCD	
Laurel-Delmar CCD	
Seaford CCD	

District of Columbia

County Listing

County name	Degree of shortage group
District of Columbia:	
Service area, Anacostia Service Area	01
Anacostia Service Area	01

District of Columbia

Service Area Listing

Service area name	Degree of shortage group
County—District of Columbia:	
Parts of County	
C.T. 73.01 through 73.08	
C.T. 74.01	
C.T. 74.02	
C.T. 74.04	
C.T. 74.05	
C.T. 75.01	
C.T. 75.02	
C.T. 76.01 through 76.0[illegible]	
C.T. 77.01 through 77.07	
C.T. 78.01 through 78.05	
C.T. 78.07	
C.T. 78.08	
C.T. 96 through 98	

Florida

County Listing

County name	Degree of shortage group
Baker:	
Service area, Baker Correctional Inst	01
Bradford:	
Service area, Florida State Prison	02
Brevard	03
Broward:	
Population group: Sunshine FHC Target Population	01
Facility: Sunshine Family Health Center	01
Calhoun:	
Service area, Calhoun/Liberty	03
Collier:	
Service area, Southern Collier County	01
Columbia	04
Dade:	
Service area, Southern Dade	01
Service area, Wynwood	01
Dixie	01
Duval:	
Population group: Low Income Pop. of Duval	03
Escambia:	
Service area, Flomaton	01
Gilchrist	01
Glades:	
Service area, Glades/Hendry	04
Hendry:	
Service area, Glades/Hendry	04
Hillsborough:	
Facility: Hillsborough Co. Mig Health Center Inc.	02
Holmes	02
Jackson	04
Lafayette	01
Lake:	
Population group: Migrant & Seasonal Farmworkers	01
Lee:	
Population group: Lee Co. Migrant Population	01
Levy:	
Service area, Chiefland	01
Service area, Chiefland Clinic	01
Liberty:	
Service area, Calhoun/Liberty	03
Madison	01
Mantee:	
Facility: Hillsborough Co. Mig Health Center Inc.	02
Marion:	
Facility: Florida Correctional Inst.	01
Orange:	
Service area, N.W. Orange & W. Orange Co.	03
Palm Beach:	
Service area, Palm Beach	01
Service area, West Palm Beach	03
Service area, Glades	03
Pasco:	
Population group: Medically Indigent Pop.	01
Putnam	03
Santa Rosa:	
Service area, Jay-Berrydale	03
Seminole	02
Sumter	01
Suwannee	02
Walton	03
Washington	03

Florida

Service Area Listing

Service area name	Degree of shortage group
Calhoun/Liberty	03
County—Calhoun	
County—Liberty	
Chiefland	01
County—Levy:	
Parts of County	
Chiefland CCD	
Flomaton	01
County—Escambia:	
Parts of County	
Cantonment	
North West Escambia	
South Flomaton	
Glades	03
County—Palm Beach:	
Parts of County	
C.T. 80 through 83	
Glades/Hendry	04
County—Glades	
County—Hendry	
Jay-Berrydale	03
County—Santa Rosa:	
Parts of County	
Jay-Berrydale	
N.W. Orange & W. Orange Co.	03
County—Orange:	
Parts of County	
C.T. 175 through 179	
Palm Beach	01
County—Palm Beach:	
Parts of County	
C.T. 78	
Southern Collier County	01
County—Collier:	
Parts of County	
Everglades (Southern Portion)	
Southern Dade	01
County—Dade:	
Parts of County	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106.02	
C.T. 108 through 115	
West Palm Beach	03
County—Palm Beach:	
Parts of County	
C.T. 22 through 25	
Wynwood	01
County—Dade:	
Parts of County	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	

Florida

Population Group Listing

Population group name	Degree of shortage group
Lee Co. Migrant Population	01
County—Lee:	
Parts of County	
Lee Co. Migrant Population	
Low Income Pop. of Duval	03
County—Duval:	
Parts of County	
C.T. 1 through 5	
C.T. 9 through 19	
C.T. 26 through 29	
C.T. 107 through 109	
C.T. 112 through 116	
C.T. 118	
C.T. 121	
Medically Indigent Pop	01
County—Pasco:	
Parts of County	
Medically Indigent Pop.	
Migrant & Seasonal Farmworkers	01
County—Lake:	
Parts of County	
Migrant & Seasonal Farmworkers	
Sunshine FHC Target Population	01
County—Broward:	
Parts of County	
C.T. 305 (Resident Population)	
C.T. 305 (Migrant & Seasonal Farmworkers	

Florida

Facility Listing

Facility name	Degree of shortage group
Baker Correctional Inst	01
County—Baker:	
Parts of County	
Baker Correctional Inst.	
Chiefland Clinic	01
County—Levy:	
Parts of County	
Chiefland Clinic (Facility)	
Florida Correctional Inst.	01
County—Marion:	
Parts of County	
Fla. Corr. Inst/Marion Corr. Inst.	
Florida State Prison	02
County—Bradford:	
Parts of County	
Florida State Prison	
Hillsborough Co. MIG Health Center Inc.	02
County—Hillsborough:	
Parts of County	
C.T. 121 through 141	
County—Maintee:	
Parts of County	
C.T. 13	
C.T. 14	
C.T. 15	
C.T. 16	
C.T. 19	
Sunshine Family Health Center	01
County—Broward:	

Georgia

County Listing

County Name	Degree of shortage group
Appling	02
Atkinson	01
Baker:	
Service area, Baker/Dougherty/Lee	04
Banks	01
Bartow	04
Brantley	01
Brooks	02
Bryan	01
Burke	04
Butts	02
Calhoun	04
Camden	04
Chattahoochee	01
Chattooga	04
Cherokee	04
Clarke:	
Service area, Athens NHC target area	01
Crawford	01
Dade	01
Dawson	03
De Kalb:	
Service area, De Kalb	02
Dooly	02
Dougherty:	
Service area, Baker/Dougherty/Lee	03
Early	02
Effingham	04
Elbert	04
Evans	02
Fayette	02
Fulton:	
Service area, Inner-city Atlanta	04
Service area, Atlanta (southside)	01
Service area, Palmetto service area	01
Service area, West end	01
Glascock	01
Grady	03
Hancock	02
Henry	02
Irwin	01
Jackson	04
Jasper	01
Jeff Davis	02
Jefferson	03
Jenkins	03
Jones	02
Lee:	
Service area, Baker/Dougherty/Lee	04
Lincoln	04
Long	01
McDuffie	04
McIntosh	01
Macon	01
Madison	01
Meriwether	02
Mitchell	04
Montgomery	01
Murray	02
Newton	03
Olgethorpe	01
Piokens	04
Pike	01
Pulaski:	
Service area, Pulaski/Wilcox	03
Quitman:	
Service area, Randolph/Quitman:	03
Randolph:	
Service area, Randolph/Quitman:	03
Screven	04
Stewart:	
Service area, Stewart-Webster MSA	02
Talbot	01
Taliaferro	01
Tattnall	02
Union	03
Walker:	
Service area, South Walker	02
Warren	01
Webster:	
Service area, Stewart-Webster MSA	02
Wheeler	01
White	02
Whitfield:	
Population group, Medically indigent pop	02
Wilcox	
Service area, Pulaski/Wilcox:	03
Wilkes	03
Wilkinson	03
Worth	04

Georgia

Service Area Listing

Service area name	Degree of shortage group
Athens NHC Target Area	01
County—Clarke:	
Parts of County	
C.T. 2	
C.T. 3	
C.T. 6	
C.T. 9	
Atlanta (Southside)	01
County—Fulton:	
Parts of County	
C.T. 44 through 49	
C.T. 52	
C.T. 53	
C.T. 55.01	
C.T. 55.02	
C.T. 57	
C.T. 58	
C.T. 63	
C.T. 64	
C.T. 66 through 73	
Baker/Dougherty/Lee	03
County—Baker	
County—Dougherty	
County—Lee	
De Kalb	02
County—De Kalb:	
Parts of County	
C.T. 208	
C.T. 227	

Georgia

Service Area Listing

Service area name	Degree of shortage group
C.T. 228	
Inner-City Atlanta	04
County—Fulton:	
Parts of County	
C.T. 17	
C.T. 18	
C.T. 20	
C.T. 21	
C.T. 27	
C.T. 28	
C.T. 32	
C.T. 33	
C.T. 35	
Palmetto Service Area	01
County—Fulton:	
Parts of County	
C.T. 13 (Palmetto CCD)	
Pulaski/Wilcox	03
County—Pulaski	
County—Wilcox	
Randolph/Quitman	03
County—Quitman	
County—Randolph:	
South Walker	02
County—Walker:	
Parts of County	
C.T. 206 through 209	
Stewart-Webster MSA	02
County—Stewart	
County—Webster	
West End	01
County—Fulton:	
Parts of County	
C.T. 22	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 36 through 43	
C.T. 59 through 62	

Georgia

Population Group Listing

Population group name	Degree of shortage group
Medically Indigent Pop	01
County—Whitfield:	
Parts of County	
Medical Indigent Pop	

Hawaii

County Listing

County name	Degree of shortage group
Hawaii:	
Service area, North Kohala	01

Hawaii

Service Area Listing

Service area name	Degree of shortage group
North Kohala	01
County—Hawaii:	
Parts of County	
C.T. 216 (North Kohala Div.)	

Idaho

County Listing

County name	Degree of shortage group
Ada:	
Population group, Med. Ind. Pop. (Boise City)	04
Bannock:	
Population group, Eastern Snake River Valley migrant area	01
Benewah:	
Service area, Plummer	01
Bingham:	
Population group, Eastern Snake River Valley migrant area	01
Boise	01
Bonner:	
Service area, Priest River	01
Butte	01
Camas	01
Canyon:	
Population group, Treasure Valley migrant area #1	04
Service area, Nyssa	03
Caribou	03
Cassia:	
Service area, Albion/Oakley Divisions	01
Population group, Magic Valley migrant area	01
Custer	02
Elmore:	
Service area, Glenns Ferry	01
Fremont	02
Gem:	
Population group, Treasure Valley migrant area #2	01
Gooding:	
Population group, Magic Valley migrant area	01
Jerome:	
Population group, Magic Valley migrant area	01
Kootenai:	
Service area, Kootenai/Shoshone	03
Service area, Plummer	01
Lewis:	
Service area, Nez Perce	02
Lincoln:	
Population group, Magic Valley migrant area	01
Minidoka:	
Population group, Magic Valley migrant area	01
Owyhee:	
Population group, Treasure Valley migrant area #1	04
Payette:	
Population group, Treasure Valley migrant area #2	01
Power:	
Population group, eastern Snake River Valley migrant area	01
Shoshone:	
Service area, Kootenai/Shoshone	03
Twin Falls:	
Population group, Magic Valley migrant area	01
Washington:	
Population group, Treasure Valley migrant area #2	01

Idaho

Service Area Listing

Service area name	Degree of shortage group
Albion/Oakley divisions	01
County—Cassia:	
Parts of County	
Albion Division	
Oakley Division	
Glenns Ferry	01
County—Elmore:	
Parts of County	
Glenns Ferry	
Kootenai/Shoshone	03
County—Kootenai:	
Parts of County	
Cataldo	
Fourth of July	
Rose Lake	
County—Shoshone	
Nez Perce	02
County—Lewis:	
Parts of County	
Craigmont	
Nez Perce	
Winchester	
Plummer	01
County—Benewah:	
Parts of County	
Plummer	
Tensed	
County—Kootenai:	
Parts of County	
Worley	
Priest River	01
County—Bonner:	
Parts of County	
Blanchard-Glengary Div. (western part)	
Priest River Div.	

Idaho

Population Group Listing

Population group name	Degree of shortage group
Eastern Snake River Valley migrant population	01
County—Bannock	
County—Bingham	
County—Power	
Magic Valley migrant population	01
County—Cassia	
County—Gooding	
County—Jerome	
County—Lincoln	
County—Minidoka	
County—Twin Falls	
Med. Ind. Pop. (Boise City)	04
County—ADA:	
Parts of County	
C.T. 1 through 24	
Treasure Valley Migrant Population #1	04
County—Canyon:	
County—Owyhee	
Treasure Valley Migrant Population #2	01
County—Gem	
County—Payette	
County—Washington	

Illinois

County Listing

County name	Degree of shortage group
Alexander	02
Brown	01
Calhoun	01
Carroll	04
Cass	04
Champaign:	
Service area, Northend-Champaign Urbana	01
Clark	02
Clay	02
Clinton	03
Cook:	
Service area, Chatham (near southeast)	04
Service area, Douglas comm. area	03
Service area, Chicago Heights	03
Service area, Robbins	01
Service area, Southeast Chicago	01
Service area, South Lawndale-Lower West Side	01
Service area, Uptown	01
Service area, Phoenix	01
Service area, E. Chicago Heights	01
Service area, Cabrini-Green/near north side	01
Service area, Chicago Lawn	04
Service area, Garfield Ridge	02
Service area, Humboldt-Austin-Garfield	01
Service area, New City-West Englewood-Englewood	01
Service area, Cook	02
Edwards	04
Fayette	02
Franklin	02
Fulton:	
Service area, London Mills	02
Greene	04
Hamilton	02
Henderson	02
Jackson:	
Service area, Murphysboro	04

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Illinois

County Listing

County name	Degree of shortage group
Jasper	02
Johnson	02
Kankakee:	
Service area, Pembroke	01
Knox:	
Service area, London Mills	02
La Salle:	
Service area, Minonk	02
Livingston:	
Service area, Minonk	02
McDonough:	
Service area, London Mills	02
Macon:	
Service area, Decatur Inner City	01
Macoupin	04
Marshall:	
Service area, Princeville	03
Mason	04
Mercer	03
Montgomery	03
Peoria:	
Service area, Peoria	02
Service area, Princeville	03
Pike	04
Pope	02
Randolf	01
Rock Island:	
Service area, East Moline	04
St. Clair:	
Service area, East Side Health Dist. (St. Louis)	02
Sangamon:	
Service area, Northeast Springfield	01
Scott	02
Stark:	
Service area, Princeville	03
Union	02
Warren:	
Service area, London Mills	02
Wayne	04
Will:	
Facility, Joliet correctional inst.	02
Facility, Statesville correctional inst.	02
Service area, Eastside Joliet	02
Williamson:	
Service area, Carterville	02
Winnebago:	
Service area, Rockford Inner City	02
Woodford:	
Service area, Minonk	02

Illinois

Service Area Listing

Service area name	Degree of shortage group
Cabrini-Green/Near North Side	01
County—Cook:	
Parts of County	
C.T. 803 through 810	
C.T. 817	
C.T. 818	
C.T. 819	
Carterville	02
County—Williamson:	
Parts of County	
Blairsville TWP	
Carterville TWP	
Grassy TWP	
Chatham (Near Southeast)	04
County—Cook:	
Parts of County	
C.T. 4401	
C.T. 6914	
C.T. 6915	
C.T. 7101 through 7115	
C.T. 4402 through 4409	
County—Cook:	
Parts of County	
C.T. 4501	
C.T. 4502	
C.T. 4503	
C.T. 4701	
C.T. 6901 through 6913	
Chicago Heights	03
County—Cook:	
Parts of County	
C.T. 8290	
C.T. 8291	
C.T. 8292	
C.T. 8294	
Chicago Lawn	04
County—Cook:	
Parts of County	
C.T. 6601	
C.T. 6306 through 6309	
C.T. 6602 through 6611	
County—Cook:	
Parts of County	
C.T. 6501 through 6505	
C.T. 6201 through 6204	
C.T. 6301 through 6305	
Cook	02
County—Cook:	
Parts of County	
C.T. 2401 through 2436	
Decatur Inner City	01
County—Macon:	
Parts of County	
C.T. 1	
C.T. 7 through 9	
Douglas Comm. Area	03
County—Cook:	
Parts of County	
C.T. 3501 through 3515	
E. Chicago Heights	01
County—Cook:	
Parts of County	
C.T. 8297 (E. Chicago Heights)	
East Moline	04
County—Rock Island:	
Parts of County	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 207	
East Side Health Dist. (St. Louis)	02
County—St. Clair:	
Parts of County	
C.T. 5001	
C.T. 5027 through 5030	
C.T. 5002 through 5014	
C.T. 5015.01	
C.T. 5020 through 5023	
C.T. 5024.01	
C.T. 5024.02	
C.T. 5025	
C.T. 5026.01 through 5026.04	
Garfield Ridge	02
County—Cook:	
Parts of County	
C.T. 5601 through 5613	
Humboldt Austin Garfield	01
County—Cook:	
Parts of County	
C.T. 2301 through 2318	
C.T. 2601 through 2610	
C.T. 2701 through 2719	
C.T. 2801 through 2809	
C.T. 2819 through 2843	
C.T. 2901 through 2927	
C.T. 2508	
C.T. 2509	
C.T. 2510	
C.T. 2514	
C.T. 2525	
C.T. 2516 through 2523	
London Mills	02
County—Fulton:	
Parts of County	
Ellisville Twp.	
Fairview Twp.	
Lee Twp.	
Union Twp.	
Young Hickory Twp.	
County—Knox:	
Parts of County	
Chestnut Twp.	
Haw Creek Twp.	
Indian Point Twp.	
Mawuon Twp.	
Orange Twp.	
County—McDonough:	
Parts of County	
Prairie City Twp.	
County—Warren:	
Parts of County	
Berwick Twp.	
Greenbush Twp.	
Minonk	02
County—La Salle:	
Parts of County	
Groveland Twp.	
County—Livingston:	
Parts of County	
Long Point Twp.	
County—Woodford:	
Parts of County	
Clayton Twp.	
Minonk Twp.	
Murphysboro	04
County—Jackson:	
Parts of County	
Bradley Twp.	
Degognia Twp.	
Fountain Bluff Twp.	
Kinkaid Twp.	
Levan Twp.	
Ora Twp.	
New City-West Englewood-Englewood	01
County—Cook:	
Parts of County	
C.T. 6101 through 6102 (New City)	
C.T. 6701 through 6720 (West Englewood)	
C.T. 6801 through 6814 (Englewood)	
C.T. 6109 through 6122 (New City)	
Northeast Springfield	01
County—Sangamon:	
Parts of County	
C.T. 7	
C.T. 8	
C.T. 15 through 17	
Northend-Champaign Urbana	01
County—Champaign:	
Parts of County	
C.T. 2	
C.T. 7 (blkgrps 1 & 2)	
C.T. 53 (blkgrps 2 & 3)	
Pembroke	01
County—Kankakee:	
Parts of County	
Pembroke Twp.	
St. Anne Twp.	
C.T. 2 through 15	
Phoenix	01
County—Cook:	
Parts of County	
C.T. 8244 (Phoenic Village)	
Princeville	03
County—Marshall:	
Parts of County	
La Prairie Twp.	
County—Peoria:	
Parts of County	
Akron Twp.	
Brimfield Twp.	
Hallock Twp.	
Jubilee Twp.	
Millbrook Twp.	
Princeville Twp.	
County—Stark:	
Parts of County	
Essex Twp.	
Valley TWP	
West Jersey TWP	
Robbins	01
County—Cook:	
Parts of County	
Robbins Village	
Rockford Inner City	02
County—Winnebago:	
Parts of County	
C.T. 10	
C.T. 21	
C.T. 24 through 29	
South Lawndale—Lower West Side	01
County—Cook:	
Parts of County	
C.T. 3001	
C.T. 3107 through 3114	
C.T. 3002 through 3020	
C.T. 3101 through 3106	
Southeast Chicago	01
County—Cook:	
Parts of County	

Illinois

Service Area Listing

Service area name	Degree of shortage group
C.T. 3601 through 3605	
C.T. 3901 through 3903	
C.T. 4001 through 4008	
C.T. 3701 through 3704	
C.T. 3801 through 3820	
Uptown	01
County—Cook:	
Parts of County	
C.T. 310 through 312	
C.T. 315 through 21	
Eastside Joliet	02
County—Will:	
Parts of County	
C.T. 8807	
C.T. 8812	
C.T. 8813	
C.T. 8820 through 8825	
C.T. 8830	
C.T. 8831	

Illinois

Facility Listing

Facility name	Degree of shortage group
Joliet Correctional Inst.	02
County—Will:	
Parts of County	
Joliet Correctional Inst.	
Statesville Correctional Inst.	02
County—Will:	
Parts of County	
Statesville Correctional Inst.	

Indiana

County Listing

County name	Degree of shortage group
Brown	03
Clinton	02
Crawford	01
Dearborn:	
Service area, Lawrenceburg	03
Decatur	03
Fayette	03
Franklin	01
Greene:	
Service area, Linton-Jasonville Service Area	03
Harrison	03
Howard	02
Jay	02
Jennings	03
Knox:	
Service area, Bicknell	02
Lake:	
Service area, Gary, area #l	01
Marion:	
Service area, Highland-Brookside	01
Service area, South-West Indianapolis	02
Service area, near North side (Indianapolis)	02
Service area, South central Indianapolis	02
Service area, Barrington (Indianapolis)	01
Martin	03
Ohio:	
Service area, Lawrenceburg	03
Owen	03
Perry	04
Posey	04
Ripley	
Service area, Lawrenceburg	03
Rush	03
Shelby	04
Spencer	02
Starke	04
Switzerland:	
Service area, Lawrenceburg	03
Union	02
Vermillion:	
Service area, Northern Vermillion	01
Warren	02

Indiana

Service Area Listing

Service area name	Degree of shortage group
Barrington (Indianapolis)	01
County—Marion:	
Parts of County	
C.T. 3572 through 3576	
Bicknell	02
County—Knox:	
Parts of County	
Vigo TWP	
Washington TWP (Eastern ½)	
Widner TWP	
Gary, area #l	01
County—Lake:	
Parts of county	
C.T. 101 through 129	
Highland-Brookside	01
County—Marion:	
Parts of County	
C.T. 3526	
C.T. 3527	
C.T. 3530	
C.T. 3543 through 3550	
Lawrenceburg	03
County—Dearborn	
County—Ohio	
County—Ripley	
County—Switzerland	
Linton-Jasonville	03
County—Greene:	
Parts of County	
Stockton Twp.	
Wright Twp.	
Near North Side (Indianapolis)	02
County—Marion:	
Parts of County	
C.T. 3517 through 3532	
Northern Vermillion	01
County—Vermillion:	
Parts of County	
Eugene Twp.	
Highland Twp.	
Hilt Twp.	
Vermillion Twp.	
South Central Indianapolis	02
County—Marion:	
Parts of County	
C.T. 3557 through 3563	
C.T. 3567 through 3571	
C.T. 3578 through 3580	
South-West Indianapolis	02
County—Marion:	
Parts of County	
C.T. 3411 through 3416	
C.T. 3422 through 3427	
C.T. 3537	
C.T. 3538	
C.T. 3564	
C.T. 3565	
C.T. 3566	
C.T. 3581	

Iowa

County Listing

County name	Degree of shortage group
Adair:	
Service area, Casey Area	03
Audubon	02
Benton:	
Service area, Center Pt./Central City/Coggon	03
Service area, Center Point-Central City-Caggon Area	03
Service area, Tama-Traer Dysart	04
Black Hawk:	
Population group, low income pop. of Waterloo	01
Service area, Tama-Traer Dysart	04
Boone:	
Service area, Dayton-Gowrie Area	02
Service area, Polk City-Woodward	03
Buchanan:	
Service area, Center Point-Central City-Caggon Area	03
Service area, Lamont Area	04
Buena Vista:	
Service area, Albert City	02

Iowa

County Listing

County name	Degree of shortage group
Calhoun:	
Service area, Dayton-Gowrie Area	02
Service area, Rockwell City Manson	02
Carroll:	
Service area, Coon Rapids Area	02
Cass:	
Service area, Oakland	02
Cedar:	
Service area, Clarence-Tipton Area	02
Cherokee:	
Service area, Kingsley-Anthon-Mapleton Area	04
Service area, Lemars-Remsen Area	02
Clarke:	
Service area, Osceola	03
Clayton:	
Service area, Strawberry Pt. (formerly Lamont)	03
Service area, Lamont Area	04
Service area, Elkader	04
Clinton:	
Service area, Dewitt-Grand Mound	03
Service area, Clarence-Tipton Area	02
Service area, Preston	02
Crawford:	
Service area, Manilla Area	04
Dallas:	
Service area, Polk City-Woodward	03
Decatur:	
Service area, Osceola	03
Delaware:	
Service area, Center Pt./Central City/Coggon	03
Service area, Strawberry Pt. (formerly Lamont)	03
Service area, Center Point-Central City-Caggon Area	03
Service area, Dyersville Area	02
Service area, Lamont Area	04
Dubuque:	
Service area, Dyersville Area	02
Fremont:	
Service area, Tabor	03
Service area, Shenandoah	03
Greene:	
Service area, Dayton-Gowrie Area	02
Service area, Coon Rapids Area	02
Grundy:	
Service area, Tama-Traer Dysart	04
Guthrie:	
Service area, Coon Rapids Area	02
Service area, Casey Area	03
Hamilton:	
Service area, Dayton-Gowrie Area	02
Service area, Hubbard Service Area	01
Hancock:	
Service area, Buffalo Center	03
Hardin:	
Service area, Hubbard Service Area	01
Harrison:	
Service area, Harlan	03
Service area, Woodvine	04
Humboldt:	
Service area, Bode	02
Ida:	
Service area, Holstein	01
Iowa:	
Service area, Brooklyn-Vector	04
Jackson:	
Service area, Preston	02
Johnson:	
Service area, Clarence-Tipton Area	02
Jones:	
Service area, Clarence-Tipton Area	02
Kossuth:	
Service area, Buffalo Center	03
Service area, Bode	02
Linn:	
Service area, Center Pt./Central City/Coggon	03
Service area, Clarence-Tipton Area	02
Service area, Center Point-Central City-Caggon Area	03
Lyon	02
Madison:	
Service area, Osceola	03
Marion:	
Service area, Milo Area	02
Marshall:	
Service area, Hubbard Service Area	01
Mills:	
Service area, Tabor	03
Service area, Oakland	02
Monona:	
Service area, Kingsley-Anthon-Mapleton Area	04

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Iowa

County Listing

County name	Degree of shortage group
Monroe	03
Muscatine:	
Service area, Clarence-Tipton Area	02
O'Brien:	
Service area, Sheldon Area	04
Page:	
Service area, Shenandoah	03
Palo Alto:	
Service area, Bode	02
Plymouth:	
Service area, Kingsley-Anthon-Mapleton Area	04
Service area, Lemars-Remsen Area	02
Pocahontas:	
Service area, Rockwell City Manson	02
Polk:	
Service area, Polk City-Woodward	03
Pottawattamie:	
Service area, Harlan	03
Service area, Oakland	02
Poweshiek:	
Service area, Brooklyn-Vector	04
Ringgold:	
Service area, Lenox Area	03
Scott:	
Population group, Med. Ind. Pop. of Scott Co.	04
Service area, Dewitt-Grand Mound	03
Service area, Clarence-Tipton Area	02
Shelby:	
Service area, Harlan	03
Service area, Manilla Area	04
Sioux:	
Service area, Sheldon area	04
Story:	
Service area, Hubbard area	01
Taylor:	
Service area, Lenox area	03
Union:	
Service area, Lenox area	03
Service area, Osceola	03
Warren:	
Service area, Osceola	03
Service area, Milo area	02
Wayne	02
Webster:	
Service area, Dayton-Gowrie area	02
Winnebago	03
Woodbury:	
Service area, Holstein	01
Service area, Kingsley-Mapleton area	04

Iowa

Service Area Listing

Service area name	Degree of shortage group
Albert City	02
County—Buena Vista:	
Parts of County	
Albert City (Fairfield TWP)	
Bode	02
County—Humboldt:	
Parts of County	
Livermore Division	
Ottosen Division	
Bode Division	
Bradgate Division	
Hardy Division	
County—Kossuth:	
Parts of County	
Luverne Division	
County—Palo Alto:	
Parts of County	
West Bend Division	
Brooklyn-Vector	04
County—Iowa:	
Parts of County	
Victor Division	
Ladora Division	
County—Poweshiek	
Parts of County	
Brooklyn Division	
Malcolm Division	
Hartwick Division	
Guernsey Division	
Buffalo Center	03
County—Hancock:	
Parts of County	
Woden Division	
Crystal Lake Division	
County—Kossuth:	
Parts of County	
Sevea City Division	
Bancroft Division	
Ledyard Division	
Lakota Division	
Titonka Division	
Casey area	03
County—Adair:	
Parts of County	
Adair Division	
County—Guthrie:	
Parts of County	
Casey Division	
Mento Division	
Center Point-Central City-Coggon area	03
County—Benton:	
Parts of County	
Urbana Division	
County—Buchanan:	
Parts of County	
Rowley Division	
Quasqueton Division	
Brandon Division	
County—Delaware:	
Parts of County	
Ryan Division	
County—Linn:	
Parts of County	
Central City	
Prairieburg	
Walker	
Marion	
Alburnett	
Robins	
Center Point	
Coggon	
Center Pt./Central City/Coggon	[illegible]
County—Benton:	
Parts of County	
Urbane	
County—Delaware:	
Parts of County	
Ryan	
County—Linn:	
Parts of County	
Alburnett	
Central City	
Center Pt.	
Coggon	
Marion	
Prarieburg	
Robins	
Walker	
Clarence-Tipton area	02
County—Cedar:	
Parts of County	
Clarence Division	
Lipton Division	
Mechanicsville Division	
Parts of County	
Lowden Division	
Stanwood Division	
Bennett Division	
West Branch Division	
County—Clinton:	
Parts of County	
Toronto Division	
Lost Nation Division	
Wheatland Division	
County—Johnson:	
Parts of County	
Solon Division	
County—Jones:	
Parts of County	
Olin Division	
Oxford Junction	
Center Junction	
Onslow Division	
Morley Division	
Wyoming Division	
County—Linn:	
Parts of County	
Lisbon Division	
County—Muscatine:	
Parts of County	
Atalissa Division	
Wilton Division	
County—Scott:	
Parts of County	
New Liberty Division	
Dixon Division	
Coon Rapids area	02
County—Carroll:	
Parts of County	
Coon Rapids Division	
Dedham Division	
Templeton Division	
Glidden Division	
Ralston Division	
County—Greene:	
Parts of County	
Scranton Division	
County—Guthrie:	
Parts of County	
Bayard Division	
Bagley Division	
Dayton-Gowrie area	02
County—Boone:	
Parts of County	
Boxholm Division	
Pilot Mound Division	
County—Calhoun:	
Parts of County	
Farnhamville Division	
County—Greene:	
Parts of County	
Paton Division	
County—Hamilton:	
Parts of County	
Stratford Division	
County—Webster:	
Parts of County	
Dayton Division	
Gowrie Division	
Callender Division	
Lehigh Division	
Harcourt Division	
Dewitt-Grand Mound	03
County—Clinton:	
Parts of County	
Dewitt Division	
Welton Division	
Calamus Division	
Grand Mound Division	
County—Scott:	
Parts of County	
McCausland Division	
Dyersville Area	02
County—Delaware:	
Parts of County	
Dyersville Division	
Colesburg Division	
Greeley Division	
Hapkinton Division	
County—Dubuque:	
Parts of County	
New Vienna Division	
Worthington Division	
Farley Division	
Luxemburg Division	
Epworth Division	
Holy Cross Division	
Peasta Division	
Cascade Division	
Bernard Division	
Elkader	04
County—Clayton:	
Parts of County	
Boardman Twp (Elkader)	
Clayton Twp	
Cox Creek Twp	
Farmersburg Twp	
Garnaville Twp	
Highland Twp	
Read Twp	
Volga Twp	
Wagner Twp	
Marion Township	
Harlan	03
County—Harrison:	
Parts of County	
Washington Twp	
County—Pottawattamie:	
Parts of County	

Iowa

Service Area Listing

Service area name	Degree of shortage group
Layton Twp	
County—Shelby:	
Parts of County	
Cass Twp	
Douglas Twp	
Greeley Twp	
Harlan Twp	
Jefferson Twp	
Selby Twp	
Union Twp	
Washington Twp	
Westphalia Twp	
Holstein	01
County—Ida:	
Parts of County	
Halstein Division	
Galva Divison	
County—Woodbury:	
Parts of County	
Cushing Division	
Hubbard Service Area	01
County—Hamilton:	
Parts of County	
Ellsworth Twp	
Jewell Twp	
Williams Twp (½-Southern Pt)	
County—Hardin:	
Parts of County	
New Providence Twn	
Radcliff Twn	
Hubbard Twn	
County—Marshall:	
Parts of County	
Albion Twn (¼-Northernn Pt)	
Liscomb Twp	
Clemens Twn	
St. Anthony Twn	
County—Story:	
Parts of County	
Zearing Twn	
Kingsley-Anthon-Mapleton Area	04
County—Cherokee:	
Parts of County	
Washta Division	
County—Monona:	
Parts of County	
Rodney Division	
Mapleton Division	
Soldier Division	
County—Plymouth:	
Parts of County	
Kingsley Division	
County—Woodbury:	
Parts of County	
Moville Division	
Pierson Division	
Correctionville Division	
Anthon Division	
Oto Division	
Smithland Division	
Danbury Division	
Lamont Area	04
County—Buchanan:	
Parts of County	
Lamont Division	
Aurora Division	
Stanley Division	
County—Clayton:	
Parts of County	
Strawberry Point Division	
County—Delaware:	
Parts of County	
Masonville Division	
Dundee Division	
Lemars-Remsen Area	02
County—Cherokee:	
Parts of County	
Marcus Division	
Cleghorn Division	
County—Plymouth:	
Parts of County	
Lemars Division	
Brunsville Division	
Craig Division	
Struble Division	
Merrill Division	
Remsen Division	
Oyens Division	
Lenox Area	03
County—Ringgold:	
Parts of County	
Diagonal Division	
County—Taylor:	
Parts of County	
Lenox Division	
Sharpsburg Division	
Clearfield Division	
County—Union:	
Parts of County	
Kent Division	
Manila Area	04
County—Crawford:	
Parts of County	
Manilla Division	
County—Shelby:	
Parts of County	
Defiance Division	
Irwin Division	
Milo Area	02
County—Marion:	
Parts of County	
Dallas Division	
Melcher Division	
County—Warren:	
Parts of County	
Milo Division	
Lacona Division	
Oakland	02
County—Cass:	
Parts of County	
Lewis Twn	
County—Mills:	
Parts of County	
Henderson Twn	
County—Pottawattamie:	
Parts of County	
Oakland Twn	
Carson Twn	
McClelland Twn	
Treynor Twn	
Avoca Twn	
Macedonia Twn	
Minden Twn	
Hancock Twn	
Osceola	03
County—Clarke:	
Parts of County	
Osceola Division	
Woodburn Division	
Murray Division	
County—Decatur:	
Parts of County	
Weldon Division	
Van West Division	
County—Madison:	
Parts of County	
Truro Division	
County—Union:	
Parts of County	
Thayer Division	
County—Warren:	
Parts of County	
New Virginia Division	
Polk City-Woodward	03
County—Boone:	
Parts of County	
Madrid Division	
County—Dallas:	
Parts of County	
Woodward Division	
Bouton Division	
County—Polk:	
Parts of County	
Jefferson	
Lincoln	
Madison (Polk City)	
Union	
Preston	02
County—Clinton:	
Parts of County	
Goose Lake Division	
Charlotte Division	
County—Jackson:	
Parts of County	
Preston Division	
Green Island Division	
Miles Division	
Sabula Division	
Spragueville	
Rockwell City Manson	02
County—Calhoun:	
Parts of County	
Rockwell City Division	
Jolley Division	
Somers Division	
Rinard Division	
Manson Division	
Pomeroy Division	
Knierim Division	
County—Pocahontas:	
Parts of County	
Palmer Division	
Sheldon Area	04
County—O/Brien:	
Parts of County	
Sheldon Division	
County—Sioux:	
Parts of County	
Haspers Division	
Matlock Division	
Boyden Division	
Shenandoah	03
County—Fremont:	
Parts of County	
Shenandoah Town	
Inogene Town	
Farragut Town	
County—Page:	
Parts of County	
Essex Town Town	
Yorktown Town	
Coin Town	
Northboro Town	
Strawberry Pt. (formerly Lamont)	03
County—Clayton:	
Parts of County	
Strawberry Pt.	
County—Delaware:	
Parts of County	
Dundee	
Masonville	
Tabor	03
County—Fremont:	
Parts of County	
Randolph Town	
Thurman Town	
County—Mills:	
Parts of County	
Tabor Town	
Malnern Town	
Tama-Traer Dysart	04
County—Benton:	
Parts of County	
Jackson Twnshp	
Cedar Twnshp	
County—Black Hawk:	
Parts of County	
Big Creek Twp (La Porte City)	
County—Grundy:	
Parts of County	
Tama	
Reinbeck (Black Hawk Twp)	
Woodbine	04
County—Harrison:	
Parts of County	
Woodbine Town	
Logan Town	
Magnolia Town	
Dunlap Town	

Iowa

Population Group Listing

Population group name	Degree of shortage group
Low Income Pop of Waterloo	01
County—Black Hawk:	
Parts of County	
C.T. 1 through 3	
C.T. 5 through 9	
C.T. 17 through 20	
Med. Ind. Pop. of Scott Co.	04
County—Scott:	
Parts of County	

Iowa

Population Group Listing

Population group name	Degree of shortage group
C.T. 103 through 115	
C.T. 123	
C.T. 124	

Kansas

County Listing

County name	Degree of shortage group
Chase	04
Coffey	02
Comanche	02
Elk	03
Jackson	01
Jefferson	03
Lincoln	01
Linn	03
Miami	03
Nemaha	04
Osage	04
Rawlins	02
Reno:	
Service area, Haven	02
Rush	02
Sedgwick:	
Service area, Haven	02
Shawnee:	
Service area, Northwest Shawnee	01
Service area, Northeast Topeka	03
Wabaunsee	01
Washington	02
Wichita	03
Woodson	03
Wyandotte:	
Service area, Clinicare	04

Kansas

Service Area Listing

Service area name	Degree of shortage group
Clinicare	04
County—Wyandotte:	
Parts of County	
C.T. 400.02	
C.T. 425./01	
C.T. 425.02	
C.T. 426	
C.T. 427	
C.T. 428	
C.T. 429.01	
C.T. 429.02	
C.T. 430	
C.T. 431.2	
C.T. 433.02	
Haven	02
County—Reno:	
Parts of County	
Haven Township	
Yoder Township	
Lincoln Township	
Center Township	
Castleton Township	
Troy Township	
Albion Township	
Ninnescah Township	
Sumner Township	
County—Sedgwick:	
Parts of County	
Greely	
Northeast Topeka	03
County—Shawnee:	
Parts of County	
C.T. 2	
C.T. 3	
C.T. 7	
C.T. 8	
C.T. 11	
C.T. 12	
C.T. 14	
C.T. 31	
Northwest Shawnee	01
County—Shawnee:	
Parts of County	
Dover TWP	
Grove TWP	
Rosseville TWP	
Silver Lake TWP	

Kentucky

County Listing

County Name	Degree of shortage group
Adair	03
Allen	02
Ballard	03
Bath	04
Bell:	
Service area, Westend Harlan	01
Bracken	03
Breathitt:	
Service area, Perry County	02
Bullitt	02
Butler	04
Caldwell	02
Carlisle	01
Carter	01
Crittenden	02
Edmonson	04
Estill	04
Floyd:	
Service area, Mud Creek	01
Fulton:	
Service area, Western Fulton	01
Gallatin	01
Garrard	04
Grant	04
Grayson	04
Greenup	03
Hancock	03
Harlan:	
Service area, Westend Harlan	01
Service area, Cumberland	02
Hickman	02
Jackson	01
Jefferson:	
Service area, West End	02
Jessamine	03
Knott:	
Service area, Perry County	02
Knox	02
Larue	04
Laurel	02
Lee	03
Leslie	02
Letcher	04
Lewis	01
Lincoln	01
Livingston	04
Logan	04
Lyon	02
Magoffin	02
Marion	02
Meade	02
Menifee	01
Metcalfe	02
Montgomery	04
Ohio	03
Owen	02
Owsley	01
Pendleton	01
Perry:	02
Service area, Perry County	
Pike:	
Service area, Pike	01
Service area, South Williamson	03
Powell	02
Robertson	01
Rockcastle	02
Russell	04
Scott:	
Service area, Poverty Pop. of Scott	01
Shelby	.04
Spencer	02
Trigg	01
Trimble	01
Union	04
Washington	03
Webster	03
Whitley:	
Service Area, Perry County	02
Service Area, Williamsburg	02
Wolfe	01

Kentucky

Service Area Listing

Service area name	Degree of shortage group
Cumberland	02
County—Harlan:	
Parts of County	
Benham-Lynch CCD	
Cumberland CCD	
Poor Folk CCD	
Upper Clover CCD	
Mud Creek	.01
County—Floyd:	
Parts of County	
McDowell CCD	
Mud Creek CCD	
Wheelwright CCD	
Perry County	02
County—Breathitt:	
Parts of County	
Canoe Div	
Haddix Div	
Hardshell Div	
County—Knott:	
Parts of County	
Carr Fork Div	
Emmalena Div	
Mousie Div	
County—Letcher:	
Parts of County	
Blackey Div	
County—Perry	
County—Whitley:	
Parts of County	
Pearl CCD	
Pike	01
County—Pike:	
Parts of County	
Feds Creek CCD	
Long Fork CCD	
Millard CCD	
Phelps CCD	
Robinson Creek CCD	
South Williamson	03
County—Pike:	
Parts of County	
McAndrews	
McCarr	
Phelps	
Sidney	
South Williamson	
West End	02
County—Jefferson:	
Parts or County	
C.T. 1 through 35	
Westend Harlan	01
County—Harlan:	
Parts of County	
Alva CCD	
Wallins Creek CCD	
Western Fulton	01
County—Fulton:	
Parts of County	
C.T. 7 through 12	
Williamsburg	02
County—Whitley:	
Parts of County	
Pearl	
Saxton	
Siler	
Williamsburg	

Kentucky

Population Group Listing

Population group name	Degree of shortage group
Poverty Pop. of Scott	01
County—Scott:	
Parts of County	
Poverty Pop.	

Louisiana

County Listing

County name	Degree of shortage group
Ascension	03
Assumption	02
Beauregard:	
Service area, Merryville	03
Bienville	01
Bossier	01
Caddo:	
Population group, Shreveport low income	01
Calcasieu:	
Service area, North Lake Charles	01
Caldwell	04
Cameron	03
Catahoula	03
De Soto	01
East Baton Rouge:	
Service area, Eden Park	01
East Feliciana	01
Evangeline	03
Grant	01
Iberia:	
Service area, Teche	02
Iberville	04
Jackson	04
Jefferson:	
Service area, Lafitte	02
Jefferson Davis	02
Livingston	04
Madison	02
Orleans:	
Service area, Desire/Florida	01
Ouachita:	
Facility E.A. Conway Mem. Hosp	04
Pointe Coupee	01
Sabine:	
Service area, Zwolle	01
St. Helena	03
St. Martin:	
Service area, St. Martin	02
St. Mary:	
Service area, Teche	02
St. Tammany:	
Service area, Northeastern St. Tammany	01
Tensas	04
Terrebonne:	
Service area, Dulac	01
Union:	
Service area, West Union	02
Vernon	01
Webster	02
West Baton Rouge	01
West Carroll	01
West Feliciana	03
Winn	04

Louisiana

Service Area Listing

Service area name	Degree of shortage group
Desire/Florida	01
County—Orleans:	
Parts of County	
C.T. 11	
C.T. 14.01	
C.T. 14.02	
C.T. 15	
C.T. 16	
C.T. 17.03	
C.T. 17.04	
C.T. 17.05	
Dulac	01
County—Terrebonne:	
Parts of County	
Ward 4	
Ward 7	
Eden Park	01
County—East Baton Rouge:	
Parts of County	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 12	
C.T. 13	
Lafitte	02
County—Jefferson:	
Parts of County	
C.T. 277	
C.T. 278	
C.T. 279	
Merryville	03
County—Beauregard:	
Parts of County	
Ward 2	
Ward 5	
North Lake Charles	01
County—Calcasieu:	
Parts of County	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 14	
C.T. 15	
Northeastern St. Tammany	01
County—St. Tammany:	
Parts of County	
C.T. 401	
C.T. 407	
St. Martin	02
County—St. Martin:	
Parts of County	
Ward 1 through Ward 5	
Teche	02
County—Iberia:	
Parts of County	
Ward 1	
Ward 8	
County—St. Mary:	
Parts of County	
Ward 1 through 5	
Ward 7	
Ward 10	
West Union	02
County—Union:	
Parts of County	
Division 3	
Division 4	
Division 10	
Zwolle	01

Louisiana

Population Group Listing

Population group name	Degree of shortage group
Shreveport Low Income	01
County—Cado:	
Parts of County	
Shreveport (low income pop.)	

Louisiana

Facility Listing

Facility name .	Degree of shortage group
E. A. Conway Mem Hosp.	04
County—Ouachita:	
Parts of County	
E. A. Conway Mem Hosp.	

Maine

County Listing

County name	Degree of shortage group
Androscoggin:	
Service area, Leeds	01
Aroostook:	
Service area, Northern Aroostook MSA	03
Service area, Southern Aroostook	01
Cumberland:	
Service area, Kezar Falls	01
Hancock:	
Service area, Bucksport MSA	01
Kennebec:	
Service area, Albion MSA	02
Service area, Leeds	01
Knox:	
Service area, Penobscot Bay	01
Oxford:	
Service area, Bethel	01
Service area, Kezar Falls	01
Penobscot:	
Service area, Southern Aroostook	01
Service area, Dexter Area	03
Service area, Bradley area	01
Piscataquis:	
Service area, Dexter Area	03
Bingham:	
Service area, Bingham MSA	04
Service area, Jackman	01
Service area, Dexter Area	03
Waldo:	
Service area, Albion MSA	02
Service area, Bucksport MSA	01
Washington:	
Service area, Lubec MSA	03
Service area, Southern Aroostook	01
Service area, Eastport	03
York:	
Service area, Kezar Falls	01

Maine

Service Area Listing

Service area name	Degree of shortage group
Albion MSA	02
County—Kennebec:	
Parts of County	
Albion Town	
Vassalboro Town	
China Town	
County—Waldo:	
Parts of County	
Troy Town	
Unity Town	
Thorndike Town	
Jackson Town	
Monroe Town	
Brooks Town	
Knox Town	
Freedom Town	
Montville Town	
Liberty Town	
Palermo Town	
Bethel	01
County—Oxford:	
Parts of County	
Bethel Twn	
Gilead Twn	
Hanover Twn	
Hewry Twn	
Upton Twn	
Woodstock Twn	
Bingham MSA	04
County—Bingham:	
Parts of County	
West Forks Plant.	
Solon Town	
Bingham Town	
Moscow Township	
Brighton Town	
Pleasant Ridge Plantation	
The Forks Plant.	
Caratunk Plant.	
Bradley Service Area	01
County—Penobscot:	
Parts of County	
Bradley Division	
Clifton Division	

Maine

Service Area Listing

Service area name	Degree of shortage group
Greenbush Division	
Greenfield Division	
Milford Division	
Bucksport MSA	01
County—Hancock:	
Parts of County	
Dedham Town	
Orland Town	
Penobscot Town	
Verona Town	
Bucksport Town	
County—Waldo:	
Parts of County	
Prospect Town	
Stockton Springs Town	
Dexter Area	03
County—Penobscot:	
Parts of County	
Dexter	
Corinna	
Exeter	
Garland	
County—Piscataquis:	
Parts of County	
Wellington	
County—Somerset:	
Parts of County	
Athens	
Harmony	
Ripley	
St. Albans	
Eastport	03
County—Washington:	
Parts of County	
Eastport	
Perry	
Passamaquaddy Indian Reservation	
Pembroke (Part)	
Dennysville (Part)	
Edmunds (Part)	
Charlotte (Part)	
Robbinston (Part)	
Jackman	01
County—Somerset:	
Parts of County	
Jackman Town	
Moose River Town	
Dennistown Plant.	
Kezar Falls	01
County—Carroll (New Hampshire):	
Parts of County	
Effingham Town	
Freedom Town	
Madison Town	
County—Cumberland:	
Parts of County	
Baldwin Town	
County—Oxford:	
Parts of County	
Brownfield	
Hiram Town	
Porter Town	
County—York:	
Parts of County	
Newfield Town	
Limerick Town	
Cornish Town	
Parsonfield	
Leeds	01
County—Androscoggin:	
Parts of County	
Turner Town	
Greene Town	
Leeds Town	
County—Kennebec:	
Parts of County	
Wayne Town	
Monmouth Town	
Lubec MSA	03
County—Washington:	
Parts of County	
Eastport City	
Charlotte Township	
Robbinston Township	
County—Washington:	
Parts of County	
Lubec Township	
Cutler Township	
Whiting Township	
Pembroke Township	
Dennysville Township	
Perry Township	
Edmunds Township	
Plantation #14	
Northern Aroostook MSA	03
County—Aroostook:	
Parts of County	
Unorganized Terr. of North Aroostook	
Unorganized Terr. of Central Aroostook	
Allagash Plantation	
St. Francis Plantation	
Bridgewater Town	
Blaine Town	
Winterville Plantation	
Cyr Plantation	
Hamlin Plantation	
Westmanland Plantation	
Nashville	
Garfield Plantation	
E Plantation	
Oxbow Plantation	
Eagle Lake Town	
Ashland Town	
Frenchville Town	
St. Agatha Town	
Madawaska Town	
Grand Isle Town	
Van Buren Town	
Stockholm Town	
Penobscot Bay	03
County—Knox:	
Parts of County	
Vinalhaven Island	
North Haven Island	
Matinicus Island	
Isle au Haut	
Southern Aroostook	01
County—Aroostook:	
Parts of County	
Orient Town	
Amity Town	
Bancroft Town	
Benedicta Town	
Crystal Town	
Dyer Brook Town	
Glenwood Plantation	
Hersey Town	
Island Falls Town	
Macwahoc Plantation	
Merrill Town	
Monticello Town	
Moro Plantation	
Oakfield Town	
Reed Plantation	
Sherman Town	
Smyrna Town	
Weston Town	
Unorg. Terr. of S. Aroostook	
County—Penobscot:	
Parts of County	
Drew Plantation	
Mt. Chase Plantation	
Patten Town	
Prentiss Plantation	
Stacyville Town	
County—Washington:	
Parts of County	
Danforth Town	

Maryland

County Listing

County name	Degree of shortage group
Allegany:	
Service area: Hancock service area	01
Anne Arundel:	
Service area: Owensville service area	03
Baltimore:	
Facility, Md. Penitentiary	03
Facility, Md. Reception diag/class center	02
Caroline	04
Cecil	
Service area: Southeast Cecil	02
Charles	04
Dorchester:	
Service area: Northeast Dorchester County	01
Garrett	04
Howard:	
Facility, Md. House of Corrections	02
Kent:	
Service area: Northeast Kent	01
Service area: Eadesville/Fairlee	02
Queen Annes	03
Somerset:	
Service area: Princess Anne	01
Washington:	
Service area: Keedysville	01
Service area: Hancock service area	01
Facility, Md. Correctional Inst	[illegible]
Facility, Md. Corr. Training Center	02
Worcester:	
Service area: Pocomoke City	02
Baltimore City:	
Service area: North Central Baltimore	01
Service area: O'Donnell Heights	01
Service area: Cherry Hill	01
Service area: Constant Care Service Area	02
Service area: East Baltimore	02
Service area: West Baltimore	03
Service area: Northwest Baltimore	01
Service area: Hampden/Woodberry/Remington	01

Maryland

Service Area Listing

Service area name	Degree of shortage group
Cherry Hill	01
County—Baltimore City:	
Parts of County	
C.T. 2502.01	
C.T. 2502.02	
C.T. 2502.03	
C.T. 2502.04	
C.T. 2502.05	
C.T. 2503.01	
C.T. 2503.02	
C.T. 2503.03	
Constant Care Service Area	02
County—Baltimore City:	
Parts of County	
C.T. 402	
C.T. 1401	
C.T. 1402	
C.T. 1403	
C.T. 1501	
C.T. 1502	
C.T. 1601	
C.T. 1602	
C.T. 1603	
C.T. 1604	
C.T. 1701	
C.T. 1702	
C.T. 1703	
C.T. 2101	
Eadesville/Fairlee	02
County—Kent:	
Parts of County	
C.T. Dist. 5 (Eadesville)	
C.T. Dist. 6 (Fairlee)	
East Baltimore	02
County—Baltimore City:	
Parts of County	
C.T. 501	
C.T. 603	
C.T. 604	
C.T. 605	
C.T. 704	
C.T. 806	
C.T. 807	
C.T. 808	
C.T. 909	
C.T. 1001	
C.T. 1002	
C.T. 1004	
Hampden/Woodberry/Remington	01
County—Baltimore City:	
Parts of County	
C.T. 1203	
C.T. 1206	
C.T. 1207	
C.T. 1305	
C.T. 1306	
C.T. 1308.02	
Hancock service area	01
County—Allegany:	
Parts of County	

Maryland

Service Area Listing

Service area name	Degree of shortage group
Dist. 1 (Orleans)	
County—Washington:	
Parts of County	
Dist. 4 (Clear Spring)	
Dist. 5 (Hancock)	
Dist. 15 (Indian Springs)	
Keedysville	01
County—Washington:	
Parts of County	
Election District 11	
Election District 19	
Election District 1	
Election District 6	
Election District 8	
North Central Baltimore	01
County—Baltimore City:	
Parts of County	
C.T. 802	
C.T. 803.01	
C.T. 803.02	
C.T. 804	
C.T. 805	
County—Baltimore City:	
Parts of County	
C.T. 901 through 908	
C.T. 1204	
Northeast Dorchester County	01
County—Dorchester	
Parts of County	
Dist. 1	
Dist. 2	
Dist. 3	
Dist. 12	
Dist. 15	
Northeast Kent	01
County—Kent:	
Parts of County	
Dist. 1 (Massey)	
Dist. 2 (Kennedyville)	
Northwest Baltimore	01
County—Baltimore City:	
Parts of County	
C.T. 1512	
C.T. 1513	
C.T. 2716	
C.T. 2717	
C.T. 2718.01	
C.T. 2718.02	
O'Donnell Heights	01
County—Baltimore City:	
Parts of County	
C.T. 2606.01	
C.T. 2606.02	
Owensville Service Area	03
County—Anne Arundel:	
Parts of County	
C.T. 7012	
C.T. 7013	
C.T. 7014	
C.T. 7070	
C.T. 7080	
Pocomoke City	02
County—Worcester:	
Parts of County	
Dist. 1	
Dist. 7	
Dist. 8	
Princess Anne	01
County—Somerset:	
Parts of County	
Dist. 1	
Dist. 3	
Dist. 4	
Dist. 6	
Dist. 8	
Dist. 13	
Dist. 15	
Southeast Cecil	02
County—Cecil:	
Parts of County	
Dist. 1 (Cecilton)	
Dist. 2 (Chesapeake City)	
West Baltimore	03
County—Baltimore City:	
Parts of County	
C.T. 1801 through 1803	
C.T. 1901 through 1903	
C.T. 2001 through 2005	

Maryland

Facility Listing

Facility name	Degree of shortage group
Md. Corr. Training Center	02
County—Washington:	
Parts of County	
Md. Corr. Training Center	
Md. Correctional Inst.	03
County—Washington:	
Parts of County	
Md Correctional Inst.	
Md. House of Corrections	02
County—Howard:	
Parts of County	
Md. House of Corrections	
Md. Penitentiary	03
County—Baltimore:	
Parts of County	
Md. Penitentiary	
Md. Reception Diag./Class Center	02
County—	
Parts of County	
Md. Reception Diag./Class Center	

Massachusetts

County Listing

County name	Degree of shortage group
Barnstable:	
Service area, Provincetown	03
Bristol:	
Service area, New Bedford	01
Service area, Taunton	02
Population group, low income pop. of Fall River	04
Dukes:	
Service area, New Bedford	01
Essex:	
Service area, Peabody	02
Service area, Lynn	04
Service area, North Lawrence	02
Service area, Methuen	03
Franklin:	
Service area, Mohawk area	02
Hampden:	
Service area, Worthington	02
Service area, Brookfield	02
Hampshire:	
Service area, Worthington	02
Middlesex:	
Service area, East Cambridge	02
Service area, Hudson	03
Service area, Maynard	03
Service area, Lowell	04
Service area, North Cambridge	02
Service area, Watertown	02
Service area, Somerville	02
Service area, S. Framingham	01
Norfolk:	
Service area, So. Blackstone Valley	02
Service area, Wrentham	02
Service area, Hough's Neck—Germantown	01
Facility, Norfolk-Walpole Correct. Inst	03
Plymouth:	
Service area, Hull	01
Facility, Mass. Corr. Inst. (Bridgewater)	02
Suffolk:	
Service area, Dorchester	03
Service area, Hyde Park	02
Service area, North End Boston	04
Service area, Allston	
Population group, Chinese pop. (South End Boston)	01
Service area, Jamaica Plain	03
Service area, South Boston	04
Suffolk:	
Service area, Revere City	02
Worcester:	
Service area, Winchendon	04
Service area, So. Blackstone Valley	02
Service area, Brookfield	02

Massachusetts

Service Area Listing

Service area name	Degree of shortage group
Allston	02
County—Suffolk:	
Parts of County	
C.T. 1	
C.T. 7	
C.T. 8	
Brookfield	02
County—Hampden:	
Parts of County	
Brimfield Town	
Holland Town	
Wales Town	
County—Worcester:	
Parts of County	
Brookfield Town	
East Brookfield Town	
North Brookfield Town	
Spencer Town	
Warren Town	
West Brookfield Town	
Dorchester	03
County—Suffolk:	
Parts of County	
C.T. 901 through 924	
C.T. 1001 through 1011	
East Cambridge	02
County—Middlesex:	
Parts of County	
C.T. 3521 through 3535	
Hough's Neck-Germantown	01
County—Quincy:	
Parts of County	
C.T. 4178	
Hudson	02
County—Middlesex:	
Parts of County	
Hudson Town	
Hull	01
County—Plymouth:	
Parts of County	
Hull Town	
Hyde Park	02
County—Suffolk:	
Parts of County	
C.T. 1401	
C.T. 1402	
C.T. 1403	
C.T. 1404	
Jamaica Plain	03
County—Suffolk:	
Parts of County	
C.T. 1202 through 1207	
Lowell	04
County—Middlesex:	
Parts of County	
Lowell	
Lynn	04
County—Essex:	
Parts of County	
C.T. 2060 through 2063	
C.T. 2065	
C.T. 2068	
C.T. 2070 through 2072	
Maynard	03
County—Middlesex:	
Parts of County	
Maynard Town	
Methuen	03
County—Essex:	
Parts of County	
C.T. 2522 through 2526	
Mohawk Area	02
County—Franklin:	
Parts of County	
Monroe Town	
Rowe Town	
Ashfield Town	
Buckland Town	
Charlemont Town	
Colrain Town	
Conway Town	
Hawley Town	
Heath Town	
Shelburne Town	
New Bedford	01
County—Bristol:	
Parts of County	
C.T. 6512	
C.T. 6513	

Massachusetts

Service Area Listing

Service area name	Degree of shortage group
C.T. 6518	
C.T. 6519	
C.T. 6526	
C.T. 6527	
County—Dukes:	
Parts of County	
Gosnold Town	
North Cambridge	02
County—Middlesex:	
Parts of County	
C.T. 3547 through 3550	
North End Boston	04
County—Suffolk:	
Parts of County	
C.T. 301 through 305	
North Lawrence	02
County—Essex:	
Parts of County	
C.T. 2502 through 2511	
C.T. 2513	
C.T. 2514	
Peabody	02
County—Essex:	
Parts of County	
C.T. 2106 through 2109	
Provincetown	04
County—Barnstable:	
Parts of County	
, Provincetown	
Revere City	02
County—Suffolk:	
Parts of County	
Revere City	
S. Framingham	01
County—Middlesex:	
Parts of County	
C.T. 3831	
C.T. 3832	
C.T. 3834	
So. Blackstone Valley	02
County—Norfolk:	
Parts of County	
Bellingham Town	
County—Worcester:	
Parts of County	
Balckstone Town	
Douglas Town	
Mendon Town	
Millville Town	
Northbridge Town	
Sutton Town	
Uxbridge Town	
Somerville	02
County—Middlesex:	
Parts of County	
C.T. 3501 through 3515	
South Boston	04
County—Suffolk:	
Parts of County	
C.T. 601 through 614	
Taunton	02
County—Bristol:	
Parts of County	
Berkley Town	
Dighton Town	
Raynham Town	
Rehoboth Town	
Taunton City	
Watertown	02
County—Middlesex:	
Parts of County	
Watertown	
Winchendon	04
County—Worcester:	
Parts of County	
Ashburnham	
Gardner	
Hubbardston	
Royalston	
Templeton	
Winchendon	
Worthington	02
County—Hampden:	
Parts of County	
Chester Town	
County—Hampshire:	
Parts of County	
Cummington Town	
Goshen Town	

Massachusetts

Service Area Listing

Service area name	Degree of shortage group
Huntington Town	
Plainfield Town	
Worthington Town	
Chesterfield Town	
Wrentham	02
County—Norfolk:	
Parts of County	
Wrentham Town	

Massachusetts

Population Group Listing

Population group name	Degree of shortage group
Chinese Pop. (South End Boston)	01
County—Suffolk:	
Parts of County	
C.T. 701 through 712	
Low Income Pop. of Fall River	04
County—Bristol:	
Parts of County	
C.T. 6408	
C.T. 6409	
C.T. 6411	
C.T. 6412	
C.T. 6413 (Fall River Comm. Hlth. Center)	
C.T. 6414	

Massachusetts

Facility Listing

Facility name	Degree of shortage group
Mass. Corr. Inst. (Bridgewater)	02
County—Plymouth:	
Parts of County	
Bridgewater Twn. (Mass. Corr. Inst.)	
Norfolk-Walpole Correct. Inst.	03
County—Norfolk:	
Parts of County	
Norfolk Twn. (Norfolk Corr. Inst.)	
Walpole Twn. (Walpole Corr. Inst.)	

Michigan

County Listing

County name	Degree of shortage group
Alcona	02
Alger	04
Allegan:	
Service area, Allegan/Kent	02
Service area, Allegan	03
Antrim:	
Service area, East Jordan	01
Arenac:	
Service area, Sterling	02
Baraga:	
Service area, Baraga	03
Service area, Iron River	03
Bay:	
Service area, Sterling	02
Cass:	
Service area, Dowagiac	04
Charlevoix:	
Service area, East Jordan	01
Chippewa:	
Service area, De Tour	01
Service area, Kinoss/Rudyard	01
Clare:	
Service area, Clare	01
Service area, Harrison	01
Crawford:	
Service area, Roscommon/St. Helen	03
Dickinson:	
Service area, Iron River	03
Easton	02
Genesee:	
Service area, Otter Lake	02

Michigan

County Listing

County name	Degree of shortage group
Service area, North Central Flint	01
Service area, Montrose	01
Gladwin:	
Service area, Sterling	02
Hillsdale	04
Houghton:	
Service area, Calumet/Keweenaw	01
Service area, Iron River	03
Huron:	
Service area, Port Austin	01
Iosco:	
Service area, Hale/Whittemore	04
Iron:	
Service area, Iron River	03
Isabella:	
Service area, Clare	01
Kent:	
Service area, Northern Kent	03
Service area, Allegan/Kent	02
Keweenaw:	
Service area, Calumet/Keweenaw	01
Lake:	
Service area, Lake/Newaygo	01
Lapeer:	
Service area, Otter Lake	02
Livingston:	
Service area, Cohoctah	01
Mackinac:	
Service area, Mackinac Island	01
Marquette:	
Service area, Iron River	03
Mecosta:	
Service area, Mecosta	04
Minominee:	
Service area, Northern Menominee	01
Midland:	
Service area, Clare	01
Missaukee:	
Service area, Houghton Lake	03
Monroe:	
Service area, Sumpter	01
Service area, Bedford/Erie	02
Montmorency	01
Muskegon:	
Service area, Northern Kent	03
Service area, Northern Muskegon	02
Newaygo:	
Service area, Southern Newaygo	02
Service area, Mecosta	04
Service area, Lake/Newaygo	01
Oakland:	
Service area, Milford	02
Oceana:	
Service area, Benova	02
Service area, Southern Newaygo	02
Ogemaw:	
Service area, Hale/Whittemore	04
Ontonogan:	
Service area, Iron River	03
Service area, Ewen	01
Osceola:	
Service area, Osceola	04
Oscoda	02
Ottawa:	
Service area, Northern Kent	03
Service area, Allegan/Kent	02
Roscommon:	
Service area, Houghton Lake	03
Service area, Roscommon/St. Helen	03
Saginaw:	
Service area, Chesaning	01
Service area, Saginaw City (East Side)	01
Service area, Montrose	01
St. Clair:	
Service area, Algonac	04
Service area, Yale	03
Sanilac:	
Service area, Yale	01
Service area, Marlette-Kingston	02
Service area, Lexington-Croswell	01
Shiawassee:	
Service area, Cohoctah	01
Service area, Chesaning	01
Tuscola:	
Service area, Otter Lake	02
Service area, Marlette-Kingston	02
Van Buren:	
Service area, Dowagiac	04

Michigan

County Listing

County name	Degree of shortage group
Washtenaw:	
Service area, Sumpter	01
Wayne:	
Service area, Sumpter	01
Service area, Detroit Area #3	02
Service area, Detroit Area #2	02
Service area, Detroit Area #1	01
Facility, Wayne County Jail	02
Facility, Herman Keifer Health Complex	01
Facility, Titus Greene Health Center	02

Michigan

Service Area Listing

Service area name	Degree of shortage group
Algonac	04
County—St. Clair:	
Parts of County	
Algonac City	
Casco Township	
China Township	
Clay Township	
Columbus Township	
Cotterville Township	
East China Township	
Dra Township	
Marine City	
St. Clair City	
St. Clair Township	
Allegan	03
County—Allegan:	
Parts of County	
Allegan Twp	
Cheshire Twp	
Gunplain Twp	
Heath Twp	
Hopkins Twp	
Lee Twp	
Martin Twp	
Monterey Twp	
Otsego Twp	
Trowbridge Twp	
Valley Twp	
Watson Twp	
Wayland Twp	
Allegan-Kent	02
County—Allegan:	
Parts of County	
Dorr Twp	
Leighton Twp	
Salem Twp	
County—Kent:	
Parts of County	
Byron Twp	
Gaines Twp	
County—Ottawa:	
Parts of County	
Jamestown Twp	
Baraga	03
County—Baraga:	
Parts of County	
Awm Twp	
Baraga Twp	
Baraga Village	
L'Anse Twp	
L'Anse Village	
Bedford/Erie	02
County—Monroe:	
Parts of County	
Bedford Twp (Northern ½)	
Erie Twp (Northern ½)	
Ida Twp	
La Salle Twp	
Summerfield Twp	
Whiteford Twp (Northern ½)	
Benova	02
County—Oceana:	
Parts of County	
Benova Twp	
Colfax Twp	
Claybanks Twp	
Crystal Twp	
Elbridge Twp	
Ferry Twp	
Golden Twp	
Grant Twp	
Hart Twp	
Leavitt Twp	
Newfield Twp	
Otto Twp	
Pentwater Twp	
Shelby Twp	
Weare Twp	
Calumet/Keweenaw	01
County—Houghton:	
Parts of County	
Calumet Township	
Hancock	
Osceola	
Schoolcraft	
Torch Lake	
County—Keweenaw:	
Chesaning	01
County—Saginaw:	
Parts of County	
C.T. 125 (Chapin and Brady Township)	
C.T. 127 (Chesaning Township)	
C.T. 128 (Chesaning Township)	
C.T. 129 (Maple Grove Township)	
County—Shiawassee:	
Parts of County	
Fairfield Township	
Rush Township	
New Haven Township	
Hazelton Township	
Clare	01
County—Clare:	
Parts of County	
City of Clare	
Garfield Township	
Surrey Township	
Grant Township	
Sheridan Township	
County—Isabella:	
Parts of County	
Coldwater Township	
Gilmore Township	
Vernon Township	
Wise Township	
County—Midland:	
Parts of County	
Coleman Village	
Warren Township	
Cohoctah	01
County—Livingston:	
Parts of County	
Conway Township	
Cohoctah Township	
Deerfield Township	
County—Shiawassee:	
Parts of County	
Antrim Township	
Burns Township	
Perry City	
Perry Township	
De Tour	01
County—Chippewa:	
Parts of County	
De Tour Twp	
De Tour Village	
Drummond Twp	
Raber Twp	
Detroit Area #1	01
County—Wayne:	
Parts of County	
C.T. 520	
C.T. 665	
C.T. 755 through 778	
C.T. 790 through 797	
C.T. 522 through 526	
C.T. 539 through 541	
C.T. 548 through 550	
C.T. 560	
C.T. 561	
C.T. 565 through 570	
C.T. 655	
C.T. 661 through 664	
Detroit Area #2	01
County—Wayne:	
Parts of County	
C.T. 101 through 123	
C.T. 154 through 163	
C.T. 179	
C.T. 180	
C.T. 201	
C.T. 202	
C.T. 211	
C.T. 58 through 64	
C.T. 11 through 13	
C.T. 15	
C.T. 16	
C.T. 51 through 56	
Detroit Area #3	02
County—Wayne:	
Parts of County	
C.T. 262.02	
C.T. 263	
C.T. 264	
C.T. 302.01	
C.T. 302.02	
C.T. 302.03	
C.T. 305.01	
C.T. 305.02	
C.T. 306.01	
C.T. 306.02	
C.T. 408	
C.T. 409.01	
C.T. 409.02	
C.T. 176.02	
C.T. 176.03	
C.T. 176.04	
C.T. 209	
C.T. 251 through 255	
C.T. 257	
C.T. 258.01	
C.T. 258.02	
C.T. 259.01	
C.T. 259.02	
C.T. 260	
C.T. 261.01	
C.T. 261.02	
C.T. 262.01	
C.T. 168 through 171	
C.T. 173	
C.T. 174	
C.T. 175	
C.T. 176.01	
Dowagiac	04
County—Cass:	
Parts of County	
Dowagiac City	
Lagrange Twp	
Marcellus Twp	
Newberg Twp	
Penn Twp	
Silver Creek Twp	
Volinia Twp	
Wayne Twp	
County—Van Buren:	
Parts of County	
Decatur Twp	
Hamilton Twp	
Keeler Twp	
Porter Twp	
East Jordan	01
County—Antrim:	
Parts of County	
Echo Twp (Part)	
Jordan Twp	
Warker Twp (Part)	
County-Charlevoix:	
Parts of County	
Bank Twp (Part)	
South Arm Twp	
Wilson Twp (Part)	
Ewin Service Area	01
County—Ontanogan:	
Parts of County	
Bergland Twp	
Haight Twp	
Matchwood Twp	
McMilian Twp	
Rockland Twp	
Stannard Twp	
Hale/Whittemore	04
County—Iosco:	
Parts of County	
Burleigh Twp	
Grant Twp	
Plainfield Twp	
Reno Twp	
Sherman Twp	
Whittemore City	

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Michigan

Service Area Listing

Service area name	Degree of shortage group
County—Ogemaw:	
Parts of County	
Hill Twp	
Logan Twp	
Richland Twp	
Harrison	01
County—Clare:	
Parts of County	
Arthur Township	
Franklin Township	
Freeman Township	
Frost Township	
Greenwood Township	
Hamilton Township	
City of Harrison	
Hatton Township	
Hayes Township	
Lincoln Township	
Redding Township	
Summerfield Township	
Winterfield Township	
Houghton Lake	03
County—Missaukee.	
Parts of County	
Butterfield Township	
Enterprise Township	
Holland Township	
County—Roscommon:	
Parts of County	
Denton Township	
Lake Township	
Markey Township	
Roscommon Township	
Iron River	03
County—Baraga:	
Parts of County	
Covington Division	
Spurr Division	
County—Florence: (Wisconsin)	
Parts of County	
Florence Township (Part)	
Long Lake Township	
County—Forest: (Wisconsin)	
Parts of County	
Alvin Division	
Popple River Division	
County—Drehinson:	
Parts of County	
Sagola Division	
County—Houghton:	
Parts of County	
Dunean Division	
County—Iron:	
Parts of County	
Bates Division	
Crystal Falls City	
Crystal Falls Twp	
Hematite Division	
Iron River City	
Iron River Twp	
Mansfield Division	
Mastodon Division	
Stanbaugh City	
Stanbaugh Twp	
County—Marquette:	
Parts of County	
Republic (PT) Division	
County—Vilas: (Winconsin)	
Parts of County	
Conover Division	
Phelps Division	
County—Ontonogan:	
Parts of County	
Interior Division	
Kinoss/Rudyard	01
County—Chippewa:	
Parts of County	
Bay Mills Twp	
Front Lake Twp	
Kinoss Twp	
Pickford Twp	
Rudyard Twp	
Superior Twp	
Lake/Newaygo	01
County—Lake:	
Parts of County	
Chase Twp	
Cherry Valley Twp	
Dover Twp	
Eden Twp	
Elk Twp	
Ellsworth Twp	
Lake Twp	
Newkirk Twp	
Peacock	
Pinora Twp	
Pleasant Plains Twp	
Sauble Twp	
Sweetwater Twp	
Webber Twp	
Yates Twp	
County—Newayo:	
Parts of County	
Beaver Twp	
Home Twp	
Lilly Twp	
Merrill Twp	
Monroe Twp	
Troy Twp	
Lexington-Croswell	01
County—Sanilac:	
Parts of County	
Briel Twp	
Croswell Twp	
Fremont Twp	
Worth Twp	
Mackinac Island	01
County—Mackinac:	
Parts of County	
Mackinac Island	
Marlette-Kingston	02
County—Sanilac:	
Parts of County	
La Motte Township	
Marlette Township	
County—Tuscola:	
Parts of County	
Dayton Township	
Kingston Township	
Koylton Township	
Mecosta	04
County—Mecosta:	
Parts of County	
Aetna Twp	
Austin Twp	
Big Rapids Twp	
Chippewa Twp	
Colfax Twp	
Deerfield Twp	
Fork Twp	
Grant Twp	
Green Twp	
Martiny Twp	
Mecosta Twp	
Morton Twp	
Sheridan Twp	
Wheatland Twp	
County—Newaygo:	
Parts of County	
Barton Twp	
Norwich Twp	
Milford	02
County—Oakland:	
Parts of County	
C.T. 1052 (Wixon City)	
C.T. 1057 (Commerce Township)	
C.T. 1058.01 (Commerce Township)	
C.T. 1058.02 (Commerce Township)	
C.T. 1056 (Milford Township)	
C.T. 1055 (Milford Township)	
C.T. 1113.01 (Highland Township)	
C.T. 1113.02 (Highland Township)	
C.T. 1112.01 (White Lake Township)	
C.T. 1112.02 (White Lake Township)	
C.T. 1112.03 (White Lake Township)	
Montrose	01
County—Genesee:	
Parts of County	
Clio Village	
Montrose Village	
Montrose Twp	
Vienna Twp	
County—Saginaw:	
Parts of County	
Albee Twp	
Birch Run Twp	
Maple Grove Twp	
Taymouth Twp	
North Central Flint	01
County—Genesee:	
Parts of County	
C.T. 4 through 7	
C.T. 19 through 26	
Northern Kent	03
County—Kent:	
Parts of County	
Algoma Twp	
Courtland Twp	
Nelson Twp	
Salon Twp	
Sparta Twp	
Tyrone Twp	
County—Muskegon:	
Parts of County	
Casnovia Twp	
County—Ottawa:	
Parts of County	
Chester Twp	
Wright Twp	
Northern Menominee	01
County—Menominee:	
Parts of County	
Cedarville Twp	
Dagget Twp	
Dagget City	
Faithorn Twp	
Gowley Twp	
Harris Twp	
Holmes Twp	
Lake Twp	
Meyer Twp	
Nadeau Twp	
Powers City	
Spalding Twp	
Stephenson Twp	
Stephenson City	
Northern Muskegon	02
County—Muskegon:	
Parts of County	
Blue Lake Twp	
Cedar Creek Twp	
Dalton Twp	
Fruitland Twp	
Holton Twp	
Montague Twp	
White Hall Twp	
White River Twp	
Osceola	04
County—Osceola:	
Parts of County	
Cedar	
Evart	
Hartwick	
Hersey	
Leroy	
Lincoln	
Middle Branch	
Orient	
Osceola	
Richmond	
Rose Lake	
Sylvan	
Otter Lake	02
County—Genesee;	
Parts of County	
Thetford Township	
Forest Township	
County—Lapeer:	
Parts of County	
Marathon Township	
Deerfield Township	
Rich Township	
County—Tuscola:	
Parts of County	
Arbela Township	
Millington Township	
Watertown Township	
Port Austin	01
County—Huron:	
Parts of County	
DwightTwp	
Gore Twp	
Hume TWP	
Huron Twp	
Lake Twp	
Port Austin Twp	
PTE. AU Barques Twp	
Roscommon/St. Helen	03

Michigan

Service Area Listing

Service area name	Degree of shortage group
County—Crawford:	
Parts of County	
Beaver Creek Twp	
South Branch Twp	
County—Roscommon:	
Parts of County	
Au Sable Twp	
Backus Twp	
Gerrish Twp	
Higgins Twp	
Lyon Twp	
Nester Twp	
Richfield Twp	
Roscommon Village	
Saginaw City (East side)	01
County—Saginaw:	
Parts of County	
C.T. 1 through 8	
Southern Newaygo	02
County—Newaygo:	
Parts of County	
Ashland Twp	
Big Prairie Twp	
Bridgeton Twp	
Brooks Twp	
Croton Twp	
Denver Twp	
Endsley Twp	
Everett Twp	
Garfield Twp	
Grant Twp	
Lincoln Twp	
Sheridan Twp	
Wilcox Twp	
County—Oceana:	
Parts of County	
Greenwood Twp	
Sterling	02
County—Arenac:	
Parts of County	
Gibson Township	
County—Gladwin:	
Parts of County	
Bourpet Township	
Bentley Township	
Grim Township	
Sumpter Area	01
County—Monroe:	
Parts of County	
C.T. 303 (Ash Twp.)	
C.T. 304 (Ash Twp.)	
C.T. 305 (Exeter Twp.)	
C.T. 306 (London Twp.)	
County—Washtenaw:	
Parts of County	
C.T. 34 (Augusta Twp.)	
County—Wayne:	
Parts of County	
C.T. 941 (Huron Twp.)	
C.T. 940 (Sumpter Twp.)	
Yale	[illegible]
County—St. Clair:	
Parts of County	
Brockway Twp	
Emmett Twp	
Lynn Township (Parts)	
Mussey Twp	
County—Sanilac:	
Parts of County	
Elk Township	
Flynn Township	
Maple Valley Township	
Speaker Township	

Michigan

Facility Listing

Facility name	Degree of shortage group
Herman Keifer Health Complex	01
:County—Wayne	
Parts of County	
Herman Kiefer Health Complex	
Titus Greene Health Center	02
County—Wayne:	
Parts of County	
Titus Greene Health Center	
Wayne County Jail	02
County—Wayne:	
Parts of County	
Wayne County Jail	

Minnesota

County Listing

County name	Degree of shortage group
Aitkin:	
Service area, Mille Lacs	02
Beltrami:	
Service area, Lake of the Woods-Beltrami	02
Cass	02
Clay:	
Service area, Barnesville	02
Clearwater	02
Cottonwood:	
Service area, N.W. Cottonwood County	04
Crow Wing:	
Service area, Mille Lacs	02
Hennepin:	
Population group: Am. Ind. in Minneapolis	01
Itasca:	
Service area, Bigfork	02
Kanabec:	
Service area, Mille Lacs	02
Lac Qui Parle:	
Service area, Canby	0
Lake of the Woods:	
Service area, Lake of the Woods-Beltrami	02
Le Sueur:	
Service area, Waterville	[illegible]
Lincoln:	
Service area, Canby	04
Marshall	01
Mille Lacs:	
Service area, Mille Lacs	02
Morrison:	
Service area, Mille Lacs	02
Murray	03
Norman	04
Pine:	
Service area, Sandstone	04
Polk:	
Service area, Red Lake	02
Ramsey:	
Service area, Riverview	02
Service area, Summit/University	01
Facility, Model Cities Health Cntr. (St. Paul)	01
Red Lake:	
Service area, Red Lake	02
Redwood	04
Roseau	01
Waseca	04
Wilken:	
Service area, Barnesville	02
Yellow Medicine:	
Service area, Canby	04

Minnesota

Service Area Listing

Service area name	Degree of shortage group
Barnesville	02
County—Clay:	
Parts of County	
Allranee Township	
Barnesville City	
Barnesville Township	
Comstock Village	
Elkton Township	
Elmwood Township	
Holy Cross Township	
Humboldt Township	
Parke Township	
Sabin Village	
Skree Township	
Tansem Township	
County—Wilken:	
Parts of County	
Atherton Township	
Deerhorn Township	
Manston Township	
Mitchell Township	
Prairie View Township	
Rothsay Village	
Tanberg Township	
Wolverton Township	
Bigfork	02
County—Itasca:	
Parts of County	
Balsam Twp	
Bigfork Twp	
Bowstring Twp	
Carpenter Twp	
Kinghurst Twp	
Lake Jessie Twp	
Liberty Twp	
Marcell Twp	
Pomroy Twp	
Sand Lake Twp	
Stokes Twp	
Wirt Twp	
12 Unorganized Twp	
Canby	04
County—Lac Qui Parle:	
Parts of County	
Freeland Twp	
Manfred Twp	
County—Lincoln:	
Parts of County	
Marble Twp	
Alta Vista Twp	
County—Yellow Medicine:	
Parts of County	
Canby City	
Florida Twp	
Hammer Twp	
Norman Twp	
Omro Twp	
Oshkosh Twp	
Porter City	
St. Leo City	
Werzeland Twp	
Lake of the Woods-Beltrami	02
County—Beltrami:	
County—Lake of the Woods	
Mille Lacs	02
County—Atikin:	
Parts of County	
Idum Twp	
Seavy Twp	
Lakeside Twp	
County—Crow Wing:	
Parts of County	
Garrison Village	
Bay Lake Twp	
Garrison Twp	
County—Kanabec:	
Parts of County	
Anne Lake Twp	
Hillman Twp	
Hay Brook Twp	
County—Mille Lacs:	
Parts of County	
Isle Village	
Wahkon Village	
Onamia Village	
East Side Twp	
Isle Harbor Twp	
Lewis Twp	
Onamia Twp	
South Harbor Twp	
Kathio Twp	
Bradbury Twp	
Dailey Twp	
Mudgett Twp	
County—Morrison:	
Parts of County	
Hillman Village	
Richardson Twp	
Leigh Twp	
Mount Morris Twp	
N. W. Cottonwood County	04
County—Cottonwood:	
Parts of County	
Ann Twship	

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Minnesota

Service Area Listing

Service area name	Degree of shortage group
Highwater Twnship	
Westbrook Twnship	
Storden Twnship	
Amboy Twnship	
Rose Hill Twnship	
Jeffers Village	
Storden Village	
Westbrook Village	
Red Lake	02
County—Polk:	
Parts of County	
Badger Twnship	
Garden Township	
Fertile Village	
Mentor Village	
Winger Village	
Godfrey Township	
Grove Park Township	
Knute Township	
Tilden Township	
Winger Township	
Woodside Township	
County—Red Lake	
Riverview	02
County—Ramsey:	
Parts of County	
C.T. 361	
C.T. 370	
C.T. 371	
C.T. 372	
Sandstone	04
County—Pine:	
Parts of County	
Arlone Township	
Arna Township	
Askov Village Township	
Barry Township	
Bremen Township	
Bruno Township	
Clover Township	
Danforth Township	
Dill Grove Township	
Finlayson Township	
Fleming Township	
Hinckley Township	
New Dosey Township	
Ogema Township	
Park Township	
Partridge Township	
Pine Lake Township	
Sandstone Township	
Wilma Township	
Finlayson Village	
Hinckley Village	
Sandstone Village	
Summit/University	01
County—Ramsey:	
Parts of County	
C.T. 335 through 340	
C.T. 355	
Waterville	01
County—Le Sueur:	
Parts of County	
Elysian Twp & City	
Kilhenny Twp & City	
Montgomery Twp & City	
Waterville Twp & City	

Minnesota

Population Group Listing

Population group name	Degree of shortage group
Am. Ind. in Minneapolis	01
County—Hennepin:	
Parts of County	
Am. Ind. Pop. in Minneapolis	

Minnesota

Facility Listing

Facility name	Degree of shortage group
Model Cities Health Center (St. Paul)	01
County—Ramsey:	
Parts of County	
Model Cities Health Center	

Mississippi

County Listing

County name	Degree of shortage group
Amite	01
Attala	03
Benton	01
Calhoun	02
Carroll:	
Service area, Carroll/Montgomery	02
Chickasaw	03
Choctaw	02
Claiborne	01
Clay	02
Coahoma	03
Covington	02
De Soto:	
Service area, Desota/Tate	01
George	03
Greene	01
Hancock	03
Harrison:	
Service area, East Biloxi	01
Service area, North Gulfport	03
Hinds:	
Service area, Jackson Inner-City	01
Service area, Hinds	01
Holmes	04
Humphreys	02
Issaquena:	
Service area, Issaquena/Sharkey	03
Itawamba	01
Jasper	02
Jefferson	04
Jefferson Davis	02
Kemper	04
Lamar	02
Lawrence	03
Leake	04
Leflore	03
Lowndes	03
Madison	01
Marion	04
Marshall	01
Montgomery:	
Service area, Carroll/Montgomery	02
Neshoba	02
Newton	03
Noxubee	02
Perry	04
Pontotoc	01
Prentiss	04
Quitman	02
Rankin	02
Scott	02
Sharkey:	
Service area, Issaquena/Sharkey	03
Simpson	02
Smith	02
Stone	02
Sunflower	04
Tallahatchie	02
Tate:	
Service area, Desota/Tate	01
Tippah	03
Tishomingo:	
Service area, Shiloh Pickwick	02
Tunica	01
Union	02
Washington	04
Webster	04
Winston	03
Yalobusha	02
Yazoo	04

Mississippi

Service Area Listing

Service area name	Degree of shortage group
Carroll/Montgomery	02
County—Carroll	
County—Montgomery	
Desota/Tate	01
County—De Soto	
County—Tate	
East Biloxi	01
County—Harrison:	
Parts of County	
C.T. 1	
C.T. 2	
C.T. 3	
Hinds	01
County—Hinds:	
Parts of County	
C.T. 105	
C.T. 106	
C.T. 107	
C.T. 108	
C.T. 112	
C.T. 113	
Issaquena/Sharkey	03
County—Issaquena	
County—Sharkey	
Jackson Inner-City	01
County—Hinds:	
Parts of County	
C.T. 6 through 12	
C.T. 16	
C.T. 17	
C.T. 18	
C.T. 19	
C.T. 20	
C.T. 24 through 32	
North Gulfport	03
County—Harrison:	
Parts of County	
C.T. 18	
C.T. 24	
Shiloh Pickwick	02
County—Hardin/Tennessee	
County—McNairy/Tennessee	
County—Tishomingo	
Parts of County	
District 1	
District 2	

Missouri

County Listing

County name	Degree of shortage group
Andrew	03
Bollinger	01
Caldwell	03
Camden	03
Carter	02
Cass:	
Service area, Garden City	03
Cedar:	
Service area, Osage Prairie	04
Christian	04
Clark	02
Crawford	04
Dade	02
De Kalb	01
Douglas	01
Gasconade:	
Service area, Southern Gasconade	02
Harrison	04
Hickory:	
Service area, Osage Prairie	04
Iron	04
Jackson:	
Service area, Central Kansas City	02
Service area, Richard Cabot	01
Jefferson	01
Johnson:	
Service area, Sweet Springs	03
Lafayette:	
Service area, Sweet Springs	03
Lewis	04
McDonald	04
Maries	01
New Madrid	01
Oregon	01

Missouri

County Listing

County name	Degree of shortage group
Osage	04
Ozark	03
Pettis:	
Service area, Sweet Springs	03
Polk:	
Service area, Benton	03
Service area, Osage Prairie	04
Pulaski	01
Putnam	02
Ralls	02
Reynolds	01
Ripley	04
St. Charles	04
St. Clair:	
Service area, Appleton	03
Service area, Osage Prairie	04
St. Louis:	
Service area, Kinlock/Berkley	02
Saline:	
Service area, Sweet Springs	03
Shannon	02
Stone	02
Texas	01
Vernon:	
Service area, Osage Prairie	04
Washington	03
Wayne	02
Webster	03
St. Louis City:	
Service area, Southeast St. Louis	03
Service area, North St. Louis	02

Missouri

Service Area Listing

Service area name	Degree of shortage group
Appleton	03
County—St. Clair:	
Parts of County	
Appleton Twp	
Butler Twp	
Center Twp	
Chalk Level Twp	
Dauas Twp	
Doyal Twp	
Jackson Twp	
Monegaw Twp	
Osage Twp	
Oscaola Twp	
Polk Twp	
Taber Twp	
Benton	03
County—Polk:	
Parts of County	
Benton Twp	
Campbell Twp	
Cliquot Twp	
Jackson Twp	
Looney Twp	
Madison Twp	
Marion Twp	
Mooney Twp	
Union Twp	
Wishart Twp	
Central Kansas City	02
County—Jackson:	
Parts of County	
C.T. 21	
C.T. 56.02	
C.T. 57	
C.T. 58.01	
C.T. 60	
C.T. 61	
C.T. 62	
C.T. 63	
C.T. 64	
C.T. 78.01	
C.T. 75	
C.T. 76	
C.T. 77	
C.T. 78.02	
C.T. 79	
C.T. 80	
C.T. 4 through 10	
C.T. 15	
C.T. 17	
C.T. 18	
C.T. 19	
C.T. 22	
C.T. 20	
C.T. 58.02	
C.T. 24	
C.T. 23	
C.T. 34	
C.T. 35.01	
C.T. 36.01	
C.T. 59.01	
C.T. 61	
C.T. 25	
C.T. 26	
C.T. 32	
C.T. 33	
C.T. 35.02	
C.T. 36.02	
C.T. 37 through 42	
C.T. 52	
C.T. 53	
C.T. 54	
C.T. 55	
C.T. 56.01	
Garden City	03
County—Cass:	
Parts of County	
C.T. 607 through 612	
Kinlock/Berkley	02
County—St. Louis:	
Parts of County	
C.T. 2128	
C.T. 2129	
C.T. 2134	
North St. Louis	02
County—St. Louis City:	
Parts of County	
C.T. 1051	
C.T. 1093	
C.T. 1094	
C.T. 1095	
C.T. 1101 through 1105	
C.T. 1111 through 1115	
C.T. 1201	
C.T. 1202	
C.T. 1203	
C.T. 1212	
C.T. 1213	
C.T. 1252	
C.T. 1253	
C.T. 1261 through 1265	
C.T. 1121 (Portion)	
C.T. 1052	
C.T. 1122 (Portion)	
C.T. 1123 (Portion)	
C.T. 1192 (Portion)	
C.T. 1193 (Portion)	
C.T. 1211 (Portion)	
C.T. 1214 (Portion)	
C.T. 1251 (Portion)	
C.T. 1053	
C.T. 1054	
C.T. 1055	
C.T. 1061 through 1067	
C.T. 1071 through 1077	
C.T. 1081 through 1085	
C.T. 1091	
C.T. 1092	
Osage Prairie	04
County—Cedar	
County—Hickory	
County—Polk	
Parts of County	
Johnson Division	
Flemington Division	
Jefferson Division	
McKinley Division	
Greene Division	
County—St. Clair	
Parts of County	
Speedwell Division	
Roscoe Division	
Washington Division	
Collins Division	
County—Vernon	
Parts of County	
Bacon Divisin	
Clear Creek Division	
Virgil Division	
Montevallo Division	
Richard Cabot	01
County—Jackson	
Parts of County	
C.T. 1	
C.T. 11	
C.T. 29	
C.T. 30	
C.T. 45	
Southeast St. Louis	03
County—St. Louis City	
Parts of County	
C.T. 1011	
C.T. 1232	
C.T. 1233	
C.T. 1234	
C.T. 1235	
C.T. 1241	
C.T. 1242	
C.T. 1243	
C.T. 1244	
C.T. 1245	
C.T. 1173 (Portion)	
C.T. 1174 (Portion)	
C.T. 1185 (Portion)	
C.T. 1123	
C.T. 1012 through 1017	
C.T. 1023	
C.T. 1024	
C.T. 1025	
C.T. 1151 through 1157	
C.T. 1161	
C.T. 1162	
C.T. 1163	
C.T. 1164	
C.T. 1165	
C.T. 1221	
C.T. 1222	
C.T. 1224	
C.T. 1231	
Southern Gasconade	02
County—Gasconade	
Parts of County	
Boeur Twp	
Boulware Twp	
Bourbois Twp	
Brush Creek Twp	
Canaan Twp	
Clay Twp	
Third Creek Twp	
Sweet Springs	03
County—Johnson	
Parts of County	
Groves Twp	
County—Lafayette	
Parts of County	
Freedom Twp	
County—Pettis	
Parts of County	
Blackwater Twp	
Houstonia Twp	
County—Saline	
Parts of County	
Elmwood Twp	
Liberty Twp	
Salt Pond Twp	

Montana

County Listing

County name	Degree of shortage group
Big Horn	01
Blaine	03
Carter	01
Chouteau:	
Service area, Fort Benton	01
Fallon	03
Gallatin:	
Service area, West Yellowstone	01
Glacier:	
Service area, Babb-Browning	01
Golden Valley:	
Service area, Tri-County	04

Montana

County Listing

County name	Degree of shortage group
Hill:	
Service area, Chester	01
Jefferson:	
Service area, Boulder	01
Judith Basin:	
Service area, Petroleum-Judith Basin	01
Lake:	
Service area, Seely Lake	01
Meagher	01
Mineral	01
Missoula:	
Service area, Seeley Lake	01
Musselshell:	
Service area, Tri-County	04
Petroleum:	
Service area, Petroleum-Judith Basin	01
Phillips	01
Pondera:	
Service area, Babb-Browning	01
Powell:	
Service area, Seely Lake	01
Roosevelt:	
Service area, Popler	01
Rosebud:	
Service area, Rosebud	03
Treasure:	
Service area, Rosebud	03
Valley	04
Wheatland:	
Service area, Tri-County	04
Wibaux	01

Montana

Service Area Listing

Service area name	Degree of shortage group
Babb—Browning	01
County—Glacier:	
Parts of County	
Browning-E. Glacier Division	
Babb Division	
County—Pondera:	
Parts of County	
Valier-Dupeyer Division	
Boulder	01
County—Jefferson:	
Parts of County	
Boulder Div.	
Chester	01
County—Hill:	
Parts of County	
Gidford Division	
Rudyard Division	
Fort Benton	01
County—Chouteau:	
Parts of County	
Fort Benton Div	
Highwood Div.	
Geraldine Div.	
Petroleum-Judith Basin	01
County—Judith Basin	
County—Petroleum	
Poplar	01
County—Roosevelt:	
Parts of County	
Wolf Point Rural Div.	
Wolf Point Div.	
Poplar Division	
Rosebud	03
County—Rosebud	
County—Treasure	
Seely Lake Service Area	01
County—Lake:	
Parts of County	
Big Fork/Swan River Div.	
County—Missoula:	
Parts of County	
Seely Lake/Blackfoot Div.	
County—Powell:	
Parts of County	
Ovando Div.	
Tri-County	04
County—Golden Valley	
County—Musselshell	
County—Wheatland	
West Yellowstone	01
County—Gallatin:	
Parts of County	
West Yellowstone	

Nebraska

County Listing

County name	Degree of shortage group
Antelope:	
Service area, Antelope	04
Arthur:	
Service area, Mullen	01
Blaine	01
Boone:	
Service area, Albion MSA	02
Service area, Antelope	04
Brown	04
Buffalo:	
Service area, Sherman	04
Cass	04
Cedar:	
Service area, Cedar-Dixon	02
Chase:	
Service area, Southwest Nebraska	02
Cherry:	
Service area, Mullen	01
Clay	01
Cofax:	
Service area, Colfax/Dodge	03
Cuming	03
Custer:	
Service area, Arnold	01
Deuel:	
Service area, Deuel-Sedgewick MSA	01
Dixon:	
Service area, Cedar-Dixon	02
Dodge:	
Service area, Colfax/Dodge	03
Douglas:	
Service area, Northeast Omaha	03
Dundy:	
Service area, Southwest Nebraska	02
Filmore	03
Franklin	04
Garfield:	
Service area, Garfield Service Area	03
Gosper	01
Grant:	
Service area, Mullen	01
Greeley:	
Service area, Albion MSA	03
Hayes:	
Service area, Southwest Nebraska	02
Hitchcock:	
Service area, Southwest Nebraska	02
Hooker:	
Service area, Mullen	01
Keith:	
Service area, Sutherland MSA	01
Keya Paha:	
Service area, Bassett	02
Lincoln:	
Service area, Arnold	01
Service area, Sutherland MSA	01
Logan:	
Service area, Mullen	01
Service area, Arnold	01
Loup:	
Service area, Garfield Service Area	03
McPherson:	
Service area, Mullen	01
Madison	04
Merrick	03
Nemaha	04
Nuckolls	02
Perkins:	
Service area, Sutherland MSA	01
Platte:	
Service area, Albion MSA	03
Rock:	
Service area, Bassett	02
Saunders	04
Sherman:	
Service area, Sherman	04
Sioux	01
Stanton	02
Thayer	04
Thomas:	
Service area, Mullen	01
Wayne	04
Wheeler:	
Service area, Garfield Service Area	03

Nebraska

Service Area Listing

Service area name	Degree of shortage group
Albion MSA	02
County—Boone:	
Parts of County	
Albion City	
Ashland Precinct	
Beaver Precinct	
Bonanza Precinct	
Boone Precinct	
Cedar Precinct	
Dublin Precinct	
Manchester Precinct	
Midland Precinct	
North Branch Precinct	
Plum Creek Precinct	
Roselma Precinct	
Shell Creek Precinct	
Weitzel Precinct	
County—Greeley:	
Parts of County	
Spalding Precinct	
County—Platte:	
Parts of County	
St. Bernard	
Walker	
Antelope	04
County—Antelope	
County—Boone	
Parts of County	
Oakland Precinct	
Arnold	01
County—Custer:	
Parts of County	
Hayes	
Arnold	
Cliff	
Triumph	
Elim	
Delight	
Wayne	
County—Lincoln:	
Parts of County	
Whittier	
Garfield	
Harrison	
Table	
Cox	
Antelope	
County—Logan:	
Parts of County	
Gandy	
Logan	
Bassett	02
County—Keya Paha	
County—Rock	
Cedar-Dixon	02
County—Cedar	
County—Dixon	
Colfax/Dodge	03
County—Colfax:	
Parts of County	
Adams Precinct	
Colfax Precinct	
Lincoln Precinct	
Maple Creek Precinct	
Midland Precinct	
Rogers Precinct	
Schuyler City	
Schuyler Precinct	
County—Dodge:	
Parts of County	
Cotterell Twp	
Cuming Twp	
North Bend City	

Nebraska

Service Area Listing

Service area name	Degree of shortage group
Pebble Twp	
Pleasant Valley Twp	
Ridgeley Twp	
Scribner City	
Union Twp	
Webster Twp	
Deuel-Sedgewick MSA	01
County—Deuel	
County—Sedgwick (Colorado)	
Garfield service area	03
County—Garfield	
County—Loup	
County—Wheeler	
Mullen	01
County—Arthur:	
Parts of County	
Edward	
Arthur	
Lena	
County—Cherry:	
Parts of County	
Gillaspie	
Cleveland	
Lackey	
Wells	
Loup	
Goosecreek	
Pleasant Hill	
Calf Creek	
Mother Lake	
County—Grant	
County—Hooker	
County—Logan:	
Parts of County	
Dorp	
Stapleton	
Cody Lake	
Lone Valley	
Burt	
County—McPherson	
County—Thomas	
Northeast Omaha	03
County—Douglas:	
Parts of County	
C.T. 6	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	
Sherman	04
County—Buffalo:	
Parts of County	
Beaver Township	
Garfield Township	
Cherry Creek Township	
Cedar Township	
Schneider Township	
Gardner Township	
Ravenna City	
County—Sherman	
Southwest Nebraska	02
County—Chase	
County—Dundy	
County—Hayes	
County—Hitchcock	
Sutherland MSA	01
County—Keith:	
Parts of County	
Paxton CCD	
County—Lincoln:	
Parts of County	
Springdale CCD	
Birdwood CCD	
Rosedale CCD	
N. Rosedale CCD	
Hershey CCD	
Sunshine CCD	
Fairview CCD	
Nowell CCD	
Wallace CCD	
Hooker CCD	
Dickens CCD	
Willow CCD	
County—Perkins:	
Parts of County	
Woodson CCD	
Yankee CCD	
Marvin CCD	

Nevada

County Listing

County name	Degree of shortage group
Churchill	04
Clark:	
Service area, Searchlight-Davis Dam-Southpoint	01
Service area, Indian Springs	01
Service area, Virgin Valley	01
Service area, Moapa Valley	01
Service area, Lake Mead	01
Service area, Jean-Goodsprings Sandy Valley	01
Service area, Blue Diamond-Lee Canyon-Mt. Charleston	01
Service area, Central/North Central Las Vegas	01
Population, Paiute Indian Colony-Las Vegas Valley	04
Population, Paiute Indian—Moapa Valley	04
Douglas	04
Elko:	
Service area, Wells	01
Esmeralda	01
Humboldt	03
Lander	04
Lincoln	03
Lyon	01
Mineral	04
Nye:	
Service area, Nye Co. service area	01
Pershing	04
Storey	01
Washoe:	
Service area, Stead-Lemmon Valley	01
Service area, Sun Valley	01
Service area, Wadsworth	01
Service area, Gerlach/Bad Mt.	01
White Pine	04

Nevada

Service Area Listing

Service area name	Degree [illegible] shortage group
Blue Diamond-Lee Canyon-Mt. Charleston	01
County—Clarke:	
Part of County	
C.T. 58 (Central)	
Central/North Central Las Vegas	01
County—Clark:	
Part of County	
C.T. 3.01	
C.T. 3.02	
C.T. 7	
C.T. 9	
C.T. 11	
C.T. 35	
C.T. 36	
C.T. 37	
C.T. 38	
C.T. 46	
Gerlach/Bald Mt	01
County—Washoe:	
Parts of County	
C.T. 34	
Gerlach Township	
Indian Springs	01
County—Clarke:	
Parts of County	
C.T. 59 (Southwest)	
C.T. 58 (North)	
Jean-Goodsprings Sandy Valley	01
County—Clarke:	
Parts of County	
C.T. 58 (Southeast)	
C.T. 57 (Northwest)	
Lake Mead	01
County—Clarke:	
Parts of County	
C.T. 56 (Southern Part)	
Moapa Valley	01
County—Clarke:	
Parts of County	
C.T. 56 (Cent./W. Cent.)	
Nye Co. Service area	01
County—Nye:	
Parts of County	
Tonopah Township	
Pahrump Township	
Beatty Township	
Searchlight-Davis Dam-Southpoint	01
County—Clark:	
Parts of County	
C.T. 57 (Southern Part)	
Stead-Lemmon Valley	01
County—Washoe:	
Parts of County	
C.T. 26	
Sun Valley	01
County—Washoe:	
Parts of County	
C.T. 27	
Virgin Valley	01
County—Clarke:	
Parts of County	
C.T. 56 (North)	
Wadsworth	01
County—Washoe:	
Parts of County	
C.T. 31	
Wells	01
County—Elko:	
Parts of County	
Wells Township	

Nevada

Population Group Listing

Population group name	Degree of shortage group
Paiute Indian-Moapa Valley	04
County—Clark:	
Parts of County	
Paiute Indian-Moapa Valley	
Paiute Indian Colony-Las Vegas Valley	04
County—Clark:	
Parts of County	
Paiute Indian Colony-Las Vegas Valley	

New Hampshire

County Listing

County name	Degree of shortage group
Carroll:	
Service area, Kezar Falls	01
Coos:	
Service area, Upper Connecticut Valley	03
Grafton:	
Service area, Baker River Valley	01
Hillsboro:	
Service area, Hillsborough	02
Merrimack:	
Service area, Hillsborough	02
Rockingham:	
Service area, North West Rockingham County	02
Sullivan:	
Service area, Hillsborough	02

New Hampshire

Service Area Listing

Service area name	Degree of shortage group
Baker River Valley	01
County—Grafton:	
Parts of County	
Warren Twn	
Rumney Twn	
Wentworth Twn	
Hillsborough	02
County—Hillsboro:	
Parts of County	
Deering Twn	
Hillsborough Twn	
Weare Twn (Western Part)	
Windsor Twn	
County—Merrimack:	
Parts of County	
Henniker Twn	
County—Sullivan:	
Parts of County	
Washington Twn	
Kezar Falls	01
County—Carroll:	
Parts of County	
Effingham Town	
Freedom Town	
Madison Town	
County—Cumberland (Vermont):	
Parts of County	
Baldwin Town	
County—Oxford (Vermont):	
Parts of County	
Brownfield	
Hiram Town	
Porter Town	
County—York (Vermont):	
Parts of County	
Newfield Town	
Limerick Town	
Cornish Town	
Parsonfield	
North West Rockingham County	02
County—Rockingham	
Parts of County	
Nottingham Town	
Deerfield	
Candia	
Raymond	
Fremont	
Epping	
Upper Connecticut Valley	03
County—Coos.	
Parts of County	
Colebrook Twn	
Columbia Twn	
Stratford Twn	
Stewartown Twn	
Pittsburg Twn	
Dixville Twn	
Errol Twn	
Clarksville Twn	
Millsfield Twn	
Wentsworth location	
Atkinson-Gilman Academy Grant	
Dixs Grant	
Second College Grant	
Odell Twn	
County—Essex—Vermont:	
Parts of County	
Canaan Twn	
Lexington Twn	
Bloomfield Twn	
Brunswick Twn	
Averill Twn	
Norton Twn	

New Jersey

County Listing

County name	Degree of shortage group
Atlantic:	
Service area, Mays Landing	04
Service area, Atlantic City	04
Camden:	
Service area, North East Camden	04
Service area, North West Camden	02
Service area, West Central Camden	02
Cape May:	
Service area, Lower Cape May	02
Service area, Mays Landing	04
Cumberland:	
Service area, Bridgeton	04
Facility, Leesburg State Prison	01
Essex:	
Service area, Dayton Service Area	01
Service area, Gladys E. Dickenson Service Area	04
Service area, North Newark	03
Service area, Central Newark	03
Population group, Med. Ind. (Central Newark)	03
Hudson:	
Service area, Downtown Bergen/Lafayette	01
Mercer:	
Service area, Trenton NHG Target area	04
Middlesex:	
Service area, Med. Ind./New Brunswick Urban Corridor	02
Service area, Fam. H. Ctr. of Middlesex Gen. Hosp	02
Passaic:	
Service area, West Milford Township	02
Service area, Downtown Patterson	01
Service area, Northside neighborhood (Patterson)	01
Sussex	03
Union:	
Service area, West side of Plainfield	02
Service area, East Elizabeth	04

New Jersey

Service Area Listing

Service area name	Degree of shortage group
Atlantic City	
County—Atlantic:	
Parts of County	
Atlantic City	
Bridgeton	04
County—Cumberland:	
Parts of County	
Bridgeton Twnship	
Downe Twnship	
Fairfield Twnship	
Greenwich Twnship	
Hopewell Twnship	
Lawrence Twnship	
Shiloh Borough	
Stow Creek Twnship	
Central Newark	04
County—Essex:	
Parts of County	
C.T. 31	
C.T. 39	
C.T. 60 through 66	
C.T. 80 through 83	
Dayton Service Area	[illegible]
County—Essex:	
Parts of County	
C.T. 47	
C.T. 48.01	
C.T. 48.02	
C.T. 49	
C.T. 50	
C.T. 51	
Downtown Bergen/Lafayette	01
County—Hudson:	
Parts of County	
C.T. 32 through 36	
C.T. 43	
C.T. 44	
C.T. 50	
Downtown Patterson	01
County—Passaic:	
Parts of County	
C.T. 1814	
C.T. 1815	
C.T. 1816.01	
C.T. 1816.02	
C.T. 1817.01	
C.T. 1817.02	
C.T. 1818	
C.T. 1820	
C.T. 1822	
C.T. 1829	
East Elizabeth	04
County—Union:	
Parts of County	
C.T. 302 through 305	
C.T. 309 through 313	
Gladys E. Dickenson Service Area	04
County—Essex:	
Parts of County	
C.T. 86 through 91	
Lower Cape May	02
County—Cape May:	
Parts of County	
Bayshore	
Bennett	
Cape May Beach	
Cape May City	
Cape May Point	
Cold Spring	
Erma	
Fishing Creek	
Highland Beach	
North Cape May	
Town Bank	
West Cape May	
Mays Landing	04
County—Atlantic:	
Parts of County	
Buena Viusta	
Corbin City	
Egg Harbor Twp	
Estell Manor	
Hamilton	
Weymouth	
Mullica Twp (Southern portion)	
Galloway Twp (Southern portion)	
County—Cape May:	
Parts of County	
Upper	
Norther East Camden	04
County—Camden:	
Parts of County	
C.T. 6011	
C.T. 6012	
C.T. 6013	
North Newark	03
County—Essex:	
Parts of County	
C.T. 92 through 97	
North West Camden	02
County—Camden:	
Parts of County	
C.T. 6007	
C.T. 6008	
Northside Neighborhood (Patterson)	01
County—Passaic:	
Parts of County	
C.T. 1803 through 1807	
Trenton NHG Target Area	04
County—Mercer:	
Parts of County	
C.T. 1	
C.T. 8 (PART)	
C.T. 9 (PART)	
C.T. 10	
C.T. 11 (PART)	
C.T. 14 (PART)	
C.T. 15 (PART)	
C.T. 16	
C.T. 17 (PART)	
C.T. 18 (PART)	
C.T. 19	
C.T. 22 (PART)	
West Central Camden	02
County—Camden:	
Parts of County	
C.T. 6016	
County—Essex:	
Parts of County	
C.T. 6017	
C.T. 6018	
C.T. 6019	
West Milford Township	02
County—Passaic:	
Parts of County	
C.T. 2568	
Westside of Plainfield	02
County—Union:	
Parts of County	

New Jersey

Service Area Listing

Service area name	Degree of shortage group
C.T. 89	
C.T. 90	
C.T. [illegible]	
C.T. 94	
C.T. 95	

New Jersey

Population Group Listing

Population group name	Degree of shortage group
Med Ind/New Brunswick Urban Corridor	02
County—Middlesex:	
Parts of County	
C.T. 53 (Medically Indigent)	
C.T. 54 (Medically Indigent)	
C.T. 55 (Medically Indigent)	
C.T. 57 (Medically Indigent)	
C.T. 58 (Medically Indigent)	
C.T. 59 (Medically Indigent)	
Med. Ind. (Central Newark)	03
County—Essex:	
Parts of County	
C.T. 2 (Med. Indigent)	
C.T. 3 (Med. Indigent)	
C.T. 9 (Med. Indigent)	
C.T. 10 (Med. Indigent)	
C.T. 11 (Med. Indigent)	
C.T. 14 (Med. Indigent)	
C.T. 15 (Med. Indigent)	
C.T. 16 (Med. Indigent)	
C.T. 34 (Med. Indigent)	
C.T. 40 (Med. Indigent)	
C.T. 55 (Med. Indigent)	
C.T. 56 (Med. Indigent)	
C.T. 57 (Med. Indigent)	
C.T. 59 (Med. Indigent)	
C.T. 67 (Med. Indigent)	
C.T. 84 (Med. Indigent)	
C.T. 85 (Med. Indigent)	
C.T. 91 (Med. Indigent)	

New Jersey

Facility Listing

Facility name	Degreee of shortage group
Fam H Ctr of Middlesex Gen Hosp	02
County—Middlesex:	
Parts of county	
Fam. H. Care Cntr of Mdlsx. Gen Hosp.	
Leesburg State Prison	01
County—Cumberland:	
Parts of County	
Leesburg State Prison	

New Mexico

County Listing

County name	Degree of shortage group
Bernalillo:	
Service area, Loa Padillas/Pajarito	01
Chaves	
Population Group, Med. Indigent of S. Chaves	01
Colfax:	
Service area, Colfax/Harding	04
De Baca	01
Dona Ana:	
Service area, Hatch	01
Service area, Southern Dona Ana	01
Guadalupe	01
Harding:	
Service area, Quay	01
Service area, Colfax/Harding	04
Hidalgo	01
Lincoln:	
Service area, Carrizozo	02
McKinley	03
Mora	02
Otead:	
Service area, Cloudcroft/Sacremento	01
Quay:	
Service area, Quay	01
Rio Arriba:	
Service area, Rural Rio Arriba Co	02
San Juan:	
Service area, Navajo Res	01
San Miguel:	
Service area, Quay	01
Service area, Pecos	02
Santa Fe:	
Service area, La Clinica De La Gente	01
Facility, NM State Pen—Cerrillos	03
Sierra:	
Service area, Hatch	01
Socorro:	
Service area, Carrizozo	02
Taos:	
Service area, Embudo/Penasco	01
Union	04
Valencia:	
Service area, Los Lunas	02

New Mexico

Service Area Listing

Service area name	Degree of shortage group
Carrizozo	02
County—Lincoln:	
Parts of County	
Carrizozo	
Capitan	
Corona	
County—Socorro:	
Parts of County	
Clauch	
Cloudcroft/Sacremento	01
County—Otead:	
Parts of County	
Cloudcroft/Sacremento	
Elkflying H.	
Mescalero (S.E. Part)	
Orogrande (N Part)	
Colfax/Harding	04
County—Colfax:	
Parts of County	
Cimarron	
Springer	
County—Harding:	
Parts of County	
North Harding	
Embudo/Penasco	01
County—Taos:	
Parts of County	
Penasco	
Hatch	
County—Dona Ana:	01
Parts of County	
Hatch (E.D. 8.9,9B)	
County—Sierra:	
Parts of County	
Truth or Consequences (E.D. 8,14)	
La Clincia De La Gente	01
County—Santa Fe:	
Parts of County	
Acres Estates Pinon Hills	
Airport Road	
Aqua Fria Village	
C.T. 7, 9, 12	
Los Padillas/Pajarito	01
County—Bernalillo:	
Parts of County	
C.T. 46	
Los Lunas	02
County—Valencia:	
Parts of County	
CCD 25	
Quay	01
County—Harding:	
Parts of County	
South Harding CCD	
County—Quay	
County—San Miguel:	
Parts of County	
Conchos CCD	
Rural Rio Arriba Co.	02
County—Rio Arriba:	
Parts of County	
Chama	
Coyote	
El Rito	
Tierra Amarilla	
Truchas	
Southern Dona Ana	01
County—Dona Ana:	
Parts of County	
E.D. 76 (Anthony)	
E.D. 77 (Anthony)	
E.D. 79	
E.D. 80 (La Mesa)	
E.D. 81	
E.D. 84 (La Union)	
Pecos	
County—San Miguel:	
Parts of County	
Pecos	
Villanueva	

New Mexico

Population Group Listing

Population group name	Degree of shortage group
Med. Indigent of S. Chaves	01
County—Chaves:	
Parts of County	
C.T. 12 (Med. Ind.)	
C.T. 13 (Med. Ind.)	
C.T. 14 (Med. Ind.)	

New Mexico

Facility Listing

Facility name	Degreee of shortage group
NM State Pen—Cerrillos	03
County—Santa Fe	

New York

County Listing

County name	Degree of shortage group
Allegany:	
Service area, Arcade	02
Service area, Andover	04
Bronx:	
Service area, South Bronx-Fort Apache	03
Service area, Northeast Bronx	01
Service area, Hunts Point (Health Area)	01
Service area, Soundview Area	02
Service area, Martin Luther King Service Area	04
Service area, Mott Haven	01
Service area, S.W. Bronx (Zip Code: 10451)	01
Service area, Central S.W. Bronx (Zip Code: 10455)	01
Service area, Tremont	01
Service area, West Central Bronx	02
Facility, NYC Corr. Fac./Riker's Island	02
Broome:	
Service area, Deposit area	03
Cattaraugus:	
Service area, Arcade	02
Service area, Randolph-Ellicottville	04
Cayuga:	
Service area, Cato	01
Service area, Aurora	02
Chenango:	
Service area, Greene	04
Service area, Sherburne	02
Facility, Chenango Mem. Hosp. Out-Pat. Dept.	02
Columbia:	
Service area, N.E. Columbia/S.E. Rensselaer	02
Service area, Blue Stores	01

New York

County Listing

County name	Degree of shortage group
Cortland:	
Service area, Marathon-Cincinnatus	02
Service area, De Ruyter	01
Delaware:	
Service area, Deposit area	03
Duchess:	
Facility, Green Haven Corr. Facility	01
Erie:	
Service area, Ellicott Neighborhood of Buffalo	02
Service area, Lower West Side	02
Essex:	
Service area, Essex Co. (Parts)	02
Service area, Essex/Warren Co.	01
Franklin:	
Service area, Tupper Lake	01
Fulton:	
Service area, Barkersville	01
Genesee:	
Service area, Bergen	02
Greene:	
Service area, Western Greene Co	04
Hamilton:	01
Herkimer:	
Service area, West Winfield	01
Service area, Herkimer MSA	03
Jefferson:	
Service area, Alexandria Bay	01
Service area, Adams	02
Kings:	
Service area, East N.Y. section of Brooklyn	01
Service area, Bedford/Stuyvesant	02
Service area, Gowanus/Park Slope	01
Service area, South Williamsburg	04
Service area, Coney Isl/Brighton Beach/W. Brighton	01
Service area, S.W. Brooklyn (Health Area 41)	01
Service area, Brooklyn (Health Area 60)	01
Livingston:	
Service area, Geneseo	02
Madison:	
Service area, Hamilton	03
Service area, De Ruyter	01
Monroe:	
Service area, Bergen	02
Service area, Westside of Rochester	03
Montgomery:	
Service area, Western Montgomery Co.	01
New York:	
Service area, Lower East Side	03
Service area, Chinatown	02
Service area, Chelsea	01
Service area, Cent. Harlem (Health Area: 15, 19, 24, 85.20)	01
Service area, West Central Harlem	03
Population group, Homeless Youth of Times Square Area	02
Service area, East Harlem	04
Oneida:	
Service area, Boonville	01
Service area, Hamilton	03
Onondaga:	
Service area, Baldwinville	03
Service area, Syracuse CHC Target Area	01
Onondaga:	
Service area, Southern Onondaga Co	02
Orange:	
Service area, Warwick	02
Orleans:	
Service area, Oak Orchard	04
Oswego:	
Service area, Central Square	03
Service area, Pulaski Primary Care Service Area.	04
Otsego:	
Service area, S. E. Otsego Co	02
Service area, Cherry Valley	02
Service area, Western Otsego	01
Service area, Morris	04
Queens:	
Service area, Rockaway section of Queens	04
Service area, South Jamaica	02
Service area, South Jamaica	01
Rensselaer:	
Service area, N. E. Columbia/S.E. Rensselaer	02
Richmond:	
Service area, Mariner's Harbor	01
Rockland:	
Service area, Northern Rockland	01
St. Lawrence:	
Service area, Tupper Lake	02
Service area, Alexandria Bay	01
Service area, Southern St Lawrence Co.	02
Saratoga:	
Service area, Barkersville	01
Schenectady:	
Service area, Hamilton Hill/Mont. Pleasant	01
Schoharie:	
Service area, Cherry Valley	02
Schuyler	03
Seneca:	
Service area, South Seneca	02
Steuben:	
Service area, Andover	04
Suffolk:	
Service area, Southold/Shelter Island	03
Service area, S. Hampton (S. Fork)/E. Hampton.	03
Tioga	[illegible]
Warren:	
Service area, Essex/Warren Co	01
Wayne:	
Service area, Sodus	04
Westchester:	
Service area, Peekskill	04
Population Group, Med. Ind. (Mt. Vernon)	04
Wyoming:	
Service area, Arcade	02
Service area, Warsaw	04
Facility, Attica Correctional Facility	02

New York

Service Area Listing

Service area name	Degree of shortage group
Mariner's Harbor	01
County—Richmond:	
Parts of County	
C.T. 223	
C.T. 231	
C.T. 239	
C.T. 319.01	
C.T. 319.02	
Adams	02
County—Jefferson:	
Parts of County	
Adams Twn	
Ellisberg Twn	
Henderson Twn	
Lorraine Twn	
Rodman Twn	
Worth Twn	
Alexandria Bay	01
County—Jefferson:	
Parts of County	
Alexandria Town	
Antwerp Town	
Cape Vincent Town	
Clayton Town	
Lyme Town	
Orleans Town	
Philedelphia Town	
Teresa Town	
County—St. Lawrence	
Parts of County	
Hammond Town	
Rossie Town	
Andover	04
County—Allegany:	
Parts of County	
Almond	
West Almond	
Ward	
Wellsville	
Willing	
Independence	
Andover	
Alfred	
County—Steuben:	
Parts of County	
Hartsville	
Greenwood	
West Union	
Jasper	
Troupsburg	
Arcade	02
County—Allegany:	
Parts of County	
Centerville	
Rushford	
County—Cattaraugus:	
Parts of County	
Farmersville	
Freedom	
Machias	
Yorkshire	
County—Wyoming:	
Parts of County	
Arcade	
Eagle	
Gara	
Orangeville	
Sheldon	
Wetnersfield	
Aurora	02
County—Cayuga:	
Parts of County	
Genoa	
Ledyard	
Locke	
Moravia	
Niles	
Scipio	
Sempionious	
Springport	
Summerville	
Venice	
Baldwinville	03
County—Onondaga:	
Parts of County	
C.T. 114 (Lysander Twn.)	
C.T. 115 (Lysander Twn.)	
C.T. 116 (Baldwinville)	
C.T. 117 (Baldwinville)	
C.T. 118 (Van Buren Twn.)	
C.T. 119 (Van Buren Twn.)	
Barkersville	01
County—Fulton:	
Parts of County	
Broadalbin Twp	
County—Saratoga:	
Parts of County	
Galway Twp	
Providence Twp	
Bedford/Stuyvesant	02
County—Kings:	
Parts of County	
C.T. 201	
C.T. 229	
C.T. 231	
C.T. 233	
C.T. 235	
C.T. 237	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 259.01	
C.T. 261	
C.T. 263	
C.T. 265	
C.T. 267	
C.T. 269	
C.T. 271.01	
C.T. 273	
C.T. 275	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 285.01	
C.T. 285.02	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 295	
C.T. 297	
C.T. 299	
C.T. 301	
C.T. 303	
C.T. 307	
C.T. 309	

New York

Service Area Listing

Service area name	Degree of shortage group
C.T. 311	
C.T. 365.01	
C.T. 365.02	
C.T. 367	
C.T. 369	
C.T. 371	
C.T. 373	
C.T. 375	
C.T. 377	
C.T. 379	
C.T. 227	
C.T. 381	
C.T. 383	
C.T. 385	
C.T. 387	
Bergen	02
County—Genesee:	
Parts of County	
Bergen	
Byron	
County—Monroe:	
Parts of County	
Riga	
Blue Stores	01
County—Columbia:	
Parts of County	
Clermont Twp	
Germantown Twp	
Livingston Twp	
Boonville	01
County—Oneida:	
Parts of County	
C.T. 241	
C.T. 242	
C.T. 243.02	
C.T. 243.03	
C.T. 244	
Brooklyn (Health Area 60)	01
County—Kings:	
Parts of County	
C.T. 916	
C.T. 918	
C.T. 920	
Cato	01
County—Cayuga:	
Parts of County	
Cato	
Conquest	
Ira	
Sterling	
Victory	
Cent. Harlem (Health Area: 15, 19, 24, 85.20)	01
County—New York:	
Parts of County	
C.T. 186	
C.T. 190	
C.T. 197.02	
C.T. 200	
C.T. 201.02	
C.T. 207.02	
C.T. 209.02	
C.T. 213.02	
C.T. 216	
C.T. 217.02	
C.T. 218	
C.T. 220	
C.T. 222	
Central S.W. Bronx (ZIP Code: 10455)	01
County—Bronx:	
Parts of County	
C.T. 31	
C.T. 35	
C.T. 71	
C.T. 73	
C.T. 75	
C.T. 77	
C.T. 79	
C.T. 83	
C.T. 85	
Central Square	03
County—Oswego:	
Parts of County	
C.T. 204 (Part)	
C.T. 205 (Parish & Anmbroy Twns)	
C.T. 206 (Constantia Twn)	
C.T. 207.01 (W. Monroe Twn)	
C.T. 207.02 (Central Square)	
C.T. 207.03 (Hastings Twn)	
C.T. 208 (Petermo Twn)	
C.T. 209.02 (Part)	
Chelsea	01
County—New York:	
Parts of County	
C.T. 87	
C.T. 89	
C.T. 91	
C.T. 93	
C.T. 95	
C.T. 97	
C.T. 99	
C.T. 101	
C.T. 103	
Cherry Valley	02
County—Otsego:	
Parts of County	
Cherry Valley	
Roseboom	
Springfield	
County—Schohard:	
Parts of County	
Sharon	
Chinatown	02
County—New York:	
Parts of County	
C.T. 7	
C.T. 8 (Part)	
C.T. 9	
C.T. 13	
C.T. 15.01	
C.T. 15.02	
C.T. 16	
C.T. 21	
C.T. 25	
C.T. 27	
C.T. 29	
C.T. 31	
C.T. 33	
C.T. 39	
C.T. 41	
C.T. 43	
C.T. 45	
C.T. 47	
C.T. 49	
C.T. 51	
C.T. 53	
Coney Isl/Brighton Beach/W. Brighton	01
County—Kings:	
Parts of County	
C.T. 326	
C.T. 328	
C.T. 330	
C.T. 336	
C.T. 340	
C.T. 342	
C.T. 348.01	
C.T. 348.02	
C.T. 350	
C.T. 352	
C.T. 354	
C.T. 356	
C.T. 360.01	
C.T. 360.02	
C.T. 362	
C.T. 364	
De Ruyter	01
County—Cortland:	
Parts of County	
Cuyler Town	
County—Madison:	
Parts of County	
De Ruyter Town	
Deposit Area	03
County—Broome:	
Parts of County	
Colesville	
Sanford	
Windsor	
County—Delaware:	
Parts of County	
Deposit	
Tompkins	
East Harlem	04
County—New York:	
Parts of County	
C.T. 162	
C.T. 164	
C.T. 166	
C.T. 168	
C.T. 170	
C.T. 172.01	
C.T. 172.02	
C.T. 174.01	
C.T. 174.02	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184	
C.T. 188	
C.T. 192	
C.T. 194	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 210	
East N.Y. Section of Brooklyn	01
County—Kings:	
Parts of County	
C.T. 401	
C.T. 403	
C.T. 405	
C.T. 407	
C.T. 409	
C.T. 411	
C.T. 413	
C.T. 437	
C.T. 904	
C.T. 906	
C.T. 908	
C.T. 910	
C.T. 912	
C.T. 914	
C.T. 1040	
C.T. 1058	
C.T. 1070	
C.T. 1078	
C.T. 1100	
C.T. 1102	
C.T. 1106	
C.T. 1110	
C.T. 1112	
C.T. 1114	
C.T. 1118	
C.T. 1120	
C.T. 1122	
C.T. 1124	
C.T. 1126	
C.T. 1128	
C.T. 1130	
C.T. 1132	
C.T. 1134	
C.T. 1138	
C.T. 1140	
C.T. 1142.01	
C.T. 1142.02	
C.T. 1146	
C.T. 1148	
C.T. 1150	
C.T. 1152	
C.T. 1154	
C.T. 1156	
C.T. 1158	
C.T. 1160	
C.T. 1162	
C.T. 1164	
C.T. 1166	
C.T. 1168	
C.T. 1170	
C.T. 1172	
C.T. 1174	
C.T. 1178	
C.T. 1180	
County—Kings:	
Parts of County	
C.T. 1182	
C.T. 1184	
C.T. 1186	
C.T. 1188	
C.T. 1190	
C.T. 1192	
C.T. 1194	
C.T. 1196	
C.T. 1200	
C.T. 1202	
C.T. 1208	
C.T. 1210	

New York

Service Area Listing

Service area name	Degree of shortage group
C.T. 1214	
C.T. 1220	
Essex Co. (Parts)	02
County—Essex:	
Parts of County	
Elizabeth Twn	
Essex	
Keene	
Lewis	
Moriah	
North Hudson	
Westport	
Willsboro	
Essex/Warren Co	01
County—Essex:	
Parts of County	
Minerva	
County—Warren:	
Parts of County	
Chester	
Horicon	
Johnsburg	
Thurman	
Warrensburg	
Geneseo	02
County—Livingston:	
Parts of County	
Avon	
Caledonia	
Geneseo	
Groveland	
Leicester	
Lima	
Livonia	
York	
Gowanus/Park Slope	01
County—Kings:	
Parts of County	
C.T. 71	
C.T. 127	
C.T. 131	
C.T. 133	
Greene	04
County—Chenango:	
Parts of County	
German Twn	
Greene Twn	
McDonough Twn	
Smithville Twn	
Hamilton	03
County—Madison:	
Parts of County	
Brookfield	
Eaton	
Georgetown	
Hamilton	
Lebanon	
Madison	
County—Oneida:	
Parts of County	
Sangerfield	
Hamilton Hill/Mont Pleasant	01
County—Schenectady:	
Parts of County	
C.T. 209	
C.T. 210.02	
C.T. 211.03	
C.T. 214 through 217	
Herkimer MSA	03
County—Herkimer:	
Parts of County	
C.T. 115	
Hunts Point (Health Area)	01
County—Bronx:	
Parts of County	
C.T. 5	
C.T. 81	
C.T. 81.99	
C.T. 91	
C.T. 97	
C.T. 99	
C.T. 105	
C.T. 115.02	
Lower East Side	03
County—New York:	
Parts of County	
C.T. 2.01	
C.T. 2.02	
C.T. 6	
C.T. 10.01	
C.T. 10.02	
C.T. 12	
C.T. 14.01	
C.T. 16 (Part)	
C.T. 20.02 (Part)	
C.T. 22.01	
C.T. 24 (Part)	
C.T. 25 (Part)	
C.T. 27 (Part)	
C.T. 30.01	
C.T. 30.02 (Part)	
Lower West Side	02
County—Erie:	
Parts of County	
C.T. 68	
C.T. 71.01	
C.T. 71.02	
C.T. 72.02	
Marathon-Cincinnatus	02
County—Cortland:	
Parts of County	
Taylor Town	
Cincinnatus Town	
Willet Town	
Freetown Town	
Marathon Town	
Lapeer Town	
Harford Town	
Martin Luther King Service Area	04
County—Bronx:	
Parts of County	
C.T. 87	
C.T. 89	
C.T. 119	
C.T. 121.01	
C.T. 121.02	
C.T. 123	
C.T. 125	
C.T. 127.01	
C.T. 127.02	
C.T. 129.01	
C.T. 129.02	
C.T. 131	
C.T. 133	
C.T. 135	
C.T. 137	
C.T. 139	
C.T. 145	
C.T. 147	
C.T. 149	
C.T. 151	
C.T. 153	
C.T. 175	
C.T. 177	
C.T. 179	
C.T. 181	
C.T. 183	
C.T. 187	
C.T. 189	
C.T. 193	
C.T. 195	
C.T. 197	
C.T. 199	
C.T. 201	
C.T. 211	
C.T. 213.01	
C.T. 213.02	
C.T. 219	
C.T. 221	
C.T. 223	
Morris	04
County—Otsego:	
Parts of County	
Butternuts Twp	
Morris Twp	
Mott Haven	01
County—Bronx:	
Parts of County	
C.T. 11	
C.T. 17	
C.T. 23	
C.T. 25	
C.T. 27.01	
C.T. 27.02	
C.T. 33	
C.T. 39	
C.T. 41	
C.T. 43	
N.E. Columbia/S.E. Rensselaer	02
County—Columbia:	
Parts of County	
New Lebanon	
Austerlitz	
Canaan	
County—Rensselaer:	
Parts of County	
Berlin	
Petersburg	
Stephentown	
Northeast Bronx	01
County—Bronx:	
Parts of County	
C.T. 276	
C.T. 302	
C.T. 356	
C.T. 358	
C.T. 364	
C.T. 368	
C.T. 378	
C.T. 380	
C.T. 382	
C.T. 386	
C.T. 388	
C.T. 390	
C.T. 392	
C.T. 394	
C.T. 396	
C.T. 398	
C.T. 404	
C.T. 406	
C.T. 408	
C.T. 458	
C.T. 460	
C.T. 462.02	
C.T. 484	
C.T. 502	
C.T. 504	
Northern Rockland	01
County—Rockland:	
Parts of County	
C.T. 101 through 107	
Oak Orchard	04
County—Orleans:	
Parts of County	
Allison	
Carlton	
Gaines	
Albion	
Barre	
Clarendon	
Murray	
Kendall	
Peekskill	04
County—Westchester:	
Parts of County	
C.T. 141 through 145	
Pulaski Primary Care service area	04
County—Oswego:	
Parts of County	
Albion	
Boylston	
Mexico (Part)	
Orwell	
Redfield	
Richland	
Sandy Creek	
Williamstown	
Randolph-Ellicottville	04
County—Cattaraugus:	
Parts of County	
Cold Spring Twn	
Conewango Twn	
Ellicottville Twn	
Mansfield Twn	
Napoli Twn	
New Albion Twn	
Randolph Twn	
South Valley Twn	
Little Valley Twn	
Rockaway Section of Queens	04
County—Queens:	
Parts of County	
C.T. 916.01	
C.T. 916.02	
C.T. 916.99	
C.T. 918	
C.T. 922	

New York

Service Area Listing

Service area name	Degree of shortage group
C.T. 928	
C.T. 934	
C.T. 938	
C.T. 942.01	
C.T. 942.02	
C.T. 942.03	
C.T. 952	
C.T. 962	
C.T. 964	
C.T. 972	
C.T. 992	
C.T. 998	
C.T. 1008	
C.T. 1010	
C.T. 1032	
S. Hampton (S. Fork)/E. Hampton	03
County—Suffolk:	
Parts of County	
C.T. 1904	
C.T. 1905	
C.T. 1906	
C.T. 1907.01	
C.T. 1907.02	
C.T. 1908	
C.T. 2009	
C.T. 2010	
S.E. Otsego Co.	02
County—Otsego:	
Parts of County	
Decatur	
Maryland	
W. Ford	
Worcester	
S.W. Bronx (Zip Code: 10451)	01
County—Bronx:	
Parts of County	
C.T. 47	
C.T. 49	
C.T. 53	
C.T. 57	
C.T. 59	
C.T. 61	
C.T. 65	
C.T. 67	
C.T. 69	
C.T. 141	
C.T. 143	
C.T. 173	
C.T. 181	
C.T. 183	
C.T. 187	
C.T. 195	
S.W. Brooklyn (health area 41)	01
County—Kings:	
Parts of County	
C.T. 55	
C.T. 57	
C.T. 59	
C.T. 85	
Sherburne	02
County—Chenango:	
Parts of County	
Columbus Twn	
Otselic Twn	
Sherburne Twn	
Smyra Twn	
Sodus	04
County—Wayne:	
Parts of County	
C.T. 201 (Ontario)	
C.T. 204 (Williamson)	
C.T. 208 (Sodus)	
C.T. 209 (Sodus)	
C.T. 215 (Huron-Wolcott)	
C.T. 216 (Rose-Butler)	
Soundview Area	02
County—Bronx:	
Parts of County	
C.T. 2	
C.T. 4	
C.T. 16	
C.T. 20	
C.T. 24	
C.T. 28	
C.T. 36	
C.T. 38	
C.T. 40.01	
C.T. 40.02	
C.T. 44	
C.T. 46	
C.T. 48	
C.T. 50	
C.T. 52	
C.T. 54	
C.T. 56	
C.T. 58	
C.T. 60	
C.T. 62	
C.T. 64	
C.T. 66	
C.T. 68	
C.T. 70	
C.T. 72	
C.T. 74	
C.T. 78	
C.T. 84	
C.T. 86	
C.T. 98	
C.T. 102	
South Bronx-Fort Apache	03
County—Bronx:	
Parts of County	
C.T. 155	
C.T. 161	
C.T. 359	
C.T. 361	
C.T. 363	
C.T. 365.01	
C.T. 365.02	
C.T. 367	
C.T. 369.01	
C.T. 369.02	
C.T. 371	
C.T. 373	
South Jamaica	02
South Jamaica	01
County—Queens:	
Parts of County	
C.T. 44.01	
C.T. 50	
C.T. 54	
C.T. 58	
C.T. 86	
C.T. 88	
C.T. 94	
C.T. 96	
C.T. 100	
C.T. 102	
C.T. 104	
C.T. 166	
C.T. 168	
C.T. 170	
C.T. 172	
C.T. 174	
C.T. 176	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184.01	
C.T. 184.02	
C.T. 186	
C.T. 188	
C.T. 190	
C.T. 192	
C.T. 194.01	
C.T. 194.02	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 208	
C.T. 212	
C.T. 244	
C.T. 246	
C.T. 248	
C.T. 250	
C.T. 252	
C.T. 258	
C.T. 260	
C.T. 262	
C.T. 264	
C.T. 266	
C.T. 270	
C.T. 274	
C.T. 276	
C.T. 278	
C.T. 280	
C.T. 282	
C.T. 284	
C.T. 288	
C.T. 292	
C.T. 304	
C.T. 304.01	
C.T. 320	
C.T. 328	
C.T. 330	
C.T. 334.01	
C.T. 334.02	
C.T. 352	
C.T. 356	
C.T. 366	
C.T. 368	
C.T. 376	
C.T. 384	
C.T. 394	
C.T. 398	
C.T. 400	
C.T. 402	
C.T. 404	
C.T. 410	
C.T. 414	
C.T. 420	
C.T. 422	
C.T. 424	
C.T. 426	
C.T. 432	
C.T. 434	
C.T. 440	
C.T. 442	
C.T. 502.01	
C.T. 502.02	
C.T. 504	
C.T. 506	
C.T. 508	
C.T. 510	
C.T. 512	
C.T. 516	
C.T. 518	
C.T. 520	
C.T. 522	
C.T. 524	
C.T. 526	
C.T. 528	
C.T. 530	
C.T. 532	
C.T. 534	
C.T. 536	
C.T. 538	
C.T. 540	
C.T. 194.02	
C.T. 568	
C.T. 580	
C.T. 588	
C.T. 590	
C.T. 592	
C.T. 594	
C.T. 596	
C.T. 598	
C.T. 600	
C.T. 602	
C.T. 604	
C.T. 606	
C.T. 608	
C.T. 610	
C.T. 612	
C.T. 614	
C.T. 616.01	
C.T. 618	
C.T. 620	
C.T. 50	
C.T. 624	
C.T. 626	
C.T. 630	
C.T. 632	
C.T. 646	
C.T. 650	
C.T. 680	
C.T. 682	
C.T. 690	
C.T. 694	
C.T. 766	
C.T. 768	
C.T. 788	
C.T. 790	
C.T. 792	
C.T. 814	

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New York

Service Area Listing

Service area name	Degree of shortage group
C.T. 818	
C.T. 838	
C.T. 840	
C.T. 846	
C.T. 846.01	
C.T. 846.02	
C.T. 864	
C.T. 878	
South Seneca	02
County—Seneca:	
Parts of County	
Covert	
Lodi	
Ovid	
South Williamsburg	04
County—Kings:	
Parts of County	
C.T. 507	
C.T. 509	
C.T. 525	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
Southern Onondaga County	02
County—Onondaga:	
Parts of County	
Lafayette	
Fabius	
Pompey	
Tully	
Otisco	
Onondaga Indian Reservation	
Southern St. Lawrence County	02
County—St. Lawrence:	
Parts of County	
Clare Town	
Clifton Town	
Edwards Town	
Fine Town	
Pitcairn Town	
Russell Town	
Southold/Shelter Island	03
County—Suffolk:	
Parts of County	
Shelter Island Town	
Southold Town	
Tremont	01
County—Bronx:	
Parts of County	
C.T. 163	
C.T. 165	
C.T. 167	
C.T. 169	
C.T. 171	
C.T. 205	
C.T. 213.01	
C.T. 215.01	
C.T. 215.02	
C.T. 217.01	
C.T. 217.02	
C.T. 223	
C.T. 225	
C.T. 227.01	
C.T. 227.02	
C.T. 227.03	
C.T. 229.01	
C.T. 229.02	
C.T. 231	
C.T. 233.01	
C.T. 233.02	
C.T. 235.01	
C.T. 237.01	
C.T. 237.02	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 334	
C.T. 373.03	
C.T. 375.01	
C.T. 375.02	
C.T. 377	
C.T. 379	
C.T. 381	
C.T. 383	
C.T. 385	
C.T. 387	
C.T. 389	
C.T. 391	
C.T. 393	
C.T. 397	
Tupper Lake	01
County—Franklin:	
Parts of County	
Altamont Town	
County—St. Lawrence:	
Parts of County	
Piercefield Town	
Warsaw	04
County—Wyoming:	
Parts of County	
Attica	
Bennington	
Castile	
Covington	
Gainsville	
Genesse Falls	
Middleburg	
Orangeville	
Terry	
Pike	
Sheldon	
Warsaw	
Wethersfield	
Warwick	02
County—Orange:	
Parts of County	
Florida	
Greenwood Lake	
Pine Island	
Warwick	
West Central Bronx	02
County—Bronx:	
Parts of County	
C.T. 237.02	
C.T. 253	
C.T. 263	
C.T. 265	
C.T. 267	
C.T. 269	
C.T. 273	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 383	
C.T. 385	
C.T. 387	
C.T. 389	
C.T. 391	
C.T. 393	
C.T. 399.01	
C.T. 399.02	
C.T. 401	
C.T. 403.01	
C.T. 403.02	
C.T. 405	
C.T. 407.01	
C.T. 407.02	
C.T. 411	
C.T. 413	
C.T. 415	
West Central Harlem	03
County—New York:	
Parts of County	
C.T. 208	
C.T. 209.01	
C.T. 211	
C.T. 212	
C.T. 213.01	
C.T. 214	
C.T. 217.01	
C.T. 219	
C.T. 221.01	
C.T. 221.02	
C.T. 223	
C.T. 224	
C.T. 225	
C.T. 226	
C.T. 227.01	
C.T. 227.02	
C.T. 228	
C.T. 229	
C.T. 230	
C.T. 231.01	
C.T. 231.02	
C.T. 232	
C.T. 233	
C.T. 234	
C.T. 235.01	
C.T. 235.02	
C.T. 236	
C.T. 237	
C.T. 239	
C.T. 241	
C.T. 243.02	
West Winfield	01
County—Herkimer:	
Parts of County	
C.T. 101	
C.T. 102.01	
C.T. 102.02	
Bridgewater Town (Parts)	
Western Greene Co.	04
County—Greene:	
Parts of County	
Ashland	
Halcott	
Hunter	
Jewett	
Lexington	
Prattsville	
Windham	
Western Montgomery Co	01
County—Montgomery:	
Parts of County	
Canajoharie	
Minden	
Palatine	
Root	
St. Johnsville	
Western Otsego	01
County—Otsego:	
Parts of County	
Burlington Division	
Edmeston Division	
New Lisbon Division	
Pittsfield Division	
Plainfield Division	
Westside or Rochester	03
County—Monroe:	
Parts of County	
C.T. 1 though 4	
County—Monroe:	
Parts of County	
C.T. 16 through 27	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 62 through 75	
C.T. 86 (Part)	
C.T. 87	
C.T. 88	

New York

Population Group Listing

Population group name	Degree of shortage group
Ellicott neighborhood of Buffalo	02
County—Erie:	
Parts of County	
C.T. 12 (Med. indigent)	
C.T. 13 (Med. indigent)	
C.T. 14 (Med. indigent)	
C.T. 15 (Med. indigent)	
C.T. 25 (Med. indigent)	
C.T. 26 (Med. indigent)	
C.T. 27.01 (Med. indigent)	
C.T. 31 (Med. indigent)	
Homeless youth of Times Square Area	02
County—New York:	
Parts of County	

New York

Population Group Listing

Population group name	Degree of shortage group
C.T. 113	
C.T. 115	
C.T. 117	
C.T. 119	
C.T. 121	
C.T. 125	
C.T. 127	
C.T. 129	
Med. Ind. (Mt. Vernon)	04
County—Westchester:	
Parts of County	
Mt. Vernon	
Syracuse CHC Target Area	01
County—Onondaga	
Parts of County	
C.T. 30	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 53	

New York

Facility Listing

Facility	Degree of shortage group
Attica Correctional Facility	02
County—Wyoming:	
Parts of County	
Attica Correctional Facility	
Chenango Mem. Hosp. Out-Pat. Dept.	02
County—Chenango:	
Parts of County	
Chenango Mem. Hosp. Out-Pat. Dept.	
Green Haven Corr. Facility	01
County—Duchess:	
Parts of County	
Green Haven Corr. Facility	
NYC Corr. Fac./Riker's Island	02
County—Bronx:	
Parts of County	
C.T. 1	

North Carolina

County Listing

County name	Degree of shortage group
Alexander	02
Alleghany	04
Anson	02
Ashe	04
Beaufort:	
Service area, Chocowinity/Richland	02
Bertie	02
Bladen	01
Buncombe:	
Service area, Swannanoa Valley	04
Service area, Bat Cave service area	01
Caldwell	04
Camden	01
Caswell	01
Chatham	04
Clay	02
Columbus	03
Cumberland	01
Currituck	01
Dare	01
Davie	03
Duplin	03
Edgecombe	02
Franklin	03
Gaston	04
Gates	01
Graham	01
Granville	04
Greene	01
Harnett	04
Henderson:	
Service area, Bat Cave service area	01
Hoke	01
Hyde	01
Jackson	04
Johnston:	
Service area, Benson	02
McDowell	03
Macon	04
Madison	04
Mecklenburg:	
Service area, central Charlotte	03
Mitchell	04
Montgomery	04
Northampton	03
Onslow	03
Orange:	
Service area, Orange (N. portion)	02
Pender	01
Perquimans	02
Person	02
Randolph	03
Richmond	03
Robeson:	
Population group, Maxton (pov. pop.)	01
Service area, Rowland service area	01
Population group, Pembroke (med. ind. pop.)	01
Sampson	04
Stokes:	
Service area, Westfield	01
Surry:	
Service area, Elkin	04
Service area, Westfield	01
Swain	02
Transylvania:	
Service area, Balsam Grove	01
Tyrrell	01
Union	03
Warren	02
Washington	04
Wilkes	03
Yadkin:	
Service area, Elkin	04
Yancy	03

North Carolina

Service Area Listing

Service area name	Degree of shortage group
Balsam Grove	01
County—Transylvania:	
Parts of County	
Gloucester	
Hog Back	
Bat Cave Service Area	01
County—Buncombe:	
Parts of County	
E.D. 204	
E.D. 205	
E.D. 206	
E.D. 207	
County—Henderson:	
Parts of County	
E.D. 1	
E.D. 2	
E.D. 3	
E.D. 4	
E.D. 5	
E.D. 7	
Benson	02
County—Johnston:	
Parts of County	
Banner Twp	
Elevation Twp	
Meadow Twp	
Pleasant Grove Twp	
Central Charlotte	03
County—Mecklenburg:	
Parts of County	
C.T. 1 though 8	
C.T. 25	
C.T. 26	
C.T. 35	
C.T. 36	
C.T. 37	
C.T. 49	
C.T. 52	
Chocowinity/Richland	02
County—Beaufort:	
Parts of County	
Chocowinity Twp	
Richland Twp	
Elkin	04
County—Surry:	
Partss of County	
Bryon	
Dobson	
Elkin	
Marsh	
Rockford	
County—Yadkin:	
Parts of County	
Boonville	
Knobs	
Orange (n. portion)	02
County—Orange:	
Parts of County	
Cedar Grove	
Cheeks	
End	
Hills Boro.	
Little River	
Rowland Service Area	01
County—Robeson:	
Parts of County	
Alfordsville Twp	
Gaddy Twp	
Rowland Twp	
Thompson Twp	
Union Twp	
Swannanda Valley	04
County—Buncombe:	
Parts of County	
Black Mountain	
Swannanda	
Westfield	01
County—Stokes:	
Parts of County	
Quaker Gap	
County—Surry:	
Parts of County	
Westfield	
South Westfield	

North Caroline

Population Group Listing

Service area name	Degree of shortage group
Maxton (pov. pop.)	01
County—Robeson:	
Parts of County	
Maxton	
Stewartsville	
Pembroke (med. ind. pop.)	01
County—Robeson:	
Parts of County	
Pembroke (med. ind. pop.)	

North Dakaota

County Listing

County name	Degree of shortage group
Benson	02
Billings	01
Bowman	03
Burke	03
Dunn	01
Eddy	04
Emmons	01
Foster	01
Grant	01
Griggs	03
Hettinger	01
Kidder	01
La Moure	04
Logan	03
McHenry	03
McIntosh	01

V 45 5 AG 26 80 UMI

North Dakota

County Listing

County name	Degree of shortage group
McKenzie	01
Mercer:	
Service area, Mercer/Oliver	02
Morton	03
Oliver:	
Service area, Mercer/Oliver	02
Pembina:	
Service area, Park River	02
Ranson:	
Service area, Libson Sargent	03
Service area, Lisbon	03
Sheridan	01
Sioux	01
Slope	01
Steele	04
Walsh:	
Service area, Park River	02
Ward:	
Service area, Kenmare	01
Wells	04

North Dakota

Service Area Listing

Service area name	Degree of shortage group
Kenmare	01
County—Ward:	
Parts of County	
Kenmare Div.	
Des Lacs Valley Div.	
Lisbon	03
County—Ransom	
County—Sargent:	
Mercer/Oliver	02
County—Mercer	
County—Oliver	
Park River	02
County—Pembina:	
Parts of County	
Drayton City	
County—Walsh	

Ohio

County Listing

County name	Degree of shortage group
Adams	04
Allen:	
Service area, Putnam	04
Brown	02
Butler:	
Service area, Hamilton Target Area	03
Service area, Middletown Target Area	04
Carroll	02
Clark:	
Service area, Rocking Horse	02
Clermont	03
Coshocton	04
Cuyahoga:	
Service area, Corlett/Lee Miles/Mt. Pleas	02
Service area, Area 1—Cleveland	02
Service area, Glenville	01
Service area, Collingwood	03
Service area, Jefferson/Puritas-Bellaire	03
Darke	04
Hamilton:	
Service area, East End (Cincinnati)	02
Service area, Winton Hills (Cincinnati)	01
Service area, Price Hill/Fairmont (Cincinnati)	01
Service area, Lincoln Heights (Cincinnati)	02
Harrison	03
Highland:	
Service area, Greenfield	01
Service area, Chillocothe	02
Hocking:	
Service area, Chillocothe	02
Holmes	04
Jackson	04
Lawrence	03
Lucas:	
Service area, Western Lucas Co.	02
Service area, Cordelia-Martin	04
Service area, Downtown East Side Toledo	02
Mahoning:	
Service area, Eastside (Youngstown)	02
Medina:	
Service area, Putnam	04
Meigs	02
Monroe	02
Montgomery:	
Service area, Dayton	03
Morgan	02
Morrow	02
Paulding	04
Perry	02
Pickaway:	
Service area, Chillocothe	02
Pike:	
Service area, Chillocothe	02
Putnam:	
Service area, Putnam	04
Ross:	
Service area, Chillocothe	02
Sandusky	03
Tuscaraws	04
Vinton	01
Warren	02

Ohio

Service Area Listing

Service area name	Degree of shortage group
Area 1—Cleveland	02
County—Cuyahoga:	
Parts of County	
C.T. 1044 through 1049	
C.T. 1051 through 1056	
C.T. 1079	
C.T. 1087	
C.T. 1088	
C.T. 1089	
C.T. 1091 through 1099	
C.T. 1101	
C.T. 1102	
C.T. 1103	
C.T. 1129	
C.T. 1131 through 1139	
C.T. 1141 through 1148	
C.T. 1029	
C.T. 1031 through 1039	
C.T. 1041	
C.T. 1042	
C.T. 1043	
C.T. 1012	
C.T. 1015	
C.T. 1016	
C.T. 1017	
C.T. 1018	
C.T. 1019	
C.T. 1022 through 1028	
Chillocothe	02
County—Highland:	
Parts of County	
Madison Twnship	
County—Hocking	
Parts of County	
Good Hope Twnship	
Laurel Twnship	
Benton Twnship	
Perry Twnship	
Salt Creek Twnship	
County—Pickaway	
Parts of County	
Perry Twnship	
Deer Creek Twnship	
Wayne Twnship	
Pickaway Twnship	
Slat Creek Twnship	
County—Pike	
County—Ross	
Collingwood	
County—Cuyahoga:	03
Parts of County	
C.T. 1169	
C.T. 1171 through 1179	
C.T. 1261	
Cordelia-Martin	04
County—Lucas:	
Parts of County	
C.T. 14	
C.T. 22	
C.T. 23	
C.T. 24.02	
C.T. 26	
C.T. 28	
C.T. 32	
C.T. 33	
C.T. 34	
C.T. 36	
C.T. 37	
Corlett/Lee Miles/Mt. Pleas	02
County—Cuyahoga:	
Parts of County	
C.T. 1156	
C.T. 1198	
C.T. 1199	
C.T. 1201 through 1209	
C.T. 1211 through 1219	
C.T. 1221	
C.T. 1222	
C.T. 1223	
Dayton	03
County—Montgomery:	
Parts of County	
C.T. 19 through 26	
C.T. 28	
C.T. 29	
Downtown East Side Toledo	02
County—Lucas:	
Parts of County	
C.T. 48	
C.T. 49	
C.T. 51	
C.T. 52	
East End (Cincinnati)	02
County—Hamilton:	
Parts of County	
C.T. 13	
C.T. 43	
C.T. 44	
C.T. 47	
Eastside (Youngstown)	02
County—Mahoning:	
Parts of County	
C.T. 8001 through 8008	
Glenville	01
County—Cuyahoga:	
Parts of County	
C.T. 1163 through 1168	
C.T. 1181 through 1185	
C.T. 1114	
C.T. 1161	
C.T. 1162	
Greenfield	01
County—Highland:	
Parts of County	
Paint Twp	
Madison Twp	
Fairfield Twp	
Hamilton Target Area	03
County—Butler:	
Parts of County	
C.T. 2	
C.T. 3	
C.T. 4	
Jefferson/Puritas-Bellaire	03
County—Cuyahoga:	
Parts of County	
C.T. 1014 (Jefferson)	
C.T. 1021 (Jefferson)	
C.T. 1233 (Jefferson)	
C.T. 1235 (Jefferson)	
C.T. 1239 (Jefferson)	
C.T. 1241 (Jefferson)	
C.T. 1242 (Puritas-Bellaire)	
C.T. 1243 (Puritas-Bellaire)	
C.T. 1244 (Puritas-Bellaire)	
C.T. 1245 (Puritas-Bellaire)	
C.T. 1246 (Puritas-Bellaire)	
Lincoln Heights (Cincinnati)	02
County—Hamilton:	
Parts of County	
C.T. 60 (Hartwell)	
C.T. 225 (Woodlawn)	

Ohio

Service Area Listing

Service area name	Degree of shortage group
C.T. 227 (Lincoln Heights)	
C.T. 228 (Lockland)	
C.T. 229 (Arlington Heights)	
C.T. 231 (Evandale)	
Middletown Target Area	04
County—Butler:	
Parts of County	
C.T. 128 through 132	
C.T. 140 (Part)	
Price Hill/Fairmont (Cincinnati)	01
County—Hamilton:	
Parts of County	
C.T. 87 (Fairmont—South)	
C.T. 89 (Fairmont—South)	
C.T. 90 (Price Hill—East)	
C.T. 91 (Price Hill—Tower)	
C.T. 93 (Price Hill—East)	
C.T. 96 (Price Hill—East)	
C.T. 103 (Riverside—Selamsville)	
Putnam	04
County—Allen:	
Parts of County	
C.T. 102 (Richland Twp)	
County—Medina:	
Parts of County	
Spencer	
County—Putnam:	
Parts of County	
Putnam	
Rocking Horse	02
County—Clark:	
Parts of County	
C.T. 1 through 5	
C.T. 8	
C.T. 9.01	
C.T. 9.02	
C.T. 10	
C.T. 12	
C.T. 17	
Western Lucas Co	02
County—Lucas:	
Parts of County	
C.T. 87	
C.T. 88	
C.T. 89.01	
C.T. 90 (Part)	
C.T. 91	
C.T. 93 through 96	
Winton Hills (Cincinnati)	01
County—Hamilton:	
Parts of County	
C.T. 73 (Winton Hills)	
C.T. 80 (Winton Hills)	
C.T. 257 (Elmwood Place)	

Oklahoma

County Listing

County name	Degree of shortage group
Adair	02
Alfalfa	04
Blaine	
Service area, Western Oklahoma	03
Caddo	03
Canadian	04
Choctaw	02
Comanche	03
Custer:	
Service area, Western Oklahoma	03
Delaware	02
Dewey:	
Service area, Western Oklahoma	03
Ellis:	
Service area, Western Oklahoma	03
Grant	04
Harmon	02
Jackson	01
Jefferson	03
Johnston	02
Latimer:	
Service area, Clayton	02
Le Flore:	
Service area, Clayton	02
Logan	01
McClain	02

Oklahoma

County Listing

County name	Degree of shortage group
McCurtain	03
McIntosh	03
Mayes:	
Service area, Chelsea/New Alluwe	01
Nowata:	
Service area, Chelsea/New Alluwe	01
Okfuskee	04
Oklahoma:	
Service area, Del City	03
Service area, Oklahoma	02
Osage	01
Pushmataha:	
Service area, Clayton	02
Roger Mills:	
Service area, Western Oklahoma	03
Rogers:	
Service area, Chelsea/New Alluwe	01
Seminole	03
Sequoyah	03
Tillman	01
Tulsa:	
Service area, West Central Tulsa	01
Service area, Northeast Tulsa	03
Service area, North Central Tulsa	01
Service area, West Tulsa	03
Washita	03
Woods	03
Woodward:	
Service area, Western Oklahoma	03

Oklahoma

Service Area Listing

Service area name	Degree of shortage group
Chelsea/New Alluwe	01
County—Mayes:	
Parts of County	
Adair (part) E.D.12	
County—Nowata:	
Parts of County	
New Alluwe (part) E.D. 14 and 15	
County—Rogers:	
Parts of County	
Chelsea E.D. 1, 2, 3, 4	
Clayton	02
County—Latimer	
County—Le Flore:	
Parts of County	
E.D. 37-38 (Heavener)	
E.D. 46	
E.D. 47	
E.D. 48-49 (Talihina)	
E.D. 50	
E.D. 51	
E.D. 52	
County—Pushmataha	
Parts of County	
No. Pushmataha Div.	
Del City	03
County—Oklahoma:	
Parts of County	
C.T. 1078.01 through 1078.06	
North Central Tulsa	01
County—Tulsa:	
Parts of County	
C.T. 2 through 15	
C.T. 57	
C.T. 62	
C.T. 79	
C.T. 80	
C.T. 91.01	
C.T. 91.02	
C.T. 91.03	
Northeast Tulsa	03
County—Tulsa:	
Parts of County	
C.T. 1	
C.T. 16	
C.T. 59	
C.T. 60	
C.T. 61	
C.T. 81	
C.T. 82	
Oklahoma	02
County—Oklahoma:	
Parts of County	
C.T. 1037 through 1040	
C.T. 1047 through 1049	
C.T. 1053	
C.T. 1054	
C.T. 1072	
C.T. 1073	
West Central Tulsa	01
County—Tulsa:	
Parts of County	
C.T. 26 through 30	
C.T. 88	
West Tulsa	03
County—Tulsa:	
Parts of County	
C.T. 46 through 49	
C.T. 63.01	
C.T. 63.02	
C.T. 64.01	
C.T. 64.02	
C.T. 65.01	
C.T. 65.02	
C.T. 66	
C.T. 67.01	
Western Oklahoma	03
County—Blaine:	
Parts of County	
E.D. 4, 5, 7	
County—Custer:	
Parts of County	
E.D. 6, 7	
County—Dewey	
County—Ellis	
County—Roger Mills	
County—Woodward:	
Parts of County	
E.D. 14, 15, 18	
County—Lipscomb (Texas):	
Parts of County	
Higgins CCD	

Oregon

County Listing

County name	Degree [illegible] shortage group
Baker:	
Service area, Halfway	01
Benton:	
Service area, West Benton	01
Service area, Monroe Medical Service Area	01
Clackamas:	
Service area, Estacada	04
Population group, Woodburn-Marion Migrant Area	01
Clatsop:	
Service area, Seaside Area	03
Columbia	04
Coos:	
Service area, Powers	01
Service area, Reedsport	03
Curry:	
Service area, Powers	01
Deschutes:	
Service area, La Pine	02
Douglas:	
Service area, Reedsport	03
Gilliam:	
Service area, Tri-County	02
Jackson:	
Service area, Jackson—NE Section	02
Service area, Eagle Point Medical Service Area	01
Service area, Rogue River-Gold Hill	02
Service area, Applegate-Williams	01
Josephine:	
Service area, Cave Junction	01
Service area, Applegate-Williams	01
Klamath:	
Service area, Bly	01
Service area, Chilloquin	01
Service area, La Pine	02
Lake:	
Service area, La Pine	02
Lane:	
Service area, Reedsport	03
Service area, McKenzie	01

Oregon

County Listing

County name	Degree of shortage group
Lincoln:	
Service area, West Benton	01
Linn:	
Service area, Harrisburg	01
Service area, Sweet Home	01
Linn:	
Service area, Brownville	01
Malheur:	
Population group, Treasure Valley Migrant Area #2	01
Service area, Nyssa	03
Service area, Jordan Valley	01
Marion:	
Service area, Wooburn	03
Service area, Detroit-Idanha Med	01
Service area, West Salem	01
Population group, Woodburn-Marion Migrant Area	01
Morrow:	
Service area, Tri-County	02
Multnomah:	
Service area, Northeast Portland	01
Polk:	
Service area, Willamina	01
Population group, Woodburn-Marion Migrant Area	01
Union:	
Service area, Cone/Union	01
Service area, Union	01
Wallowa:	
Service area, Union	01
Washington:	
Population group, Washington County Migrants	04
Wheeler:	
Service area, Tri-County	02
Yamill:	
Service area, Willamina	01
Population group, Woodburn-Marion Migrant Area	01

Oregon

Service Area Listing

Service area name	Degree of shortage group
Applegate-Williams	01
County—Jackson:	
Parts of County	
Applegate	
County—Josephine:	
Parts of County	
Williams	
Bly	01
County—Klamath:	
Parts of County	
Langell CCD	
Brownville	01
County—Linn:	
Parts of County	
Brownville CCD	
Cave Junction	01
County—Josephine:	
Parts of County	
Cave Junction CCD	
Chiloquin	01
County—Klamath:	
Parts of County	
Chiloquin CCD	
Cone/Union	01
County—Union:	
Parts of County	
Cone Div.	
Union Div.	
Detroit-Idanha Med	01
County—Marion:	
Parts of County	
Breitenbush	
Detroit	
Forks	
Idanha	
Marion	
Eagle Point Medical Service Area	01
County—Jackson:	
Parts of County	
Eagle Point	
Estacada	04
County—Clackamas:	
Parts of County	
Highland CCD	
Mt. Hood CCD	
Estacada CCD	
Halfway	01
County—Baker:	
Parts of County	
Halfway CCD	
Eagle Valley CCD	
Harrisburg	01
County—Linn:	
Parts of County	
Harrisburg CCD	
Jackson—NE Section	02
County—Jackson:	
Parts of County	
Prospect CCD	
Shady Cove CCD	
Butte Falls CCD	
Jordan Valley	01
County—Malheur:	
Parts of County	
Jordan CCD	
La Pine	02
County—Deschutes:	
Parts of County	
Sisters-Mulligan CCD South of Sunriver	
County—Klamath:	
Parts of County	
Crescent Lake CCD	
County—Lake:	
Parts of County	
Silver Lake-Ft Rock CCD	
McKenzie	01
County—Lane:	
Parts of County	
C.T. 1 (McKenzie)	
Monroe Medical Service Area	01
County—Benton:	
Parts of County	
Monroe	
Northeast Portland	01
County—Multnomah:	
Parts of County	
C.T. 33.01	
C.T. 33.02	
C.T. 34.01	
C.T. 34.02	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 37.01	
C.T. 37.02	
C.T. 38.01	
C.T. 38.02	
C.T. 38.03	
C.T. 39.01	
C.T. 39.02	
C.T. 40.01	
C.T. 40.02	
Nyssa	03
County—Canyon-Idaho:	
Parts of County	
Parma Div.	
Wilder Div.	
Notus Div.	
County—Malheur:	
Parts of County	
Adrian Div.	
Nyssa Div.	
Owyhee Div.	
Powers	01
County—Coos:	
Parts of County	
Powers CCD	
County—Curry:	
Parts of County	
Agness	
Reedsport	03
County—Coos:	
Parts of County	
N. Part of No. Bayside CCD	
County—Douglas:	
Parts of County	
Reedsport CCD	
County—Lane:	
Parts of County	
C.T. 7 (So. Part of S. Siuslaw Div)	
Rogue River-Gold Hill	02
County—Jackson:	
Parts of County	
Evans Valley CCD	
Foots Creek CCD	
Seaside Area	03
County—Clatsop:	
Parts of County	
Clatsop Plains CCD	
Lewis and Clark CCD	
Seaside Rural CCD	
Seaside CCD	
Sweet Home	01
County—Linn:	
Parts of County	
Sweet Home CCD	
South Sweet Home CCD	
West Sweet Home CCD	
North Sweet Home CCD	
Cascadia CCD:	
Tri-County	02
County—Gilliam	
County—Morrow	
County—Wheeler	
Union	01
County—Union:	
Parts of County	
Elgin CCD	
County—Wallowa:	
Parts of County	
Town of Minam in Wallowa CCD	
West Benton	01
County—Benton:	
Parts of County	
Blodgett CCD	
Alsea CCD	
Philomath CCD	
County—Lincoln:	
Parts of County	
Eddyville CCD	
West Salem	01
County—Marion:	
Parts of County	
C.T. 51	
C.T. 52	
Willamina	01
County—Polk:	
Parts of County	
C.T. 204 (Willamina Division)	
County—Yamhill:	
Parts of County	
Willamina CCD	
Woodburn	03
County—Marion:	
Parts of County	
C.T. 101 (St. Paul Division)	
C.T. 102 (Hubbard Div)	
C.T. 103 (Woodburn & Gervais Divisions)	

Oregon

Population Group Listing

Population Group Name	Degree of Shortage group
Washington County Migrants	04
County—Washington	
Woodburn-Marion Migrant Area	01
County—Clackamas	
County—Marion	
County—Polk	
County—Yamhill	

Pennsylvania

County Listing

County name	Degree of shortage group
Adams:	
Service area, North Adams	03
Allegheny:	
Service area, Arlington Heights/St. Clair	01
Service area, Hill District	01

Pennsylvania

County Listing

County name	Degree of shortage group
Service area, Homewood-Brushton	04
Service area, McKees Rocks-Stowe	01
Armstrong:	
Service area, Armstrong-Clarion	01
Service area, Dayton Rural Valley MSA	01
Service area, Kiski Valley	02
Service area, Punxsutawney	02
Bedford:	
Service area, Hyndman	01
Butler:	
Service area, Butler-NE Portion	02
Cambria:	
Service area, North Cambria	02
Cameron:	
Service area, Austin-Emporium	02
Carbon:	
Service area, Kidder	01
Centre:	
Service area, Snow Shoe	02
Service area, Penns Valley	04
Service area, Bellafonte/Howard	03
Chester:	
Service area, South Western Chester	03
Clarion:	
Service area, Forest-Clarion	01
Service area, Armstrong-Clarion	01
Clearfield:	
Service area, Snow Shoe	02
Service area, S. Central Clearfield Co.	03
Clinton:	
Service area, Renovo	02
Service area, Bellafonte/Howard	03
Columbia:	
Service area, Benton-Millville	04
Crawford:	
Service area, East Crawford County	01
Dauphin:	
Service area, Williamstown	01
Delaware:	
Service area, City of Chester	03
Erie:	
Service area, Southern Erie	02
Service area, North East Erie	01
Fayette:	
Service area, Markleysburg	01
Service area, Greensboro	01
Forest:	
Service area, Forest-Clarion	01
Franklin:	
Service area, Valleys Community MSA	01
Fulton	01
Greene.	
Service area, Greensboro	01
Service area, West Greene	01
Huntingdon	03
Indiana:	
Service area, Indiana-N Portion	01
Service area, Punxsutawney	02
Jefferson:	
Service area, Punxsutawney	02
Juniata:	
Service area, Juniata County Service Area	03
Service area, Millerstown	01
Service area, Mt. Pleasant Mills-Middleburg	04
Lackawanna:	
Service area, Moscow	02
Lancaster:	
Service area, Cornwall	01
Population Group, S.E. Lancaster City	02
Service area, Welsh Mountain MSA	01
Lebanon:	
Service area, Cornwall	01
Service area, Northern Lebanon Co.	01
Luzerne:	
Service area, Kidder	01
Service area, Benton-Millville	04
Service area, Exeter	01
Service area, Pittston	03
Service area, Mountaintop	02
Service area, Freeland	03
Lycoming:	
Service area, Northern Lycoming	01
Service area, Benton-Millville	04
McKean:	
Service area, Shinglehouse	01
Service area, Central McKean County	02
Population Group, Low Income Pop. of Sharon-Farrell	02
Mifflin:	
Service area, Big Valley	04
Monroe:	
Service area, Kidder	01
Northumberland:	
Service area, Herndon-Mandata	02
Perry:	
Service area, Millerstown	01
Service area, Western Perry County	03
Philadelphia:	
Service area, North Philadelphia	03
Service area, Covenant House Area	01
Service area, South Philadelphia	04
Pike	04
Potter:	
Service area, Austin-Emporium	02
Service area, Galeton	04
Service area, Shinglehouse	01
Schuylkill:	
Service area, Shenandoah/Mahoning City Area	04
Service area, Herndon-Mandata	02
Service area, Tremont/Pine Grove	03
Snyder:	
Service area, Mt. Pleasant Mills-Middleburg	04
Somerset:	
Service area, Hyndman	01
Service area, Boswell Area	02
Sullivan:	01
Susquehanna:	
Service area, Barnes-Kasson	02
Tioga:	
Service area, Northern Lycoming	01
Service area, Blossburg	02
Washington:	
Service area, Burgettstown	02
Wayne	03
Westmoreland:	
Service area, Kiski Valley	02
Wyoming:	
Service area, Exeter	01
York:	
Service area, York MSA	02

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Arlington Heights/St. Clair	01
County—Allegheny:	
Parts of County	
C.T. 316.04	
C.T. 316.05	
Armstrong—Clarion	01
County—Armstrong:	
Parts of County	
Brady's Bend Twp	
Madison Twp	
Perry Twp	
Pine Twp	
Sugarcreek Twp	
Washington Twp	
County—Clarion:	
Parts of County	
Brady Twp	
East Brady Twp	
Madison Twp	
Austin—Emporium	02
County—Cameron	
County—Potter:	
Parts of County	
Austin Twp	
Keating Twp	
Portage Twp	
Sylvania Twp	
Wharton Twp	
Barnes—Kasson	02
County—Susquehanna:	
Parts of County	
C.T. 302	
C.T. 307	
C.T. 301	
Bellafonte/Howard	03
County—Centre:	
Parts of County	
Bellefonte Boro.	
Howard Boro.	
Milesburg Boro	
Boggs Twp	
County—Centre:	
Parts of County	
Curtin Twp	
Howard Twp	
Liberty Twp	
Marion Twp	
Spring Twp	
Walker Twp (Southern 1/2)	
County—Clinton:	
Parts of County	
Beech Creek Boro.	
Beech Creek Twp	
Benton-Millville	04
County—Columbia:	
Parts of County	
Benton Borough	
Benton Twp	
Fishing Creek Twp	
Madison Twp (Northern 2/3)	
Millville Borough	
Mt. Pleasant Twp	
Orange Twp (Northern 1/3)	
Pine Twp	
Stillwater Borough	
Sugarloaf Twp	
County—Luzerne:	
Parts of County	
Fairmont Twp	
Huntington Twp	
New Columbus Borough	
County—Lycoming:	
Parts of County	
Franklin Twp (Southern 1/3)	
Jordan Twp	
Big Valley	04
County—Mifflin:	
Parts of County	
Brown Twp	
Menno Twp	
Union Twp	
Blossburg	02
County—Tioga:	
Parts of County	
Blossburg Boro	
Bloss Twp	
Covington Twp	
Duncan Twp	
Hamilton Twp	
Liberty Boro	
Liberty Twp (Eastern 1/2)	
Putnam Boro	
Union Twp	
Ward Twp	
Boswell Area	02
County—Somerset:	
Parts of County	
Boswell Boro.	
Hooversville Boro.	
Jennerstown Boro.	
Jenner Twp	
Quemahoning Twp	
Stoystown Boro.	
Burgettstown	.02
County—Washington:	
Parts of County	
Hanover Twp	
Robinson Twp	
Smith Twp	
Mt. Pleasant Twp	
Jefferson Twp	
Cross Creek Twp	
Independence Twp	
Hopewell Twp	
Burgettstown Borough	
Midway Borough	
McDonald Borough	
West Middletown Borough	
Butler—NE Portion	02
County—Butler:	
Parts of County	
Venango Twp	
Allegheny Twp	
Washington Twp	
Parker Twp	
Concord Twp	
Fairview Twp	
Oakland Twp	

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Donegal Twp	
Cherry Valley Borough	
Eau Claire Borough	
Bruin Borough	
Fairview Borough	
Petrolia Borough	
Karns City Borough	
Chicora Borough	
Central McKean County	02
County—McKean:	
Otoo Twp	
Keating Twp	
Hamlin Twp	
Sergeant Twp	
Norwich Twp	
City of Chester	03
County—Delaware:	
Parts of County	
C.T. 4051 through 4057	
C.T. 4060	
C.T. 4048	
C.T. 4049.01	
C.T. 4049.02	
C.T. 4050	
C.T. 4058.01	
C.T. 4058.02	
C.T. 4059	
Cornwall	01
County—Lancaster:	
Parts of County	
Penn Twp (N. Portion)	
Rapho Twp (N. Portion)	
County—Lebanon:	
Parts of County	
Cornwall Boro	
Mt. Gretna Boro	
North Cornwall Twp	
South Lebanon Twp (S. 1/2)	
West Cornwall Twp	
Covenant House Area	01
County—Philadelphia:	
Parts of County	
C.T. 248 through 254	
Dayton Rural Valley MSA	01
County—Armstrong:	
Parts of County	
Redbank Twp (2/3 western portion)	
Wayne Township	
Cowanshannock Township	
Dayton Borough	
Rural Valley Borough	
Atwood Borough	
East Crawford County	01
County—Crawford:	
Parts of County	
Athens Twnship	
Bloomfield Twnship	
Rockdale Twnship	
Rome Twnship	
Sparta Twnship	
Steuben Twnship	
Centerville Borough	
Townville Borough	
Spartansburg Borough	
Richmond Twp	
Exeter	01
County—Luzerne:	
Parts of County	
Exeter Borough	
West Wyoming	
Franklin Township	
Exeter Township	
County—Wyoming:	
Parts of County	
Exeter Township	
Falls Twnship	
Forest-Clarion	01
County—Clarion:	
Parts of County	
Farmington Twp	
Washington Twp	
Knox Twp	
County—Forest	
Freeland	03
County—Luzerne:	
Parts of County	
Butler Twp	
Foster Twp	
Freeland Boro	
Hazel Twp	
Jeddo Boro	
Galeton	04
County—Potter:	
Parts of County	
Galeton Borough	
Pike Township	
Ulysses Township	
West Branch Township	
Abbott Township	
Stewardson Township	
Greensboro	01
County—Fayette:	
Parts of County	
Point Marion Borough	
German Township	
Nicholson Township	
Springhill Township	
County—Greene:	
Parts of County	
Dunkard Township	
Greene Township	
Monogahela Township	
Greensforo Borough	
Herndon-Mandata	02
County—Northumberland:	
Parts of County	
Little Mahanoy Twnship	
Washington Twnship	
Upper Mahanoy Twnship	
West Cameron Twnship	
Jackson Township	
Herndon Borough	
Jordon Township	
Lower Mahanoy Township	
County—Schuylkill:	
Parts of County	
Eldred Twnship	
Upper Mahantango Twnship	
Hill District	01
County—Allegheny:	
Parts of County	
C.T. 303.01	
C.T. 303.03	
C.T. 303.04	
C.T. 305.01	
C.T. 305.02	
C.T. 305.05	
C.T. 305.08	
Homewood-Brushton	04
County—Allegheny:	
Parts of County	
C.T. 1207	
C.T. 1301 through 1305	
Hyndman	01
County—Bedford:	
Parts of County	
Harrison Twp	
Hyndman Boro	
Juniata Twp	
Londonderry Twp	
County—Somerset:	
Parts of County	
Allegheny Twp	
Fairhope Twp	
Indiana-N Portion	01
County—Indiana:	
Parts of County	
South Mahoning Twp	
East Mahoning Twp	
Grant Twp	
Montgomery Twp	
Washington Twp	
Rayne Twp	
Green Twp	
Pine Twp	
Glen Campbell Borough	
Cherry Tree Borough	
Marion Center Borough	
Plumville Borough	
Clymer Boro	
Juniata County Service Area	03
County—Juniata:	
Parts of County	
Mifflin Borough	
Mifflintown Borough	
Port Royal Borough	
Fayette Twnship	
Fermanagh Twnship	
Milford Township	
Turbett Township	
Walker Twnship	
Lack Twnship	
Tuscarora Twnship	
Beale Twnship	
Spruce Hill Twnship	
Kidder	01
County—Carbon:	
Parts of County	
East Side Boro	
Kidder Twp	
Penn Forest Twp	
Lausanne Twp	
Lehigh Twp	
County—Luzerne:	
Parts of County	
White Haven Borough	
Buck Twp	
Foster Twnshp	
County—Monroe:	
Parts of County	
Coolbough Township	
Tobyhanna Township	
Tunkhannock Township	
Kiski Valley	02
County—Armstrong:	
Parts of County	
Apollo Borough	
Bethel Township	
Burrel Township	
Gilpin Township	
Kiskiminetas Township	
Leechburg Borough	
North Apollo Borough	
Perks Township	
South Bend Township	
County—Westmoreland:	
Parts of County	
Oklahoma Borough	
Allegheny Township	
Avonmore Borough	
Bell Township	
East Vandergrift Borough	
Hyde Park Borough	
Vandergrift Borough	
Washington Township	
West Leechburg Borough	
Markleysburg	01
County—Fayette:	
Parts of County	
Henry Clay Twp	
Markleysburg Boro.	
Ohiopyle Boro.	
Steward Twp	
Wharton Twp	
McKees Rocks-Stowe	01
County—Allegheny:	
Parts of County	
C.T. 4621 (Stowe Twp)	
C.T. 4622 (Stowe Twp)	
C.T. 4623 (Stowe Twp)	
C.T. 4624 (Stowe Twp)	
C.T. 4625 (Stowe Twp)	
C.T. 4631 (McKees Rocks Boro)	
C.T. 4632 (McKees Rocks Boro)	
C.T. 4633 (McKees Rocks Boro)	
C.T. 4634 (McKees Rocks Boro)	
C.T. 4635 (McKees Rocks Boro)	
C.T. 4636 (McKees Rocks Boro)	
Millerstown	01
County—Juniata:	
Parts of County	
Greenwood Twnship	
Delaware Twnship	
Thompsontown Borough	
County—Perry:	
Parts of County	
Tuscarora Twnship	
Greenwood Twnship	
Liverpool Twnship	
Liverpool Borough	
Millerstown Borough	
Moscow	02
County—Lackawanna:	
Parts of County	
C.T. 129(Springbrook, Madison, Covington)	
C.T. 129 (Clifton and Lehigh Twps)	
C.T. 118 (Roaring Brook, Jefferson Twps)	

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
C.T. 118 (Elmhurst Twp, Moscow Borough)	
Mountaintop	02
County—Luzerne:	
Parts of County	
Dennison Twnship	
Wright Twnship	
Fairview Twnship	
Rice Twnship	
Dorrance Twnship	
Slocum Twnship	
Nuangola Boro	
Mt Pleasant Mills-Middleburg	04
County—Juniata:	
Parts of County	
Monroe Township	
Susquehanna Twp	
County—Snyder:	
Parts of County	
Washington Twnship	
Union Twnship	
Freeburg Borough	
Beaver Township	
Beavertown Borough	
Chapman Twnship	
Franklin Township	
Centre Township	
Middleburg Borough	
Perry Township	
West Perry Township	
North Adams	03
County—Adams:	
Parts of County	
Menallen Township	
Tyrone Township	
Huntington Township	
Butler Township	
Arendtsville Borough	
Bendersville Borough	
Biglerville Borough	
York Springs Borough	
North Cambria	02
County—Cambria:	
Parts of County	
Allegheny Twp	
Ashville Boro	
Barnesboro Boro	
Barr Twp	
Carrollton Boro	
Chest Spring Boro	
Chest Twp	
Clearfield Twp	
Dean Twp	
East Carroll Twp	
Elder Twp	
Gallitzen Boro	
Gallitzen Twp	
Hastins Boro	
Loretto Boro	
Patton Boro	
Reade Twp	
Spangler Boro	
Susquehanna Twp	
Tunnelhill Boro	
West Carroll Twp	
White Twp	
North East Erie	01
County—Erie:	
Parts of County	
C.T. 116 (North East Borough)	
C.T. 117 (North East Greenfield Town)	
North Philadelphia	03
County—Philadelphia:	
Parts of County	
C.T. 131	
C.T. 132	
C.T. 133	
C.T. 135 through 141	
C.T. 145 through 149	
C.T. 165 through 174	
C.T. 151 through 155	
Northern Lebanon Co.	01
County—Lebanon:	
Parts of County	
Cold Spring Twp	
East Hanover Twp	
Union Twp	
Swatara Twp	
Bethel Twp	
Jonestown Boro	
Northern Lycoming	01
County—Lycoming:	
Parts of County	
Cogan House Township	
Jackson Township	
Cummings Twnship (Northern ⅔)	
Plunkett's Creek Twnship (Northwest ½)	
McHenry Twnship	
Brown Twnship	
Pine Twnship	
Lewis Township (Northern ⅔)	
McIntyre Twnship	
McNett Twnship	
Cascade Twnship	
Gamble Twnship	
County—Tioga:	
Parts of County	
Elk Township	
Morris Township	
Liberty Township (Western ⅓)	
Penns Valley	04
County—Centre:	
Parts of County	
Potter Twnship	
Penn Twnship	
Greg Twnship	
Center Hall Borough	
Millheim Borough	
Miles Twnship	
Haines Twnship	
Pittston	03
County—Luzerne:	
Parts of County	
C.T. 101 (Pittston Twp)	
C.T. 102 (Dupont Borough)	
C.T. 103 (Avoca Borough)	
C.T. 104 (Hughestown Borough)	
C.T. 105 (Duryea Borough)	
C.T. 106 (Pittston City)	
C.T. 107 (Pittston City)	
C.T. 108 (Pittston City)	
C.T. 109 (Pittston City)	
C.T. 117 (Jenkins, Laflin, Yatesville)	
Punxsutawney	02
County—Armstrong:	
Parts of County	
Redbank Twnship (Eastern ⅓)	
County—Indiana:	
Parts of County	
Banks Twnship (Northern ⅔)	
Canoe Twnship (Northern ⅔)	
Northern Mahoning (Northern ½)	
County—Indiana:	
Parts of County	
Smicksburg Borough	
West Mahoning Twnship (Northern ½)	
County—Jefferson:	
Parts of County	
Bell Twnship	
Beaver Twnship (Southern ½)	
Big Run Borough	
Gaskill Twnship	
Henderson Twnship	
Oliver Twnship	
Perry Twnship	
Porter Twnship	
Puxsutawney Borough	
Riggold Twnship	
Timblin Borough	
Worthville Borough	
Young Twnship	
Renovo	02
County—Clinton:	
Parts of County	
Noyes Township	
Grugan Twp	
East Keating Twnship	
Renovo Borough	
South Renovo Borough	
Leidy Township	
Chapman Township	
S. Central Clearfield Co.	03
County—Clearfield:	
Parts of County	
Coalport Boro	
Glen Hope Boro	
Irvona Boro	
Ramey Boro	
Westover Boro	
Beccaria Twp	
Bigler Twp	
Chest Twp	
Gulich Twp	
Jordan Twp	
Shenandoah/Mahoning City Area	04
County—Schuylkill:	
Parts of County	
Delano Twp	
East Union Twp	
Gilberton Boro	
Kline Twp	
McAdoo Boro	
Mahanoy City Boro	
Mahanoy Twp	
North Union Twp	
Ringtown Boro	
Ryan Twp	
Shenandoah Boro	
Union Twp	
West Mahanoy Twp	
Shinglehouse	01
County—McKean:	
Parts of County	
Ceres Township	
Eldred Township	
County—Potter:	
Parts of County	
Shinglehouse Borough	
Sharon Township	
Oswayo Township	
Oswayo Borough	
Genesee Township	
Pleasant Valley Township	
Clara Township	
Snow Shoe	02
County—Centre:	
Parts of County	
Curtin Twp (Eastern ½)	
Unionville Borough	
Snow Shoe Township	
Snow Shoe Borough	
Burnside Township	
Boggs Township (Southern ½)	
Union Township (Southern ½)	
County—Clearfield:	
Parts of County	
Cooper Township (Northern ⅔)	
Covington Township	
Karthaus Township	
South Philadelphia	04
County—Philadelphia:	
Parts of County	
C.T. 13	
C.T. 14	
C.T. 19 through 22	
C.T. 33	
South Western Chester	03
County—Chester:	
Parts of County	
C.T. 3062	
C.T. 3077 through 3082	
C.T. 3061	
Southern Erie	02
County—Erie:	
Parts of County	
Cranesville Borough	
Albion Borough	
Platea Borough	
Conneaut Township	
Elk Creek Township	
Franklin Township	
Springfield Township	
Tremont/Pine Grove	03
County—Schuylkill:	
Parts of County	
Tremont Borough	
Tremont Twnship	
Frailey Twnship	
Porter Twnship	
Pine Grove Borough	
Washington Twnship	
Pine Grove Twnship	
Hegins Twnship	
Barry Twnship	
Hubley Twnship	
Tower City Borough	
Valleys Community MSA	01

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Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
County—Franklin:	
Parts of County	
Fannet Twnship	
Metal Twnship	
Welsh Mountain MSA	01
County—Lancaster:	
Parts of County	
Salisbury Twp	
Caernarvon Twp	
Earl Twp	
East Earl Twp	
West Greene	01
County—Greene:	
Parts of County	
Aleppo Twp	
Gilmore Township	
Gray Township	
Jackson Township	
Richhill Township	
Spinghill Township	
Center Township	
Freeport Township	
Morris Township	
Washington Township	
Wayne Township	
Western Perry County	03
County—Perry:	
Parts of County	
Blain Boro	
Bloomfield Boro	
Carroll Twp	
Centre Twp	
Jackson Twp	
Juniata Twp	
Landisbury Boro	
N.E. Madison Twp	
Saville Twp	
S.W. Madison Twp	
Spring Twp	
Toboyne Twp	
Tyrone Twp	
Wheatfield Twp	
Williamstown	01
County—Dauphin:	
Parts of County	
Upper Paxton Township	
Millersburg Borough	
Mifflin Township	
Berrysburg Borough	
Washington Township	
Elizabethville Borough	
Jackson Township	
Jefferson Township	
Wayne Township	
Reed Township	
Halifax Township	
Halifax Borough	
Williamstown Borough	
Williams Township	
Lykens Twp	
Gratz Borough	
Wiconisco Township	
Lykens Borough	
York MSA	02
County—York:	
Parts of County	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 5	
C.T. 7	
C.T. 10	
C.T. 15	
C.T. 16	

Pennsylvania

Population Group Listing

Population group name	Degree of shortage group
Low Income Pop. of Sharon-Farrell	02
County—Mercer:	
Parts of County	
Farrell	
Sharon	
Span. Spk. Pop. of S.E. Lancaster City	02
County—Lancaster:	
Parts of County	
C.T. 8	
C.T. 9	
C.T. 15	
C.T. 16	

Rhode Island

County Listing

County name	Degree of shortage group
Providence:	
Service area, Olneyville	02
Service area, Central Falls	02
Service area, Northwest Woonsocket	01
Facility, Med./Max. Securities Institution	02
Service area, Woodlawn	03
Service area, Burrillville/Foster/Glocester	03
Washington:	
Service area, Hope Valley	02

Rhode Island

Service Area Listing

Service area name	Degree of shortage group
Burrillville/Foster/Glocester	03
County—Providence:	
Parts of County	
Burrillville Twn	
Foster Twn	
Glocester Twn	
Central Falls	02
County—Providence:	
Parts of County	
C.T. 108 through 111	
Hope Valley	02
County—Washington:	
Parts of County	
Charlestown	
Exeter	
Hopkinton	
Richmond	
Northwest Woonsocket	01
County—Providence:	
Parts of County	
C.T. 172	
C.T. 174	
C.T. 176	
C.T. 178 through 183	
Olneyville	02
County—Providence:	
Parts of County	
C.T. 16 through 22	
Woodlawn	03
County—Providence:	
Parts of County	
C.T. 151	
C.T. 161	
C.T. 164	

Rhode Island

Facility Listing

Facility name	Degree of shortage group
Med./Max. Securities Institution	02
County—Providence:	
Parts of County	
Cranston	

South Carolina

County Listing

County name	Degree of shortage group
Abbeville:	03
Service area, Isla	02
Allendale	01
Anderson:	
Service area, Isla	02
Bamberg	04
Barnwell	04
Beaufort:	
Service area, St. Helena	01
Berkeley:	
Service area, Orangeburg	01
Calhoun	03
Charleston:	
Service area, Sea Island Compre. Health Care Corp	01
Cherokee	03
Chester	03
Chesterfield	04
Dillon	02
Dorchester	03
Edgefield	04
Fairfield	01
Florence:	
Service area, Lake City	02
Horry	04
Jasper	01
Laurens	04
Lexington	
Service area, Batesburg	02
McCormick	03
Marlboro	02
Newberry	04
Orangeburg:	
Service area, Orangeburg	01
Richland:	
Service area, Richland Service Area	01
Saluda	02
Spartanburg:	
Service area, Landrum	01
Union	04
Williamsburg	02
York:	
Service area, Western York Co.	02

South Carolina

Service Area Listing

Service area name	Degree of shortage group
Batesburg	02
County—Lexington:	
Parts of County	
Batesburg-Leesville CCD	
Gilbert CCD	
Isla	02
County—Abbeville:	
Parts of County	
Antreville-Lowndesville	
County—Anderson:	
Parts of County	
Iva	
Starr	
Lake City	02
County—Florence:	
Parts of County	
Coward	
Johnsonville	
Lake City	
Olanta	
Scranton	
Landrum	01
County—Spartanburg:	
Parts of County	
Landrum	
Orangeburg	01
County—Berkeley:	
Parts of County	
Croso Division	
County—Orangeburg:	
Parts of County	
Elloree Division	
Bowman Division	
Holly Hill Division	
Eutaville Division	
Vance Division	
Richland Service Area	01

South Carolina

Service Area Listing

Service area name	Degree of shortage group
County—Richland:	
Parts of County	
C.T. 118	
C.T. 119.02	
C.T. 120	
Sea Island Compre. Health Care Corp	01
County—Charleston:	
Parts of County	
C.T. 19.01	
C.T. 19.02	
C.T. 20.01 through 20.04	
C.T. 21.01	
C.T. 21.02	
C.T. 22 through 25	
St. Helena	01
County—Beaufort:	
Parts of County	
St. Helena	
Western York Co.	02
County—York:	
Parts of County	
C.T. 14	
C.T. 15	
C.T. 16	
C.T. 19	
E.D. 9 (of C.T. 17)	

South Dakota

County Listing

County name	Degree of shortage group
Aurora	01
Bennett	04
Bon Homme	03
Brule:	
Service area, Chamberlain	02
Buffalo:	
Service area, Buffalo-Jerauld	01
Campbell	01
Charles Mix	
Service area, Lake Andes	03
Clark	01
Clay	02
Corson	01
Custer	01
Day	02
Devel:	
Service area, Lake Andes	04
Service area, Lake Andes	04
Service area, Lane Andes	04
Service area, Deuel	01
Dewey	01
Douglas	03
Edmunds	01
Fall River:	
Service area, Edgemont	02
Faulk	02
Grant	04
Gregory:	
Service area, Lake Andes	03
Haakon:	
Service area, Phillip	01
Hamlin	01
Hanson	01
Harding	01
Hyde	01
Jackson:	
Service area, Phillip	01
Jerauld:	
Service area, Buffalo-Jerauld	01
Jones	01
Lincoln:	
Service area, Turner-Lincoln	04
Facility, South Dakota State Penitentiary	02
Lyman:	
Service area, Chamberlain	02
McCook	03
McPherson	01
Meade	04
Mellette	01
Miner	02
Moody	04
Pennington:	
Service area, Phillip	01
Perkins	01
Roberts	01
Sanborn	01
Shannon	01
Spink:	
Facility, Redfield State Hosp. & School	01
Stanley	01
Sully	01
Todd	03
Tripp	03
Turner:	
Service area, Turner Lincoln	04
Union	01
Washabaugh	01
Yankton:	
Facility, Human Services Center	03
Ziebach	01

South Dakota

Service Area Listing

Service area name	Degree [illegible] shortage group
Buffalo-Jerauld	01
County—Buffalo:	
County—Jerauld:	
Chamberlain	02
County—Brule:	
County—Lyman:	
Deuel	01
County—Deuel:	
Parts of County	
Altamont Town	
Altamont Twnship	
Antelope Valley Twnship	
Astoria Town	
Blom Twnship	
Brandt Town	
Brandt Twnship	
Clear Lake City	
Clear Lake Twnship	
Gary City	
Glenwood Town	
Glenwood Twnship	
Goodwin Town	
Goodwin Twnship	
Grange Twnship	
Havana Twnship	
Herrick Town	
Hidewood Twnship	
Lowe Twnship	
Portland Twnship	
Rome Twnship	
Scandinavia Twnship	
Toronto Twnship	
Edgemont	02
County—Fall River:	
Parts of County	
Argentine Twp	
Cottonwood Twp	
Dudley Twp	
Edgemont City	
Provo Twp	
Unorganized Terr	
Lake Andes	03
County—Charles Mix:	
Parts of County	
Kennedy Twp	
White Swan Twp	
Plain Center Twp	
Wagner City	
Choteau Creek Twp	
Higland Twp	
Lawrence Twp	
Wahehe Twp	
Hamilton Twp	
Signal Twp	
Rhoda Twp	
Moore Twp	
Jackson Twp	
Goose Lake Twp	
Howard Twp	
Lone Tree Twp	
Ree Twp	
Rouse Twp	
County—Gregory:	
Parts of County	

South Dakota

Service Area Listing

Service area name	Degree of shortage group
Fairfax Twp	
Pleasant Valley Twp	
Whetstone Twp	
Schriever Twp	
Star Valley Twp	
Un. Org. Terr. S.E. Gregory	
St. Charles Twp	
Un. Org. Terr. E. Gregory	
Ellston Twp	
Phillip	01
County—Haakon:	
County—Jackson:	
Parts of County	
Unorg. Terr. of NW Jackson	
Unorg. Terr. of E. Jackson	
Unorg. Terr. of Brady	
Grandview Twp	
Jewett Twp	
Cottonwood Twp	
Indian Creek Twp	
Big Guffalo Twp	
Little Buffalo Twp	
Kadoka City	
County—Jackson:	
Parts of County	
Kadoka Twp	
Belvidere Twp	
Belvidere Town	
County—Pennington:	
Parts of County	
Peno Twp	
Cowanka Twp	
Wasta Twp	
Lake Flat Twp	
Lake Hill Twp	
Lake Creek Twp	
Conata Twp	
Wall Town	
Quinn Twp	
Imley Twp	
Wasta Town	
Quinn Town	
Unorg. Terr. of N.W. Bennington	
Unorg. Terr. of Dalzell Canyon	
Unorg. Terr. of Badlands	
Flat Butte Twp	
Cheyenne Twp	
Rainy Creek Twp	
Sunnyside Twp	
Ash Twp	
Shyne Twp	
Crooked Creek Twp	
Castle Butte Twp	
Cedar Butte Twp	
Turner—Lincoln:	04
County—Lincoln	
County—Turner	

South Dakota

Facility Listing

Facility name	Degree of shortage group
Human Services Center	03
County—Yankton:	
Parts of County	
Human Services Center	

South Dakota

Service Area Listing

Service area name	Degree of shortage group
Redfield State Hosp. & School	01
County—Spink:	
Parts of County	
Redfield State Hosp. & School	
South Dakota State Penitentiary	02
County—Lincoln:	
Parts of County	
State Penitentiary	

Tennessee

County Listing

County name	Degree of shortage group
Benton	03
Bledsoe	04
Campbell	04
Carter	03
Cheatham	02
Chester	03
Claiborne	03
Clay	04
Cocke	01
Crockett	03
Davidson:	
Population group, Med. Indigent Pop (Medicaid)	01
Decatur	01
Fayette	03
Fentress	03
Grainger	01
Grundy	02
Hamilton:	
Population group, Alton Pk/Dodson Ave (medicaid ind. pop.)	02
Hancock	04
Hardeman	03
Hardin:	
Service area, Shiloh Pickwick	02
Hawkins	03
Haywood	02
Henderson	04
Hickman	02
Lake	02
Lauderdale	02
Loudon	03
McNairy:	
Service area, Shiloh Pickwick	02
Macon	03
Meigs	01
Monroe	03
Morgan	01
Perry	04
Pickett	02
Polk:	
Service Area, West Polk County	01
Roane	04
Scott	04
Sevier	04
Stewart	02
Tipton	02
Trousdale	01
Unicoi	03
Union	01
Van Buren	02
Warren	04
Wayne	01
Weakley	03
White	03
Wilson	02

Tennessee

Service Area Listing

Service area name	Degree of shortage group
West Polk County	01
County—Polk:	
Parts of County	
Parksville Div. (Enum. Dist. 5-7)	

Tennessee

Population Group Listing

Population Group Name	Degree of shortage group
Aiton PK/Dodson Ave (Medicaid Ind. Pop.)	02
County—Hamilton:	
Parts of County	
C.T. 1 through 4	
C.T. 10 through 16	
C.T. 18 through 27	
C.T. 114.01	
C.T. 115	
C.T. 120	
C.T. 121	
Med. Indigent Pop. (medicaid)	01

Tennessee

Population Group Listing

Population Group Name	Degree [illegible] shortage group
County—Davidson:	
Parts of County	
C.T. 118 through 133	
C.T. 160 through 164	
C.T. 168 through 171	
C.T. 135 through 149	

Texas

County Listing

County name	Degree of shortage group
Archer	04
Armstrong	01
Atascosa	04
Bandera	02
Bee	04
Bexar:	
Service area, East Side (San Antonio)	02
Service area, Southern Rural Bexar (San Antonio)	01
Service area, South Side (San Antonio)	01
Service area, West Side (San Antonio)	01
Bowie:	
Service area, Dekalb	01
Cameron	04
Carson	04
Castro	01
Collin	04
Cooke	04
Crosby	02
Dallas:	
Service area, West Dallas	01
Service area, Fair Park/White Rock Creek Industrial	01
Service area, South Dallas	02
Service area, Trinity	01
Service area, Libson	01
Service area, Simpson Sterat	01
Deaf Smith	04
Dickens:	
Service area, Dickens-King	02
Donley	04
Duval	04
Ellis	04
El Paso:	
Service area, Southeast El Paso	02
Service area, South El Paso	02
Floyd	03
Galveston:	
Service area, Highland Bayou	04
Service area, Bolivar Peninsula	01
Gonzales:	
Service area, Nixon	04
Hardin	02
Henderson:	
Service area, Cedar Creek	02
Hidalgo	04
Hudspeth	01
Hunt	03
Jackson	01
Jeff Davis:	
Service area, Presidio-Jeff Davis	03
Jefferson:	
Service area, Beaumont Inner City	01
Service area, Port Aurthur Inner City	02
Jim Hogg	02
Kaufman:	
Service area, Cedar Creek	02
King:	
Service area, Dickens-King	02
Kinney	03
Kleberg	04
La Salle	02
Liberty	04
Lipscomb:	
Service area, Western Oklahoma	03
Live Oak	04
Llano	04
Lynn	02
Mason	04
Maverick	03
Medina	04
Mills:	
Service area, San Saba-Mills	04
Montgomery	03

Texas

County Listing

County name	Degree of shortage group
Newton	04
Polk	04
Presidio:	
Service area, Presidio-Jeff Davis	03
Rains	01
Red River:	
Service area, Dekalb	01
Sabine	03
San Jacinto	01
San Saba:	
Service area, San Saba-Mills	04
Smith:	
Service area, Hawkins	01
Starr	02
Tarrant:	
Service area, Far Northside/Diamond Hill	03
Service area, Poly	01
Service area, Stop Six	03
Travis:	
Service area, East Austin	04
Trinity	03
Tyler	03
Upshur:	
Service area, Hawkins	01
Val Verde	04
Van Zandt	04
Walker	02
Waller	01
Webb	02
Willacy	01
Wilson	02
Wise	03
Wood:	
Service area, Hawkins	01
Yoakum	03
Zapata	01
Zavala	02

Texas

Service Area Listing

Service area name	Degree of shortage group
Beaumont Inner City	01
County—Jefferson:	
Parts of County	
C.T. 15 through 18	
Bolivar Penninsula	01
County—Galveston:	
Parts of County	
C.T. 1 through 8	
Cedar Creek	02
County—Henderson:	
Parts of County	
Cedar Creek Lake	
Eustice	
County—Kaufman:	
Parts of County	
Kemp-Mabank	
Dekalb	01
County—Bowie:	
Parts of County	
C.T. 116	
C.T. 117	
County—Red River:	
Parts of County	
Annona-Avery	
Dickens-King	02
County—Dickens	
County—King	
East Austin	03
County—Travis:	
Parts of County	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 21.02	
East Side (San Antonio)	02
County—Bexar:	
Parts of County	
C.T. 1301	
C.T. 1303 through 1313	
Fair Park/White Rock Creek Industrial	01
County—Dallas:	
Parts of County	
C.T. 23	

Texas

Service Area Listing

Service area name	Degree of shortage group
C.T. 25	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	
C.T. 93.02	
C.T. 115	
Far Northside/Diamond Hill	03
County—Tarrant:	
Parts of County	
C.T. 2.01	
C.T. 2.02	
C.T. 3	
C.T. 5.01	
C.T. 5.02	
Hawkins	01
County—Smith:	
Parts of County	
Winona	
County—Upshur:	
Parts of County	
Big Sandy	
County—Wood:	
Parts of County	
Hawkins	
Highland Bayou	04
County—Galveston:	
Parts of County	
C.T. 1225	
C.T. 1226	
Lisbon	01
County—Dallas:	
Parts of County	
C.T. 56	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 87.01	
C.T. 87.02	
C.T. 88	
Nixon	04
County—Gonzales:	
Parts of County	
CCD 020	
CCD 025	
Poly	01
County—Tarrant:	
Parts of County	
C.T. 14.02	
C.T. 15	
C.T. 35	
C.T. 37.01	
C.T. 37.02	
C.T. 46.04	
Port Arthur Inner City	01
County—Jefferson:	
Parts of County	
C.T. 51 through 53	
C.T. 57 through 62	
Presidio-Jeff Davis	03
County—Jeff Davis	
County—Presidio	
San Saba-Mills	04
County—Mills	
County—San Saba	
Simpson Sterat	01
County—Dallas:	
Parts of County	
C.T. 112	
C.T. 113	
C.T. 114.01	
C.T. 114.02	
C.T. 167.01	
C.T. 167.02	
C.T. 169.01	
C.T. 169.02	
South Dallas	02
County—Dallas:	
Parts of County	
C.T. 29	
C.T. 30	
C.T. 31.02	
C.T. 32.02	
C.T. 33 through 38	
C.T. 39.01	
C.T. 39.02	
C.T. 40	
South El Paso	02
County—El Paso:	
Parts of County	
C.T. 17 through 21	
South Side (San Antonio)	01
County—Bexar:	
Parts of County	
C.T. 1501	
C.T. 1503 through 1507	
C.T. 1510	
C.T. 1601 through 1605	
Southeast El Paso	02
County—El Paso:	
Parts of County	
C.T. 39	
C.T. 40	
C.T. 104	
C.T. 105	
Southern Rural Bexar (San Antonio)	01
County—Bexar:	
Parts of County	
C.T. 1314	
C.T. 1315	
C.T. 1316	
County—Bexar:	
Parts of County	
C.T. 1318	
C.T. 1416 through 1419	
C.T. 1519 through 1522	
C.T. 1610	
C.T. 1611	
C.T. 1612	
C.T. 1619	
C.T. 1620	
Stop Six	03
County—Tarrant:	
Parts of County	
C.T. 36.01	
C.T. 36.02	
C.T. 46.01	
C.T. 46.02	
C.T. 46.03	
C.T. 61.01	
C.T. 61.02	
C.T. 62	
C.T. 63	
C.T. 64	
Trinity	01
County—Dallas:	
Parts of County	
C.T. 41	
C.T. 49	
C.T. 54	
C.T. 55	
C.T. 86	
C.T. 89	
West Dallas	01
County—Dallas:	
Parts of County	
C.T. 43	
C.T. 101 through 106	
West Side (San Antonio)	01
County—Bexar:	
Parts of County	
C.T. 1606	
C.T. 1607	
C.T. 1701	
C.T. 1703	
C.T. 1704	
C.T. 1707 through 1712	
C.T. 1715	
C.T. 1716	

Utah

County Listing

County name	Degree of shortage group
Carbon	02
Daggett	01
Piute	01
Rich	01
San Juan:	
Service area, Blanding	03
Sevier	02
Tooele	03
Uintah	03
Wayne	01
Weber:	
Service area, Central and West Ogden	02

Utah

Service Area Listing

Service area name	Degree of shortage group
Blanding	03
County—San Juan:	
Parts of County	
C.T. 3	
C.T. 4	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 18	
C.T. 19	

Vermont

County Listing

County name	Degree of shortage group
Addison:	
Service area, Route 100	01
Service area, Otter Creek Valley	01
Bennington:	
Service area, Londonderry MSA	03
Caledonia:	
Service area, Hardwick	03
Essex:	
Service area, Upper Connecticut Valley	03
Service area, Essex	03
Franklin:	
Service area, Richford-Enosburg	04
Grand Isle	03
Lamoille:	
Service area, Hardwick	04
Orleans:	
Service area, Hardwick	04
Rutland:	
Service area, Black River Valley	01
Service area, Route 100	01
Service area, Otter Creek Valley	01
Washington:	
Service area, Hardwick	03
Windham:	
Service area, West River Valley	01
Service area, Londonderry MSA	03
Windsor:	
Service area, Black River Valley	01
Service area, Route 100	01
Service area, Londonderry MSA	03

Vermont

Service Area Listing

Service area name	Degree of shortage group
Black River Valley	01
County—Rutland:	
Parts of County	
Mt Holly Town	
County—Windsor:	
Parts of County	
Cavendish	
Ludlow	
Reading Town	
Weaterfield Town	
Essex	03
County—Essex:	
Parts of County	
Brighton Twn	
Concord Twn	
East Haven Twn	
Ferdinand Twp	
Granby Twn	
Guildhall Twn	

Vermont

Service Area Listing

Service area name	Degree of shortage group
Lewis Twp	
Lunenburg Twn	
Maidstone Twn	
Victory Twn	
Hardwick	03
County—Caledonia:	
Parts of County	
Danville	
Peacham Twn	
Hardwick	
Walden	
County—Lamoille:	
Parts of County	
Wolcott	
Elmore	
County—Orleans:	
Parts of County	
Greensboro	
Craftbury	
County—Washington:	
Parts of County	
Calais Twn	
East Montpelier Twn	
Plainfield Twn	
Marshfield Twn	
Woodbury	
Cabot	
Londonderry MSA	03
County—Bennington:	
Parts of County	
Landgrove Town	
Peru Town	
Winhall Town	
County—Windham:	
Parts of County	
Londonderry Town	
County—Windsor:	
Parts of County	
Weston Town	
Otter Creek Valley	01
County—Addison:	
Parts of County	
Leicester Town	
Goshen Town	
Orwell Town	
Whiting Town	
Shoreham Town	
County—Rutland:	
Parts of County	
Brandon Town	
Hubbardton Town	
Pittsford Town	
Sudbury Town	
Richford-Enosburg	04
County—Franklin:	
Parts of County	
Bakersfield Twn	
Berkshire Twn	
Enosburg Twn	
Fairfield Twn	
Franklin Twn	
Montgomery Twn	
Richford Twn	
Sheldon Twn	
Route 100	01
County—Addison:	
Parts of County	
Hancock Town	
Granville Town	
County—Rutland:	
Parts of County	
Pittsfield Town	
County—Windsor:	
Parts of County	
Rochester Town	
Stockbridge Town	
West River Valley	01
County—Windham:	
Parts of County	
Jamaica	
Newfane	
Stratton	
Townshend	
Wardsboro	
Windham	

Virginia

County Listing

County name	Degree of shortage group
Accomack:	
Service area, Accomack/Northampton	04
Amelia	03
Augusta:	
Service area, Craigsville	01
Bath:	
Service area, Craigsville	01
Bland	01
Botetourt	02
Brunswick	01
Buchanan	01
Buckingham:	01
Service area, Tri-County (Buck/Fluv/Cumb)	
Caroline	02
Carroll:	
Service area, Hillsville	02
Charles City	01
Charlotte:	
Service area, Drakes Branch Med. Service Area	01
Craig	02
Cumberland:	01
Service area, Tri-County (Buck/Fluv/Cumb)	
Dickenson	03
Elizabeth City:	
Service area, East End	02
Floyd	02
Fluvanna:	01
Service area, Tri-County (Buck/Fluv-Cumb)	
Franklin	04
Grayson:	
Service area, Independence	01
Greene	03
Halifax:	
Service area, Nathalie	01
Hanover	04
Isle of Wight	02
King and Queen	01
King George	03
King William:	
Service area, Northern King William	01
Lee	01
Louisa	04
Lunenburg	01
Madison	02
Middlesex	[illegible]
Nelson	02
New Kent	01
Norfolk:	
Service area, Chesapeake	02
Service area, Pungo Service Area	01
Service area, Norfolk Area 1	01
Service area, Norfolk Area 2	01
Service area, Norfolk Area 3	01
Northampton:	
Service area, Accomack/Northampton	04
Page	03
Pittsylvania	04
Powhatan	02
Richmond	02
Rockbridge:	
Service area, Craigsville	01
Russell	02
Scott	03
Southampton:	
Service area, Capron	01
Service area, Berlin-Ivor	01
Surry	02
Sussex	03
Westmoreland	03

Virginia

Service Area Listing

Service area name	Degree of shortage group
Accomack/Northampton	04
County—Accomack	
County—Northampton	
Berlin-Ivor	01
County—Southampton:	
Parts of County	
Berlin-Ivor	
Capron	01
County—Southampton:	
Parts of County	
Capron Dist.	
Drewrysville Dist.	
Newsoms Dist.	
Chesapeake	02
County—Norfolk:	
Parts of County	
Chesapeake City	
Craigsville	01
County—Augusta:	
Parts of County	
Craigsville Twn	
Pastures Dist	
Riverhead Dist. (Portion)	
County—Bath:	
Parts of County	
Millboro Dist (Portion)	
Williamsville Dist (Portion)	
County—Rockbridge:	
Parts of County	
Goshen Twn	
Kerrs Creek Dist	
Walkers Creek Dist (Portion)	
Drakes Branch Med. Service Area	01
County—Charlotte:	
Parts of County	
Bacon Dist.	
Central Dist.	
Roanoke Dist.	
East End	02
County—Elizabeth City:	
Parts of County	
C.T. 302 through 308	
Hillsville	02
County—Carroll:	
Parts of County	
Laurel Fork Dist.	
Hillsville Town	
Fancy Gap Town	
Trant Dale/Independence	04
County—Grayson:	
Parts of County	
Elk Creek Dist.	
Wilson Creek Dist.	
Nathalie	01
County—Halifax:	
Parts of County	
Meadville Dist.	
Staunton Dist.	
Norfolk Area 1	01
County—Norfolk:	
Parts of County	
C.T. 32	
C.T. 33	
C.T. 60	
C.T. 61	
Norfolk Area 2	01
County—Norfolk:	
Parts of County	
C.T. 35.01	
C.T. 35.02	
C.T. 34	
Norfolk Area 3	01
County—Norfolk:	
Parts of County	
C.T. 50	
C.T. 52	
C.T. 53	
Northern King William	01
County—King William:	
Parts of County	
Mongohick County	
Acquiton Dist.	
Pungo Service Area	01
County—Norfolk:	
Parts of County	
Blackwater Boro.	
Pungo Boro.	
Tri-County (Buck/Fluv/Cumb)	01
County—Buckingham	
County—Cumberland	
County—Fluvanna	

Washington

County Listing

County name	Degree of shortage group
Adams:	
Population group, Migrants in Grant/Adams Co...	02
Service area, Othello	02
Benton	01
Population group, Migrant/Seasonal Farmworkers	
Chelan:	
Population group, Chelan-Douglas Migrant Area..	01
Clallam:	
Facility: Washington State Correctional Institution	03
Service area, Forks	04
Clark:	
Facility: Washington State Correctional Institution	03
Columbia:	
Population group, Migrant Pop. in Columbia and Walla Walla	01
Cowlitz:	
Service area, Ryderwood	01
Douglas:	
Population group, Chelan-Douglas Migrant Area..	01
Service area, Grand Coulee	01
Franklin:	
Population group, Migrant/Seasonal Farmworkers	
Grant:	
Population group, Migrants in Grant/Adams Co...	02
Service area, Othello	02
Service area, Grand Coulee	01
Grays Harbor	03
Jefferson:	
Service area, Forks	04
King:	
Facility: Washington State Correctional Institution	03
Service area, Seattle-Central	03
Service area, South Seattle	03
Service area, Vashon-Maury Islands	02
Service area, Pike Market	04
Facility: Seattle & King Co. Jails	02
Kittitas:	
Service area, Cle Elum	03
Klickitat	04
Lewis:	
Service area, Packwood	[illegible]
Mason:	
Facility: Washington State Correctional Institution	03
Service area, Grand Coulee	01
Okanogan:	
Service area, Oroville	01
Population group, Okanogan Valley Migrant Area	01
Service area, Grand Coulee	01
Pacific:	
Service area, Raymond/South Bend	03
Pend Oreille	02
Pierce	01
San Juan	04
Skagit:	
Population group, Whatcom-Skagit Migrant Area.	04
Skamania	02
Snohomish:	
Facility: Washington State Correctional Institution	03
Population group, Tulalip Tribe-Snohobish County	01
Service area, Darrington	01
Stevens:	
Service area, Chewelah	04
Walla Walla:	
Facility: Washington State Correctional Institution	03
Population group, Migrant Pop. in Columbia and Walla Walla	01
Whatcom:	
Population group, Whatcom-Skagit Migrant Area.	04
Yakima:	
Population group, Lower Yakima Valley Migrant Area	02

Washington

Service Area Listing

Service area name	Degree of shortage group
Chewelah	04
County—Stevens:	
Parts of County	
CCD #4	
CCD #6	
Cle Elum	[illegible]
County—Kittitas:	
Parts of County	
Division 2 through 6	
Darrington	01
County—Snohomish:	
Parts of County	
C.T. 537	
Forks	04
County—Callam:	
Parts of County	
Div. 5	
Div. 6	
County—Jefferson:	
Parts of County	
Div. 4	
Div. 5	
Grand Coulee	01
County—Douglas:	
Parts of County	
Coulee Dam	
County—Grant:	
Parts of County	
Div. 1	
Div. 2	
County—Lincoln:	
Parts of County	
Div. 6	
County—Okanogan:	
Parts of County	
Div. 16	
Oroville	01
County—Okanogan:	
Parts of County	
Division 1 through 4	
Division 11	
Othello	02
County—Adams:	
Parts of County	
Div. 4 (Southern ⅓)	
Div. 5	
Div. 8 (Western ⅓)	
Div. 9	
Div. 10	
County—Grant:	
Parts of County	
Div. 14	
Div. 16	
Div. 17	
Packwood	03
County—Lewis:	
Parts of County	
C.C.D. #1	
Pike Market	04
County—King:	
Parts of County	
C.T. 71	
C.T. 72	
C.T. 80 through 83	
Raymond/South Bend	03
County—Pacific:	
Parts of County	
Division 1 through 4	
Ryderwood	01
County—Cowlitz:	
Parts of County	
Div. 3	
Seattle-Central	03
County—King:	
Parts of County	
C.T. 73 through 79	
C.T. 86 through 87	
C.T. 90 through 92	
South Seattle	03
County—King:	
Parts of County	
C.T. 100	
C.T. 101	
C.T. 103 through 112	
Vashon-Maury Islands	02
County—King:	
Parts of County	
C.T. 277 (Vashon-Maury Islands)	

Washington

Population Group Listing

Population group name	Degree of shortage group
Chelan-Douglas Migrant Area	01
County—Chelan	
County—Douglas	
Lower Yakima Valley Migrant area	02
County—Yakima	
Migrant Pop. in Columbia and Walla Walla	01
County—Columbia	
County—Walla Walla	
Migrant/Seasonal Farmworkers	01
County—Benton	
County—Franklin	
Migrants in Grant/Adams Co	04
County—Adams	
County—Grant	
Okanogan Valley Migrant Area	01
County—Okanogan	
Tulalip Indian Tribe	01
County—Snohobish	
Whatcom-Skagit Migrant Area	04
County—Skagit	
County—Whatcom	

Washington

Facility Listing

Facility name	Degree of shortage group
Seattle & King Co. Jails	02
County—King	
Washington State Correctional Institution	03
County—Clallam:	
Parts of County	
Forks (Clearwater Corrections Center)	
County—Clark:	
Parts of County	
Yacolt (Larch Corrections Center)	
County—King:	
Parts of County	
Seattle (Firland Correctional Center)	
County—Mason:	
Parts of County	
Shelton (Washington Corrections Center)	
County—Snohomish:	
Parts of County	
Monroe (Washington State Reformatory)	
County—Walla Walla:	
Parts of County	
Walla Walla (Wash. St. Pen/Ment Health Unit)	

West Virginia

County Listing

County name	Degree of shortage group
Boone	03
Braxton	01
Cabell:	
Service area, Cabell	01
Calhoun	03
Clay	01
Doddridge	01
Fayette:	
Service area, Fayetteville	01
Gilmer	01
Grant:	
Service area, Mt. Storm	01
Service area, Moorefield	04
Greenbrier:	
Service area, Northern Greenbrier Service Area..	03
Hampshire:	
Service area, Baker	02
Service area, Moorefield	04
Service area, Capon Bridge	01
Hardy:	
Service area, Baker	02
Service area, Moorefield	04
Harrison:	
Service area, Shinnston Service Area	02
Jackson	03
Jefferson	01

West Virginia

County Listing

County name	Degree of shortage group
Kanawha:	
Service area, Kanawha	01
Lewis	01
Lincoln	03
Logan:	
Service area, Man	03
Service area, Chapmanville	02
McDowell	04
Marion:	
Service area, Farmington Service Area	02
Marshall:	
Service area, Cameron	01
Facility, West Virginia Penitentiary	02
Mason:	
Service area, Mason	01
Mercer:	
Service area, Mercer	01
Mineral:	
Service area, Moorefield	04
Mineral:	
Service area, Cabin Run	03
Mingo:	
Service area, Mingo	01
Service area, Man	03
Monongalia	
Service area, Blacksville	01
Monroe	01
Nicholas	
Service area, Nicholas	01
Pendleton	01
Pleasants:	
Service area, Jerfferson	03
Pocahontas	01
Preston	01
Putnam:	
Service area, Teays Valley	02
Raleigh:	
Service area, Northwest Service Area of Raleigh Co	01
Service area, Mountaineer Service Area of Raleigh Co	01
Service area, Gulf Service Area of Raleigh Co	01
Randolph:	
Service area, Middlefork	01
Facility, Huttonsville Corr. Center	02
Ritchie	01
Taylor	01
Tucker	04
Tyler:	
Service area, Tyler	02
Upshur:	
Service area, Middlefork	01
Wayne	01
Webster	03
Wetzel	03
Wirt	02
Wyoming	01

West Virginia

Service Area Listing

County name	Degree of shortage group
Baker	02
County—Hampshire:	
Parts of County	
Capon Dist	
Romney Dist. (Southern ¼)	
Sherman Dist	
County—Hardy:	
Parts of County	
Capon Dist	
Lost River Dist	
Blacksville	01
County—Monongalia:	
Parts of County	
Clay	
Battelle	
Cabell	01
County—Cabell:	
Parts of County	
Union	
McComas	
Gueyandotte	
Grant	
Barboursville	
Cabin Run	03
County—Mineral:	
Parts of County	
Frankfurt	
Cabin Run	
Cameron	01
County—Marshall:	
Parts of County	
Cameron	
Capon Bridge	01
County—Hampshire:	
Parts of County	
Bloomery	
Capon	
Sherman	
Gore	
Chapmanville	02
County—Logan:	
Parts of County	
Guyan	
Farmington Service Area	02
County—Marion:	
Parts of County	
Lincoln District	
Fayetteville	01
County—Fayette:	
Parts of County	
Fayetteville	
Falls	
Quinnimont	
Sewell Mountain	
Nuttall	
Mountain Cove	
Gulf Service Area of Raleigh Co.	01
County—Raleigh:	
Parts of County	
Trap Hill MCD	
Slab Fork MCD	
Jefferson	03
County—Pleasants:	
Parts of County	
Grant	
Jefferson	
Lafayette	
McKim	
Union	
Kanawha	01
County—Kanawha:	
Parts of County	
Elk	
Big Sandy	
Poca	
Cabin Creek	
Malden	
Chesapeake Town	
Marmet Town	
Union	
Washington	
Man	[illegible]
County—Logan:	
Parts of County	
Logan Dist. (Southern Part)	
Triadelphia Dist	
County—Mingo:	
Parts of County Stafford Dist. (Northereastern Part)	
Mason	01
County—Mason:	
Parts of County	
Arbuckle	
Clendenin	
Cologne	
Copper	
Graham	
Hannan	
Robinson	
Union	
Waggener	
Mercer	01
County—Mercer:	
Parts of County	
Rock	
Jumping Branch	
Plymouth	
Middlefork	01
County—Randolph:	
Parts of County	
Middlefork	
County—Upshur:	
Parts of County	
Meade	
Banks	
Mingo	01
County—Mingo:	
Parts of County	
Harvey	
Hardee	
Kermit	
Magnolia	
Lee	
Moorefield	04
County—Grant:	
Parts of County	
Grant Dist.	
Milroy Dist.	
Petersburg Twn.	
County—Hampshire:	
Parts of County	
Mill Creek Dist. (Southern ¼)	
Romney Dist. (Southwest ¼)	
County—Hardy:	
Parts of County	
Moorefield Dist.	
Moorefield Twn.	
South Fork Dist.	
County—Mineral:	
Parts of County	
Welton Dist.	
Mountaineer Service Area of Raleigh Co.	01
County—Raleigh:	
Parts of County	
Shady Spring MCD	
Richmond MCD	
Mt. Storm	01
County—Grant:	
Parts of County	
Union	
Nicholas	01
County—Nicholas:	
Parts of County	
Jefferson	
Grant	
Wilderness	
Summerville	
Hamilton	
Northern Greenbrier Service Area	03
County—Greenbrier:	
Parts of County	
Williamsburg	
Falling Springs	
Frankford	
Anthony Creek	
Meadow Bluff	
Northwest Service Area of Raleigh Co.	01
County—Raleigh:	
Parts of County	
Clear Fork MCD	
Marsh Fork MCD	
Shinnston Service Area	02
County—Harrison:	
Parts of County	
Clay District	
Eagle District	
Teays Valley	02
County—Putnam:	
Parts of County	
Scott District	
Teays Valley District	
Tyler	02
County—Tyler:	
Parts of County	
Centreville	
Ellsworth	
Mc Elroy	
Mead	
Union	

West Virginia

Facility Listing

Facility name	Degree of shortage group
Huttonsville Corr. Center	02
County—Randolph:	
Parts of County	
Huttonsville Corr. Center	

West Virginia

Facility Listing

Facility name	Degree of shortage group
West Virginia Penitentiary	02
County—Marshall:	
Parts of County	
West Virginia Penitentiary	

Wisconsin

County Listing

County name	Degree of shortage group
Adams	03
Ashland:	
Service area, Park Falls	03
Brown:	
Service area, Pulaski	01
Facility, Wisconsin State Reformatory	02
Buffalo:	
Service area, Western Buffalo County	01
Service area, Whitehall/Arcadia	01
Burnett:	
Service area, Minong	02
Calumet	04
Clark	02
Crawford:	
Service area, Kickapoo Valley	01
Dane:	
Service area, Ft. Atkinson	04
Dodge:	
Service area, Waupun	04
Facility, Wisconsin Correctional Inst	02
Facility, Wisconsin State Prison	02
Douglas:	
Service area, Minong	02
Florence:	
Service area, Iron River	03
Service area, Florence	01
Fond du Lac:	
Service area, Waupun	04
Forest:	
Service area, Iron River	03
Service area, Forest	04
Grant	04
Green Lake:	
Service area, Waupun	[illegible]
Iowa	04
Iron:	
Service area, Park Falls	03
Jackson:	
Service area, Sparta	03
Jefferson:	
Service area, Ft. Atkinson	04
Jefferson:	
Service area, Ft. Atkinson	04
Juneau:	
Service area, Hillsboro	02
Lafayette	02
Lincoln:	
Service area, Athens MSA	01
Service area, Tomahawk	03
Facility, Lincoln Hills School	02
Manitowoc:	
Service area, Reedsville	01
Marathon:	
Service area, Athens MSA	01
Service area, Tigerton	02
Service area, Edgar	03
Service area, Birnamwood	01
Menominee	01
Milwaukee:	
Service area, Inner City North (Milwaukee)	01
Service area, Inner City South (Milwaukee)	03
Population group, Med. Ind. Pop. (Milwaukee)	01
Population group, Med. Ind. Pop. (Milwaukee)	03
Monroe:	
Service area, Hillsboro	02
Service area, Sparta	03
Oconto:	
Service area, Oconto Falls	03
Service area, Mountain	01
Service area, Sparta	03
Service area, Pulaski	01
Oneida:	
Service area, Tomahawk	03
Portage:	
Service area, Tigerton	02
Price:	
Service area, Park Falls	03
Service area, Tomahawk	03
Racine:	
Service area, Racine (City)	04
Population group, Med. Ind. Pop. (Racine)	04
Richland:	
Service area, Kickapoo Valley	01
Service area, Hillsboro	02
Rusk	04
Sauk:	
Service area, Hillsboro	02
Sawyer:	
Service area, Park Falls	03
Shawano:	
Service area, Oconto Falls	03
Shawano:	
Service area, Tigerton	02
Service area, Birnamwood	01
Service area, Pulaski	01
Sheboygan:	
Facility, Kettle Morain Correctional Inst	02
Taylor	04
Trempealeau:	
Service area, Whitehall/Arcadia	01
Vernon:	
Service area, Western Vernon County	04
Service area, Kickapoo Valley Area	01
Service area, Hillsboro	03
Vilas:	
Service area, Iron River	03
Walworth:	
Service area, Ft. Atkinson	04
Washburn:	
Service area, Minong Area	02
Waukesha:	
Facility, Ethan Allen School	02
Waupaca:	
Service area, Tigerton	02

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Athens MSA	01
County—Lincoln:	
Parts of County	
Corning Twn	
County—Marathon:	
Parts of County	
Athens City	
Bein Twn	
Halsey Twn	
Hamburg Twn	
Johnson	
Reitbrock Twn (part)	
Birnamwood	01
County—Marathon:	
Parts of County	
Norrie Town	
Ploner Town	
Hatley Village	
County—Shawano.	
Parts of County	
Birnamwood Village	
Birnamwood Town	
Eland Village	
Almon Town	
Anima Town <	
Anima Village	
Hutchins Village	
Edgar	03
County—Marathon:	
Parts of County	
Edgar City	
Reitbrock Town (S. Part)	
Wein Town	
Rib Falls Town	
Cassel Town	
Fenwood City	
Florence	01
County—Florence:	
Parts of County	
East Florence Twn	
Fern Twn	
Commonwealth Twn	
Fence Twn	
Homestead Twn	
Aurora Twn	
Forest	04
County—Forest:	
Parts of County	
Hiles Town	
Crandon Town	
Nashville Town	
Argonne Town	
Crandon City	
Lincoln Town	
Freedom Town	
Wabeno Town	
Laona Town	
Blackwell Town	
Armstrong Creek Town	
Caswell Town	
Ross Town	
Ft. Atkinson	04
County—Dane:	
Parts of County	
Cambridge Village	
Christonia Twn	
County—Jefferson:	
Atzalan Twn	
Cambridge Village	
Cold Springs Twn	
Ft. Atkinson City	
Hebron Twn	
Jefferson Twn	
Jefferson City	
Koskkonong Twn	
Lake Mills Twn	
Lake Mills City	
Oakland Twn	
Palmyra Twn	
Palmyra Village	
Sullivan Twn	
Sullivan Village	
Sumner Twn	
Whitewater City	
County—Walworth:	
Parts of County	
Whitewater Twn	
Whitewater City	
Hillsboro	02
County—Juneau:	
Parts of County	
Wonewoc Twn	
Wonewoc Vil	
County—Monroe:	
Parts of County	
Cashton Vil	
Glendale	
Jefferson	
Kendall Vil	
Sheldon	
Wellington	
County—Richland:	
Parts of County	
Bloom	
Henrietta	
Westford	
Yuba Vil	
County—Sauk:	
Parts of County	
La Valle	
Woodland	
County—Vernon:	
Parts of County	
Clinton	
Forest	
Greenwood	
Hillsboro City	
Hillsboro Twn	
Ontario Vil	
Union	
Whitestown	
Inner City North (Milwaukee)	01
County—Milwaukee:	
Parts of County	
C.T. 63 through 72	
C.T. 112 through 122	
C.T. 138 through 142	
C.T. 79 through 89	
County—Milwaukee:	
Parts of County	
C.T. 97 through 107	

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Inner City South (Milwaukee)	03
County—Milwaukee:	
Parts of County	
C.T. 155 through 171	
Kickapoo Valley Area	01
County—Crawford:	
Parts of County	
Haney	
Bell Center	
Gays Mills	
Scott	
Clayton	
Soldiers Grave Village	
St. Sterling Village	
Utica	
County—Richland:	
Parts of County	
Viola	
Sylvan	
Forest	
County—Vernon:	
Parts of County	
Webster	
Liberty	
Viola	
Kickapoo	
Readstown	
Stark	
Lafarge	
Lincoln Hills School	02
County—Lincoln:	
Parts of County	
Lincoln Hills School	
Minong Service Area	02
County—Burnett:	
Parts of County	
Blaine Twn	
County—Douglas:	
Parts of County	
Dairyland Twn	
Gordon Twn	
Solon Springs Twn	
Solon Springs Village	
Wascott Twn	
County—Washburn:	
Parts of County	
Frog Creek Twn	
Minong Twn	
Minong Village	
Mountain	01
County—Oconto:	
Parts of County	
Townsend	
Lakewood	
Doty	
Riverview	
Armstrong	
Breed	
Bagley	
Brazeau	
Abrams Twn (Western ½)	
Gillett City	
Gillett Twn	
How Twn	
Lena Twn	
Lena Village	
Maple Valley Twn	
Morgan Twn	
Oconto Falls City	
Oconto Falls Twn	
Spruce Twn	
Stiles Twn (Western ½)	
Suring Village	
Underhill Twn	
County—Shawano:	
Parts of County	
Green Valley Twn	
Park Falls	03
County—Ashland:	
Parts of County	
Agenda Twn	
Butternut Village	
Chippewa Twn	
Gordon Twn	
Jacobs Twn	
Peeksville Twn	
Shamagolden Twn	
County—Iron:	
Parts of County	
Sherman Twn	
County—Price:	
Parts of County	
Catawba Twn & Village	
Eisenstein Twn	
Elk Twn	
Emery Twn	
Fifield Twn	
Flambeau Twn	
Georgetown Twn	
Hackett Twn	
Harmony Twn	
Lake Twn	
Park Falls City	
Phillips City	
Worchester Twn	
County—Sawyer:	
Parts of County	
Draper Twn	
Pulaski	01
County—Brown:	
Parts of County	
Pulaski Village	
Pittsfield Town	
County—Oconto:	
Parts of County	
Chase Town	
County—Shawano:	
Parts of County	
Angelica Town	
Maple Grove Town	
Racine (City)	04
County—Racine:	
Parts of County	
C.T. 2 through 5	
Reedsville	01
County—Manitowoc:	
Parts of County	
Whitelaw Village	
Maribel Village	
Cooperstown Town	
Cato Town	
Rockland Town	
Franklin Town	
Maple Grove Town	
Reedsville Village	
Sparta	03
County—Jackson:	
Parts of County	
Melrose Town	
Melrose Village	
County—Monroe:	
Parts of County	
Angelo Town	
Leon Town	
Little Falls Town	
New Lyme Town	
Norwalk Village	
Ridgeville Town	
Sparta Town	
Sparta City	
Wells Town	
SheldonTown	
Lafayette Town	
Tigerton	02
County—Marathon:	
Parts of County	
Elderon Village	
Elderon Town	
Franzen Town	
County—Portage:	
Parts of County	
Rosholt Village	
Alban Town	
County—Shawano:	
Parts of County	
Wittenberg Village	
Tigerton Village	
Bowler Village	
Bartelme	
Wittenberg Town	
Morris Town	
Seneca Town	
Germania Town	
Fairbanks Town	
Grant Town	
County—Waupaca:	
Parts of County	
Dupont Town	
Marion Village	
Big Falls Village	
Wyoming Town	
Harrison Town	
Tomahawk	03
County—Lincoln:	
Parts of County	
Bradley Town	
King Town	
Harrison Town	
Skanawan Town	
Somo Town	
Tomahawk Town	
Tomahawk City	
Wilson Town	
County—Oneida:	
Parts of County	
Lynne Town	
Little Rice Town	
Nokonus Town	
County—Price:	
Parts of County	
Knox Town	
Prentice Town	
Spirit Town	
Prentice City	
Waupun	04
County—Dodge:	
Parts of County	
Chester Twn	
Leroy Twn	
Trenton Twn	
Waupun City	
County—Fond du Lac:	
Parts of County	
Alto Twn	
Waupun Twn	
Waupun City	
County—Green Lake:	
Parts of County	
Kingston Twn	
Mackford Twn	
Manchester Twn	
Marquette Twn	
Kingston Village	
Marquette Village	
Markesan City	
Western Buffalo County	01
County—Buffalo:	
Parts of County	
Nelson	
Cochrane	
Lincoln	
Alma City	
Alma Town	
Belvedere	
Waumandee	
Cross	
Milton	
Buffalo Town	
Fountain City	
Buffalo City	
Western Vernon County	04
County—Vernon:	
Parts of County	
Genoa Village	
Bergen	
Benow Town	
Hamburg	
Harmony	
Sterling	
Wheatland	
Chaseburg	
Desoto	
Stoddard	
Whitehall/Arcadia	01
County—Buffalo:	
Parts of County	
Cross	
Glencoe	
Milton	
County—Trempealeau:	
Parts of County	
Arcadia (City)	
Arcadia (Twn)	
Blair (City)	
Burnside (Twn)	
Chimney Rock	
Dodge	

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Hale	
Independence (City)	
Lincoln	
Pigeon	
Pigeon Falls (Vil)	
Preston	
Whitehall	

Wisconsin

Population Group Listing

Population group name	Degree of shortage group
Med. Ind. Pop. (Milwaukee)	01
County—Milwaukee:	
Parts of County	
C.T. 39	
C.T. 44 through 48	
C.T. 61	
C.T. 62	
C.T. 90	
C.T. 91	
C.T. 96	
C.T. 108	
C.T. 110	
C.T. 111	
C.T. 123	
C.T. 133 through 137	
C.T. 143 through 152	
Med. Ind. Pop. (Milwaukee)	03
County—Milwaukee:	
Parts of County	
C.T. 154	
C.T. 172 through 180	
Med Ind. Pop. (Racine)	04
County—Racine:	
Parts of County	
C.T. 1	
C.T. 6 through 8	
C.T 10 through 13	

Wisconsin

Facility Listing

Facility name	Degree of shortage group
Ethan Allen School	02
County—Waukesha:	
Parts of County	
Ethan Allen School	
Kettle Morain Correctional Inst.	02
County—Sheboygan:	
Parts of County	
Kettle Morain Correctional Inst.	
Lincoln Hills School	02
County—Lincoln:	
Parts of County	
Lincoln Hills School	
Wisconsin Correctional Inst.	02
County—Dodge:	
Parts of County	
Wisconsin Correctional Inst.	
Wisconsin State Prison	02
County—Dodge:	
Parts of County	
Wisconsin State Prison	
Wisconsin State Reformatory	02
County—Brown:	
Parts of County	
Wisconsin State Reformatory	

Wyoming

County Listing

County name	Degree of shortage group
Albany:	
Service area, Carbon-Rock River	04
Big Horn:	
Service area, Big Horn	03
Carbon:	
Service area, Carbon-Rock River	04
Crook:	
Service area, Upton	01
Freemont:	
Service area, Sweetwater	01
Service area, Wind River	01
Service area, Shoshoni	01
Population group, Wind River Indian Reservation	01
Hot Springs:	
Population group, Wind River Indian Reservation	01
Lincoln	03
Natrona:	
Service area, Shoshoni	01
Niobrara	04
Platte	04
Sweetwater	04
Washakie:	
Service area, Big Horn	03
Weston:	
Service area, Upton	01

Wyoming

Service Area Listing

Service area name	Degree of shortage group
Big Horn	03
County—Big Horn:	
Parts of County	
Big Horn—South Div.	
County—Washakie	
Carbon-Rock River	04
County—Albany:	
Parts of County	
Rock River Div.	
County—Carbon	
Shoshoni	01
County—Fremont	
Parts of County	
Shoshoni Div	
County—Notrona:	
Parts of County	
Hell's Half Acre Div.	
Sweetwater	01
County—Freemont:	
Parts of County	
Sweetwater Div.	
Upton	01
County—Crook:	
Parts of County	
Hulett Div.	
Moorcroft Div.	
County—Weston:	
Parts of County	
Upton Div.	
Wind River	01
County—Freemont:	
Parts of County	
Dubois Div.	
Five Mile Creek Div.	
Wind River Div.	

Wyoming

Population Group Listing

Population group name	Degree of shortage group
Wind River Indian Reservation	01
County—Freemont:	
Parts of County	
Wind River Indian Reservation	
County—Hot Springs:	
Parts of County	
Wind River Indian Reservation	

American Samoa

County Listing

County name	Degree of shortage group
Manu'a District	03
Eastern Tutuila District:	
Service area, Tutuila Island	01
Western Tutuila District:	
Service area, Tutuila Island	01

American Samoa

Service Area Listing

Service area name	Degree of shortage group
Tutuila Island	01
County—Eastern Tutuila District	
County—Western Tutuila District	

Commonwealth of Northern Mariana Islands

County Listing

County name	Degree of shortage group
Saipan:	
Service Area, N. Marianas	02
Tinian:	
Service Area, N. Marianas	02
Rota:	
Service Area, N. Marianas	02
Agrihan:	
Service Area, N. Marianas	02
Pagan:	
Service Area, N. Marianas	02
Alamagan:	
Service Area, N. Marianas	02

Commonwealth of Northern Mariana Islands

Service Area Listing

Service area name	Degree of shortage group
Marianas	02
County—Saipan	
County—Tinian	
County—Rota	
County—Agrihan	
County—Pagan	
County—Alamagan	

Puerto Rico

County Listing

County name	Degree of shortage group
Adjuntas:	
Service area, Guarguao	01
Anasco:	
Service area, Mayaguez	02
Arecibo:	
Population group, Med Ind	01
Barranquitas:	
Population group, Med Ind	01
Barceloneta:	
Service area, Florida	01
Cabo Rojo:	
Service area, Mayaguez	02
Camuy:	
Population group, Med Ind	01
Catano:	
Population group, Catano Health Area (Med Ind.)	04
Cayey:	
Population group, Med Ind	01
Cidra:	
Population group, Med Ind	01
Ciales:	
Population group, Med. Ind. in Ciales	04
Comerio:	
Population group, Med Ind	01

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Puerto Rico

County Listing

County name	Degree of shortage group
Corozal:	
Population group, Med Ind	01
Dorado:	
Population group, Catano Health Area (Med. Ind.)	04
Hatillo:	
Population group, Med Ind	01
Hormigueros:	
Service area, Mayaguez	02
Juana Diaz	02
Juncos	02
Lajas:	
Population group, Med Ind	03
Lares:	
Population group, Med Ind	01
Las Marias	01
Loiza:	
Population group, Med Ind. in Loiza	01
Manati:	
Population group, Med Ind. in Manati	01
Maricao	04
Maunabo	02
Mayaguez:	
Service area, Mayaguez	02
Naranjito:	
Population group, Med Ind	01
Morovis:	
Population group, Med Ind	01
Orocovis:	
Population group, Med Ind	01
Patillas	02
Penuelas:	
Service area, Guarguao	01
Guarguao:	
Service area, Guarguao	01
Quebradillas:	
Population group, Med Ind. in Quebradillas	01
Rincon	01
Sabana Grande:	
Population group, Med Ind	03
San German:	
Population group, Med Ind	03
San Juan:	
Service area, Llorens Torres	04
San Sebastian	01
Toa Baja:	
Population group, Catano Health Area (Med. Ind.)	04
Utuado:	
Population group, Med Ind	01
Vega Baja:	
Population group, Med Ind	01

Puerto Rico

Service Area Listing

Service area name	Degree of shortage group
Florida	01
County—Barceloneta:	
Parts of County	
Florida Adentco	
Florida Afuero	
Guarguao	01
County—Adjuntas:	
Parts of County	
Portuguez	
County—Penuelas:	
Parts of County	
Rucio	
County—Guarguao:	
Parts of County	
Guarguao	
Llorens Torres	04
County—San Juan:	
Parts of County	
Llorens Torres	
Mayaguez	02
County—Anasco	
County—Cabo Rojo	
County—Hormigueros	
County—Mayaguez	
Med Ind in Arecibo	01
County—Arecibo	
County—Camuy	
County—Hatillo	
County—Lares	
County—Morovis	
County—Utuado	
County—Vega Baja	
Med Ind in Barranquitas	01
County—Barranaquitas	
County—Comerio	
County—Corozal	
County—Naranjito	
County—Orocovis	
Med Ind in Cayey	01
County—Cayey	
Med. Ind. in Ciales	04
County—Ciales:	
Parts of County	
Med. Ind. in Ciales	
Med Ind in Cidra	01
County—Cidra	

Puerto Rico

Population Group Listing

Population group name	Degree [illegible] shortage group
Catano Health Area (Med. Ind.)	04
County—Catano:	
Parts of County	
Med. Ind. of Catano	
County—Dorado:	
Parts of County	
Med. Ind. of Dorado	
County—Toa Baja:	
Parts of County	
Med. Ind. of Toa Baja	
Med. Ind. in Loiza	01
County—Loiza:	
Parts of County	
Med. Ind. in Loiza	
Med. Ind. in Manati	01
County—Manati:	
Parts of County	
Med. Ind. in Manati	
Med. Ind. in Quebradillas	01
County—Quebradillas:	
Parts of County	
Med. Ind. in Quebradillas	
Med Ind in San German Area	03
County—Sabana Grande	
County—San German	
County—Lajas	

Trust Territory of the Pacific*County Listing*

County name	Degree of shortage group
Kosrae District	01
Marshall District	01
Ponape District	03
Truk District	01
Yap District	03

Virgin Islands*County Listing*

County name	Degree of shortage group
St. Croix:	
Service area, Fredericksted	01
St. Thomas:	
Service area, East End St. Thomas	01

Virgin Islands

Service Area Listing

Service area name	Degree of shortage group
East End St. Thomas	01
County—St. Thomas:	
Parts of County	
Election Dist. 1	
Election Dist. 2	
Election Dist. 3 (Eastern part)	
Election Dist. 4 (Eastern part)	
Election Dist. 5 (Eastern part)	
Fredericksted	01
County—St. Croix:	
Parts of County	
E.D. 13	
E.D. 14	
E.D. 19	
E.D. 20 through 25	

DENTAL CARE

Alabama

County Listing

County name	Degree of shortage group
Barbour	02
Blount	02
Bullock	01
Chambers	02
Cherokee	02
Chilon	03
Choctaw	02
Clay	01
Cleburne	01
Conecuh	03
Coosa	01
Crenshaw	01
Cullman	03
Dale	01
De Kalb	03
Etowah:	
Service area, East Gasden	01
Franklin	04
Geneva	03
Hale	02
Jackson	04
Jefferson:	
Service area, Pratt City	01
Service area, Roosevelt City	01
Lamar	01
Lawrence	01
Lowndes	02
Marengo	04
Marion	04
Mobile:	
Service area, Davis Ave. Community	01
Perry	03
Pickens	04
Randolph	02
Russell:	
Service area, Russell	01
Sumter	01
Talladega	03
Washington	01
Wilcox	01
Winston	03

Alabama

Service Area Listing

Service area name	Degree of shortage group
Davis Ave. Community	01
County—Mobile:	
Parts of County	
C.T. 2	
C.T. 3	
C.T. 4.01	
C.T. 4.02	
C.T. 5	
C.T. 6	
East Gasden	01
County—Etowah:	
Parts of County	
C.T. 13 through 17	
C.T. 105	
C.T. 106	
Pratt City	01
County—Jefferson:	
Parts of County	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 14	
Roosevelt City	01
County—Jefferson:	
Parts of County	
C.T. 105	
C.T. 131	
C.T. 133	
C.T. 136	
C.T. 137	
Russell	01
County—Russell:	
Parts of County	
Hurts Boro.	

Alaska

County Listing

County name	Degree of shortage group
Aleutian Islands Division	01
Angoon Division	01
Barrow Division	01
Bethel Division	03
Bristol Bay Borough Div.:	
Service Area, Bristol Bay	01
Bristol Bay Division:	
Service Area, Bristol Bay	01
Kobuk Division	04
Kuskokwim Division	01
Nome Division	04
Outer Ketchikan Division	01
Prince of Wales Division	01
Skagway-Yakutat Division	01
Southeast-Fairbanks Div.	01
Upper Yukon Division	01
Valdez-Chitina-Whitt. Div	01
Wade Hampton Division	01
Yukon-Koyukuk Division	01

Alaska

Service Area Listing

Service area name	Degree of shortage group
Bristol Bay	01
County—Bristol Bay Borough Div.	
County—Bristol Bay Division	

Arizona

County Listing

County name	Degree of shortage group
Apache:	
Service area, Southeast/South Central Apache Co	02
Gila	04
Greenlee	04
Maricopa:	
Service area, El Mirage	01
Service area, Twn of Guadalupe	01
Service area, South Phoenix	02
Navajo:	
Service area, Kayenta	01
Service area, Hopi Indian Reservation	01
Pima:	
Service area, El Rio	01
Service area, Marana	02
Pinal	04
Santa Cruz	02

Arizona

Service Area Listing

Service area name	Degree of shortage group
El Mirage	01
County-Maricopa:	
Parts of County	
C.T. 405 (southern ½)	
C.T. 608	
C.T. 609	
El Rio	01
County-Pima	
Parts of County	
C.T. 1 through 4	
C.T. 8 through 12	
C.T. 13.02	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25.01	
C.T. 37.01	
C.T. 37.02	
C.T. 37.03	
C.T. 38	
C.T. 39	
Kayenta	01
County-Navajo	
Parts of County	
Navajo Monument Div.	
Marana	02
County—Pima	
Parts of County	
Marana CCD	
South Phoenix	02
County-Maricopa	
Parts of County	
C.T. 1152 through 1161	
C.T. 1162.01	
C.T. 1162.02	
C.T. 1163 through 1167	
Southeast/South Central Apache Co	02
County—Apache:	
Parts of County	
St. Johns	
Round Valley	
Puerco	
County—	
Parts of County	
Twn of Guadalupe	
County—Maricopa:	
Parts of County	
Twn of Guadalupe	

Arizona

Population Group Listing

Population group name	Degree of shortage group
Hopi Indian Reservation	01
County—Navajo:	
Parts of County	
Hopi Div.	

Arkansas

County Listing

County name	Degree of shortage group
Ashley	04
Calhoun	01
Chicot	03
Cleveland	01
Dallas	04
Franklin	04
Fulton	01
Grant	03
Hempstead	04
Lafayette	01
Lawrence	04
Lincoln	02
Logan	03
Marion	02
Mississippi	04
Monroe	03
Montgomery	03
Nevada	03
Newton	03
Perry	01
Poinsett	02
Randolph	03
Scott	02
Sharp	01
Woodruff	03

California

County Listing

County name	Degree of shortage group
Alameda:	
Service area, Fruitvale	02
Fresno:	
Service area, Huron/Five Points	01
Los Angeles:	
Service area, Maple/Santa Barbara	01
Service area, Newhall	02

California

County Listing

County name	Degree of shortage group
Service area, Highland/Lincoln Hts/Mt. Wash./El Sereno	02
San Benito	04
San Francisco:	
Service area, Potrero Hill/South Bayshore	02
San Joaquin:	
Population group, MIG/Seasonal Farmworkers (San Joaquin)	01
San Luis Obispo:	
Population group, Span.-Spkng/Ind. Pop. in Nipomo Area	01
Santa Clara:	
Service area, Loma Prieta School District	01
Santa Cruz:	
Service area, Loma Prieta School District	01
Stanislaus:	
Service area, West Modesto	01
Tulare:	
Service area, South Tulare	01

California

Service Area Listing

Service area name	Degree of shortage group
Fruitvale	02
County—Alameda:	
Parts of County	
C.T. 4005 through 4011	
C.T. 4053 through 4063	
C.T. 4065	
C.T. 4070 through 4078	
C.T. 4082 through 4096	
C.T. 4101	
C.T. 4102	
C.T. 4103	
C.T. 4104	
C.T. 4251	
C.T. 4014 through 4033	
Highland/Lincoln Hts/Mt. Wash./El Sereno	02
County—Los Angeles:	
Parts of County	
C.T. 1831 through 1838	
C.T. 5307	
C.T. 1851	
C.T. 1852	
C.T. 1853	
C.T. 1991 through 1999	
County—Los Angeles:	
Parts of County	
C.T. 2011 through 2017	
Huron/Five Points	01
County—Fresno:	
Parts of County	
C.T. 78	
Loma Prieta School District	01
County—Santa Clara:	
Parts of County	
Lexington Div. (part)	
County—Santa Cruz:	
Parts of County	
San Lorenzo Valley (part)	
Scotts Valley Div. (part)	
Maple/Santa Barbara	01
County—Los Angeles:	
Parts of County	
C.T. 2214.01	
C.T. 2214.02	
C.T. 2215.01	
C.T. 2215.02	
C.T. 2216.01	
C.T. 2216.02	
C.T. 2217.01	
C.T. 2217.02	
C.T. 2218	
C.T. 2219	
C.T. 2221	
C.T. 2222	
C.T. 2223 through 2227	
C.T. 2244 through 2247	
C.T. 2264 through 2267	
Newhall	02
County—Los Angeles:	
Parts of County	
C.T. 1081	
C.T. 1082	
C.T. 9200.01	
C.T. 9200.02	
C.T. 9200.03	
C.T. 9201	
C.T. 9203.01	
C.T. 9203.02	
C.T. 9203.03	
Potrero Hill/South Bayshore	02
County—San Francisco:	
Parts of County	
C.T. 180	
C.T. 226	
C.T. 227	
C.T. 230 through 234	
C.T. 606 through 610	
South Tulare	01
County—Tulare:	
Parts of County	
C.T. 32	
C.T. 42	
C.T. 43	
C.T. 44	
C.T. 45	
West Modesto	01
County—Stanislaus:	
Parts of County	
C.T. 15	
C.T. 16	
C.T. 17	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25	
C.T. 31	

California

Population Group Listing

Population group name	Degree of shortage group
Mig/Seasonal Farmworkers (San Joaquin)	01
County—San Joaquin:	
Parts of County	
Migrant & Seasonal Farmworkers	
Span.-Spkng/Ind. Pop. in Nipomo Area	01
County—San Luis Obispo:	
Parts of County	
Span.-Spkng/Ind. Pop. in Nipomo Area	

Colorado

County Listing

County name	Degree of shortage group
Baca	01
Pueblo:	
Service area, Avondale	02
Saguache	01
Washington	01

Colorado

Service Area Listing

Service area name	Degree of shortage group
Avondale	02
County—Pueblo:	
Parts of County	
C.T. 30.01 (part—Avondale)	
C.T. 30.02 (part—Avondale)	
C.T. 31.02 (part—Avondale)	
C.T. 32 (Avondale)	
C.T. 33 (Avondale)	
C.T. 34 (Avondale)	

Connecticut

County Listing

County name	Degree of shortage group
Hardford:	
Service area, Charter Oak/Rice Hts.	01
Service area, North/Northcentral Hartford	02
Middlesex:	
Population group, Low Income Pop. of Middletown	04

Connecticut

Service Area Listing

Service area name	Degree of shortage group
Charter Oak/Rice Hts.	01
County—Hartford:	
Parts of County	
C.T. 5046	
C.T. 5049	
North/Northcentral Hartford	02
County—Hartford:	
Parts of County	
C.T. 5008	
C.T. 5009	
C.T. 5010	
C.T. 5012	
C.T. 5013	
C.T. 5014	
C.T. 5015	
C.T. 5017	
C.T. 5018	
C.T. 5035	
C.T. 5037	

Connecticut

Population Group Listing

Population group name	Degree of shortage group
Low Income Pop.	04
County—Middlesex:	
Parts of County	
C.T. 5401	
C.T. 5407	
C.T. 5408	

Florida

County Listing

County name	Degree of shortage group
Baker:	
Facility, Baker Correctional Inst.	01
Citrus	04
Collier:	
Service area, Collier (southern portion)	01
Dixie:	
Facility, Cross City Corr. Inst.	01
Escambia:	
Service area, Northern Escambia	01
Franklin	01
Gadsden	02
Gilchrist	01
Gulf	04
Hamilton	01
Hardee	02
Hernando	02
Highlands:	
Population group, Low Income Pop. (Highlands)	03
Hillsborough:	
Service area, Hillsborough Co. Mig. Health Center Inc.	02
Holmes	02
Jackson	04
Lafayette	01
Lake:	
Population group, Migrant/Seasonal Farmworkers	04
Lee	01
Madison	03

Florida

County Listing

County name	Degree of shortage group
Mantee:	
Service area, Hillsborough Co. Mig. Health Center Inc.	02
Orange:	
Service area, West Central Orange	04
Service area, Northwest Orange	02
Palm Beach:	
Service area, Glades	01
Polk:	
Service area, Frostproof	01
Putnam	04
St. Lucie	03
Sumter	02
Suwannee	02
Taylor	04
Union	04
Walton	04
Washington	02

Florida

Service Area Listing

Service area name	Degree of shortage group
Collier (southern portion)	01
County—Collier:	
Parts of County	
Everglades (southern portion)	
Frostproof	01
County—Polk:	
Parts of County	
Frostproof	
Lake Wales	
South-Babson Park	
Glades	01
County—Palm Beach:	
Parts of County	
C.T. 80 through 83	
Hillsborough Co. Mig. Health Center Inc.	02
County—Hillsborough:	
Parts of County	
C.T. 121 through 141	
County—Mantee:	
Parts of County	
C.T. 13 through 16	
Northern Escambia	01
County—Escambia:	
Parts of County	
C.T. 36 through 40	

Georgia

County Listing

County name	Degree of shortage group
Atkinson	01
Banks	02
Ben Hill	04
Brantley	01
Brooks	02
Bryan	01
Butts	03
Calhoun	02
Camden	04
Candler	03
Chattahoochee	01
Chattooga	02
Clarke:	
Service area, Athens Neighborhood Health Center Target	01
Clinch	01
Coffee	03
Crawford	01
Crisp	04
Dawson	01
Decatur	04
Dooly	02
Early	04
Emanuel	03
Fannin	04
Franklin	04
Fulton:	
Service area, Atlanta Southside	01
Glascock:	
Service area, Tri-County	01
Greene	04
Hancock	01
Haralson	02
Harris	01
Hart	03
Heard	01
Irwin	03
Jefferson	03
Jenkins	01
Lamar	04
Lanier	04
Lee	01
Liberty	03
Lincoln	03
Long	01
Lumpkin	04
Macon	01
Madison	02
Meriwether	03
Miller	02
Mitchell	03
Montgomery	01
Murray	01
Oconee	01
Olgethorpe	01
Peach	01
Pickens	03
Pike	01
Randolph	01
Richmond:	
Service area, Gracewood School	01
Screven	01
Seminole	01
Stewart:	
Service area, Stewart/Webster	02
Talbot	01
Taliaferro:	
Service area, Tri-County	01
Tattnall	04
Taylor	01
Union	02
Warren:	
Service area, Tri-County	01
Webster:	
Service area, Stewart/Webster	02
Wilcox	01
Wilkinson	01
Worth	03

Georgia

Service Area Listing

Service area name	Degree of shortage group
Athens Neighborhood Health Center Target	01
County—Clarke:	
Parts of Country	
C.T. 2	
C.T. 3	
C.T. 6	
C.T. 9	
Atlanta Southside	01
County—Fulton:	
Parts of County	
C.T. 44 through 53	
C.T. 55.01	
C.T. 55.02	
C.T. 56	
C.T. 57	
C.T. 58	
C.T. 63	
C.T. 64	
C.T. 67	
C.T. 69	
C.T. 70 through 73	
Stewart/Webster	02
County—Stewart	
County—Webster	
Tri-County	01
County—Glascock	
County—Taliaferro	
County—Warren	

Georgia

Population Group Listing

Population group name	Degree of shortage group
Gracewood School	01
County—Richmond:	
Parts of County	
Mentally retarded (Gracewood School)	

Hawaii

County Listing

County name	Degree of shortage group
Hawaii:	
Service area, Kau	01
Honolulu:	
Service area, Wainae Coast	04

Hawaii

Service Area Listing

Service area name	Degree of shortage group
Kau	01
County—Hawaii:	
Parts of County	
C.T. 212	
Wainae Coast	04
County—Honolulu:	
Parts of County	
C.T. 96.01	
C.T. 96.02	
C.T. 97	
C.T. 98	

Idaho

County Listing

County name	Degree of shortage group
Idaho	03
Owyhee	01

Illinois

County Listing

County name	Degree of shortage group
Alexander:	
Service area, Alexander/Pulaski	01
Brown	04
Calhoun	01
Cook:	
Service area, Robbins	02
Service area, Englewood	02
Service area, Uptown	04
Gallatin	03
Greene	04
Hamilton	02
Hancock	04
Hardin:	
Service area, Hardin/Pope	01
Henderson	02
Jackson	04
Kankakee:	
Service area, Pembroke	01
Macon:	
Service area, Decatur Inner City	01
Macoupin	04
Mercer	04
Pope:	
Service area, Hardin/Pope	01
Pulaski:	
Service area, Alexander/Pulaski	01
St. Clair:	
Service area, East Side Health Dist.	01
Scott	01
Will:	
Facility, Joliet Correctional Inst.	01

Illinois

County Listing

County name	Degree of shortage group
Facility, Statesville Correctional Inst.	01
Winnebago:	
Service area, Rockford Inner City	04

Illinois

Service Area Listing

Service area name	Degree of shortage group
Alexander/Pulaski	01
County—Alexander	
County—Pulaski	
Decatur Inner City	01
County—Macon:	
Parts of County	
C.T. 1	
C.T. 7	
C.T. 8	
C.T. 9	
East Side Health Dist.	01
County—St. Clair:	
Parts of County	
C.T. 5001 through 5014	
C.T. 5015.01	
C.T. 5020 through 5030	
County—Cook:	
Parts of County	
C.T. 6101 through 6122	
C.T. 6705 through 6720	
C.T. 6801 through 6814	
C.T. 6701 through 6704	
Hardin/Pope	01
County—Hardin	
County—Pope	
Pembroke	01
County—Kankakee:	
Parts of County	
Pembroke Twp	
Robbins	02
County—Cook:	
Parts of County	
Robbins Village	
Rockford Inner City	04
County—Winnebago:	
Parts of County	
C.T. 10	
C.T. 21	
C.T. 24 through 28	
Uptown	04
County—Cook:	
Parts of County	
C.T. 310	
C.T. 311	
C.T. 312	
C.T. 315 through 321	

Illinois

Facilities Listing

Facility name	Degree of shortage group
Joliet Correctional Inst.	01
County—Will:	
Parts of County	
Joliet Correctional Inst.	
Statesville Correctional Inst.	01
County—Will:	
Parts of County	
Statesville Correctional Inst.	

Indiana

County Listing

County name	Degree of shortage group
Crawford	03
Dearborn:	03
Service area: Lawrenceburg	
Franklin	03
Lagrange	04
Lake:	
Service area: Gary/Area #1	01
Martin	03
Miami	03
Ohio:	03
Service area: Lawrenceburg	
Owen	02
Pike	04
Starke	04
Switzerland:	03
Service area: Lawrenceburg	

Indiana

Service Area Listing

Service area name	Degree of shortage group
Gary/Area #1	01
County—Lake:	
Parts of County	
C.T. 101 through 129	
Lawrenceburg	03
County—Dearborn:	
County—Ohio	
County—Switzerland	

Iowa

County Listing

County name	Degree of shortage group
Adair	03
Appanoose:	
Service area, Albia	04
Benton:	
Service area, Belle Plaine	03
Cedar:	
Service area, Clarence-Wheatland	03
Clarke:	
Service area, Osceola	02
Clayton:	
Service area, Southern Clayton CountyAlbia	04
Clinton:	
Service area, Clarence-Wheatland	03
Crawford:	
Service area, Onawa-Mapleton	03
Decatur	02
Guthrie	03
Harrison:	
Service area, Logan	04
Iowa:	
Service area, Brooklyn-Montezuma	03
Jasper:	
Service area, Brooklyn-Montezuma	03
Jones:	
Service area, Clarence-Wheatland	03
Facility, State Correctional Institutions	01
Keokuk	04
Lee:	
Facility, State Correctional Institutions	01
Louisa	04
Lucas:	
Service area, Chariton	04
Madison:	
Service area, Osceola	02
Mahaska:	
Service area, Brooklyn-Montezuma	03
Marion:	
Service area, Albia	04
Monona:	
Service area, Logan	04
Service area, Onawa-Mapleton	03
Monroe:	
Service area, Albia	04
Service area, Chariton	04
Polk:	
Population group, Dentally Indigent of Polk Co.	01
Pottawattamie:	
Service area, Logan	04
Poweshiek:	
Service area, Brooklyn-Montezuma	03
Scott:	
Service area, Clarence-Wheatland	03
Shelby:	
Service area, Logan	04
Tama:	
Service area, Belle Plaine	03
Taylor:	
Service area, Bedford	02
Union	
Service area, Osceola	02
Van Buren	02
Wapello:	
Service area, Albia	04
Warren:	
Service area, Osceola	02
Service area, Chariton	04
Wayne	04
Woodbury:	
Service area, Onawa-Mapleton	03

Iowa

Service Area Listing

Service area name	Degree of shortage group
Albia	04
County—Appanoose:	
Parts of County	
Monrovia Town	
County—Marion:	
Parts of County	
Hamilton Town	
County—Monroe:	
Parts of County	
Albia City	
Lovilla Town	
County—Wapello:	
Parts of County	
Blakesburg Town	
Bedford	02
County—Taylor:	
Parts of County	
Bedford Town	
Gravity Town	
Conway Town	
New Market Town	
Sharpsburg Town	
Athelstan Town	
Blockton Town	
Clearfield Town	
Gell Plaine	03
County—Benton:	
Parts of County	
Belle Plaine Town	
Luzerne Town	
Keystone Town	
County—Tama:	
Parts of County	
Elberon Town	
Vining Town	
Chelsea Town	
Brooklyn-Montezuma	03
County—Iowa:	
Parts of County	
Victor Town	
County—Jasper:	
Parts of County	
Lynnville Town	
County—Mahaska:	
Parts of County	
Barnes City Town	
County—Poweshiek:	
Parts of County	
Brooklyn Town	
Guernsey Town	
Victor Town	
Hartwick Town	
Montezuma Town	
Searshoro Town	
Barnes City Town	
Deep River Town	
Malcom Town	
Chariton	04
County—Lucas:	
Parts of County	
Chariton Township	
Lucas Town	

Iowa

Service Area Listing

Service area name	Degree of shortage group
Derby Town	
Russell Town	
Williams Town	
County—Monroe:	
Parts of County	
Melrose Town	
County—Warren:	
Parts of County	
Lacona Town	
Clarence-Wheatland	03
County—Cedar:	
Parts of County	
Clarence Town	
Lowden Town	
Standwood Town	
County—Clinton:	
Parts of County	
Lost Nation Town	
Calamus Town	
Wheatland Town	
Toronto Town	
County—Jones:	
Parts of County	
Olin Town	
Wyoming Town	
Oxford Junction Town	
County—Scott:	
Parts of County	
Dixon Town	
New Liberty Town	
Logan	04
County—Harrison:	
Parts of County	
Logan Town	
Magnolia Town	
Woodbine Town	
Missouri Valley Town	
Modale Town	
Persia Town	
Mondamin Town	
Pisgah Town	
Little Sioux Town	
County—Monona:	
Parts of County	
Moorhead Town	
County—Pottawattamie:	
Parts of County	
Neola Town	
Underwood Town	
County—Shelby:	
Parts of County	
Portsmouth Town	
Panama Town	
Tennant Town	
Onawa-Mapleton	03
County—Crawford:	
Parts of County	
Charter Oak Town	
Ricketts Town	
County—Monona:	
Parts of County	
Whitting Town	
Turin Town	
Castana Town	
Mapleton Town	
Rodney Town	
Onawa Town	
Ute Town	
Soldier Town	
County—Woodbury:	
Parts of County	
Anthon Town	
Oto Town	
Hornick Town	
Smithland Town	
Danbury Town	
Oscela	02
County—Clarke	
County—Madison:	
Parts of County	
Truro Town	
County—Union:	
Parts of County	
Afton	
Arispe	
Lorimar	
Thayer	
County—Warren:	
Parts of County	
New Virginia Town	
Southern Clayton County	04
County—Clayton:	
Parts of County	
Guttenberg City	
Garber Town	
Elkport Town	
North Buena Vista Town	
Elkader Town	
Saint Olaf Town	
Garnavillo Township	
Little Port Town	
Volga City Town	
Edgewood Town	
Strawberry Point Town	

Iowa

Population Group Listing

Population group name	Degree of shortage group
Dentally Indigent of Polk Co.	01
County—Polk:	
Parts of County	
Dentally Indigent of Polk Co.	

Iowa

Facility Listing

Facility name	Degree of shortage group
State Correctional Institutions	01
County—Jones:	
Parts of County	
Men's Reformatory (Anamosa)	
County—Lee:	
Parts of County	
State Penitentiary (Ft. Madison)	

Kansas

County Listing

County name	Degree of shortage group
Chase	01
Chautaugua	03
Cherokee	03
Coffey	02
Comanche	01
Gove:	
Service area, Gove/Logan	04
Graham	02
Gray	04
Greeley	01
Jefferson	04
Jewell	01
Lane	01
Linn	02
Logan:	
Service area, Gove/Logan	04
Meade	04
Morton	01
Smith	03
Stanton	01
Wabaunsee	02
Wallace	01
Woodson	03

Kansas

Service Area Listing

Service area name	Degree of shortage group
Gove/Logan	04
County—Gove	
County—Logan	

Kentucky

County Listing

County name	Degree of shortage group
Ballard	04
Bath	04
Bell:	
Service area, Tejay/Pruden Fonde	01
Bracken	02
Breathitt	04
Butler	03
Carlisle	01
Carter	02
Casey	02
Clay	01
Edmonson	01
Elliott	01
Estill	02
Gallatin	01
Grant	03
Hancock	03
Harlan:	
Service area, Western Harlan	01
Service area, Cumberland	01
Jackson	01
Johnson	04
Knott	02
Knox:	
Service area, Williamsburg	02
Larue	04
Laurel	02
Leslie	01
Lewis	01
Lincoln	01
Livingston	03
Logan	04
Lyon:	
Facility, Kentucky State Reformatory	01
McCreary	04
Magoffin	01
Martin	01
Menifee	01
Morgan	03
Ohio	03
Pendleton	04
Perry	02
Pike	04
Spencer	04
Todd	03
Trimble	04
Wayne	04
Webster	03
Whitley:	
Service area, Williamsburg	02
Wolfe	03
Cumberland	01
County—Harlan:	
Parts of County	
Upper Clover CCD	
Poor Fork CCD	
Benham-Lynch CCD	
Cumberland CCD	
Tejay/Pruden Fonde	01
County—Bell:	
Parts of County	
Tejay CCD	
Pruden Fork	
Western Harlan	01
County—Harlan:	
Parts of County	
Wallins Creek CCD	
Alva CCD	
Williamsburg	02
County—Knox:	
Parts of County	
Barbourville West CCD	
Barbourville CCD	
Barbourville East CCD	
Bryants CCD	
Dewitt CCD	
Girdler CCD	
Gray CCD	
Trosper CCD	
County—Whitley:	
Parts of County	
Auler CCD	
Rockholds CCD	
Williamsburg CCD	

Kentucky

Facility Listing

Facility name	Degree of shortage group
Kentucky State Reformatory	01
County—Lyon:	
Parts of County	
Kentucky State Reformatory	

Louisiana

County Listing

County name	Degree of shortage group
Bienville	01
Caddo:	
Population group, Shreveport (low income)	01
Caldwell	01
Catahoula	02
Concordia	04
De Soto	03
East Baton Rouge:	
Service area, Eden Park	01
East Carroll	03
Franklin	02
Grant	01
Jackson	03
Lincoln	04
Madison	01
Morehouse	04
Natchitoches	04
Orleans:	
Service area, Desire/Florida	01
Service area, Irish Channel	01
Red River	01
Tensas	01
Union	04
Vernon	02
West Baton Rouge	02
West Carroll	01

Louisiana

Service Area Listing

Service area name	Degree of shortage group
Desire/Florida	01
County—Orleans:	
Parts of County	
C.T. 11	
C.T. 14.01	
C.T. 14.02	
C.T. 15	
C.T. 16	
C.T. 17.03	
C.T. 17.04	
C.T. 17.05	
C.T. 17.06	
Eden Park	01
County—East Baton Rouge:	
Parts of County	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 12	
C.T. 13	
Irish Channel	01
County—Orleans:	
Parts of County	
C.T. 77	
C.T. 78	
C.T. 81	
C.T. 83	
C.T. 87	
C.T. 88	
C.T. 89	

Louisiana

Population Group Listing

Population group name	Degree of shortage group
Shreveport (low income)	01
County—Caddo:	
Parts of County	
Shreveport (low income)	

Maine

County Listing

County name	Degree of shortage group
Aroostook:	
Service area, Madawaska	01
Penobscot:	
Service area, Dexter-Hartland	03
Service area, Northern Penobscot-Piscataquis	02
Piscataquis:	
Service area, Dexter-Hartland	03
Service area, Northern Penobscot-Piscataquis	02
Somerset:	
Service area, Dexter-Hartland	03

Maine

Service Area Listing

Service area name	Degree of shortage group
Dexter-Hartland	03
County—Penobscot:	
Parts of County	
Charleston Twn	
Corinna Twn	
Corinth Twn (E. & S.)	
Dexter Twn	
Exeter Twn	
Garland Twn	
Newport Twn	
Stetson Twn	
Plymouth Twn	
County—Piscataquis:	
Parts of County	
Abbot Twn	
Atkinson Twn	
Dover Twn	
Guilford Twn	
Parkman Twn	
Sangerville Twn	
Wellington Twn	
County—Somerset:	
Parts of County	
Cornville Twn	
Cambridge Twn	
Detroit Twn	
Harmony Twn	
Hartland Twn	
Palmyra Twn	
Ripley Twn	
St. Albans Twn	
Brighton Plant.	
Athens Twn	
Canaan Twn	
Madawaska	01
County—Aroostook:	
Parts of County	
Grand Isle	
Madawaska	
St. Agatha	
Northern Penobscot-Piscataquis	02
County—Penobscot:	
Parts of County	
Bradford Town	
Greenbush Town	
Greenfield Town	
Maxfield Town	
Unorg. Terr. of N. Penobscot	
Burlington Town	
Chester Town	
East Millinocket Town	
Enfield Town	
Howland Town	
La Grange Town	
Lee Town	
Lincoln Town	
Lowell Town	
Mattawamkeag Town	
Medway Town	
Millinocket Town	
Passadumkeag Town	
Springfield Town	
Winn Town	
Unorganized Terr. of Kingman	
Edinburg Town	
Lakeville Plantation	
Carroll Plantation	
Woodville Town	
Dixmont Town	
Etna Town	
Webster Plantation	
Seboeis Plantation	
Grand Falls Plantation	
County—Piscataquis:	
Parts of County	
Brownville Twn	
Greenville Twn	
Milo Twn	
Monson Twn	
Sebec Twn	
Shirley Twn	
Medford Twn	
Lake View Plantation	
Bowerbank Twn	
Willimantic Twn	
Elliottsville Plantation	
Barnard Plantation	
Blanchard Plantation	
Kingsbury Plantation	
Unorg. Terr. of N. Piscataquis	
Unorg. Terr. of S.E. Piscataquis	

Maryland

County Listing

County name	Degree of shortage group
Somerset:	
Service area, Princess Anne Service Area	02
Baltimore City:	
Service area, Constant Care Service Area	02
Service area, East Baltimore	01
Service area, West Baltimore	02
Service area, Hampden/Woodberry/Remington	04

Maryland

Service Area Listing

Service area name	Degree of shortage group
Constant Care Service Area	02
County—Baltimore City:	
Parts of County	
C.T. 402	
C.T. 1401	
C.T. 1402	
C.T. 1403	
C.T. 1501	
C.T. 1502	
C.T. 1601	
C.T. 1602	
C.T. 1603	
C.T. 1604	
C.T. 1701	
C.T. 1702	
C.T. 1703	
C.T. 2101	
East Baltimore	01
County—Baltimore City:	
Parts of County	
C.T. 501	
C.T. 603	
C.T. 604	
C.T. 605	
C.T. 704	
C.T. 806	
C.T. 807	
C.T. 808	
C.T. 909	
C.T. 1001	

Maryland

Service Area Listing

Service area name	Degree of shortage group
C.T. 1002	
C.T. 1004	
Hampden/Woodberry/Remington	04
County—North Central Baltimore:	
Parts of County	
C.T. 1203	
C.T. 1206	
C.T. 1207	
C.T. 1305	
C.T. 1306	
C.T. 1308.02	
Princess Anne Service Area	02
County—Somerset:	
Parts of County	
Election Dist. 1	
Election Dist. 3	
Election Dist. 4	
Election Dist. 6	
Election Dist. 8	
Election Dist. 13	
Election Dist. 15	
West Baltimore	02
County—Baltimore City:	
Parts of County	
C.T. 1801	
C.T. 1802	
C.T. 1803	
C.T. 1901	
C.T. 1902	
C.T. 1903	
C.T. 2001 through 2005	

Massachusetts

County Listing

County Name	Degree of shortage group
Hampden:	
Service area, Worthington	01
Hampshire:	
Service area, Worthington	01
Suffolk:	
Service area, South End	03
Service area, Roxbury	03
Service area, North Dorchester	02
Service area, Allston	01

Massachusetts

Service area Listing

Service area name	Degree of shortage Group
Allston	01
County—Suffolk:	
Parts of County	
C.T. 1	
C.T. 7	
C.T. 8	
North Dorchester	02
County—Suffolk:	
Parts of County	
C.T. 901 through 924	
Roxbury	03
County—Suffolk:	
Parts of County	
C.T. 801 through 821	
South End	03
County—Suffolk:	
Parts of County	
C.T. 703 (S. 1/2)	
C.T. 704 through 712	
Worthington	01
County—Hampden:	
Parts of County	
Chester Town	
County—Hampshire:	
Parts of County	
Chesterfield Town	
Commington Town	
Goshen Town	
Huntington Town	
Plainfield Town	
Worthington Town	

Michigan

County Listing

County name	Degree of shortage group
Alcona	03
Arenac:	
Service area, Rifle River	02
Service area, Sterling-Standish	04
Baraga:	
Service area, Iron River	04
Bay:	
Service area, Sterling-Standish	04
Clare:	
Service area, Harrison	01
Genesee:	
Service area, North Flint	01
Gladwin:	
Service area, Gladwin	04
Service area, Sterling-Standish	04
Houghton:	
Service area, Iron River	04
Iosco:	
Service area, Rifle River	02
Iron:	
Service area, Iron River	04
Lapeer:	
Service area, Sandusky	04
Livingston:	
Service area, Cohoctah	01
Marquette:	
Service area, Iron River	04
Ogemau:	
Service area, Rifle River	02
Ontonagon:	
Service area, Iron River	04
Roscommon:	
Service area, Hoghton Lake-St. Helen	04
Saginaw:	
Service area; Easton	04
Sanilac:	
Service area; Sandusky	04
Shiawassee:	
Service area, Easton	04
Service area, Cohoctah	01
Wayne:	
Service area, Detroit area #1	02
Service area, Detroit area #2	03
Facility, Wayne County Jail	02

Michigan

Service Area Listing

Service area name	Degree of shortage group
Cohoctah	01
County—Livingston:	
Parts of County	
Cohoctah TWP	
Conway TWP	
Deerfeld TWP	
County—Shiawassee:	
Parts of County	
Antrim TWP	
Burns TWP	
Perry TWP	
Detroit Area #1	02
County—Wayne:	
Parts of County	
C.T. 501 through 503	
C.T. 547 throught 550	
C.T. 554	
C.T. 555	
C.T. 556	
C.T. 558 through 572	
C.T. 601.01	
C.T. 602	
C.T. 604	
C.T. 651 through 657	
C.T. 662 through 665	
C.T. 751 through 797	
C.T. 505	
C.T. 951 through 961	
C.T. 509	
C.T. 511 through 515	
C.T. 517 through 527	
C.T. 537	
C.T. 539	
C.T. 540	
C.T. 541	
C.T. 542	
Detroit Area #2	03
County—Wayne:	
Parts of County	
C.T. 3 through 13	
C.T. 53	
C.T. 54	
C.T. 55	
C.T. 56	
C.T. 58 through 64	
C.T. 66 through 73	
C.T. 101	
C.T. 103 through 123	
C.T. 153 through 169	
C.T. 173 through 183	
C.T. 185	
C.T. 187	
C.T. 201	
C.T. 202	
C.T. 203	
C.T. 206 through 213	
C.T. 251	
C.T. 252	
C.T. 253	
C.T. 254	
C.T. 255	
C.T. 256.01	
C.T. 256.02	
C.T. 257	
C.T. 258.01	
C.T. 259.02	
C.T. 260	
C.T. 261.01	
C.T. 261.02	
C.T. 263	
C.T. 358	
C.T. 401	
C.T. 407	
C.T. 408	
C.T. 409.01	
C.T. 170 (Portions)	
C.T. 171 (Portions)	
C.T. 184 (Portions)	
C.T. 262.01 (Portions)	
C.T. 262.02 (Portions)	
C.T. 15 through 21	
C.T. 36	
C.T. 38	
C.T. 39	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 43	
C.T. 51	
C.T. 52	
Easton	04
County—Saginaw:	
Parts of County	
Brady Twp	
Chapin Twp	
Chesaning Twp	
Maple Grove Twp	
County—Shiawassee:	
Parts of County	
Fairfield Twp	
Hazelton Twp	
New Haven Twp	
Rush Twp	
Gladwin	04
County—Gladwin:	
Parts of County	
Beaverton City	
Beaverton Twp	
Bently Twp	
Billings Twp	
Buckeye Twp	
Butman Twp	
Clement Twp	
Gladwin City	
Gladwin Twp	
Grant Twp	
Hay Twp	
Sage Twp	
Secord Twp	
Sherman Twp	
Tabacco Twp	
Harrison	01
County—Clare:	
Parts of County	

Michigan

Service Area Listing

Service area name	Degree of shortage group
Arthur Twp	
Franklin Twp	
Freeman Twp	
Frost Twp	
Greenwood Twp	
Hamilton Twp	
Harrison City	
Hatton Twp	
Hayes Twp	
Lincoln Twp	
Redding Twp	
Summerfield Twp	
Winterfield Twp	
Houghton Lake—St. Helen	04
County—Roscommon:	
Parts of County	
Denton Twp	
Roscommon Twp	
Richfield Twp	
Au Sable Twp	
Nester Twp	
Backus Twp	
Higgins Twp	
Iron River	04
County—Baraga:	
Parts of County	
Covington Twnship	
Spurr Twnship	
County—Forest (Wisconsin):	
Parts of County	
Alvin Township	
Pople River Township	
County—Houghton:	
Parts of County	
Duncan Twnship	
County—Iron	
County—Marquette:	
Parts of County	
Republic Twnship	
County—Villa (Wisconsin):	
Parts of County	
Philps Twnship	
Connover Twnship	
County—Ontonagon:	
Parts of County	
Interior Twnship	
North Flint	01
County—Genesee:	
Parts of County	
C.T. 1 through 7	
C.T. 19 through 26	
C.T. 44	
Rifle River	02
County—Arenac:	
Parts of County	
Moffet Twp	
Clayton Twp	
Mason Twp	
County—Iosco:	
Parts of County	
Plainsfield Twp	
Reno Twp	
Burleigh Twp	
County—Ogemaw:	
Parts of County	
Horton Twp	
Mills Twp	
Richland Twp	
Churchhill Twp	
Logan Twp	
Sandusky	04
County—Lapeer:	
Parts of County	
Burnside Twp	
County—Sanilac	
Sterling-Standish	04
County—Arenac:	
Parts of County	
Adams Twp	
Arenac Twp	
Au Gres City	
Au Gres Twp	
Deep River Twp	
Lincoln Twp	
Omer City	
Sims Twp	
Standish Twp	
Turner Twp	
Whitney Twp	
County—Bay:	
Parts of County	
Gibson Twp	
County—Gladwin:	
Parts of County	
Bourret Twp	
Grim Twp	

Michigan

Facility Listing

Facility name	Degree of shortage group
Wayne County Jail	02
County—Wayne:	
Parts of County	
Wayne County Jail	

Minnesota

County Listing

County name	Degree of shortage group
Hennepin:	
Population Group: Am. Ind. Pop. in Minneapolis	01

Minnesota

Population Group Listing

Population group name	Degree of shortage group
Am. Ind. Pop. in Minneapolis	01
County—Hennepin:	
Parts of County	
Am. Ind. Pop. in Minneapolis	

Mississippi

County Listing

County name	Degree [illegible] shortage group
Amite	03
Attala	04
Benton	01
Calhoun	04
Carroll	04
Chickasaw	03
Choctaw	01
Claiborne	03
Clarke	01
Clay	01
Copiah	02
Covington	04
De Soto	02
Franklin	01
Greene	01
Hinds:	
Service area, Good Samaritan	02
Service area, Southwest Hinds	01
Holmes	01
Humphreys	01
Issaquena:	
Service area, Issawuena-Sharkey	04
Itawamba	02
Jasper	01
Kemper	01
Lafayette	03
Lamar	03
Lawrence:	
Service area, Lawrence/Lincoln	03
Leake	01
Lincoln:	
Service area, Lawrence/Lincoln	03
Madison	01
Marshall	01
Monroe	03
Montgomery	01
Neshoba	03
Newton	03
Noxubee	01
Perry	01
Pontotoc	03
Prentiss	02
Quitman	02
Rankin	03
Sharkey:	
Service area, Issawuena-Sharkey	04
Smith	02
Stone	01
Tallahatchie	02
Tate	03
Tippah	04
Tishomingo	03
Tunica	01
Walthall	02
Wayne	03
Webster	03
Winston	04
Yalobusha	02
Yazoo	03

Mississippi

Service Area Listing

Service area name	Degree of shortage group
Good Samaritan	02
County—Hinds:	
Parts of County	
C.T. 17 through 20	
C.T. 25 through 28	
Issawuena-Sharkey	04
County—Issaquena	
County—Sharkey	
Lawrence/Lincoln	03
County—Lawrence	
County—Lincoln	
Southwest Hinds	01
County—Hinds:	
Parts of County	
C.T. 106	
C.T. 107	
C.T. 112	
C.T. 113	

Missouri

County Listing

County name	Degree of shortage group
Bollinger	01
Carter	04
Cedar:	
Service area, Humansville	02
Chariton	04
Clark	03
Dallas	01
Daviess	03
De Kalb	04
Douglas	03
Dunklin	04
Hickory:	
Service area, Humansville	02
Service area, Hickory	01
Holt	02
Jackson:	
Service area, Central Kansas City	02
Knox	03
Lewis	02
Lincoln	03
McDonald	04
Maries	02
Mississippi	04
New Madrid	04
Oregon	01
Ozark	01
Pemiscot	02

Missouri

County Listing

County name	Degree of shortage group
Polk:	
Service area, Humansville	02
Pulaski	02
Ralls	01
Reynolds	01
Ripley	02
St. Clair:	
Service rea, Humansville	02
Schuyler	01
Scotland	04
Shannon	01
Stone	03
Sullivan	03
Washington	02
Wayne	01
Wright	04

Missouri

Service Area Listing

Service area name	Degree of shortage group
Central Kansas City	02
County—Jackson:	
Parts of County	
C.T. 4 through 10	
C.T. 37 through 42	
C.T. 52 through 55	
C.T. 56.01	
C.T. 56.02	
C.T. 57	
C.T. 58.01	
C.T. 58.02	
C.T. 59.01	
C.T. 60 through 64	
C.T. 75	
C.T. 76	
C.T. 77	
C.T. 78.01	
C.T. 78.02	
C.T. 79	
C.T. 15 through 26	
C.T. 32	
C.T. 33	
C.T. 34	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 36.02	
C.T. 80	
Hickory	01
County—Hickory:	
Parts of County	
Center Township	
Cross Timbers Twnship	
Green Twnship	
Jordon Twnship	
Montgomery Twnship	
Stark Twnship	
Wheatland Twnship	
Humansville	02
County—Cedar:	
Parts of County	
Jefferson Township	
Washington Township	
County—Hickory:	
Parts of County	
Tyler Township	
Weaubleau Township	
County—Polk:	
Parts of County	
Campbell Township	
Cliquot Township	
Flemington Township	
Jefferson Township	
Johnson Township	
County—St. Clair:	
Parts of County	
Collins Township	
Washington Township	

Montana

County Listing

County name	Degree of shortage group
Daniels	01
Jefferson	03
Liberty	01
Madison	04
Phillips	04
Roosevelt	04
Rosebud:	
Service area, Rosebud	04
Treasure:	
Service area, Rosebud	04

Montana

Service Area Listing

Service area name	Degree of shortage group
Rosebud	04
County—Rosebud	
County—Treasure	

Nebraska

County Listing

County name	Degree of shortage group
Arthur:	
Service area, Mullen	01
Cherry:	
Service area, Mullen	01
Douglas:	
Service area, Northeast Omaha	04
Grant:	
Service area, Mullen	01
Hooker:	
Service area, Mullen	01
Logan:	
Service area, Mullen	01
McPherson:	
Service area, Mullen	01
Thomas:	
Service area, Mullen	01

Nebraska

Service Area Listing

Service area name	Degree of shortage group
Mullen	01
County—Arthur	
County—Cherry:	
Parts of County	
Calf Creek Prec.	
Elsmere Prec.	
Gillaspie Prec.	
Kennedy Prec.	
Lackey Prec.	
Loup Prec.	
Mother Lake Prec.	
Pleasant Hill Prec.	
Wells Prec.	
Elsmere	
County—Grant	
County—Hooker	
County—Logan:	
Parts of County	
Burt Prec.	
Cody Lake Prec.	
Lone Valley Prec.	
County—McPherson:	
Parts of County	
Hall Prec.	
Whitewater Prec.	
Worden Prec.	
County—Thomas	
Northeast Omaha	04
County—Douglas:	
Parts of County	
C.T. 6	
C.T. 7	
C.T. 9 through 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	

Nevada

County Listing

County name	Degree of shortage group
Clark:	
Population group, low income pop. (West Las Vegas)	01
Service area, Northeast Clark	01
Service area, South/Southwest Clark	01
Service area, Western Clark	01
Esmeralda	01
Eureka	01
Lander	01
Lyon	03
Mineral	02
Nye	01
Storey	01
White Pine	04

Nevada

Service Area Listing

Service area name	Degree of shortage group
Northeast Clark	01
County—Clark:	
Parts of County	
C.T. 56	
C.T. 59 (East)	
South/Southwest Clark	01
County—Clark:	
Parts of County	
C.T. 58 (South)	
C.T. 57	
Western Clark	01
County—Clark:	
Parts of County	
C.T. 59 (West)	
C.T. 58 (Central/Northern)	

Nevada

Population Group Listing

Population group name	Degree of shortage group
Low income pop (West Las Vegas)	01
County—Clark:	
Parts of County	
C.T. 3.01	
C.T. 3.02	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 35	

New Jersey

County Listing

County name	Degree of shortage group
Mercer:	
Population group, Dent. Ind. in Austin HC	03
Passaic:	
Service area, Northside Patterson	0

New Jersey

Service Area Listing

Service area name	Degree of shortage group
Northside Patterson	02
County—Passaic:	
Parts of County	
C.T. 1803 through 1807	

New Jersey

Population Group Listing

Population group name	Degree of shortage group
Dent. Ind. in Austin HC	03
County—Mercer:	
Parts of County	
C.T. 1	
C.T. 9	
C.T. 10	
C.T. 15	
C.T. 16	
C.T. 17	
C.T. 19	
C.T. 20	
C.T. 8 (Portion)	
C.T. 11 (Portion)	
C.T. 14 (Portion)	
C.T. 18 (Portion)	
C.T. 21 (Portion)	
C.T. 22 (Portion)	

New Mexico

County Listing

County name	Degree of shortage group
Bernalillo:	
Service area, Los Padillas/Pajarito	01
Catron	01
Chaves:	
Population group, Med. Ind. of S. Chaves	04
De Baca:	
Service area, Ft. Sumner-Santa Rosa	01
Dona Ana:	
Service area, Hatch	01
Service area, Southern Dona Ana	01
Guadalupe:	
Service area, Ft. Sumner-Santa Rosa	01
Harding	01
Hidalgo	01
Lincoln:	
Service area, Northern Lincoln Co	01
Mora	01
Quay	04
Rio Arriba	03
Sandoval	03
San Miguel	04
Santa Fe:	
Population Group, Indigent of Santa Fe	01
Sierra	01
Torrance	02

New Mexico

Service Area Listing

Service area name	Degree of shortage group
Ft. Sumner—Santa Rosa	01
County—De Baca	
County—Guadalupe	
Hatch	01
County—Dona Ana:	
Parts of County	
Hatch	
Los Padillas/Pajarito	01
County—Bernalillo:	
Parts of County	
C.T. 46	
Northern Lincoln Co	01
County—Lincoln:	
Parts of County	
Carrizozo	
Capitan	
Corona	
Southern Dona Ana	01
County—Dona Ana:	
Parts of County	
E.D. 76 (Anthony)	
E.D. 77 (Anthony)	
E.D. 79	
E.D. 80 (La Mesa)	
E.D. [illegible]	
E.D. 84 (La Union)	

New Mexico

Population Group Listing

Population group name	Degree of shortage group
Dent Ind. of S. Chaves	04
County—Chaves:	
Parts of County	
C.T. 12 (Dent. Ind.)	
C.T. 13 (Dent. Ind.)	
C.T. 14 (Dent. Ind.)	
Indigent of Santa Fe County—Santa Fe	01

New York

County Listing

County name	Degree of shortage group
Bronx:	
Service area, Soundview	04
Service area, South Bronx	04
Service area, South Central Bronx-Fort Apache	04
Cattaraugus:	
Service area, Northwest Cattaraugus	01
Cortland:	
Service area, Marathon	01
Kings:	
Service area, S.W. Brooklyn (Health Area 41)	01
Service area, S. Williamsburg (Brooklyn)	04
Service area, Sunset Park	03
Service area, Gowanus/Park Slope	02
New York:	
Service area, Lower Eastside	02
Service area, West Harlem	04
Service area, East & Central Harlem	03
Service area, Metro North	03
Service area, East Harlem	03
Rockland:	
Service area, Northern Rockland	03
Westchester:	
Population group, Dent. Ind. Pop. (Mt. Vernon)	04

New York

Service Area Listing

Service area name	Degree of shortage group
East & Central Harlem	03
County—New York:	
Parts of County	
C.T. 186	
C.T. 190	
C.T. 197.02	
C.T. 200	
C.T. 201.02	
C.T. 206	
C.T. 207.02	
C.T. 208	
C.T. 209.02	
C.T. 210	
C.T. 212	
C.T. 213.02	
C.T. 214	
C.T. 216	
C.T. 217.02	
C.T. 218	
C.T. 220	
C.T. 221.02	
C.T. 222	
C.T. 224	
C.T. 226	
C.T. 227.02	
C.T. 228	
C.T. 230	
C.T. 231.02	
C.T. 232	
C.T. 234	
C.T. 235.02	
C.T. 236	
C.T. 243.02	
East Harlem	03
County—New York:	
Parts of County	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184	
C.T. 188	
C.T. 192	
C.T. 194	
C.T. 196	
C.T. 198	
Gowanus/Park Slope	02
County—Kings:	
Parts of County	
C.T. 71	
C.T. 127	
C.T. 131	
C.T. 133	
Lower Eastside	02
County—New York:	
Parts of County	
C.T. 10.02	
C.T. 20	
C.T. 22.02	
C.T. 24	
C.T. 26.01	
C.T. 26.02	
Marathon	01
County—Cortland:	
Parts of County	
Cincinnatus	
Freetown	
Harford	
Lapeer	
Marathon	
Taylor	
Willet	
Metro North	03
County—New York:	
Parts of County	
C.T. 156.02	
C.T. 162	
C.T. 164	
C.T. 170	
Northern Rockland	03
County—Rockland:	
Parts of County	
C.T. 101 through 107	
Northwest Cattaraugus	01
County—Cattaraugus:	
Parts of County	
Dayton	
Persia	
Otto	
East Otto	
Mansfield	
Leon	
New Albion	
Conewango	
Napoli	
Little Valley	
Williamsburg (Brooklyn)	04
County—Kings:	
Parts of County	
C.T. 253	
C.T. 257	
C.T. 259.01	
C.T. 259.02	
C.T. 261	
C.T. 279	
C.T. 281	
C.T. 283	
C.T. 285.01	
C.T. 285.02	
C.T. 287	

New York

Service Area Listing

Service area name	Degree of shortage group
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 387	
C.T. 389	
C.T. 391	
C.T. 393	
C.T. 395	
C.T. 397	
C.T. 399	
C.T. 415	
C.T. 417	
C.T. 419	
C.T. 421	
C.T. 423	
C.T. 429	
C.T. 435	
C.T. 487	
C.T. 489	
C.T. 491	
C.T. 505	
C.T. 507	
C.T. 509	
C.T. 511	
C.T. 523	
C.T. 525	
C.T. 527	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
S. W. Brooklyn (Health Area 41)	01
County—Kings:	
Parts of County	
C.T. 55	
C.T. 57	
C.T. 59	
C.T. 65	
Soundview	04
County—Bronx:	
Parts of County	
C.T. 2	
C.T. 4	
C.T. 15 through 18	
C.T. 20	
C.T. 24	
C.T. 28	
C.T. 36	
C.T. 38	
C.T. 40.01	
C.T. 40.02	
C.T. 44	
C.T. 46	
C.T. 48	
C.T. 50	
C.T. 52	
C.T. 54	
C.T. 56	
C.T. 62	
C.T. 64	
C.T. 66	
C.T. 68	
C.T. 70	
C.T. 72	
C.T. 74	
C.T. 78	
C.T. 83 through 89	
C.T. 97 through 99	
C.T. 102	
C.T. 110	
C.T. 118	
C.T. 130	
C.T. 132	
C.T. 136	
C.T. 144	
C.T. 154	
C.T. 156	
C.T. 158	
C.T. 160	
C.T. 162	
C.T. 164	
C.T. 166	
C.T. 194	
C.T. 214	
C.T. 274	
C.T. 276	
South Bronx	04
County—Bronx:	
Parts of County	
C.T. 11	
C.T. 23	
C.T. 25	
C.T. 27.01	
C.T. 27.02	
C.T. 31	
C.T. 33	
C.T. 35	
C.T. 37	
C.T. 39	
C.T. 41	
C.T. 43	
C.T. 47	
C.T. 49	
C.T. 53	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 61	
C.T. 65	
C.T. 67	
C.T. 69	
C.T. 71	
C.T. 73	
C.T. 75	
C.T. 77	
C.T. 79	
C.T. 81	
C.T. 91	
C.T. 105	
C.T. 115.01	
C.T. 115.02	
C.T. 119	
C.T. 127.02	
C.T. 129.01	
C.T. 129.02	
C.T. 133	
C.T. 135	
C.T. 137	
C.T. 139	
C.T. 141	
C.T. 143	
C.T. 145	
C.T. 147	
C.T. 149	
C.T. 153	
C.T. 155	
C.T. 163	
C.T. 165	
C.T. 167	
C.T. 169	
C.T. 171	
C.T. 173	
C.T. 175	
C.T. 177	
C.T. 179	
C.T. 181	
C.T. 183	
C.T. 187	
C.T. 189	
C.T. 193	
C.T. 195	
C.T. 197	
C.T. 199	
C.T. 201	
C.T. 211	
C.T. 213.02	
C.T. 217.02	
C.T. 219	
C.T. 221	
C.T. 223	
C.T. 225	
C.T. 227.02	
C.T. 227.03	
C.T. 229.02	
C.T. 367	
C.T. 369.02	
South Central Bronx-Fort Apache	04
County—Bronx:	
Parts of County	
C.T. 123	
C.T. 161	
C.T. 157	
C.T. 121.01	
C.T. 127.01	
C.T. 121.02	
C.T. 125	
C.T. 131	
C.T. 151	
Sunset Park	03
County—Kings:	
Parts of County	
C.T. 2	
C.T. 18	
C.T. 20	
C.T. 22	
C.T. 72	
C.T. 74	
C.T. 76	
C.T. 78	
C.T. 80	
C.T. 82	
C.T. 84	
C.T. 86	
C.T. 88	
C.T. 90 (parts)	
C.T. 92 (parts)	
C.T. 94 (parts)	
C.T. 96	
C.T. 98	
C.T. 100	
C.T. 101	
C.T. 104 (parts)	
C.T. 106 (parts)	
C.T. 108 (parts)	
C.T. 118	
C.T. 122	
C.T. 143	
C.T. 145	
C.T. 147	
C.T. 162	
West Harlem	04
County—New York:	
Parts of County	
C.T. 209.01	
C.T. 211	
C.T. 213.01	
C.T. 217.01	
C.T. 219	
C.T. 221.01	
C.T. 223	
C.T. 225	
C.T. 227.01	
C.T. 229	
C.T. 231.01	
C.T. 233	

New York

Population Group Listing

Population group name	Degree of shortage group
Dent. Ind. Pop. (Mt. Vernon)	04
County—Westchester:	
Parts of County	
C.T. 25 (Dentally Indigent Pop.)	
C.T. 27 (Dentally Indigent Pop.)	
C.T. 28 (Dentally Indigent Pop.)	
C.T. 29 (Dentally Indigent Pop.)	
C.T. 31 (Dentally Indigent Pop.)	
C.T. 32 (Dentally Indigent Pop.)	
C.T. 35 (Dentally Indigent Pop.)	

North Carolina

County Listing

County name	Degree of shortage group
Alexander	03
Anson	01
Beaufort:	
Service area, Chocowinity-Richland	01
Bertie	01
Bladen	02
Brunswick	01
Caldwell	04

North Carolina

County Listing

County name	Degree of shortage group
Camden	01
Chatham:	
Service area, Chatham/Lee	04
Columbus	03
Currituck	02
Duplin	02
Durham:	
Service area, Lincoln Comm. Health Center	04
Edgecombe	03
Franklin	02
Gates	01
Greene	01
Halifax	03
Harnett	04
Hertford	04
Hoke	02
Hyde	01
Jackson	04
Jones	02
Lee:	
Service area, Chatham/Lee	04
Lincoln	03
McDowell	04
Macon	04
Madison	03
Martin	04
Mitchell:	
Service area, Northern Mitchell Co	01
Montgomery	04
Northampton	01
Onslow	04
Pender	02
Perquimans	01
Richmond	04
Sampson	02
Scotland	03
Tyrrell	01
Union	02
Washington	02
Wilkes	03

North Carolina

Service Area Listing

Service area name	Degree of shortage group
Chatham/Lee	04
County—Chatham	
County—Lee	
Chocowinity-Richland	01
County—Beaufort:	
Parts of County	
Chocowinity Twp	
Richland Twp	
Northern Mitchell Co	01
County—Mitchell:	
Parts of County	
Bakersville	
Cane Creek	
Little Rock Creek	
Fork Mountain	
Red Hill	
Harrell	
Bradshaw	
Poplar	
Snow Creek	
Lincoln Comm. Health Center	04
County—Durham:	
Parts of County	
C.T. 8.01	
C.T. 8.02	
C.T. 9	
C.T. 10.01	
C.T. 11	
C.T. 12.01	
C.T. 12.02	
C.T. 13.01	
C.T. 13.02	
C.T. 14	

North Dakota

County Listing

County name	Degree of shortage group
Benson	03
Billings	01
Burke	01
Dunn	01
Eddy	04
Emmons	04
Grant	01
Kidder	03
McHenry	03
McKenzie	04
Mercer	03
Mountrail	03
Oliver	03
Pierce:	
Service area, Harvey	04
Sheridan:	
Service area, Harvey	04
Sioux	01
Slope	01
Ward:	
Service area, Kenmare	01
Wells:	
Service area, Harvey	04

North Dakota

Service Area Listing

Service Area name	Degree of shortage group
Harvey	04
County—Pierce:	
Parts of County	
South Pierce Division	
County—Sheridan:	
Parts of County	
Sheridan	
County—Wells:	
Parts of County	
Wells	
Kenmare	01
County—Ward:	
Parts of County	
Des Lacs Valley Div.	
Kenmare Div.	

Ohio

County Listing

County name	Degree of shortage group
Adams	01
Brown	03
Cuyahoga:	
Service area, Near Westside-Cleveland	03
Service area, Glenville (area I-Cleveland)	02
Darke	03
Hamilton:	
Service area, Winton Hills (Cincinnati)	02
Harrison	02
Mahoning:	
Service area, Eastside-Youngstown	02
Meigs	03
Monroe	03
Montgomery:	
Service area, Area I—Dayton	04
Service area, Area II—Dayton	01
Service area, Area III—Dayton	02
Morgan	02
Noble	04
Paulding	04
Perry	03
Ross:	
Population Group, Dentally Indigent (Ross Co.)	04
Sandusky:	
Population Group, Migrant Pop. (Sandusky Co.)	01
Population Group, Sandusky (Pov. Pop.)	01
Vinton	01

Ohio

Service Area Listing

Service area name	Degree of shortage group
Area I—Dayton	04
County—Montgomery:	
Parts of County	
C.T. 1 through 5	
C.T. 16	
C.T. 17	
C.T. 18	
C.T. 30	
C.T. 31	
Area II—Dayton	01
County—Montgomery:	
Parts of County	
C.T. 19	
C.T. 22	
C.T. 23	
C.T. 25 through 29	
C.T. 32	
C.T. 33	
C.T. 34	
Area III—Dayton	02
County—Montgomery:	
Parts of County	
C.T. 6	
C.T. 7	
C.T. 12 through 15	
C.T. 20	
C.T. 21	
Eastside-Youngstown	02
County—Mahoning	
Parts of County	
C.T. 8001 through 8008	
Glenville (Area I-Cleveland)	02
County—Cuyahoga:	
Parts of County	
C.T. 1114	
C.T. 1116–1168	
C.T. 1181–1185	
Near Westside-Cleveland	03
County—Cuyahoga:	
Parts of County	
C.T. 1025	
C.T. 1026	
C.T. 1031 through 1039	
Winton Hills (Cincinnati)	02
County—Hamilton:	
Parts of County	
C.T. 73 (Winton Hills)	
C.T. 80 (Winton Hills)	
C.T. 257 (Elmwood Place)	

Ohio

Population Group Listing

Population group name	Degree of shortage group
Dentally Indigent (Ross Co.)	04
County—Ross:	
Parts of County	
Dentally Indigent	
Migrant Pop (Sandusky Co.)	01
County—Sandusky:	
Parts of County	
Migrant Pop.	
Sandusky (Pov. Pop.)	01
County—Sandusky:	
Parts of County	
Poverty Population	

Oklahoma

County Listing

County name	Degree of shortage group
Adair	01
Atoka	01
Beaver	03
Choctaw	04
Coal	02
Cotton	04
Delaware	03
Dewey	01
Greer	03

Oklahoma

County Listing

County name	Degree of shortage group
Haskell	01
Hughes	04
Johnston	02
Kiowa	02
Latimer	03
Le Flore	03
McCurtain	04
Major	01
Okfuskee	01
Oklahoma:	
Service area, Southeast Oklahoma City	03
Osage	03
Pushmataha	01
Roger Mills	01
Seminole	04

Oklahoma

Service Area Listing

Service area name	Degree of shortage group
Southeast Oklahoma City	03
County—Oklahoma:	
Parts of County	
C.T. 1037 through 1040	
C.T. 1047 through 1049	
C.T. 1053	
C.T. 1054	
C.T. 1073.01	

Oregon

County Listing

County name	Degree of shortage group
Coos:	
Service area, Reedsport Health Service Area	04
Curry:	
Service area, N.W. Curry	02
Deschutes:	
Service area, La Pine	02
Doublas:	
Service area, Reedsport Health Service Area	04
Gilliam:	
Service area, Tri-County	04
Josephine:	
Service area, Cave Junction	04
Klamath:	
Service area, La Pine	02
Lake:	
Service area, La Pine	02
Lane:	
Service area, Reedsport Health Service Area	04
Service area, Oakridge	03
Malheur:	
Service area, Jordan Valley	01
Marion:	
Population group, Marion Co.'s Area Migrant Pop	01
Morrow:	
Service area, Tri-County	04
Multnomah:	
Service area, North/Northeast Portland	03
Polk:	
Population group, Marion Co.'s Area Migrant Pop	01
Wheeler:	
Service area, Tri-County	04
Yamhill:	
Population group, Marion Co.'s Area Migrant Pop	01

Oregon

Service Area Listing

Service area name	Degree of shortage group
Cave Junction	04
County—Josephine:	
Parts of County	
Cave Junction	
Jordan Valley	01
County—Malheur:	
Parts of County	
Jordan CCD	
La Pine	02
County—Deschutes:	
Parts of County	
Sisters-Mulligan CCD south of Sunriver	
County—Klamath:	
Parts of County	
Crescent Lake CCD	
Chiloquin CCD	
County—Lake:	
Parts of County	
Silver Lake-Ft Rock CCD	
N.W. Curry	02
County—Curry:	
Parts of County	
Port Orford CCD	
Gold Beach CCD	
Agness CCD	
North/Northeast Portland	04
County—Multnomah:	
Parts of County	
C.T. 22.01	
C.T. 22.02	
C.T. 33.01	
C.T. 33.02	
C.T. 34.01	
C.T. 34.02	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 36.02	
C.T. 37.01	
C.T. 37.02	
C.T. 38.01	
C.T. 38.02	
C.T. 38.03	
C.T. 39.01	
C.T. 39.02	
C.T. 40.01	
C.T. 40.02	
Oakridge	03
County—Lane:	
Parts of County	
Oakridge CCD	
Reedsport Health Service Area	04
County—Coos:	
Parts of County	
North Bayside (N. Part)	
County—Douglas:	
Parts of County	
Reedsport	
County—Lane:	
Parts of County	
South Siuslaw (S. Part)	
Tri-County	04
County—Gilliam	
County—Morrow	
County—Wheeler	

Oregon

Population Group Listing

Population group name	Degree of shortage group
Marion Co.'s Area Migrant Pop	01
County—Marion	
County—Polk	
County—Yamhill	

Pennsylvania

County Listing

County name	Degree of shortage group
Adams:	
Service area, North Adams	02
Allegheny:	
Service area, McKees Rocks/Stowe	04
Service area, Homerwood-Brushton	01
Armstrong:	
Service area, Armstrong-Clarion	03
Service area, Kiski Valley	03
Bedford:	
Service area, Hyndman	01
Cambria:	
Service area, South Central Clearfield	02
Carbon:	
Service area, Jim Thorpe	01
Centre:	
Service area, Snow Shoe	03
Clarion:	
Service area, Armstrong-Clarion	03
Service area, Forest	02
Clearfield:	
Service area, Snow Shoe	03
Service area, South Central Clearfield	02
Clinto:	
Service area, Renovo	01
Crawford:	
Service area, East Crawford County	01
Dauphin:	
Service area, Tri-Town Service Area	04
Delaware:	
Service area, City of Chester	02
Fayette:	
Service area; Greensboro	02
Forest:	
Service area, Forest	02
Franklin:	
Service area, Valleys Community	01
Fulton	01
Greene:	
Service area, Greensboro	02
Service area, West Greene	01
Huntingdon	
Service area, Mt. Union	02
Indiana:	
Service area, Indiana-N Portion	02
Lancaster:	
Service area, Welsh Mountain	02
Lycoming:	
Service area, Northern Lycoming	01
Mercer:	
Pop. Group, Low Income Pop. of Farrell/Sharon.	01
Mifflon:	
Service area, McClure	04
Service area, Mt. Union	02
Northumberland:	
Service area, Herndon/Mandata	01
Perry	
Philadelphia:	
Service area, North Philadelphia	01
Schuylkill:	
Service area, Herndon/Mandata	01
Service area, Shenandoah/Mahanoy City	03
Service area, Tri-Town Service Area	04
Snyder:	
Service area, McClure	04
Somerset:	
Service area, Hyndman	01
Sullivan	01
Tioga:	
Service area, Northern Lycoming	01
Service area, Blossburg	04
Venango:	
Service area, Forest	02
Warren:	
Service area, Forest	02
Westmoreland:	
Service area, Kiski Valley	03
Wyoming:	
Service area, Southern Wyoming Co.	01
York:	
Service area, York City	04

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Armstrong—Clarion	03
County—Armstrong:	
Parts of County	

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Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Brady's Bend Township	
Madison Township	
Perry Township	
Pine Township	
Sugarcreek Township	
Washington Township	
County—Clarion:	
Parts of County	
Brady Township	
East Brady Township	
Madison Township	
Blossburg	04
County—Tioga:	
Parts of County	
Blossburg Boro.	
Bloss Twp	
Covington Twp	
Duncan Twp	
Hamilton Twp	
Liberty Boro.	
Liberty Twp	
Putnam Twp	
Union Twp (½ Western Portion)	
Ward Twp	
City of Chester	02
County—Delaware:	
Parts of County	
C.T. 4050 through 4057	
C.T. 4060	
C.T. 4048	
C.T. 4049.01	
C.T. 4049.02	
C.T. 4058.01	
C.T. 4058.02	
C.T. 4059	
East Crawford County	01
County—Crawford:	
Parts of County	
Athens Township	
Bloomfield Township	
Centerville Township	
Richmond Township	
Rockdale Township	
Rome Township	
Sparta Township	
Spartanburg Township	
Steuben Township	
Townville Borough	
Forest	02
County—Clarion:	
Parts of County	
Washington Township	
Farmington Township	
County—Forest	
County—Venango:	
Parts of County	
Pleasantville Township	
Allegheny Township	
President Township	
County—Warren:	
Parts of County	
Triumph Township	
Limestone Township	
Watson Township	
Deerfield Township	
Cherry Grove Township	
South West Township	
Greensboro	02
County—Fayette:	
Parts of County	
Point Marion Borough	
German Township	
Nicholson Township	
Springhill Township	
County—Greene:	
Parts of County	
Dunkard Township	
Greene Township	
Monongahela Township	
Greensboro Borough	
Herndon/Mandata	01
County—Northumberland:	
Parts of County	
East Cameron Twp	
Herndon	
Jackson Twp	
Jordon Twp	
Little Mahoney Twp	
Lower Mahoney Twp	
Upper Mahoney Twp	
Washington, Twp	
West Cameron Twp	
County—Schuylkill:	
Parts of County	
Eldred Twp	
Upper Mahantango	
Homerwood—Brushton	01
County—Allegheny:	
Parts of County	
C.T. 1207	
C.T. 1301 through 1305	
Hyndman	01
County—Bedford	
Parts of County	
Harrison Twp	
Hyndman Boro.	
Juniata Twp	
Londonderry Twp	
County—Somerset:	
Parts of County	
Allegheny Twp	
Fairhope Twp	
Indiana Portion	02
County—Indiana:	
Parts of County	
West Mahoning Twp	
North Mahoning Twp	
South Mahoning Twp	
East Mahoning Twp	
Canoe Twp	
Banks Twp	
Grant Twp	
Montgomery Twp	
Washington Twp	
Rayne Twp	
Green Twp	
Pine Twp	
Glen Campbell Borough	
Smicksburg Borough	
Cherry Tree Borough	
Marion Center Borough	
Plumville Borough	
Creekside Borough	
Clymer	
Jim Thorpe	01
County—Carbon:	
Parts of County	
Kidder Township	
Penn Forest Township	
Jim Thorpe Borough	
East Side Borough	
Lausanne Township	
Lehigh Township	
Kiski Valley	03
County—Armstrong:	
Parts of County	
Apollo Borough	
Bethel Township	
Burrel Township	
Gilpin Township	
Kiskiminitas Township	
Leechburg Borough	
North Apollo Borough	
Parks Township	
South Bend Township	
County—Westmoreland:	
Parts of County	
Oklahoma Borough	
Allegheny Township	
Avonmore Borough	
Bell Township	
East Vandergrift Borough	
Hyde Park Borough	
Vandergrift Borough	
Washington Township	
West Leechburg Borough	
McClure	04
County—Mifflin:	
Parts of County	
Decatur (Northern ½)	
County—Synder:	
Parts of County	
Adams Twp	
McClure	
Spring Twp	
West Beaver Twp	
McKees Rocks/Stone	04
County—Allegheny:	
Parts of County	
C.T. 4621 through 4625	
C.T. 4631	
C.T. 4632	
C.T. 4634	
C.T. 4635	
C.T. 4636	
Mt. Union	02
County—Huntingdon:	
Parts of County	
Brady Twp	
Mapletown	
Mill Creek	
Mt. Union	
Shirleysburg	
Shirley Twp	
Union Twp	
County—Mifflin:	
Parts of County	
Newton Hamilton	
Wayne Twp	
North Adams	02
County—Adams:	
Parts of County	
Menallen Township	
Tyrone Township	
Huntington Township	
Butler Township	
Arendtsville Borough	
Bendersville Borough	
Biglerville Borough	
York Springs Borough	
North Philadelphia	01
County—Philadelphia:	
Parts of County	
C.T. 172	
C.T. 173	
C.T. 174	
C.T. 151 through 155	
C.T. 165 through 171	
C.T. 131	
C.T. 132	
C.T. 133	
C.T. 135 through 140	
C.T. 141	
C.T. 145 through 149	
Northern Lycoming	01
County—Lycoming:	
Parts of County	
Brown Twp	
Cascade Twp	
Cogen House Twp	
Cummings Twp (Northern ⅔)	
Gamble Twp	
Jackson Twp	
Lewis (Northern ⅔)	
McHenry Twp	
McIntyre Twp	
McNett Twp	
Pine Twp	
Plunketts' Creek (Western ⅓)	
County—Tioga:	
Parts of County	
Elk Twp	
Liberty Twp (Western ½)	
Morris Twp	
Renovo	01
County—Clinton:	
Parts of County	
Chapman Twp	
East Keating Twp	
Gurgan Twp	
Liedy Twp	
Noyes Twp	
Renovo Boro	
South Ronovo Boro	
Shenandoah/Mahanoy City	03
County—Schuylkill:	
Parts of County	
Delano Twp	
East Union Twp	
Gilberton Boro.	
Kline Twp	
Mahanoy City Boro.	
Mahanoy Twp	
McAdoo Boro.	
North Union Twp	
Ringtown Boro.	
Ryan Twp	

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Shenandoah Boro.	
Union Twp	
West Mahanoy Twp	
Snow Shoe	03
County—Centre:	
Parts of County	
Baggs Twp (Western ⅓)	
Burnside Twp	
Curtin Twp (Western ⅔)	
Huston Twp (Northern ½)	
Snow Shoe	
Snow Shoe Twp	
Union Twp	
Unionville	
County—Clearfield:	
Parts of County	
Cooper Twp (Northern ¼)	
Covington Twp	
Karthaus Twp	
South Central Clearfield	02
County—Cambria:	
Parts of County	
Reade Twp (Northern ⅔)	
White Twp	
County—Clearfield:	
Parts of County	
Beccaria Twp	
Bigler Twp (Western ⅔)	
Chest Twp	
Coalport Boro	
Glen Hope Boro	
Gulich Twp	
Irvona Boro	
Jordan Twp	
County—Clearfield:	
Parts of County	
Ramey Boro	
Westover Boro	
Southern Wyoming Co	01
County—Wyoming:	
Parts of County	
Exeter Twp	
Faus Twp	
Monroe Twp	
Northmoreland Twp	
Noxen Twp	
Tri-Town Service Area	04
County—Dauphin:	
Parts of County	
Lykens Borough	
Williamstown Borough	
Gratz Borough	
Wiconisco Township	
County—Schuylkill:	
Parts of County	
Tower City Borough	
Frailey Township	
Valleys Community	01
County—Franklin:	
Parts of County	
Fannet Twnship	
Metal Twnship	
Welsh Mountain	02
County—Lancaster:	
Parts of County	
Salisbury Twnship	
Caernarvon Twnship	
Earl Twnship	
East Earl Twnship	
West Greene	01
County—Greene:	
Parts of County	
Alleppo Township	
Gilmore Township	
Gray Township	
Jackson Township	
Richhill Township	
Springhill Township	
Center Township	
Freeport Township	
Morris Township	
Washington Township	
Wayne Township	
York City	04
County—York:	
Parts of County	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 5	
C.T. 7	
C.T. 10	
C.T. 15	
C.T. 16	

Pennsylvania

Population Group Listing

Population group name	Degree of shortage group
Low Income Pop. of Farrell/Sharon	01
County—Mercer:	
Parts of County	
Farrell (Low income pop.)	
Sharon (Low income pop.)	

South Carolina

County Listing

County name	Degree of shortage group
Abbeville	04
Allendale	01
Bamberg	02
Beaufort	03
Berkeley	03
Calhoun	01
Charleston:	
Service area, Sea Island Compre. Health	01
Chester	04
Chesterfield	04
Clarendon	03
Colleton	02
Dillon	02
Fairfield	04
Georgetown	04
Horry	04
Jasper	01
Lancaster	02
Lee	01
McCormick	02
Marion	04
Marlboro	02
Richland:	
Service area, Richland Co	01
Saluda	03
Sumter	04
Union	04
Williamsburg	04
York:	
Service area, Western York Co	03

South Carolina

Service Area Listing

Service area name	Degree of shortage group
Richland Co	01
County—Richland:	
Parts of County	
C.T. 118	
C.T. 119.02	
C.T. 120	
Sea Island Compre. Health	01
County—Charleston:	
Parts of County	
C.T. 19.01	
C.T. 19.02	
C.T. 20.01	
C.T. 20.02	
C.T. 20.03	
C.T. 20.04	
C.T. 21.01	
C.T. 21.02	
C.T. 22 through 25	
Western York Co	03
County—York:	
Parts of County	
C.T. 14	
C.T. 15	
C.T. 16	
C.T. 17 (E.D. 9)	
C.T. 19	

South Dakota

County Listing

County name	Degree of shortage group
Aurora	01
Buffalo	01
Campbell	01
Charles Mix	04
Corson	01
Deuel	01
Dewey	01
Edmunds	01
Faulk	01
Gregory	01
Haakon	01
Hanson	01
Harding	01
Jackson	01
Lyman	01
McCook	01
Marshall	01
Meade:	
Service area, Faith	01
Mellette	01
Moody	03
Perkins:	
Service area, Faith	01
Roberts	02
Sanborn	01
Shannon	01
Sully	01
Todd	01
Washabaugh	01
Yankton:	
Facility, Human Services Center	03
Ziebach	01

South Dakota

Service Area Listing

Service area name	Degree of shortage group
Faith	01
County—Meade:	
Parts of County	
Unorg. Terr. of Northern Meade	
Eagle Twp	
Faith City	
County—Perkins:	
Parts of County	
Unorg. Terr. of Western Perkins	
Ada Twp	
Antelope Twp	
Beck Twp	
Change Twp	
Chaudoin Twp	
Duell Twp	
Englewood Twp	
Flint Rock Twp	
Foster Twp	
Hall Twp	
Highland Twp	
Lone Tree Twp	
Maltby Twp	
Martin Twp	
Moreau Twp	
Vickers Twp	
Vrooman Twp	
Wyandotte Twp	
Unorg. Terr. of Deep Creek	
Unorg. Terr. of East Perkins	
Unorg. Terr. of South Perkins	
Unorg. Terr. of S.W. Perkins	
Unorg. Terr. of W.C. Perkins	

South Dakota

Facility Listing

Facility name	Degree of shortage group
Human Services Center	03
County—Yankton:	
Parts of County	
Human Services Center	

Tennessee

County Listing

County name	Degree of shortage group
Anderson	01
Claiborne	04
Cumberland:	
Service area, Monterey	03
Fentress:	
Service area, Monterey	03
Grainger	02
Hancock	01
Hawkins	03
Haywood	03
Henry	01
Johnson	02
Lewis	04
Morgan	03
Overton:	
Service area, Monterey	03
Perry	03
Pickett	01
Polk:	
Service area, West Polk	01
Putnam:	
Service area, Monterey	03
Scott	02
Union	02
Wayne	03

Tennessee

Service Area Listing

Service area name	Degree of shortage group
Monterey	03
County—Cumberland:	
Parts of County	
Maryland/Pleasant Hill	
County—Fentress:	
Parts of County	
Clark Range	
County—Overton:	
Parts of County	
Crawford	
County—Putnam:	
Parts of County	
Monterey	
West Polk	01
County—Polk:	
Parts of County	
E.D. 1 through 7	

Texas

County Listing

County name	Degree of shortage group
Bandera	03
Bee	03
Bexar:	
Service area, East Side (San Antonio)	03
Service area, West Side (San Antonio)	02
Service area, South Side (San Antonio)	02
Service area, Southern Rural Bexar	01
Caldwell:	
Population group, Indigent of Caldwell	01
Cameron	[illegible]
Castro	04
Cochran	04
Dallas:	
Service area, Simpson Stuart/Polk South	02
Service area, Trinity	02
Service area, West Dallas	02
Service area, Fair Park/White Rock Creek Industrial	01
Service area, South Dallas	01
Service area, Lisbon	03
Deaf Smith	03
Dimmit	01
Duval	01
Edwards	01
El Paso:	
Service area, R.E. Thomason Gen Hosp Catch Area	01
Frio	01
Gonzales	03
Hall	04
Hardin	04
Hidalgo	02
Jefferson:	
Service area, Beaumont Inner City	04
Service area, Port Authur Inner City	01
Karnes	04
Kinney	01
La Salle	03
Live Oak:	
Service area, McMullen/Live Oak	02
McMullen:	
Service area, McMullen/Live Oak	02
Maverick	01
Newton	04
Parmer	02
Polk	02
San Jacinto	01
Shelby	03
Sherman	01
Starr	01
Trinity	02
Uvalde	03
Val Verde	03
Waller	04
Webb	02
Willacy	03
Zapata	01
Zavala	01

Texas

Service Area Listing

Service area name	Degree of shortage group
East Side (San Antonio)	03
County—Bexar:	
Parts of County	
C.T. 1303 through 1313	
C.T. 1301	
Fair Park/White Rock Creek Industrial	01
County—Dallas:	
Parts of County	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	
C.T. 93.02	
C.T. 115	
Indigent of Caldwell	01
County—Caldwell	
Lisbon	03
County—Dallas:	
Parts of County	
C.T. 56	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 87.01	
C.T. 87.02	
C.T. 88	
McMullen/Live Oak	02
County—Live Oak	
County—McMullen	
Simpson Stuart/Polk South	02
County—Dallas:	
Parts of County	
C.T. 112	
C.T. 113	
C.T. 114	
C.T. 167	
South Dallas	01
County—Dallas:	
Parts of County	
C.T. 29	
C.T. 30	
C.T. 31.02	
C.T. 32.02	
C.T. 33 through 38	
C.T. 39.01	
C.T. 39.02	
C.T. 40	
South Side (San Antonio)	02
County—Bexar:	
Parts of County	
C.T. 1501	
C.T. 1503 through 1507	
C.T. 1510	
C.T. 1601 through 1605	
Southern Rural Bexar	01
County—Bexar:	
Parts of County	
C.T. 1314 through 1316	
C.T. 1318	
C.T. 1416 through 1419	
C.T. 1519 through 1522	
C.T. 1610	
C.T. 1611	
C.T. 1612	
C.T. 1619	
C.T. 1620	
Trinity	02
County—Dallas:	
Parts of County	
C.T. 41	
C.T. 49	
C.T. 54	
C.T. 55	
C.T. 86	
C.T. 89	
West Dallas	02
County—Dallas:	
Parts of County	
C.T. 43	
C.T. 101 through 106	
West Side (San Antonio)	02
County—Bexar:	
Parts of County	
C.T. 1606	
C.T. 1607	
C.T. 1701	
C.T. 1703	
C.T. 1704	
C.T. 1707 through 1712	
C.T. 1715	
C.T. 1716	
R. E. Thomason Gen Hosp Catch Area	01
County—El Paso:	
Parts of County	
C.T. 28 through 32	
C.T. 35.01	
C.T. 35.02	
C.T. 36 through 40	
C.T. 41.01	
C.T. 41.02	
C.T. 42.01	
C.T. 42.02	
C.T. 104	
C.T. 105	
Beaumont Inner City	04
County—Jefferson:	
Parts of County	
C.T. 15 through 18	
Port Authur Inner City	01
County—Jefferson:	
Parts of County	
C.T. 51	
C.T. 52	
C.T. 53	
C.T. 57 through 62	

Utah

County Listing

County name	Degree of shortage group
Daggett	01
Piute	01
Rich	01

Vermont

County Listing

County name	Degree of shortage group
Addison:	
Service area, Addison	02
Essex	04
Grand Isle	01
Washington:	
Service area, Plainfield	01

Vermont

Service Area Listing

Service area name	Degree of shortage group
Addison	02
County—Addison:	
Parts of County	
Addison	
Bridport	
Bristol	
Ferrisburg	
Lincoln	
Monkton	
New Haven	
Orwell	
Panton	
Shoreham	
Waltham	
Starksboro	
Plainfield	01
County—Washington:	
Parts of County	
Woodbury Town	
Cabot Town	
Calais Town	
Marshfield Town	
East Montpelier Town	
Plainfield Town	

Virginia

County Listing

County name	Degree of shortage group
Amelia	02
Bath	02
Bruswick	02
Buchanan	02
Charlotte	02
Craig	01
Dickenson	02
Fluvanna	01
Greene	01
King and Queen:	
Service area, King & Queen/Northern King William	01
King George	01
King William:	
Service area, King & Queen/Northern King William	01
Lee	03
Louisa	01
Lunenburg	02
Madison	[illegible]
Orange	04
Patrick	01
Rappahannock	01
Richmond:	
Service area, Randolph dental serv. area	01
Russell	01
Scott	03
Southampton	01
Surry	01
Sussex	01
Tazewell	04
Wise	03
Suffolk City:	
Service area, Nansemond	02

Virginia

Service Area Listing

Service area name	Degree of shortage group
King & Queen/Northern King William	01
County—King and Queen	
County—King William	
Parts of County	
Acquiton Dist.	
Mangokick Dist.	
Nansemond	02
County—Suffolk City:	
Parts of County	
Nansemond Dist.	
Randolp dental serv area	01
County—Richmond:	
Parts of County	
C.T. 411	
C.T. 413	
C.T. 414	

Washington

County Listing

County name	Degree of shortage group
Adams:	
Population, Grant-Adams Co. Migrant Population	02
Clallam:	
Facility, Washington State Correction Institution	03
Clark:	
Facility, Washington State Correctional Institution	03
Grant:	
Service area, Grand Coulee area	03
Population, Grant-Adams Co. migrant population.	02
King:	
Facility, Washington State Correctional Institution	03
Facility, Seattle & King Co. Jails	02
Mason:	
Facility, Washington State Correctional Institution	03
Pierce:	
Facility, Washington State Correctional Institution	03
Snohomish:	
Facility, Washington State Correctional Institution	03
Walla Walla:	
Facility, Washington State Correctional Institution	03

Washington

Service Area Listing

Service area name	Degree of shortage group
Grand Coulee Area	03
County—Grant:	
Parts of County	
Grand Coulee Area	

Washington

Population Group Listing

Population group name	Degree of shortage group
Grant-Adams Co. Migrant Population	02
County—Adams	
County—Grant	

Washington

Facility Listing

Facility name	Degree of shortage group
Seattle & King Co. Jails	02
County—King	
Washington State Correctional Institution	03
County—Clallam:	
Parts of County	
Forks (Clearwater Corrections Center)	
County—Clark:	
Parts of County	
Yacolt (Larch Corrections Center)	
County—King:	
Parts of County	
Seattle (Firland Correctional Center)	
County—Mason:	
Parts of County	
Shelton (Washington Corrections Center)	
County—Pierce:	
Parts of County	
Gig Harbor (Purdy Trtment Cent for Women)	
County—Snohomish:	
Parts of County	
Monroe (Washington State Reformatory)	
County—Walla Walla:	
Parts of County	
Walla Walla (Wa. St. Pen/Ment Health Unit)	

West Virginia

County Listing

County name	Degree of shortage group
Barbour	02
Boone	03
Calhoun	01
Doddridge	03
Fayette:	
Service Area, Fayetteville	02
Gilmer	04
Grant:	
Service Area, Mt. Storm	01
Greenbrier:	
Service Area, Greenbrier	02
Hampshire:	
Service Area, Capon Bridge	02
Hardy:	
Service Area, Baker	01
Kanawha:	
Service Area, St. Albans	04
Lincoln	01
Logan	03
McDowell	01
Marshall:	
Service Area, Wetzel	01
Mason County:	
Service Area, Mason County Service Area	01
Mercer:	
Service Area, Mercer	01
Mineral:	
Service Area, Cabin Run	02
Mingo:	
Service Area, Mingo	01
Monongalia:	
Service Area, Blacksville	01
Monroe	01
Nicholas:	
Service Area, Nicholas-Webster	03
Pleasants:	
Service Area, Jefferson	01
Preston	02
Putnam	03
Randolph:	
Service Area, Mingo	01
Ritchie	02
Summers	04

West Virginia

County Listing

County name	Degree of shortage group
Taylor	04
Tucker	03
Tyler:	
Service Area, Tyler	01
Upshur:	
Service Area, Mingo	01
Wayne:	
Service Area, Mingo	02
Webster:	
Service Area, Nicholas-Webster	03
Wetzel:	
Service Area, Wetzel	01
Wirt	01
Wyoming	03

West Virginia

Service Area Listing

Service area name	Degree of shortage group
Baker	01
County—Hardy:	
Parts of County	
Capon	
Lost River	
Blacksville	01
County—Monongalia:	
Parts of County	
Clay	
Battelle	
Cabin Run	02
County—Mineral:	
Parts of County	
Frankfurt	
Cabin Run	
Capon Bridge	01
County—Hampshire:	
Parts of County	
Bloomery	
Capon	
Sherman	
Gore	
Fayetteville	02
County—Fayette:	
Parts of County	
Fayetteville	
Falls	
Quinnimont	
Sewell Mountain	
Nuttall	
Mountain Cove	
Greenbrier	02
County—Greenbrier:	
Parts of County	
Meadow Bluff	
Jefferson	01
County—Pleasants:	
Parts of County	
Grant	
Jefferson	
Lafayette	
Mc Kim	
Union	
Mason County Service Area	01
County—Mason County:	
Parts of County	
Arbuckle District	
Clendenin District	
Cologne District	
Cooper District	
Graham District	
Hannan District	
Robinson District	
Union District	
Waggener District	
Mercer	01
County—Mercer:	
Parts of County	
Rock	
Jumping Branch	
Plymouth	
Mingo	01
County—Mingo:	
Parts of County	
Hainey	
Hardie	
Kermit	
Lee	
Magnolia	
County—Randolph:	
Parts of County	
Middlefork	
County—Upshur:	
Parts of County	
Banks	
Meade	
Washington	
County—Wayne	
Parts of County	
Hacker Valley	
Mt. Storm	01
County—Grant:	
Parts of County	
Union	
Nicholas-Webster	03
County—Nicholas	
County—Webster	
St. Albans	04
County—Kanawha:	
Parts of County	
Big Sandy	
Cabin Creek	
Elk	
St. Albans City	
Chesapeake Town	
Malden	
Union	
Washington	
Marmet Town	
Tyler	01
County—Tyler:	
Parts of County	
Centreville	
Ellsworth	
McElroy	
Meade	
Union	
Wetzel	01
County—Marshall:	
Parts of County	
Liberty District	
Meade District	
Cameron District	
Webster District	
County—Wetzel:	
Parts of County	
Clay District	
Church District	
Center District	

Wisconsin

County Listing

County name	Degree of shortage group
Adams	04
Brown:	
Service area, Kickapoo Valley	01
Buffalo:	
Service area, Whitehall/Arcadia	01
Crawford:	
Service area, Kickapoo Valley	01
Florence	01
Forest:	
Service area, Iron River	04
Service area, Mountain	01
Jackson:	02
Juneau:	
Service area, Hillsboro	02
Snohobish:	
Population group, Tulalip Tribe	04
Langlade:	
Service area, Mountain	01
Marathon:	
Service area, Athens	02
Milwaukee:	
Service area, Inner City North (Milwaukee)	01
Monroe:	
Service area, Hillsboro	02
Oconto:	
Service area, Mountain	01
Richland:	
Service area, Kickapoo Valley	01
Service area, Hillsboro	02
Sauk:	
Service area, Hillsboro	02
Taylor:	
Service area, Athens	02
Trempealeau:	
Service area, Whitehall/Arcadia	01
Vernon:	
Service area, Kickapoo Valley	01
Service area, Hillsboro	02
Vilas:	
Service area, Iron River	04

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Athens	02
County—Marathon:	
Parts of County	
Athens City	
Bein Twn	
Frankfort	
Halsey Twn	
Hamburg Twn	
Holton	
Johnson Twn	
Rib Falls	
Rietbrock Twn	
County—Taylor:	
Parts of County	
Browning	
Deer Creek	
Goodrich	
Hillsboro	02
County—Juneau:	
Parts of County	
Wonewoc (Vil)	
Wonewoc (Twn)	
County—Monroe:	
Parts of County	
Cashton	
Jefferson	
Kendall (Vil)	
Sheldon	
Sheldon	
Wellington	
Glendale	
County—Richland:	
Parts of County	
Yuba (Vil)	
Henrietta	
Westford	
Bloom Town (Part)	
County—Sauk:	
Parts of County	
La Valle	
Woodland	
County—Vernon:	
Parts of County	
Clinton	
Hillsboro (City)	
Ontario (Vil)	
Stark	
Whitestown	
Hillsboro (Twn)	
Greenwood	
Union Town (Part)	
Forest	
Inner City North (Milwaukee)	01
County—Milwaukee:	
Parts of County	
C.T. 66 through 70	
C.T. 81 through 86	
C.T. 101 through 106	
C.T. 114 through 118	
C.T. 139 through 142	
Kickapoo Valley	01
County—Brown:	
Parts of County	
Pulaski Village	
Pittsfield Town	
County—Crawford:	
Parts of County	

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Utica Town	
Mount Sterling Village	
Gays Mills Village	
Bell Center Village	
Haney Town	
Scott Town	
Clayton Town	
Soldiers Grave Village	
County—Richland:	
Parts of County	
Bloom Town (Part)	
Viola Village (Part)	
Sylvan Village (Part)	
Forest Town	
County—Vernon:	
Parts of County	
Union Town (Part)	
Stark Town	
La Farge Village	
Forest Town	
Ontario Village	
Whitestown Town	
Clinton Town	
Webster Town	
Liberty Town	
Viola Village (Part)	
Kickapoo Town	
Readstown Village	
Mountain	01
County—Forest:	
Parts of County	
Freedom Twn	
Wabeno Twn	
Blackwell Twn	
County—Langlade:	
Parts of County	
Evergreen Twn	
Wolf River Twn	
White Lake Village	
County—Oconto:	
Parts of County	
Townsend Twn	
Lakewood Twn	
Doty Twn	
Riverview Twn	
Armstrong Twn	
Breed Twn	
Bagley Twn	
Brazeau Twn	
Whitehall/Arcadia	01
County—Buffalo:	
Parts of County	
Cross Glencoe	
Milton	
County—Trempealeau:	
Parts of County	
Arcadia (City)	
Arcadia (Twn)	
Blair (City)	
Burnside (Town)	
Chimney Rock	
Dodge	
Hale	
Independence (City)	
Lincoln	
Pideon	
Pigeon Falls (Vil)	
Preston	
Whitehall	

Wisconsin

Population Group Listing

Population group name	Degree of shortage group
Tulalip Tribe	04
County—Snohobish:	
Parts of County	
Tulalip Tribe	

Wyoming

County Listing

County name	Degree of shortage group
Albany:	
Service area, Hanna-Rock River	01
Campbell	03
Carbon:	
Service area, Hanna-Rock River	01
Converse	04
Crook	03
Freemont:	
Service area, Sweetwater	01
Service area, Dubois	01
Johnson:	
Service area, Kaycee	01
Natrona:	
Service area, Sweetwater	01
Platt	03
Sublette:	
Service area, Big Piney	01

Wyoming

Service Area Listing

Service area name	Degree of shortage group
Big Piney	02
County—Sublette:	
Parts of County	
Big Piney CCE	
Dubois	01
County—Fremont:	
Parts of County	
Dubois CCD	
Hanna-Rock River	01
County—Albany:	
Parts of County	
Rock River CCD	
County—Carbon:	
Parts of County	
Hanna CCD	
Kaycee	01
County—Johnson:	
Parts of County	
Kaycee CCD	
Sweetwater	01
County—Freemont:	
Parts of County	
Sweetwater CCD	
Shoshoni CCD	
County—Natrona:	
Parts of County	
Hell's Half Acre CCD	

American Samoa

County Listing

County name	Degree of shortage group
Manu'a District	01
Eastern Tutuila District:	
Service area, Tutuila Island-Aunu'u	03
Western Tutuila District:	
Service area, Tutuila Island-Aunu'u	03

American Samoa

Service Area Listing

Service area name	Degree of shortage group
Tutila Island-Aunu'u	03
County—Eastern Tutuila District	
County—Western Tutuila District	

Puerto Rico

County Listing

County name	Degree of shortage group
Adjuntas:	
Service area, Guaraguao Community	01
Anasco	02
Barranquitas:	
Service area, Barranquitas	01
Cabo Rojo	02
Camuy	01
Catano:	
Service area, Catano Health Area	01
Ciales	01
Cidra:	
Population group, Med. Ind. of Cidra	01
Comerio:	
Service area, Barranquitas	01
Corozal	
Dorado:	
Service area, Catano Health Area	01
Hatillo	01
Hormiqueros	02
Juana Diaz	01
Lares	01
Las Marias	01
Loiza	01
Manati	01
Maricao	01
Maunabo	02
Mayaguez	02
Naranjito	03
Service area, Barranquitas	01
Orocovis:	
Service area, Barranquitas	01
Patillas	01
Penuelas:	
Service area, Guaraguao Community	01
Ponce:	
Service area, Guaraguao Community	01
Quebradillas	01
Rincon	01
San Sebastian	01
Toa Baja:	
Service area, Catano Health Area	01
Utuado	01
Vega Baja	02
Yauco	02

Puerto Rico

Service Area Listing

Service area name	Degree of shortage group
Barranquitas	01
County—Barranquitas	
County—Comerio	
County—Naranjito	
County—Orocovis	
Catano Health Area	01
County—Catano	
Parts of County	
County—Dorado	
Parts of County	
County—Toa Baja	
Parts of County	
Guaraguao Community	01
County—Aduntas	
Parts of County	
Portugues Barrio	
County—Penuelas	
Parts of County	
Rucio Barrio	
County—Ponce	
Parts of County	
Guaraguao Barrio	
Mayaguez Service Area	02
County—Anasco	
County—Cabo Rojo	
County—Hormiqueros	
County—Mayaguez	

Puerto Rico

Population Group Listing

Population group name	Degree of shortage group
Med. Ind. of Cidra	01
County—Cidra:	
Parts of County	
Med. Ind. of Cidra	

Trust Territories of the Pacific

County Listing

County name	Degree of shortage group
Ponape District	04
Truk District	04

Virgin Islands

County Listing

County name	Degree of shortage group
St. Croix:	
Service area, Fredericksted	01
St. Thomas:	
Service area, Eastend	01

Virgin Islands

Service Area Listing

Service area name	Degree of shortage group
Fredericksted	01
County—St. Croix:	
Parts of County	
E.D. 13	
E.D. 14	
E.D. 19 through 25	
Eastend	01
County—St. Thomas:	
Parts of County	
E.D. 1	
E.D. 2	
E.D. 3 (Eastern Portion)	
E.D. 4 (Eastern Portion)	
E.D. 5 (Eastern Portion)	

PSYCHIATRIC CARE

Alabama

Area Listing

Catchment area name	Degree of shortage group
Alabama Catchment M-1	02
County:	
Colbert	
Franklin	
Lauderdale	
Alabama Catchment M-3	04
County:	
Madison	
Alabama Catchment M-4	01
County:	
Fayette	
Lamar	
Marion	
Walker	
Winston	
Alabama Catchment M-4	02
County:	
Cherokee	
De Kalb	
Etowah	
Alabama Catchment M-7	04
County:	
Calhoun	
Cleburne	
Alabama Catchment M-9	01
County:	
Clay	
Coosa	
Randolph	
Talladega	
Alabama Catchment M-10	02
County:	
Choctaw	
Greene	
Hale	
Marengo	
Sumter	
Alabama Catchment M-11	02
County:	
Chilton	
Shelby	
Alabama Catchment M-12	02
County:	
Chambers	
Lee	
Russell	
Tallapoosa	
Alabama Catchment M-13	02
County:	
Dallas	
Perry	
Wilcox	
Alabama Catchment M-14	02
County:	
Autauga	
Elmore	
Loundes	
Montgomery	
Alabama Catchment M-15	01
County:	
Bullock	
Macon	
Pike	
Alabama Catchment M-17	01
County:	
Clark	
Conecuh	
Escambia	
Monroe	
Washington	
Alabama Catchment M-18	01
County:	
Butler	
Coffee	
Covington	
Crenshaw	
Alabama Catchment M-19	03
County:	
Barbour	
Dale	
Geneva	
Henry	
Houston	
Alabama Catchment M-20	01
County:	
Jackson	
Marshall	
Alabama Catchment M-21	01
County:	
Baldwin	
Catchment area M-8	03
County:	
Bibb	
Pickens	
Tuscaloosa	

Alabama

Facility Listing

Facility name	Degree at shortage group
Bryce State Hospital	01
County—Tuscaloosa	
Searcy Hospital	03
County—Mobile	

Alaska

Area Listing

Catchment area name	Degree of shortage group
Doyon Region of Alaska Catchment Areas	01
County:	
Bettles	
Galena	
Ft. Yukon	
McGrath	
Tok	

Arizona

Area Listing

Catchment area name	Degree of shortage group
Southeastern Arizona	02
County:	
Santa Cruz	
Cochise	
Graham	
Greenlee	
Eastern Pinal/Gila Catchment Area	02
County:	
Pinal	
Gila	
Northern Arizona Mental Health Catchment Area	04
County:	
Apache	
Caconino	
Mojave	
Navajo	
Yavapai	

Arizona

Facility Listing

Facility name	Degree of shortage group
Medium to Maximum Security Adult Prison	01
County:	
Pinal	
Florence	

Arkansas

Area Listing

Catchment area name	Degree of shortage group
Arkansas Catchment #11	02
County:	
Hempstead	
Howard	
Lafayette	
Little River	
Miller	
Sevier	
Arkansas Catchment #12	02
County:	
Calhoun	
Columbia	
Dallas	
Nevada	
Ouachita	
Union	
Arkansas Catchment #13	02
County:	
Arkansas	
Cleveland	
Grant	
Jefferson	
Lincoln	
Arkansas Catchment #14	02
County:	
Ashley	
Bradley	
Chicot	
Desha	
Drew	
Delta Hills	02
County:	
Independence	
Izard	
Fulton	
Sharp	
Stone	
North Central Arkansas	02
County:	
Cleburne	
Jackson	
Van Buren	
White	
Woodruff	
Crittenden	02
County:	
Crittenden	

California

Area Listing

Catchment area name	Degree of shortage group
Ridgecrest/China Lake/Indian Wells Valley	02
County:	
Kern	
Taft	01
County:	
Kern	
Delano	02
County:	
Kern	

California

Population Group Listing

Population group name	Degree at shortage group
Spanish Speaking pop. of Fruitvale Service Area (La Clinica de la Raza)	04
County:	
Alameda	

California

Facility Listing

Facility name	Degree of shortage group
Metropolitan State Hospital	03
County:	
Los Angeles	
Norwalk	

Colorado

Area Listing

Catchment area name	Degree of shortage group
Midwestern Colorado	02
County:	
Delta	
Gunnison	
Hinsdale	
Montrose	
Ouray	
San Miguel	
Huerfano-Las Animas (Part of Catchment Area 08010)	01
County:	
Las Animas	
Hurfano	
Northwest Colorado	01
County:	
Grand	
Jackson	
Moffat	
Routt	

Delaware

Area Listing

Catchment area name	Degree of shortage group
Kent	03
County:	
Kent	
Sussex	03
County:	
Sussex	

Florida

Area Listing

Catchment area name	Degree of shortage group
Mental Health Catchment Area 3C	02
County:	
Citrus	
Hernando	
Marion	
Mental Health Catchment Area #&	03
County:	
Seminole	
Mental Health Catchment Area #12027	01
County:	
Desoto	
Sarasota	
Mental Health Catchment Area #12018	01
County:	
Highlands	
Mental Health Catchment Area #12017	01
County:	
Hardee	
Polk	
Mental Health Catchment Area #12029	03
County:	
Hendry-Glades	
Lee	
Charlotte	
Collier	

Florida

Facility Listing

Facility none	Degree of shortage group
Baker Correctional Inst.	01
County:	
Baker	
Florida & Marion Correctional Inst.	03
County:	
Marion	

Georgia

Area Listing

Catchment area name	Degree of shortage group
Mental Health Service Area 19 (McIntosh Trail)	02
County:	
Butts	
Fayette	
Henry	
Lamar	
Pike	
Spalding	
Upson	
Kirkwood Subregion	02
County:	
De Kalk	

Georgia

Facility Listing

Facility name	Degree of shortage group
Central State Hospital (Milledgeville)	03
County:	
Baldwin	
Georgia Regional Hospital (Atlanta)	03
County:	
De Kalb	
Southwestern State Hospital (Thomasville)	01
County:	
Thomas	
Northwest Georgia Regional Hospital (Rome)	01
County:	
Floyd	
Georgia Regional Hospital (Savannah)	03
County:	
Chatam	
Georgia Mental Health Inst	03
County:	
De Kalb	
Georgia Regional Hospital (Augusta)	02
County:	
Richmond	
West Central Georgia Regional Hospital (Columbus)	03
County:	
Muscogee	

Illinois

Area Listing

Catchment area name	Degree of shortage group
Southern Illinois	01
County:	
Alexander	
Hardin	
Johnson	
Massac	
Pope	
Pulaski	
Union	

Illinois

Facility Listing

Facility name	Degree of shortage group
Joliet Correctional Inst	02
County:	
Will	
Statesville Correctional Inst	02
County:	
Will	

Indiana

Area Listing

Catchment area name	Degree of shortage group
Gary CMHC	02
County:	
Lake	
Parts of County	
CT 101–102	
CT 102.99	
CT 103–124	
CT 411–415	
Midtown CMHC	04
County:	
Marion	
Parts of County	
CT 3503–3510	
CT 3515–3533	
CT 3541–3563	
CT 3567–3574	
CT 3576–3580	

Iowa

Area Listing

Catchment area name	Degree of shortage group
Catchment #13–A (N. Portion)	01
County:	
Harrison	
Catchment #13–A (S. Portion)	01
County:	
Fremont	
Catchment #13–B	02
County:	
Cass	
Montgomery	
Page	
Shelby	

Kentucky

Area Listing

Catchment area name	Degree of shortage group
Kentucky Region 7A	04
County:	
Boone	
Carroll	
Gallatin	
Grant	
Kenton	
Owens	
Kentucky Region 7B	03
County:	
Campbell	
Pendleton	
Gateway Catchment Area	02
County:	
Bath	
Menifee	
Montgomery	
Morgan	
Rowan	
Upper Kentucky River	02
County:	
Breathitt	
Knott	
Lee	
Leslie	
Letcher	
Owsley	
Perry	
Wolfe	
Cumberland River Catchment A	02
County:	
Clay	
Catchment:	
Jackson	
Laurel	
Rockcastle	
Whitley	
Cumberland River Catchment B	02
County:	
Bell	

Kentucky

Area Listing

Catchment area name	Degree of shortage group
Catchment:	
Harlan	
Knox	
Region V Catchment Area	02
County:	
Breckingridge	
Grayson	
Hardin	
Larue	
Marion	
Meade	
Nelson	
Washington	

Louisiana

Area Listing

Catchment area name	Degree of shortage group
Catchment Area 7–C	02
County:	
Desoto	
Natchitoches	
Red River	
Sabine	
Calcasieu	04
County:	
Calcasieu	
Terrebonne Service Area	02
County:	
Lafourche	
St. Mary	
Terrebonne	

Maine

Area Listing

Catchment area name	Degree of shortage group
Aroostook	02
County:	
Aroostook	
Allegany-Garrett	
East Maine	01
County:	
Piscataquis	
Kennebec Valley	03
County:	
Somerset	
Tri-County	01
County:	
Oxford	

Maine

Facility Listing

Facility name	Degree of shortage group
Maine Correctional Inst	01
County:	
Statewide	

Maryland

Area Listing

Catchment area name	Degree of shortage group
County:	04
Allegany	
Garrett	

Massachusetts

Area Listing

Catchment area name	Degree of shortage group
Crew Area	04
County:	
East Boston	
Chelsea	
Revere	
Winthrop	
Suffolk	

Massachusetts

Population Group Listing

Population group name	Degree of shortage group
Chinese-Speaking Pop. of South Boston	02
County:	
Boston	

Michigan

Area Listing

Catchment area name	Degree of shortage group
Mt. Pleasant	02
County:	
Clara	
Isabella	
Mecosta	
Osceola	
Au Sable Valley Service Area	01
County:	
Iosco	
Ogemaw	
Oscoda	

Minnesota

Area Listing

Catchment area name	Degree of shortage group
Fergus Falls	02
County:	
Becker	
Clay	
Douglas	
Grant	
Otter Trail	
Pope	
Stevens	
Traverse	
Wilkin	

Mississippi

Area Listing

Catchment area name	Degree of shortage group
Mental Health Catchment Area No. 10	04
County:	
Clarke	
Jasper	
Kemper	
Lauderdale	
Leake	
Neshoba	
Newton	
Scott	
Smith	
Mental Health Catchment Area No. 11	01
County:	
Adams	
Amiterson	
Claiborne	
Franklin	
Jefferson	
Lawrence	
Lincoln	
Pike	
Walthall	
Wilkinson	
Mental Health Catchment Area No. 12	04
County:	
Covington	
Forrest	
Greene	
Jefferson Davis	
Jones	
Lamar	
Marion	
Perry	
Wayne	
Mental Health Catchment Area No. 13	03
County:	
Hancock	
Harrison	
Pearl River	
Stone	
Mental Health Catchment Area No. 14	02
County:	
George	
Jackson	
Mental Health Catchment Area No. 15	02
County:	
Warren	
Yazoo	
Mental Health Catchment Area No. 1	01
County:	
Coahoma	
Quitman	
Tallahatchie	
Tunica	
Mental Health Catchment Area No. 6	02
County:	
Attala	
Carroll	
Grenada	
Holmes	
Humphreys	
Le Flore	
Montgomery	
Sunflower	
Mental Health Catchment Area No. 7	02
County:	
Choctaw	
Clay	
Lowndes	
Noxubee	
Oktibbeha	
Webster	
Winston	
Mental Health Catchment Area No. 2	02
County:	
Calhoun	
De Soto	
Lafayette	
Marshall	
Panola	
Tate	
Yalo Busha	
Mental Health Catchment Area No. 3	02
County:	
Benton	
Chickasaw	
Itawamba	
Lee	
Monroe	
Pontotoc	
Union	
Mental Health Catchment Area No. 4	01
County:	
Alcorn	
Prentiss	
Tippah	
Tishomingo	
Mental Health Catchment Area No. 5	02
County:	
Bolivar	
Issaquena	
Sharkey	
Washington	

Montana

Area Listing

Catchment area name	Degree of shortage group
Lewistown Service Area (Part of Montana Region II Catchment Area)	01
County:	
Fergus	
Judith Basin	
Petroleum	
Wheatland	
Eastern Montana—Region I	02
County:	
Carter	
Custer	
Daniels	
Dawson	
Fallon	
Garfield	
McCone	
Phillips	
Powder River	
Prairie	
Richland	
Roosevelt	
Rosebud	
Sheridan	
Treasure	
Valley	
Wibaux	

Montana

Facility Listing

Facility name	Degree of shortage group
Warm Springs State Hospital	03

Nebraska

Area Listing

Catchment area name	Degree of shortage group
Blue Valley CMHC	02
County:	
Gage	
Jefferson	
Johnson	
Nemaka	
Otoe	
Pawnee	
Richardson	
Thayer	
Great Plans CMHC	02
County:	
Arthur	
Chase	
Dawson	
Dundy	
Frontier	
Gosper	
Grant	
Hayes	
Hitchcock	
Hooker	
Keith	
Lincoln	
Logan	
McPherson	
Perkins	
Red Willow	
Thomas	
Mid-Nebraska CMHC	02
County:	
Blaine	
Custer	
Garfield	
Greeley	
Hall	
Hamilton	
Howard	
Loup	
Merrick	
Sherman	
Valley	
Wheeler	
Northern Nebraska CMHC	02
County:	
Antelope	
Boone	
Boyd	
Brown	
Burt	
Cedar	
Colfax	
Cuming	
Dakota	
Dixon	
Holt	
Keya Paka	
Knox	
Madison	
Nance	
Pierce	
Platte	
Rock	
Stanton	
Thurston	
Wayne	
Panhandle CMHC	03
County:	
Banner	
Box Butte	
Cheyenne	
Dawes	
Deuel	
Garden	
Kimball	
Morrill	
Scotts Bluff	
Sheridan	
Sioux	
Pioneer CMHC	02
County:	
Butler	
Fillmore	
Polk	
Saline	
Saunders	
Seward	
York	
South Central CMHC	04
County:	
Adams	
Buffalo	
Clay	
Franklin	
Furnas	
Harlan	
Kearney	
Nuckolls	
Phelps	
Webster	
Catchment #8 (Immanuel)	04
County:	
Douglas	
Dodge	
Washington	

Nevada

Area Listing

Catchment area name	Degree of shortage group
Catchment Area 32004 (Rural Nevada Mental Health Catchment Area)	01
County:	
Churchill	
Douglas	
Elko	
Esmeralda	
Eureka	
Humboldt	
Lander	
Lincoln	
Lyon	
Mineral	
Nye	
Pershing	
Storey	
White Pine	

New Hampshire

Area Listing

Catchment area name	Degree of shortage group
Mental Health Region I	02
County:	
Carroll	
Coos	
Grafton	

New Jersey

Area Listing

Catchment area name	Degree of shortage group
Warren County	04
Newark	04
County:	
Essex	
Service Area 10	02
County: Ocean	
Service Area 11	04
County: Gloucester	
Service Area 12	04
County: Salem	
Service Area 14	04
County: Cape May	
Service Area 60	02
County: Sussex	

New Mexico

Area Listing

Catchment area name	Degree of shortage group
New Mexico Planning District I	01
County:	
Catron	
Grant	
Hildalgo	
Luna	

New York

Area Listing

Catchment area name	Degree of shortage group
Cortland County	02
St. Lawrence County	02
Lewis County	02
Jefferson County	03

North Carolina

Area Listing

Catchment area name	Degree of shortage group
Surry-Yadkin Catchment Area	01
County:	
Surry	
Yadkin	

North Dakota

Area Listing

Catchment area name	Degree of shortage group
Jamestown	02
County:	
Barnes	
Dickey	
Foster	
Griggs	
La Moure	
Logan	
McIntosh	
Stutsman	
Wells	

Ohio

Area Listing

Catchment area name	Degree of shortage group
Mental Health & Mental Retardation Center	01
County:	
Athens	
Eastern Clermont County	02
County:	
Clermont	
Catchment Area No. 33	02
County:	
Athens	
Hocking	
Vinton	
Catchment Area No. 34	02
County:	
Washington	
Catchment Area No. 32	03
County:	
Coshocton	
Guernsey	
Morgan	
Muskingum	
Noble	
Perry	
Catchment Area No. 6	02
County:	
Belmont	
Harrison	
Monroe	
Catchment Area No. 35	04
County:	
Gallia	
Jackson	
Meigs	

Oklahoma

Area Listing

Catchment area name	Degree of shortage group
Catchment Area No. 1	02
County:	
Craig	
Delaware	
Mayes	
Nowata	
Ottawa	
Rogers	
Washington	
Catchment Area No. 9	01
County:	
Beckham	
Blaine	
Custer	
Dewey	
Greer	
Kiowa	
Roger Mills	
Washita	

Oregon

Area Listing

Catchment area name	Degree of shortage group
Catchment Area I	02
County:	
Clatsop	
Tellampak	
Catchment Area II	01
County: Columbia	
Catchment Area No. 14	04
County:	
Coos	
Curry	
Catchment Area No. 18	01
County:	
Baker	
Grant	
Harney	
Malheur	
Umatilla	
Union	

Oregon

Area Listing

Catchment area name	Degree of shortage group
Wallowa	
Clackamas	02
County:	
Clackamas	
Lincoln	01
County:	
Lincoln	

Pennsylvania

Area Listing

Catchment area name	Degree of shortage group
Tioga 42041	03
County:	
Tioga	
Centre 42052	02
County:	
Centre	
Clearfield/Jefferson	02
County:	
Clearfield	
Jefferson	
Northumberland 42056/Columbia 42054	04
County:	
Columbia	
Montour	
Northumberland	
Snyder	
Union	
Miffli-Juniata 42055	02
County:	
Juniata	
Mifflin	
Clinton-Lycoming 42033	04
County:	
Clinton	
Lycoming	
North Central Philadelphia	02
County:	
Philadelphia	
Parts of County	
C.T. 151–155, 164–169, 171–175, 197–199, 200–204	

South Carolina

Area Listing

Catchment area name	Degree of shortage group
Orange Catchment Area	02
County:	
Bamberg	
Calhoun	
Orangeburg	
Mental Health Catchment Area No. 11	02
County:	
Allendale	
Beaufort	
Colleton	
Hampton	
Jasper	
Orangeburg	
Catchment Area No. 12	01
County:	
Chesterfield	
Dillon	
Marlboro	
Catchment Area No. 13	03
County:	
Georgetown	
Horry	
Williamsburg	
Catchment Area No. 7	02
County:	
Darlington	
Florence	
Marion	
Catchment Area No. 9	02

South Carolina

Area Listing

Catchment area name	Degree of shortage group
County:	
Clarendon	
Kershaw	
Lee	
Sumter	
Columbia Mental Health	01
County:	
Fairfield	
Catawba	02
County:	
Chester	
Lancaster	
York	
Catchment Area No. 5	02
County:	
Abbeville	
Edgefield	
Greenwood	
Laurens	
McCormick	
New Berry	
Saluda	
Catchment Area No. 8B	01
County:	
Berkeley	
Dorchester	
Catchment Area No. 4	02
County:	
Chester	
Lancaster	
York	
Catchment Area No. 3	03
County:	
Cherokee	
Spartanburg	
Union	
Catchment Area No. 1B	02
County:	
Oconee	
Pickens	
Catchment Area No. 10	02
County:	
Aiken	
Barnwell	

South Carolina

Facility Listing

Facility name	Degree of shortage group
Earl E. Morris Jr. State Mental Hospital	02
County:	
Richland	

South Dakota

Area Listing

Catchment area name	Degree of shortage group
Catchment Area I (Lake Region)	01
County:	
Brookings	
Clark	
Codington	
Deuel	
Grant	
Hamlin	
Kingsbury	
Moody	
Roberts	
Catchment Area IV (Northeastern)	02
County:	
Brown	
Campbell	
Day	
Edmunds	
Faulk	
McPherson	
Marshall	
Potter	

South Dakota

Area Listing

Catchment area name	Degree of shortage group
Spink	
Walworth	
Catchment Area V (Central)	01
County:	
Buffalo	
Corson	
Dewey	
Gregory	
Haakon	
Hughes	
Hyde	
Jones	
Lyman	
Mellette	
Perkins	
Stanley	
Sully	
Todd	
Tripp	
Ziebach	

South Dakota

Facility Listing

Facility name	Degree of shortage group
Human Services Center	03
County:	
Yankton	
Redfield State Hospital & School	02
County:	
Spink	
State Penitentiary	01
County:	
Lincoln	

South Dakota

Area Listing

Catchment area name	Degree of shortage group
Catchment Area VII (Great Plains)	01
County:	
Aurora	
Beadle	
Brule	
Davison	
Hand	
Hanson	
Jerauld	
Miner	
Sanborn	

Tennessee

Area Listing

Catchment area name	Degree of shortage group
Catchment Area #9	02
County:	
Cannon	
Clay	
Cumberland	
De Kalb	
Fentress	
Jackson	
Macon	
Overton	
Pickett	
Putnam	
Smith	
Van Buren	
Warren	
White	
Catchment Area #14	02
County:	
Cheatham	

Tennessee

Area Listing

Catchment area name	Degree of shortage group
Dickson	
Houston	
Humphreys	
Montgomery	
Robertson	
Stewart	
Catchment Area #15	02
County:	
Rutherford	
Sumner	
Trousdale	
Williamson	
Wilson	
Catchment Area #23	02
County:	
Bedford	
Coffee	
Franklin	
Lincoln	
Moore	
Catchment Area #24	02
County:	
Giles	
Hickman	
Lawrence	
Lewis	
Marshall	
Maury	
Perry	
Wayne	
Catchment Area #8	02
County:	
Blount	
Loudon	
Monroe	
Seiver	
Catchment Area #5	02
County:	
Clairborne	
Cocke	
Grainger	
Hamblen	
Jefferson	
Union	
Catchment Area #6	02
County:	
Anderson	
Campbell	
Roane	
Morgan	
Scott	
Mental Health Catchment Area #22	02
County:	
Crockett	
Dyer	
Lake	
Obion	
Weakly	
Mental Health Catchment Area #21	02
County:	
Benton	
Carroll	
Gibson	
Henry	
Mental Health Catchment Area #24	02
County:	
Chester	
Decatur	
Hardeman	
Hardin	
Mc Nairy	

Tennessee

Facility Listing

Facility name	Degree of shortage group
Western Mental Health Institute	01
County:	
Hardeman	

Texas

Area Listing

Catchment area name	Degree of shortage group
Health Service Area 3	02
County:	
Brewster	
Culberson	
Hudspeth	
Jeff Davis	
Presidio	
Plainview Catchment Area	02
County:	
Bailey	
Briscoe	
Castro	
Floyd	
Hale	
Lamb	
Motley	
Parmer	
Swisher	

Vermont

Area Listing

Catchment area name	Degree of shortage group
Northeast Kingdom Region II	02
County:	
Caledonia	
Essex	
Orleans	
Orange/Windsor	02
County:	
Orange	
Windsor	

Virginia

Area Listing

Catchment area name	Degree of shortage group
Allegheny	02
County:	
Allegheny	
Lee	01
County:	
Lee	
Wise	01
County:	
Wise	
Planning District II	01
County:	
Buchanan	
Dickinson	
Russell	
Tazewell	
Planning District III	02
County:	
Bland	
Carroll	
Grayson	
Smyth	
Wythe	
Planning District XII	02
County:	
Franklin	
Henry	
Patrick	
Pittsylvania	
Middle Peninsula/Northern Neck	02
County:	
Essex	
Gloucester	
King & Queen	
King William	
Lancaster	
Mathews	
Middlesex	
Northumberland	
Richmond	
Westmoreland	
Eastern Shore of VA	01
County:	
Accomack	

Virginia

Area Listing

Catchment area name	Degree of shortage group
Northampton	
Planning District XIV	01
County:	
Amelia	
Buckingham	
Charlotte	
Cumberland	
Lunenburg	
Nottoway	
Prince Edward	

Virginia

Facility Listing

Facility name	Degree of shortage group
Southwestern State Hospital	03
County:	
Smyth	
Southside Community Catchment Area	02
County:	
Brunswick Halifax	
Mecklenburg	
City of South Boston	

Washington

Area Listing

Catchment area name	Degree of shortage group
Adams-Grant	01
County:	
Adams	
Grant	
Mental Health Catchment Area 19	02
County:	
Chelan	
Douglas	
Okanogan	
Washington	
Catchment Area 53021	01
County:	
Ferry	
Pend Oreille	
Stevens	
Catchment Area 53026	02
County:	
Asatin	
Garfield	
Whitman	
Catchment Area 15	02
County:	
Grays Harbor	
Pacific	

Washington

Facility Listing

Facility name	Degree of shortage group
Clearwater Corrections Center	03
County:	
Clallam	
Larch Corrections Center	03
County:	
Clark	
Firland Correctional Center	03
County:	
King	
Washington Corrections Center	03
County:	
Mason	
Purdy Treatment Center for Women	03
County:	
Pierce	
Washington State Reformatory	03
County:	
Snokomish	
Washington State Penitentiary and Mental Health Unit	03
County:	
Walla Walla	
Seattle & King Co. Jails	01
County:	
King	

West Virginia

Area Listing

Catchment area name	Degree of shortage group
Central District	02
County:	
Braxton	
Doddridge	
Gilmer	
Harrison	
Lewis	
Catchment 202	03
County:	
Cabell	
Lincoln	
Mason	
Wayne	

West Virginia

Facility Listing

Facility name	Degree of shortage group
Huntington State Hospital	02
County:	
Cabell	
Lakin State Hospital	03
County:	
Mason	
Spencer State Hospital	01
County:	
Roane	
Weston State Hospital	01
County:	
Lewis	

Wyoming

Area Listing

Catchment area name	Degree of shortage group
Region II Mental Health	03
County:	
Campbell	
Crook	
Johnson	
Sheridan	
Weston	

American Samoa

Area Listing

Catchment area name	Degree of shortage group
All	03

Puerto Rico

Area Listing

Catchment area name	Degree of shortage group
Indigent of Catano	01

VISION CARE

Alabama

County Listing

County name	Degree of shortage group
Autauga	01
Baldwin	03
Bibb	01
Bullock	01
Chambers	02
Cherokee	01
Chilton	02
Choctaw	01
Clarke	02
Clay	01
Cleburne	01
Colbert	03
Coosa:	
Service area, Coosa/Talladega	03
Cullman	03
De Kalb	02
Elmore	03
Franklin	02
Greene	01
Hale	01
Jackson	03
Jefferson:	
Service area, Pratt City	01
Lamar	01
Lawrence	01
Lee	02
Limestone	02
Macon	02
Madison	03
Marengo	03
Marion	03
Mobile	03
Monroe	03
Montgomery	03
Morgan	03
Pickens	03
Randolph	03
Russell	01
Shelby	03
Sumter	01
Talladega:	
Service area, Coosa/Talladega	03
Tuscaloosa	02
Walker	02
Washington	01
Wilcox	01

Alabama

Service Area Listing

Service area name	Degree of shortage group
Coosa/Talladega	03
County—Coosa	
County—Talladega	
Pratt City	01
County—Jefferson:	
Parts of County:	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 14	

Arizona

County Listing

County name	Degree of shortage group
Apache	01
Cochise	03
Gila:	
Service area, Gila/East Pinal	02
Greenlee	01
Maricopa:	
Service area, El Mirage	01
Pinal:	
Service area, Gila/East Pinal	02
Santa Cruz	03
Yavapai	03

Arizona

Service Area Listing

Service area name	Degree of shortage group
El Mirage	01
County—Maricopa:	
Parts of County:	
C.T. 405 (Southern ½)	
C.T. 608	
C.T. 609	
Gila/East Pinal	02
County—Gila	
County—Pinal:	
Parts of County:	
Superior-Ray	
San Manuel	

Arkansas

County Listing

County name	Degree of shortage group
Chicot	01
Cleveland	01
Lafayette	01
Lincoln	01
Madison	01
Miller	01

California

County Listing

County name	Degree of shortage group
Alameda	03
Service area, Fruitvale	
Los Angeles	03
Service area, East Los Angeles	

California

Service Area Listing

Service area name	Degree of shortage group
East Los Angeles	03
County—Los Angeles:	
Parts of County	
C.T. 1831 through 1833	
C.T. 1835 through 1838	
C.T. 1851 through 1853	
C.T. 1991 through 1999	
C.T. 2011 through 2017	
C.T. 2031 through 2039	
C.T. 2041 through 2049	
C.T. 2051	
C.T. 5303 through 5319	
C.T. 5323.01	
C.T. 5323.02	
Fruitvale	03
County—Alameda:	
Parts of County	
C.T. 4005 through 4011	
C.T. 4014 through 4028	
C.T. 4030 through 4033	
C.T. 4053 through 4063	
C.T. 4065	
C.T. 4070 through 4078	
C.T. 4082 through 4098	
C.T. 4101 through 4104	
C.T. 4251	

Colorado

County Listing

County name	Degree [illegible] shortage group
Baca	01
Ouray	01
Rio Blanco	01
San Juan	01
San Miguel	01

Connecticut

County Listing

County name	Degree of shortage group
Hartford:	
Service area, Charter Oak/Rice Hts	01

Connecticut

Service Area Listing

Service area name	Degree of shortage group
Charter Oak/Rice Hts	01
County—Hartford:	
Parts of County	
C.T. 5046	
C.T. 5049	

Florida

County Listing

County name	Degree of shortage group
Citrus	03
Dixie:	
Service area, Dixie/Gilchrist/Lafayette	02
Gilchrist:	
Service area, Dixie/Gilchrist/Lafayette	02
Hamilton	01
Homes	01
Lafayette:	
Service area, Dixie/Gilchrist/Lafayette	02
Monroe	03
Putnam	03
Suwanee	03

Florida

Service Area Listing

Service area name	Degree of shortage group
Dixie/Gilchrist/Lafayette	02
County—Dixie	
County—Gilchrist	
County—Lafayette	

Georgia

County Listing

County name	Degree of shortage group
Bleckley	01
Brantley	01
Bryan	01
Bulloch	03
Camden	01
Candler	01
Carroll	03
Chatham	03
Clarke	03
Dade	01
Effingham	01
Forsyth	01
Jenkins	01
Laurens	03
McIntosh	01
Meriwether	03
Newton	01
Pierce	01
Pike	01
Rockdale	03
Tattnall	01
Taylor	01
Ware	03
Wayne	03

Illinois

County Listing

County name	Degree of shortage group
Alexander:	
Population group: Pov. Pop. of Alexander & Pulaski Co	01
Pulaski:	
Population group: Pov. Pop. of Alexander & Pulaski Co	01

Illinois

Population Group Listing

Population group name	Degree of shortage group
Pov. Pop. of Alexander & Pulaski Co	01
County—Alexander:	
Parts of County	
Poverty Population	
County—Pulaski:	
Parts of County	
Poverty Population	

Indiana

County Listing

County name	Degree of shortage group
Lagrange	01
Starke	03

Iowa

County Listing

County name	Degree of shortage group
Clayton	03
Ringgold	01

Kentucky

County Listing

County name	Degree of shortage group
Clinton	01
Harlan	03
Jefferson:	
Service area, West End	01
Knott	01
Lee	01
Letcher	03

Kentucky

Service Area Listing

Service area name	Degree of shortage group
West End	01
County—Jefferson:	
Parts of County	
C.T. 1 through 35	

Louisiana

County Listing

County name	Degree of shortage group
Caddo:	
Population, Shreveport (Low Income)	02
De Soto	03
Iberia	03
Iberville	02
St. Charles	02

Louisiana

Population Group Listing

Population group name	Degree of shortage group
Shreveport (Low Income)	02
County—Caddo:	
Parts of County	
Shreveport (Low Income)	

Maryland

County Listing

County Name	Degree of shortage group
Calvert	01
St. Marys	03

Mississippi

County Listing

County Name	Degree of shortage group
Amite	01
Benton	01
Choctaw	01
Clarke	01
Covington	01
Franklin	01
Greene	01
Issaquena:	
Service Area, Issaquena/Sharkey	01
Jefferson	01
Kemper	01
Lamar	01
Lauderdale	02
Lawrence	01
Noxubee	01
Oktibbeha	03
Quitman:	
Service Area, Quitman/Tallahatchie	01
Sharkey:	
Service Area, Issaquena/Sharkey	01
Tallahatchie:	
Service Area, Quitman/Tallahatchie	01
Tishomingo	01
Walthall	01
Webster	01
Wilkinson	01

Mississippi

Service Area Listing

Service area name	Degree of shortage group
Issaquena/Sharkey	01
County—Issaquena	
County—Sharkey	
Quitman/Tallahatchie	01
County—Quitman	
County—Tallahatchie	

Missouri

County Listing

County Name	Degree of shortage group
Caldwell	01
Chariton	01
Clark	01
Crawford	02
Daviess	01
De Kalb	01
Hickory	01
Holt	01
Lewis	01
Lincoln	03
Miller	03
Monroe	01
Montgomery	01
New Madrid	03
Pike	01
Pulaski	02
Putnam	01
Ralls	01
Reynolds	01
St. Clair	01
Shelby	01
Sullivan	01
Warren	03
Wayne	02

Montana

County Listing

County name	Degree of shortage group
Blaine	01
Rosebud:	01
Service Area, Rosebud/Treasure	
Treasure:	01
Service Area, Rosebud/Treasure	

Montana

Service Area Listing

Service area name	Degree of shortage group
Rosebud/Treasure	01
County—Rosebud	
County—Treasure	

Nebraska

County Listing

County name	Degree of shortage group
Douglas:	
Service area, N.E. Omaha Area	01
Garfield:	
Service area, Ord	03
Greeley:	
Service area, Ord	03
Howard:	
Service area, Ord	03
Loup:	
Service area, Ord	03
Sherman:	
Service area, Ord	03
Valley:	
Service area, Ord	03
Wheeler:	
Service area, Ord	03

Nebraska

Service Area Listing

Service area name	Degree of shortage group
N.E. Omaha Area	01
County—Douglas:	
Parts of County	
C.T. 6	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	
Ord	03
County—Garfield	
County—Howard:	
Parts of County	
Cotesfield Prec.	
Dannevirke Prec.	
Elba Prec.	

Nebraska

Service Area Listing

Service area name	Degree of shortage group
Fairdale-Logan Prec.	
County—Loup:	
Parts of County	
Kent Prec.	
Taylor Prec.	
County—Sherman:	
Parts of County	
Ashton Twp	
Elm Twp	
Logan Twp	
Loup City Twp	
Oak Creek Twp	
Washington Twp	
Webster Twp	
County—Valley	
County—Wheeler	

Nevada

County Listing

County name	Degree of shortage group
Clark:	
Service area, rural Clark Co.	01
Lyon	01
Mineral	01
Nye	01

Nevada

Service Area Listing

Service area name	Degree of shortage group
Rural Clark Co.	01
County—Clark:	
Parts of County	
C.T. 56 through 59	

New Mexico

County Listing

County name	Degree of shortage group
Rio Arriba	03
Sandoval	01

New York

County Listing

County name	Degree of shortage group
Bronx	03
Erie	02
Kings	03
Niagara	02
Queens	03

North Carolina

County Listing

County name	Degree of shortage group
Bladen	02
Brunswick	02
Carteret	03
Columbus	03
Cumberland	03
Harnett	03
Hoke	01
Mechlenburg:	
Service area, Mechlenburg	03
Montgomery	03

North Carolina

County Listing

County name	Degree of shortage group
Moore	03
Pender	03
Randolph	02
Sampson	03
Stokes	02
Swain	03

North Carolina

Service Area Listing

Service area name	Degree of shortage group
Bertie/Gates/Hertford/Northampton	03
Merklenburg	03
County—Merklenburg:	
Parts of County	
C.T. 1 through 8	
C.T. 25	
C.T. 26	
C.T. 35	
C.T. 36	
C.T. 37	
C.T. 49	
C.T. 52	

North Dakota

County Listing

County name	Degree of shortage group
Benson	01
Burke:	
Service area, Kenmare	01
La Moure	01
McHenry	01
Mountrail	01
Renville:	
Service area, Kenmare	01
Ward:	
Service area, Kenmare	01

North Dakota

Service Area Listing

Service area name	Degree of shortage group
Kenmare	01
County—Burke	
County—Renville	
County—Ward	

Ohio

County Listing

County name	Degree of shortage group
Coshocton	03
Jefferson	03
Meigs	03
Vinton	01

Oklahoma

County Listing

County name	Degree of shortage group
Cimarron	01

Pennsylvania

County Listing

County name	Degree of shortage group
Pike	01

South Carolina

County Listing

County name	Degree of shortage group
Berkeley	03
Calhoun	01
Jasper	01
Orangeburg	02
Union	03

Tennessee

County Listing

County name	Degree of shortage group
Bledsoe	01
Cheatham	01
Clay	01
Fentress	01
Giles	02
Grundy	01
Jefferson	03
Loudon	03
Sequatchie	01
Stewart	01
Wayne	01

Texas

County Listing

County name	Degree of shortage group
Knox	01
Marion	01
Panola	01
Starr	03
Walker	03
Willacy	01

Utah

County Listing

County name	Degree of shortage group
Emery	01
Millard	01
Summit	01

Virginia

County Listing

County name	Degree of shortage group
Accomack	01
Amelia	01
Bath	01
Buchanan	02
Charlotte	01
Cumberland	01
Dickenson	01
Floyd	01

Virginia

County Listing

County name	Degree of shortage group
Glouchester	02
Greene	01
King George	01
King William	01
Lee	02
Louisa	01
Lunenburg	01
Mathews	01
Middlesex	01
Nelson	01
Pittsylvania	03
Powhatan	01
Russell	01
Tazewell	03
Westmoreland	01

Washington

County Listing

County name	Degree of shortage group
King:	
Population Group, Low Income Pop. of King	03

Washington

Population Group Listing

Population group	Degree of shortage group
Low income Pop. of King	03
County—King	

West Virginia

County Listing

County name	Degree of shortage group
Barbour	01
Boone	02
Calhoun	01
Clay	01
Gilmer	01
Hampshire	01
Hardy	01
Jefferson	03
Lincoln	02
Logan	03
McDowell	03
Morgan	01
Pendleton	01
Pleasants	01
Pocahontas	01
Preston	02
Putnam	02
Ritchie	01
Roane	03
Tucker	01
Wayne	01
Webster	01

Wisconsin

County Listing

County name	Degree of shortage group
Adams	01
Oneida	03
Vilas	02

American Samoa

County Listing

County name	Degree of shortage group
Manu'a District:	
Service area, Manu'a/Tutuila Island Group	01
Eastern Tutuila District:	
Service area, Manu'a/Tutuila Island Group	01
Western Tutuila District:	
Service area, Manu'a/Tutuila Island Group	01

American Samoa

Service Area Listing

Service area name	Degree of shortage group
Manu'a/Tutuila Island Group	01
County—Manu'a District	
County—Eastern Tutuila District	
County—Western Tutuila District	

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Alabama

County Listing

County name	Degree of shortage group
Autauga	01
Baldwin	01
Barbour	01
Bibb	01
Blount	01
Bullock	01
Butler	01
Calhoun:	
Service area, Calhoun Co	02
Chambers:	
Service area, Chambers Co	01
Cherokee:	
Service area, Etowah Co	02
Chilton	01
Choctaw	01
Clay:	
Service area, Calhoun Co	02
Cleburne:	
Service area, Calhoun Co	02
Coffee	01
Colbert	01
Conecuh	01
Coosa:	
Service area, Talladega Co	01
Covington	01
Crenshaw	01
Cullman	01
Dale	01
Dallas	01
De Kalb:	
Service area, Etowah Co	02
Elmore	01
Etowah:	
Service area, Etowah Co	02
Fayette	01
Franklin	01
Geneva	01
Hale	01
Henry	01
Houston	03
Jackson	01
Jefferson	02
Lamar	01
Lauderdale	03
Lawrence	01
Lee	01
Limestone	01
Lowndes	01
Macon	01
Madison	02
Marengo	01
Marion	01
Marshall	01
Mobile	02
Monroe	01
Montgomery	02
Morgan	01
Perry	01
Pickens	01
Pike	01
Randolph:	
Service area, Chambers Co	01
Russell	01
St. Clair	01
Shelby	01
Sumter	01
Talladega:	
Service area, Talladega Co	01
Tallapoosa:	
Service area, Talladega Co	01
Tuscaloosa	02
Walker	01
Washington	01
Wilcox	01
Winston	01

Alabama

Service Area Listing

Service area name	Degree of shortage group
Calhoun Co	02
County—Calhoun	
County—Clay	
County—Cleburne	
Chambers Co	01
County—Chambers	
County—Randolph	
Etowah Co	02
County—Cherokee	
County—De Kalb	
County—Etowah	
Talladega Co	01
County—Coosa	
County—Talladega	
County—Tallapoosa	

Alaska

County Listing

County name	Degree of shortage group
First Judicial Div.	02

Arizona

County Listing

County name	Degree of shortage group
Apache	01
Cochise	01
Coconino	01
Gila	01
Graham:	
Service area, Graham/Greenlee	01
Greenlee:	
Service area, Graham/Greenlee	01
Maricopa:	
Service area, South Phoenix	01
Mohave	01
Navajo	01
Pima	03
Pinal	01
Santa Cruz	01
Yavapai	03
Yuma	02

Arizona

Service Area Listing

Service area name	Degree of shortage group
Graham/Greenlee	01
County—Graham	
County—Greenlee	
South Phoenix	01
County—Maricopa:	
Parts of County	
C.T. 1152	
C.T. 1153	
C.T. 1154	
C.T. 1155	
C.T. 1156	
C.T. 1157	
C.T. 1158	
C.T. 1159	
C.T. 1160	
C.T. 1161	
C.T. 1162	
C.T. 1163	
C.T. 1164	
C.T. 1165	
C.T. 1166	
C.T. 1167	

Arkansas

County Listing

County name	Degree of shortage group
Arkansas	01
Ashley	01
Boone	01
Bradley	01
Carroll	01
Chicot	01
Clark	01
Clay	01
Cleburne	01
Columbia	01
Conway	01
Craighead	01
Crawford	01
Crittenden	01
Cross	01
Desha	01
Drew	01
Faulkner	01
Franklin	01
Grant	01
Greene	01
Hempstead	01
Hot Spring	01
Howard	01
Jackson	01
Jefferson	02
Johnson	01
Lawrence	01
Lee	01
Lincoln	01
Little River	01
Logan	01
Lonoke	01
Miller	03
Mississippi	01
Monroe	01
Nevada	01
Ouachita	01
Phillips	01
Poinsett	01
Polk	01
Pope	01
Pulaski	03
Randolph	01
St. Francis	01
Saline	01
Sharp	01
Union	03
White	01
Woodruff	01
Yell	01

California

County Listing

County name	Degree of shortage group
Amador	01
Calaveras	01
Del Norte	01
Fresno	03
Humboldt	03
Imperial	02
Kern	02
Kings	02
Lake	02
Lassen	01
Los Angeles	
Service area: east Los Angeles	02
Madera	03
Merced	02
Monterey	03
Riverside	03
San Benito	01
San Bernardino	03
San Luis Obispo	03
Siskiyou	01
Tehama	01
Tulare	03
Ventura	03
Yolo	03

California

Service Area Listing

Service area name	Degree of shortage group
East Los Angeles	02
County—Los Angeles:	
Parts of County	
C.T. 1831 through 1838	
C.T. 2031 through 2039	
C.T. 2041 through 2049	
C.T. 2051	
C.T. 5303 through 5319	
C.T. 5323.01	
C.T. 5323.02	
C.T. 1851	
C.T. 1852	
C.T. 1853	
C.T. 1991 through 1999	
C.T. 2011 through 2017	

Colorado

County Listing

County name	Degree of shortage group
Delta	01
El Paso	03
Fremont	01
Las Animas	01
Montrose	01
Morgan	01
Pueblo	03
Weld	02

Delaware

County Listing

County name	Degree of shortage group
Kent	03
Sussex	03

Florida

County Listing

County name	Degree of shortage group
Alachua	03
Baker	01
Bay	02
Bradford	01
Brevard	03
Charlotte	03
Citrus	01
Clay	01
Collier	03
Columbia	01
De Soto	01
Duval	03
Escambia	03
Gadsden	01
Hardee	01
Hernando	01
Highlands	01
Hillsborough	03
Holmes	01
Indian River	01
Jackson	01
Lake	03
Lee	03
Leon	03
Levy	01
Madison	01
Manatee	03
Marion	03
Nassau	01
Okaloosa	01
Osceola	01
Pasco	01
Polk	01
Santa Rosa	01
Seminole	02
Sumter	01
Suwannee	01
Taylor	01
Volusia	01
Walton	01
Washington	01

Georgia

County Listing

County name	Degree of shortage group
Appling	01
Baldwin	01
Bartow	01
Ben Hill	01
Berrien	01
Bibb	03
Brooks	01
Bulloch	01
Butts	01
Carroll	01
Catoosa	01
Chatham	03
Chattooga	01
Cherokee	01
Coffee	01
Colquitt	01
Cook	01
Coweta	01
Crisp	01
Decatur	01
Dodge	01
Dougherty	03
Early	01
Effingham	01
Elbert	01
Emanuel	01
Fayette	01
Floyd	03
Forsyth	01
Gordon	01
Grady	01
Habersham	01
Hall	01
Haralson	01
Hart	01
Henry	01
Houston	01
Jones	01
Laurens	01
Liberty	01
Lowndes	03
Macon	01
Mitchell	01
Monroe	01
Murray	01
Newton	01
Paulding	01
Peach	01
Polk	01
Rockdale	01
Stephens	01
Sumter	01
Tattnall	01
Tift	01
Toombs	01
Walker	01
Walton	01
Washington	01
Wayne	01
Whitfield	01
Worth	01

Hawaii

County Listing

County name	Degree of shortage group
Hawaii	02
Honolulu	02
Kauai	01
Maui	01

Idaho

County Listing

County name	Degree of shortage group
Bonner	01
Payette	01
Shoshone	01

Illinois

County Listing

County name	Degree of shortage group
Alexander:	
Service area, Alexander/Pulaski	01
Bureau	01
Champaign	03
Clay	01
Coles	01
Douglas	01
Edgar	01
Ford	01
Fulton	02
Greene	01
Iroquois	01
Jackson	03
Kankakee	03
Marshall	01
Mason	01
Massac	01
Monroe	01
Moultrie	01
Peoria	01
Pulaski:	
Service area, Alexander/Pulaski	01
Randolph	01
Rock Island	03
St. Clair	02
Shelby	01
Union	01
Vermilion	03
Whiteside	02
Williamson	02
Woodford	01

Illinois

Service Area Listing

Service area name	Degree of shortage group
Alexander/Pulaski	01
County—Alexander	
County—Pulaski	

Indiana

County Listing

County name	Degree of shortage group
Benton	01
Blackford	01
Boone	01
Carroll	01
Cass:	
Service area, Fulton-Cass	03
Clay	01
Daviess	01
Dearborn	01
Delaware	03
Dubois	01
Fountain	01
Fulton:	
Service area, Fulton-Cass	03
Gibson	01
Grant	03
Greene	01
Hamilton	01
Harrison	01
Hendricks	01
Henry	01
Howard	02
Huntington	01
Jackson	01

Indiana

County Listing

County name	Degree of shortage group
Jasper:	
Service area, Jasper-Newton	01
Jay	01
Knox	01
Kosciusko	01
Lagrange	01
Madison	03
Miami	01
Morgan	01
Newton:	
Service area, Jasper-Newton	01
Noble	01
Orange	01
Owen	01
Parke	01
Perry	01
Pike	01
Porter	03
Posey	01
Pulaski:	
Service area, Pulaski-Stark	01
Putnam	01
Randolph	01
Ripley	01
Scott	01
Spencer	01
Stark:	
Service area, Pulaski-Stark	01
Sullivan	01
Tipton	01
Vermillion	01
Vigo	03
Warrick	01
Washington	01
Whitley	01

Indiana

Service Area Listing

Service area name	Degree of shortage group
Fulton-Cass	03
County—Cass	
County—Fulton	
Jasper-Newton	01
County—Jasper	
County—Newton	
Pulaski-Starke	01
County—Pulaski	
County—Starke	

Indiana

County Listing

County name	Degree of shortage group
Benton	01
Blackford	01
Boone	01
Carroll	01
Cass:	
Service area, Fulton-Cass	03
Clay	01
Daviess	01
Dearborn	01
Delaware	03
Dubois	01
Fountain	01
Fulton:	
Service area, Fulton-Cass	03
Gibson	01
Grant	03
Greene	01
Hamilton	01
Harrison	01
Hendricks	01
Henry	01
Howard	02
Huntington	01
Jackson	01
Jasper:	
Service area, Jasper-Newton	01

Indiana

County Listing

County name	Degree of shortage group
Jay	01
Knox	01
Kosciusko	01
Lagrange	01
Madison	03
Miami	01
Morgan	01
Newton:	
Service area, Jasper-Newton	01
Noble	01
Orange	01
Owen	01
Parke	01
Perry	01
Pike	01
Porter	03
Posey	01
Pulaskr:	
Service area, Pulaski-Starke	01
Putnam	01
Randloph	01
Ripley	01
Scott	01
Spencer	01
Starke:	
Service area, Pulaski-Starke	01
Sullivan	01
Tipton	01
Vermillion	01
Vigo	03
Warrick	01
Washington	01
Whitley	01

Indiana

Service Area Listing

Service area name	Degree of shortage group
Fulton-Cass	03
County—Cass	
County—Fulton	
Jasper-Newton	01
County—Jasper	
County—Newton	
Pulaski-Starke	01
County—Pulaski	
County—Starke	

Iowa

County Listing

County name	Degree of shortage group
Allamakee	01
Appanoose	01
Audubon:	
Service area, Pulaski-Starke	01
Butler:	
Service area, Butler/Franklin	01
Calhoun:	
Service area, Calhoun/Pochahontas/Webster	02
Cedar	01
Chickasaw	01
Clarke:	
Service area, Clarke/Decatur	01
Clayton	01
Clinton	03
Crawford:	
Service area, Crawford/Monona	01
Decatur.	
Service area, Clarke/Decatur	01
Dickinson	
Service area, Emmet	03
Emmet:	
Service area, Emmet	03
Floyd	01
Franklin:	
Service area, Butler/Franklin	01
Guthrie:	
Service area, Butler/Franklin	01
Hancock:	
Service area, Hancock/Winnebago	01

Iowa

County Listing

County name	Degree of shortage group
Hardin	01
Harrison	01
Howard	
Service area, Howard/Mitchell	01
Iowa	01
Jackson	01
Jones	01
Keokuk	01
Kossuth:	
Service area, Emmet Service Area	03
Lucas:	
Service area, Lucas/Wayne	01
Lyon	01
Marion	01
Mitchell:	
Service area, Howard/Mitchell	01
Monona:	
Service area, Grawford/Monona	01
Montgomery	01
Obrien:	
Service area, Obrien/Osceola	01
Osceola:	
Service area, Obrien/Osceola	01
Palo Alto:	
Service area, Emmet	03
Pocahontas:	
Service area, Calhoun/Pocahontas/Webster	02
Pottawattamie	02
Poweshiek	01
Shelby	01
Sioux	01
Story	01
Washington	01
Wayne:	
Service area, Lucas/Wayne	01
Webster:	
Service area, Calhoun/Pocahontas/Webster	02
Winnebago:	
Service area, Hancock/Winnebago	01

Iowa

Service Area Listing

Service area name	Degree of shortage group
Audubon/Guthrie	
County—Audubon	
County—Guthrie	
Butler/Franklin	01
County—Butler	
County—Franklin	
Calhoun/Pocahontas/Webster	02
County—Calhoun	
County—Pocahontas	
County—Webster	
Clarke/Decatur	01
County—Clarke	
County—Decatur	
Crawford/Monona	01
County—Crawford	
County—Monona	
Emmet Service Area	03
County—Dickinson	
County—Emmet	
County—Kossuth	
County—Palo Alto	
County—	
Parts of County	
Hancock/Winnebago	
County—Hancock	
County—Winnebago	
Howard/Mitchell	01
County—Howard	
County—Mitchell	
Lucas/Wayne	01
County—Lucas	
County—Wayne	
Obrien/Osceola	01
County—Obrien	
County—Osceola	

Kansas

County Listing

County name	Degree of shortage group
Allen	01
Bourbon	01
Brown	01
Butler	03
Cherokee	01
Douglas	02
Franklin	01
Greenwood	01
Jackson	01
Jefferson	01
Johnson	03
Lyon	03
Marion	01
Marshall	01
Miami	01
Nemaha	01
Neosho	01
Osage	01
Pottawatomie	01
Seward	01
Shawnee	03
Sumner	01
Wilson	01
Wyandotee	01

Kentucky

County Listing

County name	Degree of shortage group
Adair	01
Allen	01
Barren	01
Boone	01
Bourbon	01
Breathitt	01
Breckinridge	01
Bullitt	01
Caldwell	01
Calloway	01
Carter	01
Casey	01
Christian	03
Clark	01
Clay	01
Daviess	03
Estill	01
Fleming	01
Floyd	01
Grant	01
Graves	01
Grayson	01
Greenup	01
Hardin	02
Harlan	01
Harrison	01
Hart	01
Henry	01
Hopkins	01
Jefferson	03
Jessamine	01
Knott	01
Knox	01
Larue	01
Letcher	01
Lewis	01
Lincoln	01
Logan	01
McCreary	01
Madison	01
Mason	01
Meade	01
Mercer	01
Monroe	01
Montgomery	01
Muhlenberg	01
Nelson	01
Ohio	01
Oldham	01
Perry	01
Pike	01
Pulaski	01
Rockcastle	01
Scott	01
Shelby	01
Simpson	01
Taylor	01
Todd	01
Union	01
Wayne	01
Webster	01
Whittley	01
Woodford	01

Louisiana

County Listing

County name	Degree of shortage group
Acadia	01
Allen	01
Ascension	01
Assumption	01
Avoyelles	01
Bienville	01
Bossier	01
Calcasieu	03
Claiborne	01
Concordia	01
De Soto	01
East Baton Rouge	03
East Carroll	01
East Feliciana	01
Evangeline	01
Franklin	01
Grant	01
Iberia	01
Iberville	01
Jackson	01
Jefferson	02
Lafayette	02
Lafourche	01
La Salle	01
Lincoln	01
Livingston	01
Madison	01
Morehouse	01
Natchitoches	01
Ouachita	02
Plaquemines	01
Pointe Coupee	01
Rapides	03
Richland	01
Sabine	01
St. Bernard	01
St. Charles	01
St. James	01
St. John the Baptist	01
St. Landry	01
St. Martin	01
St. Mary	01
St. Tammany	01
Tangipahoa	01
Terrebonne	01
Union	01
Vermilion	01
Vernon	01
Washington	01
Webster	01
West Baton Rouge	01
West Carroll	01
Winn	01

Maine

County Listing

County name	Degree of shortage group
Aroostook	01
Franklin	01
Hancock	03
Lincoln	01
Oxford	01
Penobscot	02
Piscataquis	01
Sagadahoc	01
Somerset	01
Waldo	01
Washington	01
York	01

Maryland

County Listing

County name	Degree of shortage group
Allegany	03
Anne Arundel	02
Calvert	01
Caroline	01
Cecil	01
Charles	01
Dorchester	02
Garrett	01
Queen Annes	01
St. Marys	01

Michigan

County Listing

County name	Degree [illegible] shortage group
Allegan	03
Antrim	01
Arenac	01
Barry	01
Berrien	02
Branch	01
Cass	01
Chippewa	01
Clare	01
Clinton	01
Delta	03
Dickinson	01
Eaton	01
Genesee	03
Gladwin	01
Grand Traverse	01
Hillsdale	03
Houghton	01
Huron	01
Ingham	03
Ionia	01
Isabella	02
Jackson	02
Leelanau	01
Livingston	01
Mecosta	01
Menominee	01
Montcalm	01
Newaygo	01
Oceana	01
Ogemaw	01
Osceola	01
Otsego	01
Ottawa	01
Presque Isle	01
Sanilac	01
Shiawassee	02
Tuscola	01
Van Buren	01

Minnesota

County Listing

County name	Degree of shortage group
Aitkin	01
Anoka	02
Becker	01
Benton	01
Carlton	01
Carver	01
Cass	01
Chippewa	01
Chisago	01
Clay	01
Cook	01
Cottonwood	01
Crow Wing	03
Dakota	03
Douglas	01
Grant	03
Houston	01
Hubbard	01
Isanti	01
Itasca	01
Kanabec	01

Minnesota

County Listing

County name	Degree of shortage group
Koochiching	01
Lac Qui Parle	01
Mc Leod	01
Meeker	01
Mille Lacs	01
Morrison	01
Murray	01
Otter Tail	03
Pine	01
Pope	01
Ramsey	03
Redwood	01
Renville	01
Rice	03
Roseau	01
St. Louis	03
Scott	01
Sherburne	01
Sterns	03
Stevens	01
Swift	01
Todd	01
Traverse:	
Service area, Wakpeton/Breckenridge	01
Wadena	01
Washington	01
Wilkin:	
Service area, Wakpeton/Breckenridge	01
Wright	01
Yellow Medicine	01

Minnesota

Service Area Listing

Service area name	Degree of shortage group
Wakpeton/Breckenridge	01
County—Richland (North Dakota)	
County—Traverse	
County—Wilkin	

Mississippi

County Listing

County name	Degree of shortage group
Adams	01
Alcorn	01
Amite	01
Attala	01
Bolivar	01
Calhoun	01
Chickasaw	01
Clarke	01
Clay	01
Coahoma	01
Copiah	01
Covington	01
De Soto	01
George	01
Grenada	01
Hancock	01
Harrison	02
Hinds	03
Holmes	01
Humphreys	01
Itawamba	01
Jackson	03
Jasper	01
Jefferson Davis	01
Jones	01
Lafayette	01
Lamar	01
Lauderdale	01
Lawrence	01
Leake	01
Lee	01
Leflore	01
Lincoln	01
Lowndes	01
Madison	01
Marion	01
Marshall	01
Monroe	01
Montgomery	01
Neshoba	01
Newton	01
Noxubee	01
Oktibbeha	01
Panola	01
Pearl River	01
Pike	01
Pontotoc	01
Prentiss	01
Quitman	01
Rankin	01
Scott	01
Simpson	01
Smith	01
Sunflower	01
Tallahatchie	01
Tate	01
Tippah	01
Tishomingo	01
Union	01
Walthall	01
Warren	01
Washington	02
Wayne	01
Winston	01
Yalobusha	01
Yazoo	01

Missouri

County Listing

County name	Degree of shortage group
Andrew	01
Audrain	01
Bates	01
Benton	01
Buchanan	02
Camden	01
Cape Girardeau	03
Carroll	01
Cass	01
Cedar	01
Chariton	01
Clay	01
Clinton	01
Cooper	01
Crawford	01
Dallas	01
Dent	01
Douglas	01
Dunklin:	
Service area, Bootheel	01
Franklin	01
Gasconade	01
Grundy	01
Harrison	01
Henry	01
Howard	01
Howell	01
Jackson	03
Johnson	01
Laclede	01
Lafayette	01
Lawrence	01
Lincoln	01
Linn	01
Livingston	01
McDonald	01
Macon	01
Miller	01
Mississippi:	
Service area, Bootheel	01
Moniteau	01
Montgomery	01
Morgan	01
New Madrid:	
Service area, Bootheel	01
Newton	01
Nodaway	01
Osage	01
Pemiscot:	
Service area, Bootheel	01
Perry	01
Pike	01
Platte	01
Polk	01
Pulaski	01
Ray	01
Ripley	01
St. Charles	03
St. Clair	01
St. Francois	01
St. Louis	03
St. Louis City	01
Set Genevieve	01
Saline	01
Scott:	
Service area, Bootheel	01
Stoddard:	
Service area, Bootheel	01
Stone	01
Taney	01
Warren	01
Washington.	01
Webster	01
Wright	01

Missouri

Service Area Listing

Service area name	Degree of shortage group
Bootheel	01
County—Dunklin	
County—Mississippi	
County—New Madrid	
County—Pemiscot	
County—Scott	
County—Stoddard	

Montana

County Listing

County name	Degree of shortage group
Beaverhead	
Service area, area #8	02
Big Horn:	
Service area, area #3	03
Blaine:	
Service area, area #4	02
Carbon:	
Service area, area #5	02
Carter:	
Service area, area #1	01
Chouteau:	
Service area, area #4	02
Custer:	
Service area, area #1	01
Daniels:	
Service area, area #2	03
Dawson:	
Service area, area #2	02
Deer Lodge:	
Service area, area #8	02
Fallon:	
Service area, area #1	01
Fergus:	
Service area, area #4	02
Flathead:	
Service area, area #7	02
Garfield:	
Service area, area #2	02
Glacier:	
Service area, area #6	02
Hill	
Service area, area #4	02
Judith Basin:	
Service area, area #4	02
Liberty:	
Service area, area #6	02
Lincoln:	
Service area, area #7	02
McCone:	
Service area, area #2	02

Montana

County Listing

County name	Degree of shortage group
Madison:	
Service area, area #8	02
Meagher:	
Service area, area #5	02
Musselshell:	
Service area, area #3	03
Park:	
Service area, area #5	02
Phillips:	
Service area, area #4	02
Pondera:	
Service area, area #6	02
Powder River:	
Service area, area #1	01
Prairie:	
Service area, area #1	01
Richland:	
Service area, area #2	02
Roosevelt:	
Service area, area #2	02
Rosebud:	
Service area, area #3	02
Sheridan:	
Service area, area #2	02
Silver Bow:	
Service area, area #8	02
Stillwater:	
Service area, area #5	02
Sweet Grass:	
Service area, area #5	02
Toole:	
Service area, area #6	02
Treasure:	
Service area, area #3	03
Valley:	
Service area, area #2	02
Wheatland:	
Service area, area #5	02
Wibaux:	
Service area, area #1	01
Yellowstone:	
Service area, area #3	03

Montana

Service area listing

Service area name	Degree of shortage group
Area #1	01
County—Carter	
County—Custer	
County—Fallon	
County—Powder River	
County—Prairie	
County—Wibaux	
Area #2	02
County—Daniels	
County—Dawson	
County—Garfield	
County—McCone	
County—Richland	
County—Roosevelt	
County—Sheridan	
County—Valley	
Area #3	03
County—Big Horn	
County—Musselshell	
County—Rosebud	
County—Treasure	
County—Yellowstone	
Area #4	02
County—Blaine	
County—Chouteau	
County—Fergus	
County—Hill	
County—Judith Basin	
County—Phillips	
Area #5	02
County—Carbon	
County—Meagher	
County—Park	
County—Stillwater	
County—Sweet Grass	
County—Wheatland	
Area #6	02
County—Glacier	
County—Liberty	
County—Pondera	
County—Toole	
Area #7	02
County—Flathead	
County—Lincoln	
Area #8	02
County—Beaverhead	
County—Deer Lodge	
County—Madison	
County—Silver Bow	

Nebraska

County Listing

County name	Degree of shortage group
Buffalo	01
Cedar	01
Dakota	01
Dawson	01
Douglas:	
Service Area, Northeast Omaha	01
Knox	01
Richardson	01
Saline	01
Sarpy	01
Seward	01
York	01

Nebraska

Service Area Listing

Service area name	Degree of shortage group
Northeast Omaha	01
County—Douglas:	
Parts of County	
C.T. 6	
C.T. 7	
C.T 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	

Nevada

County Listing

Clark	03

New Hampshire

County Listing

County name	Degree of shortage group
Rockingham	02
Strafford	03

New Jersey

County Listing

County name	Degree of shortage group
Hunterdon	01
Monmouth	03
Ocean	02
Salem	02
Sussex	03
Warren	03

New Mexico

County Listing

County name	Degree of shortage group
Curry	01
Dona Ana	03
Grant	01
Luna	01
McKinley	01
Otero	01
Quay	01
Roosevelt	01
San Juan	03
San Miguel	01
Taos	01

New York

County Listing

County name	Degree of shortage group
Allegany	01
Cattaraugus	03
Clinton	03
Dutchess	03
Essex	01
Franklin	01
Herkimer	02
Lewis	01
Livingston	02
Madison	01
Niagara	03
Oneida	03
Ontario	01
Orleans	01
Oswego	02
St. Lawrence	01
Saratoga	02
Schoharie	01
Steuben	03
Sullivan	02
Washington	01
Wyoming	03
Yates	01

North Carolina

County Listing

County name	Degree of shortage group
Alamance	02
Alexander	01
Anson	01
Ashe	01
Bertie	01
Bladen	01
Brunswick	01
Buncombe	03
Burke	01
Cabarrus	02
Caswell	01
Catawba	01
Chatham	01
Cherokee	01
Cleveland	01
Columbus	01
Craven	03
Cumberland	03
Edgecombe	01
Franklin	01
Gaston	02
Granville	01
Greene	01
Halifax	01
Harnett	01
Haywood	01
Henderson	01
Hertford	01
Hoke	01
Iredell	02
Jackson	01
Johnston	01
Lee	01
Lenoir	01
Lincoln	01
McDowell	01

North Carolina

County Listing

County name	Degree of shortage group
Macon	01
Madison	01
Martin	01
Mecklenburg	03
Mitchell	01
Montgomery	01
Nash	02
Northampton	01
Onslow	02
Orange	03
Pasquotank	01
Pender	01
Person	01
Pitt	01
Polk	01
Randolph	01
Richmond	01
Robeson	02
Rockingham	03
Rowan	02
Rutherford	01
Sampson	01
Scotland	01
Stanly	01
Surry	01
Transylvania	01
Union	01
Wake	02
Warren	01
Washington	01
Watauga	01
Wayne	02
Wilkes	01
Wilson	03
Yancey	01

North Dakota

County Listing

County name	Degree of shortage group
Barnes	01
Cass	03
Cavalier	01
Grand Forks	03
Morton	01
Ramsey	01
Richland:	
Service area. Wakpeton/Breckenridge	01
Stark	01
Stutsman	01
Walsh	01

North Dakota

Service Area Listing

Service area name	Degree of shortage group
Wakpeton/Breckenridge	01
County—Richland	
County—Traverse (Minnesota)	
County—Wilkin (Minnesota)	

Ohio

County Listing

County name	Degree of shortage group
Athens	02
Auglaize	03
Belmont	02
Brown	01
Butler	03
Carroll	01
Clermont	02
Greene	01
Guernsey	03
Harrison	01
Jackson	01
Lawrence	02
Logan	03
Meigs	01
Miami	03
Monroe	01
Morgan	01
Noble	01
Paulding	01
Perry	01
Preble	01
Putnam	01
Tuscarawas	01
Warren	03
Washington	02
Williams	01

Oklahoma

County Listing

County name	Degree of shortage group
Adair	01
Atoka	01
Beckham	01
Blaine	01
Bryan	01
Caddo	01
Canadian	01
Carter	03
Cherokee	01
Choctaw	01
Cleveland	03
Craig	01
Creek	01
Custer	01
Delaware	01
Garfield	01
Garvin	01
Grady	01
Hughes	01
Jackson	01
Kay	03
Kingfisher	01
Kiowa	01
Le Flore	01
Lincoln	01
Logan	01
McClain	01
McCurtain	01
McIntosh	01
Mayes	01
Murray	01
Noble	01
Nowata	01
Okfuskee	01
Oklahoma	03
Okmulgee	03
Osage	01
Ottawa	01
Pawnee	01
Payne	01
Pottawatomie	02
Seminole	01
Sequoyah	01
Stephens	01
Texas	01
Tillman	01
Wagoner	01
Washington	01
Washita	01
Woods	01
Woodward	01

Oregon

County Listing

County name	Degree of shortage group
Baker	01
Benton	03
Clatsop	01
Columbia	01
Coos	03
Crook	01
Curray	01
Deschutes	01
Douglas	02
Klamath	03
Lane	03
Lincoln	01
Linn	02
Marion	03
Polk	01
Tillamook	01
Umatilla	01
Union	01
Washington	03
Yamhill	01

Pennsylvania

County Listing

County name	Degree of shortage group
Adams	01
Armstrong	02
Cambria	02
Clarion	01
Fayette	03
Fulton	01
Indiana	02
Jefferson	02
McKean	02
Pike	01
Potter	01
Somerset	03
Tioga	03
Venango	03
Wayne	03
Westmoreland	03
Wyoming	01

South Carolina

County Listing

County name	Degree of shortage group
Abbeville	01
Aiken	01
Anderson	02
Bamberg	01
Barnwell	01
Beaufort	01
Berkeley	01
Charleston	01
Cherokee	01
Chester	01
Chesterfield	01
Clarendon	01
Colleton	01
Darlington	01
Dillon	01
Dorchester	01
Edgefield	01
Fairfield	01
Georgetown	01
Greenville	03
Greenwood	01
Hampton	01
Horry	01
Jasper	01
Kershaw	01
Lancaster	01
Laurens	01
Lee	01
Lexington	02
Marion	01
Marlboro	01
Newberry	01
Oconee	01
Orangeburg	01
Pickens	01
Richland	03
Saluda	01

South Carolina

County Listing

County name	Degree of shortage group
Spartanburg	02
Sumter	02
Union	01
Williamsburg	01
York	02

South Dakota

County Listing

County name	Degree of shortage group
Beadle	01
Brookings	01
Lake	01
Lawrence	01
Meade	01
Roberts	01
Union	01

Tennessee

County Listing

County name	Degree of shortage group
Anderson	01
Bedford	01
Benton	01
Blount	01
Bradley	01
Campbell	01
Carroll	01
Carter	01
Cheatham	01
Chester	01
Claiborne	01
Cocke	01
Coffee	01
Crockett	01
Cumberland	01
Davidson	02
De Kalb	01
Dickson	01
Dyer	01
Fayette	01
Fentress	01
Franklin	01
Gibson	01
Giles	01
Grainger	01
Greene	01
Grundy	01
Hamblen	01
Hamilton	03
Hardeman	01
Hardin	01
Hawkins	01
Haywood	01
Henderson	01
Henry	01
Hickman	01
Humphreys	01
Jefferson	01
Johnson	01
Lauderdale	01
Lawrence	01
Lincoln	01
Loudon	01
McMinn	01
McNairy	01
Macon	01
Madison	03
Marion	01
Marshall	01
Maury	01
Monroe	01
Montgomery	01
Morgan	01
Obion	01
Overton	01
Polk	01
Putnam	01
Rhea	01

Tennessee

County Listing

County name	Degree of shortage group
Roane	01
Robertson	01
Rutherford	01
Scott	01
Sevier	01
Shelby	03
Smith	01
Sullivan	02
Sumner	01
Tipton	01
Unicoi	01
Warren	01
Wayne	01
Weakley	01
White	01
Williamson	01
Wilson	01

Texas

County Listing

County name	Degree of shortage group
Anderson	01
Angelina	01
Atascosa	01
Austin	01
Bastrop	01
Bee	01
Bell	03
Bexar	03
Bosque	01
Bowie	01
Brazoria	02
Brazos	02
Brown	01
Burleson	01
Burnet	01
Caldwell	01
Cameron	02
Cass	01
Cherokee	01
Coleman	01
Collin	03
Colorado	01
Comal	01
Comanche	01
Cooke	01
Coryell	01
Denton	02
Duval	01
Ector	03
Ellis	01
El Paso	03
Erath	01
Falls	01
Fannin	01
Fayette	01
Fort Bend	01
Freestone	01
Galveston	03
Gillespie	01
Gonzales	01
Grayson	01
Grimes	01
Guadalupe	01
Hale	01
Hardin	01
Harris	03
Harrison	01
Hays	01
Hill	01
Hockley	01
Hopkins	01
Houston	01
Howard	01
Hunt	01
Hutchinson	01
Jackson:	
Service area, Jackson/Victoria	03
Jasper	01
Jefferson	03
Jim Wells	01
Johnson	01
Jones	01
Kaufman	01

Texas

County Listing

County name	Degree of shortage group
Lamar	03
Lamb	01
Lampasas	01
Liberty	01
Limestone	01
Lubbock	03
McLennan	03
Matagorda	01
Maverick	01
Medina	01
Milam	01
Montague	01
Montgomery	02
Nacogdoches	03
Navarro	01
Newton	01
Nolan	01
Orange	01
Palo Pinto	01
Panola	01
Parker	01
Pecos	01
Polk	01
Red River	01
Robertson	01
Runnels	01
Rusk	01
San Patricio	01
Shelby	01
Starr	01
Tarrant	03
Taylor	03
Titus	01
Tom Green	03
Travis	03
Tyler	01
Upshur	01
Uvalde	01
Val Verde	01
Van Zandt	01
Victoria:	
Service area, Jackson/Victoria	03
Walker	03
Waller	01
Washington	01
Webb	01
Wharton	01
Wichita	03
Wilbarger	01
Williamson	01
Wilson	01
Wise	01
Wood	01
Young	01

Texas

Service Area Listing

Service area name	Degree of shortage group
Jackson/Victoria	03
County—Jackson	
County—Victoria	

Utah

County Listing

County name	Degree of shortage group
Carbon	01
Tooele	01
Unitah	01

Vermont

County Listing

County name	Degree of shortage group
Addison	01
Bennington	01

Vermont

County Listing

County name	Degree of shortage group
Chittenden	03
Franklin	01
Lamoille	01
Orange	01
Orleans	01
Rutland	03
Washington	03

Virginia

County Listing

County name	Degree of shortage group
Accomack	01
Alleghany	01
Amherst	01
Augusta	02
Bedford	01
Botetourt	01
Brunswick	01
Buchanan	01
Campbell	03
Caroline	01
Carroll	01
Charlotte	01
Culpeper	01
Dickenson	01
Dinwiddie	01
Elizabeth City	03
Fauquier	01
Franklin	01
Giles	01
Gloucester	01
Grayson	01
Greensville	01
Halifax	01
Hanover	01
Henrico:	
Service area, East Henrico	02
Henry	02
Isle of Wight	01
Lee	01
Loudoun	01
Louisa	01
Lunenburg	01
Mecklenburg	01
Montgomery	01
Nansemond	01
Nelson	01
Norfolk	03
Northampton	01
Nottoway	01
Orange	01
Page	01
Patrick	01
Pittsylvania	03
Prince Edward	01
Prince George	01
Prince William	02
Pulaski	01
Roanoke	03
Rockbridge	01
Rockingham	01
Russell	01
Scott	01
Smyth	01
Southampton	01
Spotsylvania	01
Stafford	01
Tazewell	01
Washington	01
Wise	01
Wythe	01
York	01

Virginia

Service Area Listing

Service area name	Degree of shortage group
East Henrico	02

Virginia

Service Area Listing

Service area name	Degree of shortage group
County—Henrico:	
Parts of County	
C.T. 2010.01	
C.T. 2010.02	
C.T. 2010.03	
C.T. 2011.01	
C.T. 2011.02	
C.T. 2012.01	
C.T. 2012.02	
C.T. 2013	
C.T. 2014.01	
C.T. 2014.02	
C.T. 2015.01	
C.T. 2015.02	
C.T. 2016	
C.T. 209 (City of Richmond)	
C.T. 210 (City of Richmond)	
C.T. 211 (City of Richmond)	
C.T. 212 (City of Richmond)	

Washington

County Listing

County name	Degree of shortage group
Adams	01
Asotin	01
Benton	03
Clallam	01
Clark	01
Cowlitz	03
Douglas	01
Grant	01
Grays Harbor	03
Island	01
Jefferson	01
Kitsap	02
Kittitas	01
Lewis	01
Mason	01
Okanogan	01
Pacific	01
Pierce	03
Sonohomish	03
Ste[illegible]	01
Thurston	03
Walla Walla	01
Whatcom	03
Whitman	01
Yakima	03

West Virginia

County Listing

County name	Degree of shortage group
Barbour	01
Berkeley	01
Boone	01
Braxton	01
Brooke	01
Fayette	01
Greenbrier	01
Hampshire	01
Jackson	01
Jefferson	01
Kanawha	03
Logan	01
McDowell	01
Marshall	01
Mercer	02
Mineral	01
Mingo	01
Monroe	01
Nicholas	01
Preston	01
Putman	01
Raleigh	02
Randolph	01
Ritchie	01
Roane	01

West Virginia

County Listing

County name	Degree of shortage group
Summers	01
Taylor	01
Upshur	01
Wood	03
Wyoming	01

Wisconsin

County Listing

County name	Degree of shortage group
Adams	01
Ashland	01
Bayfield	01
Buffalo	01
Burnett	01
Calumet	01
Chippewa	01
Clark	01
Columbia	01
Crawford	01
Dodge	02
Door	01
Douglas	03
Dunn	01
Fond du Lac	03
Grant	01
Green Lake	01
Iowa	01
Jefferson	03
Juneau	01
Kewaunee	01
Lafayette	01
Langlade	01
Lincoln	01
Manitowoc	02
Marathon	03
Marinette	03
Marquette	01
Oconto	01
Outagamie	03
Ozaukee	02
Pierce	01
Polk	01
Portage	03
Price	01
Richland	01
St. Croix	01
Sawyer	01
Shawano	01
Taylor	01
Vilas	01
Walworth	03
Washburn	01
Washington	02
Waukesha	03
Waupaca	01
Waushara	01
Winnebago	03
Wood	03

Wyoming

County Listing

County name	Degree [illegible] shortage group
Albany	01
Fremont	01
Natrona	03
Park	01
Sweetwater	01

PHARMACY

Alabama

County Listing

County name	Degree of shortage group
Greene	03
St. Clair	03
Washington	03
Wilcox	02

Arizona

County Listing

County name	Degree of shortage group
Maricopa:	
Service area, El Mirage	02
Service area, Twn of Guadalupe	01

Arizona

Service Area Listing

Service area name	Degree of shortage group
El Mirage	02
County—Maricopa:	
Parts of County	
C.T. 405 (southern ½)	
C.T. 608	
C.T. 609	
Twn of Guadalupe	01
County—Maricopa:	
Parts of County	
Twn of Guadalupe	

Arkansas

County Listing

County name	Degree of shortage group
Bradley	03
Lawrence	03
Lincoln	02
Newton	01
Perry	03
Sevier	03
Stone	03

California

County Listing

County name	Degree of shortage group
Tulare:	
Service area, Southern Tulare	01

California

Service Area Listing

Service area name	Degree of shortage group
Southern Tulare	01
County—Tulare:	
Parts of County	
C.T. 32	
C.T. 42 through 45	

Colorado

County Listing

County name	Degree of shortage group
Costilla	01

Florida

County Listing

County name	Degree of shortage group
Elbert	01
Glades	01
Lafayette	01
Liberty	01
Sumter	03

Georgia

County Listing

County name	Degree of shortage group
Banks	01
Brantley	03
Crawford	01
Glascock	01
Oglethorpe	03
Quitman	01
Wilkinson	03

Idaho

County Listing

County name	Degree of shortage group
Boundary	03
Madison	03

Illinois

County Listing

County name	Degree of shortage group
Clay	03
Marshall	08

Indiana

County Listing

County name	Degree of shortage group
Crawford	01
Franklin	03
Switzerland	03
Washington	03

Kentucky

County Listing

County name	Degree of shortage group
Bracken	01
Breathitt	03
Casey	03
Jackson	02
Knott	03
Lewis	02
Pendleton	03

Michigan

County Listing

County name	Degree of shortage group
Leelanau	03

Minnesota

County Listing

County name	Degree of shortage group
Aitkin	03
Marshall	03

Mississippi

County Listing

County name	Degree of shortage group
Benton	01

Missouri

County Listing

County name	Degree of shortage group
Caldwell	02
Chariton	03
Harrison	03
Hickory	03
Holt	01
Knox	03
Lewis	01
Maries	01
Mercer	01
Miller	02
Montgomery	03
Morgan	03
Osage	01
Reynolds	03
Ripley	03
Schuyler	03
Scotland	03
Shelby	02
Sullivan	03

Montana

County Listing

County name	Degree of shortage group
McCone	01

Nevada

County Listing

County name	Degree of shortage group
Clark:	
Service area, Western Clark	01
Service area, North Central Clark	01
Ormsby	01

Nevada

Service Area Listing

Service area name	Degree of shortage group
North Central Clark	01
County—Clark:	
Parts of County	
C.T. 59	
Western Clark	01
County—Clark:	
Parts of County	
C.T. 57	
C.T. 58	

New Mexico

County Listing

County name	Degree of shortage group
Catron	01
Mora	01
Rio Arriba:	
Service Area, Rural Rio Arriba	03

New Mexico

Service Area Listing

Service area name	Degree of shortage group
Rural Rio Arriba	03
County—Rio Arriba:	
Parts of County	
Chama	
Tierra Amarillo	
Truchas	

North Carolina

County Listing

County name	Degree of shortage group
Currituck	01
Hyde	01
Oliver	01

Ohio

County Listing

County name	Degree of shortage group
Vinton	01

Oregon

County Listing

County name	Degree of shortage group
Wheeler	01

Pennsylvania

County Listing

County name	Degree of shortage group
Centre:	
Service area, Snow Shoe	01
Clearfield:	
Service area, Chesquehanna service area	01
Service area, Snow Shoe	01
Franklin:	
Service area, Valleys service area	01
Fulton	03
Greene:	
Service area, Clay/Battlelle	01
Huntingdon:	
Service area, Valleys service area	01
Indiana:	
Service area, Chesquehanna service area	01
Lycoming:	
Service area, Northern Lycoming	01
Mifflin:	
Service area, McClure	01
Northumberland:	
Service area, Herndon/Mandata	10
Perry:	
Service area, Valleys service area	01
Schuylkill:	
Service area, Herndon, Mandata	10
Snyder:	
Service area, McClure	01
Tioga:	
Service area, Northern Lycoming	01

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Chesquehanna service area	01
County—Clearfield:	
Parts of County	
Bell Twp	
Burnside Boro	
Burnside Twp	
Ferguson Twp	
Greenwood Twp	
Mahaffey Boro	
Newburg Boro	
New Washington Boro	
County—Indiana	
Parts of County	
Banks Twp (Eastern ⅓)	
Glen Campbell Boro	
Clay/Battelle	01
County—Greene:	
Parts of County	
Freeport	
Gilmore	
Jackson	
Perry	
Wayne	
Whitley	
County—Monongalia (West Virginia):	
Parts of County	
Batelle	
Clay	
Herndon/Mandata	01
County—Northumberland:	
Parts of County	
Herndon Boro	
Jackson Twp	
Jordan Twp	
Little Mahanay Twp	
Lower Mahanay Twp	
Upper Mahanay Twp	
Washington Twp	
West Cameron Twp	
County—Schuylkill:	
Parts of County	
Eldred Twp	
Upper Mahantango Twp	
McClure	01
County—Mifflin:	
Parts of County	
Decatur Twp (Northern ½)	
County—Snyder:	
Parts of County Adams Twp	
McClure Boro	
Spring Twp	
West Beaver Twp	
Northern Lycoming	01
County—Lycoming:	
Parts of County	
Brown Twp	
Cascade Twp	
Cogan House Twp	
Cummings Twp (Northern ⅔)	
Gamble Twp	
Jackson Twp	
Lewis Twp (Northern ⅔)	
McHenry Twp	
McIntyre Twp	
McNett Twp	
Pine Twp	
Plunketts Creek Twp (Northern ⅓)	
County—Tioga:	
Parts of County	
Elk Twp	
Liberty Twp (Southern ½)	
Morris Twp	
Snow Shoe	01
County—Centre:	
Parts of County	
Boggs Twp (Northern ½)	
Burnside Twp	
Curtin Twp	
Snow Shoe Boro	
Snow Shoe Twp	
Union Twp	
County—Centre:	
Parts of County	
Unionville Boro	
County—Clearfield:	
Parts of County	
Cooper Twp (Northern ⅔)	
Covington Twp	
Karthaus Twp	

Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Valleys service area	01
County—Franklin:	
Parts of County	
Fannett Twp	
Metal Twp	
County—Huntingdon:	
Parts of County	
Dublin Twp (E. Portion)	
Till Twp	
County—Perry:	
Parts of county	
Tohoyne Twp (S. Portion)	

South Dakota

County Listing

County name	Degree of shortage group
Brule	03
Dewey	01
Jerauld	01
Mellette	01
Todd	03

Tennessee

County Listing

County name	Degree of shortage group
Bledsoe	03

Texas

County Listing

County name	Degree of shortage group
Hudspeth	01

Virginia

County Listing

County name	Degree [illegible] shortage group
Bland	01
Buckingham	02
Caroline	03
Charles City	01
Cumberland	01
Floyd	02
Fluvanna	02
Greene	02
King George	01
Madison	02
Norfolk:	
Service area, Pungo	01
Powhatan	02
Rappahannock	01
Richmond	03

Virginia

Service Area Listing

Service area name	Degree of shortage group
Pungo service area	01
County—Norfolk:	
Parts of County	
Pungo Boro.	
Blackwater Boro.	

West Virginia

County Listing

County name	Degree of shortage group
Braxton	02
Clay	01
Doddridge	03
Gilmer	03
Grant	03
Hampshire	03
Hardy	01
Lincoln	02
Monongalia:	
Service area, Clay/Battelle	01
Pendleton	01
Pocahontas	03
Ritchie	03
Roane	03
Webster	02
Wirt	01
Wyoming	03

Wisconsin

County Listing

County name	Degree of shortage group
Buffalo	02
Taylor	03

Trust Territory of the Pacific

County Listing

County name	Degree of shortage group
Kosrae Dist.	01
Marshall Dist.	01
Palau Dist.	02
Ponape Dist.	01
Truk Dist.	01
Yap Dist.	01

Commonwealth of No. Mariana Islands

Service Area Listing

Service area name	Degree of shortage group
Rota/Saipan/Tinian	02
Rota Island	
Saipan Island	
Tinian Island	

VETERINARY CARE

Alabama

County Listing

County name	Degree of shortage group
Bullock	01
Butler	03
Calhoun	02
Clay:	
Service area, Clay/Talledega Service Area	03
Cieburne	01
Cullman	03
De Kalb	03
Jackson	03
Lowndes	02
Pike	03
Randloph	03
Talladega:	
Service area, Clay/Talledega Service Area	03
Wilcox	01
Winston	03

Alabama

Service Area Listing

Service area name	Degree of shortage group
Clay/Talledega Service Area	03
County—Clay	
County—Talladega	

Arizona

County Listing

County name	Degree of shortage group
Gila	03
Graham	03
Greenlee	01
Yuma	03

Arkansas

County Listing

County name	Degree of shortage group
Carroll	03
Clay	01
Cleburne	02
Conway	03
Fulton	01
Hempstead	03
Howard	03
Independence	03
Izard	01
Johnson	01
Lafayette	01
Little River	01
Madison	03
Marion	01
Miller	01
Nevada	01
Newton	01
Pike	01
Polk	03
Scott	01
Sevier	03
Stone	01
Van Buren	02
Washington	03
White	03
Yell	03

California

County Listing

County name	Degree of shortage group
Fresno	03
Imperial	03
Kings	03
Madera	03
Merced	03
Modoc	03

Colorado

County Listing

County name	Degree of shortage group
Baca	03
Cheyenne	01
Crowley	01
Kiowa	01
Logan	03
Montrose	03
Phillips	01
Washington	01

Delaware

County Listing

County name	Degree of shortage group
Sussex	03

Florida

County Listing

County name	Degree of shortage group
Clay	03
Glades	01
Hamilton	01
Hardee	03
Hendry	03
Highlands	03
Indian River	03
Jackson	03
Lafayette	01
Madison	03
Okeechobee	03
Osceola	03
Pasco	03
St. Lucie	03
Sumter	01

Georgia

County Listing

County name	Degree of shortage group
Atkinson	01
Banks	01
Coffee	03
Colquitt	03
Dawson	01
Murray	01
Newton	03
Pickens	01
Pierce	01
Putnam	03
Wheeler	01

Hawaii

County Listing

County name	Degree of shortage group
Hawaii	03
Honolulu	03

Idaho

County Listing

County name	Degree of shortage group
Bear Lake	03
Bingham	03
Blaine	03
Butte	01
Caribou	03
Clark	01
Franklin	03
Gooding	03
Jefferson	03
Oneida	01
Owyhee	03
Power	01
Teton	01

Illinois

County Listing

County name	Degree of shortage group
Marion	03
Randolph	03

Indiana

County Listing

County name	Degree of shortage group
Crawford	01
Greene	03
Owen	01
Pike	01
Spencer	01

Kansas

County Listing

County name	Degree of shortage group
Atchison	03
Barber	03
Chase	01
Coffey	03
Comanche	03
Doniphan	03
Gove	03
Graham	03
Greeley	01
Greenwood	03
Lane	01
Lincoln	03
Linn	03
Ness	03
Phillips	03
Wallace	01
Woodson	03

Kentucky

County Listing

County name	Degree of shortage group
Adair	03
Boone	03
Breckinridge	03
Butler	01
Carlisle	01
Casey	03
Clark	03
Clinton	03
Cumberland	01
Edmonson	01
Grayson	03
Green	03
Hardin	03
Hart	03
Henry	03

Kentucky

County Listing

County name	Degree of shortage group
Hickman	01
Jackson	01
Lincoln	03
Livingston	01
McLean	01
Marion	03
Metcalfe	01
Muhlenberg	01
Ohio	03
Pulaski	03
Trigg	01
Washington	03
Wayne	03
Webster	03

Louisiana

County Listing

County name	Degree of shortage group
Bienville	01
Cameron	01
Catahoula	01
Claiborne	01
Grant	01
Natchitoches	03
Red River	01
Sabine	03
Vernon	03
Washington	03

Maine

County Listing

County name	Degree of shortage group
Somerset	03

Maryland

County Listing

County name	Degree of shortage group
Somerset	03
Worcester	03

Michigan

County Listing

County name	Degree of shortage group
Delta	02
Iosco	02
Menominee	03
Newaygo	03
Ogemaw	03
Osceola	01

Minnesota

County Listing

County name	Degree of shortage group
Becker	03
Benton	03
Cass	03
Chisago	03
Houston	03
Isanti	03
Kittson	01
Marshall	01
Morrison	03
Norman	03

Minnesota

County Listing

County name	Degree of shortage group
Otter Tail	03
Pine	03
Polk	03
Pope	03
Rock	03
Sherburne	03
Todd	03

Mississippi

County Listing

County name	Degree of shortage group
Amite	01
Attala	03
Benton	01
Calhoun	01
Choctaw	01
Claiborne	01
Covington	01
Holmes	03
Itawamba	01
Jefferson Davis	03
Jones	03
Lawrence	02
Leake	03
Marshall	01
Noxubee	03
Pontotoc	03
Prentiss	03
Rankin	03
Scott	03
Simpson	03
Smith	01
Tate	03
Walthall	03
Yazoo	03

Missouri

County Listing

County name	Degree of shortage group
Barton	01
Bollinger	01
Camden	02
Cole	03
Daviess	03
Harrison	03
Hickory	01
Howard	01
Knox	03
Lincoln	03
Livingston	03
McDonald	03
Mercer	03
Miller	02
Morgan	03
Pulaski	02
Putnam	03
Ralls	01
Randolph	03
Schuyler	01
Shelby	03
Vernon	03
Wright	03

Montana

County Listing

County name	Degree of shortage group
Beverhead	03
Big Horn	03
Blaine	03
Carbon	03
Carter	03
Chouteau	03
Custer	03

Montana

County Listing

County name	Degree of shortage group
Dawson	03
Garfield	01
Golden Valley	01
Jefferson	01
Liberty	01
McCone	03
Meagher	03
Mussellshell	03
Petroleum	01
Phillips	03
Powder River	01
Prairie	01
Rosebud	03
Stillwater	03
Toole	01
Treasure	01
Wibaux	01

Nebraska

County Listing

County name	Degree of shortage group
Banner	01
Blaine	01
Boone	03
Boyd	03
Brown	03
Cedar	03
Cherry	03
Cuming	03
Custer	03
Dixon	03
Franklin	03
Furnas	03
Garden	03
Garfield	03
Greeley	03
Hayes	01
Hitchcock	01
Holt	[illegible]
Keya Paha	01
Kimball	01
Knox	03
Logan	01
Loup	01
McPherson	01
Pawnee	03
Perkins	01
Polk	03
Richardson	03
Rock	03
Sarpy	03
Seward	03
Sheridan	03
Sherman	03
Sioux	01
Stanton	01
Wayne	03
Wheeler	01

Nevada

County Listing

County name	Degree of shortage group
Churchill	03
Elko	03
Eureka	01
Humboldt	03
Lander	01
Lincoln	01
Pershing	01
White Pine	03

New Mexico

County Listing

County name	Degree of shortage group
Catron	01
Chaves	03
De Baca	01
Eddy	03
Guadalupe	01
Harding	02
Hidalgo	01
Lea	03
Lincoln	03
McKinley	03
Mora	01
Quay	03
Roosevelt	03
Sierra	03
Socorro	03
Torrance	01
Union	03

New York

County Listing

County name	Degree of shortage group
Clinton	03
Fulton	02
Livingston	03
St. Lawrence	03
Sullivan	03

North Carolina

County Listing

County name	Degree of shortage group
Ashe	03
Duplin	03
Montgomery	01
Moore	03
Randolph	03
Stanly	03

North Dakota

County Listing

County name	Degree of shortage group
Benson	03
Billings	01
Burke	01
Burleigh	03
Cavalier	01
Dickey	03
Divide	01
Dunn	03
Emmons	03
Grant	02
Kidder	03
Logan	01
McHenry	01
McIntosh	03
McKenzie	01
McClean	03
Mercer	01
Morton	03
Mountrail	01
Nelson	01
Oliver	02
Pembina	01
Rolette	01
Sargent	01
Sheridan	01
Sioux	01
Slope	01
Stark	03
Stutsman	03
Traill	01

Ohio

County Listing

County name	Degree of shortage group
Adams	01
Gallia	01
Guernsey	03
Monroe	01
Noble	01
Pike	01

Oklahoma

County Listing

County name	Degree of shortage group
Adair	03
Atoka	03
Beaver	03
Caddo	03
Cimarron	03
Delaware	03
Ellis	03
Garvin	03
Grant	01
Haskell	03
Jackson	03
Jefferson	03
Johnston	01
Le Flore	03
Love	03
McClain	03
Okfuskee	03
Pittsburg	03
Pushmataha	01
Roger Mills	03
Sequoyah	03
Texas	03
Washita	03

Oregon

County Listing

County name	Degree of shortage group
Gilliam	01
Grant	03
Harney	03
Jefferson	03
Lake	03
Malheur	03
Wheeler	01

Pennsylvania

County Listing

County name	Degree of shortage group
Fayette	03
Fulton	01
Indiana	03
Lycoming	03
Snyder	03
Warren	03

South Carolina

County Listing

County name	Degree of shortage group
Chesterfield	01
Greenwood	03
Hampton	01
Newberry	03
Saluda	01

South Dakota

County Listing

County name	Degree of shortage group
Brookings	03
Brule	03
Buffalo	01
Campbell	01
Charles Mix	03
Clay	03
Corson	01
Custer	01
Day	03
Deuel	01
Dewey	01
Edmunds	03
Faulk	03
Gregory	03
Haakon	03
Harding	01
Hutchinson	03
Hyde	03
Lyman	03
McPherson	03
Marshall	03
Meade	03
Mellette	01
Perkins	03
Roberts	03
Shannon	01
Spink	03
Stanley	01
Sully	03
Todd	01
Tripp	03
Washabaugh	01
Yankton	03
Ziebach	01

Tennessee

County Listing

County name	Degree of shortage group
Bedford	03
Bledsoe	01
Fentress	01
Giles	03
Greene	03
Grundy	01
Hancock	01
Hickman	01
Jackson	01
McMinn	03
Macon	01
Marshall	03
Meigs	01
Moore	01
Overton	03
Polk	01
Robertson	03
Smith	01
Trousdale	01
Warren	03
Wayne	01

Texas

County Listing

County name	Degree of shortage group
Anderson	03
Andrews	01
Armstrong	01
Austin	03
Baylor	03
Bosque	03
Brewster	03
Brooks	03
Burnet	03
Callahan	03
Castro	03
Cherokee	03
Childress	01
Clay	03
Cochran	03

Texas

County Listing

County name	Degree of shortage group
Coleman	03
Collingsworth	03
Colorado	03
Comanche	03
Concho	03
Crockett	03
Culberson	01
Deaf Smith	03
Delta	01
Dimmit	03
Duval	01
Edwards	01
Foard	01
Freestone	03
Gaines	03
Gillespie	01
Goliad	01
Gonzales	03
Hall	01
Hamilton	03
Haskell	01
Hemphill	03
Hill	03
Hockley	02
Hopkins	03
Houston	03
Hudspeth	01
Jack	03
Jeff Davis	03
Jim Hogg	03
Jim Wells	03
Jones	03
Karnes	03
Kenedy	01
Kent	01
King	01
Kinney	03
Lampasas	03
La Salle	01
Lavaca	03
Lee	03
Llano	03
McMullen	01
Maverick	01
Menard	03
Mills	03
Motley	01
Nacogdoches	03
Navarro	03
Ochiltree	03
Oldham	03
Palo Pinto	03
Panola	03
Parmer	03
Pecos	03
Rains	01
Reagan	01
Red River	03
Rusk	03
Sabine	01
San Augustine	01
San Saba	03
Shelby	03
Starr	03
Stonewall	01
Swisher	03
Terrell	01
Throckmorton	01
Webb	03
Zapata	03
Zavala	03

Utah

County Listing

County name	Degree of shortage group
Beaver	03
Box Elder	03
Duchesne	03
Emery	01
Garfield	01
Iron	03
Juab	01
Millard	01
Rich	01
Sevier	03
Uintah	03
Washington	03
Wayne	01

Vermont

County Listing

County name	Degree of shortage group
Essex	01
Grand Isle	01
Orange	03
Orleans	01

Virginia

County Listing

County name	Degree of shortage group
Amelia	01
Service area, Amelia/Buckingham/Cumberland/Powhatan	
Amherst:	
Service area, Amherst/Appomatox/Bedford	03
Appomatox:	
Service area, Amherst/Appomatox/Bedford	03
Bath:	
Service area, Bath/Highland/Rockbridge	03
Bedford:	
Service area, Amherst/Appomatox/Bedford	03
Bland	01
Brunswick	01
Buckingham:	
Service area, Amelia/Buckingham/Cumberland/Powhatan	01
Caroline:	
Service area, Caroline/King George/Stafford	01
Carroll	03
Chesterfield	03
Cumberland:	
Service area, Amelia/Buckingham/Cumberland/Powhattan	01
Floyd	01
Grayson	03
Greene:	
Service area, Greene/Madison/Orange/Page/Rappahannock	03
Highland:	
Service area, Bath/Highland/Rockbridge	03
King George:	
Service area, Caroline/King George/Stafford	01
Lee	01
Louisa	01
Madison:	
Service area, Greene/Madison/Orange/Page/Rappahannock	03
Orange:	
Service area, Greene/Madison/Orange/Page/Rappahannock	03
Page:	
Service area, Greene/Madison/Orange/Page/Rappahannock	03
Patrick	01
Pittsylvania	03
Powhatan:	
Service area, Amelia/Buckingham/Cumberland/Powhattan	01
Rappahannock:	
Service area, Greene/Madison/Orange/Page/Rappahannock	03
Rockbridge:	
Service area, Bath/Highland/Rockbridge	03
Scott	01
Stafford:	
Service area, Caroline/King George/Stafford	01
Wythe	03

Virginia

Service Area Listing

Service area name	Degree of shortage group
Amelia/Buckingham/Cumberland/Powhatan	01
County—Amelia	
County—Buckingham	
County—Cumberland	
County—Powhattan	
Amherst/Appomatox/Bedford	03
County—Appomatox	
County—Appomatox	
County—Bedford	
Bath/Highland/Rockbridge	03
County—Bath	
County—Highland	
County—Rockbridge	
Caroline/King George/Stafford	01
County—Caroline	
County—King George	
County—Stafford	
Greene/Madison/Orange/Page/Rappahannock	03
County—Greene	
County—Madison	
County—Orange	
County—Page	
County—Rappahannock	

Washington

County Listing

County name	Degree of shortage group
Okanogan	03
Stevens	03

West Virginia

County Listing

County name	Degree of shortage group
Grant	01
Hampshire	01
Marshall	02
Pocahontas	01

Wisconsin

County Listing

County name	Degree of shortage group
Adams	01
Bayfield	01
Buffalo	[illegible]
Clark	03
Door	03
Eau Claire	03
Florence:	
Service area, Florence/Forest	01
Fond du Lac	03
Forest:	
Service area, Florence/Forest	01
Iowa	03
Jackson	03
Juneau	03
Kewaunee	00
Lafayette	03
Langlade	03
Lincoln	03
Marathon	03
Marquette	03
Portage	03
Price	03
Richland	03
Rusk	03
St. Croix	03
Sawyer	01
Shawano	03
Taylor	03
Washburn	[illegible]
Waushara	03
Winnebago	03

Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Florence/Forest County—Florence County—Forest	01

Wyoming

County Listing

County name	Degree of shortage group
Big Horn	03
Campbell	03
Carbon	03
Converse	03
Crook	01
Hot Springs	03
Lincoln	03
Niobrara	03
Platte	03
Uinta	01
Weston	03

Puerto Rico

County Listing

County name	Degree of shortage group
Dorado	01

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Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Fair Housing Advertising Guidelines; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 109

[Docket No. R-80-699]

Fair Housing Advertising Guidelines

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This regulation constitutes a reissuance in regulation form of the Advertising Guidelines for Fair Housing, with certain revisions. This regulation also takes into account the amendment of Title VIII of the Civil Rights Act of 1968, (42 U.S.C. 3601 et seq.) prohibiting discrimination on account of sex in the sale, rental or financing of a dwelling.

The regulation provides specific guidance for newspaper publishers, other publishers of advertisements and real estate firms, banks, savings and loan associations and other individuals, firms or corporations concerning nondiscrimination in advertising the sale, rental, financing or other services in connection with residential real estate, as provided in Section 804(c) of Title VIII of the Civil Rights Act of 1968.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Ellen Stern, Special Assistant, General Deputy Assistant Secretary for Fair Housing and Equal Opportunity, Room 5110, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C., 20410, Telephone: (202) 755-6113.

SUPPLEMENTARY INFORMATION: The Advertising Guidelines for Fair Housing, issued on April 1, 1972 (37 FR 6700), have provided substantive guidance with regard to compliance with Section 804(c) of Title VIII. Based on experience in administering Title VIII, and the effort of other Federal agencies to assure fair housing, the Department has determined that the Guidelines should be reissued as Regulations in order to attain better enforcement and to assure consistency in obtaining compliance with Section 804(c).

The present guidelines were published prior to enactment of the Housing and Community Development Act of 1974, which amended Title VIII to prohibit discrimination in housing based on sex. These regulations will provide the media, financiers of housing, and persons marketing housing with specific information concerning ways to avoid discrimination in advertisements. Additionally, the regulation will assist all advertising media, advertising agencies and all other persons who use advertisements in complying with proscriptions against discrimination in advertising in Title VIII. The regulations also describe the matters the Department will review in evaluating compliance with Title VIII in connection with complaints alleging discriminatory housing practices involving advertising. Consistent with HUD policies and procedures relating to its programs, compliance with these regulations is likely to affect participation in HUD programs wherever experience in affirmative marketing or compliance with fair housing requirements is specified in the regulations as one of the criteria in awarding contracts or selecting among competing proposals.

Notice of a proposed amendment to Title 24 to issue these regulations as Part 109 was published in the **Federal Register** on September 26, 1979 (44 FR 55528) and comments were received from interested persons and organizations. Consideration was given to each comment. Comments of general nature applicable to several sections of the Regulation are discussed below. Additionally, comments referring to specific sections only are addressed separately.

Coverage of the Regulation

There was a comment from civil rights organizations that the regulation should apply to all advertising regardless of media used. It is the intent of the rule to cover all forms of media (printed, television, radio, etc.). The wording of § 109.10 has been revised to reflect this intent. Additionally, § 109.30(a) and relevant tables have been revised, as discussed in detail below, to clarify the applicability of the fair housing logo, statement and slogan to radio and television advertising.

Applicability of the Regulatory

There was comment from both civil rights and industry representatives on the issue of applicability and authority of the regulation. Civil rights organizations maintained that the language of the regulation should be mandatory throughout (substituting "must" for "should" in describing practices to be avoided or encouraged) and that the fair housing statement should be uniform and mandatory. Representatives of the media and financial institutions, on the other hand, objected to the issuance of the guidelines as a regulation, and to specific provisions of the regulation, as potential infringements on First Amendment rights. Cited among examples of such infringements were § 109.30(a) suggesting use of the fair housing logotype in ads of certain sizes and § 109.30(d)(3) recommending use of the "publishers notice" in real estate advertising sections.

As indicated above, this regulation is essentially a codification (with minor revisions and inclusion of discrimination on the basis of sex) of the fair housing advertising guidelines. The issuance of the guidelines as regulations is a partial fulfillment of the recognized need for a regulatory scheme to interpret and implement the the Fair Housing Act of 1968.

It was the intent of this regulatory effort to produce a rule which represents a balance between (1) identification of practices which might be viewed as violations of Title VIII and (2) the limitations which the First Amendment may impose on mandatory restrictions relating to the publication of advertising. Accordingly, the regulation describes examples of advertising practices, content, etc., which might be indicative of violation of (or compliance with) Title VIII and which the Department will review and consider in investigating complaints alleging discriminatory housing practices involving advertising. The avoidance of language requiring (or permitting) specific practices, usage or content in §§ 109.20, 109.25, and 109.30 is not intended to detract from the intent of the Department to give substantive weight to the existence of such practices, usage or content in investigating complaints.

As indicated in a new subsection (§ 109.16(a)(2)), the rule has been clarified to provide that failure by persons placing advertising to comply with the provisions of the rule, when such failure is found in connection with the investigation of a complaint, will be a basis for concluding that a violation of section 804 of Title VIII has occurred. The rule also provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions.

While the practices, etc., cited in the regulation are indices of a standard of conduct to evaluate the existence of discrimination in advertising, they are not intended, *per se*, to establish immutable rules, but to serve as examples of practices, usage, content etc., which *should* be complied with (or avoided), whichever the case may be. The avoidance of mandatory language in each instance reflects the need to allow for judicious application, consonent with compliance with Title VIII, of the specific content of the rule. The necessity for such flexibility of interpretation was underscored in numerous comments by civil rights and industry representatives. There were various comments for example, that the very name of a street (such as Martin Luther King Avenue in Washington, D.C.) on which housing advertised may be located could be viewed as discriminatory advertising under the strictest interpretation of § 109.20. Such construction is neither intended nor required by that Section, which states that certain words, phrases, symbols and forms "should be avoided." The example given, though extreme, illustrates that the circumstances under which certain words, etc., should be avoided to preclude violation of Title VIII will vary; judicious interpretation is both allowable and necessary pursuant to the language of this provision of the rule. Similarly, as discussed below, judicious interpretation is intended with respect to other provisions of the rule, including § 109.25, § 109.30(b), and other portions of § 109.20.

Areas Requiring Further Issuances

There were numerous detailed technical suggestions for further elaboration of criteria for use of the Equal Housing Logo; further standards, qualitative and quantitative, for use of models; and establishent of procedures to monitor compliance with the regulation, particularly §§ 109.25 and 109.30. It is the judgment of the Department that such matters more properly should be addressed in handbooks as other issuances being prepared to interpret the regulation. It is the function of the rule to define the broad areas of practice which will be considered in investigating complaints rather than to establish detailed criteria and standards with respect to each practice addressed.

Prohibition Against Steering and Blockbusting

Comment was made that advertising conducive to steering or blockbusting should be addressed in the rule. Parctices constituting steering or blockbusting in advertising and other areas of real estate practice will be addressed in a substantive rule being developed to define prohibited practices relating to sales and rentals pursuant to Title VIII.

Exemption of Religious Organizations

A national organization representing a major religious denomination objected to the failure of the rule to indicate the exemption contained in Section 807 of Title VIII relating to housing which is owned by a religious organization and operated for other than commercial purposes. That Section provides that nothing in Title VIII prohibits religious organizations from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion or from giving preference to such persons unless membership in the religion is restricted on account of race, color or national origin. Since Section 807 applies to all rules issued pursuant to Title VIII, the Department has determined that incorporation of a Section in its regulations regarding such organizations is unnecessary.

Applicability to Mobile Homes

Question was raised as to applicability of the rule to mobile homes. Pursuant to the definition of "dwelling" in Title VIII (Section 802(b)) mobile homes, including the leasing of land for mobile homes, are covered by Title VIII and all regulations implementing Title VIII.

The following areas of comment addressed specific sections of the proposed rule:

109.10 Purpose.

Question was raised by a financial institution whether this section provides for coverage of lending institutions. The intent that the rule apply to such institutions is clear in the reference in this Section to "all advertising media, advertising agencies, and all other persons who use advertising * * * with respect to the sale, rental, or financing of a dwelling * * *."

109.20 Use of words, phrases, sentences, and visual aids.

109.20(a) Words descriptive of dwelling, landlord, and tenants. In response to comment that inclusion of "female residence" and "male residence" among examples of words to be avoided would restrict advertising of certain dormitory facilities, these terms have been deleted from this subsection.

Subsection 109.20(b)(5) has also been revised to resolve any confusion regarding the application of this regulation to dwellings used by educational institutions for dormitory facilities.

109.20(b)(6) Catch words.

There were two major areas of comment on this section. Civil rights groups maintained that the examples given were not sufficiently inclusive and recommended addition of several specific terms, with emphasis on terms which might be discriminatory in effect if not in intent. Newspaper industry representatives, on the other hand, criticized the subsection as too vague in requiring too much discretion on the part of the advertisers with regard to words not identified in the subsection and in providing inadequate interpretation of the phrase "discriminatory context."

As clearly indicated in the introduction to § 109.20, the words, phrases, etc., identified in its subsections are intended as examples of words which might be discriminatory, directly or indirectly, and which "should, therefore, be avoided to eliminate their discriminatory effect." They are neither intended to be all-inclusive nor to preclude phrases, in addition to those identified, which might be discriminatory in impact under certain circumstances. In fact, § 109.20(b)(6), in prescribing against avoidance of terms "used in a discriminatory context", addresses discriminatory effect as well as intent. Additionally, the examples given, as well as other words and phrases which may be discriminatory in certain instances, are intended to be evaluated within the context in which they are used. Clearly, words and phrases which may be discriminatory in some instances may be neutral when used in other circumstances. As indicated in the discussion on the applicability of the rule, this regulation has been formulated to take cognizance of First Amendment considerations, and of the fact that, even in the absence of such considerations, an attempt to be all-inclusive would be counterproductive. In view of the variables determining whether certain phrases are discriminatory, an attempt to utilize § 109.20(b)(6) to list comprehensively (rather than to illustrate) words, phrases, etc., which might be discriminatory in intent or effect (or to define all circumstances which might give rise to a discriminatory context) would be an impossible and exclusionary task. Moreover, the added specificity proposed by industry and some civil rights groups undoubtedly would escalate the concerns about possible infringements upon freedom of speech. In structuring the regulation and this subsection the Department has decided to provide *illustrations* of phrases and conduct which will be given substantial weight in investigations.

109.20(e) Directions to real estate.

There was considerable comment, and some confusion, about this subsection. Several commenters construed this subsection as prohibiting use of directions or maps in advertisements. This interpretation reflects neither the intent nor the content of the provision. The subsection does not prohibit or preclude the use of directions; rather, it

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provides that references which may be discriminatory under certain circumstances when used in directions should be avoided. Again, the examples given illustrate usage which would be subject to review and are intended to encourage discretion, not to establish fixed rules for the provision of directions to housing being marketed. Question was raised by several commenters regarding (1) use of streets named after leaders of racial, religious or ethnic groups; and (2) housing developments sponsored or built by religious institutions and named after such institutions. The use of street names, when such use is clearly necessary in providing directions, is obviously not precluded. As discussed above, housing developed by a religious organization for non-commerical purposes would be exempt from Title VIII coverage and this regulation pursuant to Section 807 of the statute.

109.20(f) Area (location) description.

This section, providing that area descriptions should not include names of facilities catering to particular racial, national origin or religious groups or to facilities used by only one sex, provoked comment that industry should rightfully be able to inform consumers of neighborhood facilities which might be attractive to them. However, reference to facilities which might constitute a positive signal to some potential customers frequently carries a negative message, intentionally or effectively, to those not normally included by virtue of race, sex, religion or national origin in the membership of the facilities named. Consequently, except in unusual and clearly justifiable circumstances, such facilities should not be mentioned.

109.25 Selective use of advertising media or content.

There was comment that the general restrictions against selective use of advertising in this section appear to be in direct conflict with the requirements for affirmative efforts to advise persons of the availability of credit in specific areas serviced by lenders and to inform socially and economically disadvantaged persons of the existence of special purpose programs under the Community Reinvestment Act and the Equal Credit Opportunity Act. The Department does not intend that anything in these regulations be interpreted to limit the affirmative efforts of advertisers to expand housing and credit opportunities for low and moderate income persons, members of minority groups and other socially disadvantaged groups.

Additionally, as provided in § 109.16(b), the regulation is not intended to preclude advertising intended to implement an affirmative marketing program or undertaken to remedy the effects of prior discrimination. Additionally, comments indicated misinterpretation of the admonition against sole use of English media in areas where non-English media cater to non-English speaking persons. It is not intended that, when such non-English media exist, they must be used, or that ads must be placed in *each* non-English medium. On the other hand, the failure to utilize one or more methods for advertising to non-English speaking persons will be given weight in connection with allegations that a group covered by Title VIII has been denied housing opportunities. Again, this is a matter requiring use of judgment based on evaluation of demographic factors, predominant language in specific areas and interpretation of the regulation in specific circumstances.

Comment was made by an individual correspondent on the use of "priority lists" determined on the basis of a lottery type drawing from all applications as a means for selecting buyers. It was suggested that, since only a selected number of people can participate and since buyers are selected on the basis of the lottery rather than of the time at which an acceptable offer is tendered, such priority lists are a selective use of advertising which should be covered under this section. The Department does not believe that these practices constitute the "selective use of advertising media" under this regulation. However, where a method of selecting buyers is designed to preclude persons from purchasing dwellings because of race, color, religion, sex or national origin, such practices would constitute a discriminatory practice under Title VIII.

109.25(a) Selective geographic advertisements.

Comments from industry representatives indicated a misunderstanding of this provision. This section describes the use of advertising, such as use of limited circulation editions or of strategically placed billboards, in a manner which, intentionally or effectively, fails to get the message to (or targets the message away from) persons based on race, color, religion, sex or national origin. It is clear from the language of the subsection that the provision does not mandate or suggest placing billboards in all communities or advertising in an unlimited number of newspapers. The provision does suggest sufficient use of individual newspapers to assure that no persons are excluded from information about housing being advertised on the basis of race, color, religion, sex or national origin.

One comment suggested revising § 109.25(a) to delete references regarding the placement of advertising in particular geographic coverage editions of major metropolitan newspapers ("zoned editions") or in newspapers of limited circulation. This comment maintained that the placement of advertising in selected editions assures the reader information of local importance and relieves the advertiser of the additional cost of advertising in all editions. The Department recognizes these legitimate concerns and that under certain circumstances zoned editions may be permissible. However, the Department believes that a Title VIII violation occurs whenever the advertiser determines the manner for advertising because of the race, color, religion, sex or national origin of persons who receive or do not receive a publication or where such determination has the effect of discriminating because of the race, color, religion, sex or national origin of such recipients or non-recipients. Therefore, no revision has been made with regard to this section.

109.30 Fair housing policy and practices.

Section 109.30 identifies specific policies and practices, such as use of the fair housing logotype and of publishers' notice of adherence to Title VII, for advertisers and publishers. The rule has been revised to state specifically that, in investigation of complaints, adherence to these policies and practices will be considered.

In response to a suggestion by a civil rights group and a local human rights agency, § 109.30 has been revised to encourage real estate advertisers and publishers to give notice of the coverage of any local fair housing or human rights ordinance addressing discrimination in the sale, rental or financing of housing. While the Department has no authority to require or enforce such action, the value of encouraging notice of compliance with local laws is inherent in the fact that frequently such laws are broader in coverage and enforcement powers than Title VIII.

109.30(a) Use of equal housing opportunity logotype, statement or slogan.

There were numerous comments indicating lack of clarity in this subsection and the accompanying tables in the appendix. Accordingly, the wording of the section and Tables I and II has been revised to remove ambiguities about suggested use of the logotype, statement, or slogan and to clarify their applicability to advertising in various types of media. In order to eliminate ambiguity about the meaning of the term "4 column inches", the reference to this term has been clarified in Table I.

There was comment by industry representatives objecting to the stipulation in Table I that the logotype must be equal in size to any commercial logotype used in an advertisement. Additionally, a study submitted by a regional council of governments documented widespread misinterpretation of the "same size" provision which is included in the present guidelines and the proposed regulations. The study found that, in the Washington metropolitan area, 94% of newspaper advertisers using the EHO logotype did so by applying the same size rule and concurrently reducing all logotypes to a smaller size than otherwise provided in Table I. In response to these comments, the following revisions have been made with respect to the logo (Table I): (1) In space advertising (advertising in regularly printed media, such as newspapers or magazines), the "same size" provision has been substituted by the minimum size standards, which should be applied without exception; (2) in all other advertising, the "same size" provision would continue to apply.

109.25(c) and 109.30(b) Use of human models.

There were several comments with respect to provisions in § 109.30(b) and § 109.25(c) relating to use of human models. Section 109.25(c) is intended to preclude selective use of human models in advertising for the purpose of attracting (or discouraging) certain groups covered by Title VIII with respect to certain housing or neighborhoods. Obviously, models representing one group in advertising directed to such a group would have just this result if not balanced by more representative use of models in advertising placed in media reaching other population groups.

With respect to § 109.30(b), there was comment that the phrase "models should be clearly definable as reasonably representing" is not clear. Civil rights groups commented that models used should reflect, in numbers, the exact percentage of the various covered groups in the population, a suggestion which is clearly unworkable. The term "reasonably representing" is intenedd to assure that models will convey a message of general inclusiveness of persons covered by Title VIII, not literal display of each minority group. For example, use of two white models, one male and one female would not convey such inclusiveness. In a small town with no minority groups other than blacks, however, use of two models of different sexes, one white and one black, would "reasonably represent" majority and minority groups of both sexes.

Additionally, there was comment that there should be qualitative as well as quantitative standards for use of models to assure portrayal of models in a setting which projects an "equal welcome" to the various groups represented. Accordingly, § 109.30(b) has been revised to provide that models where used should portray persons in an "equal social setting," i.e., in a manner avoiding any implication that persons of a particular race, color, religion, sex or ethnic group would be less desirable or less welcome than others.

109.30(d) Publishers' notice.

There was comment that the publishers' notice should be required on every page carrying classified real estate advertising; that the fair housing statement should be eliminated; and that a *uniform* slogan and logo should be required instead. As indicated, the Department takes the position that requirement of uniform wording or a standard logo within an advertisement raises serious first amendment issues. Further, it is the position of the Department that use of the fair housing statement in all ads of specific size is a more visible and effective declaration of adherence to Title VIII than the use of the publishers' notice on each real estate advertising page.

The Department has determined that this Regulation will not have an environmental impact, as defined in the "Procedures for Protection and Enhancement of Environmental Quality." A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk at the above address. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government.

This rule is listed as item number FHEO-4-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Subchapter B of Chapter I of Title 24 of the Code of Federal Regulations is amended by including a new Part 109 to read as follows:

PART 109—FAIR HOUSING ADVERTISING

Sec.

109.5 Policy.
109.10 Purpose.
109.15 Definitions.
109.16 Scope.
109.20 Use of words, phrases, sentences and visual aids.
109.25 Selective use of advertising media and content.
109.30 Fair housing policies and practices.

Authority: Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*)

§ 109.5 Policy.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. The provisions of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*) make it unlawful to discriminate in the sale, rental, and financing of housing, and in the provision of brokerage services on account of race, color, religion, sex or national origin. Section 804(c) of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3604(c), as amended, makes it unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.

§ 109.10 Purpose.

The purpose of these regulations is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish or cause to be made, printed, or published any advertisement with respect to the sale, rental, or financing of a dwelling, in compliance with the requirements of Title VIII. These regulations also describe the matters this Department will review in evaluating compliance with Title VIII in connection with investigations of complaints alleging discriminatory housing practices involving advertising.

§ 109.15 Definitions.

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Assistant Secretary" means the Assistant Secretary for Fair Housing and Equal Opportunity.

(c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) "Family" includes a single individual.

(e) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

(f) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(g) "Discriminatory housing practice" means an act that is unlawful under Sections 804, 805, or 806 of Title VIII of the Civil Rights Act of 1968.

§ 109.16 Scope.

(a) *General.* This part describes the matters the Assistant Secretary will review in evaluating compliance with Title VIII in connection with investigations of complaints alleging discriminatory housing practices involving advertising. Use of these criteria will be considered by the Assistant Secretary in making determinations to resolve complaints alleging discrimination in advertising.

(1) *Advertising Media.* This part provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. Use of these criteria will be considered by the Assistant Secretary in making determinations to resolve complaints alleging discrimination in advertising.

(2) *Persons Placing Advertisements.* A failure by persons placing advertisements to comply with the provisions in this part when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements will be a basis for concluding that a violation of Section 804 has occurred.

(b) *Affirmative Advertising Efforts.* Nothing in this part shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

§ 109.20 Use of words, phrases, sentences, and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory intent. Their use should, therefore, be avoided in order to eliminate their discriminatory effect. In considering a complaint under Title VIII, the Assistant Secretary will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate a possible violation of the Title and to establish a need for seeking resolution of the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the Title is likely to result.

(a) *Words descriptive of dwelling, landlord, and tenant.* White private home, Colored home, Jewish home, Hispanic residence.

(b) *Words indicative of race, color, religion, sex or national origin.*

(1) *Race*—Negro, Black, Caucasian, Oriental, American Indian.

(2) *Color*—White, Black, Colored.

(3) *Religion*—Protestant, Christian, Catholic, Jew.

(4) *National Origin*—Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.

(5) *Sex*—the exclusive use of words in advertisements including those involving the rental of separate units in a single or multi-family dwelling stating or tending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this section shall restrict advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

(6) *Catch words.* Words such as restricted, ghetto, and disadvantaged should be avoided. Also, words and phrases used in a discriminatory context should be avoided, e.g., "private", "integrated", "traditional", "board approval" or "membership approval".

(c) *Symbols or logotypes.* Symbols or logotypes which imply or suggest race, color, religion, sex, or national origin.

(d) *Colloquialisms.* Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, or national origin.

(e) *Directions to real estate for sale or rent (use of maps or written instructions).* Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its inclusion of minorities (signal to whites) should not be used. Specific directions which make reference to a racial or national origin significant area may indicate a preference and should not be used. References to a synagogue, congregation or parish may also indicate a religious preference and should not be used.

(f) *Area (location) description.* Names of facilities which cater to a particular racial, national origin or religious group such as country club or private school designations, or names of facilities which are used exclusively by one sex, should not be used to describe an area.

§ 109.25 Selective use of advertising media or content.

The selective use of advertising media or content when particular combinations thereof are used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of Title VIII. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have discriminatory impact. The following are additional examples of the selective use of advertising which may be discriminatory:

(a) *Selective geographic advertisements.* Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices.

(b) *Selective use of equal opportunity slogan or logo.* When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

(c) *Selective use of human models when conducting an advertising campaign.* Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex. Such selective advertising may involve the use of human models of members of only one sex in displays, photographs or drawings to indicate preferences for one sex or the other.

§ 109.30 Fair Housing Policy and Practices.

In the investigation of complaints, the Assistant Secretary will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under Title VIII.

(a) *Use of Equal Housing Opportunity logotype, statement, or slogan.* All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, sex, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Table I (see appendix) indicates suggested use of the logotype, statement, or slogan and size of logotype. Table II (see appendix) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

(b) *Use of human models.* Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness on the basis of race, color, religion, sex, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area and both sexes. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, or national origin, and is not for the exclusive use of one such group.

(c) *Coverage of Local Laws.* Where the Equal Housing Opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance regarding discrimination in the sale, rental or financing of dwellings.

(d) *Notification of Fair Housing Policy.*—(1) *Employees.* All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental or financing of real estate should provide a printed copy of their nondiscriminatory policy to each employee and officer.

(2) *Clients.* All publishers of advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

(3) *Publishers' notice.* All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III (see appendix). The notice can include a statement regarding the coverage of any local fair housing or human rights ordinance regarding discrimination in the sale, rental or financing of dwellings.

Appendix

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for advertising:

Table I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan.

In all space advertising (advertising in regularly printed media such as newspapers or magazines) the following standards should be used:

Size of advertisement	Size of logotype in inches
½ page or larger	2 × 2
⅛ page up to ½ page	1 × 1
4 column inches to ⅛ page	½ × ½
Less than 4 column inches	[1]

[1] Do not use

In any other advertisements, if other logotypes are used in the advertisement, then the Equal Housing Opportunity logo should be of a size at least equal to the largest of the other logotypes; if no other logotypes are used, then the type should be bold display face which is clearly visible. Alternatively, when no other logotypes are used, 3 to 5 percent of an advertisement may be devoted to a statement of the equal housing opportunity policy.

In space advertising which is less than 4 column inches (one column 4 inches long or two columns 2 inches long) of a page in size the Equal Housing Opportunity slogan should be used. Such advertisements may be grouped with other advertisements under a caption which state that the housing is available to all without regard to race, color, religion, sex or national origin.

Table II

Illustrations of Logotype, Statement, and Slogan Equal Housing Logotype:

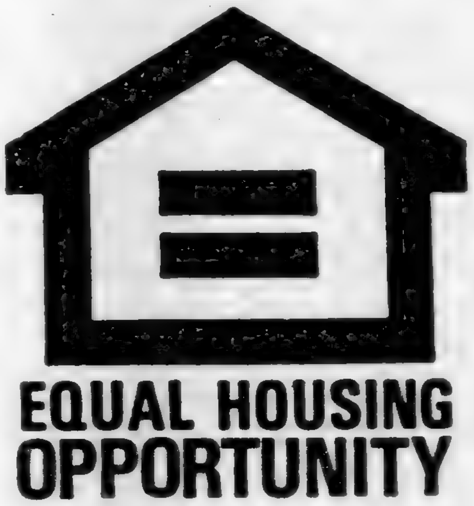

Equal Housing Opportunity Statement: We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin.

Equal Housing Opportunity Slogan: "Equal Housing Opportunity."

Table III

Illustration of Media Notice—Publisher's notice: All real estate advertised herein is subject to the Federal Fair Housing Act of 1968 which makes it illegal to advertise "any preference, limitations, or discrimination based on race, color, religion, sex, or national origin, or intention to make any such preferences, limitation, or discrimination."

We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.

Issued at Washington, D.C., August 13, 1980.

Sterling Tucker,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 80-25198 Filed 8-25-80; 8:45 am]

BILLING CODE 4210-01-M

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Reader Aids

Federal Register
Vol. 45, No. 167
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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

***Federal Register*, Daily Issue:**

202-783-3238	Subscription orders and problems (GPO)
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202-523-5022	Washington, D.C.
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202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
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[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This [illegible] a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS*		DOT/COAST GUARD	USDA/APHIS*
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

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12722 2–26–80 / Hazardous waste management: overview and definitions

12737 2–26–80 / Hazardous waste; standards applicable to transporters

12724 2–26–80 / Hazardous waste: standards applicable to generators

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45116 7–2–80 / Coinsurance for private mortgage lenders regulations

44267 7–1–80 / Low-income public housing; residency requirements and preferences: tenant selection policies

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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8-27-80
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Pages 57109-57358

federal register

Wednesday
August 27, 1980

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57109	**Fire Prevention Week, 1980** Presidential proclamation
57111	**White Cane Safety Day** Presidential proclamation
57126	**Medicare** HHS/HCFA publishes regulations regarding cost reporting requirements for home health agencies; effective 10-1-80
57150	**Medicare** HHS/HCFA expands regulations to provide coverage of round trip ambulance services for a hospital inpatient to another treatment facility; comments by 10-27-80
57120	**Grant Programs—Community Development** HUD/CPD modifies regulations governing small cities community development block grant program; effective 9-22-80
57252	**Air Pollution Control** EPA gives notice of control of air pollution from 1980 model year motor vehicles and motor vehicle engines (Part II of this issue)
57160	**Foster Grandparent and Senior Companion Programs** ACTION revises schedule of income eligibility levels for individuals and families

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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57119 **Immigration** State/Bureau of Consular Affairs publishes regulations regarding documentation of immigrants under the Immigration and Nationality Act; effective 9–2–80

57318 **Environment** Interior/BLM publishes guidelines for implementation of provisions of Federal Land Policy and Management Act of 1976; effective 8–27–80 (Part III of this issue)

57138 **Gasoline** DOE/ERA proposes credit extension for retail purchase of motor gasoline; comments by 10–27–80

57113 **Banking** FHLBB permits member institutions of the Federal Home Loan Bank Board System to invest in certain mutual funds; effective 8–27–80

57178 **Water Resources** Interior/WPRS announces water and power resources service instructions on public involvement in water and power resources service actions; adopted 8–15–80

57114 **Banking** FHLBB publishes regulations regarding conversion of State Stock to Federal Stock Charter; effective 8–27–80

57149 **Grant Programs—Mining and Mineral Resources** Interior/SMO proposes to amend portions of policies and procedures; comments by 9–15–80

57332 **Drinking Water** EPA amends National Interim Primary Drinking Water Regulations; effective 8–27–80 (Part IV of this issue)

57147 **Antidumping** ITC proposes conduct of antidumping and countervailing duty investigations; comments by 10–14–80

57230 **Securities** Treasury/Sec'y announces 11⅛-percent interest rate on Series V–1982

57116 **Export** Commerce/ITA publishes regulations extending validity period for export licenses; effective 8–27–80; comments by 10–27–80

57125 **Standards of Conduct** Justice amends standard of conduct governing private professional practice and outside employment; effective 9–26–80

57175 **Training** HHS/HDSO gives notice of Federal allotments to States for personnel training or retraining fiscal year 1980

57236 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4782 of August 25, 1980

Fire Prevention Week, 1980

By the President of the United States of America

A Proclamation

Fire causes more loss of life and property in the United States than all other natural catastrophes combined. Fire is the second most frequent cause of accidental death in the home.

The human costs of fire are borne disproportionately by career and volunteer firefighters. Their profession is one of America's most hazardous.

Each year approximately 8,500 Americans die; another 300,000 are injured in fires and $5 billion worth of property is destroyed. America loses more to fire than most other countries in the industrialized world.

In an effort to alter this tragic situation, the Administration has implemented a Reorganization Plan, placing the United States Fire Administration's fire programs in the Federal Emergency Management Agency. This agency now coordinates America's disaster preparedness and response efforts, and, within it, the fire service still stands as the First Responder, with the capability and mission to contain, mitigate or resolve emergencies.

Yet the Federal government alone cannot reduce America's fire losses. The public and private sector must do their part. Together, working as a team, we can lessen the unnecessary, life-threatening destruction caused by fire.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do designate the week of October 5 through 11 as Fire Prevention Week.

Because fire deaths most often occur in homes, I call upon American families and other property owners to install smoke detectors, to practice exit drills, and to be especially vigilant in guarding against fires. I further urge all citizens already possessing smoke detectors to use this week to test their devices to ensure their operational status.

I support and encourage the cooperative efforts of private enterprise and government in developing low cost residential sprinkler systems that may revolutionize fire safety in the home.

I encourage the fire service, police, prosecutors, the insurance industry and governmental agencies to continue to work together to improve arson prevention and control measures. Arson remains America's fastest growing crime and we need total commitment to combat it.

I call upon every fire department in the country to improve the delivery of emergency medical services and to teach citizens the fundamentals of basic life support and cardio-pulmonary resuscitation.

I urge the fire service to open their profession fully to women.

I encourage the fire service to take full advantage of the National Fire Academy.

I acknowledge the National Fire Protection Association and its affiliate, the Fire Marshals Association of North America, for their sponsorship of this week's international observance.

Finally, I call upon members of the Joint Council of National Fire Service Organizations, members of the International Association of Fire Fighters, members of the International Association of Fire Chiefs, all other organizations concerned with fire safety, and the United States Fire Administration to provide the leadership, planning and innovation necessary for an effective national fire prevention and control effort.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-26349
Filed 8-25-80; 3:16 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4783 of August 25, 1980

White Cane Safety Day, 1980

By the President of the United States of America

A Proclamation

In every activity of daily life, most of us depend upon our sight. We take for granted the ability to wend our way through the woods, dodge children and bicycles on the sidewalk, and navigate around cars at busy intersections. As a result, we rarely stop to consider that these everyday activities can be hazardous to the six million Americans who are blind or partially sighted.

Fortunately, visually handicapped people have a distinctive tool available to them which can help in these potentially dangerous situations. That tool is a white cane.

Using the cane as an extension of the body, a sightless person can explore unfamiliar environments, locate landmarks, and find a path free of obstacles. Thanks to this simple aid, millions of visually handicapped persons are able to move about their communities with a degree of independence that would otherwise be denied them.

As valuable as the white cane is, however, it cannot warn its user of hazards more than a few feet away. It cannot detect rapidly moving vehicles, joggers, and young people on roller skates. Therefore, we must all be alert to the needs of people who carry the white cane. Often a gesture as simple as yielding the right-of-way to a visually handicapped person, or offering assistance when it seems to be needed, can make the difference between a safe journey and a hazardous one. In this way, we can help visually handicapped people overcome the difficulties that threaten to limit the freedom of movement that all of us value so highly. To heighten public awareness of the importance of the white cane to the independence and safety of blind and partially sighted Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d) has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1980, as White Cane Safety Day.

I urge all Americans to observe this day by reflecting on the accomplishments of the blind and visually handicapped, by showing sensitivity to the rights and needs of all handicapped citizens, and by resolving to aid them in their continuing struggle for independence.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-26350
Filed 8-25-80; 3:17 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 7

[Docket No. 80-9]

Oath of Directors

AGENCY: Office of the Comptroller of the Currency.

ACTION: Final revision of interpretive ruling.

SUMMARY: The previous interpretive ruling permitted only those directors present at the "organization meeting" (the first meeting of a national bank's Board of Directors after its members have been elected or reelected) who were residents of the same state to take a joint oath of office. Directors who were present at the organization meeting but residents of different states were required to take an individual oath of office. Oaths must be taken after each election. The revision of Interpretive Ruling 7.4415 allows all directors present at the organization meeting to take a joint oath of office. Only those directors not in attendance at the organization meeting will be required to take an individual oath.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Karen L. Main, Economist, Regulations Analysis Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Telephone: (202) 447-1177.

SUPPLEMENTARY INFORMATION: The Office of the Comptroller of the Currency ("Office") had issued an interpretive ruling, 12 CFR 7.4415, which permitted all directors present at the organization meeting (the first meeting of a national bank's Board of Directors after its members have been elected or reelected) who were residents of the same state to take a joint oath of office. Directors present at the meeting who were residents of other states were required to take an individual oath of office. Any directors not in attendance at the organization meeting were also to take an individual oath. The oaths, required by statute, must be taken after each election. Many of the approximately 4500 national banks have directors who reside outside the state in which the national bank is headquartered, and as such, are affected by this ruling.

Any benefits to accrue from such separate oaths do not appear to justify the imposition of burdens on directors who reside outside the state. Accordingly, this revision of the interpretive ruling allows all directors in attendance at the organization meeting to take a joint oath of office. Only those directors not present at the meeting will be required to take a separate oath.

In addition, a minor language modification has been made to eliminate gender-specific terminology.

The Office believes that public comment procedures are neither necessary nor appropriate. The changes being adopted amend an interpretation of a statute and reduce a regulatory burden without adversely affecting the rights of any party.

Drafting Information

The principal drafter of this document was Karen L. Main, Economist, Regulations Analysis Division.

Adoption of Amendment

For the reasons stated above, Part 7 of Title 12 of the Code of Federal Regulations is amended by revising § 7.4415 to read as follows:

§ 7.4415 Oath of directors.

(a) 12 U.S.C. 73 prescribes the requirements with reference to the oath to be taken by directors. A notary public who is also an officer of a national bank is not eligible to administer the oath to directors of that bank. A notary public who is a director but not an officer of a national bank is eligible, however, to administer the oath to directors of that bank.

(b) All directors in attendance at the organization meeting (the first meeting of a national bank's Board of Directors after its members have been elected or re-elected) may execute the joint oath (form CC 7029-06). Any director may, and all directors not in attendance at the organization meeting should, execute the individual oath (Form CC 7029-07). A re-elected director who has had uninterrupted service is required to take another oath upon re-election.

(c) Oaths of directors shall be immediately transmitted to the Office of the Comptroller of the Currency and shall be filed and preserved in its offices for a period of ten years.

(12 U.S.C. 1 *et seq.*, 12 U.S.C. 73, and 12 U.S.C. 93a)

Dated: August 22, 1980.

John G. Heimann,
Comptroller of the Currency.

[FR Doc. 80-26237 Filed 8-26-80; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 80-530]

Mutual Fund Investment Counting Toward Liquidity

August 21, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: This amendment implements recent statutory authority by permitting member institutions of the Federal Home Loan Bank System to invest in certain mutual funds for the purpose of satisfying their liquidity requirements.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: David J. Bristol, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington. D.C. 20552, (202) 377-6461.

SUPPLEMENTARY INFORMATION: Section 405 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221, 94 Stat. 132) provides that, subject to Federal Home Loan Bank Board approval, liquid assets held by a Federal Home Loan Bank member institution may include shares or certificates of any open-end management company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, where such company's investment portfolio is restricted to investments which would be eligible liquid assets.

Pursuant to its authority in section 405, the Board has amended § 523.10 of the Rules and Regulations for the Federal Home Loan Bank System (12 CFR 523.10) to authorize investment, for liquidity purposes, in a mutual fund where the investment portfolio is limited to investments which would qualify under § 523.10(d) (1) through (6) (12 CFR 523.10(d) (1)–(6)). New subparagraph (g)(7) of § 523.10 authorizes liquidity investment in any open-end investment company where the portfolio of such company is restricted by its investment policy, subject to modification only by vote of the shareholders, to investments in eligible liquid assets described in the other provisions of paragraph (g). New paragraph (h)(6) authorizes such investment to count as short-term liquidity, to the extent the investments of the company qualify for such treatment.

Since this change relieves restriction by allowing investment in liquid assets through an investment company intermediary, the Board finds that it is in the public interest to implement the amendment without delay, and has therefore determined that notice and public procedure with respect to the amendment are unnecessary under the provisions of 12 CFR 508.11 and 12 U.S.C. 553(b), and that a delay of effective date under 12 CFR 508.14 and 5 U.S.C. 553(d) is unnecessary for the same reason.

Accordingly, the Board hereby amends § 523.10 of the Rules and Regulations for the Federal Home Loan Bank System (12 CFR 523.10) by adding new subparagraphs (g)(7), and (h)(6), to read as set forth below.

1. Amend § 523.10(g) by deleting the word "and" at the end of subparagraph (5) thereof; deleting the period at the end of subparagraph (6) thereof, and replacing it with a semi-colon and the word "and"; and adding a new subparagraph (7) thereto; and amend paragraph (h) of § 523.10 by deleting the word "and" at the end of subparagraph (4) thereof; deleting the period at the end of subparagraph (5) thereof, and replacing it with a semi-colon and the word "and"; and adding a new subparagraph (6) thereto; to read as follows:

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

* * * * *

(g) *Liquid assets.* * * *

(7) Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, while the portfolio of such company is restricted by its investment policy, changeable only by vote of the shareholders, to investments described in the other provisions of this paragraph (g).

* * * * *

(h) *Short-term liquid assets.* * * *

(6) Shares or certificates of any investment company qualifying under paragraph (g)(7) of this section, to the extent that the investments of such company are eligible under this paragraph (h).

(Sec. 405, 94 Stat. 132, Pub. L. 96–221, as amended; (12 U.S.C. 1437), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 80–26216 Filed 8–26–80; 8:45 am]
BILLING CODE 6720–01–M

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12 CFR Parts 543 and 552

[No. 80–529]

Conversion From State Stock to Federal Stock Charter

August 21, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: As part of its implementation of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Board has adopted regulations which permit State-chartered stock savings and loan type institutions that existed in stock form prior to March 31, 1976, to convert to Federal stock associations. The regulations set forth eligibility requirements and procedures for application, stockholder approval, and the issuance of a Charter S. The Board also has taken the opportunity to simplify the procedures for converting from a State stock or a State mutual institution to a Federal mutual association. These procedures parallel those for State stock to Federal stock conversions. The Board believes that the adoption of these regulations will provide a clear and uncomplicated procedure by which a State institution may convert to a Federal association.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: John P. Soukenik, Attorney (202) 377–6427, or Douglas P. Faucette, Senior Associate General Counsel (202) 377–6410, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 404 of the Depository Institutions Deregulation and Monetary Control Act of 1980 amended section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1461(i)) to allow State stock savings and loan type institutions that existed in stock form prior to March 31, 1976, to convert to federally chartered stock associations. On June 6, 1980, the Federal Home Loan Bank Board, by Resolution 80–366 (45 FR 40132, published June 13, 1980), proposed regulations which provided for implementation of the statutory authority. The public comment period ended on July 14, 1980, with receipt of nine comment letters from Federal and State-chartered savings and loan associations, trade groups and a law firm. The proposed regulations received the support of most of the commenters, although six commenters recommended certain modifications. Having reviewed the comments and other pertinent information, the Board has determined to adopt the proposed regulations with modifications, as described below.

The majority of the comments were directed to the application process. The concern expressed by several commenters was that the process of applying to the Board for both preliminary and final approval of a conversion application was an unnecessarily complicated procedure.

The procedural format of the Board's proposed regulations was similar to that of its current regulations for the conversion of State stock and mutual institutions to Federal mutual associations. Those regulations establish eligibility standards and require the filing with the Board of a preliminary application for approval of the proposed plan of conversion, the submission of the plan to association members or stockholders for approval, and the filing of a formal application with the Board for final approval.

The Board believes that it may provide for a simplified conversion process without affecting the substantive rights of the members or stockholders of the converting institution. The Board therefore has determined to modify accordingly its proposed regulations for the conversion of State stock institutions to Federal stock associations and its current regulations for conversion of State stock and mutual institutions to Federal mutual associations, by combining the preliminary and final approval procedures into a single approval process, as set forth in revised § 543.9.

The Board has determined that a 30-day delay of effective date under 12 CFR 508.14 and 5 U.S.C. § 553(d) is unnecessary because the regulatory amendments implement a statutory directive and relieve restrictions.

Accordingly, the Board hereby amends Parts 543 and 552 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 543 and 552), as set forth below.

Federal Savings and Loan System

PART 543—INCORPORATION, ORGANIZATION AND CONVERSION

1. Amend § 543.9 by revising paragraph (a) thereof; by adding a new paragraph (b) thereto; by revising former paragraph (b) and redesignating it as paragraph (c); and by revising former § 543.10 and redesignating it as new paragraph (d) of § 543.9; to read as follows:

§ 543.9 Application.

(a) *Filing.* Any member desiring to convert itself into a Federal mutual association shall, after approval by its board of directors, file an application in duplicate through its Bank on forms obtained from the Bank or the Board. A non-member institution eligible to apply for membership may likewise file such an application, simultaneously with its application for membership, through the Bank of which it proposes to become a member. The applicant shall submit any financial statements or other information the board may require and pay all costs, determined by the Board, of the Board's consideration of the application.

(b) *Plan of conversion.* The applicant shall submit with its application a plan of conversion specifying the location of the home office and any branch offices to be maintained by the Federal mutual association, and providing for:

(1) Appropriate reserves and surplus for the Federal mutual association;

(2) Satisfaction in full or assumption by the Federal mutual association of all creditor obligations of the applicant;

(3) Issuance by the Federal mutual association of savings accounts to current holders of withdrawable accounts in an amount equalling the value of such accounts; and

(4) If applicable, issuance of additional savings accounts to current holders of nonwithdrawable capital stock of the applicant in an amount equalling the value of their nonwithdrawable capital stock, including the present value of any preference to which such holders are entitled.

(c) *Board action.* The Board will consider such application and any information submitted therewith, and approve or disapprove the application. All approvals shall be conditioned on compliance with paragraph (d) of this section. The Board will not consider the application of a converting institution not insured by the Federal Savings and Loan Insurance Corporation until an eligibility examination has been completed to the satisfaction of the Federal Savings and Loan Insurance Corporation.

(d) *Conditions.* After the Board approves an application for conversion to a Federal mutual association, the applicant shall promptly: (1) Comply with all conditions prescribed in the approval; (2) obtain approval of the plan of conversion by the vote which Section 5(i) of the Act requires and any such vote which may be required by laws of the applicant's jurisdiction; and (3) comply with all other legal requirements. The Board may withdraw its approval of an application if the applicant does not comply with the provisions of this paragraph.

2. Delete § 543.10; redesignate § 543.11 as new § 543.10; and amend new § 543.10 by deleting paragraph (a), removing the paragraph "(b)" designation, and revising the text to read as follows:

§ 543.10 Issuance of charter.

Approval of an application for conversion to a Federal mutual association is final only if the applicant, if not previously a Bank member, has been approved for Bank membership, and has met all the conditions of paragraph (d) of § 543.9 of this subchapter. Upon receipt of written evidence of compliance with all such conditions, the Board will issue a charter as provided in § 544.1 of this subchapter. Issuance of a charter signifies completion of the conversion process.

§543.11 [Redesignated from § 543.12]

3. Redesignate § 543.12 as new § 543.11, delete the reference to § 543.11 in new § 543.11 and replace it with a reference to § 543.10.

PART 552—STOCK ASSOCIATIONS

4. Add new § 552.2–1, to read as follows:

§ 552.2–1 Conversion from state stock to Federal stock charter.

With the approval of the Office of Industry Development and the concurrence of the Office of General Counsel, any state stock savings and loan type institution that existed in stock form prior to March 31, 1976, may convert to a Federal stock association, subject to its compliance with the requirements set forth in §§ 543.8 through § 543.11 of the subchapter governing conversion to a Federal mutual association. In lieu of compliance with the requirement of § 543.9(b)(4), an applicant shall provide that the holders of nonwithdrawable capital stock of the applicant shall exchange, on a one-for-one basis, each share of such stock for a share of nonwithdrawable capital stock in the Federal stock association. The new types and classes of stock shall be the same as the former types and classes; however, types and classes of stock that contain provisions inconsistent with the provisions and standards set forth in Charter S shall be amended to conform therewith. A 51 percent or more vote which otherwise complies with the provisions of this section except that it was obtained prior to this section's effective date, but subsequent to March 30, 1980, shall be deemed to be in compliance with § 543.9(d)(2).

5. Amend § 552.3, to read as follows:

§ 552.3 Issuance of charter.

(a) Unless otherwise determined by the Board by advice in writing, a Federal association which has amended its charter pursuant to § 552.2 shall be issued a Charter S in the form following paragraph (b) of this section, or a form including one or more additional provisions set forth in § 552.4 if such provisions are specifically requested.

(b) A Charter S in the following form shall be issued to a state stock savings and loan type institution which has converted to a Federal stock association pursuant to § 552.2–1, except that in a case not involving an association that has converted from mutual to stock form, Section 7 of Charter S requiring a liquidation account and all references thereto shall be deleted, Sections 8 and 9 shall be redesignated Sections 7 and 8 respectively, and the optional provision contained in § 552.4(b) of this Part shall not be available.

6. Amend the preamble of § 552.4(b) to read as follows:

§ 552.4 Optional charter provisions.

* * * * *

(b) Except as to associations with a Charter S not issued in connection with a conversion from mutual to stock form, amend Charter S by redesignating Sections 8 and 9 as Sections 9 and 10 and add a new section as follows: * * *

(Sec. 5, 48 stat. 132, as amended; sec. 105, Pub. L. 93–495, October 28, 1947; Secs. 402, 403, 407, 48 stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; sec. 5, 48 stat. 132 as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

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By the Federal Home Loan Bank Board.

J. J. Finn

Secretary

[FR Doc. 80-26215 Filed 8-26-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 372

Extension of Validity Period for Export Licenses; Clarification of Effect of Amendment Applications

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: Most individual validated export licenses for the export of commodities are valid for one year, and may be extended by amendment for an additional six months. This revision permits an exporter to request and obtain validity period extensions in excess of six months when unusual circumstances arise.

Although the intent of the regulations continues to be to require applicants for amendments to licenses to receive approval by the Office of Export Administration before they may ship under the amended terms, recent compliance actions have demonstrated the need to restate this intent more clearly. This restatement clarifies the ongoing requirement that a licensee receive official approval before exporting under the terms of the amendment.

DATES: This rule becomes effective on August 27, 1980 but may be further revised in light of any comments received. Comments must be received by the Department before noon, October 27, 1980.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, 9-60, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230, Telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and the International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close (60 days following publication). All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are revised as follows:

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

1. Section 372.11(b) is revised to read as follows:

§ 372.11 Amending export licenses.

* * * * *

(b) *General provisions.* The Office of Export Administration will consider for approval a request to amend an outstanding export license for the purpose of conforming it to changes which have taken place in the original transaction, provided that the change is not of such significance as to constitute a new transaction. A licensee may export under the terms of an amendment only after receiving Office of Export Administration approval in writing of the application to amend.

2. Section 372.12 is amended by:

a. Revising § 372.12(c) to read as follows:

§ 372.12 Special provisions for an amendment to extend the validity period of a license.

* * * * *

(c) *Length of extension.* Usually, only one extension will be granted for a license carrying a one-year validity period, and the length of the extension will be limited to a maximum of six months from the original expiration date shown on the license. If unusual circumstances arise that necessitate more than one extension, or an extension of more than six months, the required length of extension and proposed new expiration date should be indicated on Form ITA-685P, Request for and Notice of Amendment Action, and supporting documentation and detailed justification should be attached. (See § 372.9(d)(2) for additional information on extensions of individual validated licenses and § 379.5(f)(2) with respect to extensions of technical data licenses.)

b. Adding a new paragraph (f) as follows:

* * * * *

(f) *Export during extended validity period.* A licensee may export after the expiration date of the original license only after receiving Office of Export Administration approval in writing of the application to extend the validity period.

(See § 372.11(b) and § 386.2(b)(2))

(Secs. 4, 15 and 21, Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); and Department Organization Order 41–1 (45 FR 11862, February 22, 1980))

Dated: August 21, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–26154 Filed 8–26–80; 8:45 am]

BILLING CODE 3510–25–M

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15 CFR Part 373

Clarification of Reexport Restrictions and Clarification of Which Aircraft and Helicopters Are Excluded From Special Licensing Procedures

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends 15 CFR Part 373 both to clarify country limitations imposed on reexports of certain commodities by distributors under the Distribution License procedure, and to clarify language describing aircraft and helicopters which are excluded from consideration under the special licensing procedures.

DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Accordingly, the Export Administration Regulations (15 CFR 368 *et seq.*) are amended as follows:

1. A new sub-paragraph (v) reading as follows is added to § 373.3(i)(1):

§ 373.3 Distribution license.

* * * * *

(i) * * *

(1) * * *

* * * * *

(v) An approved consignee may reexport only to eligible countries. See Supplement No. 1 to Part 373 for country limitations on certain commodities.

2. Supplement No. 1 to Part 373 is amended by revising entry 1460, 5460, 6460 as follows:

1460, 5460, 6460: 1460 sub-entries (a) and (b) only, 5460 entire entry, 6460 sub-entries (a) and (b) only: Nonmilitary aircraft and helicopters. (Nonmilitary aircraft designed to carry up to a maximum of 25 persons, including crew, may be exported under the Distribution License to all normally eligible countries, except the Republic of South Africa, Namibia, Syria, Iraq, Libya, or the People's Democratic Republic of Yemen.)

(Secs. 13, 15, and 21, Pub. L. 96–72, to be codified at 50 U.S.C. App. § 2401 *et seq.*, Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980))

Dated: August 15, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–26155 Filed 8–26–80; 8:45 am]

BILLING CODE 3510–25–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations Under the Commodity Exchange Act; Contract Market Rules and Authority Delegations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending its general regulations under the Commodity Exchange Act with respect to submission of contract market rules and delegations of authority concerning review of such rules. The amendment to the Commission's rules is to specifically indicate that the Commission will return and not review rule submissions that do not strictly comply with the Commission regulations for the submission of reviewable rules. This is necessary because of the amount of time that is needed to review incomplete rule submissions. To implement this new provision, the Commission is delegating authority to the Executive Director and the Director of the Division of Trading and Markets to determine whether to remit and not accept for review any rule submitted under section 5a(12) of the Act.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: William D. Grossman, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202) 254–8955.

SUPPLEMENTARY INFORMATION: Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, section 12, 92 Stat. 871 (1978), is designed specifically to afford the Commodity Futures Trading Commission ("Commission") the opportunity to review and evaluate contract market rules prior to their being placed into effect. In order to effectuate the purposes of section 5a(12), it is essential that the Commission be given sufficient information concerning a proposed reviewable rule upon which to base its statutorily-required analysis. To this end, the Commission adopted regulation 1.41.[1]

Regulation 1.41(b)(3), in particular, requires each contract market which submits a proposed reviewable rule to

> Set forth an explanation of the proposed reviewable rule, including its anticipated effective date and purpose, a description of any action taken or anticipated to be taken as a result of or pursuant to the proposed reviewable rule, how the rule fits into the contract market's scheme of self-regulation, how the rule furthers the purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed reviewable rule (if a proposed reviewable rule affects, directly or indirectly, the application of any other rule of the contract market, set forth the pertinent portion of the text of any such rule and describe the anticipated effect of the proposed reviewable rule on the application thereof) * * *

In order to expedite the Commission's processing of reviewable rules, it is imperative that the contract markets comply fully with the requirements of

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[1] *See* 40 FR 29085 (July 10, 1975), 41 FR 40091 (September 17, 1976).

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regulation 1.41(b). Thus, in the **Federal Register** release announcing the adoption of regulation 1.41, the Commission stated that it

> "will not accept a contract market reviewable rule submission not in substantial compliance with the form and content requirements of paragraph (b) of regulation 1.41. Where the submission of a proposed reviewable rule fails to meet the requirements of paragraph (b), the Commission will give written notice of such inadequacy to the contract market generally within ten (10) days of receipt of such submission by the Commission." 41 FR 40091 at 40094 (September 17, 1976).

To the extent that contract markets meet their obligations to supply the information required by regulation 1.41(b)(3), the time and effort expended by the Division of Trading and Markets to prepare recommendations for Commission action is significantly reduced. However, heretofore, several contract markets have not taken full advantage of their opportunity to facilitate expeditious Commission action on proposed reviewable rules. Incomplete or otherwise inadequate submissions from these contract markets have often prompted Commission staff to expend an inordinate amount of time in an effort to have the contract markets correct or supplement submissions which they are obligated to prepare completely in the first instance. Such efforts also prevent the staff from using its resources to review expeditiously those rules that are submitted by other contract markets in full compliance with regulation 1.41(b). Accordingly, the Commission has revised regulation 1.41(b) expressly to provide that it may return to contract markets and not accept for review, proposed rules that do not comply with the requirements of that provision. The amendment to regulation 1.41(b) places no additional burdens on the contract markets and serves to emphasize the Commission's views it announced adopting regulation 1.41. By amending regulation 1.41(b) specifically to include a provision regarding the return of inadequate submissions, the Commission's intent is the same as it was when regulation 1.41(b) was adopted in 1976; i.e., "to accelerate the review of proposed reviewable rules pursuant to section 5a(12) of the Act." *Id.*

Delegation of Authority

In order to implement regulation § 1.41(b), as amended, and in an effort to utilize the Commission's resources in an efficient manner, the Commission is delegating authority to the Executive Director and the Director of the Division of Trading and Markets, and to such persons under the supervision of the Executive Director or the Director of the Division of Trading and Markets as such Directors may from time to time designate, to determine whether to remit and not accept for review any rule submitted under section 5a(12) of the Act and regulation 1.41(b). This delegation of authority is codified in new subsection (c) of regulation 1.41a.

Since the amendment to regulation 1.41(b) and new subsection (c) of regulation 1.41a relate solely to the organization, procedures, and practices of the Commission, they are exempt from the requirements of 5 U.S.C. 553 regarding notice of proposed rulemaking and other public participation.

In consideration of the foregoing, the Commission, pursuant to the authority in sections 8a(5) and 2a(11) of the Commodity Exchange Act, as amended 7 U.S.C. §§ 12a(5) and 4a(j), is amending Title 17, Chapter I, Part 1 of the Code of Federal Regulations by amending paragraph (b) of regulation 1.41 and adopting a new subsection (c) of regulation 1.41a as follows:

§ 1.41 Contract market rules, submission of rules to Commission, exemption of temporary emergency rules and certain operational and administrative rules, emergencies.

* * * * *

(b) Except as provided in paragraphs (c) and (f) of this section, all proposed reviewable rules must be submitted to the Commission for approval pursuant to section 5a(12) of the Act at least 30 days prior to their proposed effective dates or within such shorter period of time as the Commission may permit. Three copies of each such rule shall be furnished to the Commission at its Washington, D.C. headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. ►The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept for review any rule submission that does not comply with the form and content requirements of subsections (1)–(4) of this paragraph (b). Each such submission shall, in the following order:◄ (Addition enclosed in arrows)

* * * * *

§ 1.41a Delegation of authority to the Executive Director and the Director of the Division of Trading and Markets

The Commission hereby delegates, until the Commission orders otherwise, the following authority to the Executive Director and the Director of the Division of Trading and Markets, to be exercised alternatively by either such Directors or by such other employee or employees of the Commission under the supervision of either Director as may be designated from time to time by the Director responsible for the supervision of such other employee or employees:

* * * * *

►(c) Pursuant to § 1.41(b), to determine whether to remit to a contract market and not accept for review any rule submitted pursuant to section 5a(12) of the Act and regulation 1.41(b) thereunder, where such Director determines that such rule submission does not comply with the form and content requirements of paragraph (b) of regulation 1.41.◄ (Addition enclosed in arrows)

* * * * *

Issued in Washington, D.C., on August 20, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-26191 Filed 8-26-80; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 140

Organization, Functions and Procedures of the Commission; Delegation of Authority to the Chief Administrative Law Judge

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission has adopted new rule 140.61, governing the appointment of a Presiding Officer to conduct summary reparation proceedings in cases in which a hearing is not held. The rule delegates to the Chief Administrative Law Judge the Commission's authority to appoint a Commission employee as a Presiding Officer, subject to the concurrence of the Executive Director that the appointment is consistent within the Commission's allocation of staff resources.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Donald Tendick, Executive Director, Commodity Futures Trading Commission; 2033 K Street, NW., Washington, D.C. 20581; (202)–254–7556.

SUPPLEMENTARY INFORMATION: Section 14 of the Commodity Exchange Act, 7 U.S.C. 18, provides that a person who wishes to complain of a violation of the Act, or of any rule, regulation, or order thereunder, may apply to the Commission for an order awarding reparations. The Commission is authorized to afford an opportunity for a hearing before an Administrative Law

Judge. Section 14(b), however, provides "that in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing need not be held and proof in support of the complaint and in support of the respondent's answers may be supplied in the form of depositions or verified statements of fact." Commission Rule 12.71(a)(2) implements this provision. In addition, Commission Rule 12.71(a)(1) provides that in cases where the amount claimed exceeds $5,000, the parties may waive a hearing.

Subpart G of the Commission's Rules Relating To Reparations Proceedings governs summary proceedings in cases in which a hearing is not held, 17 CFR Part 12, Subpart G (1979). These proceedings generally are based on a written record resulting from discovery, submission of verified statements, written depositions, proposed findings and conclusions, and briefs. Since a hearing is not required, the rules permit appointment of a Presiding Officer who is not an Administrative Law Judge to conduct these proceedings. Thus, Rule 12.91 provides for the appointment of a Presiding Officer in Summary Proceedings who shall be a member of the Commission, an Administrative Law Judge, a Hearing Officer, or such other Commission employee "as may be appointed by the Commission to conduct the proceeding."

A substantial portion (about 10 percent) of the reparations cases now pending may be considered in summary proceedings. In aid of an expeditious resolution of these pending cases, the Commission has determined that the Chief Administrative Law judge should be able, as needed, to appoint Commission employees who are deemed qualified to consider specific cases subject to summary proceedings. In order to avoid a drain on Commission personnel resources, the appointment will be subject to the concurrence of the Executive Director with regard to the availability of the designated employee. The delegation to the Chief Administrative Law Judge further reserves to the Commission the right to revoke the delegated authority at any time.

A Presiding Officer in Summary Proceeding cases will issue an initial decision that is subject to Commission review in the same manner as the initial decisions that are issued by Administrative Law Judges in cases in which hearings are required. The Presiding Officer will, of course, be bound by all rules governing the conduct of a decisional employee (e.g. Rule 12.9, concerning ex parte communications in reparations proceedings; Rule 12.10, concerning separation of functions).

Based on the foregoing, the Commission hereby amends Part 140 of Chapter I of Title 17 of the Code of Federal Regulations by adopting § 140.61 to read as follows:

§ 140.61 Delegation of authority to the chief administrative law judge.

(a) The Commission hereby delegates to the Chief Administrative Law Judge, until such time as the Commission orders otherwise, the authority reserved to the Commission in § 12.91 of this chapter to appoint a Commission employee who is not a member of the Commission, an Administrative Law Judge or a Hearing Officer, as a Presiding Officer to conduct summary proceedings in accordance with Subpart G of Part 12 of this chapter in those reparations cases in which a hearing is not required, as set forth in § 12.71 of this chapter.

(b) Notwithstanding the provisions of paragraph (a) of this section, the appointment of a Presiding Officer pursuant to this delegation of authority shall be subject to the concurrence of the Executive Director that the appointment of any particular employee will be consistent with the Commission's allocation of staff resources.

(Secs. 2(a)(11) and 14 of the Commodity Exchange Act, as amended, (7 U.S.C. 4a(j) and 18); 92 Stat. 875–876 (September 30, 1978))

The foregoing rule shall be effective immediately. The Commission finds that the rule relates solely to agency practice and procedure and that the notice and other public procedures called for by the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued by the Commission on August 21, 1980 in Washington, D.C.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80–26211 Filed 8–26–80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Departmental Regulation 108.793]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's regulations defining "accompanying" or "accompanied by" are amended to provide that a principal alien who travels abroad to confer alternate foreign state chargeability upon a spouse or child may travel to any country, including the country in which the dependent's immigrant visa is being processed, and personally register abroad for that purpose at a consular office. In addition, the amendment permits a principal alien to confer immigrant status to a spouse or child who cannot follow to join the principal alien under applicable statutes. These amendments bestow a benefit upon a principal alien by permitting him to travel to a consular post closer to his residence than that at which his dependents' visas are being processed.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, (202) 632–1900.

SUPPLEMENTARY INFORMATION: Under the existing definitions of "accompanying" or "accompanied by" in § 42.1, an alien in the United States who wants to confer alternate foreign state chargeability to a spouse or child under section 202(b) of the Immigration and Nationality Act at a date later than four months after having been issued an immigrant visa or granted adjustment of status must travel abroad to the country in which the dependent is applying for an immigrant visa and personally appear before a consular officer for that purpose. This amendment permits the principal alien to appear and register at any consular office for the purpose of conferring alternate foreign state chargeability to a spouse or child or, where applicable, immigrant status upon a spouse or child.

Because this regulation is purely administrative in nature, and without adverse effect, compliance with the provisions of 5 U.S.C. 553 relative to notice of proposed rulemaking is impracticable and unnecessary.

In § 42.1, the first sentence in the definitions "accompanying" or "accompanied by" is amended by deleting line 9 through the end of that sentence and substituting the following:

§ 42.1 Definitions.

* * * * *

"Accompanying" or "accompanied by" means * * * the principal alien, or within four months from the date on which the principal alien personally appears and registers before a consular officer abroad for the express purpose of conferring alternate foreign state

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chargeability or, where applicable, immigrant status upon a spouse or child.

* * *

* * * * *

(Section 104, 66 Stat. 174; Section 109(9)(1), Foreign Relations Authorization Act, 91 Stat. 847; 8 U.S.C. 1104)

Dated: August 19, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-26275 Filed 8-26-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-788]

Community Development Block Grant Program; Small Cities

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule modifies the regulations governing the Small Cities Community Development Block Grant Program in order to permit, on a demonstration basis, a very limited number of States to participate to a greater degree in that program.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Trudy P. McFall, Acting Director, Office of Planning and Program Coordination, Washington, D.C., (202) 755-6290.

SUPPLEMENTARY INFORMATION: An important part of the President's Urban Policy initiatives has involved efforts to strengthen the partnership between Federal and State governments in order to better aid distressed places and people. Toward this end, the Department of Housing and Urban Development is working to involve States more closely in the Department's programs. As a part of that effort HUD published a proposed rule in the **Federal Register** on April 22, 1980, for public comment. The rule governs a demonstration of increased participation for one or more States in the process used to select small cities to receive grants under the Community Development Block Grant program. HUD's objective is to determine whether increased State participation can further such objectives as more effective targeting and coordination of Federal and State resources to communities with greatest need, more responsiveness to State and local priorities and plans, and greater commitment of State resources to housing and community development. To the extent these objectives are achieved, HUD may continue the demonstration in a second year.

Participation by States in the Small Cities CDBG program is provided for in Section 104(e) of the Housing and Community Development Act of 1974, as amended, and in § 570.422 of the regulations. This section dealing with State involvement has been reserved until now pending the outcome of deliberations within HUD on appropriate roles for States in the CDBG program. The rule adds the language for the reserved § 570.422.

HUD expects to involve one or more States in the initial demonstration effort being established under this regulation. States expressing an interest in greater direct participation in the Small Cities CDBG program and appearing to best meet the criteria for participation will be given the opportunity to submit a proposal. The State or States selected will participate in the demonstration only if there is a consensus of eligible CDBG preapplicants obtained through a process acceptable to the Secretary that they wish the State to have such a rule. Furthermore, HUD will involve its Area Offices closely in the selection process and does not expect to select a State without the support of the Area Office.

The State or States selected will design a system for ranking small cities to receive the Community Development Block Grants and will manage the FY 1981 preapplication and selection process for Small Cities applications within the State. The State or States will develop the selection criteria and procedures in consultation with eligible local governments and HUD. HUD will review and approve the State selection criteria to ensure that they are consistent with CDBG law. Once approved by HUD, the State selection system will be substituted for the normal Small Cities selection criteria and process and appropriate notification of such substitution shall be provided in the **Federal Register**.

Using the approved selection system the State will advise HUD of the preapplications that it is recommending for funding. HUD will review the recommended preapplications for completeness, eligibility, and other appropriate programmatic requirements.

Interested persons were given until May 22, 1980 to submit written comments. Twenty-four persons submitted comments. All comments received with respect to the proposed rule were carefully considered.

The following paragraphs summarize the comments received and explain the Department's response to the comments received and other changes made to the proposed regulations.

The most frequently expressed concern received in the comments was that bringing State government into the Small Cities program's selection process would add an unnecessary layer of government which would increase paperwork and processing time. While the Department recognizes that this could happen, HUD will make every effort to organize the selection process with the State and make maximum efforts to avoid duplication. HUD will assess the degree of duplication or inefficiency in the demonstration project and use the results as important factors in determining the net value of State participation to small cities and whether to repeat the demonstrations in the future.

Ten of the commenters expressed serious concern about the possibility that what they consider to be an objective process could become politicized. The Department will exercise every precaution to prevent that through careful review and monitoring of the State's proposed selection criteria, proposed selection process, and actual operations of the selection system. Paragraph (e), Monitoring and Evaluation, has been added to the rule to make the Department's intent clear. Further protection will be provided by the requirement for the State to obtain recommendations from its cities while developing the selection criteria and the system for applying them. The Department will encourage cities' recommendations on how to avoid politicization of the State's selection process. Also, the Department will be closely involved in the demonstration to ensure that the criteria are applied consistently and fairly.

Four commenters made recommendations about the need for assuring that there is, in fact, a consensus among the States' communities of less than 50,000 to permit the State to play the role in the selection process defined by this rule. It was recommended by two commenters that approval of at least 60 percent of the States' small cities should be obtained. The Department agrees in principle with setting such a threshold percentage but considers it inappropriate to specify in the rule. Doing so would eliminate the flexibility to make allowances for the practical difficulty of obtaining the necessary endorsements in States with large numbers of very small communities. Other methods of demonstrating support for State involvement such as the endorsement of a State municipal league should be permitted when it is clear to HUD that such an organization can indeed speak for its constituent eligible governments on this subject. The Department believes that flexibility to recognize the variations among State situations should be maintained and therefore has not introduced a specific national threshold. Since the Department will be working with only two States we will be able to determine that a workable consensus has been obtained.

A potential conflict of interest was seen by four commenters who felt a State should not be allowed both to assist the preparation of a local preapplication and subsequently evaluate it in the selection process. The Department agrees and has added the necessary language to paragraph (c).

The A–95 process was considered an adequate provision for State review by five commenters. Although A–95 provides an opportunity to comment on projects that are in conflict with State plans and projects, it does not provide an incentive for a State to look for opportunities to combine its resources with Federal resources to aid communities with the greatest needs nor to set priorities among projects. These are principal objectives of this demonstration. The Department wants the A–95 process used more effectively by State, areawides, and local government but does not believe A–95 can achieve the objectives sought in this demonstration.

A few commenters sought assurance of participation in the process for their organization. This included involvement for areawide planning agencies, State municipal leagues, groups which advocate the needs of low and moderate income persons, and rural areas. The Department believes it is desirable for such interests and organizations to contribute to the effort and will encourage States to involve them in designing the selection system.

Three commenters recommended stronger requirements for added State assistance in housing and community development to aid distressed places and expand housing choices for low and moderate income persons. One commenter proposed requiring a State match of small city program grants. The Department has modified the wording of paragraph (b)(1) to show that in evaluating State proposals it will look for evidence of a history of substantial assistance and a commitment to continue or increase it.

Several commenters said that the current selection system was working and that the proposed changes were unnecessary or, in one case, wasteful. They were further concerned that they would lose the benefit of direct contact with knowledgeable HUD staff. The Department's objective in undertaking this demonstration is to bring about increased and better-targeted assistance for distressed people and communities. That is both a necessary and important objective for the Department to seek to achieve in a period of shrinking resources. Department staff will continue to be available to work with local staff and could, in fact, have more time for technical assistance in demonstration States, since the work of the selection process is shared with the States.

In summary, the comments received raised a number of valuable cautions about various aspects of the Demonstrations to be conducted. The Department has modified the regulation to incorporate some of the more specific suggestions for changes and will be mindful of the general concerns in the conduct of the demonstration. On balance, the Department feels it is appropriate to proceed since this effort is designed as a demonstration.

The Department has determined that an Environmental Impact Statement is not required as a result of this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk at the above address.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Part 570 Subpart F is amended by issuing § 570.422 to read as follows:

§ 570.422 State participation.

(a) *Demonstration.* The Secretary may establish an experimental demonstration program with one or more States to determine whether States' involvement in partnership with HUD, in the process of selection of Small Cities grantees increases the targeting of Federal and State resources to distressed places and to the special problems of low- and moderate-income persons and minorities, as well as increases the total amount of State resources to distressed places.

(b) *Criteria for State participation.* In order to be eligible for participation in the demonstration program, a State must obtain, through a process acceptable to HUD, a consensus of the eligible small city applicants within the State that they agree that the State should have a role in the selection process. In evaluating State proposals HUD will select the best proposals, considering both the State's past progress and the extent of future commitment to the following criteria:

(1) Providing substantial State funds for low- and moderate-income housing and community development which aid distressed places and expand housing choices for low- and moderate-income persons;

(2) Using plans, policies and programs which constitute a development strategy which is the basis for State decisionmaking;

(3) Demonstrating a system for targeting State resources to all distressed communities, including cities over 50,000 population, and to low- and moderate-income persons and minorities; and

(4) Having staff capacity and financial resources to undertake the demonstration.

(c) *Selection of small city grantees.* A State which is designated by the Secretary to participate in the demonstration shall in consultation with HUD and eligible small city applicants within the State, develop selection criteria and a system for managing the preapplication solicitation and selection process. Selection criteria and the management system and selection process shall be reviewed by HUD for consistency with the requirements of the Act. After HUD notifies a State of its approval, the State selection criteria and process shall be substituted for the selection process provided in §§ 570.424 through 570.430 and appropriate notice shall be published in the **Federal Register** and the State shall manage the preapplication process and make recommendations for funding to HUD. The States selected for participation in the demonstration shall not prepare preapplications or applications for Small Cities program grants nor submit applications on behalf of eligible Small Cities program applicants.

(d) *Grant approval.* HUD, which shall make the decision as to the preapplicants which shall be funded, shall as part of the grant approval process consider (1) the State's recommendations; (2) whether the State's approved selection criteria were reasonably and consistently applied; and (3) compliance by the preapplicants with the requirements of this subpart.

(e) *Monitoring and Evaluation.* HUD will monitor and evaluate the demonstration to determine how well State participation in the Small Cities program selection process achieves the objectives contained in paragraph (a).

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(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–123); and Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d); Section 7(o) of the Department of HUD Act), (42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978))

Issued at Washington, D.C., August 20, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80–26159 Filed 8–26–80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, 301

[T.D. 7716]

Withholding on Certain Crewmen Engaged in Fishing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the treatment of certain crewmen on boats engaged in catching fish as self-employed rather than as employees. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. These regulations provide operators and crewmen of fishing boats with guidance necessary for compliance with the Acts.

DATES: The amendments to the regulations relating to income tax withholding and self-employment taxes are effective for taxable years ending after December 31, 1954. The amendments to the regulations relating to social security taxes are effective with respect to services performed after December 31, 1954, except for services performed after December 31, 1954, but before October 4, 1976, in cases in which the owner or operator of a boat treated a share of the boat's catch as being subject to such taxes. The amendments to the regulations relating to reporting requirements are effective for calendar years beginning after October 4, 1976.

FOR FURTHER INFORMATION CONTACT: Claudine Ausness of the Legislation and Regulation Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459).

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 1402, 3121, 3401, and 6050A of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 1207 (e) and (f)(4) of the Tax Reform Act of 1976 (90 Stat. 1706), as amended by section 701(z) of the Revenue Act of 1978 (92 Stat. 2921). No public hearing was requested. After consideration of comments regarding the proposed amendments, those amendments are adopted by this Treasury decision as proposed.

Explanation of Provisions

Under the Tax Reform Act of 1976, as amended, if certain conditions are met, after 1954 crewmen on boats engaged in catching fish and other aquatic animals are generally considered self-employed, rather than employees, for purposes of income tax withholding, self-employment tax, and the social security laws.

In order for a crewman to be considered self-employed, all of the following conditions must be met:

(1) The crew member must receive in payment for his services a fixed share of the boat's catch or of the proceeds from the sale of the catch and he must be entitled to no other cash or property independent of the size of the catch;

(2) The amount of the crew member's share must depend solely on the amount of the boat's catch, and therefore the amount of the share cannot be fixed at any minimum (in dollars or weight); and

(3) The crew of the boat on which the individual performed these services must normally be made up of fewer than 10 individuals.

Even if the criteria under the new provision are satisfied, for purposes of the social security tax a crewman is nevertheless deemed an employee, with regard to any services performed after December 31, 1954, but before October 4, 1976, if the boat operator treated a share of the boat's catch received by the crewman as subject to social security taxes.

If the new criteria are satisfied, the boat operator must file an information return on Form 1099–F (Copy A) by February 28 of the calendar year following the year in which service is performed, and, if the crewman has made his address known, the operator must furnish Copy B of the same form to the crewman. The operator must report on Form 1099–F the identity of each individual performing services, the individual's percentage share of the catch, and the amount of the proceeds received or the type and weight of the catch each crewman received as compensation for his services.

The regulation explicitly states that a crewman's share is not dependent solely on the amount of the boat's catch if the crewman is entitled under any individual or collective agreement to any fee, hourly wage, minimum for services, or any other amount unrelated to the size of the catch. Further, the operating crew includes the captain for purposes of determining the number of persons who normally make up the crew of the boat.

Two comments made with respect to the proposed rules expressed some confusion as to whether the same individual could be considered self-employed for one voyage and an employee for the next voyage as a result of how remuneration for the crewman was calculated. The regulation clearly provides that services performed by a crewman on one voyage may be excepted from employment but may not be so excepted on a subsequent voyage on the same or on a different boat, and that services of some crewman on a voyage may be excepted from employment while services of other crewman on the same voyage may not be so excepted. For example, a crewman on a 5-man crab fishing boat, if paid solely on a share basis, might be considered self-employed for that trip, but the same crewman on a subsequent salmon tendering trip, if compensated on a per-diem basis, would be considered an employee.

The regulation specifies certain events which result in a boat operator's "treating" a share of the boat's catch as subject to social security taxes for purposes of the exception to the 1955 effective date in the case of such taxes. For example, the operator is generally deemed to have treated the share of the catch as subject to social security taxes (1) if the operator voluntarily filed Form 941, (2) if he made full or partial payment of FICA tax (unless he made such payment only in order to file a court claim for a refund), or (3) if the operator withheld FICA tax from the crewman's share (regardless of whether the tax was paid over to the Service).

The regulation makes clear that, if a share of the catch has been "treated" as subject to social security taxes, in the case of services performed after December 31, 1954, but before October 4, 1976, even though the crewman otherwise satisfied the criteria necessary for being considered self-employed, he is not required to pay tax on self-employment income with respect to such services, but is required to pay income tax on income received for such services. The fact that a boat operator has treated a share of the catch as being subject to the social security tax does not mean that the operator is required to withhold income tax with respect to that share. However, in such cases the boat operator is required to pay over both the employee and employer portions of FICA tax.

The final regulations adopted by this Treasury decision impose no significant new reporting or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations to statutory changes. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of these regulations is Claudine Ausness of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Parts 1, 31, and 301 published as a notice proposed rulemaking in the **Federal Register** for April 9, 1980 (45 FR 24207), are hereby adopted as proposed.

The Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: August 18, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.1402(c)-3 is amended by revising the second sentence of paragraph (a) and by adding a new paragraph (g) to read as follow:

§ 1.1402(c)-3 Employees.

(a) *General rule.* * * * However, in six cases set forth in paragraphs (b) to (g), inclusive, of this section, the performance of service by an individual is considered to constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. * * *

* * * * *

(g) *Individuals engaged in fishing.* For taxable years ending after December 31, 1954, service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1 if the service is excepted from the definition of employment by section 3121(b)(20) and § 31.3121(b)(20)-1(a). However, the preceding sentence does not apply to services performed after December 31, 1954, and before October 4, 1976, on a boat engaged in catching fish if the owner or operator of the boat treated the individual as an employee in the manner described in § 31.3121(b)(20)-1(b).

Par. 2. Section 1.6050A-1 is added immediately after § 1.6050-1, to read as follows:

§ 1.6050A-1 Reporting requirements of certain fishing boat operators.

(a) *Requirement of reporting.* The operator of a boat on which one or more individuals during a calendar year performed services described in § 31.3121(b)(20)-1(a) shall make an information return on Form 1099F for that calendar year. The return shall include the following information:

(1) The name and taxpayer identification number of each individual performing the services;

(2) The percentage of each individual's share of the catch of fish or other forms of aquatic life (hereinafter "fish");

(3) The percentage of the operator's share of the catch of fish;

(4) If the individual receives all or part of his share of the catch in kind, the type and weight of the share and, if it can be ascertained, the fair market value of his share;

(5) If the individual receives a share of the proceeds of the catch, the dollar amount received; and

(6) Any other information that is required by the form.

For purposes of this section, the term, "boat operator" means an employer (as defined in § 31.3121(d)-2) of an employee whose services are excepted from employment by section 3121(b)(20) and § 31.3121(b)(20)-1. The boat operator may make separate returns on Form 1099F for each crew member for each voyage, or he may aggregate the information required by this paragraph for an individual for all or any part of a return period in which the type of catch (if required) and the percentage due the crew member remain the same.

(b) *Time and place for filing.* Returns required to be made under this section on Form 1099F shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099F, on or before February 28 of the year follolwing the year in which the relevant services were performed.

(c) *Requirement of and time for furnishing statement*—(1) *requirement of furnishing statement.* Every person filing a Form 1099F under this section shall furnish to the individual whose identifying number is (or should be) shown on the form a written statement showing the information required by paragraph (a) of this section. The requirement of the preceding sentence may be met by furnishing to the individual copy B of Form 1099F or a reasonable facsimile of Form 1099F that was filed pursuant to this section.

(2) *Time for furnishing statement.* Each statement required by this paragraph to be furnished to any individual for a calendar year shall be furnished on or before January 31 of the year following the calendar year for which the return was made.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Par. 3. Section 31.3121(b)(20)-1 is added immediately after § 31.3121(b)(19)-1, to read as follows:

§ 31.3121(b)(20)-1 Service performed on a boat engaged in catching fish.

(a) *In general.* (1) Service performed on or after December 31, 1954, by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") are excepted from employment if—

(i) The individual receives a share of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish or a share of the proceeds from the sale of the catch,

(ii) The amount of the individual's share depends solely on the amount of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish.

(iii) The individual does not receive and is not entitled to receive, any cash remuneration, other than remuneration that is described in sub-division (1) of this subparagraph, and

(iv) The crew of the boat (or of each boat from which the individual receives a share of the catch) normally is made up of fewer than 10 individuals.

(2) The requirement of subdivision (ii) of subparagraph (1) is not satisfied if there exists an agreement with the

boat's (or boats') owner or operator by which the individual's remuneration is determined partially or fully by a factor not dependent on the size of the catch. For example, if a boat is operated under a remuneration arrangement, *e.g.*, a collective agreement which specifies that crew members, in addition to receiving a share of the catch, are entitled to an hourly wage for repairing nets, regardless of whether this wage is actually paid, then all the crew members covered by the arrangement are entitled to receive cash remuneration other than a share of the catch and their services are not excepted from employment by section 3121(b)(20).

(3) The operating crew of a boat includes all persons on the boat (including the captain) who receive any form of remuneration in exchange for services rendered while on a boat engaged in catching fish. See § 1.6050A-1 for reporting requirements for the operator of a boat engaged in catching fish with respect to individuals performing services described in this section.

(4) During the same return period, service performed by a crew member may be excepted from employment by section 3121(b)(20) and this section for one voyage and not so excepted on a subsequent voyage on the same or on a different boat.

(5) During the same voyage, service performed by one crew member may be excepted from employment by section 3121(b)(20) and this section but service performed by another crew member may not be so excepted.

(b) *Special rule.* Services performed after December 31, 1954, and before October 4, 1976, on a boat by an individual engaged in catching fish are not excepted from employment for any voyage (for purposes of section 3121(b) and the corresponding regulations), even though the individual satisfies the requirements of subdivision (i) through (iv) of paragraph (a)(1) of this section, if the owner or operator of the boat engaged in catching fish treated the individual as an employee. For purposes of this subparagraph, the individual was treated as an employee if—

(1) Form 941 was voluntarily filed by the boat operator or owner, regardless of whether the tax imposed by chapter 21 was withheld. For purposes of this subdivision, the filing of Form 941 is not voluntary if the filing was the result of action taken by the Service pursuant to section 6651(a) (relating to addition to the tax for failure to file tax return or to pay tax);

(2) The boat owner or operator withheld from the individual's share the tax imposed by chapter 21, regardless of whether the tax was paid over to the Service; or

(3) The boat owner or operator made full or partial payment of the tax imposed by chapter 21, unless the payment was made pursuant to section 7422(a) (relating to no civil actions for refund prior to filing claim for refund). However, for purposes of this paragraph crew members whose services, but for subdivisions (i) through (iii), would have been excepted from employment by section 3121(b)(20) are not required to pay self-employment tax on income earned in performing those services. See § 1.1402(c)-3(g). Moreover, in such cases the employer is not entitled to a refund of the employer's share of any tax imposed by chapter 21 that was paid.

Par. 4. Section 31.3401(a)(17)-1 is added after § 31.3401(a)(16)-1, to read as follows:

§ 31.3401(a)(17)-1 Remuneration for services performed on a boat engaged in catching fish.

(a) Remuneration for services performed on or after December 31, 1954, by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") is excepted from wages and hence is not subject to withholding if—

(1) The individual receives a share of the boat's (or boats' for a fishing operation involved more than one boat) catch of fish or a share of the proceeds from the sale of the catch,

(2) The amount of the individual's share depends solely on the amount of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish,

(3) The individual does not receive, and is not entitled to receive, any cash remuneration, other than remuneration that is described in subparagraph (1) of this paragraph, and

(4) The crew of the boat (or of each boat from which the individual receives a share of the catch) normally is made up of fewer than 10 individuals.

(b) The requirement of subparagraph (2) of paragraph (a) is not satisfied if there exists an agreement with the boat's (or boats') owner or operator by which the individual's remuneration is determined partially or fully by a factor not dependent on the size of the catch. For example, if a boat is operated under a remuneration arrangement, *e.g.*, a union contract, which specifies that crew members, in addition to receiving a share of the catch, are entitled to an hourly wage for repairing nets, regardless of whether this wage is actually paid, then all the crew members covered by the arrangement are entitled to receive cash remuneration other than as a share of the catch and are not excepted from employment by section 3121(b)(20).

(c) The operating crew of a boat includes all persons on the boat (including the captain) who receive any form of remuneration in exchange for services rendered while on a boat engaged in catching fish. See § 1.6050A-1 for reporting requirements for the operator of a boat engaged in catching fish with respect to individuals performing services described in this section.

(d) During the same return period, service performed by a crew member may be excepted from employment by section 3121(b)(20) and this section for one voyage and not so excepted on a subsequent voyage on the same or on a different boat.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 5. Section 301.6050A-1 is added immediately after § 301.6050-1, to read as follows:

§ 301.6050A-1 Information returns regarding services performed by certain crewmen on fishing boats.

For provisions relating to the requirement of returns of information regarding services performed by certain crewmen on fishing boats, see § 1.6050A-1 of this chapter (Income Tax Regulations) and § 301.6652-1 of this chapter (Regulations on Procedure and Administration).

Par 6. Section 301.6652-1(a)(2) is amended to read as follows:

§ 301.6652-1 Failure to file certain information returns.

(a) *Returns with respect to payments made in calendar years after 1962* * * *

(2) *Other payments; statements with respect to tips.* In the case of each failure—

(i) To file a statement of a payment made to another person required under authority of section 6041, relating to information returns with respect to certain information at source, or section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a), or section 6050(a), relating to information returns with respect to remuneration of certain crew members defined in section 3121(b)(20), or

(ii) To furnish a statement required under authority of section 6053(b), relating to statements furnished by employers with respect to tips, or section 6050A(b), relating to statements furnished by fishing boat operators with respect to remuneration of certain crew members, within the time prescribed by regulations under those sections for filing such statements (determined with regard to any extension of time for filing),

there shall be paid by the person failing to so file the statement $1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $1.000.

* * * * *

[FR Doc. 80-26214 Filed 8-26-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 45

[Order No. 909-80]

Amendment to Standard of Conduct Governing Private Professional Practice and Outside Employment

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the Department of Justice rule governing private professional practice and outside employment by expanding the categories of public interest legal work which Justice attorneys are permitted to undertake. The order also makes minor changes in language and structure in order to clarify existing policies and procedures under the rule.

EFFECTIVE DATE: September 26, 1980.

FOR FURTHER INFORMATION CONTACT: Sana Shtasel, Special Assistant to the Associate Attorney General, Office of the Associate Attorney General, Department of Justice, Washington, D.C. 20530 (202-633-3309).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 45 of Chapter I of Title 28, Code of Federal Regulations is amended by inserting the following to replace § 45.735-9:

§ 45.735-9 Private professional practice and outside employment.

(a) No employee shall engage in the private practice of a profession, including the private practice of law, except as may be authorized under this section. Acceptance of a forwarding fee shall be deemed to be within the foregoing prohibition.

(b) Paragraph (a) of this section shall not be applicable to special Government employees.

(c)(1) Employees are encouraged to provide public interest professional services so long as such services do not interfere with their official responsibilities. Such public interest services must be conducted without compensation, and during off-duty hours or while on leave. Leave will be granted for court appearances or other necessary incidents of representation in accordance with established policy on leave administration (see DOJ Order 1630.1A). Representation of Federal employees in Equal Employment Opportunity (EEO) complaint procedures may be provided in accordance with § 45.735-6(c) of this title and the Department's established EEO policy (see DOJ Order 1713.5) rather than this subsection. No employee may seek, or assist a plaintiff who seeks, an award of attorney's fees for services provided pursuant to this subsection.

(2) Any *pro bono* services provided by an employee must be consistent with Federal law and regulations. In determining whether to provide *pro bono* services in a particular matter, the employee should give particular attention to the requirements of subsection (f) below. Notice of intention to provide *pro bono* services shall be given in writing to the head of the employee's division (or in the case of an Assistant U.S. Attorney to the Executive Office of U.S. Attorneys with the U.S. Attorney's comments appended thereto). Should the division head or Executive Office believe the public interest professional service may not conform to the requirements of this section the disagreement will promptly be referred to the Associate Attorney General for final resolution.

(3) Public interest services should fall into one of the following categories:

(i) Service to a client who does not have the financial resources to pay for professional services;

(ii) Services to assert or defend individual or public rights which society has a special interest in protecting;

(iii) Services to further the organizational purpose of a charitable, religious, civic, or educational organization; or

(iv) Services designed to improve the administration of justice.

(d) Employees may provide professional services, pursuant to § 45.735-6(d) of this title, to those relatives and personal fiduciaries who are listed in that section.

(e) The Associate Attorney General may make other specific exceptions to paragraph (a) of this section in unusual circumstances. Application for exceptions must be made in writing stating the reasons therefor, and directed to the Associate Attorney General through the applicant's superior. Action taken by the Associate Attorney General with respect to any such application shall be made in writing and shall be directed to the applicant.

(f) No employee shall engage in any professional practice under this section or any other outside employment if—

(1) The activity will in any manner interfere with the proper and effective performance of the employee's official duties;

(2) The activity will create or appear to create a conflict of interest;

(3) The activity will reflect adversely upon the Department of Justice;

(4) The employee's position in the Department of Justice will influence or appear to influence the outcome of the matter;

(5) The activity will involve assertions that are contrary to the interests or positions of the United States; or

(6) The activity involves any criminal matter or proceeding whether Federal, State or local, or any other matter or proceeding in which the United States (including the District of Columbia government) is a party or has a direct and substantial interest.

Dated: August 19, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-26184 Filed 8-26-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 204 and 207

Danger Zones and Restricted Areas at Certain Military Facilities in the Hawaiian Islands

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending the regulations which establish danger zones and restricted areas at certain military facilities in the Hawaiian Islands. The changes are necessary to reflect existing conditions and organizational changes.

EFFECTIVE DATE: October 1, 1980.

ADDRESS: HQDA, DAEN-CWO-N Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard (202) 272-0200.

SUPPLEMENTARY INFORMATION: The Commander in Chief, U.S. Pacific Fleet has requested certain danger zone and restricted area regulations promulgated in 38 CFR Parts 204 and 207 respectively.

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be amended. The following is a list of the locations of the affected danger zones/restricted areas and the rationale behind the change.

Section 204.223 Pacific Ocean, Hawaii; danger zones. Paragraph (c) is amended by deleting "Commandant, Fourteenth Naval District," and inserting "Commander, Third Fleet, Pearl Harbor, Hawaii 96860."

Rationale: Commandant Fourteenth Naval District has been disestablished and the enforcing agency function has been assumed by the Commander, Third Fleet.

Section 204.224a Pacific Ocean at Barbers' Point, Island of Oahu, Hawaii; danger zone. Paragraph (a) is revised to correct an omission in the coordinates defining the danger zone and paragraph (b)(2) is amended by deleting "FPO San Francisco 96611" and inserting "Hawaii 96862."

Rationale: The area description is revised to correct a defect in the boundary coordinates. This change establishes the landward boundary of the danger zone to prevent passage into the danger area along the shore. The second amendment is an address change.

Section 204.224b Pacific Ocean at Keahi Point, Island of Oahu, Hawaii; danger zone. Paragraph (b)(2) is amended by deleting "Commanding Officer, Explosive Ordnance Disposal Unit One, FPO San Francisco 96612" and inserting "Commander, Explosive Ordnance Disposal Group One, Barbers' Point, Hawaii 96862."

Rationale: Activity and address change.

Section 207.805 Pacific Ocean southwest of Laau Point, Molokai, T.H.; Navy Drill Minefield is deleted.

Rationale: The area is no longer used for the stated purpose.

Section 207.806 Pacific Ocean at Barber's Point, Island of Oahu, Hawaii; restricted area. Paragraph (b)(4) is amended by deleting "Commander, Hawaiian Sea Frontier" and inserting "Commander Fleet Training Group, Pearl Harbor, Hawaii 96860."

Rationale: The Commander, Hawaiian Sea Frontier has been replaced by the Commander, Fleet Training Group.

The Department of the Army has determined that Notice of Proposed Rulemaking and public procedures thereto are unnecessary and impracticable in this matter since the amendments reflect changes in agency organization and in the one instance to correct the coordinates for an existing danger zone. Accordingly, the Department of the Army is amending the regulations as set forth below.

Note.—It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under EO 12044, Improving Government Regulations.

(40 Stat. 892, 33 U.S.C. 3) and (40 Stat. 266; 33 U.S.C. 1)

PART 204—DANGER ZONES

1. Section 204.223(c) is revised to read as follows:

§ 204.223 Pacific Ocean, Hawaii; danger zones.

* * * * *

(c) *Enforcing agency.* The regulations in this section shall be enforced by Commander, Third Fleet, Pearl Harbor, Hawaii 96860, and such agencies as he/she may designate.

2. Section 204.224a(a) and (b)(2) are revised to read as follows:

§ 204.224a Pacific Ocean at Barber's Point, Island of Oahu, Hawaii; danger zone.

(a) *The danger zone.* The waters within a rectangular area beginning at a point in latitude 21°17′56″N., longitude 158°05′21″W., thence to latitude 21°17′30″N., longitude 158°05′21″W.; thence to latitude 21°17′58″N., longitude 158°02′49″W., thence to latitude 21°18′24″N., longitude 158°02′49″W.; thence along the shoreline at the highwater mark along the southerly boundary of Naval Air Station, Barber's Point, to the point of beginning.

(b) *The regulations.*

* * * * *

(2) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station, Barber's Point, Hawaii, 96862, and such agencies as he/she may designate.

3. Section 204.224b(b)(2) is revised to read as follows:

§ 204.224b Pacific Ocean at Keahi Point, Island of Oahu, Hawaii; danger zone.

* * * * *

(b) *The regulations.*

* * * * *

(2) The regulations in this section shall be enforced by the Commander, Explosive Ordnance Disposal Group One, Barber's Point, Hawaii 96862 and such agencies as he/she may designate.

PART 207—NAVIGATION REGULATIONS

4. Section 207.805 is revoked.

§ 207.805 Pacific Ocean southwest of Laau Point, Molokai, T. H.; Navy drill minefield.

Revoked and reserved.

5. Section 207.806(b)(4) is revised to read as follows:

§207.806 Pacific Ocean at Barber's Point, Island of Oahu, Hawaii; restricted area.

* * * * *

(b) *The Regulations.*

* * * * *

(4) The regulations in this section shall be enforced by the Commander, Fleet Training Group, Pearl Harbor, Hawaii 96860, and such agencies as he/she may designate.

Dated: August 5, 1980.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 80-26189 Filed 8-26-80; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Cost Reporting Requirements for Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This amendment to the Medicare regulations requires that: (1) certain types of home health agencies (HHA) use the "step-down" method of allocating costs to various cost centers; and (2) all HHAs use a single method of apportioning costs between Medicare and non-Medicare patients. The revised regulation will assist in the application of cost limits to HHAs by requiring the use of uniform and improved methods of determining the cost by type of service.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Fred Koenig, (301) 594-8612.

SUPPLEMENTARY INFORMATION:

Reasonable Cost Reimbursement System

Under section 1861(v)(1)(A) of the Social Security Act, payment for services furnished by a provider (hospital, skilled nursing facility, or HHA) is made under the "reasonable cost" reimbursement system. This system provides for paying the lesser of the reasonable cost or a provider's customary charges. It also requires a provider to file a cost report with the Medicare fiscal intermediary after the close of the provider's accounting period. The cost report details all the costs incurred in furnishing services to all the provider's patients, and determines the share of those costs that the Medicare program should pay. Preparation of a cost report requires a provider to use a method of cost finding and a method of cost apportionment. Cost finding is the process of ascertaining the costs of the various types of services furnished (see 42 CFR 405.453). Cost apportionment is the process of determining Medicare's share of those costs (see 42 CFR 405.452).

This regulation involves revision in the current system of cost finding and cost apportionment for home health agencies. The requirements are discussed in greater detail below.

Cost Finding Method

Currently, home health agencies use a number of cost finding methods that are approved by their fiscal intermediaries and HCFA (see Part I of the Provider Reimbursement Manual § 2308ff). The use of different cost finding methods makes meaningful comparisons of HHA costs difficult.

This final rule requires that HHAs not based in hospitals or skilled nursing facilities use a single method of cost finding, known as the "step-down method". (HHAs based in hospitals or skilled nursing facilities would continue to use the method applicable to the parent institution.) The "step-down method" takes into account the fact that services rendered by certain non-revenue producing departments or cost centers (e.g., depreciation, transportation, administrative and general, etc.) are utilized by both non-revenue and revenue-producing centers (see 42 CFR 405.453(d)(1)). All costs of non-revenue producing centers are allocated to all centers which they serve regardless of whether these centers produce revenue.

This cost finding method allows us to determine costs more accurately and the use of this single method results in uniformity of cost reporting. Use of the "step-down" method also allows us to analyze the relationship between non-revenue producing costs and direct patient care costs, thereby enhancing our ability to apply cost limits to HHA costs.

Certain "small" HHAs that are not based in hospitals or skilled nursing facilities, however, will be allowed to use a simplified variation of the step-down method upon approval by their fiscal intermediary. For purposes of this regulation, a "small" HHA is one that received less than $35,000 in Medicare reimbursement for the immediately preceding cost reporting period, if this reimbursement represented less than 50 percent of the total operating cost of the HHA.

Cost Apportionment Method

Section 1861(v)(1)(A) also requires that our methods for determining a provider's reasonable costs assure that Medicare will pay the full cost of furnishing services to Medicare beneficiaries, and none of the costs for non-Medicare individuals. This is the objective of cost apportionment.

Present cost apportionment methods used by HHAs do not necessarily derive costs by type of service furnished by the HHA. Those that do derive costs by type of service do not necessarily achieve this in a uniform way. The final rule requires that HHAs use a single method of cost apportionment. This method will be known as "cost per visit by type of service" method. The use of this method of cost apportionment has certain advantages. First, use of this cost apportionment method is needed to derive full benefit of the cost limits by type of service and to achieve uniform application of cost limits among HHAs. Currently, cost limits are being applied on an aggregate basis i.e., the Medicare allowable costs for all services are totaled and compared to an overall limit computed for each agency by multiplying the number of Medicare visits for each service by the respective per visit cost limit. However, this cost apportionment method will be used to provide data for the further development of cost limits by type of service and as a basis for the eventual implementation of such limits. (See discussion in 45 FR 38014, June 5, 1980.) Second, the determination of costs is more precise when computed by type of service than under the other methods currently being used. Third, this new method also allows us to compare costs by type of service for all HHAs, thereby assisting us in identifying those HHAs that have excessive costs.

Under this method, the total allowable cost of visits for each type of service is divided by the total number of visits for that type of service. Next, the number of Medicare covered visits is multiplied by the average cost per visit just computed. This represents the cost Medicare will recognize as the cost for that service suject to the cost limits published by HCFA (see 42 CFR 405.460).

Effect on Medicaid

Under Medicaid, State agencies determine the method of reimbursement for home health services. This amendment to the Medicare regulations would apply to States that use the Medicare principles of reimbursement in determining actual costs of services furnished. Other HHAs would continue to be reimbursed according to the method determined by the State.

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking (NPRM) was published on February 15, 1980 (45 FR 10382). The proposed rule provided that HHAs not based in hospitals or skilled nursing facilities would use the "step-down" method of cost finding and that all HHAs would use the "cost-per-visit-by-type-of service" method of cost apportionment.

Discussion of Major Comments

Comments on the NPRM were received from Medicare intermediaries and providers, from a few major provider chain organizations, and from major health care organizations such as the American Hospital Association, National League for Nursing and the National Association of Home Health Agencies. A summary of the major comments and our responses follow.

1. Many commenters objected to the proposed regulation because they felt it would increase costs by requiring additional recordkeeping and bookkeeping.

While we agree that costs may increase for some HHAs, we believe that the increase will be minimal. Many HHAs already maintain their records in sufficient detail to perform the required cost finding and cost apportionment methods. The increase in costs to HHAs would primarily involve additional expenditures for training and orientation of staff to the new methods and cost reports and for converting current cost reporting systems utilized by HHAs to the new system.

2. Some commenters requested that the effective date for implementation of the regulation be delayed to provide more lead time for system conversion.

We agree with the suggestion and have delayed implementation of the regulation to October 1, 1980. This should afford the industry enough lead time to convert present systems to accommodate the requirements contained in this rule.

3. Several commenters felt that we should implement the Uniform System for Home Health Agency Reporting (USHHAR) before implementing a single cost finding and cost apportionment method.

The Uniform System for Home Health Agency Reporting (USHHAR) is being developed by HCFA pursuant to section 1121 of the Social Security Act. This section directs the Secretary to establish by regulation a uniform system for reporting cost data by home health agencies and other types of health services facilities and organizations.

These requirements were added by section 19(a) of Public Law 95-142, enacted as part of the 1977 Amendments to the Social Security Act on October 25, 1977.

When USHHAR is implemented, we plan to include in it a uniform functional chart of accounts for use by HHAs in reporting cost data and a set of uniform definitions and for those accounts. USHHAR may also include utilization and other statistical data in more detail than is being required under this regulation. These features are not included in the current cost reporting system.

This regulation is not intended to implement the requirements of section 1121 of the Social Security Act since work on USHHAR is still underway and a uniform report for HHAs is not ready at this time. The USHHAR requirements will be issued as proposed rulemaking when they have been fully developed.

We anticipate that this regulation affecting cost finding and cost apportionment for HHAs will be compatible with those to be issued under USHHAR in that it represents one module of the overall system. We also anticipate that the methodologies described in this regulation will be used to allocate and apportion costs identified and defined in USHHAR.

4. Some small HHAs commented that the requirements of the regulation should be modified to allow for a simplified cost reporting method to accommodate these HHAs.

We agree with this comment and have revised the regulation and the cost report to allow certain "small" HHAs that are not based in hospitals or skilled nursing facilities to use a simplified variation of the step-down method that will be described in greater detail in the cost report instructions. As indicated earlier, we have defined a "small" HHA as one that received less than $35.000 in Medicare reimbursement for the immediately preceding cost reporting period, so long as this Medicare reimbursement represents less than 50 percent of the total operating cost of the HHA. We developed this definition of a "small" HHA in response to concerns expressed by the industry. Two commenters specifically proposed a definition of a "small" HHA. One definition was the $35,000 in Medicare reimbursement and 50 percent of the total operating cost of the HHA; the other definition was $100,000 in Medicare reimbursement and 50 percent of the total operating cost. We accepted the former definition because it was our judgment that the $35,000 figure was a reasonable limit of program payment for permitting less detailed financial reporting. We believe that an HHA that receives more than $35,000 in Medicare program payments should be required to submit complete detailed information to support the appropriateness of the payments. Also, we believe that HHAs that receive more than 50 percent of their total operating costs from Medicare should not be exempted from the more detailed reporting requirements because in such situations, Medicare loses the advantage that marketplace pressures have on containing provider costs.

42 CFR Part 405 is amended as follows:

1. Section 405.404 is amended by adding a new paragraph (c) to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

* * * * *

(c) For cost reporting periods beginning on or after October 1, 1980, home health agencies must use the cost per visit by type of service method of cost apportionment, as specified in § 405.452(c)(5). Use of this method requires cost finding, as defined in § 405.453(b)(1).

2. Section 405.452 is amended by revising paragraph (c)(4) and adding a new paragraph (c)(5) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.*

* * * * *

(4) *New providers, except home health agencies.* All hospitals, hospital complexes, and skilled nursing facilities entering the program on or after January 1, 1979, must use the Departmental Method of apportionment starting with their first cost reporting period.

(5) *Home health agencies.* For cost reporting periods beginning on or after October 1, 1980, all home health agencies must use the cost per visit by type of service method of apportioning costs between Medicare and non-Medicare beneficiaries. Under this method, the total allowable cost of all visits for each type of service is divided by the total number of visits for that type of service. Next, for each type of service, the number of Medicare covered visits is multiplied by the average cost per visit just computed. This represents the cost Medicare will recognize as the cost for that service, subject to cost limits published by HCFA (see § 405.460).

* * * * *

3. Section 405.453 is amended by revising paragraph (d) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(d) *Cost finding methods.* After the close of the accounting period, providers must use one of the following methods of cost finding to determine the actual costs of services furnished during that period. For cost reporting periods beginning after December 31, 1971, providers using the Departmental Method of cost apportionment must use the Step-Down Method described in paragraph (d)(1) of this section or an "Other Method" described in paragraph (d)(2) of this section. For cost reporting periods beginning after December 31, 1971, providers using the Combination Method of cost apportionment must use the modified cost finding method described in paragraph (d)(3) of this section. Effective for cost reporting periods beginning on or after October 1, 1980, home health agencies not based in hospitals or skilled nursing facilities must use the Step-Down Method described in paragraph (d)(1) of this section. (Home health agencies based in hospitals or SNFs must use the method applicable to the parent institution.) However, a home health agency not based in a hospital or skilled nursing facility that received less than $35,000 in Medicare reimbursement for the immediately preceding cost reporting period, and for whom this reimbursement represented less than 50 percent of the total operating cost of the agency, may use a simplified version of the step-down method, as specified in instructions for the cost report issued by HCFA.

* * * * *

(Sections 1102, 1814(b), 1815, 1861(v), 1871 of the Social Security Act 42 U.S.C. 1302, 1395f(b), 1395g, 1395x(v), 1395hh)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: June 30, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: August 18, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-25823 Filed 8-26-80; 8:45 am]

BILLING CODE 4110-35-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

45 CFR Part 1151

Nondiscrimination on the Basis of Handicap; Correction

AGENCY: National Endowment for the Arts.

ACTION: Correction of final rule.

SUMMARY: This action corrects a typographical error that appeared in National Endowment for the Arts final regulations under section 504 of the Rehabilitation Act of 1973 published in the **Federal Register** April 17, 1979 (44 FR 22730 (1979)). Section 1151.34(a)(2) of the regulations erroneously includes a reference to paragraph (d) of this section. That reference should be changed to paragraph (c).

FOR FURTHER INFORMATION CONTACT: Susan Liberman, Assistant to the General Counsel, National Endowment for the Arts, 2401 E Street N.W., Washington, D.C. 20506, 202-634-6588.

Livingston L. Biddle, Jr.,

Chairman, National Endowment for the Arts.

[FR Doc. 80-26192 Filed 8-26-80; 8:45 am]

BILLING CODE 7537-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1389; Amdt. 4]

Transkentucky Transportation Railroad Co., Inc., Authorized To Operate Over Tracks Abandoned by Louisville and Nashville Railroad Co.

August 21, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 4 to Service Order No. 1389.

SUMMARY: This order amends Service Order No. 1389 by extending its expiration date until 11:59 p.m., December 31, 1980. Transkentucky Transportation Railroad, Inc. (TTI) is authorized to operate over tracks abandoned by Louisville and Nashville Company between Maysville and Paris, Kentucky. TTI has filed an application with this Commission for a Certificate of Public Convenience and Necessity. This amendment continues the Service Order in effect pending the Commission's decision upon the application.

EFFECTIVE DATE: 11:59 p.m., and continuing in effect until 11:59 p.m., December 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

Upon further consideration of Service Order No. 1389, (44 FR 44853, 45 FR 14863, 37843 and 45288), and good cause appearing therefor:

§ 1033.1389 [Amended]

It is ordered: § 1033.1389 *Transkentucky Transportation Railroad, Inc. Authorized to operate over tracks abandoned by the Louisville and Nashville Railroad Company.*

Service Order No. 1389 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order are extended until 11:59 p.m., December 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26174 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1120A

[Finance Docket No. 28990F]

Rail Carriers; Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of effective date of final rules and exemptions.

SUMMARY: On August 13, 1980, at 45 FR 53827, this Commission published a notice of final rules and exemptions exempting the acquisition by a State of rail lines approved for abandonment, when the abandonment has not been consummated. Further, the notice exempted from our regulation the start up and termination of operation over lines abandoned or approved for abandonment, which have been acquired by a State. The rules were adopted for a modified certificate of public convenience and necessity for these operations.

In a second notice, published at 45 FR 55205, August 19, 1980, the original notice was corrected by adding the concurring separate expression of Commissioner Trantum. This second publication carried an erroneous effective date of September 18, 1980. The correct effective date of September 12, 1980 was carried in the original publication.

FOR FURTHER INFORMATION CONTACT: Richard Kelley (202) 275-7564.

SUPPLEMENTARY INFORMATION: The notice of final rules and exemptions was effective September 12, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26177 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Illinois, Iowa, Minnesota, and Wisconsin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Illinois, Iowa, Minnesota and Wisconsin.

DATES: Effective August 27, 1980 for duration of seasons noted below for individual refuge areas.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

George G. P. Bekeris, Area Manager, U.S. Fish and Wildlife Service, 530 Federal Building and U.S. Court House, 316 North Robert Street, St.

Paul, MN 55101. Telephone: (612) 725–7641.
Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, MN 56737. Telephone: (218) 449–4115.
James Heinecke, Refuge Manager, Big Stone National Wildlife Refuge, 25 N.W. 2nd Street, Ortonville, MN 56278. Telephone: (612) 839–3700.
Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, Post Office Box J, Carterville, IL 62918. Telephone: (618) 997–3344.
John E. Toll, Refuge Manager, Horicon National Wildlife Refuge, Route #2, Mayville, WI 53050. Telephone: (414) 387–2658.
Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. 5th Street, Suite 100, Quincy, IL 62301. Telephone: (218) 224–8580.
James M. Carroll, Jr., Refuge Manager, Necedah National Wildlife Refuge, Star Route, Necedah, WI 54646. Telephone: (608) 565–2551.
David E. Heffernan, Refuge Manager, Rice Lake National Wildlife Refuge, Route #2, McGregor, MN 55760. Telephone: (218) 768–2402.
Ronald V. Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route #2, Zimmerman, MN 55398. Telephone: (612) 389–3323.
Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, MN 56578. Telephone: (218) 847–4355.
Robert Howard, Refuge Manager, Upper Mississippi River Wild Life and Fish Refuge, 122 W. 2nd Street, Winona, MN 55987. Telephone: (507) 452–4232.

SUPPLEMENTARY INFORMATION: Hunting on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 406k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Illinois

Crab Orchard National Wildlife Refuge

Public hunting of upland game is permitted during the dates specified by the State of Illinois for the 1980 Upland Game Season. Hunting of upland game is prohibited from sunrise to 12:00 Noon in the refuge controlled goose hunting areas during the goose hunting season.

Minnesota

Big Stone National Wildlife Refuge

Public hunting of Hungarian partridge, cottontail, jack rabbits, gray fox squirrel, and ringnecked pheasant is permitted beginning on the opening day of seasons for these species as established by the State of Minnesota. All upland game seasons on the refuge close at sunset, November 30, 1980.

Rice Lake National Wildlife Refuge

Public hunting of ruffed grouse, ringnecked pheasant, gray and fox squirrel, cottontail, jack rabbits and snowshoe here is permitted during the seasons for these species as established by the State of Minnesota. The open area comprises about 2,000 acres and is posted as "Public Hunting Area".

Sherburne National Wildlife Refuge

Public hunting of ruffed grouse, ringnecked pheasant, gray and fox squirrel, cottontail, jack rabbits and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota. The open area comprises 20,058 acres and is designated as Areas A and B on the refuge hunting map.

Tamarac National Wildlife Refuge

Public hunting of ruffed grouse, gray and fox squirrel, cottontail, jack rabbits and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota on approximately 12,500 acres. An additional 18,000 acres will be open to hunting of ruffed grouse only. Hunting on this area shall be in accordance with all applicable State of Minnesota or the White Earth Band of Chippewa Indians regulations and seasons. The hunting of other upland species as may be authorized by the State of Minnesota or White Earth Band of Chippewa Indians Regulations is prohibited.

Wisconsin

Horicon National Wildlife Refuge

Public hunting is permitted of ringnecked pheasant concurrent with the opening day of this season as established by the State of Wisconsin. The closing date for the pheasant season on the refuge will correspond with the closing date of the State firearms deer season. The open area comprises 16,000 acres.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi Wild Life and Fish Refuge

The public hunting of upland game birds and upland game animals is permitted on the areas designated by signs as "Public Hunting Area". Restricted hunting of these species is also permitted on the areas designated by signs as "Area Closed", except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting. The "Public Area" comprising 46,000 acres are delineated on maps.

Hunting shall be subject to the following special conditions: 1. Hunting on designated "Public Hunting Areas" is concurrent with the applicable state seasons during the period from the first day of the earliest fall state game bird or game animal season for that area until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

2. Hunting on designated "closed" areas except for Goose Island Closed Area which is closed to hunting at all times is permitted concurrent with applicable state seasons during the period from the first day after the close of the last hunting season for ducks for that area, until the end of the applicable state seasons, or until the next succeeding March 1, whichever comes first.

3. The use of dogs for hunting and retrieving game is permitted, provided the dogs are under control at all times.

4. Taking treed raccoons with lights is permitted in accordance with existing state regulations.

Illinois, Iowa

Mark Twain National Wildlife Refuge

Hunting of black, gray and fox squirrels is permitted on the Keithsburg (1,400 acres) and the Gardner (4,831 acres) Divisions of the Mark Twain National Wildlife Refuge. The hunting of these species is subject to the following regulations: 1. The Keithsburg Division will be open to the hunting of squirrels from September 1 through October 15, 1980, inclusive.

2. The Gardner Division will be open to the hunting of squirrels in accordance with the State season and will close on October 15, 1980.

3. Hunters on the Gardner Divison must have in their possession a refuge squirrel hunting permit which will be issued free-of-charge by the Refuge Office in Quincy, Illinois.

Hunting of upland game is permitted on the Big Time Division and Turkey Island Area, Iowa, on designated areas comprising 1,760 acres during the seasons as established by the State of Iowa.

§ 32.32 Special regulations; big game; for individual refuge areas

Illinois

Crab Orchard National Wildlife Refuge

Public hunting of white-tailed deer is permitted concurrent with shotgun and bow and arrow hunt dates as specified by the State of Illinois for the 1980 Deer Season. In Areas I, II and III (44,000 acres), hunting is permitted from ground level only. In Area II (21,000 acres), the following other conditions apply: 1. Each hunter must possess a special permit issued by the Illinois Department of Conservation showing the three-day season he/she is to hunt.

2. All hunters must check in at the Refuge Fire Station prior to hunting.

3. All hunters must comply with all special conditions listed on a handout furnished to them at the time of check-in.

Minnesota

Agassiz National Wildlife Refuge

Public hunting of white-tailed deer is permitted concurrent with 1980 seasons as established by the State of Minnesota. The open area comprises approximately 56,500 acres. Hunting dates are as follows:

November 8–10	Bucks Only
November 15–16	Anterless by Permit Only and Bucks

Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Big Stone National Wildlife

Public hunting of white-tailed deer is permitted concurrent with the seasons as established by the State of Minnesota. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Rice Lake National Wildlife Refuge

Public hunting of white-tailed deer is permitted with firearms during a portion of the State firearms deer season for the zone. Subject to the following special conditions: 1. Only those persons in possession of a valid Rice Lake Special Deer Permit (Area 69) issued by the Minnesota Department of Natural Resources will be allowed to enter and hunt the refuge.

2. All hunters must report to the refuge check point at the beginning and end of each day's hunt.

3. Successful hunters must have their deer checked at the refuge check station prior to transporting it outside the refuge.

4. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Sherburne National Wildlife Refuge

Public hunting of white-tailed deer is permitted concurrent with shotgun and archery seasons as established by the State of Minnesota in the following designated areas: 1. Taking of white-tailed deer by archery is permitted in Areas A and B (20,600 acres).

2. Taking of antlered bucks by shotgun is permitted in Areas A and B.

3. The shotgun anterless permit hunt will be in Areas A, B and C (27,000 acres). Permits can be obtained from the State. Only persons possessing an anterless permit will be allowed to hunt on the refuge during this period.

4. The muzzleloader hunt will be in Area C (7,100 acres). A special permit which must be obtained from the refuge is required for this hunt.

5. Deer taken during the Anterless Permit and Muzzleloader hunts must be registered at the refuge check station.

6. Construction of permanent blinds, platforms or scaffolds is prohibited.

Tamarac National Wildlife Refuge

No hunting of big game (black bear or white-tailed deer) will be permitted on Tamarac National Wildlife Refuge during the 1980 season.

Wisconsin

Horicon National Wildlife Refuge

Public hunting of white-tailed deer is permitted concurrent with the seasons as established by the State of Wisconsin for the early archery and shotgun seasons only. The open area comprises 16,000 acres. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Necedah National Wildlife Refuge

Public hunting of white-tailed deer and unprotected mammal species as listed in the 1980 Wisconsin Big Game Hunting Regulations with bow and arrow and firearms is permitted concurrent with the seasons for these species as established by the State of Wisconsin. The following conditions apply: 1. Only that portion of the refuge located north of Turkey Track Road (12,000 acres) is open to hunting using a bow and arrow during the State early bow season.

2. Nearly all of the refuge (about 38,000 acres) is open to hunting during the State firearms and late bow seasons except those areas marked with "Area Closed . . ." signs.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Iowa, Illinois, Minnesota, Wisconsin

Upper Mississippi Wildlife and Fish Refuge

The public hunting of white-tailed deer is permitted on the areas designated by signs as "Public Hunting Areas" comprising 148,000 acres and the "closed" areas comprising 46,000 acres.

Hunting shall be subject to the following conditions: 1. Bow and gun deer hunting on designated "Public Hunting Areas" is permitted concurrent with applicable State seasons.

2. Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" area is permitted concurrent with applicable State seasons, but only during the period from the first day after the close of the last hunting season for ducks for that area, until the end of the applicable State seasons, or until the next succeeding March 1, whichever comes first.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Illinois, Iowa

Mark Twain National Wildlife Refuge

Hunting of white-tailed deer with shotgun is permitted on the Gardner Division (4,831 acres) of Mark Twain National Wildlife Refuge, Illinois, on the area designated by signs. Hunting shall be in accordance with all applicable State regulations subject to the following special conditions: 1. The hunting dates will be November 21, 22, 23, 1980 from 6:30 AM to 3:00 PM (CST).

2. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. Permits have been issued following a May 1980 drawing.

3. Successful hunters will be required to check their deer through the Adams County Check Station near the Division.

4. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Big Game Hunting is permitted on Big Timber Division and Turkey Island Area (1,760 acres) of the Mark Twain National Wildlife Refuge, Iowa, on the areas designated by signs. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Dated: August 18, 1980.

George Bekeris,

Area Manager.

[FR Doc. 80-26223 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 222

Sperm Whale Oil and Scrimshaw; Certificates of Exemption for Pre-Act Endangered Species Parts

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: These amendments allow current holders of certificates of exemption for sperm whale oil and scrimshaw to apply for an extension of up to three additional years on those certificates. Certificate holders must make an application in accordance with the procedures authorized in these amended regulations to the National Marine Fisheries Service for a renewal of existing certificates. Applications from persons to whom an original certificate of exemption has not previously been issued will not be accepted. These amended regulations also make some nonsubstantive changes that reflect the current organizational structure of the National Marine Fisheries Service, and other editorial revisions to eliminate provisions no longer applicable.

EFFECTIVE DATE: These amended regulations shall become effective on August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Eugene A. Bennett or Grace A. Sutton, Enforcement Division, F/CM5, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7265.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) enforces all aspects of the Endangered Species Act of 1973 as amended (the Act), with respect to, but not limited to, all species of whales of the order cetacea. The aspect that is affected by these amendments is the certificates of exemption issued to dealers in scrimshaw (whale teeth and bone) and sperm whale oil, including spermaceti and its derivatives.

On July 12, 1976, Congress passed an amendment to the Act (Pub. L. 94-359) which allowed persons who held quantities of endangered species parts prior to December 28, 1973, to obtain a certificate of exemption to sell their stocks through exportation or interstate commerce. A three year maximum time period, from the date of issuance of a certificate of exemption, was allowed to persons to whom certificates were issued by NMFS for them to sell their pre-Act inventories. In the June 22, 1977 issue of the **Federal Register** (42 FR 28137-41), the NMFS published a final rule regarding certificates of exemption.

Many dealers have indicated to Congress that this initial three year period was not sufficient time to allow them to sell their inventories. Congress again amended the Act on December 28, 1979 (Pub. L. 96-159), to allow persons to whom an original certificate of exemption has been issued under the 1976 amendments (Pub. L. 94-359) to apply for an extension of their certificates of up to three additional years from the date of expiration of the original certificate. Since the 57 persons subject to this action were personally served by certified mail with the amendments and advised of the information required to apply for an extension of their certificates of exemption, notice and public procedures are unnecessary and contrary to the public interest. These amendments will therefore take effect on publication.

NOAA's Administrator has determined that these amended regulations do not constitute a significant action and therefore do not require a regulatory analysis under Executive Order 12044 and NOAA Directive 21-24.

The Assistant Administrator for Fisheries has also determined that issuance of these amended regulations would not be a major Federal action significantly affecting the quality of the human environment. Therefore the preparation of an environmental impact statement is not required.

Signed this 19th day of August 1980, at Washington, D.C.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

1. In 50 CFR Part 217 Subparts B and C are revised to read as follows:

PART 217—GENERAL PROVISIONS

* * * * *

Subpart B—Definitions

217.12 Definitions.

Subpart C—Addresses

217.21 Assistant Administrator.
217.22 Office of Marine Mammals and Endangered Species.
217.23 Enforcement Division.

Authority: Sec. 3(d), Fish and Wildlife Act of 1956, as amended, 88 Stat. 92 (16 U.S.C. 742b); sec. 11(f), Endangered Species Act of 1973, Pub. L. 93-205, 87 Stat. 884 (16 U.S.C. 1540).

* * * * *

Subpart B—Definitions

§ 217.12 Definitions.

"Act" means the Endangered Species Act of 1973, as amended (Pub. L. 93-205).

"Assistant Administrator" means the Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, or his authorized representative.

"Commercial Activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however,* That it does not include the exhibition of commodities by museums or similar cultural or historical organizations.

"Country of exportation" means the last country from which the animal was exported before importation into the United States.

"Country of origin" means the country where the animal was taken from the wild, or the country of natal origin of the animal.

"Fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

"Foreign commerce" includes, among other things, any transaction (1) between persons within one foreign country, or (2) between persons in two or more foreign countries, or (3) between a person within the United States and a person in one or more foreign countries, or (4) between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

"Import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States. whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.

"Permit" or "Certificate of Exemption" means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service, including any document which modifies, amends, extends or renews any permit or certificate of exemption.

"Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

"Possession" means the detention and control, or the manual or ideal custody of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. Possession includes constructive possession which means not actual but assumed to exist, where one claims to hold by virtue of some title, without having actual custody.

"Pre-Act Endangered Species Part" means any sperm whale oil, including derivatives and products thereof, which was lawfully held within the United States on December 28, 1973 in the course of a commercial activity; or any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

"Scrimshaw Product" means any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

"Secretary" means the Secretary of Commerce or his authorized representative.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

"Transportation" means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

"United States" means the several States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

"Whoever" means the same as person.

"Wildlife" means the same as fish or wildlife.

Subpart C—Addresses

§ 217.21 Assistant Administrator.

Mail forwarded to the Assistant Administrator for Fisheries should be addressed:

Assistant Administrator for Fisheries, F
National Marine Fisheries Service
Washington, D.C. 20235

§ 217.22 Office of Marine Mammals and Endangered Species.

Mail in regard to permits should be addressed to:

Office of Marine Mammals and Endangered Species, F/MM
National Marine Fisheries Service
Washington, D.C. 20235

§ 217.23 Enforcement Division.

Mail in regard to enforcement and certificates of exemption should be addressed to:

Enforcement Division, F/CM5
National Marine Fisheries Service
Washington, D.C. 20235

2. In Part 222, Subparts A and B are revised to read as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

Subpart A—Introduction

Sec.
222.1 Purpose of regulations.
222.2 Scope of regulations.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

Sec.
222.11–1 General certificate of exemption requirements.
222.11–2 Application renewal procedure.
222.11–3 Application renewal requirements.
222.11–4 Procedures for issuance of renewals of certificates of exemption.
222.11–5 Application for modification of certificate of exemption by holder.
222.11–6 Amendment of certificates of exemption.
222.11–7 Procedures for suspension or revocation of certificates of exemption.
222.11–8 Subsequent purchaser provisions.
222.11–9 Duration of certificate of exemption.
222.12 Locations covered by certificate of exemption.
222.12–1 Certificate of exemption not transferable; exception.
222.12–2 Change of address.
222.12–3 Certain continuances of business.
222.12–4 Change in trade name.
222.12–5 State or other law.
222.12–6 Right of entry and examination.
222.12–7 Records.
222.12–8 Record of receipt and disposition.
222.12–9 Importation.
222.13 Exportation.
222.13–1 Procedure by exporter.
222.13–2 Action by customs.
222.13–3 Transportation to effect exportation.
222.13–4 Burden of proof; presumption.

* * * * *

Authority: Sec. 11(f), Endangered Species Act of 1973, Pub. L. 93–205, 87 Stat. 884 (16 U.S.C. 1540).

Subpart A—Introduction

§ 222.1 Purpose of regulations.

The regulations contained in this part identify the species or subspecies of fish or wildlife determined to be endangered under either the Endangered Species Conservation Act of 1969 or the Endangered Species Act of 1973, and presently deemed endangered species under the Endangered Species Act of 1973, which are under the jurisdiction of the Secretary of Commerce, and establish procedures and criteria for issuance of permits for the taking, importation, exportation, or otherwise prohibited acts, involving endangered fish or wildlife. The regulations of this part implement, in part, the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93–205, as amended.

§ 222.2 Scope of regulations.

(a) The regulations of this part apply only to endangered fish or wildlife.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of Parts 217–222 of this chapter which may require a permit or prescribe additional restrictions or conditions for the taking, importation, exportation, and interstate transportation of fish or wildlife. (See also Parts 220 and 221 of this chapter.)

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

Authority: 5 U.S.C. 553(d)(3); Pub. L. 94–359, 90 Stat. 911 (16 U.S.C. 1539)

§ 222.11-1 General certificate of exemption requirements.

(a) The Assistant Administrator, pursuant to the provisions of the Endangered Species Act, and pursuant to the provisions of this subsection, except for importation, may exempt any pre-Act endangered species part from one or more of the following:

(1) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(2) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship to interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(3) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

(b) No person shall engage in any of the above activities involving any pre-Act endangered species part without a valid certificate of exemption, or evidence of a right thereunder, issued pursuant to this Subpart B.

§ 222.11-2 Application renewal procedure.

(a) Any person to whom a certificate of exemption has been issued by the National Marine Fisheries Service and who desires to obtain a renewal of such certificate of exemption may make application therefor to the Assistant Administrator. The sufficiency of the application shall be determined by the Assistant Administrator in accordance with the requirements of this part and, in that connection, he may waive any requirement for information, or require any elaboration for further information deemed necessary.

(b) One copy of a completed application for renewal shall be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(c) The outside of the envelope should be marked, ATTENTION: Enforcement Division, "Certificate of Exemption Request." Assistance may be obtained by writing or calling the Enforcement Division, NMFS, in Washington, D.C. (AC 202, 634–7265). At least 15 days should be allowed for processing. An application for a certificate of exemption shall provide the information contained in § 222.11–3 (when the information requested is not applicable, put "N.A.") and such other information that the Assistant Administrator may require.

§ 222.11-3 Application renewal requirements.

(a) The following information will be used as the basis for determining whether an application for renewal of a certificate of exemption is complete:

(1) Title: Application for Renewal of Certificate of Exemption Under Pub. L. 96–159.

(2) The date of application.

(3) The identity of the applicant including complete name, original certificate of exemption number, current address, and telephone number, including zip and area codes. If the applicant is a corporation, partnership, or association set forth the details.

(4) The period of time for which a renewal of the certificate of exemption is requested; however, no renewal of certificate of exemption, or right claimed thereunder, shall be effective after the close of the three-year period beginning on the date of the expiration of the original certificate of exemption.

(5) A complete and detailed up-dated inventory of all pre-Act endangered species parts for which the applicant seeks exemption. No renewals shall be issued for scrimshaw products in excess of any quantities declared in the original application for a certificate of exemption.

(6) A certification in the following language:

> I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a renewal of my certificate of exemption under the Endangered Species Act of 1973, as amended by Pub. L. 94–359, 90 Stat. 911, Pub. L. 96–159, 93 Stat. 1225, and the Department of Commerce regulations issued thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties under the Endangered Species Act of 1973.

(7) Signature of the applicant.

(b) Upon receipt of an incomplete or improperly executed application for renewal, the applicant shall be notified by Certified Mail of the deficiency in the application for renewal. If the application for renewal is not corrected and received by the Assistant Administrator within 30 days following the date of receipt of notification, the application for renewal shall be considered as having been abandoned.

§ 222.11-4 Procedures for issuance of renewals of certificates of exemption.

Whenever application for a renewal of a certificate of exemption is received by the Assistant Administrator which the Assistant Administrator deems sufficient, he shall, as soon as practicable, issue a certificate of renewal to the applicant.

§ 222.11-5 Application for modification of certificate of exemption by holder.

Where circumstances have changed so that an applicant or certificate of exemption holder desires to have any material term or condition of his application or certificate modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part.

§ 222.11-6 Amendment of certificates of exemption.

All certificates are issued subject to the condition that the Assistant Administrator reserves the right to amend the provisions of a certificate of exemption for just cause at any time. Such amendments take effect on the date of notification, unless otherwise specified.

222.11-7 Procedures for suspension or revocation of certificates of exemption.

(a) Any violation of the applicable provisions of Parts 217–222 of this chapter, or of the Act, or of a condition of the certificate of exemption may subject the certificate holder to the following penalties:

(1) The penalties provided in the Act; and

(2) Temporary suspension of the certificate of exemption for a specified period; and/or

(3) Revocation of the certificate of exemption. When revoked, the certificate must be surrendered to the Assistant Administrator on demand.

(b) Except in cases of willfulness or those in which the public health, safety, or interest requires, prior to any suspension or revocation of a certificate of exemption, the certificate of exemption holder shall be given:

(1) Notice by the National Marine Fisheries Service in writing of the facts or conduct which may warrant the suspension or revocation; and

(2) Opportunity to demonstrate or achieve compliance with all certificate of exemption requirements.

§ 222.11-8 Subsequent purchaser provisions.

(a) Any person granted an exemption, including a renewal, pursuant to this subpart, upon an interstate sale of any exempted pre-Act endangered species part, shall supply a copy of the certificate of exemption as well as a signed written certification to each purchaser that such part may lawfully be sold, transported, or exported pursuant to the terms of an exemption granted under the Act and the regulations promulgated thereunder.

(b) Any subsequent purchaser, unless an ultimate user, shall upon an interstate sale supply a copy of the certificate of exemption as well as a signed written certification to each purchaser of such part that such part may lawfully be sold, transported, or exported pursuant to the terms of a certificate of exemption granted under the Act and the regulations promulgated thereunder. An ultimate user, for the purposes of this paragraph, shall mean any person who has acquired such endangered species part for his own consumption, or personal use. An endangered species part shall be considered to be consumed when a new, commercially salable and identifiable product has been made, fabricated or processed using or containing sperm whale oil, including spermaceti, in a condition where it cannot be readily recaptured and marketed as sperm oil or spermaceti: *Provided, however,* That the processing of sperm oil to merely change its precise chemical properties, or to convert it from a liquid to a solid or vice versa, shall not be considered a new, commercially salable and identifiable product which has been consumed.

(c) Any interstate purchaser of pre-Act endangered species parts shall, unless an ultimate user, within 90 days after the receipt of such parts, submit to the Assistant Administrator a written report specifying the quantity of such parts or products received, the name and address of the seller, a copy of the certification supplied pursuant to paragraph (a) of this section, the date on which such parts were received, and the intended use of such parts by the purchaser.

§ 222.11-9 Duration of certificate of exemption.

A certificate of exemption shall not be valid for a period exceeding three years from the date of issuance, unless renewed in accordance with the procedures set forth in section 222.11-3, above. However, no renewal shall be valid for more than three years from the expiration date of the original certificate of exemption. The certificate of exemption, including any renewal thereof, shall entitle any person having a right thereunder to engage in the business or activity specified in the certificate of exemption, within the limitations of the Act and the regulations contained in this subpart, for the period stated in the certificate of exemption, unless sooner terminated.

§ 222.12 Locations covered by certificate of exemption.

The certificate of exemption covers the business or activity specified in the certificate of exemption at the address described therein. Accordingly, any change in business address must be reported to the Assistant Administrator in writing. Upon such notification, the Assistant Administrator will record the change of address on the certificate of exemption. No certificate of exemption is required to cover a separate warehouse or similar facility used by the certificate of exemption holder solely for storage of pre-Act endangered species parts, if the records required by this subpart are maintained at the address specified in the certificate of exemption and which is served by such warehouse or storage facility.

§ 222.12-1 Certificate of exemption not transferable; exception.

Certificates of exemption issued under this subpart are not transferable: *Provided,* That in the event of the lease, sale or other transfer of the operations or activity authorized by the certificate of exemption the successor is not required by this subpart to obtain a new certificate of exemption prior to commencing such operations or activity. In such case, the successor will be treated as a subsequent purchaser and must comply with the record and reporting requirements set forth in § 222.11-8.

§ 222.12-2 Change of address.

A certificate of exemption holder may during the term of the certificate of exemption move his business or activity to a new location at which he intends regularly to carry on such business or activity, without obtaining a new certificate of exemption. However, in every case, notification of the new location of the business or activity must be given in writing within 10 days of such move to the Assistant Administrator. In each instance, the certificate of exemption must be endorsed by the Assistant Administrator. After endorsement of the certificate of exemption the Assistant Administrator will provide an amended certificate of exemption to the person to whom issued.

§ 222.12-3 Certain continuance of business.

A certificate of exemption holder who requests that his certificate of exemption be amended by the Assistant Administrator for corrections or endorsement in compliance with the provisions contained in this subpart, may continue his operations while awaiting action by the Assistant Administrator.

§ 222.12-4 Change in trade name.

A certificate holder continuing to conduct business at the location shown on his certificate of exemption is not required to obtain a new certificate of exemption by reason of a change in trade name under which he conducts his business: *Provided,* That such certificate of exemption holder requests in writing that his certificate of exemption be endorsed to reflect such change of name to the Assistant Administrator within 30 days from the date the certificate of exemption holder begins his business under the new name.

§222.12-5 State or other law.

A certificate of exemption issued under this subpart confers no right or privilege to conduct a business or an activity contrary to State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under any Federal laws or regulations of any other Federal Agency.

§ 222.12-6 Right of entry and examination.

Any person authorized to enforce the Act may enter during business hours the premises, including places of storage, of any holder of a certificate of exemption or of any subsequent purchaser for the purpose of inspecting or examining any records or documents required to be kept by such certificate of exemption holder or successor under this subpart, and any endangered species parts at such premises of location.

§ 222.12-7 Records.

The records pertaining to pre-Act endangered species parts prescribed by this subpart shall be in permanent form, and shall be retained at the address shown on the certificate of exemption, or at the principal address of a subsequent purchaser in the manner prescribed by this subpart.

§ 222.12-8 Record of receipt and disposition.

(a) Each holder of a certificate of exemption shall maintain records of all pre-Act endangered species parts he receives, sells, transfers, distributes or disposes of otherwise. Each subsequent purchaser of the pre-Act endangered species parts shall similarly maintain records of all such parts or products he receives or distributes for the purpose of sale, distribution or industrial use.

(b) Such records as referred to in paragraph (a) of this section may consist

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of invoices or other commercial records which shall be filed in an orderly manner separate from other commercial records maintained, and be readily available for inspection. Such records shall (1) show the name of the seller or other transferor, (2) show the type, quantity, and identity of the part or product, (3) show the date of such acquisition, and (4) be retained, in accordance with the requirements of this subpart, for a period of not less than three years following the date of the acquisition, or transfer.

(c) Each certificate of exemption holder and each subsequent purchaser shall, when required by letter issued by the Assistant Administrator, submit for the periods and times specified in the letter, all record information required by this subpart, or such other record information as the Assistant Administrator may specify in this letter.

(d) The Assistant Administrator may authorize the record information to be submitted in a manner other than that prescribed in paragraph (b) of this section when it is shown by the record holder that an alternate method of reporting is reasonably necessary and will not hinder the effective administration or enforcement of this subpart.

§ 222.12-9 Importation.

No pre-Act endangered species part shall be imported into the United States, and a certificate of exemption issued in accordance with the provisions of this subpart confers no right or privilege to import into the United States any such part.

§ 222.13 Exportation.

(a) Any person desiring to export from the United States any pre-Act endangered species part or scrimshaw product, must possess a valid certificate of exemption issued in accordance with the provisions of this subpart.

(b) In addition to other information, which may be required by this subpart, the exporter will notify the Assistant Administrator by letter which shall show the name and address of the foreign consignee, the intended port of exportation, and a complete description of the parts to be exported. Such information should reach the Assistant Administrator not less than 10 days prior to shipment.

(c) No pre-Act endangered species part or scrimshaw product which is to be exported from the United States under a certificate of exemption issued therefor, shall be exported except at a port or ports designated by the Secretary of the Interior. The Secretary of the Interior may permit the exportation at non-designated ports for any reason if he deems it appropriate and consistent with the purposes of the Endangered Species Act, as amended, or it will facilitate the administration or enforcement of the Act and reducing the costs thereof. Exporters are advised to see 50 CFR Part 14 for a listing of the designated ports.

§ 222.13-1 Procedure by exporter.

Shipment may not be made until the requirements of § 222.13 are met by the exporter. A copy of the certificate of exemption, and any endorsements thereto, must be sent by the exporter to the District Director of Customs at the port of exportation, and must precede or accompany the shipment in order to permit appropriate inspection prior to lading.

§ 222.13-2 Actions by Customs.

Upon receipt of a certificate of exemption authorizing the exportation of pre-Act endangered species parts or scrimshaw products, the District Director of Customs may order such inspection as deemed necessary prior to lading of the merchandise. If satisfied that the shipment is proper and agrees with the information contained in the certificate, and any endorsement thereto, the District Director of Customs will clear the merchandise for export. The certificate, and any endorsements, will be forwarded to the Chief, Enforcement Division, F/CM5 National Marine Fisheries Service, Washington, D.C. 20235.

§ 222.13-3 Transportation to effect exportation.

Notwithstanding any provision of this subpart, it shall not be required that authorization be obtained from the Assistant Administrator for the transportation in interstate or foreign commerce of pre-Act endangered species parts to effect an exportation of such parts authorized under the provisions of this subpart.

§ 222.13-4 Burden of proof; presumption.

Any person claiming the benefit of any exemption or certificate of exemption under the Act or regulations, shall have the burden of proving that the exemption or certificate is applicable, has been granted, and was valid and in force at the time of the alleged violation.

* * * * *

[FR Doc. 80-25748 Filed 8-26-80; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 611

Bering Sea and Aleutian Islands Groundfish Fishery: Approval of Amendments to Preliminary Fishery Management Plan; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: This action apportions to domestic annual harvest (DAH) 7,814 metric tons (mt) of yellowfin sole which currently comprises the unallocated portion of the total allowable level of foreign fishing (TALFF). Within DAH this amount is apportioned to joint venture processing (JVP) so that domestic fishermen may deliver it to joint venture processors.

EFFECTIVE DATE: The regulations are effective August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1662, Juneau, Alaska 99802. Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: Yellowfin sole are managed under a preliminary fishery management plan (PMP) for the Trawl and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific. The PMP was published in the **Federal Register** on February 15, 1977 (42 FR 9298), and was implemented (50 CFR 611.93(b)) under provisions of the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (ACT). It was extended through 1978 and 1979, and again extended with amendments through 1980 (45 FR 1028).

The current amendment and proposed regulations, published on August 12, 1980 (45 FR 53500), established a TALFF for yellowfin sole of 101,286 mt and JVP of 14,514 mt. This change reflected a transfer from "unallocated" TALFF to JVP. The transfer was possible because amounts originally allocated to the Union of Soviet Socialist Republics were withheld by Presidential Order. This action will enable joint ventures to continue to operate efficiently and without unnecessary interruption. No comments on this action were received.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that this amendment to the PMP and final regulations are necessary and appropriate to the conservation and management of Bering Sea groundfish resources, and that it is consistent with the Act and other applicable law. He has therefore approved the final regulations set forth below.

The Assistant Administrator for Fisheries has determined that promulgation of the final regulations does not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act, and that it does not constitute a significant regulation requiring the preparation of a regulatory analysis under Executive Order 12044.

The specification of JVP, as proposed, has been changed to reflect a reserve release which was authorized August 2, 1980 and published on August 13, 1980 (45 FR 53831). This reserve release increased the JVP for yellowfin sole by 1,100 mt.

The Assistant Administrator has determined that the delayed effectiveness period of the Administrative Procedures Act should be waived because: (1) This action confers a benefit.

(2) No preparations are necessary by affected parties to comply with these regulations.

(3) Delay would disrupt an ongoing, successful fishery.

Signed in Washington, D.C. this 22nd day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

59 CFR 611.20, Appendix 1, Part 4A, is amended as follows: For yellowfin sole, DAH—to 15,714 mt from 7,900 mt; JVP—to 15,614 mt from 6,700 mt; TALFF—to 101,286 mt from 109,100 mt.

[FR Doc. 80-26236 Filed 8-26-80; 8:45 am]

BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 45, No. 168
Wednesday, August 27, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 210

[Docket No. ERA-R-80-28]

Amendments to Normal Business Practices Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a notice of proposed rulemaking to amend the normal business practices rule, 10 CFR 210.62, to eliminate DOE's role in regulating extensions of credit for purchases of motor gasoline at the retail level. ERA is requesting comments on an alternative proposal that would amend the normal business practices rule by removing credit controls relating to consumer sales of gasoline at retail sales outlets, but retain controls on credit extended to bulk purchasers and wholesale purchaser consumers. ERA is requesting comments concerning, but is not proposing at this time, possible amendments to the price regulations that would enable price discounts for cash purchases of motor gasoline at retail outlets and the general elimination of credit controls at all levels of distribution.

DATES: Written comments due October 27, 1980. Hearing dates: Houston, Texas, October 2, 1980; Washington, D.C., October 7, 1980. Requests to speak by 4:30 p.m., September 24, 1980, for Houston hearing; 4:30 p.m., September 30, 1980, for Washington, D.C., hearing.

ADDRESSES: All comments, requests to speak at the Washington, D.C., hearing should be submitted to the Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-*28*, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3751.

Requests to speak at Houston hearing to Mack L. Lacefield, 2626 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235, (212) 767-7745. Hearing locations: Houston Hearing: Allen Park Inn, Steamboat Room, 2121 Allen Parkway, Houston, Texas; Washington, D.C., hearing: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055.

Karene Walker (Hearing Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3971.

Chuck Boehl (Office of Regulatory Policy), Economic Regulatory Administration, Room 7108-K, 2000 M Street, N.W., Washington, D.C. 20007, (202) 653-3220.

Bill Funk or Sue Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20485, (202) 252-6736 or 252-6754.

SUPPLEMENTARY INFORMATION:

I. *Background*
II. *Amendments Proposed*
III. *Request for Comments*
IV. *Procedural Requirements*
V. *Written Comments and Public Hearing Procedures*

I. Background

Section 210.62(a) of the Department of Energy's General Allocation and Price Rules (10 CFR 210.1 *et seq.*), titled "Normal business practices", among other things, generally prohibits suppliers of petroleum products from imposing more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser during the base period (for seasonal credit) or on May 15, 1973 (for other credit terms).

On August 1, 1979 ERA amended the normal business practices rule to permit independent retailers to alter certain historical business practices with respect to sales of gasoline (44 FR 45352, August 1, 1979). On June 6, 1980 ERA adopted an additional amendment to permit those reseller-retailers who price gasoline in accordance with 10 CFR 212.93(a)(2) to alter their business practices in retail sales of gasoline in the same manner permitted independent retailers under the July 1979 amendments (45 FR 40104, June 13, 1980). Consequently, ERA has already eliminated credit restrictions for a large portion of retail sales of gasoline.

On May 23, 1980 ERA amended the normal business practices rule to provide that suppliers, while still generally prohibited from imposing more stringent credit terms or payment schedules than existed in 1973, could take action to tighten credit "as * * * expressly authorized by the Federal Reserve Board" (45 FR 36359, May 30, 1980). This amendment recognized certain regulations promulgted by the Board under its credit restraint program that expressly authorized, notwithstanding other law, certain stricter terms in open-end credit accounts.

Thus, at this time, the normal business practices rule's restrictions on credit terms in retail sales have been substantially altered from what they were one year ago. Some sellers at retail remain fully restricted; others have been completely freed from restrictions. Suppliers who issue credit cards have been given a certain flexibility by the Federal Reserve Board to change the terms of credit to credit card holders, but it is not complete flexibility and, under the mandatory petroleum price regulations, such changes may have to be reflected in changes to those suppliers' May 15, 1973 base price.

On July 3, 1980, however, the Federal Reserve Board adopted a final rule effective July 24, 1980, terminating the reporting and special deposit requirements of the consumer credit restraint program (45 FR 46064, July 9, 1980). The Board provided for a transition period ending September 5, 1980, during which creditors may continue to make changes in their credit terms pursuant to the Board's consumer credit program.

II. Amendments Proposed

ERA has stated its intention to decontrol motor gasoline as soon as market conditions allow, and in any event no later than September 30, 1981, the expiration date of the statutory basis for controls, the Emergency Petroleum Allocation Act of 1973, as amended. As indicated above, ERA has already eliminated credit controls in retail sales of gasoline with respect to certain suppliers, but the regulatory scheme with respect to retail credit is not entirely consistent. In addition, after the expiration on September 5, 1980 of the Federal Reserve Board's consumer credit regulations, which DOE has interpreted as superseding its regulations to the extent that the two are inconsistent, those gasoline credit card issuers will once again be prohibited from making any changes in their credit terms and payment schedules. ERA also recognizes that there is some uncertainty as to whether or not changes in credit terms made under the Federal Reserve Board's regulations must be reflected in the May 15, 1973 base price. Moreover, ERA is anxious to avoid any doubt as to its position that, for purposes of applying DOE's regulations, changes made pursuant to the Federal Reserve Board's credit restraint program will continue to be valid after the program's expiration date. Accordingly, to simplify and make consistent our regulations regarding retail sales of gasoline, to avoid possible confusion regarding the continuing validity of changes made under the Federal Reserve Board's credit restraint program, and to prepare further for ultimate decontrol, ERA is proposing to eliminate entirely DOE's role in regulating consumer credit practices in sales of motor gasoline, to be effective retroactively to September 5, 1980.

Therefore, we are proposing to amend the normal business practices rule to abolish the rule's restrictions with respect to credit in all sales of gasoline to ultimate consumers. This would be done by adding a new § 210.62(d)(4) and making conforming changes to § 210.62(c). Under this proposal, the credit provisions of the normal business practices rule would no longer apply to extensions of credit in sales of gasoline to all consumers, including end users, bulk purchasers or wholesale purchaser-consumers. The effect of this proposal would be to allow refiners (which price under § 212.83) and reseller-retailers that price under 10 CFR 212.93(a)(1), as well as retailers and reseller-retailers pricing under 10 CFR 212.93(a)(2), to change their credit terms and payment schedules in their sales of gasoline to consumers. Thus, for example, refiners could eliminate their credit cards, impose more stringent eligibility requirements for credit cards, or accelerate payment schedules for purchases of gasoline by credit card.

In the alternative, we are proposing an amendment that would eliminate the rule's application only with regard to extensions of credit to consumers at retail sales outlets. Under this alternative, delivered sales of gasoline by refiners and reseller-retailers that price under 10 CFR 212.93(a)(1) to bulk purchasers (as defined in 10 CFR 211.102) would remain fully subject to the normal business practices rule, including its restrictions on changes in credit practices, as it currently exists. It should again be noted, however, that retailers and reseller-retailers pricing under 10 CFR 212.93(a)(2) currently are free to change their services and credit terms and schedules in all their retail sales. This alternative amendment would likewise be effected by the addition of a new § 210.62(d)(4) and certain conforming amendments to § 210.62(c).

Neither of these proposals would alter the existing applicability of the rule to credit relationships between retailers or resellers and their suppliers. Thus, for example, neither of these proposals would allow refiners or jobbers to change their credit terms to retailers.

III. Request for Comments

While ERA is not proposing any changes to the normal business practices rule other than those discussed above, in light of impending decontrol and current adequate supplies of gasoline and other petroleum products, ERA is interested in receiving comments concerning other possible changes to the rule.

ERA invites comments concerning possible amendments to the normal business practices rule and the price regulations that would create an incentive for retail sellers to offer end users price discounts for cash purchases, as opposed to credit purchases, of motor gasoline. Currently, the normal business practices rule permits retailers and reseller-retailers that price under § 212.93(a)(2) to offer discounts in retail sales, without regard to their prior business practices. It appears, however, that those retail sellers which are permitted under the regulations to offer discounts (other than those offered on May 15, 1973) are not doing so. We are interested in receiving comments as to why these retail sellers are not offering cash discounts and what, if any, aspects of the regulations operate as disincentives to the adoption of cash discount programs.

ERA is interested in receiving comments on the advisability of creating an incentive for retail sellers to offer cash discounts and the changes to the normal business practices rule and price regulations that would be required should we decide to propose such a program. One example of such a program is the following proposal by Exxon for amending the price regulations to encourage retail sellers that accept refiner credit cards to offer cash discounts. Exxon proposed the following amendments: (1) subtracting the commercial cost of credit during the base period from the 1973 wholesale base price, and permitting refiners to charge retailers a separate fee on retail credit sales; (2) raising the maximum retail margin by an amount equivalent to the fee imposed by refiners on credit sales; and (3) modifying the equal application rule to eliminate disincentives to the establishment of cash discount programs. ERA requests comments on both Exxon's proposal and on alternative ways of encouraging retailers to establish cash discounts, should such programs be desirable.

ERA also requests comments concerning the general elimination of the credit provisions of the normal business practices rule, including its restrictions on credit extended by refiners to resellers and retailers. Respondents should focus their comments with respect to these issues on how such a change or continuation of the present rules reflects the purposes of the Emergency Petroleum Allocation Act. *See* section 4(b)(1).

IV. Procedural Requirements

A. *Section 404 of the DOE Act*

Pursuant to the requirements of Section 404(a) of the DOE Act, we will refer this proposed rule to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The FERC will have until the close of the comment period to make this determination.

B. *Section 7 of the FEA Act*

Under Section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator

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commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties of the EPA.

C. *Executive Order 12044*

We have decided that the preparation of a regulatory analysis is not required for this proposal under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978), or DOE's implementing Order 2030 (44 FR 1032, January 3, 1979). Our decision in this regard is based on the following determinations: (1) The proposal is not likely to have a substantial effect on any of the objectives of national energy policy or energy statutes; (2) The regulation is not likely to impose; (a) gross economic costs of $100 million per year; or (b) a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups; (3) the regulation is not likely to have an adverse impact on competition; and (4) neither the Secretary, Deputy Secretary, or Under Secretary of the DOE considers the regulation likely to have a major impact for any other reason.

V. Written Comment and Public Hearing Procedures

A. *Written Comments*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted on or before October 27, 1980, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Amendments to Normal Business Practices Rule." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writting, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearings*

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation at each hearing by 4:30 p.m., on the dates set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing that you will attend.

If you are selected to be heard, you will be so notified before 4:30 p.m., October 2, 1980 for the Washington, D.C., hearing and September 26, 1980 for the Houston hearing. You will be required to submit one hundred copies of your statement to the address for submission of statements indicated in the "Addresses" section of this notice, before 4:30 p.m., on the day before the hearing.

2. *Conduct of the hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearings. They will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearings. If you wish to have a question asked at the hearings, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearings, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcripts of the hearings from the reporters.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Part 210 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., August 20, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Appendix A—Proposed Amendatory Language

1. Section 210.62(d) is amended by revising paragraph (3) and adding a new paragraph (4) to read as follows:

§ 210.62 Normal business practices.

* * * * *

(d) Notwithstanding the provisions of this section:

* * * * *

(3) A retailer or reseller-retailer, which established maximum lawful selling prices pursuant to § 212.93(a)(2), may offer in retail sales discounts, premiums, and different commodities, services, and equipment than previously offered or sold.

(4) A retailer, reseller-retailer or refiner may offer in retail sales different credit terms or payments schedules than previously offered.

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Appendix B—Alternative Proposed Amendatory Language

1. Section 210.62(d) is amended by revising paragraph (3) and adding a new paragraph (4) to read as follows:

§ 210.62 Normal business practices.

* * * * *

(d) Notwithstanding the provisons of this section:

* * * * *

(3) A retailer or reseller-retailer, which establishes maximum lawful selling prices pursuant to § 212.93(a)(2), may offer in retail sales discounts, premiums, and different commodities, services, credit terms or schedules, and equipment than previously offered or sold.

(4) A refiner or reseller-retailer, which establishes maximum lawful selling prices pursuant to § 212.93(a)(1), may offer in retail sales to purchasers other

than bulk purchasers, as defined in § 211.102, credit terms or payment schedules different than those previously offered.

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[FR Doc. 80–26194 Filed 8–26–80; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16, 17, 18 and 21

Large Trader Reporting to Exchanges and Reporting Open Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule changes.

SUMMARY: The Commission is proposing the following for public comment:

1. A general requirement that exchanges collect and process large trader data similar to that which the Commission now collects from futures commission merchants (FCMs) and foreign brokers on series '01 reports and form 102. Exchanges would provide the information to the Commission on a daily basis in machine readable form. Commission Rule 1.51(a) requires that exchanges maintain a continuing affirmative action program which shall include, among other things, "surveillance of market activity for indication of possible congestion or other market situation conducive to possible price distortion." The Commission considers that access to daily large trader data is essential to maintaining an effective market surveillance program;

2. Amendments to Part 17 which would require FCMs and foreign brokers to report the number of exchanges of futures for physicals (EFPs) and delivery notices issued or stopped against open futures positions in accounts which are being reported to the Commission. This will allow the Commission to obtain from FCMs important surveillance information concerning EFPs and deliveries on a more timely basis than it receives delivery information from traders. Moreover, by requiring FCMs and foreign brokers to provide this information, the Commission will receive EFP and delivery information concerning certain large foreign traders which it currently does not receive; and

3. Amendments to its reporting and publication requirements which will enable the Commission to obtain open interest data which is determined in the same manner by all contract markets and which is directly comparable to open position information received from FCM's, foreign brokers and large traders. This would require large traders to report delivery notices issued and stopped rather than actual deliveries which they currently report.

In addition, the Commission is seeking comment on whether it should allow a trader to carry positions which are long and short the same future of a commodity at different FCMs unless they are held for bona fide hedging or delivery purposes. Allowing this practice has resulted in open interest figures reflecting positions over a period of time which ultimately are closed out by transfer trades.

DATES: Comments must be received on or before November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Telephone (202) 254–7446.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on proposals in thre major areas concerning large trader reporting. These are:

1. A general proposal to require contract markets to collect and process large trader information similar to that which the Commission obtains from futures commission merchants (FCMs) on series 01 reports and form 102s. This information would be used in exchange market surveillance programs and the position information would be forwarded to the Commission daily in machine readable form along with copies of the form 102 in order to replace the comparable portion of the large trader data that the Commission uses in its surveillance system;

2. Amendments to Part 17 of the Regulations which would require FCMs and foreign brokers to report the number of EFPs and delivery notices issued and stopped for individual accounts which are being reported to the Commission; and

3. Amendments to Parts 15–18, and 21 of the regulations that clarify the Commission's requirements with respect to the manner in which open interest and/or open positions are determined by contract markets, large traders and FCMs for reporting purposes. These proposed amendments specify that open interest published by contract markets will exclude contracts against which delivery notices have been stopped by a clearing member. Similarly, the proposed amendments will specify that position information reported by contract markets for each clearing member and positions of large traders reported by FCMs, foreign brokers and traders exclude contracts against which delivery notices have been issued or received.

In addition, the Commission is seeking public comment on issues concerning the extent to which traders should be permitted to hold futures contracts which represent long and short positions in the same future of a commodity and, if permitted, whether these contracts should be included in open interest figures. Two problems have been noted in this area:

a. Open interest in some commodities can be overstated for a period of time due to traders who hold open long and short positions in the same future of a commodity at different FCMs and then offset the positions by transfer trades; and

b. The open interest can be understated due mainly to clearing members of exchanges which report long and short positions in the same future of a commodity on a net basis to the exchanges and later "uncover" these positions in order to make deliveries or transact EFPs.

The Commission is requesting public comment on the following:

a. whether there is any economic purpose served by the practice of allowing traders to hold open long and short positions in the same future of a commodity except for bona fide hedging or delivery purposes;

b. the nature and extent of the problems that may be caused for traders by over or under reporting of the open interest; and

c. whether open interest should reflect only those positions which remain to be offset in pit, upon which delivery notices will be issued or stopped and against which traders will transact EFPs.

Establishment of Exchange Large Trader Reporting Systems

The Commodity Exchange Act ("Act") provides the Commission with numerous regulatory and enforcement powers in order to ensure the fulfillment of the basic congressional purpose underlying the Act. This purpose includes the prevention of sudden or unreasonable fluctuations in price which result from speculation, manipulation and control.[1] In addition, the Commission may designate only contract markets which demonstrate their ability to prevent, among other things, market manipulations and corners and to perform other self regulatory duties.[2] In order to avoid unnecessary duplication of effort, this suggests that designated contract markets, as self regulatory

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[1] Section 3, 7 U.S.C. § 5 (1976).

[2] See Sections 5, 5a and 6, 7 U.S.C. §§ 7, 7a and 8 (1976).

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organizations, should have primary responsibility in the area of market surveillance, with the Commission responsible for general oversight of their activities. The Commission has moved toward an oversight role in other areas, such as ensuring the financial integrity of exchange member firms and now is considering the manner in which it can pursue this policy in the area of market surveillance.

Currently, Commission Rule 1.51 requires that exchanges maintain an affirmative action program which includes "surveillance of market activity for indication of possible congestion or other market situation conducive to possible price distortion." Commission Rule 1.51(a)(1), 17 CFR § 1.51(a)(1) (1979). The Commission considers that an effective contract market surveillance program includes the use of appropriate data to arrive at an informed judgment concerning market conditions and that exchanges will take necessary actions based on these judgments. In this respect, the Commission views data concerning large traders as an essential tool for assessing market conditions. Indeed, accurate and timely information concerning large traders is critical for contract markets to fulfill their statutory responsibility under Section 5(d) of the Act to provide "for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such board." A review of current exchange practices in this area by Commission staff, however, disclosed widely differing practices among the exchanges. More importantly, it revealed that some exchanges apparently collect very little data on individuals' positions for routine use in their surveillance efforts.

As a first step towards assuming an oversight role in the area of market surveillance, the Commission is considering a general proposal that exchanges collect, process and forward to the Commission in machine readable form, information similar to that which the Commission currently collects from FCMs and brokers. The Commission wishes to emphasize that it does not expect collection of this data to be an end in itself, but rather that it will provide the exchanges with a necessary tool in carrying out their self regulatory responsibility, including the prevention of price manipulation and market corners. It may be necessary at some future time for the Commission and the exchanges to consider rules and guidelines which more fully specify additional means by which the exchanges can achieve these ends.

Purpose of Market Surveillance and the Importance of Large Trader Data

The goal of market surveillance is to spot adverse situations in futures markets as they develop and to prevent manipulation or disruption of those markets. This is accomplished by putting critical market information in the hands of those who can act to prevent price distortions before the market has been disrupted. Surveillance must be designed to foresee the development of situations where traders could exploit a market situation and distort prices through their trading activity.

An effective surveillance program must consider information concerning overall supply and demand conditions, marketing practices, deliverable supplies and deliveries, cash and futures prices and price relationships, and large trader data. Since the very essence of market surveillance is to prevent individuals or groups of traders from controlling or manipulating a futures markets, reliable large trader data must be an integral part of an effective surveillance program. However, large trader data is one class of surveillance information that currently is not equally available to the exchanges and the Commission.

The Commission operates an extensive large trader reporting system. The Commission's system requires daily reports from three primary sources: contract markets, FCMs or foreign brokers which carry futures accounts and individual traders. Currently, under Commission Rule 16.00, contract markets must daily report to the Commission by commodity, by future and by clearing member, open long and short futures contracts carried at the end of the day, volume of trading, transfer trades, exchanges of futures for cash and deliveries.[3] In addition, under Rule 16.02, contract markets are required to publish on a daily basis the total gross open contracts for each future of a commodity, the quantity of the commodity delivered in fulfillment of such contracts, as well as daily volume of trading and EFPs.[4] This data is used by the Commission in conjunction with individual large trader position data reported by FCMs, foreign brokers and traders for its daily surveillance of the futures markets.

Futures positions of traders are reported to the Commission by FCMs, foreign brokers and traders when such positions become reportable as defined by Rule 15.00(b) of the Regulations.[5] Under Rule 17.00, FCMs and foreign brokers are required to report daily to the Commission reportable positions in all accounts carried on their books separately for each contract market and for each future.[6] Information concerning account owners and controllers is provided to the Commission on form 102, pursuant to § 17.01(b) of the Regulations.[7] In addition, traders who own or control a reportable position in a commodity are required under Rule 18.00 to report their positions in each future of such commodity on each contract market as well as their trading activity, EFPs and deliveries made and received.[8] Certain biographical information must be provided by traders pursuant to Rule 18.04.[9]

The Commission's surveillance program and reporting system cover all futures in all active contracts. The greatest emphasis in surveillance is placed on maturing futures because futures markets are most susceptible to manipulation or price distortion during the expiration period. However, the Commission and exchanges must also be mindful of potential problems in the deferred futures. This is especially true of commodities with seasonal supply characteristics, where a tight supply situation at the end of the crop year may be evident several months in advance. In some cases, the primary surveillance emphasis may be on a deferred future rather than the nearby future.

Current Exchange Practices in Collecting and Analyzing Large Trader Data

Commission staff interviewed officials of each exchange to determine what large trader data they collected and used. These interviews revealed that five exchanges, to varying degrees, routinely obtain and use data on individual traders' positions for market surveillance purposes. Other exchanges generally use net clearing member positions or gross clearing member positions in their market surveillance programs, although they may collect large trader data for the enforcement of any speculative position limits they have set.

The Commission has considered the adequacy of clearing member data for market surveillance but has concluded that in most markets, clearing member data alone are not sufficient for market surveillance purposes. Clearing member positions do not reveal individual customer positions, which may be spread among several clearing firms. Furthermore, individual positions within the house account are not clearly identified when that account contains a number of diverse positions (e.g., positions of all associated persons of a futures commission merchant).

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[3] 17 CFR § 16.00 (1979).

[4] 17 CFR § 16.02 (1979).

[5] Under Rule 15.00(b), an open futures position in any one future of a commodity on any one contract market becomes a reportable position when it equals or exceeds the levels fixed by the Commission under Rule 15.03 (17 CFR 15.03 (1979)).

[6] 17 CFR § 17.00 (1979).

[7] 17 CFR § 17.01(b) (1979).

[8] 17 CFR § 18.00 (1979).

[9] 17 CFR § 18.04 (1979).

The Commission believes that an effective exchange market surveillance program requires the capacity to monitor the futures positions of individual traders. This information is necessary to determine on a timely basis when individual traders may be developing a dominant futures position capable of exerting an artificial influence on futures prices. Moreover, exchanges must have regular access to such data if they are to meet their obligations under Section 5(d) of the Commodity Exchange Act (the "Act") to provide ". . . for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such board."

Data Collection

As mentioned previously, the Commission is considering the manner in which it can proceed towards an oversight role in market surveillance with the exchanges assuming primary responsibility in this area. The Commission therefore wishes to consider whether as self-regulatory entities, contrct markets should be responsible for collecting and processing large trader data which are essential to maintaining an effective exchange market surveillance program. The costs of operating such a system would then be more directly borne by some of the primary beneficiaries of effective self regulation—namely the exchanges, their members and customers.

Of the data which the Commission collects, the information obtained from contract markets, from FCMs and foreign brokers is considered most essential for market surveillance. The Commission is therefore requesting public comment on a general proposal that contract markets collect, and that FCMs and foreign brokers provide to the exchanges, information similar to that which the Commission receives from FCMs and foreign brokers on the series 01 reports and form 102. The position information which would be collected would be forwarded to the Commission daily in machine readable form along with copies of the form 102 and ultimately, could supplant the Commision's own need for collecting the data. If the Commission determines to adopt this proposal, then specific proposed requirements would be drafted for further public comment.

In making this proposal, the Commission is interested in specific comments on additional costs and regulatory reporting burdens which these proposed rules, if adopted will impose on the industry. It appears that adoption of the current proposal should alleviate, to some extent, the duplicative reporting burden currently imposed on some exchange member firms. As mentioned previously, five exchanges, to varying degrees, obtain data from their members on individual traders' positions and use it in their market surveillance programs. This represents a duplicative reporting burden on such member firms since the Commission also requires that individual traders' positions be reported to it. One exchange, the Chicago Board of Trade, recognized this in proposing rule changes to eliminate its large trader reporting system. The exchange advanced as one reason for this proposal that "presently there is an undue burden in requiring member firms to submit duplicate reports to both the Commission and the exchange."

It has been suggested, however, that if the Commission's proposal is adopted, unnecessary costs and reporting burdens could accrue to the industry. This could happen, for example, if each exchange were to adopt and maintain separate reporting systems. The Commission wishes comment on the feasibility of a reporting system maintained jointly by the exchanges such as their current joint audit program or by a Title III National Futures Organization which would provide data to the exchanges. Such an arrangement might increase reporting efficiency for FCMs and reduce aggregate costs to the exchanges.

Obtaining EFP and Delivery Information From FCMS and Foreign Brokers

The Commission routinely obtains EFP and delivery information on individual traders only on the series '03 report. However, the information concerning deliveries reported by traders who are not located in a city in which the Commission maintains an office is not received by the Commission in sufficient time to permit it to adjust its surveillance to a fluid and fast changing market situation. Under Rule 18.03, if a reporting trader is located in a city in which the Commission maintains an office, reports must be filed with such office on the business day following the day covered by the report.[10] If the reporting trader is located elsewhere, reports are transmitted by mail, postmarked not later than midnight of the day covered by the report. Depending upon the speed of the postal service, this information is received by the Commission from a substantial number of traders three or four days after the trading day for which the report is filed.

In addition, for a number of markets which first came under Federal regulation in April 1975, foreign traders have held or controlled large positions relative to open interest in maturing futures. Under Commission Rule 18.07,[11] however, traders located outside of the United States are not required to routinely file series '03 reports for any commodity regulated under the Act but not specifically set forth in Section 2(a) of the Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974. Since such traders do not file '03 reports, it has been necessary for Commission staff during the delivery month in such markets to routinely contact FCMs who are carrying accounts for foreign traders and brokers by telephone to determine if certain accounts have issued or stopped delivery notices or exchanged futures for physicals. It is at best difficult and time consuming to attempt to gain an accurate picture of the liquidation of a maturing future in this manner.

In order to obtain more complete and timely EFP and delivery information, the Commission is proposing that Part 17 of its Regulations be amended to require FCMs and foreign brokers to furnish EFP and delivery information on a daily basis. In addition to allowing the Commission to routinely obtain delivery information for all large foreign traders, this amendment will significantly reduce the time in which the Commission first learns of the extent to which a trader intends to make or take delivery.

Under Rule 17.02, the reports to be filed by FCMs pursuant to Rule 17.00 must be filed with the Commission at the Commission office in the city where the contract market involved in the reported transactions is located.[12] Rule 17.02(a)(1) specifies that these reports must be filed with the Commission on the business day following the day when the reportable positions were established, and not later than 30 minutes before the official opening of the contract market involved in the reported transactions. Rule 17.02(a)(2) exempts from this requirement reports to be filed by FCMs which do not maintain an office in the city in which the appropriate Commission office is

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[10] 17 CFR § 18.03 (1979).

[11] 17 CFR § 18.07 (1979).

[12] 17 CFR § 17.02(a)(1) (1979).

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located. Those FCMs may file by mail.[13] However, FCMs which are clearing members of a contract market must maintain an office in the city where the contract market involved in the reported transaction is located. Since clearing members are directly involved in all deliveries with the clearing organization of a contract market, the Commission will learn on the day following the business day on which a notice is issued or stopped, the identity of accounts with large futures positions making such transactions.[14]

In addition to the above reason for requiring FCMs and foreign brokers to report EFP and delivery information, this requirement is necessary if the Commission is to eliminate the series '03 reports filed by traders. In making this proposal, the Commission noted that it would have to "obtain essential information which is now collected on that report from other sources that can provide the data in a more useful form and in a more timely manner." [15] In particular, the Commission proposed that FCMs and foreign brokers report certain delivery information daily during the delivery period for all contract markets.

Open Interest

Several contract markets have asked for clarification concerning the Commission's requirement contained in Rule 16.02 to publish "gross open contracts." Those questions concern (1) whether or not positions against which delivery notices have been issued or stopped should be reflected in open interest and (2) whether or not the positions of a trader which is both long and short in the same future of a commodity should be included in open interest.

Positions Against Which Delivery Notices Have Been Issued or Stopped

Because of the comparisons that are made between the data received from contract markets, FCMs and traders, it is necessary that open interest (or open positions) be determined in the same manner by all those required to report. The Commission is aware, however, that not all contract markets, FCMs, foreign brokers and traders determine open positions for reporting and/or publication purposes in the same manner. For example, in some cases, futures positions against which delivery notices have been issued by the clearing organization of a contract market or stopped by traders are considered open until actual delivery occurs and are therefore included in published or reported figures.[16] Yet, other contract markets, FCMs, foreign brokers and traders consider futures positions against which delivery notices have been issued by the clearing organization of a contract market or stopped by traders as closed, and do not include them in their reports or publications.

Background

Prior to enactment of the Commodity Futures Trading Commission Act of 1974, 88 Stat. Section 1389, *et. seq.*, contract markets then under regulation, FCMs, foreign brokers and traders received instructions from the Commission's predecessor agency, the Commodity Exchange Authority (CEA), that futures positions should be considered open until actual delivery occurs. In conjunction with the open interest information, contract markets were instructed to report actual deliveries rather than delivery notices issued or stopped.[17] The CEA instructions were based on the definition of open contracts contained in present Commission Rule 1.3(t).[18] Under Rule 1.3(t) open contracts are defined to mean

> . . . contracts of purchase or sale of any commodity made by or for any person on or subject to the rules of a board of trade for future delivery during a specified month or delivery period which have not been fulfilled by delivery nor offset by other contracts of sale or purchase in the same commodity and delivery month.

Generally these contract markets and the FCMs, foreign brokers and traders who trade on such markets have continued to report in the above manner.[19]

Contract markets which were first regulated after enactment of the Commodity Futures Trading Commission Act of 1974, however, report and publish open interest figures net of delivery notices issued. In conjunction with this information, they report and publish notices issued and received and some (but not all) provide information on notices outstanding. Similarly, most FCMs and foreign brokers which trade on such markets disregard positions against which notices have been issued or stopped in determining if an account must be reported to the Commissions. However, as noted above, traders who own or control positions on such markets were instructed to consider positions as open until delivery occurs regardless of the contract market on which the position is held.

Industry Views

In reponse to instructions from Division staff on the manner in which open interest should be determined, a number of traders, FCM's and contract markets have requested that the Commission reconsider the CEA interpretation of open interest at least for publication and/or reporting purposes. In view of these requests, Commission staff conducted interviews with representatives of the clearing organizations of eight exchanges and of two major FCMs to obtain further industry views on this matter.

Representatives of the clearing organizations of contract markets which reduce open interest when delivery notices are issued were of the opinion that open interest should reflect only those positions which can be offset in the pit. They did not believe that the public would get an accurate picture of the open interest unless it is reduced by notices issued since otherwise the figure would be inflated.

Two of the clearing organizations for markets which reduce open interest upon delivery, however, were of the opinion that contracts against which notices had been issued but upon which delivery has not occurred, should be considered open and included in open interest figures. One representative of such a clearning organization stated that there is still a legal commitment until delivery is actually made and the release of margin money to customers prior to actual delivery exposes clearing members to financial risks if there is a default. In this respect, it is the Commission's understanding that the majority of the clearing organizations keep contracts open on their books for margining purposes even though delivery notices have been issued and stopped against such contracts. This is true for markets which reduce published open interest figures on notice day as well as those which reduce it on delivery day.

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[13] 17 CFR § 17.02(a)(2) (1979).

[14] Delivery procedures on contract markets are initiated between clearing members through the clearing organization of a contract market. A clearing member, either for a customer account carried on its books or its own account, will tender a notice of delivery in its name to the clearing organization of a contract market. The next business day, generally prior to the start of trading (if the delivery month is trading), the clearing organization issues the delivery notice to another clearing member. Generally, this would be the clearing member who carries the oldest open long futures position in the delivery month for an account on its books. This clearing member may assign the delivery notice to such account in which case the notice has been stopped by the account owner or, if allowed by the rules of the contract market, the clearing member may transfer the notice to another clearing member within a specified time period. This is accomplished by selling a futures contract and passing the delievery notice to the clearing member who is on the opposite side of the transaction. While this process may continue throughout the trading day on which the notice was originally issued, at some time prior to the end of the day, the notice must be stopped, i.e., assigned by a clearing member to an account carried on its books.

[15] 41 FR 30352 (July 23, 1976).

[16] The time period between issuing or stopping a notice and actual delivery varies significantly from commodity to commodity and ranges from one day to as many as 75 days.

[17] For auditing reports filed by contract markets and traders, the requirement that deliveries be reported rather than notices is a direct result of the manner in which open interest is interpreted. For example, assuming there has not been an exchange of futures for cash or a transfer trade, if a report indicates a reduction in open interest, it should also indicate offsetting trades and/or deliveries.

[18] 17 CFR § 1.3(t) (1979).

[19] It should be noted that contract markets which publish information on deliveries also make information available to the public concerning notices issued and stopped. This fact underscores the importance of notice information to traders.

Those FCMs which requested that the Commission reconsider CEA's views on this matter indicated that CEA's interpretation of the reporting requirements forced FCMs and large traders to maintain two sets of books—one for clearing organization procedures and the other for Commission reporting purposes. Representatives of two of the clearing organizations also expressed the view that consistency among clearing organizations would make it easier for FCMs and clearing members in terms of their bookkeeping.

Large traders who disagree with the current treatment of open interest under the reporting system believed it imposed an unnecessary reporting burden. Reportable traders who hold positions against which delivery notices have been issued or stopped must continue to report such positions until delivery occurs. Since the period between the time a notice is issued and the time delivery occurs varies among commodities from one to as many as 75 days, this requirement has resulted in traders reporting positions in futures months for which trading has ceased.

Review of Commission Requirements

In view of the difference of opinion in the industry, the Commission reviewed its reporting regulations with respect to the functions served by the data. These functions include surveillance of maturing futures, determining compliance with speculative limits and publication of markets statistics.

Surveillance of Maturing Futures

For maturing futures analysis, open interest information reported by contract markets and open position information reported by FCMs and large traders should allow Commission staff to distinguish between positions which remain to be offset and those against which delivery notices have been issued or stopped. As mentioned previously, the information should also be determined by each reporting source in a similar manner to preclude manual adjustments when making comparisions. In addition, the data should be as timely as possible. If persons who are required to report do not reduce positions until delviery day, the reporting of important surveillance information is delayed from the time a notice is issued until the time delivery occurs. As indicated previously, this delay can be significant for some commodities.

Compliance With Speculative Limits

Given the current definition of open interest, speculative positions against which delivery notices have been issued or stopped but for which delivery has not occured are still considered open for determining compliance with speculative limits. The primary source for determining compliance with speculative limits is the series '03 reports filed by traders. Although for this reason it is preferable that positions against which notices have been issued or stopped should continue to be reported on the '03 until delivery occurs, the fact that there is a fixed number of days in which delivery must occur after a delivery notice has been stopped, makes it practicable to monitor compliance with speculative limits on the basis of delivery notice information alone.

The Commission has previously stated that its rules on aggregation of positions for reporting purposes generally parallel its policy on aggregation for determining compliance with speculative limits. 44 FR 33840 (June 13, 1979). The Commission notes that by not requiring the reporting of positions until delivery occurs, the Commission would be departing from its previous policy.

Publication of Market Statistics

Currently, the Commission publishes reports on monthend commitments of reporting traders. In order to publish commitments data, there is a need for traders to determine open positions in the same manner that exchanges report open interest. In precious metals for example, one contract market reduces open interest on notice day. Traders, however in general, do not reduce positions on their '03 reports until delivery day. This difference has resulted in a number of instances where aggregate open positions reported on the series '03 reports have exceeded exchange published open interest. Because of the large volume of deliveries in precious metals, it is not possible to make manual adjustments to the data in the time frame in which the commitment reports must be published. To date, this has prevented the Commission from publishing commitments reports for these commodities.

Proposed Amendments to the Reporting Requirements

From both the Commission's viewpoint and that of the industry, it appears desirable to standardize the manner in which open interest and open positions are determined with respect to delivery notices issued and stopped. Such an action should simplify bookkeeping procedures for FCMs and clearing members and would eliminate the need for manual adjustments to open interest figures by the Commission in conducting its daily surveillance program, as well as other programs.

However, in considering the manner in which open interest is defined and the uses of this definition, there are alternative needs. With respect to Commission financial requirements or clearinghouse accounting and margining procedures, for example, it appears the definition contained in Commission Rule 1.3(t) is satisfactory. For this reason, the Commission is not proposing that the current definition of open contracts be changed. However, the Commission is considering whether the reporting and publication regulations contained in Parts 15–18 should require that open interest and open positions reflect open contracts as defined by Rule 1.3(t). In view of the overriding importance of the information for surveillance of maturing futures and the fact that in order to be most useful for this function, the data should be timely and indicate positions which remain to be offset, the Commission is proposing that the reporting requirements be amended as follows:

1. Revise the definition of reportable position contained in Rule 15.00(b), so that contracts against which delivery notices have been issued by the clearing organization of a contract market or stopped by a trader will not be considered by FCMs, foreign brokers or traders in determining if a futures position is reportable. By adopting this amendment, FCMs and traders will not report positions against which delivery notices have been issued or stopped.
2. Revise Rule 17.00 so that FCMs and foreign brokers report delivery notices issued by the clearing organization of a contract market and delivery notices stopped by traders for accounts which they are reporting to the Commission. Notices which are passed during the trading day would not be reported.
3. Revise Rule 18.00 to reflect that traders need not report contracts against

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which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of a contract market. In addition, provide that traders will report information concerning delivery notices rather than actual deliveries on their series 1903 reports.

4. Revise Rule 16.00 to require contract markets to report by clearing member, open contracts net of delivery notices issued and stopped. In addition, amend the regulations to require contract markets to report by clearing member the number of delivery notices issued and stopped during the day covered by the report.

5. Revise Rule 16.02 to require all contract markets to publish open interest net of delivery notices stopped. In addition, amend Rule 16.02 to require all contract markets to publish the number of delivery notices stopped during the day for which publication is made.

Traders Long and Short the Same Future of a Commodity

The Commission has received requests from exchanges concerning whether or not the futures contracts of a trader which represent long and short positions in the same future of a commodity should be included in open interest figures. Two problems have been noted.

1. Open interest in some commodities can be overstated for a period of time due to traders who hold open long and short positions in the same future of a commodity at different FCMs and then offset the positions by transfer trades; and

2. The open interest can be understated due to clearing members reporting long and short positions in the same future of a commodity on a net basis to exchanges and later "uncovering" these positions in order to make deliveries or transact EFPs.

The Use of Transfer Trades To Offset Open Positions

Rule 1.46 of the Commission's Regulations generally requires that an FCM close out a customer's position if there is an offsetting purchase or sale unless the purchase or sale constitutes a bona fide hedging transaction or a sale is made for the purpose of making delivery. Traders may, however, maintain long and short positions in the same future of a commodity at different FCMs and depending on which exchange the commodity is traded, transfer such positions from one FCM to the other for the purpose of offsetting the position.[20] Since generally such positions are reflected in the open interest, large downward adjustments have been made to published open interest figures on a number of occasions with no corresponding volume changes.

The Commission questions whether this practice serves any market purpose. In addition, open interest figures which include such positions may be misleading to traders who anticipate making transactions in a future with overstated open interest and to the Commission and the exchanges in judging the potential for liquidation problems.

"Uncovering" Positions To Make Delivery or To Transact EFP's

On some exchanges, the house position of clearing member firms are required to be reported by future to the exchange on a net basis. This allows such exchanges to exclude from published open interest figures long and short house positions in the same future of a commodity that are being held open only for bookkeeping reasons. If a clearing-member desires to, however, he may "uncover" a long and short position in the same future for delivery purposes or to transact an EFP. This practice of excluding positions from open interest that will later be delivered on, or against which EFPs will occur, also may make published open interest figures misleading both to the trade and the Commission.

The Commission is of the opinion that these discrepancies concerning published open interest figures might be resolved by changing Rule 16.02 to specify exactly what should be included in published open interest figures and/or extending the provisions of Rule 1.46 to house accounts and to positions held by customers in accounts with different FCMs. Before recommending specific proposals, however, the Commission wishes comments concerning the scope of problems which may be caused by over or under reporting of open interest and any purposes which may be served by allowing traders to carry long and short positions in the same future of a commodity at different FCMs. The Commission is therefore seeking public comment on the following:

1. Whether there is any economic purpose served by the practice of allowing traders to hold open long and short positions in the same future of a commodity except for bona fide hedging or delivery purposes. The Commission further invites public comment on whether disallowing this practice will impact commodity pools or other customer trading programs which utilize more than one trading advisor. This may occur in cases where two advisors make trades for the same program or where a single pool operator has more than one program traded by different advisors;

2. The nature and extent of the problems that may be caused for traders by over or under reporting of the open interest; and

3. Whether open interest should reflect only those positions which remain to be offset in the pit, upon which delivery notices will be issued or stopped and against which traders will transact EFPs.

In consideration of the foregoing and pursuant to its authority in Sections 4g, 4i, 5(d) and 8a(5) of the Commodity Exchange Act, 7 U.S.C., §§ 6g, 6i, 7(d) and 12a(5), the Commission proposes to amend 17 CFR, Parts 15, 16, 17, 18 and 21 as follows:

Part 15—Reports—General Provisions

1. That § 15.00 be amended by revising paragraph (b) in its entirety as follows:

§ 15.00 Definitions of terms used in Parts 15 to 21 of this chapter.

* * * * *

(b) "Reportable Position" means:

(1) For purposes of reports required by Parts 17 and 18, any open contract position, excluding positions against which notices of delivery have been stopped by a trader or issued by the clearing organization of a contract market, in any one future of any commodity on any one contract market, which, at the close of the market on any business day, equals or exceeds the quantity fixed in § 15.03(a) for reporting purposes for the particular commodity.

(2) For the purpose of reports required by Part 19, any open contract position, excluding positions against which notices of delivery have been stopped by a trader or issued by the clearing organization of a contract market, in any one future or all futures combined, either gross long or gross short, of any commodity on any one contract market which, at the close of the market on the last business day of the week, equals or exceeds the quantity fixed in § 15.03(b) for reporting purposes for the particular commodity.

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[20] The Chicago Mercantile Exchange's (CME) rules do not allow the use of transfer trades for offsetting positions. In the interpretations and special notices relating to Chapter 8 of the CME's rules, Special Executive Report S–580, April 17, 1979, states that:

> Concurrent long and short positions may not be offset by netting, transfer, adjustment, or any other bookkeeping procedures, but each side must be offset by normal floor transactions or in accordance with CME Rules 538 or 718 (cash for futures).

PART 16—REPORTS BY CONTRACT MARKETS

2. That § 16.00 be amended by revising paragraphs (a) and (e) as follows:

§ 16.00 Information to be furnished by contract markets.

* * * * *

(a) The total of all long open contracts and the total of all short open contracts carried at the end of the day covered by the report excluding the number of contracts against which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of the contract market;

* * * * *

(e) The quantity of the commodity for which delivery notices have been issued by the clearing organization of the contract market and the quantity for which notices have been stopped during the day covered by the report.

3. That § 16.02 be amended by revising paragraphs (c) and (d) as follows:

§ 16.02 Publication of volume of trading and open contracts.

* * * * *

(c) The total gross open contracts excluding contracts against which delivery notices have been stopped.

(d) Open contracts against which delivery notices have been stopped on the day for which publication is made.

* * * * *

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

3. That § 17.00 be amended by revising paragraph (a) in its entirety as follows:

§ 17.00 Information to be furnished by futures commission merchants and foreign brokers.

(a) *Special Accounts—Reportable Positions and Delivery Notices.* (1) Each futures commission merchant and each foreign broker, except a foreign broker who carries all accounts on a fully disclosed basis with a registered futures commission merchant, shall submit a report to the Commission for each business day with respect to all Special Accounts, including house accounts, carried by such futures commission merchant or foreign broker. Such report shall be made on the appropriate series '01 form and shall show each reportable position separately for each contract market and for each future in such account as of the close of the market on the day covered by the report. In addition, for each Special Account, a futures commission merchant or foreign broker shall show separately for each contract market and for each future, the number of exchanges of future for physicals and the number of delivery notices issued and the number stopped by the account in the commodity for which a report is filed for the day covered by the report.

(2) A report covering the first day upon which a Special Account shows a reportable position in a particular future shall also show for the preceding business day:

(i) The position in such future in such account;

(ii) Exchanges of futures for physicals for the account.

(iii) Delivery notices for such future issued for the account by the clearing organization of the contract market on which delivery will occur; and

(iv) Delivery notices for such future stopped by the account.

(3) A report showing the information specified in paragraphs (a)(2)(i)–(iv) of this section shall also be filed covering the first day when any account theretofore in Special Account status is no longer in such status.

* * * * *

PART 18—REPORTS BY TRADERS

4. That § 18.00 is amended by revising the introductory text, and paragraph (a) and (c). Also, by deleting paragraph (h)(2)(v), and by redesignating paragraph (h)(2)(vi) and paragraph (h)(2)(vii) as paragraphs (h)(2)(v) and (h)(2)(vi) respectively.

§ 18.00 Information to be furnished by traders.

Every trader who holds or controls a reportable position shall submit reports to the Commission. A report shall be filed for the first day on which such trader acquires a reportable position, for each day thereafter on which he has transactions in any future of such commodity on any contract market and for the first day on which he no longer holds or controls a reportable position. In addition, a report shall be filed for the day on which delivery notices are issued by the clearing organization of a contract market against short futures positions of the trader in the commodity in which the trader is reportable and for the day on which the trader stops delivery notices against long futures positions in such commodity. Each such report shall be prepared on the appropriate series '03 form, on a separate sheet for each commodity, and shall show for the day covered by the report the following information, separately for each future and for each contract market:

(a) Open contracts. The quantity of all open contracts regardless of size (except those contracts against which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of the contract market upon which delivery will occur) in each future of such commodity on all contract markets, broken down to show the quantity classified as hedging (as defined in § 1.3(z)) and the quantity classified as speculative (including spreading or straddling);

* * * * *

(c) *Delivery notices issued and stopped.* The quantity of the commodity against which notices of delivery have been issued by the clearing organization of the contract market on which delivery will occur and the quantity against which notices have been stopped by the trader;

* * * * *

PART 21—SPECIAL CALLS FOR INFORMATION FROM FUTURES COMMISSION MERCHANTS, FOREIGN BROKERS AND MEMBERS OF CONTRACT MARKETS

5. That § 21.02 be amended by revising paragraph (b) as follows:

§ 21.02 Special calls for information on open contracts in accounts carried by futures commission merchants, members of contract markets, and foreign brokers.

* * * * *

(b) The open contracts held or controlled by such traders in each future excluding contracts against which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of the contract market upon which delivery will occur;

* * * * *

Issued by the Commission on August 20, 1980 in Washington, D.C.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-26252 Filed 8-26-80; 8:45 am]

BILLING CODE 6351-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 207

Conduct of Antidumping and Countervailing Duty Investigations; Advance Notice of Proposed Rulemaking

AGENCY: United States International Trade Commission.

ACTION: This is an advance notice of proposed rulemaking.

SUMMARY: On December 26, 1979, the Commission published final rules to implement the extensive changes in the U.S. countervailing duty and antidumping laws required by the Trade Agreements Act of 1979 (19 CFR 207, 44 FR 76457). These final rules set forth procedures for the conduct of Commission investigations under sections 303 and title VII of the Tariff Act of 1930 (19 U.S.C. 1303 and 1641–1677), and sections 102–107 of the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 144. On the basis of the administrative experience with these rules since January 1, 1980, the Commission is considering proposing amendments in specific areas more fully described in the **Supplementary Information** portion of this notice. Prior to proposing specific amendments, the Commission is soliciting suggestions for the contents of proposed rules in order to take into consideration public comments suggesting changes in the provisions in these rules.

DATE: Comments and suggestions concerning the proposed rulemaking should be submitted on or before October 14, 1980.

ADDRESS: Comments and suggestions concerning the proposed rulemaking should be submitted to the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523–0379.

SUPPLEMENTARY INFORMATION: Subpart A of Part 207 contains general rules applicable to all Commission investigations under section 303 and title VII of the Tariff Act and sections 102 through 107 of the Trade Agreements Act. In addition, subpart A implements provisions of Title X of the Trade Agreements Act which relate to judicial review of Commission actions. These rules concern definitions of key terms, the service of documents, the maintenance of an administrative record, maintenance and certain records of ex parte meetings, progress reports concerning Commission investigations, limited disclosure of certain confidential information under protective order, Commission questionnaires and subpoenas, and determinations by an evenly divided Commission.

Section 207.3, concerning the service of documents, requires that any party submitting a document for inclusion in the record of the investigation serve copies of the document on all other parties to the investigation. Commission rules do not require the filing of a certificate of service, however, and the Commission is considering an amendment to require that a certificate of service be filed for the record.

Section 207.7, concerning the limited disclosure of certain confidential information under protective order, does not permit in-house counsel access to confidential information. This exclusion has been criticized by the law departments of many firms and by many professional associations. The Commission is considering an amendment to give access to confidential information under protective order to only those counsel, both in-house and retained, who do not advise their firm's or their client's operating departments and who, therefore, would not be in a position where knowledge of a competitor's confidential information gained under protective order would be relevant to other areas of counsel's endeavor. Under the proposed rule counsel seeking access to confidential information under Commission protective orders would have to sign a statement to this effect.

Subpart B of Part 207 provides a procedural framework for preliminary investigations under section 303 and title VII of the Tariff Act. These rules concern the filing of petitions, the contents of petitions, notice of initiation of preliminary investigations by the Director of Operations, termination of preliminary investigation by the Department of Commerce, submission of written statements and attendance at a conference, a recommendation to the Commission by the Director of Operations, the Commission's determination, and a notice of the Commission's preliminary determination.

Sections 207.13 and 207.15 of these rules concern the delegation of the conduct of preliminary investigations to the Director of Operations. Section 207.16 concerns the recommendation of the Director to the Commission concerning the disposition of the case. Prior to their promulgation, these rules were criticized in their proposed state. Criticisms included fears that parties would be deprived of an opportunity to make effective oral presentations to the agency and that the Commission would rely excessively on its staff instead of exercising its own judgment in making preliminary determinations. The Commission is interested in whether the public considers the delegation a successful practice and whether the Commission ought to continue the practice.

Subpart C of Part 207 provides procedures for final determinations in antidumping and countervailing duty investigations. These rules include provisions for a notice of investigation, the placing of a nonconfidential staff report on the public record before a hearing, the submission of prehearing statements, appearances at and conduct of public hearings, post-hearing submissions, the Commission determination, factors considered by the Commission in making a determination, the standard for the Commission's determination, and the publication of a notice of the final determination.

Section 207.22 provides criteria for the filing of prehearing statements. Another Commission rule, § 201.12(d) provides that "Copies of witness' prepared statements should be filed with the Office of the Secretary of the Commission not less than 3 business days prior to the hearing . . ." (19 CFR 201.12(d) as amended at 44 FR 76476, December 26, 1979.) The purpose of § 201.12(d) is to give Commissioners time before a hearing within which to review the prepared statements. The large number of investigations being conducted since January 1, 1980, has required that § 201.12(d) be waived in investigations currently scheduled. The waiver of the requirement for filing prepared testimony has led to surprise at several hearings when materials not given a significant treatment in prehearing statements were instead filed as prepared testimony. The policy of the Commission shall continue to be to reject prepared testimony which goes beyond matters raised in prehearing briefs and to continue to require that parties disclose the nonconfidential information and arguments which they believe relevant to the Commission's determination in their prehearing statements. With respect to the deadline for filing witnesses' statements, however, the rule has been waived in most of the antidumping and countervailing duty investigations conducted since January 1, 1980, and this indicates that it may not be appropriate for these investigations. Comments are solicited as to whether these rules require further clarification or change.

Sbupart D contains rules for implementing sections 102, 103, and 104 of the Trade Agreements Act with respect to pre-existing countervailing duty orders and antidumping and countervailing duty investigations pending as of January 1, 1980, the effective date of the Trade Agreements Act.

At the time the Commission promulgated regulations for this subpart, the Commission did not anticipate that domestic industries which had successfully petitioned for countervailing duty orders prior to the enactment of the Trade Agreements Act might not wish to participate in a Commission investigation concerning material injury under section 104 of the Act. Inasmuch as section 104 was drafted for the purpose of making the enforcement of countervailing duty orders issued prior to January 1, 1980, which were not subject to the material injury requirement imposed by section 701 of the Tariff Act, consistent with orders issued after that date, the Commission has invoked the authority of section 704 of the Tariff Act to terminate investigations under section 104 upon the request of the original petitioner to withdraw its petition. This discretion to terminate cases under section 704 has been applied on an *ad hoc* basis. The Commission is considering proposing a regulation to terminate section 104 investigations similar in content to § 207.40(a) of the current rules.

Subpart E contains rules for the termination and suspension of antidumping and countervailing duty investigations and investigations to review outstanding determinations and to reopen investigations.

After reaching its determination in Investigation No. AA1921–145A (Review), *Electric Golf Cars from Poland* (45 FR 39581, June 11, 1980), the Commission decided to propose amendments to section 207.45, the rule which implements section 751 of the Tariff Act which, in turn, authorizes review investigations. The **Federal Register** Notice of this Proposed Rulemaking was published on August 14, 1980 (45 FR 54086). The period for public comment on the proposed amendments to § 207.45 will close on September 15, 1980.

Public comments are solicited on these matters and any other aspect of the conduct of antidumping and countervailing duty investigations by the Commission.

By order of the Commission.

Issued: August 20, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–26249 Filed 8–26–80; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

[Docket No. R–80–861]

Mortgage Insurance and Assistance Payments for Home Ownership and Project Ownership; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would elicit public comment on specific regulation language which would (1) reduce the annual mortgage insurance premium under the revised Section 235 program from .70 percent to .50 percent; and (2) increase from 5 percent to 10 percent the standard deduction from family gross income which is allowed in lieu of amounts withheld for social security, retirement, health insurance, similar payroll deductions, regardless of the actual amount of such withholdings.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 235—Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., August 20, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–26158 Filed 8–26–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 890

Grants for Mining and Mineral Resources, Research Institutes and Mineral Research Projects

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Proposed amendments to rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to amend portions of the policies and procedures (Title 30, Chapter VII, Part 890). The proposed changes would clarify the date of submission of applications and revise the grant period for allotment grants. The mineral institutes will be required to submit the allotment grant applications on or before April 1 for grants commencing on July 1 of the same calender year. The revised grant period would begin on July 1 to correspond to the academic year of the mineral institutes. These changes were initiated by OSM at the request of the mineral institutes.

DATE: Written comments on the proposed amendments must be received on or before 4:00 p.m., September 15, 1980.

ADDRESSES: Written comments must be mailed to: Administrative Record, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; (202) 343–8032.

FOR FURTHER INFORMATION CONTACT: Ranvir Singh, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; (202) 343–8032.

SUPPLEMENTARY INFORMATION: Title III of the Surface Mining Control and Reclamation Act (the Act), Pub. L. 95–87, 30 U.S.C. 1221, et seq., authorizes the Secretary of the Interior to designate a mining and mineral resources research institute (mineral institute) at one public college or university in each State for conducting a program of substantial

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instruction and research in mining and minerals extraction. As of this date, 31 mineral institutes have been established in as many States. Title III also provides for annual allotment grants and for mineral research grants including grants for scholarships and fellowships.

Section 890.11(a) requires that to obtain an allotment grant a mineral institute must submit a request to the Office of Surface Mining six months prior to the end of the Federal fiscal year. Since the Federal fiscal year begins on October 1, a grant application must be submitted by April 1. Currently, the grant period for the allotment grant coincides with the Federal fiscal year. The Office of Surface Mining is proposing to change the grant period to begin on July 1 of each year. However, OSM is not proposing to change the deadline for grant requests from April 1. This will require the mineral institutes to submit grant request 90 days prior to the beginning of the grant period. OSM believes that this change will still provide the Office adequate time to review and evaluate the grant requests and to verify the proposed budgets. The proposed rule change in § 890.11(a), would clarify that grant requests are due on April 1.

Section 890.21(a)(3) is being amended to change the grant period. The grant period currently begins on October 1 and ends on September 30 of the following year. The revised grant period will begin on July 1 and will end on June 30 of the following year and thus will correspond to the academic year of the mineral institutes. The revised grant period would result in more efficient planning for and management of grant funds by the mineral institutes.

OSM will appreciate any and all comments. The comments should be as specific as possible and should include any supporting facts or rationale. All comments will be available for inspection at Room 153, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

AVAILABILITY OF COPIES: Copies of these proposed amendments may be obtained from the following office: Ranvir Singh, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; (202) 343–8032.

Statements of Significance and Environmental Impact:

The Department of the Interior has determined that these amendments of rules are not significant and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has also determined that amendment of the rules within the scope of this document will not significantly affect the quality of the human environment. Accordingly, this action is not subject to the environmental impact statement requirements of the National Environmental Policy Act.

Dated: August 19, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

30 CFR Part 890 is proposed to be amended as follows.

1. By revising § 890.11(a) to read as follows:

§ 890.11 Applications for allotments after the first year.

(a) After the first fiscal year, in order to obtain subsequent allotments an institute shall submit to the Assistant Director a request for an annual allotment (in six copies) containing information and materials on Standard Form 424 to supplement any previously submitted application as may be needed to make it currently applicable and to reaffirm eligibility. Such requests shall be submitted on or before April 1 to be considered for grants commencing on or after July 1 of the same calendar year.

* * * * *

2. By amending § 890.21(a)(3) to read as follows:

§ 890.21 Grants amendments

* * * * *

(a) * * *

(3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period. Allotment grants shall commence on July 1 and shall complete on June 30 of the following year.

* * * * *

[FR Doc 80–26225 Filed 8–26–80; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS–80009; FRL 1533–6]

Premanufacture Review Program; Proposed Processor Requirements

Correction

In FR Doc. 80–24662 appearing at page 54642 in the issue for Friday, August 15, 1980, make the following correction:

On page 54654, in the first column, in § 720.34, "(b) Invalid notice ¹ * * *" should read "(b) Invalid notice. (1) * * *". No footnote "¹" was intended, instead paragraph (1) was being referenced.

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare; Ambulance Service

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: The proposal would expand the Medicare regulations to provide coverage of round trip ambulance services for a hospital inpatient to another treatment facility, including a non-hospital facility, such as a clinic, therapy center, or physician's office, to obtain medically necessary diagnostic or therapeutic services not available in the hospital in which the beneficiary is a patient. Current ambulance service regulations provide coverage for transportation, under certain circumstances, only to another hospital, to a skilled nursing facility, or to the beneficiary's home.

The proposal would also specify that the availability of a physician or physician specialist is a factor in determining whether a hospital has appropriate facilities to provide the level and type of care required by the beneficiary.

These proposed changes are intended to make the ambulance service benefit more responsive to patient needs and consistent with changes in the health delivery system.

DATE: To assure consideration, comments should be received by: October 27, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to: Room 309–G Hubert H. Humphrey Bldg., 200 Independence Avenue, S.W., Washington, D.C.; or to Room 789 East High Rise Bldg., 6401 Security Boulevard, Baltimore.

In commenting, please refer to BPP–31. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202–245–7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION CONTACT: Henry J. Hehir, Health Care Financing Administration, Room 489 East High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, 301–594–8561.

SUPPLEMENTARY INFORMATION: Coverage of ambulance services under Part B of Medicare is authorized by sec. 1861(s)(7) of the Social Security Act when other means of transportation are contraindicated by the beneficiary's condition, but it is authorized only to the extent prescribed by regulation.

Our present regulations (at 42 CFR 405.231(j) and 405.232(i)) set forth the general conditions and limitations for coverage of ambulance transportation. They provide for coverage only if the destination is a hospital, a skilled nursing facility, or the beneficiary's home and only if other means of transportation would endanger the patient's health. Trips to hospitals or skilled nursing facilities are limited to those that begin in the locality ordinarily served by the institution so that unnecessarily longer and costlier trips are avoided. The regulations reflect the intent expressed in the House Ways and Means Committee and Senate Finance Committee reports on H.R. 6675, the 1965 Social Security Amendments, (House report no. 213 at page 36 and Senate report no. 404 at page 43) that ambulance transportation be covered only if:

> * * * (a) normal transportation would endanger the health of the patient, and (b) the individual is transported to the nearest hospital with appropriate facilities or to one in the same locality and under similar restrictions, from one hospital to another, to the patient's home or to an extended care facility.

In recent years, developments in medical care practice and health care planning have made it necessary to provide round trip transportation for hospital inpatients to other facilities to obtain diagnostic and therapeutic services, such as radiation therapy, Computerized Axial Tomography (CAT) scans, etc., that are not available in the hospital in which they are receiving care. These services may be available in another hospital or in facilities such as clinics, therapy centers, and physicians' offices that are closer than the nearest hospital equipped to provide them. However, current regulations limit permissible destinations to hospitals, skilled nursing facilities, and the beneficiary's home and do not provide for payment of round trip ambulance service for a hospital inpatient to obtain specialized diagnostic and therapeutic services not available at the hospital in which he or she is a patient. This often results in (1) the patient being transported to another hospital that is able to meet his or her needs but that is more distant than closer non-hospital facilities capable of providing the needed services; or (2) the patient being transported by ambulance at his or her own expense to the nearer nonhospital facility.

Therefore, we propose to expand the current regulations to authorize coverage of transportation of hospital inpatients to and from the nearest treatment facility capable of providing the necessary specialized services. This would eliminate unnecessarily long ambulance trips and assure that patients are not financially burdened.

We are not proposing to expand coverage of ambulance service to inpatients of skilled nursing facilities or nursing homes in general or to patients at home. The purpose of this revision is to provide Medicare hospital inpatients with access to specialized diagnostic and therapeutic services that are medically necessary in connection with their hospital stays but that are not available in the hospital where they are inpatients. Because this ambulance service coverage will be provided only for those specialized services needed in connection with hospital inpatient level of care, it will not be necessary for us to develop extensive decision rules for determining when the need for medical services justifies coverage of ambulance transportation. This avoids the administrative difficulties of deciding which particular diagnostic and therapeutic services would qualify. The built-in standard of hospital level of care services needed in connection with the hospital stay should be sufficient to preclude inappropriate coverage of ambulance services.

We believe that, if this principle were extended to skilled nursing facility and nursing home patients, or to patients living at home, there would be no built-in limitation, as there is for hospital inpatients, as to the types of diagnostic and therapeutic services for which ambulance services are appropriately utilized. Those services could arguably range from physician office or clinic visits to dental and eye care services. This could convert the ambulance service benefit into a general transportation service, which would be inconsistent with its basic intent.

We have reviewed several possibilities for expanding our proposed ambulance service coverage. One would be to specify diagnostic and therapeutic services, and perhaps the types of facilities that would qualify the ambulance services for coverage. Another might be to require that the diagnostic or therapeutic service necessitating ambulance service be determined to be directly related to, and medically necessary for, diagnosis or treatment of the condition requiring the SNF level of care. Some other means of control would have to be devised for the home patient. However, we believe these would present serious administrative problems of deciding on qualifying services and possibly trying to maintain a list of qualifying services. Therefore, we are not proposing broader coverage. However, we welcome comments and suggestions on this question.

The current regulations also provide that payment will be made for ambulance service for a beneficiary to become an inpatient in the "nearest institution having appropriate facilities". At present, the availability of a physician or a physician specialist is not considered in determining whether a hospital has appropriate facilities. For example, it has been called to our attention by Congressional inquiries and carrier denials of claims that some small, rural hospitals do not have a physican on duty 24 hours a day. We believe that the availability of a physician is an essential consideration in assuring that a hospital is, in fact, equipped to provide the type of care required by the patient's condition. Under the proposed amendment, therefore, this provision for coverage of ambulance service to the nearest hospital having appropriate facilities would include a determination of the availability of a physician or physican specialist capable of providing the needed care or treatment.

We believe these proposed changes in existing regulations will improve the availability and quality of services to Medicare beneficiaries and appropriately reflect current practice in the delivery of health care.

In addition to the changes already stated, we have made organizational

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and editorial changes to the regulations that do not affect their substance.

42 CFR 405.232(i) is revised to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

* * * * *

(i) *Ambulance service.* (1) *Definitions.* For purposes of this paragraph—

"Ambulance" means a specially designed vehicle for transporting the sick or injured that contains a stretcher, linens, first aid supplies, oxygen equipment, and other lifesaving equipment required by State and local law, and that is staffed by personnel trained to provide first aid treatment.

"Appropriate facilities" means that the institution is capable of providing the required level and type of care for the illness or injury involved. In the case of a hospital, it also means that the hospital has available a physician or physician specialist as necessary to treat the patient's condition.

"Institution" means a hospital or skilled nursing facility that meets the requirements of sections 1861(e)(1) or 1861(j)(1) of the Act.

"Locality" means the service area surrounding the institution from which individuals normally come or are expected to come for hospital or extended care services.

(2) *Limits on ambulance transportation.* Medicare Part B pays for transportation by ambulance only if other means of transportation would endanger the beneficiary's health and if the beneficiary is transported—

(i) To an institution;

(ii) To his or her home from an institution; or

(iii) Round trip from a hospital to another hospital or non-hospital treatment facility, such as a clinic, therapy center, or physician's office, to obtain necessary diagnostic or therapeutic services not available at the hospital where the beneficiary is an inpatient.

(3) *Limits on payment.* Medicare payments for the ambulance services specified in paragraph (i)(2) of this section are limited to the payment which would have been made for each of the following types of transportation:

(i) To an institution in whose locality the beneficiary is located or, if the beneficiary is not in the locality of an institution that has appropriate facilities, to the nearest institution that does;

(ii) To the beneficiary's home from an institution in whose locality the home is located, or from the nearest institution with appropriate facilities; and

(iii) For a hospital inpatient, round trip to the nearest hospital or nonhospital treatment facility capable of providing necessary specialized services not available at the hospital where the beneficiary is an inpatient.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 30, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: August 18, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-25507 Filed 8-26-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 80-54]

Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its tariff filing regulations, to specifically prohibit the filing of time/volume rates. This modification is intended to enable tariff users to clearly discern the applicable rates and exact cost of moving cargo at the time of or prior to shipment.

DATE: Comments (original and 15 copies) due on or before October 27, 1980.

ADDRESS: Comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The principle of so-called "aggregate" rates or "time/volume rates" is that for a guarantee of a specific minimum volume of cargo, usually stated in revenue tons or a prescribed number of containers, shipped over a specified period of time (one year, for example), a carrier will provide the contracting shipper a lower rate than is otherwise applicable to shippers of the same commodity.

Time/volume rates were initially limited to rates on iron and steel moving from Europe to the Gulf coast of the United States. Acceptance of these time/volume rates, in early 1973, has since resulted in the proliferation of such filings to other commodities, carriers and trades. Upon examination of numerous time/volume rates and copies of their related contract(s) or agreement(s), the Commission believes that such rates may not be conventional or routine ratemaking, and may be contrary to the provisions of sections 18(b), 14 Fourth, 14 b, 15, 16 First and 17 of the Shipping Act, 1916. The Commission, therefore, is proposing to prohibit their publication.

Section 18(b)(3) provides in pertinent part that a common carrier shall not "charge or demand or collect or receive a greater or less or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariffs on file with the Commission and duly published and in effect at the time" (of shipment).[1]

It appears that the practice of relating a current rate to a future volume of cargo, which may or may not be generated, exceeds the intent of section 18(b)(3). This section has long been interpreted as requiring that all shippers, carriers and other interested parties know the exact cost of moving cargo at the time (of shipment).

Time/volume rates preclude the carrier from specifying with any certainty the rate which is applicable to any given shipment because that rate may be dependent on subsequent events, usually the expiration of some time period. Until that time, it is not known whether the contracting shipper will meet the minimum tonnage required under the contract to permit application of the lower contract rate.

This situation is further complicated where the contracting shipper *fails* to meet the required minimum tonnage. Some contracts provide for the application of the non-contract rate on the shipments that have already moved during the contract period, while other contracts allow for adjustments of the required minimum for *force majeure* reasons resulting in a negotiated rate not stipulated in the tariff. Moreover, the lack of written confirmation of *force majeure*, specifying when and by whom it was invoked or the reasons therefor, could invite discrimination or unequal treatment among shippers.

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[1] The descriptive words "of shipment" in parenthesis above were added as representing the only logical definition which can be placed upon the word "time" as set forth in the statute. The rate application must necessarily be limited to a period relating to the receipt of cargo, arrival, loading or sailing of the vessel upon which the cargo is shipped if a freight tariff is to provide all parties accurate knowledge of the level of rates to which they are entitled.

Generally, there does not appear to be a way of determining whether a shipper is entitled to the lower rate which is being applied without a detailed audit of the contract shipments. In the event that the volume factor is not satified and freight is not properly adjusted through oversight or by design, a violation of section 18(b)(3) of the Shipping Act would occur.

Additionally, it appears that the lack of specifications as to form and manner and responsibility of how and by whom shipment records are to be maintained would make it difficult to adhere to the requirements of section 18(b)(3) of the Shipping Act, 1916, when the volume requirements are not met.

Section 14 Fourth prohibits carriers from making an unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered. The Commission believes that, lacking any apparent justification by the carrier, aggregate time/volume rate contracts could lead to unjustly discriminatory treatment as between shippers in violation of section 14 Fourth.

Moreover, time/volume contracts may serve as a tying device by the carrier quite different from the ordinary volume arrangement allowing lover rates for larger quantities when moving under a single shipment. To that extent, such contracts may contravene section 14b of the Act.

Secton 14b permits the use of a dual rate contract system which obligates a shipper to utilize a particular conference or carrier. The only significant difference beween the section 14b dual rate contract and the time/volume contract is the absence of any requirement that the shipper give all or any fixed portion of his patronage to the carrier in return for the lower rate. Although it may be argued that time/volume contracts do not, by their terms, require that a fixed portion of the shipper's cargo be tendered to the carrier, the use of the time/volume contract may have the same result.

Sections 16 and First and 17 of the Act proscribe undue or unreasonable preference or advantage; unreasonable prejudice of disadvantage; and prohibit carriers from demanding, charging or collecting any rate or charge which unjustly discriminates between shippers. Time/volume rate contracts appear to be discriminatory vis-a-vis shippers of large quantities of cargo and shippers of small quantities. Under such contracts, two shippers tendering shipments of identical commodities and volume on the same date (to move on the same vessel) could be subjected to different rates because one executed a contract with the carrier and the other did not.

The exercise of concerted ratemaking activities by ocean carriers is subject to the filing and approval of such agreement pursuant to section 15 of the Shipping Act, 1916, (46 U.S.C. 814). Time/volume contracts established concertedly by conference member lines would be unjustly discriminatory and/or unfair as between shippers, and would also appear to require specific Commission approval under section 15 of the Act.

Therefore it is ordered, that pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18(b) and 43 of the Shipping Act, 1916, (46 U.S.C. 817(b) and 841(a)), the Commission proposes to amend 46 CFR Part 536 at follows:

1. A new paragraph (o) would be added to read as follows:

§ 536.2 Definitions.

(o) *Time/Volume Rate.* A rate which is conditioned upon the carriage of a minimum quantity of cargo over a specfied period of time.

2. A new section would be added to read as follows:

§ 536.17 Prohibited practices.

Time/volume rates are prohibited. Any tariff filing which contains a time/volume rate shall be rejected. Existing tariffs containing time/volume rates shall be amended by removing these rates and any rules or contracts relating thereto.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-26212 Filed 8-26-80; 8:45 am]

BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 37080]

Accounting and Reporting of Railroads' Freight Train Car Repair Costs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is instituting a rulemaking proceeding to consider establishing criteria for accumulating, recording, and reporting the costs of repairing freight train cars. The objective is to assure more accuracy and uniformity of repair costs information by car types. The proposed criteria require that freight car repair costs be directly identified with the types of equipment repaired. Two levels of repair costs processing are presented, and railroads may choose the more appropriate methodology. The Commission needs railroad equipment repair costs information in establishing car service compensation rates and in analyzing freight rates.

DATES: Comments due by October 6, 1980. If the proposed rules are adopted, they would be effective January 1, 1981.

ADDRESS: An original and 10 copies, if possible, should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Telephone No. (202) 275-7448.

SUPPLEMENTARY INFORMATION: The objective of this proceeding is to develop criteria for Class I railroads in collecting and reporting costs for freight train car repairs. A significant feature of this proposal is that repair costs for both foreign and system freight cars will be directly identified with each type of car that is repaired.

For purposes of this proceeding, freight train cars are divided by the car types listed in Schedule 415 of the Railroads' Annual Report Form R-1 (Form R-1).

Section 11122 of the Interstate Commerce Act, 49 U.S.C. 11122, establishes the basis for this proceeding. Under that section the Commission may establish compensation for the use of locomotives, freight train cars, and other vehicles. Subparagraph (b)(1) of Section 11122 states: "The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor.

Repair costs data by car types is needed for computing per diem (car-hire) rates for railroad-owned cars and interchange services (see our decision in Ex Parte No. 334, *Car Compensation-Basic Per Diem Charges*). Also, in our cost finding process, we want to determine as precisely as possible the cost of moving freight with a particular type of equipment.

Schedule 415 of Form R-1 requires railroads to report repair costs by types of freight train cars. However, the instructions for this schedule lack criteria as to what costs should be directly accumulated by car types, and what costs can be allocated. The

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instructions allow alternatives, including "a carrier conducted study to determine car repair expenses by car types" and "other available standards valid for the responding carrier." Thus, the cost data is probably reported under diverse methods. Because the schedule does not require reporting railroads to explain the methods used in allocating costs, the validity and accuracy of the data cannot be evaluated.

A. *Proposal.* We have proposed adding new instructions to the Uniform System of Accounts for Railroad Companies to provide the following guidelines for accumulating, recording, and reporting the repair costs for foreign and system freight train cars.

For purposes of this proceeding, system cars are those freight train cars recorded in the reporting railroad's primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars are to be considered foreign cars.

Level I: Roads Employing a Job Order Cost System

Railroads employing a job order cost system will use this method for reporting actual repair costs by car types. A job order cost system is a system of applying actual and/or standard costs to a specific job in proportion to the amount of materials, attention, and effort used to repair a unit or group of equipment. This is the preferable and most accurate method of matching repair costs with the unit repaired. Its use is encouraged but not required.

Standard costs may be used and shall recognize the differences in performing repairs on various types of freight train cars, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs reflected in the annual reports to the Commission.

Level II: Alternative Repair Costing Methodology

An alternative freight train car repair cost methodology is proposed which is based on a systematic allocation of the total direct repair cost amounts to the related car types for both system and foreign cars. The following steps comparise this methodology:

(1) Repair costs relating to the equipment repair process shall be recorded in accordance with regulations and account texts prescribed in 49 CFR 1201, Uniform System of Accounts For Railroad Companies (see Appendix C);

(2) Standard costs may be used and shall recognize the differences in performing repairs on various car types, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs reflected in the annual reports to the Commission;

(3) Direct costs relating to repairing system cars shall be separated from those applying to the repair of foreign line cars. This allocation of repair costs shall be based on a railroad conducted study which shall fairly reflect the nature of each road's repair operations;

(4) For system cars, the following steps are required:

(a) The repair costs relating to heavy, program or project repairs shall be directly assigned to the types of cars repaired by using actual or standard costs. A heavy repair is defined as a repair which is relatively so substantial in cost, repair time or physical damage, and management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time, and types of cars to be repaired are identified;

(b) The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroads' Car Repair Billing System (CRBS) as an allocation basis. The CRBS is currently in use by many railroads for repair costs billing purposes. It serves to identify the cars repaired and to relate the nature of these repairs with the applicable standard costs for the repairs. Therefore, system car repairs shall be priced under the CRBS and the resulting standard cost pools shall be used to allocate actual costs back to the equipment types;

(c) Repair costs paid to foreign roads for system cars shall be assigned to the types of equipment that were repaired. Foreign billing is a term used to describe amounts paid to foreign roads for repairs made to system cars. Foreign billings for light and running repairs are usually conducted through the CRBS, and therefore the car types are identified. For heavy off-line repairs, system's management is generally involved in the repair authorization, and therefore the repair costs can be matched with the type of cars repaired;

(d) Roads shall match any resulting expense credits with the car types to which they relate. Expense credits can occur, for example, when a road is charged with the repair of system equipment but the responsibility of the repair ultimately rests with a foreign road. Expense credits can also occur when billing errors or discrepancies are discovered;

(e) The various components of the repair cost process relating to system cars shall be accumulated and reported to the Commission by the types of equipment listed in Schedule 415 of Railroads' Annual Report Form R-1 (see Appendix B);

(5) For foreign cars, the distribution of actual repair costs shall be assigned to the car types as follows:

(a) The repair costs that are accumulated and traceable because of the magnitude of the repair job (heavy repairs) shall be assigned directly to the applicable car types.

(b) The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4-b above).

(c) Any resulting expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

(d) The net amount of foreign repair costs charges and credits shall be reported by car types in Schedule 415 of the R-1. (see Appendix B)

B. *Equipment Repair Classifications.* We have determined that the freight car repair process can be separated into seven repair classifications. These repair classifications, which are presented below, are for reference purposes only, but should facilitate the accounting, allocation, and reporting process.

Class(es)	Car owner	Repaired by	Responsibility
A	System	System	System
B	Foreign	System	System
C	System	System	Foreign
D	Foreign	System	Foreign
E	System	Foreign	System
F	Foreign	Foreign	System
G	System	Foreign	Foreign

Classes A, C, E, and G apply to system cars, and Classes B, D, and F relate to foreign cars. Appendix D illustrates how these classifications relate to the proposed Level II methodology.

C. *Discussion.* The repair process methodology is proposed so that the Commission can derive more accurate information on the cost of providing rail service. Revenue equipment is one of the most important assest for producing revenues, and certainly the repair of these freight train cars is similarly significant. Therefore, it is essential in this industry that companies report repair costs in an understandable, uniform, and comparable manner.

Ideally, each railroad would establish an information system which would capture actual repair costs as they occur, and centrally maintain all other relevant data for each system car. Descriptive factors such as car type, age, kind of bearings, and tare weight would be included; and repair data such as repair date, locations, repair codes, foreign or system car information, costs, and special problems encountered would also be captured along with general information and operating data. Such an information system would be beneficial to management by providing improved financial and operational information.

The proposed methodology is flexible and not overly restrictive. Some roads are moving toward the capability of directly tracing and capturing the actual repair costs by car types. These roads might prefer to report such costs using their version of a job order cost system (Level I). Other roads may use the proposed allocation methodology (Level II) which is especially adapted to utilize repair costing procedures already being used extensively. Moreover, this methodology allows management the flexibility to develop certain cost relationships within the proposed structure.

The proposed guidelines do not preclude the use of statistical sampling as a means for accumulating the allocating repair costs by equipment types. The sampling techniques used should be valid and relative to the equipment repaired for each railroad. Railroads should maintain and make available to the Commission, when requested, the basis for using the selected statistical sampling technique.

The AAR's CRBS is a repair costing system which is proven and widely accepted in the industry. The cost standards are believed to be valid and they are reviewed periodically by the industry for appropriateness. The CRBS enables users to reference which cars were repaired, and therefore, car type data can be amassed.

The proposed methodology does not adopt the CRBS as a regulatory requirement that all roads must use for billing purposes. However, the CRBS is an accessible and widely used system whereby railroads can develop cost relationships for properly assigning car type cost information.

The proposed methodology should not significantly increase the cost of accumulating and reporting repair cost information. Our study indicates that some roads might have experienced cost savings by reviewing and updating their current reporting systems. This is noted even after CRBS information is processed for system cars, and after some advanced technologies were introduced to the reporting process.

Because uniform reporting is an essential element in this proceeding, it is important that railroads include only repair expenses in this methodology. Repair expenses are those which represent normal or delayed repairs and maintenance expenses, and which are expensed in the year incurred. They are distinguishable from capital expenditures which substantially extend the service life or substantially increase the utility of depreciable property. This is covered in 49 CFR 1201, Instruction 2–11, "Units of property rebuilt or converted."

The public and the affected carriers are requested to study the proposed changes in the regulation and Form R–1, and to submit their views and comments. Because a major concern is regulatory costs, we specifically request railroads to furnish estimates of additional costs to implement the proposals.

We propose to adopt the amendments to 49 CFR 1201 set forth in the appendices to this notice. Appendix A contains the proposed new instruction. Appendix B displays the proposed revisions to Schedule 415 of the R–1. Appendix C shows the freight train car repair account conversion reference. Appendix D gives a flow diagram of the proposed Level II methodology.

This proposed action does not appear to affect significantly the quality of the human environment or the conservation of energy resources.

This proposal is made under the authority of 49 U.S.C. 10321 and 11122 and 5 U.S.C. 553.

Decided: August 15, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix A to 49 CFR Part 1201 Subpart A—Uniform System of Accounts for Railroads Companies

List of Instructions and Accounts

1. Under Instructions for Property Accounts, add the following new line item after Item 2–20, "Accounting for leases": 2–21 "Freight train car repair costing."

Instructions for Property Accounts

2. After Instruction 2–20, add the following new instruction:

2–21 *Freight train car repair costing.* Class I railroads shall report the cost of repairing system and foreign train cars by car types. For purposes of this instruction, system freight train cars are those which are required to be recorded in primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars shall be considered foreign freight train cars. The following criteria shall be used in accounting for and reporting freight train car repair costs by car types:

(a) The accounting for freight train car repair costs shall agree with the applicable instructions and texts of accounts in 49 CFR 1201 relating to the equipment repair process (see Note A).

(b) Railroads may assign either actual costs, standard costs, or a combination of both to the accounting process. Standard costs, if used, shall recognize the difference in performing repairs on various types of equipment, and the differences related to specific repair facilities. Standard costs shall also be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to derive the amounts reported in Form R–1.

(c) Railroads shall report repair costs by the freight train car types shown in Schedule 415 of Form R–1. In assigning repair costs, railroads may use either one of the following methodologies:

Level I: Job Order Cost System

Railroads may use a job order cost system for signing repair costs to the car types for system and foreign freight train cars. Under this methodology, railroads shall directly match direct labor and materials with the specific unit of equipment that was repaired. Actual costs, standard costs, or a combination of both may be used as stated above.

Level II: Alternative Repair Costs Methodology

Railroads not using the job order cost system shall report freight train car repair costs using the methodology described below:

1. Direct repair costs relating to the repair of system cars shall be separated from those applying to the repair of foreign line equipment. This allocation of the total actual repair costs amount shall be based on a study conducted by

each railroad which shall fairly reflect the nature of each road's repair operations.

System Freight Train Cars (Items 2–5)

2. The repair costs relating to heavy, program, or project repairs of system cars shall be directly assigned to the car types repaired by using actual or standard costs. A heavy repair is defined as a repair that is relatively so material in cost, repair time, or physical damage, and that management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time periods, and car types to be repaired are identified.

3. The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroads' Car Repair Billing System (CRBS) as the allocation base. These repairs made to system cars shall be tracked using the CRBS standard costs; and, the resulting standard costs relationships shall be used to distribute actual light and running repair costs pool to the car types.

4. Railroads shall match repair costs billed by and paid to foreign roads for repairing system equipment with the car types that were repaired. Foreign billings for light and running repairs are usually conducted through CRBS, and therefore the car types can be identified. For heavy off-line repairs, car type identification is possible because system management is generally involved with the authorization of such heavy repairs and car identification numbers are generally included in the billing process.

5. Railroads shall match any resulting expense credits with the car types to which they relate. This can occur, for example, when a railroad is charged with the repair costs of system cars, but the responsibility of the repair ultimately rests with and is paid by a foreign road.

Foreign Freight Train Cars (Items 6–9)

6. Foreign freight train cars repair costs that are accumulated and traceable because of the magnitude of the foreign repair job (heavy repairs) shall be assigned directly to the applicable car types.

7. The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4 above).

8. Any resulting foreign expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

9. The net amount of foreign repair costs charges and credits shall be reported by car types in Schedule 415 of the R–1.

(d) Equipment repair cost records, including the allocation methods used, shall be maintained and made available to the Commission upon request.

Note A.—The following accounts and reference pertain to the freight train car repair process:

11–22–42
21–22–42
39–22–42
40–22–42
41–22–42
61–22–42

Instruction 2–11, "Units of Property rebuilt or converted."

Appendix B.—Schedule 415. Supporting Schedule: Equipment

Schedule 415, which is provided for in 49 CFR 1241.11 is amended in the following ways. As amended, the Schedule appears below an its entirety.

Instructions

1. Report freight expenses only.
2. Report by type of equipment all natural expenses relating to the equipment functions (salaries and wages, materials, tools, supplies, fuels and lubricants, purchased services, and general).
3. Report in Column (b) the details for the items listed in Column (a). Freight car repair expenses shall be assigned directly to the various car types on the basis of job order records whenever possible. Otherwise, car type repair costs shall be assigned as required by Instruction 2–27, "Freight Train Car Repair Costing," 49 CFR 1201.

The following line items of this schedule shall be conciled with the line items of Schedule 410 as shown below:

Schedule 410	Schedule 415
Column (f), net of lines 221, 222, and 235.	Column (b), lines 19 and 37.
Column (f), net of lines 302, 303, 304, 305, 306, 307, and 320.	Column (b), lines 27, 30, 31, 32, 34, and 35.

The variance in repair amounts reported in Schedule 410 and those reported in this schedule shall be the amounts billed to others for damaged equipment, Function 48. These amounts are included on lines 235 and 320 of Schedule 410 and should be excluded from this schedule.

As a supplement, describe the major aspects of the methodology used to derive car type disclosures. Include statements on how foreign repair costs are separated from system freight train car repair costs, and describe key features of the methodology.

4. * * *
5. * * *
6. * * *
7. * * *
8. * * *
9. * * *

BILLING CODE 3510-22-M

415. SUPPORTING SCHEDULE, - EQUIPMENT

Line No.	Types of Equipment	Repairs (Net Expense) (b)		Depreciation	Retirements	Lease and Rentals	Depreciatio Base	Accumulated Depreciatio	Depreciatio Adjustment
	(a)	Foreign Cars	System Cars	(c)	(d)	(e)	(f)	(g)	(h)
	FREIGHT TRAIN CARS:								
1	Box-Plain 40 Foot								
2	Box-Plain 50 Foot and Longer								
3	Box-Equipped								
4	Gondola-Plain								
5	Gondola-Equipped								
6	Hopper-Covered								
7	Hopper-Open Top-General Service								
8	Hopper-Open Top-Special Service								
9	Regrigerator-Mechanical								
10	Refrigerator-Nonmechanical								
11	Flat TOFC/COFC								
12	Flat Multi-level								
13	Flat-General Service								
14	Flat-Other								
15	All Other Freight Cars								
16	Cabooses								
17	Auto Racks								
18	Miscellaneous Accessories								
19	TOTAL FREIGHT TRAIN CARS								
	OTHER EQUIPMENT-REVENUE FREIGHT								
	HIGHWAY EQUIPMENT								
20	Refrigerated Trailers								
21	Other Trailers								
22	Refrigerated Containers								
23	Other Containers								
24	Bogies								
25	Chasis								
26	Other Highway Equipment (Freight)								
27	TOTAL HIGHWAY EQUIPMENT								
	FLOATING EQUIPMENT-REVENUE SERVICE								
28	Marine Line Haul								
29	Local Marine								
30	TOTAL FLOATING EQUIPMENT								
	OTHER EQUIPMENT								
31	Passenger and Other Revenue Equipment (Freight Portion)								
32	Computer & Data Processing Equipment								
33	Machinery - Freight Cars								
34	Machinery - Other Equipment								
35	Work & Other Non-revenue Equipment								
36	TOTAL OTHER EQUIPMENT								
37	TOTAL ALL EQUIPMENT, FREIGHT PORTION								

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Appendix C—Repairs to Freight Train Cars

Old Account

(DR)	(CR)
11-22-42 Salaries and Wages—Freight Car Repairs.	40-22-42 Purchased Services Billed to Others for Repair of Freight Train Cars
21-22-42 Materials Used in Repair of Freight Train Cars.	
39-22-42 Purchase Services Billed by Others for Repair of Freight Train Cars.	41-22-42 Other Purchase Services Credits, Repair and Maintenance of Freight Train Cars.
41-22-42 Other Purchased Services Charges, Repair and Maintenance of Freight Train Cars.	
61-22-42 Other Expense Charges, Repair and Maintenance of Freight Train Cars.	

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APPENDIX D

THE FLOW OF FREIGHT TRAIN CAR REPAIR CHARGES & CREDITS

LEVEL B ALLOCATION METHODOLOGY

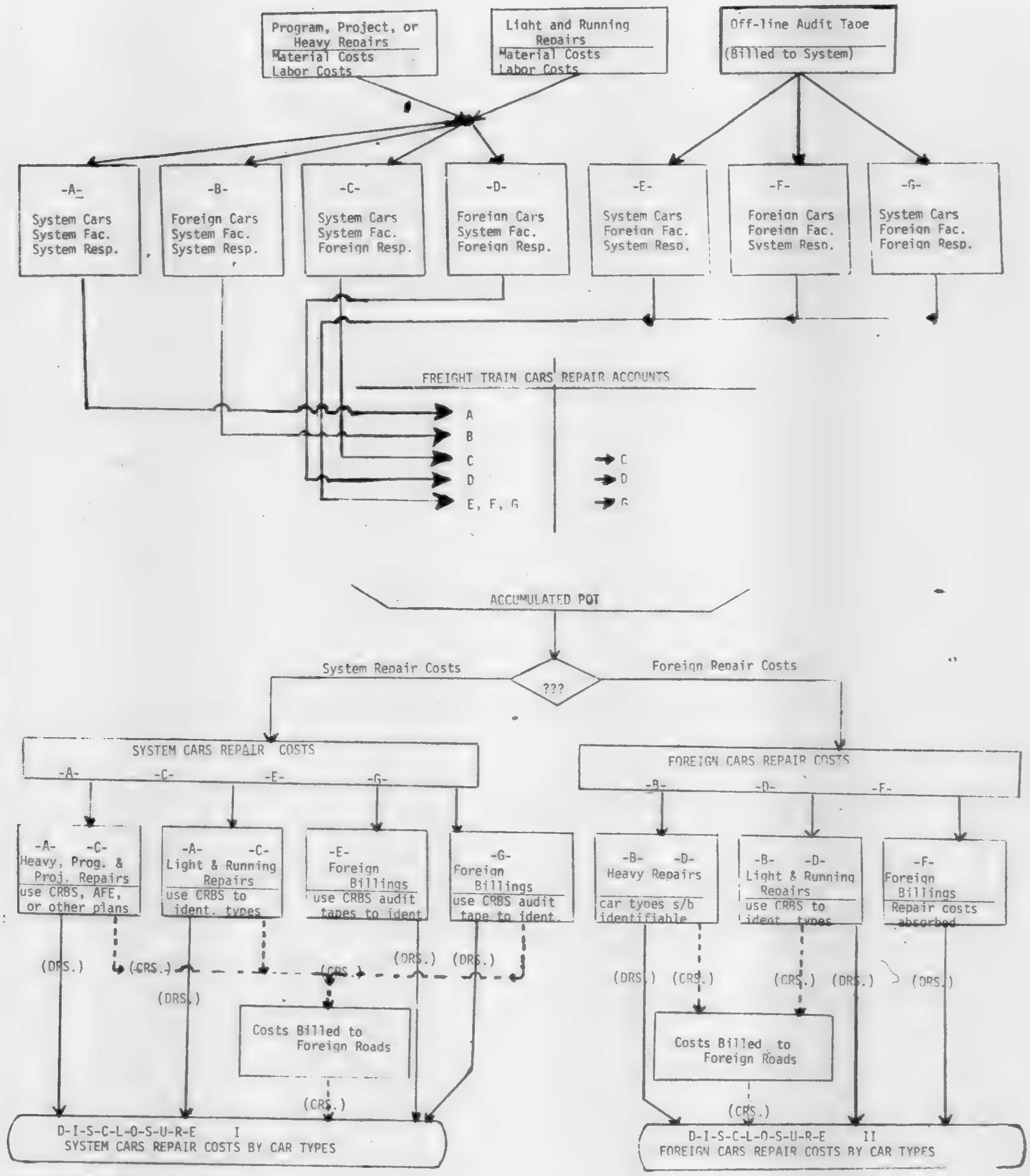
Program, Project, or Heavy Repairs
Material Costs
Labor Costs
Light and Running Repairs
Material Costs
Labor Costs
Off-line Audit Tape
(Billed to System)
-A- System Cars System Fac. System Resp.
-B- Foreign Cars System Fac. System Resp.
-C- System Cars System Fac. Foreign Resp.
-D- Foreign Cars System Fac. Foreign Resp.
-E- System Cars Foreign Fac. System Resp.
-F- Foreign Cars Foreign Fac. System Resp.
-G- System Cars Foreign Fac. Foreign Resp.
FREIGHT TRAIN CARS REPAIR ACCOUNTS
A
B
C
D
E, F, G
C
D
G
ACCUMULATED POT
System Repair Costs
???
Foreign Repair Costs
SYSTEM CARS REPAIR COSTS
-A- -C- -E- -G-
FOREIGN CARS REPAIR COSTS
-B- -D- -F-
-A- -C- Heavy, Prog. & Proj. Repairs
use CRBS, AFE, or other plans
-A- -C- Light & Running Repairs
use CRBS to ident. types
-E- Foreign Billings
use CRBS audit tapes to ident.
-G- Foreign Billings
use CRBS audit tape to ident.
-B- -D- Heavy Repairs
car types s/b identifiable
-B- -D- Light & Running Repairs
use CRBS to ident. types
-F- Foreign Billings
Repair costs absorbed
(DRS.)
(CRS.)
(DRS.)
(CRS.)
(DRS.)
(DRS.)
(DRS.)
(CRS.)
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D-I-S-C-L-O-S-U-R-E I
SYSTEM CARS REPAIR COSTS BY CAR TYPES
D-I-S-C-L-O-S-U-R-E II
FOREIGN CARS REPAIR COSTS BY CAR TYPES

[FR Doc. 80-25978 Filed 8-26-80; 8:45 am]

BILLING CODE 3510-22-C

Notices

Federal Register
Vol. 45, No. 168
Wednesday, August 27, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

This notice revises the schedule of income eligibility levels for individuals and families for the Foster Grandparent Program and the Senior Companion Program published in the **Federal Register** of June 13, 1979 (44 FR 33917). The revised schedule is based on the Community Services Administration (CSA) Income Poverty Guidelines effective Feb. 1, 1980. This revision of Income Eligibility levels was derived by means of computational methods which differ substantially from those used in the schedule this revision replaces. In 1979, the eligibility level was obtained by adding to 125% of the current Community Services Administration (CSA) Poverty Income Guideline the amount each state supplements Federal Supplemental Security Income (SSI). This revision adopts as the income eligibility level for each state the higher amount of either: (a) 125% of the CSA Poverty Income Guideline, (b) 100% of the CSA Poverty Income guideline plus the amount each state supplements Federal SSI, or (c) the level of income eligibility established for a state for the previous year (1979).

These ACTION programs are authorized pursuant to Section 211 of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 414. The income eligibility levels are determined by the currently applicable guideline published by CSA pursuant to Section 625 of the Economic Opportunity Act of 1964 permits the CSA poverty guidelines to be adjusted for cost-of-living changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

This policy will become effective on August 27, 1980.

Schedule of Income Eligibility Levels; Foster Grandparent and Senior Companion Programs

[Effective Aug. 27, 1980]

State	Individuals	Family of 2	Family of 3
Alabama	$4,740	$6,265	$7,790
Alaska	6,730	9,125	10,840
Arizona	4,740	6,265	7,790
Arkansas	4,740	6,265	7,790
California	5,670	9,180	10,485
Colorado	4,740	7,715	9,090
Connecticut	5,530	8,180	9,555
Delaware	4,740	6,265	7,790
District of Columbia	4,740	6,265	7,790
Florida	4,740	6,265	7,790
Georgia	4,740	6,265	7,790
Hawaii	5,465	7,505	8,965
Idaho	5,135	6,585	7,960
Illinois	4,740	6,265	7,790
Indiana	4,740	6,265	7,790
Iowa	4,740	6,265	7,790
Kansas	4,740	6,265	7,790
Kentucky	4,740	6,265	7,790
Louisiana	4,740	6,265	7,790
Maine	4,740	6,265	7,790
Maryland	4,740	6,265	7,790
Massachusetts	5,765	7,985	9,360
Michigan	4,740	6,265	7,790
Minnesota	4,740	6,265	7,790
Mississippi	4,740	6,265	7,790
Missouri	4,740	6,265	7,790
Montana	4,740	6,265	7,790
Nebraska	5,315	6,750	8,125
Nevada	4,740	6,550	7,925
New Hampshire	4,740	6,265	7,790
New Jersey	4,740	6,265	7,790
New Mexico	4,740	6,265	7,790
New York	4,980	6,535	7,910
North Carolina	4,740	6,265	7,790
North Dakota	4,740	6,265	7,790
Ohio	4,740	6,265	7,790
Oklahoma	4,755	6,905	8,125
Oregon	4,740	6,265	7,790
Pennsylvania	4,740	6,265	7,790
Rhode Island	4,740	6,385	7,790
South Carolina	4,740	6,265	7,790
South Dakota	4,740	6,265	7,790
Tennessee	4,740	6,265	7,790
Texas	4,740	6,265	7,790
Utah	4,740	6,265	7,790
Vermont:			
Area 1	4,740	6,265	7,790
Area 2	4,740	6,440	7,815
Virginia	4,740	6,265	7,790
Washington:			
Area 1	4,740	6,265	7,790
Area 2	4,740	6,265	7,790
West Virginia	4,740	6,265	7,790
Wisconsin	5,285	7,295	8,670
Wyoming	4,740	6,265	7,790
Guam	4,740	6,265	7,790
Puerto Rico	4,740	6,265	7,790
Virgin Islands	4,740	6,265	7,790

For families of more than three persons in the household, add the appropriate supplement for each member over three as follows:

	Per person
In the 48 contiguous States	$1,525
Alaska	1,900
Hawaii	1,750

Revision based on Community Services Administration Income Poverty Guidelines effective April 21, 1980.

Signed this 20th day of August, 1980.

Sam Brown,

Director.

[FR Doc. 80-26160 Filed 8-26-80; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Multiple Use Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 9:00 a.m., September 24, 1980, Harney Ranger Station one mile north of Hill City, SD, on Highway 16/385. The purpose of this meeting is to review, in the field, the potential for expanding livestock range and increasing forage production and to recommend allotment management planning goals and range betterment funding priorities that will realize the potentials.

The meeting will be open to the public. Persons who wish to attend should notify Lloyd Todd, Black Hills National Forest, 605/673-2251. Written statements may be filed with the committee before or after the meeting.

Dated: August 19, 1980.

James R. Mathers,

Forest Supervisor.

[FR Doc. 80-26203 Filed 8-26-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 80-8-126; Docket 37580]

Application of TACA International Airlines, S.A.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause.

SUMMARY: The Board proposes to approve the following application:

Applicant: TACA International Airlines, S.A.

Application Date: February 1, 1980.

Authority Sought: An amended foreign air carrier permit to engage in the carriage of property and mail only between San Salvador and Miami via Guatemala City and Belize City.

OBJECTIONS: All interested persons having objections to the Board's

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tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 15, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of El Salvador in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 37580, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

TACA International Airlines, S.A. c/o Harry A. Bowen, 234 Georgetown Bldg., 2233 Winsconsin Avenue, N.W., Washington, D.C. 20007.

To get a copy of the complete order, request it from the C.A.B Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Lee Browne of the Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5134.

By the Civil Aeronautics Board, August 21, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80–26219 Filed 8–26–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–8–127; Docket 36916]

Application of Redcoat Air Cargo Ltd.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause.

SUMMARY: The Board proposes to approve the following application:

Applicant: Redcoat Air Cargo Limited.

Application Date: October 17, 1979.

Authority Sought: Foreign air carrier permit to perform cargo charter flights between the United States and the United Kingdom.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted as described in the order cited above, shall, no later than September 16, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, Transamerica Airlines, the Department of Transportation, the Department of State, and the Ambassador of the United Kingdom of Great Britian and Northern Ireland. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 36916, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Department of State, Washington, D.C. 20520.

Department of Transportation, Washington, D.C. 20590.

Redcoat Air Cargo Limited, c/o Martin, Whitfield, Smith & Bebchick, 1701 Pennsylvania Avenue, NW., Suite 1102, Washington, D.C. 20006.

Transamerica Airlines, c/o Burwell, Hansen & Manley, 1815 H Street, NW., Washington, D.C. 20006.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, (202) 673–5092.

By the Civil Aeronautics Board, August 21, 1980.

Phyllis T. Kaylor,
Secretary.

[Fr Doc. 80–26218 Filed 8–26–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–8–128; Dockets 38216 and 38620]

Yukon Air Service, Inc.; Application for a Certificate of Public Convenience and Necessity.

AGENCY: Civil Aeronautics Board.

ACTION: Order to show cause and order instituting fitness investigation.

SUMMARY: The Board has tentatively concluded that the application of Yukon Air Service is consistent with the public conveniece and necessity. The tentative findings and conclusions will become final if no objections are filed, provided that the Board finds, in Docket 38216, that Yukon Air Service is fit, willing and able to engage in scheduled domestic air transportation. The complete text of this Order is available as noted below.

DATES: All interested parties having objections to the Board issuing the proposed authority shall fine by September 22, 1980, with the Board and serve upon Yukon Air Service a statement of objections together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38216. This should be addressed to the Docket section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Susan E. Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–8–128 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–8–128 to that address.

By the Civil Aeronautics Board, August 21, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80–26217 Filed 8–26–80; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Illinois Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on September 22, 1980, at the U.S. Commission on Civil Rights Conference Room, 230 S. Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 S. Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to review draft of Special Education Handbook, review and discuss information received from Committee members for annual SAC Chairperson Conference and discuss potential members for SAC rechartering.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 22, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-26208 Filed 8-26-80; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 8:30 p.m., on September 18, 1980, at the Ramada Inn, Route 18, Schoolhouse Lane, New Brunswick, New Jersey 08816.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Office Building, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 22, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-26210 Filed 8-26-80; 8:45 am]

BILLING CODE 6335-01-M

Oklahoma Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on September 25, 1980, at the Tulsa Hilton Inn, 5000 E. Skelly, Tulsa, Oklahoma 74135.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss affirmative action and higher education.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 22, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-26209 Filed 8-26-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Issuance of Permit

On March 25, 1980, Notice was published in the **Federal Register** (45 FR 19289), that an application had been filed with the National Marine Fisheries Service by Zoo Duisburg A.G., Mulheimer Strasse 273, 4100 Duisburg 1, West Germany, for a permit to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus)* for the purpose of public display.

Notice is hereby given that on August 19, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Zoo Duisburg subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 19, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-26166 Filed 8-26-80; 8:45 am]

BILLING CODE 3510-22-M

Revised Application

On Wednesday, March 12, 1980, Notice was published in the **Federal Register** (45 FR 15973) that an application has been received by the National Marine Fisheries Service from Mystic Marinelife Aquarium for a scientific research and public display under the Marine Mammal Protection Act of 1972 (16 USC 1361–1407). Notice is hereby given that the applicant has revised the original application to reduce the scope of planned activities. Thirty-eight harbor porpoises will no longer be captured for tagging and specimen material collection. Twelve harbor porpoises will not be tagged and released after a temporary holding period.

The Applicant plans to take six harbor porpoises for public display. These will be from among porpoises caught in fish weirs.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 and Regional Director, National Marine Fisheries Service, Northeast Region, 13 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 21, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-26167 Filed 8-26-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Secretary

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board.
Date of Meeting: September 19 and 20, 1980.
Time: 0830–1630, September 19. 0900–1300, September 20.
Place: McCormick Facility, Parsons Island, Kent Island, Maryland.
Proposed Agenda: Agenda items for the meeting include discussions concerning research funding for infectious disease research of military importance, preventive medicine activities of the Army, Navy, and Air Force, tri-service experience with hepatitis B virus, and commentary on epidemiological models of value for clinical services and management in health care systems.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: August 21, 1980.

Charles W. Halverson,

CDR, MSC, USN, Executive Secretary.

[FR Doc. 26188 Filed 8-26-80; 8:45am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 17–18 October 1980 at Redstone Arsenal, Huntsville, Alabama.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 17–18 October 1980 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 21, 1980.

[FR Doc. 80-26162 Filed 8-26-80; 8:45 am]

BILLING CODE 3810-70-M

The Privacy Act of 1974; Notice of Systems of Records; Deletions and Amendments

Correction

In FR Doc. 80–23575, appearing at page 51880 in the issue for Tuesday, August 5, 1980, on page 51888, in the middle column, the system numbered "DYSDRE 03" should be numbered "DUSDRE 03".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Environmental Conservation will meet in September 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will update the Council's 1971 report on this subject. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The meeting will be on Wednesday, September 10, 1980, starting at 10:00 a.m. in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, D.C.

The tentative agenda for the meeting follows: 1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on environmental conservation.

2. Discuss an organizational structure for the study.

3. Discuss a timetable for completion of the study.

4. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ellison Burton, Office of Resource Applications, 202/633–9817, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 5B–180, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 22, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 80-26251 Filed 8-26-80, 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Order

AGENCY: Econimic Regulatory Administration.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby given Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of July 1980. The Consent Order represents resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than $500,000 in the aggregate, excluding penalties and interest. This Consent Order is concerned exclusively with payment of the refunded amount to injured parties for alleged overcharging by the specified company during the time period indicated through direct refunds or rollbacks of prices.

For further information regarding this Consent Order, please contact Mr. Edward F. Momorella, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone no. (215) 597–2662.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Island Fleet, 299 Main Street, Westbury, N.Y. 11590.	$4,767	Motor gasoline..........	Apr. 1, 1979 to Dec. 31, 1979...	End-user customers.

Issued on 7th day of August, 1980 in Philadelphia. Pennsylvania.

Edward F. Momorella,

District Manager, Northeast District Enforcement.

[FR Doc. 80-26161 Filed 8-26-80; 8:45 am]

BILLING CODE 6450-01-M

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[ERA Case No. 51100-6052-25-22; Docket No. ERA-FC-80-007]

Georgia Power Co.; Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On December 18, 1979, Georgia Power Company (Georgia Power) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum or natural gas in new powerplants. Georgia Power plans to install a 49,200 KW oil-fired combustion turbine unit to be known as Wansley Unit 5-A and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. Additional information was required, and a revised petition was submitted on February 15, 1980. ERA accepted the petition relating to the use of petroleum on April 10, 1980, and published notice of its acceptance in the **Federal Register** on April 24, 1980 (45 FR 27810). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended June 9, 1980. Comments on Georgia Power's petition were received from Ratewatch; the Wayne Battle Lumber Company, Inc.; the Watkins Lumber Company, Inc.; the Balfour Lumber Company; the Claude Howard Lumber Company, Inc.; the Pollard Lumber Company, Inc.; and the Southeastern Lumber Manufacturers Association. A request for a public hearing in Atlanta, Georgia, or within Georgia Power's service area, was received from Ratewatch.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Analysis recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to Georgia Power. A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed below.

DATES: Written comments on the Tentative Staff Analysis and requests for a hearing are due on or before September 10, 1980.

ADDRESSES: Fifteen copies of written comments, and any request for a public hearing shall be submitted to:
Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461.
Docket Number ERA-FC-80-007 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:
William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.
Louis T. Krezanosky, Economic Regulatory Administration, Department of Energy, Room 3012B, 2000 M Street, N.W., Washington, D.C. 20461, Phone (202) 653-4028.
James Renjilian, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6B-087, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Georgia Power Company (Georgia Power) plans to install a 49,200 KW oil-fired combustion turbine unit to be called Wansley Unit 5-a (Wansley CT) at its Plant Wansley Station site in Heard County, Georgia. Based upon estimates by Georgia Power, the proposed unit is expected to consume approximately 20,000 barrels of No. 2 fuel oil per year (55 bbl/day). Wansley CT was scheduled for commercial operation in the spring of 1980.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Act. The final rule, published on June 6, 1980, 45 FR 38276, became effective August 5, 1980. FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

Georgia Power submitted a sworn statement with the petition signed by Mr. W. E. Ehrensperger, Senior Vice President, of Georgia Power as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Ehrensperger certifies that Wansley CT will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 49,200 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 73,800,000 Kwh.

Georgia Power also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Tentative Staff Analysis

On the basis of Georgia Power's sworn statements and information provided, and the comments of interested parties, the staff concludes that ERA should grant the requested peakload powerplant exemption.

The Wayne Battle Lumber Company, Inc.; the Watkins Lumber Company, Inc.; the Balfour Lumber Company; the Claude Howard Lumber Company, Inc.; the Pollard Lumber Company, Inc.; and the Southeastern Lumber Manufacturers Association submitted comments regarding the potential use of wook by-products in Wansley CT. However, ERA believes that such fuel cannot be burned directly in combustion turbines.

Ratewatch asserts that the proposed combustion turbine unit and exemption is not needed to meet any capacity of system reliability requirements, particularly in light of available alternatives of power demand conservation, cogeneration and solar power. ERA staff notes that Section 213(c) of the Act excepts a peakload powerplant from the requirement of showing that there is no alternate supply of power available before a peakload exemption may be granted and therefore a demonstration of need for the proposed powerplant is not required.

Ratewatch also asserts that it would be in the best interest of the public, consumers, investors, Georgia Power and other users of the petroleum if alternatives resulting in effective fuel conservation, such as electricity demand conservation, were evaluated and incorporated in the terms and conditions of the exemption, if granted. ERA staff has evaluated Georgia Power's conservation efforts and has recommended terms and conditions which it believes are reasonable.

On the basis of an analysis performed by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of General Counsel, of environmental information submitted by Georgia Power, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include terms and conditions in any order granting an exemption. Based upon the information submitted by Georgia Power and upon the results of the staff analysis, the Staff of ERA has tentatively determined and recommends that any order which would grant the requested peakload powerplant exemption should, pursuant to Section 214 of the Act, be on the following conditions:

A. Georgia Power shall not produce more than 24,600,000 Kwh during any 12-month period with the proposed unit. Georgia Power shall provide annual estimates of the expected periods (hours during specific months) of operation of Wansley CT for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June–September period, etc.). Estimates of the hours in which Georgia Power expects to operate Wansley CT during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Georgia Power shall comply with the reporting requirements set forth in 10 CFR 503.41(e). In addition, whenever Georgia Power operates Wansley CT in non-specified peakload periods (periods not specified in condition A above) Georgia Power shall report annually the reason(s) for such operation.

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

Issued in Washington, D.C., on August 21, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-26230 Filed 8-26-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1590-2]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on July 8, 1980, the Environmental Protection Agency received an application from Horiba Instruments Incorporated, Irvine, California, to determine if its Model APMA 300E/300Se Carbon Monoxide Monitoring System should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

Allen Hirsh,

Acting Assistant Administrator for Research and Development.

August 19, 1980.

[FR Doc. 80-26179 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1488-1]

Maryland Piedmont Aquifer Determination

AGENCY: U.S. Environmental Protection Agency, Region III.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) the Administrator of the Environmental Protection Agency has determined that the portion of the Piedmont aquifer which underlies parts of Montgomery, Frederick, Howard and Carroll Counties, Maryland is the sole or principal source of drinking water for such parts of these counties and that such portion of the Piedmont aquifer, if contaminated, would create a significant hazard to public health.

FOR FURTHER INFORMATION CONTACT: Jack J. Schramm, Regional Administrator, EPA Regional III, 6th & Walnut Street, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act was enacted on December 16, 1974. Section 1424(e) of the Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register.** After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

In summary, Section 1424(e) authorizes EPA to: 1. Designate sole or principal drinking water source aquifers. 2. Review Federal financially assisted projects which may contaminate a sole or principal drinking water source aquifer through its recharge zone so as to create a significant hazard to public health.

On September 12, 1975 the Tenmile Creek Conservation Committee petitioned the Regional Administrator of Region 3, pursuant to Section 1424(a) of the State Drinking Water Act, to designate a portion of the Maryland Piedmont aquifer denominated "Tenmile Creek" as the sole or principal source of drinking water for such area which, if contaminated, would create a significant hazard to public health. An additional petition requesting a sole source aquifer designation for this area was submitted by the Clarksburg Community Association on October 1, 1975. A notice of these petitions with a request for comments was published in the **Federal Register** on June 8, 1976, 41 FR 111.

On June 28, 1976, the petitioners requested that, in accordance with their original intention, the petitions be considered under Section 1424(e) of the Safe Drinking Water Act rather than under Section 1424(a). EPA granted this request but indicated to petitioners that, unless additional information was submitted precisely delineating the "Tenmile Creek" area, their request for designation would have to be denied. On May 5, 1977, the petitioners responded by providing EPA with a map which showed a triangular area which represented the area they wanted designated. EPA, however, felt that this triangular area was unacceptable because it was not defined hydrogeologically. Discussions with the United States Geological Survey (USGS) revealed that the area requested by petitioners for sole source aquifer designation could best be defined hydrogeologically by drainage basins. Therefore, after EPA consultation with petitioners, petitioners agreed to modify the triangular petitioned area to include the drainage basins which most nearly encompassed the triangular area. Seven drainage basins are required to encompass the triangular area.

EPA commissioned the USGS to study this seven drainage basin area to obtain information necessary to help EPA make a determination. This study was completed by the Towson, Maryland office of the USGS and received by EPA in August, 1979. After receipt of the USGS study, EPA published notice of public hearing in the **Federal Register** on October 15, 1979, 44 FR 200 and held two public hearings on November 15, 1979 to further solicit the views of persons

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interested in the aquifer designation issue.

On the basis of the information which is available to this Agency, the Administrator has made the following findings, which are the basis for the determination noted above: 1. The portion of the Maryland Piedmont aquifer underlying the designated area is the principal drinking water source for the designated area. Approximately 62 percent of the domestic drinking water used in the area is supplied by this ground water aquifer.

2. There is no existing alternative drinking water source which provides 50 percent or more of the drinking water to the designated area. The Washington Suburban Sanitary Commission (WSSC) extends service into small portions of the designated area and has plans to expand this system in the future. However, it does not presently provide or have the capability of presently providing a majority of the drinking water for the designated area.

3. The designated portion of the Maryland Piedmont aquifer is susceptible to contamination through the recharge zone from abandoned wells, septic tanks, leaking fuel tanks and leaching from open dumps and improperly operated landfill sites. There is present evidence of localized contamination of the aquifer from individual disposal systems and leaking fuel tanks. Since groundwater contamination can be difficult or impossible to reverse, and because this aquifer is relied upon for drinking water purposes by the general population, contamination of the aquifer could pose a significant hazard to public health.

4. The recharge zone is that area through which water enters the aquifer. Water enters the designated portion of the Maryland Piedmont aquifer through local precipitation which creates water-table conditions throughout the designated area. The recharge zone, streamflow source zone, and the designated area are in this designation the same.

5. The streams in the designated area constitute the headwaters of the Monocacy, Patuxent, and Patapsco Rivers which become major rivers of the State in their lower reaches. These streams are ground water controlled during low flow periods so any ground water that becomes contaminated would have the potential of causing stream contamination.

Description of the Designated Portion of the Maryland Piedmont Aquifer and Its Recharge Zone

The area in which Federal financially assisted projects will be reviewed is the area which includes the designated portion of the Maryland Piedmont aquifer, its streamflow source zone, and its recharge zone, which are one and the same. This area consists of the following drainage and sub-drainage basins: 1. *Little Seneca Creek Basin* from the headwaters of Little Seneca Creek to the confluence with Great Seneca Creek, including the Tenmile Creek and Bucklodge Creek drainage basins.

2. *Little Monocacy River Basin.*

3. *Little Bennett Creek Basin* from the headwaters of Little Bennett Creek to the confluence with Bennett Creek.

4. *Bennett Creek Basin* from the headwaters of Bennett Creek to the confluence with Little Bennett Creek.

5. *Fahrney Branch Creek Basin* from the headwaters of Fahrney Branch Creek to the confluence with Bennett Creek.

6. *Patuxent River Basin* from the headwaters of the Patuxent River to the confluence with Cabin Branch Creek.

7. *South Branch Patapsco River Basin* from the headwaters of the South Branch Patapsco River to the confluence with Gillis Falls.

An enlarged map of the designated area is available to the public and may be inspected during normal business hours at the office of the Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Information Utilized in the Determination

The information utilized in this determination includes the petitions, written and verbal comments submitted by the public, the USGS report entitled "Ground Water in the Piedmont Upland of Central Maryland", in-house technical reports, and a detailed map of the area within which projects which receive Federal financial assistance may be subject to review. The above data is available to the public and may be inspected during normal business hours at the office of the Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Project Review

EPA proposed national regulations for implementing Section 1424(e) of the Safe Drinking Water Act on September 29, 1977, 42 FR 51620. The proposed regulations contain procedures for review of Federal financially assisted projects which could contaminate "sole or principal source" aquifers through a recharge zone so as to create a significant hazard to public health. They are being used as interim guidance until promulgation of final regulations. Questions and comments concerning the possible effect of the regulations on Federally assisted projects in the designated portion of the Maryland Piedmont aquifer should be directed to Region III, Environmental Protection Agency, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

EPA Region III is working with the Federal agencies which may in the future sponsor projects in the area of concern to develop interagency procedures whereby EPA will be notified of proposed commitments for projects which could contaminate the designated aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate.

Although the project review process cannot be delegated, the Regional Administrator in Region III will rely to the maximum extent possible upon any existing or future State and local control mechanisms in protecting the ground water quality of the aquifer underlying the designated area. Included in the review of any Federal financially assisted project will be coordination with the State and local agencies. Their determinations will be given full consideration and the Federal review process will function so as to complement and support State and local mechanisms.

Summary and Discussion of Major Public Comments

Public Participation

EPA received several comments which indicated that there was insufficient or inadequate public notification. After closely reviewing the public's comments in relation to 40 CFR Part 25 "Public Participation in Programs Under the Resource Conservation and Recovery Act, The Safe Drinking Water Act, and the Clean Water Act," EPA disagrees that insufficient or inadequate public notification was provided.

EPA's first means of notifying all interested agencies and the public was to publish notice in the **Federal Register** on Tuesday, June 8, 1976 that a determination would be made regarding sole source aquifer petitions filed by the Tenmile Creek Conservation Committee and the Clarksburg Community Association. As of that **Federal Register** notice, the public record for this determination was opened and anyone interested in providing comments to EPA could have done so. It was not until January 15, 1980 that the public record was formally closed. This provided over three and one-half years of open record. In addition, after the USGS study was completed, EPA held a public hearing to solicit comments regarding sole source aquifer designation of the requested area. EPA supplied all interested parties with notification of the hearing by:

1. Providing notification in the **Federal Register**;
2. Issuing a press release;
3. Sending letters directly to interested parties; and
4. Publishing notification of the hearing in the State of Maryland Department of Natural Resources and Maryland Regional Planning Council newsletters.

Public hearing notification in the **Federal Register** was provided 30 days before the public hearing. Publication 30 days prior to the hearing was justified because there were "no substantial documents" which had to be reviewed for "effective hearing participation", and, based on the available information supplied to EPA before the hearing, there were "no complex or controversial matters" which had to be addressed at the hearing. See 40 CFR § 25.5(b). A central and easily accessible location was made available to the public for the review of documents relative to this sole source aquifer determination. The public was also permitted review of all sources of information in the EPA Region III offices.

One commenter felt that EPA should have provided them with notification of the study conducted by the United States Geological Survey (USGS) and further allow them input into the study. There is no requirement that the public be provided with an opportunity to participate in a background study such as the USGS study before that study is completed. It is sufficient that the public be provided, as it was here, with an opportunity to comment on the completed study.

State, County, and Local Responsibilities

A couple of commenters expressed the opinion that the sole or principal source aquifer program is a major intrusion into State, County and local responsibilities. EPA does not believe that this is the case. Although only EPA is authorized to make a sole or principal source aquifer designation under the Safe Drinking Water Act, this does not preclude State or local jurisdiction from providing EPA with information to help make the determination. In addition, the sole source aquifer program only affects Federal financially assisted projects. Furthermore, the Regional Administrator intends to rely to the maximum extent possible upon existing State or local mechanisms to protect the the ground water qualify of the designated area.

Review of Federal Financially Assisted Projects

One commenter felt that EPA has not developed adequate procedures for implementing review of Federal financially assisted projects. EPA believes that an adequate procedure has been developed for implementing review of Federal financially assisted projects. After a sole or principal source aquifer designation has been made EPA will develop "Memoranda of Understanding" with other Federal agencies that are likely to have Federal financially assisted projects in the area of designation. The Memoranda of Understanding will require each Federal agency to: 1. Prepare and maintain a list of projects located in the designated area from which they have received applications for Federal financial assistance, and submit the list to EPA;

2. Revise the list at regular intervals and submit revisions to EPA; and

3. Make the list available to the public upon request.

EPA will analyze any proposed project located in the designated area which has applied for Federal financial assistance and which EPA feels may affect ground water quality. If the preliminary assessment indicates the project may contaminate the aquifer, a more comprehensive review will be made. EPA may at any time request additional information from the applicant seeking Federal financial assistance, the Federal agency which has received the application, appropriate State and local agencies, and other persons.

One commenter indicated that there were no Federal actions planned for the area being requested for designation. The presence or absence of Federal financially assisted projects within the designated area is irrelevant to a sole or principal source aquifer determination. Even if there are no such projects presently planned for the designated area, this does not preclude the possible presence of such projects in the future.

Inadequate Rationale for Delineation of the Sole or Principal Source Aquifer Area

Several commenters expressed the opinion that EPA's rationale for delineating the designated area is inadequate. EPA disagrees and feels that the background data included in this notice will clarify any misconceptions.

Interpretation of Public Law 93–523, "The Safe Drinking Water Act"

Several commenters expressed the opinion that the Safe Drinking Water Act is limited to the regulation of injection wells and public water supplies and cannot legally be applied to sole or principal source aquifer designations. Part C of the Safe Drinking Water Act, of which Section 1424 is a part, is entitled, "Protection of Underground Sources of Drinking Water." This is an all-encompassing title which directs EPA to develop programs to protect ground water resources not only from underground injection but also from all Federal financially assisted projects which may contaminate a sole or principal source aquifer through a recharge zone so as to create a significant hazard to public health. Section 1424(e) specifically authorizes the Administrator to designate an area as a sole or principal source aquifer and to require that Federal financial assistance be withheld from any project in this area which may contaminate the aquifer.

Population

A couple of commenters were in disagreement with the population statistics contained in the United States Geological Survey (USGS) Report. EPA feels that the USGS report has estimated the population as accurately as possible. EPA's review of these comments reveals that there is confusion about the use of these population figures as a basis for designation. The commenters are of the opinion that 50 percent or more of the *population* within the area requested for designation must rely on ground water from the aquifer. The definition of sole or principal source aquifer in the proposed regulation is, "an aquifer which supplies 50 percent or more of the drinking water for an area." Population, therefore, is not mentioned in the proposed regulations as a criterion for designating a "sole or principal source aquifer."

Existence of an Aquifer

A number of comments were received which questioned the existence of a distinct aquifer. The proposed sole or principal source aquifer regulations define an aquifer as "a geological formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells or springs." Johnson (Ground Water and Wells, 1975) defines an aquifer as, "a water saturated geologic unit that will yield water to wells or springs at a sufficient rate so that the wells or springs can serve as practical sources of water supply." EPA believes that the designated area has an aquifer which meets the above criteria. As noted in the United States Geological Survey report,

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the crystalline rocks underlying the study area constitute an aquifer even though the lithology varies within the formation.

Hydrogeologic Similarities to the Rest of the Piedmont

One comment stated that the designated area, which is located in the Piedmont physiographic province, is no different hydrogeologically from any other area of the Piedmont and, therefore, the whole Piedmont could possibly qualify for designation. EPA agrees that the hydrogeology of the desingated area is *similar* to the rest of the Piedmont. However, EPA does not presently have enough information to designate other areas of the Piedmont. Therefore, until other petitioners provide EPA with information supporting the designation of other areas of the Piedmont, EPA will only take steps on this particular request.

An Issue of Ground Water in Another County

Two comments were received which stated that the designation of portions of the Maryland Piedmont aquifer was a ground water issue relevant to only one county. Although the petition(s) submitted were from two environmental organizations in Montgomery County, Maryland, the designated area contains a total of seven drainage basins which are shared between counties. Ground water flow knows no boundaries when it comes to county jurisdictional lines. Therefore, to protect an entire drainage basin from ground water contamination, protection is extended to any portion of that drainage basin, whether it crosses a county line or not.

Availability of Alternative Drinking Water Supplies

Several comments were received which stated that an alternative drinking water supply is presently available to the designated area and that this supply will be further extended throughout the area in the future. Although another water supply, other than ground water, is available to the designated area, it supplies less than 40 percent of the drinking water to the designated area. The alternative supply therefore does not supply enough drinking water to prevent the designated area from being considered a sole or principal source aquifer. EPA has taken the existence of the alternative water supply into account in making its sole or principal source designation, but does not consider the prospective increase in this supply to provide sufficient basis for withholding such designation.

Widespread Contamination

One commenter stated that based on the hydrogeology of the designated area, it is unlikely that widespread contamination of the entire area could occur. EPA is required to determine whether the aquifer is susceptible to contamination, not whether contamination will be widespread. Groundwater movement in this Piedmont aquifer is fracture controlled. The fact that areas of this aquifer have above average fracturing, that a high ground water table normally exists, and that local ground water contamination has occurred is sufficient to indicate to EPA that the aquifer is susceptible to contamination.

Federal funding may be withheld from any project which, upon review, may contaminate the aquifer through a recharge zone so as to create a significant hazard to public health.

Dated: August 22, 1980.

Barbara Blum,

Acting Administrator.

[FR Doc. 80-26168 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1590-1]

Ambient Air Monitoring Reference and Equivalent Methods; Equivalent Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11255), has designated another equivalent method for the measurement of ambient concentrations of ozone. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on the absorption of ultraviolet radiation by ozone at a wavelength of 254 nm. The method is:

EQOA-0880-047, "Thermo Electron Model 49 U.V. Photometric Ambient O_3 Analyzer," operated on a range of either 0-0.5 ppm or 0-1.0 ppm, with or without any of the following options:

49-001	Teflon Particulate Filter
49-002	19 Inch Rack Mountable Configuration
49-100	Built-in Ozone Generator for Zero and Span Checks
49-488	GPIB (General Purpose Interface Bus) IEEE-488

This method is available from Thermo Electron Corporation, 108 South Street, Hopkinton, Massachusetts 01748.

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 45, June 6, 1980, page 38142.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers

and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above. Technical questions concerning the method should be directed to the manufacturer.

Allan Hirsch,

Acting Assistant Administrator for Research and Development.

August 19, 1980.

[FR Doc. 80-26178 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1590-3]

Proposed Determination To Prohibit or Deny the Specification, or the Use for Specification, of an Area as a Disposal Site; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Hearing, Notice No. 80 FL 404-002—August 14, 1980.

SUMMARY: On August 1, 1980, a Public Notice of a proposed determination under Section 404(c) of the Clean Water Act (33 U.S.C. 1344(c)) to prohibit or deny the specification of an area as a disposal site appeared in the **Federal Register** (45 FR 51275, FR Doc. 80-23201). The subject area is covered by permit application No. 77B-0376 submitted to the Corps of Engineers by the City of North Miami, Florida, c/o Post, Buckley, Schub and Jernigan, Inc., 7500 N.W. 52nd Street, Miami, Florida 33166. This application was a modification to permit No. 75B-0869 issued to the City of North Miami, Florida by the Corps of Engineers on March 15, 1976. The area is part of a proposed project located in Biscayne Bay and adjacent wetlands, east of U.S. 1 and North of NE 135 Street, in Section 21 and 22, Township 52 South, Range 42 East, North Miami, Dade County, Florida.

In accordance with 40 CFR 231.4, I find that it would be in the public interest to hold a hearing on the proposed determination. The hearing is to obtain comments from all interested persons on whether the impacts of leachate from solid waste entering Biscayne Bay, adjacent mangrove wetlands, and the recreational lakes represent an unacceptable adverse effect as described in section 404(c) of the Clean Water Act. Comments should be directed to whether the proposed determination should become the final determination or whether corrective action could be taken to reduce the adverse impact of the discharge. Comments may be submitted prior to the hearing or presented at the hearing. The hearing record will also remain open after the hearing until October 15, 1980 for the submittal of comments. Comments submitted prior to or after the hearing should be sent to Cheryn B. Jones, Record Clerk, Legal Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

All comments received during the hearing or the comment period will be considered in my decision to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification, or the use for specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator for review and the making of the final determination. The procedures to be used by the Administrator in making the final determination are specified at 40 CFR 231.6 (44 FR 58085, October 9, 1979).

DATES: Hearings, 3:00-6:00 p.m. and 7:30-11:00 p.m., October 2, 1980, and, if necessary, during the same time periods on October 3, 1980.

ADDRESS: The public hearing will be held in the North Miami Beach Sr. High School Auditorium, 1247 N.E. 167th Street, North Miami Beach, Florida. Copies of all comments submitted in response to this notice, or the previous public notice of the proposed determination, will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at U.S. Environmental Protection Agency, Region IV, Enforcement Division, Legal Branch, 345 Courtland, Street, N.E., Atlanta, Georgia 30365. The materials are maintained by the Record Clerk, Ms. Cheryn B. Jones.

FOR FURTHER INFORMATION CONTACT: Dr. Howard Marshall, Life Scientist, Ecological Review Branch, Enforcement Division, U.S. Environmental Protection Agency, Atlanta, Georgia 30365, (404) 881-2643.

SUPPLEMENTARY INFORMATION:

I. Background and Information

On March 25, 1977, the Corps of Engineers advertised permit application No. 77B-0376 which was a modification of permit No. 75B-0869 issued 15 March 1976. The applicant is the City of North Miami, Florida, c/o Post, Buckley, Schuh and Jernigan, Inc., 7500 N.W. 52nd Street, Miami, Florida 33166. The proposed project is located in Biscayne Bay and adjacent wetlands, East of U.S. 1 and North of NE 135th Street, in Sections 21 and 22, Township 52 South, Range 42 East, North Miami, Dade County, Florida.

Under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.)* any person who wishes to discharge dredged or fill material into the waters, including wetlands, of the United States must first obtain a dredge or fill permit from the Secretary of the Army, acting through the Chief of Engineers.

On March 15, 1976, the Jacksonville District Corps of Engineers issued permit No. 75B-0869, which authorized the placement of fill material into 291 acres for a public recreational facility consisting of a 36-hole golf course, tennis courts and clubhouse. Approximately 1,540,000 cubic yards of fill material were to be used to achieve sufficient elevation for the landscaping of golf courses and to prevent damage caused by flood tides. The minimum elevation within the area of the golf course was to be +4.0 Mean Sea Level (MSL). Within the project there were 8.2 acres of upland mangroves to be preserved and 3 shallow ponds with tidal connections.

Several million cubic yards of solid waste, including garbage, have been placed at the site since issuance of permit 75B-0869 on March 15, 1976. Wastes have been placed to a height of approximately 40′ above sea level. Several lakes have been excavated at the site to −35′ below sea level.

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Quantities of leachate containing ammonia in excess of 500 ppm have been observed flowing into one of the large lakes. The ammonia level in three of the lakes ranges from 5–20 ppm and these high ammonia levels are evidence of gross contamination. The lakes constructed at the site are an integral part of the proposed recreation complex and could be a significant hazard for anyone coming into contact with the contaminated water within the lakes. The contaminated lakes will not provide a desirable habitat for balanced populations of fishes and invertebrates. These deep lakes penetrate the highly porous Miami oolite geologic structure. The direction of flow of groundwater within the Miami oolite is southeast, toward Biscayne Bay. There are a number of excavations nearby in Biscayne Bay that penetrate the Miami oolite, therefore, there is a direct hydrological connection between the contaminated lakes and Biscayne Bay. High levels of ammonia have also been observed in the mangrove preserve adjacent to the dispolsal area. There is significant potential for continuing leachate pollution of the recreation lakes, mangrove areas and Biscayne Bay from the solid waste that has already been placed at this site.

On March 25, 1977, the Corps of Engineers advertised permit application No. 77B–0376 which was a modification of permit No. 75B–0869. The proposed permit modifications included the:

a. Elimination of the three tidal ponds and their subsequent dredging to −35 feet mean sea level.

b. Elimination of the culverts through the dike, completely separating the mangrove preserve from the golf course.

c. Elimination of the upland preserve to have been contained within the golf course and converting it to a borrow area.

The Corps of Engineers' public notice No. 77B–0376 provided notification to the public that the 291 acre project area would be operated as a sanitary landfill.

The Environmental Protection Agency has developed predictive models regarding the production of organic acid leachate from the proposed solid waste disposal facilities. EPA models predict that the waste disposed at this site will produce large quantities of leachate for many years.

Proposed Permit No. 77B–0376 would allow the addition of several more million cubic yards of solid waste (including garbage) to the disposal area located in waters of the United States. Biscayne Bay including adjacent mangrove areas, is an aquatic resource of national importance containing valuable shellfish and fisheries resources and has been designated as a State Aquatic Preserve. Recreational utilization of Biscayne Bay is also of significant value. Leachate contamination of Biscayne Bay, adjacent mangrove wetlands and the lakes could have an unacceptable adverse effect on shellfish beds and fishery areas (including spawning and breeding areas) wildlife, and recreational areas.

On July 1, 1977, the Regional Administrator of EPA sent a letter to the District Engineer of the Corps of Engineers objecting to issuance of proposed permit No. 77B–0376. The Regional Administrator subsequently wrote additional letters of objection to the District Engineer on April 27, 1978; July 31, 1978; and August 16, 1979.

Since no resolution was reached at the Corps District level, the matter was elevated to the Division Level. On December 7, 1979, the EPA Regional Administrator sent a letter to the South Atlantic Division Engineer of the Corps of Engineers objecting to issuance of proposed permit No. 77B–0376.

On February 11, 1980, the Associate Assistant Administrator for Water and Waste Management of EPA sent a letter to the Deputy Director of Civil Works, Office of Chief Engineers of the Corps of Engineers, objecting to the issuance of the aforereferenced proposed permit.

Subsequently, on May 2, 1980, the Deputy Administrator of EPA sent a letter to the Assistant Secretary of the Army objecting to the issuance of the aforereferenced proposed permit. In a June 18, 1980, letter to the Deputy Administrator of EPA, the Assistant Secretary of the Army notified EPA of his intent to issue proposed permit No. 77B–0376. In response to the June 18, 1980, letter, EPA's Regional Administrator of Region IV proposed a determination to prohibit, or withdraw specification, or use for specification, of the area covered by proposed permit No. 77B–0376 as a disposal site. On June 25, 1980, the Regional Administrator notified the District Engineer of her intent to issue a public notice of a proposed determination to prohibit, or deny the specification, or use for specification, of the area covered by proposed permit No. 77B–0376 as a disposal site. If the final determination of the Administrator is issued, it will prevent the subsequent discharge of waste or other fill material at this site.

II. Hearing Procedures

a. I, as Regional Administrator, or my designee, will be the Presiding Officer at the hearing.

b. Any person may appear at the hearing and submit oral or written statements and data and may be represented by counsel or other authorized representative. Any person may present written statements for the hearing file prior to the time the hearing file is closed to public submissions, and may present proposed findings and recommendations. The Presiding Officer shall afford the participants an opportunity for rebuttal.

c. The Presiding Officer will establish reasonable limits on the nature, amount or form of presentation of documentary material and oral presentations. No cross examination of any hearing participant shall be permitted, although the Presiding Officer may make appropriate inquiries of any such participant.

d. The hearing file will be open for submission of written comments until close of business, October 15, 1980.

Dated: August 14, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80–26181 Filed 8–26–80; 8:45 am]

BILLING CODE 6560–01–M

[PF 130A; FRL 1589–8]

Chevron Chemical Co.; Filing of Food Additive Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Chevron Chemical Co. has submitted an amendment to a food additive petition (FAP 9H5216). The amendment proposes to establish a regulation for the insecticide acephate and its cholinesterase inhibiting metabolite, methamidophos, for all food items (other than those already covered by a higher tolerance as a result of its use on growing crops) in food handling establishments at 0.02 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Rm. E–343, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. (202–426–9458).

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of June 7, 1979 (44 FR 32737) that Chevron Chemical Co. had filed a food additive petition proposing to amend 21 CFR 193.10 by establishing a regulation outlining safe use of the insecticide acephate (*O,S*-dimethyl acetylphosphoromidothioate) under certain prescribed conditions.

Chevron Chemcial Co. has filed an amendment to the petition to read as follows:

"Chevron Chemical Co. proposes amending 21 CFR 193.10 by establishing a regulation permitting residues of the insecticide acephate and its cholinesterase inhibiting metabolite, methamidophos, for all food items (other than those already covered by a higher tolerance as a result of use on growing crops) in-food handling establishments at 0.02 ppm.

The acephate may be present as a residue from applications of the insecticide acephate in food handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries in accordance with the following prescribed conditions;

(a) Application shall be limited solely to spot and or crack and crevice treatment in food handling establishments where food and food products are held, processed, prepared or served. Spray concentration shall be limited to a maximum of 1.0 percent active ingredient. For crack and crevice treatments, equipment capable of delivering a pin-stream of insecticide shall be used. For spot treatments, a coarse, low-pressure spray shall be used to avoid atomization or splashing of the spray. Contamination of food and food-contact surfaces shall be avoided.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling."

[Sec. 408(d)(1), 68 Stat. 512; (7 U.S.C. 135))

Dated: August 21, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Program.

[FR Doc. 80-26182 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1589-5]

California State Motor Vehicle Pollution Control Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing on requests for waivers of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) notified EPA of two recent sets of amendments to California's emission standards and test procedures for new motor vehicles, and requested a waiver of Federal preemption for each amendment. EPA will consider these waiver requests, and any other timely requests, at a public hearing on September 16, 1980, at EPA's San Francisco Regional office.

DATES: Hearing September 16, 1980, beginning at 8 a.m. Interested parties should submit proposed testimony for the hearing to the Director of EPA's Manufacturers Operations Division (EN-340) by September 11, 1980. Interested parties should also submit any relevant written comments by October 7, 1980, to ensure that the Administrator can consider those comments in deciding on the waiver request.

ADDRESSES: EPA will consider the waiver requests at a public hearing held at: U.S. Environmental Protection Agency Regional Office (Region IX), Sixth Floor, 215 Fremont Street, San Francisco, California. Copies of all materials relevant to the hearing are available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, S.W., Washington, D.C. 20460 (Docket EN-80-16).

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Attorney/Advisor, Waivers Section, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. *Background and Discussion*

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 7543(a) ("Act"), provides in part: "No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to control of emissions from new motor vehicles or new motor vehicle engines subject to this part* * * [or] require certification, inspection, or any other approval relating to the control of emissions* * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicles engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless he finds that: (1) the determination of the State is arbitrary and capricious, (2) the State does not need the State standards to meet compelling and extraordinary conditions, or (3) the State standards and accompying enforcement procedures are inconsistent with section 202(a) of the Act.

In a June 13, 1980 letter to the Administrator, CARB notified EPA that it had taken several actions to revise California's new motor vehicle emissions control program. CARB requested a waiver of Federal preemption for the following items:

(i) Amendments to exhaust emission standards and test procedures for 1982 and later model year heavy-duty engines and vehicles.[1] The Amendments require manufacturers of heavy-duty engines and vehicles to employ carburetors with the idle air/fuel adjustment screw tamper-resistant or with only limited adjustability. CARB intends the amendments to alleviate the maladjustment problem is has found to be associated with this parameter by requiring compliance with exhaust emission standards at any setting.

(ii) Amendments to evaporative emission standards and test procedures for 1978 and later model year gasoline-powered motor vehicles.[2] The amendments eliminate the one gram background allowance (previously subtracted from evaporative emission test data to account for non-fuel emission sources such as paints, plastics and rubber components) for 1981 and later model year motor vehicles. CARB's letter states that waiver of the amendments will result in equivalent stringency of EPA and CARB evaporative emission regulations except for the evaluation of system deterioration.

Accordingly, EPA will hold a public hearing at the time and place indicated above.

II. *Procedures*

Any person desiring to make a statement at the hearing or to submit material for the hearing record should file a notice of such intention along with 10 copies of the proposed statement and other relevant material by September 9, 1980, to Jerry Schwartz, Manufacturers Operations Division (EN-340), 401 M

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[1] Section 1956.7, Title 13, California Administrative Code: "California Exhaust Emission Standards and Test Procedures for 1982 and Subsequent Model Heavy-Duty Engines and Vehicles," as amended April 23, 1980.

[2] Section 1976(c), Title 13, California Administrative Code: "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Gasoline-Powered Motor Vehicles," as amended April 23, 1980.

Street, SW., Washington, D.C. 20460. In addition, that party should submit 25 copies, if feasible, of that statement to the Presiding Officer at the time of the hearing.

Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information, there are no adversary parties as such. Statements by the participants need not be subject to cross-examination. The Presiding Officer may strike from the record statements which he deems irrelevant or repetitious and to impose reasonable limits on the duration of the statement of any witness.

Participants should limit their presentations regarding either of the waiver requests at issue to the following considerations:

(1) Whether California's determination that the standards will be at least as protective of public health and welfare as applicable Federal standards and regulations is arbitrary and capricious;

(2) Whether California needs its standards to meet compelling and extraordinary conditions; and

(3) Whether the California amendments are not consistent with section 202(a) of the Act.

In order to assure full opportunity for the presentation of data, views and arguments by participants, the Presiding Officer will, upon request of the participants, allow three weeks after the close of the hearing for the submission of written data, views, arguments or other pertinent information to be included as part of the hearing record.

A verbatim record of the proceeding will be available for public inspection at the Central Docket Section. Interested persons may obtain a copy of the transcript from the reporter during the hearing at their own expense. The Administrator need not decide on the action he will take on CARB's waiver requests solely on the record of the public hearing. He also may consider other pertinent information not presented at the hearing. This information will also be available for inspection in public docket EN-80-16.

Dated: August 20, 1980.

Richard D. Wilson,

Acting Assistant Administrator for Enforcement (EN-329).

[FR Doc. 80-26186 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50499; FRL 1589-7]

Renewal of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

8730-EUP-5. Hercon Products Group, Herculite Products Inc., 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 1,300 kg of the insecticide n-tetradecyl formate on cotton to evaulate control of the tobacco budworm. A total of 10,000 acres are involved. The program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from July 21, 1980 to July 21, 1981. A temporary exemption from the requirement of a tolerance has been established for residues of the insecticide on tobacco. (PM 17, Franklin D. R. Gee, Rm. E-341, 202-426-9417)

8730-EUP-8. This experimental use permit allows the use of 1,300 kg of the insecticide (*Z*)-11-hexadecenal with (*Z*)-9-tetradecenal on cottonseed to evaulate control of the tobacco budworm and bollworm. A total of 10,000 acres are involved. The program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from July 21, 1980 to July 21, 1981. A temporary exemption from the requirement of a tolerance has been established for residues of the insecticide to tobacco. (PM 17, Franklin D.R. Gee, Rm. E-341, 202-426-9417)

Persons wishing to review the experimental use permits are referred to the designated Product Manager, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, DC 20406. It is suggested that interested persons call before visiting the EPA, Headquarters Office, so that the appropriate file may be made available for review purposes. The files are available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Fridays, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: August 21, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26187 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1589-6]

Announcement of Fuel Economy Retrofit Device Evaluation for the "Pass Master Vehicle Air Conditioning Compressor Cut-Off Device"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Pass Master Vehicle Air Conditioner Compressor Cut-Off Device" under the provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011.

ADDRESSEES: Copies of this report are available from F. Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4340.

FOR FURTHER INFORMATION CONTACT: F. Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4340.

SUPPLEMENTARY INFORMATION:

Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

> (b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."
>
> (c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administration's conclusions as to:
>
> (1) the effect of any retrofit device on fuel economy;
>
> (2) the effect of any such device on emissions of air pollutants; and
>
> (3) any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

On September 20, 1979 the EPA received a request from Mr. Norman

Halem for evaluation of a fuel saving device termed the "Pass Master Vehicle Air Conditioner Compressor Cut-Off Device." An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the Pass Master Vehicle Air Conditioner Compressor Cut-Off Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act." Copies of this report are available upon request.

Summary of findings

The "Pass Master" device disengages the air conditioning compressor during hard vehicle acceleration modes. The reduced engine loading *will* result in some fuel savings. The effectiveness of the device will depend on five main factors:

(1) The amount that the vehicle air conditioner is used. The device *only* operates when the vehicle air conditioning is turned on.

(2) The driving habits of the vehicle operator; i.e., drivers who repeatedly use heavy accelerations and thereby activate the device will realize a greater benefit than drivers who use more moderate accelerations.

(3) The suitability of the device calibration for the particular vehicle on which it is installed. The device is offered in three versions. It is suggested that an operator adjustment procedure may increase the device effectiveness.

(4) The air conditioning system design on a particular vehicle. The fuel economy benefit will be greater on certain types of systems than on others.

(5) The type of driving cycle used. The system will be more effective in urban driving with increased acceleration mode operation than in highway "steady state driving."

The EPA has tested the device at the Motor Vehicle Emission Laboratory and reviewed data submitted from other laboratories. The EPA has concluded that the "Pass Master" does result in a *small* but real fuel economy benefit when the vehicle air conditioner is in use.

The improvement in fuel economy attributable to the "Pass Master" when the vehicle air conditioner is in use will vary between 0 and 4% depending on the vehicle, the type of air conditioner used, vehicle driving patterns, ambient temperature, and the specific calibration of the unit. Some drivers in warn climates who frequently use their air conditioner might experience up to a 4% improvement in fuel economy when driving in conditions that frequently actuate the device. The device will show the greatest improvement in urban stop-and-go driving with less or no improvement noted in steady state highway type conditions.

The device has no safety related problems and is easy to install. The emissions of test vehicles running with the air conditioner on are generally reduced when the "Pass Master" is used. No information is available to permit an evaluation of any reduction in passenger compartment cooling with the "Pass Master" installed.

Dated: August 14, 1980.

Edward F. Tuerk,

Deputy Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-26185 Filed 8-26-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685–92, February 25, 1970, as amended in pertinent part at 43 FR 16421, April 18, 1978) is amended to reflect a realignment of function within the Bureau of Medical Devices.

The Medically Oriented Data System functions are being transferred from the Office of the Director to the Division of Product Surveillance. Also, functions are being assigned to the Division of Product Surveillance to reflect expanded responsibilities relating to field and industry regulatory guidance of registration and listing activities and to clarify product experience data collection and analysis activities.

Functions regarding the evaluation of the effects of regulation on small manufacturers and regarding communication with small manufacturers and their trade associations are being added to the Office of Small Manufacturers Assistance.

Section HF–B, Organization, is amended as follows:

1. Delete paragraph (p–1) *Office of the Director (HFM1)* and substitute the following:

(p–1) *Office of the Director (HFM1).* Provides leadership, direction, evaluation, and coordination of the total activities of the Bureau.

Provides advice to the Commissioner and other FDA officials on policy matters concerning medical device activities.

Recommends changes in legislative authority to the Office of the Commissioner.

2. Delete paragraph (p–1–i) *Office of Small Manufacturers Assistance (HFM14)* and substitute the following:

(p–1–i) *Office fo Small Manufacturers Assistance (HFM14).* Plans, develops, coordinates, and directs a program to provide technical and other nonfinancial assistance to small manufacturers of medical devices and to promote understanding of and compliance with medical device laws and regulations.

Serves as a central coordinating point to assist small manufacturers of medical devices in contacting appropriate Agency and Bureau components, as well as other Federal and State agencies.

Identifies program information needs of small manufacturers of medical devices; develops and conducts communication and education programs for small manufacturers of medical devices in conjunction with other Agency components.

Advises the Director and the Bureau on the effects that proposed an existing regulations may have on small manufacturers. Suggests changes to ameliorate adverse effects.

Presents and explains relevant Bureau activities, plans, policies, and decisions to small manufacturers and their trade and professional associations.

3. Delete paragraph (p–2–iii) *Division of Product Surveillance (HFMH)* and substitute the following:

(p–2–iii) *Division of Product Surveillance (HFMH).* Develops and operates a medical device establishment registration and product listing system.

Maintains liaison with FDA components, other agencies, and industry regarding use of medical device listing and establishment data and for coordination on actions and issues of mutual concern.

Establishes and maintains procedures for the processing and evaluation of mandatory experience reports submitted by the medical device industry.

Initiates special field investigations and provides regulatory guidance to industry with regard to policies, procedures, and criteria for submissions relating to medical device establishment registration, listing, and mandatory experience reporting regulations, in coordination with the Division of Compliance Operations.

Develops and monitors contracts/interagency agreements to acquire medical device experience data.

Plans, develops, and operates a medical device experience monitoring network utilizing FDA field offices and other information sources within and outside FDA. Provides data to Agency and nonagency components.

Receives, controls, tracks, and provides for automated storage of all medical device experience and related product problem information.

Develops, operates, and maintains an Agencywide Medically Oriented Data System which provides both early warning and trend data based on FDA requirements.

Provides product experience technical liaison and defines common information requirements with the National Electronic Injury Surveillance System (Consumer Product Safety Commission).

Provides product experience data analysis services to requesting FDA organizational units and communicates Agencywide information requirements to participating medical data sources.

Dated: August 18, 1980

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-26235 Filed 8-26-80; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended in pertinent part at 44 FR 11273, February 28, 1979) is amended to reflect a reorganization of the substructure within the National Center for Toxicological Research (NCTR).

A reorganization of NCTR, effective February 28, 1979, was in response to the Center's commitment of one-third of its resources to the National Toxicology Program and for better operating efficiency. During implementation of the 1979 reorganization, it was determined that operating efficiency could be further enhanced by modifications to the approved substructure.

As presented in this Notice, the Office of Progam and Resource Planning is abolished and its functions transferred to the newly established Office of Management within the Office of the Director. Also being transferred to the new office are three former line divisions, the Division of Facilities Engineering and Maintenance, the Division of Management Services, and the Division of Toxicological Data Management Systems to group all staff support activities in the Office of the Director. Revised functional statements are also presented for the Divisions of Toxicological Data Management Systems and Biometry to reflect the transfer of the data handling function from the Division of Biometry to the Division of Toxicological Data Systems. Revised functional statements for the Division of Management Services are presented to reflect additional functions which relate to budget formulation, resource management, and the development of management procedures which are transferred from the abolished Office of Program and Resource Planning. The newly established Division of Microbiological Services will carry out functions pertaining to microbiological services which have heretofore been carried out by the Division of Microbiology and Immunology. The Division of Microbiology and Immunology is renamed the Division of Molecular Biology, and a revised functional statement is presented for the renamed Division. Functional statements for all other divisions remain unchanged.

Section HF-B, *Organization*, is amended as follows:

1. Delete paragraph (q-2) *Office of Program and Resource Planning* (HFT12) in its entirety.

2. Insert a new paragraph (q-4) *Office of Management* (HFT1D) reading as follows:

(q-4) *Office of Management* (HFT1D). Advises the Director on technical, administrative, and resource management decisions necessary to accomplish the mission and goals of the Center.

Insures that operational problems impeding effective operation of the Center are identified, evaluated, and solved; provides a focal point for project and program evaluation.

Directs the development of strategic and operational planning programs, including resource management and identification and evaluation of program priorities.

Directs the operation and maintenance of the facilities and equipment required to support Center operations, including planning for renovations and improvements and conversion of Center physical facilities for new toxicological programs.

Directs the allocation of space based on planned needs identified by the Center project tracking system.

Directs the development and execution of the Center budget.

Provides financial management of facility operations, involving funds from serveral participating government agencies.

Directs Center staff responsible for management services programs including, procurement, contract administration, property and supplies, financial management, and general services.

Coordinates the development and issuance of management procedures and directives to assure the efficient performance of Center activities.

(q-4-i) *Division of Facilities Engineering and Maintenance* (HFT1DC).

Operates and maintains all environmental support systems, plants, buildings, and equipment required to support Center Programs.

Prepares, in coordination with the Office of Management and Operations (OMO), long- and short-range program plans for facilities requirements.

Develops renovation and improvement projects for the annual Agency work plan.

Develops and implements a preventative maintenance program for the Center with technical assistance and guidance from OMO.

(q-4-ii) *Division of Management Services* (HFT1DA). Provides administrative and management services in support of Center staff offices; advises NCTR management on these programs.

Manages and operates word-processing, communications, graphic arts, printing, and reproduction services and NCTR's microform management program.

Manages and operates NCTR's contracts, procurement, property, and supply programs and financial and accounting systems for all Center expenditures.

Develops and executes NCTR's budget.

Provides records management services for NCTR to assure use of the latest information storage and retrieval techniques.

Coordinates NCTR's personnel and training programs with the Office of Management and Operations including, employee suggestions, incentive awards, management/executive development, technical training, and employee assistance programs; assures conformance with Government personnel regulations and NCTR priorities.

Develops and issues management procedures and directives to assure the efficient performance of NCTR activities.

Provides liaison in the evaluation of proposals for projects at NCTR with respect to funds, space, and equipment.

(q-4-ii) *Division of Toxicological Data Management Systems* (HFT1DB).

Innovates, designs, develops, and implements automated data systems tailored to the NCTR needs.

Provides guidance and training to NCTR's research and support personnel in the design and use of data collection and retrieval systems.

Acts as NCTR's focal point for the acquisition of data systems equipment and services.

Manages the operation and maintenance of data collection hardware, both Government-owned and leased.

Manages the production control activities of the NCTR's computer facility, including data entry, conversion, and verification functions related to the research support systems.

Manages and operates NCTR's computer facility and provides related services including physical and systems security; serves as liaison with other ADP systems organizations in the agency.

Acts as liaison at the national level for guidance and counsel in definition and development of toxicological data management services.

Provides statistical programming and data retrieval support to the Division of Biometry as required for data analysis.

3. Delete paragraph (q–9) *Division of Microbiology and Immunology* (HFTB) and substitute the following:

(q–9) *Division of Molecular Biology* (HFTB). Conducts basic and applied research on the effects of immunotoxicants and develops methods for assessing the effects of toxicants on immuno-competence.

Devises, tests, validates, and selects immunoassay procedures to define the impact of carcinogens, mutagens, and teratogens in a variety of drug classes, food additives, biologics, and environmental chemicals on immuno-competence.

Conducts applied research and development in flow cytometry; discriminates between the examines cell types of cellular fractions derived from or related to toxicological experimentation.

Investigates cell systems utilizing synchronized cycling and arrested cell populations and evaluates effects of cell toxicants on cell metabolism and cell cycle kinetics; develops methods for flow cytometric evaluation and coordinates cell biology studies with experiments in biochemical mechanisms and metabolism.

4. Delete paragraph (q–14) *Division of Biometry* (HFTT) and substitute the following:

(q–14) *Division of Biometry)* (HFTT). Provides leadership and liaison for other agency, Environmental Protection Agency (EPA), and National Institutes of Health (NIH) components concerned with biometric applications to toxicology.

Develops the statistical criteria for program design and protocols necessary for valid analysis and provides the statistical analysis of Center experimental programs.

5. Delete paragraph (q–15) *Division of Facilities Engineering and Maintenance* (HFTE), (q–16) *Division of Toxicological Data Management Systems* (HFTS), and (q–17) *Division of Management Services* (HFTR), in their entirety and insert a new paragraph (q–15) *Division of Microbiological Services* (HFTQ) reading as follows:

(q–15) *Division of Microbiological Services* (HFTQ). Conducts independent or collaborative applied research and development in the various fields of microbiology as they relate to programs involving carcinogenesis, mutagenesis, teratogenesis, and toxicity evaluations.

Develops, modifies, and validates microbial testing procedures that contribute to the assessment of toxic industrial chemicals, drugs, food additives, or naturally occuring and potentially toxic materials in the environment.

Directs and implements a microbiological surveillance program, providing quality assurance for all laboratory animal operations and toxicology experiments involving animal systems.

Investigates and implements quality assurance tests to insure that toxicological experimentation is not interrupted or confounded by microbiological entities.

Dated: August 18, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80–26234 Filed 8–26–80; 8:45 am]
BILLING CODE 4110–03–M

Office of Human Development Services

Federal Allotments to States for Personnel Training or Retraining, Fiscal Year 1980

This notice rescinds the Federal Allotment to States for State and Local Training under Title XX of the Social Security Act, as amended, published at 45 FR 24404, April 9, 1980. Those allotments totalling $55 million plus were distributed on the basis of a Departmental formula. It was stated that if the appropriation were raised to $75 million, the additional funds would be distributed to the States in accordance with that formula.

However, Pub. L. 96–272 (H.R. 3434), dated June 17, 1980, placed a limitation on Federal matching funds for training and mandated a formula for allocating such limitation; therefore, the $75 million cannot be distributed on the basis of the Departmental formula. For Fiscal Year 1980, the Federal matching funds are limited to the highest of:

- 4 percent of the State's allotment for title XX social services or
- the actual amount of Federal matching for the amounts spent by the States for training in Fiscal Year 1979, and
- the amount payable to the State with respect to State appropriations made prior to October 1, 1979, for Fiscal Year 1980, limited to $6 million distributed proportionally among affected States.

On the basis of this formula alone, the maximum entitlement for personnel training or retraining would be $143,381,730. But the Supplemental Appropriations Bill for Fiscal Year 1980 limits the funding to $75 million or approximately 52 percent of the Federal funds that the States would otherwise be entited. Accordingly, the Federal allotment to each of the 50 States and the District of Columbia for the Fiscal Year ending September 30, 1980, has been reduced proportionally and is as follows:

State	Allotment
Total	$75,000,000
Alabama	963,582
Alaska	109,101
Arizona	1,077,004
Arkansas	1,400,935
California	6,147,747
Colorado	683,921
Connecticut	5,955,672
Delaware	151,965
District of Columbia	234,438
Florida	2,207,142
Georgia	1,443,961
Hawaii	233,721
Idaho	223,779
Illinois	2,936,505
Indiana	1,391,864
Iowa	751,803
Kansas	607,408
Kentucky	1,484,294
Louisiana	1,330,088
Maine	630,229
Maryland	1,080,838
Massachusetts	2,148,729
Michigan	2,393,918
Minnesota	1,038,017
Mississippi	705,612
Missouri	1,253,728
Montana	616,368
Nebraska	407,628
Nevada	169,775
New Hampshire	231,699
New Jersey	1,913,877
New Mexico	593,974
New York	7,915,891
North Carolina	2,162,524
North Dakota	280,125
Ohio	2,794,438
Oklahoma	754,584
Oregon	620,469
Pennsylvania	3,990,130
Rhode Island	439,956
South Carolina	751,034
South Dakota	179,917
Tennessee	1,122,620

State	Allotment
Texas	4,724,244
Utah	635,448
Vermont	403,237
Virginia	1,547,102
Washington	1,235,407
West Virginia	1,244,308
Wisconsin	1,414,640
Wyoming	284,584

Dated: August 22, 1980.

Michio Suzuki,

Acting Director, Office of Program Coordination and Review.

Approved: August 22, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-26150 Filed 8-26-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Butte District, Montana: Redelegation of Authority

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 154 on Thursday, August 7, 1980 (FR Doc. 80-23826 filed 8/6/80; 8:45 a.m.), authorizes the Bureau of Land Management District Managers in Montana, North Dakota, and South Dakota the opportunity to redelegate the authority to grant, renew, reassign, or revoke rights-of-way under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management Area Managers.

The authority with respect to temporary road rights-of-way issued for a term of not more than 2 years is hereby redelegated to the Area Managers in Garnet Resource Area, Dillon Resource Area, and Headwaters Resource Area.

This notice has no other effect on the provisions of FR Doc. 80-23826.

EFFECTIVE DATE. This redelegation will become effective September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Butte District Office, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59701, (406) 723-6561, extension 2415.

Dated: August 18, 1980.

Jack A. McIntosh,

District Manager.

[FR Doc. 80-26205 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy Management Act of 1976 that the first meeting of the newly-appointed Eugene District Advisory Council will be held on September 30, 1980.

The meeting will begin at 9:00 a.m. Pacific Standard Time in Room 227 in the Federal Building at 211 East 7th, Eugene, Oregon.

The agenda for the meeting is: (1) Orientation to the Eugene District—Areas, resources, land patterns, staffing and organization; (2) Discussion of the District's current issues including vegetation management, slash burning, logging debris utilization and resource use conflicts; (3) Eugene District's Fiscal Year 1980 program objectives; and (4) The Eugene District's comprehensive planning system procedures, schedules and status. The Council will also discuss subjects for its future attention and make arrangements for the next meeting.

The meeting is open to the public. Interested person may make oral statements to the Council between 2:30 and 3:30 p.m. on September 30, 1980 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1255 Pearl Street in Eugene, Oregon 97401, by September 23, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: August 15, 1980.

Dwight L. Patton,

District Manager.

[FR Doc. 80-26204 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Colorado; Green River-Hams Fork Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: According to the Federal coal management program regulations (43 CFR 3400), the regional coal team for the Green River-Hams Fork Region will meet at 9:00 a.m. on September 17, 1980, to discuss the results of the ranking, selection, and scheduling process; the alternative lease sale schedules; and the potential impacts, including proposed mitigation measures, of the tracts proposed for Federal leasing. In addition, the regional coal team will review its recommendation on the regional leasing target due to the recent update of the Department of Energy's draft regional coal production goals. The regional coal team will also make its final recommendation for Federal coal leasing in the Green River-Hams Fork Region. These recommendations will be forwarded by the regional coal team Chairman through the Director, Bureau of Land Management, to the Secretary of the Interior for his consideration in making a decision for leasing in this region.

Written comments on the above subjects or other items of interest are invited and may be submitted to the regional coal team alternate chairperson at the address listed below. Comments must be received by September 16, 1980. Additionally, time will be provided at the meeting for public comment prior to the formulation of the regional coal team's final recommendation for Federal coal leasing in the Green River-Hams Fork Region.

DATE: The regional coal team will meet on September 17, 1980, at 9:00 a.m.

ADDRESS: The regional coal team meeting will be held at the Bureau of Land Management's Conference Room, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Gerald Magnuson, Alternate Regional Coal Team Chairperson, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111 (801) 524-5431.

Dated: August 21, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-26207 Filed 8-26-80;8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposed to conduct on Lease OCS-G 3129, Block 213, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Lousiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekways 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80–26196 Filed 8–26–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 1085 and 1089, Blocks 75 and 90, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 80–26197 Filed 8–26–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Contintental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0146, Block 58, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80–26198 Filed 8–26–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3331, Block 251, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80–26199 Filed 8–26–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plan.

V45 AG 27 80 UMI

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0245 and 0247, Blocks 72 and 102, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-26200 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plan.

SUMMARY: Notice is hereby given that Shell Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1870, Block 26, portion, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-26201 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plant.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1859, Block 21, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-26202 Filed 8-26-80; 8:45am]

BILLING CODE 4310-31-M

Water and Power Resources Service

Public Involvement Program; Final Instructions on Public Involvement

SUMMARY: This notice announces Water and Power Resources Service Instructions on Public Involvement in Water and Power Resources Service actions. These Instructions have been developed in response to the Department of the Interior Guidelines on Citizen Participation in Decisionmaking (301DM 2). The Instructions are published as Part 351 of Water and Power Resources Service Instructions.

DATE: The Instructions were adopted August 15, 1980.

FOR FURTHER INFORMATION CONTACT: James C. Wiley, Staff Assistant, Planning Policy Staff, Water and Power Resources Service, Department of the Interior, Washington, DC 20240 (202) 343-3127.

Response to Comments: Draft Instructions were published in the **Federal Register** on January 16, 1980. Comments were received from three environmental organizations, four water district or project organizations, two State agencies, and one tribal council. As a result of both external and internal comments, several technical changes were made to improve or clarify the Instructions. The following is the response to the substantive comments:

1. *Relation to NEPA.* One commenter requested clarification of the actions covered by the Instructions, suggesting that, if the decisions for which the Instructions were designed were "major Federal actions," NEPA would be invoked, thereby automatically requiring public involvement.

The Public Involvement Instructions were written to cover significant Water and Power Resources Service actions, which may or may not be "major Federal actions." They provide guidance for Water and Power Resources Service public involvement more specifically suited to Water and Power Resources Service activities than the NEPA Guidelines.

2. *Public Involvement for Reformulation.* One commenter questioned whether public involvement would be implemented when existing projects are reformulated.

This decision would be made on a case by case basis, depending on whether the action would have signficant impact on the public, as under 351.4.7.

3. *Economic Efficiency.* One commenter felt that public involvement placed unwarranted burden on the planning process, resulting in expensive project delays, and inefficient planning.

While adequate public involvement adds additional cost to the planning process, we believe that these costs will be recovered largely through improved plan formulation to meet multiple social goals, and, in the long term, through a reduction in litigation.

4. *Public Involvement Not Truly Democratic.* One commenter suggested that the publics that become involved in these programs are not representative of the affected publics. The commenter suggested that the public's views are better represented by elected officials.

Unlike traditional public meetings, in which little effort is made to reach all publics, one goal of public involvement is to actively seek affected and interested publics, thereby involving a more representative sample of the affected public.

In regard to the second point, public involvement is an adjunct to, not a replacement of, the representational system. Public involvement programs are necessary because a diversity of views and impacts often are involved in water resources planning, even within a small region. It would not be feasible for representatives to spend the necessary time and effort required to adequately represent all of these viewpoints. Public involvement programs also include a significant public information component which we believe is critical to an informed electorate.

5. *Support for Instructions.* Two commenters strongly supported the goal of increased public involvement and thought the proposed instructions would facilitate attainment of this goal.

6. *Determining Need for Public Involvement.* Four commenters expressed concern that, in some situations, activities might unreasonably be exempted from public involvement, or exempted without sufficient public input.

The Instructions have been supplemented to ensure that: (1) even in the case of actions initiated by the Administration or Congress, public involvement will be implemented if determined necessary, as under 351.2.1A; (2) if the Commissioner excludes any Service action from public involvement requirement, the Commissioner will notify any identified, affected, or interested parties (351.11.1D); and (3) that the manager shall make the determination of need for public involvement within 60 days of the time that program funding becomes available (351.6.2), and in all cases before the evaluation of alternatives.

One commenter suggested that interested publics should be able to formally appeal the determination of "no need" for public involvement by writing the Commissioner.

We agree.

7. *Availability of Important Documents.* Five commenters emphasized the need for easy public access to important planning documents, including the public involvement plans.

The Instructions have been supplemented to emphasize that copies of the public involvement plans will be made available to the general public and distributed to known participants, and the heads of appropriate State agencies (351.14.6).

8. *Nonadvocacy.* Two commenters stressed the need for nonadvocacy by Service personnel prior to any decisionmaking process.

We believe the proposed instructions take a strong position on this issue.

9. *Public Input to Decisions.* Two commenters suggested that, in order for the public to have maximum input into the decision process, the Service provide funds for technical analyses of alternatives suggested by the public, and provide funds for independent review of dam safety and other technical issues, if they are sources of public controversy.

11. *Definition of Significant.* One commenter suggested that the term "significant" should not be defined solely in terms of how it affects individuals differently, but should also include the environmental impact of a decision.

We believe the definition, along with the public involvement procedures, adequately covers the necessary situations. Any decision which involved exclusively environmental impacts would fall within the aegis of NEPA, thereby invoking public involvement.

Dated: August 15, 1980.

R. Keith Higginson,

Commissioner.

The final Water and Power Instructions will read as follows:

WATER AND POWER INSTRUCTIONS

Series 350 General Instructions

Part 351 Public Involvement

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Chapter 1 Purposes and Objectives—351.1

.1 *Purpose.* The purpose of public involvement is to ensure that Water and Power programs are responsive to the needs and concerns of the public.

.2 *Objectives.* The objectives of public involvement are to provide information about proposed Water and Power activities to the public; to ensure that the public's desires, needs, and concerns are understood by decisionmakers; to provide for consultation with the public before decisions are reached; and to attempt to take into account the public's views in reaching decisions. All this must occur, however, with the knowledge that Water and Power cannot relinquish its legislated decisionmaking responsibility.

Chapter 2 Scope—351.2

.1 *General.* The public normally will be provided the opportunity to participate in the decisionmaking process and will be provided information about decisions that are being considered or have been made for all significant Water and Power water resource activities. Public involvement activities are an integral part of Water and Power's programs and functional activities; and, the various offices, divisions, and staffs shall cooperate to the fullest extent possible to achieve successful public involvement.

A. *Policy.* Public involvement programs will be designed and conducted in connection with the establishment of new Water and Power policy or for significant changes of existing Water and Power policy. It is recognized, however, that some Water and Power policies are defined externally by the Administration or the Congress. Unless directed by those policymakers, Water and Power bears no responsibility for public involvement in advance of adoption of such policies. However, when determined necessary (see WPI 351.6.2), public involvement will be carried out on the implementation of such policies.

B. *Planning.* Public involvement programs will be conducted in connection with appraisal, feasibility, advance planning studies, or studies for reauthorization of water resource projects. A review of each special study shall also be made by the responsible planning official to determine the public involvement program appropriate for each activity.

Additional requirements for public involvement in planning are in WPI 112.2

C. *Land Acquisition.* All land acquisition activities will provide complete information to the public on land acquisition policy and impacts, and will provide timely opportunities to discuss benefits to be obtained as well as ways of reducing negative impacts of the land acquisition program upon landowners.

D. *Design and Construction.* A public involvement program will be provided to inform the public of the impacts that may be expected from preconstruction, construction, and postconstruction activities. Opportunities will be provided for the public to express its views concerning the benefits it expects will be achieved as well as discussing ways of reducing the negative impacts of construction activities.

Design changes that alter the project plan may occur after the advance planning and related public involvement program have been completed. A public involvement program normally will be required if it is determined that design changes in this category cause major alterations in the economic, social, or environmental impacts of the project.

E. *Water, Power, and Land Operations.* Public involvement opportunities will be provided regarding the operation and maintenance of Water and Power projects. Operations and maintenance units will maintain programs informing the public about the management of Water and Power programs, and (consistent with existing constractual relationships) will provide opportunities for consultation on project operation.

F. *Water Service and Repayment Contracts.* Public involvement opportunities will be provided during the negotiation of all water service and repayment contracts in accordance with the final general notice of procedures as published in the **Federal Register**, Vol. 44, No. 1, Tuesday, January 2, 1979, or as subsequently amended.

G. *Dam Safety.* Public information or involvement opportunities will be provided concerning safety of dams, the modification of existing structures, or changes in operation and maintenance procedures to improve dam safety.

H. *Environmental Impact Statement Process.* Public involvement programs conducted as an integral part of activities, such as planning, water service contract negotiations, etc., that lead to preparation of an environmental impact statement will be coordinated in accordance with Section 1506.6. of the November 1978 Council on Environmental Quality (CEQ) Regulations. Consistent with the CEQ regulations, a public involvement program may be required on the preparation of other environmental documents.

I. *Research.* A public involvement program will be conducted on research activities where deemed appropriate by the responsible manager. (See WPI 351.16)

J. *Youth Programs.* A regular program of public information about youth program activities will be developed and maintained by each installation. Opportunities for public involvement will be provided whenever establishment, significant change, or shutdown of a youth installation is proposed.

K. *Minority Programs.* Public involvement opportunities will be provided whenever proposed Water and Power activities appear to be of particular interest to minority groups or likely to impact upon them.

Chapter 3 Authority—351.3

.1 *Authority.* These instructions fulfill the requirement of Departmental Manual 301 DM 2 for the establishment of procedures for public particiapation in decisionmaking.

Chapter 4 Definitions—351.4

.1 "Publics" refers to affected or interested individuals, organizations, or special interest groups; officials of local, State, and Indian tribal governments; and officials of Federal agencies. "Public" refers to a collection of affected or interested individuals, organizations, or groups.

.2 "Involvement" means systematic opportunities for members of the public to know about and express their opinions on possible Water and Power actions and policies and be informed on decisions which have been made.

.3 "Public information program" means a carefully designed effort, using a variety of techniques, to inform those publics most likely to be interested or affected by Water and Power actions or decisions.

.4 "Public involvement program" means a carefully designed effort using a variety of techniques, which, in addition to informing the public of proposed Water and Power actions or decisions, provides opportunities for consultation with the public, and considers the public's views before making decisions and taking actions.

.5 "Manager" means a person occupying a position having direct program accomplishment responsibility and accountability.

.6 "Consultation" means the exchange of information and advice in order to plan or make decisions.

.7 "Significant" means activities or actions that are important to Water and Power and/or its publics. Significant activities or actions are those which may affect individuals differently, conferring benefits, and disadvantages unequally. The benefits and disadvantages of such actions must be considered important and meaningful to those who are affected for the activity or action to be significant.

The term significant implies responsible judgment on the part of Water and Power decisionmakers. If questions arise, the need for public involvement should be determined in consultation with individuals, organizations, and agencies which might consider the action signficant.

Chapter 5 Responsibilities—351.5

.1 *General Approach.* Public involvement is an integral part of program accomplishment responsibility and not an independent function. Public involvement shall be considered as a way of doing business, and managers shall assure that personnel are properly trained and funding needs are encompassed by their specific budgets.

Responsibility and accountability for the adequacy of public involvement programs belongs primarily to Regional Directors and, in some cases, Assistant Commissioners, for programs under their supervision. This placement of responsibility is designed to encourage the active interest, involvement, and support of these managers for public involvement efforts, and permits them to be aware of public sentiment. When Regional Directors have delegated authority and assigned programmatic responsibility to others, such as division chiefs, study managers, project managers, etc., these individuals become directly responsible for designing and conducting the public involvement program, although the Regional Director will continue to be responsible and accountable for its adequacy.

A. *Commissioner.* The Commissioner is responsible for Water and Power's public involvement program. The Commissioner's specific responsibilities are:

- To establish policy direction and guidelines for Water and Power's public involvement program.
- To develop, maintain, and evaluate the adequacy of all public involvement programs regarding agency policy.
- To evaluate, on an annual basis, the effectiveness of public involvement programs.
- To ensure that Water and Power staff is trained and funded for public involvement efforts within Water and Power.
- To identify the responsibility for designating and supervising a Public Involvement Officer for Water and Power.
- To review and submit an annual report to the Secretary as required by Departmental Manual 301 DM 2, describing and evaluating Water and Power's public involvement programs.

B. *Assistant Commissioners.* The Assistant Commissioners for Administration, Planning and Operations, Dam and Structural Safety, and Engineering and Research are responsible for assisting the Commissioner in discharging the responsibilities enumerated in WPI 351.5.1A within their functional areas. In addition, the Assistant Commissioner for Engineering and Research is responsible for informing the appropriate Regional Director of all technical design and construction decisions which significantly alter previously defined project impacts so that the Regional Director can design, implement, and evaluate public involvement for those decisions.

In special instances where Assistant Commissioners assume the management and supervision of specific programs, they must also carry out the responsibilities enumerated for Regional Directors for those programs. They shall coordinate with Regional Directors or the Public Involvement Officer as appropriate in carrying out such responsibilities.

C. *Regional Directors.* Regional Directors are responsible for public involvement programs in each region. The Regional Directors' specific responsibilities are to:

a. Approve or disapprove recommended public involvement plans.

b. Assure that approved plans are implemented.

c. Approve and distribute public involvement summary reports.

d. Maintain and evaluate the adequacy of all public involvement programs within the region.

e. Ensure that staff are trained and funded for public involvement programs.

f. Designate and supervise a Regional Public Involvement Coordinator or Team.

g. Submit, prior to June 30 each year, an annual report to the Commission describing and evaluating public involvement programs in the region.

D. *Regional Directors'—Assistant Commissioners' Staffs.* All staff, division, and office managers are responsible for assisting the Regional Directors (or Assistant Commissioners when appropriate) in discharging the public involvement responsibilities enumerated in WPI 351.5.1.C. Those managers' specific responsibilities include reviewing preceding public involvement activities, identifying issues, evaluating the need for and formulating public involvement plans; developing, implementing, and evaluating the effectiveness of all public involvement programs; and, preparing a public involvement summary report on each public involvement program.

Managers may also be required to submit information in support of the Regional Director's/Assistant Commissioner's annual report describing and evaluating the public involvement programs in their organizational unit.

E. *Public Involvement Officer.* The responsibility of the Water and Power Public Involvement Officer is to provide technical staff assistance to the Commissioner, Assistant Commissioners, and Regional Directors in coordinating, developing, maintaining, and evaluating Water and Power's public involvement program. The Public Involvement Officer also is responsible for developing, maintaining, and evaluating public involvement programs on agency-wide policies and other issues under the guidance of WPI 351.6. The Public Involvement Officer shall prepare and submit for the Commissioner's review and concurrence the annual report to the Secretary, required by Departmental Manual 301 DM 2, describing and evaluating Water and Power's public involvement programs.

F. *Regional Public Involvement Coordinators/Teams.* The responsibility of the Regional Public Involvement Coordinators/Teams is to provide staff assistance to the Regional Directors and managers in developing, maintaining, and evaluating regional public involvement programs.

Chapter 6 Procedures—351.6

.1 *Application.* Procedures in these instructions are designed to ensure that public involvement will be the normal practice for conducting Water and Power activities.

.2 *Determination of Need.* Determination of need for public involvement shall be made by the responsible manager. Prior to that determination, the manager shall consult with other Federal, State, and local agencies, and interested groups or individuals. The manager shall make the determination of need for public involvement within 60 days of the time that program funding becomes available and, in all cases, the determination of need shall be made before the "evaluation of alternatives" (See WPI 351.13.1A). A manager may determine that no public involvement program is needed when those consultations indicate no significant interest; but, this determination and approval by the appropriate Regional Director/Assistant Commissioner will be recorded, indicating the basis for the determination and, summarizing the consultation preceding it (See WPI 351.11.1A), in accordance with 301 DM 2.50.

.3 *Review at Key Decision Points.* At the beginning of each process leading to proposed actions or decisions, key decision points will be identified at which time a reevaluation will be made as to the need for public involvement and the amount and kind of public involvement which is appropriate. These reviews and any changes which result will also be recorded. (Reference 301 DM 2.5C.)

.4 *Public Involvement Plans.* Whenever it is determined that a public involvement

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program is needed, an overall public involvement plan will be developed in consultation with appropriate Federal, State, and local agencies, and interested and affected individuals and groups. Guidelines for the development of a public involvement plan are contained in WPI 351.14.

.5 *Public Involvement Summary Report.* At the conclusion of each public involvement program, a brief summary report will be prepared. Among other purposes, this report will communicate to the public a summary of public involvement activities that have taken place, the needs and concerns expressed by the public, the alternatives that were considered, a comparison of the alternatives, the attitudes of various publics toward those alternatives, and the reasons for any decision which was made. In most instances, the final decisionmaking responsibility will rest with a higher authority such as the Commissioner, the Department of the Interior, the Administration, or the Congress. However, in such cases, the recommendations that are made to the decisionmakers shall, in themselves, be considered significant decisions relative to public involvement. When other reports meeting the above criteria are required for a program, they may serve as public involvement summary reports providing that they are published in a timely manner. (See WPI 351.15.)

Chapter 7 Nonadvocacy Prior to Decisionmaking—351.7

.1 *General.* In order for public involvement to be a genuinely consultative process, Water and Power personnel must avoid advocacy and precommitment to any particular alternative prior to decisionmaking. The role of Water and Power personnel will be to structure public involvement activities that provide equal opportunities for all individuals and groups to be heard, and, to the greatest extent possible, encourage resolution and agreement between individuals and groups prior to the decision.

It is not always possible to achieve a consensus, nor will all Water and Power decisions be equally acceptable to all individuals or groups. Although Water and Power personnel should make recommendations when appropriate, they should not be advocates of a particular outcome preceding decisionmaking, normally themselves with some individuals or groups in opposition to particular alternatives. Water and Power should actively seek to facilitate both dialogue and, as far as possible, resolution of issues among disagreeing interests. However, it is understood that once a decision has been made, Water and Power personnel will be in the position of supporting or advocating this action during the period of implementation.

Chapter 8 Project-Related Entities—351.8

.1 *General* Inherent in the planning, construction, and operation and maintenance of Water and Power projects is the existence of sponsoring, contracting, and administering entities. For the most part, these public entities consist of irrigation, reclamation, conservancy, and water districts; water authorities; municipalities and counties; and State recreation, game, and fish agencies. Such entities are usually organized in response to water-related resource problems or needs. Their purpose may vary from seeking a planning study of a particular problem or need; contracting for the construction, operation, maintenance, and repayment of project works; contracting for water service; administering the public use of project facilities, particularly reservoir areas for recreation and fish and wildlife purposes; to securing and repaying loans to construct or rehabilitate works.

The requirement to deal with such entities is clearly established by Federal law and by executive policy. To a large extent, Water and Power looks to these entities to assume and carry out certain responsibilities and obligations. When the Congress authorizes the Secretary of the Interior to construct, operate, and maintain a Water and Power Project, it is usually anticipated and, in many cases, required that non-Federal entities participate in that process.

However, these entities usually are created, exist, and are governed pursuant to State or other local law. The governing officials and management are responsible to those publics by which and for which they were created. Therefore, their responsiveness to other publics may be limited or constrained by purpose and law.

Because of their responsibilities and obligations to Water and Power projects, these entities and organizations have rights in Water and Power projects and have a particular interest in decisions about activities related to such projects. For instance, in some projects the water rights are held by the water using entity and the decisions concerning the options available to Water and Power for operation of a project are constrained by that limitation.

Water and Power must recognize that these entities have independent responsibility for public involvement and an accountability to their specific constituencies. Water and Power's public involvement program is not to be a substitute for, or an intervention in, this relationship. On the other hand, Water and Power's public involvement program is open to participation of all publics. The views of both the general public and the project-related public must be considered.

While such entities may participate in Water and Power's public involvement programs and activities, such participation in itself shall not dictate decisions, but other publics, the entity, and Water and Power must all recognize the entity's special, but not exclusive, interest in the project.

Chapter 9 The Relationship of Public Information and Public Involvement—351.9

.1 *General.* It is Water and Power policy to provide information to the public in a timely manner about all Water and Power programs. The emphasis in public information programs is to provide information *to* the public. Public involvement programs, on the other hand, require opportunities for participation in decisions, so there is a complete exchange of information both *to* and *from* the public. Every public involvement program will contain a public information component, since individuals and groups must be informed of possible actions or policies, and their consequences, before they can participate effectively in a decisionmaking process. Public information programs alone may be appropriate when the public is being provided with general information about continuing agency programs and activities, and no specific decision is to be reached.

Requests for information on issues currently part of a public involvement program will be provided upon request and without cost. Requests for large amounts of information or information which will require extensive commitment of time and personnel cannot be accommodated without acceptable arrangements for reimbursement (similar to reimbursement associated with Freedom of Information Act requests).

Documents related to controversial issues will be placed in convenient locations for public review.

Chapter 10 Litigation—351.10

.1 *General.* Water and Power actions may lead to litigation, either directly or through other entities which are involved in a project. It results when a segment of the public does not accept a decision or a decisionmaking process and seeks a recourse from the judicial system, usually in the Federal courts. In such an action, the decisionmaking process within Water and Power and/or the Department of the Interior is either suspended or removed to the courts for judicial review of the decision, a new decision by the agency, a judgment of the effects of the decision, or a new decision by the court in lieu of the agency decision.

Decisionmakers should be aware that issues which are not resolved to the satisfaction of the public concerned may be decided through judicial action. If the objectives of Water and Power's public involvement program are achieved, the need for the public to result to litigation should be reduced in those issues where Water and Power has latitude in the decision. The probability of litigation should be reduced, although certainly not eliminated, through public involvement.

When an issue or decision comes under litigation, Water and Power's ability or latitude to deal with the resolution of that issue administratively is constrained by the judicial process. In Federal court actions, Water and Power's interests are directly represented by the Department of Justice through the appropriate United States Attorney in consultation with representatives of the Solicitor's Office, usually the Regional or Field Solicitor.

.2 *Procedures.* When an activity, or some part thereof, covered by a public involvement plan becomes the subject of litigation and under the jurisdiction of a Federal court, the Regional Director, the appropriate Assistant Commissioner, or the Commissioner shall immediately consult with the appropriate representatives of the Solicitor's Office and the Department of Justice before continuing further activities contemplated under the public involvement plan. Thereafter, the public involvement plan shall be carried out in consultation with the appropriate representatives of the Solicitor's Office and the Department of Justice. The court may issue directives or orders which require the suspension or limitation of public involvement activities.

In the event the activities contemplated in a public involvement plan are significantly altered, restricted, or suspended because of litigation, the Regional Director, Assistant Commissioner, or the Commissioner shall prepare a public involvement summary report as provided by WPI 351.15.

Chapter 11 Exclusion From Public Involvement Requirements—351.11

.1 *Exclusions.* As described in WPI 351.2, significant actions of Water and Power are subject to public involvement requirements. The exclusions to these requirements are as follows:

A. *No Significant Interest.* If after notification (see WPI 351.12.2) of affected individuals, groups, or agencies, there has been no significant interest expressed in subsequent public involvement activities, the appropriate manager may suspend additional public involvement activities on an individual study or action. This decision must be documented in writing to the Regional Director which will include a description of the original notification and/or other public involvement activities offered, and a summary of the responses upon which the judgment to exclude is based. Upon concurrence of the Regional Director, this decision shall be publicized in lieu of preparing a public involvement summary report.

The decision of no public involvement will be reviewed when alternatives or options, which will lead to the final decision are being evaluated to see if public interest has increased.

B. *Emergency Conditions.* No public involvement activities are required for significant actions taken under emergency conditions to protect life or property. Examples of emergency conditions are natural disasters, potential flooding, threats to the integrity of facilities, construction accidents, etc.

C. *Contractual Commitments.* Terms and conditions of a contract may limit or preclude public involvement in administering the contract.

D. *Commissioner's Discretion.* The Commissioner will have the discretion to exclude Water and Power actions from public involvement requirements, but shall documents the basis for this decision and notify the Assistant Secretary, Land and Water Resources, Department of the Interior, and any identified affected or interested parties.

Chapter 12 Adequacy of Public Involvement Programs—351.12

.1 *Responsibility.* Responsibility for evaluating the adequacy of public involvement programs is outlined in WPI 351.5.

.2 *Guidelines.* There are presently no universally accepted standards by which public involvement programs can be evaluated in a measurable or quantitative manner. A count of the number of participants attending meetings, for example, does not constitute a measurement of the adequacy of a public involvement program. Therefore, the evaluation of program adequacy requires judgment on the part of the responsible official. To assist the official in making this judgment, the following guidelines to adequacy are provided:

a. Public involvement programs should be announced in media that reach the public, including known interests.

b. Public involvement programs should provide access to all interested or affected individuals, groups, or agencies.

c. Public involvement programs should provide a forum for dialogue among groups and individuals with diverse or divergent views.

d. Public involvement activities should be integrated with the stages of the decisionmaking process to insure that public comment is received at those points where it may have the greatest visibility to the decisionmaker.

e. Public involvement programs should provide activities appropriate to the level of interest in the issue and the kinds of individuals and groups with this interest.

f. Public involvement efforts should be intensive when alternatives or options, which will lead to the final decision, are being evaluated.

Chapter 13 Requirements at Each Stage of Decisionmaking—351.15

.1 *General.* There is no single formula for the amount and kind of public involvement activities which should be offered. Rather, the amount and kind of public involvement activities should be guided by the level of public interest and Water and Power's needs. Initial public involvement activities should provide an opportunity to assess the level of interest, with the public involvement program then designed based upon that interest. Since some decisionmaking processes, such as a planning study, may last several years, the level of interest may markedly increase or decrease over time. Extended public involvement programs should provide points of review at which time a judgment can be made to increase or decrease the level of activity.

Some issues may be of great interest only to a limited number of special interest groups. As a result it may be necessary to offer public involvement opportunities directed primarily at interested groups. In other cases there is interest from the broad, general public, which will dictate public involvement activities designed to reach that broader public.

In a general manner, it is possible to relate public involvement to the degree of decisionmaking flexibility that the decisionmaker has at various stages of planning, construction, and operation of a project. A broad assumption can also be made that the more flexibility a decisionmaker has, the greater the public's participation can be. However, even though the decisionmakers should attempt to make decisions that reflect public desires, at no time can the responsibility to make decisions that are consistent with Water and Power law and policy be ignored.

.2 *Decisionmaking Stages.* Several stages have been identified to assist in structuring public involvement programs. These stages are common to most decisions, although some decisionmaking processes, such as planning studies, contain a larger number of discrete steps.

A. *Issue Identification/Sensing Public Interest.* The purpose of public involvement during this stage is to obtain a clear definition of public needs and concerns. It is also a "sensing" stage during which an appraisal is made of the intensity of public interest, the kinds of publics most likely to participate, and the kinds of issues which are most likely to generate additional public interest.

A frequent complaint about public involvement efforts is that the public is not included early enough in the process. Yet efforts to involve the broad general public during this first stage have frequently met with failure and criticism. As a result, unless the decision to be reached is of broad general interest, public involvement efforts during this stage should be primarily aimed at individuals and groups who are either directly affected by the decisions or have some familiarity with the issues. This would include local community leaders, special interest groups, local, state and tribal governments, and other Federal agencies. Ample publicity efforts should be made to announce opportunities for participation to anyone who chooses to do so, but this is not normally an appropriate stage for large public meetings or other major efforts to reach the general public. Documentation of these efforts to solicit participation should be maintained, to avoid subsequent criticism that participation opportunities were not provided.

Examples of techniques which might be appropriate at this stage include: interviews with individuals or groups, speaking engagements with community groups, workshops, coffee klatches/kitchen meetings, and a variety of public information techniques. While the choice of techniques is discretionary, the public involvement activities must provide equal opportunity for participation of all viewpoints, interest, or values within the community.

A public involvement plan will be prepared at the end of this stage, in accordance with the provisions discussed in WPI 351.14. The only exception to this will be if a decision is made that no further public involvement is needed, based on WPI 351.6.

B. *Formulation of Alternatives.* The formulation of detailed alternatives is normally a consultative process primarily accomplished with other agencies, organized groups, and community leaders. Individuals may be the source of ideas for alternatives, but frequently these ideas may require additional technical work on the part of Water and Power to be developed into full alternatives. During this stage Water and Power personnel need to be particularly sensitive to the fact that ideas from the public do not often come in the form of technically accurate detailed alternatives. Often fragments or incomplete ideas must be translated by Water and Power technical personnel into genuine alternatives.

Alternatives will be developed as part of each decisionmaking process. The range of alternatives to be considered should be determined by the interests and ideas of the public, rather than initial impressions of practicability. It is essential that the public perceive that the full range of alternatives has been considered.

Examples of public involvement techniques which might be employed during this stage might include workshops, field trips, and consultation with task forces or work groups.

C. *Evaluation of Alternatives.* This will normally be the stage at which the greatest participation will occur. A variety of public involvement opportunities should be provided during this stage and will precede the selection of a preferred alternative of plan. Unless alternative methods of public involvement are used, a public meeting will be held during this stage. These public involvement opportunities will also precede any hearings conducted to review the adequacy of environmental impact statements.

Examples of techniques which might be employed at this stage include: large public meetings, workshops, media events, speaking engagements with groups, continuing consultation with task forces or work groups, and a full spectrum of public information techniques.

D. *Decisionmaking.* The decisionmaking stage may require continued discussion and negotiation between those individuals, groups, and agencies most critically affected. Because this stage primarily involves the most directly affected individuals, groups, or agencies, techniques are likely to be limited to such things as interviews, workshops, or small meetings. While some negotiations may require confidentiality, every effort should be made to provide the same information to all groups or individuals, and provide equal access during this stage.

Once a decision has been made, a public involvement summary report will be completed as described in WPI 351.15.

Chapter 14 Public Involvement Plans—351.14

.1 *Requirements.* The determination of need and the preparation of a public involvement plan is required for every public involvement program. The public involvement plan may vary in length from a single page to many pages, depending on the complexity of the program. See WPI 351.11.1 for exclusions.

.2 *Responsibility.* This plan will be developed by the responsible manager and submitted to Regional Director or Assistant Commissioner, as appropriate, for approval. Informational copies of approved plans shall also be forwarded to the Commissioner and Public Involvement Officer.

.3 *Purpose of Public Involvement Plans.* The preparation of public involvement plans is necessary to ensure:

a. That public involvement programs are structured to be responsive to the level of interest and concern expressed by the public.

b. That the design of public involvement programs is visible and understood by the agencies, groups, and individuals who may participate.

c. That public involvement programs are carefully and systematically designed as a part of the decisionmaking process.

.4 *Contents of Public Involvement Plans.* Public involvement plans will include:

a. A description of the preliminary consultation activities that led to development of the public involvement plan, including the agencies, groups, and individuals consulted.

b. An analysis of the major issues likely to be addressed in the decisionmaking process.

c. An assessment of the level of public interest likely to be generated by the action under consideration.

d. An identification of agencies, groups, and individuals most likely to be interested in that action under consideration.

e. An identification of the public involvement expertise and effort that may be needed from various organizational units.

f. A plan of sequential public involvement activities integrated with the decisionmaking process, including other elements, as applicable, such as the preparation of planning reports or environmental impact statements.

.5 *Establishing Review Points.* The public involvement plan will also identify key points at which the manager will reexamine the effectiveness of the public involvement plan. As a minimum, one such review point will occur when alternatives or options which will lead to the final decision are being evaluated. If the level of public interest has changed, new issues have emerged, or other conditions have changed, then modifications may be required in the public involvement plan. Changes in a public involvement plan will be subject to review by the Regional Director or Assistant Commissioner, unless explicitly delegated.

.6 *Distribution.* Upon approval, the availability of the public involvement plan shall be announced in public media and copies distributed to known participants and the heads of agencies responsible for water resources in the involved State(s).

Chapter 15 Public Involvement Summary Report—351.15

.1 *Purpose.* The purpose of the public involvement summary report is to provide an accounting of the efforts made to acquire public input and the information and opinions expressed prior to arriving at a decision. It is also designed to provide a timely reporting to the public of decisions that have been made. The public involvement summary report also meets requirements specified in 301 DM 2.

.2 *Responsibility.* The public involvement summary report will be prepared by the appropriate manager and submitted to the Regional Director of the appropriate Assistant Commissioner. Upon approval, the public involvement summary report shall be distributed to interested individuals, organizations, and agenices and transmitted to the Commissioner.

.3 *Contents.* The public involvement summary report may vary in length from a letter to a formal report. Brevity and simplicity are encouraged, and objectivity is essential. Specifically the report will include:

a. A description of the public involvement activities which took place.

b. The needs and concerns expressed by the public.

c. The alternatives considered.

d. The decision, and the reasons for the decision, including a comparison of alternatives.

e. A summary of the attitudes of various publics towards the recommended or chosen alternatives.

.4 *Relationship to Other Reports.* Other reports that are being prepared may serve as the public involvement summary report provided they contain all the information described in WPI 351.15.3.

.5 *Timeliness.* The public involvement summary report should be issued promptly and no later than 130 days after a decision has been made. If a report other than the public involvement summary report has been used to meet these requirements and 120 days have elapsed without its issuance, that portion of the report that serves as the public involvement summary report shall be extracted and issued immediately with a statement indicating the status of the full report.

Chapter 16 Coordination—351.16

.1 *Regions.* Since the responsibility for public involvement is distributed to all Water and Power organizational units, the expertise and skills to carry out public involvement will be developed and spread throughout the organization. While a specific Regional Director or manager will be responsible for public involvement, it may be necessary to draw on the staff resources of other organizational units. The manager will coordinate this through the timely preparation of the public involvement plan. Insofar as possible, the manager should combine public involvement needs with technical program needs from other organizational units to minimize duplication of effort.

.2 *Engineering and Research Center.* The staff at the Engineering and Research Center have both line and staff public involvement responsibilities. Personnel having line authority, and those conducting special studies, are responsible for meeting public involvement requirements for these activities.

The staff providing assistance to regional offices shall work with regional staff in conducting public involvement programs in order to acquaint themselves with local issues. The staff shall discuss the public involvement implications of revisions to reports, designs, etc., with regional personnel before recommending or making changes.

The staff reviewing planning studies or other actions may advise the responsible manager if they believe public involvement programs do not meet technical standards. However, final responsibility for adequacy of the public involvement program rests with the Regional Directors or the Commissioner.

.3 *Washington Office.* The Washington Office staff, in consultation with the Public Involvement Officer, shall carry out any necessary coordination with the Department of the Interior on public involvement.

The Public Involvement Officer shall have responsibility for public involvement programs for significant policy issues. When this need arises, the Officer will enlist the assistance of Regional Directors in conducting programs for the purpose of gaining public awareness and input to the policy changes. In addition, assistance will be provided to the regions by coordinating training programs, or assisting in funding and staff development.

The Officer, reviewing work generated by the regions or Engineering and Research Center managers, shall consult with regional and Engineering and Research Center staff regarding public involvement implications or significant changes in reports, plans, designs, programs, etc.

Chapter 17 Staff Training and Development in Public Involvement—351.15

.1 *Responsibility.* The Public Involvement Officer, in coordination with the Employee Development Officer, will consult with the Commissioner, Regional Directors and Assistant Commissioners frequently to assess staff training and development needs in public involvement. Based on this the Public Involvement Officer will recommend to the Commissioner an annual program of technical assistance for staff training and development. Regional Directors and Assistant Commissioners are also encouraged to develop their own programs of staff training and development within their organizational units.

.2 *Levels of Training.* Water and Power personnel will need different skills and knowledge about public involvement. All Water and Power personnel should be informed of the need for public involvement and Water and Power's policy regarding public involvement. All Water and Power personnel involved in decisionmaking processes leading to significant actions shall be provided with training in the basic principles and skills of public involvement including interpersonal communication, conducting meetings and workshops, and public involvement strategy and policy development. In addition, each division at the regions, Engineering and Research Center, and the Commissioner's office shall provide training to staff within their organization necessary to develop special expertise in public involvement, so that these staff can provide consultation to others within that organization on public involvement program design.

.3 *Management Development.* The public involvement requirements indicated in these instructions create a demand for skills in working with the public at many organizational levels. In many cases expertise or skill in working with the public may need to be specified as a prerequisite qualification for that organizational position. Management training and development programs should also be designed to recognize that working witht the public is a fundamental element of all management positions in Water and Power.

[FR Doc. 80-26151 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region 1. Send Protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 142082 (Sub-1-2TA), filed August 14, 1980. Applicant: OLIVER BROWN TRUCKING CO., INC., 700 South Avenue, Middlesex, NJ 08846. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes: *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Chestertown, MD, Newton Upper Falls, MA, Lockland, OH, and points in New Jersey, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, TX, WA and WY, under continuing contract(s) with Tenneco Chemicals, Inc. of Piscataway, NJ. Supporting shipper: Tenneco Chemicals, Inc., P.O. Box 367, Piscataway, NJ 08854.

MC 148198 (Sub-1-2TA), filed August 14, 1980. Applicant: A. MATTEO TRUCK SERVICE, INC., 1465 Crown Point Road, Verga, NJ 08093. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadephia, PA 19107. *Oil and grease* (except in bulk), from Thorofare, NJ, to points in CT, DE, MD, NC, NJ, NY, PA, RI, VA and WV. Supporting shipper: Winner Distributions, 1251 Metropolitan Avenue, Thorofare, NJ 08086.

MC 2770 (Sub-1-1TA), filed August 12, 1980. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Avenue, Portland, ME 04101. Representative: Lawrence S. Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. *General commodities (except classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving points in Nassau and Suffolk Counties, New York, as off-route points in connection with carrier's otherwise regular route operations. Supporting shipper(s): There are 24 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 151531 (Sub-1-1TA), filed August 14, 1980. Applicant: NATURAL TRUCK LEASING, INC., 40 Wisner Avenue, Newburgh, N.Y. 12550. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. *Contract, Irregular, Piece goods and materials, and supplies used in the dyeing, finishing and distribution of piece goods,* between Newburgh, NY, on the one hand, and, on the other, points in the New York, Commercial zone as defined by the Commission. Supporting shipper: New—Stan Dyeing & Finishing Co, Inc. P.O. Box 2566 40 Wisner Avenue, Newburgh, NY 12550.

MC 1783 (Sub-1-1TA), filed August 12, 1980. Applicant: BLUE LINE EXPRESS, INC., 260 D. W. Highway South, Nashua, NH 03060. Representative: Owen B. Katzman, 1828 L Street NW., Suite 1111, Washington, DC 20036. *Insulating material, mineral wool, and fibrous glass materials and products (except in bulk)* from Delmar and Totterday Jct., New York to points in ME, NH, and VT. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 151541 (Sub-1-1TA), filed August 14, 1980. Applicant: STEVE'S GAS SUPPLY, INC., 46 River Road, Essex Junction, VT 05452. Representative: James M. Burns, 1383 Main Street, Suite

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413, Springfield, MA 01103. *Brick, Clay products and Materials, equipment and supplies used in the manufacture and distribution thereof,* from Albany County, NY, Hartford County, CT, Plymouth County, MA, Stark County, OH and Grafton County, NH to points in VT and NH. Supporting shipper: Densmore Brick Co., Inc., 79 Main Street, Colchester, VT 05446.

MC 35334 (Sub-1–1TA), filed August 13, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon, Vice President, General Counsel, Cooper-Jarrett, Inc., Hanover Plaza, Morristown, NJ 07960. *General Commodities, except household goods and explosives as defined by the Commission,* between all points in the states of CT, DE, IL, IN, IA, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, TN, and WI. Supporting shipper: Rexene Polmer, 115 W. Century Rd., Paramus, NJ 07652.

MC 140608 (Sub-1–1TA); filed August 14, 1980. Applicant: BENTLEY WARREN, d.b.a. BENTLEY WARREN TRUCKING, 89 Newburyport Turnpike, Ipswich, MA 01938. Representative: Ignatius C. Goode, 132 Harris Road, Nashua, NH 03062. *Scrap metal, in bulk, in dump trailers,* (1) from points in ME, MA, NY, RI and VT to Portsmouth, NH. (2) from points in NH to Portsmouth, NH. Restricted to traffic to be interchanged with water carriers when moving in interstate or foreign commerce. Supporting shipper: Tewksbury Auto Parts, Inc.; Madbury Metals, Inc; Portsmouth International Corp., 860 East Street, Tewksbury, MA 01870.

MC 143385 (Sub-1–1TA), filed August 11, 1980. Applicant: TRANSPORT ROBERT (1973) LTEE, 130 First Avenue, C.P. 39, Marieville, Province of Quebec, Canada Jol 1MO. Representative: Robert D. Schuler, Matheson, Bieneman, Parr, Schuler & Ewald, 100 West Long Lake Road—Suite 102, Bloomfield Hills, MI 48013. *Contract, irregular;* (1) *Steel products,* (2) *by-products of the steel manufacturing process,* and (3) *materials, equipment and supplies used in the manufacture or distribution of steel products,* between ports of entry on the International Boundary line between the US and CD., on the one hand, and, on the other, points in CT, MA, ME, NH, NJ, RI and VT, under continuing contracts with Sivaco Quebec, Division of Ivaco Ltee and Infasco, Division of Ivaco Ltee. Supporting shipper: Sivaco Quebec, Div. of Ivaco Ltee and Infasco, Div, of Ivaco Ltee, 800 Ouellette, Marieville, Quebec, Canada J0L 1J0.

MC 138844 (Sub-1–2TA), filed August 13, 1980. Applicant: TRANSGAS, INC., 95 East Merrimack Street, Lowell, MA 01853. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI. 48226. *Liquid ethylene, in bulk, in tank vehicles* from ports of entry on the International Boundary between the US. and CD. at or near Lewiston, Niagara Falls and Buffalo, NY to the facilities of Allied Chemical Co. at or near Tonawanda, NY. Supporting shipper: Imperial Oil Limited, 111 St. Clair Ave. W., Toronto, Ontario, Canada.

MC 150451 (Sub-1–2TA), filed August 14, 1980. Applicant: G & L TRANSPORT, Route 9, Troy, ME 04987. Representative: George Cole (same address as applicant). *Contract,* Irregular, *Manufactured wood products* from Houlton, Maine and Unity, ME to ME, NH, VT, CT, RI, NY, NJ, DE, MD, PA, and MA. Supporting shipper: Milmac, Inc. of Unity, Maine 04988.

MC 145468 (Sub-1–2TA), filed August 14, 1980. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, N.J. 08902. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Chemicals, in bags and containers,* from IL, MN, MO and WI to points in IA. Supporting shipper: Acco Unlimited Corporation, 5300 Northwest 55th Avenue, Des Moines, IA 50323.

MC 151498 (Sub-1–1TA), filed August 8, 1980. Applicant: DANIEL COAKLEY, SR. d.b.a. COAKLEY TRANSPORT, Route 121, Auburn, NH 03032. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, New York 10123. Contract, irregular: *Petroleum and petroleum products,* between Farmer's Valley, PA; Congo, WV; and Sewaren, NJ, on the one hand, and, on the other, points in NH, VT, ME, and MA. Supporting shipper: Bailey Distributing Co., Inc., 195 South Beach Street, Manchester, NH 03103.

MC 150224 (Sub-1–2TA); filed August 15, 1980. Applicant: PROUD SPIRIT REFRIGERATED EXPRESS, 51 Wrentham Road, Bellingham, MA. 02019. Representative: James F. Martin Jr., 8 W. Morse Road, Bellingham, MA. 02019. (1) *Such commodities as are dealt in or used by manufacturers and distributors of fire safety equipment and related products and* (2) *Materials, equipment* and *supplies used in the manufacture of products listed in (1) above,* Between Providence Country, RI, on the one hand, and, on the other, points in the U.S. Supporting shipper: Trillings Resources Ltd. 105 Mason Street, Woonsocket, R.I.

MC 107583 (Sub-1–1TA); filed August 15, 1980. Applicant: SALEM TRANSPORTATION CO, INC., 13303 35th Avenue, Flushing, New York 11354. Representative: George H. Rosen, 265 Broadway, P.O. Box 348, Monticello, N.Y. 12701. *Passengers and their baggage in the same vehicle with passengers,* between Atlantic County, NJ, on the one hand, and, on the other, Philadelphia, PA, and the Philadelphia, PA, Commerical Zone as defined by the Commission; Baltimore, MD, Baltimore, MD, Commerical Zone as defined by the Commission; Wilmington, DE, and the Wilmington, DE, Commerical Zone as defined by the Commission and Washington, D.C., so that Applicant can transport passengers and their baggage without the restrictions of (1) non-scheduled door-to-door service and (2) of 11 passengers in any one vehicle, pending determination of each of said pending applications. There are (24) twenty-four supporting statements to this application.

MC 123408 (Sub-1–5TA); filed August 15, 1980. Applicant: FOOD HAULERS, INC., 600 York Street, Elizabeth, N.J. 07207. Representative: Philip J. Harter, 1101 Connecticut Avenue N.W., Washington, D.C. 20036. *Contract,* Irregular, *Medical and surgical and hospital supply products from the plant site of Becton-Dickinson Company at or near North Canaan, CT. to all points in the state of New Jersey. Supporting shipper: Becton-Dickinson and Company, Stanley St. Rutherford, N.J. 07070.*

MC 145550 (Sub-1–2TA); filed August 11, 1980. Applicant: LACKIE BROS. LIMITED, 10 Centennial Road, Kitchener, Ontario, Canada N2G 4G8 Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court Street, Buffalo, New York 14202. Contract carrier, irregular routes: *Fiberglass reinforced pipe, and articles* used in the installation thereof, from ports of entry on the International Boundary line between the US and CD located in NY, to points in Oswego County, NY. Supporting shipper: CAE Fiberglass Products, Division of CAE Industries Ltd., Guelph, Ontario, Canada N1H 6Z9.

MC 114627 (Sub-1–1TA); filed August 11, 1980. Applicant: MELLO'S CENTRAL MOVING & STORAGE CO., INC., 251 East 33rd Street, New York, NY. Represenative: Harold Sacks, Esq., 19 West 44th Street, New York, N.Y. 10036. *Household goods; new and used furniture in cartons,* between points in Bergen, Essex and Passaic Counties, N.J. and points in the New York, N.Y. Commerical Zone, Westchester, Orange, and Suffolk Counties, N.Y., on the hand,

and on the other, points in Florida. Tacking requested. Supporting shipper: Karl Springer, Ltd. of Miami, FL, and New York, N.Y.

MC 146479 (Sub-1–6TA), filed August 11, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, New York 10528. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. (1) *Paper and paper products;* and (2) materials and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk) from Providence, RI and Winchester, VA to St. Louis, MO. Restricted to the facilities of Central States Products Co. Supporting shipper: Central States Products Co. of St. Louis, MO 63132.

MC 106961 (Sub-1–1TA), filed August 11, 1980. Applicant: SPEAR TRUCKING CORP., 3 Brick Kiln Road, North Billerica, MA 01862. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. *Bicycles and parts,* materials, equipment and accessories used in connection with the manufacture, sale, distribution and use of bicycles, between Allentown, PA, on the one hand, and points in MA, on the other. Authority is sought to interline in MA for beyond points. Supporting shipper: Chain Bike Corp. of 350 Beach 79th Street, Rockaway Beach, NY 11693.

MC 99019 (Sub-1–1TA), filed August 12, 1980. Applicant: KILLIAN BULK TRANSPORT, INC., (formerly Killian-Black Trucking, Inc.), 100 Katharine Street, Buffalo, NY 14210. Representative: Robert D. Gunderman, Suite 710 Statler Building, Buffalo, NY 14202. *Flour, in bulk, in tank vehicles,* from Buffalo and Baldwinsville, NY to Gaffney, SC. Supporting shippers: International Multifoods Corp. of Buffalo, NY and Peavey Company of Buffalo, NY.

MC 151517 (Sub-1–1TA), filed August 11, 1980. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Contract carrier, irregular routes: *Bakery Products* from Frederick, MD to points in IL, IN and WI. Supporting shipper: S. B. Thomas, Inc., 930 North Riverview Drive, Totowa, NJ 07511.

MC 54819 (Sub-1–1TA), filed August 11, 1980. Applicant: T. F. BOYLE TRANSPORTATION, INC., 15 Riverhurst Road, Billerica, MA 01821. Representative: Thomas F. Boyle, 15 Riverhurst Road, Billerica, MA 01821. (1) *Plastics, plastic films, sheeting and materials and supplies used in the manufacture, processing and distribution of such commodities, and* (2) *groceries, foodstuffs, baked goods, beverages, wines, liquors and confections, and materials and supplies used in the manufacture processing and distribution of such commodities,* between points in the states of CT, IL, IN, MA, MI, MD, NH, NJ, NY, OH, PA, and WI. Supporting shippers: S.S. Pierce Co., Westover Industrial Park, Chicopee, MA. Danafilms, 5 Otis St., Westboro, MA.

MC 139460 (Sub-1–1TA), filed August 8, 1980. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, NY 12828. Representative: J. Fred Relyea, Executive Vice President, Route 9, Saratoga Road, Fort Edward, NY 12828. *Cement, in bulk, in tank vehicles,* from Glens Falls and Howes Cave, NY, to NJ. Supporting Shipper: The Flintkote Cement Company, Glens Falls Division, 288 Glen Street, Glens Falls, NY.

MC 129455 (Sub-1–4TA), filed August 11, 1980. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17N, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). *Contract, Irregular: Materials and supplies used in the manufacture of drugs, medicines, shampoo and toilet preparations,* in bulk, in tank vehicles, between the States of [illegible] and NJ on the one hand, and, on the other, MO and IL. Supporting shipper: Bristol-Myers Products Co., Inc., 225 Long Avenue, Hillside, NJ 07207.

MC 115452 (Sub-1–1TA), filed August 11, 1980. Applicant: HUSBAND TRANSPORT, LIMITED, 159 Bay Street, Toronto, Ontario, Canada M5J 1J7. Representative: William J. Hirsch, P.C., 43 Court Street, 1125 Convention Tower, Buffalo, NY 14202. *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment;* between ports of entry on the US–CD boundary line at Buffalo and Niagara Falls, NY, on the one hand, and, on the other, Buffalo and Niagara Falls, NY. Supporting shippers: Dresser Transportation Equipment Division, Dresser Industries, Inc., No. 2 Main St., Depew, NY; The Ontario Paper Company Limited, 80 King St., St. Catherine, Ontario, Canada; Pratt & Letchworth, Div. of Dayton Malleable Inc., 189 Tonawanda St., Buffalo, NY; P. C. Forgings Limited, 84 Reuter St., Port Colbourne, Ontario, Canada.

MC 127337 (Sub-1–1TA), filed August 11, 1980. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Representative: Lawrence E. Lindeman, 425 13th Street NW., Suite 1032, Washington, D.C. 20004. *General commodities (except those of unusual value, classes A and B explosives, and household goods).* Between Woodland, ME and points on the International Boundary Line between the United States and Canada located in ME; restricted to traffic having a prior or subsequent movement by rail. Supporting shippers: InterAmerican Transport Systems, Inc., 2203 Dunview Drive, Mississauga, Ontario, Canada; Alliance Shippers, Inc., 560 60th Street, West New York, NJ 07093.

MC 67340 (Sub-1–1TA), filed August 11, 1980. Applicant: RESORT BUS LINES, INC., 1010 Nepperhan Avenue, Yonkers, NY 10703. Representative: Samuel B. Zinder, P.C., 98 Cutter Mill Road, Great Neck, NY 11021. *Passengers and their baggage in special operations,* beginning and ending at points in Fairfield County, CT and Bronx County, NY and George Washington Bridge Bus Terminal in New York County, NY and extending to points in Atlantic City, NJ. Supporting shipper: Resorts International Hotel Casino, North Carolina Ave. and Boardwalk, Atlantic City, NJ.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 30237 (Sub-II–7TA), filed July 28, 1980. Applicant: YEATTS TRANSFER CO., P.O. Box 666, Altavista, VA 24517. Representative: Eston H. Alt, Exec. Vice President, P.O. Box 666, Altavista, VA 24517. *Furniture parts,* from Morristown, TN, to Atlanta, GA and Clifton, NJ for 270 days. Supporting shipper: SK Products, Corp., 5355 Bucknell Dr., SW, Atlanta, GA 30336.

MC 14252 (Sub-II–5TA), filed August 8, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refuge Road, Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and classes A and B explosives).* (1) Between Cleveland, OH and Utica, NY, over Interstate Hwy. 90, serving all intermediate points and all points in the counties of: Erie, of Pennsylvania; Chautauqua, Erie, Genessee, Monroe, Ontario, Seneca, Cayuga, Onandaga, Niagara, Madison, Oneida, in New York, as off route points. (2) Between Bridgeport, OH and Harrisburg, PA, over Interstate Hwy. 70, thence over

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Interstate Hwy. 76, serving all intermediate points and all points in the counties of: Fayette, Somerset, Bedford, Franklin, Cumberland, Huntington, in Pennsylvania, as off route points. (3) Between Harrisburg, PA and Allentown, PA, over Interstate Hwy. 81, thence Interstate Hwy. 78, serving all intermediate points and all points in the counties of: Lebanon, Berks, Lehigh, in Pennsylvania. (4) Between Harrisburg, PA and Philadelphia, PA, over Interstate Hwy. 76, serving all intermediate points and all points in the counties of: Lancaster, Chester, Delaware, in Pennsylvania, as off route points. (5) Between Allentown, PA and Philadelphia, PA, over Pennsylvania State Hwy. #9, thence over Pennsylvania State Hwy. #309, serving all intermediate points and all points in the counties of: Bucks, Montgomery, in Pennsylvania, as off route points. (6) Between Middlesex, PA and Williamsport, PA, over Interstate Hwy. 80, thence over U.S. Hwy. 220, serving all intermediate points and all points in the counties of: Clarion, Jefferson, Clearfield, Union, Clinton, Lycoming, in Pennsylvania, as off route points. (7) Between Williamsport, PA and Harrisburg, PA, over U.S. Hwy. 15, thence U.S. Hwy. 11, serving all intermediate points and all points in the counties of: Snyder, Dauphin, Northumberland, in Pennsylvania, as off route points. (8) Between Williamsport, PA and Allentown, PA, over U.S. Hwy. 15, thence over Interstate Hwy. 80, thence over Pennsylvania State Hwy. 9, serving all intermediate points and all points in the counties of: Montour, Columbia, Luzerene, Carbon, in Pennsylvania, as off route points. (9) Between Philadelphia, PA and Baltimore, MD, over Interstate Hwy. 95, serving all intermediate points and all points in the counties of: Newcastle, Delaware, Cecil, Hartford, Baltimore, in Maryland, as off route points. (10) Between Baltimore, MD and Harrisburg, PA, over Interstate Hwy. 83, serving all intermediate points and all points in the county of York, PA, as off route points. (11) Between Charleston, WV and Harrisburg, PA, over Interstate Hwy. 79 to U.S. Hwy. 40 at Hagerstown, MD, JCT of Interstate Hwy. 81, serving all intermediate points and all points in the counties of: Roane, Clay, Braxton, Lewis, Harrison, Marion, Monongalia, Preston, in West Virginia; Garrett, Allegany, Washington, in Maryland, as off route points for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack and interline. Supporting shippers: There are 60 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 14252 (Sub-II-4TA), filed August 8, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and classes A and B explosives).* (1) Between Cincinnati, OH and Atlanta, GA, over Interstate Hwy. 75, serving all intermediate points and all points in the counties of Boone, Kenton, Grant, Scott, Fayette, Madison, Garard, Jackson, Rockcastle, Laurel, Whitley, in Kentucky; Campbell, Anderson, Knox, Loudon, Monroe, McMinn, Bradley, Hamilton, in Tennessee; Catoosa, Whitfield, Gordon, Bartow, Fulton, Cobb, Dekalb, Douglas, Henry, in Georgia, as off route points. (2) Between Memphis, Tennessee and Raleigh, North Carolina over Interstate Hwy. 40, serving all intermediate points and all points in the counties of: Jefferson, Ceocke, Roane, Cumberland, Putnam, DeKalb, Smith, Wilson, Davidson, Cheatam, Williamson, Dickson, Hickman, Humphreys, Benton, Perry, Decatur, Carroll, Henderson, Madison, Haywood, Fayette, Shelby, in Tennessee; Haywood, Buncombe, McDowell, Burke, Catawba, Iredell, Roman, Davie, Forsyth, Guilford, Alamance, Orange, Durham, Wake, in North Carolina, as off route points. (3) Between Bluefield, WV and Charlotte, NC, over Interstate Hwy. 77, serving all intermediate points and all points in the counties of: Surry, Yadkin, Montgomery, Mecklenburg, in North Carolina, as off route points. (4) Between Cincinnati, OH and Louisville, KY, over Interstate Hwy. 71, serving all intermediate points and all points in the counties of: Gallatin, Carroll, Owen, Henry, Oldham, Jefferson, in Kentucky, as off route points. (5) Between Louisville, KY and Nashville, TN, over Interstate Hwy. 65, serving all intermediate points and all points in the counties of: Bullitt, Hardin, Larue, Hart, Edmonson, Warren, Simpson, in Kentucky; Summer, Robertson, Davidson, Cheatam, Williamson, Dickson, Hickman, Humphreys, Benton, Perry, Decatur, Carroll, Henderson, Madison, Haywood, Fayette, Shelby, in Tennessee, as off route points. (6) Between Memphis, TN and St. Louis, MO, over Interstate Hwy. 55, serving all intermediate points and all points in the counties of: Crittenden, Mississippi, in Arkansas; Pemiscot, New Madrid, Mississippi, Scott, Cape Girardeau, Perry, St. Genevieve, Jefferson, St. Louis, in Missouri, as off route points. (7) Between Beckley, WV and Portsmouth, VA, over U.S. Hwy. 19, to Clifton, WV, thence over U.S. Hwy. 60 to Clintonville, WV, thence over U.S. Hwy. 64 to Norfolk, VA, serving all intermediate points and all points in the counties of: Raleigh, Fayette, Greenbrier, in West Virginia; Allegheny, Rockbridge, Augusta, Albermarle, Flurenna, Lamsa, Goochland, Powhatan, Henrico, New Kent, James City, York, in Virginia; and the off route cities of—Hampton, Newport News, Norfolk, Virginia Beach, Portsmouth, Chesapeake, Suffolk, Virginia, as off route points for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack and interline. Supporting shipper: There are 60 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 14252 (Sub-II-3TA), filed August 8, 1980. Applicant: COMMERICAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and classes A and B explosives).* (1) Between Toledo, OH and Detroit, MI, over Interstate Hwy. 75, Serving all intermediate points, and serving all points in the Michigan counties of Monroe and Wayne, as off route points. (2) Between Champaign, IL and Chicago, IL, over Interstate Hwy. 57, serving all intermediate points, and serving all points in Illinois counties of Ford, Iroquois, Kankakee, Wills, Cook, DuPage, as off route points. (3) Between Bloomington, IL and Chicago, IL, over Interstate Hwy. 55, serving all intermediate points, and serving all points in Illinois counties of Livingston, Grundy, as off route points. (4) Between Indianapolis, IN and Rockford, IL, over Interstate Hwy. 65, to Gary, IN, over Interstate Hwy. 90 to Rockford, IL, serving all intermediate points, and serving all points in Indiana counties of Boone, Clinton, Tippecanoe, White, Jasper, Newton, Lake; Illinois counties of Kane, McHenry, Boone, Winnebago and Stephenson, as off route points. (5) Between Peoria, IL and Milwaukee, WI, over Illinois Hwy. 29 to Peru, IL, thence over U.S. Hwy. 51 to Beloit, WI, thence over Wisconsin Hwy. 15 to Milwaukee, WI, serving all intermediate points, and serving all points in Illinois counties of Marshall, Putnam, Bureau, LaSalle, Lee, Mogle, Boone, DeKalb, Winnebago; Wisconsin counties of Rock, Walworth, Waukesha, Washington, and Ozaukee, as off route points. (6) Between Chicago, IL and Milwaukee, WI, over U.S. Hwy. 41, serving all intermediate points, and serving all points in the Illinois county of Lake and the Wisconsin counties of Kenasha and Racine, as off route points, for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack and interline. Supporting shippers: There are 60 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 109478 (Sub-II–5TA), filed August 4, 1980. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Rd., North East, PA 16428. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *Cranberries and cranberry products, grapefruit, grapefruit juice, barbecue sauce, prunes and prune products, in containers, and materials, supplies and equipment used in the manufacture, production, sale or distribution of such commodities,* between Middleboro, MA, on the one hand, and, on the other, all points in the United States (except AK and HI). Restricted to the transportation of traffic originating at or destined to the facilities of Ocean Spray Cranberries, Inc., for 270 days. Supporting shipper: Ocean Spray Cranberries, Inc., Plymouth, MA 02360.

MC 136511 (Sub-II–3TA), filed August 6, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main St., Altavista, VA 24517. *Foodstuffs* (except in bulk in tank vehicles), from Atlanta, GA to points in the United States in and east of ND, SD, KS, NE, OK, and TX, for 270 days. Supporting shipper: Alex-xlnt Foods, Inc., 2750 E. 50th St., Vernon, CA 90058.

MC 30237 (Sub-II–8TA), filed August 6, 1980. Applicant: YEATTS TRANSFER CO., P.O. Box 666, Altavista, VA 24517. Representative: Eston H. Alt, P.O. Box 666, Altavista, VA 24517. *New Furniture,* from Littlestown, PA, to points in FL, GA, NC, SC, TN, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hanover Heirlooms Furn. Mfg. Co., Inc., Littlestown, PA 27340.

MC 151303 (Sub-II–1TA), filed August 1, 1980. Applicant: GEORGE W. SMYTH, JR., CO., 1101 Ritchie Rd., Capital Heights, Md. 20027. Representative: George W. Smyth, Jr. (same as applicant). *Beer (in bottles, cans, and drums),* from Eden, N.C., to the District of Columbia, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Premium Distributors, Inc., 3350 New York Ave., N.E., Washington, D.C.

MC 145107 (Sub-II–1TA), filed July 28, 1980. Applicant: FRANCIS P. CONATY, doing business as WILMINGTON DELIVERY SERVICE, 806 Seville Ave., Wilmington, DE 19809. Representative: Bayard Marin, Marin and Hudson, 1112 King St., Wilmington, DE 19801. *Contract Carrier, Irregular Route: General Commodities,* except commodities in bulk in tank vehicles and except class A and B explosive to and from facilities of E. I. du Pont de Nemours and Co., Inc. between points in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee and Ohio, for 270 days. Supporting shipper: E. I. du Pont de Nemours and Co., Inc., 1007 Market St., Wilmington, DE 19898.

MC 138126 (Sub-II–1TA), filed July 28, 1980. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Old Denton Rd., Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Wash., DC 20005. *Foodstuffs* (except commodities in bulk), from Napoleon, OH to Maxton, NC, for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Campbell Soup Co., Camden, NJ 08101.

MC 107012 (Sub-II–73TA), filed August 11, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such commodities as are dealt in by retail, department and sporting goods stores, pianos, organs, musical instruments, audio components and public address systems,* from Los Angeles and Orange Counties, CA and Portland, OR to points in IL, MI, GA, FL and NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Yamaha International Corp., 6600 Orangethrope, Buena Park, CA 90620.

Note.—Common control may be involved.

MC 151495 (Sub-II–1TA), filed August 8, 1980. Applicant: PUTNAM TRANSFER & STORAGE CO., 1705 Moxahala Ave., Zanesville, OH 43701. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular: General commodities (except household goods as defined by the Commission and classes A and B explosives)* between pts. in OH, PA and WV, for the accounts of Williams & Co., Inc. and The House of Metals for 270 days. Restricted to traffic originating at or destined to the facilities of Williams & Co., Inc. and/or The House of Metals. Supporting shipper: Williams & Co., Inc., 901 Pennsylvania Ave., Pittsburgh, PA 15233; The House of Metals, 901 Pennsylvania Ave., Pittsburgh, PA 15233.

MC 144184 (Sub-II–2TA), filed August 7, 1980. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Ave., Lancaster, OH 43130. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. *Glass cullet, in bulk, in dump vehicles,* from Marion, OH, to Huntington, WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Container Recovery Corp., P.O.B. 749, 1550 Cascade Dr., Marion, OH 43302.

MC 146865 (Sub-2–1TA), filed August 7, 1980. Applicant: M. T. SERVICES, INC., P.O. Box 18402, Baltimore, MD 21237. Representative: Raymond P. Keigher, 401 E. Jefferson St., Rockville, MD 20850. (1) *Caprolactam, in containers,* from Hopewell, VA, to Baltimore, MD, restricted to the transportation of traffic having a subsequent movement in foreign commerce; and (2) *containers,* from Baltimore, MD, to Hopewell, VA, for 270 days. Supporting shipper(s): Allied Chemical Corp., P.O. Box 31, Petersburg, VA 23803.

MC 135364 (Sub-II–5TA), filed August 11, 1980. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 76C, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract: Irregular: (1) Yarn, (2) synthetic piece goods, and (3) materials, equipment, and supplies used in the manufacturing and distribution of the commodities named in (1) and (2), above,* between points in CA and pts. in the U.S. in and east of MN, IA, MO, AR, and LA, under a continuing contract(s) with Blue Ridge-Winkler Textiles Division of Lehigh Valley Industries, Inc. for 270 days. Supporting shipper: Blue Ridge–Winkler Division of Lehigh Valley Industries, Inc., 3700 Glover Rd., Easton, PA 18042.

MC 119689 (Sub-II–5TA), filed August 11, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad St., Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same as applicant). *Adhesives and Liquid Plastics, in bulk in tank vehicles,* From: Columbus, OH to Marshall, MI for 270 days. Supporting shipper: Bostik Div., Emhart Corp., Boston St., Middleton, MA 09149; Franklin Chemical Industries, 2020 Bruck St., Columbus, OH 43207.

MC 127848 (Sub-II–1TA), filed August 4, 1980. Applicant: WAYNE W. SELL, CORP., 236 Winfield Road, Sarver, PA 16055. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Coal, in bulk, in dump vehicles,* from the Armstrong, Butler, Indiana and Mercer Counties, Pennsylvania to Mahoning and Trumbull Counties, Ohio and Chautauqua, Erie, Genesse and Niagara Counties, New York, for 270 days. An underlying ETA

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seeks 120 days authority. Supporting shipper: United Coal & Commodities, Inc., R.D. No. 2, P.O. Box 125, Marion Center, PA 15759.

MC 2202 (Sub-604TA), filed August 7, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Bldg., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* 1. Between Amarillo, TX and Holbrook, AZ serving all intermediate points and points in their commercial zones, From Amarillo over U.S. Highway 66 to Holbrook, and return over the same route. 2. Between Amarillo, TX and Las Cruces, NM serving all intermediate points and points in their commercial zones, From Amarillo over U.S. Highway 60 to junction U.S. Highway 70 to Las Cruces, and return over the same route. 3. Between Las Cruces and Albuquerque, NM serving no intermediate points, From Las Cruces over Interstate Highway 25 to Albuquerque, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack with MC 2202 and Subs thereto. Applicant intends to interline at all points of interchange. Supporting shipper(s): There are 21 supporting shippers. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 151328 (Sub-II-1TA), filed July 21, 1980. Applicant: BARBARA R. WOMACK, d.b.a., THRIFTY RED CARPET COACHES, 3803 Fort Hill Dr., Alexandria, VA 22310. Representative: Gary E. Thompson, 4304 East-West Hwy., Washington, DC 20014. *Passengers and their baggage in charter and special operations,* between points in MD, VA, Adams County, PA, Jefferson County, WV, and Washington, DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Thrifty Tours, Inc., 438 Woodward Bldg., Washington, DC 20005.

MC 114569 (Sub-II-27TA), filed August 4, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). (1) *Carpeting, hard surface floor covering, wallboards, wall panels, ceiling panels, insulation material,* (2) *Materials, accessories and supplies used in the sale, installation, maintenance of commodities named in (1) above,* from: The facilities of Armstrong World Industries, Inc. in Lancaster County, PA., to: Points in the states of AR, AZ, CA, CO, IA, ID, IL, IN, KS, KY, MI, MN, MO, MT, ND, NE, NM, NV, OH, OK, OR, SD, TN, UT, WA, WI and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 146551 (Sub-II-4), filed August 7, 1980. Applicant: TAYLOR TRANSPORT, INC., P.O., Box 285, Grand Rapids, OH 43522. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. (1) *Such commodities as are dealt in or distributed by grocery, hardware, drug, and retail department stores,* and (2) *materials, equipment, and supplies used the manufacture, distribution and sale of the commodities in (1) above,* between Chicago, IL, and St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Purex Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Purex Corp., 6901 McKissock Ave., St. Louis, MO 63147.

MC 114569 (Sub-II-28), filed August 4, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Peanut butter, in drums, in refrigerated vehicles,* from Macon, GA, to Grand Rapids, MI, for 270 days. Supporting shipper: Keebler Co., One Hollow Tree Lane, Elmhurst, IL 60126.

MC 146807 (Sub-II-2TA), filed August 4, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Paul Seleski, P.O. Box 1131, Wilkes-Barre, PA 18702. *Store furnishings, shelving, fixtures, furniture and materials, equipment and supplies used in the manufacture, sale and distribution,* from Terrell, TX to points in CA, DE, DC, IL, IN, IA, MD, MI, NJ, NY, OH, PA and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Maytex, Inc., 1210 Airport Rd., P.O. Box 729, Terrell, TX 75160.

MC 21866 (Sub-II-28), filed August 8, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Spark plugs,* and *materials and supplies* used in the manufacture and distribution of spark plugs (except commodities in bulk) from the facilities of Champion Spark Plug Company at Burlington, IA, Hellertown, PA and Toledo, OH, to points in TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Champion Spark Plug Co., P.O. Box 910, Toledo, OH 43661.

MC 143218 (Sub-II-2TA), filed August 8, 1980. Applicant: DONALD SANTISI TRUCKING CO., P.O. Box 4145, 340 Victoria, Youngstown, OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Contract; irregular: Merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business (except commodities in bulk),* from points in the U.S. (except AK and HI) to points in Stark, Columbiana, Trumbull, Mahoning, Summit and Portage Counties, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Santisi Produce Co., P.O. Box 4067, 340 Victoria Rd, Youngstown, OH 44515.

MC 116280 (Sub-II-1TA), filed August 11, 1980. Applicant: W. C. McQUAIDE, INC., 153 Macridge Ave., Johnstown, PA 15904. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. *General commodities (except articles of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and those requiring the use of special equipment),* between points in Cambria, Huntingdon, Bedford, Blair, Allegheny, Centre, and Somerset Counties, PA for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to interline at above pts. Supporting shippers: Emglo Products Corp., Johnstown Industrial Park, Johnstown, PA 15904; Lily of France, Bestform Foundations, Inc., 210 Industrial Park Rd., Johnstown, PA 15904; California Western Freight Assoc., 18 Try St., Pittsburgh, PA 15219; Stor-Dor Freight Systems, Inc., 119 Federal St., 506 Martin Bldg., Pittsburgh, PA 15212.

MC 107012 (Sub-II-74TA), filed August 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *Insulating materials and:* (2) *parts, materials and supplies used in the manufacture and installation of (1) above (except commodities in bulk, commodities of unusual value and commodities requiring special equipment),* from the facilities of Rockwool, Inc., at or near Fontana. CA; Pueblo, CO; Alexandria, IN; Cameron, MO and Belton, TX to points in the US (except AK and HI) for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Rockwool Industry, Inc., 7606 North Clybourn Ave., Sun Valley, CA 91352.

Note.—Common control may be involved.

MC 151104 (Sub-II–1TA), filed August 12, 1980. Applicant: EMULSION PRODUCTS CO., 1100 Nanticoke Ave., P.O. Box 731, Seaford, DE 19973. Representative: H. E. Mohr (same as applicant). Contract, irregular: *Asphalt cement,* from Seaford, DE to Pocomoke City, Delmar, Ellwood, Easton, Smithville, Chestertown, and Linkwood, MD for 270 days. Supporting shipper: Koch Asphalt Co., P.O. Box 2338, Wichita, KS 67201.

MC 151301 (Sub-II–2TA), filed August 13, 1980. Applicant: EAGLE TRUCKING AND HAULING, INC., 35 Marlborough Ave., Wilkes-Barre, PA 18702. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *(1) Animal, fish or poultry feed; pet food; feed supplements, compounds, preparations. (2) Material, equipment and supplies used in the manufacture and distribution of products in Paragraph (1)* (except commodities in bulk) between the facilities of Champion Valley Farms, Inc. at Lime Ridge and Bloomsburg, PA on the one hand, and on the other, points in CT, MA, ME, NJ, NH, NY, RI and VT for 270 days. Supporting shipper(s): Champion Valley Farms, Inc., 6670 Low St., Bloomsburg, PA 17815.

MC 151518 (Sub-II–1TA), filed August 11, 1980. Applicant: JOHN DON VITO, 1001 Eynon St., Scranton, PA 18504. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Coal,* From Schuylkill, Lackawanna, Luzerne & Carbon Counties, PA to Middlesex County, NJ, Wilmington, DE and Philadelphia, PA. Restricted to export traffic only, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tri-State Energy Corp., P.O. Box 159, Scranton, PA 18504.

MC 136981 (Sub-II–1TA), filed August 11, 1980. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Rd., P.O. Box 252, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. Contract, irregular: *Corrugated fiberboard boxes. K.D.; pulpboard rolls N.O.I.B.N. other than corrugated; and, incandescent or fluorescent lamp corrugated packing, packages, wrappers or sleeves* between Cleveland, OH, on the one hand, and, on the other pts. in the US, for 270 days. Supporting shipper: Macmillan-Bloedel Containers, Div. of Macmillan-Bloedel, Inc., 14801 Emery Ave., Cleveland, OH 44135.

MC 130290 (Sub-II–1TA), filed August 13, 1980. Applicant: MAC MURPHY AND MARILYN MURPHY d.b.a. ABINGDON TOURS, 2042 Euclid Ave., Bristol, VA 24201. Representative: Marilyn Murphy (same as applicant). *Passengers and their baggage, in round trip tours, in special and charter operations,* beginning in Bristol, VA and pts. in Washington County, VA and extending to pts. in the US (including AK, excluding HI), for 270 days. Applicant intends to tack. Supporting shippers: There are 25 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 145416 (Sub-II–1TA), filed August 11, 1980. Applicant: HEINEMAN DISTRIBUTING, INC., 301 West Second St., Port Clinton, OH 43452. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. Contract, irregular: *Malt beverages,* from Milwaukee, WI, Fulton, NY, and Newport, KY to Ravenna, Mansfield and Toledo, OH for 270 days. An underlying ETA seeks 120 days. Supporting shippers: Portage Distribution Co., 6117 State Route #14, Ravenna, OH 44266, Pyramid Distributing Co., 258 Central Ave., Mansfield, OH 44905, Bailey Distribution Company, 2770 Lexington, Ave., Mansfield, OH 44904, and Metropolitan Distributing Co., 911 N. Summit St., Toledo, OH 43604.

MC 151390 (Sub-2–1TA), filed August 11, 1980. Applicant: RICHARD PACE, ROBERT PACE, ANZELMA PACE d.b.a. GREATER PITTSTON TAXI & AIRPORT LIMOUSINE SERVICE, 15 Broad St., Pittston, PA 18640. Representative: Patrick E. Dougherty, Suite 300 Courthouse Square Towers, North River St., Wilkes-Barre, PA 18702. *Passengers and their baggage in the same vehicle with passengers, limited to transportation of not more than 15 passengers in one vehicle,* between the Wilkes-Barre-Scranton International Airport, Pittston Township, Luzerne County, PA, on the one hand, and, on the other, JFK International Airport, New York City; LaGuardia Airport, New York City; Broome County Airport, Binghamton; Elmira Airport, Elmira, NY and Newark Airport, Newark, NJ, for 270 days. Supporting shipper(s): Robert L, Rosasco, Airport Director, Wilkes-Barre-Scranton International Airport, Pittstown Township, Luzerne County, PA 18640.

MC 115181 (Sub-II–9TA), filed August 11, 1980. Applicant: HAROLD M. FELTY, INC., R.D. #1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. *Coal,* from points in Schuylkill County, to PA to New York City, NY, and return, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pine Creek Coal Co., Spring Glen, PA 17978; Superior Preparation Co., R.D. #1, Hegins, PA 17938; Franklin Coal Co., Ravine, PA 17966; and Gassman Coal & Oil Co., Inc., Brown Place and 132nd St., Bronx, NY 10454.

MC 13134 (Sub-II–11TA), filed August 8, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles,* between points in the U.S. in and east of MT, WY, UT and AZ, for 270 days. Restricted to shipments originating at or destined to the facilities of or those used by Midwest Corporation, for 270 days. Supporting shipper: Midwest Corporation, Union Bldg., Box 271, Charleston, WV 25321.

MC 123502 (Sub-II–1TA), filed August 11, 1980. Applicant: FREE STATE TRUCK SERVICE INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: Judith Anne Hough (same address as applicant). *Waste residue of coal-burning boiler systems,* from Washington, DC to points in MD, PA and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Flintkote Stone Products Co., 11350 McCormick Rd., Hunt Valley, MD 21031.

MC 129124 (Sub-II–1TA), filed August 13, 1980. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Sand,* in bulk in dump vehicles, from Munson Twp., Geauga County, OH, to the borough of Knox, Clarion County, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Walter C. Best, Inc., P.O. Box 87, Chardon, OH 44024.

MC 151282 (Sub-II–1TA), filed August 11, 1980. Applicant: WAYNE TRANSPORT, INC., Corner Greenhouse and Spruce Streets, Defiance, OH 43512. Representative: Keith D. Warner (same address). Contract Carrier irregular routes, *Steel, steel fabricated articles materials and supplies used in the fabrication of steel articles, and preparation for transportation thereof.* Between points in the states of IL, IN, lower peninsula of MI, OH, and PA, under continuing contract or contracts with the Defiance Steel Company 901 Deitrick Street, Defiance, OH 43512.

MC 114569 (Sub-II–29TA), filed August 11, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *General commodities* (except class A and B explosives, household

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goods as defined by the Commission and commodities in bulk, in tank vehicles) between York County, PA on the one hand, and on the other points in the United States (except AK and HI). Restricted to the facilities utilized by D & D Distribution Services for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: D & D Distribution Services, Hill and Elm Streets, York, PA 17403.

MC 151343 (Sub-II–1TA), filed August 11, 1980. Applicant: SHIPPERS CONTRACT CARRIER, INC., P.O. Box 190, Richfield, OH 44286. Representative: J. M. Rowland (same as applicant). Contract; irregular. *Mobile Demineralizers mounted on trailers* between Columbus, OH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Arrowhead Puritas Water, Inc., Industrial Water Division, 1251 Alum Creek Drive, Columbus, OH 43209.

MC 64808 (Sub-II–2TA), filed August 12, 1980. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *Glass,* from the facilities of PPG Industries, Inc. located at Mt. Holly Springs, PA to AK, FL, LA, MS, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: PPG Industries, Inc., One Gateway Center—17 East, Pittsburgh, PA 15222.

MC 143088 (Sub-II–2TA), filed August 11, 1980. Applicant: TARBOX TRUCKING, INC., Johnson Heights, Blossburg, PA 16912. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave., Washington, DC 20036. *Lime and limestone,* between York County, PA on the one hand, and, on the other, points in MD, VA, DE, WV, NY, NJ, OH, IN, MI, and DC for 270 days. Supporting shipper(s): Reisdorf Brothers, Inc., Perry Rd., North Java, NY 14113; Agway, Inc., P.O. Box 4933, Syracuse, NY 13221; Allied Mills, Inc., P.O. Box 277, Alexander, NY 14005.

MC 146807 (Sub-II–3TA), filed August 11, 1980. Applicant: S & W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Chain supplies and accessories for chain;* (2) *gearing supplies and accessories for gearing;* (3) *materials, supplies and equipment used in the manufacture of chain and the sale of gearing,* between the facilities of Atlas Chain & Precision Products, Inc., at W. Pittston, PA, on the one hand, and, on the other, points in the U.S. (except PA, AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Atlas Chain & Precision Products, Inc., 4th & Pacific Ave., W. Pittston, PA 18643.

MC 110683 (Sub-II–6TA), filed August 13, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. *Common;* regular: *General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* (1) Between Little Rock, AR, and Houston, TX, serving no intermediate points: From Little Rock over Interstate Hwy 30 to its junction with U.S. Hwy 59, then over U.S. Hwy 59 to Houston, and return over the same route. (2) Between Little Rock, AR, and Houston, TX, serving all intermediate points on U.S. Hwy 90: From Little Rock over U.S. Hwy 167 to its junction with U.S. Hwy 165, then over U.S. Hwy 165 to its junction with U.S. Hwy 90, then over U.S. Hwy 90 to Houston, and return over the same route. (3) Between Little Rock, AR, and New Orleans, LA, serving no intermediate points: From Little Rock over U.S. Hwy 65 to Natchez, MS then over U.S. Hwy 61 to New Orleans, and return over the same route. From Little Rock over U.S. Hwy 167 to its junction with U.S. Hwy 71, then over U.S. Hwy 71 to its junction with U.S. Hwy 190, then over U.S. Hwy 190 to its junction with U.S. Hwy 61, then over U.S. Hwy 61 to New Orleans, and return over the same route. (4) Between Little Rock, AR, and Mobile, AL, serving no intermediate points: From Little Rock over U.S. Hwy 65 to its junction with Interstate Hwy 20, then over Interstate Hwy 20 to its junction with U.S. Hwy 49, then over U.S. Hwy 49 to its junction with U.S. Hwy 98, then over U.S. Hwy 98 to Mobile, and return over the same route. (5) Serving Port Arthur, TX, as an off-route point in connection with carrier's authorized regular routes. Supporting shipper(s): There are 51 supporting shippers. Their statements must be examined in the Philadelphia Regional Office.

Note.—Authority is sought to serve the commercial zones of all points in this application. Applicant intends to tack and interline. No duplicating authority is sought.

MC 115601 (Sub-2–1TA), filed February 4, 1980. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 E. 35th St., Wilmington, DE 19802. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. *Contract carrier; irregular routes; Precious metals and precious metal solutions* between Newark and Union, NJ on the one hand, and, on the other, Huntsville, AL, under a continuing contract(s) with Engelhard Industries, Div. of Engelhard Minerals and Chemicals Corp. Supporting shipper: Engelhard Industries, Div. of Engelhard Minerals and Chemicals Corp., 429 Delancy St., Newark, NJ 07105.

The following applications were filed in Region 3. Send Protests to ICC, Regional Authority Center, P.O. BOX 7600, Atlanta, Ga. 30357.

MC 151551 (Sub-3–1TA), filed August 15, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, Alabama 35214. Representative: Alvin D. Gardner, 820 Avenue E, Pratt City, Alabama 35214. *Forest products, lumber or wood products,* between points in AL on the one hand, and, on the other, TX, AR, LA, TN, MS, AL, GA, FL, SC, NC, VA, and KY. Supporting shipper: Birmingham International Forest Products, Inc., Suite 214, Metroplex 2, Birmingham, AL 35223.

MC 114604 (Sub-3–11TA), filed August 14, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. DRAWER I, State Farmers Market No. 33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE, Atlanta, Ga 30326. *Frozen juice and frozen concentrates,* between Spartanburg, SC, on the one hand, and, on the other, points in and east of MI, WI, IA, MO, KS, OK, and TX (except Dallas and Brownsville, TX; Atlanta, GA: Tampa and Wauchula, FL; New Orleans, LA; Memphis, TN: Birmingham, AL and Riverdale, NY). Supporting shipper: Funshine Corporation, P.O. Box 3064, Spartanburg, SC 29304.

MC 129712 (Sub-3–2TA), filed August 13, 1980. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract carrier;* Irregular routes; *Iron and Steel and iron and steel articles,* from and to all points in the U.S., under a continuing contract, or contracts,.with DuBose Steel, Inc., Supporting shipper: DuBose Steel, Inc., P.O. Box 1098, Roseboro, NC 28328.

MC 144827 (Sub-3–10TA), filed August 14, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Plastic granules, except in bulk,* from the facilities of Southwest Chemicals and Plastics, Deer Park, TX; to Los Angeles, CA; Knoxville, TN; Fairfield, IA; and Fairless Hills, PA; and the respective commercial zones thereof. Supporting shipper: Southwest Chemicals and Plastics, 9402 Highway 225, Deer Park, TX 77536.

MC 143540 (Sub-3–7TA), filed August 15, 1980. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Contract* carrier: Irregular: *Empty Plastic bottles* from Franklin, IN to points in NC and SC. Supporting shipper: Hoover Universal, Inc., Route 2, Triport Road, Georgetown, KY 40324.

MC 119777 (Sub-3–16TA), filed August 13, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Carbon and graphite products,* from the facilities of Superior Graphite Company at Chicago, IL to points in AR, CA, IN, MD, MI, MO, NC, OH, PA, and TX. Supporting shipper: Superior Graphite Company, #20 North Wacker Drive, Chicago, IL 60606.

MC 115841 (Sub-3–17TA), filed August 15, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene D. Good (same as above). *Foodstuffs, and materials, equipment and supplies used in the manufacture and distribution of foodstuffs* (except commodities in bulk), between Newport, TN and Tipton, IN on the one hand, and, on the other, points in the US in and East of ND, SD, NE, KS, OK, and TX. Supporting shipper: Stokley-Van Camp, 941 N. Meridian Street, Indianapolis, IN 46206.

MC 144082 (Sub-3–7TA), filed August 14, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract carrier,* irregular routes; *Malt liquors, ale, beers, wine NOI, liquors, alcoholic beverages NOI,* from points in the states of IA, KS, and MO to points in the states of GA, NC, SC, TN, and VA restricted to service performed under a continuing contract or contracts with Fred Amon of Charlotte, N.C. Supporting shipper: Fred Amon, 309 Fieldbrook Place, Charlotte, N.C.

MC 129712 (Sub-3–1TA), filed June 20, 1980. Republication—Originally published in **Federal Register** of July 9, 1980, Page 46231, Volume 45, No. 133. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. N.E., Atlanta, GA 30326. *Contract carrier,* irregular routes; *Lumber, treated and untreated, plywood and building materials,* between all points in the U.S., except AK and HI, under a continuing contract, or contracts, with Empire Wholesale Lumber Co. Supporting shipper: Empire Wholesale Lumber Co., P.O. Box 249, Akron, OH 44309.

No. MC 2934 (Sub-3–9TA), filed August 11, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, Indiana 46032. *Fiberglass bathroom fixtures, knocked down, cartoned.* From: Brook Park, Ohio. To: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: E. L. Mustee & Sons, Inc., 5431 West 164th Street, Brook Park, Ohio 44138.

MC 139822 (Sub-3–1TA), filed June 17, 1980. Republication—Originally published in **Federal Register** of July 9, 1980, page 46232, Volume 45, No. 133. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, Ga 31402. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, DC 20004. *Equipment, materials and supplies used in the manufacture of food products,* from points in TX to the facilities of Savannah Foods and Industries in Chatham County, GA and to the facilities of Savannah Foods and Industries and its subsidiary, Everglades Sugar Refinery, Inc. in Hendry County, FL. Supporting shipper: Savannah Foods and Industries, Inc., P.O. Box 339, Savannah, GA 31402.

MC 151086 (Sub-3–1TA), filed June 18, 1980. Republication—Originally published in **Federal Register** of July 9, 1980, page 46232, volume 45, No. 133. Applicant: BRYSON ENVIRONMENTAL SERVICES, INC., 1004 Hoke Ave., Dolomite, AL 35061. Representative: Charles M. Kelly, 108 White Oak Lane, Lexington, SC 29072. *Contract carrier,* irregular routes; *Industrial chemical waste, not for resale,* from SC, NC, IN, FL, GA, TN, AL, MS, LA, AR, MO, IA, IL, OH, KY, WV, MD, VA, MI, NY, NJ, PA to Pinewood, SC. Supporting shipper: South Carolina Service Corporation of America, Inc., Route 1, Box 55, Pinewood, SC 29125.

MC 121664 (Sub-3–17TA), filed June 16, 1980. Republication—Originally published in **Federal Register** of July 9, 1980, page 46235, volume 45, No. 133. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702—1st Ave., S., Birmingham, AL 35233. *(1) Building and roofing slabs and accessories, (2) Materials and supplies used in the manufacture, distribution and sales,* (1) From Brunswick, GA and Terry, MS to points in and east of ND, SD, NE, KS, OK, and TX. (2) From points in and east of ND, SD, NE, KS, OK, and TX to Brunswick, GA and Terry, MS. Supporting shipper: Concrete Products, Inc., P.O. Box 130, Brunswick, GA 35120.

MC 126736 (Sub-3–2TA), filed June 19, 1980. Republication—Originally published in **Federal Register** of July 9, 1980, page 46231, volume 45, No. 133. Applicant: FLORIDA ROCK AND TANK LINES, 155 East 21st St., Jacksonville, FL 32206. Representative: David A. Peterson (same address as above). *Caustic soda, liquid, in bulk, in tank* from Jacksonville, FL to points in GA south of the southern boundaries of Harris, Talbot, Upson, Crawford, Bibb, Twiggs, Wilkinson, Johnson, Emanuel, Jenkins, Screven Counties, GA. Supporting shipper: Apperson Chemicals, Inc., Jacksonville, FL 32203.

MC 145836 (Sub-3–6TA), filed August 12, 1980. Applicant: TRYCO TRUCKING CO., INC., 2508 Starita Road, Charlotte, NC 28213. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between New York, NY; Chicago, IL; Boston, MA; Los Angeles, CA; and Philadelphia, PA, and points in their commercial zones, and points in NC, SC, FL, AL, VA, GA, and TN, on the one hand, and, on the other, Atlanta, GA and Charlotte, NC, and points in their commercial zones, restricted to traffic originating at or destined to the facilities of Greater Atlanta Shippers Association or its members. Supporting shipper: Greater Atlanta Shippers Association, 6168 Boat Rock Blvd., S.W., Atlanta, GA 30336.

MC 145836 (Sub-3–4TA), filed August 12, 1980. Applicant: TRYCO TRUCKING CO., INC., 2508 Starita Road, Charlotte, NC 28213. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from

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Boston, MA; New York, NY; Philadelphia, PA; Chicago, IL; Los Angeles, CA; and Charlotte, NC and points in their commercial zones, to Orlando, FL, and points in its commercial zone, restricted to traffic originating at or destined to the facilities of Orlando Freight Association or its members. Supporting shipper: Orlando Freight Association, 1045 West Amelia St., Orlando, FL 32805.

MC 107515 (Sub-3-53TA), filed August 11, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30309. *Dairy Products and Margarine* from the St. Paul, MN commercial zone to points in CT, ME, MA, NY, PA, VT, and Chicago, IL, restricted to shipments originating at the facilities of Sugar Creek Foods and destined to the named destination points. Supporting shipper: Sugar Creek Foods, Division of Beatrice Foods, 2225 Territorial Road, St. Paul, MN 55114.

MC 107515 (Sub-3-52TA), filed August 12, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Building Materials (except in bulk)* from North Hampton Township, Wadsworth and West Salem, OH to points in the U.S. Supporting shipper: Alside, Inc., P.O. Box 2010, Akron, OH 44309.

The following protests were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 135640 (Sub-4-3TA), filed August 7, 1980. Applicant: STALEY EXPRESS, INCORPORATED, 2501 N. Brush College Rd., Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same address as applicant). *Fertilizer compounds, insecticides or fungicides, tree or weed killing compounds, food, food products and food ingredients,* between the facilities of Staley Warehouse in Macon County, IL and points in contiguous 48 states. Supporting shipper: Staley Warehouse Co., 2501 N. Brush College Rd., Decatur, IL 62526.

MC 114632 (Sub-4-14TA), filed August 6, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). (1) *Soap and cleaning compounds, fuel oil conditioners; ice control compounds; specialty cleaners and chemicals; auto cleaners and waxes; fuel and oil additives and household deodorants and disinfectants (except in bulk);* and (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above (except in bulk),* from Barberton, OH to points in AR, CT, DC, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, NE, NJ, NY, ND, OK, PA, SD, TX, WI and WV. Supporting shipper: Malco Products, Inc., 361 Fairview Ave., Barberton, OH.

MC 119522 (Sub-4-1), filed August 7, 1980. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street (P.O. Box 2159), Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). *Petroleum and Petroleum Products, automotive chemicals, and cleaning compounds, and such equipment, materials, and supplies, as are used by automotive service centers (except in bulk).* Between the facilities of Valvoline Oil Company, Division of Ashland Oil, Inc. at Willow Springs, IL on the one hand, and, on the other, points in AR, CO, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI and WY. Supporting shipper: Valvoline Oil Company, Division of Ashland Oil, Inc. are located at 1409 Winchester Avenue, Ashland, KY 41101. Restricted to traffic originating at or destined to named facilities.

MC 135052 (Sub-4-6TA), filed August 7, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Extruded aluminum parts,* from the facilities of Alco Standard Corporation at Shelbyville, IN to Romeo, MI, Nashville, TN, and Savannah, GA. Supporting shipper: Alco Standard Corporation, 850 Elston Drive, Shelbyville, IN 46176.

MC 151460 (Sub-4-1TA), filed August 6, 1980. Applicant: SIMPSON EXCAVATING, INC., Rural Route 3, Fairfield, IL 62837. Representative: Brent E. Clary, Bennett, Boehning, Poynter & Clary, P.O. Box 469, LaFayette, IN 47902. *Oilfield exploration, erection, drilling and production equipment, materials pipe and supplies,* from, to, or between points in IL, IN, KY, and MI. There are 9 shippers.

MC 82492 (Sub-4-8TA), filed July 31, 1980. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Neil E. Hannan (same address as applicant). *Athletic goods, games, toys, children's vehicles, motorized, and children's vehicles, other than self-propelled.* From Macendonia, OH, to IL, IN, IA, KS, KY, MI, MN, MO, NE, SD, TN, and WI. Supporting shipper: Little Tykes, Inc., 8705 Freeway Drive, Macedonia, OH 44056.

MC 80430 (Sub-4-10), filed August 8, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, P.O. Box 851, LaCrosse, WI 54601. Representative: A. David Millner and Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Common;* regular; *General commodities* (except household goods as defined by the Commission and classes A and B explosives). Serving all intermediate points and points in AR, KS, ND, OK, TX, VA and WV in connection with the following regular routes: Between San Antonio, TX and Richmond, VA, (1) From San Antonio over Interstate Hwy 35, to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Richmond and return over the same routes. (2) From San Antonio over Interstate Hwy 35, to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 85, then over Interstate Hwy 85 to U.S. Hwy 301, then over U.S. Hwy 301 to Richmond, and return over the same routes. (3) From San Antonio over Interstate Hwy 35 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 85, then over Interstate Hwy 85 and U.S. Hwy 301 to Richmond, as specified above, and return over the same routes. (4) From San Antonio over Interstate Hwy 10, to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 85, then over Interstate Hwy 85 and U.S. Hwy 301 to Richmond, as specified above, and return over the same routes. (5) From San Antonio over Interstate Hwy 35 to junction Interstate Hwy 40, then over Interstate Hwy 40, Interstate Hwy 85 and U.S. Hwy 301 to Richmond as specified above, and return over the same routes. (6) From San Antonio to junction Interstate Hwy 70 and Interstate Hwy 64 as specified above, then over Interstate Hwy 64 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction U.S Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Richmond, and return over the same routes. (7) From San Antonio over Interstate Hwy 35 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Richmond, as specified above; also, to Interstate Hwy 64 as specified above, then over Interstate Hwy 64 to junction Interstate Hwy 71, then over Interstate Hwy 71, U.S. Hwy 50, and Interstate Hwy 95 to Richmond, as specified above, and return over the same routes. (8) From San Antonio over Interstate Hwy 35 and Interstate Hwy 30, to Interstate Hwy 40 as specified above, then over Interstate Hwy 40 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Richmond, as specified above, and return over the same routes. (9) From San Antonio over Interstate Hwy 35 and Interstate Hwy 30 to Interstate Hwy 40, as specified above, then over Interstate Hwy 40 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction Interstate Hwy 85, then over Interstate Hwy 85 and U.S. Hwy 301 to Richmond, as specified above, and return over the same routes. (10) From San Antonio over Interstate Hwy 35 and Interstate Hwy 30, to Interstate Hwy 40 as specified above, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction U.S. Hwy 50, then over U.S. Hwy 50 and Interstate Hwy 95 to Richmond, as specified above, and and return over the same routes. Between San Antonio, TX and Pittsburgh, PA, (1) From San Antonio over Interstate Hwy 10 and Interstate Hwy 55 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Pittsburgh, and return over the same routs. (2) From San Antonio over Interstate Hwy 35 and Interstate Hwy 20, as specified above, then over Interstate Hwy 20 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Pittsburgh, and return over the same routes. Supporting shippers: There are in excess of 166 supporting shippers.

MC 151478 (Sub-4–1TA), filed August 7, 1980. Applicant: DOC'S CARTAGE COMPANY, INC., 5027 West 81st Street, Burbank, Illinois 60459. Representative: Naomi M. Dockstader, 5027 West 81st Street, Burbank, Illinois 60459. *Freight All Kinds in containers, or trailers, having a prior or subsequent movement by air, rail, or water, excepting classes A&B explosives, household goods as defined by the Commission, and commodities in bulk, or requiring special containers, trailers, tanks, or other special equipment,* between the rail ramps, and yards, and docks and piers, of the Port of Chicago, within the area defined as the commercial zone of Chicago, on the one hand, and points within the state of IL, on the other hand. There are 6 supporting shippers.

MC 150049 (Sub-4–4TA), filed April 6, 1980. Applicant: JACOB A. RESSLER, DENNIS RESSLER, JAMES RESSLER, and ALLEN RESSLER, d.b.a. JACK RESSLER & SONS TRUCKING, Box 311, Mandan, ND 58554. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58502. *Contract;* Irregular; *Pipes, valves, fittings and accessories,* from points in OH, CA, and PA, to points in ND, MT, and WY, for the account of Keenan Supply, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Keenan Supply, Inc., 2917 37th St., NW., Mandan, ND 58554.

MC 146643 (Sub-4–25TA), filed April 6, 1980. Applicant: INTER-FREIGHT. TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60628. *Contract;* Irreguar, *Foodstuffs (except in bulk)* between the facilities of National Fruit Product Company, Inc. at Kent City, MI, on the one hand, and, on the other, points in IL, IN, IA, KY, MN, MO, ND, and WI. Supporting shipper: National Fruit Product Company, Inc., P.O. Box 2040, Winchester, VA 22601.

MC 118838 (Sub-4–5TA), filed August 6, 1980. Applicant: GABOR TRUCKING, INC., Rural Route No. 4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Lumber, lumber mill products, composition board and millwork* from points in CA to points in IL, IN, IA, MI, MN, NE, ND, OH, PA, SD, WI and WY. An underlying ETA seeks 120 days authority. Supporting shippers: Emmer Brothers Company, 6800 France Ave. South, Minneapolis, MN 55435; Rice & Fongers Lumber Co., Inc., Box 6224 Sta C, 4550 Cascade Road S.E., Grand Rapids, MI 49506; T. W. Hager Lumber Company, P.O. Box 9040, Grand Rapids, MI 49509; Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204.

MC 95876 (Sub-4–6TA), filed August 6, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Iron and steel pipe,* from Irwindale, CA to Uvalde, TX. An underlying ETA seeks 120 days authority. Gensco, Inc., P.O. Box 67, Uvalde, TX 78801.

MC 107295 (Sub-4–16TA), filed August 7, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Interior packaging forms, fillers, petitions, platforms, and wrappers,* between Monroe County, MI, on the one hand, and, on the other, Creighton, PA; Farmington, NH; Indianapolis, IN; and Laurinburg, NC. Supporting shipper: Ace Paper Products Co., P.O. Box 720, 7986 N. Telegraph Rd., Monroe, MI 48161.

MC 109724 (Sub-4–1TA), filed August 7, 1980. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 Springdale Road, Waukesha, WI 53186. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Sand,* from Milwaukee, WI to points in the Chicago, IL Commercial Zone, Kankakee, and Waukegan, IL under continuing contract(s) with Lake Shore Sand & Stone, Div. of Construction Aggregates Corp. An underlying ETA seeks 120 days authority. Supporting shipper: Lake Shore Sand & Stone, Div. of Construction Aggregates Corp., 515 West Canal St., Milwaukee, WI, 53203.

MC 28579 (Sub-4–1TA), filed August 7, 1980. Applicant: GRIFFITH MOTOR EXPRESS, INC., 1607 South Rogers Street, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Common; Regular, *General commodities,* (except household goods as defined by the Commission and Classes A & B explosives, commodities in bulk, and those requiring special equipment), serving Bloomfield, Elnora, Newberry, Spencer, Oden and Worthington, Indiana as off-route points in connection with applicant's otherwise authorized service. Applicant intends to tack and interline. Supporting shipper: 22 statements of support.

MC 13777 (Sub-4–4TA), filed August 6, 1980. Applicant: AAA TRANSPORTATION, INC., 2957 S.E. St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Slabs of reinforced concrete* from the facilities of Modulars, Inc., near Hamilton and Fairfield, OH to points in the U.S. (except AK, and HI, and *(2) materials, equipment and supplies used in the manufacture, distribution and installation of the commodities in (1) above* from points in the U.S. to the facilities of Modulars, Inc. near Hamilton and Fairfield, OH. Supporting shipper: Modulars, Inc., P.O. Box 216, Hamilton, OH 45012.

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MC 109173 (Sub–4–1TA), filed August 7, 1980. Applicant: DELTA BUS COMPANY, 12154 N. Saginaw Road, Clio, MI 48420. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Common; regular; *Passengers and their baggage, and newspapers, express and mail in the same vehicles with passengers* between Toledo, OH and Big Rapids, MI serving all intermediate points as follows: From Big Rapids via M–20 to US–27, thence via US–27 to M–46, thence via M–46 to I–675, thence via I–675 to I–75, thence via I–75 and US–23 to Toledo, OH and return, serving the off-route points of Ann Arbor and Flint, MI; Restricted against the transportation of passengers whose entire ride is between Dundee, Azalia or Milan and Ann Arbor, MI and between Flint, Clio, Birch Run, or Bridgeport and Saginaw, MI. An underlying ETA seeks 120 days authority. There are 9 supporting shippers.

MC 20824 (Sub–4–3TA), filed August 11, 1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 S. High School Rd., Indianapolis, IN 46241. Representative: Norman R. Garvin, Scopelists & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities (except those of unusal value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) between Dayton, OH and Lima, OH, serving all intermediate points, from Dayton over I–75, and return over the same route, (2) between Springfield, OH and Urbana, OH, serving all intermediate points, from Springfield over U.S. Hwy 68, and return over the same route, for 270 days. Supporting shipper: There are 10 supporting shippers.

MC 149425 (Sub–4–3TA), filed August 11, 1980. Applicant: W. J. HEMENWAY, d.b.a. W. J. HEMENWAY TRUCKING, Box 401, Big Falls, MN 56627. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Treated Lumber,* from Chippewa County, Wisconsin to Minneapolis, St. Paul, Virginia, Duluth and Brainerd, MN. Supporting shipper: Northern Crossarm Co., Inc. of Chippewa Falls, WI.

MC 142525 (Sub–4–1TA), filed August 8, 1980. Applicant: BERNARD D. HARNER AND SON, INC., R.R. 2, Washington, IN 47501. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Contract; irregular; *Liquid feed and feed ingredients,* in bulk, in tank vehicles, between the facilities of Ralston Purina Company at Louisville, KY, on the one hand, and points in MI, WV, VA, IL, OH, KY and TN. Restricted to movements under a continuing contract or contract(s) with Ralston Purina Company. Supporting shipper: Ralston Purina Company, 6315 Industrial Blvd., Louisville, KY 40221. Underlying ETA seeks 120 days authority.

MC 126346 (Sub–4–13TA), filed August 8, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle Street, Chicago, IL 60603. *Contract, irregular: Such commodities* as are used in the manufacture of ships, from points in the United States (except AK and HI), to Ontonagon, MI. Restricted to traffic moving under continuing contract with Upper Pennsinsula Ship Building Company. Supporting shipper: Upper Penninsula Ship Building Company, 902 River St., Ontonagon, MI, 49953.

MC 123048 (Sub–4–3TA), filed August 8, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Cast iron products, and materials, equipment and supplies used in the manufacture and distribution of cast iron products* (except commodities in bulk), between Florence, NJ, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, OH, and WI, restricted to the transportation of shipments originating at or destined to the facilities of Griffin Pipe Products Co. Supporting shipper: Griffin Pipe Products Co., 200 Spring Road, Oak Brook, IL 60521.

MC 18738 (Sub–4–1TA), filed August 8, 1980. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 W. 138th Street, Chicago, IL 60627. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Iron and steel products,* from Detroit, MI to Chicago, IL. Supporting shipper: Edgecomb Metals Co. Div. of Williams Corp., 12301 Hubbell Avenue, Detroit, MI 48227.

MC 111299 (Sub–4–2TA), filed August 8, 1980. Applicant: KIRVAN TRUCK LINES, INC., P.O. Box 829, International Falls, MN 56649. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Beverages,* between Watertown, WI, on the one hand, and, on the other, points in MN. Supporting shipper: Wis-Pak, 860 West St., Watertown, WI 53094.

MC 144621 (Sub–4–6TA), filed August 8, 1980. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 66, 52275 U.S. Highway 31 North, South Bend, IN 46624. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Plastic film, plastic sheeting, plastic articles and materials, equipment and supplies used in the manufacture or distribution of the commodities named above* between points in MA, NY, NJ, MD, VA, NC, GA, FL, OH, IL, TX, CO, WA and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the Resinite Department, Borden Chemical, Division of Borden, Inc., for 270 days. Supporting shipper: The Resinite Department, Borden Chemical, Division of Borden, Inc., North Andover, MA 01845.

MC 151499 (Sub–4–1TA), filed August 8, 1980. Applicant: ABBOTT LABORATORIES, 14th and Sheridan Road, North Chicago, IL 60064. Representative: Joseph H. Pachnik (same as applicant). *Contract, Irregular drugs, toilet preparations, distilled water, intravenous solutions* and *medical care supplies* (except commodities in bulk) and *equipment, materials* and *supplies* used in the manufacture and distribution of the commodities described above between all points in the contiguous U.S. Supporting shipper: Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064.

MC 151275 (Sub–4–2TA), filed August 11, 1980. Applicant: CHICAGO SUBURBAN EXPRESS, INC., 1500 West 33rd Street, Chicago, IL 60608. Representative: Donald S. Mullins, 1033 Graceland Avenue, DesPlaines, IL 60016. *Acids: adhesives; adjusters; alcohols (except alcoholic liquors); bate, tanners; chemicals; cleaning, scouring and washing compounds; fuel oil treating compound; tree or weed killing compounds; water clarifying compounds; deodorants or disinfectants depilatory, tanners; extracts, tanning; feed supplements and feeding compounds; insecticides or fungicides or repellants; paints; stains or varnishes; plasticizers; solvents; petroleum products; plastic materials, other than expanded; plastic or rubber articles; sizing; sludge acid; softeners, textiles; and waste materials,* from points in the Chicago, IL, commercial zone, to points in Illinois, on shipments having prior movement by rail or motor carrier. Supporting shipper: Rohm & Haas Company, Independence Mall, West, Philadelphia, PA 19105.

MC 52580 (Sub–4–1TA), filed August 12, 1980. Applicant: COLUMBIAN STORAGE & TRANSFER CO., 900 Hall St. SW., Grand Rapids, MI 49502. Representative: Kenneth T. Johnson and Ronald W. Malin, Bankers Trust Building, Jamestown, NY 14701. *General* *commodities (except Classes A and B explosives, automobiles, trucks, cabs, chassis and buses, household goods as defined by the Commission and commodities in bulk)* from points in MI to Grand Rapids, MI (for interline to points outside MI). Supporting shippers: K Mart Corporation, 3100 West Big Beaver Road, Troy, MI 48084; F.W. Woolworth Company, 915 Lee St., Des Plains, IL 60016; and Rooks Transit, Inc., 5635 Clay Ave., Grand Rapids, MI 49508. Interlining intended at Grand Rapids, MI.

MC 139482 (Sub-54–14TA), filed August 17, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877 Brown County Road 29 West, New Ulm, MN 56073. Representative: Barry M. Bloedel (address same as above). *Recycled newsprint—cellulose insulation (except commodities in bulk),* from Lake Mills, WI to Cedar Rapids, IA; Davenport, IA; Des Moines, IA; Houghton, MI; Minneapolis, MN; Peoria, IL; St. Louis, MO; St. Paul, MN; Sioux City, IA; Sioux Falls, SD; and Springfield, IL. An underlying ETA application seeks 120 days authority. Supporting shipper: Nu-Wool Insulation Co., Inc., 644 East Lake Street, Lake Mills, WI 53551.

MC 110420 (Sub-4–8TA), filed August 12, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Fruit juice and fruit juice concentrates,* in bulk, in tank vehicles, from Chicago, IL, to points and places in Kansas City, KS/MO and its commercial zone as defined by the Commission. An underlying ETA seeks 120 days authority. Supporting shipper: Bodine's, Inc., 5757 West 59th, Chicago, IL 60638.

MC 143002 (Sub-4–6TA), filed August 12, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* Irregular: *Drugs and toilet articles, materials and supplies used in the manufacture, sale and distribution thereof* from various points in NY, CT, MA, NJ, RI, NH and PA to Allegan, MI and its commercial zone under continuing contract(s) with L. Perrigo Company. An underlying ETA seeks 120 days authority. Supporting shipper: L. Perrigo Company, 177 Water Street, Allegan, MI 49010.

MC 146510 (Sub-4–7TA), filed August 12, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract;* Irregular, *Foodstuffs,* from Decatur, IN to points in TX, CO, CA, AZ, WI, OR, UT, MN, WA, IL, OH, IA, MI, IN, TN, KY, KS, AL, MS, LA, NE, PA, MO, NY, GA, MD, MA, NC, SC, FL, VA and Washington, D.C. Supporting shipper: Roman Meal Company, 2101 S. Tacoma Way, Tacoma, WA 98409.

MC 118838 (Sub-4–6TA), filed August 11, 1980. Applicant: GABOR TRUCKING, INC., RR #4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Metal rolling mill machinery, rolls and parts;* from Warren, Youngstown and Canton, OH and Vandergrift, PA, on the one hand, and, on the other points in CA, CO, IA, ID, IL, MN, MT, ND, NE, OR, SD, UT, WA, WI and WY. Supporting shipper: Wean United, Inc., P.O. Box 180, Youngstown, OH 44515.

MC 150656 (Sub-4–1TA), filed August 12, 1980. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 154, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. W., Bradenton, FL 33507. *Industrial fans and blowers and parts, materials, accessories and supplies* used or useful in the manufacture or distribution of industrial fans or blowers, except commodities in bulk, between Glendale Heights and Marengo, IL on the one hand and, on the other points in the U.S. Supporting shipper: Chicago Blower Corporation, 1675 Glen Ellyn Road, Glendale Heights, IL.

MC 145636 (Sub-4–2TA), filed August 11, 1980. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128½ Plaza East, Winona, MN 55987. *(1) Plastic Materials and Resin Impregnated Cloth requiring temperature controlled equipment; (2) Such Articles as are used in the manufacture, sale and distribution of those commodities named in (1) above and (3) Commodities which are otherwise exempt from economic regulation under 49 U.S.C. 10526 (6) when in mixed loads with those commodities named in (1) and/or (2) above:* (1) Between Delano, PA on the one hand and all points in the United States (except AK and HI) on the other; (2) Between Winona, MN on the one hand and points in the states of AL, CT, DE, DC, FL, GA, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VT, VA, WV on the other, and (3) Between Los Angeles and Orange Counties, CA on the one hand and points in the states of AL, CT, DE, DC, FL, GA, IN, KY, LA, ME, MD, MA, MI, MS, MT, NH, NJ, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, VT, VA, WA, WV, and WY on the other. Supporting shipper: Fiberite Corporation, 501 W. 3rd Street, Winona, MN 55987.

MC 55896 (Sub-4–7TA), filed August 12, 1980. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same as applicant). *Rough iron castings,* from Cynthiana, KY to Rockford, IL. An underlying ETA seeks 120 days authority. Supporting shipper: John S. Barnes, 2330 23rd Avenue, Rockford, IL.

MC 115495 (Sub-4–1TA), filed August 8, 1980. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Everett Hutchinson, 1150 Connecticut Ave NW., Suite 400, Washington, D.C. 20036. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between points in TX, OK, and KS, that part of NE on, south, and within 10 miles north of a line beginning at the NE–CO state line and extending along U.S. Hwy 138 to junction U.S. Hwy 30, and thence along U.S. Hwy 30 to the NE–IA state line, Fort Smith, Fayetteville and points in Benton, Carroll, and Boone counties, AR, and those points in AR on and west of U.S. Hwy 71, points in Adair, Atchison, Andrew, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, LaClede, Lafayette, Lawrence, Linn, Livingston, McDonald, Macon, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Claire, Saline, Schuyler, Stone, Sullivan, Taney, Vernon, Webster, and Worth Counties, MO; (2) between Memphis, TN, and points in its commercial zone, as defined by the Commission, on the one hand, and, on the other, points in AR; (3) between Memphis, TN, on the one hand, and, on the other, points in that part of MS on and north of U.S. Hwy 80; (4) between Denver, CO, on the one hand, and, on the other, points in KS and those in that part of NE on and south, and within 10 miles north of a line beginning at the NE–CO state line and extending along U.S. Hwy 138 to its junction with U.S. Hwy 30 and thence along U.S. Hwy 30 to the NE–IA state line. Restriction:

No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. There are 273 supporting shippers.

MC 120364 (Sub-4-6TA), filed August 12, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *General commodities (except those of unusual value, dangerous articles, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, frozen foods, motor vehicles, and farm equipment and supplies)* between Brown, Calumet, Dodge, Fond du Lac, Green, Jefferson, Kenosha, Kewanee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, WI, on the one hand, and, on the other, points in the Chicago, IL commercial zone and points within IL bounded by a line beginning at the IL–WI state line and extending southerly on IL Hwy 78, then to junction with IL Hwy 88, then on IL Hwy 88 to junction with IL Hwy 92, then easterly on IL Hwy 92 to junction with U.S. Hwy 34, then easterly on U.S. Hwy 34 to junction with IL Hwy 59, then northerly on IL Hwy 59 to junction with IL Hwy 83, then over IL Hwy 83 to the IL–WI state line, then west of the state line to the place of the beginning, including the IL points outside said geographic area of Des Plains, Mt. Prospect, Palatine, Arlington Heights, Elizabeth, Savanna, Mundelein, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, Galena, and Scales Mounds, IL. An underlying ETA seeks 90 days authority. There are 9 supporting shippers.

MC 128543 (Sub-4-6TA), filed August 12, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract; Irregular; Metallic ores and machinery and supplies used in the processing thereof,* between Depue, IL, Ashtabula, OH, Palmerton, PA, and Gloucester City, NJ, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shippers: (a) New Jersey Zinc Div., and (b) Chemicals Div., Natural Resources Group, a Div. of Gulf & Western Ind., Inc., First American Center, Nashville, TN 37238.

MC 103993 (Sub-4-19TA), filed August 12, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Steel pipe,* from the facilities of Naylor Pipe Co. at or near Chicago, IL, to IN, OH, PA, WV, KY, TN, ND, SD, MN, MI, WI, MO, VA, and IA. Supporting shipper: Naylor Pipe Co., 1230 E. 92nd Street, Chicago, IL 60603.

MC 149489 (Sub-4-1TA), filed August 11, 1980. Applicant: WITTE BROS., INC., R.R. No. 3, Faribault, MN 55021. Representative: David R. Busch, 4744 IDS Center, Minneapolis, MN 55402. *Dry cement in bulk,* from LaCrosse, WI, Mason City, IA, Watertown, SD, Fargo, ND, and commercial zones of such cities, to points in MN. Supporting shippers: Concrete MINN-KOTA, Inc., So. Highway 75, Ortonville, MN 56278; Concrete Minnesota Morris, Inc., 1200 Pacific Avenue, Morris, MN 56267; and Concrete Minnesota of Albert Lea, Inc., 2424 Myers Road, Albert Lea, MN 56007.

MC 108393 (Sub-4-8TA), filed August 12, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Thomas B. Hill (same as above). *Contract;* Irregular; *Central heating and air-conditioning units, furnaces, air coolers, water evaporators, condensing units and compressors, and (2) parts, components, equipment and supplies used in the manufacture, distribution and repair of the commodities in (1) above,* Between Davidson, Marshall and Rutherford Counties, TN; on the one hand, and, on the other points in AL, AR, CA, CT, GA, IL, IN, KY, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TX, VT, VI, WV, WI, and DC. Supporting shipper: Heil-Quaker, Subsidiary of Whirlpool Corp., 1714 Heil Quaker Blvd., Lavergne, TN. 37086.

MC 144927 (Sub-4-5TA), filed August 13, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Gerald R. Morlan, Box 315, U.S. 24 West, Remington, IN 47977. *General Commodities,* for the account of, North Eastern Pennsylvania Shippers Association between (1) The counties of Bradford, Carbon, Columbia, Franklin, Lackawanna, Lehigh, Lucerne, Lycoming, Monroe, Montour, North Hampton, North Umberland, Schuylkill, Tioga, Wayne, Pike and Wyoming in PA, and (2) The counties of Broome, Cayuga, Chemung, Chenango, Cortland, Onandaga, Schuyler, Senaca, Steuben, Tioga, Thompkins and Yates in NY, and (3) The city of Phillipsburg, NJ, on the one hand, and on the other, points in the states of IL, IN, OH, MI, MO, and points in WI, south of U.S. Highway No. 10 (Ten). Shipper: North Eastern Pennsylvania Shippers Association, 1212 O'Neil Hwy, Scranton, PA.

MC 144927 (Sub-4-4TA), filed August 13, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Gerald R. Morlan, Box 315, U.S. 24 West, Remington, IN 47977. *General Commodities* for the account of Delaware Valley Shippers Association between Bristol, PA; Philadelphia, PA; Camden, NJ; Trenton, NJ; Indianapolis, IN; Columbus, OH; and Chicago, IL. Supporting shipper: Delaware Valley Shippers Association. 2209 E. Farragut Ave, Bristol, PA 19007.

MC 123907 (Sub-4-1TA), filed August 11, 1980. Applicant: DAHLMAN TRUCK LINES, INC., 2041 Madison St., Stevens Point, WI 54481. Representative: Attorney Joseph E. Ludden, P.O. Box 1567, La Crosse, WI 54601. (1) *Such merchandise as is dealt in by wholesale food business houses, and in connection therewith, equipment, materials, and supplies,* when moving from, to or between warehouses, plants or other facilities of food manufacturing plants or wholesale food business houses between points in WI on, south and west of U.S. Hwy 12 and those in IL on and north of a line extending from the IL–IN border; then west along U.S. Hwy 36 to junction IL Hwy 78; then north along IL Hwy 78 to the IL–WI border; and (2) *Paper and paper products* from points in WI on, north and east of U.S. Hwy 12 to points in IL on and north of a line extending from the IL–IN border; then west along U.S. Hwy 36 to Junction IL Hwy 78; then north along IL Hwy 78 to the IL–WI border. An underlying ETA seeks 120 days authority. Supporting shippers: Tri-State Motor Service, Inc., 3300 South Iron St., Chicago, IL 60609; Consolidated Papers, Inc., P.O. Box 50, Wisconsin Rapids, WI 54494; and Jeff's Trucking, Inc., P.O. Box 282, Waupun, WI 53963.

MC 150331 (Sub-4-2TA), filed August 12, 1980. Applicant: RPH, INC., 801 W. Pioneer St., Champaign, IL 61820. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract; irregular; Malt beverages and malt beverage dispensing equipment* when shipped therewith from (1) Evansville, IN to Danville, IL and (2) Champaign, IL and St. Paul, MN to Brentwood, MD, and the District of Columbia, under a continuing contract(s) with H & I Distributing Company, Inc., C & H Distributing Co., Inc., R & H Distributing Co., Inc., Champaign Distributing Company, Inc., and Twin Rivers Distributing Co., Inc., all of 801 W. Pioneer St., Champaign, IL 61820. An underlying ETA seeks 120 days authority. There are 5 supporting shippers.

MC 149403 (Sub-4-1TA), filed August 11, 1980. Applicant: SCOTT'S EXPRESS, INC., I-29 and U.S. Highway 2, Grand Forks, ND 58201. Representative: William J. Gambucci, 400 Marquette Ave., Minneapolis, MN 55402. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except commodities in bulk), from Kansas City, KS; Omaha, NE; Belle, MO; Grundy Center, Iowa City, Muscatine and Ottumwa, IA; Chicago, Champaign and Rochelle, IL; Kenosha and Waukesha, WI; Indianapolis, IN; Three Rivers, MI and Auburndale, Umatilla and Orlando, FL to the facilities of L. B. Hartz Co. at or near Thief River Falls, MN, for 180 days. Supporting shipper: L. B. Hartz Company, Box 427, Thief River Falls, MN 56701.

MC 150157 (Sub-4-4TA), filed August 11, 1980. Applicant: REGENCY MOTOR FREIGHT, INC., 26600 Van Born Road, Dearborn Heights, MI 48125. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *Aluminum articles; iron and steel plates, sheets and blanks, drums, hardware, housings, pans, pails, containers, stove range parts, or housings, oven cavities, tubs, tanks, drum tops or bottoms, and plastic pails and liners* (1) between Milwaukee, WI on the one hand, and on the other, IL, IN, KS, KY, MI, MN, MO, NC, OH, PA, TN (2) between Joplin and St. Louis, MO on the one hand, and on the other IL, IN, KS, KY, MI, MN, OH, OK, TX, WI. Supporting shipper: Geuder Paeschke & Frey Company, 324 N 15th St., Milwaukee, WI 53233.

MC 151507 (Sub-4-1TA), filed August 11, 1980. Applicant: J. LAKES TRUCKING, INC., 2957 S.E. ST., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Building paper and building materials and (2) materials, equipment and supplies used in the manufacture, distribution and installation of the commodities in (1) above (except commodities in bulk)* between points in Butler County, OH, on the one hand, and, on the other, points in the US (except AK and HI) for 270 days. Supporting shipper: Conseal, Inc., 4821 Rockdale Rd., Hamilton, OH 45011.

MC 151511 (Sub-4-1TA), filed August 8, 1980. Applicant: TOM O'CONNOR, and individual d.b.a. KERRY MOTOR SERVICE, 4433 South Halsted St., Chicago, IL 60609. Representative: Dennis W. Thorn, 100 No. LaSalle St., Suite 2510, Chicago, IL 60602. *Foodstuffs, Non-exempt Food or Kindred Products, materials equipment and supplies used in the manufacture and distrubiton of Foodstuffs, Non-exempt Food or Kindred products, (except in bulk),* Between Chicago, IL. commercial zone, on the one hand, and on the other points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, and WI. An underlying ETA seeks 120 days authority. Supporting shippers: International Multifoods Corp., 2000 No. George St., Melrose Park, Il 60160; Chicago Dietetic Supply, Inc., 405-415 E. Shawmut, La Grange, IL 60525; Ventura Costal Corporation, 2113 Greenleaf Avenue, Evanston, IL 60202.

MC 151509 (Sub-4-1TA), filed August 11, 1980. Applicant: J. E. R. DELIVERY CO., INC., R.R. 1, Box 239, Bergersville, IN 46106. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *(1) Printed matter,* from Louisville, KY, to Indianapolis, Muncie, Anderson, South Bend, Lafayette, and Kokomo, IN, and *(2) paper, paper products,* office equipment and supplies, from Indianapolis, IN to Jefferson County, KY. Supporting shippers: R. L. White Co., Inc., 1001 W. Main St., Louisville, KY; Atlas Office Supplies & Equipment, 6300 E. 30th St., Indianapolis, IN.

MC 35628 (Sub-4-8TA), filed August 12, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 110 Ionia Avenue, N.W., P.O. Box 175, Grand Rapids, MI 49501. Representative: Michael P. Zell, 110 Ionia Avenue, N.W., P.O. Box 175, Grand Rapids, MI 49501. Common: Regular: *General Commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Washington, D.C. and Wilson, NC, serving all intermediate points from Washington, D.C., over Interstate Highway 95 to Richmond, VA, thence over Interstate Highway 64 to Norfolk, VA, thence over U.S. Highway 58 to Emporia, VA, thence over U.S. Highway 301 or Interstate Highway 95 to junction U.S. Highway 264 thence over U.S. Highway 264 to Wilson, NC, (also from Richmond, VA, to Emporia, VA, over Interstate Highway 95) and return over the same route(s), (2) between Lexington, KY, and Richmond, VA, serving all intermediate points from Lexington, KY, over Interstate Highway 64 or U.S. Highway 60 to Richmond, VA, and return over the same route(s), (3) between Corbin, KY, and Lexington, NC, serving all intermediate points from Corbin, KY, over U.S. Highway 25E to Newport, TN, thence over U.S. Highway 25 to Asheville, NC, thence over U.S. Highway 74 to Charlotte, NC, then over Interstate Highway 85 to Lexington, NC, (4) between Knoxville, TN, and Rocky Mt, NC, serving all intermediate points from Knoxville, TN, over Interstate Highway 40 to Raleigh, NC, thence over U.S. Highway 64 to Rocky Mt, NC, and return over the same route(s), (5) between Lexington, KY, and Wilson, NC, serving all intermediate points from Lexington, KY, over U.S. Highway 60 to Winchester, KY, thence over KY Highway 15 to junction U.S. Highway 119, thence over U.S. Highway 119 to Jenkins, KY, thence over U.S. Highway 23 to Kingsport, TN, thence over U.S. Highway 11 W to Bristol, VA-TN, thence over U.S. Highway 421 to Winston-Salem, NC, thence over U.S. Highway 52 to Lexington, NC, thence over U.S. Highway 70 to Goldsboro, NC, and thence over U.S. Highway 117 to Wilson, NC, and return over the same route(s), (6) between the junction of U.S. Highways 11 or Interstate 81 and U.S. Highway 52, and Winston-Salem, NC, serving all intermediate points from the junction of U.S. Highway 11 or Interstate 81 and U.S. Highway 52 over U.S. Highway 52 to Winston-Salem, NC, and return over the same route(s), (7) between Harrisburg, PA, and Knoxville, TN, serving all intermediate points from the junction of Interstate Highway 81 and U.S. Highway 25E and Bristol, VA-TN, and the off-route points of the junction of U.S. Highway 11 and 52, and Kingsport, TN, from Harrisburg, PA, over U.S. Highway 11 to its junction with Interstate Highway 81, thence over Interstate Highway 81 to its junction with Interstate Highway 40, thence over Interstate Highway 40 to Knoxville, TN, and return over the same route(s), (8) between Knoxville, TN, and Memphis, TN, serving the intermediate point of Nashville, TN, over Interstate Highway 40 to Memphis, TN, and return over the same route(s) (9) between Atlanta, GA, and Charlotte, NC, serving no intermediate points except those in Gaston and Mecklenburg Counties from Atlanta, GA, over Interstate Highway 85 to Charlotte, NC, and return over the same route(s), (10)) between Charlotte, NC and Petersburg, VA, serving all intermediate points from Charlotte, NC, over Interstate Highway 85 to Petersburg, VA, and return over the same route(s), (11) between Columbus, Ohio, and the junctions of U.S. Highway 52 and Interstate Highway 77 serving all intermediate points from Columbus, OH,

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over U.S. Highway 33 to junction of Interstate Highway 77 near Ripley, WV, thence over Interstate Highway 77 to junction of WV Turnpike near Charleston, WV, thence over WV Turnpike to its junction with Interstate Highway 77 near Princeton, WV, thence over Interstate Highway 77 to its junction with U.S. Highway 52 and return over the same route(s), (12) between Atlanta, GA, and Birmingham, AL, serving no intermediate points from Atlanta, GA, over Interstate Highway 20 to Birmingham, AL, and return over the same route(s), (13) between Birmingham, AL, and New Orleans, LA, serving no intermediate points from Birmingham, AL, over Interstate Highway 59 to New Orleans, LA, and return over the same route(s), (14) Between Birmingham, AL, and Dallas, TX, serving all intermediate points in LA, and TX, from Birmingham, AL, over Interstate Highway 20 (also over U.S. Highway 80 from Vicksburg, MS) to Dallas, TX, and return over the same route(s), (15) between Dallas, TX, and Fort Worth, TX, serving all intermediate points from Dallas, TX, over U.S. Highway 80 (also over Interstate Highway 30), to Fort Worth, TX, and return over the same route(s), (16) between Fort Worth, TX, and Amarillo, TX, serving all intermediate points from Fort Worth, TX, over U.S. Highway 287 to Amarillo, TX, and return over the same route(s), (17) between Memphis, TN, and Amarillo, TX, serving all intermediate points and off-route points of Laketon, Mobeetie and Wheeler, TX from Memphis, TN, over Interstate Highway 40 to Amarillo, TX and return over the same route(s), (18) between Austin, TX, and Giddings, TX, serving all intermediate points from Austin, TX, over U.S. Highway 290 to Giddings, TX, and return over the same route(s), (19) between Dallas, TX, and San Antonio, TX, serving all intermediate points from Dallas, TX, over U.S. Highway 77 to Hillsboro, TX, thence over U.S. Highway 81 (also over Interstate Highway 35E and 35) to San Antonio, TX, and return over the same route(s), (20) between Fort Worth, TX, and Houston, TX, serving all intermediate points from Fort Worth, TX, over U.S. Highway 81 to Waco, TX, thence over U.S. Highway 77 to junction 290, thence over U.S. Highway 290 to Houston, TX (also from Waco to Hampstead over Texas Highway 6), thence as above, (21) between Dallas, TX, and Houston, TX, serving all intermediate points from Dallas, TX, over Interstate Highway 45 (also over U.S. Highway 75), to Dallas, TX, and return over the same route(s), (22) between Wichita Falls, TX and San Antonio, TX, serving all intermediate points from Wichita Falls, TX, over U.S. Highway 281 to San Antonio, TX, and return over the same route(s), (23) between San Antonio, TX, and New Orleans, LA, serving all intermediate points from San Antonio, TX, over Interstate Highway 10 to New Orleans, LA, (also over U.S. Highway 90 to Iowa, LA, thence over U.S. Highway 165 to Kinder, LA, thence over U.S. Highway 190 to Baton Rouge, LA, thence over U.S. Highway 61 to New Orleans), and return over the same route(s), (24) between Houston, TX, and Texarkana, AR–TX, serving all intermediate points from Houston, TX, over U.S. Highway 59 to Texarkana, AR–TX, and return over the same route(s), (25) between Dallas, TX and Little Rock, AR, serving all intermediate points and the off-route points of Texarkana, AR–TX, and the plant sites of the Lone Star Shell Loading Plant and the Red River Ordnance Depot of Texas, Jones Mill and Aluminum City, AR, and the Jones Mill Works of the Aluminum Company of America and power plants in connection therewith, near Malvern, AR, from Dallas, TX, over Interstate Highway 30 (also over U.S. Highway 67), to Little Rock, AR, and return over the same route(s) (26) between Dallas, TX, and Rockwell, TX, serving all intermediate points from Dallas, TX, over Interstate Highway 30 to its junction with Texas Highway 205, thence over Texas Highway 205 to Rockwall and return over the same route(s) (27) between Texarkana, AR–TX, and Henrietta, TX, serving all intermediate points from Texarkana, AR–OK, over U.S. Highway 82 to Henrietta and return over the same route(s) (28) between Texarkana, AR–TX, and Shreveport, LA, serving all intermediate points and the off-route points of Barksdale Field, Bossier City, Cedar Grove and Juwella, LA, from Texarkana, AR–TX, over U.S. Highway 71 to Shreveport and return over the same route(s) (29) between Fort Worth, TX, and Denton, TX, serving all intermediate points from Fort Worth over Interstate Highway 35W and return over the same route (30) between Oklahoma City, OK, and Wichita Falls, TX, serving all intermediate points from Oklahoma City, OK, over U.S. Highway 277 to Wichita Falls, TX, (also over the Oklahoma H.E. Baily Turnpike to OK–TX State Line, thence over U.S. Highway 277 to Wichita Falls, TX), (31) between Oklahoma City, OK, and Dallas, TX, serving all intermediate points from Oklahoma City, OK, over U.S. Highway 77 to Dallas, TX, and return over the same route(s) (32) between Tulsa, OK, and Dallas, TX, serving all intermediate points from Tulsa, OK, over U.S. Highway 75 to Dallas, TX, and return over the same route(s), (33) between Gillian, LA, and Mail Box, LA, serving all intermediate points from Gillian over LA Highway 992 to Mail Box, LA, and return over the same route(s), (34) between Vernon, TX and Victory Field, TX, serving all intermediate points from Vernon over U.S. Highway 183 to junction unnumbered highway (approximately five miles from Vernon), thence over unnumbered highway to Victory Field and return over the same route(s), (35) between San Antonio, TX, and Randolph Air Field, TX, serving all intermediate points from San Antonio over U.S. Highway 81 to junction Texas Highway 218, and thence over Texas Highway 218 to Randolph Air Field and return over the same route(s), (36) between San Antonio, TX and Camp Bullis, TX, serving all intermediate points from San Antonio over U.S. Highway 87 to Camp Bullis and return over the same route(s), (37) betwen San Antonio, TX, and Camp Stanley, TX, serving all intermediate points from San Antonio over U.S. Highway 87 to Camp Stanley and return over the same route(s), (38) between Wichita Falls, TX, and Sheppard Field, TX, serving all intermediate points from Wichita Falls over U.S. Highway 277 to junction unnumbered county road, thence over unnumbered couty roads to Sheppard Field and return over the same route(s), (39) between Wichita Falls, TX, and Wichita Falls Airport, TX, (Kelly Field), serving all intermediate points from Wichita Falls over U.S. Highway 277 to junction unnumbered county road, thence over unnumbered county roads to Wichita Falls Airport, and return over the same route(s), (40) between Vernon, TX, and Vernon Airport, TX, serving all intermediate points from Vernon over Texas Highway 23 to junction U.S. Highway 283, thence over U.S. Highway 283 to junction unnumbered highway, and thence over unnumbered Highway to Vernon Airport, and return over the same route(s) (41) between Bowie, TX, and Lawton, OK, serving all intermediate points from Bowie, TX, over U.S. Highway 81 to junction Oklahoma Highway 7, and thence over Oklahoma Highway 7 to Lawton, OK, and return over the same route(s), (42) between Memphis, TN, and New Orleans, LA, serving all intermediate points in LA, from Memphis, TN, over Interstate Highway 55 to its junction with Interstate Highway 10, thence over Interstate Highway 10 to New Orleans and return over the same route(s), (43) between Little Rock, AR and New

Orleans, LA, serving all intermediate points from Little Rock, AR, over U.S. Highway 65 to its junction with U.S. Highway 84 at Ferriday, LA, thence over U.S. Highway 84 to its junction with U.S. Highway 61 at Natchez, MS, thence over U.S. Highway 61 to New Orleans, LA, (44) between Little Rock, AR, and West Monroe, LA, serving all intermediate points from Little Rock over U.S. Highway 65 to its junction with U.S. Highway 165, thence over U.S. Highway 165 to Monroe, LA, thence over U.S. Highway 80 to West Monroe, LA, (45) between Lake Village, AR, and Greenville, MS, serving all intermediate points from Lake Village over U.S. Highway 82 to Greenville and return over the same route(s), (46) between New Orleans, LA, and Monroe, LA, serving all intermediate points from New Orleans over U.S. Highway 61 to Natchez, MS, thence over U.S. Highway 84 to Ferriday, LA, thence over U.S. Highway 65 to Clayton, LA, thence over Louisiana Highway 15 to Monroe, and return over the same route(s), (47) between Birmingham, AL, and Memphis, TN, serving no intermediate points from Birmingham, AL, over U.S. Highway 78 to Memphis, TN, and return over the same route(s), (48) between Birmingham, AL, and Greenville, MS, serving no intermediate points from Birmingham, AL, over Interstate Highway 59 to its junction with U.S. Highway 82 near Tuscaloosa, AL, thence over U.S. Highway 82 to Greenville, MS, and return over the same route. Serving all the commercial zones of all points and places named above as well as serving all points and places in the following counties of North Carolina, as off-route points: Aalmance, Alexander, An[illegible]n, Cabarrus, Catawba, Davie, Davidson, Durham, Edgecombe, Forsyth, Gaston, Greene, Guilford, Iredell, Johnston, Lenoir, Lincoln, Mecklenburg, Montgomery, Nash, Orange, Pitt, Randolph, Rockingham, Rowan, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, Wilson and Yadkin; and the following Louisiana Parishes of Ascension, Assumption, Avoyelles, Caldwell, Catahoula, Concordia, East Baton Rouge, East Carroll, East Feliciana, Franklin, Grant, Iberville, Jefferson, Johnson, La Salle, Lincoln, Livingston, Madison, Morehouse, Ouachita, Plaquemines, Pointe Coupee, Rapides, Richland, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Tammany, Tangiphahoa, Tensas, Union, Washington, West Baton Rouge, West Carroll, West Feliciana, Winn, as off-route points in connection with the authority sought herein.

Applicant proposes to tack the authority sought herein at various points including Oklahoma City, OK; Little Rock, AR; Memphis, TN; Washington, D.C.; Lexington, KY; Knoxville, TN; Atlanta, GA; Columbus, OH; and Birmingham, AL, among others. These authorities, in turn, will be tacked with other authorities to provide service throughout applicant's operating territory. An underlying ETA seeks 120 days authority. There are over 1,000 statements of support attached.

MC 120364 (Sub-4–7TA), filed August 13, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *General commodities (except those of unusual value, dangerous articles, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, frozen foods, motor vehicles, and farm equipment and supplies).* Between Dane County, WI, on the one hand, and, on the other, points in the Chicago, IL commercial zone and points within IL bounded by a line beginning at the IL-WI state line and extending southerly on IL Hwy 78, then to junction with IL Hwy 88, then on IL Hwy 88 to junction with IL Hwy 92, then easterly on IL Hwy 92 to junction with U.S. Hwy 34, then easterly on U.S. Hwy 34 to junction with IL Hwy 59, then northerly on IL Hwy 59 to junction with IL Hwy 83, then over IL Hwy 83 to the IL-WI state line, then west of the state line to the place of the beginning, including the IL points outside said geographic area of Des Plains, Mt. Prospect, Palatine, Arlington Heights, Elizabeth, Savanna, Mundelein, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, Galena, and Scales Mounds, IL. An underlying ETA seeks 90 days authority. There are 16 supporting shippers.

MC 105045 (Sub-4–8TA), filed August 13, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, Vice President (same as above). *Fireplace Coal in 7 lb. bags, 20 lb. buckets and 30 lb. boxes on pallets as well as supplies and equipment used in the processing and manufacturing of this commodity* between Hurricane (Putnam County), WV on the one hand, and, on the other all points in the U.S. (except AK and HI). An underlying ETA seeks 30 days authority. Supporting shipper: Candle Rock Corp of America, Hurricane, WV 25526.

MC 145437 (Sub-4–4TA), filed August 13, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Avenue, Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract;* Irregular; *Meters, parts and accessories thereto* between Milwaukee, WI; Atlanta, GA; Dallas, TX; Los Angeles, CA; and Nogales, AZ. Restriction: Restricted to a service to be performed under a continuing contract(s) with Badger Meter, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Badger Meter, Inc., 4545 West Brown Deer Road, Milwaukee, WI.

MC 76266 (Sub-4–6TA), filed August 13, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such commodities as are dealt in by retail, discount or department stores* (except commodities in bulk), between the facilities of Ideal Security Hardware Corporation and all points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Ideal Security Hardware Corporation, 215 East Ninth Street, St. Paul, MN 55101.

MC 145974 (Sub-4–2TA), filed August 12, 1980. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract:* Irregular: *Lumber and wood products* from points in WA, OR, ID and MT to points in ND, SD, and MN under contract(s) with Frank E. Villaume Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Frank E. Villaume Lumber Company, P.O. Box 16305, St. Paul, MN 55116.

MC 145195 (Sub-4–5TA), filed August 11, 1980. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58047. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58502. *Non alcoholic beverages, materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between points in the U.S. restricted to the transportation of traffic originating at or destined to the facilities of Shasta Beverages, Inc., for 270 days. Supporting shipper(s): Shasta Beverages, Inc., 4685 Buzick Drive, Columbus, OH 43207.

MC 4483 (Sub-4–2TA), filed August 13, 1980. Applicant: MONSON TRUCKING, INC., R.R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Lumber, woodpulp, newsprint, wrapping paper and paper products,* from the port of entry between the U.S. and Canada located at or near International Falls, MN to points in IL, IN, IA, KS, KY, MI,

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MO, MN, NE, ND, SD, OH and WI. An underlying ETA seeks authority for 120 days. There is one supporting shipper: Great Lakes Forest Products Limited, Box 430, Thunder Bay, Ontario P7C 4W3.

MC 145529 (Sub-4–1TA), filed August 13, 1980. Applicant: ROBERT STEEN d.b.a. STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Claude Stewart, S.D. Transport Services, Inc., P.O. Box 480, Sioux Falls, SD 57101. *(1) Lumber and wood products, and (2) bentonite in bulk and bags,* (1) from that portion of SD lying west of the Missouri River and Hulett, WY, to points in CO, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NM, OH, OK, PA, TX, WI and WY, (2) from Belle Fourche, SD, and Colony, WY to points in CO, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NM, OH, OK, PA, TX, WI and WY. Supporting shippers: Livestock Energy Systems, P.O. Box 37, Whitewood, SD 57793, Devil's Tower Forest Products, Box 218, Hulett, WY 82720.

MC 57239 (Sub-4–1TA), filed August 13, 1980. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Indianapolis, IN and Terre Haute, IN, serving all intermediate points: From Indianapolis over U.S. Hwy 40 to Terre Haute, IN and Evansville, IN, serving all intermediate points: From Terre Haute over U.S. Hwy 41 to Evansville, and return over the same route; (3) between Indianapolis, IN and South Bend, IN, serving all intermediate points: From Indianapolis over U.S. Hwy 31 to South Bend, and return over the same route; (4) between Fort Wayne, IN and Elkhart, IN, serving all intermediate points: From Fort Wayne over U.S. Hwy 33 to Elkhart, and return over the same route; (5) between Fort Wayne, IN and Terre Haute, IN, serving all intermediate points: From Fort Wayne over U.S. Hwy 24 to junction IN Hwy 25, then IN Hwy 25 to junction U.S. Hwy 52, then U.S. Hwy 52 to junction U.S. Hwy 41, then U.S. Hwy 41 to Terre Haute, and return over the same route; (6) between junction U.S. Hwy 41 and IN Hwy 63 and Terre Haute, IN, serving all intermediate points: From junction U.S. Hwy 41 and IN Hwy 63 over IN Hwy 63 to Terre Haute, and return over the same route; (7) between Indianapolis, IN and Lafayette, IN, serving all intermediate points: From Indianapolis over U.S. Hwy 52 to Lafayette, and return over the same route; (8) between Indianapolis, IN and Vincennes, IN, serving all intermediate points: From Indianapolis over IN Hwy 67 to Vincennes, and return over the same route; also from Indianapolis over IN Hwy 37 to junction U.S. Hwy 150, then U.S. Hwy 150 to Vincennes, and return over the same route; (9) between Columbus, IN and Terre Haute, IN, serving all intermediate points: From Columbus over IN Hwy 46 to junction IN Hwy 59, then IN Hwy 59 to junction U.S. Hwy 40, then U.S. Hwy 40 to Terre Haute, and return over the same route; (10) between Attica, IN and Lafayette, IN, serving all intermediate points: From Attica over IN Hwy 28 to junction IN Hwy 25, then IN Hwy 25 to Lafayette, and return over the same route; (11) between South Bend, IN and Cleveland, OH, serving all intermediate points: From South Bend over U.S. Hwy 20 to Cleveland, and return over the same route; (12) between Indianapolis, IN and Cleveland, OH, serving all intermediate points: From Indianapolis over U.S. Hwy 40 to junction I–71, then I–71 to Cleveland, and return over the same route; (13) between Indianapolis, IN and Danville, IL, serving all intermediate points: From Indianapolis over U.S. Hwy 136 to Danville, and return over the same route; (14) between Sturgis, MI and Lagrange, IN, serving all intermediate points: From Sturgis over MI Hwy 78 to the MI–IN State Line, then over IN Hwy 9 to Lagrange, and return over the same route; (15) serving Akron, OH as an off-route point in connection with carrier's regular route operations; (16) serving Owensboro, KY as an off-route point in connection with carrier's regular route operations. Supporting shippers: There are no supporting shippers.

Note.—Applicant intends to tack and interline.

MC 111812 (Sub-4–9TA), filed August 13, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of size or weight),* between points in IL, IN, IA, MN, MO, NE, SD and WI; restricted to the transportation of traffic moving to, from or between the facilities of or utilized by Minnesota Mining and Manufacturing Company or its wholly owned subsidiaries. Supporting shipper: 3M Company, 3M Center, Transportation Department 224–1E, St. Paul, MN 55144.

MC 138432 (Sub-4–3TA); filed August 13, 1980. Applicant: GARLAND GEHRKE, 1800 N. Jefferson St., Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Electronic and electrical products; plastic articles; and materials and supplies used in the manufacture, sale, and distribution of such products,* between Bloomington, IN and Indianapolis, IN, on the one hand, and the states of IL, KS, MA, MO, FL, PA, and TX, on the other hand. Shipper: RCA Corporation, Building 204–2, Route 38, Cherry Hill, NJ 08358.

MC 135152 (Sub-4–12TA); filed August 13, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030. *Household products and related articles* from Chicago, IL to all points in the U.S. except AL and HI. Supporting shipper: Drackett Company, 5020 Spring Grove Avenue, Cincinnati, OH 45232.

MC 133314 (Sub-4–1TA); filed August 6, 1980. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between the facilities of Emhart Industries, Inc. and its division and customers located in N. Tonawanda, NY; Edison, NJ; Cicero, IL; Sparta and Waynesboro, TN; Huntsville, AL; Glasgow, KY; Everett, MA; and Indianapolis, IN. Supporting shipper: P.R. Mallory & Co., Inc., 3029 E. Washington, St., Indianapolis, IN 46206.

MC 143002 (Sub-4–7TA); filed August 14, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *General commodities (except household goods as defined by the Commission and class A and B explosives)* between Grand Rapids, MI, on the one hand, and, on the other, various points in the U.S. pursuant to continuing contract(s) with American Seating Company. Supporting shipper: American Seating Company, 901 Broadway Ave. NW., Grand Rapids, MI 49504.

MC 148665 (Sub-4–2TA); filed August 14, 1980. Applicant: CFS CONTINENTAL TRANSPORTATION CO., 2550 North Clybourn Avenue, Chicago, IL 60614. Representative:

Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Contract, irregular; General commodities,* from the facilities of Western Freight Association at New York, NY and Pittsburgh, PA to the facilities of Western Freight Association at Chicago, IL. Supporting shipper: Western Freight Association, 3336 San Fernando Rd., Los Angeles, CA 90065.

MC 145437 (Sub-4–5TA), filed August 14, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Contract carrier,* Irregular routes: *Wearing apparel* from Chicago, IL and points in the Chicago, IL commercial zone to Detroit, MI; New York City, NY; and Washington, D.C. Restriction: Restricted to service performed under a continuing contract(s) with Schaffner & Marx Clothes. An underlying ETA seeks 120 days authority. Supporting shipper: Hart Schaffner & Mark Clothes, 36 South Franklin Street, Chicago, IL.

MC 143291 (Sub-4–2TA), filed August 14, 1980. Applicant: RAYLS BROS. TRANSFER, INC., Box 342, North Dixie Highway, Hoopeston, IL 60942. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Foodstuffs,* from Milford, IL to points in IN, IA, KY, MO, MI, OH, TN, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Milford Canning Company, P.O. Box 27, Milford, IL 60953.

MC 124511 (Sub-4–2TA), filed August 14, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Coal,* between points in MO, OK, IA, and IL. Supporting shipper: Wyoming Fuel Company P.O. Box 15265, Lakewood, CO 80215.

MC 126346 (Sub-4–14TA), filed August 14, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023. Wausau, WI 54401. Representative: Elaine M. Conway 10 S. Lasalle St., Chicago, IL 60603. *Contract, irregular: Such commodities as are dealt in or used by manufacturers of heating and cooling equipment,* between points in the U.S., under continuing contract with Lux Air, Inc. Supporting shipper: Lux Air, Inc. 301 Filbert St., Elyria, OH 44036.

MC 146628 (Sub-4–3TA), filed August 14, 1980. Applicant: HUNT SUPER SERVICE, INC., P.O. Box 270, Bradley, IL 60915. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract: Irregular: *Household appliances, luggage, out-door power equipment, lawn and garden tractors, garden tillers, attachments for tractors and tillers, chain saws, snow removal equipent, accessories and parts for said commodities, goods, materials and supplies used in the manufacture and distribution of said commodities,* between points in the U.S. under continuing contract(s) with Roper Corporation of Kankakee, IL. Supporting shipper: Roper Corporation, Broadway & Schuyler Ave., Bradley, IL 60915.

MC 147636 (Sub-4–3TA), filed August 14, 1980. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, Illinois 62420. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Food, food products, food ingredients, soybean products and materials and supplies used in the sale, distribution and manufacture of such commodities,* between Decatur, IL on the one hand, and, on the other, points in the U.S. west of WI, IL, KY, TN, and MS. An underlying ETA seeks 120 days authority. Supporting shipper: Archer Daniels Midland, 4666 Farris Parkway, Decatur, IL 62525.

MC 150944 (Sub-4–1TA), filed August 14, 1980. Applicant: BIG FOOT. INC., 410 Library Lane, Streamwood, IL 60103. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *China and houseware items (except household goods),* between Chicago Commercial Zone, on the one hand, and, on the other, points in U.S. (except AK and HI). Restricted to shipments originating or terminating at the facilities of Johann Haviland China Corporation, Des Plaines, IL. Supporting shipper: Johann Haviland China Corporation, 2200 S. Mt. Prospect Rd., Des Plaines, IL 60016.

MC 111375 (Sub-4–2TA), filed August 14, 1980. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: James A. Matras (same address as applicant). *Cake flour* from Ogden, UT to the facilities of Beatrice Foods Company at Beloit, WI. Supporting shipper: Beatrice Foods Company, 525 Cross Street, Beloit, WI 53511.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 59117 (Sub-5–3TA), filed August 11, 1980. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615—East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Foundary materials,* in bulk, from St. Louis, MO to Mayes County, OK. Supporting shipper: Pryor Foundry Incorporated, P.O. Box 549, Pryor, OK 74361.

MC 67234 (Sub-5–6TA), filed August 11, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. *Bed springs, in cartons,* from Lafayette, GA to points in NJ. Supporting shipper: Flex A Bed, Inc., 15107 S. Main St., Gardena, CA 90248.

MC 67234 (Sub-5–7TA), filed August 11, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. *Store fixtures, uncrated,* between Los Angeles, CA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI, WA, OR, NV, AZ, ID, MT, WY, CO, NM, and UT). Supporting shipper: Pacific Fixture Company, Inc., 1421 South Main St., Los Angeles, CA 90015.

MC 98614 (Sub-5–5TA), filed August 11, 1980. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Petroleum and petroleum products, in bulk,* between Union County, AR, on the one hand, and, on the other, points in MS. Supporting shipper: South Central Oil Company, 5959 West Loop South, Bellaire, TX 77401.

MC 112713 (Sub-5–11TA), filed August 11, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand, P.O. Box 7270, Overland Park, KS 66207. Common; Regular. *General Commodities (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment),* (1) between Fort Smith, AR and Memphis, TN, from Fort Smith over U.S. Hwy 64 to junction U.S. Hwy 65, then over U.S. Hwy 65 to Little Rock, AR, then over U.S. Hwy 70 to Memphis, and return over the same route serving all intermediate points and the off-route points of Jacksonville, Hot Springs, Benton, Searcy, Stuttgart, Bauxite and Ashdown, AR. (2) Between Dallas, TX and Little Rock, AR, over U.S. Hwy 67 serving the intermediate point of Texarkana, TX, and the off-route points of the Red River Army Depot and Lone Star Ammunition Depot, at or near Texarkana, TX. (3) Between Little Rock, AR and Springfield, MO over U.S. Hwy 65 as an alternate route for operating convenience only serving no intermediate points. (4) Between Oklahoma City, OK and Ft. Smith, AR over Interstate Hwy 40 as an alternate route for operating convenience only, serving no intermediate points, but serving the junction of Interstate Hwy 40 and U.S. Hwy 69 as a point of joinder only. Restriction: Said operations shall not be used to transport shipments between points in AR, on the one hand, and, on the other, points in AR, TN, St. Louis, MO, Texarkana, TX, Oklahoma City, OK and Shreveport, LA. On routes (1) and (2) above, applicant desires to serve all intermediate points and their commercial zones. Applicant intends to tack the authority sought with its authority in MC-112713. Supporting shippers: Yoder Mfg. Co., 1823 East 17th, Little Rock, AR 72219; A F Enterprises Inc., I-30 and Nash Exit, P.O. Box 5984, Texarkana, TX 75501; Globe-Union Inc., Route 12, Box 664, Texarkana, AR 75501; Rockwell International Inc., P.O. Box 5337, 30 Globe Avenue, Texarkana, AR 75501; Farwell, Ozmun, Kirk and Company, 411 Farwell Ave., So. St. Paul, MN 55075.

MC 112713 (Sub-5-12TA), filed August 11, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. *Transportation equipment*, between Arlington, TX, and points in the United States. Supporting shipper: Shoreline Trailer Sales, Inc., 912 W. Mayfield, Arlington, TX 76015.

MC 114890 (Sub-5-6TA), filed August 11, 1980. Applicant: COMMERICAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. Contract; Irregular. *Chemicals and petroleum products, in bulk, in tank vehicles*, (1) from the facilities of TransChemical, Incorporated at St. Louis, MO, to points in MO, IN, IL, KY, TN, MS, IA, KS, AR, Grand Island, NE; (2) from Louisville, KY and the facilities of Sun Petroleum Products Co. at Toledo, OH, to Louisville and Russellville, KY, and the facilities of TransChemical, Incorporated at St. Louis, MO; and (3) from the facilities of Inland Chemical Company at or near New Castle, KY, to the facilities of TransChemical, Incorporated at St. Louis, MO, under continuing contracts with TransChemical, Incorporated of St. Louis, MO. Supporting shipper: TransChemical, Incorporated, 419 East DeSoto Avenue, St. Louis, MO 63147.

MC 117119 (Sub-5-22TA), filed August 11, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Drugs, toilet preparations, store display racks and merchandise used in the sale and promotions thereof (except in bulk)* from the facilities of Plough, Inc. in Shelby County, TN to points in CA, AZ, OR, WA, NV, NM, CO and UT. Supporting shipper(s): Plough, Inc., 3030 Jackson Avenue., Memphis, TN 38151.

MC 117119 (Sub-5-23TA), filed August 11, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Plastic and rubber materials* from Troutdale, OR to Meridian, ID. Supporting shipper(s): Northwest Pillow Products, Inc., 202 East Bower, Meridian, ID 83642.

MC 118292 (Sub-5-3TA), filed August 11, 1980. Applicant: BALLENTINE PRODUCE, INC., P.O. Box 454, Alma, AR 72921. Representative: Barry Roberts, 888 17th Street, N.W., Washington, D.C. 20006. *Folding Cartons* from, Forth Smith, AR to points in the U.S., except AK and HI. Supporting shipper: Universal Packaging Corporation, P.O. Box 918, Concord, NH 03301.

MC 119493 (Sub-5-38TA), filed August 11, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin MO 64801. *Household appliances, parts and accessories for household appliances, TV sets, recorders (tape or wire) parts and accessories for recorders, and materials and supplies used in the manufacture and distribution of all the above (except in bulk)* Between: Pulaski County, AR on the one hand and: KY, LA, MS, NM, OK, TX, and VA on the other hand. Supporting shipper: Michael A. Roan, Supervisor-Transportation Services, General Electric Company, 6901 Lindsey Road, Little Rock, AR 72206.

MC 126118 (Sub-5-24TA), filed August 11, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in or used by manufacturers of filters and filtering equipment*, between points in OK, on the one hand, and, on the other, points in GA, IL and IN. Supporting shipper: Perry Filter, Inc., Leonard Bruce, Purchasing Agent, 6420 So. Air Depot, Oklahoma City, OK 73115.

MC 128273 (Sub-5-20TA), filed August 11, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Such commodities as are used or dealt in by manufacturers and distributors of non-alcoholic beverage mixes, suaces and condiments, (except in bulk, in tank vehicles)*, between Collinsville, IL, and Iberia Parish, LA, on the one hand, and, on the other, points in the United States, restricted to traffic originating at or destined to the facilities of McIlhenny Company. Supporting shipper: McIlhenny Company, Avery Island, LA 70513

MC 128273 (Sub-5-21TA), filed August 11, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Such commodities as are used or dealt in by manufacturers and distributors of diatomite*, from Lompoc, CA, to points in the United States (except AK and HI). Supporting shipper: Southwest Chemical & Plastics Co., P.O. Drawer 478, Seabrook, TX 77586.

MC 136275 (Sub-5-2TA), filed August 11, 1980. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Blvd., El Paso, TX 79922. Representative: Dann L. Drewry, 777 Executive Blvd., El Paso, TX 79922. *Granular Abrasive Materials, in bulk, in Pnuematic Equipment* from El Paso, TX to Farmington, NM, Joseph City and the Palo Verde Generating Plant, AZ near Wintersburg, AZ. Supporting shipper: Apache Abrasives, Houston, TX.

MC 138627 (Sub-5-1TA), filed August 11, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC, P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Iron and steel articles.* From Chicago, IL and its Commercial Zone to Cowley County, KS. Supporting shipper: Morton Buildings, Inc., P.O. Box 649, Winfield, KS 67156.

MC 142431 (Sub-5-3TA), filed August 11, 1980. Applicant: WAYMAR TRANSPORT CORP., 1755 S.E. 106th Street, Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Materials and supplies used in the business of Chem/Serv, Inc.* from Muskegan, MI; Nashua, NH; Chicago, Joliet and Jerseyville, IL; Atlanta, GA; St. Louis, MO; Ft. Worth and Dallas, TX and Indianapolis, IN, to Minneapolis, MN; Chicago, IL and Appleton, WI. Supporting shipper: Chem/Ser, Inc., 207 N.E. 6th Street, Minneapolis, MN 55413.

MC 142672 (Sub-5-13TA), filed August 11, 1980. Applicant: DAVID BENEUX

PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Stainless Steel Tubing and Parts, Materials, and Supplies used in the manufacture thereof*—Between the facilities of Greenville Tube Corporation, at or near Clarksville, AR, on the one hand, and, on the other, points in CA, LA, NJ, NY, OK, OH, PA and TX. Supporting shipper: Greenville Tube Corporation, Post Office Box 550, Clarksville, AR 72830.

MC 146055 (Sub-5-3TA), filed August 11, 1980. Applicant: JOHN H. SCHUEMAN and DENNY SCHUEMAN, d.b.a., DOUBLE "S" TRUCK LINE, 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Bldg., Suite 210B, 7363 Pacific St., Omaha, NE 68114. *Pork, and pork offal,* from the facilities of Western Iowa Pork, Harlan, IA to New Orleans, LA. Supporting shipper: Western Iowa Pork, Harlan, IA 51537.

MC 146055 (Sub-5-4TA), filed August 11, 1980. Applicant: JOHN H. SCHUEMAN and DENNY SCHUEMAN, d.b.a., DOUBLE "S" TRUCK LINE, 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Bldg., Suite 210B, 7363 Pacific St., Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Omaha Porkers, Inc., Omaha, NE to points in MI, OH, FL, WI, IL, MN, IA, MO, KS, TX, WA, OR, and CA. Supporting shipper: Omaha Porkers, Inc., P.O. Box 7366, Omaha, NE 68107.

MC 146078 (Sub-5-15TA), filed August 11, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Candy and confectionary items and nuts,* between the facilities of the California Peanut Company at or near Richmond and Los Angeles, CA, to all points and places in the United States (except AK and HI). Supporting shipper: California Peanut Company, a Division of A. Nut House, a Subsidiary of MEI Corporation, P.O. Box 157 Point Station, Richmond, CA 94807.

MC 147388 (Sub-5-4TA), filed August 11, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC. R. R. 1, Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501. *(1) Glass bottles and (2) malt beverages* (1) from Muskogee and Sapulpa, OK, and points in their commercial zones to the facilities of Keenan's Beverages, Inc., at or near Kearney, NE and (2) from San Antonio, TX and point in its commercial zones to the facilities of Keenan's Beverages, Inc., at or near Kearney, NE. Supporting shipper: Keenan's Beverages, Inc., Box 398, Kearney, NE 68847.

MC 147689 (Sub-5-2TA), filed August 11, 1980. Applicant: MEL MOTOR EXPRESS. INC., P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon III, 122 E. Queens Dr., Slidell, LA 70458. Contract; Irregular. *Carbonated Beverages, Cans, Components, Containers, Materials and Supplies,* from Coca Cola Bottling Company, New Orleans, LA and Baton Rouge Coca Cola bottling Company located in Baton Rouge, LA to points in AL, AR, LA, MS, TN, IL, IN, MO, GA, SC, NC, and VA, and return of materials and supplies. Restricted against bulk and for the account of Coca Cola Bottling Company, New Orleans, LA and Baton Rouge Coca Cola Bottling Company, Baton Rouge, LA. Supporting shipper: Coca Cola Bottling Company, New Orleans, LA and Baton Rouge Coca Cola Bottling Company Baton Rouge, LA.

MC 150088 (Sub-5-6TA), filed August 11, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, Phinney, Hallman, Pully & Coke, 4555 First National Bank Building, Dallas, TX 75202. *Household appliances as specified in STCC Group 36-3 and air conditioner units as specified in STCC Group 35-85 and television receiving sets and stands* from Pulaski County, AR to points in TX and OK. Supporting shipper: General Electric Company, 6901 Lindsey Road, Little Rock, AR 72206.

MC 150376 (Sub-5-5TA), filed August 11, 1980. Applicant: C & M CARTAGE CO., INC., 1911 NW. 1st St., Oklahoma City, OK 73106. Representative: Thomas J. Seiter, 401 Ridge Rd., Edmond, OK 73034. *Carpeting, Carpet Padding, Rugs, Yarn, and Equipment, Materials, and Supplies used in the production and distribution of Carpeting, Carpet Padding, Rugs, and Yarn, (except commodities in bulk),* between Anadarko, OK on the one hand, and points in CO and TX on the other. Supporting shipper: Hollytex Carpets, Inc., Anadarko, OK.

MC 151023(Sub-5-2TA), filed August 11, 1980. Applicant: TRANS-AMERICAN TRUCK LINES, INC., P.O. Box 516, Amite, LA 70422. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. *Contract:* Irregular: *Lumber, lumber products and forest products* between Livingston Parish, LA on the one hand, and, on the other, the 48 States, under a continuing contract with Crown Zellerbach Corporation, Holden LA. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 151024 (Sub-5-2TA), filed August 11, 1980. Applicant: VICO TRUCKING CO., P.O. Box 45, Tickfaw, LA 70466. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. *Contract:* Irregular: *Lumber, lumber products and forest products* between Livingston Parish, LA on the one hand, and, on the other, the 48 States, under a continuing contract with Crown Zellerbach Corporation, Holden LA. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 151228 (Sub-5-1TA), filed August 11, 1980. Applicant: EARL PICKENS, d.b.a. P & M TRUCKING, 740 Iowa Street, Norman, OK 73069. Representative: Michael H. Lennox, 7700 N. Broadway Extension, Oklahoma City, OK 73113. *Meat, meat products, and meat by-products and articles distributed by meat-packing houses as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* between KS, on the one hand, and, on the other, OK, TN, and TX. Supporting shipper: Hyplains Dressed Beef, Inc., Ft. Dodge Road, Dodge City, KS.

MC 151285 (Sub-5-2TA), filed August 11, 1980. Applicant: DON CRYDER, d.b.a. CRYDER TRUCK LINE, Route 3, Ames, IA 50010. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk).* From the facilities of Tama Meat Packing Corporation, at or near Tama, IA, to points in CA and CO. Supporting shipper: Tama Meat Packing Corporation, P.O. Box 209, Tama, IA 52339.

MC 151373 (Sub-5-1ETA), filed August 11, 1980. Applicant: SIGLIN TRUCKING, 401 Lake Street, Alta, IA 51002, William H. Siglin (owner). Representative: Willliam H. Siglin, 401 Lake Street, Alta, IA 51002. *50% Meat and bone meal and blood meal, in bulk, in hopper bottom trailers,* from Omaha, NE, to points and places in IA. Supporting shipper: The Pillsbury Company, Feed Ingredient Division, 7900 Xerxes Avenue South, Suite 700, Bloomington, MN 55431.

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MC 151379 (Sub-5-4TA), filed August 11, 1980. Applicant: T. J. KERVIN TRUCKING COMPANY, P.O. Box 48, Winnfield, LA 71483. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. Contract; Irregular: *Poles, Piling and Posts* between La Salle Parish, LA on the one hand, and on the other, the 48 states, under a continuing contract with Crown Zellerbach Corporation, Urania, LA. Supporting shipper: Crown Zellerbach Corporation; P.O. Box 1060, Bogalusa, LA 70427.

MC 151504 (Sub-5-1TA), filed August 11, 1980. Applicant: PHELCO, INC., 11841 Missouri Bottom Road, St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, 314-727-0777. *Pulp, Paper, or Allied Products,* between points and places in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NM, NY, NC, ND, OH, OK, SD, TN, TX, UT, VA, WI, and WY. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558.

MC 151513 (Sub-5-1TA), filed August 11, 1980. Applicant: JIM NICHOLS, 3012 NW., 70th, Oklahoma City, OK 73116. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. (1) *Wood cabinets* from Oklahoma City, OK to points in the U.S.; (2) *new furniture,* from points in the U.S. to Oklahoma City, OK; (3) *new furniture,* from Tulsa and Oklahoma City, OK to points in the U.S.; and (4) *materials and supplies (except commodities in bulk) used in the manufacture of wood cabinets and new furniture,* from points in the U.S. to Tulsa and Oklahoma City, OK. (Supporting shipper: Arch Mills Fixture & Supply Corp., 1001 Enterprise, Oklahoma City, OK 73128; Mathis Bros. Furniture Co., 3434 W. Reno, Oklahoma City, OK 73108; Keller Williams Furn. Mfg. Co., P.O. Box 14504, Oklahoma City, OK 73114).

MC 151515 (Sub-5-1TA), filed August 11, 1980. Applicant: PLAZA MOTORS, Junction Hwy. 30 and No. 1, Mt. Vernon, IA 52314. Representative: Richard P. Moore, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, IA 52406. *Used automobiles, pick-up trucks, and vans in truckaway service* between points in IA, on the one hand, and, on the other, points in CO, IL, IN, MN, MO, NE, OK, WI, and WY. Supporting shippers: 26 supporting shippers.

MC 61440 (Sub-5-6TA), filed August 13, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63d Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *General Commodities (except Household Goods as defined by the Commission and Classes A & B Explosives).* Between the facilities of Lily Division of Owens-Illinois, Inc., at or near Centerville (Holmdel Twp.), NJ; Bardstown, KY; Springfield, MO; Augusta, GA; Riverside, CA; and Toledo, OH on the one hand and on the other all points and places in the United States (except AK and HI). Restricted to shipments between the Lily facilities of Owens-Illinois, Inc. and points and places in the United States (except AK and HI). Supporting shipper: Lily Division of Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666.

MC 102567 (Sub-5-11TA), filed August 13, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, Vice President, Traffic, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Petroleum Products, in bulk, in tank vehicles,* from Webster Parish, LA to points in the U.S. (except AK & HI). Supporting shipper: Hyde Naphtha Company, P.O. Box 837, Marshall, TX 75670.

MC 108207 (Sub-5-22TA), filed August 13, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Plastic molding compounds, plastic granules, epoxy resins and molding compounds (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration,* from points in IL, LA, and WI, to points in AZ, AR, CA, IL, IN, IA, KS, KY, LA, MI, MN, KS, MO, ND, NE, NV, NM, OH, OK, SD, TX, UT, WI, and Memphis, TN, restricted to traffic originating at or destined to the facilities of Morton Chemical. Supporting shipper: Morton Chemical, a Division of Morton Norwich, 1275 Lake Ave., Woodstock, IL.

MC 119789 (Sub-5-28TA), filed August 13, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas Tx 75266. Representative: James K. Newbold, Jr. (same as applicant). *Transformers and parts (except commodities which due to size or weight require the use of special equipment)* from Pine Bluff, AR to AL, DE, GA, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NJ, NC, ND, OK, RI, SC, SD, TN, and WI. Supporting shipper: Central Moloney, Division of Colt Industries, Inc., P.O. Box 6188, Pine Bluff, AR 71601.

MC 124174 (Sub-5-18TA), filed August 13, 1980. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as above). *Rigid board insulation,* from Sanford, ME to NY, PA, OH, NH, VA, WV, NJ, CT, RI, MA, DE, MD, VT, and DC. Supporting shipper: N.R.G. Barriers, Inc., 61 Emery Street, Sanford, ME 04073.

MC 128709 (Sub-5-1TA), filed August 13, 1980. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Ft. Smith, AR 72902. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Common, regular *general commodities (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Little Rock, AR and Ft. Worth, TX from Little Rock to Ft. Worth over Interstate Hwy. 30 and return over the same route, serving the intermediate point of Dallas and serving the commercial zones of Little Rock, AR and Dallas and Ft. Worth, TX. Applicant intends to tack and interline. Supporting shippers: 48.

MC 135070 (Sub-5-24TA), filed August 12, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: GAILYN L. LARSEN, P.O. Box 82816, Lincoln, NE 68501. *Mayonnaise and salad dressing,* from Garden Grove and City of Industry, CA, to Grand Junction, Englewood, and Greeley, CO. Supporting shipper: Beatrice Foods Co., Ullrich Goroll, Western Transportation Coordinator, 4287 So. Eldridge, Morrison, CO.

MC 142857 (Sub-5-3TA), filed August 12, 1980. Applicant: MCC TRANSPORTATION CO. INC., Route 2, Box 107-B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L Street NW., Washington, DC 20036. Contract; irregular. *Bakery goods,* from the facilities of Safeway Stores, Inc. in Los Angeles County, CA to the facilities of Safeway Stores, Inc. in Maricopa County, AZ, under continuing contract(s) with Safeway Stores, Inc., of Oakland, CA. Supporting shipper: Safeway Stores, Inc., 5725 East 14th Street, Oakland, CA 94660.

MC 145183 (Sub-5-1TA), filed August 13, 1980. Applicant: R. L. LEE d.b.a. L & T TRUCKING COMPANY, INC., Route 2, Box 132 B, Keithville, La. 71047. Representative: Eleanor B. Lee (same address as applicant). *Cross ties, finished lumber, poles, pallets; roofing materials* and *plywood,* between all points in AR, TX, LA and MS. Supporting shipper: Bryant Forest Products, P.O. Box 4967, Shreveport, LA 71104; C. A. Reed Lumber Co., Inc., P.O. Box 267, Bernice, LA 71222.

MC 146360 (Sub-5-9TA), filed August 12, 1980. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 4415 Highline Blvd., Suite 107, Oklahoma City, OK 73148.

Representative: Timothy R. Stiver, P.O. Box 162, Boise, ID 83701. *Agriculture Chemicals,* between the facilities utilized by United Agri Products at or near Fresno and Sacramento, CA on the one hand, and, on the other, points in CO, ID, OR WA, and WY, Supporting shipper: United Agri Products, P.O. Box 9665, 4331 W. Santa Ana, Fresno, CA 93793.

MC 146494 (Sub-5-1TA), filed August 12, 1980. Applicant: BILL JACKSON RIG COMPANY, INC., 1813 S.E. 25th Street, Oklahoma City, OK 73143. Representative: Wm. L. Peterson, Jr., 1109 Colcord Building, 15 North Robinson, Oklahoma City, OK 73102. *Oilfield Equipment and supplies; iron and/or steel articles; other heavy and cumbersome materials,* between points in OK and TX. Supporting shipper: Vierson & Cochran, P.O. Box 19227, Oklahoma City, OK 73119; Trigg Drilling Co., P.O. Box 18605, Oklahoma City, OK 73118; Mercury Drilling Company, 1701 S.E. 25th St., Oklahoma City, OK 73143.

MC 149008 (Sub-5-1TA); filed August 13, 1980. Applicant: TRUCK LEASING, INC., P.O. Box 502, Cyril, OK 73069. Representative: Michael H. Lennox, 7700 North Broadway Extension, Oklahoma City, OK 73113. *Building materials; iron and steel articles,* between CO, IA, IL, KS, MO, NB, OK, TX. Supporting shipper: Steel & Pipe Supply Co., Inc., 2nd & Osage Sts., Manhattan, KS 66502.

MC 149026 (Sub-5-8TA); filed August 13, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *Lumber or wood products; except furniture,* between Watsontown, PA; Laurel, MS; Norman, OK; Springhope, NC; and Guthrie, OK, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Masonite Corporation, P.O. Box F, Laurel, MS 39440.

MC 149199 (Sub-5-1TA): filed August 13, 1980. Applicant: O. R. Miller d.b.a. FRONTIER EXPRESS, 932 S. W. Second, Oklahoma City, OK 73102. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Common, regular. *General Commodities, except household goods as defined by the Commission and Classes A and B explosives,* between Newkirk, OK and Winfield, KS (serving all intermediate points): From Newkirk, OK to Winfield, KS via U.S. Hwy 77, and return over the same route. Applicant intends to tack at Newkirk, OK with its presently held authority, and to interline at Winfield, KS. Supporting shipper: 10.

MC 151203 (Sub-5-2TA); filed August 12, 1980. Applicant: AZTEC TRUCKING, INC., 102 N. Sentry Drive, Mansfield, TX 76063. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. (1) *Truck trailers* from the facilities of Azetc Products, Inc. at or near Mansfield TX to AK, IA, NE, CO, OH, KS, ID, ND, WY, TX, WI, MT, AZ, MI, NC, UT, OR, and GA and (2) *materials equipment and supplies used in the manufacture and distribution of the commodities in (1) above,* in the reverse direction restricted in (1) and (2) to the traffic orginating at or destined to the named facilities. Supporting shipper(s): Aztec Products, Inc., 102 N. Sentry Drive, Mansfield, TX 76063.

MC 151314 (Sub-5-1TA); filed August 12, 1980. Applicant: B & W EXPRESS, Route 4—465, Sequin, TX 78155. Representative: Michael Wright, Route 4—Box 465, Sequin, TX 78155. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* Between San Antonio, TX and points in its commerical zone on the one hand, and, on the other, Houston, TX and its commerical zone, serving intermediate points between Houston, TX and San Antonio, TX. Restricted to traffic having a prior or subsequent movement by rail or water in trailer on flat car service or container on ship service. Applicant intends to interline. Supporting shippers: Handy Dan Home Improvement Center, Inc., 8507 Broadway, San Antonio, TX 78217; Burch Traffic Service, 10205 Oasis, San Antonio, TX 78216; INSCO, 2403 Freedom, San Antonio, TX 78217.

MC 151527 (Sub-5-1TA), filed August 13, 1980. Applicant: STEWART ENTERPRISES, INC., Route 4, Box 231A, Duncan, OK 73533. Representative: Michael H. Lennox, 7700 North Broadway Extension, Oklahoma City, OK 73113. Contract; irregular. *Chemicals,* between AR, IL, MO, OK, TN, TX. Supporting shipper: Sun Petroleum Products Company (a Division of Sun Oil Company of Pennsylvania), Duncan, OK 73533.

MC 2229 (Sub-5-7TA), filed August 15, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Common; regular. *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* serving the plantsite of Continental Carbon at Sheerin, TX as an off-route point in conjunction with carrier's authorized regular routes. Applicant intends to tack and interline. Supporting shipper: Continental Carbon, 4120 Southwest Freeway, Houston, TX 77027.

MC 13547 (Sub-5-5TA), filed August 15, 1980. Applicant: LEONARD BROTHERS TRANSPORT CO., INC., 1528 West 9th Street, Kansas City, MO 64101. Representative: Joe M. Lock, 1528 West 9th Street, Kansas City, MD 64101. Common—regular: *General commodities except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, articles in bulk and those requiring special equipment:* Between Kansas City, MO and Wichita, KS serving no intermediate points: (1) from Kansas City, MO over U.S. Hwy 24-40-I-70 to Topeka, KS, thence over U.S. Hwy I-35 to Wichita, KS and return over the same route. (2) From Kansas City, MO over U.S. Hwy I-35 to Wichita, KS and return over the same route for operating convenience only. Between Kansas City, MO and Hutchinson, KS serving no intermediate point: (1) From Kansas City, MO over U.S. Hwy 24-40 I-70 to Topeka, MO thence over U.S. Hwy I-35 to Wichita, KS, thence over U.S. Hwy 96 to Hutchinson, KS; return over the same route. (2) From Kansas City, MO over U.S. Hwy 24-40 I-70 to Salina, KS, thence over U.S. Hwys 81 and I-135 to Newton, KS, then return over U.S. Hwy 50 to Hutchinson, KS and return over the same route. Between Kansas City, MO and Omaha, NE serving no intermediate points: (1) From Kansas City, MO over U.S. Hwy I-29 to Omaha, NE and return over the same route. Applicant intends to interline. Supporting shipper: None.

MC 95084 (Sub-5-5TA), filed August 15, 1980. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Such commodities as are dealt in, or used by, Agricultural Equipment and Industrial Equipment Dealers and Manufacturers,* between points in the U.S. (except AK and HI), when moving from, to or between the facilities of Farmhand, Inc., its distributors, or dealers. Supporting shipper: Farmhand, Inc., 525 15th Avenue, North, Hopkins, MN 55343.

MC 99427 (Sub-5-4TA), filed August 14, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Sulfuric acid, in bulk, in tank vehicles,* from Milan, NM to points in AZ. Supporting shipper: Chemical Marketing Service, Suite 2501, Fourth National Bank Bldg., Tulsa, OK 74119.

MC 107496 (Sub-5–28TA), filed August 15, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Lubricating and cutting oils and solvents,* in bulk, from South Bend, IN to points in MI, OH, IL. Supporting shipper: Lubri-Service Corporation, P.O. Box 1283, South Bend, IN 46624.

MC 107496 (Sub-5–29TA), filed August 15, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Fly ash, in bulk,* from Alma, WI to points in WI, MN, and IA. Supporting shipper: Contech, Inc., 9500 W. Bloomington Freeway, Minneapolis, MN 55420.

MC 108207 (Sub-5–24TA), filed August 14, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, (same address as applicant). *Plastic film, in mechanically refrigerated equipment,* from Howell, MI, to points in AZ, CA, CO (on and east of the Continental Divide), and TX. Supporting shipper: VCF Packaging Films, Inc., 1100 Sutton Ave., Howell, MI 48843.

MC 108207 (Sub-5–25TA), filed August 15, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, (same address as applicant). *Foodstuffs,* from St. Louis, MO to Chicago, IL. Supporting shippers: Nu Wiles, Ltd., 12066 Lackland Rd., St. Louis, MO 63141; and Swiss American Importing Co., 4354 Clayton Ave., St. Louis, MO 63110.

MC 108207 (Sub-5–26TA), filed August 15, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Foodstuffs,* from Chicago, IL to points in OH. Supporting shipper: 12.

MC 119789 (Sub-5–29TA), filed August 15, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Animal health care items, and animal feed supplements* from the facilities of Eli Lilly and Company at Omaha, NE, on the one hand, and Eli Lilly and Company owned or leased facilities at Norcross, GA; Raleigh, NC; Dallas, TX; and Fresno, CA, on the other. Supporting shipper: Eli Lilly and Company, 307 E. McCarty St., Indianapolis, In 46285.

MC 126822 (Sub-5–23TA), filed August 15, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, 66061. Representative: John T. Pruitt (same as applicant). *(1) Paper and paper products, plastic and plastic products and (2) materials and supplies used in the manufacture and distribution of (1)* above between points in the United States, restricted to the transportation of shipments from to, or between the facilities of Stone Container Corporation. Supporting shipper: Stone Container Corporation, 360 North Michigan Avenue, Chicago, IL 60601.

MC 127306 (Sub-5–2TA), filed August 14, 1980. Applicant: M. W. McMCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue; Park Ridge, IL 60068. *Malt beverages,* from San Antonio, TX, to CA and NV. Supporting shipper: Pearl Brewing Company, 312 Pearl Parkway, San Antonio, TX 78296.

MC 133805 (Sub-5–21TA), filed August 15, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Rubber and plastic articles,* between the facilities of Jamak, Inc., at or near Brea, CA; Chicago, IL; and Weatherford, TX, on the one hand, and on the other, points in the us (except AK and HI). Supporting shipper: Jamak, Inc., 1401 North Bowie Avenue, Weatherford, TX 76086.

MC 136786 (Sub-5–30TA), filed August 15, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Paper, paper products, and materials, equipment and supplies used in the production and distribution of paper and paper products,* between the facilities of Scott Paper Company located in Everett, WA, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, TX, UT, WA, and WY; Council Bluffs, IA, and Kansas City, MO, and points in their respective commercial zones, restricted to traffic originating at or destined to the facilities of Scott Paper Company. Supporting shipper: Scott Paper Company, Scott, Plaza, Philadelphia, PA 19113.

MC 140665 (Sub-5–28TA), filed August 14, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General Commodities, (except commodities in bulk),* from the facilities utilized by Terminal Freight Co-opeative Association, Inc. at Dallas, TX to Portland, OR and Seattle WA. Supporting shipper: Terminal Freight Co-operative Association, Inc., 1430 Branding Lane, Downers Grove, IL 60515.

MC 151534 (Sub-5–2TA), filed August 14, 1980. Applicant: R&D TRANSPORTATION CORPORATION, 818 5th Ave., P.O. Box 1908, Des Moines, IA 50309. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309. *Animal Feed Supplements* from the facilities of Kemin Industries, Inc. in or near Des Moines, IA to Houston, TX, New Orleans, LA, Portland, OR, Chicago, IL, and St. Louis, MO, and their respective commercial zones. Supporting shipper: Kemin Industries, Inc., 2100 Maury, Des Moines, IA 50317.

MC 144603 (Sub-5–13TA), filed August 15, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights MO 63043. Representative: Laura C. Berry (same address as applicant). *Cleaning compounds, deodorants, and insecticides* between San Antonio, TX and points in its commercial zone on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Scott Chemical Company, Inc., 4447 Centergate, San Antonio, TX 78233.

MC 144603 (Sub-5–14TA), filed August 15, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights MO 63043. Representative: Laura C. Berry (same address as applicant). *Paper pads; tablets; blank books; looseleaf fillers; printing paper or newsprint; paper forms NOI, printed or not printed; drawing paper and materials, equipment and supplies used in the manufacture and sale of said items* from Mattoon, IL to Atlanta, GA and points in its commercial zone. Restricted to traffic originating at the facilities of American Pad and Paper Co., P.O. Box 1250, Holyoke, MA 01041. Supporting shipper: American Pad & Paper Co., P.O. Box 1250, Holyoke, MA 01041.

MC 147321 (Sub-5–3TA), filed August 14, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 Vista Drive, Independence, MO 64056. Representative: Alex M. Lewandowski, 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. *Hospital supplies:* between El Paso County, TX, on the one hand, and, on the the other, Jackson, Clay, Platte, St. Charles, St. Louis Counties, MO; St. Louis City, MO; Johnson and Wyandotte Counties, KS; and Douglas County, NE. Supporting shipper: American Convertors, a division of American Hospital Supply Corporation, One Butterfield Trail, E. Paso, TX 79906.

MC 150682 (Sub-5-2TA), filed August 15, 1980. Applicant: KEDASHAW, INC., Kensington, KS 66951. Representative: Erle W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, KS 66603. *Cheese, whey, whey protein and milk,* (1) from Hebron, Oxford and Dodge, NE to points in AZ, CO, IL, IA, KS, LA, MO, ND, UT and TX; (2) from Ravenna, NE to points in AZ, CO, FL, IL, IA, KS, LA, MO, NY, UT and TX; and (3) *Boxes and packages* from Des Moines, IA and *cheese ingredients* from KS to Dodge, Hebron, Oxford and Ravenna, NE. Supporting shippers: Ravenna Cheese Co., P.O. Box 65, Ravenna, NE 68869, and Swan Enterprises, Inc., Hebron, NE 68370.

MC 151534 (Sub-5-1TA), filed August 14, 1980. Applicant: R&D TRANSPORTATION CORPORATION, 818 5th Ave., P.O. Box 1908, Des Moines, IA 50309. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309. *Animal Feed and Feed Supplements* between the facilities of V.P.O., Inc. in or near Omaha, NE, and points in CA, WA, TX, LA, AR, GA, and MS. Supporting shipper: V.P.O., Inc., 44 S. 76th, Omaha, NE. 68127.

MC 151543 (Sub-5-1TA), filed August 14, 1980. Applicant: FAMILY MOVING & STORAGE CO., INC., 3412 S. 11th St., P.O. Box 688, Lawton, OK 73502. Representative: Ronald Wigington, 3412 S. 11th St., P.O. Box 688, Lawton, OK 73502. *Used Household Goods and Unaccompanied Baggage,* between points in Jackson, Kiowa, Comanche, Tillman, Cotton, Caddo, Canadian, Oklahoma, Pottawatomie, Cleveland, McClain, Grady, Stephens, Garvin, Pontotoc, Murray, and Carter Counties, OK. Between points in Comanche County, OK and points in Wilbarger, Baylor, Wichita, Archer, and Clay Counties, TX. Supporting shipper: AFI Worldwide Forwarders, 335 Valencia St., San Francisco, CA 94103; Mollerup Freight Forwarding Company, Inc., 1415 NE 123rd St., Seattle, WA 98125.

Republication

MC 150311 (Sub-5-13TA), filed July 31, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Alcoholic beverages,* from points in CT, DE, KY, MA, MD, NJ, and NY to points in TX. Supporting shippers: 8.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 116544 (Sub-6-14TA), filed August 8, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses,* and *materials, equipment and supplies* used in the manufacture, sale and distribution of such commodities (except commodities in bulk and frozen commodities) from the facilities of the The Clorox Company located at or near Fairfield, CA to points in AZ, CO, ID, NV, OR, UT, and WA, for 270 days. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 151489 (Sub-6-1TA), filed August 8, 1980. Applicant: BOYD L. COLLINS, d.b.a. BOYDS HOTSHOT SERVICE, 5440 Magnolia St., Commerce City, CO 80022. Representative: Wm. Fred Cantonwine, 6785 E. 50th Ave., Suite 201, Commerce City, CO 80022. *Machinery, Equipment, Materials, and Supplies, and parts thereof, used in Mining, Construction, Transportation, and Oil Field Exploration and Operations,* Maximum weight 4500 pounds, with transportation of rebuildable merchandise on return between Denver, CO and points in CO, KS, MT, NE, NM, ND, SD, TX, UT, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are ten shippers. Their statements may be examined at the regional office listed.

MC 42487 (Sub-6-27TA) filed August 4, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Ca 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: General commodities, (except household goods as defined by the Commission and Classes A and B explosives), (1) Between Memphis, TN and Jackson, MS, serving no intermediate points and serving Jackson, MS for purpose of joinder only: From Memphis over Interstate Hwy 55 to junction Interstate 55 and Interstate Hwy 20, and return over the same route (2) Between New Orleans, LA and Jackson, MS, serving no intermediate points and serving Jackson, MS for purpose of joinder only: Hwy 10 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 20, and return over the same route. (3) Between Atlanta, GA and Jackson, MS, serving no intermediate points and serving Jackson, MS for purpose of joinder only: From Atlanta over Interstate Hwy 20 to junction Interstate Hwy 55 and Interstate Hwy 20, and return over the same route, for 270 days. Applicant intends to tack the above described authorities. Also, Applicant intends to tack the proposed authority with other authorities it presently holds at Memphis, TN, New Orleans, LA and Birmingham, AL. Present authority at Memphis, TN is found in Docket No. MC 42487 Sub 708. Present authority at New Orleans, LA is found in Docket No. MC 42487 Sub 885. Present authority at Atlanta, GA, is found in Docket No. MC 42487 Sub 744 and 872. These authorities will be tacked, in turn, with other present authorities of Applicant at such points as St. Louis, MO, Kansas City, MO, Houston, TX Atlanta, GA and Lexington, KY to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): There are no certificates of support attached to this application. All the testimony relates to operating efficiency, economies and fuel saving. The Statement may be examined at the Regional Office listed.

MC 145648 (Sub-6-1TA), filed August 8, 1980. Applicant: DUDLEY TRUCKING, INC., P.O. Box 1651, Tacoma, WA 98401. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Steel Pipe,* between Clackamas County, OR on the one hand, and, on the other, points in the Commercial Zone of Denver, CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Northwest Pipe and Casing, Inc., 9200 S.E. Lawnfield Road, Clackamas, OR 97015.

MC 144547 (Sub-6-5TA), filed August 8, 1980. Applicant: DURA-VENT TRANSPORT CORPORATION, P.O. Box 2249, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th Street NW., Washington, D.C. 20006. *Contract* carrier, irregular routes: (1) *chemicals and synthetic fabrics* and (2) *materials, equipment and supplies used in the manufacture, sale and distribution thereof (except commodities in bulk)* between points in the U.S., restricted to traffic originating at or destined to the facilities of the Olin Corporation of Stamford, CT, for 270 days. Supporting shipper: Olin Corporation, 120 Long Ridge Road, Stamford, CT. 05904.

MC 125433 (Sub-6-31TA), filed August 7, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *General Commodities* (except Class A & B explosives and except household goods), between the facilities of Weber Aircraft Corporation at or near Gainsville, TX, on the one hand, and, on the other, all points in the United States (except AK), for 270 days. Supporting shipper: Weber Aircraft Corporation, P.O. Box 932, Gainsville, TX 76240.

MC 125433 (Sub-6–32TA), filed August 8, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Dust control systems, grain spouting, bucket elevators, hoppers and grain conveying equipment, and material handling equipment,* and (2) *material, equipment and supplies* used in the manufacture and distribution of (1) above, between the facilities of Fabricators Incorporated, at or near Hutchinson, KS on the one hand, and, on the other, points in the United States (except AK and HI), for 270 days. Supporting shipper: Fabricators, Inc., 418 Poplar, P.O. Box 2229, Hutchinson, KS 67501.

MC 151520 (Sub-6–1TA), filed August 11, 1980. Applicant: BOBBY G. GRAHAM d.b.a. BOBBY G. GRAHAM TRUCKING, P.O. Box 743, Hawthorne, NV 89415. Representative: (same as applicant). *Contract carrier,* Irregular routes: *Advertising matter, Candy, Confectionaries, Display materials, Novelties,* and *Candy figures and images,* from Reno, NV, to points in AZ, CA, ID, MT, OR, UT, and WA, for the account of E. J. Brach & Son and Bender Warehouse for 270 days. Supporting shippers: E. J. Brach & Son, 205 Parr Blvd., Reno, NV 89512 and Bender Warehouse, 205 Parr Blvd., Reno, NV 89512.

MC 89716 (Sub-6–3TA), filed August 11, 1980. Applicant: DICK JONES TRUCKING, Box 965, Powell, WY 82435. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Contractors' equipment, materials and supplies* between CO, on the one hand, and, on the other, points in MT, ND, SD, UT and WY, for 270 days. Supporting shipper(s): Symons Manufacturing Corp., 6555 N. Washington St., Denver, CO 80229, Saf Loc Systems, Inc., 2950 Umatilla, Denver, CO 80110 and Watersaver Company, Inc., Box 16465, Denver, CO 80216.

MC 113059 (Sub-6–1TA), filed August 11, 1980. Applicant: KELLER TRANSPORT, INC., Route 9, Katy Lane, Billings, MT 59102. Representative: F. E. Keller (same as applicant). *Asphalt, Road Oil and Asphalt Rejuvenators,* limited to shipments on roads, parking lots, and airports by applicant's own distributor trucks between all points in MT, ND, SD and WY for 270 days. Supporting shippers: There are six (6) supporting shippers to this application. Their statements may be examined at the regional office listed.

MC 124735 (Sub-6–2TA), filed August 11, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 4th S. Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage,* from points in IL, IN, IA, MO, MI, OH, WI to ports of entry on the U.S.-Canada International Boundary line in MN, ND and MT, restricted to traffic moving in foreign commerce, for 270 days. Supporting shipper: Canadian Wheel Industries, Ltd., 16825 111th Ave., Edmonton, Alberta, Canada.

MC 108703 (Sub-6–1TA), filed August 11, 1980. Applicant: LEE & EASTES TANK LINES, INC., 2418 Airport Way South, Seattle, WA 98134. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Sweeteners,* in bulk, in tank vehicles, from Kent, WA to the U.S.-Canada boundary line at the ports of entry at or near Blaine, WA and Sumas, WA for 270 days. Supporting shipper: LSI/Liquid Sugars-NW, 1299 NE Front Street, Salem, OR 97301.

MC 148296 (Sub-6–1TA), filed August 11, 1980. Applicant: MARINE DROPBOX COMPANY, 6849 NE. 47th, Portland, OR 97218. Representative: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, OR 97219. *General Commodities,* except classes A and B explosives, between Portland, OR, Vancouver, WA, Longview, WA, Tacoma, WA and Seattle, WA, for 270 days. Supporting shippers: Cascade Shipping Co., Agents for Van Omeran and for Maersk Line Agency 520 SW. Sixth Avenue, Portland, OR 97204.

MC 151514 (Sub-6–1TA), filed August 11, 1980. Applicant: KARL MAXWELL, North 5521 Arden Road, Otis Orchards, WA 99207. Representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Washington 99201. *Contract carrier: Irregular routes: Dry fertilizer,* from points in Benton, Franklin and Walla Walla Counties, WA, to points in MT, for 270 days. Supporting shipper(s): Cargill, Inc., Box 1584, Great Falls, MT 59403.

MC 142886 (Sub-6–16TA), filed August 6, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes; *General Commodities (with usual exceptions),* between points in the Continental United States, for 270 days. Supporting shipper: C–E Cast Industrial Products Combustion Engineering, Inc., 2040 East 220th Street, Long Beach, CA 90810.

MC 44605 (Sub-6–5TA), filed August 6, 1980. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Household appliances:* from Clearfield, UT to Redding, CA, for 270 days. An underlying ETA seeks 120 days authority. Support shipper: J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 116045 (Sub-6–1TA), filed August 7, 1980. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, WY 82301. Representative: Richard S. Mandelson, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver CO 80264. (1) *Class A Explosives in containers, in mixed loads with nitro-carbonitrate;* (2) *Nitro-carbonitrate in bulk, and in bags,* from Natrona County, WY to the States of AZ, CO, ID, MT, NV and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gulf Oil Chemicals Company, 9009 West 67th, Merriam, KS 66201.

MC 124621 (Sub-6–1TA), filed August 11, 1980. Applicant: CLEMENT RISBERG, d.b.a. RISBERG TRUCK SERVICE, 2339 SE. Grand Avenue, Portland, Oregon 97214. Representative: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, Oregon 97210. *Contract Carrier,* Irregular routes: *General Commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Portland, OR and points in WA, MT and ID, for 270 days. Supporting shipper: Montgomery Ward and Company, 2714 NW. Vaughn Street, Portland, Oregon 97210.

MC 124692 (Sub-6–14TA), filed August 11, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401. *Wallboard and composition board and materials used in the installation* *thereof,* fom L'Anse, MI to points in CA, for 270 days. Supporting shipper: Jim Walter Corp., on behalf of its wholly owned subsidiary CELOTEX, P.O. Box 22601, 1500 North Dale Mabry Highway, Tampa, FL 33622.

MC 119710 (Sub-6–3TA), filed August 7, 1980. Applicant: SHUPE BROS. CO., P.O. Box 929, Greeley, CO 80631. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *Contract carrier,* irregular routes: *grain-handling and drying equipment and materials and supplies used in the manufacture and sale thereof,* between Columbus, NE, on the one hand, and, on the other, points in the U.S., except AK and HI, restricted to service performed under contract with Middle States Mfg. Co., Columbus, NE, for 270 days. Supporting shipper: Middle States Mfg. Co., P.O. Box 788, Columbus, NE 68601.

MC 141739 (Sub-6–3TA), filed August 8, 1980. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2031 Milawukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader (same as applicant). *Contract carrier,* Irregular routes: *Mineral Fiber, mineral fiber products and insulating materials,* between Pierce County, WA on the one hand, and, on the other, points in OR for 270 days. Supporting shipper: United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606.

MC 136897 (Sub-6–12TA), filed August 11, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Contract Carrier:* Irregualr routes: *New furniture and new furniture parts,* from Houston, TX to points in AR, AZ, CA, MS, LA, NM, NV, OK, OR, UT, ID, and CO, for the account of SK Products Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: SK Products Corp., 5355 Bucknell Drive, SW, Atlanta, GA 30378.

MC 136818 (Sub-6–13TA), filed August 11, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Cheese products and synthetic cheese,* from the facilities of L. D. Schreiber Cheese Co., at Logan, UT, to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: L. D. Schreiber Cheese Co., IN., P.O. Box 610, Green Bay, WI 54301.

MC 117786 (Sub-6–20TA), filed August 11, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Candy and foodstuffs,* from the warehouse of Tab Transportation, Inc., in Bell Gardens, CA to Phoenix, AZ, for 270 days. Applicant intends to interchange at Phoenix, AZ. Supporting shipper: Tab Transportation, Inc., 8457 Eastern Ave., Bell Gardens, CA 90201.

MC 92633 (Sub-6–3TA), filed August 7, 1980. Applicant: ZIRBEL TRANSPORT, INC., P.O. Box 933, Lewiston, ID 83501. Representative: William E. Seehafer (same as applicant). (1) *Cabinets and counter tops, wood and other materials combined in shipper-owned trailers. (2) Materials and supplies used in the manufacture of the commodities named in (1).* Between Enumclaw, WA and points in ID, OR, and WA, for 270 days. Restricted to shipments originating or destined to the facilities of Ly-Line Products, Inc. Supporting shipper: Ly-Line Products, Inc., P.O. Box 26, Enumclaw, WA 98022.

MC 151516 (Sub-6–1TA), filed August 11, 1980. Applicant: JOSEPH W. HYDE, d.b.a. H. D. DELIVERY SERVICE, 130 24th Street, Ogden, UT 84402. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Salt,* from the facilities of Great Salt Lake Minerals & Chemicals Corp. at Little Mountain, UT to Clearfield and Ogden, UT, Restricted to traffic having a subsequent movement by railroad, for 270 days. Supporting shipper: Great Salt Lake Minerals & Chemical Corp., P.O. Box 1190, Ogden, UT 84402.

MC 84690 (Sub-6–8TA), filed July 7, 1980. Applicant: BN TRANSPORT INC., 6775 East Evans Avenue, P.O. Box 22694, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Steel pipe* from points in MI and NY to points in TX, OK, LA, AR, WY, and KS for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Pipe & Steel Co., Inc., 15611 W. 6th Avenue, Golden, CO 80401.

MC 151409 (Sub-6–1TA), filed August 13, 1980. Applicant: ROBERT BALO TRUCKING, Savageton Route, Gillette, WY 82716. Representative: Robert Balo (same address as applicant). (1) *Mining machinery, materials, equipment and supplies,* Between points in WY, MT, SD, NE, KS, CO, UT, ID, (2) *Petroleum products,* Between points in WY, SD, UT and MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: D.O. Inc., P.O. Box 1065, 502 El Camino Rd., Gillette, WY 82716; Rocky Mountain Machinery, P.O. Box 1418, Gillette, WY 82716; Anixter Wire and Cable, P.O. Box 1509, Gillette, WY 82716; A–1 Compost, Rt. 2, Box 152, Eaton, CO.

MC 115523 (Sub-6–2TA), filed August 14, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). *Cleaning Compounds Antifreeze Compounds and Dust Control Compounds,* from the Wen-Don Chemical Company Plant at Price, UT to AZ, CO, NM, NV, UT, and WY for 270 days. Supporting shipper: Wen-Don Chemical Company, Roanoke, VA 24034.

MC 145054 (Sub-6–5TA), filed August 13, 1980. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *automobile tires* from Los Angeles County, CA to points in Denver County, CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J. N. Ceazan Company, 1113 East 230th Street, Carson, CA 90745.

MC 120835 (Sub-6–2TA), filed August 13, 1980. Applicant: BRUCE HEADY, d.b.a. COVELO TRANSPORTATION, 112 Orr Springs Rd., Ukiah, CA 94582. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *General commodities* (except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as described by the Commission, Commodities in bulk, and those requiring special equipment) between points in the Counties of Alameda, Colusa, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, Sacramento, San Francisco, San Joaquin, Santa Clara, Santa Cruz, Shasta, Solano, Stanislaus, Sonoma, and Trinity, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 8 shippers. Their Statements may be examined at the Regional Office listed.

MC 118318 (Sub-6–2TA), filed August 12, 1980. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Alcoholic beverages,* from points in CA to the facilities of the Idaho Liquor Dispensary located at or near Boise, ID, for 270 days. Supporting shipper: Idaho Liquor Dispensary, 7185 Bethel, Boise, ID 83704.

MC 151249 (Sub-6–1TA), filed August 14, 1980. Applicant: NICHOLAS COROMELAS d.b.a. INDEPENDENT TRANSPORT OF CALIFORNIA, 3520 Fern Circle, Seal Beach, CA 90740. Representative: Nicholas Coromelas (same address as applicant). *Plastic and* *plastic articles,* from the facilities of Filon, Division of Vistron Corporation located at or near Hawthorne, CA, to points in the United States (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Filon, Division of Vistron Corporation, 12333 S. Van Ness Ave., Hawthorne, CA 90250.

MC 139906 (Sub-6-31TA), filed August 13, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 W. 2200 So., Salt Lake City, UT 84127. Representative: Richard A. Peterson, 521 So. 14th St., Lincoln, NE 68501. *Wearing apparel;* from the facilities of K-Mart Apparel Corp., at or near Alsip, IL to Kansas City, MO, and points in its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: K-Mart Apparel Corp., 7373 Westside Ave., North Bergen, NJ 07047.

MC 134599 (Sub-6-32TA), filed August 13, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, Utah 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier,* Irregular routes: *Books, toys, games, paper products, telescopes, microscopes and microscope slides,* from the facilities of Western Publishing Company, Inc., located at Fayetteville, NC, to points in Michigan, Indiana, Illinois, Arkansas, and Texas, for 270 days. Supporting shipper: Western Publishing Company, Inc., 1220 Mound Avenue, Racine, Wisconsin 53404.

MC 113760 (Sub-6-1TA), filed August 13, 1980. Applicant: PETCO INC. INTERSTATE, P.O. Box 478, Commerce City, Colorado 80037. Representative: Rod J. Clawson (same as applicant). (1) *Residual Fuel,* from Casper, Wyoming to Fruita, Colorado; and (2) *Gas Oil,* from Fruita, Colorado to Casper, Wyoming. An underlying ETA seeks 120 days authority. Supporting shipper: Shelley Petroleum Inc., 7030 South Yale No. 500, Tulsa, Oklahoma 74177.

MC 71920 (Sub-6-1TA), filed August 12, 1980. Applicant: PROGRESSIVE TRANSPORTATION COMPANY, 5455 Irwindale Ave. (P.O. Box 2205), Irwindale, CA 91706. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Reinforced concrete products,* from Santa Fe Springs, CA to Tempe, AZ, for 270 days. Supporting shipper: Rockwin Corporation, 13440 E. Imperial Hwy., Santa Fe Springs, CA.

MC 110325 (Sub-6TA), filed August 13, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angelse, CA 90009. Representative: Wentworth E. Griffin, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *General Commodities* (except household goods as defined by the Commission and Classes A and B explosives), between Atlanta, GA, Kingsport, TN, Cincinnati, OH, Pittsburgh, PA, Harrisburg, PA, Washington, DC, and Richmond, VA, on the one hand, and, on the other, all points in NC and SC, for 270 days.

Note.—Applicant proposes to tack the authority sought with its existing authority in MC 110325 and subs thereto at the named points, and proposes to interline with other motor carriers. An underlying ETA seeks 120 days authority.

MC 151402 (Sub-6-1TA), filed August 13, 1980. Applicant: MNL TRUCKING CO., INC. d.b.a. WESTERN MOTOR TRANSPORT, P.O. Box 3411, San Francisco, CA 94119. Representative: Michael R. Johnson, 191 Duran Dr., San Rafael, CA 94903. *Contract carrier,* Irregular routes: *Electrical hardware, Pipe, Cable, Machinery, Transformers, Gas meters, and other commodities used in a utility operation* between all points in CA having a prior or subsequent rail or water movement, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific Gas and Electric Company, 77 Beale St., San Francisco, CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25973 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 192]

Assignment of Hearing; Corrections

August 18, 1980.

No. FD-29187 (Sub-No. 1F), Providence and Worchester Company—Control—of Vermont & Massachusetts Railroad Company, appearing page 54457, August 15, 1980 is corrected as follows:

No. FD-29187 (Sub-No. 1F), Providence and Worchester Company—Control—of Vermont & Massachusetts Railroad Company, now being assigned for Prehearing Conference on October 1, 1980 (1 day), at Boston, MS, hearing room to be later designated, (instead of hearing assignment).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26221 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 193]

Assignment of Hearings

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 83539 (Sub-430F), C & H Transportation, Co., Inc., now being assigned for Prehearing Conference on September 3, 1980, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 144927 (Sub-16F), Remington Freight Lines, Inc., now being assigned for Prehearing Conference on October 6,, 1980, at the Office of the Interstate Commerce Commission, Washington, D C.

MC 42487 (Sub-930F), Consolidated Freightways Corpoation of Delaware, now being assigned for Prehearing Conference on October 16, 1980, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 96992 (Sub-17F), Highway Pipeline Trucking Co., now assigned for hearing on September 3, 1980, at Houston, TX, at the Veteran's Administration, Personnel Training Room 118, 2515 Murworth Drive.

MC 97068 (Sub-18F), H. S. Anderson Trucking Co., now assigned for hearing on September 17, 1980 (3 days), at Birmingham, AL, at the City Council Office, 3rd Floor City Hall, 710 North 19th Street.

MC 19227 (Sub-247F), Leonard Bros. Trucking Co., Inc., now assigned for hearing on September 22, 1980 (2 days), at Atlanta, GA, at the Hearing Room 401, 4th Floor, 1776 Peachtree Street, N.W.

MC 124835 (Sub-17F), Producers Transport Co., now assigned for hearing on September 24, 1980 (3 days), at ICC Hearing Room 401, 4th Floor, 1776 Peachtree Street, N.W.

MC 123048 (Sub-456F), Diamond Transportation System, Inc., now assigned for hearing on September 16, 1980, at Birmingham, AL, at the City Council Office, 3rd Floor City Hall, 710 North 19th Street.

MC 136782 (Sub-17F), R.A.N. Trucking Company, now assigned for hearing on September 9, 1980 (2 days), at Pittsburgh, PA, in Room 2000, Federal Building, 1000 Liberty Avenue.

MC 14668, Avanti Express, Inc., now assigned for hearing on September 11, 1980 (2 days), at Pittsburgh, PA, in Room 2218, Federal Building, 1000 Liberty Avenue.

MC 140611 (Sub-1F), Harkema Express Lines, Inc., now assigned for hearing on September 16, 1980 (4 days), at Buffalo, NY in Room No. 1117, Federal Building, 111 West Huron Street.

MC 82492 (Sub-246F), Michigan & Nebraska Transit Co., Inc., extension—Food Business Houses, assigned for hearing on September 9, 1980 (3 days), at Detroit, MI, September 15, 1980 (5 days), at Kansas City, MO, September 22, 1980 (5 days), at Chicago, IL, is canceled.

AB-43 (Sub-653F), Illinois Central Gulf Railroad Company, Abandonment near Port Gibson and Crosby and Harriston, and Fayette, Mississippi, now assigned for hearing on September 23, 1980 (9 days), at Fayette, MS, in the Court Room, Jefferson County Courthouse.

MC 108207 (Sub-503F), Frozen Food Express, Inc., now assigned for hearing on September 30, 1980 (4 days), at Dallas, TX, at the Holiday Inn Dallas-Downtown, 1015 Elm Street.

MC 19311 (Sub-62F), Central Transport, Inc., now being assigned for hearing on September 30, 1980 (1 day), at Detroit, MI, location of hearing room will be designated later.

MC 29883 (Sub-9F), Fischer Motor Lines, Inc., now being assigned for hearing on October 1, 1980 (3 days), at Detroit, MI, location of hearing room will be designated later.

MC 147039 (Sub-2F), Transportation Services, Inc., now being assigned for hearing on October 6, 1980 (2 days), at Detroit, MI, location of hearing room will be designated later.

MC 147574F, Marine Trucking Inc., now being assigned for hearing on October 8, 1980 (3 days), at Detroit, MI, location of hearing room will be designated later.

MC 145588 (Sub-12F), Gulf Mid-Western, Inc., now assigned for hearing on September 9, 1980 (1 day), at Fort Worth, TX, at ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.

MC 135070 (Sub-58F), Jay Lines, Inc., now assigned for hearing on September 10, 1980 (3 days), at Ft. Worth, TX, in ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.

MC 52727 (Sub-3F), Ray Bellew, Inc., now assigned for hearing on September 15, 1980, at Ft. Worth, TX, at ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.

No. 37459, Irving Oil Corporation v. Bangor and Aroostook Railroad Company, now being assigned for hearing on September 15, 1980, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 107496 (Sub-1244F), Ruan Transport Corporation, now being assigned for hearing on September 23, 1980, at the Office of the Interstate Commerce Commission, at Washington, D.C.

MC 142416 (Sub-6F), Hamilton Transfer, Storage & Feeds, Inc., now being assigned for hearing on September 29, (1 week), at Cheyenne, WY, location of hearing room will be designated later.

MC 141804 (Sub-237F), Western Express, Division of Interstate Rental, Inc., now assigned for hearing September 23, 1980 (1 day), at Los Angeles, CA, is cancelled and application dismissed.

MC 147942 (Sub-2F), M & L Truck Line, Inc., now being assigned for prehearing conference on October 1, 1980, at the Office of the Interstate Commerce Commission, at Washington, D.C.

MC 147484 (Sub-1F), Myers Transfer, Inc., now being assigned for hearing on September 30, 1980, at Jacksonville, FL (4 days), location of hearing room will be designated later.

MC 56679 (Sub-141F), Brown Transport, Inc., now being assigned for hearing on October 6, 1980, at Orlando, FL (5 days), location of hearing room will be designated later.

MC 136711 (Sub-41F), McCorkle Truck Line, Inc., now assigned for hearing on September 8, 1980 (2 days), at Kansas City, KS, is canceled and application dismissed.

MC 57697 (Sub-18F), Lester Smith Trucking, Inc., now assigned for hearing on September 9, 1980, at Salt Lake City, UT, is cancelled and application dismissed.

MC 145359 (Sub-9F), Thermo Transport, Inc., is transferred to Modified Procedure.

MC 136773 (Sub-8F), S.T.S. Motor Freight, Inc., is transferred to Modified Procedure.

MC 42710 (Sub-15F), Ben's Transfer & Storage, Co., Inc., now assigned for hearing on September 15, 1980 (1 week), at Boise, ID, in Room No. 395, U.S. Federal Bldg., 555 West Fort Street.

MC 112989 (Sub-112F), West Coast Truck Lines, Inc., is transferred to Modified Procedure.

MC 68100 (Sub-29F), D. P. Bonham Transfer, Inc., is transferred to Modified Procedure.

MC 121332 (Sub-3F), Steve J. Dunne Cartage, Inc., is transferred to Modified Procedure.

MC 57697 (Sub-18F), Lester Smith Trucking Inc., now assigned for hearing on September 9, 1980, at Salt Lake City, UT, is cancelled and Application dismissed.

MC-C-10564, Hudson Transit Lines, Inc., v. Peter Pan Bus Lines, Inc., now assigned for hearing on September 11, 1980, at New York, NY, is cancelled and application dismissed.

MC 115931 (Sub-83F), Bee Line Transportation, Inc., now assigned for hearing on September 10, 1980 (3 days), at Billings, MT, will be held at the Billings-Sheration Hotel, Sundance Room, 27 North 27th Street.

MC 52709 (Sub-363F), Ringsby Truck Lines, Inc., now assigned for hearing on September 15, 1980 (5 days), at Spokane, Washington, will be held at the Spokane Convention Center, Room A, West 334 Spokane Falls, Blvd.

MC 41951 (Sub-44F), Wheatley Trucking, Inc., now assigned for hearing on September 3, 1980 (3 days), at Cambridge, MD, will be held in the County Commissioner Meeting Room, County Building, 501 Court Lane.

MC 115931 (Sub-83F), Bee Line Transportation, Inc., now assigned for hearing on September 10, 1980 (3 days), at Billings, MT, will be held at the Billings-Sheraton Hotel, Sundance Room, 27 North 27th Street.

MC 52709 (Sub-363F), Ringsby Truck Lines, Inc., now assigned for hearing on September 15, 1980 (5 days), at Spokane, WA, will be held at the Spokane Convention Center, Room A, West 334 Spokane Falls Blvd.

MC 11220 (Sub-166F), Gordons Transports, Inc., now assigned for hearing on September 16, 1980 (2 days), at San Antonio, TX, will be held in the Le Mansion Del Norte, 37 N.E. Loop 410.

MC 144682 (Sub-21F), R. R. Stanley, now assigned for hearing on September 19, 1980 (1 day), at Fort Worth, TX, will be held at the Meeting Room A, Fort Worth Public Library, 300 Taylor Street,

MC 144682 (Sub-20F), R. R. Stanley, now assigned for hearing on September 18, 1980 (1 day), at Forth Worth, TX, will be held at the Meeting Room A, Forth Worth Public Library, 300 Taylor Street.

MC 106674 (Sub-402F), Schilli Motor Lines, Inc., now assigned for hearing on October 28, 1980 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 110988 (Sub-411F), Schneider Tank Lines, Inc., MC 110420 (Sub-811F), Quality Carriers, Inc., now assigned for hearing on October 29, 1980 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 113855 (Sub-490F), International Transport, Inc., now assigned for hearing on November 3, 1980 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 119493 (Sub-275F), Monkem Company, Inc., now assigned for hearing on November 4, 1980 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 110525 (Sub-1307F), Chemical Leaman Tank Lines, Inc., now assigned for hearing on November 6, 1980 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 140611 (Sub-1F), Harkema Express Lines, Inc., now assigned for hearing on September 16, 1980 (4 days), at Buffalo, NY, in a hearing room to be later designated.

MC 29254 Somerset Railroad Corporation—Construction and Operation—of a Line of Railroad in Niagara County, NY, now assigned for hearing on October 15, 1980 (8 days), at Lockport, NY, will be held at the Common Council Chambers, Municipal Building.

MC. 37165, Southern Pacific Transportation Company—Rates and Classification of Iron Ore Within Texas, application is dismissed.

MC 200 (Sub-414F), Riss International Corporation, now assigned for hearing on October 28, 1980 (1 day), at Fort Worth, TX, in a hearing room to be later designated.

MC 108119 (Sub-159F), E. L. Murphy Trucking Company, now assigned for hearing on October 29, 1980 (1 day), at Fort Worth, TX, in a hearing room to be later designated.

MC 144682 (Sub-28F), R. R. Stanley, now assigned for hearing on October 30, 1980 (2 days), at Fort Worth, TX, in a hearing room to be later designated.

MC 200 (Sub-396F), Riss International Corporation, now assigned for hearing on November 3, 1980 (5 days), at Austin, TX, in a hearing room to be later designated.

MC 145359 (Sub-11F), Thermo Transport, Inc., now assigned for hearing on September 23, 1980 (1 day), at Los Angeles, CA, in a hearing room to be later designated.

MC 228 (Sub-79F), Hudson Transit Lines, Inc., is transferred to Modified Procedure.

MC 121499 (Sub-9F), William Hayes Lines, Inc., now assigned for hearing on September 30, 1980 (9 days), at Atlanta, GA, is canceled and reassigned to September 30, 1980 (4 days), at Atlanta, GA, at the Best Western, Perimeter North Inn, 2001 Clearview Avenue N.E., and continued to October 6, 1980 (5 days), at Memphis, TN, at the Executive Plaza Inn, 1471 East Brooks Road, Memphis, TN, on October 21, 1980 (3 days), at Louisville, KY, at the Holiday Inn Southeast, 3255 Bardstown Road.

MC 14252 (Sub-61F), Commercial Lovelace Motor Freight, Inc., now assigned for continued hearing on September 23, 1980 (4 days), at Indianapolis, IN, in a hearing room to be later designated.

MC 121658 (Sub-13F), Steve D. Thompson Trucking, Inc., now assigned for hearing on September 3, 1980 (2 days), at Austin, TX, in a hearing room to be later designated.

MC 22509 (Sub-18F), Missouri-Nebraska Express, Inc., now assigned for hearing on September 3, 1980 (3 days), at Chicago, IL, will be held in Room 1221, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 139380 (Sub-5F), Stidham Trucking, Inc., is transferred to Modified Procedure.

MC–F–14275, U.S. Bus, Inc.—Purchase (Portion)—Greyhound Lines, Inc., No. 1515 (Sub-286F), Greyhound Lines, Inc., MC 149076F, U.S. Bus, Inc., now assigned for continued hearing on September 15, 1980, at Laurel Maryland, will be held in the Multipurpose Room Eisenhower Junior High School, 13725 Briarwood Drive, and continued to September 16, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C., on September 16, 1980, at Laurel, Maryland, will be held in the Multipurpose Room, Eisenhower Junior High School, 13725 Briarwood Drive, on September 17, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 145359 (Sub-14F), Thermo Transport, Inc., is transferred to Modified Procedure.

MC 120364 (Sub-21F), A & B Freight Line, Inc., application is dismissed.

MC 107295 (Sub-925F), Pre-Fab Transit Co., application is dismissed.

MC 145359 (Sub-11F), Thermo Transport, Inc., now assigned for hearing on September 23, 1980 (1 day), at Los Angeles, CA, will be held at the Los Angeles County Courthouse, 111 North Hill Street.

MC 147069 (Sub-2F), Cal-Thermo Express, Inc., now assigned for hearing on September 24, 1980 (1 day), at Los Angeles, CA, will be held at the Los Angeles County Courthouse, 111 North Hill Street.

MC 117940 (Sub-348F), Nationwide Carriers, Inc., now assigned for hearing on September 25, 1980 (2 days), at Los Angeles CA, will be held at the Los Angeles County Courthouse, 111 North Hill Street.

MC 145559 (Sub-2F), North Alabama Transportation, Inc., now assigned for Prehearing Conference on September 5, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 41432 (Sub-156F), East Texas Motor Freight Lines, Inc., now assigned for hearing on September 8, 1980, at Dallas. TX, September 29, 1980, at Nashville, TN, October 27, 1980, at Knoxville, TN, on November 17, 1980, at Los Angeles, CA, is canceled and application is dismissed.

MC 144751 (Sub-1F), Ronald D. Wilson & Rhonda Wilson, d.b.a. Carriage Mobile Home Sales, application is dismissed.

MC 110656 (Sub-13F), Parker Motor Freight, Inc., application is dismissed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26222 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 151566 (Sub-4–1TA), filed August 18, 1980. Applicant: PERRY TRANSPORT, INC., 202 Security First Bank & Trust Bldg., Grand Haven, MI 49417. Representative: James Roach II (same as applicant). *Contract:* Irregular: *Office, health sciences, and laboratory equipment and furniture; office, health, and integrated office systems; and raw and processed materials,* from the facilities of Herman Miller, Inc. in Zeeland, Grandville, Wyoming, and Holland, MI; Grand Prairie, TX; Los Angeles, San Francisco, Palo Alto, and Irvine, CA; and vendor facilities and Sante Fe Springs, Compton, Paramount, and Gardena, CA, to the facilities of Herman Miller, Inc. in Zeeland, Grandville, Wyoming, and Holland, MI; Grand Prairie, TX; Los Angeles, San Francisco, Palo Alto, and Irvine, CA; and customer facilities in Seattle, WA; Phoenix, Tempe, and Tucson, AZ; Mountain View, Culver City, Cupertino, and San Jose, CA; and Richardson, Midland, Houston, Lubbock, Sherman, Austin, Lewisville, and College Station, TX. Supporting shipper: Herman Miller, 850 Byron Rd., Zeeland, MI 49464.

MC 138676 (Sub-4-1TA), filed August 15, 1980. Applicant: O–J TRANSPORT COMPANY, 10290 Gratiot Avenue, Detroit, MI 48213. Representative: Robert E. Mc Farland, 2855 Coolidge, Suite 201–A, Troy, MI 48084. *Auto Parts, and materials, supplies, and equipment* used in the manufacture of motor vehicles, from Detroit, MI and the commercial zone thereof to Kenosha, and Janesville, WI. An underlying ETA has been granted for 120 days. Supporting shippers: General Motors Corp., Suite 1300, Top of Troy, 755 West Big Beaver Road, Troy, MI 48084; American Motors Corp., 14250 Plymouth Road, Detroit, MI 48232.

MC 151506 (Sub-4–1TA), filed August 15, 1980. Applicant: LEE-ANN CORP., 420 W. Ryan St., Brillion, WI 54110. Representative: Linda Heller Kamm, 1775 Pennsylvania Ave. NW., Washington, DC 20006. *Sand and sand additives* between points in the U.S., under continuing contracts with Brillion Iron Works of Brillion, WI. Supporting shipper: Brillion Iron Works, 200 Park Avenue, Brillion, WI 54110.

MC 150288 (Sub-4–1TA), filed August 15, 1980. Applicant: MEDEMA'S CARPETLAND U.S.A., INC., 2914 Broadmoor, S.E., Kentwood, MI 49508. Representative: Curtis D. Jonker, Attorney, 880 Union Bank Bldg., Grand Rapids, MI 49503. *Contract; regular:* (1) *Chair bases and plated parts* between Grand Rapids, MI and Aurora, IL; (2) *Carpet and floor covering* between Munster, IN and Saginaw, MI. Restricted to traffic moving under continuing contracts with Valley City Plating Co. and Carpetland U.S.A., Inc. (Saginaw). Underlying ETA has been granted for contract with Valley City Plating Co. Supporting shippers: Valley City Plating Co., 3353 Eastern Avenue, S.E. Grand Rapids, MI; Carpetland U.S.A., Inc. (Saginaw), 2525 Tittabawassee Road, Saginaw, MI.

MC 151309 (Sub-4–2), filed August 18, 1980. Applicant: NORTHROP DISPATCH & BROKERAGE, INC., Union Stockyards, West Fargo, ND 58078. Representative: Earl T. Northrop, Union Stockyard, West Fargo, ND 58078. Sand, gravel, and crushed rock from points in WI and MN to points in ND.

MC 109595 (Sub-4–2TA), filed August 18, 1980. Applicant: REX TRANSPORTATION COMPANY, Suite 207 Clausen Building, 1520 North Woodward Ave., Bloomfield Hills, MI 48013. Representative: William B. Almer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Cement* from Detroit, MI, to points in WI. Supporting Shipper: Medusa Cement Company, P.O. Box 5668, Cleveland, OH 44101.

MC 106674 (Sub-4–3TA), filed August 18, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Paper and paper products and materials, equipment and supplies used in the manufacture and distribution of paper and paper products* between points in and east of MN, IA, MO, AR and LA. Restricted to traffic either originating at or destined to the facilities of Manville Forest Products Corporation. An underlying ETA seeks 90 days authority. Supporting shipper: Manville Forest Products Corp, P.O. Box 488, West Monroe, LA 71291.

MC 145544 (Sub-4–4TA), filed August 18, 1980. Applicant: W. & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Joseph Winter, 29 South La Salle Street, Chicago, IL 60603. *Contract* Irregular (1) *Air moving control equipment,* and (2) materials, equipment and supplies used in the manufacture of air moving control equipment, between Niles, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Garden City Fan & Blower Co., of Niles, MI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Garden City Fan & Blower Co., 1701 Terminal Road, Niles, MI 49120.

MC 138841 (Sub-4–2TA); filed August 18, 1980. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Common,* irregular; *Batteries and Tires* between Portland, OR and Gillette, WY and Rapid City, SD. An underlying ETA seeks 120 days authority. Supporting shipper: Neil's Tire Service, Inc., 30 St. Joseph Street, Rapid City, SD 57701.

MC 151087 (Sub-4–1TA), filed August 18, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15244 Dixie Highway, Harvey, IL 60426. Representative: Edward F. Bowes, P.O. Box 1409, Fairfield, NJ 07006. *Contract,* irregular, *Bakery Products,* From Frederick, MD and Toledo, OH to points in IL, IN and WI. Supporting shipper: S. B. Thomas, Inc., 930 North Riverview Drive, Totowa, NJ 07511.

MC 6031 (Sub-4–3TA), filed August 15, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., MIlwaukee, WI 53204. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract,* irregular; *such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses,* and *materials, equipment and supplies used in the conduct of such businesses,* between the facilities of Associated Grocers, Inc., at New Berlin, WI, on the one hand, and, on the other, points in IL on and north of IL Hwy 17, under a continuing contract with Associated Grocers, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Grocers, Inc., 16955 West Rogers Drive, New Berlin, WI 53151.

MC 138841 (Sub-4–1TA), filed August 15, 1980. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Common, irregular; *Malt Beverages* from Omaha, NE to Rapid City, SD. An underlying ETA seeks 120 days authority. Supporting shipper: Highland Beverages, 802 E. St. Patrick, Rapid City, SD 57701.

MC 108449 (Sub-4–3TA), filed August 15, 1980. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, 1947 West County Road C, St. Paul, MN 55113. Common regular; *General Commodities* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading. (1) Between Muskegon, MI and St. Paul, MN, serving the intermediate points of Grand Haven and Spring Lake, MI and the off-route point of Allendale, MI: From Muskegon, MI over U.S. Hwy 31 to junction of Interstate Hwy 196, thence over Interstate Hwy 196 to junction of Interstate Hwy 94, thence over Interstate Hwy 94 to junction of Interstate Hwy 90, thence over Interstate Hwy 90 to junction of Interstate Hwy 94 at Madison, WI, thence over Interstate Hwy 94 to junction of U.S. Hwy 12 at the MN–WI boundary line, thence over U.S. Hwy 12 to St. Paul, MN and return over the same route. (2) Between Muskegon, MI and St. Paul, MN, serving the intermediate points of Grand Haven and Spring Lake, MI and the off-route point of Allendale, MI: From Muskegon, MI over U.S. Hwy 31 to junction of U.S. Hwy 33, thence over U.S. Hwy 33 to junction Interstate Hwy 94, thence over Interstate Hwy 94 to U.S. Hwy 20, thence over U.S. Hwy 20 to junction U.S. Hwy 51, thence over U.S. Hwy 51 to junction Interstate Hwy 94, thence over Interstate Hwy 94 to junction U.S. Hwy 12 at the MN–WI boundary line, thence over U.S. Hwy 12 to St. Paul, MN and return over the same route. (3) Between Muckegon, MI and Grand Rapids, MI, serving the intermediate points of Grand Haven, Spring Lake and Allendale, MI: From Muskegon, MI over U.S. Hwy 31 to junction of MI Hwy 45, thence over MI Hwy 45 to Grand Rapids, MI, and return over the same route. Supporting shippers: There are 16 statements of support.

Note.—Applicant proposes to combine service over the routes described above with all existing authorized service routes.

MC 151552 (Sub-4–1TA), filed August 15, 1980. Applicant: B & B TRANSPORT, INC., 1301 West 6th Street, Mishawaka, IN 46544. Representative: Sanford M. Brook, Esq., Suite 710, JMS Building, South Bend, IN 46601. Contract; irregular *Petroleum and petroleum products,* in bulk, in tank vehicles between Niles and Detroit, MI; Cicero and Wood River, IL; and points in St. Joseph, Marshall, Kosciusho and Elkhart Counties, IN and St. Joseph and Cass Counties, MI under continuing contract(s) with Berreth Oil, Inc. of Mishawaka, IN; Devine Oil, Inc. of New Paris, IN and Bellman Oil, Inc. of Bremen, IN. Supporting shipper: Bellman Oil, Inc., P.O. Box 163, Bremen, IN 46506.

MC 11970 (Sub-4–3TA), filed August 15, 1980. Applicant: PERKINS MOTOR TRANSPORT, INC., P.O. Box 218, Savage, MN 55378. Representative: Neil Perkins (same address as applicant). (1) *Commodities,* the transportation of which because of size or weight requires the use of special equipment; and (2) *building contractors' tools and supplies,* between points in the states of IL, IA, KS, MN, MO, NE, SD, and WI on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Arrow Tank & Engineering Co., 8950 Evergreen Boulevard, Coon Rapids, MN 55433; Road Machinery Supplies, 4901 West 80th Street, Bloomington, MN 55437; DeBourgh Manufacturing, 9300 James Avenue South, Minneapolis, MN 55431.

MC 140820 (Sub-4–1TA), filed August 15, 1980. Applicant: A&R TRANSPORT, INC., 2996 N. Illinois, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Ferrous sulfide,* from Cleveland, OH to Marion, IA. Supporting shipper: Namolco, Inc., Willow Grove, PA 19090.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 59367 (Sub-5–2TA), filed August 18, 1980. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Ft. Dodge, IA 50501. Representative: William L. Fairbanks, 1980 Financial Center, Des Moines, IA 50309. *Metal and metal articles,* between points in CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, SD and WI, restricted to traffic moving for the account of Schwartz Metals, Inc. Supporting shipper: Schwartz Metals, Inc., 1101–1201 East Main Street, Marshalltown, IA 50158.

MC 61440 (Sub-5–7TA), filed August 18, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Primary Metal Products including Galvanized: (except coating or other allied processing) and Fabricated Metal Products (except Ordnance)* Between Berkely County, S.C., on the one hand and on the other, all points in the U.S. except AK and HI. Supporting shipper: Alumax of South Carolina, Inc., Goose Creek, S.C.

MC 107496 (Sub-5–30TA), filed, August 18, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309 *Petroleum products including lubricating oil, in bulk,* between Benz Oil facilities in WI, on the one hand, and on the other, Baton Rouge, LA, Baltimore, MD, Pittsburgh, PA, St. Louis, MO, Virginia, MN. Supporting shipper: Benz Oil, 2724 W. Hampton Avenue, Milwaukee, WI 53209.

MC 111170 (Sub-5–6TA), filed, August 18, 1980. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Dennis Ledet (same address as applicant). *Pentachlorophenol,* between Jefferson County, AR, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, MO, TN, and TX. Supporting shipper: Reichhold Chemicals, Inc., P.O. Box 1610, Tuscaloosa, AL 35403.

MC 114284 (Sub-5–5TA), filed, August 18, 1980. Applicant: FOX-SMYTHE TRANSPORTATION CO., 1700 S. Portland, P.O. Box 82307, Oklahoma City, OK 73148. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. *Meat, Meat Products, Meat By-Products and Articles distributed by Meat Packinghouses as described in Sections A and C of Appendix I, to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* from the facilities utilized by Service Packing Company and Best Western Foods, Inc. at Los Angeles, CA to points in AR, IL, IA, KS, MO, NE, OK and TX. Supporting shippers: Service Packing Co. and Best Western Foods, Inc., 3425 E. Vernon Avenue, Los Angeles, CA 90058.

MC 117119 (Sub-5–24TA), filed, August 18, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: June B. Ball (same address as applicant). *Hand tools* from the facilities of Allied International at Van Nuys, CA to points in MN, WI, and points in the U.S. on and east of the Mississippi River. Supporting shipper(s): Allied International, 15071 Keswick, Van Nuys, CA 91405.

MC 117119 (Sub-5–25TA), filed August 18, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: June B. Ball (same address as applicant). *Lecithin (except in bulk)* from Stuttgart and Helena, AR to Atlanta, GA. Supporting shipper: American Lecithin Company, P.O. Box 4056, Atlanta, GA 30302.

MC 117119 (Sub-5–26TA), filed August 18, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: June B. Ball (same address as applicant). *Such commodities as are dealt in by automotive supply stores (except commodities in bulk)* from points in MI and OH to the facilities of Fruehauf Corporation at Salt Lake City, UT and Boise, ID. Supporting shipper: Fruehauf Corporation, 770 West Amity Road, Boise, ID 83705.

MC 119741 (Sub-5–14TA), filed August 18, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Salt and salt products,* from Rice County, KS to points in IA. Supporting shipper: White Transfer & Storage, Inc., P.O. Box 1355, Fort Dodge, IA 50501.

MC 119789 (Sub-5–30TA), filed August 18, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Melanine Dinnerware* from the facilities of Plastic Manufacturing at Dallas, TX to Ca. Supporting shipper: Plastics Manufacturing Company, 2700 South Westmoreland Ave., Dallas, TX 75223.

MC 126822 (Sub-5–24TA), filed August 18, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). *Paper and paper articles, plastic and plastic articles, and materials and supplies used in the manufacture and distribution thereof* between points in the United States, restricted to the transportation of shipments from, to, or between the facilities of International Paper Company. Supporting shipper: International Paper Company, 220 East 42nd Street, New York, NY 10017.

MC 129032 (Sub-5–6TA), filed August 18, 1980. Applicant: TOM INMAN TRUCKING, INC., 5656 S. 129th E. Avenue, Tulsa, OK 74145. Representative: Jerry D. Garland, P.O. Box 3728, 5656 S. 129th E. Avenue, Tulsa, OK 74121. *Plumbing fixtures, materials, equipment and supplies as used in the manufacture and distribution thereof; (except commodities in tank vehicles)* from IL, IN, KY, MI and OK to AZ, CA, FL, NC, OK, NV, and TX restricted to traffic originating at or destined to the facilities owned/or operated by Delta Faucet Company, Division of Masco Corporation of Indiana or its affiliates. Supporting shipper: Delta Faucet, Inc., Highway 47 West, Greensburg, IN 47240.

MC 135283 (Sub-5–4TA), filed August 18, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 S. Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Filters, air, coolant, fuel and oil, in packages* from the facilities of J. A. Baldwin Manufacturing Company at or near Kearney, NE to points in the United States except NE, AK, and HI. Supporting shipper: J. A. Baldwin Manufacturing Company, P.O. Box 610, Kearney, NE 68847.

MC 139206 (Sub-5–15TA), filed August 18, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura Berry (same address as applicant). Contract; Irregular. *Fabricated Metal* between points in the United States and the facilities of C. Hager & Sons (under continuing contract(s) with C. Hager & Sons). Supporting shipper: C. Hager & Sons, 139 Victor St., St. Louis, MO 63104.

MC 140364 (Sub-5–6TA), filed August 18, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 71905. Representative: Representative: R. L. Gordon, Manager Transportation, 111 West Clarendon, Phoenix, AZ 80513. Contract, irregular: *Foodstuffs moving in mechanical refrigerated equipment,* between facilities utilized by Lamb-Weston and from these facilities to all customer destinations within forty-eight contiguous states. Restricted to the transportation of traffic originating at, or destined to, the facilities of Lamb-Weston. Supporting shipper: Lamb-Weston, 6600 S.W. Hampton, Portland, OR 97223.

MC 145396 (Sub-5–1TA), filed August 18, 1980. Applicant: BOYCE HOWARD, d.b.a HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. *Chemicals or allied products, including without limitation, fertilizer, raw materials used in manufacturing fertilizer, pesticides,* between points in AL, AR, GA, KS, KY, LA, MS, MO, OK, TN, and TX. Supporting shippers: Estech General Chemicals Corporation, 152 Collins, Memphis, TN; United States Steel Corporation, USS Agri-Chemicals Division, 233 Peachtree St., N.E., Atlanta, GA; Fritt Industries, Inc., Box 850, Ozark, AL; and Parkans International, Inc., 5521 Armour Drive, Houston, TX.

MC 146729 (Sub-5–1TA), filed August 18, 1980. Applicant: JAMES S. HELWIG and ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 2509 Inwood Road, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Power transmission machinery and related parts, attachments, and accessories and supplies (except those commodities which because of size or weight require the use of special equipment)* from (1) Chambersburg, PA to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Trenton, TN; (2) from Trenton, TN to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA and Chambersburg, PA. Supporting shipper(s): T. B. Woods Sons Company, 440 N. Fifth Avenue, Chambersburg, PA 17201.

MC 148035 (Sub-5–4TA), filed August 18, 1980. Applicant: QUANDT TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, NE 68110. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Liquid feed, liquid feed ingredients, and molasses.* From Omaha, NE to points in IA, KS, MO and SD. Supporting shipper: Cargill, Inc., P.O. Box 9300, Dept. 29, Minneapolis, MN 55440.

MC 149026 (Sub-5–9TA), filed August 18, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *New furniture, materials, equipment and supplies used in the manufacture, assembly and distribution of new furniture (except commodities in bulk),* between San Antonio, TX and points in the U.S. (except AK and HI). Supporting shippers: Creative Cabinets, 3215 N. Pan Am Expressway, San Antonio, TX; KLN Steel Prod. Co. 8614 Perrin Beitlel Road, San Antonio, TX 78286; and Galleon International Inc. Box 18162, San Antonio, TX 78218.

MC 150102 (Sub-5–5TA), filed August 18, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slidell, LA 70458. Representative: Albert T. Riddle, 1101 Rue Corton, Slidell, LA 70458. Contract—irregular, *Tires, tubes, wheels, wheel nuts, wheel weights, tire valves, hub wheel clips* between Armstrong Rubber Company in Jackson, MS and Sears, Roebuck and Co., facilities in the States of TX, LA, NM, and OK. Supporting shipper: Sears, Roebuck and Company, 1409 South Lamar Street, Dallas, TX 75295.

MC 150496 (Sub-5–9TA), filed August 18, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri, P.O. Box 188, Tontitown, AR 72770. *General commodities (with the usual exceptions)* between points in the United States *(except paper bags, plastic bags and bags made of paper and plastic between (a) Des Moines, IA and points in TX, OK, KS, NE, ND, SD, MN and MO, and at (b) Jacksonville, AR to points in IA, NE, KS, OK, TX and MO, and at (c) New Philadelphia, OH to points in KY, TN, NC, SC, GA, AL and FL).* Restricted to traffic originating at or destined to the facilities of Great Plains Bag Corp. Supporting shipper: Great Plains Bag Corporation, 4515 Fleur Dr., U.F.S. Bldg, Des Moines, IA 50321.

MC 151107 (Sub-5–2TA), filed August 18, 1980. Applicant: MICHAEL ARTON TRANSPORTERS, INC., 400 East Simcoe, Lafayette, 70501. Representative: Robert L. Boese, Broadhurst, Brook, Miller & Reed, P.O. Drawer 2879, Lafayette, LA 70502. *Passengers and their baggage.* Between points in LA on the one hand, and on the other hand, points in MS and TX. 16 supporting shippers.

MC 151154 (Sub-5–8TA), filed August 18, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004—29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *Liquid soap, toilet preparations, health and beauty aids and equipment materials and supplies used in the manufacture and distribution of liquid soap, toilet preparations, health and beauty aids (except commodities in bulk, in tank or hopper vehicles),* between Jonathon Industrial Park, Chaska, MN, on the one hand, and on the other points in the United States in and east of ND, SD, NE, CO, OK, and TX. Restricted to shipments originating at or destined to the facilities of Minnetonka, Inc. Supporting shipper: Minnetonka, Inc., P.O. Box 1–A; Minnetonka, MN 55343.

MC 151259 (Sub-5–2TA), filed August 18, 1980. Applicant: TRIPLE S. HAULING, INC., 4000 I–70 Drive, N.W., Columbia, MO 65201. Representative: Peter A. Greene, 900—17th Street NW., Washington, D.C. 20006. Contract, irregular: *Plastic pipe and pipe fittings,* from McPherson, KS to Adrian, MO, under a continuing contract or contracts with Emery Sapp & Sons, Inc. Supporting shipper: Emery Sapp & Sons, Inc., 4000 I–70 Drive, N.W., Columbia, MO 65201.

MC 151578 (Sub-5–1TA), filed August 18, 1980. Applicant: DEMEY TRANSPORT, INC., R.R. #2, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Liquid fertilizer, liquid fertilizer materials and anhydrous ammonia, in bulk,* (1) from Denison, IA to points in MO and NE, and (2) from Beatrice, Blair, and Omaha, NE to points in IA and MO. Supporting shipper(s): Amoco Oil Co., 200 East Randolph Drive, Chicago, IL 60601.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26169 Filed 8–26–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions Volume No. OP1–010; Decision-Notice

August 7, 1980

Notice of Correction, previously noticed in the **Federal Register** issue of August 19, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to fitness related applications, in lieu of non-fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that

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applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 96750 (Sub-6F), filed August 1, 1980. Applicant: TRUCKING UNLIMITED, 9215 Sorensen Ave., Santa Fe Springs, CA 90670. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602.

MC 120761 (Sub-65F), filed July, 30, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102.

[FR Doc. 80-26173 filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions Volume No. OP1-011; Decision-Notice

August 11, 1980.

Notice of Correction, previously noticed in the FR issue of August 19, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier, dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 200 (Sub-481F), filed August 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant).

MC 29910 (Sub-282F), filed July 29, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902.

MC 61440 (Sub-195F), filed August 4, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157.

MC 69281 (Sub-56F), filed August 4, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203.

MC 111231 (Sub-308F), filed August 1, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902.

MC 119741 (Sub-273F), filed August 4, 1980. Applicant: GREEN FIELD

TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant.

MC 135410 (Sub-104F), filed August 5, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068.

MC 138420 (Sub-47F), filed July 30, 1980. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1—P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703.

MC 138991 (Sub-29F), filed August 4, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A Calvo (same address as applicant).

MC 139171 (Sub-6F), filed August 1, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, DC 20036.

MC 145950 (Sub-84F), filed August 1, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706 Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. N.W., Washington, DC 20001.

MC 146071 (Sub-27), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203.

MC 150710 (Sub-1F), filed August 4, 1980. Applicant: LEBARNOLD, INC., 625 South 5th Ave., P.O. Box 630, Lebanon, PA 17042. Representative: Richard A. Mehley, 1000 16th St. N.W., Suite 502, Washington, DC 20036.

MC 151271 (Sub-1F), filed July 24, 1980. Applicant: JERRY OWEN'S TRUCKING CO., P.O. Box 371, Rice Lake, WI 54868. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440.

MC 151280 (Sub-1F), filed August 1, 1980. Applicant: IOWA TURKEY EXPRESS, INC., P.O. Box 582, Storm Lake, IA 50588. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50509.

[FR Doc 80-26172 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions Volume No. OP1-012; Decision-Notice

August 11, 1980.

Notice of Correction, previously noticed in the **Federal Register** issue of August 19, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Review Board Member Carleton not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 115311 (Sub-399F), filed August 1, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401.

MC 124511 (Sub-66F), filed August 5, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603.

MC 143701 (Sub-26F), filed August 1, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202.

MC 146071 (Sub-28F), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203.

MC 151451F, filed August 1, 1980. Applicant: CHARLES E. REED, P.O. Box 547, Long Lane, Franklin, TN 37064. Representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219.

MC 150791 (Sub-1F), filed August 4, 1980. Applicant: INDUSTRIAL FREIGHT SERVICES, INC., 241 Erie St., Waverly, NY 14892. Representative: Donald C. Carmien, 501 Midtown Mall, Binghamton, NY 13901.

MC 151461F, filed August 5, 1980. Applicant: B.J.K. CORP., 414 Park Dr., Grand Forks, ND 58201. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201.

[FR Doc. 80-26171 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

V 45 AG 27 80 UMI

Permanent Authority Decisions Volume No. OP1-013; Decision-Notice

August 11, 1980.

Notice of correction, previously noticed in the **Federal Register** issue of August 19, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to fitness related applications, in lieu of non-fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Review Board Member Carleton not participating.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 119641 (Sub-184F), filed August 5, 1980. Applicant: RINGLE EXPRESS, INC., P.O. Box 335, Moline, IL 61625. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204.

MC 125751 (Sub-9F), filed August 6, 1980. Applicant: H&W CARRIERS, INC., Box 73, Camargo, IL 61919. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701.

MC 130981F, filed August 1, 1980. Applicant: HALE FREIGHT SYSTEMS, INC., 1404 Clinton St., Baltimore, MD 21224. Representative: Mel P. Booker, Jr., 110 South Columbus St., Alexandria, VA 22314.

MC 145610 (Sub-7F), filed August 5, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 576 Lake Mirror Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.W., Atlanta, GA 30309.

MC 149400F, filed July 23, 1980. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First St., Fort Recovery, OH 45816. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180.

[FR Doc. 80-26170 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29441]

Southern Pacific Transportation Co.—Trackage Right—Over Kansas City Southern Railway Co.

Southern Pacific Transportation Co. (SP), One Market Plaza, San Francisco, CA 94105, represented by Mr. T. A. Miller, General Commerce Counsel, One Market Plaza, San Francisco, CA 94105, hereby gives notice that on the 8th day of August, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to operate, under trackage rights, over approximately 3,500 feet of trackage owned by Kansas City Southern Railway Company (KCS) in KCS' Wall Street yard at Beaumont, TX.

The trackage rights agreement provides that KCS will construct a 265' crossover track, relocate a 400', crossover track , realign 175', of trackage, constuct 640' of new trackage and rehibilitate 1730' of existing trackage. SP will pay for all costs of the construction, relocation, realignment and rehabilitation and will have trackage rights over all such trackage. The line involved extends approximately 3500' from connection at milepost 766.70 of KCS' mainline to connection with SP's Sabine Branch at milepost 29.95.

Acceptance of the proposed trackage rights agreement will enhance carrier operating economy and efficiency and result in better service to the public by allowing SP to route trains from the east and destined to points on its Rockland Branch, directly to said branch without having to first proceed to its Beaumont yard, approximately three (3) miles west of the connection of the Rockland Branch with the subject trackage.

Applicant is operating under Service Order No. 1393 served August 9, 1979.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act,* 1969, 352 I.C.C 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—Nat'l Environmental Policy Act, 1969, Supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29441 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20224, not later than 45 days after the date notice of the filing of the application is published in the **Federal Register.** Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26175 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[TA-131(b)-5, TA-503(a)-7 and 332-113]

Probable Economic Effects of Possible Tariff Reductions Under Section 124 of the Trade Act of 1974 and Designation of Certain Articles as Eligible Articles for Purposes of the Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 131(b) and 503(a) of the Trade Act of 1974 (hereinafter referred to as "the Act") and section 332(g) of the Tariff Act of 1930, as amended, the Commission has instituted investigation Nos. TA-131(b)-5, TA-503(a)-7, and 332-113 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the U.S. Trade Represenative (USTR) with respect to certain listed articles as to the probable economic effects on U.S. industries producing like or directly competitive articles and on consumers of (1) possible concessions on certain listed articles under the residual tariff reduction authority granted to the President under section 124 of the Act or continuance of duty-free treatment if the existing rate of duty is free, and (2) the elimination of U.S. import duties under the United States Generalized System of Preferences (GSP).

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: (1) Agricultural products, Mr. Edward Furlow (202-523-0234); (2) Textile products, Mr. Reuben Schwartz, (202-523-0114); (3) Chemical products, Dr. Aimison Jonnard (202-523-0423); (4) Minerals and metals, Mr. Larry Brookhart (202-523-0275); (5) Machinery and equipment, Mr. Aaron Chesser (202-523-0353); (6) Miscellaneous manufacturers, Mr. Selma Coble (202-523-0103); Office of Industries, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; (7) Legal aspects, Mr. William Gearhart, (202-523-0487), Office of General Counsel, at the same address.

SUPPLEMENTARY INFORMATION: On August 5, 1980, in accordance with section 131(a) and 503(a) of the Act and pursuant to the authority of the President delegated to the USTR by Executive Order 11846, as amended by Executive Order 11947, the USTR furnished the United States International Trade Commission with lists of articles which are being considered for (1) possible concessions under the residual tariff reduction authority of section 124 of the Act or continuance of duty-free treatment or (2) designation as eligible articles for purposes of the GSP set forth in Title V of the Act. The USTR published the lists of articles in the August 8, 1980, **Federal Register** (45 FR 52978). A notice correcting errors in the August 8, 1980, notice was published in the **Federal Register** of August 20, 1980 (45 FR 55556). Copies of the lists are available upon request from the Secretary at the Commission's office in Washington, D.C.

Section 504(d) of the Act exempts from one of the competitive-need limits in section 504(c) articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Act. Accordingly, pursuant to the authority of section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), and in conformity with the delegation of authority from the President to him of Executive Order 11846 as amended by Executive Order 11947, the USTR requested that the Commission also provide advice with respect to whether products like or directly competitive with any products described in the attached tariff categories were being produced in the United States on January 3, 1975.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on November 5, 1980, to be continued on November 6 and 7, 1980, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, October 28, 1980.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. All written statements, including prepared statements filed by witnesses at the public hearing, should include a summary of material included in the statement. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons.

To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than November 18, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: August 22, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-26241 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

Report to the President on Investigation No. TA-201-43, Mushrooms

August 14, 1980.

Determination of Injury

On the basis of the information developed in the course of the investigation, the Commission has determined (Commissioner Bedell not participating) that mushrooms, prepared or preserved, provided for in item 144.20 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof,[1] to the domestic industry producing an article like or directly competitive with the imported article.

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[1] Commissioner Calhoun and Moore found serious injury; commissioners Alberger and Stern found serious injury, or the threat thereof.

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Findings and Recommendations Concerning Relief

Commissioners Alberger, Calhoun, and Stern find and recommend that, in order to prevent or remedy serious injury,[2] it is necessary to impose quantitative restrictions on U.S. imports of mushrooms, prepared or preserved, provided for in item 144.20 of the TSUS, for the 3-year period commencing July 1, 1980. Such quantitative restrictions should be established at 86,000,000 pounds (drained weight) for the first year, to be increased by 9.7 percent in each subsequent year. The actual levels are as follows:

Quantities-Drained Weight Basis

July 1, 1980 to June 30, 1981	86,000,000
July 1, 1981 to June 1982	94,000,000
July 1, 1982 to June 1983	103,000,000

They further recommend that the President allocate such quantitative restrictions on a per country basis, as he deems appropriate.

Commissioner Moore finds and recommends that, in order to remedy the serious injury to the domestic industry that he has found to exist, it is necessary to impose a quota on U.S. imports of mushrooms, prepared or preserved, provided for in item 144.20 of the TSUS, for the 5-year period beginning July 1, 1980, as follows—78 million pounds for the first 2 years, to be increased by 10 percent in the third year, 10 percent above the third year level in the fourth year, and 10 percent above the fourth year level in the fifty year. He further recommends that the President allocate the quota on a per country basis as he deems appropriate.

Background

The Commission instituted the investigation on March 24, 1980, following receipt on March 14, 1980, of a petition filed by the American Mushroom Institute, a trade association representing domestic mushroom canners. Notice of the Commission's investigation and the public hearing held with respect thereto was published in the **Federal Register** of April 2, 1980 (45 FR 21753), and copies of the notice were posted at the office of the Secretary to the Commission in Washington, D.C., and at the Commission's office in New York City. A public hearing was held in the Commission's hearing room in Washington, D.C., on June 9–10, 1980, and all interested parties were afforded an opportunity to be present, to present evidence, and to be heard.

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1)). The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, and from other Federal agencies, responses to Commission questionaries, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

Section 201(b) of the Trade Act of 1974 requires that each of the following conditions be met before an affirmative determination can be made:

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

We find that all three conditions have been met and therefore have made an affirmative determination in this investigation.

Increased imports

The statute requires the Commission to consider increases in imports "either actual or relative to domestic production." In this case, imports of the canned mushrooms have increased in both absolute and relative terms. Imports of canned mushrooms[3] increased from 50 million pounds (drained-weight basis)[4] in marketing year 1974/75 to 86 million pounds in 1978/79.[5] In 1979/80 imports reached the record level of 114 million pounds. The ratio of imports to domestic production of canned mushrooms increased from 68 percent in 1974/75 to 96 percent in 1978/79. Imports of canned mushrooms continued to increase in recent months, both absolutely and relative to production. Imports totaled approximately 75 million pounds in July-March 1979/80, as opposed to only 50 million pounds in the same period a year earlier.

The Domestic Industry

We have determined that the appropriate industry against which the impact of the subject imported articles should be weighed consists of all domestic producers of canned mushrooms. In making this determination, we have considered various arguments made in the hearing and offered in submissions that the relevant domestic industry consists of both processors *and* growers of mushrooms. For the reasons stated below, however, we do not believe such a broad definition of the domestic industry is justified in this case.

In order to understand the basis for our decision, it is necessary to examine the development of the concept of industry under section 201. Section 201(b)(1) requires that we consider the question of serious injury or threat thereof to "the domestic industry producing an article like or directly competitive with the imported article". The phrase "like or directly competitive article" derives from language in Article XIX of GATT[6]—the so-called "escape clause." It has been used in U.S. escape clause legislation since 1951.[7] Although there is no express definition of this phrase in the statute or in predecessor provisions (except for one aspect of "directly competitive" which is discussed *infra*), it has a long history of application both in escape clause proceedings and elsewhere in customs administration.[8]

At least two conceptual problems attend the application of this language as it is used under section 201(b). First, there is the fundamental question of differentiating between articles that are "like" and articles that are "directly competitive." Second, there is the difficult problem of deciding whether the disjunctive "or" means that we are to examine two distinct industries, one producing the "like" product and the other producing the "directly competitive" product, as opposed to our examining the single industry comprised of producers of each of these types of articles. The face of the statute offers no clear direction for resolving either of these two questions.

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[2] Commissioners Alberger and Stern, having found serious injury or the threat thereof, recommend relief to prevent or remedy such injury. Commissioner Calhoun, having found serious injury, recommends relief to remedy such injury.

[3] The subject imports in this case are "mushrooms, otherwise prepared or preserved," provided for in item 144.20 of the TSUS. While this item includes mushrooms in jars and frozen mushrooms, 97 percent of all these imports are in cans. Furthermore, the vast majority of domestic production in these categories is canned as opposed to jarred or frozen.

[4] Drained weight rather than fresh weight basis will be used throughout our views.

[5] A marketing year is July 1-June 30 and is the standard period used throughout this opinion. The Commission's present investigation gathered data from questionnaires covering marketing years since 1976/77. However, significant additional data on many factors were available from the two prior investigations.

[6] General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. (5), (6), 55 U.N.T.S. 194 (1948), Vol. 14, BISD.

[7] Trade Agreements Extension Act of 1951, sec. 7, 65 Stat. 72 (1951)

[8] The same basic language was used in sec. 301(a)(2) of the Trade Expansion Act of 1962, governing adjustment assistance petitions 76 Stat. 883 (1962) sec. 301(a). See infra, p. 8. The term "like" is also used in antidumping and countervailing proceedings under title VII of the Tariff Act of 1930, as amended. 19 U.S.C. sec. 1677(4)(a); although for that title it has a legislatively defined scope; see, 19 U.S.C. 1677(10). It has been used in various other provisions relating to customs administration; see, e.g. Geo. S. Bush Co., Inc., v. U.S., ARD 140 (U.S. Customs Ct. 1962)

With regard to the difference between products that are "like" and products that are "directly competitive," legislative history and judicial precedent offer guidance. The House and Senate Reports relating to the Trade Act of 1974 address this question directly with virtually identical language:

> The term "like or directly competitive" used in the bill to describe the products of domestic producers that may be adversely affected by imports was used in the same context in section 7 of the 1951 Extension Act and in section 301 of the Trade Expansion Act. The term was derived from the escape-clause provisions in trade agreements, such as article XIX of the GATT. The words "like" and "directly competitive," as used previously and in this bill, are not to be regarded as synonymous or explanatory of each other, but rather to distinguish between "like" articles and articles which, although not "like", are nevertheless "directly competitive." In such context, "like" articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.), and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor.[9] (Emphasis added)

It is plain, therefore, that the intent of the drafting committees was that "like" has to do with the physical identity of the articles themselves, while "directly competitive" relates more to the notion of commercial interchangeability.

While the report language leaves little ambiguity as to Congressional intent regarding the meaning of "like" and "directly competitive," further guidance on the distinction between the two terms can be found in the leading case of *United Shoe Workers of America, AFL–CIO* v. *Bedell.*[10] In that case, the court was faced with the Commission's interpretation of the term "like or directly competitive" in a determination involving a petition for adjustment assistance under the Trade Expansion Act of 1962.[11] The court gave its view of the phrase, relying almost entirely on legislative history and case law regarding escape clause legislation. The court noted that:

> An imported product that is "like" a domestic product will ordinarily be directly competitive with that product. Unless Congress, by using "directly competitive" alternatively, intended to embrace articles not within the scope of "like," the "directly competitive" language is superfluous. From daily experiences, however, we know that many products can be directly competitive without having identical or nearly identical physical characteristics. Normally, the term "directly competitive" invites, in the first instance, a comparison of the commercial uses of the products and not their characteristics; the word "like," in common parlance, does the reverse.[12]

The court added that "one must approach the question whether an imported article is 'like' a domestic article with the knowledge that 'like' is the more restrictive of the two terms." [13]

With respect to the problem of whether the language "like or directly competitive" implies the existence and characteristics of one industry as opposed to two distinct industries, the legislative history and the court's ruling in *United Shoe Workers* v. *Bedell* also provide useful guidance here. In observing that "like" and "directly competitive" are two separate items which are neither synonymous with nor explanatory of each other, both the House and the Senate strongly imply that these terms *could,* indeed, refer to separate groups of producers. The court's decision in *United Shoe Workers* v. *Bedell* also suggests that the distinction drawn by the statute could be critical to a Commission determination, and that some decisions may only involve the narrower of the two product scopes.

In previous cases, Commissioners have generally not found it essential to draw meaningful distinctions between the terms "like" and "directly competitive," usually because the distinction was not important to the outcome of the case or because the facts overwhelmingly indicated a given result. This does not mean, however, that the Commission has always aggregated producers of both "like" and "directly competitive" articles into one industry. In at least one case where the groups could be clearly distinguished, a majority of the Commission considered them separately, rather than cumulatively, to determine whether one or the other met the criteria for relief.[14] The majority view regarding industry was perhaps best explained in the views of Commissioners Talbot and Overton, which read in part as follows:

> The term "like" clearly refers to products which are of the same kind, and the term "directly competitive" clearly refers to articles which are not "like," but which nevertheless directly compete with the imported product concerned. It is further our view that, in a case where there is domestic production of both "like" and "directly competitive" products, a basis for invoking the escape clause exists if under the escape-clause criteria it is established that the imports in question are causing or threatening serious injury to the domestic production of the "like" products only, regardless of the effect of the imports on the "directly competitive" products.[15]

It should be noted that the majority view in this case was clearly contrary to a previous decision in which a majority aggregated "like" and "directly competitive" articles.[16] Both decisions were made under the Trade Agreements Extension Act of 1951,[17] and in neither instance did the Commission have the benefit of the 1974 legislative history or the judicial precedent discussed above, which seems to reinforce the latter of the two Commission rulings. Nevertheless, we find the reasoning of Commissioners Talbot and Overton somewhat incomplete, because it is based solely upon considerations of product differences and does not relate those considerations to the concept of "industry." Therefore, while we concur in principle with their conclusion, we feel compelled to explain how our approach differs.

We believe that in light of the authorities mentioned above the appropriate task for us in cases arising under Section 201 is to draw a distinction between the "like" product and the "directly competitive" product, then if the producers of these two articles can clearly be treated as separate and distinct industries, and if such treatment is consistent with practice in the marketplace, we must look to whichever industry presents the most compeling argument for relief. There may be cases where it is impossible or inappropriate to segregate industries on this basis. For example, if the same group of firms used the same productive facilities to produce both "like" and "directly competitive" articles, and if it were impossible to break out statistics on production, consumption, sales, profits, or employment on the basis of the "like" product, then we might be compelled to aggregate. In other words, the industry producing a "like" product must be rationally defined, and it must be a reasonably distinct entity. It should also be reflective of current industrial and marketing practices.

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[9] Trade Reform Act of 1974: Report of the Committee on Finance . . . S. Rept. No. 93–1298 (93d Cong., 2d sess 1974) pp. 121–22. (Senate Finance Rept).

[10] 506 F 2d 174 (D.C. Cir. 1974). see also, Trade Reform Act of 1973: Report of the Committee on Ways and Means . . . H. Rept. No. 93–571 (93rd Cong., 1st Sess. 1973) p. 45 (House Ways and Means Report).

[11] 76 Stat. 883 (1962).

[12] 506 F. 2d 174, at pp. 185–86.

[13] Id at p. 186.

[14] Zinc Sheet, Report on Escape Clause Investigation No. 81 under Section 7 of the Trade Agreements Extension Act of 1951, as amended (January 1960).

[15] Id at p. 59.

[16] Chalk Whiting, Report on Escape Clause Investigation No. 15 under Section 7 of the Trade Agreements Extension Act of 1951 (April 1953).

[17] 65 Stat. 72 (1951) at sec. 6(a).

Obviously, our industry concept under Section 201 can be distorted to reach an absurd outcome, and we must avoid industry definitions that are drawn artificially narrow simply to make relief more likely. While producers of the "like" product alone may constitute an industry for the purposes of section 201, this must be a classification which we are capable of analyzing under the pertinent statutory criteria. We see nothing that would suggest a contrary view of industry in any of the authorities mentioned, nor in previous Commission practice. Moreover, we believe that this is the overall approach most consistent with both the plain language and the underlying purposes of Section 201.

The facts gathered in this investigation clearly show that the "like" product is canned mushrooms and does not include fresh mushrooms. Only canned mushrooms have the same or nearly the same appearance, qualities or characteristics.[18] There are certain intrinsic differences between the two products.[19] For example, canned mushrooms may be stored for an indefinite period, while fresh mushrooms must be consumed or preserved within a short time. Restaurants and other institutional users point out that fresh mushrooms have higher preparation costs.[20] For certain uses, such as salads, fresh mushrooms are clearly preferred.[21] There are obvious differences in quality, texture and taste [22], as pointed out in the Commission's survey.[23]

The Commission's survey did reveal that there is a certain degree of interchangeability between the two types of goods, but this merely indicates that the products may be "directly competitive". In fact, Section 601(5) of the Trade Act of 1974 [24] was written specifically to assure among other things that producers of agricultural goods have standing to petition for relief against imports of goods at a different stage of processing on the grounds that such goods are "directly competitive" for the purpose of section 201.

The section states:

> An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of precessing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.[25]

As pointed out by the court in *United Shoe Workers* v. *Bedell*, the section was enacted after the Commission had refused to consider unprecessed sweet cherries to be "directly competitive" with imports of processed Glace cherries.[26] Commenting on this fact, the court said:

> . . . after the Commission excluded from the reach of "like of directly competitive," products that were "substantially the same" but at "an earlier or later stage of processing," Congress expanded the definition of "directly competitive," rather than "like," to encompass those products. This evidence, in our view, is persuasive as to the restrictive sense in which Congress used the word "like"[27]

Considering the history behind section 601(5) and the restrictive definition historically given to the term "like", it seems that, at most, fresh mushrooms could only be considered "directly competitive" with a product such as canned mushrooms, which are at a later stage of processing and have been altered in many respects.

Having determined that the "like" product is canned mushrooms, we must also consider whether the domestic producers of this article constitute a separate and distinct industry for which it would be appropriate to invoke section 201. Our investigation revealed that canning and processing are largely distinct from the production and sale of fresh mushrooms. While some firms are engaged in both types of operations, the majority of canners are separate from the growing industry and must purchase fresh mushrooms from growers. Of those canners who do grow their own fresh mushrooms, most devote such production solely to processing rather than sales on the fresh market. Even with respect to those canners who do make some sales to the fresh market, separate accounting records are usually maintained for such sales. In general, the Commission has data exclusively for U.S. canning operations which enable us to analyze all factors relevant to our determination of injury. Production, consumption, sales, employment, profitability, capacity utilization, and other factors can all be examined for canning operations alone.

Clearly then, the canning of mushrooms encompasses a distinct class. We therefore believe that the facts of this case compel us to treat mushroom processors as a separate "industry" for the purpose of section 201.[28]

Serious Injury

Section 201(b)(2)(A) of the Trade Act provides guidelines for determining whether a domestic industry is being seriously injured. The Commission must consider, among other economic factors, whether there is a significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry. Because the Act specifically avoids limiting the Commission to just these criteria, we have also considered all other relevant economic indicators on which the Commission has been able to compile data. These included inventories, exports, and sales.

Many smaller producers have terminated operations in recent years. In late 1979, canned mushrooms were produced by 23 firms, compared with 29 firms in 1976 and 35 firms in 1972. The capacity utilization rate for U.S. producers of canned mushrooms also declined, falling from 43 percent in 1977 to 35 percent in 1979, although there are indications that at least part of this decline is attributable to expansion of facilities by some domestic firms. Inventories of domestically canned mushrooms grew from 10.7 million pounds on June 30, 1976 to a peak of 23.0 million pounds on June 30, 1977. On

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[18] See, Japan Import Co. v. United States, 86 F. 2d 124, 24 C.C.P.A. 167, 176 (1936). "Like" is commonly defined as "the same or nearly the same (as in appearance, character, or quantity)", Webster's New Collegiate Dictionary (1977).

[19] Intrinsic characteristics was a factor mentioned in the Senate Finance Rept., supra, at p. 122.

[20] See infra, p. A–12.

[21] See infra, p. A–11.

[22] See Senate Finance Rept. Supra, at p. 122.

[23] See infra, p. A–10–A–12.

[24] 19 U.S.C. 2481 (5).

[25] Id.

[26] 506 F 2d, at pp. 185, note 76.

[27] Id.

[28] Because our determination with respect to this industry is affirmative, and because the industry producing the "like" product presents the most compelling case for relief, we do not find it necessary to address the question of possible injury to an industry producing "directly competitive" goods in this opinion.

March 31, 1980, the latest quarter for which such information is available, inventories were 20.0 million pounds, 14 percent greater than one year earlier. The average number of production and related workers employed in mushroom canning operations declined from 1,739 workers in marketing year 1976/77 to 1,593 in 1978/79. Exports of canned mushrooms are not a significant factor as they amounted to only 576 thousand pounds in 1978/79, and appear never to have been more than approximately one percent of production.

Seventeen U.S. canners, representing about 90 percent of domestic production, provided usable financial data to the Commission. Aggregate net sales of canned mushrooms increased by 4 percentage points in 1976/77 to 1977/78 before falling by an equal amount from 1977/78 to 1978/79, primarily due to a decline in domestic volume of sales rather than a decline in prices. The number of firms reporting a net operating loss on their canned mushroom operations jumped from four in 1977 and 1978 to nine in 1979. Although aggregate data for the canned mushroom industry showed a net operating profit, the aggregate net operating profit fell from $4 million in 1977 to $1.7 million in 1979, a decline of 58 percent. The ratio of net operating profit to net sales dropped from 3.4 percent in 1977 to 1.3 percent in 1979. This net operating margin was far below the 4.9 percent in 1979 recorded by the canned and dried fruits and vegetables industry as a whole. The aggregate situation shows an industry which is either suffering serious injury or is on the threshold of serious injury.[29] However, the injury does not appear to be spread evenly over all firms. Two of the three largest and most technically advanced canners show every sign of being able to make adequate profits; the third large canner's economic performance was poorer. Under section 201(b)(2)(A), however, it is the inability to make a reasonable profit on the part of "a significant number of firms" that is controlling.

Threat of Serious Injury [30]

Section 210(b)(2)(B) directs the Commission in determining whether there exists threat of serious injury to consider, among other factors, "a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages or employment . . . in the domestic industry concerned." Some of these factors have already been discussed.

We have found the domestic canned mushroom industry to be in a period of great difficulty and on the threshhold of serious injury. However, the increase in import penetration of as much as 10 percentage points over the most recent marketing year makes clear that, even if the injury already experienced is not yet definitively serious, the threat of serious injury caused by rapidly increasing imports is real and imminent. The downward turn in domestic sales noted earlier for 1978/79 seems to continue. Figures for July–March 1979/80 are 3.7 percent below those for one year earlier. Inventories are rising slightly. Information on foreign capacity does not diminish this threat. Capacity expansion in mushroom production may be stalled temporarily in Taiwan and Korea—presently the major exporters to the United States—due to an apparent current oversupply in each country. However, this situation is not expected to continue. In addition, the oversupply situation suggests that considerable excess capacity exists which could be the basis for expanded production and export to the U.S. in the immediate future. Taiwan and Korea have been seriously affected by import restrictions imposed by the European Community (EC). Since quality standards in the U.S. are different than those in Europe, it is unclear how much of the product excluded from the EC could enter the United States. It was also reported that the Peoples Republic of China (China) is expanding its mushroom operations, apparently in preparation for using its recently obtained most-favored-nation status with the United States (February 1, 1980). In fact, China's canned mushrooms exports to the U.S. during 1979/80 were 4.3 million pounds compared to an annual average level of 911,500 pounds over the last four marketing years, 1975/76 to 1978/79.

Substantial Cause

The Trade Act contains both a definition of the term "substantial cause" and certain guidelines to be considered by the Commission in determining whether increased imports are a substantial cause of the requisite serious injury or threat thereof. Section 201(b)(4) of the Trade Act defines the term "substantial cause" to mean "a cause which is important and not less than any other cause." The guidelines to be considered by the Commission with regard to substantial cause are contained in section 201(b)(2)(C), which states that in making its determination the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

> . . . an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

The report of the Senate Committee on Finance on the bill which was to become the Trade Act states, with respect to the question of substantial cause:

> The Committee recognized that "weighing" causes in a dynamic economy is not always possible. It is not intended that a mathematical test be applied by the Commission.[31]

We have concluded that the increase in imports is a substantial cause of the serious injury or threat of serious injury which we have found to exist. Increased imports are both an important cause of such injury and not less than any other cause. The ratio of canned mushroom imports to total domestic canned mushroom production increased from 68 percent in 1974/75 to 96 percent in 1978/79, while the share of total domestic canned mushroom consumption taken by canned mushroom imports increased from 40 percent in 1974/75 to 49 percent in 1978/79. Commission estimates prepared on the basis of known imports and projections for fourth-quarter domestic sales indicate that import penetration for 1979/80 is between 55 and 65 percent, significantly higher than that of the previous year.

It is not altogether clear why there has been such a dramatic loss of market share to imports. Analysis of allegations of sales lost by domestic firms to importers yielded no clear answer. Only a few allegations were confirmed. In some instances price and/or quality were given as reasons for choosing foreign sources over domestic sources; in other instances domestic product was chosen for the same reasons. One national firm marketing primarily imported product appears to have a significant advantage due to superior product recognition from large advertising efforts. Price data show no consistent pattern of underselling in most product lines. Domestic canners' prices and importers' prices often move in parallel, albeit with a slight lag on the part of importers. However, the recent loss of market share is so substantial that is outweighs the lack of any clear indications of lost sales and underpricing.

There has been a suggestion that diversion of the raw product to the fresh market is an important cause of injury to the canning industry. Indeed there has been an extraordinary growth in demand for fresh mushrooms as national income has grown and tastes have changed; this may have denied canners some of the growth in demand they might have otherwise experienced. However, any diversion that has taken place does not appear to have limited unduly opportunities for selling canned mushrooms, as the statistics show that consumption of canned mushrooms has grown in the face of any such diversion. Consumption of canned mushrooms increased from 193 million pounds in 1974/75 to 273 million pounds in 1978/79, with the great majority of this increase being accounted for by increasing imports. Therefore, we cannot say that the shift in consumer demand to fresh mushrooms has been the substantial cause of serious injury to mushroom canners. Rather, their poor performance has been primarily due to import competition. It should be noted that there appear to be few if any problems in the fresh mushroom industry, where premium prices prevail due to a shift in and growth of demand for this product. Some canners may benefit from consequent price increases for fresh mushrooms.

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[29] Commissioners Alberger and Stern find serious injury or a threat thereof. Commissioner Calhoun finds only serious injury.

[30] Id.

[31] Senate Finance Report, supra, at pp. 120–21.

Conclusion[32]

Our principal dilemma in this case—once we had resolved questions regarding the appropriate scope of the industry—was whether to find serious injury or threat of serious injury. Because of the circumstances of this case, we do not believe it is essential to make a firm choice between the two. If, in fact, the health of the industry has not yet crossed the barrier into a state of "serious injury", it is clear to us that it soon will. Data through March of 1980 show recent declines in capacity utilization, employment, production and profits in the face of rising imports. We know that imports increased significantly from April to June of 1980, and we received testimony that conditions in the industry were deteriorating during that period. Our official data on such conditions extend only through March, 1980, but we can surmise that conditions must have further deteriorated in the past 4 months. We suspect that serious injury exists today, but given the time lag in obtaining data it is not altogether clear whether the clear *threat* of serious injury has materialized into present injury. We can find no cause of either serious injury or the threat thereof which is as great as the increased imports of canned mushrooms. Thus, we have determined that the domestic industry producing canned mushrooms is entitled to relief.

Additional Views on Remedy

We recommend that the appropriate remedy in this case is import relief in the form of quantitative restrictions for the 3-year period commencing July 1, 1980. These restrictions should be established (on a drained-weight basis) at the level of 86 million pounds in the first year, 94 million pounds in the second year and 103 million pounds in the third year. We believe that these limitations on imports would enable the domestic industry to adjust to import competition through consolidation of smaller operations and better marketing techniques. We feel that three years should be a sufficient period to allow viable domestic competitiors to adopt new technology such as vacuum processing.

Our methodology for arriving at these quota levels was as follows:

(1) We first determined that the most recent period representative of imports (see sec. 203(d)(2)) consists of marketing years 1974/75 through 1979/80. This 6-year period includes both the year of highest import penetration (1979/80) and the last year for which import shares remained constant (40 percent in 1974/75). Moreover, it includes the 3-year period prior to marketing year 1977/78, which was the year that import shares rose sharply to 49 percent. Six years is certainly a representative period, and although it represents a slight departure from the Commission's frequent practice of basing quantitative restrictions on a 5-year period, we feel the facts of the case justify our decision.

Marketing years were used simply because they enabled us to examine import data for 1979/80. Although the 1979/80 data are not included in Table 7 of the report, total imports for 1979/80 were determined by the Commission to be approximately 113 million pounds through June 30, 1980, the end of the marketing year. The figure would have been similar if we had used calendar years for determining average annual imports, assuming imports for 1980 were pro-rated on the basis of available data.

(2) Average annual imports for this 6-year period were found to be approximately 78 million pounds.

(3) We then estimated the average annual percentage growth in consumption by computing the percentage growth in each of the prior 6 years. Consumption for 1979/80 was estimated on the basis of the first three quarters' statistics but the estimate is, if anything, conservative. This calculation yielded an annual growth in consumption of 9.7 percent since 1974/75.

(4) Our base figure of 78 million pounds was increased by 9.7 percent in order to obtain the 1980/81 quota level. Since the last year used in calculating the base figure was 1979/80, an increment for consumption growth was deemed appropriate. The 1980/81 figure was increased by an additional 9.7 percent in 1981/82, and an equivalent increase was calculated for 1982/83.

Based on current figures, our recommendations would result in an initial drop in the import share of consumption from approximately 55 percent to about 44 percent. Assuming normal growth of the domestic market, the import share would remain relatively stable over the 3-year period, allowing for absolute growth in both domestic production and imports. This would assure domestic producers a temporary period of sustained profitability in which to become more competitive.

In the course of reaching our decision to recommend quotas in this case, we also considered both temporary tariff increases and adjustment assistance. Increased rates of duty did not appear to be a viable option for two reasons. First, there is no clear pattern of underpricing, and thus it is virtually impossible to determine what level of increase is necessary to reduce import shares. Price spreads vary greatly according to the sizes of cans and the specific contents (e.g., stems and pieces versus buttons). In some categories, domestic products are even priced lower. A second argument against a tariff remedy is that tariffs might not be fully passed forward. The two leading foreign suppliers in the U.S. market, Taiwan and Korea, which generally account for 75 percent or more or total annual U.S. imports, are presently faced with a significant amount of unused production capacity. It is possible that these suppliers would absorb at least part of any given tariff in order to maintain their existing share of the U.S. market. There is also a possibility that China might absorb any tariff increases in order to increase its small but growing market share.

Adjustment assistance to firms or workers engaged in canning operations would not be a sufficient remedy for the problems currently afflicting the industry. While it could have a positive effect on the industry in light of the important innovations needed to increase efficiency, it would not enable canners to significantly improve their sales or profits for several years.

Furthermore, we considered whether import relief might be directed specifically to just certain segments of the canned mushroom market. However,

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[32] See footnote 1, supra, p. 16.

analysis showed that both the imported and domestically canned mushrooms had substantial presence in all segments of the market—in institutional and consumer sized cans of whole and sliced mushrooms as well as stems and pieces.

Views of Commissioner George M. Moore

I concur with my colleagues who have made an affirmative determination in this proceeding insofar as their views relate to our unanimous finding of present serious injury. This is the third escape-clause investigation on mushrooms in which I have participated. Conditions in the mushroom canning industry have worsened since my affirmative vote in investigation No. TA–201–17, in January 1977.

Since marketing year 1975/76 (the last marketing year for which information was available at the time of my last vote), imports have continued to increase, both absolutely and relative to production. Between 1975/76 and 1978/79, imports of canned mushrooms rose from 88 million pounds (fresh-weight basis) to 133 million pounds and the ratio of imports of canned mushrooms to production of canned mushrooms increased from 85 percent to 96 percent.

While imports of canned mushrooms have been increasing, the serious injury sustained by the domestic mushroom canning industry has been growing more severe. Six canneries have ceased operations since 1976 and the capacity utilization rate for the remaining mushroom canners fell from 43 percent in 1977 to 35 percent in 1979. Of the 17 producers able to provide the Commission with usable profit-and-loss data on their mushroom canning operations, over half operated at a loss in 1979. This was a reversal of the situation in the industry in 1977 when 13 of the firms reported a net operating profit. Although aggregate data for the industry as a whole indicated that there was a net operating profit for canned mushroom operations of $1.7 million in 1979, this was a drop from the $4 million net operating profit in 1977. The ratio of net operating profit to net sales for canned mushrooms also fell between 1977 and 1979, from 3.4 percent to 1.3 percent. The 1979 ratio for canned mushrooms was far below that reported for all canned and dried fruits and vegetables. The average number of production and related workers employed in mushroom canning operations, as well as the number of hours worked, also declined since my last decision.

Increased imports continue to be a substantial cause of serious injury to the domestic industry. Consumption of canned mushrooms has risen 36 percent since 1975/76 but imports are capturing a larger share of this growing market, accounting for nearly half of U.S. canned mushroom consumption in 1978/79. A comparison of data for July–March 1978/79 and 1979/80 shows that this trend is accelerating. While domestic consumption of canned mushrooms increased by 22 million pounds during the indicated period, imports rose by 26 million pounds and accounted for 53 percent of the market in July–March 1979/80.

As a consequence of the factors discussed above, I determine that mushrooms, prepared or preserved, provided for in item 144.20 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

Additional Views on Remedy

The remedy alternative which I propose is a quantitative restriction on imports of mushrooms, prepared or preserved, provided for in item 144.20 of the TSUS, for a period of 5 years beginning July 1, 1980. The quantity of the quota for the first two years should be the average of the amount of imports under this TSUS item during the last six marketing years (1974/75–1979/80) which I determine to be the most recent period which is representative of imports of this article. The methodology for arriving at this quota level is set forth in the views of Commissioners Alberger, Calhoun, and Stern on remedy earlier in this report. My suggested remedy differs from that of my colleagues, however, in that I believe that the quota should be set at the average annual import level for the 6-year period (78 million pounds, drained weight) and that a quota set at this level must be in effect for at least two years in order for the industry to begin to adjust to the injury it has already experienced.

Section 203(h)(2) of the Trade Act of 1974 provides that, "to the extent feasible, any import relief provided pursuant to this section for a period of more than 3 years shall be phased down during the period of such relief, with the first reduction of relief taking effect no later than the close of the day which is 3 years after the day on which such relief first took effect." Accordingly, I propose that the quantitative restrictions I am recommending be increased (i.e., "phased down") by 10 percent in the third year, 10 percent above the third year level in the fourth year, and 10 percent above the fourth year level in the fifth year. Although I do not believe that the rapid rate of growth which has occurred in domestic consumption of canned mushrooms in the last several years will continue, I believe it is feasible to increase the quotas by 10 percent during the third, fourth, and fifth years of the quantitative restrictions I have recommended.

Issued: August 18, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–26238 Filed 8–26–80; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Procedure for Submission of Information on Public Interest Factors

Notice is hereby given that oral presentations concerning remedy, bonding, and the public interest considerations, which factors the Commission is to consider in the event it determines relief should be granted, will be heard beginning at 9:00 a.m. on September 5 in Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007. Written submissions on these questions may be submitted at any time until that date.

If oral presentations are made, participants will have the option of presenting the statement of a witness under oath, subject to cross-examination, or making an oral statement of position, not under oath, and not subject to cross-examination.

In the oral presentations all parties, interested persons, and government agencies will be limited in their presentations to no more than 15 minutes, not including cross-examination, if there is cross-examination. Each participant will be permitted and additional 5 minutes for closing arguments after all oral presentations have been concluded. Requests for permission to make oral presentations of positions should be filed, in writing with the Secretary of the Commission at his office in Washington no later than close of business, August 29, 1980.

Issued: August 18, 1980.

The Secretary shall publish this notice in the **Federal Register.**

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80–26247 Filed 8–26–80; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-81]

Certain Hollow-Fiber Artificial Kidneys; Denial of Motion To Amend To Add a Contract Claim to the Notice of Investigation

Upon consideration of Motion Docket No. 81-1, as certified to the Commission by the Administrative Law Judge (ALJ) on June 5, 1980, and the ALJ's recommendation that the motion be granted, the Commission has ordered that said motion is denied.

Copies of the Commission action and Commission order are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C., telephone (202) 523-0161.

By order of the Commission.

Issued: August 22, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-26248 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-86]

Certain Shell Brim Hats; Notice

Notice is hereby given that a hearing shall be held at 10:00 a.m., September 23, 1980, in Suite 201, 1010 Wisconsin Avenue, Washington, D.C., for the purpose of hearing arguments and testimony regarding Complainant's Motion for Default (Motion Docket No. 86-1).

The Secretary shall serve a copy of this notice upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 19, 1980.

Judge Donald K. Duvall,

Presiding Officer.

[FR Doc. 80-26244 Filed 8-26-80, 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-88]

Certain Spring Assemblies and Components Thereof, and Methods for Their Manufacture; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 14, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-26246 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-4 (Final)]

Countertop Microwave Ovens From Japan; Change of Date of Public Hearing

Notice is hereby given that the hearing in this investigation will be held beginning at 10 a.m., e.s.t., Tuesday, December 9, 1980, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. A hearing date of October 16, 1980, had previously been announced in the Commission's notice of institution of the investigation as published in the **Federal Register** of July 30, 1980 (45 FR 50685). the Commission's hearing has been rescheduled as a result of the postponement by the United States Department of Commerce of its final determination as to the question of whether countertop microwave ovens from Japan are being, or are likely to be, sold in the United States at less than fair value.

The Commission will prepare and place on the record by November 18, 1980, a staff report containing preliminary findings of fact, the public portion of which will be made available to interested persons. All persons desiring to appear at the Commission's hearing and make oral presentations must file prehearing statements on or before December 3, 1980, and should attend a prehearing conference to be held at 10 a.m., e.s.t., on December 2, 1980, in Room 117 at the U.S. International Trade Commission Building. Requests to appear at the Commission's hearing should be filed in writing with the Secretary to the Commission not later than close of business (5:15 p.m., e.s.t.), December 3, 1980. For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's *rules of practice and procedure,* Part 207, Subpart C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

By order of the Commission.

Issued: August 20, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-26243 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of U.S. Administration Draft Comments on Draft Chapter of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of a draft of, and draft U.S. comments on, the following chapter of the Harmonized Commodity Description and Coding System.

Chapter 83: Miscellaneous articles of base metal.

Written Submissions: Parties wishing to submit written comments should do so by August 29, 1980.

Copies of Documents: Copies of the draft chapter and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff, Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523-0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapter of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

> (2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices . . . .

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adatable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis or interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapter of the Harmonized Code released for public comment today relate specifically to the Technical Team draft of this chapter and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), September 5, 1979 (44 FR 53112 of September 12, 1979), January 28, 1980 (45 FR 7648 of February 4, 1980), February 1, 1980 (45 FR 8168 of February 6, 1980), May 20, 1980 (45 FR 36231 of May 29, 1980), and May 23, 1980 (45 FR 36230 of May 29, 1980), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

By order of the Commission.

Issued: August 20, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-26245 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Notice to All Parties

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on August 26, 1980, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 22, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-26239 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-82]

Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Termination

Upon consideration of the presiding officer's recommendation and the record in this proceeding, the Commission is ordering the termination of Investigation No. 337-TA-82, certain headboxes and papermaking machine forming sections for the continuous production of paper and components thereof, as to respondent Proctor & Gamble, by granting Motion Docket No. 82-8 by Proctor & Gamble.

The order is effective as of August 21, 1980.

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission order. Such petitions must be in accord with Commission rule 210.56 (19 CFR 210.56).

Copies of the Commission's action and order and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

Notice of the institution of this investigation was published in the **Federal Register** of April 8, 1980 (45 FR 23832).

By order of the Commission.

Issued: August 21, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-26240 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish in **Federal Register.**

Issued: August 18, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-26242 Filed 8-26-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants by the Town of Durham, N.H. and the University of New Hampshire

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on July 28, 1980, a proposed consent decree in *United States of America and State of New Hampshire* v. *Town of Durham and University of New Hampshire,* Civil Action No. C80-374-D (D. N.H.), was lodged with the United States District Court for the District of New Hampshire. The proposed consent decree requires the Town of Durham and the University of New Hampshire, which jointly own and operate a refuse incinerator located in Durham, New Hampshire, to shut down and permanently cease the operation of their existing refuse incinerator on or before December 1, 1980. In addition, the decree requires that the town and the University, within thirty days of execution of the decree, institute a specified program of interim controls to insure compliance with the requirements of the Clean Air Act. The decree contemplates that such program of interim controls will culminate in defendants' participation in the Lamprey Regional Solid Waste Cooperative.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, 55 Pleasant Street, Concord, New Hampshire, and at the Pollution Control Section, Land and Natural Resources Division of the United States Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the United States Department of Justice.

The United States Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States, et al.* v. *Town of Durham, et al.*, Civil No. C80-374-D (D. N.H.), DJ Ref. 90-5-2-1-255.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-26153 Filed 8-26-80; 8:45 am]

BILLING CODE 4410-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 22, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (update).

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the staff of Panel I (Energy, Natural Resources, and the Environment) of the President's Commission for a National Agenda for the Eighties, which was originally scheduled to be held in William James Hall, Room 1550, Harvard University, Cambridge, Massachusetts, on August 28, 1980, will be held in Room 7008 of the New Executive Office Building, Washington, D.C., from 2:00 p.m. until 5:00 p.m.

The purpose of the meeting is to discuss the environment and regulation agendas for the 1980's.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006 (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-26271 Filed 8-26-80; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 26-80]

Series V-1982 Notes; Interest Rate

August 21, 1980.

The Secretary announced on August 20, 1980, that the interest rate on the notes designated Series V-1982, described in Department Circular—Public Debt Series—No. 26-80, dated August 13, 1980, will be 11⅛ percent. Interest on the notes will be payable at the rate of 11⅛ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-26220 Filed 8-26-80; 8:45 am]

BILLING CODE 4810-40-M

FEDERAL TRADE COMMISSION

Line of Business Reports Program; Confidentiality Procedures

AGENCY: Federal Trade Commission.

ACTION: Adoption of Final Procedures for 1977 LB Reports; Amendment of Notice of Proposed Procedures and Reopening of Comment Period as to LB Reports for 1973–1976; and Notice of Proposed Procedures for Future LB Reports.

SUMMARY: The Federal Trade Commission published a notice of proposed procedures on October 16, 1979 (44 FR 59552),[1] concerning proposed confidentiality rules for 1977 Line of Business (LB) reports, proposed revision of confidentiality rules for prior years' LB reports, and proposed revision of confidentiality rules governing Quarterly Financial Reports (QFR). On March 24, 1980, it amended that notice of proposed procedures as to the rules governing 1977 LB reports only, and reopened the comment period as to that amendment (45 FR 18946). It is now adopting rules in final form for 1977. It proposes to adopt the same rules for 1973–1976 LB reports, and it reopens the comment period as to rules for those years. It also proposes to adopt the same rules for any LB reports that may be required in the future, so that all LB reports will be governed by the same set of confidentiality rules. The Commission invites comments on these proposals, which will be received until October 27, 1980. As stated on March 24, 1980, 1977 LB reports are due September 26, 1980.

ADDRESS: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments will be entered on the public record in Room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joanne L. Levine or Natalia M. Combs, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, Telephone (202) 523-3800, or (202) 523-3932, respectively.

SUPPLEMENTARY INFORMATION: On October 16, 1979, the Commission published for 60 days' comment proposed confidentiality rules for LB reports for 1977 and prior years, and similar proposed revisions to confidentiality rules governing QFR forms. The principal change in the proposed LB rules was a revision of the commitment not to disclose LB reports outside the Commission. This change was, the prior notice explained, "occasioned by the fact that Congress has not reenacted the statutory provision, found in earlier appropriations acts, which has been the legal basis cited by the Commission for its prior commitment not to disclose LB reports outside the Commission."

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[1] These procedures are for internal operations of the Commision. The documents referenced here and below were inadvertently published in the "Proposed Rules" section of the Federal Register.

After that proposal, however, the Senate passed legislation (H.R. 2313) to reimpose the same type of special statutory protection for LB reports that was imposed in FTC appropriations riders for fiscal years 1975, 1976, and 1977. In view of that legislation, on March 24, 1980 (45 FR 18946), the Commission proposed interim confidentiality rules for the 1977 LB reports. The Commission's notice stated that "the recent legislative deliberations suggest a basis for applying the existing, pre-1977 LB confidentiality rules to 1977 LB reports as an interim measure until Congress completes action on H.R. 2313" (45 FR 18946). Accordingly, the interim rules were substantially identical to the most recent LB confidentiality rules, those governing 1975/76 reports (41 FR 28041, 34703 (1976)). The Commission reopened the period for comment on that proposal and extended the time for compliance with the orders to file 1977 LB reports.

Subsequently, Congress passed H.R. 2313 in a form which included the Senate bill's provision governing confidentiality of LB reports. On May 28, 1980, the President signed it into law. The relevant provision is an undersignated paragraph added to the end of Section 6 of the Federal Trade Commission Act by the FTC Improvements Act, Pub. L. No. 96–252, 94 Stat. 374, 375, to be codified as 15 U.S.C. 46. Now that the Commission has statutory authority which is not dependent on the expired appropriations measures and rules based on those measures, it is appropriate to refine and improve the interim 1977 LB rules and adopt them in final form. The Commission is adopting most of the improvements that it proposed in October 1979 and which were not opposed. It also is adopting some suggestions made in response to the October and March proposals.

The comments on the March proposal generally approved of or did not object to the proposed use of earlier LB confidentiality rules. At least two of the comments suggested that the Commission apply those proposed 1977 rules to past or future LB reports. This is under consideration (see below). Three of the comments suggested that the Commission wait until Congress acted on H.R. 2313. Those comments effectively have been accepted. One comment also suggested that reporting companies receive lists of Commission employees who have access to LB reports. The Commission does not believe that this would improve the security of LB information, and believes that it could lead to undue intrusion into the lives and work of Commission employees. The Commission has therefore rejected the suggestion.

The Commission has also carefully considered comments on the October 16, 1979, proposal, to the extent they discussed matters other than potential disclosure of LB reports outside the Commission (that issue is mooted by the FTC Improvements Act). Some comments suggested that to avoid possible disclosure under the Freedom of Information Act, the Commission return individual company LB data once it is no longer needed. The Commission believes that such a precaution is not necessary so long as the protections afforded by the FTC Improvements Act are in effect. In response to other concerns and suggestions expressed in those comments, the Commission is adding the following modifications to the 1977 LB confidentiality rules: protection for LB reports filed in court in connection with a reporting company's failure to file an adequate LB report; a requirement that all Commission members, officers, and employees who receive access to LB reports sign agreements ensuring adherence to these rules and Section 6 of the FTC Act; and a requirement that outside computer facilities that process LB data sign agreements protecting the data's confidentiality.

LB Rules for 1977

In view of the enactment of the FTC Improvements Act, the Commission is adopting in final form, with the modifications discussed below, the rules for the 1977 LB reports that were proposed on March 24. These are being published as final rules in order to avoid further delay in collection of 1977 LB reports. However, the Commission recognizes that comments on its proposed amendments to the confidentiality rules for other LB reporting years (see below) may suggest revisions that could improve the 1977 LB rules as well. The Commission therefore requests that comments on proposed rules for 1973–76 and post-1977 LB reporting years state whether the commenter also would favor modifying the 1977 LB rules in conformity with those comments.

As stated in the March 24 notice (45 FR 18946), the 1977 LB reports are due 30 days from the date of publication of these rules. The Commission is also sending out notices and copies of these rules to each reporting company. These rules take effect 30 days from the date of publication. Until then, the interim rules published on March 24 will remain in effect.

Proposed Confidentiality Rules for the 1973, 1974, 1975, and 1976 LB Reporting Years

In view of the permanent statutory protections enacted in the FTC Improvements Act, the Commission hereby withdraws the rules proposed on October 16, 1979 (44 FR 59552), and proposes to apply the confidentiality rules published here to the 1973, 1974, 1975, and 1976 reporting years. The Commission emphasizes that this is a proposal and that there is no firm determination to revise past LB rules.

The differences between the rules published here and the rules for 1974–1976 are discussed in connection with changes between those rules and the 1977 rules proposed in the notice of March 24, 1980 (45 FR 18946), and in the discussion below of modifications to the 1977 rules. These differences generally augment earlier protective measures or clarify ambiguities.

The principal substantive differences between the present 1973 LB confidentiality rules (39 FR 30970 (1974)) and the present rules for 1974–1976 and 1977 is that the 1973 rules do not expressly state the applicable limitations on their coverage, and they provide that the identity of reporting companies is protected by those rules. Although names of all reporting companies for subsequent years have been disclosed, as well as names of some 1973 reporting companies (through their consent, motions to quash, or court actions), many other 1973 reporting companies recently objected to potential public disclosure of their identity under the Freedom of Information Act, on the ground that this breached the 1973 LB rules. Conceivably, they might not object if those rules are amended as a result of a consensus based on rulemaking procedures. For that reason, and because company names for later years are public under the rules, the Commission proposes to apply the confidentiality rules published here to 1973 LB reports as well.

The Commission is aware that many commenters strongly opposed retroactive modification of LB confidentiality rules for previous years. The Commission believes it likely that much of this opposition was caused by the proposal to permit public disclosure of LB data, and that LB reporting companies will not object to modifications that strengthen or clarify the rules. Because the protections for LB data have been enacted into permanent law, the Commission believes it would

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be appropriate and useful to have permanent, uniform rules.

However, the Commission will give very serious consideration to continued objections to retroactive modification of the LB confidentiality rules. The Commission is particularly interested in knowing whether persons who object in general to modification of previous LB confidentiality rules would favor some modifications to adopt particular provisions of the 1977 rules, and if so, which provisions. The Commission also invites comments on whether the 1973 LB rules should be modified at all, and whether any modifications should leave intact the provision against disclosure of the identity of reporting companies. Commenters are requested to state whether they believe that disclosure of reporting companies' identities would cause competitive injury. Commenters that wish to protect their identity as 1973 LB reporting companies may send their comments on the identity issue only to the LB Program Manager, Federal Trade Commission, 2120 L St., N.W., Room LL01, Washington, D.C. 20037. Comments on all other aspects of the rules should be sent to the Secretary.

The comment period will be open for 60 days from the date of publication, after which the Commission may adopt these rules in final form for 1974, 1975, and 1976 LB reports, and possibly for 1973 LB reports.

Proposed Confidentiality Rules for Future LB Reports

The Commission proposes to apply the rules for 1977 LB reports to future LB reports as well. The Commission believes that enactment of permanent laws protecting confidentiality of LB reports makes this feasible and desirable.

The Commission will receive comments until October 27, 1980, after which the Commission may adopt these rules in final form for future LB reports.

CFR Rules

Any amendments to the proposed rules for the QFR Program (44 FR 59555 (1979)) will be published at a later date. Until then, the existing rules (38 FR 18720, 26162 (1973)) will remain in effect.

Changes in the 1977 LB Rules Published on March 24, 1980

The 1977 LB rules proposed on March 24, 1980, are adopted with the following changes. As explained below, these changes primarily are intended to increase the protection offered or to clarify ambiguities.

1. The definition of "LB Report" is changed to include identifiable individual company data contained in an LB Report. This change makes it clear that the confidentiality rules apply to the information in Reports as well as to the physical copies of Report forms. Comments on the October 1979 proposal approved of a similar provision. It is also changed to make clear that the definition does not include information written on the physical copy of an LB report if that information was not obtained from a Reporting Company, and does not disclose nonpublic information about a Reporting Company. The purpose of this change is to exclude from these rules such information as an FTC employee's marginal notes which do not reveal individual company LB data. In the rare event that such marginal comments are to be disclosed to persons other than sworn designated officers or employees of the Commission, the Assistant Director for the Division of Financial Statistics will first certify that the information to be disclosed does not reveal LB Report information.

2. The authority for the confidentiality rules is changed from Pub. L. 94–121 and Pub. L. 94–3624 (prior appropriations measures) to Section 6 of the FTC Act, as amended by Pub. L. 96–252, 94 Stat. 374, 375 (1980) (the FTC Improvements Act), to be codified as 15 U.S.C. § 46.

3. The references to Section 10 of the FTC Act, which imposes penalties for public disclosure of data, are supplemented with references to 18 U.S.C. 641 and 1905. Section 641 imposes criminal penalties for conversion, embezzlement, or theft of government records or property. Section 1905 imposes criminal penalties on an officer or employee who divulges, discloses, or makes public confidential statistical data in any manner not authorized by law. A reference to Section 1905 had been included in the proposed rules of October 16, 1979. The two sections are added to make explicit other penalties that may apply to unauthorized disclosure or use of LB information.

4. The description of divisions that may have access to LB Reports is clarified to include certain persons outside those divisions, *i.e.*, the General Counsel and his or her staff and Commissioners and their assistants, under prescribed conditions. (Rules for prior years have stated that these persons have access to LB Reports, and reference to their access was included in another paragraph in the March 24 proposal (45 FR 18948).) Statements that these persons are designated sworn officers and employees for purposes of Section 6 of the FTC Act, as amended, have been added to the paragraph. This is a restatement of a notice published on May 29, 1980 (45 FR 36340). The statement also makes clear that sworn special employees of the Division of Financial Statistics are sworn designated employees for purposes of Section 6. The Commission has considered such persons to be employees under previous LB confidentiality rules. The description of the Division of Financial Statistics' reports is clarified to reflect that the Division also disseminates information through means other than published Quarterly Financial or Line of Business Reports, and that such disseminations are also subject to disclosure avoidance procedures. Also, references to the Division of Information Systems are changed to give the Division's full name, the Data Processing and Information Systems Division of the Office of the Executive Director.

5. The requirement that any employee who transfers into or out of the Division of Financial Statistics be formally notified of these rules is supplemented with a requirement that an employee assigned to the Division must certify that he or she will abide by these rules, and that after termination or reassignment, he or she will not retain any LB Reports and will execute a certification to that effect. This was proposed on October 16, 1979, and its addition here will augment the protections afforded to LB Reports.

6. The references to "units" are replaced with references to the Division of Financial Statistics, because the other "unit" referred to (the Statistical Reports Unit of the Economic Research and Services Section of the Commission's Bureau of Economics—see 41 FR 28041 (1976)) is no longer in existence. See 44 FR 59553 (1979).

7. Some paragraphs have been rearranged for clarity. Paragraphs discussing access by employees of the Division of Financial Statistics are grouped together and separated from paragraphs discussing access by officers and employees of other offices within the Commission.

8. The provision regarding processing of LB data by an outside computer facility is augmented with a requirement that such a facility sign an agreement regarding confidentiality of LB information. This provision, which codifies standard practices, is added in response to several comments on the October 1979 proposed rules.

9. The statement of reasons for which the General Counsel and his or her staff may have access to LB Reports is amended to include access in connection with matters directly related

to pending or anticipated litigation concerning the LB Program and to administration of the confidentiality rules. Access to LB Reports may be necessary primarily to assess what has been or may be done with those reports, rather than for direct use of LB data supplied by a particular Reporting Company. The General Counsel is the Commission's legal representative and adviser, and access by his or her staff may be necessary to fully defend the Commission in litigation concerning the LB Program or to advise the Division of Financial Statistics. A similar proposal was contained in the October 1979 proposed rules. To meet objections that the General Counsel might use the data for enforcement purposes, the rules expressly provide that use of LB data shall not be inconsistent with these confidentiality rules or with Section 6 of the FTC Act.

10. A paragraph has been added to require that before Commission members and officers or employees outside the Division of Financial Statistics may receive access to LB Reports, they must execute certifications similar to those signed by Division employees. The purpose of this is to assure LB Reporting Companies that every employee having access to LB Reports is fully aware of the restrictions on their use, and to respond to concerns that LB data disclosed to those persons might be used for enforcement purposes.

11. The requirement that LB Reports and reproductions of LB data from individual reporting companies be marked "Confidential" is changed to add that other language having a similar meaning may be used. The Commission's October 16 notice (44 FR 59553) had stated that the term "confidential" is a national security classification which the Commission may not use; however, the use of that term in Section 21(c) of the amended FTC Act (94 Stat. 387), to be codified as 15 U.S.C. 57b–2(c), suggests that "confidential" properly may be used here. Nonetheless, to provide flexibility, the rules are amended to allow use of other language indicating confidentiality.

12. The first of the limitations are applicability of the confidentiality rules is modified in accordance with suggestions the Commission received. If the Commission plans to file an LB Report in court during proceedings contesting the adequacy of a Reporting Company's Report, the Commission will undertake to protect its confidentiality or give the Reporting Company an opportunity to seek *in camera* treatment before the Commission actually files the Report.

13. The third limitation on applicability of the confidentiality rules is modified to refer to a new provision in the Commission's general rules that deals with motions to quash, and to Sections 6(f) and 21(c) of the amended FTC Act (94 Stat. 374, 385–388), 15 U.S.C. 46(f) and 57b–2(c). These changes conform to the FTC Improvements Act, which prohibits the Commission from disclosing confidential commercial and financial information. The legislative history of the Improvements Act establishes, however, that companies should not routinely mark as "confidential" "correspondence, pleadings, motions, and other documents designed to secure relief or affect official Commission proceedings except as to portions which contain trade secrets or confidential and commercial information." 126 Cong. Rec. S 5678 (daily ed. May 21, 1980).

14. The fourth limitation (information in the public domain) is deleted. The fifth limitation (which becomes number 4) is modified to include information obtained through means other than compulsory process (such as information supplied voluntarily or which is in the public domain). These changes consolidate overlapping provisions in the fourth and fifth limitations, and they make it clear that the Commission will not disclose information that it has received from an LB Report, whether or not the same information is publicly available elsewhere. The Commission believes that the language added to Section 6 of the FTC Act precludes disclosure of LB Reports even if the same information has been disclosed through other means (*e.g.*, names of subsidiaries of publicly held corporations, data contained in annual reports to shareholders). On the other hand, the fact that a document contains information that is also contained in an LB Report will not in itself prevent the Commission from disclosing that document if the document was obtained through means other than the LB Program. However, although Section 6 would not apply to such a document, its disclosure remains subject to other applicable laws, including Sections 6(f) and 21 of the FTC Act.

15. A limitation stating that the confidentiality rules do not limit the Commission's authority to obtain information from any source outside the Commission for carrying out specific law enforcement responsibilities has been added. Such a provision was included in the October 16 proposal (44 FR 59555). It simply incorporates in the rules the provision in Section 6 which permits the Commission to obtain information for specific law enforcement responsibilities through means other than orders to file LB Reports.

16. Finally, some changes in wording have been made to simplify the language of the rules without affecting their substance in any way.

Federal Trade Commission Line-of-Business Reporting Program

Confidentiality Rules and Procedures for the 1977 Reporting Year [and Proposed Rules for the 1973–1976 and Future Reporting Years]

Notice is hereby given that the Federal Trade Commission has approved and adopted certain rules and procedures prescribing the confidential handling and use of reports to be filed by companies pursuant to an Order to File Special Report under the Line of Business Program. The rules and procedures shall apply to reports relating to the 1977 reporting years. They are substantially similar to the rules that previously applied to reports relating to the 1974–76 reporting years. [These rules are also proposed for 1973–1976 reporting years and for future LB reports.]

Definitions

For purposes of these Rules and Procedures, the following definitions apply:

"LB Report" means a report filed by a company pursuant to an Order to File Special Report under the Line of Business (LB) Program. For the purposes of these rules, it also includes identifiable individual company data contained in or taken from an LB Report form. It does not include information written on a report form if that information was not obtained from a Reporting Company and does not disclose nonpublic information about a Reporting Company.

Confidentiality of LB Reports With Respect to Persons Outside the Commission

These rules are authorized by the undesignated final paragraph of Section 6 of the Federal Trade Commission Act, as amended by Pub. L. No. 96–252, 94 Stat. 374, 375 (1980), to be codified as 15 U.S.C. 46. That paragraph states:

> No officer or employee of the Commission or any Commissioner may publish or disclose information to the public, or to any Federal agency, whereby any line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program administered by the

Commission shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under practices and procedures in effect on the date of the enactment of the Federal Trade Commission Improvement Acts of 1980, or as changed by law.

Under these rules, the Commission will not disclose LB Reports to any person outside the Commission, including Congress, parties in court proceedings, governmental agencies, and members of the public. LB Reports will not be disclosed to any person outside the Commission except pursuant to a superseding act of Congress; or pursuant to an order of a court, but only after motions by the Commission to quash and for a protective order have been disposed of by the court. In the event that the Commission receives a subpoena for an LB Report, it will promptly notify the Reporting Company.

Under Section 10 of the Federal Trade Commission Act, 15 U.S.C. § 50, any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor. Upon conviction, the employee may be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court. The Commission considers unauthorized disclosures of LB Reports to be punishable under 18 U.S.C. 1905. The Commission also considers the stealing, conversion, or unauthorized conveyance of LB Reports to be punishable under 18 U.S.C. 641.

Confidentiaility of LB Reports Within the Commission

Access to and use of LB Reports within the Commission shall be restricted, and persons authorized to have access to and use of LB Reports shall not release any LB Report, or in any way provide access to them, to anyone not authorized to have access. LB Reports shall be used to compile statistical and other economic reports authorized by the Commission. The latter reports may be utilized in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, they shall not be compiled in such a way that LB data furnished by a particular Reporting Company can be identified. LB Reports shall not be made available to any person within the Commission for use in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, this restriction shall not limit the authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Access to and use of LB Reports within the Commission shall be restricted to the following offices and divisions: (1) the Division of Financial Statistics, Bureau of Economics; (2) the Data Processing and Information Systems Division of the Office of the Executive Director, under the conditions described below. Sworn officers and employees of these divisions (including special employees of the Division of Financial Statistics) are designated to have access for purposes of Section 6 of the FTC Act. Additionally, the General Counsel and his or her staff and Commissioners and their assistants shall have access to LB Reports under the conditions described below. Those Commission members, officers, and employees also are designated officers and employees for purposes of Section 6 of the FTC Act.

The Division of Financial Statistics plans, develops and prepares for public dissemination statistical and other economic reports and compilations, such as the Quarterly Financial Report, the Annual Line of Business Report, and staff working papers. The Division's employees shall have access to and use of LB Reports for planning, developing and preparing such statistical and economic reports and compilations. Procedures sufficient to assure that LB data furnished by a particular Reporting Company cannot be identified shall be developed and implemented by that Division in connection with each statistical or other economic report or compilation to be disseminated which is derived from LB data.

With respect to each such report or compilation, the Assistant Director for Financial Statistics shall certify to the Director, Bureau of Economics, that he or she has reviewed and approved the procedures applied thereto. If marginal notations that are not defined as "LB Reports" are to be disclosed to persons other than sworn designated officers and employees of the Commission, the Assistant Director shall first certify that no LB Report information is disclosed.

Employees of the Division of Financial Statistics shall not participate in any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. Any employee who transfers into or out of the Division shall be formally notified in writing that he or she is subject to these rules, to Section 10 of the FTC Act, and to 18 U.S.C. §§ 641 and 1905. No employee (including a special employee) shall be assigned to or remain in this Division unless he or she certifies that, during such assignment and after its termination for any reason, he or she will abide by the limitations in these rules and amendments to them; will not use or disclose LB Reports except in conformity with these rules; and that after any termination of assignment he or she will not retain possession of any documents or materials which contain data furnished by a Reporting Company that have not been or may not be disclosed pursuant to these rules. Upon leaving the Division each employee shall certify that he or she does not possess any such documents or materials, and has complied with these rules at all times.

The Director of the Bureau of Economics shall not have access to LB Reports. He or she shall, however, have supervisory responsibility and authority with respect to the Division of Financial Statistics. Such responsibility and authority shall include approving any reports prepared by the Division, making recommendations with respect to the preparation of such reports, and exercising any other supervisory control not requiring access to LB Reports.

The Data Processing and Information Systems Division shall have access to LB Reports, but only during and for the purpose of electronic processing of information and data contained in LB Reports. The Division may employ the services of an outside computer facility for purpose of computer processing of LB data, subject to the restriction that no one other than designated sworn employees of the Federal Trade Commission may examine the LB Reports from individual Reporting Companies. Any such outside computer facility shall sign an agreement assuring that the facility and its employees abide by this restriction and other applicable restrictions in these rules and the FTC Act.

Upon notification to the General Counsel by the Assistant Director for Financial Statistics that a Reporting Company has failed adequately to comply with an order to File Special Report under the LB Program, the General Counsel and his or her staff and the Commissioners and their assistants may have access to parts of that company's LB Report which are required to evaluate the noncompliance and to advise and represent the Commission with respect to any proceeding initiated because of a refusal or failure of the reporting company to file an adequate LB Report. Also, the General Counsel and his or her staff may have access to LB Reports in connection with matters directly related to pending or anticipated litigation concerning the LB Program, or to administration of these rules. Such access shall not be inconsistent with these confidentiality rules or with Section 6 of the FTC Act.

A Commission member, officer, or employee who has access to an LB Report shall first be required to certify that, during the assignment and after its termination for any reason, he or she will abide by the limitations in these rules and amendments to them; will not use or disclose LB Reports except in conformity with these rules; and that after termination of the assignment requiring access to LB Reports he or she will not retain possession of any documents or materials that contain data furnished by a Reporting Company that have not been or may not be disclosed pursuant to these rules. At the end of the assignment the employee shall then certify that he or she does not possess any such documents or materials and has complied with these rules at all times.

Security of LB Reports

All Commission members, officers, and employees authorized to have access to and use of LB Reports shall, while in possession of any such material, be personally responsible for ensuring that unauthorized personnel do not obtain access to such material, and for observing the following procedures:

1. All LB Reports and reproductions of LB data fronm individual Reporting Companies (such as tabulations, punch cards, tapes or printouts, etc.) shall be conspicuously marked "confidential" or marked with words conveying a similar meaning.
2. All rooms containing LB Reports and reproductions of LB data from individual Reporting Companies shall be locked except when occupied.
3. All LB Reports and reproductions of LB data from individual Reporting Companies shall be stored in locked drawers, files, or cabinets except when being used.
4. All LB Reports and reproductions of LB data from individual Reporting Companies shall be returned to the Division of Financial Statistics immediately after any authorized use of such material is no longer required.

Limitations

The Rules and Procedures set forth above shall not apply to:

(1) disclosure to a court of an LB Report of a Reporting Company in connection with a proceeding initiated because of a refusal or failure of that company to file an adequate LB Report; however, any such LB Report will either be filed in a manner which protects its confidentiality (such as filing under seal), or the Reporting Company will be given an opportunity to seek such protection from the court;

(2) The identity of a Reporting Company;

(3) Information or data furnished by a Reporting Company in a context other than an LB Report (*e.g.,* a motion to quash or other motion challenging an Order to File Special Report under the LB program); such information or data shall be treated as a public record pursuant to §§ 4.9(b)(22) and 4.10–4.11 of the Commission's procedures and rules of practice unless it is identified as containing information which Section 6(f) of the FTC Act, as amended by 94 Stat. 374 (1980), 15 U.S.C. 46(f) (or other applicable laws), precludes the Commission from disclosing.

(4) Information or data which are supplied to the Commission in response to a compulsory process order other than an Order to File Special Report under the LB Program, or which the Commission has obtained through means other than an Order to File Special Report under the LB Program. Such information shall be disclosed or treated as confidential in accordance with other laws, including Sections 6(f) and 21 of the FTC Act, as amended by 94 Stat. 374, 385–388, 15 U.S.C. 46(f), 57b–2.

(5) The authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or preceeding for carrying out specific law enforcement responsibilities of the Commission.

By direction of the Commission, dated August 20, 1980. Commissioner Bailey did not participate.

James A. Tobin

Acting Secretary.

[FR Doc. 80-26501 Filed 8-26-80; 11:30 am]

BILLING CODE 6750-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 168
Wednesday, August 27, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 5, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6334.

[S-1603-80 Filed 8-25-11:54 am]

BILLING CODE 6351-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published August 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 27, 1980.

CHANGE IN MEETING: The following item has been added:

Item Number, Docket Number, and Company

RP-1. RP77-107 and RP78-68, United Gas Pipe Line Co.

Kenneth F. Plumb,
Secretary.

[S-1600-80 Filed 8-25-80; 9:19 am]

BILLING CODE 6450-85-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 56224, August 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 27, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

RP-2. RP72-122, Colorado Interstate Gas Co.

Kennth F. Plumb,
Secretary.

[S-1604 Filed 8-25-80; 12:03 am]

BILLING CODE 6450-85-M

4

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR, 55317, August 19, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, August 22, 1980.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Request by the Government Accounting Office for Board comment on a draft report concerning federal examinations of financial institutions. (This matter was previously announced for a meeting on August 18, 1980).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 22, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-1601-80 Filed 8-25-80; 9:24 am]

BILLING CODE 6210-01-M

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 27, 1980.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th Street and Constitution Avenue N.W., Washington D.C.

STATUS: Short Notice of Open Special Conference.

MATTER TO BE CONSIDERED: Tribute to a Commission official.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, telephone: 202-275-7252.

Dated: August 22, 1980.

Agatha L. Mergenovich,
Secretary.

[S-1602-80 Filed 8-25-80; 9:30 am]

BILLING CODE 7035-01-M

6

LEGAL SERVICES CORPORATION.

TIME AND DATE: 9 a.m.-5 p.m., Friday and Saturday, September 5-6, 1980.

PLACE: Legal Services Corporation, Eighth floor conference room 2-3, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of June 20, 1980 Meeting.
3. Report on Congressional Reauthorization and 1981 Appropriation.
4. Report from Committee on Appropriations and Audit.
   - —Budget Modifications Procedures.
   - —Third Quarter Budget Review for Fiscal Year 1980.
   - —Status of Fiscal Year 1981 Budget Allocation.
   - —Fiscal Year 1982 Budget Mark.
   - —Status of Unallocated Investment Income.
5. Discussion of *A Plan For the Future*, a Report by Howard Sacks.
6. Election of Chairman.
7. President's Report.
8. Future Meeting Dates.
9. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President (202) 272-4040.

Issued: August 22, 1980.

Dan J. Bradley,
President.

[S-1599-80 Filed 8-25-80; 9:18 am]

BILLING CODE 6820-35-M

federal register

Wednesday
August 27, 1980

Part II

Environmental Protection Agency

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1980 Model Year

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1589-1]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1980 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(e) of the Clean Air Act, as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the **Federal Register** the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Mikolajczyk, Certification Division, Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313-668-4361).

SUPPLEMENTARY INFORMATION:

Federal Emission Standards

The regulations that apply to the control of emissions from 1980 model year vehicles, appearing at 40 CFR Part 86, set maximum allowable emission levels for new gasoline-fueled and diesel heavy-duty engines (for use in on highway trucks and buses), gasoline-fueled motorcycles, gasoline-fueled and diesel light-duty vehicles (passenger cars), and gasoline-fueled and diesel light-duty trucks.

Gasoline-fueled heavy-duty engines must not exceed one of the following two standards, which are selected at the manufacturer's option: (1) 1.5 grams per brake horsepower hour (g/bhp-hr) for hydrocarbons, 25 g/bhp-hr for carbon monoxide, and 10 g/bhp-hr for hyrocarbons plus oxides of nitrogen; or (2) 25 g/bhp-hr for carbon monoxide, and 5.0 g/bhp-hr for hydrocarbons plus oxides of nitrogen measured according to the test procedure in Subpart D of 40 CFR Part 86. For low-volume manufacturers, as defined in § 86.080-24(e), the test procedure in either Subpart D or Subpart H of this part may be used; however, the standards for hydrocarbons and hydrocarbons plus oxides of nitrogen as listed in option (1) above shall be reduced by 0.5 g/bhp-hr if Subpart H of this procedure is used. The standards for gasoline-fueled heavy-duty engines prohibit all crankcase emissions.

Diesel heavy-duty engines must not exceed one of the following two standards, to be selected at the manufacturer's option: (1) 1.5 (g/bhp-hr) for hydrocarbons, 25 g/bhp-hr for carbon monoxide, and 10 g/bhp-hr for hyrocarbons plus oxides of nitrogen; or (2) 25 g/bhp-hr for carbon monoxide, and 5 g/bhp-hr of hydrocarbons plus oxides of nitrogen measured according to the Subpart D test procedure. For low-volume manufacturers, the test procedure in either Subpart D or J may be used. In addition, diesel heavy-duty engines must meet Federal smoke emission standards of 20 percent opacity during the engine acceleration mode, 15 percent opacity during the engine lugging mode, and 50 percent opacity during the peaks in either the acceleration or lugging mode.

Exhaust emissions from 1980 model year motorcycles may not exceed 5.0 grams per kilometre (g/km) of hydrocarbons and 12 g/km of carbon monoxide. The standards for motorcycles prohibit all crankcase emissions.

Federal exhaust emission standards allow 1980 model year gasoline fueled and diesel light-duty vehicles to emit no more than 0.41 grams per mile (g/mi) of hydrocarbons, 7.0 g/mi of carbon monoxide, and 2.0 g/mi of oxides of nitrogen from the tailpipe. Light-duty trucks (less than 8,500 pounds gross vehicle weight) are allowed to emit no more than 1.7 g/mi of hydrocarbons, 18 g/mi of carbon monoxide, and 2.3 g/mi of oxides of nitrogen. The standards for gasoline-fueled vehicles, prohibit all crankcase emissions and limit the loss of gasoline by evaporation from the carburetor and fuel tank to no more than 6.0 grams per test.

Prior to the enactment of the August 1977 Clean Air Act Amendments, light-duty vehicles, and light-duty trucks intended for sale at altitudes above 4,000 feet were required to demonstrate compliance with emission standards when tested at high altitude. Because the Clean Air Act Amendments now permit all certified light-duty vehicles to be sold at either low or high altitudes, it is not necessary to distinguish car lines certified for sale above 4,000 feet. However, the following light-duty vehicle and truck report designates those vehicles tested at altitudes above 4,000 feet with a plus sign (+) preceding the model name.

The State of California was granted a waiver of Federal preemption under Section 209 of the Clean Air Act to enforce its own emission standards. In general, the California standards are numerically more stringent than Federal standards. In some circumstances, the California standards permit slightly higher emission of one pollutant in exchange for greater control of another. In other cases, numerically higher standards corresponded to optional certification over an extended useful life. The result can be emissions levels for some vehicles certified for sale only in California that exceed Federal standards for at least one pollutant. For example, the California standards allow 1980 model year gasoline-fueled light-duty vehicles to emit no more than 0.41 g/mi of hydrocarbons total (0.39 g/mi non-methane), 9.0 g/mi of carbon monoxide, and 1.0 g/mi of oxides of nitrogen. Further, a diesel-fueled light-duty vehicle may emit up to 0.46 g/mi of hydrocarbons, 10.6 g/mi of carbon monoxide, and 1.5 g/mi oxides of nitrogen under a set of optional 100,000-mile standards coupled with an allowance in the hydrocarbon exhaust standard for vehicles having low evaporative emission standards. Other emission standards exist for California trucks depending upon the vehicle's weight class. Further details concerning the California emission standards may be obtained from the California Air Resources Board. The test vehicles and car lines that are designed to meet the California standards are identified in the light-duty vehicle listing below by a "C" preceding the model name.

Federal Certification Procedures

Under the provisions of the Clean Air Act, it is unlawful to offer for sale new motor vehicles or engines which are not in conformity with Federal regulations. Prior to the beginning of each model year, light-duty vehicle and truck, heavy-duty engine, and motorcycle manufacturers apply to the Administrator of the Environmental Protection Agency for certificates of conformity for each model they wish to produce for that model year. The Federal regulations prescribe a number of requirements which a manufacturer must meet before the Administrator will grant a certificate of conformity.

Prior to production, light-duty vehicle manufacturers are required to provide the Administrator with extensive test data demonstrating the effectiveness and durability of the emission control systems over the useful life (50,000 miles) of the vehicles. The data are collected from prototype test vehicles that are selected and tested in accordance with EPA regulations. In addition to the submission of test data on prototype test vehicles, the manufacturers are required to make the test vehicles available to the Motor Vehicle Emission Laboratory at Ann Arbor, Michigan. At this facility, test vehicles may be retested to assure conformity with the regulations.

The process of selecting vehicles for testing reflectes EPA's prior classification of a manufacturer's product line into "engine families"—groups of engines expected to have similar exhaust emission characteristics throughout their useful lives—and "evaporative emission families"—groups of vehicles which are expected to have similar evaporative emission characteristics throughout their useful lives. Two fleets of test vehicles are chosen to represent each engine family.

One fleet of test vehicles, the emission-data fleet, is tested after the accumulation of 4,000 miles. The purpose of the emission-data fleet is to determine the stabilized exhaust emission levels of new motor vehicles. The other fleet, known as the durability-data fleet, is made up of prototype vehicles which are driven for 50,000 miles and tested every 5,000 miles. The durability-data fleet is tested in order to establish "deterioration factors" which are adjustments that account for the decrease in an exhaust emission control system's efficiency over its expected useful life. (Evaporative emission families are also represented by emission-data fleets, but not necessarily by durability-data fleets; evaporative emission deterioration factors may instead be derived from a variety of procedures, including bench-testing or multi-vehicle comparisons, as well as testing a single vehicle which has run for 50,000 miles.)

Once test data are obtained from the emission-data vehicles, the emission levels are adjusted by the deterioration factors in accordance with the procedures specified in the regulations. This is done to determine whether the emission-data vehicle would be capable of complying with emission standards over the expected useful life of the vehicle. If all the motor vehicles in an engine family/evaporative emission family combination tested are found to conform with the regulations, the manufacturer is granted a certificate of conformity.

The Federal emission test procedure for light-duty vehicles and light-duty trucks is designed to simulate two average trips of 7.5 miles in an urban area. The vehicle is operated on a chassis dynamometer through a specified driving schedule. The first trip begins with a cold engine startup, and the second trip begins with a hot engine startup. There is a 10-minute interval between trips. The cold operation trip is weighted 43 percent and the hot operation trip 57 percent to reflect the fact that two of the 4.6 trips made by the average vehicle each day are begun from a cold start. Throughout these tests all emissions through the exhaust pipe are collected and the levels of hydrocarbons, carbon monoxide, and oxides of ntirogen are measured. A vehicle tested for evaporative emissions is placed in a sealed chamber for one hour prior to the cold engine startup and one hour immediately after the hot engine operation trip. During these periods hydrocarbon emissions attributed to gasoline evaporation are collected and measured.

The motorcycle testing procedure resembles the light-duty vehicle method in that the emission test is designed to simulate a typical urban trip involving both a hot and cold engine startup, but a single certification vehicle is used to provide both durability and emission data. Each motorcycle is tested at least four times to obtain data for calculation of a deterioration factor: once at a designated minimum distance (2,500 or 3,500 kilometers, depending on displacement class), once before and one following periodic maintenance, and once at the total test distance (6,000, 9,000, or 15,000 kilometers, depending on displacement class) estimated to represent half the useful life of the vehicle class. The same certification vehicle is then tested again to generate the emission-data results to which the deterioration factor is applied to obtain certification levels. Motorcycles are not tested for evaporative emissions.

The heavy-duty engine testing procedure, like the light-duty vehicle procedure, groups test engines into durability-data and emission-data fleets. Instead of simulating a driving cycle, however, the heavy-duty engine gaseous emission tests measure the hydrocarbon, carbon monoxide, and nitric oxide emitted during various engine loadings at constant speeds (two speeds for gasoline-fueled engines and three speeds for diesel engines). In addition, the diesel heavy-duty engine smoke test measures the opacity of the exhaust during idle and two transient modes. Emission-data heavy-duty engines accumulate 125 hours of service on an engine dynamometer before the emission test, and durability-data gasoline-fueled heavy-duty engines and durability-data diesel heavy-duty engines accumulate 1,500 and 1,000 hours of service, respectively. Heavy-duty engines are not tested for evaporative emissions.

Federal Certification Data

The attached listings contain the emission levels of each light-duty vehicle and truck, motorcycle, and heavy-duty engine which were tested as emission-data vehicle or engine, as adjusted by the deterioration factors discussed above.

The vehicles and engines listed represent all of the models and configurations certified as of March 13, 1980.

The emission data listed below were obtained from the original emission-data vehicles and engines. In some cases, manufacturers have submitted requests to perform "running changes" on already certified configurations. EPA has authorized manufacturers to make such running changes if a review of the test data and technological information has shown that the proposed modifications do not cause the vehicles or engines to exceed the standards. The data listed below do not indicate the effect of running changes, except where a running change has added a new engine or car line to a previously certified family.

Fuel company information is not included in this publication. Fuel economy information of 1980 cars and light-duty trucks is available by writing for the EPA/Department of Energy *1980 Gas Mileage Guide* from: Fuel Economy, Pueblo, Colorado 81009. The *1980 Gas Mileage Guide* is also available at new car dealer showrooms.

The various systems that comprise the test vehicles' exhaust emission control systems are listed individually. The following abbreviations will be used in the subsequent sections of this report:

Exhaust emission control systems:

AIR = air injection (heavy-duty engines only)
CLS = closed loop systems
EGR = exhaust gas recirculation
EM = engine modification
FI = fuel injection
NON = none
OTR = other
OXD = oxidation catalyst
PLS = pulsating air system
PMP = air pump
RED = reduction catalyst
SPL = smoke puff limiter (heavy-duty engines only)
THM = thermal reactor
TD = throttle delay (heavy-duty engines only)
3WY = three-way catalyst

Evaporative emission control systems:

CAN = carbon canister storage
CRK = crankcase storage
NON = none

Methods of engine air aspiration (heavy-duty diesel engines):

NAT = natural
TURB = turbocharged

The heavy-duty engine and motorcycle reports are arranged alphabetically by manufacturer. The formats of these reports are self-explanatory and require no further comment.

The following light-duty vehicle and truck report is divided into four main sections: Light-duty vehicles, light-duty trucks, diesel light-duty vehicles, and diesel light-duty trucks. Each of the sections is subdivided alphabetically by manufacturer, with each manufacturer's data in turn categorized under "family combinations certified" and "evap-emissions families." The "family combinations certified" section identifies, in the left-most column of the report, the name of the engine family/evaporative emission family combination for which EPA issues a certificate, the displacement (measured in cubic inches) of all engines within the combination, and the names of all cars lines covered (and certified) in that particular engine family/evaporative emission family combination. (Note that the listing of car lines covered is arranged vertically.) All data arrayed to the left of the "car lines covered" column—i.e., the "vehicle car line represented," "emission control system," etc.—is arranged horizontally, with each line of data describing one of the emission-data vehicles selected and tested by EPA to determine the emission levels achieved by the exhaust emission family portion of the combination. Vehicles which were tested to determine compliance for both the exhaust emission and the evaporative emission components of the combination are marked with an asterisk (*). (A complete listing of all test vehicles belonging to each evaportive emission family is provided in the "evap emission family" section described below.) Directly beneath this array of exhaust emission-data information are printed the deterioration factors achieved by both the exhaust emission and evaporative emission family components of the combination. This listing of combination name, car lines covered by the certificate, exhaust emission-data vehicle results, and the combination's deterioration factors will be repeated for as many combinations as the manufacturer has certified.

After the "family combinations certified" section, the manufacturer's "evap-emission families" are described in detail. The report prints the name of each evaporative emission family in the "exh-emiss family/evap-miss fam" column and then describes, for each evaporative emission family, the evaporative emission-data vehicles whose test results have supported certification. Data on the vehicles within each evaporative-emission family are arranged horizontally, with each line of the report corresponding to a distinct vehicle configuration.

This publication should not be construed as an endorsement by the Environmental Protection Agency of any manufacturer's vehicles or engines.

Dated: August 12, 1980.

Edward Tuerk,

Deputy Assistant Administrator for Air, Noise, and Radiation.

BILLING CODE 6560-01-M

1980 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION						CERTIFICATION LEVELS EXHAUST EMISSIONS (GM/BHP-HR)		
FAMILY DESIGNATION [MODELS COVERED] [ENG. DISPLMTS]	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS	HYDROCARBONS + OXIDES OF NITROGEN	CARBON MONOXIDE
BLUE BIRD BODY COMPANY									
GM114									
[L43]									
[427]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	L43	AIR	427	1-4V	220	350	0.3	6.6	13
CHRYSLER CORPORATION									
LA-1									
[360-1; 360-3]									
[360]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	360-1	EGR,AIR	360	1-4V	190	265	0.6	7.0	15
	360-3	EGR,AIR	360	1-4V	180	260	0.5	5.6	8
LA-2									
[318-1; 360-1; 360-3]									
[318; 360]									
					(DETERIORATION FACTORS:		0.02	0.0	6.78)
	318-1	AIR,EGR	318	1-4V	155	240	0.1	3.0	14
	360-1	AIR,EGR	360	1-4V	190	265	0.1	4.1	11
	360-3	AIR,EGR	360	1-4V	180	255	0.2	2.0	22
LA-3									
[360-3]									
[360]									
					(DETERIORATION FACTORS:		0.55	0.0	21.19)
	360-3	AIR,EGR	360	1-4V	200	280	0.7	5.3	23
					(DETERIORATION FACTORS:		0.12	0.0	4.04)
	360-3	AIR,EGR	360	1-4V	200	280	0.2	2.4	16
FORD MOTOR COMPANY									
4.9L"Q"									
[4.9L]									
[300]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	4.9L	AIR,EGR	300	1-1V	118	226	1.1	6.9	14
	4.9L	AIR,EGR	300	1-1V	118	226	1.1	4.6	10
	4.9L	AIR,EGR	300	1-1V	118	226	1.0	8.5	12
5.8L(M)/6.6L"E"									
[5.8L(M); 6.6L]									
[351; 400]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	5.8L(M)	AIR,EGR	351	1-2V	149	260	0.8	3.0	[illegible]
	5.8L(M)	AIR,EGR	351	1-2V	149	260	1.2	4.4	24
	6.6L	AIR,EGR	400	1-2V	169	318	1.3	7.8	[illegible]
	6.6L	AIR,ERG	400	1-2V	169	318	0.6	3.8	16
6.1L"E"									
[6.1L]									
[370]									
					(DETERIORATION FACTORS:		0.0	0.0	1.91)
	6.1L	AIR,EGR	370	1-2V	160	266	0.7	4.8	17
	6.1L	AIR,EGR	370	1-4V	194	299	0.9	6.6	15
	6.1L	AIR,EGR	370	1-4V	186	282	0.9	5.3	16
7.0L/7.5L"E"									
[7.0L; 7.5L]									
[429; 460]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	7.0L	AIR,EGR	429	1-4V	225	340	0.4	4.3	[illegible]
	7.5L	AIR,EGR	460	1-4V	220	335	0.9	9.8	16
7.8L/8.8L"P"									
[7.8L; 8.8L]									
[477; 534]									
					(DETERIORATION FACTORS:		0.0	0.29	5.87)
	7.8L	AIR	477	1-4V	218	393	0.8	7.0	19
	8.8L	AIR	534	1-4V	227	431	0.3	5.6	[illegible]

1980 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER							CERTIFICATION LEVELS		
FAMILY INFORMATION	TEST ENGINE INFORMATION						EXHAUST EMISSIONS (GM/BHP-HR)		
FAMILY DESIGNATION [MODELS COVERED] [ENG. DISPLMTS]	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS	HYDROCARBONS + OXIDES OF NITROGEN	CARBON MONOXIDE
GENERAL MOTORS CORP.									
GM112									
[L25]									
[292]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	L25	AIR	292	1-1V	125	225	0.2	6.5	13
	L25	AIR	292	1-1V	115	215	0.1	5.6	16
GM113									
[LE4; LF5; LT9; 985]									
[350; 400]									
					(DETERIORATION FACTORS:		0.0	0.16	0.0)
	LE4	AIR	400	1-4V	180	310	0.3	5.3	19
	LF4	AIR	400	1-4V	180	310	0.9	7.5	22
	LF5	AIR	350	1-2V	160	270	0.5	5.5	19
	LS9	AIR	350	1-4V	165	255	0.9	7.6	14
GM114									
[L42; L43; L86]									
[366; 427; 454]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	L42	AIR	454	1-4V	225	365	0.2	4.5	18
	L43	AIR	427	1-4V	220	360	0.3	7.2	14
	L86	AIR	366	1-4V	190	305	0.6	6.0	14
	L86	AIR	366	1-4V	190	305	0.3	5.6	18
GM115									
[LP8]									
[454]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	LP8	AIR	454	1-4V	210	340	0.5	5.4	21
INTERNATIONAL HARVESTER									
HV-8									
[HV-404; HV-446]									
[400; 447]									
					(DETERIORATION FACTORS:		0.0	0.53	4.83)
	HV-404	AIR,EGR	399	1-4V	206	333	0.9	6.4	24
	HV-404	AIR,EGR	399	1-2V	189	324	0.7	7.1	21
	HV-404	AIR,EGR	399	1-2V	189	324	1.0	8.1	21
	HV-446	AIR,EGR	447	1-4V	227	381	0.8	5.5	21
	HV-446	EMS,AI,EGR	447	1-4V	225	360	0.4	6.8	21
V-345									
[V-345]									
[345]									
					(DETERIORATION FACTORS:		0.0	0.0	1.98)
	V-345	AIR,EGR	345	1-2V	162	285	0.5	5.9	18
	V-345	AIR,EGR	345	1-2V	146	277	0.9	6.5	15
V-392									
[V-392]									
[391]									
					(DETERIORATION FACTORS:		0.0	1.27	1.38)
	V-392	AIR,EGR	391	1-4V	185	303	0.4	7.8	16
	V-392	AIR,EGR	391	1-4V	185	303	0.8	7.6	17
V-537									
[V-537]									
[538]									
					(DETERIORATION FACTORS:		0.0	1.22	0.79)
	V-537	AIR,EGR	537	1-2V	203	408	0.2	7.5	18
REVCON INCORPORATED									
GM115									
[LE8]									
[454]									
					(DETERIORATION FACTORS:		0.0	0.0	0.0)
	LE8	AIR	454	1-4V	210	340	0.5	5.5	21

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION					CERTIFICATION LEVELS					
						EXHAUST EMISSIONS			SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS (GM/BHP-HR)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDES (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAK (%)
CATERPILLAR											
11											
[3406]											
[893]											
TURB			DETERIORATION FACTORS:			0.03	0.46	0.0	0.0	0.82	0.45
	3406	SPL	893	300	1054	0.5	7.8	2	14	9	17
	3406	SPL	893	325	1015	0.5	10.4	2	13	7	15
12											
[3408]											
[1099]											
TURB			DETERIORATION FACTORS:			0.0	0.04	0.19	1.31	0.0	0.0
	3408	SPL	1099	450	1350	0.1	4.9	1	17	7	25
13											
[3208]											
[636]											
NAT			DETERIORATION FACTORS:			0.0	0.0	0.98	1.06	0.22	4.00
	3208	EGR	636	200	490	0.7	7.2	4	7	6	18
14											
[3306]											
[638]											
TURB			DETERIORATION FACTORS:			0.0	0.0	0.0	2.71	2.70	3.04
	3306	SPL	638	245	820	0.2	5.4	2	16	10	28
15											
[3408]											
[1099]											
TURB			DETERIORATION FACTORS:			0.01	0.0	0.12	0.30	0.57	0.04
	3408	SPL	1099	400	1225	0.6	7.6	2	13	6	14
16											
[3406]											
[893]											
TURB			DETERIORATION FACTORS:			0.0	0.10	0.05	1.13	2.26	1.68
	3406	SPL	893	350	1165	0.3	9.0	3	20	13	23
	3406	SPL	893	380	1245	0.3	8.6	2	20	13	22
TURB			DETERIORATION FACTORS:			0.02	0.20	0.0	0.0	0.0	0.0
	3406	SPL	893	380	1285	0.4	4.7	2	10	8	17
17											
[3408]											
[1099]											
TURB			DETERIORATION FACTORS:			0.0	0.19	0.08	0.0	1.18	0.0
	3408	SPL	1099	450	1460	0.4	6.9	3	14	14	15
3											
[3208]											
[636]											
NAT			DETERIORATION FACTORS:			0.01	0.0	0.0	0.0	0.0	0.0
	3208	EM	636	160	385	1.0	9.3	3	2	3	4
	3208	EM	636	210	500	1.1	9.3	5	13	12	23
4											
[3306]											
[638]											
TURB			DETERIORATION FACTORS:			0.10	0.08	0.0	0.0	0.21	0.0
	3306	SPL	638	250	690	0.3	6.0	1	11	6	21
	3306	SPL	638	250	690	0.3	6.4	1	9	7	15
CUMMINS DIESEL											
091											
[NH-230; NHC-250]											
[855]											
NAT			DETERIORATION FACTORS:			0.0	0.47	0.0	0.0	0.0	0.0
	NH-230	NONE	855	220	644	0.6	8.1	5	6	6	6
	NH-230	NONE	855	220	644	0.2	9.1	5	7	6	10
	NHC-250	NONE	855	240	654	0.4	8.4	4	8	10	11

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION					CERTIFICATION LEVELS					
						EXHAUST EMISSIONS			SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS (GM/BHP-HR)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDES (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAK (%)
CUMMINS DIESEL											
092A											
[NTC-230; NTC-290; NTCC-230]											
[855]											
TURB			DETERIORATION FACTORS:			0.06	0.0	0.24	1.22	1.55	0.0
	NTC-290	SPL	855	293	961	0.3	8.6	2	11	3	12
093E											
[NTC-300; NTC-350; NTC-400]											
[855]											
TURB			DETERIORATION FACTORS:			0.0	0.39	0.90	0.47	0.0	0.0
	NTC-400	SPL	855	400	1187	0.3	8.6	3	15	2	17
093G											
[NTCC-300; NTCC-400]											
[855]											
TURB			DETERIORATION FACTORS:			0.09	0.37	0.0	0.17	0.0	0.0
	NTCC-400	SPL	855	400	1150	0.9	5.8	3	16	6	18
172C											
[VT-350; VT-903; VTB-903]											
[903]											
TURB			DETERIORATION FACTORS:			0.11	0.90	0.37	0.0	0.0	0.0
	VT-350	SPL	903	350	858	0.5	7.9	2	11	5	14
192B											
[KT-450]											
[1150]											
TURB			DETERIORATION FACTORS:			0.0	0.0	0.0	0.0	0.0	0.0
	KT-450	SPL	1150	450	1350	0.4	8.5	1	9	1	17
193											
[KT-450; KTA-525; KTA-600]											
[1150]											
TURB			DETERIORATION FACTORS:			0.0	1.02	0.0	0.0	0.0	0.0
	KTA-600	SPL	1150	600	1650	0.3	10.0	2	12	1	18
221											
[V-555]											
[555]											
NAT			DETERIORATION FACTORS:			0.0	0.0	0.43	3.10	3.70	3.40
	V-555	NONE	555	216	425	0.7	9.8	5	10	11	13
	V-555	NONE	555	216	425	0.9	9.4	5	13	14	17
222											
[VT-225; VT-555]											
[555]											
TURB			DETERIORATION FACTORS:			0.01	0.99	0.0	0.0	0.0	0.0
	VT-225	NONE	555	225	445	0.7	8.6	2	11	4	14
DEUTZ											
BF6L913											
[BF6L913]											
[374]											
TURB			DETERIORATION FACTORS:			0.02	0.0	0.0	5.07	0.0	9.66
	BF6L913	EM	374	160	378	1.3	8.6	3	15	8	21
F5L912											
[F5L912]											
[288]											
NAT			DETERIORATION FACTORS:			0.0	0.0	0.0	0.91	0.84	2.00
	F5L912	EM	288	100	214	1.3	8.6	5	7	8	11
GENERAL MOTORS CORP.											
V8-8.2											
[V8-8.2]											
[500]											
NAT			DETERIORATION FACTORS:			0.37	0.23	0.79	0.0	0.14	0.0
	V8-8.2	EM	500	165	350	0.9	5.9	4	8	9	11
	V8-8.2	EM	500	165	350	1.3	7.2	4	17	15	23
V8-8.2T											
[V8-8.2T]											
[500]											
TURB			DETERIORATION FACTORS:			0.03	0.0	0.35	0.0	0.50	0.0
	V8-8.2T	EM	500	160	360	0.4	8.6	2	6	4	10
	V8-8.2T	EM	500	205	430	0.6	5.4	2	17	6	41

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION					CERTIFICATION LEVELS					
						EXHAUST EMISSIONS			SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS (GM/BHP-HR)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDES (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAK (%)
GENERAL MOTORS CORP.											
4L-53T [4L-53T] [212] TURB			DETERIORATION FACTORS:			0.16	0.0	2.11	2.62	2.56	0.13
	4L-53T	SPL	212	170	402	0.8	8.5	5	12	6	18
6L-71N [6L-71N] [426] NAT			DETERIORATION FACTORS:			0.0	0.20	0.0	0.0	0.0	3.36
	6L-71N	EM	426	239	611	1.0	9.0	12	19	10	40
	6L-71N	EM	426	184	590	0.7	9.2	6	10	6	23
6L-71T [6L-71T] [426] TURB			DETERIORATION FACTORS:			0.01	0.99	0.0	0.0	0.0	0.06
	6L-71T	TD	426	275	801	0.5	10.0	3	7	3	10
	6L-71T	TD	426	260	781	0.6	10.0	3	11	3	16
6L-71TA [6L-71TA] [426] TURB			DETERIORATION FACTORS:			0.0	0.32	0.72	0.0	0.08	0.01
	6L-71TA	TD	426	270	783	0.8	6.3	4	4	7	7
	6L-71TA	TD	426	235	694	0.9	6.1	4	6	4	8
6V-53T [6V-53T] [318] TURB			DETERIORATION FACTORS:			0.0	0.31	0.15	1.95	0.20	4.36
	6V-53T	SPL	318	225	550	0.9	9.4	3	9	2	16
6V-71N/COACH [6V-71N/COACH] [426] NAT			DETERIORATION FACTORS:			0.06	0.53	0.0	1.38	0.0	1.44
	6V-71N/COACH	TD	426	160	549	1.3	9.5	3	4	1	6
	6V-71N/COACH	TD	426	190	575	1.2	9.6	8	5	5	7
6V-92TA [6V-92TA] [552] TURB			DETERIORATION FACTORS:			0.02	0.0	0.87	2.28	1.06	4.56
	6V-92TA	TD	552	305	921	0.6	5.5	3	13	5	19
	6V-92TA	TD	552	335	962	0.6	8.1	3	14	3	22
8V-71N [8V-71N] [568] NAT			DETERIORATION FACTORS:			0.12	0.04	0.0	0.0	0.55	0.0
	8V-71N	EM	568	245	742	1.0	9.5	4	4	3	8
	8V-71N	EM	568	316	818	0.6	7.6	11	17	13	27
8V-71N/COACH [8V-71N/COACH] [568] NAT			DETERIORATION FACTORS:			0.0	0.0	0.0	0.0	0.0	0.0
	8V-71N/COACH	TD	568	230	720	0.9	8.3	3	3	3	5
	8V-71N/COACH	TD	568	270	785	0.7	7.7	8	4	9	9
8V-71TA [8V-71TA] [568] TURB			DETERIORATION FACTORS:			0.0	0.35	0.0	0.0	0.37	0.0
	8V-71TA	TD	568	305	1064	0.5	8.6	3	16	4	28
	8V-71TA	TD	568	318	941	0.5	8.7	2	14	2	21

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION					CERTIFICATION LEVELS					
						EXHAUST EMISSIONS			SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDRO-CARBONS (GM/BHP-HR)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDES (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAK (%)
GENERAL MOTORS CORP.											
8V-92TA											
[8V-92TA]											
[736]											
TURB			DETERIORATION FACTORS:			0.0	0.07	0.0	0.0	0.0	0.21
	8V-92TA	TD	736	405	1236	0.6	5.6	2	6	3	9
	8V-92TA	TD	736	430	1230	0.5	6.8	2	15	2	28
HINO											
EM											
[EM700; EM700E]											
[393]											
NAT			DETERIORATION FACTORS:			0.08	0.0	1.16	1.65	1.64	2.30
	EM700	EM	393	150	286	0.9	4.8	5	9	14	15
	EM700E	EM	393	153	297	1.5	8.0	6	9	11	12
INTERNATIONAL HARVESTER											
DT-466B											
[A160F; A180C; A180F; A210F]											
[466]											
TURB			DETERIORATION FACTORS:			0.01	0.0	0.64	0.72	3.20	1.10
	A180C	SPL	466	180	423	0.9	5.1	3	15	11	22
	A180C	SPL	466	180	423	0.9	5.0	3	15	11	22
	A210F	SPL	466	210	987	0.6	8.8	2	9	10	12
DT1-466B											
[A210C]											
[466]											
TURB			DETERIORATION FACTORS:			0.04	0.0	0.08	2.53	2.17	4.85
	A210C	SPL	466	210	487	0.6	5.4	2	18	7	27
9.0-LITER											
[165BHP; 180BHP]											
[551]											
NAT			DETERIORATION FACTORS:			0.02	0.39	0.0	0.0	0.0	0.0
	180BHP	EM	551	180	395	1.4	9.2	3	9	9	13
ISUZU											
4BD											
[4BD1]											
[235]											
NAT			DETERIORATION FACTORS:			0.14	0.62	0.57	1.17	1.22	1.74
	4BD1	EM	235	87	166	1.2	7.5	4	8	7	13
6BD											
[6BD1]											
[353]											
NAT			DETERIORATION FACTORS:			0.14	0.62	0.57	1.17	1.22	1.74
	6BD1	EM	353	130	253	1.4	7.5	4	10	8	19
IVECO-FIAT											
FIAT-VI-8300											
[8360.05.673]											
[494]											
NAT			DETERIORATION FACTORS:			0.14	0.62	0.57	1.17	1.22	1.74
	8360.05.673	EM	494	160	376	0.9	8.7	5	11	15	16
UNIC-8220											
[8220.02.142]											
[584]											
NAT			DETERIORATION FACTORS:			0.14	0.62	0.57	1.17	1.22	1.74
	8220.02.142	EM	584	200	470	0.9	8.1	4	7	8	9

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE INFORMATION TEST ENGINE MODEL	 EMISSION CONTROL SYSTEM	 ENGINE DISPL. (CI OR L)	 RATED H.P.	 MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS EXHAUST EMISSIONS HYDRO-CARBONS (GM/BHP-HR)	 HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	 CARBON MONOXIDES (GM/BHP-HR)	 SMOKE EMISSIONS ACCEL (%)	 LUG (%)	 PEAK (%)
MACK TRUCK											
10											
[EMC9-400; EM9-400; ETCX(B)1000; ETCX(B)1005A; ETCZ(B)1000; ETCZ(B)1005A]											
[998]											
TURB			DETERIORATION FACTORS:			0.0	0.71	0.09	1.19	0.71	1.17
	ETCZ(B)1005A	SPL	998	392	1519	0.2	8.4	1	11	6	20
11											
[EMC6-237; EM6-237; EM6-237R; ETY(B)675; ETZ(B)673; ETZ(B)673C; ETZ(B)673E; ETZ(B)675; ETZ(B)675B; E6-200; E6-250; E6-260; EC6-235; ETZ(B)673D]											
[672]											
TURB			DETERIORATION FACTORS:			0.09	0.81	1.06	0.0	0.25	0.0
	ETY(B)675	SPL	672	235	906	0.6	8.2	3	18	12	39
	ETZ(B)673D	SPL	672	235	700	0.5	6.4	3	20	5	37
12											
[EC6-330; EMC6-250; EMC6-285; EMC6-285R; EM6-285; EM6-285R; ETSX(B)675; ETSX(B)676; ETSX(B)676A; ETSX(B)677; ETSZ(B)673A; ETSZ(B)673B; ETSZ(B)676; ETSZ(B)676A; ETSZ(B)677; ETSZ(B)677A; E6-315; E6-315R; E6-350; E6-350R]											
[672]											
TURB			DETERIORATION FACTORS:			0.0	0.55	0.0	2.34	0.40	3.54
	ETSX(B)676	SPL	672	283	1080	0.3	5.0	1	20	9	35
	ETSZ(B)677	SPL	672	350	1131	0.4	9.0	1	15	7	25
9											
[EC6-315; EMC6-285; EM6-285; EM6-285R; ENDT(B)676; ENDT(B)676A; ETAY(B)673A; ETAY(B)676; ETAZ(B)673; ETAZ(B)673A; E6-315; E6-320]											
[672]											
TURB			DETERIORATION FACTORS:			0.0	1.00	0.0	0.0	2.13	0.0
	ETAY(B)676	SPL	672	283	1080	0.8	7.8	2	11	13	16
	ETAY(B)676	SPL	672	283	1080	0.6	8.0	2	10	13	15
	ETAZ(B)673A	SPL	672	315	1050	0.4	8.8	1	17	6	29
MERCEDES-BENZ											
OM352											
[OM352]											
[346]											
NAT			DETERIORATION FACTORS:			0.0	0.0	0.0	1.69	0.0	0.0
	OM352	EM	346	130	260	0.8	7.9	5	8	13	13
OM352A											
[OM352A]											
[346]											
TURB			DETERIORATION FACTORS:			0.0	0.57	0.0	0.0	0.0	0.0
	OM352A	EM	346	156	310	0.9	8.7	3	5	4	7
OM355/5											
[OM355/5]											
[589]											
NAT			DETERIORATION FACTORS:			0.0	0.0	0.61	0.03	0.0	0.0
	OM355/5	EM	589	180	455	0.8	8.7	6	8	10	11
MITSUBISHI											
6DB5											
[6DB50A]											
[243]											
NAT			DETERIORATION FACTORS:			0.36	0.82	1.11	0.0	0.29	0.0
	6DB50A	EM	243	100	163	1.0	6.5	5	5	5	10
RENAULT VEHICLES INDSTR.											
MI-06-02-12											
[MIDR-06-02-12-A]											
[335]											
TURB			DETERIORATION FACTORS:			0.05	0.38	0.17	1.05	1.04	1.73
	MIDR-06-02-12-A	SPL	335	175	368	0.6	7.8	5	14	8	24
SAAB (SAAB-SCANIA)											
S1B											
[ETZ477B]											
[475]											
TURB			DETERIORATION FACTORS:			0.05	0.38	0.17	1.05	1.04	1.73
	ETZ477B	SPL	475	210	535	0.9	9.4	2	10	5	20

1980 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION	TEST ENGINE INFORMATION					CERTIFICATION LEVELS					
						EXHAUST EMISSIONS			SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [DISPLMTS] ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CI OR L)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDROCARBONS (GM/BHP-HR)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDES (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAK (%)
TRANSIT SALES CORP. STEYR-MB-OM-616 [OM616] [146] NAT			DETERIORATION FACTORS:			0.14	0.62	0.57	1.17	1.22	1.74
	CM616	EM	146	62	97	0.4	5.0	4	4	4	7
VOLVO [TD40A] [219] TURB			DETERIORATION FACTORS:			0.05	0.38	0.17	1.05	1.04	1.73
	TD40A	SPL	219	118	203	0.5	4.6	2	8	3	25
TD100 [TD100C] [586] TURB			DETERIORATION FACTORS:			0.05	0.38	0.17	1.05	1.04	1.73
	TD100C	SPL	586	253	671	0.6	9.0	2	11	5	22
TD60 [TD60B] [334] TURB			DETERIORATION FACTORS:			0.0	0.40	0.42	0.0	0.58	0.0
	TD60B	SPL	334	174	382	1.1	9.3	2	5	2	7
TD70 [TD70F] [409] TURB			DETERIORATION FACTORS:			0.0	0.15	0.39	0.0	0.0	0.0
	TD70F	SPL	409	230	605	1.3	8.5	4	5	2	11
WHITE MOTORS LDT-465 [LDT-465-1C] [478] TURB			DETERIORATION FACTORS:			0.05	0.38	0.17	1.05	1.04	1.73
	LDT-465-1C	EM	478	134	335	1.3	10.5	3	15	10	19
	LDT-465-1C	EM	478	134	335	0.7	9.2	3	13	9	19

1980 MODEL YEAR MOTORCYCLES

MANUFACTURER FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION:							DETERIORATION FACTORS		CERTIFICATION LEVELS (GM/KM)	
	TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG)	DRIVE RATIO	HYDRO-CARBONS	CARBON MONOXIDE	HYDRO-CARBONS	CARBON MONOXIDE
BMW MOTORRADGMBH F2P1 [R65; R80/7; R100T; R100S; R100RT; R100RS] [650; 798; 980]	R100RS	PULSE AIR	980 - 4	2	5M	330	2.91	1.049	1.000	1.1	8
HARLEY DAVIDSON 1000 [XLH; XLS] [998]	XLH-1000	EM	998 - 4	1	M4	380	4.22	1.339	1.000	2.4	8
1200/1340 [FL; FLH; FLH CLASSIC; FLHS; FLT; FLT CLASSIC; FXB; FXE; FXEF; FXS; FXWG] [1207; 1339]	FLH-80	EM	1339 - 4	1	M4	560	3.90	1.051	1.061	2.3	6
[FLH; FLH CLASSIC; FLHS; FLT; FLT CLASSIC; FXB; FXE; FXEF; FXS; FXWG] [1207; 1339]	FLH-1200	EM	1207 - 4	1	M4	560	3.90	1.035	1.000	2.3	9
HONDA 80AA [CT70] [72]	CT70	EM	72 - 4	1	M3	160	2.33	1.174	1.000	0.7	9
80AB [XL80S; CB125S; XL125S] [80; 124]	XL125S	EM	124 - 4	1	M6	200	4.00	1.000	1.000	0.7	5
	XL80S	EM	80 - 4	1	M4	160	2.47	1.047	1.061	0.8	9
80AC [CT110] [105]	CT110	EM	105 - 4	1	M4	180	3.00	1.000	1.125	0.7	8
80AD [XL100S] [99]	XL100S	EM	99 - 4	1	M5	190	3.00	1.000	1.000	0.7	6

1980 MODEL YEAR MOTORCYCLES

MANUFACTURER FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION:							DETERIORATION FACTORS		CERTIFICATION LEVELS (GM/KM)	
	TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG)	DRIVE RATIO	HYDRO-CARBONS	CARBON MONOXIDE	HYDRO-CARBONS	CARBON MONOXIDE
HONDA											
80BA [CM200T-TWINSTAR] [194]	CM200T	EM	194 - 4	1	M4	220	2.33	1.103	1.000	1.1	7
80BB [XL185S] [180]	XL185S	EM	180 - 4	1	M5	200	3.57	1.000	1.024	0.7	7
80BC [XL250S] [249]	XL250S	EM	249 - 4	1	M5	210	3.79	1.000	1.000	0.9	12
80CA [CBX] [1047]	CBX	EM	1047 - 4	6	M5	400	2.33	1.165	1.000	2.4	7
80CB CX500; CX500C-CX500 CUSTOM; CX500D-CX500 DELUXE] [497]	CX500	EM	497 - 4	2	M5	320	3.09	1.095	1.000	2.0	9
80CC [CB750F; CB750K; CB750C-CB750 CUSTOM] [749]	CB750K	EM	749 - 4	4	M5	360	2.56	1.352	1.046	2.7	9
80CD [XL500S] [498]	XL500S	EM	498 - 4	1	M5	230	2.93	1.392	1.000	0.6	9
80CE [CM400T; CM400A-CM400A HONDAMATIC; CE400E; CB400T-HAWK] [395]	CB400A	EM	395 - 4	2	A2	290	2.19	1.000	1.000	0.7	10
80CF [[CB650; CB650C-CB650 CUSTOM] [627]	CB650	EM	627 - 4	4	M5	320	2.50	1.166	1.000	1.9	8
80CG [GL1100 GOLDWING; GL1100I GOLDWING INTERSTATE] [1085]	GL1100	EM	1085 - 4	4	M5	420	3.09	1.275	1.000	2.6	8
80CH [CB900C-CB900CUSTOM] [902]	CB900C	EM	902 - 4	4	M5	400	3.09	1.139	1.000	2.5	9
KAWASAKI											
KE100 [KE100-A9; KM100-A6] [99]	KE100-A9	EM	99 - 2	1	M5	180	2.80	1.000	1.105	3.3	10
KZT00 [KZ1000-A4; KZ1000-B4; KZ1000-D3; KZ1000-E2] [1015]	KZ1000-A3	EM+AIR	1015 - 4	4	M5	390	2.20	1.000	1.000	1.6	10
	KZ1000-E1	EM+AIR	1015 - 4	4	M5	410	3.36	1.102	1.201	1.5	8
KZT30 [KZ1300A2; KZ1300-B2] [1286]	KZ1300-A2	EM+AIR	1286 - 4	3	M5	470	2.65	1.000	1.000	1.6	5
KZ440 [KZ440-A1; KZ440-B1; KZ440-C1; KZ440-D1] [443]	KZ440-A1	EM	443 - 4	2	M6	300	3.00	1.149	1.060	0.9	7
KZ500 [KZ500-A1; KZ500-B1] [497]	KZ500-B1	EM+AIR	497 - 4	4	M6	340	2.50	1.211	1.039	1.2	10
KZ650 [KZ650-B4; KZ650-E1; KZ650-F1] [652]	KZ650-B3	EM+AIR	652 - 4	4	M5	370	2.63	1.613	1.000	3.6	9

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1980 MODEL YEAR MOTORCYCLES

MANUFACTURER FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP. & CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG)	DRIVE RATIO	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
KAWASAKI											
KZ750T [KZ750-G1] [745]	KZ750-G1	EM	745 - 4	2	M5	360	2.38	1.451	1.238	1.2	12
SUZUKI											
GS100 [GS1000E; GS1000G; GS1000S; GS1000GL] [997]	GS750E	EM	997 - 4	4	M5	390	5.12	1.066	1.000	2.0	6
GS110 [GS1100E; GS1100L] [1074]	GS1100E	EM	1074 - 4	4	M5	370	4.78	1.000	1.000	3.0	6
GS45 [GS450E; GS450L; GS450S] [448]	GS450E	EM	448 - 4	2	M6	280	6.50	1.000	1.000	1.2	7
GS55 [GS550E; GS550L] [549]	GS550E	EM	549 - 4	4	M6	320	6.30	1.000	1.000	1.7	7
GS75 [GS7050E; GS750L] [747]	GS750E	EM	747 - 4	4	M5	360	5.68	1.117	1.000	2.9	8
GS85 [GS850G; GS850GL] [843]	GS850G	EM	843 - 4	4	M5	380	5.61	1.066	1.000	2.1	8
TS10 [TS100; TS125] [98; 123]	TS100	EM	98 - 2	1	M5	180	10.24	1.000	1.011	4.0	9
	TS125	EM	123 - 2	1	M6	190	9.18	1.000	1.000	3.6	10
TS20 [TS185; TS250] [183; 246]	TS185	EM	183 - 2	1	M5	200	8.56	1.000	1.008	3.1	7
	TS250	EM	246 - 2	1	M5	220	7.20	1.000	1.000	3.5	9
YAMAHA											
80D10 [DT100] [97]	DT100G	EM	97 - 2	1	M5	170	3.21	1.000	1.000	2.6	5
80D12 [DT125] [123]	DT125	EM	123 - 2	1	M6	190	3.50	1.000	1.000	3.3	4
80D17 [DT175] [171]	DT175	EM	171 - 2	1	M6	190	3.06	1.000	1.054	3.6	8
80G80 [GT80] [73]	GT80G	EM	73 - 2	1	M4	150	2.93	1.000	1.114	2.4	9
80TR5 [SR500; XT500] [499]	SR500	EM	499 - 4	1	M5	290	2.75	1.199	1.080	0.8	8
80X11 [XS1100; XS1100S] [1102]	XS1100	EM	1102 - 4	4	M5	420	3.26	1.359	1.000	2.6	8
80X40 [XS400; XS400S] [392]	XS400S	EM	392 - 4	2	M6	290	2.31	1.000	1.046	1.1	11

1980 MODEL YEAR MOTORCYCLES

MANUFACTURER FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG)	DRIVE RATIO	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
YAMAHA											
80X65 [XS650; XS650S] [654]	XS650S	EM	654 - 4	2	M5	330	2.00	1.396	1.000	1.2	7
80X85 [XS850; XS850S] [826]	XS850	EM	826 - 4	3	M5	390	3.47	1.000	1.000	1.3	9

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
ALFA ROMEO - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
01684 A / E1615 A (120)										
SPRINT VELOCE	C SPIDER 2000 VELOCE	FI /EGR/PMP/OXD/ /CRK	120-FI	M-5	2875	4.10	0.31	5.3	0.44	N/A
C SPRINT VELOCE	C SPRINT VELOCE	FI /EGR/PMP/OXD/ /CRK	120-FI	M-5	3000	4.10	0.29	4.1	0.49	2.0 *
SPIDER 2000 VELOCE										
C SPIDER 2000 VELOCE										
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/PMP/OXD/ /	FAMILY 01684 A				: 1.154	1.101	1.059	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CRK	FAMILY E1615 A				: N/A	N/A	N/A	0.170)
019.11 / E19.11 (152)										
ALFA 6	C ALFA 6	FI /3WY/CLS/ / /CRK	152-FI	A-3	3750	3.62	0.26	1.9	0.45	2.0 *
C ALFA 6										
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 019.11				: 1.225	1.308	1.163	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CRK	FAMILY E19.11				: N/A	N/A	N/A	0.012)
ALFA ROMEO - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
E1615 A	C SPRINT VELOCE	FI /EGR/PMP/OXD/ /CRK	120-FI	M-5	3000	4.10	0.29	4.1	0.49	2.0
E19.11	C ALFA 6	FI /3WY/CLS/ / /CRK	152-FI	A-3	3750	3.62	0.26	1.9	0.45	2.0
AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
8P-2H1 / E-3 (151)										
SPIRIT	SPIRIT	EGR/PLS/OXD/ / /CAN	151-2	A-3	3000	3.08	0.27	2.4	1.3	N/A
CONCORD	CONCORD WAGON	EGR/PLS/OXD/ / /CAN	151-2	A-3	3250	3.08	0.37	3.2	1.7	N/A
CONCORD WAGON	SPIRIT	EGR/PLS/OXD/ / /CAN	151-2	M-4	3000	3.08	0.40	5.7	1.2	2.6 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS			
							EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
BP-2H1 / E-3 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY BP-2H1				: 1.586	1.203	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-3				: N/A	N/A	N/A	0.0)
BP-6C1 / E-3A (151)										
C SPIRIT	C CONCORD WAGON	EGR/3WY/CLS/ / /CAN	151-2	A-3	3250	3.08	0.15	3.4	0.62	1.5 *
C CONCORD	C SPIRIT	EGR/3WY/CLS/ / /CAN	151-2	M-4	3000	3.08	0.34	3.8	0.67	0.88 *
C CONCORD WAGON	C SPIRIT	EGR/3WY/CLS/ / /CAN	151-2	M-4	2875	3.08	0.30	5.7	0.72	1.5 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/3WY/CLS/ / /	FAMILY BP-6C1				: 1.160	1.165	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-3A				: N/A	N/A	N/A	0.130)
CP-5N1 / E-2A (258)										
C SPIRIT	C CONCORD	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3500	2.53	0.36	11.	0.64	1.1 *
C CONCORD	C SPIRIT	EGR/PMP/3WY/CLS/ /CAN	258-2	M-4	3125	2.53	0.25	3.1	0.65	1.4 *
C CONCORD WAGON	C CONCORD WAGON	EGR/PMP/3WY/CLS/ /CAN	258-2	M-4	3500	2.53	0.20	2.7	0.72	1.3 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/3WY/CLS/ /	FAMILY CP-5N1				: 1.407	1.539	1.003	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-2A				: N/A	N/A	N/A	0.0)
CP-8R1 / E-4 (258)										
SPIRIT	PACER WAGON	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3750	2.53	0.38	6.6	1.4	2.1 *
PACER	CONCORD	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3500	2.53	0.29	4.5	1.2	2.6 *
PACER WAGON	SPIRIT	EGR/PMP/3WY/CLS/ /CAN	258-2	M-4	3125	2.53	0.21	1.4	1.5	N/A
CONCORD										
CONCORD WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/3WY/CLS/ /	FAMILY CP-8R1				: 1.143	1.000	1.179	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-4				: N/A	N/A	N/A	0.0)
AMERICAN MOTORS - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
E-2A	C CONCORD	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3500	2.53	0.36	11.	0.64	1.1
	C SPIRIT	EGR/PMP/3WY/CLS/ /CAN	258-2	M-4	3125	2.53	0.25	3.1	0.65	1.4
	C CONCORD WAGON	EGR/PMP/3WY/CLS/ /CAN	258-2	M-4	3500	2.53	0.20	2.7	0.72	1.3
E-3	SPIRIT	EGR/PLS/OXD/ / /CAN	151-2	M-4	3000	3.08	0.40	5.7	1.2	2.6
E-3A	C CONCORD WAGON	EGR/3WY/CLS/ / /CAN	151-2	A-3	3250	3.08	0.15	3.4	0.62	1.5
	C SPIRIT	EGR/3WY/CLS/ / /CAN	151-2	M-4	2875	3.08	0.30	5.7	0.72	1.5
	C SPIRIT	EGR/3WY/CLS/ / /CAN	151-2	M-4	3000	3.08	0.34	3.8	0.67	0.88
E-4	PACER WAGON	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3750	2.53	0.38	6.6	1.4	2.1
	CONCORD	EGR/PMP/3WY/CLS/ /CAN	258-2	L-3	3500	2.53	0.29	4.5	1.2	2.6
ASTON MARTIN - FAMILY COMBINATIONS CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
580 / 580VP (326)										
C SALOON/VANTAGE/VOL	C SALOON/VANTAGE/VOL	PMP/OXD/ / / /CAN	326-8	L-3	4500	3.07	0.34	3.4	0.65	N/A
SALOON/VANTAGE/VOL										
(EXHAUST DETERIORATION FACTORS FOR -		PMP/OXD/ / / /	FAMILY 580				: 1.300	1.200	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 580VP				: N/A	N/A	N/A	0.0)
ASTON MARTIN - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
580VP	C SALOON/VANTAGE/VOL	PMP/OXD/ / / /CAN	326-8	L-3	4500	3.07	0.18	4.0	0.89	1.4
AUDI - FAMILY COMBINATIONS CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
4000 CL / 4000 (97)										
C 4000	4000	FI /3WY/CLS/ / /CAN	97-FI	A-3	2625	3.91	0.15	1.2	0.23	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GRAMS/MILE)			CERTIFICATION LEVELS: EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
AUDI - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
4000 CL / 4000 (CONT.)										
4000	4000	FI /3WY/CLS/ / /CAN	97-FI	M-4	2500	4.11	0.28	2.1	0.15	1.2 *
	4000	FI /3WY/CLS/ / /CAN	97-FI	M-5	2500	4.11	0.26	2.0	0.17	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 4000 CL				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 4000				: N/A	N/A	N/A	0.159)
4000 F / 4000										
(97)										
4000	C 4000	FI /EGR/OXD/ / /CAN	97-FI	A-3	2625	3.91	0.12	1.3	1.3	N/A
	C 4000	FI /EGR/OXD/ / /CAN	97-FI	M-4	2500	4.11	0.11	1.0	1.2	0.70 *
	C 4000	FI /EGR/OXD/ / /CAN	97-FI	M-5	2500	4.11	0.14	1.3	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/OXD/ / /	FAMILY 4000 F				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 4000				: N/A	N/A	N/A	0.159)
4000-5 / 4000/5										
(131)										
C 4000	C 4000	FI /3WY/CLS/ / /CAN	131-FI	A-3	2875	3.45	0.18	4.1	0.35	1.3 *
4000	C 4000	FI /3WY/CLS/ / /CAN	131-FI	M-5	2875	4.90	0.23	3.7	0.38	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 4000-5				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 4000/5				: N/A	N/A	N/A	0.0)
5000 CL / 5000										
(131)										
C 5000	5000	FI /3WY/CLS/ / /CAN	131-FI	A-3	3125	3.91	0.12	0.95	0.52	N/A
	5000	FI /3WY/CLS/ / /CAN	131-FI	M-5	3000	4.11	0.19	1.3	0.17	1.1 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 5000 CL				: 1.000	1.003	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 5000				: N/A	N/A	N/A	0.0)
5000 F / 5000										
(131)										
5000	C 5000	FI /EGR/OXD/ / /CAN	131-FI	A-3	3000	3.91	0.16	1.2	1.5	1.4 *
	C 5000	FI /EGR/OXD/ / /CAN	131-FI	M-5	3000	4.11	0.25	2.5	1.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/OXD/ / /	FAMILY 5000 F				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 5000				: N/A	N/A	N/A	0.0)
AUDI - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
4000										
	C 4000	FI /EGR/OXD/ / /CAN	97-FI	M-4	2500	4.11	0.11	1.0	1.2	0.70
	4000	FI /3WY/CLS/ / /CAN	97-FI	M-4	2500	4.11	0.28	2.1	0.15	1.2
4000/5										
	C 4000	FI /3WY/CLS/ / /CAN	131-FI	A-3	2875	3.45	0.18	4.1	0.35	1.3
5000										
	5000	FI /EGR/OXD/ / /CAN	131-FI	A-3	3000	3.91	0.16	1.2	1.5	1.4
	5000	FI /3WY/CLS/ / /CAN	131-FI	M-5	3000	4.11	0.19	1.3	0.17	1.1
AVANTI - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
01L48 / 084-1										
(350)										
AVANTI II	AVANTI II	EGR/PMP/OXD/ / /CAN	350-4	A-3	4000	3.07	0.27	1.7	1.0	3.3 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 01L48				: 1.246	1.083	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 084-1				: N/A	N/A	N/A	0.0)
AVANTI - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
084-1										
	AVANTI II	EGR/PMP/OXD/ / /CAN	350-4	A-3	4000	3.07	0.27	1.7	1.0	3.3
BMW - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
18K / EV 10										
(108)										
C 320 I	C 320 I	FI /3WY/CLS/ / /CAN	108-FI	A-3	2750	3.64	0.28	1.5	0.43	N/A
320 I	C 320 I	FI /3WY/CLS/ / /CAN	108-FI	M-5	2750	3.91	0.35	1.9	0.43	0.65 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
BMW - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
18K / EV 10 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 18K				: 1.000	1.001	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV 10				: N/A	N/A	N/A	0.0)
2HL / EV 10 (170)										
C 528 I	C 528 I	FI /3WY/CLS/ / /CAN	170-FI	A-3	3500	3.45	0.24	1.6	0.54	1.4 *
528 I	C 528 I	FI /3WY/CLS/ / /CAN	170-FI	M-5	3500	3.45	0.30	1.4	0.65	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 2HL				: 1.000	1.000	1.173	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV 10				: N/A	N/A	N/A	0.0)
32L / EV 10 (196)										
C 633 CSI	C 733 I	FI /3WY/CLS/ / /CAN	196-FI	A-3	3875	3.45	0.30	1.9	0.60	1.5 *
633 CSI	C 733 I	FI /3WY/CLS/ / /CAN	196-FI	M-4	3875	3.45	0.27	1.9	0.59	N/A
C 733 I										
733 I										
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 32L				: 1.000	1.007	1.228	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV 10				: N/A	N/A	N/A	0.0)
BMW - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
EV 10	C 320 I	FI /3WY/CLS/ / /CAN	108-FI	M-5	2750	3.91	0.35	1.9	0.43	0.65
	C 528 I	FI /3WY/CLS/ / /CAN	170-FI	A-3	3500	3.45	0.24	1.6	0.54	1.4
	C 733 I	FI /3WY/CLS/ / /CAN	196-FI	A-3	3875	3.45	0.30	1.9	0.60	1.5
CHECKER - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
01D2A / 083-1 (267)										
MARATHON/TAXICAB	MARATHON/TAXICAB	EGR/PMP/OXD/ / /CAN	267-2	A-3	4500	2.72	0.39	3.6	1.8	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 01D2A				: 1.433	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 083-1				: N/A	N/A	N/A	0.0)
01E2F / 083-1 (229)										
MARATHON/TAXICAB	MARATHON/TAXICAB	EGR/PMP/OXD/ / /CAN	229-2	A-3	4000	2.72	0.16	2.2	1.8	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 01E2F				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 083-1				: N/A	N/A	N/A	0.0)
01Y4MCRZ / 004S-1 (305)										
MARATHON/TAXICAB	C MARATHON/TAXICAB	EGR/PMP/3WY/CLS/ /CAN	305-4	A-3	4500	2.72	0.21	3.4	0.85	1.2 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/3WY/CLS/ /	FAMILY 01Y4MCRZ				: 1.170	1.000	1.130	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 004S-1				: N/A	N/A	N/A	0.0)
CHECKER - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
083-1	MARATHON/TAXICAB	EGR/PMP/OXD/ / /CAN	229-2	A-3	4000	2.72	0.16	2.2	1.8	1.9
	MARATHON/TAXICAB	EGR/PMP/OXD/ / /CAN	267-2	A-3	4500	2.72	0.39	3.6	1.8	1.4
004S-1	C MARATHON/TAXICAB	EGR/PMP/3WY/CLS/ /CAN	305-4	A-3	4500	2.72	0.21	3.4	0.85	1.2
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
0CB-105-2-CLP / 0E-8/10 (105)										
C HORIZON/TURISMO	C HORIZON/TURISMO	EGR/PMP/OXD/3WY/CLS/CAN	105-2	A-3	2625	3.48	0.22	3.5	0.79	1.2 *
C OMNI/DE TOMASO	C HORIZON/TURISMO	EGR/PMP/OXD/3WY/CLS/CAN	105-2	A-3	2500	3.48	0.18	2.1	0.64	1.2 *
	C HORIZON/TURISMO	EGR/PMP/OXD/3WY/CLS/CAN	105-2	M-4	2500	3.37	0.34	7.6	0.72	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                              1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                                 CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                          EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                                            (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                                          T                                                (GRAMS)
                                                                        ENGINE  R  EQUIV                                  OXIDES
                                                                        DISP.&  A  TEST                                    OF
                           VEHICLE CARLINE                              CARB    N  WEIGHT AXLE   HYDRO-     CARBON       NITROGEN   HYDRO-
                            REPRESENTED     EMISSION CONTROL SYSTEM     VENTURIS S (LBS)  RATIO  CARBONS    MONOXIDE                CARBONS

CHRYSLER - FAMILY COMBINATIONS CERTIFIED:
                                                    ENGINE FAMILY TEST VEHICLES

  0CB-105-2-CLP / 0E-8/10 (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/3WY/CLS/       FAMILY 0CB-105-2-CLP     : 1.426      1.628      1.000       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-8/10           :  N/A        N/A        N/A      0.030)

  0CB-225-1-ARP / 0E-9/2
    (225)
    C VOLARE             C VOLARE WAGON    EGR/PMP/3WY/CLS/   /CAN   225-1   A-3  4000  2.94    0.32        7.0        0.84        N/A
    C VOLARE WAGON       C VOLARE          EGR/PMP/3WY/CLS/   /CAN   225-1   A-3  3750  2.94    0.39        9.0        0.82        2.0 *
    C ASPEN
    C ASPEN WAGON
    C LEBARON
    C DIPLOMAT

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /       FAMILY 0CB-225-1-ARP     : 1.377      1.268      1.000       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-9/2            :  N/A        N/A        N/A      0.280)

  0CB-318-4-AUP / 0F-10/2
    (318)
    C VOLARE             C ASPEN           EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  3875  2.45    0.27        5.0        0.88        N/A
    C VOLARE WAGON       C CHRYSLER        EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  4250  2.45    0.38        7.2        0.77        1.6 *
    C ASPEN              C ASPEN           EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  3875  2.45    0.23        5.1        0.90        N/A
    C ASPEN WAGON        C CHRYSLER        EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  4250  2.45    0.15        5.4        0.78        1.8 *
    C LEBARON            C CORDOBA/300     EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  4000  2.45    0.21        4.2        0.47        1.9 *
    C LEBARON WAGON      C CORDOBA/300     EGR/PMP/3WY/CLS/   /CAN   318-4   L-3  4000  2.45    0.27        4.6        0.77        1.6 *
    C CORDOBA/300
    C DIPLOMAT
    C DIPLOMAT WAGON
    C MIRADA
    C NEWPORT/NEW YORKER
    C ST. REGIS
    C GRAN FURY

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /       FAMILY 0CB-318-4-AUP     : 1.185      1.327      1.079       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-10/2           :  N/A        N/A        N/A      0.400)

  0FA-105-2-BBP / 0F-1/4
    (105)
      HORIZON/TURISMO      HORIZON/TURISMO   EGR/PMP/OXD/   /   /CAN   105-2   A-3  2500  3.48    0.38        4.7        1.6         2.3 *
      OMNI/DE TOMASO       HORIZON/TURISMO   EGR/PMP/OXD/   /   /CAN   105-2   A-3  2625  3.48    0.30        3.2        1.8         1.5 *
                           HORIZON/TURISMO   EGR/PMP/OXD/   /   /CAN   105-2   M-4  2375  3.37    0.28        3.7        1.3         N/A

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /       FAMILY 0FA-105-2-BBP     : 1.556      1.312      1.000       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-1/4            :  N/A        N/A        N/A      0.0  )

  0FA-225-1-BXP / 0F-2/7
    (225)
      VOLARE               LEBARON           EGR/PMP/OXD/   /   /CAN   225-1   L-3  3625  2.76    0.18        1.5        2.0         N/A
      VOLARE WAGON         ASPEN             EGR/PMP/OXD/   /   /CAN   225-1   L-3  3625  2.76    0.21        3.3        1.8         N/A
      ASPEN                VOLARE            EGR/PMP/OXD/   /   /CAN   225-1   L-3  3750  2.76    0.19        1.8        1.2         2.2 *
      ASPEN WAGON          CORDOBA/300       EGR/PMP/OXD/   /   /CAN   225-1   L-3  3750  2.71    0.31        4.5        1.5         N/A
      LEBARON              ST. REGIS         EGR/PMP/OXD/   /   /CAN   225-1   L-3  4000  2.94    0.21        3.1        1.4         3.8 *
      LEBARON WAGON
      CORDOBA/300
      DIPLOMAT
      DIPLOMAT WAGON
      MIRADA

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /       FAMILY 0FA-225-1-BXP     : 1.070      1.085      1.247       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-2/7            :  N/A        N/A        N/A      0.311)

  0FA-318-2-BTP / 0E-3/5
    (318)
      VOLARE               VOLARE WAGON      EGR/PMP/OXD/   /   /CAN   318-2   L-3  4000  2.24    0.25        4.4        1.9         2.7 *
      ASPEN                CORDOBA/300       EGR/PMP/OXD/   /   /CAN   318-2   L-3  3875  2.47    0.26        3.6        1.4         2.7 *
      LEBARON
      CORDOBA/300
      NEWPORT/NEW YORKER
      DIPLOMAT
      MIRADA

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /       FAMILY 0FA-318-2-BTP     : 1.354      1.485      1.068       N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN    FAMILY 0E-3/5            :  N/A        N/A        N/A      0.624)

  0FA-318/360-2CGP / 0E-3/6
    (318,360)
      VOLARE               VOLARE            EGR/PMP/OXD/   /   /CAN   318-2   L-3  3875  2.24    0.30        4.3        1.6         N/A
      VOLARE WAGON         LEBARON           EGR/PMP/OXD/   /   /CAN   318-2   L-3  4000  2.47    0.26        3.6        1.8         2.9 *
      ASPEN                CORDOBA/300       EGR/PMP/OXD/   /   /CAN   318-2   L-3  3875  2.47    0.33        5.2        1.2         N/A
      ASPEN WAGON          LEBARON WAGON     EGR/PMP/OXD/   /   /CAN   318-2   L-3  4250  2.24    0.25        3.6        1.6         N/A

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:										
			ENGINE FAMILY TEST VEHICLES							
0FA-318/360-2CGP / 0E-3/6 (CONT.)										
LEBARON	CHRYSLER	EGR/PMP/OXD/ / /CAN	360-2	L-3	4250	2.45	0.25	4.1	1.8	3.5 *
LEBARON WAGON										
CORDOBA/300										
DIPLOMAT										
DIPLOMAT WAGON										
MIRADA										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 0FA-318/360-2CGP				: 1.295	1.190	1.199	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 0E-3/6				: N/A	N/A	N/A	0.624)
0FA-360-4-AYP / 0E-4/3 (360)										
VOLARE	CORDOBA/300	EGR/PMP/OXD/ / /CAN	360-4	L-3	4000	2.94	0.28	3.2	1.5	1.2 *
ASPEN										
MIRADA										
CORDOBA/300										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 0FA-360-4-AYP				: 1.548	1.267	1.114	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 0E-4/3				: N/A	N/A	N/A	0.0)
0FA-360-4-AYP / 0E-5/1 (360)										
NEWPORT/NEW YORKER	GRAN FURY	EGR/PMP/OXD/ / /CAN	360-4	L-3	4500	2.94	0.35	4.1	1.7	2.4 *
ST. REGIS										
GRAN FURY										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 0FA-360-4-AYP				: 1.548	1.267	1.114	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 0E-5/1				: N/A	N/A	N/A	1.025)
CHRYSLER - EVAP-EMISSION FAMILIES:										
			EVAPORATIVE-EMISSION FAMILY TEST VEHICLES							
0E-1/4										
	HORIZON/TURISMO	EGR/PMP/OXD/ / /CAN	105-2	A-3	2500	3.48	0.38	4.7	1.6	2.3
	HORIZON/TURISMO	EGR/PMP/OXD/ / /CAN	105-2	A-3	2625	3.48	0.30	3.2	1.8	1.5
0E-10/2										
	C CHRYSLER	EGR/PMP/3WY/CLS/ /CAN	318-4	L-3	4250	2.45	0.38	7.2	0.77	1.6
	C CORDOBA/300	EGR/PMP/3WY/CLS/ /CAN	318-4	L-3	4000	2.45	0.21	4.2	0.87	1.9
	C CHRYSLER	EGR/PMP/3WY/CLS/ /CAN	318-4	L-3	4250	2.45	0.15	5.4	0.78	1.8
	C CORDOBA/300	EGR/PMP/3WY/CLS/ /CAN	318-4	L-3	4000	2.45	0.27	4.6	0.77	1.6
0E-2/7										
	VOLARE	EGR/PMP/OXD/ / /CAN	225-1	L-3	3750	2.76	0.19	1.8	1.2	2.2
	ST. REGIS	EGR/PMP/OXD/ / /CAN	225-1	L-3	4000	2.94	0.21	3.1	1.4	3.8
0E-3/5										
	VOLARE WAGON	EGR/PMP/OXD/ / /CAN	318-2	L-3	4000	2.24	0.25	4.4	1.9	2.7
	CORDOBA/300	EGR/PMP/OXD/ / /CAN	318-2	L-3	3875	2.47	0.26	3.6	1.4	2.7
0E-3/6										
	LEBARON	EGR/PMP/OXD/ / /CAN	318-2	L-3	4000	2.47	0.26	3.6	1.8	2.9
	CHRYSLER	EGR/PMP/OXD/ / /CAN	360-2	L-3	4250	2.45	0.25	4.1	1.8	3.5
0E-4/3										
	CORDOBA/300	EGR/PMP/OXD/ / /CAN	360-4	L-3	4000	2.94	0.28	3.2	1.5	1.2
0E-5/1										
	GRAN FURY	EGR/PMP/OXD/ / /CAN	360-4	L-3	4500	2.94	0.35	4.1	1.7	2.4
0E-8/10										
	C HORIZON/TURISMO	EGR/PMP/OXD/3WY/CLS/CAN	105-2	A-3	2500	3.48	0.18	2.1	0.64	1.2
	C HORIZON/TURISMO	EGR/PMP/OXD/3WY/CLS/CAN	105-2	A-3	2625	3.48	0.22	3.5	0.79	1.2
0E-9/2										
	C VOLARE	EGR/PMP/3WY/CLS/ /CAN	225-1	A-3	3750	2.94	0.39	9.0	0.82	2.0
FIAT - FAMILY COMBINATIONS CERTIFIED:										
			ENGINE FAMILY TEST VEHICLES							
132-AC / EV-2AC (122)										
BRAVA	BRAVA	EGR/PMP/OXD/ / /CAN	122-2	A-3	3000	3.58	0.16	3.1	1.7	1.2 *
BRAVA WAGON	BRAVA	EGR/PMP/OXD/ / /CAN	122-2	M-5	3000	3.58	0.28	3.7	1.5	1.5 *
SPIDER 2000	SPIDER 2000	EGR/PMP/OXD/ / /CAN	122-2	M-5	2625	3.90	0.23	2.0	1.7	1.4 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
FIAT - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
132-AC / EV-2AC (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 132-AC				: 1.019	1.068	1.010	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-2AC				: N/A	N/A	N/A	0.0)
132-BC / EV-2BC										
(122)										
C BRAVA	C BRAVA	FI /3WY/CLS/ / /CAN	122-FI	A-3	3000	3.58	0.26	2.3	0.25	1.3 *
C BRAVA WAGON	C BRAVA	FI /3WY/CLS/ / /CAN	122-FI	M-5	3000	3.58	0.24	1.5	0.46	1.2 *
C SPIDER 2000	C SPIDER 2000	FI /3WY/CLS/ / /CAN	122-FI	M-5	2625	3.90	0.25	1.8	0.33	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 132-BC				: 1.079	1.168	1.073	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-2BC				: N/A	N/A	N/A	0.0)
138-AC / EV-1AC										
(91)										
STRADA	STRADA	EGR/PMP/OXD/ / /CAN	91-2	A-3	2500	3.56	0.25	4.0	1.7	N/A
X1/9	X1/9	EGR/PMP/OXD/ / /CAN	91-2	M-5	2500	4.07	0.37	3.4	1.5	1.6 *
	STRADA	EGR/PMP/OXD/ / /CAN	91-2	M-5	2500	3.58	0.25	3.7	1.7	2.2 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 138-AC				: 1.094	1.067	1.016	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-1AC				: N/A	N/A	N/A	0.0)
138-BC / EV-1BC										
(91)										
C STRADA	C STRADA	FI /3WY/CLS/ / /CAN	91-FI	A-3	2500	3.56	0.13	1.2	0.43E-01	0.82 *
C X1/9	C X1/9	FI /3WY/CLS/ / /CAN	91-FI	M-5	2375	4.07	0.20	1.3	0.11	0.79 *
	C STRADA	FI /3WY/CLS/ / /CAN	91-FI	M-5	2500	3.58	0.12	1.1	0.86E-01	0.68 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 138-BC				: 1.126	1.185	1.074	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-1BC				: N/A	N/A	N/A	0.0)
FIAT - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
EV-1AC										
	X1/9	EGR/PMP/OXD/ / /CAN	91-2	M-5	2500	4.07	0.37	3.4	1.5	1.6
	STRADA	EGR/PMP/OXD/ / /CAN	91-2	M-5	2500	3.58	0.25	3.7	1.7	2.2
EV-1BC										
	C STRADA	FI /3WY/CLS/ / /CAN	91-FI	A-3	2500	3.56	0.13	1.2	0.43E-01	0.82
	C STRADA	FI /3WY/CLS/ / /CAN	91-FI	M-5	2500	3.58	0.12	1.1	0.86E-01	0.68
	C X1/9	FI /3WY/CLS/ / /CAN	91-FI	M-5	2375	4.07	0.20	1.3	0.11	0.79
EV-2AC										
	BRAVA	EGR/PMP/OXD/ / /CAN	122-2	A-3	3000	3.58	0.15	3.1	1.7	1.2
	BRAVA	EGR/PMP/OXD/ / /CAN	122-2	M-5	3000	3.58	0.28	3.7	1.5	1.5
	SPIDER 2000	EGR/PMP/OXD/ / /CAN	122-2	M-5	2625	3.90	0.23	2.0	1.7	1.4
EV-2BC										
	C BRAVA	FI /3WY/CLS/ / /CAN	122-FI	A-3	3000	3.58	0.26	2.3	0.25	1.3
	C SPIDER 2000	FI /3WY/CLS/ / /CAN	122-FI	M-5	2625	3.90	0.25	1.8	0.33	1.4
	C BRAVA	FI /3WY/CLS/ / /CAN	122-FI	M-5	3000	3.58	0.24	1.5	0.46	1.2
FORD - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
1.6AAC / CC										
(98)										
C FIESTA	C FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.36	3.3	0.60	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 1.6AAC				: 1.327	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY CC				: N/A	N/A	N/A	0.206)
1.6AAF / CD										
(98)										
FIESTA	FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.33	3.0	1.0	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 1.6AAF				: 1.327	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY CD				: N/A	N/A	N/A	0.149)
1.6ABC / CA										
(98)										
C FIESTA	C FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.36	3.1	0.78	1.1 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 1.6ABC				: 1.166	1.289	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY CA				: N/A	N/A	N/A	0.206)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                        1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                      ______CERTIFICATION LEVELS______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                     EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                   T                    (GRAMS/MILE)        EMISSIONS
      CARLINES COVERED                                                ENGINE    R  EQUIV          _____________________   (GRAMS)
                                                                      DISP.&    A  TEST                          OXIDES
                           VEHICLE CARLINE                            CARB      N  WEIGHT  AXLE   HYDRO-   CARBON     OF     HYDRO-
________________________   REPRESENTED     EMISSION CONTROL SYSTEM    VENTURIS  S  (LBS)   RATIO  CARBONS MONOXIDE NITROGEN CARBONS

FORD - FAMILY COMBINATIONS CERTIFIED:
                                                   ENGINE FAMILY TEST VEHICLES

  1.6ABF / CB
    ( 98)
      FIESTA               FIESTA          EGR/PMP/OXD/  /   /CAN    98-2   M-4 2125  3.58    0.33     4.4      1.2      2.4 *
                           FIESTA          EGR/PMP/OXD/  /   /CAN    98-2   M-4 2125  3.58    0.25     3.4      1.2      2.1 *
                           FIESTA          EGR/PMP/OXD/  /   /CAN    98-2   M-4 2125  3.58    0.21     2.8      1.8      1.8 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY 1.6ABF            : 1.166    1.289    1.000    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY CB                :  N/A      N/A      N/A    0.149)

  2.3AC / BA
    (140)
      MUSTANG              CAPRI           EGR/PMP/OXD/  /   /CAN   140-2   A-3 3125  3.45    0.26     3.4      1.1      N/A
      FAIRMONT WAGON       MUSTANG         EGR/PMP/OXD/  /   /CAN   140-2   A-3 3000  3.08    0.38     3.7      0.94     1.3 *
      PINTO                PINTO           EGR/PMP/OXD/  /   /CAN   140-2   A-3 3000  3.00    0.27     3.1      1.3      0.87 *
      CAPRI                PINTO           EGR/PMP/OXD/  /   /CAN   140-2   M-4 2875  3.08    0.27     1.9      1.4      N/A
      PINTO WAGON          MUSTANG         EGR/PMP/OXD/  /   /CAN   140-2   M-4 3000  2.73    0.28     2.4      1.2      1.0 *
      BOBCAT               FAIRMONT WAGON  EGR/PMP/OXD/  /   /CAN   140-2   M-4 3125  3.08    0.35     1.9      1.5      N/A
      BOBCAT WAGON
      FAIRMONT
      ZEPHYR
      ZEPHYR WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY 2.3AC             : 1.539    1.000    1.000    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY BA                :  N/A      N/A      N/A    0.0  )

  2.3AH / BH
    (140)
      PINTO                MUSTANG         EGR/PLS/OXD/  /   /CAN   140-2   A-3 3000  3.08    0.28     5.2      0.93     0.89 *
      PINTO WAGON          MUSTANG         EGR/PLS/OXD/  /   /CAN   140-2   A-3 3000  3.45    0.14     2.8      1.0      N/A
      BOBCAT               PINTO WAGON     EGR/PLS/OXD/  /   /CAN   140-2   A-3 3125  3.00    0.14     3.7      1.9      1.0 *
      BOBCAT WAGON
      MUSTANG
      CAPRI
      ZEPHYR
      FAIRMONT

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /     FAMILY 2.3AH             : 1.067    1.000    1.009    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY BH                :  N/A      N/A      N/A    0.0  )

  2.3AX / BB
    (140)
    C PINTO              C PINTO           EGR/PMP/OXD/3WY/CLS/CAN  140-2   A-3 2875  3.08    0.24     2.8      0.82     N/A
    C PINTO WAGON        C MUSTANG         EGR/PMP/OXD/3WY/CLS/CAN  140-2   A-3 3000  3.08    0.24     4.0      0.50     1.1 *
    C MUSTANG            C ZEPHYR WAGON    EGR/PMP/OXD/3WY/CLS/CAN  140-2   M-4 3125  3.08    0.31     4.6      0.71     N/A
    C FAIRMONT           C PINTO WAGON     EGR/PMP/OXD/3WY/CLS/CAN  140-2   M-4 3000  3.08    0.29     4.9      0.82     1.8 *
    C FAIRMONT WAGON
    C BOBCAT
    C BOBCAT WAGON
    C CAPRI
    C ZEPHYR
    C ZEPHYR WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/3WY/CLS/    FAMILY 2.3AX             : 1.059    1.160    1.134    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY BB                :  N/A      N/A      N/A    0.0  )

  2.3AXF / BG
    (140)
      PINTO              C PINTO           EGR/PMP/OXD/3WY/CLS/CAN  140-2   A-3 2875  3.08    0.24     2.8      0.82     N/A
      PINTO WAGON        C MUSTANG         EGR/PMP/OXD/3WY/CLS/CAN  140-2   A-3 3000  3.08    0.24     4.0      0.50     1.1 *
      BOBCAT             C ZEPHYR WAGON    EGR/PMP/OXD/3WY/CLS/CAN  140-2   M-4 3125  3.08    0.31     4.6      0.71     N/A
      BOBCAT WAGON       C PINTO WAGON     EGR/PMP/OXD/3WY/CLS/CAN  140-2   M-4 3000  3.08    0.29     4.9      0.82     1.8 *
      MUSTANG
      CAPRI

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/3WY/CLS/    FAMILY 2.3AXF            : 1.059    1.160    1.134    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY BG                :  N/A      N/A      N/A    0.0  )

  2.3BEC / BD
    (140)
    C MUSTANG            C MUSTANG         EGR/PMP/OXD/  /   /CAN   140-2   M-4 3125  3.45    0.15     2.7      0.77     1.9 *
    C CAPRI

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY 2.3BEC            : 1.356    2.172    1.057    N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY BD                :  N/A      N/A      N/A    0.0  )

  2.3BEF / BC
    (140)
      MUSTANG               MUSTANG        EGR/PMP/OXD/  /   /CAN   140-2   M-4 3125  3.45    0.18     2.5      1.6      1.3 *
      CAPRI

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                              1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER
  ENGINE FAMILY/EVAP-EMISS FAM                                                                           ______CERTIFICATION LEVELS_____
    (CUBIC INCH DISPLACEMENT)                                                                             EXHAUST EMISSIONS        EVAPOR.
      CARLINES COVERED                                                         T                           (GRAMS/MILE)          EMISSIONS
                                                                      ENGINE   R  EQUIV                  ______________________   (GRAMS)
                                                                      DISP.&   A  TEST                                    OXIDES
                           VEHICLE CARLINE                            CARB     N  WEIGHT AXLE         HYDRO-   CARBON      OF     HYDRO-
_______________________  REPRESENTED      EMISSION CONTROL SYSTEM  VENTURIS S  (LBS)  RATIO        CARBONS MONOXIDE NITROGEN  CARBONS

FORD - FAMILY COMBINATIONS CERTIFIED:
                                                   ENGINE FAMILY TEST VEHICLES

 2.3BEF / BC (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 2.3BEF                    : 1.356    2.172    1.057     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY BC                        :  N/A      N/A      N/A      0.0  )

 2.3BGC / BF
   (140)
  C MUSTANG            C FAIRMONT         EGR/PMP/OXD/   /    /CAN   140-2   A-3  3125   3.45     0.32     4.7      0.83      2.0 *
  C CAPRI              C MUSTANG          EGR/PMP/OXD/   /    /CAN   140-2   M-4  3125   3.45     0.14     3.7      0.58      1.3 *
  C FAIRMONT
  C ZEPHYR

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 2.3BGC                    : 1.000    1.060    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY BF                        :  N/A      N/A      N/A      0.0  )

 2.3BGF / BE
   (140)
    MUSTANG              MUSTANG          EGR/PMP/OXD/   /    /CAN   140-2   A-3  3125   3.45     0.15     2.7      1.0       2.1 *
    CAPRI                FAIRMONT         EGR/PMP/OXD/   /    /CAN   140-2   A-3  3250   3.45     0.15     3.6      1.6       1.6 *
    FAIRMONT             MUSTANG          EGR/PMP/OXD/   /    /CAN   140-2   M-4  3125   3.45     0.16     3.1      1.4       1.2 *
    ZEPHYR

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 2.3BGF                    : 1.000    1.060    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY BE                        :  N/A      N/A      N/A      0.0  )

 3.3GA / AA
   (200)
    MUSTANG              FAIRMONT WAGON   EGR/PMP/OXD/   /    /CAN   200-1   A-3  3250   2.73     0.34     2.7      0.89      N/A
    CAPRI                ZEPHYR WAGON     EGR/PMP/OXD/   /    /CAN   200-1   A-3  3250   2.73     0.34     2.7      1.1       1.9 *
    FAIRMONT             FAIRMONT         EGR/PMP/OXD/   /    /CAN   200-1   A-3  3125   2.73     0.30     1.0      1.6       1.1 *
    FAIRMONT WAGON       ZEPHYR WAGON     EGR/PMP/OXD/   /    /CAN   200-1   M-4  3250   3.08     0.28     2.5      1.2       1.3 *
    ZEPHYR               MUSTANG          EGR/PMP/OXD/   /    /CAN   200-1   M-4  3000   3.08     0.40     3.4      0.99      1.3 *
    ZEPHYR WAGON

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 3.3GA                     : 1.163    1.140    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY AA                        :  N/A      N/A      N/A     0.217)

 3.3GA / AAB
   (200)
  C MUSTANG              FAIRMONT         EGR/PMP/OXD/   /    /CAN   200-1   A-3  3125   2.73     0.30     1.0      1.6       N/A
  C CAPRI                FAIRMONT WAGON   EGR/PMP/OXD/   /    /CAN   200-1   A-3  3250   2.73     0.34     2.7      0.89      1.1 *
  C FAIRMONT             ZEPHYR WAGON     EGR/PMP/OXD/   /    /CAN   200-1   A-3  3250   2.73     0.34     2.7      1.1       N/A
  C FAIRMONT WAGON       THUNDERBIRD      EGR/PMP/OXD/   /    /CAN   200-1   A-3  3500   2.73     0.25     0.65     1.4       3.3 *
  C ZEPHYR               MUSTANG          EGR/PMP/OXD/   /    /CAN   200-1   M-4  3000   3.08     0.40     3.4      0.99      N/A
  C ZEPHYR WAGON         ZEPHYR WAGON     EGR/PMP/OXD/   /    /CAN   200-1   M-4  3250   3.08     0.28     2.5      1.2       N/A

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 3.3GA                     : 1.163    1.140    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY AAB                       :  N/A      N/A      N/A     0.217)

 3.3GA / AAZ
   (200)
    MUSTANG              MUSTANG          EGR/PLS/OXD/   /    /CAN   200-1   A-3  3000   2.73     0.25     2.5      0.99      0.99 *
    CAPRI                FAIRMONT         EGR/PLS/OXD/   /    /CAN   200-1   A-3  3250   2.73     0.33     5.0      1.2       3.2 *
    FAIRMONT
    ZEPHYR
    FAIRMONT WAGON
    ZEPHYR WAGON

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /    /    FAMILY 3.3GA                     : 1.435    1.145    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY AAZ                       :  N/A      N/A      N/A     0.217)

 3.3GQ / AAC
   (200)
  C MUSTANG            C FAIRMONT         EGR/PMP/OXD/3WY/    /CAN   200-1   A-3  3250   2.73     0.42     2.9      0.87      1.2 *
  C CAPRI              C CAPRI            EGR/PMP/OXD/3WY/    /CAN   200-1   A-3  3000   2.73     0.39     3.2      0.70      N/A
  C FAIRMONT           C THUNDERBIRD      EGR/PMP/OXD/   /    /CAN   200-1   A-3  3500   2.73     0.35     2.0      0.45      1.8 *
  C ZEPHYR
  C FAIRMONT WAGON
  C ZEPHYR WAGON
    THUNDERBIRD
    COUGAR XR7

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/3WY/    /    FAMILY 3.3GQ                     : 1.576    1.804    1.193     N/A )
       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /    /    FAMILY 3.3GQ                     : 1.576    1.804    1.193     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /    /CAN FAMILY AAC                       :  N/A      N/A      N/A     0.217)

 4.1FA / GA
   (250)
    GRANADA              GRANADA          EGR/PMP/OXD/   /    /CAN   250-1   A-3  3625   2.79     0.25     4.5      1.1       3.2 *

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                         1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                        CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                               EXHAUST EMISSIONS          EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                 T                (GRAMS/MILE)            EMISSIONS
      CARLINES COVERED                                              ENGINE    R  EQUIV                                  (GRAMS)
                                                                    DISP.&    A  TEST                          OXIDES
                          VEHICLE CARLINE                           CARB      N  WEIGHT  AXLE   HYDRO-   CARBON      OF      HYDRO-
                           REPRESENTED     EMISSION CONTROL SYSTEM  VENTURIS  S  (LBS)   RATIO  CARBONS  MONOXIDE NITROGEN  CARBONS

FORD - FAMILY COMBINATIONS CERTIFIED:
                                                     ENGINE FAMILY TEST VEHICLES

  4.1FA / GA (CONT.)
      MONARCH            GRANADA           EGR/PMP/OXD/   /   /CAN   250-1   M-4  3750  3.00    0.29      5.5      1.3       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.1FA              : 1.384     1.647    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY GA                 :  N/A      N/A      N/A     0.318)

  4.2/5.0BM / SF
    (302)
      LTD                LTD               EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  2.73    0.35      2.9      1.6       1.7 *
      LTD WAGON          LTD               EGR/PMP/OXD/   /   /CAN   302-2   L-4  4000  3.08    0.32      5.5      1.0       1.6 *
      MARQUIS
      MARQUIS WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.2/5.0BM          : 1.502     1.393    1.041     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY SF                 :  N/A      N/A      N/A     0.497)

  4.2/5.0BJC / TSC
    (302)
    C MONARCH          C VERSAILLES        EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  2.47    0.30      2.8      0.89      N/A
    C VERSAILLES       C MONARCH           EGR/PMP/OXD/   /   /CAN   302-2   A-3  3750  2.79    0.31      2.9      0.77      1.3 *
    C COUGAR XR7       C COUGAR XR7        EGR/PMP/OXD/   /   /CAN   302-2   A-3  3625  2.26    0.26      1.2      0.68      0.94 *
    C GRANADA
    C THUNDERBIRD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.2/5.0BJC         : 1.289     1.819    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TSC                :  N/A      N/A      N/A     0.114)

  4.2/5.0BJF / FA
    (255,302)
      THUNDERBIRD          MUSTANG         EGR/PMP/OXD/   /   /CAN   255-2   A-3  3250  2.26    0.28      3.5      0.91      2.3 *
      COUGAR XR7           FAIRMONT WAGON  EGR/PMP/OXD/   /   /CAN   255-2   A-3  3625  2.26    0.29      6.5      1.1       4.7 *
      GRANADA              GRANADA         EGR/PMP/OXD/   /   /CAN   302-2   A-3  3875  2.79    0.29      1.5      1.3       3.1 *
      MONARCH              THUNDERBIRD     EGR/PMP/OXD/   /   /CAN   302-2   A-3  3625  2.26    0.27      1.3      1.1       2.2 *
      MUSTANG              THUNDERBIRD     EGR/PMP/OXD/   /   /CAN   302-2   L-4  3750  3.08    0.27      2.7      1.4       N/A
      CAPRI
      FAIRMONT
      ZEPHYR
      FAIRMONT WAGON
      ZEPHYR WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.2/5.0BJF         : 1.289     1.819    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY FA                 :  N/A      N/A      N/A     0.868)

  4.2/5.0BJF / TSA
    (302)
      VERSAILLES         C VERSAILLES      EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  2.47    0.30      2.8      0.89      1.8 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.2/5.0BJF         : 1.289     1.819    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TSA                :  N/A      N/A      N/A     0.114)

  4.2/5.0BU / SA
    (302)
      LTD                  LTD             EGR/PMP/OXD/   /   /CAN   302-2   A-3  4000  2.26    0.22      3.0      1.6       1.6 *
      LTD WAGON            LTD WAGON       EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  2.73    0.23      1.1      1.8       1.6 *
      MARQUIS
      MARQUIS WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4.2/5.0BU          : 1.434     1.303    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY SA                 :  N/A      N/A      N/A     0.497)

  4.2/5.0CC / SC
    (302)
    C LTD              C LTD WAGON         EGR/PMP/OXD/3WY/CLS/CAN   302-2   A-3  4250  2.73    0.17      1.2      0.98      0.72 *
    C LTD WAGON        C LTD               EGR/PMP/OXD/3WY/CLS/CAN   302-2   A-3  4000  2.26    0.31      3.3      0.45      0.58 *
    C MARQUIS
    C MARQUIS WAGON

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/3WY/CLS/     FAMILY 4.2/5.0CC          : 1.247     1.748    1.605     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY SC                 :  N/A      N/A      N/A     0.0 )

  5.0ABC / UB
    (302)
    C CONTINENTAL      C CONT. MARK VI     EGR/PMP/OXD/3WY/CLS/CAN   302-FI  L-4  4250  3.08    0.84E-01 0.81     0.92      0.31 *
    C CONT. MARK VI
    C LTD
    C MARQUIS

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS			
							EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
FORD - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
5.0ABC / UB (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/3WY/CLS/	FAMILY 5.0ABC				: 1.000	1.185	1.169	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY UB				: N/A	N/A	N/A	0.0)
5.0ABF / UA										
(302)										
CONTINENTAL *	CONT. MARK VI	EGR/PMP/OXD/3WY/CLS/CAN	302-FI	L-4	4250	3.08	0.17	1.9	1.5	0.26 *
CONT. MARK VI										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/3WY/CLS/	FAMILY 5.0ABF				: 1.000	1.185	1.169	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY UA				: N/A	N/A	N/A	0.0)
5.8WAXC / SD										
(351)										
C LTD	C CONT. MARK VI	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	2.73	0.28	2.8	0.79	N/A
C MARQUIS	C MARQUIS	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4250	3.08	0.22	2.0	0.71	N/A
C CONTINENTAL	C LTD WAGON	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	2.73	0.27	4.4	0.59	0.61 *
C CONT. MARK VI										
C MARQUIS WAGON										
C LTD WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/3WY/CLS/	FAMILY 5.8WAXC				: 1.000	1.192	1.049	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SD				: N/A	N/A	N/A	0.0)
5.8WAXF / SE										
(351)										
LTD	MARQUIS WAGON	EGR/PMP/OXD/3WY/CLS/CAN	351-2	A-3	4500	2.26	0.14	0.93	1.6	N/A
MARQUIS	CONTINENTAL	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	3.08	0.22	1.6	1.9	N/A
CONTINENTAL	MARQUIS	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4250	2.73	0.13	1.1	1.5	N/A
CONT. MARK VI	LTD WAGON	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	2.73	0.16	1.7	1.6	4.0 *
LTD WAGON										
MARQUIS WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/3WY/CLS/	FAMILY 5.8WAXF				: 1.000	1.192	1.049	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SE				: N/A	N/A	N/A	0.0)
FORD - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
AA										
	ZEPHYR WAGON	EGR/PMP/OXD/ / /CAN	200-1	A-3	3250	2.73	0.34	2.7	1.1	1.4
	FAIRMONT	EGR/PMP/OXD/ / /CAN	200-1	A-3	3125	2.73	0.30	1.0	1.6	1.1
	ZEPHYR WAGON	EGR/PMP/OXD/ / /CAN	200-1	M-4	3250	3.08	0.28	2.5	1.2	1.3
	MUSTANG	EGR/PMP/OXD/ / /CAN	200-1	M-4	3000	3.08	0.40	3.4	0.99	1.3
AAB										
	FAIRMONT WAGON	EGR/PMP/OXD/ / /CAN	200-1	A-3	3250	2.73	0.34	2.7	0.89	1.1
	THUNDERBIRD	EGR/PMP/OXD/ / /CAN	200-1	A-3	3500	2.73	0.25	0.65	1.4	3.3
AAC										
	C FAIRMONT	EGR/PMP/OXD/3WY/ /CAN	200-1	A-3	3250	2.73	0.42	2.9	0.87	1.2
	C THUNDERBIRD	EGR/PMP/OXD/ / /CAN	200-1	A-3	3500	2.73	0.36	2.0	0.45	1.8
AAZ										
	MUSTANG	EGR/PLS/OXD/ / /CAN	200-1	A-3	3000	2.73	0.25	2.5	0.99	0.99
	FAIRMONT	EGR/PLS/OXD/ / /CAN	200-1	A-3	3250	2.73	0.33	5.0	1.2	3.2
BA										
	MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	A-3	3000	3.08	0.38	3.7	0.94	1.3
	PINTO	EGR/PMP/OXD/ / /CAN	140-2	A-3	3000	3.00	0.27	3.1	1.3	0.87
	MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	M-4	3000	2.73	0.28	2.4	1.2	1.0
BB										
	C MUSTANG	EGR/PMP/OXD/3WY/CLS/CAN	140-2	A-3	3000	3.08	0.24	4.0	0.50	1.1
	C PINTO WAGON	EGR/PMP/OXD/3WY/CLS/CAN	140-2	M-4	3000	3.08	0.29	4.9	0.82	1.8
BC										
	MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	M-4	3125	3.45	0.18	2.5	1.6	1.3
BD										
	C MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	M-4	3125	3.45	0.15	2.7	0.77	1.9
BE										
	MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	A-3	3125	3.45	0.15	2.7	1.8	2.1
	FAIRMONT	EGR/PMP/OXD/ / /CAN	140-2	A-3	3250	3.45	0.15	3.6	1.6	1.6
	MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	M-4	3125	3.45	0.16	3.1	1.4	1.2
BF										
	C FAIRMONT	EGR/PMP/OXD/ / /CAN	140-2	A-3	3125	3.45	0.32	4.7	0.83	2.0
	C MUSTANG	EGR/PMP/OXD/ / /CAN	140-2	M-4	3125	3.45	0.14	3.7	0.58	1.3

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
FORD - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
BG										
	C MUSTANG	EGR/PMP/OXD/3WY/CLS/CAN	140-2	A-3	3000	3.08	0.24	4.0	0.50	1.1
	C PINTO WAGON	EGR/PMP/OXD/3WY/CLS/CAN	140-2	M-4	3000	3.08	0.29	4.9	0.82	1.8
BH										
	MUSTANG	EGR/PLS/OXD/ / /CAN	140-2	A-3	3000	3.08	0.28	5.2	0.93	0.89
	PINTO WAGON	EGR/PLS/OXD/ / /CAN	140-2	A-3	3125	3.00	0.14	3.7	1.9	1.0
CA										
	C FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.36	3.1	0.78	1.1
CH										
	FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.33	4.4	1.2	2.4
	FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.21	2.8	1.8	1.8
	FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.25	3.4	1.2	2.1
CC										
	C FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.36	3.3	0.60	1.9
CD										
	FIESTA	EGR/PMP/OXD/ / /CAN	98-2	M-4	2125	3.58	0.33	3.0	1.0	1.9
FA										
	MUSTANG	EGR/PMP/OXD/ / /CAN	255-2	A-3	3250	2.26	0.28	3.5	0.91	2.3
	FAIRMONT WAGON	EGR/PMP/OXD/ / /CAN	255-2	A-3	3625	2.26	0.29	6.5	1.1	4.7
	GRANADA	EGR/PMP/OXD/ / /CAN	302-2	A-3	3875	2.79	0.29	1.5	1.3	3.1
	THUNDERBIRD	EGR/PMP/OXD/ / /CAN	302-2	A-3	3625	2.26	0.27	1.3	1.1	2.2
GA										
	GRANADA	EGR/PMP/OXD/ / /CAN	250-1	A-3	3625	2.79	0.25	4.5	1.1	3.2
SA										
	LTD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	2.26	0.22	3.0	1.6	1.6
	LTD WAGON	EGR/PMP/OXD/ / /CAN	302-2	A-3	4250	2.73	0.23	1.1	1.8	1.6
SC										
	C LTD WAGON	EGR/PMP/OXD/3WY/CLS/CAN	302-2	A-3	4250	2.73	0.17	1.2	0.98	0.72
	C LTD	EGR/PMP/OXD/3WY/CLS/CAN	302-2	A-3	4000	2.26	0.31	3.3	0.45	0.58
SD										
	C LTD WAGON	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	2.73	0.27	4.4	0.59	0.61
SE										
	LTD WAGON	EGR/PMP/OXD/3WY/CLS/CAN	351-2	L-4	4500	2.73	0.16	1.7	1.6	4.0
SF										
	LTD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4250	2.73	0.35	2.9	1.6	1.7
	LTD	EGR/PMP/OXD/ / /CAN	302-2	L-4	4000	3.08	0.32	5.5	1.0	1.6
TSA										
	C VERSAILLES	EGR/PMP/OXD/ / /CAN	302-2	A-3	4250	2.47	0.30	2.8	0.89	1.8
TSC										
	C MONARCH	EGR/PMP/OXD/ / /CAN	302-2	A-3	3750	2.79	0.31	2.9	0.77	1.3
	C COUGAR XR7	EGR/PMP/OXD/ / /CAN	302-2	A-3	3625	2.26	0.26	1.2	0.69	0.94
UA										
	CONT. MARK VI	EGR/PMP/OXD/3WY/CLS/CAN	302-FI	L-4	4250	3.08	0.17	1.9	1.5	0.26
UB										
	C CONT. MARK VI	EGR/PMP/OXD/3WY/CLS/CAN	302-FI	L-4	4250	3.08	0.84E-01	0.81	0.92	0.31
FUJI HEAVY IND - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
DU / GU (97)										
SUBARU	SUBARU WAGON 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2625	3.89	0.21	3.3	1.2	N/A
SUBARU WAGON	BRAT 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2500	3.89	0.26	3.8	1.0	3.8 *
SUBARU 4WD	SUBARU WAGON	EGR/PLS/OTR/ / /CAN	97-2	M-5	2500	3.89	0.24	4.5	0.84	3.5 *
SUBARU WAGON 4WD										
BRAT 4WD										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OTR/ / /	FAMILY DU				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GU				: N/A	N/A	N/A	0.0)
DUC / SU (97)										
C SUBARU	C BRAT 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2500	3.89	0.25	5.4	0.65	1.2 *
C SUBARU WAGON	C SUBARU WAGON 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2625	3.89	0.25	7.9	0.59	N/A
C SUBARU 4WD	C SUBARU WAGON	EGR/PLS/OTR/ / /CAN	97-2	M-5	2500	3.89	0.30	7.2	0.76	1.8 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
FUJI HEAVY IND - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
DUC / SU (CONT.)										
C SUBARU WAGON 4WD										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OTR/ / /	FAMILY DUC				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SU				: N/A	N/A	N/A	0.0)
EU / GU										
(97)										
SUBARU	SUBARU	EGR/PLS/OXD/ / /CAN	97-2	M-5	2375	3.70	0.29	2.2	1.2	4.0 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY EU				: 1.000	1.235	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GU				: N/A	N/A	N/A	0.0)
FU / GU-B										
(109)										
SUBARU	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2500	3.59	0.17	4.0	1.2	3.5 *
	SUBARU WAGON	EGR/PLS/OTR/ / /CAN	109-2	A-3	2625	3.80	0.14	4.6	1.1	N/A
	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2375	3.59	0.17	4.9	1.0	3.6 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OTR/ / /	FAMILY FU				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GU-B				: N/A	N/A	N/A	0.0)
FU / SU-A										
(109)										
SUBARU WAGON	SUBARU WAGON	EGR/PLS/OTR/ / /CAN	109-2	A-3	2625	3.80	0.14	4.6	1.1	1.1 *
	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2375	3.59	0.17	4.9	1.0	N/A
	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2500	3.59	0.17	4.0	1.2	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OTR/ / /	FAMILY FU				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SU-A				: N/A	N/A	N/A	0.0)
FUC / SU										
(109)										
C SUBARU	C SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2500	3.59	0.32	6.0	0.73	N/A
C SUBARU WAGON	C SUBARU WAGON	EGR/PLS/OTR/ / /CAN	109-2	A-3	2625	3.80	0.24	6.3	0.82	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OTR/ / /	FAMILY FUC				: 1.010	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SU				: N/A	N/A	N/A	0.0)
FUJI HEAVY IND - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
GU										
	BRAT 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2500	3.89	0.26	3.8	1.0	3.8
	SUBARU	EGR/PLS/OXD/ / /CAN	97-2	M-5	2375	3.70	0.29	2.2	1.2	4.0
	SUBARU WAGON	EGR/PLS/OTR/ / /CAN	97-2	M-5	2500	3.89	0.24	4.5	0.84	3.5
GU-B										
	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2500	3.59	0.17	4.0	1.2	3.5
	SUBARU	EGR/PLS/OTR/ / /CAN	109-2	A-3	2375	3.59	0.17	4.9	1.0	3.6
SU										
	C BRAT 4WD	EGR/PLS/OTR/ / /CAN	97-2	M-4	2500	3.89	0.25	5.4	0.65	1.2
	C SUBARU WAGON	EGR/PLS/OTR/ / /CAN	97-2	M-5	2500	3.89	0.30	7.2	0.76	1.8
	C SUBARU WAGON	EGR/PLS/OTR/ / /CAN	109-2	A-3	2625	3.80	0.24	6.3	0.82	1.9
SU-A										
	SUBARU WAGON	EGR/PLS/OTR/ / /CAN	109-2	A-3	2625	3.80	0.14	4.6	1.1	1.1
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
01C2EY / 086-1										
(171)										
CITATION	CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	3000	2.84	0.35	1.8	1.5	N/A
PHOENIX	CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	3000	2.84	0.32	3.4	1.4	2.0 *
SKYLARK	CITATION	EGR/PLS/OXD/ / /CAN	171-2	M-4	3000	3.34	0.31	2.4	1.5	N/A
OMEGA										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY 01C2EY				: 1.188	1.222	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 086-1				: N/A	N/A	N/A	0.0)
01C2J / 086-1										
(171)										
CITATION	C CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	2875	2.84	0.29	4.5	1.3	N/A
PHOENIX	C CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	3000	2.84	0.28	2.7	1.7	2.1 *
OMEGA										
SKYLARK										

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                          1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                        ------CERTIFICATION LEVELS------
  ENGINE FAMILY/EVAP-EMISS FAM                                                                        EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                         T                (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                                   ENGINE       R  EQUIV     ------------------------  (GRAMS)
                                                                         DISP.&       A  TEST                       OXIDES
                             VEHICLE CARLINE                             CARB         N  WEIGHT  AXLE   HYDRO-   CARBON     OF      HYDRO-
                               REPRESENTED      EMISSION CONTROL SYSTEM  VENTURIS     S  (LBS)   RATIO  CARBONS  MONOXIDE NITROGEN  CARBONS

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                              ENGINE FAMILY TEST VEHICLES

  01C2J / 086-1 (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/    /    /     FAMILY 01C2J                 : 1.563     1.000     1.000      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 086-1                 :  N/A       N/A       N/A      0.0  )

  01C2XC / 086-1
    (171)
    C CITATION            CITATION          EGR/PLS/3WY/CLS/   /CAN    171-2   A-3  2875  2.84      0.29       5.6      0.51       N/A
    C OMEGA               CITATION          EGR/PLS/3WY/CLS/   /CAN    171-2   A-3  3000  2.84      0.30       6.5      0.45       1.4 *
    C SKYLARK
    C PHOENIX

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/3WY/CLS/   /       FAMILY 01C2XC                : 1.709     1.562     1.000      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 086-1                 :  N/A       N/A       N/A      0.0  )

  01C2XCP / 086-1
    (171)
    C CITATION            CITATION          EGR/PLS/3WY/CLS/   /CAN    171-2   A-3  3000  2.84      0.33       4.4      0.65       1.5 *
    C PHOENIX
    C SKYLARK
    C OMEGA

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/3WY/CLS/   /       FAMILY 01C2XCP               : 2.366     1.633     1.011      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 086-1                 :  N/A       N/A       N/A      0.0  )

  01D2A / 083-1
    (269)
      MALIBU WAGON        MALIBU            EGR/PMP/OXD/    /  /CAN    269-2   A-3  3625  2.29      0.38       2.6      1.4        N/A
      MALIBU              MALIBU WAGON      EGR/PMP/OXD/    /  /CAN    269-2   A-3  3875  2.56      0.38       3.4      1.9        2.2 *
      IMPALA/CAPRICE      IMPALA/CAPRICE    EGR/PMP/OXD/    /  /CAN    269-2   L-3  4000  2.41      0.37       2.6      1.4        N/A
      IMPALA/CAPRICE WGN  IMPALA/CAPRICE WGN EGR/PMP/OXD/   /  /CAN    269-2   L-3  4500  2.56      0.38       3.2      1.5        2.1 *
      MONTE CARLO
      EL CAMINO P/U 2WD
      CABALLERO P/U 2WD
      CAMARO

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/    /    /     FAMILY 01D2A                 : 1.433     1.000     1.000      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 083-1                 :  N/A       N/A       N/A      0.0  )

  01E2F / 083-1
    (232)
      IMPALA/CAPRICE      MALIBU WAGON      EGR/PMP/OXD/    /  /CAN    232-2   L-3  3625  2.73      0.13       2.1      1.3        N/A
      MALIBU              MONTE CARLO       EGR/PMP/OXD/    /  /CAN    232-2   L-3  3625  2.41      0.18       2.2      1.8        1.9 *
      MONTE CARLO         IMPALA/CAPRICE    EGR/PMP/OXD/    /  /CAN    232-2   L-3  3875  2.73      0.12       3.6      1.2        1.6 *
      MALIBU WAGON
      CAMARO
      CABALLERO P/U 2WD
      EL CAMINO P/U 2WD
      LEMANS/GRAND AM
      LEMANS SAFARI WG

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/    /    /     FAMILY 01E2F                 : 1.000     1.000     1.000      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 083-1                 :  N/A       N/A       N/A      0.0  )

  01L4B / 084-1
    (305,348)
      MALIBU              IMPALA/CAPRICE    EGR/PMP/OXD/    /  /CAN    305-4   L-3  4000  2.41      0.22       2.9      1.5        2.5 *
      CAMARO              MALIBU            EGR/PMP/OXD/    /  /CAN    305-4   L-3  3625  2.73      0.25       3.2      1.3        N/A
      IMPALA/CAPRICE      IMPALA/CAPRICE WGN EGR/PMP/OXD/   /  /CAN    305-4   L-3  4500  2.56      0.22       1.5      1.4        1.9 *
      IMPALA/CAPRICE WGN  CAMARO            EGR/PMP/OXD/    /  /CAN    348-4   A-3  4000  3.42      0.25       1.5      1.4        N/A
      MALIBU WAGON        CORVETTE          EGR/PMP/OXD/    /  /CAN    348-4   L-3  3625  3.07      0.28       2.9      1.6        N/A
      MONTE CARLO
      EL CAMINO P/U 2WD
      CABALLERO P/U 2WD
      CUTLASS
      CUTLASS SUPREME
      CUTLASS WAGON

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/    /    /     FAMILY 01L4B                 : 1.246     1.083     1.000      N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /    /  /CAN    FAMILY 084-1                 :  N/A       N/A       N/A      0.0  )

  01L4B / 084L-1
    (305,348)
      CORVETTE            IMPALA/CAPRICE    EGR/PMP/OXD/    /  /CAN    305-4   L-3  4000  2.41      0.22       2.9      1.5        N/A
                          MALIBU            EGR/PMP/OXD/    /  /CAN    305-4   L-3  3625  2.73      0.25       3.2      1.3        N/A
                          IMPALA/CAPRICE WGN EGR/PMP/OXD/   /  /CAN    305-4   L-3  4500  2.56      0.22       1.5      1.4        N/A
                          CAMARO            EGR/PMP/OXD/    /  /CAN    348-4   A-3  4000  3.42      0.25       1.5      1.4        N/A
                          CORVETTE          EGR/PMP/OXD/    /  /CAN    348-4   L-3  3625  3.07      0.28       2.9      1.6        2.5 *

         *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                              1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER
  ENGINE FAMILY/EVAP-EMISS FAM                                                                              ______CERTIFICATION LEVELS______
    (CUBIC INCH DISPLACEMENT)                                                                               EXHAUST EMISSIONS         EVAPOR.
      CARLINES COVERED                                                                   T                     (GRAMS/MILE)           EMISSIONS
                                                                             ENGINE      R   EQUIV                                     (GRAMS)
                                                                             DISP.&      A   TEST                            OXIDES
                        VEHICLE CARLINE                                      CARB        N   WEIGHT  AXLE    HYDRO-   CARBON     OF       HYDRO-
                          REPRESENTED          EMISSION CONTROL SYSTEM       VENTURIS    S   (LBS)   RATIO   CARBONS  MONOXIDE NITROGEN   CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                         ENGINE FAMILY TEST VEHICLES

  01L48 / 084L-1 (CONT.)

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /    FAMILY 01L48                 : 1.246    1.083    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN  FAMILY 084L-1                :  N/A      N/A      N/A       0.0  )
  01L48 / 004L-1
    (305,348)
      CORVETTE
                          MALIBU               EGR/PMP/OXD/  /  /CAN   305-4   L-3  3625  2.73    0.25      3.2      1.3        N/A
                          IMPALA/CAPRICE WGN   EGR/PMP/OXD/  /  /CAN   305-4   L-3  4500  2.56    0.22      1.5      1.4        N/A
                          IMPALA/CAPRICE       EGR/PMP/OXD/  /  /CAN   305-4   L-3  4000  2.41    0.22      2.9      1.5        N/A
                          CORVETTE             EGR/PMP/OXD/  /  /CAN   348-4   A-3  3625  3.07    0.37      2.0      1.5        4.5 *
                          CAMARO               EGR/PMP/OXD/  /  /CAN   348-4   A-3  4000  3.42    0.25      1.5      1.4        N/A
                          CORVETTE             EGR/PMP/OXD/  /  /CAN   348-4   L-3  3625  3.07    0.28      2.9      1.6        N/A
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /    FAMILY 01L48                 : 1.246    1.083    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN  FAMILY 004L-1                :  N/A      N/A      N/A       0.0  )
  01W2F / 085-1
    ( 98)
      CHEVETTE
                          CHEVETTE             EGR/PLS/OXD/  /  /CAN    98-2   A-3  2500  3.70    0.22      3.3      1.6        1.8 *
                          CHEVETTE             EGR/PLS/OXD/  /  /CAN    98-2   A-3  2500  3.70    0.27      3.0      1.6        N/A
                          CHEVETTE             EGR/PLS/OXD/  /  /CAN    98-2   M-4  2375  3.70    0.41      4.6      1.5        1.6 *
                          CHEVETTE             EGR/PLS/OXD/  /  /CAN    98-2   M-4  2500  3.70    0.21      4.5      1.2        N/A
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /    FAMILY 01W2F                 : 1.304    1.000    1.146      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN  FAMILY 085-1                 :  N/A      N/A      N/A       0.0  )
  01W2PC / 085-1
    ( 98)
    C CHEVETTE            CHEVETTE             EGR/PLS/3WY/CLS/ /CAN    98-2   A-3  2375  3.70    0.21      1.7      0.79       1.1 *
      CHEVETTE            CHEVETTE             EGR/PLS/3WY/CLS/ /CAN    98-2   A-3  2500  3.70    0.23      2.6      0.93       1.2 *
                          CHEVETTE             EGR/PLS/3WY/CLS/ /CAN    98-2   M-4  2375  3.70    0.24      3.2      0.53       N/A
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/3WY/CLS/ /     FAMILY 01W2PC                : 1.898    1.320    2.321      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN  FAMILY 085-1                 :  N/A      N/A      N/A       0.0  )
  01Y4MCRZ / 004LS-1
    (305)
      CORVETTE          C CAMARO               EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  4000  3.42    0.26      2.7      0.67       N/A
    C CORVETTE          C IMPALA/CAPRICE WGN   EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  4500  2.56    0.15      2.4      1.1        N/A
                        C CUTLASS SUPREME      EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3875  2.29    0.17      2.7      0.67       N/A
                        C CORVETTE             EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3625  3.07    0.34      2.0      1.6        0.89 *
                        C MALIBU               EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3625  2.73    0.16      2.1      0.81       N/A
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/ /     FAMILY 01Y4MCRZ              : 1.170    1.000    1.130      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN  FAMILY 004LS-1               :  N/A      N/A      N/A       0.0  )
  01Y4MCRZ / 004S-1
    (305)
    C CAMARO            C MALIBU               EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3625  2.73    0.16      2.1      0.81       N/A
    C CUTLASS SUPREME   C CAMARO               EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  4000  3.42    0.26      2.7      0.67       N/A
    C IMPALA/CAPRICE WGNC CUTLASS SUPREME      EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3875  2.29    0.17      2.7      0.67       0.94 *
    C MALIBU            C CORVETTE             EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  3625  3.07    0.34      2.0      1.6        N/A
    C IMPALA/CAPRICE    C IMPALA/CAPRICE WGN   EGR/PMP/3WY/CLS/ /CAN   305-4   A-3  4500  2.56    0.15      2.4      1.1        1.1 *
    C MONTE CARLO
    C GRAND PRIX
    C LEMANS/GRAND AM
    C CUTLASS
    C REGAL
    C MALIBU WAGON
    C EL CAMINO P/U 2WD
    C LEMANS SAFARI WG
    C CUTLASS WAGON
    C CENTURY WAGON
    C FIREBIRD
    C CABALLERO P/U 2WD
    C CENTURY
    C CATALINA/BONNF.
      CAMARO
      CUTLASS SUPREME
      IMPALA/CAPRICE WGN
      MALIBU
      IMPALA/CAPRICE
      MONTE CARLO
      GRAND PRIX
      LEMANS/GRAND AM
      CUTLASS
      REGAL
      MALIBU WAGON
      EL CAMINO P/U 2WD

                 *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                        VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                            1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                    ____CERTIFICATION LEVELS____
  ENGINE FAMILY/EVAP-EMISS FAM                                                                   EXHAUST EMISSIONS     EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                             T                        (GRAMS/MILE)       EMISSIONS
      CARLINES COVERED                                          ENGINE    R  EQUIV             ____________________   (GRAMS)
                                                                DISP.&    A  TEST                                OXIDES
                            VEHICLE CARLINE                     CARB      N  WEIGHT AXLE    HYDRO-    CARBON     OF     HYDRO-
                            REPRESENTED    EMISSION CONTROL SYSTEM VENTURIS S (LBS) RATIO   CARBONS  MONOXIDE NITROGEN  CARBONS
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GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  01Y4MCRZ / 0D4S-1 (CONT.)
      LEMANS SAFARI WG
      CUTLASS WAGON
      CENTURY WAGON
      FIREBIRD
      CABALLERO P/U 2WD
      CENTURY
      CATALINA/BONNE.

        (EXHAUST DETERIORATION FACTORS FOR = EGR/PMP/3WY/CLS/   /      FAMILY 01Y4MCRZ          : 1.170    1.000    1.130     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR =    /   /   /   /  /CAN   FAMILY 0D4S-1            :  N/A      N/A      N/A      0.0  )

  02H2C / 083-2
    (262)
      LEMANS/GRAND AM     LEMANS/GRAND AM    EGR/PMP/OXD/   /  /CAN   262-2  L-3  3625  2.29    0.40      3.8      1.4       N/A
      LEMANS SAFARI WG    CATALINA/BONNE.    EGR/PMP/OXD/   /  /CAN   262-2  L-3  4000  2.56    0.38      3.9      1.6       2.6 *
      DELTA 88            LEMANS SAFARI WG   EGR/PMP/OXD/   /  /CAN   262-2  L-3  3875  2.41    0.39      3.6      1.9       1.4 *
      CATALINA/BONNE.
      GRAND PRIX
      CENTURY
      REGAL
      CENTURY WAGON

        (EXHAUST DETERIORATION FACTORS FOR = EGR/PMP/OXD/   /   /      FAMILY 02H2C             : 1.299    1.292    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR =    /   /   /   /  /CAN   FAMILY 083-2             :  N/A      N/A      N/A      0.0  )

  02S4BDE / 083-4
    (299)
      FIREBIRD            FIREBIRD           EGR/PMP/OXD/   /  /CAN   299-4  A-3  4000  3.08    0.38      4.5      1.9       2.6 *

        (EXHAUST DETERIORATION FACTORS FOR = EGR/PMP/OXD/   /   /      FAMILY 02S4BDE           : 1.099    1.000    1.324     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR =    /   /   /   /  /CAN   FAMILY 083-4             :  N/A      N/A      N/A      0.0  )

  02S4V / 084-2
    (299)
      CATALINA/BONNE.     FIREBIRD           EGR/PMP/OXD/   /  /CAN   299-4  A-3  3875  2.41    0.34      3.8      1.6       N/A
      GRAND PRIX          CATALINA/BONNE.    EGR/PMP/OXD/   /  /CAN   299-4  L-3  4000  2.41    0.28      3.0      1.3       5.2 *
      FIREBIRD            CENTURY            EGR/PMP/OXD/   /  /CAN   299-4  L-3  3625  2.14    0.31      2.1      1.4       3.1 *
      LEMANS/GRAND AM
      LEMANS SAFARI WG
      CENTURY
      REGAL
      CENTURY WAGON
      LESABRE
      CATALINA/BONNE WGN
      ESTATE WAGON

        (EXHAUST DETERIORATION FACTORS FOR = EGR/PMP/OXD/   /   /      FAMILY 02S4V             : 1.311    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR =    /   /   /   /  /CAN   FAMILY 084-2             :  N/A      N/A      N/A      0.0  )

  02X2E / 086-2
    (153)
      PHOENIX           C PHOENIX            EGR/PLS/OXD/   /  /CAN   153-2  A-3  3125  2.53    0.32      4.0      1.5       N/A
      SKYLARK           C CITATION           EGR/PLS/OXD/   /  /CAN   153-2  A-3  2875  2.53    0.23      2.4      1.1       2.1 *
      CITATION          C PHOENIX            EGR/PLS/OXD/   /  /CAN   153-2  M-4  3000  3.34    0.30      3.4      1.6       N/A
      OMEGA
      MONZA
      STARFIRE
      SUNBIRD

        (EXHAUST DETERIORATION FACTORS FOR = EGR/PLS/OXD/   /   /      FAMILY 02X2E             : 1.586    1.203    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR =    /   /   /   /  /CAN   FAMILY 086-2             :  N/A      N/A      N/A      0.0  )

  02X2NC / 086-2
    (153)
    C PHOENIX             PHOENIX            EGR/3WY/CLS/   /  /CAN   153-2  A-3  3000  2.53    0.28      3.9      0.48      N/A
    C SKYLARK             CITATION           EGR/3WY/CLS/   /  /CAN   153-2  A-3  2875  2.53    0.26      3.4      0.44      1.1 *
    C CITATION
    C OMEGA
    C MONZA
    C SUNBIRD
    C STARFIRE
      PHOENIX
      SKYLARK
      CITATION
      OMEGA
      MONZA
      SUNBIRD
      STARFIRE

                 *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                        VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
02X2NC / 086-2 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/3WY/CLS/ / /	FAMILY 02X2NC				: 1.160	1.165	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 086-2				: N/A	N/A	N/A	0.0)
03H2E / 083-3										
(262)										
CUTLASS SUPREME	CUTLASS SUPREME	EGR/PMP/OXD/ / /CAN	262-2	A-3	3750	2.28	0.24	3.1	1.5	1.4 *
CUTLASS WAGON	CUTLASS WAGON	EGR/PMP/OXD/ / /CAN	262-2	A-3	4000	2.93	0.27	3.0	1.3	1.6 *
CUTLASS	CUTLASS SUPREME	EGR/PMP/OXD/ / /CAN	262-2	L-3	3750	2.93	0.33	3.9	1.7	N/A
DELTA 88										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 03H2E				: 1.205	1.588	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 083-3				: N/A	N/A	N/A	0.0)
03J4PCZ / 084S-3										
(348)										
C DELTA 88	C CUSTOM CRUISER WG	EGR/3WY/CLS/ / /CAN	348-4	A-3	4750	2.56	0.29	6.2	0.74	1.5 *
C TORONADO	C NINETY EIGHT	EGR/3WY/CLS/ / /CAN	348-4	A-3	4500	3.08	0.31	4.8	0.83	N/A
C NINETY EIGHT	C DELTA 88	EGR/3WY/CLS/ / /CAN	348-4	A-3	4250	2.41	0.22	2.8	0.63	1.2 *
C CUSTOM CRUISER WG	C TORONADO	EGR/3WY/CLS/ / /CAN	348-4	A-3	4000	2.41	0.28	3.3	0.91	N/A
C CATALINA/BONNE.										
C LESABRE										
C ELECTRA										
C CATALINA/BONNE WGN										
C ESTATE WAGON										
C RIVIERA										
DELTA 88										
TORONADO										
NINETY EIGHT										
CUSTOM CRUISER WG										
CATALINA/BONNE.										
LESABRE										
ELECTRA										
CATALINA/BONNE WGN										
ESTATE WAGON										
RIVIERA										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/3WY/CLS/ / /	FAMILY 03J4PCZ				: 1.144	1.207	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 084S-3				: N/A	N/A	N/A	0.0)
03L4F / 084-3										
(305.348)										
DELTA 88	TORONADO	EGR/PMP/OXD/ / /CAN	305-4	A-3	4000	2.41	0.37	4.3	1.2	N/A
NINETY EIGHT	DELTA 88	EGR/PMP/OXD/ / /CAN	305-4	L-3	4000	2.41	0.32	1.8	1.6	4.2 *
CUSTOM CRUISER WG	CUSTOM CRUISER WG	EGR/PMP/OXD/ / /CAN	305-4	L-3	4500	3.08	0.31	2.5	1.1	N/A
TORONADO	NINETY EIGHT	EGR/PMP/OXD/ / /CAN	348-4	A-3	4250	2.41	0.25	2.9	1.1	2.8 *
CUTLASS SUPREME	CUTLASS SUPREME	EGR/PMP/OXD/ / /CAN	348-4	A-3	3875	2.73	0.30	2.9	0.89	1.8 *
RIVIERA	CUSTOM CRUISER WG	EGR/PMP/OXD/ / /CAN	348-4	L-3	4500	3.08	0.26	2.4	2.0	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 03L4F				: 1.174	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 084-3				: N/A	N/A	N/A	0.0)
04E2A / 083-4										
(232)										
SKYHAWK	MONZA	EGR/PMP/OXD/ / /CAN	232-2	A-3	3375	2.56	0.29	2.4	1.3	2.1 *
CENTURY WAGON	DELTA 88	EGR/PMP/OXD/ / /CAN	232-2	A-3	3875	2.73	0.27	2.4	1.4	2.0 *
REGAL	CENTURY WAGON	EGR/PMP/OXD/ / /CAN	232-2	A-3	3750	3.23	0.40	5.1	1.7	1.6 *
LESABRE	REGAL	EGR/PMP/OXD/ / /CAN	232-2	L-3	3625	2.41	0.37	6.4	1.4	2.6 *
CUTLASS SUPREME	MONZA	EGR/PMP/OXD/ / /CAN	232-2	M-4	3250	2.93	0.35	3.7	1.3	2.5 *
CUTLASS										
CUTLASS WAGON										
CENTURY										
DELTA 88										
MONZA										
STARFIRE										
FIREBIRD										
SUNBIRD										
LEMANS/GRAND AM										
LEMANS SAFARI WG										
GRAND PRIX										
CATALINA/BONNE.										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 04E2A				: 1.110	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 083-4				: N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                             1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                      _______CERTIFICATION LEVELS_______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                       EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                         T                (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                                 ENGINE         R  EQUIV     ___________________________ (GRAMS)
                                                                       DISP.&         A  TEST                          OXIDES
                              VEHICLE CARLINE                          CARB           N  WEIGHT AXLE  HYDRO-   CARBON     OF    HYDRO-
___________________________   REPRESENTED    EMISSION CONTROL SYSTEM   VENTURIS       S  (LBS)  RATIO CARBONS MONOXIDE NITROGEN CARBONS

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                      ENGINE FAMILY TEST VEHICLES

  04E2MCRZ / 083S-4
    (232)
      C MALIBU             C IMPALA/CAPRICE     EGR/PMP/3WY/CLS/   /CAN   232-2   A-3  4000  2.73    0.33      5.1     0.79      1.7 *
      C EL CAMINO P/U 2WD  C REGAL              EGR/PMP/3WY/CLS/   /CAN   232-2   A-3  3625  2.41    0.27      3.7     0.65     0.70 *
      C CABALLERO P/U 2WD  C SKYHAWK            EGR/PMP/3WY/CLS/   /CAN   232-2   A-3  3250  2.56    0.26      3.0     0.43      1.1 *
      C MONTE CARLO
      C MALIBU WAGON
      C LEMANS/GRAND AM
      C LEMANS SAFARI WG
      C GRAND PRIX
      C CUTLASS
      C CUTLASS SUPREME
      C CUTLASS WAGON
      C CENTURY
      C REGAL
      C CENTURY WAGON
      C IMPALA/CAPRICE
      C CATALINA/BONNE.
      C DELTA 88
      C LESABRE
      C MONZA
      C SUNBIRD
      C STARFIRE
      C SKYHAWK
      C CAMARO
      C FIREBIRD
        MALIBU
        EL CAMINO P/U 2WD
        CABALLERO P/U 2WD
        MONTE CARLO
        MALIBU WAGON
        LEMANS/GRAND AM
        LEMANS SAFARI WG
        GRAND PRIX
        CUTLASS
        CUTLASS SUPREME
        CUTLASS WAGON
        CENTURY
        REGAL
        CENTURY WAGON
        IMPALA/CAPRICE
        CATALINA/BONNE.
        DELTA 88
        LESABRE
        MONZA
        SUNBIRD
        STARFIRE
        SKYHAWK
        CAMARO
        FIREBIRD

          (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /     FAMILY 04E2MCRZ            : 1.349    1.281    1.007      N/A )
          (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 083S-4              :  N/A      N/A      N/A      0.0  )

  04E4BD / 084-4
    (232)
        CENTURY              LESABRE            EGR/PMP/OXD/   /   /CAN   232-4   A-3  4000  2.73    0.29      3.5      1.9      N/A
        REGAL                CENTURY            EGR/PMP/OXD/   /   /CAN   232-4   A-3  3625  3.08    0.40      4.6      1.4      N/A
        MONTE CARLO          RIVIERA            EGR/PMP/OXD/   /   /CAN   232-4   A-3  3625  2.41    0.27      2.1      1.9      2.2 *
        LESABRE              TORONADO           EGR/PMP/OXD/   /   /CAN   232-4   A-3  4000  2.93    0.26      4.0      1.4      3.0 *
        TORONADO
        RIVIERA

          (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 04E4BD              : 1.000    1.000    1.122      N/A )
          (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-4               :  N/A      N/A      N/A      0.0  )

  04E4UCD / 084S-4
    (232)
      C CENTURY            C LESABRE            EGR/PMP/3WY/CLS/   /CAN   232-4   A-3  4000  3.08    0.41      4.1     0.60      1.6 *
      C REGAL              C CENTURY            EGR/PMP/3WY/CLS/   /CAN   232-4   A-3  3625  2.73    0.40      4.1     0.41      1.2 *
      C MONTE CARLO
      C LESABRE
      C RIVIERA

          (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /     FAMILY 04E4UCD             : 1.268    1.176    1.048      N/A )
          (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084S-4              :  N/A      N/A      N/A      0.0  )

                *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                       VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                       1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                      ______CERTIFICATION LEVELS______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                      EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                    T                   (GRAMS/MILE)        EMISSIONS
      CARLINES COVERED                                              ENGINE      R  EQUIV                                  (GRAMS)
                                                                    DISP.&      A  TEST                          OXIDES
                        VEHICLE CARLINE                             CARB        N  WEIGHT  AXLE   HYDRO-    CARBON    OF     HYDRO-
________________________REPRESENTED_____EMISSION CONTROL SYSTEM_____VENTURIS____S__(LBS)___RATIO__CARBONS__MONOXIDE_NITROGEN_CARBONS_

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                      ENGINE FAMILY TEST VEHICLES

  04F4C / 084-4
    (250)
      LESABRE            LESABRE          EGR/PMP/OXD/   /   /CAN   250-4   A-3  3875  2.93    0.33      5.0      1.2      2.3 *
      ELECTRA            ELECTRA          EGR/PMP/OXD/   /   /CAN   250-4   A-3  4000  2.93    0.31      3.6      1.5      2.6 *
      DEVILLE/BROUGHAM

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 04F4C            : 1.076     1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-4            :  N/A       N/A      N/A     0.0  )

  04J4B / 084-4
    (348)
      CATALINA/BONNE.    ELECTRA          EGR/PMP/OXD/   /   /CAN   348-4   A-3  4500  2.41    0.30      2.4      1.3      1.6 *
      CATALINA/BONNE WGN ESTATE WAGON     EGR/PMP/OXD/   /   /CAN   348-4   A-3  4750  2.73    0.41      2.8      1.7      1.9 *
      LESABRE            LESABRE          EGR/PMP/OXD/   /   /CAN   348-4   L-3  4250  3.23    0.32      4.2      1.7      N/A
      ESTATE WAGON
      ELECTRA

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 04J4B            : 1.484     1.013    1.254     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-4            :  N/A       N/A      N/A     0.0  )

  06J0RCZ / 080-6
    (348)
    C ELDORADO           SEVILLE          FI /EGR/PMP/3WY/CLS/CAN   348-FI  A-3  4250  2.19    0.30      3.1      1.1      0.98 *
    C SEVILLE
      ELDORADO
      SEVILLE

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/PMP/3WY/CLS/     FAMILY 06J0RCZ          : 1.177     1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 080-6            :  N/A       N/A      N/A     0.0  )

  06T4B / 084-6
    (366)
      DEVILLE/BROUGHAM   DEVILLE/BROUGHAM EGR/PMP/OXD/   /   /CAN   366-4   A-3  4500  2.73    0.30      3.4      1.5      N/A
                         DEVILLE/BROUGHAM EGR/PMP/OXD/   /   /CAN   366-4   A-3  4500  2.28    0.30      2.6      1.8      1.7 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 06T4B            : 1.510     1.378    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-6            :  N/A       N/A      N/A     0.0  )

               *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                      VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

  06T4RCZ / 084S-6
    (366)
    C DEVILLE/BROUGHAM C DEVILLE/BROUGHAM EGR/PMP/3WY/CLS/   /CAN   366-4   A-3  4500  2.56    0.30      2.7      0.72     1.3 *
      DEVILLE/BROUGHAM

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /     FAMILY 06T4RCZ          : 1.342     1.020    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084S-6           :  N/A       N/A      N/A     0.0  )

  06T4RCZ-1 / 084S-6
    (366)
    C LIMOUSINE        C LIMOUSINE        EGR/PMP/3WY/CLS/   /CAN   366-4   A-3  5250  3.08    0.44      3.7      1.0      1.3 *
    C COMMERCIAL CHAS.

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/CLS/   /     FAMILY 06T4RCZ-1        : 1.342     1.020    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084S-6           :  N/A       N/A      N/A     0.0  )

  06T4V / 084-6
    (366)
      DEVILLE/BROUGHAM   DEVILLE/BROUGHAM EGR/PMP/OXD/   /   /CAN   366-4   A-3  4500  2.28    0.28      3.2      1.8      2.3 *
      LIMOUSINE
      COMMERCIAL CHAS.

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 06T4V            : 1.256     1.000    1.034     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-6            :  N/A       N/A      N/A     0.0  )

  06T5GY / 080-6
    (366)
      ELDORADO         C ELDORADO         FI /EGR/PMP/OXD/   /CAN   366-FI  A-3  4250  2.19    0.28      2.1      2.0      1.0 *
      SEVILLE

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/PMP/OXD/   /     FAMILY 06T5GY           : 1.000     1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 080-6            :  N/A       N/A      N/A     0.0  )

GENERAL MOTORS - EVAP-EMISSION FAMILIES:
                                                  EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  080-6
                         SEVILLE          FI /EGR/PMP/3WY/CLS/CAN   348-FI  A-3  4250  2.19    0.30      3.1      1.1      0.98
                       C ELDORADO         FI /EGR/PMP/OXD/   /CAN   366-FI  A-3  4250  2.19    0.28      2.1      2.0      1.0

               *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                      VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS			
							EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
GENERAL MOTORS - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
083-1	IMPALA/CAPRICE	EGR/PMP/OXD/ / /CAN	232-2	L-3	3875	2.73	0.12	3.6	1.2	1.6
	MONTE CARLO	EGR/PMP/OXD/ / /CAN	232-2	L-3	3625	2.41	0.18	2.2	1.8	1.9
	MALIBU WAGON	EGR/PMP/OXD/ / /CAN	269-2	A-3	3875	2.56	0.38	3.4	1.9	2.2
	IMPALA/CAPRICE WGN	EGR/PMP/OXD/ / /CAN	269-2	L-3	4500	2.56	0.38	3.2	1.5	2.1
083-2	LEMANS SAFARI WG	EGR/PMP/OXD/ / /CAN	262-2	L-3	3875	2.41	0.39	3.6	1.9	1.4
	CATALINA/BONNE.	EGR/PMP/OXD/ / /CAN	262-2	L-3	4000	2.56	0.38	3.9	1.6	2.6
083-3	CUTLASS SUPREME	EGR/PMP/OXD/ / /CAN	262-2	A-3	3750	2.28	0.24	3.1	1.5	1.4
	CUTLASS WAGON	EGR/PMP/OXD/ / /CAN	262-2	A-3	4000	2.93	0.27	3.0	1.3	1.6
083-4	MONZA	EGR/PMP/OXD/ / /CAN	232-2	A-3	3375	2.56	0.29	2.4	1.3	2.1
	CENTURY WAGON	EGR/PMP/OXD/ / /CAN	232-2	A-3	3750	3.23	0.40	5.1	1.7	1.6
	DELTA 88	EGR/PMP/OXD/ / /CAN	232-2	A-3	3875	2.73	0.27	2.4	1.4	2.0
	REGAL	EGR/PMP/OXD/ / /CAN	232-2	L-3	3625	2.41	0.37	6.4	1.4	2.6
	MONZA	EGR/PMP/OXD/ / /CAN	232-2	M-4	3250	2.93	0.35	3.7	1.3	2.5
	FIREBIRD	EGR/PMP/OXD/ / /CAN	299-4	A-3	4000	3.08	0.38	4.5	1.9	2.6
	CATALINA/BONNE.	EGR/PMP/OXD/ / /CAN	299-4	L-3	4000	2.41	0.28	3.0	1.3	5.2
	CENTURY	EGR/PMP/OXD/ / /CAN	299-4	L-3	3625	2.14	0.31	2.1	1.4	3.1
083S-4	C REGAL	EGR/PMP/3WY/CLS/ /CAN	232-2	A-3	3625	2.41	0.27	3.7	0.65	0.70
	C IMPALA/CAPRICE	EGR/PMP/3WY/CLS/ /CAN	232-2	A-3	4000	2.73	0.33	5.1	0.79	1.7
	C SKYHAWK	EGR/PMP/3WY/CLS/ /CAN	232-2	A-3	3250	2.56	0.26	3.0	0.43	1.1
084-1	IMPALA/CAPRICE	EGR/PMP/OXD/ / /CAN	305-4	L-3	4000	2.41	0.22	2.9	1.5	2.5
	IMPALA/CAPRICE WGN	EGR/PMP/OXD/ / /CAN	305-4	L-3	4500	2.56	0.22	1.5	1.4	1.9
084-2	FIREBIRD	EGR/PMP/OXD/ / /CAN	299-4	A-3	4000	3.08	0.38	4.5	1.9	2.6
	CATALINA/BONNE.	EGR/PMP/OXD/ / /CAN	299-4	L-3	4000	2.41	0.28	3.0	1.3	5.2
	CENTURY	EGR/PMP/OXD/ / /CAN	299-4	L-3	3625	2.14	0.31	2.1	1.4	3.1
084-3	DELTA 88	EGR/PMP/OXD/ / /CAN	305-4	L-3	4000	2.41	0.32	1.8	1.6	4.2
	CUTLASS SUPREME	EGR/PMP/OXD/ / /CAN	348-4	A-3	3875	2.73	0.30	2.9	0.89	1.8
	NINETY EIGHT	EGR/PMP/OXD/ / /CAN	348-4	A-3	4250	2.41	0.25	2.9	1.1	2.8
	CUSTOM CRUISER WG	EGR/PMP/OXD/ / /CAN	348-4	L-3	4500	3.08	0.26	2.4	2.0	1.4
084-4	RIVIERA	EGR/PMP/OXD/ / /CAN	232-4	A-3	3625	2.41	0.27	2.1	1.9	2.2
	TORONADO	EGR/PMP/OXD/ / /CAN	232-4	A-3	4000	2.93	0.26	4.0	1.4	3.0
	LESABRE	EGR/PMP/OXD/ / /CAN	250-4	A-3	3875	2.93	0.33	5.0	1.2	2.3
	ELECTRA	EGR/PMP/OXD/ / /CAN	250-4	A-3	4000	2.93	0.31	3.6	1.5	2.6
	ELECTRA	EGR/PMP/OXD/ / /CAN	348-4	A-3	4500	2.41	0.30	2.4	1.3	1.6
	ESTATE WAGON	EGR/PMP/OXD/ / /CAN	348-4	A-3	4750	2.73	0.41	2.8	1.7	1.9
084-6	DEVILLE/BROUGHAM	EGR/PMP/OXD/ / /CAN	366-4	A-3	4500	2.28	0.30	2.6	1.8	1.7
	DEVILLE/BROUGHAM	EGR/PMP/OXD/ / /CAN	366-4	A-3	4500	2.28	0.28	3.2	1.8	2.3
084L-1	CORVETTE	EGR/PMP/OXD/ / /CAN	348-4	L-3	3625	3.07	0.28	2.9	1.6	2.5
084S-3	C CUSTOM CRUISER WG	EGR/3WY/CLS/ / /CAN	348-4	A-3	4750	2.56	0.29	6.2	0.74	1.5
	C DELTA 88	EGR/3WY/CLS/ / /CAN	348-4	A-3	4250	2.41	0.22	2.8	0.6[illegible]	1.2
084S-4	C LESABRE	EGR/PMP/3WY/CLS/ /CAN	232-4	A-3	4000	3.08	0.41	4.1	0.60	1.6
	C CENTURY	EGR/PMP/3WY/CLS/ /CAN	232-4	A-3	3625	2.73	0.40	4.1	0.41	1.2
084S-6	C LIMOUSINE	EGR/PMP/3WY/CLS/ /CAN	366-4	A-3	5250	3.08	0.44	3.7	1.0	1.3
	C DEVILLE/BROUGHAM	EGR/PMP/3WY/CLS/ /CAN	366-4	A-3	4500	2.56	0.30	2.7	0.72	1.3
085-1	CHEVETTE	EGR/PLS/OXD/ / /CAN	98-2	A-3	2500	3.70	0.22	3.3	1.6	1.8
	CHEVETTE	EGR/PLS/3WY/CLS/ /CAN	98-2	A-3	2375	3.70	0.21	1.7	0.79	1.1
	CHEVETTE	EGR/PLS/3WY/CLS/ /CAN	98-2	A-3	2500	3.70	0.23	2.6	0.93	1.2
	CHEVETTE	EGR/PLS/OXD/ / /CAN	98-2	M-4	2375	3.70	0.41	4.6	1.5	1.6
086-1	CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	3000	2.84	0.32	3.4	1.4	2.0
	C CITATION	EGR/PLS/3WY/CLS/ /CAN	171-2	A-3	3000	2.84	0.30	6.5	0.45	1.4
	CITATION	EGR/PLS/OXD/ / /CAN	171-2	A-3	3000	2.84	0.28	2.7	1.7	2.1
	CITATION	EGR/PLS/3WY/CLS/ /CAN	171-2	A-3	3000	2.84	0.33	4.4	0.65	1.5
086-2	C CITATION	EGR/3WY/CLS/ / /CAN	153-2	A-3	2875	2.53	0.26	3.4	0.48	1.1
	C CITATION	EGR/PLS/OXD/ / /CAN	153-2	A-3	2875	2.53	0.23	2.4	1.1	2.1

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS — EXHAUST EMISSIONS (GRAMS/MILE) — HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) — HYDRO-CARBONS
GENERAL MOTORS - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
0D4L-1										
	CORVETTE	EGR/PMP/OXD/ / /CAN	348-4	A-3	3625	3.07	0.37	2.0	1.5	4.5
0D4LS-1										
	C CORVETTE	EGR/PMP/3WY/CLS/ /CAN	305-4	A-3	3625	3.07	0.34	2.0	1.6	0.89
0D4S-1										
	C CUTLASS SUPREME	EGR/PMP/3WY/CLS/ /CAN	305-4	A-3	3875	2.29	0.17	2.7	0.67	0.94
	C IMPALA/CAPRICE WGN	EGR/PMP/3WY/CLS/ /CAN	305-4	A-3	4500	2.56	0.15	2.4	1.1	1.1
HONDA - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
A80A / 80FA (81) CIVIC	C CIVIC	EM / / / / /CAN	81-3	M-4	2000	4.93	0.27	3.5	1.2	N/A
	C CIVIC	EM / / / / /CAN	81-3	M-5	2000	4.93	0.30	4.5	1.1	0.98 *
(EXHAUST DETERIORATION FACTORS FOR -		EM / / / / /	FAMILY A80A				: 1.056	1.050	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80FA				: N/A	N/A	N/A	0.0)
A80B / 80FA (91) CIVIC CIVIC WAGON	C CIVIC	OXD/ / / / /CAN	91-3	M-4	2125	3.88	0.11	0.51	1.9	N/A
	C CIVIC	OXD/ / / / /CAN	91-3	M-5	2125	3.88	0.12	0.82	1.8	0.73 *
	C CIVIC WAGON	OXD/ / / / /CAN	91-3	M-5	2250	4.43	0.11	0.73	1.4	N/A
	C CIVIC	OXD/ / / / /CAN	91-3	S-A	2125	4.12	0.92E-01	0.90	1.6	N/A
	C CIVIC WAGON	OXD/ / / / /CAN	91-3	S-A	2250	4.12	0.11	1.6	1.5	0.96 *
(EXHAUST DETERIORATION FACTORS FOR -		OXD/ / / / /	FAMILY A80B				: 1.000	1.221	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80FA				: N/A	N/A	N/A	0.0)
A80C / 80FA (91) C CIVIC C CIVIC WAGON	CIVIC	EGR/OXD/ / / /CAN	91-3	M-4	2125	3.88	0.19	1.3	0.59	N/A
	CIVIC	EGR/OXD/ / / /CAN	91-3	M-5	2125	3.88	0.27	2.6	0.70	0.63 *
	CIVIC WAGON	EGR/OXD/ / / /CAN	91-3	M-5	2250	4.43	0.23	2.2	0.83	N/A
	CIVIC	EGR/OXD/ / / /CAN	91-3	S-A	2125	4.12	0.13	2.2	0.65	N/A
	CIVIC WAGON	EGR/OXD/ / / /CAN	91-3	S-A	2250	4.12	0.17	3.6	0.78	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/OXD/ / / /	FAMILY A80C				: 1.207	1.830	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80FA				: N/A	N/A	N/A	0.0)
A80D / 80FB (107) C ACCORD C PRELUDE	C ACCORD	EM / / / / /CAN	107-3	A-3	2625	3.59	0.18	3.3	1.1	N/A
	C ACCORD	EM / / / / /CAN	107-3	A-3	2500	3.59	0.12	3.0	1.5	N/A
	C ACCORD	EM / / / / /CAN	107-3	M-5	2500	4.38	0.18	2.6	1.6	1.3 *
	C ACCORD	EM / / / / /CAN	107-3	M-5	2625	4.38	0.28	3.9	1.4	N/A
	C PRELUDE	EM / / / / /CAN	107-3	M-5	2500	4.38	0.26	3.5	0.88	1.3 *
	C ACCORD	EM / / / / /CAN	107-3	M-5	2625	4.38	0.10	1.8	0.82	1.2 *
(EXHAUST DETERIORATION FACTORS FOR -		EM / / / / /	FAMILY A80D				: 1.000	1.042	1.014	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80FB				: N/A	N/A	N/A	0.0)
A80E / 80FC (107) C ACCORD C PRELUDE	C PRELUDE	EGR/OXD/ / / /CAN	107-3	A-3	2500	3.59	0.18	1.8	0.71	1.3 *
	C ACCORD	EGR/OXD/ / / /CAN	107-3	A-3	2625	3.59	0.20	2.7	0.81	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/OXD/ / / /	FAMILY A80E				: 1.077	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80FC				: N/A	N/A	N/A	0.0)
HONDA - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
80FA										
	CIVIC	EM / / / / /CAN	81-3	M-5	2000	4.93	0.30	4.5	1.1	0.98
	C CIVIC	OXD/ / / / /CAN	91-3	M-5	2125	3.88	0.12	0.82	1.8	0.73
	CIVIC	EGR/OXD/ / / /CAN	91-3	M-5	2125	3.88	0.27	2.6	0.70	0.63
	C CIVIC WAGON	OXD/ / / / /CAN	91-3	S-A	2250	4.12	0.11	1.6	1.5	0.96
	C CIVIC WAGON	EGR/OXD/ / / /CAN	91-3	S-A	2250	4.12	0.17	3.6	0.78	1.4
80FB										
	C ACCORD	EM / / / / /CAN	107-3	M-5	2625	4.38	0.10	1.8	0.82	1.2
	C ACCORD	EM / / / / /CAN	107-3	M-5	2500	4.38	0.18	2.6	1.6	1.3
	C PRELUDE	EM / / / / /CAN	107-3	M-5	2500	4.38	0.26	3.5	0.88	1.3

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
HONDA - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
80FC	C ACCORD	EGR/OXD/ / / /CAN	107-3	A-3	2625	3.59	0.20	2.7	0.81	1.6
	C PRELUDE	EGR/OXD/ / / /CAN	107-3	A-3	2500	3.59	0.18	1.8	0.71	1.3
(JRT) AUSTIN-MORRIS - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
B/50 / LCAN1 (110) MGB	MGB	EGR/PMP/OXD/ / /CAN	110-1	M-4	2750	3.91	0.17	4.9	1.6	0.58 *
	MGB	EGR/PMP/OXD/ / /CAN	110-1	M-4	2750	3.91	0.16	4.1	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY B/50				: 1.311	1.524	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY LCAN1				: N/A	N/A	N/A	0.0)
(JRT) AUSTIN-MORRIS - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
LCAN1	MGB	EGR/PMP/OXD/ / /CAN	110-1	M-4	2750	3.91	0.17	4.9	1.6	0.58
JAGUAR ROVER TRIUMPH LTD - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
4.2FI / XJFI (258) C XJ XJ	C XJ	FI /3WY/CLS/ / /CAN	258-FI	A-3	4250	3.07	0.35	4.3	0.35	1.3 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY 4.2FI				: 1.340	1.022	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY XJFI				: N/A	N/A	N/A	0.0)
XJFI	C XJ	FI /3WY/CLS/ / /CAN	258-FI	A-3	4250	3.07	0.35	4.3	0.35	1.3
(JRT) TRIUMPH - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
RV8/50C/C / RV8/E1 (215) TR	TR	EGR/PMP/OXD/ / /CAN	215-2	A-3	3000	3.08	0.32	3.6	0.95	1.8 *
	TR	EGR/PMP/OXD/ / /CAN	215-2	M-5	3000	3.08	0.16	2.5	0.85	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY RV8/50C/C				: 1.326	1.336	1.177	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY RV8/E1				: N/A	N/A	N/A	0.0)
SL4/2/50C/C / SL4/2/E1 (122) TR	TR	EGR/PMP/OXD/ / /CAN	122-2	M-5	2750	3.45	0.20	3.8	1.2	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY SL4/2/50C/C				: 1.164	1.159	1.042	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SL4/2/E1				: N/A	N/A	N/A	0.815)
TC/50C/C / TC/E3 (91) SPITFIRE	SPITFIRE	EGR/PMP/OXD/ / /CAN	91-01	M-4	2250	3.89	0.13	0.90	0.94	0.95 *
MIDGET	MIDGET	EGR/PMP/OXD/ / /CAN	91-01	M-4	2250	3.72	0.13	0.93	0.85	1.0 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY TC/50C/C				: 1.000	1.000	1.075	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TC/E3				: N/A	N/A	N/A	0.316)
(JRT) TRIUMPH - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
RV8/E1	TR	EGR/PMP/OXD/ / /CAN	215-2	A-3	3000	3.08	0.32	3.6	0.95	1.8
SL4/2/E1	TR	EGR/PMP/OXD/ / /CAN	122-2	M-5	2750	3.45	0.20	3.8	1.2	1.6

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE)			CERTIFICATION LEVELS EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
(JRT) TRIUMPH - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
TC/E3										
	MIDGET	EGR/PMP/OXD/ / /CAN	91-01	M-4	2250	3.72	0.13	0.93	0.85	1.0
	SPITFIRE	EGR/PMP/OXD/ / /CAN	91-01	M-4	2250	3.89	0.13	0.90	0.94	0.95
LOTUS - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
907A / 907 (120) ESPRIT II ELITE/ECLAT	ESPRIT II	PLS/OXD/ / / /CAN	120-2	M-5	2750	4.38	0.26	4.6	1.7	1.8 *
(EXHAUST DETERIORATION FACTORS FOR -		PLS/OXD/ / / /	FAMILY 907A				: 1.300	1.200	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 907				: N/A	N/A	N/A	0.0)
907T / 907 (120) C ESPRIT II ELITE/ECLAT	C ESPRIT II	PLS/3WY/ / / /CAN	120-2	M-5	2750	4.38	0.31	7.0	0.76	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		PLS/3WY/ / / /	FAMILY 907T				: 1.300	1.200	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 907				: N/A	N/A	N/A	0.0)
LOTUS - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
907										
	C ESPRIT II	PLS/3WY/ / / /CAN	120-2	M-5	2750	4.38	0.31	7.0	0.76	1.9
	ESPRIT II	PLS/OXD/ / / /CAN	120-2	M-5	2750	4.38	0.26	4.6	1.7	1.8
MASERATI - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
107/49/C / 107/49/C (301) QUATTROPORTE C QUATTROPORTE	C QUATTROPORTE	PMP/OXD/ / / /CAN	301-8	L-3	5000	3.54	0.14	3.7	0.88	2.0 *
(EXHAUST DETERIORATION FACTORS FOR -		PMP/OXD/ / / /	FAMILY 107/49/C				: 1.300	1.200	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 107/49/C				: N/A	N/A	N/A	0.0)
MASERATI - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
107/49/C										
	C QUATTROPORTE	PMP/OXD/ / / /CAN	301-8	L-3	5000	3.54	0.14	3.7	0.88	2.0
MERCEDES BENZ - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
80.20.26.28 / 80.20.20.10 (168) C 240D/280E/300D 240D/280E/300D	C 240D/280E/300D	FI /PMP/3WY/CLS/ /CAN	168-FI	A-4	3750	3.58	0.30	3.2	0.19	0.61 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /PMP/3WY/CLS/ /	FAMILY 80.20.26.28				: 1.296	1.169	1.200	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80.20.20.10				: N/A	N/A	N/A	0.0)
80.20.26.28 / 80.20.20.20 (168) C 280SE/300SD 280SE/300SD	C 280SE/300SD	FI /PMP/3WY/CLS/ /CAN	168-FI	A-4	4000	3.69	0.30	3.8	0.31	0.31 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /PMP/3WY/CLS/ /	FAMILY 80.20.26.28				: 1.296	1.169	1.200	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80.20.20.20				: N/A	N/A	N/A	0.0)
80.20.28.45 / 80.20.20.20 (276) C 450SEL 450SEL	C 450SEL	FI /PLS/3WY/CLS/ /CAN	276-FI	A-3	4250	2.65	0.39	4.5	0.13	0.53 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /PLS/3WY/CLS/ /	FAMILY 80.20.28.45				: 1.302	1.170	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 80.20.20.20				: N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                           1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                    CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                            EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                          T                   (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                       ENGINE    R  EQUIV                                  (GRAMS)
                                                             DISP.&    A  TEST                          OXIDES
                        VEHICLE CARLINE                      CARB      N  WEIGHT AXLE  HYDRO-   CARBON    OF     HYDRO-
                          REPRESENTED  EMISSION CONTROL SYSTEM VENTURIS S  (LBS)  RATIO CARBONS MONOXIDE NITROGEN CARBONS

MERCEDES BENZ - FAMILY COMBINATIONS CERTIFIED:
                                           ENGINE FAMILY TEST VEHICLES

  80.20.28.45 / 80.20.20.31
    (276)
   C 450SL              C 450SL          FI /PLS/3WY/CLS/   /CAN   276-FI  A-3  4000  2.65   0.28     3.7     0.45     0.30 *
     450SL

       (EXHAUST DETERIORATION FACTORS FOR - FI /PLS/3WY/CLS/   /     FAMILY 80.20.28.45        : 1.302    1.170   1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY 80.20.20.31        :  N/A     N/A     N/A     0.0  )

  80.20.28.45 / 80.20.20.32
    (276)
   C 450SLC             C 450SLC         FI /PLS/3WY/CLS/   /CAN   276-FI  A-3  4000  2.65   0.24     2.4     0.27     0.38 *
     450SLC

       (EXHAUST DETERIORATION FACTORS FOR - FI /PLS/3WY/CLS/   /     FAMILY 80.20.28.45        : 1.302    1.170   1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY 80.20.20.32        :  N/A     N/A     N/A     0.0  )

MERCEDES BENZ - EVAP-EMISSION FAMILIES:
                                     EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  80.20.20.10
                        C 240D/280E/300D FI /PMP/3WY/CLS/   /CAN   168-FI  A-4  3750  3.58   0.30     3.2     0.19     0.61

  80.20.20.20
                        C 280SE/300SD    FI /PMP/3WY/CLS/   /CAN   168-FI  A-4  4000  3.69   0.30     3.8     0.31     0.31
                        C 450SEL         FI /PLS/3WY/CLS/   /CAN   276-FI  A-3  4250  2.65   0.39     4.5     0.13     0.53

  80.20.20.31
                        C 450SL          FI /PLS/3WY/CLS/   /CAN   276-FI  A-3  4000  2.65   0.28     3.7     0.45     0.30

  80.20.20.32
                        C 450SLC         FI /PLS/3WY/CLS/   /CAN   276-FI  A-3  4000  2.65   0.24     2.4     0.27     0.38

MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:
                                           ENGINE FAMILY TEST VEHICLES

  G1-C / E80C
    ( 86)
   C COLT               C CHAMP          EGR/PLS/OXD/  /   /CAN    86-2   M-4  2125  3.47   0.15     3.3     0.40     0.66 *
   C CHAMP              C CHAMP          EGR/PLS/OXD/  /   /CAN    86-2   M-4  2125  3.47   0.15     1.7     0.79      1.5 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /     FAMILY G1-C               : 1.068    1.058   1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY E80C               :  N/A     N/A     N/A     0.0  )

  G1-F / E80F
    ( 86)
     COLT                 CHAMP          EGR/PLS/OXD/  /   /CAN    86-2   M-4  2125  3.47   0.20     1.9     1.6       3.0 *
     CHAMP                CHAMP          EGR/PLS/OXD/  /   /CAN    86-2   M-4  2125  3.47   0.23     2.5     1.4       3.0 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /     FAMILY G1-F               : 1.052    1.042   1.012     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY E80F               :  N/A     N/A     N/A     0.0  )

  G3-C / E80C
    ( 98)
   C COLT               C ARROW          EGR/PLS/OXD/  /   /CAN    98-2   A-3  2625  3.54   0.16     5.1     0.52     N/A
   C CHAMP              C CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   A-3  2250  3.17   0.20     2.6     0.83      1.4 *
   C ARROW              C CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   M-4  2250  3.47   0.45E-01 2.4     0.63     N/A
                        C CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   M-4  2250  3.47   0.19     2.6     0.75     N/A
                        C ARROW          EGR/PLS/OXD/  /   /CAN    98-2   M-5  2500  3.91   0.11     2.4     0.64     0.78 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /     FAMILY G3-C               : 1.084    1.079   1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY E80C               :  N/A     N/A     N/A     0.0  )

  G3-F / E80F
    ( 98)
     COLT                 ARROW          EGR/PLS/OXD/  /   /CAN    98-2   A-3  2625  3.54   0.14     2.2     1.5      N/A
     CHAMP                CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   A-3  2250  3.17   0.13     2.2     1.0       2.2 *
     CELESTE              CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   M-4  2250  3.47   0.21     2.8     1.5      N/A
     ARROW                CHAMP          EGR/PLS/OXD/  /   /CAN    98-2   M-4  2250  3.47   0.19     1.2     1.7      N/A
                          ARROW          EGR/PLS/OXD/  /   /CAN    98-2   M-5  2500  3.91   0.16     2.3     1.4       1.2 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/  /   /     FAMILY G3-F               : 1.062    1.059   1.017     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY E80F               :  N/A     N/A     N/A     0.0  )

  G5-C / E80C
    (156)
   C CHALLENGER         C ARROW          EGR/PLS/OXD/  /   /CAN   156-2   A-3  2750  3.54   0.17     1.3     0.70      1.1 *
   C SAPPORO            C COLT WAGON     EGR/PLS/OXD/  /   /CAN   156-2   A-3  3125  3.54   0.20     4.0     0.79      1.5 *

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                         1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER
  ENGINE FAMILY/EVAP-EMISS FAM                                                                              CERTIFICATION LEVELS
    (CUBIC INCH DISPLACEMENT)                                                                         EXHAUST EMISSIONS        EVAPOR.
      CARLINES COVERED                                                           T                     (GRAMS/MILE)           EMISSIONS
                                                                     ENGINE      R  EQUIV                                       (GRAMS)
                                                                     DISP.&      A  TEST                                 OXIDES
                              VEHICLE CARLINE                        CARB        N  WEIGHT  AXLE   HYDRO-    CARBON      OF      HYDRO-
______________________________REPRESENTED_____EMISSION CONTROL SYSTEM_VENTURIS___S__(LBS)___RATIO__CARBONS__MONOXIDE__NITROGEN__CARBONS_

MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:
                                                        ENGINE FAMILY TEST VEHICLES

  G5-C / E80C (CONT.)
    C COLT WAGON          C CHALLENGER        EGR/PLS/OXD/   /   /CAN    156-2   M-5  3125   3.54     0.25      3.7       0.83       1.8 *
    C ARROW               C ARROW             EGR/PLS/OXD/   /   /CAN    156-2   M-5  2750   3.54     0.23      3.0       0.81       1.6 *

      (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY G5-C                  : 1.062     1.052     1.000       N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY E80C                  :  N/A       N/A       N/A       0.0  )

  G5-F / E80F
    (156)
      CHALLENGER            ARROW             EGR/PLS/OXD/   /   /CAN    156-2   A-3  2750   3.54     0.19      2.2       1.3        3.6 *
      SAPPORO               COLT WAGON        EGR/PLS/OXD/   /   /CAN    156-2   A-3  3125   3.54     0.15      4.6       0.86       2.9 *
      COLT WAGON            CHALLENGER        EGR/PLS/OXD/   /   /CAN    156-2   M-5  3125   3.54     0.12      2.9       1.2        2.4 *
      LANCER WAGON          ARROW             EGR/PLS/OXD/   /   /CAN    156-2   M-5  2750   3.54     0.23      1.6       1.7        3.6 *
      CELESTE
      ARROW

      (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY G5-F                  : 1.057     1.031     1.000       N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY E80F                  :  N/A       N/A       N/A       0.0  )

MITSUBISHI - EVAP-EMISSION FAMILIES:
                                                 EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  E80C
                          C CHAMP             EGR/PLS/OXD/   /   /CAN     86-2   M-4  2125   3.47     0.15      3.3       0.40       0.66
                          C CHAMP             EGR/PLS/OXD/   /   /CAN     86-2   M-4  2125   3.47     0.15      1.7       0.79       1.5
                          C CHAMP             EGR/PLS/OXD/   /   /CAN     98-2   A-3  2250   3.17     0.20      2.6       0.83       1.4
                          C ARROW             EGR/PLS/OXD/   /   /CAN     98-2   M-5  2500   3.91     0.11      2.4       0.64       0.78
                          C COLT WAGON        EGR/PLS/OXD/   /   /CAN    156-2   A-3  3125   3.54     0.20      4.0       0.79       1.5
                          C ARROW             EGR/PLS/OXD/   /   /CAN    156-2   A-3  2750   3.54     0.17      1.3       0.70       1.1
                          C ARROW             EGR/PLS/OXD/   /   /CAN    156-2   M-5  2750   3.54     0.23      3.0       0.81       1.6
                          C CHALLENGER        EGR/PLS/OXD/   /   /CAN    156-2   M-5  3125   3.54     0.25      3.7       0.83       1.8
  E80F
                            CHAMP             EGR/PLS/OXD/   /   /CAN     86-2   M-4  2125   3.47     0.23      2.5       1.4        3.0
                            CHAMP             EGR/PLS/OXD/   /   /CAN     86-2   M-4  2125   3.47     0.20      1.9       1.6        3.0
                            CHAMP             EGR/PLS/OXD/   /   /CAN     98-2   A-3  2250   3.17     0.13      2.2       1.0        2.2
                            ARROW             EGR/PLS/OXD/   /   /CAN     98-2   M-5  2500   3.91     0.16      2.3       1.4        1.2
                            COLT WAGON        EGR/PLS/OXD/   /   /CAN    156-2   A-3  3125   3.54     0.15      4.6       0.86       2.9
                            ARROW             EGR/PLS/OXD/   /   /CAN    156-2   A-3  2750   3.54     0.19      2.2       1.3        3.6
                            CHALLENGER        EGR/PLS/OXD/   /   /CAN    156-2   M-5  3125   3.54     0.12      2.9       1.2        2.4
                            ARROW             EGR/PLS/OXD/   /   /CAN    156-2   M-5  2750   3.54     0.23      1.6       1.7        3.6

NISSAN - FAMILY COMBINATIONS CERTIFIED:
                                                        ENGINE FAMILY TEST VEHICLES

  A12C / EVP-CARB-2A
    ( 75)
    C 210                 C 210               EGR/PMP/OXD/   /   /CAN     75-2   M-4  2250   3.89     0.21      2.5       0.69       N/A

      (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY A12C                  : 1.132     1.000     1.000       N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY EVP-CARB-2A           :  N/A       N/A       N/A       0.0  )

  A12F / EVP-CARB-2
    ( 75)
      210                   210               EGR/PLS/OXD/   /   /CAN     75-2   M-4  2250   3.89     0.26      2.8       1.5        N/A

      (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY A12F                  : 1.000     1.000     1.000       N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY EVP-CARB-2            :  N/A       N/A       N/A       0.0  )

  A14/15C / EVP-CARB-2A
    ( 85, 91)
    C 210                 C 310               EGR/PMP/OXD/   /   /CAN     85-2   M-4  2250   3.47     0.33      2.6       0.70       0.46 *
    C 210 WAGON           C 210               EGR/PMP/OXD/   /   /CAN     85-2   M-5  2375   3.70     0.35      3.2       0.64       N/A
    C 310                 C 310               EGR/PMP/OXD/   /   /CAN     85-2   M-5  2375   3.22     0.27      2.6       0.71       N/A
                          C 210               EGR/PMP/OXD/   /   /CAN     85-2   M-5  2375   3.70     0.32      5.7       0.60       N/A
                          C 210               EGR/PMP/OXD/   /   /CAN     91-2   A-3  2375   3.89     0.27      3.3       0.68       1.1 *
                          C 210 WAGON         EGR/PMP/OXD/   /   /CAN     91-2   A-3  2375   3.89     0.27      5.8       0.70       N/A

      (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY A14/15C               : 1.150     1.046     1.000       N/A )
      (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY A14/15C               : 1.124     1.000     1.037       N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY EVP-CARB-2A           :  N/A       N/A       N/A       0.0  )

  A14/15F / EVP-CARB-2
    ( 85, 91)
      210                   310               EGR/PLS/OXD/   /   /CAN     85-2   M-4  2250   3.47     0.30      2.9       1.3        1.3 *
      210 WAGON             210               EGR/PLS/OXD/   /   /CAN     85-2   M-5  2375   3.70     0.24      2.9       1.5        N/A
      310                   210 WAGON         EGR/PLS/OXD/   /   /CAN     85-2   M-5  2375   3.70     0.36      5.2       1.4        N/A
                            210               EGR/PLS/OXD/   /   /CAN     91-2   A-3  2375   3.89     0.22      3.6       1.4        1.4 *

                *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                       VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY VEHICLES

NISSAN - FAMILY COMBINATIONS CERTIFIED:

ENGINE FAMILY TEST VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
A14/15F / EVP-CARB-2 (CONT.)										
	210 WAGON	EGR/PLS/OXD/ / /CAN	91-2	A-3	2375	3.89	0.21	3.9	1.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY A14/15F				: 1.059	1.024	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-2				: N/A	N/A	N/A	0.0)
L24/28C / EVP-EFI-1A										
(146,168)										
C 810	C 810 WAGON	FI /3WY/CLS/ / /CAN	146-FI	A-3	3250	3.70	0.29	1.4	0.73	0.55 *
C 810 WAGON	C 810 WAGON	FI /3WY/CLS/ / /CAN	146-FI	M-4	3250	3.70	0.29	1.9	0.37	N/A
C 280ZX	C 280ZX 2+2	FI /3WY/CLS/ / /CAN	168-FI	A-3	3250	3.54	0.31	2.2	0.32	0.61 *
C 280ZX 2+2	C 280ZX	FI /3WY/CLS/ / /CAN	168-FI	M-5	3125	3.90	0.35	2.1	0.41	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /3WY/CLS/ / /	FAMILY L24/28C				: 1.234	1.000	1.079	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-1A				: N/A	N/A	N/A	0.0)
L24/28F / EVP-EFI-1										
(146,168)										
810	810 WAGON	FI /EGR/PLS/OXD/ /CAN	146-FI	A-3	3250	3.70	0.31	0.97	1.4	0.92 *
810 WAGON	810 WAGON	FI /EGR/PLS/OXD/ /CAN	146-FI	M-4	3250	3.70	0.25	1.2	1.2	N/A
280ZX	280ZX 2+2	FI /EGR/PLS/OXD/ /CAN	168-FI	A-3	3250	3.54	0.32	2.4	1.4	N/A
280ZX 2+2	280ZX 2+2	FI /EGR/PLS/OXD/ /CAN	168-FI	A-3	3250	3.54	0.28	2.1	1.2	0.88 *
	280ZX	FI /EGR/PLS/OXD/ /CAN	168-FI	M-5	3125	3.90	0.28	1.3	1.3	N/A
	280ZX	FI /EGR/PLS/OXD/ /CAN	168-FI	M-5	3125	3.90	0.37	1.9	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/PLS/OXD/ /	FAMILY L24/28F				: 1.147	1.271	1.000	N/A)
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/PLS/OXD/ /	FAMILY L24/28F				: 1.329	1.282	1.080	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-1				: N/A	N/A	N/A	0.094)
Z20EC / EVP-EFI-2A										
(119)										
C 200SX	C 200SX	FI /EGR/PLS/OXD/ /CAN	119-FI	A-3	2875	3.70	0.22	1.2	0.62	0.75 *
	C 200SX	FI /EGR/PLS/OXD/ /CAN	119-FI	M-5	2875	3.70	0.24	0.63	0.65	0.77 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/PLS/OXD/ /	FAMILY Z20EC				: 1.120	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-2A				: N/A	N/A	N/A	0.0)
Z20EF / EVP-EFI-2										
(119)										
200SX	200SX	FI /EGR/PLS/OXD/ /CAN	119-FI	A-3	2875	3.70	0.25	0.33	1.2	0.79 *
	200SX	FI /EGR/PLS/OXD/ /CAN	119-FI	M-5	2875	3.70	0.25	0.43	1.4	0.79 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/PLS/OXD/ /	FAMILY Z20EF				: 1.205	1.140	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-2				: N/A	N/A	N/A	0.0)
Z20SC / EVP-CARB-1A										
(119)										
C 510	C 510	EGR/PLS/OXD/ / /CAN	119-2	A-3	2625	3.36	0.22	1.4	0.61	N/A
C 510 WAGON	C 510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.28	3.4	0.65	N/A
	C 510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	M-4	2750	3.36	0.33	3.3	0.59	N/A
	C 510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.26	2.4	0.75	0.57 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY Z20SC				: 1.177	1.000	1.019	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1A				: N/A	N/A	N/A	0.0)
Z20SF / EVP-CARB-1										
(119)										
510	510	EGR/PLS/OXD/ / /CAN	119-2	A-3	2625	3.36	0.19	1.8	1.5	N/A
510 WAGON	510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.20	2.7	1.7	1.1 *
	510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	M-4	2750	3.36	0.25	2.2	1.3	N/A
	510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.24	3.0	1.4	2.0 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY Z20SF				: 1.189	1.371	1.009	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				: N/A	N/A	N/A	0.322)

NISSAN - EVAP-EMISSION FAMILIES:

EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
EVP-CARB-1										
	510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.20	2.7	1.7	1.1
	P/U CAB CHAS.	EGR/PLS/OXD/ / /CAN	119-2	M-4	3750	4.38	0.73	9.5	1.6	1.6
	510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.24	3.0	1.4	2.0
	P/U 2WD	EGR/PLS/OXD/ / /CAN	119-2	M-5	2875	3.89	0.98	12.	1.4	0.99
EVP-CARB-1A										
	C 510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.26	2.5	0.71	0.63
	C P/U CAB CHAS.	EGR/PMP/OXD/ / /CAN	119-2	M-4	3750	4.38	0.14	2.9	1.4	1.4
	C 510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.26	2.4	0.75	0.57
	C P/U 2WD	EGR/PMP/OXD/ / /CAN	119-2	M-5	2875	3.89	0.24	2.4	1.0	0.57

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                     1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                   ______CERTIFICATION LEVELS_____
  ENGINE FAMILY/EVAP-EMISS FAM                                                                   EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                 T                    (GRAMS/MILE)       EMISSIONS
      CARLINES COVERED                                              ENGINE    R  EQUIV                                 (GRAMS)
                                                                    DISP.&    A  TEST                          OXIDES
                        VEHICLE CARLINE                             CARB      N  WEIGHT AXLE    HYDRO-  CARBON    OF    HYDRO-
                          REPRESENTED       EMISSION CONTROL SYSTEM VENTURIS  S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN CARBONS
-------------------------------------------------------------------------------------------------------------------------
NISSAN - EVAP-EMISSION FAMILIES:
                                              EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  EVP-CARB-2
                         310           EGR/PLS/OXD/   /   /CAN    85-2   M-4  2250  3.47    0.30     2.9     1.3      1.3
                         210           EGR/PLS/OXD/   /   /CAN    91-2   A-3  2375  3.89    0.22     3.6     1.4      1.4
  EVP-CARB-2A
                       C 310           EGR/PMP/OXD/   /   /CAN    85-2   M-4  2250  3.47    0.33     2.6     0.70     0.46
                       C 210           EGR/PMP/OXD/   /   /CAN    91-2   A-3  2375  3.89    0.27     3.3     0.68     1.1
  EVP-EFI-1
                         810 WAGON     FI /EGR/PLS/OXD/   /CAN   146-FI  A-3  3250  3.70    0.31     0.97    1.4      0.92
                         280ZX 2+2     FI /EGR/PLS/OXD/   /CAN   168-FI  A-3  3250  3.54    0.28     2.1     1.2      0.88
  EVP-EFI-1A
                       C 810 WAGON     FI /3WY/CLS/   /   /CAN   146-FI  A-3  3250  3.70    0.29     1.4     0.73     0.55
                       C 280ZX 2+2     FI /3WY/CLS/   /   /CAN   168-FI  A-3  3250  3.54    0.31     2.2     0.32     0.61
  EVP-EFI-2
                         200SX         FI /EGR/PLS/OXD/   /CAN   119-FI  A-3  2875  3.70    0.25     0.33    1.2      0.79
                         200SX         FI /EGR/PLS/OXD/   /CAN   119-FI  M-5  2875  3.70    0.25     0.43    1.4      0.79
  EVP-EFI-2A
                       C 200SX         FI /EGR/PLS/OXD/   /CAN   119-FI  A-3  2875  3.70    0.22     1.2     0.62     0.75
                       C 200SX         FI /EGR/PLS/OXD/   /CAN   119-FI  M-5  2875  3.70    0.24     0.63    0.65     0.77

PEUGEOT - FAMILY COMBINATIONS CERTIFIED:
                                                     ENGINE FAMILY TEST VEHICLES

  XN6 / XN6
    (120)
      505              C 505           FI /PMP/OXD/3WY/CLS/CAN   120-FI  A-3  3375  3.88    0.19     2.8     0.34     1.6 *
    C 505              C 505           FI /PMP/OXD/3WY/CLS/CAN   120-FI  M-5  3375  4.11    0.19     3.5     0.39     0.88 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /PMP/OXD/3WY/CLS/     FAMILY XN6          : 1.069    1.000   1.616     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY XN6          :  N/A     N/A     N/A      0.0  )
  XN6
                       C 505           FI /PMP/OXD/3WY/CLS/CAN   120-FI  A-3  3375  3.88    0.19     2.8     0.34     1.6
                       C 505           FI /PMP/OXD/3WY/CLS/CAN   120-FI  M-5  3375  4.11    0.19     3.5     0.39     0.88

PORSCHE - FAMILY COMBINATIONS CERTIFIED:
                                                     ENGINE FAMILY TEST VEHICLES

  XI / E
    (121)
    C 924              C 924           FI /3WY/CLS/   /   /CAN   121-FI  M-5  3125  4.71    0.23     3.3     0.27     0.98 *
      924

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY XI           : 1.188    1.051   1.248     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY E            :  N/A     N/A     N/A      0.0  )
  XII / E
    (121)
      924              C 924           FI /3WY/CLS/   /   /CAN   121-FI  A-3  3000  3.72    0.30     6.0     0.63     N/A
                       C 924           FI /3WY/CLS/   /   /CAN   121-FI  M-5  3000  4.11    0.32     3.7     0.99     0.97 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY XII          : 1.337    1.173   1.334     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY E            :  N/A     N/A     N/A      0.0  )
  XIII / F
    (183)
      911              C 911           FI /3WY/CLS/   /   /CAN   183-FI  M-5  3000  3.88    0.33     1.5     0.63     2.0 *
    C 911

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY XIII         : 1.213    1.192   1.398     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY F            :  N/A     N/A     N/A      0.0  )
  XIV / G
    (273)
    C 928              C 928           FI /3WY/CLS/   /   /CAN   273-FI  A-3  3750  2.75    0.32     2.4     0.50     N/A
                       C 928           FI /3WY/CLS/   /   /CAN   273-FI  M-5  3625  2.75    0.30     2.5     0.65     1.2 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY XIV          : 1.168    1.073   1.079     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY G            :  N/A     N/A     N/A      0.0  )

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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V 45 AG 27 80 UMI

1980 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS			
							EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
PORSCHE - EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
E										
	C 924	FI /3WY/CLS/ / /CAN	121-FI	M-5	3125	4.71	0.23	3.3	0.27	0.98
	C 924	FI /3WY/CLS/ / /CAN	121-FI	M-5	3000	4.11	0.32	3.7	0.99	0.97
F										
	C 911	FI /3WY/CLS/ / /CAN	183-FI	M-5	3000	3.88	0.33	1.5	0.63	2.0
G										
	C 928	FI /3WY/CLS/ / /CAN	273-FI	M-5	3625	2.75	0.30	2.5	0.65	1.2
RENAULT - FAMILY COMBINATIONS CERTIFIED:										
ENGINE FAMILY TEST VEHICLES										
810RC / ECS3 (85) LE CAR	LE CAR	EGR/PMP/OXD/ / /CAN	85-2	M-4	2125	3.63	0.19	0.86	1.4	0.99 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 810RC				: 1.038	1.027	1.058	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY ECS3				: N/A	N/A	N/A	0.0)
810TWCR / ECS3-1 (85) C LE CAR	C LE CAR	EGR/3WY/CLS/ / /CAN	85-2	M-4	2125	3.63	0.24	5.6	0.36	1.1 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/3WY/CLS/ / /	FAMILY 810TWCR				: 1.291	1.176	1.164	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY ECS3-1				: N/A	N/A	N/A	0.0)
RENAULT - EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
ECS3										
	LE CAR	EGR/PMP/OXD/ / /CAN	85-2	M-4	2125	3.63	0.19	0.86	1.4	0.99
ECS3-1										
	C LE CAR	EGR/3WY/CLS/ / /CAN	85-2	M-4	2125	3.63	0.24	5.6	0.36	1.1
ROLLS-ROYCE - FAMILY COMBINATIONS CERTIFIED:										
ENGINE FAMILY TEST VEHICLES										
1 / 1 (412) ROLLS-ROYCE/BENT. CAMARGUE	C ROLLS-ROYCE/BENT.	EGR/PMP/OXD/ / /CAN	412-2	A-3	5500	3.08	0.26	3.1	1.7	2.4 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 1				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 1				: N/A	N/A	N/A	0.578)
2 / 2 (412) C ROLLS-ROYCE/BENT.	C ROLLS-ROYCE/BENT.	FI /EGR/3WY/CLS/ /CAN	412-FI	A-3	5250	3.08	0.45	4.9	0.69	1.3 *
C CAMARGUE	C CAMARGUE	FI /EGR/3WY/CLS/ /CAN	412-FI	A-3	5500	3.08	0.45	4.7	0.61	1.0 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/3WY/CLS/ /	FAMILY 2				: 1.405	1.585	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 2				: N/A	N/A	N/A	0.0)
ROLLS-ROYCE - EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
1										
	C CAMARGUE	EGR/PMP/OXD/ / /CAN	412-2	A-3	5500	3.08	0.37	3.3	0.94	2.5
	C ROLLS-ROYCE/BENT.	EGR/PMP/OXD/ / /CAN	412-2	A-3	5500	3.08	0.26	3.1	1.7	2.4
2										
	C CAMARGUE	FI /EGR/3WY/CLS/ /CAN	412-FI	A-3	5500	3.08	0.45	4.7	0.61	1.0
	C ROLLS-ROYCE/BENT.	FI /EGR/3WY/CLS/ /CAN	412-FI	A-3	5250	3.08	0.45	4.9	0.69	1.3
SAAB - FAMILY COMBINATIONS CERTIFIED:										
ENGINE FAMILY TEST VEHICLES										
BI20CA / 900-1 (121) C 900	C 900	FI /3WY/CLS/ / /CAN	121-FI	A-3	3250	3.89	0.17	4.2	0.47	2.1 *
C 99	C 99	FI /3WY/CLS/ / /CAN	121-FI	M-4	2875	3.89	0.18	3.7	0.47	1.4 *
900	C 900	FI /3WY/CLS/ / /CAN	121-FI	M-4	3250	3.89	0.15	4.2	0.20	1.5 *
99	C 900	FI /3WY/CLS/ / /CAN	121-FI	M-5	3000	3.89	0.15	4.0	0.53	1.0 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                              1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                      CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                  EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                          T                          (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                       ENGINE    R   EQUIV                                        (GRAMS)
                                                             DISP.&    A   TEST                                OXIDES
                         VEHICLE CARLINE                     CARB      N   WEIGHT  AXLE    HYDRO-    CARBON      OF      HYDRO-
                           REPRESENTED   EMISSION CONTROL SYSTEM  VENTURIS  S   (LBS)  RATIO   CARBONS  MONOXIDE  NITROGEN  CARBONS

SAAB - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  BI20CA / 900-1 (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY BI20CA              : 1.355    1.711    1.281     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 900-1               :  N/A      N/A      N/A    0.005)

  BSI20CA / 900-1
    (121)
    C 900                C 900          FI /3WY/CLS/   /   /CAN   121-FI  A-3  3250  3.89    0.27      3.1      0.17      1.7 *
      900                C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-5  3125  3.89    0.22      3.9      0.37      1.4 *
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-5  3250  3.89    0.21      3.1      0.40      1.5 *

       (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /     FAMILY BSI20CA             : 1.323    1.158    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 900-1               :  N/A      N/A      N/A    0.005)

SAAB - EVAP-EMISSION FAMILIES:
                                            EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  900-1
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  A-3  3250  3.89    0.27      3.1      0.17      1.7
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  A-3  3250  3.89    0.17      4.2      0.47      2.1
                         C 99           FI /3WY/CLS/   /   /CAN   121-FI  M-4  2875  3.89    0.18      3.7      0.47      1.4
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-4  3250  3.89    0.15      4.2      0.20      1.5
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-5  3125  3.89    0.22      3.9      0.37      1.4
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-5  3000  3.89    0.15      4.0      0.53      1.0
                         C 900          FI /3WY/CLS/   /   /CAN   121-FI  M-5  3250  3.89    0.21      3.1      0.40      1.5

TOYO KOGYO - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  0MAP / 0SCD
    (120)
      626                C 626          EGR/PMP/3WY/   /   /CAN   120-2   A-3  2875  3.64    0.30      4.6      0.72      1.6 *
    C 626                C 626          EGR/PMP/3WY/   /   /CAN   120-2   M-5  2875  3.64    0.30      2.3      0.68      1.6 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/   /   /     FAMILY 0MAP                : 1.172    1.274    1.014     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCD                :  N/A      N/A      N/A    0.100)

  0REP / 0SRE
    ( 70)
      RX-7               C RX-7         THM/PMP/   /   /   /CAN    70-4   A-3  2750  3.91    0.21      2.5      1.4       N/A
    C RX-7               C RX-7         THM/EGR/PMP/   /   /CAN    70-4   A-3  2750  3.91    0.24      4.2      0.56      1.2 *
                         C RX-7         THM/EGR/PMP/   /   /CAN    70-4   M-4  2750  3.91    0.21      5.7      0.72      N/A
                         C RX-7         THM/PMP/   /   /   /CAN    70-4   M-5  2750  3.91    0.20      4.3      1.2       1.2 *

       (EXHAUST DETERIORATION FACTORS FOR - THM/PMP/   /   /   /     FAMILY 0REP                : 1.000    1.000    1.000     N/A )
       (EXHAUST DETERIORATION FACTORS FOR - THM/EGR/PMP/   /   /     FAMILY 0REP                : 1.000    1.000    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SRE                :  N/A      N/A      N/A    0.040)

  0UCP / 0SCAC
    ( 86)
      GLC                C GLC WAGON    EGR/PLS/3WY/   /   /CAN    86-2   A-3  2500  3.91    0.24      4.1      0.94      N/A
      GLC WAGON          C GLC WAGON    EGR/PMP/3WY/   /   /CAN    86-2   A-3  2500  3.91    0.29      4.0      0.78      1.1 *
                         C GLC          EGR/PLS/3WY/   /   /CAN    86-2   M-5  2250  3.73    0.24      3.8      0.57      N/A

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/3WY/   /   /     FAMILY 0UCP                : 1.223    1.277    1.017     N/A )
       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/   /   /     FAMILY 0UCP                : 1.146    1.240    1.028     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCAC               :  N/A      N/A      N/A    0.100)

  0UCP / 0SCAF
    ( 86)
      GLC                  GLC WAGON    EGR/PLS/3WY/   /   /CAN    86-2   A-3  2500  3.91    0.24      4.1      0.94      1.3 *
    C GLC                  GLC WAGON    EGR/PMP/3WY/   /   /CAN    86-2   A-3  2500  3.91    0.29      4.0      0.78      N/A
      GLC WAGON            GLC          EGR/PLS/3WY/   /   /CAN    86-2   M-5  2250  3.73    0.24      3.8      0.57      0.94 *
    C GLC WAGON

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/3WY/   /   /     FAMILY 0UCP                : 1.223    1.277    1.017     N/A )
       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/3WY/   /   /     FAMILY 0UCP                : 1.146    1.240    1.028     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCAF               :  N/A      N/A      N/A    0.150)

TOYO KOGYO - EVAP-EMISSION FAMILIES:
                                            EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  0SCAC
                         C GLC WAGON    EGR/PMP/3WY/   /   /CAN    86-2   A-3  2500  3.91    0.29      4.0      0.78      1.1

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                         1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                              ______CERTIFICATION LEVELS______
  ENGINE FAMILY/EVAP-EMISS FAM                                                               EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                             T                   (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                         ENGINE     R  EQUIV                                  (GRAMS)
                                                               DISP.&     A  TEST                           OXIDES
                           VEHICLE CARLINE                     CARB       N  WEIGHT AXLE    HYDRO-   CARBON      OF    HYDRO-
                             REPRESENTED   EMISSION CONTROL SYSTEM VENTURIS S  (LBS)  RATIO   CARBONS  MONOXIDE NITROGEN CARBONS

TOYO KOGYO - EVAP-EMISSION FAMILIES:
                                       EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  0SCAF
                            GLC WAGON       EGR/PLS/3WY/   /   /CAN    86-2  A-3  2500  3.91   0.24     4.1     0.94    1.3
                            GLC             EGR/PLS/3WY/   /   /CAN    86-2  M-5  2250  3.73   0.24     3.8     0.57    0.94

  0SCD
                          C 626             EGR/PMP/3WY/   /   /CAN   120-2  A-3  2875  3.64   0.30     4.6     0.72    1.6
                          C 626             EGR/PMP/3WY/   /   /CAN   120-2  M-5  2875  3.64   0.30     2.3     0.68    1.6

  0SRE
                          C RX-7            THM/EGR/PMP/   /   /CAN    70-4  A-3  2750  3.91   0.24     4.2     0.56    1.2
                          C RX-7            THM/PMP/   /   /   /CAN    70-4  M-5  2750  3.91   0.20     4.3     1.2     1.2

TOYOTA - FAMILY COMBINATIONS CERTIFIED:
                                              ENGINE FAMILY TEST VEHICLES

  1A / FV-A
    ( 89)
      COROLLA TERCEL        COROLLA TERCEL  EGR/PLS/OXD/   /   /CAN    89-2  A-3  2250  3.73   0.22     2.3     1.3     1.1 *
                            COROLLA TERCEL  EGR/PLS/OXD/   /   /CAN    89-2  M-4  2125  3.42   0.22     0.96    1.5     N/A
                            COROLLA TERCEL  EGR/PLS/OXD/   /   /CAN    89-2  M-5  2250  3.73   0.29     2.2     1.4     1.0 *

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 1A            : 1.204    1.438   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-A          :  N/A     N/A     N/A     0.028)

  1A(C) / EV-A
    ( 89)
    C COROLLA TERCEL      C COROLLA TERCEL  EGR/PLS/OXD/   /   /CAN    89-2  M-4  2125  3.42   0.22     1.4     0.66    1.3 *
                          C COROLLA TERCEL  EGR/PLS/OXD/   /   /CAN    89-2  M-5  2250  3.73   0.23     2.3     0.73    N/A

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 1A(C)         : 1.204    1.438   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-A          :  N/A     N/A     N/A     0.028)

  20R / EV-RF
    (134)
      CORONA                CELICA          EGR/PMP/OXD/   /   /CAN   134-2  A-3  3000  3.73   0.17     4.1     1.2     N/A
      CORONA WAGON          CORONA          EGR/PMP/OXD/   /   /CAN   134-2  M-4  2875  3.58   0.37     1.3     1.2     2.4 *
      CELICA                CELICA          EGR/PMP/OXD/   /   /CAN   134-2  M-5  3000  3.58   0.14     1.7     1.5     2.7 *
                            CORONA WAGON    EGR/PMP/OXD/   /   /CAN   134-2  M-5  3000  3.58   0.19     4.1     1.1     2.6 *

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 20R           : 1.004    1.160   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-RF         :  N/A     N/A     N/A     0.0  )

  20R(C) / EV-RC
    (134)
    C CORONA              C CORONA WAGON    EGR/PMP/OXD/   /   /CAN   134-2  A-3  3000  3.73   0.20     5.5     0.75    1.6 *
    C CORONA WAGON        C CORONA          EGR/PMP/OXD/   /   /CAN   134-2  M-5  3000  3.58   0.19     3.0     0.72    1.4 *
    C CELICA              C CELICA          EGR/PMP/OXD/   /.  /CAN   134-2  M-5  3000  3.58   0.11     2.3     0.71    N/A

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 20R(C)        : 1.004    1.160   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-RC         :  N/A     N/A     N/A     0.0  )

  3T(C) / EV-TC
    (108)
    C COROLLA             C COROLLA         EGR/PMP/OXD/   /   /CAN   108-2  A-3  2500  3.91   0.27     4.7     0.61    N/A
    C COROLLA WAGON       C COROLLA WAGON   EGR/PMP/OXD/   /   /CAN   108-2  A-3  2625  3.91   0.21     3.5     0.62    1.8 *
                          C COROLLA         EGR/PMP/OXD/   /   /CAN   108-2  M-4  2500  3.73   0.18     2.0     0.58    0.93 *
                          C COROLLA         EGR/PMP/OXD/   /   /CAN   108-2  M-5  2500  3.73   0.29     3.2     0.60    N/A

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 3T(C)         : 1.291    1.074   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-TC         :  N/A     N/A     N/A     0.0  )

  3T(F) / EV-TF
    (108)
      COROLLA               COROLLA         EGR/PLS/OXD/   /   /CAN   108-2  A-3  2500  3.91   0.23     2.1     1.2     N/A
      COROLLA WAGON         COROLLA WAGON   EGR/PLS/OXD/   /   /CAN   108-2  A-3  2625  3.91   0.24     2.4     1.3     3.2 *
                            COROLLA         EGR/PLS/OXD/   /   /CAN   108-2  M-4  2500  3.58   0.28     2.4     1.2     N/A
                            COROLLA         EGR/PLS/OXD/   /   /CAN   108-2  M-5  2500  3.73   0.21     2.6     1.2     2.6 *

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 3T(F)         : 1.096    1.000   1.000    N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-TF         :  N/A     N/A     N/A     0.0  )

  4M-E / EV-ME
    (156)
    C CELICA SUPRA        C CRESSIDA WAGON  FI /EGR/3WY/CLS/   /CAN   156-FI A-4  3250  3.91   0.18     3.2     0.34    1.5 *
    C CRESSIDA            C CRESSIDA        FI /EGR/3WY/CLS/   /CAN   156-FI A-4  3125  3.91   0.20     2.4     0.31    1.5 *
    C CRESSIDA WAGON
      CELICA SUPRA

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                             1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                     _______CERTIFICATION LEVELS_______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                    EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                  T                    (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                              ENGINE     R  EQUIV                                    (GRAMS)
                                                                    DISP.&     A  TEST                            OXIDES
                        VEHICLE CARLINE                             CARB       N  WEIGHT AXLE    HYDRO-   CARBON     OF      HYDRO-
________________________REPRESENTED_____EMISSION_CONTROL_SYSTEM___VENTURIS__S__(LBS)__RATIO__CARBONS_MONOXIDE_NITROGEN__CARBONS

TOYOTA - FAMILY COMBINATIONS CERTIFIED:
                                                   ENGINE FAMILY TEST VEHICLES

  4M-E / EV-ME (CONT.)
      CRESSIDA
      CRESSIDA WAGON

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/3WY/CLS/   /      FAMILY 4M-E             : 1.256    2.134    1.068     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY EV-ME             :  N/A      N/A      N/A    0.166)

TOYOTA - EVAP-EMISSION FAMILIES:
                                            EVAPORATIVE-EMISSION FAMILY TEST VEHICLES
  EV-A
                          COROLLA TERCEL    EGR/PLS/OXD/   /   /CAN    89-2   A-3  2250  3.73    0.22     2.3      1.3      1.1
                        C COROLLA TERCEL    EGR/PLS/OXD/   /   /CAN    89-2   M-4  2125  3.42    0.22     1.4      0.66     1.3
                          COROLLA TERCEL    EGR/PLS/OXD/   /   /CAN    89-2   M-5  2250  3.73    0.29     2.2      1.4      1.0
  EV-ME
                        C CRESSIDA          FI /EGR/3WY/CLS/   /CAN   156-FI  A-4  3125  3.91    0.20     2.4      0.31     1.5
                        C CRESSIDA WAGON    FI /EGR/3WY/CLS/   /CAN   156-FI  A-4  3250  3.91    0.18     3.2      0.34     1.5
                        C CELICA SUPRA      FI /EGR/3WY/CLS/   /CAN   156-FI  M-5  3125  3.91    0.19     3.2      0.32     0.97
  EV-RC
                        C CORONA WAGON      EGR/PMP/OXD/   /   /CAN   134-2   A-3  3000  3.73    0.20     5.5      0.75     1.6
                        C CORONA            EGR/PMP/OXD/   /   /CAN   134-2   M-5  3000  3.58    0.19     3.0      0.72     1.4
  EV-RF
                          CORONA            EGR/PMP/OXD/   /   /CAN   134-2   M-4  2875  3.58    0.37     1.3      1.2      2.4
                          CELICA            EGR/PMP/OXD/   /   /CAN   134-2   M-5  3000  3.58    0.14     1.7      1.5      2.7
                          CORONA WAGON      EGR/PMP/OXD/   /   /CAN   134-2   M-5  3000  3.58    0.19     4.1      1.1      2.6
  EV-TC
                        C COROLLA WAGON     EGR/PMP/OXD/   /   /CAN   108-2   A-3  2625  3.91    0.21     3.5      0.62     1.8
                        C COROLLA           EGR/PMP/OXD/   /   /CAN   108-2   M-4  2500  3.73    0.18     2.0      0.58     0.93
  EV-TF
                          COROLLA WAGON     EGR/PLS/OXD/   /   /CAN   108-2   A-3  2625  3.91    0.24     2.4      1.3      3.2
                          COROLLA           EGR/PLS/OXD/   /   /CAN   108-2   M-5  2500  3.73    0.21     2.6      1.2      2.6

VOLKSWAGEN - FAMILY COMBINATIONS CERTIFIED:
                                                   ENGINE FAMILY TEST VEHICLES
  DASHER CL / DASHER
    ( 97)
    C DASHER            C DASHER            FI /3WY/CLS/   /   /CAN    97-FI  A-3  2625  3.91    0.12     1.1      0.30     N/A )
    C DASHER WAGON      C DASHER            FI /3WY/CLS/   /   /CAN    97-FI  M-4  2625  4.11    0.22     1.6      0.11     1.3 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /      FAMILY DASHER CL         : 1.000    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY DASHER            :  N/A      N/A      N/A    0.159)
  DASHER F / DASHER
    ( 97)
      DASHER              DASHER            FI /EGR/OXD/   /   /CAN    97-FI  A-3  2625  3.91    0.15     1.7      1.7      N/A
      DASHER WAGON        DASHER            FI /EGR/OXD/   /   /CAN    97-FI  M-4  2625  4.11    0.32     2.5      1.7      1.5 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/OXD/   /   /      FAMILY DASHER F          : 1.000    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY DASHER            :  N/A      N/A      N/A    0.159)
  37 CL / 37
    ( 97)
      RABBIT            C SCIROCCO          FI /3WY/CLS/   /   /CAN    97-FI  A-3  2375  3.76    0.10     0.81     1.0      0.97 *
      SCIROCCO          C RABBIT            FI /3WY/CLS/   /   /CAN    97-FI  M-4  2375  3.90    0.14     1.3      0.52     N/A
                        C RABBIT            FI /3WY/CLS/   /   /CAN    97-FI  M-4  2375  3.90    0.12     0.96     0.54     0.79 *
                        C RABBIT            FI /3WY/CLS/   /   /CAN    97-FI  M-5  2375  3.90    0.13     1.2      0.52     N/A
                        C RABBIT            FI /3WY/CLS/   /   /CAN    97-FI  M-5  2375  3.90    0.12     0.96     0.44     N/A

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/   /   /      FAMILY 37 CL             : 1.000    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 37                :  N/A      N/A      N/A    0.159)
  37 F / 37
    ( 97)
      RABBIT              SCIROCCO          FI /EGR/OXD/   /   /CAN    97-FI  A-3  2375  3.76    0.16     2.5      1.1      1.0 *
      SCIROCCO            RABBIT            FI /EGR/OXD/   /   /CAN    97-FI  M-4  2375  3.90    0.16     1.4      1.6      N/A
                          RABBIT            FI /EGR/OXD/   /   /CAN    97-FI  M-4  2375  3.90    0.13     1.1      1.6      0.99 *
                          RABBIT            FI /EGR/OXD/   /   /CAN    97-FI  M-5  2375  3.90    0.15     1.7      1.5      N/A
                          RABBIT            FI /EGR/OXD/   /   /CAN    97-FI  M-5  2375  3.90    0.15     1.4      1.4      N/A

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/OXD/   /   /      FAMILY 37 F              : 1.000    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 37                :  N/A      N/A      N/A    0.159)

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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V 45 AG 27 80 UMI

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                                         1980 MODEL YEAR LIGHT-DUTY VEHICLES
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MANUFACTURER                                                                                  ________CERTIFICATION LEVELS________
  ENGINE FAMILY/EVAP-EMISS FAM                                                                  EXHAUST EMISSIONS          EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                       T            (GRAMS/MILE)            EMISSIONS
      CARLINES COVERED                                                   ENGINE     R  EQUIV  ______________________________ _(GRAMS)_
                                                                         DISP.&     A  TEST                         OXIDES
                           VEHICLE CARLINE                               CARB       N  WEIGHT AXLE   HYDRO-   CARBON     OF     HYDRO-
__________________________REPRESENTED______EMISSION CONTROL SYSTEM__VENTURIS__S__(LBS)__RATIO__CARBONS_MONOXIDE_NITROGEN__CARBONS_

VOLKSWAGEN - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  47 / 0
    ( 89)
      RABBIT               RABBIT            EGR/PLS/OXD/    /    /CAN    89-1   M-4  2250  3.90    0.26      2.6      0.76       3.5 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/    /    /       FAMILY 47             : 1.000     1.000    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -   /    /    /   /    /CAN    FAMILY 0              :  N/A       N/A      N/A       0.0  )

VOLKSWAGEN - EVAP-EMISSION FAMILIES:
                                             EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  DASHER
                             DASHER          FI /EGR/OXD/    /    /CAN    97-FI  M-4  2625  4.11    0.32      2.5      1.7        1.5
                           C DASHER          FI /3WY/CLS/    /    /CAN    97-FI  M-4  2625  4.11    0.22      1.6      0.11       1.3

  0
                             RABBIT          EGR/PLS/OXD/    /    /CAN    89-1   M-4  2250  3.90    0.26      2.6      0.76       3.5

  37
                           C SCIROCCO        FI /3WY/CLS/    /    /CAN    97-FI  A-3  2375  3.76    0.10      0.81     1.0        0.97
                             SCIROCCO        FI /EGR/OXD/    /    /CAN    97-FI  A-3  2375  3.76    0.16      2.5      1.1        1.0
                             RABBIT          FI /EGR/OXD/    /    /CAN    97-FI  M-4  2375  3.90    0.13      1.1      1.6        0.99
                           C RABBIT          FI /3WY/CLS/    /    /CAN    97-FI  M-4  2375  3.90    0.12      0.96     0.54       0.79

VOLVO - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  4C / E2
    (130)
    C VOLVO SEDAN          VOLVO STAT WGN    FI /3WY/CLS/    /    /CAN   130-FI  A-3  3500  3.73    0.22      3.7      0.11       N/A
      VOLVO SEDAN          VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   130-FI  A-3  3375  3.73    0.15      3.1      0.64       N/A
    C VOLVO STAT WGN       VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   130-FI  M-4  3250  3.91    0.29      3.8      0.45E-01   1.1 *
      VOLVO STAT WGN       VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   130-FI  M-4  3375  3.91    0.19      3.9      0.23       N/A

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/    /    /       FAMILY 4C             : 1.000     1.114    1.136      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -   /    /    /   /    /CAN    FAMILY E2             :  N/A       N/A      N/A       0.0  )

  6C / E2
    (174)
    C VOLVO SEDAN          VOLVO STAT WGN    FI /3WY/CLS/    /    /CAN   174-FI  A-3  3500  3.54    0.26      3.2      0.27       N/A
      VOLVO SEDAN          VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   174-FI  A-3  3375  3.54    0.33      6.4      0.90E-01   N/A
    C VOLVO STAT WGN       VOLVO STAT WGN    FI /3WY/CLS/    /    /CAN   174-FI  M-4  3625  3.73    0.15      2.8      0.22     , N/A
      VOLVO STAT WGN

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/    /    /       FAMILY 6C             : 1.000     1.069    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -   /    /    /   /    /CAN    FAMILY E2             :  N/A       N/A      N/A       0.0  )

  6F / E2
    (174)
      VOLVO SEDAN        C VOLVO STAT WGN    FI /3WY/CLS/    /    /CAN   174-FI  A-3  3500  3.54    0.26      1.9      0.32       N/A
      VOLVO STAT WGN     C VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   174-FI  A-3  3375  3.54    0.19      1.7      0.39       0.95 *
                         C VOLVO STAT WGN    FI /3WY/CLS/    /    /CAN   174-FI  M-4  3625  3.73    0.15      1.6      0.26       N/A

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/    /    /       FAMILY 6F             : 1.000     1.095    1.183      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -   /    /    /   /    /CAN    FAMILY E2             :  N/A       N/A      N/A       0.0  )

VOLVO - EVAP-EMISSION FAMILIES:
                                             EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  E2
                         C VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   130-FI  M-4  3250  3.91    0.29      3.8      0.45E-01   1.1
                         C VOLVO SEDAN       FI /3WY/CLS/    /    /CAN   174-FI  A-3  3375  3.54    0.19      1.7      0.39       0.95

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                          1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                         _____CERTIFICATION LEVELS_____
  ENGINE FAMILY/EVAP-EMISS FAM                                                                         EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                          T                 (GRAMS/MILE)         EMISSIONS
      CARLINES COVERED                                                       ENGINE    R  EQUIV                                (GRAMS)
                                                                             DISP.&    A  TEST                       OXIDES
                         VEHICLE CARLINE                                     CARB      N  WEIGHT AXLE   HYDRO-   CARBON    OF      HYDRO-
                           REPRESENTED       EMISSION CONTROL SYSTEM         VENTURIS  S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN  CARBONS

AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                      ENGINE FAMILY TEST VEHICLES

  BT-6C1 / E-3A-T
    (151)
    C JEEP CJ-5/7 4WD    C DJ5 P.O. VEH. 2WD  EGR/3WY/CLS/   /   /CAN   151-2   A-3  2500  3.31    0.21     2.2      1.2      1.2 *
    C DJ5 P.O. VEH. 2WD  C JEEP CJ-5/7 4WD    EGR/3WY/CLS/   /   /CAN   151-2   M-4  3000  3.54    0.21     2.9      1.3      1.2 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/3WY/CLS/  /  /     FAMILY BT-6C1            : 1.160    1.174    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-3A-T            :  N/A      N/A      N/A     0.130)

  BT-9A1 / E-3-T
    (151)
      JEEP CJ-5/7 4WD      JEEP CJ-5/7 4WD    EGR/OXD/   /   /   /CAN   151-2   M-4  3000  3.54    0.52     8.1      1.5      0.92 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/OXD/   /  /  /     FAMILY BT-9A1            : 1.234    1.441    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-3-T             :  N/A      N/A      N/A     0.0  )

  CT-3A1 / E-2-T
    (258)
      EAGLE 4WD            JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   258-2   A-3  3375  3.07    0.66     16.      1.4      N/A
      DJ5 P.O. VEH. 2WD    EAGLE 4WD          EGR/PMP/OXD/   /   /CAN   258-2   A-3  3750  3.08    0.48     11.      2.0      3.8 *
      JEEP CJ-5/7 4WD      DJ5 P.O. VEH. 2WD  EGR/PMP/OXD/   /   /CAN   258-2   A-3  3000  3.07    0.71     14.      1.4      1.3 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY CT-3A1            : 1.385    1.418    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-2-T             :  N/A      N/A      N/A     0.0  )

  CT-3H1 / E-2-T
    (258)
      JEEP CJ-5/7 4WD      J10 P/U 4WD          EGR/PMP/OXD/   /   /CAN   258-2   A-3  4500  3.31    0.56     6.5      1.9      N/A
      EAGLE 4WD            EAGLE 4WD            EGR/PMP/OXD/   /   /CAN   258-2   M-4  3875  3.08    1.1      15.      1.1      3.5 *
                           CHROKEE/WGNEER 4WD   EGR/PMP/OXD/   /   /CAN   258-2   M-4  4250  3.31    0.72     9.4      1.7      N/A
                           JEEP CJ-5/7 4WD      EGR/PMP/OXD/   /   /CAN   258-2   M-4  3250  3.54    0.87     6.6      2.0      1.8 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY CT-3H1            : 1.302    1.039    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-2-T             :  N/A      N/A      N/A     0.0  )

  CT-3H1 / E-2B-T
    (258)
      CHROKEE/WGNEER 4WD   J10 P/U 4WD          EGR/PMP/OXD/   /   /CAN   258-2   A-3  4500  3.31    0.56     6.5      1.9      3.6 *
      J10 P/U 4WD          JEEP CJ-5/7 4WD      EGR/PMP/OXD/   /   /CAN   258-2   M-4  3250  3.54    0.87     6.6      2.0      N/A
                           CHROKEE/WGNEER 4WD   EGR/PMP/OXD/   /   /CAN   258-2   M-4  4250  3.31    0.72     9.4      1.7      2.7 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY CT-3H1            : 1.302    1.039    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-2B-T            :  N/A      N/A      N/A     0.020)

  CT-4W1 / E-2A-T
    (258)
    C JEEP CJ-5/7 4WD    C EAGLE 4WD          EGR/PMP/OXD/   /   /CAN   258-2   A-3  3750  3.08    0.28     4.2      1.8      2.0 *
    C EAGLE 4WD          C JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   258-2   A-3  3375  3.07    0.44     8.0      1.2      1.3 *
                         C JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   258-2   M-4  3250  3.54    0.40     4.8      1.7      1.3 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY CT-4W1            : 1.012    1.083    1.200     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-2A-T            :  N/A      N/A      N/A     0.0  )

  HT-3A1 / E-4-T
    (304)
      JEEP CJ-5/7 4WD      JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   304-2   A-3  3500  3.54    1.3      9.9      1.6      N/A
                           JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   304-2   M-4  3375  3.07    1.3      7.8      1.9      N/A
                           JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   304-2   M-4  3375  3.54    1.2      7.4      1.5      N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY HT-3A1            : 1.376    1.068    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-4-T             :  N/A      N/A      N/A     0.0  )

  HT-3V1 / E-4-T
    (304)
      JEEP CJ-5/7 4WD    C JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   304-2   A-3  3500  3.54    0.38     3.9      1.2      1.8 *
                         C JEEP CJ-5/7 4WD    EGR/PMP/OXD/   /   /CAN   304-2   M-4  3375  3.54    0.28     2.8      1.9      1.2 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY HT-3V1            : 1.000    1.000    1.310     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /  /CAN  FAMILY E-4-T             :  N/A      N/A      N/A     0.0  )

  NT-3A1 / E-5-T
    (360)
      CHROKEE/WGNEER 4WD   CHROKEE/WGNEER 4WD EGR/PMP/OXD/   /   /CAN   360-2   A-3  4500  2.73    0.72     15.      1.4      3.5 *
      J10 P/U 4WD          J20 P/U 4WD        EGR/PMP/OXD/   /   /CAN   360-2   A-3  4750  3.73    0.56     11.      1.7      N/A
      J20 P/U 4WD          CHROKEE/WGNEER 4WD EGR/PMP/OXD/   /   /CAN   360-2   A-3  4500  3.31    0.56     9.9      2.0      N/A
                           J20 P/U 4WD        EGR/PMP/OXD/   /   /CAN   360-2   M-4  4750  3.73    1.1      13.      1.8      N/A
                           CHROKEE/WGNEER 4WD EGR/PMP/OXD/   /   /CAN   360-2   M-4  4500  3.31    0.59     6.7      2.1      N/A

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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V 45 AG 27 80 UMI

1980 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTER	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
NT-3A1 / E-5-T (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY NT-3A1				: 1.000	1.000	1.033	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5-T				: N/A	N/A	N/A	0.0)
NT-3A1 / E-5A-T										
(360)										
C CHROKEE/WGNEER 4WD	C CHROKEE/WGNEER 4WD	EGR/PMP/OXD/ / /CAN	360-2	A-3	4500	2.73	0.72	15.	1.4	N/A
C J10 P/U 4WD	C J20 P/U 4WD	EGR/PMP/OXD/ / /CAN	360-2	M-4	4750	3.73	1.1	13.	1.8	N/A
C J20 P/U 4WD	C CHROKEE/WGNEER 4WD	EGR/PMP/OXD/ / /CAN	360-2	M-4	4500	3.31	0.59	6.7	2.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY NT-3A1				: 1.000	1.000	1.033	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5A-T				: N/A	N/A	N/A	0.0)
AMERICAN MOTORS - EVAP-EMISSION FAMILIES:										
		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
E-2-T										
	DJ5 P.O. VEH. 2WD	EGR/PMP/OXD/ / /CAN	258-2	A-3	3000	3.07	0.71	14.	1.4	1.3
	EAGLE 4WD	EGR/PMP/OXD/ / /CAN	258-2	A-3	3750	3.08	0.48	11.	2.0	3.8
	EAGLE 4WD	EGR/PMP/OXD/ / /CAN	258-2	M-4	3875	3.08	1.1	15.	1.1	3.5
	JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	258-2	M-4	3250	3.54	0.87	6.6	2.0	1.8
E-2A-T										
	C EAGLE 4WD	EGR/PMP/OXD/ / /CAN	258-2	A-3	3750	3.08	0.28	4.2	1.8	2.0
	C JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	258-2	A-3	3375	3.07	0.44	8.0	1.2	1.3
	C JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	258-2	M-4	3250	3.54	0.40	4.8	1.7	1.3
E-2B-T										
	J10 P/U 4WD	EGR/PMP/OXD/ / /CAN	258-2	A-3	4500	3.31	0.56	6.5	1.9	3.6
	CHROKEE/WGNEER 4WD	EGR/PMP/OXD/ / /CAN	258-2	M-4	4250	3.31	0.72	9.4	1.7	2.7
E-3-T										
	JEEP CJ-5/7 4WD	EGR/OXD/ / / /CAN	151-2	M-4	3000	3.54	0.52	8.1	1.5	0.92
E-3A-T										
	C DJ5 P.O. VEH. 2WD	EGR/3WY/CLS/ / /CAN	151-2	A-3	2500	3.31	0.21	2.2	1.2	1.2
	C JEEP CJ-5/7 4WD	EGR/3WY/CLS/ / /CAN	151-2	M-4	3000	3.54	0.21	2.9	1.3	1.2
E-4-T										
	C JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	304-2	A-3	3500	3.54	0.38	3.9	1.2	1.8
	C JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	304-2	M-4	3375	3.54	0.28	2.8	1.9	1.2
	JEEP CJ-5/7 4WD	EGR/PMP/OXD/ / /CAN	304-2	M-4	3500	3.54	1.0	5.2	1.7	2.2
E-5-T										
	CHROKEE/WGNEER 4WD	EGR/PMP/OXD/ / /CAN	360-2	A-3	4500	2.73	0.72	15.	1.4	3.5
E-5A-T										
	C J20 P/U 4WD	EGR/PMP/OXD/ / /CAN	360-2	A-3	4750	3.73	0.57	9.1	1.8	1.3
	C CHROKEE/WGNEER 4WD	EGR/PMP/OXD/ / /CAN	360-2	A-3	4500	3.31	0.56	9.9	2.0	2.0
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
0TA-225-1-BCP / 0K-1/1										
(225)										
AD100 RAMCHRGR 2WD	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	225-1	L-3	3750	3.21	0.68	10.	1.5	3.7 *
PD100 TRLDSTR 2WD	AD100 RAMCHRGR 2WD	EGR/PMP/OXD/ / /CAN	225-1	L-3	4000	3.55	0.76	12.	2.0	4.6 *
B100/200 SPTMN 2WD										
B100/B200 VAN 2WD										
PB100/200 VYGR 2WD										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 0TA-225-1-BCP				: 1.241	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 0K-1/1				: N/A	N/A	N/A	1.007)
0TA-225-1-BCP / 0K-4/1										
(225)										
D150 P/U 2WD	D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-3	3875	3.21	1.2	14.	1.6	5.5 *
D200 P/U 2WD										
W150 P/U 4WD										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 0TA-225-1-BCP				: 1.241	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 0K-4/1				: N/A	N/A	N/A	1.007)
0TA-225-1-BCP / 0K-7/1										
(225)										
D150 P/U 2WD	W150 P/U 4WD	EGR/PMP/OXD/ / /CAN	225-1	C-4	4250	3.55	1.3	13.	2.2	3.7 *
D200 P/U 2WD	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-4	4250	3.21	0.72	11.	1.6	3.6 *
W150 P/U 4WD										
AD100 RAMCHRGR 2WD										

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                               1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                         CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                              --------------------------------------------
    (CUBIC INCH DISPLACEMENT)                                                                 EXHAUST EMISSIONS          EVAPOR.
      CARLINES COVERED                                                 T                        (GRAMS/MILE)            EMISSIONS
                                                              ENGINE   R  EQUIV                                          (GRAMS)
                                                              DISP.&   A  TEST                               OXIDES
                          VEHICLE CARLINE                     CARB     N  WEIGHT AXLE      HYDRO-   CARBON     OF       HYDRO-
                            REPRESENTED   EMISSION CONTROL SYSTEM VENTURIS S (LBS)  RATIO   CARBONS MONOXIDE NITROGEN  CARBONS
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CHRYSLER - FAMILY COMBINATIONS CERTIFIED:
                                                      ENGINE FAMILY TEST VEHICLES

  0TA-225-1-BCP / 0K-7/1 (CONT.)
      PD100 TRLDSTR 2WD
      B100/200 SPTMN 2WD
      B100/B200 VAN 2WD
      PB100/200 VYGR 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /    FAMILY 0TA-225-1-BCP       : 1.241    1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-7/1              :  N/A      N/A      N/A    1.007)

  0TA-225-1-BXP / 0K-10/1
    (225)
    C B100/B200 VAN 2WD C B100/B200 VAN 2WD  EGR/PMP/OXD/   /  /CAN   225-1   M-4  3750  3.55    0.24      2.0      1.6      0.87 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /    FAMILY 0TA-225-1-BXP       : 1.065    1.103    1.247     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-10/1             :  N/A      N/A      N/A     0.0  )

  0TA-225-1-BXP / 0K-12/1
    (225)
    C B100/B200 VAN 2WD C D150 P/U 2WD       EGR/PMP/OXD/   /  /CAN   225-1   L-3  3750  3.55    0.32      4.1      2.1      1.1 *
    C D150 P/U 2WD      C D150 P/U 2WD       EGR/PMP/OXD/   /  /CAN   225-1   M-4  3675  3.55    0.48      5.8      1.7      2.9 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /    FAMILY 0TA-225-1-BXP       : 1.065    1.103    1.247     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-12/1             :  N/A      N/A      N/A     0.0  )

  0TA-318-2-BCA / 0K-2/1
    (318)
      AD100 RAMCHRGR 2WD  B100/B200 VAN 2WD  EGR/PLS/OXD/   /  /CAN   318-2   L-3  4250  2.94    0.51      6.0      2.3      4.3 *
      PD100 TRLDSTR 2WD
      B100/200 SPTMN 2WD
      PB100/200 VYGR 2WD
      B300 VAN 2WD
      B100/B200 VAN 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /    FAMILY 0TA-318-2-BCA       : 1.000    1.116    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-2/1              :  N/A      N/A      N/A    0.380)

  0TA-318-2-BCA / 0K-5/1
    (318)
      D150 P/U 2WD        D150 P/U 2WD       EGR/PLS/OXD/   /  /CAN   318-2   L-3  4000  2.71    0.74      7.4      1.9      2.8 *
      D200 P/U 2WD        D200 P/U 2WD       EGR/PLS/OXD/   /  /CAN   318-2   L-3  4500  3.54    0.76      12.      1.2      3.6 *
      W150 P/U 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /    FAMILY 0TA-318-2-BCA       : 1.000    1.116    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-5/1              :  N/A      N/A      N/A    0.380)

  0TA-318-2-BCA / 0K-8/1
    (318)
      B100/200 SPTMN 2WD  B100/B200 VAN 2WD  EGR/PLS/OXD/   /  /CAN   318-2   L-3  4500  3.21    0.52      6.8      2.1      2.5 *
      B100/B200 VAN 2WD   W150 P/U 4WD       EGR/PLS/OXD/   /  /CAN   318-2   L-3  4500  2.71    0.60      14.      1.3      2.9 *
      B300 VAN 2WD
      AD100 RAMCHRGR 2WD
      PD100 TRLDSTR 2WD
      D150 P/U 2WD
      D200 P/U 2WD
      W150 P/U 4WD
      PB100/200 VYGR 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /    FAMILY 0TA-318-2-BCA       : 1.000    1.116    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-8/1              :  N/A      N/A      N/A    0.380)

  0TA-318-2-BEP / 0K-2/3
    (318)
      AD100 RAMCHRGR 2WD  AW100 RAMCHRGR 4WD EGR/PMP/OXD/   /  /CAN   318-2   L-3  4750  2.71     1.1      13.      1.9      2.7 *
      PD100 TRLDSTR 2WD   B100/B200 VAN 2WD  EGR/PMP/OXD/   /  /CAN   318-2   L-3  4250  2.94     1.2      16.      1.8      3.2 *
      AW100 RAMCHRGR 4WD
      PW100 TRLDSTR 4WD
      B100/200 SPTMN 2WD
      B100/B200 VAN 2WD
      B300 VAN 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /    FAMILY 0TA-318-2-BEP       : 1.506    1.016    1.131     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN  FAMILY 0K-2/3              :  N/A      N/A      N/A    0.380)

  0TA-318-2-BEP / 0K-5/3
    (318)
      D150 P/U 2WD        W150 P/U 4WD       EGR/PMP/OXD/   /  /CAN   318-2   C-4  4500  3.21     1.5      9.2      1.7      4.3 *
      D200 P/U 2WD        D200 P/U 2WD       EGR/PMP/OXD/   /  /CAN   318-2   L-3  5250  3.54     1.1      8.7      2.0      2.1 *
      W150 P/U 4WD
      W200 P/U 4WD

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                          1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                  ____CERTIFICATION LEVELS_____
  ENGINE FAMILY/EVAP-EMISS FAM                                                                 EXHAUST EMISSIONS    EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                                   (GRAMS/MILE)       EMISSIONS
      CARLINES COVERED                                                  T                    ___________________  _(GRAMS)_
                                                               ENGINE   R  EQUIV
                                                               DISP.&   A  TEST                         OXIDES
                           VEHICLE CARLINE                     CARB     N  WEIGHT AXLE      HYDRO-   CARBON    OF     HYDRO-
___________________________REPRESENTED____EMISSION CONTROL SYSTEM VENTURIS S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN CARBONS

CHRYSLER - FAMILY COMBINATIONS CERTIFIED:

                                            ENGINE FAMILY TEST VEHICLES

  0TA-318-2-BEP / 0K-5/3 (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318-2-BEP       : 1.506    1.016    1.131    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-5/3              :  N/A     N/A      N/A    0.340)

  0TA-318-2-BEP / 0K-8/3
    (318)
      AD100 RAMCHRGR 2WD  D150 P/U 2WD        EGR/PMP/OXD/  /  /CAN  318-2  L-3  4000  2.71   1.2      13.      1.9      2.9 *
      PD100 TRLDSTR 2WD   B100/B200 VAN 2WD   EGR/PMP/OXD/  /  /CAN  318-2  M-4  4250  2.94   1.7      11.      1.5      N/A
      AW100 RAMCHRGR 4WD
      PW100 TRLDSTR 4WD
      B100/200 SPTMN 2WD
      B100/B200 VAN 2WD
      B300 VAN 2WD
      D150 P/U 2WD
      D200 P/U 2WD
      W150 P/U 4WD
      W200 P/U 4WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318-2-BEP       : 1.506    1.016    1.131    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-8/3              :  N/A     N/A      N/A    0.380)

  0TA-318/360-4BCP / 0K-11/2
    (318,360)
    C AW100 RAMCHRGR 4WDC B100/B200 VAN 2WD  EGR/PMP/OXD/  /  /CAN  318-4  L-3  4000  2.71   0.31     8.4      1.2      0.91 *
    C PW100 TRLDSTR 4WD C B100/B200 VAN 2WD  EGR/PMP/OXD/  /  /CAN  360-4  L-3  4250  2.71   0.46     6.7      1.8      1.8 *
    C B100/200 SPTMN 2WD
    C B300 SPTMN 2WD
    C B100/B200 VAN 2WD
    C PB100/200 VYGR 2WD
    C PB300 VYGR 2WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318/360-4BCP    : 1.405    1.202    1.000    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-11/2             :  N/A     N/A      N/A    0.0 )

  0TA-318/360-4BCP / 0K-13/2
    (360)
    C B100/200 SPTMN 2WDC B100/B200 VAN 2WD  EGR/PMP/OXD/  /  /CAN  360-4  L-3  5500  3.55   0.62     10.      1.4      1.5 *
    C B300 SPTMN 2WD
    C PB100/200 VYGR 2WD
    C PB300 VYGR 2WD
    C D150 P/U 2WD
    C D200 P/U 2WD
    C W150 P/U 4WD
    C W200 P/U 4WD
    C AW100 RAMCHRGR 4WD
    C PW100 TRLDSTR 4WD
    C B100/B200 VAN 2WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318/360-4BCP    : 1.405    1.202    1.000    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-13/2             :  N/A     N/A      N/A    0.0 )

  0TA-318/360-4BCP / 0K-3/1
    (360)
      AD100 RAMCHRGR 2WD  AW100 RAMCHRGR 4WD EGR/PMP/OXD/  /  /CAN  360-4  L-3  5000  2.71   1.0      15.      2.0      2.0 *
      PD100 TRLDSTR 2WD
      AW100 RAMCHRGR 4WD
      PW100 TRLDSTR 4WD
      B100/200 SPTMN 2WD
      B300 SPTMN 2WD
      B100/B200 VAN 2WD
      PB100/200 VYGR 2WD
      PB300 VYGR 2WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318/360-4BCP    : 1.405    1.202    1.000    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-3/1              :  N/A     N/A      N/A    0.0 )

  0TA-318/360-4BCP / 0K-6/1
    (360)
      D150 P/U 2WD        W150 P/U 4WD       EGR/PMP/OXD/  /  /CAN  360-4  L-3  4750  2.71   1.1      17.      1.4      3.3 *
      D200 P/U 2WD
      W150 P/U 4WD
      W200 P/U 4WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /     FAMILY 0TA-318/360-4BCP    : 1.405    1.202    1.000    N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /  /  /CAN  FAMILY 0K-6/1              :  N/A     N/A      N/A    1.120)

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                          1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                        ______CERTIFICATION LEVELS______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                       EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                            T                             (GRAMS/MILE)        EMISSIONS
      CARLINES COVERED                                        ENGINE     R   EQUIV                                          (GRAMS)
                                                              DISP.&     A   TEST                               OXIDES
                             VEHICLE CARLINE                  CARB       N   WEIGHT AXLE     HYDRO-   CARBON      OF        HYDRO-
                               REPRESENTED    EMISSION CONTROL SYSTEM  VENTURIS   S   (LBS)  RATIO  CARBONS  MONOXIDE  NITROGEN   CARBONS

CHRYSLER - FAMILY COMBINATIONS CERTIFIED:
                                            ENGINE FAMILY TEST VEHICLES

  0TA-318/360-4BCP / 0K-9/1
    (360)
      AD100 RAMCHRGR 2WD  D200 P/U 2WD       EGR/PMP/OXD/   /   /CAN   360-4   C-4  4500  3.54     1.2      11.       1.8       4.6 *
      PD100 TRLDSTR 2WD
      AW100 RAMCHRGR 4WD
      PW100 TRLDSTR 4WD
      B100/200 SPTMN 2WD
      B300 SPTMN 2WD
      B100/B200 VAN 2WD
      PB100/200 VYGR 2WD
      PB300 VYGR 2WD
      D200 P/U 2WD
      W150 P/U 4WD
      W200 P/U 4WD
      D150 P/U 2WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BCP   : 1.405    1.202     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K-9/1             :  N/A      N/A       N/A      0.711)

  0TA-318/360-4BFP / 0K-13/4
    (318)
    C B100/200 SPTMN 2WDC W150 P/U 4WD       EGR/PMP/OXD/   /   /CAN   318-4   A-3  4500  3.21     0.37      8.8      1.7       1.8 *
    C B100/B200 VAN 2WD C D200 P/U 2WD       EGR/PMP/OXD/   /   /CAN   318-4   L-3  4750  3.54     0.40      7.0      1.9       2.0 *
    C B300 VAN 2WD
    C PB100/200 VYGR 2WD
    C D150 P/U 2WD
    C D200 P/U 2WD
    C W150 P/U 4WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BFP   : 1.000    1.000     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K-13/4            :  N/A      N/A       N/A      0.0  )

  0TA-318/360-4BFP / 0K-3/2
    (360)
      AD100 RAMCHRGR 2WD  B100/B200 VAN 2WD  EGR/PMP/OXD/   /   /CAN   360-4   L-3  4250  3.55     0.46      8.1      0.94      1.5 *
      PD100 TRLDSTR 2WD
      B100/200 SPTMN 2WD
      B100/B200 VAN 2WD
      PB100/200 VYGR 2WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BFP   : 1.000    1.000     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K-3/2             :  N/A      N/A       N/A      0.0  )

  0TA-318/360-4BFP / 0K-6/2
    (360)
      D150 P/U 2WD        D150 P/U 2WD       EGR/PMP/OXD/   /   /CAN   360-4   L-3  4500  2.71     0.35      7.5      1.1       2.8 *
      D200 P/U 2WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BFP   : 1.000    1.000     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K-6/2             :  N/A      N/A       N/A      1.120)

  0TA-318/360-4BFP / 0K-9/2
    (360)
      B100/200 SPTMN 2WD  B100/200 SPTMN 2WD EGR/PMP/OXD/   /   /CAN   360-4   L-3  5000  2.94     0.40      8.8      1.2       4.5 *
      B100/B200 VAN 2WD
      B300 VAN 2WD
      PB100/200 VYGR 2WD
      D150 P/U 2WD
      AD100 RAMCHRGR 2WD
      PD100 TRLDSTR 2WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BFP   : 1.000    1.000     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K-9/2             :  N/A      N/A       N/A      0.711)

  0TA-318/360-4BFP / 0K11/4
    (318)
    C B100/200 SPTMN 2WDC B100/B200 VAN 2WD  EGR/PMP/OXD/   /   /CAN   318-4   L-3  4000  2.71     0.27      5.8      1.7       1.2 *
    C B100/B200 VAN 2WD
    C B300 VAN 2WD
    C PB100/200 VYGR 2WD

         (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 0TA-318/360-4BFP   : 1.000    1.000     1.000      N/A )
         (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0K11/4             :  N/A      N/A       N/A      0.0  )

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED							CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE)			EVAPOR. EMISSIONS (GRAMS)
	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
CHRYSLER - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
0K-1/1										
	AD100 RAMCHRGR 2WD	EGR/PMP/OXD/ / /CAN	225-1	L-3	4000	3.55	0.76	12.	2.0	4.6
	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	225-1	L-3	3750	3.21	0.68	10.	1.5	3.7
0K-10/1										
	C B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-4	3750	3.55	0.24	2.0	1.6	0.87
0K-11/2										
	C B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	318-4	L-3	4000	2.71	0.31	8.4	1.2	0.91
	C B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	4250	2.71	0.46	6.7	1.8	1.8
0K-12/1										
	C D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	225-1	L-3	3750	3.55	0.32	4.1	2.1	1.1
	C D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-4	3875	3.55	0.48	5.8	1.7	2.9
0K-13/2										
	C B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	5500	3.55	0.62	10.	1.4	1.6
0K-13/4										
	C W150 P/U 4WD	EGR/PMP/OXD/ / /CAN	318-4	A-3	4500	3.21	0.37	8.8	1.7	1.8
	C D200 P/U 2WD	EGR/PMP/OXD/ / /CAN	318-4	L-3	4750	3.54	0.40	7.0	1.9	2.0
0K-2/1										
	B100/B200 VAN 2WD	EGR/PLS/OXD/ / /CAN	318-2	L-3	4250	2.94	0.51	6.0	2.3	4.3
0K-2/3										
	AW100 RAMCHRGR 4WD	EGR/PMP/OXD/ / /CAN	318-2	L-3	4750	2.71	1.1	13.	1.9	2.7
	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	318-2	L-3	4250	2.94	1.2	16.	1.8	3.2
0K-3/1										
	AW100 RAMCHRGR 4WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	5000	2.71	1.0	15.	2.0	2.0
0K-3/2										
	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	4250	3.55	0.46	8.1	0.94	1.5
0K-4/1										
	D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-3	3875	3.21	1.2	14.	1.6	5.5
0K-5/1										
	D150 P/U 2WD	EGR/PLS/OXD/ / /CAN	318-2	L-3	4000	2.71	0.74	7.4	1.9	2.8
	D200 P/U 2WD	EGR/PLS/OXD/ / /CAN	318-2	L-3	4500	3.54	0.76	12.	1.2	3.6
0K-5/3										
	W150 P/U 4WD	EGR/PMP/OXD/ / /CAN	318-2	C-4	4500	3.21	1.5	9.2	1.7	4.3
	D200 P/U 2WD	EGR/PMP/OXD/ / /CAN	318-2	L-3	5250	3.54	1.1	8.7	2.0	2.1
0K-6/1										
	W150 P/U 4WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	4750	2.71	1.1	17.	1.4	3.3
0K-6/2										
	D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	4500	2.71	0.35	7.5	1.1	2.4
0K-7/1										
	W150 P/U 4WD	EGR/PMP/OXD/ / /CAN	225-1	C-4	4250	3.55	1.3	13.	2.2	3.7
	B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	225-1	M-4	4250	3.21	0.72	11.	1.6	3.6
0K-8/1										
	B100/B200 VAN 2WD	EGR/PLS/OXD/ / /CAN	318-2	L-3	4500	3.21	0.52	6.8	2.1	2.5
	W150 P/U 4WD	EGR/PLS/OXD/ / /CAN	318-2	L-3	4500	2.71	0.60	14.	1.3	2.8
0K-8/3										
	D150 P/U 2WD	EGR/PMP/OXD/ / /CAN	318-2	L-3	4000	2.71	1.2	13.	1.9	2.9
0K-9/1										
	D200 P/U 2WD	EGR/PMP/OXD/ / /CAN	360-4	C-4	4500	3.54	1.2	11.	1.8	4.6
0K-9/2										
	H100/200 SPTMN 2WD	EGR/PMP/OXD/ / /CAN	360-4	L-3	5000	2.94	0.40	8.8	1.2	4.5
0K11/4										
	C B100/B200 VAN 2WD	EGR/PMP/OXD/ / /CAN	318-4	L-3	4000	2.71	0.27	5.8	1.7	1.2
FORD - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
4.9NA / TAA (300)										
VAN 2WD	VAN 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	5000	3.73	0.51	5.2	1.3	N/A
F250 P/U 4WD	VAN 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	4500	3.25	0.57	4.2	1.6	N/A
F100/F150 P/U 2WD	F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	3875	3.00	0.66	5.0	1.1	N/A
F250 P/U 2WD	F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	300-1	C-4	4750	3.54	1.1	10.	1.4	N/A

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                                             1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                      CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                EXHAUST EMISSIONS        EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                  T                (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                                ENGINE   R  EQUIV                                (GRAMS)
                                                                      DISP.&   A  TEST                        OXIDES
                          VEHICLE CARLINE                             CARB     N  WEIGHT AXLE    HYDRO-   CARBON    OF       HYDRO-
                            REPRESENTED         EMISSION CONTROL SYSTEM VENTURIS S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN  CARBONS

FORD - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  4.9NA / TAA (CONT.)
     F150 P/U 4WD         VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   M-3  4250  2.75    0.63      8.1      1.3       2.2 *
     BRONCO 4WD           F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-4  4250  2.75    1.0       8.8      1.9       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 4.9NA              : 1.155     1.000    1.021     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TAA                :  N/A       N/A      N/A     0.318)

  4.9NA / TMA
    (300)
    C VAN 2WD           C VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   A-3  4500  3.25    0.57      4.2      1.6       N/A
    C F250 P/U 2WD      C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   A-3  3875  3.00    0.66      5.0      1.1       N/A
                        C VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   A-3  5000  3.73    0.51      5.2      1.3       1.7 *
                        C F250 P/U 4WD        EGR/PMP/OXD/   /   /CAN   300-1   C-4  4750  3.54    1.1       10.      1.4       N/A
                        C VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   M-3  4250  2.75    0.83      8.1      1.3       N/A
                        C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-4  4250  2.75    1.0       8.8      1.9       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 4.9NA              : 1.155     1.000    1.021     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TMA                :  N/A       N/A      N/A     0.129)

  4.9NA / TOA
    (300)
      VAN 2WD             VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   A-3  4500  3.25    0.57      4.2      1.6       1.9 *
    C VAN 2WD             VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   A-3  5000  3.73    0.51      5.2      1.3       N/A
      F100/F150 P/U 2WD   F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   A-3  3875  3.00    0.66      5.0      1.1       2.9 *
      F250 P/U 2WD        F250 P/U 4WD        EGR/PMP/OXD/   /   /CAN   300-1   C-4  4750  3.54    1.1       10.      1.4       N/A
    C F250 P/U 2WD        VAN 2WD             EGR/PMP/OXD/   /   /CAN   300-1   M-3  4250  2.75    0.83      8.1      1.3       N/A
      F150 P/U 4WD        F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-4  4250  2.75    1.0       8.8      1.9       N/A
      F250 P/U 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 4.9NA              : 1.155     1.000    1.021     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TOA                :  N/A       N/A      N/A     0.462)

  4.9ND / TMB
    (300)
    C F100/F150 P/U 2WD C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   A-3  3875  2.75    0.32      2.1      1.9       N/A
                        C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-3  3875  2.75    0.24      5.7      1.7       2.2 *
                        C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-4  4250  3.00    0.34      6.2      1.6       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 4.9ND              : 1.410     1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TMB                :  N/A       N/A      N/A     0.129)

  4.9ND / TOB
    (300)
    C F100/F150 P/U 2WD C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   A-3  3875  2.75    0.32      2.1      1.9       1.5 *
                        C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-3  3875  2.75    0.24      5.7      1.7       N/A
                        C F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   300-1   M-4  4250  3.00    0.34      6.2      1.6       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 4.9ND              : 1.410     1.000    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TOB                :  N/A       N/A      N/A     0.462)

  5.0NA / TDA
    (302)
      F100/F150 P/U 2WD   F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   A-3  4000  3.00    0.96      3.6      1.9       N/A
      F250 P/U 2WD        VAN 2WD             EGR/PMP/OXD/   /   /CAN   302-2   A-3  5000  3.73    0.83      4.3      1.6       3.0 *
      F150 P/U 4WD        F250 P/U 2WD        EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  3.33    0.80      5.2      1.7       2.3 *
      F250 P/U 4WD        F250 P/U 4WD        EGR/PMP/OXD/   /   /CAN   302-2   C-4  5000  3.54    1.2       7.2      1.7       N/A
      VAN 2WD             F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   M-3  3875  2.75    1.0       7.9      2.1       2.0 *
      BRONCO 4WD          F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   M-4  4500  2.75    0.95      10.      1.4       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 5.0NA              : 1.635     1.040    1.066     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TDA                :  N/A       N/A      N/A     0.868)

  5.0NA / TVA
    (302)
      F100/F150 P/U 2WD   VAN 2WD             EGR/PMP/OXD/   /   /CAN   302-2   A-3  5000  3.73    0.83      4.3      1.6       N/A
      F250 P/U 2WD        F250 P/U 2WD        EGR/PMP/OXD/   /   /CAN   302-2   A-3  4250  3.33    0.80      5.2      1.7       N/A
      F150 P/U 4WD        F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   A-3  4000  3.00    0.96      3.6      1.9       2.4 *
      F250 P/U 4WD        F250 P/U 4WD        EGR/PMP/OXD/   /   /CAN   302-2   C-4  5000  3.54    1.2       7.2      1.7       2.7 *
      VAN 2WD             F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   M-3  3875  2.75    1.0       7.9      2.1       N/A
                          F100/F150 P/U 2WD   EGR/PMP/OXD/   /   /CAN   302-2   M-4  4500  2.75    0.95      10.      1.4       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /      FAMILY 5.0NA              : 1.635     1.040    1.066     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY TVA                :  N/A       N/A      N/A     0.114)

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY TRUCKS

FORD - FAMILY COMBINATIONS CERTIFIED:

ENGINE FAMILY TEST VEHICLES

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
5.0NB / TDB										
(302)										
F150 P/U 4WD	C F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4750	3.54	0.69	5.6	1.9	N/A
F250 P/U 4WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	3.25	0.42	2.8	1.8	N/A
BRONCO 4WD	C F150 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4500	3.50	0.48	2.7	1.8	2.9 *
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	5000	3.73	0.47	7.8	1.4	N/A
	C BRONCO 4WD	EGR/PMP/OXD/ / /CAN	302-2	C-4	5000	3.00	0.82	11.	1.8	N/A
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-4	4250	2.75	0.49	4.6	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.0NB				: 1.170	1.161	1.193	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TDB				: N/A	N/A	N/A	0.868)
5.0NB / TUA										
(302)										
C F100/F150 P/U 2WD	C F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4750	3.54	0.69	5.6	1.9	N/A
C F150 P/U 4WD	C F150 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4500	3.50	0.48	2.7	1.8	N/A
C F250 P/U 4WD	C VAN 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	5000	3.73	0.47	7.8	1.4	1.5 *
C VAN 2WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	3.25	0.42	2.8	1.8	1.1 *
C BRONCO 4WD	C BRONCO 4WD	EGR/PMP/OXD/ / /CAN	302-2	C-4	5000	3.00	0.82	11.	1.8	1.4 *
C F250 P/U 2WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-4	4250	2.75	0.49	4.6	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.0NB				: 1.170	1.161	1.193	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TUA				: N/A	N/A	N/A	0.104)
5.0NB / TVB										
(302)										
F150 P/U 4WD	C F150 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4500	3.50	0.48	2.7	1.8	N/A
F250 P/U 4WD	C F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4750	3.54	0.69	5.6	1.9	2.0 *
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	3.25	0.42	2.8	1.8	N/A
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	5000	3.73	0.47	7.8	1.4	N/A
	C BRONCO 4WD	EGR/PMP/OXD/ / /CAN	302-2	C-4	5000	3.00	0.82	11.	1.8	N/A
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-4	4250	2.75	0.49	4.6	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.0NB				: 1.170	1.161	1.193	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TVB				: N/A	N/A	N/A	0.114)
5.0NG / TUB										
(302)										
C F100/F150 P/U 2WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-3	3875	3.00	0.37	1.6	1.5	N/A
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-3	4000	2.75	0.41	2.0	1.5	2.4 *
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-4	4500	2.75	0.41	2.1	1.5	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.0NG				: 1.695	1.000	1.037	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TUB				: N/A	N/A	N/A	0.104)
5.8M/6.6NA / TUC										
(351,400)										
C F100/F150 P/U 2WD	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	3.07	0.56	6.1	1.6	N/A
C F250 P/U 2WD	C F250 P/U CAB CH	EGR/PMP/OXD/ / /CAN	351-2	A-3	5500	3.54	0.39	2.8	2.0	1.3 *
C F150 P/U 4WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	C-4	4500	3.50	0.20	2.4	1.4	N/A
C F250 P/U 4WD	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	M-4	5000	3.54	0.78	12.	1.6	N/A
C VAN 2WD	C VAN 2WD	EGR/PMP/OXD/ / /CAN	400-2	A-3	6000	3.73	0.39	4.5	2.1	1.2 *
C BRONCO 4WD										
C F250 P/U CAB CH										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.8M/6.6NA				: 1.000	1.000	1.060	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TUC				: N/A	N/A	N/A	0.0)
5.8M/6.6NA / TVC										
(351,400)										
F100/F150 P/U 2WD	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	3.07	0.56	6.1	1.6	2.5 *
F250 P/U 2WD	C F250 P/U CAB CH	EGR/PMP/OXD/ / /CAN	351-2	A-3	5500	3.54	0.39	2.8	2.0	N/A
F150 P/U 4WD	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	C-4	4500	3.50	0.20	2.4	1.4	N/A
F250 P/U 4WD	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	M-4	5000	3.54	0.78	12.	1.6	1.5 *
VAN 2WD	C VAN 2WD	EGR/PMP/OXD/ / /CAN	400-2	A-3	6000	3.73	0.39	4.5	2.1	N/A
BRONCO 4WD										
F250 P/U CAB CH										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.8M/6.6NA				: 1.000	1.000	1.060	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TVC				: N/A	N/A	N/A	0.114)
5.8WNG / TDC										
(351)										
VAN 2WD	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5000	3.25	0.44	18.	1.0	N/A
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	2.75	0.64	4.8	2.0	2.4 *
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5250	3.25	0.43	5.1	2.0	N/A
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4500	2.75	0.44	3.8	1.6	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1980 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSIONS (GRAMS/MILE)			CERTIFICATION LEVELS EVAPOR. EMISSIONS (GRAMS)
							HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	HYDRO-CARBONS
FORD - FAMILY COMBINATIONS CERTIFIED:										
ENGINE FAMILY TEST VEHICLES										
5.8WNG / TDC (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.8WNG				: 1.306	1.308	1.022	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TDC				: N/A	N/A	N/A	0.868)
5.8WNG / TUD (351) C VAN 2WD	C VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5000	3.25	0.44	18.	1.0	N/A
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4500	2.75	0.44	3.8	1.6	N/A
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5250	3.25	0.43	5.1	2.0	N/A
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	2.75	0.64	4.8	2.0	N/A
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.8WNG				: 1.306	1.308	1.022	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TUD				: N/A	N/A	N/A	0.0)
5.8WNG / TVD (351) VAN 2WD	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4500	2.75	0.44	3.8	1.6	2.5 *
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	2.75	0.64	4.8	2.0	N/A
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5000	3.25	0.44	18.	1.0	N/A
	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5250	3.25	0.43	5.1	2.0	5.3 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY 5.8WNG				: 1.306	1.308	1.022	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TVD				: N/A	N/A	N/A	0.114)
FORD - EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
TAA	VAN 2WD	EGR/PMP/OXD/ / /CAN	300-1	M-3	4250	2.75	0.63	8.1	1.3	2.2
TDA	F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4250	3.33	0.60	5.2	1.7	2.3
	VAN 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	5000	3.73	0.63	4.3	1.6	3.0
	F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-3	3875	2.75	1.0	7.9	2.1	2.0
TDB	C F150 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4500	3.50	0.48	2.7	1.8	2.9
TDC	VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	2.75	0.64	4.8	2.0	2.4
TMA	C VAN 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	5000	3.73	0.51	5.2	1.3	1.7
TMB	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	300-1	M-3	3875	2.75	0.24	5.7	1.7	2.2
TOA	VAN 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	4500	3.25	0.57	4.2	1.6	1.4
	F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	3875	3.00	0.66	5.0	1.1	2.9
TOB	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	300-1	A-3	3875	2.75	0.32	2.1	1.9	1.5
TUA	C VAN 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	5000	3.73	0.47	7.8	1.4	1.5
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	3.25	0.42	2.8	1.8	1.1
	C BRONCO 4WD	EGR/PMP/OXD/ / /CAN	302-2	C-4	5000	3.00	0.82	11.	1.8	1.4
TUB	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-3	4000	2.75	0.41	2.0	1.5	2.4
	C F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	M-4	4500	2.75	0.41	2.1	1.5	1.4
TUC	C F250 P/U CAB CH	EGR/PMP/OXD/ / /CAN	351-2	A-3	5500	3.54	0.39	2.8	2.0	1.3
	C VAN 2WD	EGR/PMP/OXD/ / /CAN	400-2	A-3	6000	3.73	0.39	4.5	2.1	1.2
TUD	C VAN 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	5000	3.25	0.51	12.	1.5	1.7
TVA	F100/F150 P/U 2WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4000	3.00	0.46	3.6	1.9	2.4
	F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	C-4	5000	3.54	1.2	7.2	1.7	2.7
TVB	C F250 P/U 4WD	EGR/PMP/OXD/ / /CAN	302-2	A-3	4750	3.54	0.69	5.6	1.9	2.0
TVC	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	A-3	4750	3.07	0.56	6.1	1.6	2.5
	C F250 P/U 2WD	EGR/PMP/OXD/ / /CAN	351-2	M-4	5000	3.54	0.78	12.	1.6	1.5

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                                          1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER
  ENGINE FAMILY/EVAP-EMISS FAM                                                                      ----------CERTIFICATION LEVELS----------
    (CUBIC INCH DISPLACEMENT)                                                                           EXHAUST EMISSIONS           EVAPOR.
      CARLINES COVERED                                                           T                        (GRAMS/MILE)              EMISSIONS
                                                                     ENGINE      R  EQUIV                                            (GRAMS)
                                                                     DISP.&      A  TEST                                   OXIDES
                         VEHICLE CARLINE                             CARB        N  WEIGHT  AXLE    HYDRO-     CARBON      OF        HYDRO-
------------------------ REPRESENTED     EMISSION CONTROL SYSTEM     VENTURIS    S  (LBS)   RATIO   CARBONS  MONOXIDE   NITROGEN    CARBONS
FORD - EVAP-EMISSION FAMILIES:
                                         EVAPORATIVE-EMISSION FAMILY TEST VEHICLES
  TVD
                         VAN 2WD         EGR/PMP/OXD/   /   /CAN    351-2   A-3  4500  2.75     0.44       3.8        1.6       2.5
                         VAN 2WD         EGR/PMP/OXD/   /   /CAN    351-2   A-3  5250  3.25     0.43       5.1        2.0       5.3

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                              ENGINE FAMILY TEST VEHICLES
  08F2A / 086-8
    (250)
      K10 P/U 4WD            C20 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   A-3  4750  3.42     0.43       8.7        1.4       N/A
      C10 P/U 2WD            K10 BLAZER 4WD      EGR/PLS/OXD/   /   /CAN   250-2   C-4  5000  3.73     0.70       16.        1.9       2.2 *
      G10/G20 SPRTVN 2WD     C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   L-3  4000  2.76     0.43       12.        1.1       N/A
      G10/G20 VAN 2WD        C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   L-3  4250  2.76     0.56       15.        1.2       1.2 *
      K10 BLAZER 4WD         G10/G20 SPRTVN 2WD  EGR/PLS/OXD/   /   /CAN   250-2   M-3  4750  3.73     0.53       9.7        1.8       4.5 *
      C10 BLAZER 2WD         C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   M-3  4250  2.76     0.65       12.        1.3       1.3 *
      C20 P/U 2WD
      K15 P/U 4WD
      C15 P/U 2WD
      G15/G25 SPRTVN 2WD
      G15/G25 VAN 2WD
      K15 JIMMY 4WD
      C15 JIMMY 2WD
      C25 P/U 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY 08F2A            : 1.000      1.000      1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 086-8            :  N/A        N/A        N/A      0.0  )
  08F2A / 0C6-8
    (250)
      C10 P/U 2WD            C20 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   A-3  4750  3.42     0.43       8.7        1.4       N/A
      C20 P/U 2WD            K10 BLAZER 4WD      EGR/PLS/OXD/   /   /CAN   250-2   C-4  5000  3.73     0.70       16.        1.9       N/A
      K10 P/U 4WD            C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   L-3  4250  2.76     0.56       15.        1.2       N/A
      C15 P/U 2WD            C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   L-3  4000  2.76     0.43       12.        1.1       1.8 *
      C25 P/U 2WD            G10/G20 SPRTVN 2WD  EGR/PLS/OXD/   /   /CAN   250-2   M-3  4750  3.73     0.53       9.7        1.8       N/A
      K15 P/U 4WD            C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   M-3  4250  2.76     0.65       12.        1.3       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY 08F2A            : 1.000      1.000      1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0C6-8            :  N/A        N/A        N/A      0.0  )
  08F2A / 0D6-8
    (250)
    C C20 P/U 2WD          C C20 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   A-3  4750  3.42     0.43       8.7        1.4       1.6 *
    C C10 P/U 2WD          C K10 BLAZER 4WD      EGR/PLS/OXD/   /   /CAN   250-2   C-4  5000  3.73     0.70       16.        1.9       N/A
    C G10/G20 SPRTVN 2WDC C10 P/U 2WD            EGR/PLS/OXD/   /   /CAN   250-2   L-3  4000  2.76     0.43       12.        1.1       N/A
    C G10/G20 VAN 2WD      C C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   L-3  4250  2.76     0.56       15.        1.2       N/A
    C C25 P/U 2WD          C G10/G20 SPRTVN 2WD  EGR/PLS/OXD/   /   /CAN   250-2   M-3  4750  3.73     0.53       9.7        1.8       N/A
    C C15 P/U 2WD          C C10 P/U 2WD         EGR/PLS/OXD/   /   /CAN   250-2   M-3  4250  2.76     0.65       12.        1.3       N/A
    C G15/G25 SPRTVN 2WD
    C G15/G25 VAN 2WD
      C20 P/U 2WD
      C10 P/U 2WD
      G10/G20 SPRTVN 2WD
      G10/G20 VAN 2WD
      C25 P/U 2WD
      C15 P/U 2WD
      G15/G25 SPRTVN 2WD
      G15/G25 VAN 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /      FAMILY 08F2A            : 1.000      1.000      1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0D6-8            :  N/A        N/A        N/A      0.0  )
  08K4AA / 084-8
    (348,403)
      K10 BLAZER 4WD         P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   C-4  5500  4.10     0.47       4.5        2.0       N/A
      K10 P/U 4WD            K10 BLAZER 4WD      EGR/PMP/OXD/   /   /CAN   348-4   L-3  5250  2.76     0.68       8.0        1.9       2.8 *
      C10 SUBURBAN 2WD       G10/G20 VAN 2WD     EGR/PMP/OXD/   /   /CAN   348-4   L-3  4250  2.73     0.35       7.3        1.0       N/A
      K10 SUBURBAN 4WD       P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   L-3  6000  4.10     0.41       4.1        2.0       N/A
      C20 SUBURBAN 2WD       G10/G20 SPRTVN 2WD  EGR/PMP/OXD/   /   /CAN   403-4   A-3  5250  2.73     0.47       5.2        1.5       N/A
      P/U CAB CHAS.
      K20 P/U 4WD
      K15 JIMMY 4WD
      K15 P/U 4WD
      C15 SUBURBAN 2WD
      K15 SUBURBAN 4WD
      C25 SUBURBAN 2WD
      P/U CAB CHAS.
      K25 P/U 4WD

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                             1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                             ________CERTIFICATION LEVELS________
  ENGINE FAMILY/EVAP-EMISS FAM                                                                            EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                      T                        (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                                 ENGINE     R  EQUIV              ______________________    (GRAMS)
                                                                       DISP.&     A  TEST                                OXIDES
                              VEHICLE CARLINE                          CARB       N  WEIGHT AXLE       HYDRO-   CARBON    OF      HYDRO-
_____________________________ REPRESENTED      EMISSION CONTROL SYSTEM VENTURIS   S  (LBS)  RATIO      CARBONS MONOXIDE NITROGEN  CARBONS

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                      ENGINE FAMILY TEST VEHICLES

  08K4AA / 084-8 (CONT.)

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 08K4AA              : 1.152     1.004     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 084-8               :  N/A       N/A       N/A       0.0 )

  08K4AA / 0C4-8
    (348,403)
      P/U CAB CHAS.         P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   C-4  5500  4.10     0.47       4.5       2.0       2.8 *
      K10 P/U 4WD           P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   L-3  6000  4.10     0.41       4.1       2.0       N/A
      K20 P/U 4WD           G10/G20 VAN 2WD     EGR/PMP/OXD/   /   /CAN   348-4   L-3  4250  2.73     0.35       7.3       1.0       N/A
      P/U CAB CHAS.         K10 BLAZER 4WD      EGR/PMP/OXD/   /   /CAN   348-4   L-3  5250  2.76     0.68       8.0       1.9       N/A
      K15 P/U 4WD           G10/G20 SPRTVN 2WD  EGR/PMP/OXD/   /   /CAN   403-4   A-3  5250  2.73     0.47       5.2       1.5       N/A
      K25 P/U 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 08K4AA              : 1.152     1.004     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0C4-8               :  N/A       N/A       N/A       0.0 )

  08K4AA / 0D4D-8
    (348,403)
    C P/U CAB CHAS.         P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   C-4  5500  4.10     0.47       4.5       2.0       N/A
    C C10 P/U 2WD           P/U CAB CHAS.       EGR/PMP/OXD/   /   /CAN   348-4   L-3  6000  4.10     0.41       4.1       2.0       1.7 *
    C C20 P/U 2WD           G10/G20 VAN 2WD     EGR/PMP/OXD/   /   /CAN   348-4   L-3  4250  2.73     0.35       7.3       1.0       N/A
    C K10 BLAZER 4WD        K10 BLAZER 4WD      EGR/PMP/OXD/   /   /CAN   348-4   L-3  5250  2.76     0.68       8.0       1.9       N/A
    C K10 SUBURBAN 4WD      G10/G20 SPRTVN 2WD  EGR/PMP/OXD/   /   /CAN   403-4   A-3  5250  2.73     0.47       5.2       1.5       N/A
    C C10 BLAZER 2WD
    C C10 SUBURBAN 2WD
    C C20 SUBURBAN 2WD
    C K10 P/U 4WD
    C K20 P/U 4WD
    C C15 JIMMY 2WD
    C C15 SUBURBAN 2WD
    C C25 SUBURBAN 2WD
    C K15 P/U 4WD
    C K25 P/U 4WD
    C P/U CAB CHAS.
    C C15 P/U 2WD
    C C25 P/U 2WD
    C K15 SUBURBAN 4WD
    C K15 JIMMY 4WD
      P/U CAB CHAS.
      C10 P/U 2WD
      C20 P/U 2WD
      K10 BLAZER 4WD
      K10 SUBURBAN 4WD
      C10 BLAZER 2WD
      C10 SUBURBAN 2WD
      C20 SUBURBAN 2WD
      K10 P/U 4WD
      K20 P/U 4WD
      C15 JIMMY 2WD
      C15 SUBURBAN 2WD
      C25 SUBURBAN 2WD
      K15 P/U 4WD
      K25 P/U 4WD
      P/U CAB CHAS.
      C15 P/U 2WD
      C25 P/U 2WD
      K15 SUBURBAN 4WD
      K15 JIMMY 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 08K4AA              : 1.152     1.004     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0D4D-8              :  N/A       N/A       N/A       0.0 )

  08K4AA / 0D4S-8
    (348,403)
    C G10/G20 SPRTVN 2WDC P/U CAB CHAS.         EGR/PMP/OXD/   /   /CAN   348-4   C-4  5500  4.10     0.47       4.5       2.0       N/A
    C G10/G20 VAN 2WD   C G10/G20 VAN 2WD       EGR/PMP/OXD/   /   /CAN   348-4   L-3  4250  2.73     0.35       7.3       1.0       1.9 *
    C G15/G25 SPRTVN 2WDC P/U CAB CHAS.         EGR/PMP/OXD/   /   /CAN   348-4   L-3  6000  4.10     0.41       4.1       2.0       N/A
    C G15/G25 VAN 2WD   C K10 BLAZER 4WD        EGR/PMP/OXD/   /   /CAN   348-4   L-3  5250  2.76     0.68       8.0       1.9       N/A
      G10/G20 SPRTVN 2WDC G10/G20 SPRTVN 2WD    EGR/PMP/OXD/   /   /CAN   403-4   A-3  5250  2.73     0.47       5.2       1.5       1.2 *
      G10/G20 VAN 2WD
      G15/G25 SPRTVN 2WD
      G15/G25 VAN 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 08K4AA              : 1.152     1.004     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0D4S-8              :  N/A       N/A       N/A       0.0 )

                *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST
                       VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                        1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                             ______CERTIFICATION LEVELS______
  ENGINE FAMILY/EVAP-EMISS FAM                                                              EXHAUST EMISSIONS      EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                            T                  (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                        ENGINE     R  EQUIV                                  (GRAMS)
                                                              DISP.&     A  TEST                        OXIDES
                        VEHICLE CARLINE                       CARB       N  WEIGHT AXLE   HYDRO-   CARBON     OF     HYDRO-
________________________REPRESENTED______EMISSION_CONTROL_SYSTEM_VENTURIS__S__(LBS)__RATIO__CARBONS_MONOXIDE_NITROGEN_CARBONS

GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:
                                                    ENGINE FAMILY TEST VEHICLES

  0HK4G / 0H4-8
    (348,403)
      C10 BLAZER 2WD        C20 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   C-4  5250  3.73    0.49      8.8      1.6      1.9 *
      G10/G20 VAN 2WD       C10 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   L-3  4750  2.56    0.63      15.      1.7      N/A
      G10/G20 SPRTVN 2WD    C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   348-4   L-3  4750  3.08    0.65      12.      1.4      2.1 *
      C20 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   M-3  4250  2.76    0.71      13.      1.6      N/A
      C10 P/U 2WD           G10/G20 SPRTVN 2WD   EGR/OXD/   /   /   /CAN   403-4   A-3  5250  2.73    0.62      15.      1.3      5.7 *
      C15 P/U 2WD
      C25 P/U 2WD
      G15/G25 SPRTVN 2WD
      G15/G25 VAN 2WD
      C15 JIMMY 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/OXD/   /   /   /      FAMILY 0HK4G           : 1.143     1.177    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0H4-8           :  N/A       N/A      N/A      0.0 )

  0HK4G / 0C4-8
    (348,403)
      C10 P/U 2WD           C20 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   C-4  5250  3.73    0.49      8.8      1.6      N/A
      C20 P/U 2WD           C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   348-4   L-3  4750  3.08    0.65      12.      1.4      N/A
      C15 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   L-3  4750  2.56    0.63      15.      1.7      3.0 *
      C25 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   M-3  4250  2.76    0.71      13.      1.6      1.9 *
                            G10/G20 SPRTVN 2WD   EGR/OXD/   /   /   /CAN   403-4   A-3  5250  2.73    0.62      15.      1.3      N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/OXD/   /   /   /      FAMILY 0HK4G           : 1.143     1.177    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0C4-8           :  N/A       N/A      N/A      0.0 )

  0HY2A / 0H3-8
    (305)
      G10/G20 VAN 2WD       C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4250  2.56    0.55      6.7      1.6      N/A
      C10 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4500  2.56    0.69      11.      1.8      1.7 *
      C10 BLAZER 2WD        C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   305-2   M-3  4750  3.42    0.64      5.9      2.0      1.7 *
      G10/G20 SPRTVN 2WD    G10/G20 VAN 2WD      EGR/OXD/   /   /   /CAN   305-2   M-3  4250  3.08    0.74      9.3      1.8      1.6 *
      G15/G25 VAN 2WD
      C15 P/U 2WD
      C15 JIMMY 2WD
      G15/G25 SPRTVN 2WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/OXD/   /   /   /      FAMILY 0HY2A           : 1.307     1.076    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0H3-8           :  N/A       N/A      N/A      0.0 )

  0HY2A / 0C3-8
    (305)
      C10 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4500  2.56    0.69      11.      1.8      N/A
      C15 P/U 2WD           C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4250  2.56    0.55      6.7      1.6      1.9 *
                            C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   305-2   M-3  4750  3.42    0.64      5.9      2.0      N/A
                            G10/G20 VAN 2WD      EGR/OXD/   /   /   /CAN   305-2   M-3  4250  3.08    0.74      9.3      1.8      N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/OXD/   /   /   /      FAMILY 0HY2A           : 1.307     1.076    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN   FAMILY 0C3-8           :  N/A       N/A      N/A      0.0 )

GENERAL MOTORS - EVAP-EMISSION FAMILIES:
                                                 EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  0H3-8
                            C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4500  2.56    0.69      11.      1.8      1.7
                            G10/G20 VAN 2WD      EGR/OXD/   /   /   /CAN   305-2   M-3  4250  3.08    0.74      9.3      1.8      1.6
                            C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   305-2   M-3  4750  3.42    0.64      5.9      2.0      1.7

  0H4-8
                            C20 P/U 2WD          EGR/OXD/   /   /   /CAN   348-4   C-4  5250  3.73    0.49      8.8      1.6      1.9
                            K10 BLAZER 4WD       EGR/PMP/OXD/   /   /CAN   348-4   L-3  5250  2.76    0.68      8.0      1.9      2.8
                            C10 BLAZER 2WD       EGR/OXD/   /   /   /CAN   348-4   L-3  4750  3.08    0.65      12.      1.4      2.1
                            G10/G20 SPRTVN 2WD   EGR/OXD/   /   /   /CAN   403-4   A-3  5250  2.73    0.62      15.      1.3      5.7

  0H6-8
                            K10 BLAZER 4WD       EGR/PLS/OXD/   /   /CAN   250-2   C-4  5000  3.73    0.70      16.      1.9      2.2
                            C10 P/U 2WD          EGR/PLS/OXD/   /   /CAN   250-2   L-3  4250  2.76    0.56      15.      1.2      1.2
                            G10/G20 SPRTVN 2WD   EGR/PLS/OXD/   /   /CAN   250-2   M-3  4750  3.73    0.53      9.7      1.8      4.5
                            C10 P/U 2WD          EGR/PLS/OXD/   /   /CAN   250-2   M-3  4250  2.76    0.65      12.      1.3      1.3

  0C3-8
                            C10 P/U 2WD          EGR/OXD/   /   /   /CAN   305-2   L-3  4250  2.56    0.55      6.7      1.6      1.9

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                       1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                        CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                 EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                      T            (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                             ENGINE          R  EQUIV                            (GRAMS)
                                                                   DISP.&          A  TEST                        OXIDES
                        VEHICLE CARLINE                            CARB            N  WEIGHT  AXLE  HYDRO-  CARBON     OF      HYDRO-
                          REPRESENTED      EMISSION CONTROL SYSTEM VENTURIS        S  (LBS)   RATIO CARBONS MONOXIDE NITROGEN  CARBONS
GENERAL MOTORS - EVAP-EMISSION FAMILIES:
                                              EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  0C4-8
                        P/U CAB CHAS.      EGR/PMP/OXD/  /   /CAN   348-4  C-4  5500  4.10   0.47      4.5      2.0       2.8
                        C10 P/U 2WD        EGR/OXD/   /  /   /CAN   348-4  L-3  4750  2.56   0.63     15.       1.7       3.0
                        C10 P/U 2WD        EGR/OXD/   /  /   /CAN   348-4  M-3  4250  2.76   0.71     13.       1.6       1.9
  0C6-8
                        C10 P/U 2WD        EGR/PLS/OXD/  /   /CAN   250-2  L-3  4000  2.76   0.43     12.       1.1       1.8
  0D4D-8
                        P/U CAB CHAS.      EGR/PMP/OXD/  /   /CAN   348-4  L-3  6000  4.10   0.41      4.1      2.0       1.7
  0D4S-8
                      C G10/G20 VAN 2WD    EGR/PMP/OXD/  /   /CAN   348-4  L-3  4250  2.73   0.35      7.3      1.0       1.9
                      C G10/G20 SPRTVN 2WD EGR/PMP/OXD/  /   /CAN   403-4  A-3  5250  2.73   0.47      5.2      1.5       1.2
  0D6-8
                      C C20 P/U 2WD        EGR/PLS/OXD/  /   /CAN   250-2  A-3  4750  3.42   0.43      8.7      1.4       1.6

IHC - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES
  V-304 / 2V
    (304)
      SCOUT II 2WD      SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   304-2  A-3  4500  2.72   0.68      5.5      1.6       4.4 *
      SCOUT II 4WD      TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   304-2  A-3  4750  3.54   0.72      5.5      1.8       N/A
      TRAVELER 2WD      TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   304-2  M-4  4750  3.54   0.77      5.8      1.4       N/A
      TRAVELER 4WD
      TERRA P/U 4WD
      SS II 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY V-304         : 1.188    1.165    1.030     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY 2V            :  N/A      N/A      N/A     0.654)
  V-304 / 2VC
    (304)
    C SCOUT II 2WD    C SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   304-2  A-3  4500  2.72   0.68      5.5      1.6       N/A
    C SCOUT II 4WD    C TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   304-2  A-3  4750  3.54   0.72      5.5      1.8       N/A
    C TRAVELER 2WD    C TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   304-2  M-4  4750  3.54   0.77      5.8      1.4       2.5 *
    C TRAVELER 4WD
    C TERRA P/U 4WD
    C SS II 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY V-304         : 1.188    1.165    1.030     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY 2VC           :  N/A      N/A      N/A     0.0  )
  V-345 / 4V
    (345)
      SCOUT II 2WD      TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   345-4  A-3  4750  3.73   0.62      6.6      1.8       N/A
      SCOUT II 4WD      SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   345-4  A-3  4500  2.72   0.61     13.       1.5       3.3 *
      TRAVELER 2WD      SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   345-4  M-4  4750  3.73   1.1      16.       2.0       N/A
      TRAVELER 4WD
      TERRA P/U 4WD
      SS II 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY V-345         : 1.414    2.353    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY 4V            :  N/A      N/A      N/A     0.0  )
  V-345 / 4VC
    (345)
    C SCOUT II 2WD    C TRAVELER 4WD       EGR/PMP/OXD/  /   /CAN   345-4  A-3  4750  3.73   0.62      6.6      1.8       N/A
    C SCOUT II 4WD    C SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   345-4  A-3  4500  2.72   0.61     13.       1.5       N/A
    C TRAVELER 2WD    C SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   345-4  M-4  4750  3.73   1.1      16.       2.0       2.2 *
    C TRAVELER 4WD
    C TERRA P/U 4WD
    C SS II 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /   /     FAMILY V-345         : 1.414    2.353    1.000     N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /  /   /CAN  FAMILY 4VC           :  N/A      N/A      N/A     0.410)
  4-196 / 1V
    (196)
      SCOUT II 2WD      SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   196-1  M-3  4250  3.73   0.50      6.8      2.0       2.7 *
      SCOUT II 4WD      SCOUT II 4WD       EGR/PMP/OXD/  /   /CAN   196-1  M-4  4250  3.54   0.55      8.9      1.7       N/A
      TERRA P/U 4WD
      SS II 4WD

            *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                   VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                          1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                      _______CERTIFICATION LEVELS_______
  ENGINE FAMILY/EVAP-EMISS FAM                                                                      EXHAUST EMISSIONS       EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                   T                     (GRAMS/MILE)          EMISSIONS
      CARLINES COVERED                                                ENGINE    R  EQUIV          ________________________  (GRAMS)
                                                                  -   DISP.&    A  TEST                              OXIDES
                          VEHICLE CARLINE                              CARB      N  WEIGHT AXLE   HYDRO-   CARBON       OF     HYDRO-
__________________________REPRESENTED______EMISSION CONTROL SYSTEM__VENTURIS__S__(LBS)__RATIO__CARBONS_MONOXIDE_NITROGEN__CARBONS_

IHC - FAMILY COMBINATIONS CERTIFIED:
                                                        ENGINE FAMILY TEST VEHICLES

  4-196 / 1V (CONT.)

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4-196             : 1.000    1.000    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY 1V                : N/A      N/A      N/A      0.0  )

  4-196 / 1VC
    (196)
    C SCOUT II 2WD     C SCOUT II 4WD     EGR/PMP/OXD/   /   /CAN    196-1    M-3  4250  3.73    0.50     6.8      2.0      N/A
    C SCOUT II 4WD     C SCOUT II 4WD     EGR/PMP/OXD/   /   /CAN    196-1    M-4  4250  3.54    0.55     8.9      1.7      2.4 *
    C TERRA P/U 4WD
    C SS II 4WD

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 4-196             : 1.000    1.000    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CAN  FAMILY 1VC               : N/A      N/A      N/A      0.0  )

IHC - EVAP-EMISSION FAMILIES:
                                                 EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  1V
                          SCOUT II 4WD      EGR/PMP/OXD/   /   /CAN    196-1    M-3  4250  3.73    0.50     6.8      2.0      2.7

  1VC
                        C SCOUT II 4WD      EGR/PMP/OXD/   /   /CAN    196-1    M-4  4250  3.54    0.55     8.9      1.7      2.4

  2V
                          SCOUT II 4WD      EGR/PMP/OXD/   /   /CAN    304-2    A-3  4500  2.72    0.68     5.5      1.6      4.4

  2VC
                        C TRAVELER 4WD      EGR/PMP/OXD/   /   /CAN    304-2    M-4  4750  3.54    0.77     5.8      1.4      2.5

  4V
                          SCOUT II 4WD      EGR/PMP/OXD/   /   /CAN    345-4    A-3  4500  2.72    0.81     13.      1.5      3.3

  4VC
                        C SCOUT II 4WD      EGR/PMP/OXD/   /   /CAN    345-4    M-4  4750  3.73    1.1      16.      2.0      2.2

ISUZU - FAMILY COMBINATIONS CERTIFIED:
                                                        ENGINE FAMILY TEST VEHICLES

  A1TB / CRK-L
    (111)
      LUV P/U 2WD         LUV P/U 2WD       EGR/PMP/   /   /   /CRK    111-2    A-3  2875  4.10    1.4      14.      1.6      N/A
      LUV P/U 4WD         LUV P/U 2WD       EGR/PMP/   /   /   /CRK    111-2    M-4  2875  3.73    1.5      13.      2.0      N/A
                          LUV P/U 4WD       EGR/PMP/   /   /   /CRK    111-2    M-4  3000  4.10    1.4      12.      2.0      N/A
                          LUV P/U 2WD       EGR/PMP/   /   /   /CRK    111-2    M-4  2750  3.73    1.3      11.      1.6      1.2 *

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/   /   /   /     FAMILY A1TB              : 1.000    1.000    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /CRK  FAMILY CRK-L             : N/A      N/A      N/A      0.0  )

  A1TC / CAN-A
    (111)
    C LUV P/U 2WD       C LUV CAB CHAS.     EGR/PMP/OXD/   /   /OTR    111-2    A-3  3250  4.10    0.26     4.8      1.3      N/A
    C LUV P/U 4WD       C LUV P/U 2WD       EGR/PMP/OXD/   /   /OTR    111-2    A-3  2875  4.10    0.22     4.4      0.98     N/A
    C LUV CAB CHAS.     C LUV P/U 2WD       EGR/PMP/OXD/   /   /OTR    111-2    M-4  2875  3.73    0.23     2.0      1.0      N/A
                        C LUV P/U 4WD       EGR/PMP/OXD/   /   /OTR    111-2    M-4  3000  4.10    0.23     2.8      1.3      1.5 *
                        C LUV CAB CHAS.     EGR/PMP/OXD/   /   /OTR    111-2    M-4  3250  4.10    0.23     2.8      1.3      N/A

       (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY A1TC              : 1.000    1.025    1.000     N/A )
       (EVAPOR. DETERIORATION FACTORS FOR -     /   /   /   /   /OTR  FAMILY CAN-A             : N/A      N/A      N/A      0.0  )

ISUZU - EVAP-EMISSION FAMILIES:
                                                 EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  CAN-A
                        C LUV P/U 4WD       EGR/PMP/OXD/   /   /OTR    111-2    M-4  3000  4.10    0.23     2.8      1.3      1.5

  CRK-L
                          LUV P/U 2WD       EGR/PMP/   /   /   /CRK    111-2    M-4  2750  3.73    1.3      11.      1.6      1.2

MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:
                                                        ENGINE FAMILY TEST VEHICLES

  G5T-C / E8OTC
    (122.156)
    C D50 P/U 2WD       C D50 P/U 2WD       EGR/PLS/OXD/   /   /CAN    122-2    A-3  2875  3.91    0.27     4.0      1.2      N/A
    C ARROW P/U 2WD     C D50 P/U 2WD       EGR/PLS/OXD/   /   /CAN    122-2    M-4  2875  3.91    0.20     2.6      1.1      0.67 *
                        C D50 P/U 2WD       EGR/PLS/OXD/   /   /CAN    156-2    A-3  2875  3.91    0.27     3.7      1.1      N/A

              *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                     VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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1980 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER ENGINE FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS — EXHAUST EMISSIONS (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
G5T-C / E80TC (CONT.)										
	C D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	156-2	M-5	2875	3.91	0.21	3.3	1.2	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY G5T-C				: 1.043	1.044	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E80TC				: N/A	N/A	N/A	0.0)
G52T-F / E80TF (122)										
D50 P/U 2WD	D50 P/U 2WD	EGR/OXD/ / / /CAN	122-2	A-3	2875	3.91	0.62	8.2	1.7	N/A
ARROW P/U 2WD	D50 P/U 2WD	EGR/OXD/ / / /CAN	122-2	M-4	2875	3.91	0.82	7.7	1.8	3.2 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/OXD/ / / /	FAMILY G52T-F				: 1.096	1.074	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E80TF				: N/A	N/A	N/A	0.0)
G54T-F / E80TF (156)										
D50 P/U 2WD	D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	156-2	A-3	2875	3.91	0.18	3.5	1.2	N/A
ARROW P/U 2WD	D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	156-2	M-5	2875	3.91	0.31	4.3	1.7	3.8 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY G54T-F				: 1.058	1.023	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E80TF				: N/A	N/A	N/A	0.0)
MITSUBISHI - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
E80TC										
	C D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	122-2	M-4	2875	3.91	0.20	2.6	1.1	0.67
	C D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	156-2	M-5	2875	3.91	0.21	3.3	1.2	1.6
E80TF										
	D50 P/U 2WD	EGR/OXD/ / / /CAN	122-2	M-4	2875	3.91	0.82	7.7	1.8	3.2
	D50 P/U 2WD	EGR/PLS/OXD/ / /CAN	156-2	M-5	2875	3.91	0.31	4.3	1.7	3.8
NISSAN - FAMILY COMBINATIONS CERTIFIED:										
	ENGINE FAMILY TEST VEHICLES									
TL20C / EVP-CARB-1A (119)										
C P/U 2WD	C P/U 2WD	EGR/PMP/OXD/ / /CAN	119-2	A-3	2875	4.38	0.18	2.9	1.1	N/A
C P/U CAB CHAS.	C P/U CAB CHAS.	EGR/PMP/OXD/ / /CAN	119-2	M-4	3750	4.38	0.14	2.9	1.4	1.4 *
	C P/U 2WD	EGR/PMP/OXD/ / /CAN	119-2	M-5	2750	3.89	0.26	3.3	1.0	N/A
	C P/U 2WD	EGR/PMP/OXD/ / /CAN	119-2	M-5	2875	3.89	0.24	2.4	1.0	0.57 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PMP/OXD/ / /	FAMILY TL20C				: 1.000	1.111	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1A				: N/A	N/A	N/A	0.0)
TL20F / EVP-CARB-1 (119)										
P/U 2WD	P/U 2WD	EGR/PLS/OXD/ / /CAN	119-2	A-3	2875	4.38	0.60	6.5	1.8	N/A
P/U CAB CHAS.	P/U CAB CHAS.	EGR/PLS/OXD/ / /CAN	119-2	M-4	3750	4.38	0.73	9.5	1.6	1.6 *
	P/U 2WD	EGR/PLS/OXD/ / /CAN	119-2	M-5	2750	3.89	0.86	9.0	1.7	N/A
	P/U 2WD	EGR/PLS/OXD/ / /CAN	119-2	M-5	2875	3.89	0.98	12.	1.4	0.99 *
(EXHAUST DETERIORATION FACTORS FOR -		EGR/PLS/OXD/ / /	FAMILY TL20F				: 1.178	1.000	1.036	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				: N/A	N/A	N/A	0.322)
NISSAN - EVAP-EMISSION FAMILIES:										
	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES									
EVP-CARB-1										
	510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.20	2.7	1.7	1.1
	510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.24	3.0	1.4	2.0
	P/U CAB CHAS.	EGR/PLS/OXD/ / /CAN	119-2	M-4	3750	4.38	0.73	9.5	1.6	1.6
	P/U 2WD	EGR/PLS/OXD/ / /CAN	119-2	M-5	2875	3.89	0.98	12.	1.4	0.99
EVP-CARB-1A										
	C 510 WAGON	EGR/PLS/OXD/ / /CAN	119-2	A-3	2750	3.36	0.26	2.5	0.71	0.63
	C 510	EGR/PLS/OXD/ / /CAN	119-2	M-4	2625	3.36	0.26	2.4	0.75	0.57
	C P/U CAB CHAS.	EGR/PMP/OXD/ / /CAN	119-2	M-4	3750	4.38	0.14	2.9	1.4	1.4
	C P/U 2WD	EGR/PMP/OXD/ / /CAN	119-2	M-5	2875	3.89	0.24	2.4	1.0	0.57

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

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                                                   1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                 ________CERTIFICATION LEVELS________
  ENGINE FAMILY/EVAP-EMISS FAM                                                                  EXHAUST EMISSIONS          EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                  T                 (GRAMS/MILE)            EMISSIONS
      CARLINES COVERED                                          ENGINE         R   EQUIV     ___________________________  (GRAMS)
                                                                DISP.&         A   TEST                         OXIDES
                            VEHICLE CARLINE                     CARB           N   WEIGHT AXLE   HYDRO-   CARBON     OF     HYDRO-
____________________________REPRESENTED____EMISSION CONTROL SYSTEM_VENTURIS_S__(LBS)__RATIO_CARBONS_MONOXIDE_NITROGEN_CARBONS_

SUZUKI - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  LJ8 / F8A-1
    ( 49)
      LJ80V 4WD          LJ80 4WD        EGR/   /   /   /   /CAN    49-1   M-4  2125  4.56     1.0      12.       1.4      0.56 *
      LJ81 P/U 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/   /   /   /   /     FAMILY LJ8             : 1.000    1.000     1.044      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY F8A-1           :  N/A      N/A       N/A      0.0  )

SUZUKI - EVAP-EMISSION FAMILIES:
                                             EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  F8A-1
                         LJ80 4WD        EGR/   /   /   /   /CAN    49-1   M-4  2125  4.56     1.0      12.       1.4      0.56

TOYO KOGYO - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

  0MAT / 0SCHC
    (120)
     C B2000 P/U 2WD     C COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   120-2   M-4  3000  3.31     0.59     8.1       1.5      N/A
     C COURIER P/U 2WD   C COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   120-2   M-5  3000  3.31     0.28     3.1       1.1      1.6 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 0MAT            : 1.468    1.100     1.007      N/A )
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 0MAT            : 1.157    1.310     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCHC           :  N/A      N/A       N/A     0.130)

  0MAT / 0SCHF
    (120)
      B2000 P/U 2WD        COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   120-02  M-4  3000  3.31     0.59     8.1       1.5      2.0 *
      COURIER P/U 2WD      COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   120-02  M-5  3000  3.31     0.28     3.1       1.1      N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 0MAT            : 1.468    1.100     1.007      N/A )
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 0MAT            : 1.157    1.310     1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCHF           :  N/A      N/A       N/A     0.260)

  0WHT / 0SCCC
    (140)
     C COURIER P/U 2WD   C COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   140-2   A-3  3000  3.64     0.28     3.5       1.2      N/A
     C COURIER P/U CAB CHC COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   140-2   A-3  3000  3.64     0.34     8.8       1.6      N/A
                         C COURIER P/U CAB CH EGR/PMP/OXD/  /   /CAN   140-2   M-4  3375  3.64     0.30     3.8       1.1      1.6 *
                         C COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   140-2   M-5  3000  3.64     0.45     9.9       1.5      N/A
                         C COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   140-2   M-5  3000  3.64     0.29     3.6       1.2      1.6 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 0WHT            : 1.205    1.361     1.000      N/A )
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 0WHT            : 1.319    1.302     1.028      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCCC           :  N/A      N/A       N/A     0.100)

  0WHT / 0SCCF
    (140)
      COURIER P/U 2WD      COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   140-02  A-3  3000  3.64     0.28     3.5       1.2      N/A
                           COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   140-02  A-3  3000  3.64     0.34     8.8       1.6      2.4 *
                           COURIER P/U CAB CH EGR/PMP/OXD/  /   /CAN   140-02  M-4  3375  3.64     0.30     3.8       1.1      N/A
                           COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   140-02  M-5  3000  3.64     0.29     3.6       1.2      N/A
                           COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   140-02  M-5  3000  3.64     0.45     9.9       1.5      N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/   /   /     FAMILY 0WHT            : 1.205    1.361     1.000      N/A )
        (EXHAUST DETERIORATION FACTORS FOR - EGR/PLS/OXD/   /   /     FAMILY 0WHT            : 1.319    1.302     1.028      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /   /CAN  FAMILY 0SCCF           :  N/A      N/A       N/A     0.250)

TOYO KOGYO - EVAP-EMISSION FAMILIES:
                                             EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  0SCHC
                         C COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   120-2   M-5  3000  3.31     0.28     3.1       1.1      1.6

  0SCHF
                           COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   120-02  M-4  3000  3.31     0.59     8.1       1.5      2.0

  0SCCC
                         C COURIER P/U CAB CH EGR/PMP/OXD/  /   /CAN   140-2   M-4  3375  3.64     0.30     3.8       1.1      1.6
                         C COURIER P/U 2WD   EGR/PMP/OXD/   /   /CAN   140-2   M-5  3000  3.64     0.29     3.6       1.2      1.6

  0SCCF
                           COURIER P/U 2WD   EGR/PLS/OXD/   /   /CAN   140-02  A-3  3000  3.64     0.34     8.8       1.6      2.4

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                         1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                            CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                     EXHAUST EMISSIONS     EVAPOR.
    (CUBIC INCH DISPLACEMENT)                                                      T                 (GRAMS/MILE)        EMISSIONS
      CARLINES COVERED                                                   ENGINE    R  EQUIV                               (GRAMS)
                                                                         DISP.&    A  TEST                         OXIDES
                              VEHICLE CARLINE                            CARB      N  WEIGHT  AXLE   HYDRO-   CARBON     OF      HYDRO-
                                REPRESENTED     EMISSION CONTROL SYSTEM  VENTURIS  S  (LBS)   RATIO  CARBONS MONOXIDE NITROGEN  CARBONS

TOYOTA - FAMILY COMBINATIONS CERTIFIED:
                                                ENGINE FAMILY TEST VEHICLES

  2F(C) / EV-F
    (258)
    C LAND CRUISER 4WD  C LAND CRUISER 4WD   EGR/PMP/OXD/  /  /CAN   258-2   M-4  4000  3.70     0.18     3.3      1.2       2.1 *
    C LAND CRUSR WGN 4WDC LAND CRUSR WGN 4WD EGR/PMP/OXD/  /  /CAN   258-2   M-4  4500  3.70     0.20     3.0      1.5       2.2 *
      LAND CRUISER 4WD
      LAND CRUSR WGN 4WD

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /      FAMILY 2F(C)              : 1.000    1.000    1.020      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY EV-F               :  N/A      N/A      N/A     0.165)

  2F(F) / EV-F
    (258)
      LAND CRUISER 4WD  C LAND CRUISER 4WD   EGR/PMP/OXD/  /  /CAN   258-2   M-4  4000  3.70     0.62     9.2      1.8       N/A
      LAND CRUSR WGN 4WDC LAND CRUSR WGN 4WD EGR/PMP/OXD/  /  /CAN   258-2   M-4  4500  3.70     0.70     10.      1.7       N/A

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /      FAMILY 2F(F)              : 1.419    1.054    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY EV-F               :  N/A      N/A      N/A     0.165)

  20R(TC) / EV-RC
    (134)
    C P/U 2WD              C P/U 2WD         EGR/PMP/OXD/  /  /CAN   134-2   A-3  2875  4.10     0.12     3.0      0.90      N/A
    C P/U 4WD              C P/U CAB CHAS.   EGR/PMP/OXD/  /  /CAN   134-2   M-4  3500  4.11     0.16     6.6      1.2       N/A
    C P/U 3/4 TON 2WD      C P/U 4WD         EGR/PMP/OXD/  /  /CAN   134-2   M-4  3250  4.38     0.15     2.5      1.4       N/A
    C P/U CAB CHAS.        C P/U 2WD         EGR/PMP/OXD/  /  /CAN   134-2   M-4  2750  4.10     0.20     2.9      1.0       1.3 *
      P/U CAB CHAS.        C P/U 2WD         EGR/PMP/OXD/  /  /CAN   134-2   M-5  2875  4.10     0.16     2.5      1.1       1.4 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/OXD/  /  /      FAMILY 20R(TC)            : 1.000    1.323    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY EV-RC              :  N/A      N/A      N/A     0.0  )

  20R(TF) / EV-RF
    (134)
      P/U 2WD                P/U 2WD         EGR/PMP/   /  /  /CAN   134-2   A-3  2750  4.10     0.65     10.      1.6       1.7 *
      P/U 4WD                P/U 3/4 TON 2WD EGR/PMP/   /  /  /CAN   134-2   M-4  2875  4.11     0.87     12.      1.8       N/A
      P/U 3/4 TON 2WD        P/U 4WD         EGR/PMP/   /  /  /CAN   134-2   M-4  3250  4.38     1.2      14.      2.0       N/A
                             P/U 2WD         EGR/PMP/   /  /  /CAN   134-2   M-5  2875  4.10     0.97     13.      1.7       2.4 *

        (EXHAUST DETERIORATION FACTORS FOR - EGR/PMP/   /  /  /      FAMILY 20R(TF)            : 1.008    1.013    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY EV-RF              :  N/A      N/A      N/A     0.0  )

TOYOTA - EVAP-EMISSION FAMILIES:
                                           EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

  EV-F
                           C LAND CRUISER 4WD   EGR/PMP/OXD/  /  /CAN   258-2   M-4  4000  3.70     0.18     3.3      1.2       2.1
                           C LAND CRUSR WGN 4WD EGR/PMP/OXD/  /  /CAN   258-2   M-4  4500  3.70     0.20     3.0      1.5       2.2

  EV-RC
                           C CORONA WAGON       EGR/PMP/OXD/  /  /CAN   134-2   A-3  3000  3.73     0.20     5.5      0.75      1.6
                           C P/U 2WD            EGR/PMP/OXD/  /  /CAN   134-2   M-4  2750  4.10     0.20     2.9      1.0       1.3
                           C CORONA             EGR/PMP/OXD/  /  /CAN   134-2   M-5  3000  3.58     0.19     3.0      0.72      1.4
                           C P/U 2WD            EGR/PMP/OXD/  /  /CAN   134-2   M-5  2875  4.10     0.16     2.5      1.1       1.4

  EV-RF
                             P/U 2WD            EGR/PMP/   /  /  /CAN   134-2   A-3  2750  4.10     0.65     10.      1.6       1.7
                             P/U 2WD            EGR/PMP/   /  /  /CAN   134-2   M-5  2875  4.10     0.97     13.      1.7       2.4

VOLKSWAGEN - FAMILY COMBINATIONS CERTIFIED:
                                                ENGINE FAMILY TEST VEHICLES

  11 / N
    (120)
    C VANAGON 2WD            VANAGON 2WD     FI /3WY/CLS/  /  /CAN   120-FI  A-3  3875  4.09     0.28     7.6      1.1       0.77 *
                             VANAGON 2WD     FI /3WY/CLS/  /  /CAN   120-FI  M-4  3500  4.57     0.19     3.8      0.70      N/A

        (EXHAUST DETERIORATION FACTORS FOR - FI /3WY/CLS/  /  /      FAMILY 11                 : 1.000    1.000    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY N                  :  N/A      N/A      N/A     0.0  )

  12 / N
    (120)
      VANAGON 2WD          C VANAGON 2WD     FI /EGR/OXD/  /  /CAN   120-FI  A-3  3875  4.09     0.87     10.      1.5       N/A
                           C VANAGON 2WD     FI /EGR/OXD/  /  /CAN   120-FI  M-4  3500  4.57     1.0      13.      2.0       0.69 *

        (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/OXD/  /  /      FAMILY 12                 : 1.096    1.000    1.000      N/A )
        (EVAPOR. DETERIORATION FACTORS FOR -    /  /  /    /  /CAN   FAMILY N                  :  N/A      N/A      N/A     0.0  )

  37 PC / 37 P
    ( 97)
    C P/U 2WD                P/U 2WD         FI /EGR/OXD/  /  /CAN    97-FI  A-3  2500  3.76     0.16     2.0      1.4       1.2 *
                             P/U 2WD         FI /EGR/OXD/  /  /CAN    97-FI  M-4  2375  3.90     0.31     1.1      1.1       N/A
                             P/U 2WD         FI /EGR/OXD/  /  /CAN    97-FI  M-5  2375  3.90     0.14     1.3      1.1       N/A

          *NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS: A COMPLETE LISTING OF ALL TEST
                 VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.
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                                              1980 MODEL YEAR LIGHT-DUTY TRUCKS
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MANUFACTURER                                                                                          CERTIFICATION LEVELS
  ENGINE FAMILY/EVAP-EMISS FAM                                                                  EXHAUST EMISSIONS       EVAPOR.
   (CUBIC INCH DISPLACEMENT)                                                       T              (GRAMS/MILE)         EMISSIONS
     CARLINES COVERED                                                   ENGINE     R  EQUIV                             (GRAMS)
                                                                        DISP.&     A  TEST                     OXIDES
                               VEHICLE CARLINE                          CARB       N  WEIGHT AXLE   HYDRO-  CARBON   OF     HYDRO-
                                 REPRESENTED     EMISSION CONTROL SYSTEM VENTURIS  S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN CARBONS

VOLKSWAGEN - FAMILY COMBINATIONS CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

 37 PC / 37 P (CONT.)

      (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/OXD/   /   /      FAMILY 37 PC               : 1.000    1.000    1.000     N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN   FAMILY 37 P                :  N/A      N/A      N/A     0.159)

 37 PF / 37 P
  ( 97)
   P/U 2WD            C P/U 2WD          FI /EGR/   /   /  /CAN     97-FI  A-3  2500  3.76     1.3      7.0      1.6       N/A
                      C P/U 2WD          FI /EGR/   /   /  /CAN     97-FI  M-4  2375  3.90     1.2      7.4      1.8       1.5 *
                      C P/U 2WD          FI /EGR/   /   /  /CAN     97-FI  M-5  2375  3.90     1.4      7.9      1.8       N/A

      (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/   /   /   /      FAMILY 37 PF               : 1.000    1.221    1.000     N/A )
      (EVAPOR. DETERIORATION FACTORS FOR -    /   /   /   /  /CAN   FAMILY 37 P                :  N/A      N/A      N/A     0.159)

VOLKSWAGEN - EVAP-EMISSION FAMILIES:
                                            EVAPORATIVE-EMISSION FAMILY TEST VEHICLES

 N
                        VANAGON 2WD      FI /3WY/CLS/   /  /CAN    120-FI  A-3  3875  4.09     0.28     7.6      1.1       0.77
                      C VANAGON 2WD      FI /EGR/OXD/   /  /CAN    120-FI  M-4  3500  4.57     1.0      13.      2.0       0.63

 37 P
                      C P/U 2WD          FI /EGR/OXD/   /  /CAN     97-FI  A-3  2500  3.76     0.16     2.0      1.4       1.2
                        P/U 2WD          FI /EGR/   /   /  /CAN     97-FI  M-4  2375  3.90     1.2      7.4      1.8       1.5



                                              1980 MODEL YEAR LIGHT-DUTY DIESEL VEHICLES
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MANUFACTURER                                                                                          CERTIFICATION LEVELS
  EXHAUST EMISSION FAMILIES                                                                     EXHAUST EMISSION        EVAPOR.
   (CUBIC INCH DISPLACEMENT)                                                       T              (GRAMS/MILE)         EMISSIONS
     CARLINES COVERED                                                   ENGINE     R  EQUIV                             (GRAMS)
                                                                        DISP.&     A  TEST                     OXIDES
                               VEHICLE CARLINE                          CARB       N  WEIGHT AXLE   HYDRO-  CARBON   OF     HYDRO-
                                 REPRESENTED     EMISSION CONTROL SYSTEM VENTURIS  S  (LBS)  RATIO  CARBONS MONOXIDE NITROGEN CARBONS

AUDI - FAMILIES CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

 DA
  (121)
   5000                 5000             FI /   /   /   /  /NON    121-FI  M-5  3250  4.78     0.40     1.3      1.7       N/A

      (EXHAUST DETERIORATION FACTORS FOR - FI /   /   /   /   /      FAMILY DA                  : 1.000    1.000    1.000     N/A )

GENERAL MOTORS - FAMILIES CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

 03J9ZG
  (348)
   CUTLASS WAGON        SEVILLE          FI /EGR/   /   /  /NON    348-FI  A-3  4500  2.41     0.20     1.3      1.8       N/A
   CUTLASS              CATALINA/BONNE WGN FI /EGR/ /   /  /NON    348-FI  A-3  4750  2.73     0.32     1.3      1.8       N/A
   CUTLASS SUPREME      NINETY EIGHT     FI /EGR/   /   /  /NON    348-FI  L-3  4500  2.41     0.35     1.3      1.6       N/A
   IMPALA/CAPRICE WGN   CUTLASS          FI /EGR/   /   /  /NON    348-FI  L-3  4000  2.29     0.39     1.3      1.4       N/A
   CATALINA/BONNE WGN
   CATALINA/BONNE.
   CUSTOM CRUISER WG
   DELTA 88
   LESABRE
   ESTATE WAGON
   NINETY EIGHT
   ELECTRA
   DEVILLE/BROUGHAM
   TORONADO
   RIVIERA
   ELDORADO
   SEVILLE

      (EXHAUST DETERIORATION FACTORS FOR - FI /EGR/   /   /   /      FAMILY 03J9ZG              : 1.149    1.114    1.034     N/A )

MERCEDES BENZ - FAMILIES CERTIFIED:
                                                  ENGINE FAMILY TEST VEHICLES

 80.20.34.24
  (146)
  C 240D/280E/300D     C 240D/280E/300D  FI /   /   /   /  /NON    146-FI  A-4  3500  3.69     0.31     0.93     1.4       N/A
    240D/280E/300D     C 240D/280E/300D  FI /   /   /   /  /NON    146-FI  M-4  3500  3.69     0.36     1.1      1.1       N/A
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1980 MODEL YEAR LIGHT-DUTY DIESEL VEHICLES

MANUFACTURER EXHAUST EMISSION FAMILIES (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
MERCEDES BENZ - FAMILIES CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
80.20.34.24 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 80.20.34.24				: 1.000	1.002	1.000	N/A)
80.21.35.30										
(183)										
240D/280E/300D	240D/280E/300D	FI / / / / /NON	183-FI	A-4	3750	3.46	0.32	1.1	1.7	N/A
300TD	300TD	FI / / / / /NON	183-FI	A-4	3875	3.46	0.29	1.1	2.0	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 80.21.35.30				: 1.028	1.000	1.000	N/A)
80.21.45.30										
(183)										
280SE/300SD	280SE/300SD	FI / / / / /NON	183-FI	A-4	4000	3.07	0.22	1.1	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 80.21.45.30				: 1.027	1.058	1.000	N/A)
80.22.35.30										
(183)										
C 240D/280E/300D	C 240D/280E/300D	FI /EGR/ / / /NON	183-FI	A-4	3750	3.46	0.36	1.1	1.2	N/A
C 300TD	C 300TD	FI /EGR/ / / /NON	183-FI	A-4	3875	3.46	0.26	1.1	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY 80.22.35.30				: 1.000	1.000	1.000	N/A)
80.22.45.30										
(183)										
C 280SE/300SD	C 280SE/300SD	FI /EGR/ / / /NON	183-FI	A-4	4000	3.07	0.26	1.1	1.2	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY 80.22.45.30				: 1.022	1.000	1.023	N/A)
PEUGEOT - FAMILIES CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
XD										
(141)										
505	504 WAGON	FI / / / / /NON	141-FI	A-3	3750	4.11	0.36	0.98	1.7	N/A
504 WAGON	505	FI / / / / /NON	141-FI	A-3	3500	3.78	0.40	1.1	1.8	N/A
	504 WAGON	FI / / / / /NON	141-FI	M-4	3625	4.11	0.38	1.3	1.8	N/A
	505	FI / / / / /NON	141-FI	M-4	3500	3.70	0.30	1.2	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY XD				: 1.088	1.054	1.041	N/A)
XD2C										
(141)										
C 505	C 504 WAGON	FI /EGR/ / / /NON	141-FI	A-3	3750	4.11	0.27	1.4	0.98	N/A
C 504 WAGON	C 505	FI /EGR/ / / /NON	141-FI	A-3	3500	3.78	0.30	1.2	0.92	N/A
	C 504 WAGON	FI /EGR/ / / /NON	141-FI	M-4	3625	4.11	0.22	2.1	1.1	N/A
	C 505	FI /EGR/ / / /NON	141-FI	M-4	3500	3.70	0.30	1.2	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY XD2C				: 1.000	1.000	1.008	N/A)
VOLKSWAGEN - FAMILIES CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
D										
(90)										
RABBIT	DASHER WAGON	FI / / / / /NON	90-FI	M-4	2625	4.10	0.34	1.1	1.4	N/A
DASHER	RABBIT	FI / / / / /NON	90-FI	M-4	2375	3.90	0.38	1.2	1.4	N/A
DASHER WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY D				: 1.000	1.000	1.308	N/A)
D-C										
(90)										
C RABBIT	DASHER WAGON	FI / / / / /NON	90-FI	M-4	2625	4.10	0.34	1.2	1.1	N/A
C DASHER	RABBIT	FI / / / / /NON	90-FI	M-4	2375	3.90	0.38	1.3	1.1	N/A
C DASHER WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY D-C				: 1.000	1.108	1.058	N/A)
VOLVO - FAMILIES CERTIFIED:										
		ENGINE FAMILY TEST VEHICLES								
60										
(145)										
VOLVO SEDAN	VOLVO SEDAN	FI / / / / /NON	145-FI	A-3	3375	3.54	0.35	1.4	1.6	N/A
VOLVO STAT WGN	VOLVO STAT WGN	FI / / / / /NON	145-FI	A-3	3500	3.54	0.19	0.91	1.9	N/A
	VOLVO SEDAN	FI / / / / /NON	145-FI	M-4	3375	3.54	0.34	1.8	1.5	N/A

1980 MODEL YEAR LIGHT-DUTY DIESEL VEHICLES

MANUFACTURER EXHAUST EMISSION FAMILIES (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	EQUIV TEST WEIGHT (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
VOLVO - FAMILIES CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
6D (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 6D				: 1.000	1.217	1.000	N/A)
GENERAL MOTORS - FAMILIES CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
09J9Z										
(348)										
C10 P/U 2WD	C10 P/U 2WD	FI /NON/ / / /NON	348-FI	L-3	5000	3.42	0.71	2.1	2.1	N/A
C C10 P/U 2WD	C10 P/U 2WD	FI /NON/ / / /NON	348-FI	L-3	5000	3.42	0.95	2.2	2.0	N/A
C15 P/U 2WD	C10 P/U 2WD	FI /NON/ / / /NON	348-FI	L-3	5000	2.76	0.97	2.2	2.1	N/A
C C15 P/U 2WD										
(EXHAUST DETERIORATION FACTORS FOR -		FI /NON/ / / /	FAMILY 09J9Z				: 1.156	1.097	1.060	N/A)
IHC - FAMILIES CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
SD-33T										
(198)										
SCOUT II 2WD	C TRAVELER 4WD	FI /EGR/ / / /NON	198-FI	C-4	4750	3.73	0.39	1.6	1.4	N/A
SCOUT II 4WD	C TRAVELER 4WD	FI /EGR/ / / /NON	198-FI	M-4	4750	3.73	0.45	2.2	1.6	N/A
TRAVELER 2WD										
TRAVELER 4WD										
TERRA P/U 4WD										
C SCOUT II 2WD										
C SCOUT II 4WD										
C TRAVELER 2WD										
C TRAVELER 4WD										
C TERRA P/U 4WD										
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY SD-33T				: 1.000	1.000	1.000	N/A)
VOLKSWAGEN - FAMILIES CERTIFIED:		ENGINE FAMILY TEST VEHICLES								
DP										
(90)										
C P/U 2WD	C P/U 2WD	FI / / / / /NON	90-FI	M-4	2375	3.90	0.32	1.0	1.2	N/A
P/U 2WD										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY DP				: 1.000	1.108	1.058	N/A)

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federal register

Wednesday
August 27, 1980

Part III

Department of the Interior

Bureau of Land Managment

Areas of Critical Environmental Concern; Policy and Procedures Guidelines

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Areas of Critical Environmental Concern; Policy and Procedures Guidelines

AGENCY: Bureau of Land Management, Interior.

ACTION: Final guidelines.

SUMMARY: The Bureau of Land Management is issuing final guidelines for the implementation of provisions of the Federal Land Policy and Management Act of 1976 with regard to areas of critical environmental concern with the public lands administered by the Bureau of Land Management. The general policies and procedures contained in these guidelines will be incorporated into regulations and also will be combined with more specific policy and operational procedures as a part of a Bureau of Land Management manual. The final guidelines accompany this notice as Attachment A.

EFFECTIVE DATE: August 27, 1980.

ADDRESS: Director (430), Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown (202) 343-6064 at the above address, or other Bureau of Land Management (BLM) office locations listed in Attachment B to this notice.

SUPPLEMENTARY INFORMATION: The principal authors of these final guidelines are Bruce R. Brown and William J. Duddleson of the BLM Washington Office.

1. *Purpose and Objectives.* The purpose and objectives of these areas of critical environmental concern (ACEC) guidelines are to inform BLM field managers and the public alike of the policy and direction for the identification, designation, and management of areas within the public lands where special management attention is required to (a) protect important historic, cultural and scenic values, fish and wildlife resources and other natural systems and processes, and (b) protect human life and property from natural hazards.

2. *Authority.* The authority for this process is the Federal Land Policy and Management Act of 1976 (FLPMA)—(43 U.S.C. 1701 et seq.).

3. *Relationship to Planning.* The identification and designation of ACEC's will be done through the land-use planning process authorized by FLPMA, expressed in land-use plans called Resource Management Plans (RMP's). RMP's are developed for geographic areas called Resource Areas, the Bureau's smallest planning area. Regulations for operation of this planning process were published in the **Federal Register** of August 7, 1979 (44 FR 46386–46401) as final rulemaking. These planning regulations contain general provisions regarding the ACEC process. Inquiries about the planning regulations may be directed to Robert A. Jones, Chief, Division of Planning, Inventory and Environmental Coordination, BLM (202), U.S. Department of the Interior, Washington, D.C. 20240; telephone (202) 343-5682.

4. *Response to Public Comment.* These final guidelines are designed to be responsive to public comments received on proposed guidelines for ACEC's published in the **Federal Register** of June 6, 1979, and BLM experience in field testing ACEC concepts. The comment period on the proposed guidelines ended on September 5, 1979. Comments were received from 117 reviewers: 20 from private individuals; 33 from developmental use-oriented interest groups such as oil and gas, mining, livestock, and forest product industries, and utility companies; 24 from conservation use-oriented interest groups; 4 from colleges and universities; 11 from State or local governments; 18 from BLM offices; and 7 from Federal agencies other than BLM. The following is a discussion of the major issues and concerns addressed in those comments.

a. *General Comments or Those Relating to More Than One Section.*

(1) *Concerns that ACEC Designation Under FLPMA Might Duplicate Other Existing Designations Under Other Laws.* Some reviewers felt that the ACEC guidelines are not necessary because the kinds of values or environmental resources that are relevant to the ACEC process mandated by FLPMA are adequately protected by other laws such as the Endangered Species Act, Antiquities Act, or Clean Water and Air Acts, or that an ACEC designation would duplicate existing BLM or Department of the Interior designations, such as Outstanding Natural Areas or Research Natural Areas, or designations of other agencies such as National Natural Landmarks.

The Bureau is required by FLPMA to identify, designate, and protect ACEC's on land it administers. Therefore, it is imperative that the BLM adopt procedures to implement the ACEC mandates of FLPMA. In the past, BLM or the Department of the Interior have designated special management areas under general authority to protect natural environment areas having cultural or scientific values, and to prevent excessive soil erosion and destruction of plant life and wildlife habitat. Some of these previously designated areas—those that contain important natural or cultural resources—shall be considered for ACEC designation and if so designated will be managed under the specific authority of FLPMA. Some other existing types of designations are recognition-oriented only. That is, they recognize certain types of important environmental resources but do not provide (as the ACEC process does) a commitment to provide special management to protect the important resources or natural hazards on a continuing basis. Therefore, the final guidelines have been revised (Sec. VII., Relationships) to clarify this issue.

(2) *The ACEC Process Is Perceived by Some as Totally Presevation-Oriented.* Some concern was expressed that resources and values other than those specified in the ACEC provisions of FLPMA were improperly and unfairly considered in the draft guidelines. Some reviewers interpreted the ACEC process as being a "lock-up" program that will prevent many types of desired uses, particularly commodity production.

As part of FLPMA's legislative history, Senate Report 94–585 said "unlike wilderness area * * * (ACEC's) are not necessarily areas in which no development can occur." Therefore, as the ACEC guidelines reflect, a range of multiple-use activities, including specified kinds and degrees of development and commodity production, may take place within a particular ACEC, provided that the important environmental resources involved, or human property or lives, are not damaged or endangered.

(3) *Regulations "vs" Guidelines.* Some reviewers said BLM is required to issue regulations, rather than guidelines, on the ACEC process. Although the ACEC process is covered in the attached guidelines, general ACEC policy and procedures are contained in the Bureau's resource management planning regulations (43 CFR Part 1600) issued on August 7, 1979. These planning regulations will be amended to include more detail on the ACEC process as described in these final ACEC guidelines. Also, the ACEC process will be incorporated in future regulations regarding special areas management.

(4) *Editing.* Editorial adjustments have been made throughout the guidelines in response to comments that certain sections needed clarification, were superfluous, or that some material is no longer relevant.

b. *Comments Relating to Specific Sections.*

(1) *Sec. II.—Definitions.* Some reviewers requested a number of changes, ranging from the addition of many new definitions to the deletion of several terms. As a result, the definitions section was carefully reexamined and a number of changes were made. Definitions were added for:

"Potential ACEC"—This term was necessary in order to give significance to an important environmental resource or natural hazard that has been found to meet the identification criteria and is pending an ACEC designation decision. A District Manager may initiate temporary special management measures for a potential ACEC.

"Protect"—Because the term is used throughout the guidelines, a definition is included.

"Management Framework Plan"—Because the term is used throughout the guidelines, a definition is included.

"Definitions were deleted for:

"Historic Value or Resource"—This term is included within the definition for "Cultural Value or Resource."

Definitions were modified for:

"Fish and Wildlife Resource"—Changes were made for clarification.

"Withdrawal"—This definition was modified to conform to the definition currently proposed as a revision of the Bureau's regulations on Land Withdrawals and Revocations (43 CFR 2300).

(2) *Sec. III.—Identification Criteria.* In response to comments, two proposed identification criteria, "criticalness" and "protectability," have been deleted. Some factors that previously were proposed for determining criticalness (i.e., the degree to which a resource is fragile, sensitive, rare, irreplaceable, endangered, or threatened) are now included among factors of the criteria, "importance." "Protectability" has been eliminated as an identification criteria because we feel that the importance of an environmental resource is to be determined solely by the inherent qualities of the resource itself, and that the identification phase is not the proper step in the ACEC process to consider protectability.

(3) *Sec. IV.—Designation Considerations.* Several reviewers expressed concern it appeared BLM was attempting to designate non-BLM lands as ACEC's. To clarify this, additional text has been added to the sections on Designation Factors and the identification Phase (V. A.).

(4) *Sec. V. A.—Identification Phase.* (a) In response to several comments, this section has been amended to clarify the fact that any member of the public may at any time nominate environmental resources or natural hazards for consideration for ACEC identification.

(b) Another step that has been added for clarification is that of "Identification Finding" (Sec. V. A. 4). This is the step when the District Manager makes a finding that the area in which an "identified environmental resource or natural hazard" is located becomes a "potential ACEC" (i.e., a finding that the identification criteria are met). This new material makes it clear that the District Manager may apply temporary special management actions designed to assure that those qualities that make the resource important are not damaged or otherwise subjected to adverse change pending an ACEC designation decision. Such temporary management is discussed in Section V. B.

(5) *Sec. V. C.—Designation Phase (Sec. V. B. in the proposed guidelines).* (a) Several reviewers suggested that the Bureau does not have the discretion to decide whether or not a potential ACEC should be designated. These reviewers said that FLPMA requires the BLM to identify ACEC/Type values, resources, and hazards, and, if they meet the identification criteria, they must be designated and managed within an ACEC. These reviewers interpreted FLPMA to mean that alternative uses for an area with identified ACEC values should not even be considered—that ACEC designation automatically is in the best public interest in every instance.

We feel the Act specifically separates the identification and designation of ACEC's. The identification phase is developed from Sec. 201(a) of the Act that requires the identification of ACEC-type values, resources, or hazards during the inventory of the public lands. "Identification" is a finding by a BLM District Manager that a particular area contains environmental resources or natural hazards that meet the criteria of relevance and importance and this makes the area eligible for subsequent consideration for designation as an ACEC. Identification is a matter for professional evaluation, and will be made on the basis of the values or qualities of the resource or hazard itself, without consideration of alternative potential uses.

The designation phase is developed from Sec. 202(c) of the Act, which requires that priority be given to the designation of ACEC's during the development and revision of land-use plans. "Designation" of an ACEC is a management decision that is made after weighing the public interest to be served by (1) ACEC designation and by (2) potential alternative uses for the resource or combination of resources involved.

Further, these two phases of the ACEC process—identification and designation—are distinctly separable because the Act (Sec. 201(a)) also says that "identification of such areas [potential ACEC's] shall not, of itself, change or prevent change of the management or use of public lands." Thus, there may be "potential ACEC's"—where an important ACEC-type resource has been identified—that will not be protected through ACEC designation.

(b) Some reviewers' comments indicated a misunderstanding of how the ACEC process functions as part of the resource management planning process. This is understandable because the final planning regulations (which considered the ACEC process in more detail than the draft planning regulations) were not published until a month after the proposed ACEC guidelines were published. The final ACEC guidelines have been revised to include a section, "Designation Consideration through the Planning Process" (Sec. V. C. 1.). This revision and the fact that the ACEC process is now included in the planning regulations should clarify this concern.

(c) Some reviewers expressed concern that District Managers should not have the responsibility to designate ACEC's. The Bureau's policy regarding approval of an ACEC designation, which is the same for any discretionary decision involved in an RMP, is that before the District Manager approves an RMP, or other land-use plan (or revision of such plans), the State Director must concur in advance of that approval. That is, ACEC designation decisions will not become final until after the State Director concurs with the District Manager's proposed decision. Further, in cases where the State Director considers that a resource in a proposed ACEC may be of multi-State, national or international significance, the State Director will advise the BLM Director, who may make a finding as to significance and also may concur in the proposed designation decision. New language has been added to provide that the Secretary of the Interior, also may concur in proposed ACEC designation decisions that would involve or affect environmental resources of more-than-State significance.

(d) As part of the designation phase, some reviewers suggested that the ACEC process include a benefit/cost analysis complete with a mineral survey. After careful consideration, we determined that a separate benefit/cost analysis is not appropriate for ACEC

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designation decisions. As part of the RMP process, District Managers consider alternative resource uses both during the preparation of the plan and as part of an associated environmental impact statement (EIS) or specific environmental analysis (EA). Mineral data is considered as part of both of these processes.

While we recognize that the changes made in these final ACEC guidelines will not meet all of the concerns raised by all of those who reviewed the proposed guidelines, we believe that the final guidelines constitute a good start in carrying out a potentially significant mandate of the Federal Land Policy and Management Act.

We urge all persons who are interested in the future of public-lands resources to continue to take part in developing and implementing this promising special management process—as the forthcoming ACEC amendments to the BLM resource management planning regulations are proposed for public review, as BLM Manual material on the ACEC process is developed, and as ACEC identification and designation decisions begin to be proposed by our District Managers in the field.

Dated: August 18, 1980.

Frank Gregg,

Director, Bureau of Land Management.

Attachment A.—Areas of Critical Environmental Concern (ACEC's) Final Guidelines

U.S. Department of the Interior, Bureau of Land Management

Areas of Critical Environmental Concern

Final Guidelines

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Final Guidelines—Areas of Critical Environmental Concern

I. Summary

A. *Purposes and Objectives.* These guidelines set forth general policy and procedures for identifying, designating and giving special management attention to Areas of Critical Environmental Concern within the public lands administered by the Secretary of the Interior through the Bureau of Land Management (BLM). The purpose of this document is to provide general guidance and direction to BLM personnel and information to the public to enable all interested persons to participate effectively in this aspect of managing the public lands. The information contained in these guidelines will be incorporated into regulations dealing with the identification, designation, and protection of special management areas and into the BLM Manual section dealing with detailed procedural guidance for special management areas.

The objectives of the process covered by these guidelines are to identify, designate and manage areas within the public lands where special management attention is required to protect (a) important historic, cultural, and scenic values, fish and wildlife resources and other natural systems and processes, and (b) human life and property from natural hazards.

B. *Authority and Mandate.* The Federal Land Policy and Management Act of 1976 (the Act, or FLPMA) contains the following key provisions regarding Areas of Critical Environmental Concern:

1. *Definition.* An "Area of Critical Environmental Concern" (ACEC) is an area "within the public lands where special management attention is required (when such areas are developed or used, or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards" (Sec. 103(a));

2. *Identification Priority and Effect.* Identification of potential ACEC's shall be given "priority" in the "inventory of all public lands and their resource and other values," and identification "shall not, of itself, change or prevent change of the management or use of public lands" (Sec. 201(a));

3. *Designation Priority and Process.* The designation of ACEC's shall be given "priority" in "the development and revision of land use plans" (Sec. 202(c)(3)), and

4. *Special Management Priority.* The protection of ACEC's shall be given "priority" (Sec. 202(c)(3)) in applying the required special management attention.

C. *Basic Concepts.* 1. *Protective Management Policies Apply to All Public Lands.* In FLPMA Congress declared a basic policy directing "management, protection, development, and enhancement of all the public lands" to protect certain environmental values. The Act also says:

—That the public lands shall "be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition, that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use" (Sec. 102(a)(8));

—That "in managing the public lands, "BLM" shall, by regulations or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands" (Sec. 302(b));

—That managment shall be under principles of multiple use and sustained yield (Secs. 102(a)(7), 202(c)(1), and 302(a)), and environmental values are incorporated in the Act's definition of multiple use (Sec. 103(c)).

—Thus, Congress has established an overall policy framework, within a context of multiple use, sustained yield and protection of environmental quality, for management of all of the public lands.

2. *ACEC's Are Special Places Within the Public Lands.* In addition to establishing in law such basic protective management policies that apply to all the public lands, Congress has said that "management of national resource lands [public lands] is to include "giving special attention to the protection of ACEC's, for the purpose of ensuring "that the most environmentally important and fragile lands will be given * * * early attention and protection" (Senate Report 94–583, on FLPMA). Thus, the ACEC process is to be used to provide whatever special management is required to protect those environmental resources that are most important, i.e., those resources that make certain specific areas special places, endowed by nature or man with characteristics that set them apart. In addition, the ACEC process is to be used to protect human life and property form natural hazards.

3. *The ACEC Process Is Part of Multiple-Use Management.* The ACEC identification, designation and management process is an integral part of BLM's on-the-ground multiple-use planning and management processes. Through the ACEC process, BLM has a mandate to both:

(a) provide special management attention that will protect important environmental resources, and protect human life and property from important natural hazards, and

(b) do this without unnecessarily or unreasonably restricting users of these lands from uses that are compatible with that protection.

4. *Development May Occur in Some ACEC's.* As the Senate Committee Report on FLPMA (Senate Report 94–583) said, "Unlike wilderness areas * * * (ACEC's) are not necessarily areas in which no development can occur. Quite often, limited development, when wisely planned and properly managed, can take place in these areas without unduly risking life or safey or permanent damage to historic, cultural or scenic values or natural systems or processes." Thus, a particular ACEC designation may provide for a range of multiple-use activities, including specified kinds and degrees of development and commodity-production activities, provided that the important environmental resources within that area, or human property or lives, are not damaged or endangered.

5. *Each ACEC's Special Management Requirements Are Site-Specific.* The special management requirements for each ACEC will be designated individually to fit the resources or hazards within each particular geographic area involved. Since it is unlikely that the resources or hazards within any two ACEC's will be identical, it is unlikely that all the specifics of the special management requirements of any ACEC's will be identical. Each ACEC is, in effect, to be handcrafted area by area, and an individual special management prescription designated to (a) protect the particular important environmental resources that have been identified within the area, or (b) to protect people and property from the particular hazards the area contains. Thus, the users and activities which may take place within any particular ACEC will be those that are compatible with an supportive of the particular resources which that ACEC is being designated to protect, or those that are consistent with providing protection from a particular natural hazard.

6. *The ACEC Process Is Part of the Planning Process.* Identification of potential ACEC's and designation of ACEC's will be done through BLM's on-the-ground planning process, in accord with BLM's procedures for preparing, approving, and revising Resource Management Plans. This planning process incorporates environmental analysis pursuant to the National Environmental Policy Act. An ACEC is designated through approval by a BLM District Manager of a Resource Management Plan, or of an amendment to such a plan, for a Resource Area—BLM's basic geographic planning and management unit. This designation decision is made after review an concurrence by the BLM State Director. Where a proposed ACEC contains an environmental resource of multi-state, national, or international significance, concurrence by the BLM Director and, in some cases by the Secretary, also may be required.

7. *Identification and Designation Are Separate Steps.* The identification step in the ACEC process precedes and is separate from the designation step. The Act makes a distinction between (a) the identification of an important environmental resources or natural hazard, and (b) the protection of that resource, or of life or safety, through designation of its location as and ACEC. As the Act says, ACEC identificaiton "shall not, of itself, change or prevent change of the management or use of public lands" (Sec. 201 (a)). Thus, there may be locations where an environmental resource or natural hazard has ben identified as a potential ACEC that, nevertheless, will not be protected through ACEC designation.

"Identification" of an environmental resource or natural hazard—i.e., a finding that criteria of relevance and importance are met—makes the place where such a resource or hazard is located a potential ACEC and eligible for subsequent consideration for designation as an ACEC. Identification is a matter for professional evaluation, and will be made on the basis of the values or qualities of the resource or characteristics of the hazard itself, without consideration of alternative potential uses.

"Designation" of an area as an ACEC is a management decision that will be made after weighing the public interest to be served by ACEC designation and potential alternative uses for the resource or combination of resources involved. This decision shall be made after consideration of all applicable factors, including factors specified in law and executive policy, policies of other governmental entities, and expressions of public concern.

The decision whether an important environmental resource, in whole or in part, is to be protected through ACEC designation, protected through another means, or not protected, will be made after careful consideration of anticipated effects of alternative potential uses, in accord with the principle of multiple-use management as defined in FLPMA, and all other relevant law and policy. The decision shall provide for that use or combination of uses which best serves the public interest.

8. *An ACEC Designation Constitutes a Management Commitment.* Upon designation of an ACEC, its special management requirements will control BLM's management program for the area and no activity incompatible or inconsistent with those requirements shall be allowed or undertaken by BLM. In FLPMA the Congress mandated not only the identification and designation, but also the protection, of ACEC's. Thus, the ACEC process is more than a recognition program; it is a process for (1) determining what special management attention certain important environmental resources or hazards require, and then for (2) making a commitment that this special management will continue to be provided on a priority basis in accord with Sec. 202(c)(3) of the Act. In addition to protecting important environmental resources from damage or loss, whenever feasible the purposes of this special management attention are to affirmatively enhance such resources.

An ACEC's special management requirements may include two kinds of measures: (1) those which BLM has authority to adopt, carry out, and enforce, and (2) those that are a basis for a request or recommendation to others for action because BLM does not have all of the necessary authority. Insofar as an ACEC's special management requirements are within BLM's authority to adopt, carry out, and enforce, and ACEC designation constitutes a Bureau commitment that those requirements will be strictly adhered to. Where an ACEC's special management requirements call for or recommend an action beyond BLM's direct authority to adopt or implement, an ACEC designation constitutes a commitment that BLM will do everything within its authority and means to secure the adoption of the measure and its implementation. An example of such a measure could be a cooperative agreement with a State wildlife agency, or withdrawal of an area of the public lands from certain specified activities, such as mining activity under the General Mining Law of 1872. An ACEC designation is not a withdrawal; under FLPMA, withdrawal authority is retained by the Secretary of the Interior and has not been delegated.

9. *ACEC Designations May Complement Other Forms of Management.* ACEC and other special management area designations are not necessarily mutually exclusive. An ACEC may overlay another form of designation, in whole or in part, so as to complement the management provided through the other form—for example, a unit of the National System of Wild and Scenic Rivers, within the public lands.

10. *Public-Interest Determinations Are Required for ACEC Designation and Revision.* Designation of ACEC's and any revisions of designations are made on the basis of a determination as to which of the alternative possible uses for the important environmental resources involved will best serve the public interest. These designation decisions are made through adoption or amendment of a Resource Management Plan (RMP), in an open process that includes environmental analysis and opportunity for public review. Once made, an ACEC designation decision cannot be changed except by revision through a subsequent public-interest determination that is made through the same open process.

No action that is inconsistent with the terms of an ACEC designation or that would adversely impact an ACEC-protected resource will be permitted unless the District Manager finds, through the plan amendment process, that the public benefits of such an action outweigh the public benefits of continuing the ACEC protection, and that there is no feasible alternative to the proposed inconsistent action. In any such case, the BLM State Director would have to concur prior to the approval of such a plan amendment. In addition, where an environmental resource of multi-State, national, or international significance is involved, the BLM Director, and in some cases the Secretary, also would have to concur before such an amendment could be approved.

11. *Opportunity for Public Involvement Is Provided at Each Step.* Opportunity for public participation at each phase of the ACEC process will be provided by BLM officials, pursuant to all relevant law and executive policy, including provisions of FLPMA and the National Environmental Policy Act, the Department of the Interior's policy on public participatioin in decisionmaking, and BLM's resource managment planning regulations.

II. Definitions

Area of Critical Environmental Concern (ACEC): An area "within the public lands where special management attention is required (when such areas are developed or used, or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards" (FLPMA Sec. 103(a));

Cultural Value or Resources. Nonrenewable evidence of human endeavor, such as found in places, structures, objects, trails or other forms of evidence. Such a resource may include (1) physical remains or natural features important in or representative of human activity; (2) areas where important or representative human events occurred even though tangible remains may be absent, or (3) areas of socio-cultural concern, including those of traditional significance to American Indians, Aleuts, Eskimos, or other groups. Cultural values or resources may include either prehistoric or historic values or resources from the earliest evidences of humankind to the present day. (Illustrative example, III.D.1, below.)

Designation. The decision by a BLM District Manager as part of a resource management planning process, made through approval of a Resource Managment Plan, a Management Framework Plan, or of an amendment to such plans, that describes and adopts the special management attention required within a particular ACEC.

Environmental Resource. One of more of the kinds of resources eligible for special managment through ACEC designation—i.e., a fish or wildlife resource, or other natural system or process, or a historic, cultural, or scenic value or resource. As used here, the term, "environmental resource," refers collectively to one or more than one of these kinds of resources, systems, processes, or values.

Fish and Wildlife Resource. One of more species or population of animals including eggs or progency, whether raised in captivity or not, that normally is found in a wild state, together with the elements of its habitat needed to normally and naturally maintain a healthy life and perpetuate its population. (Illustrative example, III.D.3., below.)

Historic Value or Resource. (See definition of Cultural Value or Resource, above.)

Important. (See definition in Identification Criteria, III.B.2., below.)

Life and Safety. "Life" means the life of any human. "Safety" refers to the protection of human life or the protection of property, and means reasonable freedom from significant threat, risk or danger of serious injury, or of significant damage to or loss of property.

Management Framework Plan (MFP). The Bureau's basic planning decision document (land-use plan) prior to the adoption of a Resource Management Plan. An approved MFP will guide management actions until superseded by an approved RMP. (Refer to definition of Resource Management Plan.)

Multiple Use. The management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services, and the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

Natural Hazard. A natural characteristic of land or water resources or areas that (1) constitutes conditions significantly dangerous, or potentially significantly dangerous, to human life, or property, or that (2) would be significantly dangerous to life or the safety of property if development or other activity were permitted. Such a hazard may be either existing or considered likely to occur in the future. (Illustrative example, III.D.5, below.)

Natural System or Process. Living or nonliving parts of the natural environment, considered either as discrete individual elements or as group or classes of such individual elements, and the behaviors, actions, and interactions of such elements or changes to them. The central features of such a system or process may, for example, be communities of living plants, and vital components of their habitat, or such non-living structures as geologicial formations, which exemplify a natural process or system. (Illustrative example, III.D.4, below.)

Potential ACEC. An area within which a relevant and important environmental resource or natural hazard has been identified is a "potential ACEC" until a decision is made to designate or not to designate the area an ACEC.

Priority. A preferential rating or ranking, or prior attention in terms of time and precedence, for allocation of services or resources in limited supply.

Protect. To defend or guard against damage or loss to the important environmental resources of a potential or designated ACEC. This includes both damage that can be restored over time and that which is irreparable. With regard to a natural hazard, protect means to prevent the loss of life or injury to people, or loss or damage to property.

Public Lands. "Any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management * * * except—(a) lands located on the Outer Continental Shelf; and (b) lands held for the benefit of Indians, Aleuts, and Eskimos" (FLPMA, Sec. 103 (e)).

Public Participation. "Public" means affected or interested individuals, including representatives of organizations and interest groups, and officals of local, State, Federal, and Indian tribal governments. "Participation" means systematic opportunity for members of the public to know about the express opinions on possible BLM actions and policies, and to know that their views are considered in shaping decisions and become part of the record of the decisionmaking process. "Public participation" also means "public involvement," as defined in FLPMA, Sec. 103(d): opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held near affected lands, or advisory mechanisms, or other procedures as may be necessary to provide public comment in a particular instance.

Relevant. (See definition of "relevance" in Identification Criteria, III.B.1, below.)

Resource Area. A geographic portion of a BLM District, and, in most instances, the administrative unit for which Resource Management Plans are prepared and maintained.

Resource Management Plan (RMP). The basic decision document of BLM's resource management planning process, used to establish allocation and coordination among uses for the various resources within a Resource Area. Identification of potential ACEC's is normally done through this planning process, and ACEC designation is done through approval (adoption) of such a plan or plan amendment. An RMP is a "land-use plan" prescribed by Sec. 202 of the Act. RMP regulations were published in the **Federal Register** on August 7, 1979 (44 FR 46386–46401). (Refer to definition of Management Framework Plan.)

Scenic Value or Resource. A scenic resource consists of land, water, vegetation, wildlife, structures, or other visually perceivable aspects of a landscape, vista, or scene—natural, created by human activity, or both. The value of a scenic resource includes its scenic quality, scarcity, and degree to which people have interest in, or concern about, visual changes to it. (Illustrative example, III.D.2, below.)

Secretary. The Secretary of the Interior.

Special Management Attention. Actions or other measures considered necessary or appropriate to protect, enhance, or restore an important environmental resource within an ACEC, or to protect human life or property from an important natural hazard within an ACEC.

Withdrawal. The witholding, subject to valid existing rights, of an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws, including the mining laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or to reserve the area for a particular public purpose or program.

III. Identification Criteria

A. *A Professional Evaluation.* Two identification criteria derived from the Act will be applied in identifying an environmental resource or a natural hazard to determine whether the area in which it is located is a potential ACEC. Both of the criteria—Relevance and Importance—must be met in every case. An identification determination is a professional evaluation based on the inherent or intrinsic qualities of resources or hazards, either singly or in combination, without consideration of alternative possible uses for the resource or resources.

B. *Applying the Criteria.* 1. *Relevance.* An environmental resource or natural hazard can be found to be "relevant" if it is one of the kinds of resources, values, systems, processes, or hazards included in the Act's definition of an ACEC.

2. *Importance.* An environmental resource can be found to be "important" if it has qualities that give it (a) special worth, consequence, meaning, distinctiveness or cause for concern especially when compared to any like or similar resources, and, generally, (b) more-than-local significance. Qualities or circumstances that make such a resource fragile, sensitive, rare, irreplaceable, endangered, threatened, or vulnerable to adverse change may be among the causes for concern. A natural hazard can be found to be "important" if it is a significant threat, either existing or potential, to human life or property.

Evidence of importance may be found, for example, in the judgment of persons qualified by knowledge, training, or experience to assess these qualities.

In addition, evidence of more-than-local significance may be found, for example, in expressions by more than one local government, a State government, or citizen's interest groups, or a substantial number of persons residing beyond the locality in which the resource is located. Although the requirement of more-than-local significance is the general rule, there may be exceptional cases where evidence of a resource's importance must rely largely or exclusively on the judgment of a local government or local community—because, for example, there may be no like or similar entities elsewhere with which that particular resource may be compared. A District Manager may find that there is compelling reason that a resource of only local concern is "important" for ACEC purposes. With respect to natural hazards, reported hazards data from national systems for disaster preparedness, geologic hazards reported by the U.S. Geological Survey, or standards for water-related hazards as established by the U.S. Water Resources Council, may provide evidence of importance.

C. *Special Significance Information.* In applying the criteria specified above (III.B), information developed by international, Federal or State programs may be useful evidence of importance. For example, information about historic, cultural, or scenic values or "natural system or process" resources may be available through such sources as the Federal Committee on Ecological Reserves; the National Heritage Program, administered by the Heritage Conservation and Recreation Service (HCRS); the National Register of Historic Places, and registers of natural and historic landmarks, also administered by HCRS; and the UNESCO Man and the Biosphere Program, coordinated in the U.S. through the Department of State. State government historic or natural heritage programs, universities, and other research, education, and public interest organizations may also provide useful information for ACEC purposes. Data obtained by BLM through such State, national, international, or other such programs should be given special consideration in the ACEC process.

Some of these organizations have programs to identify scientifically significant examples of the diversity of natural ecosystem types; sites illustrating genetic, biotic, or geological diversity, or outstanding examples of major types of natural systems or natural processes. If an area is proposed for ACEC designation that is considered an appropriate addition to such a recognized program, evidence of qualification for the program should be included in the documentation. Where an official or generally recognized classification system exists for the type of environmental resource involved, how the resource fits the classification system should be described.

D. *Illustrative Examples.* Examples of some of the characteristics or qualities of the kinds of environmental resources or natural hazards that conceivably could meet these criteria are noted below for illustrative purposes only.

1. *Cultural Value or Resource:* Could be an archeologically significant area of prehistoric Indian habitation that is vulnerable to loss or damage because of easy accessibility; or physical evidence of an historically significant event or period in American history.

2. *Scenic Value or Resource:* Could be an area that combines outstanding scenic quality, relative scarcity, and/or high visual sensitivity that requires special attention if protection of these qualities is to be assured.

3. *Fish or Wildlife Resource:* Could include an important or critical habitat for a species that is endangered, threatened, sensitive, or of special importance; an important area of historic range suitable for reintroduction of such a species, or an area necessary for reproduction, rearing, or seasonal use in order to maintain a viable population level of such a species.

4. *Natural System or Process:* Could be a significant natural system or process that is being subjected to decisive adverse change or alteration, or that without special management attention is susceptible to decisive change in its natural condition or functioning. Also could include a key component essential to the life cycle or survival of such a living natural system or process; an important habitat for a plant species or community, particularly one that is endangered, threatened, sensitive, or of special importance; or an important occurrence of a rare or relict resource, or a nonliving geological feature, palentological phenomena or land form that exemplifies a natural system or process.

5. *Natural Hazard:* Kinds of hazards that conceivably could be appropriate for ACEC designation include significant avalanche areas, areas subject to periodic dangerous flooding, areas with unstable soil mantles such as steep slopes vulnerable to landslides, seismic zones, dangerous cliffs or other unsafe areas, particularly where human visitation is likely. Some types of hazards, such as abandoned mine shafts, are not relevant for ACEC identification because they are manmade rather than natural. However, a hazard caused initially or triggered by human action may be considered "natural" for ACEC purposes if it subsequently has become part of a natural process and significantly endangers human life, health or property.

IV. Designation Considerations

After one (or more) environmental resource or natural hazard has been found to meet the identification criteria (III, above), the decision whether to designate the area in which it is located an ACEC will be made through the RMP process.

A. *A Management Decision.* BLM officials have the management responsibility to decide whether or not to protect an environmental resource, or to provide protection from a natural hazard, through ACEC designation and the resultant special management attention. This decision process involves weighing the relative public interest in any benefits and adverse effects that would result from ACEC designation, and in any benefits and adverse effects that would result from non-designation. The designation decision shall be based on consideration of all applicable factors, including those outlined below.

B. *Designation Factors.* 1. *Relevant Law.* Some of these factors are set forth in law, including:

a. *Factors Specified in FLPMA.*

(1) The primary designation factor is the mandate of the Act that BLM "shall * * * give priority to the designation and protection of areas of critical environmental concern" (Sec. 202(c)(3)). Other factors set forth in FLPMA include consideration of both "present and potential uses of the public lands"; consideration of "the relative scarcity of the values involved and the availability of alternative means (including

recycling) and sites for realization of those values"; weighing of "long-term benefits to the public against short-term benefits," and providing "for compliance with applicable pollution control laws, including State and Federal standards or implementation plans" (Sec. 202(c)).

In addition, the Senate Report on FLPMA (Senate Report 94–583) noted that the Act's ACEC provisions respond, in part, to three recommendations of the Public Land Law Review Commission: Create and preserve a natural area system on the public lands for scientific and educational purposes; identify and protect areas of national significance on the public lands; and classify lands for environmental quality enhancement and maintenance.

Therefore, areas with high value or potential for expanding scientific knowledge or for education, particularly those with existing baseline data or special instrumentation or plans for research, or where special management is needed to assure continuity and integrity in long-term research programs, should be considered for ACEC designation.

(2) Another basic policy established in FLPMA is that the public lands shall be managed by observing the principle of multiple use unless otherwise specified by law (Secs. 102(a)(7), 202(c)(1), and 302(a)). Thus, the multiple-use principle is to be used in making ACEC designation decisions. To the extent that any otherwise appropriate use may take place within an ACEC without damaging or endangering an environmental resource that is the reason for ACEC designation, or without endangering life or property, such a use may be permitted as long as that use is consistent with the special management requirements of the ACEC.

b. *Factors in Other Federal Law.* Other Federal law that may be applicable to a particular ACEC decision may include such statutes as the National Environmetnal Policy Act of 1969, Antiquities Act, Archeological Resources Protection Act of 1979, Taylor Grazing Act, Federal Water Pollution Control Act, Clean Water Act, National Historic Preservation Act, Clean Air Act, Mining and Minerals Policy Act, Endangered Species Act, Sikes Act, General Mining Law of 1872, Public Rangelands Improvement Act of 1978, and Surface Mining Control and Reclamation Act.

2. *Statements of Federal Executive Policy.* Executive direction and guidance may be expressed in Presidential statements and executive orders, Secretarial policy statements and orders, and BLM directives. Relevant executive orders may include, for example, E.O. 11514 (1970), concerning protection and enhancement of environmental quality; E.O. 11593 (1971), concerning protection and enhancement of cultural and historic resources on Federal land; E.O. 11644 (1972) as amended by E.O. 11989 (1977), concerning management of off-road vehicles on public lands; E.O. 11988 (1977), concerning flood plain management; E.O. 11990 (1977), concerning wetlands protection, and the President's 1979 Environmental Message. Policy guidance from the Secretary, BLM Director and State Directors will be provided from time to time for District Managers and others preparing Resource Management Plans (see Sec. 1601.1 (b) and (c) of BLM's planning regulations).

3. *Policies of Other Governmental Entities.* ACEC designation decisions will take into account officially adopted resource-related policies, plans, and programs of State and local governments, Indian tribal governments and other Federal agencies, in accord with Sec. 202(c)(9) of the Act and Sec. 1601.4 of BLM's planning regulations, as well as uses of nearby private lands.

Where public lands administered by BLM are adjacent to or intermingled with lands administered by other Federal agencies or with non-Federal lands, such as inholdings of private or State lands, ACEC designation decisions will, as elsewhere, be coordinated with land planning and management activities of other governmental entities and landholders who would be affected. In such cases, cooperative agreements should be sought in order to secure mutual objectives consistent with the purposes of the ACEC designation. In any case, an ACEC will not include non-BLM inholdings or other non-BLM lands or interests.

4. *Expressions of Public Concern.* The views of members of the public, including residents of nearby communities, landholders, and users of the public lands, also will be key considerations in making designation decisions.

V. Process

The process to be used in making ACEC identification, designation, and management decisions is BLM's planning process for preparing and approving Resource Management Plans (RMP's). (The BLM planning regulations, at Sec, 1601.5, provide details of this planning process.) Identification of potential ACEC's will be given priority in the inventory of all public lands and their resources, and designation and protection of ACEC's will be given priority in the development and revision of RMP's (FLPMA, Secs. 201(a) and 202(c)(3)).

A. *Identification Phase.* Criteria for identifying potential ACEC's are discussed in Identification Criteria, III., above.

1. *Information Collection.* a. District managers will give priority attention to the identification of important environmental resources and natural hazards on BLM-administered land in the "identification of issues," "development of planning criteria," and "inventory data and information collection" phases of the resource management planning process. Sources of special significance information as discussed in III.C. would be extremely useful.

b. Members of the public, including representatives of State and local government, may at any time nominate an environmental resource or natural hazard to be considered for ACEC identification purposes. Any such nominations are most useful during the inventory and scoping steps of the planning process, and should be accompanied by maps and description, together with available evidence as to their relevance and importance. An environmental resource or natural hazard may be identified for ACEC purposes at other times as well.

c. Bureau employees may nominate an environmental resource or natural hazard at any time, such as in the course of BLM field activities, including on-the-ground project planning work. Information from other relevant sources, such as State or Federal natural heritage, cultural, historic, or scientific research and education programs, including both inventory and evaluation data, also will be considered for identification purposes.

d. Whenever an environmental resource or natural hazard has been nominated by the public or the Bureau, by any one of the above methods, such a resource or hazard will be analyzed, evaluated, and reviewed, as described in V.A.2 and 3 below, and a finding made as to whether its location is a "potential ACEC," as described in V.A.4 below. This determination should be made as soon as possible, but not later than six months, after such a resource or hazard is nominated.

2. *Analysis and Evaluation.* A nominated environmental resource or natural hazard will be analyzed and evaluated by members of the District Office staff, as to relevance and importance, taking into account both present use and condition, and trends. The application of the criteria will be a professional evaluation based on the qualities and characteristics of the

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resources or hazards themselves, in the context of public concern, without consideration of alternative uses of the resources.

3. *Review of the Analysis and Evaluation.* The identificaton recommendation will be reviewed by other District Office professional staff on a systematic, interdisciplinary and multiple-resource basis to ensure that the envirnomental resources and natural hazards being evaluated meet the identification criteria. Interdisciplinary aspects of this review will be in accord with BLM's planning regulations and NEPA Sec. 102(A), and Sec. 1502.6 of the Council on Environmental Quality's (CEQ's) regulations for implementing NEPA, so as to ensure integrated application of the natural sciences, social sciences, and environmental design arts. Where preparers or reviewers on the District Office staff do not represent all of the appropriate disciplines, assistance should be obtained from the State Office staff.

This review will include whether the proposed ACEC boundary encompasses an appropriate unit, of adequate size and configuration to include not only its central features, but such surrounding and adjacent lands as may be appropriate to assure that the necessary special management attention can be provided in a secure setting. In any case, there is no size limitation for ACEC's, either maximum or minimum.

Where more than one environmental resource or natural hazard is located in the same general location, consideration should be given to consolidating their review as one potential ACEC. While each environmental resource or natural hazard involved should be evaluated for ACEC identification purposes on an individual basis, the whole potential ACEC area should be included in the review, on an integrated and multiple-resource basis. In some situations a combination of different kinds of environmental resources may be present, and this circumstance and their interrelationships may add to the importance of a potential ACEC area as a whole.

4. *Identification Finding.* The District Manager will make the finding whether an environmental resource or natural hazard meets the identification criteria. If the identification criteria are met, the area in which the identified environmental resource or natural hazard is located becomes a potential ACEC. (This decision will be made as part of the "evaluation" and "management situation analysis" steps of the RMP planning process, Sec. 1601.5, planning regulations.) The District Manager then shall prepare technically feasible protection objectives and recommended special management requirements, together with supporting reasons and documentation.

B. *Temporary Management.* When a District Manager finds that the location of an environmental resource or natural hazard is a potential ACEC (i.e., when the identification criteria have been met), the District Manager will take all feasible action to assure that those qualities that make the resource important are not damaged or otherwise subjected to adverse change pending an ACEC designation decision. With regard to a natural hazard found to meet the identification criteria, the District Manager will take all feasible action to assure the safety of life and property pending an ACEC designation. Examples of some of the actions the District Manager can initiate include: cooperative aggreements, emergency withdrawals, temporary closures, supplemental rules, increased monitoring and surveillance, or implementing relevant laws or statements of policy. Where temporary management measures available to the District Manager are not adequate to fully protect a potential ACEC, the District Manager will promptly advise the State Director, who will take appropriate authorized action. The primary consideration will be to protect the integrity of a potential ACEC's values until a designation decision is made.

C. *Designation Phase.*

1. *Designation Consideration through the Planning Process.* After a potential ACEC is identified, the following procedures will be used:

a. When an approved management plan exists:

(1) Where appropriate special management attention already is being provided in accord with an existing plan, thereby requiring no change in management, ACEC designation should be made by adding to the plan an ACEC element including appropriate special management requirements, thus providing the protection of Sec. 102(c)(3) of the Act without awaiting revision of the plan in its entirety;

(2) Where a change in management would be required to assure appropriate special management attention, the District Manager will consider the significance of the indicated changes and determine (a) whether the indicated change can be made in a timely manner according to the regular planning schedule; or (b) whether the plan should be amended more promptly without awaiting the regularly scheduled time for plan completion or revision. The District Manager shall act accordingly and also provide special temporary management in accordance with V.B. above until the decision is made on the proposed plan or amendment.

(3) During the period of transition to the Bureau's revised planning process, where an approved land-use plan exists—such as a Management Framwork Plan (MFP)—until such time as a Resource Area is placed under an approved Resource Management Plan (RMP), the area will continue to be managed under the existing land-use plan. During the transition period until approval of an RMP, an existing MFP may be amended to include an ACEC element in accord with these guidelines (and Sec. 1601.8 of the planning regulations).

b. When no approved management plan exists:

When the District Manager considers that prompt designation of a potential ACEC is appropriate without waiting for approval of the other elements of a plan, the District Manager will prepare and proposed approval an ACEC plan element (Sec. V.B.3), analyze the proposed action through an environmental analysis or environmental statement as necessary, provide opportunity for public participation, and, with the State Director's concurrence, make a designation decision in accordance with Sec. 1601.8(c) of the planning regulations. Special temporary management will be provided in accordance with Sec. V.B. of these guidelines until a decision to designate or not designate is made.

2. *Consideration of Alternatives.* For all potential ACEC's, alternatives to the proposed ACEC designation will be considered and evaluated through the alternative development and evaluation phases of the resource management planning process. Alternatives may include differeing ACEC special management requirements, differing configurations of possible ACEC boundaries, and no ACEC designation—i.e., management under standard BLM procedures; protective management through another form of special area designation; or alternative uses for the resources involved. Effects of alternatives will be considered and a preferred alternative selected.

3. *Preparation for Designation Decision.* Following opportunity for public comment on the alternatives, the District Manager will review the record of public response, consider the other relevant factors, and propose a decision that will allocate the environmental resources involved to the use or combination of uses that best serves the

public interest (in accord with Designation Considerations, IV., above). If the proposed decision is to designate an ACEC, a proposed ACEC element of a proposed plan or plan amendment will be prepared. When more than one ACEC proposal is included within an ACEC plan element, each proposal will be the subject of an individual part of the element. The District Manager will advise the State Director of his proposed decision. The State Director must concur with a District Manager's proposed decision before a decision may be made by the District Manager (in accord with concurrence procedures, Secs. 1601.5–8 and 1601.6–1, planning regulations).

a. *ACEC Plan Element.* An ACEC element of a plan will include or reference for each ACEC involved:

(1) *Name:* A proposed name for the ACEC, for public identification purposes. The name should indicate both a geographic location or central feature and the purpose of the ACEC, e.g., Clearwater Creek Scenic Area, Rainbow Desert Tortoise Research Natural Area, or Dead Man Cliffs Hazardous Area. The Washington Office will prepare a discrete list of "purpose-related" title categories which will normally be used to avoid proliferation of title categories for like areas.

(2) *Management Objectives:* A statement of the specific management objectives for the particular ACEC.

(3) *Description:* A description of the environmental resources or natural hazards involved, including description of their interrelationships, together with assessment and evaluation of their relevance and importance, and other pertinent characteristics of the area and its setting.

(4) *Special Management Requirements:* A statement of the special management requirements for the ACEC. The purpose of the statement of special management requirements is to assure that the necessary protective management will be both prescribed and applied. It is recognized that the degree to which it is feasible for an area's special management requirements to be fulfilled (i.e., fully specified, completed, adopted, or implemented) at the time of designation may vary from one ACEC to another—depending on such factors as the level of current knowledge and understanding of an area's resources, degree of importance, need to designate without delay, and complexity of the management situation. Thus, some of the provisions of the special management requirements may be fulfilled at the time of designation by a description of the requirement, together with a schedule for implementation. Where provisions are needed to guide on-the-ground management of the ACEC that cannot be fulfilled at the time of designation, they will be incorporated into a subsequent activity plan for the ACEC. Completion of an activity plan as needed for each ACEC is a priority item and should be completed within 6 months of approval of the ACEC plan element.

The statement of special management requirements will include:

(A) A description of the special management attention to be applied, giving priority to prevention of irreparable damage and other protective requirements. Special management measures, including any necessary standards or critieria, will be designed to (1) provide effective protection against adverse change to the qualities that make the environmental resource or resources involved important, and wherever feasible to enhance these qualities or (2) provide protection from hazards.

Interrelationships among multiple resources should be taken into account in prescribing special management requirements for an ACEC as a whole. This will include, or include description of, any necessary rules, regulations, and plans for protection, in accord with Sec. 102(a)(11) of the Act. These measures will be described in sufficient detail to effectively inform BLM personnel, other governmental entities, and the public of the basic terms and conditions of future management and use of the area.

The special management requirements for each particular ACEC will be designed individually to fit the resources or hazards within each particular geographic area involved. Although affected by management objectives of adjacent lands, each ACEC's special management requirements will be handcrafted independently. Adjacent land management practices may complement a particular ACEC's management requirements, but those practices should not be relied on to fulfill an ACEC's management requirements.

A distinction should be made between those measures that (1) can be adopted and carried out by BLM and (2) those that are a basis for a request or recommendation to others for action. This second category—for example, proposals for withdrawals, legislation, or cooperative agreements with other government agencies, landholders, or private organizations or intentions to nominate an ACEC to a Federal or State register or recognition program—depend in whole or in part on actions of others. In intermingled land owernship situations, where resources or hazards within an ACEC on BLM lands are likely to be affected by uses of adjacent or nearby non-BLM land, any necessary cooperative agreements, contracts or other arrangements with such land managers, landholders, or governmental entities, pursuant to Sec. 307 of the Act, will be included or described. Any such measures may be requested or completed prior to the time of designation. In any case, an ACEC will not include non-BLM inholdings or other such non-BLM lands or interests.

Where necessary in order to provide the required special management, and when it is in the public interest to do so, lands or interests in lands may be recommended for acquisition by purchase, exchange, or donation pursuant to Secs. 205, 206, and 318(d) of FLPMA or other applicable law.

(b) to the maximum extent possible, types of future uses, activities or management practices that are considered compatible with the purposes of the designation, and those considered incompatible, shall be described, together with a description of any existing incompatible uses within the area and a schedule for conformance.

(c) Maps and other supporting documentation or references. (Where general public knowledge of the precise location or recognizable features of a fragile resource could reasonably contribute to its damage, rather than protection, only general location or characteristics should be shown on maps or described.)

(5) *Public Comment.* The ACEC element will include a summary of public participation and a record of public response.

4. *Designation.* After concurrence by the State Director, the District Manager will make the designation decision. If the decision is to designate, the designation shall be made through approval (i.e., adoption) of the RMP, MFP, or amendment in which the ACEC plan element is included; or the proposed ACEC plan element when no plan exists.

a. *Special Provisions for Resources of More-than-State Significance.* When a State Director considers that an environmental resource within an area being proposed for ACEC designation may be of more-than-State, national, or international significance, he will so advise the BLM Director and provide rationale. If the BLM Director finds that such a resource is of national or international significance, the BLM Director may, after reviewing the proposed ACEC element, concur in the proposed designation decision. The BLM director may recommend and request the concurrence of the Secretary in the designation of a proposed ACEC involving a resource found to be of national or international significance. Subsequently, in the event revision of that ACEC element is proposed, or an action inconsistent with that ACEC's special management requirements is proposed that could adversely impact a protected environmental resource within that ACEC, no such revision or action shall be undertaken or permitted by BLM except by concurrence of all officials who concurred in the designation.

b. *Public Notice.* Notice of each ACEC designation will be published in the **Federal Register** by the State Director, and a public announcement provided to other media.

c. *Decision Not to Designate.* If the decision is not to protect a potential ACEC through ACEC designation, that decision will be documented through the planning process and a public announcement made promptly. If the decision is to provide the necessary protection through another form of special management, the documentation and announcement will include specifics of that other form. If the decision is to allocate such an identified resource, in whole or in part, to another use which would result in damage or loss to such resource, the District Manager must first find that there is an overriding public need for such other use; that the public benefits of such other use outweigh the public benefits of use appropriate with ACEC designation, and that such other use will best meet the present and future needs of the American people (FLPMA, Sec. 103(c)). In addition, any allocations to such other use will include all feasible planning and management to prevent, minimize, mitigate or restore any consequent damage to the resource, and these requirements will be specified in the documentation.

D. *Management Phase.*

1. *Management Responsibilities.* Upon designation of an area as an ACEC, the area's special management requirements are in effect, as specified in the ACEC element of the plan, and all subsequent uses and activities within the area shall be in accord with those requirements.

In the event the District Manager considers that an activity should be undertaken, or permitted to be undertaken, because he considers it would be in the public interest despite its inconsistency with an ACEC's special management requirements, he may propose that the ACEC element of the relevant plan be amended to permit such activity. In any such case, provisions of V. F. (Revision of a Designation) of these guidelines and 1601.6–3 (Changing the Resource Management Plan) of the BLM planning regulations, shall be followed.

All BLM planning and management activity concerned with lands outside of but affecting an ACEC shall be, insofar as feasible, supportive of and consistent with the objectives of the ACEC designation. Any threat to the integrity of an ACEC-Protected resource—whether originating within or outside of an ACEC's boundary, or whether undertaken or proposed by a governmental agency or a private entity—shall be prevented or opposed by the District Manager and appropriate action taken promptly. Where the District Manager lacks authority to deal effectively with any such threat, the District Manager shall request action be taken by the State Director.

2. *Reporting Responsibilities.* On internal documents for accountability purposes each ACEC should be identified as a generic ACEC by name, e.g., Clearwater Creek Scenic Area (ACEC), State name, District name, Resource Area name and number. Information on the status of ACEC identification, designation, management and use, and on management problems encountered and suggestions for improvement of the ACEC process, will be reported by District Managers and State Directors to the Director (430), as one basis for preparing the annual report to Congress on implementation of FLPMA, required by Sec. 311 of the Act.

E. *Programming.* Needs for identification of environmental resources or natural hazards for ACEC purposes, and for designation and special management of ACEC's, will be given priority consideration in the scheduling, development and revision of all RMP's (and MFP's during transition), and of pertinent activity, program and work plans—pursuant to Secs. 102(a)(11), 201(a), and 202(c)(3) of the Act. Whenever inventory, analysis, planning or management actions are scheduled for the public lands, funding and personnel requirements for anticipated ACEC identification, designation, and special management will be incorporated into the appropriate budget requests for resource inventories, RMP (MFP during transition), and in subsequent activity plans and program plans, as developed through the budget process, and, depending upon the availability of funds and personnel, will be included in annual work plans.

F. *Revision of a Designation.* No revision may be made in the terms of an ACEC designation, except by plan amendment through the planning process, incorporating environmental analysis and public participation. For any such proposed revision, at a minimum, an environmental assessment (EA) will be prepared. The decision whether an environmental impact statement (EIS) is required will be based on findings of the EA, in accord with BLM's planning regulations and CEQ regulations for NEPA (40 CFR 1500). If such a proposed revision would result in damage to an ACEC-protected environmental resource to the extent that it would be a major Federal action significantly affecting the human environment, an EIS will be prepared and filed for public review.

No use or action that would be inconsistent with an ACEC's special managment requirements or that would adversely impact an ACEC-protected resource shall be permitted unless the District Manager, after considering all pertinent factors, including the results of environmental analysis and public comment, makes the following findings: (1) The public benefits of the proposed incompatible action clearly outweight the public benefits of continuing protection of the ACEC-protected resource; (2) There is a clear public need for the proposed action and such action is clearly in the public interest; (3) There is no feasible alternative to, or alternative location for, the proposed action, and (4) Such action includes all feasible planning and management requirements to prevent, minimize, mitigate, or restore the effects of adverse impacts.

In any such case, concurrence by the BLM State Director shall be a prerequisite for approval of such a plan amendment. Where an environmental resource that has been found by the BLM Director to be of national or international significance is involved, and the BLM Director concurred in the ACEC designation decision, the BLM Director, also, would have to concur in any such plan amendment. Where the Secretary concurred in the designation decision, the Secretary, also, would have to concur in any such plan amendment.

G. *Public Involvement.* Opportunity for public involvement will be provided at each step of the ACEC process, and public participation invited and facilitated by BLM officials in accord with applicable law and executive policy.

1. *Public Participation Guidance:* Public participation opportunities shall include, at a minimum, public notice by District Managers when an ACEC identification or designation process begins, and announcement of public meetings, workshops or other informational activity to explain the

schedule and procedures, possible application of the ACEC process to particular local situations, and how interested persons and organizations may effectively participate.

2. *Administrative Review.* Protests relating to the proposed approval or disapproval of an plan or plan amendment concerning ACEC designation, related management practice, or other aspects of the ACEC process may be filed with the State Director for administrative review by BLM. Procedures and requirements for such administrative review, including protest filing procedures and qualifications, are covered in Sec. 1601.6–1 of BLM's planning regulations.

VI. Responsibilities

A. *District Managers.* Basic responsibility for making ACEC decisions has been delegated to District Managers. As part of District Managers' responsibility to prepare and approve an RMP for each Resource Area in their Districts, each District Manager will, with assistance of Area Managers, identify environmental resources and natural hazards that meet ACEC identification criteria, prepare proposed ACEC elements of such plans as warranted, and designate any ACEC's after obtaining the appropriate concurrence. Subsequently, the District Manager will make any necessary revisions to ACEC plan elements through the plan amendment process. District Managers' continuing responsibilities include preparation of activity plans and management of each ACEC in accord with its special management requirements. District Managers will provide for and facilitate public participation in the ACEC process.

B. *State Directors.* State Directors will provide quality control for the ACEC process in their States and technical assistance and policy guidance to District Managers, review proposed ACEC designation or Revision decisions, and concur before such decisions are made by District Managers. Where a proposed ACEC contains a resource which State Directors consider may be of national or international significance, they will so advise the Director. State Directors will file draft and final environmental statements associated with ACEC's (in accord with Sec. 1601.0–4(b) of the planning regulations), and will assure that public participation in the ACEC process is provided for and facilitated.

C. *Director.* National-level policy direction and guidance for the ACEC process are provided by the Director. When State Directors advise the Director that they consider a resource within a proposed ACEC may be of national or international significance, the Director may, after reviewing the proposed designation decision, make such a finding and may concur in the proposed decision. The BLM Director may seek concurrence by the Secretary in ACEC designation decisions.

D. *Coordination.* All BLM personnel with responsibilities for programs involving inventory, planning or management of public-lands resources will integrate the ACEC process into these programs. Each State Director and District Manager will designate a member of their respective resources staffs as ACEC Coordinator. In the Washington Office, ACEC coordination functions and responsibility for development of procedures for, and oversight of, identification, designation and management of ACEC's, are assigned to the Assistant Director—Recreation and Environmental Areas, through the Deputy Director for Lands and Resources.

VII. Relationships

ACEC's and other forms of special management designation are not necessarily mutually exclusive, and ACEC designations may be used to complement the other forms.

A. *Effect of ACEC Designation.* Because in FLPMA the Congress mandated not only the identification and designation, but also the protection, of ACEC's, the ACEC process is more than a recognition program. It is a process for (1) determining what special management important environmental resources or natural hazards require; (2) providing commitment that this special management will continue to be provided on a priority basis in accord with Sec. 202(c)(3) of the Act; and (3) providing such management.

B. *Relationship to Other Allocation Designations.* ACEC's are a part of a Bureau system of special area designations. The purpose of these special area designations is to give special management attention to areas containing important natural and cultural resources and natural hazards (ACEC's), areas with combinations of significant resources values, and areas with certain significant public recreation opportunities.

The Secretary, and the BLM Director by delegation, have for many years designated special management areas for limited uses under their general authority to protect public health and safety, the natural environment, erosion and destruction of plant life and wildlife habitat. These areas have been given such titles as Primitive Areas, Scenic Areas, and Research Natural Areas. Congress also has designated areas of the public lands as National Conservation Areas and Wild and Scenic Rivers for special management purposes.

In the future, areas of the public lands with important natural or cultural resource values—such as previously designated Research Natural Areas and Outstanding Natural Areas—shall be considered for ACEC designation.

An area designated by Congress for special management, such as a National Conservation Area, a National Wild or Scenic River, or a Wilderness Area, may contain one or more ACEC.

C. *Relationship to Recognition Designations.* Unlike ACEC designation, some types of Secretarial and State government designations are recognition-oriented; that is, they constitute a recognition of the significance of certain types of important environmental resources but do not constitute a commitment to provide special management protection of these resources. Examples include National Natural Landmarks designated by the Secretary of the Interior and Natural Areas identified by some State governments. ACEC designations may, in whole or in part, be considered for recognition, through such programs. For example, all or part of an ACEC also may be a National Natural Landmark if its values are found to be of national significance as defined by that landmarks program. Conversely, an area of the public lands which has been given recognition through such a program will be considered for ACEC designation.

D. *Withdrawals.* A number of withdrawals have, in effect, allocated areas of the public lands for specified public purposes by public land order issued by the Secretary. An ACEC designation does not constitute a withdrawal. That is, designation of an ACEC does not by itself preclude from the area any acitivities which may be allowed under the public land laws, including the General Mining Law of 1872. A withdrawal shall be requested of the Secretary in association with an ACEC designation if withdrawal is necessary in order to provide for the special management requirements of that particular ACEC.

E. *Integration with Other Management Actions.* The identification, designation, and management phases of the ACEC process will be incorporated into all BLM resource planning and management programs and activities on a priority basis, pursuant to FLPMA and other relevant law and executive direction. The ACEC process will be administered so as not to duplicate, but rather to complement and strengthen the use of all relevant forms of management of the resources of the public lands in the public interest.

Attachment B—State Offices of the Bureau of Land Management

Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, Phone: (907) 271–5076.
Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073, Phone: (602) 241–2651.
California State Office, Federal Office Bldg., Rm. E–2841, 2800 Cottage Way, Sacramento, California 95825, Phone: (916) 484–4676.
Colorado State Office, Colorado State Bank Bldg., Rm. 700, 1600 Broadway, Denver, Colorado 80202, Phone: (303) 837–4325.
Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, Phone: (703) 235–2833.
Idaho State Office, Federal Building, Rm. 398, 550 West Fort Street, P.O. Box 042, Boise, Idaho 83724, Phone: (208) 384–1401.
Montana State Office, Granite Tower, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, Phone: (406) 657–6461.
Nevada State Office, Federal Bldg., Rm. 3008, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, Phone: (702) 784–5451.
New Mexico State Office, U.S. Post Office and Federal Bldg., South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501, Phone: (505) 988–6217.
Oregon State Office, 729 N.E. Oregon Street, P.O. Box 2965, Portland, Oregon 97208, Phone: (503) 231–6251.
Utah State Office, University Club Building, 136 East Temple, Salt Lake City, Utah 84111, Phone: (801) 524–5311.
Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001, Phone: (307) 778–2220.

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Part IV

Environmental Protection Agency

Interim Primary Drinking Water Regulations

V 45 AG 27 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL 1535-7]

Interim Primary Drinking Water Regulations; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These regulations amend the National Interim Primary Drinking Water Regulations (NIPDWR), promulgated according to Section 1412 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.* at 40 FR 59566 (December 24, 1975) and 41 FR 28402 (July 9, 1976). These amendments provide greater latitude to small public water systems for determination of compliance with the microbiological maximum contaminant levels (MCLs), specify alternate analytical techniques that have been approved by EPA for determining compliance with existing MCLs, provide an update of the approved analytical methods as prescribed in the NIPDWR, add a statement to the NIPDWR clarifying the apparent contradiction between setting an MCL for fluoride and the beneficial effects of fluoride, allow water samples taken by the State to be used to determine compliance, clarify that water systems shall submit to the State upon request any records required to be maintained by the NIPDWR, require water systems that have completed a public notification to submit to the State a representative copy of the public notification, change the time when results of monitoring are required to be submitted to the State from 40 days following a test to within 10 days following the month in which the sample results are received or within 10 days following the end of the monitoring period as determined by the State (whichever is shortest), require community water systems to monitor and report sodium levels in finished drinking water, and require community water systems to determine the presence of specific types of materials in distribution systems, and for one year to monitor and report corrosvity characteristics (pH, alkalinity, hardness, temperature, total dissolved solids, and the Langelier Index) of finished drinking water.

Modifications to the NIPDWR relating only to non-community water systems increase the latitude of the States by providing an additional 18 months for completion of nitrate monitoring, allow some non-community systems to exceed the 10 mg/l nitrate MCL up to 20 mg/l under certain controlled conditions, provide latitude in turbidity monitoring requirements and include modifications to the microbiological monitoring frequency and public notification measures.

In addition, increased latitude is provided to the States with respect to requirements concerning public notification through the media for community water systems.

EFFECTIVE DATE: These amendments to the regulations will be effective August 27, 1980 except that sodium monitoring and reporting, determination of the types of materials in distribution systems, and monitoring and reporting corrosivity characteristics will be effective 18 months following the date of promulgation. The sodium and corrosion requirements must be completed within 12 months following the effective date.

ADDRESS: Copies of the Statement of Basis and Purpose, which provides additional supporting documentation for the sodium and corrosivity monitoring, is available upon request from Craig D. Vogt, Chief, Science and Technology Branch, Criteria and Standards Division, Office of Drinking Water (WH-550), Room 1111, WSME, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for reading at EPA Regional Offices.

FOR FURTHER INFORMATION CONTACT: Craig D. Vogt, 202-472-5030.

SUPPLEMENTARY INFORMATION: On July 19, 1979, the EPA proposed amendments to the NIPDWR (44 FR 42247 *et seq.*) pursuant to Sections 1412, 1414, 1415, 1416, 1445 and 1450 of the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*). As discussed in detail in the preamble to the proposed amendments, 44 FR 42247, these amendments to the NIPDWR are intended to update the regulations as a result of information gained subsequent to promulgation of NIPDWR on December 24, 1975, and July 9, 1976, pursuant to Sections 1412, 1414, 1415, 1416, 1445 and 1450 of the Safe Drinking Water Act as amended (42 U.S.C. 300f *et seq.*).

A total of 88 written comments on the proposed regulations were received. A public hearing was held in Washington, D.C., on August 29, 1979, and a total of seven witnesses testified at the public hearing. Comments and statements were received from water utilities, State and local officials, public interest groups, engineering consulting firms, industry associations, and individual citizens. Included were comments from the State Liaison Group and the National Drinking Water Advisory Council. EPA has thoroughly considered all comments and statements in formulating the final regulations. A detailed discussion of the comments and statements received and the Agency's response is presented in Appendix A.

Summary of Major Changes

As a result of the comments and new information provided by the commenters, the Agency made several changes to the proposed regulations which are indicated below.

The condition that no nitrite shall be present has been deleted from the provision that allows nitrate levels in non-community systems to exceed the MCL up to a level of 20 mg/l. In its place is guidance in the preamble to the States that levels of one mg/l nitrite should not be exceeded without careful consideration of all relevant factors on a case-by-case basis. In addition, appropriate local and State public health authorities must be notified annually of nitrite levels that exceed 10 mg/l. The proposal did not specify any frequency for notification and the notification was to physicians.

The proposed amendment that provided an additional year for non-community systems to complete nitrate monitoring has been extended to 18 months.

The proposed amendments to § 141.14 have been clarified such that the use of and/or within the regulation has been deleted. In addition, a provision has been added to § 141.14 (microbiological MCL) so that if an average MCL violation is caused by a single sample MCL violation the supplier will only be required to make one public notification for the single sample violation.

Provisions have been added to § 141.28 that allow analysis of pH and temperature by any person acceptable to the primacy agency.

The proposed amendment to § 141.31(a) has been changed to require the water supplier to report its analytical results to the primacy agency within the first ten days following the end of the required monitoring period as designated by the State, or within the first ten days following the month in which the sample results were received, whichever time is shortest.

The direct public notification requirement for sodium has been deleted. In addition, the amendment has been changed to require the water supplier to report sodium results within the first ten days of the month following the month in which the sample results were received or within the first 10 days following the end of the required monitoring period as designated by the State, whichever time is shortest. Also, a provision has been added so that if more than one sample per compliance period is required, the supplier can accumulate the data before reporting the results.

The proposed amendment to 141.42 concerning corrosion control has been changed to require public water systems to identify the presence of specific materials within the distribution system and to monitor and report corrosivity characteristics including pH, alkalinity, hardness, temperature, total dissolved solids, and the Langelier Index. The monitoring and reporting requirement is limited to one year duration. These requirements are the initial steps in the proposed corrosion control program and specific monitoring requirements are set forth. For systems distributing corrosive waters, States are being encouraged to provide direction and technical assistance in implementing control measures to reduce the corrosivity. In addition, in a separate rule-making procedure, regulations will be proposed that set forth requirements for systems identified by the corrosivity monitoring to be distributing corrosive waters to increase monitoring for corrosion by-products, such as lead and cadmium, in representative locations.

The analytical methods approved for use in complying with the NIPDWR have been updated along with the approved alternate analytical methods.

Major issues, comments and revisions are discussed according to topic in the following.

Microbiological Contaminants

The wording of the proposal has been changed for purposes of clarification. The meaning and intent remains unchanged with the exception of adding a provision that if an average monthly MCL violation is caused by a single sample MCL violation, the supplier will only be required to make one public notification.

This amendment allows the primacy agency additional latitude in determining compliance by small public water systems with the monthly average MCL for coliforms in drinking water. The existing regulations governing microbiological contamination require that public water systems meet a monthly average and single sample MCL. This amendment does not make changes in the single sample MCL requirements.

The Safe Drinking Water Act authorizes EPA to establish minimum sampling requirements for public water systems taking into account several factors including the population at risk. Accordingly, the present regulations require systems to take a minimum number of microbiological samples each month based on the number of persons being served. Thus, for example, systems serving between 25 and 1,000 persons must take at least one sample per month; systems serving between 8,501 and 9,400 persons must take at least 10 samples per month; and systems serving 970,001 to 1,050,000 persons must take at least 300 samples per month.

Compliance with the microbiological standard is determined both on the number of coliform in a single sample and on the basis of a monthly average of the samples. Smaller systems taking fewer samples are more likely to violate the monthly average standard on the basis of only one sample showing coliform contamination (a "positive" sample) than are larger systems because of the mathematics of the averaging computation. For example, a system taking 10 samples per month with a single positive result of 16 coliforms would violate the monthly standard; whereas, a system taking 100 samples per month with a single positive result of 16 coliforms would not violate the monthly average standard; thus, this might lead to erroneous conclusions regarding the quality of the water of the systems. EPA recognizes that samples can be unknowingly contaiminated in the collection process, in transit or in the analytical process. Problems of this nature can severely impact very small systems and require unwarranted expense of public notification while not increasing public health protection. The problem of one such sample distorting the monthly average primarily impacts systems taking 10 or fewer samples per month (systems that serve less than 9,400 persons).

In order to resolve this problem, EPA is amending 40 CFR § 141.14(a)(1), (b)(1) and (b)(2), to permit State discretion in allowing certain public water systems serving fewer than 9,400 persons to exclude one (but only one) positive routine sample in the calculation to determine compliance with the monthly average if two conditions (safeguards) are satisfied. First, a sample must be collected on each of two consecutive days from the same sampling point beginning within 24 hours after it has been determined that a routine sample is positive as provided for in 40 CFR 141.21(d) (1) (2) (3). Both of these samples, called "check" samples, must be negative for the presence of coliform bacteria. Otherwise, the positive routine sample must be included in the calculation of the monthly average and, if this results in a violation of 40 CFR § 141.14, the public must be notified under 40 CFR § 141.32 or § 141.16.

Second, regardless of whether the positive routine sample is followed by two consecutive negative "check" samples, the positive routine sample must be reported to the State under 40 CFR § 141.31(a) and a record of the sample must be retained by the public water system for five years under 40 CFR § 141.33(a). This precaution should allow either the State or the public water system to detect a pattern of positive routine samples which might indicate a persistent problem with the microbiological quality of the drinking water.

This amendment will be permitted on a case-by-case basis as approved by the States in water systems where the State determines and indicates in writing that no unreasonable risk to health would exist as a result of this provision. The determination of no unreasonable risk to health should be based upon all relevant information including but not limited to the following: (1) the maintenance of an active disinfectant residual, (2) the potential for contamination as indicated by a sanitary survey, and (3) the history of water quality at the public water system (e.g., MCL or monitoring violations). EPA encourages water systems to maintain an active disinfectant residual as a protective measure, and this should be a major factor in a State's evaluation regarding the applicability to an individual water system. Further, States are encouraged to initiate systematic evaluations of all pertinent factors on a case-by-case basis prior to receipt of a petition from a public water system for application of this provision.

The existing regulations and the final amendments to the regulations provide three additional safeguards. First, water supply systems utilizing this amendment must take at least one additional routine sample in that period to replace the one that is discarded; second, the amendment can only be applied once during two consecutive compliance periods (either months or quarters as the case may be). In general, a compliance period is one month, but some public water supplies may be on a quarterly schedule. If a system has more than one positive routine sample in a compliance period, those additional positive routine samples must be included in the average whether or not they are followed by two negative check samples (Note: More than one positive routine sample per compliance period more likely indicates contamination of the drinking water than simple mishandling of the sample). Third, this amendment does not affect the "single sample" test set forth in the microbiological MCL. That is, regardless

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of the monthly average of the microbiological standards, a system exceeds the standard if the individual or "single samples" taken in any month exceed the maximum levels established in 40 CFR 141.14(a) (2), (3); § 141.14(b)(1) (ii), (iii); and § 141.14(b)(2) (ii), (iii). It is emphasized that these provisions are not a substitute for proper sampling and analytical procedures including verification but merely provide latitude to the States to deal with small systems in the infrequent event of an improperly conducted sampling or test. This amendment does not allow public water supplies to reject samples known to be properly collected and analyzed. Investigations into the nature of the problem should be made and corrective measures should be taken, especially in repetitive cases where the amendment is exercised more than once annually.

The amendment also provides that periods shall be used instead of semicolons after 40 CFR 141.14(a)(1); § 141.14(b)(1)(i); and § 141.14(b)(2)(i) to make it clear that the microbiological limitations are composed of two separate MCLs—the "monthly average" standard and the "single sample" standard.

In addition, § 141.21(a) is being clarified to the effect that suppliers of water for community water systems and non-community water systems may engage the services of approved laboratories to monitor and analyze for coliform bacteria for the purpose of determining compliance with § 141.41. Contrary to EPA's intent, the existing language in § 141.21(a) has been interpreted by some to mean that the suppliers of water shall themselves monitor and analyze for coliform bacteria and thereby could not use other private and State laboratories for this purpose. That interpretation was inconsistent with § 141.28 which requires all analyses except turbidity and free chlorine residual to be performed in a laboratory approved by the State.

It is emphasized that these are interim regulations; EPA is conducting comprehensive evaluations of the microbiological standards in development of the Revised National Primary Drinking Water Regulations.

Review of the Major Issues—Microbiological Contaminants

In the proposal, EPA specifically solicited comments on the merits of the modification to the regulation and on the adequacy of the safeguards for dealing with the problem of possible spurious samples leading to unnecessary public notification.

Ten comments were received that expressed some dissatisfaction with the current coliform standard, particularly the average monthly MCL. The main objections were that the response time to the average MCL was too long to be meaningful and that relative numbers of coliforms do not indicate relative health risks as is implied by the single sample MCL of four or greater and by the average MCL.

These commenters' concerns were directed towards the coliform MCL rather than the specific requirements in the proposal and were therefore not addressed herein. EPA is currently conducting a comprehensive evaluation of the regulations on microbiological contaminants and each of these comments will be carefully considered in the development of the Revised Regulations.

Many commenters misunderstood the provisions of the amendment in that they thought that the proposed amendment required that a system maintain an active disinfectant residual before it could be eligible for excluding a sample from the average MCL calculation. Eight of these commenters felt that samples with no chlorine residual could be more easily contaminated (i.e. through improper sampling or testing procedure rather than in the actual quality of the water) and be misrepresentative than samples with a residual; they were opposed to systems being required to maintain a disinfectant residual in order to be eligible for the conditions of the amendment. Several commenters felt that only systems having an active disinfectant residual should be eligible for excluding a sample.

For purposes of clarification the wording of the amendment has been changed. As discussed previously, this amendment will be permitted on a case-by-case basis as approved by the States in water systems where the State determines and indicates in writing that no unreasonable risk to health would exist as a result of this provision. This determination should be based upon all relevant information including but not limited to the following: (1) the maintenance of an active disinfectant residual, (2) the potential for contamination as indicated by a sanitary survey, and (3) the history of water quality at the public water system (e.g. MCL or monitoring violations).

Seven commenters stated that the amendment should apply to all system sizes, most arguing that contamination of one sample in a large system could lead to non-compliance with the monthly average MCL and unjustified public notification.

Smaller systems, because of their lower required monitoring frequency, are more likely to violate the monthly average MCL because of contamination of one sample than are larger systems. Large systems taking a large number of samples are less likely to violate the monthly average MCL because of a spurious sample since it would be included with a large number of negative samples (expected in meeting the MCL), and thus probably not lead to an average MCL greater than one. EPA has studies the distribution of single sample and average MCL coliform violations as a function of supply system size. A relatively small number of systems serving over 9,400 would potentially be affected if the amendment were made applicable to them. Thus, no changes were made and the provisions are only to apply to systems serving 9,400 and less.

Other comments concerning the microbiological MCL are addressed in Appendix A.

Sampling and Analytical Requirements

The purpose of this amendment is to clarify that monitoring samples that are taken by the State may be used to determine compliance with the NIPDWR. The present regulations state that compliance with any MCL is to be determined pursuant to the applicable monitoring and analysis requirements set forth in Subpart C of the NIPDWR. However, the monitoring and analysis requirements are directly applicable to the suppliers of water, and it is unclear as to whether the results of such compliance sampling performed by the supplier were meant to be the only samples that could be used to determine compliance with the regulations.

The language of this amendment specifies that the State in a primacy State or the EPA in a non-primacy State under Subpart C of the NIPDWR has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

There were no major issues concerning this amendment and thus, no changes were made to the proposed amendments. Specific comments are addressed in Appendix A.

Alternate Analytical Methods

The NIPDWR specify, in most cases, a single analytical procedure for determining the concentration of each contaminant. However, § 141.27 states that alternate analytical techniques may be used with the written permission of the primacy agency, and with the concurrence of the Administrator of the

EPA. Proposals for an alternate method for nationwide use are initially evaluated by the EPA's Environmental Monitoring and Support Laboratory (EMSL) with final review by the EPA's Office of Drinking Water. In order for an alternate method to be approved, it must be deemed substantially equivalent to the prescribed test in precision and accuracy. In addition, the use of an alternate analytical method for determination of compliance with any MCL does not change the frequency of monitoring required.

A number of alternate analytical techniques have been approved by EPA at the request of some States. These techniques have been determined to be equivalent methods and are now acceptable for determining compliance with the NIPDWR. All analytical procedures will be thoroughly reviewed as part of the development of Revised Regulations, and precision and accuracy requirements, as well as the type and amount of supporting documentation to support inclusion as an acceptable method, will be more carefully defined.

EPA is postponing final approval at this time to a proposed alternate turbidity standard, "Nephelometric Method with Styrene Divinyl Benzene Polymer Standard," proposed at § 141.22(a). EPA had made final approval of this standard conditional upon receipt from the manufacturer, Amco Standards International, of information related to the preparation and use of the standard. Amco has not submitted the necessary information and thus, the reference and footnote 4 to this reference has been deleted from the final regulations. EPA is requesting submission of any relevant information on the issue of final approval or disapproval of this standard on or before October 27, 1980.

No major issues were raised by the commenters, and thus, with the exception of deleting the reference to the "Nephelometric Method with Styrene Divinyl Benzene Standard," there were no changes to the proposed amendment. However, commenters suggested updating the list of approved analytical techniques as presently specified in the NIPDWR, and adding them to their appropriate sections. The updated methods have been included.

The atomic absorption furnace techniques for most metals requiring monitoring by the NIPDWR have been published in the 1979 EPA "Methods for Chemical Analysis of Water and Wastes," and are available from ORD Publications, CERI, U.S. EPA, Cincinnati, Ohio 45268.

The alternate analytical methods, now approved, and several referenced ASTM methods, essentially identical to the originally specified procedures, have been updated and added to their appropriate parts of §§ 141.22, 141.23, 141.24 and 141.41. In the proposal these analytical techniques were listed under § 141.27(b) which has now been deleted.

In addition, reference has been added to several sections of "Microbiological Methods for Monitoring the Environment, Water and Wastes," U.S. EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268—EPA–600/8–78–017, December 1978. Available from ORD Publications, CERI, U.S. EPA, Cincinnati, Ohio 45268.

Specific comments are addressed in Appendix A.

Reporting of Compliance Data

The NIPDWR presently requires that results of monitoring be reported to the State within 40 days following a test. Under these provisions, it can take almost two months to assure compliance and, in some cases, this can defeat the possibility of prompt corrective action. Thus, the intent of the proposed amendment was to shorten the time period between sampling and reporting. The provisions of the proposal would have required that the supplier of water report to the State its analytical results within 10 days following receipt of such results; analyses performed more frequently than once per month, such as turbidity and coliforms, could be reported at one time by the tenth day of the month following the month in which the samples were analyzed. However, the preamble of the proposal described the proposed amendment as requiring the supplier to report all results to the State no later than the tenth day of the month following the month in which sample results were received.

Commenters were most concerned with the possibility of having to report to the State within 10 days of receipt of results. Based on these comments, the amendment has been changed to require the supplier of water to report to the primacy agency its analytical results within the first ten days following the end of the required monitoring period as designated by the State, or within the first ten days following the month in which the sample results were received, whichever of these is shortest.

This amendment will encourage earlier reporting of analytical results to the primacy agency without inconvenience to the supplier and minimize clerical work by facilitating the reporting of all parameters at the same time.

Some States currently require coliform and turbidity results to be submitted at a mid-monthly rather than at an end of month frequency. The wording of the amendment maintains uniform reporting requirements for all States. The amendment also ensures that non-community systems which might only be required to conduct quarterly coliform monitoring, will report their results within the same time constraints as community systems.

In addition, a statement has been added to the NIPDWR which clarifies that the water supplier must submit upon request to the State copies of any records required to be maintained by the NIPDWR.

Review of Major Issues—Reporting of Compliance Data

Six of the twelve commenters felt that a required reporting time of ten days was unnecessary. Most indicated that the problems of immediate health risk are considered in the NIPDWR which requires that violations of an MCL be reported to the primacy agency within 48 hours. Some of these commenters alleged that contaminants to which the ten days reporting requirement applied posed potential chronic rather than acute health risks; thus, they considered it illogical to require such a short response time for State notification of results. Several commenters indicated that allowing water suppliers more time to report results would permit them to equalize their work load.

The purpose of having a shorter required reportage time is to allow the primacy agency to determine more quickly those systems which do not report their MCL violations within 48 hours, and to begin corrective action as soon as possible. This particularly pertains to coliforms which potentially indicate immediate health risks. Contaminants which only pose chronic health risks should also be reported within the same time frame since no inconvenience will be imposed upon the supplier. Requiring shorter reporting times for coliforms and turbidity would be impractical because of their high monitoring frequency. EPA considers it illogical a require to shorter reportage time for the parameters other than coliforms or turbidity since their health risks tend not to be so imminent. Therefore, the amendment has been changed to provide for simultaneous reporting of all parameters. The amendment should reduce the reportage time for most parameters by about one half without further inconvenience to the supplier.

Public Notification

Under section 1414(c) of the SDWA and 40 CFR 141.32 of the NIPDWR, a community water system is required to

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notify the public immediately through notices in the newspaper, radio and television media of any failure to comply with an applicable MCL in addition to notifying its customers through water bills or by direct mail within three months of such failure.

An amendment to § 141.32(b) has been added to provide greater latitude to the States to waive the media notification requirements, applicable to a community water system under circumstances where such notification would not be meaningful; that is, where a violation has been corrected promptly after discovery, the cause of the violation has been effectively eliminated and the violation no longer poses a risk to public health. Consumer notice as required by § 141.32(a) would remain unchanged by this amendment.

This limited modification of the media notification requirements is authorized by the SDWA and is consistent with its legislative history. Section 1414(c) gives the Administrator the discretion to establish by regulation the form, manner and frequency for giving public notice. It was contemplated that such regulations would be reasonably designed to implement the purposes of the SDWA, while not unduly burdening public water systems with unnecessary and counter-productive requirements. Thus, in House Report No. 93–1185 accompanying the SDWA, Congress explained that:

> The purpose of this notice requirement is to educate the public as to the extent to which public water systems serving them are performing inadequately in light of the objectives and requirements of this bill. Such public education is deemed essential by the Committee in order to develop public awareness of the problems facing public water systems, to encourage a willingness to support greater expenditures at all levels of government to assist in solving these problems, and to advise the public of potential or actual health hazards.

This public education function is well served by consumer notification of any failure to comply with a MCL, as well as media notification of continuous violations, repeat violations, or where the cause of the violation has not been duly corrected. Violations of MCLs, other than coliforms, the cause of which has been promptly corrected, would probably not have posed serious health problems. Moreover, since the State is required to make an affirmative determination that a waiver of media notification is appropriate for any given circumstance, such waivers can certainly be denied where media notification would be meaningful in terms of advising the public of any serious problem. No waiver would be appropriate, for example, where a system had a history of violations or where only interim measures had been taken to correct the problem. The good faith efforts of the system to comply and the nature and degree of the violation should also be taken into account.

The House Report accompanying the passage of the SDWA also supports an interpretation that Congress intended that the three-month consumer notice would be sufficient under most situations to notify the public of corrected violations. Thus, Congress stated: "The Administrator's regulations should also require that the three-month notice include all violations not previously reported, even though they have been corrected at the time of notification" (emphasis added, p. 24). The three-month notice requirement refers to the consumer notice required by § 141.32(a). This language is interpreted as providing greater latitude to the Administrator to allow for waiver of the § 141.32(b) requirements of media notification for corrected violations under appropriate circumstances, provided that the purposes of the SDWA are not violated or circumvented. This is consistent with Congress concern that public notification not unduly alarm the public.

This amendment attempts to be responsive to comments received from States and public water systems which expressed concern regarding the necessity and expense of media notification. Such expense is surely warranted where the public is informed of recurring violations or violations of a continuous nature. However, where violations have been corrected promptly after discovery and the cause of the violation has been effectively eliminated, such expense becomes less justified. EPA does not allow for waiver of the media notification requirements for every case where a violation has been corrected prior to the time that the notice would be issued. The public education function of the media notification requirements will still be served under most circumstances.

In addition, § 141.31(d) has been added which requires water systems to submit to the State, within ten days of the completion of issuance of public notification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

Monitoring for Sodium in Drinking Water

This amendment requires (1) monitoring of sodium levels in drinking water by community water supply systems at least annually for surface water systems and at least every three years for systems using groundwater sources. In addition, (2) suppliers must report the levels to EPA and/or the State within the first ten days of the month following the month in which the sample results were received and (3) suppliers must also notify local and State public health authorities. Suppliers are not required to notify local authorities where the State provides such notices in lieu of the supplier. The effective date of the regulation is 18 months from promulgation which should provide sufficient time for States to adopt the regulations. The first round of sampling and reporting must be completed by all systems within 12 months following the effective date.

Two provisions which were proposed have been changed. These changes include revisions in the time for reporting and deleting the direct public notification requirement.

Sodium ions naturally occur in water from leaching of surface and undergound salt deposits, intrusion of sea water into fresh aquifers, and from salt spray along the seacoast. Human activities such as deicing, municipal use (e.g. urine and washing products), and types of water treatment (e.g. softening, pH adjustment) also contribute to increased levels of sodium in water. However, drinking water is usually a very minor source of total dietary sodium except for persons on sodium-restricted diets.

Evidence indicates that excessive sodium intake contributes to an age related increase in blood pressure that culminates in hypertension in genetically susceptible people (NAS, Drinking Water and Health, 1977). The NAS has estimated that about 15 to 20% of the population are at risk of developing hypertension.

Intake from food is generally the major source of sodium. However, in many instances, where high sodium concentrations in the drinking water occur, the contribution of sodium by water may constitute a significant fraction of the total sodium intake. About 3% of the population is on sodium-restricted diets calling for sodium intake of less than 2,000, 1,000 or 500 mg/day. Where water supplies contain more than 20 mg/l, dietary sodium restriction to less than 500 mg/day is difficult to achieve and maintain (NAS, 1977). Therefore, knowledge of the sodium ion content of the water supply and maintenance of it at the lowest practicable concentration is critical in arranging diets for persons who require a low sodium diet. EPA suggests that sodium levels of 20 mg/l or less in drinking water be considered as optimal.

The current NIPDWR (40 FR 59566) do not contain a monitoring requirement for sodium. The NAS included sodium in its study of the health effects of inorganic chemicals and recommended that sodium concentrations in water should be maintained at the minimum possible, and that provisions should be made for notifying persons on low sodium diets. In response, EPA is establishing monitoring and reporting requirements for sodium. In addition, EPA recommends that systems having sodium levels above 20 mg/l should examine their present treatment systems in order to minimize sodium levels; in some cases, systems are adding sodium containing compounds to the drinking water for such corrosion control or for other purposes but frequently alternate corrosion control methods are available and are similarly cost-effective.

Sodium monitoring was one of the issues of a petition for review of the NIPDWR. *EDF v. Costle*, 578 F. 2d 337, 347 (D.C. Cir. 1978). EDF urged that monitoring for sodium should be mandatory rather than voluntary. The Court indicated that the study carried out by NAS may aid EPA in re-evaluating its approach to sodium. The 1977 Amendments to section 1414(c) and 1445(a) of the SDWA also clarified EPA's authority to require monitoring, reporting and public notification of levels of any contaminant for which an MCL has not been established.

This amendment establishes special monitoring, reporting and notification requirements for sodium, an otherwise unregulated contaminant, as now authorized by the SDWA. Although it appears in 40 CFR Part 141, it is not, strictly speaking, a NIPDWR. Therefore, it has been included in Subpart E of Part 141 which was established when EPA promulgated special monitoring requirements for organic chemicals in drinking water in 1975 (40 FR 59588, December 24, 1975). States will not be required to adopt these special requirements for sodium as a condition for maintaining or obtaining primary enforcement responsibility under section 1413 of the SDWA. These requirements will be enforceable by EPA under the separate enforcement authorities provided under section 1414(c) of the SDWA. Nevertheless, States are urged to adopt these requirements as State drinking water regulations to minimize the federal enforcement role in primacy States. The sodium requirements will be effective 18 months following promulgation to afford States ample time to adopt them. Systems must complete the first round of sampling within 12 months of the effective date.

The purpose of a sodium monitoring program is to assure that affected persons are informed, so they can make necessary adjustments in water usage. Suppliers of the water will be required to report to EPA and/or the State the results of such sodium monitoring within the first 10 days of the month following the month in which the sample results were received. Suppliers of water are required to notify appropriate local and State public health officials of the sodium levels by written notice within three months of receipt of results. However, where the State has adopted this regulation and provides the notice to the local and State public health officials, the supplier may be relieved of this particular notice requirement. A copy of each notice sent in compliance with these requirements must be sent to EPA (or the State) within 10 days of its issuance.

Review of the Major Issues—Monitoring for Sodium

In the proposal, EPA solicited comments on the merits of the proposed notification requirements, the feasibility of establishing an appropriate MCL for sodium, factors for determining the appropriate monitoring frequency, and the proposed effective date for implementing the regulation.

Of the 55 comments received on the proposed monitoring requirements for sodium, 22 expressed general support but indicated specific reservations, 25 presented no value judgment but made specific comments, and 8 were opposed.

The proposed amendment would have required suppliers to directly notify the public of the sodium concentrations in their water. EPA suggested that suppliers could implement such notification by including sodium concentrations on their water bills or any other convenient means.

Twenty-nine out of the fifty-five comments received on the proposed sodium amendment opposed direct consumer notification. Most of these commenters favored public notification via health agencies and physicians, permitting the public to be informed through these resources upon their own request. Eight commenters thought that such notification should only be required if the sodium levels were "high" (e.g., 20 to 270 mg/l). The main objection to direct consumer notification was that since only a small fraction of the population is affected by sodium, an unnecessary burden would be placed on the supplier. Many thought that the public would be confused or falsely alarmed over reported sodium concentrations on water bills; several indicated that space for proper clarification on the water bill would be lacking and that the printing and distribution of additional material by the suppliers would be costly. A few commenters expressed concern over the logistic problems of consumer notification, noting that in some locations such as apartment complexes, residents are not billed independently. Some commenters considered it illogical to notify the public of sodium content in water when this was not being done for foods which are the more significant source.

Nine commenters favored direct consumer notification (as proposed) provided that the requirement only pertain to supplies having "high" sodium concentrations (e.g., 20 to 250 mg/l). Only a few commenters indicated support for direct consumer notification for all systems.

EPA has deleted the direct public notification requirement. The final amendment requires suppliers of water to report their sodium concentrations to EPA and/or the State and to designated local and State public health officials. If the State notifies the local and State public health officials, public water systems are relieved of this requirement. The public and physicians can be informed of sodium levels in their water by contacting their local public health office, the State, or water system. Of course, systems can opt to regularly report sodium concentrations to the public along with other primary or secondary regulation parameters, as some already do.

Suppliers with sodium concentrations above 20 mg/l should prevent further increase in their levels during the treatment process. At this time, EPA does not expect systems to apply treatment technology to reduce their sodium levels below that of their raw water source because of the high cost of the only available treatment technology.

Nine of the seventeen commenters who addressed the feasibility of establishing an MCL were opposed to such a requirement, mainly because of the lack of available cost-effective technology for reducing sodium levels. Some commenters felt that not enough evidence is available to implicate sodium as a health risk. Several commenters thought that an MCL would be inappropriate since the percentage intake of sodium in water relative to food tends to be very small; an MCL would thus only affect a very small percentage of people on restricted sodium diets, who in turn could buy bottled water for an overall more cost-effective solution.

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Eight commenters suggested that if an MCL were established it should be higher than EPA's stated goal of 20 mg/l (ranging from 100 to 250 mg/l). Otherwise, too many supplies would not be able to meet the level without incuring very high treatment costs. The commenter also stated that a low MCL would also conflict with EPA's corrosion control objectives since sodium compounds are sometimes the most cost-effective treatment.

EPA recognizes that the available technology for sodium removal is expensive and would not necessarily be cost-effective to meet national regulations at this time. At this time, insufficient data is available on the significance of risk from sodium in drinking water and thus setting an MCL is now not appropriate. However, the Agency will reconsider if additional data becomes available. The health risks related to sodium intake are further discussed in responses to specific comments in Appendix A and in the Statement of Basis and Purpose.

In the preamble to the proposed regulations, EPA stated that 20 mg/l of sodium was a goal. Many commenters felt that this was an unrealistic statement considering the lack of available cost-effective treatment technologies; EPA recognizes the difficulty that many systems would have in achieving a level of 20 mg/l and the statement has been revised to state that 20 mg/l or less of sodium should be considered as an optimum for drinking water. Suppliers having raw waters above 20 mg/l are encouraged to minimize the addition of sodium compounds in their treatment process. Water systems should be sensitive to the levels of sodium in their drinking water sources and evaluate treatments that avoid the addition of sodium, such as by using lime when possible rather than soda ash to adjust the pH for corrosion control.

Most of the commenters raised no objections to the proposed monitoring frequencies. Of the 8 comments responding to this issue, 6 thought higher monitoring frequency should be required due to the variability of sodium concentrations, 3 suggesting that the State or primacy agency determine such frequencies on a case-by-case basis. Other comments suggested basing the monitoring frequency on population served, and applying the same monitoring frequency to surface as well as groundwater.

The amendment sets a specified minimum frequency for surface and groundwater systems and includes provisions which would encourage States to implement more frequent monitoring where needed. Since groundwaters tend to have more stable sodium concentrations than surface waters, they are not required to be monitored as frequently. In regard to monitoring on the basis of population served, EPA believes this would add unnecessary costs; monitoring frequency should be based on variability of concentration rather than population. Coliform monitoring requirements are based on population because they are indicators of potential acute health risk, and because their presence is susceptible to high variation in case of failure in the water treatment process.

Three commenters objected to implementing the regulation 18 months following promulgation. Two preferred that additional time be provided but one suggested instituting the effective date two months following promulgation since no treatment modifications would be needed to meet an MCL.

EPA is strongly urging the States to adopt these requirements to minimize the federal role. EPA believes that 18 months will provide sufficient time for States to formally adopt these requirements and systems can complete the first round of sampling and reporting within an additional 12 months.

Other comments are addressed in Appendix A and the costs and economic impact associated with the sodium requirements are discussed below under the subheading, "Economic and Energy Assessment."

Corrosion Control

The final regulations on corrosion control have been changed and include specific requirements for public water systems to (1) identify the presence of specific types of materials used in distribution systems and to (2) monitor several corrosivity-related characteristics for a duration of one year. The proposal set forth a corrosion control program that would have initially required monitoring to assess the corrosivity of the water, followed by implementation of corrosion control measures. Commenters stated that although control of corrosion was an important concern the proposed corrosion control program lacked specific requirements. As discussed in the preamble to the proposed regulations, the problems of corrosive waters are unique to the circumstances in each public water system in that the quality of water varies, existing treatment systems can impact the corrosive nature of the water, and the occurrence and distribution of materials of construction of the distribution system are specific to each system. Thus, regulations were proposed to control corrosion and corrosion by-products by implementation of corrosion control programs under the direction of the State; the program was to include monitoring for corrosivity characteristics, and implementation of control measures where needed. It was anticipated that the EPA regulations would provide direction but the actual corrosion control programs at each public water system could best be determined at the State and local level.

Sixty-eight comments were received concerning the proposed corrosion control program. The consensus was that the proposal lacked specific criteria and guidelines for methods, procedures, and implementation of the corrosion control program. Other commenters opposed the establishment of MCLs for corrosion that would be based upon one or more of the corrosivity indices. Some of these commenters, however, suggested that the indices may be used to identify corrosive waters. Other commenters suggested that regulations for control of corrosion should be based upon specific MCLs for contaminants resulting from corrosion. Similarly, several commenters felt that since MCLs are already established for the common corrosion by-products of lead and cadmium, corrosion control should be implemented through monitoring and meeting the MCL requirements.

The commenters agreed with the Agency that corrosion is a complex phenomenon and the occurrence of corrosion-related contaminants is not uniform in water supply systems. The proposal took into account that in many instances corrosion-related problems may be unique to each water supply system. Thus, the Agency was not specific in order to provide as much latitude as possible to the States and suppliers to detect, evaluate and solve corrosion related problems in a feasible and economical manner, and on a case-by-case basis if necessary.

The Agency believes that corrosion is a very significant concern not only affecting the aesthetic quality of the water but having a serious economic impact and posing health implications. Corrosion by-products containing materials such as lead and cadmium have been associated with serious risks to the health of consumers of drinking water. In addition, by-products of corrosion commonly include such compounds as zinc, iron, and copper for which secondary MCLs have been set in the NSDWR; occurrence of these compounds, as a result of corrosion, should be considered indicators of potential health risk because, as stated in the NSDWR, high levels of contaminants in the NSDWR can pose a health risk; also, if corrosive waters are leaching these compounds from piping materials, it is very likely that other compounds of health concern are also leaching from the pipes. Further, a number of epidemiological studies indicate that there may be an increased incidence of cardiovascular disease associated with the consumption of soft waters, which tend to be corrosive (however, this subject is still under investigation).

Results of two independent studies estimate that approximately 16% of the public water systems in the United States distribute waters that are highly aggressive ($LI < -2.0$), while an additional 52% distribute moderately aggressive waters ($-2.0 < LI < 0.0$). It is also known that only a limited number of these systems have instituted corrosion control measures.

The Agency carefully evaluated the merits of the issues raised by the commenters. EPA maintains that corrosion control is a serious concern and implementation of a corrosion control program would best be accomplished on a case-by-case basis. In addition, it is apparent that specific directions are desirable to initially identify distribution system materials subject to attack by corrosive waters and to identify corrosive waters followed by careful on-site evaluations of control options.

Originally, the Agency considered the use of the Aggressive Index (AI), the Ryznar Index (RI) and the Langelier Index (LI) to determine the corrosive tendencies of the water. These indices are not a direct measure of the corrosivity of the water but rather are indicators of the calcium carbonate stability which may be used to predict whether or not a calcium carbonate ($CaCO_3$) layer may be deposited and maintained on pipe surfaces to protect against corrosion. The Agency recognizes that these indices may not be ideal as a determinant for corrosive characteristics of drinking water in all instances.

The Langelier Index defines the tendency of the water to form or dissolve calcium carbonate scales by comparing the saturation pH of the calcium carbonate (pHs) with the measured pH of the water, $LI = pH - pHs$. While negative values resulting from the difference between pH and pHs express the tendency of the water to be corrosive, positive values express a supersaturated condition indicating the formation of a protective scale of calcium carbonate on interior surfaces of the distribution system. At equilibrium, the LI has a value of 0.

The RI, which is a variation of the LI, is also calculated from the pHs of calcium carbonate saturation by the formula, $RI = 2\ pHs - pH$, and provides an indication of the relative scale forming or aggressive tendencies of the water. Calcium carbonate scale deposition increases proportionally as the index drops below 6, and corrosion increases as it rises above 6, with extremely aggressive conditions for values of 10 and above.

In calculating the RI and LI, the pH, alkalinity, hardness, temperature and the TDS content of the water are taken into consideration. The AI, established as a criterion for determining the quality of the water that can be transported through asbestos cement pipe without adverse effects, is calculated from the pH, calcium hardness in mg/l as $CaCO_3$ (h) and the total alkalinity in mg/l as $CaCO_3$ (A) of the water by the formula $AI = pH + \log (AH)$. The AI does not consider the effects of temperature and TDS on the corrosive tendency of the water. An AI of 12 or above indicates non-aggressive water, while values of 10–11.9 is a possible indication of moderately aggressive conditions. AI values below 10 indicate extremely aggressive conditions.

The formation of a protective $CaCO_3$ layer is dependent on the pH, alkalinity, hardness, total dissolved solids (TDS) and the temperature of the water, each of which may independently affect the corrosive tendencies of the water. For instance, soft low alkalinity waters having either low or excessively high pH are corrosive even though the calculated LI may indicate non-corrosive tendency. In these instances, due to the insufficient amount of calcium ions and alkalinity, no protective $CaCO_3$ film can form. Since the materials used in distribution systems to convey the water are often amphoteric in nature, with the exception of asbestos cement or plastic pipes, corrosion will occur when either excessively low or high pH waters are conveyed.

Waters having high pH values and sufficient hardness and alkalinity may also exhibit corrosive tendencies even though the LI indicates non-corrosive conditions. At high pH levels formation of various calcium and magnesium complexes may result in the removal of calcium and alkalinity from active concentrations of their normal form thus preventing the formation and maintenance of a protective $CaCO_3$ layer. Since analytical procedures fail to distinguish between these forms, deposition of a $CaCO_3$ film may not be predicted reliably using any of the calcium carbonate saturation indices.

The corrosive tendencies of the water to particular metals such as the ones used in distribution systems are also significantly influenced by the amount of TDS. Waters containing TDS exceeding 150 mg/l may exhibit corrosive tendencies. The presence of various ions such as sulfates and chlorides in the water may interfere with the formation and maintenance of a uniform protective $CaCO_3$ layer on metal surfaces. In addition, the presence of these ions will accelerate the corrosion process.

Because of the influence of the various parameters involved, it is generally agreed that the LI may only be applicable to determine the corrosive tendencies of the water within a pH range of 6.5 to 9.5 provided that a sufficient amount of calcium ions and alkalinity over 40 mg/l are present in the water.

In response to comments and in continuing to emphasize that corrosion is a serious concern, a revised strategy has been developed regarding the control of corrosion-related contaminants in public water supply systems; the Agency has decided to confront the problem of corrosion by four steps as follows:

(1) Require systems to determine the presence of specific materials of construction of the distribution system;

(2) Require monitoring for parameters influencing the corrosivity characteristics of water by community water systems;

(3) Encourage through State direction and assistance the implementation of corrosion control measures at systems distributing corrosive waters;

(4) Require systems with corrosive waters and distribution materials vulnerable to contamination due to corrosion to increase monitoring for corrosion by-products, such as lead, cadmium, zinc, copper and iron.

In order to accomplish these goals, the Agency is taking the following steps:

(1) Requirements are being established by these regulations to determine the presence of specific materials in distribution systems and to monitor for characteristics of corrosivity; only one year of monitoring and reporting is required in order to assess the corrosivity characteristics of the water;

(2) EPA will also provide guidance to States to assist in accessing the problems of corrosivity and the most cost-effective treatment methods; and

(3) A separate rule-making will propose regulations for increased monitoring for other corrosion related contaminants.

In recognition of the importance of the role of various parameters affecting the corrosivity of the water, the final regulations include specific requirements for monitoring and reporting the pH, alkalinity, hardness, and TDS of the water in addition to the LI. A number of States have already established requirements for reporting and monitoring of some of these parameters plus sulfate and chloride levels which are included in the National Secondary Drinking Water Regulations; States are encouraged to require monitoring for sulfate and chloride levels as indicators of corrosivity characteristics. The Agency feels that knowledge of these parameters in addition to the LI will provide a better basis for evaluating the corrosive tendencies of waters. In certain instances, where asbestos cement pipe is in contact with the water, the AI may be reported instead of the LI.

These regulations finalize the initial step in the proposed corrosion control program; systems will identify the types of materials used in their distribution systems and will determine if the waters being distributed have corrosive characteristics. For systems distributing corrosive waters, it is expected that corrosion control measures would be implemented under the direction of the State.

Inclusion of the requirement that the community water supply system identify and report to the State the materials of construction in the distribution system including service lines and home plumbing is to assure that the potential for the occurrence of corrosion by-products is known. Systems must complete their assessments and report to the State within 12 months of the effective date of the regulation.

Occurrence of corrosion related contaminants, such as lead, cadmium, copper, iron, zinc and asbestos, is a function of both water quality and distribution system factors. Thus, in addition to determining the corrosive nature of the water, the water supplier should determine and report whether the following materials of construction are present in the distribution system:

1. Lead used in piping, solder, caulking, interior lining of distribution mains, alloys and home plumbing.
2. Copper used in piping and alloys, service lines, and home plumbing.
3. Galvanized piping, service lines, and home plumbing.
4. Ferrous piping materials such as cast iron and steel.
5. Asbestos cement pipe.

In addition, other distribution system materials have been shown to contribute contaminants to the drinking water; tetrachloroethylene has been measured in some waters distributed through vinyl lined asbestos cement pipe, and polynuclear aromatic hydrocarbons have been found in some waters distributed through piping and tank materials coated with coal tar. Thus, States are provided the discretion to require systems to identify and report the use of other types of materials, such as vinyl lined asbestos cement pipe or coal tar lined materials.

A number of approaches are available to determine the presence of materials in distribution systems which have the potential for contaminating drinking water supplies. These include, among others, general knowledge of the system along with consulting records and knowledge of plumbing codes and practices, surveys at the consumers' homes, questionnaires, and possibly meter readers gathering information.

While the regulations only require community water systems to determine the presence of the above materials, it is recommended that the systems, in considering the potential for corrosion problems, will also determine the extent of usage of the materials in the distribution system; this would allow for evaluation of the significance of the potential for release of corrosion by-products into the drinking water. Availability of this information regarding water quality and the presence of specific materials of construction will enable the primary enforcement agency to determine which water supply system should initiate corrosion control measures.

In addition, regulations will be proposed in a separate rule-making that will require increased monitoring for corrosion by-products, such as lead and cadmium, for systems distributing potentially corrosive waters with materials in the distribution system that could contribute corrosion by-products to the drinking water. In those cases where the monitoring showed MCLs to be violated, it is expected that corrosion control measures would be implemented.

Summary of the Corrosion Characteristics Regulations

The regulations being promulgated are:

(1) All community water supply systems are to collect and analyze samples to determine the corrosive characteristics of the water by monitoring and reporting the alkalinity, pH, hardness, temperature, TDS of the water; also, the Langelier Index must be reported which can be calculated from the above parameters. The regulations provide that certain systems may report the Agressive Index (AI) in lieu of the Langelier Index since the AI may be more appropriate for certain systems that use asbestos-cement pipe; the State is provided the discretion to make this determination.

Monitoring for the above parameters to define the corrosivity characteristics of the water need not be repeated after the initial round(s) of sampling; however, States are provided the discretion to require additional monitoring. The effective date of the regulations is 18 months following the promulgation date. The monitoring and reporting requirements must be completed within 12 months following the effective date of the regulation. This will provide States sufficient time to adopt these regulations and assure that systems have conducted the monitoring. Systems are encouraged to conduct the monitoring as early as feasible.

(2) Samples shall be taken at each plant at a representative entry point into the distribution system. Sampling is specified at a representative entry point of the distribution system because substances within the distribution system could influence the corrosive characteristics of the water. For instance, water passing through asbestos-cement pipe tends to become less aggressive because of an increase in hardness and pH resulting from the leaching of calcium salts. Two samples within one year are to be taken from each treatment plant using a surface water source in order to account for the extremes in water quality variations, such as one sample in mid-summer or one sample in mid-winter (or high flow, low flow). During the course of the year, surface waters may undergo significant variations in pH, hardness, alkalinity, total dissolved solids and temperature which can influence the aggressiveness of the water. For instance, the total dissolved solids (TDS) content and the hardness of the water may vary considerably during periods of seasonal drought or rainfall. Addition of industrial discharges or "acid rain" may significantly affect the pH of the water, dependent upon the amount of water contributed relative to the size of the receiving body of the water. Variations in pH of the water may also be influenced by the natural buffering capacity of the water. Thus, to account for changes in water quality, surface water systems are required to determine the corrosivity characteristics twice during one year, taking each sample when the water quality is at an extreme for the year.

For groundwater sources, one sample per plant is required; less frequent monitoring is appropriate for ground water systems because the quality of the water is relatively constant. Multiple wells from a common aquifer can be considered a single plant in regard to sampling requirements. States upon their discretion may increase the sampling requirements.

In certain cases the State may allow the use of the AI instead of the LI to determine the corrosivity of the water. In addition, the States may also require additional monitoring in instances where it is felt that the use of the LI would be inadequate as an indicator of the corrosive tendency of the water. The RI, which is based upon the same parameters as the LI is slightly more complicated to determine than the LI and the results indicate similar characteristics as the LI; thus, the RI was not included in these regulations. Use of the AI, which is less sensitive than the LI (i.e., the AI does not take into account the temperature and TDS of the water), is appropriate primarily for those systems which use asbestos-cement pipe in the distribution systems.

Table 1 summarizes the corrosivity characteristics associated with the Langelier and the Aggressive Indices.

Table 1.—*Corrosivity Characteristics as Addressed by Indices*[1]

Corrosive characteristics	Langelier index	Aggressive index
Highly aggressive	< −2.0	< 10.0.
Moderately aggressive	−2.0 to < 0.0.	10.0 to < 12.0.
Nonaggressive	> 0.0	> 12.0.

[1] As noted previously, indices may be an appropriate measure of corrosive characteristics in all cases.

(3) All community water supply systems are required to determine the presence and report to the State the materials of construction of the distribution system including service lines and home plumbing.

Systems are expected to implement corrosion control measures if the monitoring results indicate corrosive characteristics based upon the individual parameters or as indicated by the LI or AI. States are encouraged to provide directions and technical assistance to the public water systems in evaluating options for corrosion control. A discussion on available corrosion control treatment methods is included in the Statement of Basis and Purpose.

Analytical and Economic Considerations

The analytical methods to determine the parameters influencing corrosivity do not generally require sophisticated equipment or procedures. To calculate the LI (Standard Method No. 203, 14th Edition, as shown in Appendix B), it is necessary to determine the methyl orange alkalinity, calcium ion concentration, pH, temperature and total dissolved solids (TDS). The pH and temperature will have to be determined at the sample site, while the other parameters can be determined at the laboratory (Standard Methods #208, 212, 306, 403 and 424, 14th Edition). To calculate the AI, it is necessary to measure the alkalinity, calcium ion concentrations, and the pH. For details on the LI and the AI, see Appendix B.

The estimate for determining the LI, which includes all of the required parameters, by a commercial laboratory is approximately $20 (measurement of AI would be less). Based upon this estimate, the total national cost for the approximately 60,000 public water supply systems covered by this regulation is estimated to be $1.5 million. One time per capita costs for the smallest surface and groundwater systems (serving 25 people) are $1.60 and $0.80, respectively. One time per capita costs for the largest systems of both source types are expected to be less than $0.01. Costs for each system associated with the determination of the presence of materials in distribution systems are expected to be minimal. The majority of systems could probably accomplish this very quickly based upon common knowledge of local construction practices.

Additional information is presented in the Basis and Purpose Document and detailed comments and Agency responses are included in Appendix A.

Non-Community Water Supply Systems

The amendments for non-community water supply systems promulgated herein do not, with two exceptions, vary from those that were proposed in July 1979. The conditions for allowing nitrate levels up to 20 mg/l have been revised and the specific condition requiring the absence of nitrite has been deleted. However, levels above one mg/l nitrite should not be exceeded and States should take this factor into consideration when evaluating the applicability of this amendment to public water systems. In addition, the non-community system is required to notify annually appropriate local and State public health officials that the nitrate levels exceed 10 mg/l. The other revision was an extension of the deadline for nitrate monitoring for an additional six months to a total of 18 months beyond the original deadline of June 24, 1979. Not all non-community systems have been able to complete the monitoring and the revised deadline of December 24, 1980, should provide sufficient time for non-community systems to meet the requirements. The comments received on the other amendments involving the non-community water supply systems did not contain sufficient new information to require changes. The most significant comments involving the nitrate MCL are discussed below, while detailed analyses of these and other comments regarding the amendments for non-community water supplies are provided in Appendix A.

The majority of commenters supported the proposed amendment of the regulations which provides that nitrate levels up to 20 mg/l may be allowed for non-community systems. However, the commenters objected to the fourth and fifth conditions of the provision which stipulated that the supplier of water must demonstrate, to the satisfaction of the State, that "(4) no nitrites are present in the drinking water," and that "(5) no adverse health effects will result." These commenters indicated that the analytical test is extremely sensitive, and that in most cases, a measurable trace of nitrite would likely be present; thus, this condition could rarely, if ever, be met by the non-community water system. Some commenters suggested that a "realistic" nitrite limit be set at one mg/l. The health implications of nitrite are essentially the same as nitrate in regards to methemoglobinemia except that the effect of nitrite is direct since metabolism is not required to reduce the nitrate to nitrite. For community water systems, a maximum level of one mg/l nitrite was suggested in the Basis and Purpose Document supporting the nitrate MCL in the NIPDWR and a level of one mg/l nitrite has been established in Canada based upon the occurrence of methemoglobinemia. However, since this provision for allowing up to 20 mg/l nitrate is predicated upon not allowing access to the drinking water by infants, EPA has determined that it is not necessary to set a limit for the nitrite levels; thus, the condition that nitrites should not be present has been deleted. However, levels of nitrite should not exceed one mg/l and it is suggested that, in applying this provision, States should make a judgment based upon all relevant factors for each specific system, including the levels of nitrite.

In regards to the levels of nitrite, States should also consider that significant levels of nitrite in drinking water are usually an indicator of gross contamination by agricultural practices or sewage and reducing conditions. In these cases, examination of the source of contamination and increased monitoring for microbiological contaminants would be recommended.

While the condition on nitrite has been deleted, the condition that states "no adverse health effects will result" has been retained. This condition is the final safeguard and is left as general guidance as a contingency if the other conditions are not met.

Several commenters felt that the proposed requirement that the suppliers notify local physicians was unclear and could impose a large burden for some supplies in the suburbs of a large city. This condition has been revised so that the supplier would notify appropriate local and State public health authorities on an annual basis. It is expected that the local and State health authorities would notify appropriate physicians in the locality of the public water system.

Economic and Energy Assessment

A detailed regulatory analysis of the proposed amendments was not conducted due to the routine nature of the amendments and the expected decrease in the economic burden associated with these amended NIPDWR. Further, these amendments are generally not expected to have significant impacts upon resources or reporting requirements. The economics associated with each of the amendments are explained below. Energy impacts are negligible.

Changes in the microbiological monitoring and reporting requirements should result in unquantifiable but known savings to local water supply facilities. The savings reflect fewer public notifications. Although these savings are relatively small on a national scale, they are significant to the water utilities affected.

It is anticipated that the amendment on alternate analytical methods will have a minimal economic impact. Laboratories that are presently using equipment for new alternate methods, will have cost savings, since the need for equipment purchase for the previously approved methods will be eliminated. No changes in costs are expected in laboratories that do not adopt these procedures. The overall economic effect of the amendment on alternate techniques should be no cost increase, and in some cases a cost savings, since a greater analytical flexibility will be provided.

Changes in the regulations which affect non-community water systems will result in savings associated with reduced monitoring and public notification. Again, the extent of these reductions will be small in terms of national costs, but may be significant for individual suppliers.

Changes in public notification requirements will decrease costs. Some of these savings will be significant for small supplies.

Changes in the fluoride regulations are only for clarification, and will not affect the associated cost in any way.

As indicated previously, a requirement for monitoring and notification of sodium concentrations in drinking water will result in new costs to drinking water utilities. Based upon $10 per sample analysis, total national annual costs associated with this regulation are estimated to be $450,000 with annual per capita costs for the smallest systems (25 customers) of $0.80 for surface supplies and $0.13 for groundwater supplies, and less than $0.01 for the largest systems of both source types. These new costs do not impact all systems since some States already require monitoring for sodium.

Monitoring for corrosivity characteristics does not require sophisticated equipment or procedures. Determination of the Langelier Index involves measurement of hardness, alkalinity, pH, total dissolved solids, and temperature (the Aggressive Index only requires hardness, alkalinity and pH); in many cases, the water system will be able to conduct the analyses in their own laboratory. For many of the smaller systems, States will likely continue providing analytical services to the utilities. Based upon an estimate of $20 per LI analysis by a commercial laboratory, the total one time national cost would be $1.5 million with maximum per capita costs for the smallest systems (25 customers) of $1.60 and $0.80 for surface and groundwater systems, respectively, and less than $0.01 per capita for the largest systems of both source types. Costs for each system associated with identifying the composition of materials of construction in the distribution systems are expected to be negligible.

In regard to reporting and resource impacts, it is expected that the reporting requirements will have negligible impacts because of the infrequency of monitoring and the fact that reporting would occur through the system already established and in use for compliance with the primary regulations. Thus, additional resources are not expected to be necessary at the Federal, State and local levels.

The effective date is immediately upon promulgation except that the requirements for sodium monitoring and reporting, determination of the types of materials in the distribution system, and monitoring and reporting corrosivity characteristics will be effective 18 months after date of promulgation. The sodium and corrosion requirements must be completed within 12 months following the effective date. The Statement of Basis and Purpose Document which provides additional supporting information for the sodium and corrosivity monitoring requirements is available upon request at EPA headquarters, 401 M Street, S.W., Washington, D.C., and for reading at EPA regional offices.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 19, 1980.

Barbara Blum,

Acting Administrator.

Accordingly, 40 CFR, Part 141, is amended as follows:

1. By revising § 141.6 (c) and (d) to read as follows:

§ 141.6 Effective dates.

* * * * *

(c) The regulations set forth in 141.11 (a), (c) and (d); 141.14(a)(1); 141.14(b)(1)(c); 141.14(b)(2)(i); 141.14(d); 141.21 (a), (c) and (i); 141.22 (a) and (e); 141.23 (a)(3) and (a)(4); 141.23(f); 141.24(a)(3); 141.24 (e) and (f); 141.25(e); 141.27(a); 141.28 (a) and (b); 141.31 (a), (c), (d) and (e); 141.32(b)(3); and 141.32(d) shall take effect immediately upon promulgation.

(d) The regulations set forth in 141.41 shall take effect 18 months from the date of promulgation. Suppliers must complete the first round of sampling and reporting within 12 months following the effective date.

(e) The regulations set forth in 141.42 shall take effect 18 months from the date of promulgation. All requirements in 141.42 must be completed within 12 months following the effective date.

2. Amending § 141.11 (a) and (d) to read as follows:

§ 141.11 Maximum contaminant levels for inorganic chemicals.

(a) The MCL for nitrate is applicable to both community water systems and non-community water systems except as provided by in paragraph (d). The levels for the other organic chemicals apply only to community water systems. Compliance with MCLs for inorganic chemicals is calculated pursuant to § 141.23.

* * * * *

(d) At the discretion of the State, nitrate levels not to exceed 20 mg/l may be allowed in a non-community water system if the supplier of water demonstrates to the satisfaction of the State that:

(1) Such water will not be available to children under 6 months of age; and

(2) There will be continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure; and

(3) Local and State public health authorities will be notified annually of nitrate levels that exceed 10 mg/l; and

(4) No adverse health effects shall result.

3. Amending § 141.11(c) to read as follows:

§ 141.11 Maximum contaminant levels for inorganic chemicals.

* * * * *

(c) Fluoride at optimum levels in drinking water has been shown to have beneficial effects in reducing the occurrence of tooth decay.

4. Amending § 141.14 (a)(1), (b)(1)(i), (b)(2)(i), and revising (d) to read as follows:

§ 141.14 Maximum microbiological contaminant levels.

(a) * * *

(1) One per 100 milliliters as the arithmetic mean of all samples examined per compliance period pursuant to § 141.21(b) or (c), except that, at the primacy Agency's discretion systems required to take 10 or fewer samples per month may be authorized to exclude one positive routine sample per month from the monthly calculation if: (i) as approved on a case-by-case basis the State determines and indicates in writing to the public water system that no unreasonable risk to health existed under the conditions of this modification. This determination should be based upon a number of factors not limited to the following: (A) the system provided and had maintained an active disinfectant residual in the distribution system, (B) the potential for contamination as indicated by a sanitary survey, and (C) the history of the water quality at the public water system (e.g. MCL or monitoring violations); (ii) the supplier initiates a check sample on each of two consecutive days from the same sampling point within 24 hours after notification that the routine sample is positive, and each of these check samples is negative; and (iii) the original positive routine sample is reported and recorded by the supplier pursuant to § 141.31(a) and § 141.33(a). The supplier shall report to the State its compliance with the conditions specified in this paragraph and a summary of the corrective action taken to resolve the prior positive sample result. If a positive routine sample is not used for the monthly calculation, another routine sample must be analyzed for compliance purposes. This provision may be used only once during two consecutive compliance periods.

(b)(1) * * *

(i) More than 10 percent of the portions (tubes) in any one month pursuant to § 141.21 (b) or (c) except that, at the State's discretion, systems required to take 10 or fewer samples per month may be authorized to exclude one positive routine sample resulting in one or more positive tubes per month from the monthly calculation if: (A) as approved on a case-by-case basis the State determines and indicates in writing to the public water system that no unreasonable risk to health existed under the conditions of this modification. This determination should be based upon a number of factors not limited to the following: (*1*) the system provided and had maintained an active disinfectant residual in the distribution system, (*2*) the potential for contamination as indicated by a sanitary survey, and (*3*) the history of the water quality at the public water system (e.g. MCL or monitoring violations); (B) the supplier initiates a check sample on each of two consecutive days from the sampling point within 24 hours after notification that the routine sample is positive, and each of these check samples is negative; and (C) the original positive routine sample is reported and recorded by the supplier pursuant to § 141.31(a) and § 141.33(a). The supplier shall report to the State its compliance with the conditions specified in this paragraph and report the action taken to resolve the prior positive sample result. If a positive routine sample is not used for the monthly calculation, another routine sample must be analyzed for compliance purposes. This provision may be used only once during two consecutive compliance periods.

(b)(2) * * *

(i) More than 60 percent of the portions (tubes) in any month pursuant to § 141.21 (b) or (c), except that, State discretion, systems required to take 10 or fewer samples per month may be authorized to exclude one positive routine sample resulting in one or more positive tubes per month from the monthly calculation if: (A) as approved on a case-by-case basis the State determines and indicates in writing to the public water system that no unreasonable risk to health existed under the conditions of this modification. This determination should be based upon a number of factors not limited to the following: (*1*) the system provided and had maintained an active disinfectant residual in the distribution system, (*2*) the potential for contamination as indicated by a sanitary survey, and (iii) the history of the water quality at the public water system (e.g. MCL or monitoring violations); (B) the supplier initiates two consecutive daily check samples from the same sampling point within 24 hours after notification that the routine sample is positive, and each of these check samples is negative; and (C) the original positive routine sample is reported and recorded by the supplier pursuant to § 141.31(a) and § 141.33(a). The supplier shall report to the State its compliance with the conditions specified in this paragraph and a summary of the corrective action taken to resolve the prior positive sample result. If a positive routine sample is not used for the monthly calculation, another routine sample must be analyzed for compliance purposes. This provision may be used only once during two consecutive compliance periods.

* * * * *

(d) If an average MCL violation is caused by a single sample MCL violation, then the case shall be treated as one violation with respect to the public notification requirements of § 141.32.

8. Amending § 141.21 (a) and (c) to read as follows and adding (i):

§ 141.21 Microbiological contaminant sampling and analytical requirements.

(a) Suppliers of water for community and non-community water systems shall analyze or use the services of an approved laboratory for coliform bacteria to determine compliance with § 141.14. Analyses shall be conducted in accordance with the analytical recommendations set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 14th Edition, Method 908A, Paragraphs 1, 2 and 3—pp. 916–918; Method 908D, Table 908: I—p. 923; Method 909A, pp. 928–935, or "Microbiological Methods for Monitoring the Environment, Water and Wastes," U.S. EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268—EPA-600/8-78-017, December 1978. Available from ORD Publications, CERI, U.S. EPA, Cincinnati, Ohio 45268. Part III, Section

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B 1.0 through 2.6.2, pp. 108–112; 2.7 through 2.7.2(c), pp. 112–113; Part III, Section B 4.0 through 4.6.4(c), pp. 114–118, except that a standard sample size shall be employed. The standard sample used in the membrane filter procedure shall be 100 milliliters. The standard sample used in the 5 tube most probable number (MPN) procedure (fermentation tube method) shall be 5 times the standard portion. The standard portion is either 10 milliliters or 100 milliliters as described in § 141.14 (b) and (c). The samples shall be taken at points which are representative of the conditions within the distribution system.

* * * * *

(c) The supplier of water for a non-community water system shall be responsible for sampling coliform bacteria in each calendar quarter that the system provides water to the public. Such sampling shall begin within two years after promulgation. The State can adjust the monitoring frequency on the basis of a sanitary survey, the existence of additional safeguards such as a protective and enforced well code, or accumulated analytical data. Such frequency shall be confirmed or modified on the basis of subsequent surveys or data. The frequency shall not be reduced until the non-community water system has performed at least one coliform analysis of its drinking water and shown to be in compliance with § 141.14.

* * * * *

(i) The State has the authority to determine compliance or initiate enforcement action based upon analytical results or other information compiled by their sanctioned representatives and agencies.

9. Amending § 141.22(a) to read as follows and adding (e):

§ 141.22 Turbidity sampling and analytical requirements.

(a) Samples shall be taken by suppliers of water for both community and non-community water systems at a representative entry point(s) to the water distribution system at least once per day, for the purpose of making turbidity measurements to determine compliance with § 141.13. If the State determines that a reduced sampling frequency in a non-community system will not pose a risk to public health, it can reduce the required sampling frequency. The option of reducing the turbidity frequency shall be permitted only in those public water systems that practice disinfection and which maintain an active residual disinfectant in the distribution system, and in those cases where the State has indicated in writing that no unreasonable risk to health existed under the circumstances of this option. The turbidity measurements shall be made by the Nephelometric Method in accordance with the recommendations set forth in "Standard Methods for Examination of Water and Wastewater," American Public Health Association, 14th Edition, pp. 132–134; or Method 180.1,1-Nephrometric Method.

* * * * *

(e) The State has the authority to determine compliance or initiate enforcement action based upon analytical results or other information compiled by their sanctioned representatives and agencies.

10. Amending § 141.23(a)(3), adding (a)(4) and amending (f) (1) through (10) to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

(a) * * *

(3) For non-community water systems, whether supplied by surface or ground sources, analyses for nitrate shall be completed by December 24, 1980. These analyses shall be repeated at intervals determined by the State.

(4) The State has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

* * * * *

(f) * * *

(1) Arsenic—Method [1] 206.2, Atomic Absorption Furnace Technique; or Method [1] 206.3, or Method [4] D2972–78A, or Method [2] 301.A VII, pp. 159–162, or Method [3] I–1062–78, pp. 61–63, Atomic Absorption—Gaseous Hydride; or Method [1] 206.4, or Method [4] D–2972–78A, or Method [2] 404–A and 404–B(4), Spectrophotometric, Silver Diethyldithiocarbamate.

(2) Barium—Method [1] 208.1, or Method [2] 301–A IV, pp. 152–155, Atomic Absorption—Direct Aspiration; or Method [1] 208.2, Atomic Absorption Furnace Technique.

(3) Cadmium—Method [1] 213.1, or Method [4] 3557–78A or B, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption—Direct Aspiration; or Method [1] 213.2, Atomic Absorption Furnace Technique.

(4) Chromium—Method [1] 218.1, or Method [4] D–1687–77D, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption—Direct Aspiration; or Chromium—Method [1] 218.2, Atomic Absorption Furnace Technique.

(5) Lead—Method [1] 239.1, or Method [4] D–3559–78A or B, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption—Direct Aspiration; or Method [1] 239.2, Atomic Absorption Furnace Technique.

(6) Mercury—Method [1] 245.1, or Method [4] D–3223–79, or Method [2] 301–A VI, pp. 156–159, Manual Cold Vapor Technique; or Method [1] 245.2, Automated Cold Vapor Technique.

(7) Nitrate—Method [1] 352.1, or Method [4] D–992–71, or Method [2] 419–D, pp. 427–429, Colorimetric Brucine; or Method [1] 353.3, or Method [4] D–3867–79B, or Method [2] 419–C, pp. 423–427, Spectrometric, Cadmium Reduction; Method [1] 353.1, Automated Hydrazine Reduction; or Method [1] 353.2, or Method [4] D–3867–79A, or Method [2] 605, pp. 620–624, Automated Cadmium Reduction.

(8) Selenium—Method [1] 270.2, Atomic Absorption Technique; or Method [1] 270.3; or Method [3] I–1667–78, pp. 237–239, or Method [4] D–3859–79, or Method [2] 301–A VII, pp. 159–162, Hydride Generation—Atomic Absorption Spectrophotometry.

(9) Silver—Method [1] 272.1, or Method [2] 301–A II, Atomic Absorption—Direct Aspiration; or Method [1] 272.2, Atomic Absorption Techniques Furnace Technique.

(10) Fluoride—Electrode Method, or SPADNS Method, Method [2] 414–B and C, pp. 391–394, or Method [1] 340.1, "Colorimetric SPADNS with Bellack Distillation," or Method [1] 340.2, "Potentimetric Ion Selective Electrode;" or ASTM Method [4] D1179–72; or Colorimetric Method with Preliminary Distillation, Method [2] 603, Automated Complexone Method (Alizarin Fluoride Blue) pp. 614–616; or Automated Electrode Method, "Fluoride in Water and Wastewater," Industrial Method #380–75WE, Technicon Industrial Systems, Tarrytown, New York 10591, February 1976; or "Fluoride in Water

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[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA-600/4–79–020), March 1979. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268. For approved analytical procedures for metals, the technique applicable to total metals must be used.

[2] "Standard Methods for the Examination of Water and Wastewater," 14th Edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1976.

[3] Techniques of Water—Resources Investigation of the United States Geological Survey, Chapter A-1, "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," Book 5, 1979, Stock #024–001–03177–9. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[4] Annual Book of ASTM Standards, part 31 Water, American Society for Testing and Materials, 1976, Race Street, Philadelphia, Pennsylvania 19103.

and Wastewater Industrial Method #129–71W," Technicon Industrial Systems, Tarrytown, New York 10591, December 1972; or Fluoride, Total, Colorimetic, Zirconium—Eriochrome Cyanine R Method [3]—I–3325–78, pp. 365–367.

11. Amending §141.24(a)(3), (e) and (f) to read as follows:

§ 141.24 Organic chemical sampling and analytical requirements.

(a) * * *

(3) The State has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

* * * * *

(e) Analysis made to determine compliance with § 141.12(a) shall be made in accordance with "Methods for Organochlorine Pesticides and Chlorophenoxy Acid Herbicides in Drinking Water and Raw Source Water," available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268; or "Organochlorine Pesticides in Water," 1977 Annual Book of ASTM Standards, part 31, Water, Method D3088; or Method 509–A, pp. 555–565; [2] or Gas Chromatographic Methods for Analysis of Organic Substances in Water,[5] USGS, Book 5, Chapter A–5, pp. 24–39.

(f) Analysis made to determine compliance with § 141.12(b) shall be conducted in accordance with "Methods for Organochlorine Pesticides and Chlorophenoxy Acid Herbicides in Drinking Water and Raw Source Water," available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268; or "Chlorinated Phenoxy Acid Herbicides in Water," 1977 Annual Book of ASTM Standards, part 31, Method D3478; or Method 509–B, pp. 555–5692; [2] or Gas Chromatographic Methods for Analysis of Organic Substances in Water,[5] USGS, Book 5, Chapter A–3, pp. 24–39.

§ 141.25 [Amended]

12. Amending § 141.25 to add (e):

(e) The State has the authority to determine compliance or initiate enforcement action based upon analytical results or other information compiled by their sanctioned representatives and agencies.

13. Amending § 141.27(a) to read as follows:

§ 141.27 Alternate analytical techniques.

(a) With the written permission of the State, concurred in by the Administrator of the U.S. EPA, an alternate analytical technique may be employed. An alternate technique shall be accepted only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL. The use of the alternate analytical technique shall not decrease the frequency of monitoring required by this part.

14. Amending § 141.28 to read as follows:

§ 141.28 Approved laboratories.

(a) For the purpose of determining compliance with § 141.21 through § 141.27, samples may be considered only if they have been analyzed by a laboratory approved by the State except that measurements for turbidity, free chlorine residual, temperature and pH may be performed by any person acceptable to the State.

(b) Nothing in this Part shall be construed to preclude the State or any duly designated representative of the State from taking samples or from using the results from such samples to determine compliance by a supplier of water with the applicable requirements of this Part.

15. Amending § 141.31 (a) and (c) and adding paragraphs (d) and (e) to read as follows:

§ 141.31 Reporting requirements.

(a) Except where a shorter period is specified in this part, the supplier of water shall report to the State the results of any test measurement or analysis required by this part within (A) the first ten days following the month in which the result is received or (B) the first ten days following the end of the required monitoring period as stipulated by the State, whichever of these is shortest.

* * * * *

(d) The water supply system, within ten days of completion of each public notification required pursuant to § 141.32, shall submit to the State a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

(e) The water supply system shall submit to the State within the time stated in the request copies of any records required to be maintained under § 141.33 hereof or copies of any documents then in existence which the State or the Administrator is entitled to inspect pursuant to the authority of § 1445 of the Safe Drinking Water Act or the equivalent provisions of State law.

16. Amending § 141.32 (b)(3) and (d) to read as follows:

§ 141.32 Public notification.

* * * * *

(b) * * *

(3) Except that the requirements of this subsection (b) may be waived by the State if it determines that the violation has been corrected promptly after discovery, the cause of the violation has been eliminated, and there is no longer a risk to public health.

* * * * *

(d) If a non-community water system fails to comply with an applicable MCL established in Subpart B of this part, fails to comply with an applicable testing procedure established in Subpart C of this part, is granted a variance or an exemption from an applicable MCL, fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring requirement pursuant to section 1445(a) of the Act, the supplier of water shall give notices by continuous posting of such failure or granting of a variance or exemption to the persons served by the system as long as the failure or granting of a variance or exemption continues. The form and manner for such notices shall be prescribed by the State and shall ensure that the public using the system is adequately informed of the failure or granting of the variance or exemption.

17. Amending Subpart E to read as follows:

Subpart E—Special Monitoring Regulations for Organic Chemicals and Otherwise Unregulated Contaminants

§ 141.41 Special monitoring for sodium.

(a) Suppliers of water for community public water systems shall collect and analyze one sample per plant at the entry point of the distribution system for the determination of sodium concentration levels; samples must be collected and analyzed annually for systems utilizing surface water sources in whole or in part, and at least every three years for systems utilizing solely ground water sources. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, with the State approval, be considered one treatment plant for determining the minimum number of samples. The supplier of water may be required by the State to collect and analyze water samples for sodium more frequently in locations where the sodium content is variable.

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[5] Techniques of Water—Resources Investigation of the United States Geological Survey, Chapter A-3, "Methods for Analysis of Organic Substances in Water," Book 5, 1972, Stock #2401–1227. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) The supplier of water shall report to EPA and/or the State the results of the analyses for sodium within the first 10 days of the month following the month in which the sample results were received or within the first 10 days following the end of the required monitoring period as stipulated by the State, whichever of these is first. If more than annual sampling is required the supplier shall report the average sodium concentration within 10 days of the month following the month in which the analytical results of the last sample used for the annual average was received. The supplier of water shall not be required to report the results to EPA where the State has adopted this regulation and results are reported to the State. The supplier shall report the results to EPA where the State has not adopted this regulation.

(c) The supplier of water shall notify appropriate local and State public health officials of the sodium levels by written notice by direct mail within three months. A copy of each notice required to be provided by this paragraph shall be sent to EPA and/or the State within 10 days of its issuance. The supplier of water is not required to notify appropriate local and State public health officials of the sodium levels where the State provides such notices in lieu of the supplier.

(d) Analyses for sodium shall be performed by the flame photometric method in accordance with the procedures described in "Standard Methods for the Examination of Water and Wastewater," 14th Edition, pp. 250–253; or by Method 273.1, Atomic Absorption—Direct Aspiration or Method 273.2, Atomic Absorption—Graphite Furnace, in "Methods for Chemical Analysis of Water and Waste," EMSL, Cincinnati, EPA, 1979; or by Method D1428–64(a) in Annual Book of ASTM Standards, part 31, Water.

18. Adding a § 141.42 to read as follows:

§ 141.42 Special monitoring for corrosivity characteristics.

(a) Suppliers of water for community public water systems shall collect samples from a representative entry point to the water distribution system for the purpose of analysis to determine the corrosivity characteristics of the water.

(1) The supplier shall collect two samples per plant for analysis for each plant using surface water sources wholly or in part or more if required by the State; one during mid-winter and one during mid-summer. The supplier of the water shall collect one sample per plant for analysis for each plant using ground water sources or more if required by the State. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, with the State approval, be considered one treatment plant for determining the minimum number of samples.

(2) Determination of the corrosivity characteristics of the water shall include measurement of pH, calcium hardness, alkalinity, temperature, total dissolved solids (total filterable residue), and calculation of the Langelier Index in accordance with paragraph (c) below. The determination of corrosivity characteristics shall only include one round of sampling (two samples per plant for surface water and one sample per plant for ground water sources). However, States may require more frequent monitoring as appropriate. In addition, States have the discretion to require monitoring for additional parameters which may indicate corrosivity characteristics, such as sulfates and chlorides. In certain cases, the Aggressive Index, as described in paragraph (c), can be used instead of the Langelier Index; the supplier shall request in writing to the State and the State will make this determination.

(b) The supplier of water shall report to EPA and/or the State the results of the analyses for the corrosivity characteristics within the first 10 days of the month following the month in which the sample results were received. If more frequent sampling is required by the State, the supplier can accumulate the data and shall report each value within 10 days of the month following the month in which the analytical results of the last sample was received. The supplier of water shall not be required to report the results to EPA where the State has adopted this regulation and results are reported to the State.

(c) Analyses conducted to determine the corrosivity of the water shall be made in accordance with the following methods:

(1) Langelier Index—"Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 203, pp. 61–63.

(2) Aggressive Index—"AWWA Standard for Asbestos-Cement Pipe, 4 in. through 24 in. for Water and Other Liquids," AWWA C400–77, Revision of C400–75, AWWA, Denver, Colorado.

(3) Total Filtrable Residue—"Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 208B, pp. 92–93; or "Methods for Chemical Analysis of Water and Wastes," Method 160.1.

(4) Temperature—"Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 212, pp. 125–126.

(5) Calcium hardness—EDTA Titrimetric Method "Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 309B, pp. 202–206; or "Annual Book of ASTM Standards," Method D1126–67 (8).

(6) Alkalinity—Methyl Orange and paint pH 4.5. "Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 403, pp. 278–281; or "Annual Book of ASTM Standards," Method D1067–70B; or "Methods for Chemical Analysis of Water and Wastes," Method 310.1.

(7) pH—"Standard Methods for the Examination of Water and Wastewater," 14th Edition, Method 424, pp. 460–465; or "Methods for Chemical Analysis of Water and Wastes," Method 150.1; or "Annual Book of ASTM Standards," Method D129378 A or B.

(8) Chloride—Potentiometric Method, "Standard Methods for the Examination of Water and Wastewater," 14th Edition, p. 306.

(9) Sulfate—Turbidimetric Method, "Methods for Chemical Analysis of Water and Wastes," pp. 277–278, EPA, Office of Technology Transfer, Washington, D.C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater," 13th Edition, pp. 334–335, 14th Edition, pp. 496–498.

(d) Community water supply systems shall identify whether the following construction materials are present in their distribution system and report to the State:

- Lead from piping, solder, caulking, interior lining of distribution mains, alloys and home plumbing.
- Copper from piping and alloys, service lines, and home plumbing.
- Galvanized piping, service lines, and home plumbing.
- Ferrous piping materials such as cast iron and steel.
- Asbestos cement pipe.

In addition, States may require identification and reporting of other materials of construction present in distribution systems that may contribute contaminants to the drinking water, such as:

- Vinyl lined asbestos cement pipe.
- Coal tar lined pipes and tanks.

Appendix A—Response to Public Comments

Comments submitted to the Agency and statements presented at the public hearing in

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response to the July 19, 1979, proposed regulations, are summarized below along with EPA's responses.

Community Water Supply Systems

141.11 Fluorides

Nineteen comments were received by the Agency as a result of EPA's endorsement of fluoridation practices and the addition of a statement to the NIPDWR clarifying that there is not a contradiction between the fluoride MCL and fluoridation practices. Eighteen of the comments dealt with the various aspects of established fluoride MCLs, treatment techniques to remove fluorides, monitoring and sampling for fluorides, and whether or not the MCL for fluorides should belong in the National Secondary Drinking Water Regulations (NSDWR) rather than in the NIPDWR. Only one commenter addressed EPA's action of endorsing fluoridation. This commenter felt that the Agency acted illegally since he felt that endorsement of fluoridation by EPA violates the spirit and the letter of the law.

The questions raised by the commenters regarding established MCLs, treatment techniques, and monitoring and analytical techniques were addressed when the NIPDWR and the NSDWR were promulgated and will again be considered in the development of the Revised Regulations. No changes to the existing MCL for fluoride were included in the proposal; thus, the comments were not directed toward the proposed regulations. In regard to the legality of EPA's action, a statement supporting the concept of controlled fluoridation does not violate Section 1412(b)(6) of the SDWA which states that "no primary drinking water regulation may require the addition of any substance for preventative health care purposes unrelated to contamination of drinking water." Thus, the statement of clarification and the statement that endorses fluoridation have been retained.

141.14 Microbiology

Ten commenters suggested that a change in the current coliform standard was needed. Seven objected to the monthly average MCL and expressed one or more of the following: a) States should have the option of adopting the monthly MCL requirement; b) the response time to non-compliance is too long for the "monthly average" MCL to be meaningful; c) relating health risk to the number of coliforms present is questionable: it is better to use coliform presence or absence as an indicator of bacteriological pollution; and d) good water supplies consistently show no coliforms; thus, coliform presence or absence should be used as the only indicator of bacteriological quality.

One commenter suggested that monitoring requirements should be based on source type rather than population. Another thought that fecal coliforms rather than total coliforms should be the required indicator. One commenter felt that criteria should be based on long-term monitoring surveillance of 12 to 76 months since few coliform occurrences actually indicate disease outbreaks.

These commenters' concerns were directed toward the coliform MCL rather than the specific requirements in the proposal. EPA is currently conducting a comprehensive evaluation of the regulations on microbiological contaminants and each of these comments will be carefully considered in development of the Revised Regulations.

Several commenters stated that the "and/or" provision of the amendment was unclear and suggested clarification prior to promulgation. Many commenters interpreted the amendment as requiring a system to have an active disinfectant residual before being eligible for excluding a sample from the monthly MCL calculation. Eight commenters opposed such a "prerequisite," some expressing that systems with no chlorine residual are more likely to have misrepresentative samples than systems having such a residual. Other commenters "agreed" with having a "prerequisite" of an active disinfectant residual.

The above commenters misinterpreted the wording of the amendment since maintaining an active disinfectant residual is not a prerequisite for being eligible for the provisions of the amendment. For purposes of clarification, the wording of the amendment has been changed. The amendment applies to all systems where the State has determined and indicated in writing that no unreasonable risk to health would exist as a result of this provision. While disinfection is not a requirement, EPA strongly encourages the maintenance of an active disinfectant residual, and this should be a major factor in States' determination of no unreasonable risk to health.

Seven commenters stated that the amendment should apply to all system sizes. Most argued that contamination of one sample in large systems would make them unjustly susceptible to a specious monthly MCL violation.

The amendment was proposed in response to problems of unnecessary public notification in small systems that may result from false positive analytical results that do not reflect the actual water quality. EPA has studied the distribution of single sample and average MCL coliform violations as a function of supply system size. As the number of monthly samples increases, the sensitivity of the monthly average to any high value decreases. Thus, EPA has determined that the spurious monthly MCL violations are minor in systems serving over 9,400. The amendment has, therefore, not been changed to include large systems.

Three commenters felt that additional latitude should be provided for small systems and the following items were suggested: (a) allowing the MCL to be exceeded more than once before requiring public notification; (b) allowing one of the negative check samples to be included in the monthly average calculation; (c) allowing use of the provisions for excluding one sample from the monthly average more than once per compliance period; (d) not requiring reporting to the State until either of the two check samples is positive; (e) making the amendment applicable for every compliance period; and (f) allowing small systems to be exempt altogether from public notification.

Each of these items has been considered in determination of the final provisions of the amendment. However, no changes were made in the amendment; EPA encourages stringent quality control in sampling and analysis and any lessening of the conditions set in this amendment could compromise the safety of the water served by small water systems.

Three commenters stated that "no unreasonable risk to health" should be defined so that the primacy agency can evaluate if a supplier is eligible for the amendment.

The purpose of this clause is to assure that in rendering that judgment the State conducts a comprehensive evaluation of each water system in order to assess the potential for contamination at each site. Strict definition of the criteria would not be possible since the State must evaluate all pertinent factors on a case-by-case basis. States are encouraged to initiate evaluations in a systematic manner prior to receiving a petition from the public water system, such that careful consideration, including a sanitary survey and an evaluation of the history of the water quality (e.g., MCL or monitoring violations), can be given to all appropriate factors. It is not expected that systems maintaining a disinfection residual in the distribution system would receive an automatic approval for application of this provision; however, this should be a prime factor in the determination of "no unreasonable risk to health" since the evaluation should be conducted on a case-by-case basis of all relevent factors.

Two commenters felt that the proposed amendment was too lenient since small systems tend to have greater disease incidence than larger ones. Their suggestions included increasing the required monitoring frequency to at least four samples per month, and requiring disinfection for all systems that take less than ten samples per month.

EPA will consider those suggestions as it prepares the Revised Primary Drinking Water Regulation. The current amendments are intended for the interim until Revised Regulations are formulated. EPA strongly encourages disinfection and maintenance of an active disinfectant residual to prevent contamination in the distribution system and to provide a margin of safety. In regard to increased monitoring or requiring disinfection, many small systems already practice disinfection but experience problems in a higher incidence of coliform violations than in large systems partly because of inconsistent operation or distribution system problems. EPA believes that health risks for such systems could be minimized by better operation and maintenance and compliance with existing regulations. The amendment should reduce average MCL violations caused by spurious sample results for small systems without compromising the safety of the water to the public. It is again emphasized that these are interim regulations and these commenters concerns will be carefully considered in development of the Revised Regulations.

One commenter stated that the concept of 24-hour follow-up "check samples" is not feasible because of unavailable mail or laboratory service on the weekend.

Many laboratories provide service through the weekend, and samples can be sent

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expeditiously via private postal bus service. Wherever possible, utilities not having easy access to weekend coliform analyses should attempt to monitor in the early part of the week, allowing for the contingency of follow-up "check samples" prior to the weekend.

One commenter felt that the amendment does not indicate what action should be taken if one or both check samples are positive.

The amendment states that each of the check samples must be negative in order to exclude the original positive sample from the compliance requirements. This indicates that if either of the check samples is positive the original positive sample must be used for computing the single sample and monthly average value.

One commenter interpreted the amendment to result in additional samples being taken; under the existing regulation a single sample exceeding four coliforms per 100 ml can be discounted if it is followed by two successive negative samples; the amendment would require two negative check samples and another sample to replace the original, a total of three samples.

The commenter is correct with respect to the single sample MCL. However, under the existing regulations, two successive negative check samples do not allow the original positive sample to be excluded from the average monthly MCL. If the minimum number of samples required per month is four or less, at least one additional sample (in addition to the two negative check samples) would need to be taken for the system to meet compliance with the average MCL. With the amendment, only one additional sample is needed. EPA encourages proper sample collection and handling practices; additional sampling should not be considered a burden since the drinking water was either actually contaminated or the sample was improperly collected or handled.

One commenter stated that the amendment is not clear as to whether the water utilities must petition to the State each time they seek use of this amendment or whether they can forego such petitions until after they have already excluded one positive sample from the monthly MCL calculation once within two successive compliance periods.

In order to be eligible for excluding one positive sample from the averge MCL calculation, the utility must petition the State within 24 hours following two successive negative check samples. The utility is only eligible for one such exclusion within two successive compliance periods.

One commenter felt that non-compliance of both single sample and average MCLs within one month should be treated as a single violation with respect to public notification.

EPA agrees in the case of a single sample leading to non-compliance of both MCL standards. The amendment has been changed to include this consideration.

One commenter stated that "active disinfectant residual" needed to be defined.

This phrase is commonly understood to mean the presence of an anti-microbial oxidizing agent such as a free chlorine, combined available chlorine ($Cl_2 + NH_3$), or chlorite residual. Since the State regulates which oxidants are permissible, the term has not been specifically defined in order to provide States latitude in making this determination.

In the preamble of the proposed amendments, it was stated that the laboratory director could discard samples known to be defective due to poor sampling or transit techniques. Three commenters felt that a laboratory director would not be qualified for exercising such judgment.

The laboratory director can in many cases, on the basis of the condition of the sample (e.g. lid off or sediment on top), excessive transit time (greater than 48 hours for coliforms), or inadequate transit conditions (e.g. insufficient refrigeration) decide if the sample would not be valid. The laboratory director should reject such samples from analysis to prevent the generation of misrepresentative data. The laboratory cannot reject a sample that has already been analyzed unless he is aware of an error in the analyses that was conducted.

The preamble of the proposal included a discussion on sample storage time requirements. Three commenters suggested this was inappropriate since no change in these requirements was being made. Two commenters were opposed to EPA requiring samples having more than a 48-hour transit time to be precluded from analysis. They suggested that the 48-hour cut-off point be used as guidance but allowing exceptions under certain conditions. One commenter felt that the 48-hour cut-off point lacked supporting data and could be unjust to the supplier because of slow postal service.

In cases of expected long transit time with the postal service, EPA suggests using the mail service provided by private bus companies. The storage time studies, referred to in the proposal, are still not complete. Until then, EPA expects utilities to analyze samples as soon as possible following collection and certainly within 30 hours of collection. The 14th edition of "Standard Methods for Examination of Water and Wastewater" recommends that samples be processed within one hour of collection. If transit time extends beyond 6 hours, the sample should be refrigerated and consideration given to analysis by a local laboratory facility. "Standard Methods for Examination of Water and Wastewater" further recommends that since drinking water samples often have to be transported by mail, the total elapsed time between collection and analysis should not exceed 30 hours. Under extraordinary circumstances a 48 hour transit time will be permitted, but State programs should be developed to keep transit time to a minimum. Samples awaiting analysis after 48 hours should be rejected.

One commenter indicated that the proposal had incorrectly paraphrased section 906B in the 14th edition of "Standard Methods for the Examination of Water and Wastewater," in saying that "if transit time extends beyond 6 hours, the sample should be refrigerated and consideration given to analysis by a local laboratory." The commenter indicated that the text suggests this for stream samples while EPA implies it pertains to drinking water analysis.

This was not the intent of EPA. The preamble also included a succeeding passage from Section 960B which specifically recommended "that since drinking water samples have to be transported by mail, the total elapsed time between collection and analysis should not exceed 30 hours."

141.21 Microbiological Contaminant Sampling and Analytical Requirements

Three comments were received concerning the proposed amendment; all fully supported the amendment and thus no changes were made.

141.23 Compliance Monitoring and Record Maintenance

Five comments were received concerning the proposed amendments on compliance monitoring and record maintenance; four fully supported the amendments. One of these commenters suggested that the primacy agency should inform the supplier in writing of the intent to conduct sampling and work cooperatively in selecting representative sampling locations in the distribution system.

Notification of the public water system by the State of the intent to sample and determination of representative sampling locations in a cooperative operation is considered normal operating procedures for most States, and is in their best interests. However, in certain cases, such as compliance audits or enforcement cases, this might be inappropriate. No change has been made in the amendment.

141.27 Alternate Analytical Techniques

Eleven comments were received concerning the alternate analytical techniques specified in the proposal. Eight commenters supported the amendments and three expressed no value judgment but made specific comments.

Two commenters felt that the alternate analytical techniques should be listed in Sections 141.22, 141.23, and 141.24 for simplicity.

As suggested, the alternate analytical techniques are listed in Sections 141.22, 141.23, and 141.24.

One commenter remarked that EPA is very slow to accept new methods and to inform laboratories and chemists when such new methods are acceptable.

In many cases, considerable time is needed to evaluate the acceptability of an alternate method. Often incomplete or unclear data are provided in comparing alternate methods with approved methods and frequently several iterations in data review and requests for additional information are necessary between EPA and the laboratory before evaluation can begin. The package must be reviewed by the EPA Environmental Monitoring and Support Laboratory (EMSL) (Cincinnati) for analytical approval and by EPA, Office of Drinking Water (Washington, D.C.) for consistency with regulatory concerns.

One commenter suggested that EPA publish in the **Federal Register** new alternate techniques on a regular time basis and that the methods in the NIPDWR should be updated.

EPA agrees that new alternate approved methods will periodically be published in the **Federal Register**. Also, methods in the

NIPDWR have been updated and are included in the regulations.

Two commenters stated that the degree of accuracy of alternate methods should be equivalent to those already prescribed before being considered as alternate analytical techniques.

This is the intent of the provision for alternate analytical techniques. An alternate analytical technique shall only be accepted for compliance purposes if it is equivalent to the prescribed test in accuracy and precision, and has EPA and State approval.

One commenter cited their laboratory as being unable to get reproducible results on the Flameless A.A. and Graphite Furnace Technique for arsenic and selenium analysis, and suggested that further study is needed before these methods are "approved."

EMSL has received substantial data from many laboratories indicating equivalent precision and accuracy to the prescribed techniques for these parameters. These techniques have thus been approved for compliance monitoring for arsenic and selenium.

141.28 Approved Laboratories

The two comments received pertaining to use of approved laboratories expressed full agreement.

141.30 Corrosion Control

Sixty-eight comments were received by EPA regarding the amendment involving corrosion control. The comments dealt with a wide range of issues, involving the legal, health and procedural aspects of the amendment. Twenty-three of the commenters concurred with the Agency's overall approach to control corrosion, but twenty-one of these expressed reservations about some aspect of the amendment. Thirty of the commenters objected to the amendment on legal and procedural grounds. The remainder of the fifteen commenters did not express support or opposition to the amendment but provided recommendations.

Thirteen of the commenters objected to the proposed amendment because it did not contain specific requirements. The commenters questioned the Administrator's legal authority to promulgate this amendment, arguing that it is not enforceable since specific requirements for a maximum contaminant level or requirements for treatment technique were not specified. A number of these commenters objected because the Agency did not provide an adequate definition for corrosivity. The commenters felt that the use of the various indices as proposed by the Agency does not provide an acceptable criteria for corrosivity. However, several commenters did state that the indices could be used as indicators of corrosive characteristics in some locations. In addition, the commenters felt that the Agency should be more specific in regard to providing guidelines for monitoring and survey techniques to identify corrosive waters.

Since corrosion is a complex phenomenon and the presence and occurrance of contaminants in different water supply systems is unique, the Agency felt that States and utilities should be given as much latitude as possible to identify and solve the problem on a case-by-case basis. However, the Agency also feels that specific requirements are desirable in setting forth most regulatory programs. Therefore, because of the concerns of public water systems and State agencies, the regulations have been revised. The Agency continues to emphasize that corrosion is a serious concern and has decided to confront the problem as follows:

EPA has established monitoring and reporting requirements in these regulations for corrosivity related characteristics by community water systems, including measurements of pH, calcium hardness, alkalinity, temperature, total dissolved solids, and the Langelier Index (or the Aggressive Index in certain cases). In addition, States may require monitoring for other parameters that may affect the corrosivity of the drinking water such as sulfates and chlorides. Furthermore, it is required that community water supply systems determine and report to the States the presence of materials of construction of their distribution system which may be potential sources of contaminants such as lead, cadmium, copper, iron, zinc and asbestos fibers. It is expected that the information gained as a result of this amendment will increase the awareness of the water supplier to corrosion related problems in his system and provide a basis for judgment by the State to determine whether the water system is vulnerable to contamination by corrosion products. For systems distributing water that has corrosive characteristics, these systems are expected to implement corrosion control measures, with the direction and guidance of the State. In addition, the Agency will propose in a separate rulemaking an amendment which will require that systems which are vulnerable to contamination by corrosion by-products to monitor for corrosion-related contaminants at an increased frequency and implement appropriate measures to remove and control corrosion-related contaminants where needed.

Four of the commenters expressed concerns about the supplier's legal authority to enter homes to conduct surveys, sampling and monitoring. Because of the lack of such authority, the commenters argued that compliance with the regulation would be difficult or impossible.

The commenters' concerns relative to obtaining samples and complying with the regulations has not been a problem to date in compliance with other requirements of the NIPDWR. It is expected that suppliers will be able to continue obtaining the consent of homeowners for survey and sampling purposes. If consent is not granted, suppliers should look toward other homes or possibly public buildings.

Seven of the commenters expressed concerns and questioned the legality of their responsibility regarding the water quality at the consumer's tap. The commenters reasoned that they should not be responsible for the deterioration of water quality beyond the distribution system not under the purveyor's jurisdiction since the changes made to the water quality by the consumer are not under the supplier's control. The commenters were concerned about legal recourse for not meeting the MCL due to corrosion from appurtenances which are under the control of the user.

The definition of "maximum contaminant levels" in Section 141.2(c) of the NIPDWR specifically excludes "contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality." Thus, public water systems must take into consideration the types of materials used in service connections and in home plumbing. EPA believes that the water supplier is responsible for deterioration of water quality for problems within the supplier's control; adequate protection is provided in the NIPDWR so that legal action against the water supplier would be limited to corrosion problems only within the supplier's control.

Eight of the commenters recommended that regulations for corrosion control are more appropriately addressed in the NSDWR. They felt that corrosion is related to aesthetic and economic phenomenon rather than to health concerns.

Aesthetic effects associated with corrosion such as taste and discoloration resulting from corrosion by-products, such as copper, zinc and iron, are appropriately dealt with in the NSDWR. However, contaminants at the consumer's tap resulting from the corrosive action of waters could also include lead and cadmium which are health-related contaminants. Therefore, due to the presence of health-related contaminants resulting from the corrosive action of water on materials in distribution systems, the inclusion of corrosion control in the NIPDWR is also appropriate.

Eighteen commenters addressed EPA's proposal to establish an MCL or MCLs for corrosion using one or more corrosivity indices including the Langelier, Ryznar and the Aggressive indices. Three commenters supported EPA's proposal to establish MCLs for corrosivity indices; one commenter noted that this approach would be beneficial in areas having soft corrosive waters and another of these commenters suggested that an MCL be established for all of the three indices proposed by EPA. Three commenters indicated that use of the indices to determine corrosivity would be acceptable.

Fifteen of the commenters opposed MCLs based upon the indices; they argued that the suggested indices are not universally applicable. These commenters felt that the indices cannot define an MCL since they do not define specific contaminants but rather a tendency of water quality. In addition, the commenters felt that establishment of MCLs would limit flexibility for utilities to select a treatment for corrosion control. The commenters also expressed concern about the economic implications associated with the reduced options available for the utilities to select a treatment approach since they felt that treatment techniques to stabilize the water for corrosion control may be more expensive than utilizing inhibitors for corrosion control.

The Agency feels that evaluation of each of the parameters used in calculating the indices as well as the indices themselves is a viable approach to identifying corrosion in drinking water; in many instances as pointed out in the preamble of the proposal, the indices may not be applicable to certain water types. EPA agrees with the commenters that in some instances alternate treatment methods such as the addition of phosphates or silicates, or the increase of the alkalinity of the water, may be just as effective and more economical than utilizing the principle of calcium carbonate saturation for corrosion control. In acknowledging this, the Agency indicated in the proposal that "allowances would be made for methods achieving non-corrosive waters not meeting a MCL based on the calcium carbonate stability of the water." On the basis of the comments received and further study, the Agency has decided that establishment of MCLs (which was presented as an alternate approach) based on the proposed corrosivity indices is not feasible at the present time. However, the indices and their supporting measurements are acceptable as indicators of corrosivity characteristics, and thus, as noted previously, the regulations were changed to require monitoring and reporting for the pH, alkalinity, hardness, temperature, total dissolved solids and Langelier Index (or in certain cases the Aggressive Index).

Nineteen of the commenters recommended that corrosion control be implemented through the adherence to the MCLs established in the NIPDWR. Among these commenters, some felt that corrosiveness of the water could be determined by comparing the specific contaminant levels in the water entering the distribution system to those found in the water leaving the distribution system.

Comparison of contaminant levels in the water entering and at specific locations in the distribution system has successfully demonstrated the corrosive action of water. In addition such comparison of specific contaminant levels is a useful tool to determine the effectiveness of treatment techniques aimed at reducing corrosion. This approach will be considered in the regulations to be proposed which will require increased monitoring for systems with corrosive waters and vulnerable materials of construction in the distribution system.

Other commenters noted that adherence to the MCLs established in the NIPDWR would be sufficient to define corrosion products, and therefore, there is no need for the Agency to establish additional regulations.

The regulations promulgated herein are appropriate as they will provide an indication of which systems are distributing corrosive water. However, as noted in the preamble, the revised strategy for corrosion control will be partly through adherence to existing MCLs. However, the existing monitoring requirements may not be sufficient in all cases to determine the presence of corrosion-related contaminants. Because of the many kinds of piping materials used in the distribution system, careful selection of representative monitoring points along with a sufficient number of samples, are essential to assess the extent of corrosion by-products. For this reason, the Agency will propose in the near future an amendment which would specify increased monitoring frequencies geared to the potential presence of corrosion-related contaminants that would exceed an MCL.

Ten commenters argued that reference to asbestos and organic materials should be deleted from the regulations. The commenters raising this issue felt that making reference and including asbestos and organic compounds is improper since there are no established MCLs for these contaminants. In addition, the commenters felt that EPA did not provide specific guidance for the monitoring of these contaminants.

In referring to asbestos and organic contaminants in the preamble and the Statement of Basis and Purpose, the Agency's intent was to point out other adverse effects associated with the distribution of corrosive waters. For example, deterioration of asbestos cement pipe in contact with corrosive waters will result in economic losses to the purveyor and high levels of asbestos fibers in the drinking water. The potential health effects associated with the presence of asbestos fibers originating from distribution systems are under study. Prior to the completion of the studies, the Agency encourages utilities to take appropriate corrosion control and other measures to minimize levels of asbestos fibers in the drinking water.

Four commenters suggested that corrosion control should be achieved by the installation of proper materials into the distribution system rather than by regulating the quality of the water.

The suggestion by the commenters to achieve corrosion control by the proper selection and use of materials may be helpful for reducing potential corrosion when dealing with new systems or when replacing the components of old ones. However, this approach would not alleviate or reduce problems in existing systems where it may not be economical or feasible to replace components. In addition, where waters are corrosive, selection of proper materials without the appropriate treatment of the water may not be sufficient to solve the problem. Sound judgment in selecting and installing proper materials into the distribution system is considered good engineering practice and may alleviate some of the problems associated with corrosion in newly constructed systems or in old systems where pipes are being replaced. The Agency is encouraging the practice of replacing lead pipes conveying drinking water in existing systems. In addition, EPA is actively pursuing the elimination of lead from plumbing code specifications as an acceptable material for the transportation of drinking water.

Nine commenters felt that no regulations should be established for corrosion control since corrosion is dependent on other variables in addition to water quality. The commenters recommended that instead of regulations the Agency should establish guidelines for corrosion control.

Although corrosion is indeed a complex phenomenon, experience indicates that the problem can be solved by application of appropriate treatment techniques and the monitoring of contaminant levels. However, available information shows that control of corrosion while a serious concern is not a high priority area at most public water systems. Because of this and the health risks associated with contaminants resulting from corrosive waters where MCLs are being exceeded, there is a need for regulatory action. It is felt that these regulations will provide States with data that will indicate which systems should implement corrosion control measures.

Nine commenters felt that the treatment techniques suggested by the Agency for corrosion control are in conflict with the SDWR and the NIPDWR. The commenters raising this issue pointed out that treatment techniques for corrosion control such as adjustment of pH and utilizing compounds containing zinc and sodium are in conflict with the Agency's attempt to minimize the presence of these substances and to maintain pH levels within values established by the NSDWR.

Utilities should use discretion when applying compounds containing sodium. Use of corrosion control chemicals containing sodium should be limited to instances where the sodium levels are low in the raw water. Use of lime for corrosion control can often alleviate the possible conflicts with established MCLs. Regarding adjustment of pH, control of corrosion can be accomplished by maintaining pH levels within the range established by the NSDWR, provided appropriate adjustments of hardness and alkalinity are made. However, it is recognized that some water systems may necessarily operate at pH ranges higher than stated in the SDWR. The SDWR do not preclude States from allowing higher pH levels where local conditions make such higher levels appropriate.

Seventeen comments dealt with the implementation of the proposed regulations for corrosion control. Five of these commenters felt that the States may not be able to implement the proposed amendment due to the lack of resources. The commenters felt that utilities, especially small ones, would encounter problems of installing corrosion control treatment measures. Twelve commenters felt that the 18 month period allotted would not be sufficient to implement the regulation. Recommendations for increasing the time between promulgation to compliance ranged from 2 to 5 years.

The regulations have been revised to reduce the burden on the State and the water utilities. The final regulations require identification of the presence or absence of specific materials in distribution systems and monitoring and reporting for pH, alkalinity, hardness, temperature, total dissolved solids, and the Langelier Index or the Aggressive Index. Monitoring for these parameters are not sophisticated analyses and reporting of the data can be done along with other parameters required in the NIPDWR. Thus, the burden upon utilities and States is not considered significant. The effective date of the regulations is set at 18 months from promulgation and the corrosion requirements must be completed within 12 months following the effective date.

Nine comments were received regarding the health effect implications cited in the proposal in support of the establishment of regulations for corrosion control. Three of the commenters did not accept the health basis for the proposed corrosion control regulations. One of these felt that corrosion is an aesthetic and economic problem and not related to health, noting that average exposures to heavy metals cannot be greater than allowed by the NIPDWR. Another of these commenters felt that there is no adverse health effect attributable to corrosive waters and that the effects of the products of corrosion are already addressed in the NIPDWR.

Lead and cadmium which often occur in plumbing materials have been found to leach into soft corrosive drinking water. The adverse health effects associated with these materials have been proven, and are discussed in the NIPDWR. However, monitoring for these compounds at the frequency set in the NIPDWR may not always determine levels of these compounds that are representative of drinking water qualities throughout the distribution system due to the wide distribution of various piping materials. The new proposal will focus upon increased monitoring for corrosion by-products, such as lead and cadmium, and implementation of corrosion control through compliance with established MCLs.

Several commenters noted that EPA's claim regarding the relationships between corrosivity and cardiovascular disease (CVD) and hypertension are speculative and without evidence. These commenters felt that the relationships between soft water, corrosive water, the products of corrosion, a "water factor" and cardiovascular disease rates are very unclear, and not adequately supported by current data to support the corrosion control regulations. One of these commenters did not feel that a link existed between CVD and the presence of metals such as cadmium, copper, lead and zinc in drinking water.

On the other hand, one commenter, in support of the proposed corrosion control regulation, stated that the cardiovascular disease rate could be decreased 6.3/million for each one part per million (ppm) of hardness increased. The commenter claimed that health benefits would exceed treatment costs by 300 times since 13,825 lives could be saved per year if hardness of drinking water were maintained above 60 ppm.

Results of epidemiological studies indicate that there may be an increased incidence of cardiovascular disease associated with the consumption of soft, corrosive waters (see Statement of Basis and Purpose). However, the Agency agrees that this issue needs more study. For this reason, the Agency is closely following and funding further research and special projects in this area to resolve this question.

One commenter urged discussion of beneficial, as well as adverse health effects in all regulations.

EPA agrees that the beneficial effects of some drinking water constituents should be considered when they exist. EPA agrees that consideration should be given to presenting as complete a picture of the effects of drinking water constituents as is possible in light of present knowledge. EPA is expending considerable efforts through research and special studies attempting to assess beneficial aspects of constituents in drinking water. A more detailed discussion of the role of corrosive waters affecting health is provided in the Statement of Basis and Purpose to these regulations. In addition, in response to a request from the Office of Drinking Water, EPA, a report has been prepared by the NAS entitled, "The Contribution of Drinking Water to Mineral Nutrition in Humans," which provides information on the beneficial aspects of chemicals in water.

Three commenters felt that the economic analyses referenced and developed by EPA to support the amendment are inadequate and overstated. The commenters stated that the benefit-cost ratios cited by EPA are not in agreement and subject to debate. On the other hand, one commenter agreed with the Agency approach regarding the economic impact of corrosion and indicated that EPA's benefit-cost ratios were conservative.

Although there may be some disagreements concerning the cost estimates cited by EPA, there is no question about the fact that the economic benefits realized in reducing maintenance, energy requirements and reduction of water losses are several times over the costs associated with corrosion control. This has been demonstrated by several utilities who have initiated and successfully practice corrosion control. Since conditions are not universal in water supply systems distributing corrosive waters, it is expected that there would be a range of costs associated with the implementation of corrosion control measures, where needed. The economic analysis has been revised to reflect the changes in the regulations; costs for monitoring for corrosivity are included.

141.31 Reporting Requirements

Three commenters were opposed to changing the required reporting time. They felt that since the NIPDWR are based on long-term exposure, and that the problems of immediate health risk are already considered in the existing regulations (Section 141.31(b) states that non-compliance with any MCL must be reported within 48 hours), there was no need to shorten the required reporting time. Three other commenters suggested that the reporting requirement should be within the first 10 days of the month following the month in which sample results are received by the supplier (one commenter suggested 15 rather than 10 days). Since MCL violations are to be reported within 48 hours, the commenters felt that a longer reporting time would not impact upon the potential health risk to consumers; in addition, the commenters stated that a longer reporting time would provide flexibility to equalize their workloads.

EPA recognizes that the public is normally protected from health risks by the requirement that supplier must notify the primacy agency within 48 hours when an MCL is exceeded. The primacy agency, however, cannot know if the supplier fails to comply with this requirement until it receives the data. Thus, requirements for a shorter reporting time within reasonable limits are considered appropriate in order that systems that exceed standards be identified as early as possible. The amendment will almost halve the reporting times for infrequently monitored parameters without significant inconvenience to the supplier. In addition, the amendment also provides for reporting of all parameters at the same time and thereby will reduce clerical work in meeting reporting requirements.

Two commenters stated that the supplier should only be required to maintain and make available results upon request or which violate MCL regulations. They felt that the reporting of all analyses is unnecessary and costly.

Requiring reporting of data assures that required monitoring frequencies and compliance with MCLs are met. It also helps establish a data bank from which water quality trends can be studied for the purpose of re-evaluating existing regulations.

One commenter questioned the semantics of the amendment. He felt that "results of any test, measurement, or analysis. * * *" should read "copies of results of any test, measurement, or analysis. * * *"

"Results" symbolize a categorization of data and thus "copies of results" are no different than "results." The wording does not require the original data sheet to be sent to the primacy agency but rather the data itself. The language has thus not been changed.

141.32(b) Public Notification

Two commenters incorrectly thought that the amendment would allow community systems in violation of an MCL not to notify authorities if the problem was likely to be corrected.

A public water system is required to notify the primacy agency of any violation, whether it is corrected immediately or not. This is clearly stated in § 141.31(b). The primacy agency can determine if public notification has been implemented in cases of non-compliance, and if not, it is expected that the primacy agency would provide specific directions to the water system.

One commenter stated that the State rather than EPA should have the authority and responsibility to require consumer notification where it feels it is appropriate; this would reduce the printing and mailing of notices concerning minor water quality violations. Another commenter felt that the amendment decreases State flexibility in administering their program without any apparent benefit.

EPA believes that the appropriate conditions for public notification are as defined in Section 141.32. The amendment gives the State discretion to waive the notification requirement if the violation has been corrected and there is no longer a risk to public health.

One commenter stated that State agencies do not have the resources to interpret whether suppliers should be granted a waiver. Therefore, waivers might be unjustifiably denied.

These provisions allow State agencies to make a determination based upon the available information and thus provide latitude to the States in implementing the public notification requirements of the NIPDWR. It is not expected that the evaluation to determine the appropriateness of a waiver will be very time-consuming. Thus, because of the desireability to provide States as much latitude as feasible, the amendment was not changed.

One commenter expressed the need for more data in determining the significance of coliforms with respect to disease incidence. The commenter suggested that media notification of coliform MCLs may encourage the reporting of waterborne diseases; thus, providing more data for evaluating the correlation between disease incidence and coliform counts. If the public is aware of potential contamination in their drinking water, they might be inclined to report their sickness to the public health authorities thinking it could be water related. Such reportage might never occur if the public were not notified. States should thus take these considerations into account before waiving media notification.

In the proposed amendment, one of the conditions of the waiver was the "* * * the violation has not posed a risk to public health." The question of whether a violation *has posed* a risk to public health would often be difficult to assess and for cases where this would be indeterminable, the commenter raises a point for not waiving notification requirements. However, the wording of the final amendment has been changed to "* * * the violation no longer poses a risk to public health;" this will make it easier for the primacy agency to judge when to grant a public notification waiver. The main criteria used should be whether the system is meeting compliance with the previously violated MCL. With the new wording of the amendment, the commenter's consideration for States not waiving notification requirements would no longer apply.

One commenter stated that community systems should be required to give repeat notices until the failure to comply with MCLs is remedied.

As required in the NIPDWR, renewed notification is required every three months if the utility does not remedy the situation.

One commenter thought that the first notice to the public should be given within 24 hours of the time the supplier first learns of non-compliance with the regulation.

In the case of an imminent health risk, the State, which is required to be informed within 48 hours of any violation, has the option to require immediate and extensive public notification. In cases where non-compliance does not pose an immediate health risk, the utility can avoid public notification by quickly solving the problem, contingent upon State approval.

141.41 Special Monitoring for Sodium

Twenty-nine commenters opposed the direct public notification requirement for sodium levels. Most of these favored restricting notification to public health agencies and/or physicians allowing the public to be informed through these resources upon their own request. Some thought that EPA or the State rather than the supplier should provide such notification. Eight commenters thought notification to the State/EPA and/or physicians should only be required if the sodium levels were high (i.e., 20 mg/l to 270 mg/l). Their rationale presented included:

(a) Since sodium levels only affect a small population there is no need to inform everybody. Much of the public might be confused and/or falsely alarmed over reported sodium concentrations on water bills. If water bills were used to indicate sodium levels, many thought a clarifying statement would be necessary. Many commenters alleged that not enough space would be available for additional clarifying material and that it would not necessarily be cost-effective.

(b) The public is not publicly notified about the sodium content in foods which is much more significant.

(c) In many apartments and condominiums, people are not billed for water independently. Considerable uncertainty would arise concerning the means and format of notification to such people by their landlords.

Nine commenters agreed with the proposed direct public notification requirement except that it should only pertain if sodium concentrations were "high" (20 mg/l to 250 mg/l). They thought it would be meaningless and costly to notify the public if sodium levels were low.

While EPA feels that public awareness of the sodium levels in the drinking water is desirable, EPA has carefully evaluated the commenters' concerns and has determined that the most appropriate action to take would be reporting of sodium levels to the EPA and/or the State and to appropriate local and State public health officials; if the State assumed this latter responsibility the supplier would be relieved of this requirement. Physicians could in turn be informed through communications with the public health officials. The public can be informed either through their physicians or by contacting the public health officials, the State, or the water system. The results can also be disseminated by local news media.

Five commenters suggested that the State or EPA rather than the supplier should notify the public and appropriate health officials because of the burden placed upon the supplier.

The deletion of the direct public notification requirement will greatly reduce the requirements imposed upon the supplier. The supplier will now only be required to report to EPA and/or the State and to notify the local and State public health officials of its sodium content in water. In many cases the State will assume this latter responsibility.

Eight commenters stated that the required reporting time for sending sodium results to EPA and/or the State of ten days following receipt of results was too short. Their rationale included (a) inconsistency with the allowed reporting time of three months to public health officials; (b) sodium is not an acute risk and therefore greater time should be allowed for its reportage; and (c) paperwork could be minimized if sodium could be reported with other parameters.

EPA agrees with the commenters and thus has changed the reporting requirements to make sodium consistent with that required for other parameters included in the NIPDWR.

Six commenters thought that the required monitoring frequency was insufficient to determine representative sodium concentrations at many locations; several indicated systems using multiple sources as an example. One commenter suggested basing monitoring frequency on geographical location (e.g. coastal sources having higher requirements than inland sources). Three commenters suggested that the monitoring frequency should be determined by the State or EPA. One commenter suggested that once a site indicated a constant concentration, the monitoring frequency should be lowered.

The minimum monitoring frequency for sodium is consistent with that required for other inorganic contaminants. The regulations provide that those systems expected to have fluctuations in sodium levels can be assigned higher monitoring frequencies by the States or EPA. In addition, EPA feels that since the minimum sampling requirements are not a burden and will provide useful information, and thus, reduced frequencies are not necessary.

Nine commenters were opposed to establishing an MCL for sodium in the Revised Primary Drinking Water Regulations. Most of these alleged that there is currently no cost-effective technology for reducing sodium levels and that many water supplies would thus not be able to comply with such a regulation. Many thought it would be illogical for the consumer to pay for sodium removal in water when basic foods contribute much more significant amounts. Commenters contended that a more cost-effective solution could be achieved if affected people bought bottled water. In addition, several commenters argued that an MCL should not be set because available information is insufficient to implicate health risks with the sodium levels in drinking water. In addition, many commenters thought that an MCL would conflict with corrosion control practices since sodium compounds are often the best treatment for reducing corrosivity. Eight commenters suggested that if an MCL were established it should be higher than EPA's stated goal of 20 mg/l (ranging from 100 to 250 mg/l).

In the proposal, EPA stated that it is studying the feasibility of establishing an MCL rather than stating the intent to establish an MCL, as several commenters interpreted. EPA recognizes that foods contribute most of the sodium in people's diets. However, sodium intake from food can only be restricted to a feasible limit. Where water supplies contain more than 20 mg/l, dietary sodium restriction to less than 500 mg/day, which is sometimes prescribed, is difficult to achieve and maintain. Also, many bottled waters do not list their sodium concentrations. EPA will continue to study the feasibility of setting an MCL for sodium. Treatment techniques such as reverse osmosis, electrodialysis or distillation could remove sodium but the costs are relatively high. Research is being conducted to determine more feasible treatment methods and the possible risks of sodium in drinking water is still being evaluated. If such treatments become available, options other than imposing an MCL would also be considered. EPA's position on health risks and potential conflict with corrosion control is discussed below in responses to other comments.

Eight commenters felt that EPA's stated goal of 20 mg/l for public water systems was unrealistically low and suggested changing it from 50 to 250 mg/l. Their reasons included a lack of available treatment technology, conflict with the corrosion amendment, and questioning the health risks of sodium levels at 20 mg/l. One commenter felt that the NAS report stated that 100 mg/l should be the generally acceptable upper limit and suggested that the goal be changed to 100 mg/l.

The goal was set at 20 mg/l so that drinking water which meets this goal would not present a sodium-related hazard to those segments of the population thought to be at high risk. These are not only those persons on low sodium diets. Included are infants, women during pregnancy, persons with undiagnosed or untreated hypertension, persons with kidney disease or congestive heart disease and persons in whom an unknown source of excessive sodium could present considerable health risk. With respect to the NAS report (1977), it was stated that, "in many diets allowance is made for water to contain 100 mg/liter of sodium (NAS, 1977, p. 436)." Also, with a desired total sodium intake of 2000 mg/day, the contribution from water (assuming two liters intake per day) containing not more than 100 mg/liter would be 10 percent or less of the daily intake. The desired total intake limit of 2,000 mg/day is considered to be beneficial to at least 40 percent of the total population.

EPA's intent in stating the goal of 20 mg/l was to provide a reference for water utility operators for their consideration when evaluating alternative sources or treatment technologies. For example, in certain cases, it may be possible to select lime addition in lieu of addition of soda ash but the point is that operators should be aware of considerations for addition of less desirable compounds. While sodium levels in alternate sources or resulting from various treatment technologies should be considered, protection of source waters is also desirable. EPA's previously stated goal of 20 mg/l has been rewarded to clarify the above considerations.

Eight commenters thought that the State rather than the water supplier should report sodium levels to EPA, indicating that reporting requirements should be consistent with those for other parameters. Three commenters suggested that the primary agency, rather than EPA, should be notified since it has full authority for implementing the regulation.

The sodium monitoring and reporting requirements have been included as part of the special monitoring requirements allowed for unregulated contaminants as authorized by the Safe Drinking Water Act (Section 1414(c) and 1445). States are not required to adopt the requirements to maintain their primary enforcement responsbility. If the State adopts the regulation, the supplier will report the results to the State rather than to EPA. If the State does not adopt the amendment, the supplier is required to send the results to EPA. States are being encouraged to adopt the regulations in order to minimize the federal role.

Three commenters felt that consideration of the need for low sodium water be on a case-by-case basis and made by a physician who can recommend an appropriate water source for patients.

The Agency concurs with the commenter in that in order for physicians to best advise their patients on their dietary intake, the physicians would need to know the sodium concentration of the drinking water.

Two commenters stated that sodium in water is less than five percent of the daily intake, and controlling the contribution from drinking water would have no effect on the intake of most people.

The NAS (1977) states that 40 percent of the population would benefit from a total sodium ion intake not greater than 2000 mg/day. Water containing more than 50 mg/liter of sodium (not uncommon), assuming a two liter daily consumption, would contribute more than five percent of the daily sodium intake to the population abiding by such a diet. In addition, three percent of the population is on sodium-restricted diets.

Two commenters stated that acculturation, or life stresses, not sodium, are most associated with differences in blood pressure and hypertension, when comparing unacculturated with acculturated groups of people.

Contrary to the commenters' statements, the NAS found that increased sodium intake was most consistently associated with increases in blood pressure, more than the level of acculturation, in studies of unacculturated versus acculturated groups (NAS, 1977). EPA does not imply that sodium is the sole etiologic agent in the development of hypertension. However, increasing evidence supports that excesses of sodium intake are implicated as one important factor in the development of high blood pressure in susceptible people. There may be several important factors which interact to produce clincial hypertension, including inherited susceptibility, excessive sodium intake, psycho/socio/cultural stress factors, and other as yet unknown factors.

One commenter noted that the FDA Committee on GRAS (Generally Recognized as Safe) substances is reviewing sodium and EPA should wait for that review to be completed.

EPA believes sufficient evidence currently exists to implicate excess sodium as a health risk for some individuals and that the monitoring are thereby appropriate.

One commenter stated that public notification could promote self-imposed sodium restricted diets which can be dangerous. Another commenter stated that sodium is a necessary nutrient and that it cannot be considered undesirable in the normal diet.

EPA recognizes that sodium is a nutrient but most Americans consume sodium greatly in excess of that amount needed for good nutrition. Evidence for this is provided in the NAS report "Drinking Water and Health (1977)." The minimum daily requirements for sodium are so low (2.3 mg Na/100 kilocalories (K cal) food for normal adults—see American Academy of Pediatrics, Vol. 53, No. 1, January 1974, pg. 115) that it is virtually impossible to restrict one's diet to below the normal daily requirement. According to the NAS, it is difficult to constrict one's diet to less than 460 mg of sodium per day which is about 5 times the minimum daily requirement (considering a daily intake of 4000 K cal). Normal daily intake for most consumers is in the 5–10 grams/day. The amendment allows for people to be informed of the sodium levels in their drinking water and thus help regulate their sodium intake.

One commenter questioned the validity of EPA relating animals studies to humans to support the sodium monitoring requirements. The commenter felt that it was inappropriate for EPA to prefer to a study in the Statement of Basis and Purpose which indicated that a high sodium intake in genetically susceptible rats causes hypertension, and which also indicated that when hypertension becomes established in these rats it is not corrected by reducing sodium intake.

It is generally accepted among scientists that health risks associated with effects of chemical intake in animals, when properly qualified, are applicable to man (NAS, 1977). A number of animal species respond similarly to humans in particular pathological states but certainly *not all* as is the case with the study cited. There are no animals which can represent man as a perfect model. The clincial and epidemiologic evidence presented in the Statement of Basis and Purpose, support the animal studies cited, which suggest that excess sodium intake contributes to hypertension in humans.

One commenter suggested that the use of home water softeners and the subsequent introduction of sodium should be evaluated for their health significance.

EPA acknowledges that more information is needed on the sodium concentration of waters softened by units in the home and the health significance of softening water at home. EPA is currently sponsoring such a study. Limited information is available in the Statement of Basis and Purpose.

Three commenters stated that there is no evidence that sodium in drinking water presents a risk to the healthy consumer; two of these stated that the only risk is to persons on sodium restricted diets (less than 500 mg/day).

There is some evidence from epidemiologic studies that higher concentrations of sodium in drinking water may be associated with higher blood pressure in school children when compared with children of similar age in a community with lower sodium in its drinking water supply. The higher blood pressures may continue to be higher than those of other persons of the same age through life and result in clinical hypertension. In addition, infants, children and women during pregnancy are considered healthy consumers and may be more sensitive to risk from excesses of sodium (NAS 1977).

Four commenters questioned the significance of sodium intake in cardiovascular disease, particularly hypertension. Specifically, commenters stated the following: the proposed amendment was not supported by clear evidence of a health concern or risk; there have been no cases of low sodium intake preventing hypertension or high intake definitely causing it; there is insufficient evidence to demonstrate a causal connection between sodium and hypertension; sodium is one of many influences in hypertension; the epidemiologic studies fail to support the hypothesis that salt consumption is a major factor in hypertension; and reducing dietary sodium is not an appropriate treatment for hypertension according to the medical literature. Finally, it was stated that mortality rates from cardiovascular disease were lower in areas with high water mineralization, high hardness, and high sodium, and were higher in areas with low sodium.

Evidence that sodium in excess of optimal concentrations contributes to the development of hypertension is a result of clinical studies, epidemiologic studies, and animal experiments. Cases of low sodium intake found in pre-industrial societies have been associated with not only a relative absence of hypertension, but with no age-related increase in blood pressure. EPA agrees that sodium is not the *sole* causal agent in the development of hypertension, and its role in contributing to hypertension is controversial. Evidence supports sodium as one important factor in the development of higher blood pressure in susceptible individuals. It is also a contributing factor in the exacerbation of many other conditions.

Thus, the evidence supports monitoring to determine the sodium content of drinking water for the purpose of providing information which can be vital to the health of the consumer. The Statement of Basis and Purpose has been revised to include additional information in reference to the commenters' concerns. Additional evidence presented by the NAS (1977) is summarized and evidence from more recent studies have been incorporated into the revised Statement of Basis and Purpose.

One commenter suggested that the minimum required sampling frequency of three years should apply to systems using surface as well as groundwater sources; another preferred one year to apply for both source types.

EPA believes surface waters are more likely to have higher variability in sodium concentrations than groundwaters and a higher monitoring frequency is thus warranted.

One commenter suggested basing the required monitoring frequency on population, similar to the microbiological (coliform) monitoring requirement.

Coliforms indicate potential pathogens in water, an acute health risk. The potential for contamination to a raw water tends to increase as population density increases. High levels of sodium in water is a chronic rather than an acute health concern. Many locations serving large populations will be able to provide representative sodium concentrations with annual or once every three year sampling frequencies depending upon the source of water.

Two commenters thought that more than 18 months should be allowed for implementing the sodium monitoring requirements; however, another commenter suggested that since no treatment modifications would be needed to meet an MCL, the effective date for meeting the requirements should be decreased to two months following promulgation.

EPA is strongly urging the States to adopt these requirements to minimize the federal enforcement role in primacy States. EPA believes that 18 months should provide sufficient time for States to adopt these requirements and thus, the effective date of the regulations is 18 months following promulgation. All systems must complete the first round of sodium monitoring and reporting requirements within 12 months following the effective date.

Several commenters expressed a need for specifying the sampling point to prevent non-representative data; for example, this could occur at points preceded by a home softening unit.

EPA recognizes that representative samples are essential; thus, the sodium monitoring requirements state that representative samples of the distribution system should be taken. States are encouraged to work cooperatively with the public water systems in selecting representative sampling locations. The amendment has thus not been changed.

Two commenters thought that EPA underestimated the cost impact of the proposed sodium amendment on water suppliers. They indicated that EPA had not included notification costs and that the single sample cost of $5/sample was too low.

The direct public notification requirement has been deleted and costs for notifying the appropriate health agencies and officials should be negligible. The utility should not undergo any additional field sampling cost since sodium can be monitored in conjunction with other inorganic chemicals as required by the NIPDWR. Recent estimates by commercial laboratories range from $5 to $15 per sodium analysis and the economic analysis has been revised based upon $10 per sample.

One commenter stated that the requirements regarding public notification and reporting of data to the State or EPA was unclear.

EPA believes that the amendment has been stated clearly and succinctly. Many commenters have not understood that States are not required to adopt the amendment. This led to some confusion and criticism in the wording of the reporting requirements in the proposed amendment. Under the SDWA, States are only required to comply with an MCL or a treatment technique requirement, neither of which EPA believes to be currently appropriate for sodium.

One commenter considered Section 141.41(c) to be redundant to Section 141.41(b) regarding the notification requirement to EPA and/or the State.

Section 141.41(b) requires the supplier to report the results to EPA and/or the State. Section 141.41(c) requires the supplier to notify local and State public health agencies of the sodium levels in water and to send a copy of such notice to EPA or the State. The purpose of Section (c) is to ensure that the local and State public health agencies are notified. The regulations provide that notification of the public health officials by the public water system can be waived by the State if the State provides this notification.

One commenter alleged that the amendment does not comply with Section 1401 in the Safe Drinking Water Act for primary drinking water regulations which requires either an MCL or treatment technique.

The amendment is not a primary drinking water regulation. The amendment is authorized under Section 1414(c) and 1445 of the SDWA.

One commenter indicated that if more than annual sampling is required notification should not be mandatory until a representative average concentration is determined.

A provision has been added such that an average value per compliance period can be reported either to EPA or to the State.

One commenter alleged that the atomic absorption graphite furnace technique is subject to appreciable error and needs to be further investigated.

The method has been carefully evaluated by EPA and has been included as an approved method with specific limitations on the concentration levels of sodium to be analyzed.

One commenter questioned EPA's legal right to request monitoring for sodium suggesting that sufficient data are already available from health agencies to inform the public and that more monitoring is not necessary to evaluate the health risk.

These monitoring requirements are intended to provide information on sodium levels in drinking water so that physicians may take this information into consideration. Many water supplies are currently not monitoring for sodium, nor have they conducted monitoring previously.

Non-Community Water Supply Systems

141.11 Maximum Contaminant Levels for Inorganic Chemicals—Nitrates

Twenty commenters indicated various concerns regarding the amendment to the non-community nitrite MCL. Two of the commenters expressed their support for allowing the non-community nitrate MCL of 10 mg/l to be exceeded under certain circumstances up to 20 mg/l. On the other hand, two other commenters felt that this provision would be unwise since there is no guarantee that children under six months of age would not be exposed to this water.

As discussed in the preamble, the conditions for exceeding the non-community nitrate MCL are being established in recognition of the fact that certain non-community systems, such as industrial facilities, normally provide water only for adult populations. The specific conditions were established to provide a measure of safety that water would not be available to infants. As a final safeguard, the maximum level of 20 mg/l was set because the occurrence of methemoglobinemia in infants increases rapidly at nitrate levels above 20 mg/l. Finally, use of this amendment is not automatic in that States are expected to make case-by-case determinations based upon an evaluation of all pertinent factors. Thus, the Agency feels that the amendment is appropriate and provides adequate safeguards.

Two commenters recommended that the conditions for allowing the nitrate levels up to 20 mg/l for non-community water supply systems to exceed 10 mg/l should be established by the States rather than be mandated by EPA.

This amendment will provide additional latitude to States in regard to implementing the nitrate MCL for noncommunity systems. It is expected that States will evaluate all appropriate factors for each public water system including the conditions set forth in the regulations before making a determination. While conditions have been appropriately set by EPA for implementation of the nitrate MCL, States can establish other conditions provided they are not less stringent than the conditions established by EPA.

One of the commenters suggested that the public notice posted should include information about the availability of alternative water supplies with nitrate levels below 10 mg/l.

The SDWA does not provide for EPA to require the inclusion of information regarding the availability of alternative water supplies in a public notice; however, the Agency recognizes this as a desirable practice, and therefore, the States should encourage the water suppliers to include this kind of information in the notices.

Another commenter felt that continuous posting of the public notice was unnecessary. Because of the transient nature of the population using the water supply, only continuous posting of the fact that nitrate levels exceed 10 mg/l would assure that water is not consumed by sensitive populations.

Two commenters noted that the requirement to notify local physicians is unnecessary. One reasoned that local physicians would not see the patients affected by the nitrates while the other felt that notification of local physicians would be burdensome in large metropolitan areas. An additional commenter suggested that the Agency provide a better definition for the term "local physician."

These concerns have been carefully reviewed and it has been determined that the most effective method of notifying physicians would be through the local and State public health agency. Thus, the amendment has been changed such that public water systems must notify local and State public health authorities. Local health authorities are encouraged to notify local physicians since consumption of water by infants with high concentrations of nitrates for as short a period as a day may result in the occurrence of methemoglobinemia. This information will facilitate rapid diagnosis and treatment for patients in case they are affected.

One commenter recommended that this amendment should also apply to small community water supply systems.

The Agency has carefully evaluated the merits of this recommendation and in recognition that the risks of methemoglobinemia predominate in children under six months of age, amendments to the existing regulations will be proposed in a separate rulemaking that would extend this amendment to community water systems that do not include children in this age group.

One commenter felt that nitrate levels up to 50 mg/l should be allowed for non-community systems.

Methemoglobinemia has been shown to occur in populations consuming water having nitrate levels ranging between 10 and 20 mg/l. However, with levels of nitrate exceeding 20 mg/l, the incidence of methemoglobinemia rapidly increases. In addition, recent data has suggested relationships between gastrointestinal cancer and nitrates and thus, a maximum level for nitrates is appropriate.

Ten of the commenters suggested that the absence of nitrite in the water as a condition of relaxing the nitrate level should be deleted. One of the reasons cited was that the analytical test for nitrites is extremely sensitive and in most cases where nitrates exceeded 10 mg/l, nitrites would be measurable; thus, this requirement could rarely, if ever, be met by the non-community water system. Other commenters noted and suggested that a "realistic" nitrite limit be one mg/l. An alternative suggested was that nitrites be limited to the detection limit of available and approved analytical techniques; others noted that the Agency has not established an MCL for nitrite, and, therefore, in applying this condition, EPA is essentially setting an MCL without due process.

As pointed out by the commenters, the nitrate analytical method is sensitive. Nitrite in drinking water can be determined by the colorimetric method listed as Method 354.1 in "Methods for Chemical Analysis of Water and Wastes," EMSL, EPA, 1979, or Method 420 in "Standard Methods for the Examination of Water and Wastewater," 14th Edition, APHA, AWWA, WPCF, 1975. The spectrophotometric version of this method is capable of detecting nitrite concentrations below 0.01 mg/l, while visual comparisons may be somewhat less sensitive.

The health effects of nitrite is the same as nitrate, except that the direct ingestion of nitrite would have a more immediate and direct effect on the infant because the bacterial conversion step in the stomach would be eliminated. Nitrite, however, rarely occurs in drinking water at significant concentrations, since it is usually oxidized to nitrate. When it does occur, it is usually the result of gross contamination by sewage. In such cases the water would be unacceptable for use and would not meet the coliform standard. Deletion of the nitrite requirement is appropriate because of the safeguards which the supplier must meet before becoming eligible to exceed the 10 mg/l. These include that only infants under 6 months of age will not have access to the water, continuous posting of the fact that nitrate levels exceed 10 mg/l and local physicians being so notified, and that no adverse health effects shall result. However, since it is expected that States will make a judgment regarding applicability of this amendment on a case-by-case basis based upon considerations of all relevant factors, including the level of nitrites. In general, levels of nitrite should not exceed one mg/l.

Four of the commenters recommended that the statement "no adverse health effect will result" as a condition for allowing the nitrate level for non-community water supply systems to exceed 10 mg/l be either defined or deleted.

No adverse health effects would result if the water system is in compliance with the other conditions set forth in this amendment. The condition has been retained as the final safeguard in that it is left as general guidance as a contingency if the other conditions are not met.

141.21(c) Microbiological Contaminant Sampling and Analytical Requirements

The agency received eight comments regarding microbiological contaminant sampling and analytical requirements. Five commenters supported this amendment. Of the three commenters objecting, one felt that non-community water systems should not be allowed to reduce coliform monitoring unless a recent (i.e. past year) coliform sampling indicated the system to be in compliance with the NIPDWR. The other two commenters opposed this amendment on the basis that the existing quarterly sampling requirement for non-community systems already provides only minimal information about the microbiological quality of the water, thus, sampling beyond quarterly intervals is not sufficient. One of these commenters suggested increasing the frequency of the microbiological monitoring for non-community water supply systems rather than decreasing it.

The amendment allows the States to exercise their discretion on a case-by-case basis to reduce or increase the sampling frequency for microbiological contaminants. The decision of the State would be based upon the existence of historical data regarding the bacteriological quality of water and the results of sanitary surveys. Thus, the concerns of the commenters will be taken into account by the State in evaluating each system's requirements on a case-by-case basis; therefore, no change to the amendment is necessary.

141.22 Turbidity Sampling and Analytical Requirements

A total of nineteen comments were received regarding this amendment. Five of the commenters supported this amendment. Three additional commenters endorsed the amendment; however, they felt that the administrative requirements associated with the reduction of the turbidity monitoring requirement would impose an additional burden to the State.

This amendment authorizes the States to use their discretion to reduce turbidity monitoring for non-community surface water supplies where the State determines that no unreasonable health risk exists. It is expected that States would evaluate all appropriate factors on a case-by-case basis to determine the appropriate monitoring frequency. This may result in an additional burden but in general the provision allows latitude and will be implemented as resources permit.

Two commenters that supported this amendment also stated the following: one recommended the filtration of all surface water sources, while the other noted that reduction of the turbidity monitoring frequency used should be contingent upon filtration and disinfection of the water.

Because of the vulnerability of surface waters to contamination from both microbiological and particulate matter, the Agency believes that surface water systems should rely on the installation and operation

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of appropriate water treatment, including coagulation, sedimentation, filtration and disinfection to protect the public health from contamination of drinking water sources.

Although this amendment allows latitude in the monitoring frequency for turbidity specifically for non-community water systems, reducing the monitoring frequency will only be permitted where disinfection is practiced, and where a disinfectant residual is maintained in the distribution system.

One commenter supporting this amendment recommended the establishment of additional MCLs based upon the materials making up turbidity, such as clays or colloids.

Because of the numerous sources of turbidity, analytical procedures determining each individual type of materials contributing to the turbidity would be tedious and expensive. EPA feels the turbidity MCL adequately covers this concern.

Two commenters dealt with the Interstate Carrier Water Systems (ICWS). One of these commenters objected to the requirement for measuring turbidity in ICWS, while the other felt that the language of the amendment should be changed to allow EPA in addition to a State to reduce turbidity monitoring requirements for ICWS.

Regarding turbidity sampling in ICWS, the Agency is currently examining policy and guidance in this matter.

However, until a resolution is reached, the regulations will continue to be applicable to them. In instances where the State is not granted primacy, EPA will exercise authority to evaluate turbidity monitoring requirements for ICWS where appropriate.

Five comments from State agencies expressed their opposition to this amendment. These commenters felt that the turbidity monitoring requirements for non-community systems should not be reduced since both consumers in community and non-community are similarly susceptible to risks of improperly treated drinking water. It was also pointed out that in addition to health considerations, turbidity monitoring is an important value in monitoring treatment plant performance. Other commenters felt that turbidity monitoring for non-community systems should be as stringent as for community systems due to poor water sources. fluctuation in water quality and demand and the likelihood of less qualified supervision and management.

This amendment applies only to systems that practice disinfection and maintain an active disinfectant residual. In addition, it is expected that States will evaluate all other appropriate factors in making the determination. Thus, the Agency feels that adequate safeguards to protect the consumer's health have been provided. In instances where the State determines that reduction of the turbidity monitoring frequency would jeopardize the population at risk due to poor water sources, fluctuation in water quality or poor management and water treatment performance, the State has the authority not to reduce the turbidity monitoring frequency; if it is found necessary the State upon its discretion may require the water supplier to increase turbidity monitoring requirements.

The monitoring frequency determined by the State should reflect anticipated situations where turbidity may be elevated. In making this determination, States should perform a sanitary survey, as well as consider whether the area served by the public water system has a history of waterborne disease and whether the system and raw water source of the system is protected from significant microbiological contamination.

Two other commenters recommended that reduction of the turbidity monitoring frequency should be extended to small community water systems.

The Agency feels that extending the option of reduced turbidity monitoring for small surface community supplies is not appropriate due to the non-transient nature of the population.

141.23 Inorganic Sampling and Analytical Requirements

Two comments were received regarding the extension of the sampling date for nitrate. One of these commenters supported the extension of the sampling date by one year while the other felt that the additional time allotted is not sufficient to allow for the recruitment of personnel to comply with the amendment. This commenter recommended that the sampling date for nitrates be extended to June 1982.

The date has been extended to December 24, 1980, which is an additional six months beyond the one year extension contained in the proposal. The Agency feels that an 18 month extension provided for nitrate sampling is sufficient considering the total time made available between the promulgation of the NIPDWR in December 1975 and the final date of December 1980.

141.32 Public Notification

Seven comments were received regarding public notification for non-community water supply systems. One of the commenters supported the amendment without any reservations. Another commenter felt that non-community systems should not be required to post notices for variances and exemptions or of failures to meet variance and exemption schedules. The commenter noted that by granting a variance or exemption, the regulatory agency has made a judgment that there is no unreasonable risk to health under the conditions that exist for that water supply. thus posting such notice would cause confusion rather than serve any useful purpose.

Section 1414(c) of the Safe Drinking Water Act (SDWA) requires that a public water supply system give notice to persons served by it if it is subject to an exemption or variance. Although the SDWA requires that such notice be given not less than once every 3 months, the Agency feels that only by continuous notification would the transient users be informed about the existence of variances and exemptions.

Two commenters suggested that if a non-community system fails to meet an applicable MCL, it should be closed, and until the problem is corrected water should be provided to the public from an alternate source.

Any violation of an MCL creates some risk to the public health. However, the SDWA authorizes the granting of variances or exemptions if there is no unreasonable risk to health. Closure of a water supply system is required only in instances where the consumption of the water poses an imminent danger to health. By law, no variance or exemption would be granted to such a water supply system.

One commenter recommended that the posted notice should include a description of the availability of an alternate source of safe water.

There is no provision in the SDWA to include in the public notice information about the location of alternate water supplies. However, such information may be included at the discretion of the State or the supplier. The Agency encourages this practice as well as the provision of water from an alternate water source to the public, if feasible, until the deficiencies are corrected at the existing water supply.

One of the commenters suggested that notification of the public should not be continuous but rather limited to the period during which deficiencies in the water quality exist.

The amendment limits the duration of posting of compliance failures to the violation period by stating that ". . . the supplier of the water shall give notice by continuous posting . . . as long as the failure . . . continues."

One commenter opposed that public notification should be limited to the duration of the variance granted to the non-community water supply.

The amendment also includes a requirement for the continuous posting of violations of the NIPDWR as long as they continue.

Appendix B—Measurement of Corrosivity Related Parameters

The pH at which a water is just saturated with calcium carbonate is known as the pH of saturation, or pH_s. The Langelier saturation index[1] is defined as the actual pH minus pH_s. A negative index indicates a tendency to dissolve calcium carbonate and a positive index indicates a tendency to deposit calcium carbonate. This index is not related directly to corrosion, but deposition of a thin, coherent scale may be protective. Thus a slight positive index is frequently associated with non-corrosive conditions, whereas a negative index indicates the possibility of corrosion.

To calculate the saturation index, it is necessary to determine the methyl orange alkalinity, calcium ion concentration, pH, temperature, and total filtrable residue.

1. Calculation. The value of pH_s can be calculated, with good precision, by using the equilibrium expressions for the solution of calcium carbonate and the second hydrolysis of carbonic acid:

$$CaCO_3(s) \rightleftarrows Ca^{2+} + CO_3^{2-}$$

$$K_s = (Ca^{2+})(CO_3^{2-}) \qquad (1)$$

$$HCO_3^- \rightleftarrows H^+ + CO_3^{2-}$$

$$K_2 = \frac{(H^+)(CO_3^{2-})}{(HCO_3^-)} \qquad (2)$$

Dividing Equation 1 by Equation 2 and rearranging gives:

$$(H^+) = \frac{K_2}{K_s}(Ca^{2+})(HCO_3^-) \qquad (3a)$$

or

$$pH_s = p(Ca^{2+}) + p(HCO_3^-) + p(K_2/K_s) \qquad (3b)$$

Values of conditional equilibrium constants may be obtained from the literature.[2-5]

Accounting for the effect of temperature and ionic strength on the equilibium constants, Larson [5] formulated the expression for the pH at calcium carbonate saturation, pH_s, as:

$$pH_s = A + B - \log(Ca^{2+}) - \log(\text{alkalinity}) \qquad (4a)$$

where calcium ion concentration and alkalinity are expressed mg/l as $CaCO_3$. Values for the constants and logarithms in Equation 4a are given in Tables 203:I through III. This method of calculation is adequate for waters having a pH_s of 9.3 or less. Above pH_s 9.3, the bicarbonate alkalinity must be used rather than total alkalinity. This can be determined with a nomograph such as that reported by Dye [6].

Table 203:I.—*Constant* A *as Function of Water Temperature*

Water temperature C	A [1]
0	2.60
4	2.50
8	2.40
12	2.30
16	2.20
20	2.10
25	2.00
30	1.90
40	1.70
50	1.55
60	1.40
70	1.25
80	1.15

[1] Calculated from K_2 as reported by Harned and Scholes [7] and K_s as reported by Larson and Buswell.[3] Values above 40C involve extrapolation.

Table 203:II.—*Constant* B *as Function of Total Filtrable Residue*

Total filtrable reside mg/l	B
0	9.70
100	9.77
200	9.83
400	9.86
800	9.89
1,000	9.90

Table 203:III.—*Logarithms of Calcium Ion and Alkalinity Concentrations*

Ca^{2+} or alkalinity mg/l $CaCO_3$	Log
10	1.00
20	1.30
30	1.48
40	1.60
50	1.70
60	1.78
70	1.84
80	1.90
100	2.00
200	2.30
300	2.48
400	2.60
500	2.70
600	2.78
700	2.84
800	2.90
900	2.95
1,000	3.00

For example, for a water having a calcium ion concentration of 200 mg/l as $CaCO_3$, an alkalinity of 60 mg/l as $CaCO_3$, a temperature of 16 C, and a total filtrable residue of 650 mg/l, this equation is solved:

$$pH_s = 2.20 + 9.88 - 2.30 - 1.78 = 8.00 \qquad (4b)$$

If the measured pH of this water is 9.0, the saturation index is 9.0−8.0 or +1.0, and the water is supersaturated with respect to calcium carbonate.

The pH_s value of 8.0 means that the water will neither dissolve nor precipitate calcium carbonate at that pH. While it does not indicate specifically anything about the corrosion of any metal in contact with the water, it is widely assumed that maintaining the water pH above the pH_s will result in the deposition of a protective coating of calcium carbonate on distribution system piping. Frequently, this does not occur because of non-uniform deposition or sloughing of materials from pipe walls. The formation of protective calcium carbonate coatings may be inhibited further by the application of polyphosphates as sequestering agents to the finished water.

Additional aids for the calculation of the saturation index are available.[8-13] Particularly useful is the Caldwell-Lawrence diagram,[13] which facilitates estimation of chemical dosages for softening as well as equilibrium conditions.

The pH of saturation with respect to calcium carbonate frequently has been estimated experimentally by equilibrating chips of calcium carbonate with a given water (marble test). This test suffers from the facts that equilibrium may not be attained and the partial pressure of carbon dioxide in the atmosphere over the sample may influence the results adversely.

Another useful measure of calcium carbonate saturation is the driving force index, or DFI, which was defined by McCauley [14] as:

$DFI = (Ca^{2+}) \times (CO_3^{=})/K_s \times 10^{10})$

Both calcium and carbonate concentrations are expressed as mg/l as $CaCO_3$.

The DFI is easily calculated from the saturation index as follows:

$DFI = 10^{(SI)}$

This value is not a logarithm but a simple ratio of the existing ion product to that which would exist at equilibrium. A value of 1.0 indicates equilibrium, values above 1.0 indicate the possibility of calcium carbonate deposition and values below 1.0 indicate a tendency to dissolve calcium carbonate and possible corrosion.

References

1. Langelier, W. F., 1936. "The Analytical Control of Anticorrosion Water Treatment." J. Amer. Water Works Assn. 28:1500.

2. Moore, E. W., 1938. "Calculation of Chemical Dosages Required for the Prevention of Corrosion." J. New England Water Works Assn. 52:311.

3. Larson, T. E. and A. M. Buswell, 1942. "Calcium Carbonate Saturation Index and Alkalinity Interpretations." J. Amer. Water Works Assn. 34:1667.

4. Langelier, W. F., 1946. "Effect of Temperature on the pH of Natural Waters." J. Amer. Water Works Assn. 38:179.

5. Larson, T. E., 1951. "The Ideal Lime-Softened Water." J. Amer. Water Works Assn. 43:649.

6. Dye, J. F., 1952. "Calculation of the Effect of Temperature on pH, Free Carbon Dioxide, and the Three Forms of Alkalinity." J. Amer. Water Works Assn. 44:356.

7. Harned, H. S. and S. R. Scholes, Jr., 1941. "The Ionization Constant of HCO_3^- from 0 to 50°." Am. Chem. Soc. 63:1706.

8. Langelier, W. F., 1946. "Chemical Equilibria in Water Treatment." J. Amer. Water Works Assn. 38:169.

9. Hoover, C. P., 1938. "Practical Application of the Langelier Method." J. Amer. Water Works Assn. 30:1802.

10. Black, A. P., 1948. "The Chemistry of Water Treatment." Water Sewage Works. 95:369.

11. Hirsch, A. A., 1942. "A Special Slide Rule for Calcium Carbonate Equilibrium Problems." Ind. Eng. Chem., Anal. Ed. 14:178.

12. Hirsch, A. A., 1942. "A Slide Rule for Carbonate Equilibrium and Alkalinity in Water Supplies." Ind. Eng. Chem., Anal. Ed. 14:943.

13. Caldwell, D. H. and W. B. Lawrence, 1953. "Water Softening and Conditioning Problems." Ind. Eng. Chem. 45:535.

14. McCauley, R. F., 1960. "Use of Polyphosphates for Developing Protective Calcite Coatings." J. Amer. Water Works Assn. 52:721.

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[1] **Note**: Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS*		DOT/COAST GUARD	USDA/APHIS*
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

REMINDERS

The "reminders" below identify documents that appeared in issue of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

52810 8–8–80 / Atlantic herring fishery

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

49913 7–28–80 / Procedure for compensating air carriers who have incurred unreimbursed costs for screening passengers, and their carry-on baggage moving in foreign air transportation

Deadlines for Comments On Proposed Rules for the Week of August 31 through September 6, 1980

AGRICULTURE DEPARTMENT

Commodity Credit Corporation—

52342 8–6–80 / CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities; comments by 9–5–80

Farmers Home Administration—

51818 8–5–80 / Biomass energy and alcohol fuels loans and guarantees; comments by 9–4–80

Federal Corp. Insurance Corporation—

44305 7–1–80 / Procedures for insuring Florida citrus effective with 1981 crop year; comments by 9–2–80

44311 7–1–80 / Procedures for insuring citrus in Texas effective with the 1981 crop year; comments by 9–2–80

CIVIL AERONAUTICS BOARD

52820 8–8–80 / Actual notice to passengers about the terms of the contract of carriage, airlines requirement; comments by 9–3–80

42317 6–24–80 / Simplification of regulations for airline ticket and ticket counter notices to passengers; reply comments by 9–1–80

[*See also* 45 FR 25817, 4–16–80]

COMMERCE DEPARTMENT

International Trade Administration—

45891 7–8–80 / Processing export license applications; procedures and time limits; comments by 9–2–80

45894 7–8–80 / Qualified general license; comments by 9–2–80

National Oceanic and Atmospheric Administration—

49953 7–28–80 / Deep seabed mining advance notice of proposed rulemaking for the mining of deep seabed minerals; comments by 8–31–80

EDUCATION DEPARTMENT

45130 7–2–80 / Guaranteed Student Loan Program; refund of tuition charge and other fees; comments by 9–2–80

ENERGY DEPARTMENT

49586 7–25–80 / Outer Continental Shelf Oil and gas leasing, development of a bidding system with a work commitment component; comments by 9–5–80

Economic Regulatory Administration—

51833 8–5–80 / Reports on major electric utility system emergencies; comments by 9–5–80

ENVIRONMENTAL PROTECTION AGENCY

50825 7–31–80 / Air quality implementation plans; Illinois; comments by 9–2–80

50832 7–31–80 / Air quality implementation plans; New York; comments by 9–2–80

51619 8–4–80 / Availability of implementation plan revision for the state of Oregon; comments by 9–3–80

44970 7–20–80 / California plan to control floride emissions from existing phosphate fertilizer plants; comments by 9–2–80

45322 7–3–80 / Electroplating point source category effluent guidelines and standards pretreatment standards for existing sources; comments by 9–2–80

51854 8–5–80 / Nuclear polhedrosis virus of *Heliothis Zea*; proposed exemption from the requirement of a tolerance; comments by 9–4–80

52185 8–6–80 / Textile mills point source category effluent limitations guidelines; pretreatment standards, and new source performance standards; comments by 9–5–80

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FEDERAL COMMUNICATIONS COMMISSION

42725 6–25–80 / FM broadcast station in Lake Havasu, Ariz.; changes in table of assignments; reply comments by 9–2–80

45600 7–7–80 / Permission for use of alternative procedures in choosing applicants for radio authorization in the multipoint distribution service; reply comments period extended to 9–5–80

[*See also* 45 FR 29335, 5–2–80]

47885 7–17–80 / Scope and coverage of restrictions on employee financial interests; reply comments by 9–2–80

45601 7–7–80 / Technical requirements applicable to the multipoint distribution service, the instructional television fixed service and the private operational-fixed microwave service; comment period extended to 9–2–80

[*See also* 45 FR 29350, 5–2–80]

51251 8–1–80 / Verification and methods of measurement of computing devices; comments extended to 9–2–80

[*See also* 45 FR 42347, 6–24–80]

FEDERAL EMERGENCY MANAGEMENT AGENCY

50282 7–28–80 / Acquisition of flood damaged structures (interim rule); comments by 9–1–80

51426 8–1–80 / Proposed notice of rules exempting systems of records from certain requirements of the Privacy Act of 1974 and proposed section to FEMA Privacy Act regulations covering exemptions under the Privacy Act of 1974; comments by 9–2–80

49960 7–28–80 / Statewide FAIR Plans; Depopulation Program; comments by 9–1–80

FEDERAL HOME LOAN BANK BOARD

46431 7–10–80 / NOW accounts; comments by 9–3–80

FEDERAL TRADE COMMISSION

44317 7–1–80 / American Art Clay Co., Inc.; Consent agreement with analysis to aid public comment; comments by 9–2–80

[Corrected at 45 FR 49589, 7–25–80]

51218 8–1–80 / Reasonable duties under a full warranty; comments extended to 9–2–80

[*See also* 45 FR 37386, 6–2–80]

44324 7–1–80 / Totes Inc.; consent agreement with analysis to aid public comments; comments by 9–2–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

47878 7–17–80 / Grants for preventative health services; comments by 9–2–80

Food and Drug Administration—

51184 8–1–80 / Ethylene-Vinyl acetate-carbon monoxide polymer, safe use as a component of adhesives in articles for food-contact use; objections by 9–2–80

51766 8–5–80 / Food additives for human consumption; Sodium Stearoyl—2—Lactylate; objections by 9–6–80

51767 8–5–80 / Indirect food additives; 1,3,5-Triethyl-hexahydro-1,3,5-Triazine; objections by 9–4–80

30002 5–6–80 / Ophthalmic Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; reply comments by 9–3–80

Public Health Services—

48507 7–18–80 / Grants for Community Mental Health Centers; Provisional nature of amounts of initial operation and staffing, conversion, and financial distress, grants; comments by 9–2–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

31446 5–13–80 / Endangered and threatened wildlife and plants; review of status of nine Antich, California, insect species; comments by 9–1–80

Surface Mining Reclamation and Enforcement Office—

54372 8–15–80 / Pennsylvania permanent regulatory program; comments by 9–2–80

[*See also* 45 FR 54372, 7–11–80]

51240 8–1–80 / Surface Coal Mining and reclamation operations; Permanent regulatory program; Proposed interpretive rules; comments by 9–2–80

INTERSTATE COMMERCE COMMISSION

45545 7–3–80 / Acceptable forms of requests for operating authority (motor carriers and brokers of property); comments by 9–2–80

52186 8–6–80 / Recordation of documents; comments by 9–5–80

51213 8–1–80 / Rules governing applications filed by motor carriers; comments extended to 9–2–80

[Originally published at 45 FR 45534, 7–3–80 and corrected at 45 FR 49082, 7–23–80]

51213 8–1–80 / Rules governing applications for operating authority; comments extended to 9–2–80

[Originally published at 45 FR 45534, 7–3–80]

JUSTICE DEPARTMENT

Attorney General—

52183 8–6–80 / Privacy Act; exemption of records systems; comments by 9–5–80

Parole Commission—

44966 7–2–80 / Appellate hearings; oval representation; comments by 9–2–80

NATIONAL CREDIT UNION ADMINISTRATION

47846 7–17–80 / Federally insured state chartered credit unions; Federal credit union share accounts, share certificate accounts; and share draft accounts; comments by 9–1–80

NUCLEAR REGULATORY COMMISSION

45302 7–2–80 / Standards for protection against radiation; miscellaneous clarifying amendments; comments by 9–2–80

NUCLEAR SAFETY OVERSIGHT COMMITTEE

50772 7–31–80 / Privacy Act of 1974; regulations for implementation; comments by 9–2–80

PERSONNEL MANAGEMENT OFFICE

44304 7–1–80 / Reduction in force; competitive level placement, retention register, length of service, etc.; comments by 9–2–80

51214 8–1–80 / Removal, reinstatement, and guaranteed placement in the Senior Executive Service; comments by 9–2–80

POSTAL SERVICE

51846 8–5–80 / Address cards arranged in sequence of carrier delivery; comments by 9–4–80

SECURITIES AND EXCHANGE COMMISSION

49954 7–28–80 / Electric utility companies; acquisition of voting securities of electric generation or transmission companies; exemption; comments by 9–2–80

47159 7–14–80 / Short Selling by market makers; modification of Rule 10a–1; comments by 8–31–80

TRANSPORTATION DEPARTMENT

Coast Guard—

43226 6–26–80 / Drawbridge operation regulations; standards opening and acknowledging signals; comments by 9–1–80

48662 7–21–80 / Establishment of a special anchorage area at Apollo Beach, Fla.; comments by 9–4–80

48058 7–17–80 / Safety rules for self-propelled vessels carrying hazardous liquids; comments by 9–2–80

TREASURY DEPARTMENT

Internal Revenue Service—

44965 7-2-80 / Tax-force sales of articles to be used for, or resold for further manufacture; comments by 8-31-80

WAGE AND PRICE STABILITY COUNCIL

51541 8-4-80 / Amendment of procedural rules for second program year; questions and answers; interim rule; comments by 9-4-80

WATER RESOURCES COUNCIL

48800 7-21-80 / State Water Management Planning; program guidelines; comments by 9-5-80

Deadlines for Comments On Proposed Rules For The Week of September 7 through September 13, 1980

AGRICULTURE DEPARTMENT

Annual and Plant Health Inspection Search

46784 7-11-80 / Gypsy moth and browntail moth; list of hazardous recreational vehicle sites; comments by 9-9-80

52818 8-8-80 / Importation of carcasses of quail of free flying origin; comments by 9-8-80

45888 7-8-80 / Restrictions on importation of horses from Japan; comments by 9-8-80

Food and Nutrition Service—

46809 7-11-80 / Food Stamp and Food distribution programs on Indian reservations; comments by 9-9-80

46036 7-8-80 / 1980 Food Stamp eligibility limits; comments by 9-8-80

Food Safety and Quality Service—

45915 7-8-80 / Chilling poultry parts; comments by 9-8-80

Rural Electrification Administration—

46811 7-11-80 / REA Bulletin 103-2; Use and approval of general funds for additions to plant, revision of existing bulletin; comments by 9-9-80

CIVIL AERONAUTICS BOARD

46812 7-11-80 / Charter Flight limitations; Carrier's obligations in case of interruptions of its service; reply comments by 9-9-80

COMMERCE DEPARTMENT

Economic Development Administration—

46065 7-9-80 / Financial assistance, public works and development facilities program, etc.; technical amendments; comments by 9-8-80

International Trade Administration—

45898 7-8-80 / Licensing procedures for exports of wheat and corn to the U.S.S.R. (October 1, 1980 to September 30, 1981); comments by 9-8-80

National Oceanic and Atmospheric Administration—

47690 7-16-80 / Alaskan Salmon troll fishery; emergency regulations; comments by 9-12-80

Office of the Secretary—

46437 7-10-80 / Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance; comments by 9-8-80

CONSUMER PRODUCT SAFETY COMMISSION

53056 8-8-80 / Exportation of noncomplying products; Notification requirements and procedures; comments by 9-8-80

EDUCATION DEPARTMENT

54000 8-13-80 / Precollege Teacher Development in Science Program; comments by 9-12-80

ENERGY DEPARTMENT

46742 7-10-80 / Bidding system for coal leasing; comments by 9-10-80

53422 8-11-80 / Residential conservation service program provisions; corrections; comments by 9-10-80

[*See also* 44 FR 64602, Nov. 7, 1979]

Conservation and Solar Energy Office—

54264 8-14-80 / Alcohol fuels, biomass energy and municipal waste energy projects; loan guarantees; comments by 9-12-80

46762 7-10-80 / Energy conservation program for consumer products; test procedures for clothes dryers; comments by 9-8-80

47396 7-14-80 / Test procedures for refrigerators, refrigerator-freezers and freezers; comments by 9-12-80

Federal Energy Regulatory Commission—

54085 8-14-80 / High-cost natural gas produced from wells drilled in deep water; comment period extended to 9-10-80

[*See also* 45 FR 47863, 7-17-80]

47705 7-16-80 / Revision to Annual Report for Electric Utilities, Licensees and Others (Class A and Class B); Form No. 1; comments by 9-8-80

ENVIRONMENTAL PROTECTION AGENCY

46826 7-11-80 / Approval and promulgation of the Missouri State implementation plans; comments by 9-9-80

46097 7-9-80 / Determination of reportable quantities for hazardous substances; comments by 9-8-80

46094 7-9-80 / Designation of hazardous substances with carcinogenic effects on man; comments by 9-8-80

53490 8-12-80 / Proposed schedules and conditions to correct deficiencies in Maryland's nonattainment area plan revision; comments by 9-11-80

46103 7-9-80 / Proposed removal of dichlorodifluoromethane and trichlorofluoromethane from toxic pollutant list; comments by 9-8-80

52835 8-8-80 / State implementation plan revisions for Idaho; comments by 9-8-80

52411 8-7-80 / Water pollution; canned and preserved seafood processing point source category; comments by 9-8-80

FARM CREDIT ADMINISTRATION

45595 7-7-80 / Powers, duties and responsibilities of District Farm Credit Boards; comments by 9-8-80

45917 7-8-80 / Personnel administration; comments by 9-8-80

FEDERAL COMMUNICATIONS COMMISSION

46457 7-10-80 / FM broadcast station in Bemidji, Minn.; channel assignment; reply comments by 9-11-80

46453 7-10-80 / FM broadcast station in Fruita, Colo.; channel assignment; reply comments by 9-11-80

45601 7-7-80 / FM broadcast station in Seneca, Kans.; changes in table of assignments; reply comments by 9-8-80

49625 7-25-80 / FM broadcast stations in Rhinelander, Tomahawk, Washburn, and Wausau, Wis.; proposed changes in table of assignments; comments by 9-11-80

49626 7-25-80 / FM broadcast station in Laurel Hill, N.C.; proposed changes in table of assignments; comments by 9-11-80

46454 7-10-80 / FM broadcast stations in West Tulsa, Sand Springs, and Pawhuska, Okla.; changes in table of assignments; reply comments by 9-11-80

51251 8-1-80 / Regulatory policies concerning resale and shared use of common carrier international communications services; reply comments by 9-12-80

FEDERAL REGISTER, ADMINISTRATIVE COMMITTEE

46328 7-9-80 / Identification of subjects in agency regulations; comments by 9-8-80

[Corrected at 45 FR 49085, 7-23-80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration—

47368 7-14-80 / Conditions of participation for skilled nursing and intermediate care facilities in certain Medicare and Medicaid Programs; comments by 9-12-80

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

46012 7–8–80 / Debarments, suspensions, temporary denials of participation, and voluntary exclusions; comments by 9–8–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

52849 8–8–80 / American alligator, special rule revision; comments by 9–8–80

Geological Survey—

53840 8–13–80 / Oil, gas, and sulfur operations in the Outer Continental Shelf; lease royalty requirements; comments by 9–12–80

52408 8–7–80 / Oil and gas and sulphur operations in the Outer Continental Shelf; western Gulf of Mexico; submission of operations plan instead of development and production plan; comments by 9–8–80

Surface Mining Reclamation and Enforcement Office—

45927 7–8–80 / Operations on Federal lands under the permanent program; State-Federal Cooperative Agreements; Wyoming; comments by 9–8–80

53183 8–11–80 / Surface and underground mining performance standards; comments by 9–10–80

INTERSTATE COMMERCE COMMISSION

53190 8–11–80 / Modification of provisions to allow filing of contract rates between freight forwarders and rail and water carriers; comments by 9–10–80

46461 7–10–80 / Railroad consolidation proceedings; traffic protective conditions; comments by 9–8–80

MANAGEMENT AND BUDGET OFFICE

48667 7–21–80 / Waiver of Government Surveillance requirements; Draft Federal acquisition regulation; comments by 9–10–80

NUCLEAR REGULATORY COMMISSION

45916 7–8–80 / Domestic licensing of production and utilization facilities; technical specifications for nuclear power reactor; comments by 9–8–80

40101 6–13–80 / Nuclear power plant accident consideration under National Environmental Policy Act of 1969; comments by 9–11–80

SMALL BUSINESS ADMINISTRATION

53835 8–13–80 / Regulations implementing Section 503 Development Company Program; comments by 9–11–80

TENNESSEE VALLEY AUTHORITY

51614 8–4–80 / Increase in fees for search and duplication of records; comments by 9–8–80

TRANSPORTATION DEPARTMENT

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federal register

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57359 **National Employ the Handicapped Week** Presidential proclamation

57361 **Women's Equality Day** Presidential proclamation

57378, 57380 **Trade Practices** FTC issues rules amending certain provisions in regard to games of chance in food retailing and gasoline industries (2 documents)

57395 **Grant Programs—Medical Care** HHS/PHS issues technical amendments to regulations governing disaster assistance for crisis counseling and training by conforming provisions to part pertaining to administration of grants; effective 8-28-80

57402 **Natural Gas** DOT/RSPA amends previous regulations regarding safety standards for siting, design, and construction of liquefied natural gas facilities; effective 8-28-80

57684 **Air Carriers** DOT/FAA issues proposal regarding elimination of duties and activities of flight crew members not required for safe operation of aircraft; comments by 10-27-80 (Part IV of this issue)

57471 **Wildlife** Interior/FWS proposes amendments to current requirements for participation in the Federal Aid in Wildlife Restoration program and the Federal Aid in Fish Restoration program; comments by 10-14-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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57401	**Vessels** DOT/CG amends regulations to permit merchant vessels to operate during hurricane season provided vessel complies with heavy weather operating plan; effective 9-29-80
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57688	**Airworthiness Standards** DOT/FAA issues proposal regarding design and procedural standards for type certificates; comments by 10-27-80 (Part V of this issue)
57619	**Railroad Retirement** RRB issues determination of quarterly rate of excise tax for railroad retirement supplemental annuity program
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57694	**Aviation Safety** DOT/FAA issues proposal regarding FAA access to flight data recorder and cockpit voice recorder tapes; comments by 10-27-80 (Part VI of this issue)
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Federal Register
Vol. 45, No. 169
Thursday, August 28, 1980

Presidential Documents

Title 3—

The President

Proclamation 4784 of August 26, 1980

National Employ the Handicapped Week, 1980

By the President of the United States of America

A Proclamation

Our Nation is moving strongly toward greater equality for people with physical and mental disabilities.

The United Nations has designated next year as the International Year of Disabled Persons. As President, I not only reaffirm this country's commitment to equality for handicapped individuals, I intend to make every effort to see that the coming decade is one in which their aspirations are fulfilled.

We must do all we can to give the handicapped maximum independence, full access to our society, and the opportunity to develop and use their talents and skills. This must be done case by case, event by event, and program by program. Working together, we can make certain that disabled people at last enter completely into the mainstream of our great society.

To affirm our commitment to independence for handicapped individuals, the Congress, by joint resolution of August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October each year as National Employ the Handicapped Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning October 5, 1980, as National Employ the Handicapped Week. I urge all Governors, Mayors, other public officials, leaders in business and labor, and private citizens at all levels of responsibility to help remove the barriers to equal opportunity for handicapped individuals and to help them in their search for productive employment.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-26556
Filed 8-26-80; 3:50 pm]
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Presidential Documents

Proclamation 4785 of August 26, 1980

Women's Equality Day, 1980

By the President of the United States of America

A Proclamation

America struck a blow for justice on August 26, 1920, when the 19th Amendment, granting women the right to vote, became law. On this 60th anniversary, American women and men recall how far we have come on the road toward equal opportunity for all Americans and reaffirm our commitment to full equality for women. We celebrate today the achievements of the past, but even more we celebrate our dream for a future in which all Americans share equally in the rights and responsibilities of this land.

Social and political change is never easy, as we know by the sacrifices of the early Suffragists. Courageous and high-principled, these women wrote, marched and argued for their cause through long years of delay and disappointment, but they never accepted defeat. Only a few weeks before her death at 86, Susan B. Anthony addressed a convention on the theme, "Failure is impossible!" They knew the rightness of their cause, and found the will and courage to create a climate of change. We can best honor their memory today by continuing their crusade.

In the intervening years women have faithfully carried out responsibilities at all levels of government, in every area of employment and education, and in the nurturing of families and children. Yet many of the rights that should accompany those responsibilities are missing. Despite our hard-won progress, the rights of women vary from state to state. The Equal Rights Amendment to the Constitution, which would set a clear national standard outlawing discrimination against women, is still an unfulfilled promise. Thanks to the efforts of millions of women and men, 35 states have ratified the Equal Rights Amendment. We have until June, 1982, to complete the ratification process in three more states and make the principle of equality a Constitutional guarantee.

Today, I reaffirm my own commitment to make the Equal Rights Amendment part of our Constitution. I urge all Americans to rekindle the spirit of early Suffragists, to use their energies, their wisdom and their compassion to achieve full equality for women. To advance the cause of women's rights is to advance the cause of human rights.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim August 26, 1980 as Women's Equality Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-26606
Filed 8-27-80; 8:45 am]
Billing code 3195-01-M

Editorial Note: The President's remarks of Aug. 26, 1980, on signing Proclamation 4785, are printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 35).

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Rules and Regulations

Federal Register
Vol. 45, No. 169
Thursday, August 28, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect the delegation of certain marketing research functions to the Agricultural Marketing Service.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, Washington, D.C. 20250, (202) 447-4276.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, and the Director of Economics, Policy Analysis and Budget

1. Section 2.17 is amended by adding a new paragraph (a)(2) as follows:

§ 2.17 Delegations of authority, to the Assistant Secretary for Marketing and Transportation Services.

* * * * *

(a) Related to agricultural marketing.

* * * * *

(2) Conduct marketing efficiency research and development activities directly applicable to the conduct of the Wholesale Market Development Program, specifically (i) studies of facilities and methods used in physical distribution of food and other farm products, (ii) studies designed to improve handling of all agricultural products as they are moved from farms to consumers, and (iii) application of presently available scientific knowledge to the solution of practical problems encountered in the marketing of agricultural products (7 U.S.C. 1621–1627).

* * * * *

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

2. Section 2.39 is amended by revising paragraph (a)(17) as follows:

§ 2.39 Delegations of authority to the Director of Science and Education.

* * * * *

(a) Related to science and education.

* * * * *

(17) Conduct research, educational, and demonstration work related to the distribution and marketing of agricultural products under the Agricultural Marketing Act of 1946, as amended, except as otherwise delegated in section 2.17(a)(2) and section 2.50(a)(2) (7 U.S.C. 1621–1627).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Transportation Services

3. Section 2.50 is amended by adding paragraph (a)(2) as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

* * * * *

(2) Conduct marketing efficiency research and development activities directly applicable to the conduct of the Wholesale Market Development Program, specifically, (i) studies of facilities and methods used in physical distribution of food and other farm products, (ii) studies designed to improve handling of all agricultural products as they are moved from farms to consumers, and (iii) application of presently available scientific knowledge to the solution of practical problems encountered in the marketing of agricultural products (7 U.S.C. 1621–1627).

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subparts C and D.

Dated: August 7, 1980.

Bob Bergland,
Secretary of Agriculture.

For Subpart F.

Dated: August 7, 1980.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-26405 Filed 8-27-80; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 660, Amdt. 1; Valencia Orange Reg. 661]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 29–September 4, 1980, and increases the quantity of such oranges that may be so shipped during the period August 22–August 28, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 29, 1980, and the amendment is effective for the period August 22–August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is

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hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 26, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 908.961 is added as follows:

§ 908.961 Valencia Orange Regulation 661.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 29, 1980, through September 4, 1980, are established as follows:

(1) District 1: 374,000 cartons;
(2) District 2: 476,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order. § 908.960 [amended]

2. Paragraph (a) in § 908.960 *Valencia Orange Regulation 660* (45 FR 55692), is hereby amended to read:

§ 908.960 Valencia Orange Regulation 660.

(a) * * *

(1) District 1: 423,000 cartons;
(2) District 2: 477,000 cartons;
(3) District 3: Open Movement.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 27, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26649 Filed 8–27–80; 1:23 pm]

BILLING CODE 3410–02–M

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7 CFR Part 911

[Florida Lime Reg. 41, Amdt. 3]

Limes Grown in Florida; Amendment of Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through April 30, 1981, the current minimum diameter (size) requirement for shipment of fresh Florida seedless limes and imports of seedless limes. This action is necessary to assure shipment and importation of suitable sizes of seedless limes in the interest of producers and consumers.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement, as amended, and order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). this action is based upon the recommendation and information submitted by the Florida Lime Adminstrative Committee, and upon other available information. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

Shipments of Florida seedless limes are currently subject to a minimum diameter requirement of 1⅞ inches during the period July 7 through August 31, 1980, under Lime Regulation 41, § 911.343. Imports of seedless limes are subject to the same requirements under Lime Import Regulation 8, § 944.207. This amendment would continue the 1⅞ inch minimum diameter requirement through April 30, 1981, for both domestic shipments and imports of seedless limes. The lime import regulation was issued under section 8e (7 U.S.C. 608e–1) of this act, which requires that when specified commodities, including limes, are regulated under a federal marketing order, imports of the commodity must meet the same or comparable grade, size, quality, or maturity requirements as those for the domestically produced commodity. The import regulation is the same as that for limes grown in Florida.

Market supplies from Florida and Mexico are heavy and prices are lower than a year ago. The committee reports that the smaller limes have a lower percentage of juice than larger limes, and it is more difficult to extract, tending to inhibit movement. Availability of juicier limes is necessary to stimulate movement. Ample supplies of limes meeting the requirement of this amendment will be available during the period to satisfy market demand.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as herein specified, was published in the **Federal Register** (45 FR 50347), and no objection to this regulation or such effective date was received; (2) the amendment with respect to imported limes is mandatory under section 8e of the act; (3) the regulatory provisions of this amendment are the same as those now in effect and, compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (4) shipments of the current crop of limes are in progress and this regulation should be applicable, insofar as practicable, to all shipments of limes, including imported limes, in order to effectuate the declared policy of the act.

Accordingly, the provisions of paragraph (a) of § 911.343 *Lime Regulation 41* (45 FR 27910, 39854, 44302) are amended to read as follows: (Section 911.343 expires April 30, 1981, and will not appear in the annual Code of Federal Regulations):

§ 911.343 Lime Regulation 41.

(a) * * *

(3) During the period July 7,1980, through April 30 1981, such limes of the group known as seedless, large-fruited, or Persian limes (including Tahiti, Bearss and similar varieties) are at least 1⅞ inches in diameter: *Provided:* That not more than 10 percent, by count, of the limes in any lot of containers may

fail to meet this minimum size requirement: *Provided further:* That not more than 15 percent of the limes, by count, in any individual container containing more that four pounds of limes may fail to meet this minimum size requirement.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 26, 1980, to become effective September 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26597 Filed 8–27–80; 8:45 am]

BILLING CODE 3410-02 —M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Deregulation of Section 701.21-1(d)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: In accordance with the established policy goals of clarifying and simplifying its regulations, the National Credit Union Administration Board has promulgated this final rule. This rule will allow greater flexibility to the boards of directors of Federal credit unions in the establishment of interest rates on loans.

EFFECTIVE DATE: August 21, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, N. W., Washington, D.C. 20456

FOR FURTHER INFORMATION CONTACT: Thomas C. Buckman, Office of Examination and Insurance. Telephone: (202) 357–1065.

SUPPLEMENTARY INFORMATION: On April 7, 1980, the National Credit Union Administration Board invited public comment on a proposal to deregulate Section 701.21–1(d) of the National Credit Union Administration Rules and Regulations (45 FR 26073 (1980)). The purpose of the proposal was to grant the boards of directors of Federal credit unions greater flexibility in the establishment of interest rates on loans in order to eliminate problems that the present regulatory restraints were causing Federal credit unions. Specifically, subsection 701.21–1(d) of the National Credit Union Administration Rules and Regulations heretofore limited the establishment of interest rates as follows:

"Rates of interest charged on loans (including line of credit balances) may vary according to reasonable classifications established by the board of directors. Distinctions among classifications shall be based only upon one or more of the following:

type of line of credit or loan plan;
purpose of the loan; and,
type or value of security in relation to the amount of the loan.

"Within a given classification, the same rate of interest must be applied uniformly to all member borrowers."

The April 7, 1980, proposal would not have limited the classifications of loans to just the three discussed above. The proposal would have permitted the board of directors of a Federal credit union to establish interest rates on loans based upon classifications which were established upon sound and legitimate business practices. Additionally, the proposal explained that factors which constitute a sound and legitimate business practice are generally those which are based on characteristics of the loan, and which are not based on a characteristic of the borrower or group of borrowers. The proposal then gave examples of illustrative lending policies which the Administration believed were established on sound and legitimate business practices.

Eighteen comments were received on the proposed rule. All of the commentors with the exception of two favored the proposal. However, some of the commentors expressed concern over NCUA including in the rule itself examples of policies which it determined to be acceptable. The commentors expressed concern over the examples being used as definitive classifications. The examples have been omitted in this final rule. However, the examples are included later in this supplementary discussion as guidance to Federal credit unions.

Two commentors representing credit union trade associations recommended that NCUA completely eliminate from the rules and regulations all language pertaining to the establishment of interest rates on loans. The commentors cited the following arguments in support of their position:

(a) For 43 years prior to 1977 the boards of directors of Federal credit unions were allowed to establish interest rates on loans without regulatory restrictions. NCUA has no record of numerous abuses of this authority by Federal credit unions prior to 1977.

(b) If NCUA were to eliminate this rule entirely, a Federal credit union would still be restricted in establishing interest rates by the Equal Credit Opportunity Act (15 U.S.C. § 1691–1691f), the Fair Housing Act (42 U.S.C. § 3601–3631), and NCUA's Nondiscrimination Regulation (12 CFR 701.31). Additionally, NCUA's Loans to Officials Regulation (Section 701.21–4) prohibits the board of directors of a Federal credit union from establishing lending policies which give members of the board of directors, credit committee or supervisory committee preferential interest rates (12 CFR 701.21–4(e)(2)).

NCUA staff expressed concern that the complete elimination of language pertaining to the establishment of interest rates on loans would lead to confusion among Federal credit unions as to acceptable ways to establish interest rates. Additionally, staff expressed concern that influential persons or groups within a Federal credit union's field of membership might receive preferential interest rates with the complete elimination of this language.

After deliberating on this issue (at the Board's open meeting of August 6, 1980), it was the unanimous decision of the NCUA Board to eliminate all the language pertaining to the establishment of interest rates on loans with the exception of one sentence which reads as follows: "Interest rates charged on loans (including line of credit balances) may vary according to written classifications established by the board of directors consistent with cooperative principles and existing laws and regulations."

The NCUA Board indicated that this action was taken in the interest of reducing the regulatory burden imposed upon Federal credit unions. The NCUA Board is particularly interested in reducing the cumulative effect of regulations upon small Federal credit unions.

The final rule grants the board of directors of Federal credit unions a considerable amount of additional flexibility in the establishment of interest rates on loans. However, it does contain the following minimum requirements:

(a) Establishment of written loan classifications;

(b) Charging the same rate of interest on all loans within a given classification;

(c) Determining that interest rate policies comply with existing laws and regulations such as those previously discussed in this preamble; and,

(d) Determining that such interest rate policies are consistent with cooperative principles.

In taking this action, the NUCA Board cautioned that if the Administration discovers abuses, regulatory or other appropriate action will be taken.

Listed below are examples of lending policies that NCUA believes are in compliance with the final rule. NCUA would like to emphasize that these are not the only acceptable lending policies. These examples are being provided in the interest of providing clarity and guidance to the boards of directors of Federal credit unions. Future revisions to the Credit Manual will also contain additional guidance.

Illustrative Lending Policies:

(1) Real Estate Loans

A Federal credit union with a large field of membership is granting real estate loans to members located in different areas of the United States. The board of directors could establish a policy to achieve competitive interest rates with local real estate markets. Example policy: Conventional long-term real estate loans originated in City A will be X% and in City B, Y%.

(2) Amount of the Loan

The board of directors desires to establish interest rates based on the amount of the loan. Example policy: All unsecured loans not exceeding a specified amount will be at X% and all unsecured loans exceeding the specified amount will be at Y%.

The board of directors of a Federal credit union which is offering credit cards to its membership could establish a policy to split rates. Example policy: All credit card balances not exceeding a specific amount will be at X% and all portions of loan balances exceeding a specific amount will be at Y%.

(3) Maturity of the Loan

A board of directors desires to match loan maturities/interest rates to corresponding share certificate maturities/dividend rates. The board of directors could, for example, establish the following policy: All loans with maturities not exceeding 6 months will be at X% and all loans with maturities exceeding 6 months will be at Y%.

(4) Method of Repayment

A board of directors of a Federal credit union which has documented cost evidence of an administrative savings for loans repaid via payroll deduction, direct deposit, or transfer from a share account may establish a policy to pass this savings on to the borrowers. Example policy: All loans repaid via voluntary payroll deduction will be at X% and all loans repaid by other means will be at Y%.[1]

(5) Sound Social Policy (Cooperative Spirit)

A board of directors could establish a policy to promote energy conservation. Example policy: All loans secured by automobiles which have an E.P.A. estimated miles per gallon rating of 25 or more will be at X% and other loans secured by automobiles will be at Y%." (Y is a higher rate than X.)

(6) Type of Line of Credit or Loan Plan

The board of directors desires to establish interest rates based on the type of line of credit or loan plan. The board of directors could establish the following policy: All line of credit loans granted under a credit card program will be at X% and all other types of loans will be at Y%.

(7) Purpose of the Loan

The board of directors desires to establish interest rates based on the purpose of loans. The board of directors could establish the following policy: Loans for the purpose of home improvement will be at X%; loans for the purpose of purchasing an automobile will be at Y%; and, loans for all other purposes will be at Z%.

(8) Type or Value of Security in Relation to the Amount of the Loan

The board of directors desires to establish interest rates based on the type or value of security in relation to the amount of the loan. The board of directors could establish the following policy: All loans secured by new automobiles in which the amount of the loan does not exceed 80% of the purchase price of the automobile will be at X% and all other types of loans will be at Y%.

Section 701.24(b) of the NCUA Rules and Regulations (refund of interest) is revised to state that interest refunds may vary according to the classification of loans established by the board of directors pursuant to 701.21–1(d). This change was necessitated by the fact that § 701.24(b) of the NCUA Rules and Regulations refers to the requirements specified in § 701.21–1(d) of the NCUA Rules and Regulations. This change merely makes the two sections consistent. The NCUA Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this amendment is contrary to the public interest and, because it relieves a restriction, publication 30 days prior to its effective date is unnecessary and not in the public interest. This determination was made by Robert Fenner, Assistant General Counsel.

Joan O'Neill,

Acting Secretary of the NCUA Board.

August 21, 1980.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757); Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and, Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

12 CFR 701.21–1 and 701.24 are amended as follows:

(1) 12 CFR 701.21–1(d) is revised to read as follows:

§ 701.21-1 [Amended]

* * * * *

(d) Interest rates charged on loans (including line of credit balances) may vary according to written classifications established by the board of directors consistent with cooperative principles and existing laws and regulations.

(2) 12 CFR 701.24(b) is amended by deleting the second and third sentences and adding in lieu thereof:

§ 701.24 [Amended]

* * * * *

(b) * * * Such percentage may vary according to classifications of loans established pursuant to 12 CFR 701.21–1(d).

[FR Doc. 80–26411 Filed 8–27–80; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 80–GL–15–AD; Amdt. 39–3893]

14 CFR Part 39

Airworthiness Directives; JET Electronics, Model PS–823( ) Emergency Power Supply

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the incorporation of a service bulletin on all aircraft with JET

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[1] Federal credit unions are advised that assessing a lower interest rate on those loans where the borrower repays through payroll deduction constitutes required payroll deduction for purposes of the Truth in Lending Act and Regulation Z. As such, required payroll deduction affects the permissibility of the use of certain payroll deduction plans in open end credit and affects the calculation of the APR in connection with closed end credit. Additionally, Federal credit unions are cautioned to determine that policies which provide for a lower interest rate for loans repaid by a certain method do not have the *effect* of discriminating on a basis prohibited by the Equal Credit Opportunity Act. Lastly, Federal credit unions are advised that the Electronic Fund Transfer Act prohibits the extension of credit to a consumer by conditioning such consumer's repayment by means of preauthorized electronic fund transfer. Federal credit unions which offer a lower interest rate to members who repay by EFT must determine that the lower rate reflects the cost savings of EFT to the credit union. The rate cannot be set artificially low so as to induce EFT repayment.

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Electronics Emergency Power Supply Model PS–823( ). The AD is prompted by reports of batteries within the power supply overheating; sometimes exhibiting thermal runaway, causing loss of emergency electrical power and possible corrosive or thermal damage to the aircraft.

DATES: Effective August 28, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The referenced service bulletin may be obtained from JET Electronics and Technology, Inc., 5353 52nd Street, SE., Grand Rapids, Michigan 49508. A copy of the referenced service bulletin is contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Donald Michal, Engineering and Manufacturing Branch, AGL–213, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 379.

SUPPLEMENTARY INFORMATION: JET Electronics and Technology, Inc. determined that certain failures in the PS–823( ) series Power Supply battery charging circuit could cause overheating and possible resultant thermal runaway of batteries within the power supply. They issued service bulletin 501–1075–16, dated March, 19, 1976, to add protective circuitry to eliminate this problem. Since this bulletin has been in existence for over four years and reports of battery damage are still being received on power supplies without the service bulletin incorporated, an Airworthiness Directive is being issued which makes incorporation of the service bulletin mandatory.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

JET Electronics and Technology, Inc. Applies to all Model PS–823( ) series Emergency Power Supplies, normally used as power supply for standby attitude indicators.

Compliance is required as indicated unless already accomplished. To prevent loss of emergency electrical power and possible corrosive or thermal damage to the aircraft accomplish the following:

Within the next 100 flight hours or six months time from the effective date of this AD, determine if compliance has already been accomplished by observing the modification decal on the front of the unit. If the modification number listed below has been marked off, no further action is required.

JET Part No.	Model	Modification No.
501–1075–01	PS–823A	18
501–1075–02	PS–823B	17
501–1075–03	PS–823C	15
501–1075–04	PS–823D	14
501–1075–05	PS–823A/T	21
501–1075–06	PS–823B/T	19
501–1075–07	PS–823C/T	17
501–1075–08	PS–823D/T	16

If the applicable modification number has not been marked off, install modifications in accordance with J.E.T. Service Bulletin SB501–1075–16E, dated February 28, 1979. Modifications must be made by an FAA Certified Repair Station, an FAA approved repair facility, or J.E.T. Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region, may approve an adjustment to compliance time or an equivalent means of compliance.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—Due to the nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation has been prepared and is contained in the public docket for this action.

Issued in Des Plaines, Illinois on August 14, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80–25967 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–NE–32; Amdt. 39–3898]

Airworthiness Directives; Pratt & Whitney Aircraft JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 3, 1980, an emergency telegraphic airworthiness directive (TAD), No. T80–14–51, was issued requiring an ultrasonic or fluorescent magnetic particle inspection for hub (disk) cracking on Pratt & Whitney Aircraft JT8D–17 and –17R model turbofan engines. Subsequently developed information and data indicated that the same condition may exist in other model engines of the JT8D series that revised inspection compliance requirements were needed to detect cracks. Accordingly, TAD No. T80–14–51 was revoked, and new emergency TAD No. T80–15–51 was issued in its place on July 16, 1980, and made applicable to the Pratt & Whitney Aircraft JT8D series turbofan engines. TAD No. T80–15–51 requires an ultrasonic or fluorescent magnetic particle inspection for cracks of certain rear compressor front hubs (disks) suspected to have developed cracks due to stress concentrations introduced during their manufacture. The AD is now being published in the **Federal Register** as an amendment to the Federal Aviation Regulations.

DATES: Effective—August 21, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram issued on July 16, 1980. Compliance schedule—as prescribed in text AD.

ADDRESSES: The applicable service bulletin may be obtained from Pratt & Whitney Aircraft, East Hartford, Connecticut 06108.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Engine Standards Section, ANE–215, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7347.

SUPPLEMENTARY INFORMATION: TAD No. T80–15–51 adopted and made effective to all known U.S. operators of Pratt & Whitney Aircraft JT8D–1, –1A, –1B, –5, –7, –7A, –7B, –9, –9A, –11, –15, –17, –17R, –209, and –209A model turbofan engines on July 16, 1980, was required as a result of a reported instance of eighth stage rear compressor front hub failure due to low cycle fatigue. Cracks are suspected to have initiated from stress concentrations induced into the hub during the manufacturing process for balancing the hub detail.

The TAD requires an ultrasonic or fluorescent magnetic particle inspection for cracks, in accordance with a variable schedule, of certain eighth stage rear compressor front hubs.

These conditions still exist, and the AD is now being published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pratt & Whitney Aircraft: Applies to JT8D–1, 1A, –1B, –5, –7, –7A, –7B, –9, –9A, –11, –15, –17, –17R, –209, and –209A model turbofan engines.

Compliance is required as indicated.

To prevent uncontained failure of engine rear compressor front hubs, accomplish the following:

Inspect, in accordance with the following schedule, unless already accomplished, all eighth stage rear compressor front hubs, P/Ns 690908, 701308, 717608, 717708, and 738308, which contain balance cuts, for cracks in accordance with the ultrasonic or fluorescent magnetic particle procedures contained in Pratt & Whitney Aircraft Alert Service Bulletin ASB 5154, Revision No. 1, dated July 16, 1980, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region:

Engine model	Hub total cycles as of July 21, 1980	Inspection required
JT8D–1 –1A, –1B, –5, –7, –7A, and –7B.	(A) Less than 13,000	(A) Before accumulation of 15,000 cycles.
	(B) 13,000 of more and less than 15,000	(B) Within the next 2,000 cycles.
	(C) 15,000 or more	(C) Before accumulation of 17,000 cycles or within the next 500 cycles, whichever is later.
JT8D–9, –9A, –11, –15, –209, and –209A.	(A) Less than 10,000	(A) Before accumulation of 12,000 cycles.
	(B) 10,000 or more and less than 12,000	(B) Within the next 2,000 cycles.
	(C) 12,000 or more and less than 14,000	(C) Before accumulation of 14,000 cycles or within the next 500 cycles, whichever is later.
	(D) 14,000 or more and less than 15,000	(D) Within the next 500 cycles.
	(E) 15,000 or more and less than 16,000	(E) Within the next 300 cycles.
	(F) 16,000 or more	(F) Within the next 200 cycles.
JT8D–17 and JT8D–17R	(A) Less than 11,000	(A) Before accumulation of 12,000 cycles.
	(B) 11,000 or more and less than 12,000	(B) Within the next 1,000 cycles.
	(C) 12,000 or more and less than 13,000	(C) Before accumulation of 13,000 cycles or within the next 500 cycles, whichever is later.
	(D) 13,000 or more and less than 13,500	(D) Within the next 500 cycles.
	(E) 13,500 or more and less than 14,000	(E) Before accumulation of 14,000 cycles or within the next 100 cycles, whichever is later.
	(F) 14,000 or more	(F) Within the next 100 cycles, unless already accomplished.
All models		Inspect thereafter at intervals not to exceed 6,000 cycles in service since last inspection.

NOTE.—Establish life limits are not to be exceeded.

Remove from service, before further flight, any rear compressor front hub having a crack indication.

Report defects found to Chief, Engineering and Manufacturing Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, within 5 days of the inspection. (Reporting approved by the Office of Management and Budget under OMB No. 04–R0174.) Airplanes may be ferried in accordance with the provisions of FAR 21.197 to a base where the AD can be accomplished. Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Pratt & Whitney Aircraft, East Hartford, Connecticut 06108. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C.

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective August 21, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram of July 16, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation is being prepared and will be placed in the public docket for this action.

Issued in Burlington, Massachusetts, on August 14, 1980.

Robert E. Whittington,

Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80–25968 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 20644; Amdt. 39–3905]

Airworthiness Directives; Flug Und Fahrzeugwerke AG Model Diamant 16.5 and 18 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which supersedes an existing AD issued by telegram on May 10, 1978, which required installation of an operating limitations placard on certain Flug Und Fahrzeugwerke AG Model Diamant 16.5 gliders. The new AD extends the applicability of this requirement to certain Model 18 gliders and makes clarifying changes to the placard. The AD is needed to reduce the possibility of wing failure due to possible inadequate bonding of the wing spar cap to the wing shear web.

DATES: Effective August 28, 1980. Compliance is required before further flight.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS–110, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591. Telephone: 202–426–8374.

SUPPLEMENTARY INFORMATION: On May 6, 1978, a telegraphic AD was issued and made effective immediately as to all known operators of certain Flug Und Fahrzeugwerke AG Model Diamant 16.5 gliders, certificated in all categories. The AD required installation of a legible operating limitations placard in full view of the pilot to reduce the possibility of wing failure due to possible inadequate bonding of the wing spar cap to the wing shear web. After issuing the telegraphic AD May 6, 1978, the FAA determined that an error had been made in the operating limitations placard. The telegraphic AD issued May 10, 1978, corrected that error and superseded the telegraphic AD issued May 6, 1978.

Subsequent to issuance of the telegraphic AD on May 10, 1978, the FAA has determined that the same placarding requirement should also be made applicable to certain Model 18 gliders. In addition, certain clarifying changes are also needed.

Since a situation exists that requires immediate adoption of this regulation, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Flug und Fahrzeugwerke AG. Applies to Model Diamant 16.5 and 18 gliders, serial numbers 11 through 80, certificated in all categories.

Compliance required before further flight, unless already accomplished.

To reduce the possibility of wing failure due to possible inadequate bonding of the wing spar cap to the wing shear web, install a legible operating limitations placard in full view of the pilot that reads:

"V_{NE}—NEVER EXCEED SPEED 103 MPH 90 KTS
V_A—CAUTION SPEED RANGE 74 TO 103 MPH 64 TO 90 KTS
NO ABRUPT CONTROL MOVEMENTS—AVOID TURBULENCE
MAXIMUM MANEUVER LOAD FACTOR: +2.8 TO −1.4
MAXIMUM GUST LOAD FACTOR: +3.5 TO −1.75"

or install an equivalent placard approved by the Chief, Aircraft Certification Staff, Federal Aviation Administration, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

This supersedes the airworthiness directive issued by telegram on May 10, 1978.

This amendment becomes effective August 28, 1980.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Washington, D.C., on August 20, 1980.

Jerold M. Chaukin,
Acting Director of Airworthiness.

[FR Doc. 80-26183 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-20-AD; Amdt. 39-3900]

Airworthiness Directives; Piper Model 601 and 601P Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires instrument markings and Airplane Flight Manual provisions relative to engine fuel pressure safe operating limits on Piper Model 601 and 601P series airplanes. The AD is needed to prevent unintentional engine fuel leaning due to low fuel pressure at altitudes which could result in engine overheating, detonation, and possible engine failure.

DATES: Effective October 6, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from:

Piper Aircraft Corporation, Santa Maria Division, Santa Maria, California 93454, telephone: (805) 922-8411.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring caution marks on the fuel pressure gauges, and a revision to the Operating Limitations Section of the Airplane Flight Manual specifying the appropriate engine fuel pressure limitations on the Piper Model 601 and 601P series airplanes was published in the **Federal Register** at [45 FR 25079] on April 14, 1980. The proposal was prompted by reports of engine overheating and detonation and possible engine failure.

Interested persons have been afforded an opportunity to participate in the making of the amendment.

In response to the proposal, two comments were received. One commenter the NBAA, concurred in the proposed Airworthiness Directive.

The second commenter, the manufacturer, recommended non-adoption of the proposed AD, since the manufacturer believes a pilot is presently provided sufficient information concerning fuel pressure requirements, in that the Airplane Flight Manual (AFM) contains notes cautioning the pilot not to continue operation with fuel pressure below 18 psi and the fuel pressure indicator has a green arc emphasizing the normal operating range. The FAA does not agree. The AFM revision note and the fuel pressure gauge green arc do not promptly and clearly indicate to the pilot a fuel pressure range that may be critical for safe engine operations. A yellow "Caution" arc on the fuel pressure gauge as specified in the AD will emphasize fuel pressure range below normal operating pressure promptly and clearly.

The manufacturer also expressed the intention of revising the present AFM to provide additional information regarding power plant operation with low fuel pressure and the possible consequences thereof. In addition, the 1981 model year aircraft will have a yellow "Caution" arc added to each fuel pressure indicator. The manufacturer's comments about proposed future revisions to alleviate the difficulty have been noted and will be verified for conformance to this AD.

The manufacturer states further, that investigation of the service history file has revealed only one possible instance where an engine problem was preceded by low fuel pressure and this did not result in an in-flight engine failure. The FAA initiated AD action in this instance because of a significant number of operator reports concerning fuel leaning difficulty during climb and high altitude operation. The FAA Flight Test Branch has made evaluation flights and made observations confirming the operator reports.

The FAA believes that experience weighs heavily toward incorporation of all features of the proposed AD on all Piper Aerostar Model 601 and 601P series airplanes. The added measure of safety referred to in the NPRM by these changes is, in the judgment of the FAA, the minimum level of safety appropriate in light of service experience.

After review of all available data, including the data and comments noted above, the FAA continues to believe that sufficient evidence exists to adopt the rule in the interest of aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Piper: (Ted Smith) Applies to Aerostar Model 601 and 601P series airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent possible engine failure due to excessive lean fuel/air mixture, accomplish the following:

(a) Within 30 days from the effective date of this AD, index and mark the left hand and right hand engine fuel pressure gauges with a yellow arc between the 12 psi and 18 psi range, and incorporate provisions in the Airplane Flight Manual Operations Limitations Section as follows:

1. In the Power Plant Instruments paragraph and under the Yellow ARC Caution column of the fuel pressure data add "12–18 psi."

2. In the Fuel System Limitations paragraph add the statement "Fuel boost pump must be "ON" when fuel pressure indication is less than 18 psig and engine is operating above idle power."

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

(c) Alternative modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective October 6, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on August 15, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80-26335 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-28]

Designation of Transition Area, Richmond, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Richmond, Kentucky, 700-foot Transition Area. A public use standard instrument approach procedure has been developed for the Madison Airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0901 G.m.t., September 27, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Alton L. Matthews, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, July 31, 1980 (45 FR 45310), which proposed the designation of the Richmond, Kentucky, Transition Area. No objections were received from this notice.

This action provides controlled airspace protection for IFR operations, including the VOR/DME RWY 18 instrument approach procedure at the Madison Airport. The airport operating status is hereby changed from VFR to IFR.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., September 27, 1980, by adding the following:

Richmond, Kentucky

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Madison Airport (latitude 37°37′45″N., longitude 84°19′56″W).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 20, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-26226 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-CE-7]

Transition Area Designation; Anthony, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Anthony, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Anthony, Kansas Municipal Airport, utilizing the Anthony OMNI Directional Range as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: William W. Buck, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Anthony, Kansas Municipal Airport is being established utilizing the Anthony OMNI Directional Range as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Anthony, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 41967 of the **Federal Register** dated June 23, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Anthony, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT October 30, 1980, by adding the following new transition area:

Anthony, Kans.

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Anthony Municipal Airport (Latitude 37° 09′ 36″N, Longitude 98° 04′ 45″W) and within 1.5 miles each side of the Anthony VORTAC (Latitude 37° 09′ 32″N, Longitude 98° 10′ 13″W) 270 radial extending from the five-mile radius area to 6.5 miles west of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 19, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-26337 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-CE-6]

Transition Area Designation; Johnson, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Johnson, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Stanton County Municipal Airport, Johnson, Kansas, utilizing the Bear Creek non-directional radio beacon (NDB), as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: William W. Buck, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Stanton County Municipal Airport, Johnson, Kansas, is being established utilizing the Bear Creek non-directional radio beacon (NDB), as a navigational aid. This radio facility will provide new guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Johnson, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 41969 of the **Federal Register** dated June 23, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Johnson, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT October 30, 1980, by adding the following new transition area:

Johnson, Kansas

That airspace extending upwards from 700′ above the surface within a seven mile radius of the Stanton County Municipal Airport (Latitude 37°35′05″ N. Longitude 101°43′50″ W), and within three miles each side of the Bear Creek NDB (Latitude 37°38′08″ N, Longitude 101°44′03″ W) 359° bearing, extending from the seven mile radius area to 8.5 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 19, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-26336 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-NE-21]

Transition Area; Designation of the State of Maine as a 1,200-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action established the entire State of Maine as a 1200-foot transition area to be defined as the State of Maine Transition Area. The designation will permit the revoking of the Bangor, Houlton, Millinocket, Portland, Presque Isle, and Sugarloaf, Maine 1200-foot transition area description.

EFFECTIVE DATE: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations, Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: On Monday, June 9, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register**, Volume 45, Page 38405, designating the entire State of

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Maine and coastal waters as a 1200-foot transition area, excluding designated 700-foot transition areas. Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of the Federal Aviation Regulations is amended, effective October 2, 1980, by adding the following:

1. **Maine**

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of Maine, including offshore airspace beginning at latitude 44°47′45″ N; longitude 66°53′00″ W, extend by a line three nautical miles from and parallel to the U.S. shoreline to latitude 44°20′10″ N; longitude 67°56′00″ W, to latitude 44°18′30″ N; longitude 67°56′00″ W, to latitude 43°52′00″ N; longitude 69°00′00″ W, to latitude 43°48′00″ N; longitude 69°03′00″ W, to latitude 43°44′00″ N; longitude 69°19′42″ N, to latitude 43°41′00″ N; longitude 69°30′00″ W, to latitude 43°30′00″ N; longitude 70°06′00″ W, to latitude 43°18′15″ N; longitude 70°25′00″ W, to latitude 42°56′00″ N; longitude 70°25′00″ W, to latitude 42°56′00″ N; longitude 70°34′00″ W, thence to clockwise via the state boundary to point of beginning.

2. By amending the descriptions of various 700-foot transition areas as follows:

a. Portland, Maine

Delete, "* * * and that airspace extending upward from 1,200 feet * * *" and all after.

b. Bangor, Maine

Delete, "* * * and that airspace extending upward from 1,200 feet * * *" and all after.

c. Houlton, Maine

Delete, "That airspace extending upward from 1,200 feet * * *" and all after.

d. Millinocket, Maine

Delete, "That airspace extending upward from 1,200 feet * * *" and all after.

e. Presque Isle, Maine

Delete, "That airspace extending upward from 1,200 feet * * *" and all after.

f. Sugarloaf, Maine

Delete the entire transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation guidelines (44 FR 11034; February 26, 1979). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 18, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-26340 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NW-7]

Transition Area Alteration; Newport, Oreg.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will provide controlled airspace for aircraft executing the newly amended VOR/DME Runway 16 Standard Instrument Approach Procedure to Newport Municipal Airport, Newport, Oregon.

EFFECTIVE DATE: 0901 G.M.T., October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

Supplementary Information

History

On May 5, 1980, a Notice of Proposed Rule Making was published in the **Federal Register** (45 FR 32702) stating that the Federal Aviation Administration proposed to alter transition area at Newport, Oregon. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters transition area at Newport, Oregon. This action provides controlled airspace from 1200 feet above the ground for the control of aircraft executing the VOR/DME Runway 16 Standard Instrument Approach Procedure.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT October 30, 1980, as follows:

§ 71.181 Newport, Oreg.

Add after "* * * extending from the VORTAC to 19 miles N." on line 10 with: "* * * and that airspace within the area bounded by the arcs of 16 and 20 nautical mile radius circles centered on the Newport VORTAC extending clockwise from the VORTAC 335° radial to the VORTAC 335° radial; including additional airspace within the area bounded by the arcs of 11 and 17 nautical mile radius circles centered on the Newport VORTAC extending clockwise from the VORTAC 200° radial to the VORTAC 220° radial."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Washington, August 20, 1980.

E. O'Connor,

Acting Director.

[FR Doc. 80-26338 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-16]

Transition Area; Amendment to the Newport, Vt., 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Newport, Vermont, 700-foot transition area so as to provide added protected airspace for aircraft executing an amended Non-directional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP)

at Newport State Airport, Newport, Vermont.

EFFECTIVE DATE: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: On Thursday, June 5, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register**, Volume 45, No. 110, Page 37858, stating that the Federal Aviation Administration proposed to enlarge the Newport, Vermont, 700-foot transition area. This action would provide added protected airspace for aircraft executing an amended Non-directional Radio Beacon (NDB) at Newport State Airport, Newport, Vermont. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the description of the Newport, Vermont, 700-foot transition area in Subpart G of Part 71.181 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective October 2, 1980, by:

Delete the present description in its entirety and substitute in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Center, 44 degree 53′22″N, 72 degree 13′48″W, of Newport State Airport, Newport, Vermont, within 3 miles each side of the 045 degree M/029 degree T bearing from the Newport, Vermont, NDB extending from the 5-mile radius area to 8 miles northeast of the NDB, excluding the portion overlying Canada.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation guidelines (44 FR 11034; February 26, 1979). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 18, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-26339 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 20640; Amdt. No. 95-293]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Gary W. Wirt, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverge that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on August 19, 1980.

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§95.101 AMBER FEDERAL AIRWAY 1

is amended to read in part:

FROM	TO	MEA
Campbell Lake, Alas. LF RBN	Parck INT, Alas.	6500
Parck INT, Alas.	Puntilla Lake, Alas. LF RBN	10000

§95.1001 DIRECT ROUTES—U.S.

is amended to delete:

FROM	TO	MEA
Camps INT, Hawaii	Maui, Hawaii LMM	7000
Camps INT, Hawaii	Maui, Hawaii VORTAC	*7000
*6500—MOCA		

§95.1001 DIRECT ROUTES - U.S.

is added to read:

FROM	TO	MEA
Baxley INT, Ga.	Brunswick, Ga. VOR	*3000
*1700—MOCA		

§95.1001 DIRECT ROUTES—U.S.

is amended by adding:

FROM	TO	MEA
Dells, Wis. VOR	Eau Claire, Wis. VOR	18000
		MAA—29000
Eau Claire, Wis. VOR	Duluth, Minn. VOR	18000
		MAA—29000
Madison, Wis. VOR	Dells, Wis. VOR	18000
		MAA—29000

§95.1001 DIRECT ROUTES—U.S.

is amended by adding:

FROM	TO	MEA
Detroit Lakes, Minn. VOR	Thief River Falls, Minn. VOR	*3300
*2700—MOCA		
Duluth, Minn. VOR	U. S. Canadian Border	*18000
*3100—MOCA		MAA—35000
Eveleth, Minn. VOR	Ely, Minn. VOR	3400
Grantsburg, Wi. VOR	Eveleth, Minn. VOR	3500
Minneapolis, Minn. VORTAC	Cedar Rapids, Iowa VORTAC	*14500
*3900—MOCA		MAA—35000
Minneapolis, Minn. VORTAC	Moline, Ill. VORTAC	*13000
*3600—MOCA		MAA—30000
Redwood Falls, Minn. VORTAC	Willmar, Minn. VOR	3000
Windom, Minn. NDB	Redwood Falls, Minn. VORTAC	3300
Windom, Minn. NDB	Worthington, Minn. VOR	*3400
*2900—MOCA		

§95.1001 DIRECT ROUTES—U.S.

is amended to read in part:

Bahama Routes

FROM	TO	MEA
69V		
Bimini, BH VOR	Freeport, BH. VOR	2000

§95.6003 VOR FEDERAL AIRWAY 3

is amended to read in part:

FROM	TO	MEA
Eagre INT, Conn.	Layer INT, Mass	*3000
*2300—MOCA		

§95.6004 VOR FEDERAL AIRWAY 4

is amended to read in part:

FROM	TO	MEA
Tatoosh, Wa. VOR	*Jawbn INT, Wa.	5000
*5000—MCA W-bound		
Jawbn INT, Wa.	Lofal INT, Wa.	4100

§95.6007 VOR FEDERAL AIRWAY 7

is amended to read in part:

FROM	TO	MEA
Chicago Heights, Ill VOR	*Niles INT, Ill.	2000
*3100—MCA Niles INT N-bound		

§95.6008 VOR FEDERAL AIRWAY 8

is amended to read in part:

FROM	TO	MEA
Akron, Colo. VOR	Passe INT, Neb.	
Via S alter.	Via S alter.	*6400
*5600—MOCA		

§95.6013 VOR FEDERAL AIRWAY 13

is amended to read in part:

FROM	TO	MEA
Duluth, Minn. VOR	U. S. Canadian Border	*4000
*3100—MOCA		

§95.6051 VOR FEDERAL AIRWAY 51

is amended to read in part:

FROM	TO	MEA
Nello INT, Ga.	Madol INT, Ga.	
Via W alter.	Via W alter.	*7000
*5600—MOCA		
Madol INT, Ga.	Dubbs INT, Tenn.	
Via W alter.	Via W alter.	6000

§95.6052 VOR FEDERAL AIRWAY 52

is amended to read in part:

FROM	TO	MEA
Central City, Ky. VOR	Bridy INT, Tenn.	
Via N alter.	Via N alter.	3000
Bridy INT, Tenn.	Nashville, Tenn. VOR	
Via N alter.	Via N alter	2700

§95.6055 VOR FEDERAL AIRWAY 55

is amended to read in part:

FROM	TO	MEA
Brainerd, Minn VOR	Park Rapids, Minn. VOR	3300

§95.6066 VOR FEDERAL AIRWAY 66

is amended to read in part:

FROM	TO	MEA
Abilene, Tex. VOR	Chapi INT, Tex.	4000

§95.6078 VOR FEDERAL AIRWAY [illegible]

is amended to read in part:

FROM	TO	MEA
Watertown, S. D. VOR	Claps INT, Minn.	*4000
*3100—MOCA		

§95.6082 VOR FEDERAL AIRWAY 82

is amended to read in part:

FROM	TO	MEA
Baudette, Minn. VOR	Bemidji, Minn. VOR	3000
Bemidji, Minn. VOR	Brainerd, Minn VOR	3400

§95.6129 VOR FEDERAL AIRWAY 129

is amended to read in part:

FROM	TO	MEA
Eau Claire, Wis. VOR *3000–MOCA	Duluth, Minn. VOR	*4000
Duluth, Minn. VOR	Hibbing, Minn. VOR	3000
Duluth, Minn. VOR Via E alter.	Hibbing, Minn. VOR Via E alter.	3000
Hibbing, Minn. VOR Via W alter. *3100–MOCA	Bebel INT, Minn. Via W alter.	*5000
Bebel INT, Minn. Via W alter.	International Falls, Minn. VOR Via W alter.	3000
International Falls, Minn. VOR	U. S. Canadian Border	2500

§95.6161 VOR FEDERAL AIRWAY 161

is amended to read in part:

FROM	TO	MEA
Grand Rapids, Minn. VOR *3100–MOCA	Bebel INT, Minn.	*5000
Bebel INT, Minn.	International Falls, Minn. VOR	3000

§95.6169 VOR FEDERAL AIRWAY 169

is amended to read in part:

FROM	TO	MEA
Hugo, Colo. VOR	Thurman, Colo. VOR	7200

§95.6170 VOR FEDERAL AIRWAY 170

is amended to read in part:

FROM	TO	MEA
Fairmont, Minn. VOR	Rochester, Minn. VOR	3000

§95.6171 VOR FEDERAL AIRWAY 171

is amended to read in part:

FROM	TO	MEA
Farmington, Minn. VOR	Darwin, Minn. VOR	2900

§95.6175 VOR FEDERAL AIRWAY 175

is amended to read in part:

FROM	TO	MEA
Worthington, Minn. VOR *2700–MOCA	Redwood Falls, Minn. VOR	*3300
Alexandria, Minn. VOR	Park Rapids, Minn. VOR	3000
Bemidji, Minn. VOR	Roseau, Minn. VOR	3000

§95.6177 VOR FEDERAL AIRWAY 177

is amended to read in part:

FROM	TO	MEA
Hayward, Wis. VOR	Duluth, Minn. VOR	3000
Duluth, Minn. VOR	Bring INT, Minn.	3000 MAA–9000
Bring INT, Minn. *3000–MOCA	Ely, Minn. VOR	*3600 MAA–9000

§95.6178 VOR FEDERAL AIRWAY 178

is amended to read in part:

FROM	TO	MEA
Farmington, Mo. VOR Via N alter.	Tamms INT, Ill. Via N alter.	3500
Tamms INT, Ill. Via N alter.	Cunnington, Ky. VOR Via N alter.	2300

§95.6194 VOR FEDERAL AIRWAY 194

is amended by adding:

FROM	TO	MEA
Hobby, Tex. VOR	Sabine Pass, Tex. VOR	1800
Sabine Pass, Tex. VOR	Lafayette, La. VOR	2800

§95.6198 VOR FEDERAL AIRWAY 198

is amended to read in part:

FROM	TO	MEA
Hobby, Tex. VOR	Sabine Pass, Tex. VOR	1800

§95.6205 VOR FEDERAL AIRWAY 205

is amended to read in part:

FROM	TO	MEA
Medow INT, Conn. *2400–MOCA	Layer INT, Mass.	*6500

§95.6216 VOR FEDERAL AIRWAY 216

is amended to read in part:

FROM	TO	MEA
Odell INT, Neb. *2900–MOCA	Pawnee, Neb. VOR	*3300

§95.6217 VOR FEDERAL AIRWAY 217

is amended to read in part:

FROM	TO	MEA
Cecil INT, Wis.	Rhinelander, Wis. VOR	3600
Duluth, Minn. VOR	Hibbing, Minn. VOR	3000
Hibbing, Minn. VOR *3100–MOCA	Baudette, Minn. VOR	*5000
Baudette, Minn. VOR	U. S. Canadian Border	2800

§95.6219 VOR FEDERAL AIRWAY 219

is amended to read in part:

FROM	TO	MEA
*Gruve INT, Iowa *5000–MRA	Fairmont, Minn. VOR	3000

§95.6259 VOR FEDERAL AIRWAY 259

is amended to read in part:

FROM	TO	MEA
Grand Strand, S.C. VOR *3000–MRA **1500–MOCA	*Kooke INT, S.C.	**2000
Kooke INT, S.C. *1500–MOCA	Florence, S.C. VOR	*2000
Florence, S.C. VOR	Chesterfield, S.C. VOR	2000

§95.6287 VOR FEDERAL AIRWAY 287

is amended to read in part:

FROM	TO	MEA
Carro INT, Wa. *4000–MOCA	*Lofal INT, Wa.	*5000
Lofal INT, Wa.	Paine, Wa. VOR	3000

§95.6316 VOR FEDERAL AIRWAY 316

is amended to read in part:

FROM	TO	MEA
Sault Ste. Marie, Mi. VOR *4000–MOCA	U.S. Canadian Border	*7000

§95.6348 VOR FEDERAL AIRWAY 348

is added to read:

FROM	TO	MEA
Sault Ste. Marie, Mi. VOR *4000–MOCA	U.S. Canadian Border	*7000

§95.6362 VOR FEDERAL AIRWAY 362

is amended to read in part:

FROM	TO	MEA
Nashville, Tenn. VOR	Bridy INT, Tenn.	2700
Bridy INT, Tenn. *2000–MOCA	Bowling Green, Ky. VOR	*2600

§95.6373 VOR FEDERAL AIRWAY 373
is amended to read in part:

FROM	TO	MEA
Gordonsville, Va. VOR *2000-MOCA	Sabbi INT, Va	*10000

§95.6405 HAWAII VOR FEDERAL AIRWAY 5
is amended to read in part:

FROM	TO	MEA
Moana INT, Hawaii Via W alter. *7500-MCA Rowin INT N-bound **1200-MOCA	*Rowin INT, Hawaii Via W alter.	**4000

§95.6407 HAWAII VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Moana INT, Hawaii *1200-MOCA	Rowin INT, Hawaii	*4000
Rowin INT, Hawaii	Lanai, Hawaii VOR	4000

§95.6426 VOR FEDERAL AIRWAY 426
is amended to read in part:

FROM	TO	MEA
Gifts INT, Ill. *2100-MOCA	Pamer INT, Ill.	*4000

§95.6430 VOR FEDERAL AIRWAY 430
is amended to read in part:

FROM	TO	MEA
Grand Rapids, Minn. VOR	Duluth, Minn. VOR	3000
Grand Rapids, Minn. VOR Via N alter.	Hibbing, Minn., VOR Via N alter.	3000
Hibbing, Minn. VOR Via N alter.	Duluth, Minn. VOR Via N alter.	3000

§95.6148 VOR FEDERAL AIRWAY 148
is amended to read in part:

FROM	TO	MEA
Hayward, Wis. VOR *3100-MOCA	Ironwood, Mich. VOR	*5000

§95.7064 JET ROUTE NO. 64 is amended to read in part:

FROM	TO	MEA	MAA
Los Angeles, Ca. VORTAC	INT 068M rad. Los Angeles VORTAC & 211M rad. Hector VORTAC	18000	45000
INT 068M rad. Los Angeles VORTAC & 211M rad. Hector VORTAC	Hector, Ca. VORTAC	18000	45000

§95.7107 JET ROUTE NO. 107 is amended to read in part:

FROM	TO	MEA	MAA
Los Angeles, Ca. VORTAC	INT 068M rad. Los Angeles VORTAC & 211M rad. Hector VORTAC	18000	45000
INT 068M rad. Los Angeles VORTAC & 211M rad. Hector VORTAC	Hector, Ca. VORTAC	18000	45000

§95.7120 JET ROUTE NO. 120 is amended by adding:

FROM	TO	MEA	MAA
Bethel, Alas. R215/150	Bethel, Alas. VORTAC	24000	45000

§95.7128 JET ROUTE NO. 128 is amended to read in part:

FROM	TO	MEA	MAA
Los Angeles, Ca. VORTAC	INT 068M rad. Los Angeles VORTAC & 046M rad. Paradise VORTAC	18000	45000
INT 068M rad. Los Angeles VORTAC & 046M rad. Paradise VORTAC	Peach Springs, Az. VORTAC	25000	45000

§95.7501 JET ROUTE NO. 501 is amended to read in part:

FROM	TO	MEA	MAA
Yakutat, Alas. VORTAC	Katat INT, Alas.	18000	45000
Katat INT, Alas.	Johnstone Point, Alas. VORTAC	18000	45000
Bethel, Alas. VORTAC	Yearr INT, Alas.	29000	45000
Yearr INT, Alas.	Bethel, Alas. R240/190	35000	45000

§95.7537 JET ROUTE NO. 537 is added to read:

FROM	TO	MEA	MAA
Rome, Or. VORTAC	Mullen Pass, Id. VORTAC	20000	45000
Mullen Pass, Id. VORTAC	U. S. Canadian Border	19000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE	FROM
V-16 is amended to delete:			
Norwich, Conn. VOR	Boston, Mass. VOR	41	Norwich

[FR Doc. 80-26227 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Part 204

[Regulation ER-1180-A; Docket 36176]

Data To Support Fitness Determinations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB revises its fitness rule to make clear that air carriers need not file information that is required by that rule if that information is already available to the CAB from other Federal sources or from its own files. This clarification was requested by the General Accounting Office (GAO) to bring the rule into compliance with the Federal Reports Act.

DATED: Adopted: August 22, 1980. Effective: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland or Susan Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5333.

SUPPLEMENTARY INFORMATION: On June 17, 1980, the CAB adopted ER-1180, 45 FR 42593, June 25, 1980, *Data to Support Fitness Determinations.* Because the rule involves data filing requirements, GAO review and clearance are required pursuant to section 409 of Public Law 93-153 before the rule can become effective. GAO notified the Board that it could not approve the rule unless certain changes were made to assure that air carriers are not required to submit information available to the Board from other Federal sources or from the Board's own files. GAO's concern is that §§ 204.4, 204.5, 204.6 and 204.7 could require duplicative information. As the rule was originally worded, duplication would be avoided only if a carrier chose to call Board officials to find out what information it need not supply.

The Board is therefore amending those sections so that the obligation to submit information that is already available to the Board will not depend on whether the carrier has called Board officials. Instead, carriers will have the option of either submitting that information again or informing the Board where and when it had been filed. If a carrier is unsure what information is already available to the Board, it may still call Board officials to find out what information need not be submitted.

For example, as originally issued, several sections of Part 204 would require carriers to submit copies of their 10K Reports even though those reports were available to the Board from the Securities and Exchange Commission (SEC). As amended, Part 204 will now give applicant air carriers the option of submitting copies of their 10K Reports directly to us or merely informing us when they submitted them to the SEC.

Because carriers are relying on the fitness rule being effective by August 25th and GAO clearance is required before that date, and because the practical effect of this amendment is minute in comparison with the disruption that would be caused by further delay, we find that notice and public procedure on this amendment are impracticable and contrary to the public interest. Since the amendment relieves restrictions and creates no additional burden, we also find that an immediate effective date is in the public interest.

Accordingly, the Board amends 14 CFR Part 204, *Data to Support Fitness Determinations,* as it was set forth in ER-1180, 45 FR 42593, June 25, 1980, as follows:

1. The opening paragraph of § 204.4 is amended to read:

§ 204.4 Certificated carriers proposing a substantial change in operations.

A certificated carrier proposing a substantial change in operations shall file the data set forth in this section. However, if the carrier has previously filed any of the required data with the Board or with another Federal agency from which they are available to the Board, the carrier may instead identify the data and provide a citation for the date and place of filing. Prior to filing any data, the carrier may call the Deputy Director of the Bureau of Domestic Aviation at (202) 673-5830 to ascertain what data required by this section are already available to the Board and need not be included in the filing.

* * * * *

2. The opening paragraph and paragraph (i) of § 204.5 are amended to read:

§ 204.5 Applicants for certificate authority not currently certificated.

An applicant for certificate authority not currently certificated shall file the data set forth in this section. However, if the applicant has previously filed any of the required data with the Board or with another Federal agency from which they are available to the Board, the applicant may instead identify the data and provide a citation for the date and place of filing. Prior to filing any data, the applicant may call the Deputy Director of the Bureau of Domestic Aviation at (202) 673-5830 to ascertain what data required by this section are already available to the Board and need not be included in the filing.

* * * * *

(i) 10K Reports filed in the past 3 years by any relevant corporation required to file such reports with the Securities and Exchange Commission.

3. In § 204.6, the opening paragraph, the first two sentences of paragraph (a), and paragraph (a)(7) are amended to read:

§ 204.6 Carriers providing or proposing to provide essential air transportation.

Applicants to provide essential air transportation, and those carriers already providing essential air transportation have been divided into three categories, and are subject to differing data submission requirements as set forth in paragraph (a), (b) and (c) below. All carriers may call the Chief, Essential Air Services Division, at (202) 673-5408 to ascertain what information is already available to the Board.

(a) Carriers already serving the affected points and markets that are not planning to exit or that have filed notices to terminate service but have been ordered by the Board to continue operations will be notified by letter that they shall submit the data set forth in this paragraph to the extent such information has not already been obtained by the Board from other sources. However, if the carrier has previously filed any of the required data with the Board or with another Federal agency from which they are available to the Board, the carrier may instead identify the data and provide a citation for the date and place of filing.

* * * * *

(7) 10K Reports filed in the past 3 years by any relevant corporation required to file such reports with the Securities and Exchange Commission.

* * * * *

4. The opening paragraph of § 204.7 and paragraph (g) of that section are amended to read:

§ 204.7 Commuter carriers serving an eligible point but not providing essential air service or applying for certificate authority.

Commuter carriers serving an eligible point but not providing essential air service or applying for certificate authority will be notified by letter that they shall file the data set forth in this section to the extent such information has not already been obtained by the Board from other sources. However, if the carrier has previously filed any of the required data with the Board or with another Federal agency from which they are available to the Board, the carrier may instead identify the data and

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provide a citation for the date and place of filing.

* * * * *

(g) 10K reports filed in the past 3 years by any relevant corporation required to file such reports with the Securities and Exchange Commission.

(Secs. 204, 401, 407, 419 of the Federal Aviation Act as amended, 72 Stat. 743, 754, 766, 92 Stat. 1732, 49 U.S.C. 1324, 1371, 1377 and 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-26408 Filed 8-27-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR 419

[Document No. 78000080]

Games of Chance in the Food Retailing and Gasoline Industries; Amendment of Trade Regulation Rule To Modify Hiatus Provision

AGENCY: Federal Trade Commission.

ACTION: Trade Regulation Rule Amendment.

SUMMARY: The Federal Trade Commission issues an amendment to the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries which will modify paragraph (f), commonly known as the "Hiatus Provision." As originally enacted, the provision required that no new game could be promoted or used without a break in time between the new game and any game previously used equivalent to the duration of the game previously used. The amendment limits the length of the hiatus to thirty (30) days or the duration of the previous game, whichever is less.

EFFECTIVE DATE: This amendment is being submitted to the Congress for review in accordance with section 21 of the Federal Trade Commission Improvements Act of 1980. Under that section, a rule becomes effective unless both Houses of Congress disapprove the rule within 90 calendar days of continuous session after the rule is submitted. Because computation of the 90-day period is impossible in advance (see section 21 (g) of the Improvements Act), the Commission cannot specify an effective date for this amendment. The Commission intends that it become effective 30 days after the conclusion of the Congressional review and the Commission shall publish a further notice of effective date in the **Federal Register** as soon as possible.

FOR FURTHER INFORMATION CONTACT: Noble F. Jones, Consumer Protection Specialist, Federal Trade Commission, Cleveland Regional Office, Suite 500—The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Telephone: (216) 522-4207.

SUPPLEMENTARY INFORMATION: Statement of Basis and Purpose.

I. Background

On August 16, 1969, the Federal Trade Commission promulgated a Trade Regulation Rule Concerning Games of Chance in the Food Retailing and Gasoline Industries.[1] On October 18, 1978, the Commission proposed an amendment to the Hiatus Provision of the original rule.[2]

Upon petition from industry members, the Commission initiated the rulemaking proceeding in order to address the limited, single issue of whether to amend the original rule by modifying or eliminating paragraph (f), commonly known as the Hiatus Provision.[3] The original rule required that no new game could be promoted or used without a break in time between the new game and the game previously used in the same establishment equal to the duration of the game previously used. The amendment, as proposed, will limit the length of the hiatus period to thirty (30) days or the duration of the previous game, whichever is less.[4] The proposed amendment stated that it is an unfair and deceptive practice for users, promoters, or manufacturers of games to:

> (f) Promote or use any new game without a break in time between the new game and any game previously employed in the same establishment equivalent to the duration of the game previously employed, or 30 days, whichever is less.

The written record was closed on November 30, 1978. The Presiding Officer dispensed with public hearings by order dated December 26, 1978.[5] The period for filing written rebuttal comments ended on February 5, 1979. The Staff Report was published in April 1979, and the Presiding Officer's Report was published in December 1979.

II. The Trade Regulation Rule Amendment Proceeding

The total record of the proceeding, including original staff submissions, motions, comments, Staff Report, and Report of the Presiding Officer, consists of 199 pages. A total of nine consumer comments and six industry comments were received. No testimony was taken in this proceeding since the Presiding Officer granted an unopposed Motion to Dispense with Public Hearings. There were no post-record comments following the publication of the Staff Report and the Report of the Presiding Officer.

A. *The Hiatus Provision.* The Hiatus Provision of the original rule prohibited the promotion or use of any new game in a retail outlet without a break in time between the new game and the previously used game, equivalent to the time the previous game was run. When the Commission included this provision in the final rule, it expressed its concern that there was great potential for consumer confusion and deception in the consecutive running of games. The potential for confusion and deception arises from differences in the prize structures, the odds of winning, and the redemption rights between old and new games.[6] The Hiatus Provision was designed to prevent consumer confusion and deception by prohibiting games with different prize structures and odds of winning from running on the heels of each other.

In 1972, the Commission interpreted the application of the Hiatus Provision so that the break in time was only required between different games.[7] In response to a request for an interpretation of the provision,[8] the Commission determined that it was permissible to immediately repeat the same game in the same geographic area, with the same prize structure and the same odds of winning, so long as the possibility of repetition was clearly and conspicuously disclosed in all the advertising required or regulated by the Rule.[9] The Commission found that under these circumstances the company would not be initiating a "new" game which might be capable of confusing participants.

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[1] 16 CFR 419 (1980). In this statement, the Trade Regulation Rule will be referred to as either the "original rule" or the "Games of Chance Rule."

[2] *Proposed Amendment of Trade Regulation Rule to Modify the Hiatus Provision* [419.1(f)], 43 FR 48654 (1978).

[3] 16 CFR 419.1(f) (1980).

[4] 43 FR 48654, 48655 (1978).

[5] *Order Granting Motion to Dispense With Public Hearings and Beginning Period for Rebuttal Comments* (Dec. 26, 1978). The *Motion to Dispense with Public Hearings* was unopposed.

[6] *Statement of Basis and Purpose of Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries*, 34 FR 13302, 133310 (1969).

[7] The interpretation was reflected in a Commission Minute dated July 27, 1972 and announced in a Federal Trade Commission news release dated August 1, 1972.

[8] Telecom Productions, Inc. requested an interpretation of the hiatus provision in June 1972.

[9] The provisions concerning advertising are set forth in 16 C.F.R. 419.1(b) (1980).

In the past, the Commission has granted certain exemptions to the application of the Hiatus Provision. In October 1976, the Commission granted a petition for a one time waiver of the Hiatus Provision filed by Fox Grocery Company. The Commission permitted a 30-day hiatus period even though the game to be run was different, and a longer waiting period would have otherwise been required. In granting the petition, the Commission found that more than a 30-day hiatus was not required to eliminate confusion and deception in the consecutive use of games by Fox Grocery Company.[10]

In the spring of 1978, the Commission granted a petition filed by FNK Enterprises for a one-time exemption from compliance with the Hiatus Provision.[11] Subsequently, a number of firms also requested similar exemptions for a temporary suspension of the Hiatus Provision.[12]

In July of 1978, the Commission determined that more than a 30-day hiatus period between games was not required to eliminate confusion and deception and therefore granted a temporary exemption to all marketers of supermarket games.[13] The Commission also authorized a rulemaking proceeding to examine whether the Hiatus Provision should be modified or eliminated. Participation from all interested parties was solicited,[14] and the Commission directed that the industry-wide exemption was to remain effective pending the conclusion of the limited rulemaking proceeding.

B. *Comments and Materials Relating to the Proposed Amendment.* 1. *Comments by Consumers.* The nine consumer comments received were generally not responsive to the issue of whether the hiatus period should be shortened or eliminated. Some argued for either the abolition or limitation of all games based upon a continuing belief that games are fixed,[15] or that games raise retail prices.[16] Others opposed any rule on either ideological,[17] or practical grounds.[18] To the extent that the Hiatus Provision was addressed, one consumer felt it was immaterial whether a game was run continuously as long as the prize money was paid.[19] Another stated that it was inconsequential when the games start.[20] One objected to any hiatus.[21] None of the consumer comments supported a hiatus requirement.

2. *Comments by Industry Members.* The industry comments responsive to the proposed amendment were equally divided between those favoring a 30-day hiatus and those favoring abolition of the Hiatus Provision. Divergent reasons were advanced by industry members for their positions. Empirical studies, solicited by the Commission, were not provided in support of either position. No comments supporting the original Hiatus Provision were received.

Those record comments advocating total elimination of the Hiatus Provision did not address the issue of consumer deception. Instead, some industry members advanced competitive considerations as a basis for eliminating the Hiatus Provision. One game producer, Wallace Games, noted that an informal consumer poll showed that 12 percent of supermarket shoppers switched from one supermarket to another in order to participate in a game. Wallace Games stated that no supermarket could endure a 12-percent loss in shoppers, and, therefore, suggested that retailers would be more likely to repeat the same game rather than suffer a 30-day hiatus between different games.[22] In support of its proposition, Wallace Games pointed out that in several markets many different games were in progress[23] and retailers often repeated the same game perhaps as many as five times Wallace Games stated that retailers repeated the same game to avoid the hiatus requirement, as interpreted by the Commission,[24] and to retain those shoppers who wished to participate in these continuity programs.

A trade association of wholesalers and retailers, the Food Marketing Institute ("FMI"), suggested that, although the 30-day hiatus would end confusion by retailers and game producers over the length of time required before a new game could begin, the provision should be dropped entirely because the original record did not contain evidence demonstrating the provision was necessary. FMI suggested that the Hiatus Provision could be retained in the Rule only if new evidence demonstrating consumer deception was found in the record.[25]

Those who favored a 30-day hiatus advanced both consumer protection and competitive reasons for their position. One game user, Winn-Dixie, supported the 30-day hiatus because it would prevent consumer confusion. This retailer also felt the 30-day hiatus would enhance competition between game producers because it would allow a retailer to change games without allowing competing retailers an "undue advantage."[26] A game producer, Dansico Associates ("Dansico"), also supported the 30-day hiatus and opposed elimination of the hiatus entirely. Dansico argued that elimination of the hiatus would result in consumer deception. Additionally, without any hiatus period, competition between game producers might be adversely affected. Dansico was concerned that the producer of a second game, if permitted to run without a hiatus, might unjustly reap goodwill benefits, such as a high volume of consumer traffic, created by the producer of the first game.[27]

III. Regulatory Analysis

Pursuant to the Federal Trade Commission Improvements Act of 1980, a regulatory analysis is not required in a proceeding to amend an existing Trade Regulation Rule when certain conditions are met.[28] The Commission has found that: (1) the amendment will not have an annual effect on the national economy of $100,000,000 or more; (2) the amendment will not cause a substantial change in the cost or price of goods or services which are used extensively by a particular industry supplied extensively in particular geographic regions, or acquired in significant quantities by the Federal Government or by state or local governments; and (3) the amendment will not have a significant impact upon either persons subject to regulation under the amendment or upon consumers. Accordingly, the Commission has determined that a regulatory analysis is not required for this amendment proceeding.

IV. Effect of the Amendment on State and Local Laws

It is the opinion of the Commission that, since this is an amendment that does not change the scope of a previously promulgated rule, and since the amendment is directed solely to compliance matters, there will be little or no impact on existing state and local laws.

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[10] 41 FR 48516 (1976).

[11] 43 FR 25336 (1978).

[12] Such requests were received from Glendinning Companies of Connecticut; Telecom Products, Inc.; Vipro, Inc.; Compulex Programs, Inc.; and Wallace Games, Inc.

[13] 43 FR 28998 (1978).

[14] 43 FR 48654 (1978).

[15] Edna L. Brown, Record (hereinafter, "R."), C3.

[16] Harry and A. Ruth A. Nelson, R. C7; Rebecca Castro, R. C4.

[17] Wynefredo Gare, R. C9; Carolyn Ziegler, R. C12.

[18] Helen Whitaker, R. C6; Carolyn Ziegler, R. C12; D. A. Jack Mills, R. C14; Terry Manley, R. C15.

[19] Helen Whitaker, R. C6.

[20] Carolyn Ziegler, R. C12.

[21] Terry Manley, R. C15.

[22] Lance D. Britt, Executive Vice President, Wallace Games, Inc., R. E8–E13.

[23] *Id.* at R. E9–E10.

[24] *Id.* at R. E10–E13.

[25] Harry Sullivan, General Counsel, Food Marketing Institute, R. E15–E19.

[26] Jim Roe, Director of Advertising, Winn-Dixie Texas, Inc., R. E2.

[27] George R. Kucik, Esq., Counsel for Dansico Associates, R. E14.

[28] Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252, § 15, 94 Stat. 388 (1980).

V. Summary and Conclusion

The record demonstrates general unanimity in favor of modifying the origninal Hiatus Provision. The original provision imposed certain competitive costs upon those retailers who use promotional games by often requiring long delays between different games. The possibility of a long hiatus period, coupled with the Commission's previous interpretation of the provision which allowed retailers to consecutively run the same game without a break in between, has tended to create a situation where a retailer is reluctant to switch from the first game. Yet, even in the light of the competitive problems raised by the current provision, several industry members felt it was important to have a break between games. Comments from an individual retailer, an association of food retailers, and a game promoter all stated that some hiatus period is necessary to eliminate consumer confusion and prevent deception. Each of these comments concluded that the proposed 30-day hiatus period would provide adequate consumer protection.

On the basis of the proceeding record, the Commission is of the opinion that deception and confusion may result from the consecutive use of games by a retail establishment, with no interval between the games. However, the Commission is also mindful of the need for competitive balance in the marketplace and it is for this reason that a standard (30-day) period of time for the break between consecutive games will address the concerns of both consumers and competitors.

On the basis of the record of the Trade Regulation Rule Amendment proceeding, the Commission has concluded that issuance of this amendment is in the public interest.

Accordingly, the Commission amends Subchapter D, Trade Regulation Rules of 16 CFR, Chapter I, by substituting new § 419.1(f) to read as follows:

§ 419.1 [Amended]

* * * * *

(f) Promote or use any new game without a break in time between the new game and any game previously employed in the same retail establishment equivalent to the duration of the game previously employed, or 30 days, whichever is less.

By direction of the Commission dated August 18, 1980.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26471 Filed 8-27-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR 419

Games of Chance in the Food Retailing and Gasoline Industries, Amendment of Trade Regulation Rule To Modify Posting and Reporting Provision

AGENCY: Federal Trade Commission.

ACTION: Trade Regulation Rule Amendment.

SUMMARY: The Federal Trade Commission issues an amendment to the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries which modifies paragraph (e), commonly known as the "Posting and Reporting Provision." As originally promulgated, the provision required each participating retail outlet to post, at the conclusion of each game, a complete list of the names and addresses of all consumers redeeming winning game pieces and the amount of each prize won. The winners list also displayed the total number of game pieces distributed, the total number of prizes in each category which were available, and the total number of prizes in each category which were awarded. Further, a copy of the winners list was required to be sent to the Federal Trade Commission.

The amendment modifies the Posting and Reporting Provision so that each participating retail outlet is required to post only those names and addresses of consumers who redeemed winning game pieces in that store. The posted information regarding the number of game pieces distributed and the number of prizes available and awarded remains unchanged. The requirement to forward a copy of a complete winners list to the Federal Trade Commission has been eliminated, but game promoters are required to retain this information for three years and make it available to the Commission upon reasonable request.

EFFECTIVE DATE: This amendment is being submitted to the Congress for review in accordance with section 21 of the Federal Trade Commission Improvements Act of 1980. Under that section, a rule becomes effective unless both Houses of Congress disapprove the rule within 90 calendar days of continuous session after the rule is submitted. Because computation of the 90-day period is impossible in advance (see section 21 (g) of the Improvements Act), the Commission cannot specify an effective date for this amendment. The Commission intends that it become effective 30 days after the conclusion of the Congressional review and the Commission shall publish a further notice of effective date in the **Federal Register** as soon as possible.

FOR FURTHER INFORMATION CONTACT: Noble F. Jones, Consumer Protection Specialist, Federal Trade Commission, Cleveland Regional Office, Suite 500—The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Telephone: (216) 522-4207.

SUPPLEMENTARY INFORMATION: Statement of Basis and Purpose.

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I. Background

On August 16, 1969, the Federal Trade Commission promulgated a Trade Regulation Rule Concerning Games of Chance in the Food Retailing and Gasoline Industries.[1] On November 29, 1978, Silpro, Inc. and Wallace Games, Inc. filed a joint Petition for Modification of Paragraph (e) of the Games of Chance Rule. On March 28, 1979, Telecom Productions, Inc. filed a Petition for an Interpretive Guide or Statement of Policy. Based on these petitions, on September 5, 1979, the Commission proposed an amendment to the Posting and Reporting Provision.[2]

The Commission initiated an expedited rulemaking proceeding[3] to determine whether or not to amend the Posting and Reporting Provision of the rule. The original rule [at 16 CFR 419.1(e)] required that at the conclusion of each game, the following information must be posted in each participating retail outlet:

(1) A complete list of the names and addresses of the winners of each prize and the amount or value of the prize won;

(2) The total number of game pieces distributed;

(3) The total number of prizes in each category or denomination which were made available; and

(4) The total number of prizes in each category or denomination which were awarded.

Additionally, paragraph (e) of the original rule required that a copy of the above-listed information be submitted to the Commission at the conclusion of each game.

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[1] 16 CFR 419 (1969) (hereinafter, either "original rule" or "Games of Chance Rule").

[2] Proposed Amendment of Trade Regulation Rule, 44 FR 51,826 (1976) (hereinafter, "proposed amendment").

[3] Pursuant to the Commission's Rules of Practice, 16 CFR 1.20 (1979).

The proposed amendment in its entirety stated that it is an unfair and deceptive act or practice for users, promoters, or manufacturers of games to:

(e) Fail to post clearly and conspicuously at the conclusion of each game in each individual retail outlet which used the game:

(1) The names and addresses of all persons who redeemed a prize in the individual participating retail outlet, and the amount or value of each prize;

(2) The total number of game pieces distributed in all participating retail outlets;

(3) The total number of prizes in each category or denomination which were made available in all participating retail outlets; and

(4) The total number of prizes in each category or denomination which were awarded in all participating retail outlets.

The information required by subparagraphs (2), (3) and (4) of this paragraph (e), as well as a complete list of the names and addresses of winners of a game, is required to be retained in the records of the game promoter for a period of not less than three (3) years. Upon reasonable request, such information shall be made immediately available to the Commission and its staff for inspection.[4]

The amendment, as proposed, will drastically reduce the size of the winners list which each participating retail establishment will be required to post. The amendment also eliminates the necessity for automatically sending this information to the Commission at the conclusion of every game. Rather, game promoters are required to retain this material for three years, to be made available to the Commission upon reasonable request.

The written record was closed on October 15, 1979. The Presiding Officer dispensed with public hearings by Order dated November 19, 1979.[5] On November 28, 1979, a Motion for Expedited Procedure was filed on behalf of Telecom Productions, Inc. The Presiding Officer granted the Motion in substantial part and directed the staff to complete and file its staff report and recommendations by January 9, 1980. The Staff Report was published in January 1980, and the Report of the Presiding Officer was published in March 1980.

II. The Trade Regulation Rule Amendment Proceeding

A. *The Rulemaking Record.* Three consumers filed comments: one supporting the proposed amendment, one opposing the amendment, and one addressing a wholly unrelated issue. Six industry members filed comments. One industry member's comment opposed the proposed modification of the rule, while the other five supported all or part of the proposed amendment. No testimony was taken in this proceeding, since the Presiding Officer granted the unopposed Motion to Dispense with Public Hearings. Following the publication of the Staff Report and the Report of the Presiding Officer, post record comments were filed on behalf of Wallace Games, Inc., Silpro, Inc., the Food Marketing Institute, Dansico, Inc., and Telecom Productions, Inc.

B. *The Posting and Reporting Provision.* The posting and reporting provision was not included in the initial proposal for the original Games of Chance Rule. The provision was included, however, in the original rule issued by the Commission. The provision was included on the basis of testimony from industry members who believed that it would be appropriate for the Commission to require game producers to maintain adequate records of each promotion. The testimony also suggested that certain reporting requirements were necessary, and that the only way to eliminate rigged games was to impose a posting requirement in each participating retail outlet. The original rule, based upon this suggestion, required that the posted information consist of a complete list of the winner of each prize, as well as the total number of prizes available and awarded in each category.[6]

During the original rulemaking proceeding, three (3) comments addressed the issue of record-keeping.[7] Mr. Ralph Glendinning, President, Glendinning Companies, Inc., testified that he believed the Commission should require that the producers of games maintain adequate records which demonstrate that the mixing and distribution of the game pieces are conducted in accordance with the then-proposed rule.[8] In a joint comment by seven game producers, the suggestion was made that the Commission should require game producers to maintain adequate records that would enable them to report to the Commission, *upon request,* the total number of game pieces distributed, the total number of prizes awarded, and the total value of these prizes, for each game.[9] The third comment was from Mr. Henry Reichman, President, Sales Builders, Inc. Mr. Reichman was of the opinion that the only "foolproof" method to prevent rigging of games was to require retail outlets to publicize, at the conclusion of a promotion, an all-inclusive listing of game pieces distributed, plus a breakdown of winners specifying the various prize categories.[10]

Certain aspects from each of these three comments were incorporated in the posting and reporting provision included in the original rule. None of the commentors, however, suggested the precise type of requirements adopted in the Games of Chance Rule. At the time the original rule was promulgated, the Commission was of the opinion that measures additional to those suggested by the industry were needed to protect consumers. The Commission clarified these needs in 1969 when, in denying a request for a change in paragraph (e), it stated:

> . . . the purpose of this provision of the Rule is to enable the game participants to see for themselves that the prizes were awarded and to whom.[11]

C. *The Rationale for Changing the Provision.* The Commission requested, in the published notice of this rulemaking proceeding, that persons commenting on the proposed amendment address the following issues:

1. *With what frequency do consumers currently examine the winners lists?* The majority of the comments indicated that the winners lists are rarely, if ever, examined. A questionnaire sent by Wallace Games to 192 retail stores which frequently employ games of chance showed that in 81 percent of the stores that responded, consumers "seldom or never consult the lists."[12] The apparent lack of interest in the winners lists is also reflected in the comments from the National Association of Retail Grocers of the United States, the Food Marketing Institute, Danisco Associates, TeleCom Productions, Inc., Silpro, Inc., and A & P, Inc. A number of the above firms attached letters from store managers

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[4] 44 FR 51,828–29 (1979).

[5] *Order Granting Motion to Dispense with Public Hearings* (Nov. 19, 1979). The *Motion to Dispense with Public Hearings,* dated November 16, 1979, was unopposed.

[6] 34 FR 13,309 (1969).

[7] The record from the original proceedings consisted of 880 pages of testimony and 2,200 pages of exhibits.

[8] Games of Chance Rulemaking Proceeding, Tr. 330, 336–337.

[9] Games Rule Record, Vol. III, at 540.

[10] Games Rule Record, Vol. I, at 105.

[11] Federal Trade Commission Release, 4 Trade Reg. Rep. (CCH) para. 38,025.20 (1969).

[12] Statement of Wallace Games, Inc., Record (hereinafter, "R.") at 4.

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who also expressed their opinions that the lists were not being examined by consumers.[13] While the data presented by Wallace Games appears to be an internal survey conducted on an informal basis, that information, when combined with the other comments, presents a persuasive argument that there is, in fact, little consumer interest in the winners lists as they are currently compiled.

Both the Presiding Officer and one industry member recommended that the rule be changed to eliminate the requirement for posting the names and addresses of any winning consumers. The industry comment expressed the belief that since the average consumer is not interested in winners lists, the list serves no useful purpose. Further, the comment suggested that posting the names and addresses of winning consumers may lead to the undesirable result of subjecting individuals to crank telephone calls or general invasion of privacy.[14] However, no evidence has been brought to the attention of the Commission indicating that this has been, or would be a problem.

2. *How meaningful is the information currently available?* Comments addressing this question generally referred in their answers to the first question and concluded that, because the lists were not being examined, they were not meaningful. Perhaps more responsive to the question was the comment of Telecom Productions, which raised the issue of "information overload." It was their opinion that the sheer size and bulk of the lists was a central problem.[15] The winners lists often rival the size of large metropolitan telephone books. Dan Silverman, President of Silpro, Inc., believed that no consumer is interested enough to search through a list containing between 30,000 to 100,000 names to identify the local winners.[16]

The wide geographical areas in which the games are often run was also proposed as a reason for the lack of meaningfulness in the information currently required. A large number of games are played in multi-county, and even multi-state, areas. The completed winners list, therefore, often contains the names and addresses of consumers from several states. Given the wide geographic use of certain games, it is doubtful whether the names and addresses of winners in Alabama are meaningful to consumers in Kentucky.[17]

3. *What impact would the proposed amendment have on consumer access to the information contained in the winners lists?* The majority of commentors believed that the proposed amendment would facilitate consumer access to the information by limiting the posted names and addresses to local winners. The proposed amendment would eliminate extraneous information which is not likely to be of interest to local shoppers, and would also reduce the time lag between the end of the game and the posting of the winners list.

The Games of Chance Rule required that the lists posted in each retail outlet contain a complete compilation of all winners. Thus, the larger the promotion (*i.e.,* the more participating retail outlets), the longer the time necessary to compile and print the lists.[18] This time delay affects how meaningful the information is once it is posted. One comment characterized the lists as "news," and stated that consumers are more interested in news which is timely and relevant to the consumer's neighborhood.[19] Lists limited to local winners which could be prepared more quickly would, therefore, be more "newsworthy" and more meaningful to consumers.

4. *What are the costs involved in complying with paragraph (e) as it is currently in operation? How would these costs be affected by the proposed amendment?* All of the industry comments expressed the opinion that the current cost of compliance is expensive in both time and money, and that these expenses would be greatly reduced by the proposed amendment.

Wallace Games estimated that the average cost just for printing the master lists is approximately $1,400, and that this entire cost would be saved by the proposed amendment.[20] Telecom Productions stated that it is difficult to accurately estimate costs because of the different ways promotions are handled. However, they estimated their cost for printing the winners lists for the most recent three-year period to be approximately $90,000.[21] Neither of those figures includes clerical or shipping costs. The entire cost of reproducing the master list for each participating retail outlet would be eliminated by the proposed amendment.

D. *Consumer Comments.* The three consumer comments generally did not address the specific questions published in the Notice of Rulemaking. One consumer comment supporting the proposed amendment stated that the abbreviated information in a list localized to each retail outlet would be more meaningful than that which was required by the Games of Chance Rule.[22] The consumer opposing the proposed amendment suggested that the Commission should order an expanded distribution of the current winners lists to require that merchants send the lists to all contestants.[23] The third consumer commented upon an unrelated matter concerning sweepstakes conducted by mail.[24]

III. Regulatory Analysis

Pursuant to the Federal Trade Commission Improvements Act of 1980, a regulatory analysis is not required in a proceeding to amend an existing Trade Regulation Rule when certain conditions are met.[25] The Commission has found that: (1) the amendment will not have an annual effect on the national economy of $100,000,000 or more; (2) the amendment will not cause a substantial change in the cost or price of goods or services which are used extensively by a particular industry, supplied extensively in particular geographic regions, or acquired in significant quantities by the Federal Government or by state or local governments; and (3) the amendment will not have a significant impact upon either persons subject to regulation under the amendment or upon consumers. Accordingly, the Commission has determined that a regulatory analysis is not required for this amendment proceeding.

IV. Effect of the Amendment of State and Local Laws

It is the opinion of the Commission that, since this is an amendment that does not change the scope of a previously promulgated rule, and since the amendment is directed solely to compliance matters, there will be little or no impact on existing state and local laws.

V. Summary and Conclusion

The comments generally applauded the proposal to streamline the posting and reporting provision of the Rule. The comments expressed the opinion that the amended posting requirement will provide information more precisely tailored to the interest of consumers, and will result in more manageable lists that can be quickly examined by interested parties. Industry members also viewed the amendment as a cost-cutting, deregulatory action sensitive to reducing inflation.

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[13] Statement of Wallace Games, Inc., R. at 4; Telecom Productions, Inc., R. DD–6 at 8; Statement of Silpro, Inc., R. EE–2 at 3.

[14] W. C. McConnor, President of the Union 76 Division, Union Oil Company of California, R. DD–1.

[15] Telecom Productions, Inc., R. DD–6 at 8.

[16] Statement of Silpro, Inc., R. EE–2 at 3.

[17] Telecom Productions, Inc., R. DD–6 at 8.

[18] Statement of Wallace Games, Inc., R. EE–1 at 6.

[19] Telecom Productions, Inc., R. DD–6 at 9.

[20] Statement of Wallace Games, Inc., R. EE–1 at 7.

[21] Telecom Productions, Inc., R. DD–6 at 11.

[22] Patricia Pilate, R. CC–3.

[23] M. Miller, R. CC–1.

[24] Albert Goldman, R. CC–2.

[25] Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252, section 15, 94 Stat. 388 (1980).

The majority of the comments focused upon the portion of the proposal limiting the winners lists which must be posted to only the names and addresses of people who won prizes at each individual retail outlet. Several comments described the present winners lists as comparable in size to metropolitan telephone books. The size of these lists was viewed as deterring consumers from examining this information.

While the record suggests that current lists are not being examined frequently, the Commission and many of the commenters believe that abbreviated localized winners lists will be more meaningful to consumers. These concise, limited lists are more likely to be examined by consumers and thus advance the Commission's objective in requiring posting—the prevention of deception and unfairness in the awarding of game prizes.

The local winners lists will enable consumers to check for themselves that prizes are actually awarded and to whom. Further, local lists will provide protection against rigged games. In addition, if consumers examine the lists, they will be able to assist in the enforcement of the Rule by calling to the Commission's attention any apparent irregularities in the number of frequency of local winners.

The Commission is also sensitive to the possible economic costs of compliance on the industry. Under the present amendment, the costs of the reporting and posting provision is lessened. Indeed, by requiring only the posting of local winners lists, the burden of producing and distributing master lists of winners will be eliminated. The amendment will only require that game users maintain the names and addresses of all the game winners in their records.

In conclusion, it is the opinion of the Commission that deception and unfairness in the awarding of prizes may result if the only information provided to consumers is the total number of prizes which were available and the total number which were awarded. The posting of local winners lists will provide sufficient information to protect consumers.

Commissioner Bailey dissents from the majority's view. She does not believe that the posting of winners' lists should be mandatory. She agrees with the position of the presiding officer in this regard.

On the basis of the record of the Trade Regulation Rule Amendment proceeding, the Commission has concluded that issuance of this amendment is in the public interest.

Accordingly, the Commission amends Subchapter D, Trade Regulation Rule of 16 CFR I, by substituting new Part 419.1(e) to read as follows:

§ 419.1 [Amended]

* * * * *

(e) Fail to post clearly and conspicuously at the conclusion of each game in each individual retail outlet which used the game:

(1) The names and addresses of all persons who redeemed a prize in the individual participating retail outlet, and the amount of value of each prize;

(2) The total number of game pieces distributed in all participating retail outlets;

(3) The total number of prizes in each category or denomination which were made available in all participating retail outlets; and

(4) The total number of prizes in each category or denomination which were awarded in all participating retail outlets.

The information required by subparagraphs (2), (3) and (4) of this paragraph (e), as well as a complete list of the names and addresses of winners of a game, is required to be retained in the records of the game promoter for a period of not less than three (3) years. Upon reasonable request, such information shall be made immediately available to the Commission and its staff for inspection.

By direction of the Commission dated August 18, 1980.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26464 Filed 8-27-80; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Safety Standard for Architectural Glazing Materials; Partial Revocation of Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Partial revocation of standard.

SUMMARY: The Commission is revoking the safety standard for architectural glazing materials that are used or intended for use in "glazed panels," which are items of glazing material located next to doors or between two walking surfaces. The standard continues to apply to glazing materials used or intended for use in doors, storm doors, sliding glass doors (patio type), bathtub doors and enclosures, and shower doors and enclosures. The Commission has found that inclusion of glazed panel requirements in the standard, and their enforcement by the Commission, are not "reasonably necessary" to eliminate or reduce an unreasonable risk of injury to consumers. This is true because local building officials will be enforcing the same glazed panel requirements that the Commission is revoking.

EFFECTIVE DATE: The partial revocation becomes effective on August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 6, 1977 the Commission issued a safety standard to reduce or eliminate unreasonable risks associated with architectural glazing materials and with certain products that incorporate such materials (42 FR 1428; 16 CFR 1201). The standard prescribes tests to ensure that architectural glazing materials either do not break when impacted with a specified force, or break with such characteristics that they are less likely than other glazing materials to present an unreasonable risk of injury.

Except for wired glass, the glazed panel provisions of the standard became effective on July 6, 1977. A legal challenge to the standard focused on its application to wired glass, and the provisions affecting the use of wired glass in glazed panels were stayed pending resolution of the challenge. On January 31, 1979 the U.S. Court of Appeals remanded to the Commission the provision affecting the use of wired glass in "nonadjacent glazed panels" (located between two walking surfaces and away from doors). The court upheld the provision affecting the use of wired glass in "adjacent glazed panels" (located next to doors). Neither the remainder of the court's decision nor its appeal to the Supreme Court affected glazed panels further.

On May 31, 1979 the Commission proposed to revoke the glazed panel provisions of the architectural glazing standard (44 FR 31218). After considering the public comments on the proposed revocation, the Commission has decided to issue it in final form. The discussion below describes the glazed

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panel provisions, the proposed revocation, the public comments received, and the Commission's final action on revocation.

II. Background

A. Glazed Panel Provisions

The architectural glazing standard applies to glazing materials used or intended for use in six products: storm doors, doors, bathtub doors and enclosures, shower doors and enclosures, sliding glass doors (patio-type), and glazed panels.

The standard (in § 1201.2(a)(10)) generally defines the term "glazed panel" to mean:

1. Any piece of glazing material in a residential building that has a vertical edge within 12 inches of a door and a bottom edge below the top of the door.

2. Any piece of glazing material in a nonresidential building that has a vertical edge within 48 inches of a door and a bottom edge below the top of the door (but not panels with an intervening interior permanent wall between the door and the panel).

3. Any piece of glazing material in a nonresidential building that has walking surfaces on both sides of the glazing material, a bottom edge less than 18 inches above any walking surface, and an area greater than 9 square feet. Both walking surfaces must be within 36 inches of the panel, and the planes of each walking surface must be within 12 inches of each other. (Panels with a horizontal framing member or permanent chair rail of specified dimensions are not covered.)

B. Effectiveness of Enforcement

Based on injury and other available information, the Commission found when it issued the architectural glazing standard that the glazed panel requirements were "reasonably necessary" to address the unreasonable risks that consumers would walk or run into glazed panels after mistaking them for open space or would otherwise fall against or through glazed panels. However, after the glazed panel provisions went into effect, the Commission became aware of several practical problems that arose from them. The preamble to the proposed partial revocation contained a discussion of the enforcement circumstances (44 FR 31218–21, May 31, 1979). Because it explains the basis of the proposal and provides a framework for the public comments, that discussion is summarized here:

When the Commission issued its architectural glazing standard, approximately 4,500 cities and counties were enforcing building codes containing provisions to address risks of injury that could result from breakage of glazing materials by accidental human impact. The products and locations covered by most of these building codes were generally the same products and locations covered by the Commission's standard. However, the products and locations covered by the codes were not identical to those of the Commission's standard, particularly the "glazed panel" provisions. Similarly, the test procedures and criteria contained in the building codes were not identical to those in the CPSC standard.

To the extent that the provisions of any city, county, or state building code apply to any products covered by the CPSC architectural glazing standard, address the same risks of injury, and are not identical to the CPSC provisions, they are preempted by section 26(a) of the Consumer Product Safety Act. Therefore, the Commission and its staff met with representatives of the three major associations of buildings officials—Building Officials and Code Administrators International (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International (SBCCI)—to explore the possibility that state and local building codes might be amended to make their performance requirements identical to those of the Commission's standard and applicable to the same items of glazing materials.

Representatives of the three associations raised the problem that the CPSC glazed panel definition does not allow a building official to exercise judgment about whether a particular item of glazing material in a given location must comply with the standard on the basis that it may actually be subject to accidental human impact. The Commission agrees that some flexibility would be helpful because there are instances when items of glazing material fall within the definition of glazed panel and yet do not seem to present any unreasonable risk of injury that the standard was intended to address.

Because of the preemption of state and local safety glazing requirements by the Commission's standard, protection of consumers from the risk of injury associated with glazing materials currently depends on the effectiveness of Commission enforcement. Since the standard became effective, Commission investigators have inspected the factories of several hundred manufacturers of doors, sliding glass doors, storm doors, and bathtub and shower doors and enclosures, and have found a high rate of compliance with the standard. However, the standard is also applicable to glazed panels which, aside from the glazing material itself, are generally not constructed or fabricated at a factory. Instead, an item of glazing material becomes a glazed panel within the standard when it is placed in an opening of a building next to a door or between two walking surfaces, if all the applicable provisions of the glazed panel definition are met.

The number of glazing contractors engaged in activities that could result in the manufacture of glazed panels is estimated to be greater than 6,000 firms. Since the effective date of the standard, the provisions on glazed panels have generated a significantly large number of inquiries and complaints about possible violations of the standard from many of these firms, all of which are potential manufacturers for purposes of the standard. The total number of investigators assigned to all of the Commission's area offices is less than 130 and is not expected to increase very much in the foreseeable future. Because of both the large number of firms engaged in the installation of glazing materials that may or may not be glazed panels, depending upon their location in any given building, and the large quantities of glazing materials installed by these firms each day, the Commission's enforcement capabilities are strained. Its ability to ensure a high level of compliance with the standard's glazed panel requirements, given the limited size of its enforcement staff, would be significantly strengthened through the active cooperation and assistance of state, county, and city agencies responsible for enforcing state and local building codes.

C. Possible Alternative Solutions.

The Commission sought public comment on a proposed revocation of the glazed panel provisions, and on the alternative of narrowing the scope of the CPSC standard by revising the definition of glazed panels (44 FR 31222–23).

In support of its proposed partial revocation, the Commission discussed the intentions of the three model building code organizations. Briefly, all three organizations expressed willingness to take steps toward adoption of new glazed panel safety requirements, but only if the Commission revokes its provisions. Such revocation would remove state and local glazed panel provisions from the effect of federal preemption under section 26(a) of the CPSA. The glazed panel requirements that the organizations would move to adopt are the ones that the Commission currently enforces. (In addition, the organizations agreed to include all of the Commission's architectural glazing requirements, not merely the ones addressed to glazed panels.)

The Commission's partial revocation proposal was not based on any reconsideration or rejection of its January 1977 finding that certain items of glazing material located next to doors and between two walking surfaces present an unreasonable risk of injury. Rather, the proposal was based on the belief that the public would be better protected if state and local authorities enforced glazed panel requirements, instead of the Commission's limited number of federal inspectors. The preamble also discussed the views of the National Glass Dealers Association (NGDA) in opposition to the proposed partial revocation (44 FR 31222).

As an alternative to revocation of its existing glazed panel provisions, the Commission sought public comment on two different possible revisions of them. One was suggested by the CPSC staff and the other by NGDA (in a petition filed with the Commission). Both would revise the definition of glazed panel so that coverage of the standard would be more limited than it currently is. Both would attempt to address the problem posed by violative glazed panels that do not present any serious danger to consumers.

To facilitate public comment on the various alternatives, the Commission highlighted four issues that are particularly pertinent to any regulatory action on the glazed panel provisions:

1. To what extent are architectural products subject to the standard, other than glazed panels, assembled or fabricated at fixed factories and plants or at the site of installation in a building?

2. What is the relative effectiveness of enforcement of safety requirements for glazing materials, particularly glazed panels, by the Commission; by state and local agencies through enforcement of building codes; and by industry through self enforcement and educational activities as a supplement to Federal enforcement?

3. Would revocation of the Commission standard as it applies to glazed panels result in adoption by model building code organizations, and hence state and local buildings authorities, of uniform safety requirements for glazed panels? Would these requirements consist of test methods and performance requirements similar to those presently contained in the Commission standard?

4. Is either of the suggested revisions of the glazed panel definition . . . more desirable than revocation of the standard's coverage of glazed panels? If so, which suggested version is preferable, and why?

III. Public Comments

The Commission received 93 written comments on its May 31 proposal, and six witnesses made oral presentations at a July 16, 1979 hearing. In general, two groups were represented in the written and oral comments—the glazing industry and building code enforcement officials. Practically without exception, the industry supports amendment of the glazed panel provisions and the code officials support revocation.

The issues raised by the proposal and by the commenters, along with the Commission's responses, are:

A. Installation of Glazed Panels

In proposing to revoke the glazed panel provisions of the architectural glazing standard, the Commission expressed its preliminary belief that the same provisions can be enforced better by local inspectors than by CPSC inspectors. Whether this would be the case depends on a number of factors related to the installation of glazed panels. The first is the extent to which they are assembled or fabricated (i.e., manufactured) at or near the site of installation in a building, and how this compares with the installation of other glazing products covered by the standard.

The Consumer Safety Glazing Committee (CSGC), a glass and glazing industry group whose members represent all facets of the industry, commented on this issue. CSGC asserted that glazed panels are not unique in being glazed on site because a large percentage of the other five products covered by the standard are also glazed on site or in a shop near the site of installation. According to data submitted by CSGC to support its assertion, 95 percent of storm doors, 45 percent of patio doors, 29 percent of shower enclosures and 27 percent of tub enclosures are glazed on site or in dealers' shops near the site. In addition, CSGC stated that 44 percent of all glazing installations are for replacement and, therefore, outside the enforcement capabilities of CPSC personnel altogether, because they are glazed by necessity on or near the site of installation.

The statistical data presented by CSGC are the results of a survey conducted among its membership. The CSGC sent questionnaires to the 1100 members of the National Glass Dealer's Association (NGDA) and the 350 members of the Flat Glass Marketing Association (FGMA). Although there is no clear distinction between the kinds of firms represented in each association, NGDA members tend to be dealers and installers, while FGMA members tend to be distributors and contractors. These two associations represent a small minority of the 6,000–10,000 glazing shops nationwide. However, they probably are a significant part of the industry in terms of volume of glazing installations because a large portion of total glazing shops are hardware stores and home repair stores which carry relatively small inventories for the do-it-yourself market.

The CPSC staff reviewed the CSGC survey data and followed up with interviews of several participants to clarify the data. Based on these activities, the Commission believes that the survey results are questionable. The estimates are based on responses from only 340 member firms whose representativeness is unknown in terms of the various kinds and sizes of firms in the two associations. The phrasing of the questionnaire also raises doubts. The participants were requested to estimate the percentage of new "jobs" where the glazing material is installed in the shop or at the jobsite, as opposed to being received pre-glazed or factory-glazed. Aggregating the number of "jobs" is misleading because these firms represent both glass dealers and glazing contractors, and the size of their "jobs" may differ dramatically. One "job" for a dealer may be the installation of glazing in a storefront, while a contractor's "job" may be the installation of all doors in a shopping center complex. The survey treated each response with equal weight, and did not consider the volume of the firm's business.

The questionnaire sought information based on estimated percentages of "number of jobs (not dollars)." (Only the first question of the two in the questionnaire made this explicit, but the second question was apparently to be answered the same way.) However, two firms contacted by the CPSC staff nevertheless had estimated the dollar value of glazing performed, and four firms had based their estimates on physical volume of glazing installed. Only two firms contacted in the random follow-up stated that their responses estimated the number of units installed.

The results of the CSGC survey are not statistically valid, and it would be extremely difficult to obtain data that are. CPSC staff interviews with glass dealers have revealed that the industry quickly becomes "fragmented" beyond the major manufacturers and processors of glazing materials and products incorporating glazing. Glass dealers,

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even at the local level, may also be distributors or contractors or fabricators of finished products covered by the standard. Many dealers order standard-size glass in bulk from glass manufacturers, processors or large regional distributors, and they order the metal components from manufacturers of these products. The dealers then fabricate the doors or enclosures in their shops.

Even if the survey results accurately describe the industry, the Commission nevertheless believes that glazed panels are installed at or near the job sites more than other glazing products. Of the products covered by the standard, glazed panels are least able to be pre-cut and assembled into standard sizes. Therefore, the on-site enforcement efforts of local inspectors would be most important for assuring that glazed panels are made of safety glazing material.

Another important issue is that many glazing products, such as shower enclosures and patio doors, are bought in a "knocked-down" condition, from one or more manufacturers, and then assembled on site or near the job-site. According to CSGC, this lessens the distinction between glazed panels and all other glazing products. However, the Commission believes that the combined enforcement efforts of local and CPSC inspectors will best address the "knocked-down" products. For all safety glazing products that are prepared in a factory, the CPSC will be assuring that they comply with the CPSC test procedures. Then, the local inspectors will be able to look for the certifying label and assure that glazing materials are actually used in the required locations. This will be true whether the locations are showers, tubs, patio doors, or glazed panel locations. According to the comments from the model code organizations (see section B below), the local inspectors will be enforcing all of the Commission's standard and not only the glazed panel provisions (they will be enforcing the glazed panel provisions on their own and the other provisions in conjunction with CPSC inspectors). Therefore, the distinction between glazed panels and other glazing products is less significant than it was when the Commission proposed the partial revocation in May 1979. Now, consumers will be receiving better protection from risks associated with *all* architectural glazing products. Local enforcement is most important for glazed panels because virtually all of them are installed on site. This remains the primary basis for partial revocation. However, doors and other architectural glazing products will also be subjected to both local and federal enforcement efforts, once the revocation becomes final.

Commenting on replacement panels, CSGC has made the point that local inspectors would not be enforcing because building permits are not needed for replacement panels. The Commission agrees that local enforcement would be less effective for replacements than for panels installed at the time of original construction. However, CPSC enforcement efforts would be similarly less effective for replacement panels, if the partial revocation were not finalized. The significant difference is that local inspectors would be better able to respond to trade complaints than the CPSC. For example, if two or three local glass dealers bid on a replacement "job", the selected bid might have been low because non-safety glass was projected to be used. If an unsuccessful dealer discovered this (perhaps in a follow-up contract with the general contractor), if would be quicker and easier for a local official to take the necessary enforcement action. In fact, experience in the enforcement of the standard thus far indicates that most violations result from the intentional use of noncomplying annealed glass byproduct fabricators, rather than from the unknowing use of materials which were manufactured to comply with the standard but which do not comply.

B. Effectiveness of Enforcement by State and Local Building Authorities

If the Commission revokes its glazed panel provisions, consumers will be protected from risks associated with glazed panels only if state and local authorities take over from the Commission the responsibility for enforcing these same requirements. Therefore, the Commission specifically sought public comment on the relative effectiveness of enforcement efforts by the Commission, by state and local agencies, and by the industry. For the industry, the CSGC provided the most detailed comments on how revocation would affect enforcement. Three major model code organizations also commented in detail on the likely enforcement consequences of revocation.

CSGC believes that the Commission should amend, but not revoke, its glazed panel provisions, and has summarized its reasons as follows:

"The Commission enforcement of the standard has been extremely limited; but compliance with the standard has nevertheless been widespread because of the threat of enforcement of this federal law, because of concern for product liability exposure, because of the inclination of the glass and glazing industry to provide safe products for consumers, and because of the extensive educational efforts of the glass industry to inform others about the existence of the standard and its requirements. The Commission's principal problems regarding 'glazed panels' have been with interpreting the excessive scope of those requirements, not enforcement of the standard. The relative effectiveness of enforcement of building codes for state and local agencies varies and is speculative. For replacement glass and glazing installations, comprising nearly half of those covered by the Commission's standard, enforcement of building codes by state and local agencies is negligible because building permits are not generally required. Industry activities to supplement federal enforcement have been very extensive."

In addition, CSGC has expanded on its reasons for believing that effective state and local enforcement is speculative. CSGC pointed out that (1) the model code organizations must adopt a consistent and adequate requirement; (2) there must be promulgation and adoption by the many thousands of state, county or municipal jurisdictions; and (3) twenty-seven state safety glazing laws preempt local building codes in many cases (this third comment is addressed separately in section C below).

In their official comments and in other contacts with the CPSC staff, the three model code organizations have described their continuing efforts toward local enforcement of glazed panel requirements, if the Commission does revoke the federal provisions:

In January 1979 the Board for Coordination of Model Codes (BCMC) met in Chicago to work out a uniform definition for glazed panels which could be adopted by BOCA, ICBO, and SBCCI, the three model codes. The Commission had input into the uniform definition and it is virtually identical to the existing CPSC definition. (The only difference is that it is more stringent. The CPSC definition was changed to exclude panels that have a walking surface on just one side. The uniform definition, like the original CPSC definition, would include such panels.) As part of this process, the model code organizations will adopt the remainder of the safety standard for architectural glazing materials. This means that the test procedures and criteria will be the same as those in the existing CPSC standard.

In October 1979 the three technical directors of the model code organizations were queried as to the current status of glazed panels in their respective model codes, whether they were still committed to taking over enforcement on glazed panels, and, if so, when this would occur. The technical directors are firmly committed to taking over the enforcement of glazed panels as soon as CPSC revokes those provisions from the federal standard.

The technical director of BOCA has indicated that the BOCA membership adopted the BCMC uniform definition, test procedures, and criteria in June 1980. The other two model code organizations do not intend to adopt the BCMC uniform definition, test procedures, and criteria until CPSC revokes glazed panels from its standard. However, ICBO and SBCCI have different provisions in their codes pertaining to glazing.[*] As soon as the Commission revokes the glazed panels provisions, the state and local building code officials using these codes could immediately begin enforcement. The primary purpose of this was to avoid any break in enforcement if the Commission were to revoke the glazed panel provisions before the model codes could get uniform provisions into their codes.

There is no question that the model code organizations are committed to the adoption of a uniform code on glazed panels if the Commission revokes those provisions from the federal standard. The organizations have reported that there will be no break in enforcement as long as the federal revocation takes place after June 1980. Conversations with many individual building code officials show they are also committed to this course and are firmly convinced that local enforcement will provide the best protection for the consumer.

The Commission does not believe that its enforcement activities, even combined with industry self-regulation, provide the same degree of protection to consumers that would be possible with a different approach. Based on the comments received, a better approach would be the combination of federal and local enforcement. As discussed in section A above, the Commission would continue to inspect factories to assure that the certification requirements are being met by manufacturers of safety glazing materials. At the job-sites, the local inspectors will be able to oversee the use of complying glazing material where it is required by local code and/or the CPSC standard. The labeling and certification will serve as helpful signals to the local inspectors.

Nation-wide uniformity of regulation is generally a desirable goal. Congress recognized this when it enacted the strong preemption provisions of the CPSA (15 U.S.C. 2075). However, the Commission's experience with glazed panels has led it to conclude that uniformity is not always fair or safety-related. As mentioned earlier, there are instances in which the existing CPSC glazed panel definition would require safety glazing in locations where it is not justified on safety grounds.

Specifically, there are the following examples:

1. Items of glazing material located within 12 inches of a door in a residential building or within 48 inches of a door in a nonresidential building which are not likely to be broken by consumers falling against or through them because of their small size or their distance above the ground or floor level.

2. Items of glazing material located within 12 inches of a door in a residential building which are not likely to be mistaken as openings for human passage because of their small size or their distance above the ground or floor level.

3. Items of glazing material located within 48 inches of a door in nonresidential buildings which are not likely to be mistaken as openings for human passage because of their small size or their distance above the ground or floor level.

4. Items of glazing material located near doors in both residential and nonresidential buildings which are not likely to be subject to accidental human impact because they are not in the same plane as the door.

5. Items of glazing material located near doors in both residential and nonresidential buildings which are not likely to be mistaken as openings for human passage because of a horizontal framing member or chair rail which gives a visual signal that solid material is present.

After experiencing considerable difficulty in defining glazed panels and then in enforcing that definition, the Commission now believes that its general desire for uniformity should not prevail over consumer protection in this case. By permitting local inspectors to use some discretion in enforcing the glazed panel provisions, the Commission can greatly bolster enforcement of those provisions. If the Commission could modify the definition of glazed panels and obtain the increased enforcement along with uniformity, it would do so. However, as discussed in section D below, this is not practical.

CSGC has correctly commented that local enforcement depends on adoption of the existing CPSC provisions by the thousands of local jurisdictions, presumably through model codes. However, the comments received from the local jurisdictions should alleviate this concern. Twenty-two building officials in jurisdictions ranging from Seattle and Dallas to Salinas, Kansas and Midland, Michigan supported the revocation and plan to enforce the uniform requirements. A number of these officials stressed that they have the staff, expertise, and experience to enforce the glazed panel provisions at job sites. According to the three major model code organizations, between 78 and 90 percent of the U.S. population lives in jurisdictions where the model code provisions are in effect or influence the provisions in effect. In fact, BOCA alone affects an estimated 68 million U.S. residents.

CSGC is also concerned that local jurisdictions may not adopt the CPSC provisions, but may instead change them. Based on information contained in the public comments, the Commission is not similarly concerned. In almost all cases, the changes made to model code provisions by local jurisdictions are in administrative procedures or fee schedules, rather than in safety aspects. As just one example, SBCCI has broad experience with model codes, but knows of no changes that local jurisdictions have ever made to its model glazing provisions. The Commission would not be revoking the glazed panel provisions if current compliance with them were adequate. However, the fact remains that the existing combination of CPSC enforcement efforts and industry voluntary compliance is not adequate. The Commission knows that violations are continuing to occur in greater numbers than its enforcement staff can respond to effectively and promptly.

The enforcement efforts of local inspectors will focus on the most serious enforcement problem, that of purposeful installation of noncomplying glazing material in covered locations. In addition, CPSC efforts will not disappear, but will be focused where they can be most useful, in the factories. (To a lesser degree, CPSC inspectors will continue to enforce the standard against the installation of noncomplying glazing material in doors, shower and bath enclosures, and other covered locations.) Finally, there is no reason for voluntary industry compliance to play a diminished role following revocation.

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[*] For the most part, these would require that glazed panels, as defined in the ICBO and SBCCI codes, comply with the "American National Standards Institute's Safety Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings" (ANSI standard Z97.1) which would pass some materials that the CPSC standard would not pass.

C. Preemption by State Statutes

An important portion of the Consumer Safety Glazing Committee's comments concerned the effect of preemptive language in various State statutes. The language at issue generally requires safety glazing materials in specified locations. Regardless of the specific content of the State provisions on glazing, their existence could severely undermine the enforcement efforts of local building officials.

As of now, the CPSC provisions preempt both State and local provisions on glazed panels. If the CPSC provisions were revoked, however, State provisions that once again become effective could preempt the local provisions. Unless the local officials can enforce, as discussed in section B above, revocation of the CPSC provisions is meaningless.

CSGC has asserted that existing laws in twenty-seven States require the use of glazing materials which comply with ANSI standard Z97.1 in specified locations. CSGC has further stated that seventeen of these State laws have preemptive provisions which prohibit cities, counties, and other local jurisdictions from enforcing any other requirements for safety glazing. CSGC therefore believes that, to the extent existing State laws would preempt local safety glazing requirements, the building officials will not be able to amend local building codes and enforce uniform requirements for glazed panels.

The CPSC staff has analyzed the twenty-seven laws cited by CSGC, as well as four additional statutes not mentioned in the CSGC comments. After reviewing the staff analysis of these State laws, the Commission has concluded that twenty-six of the thirty-one State laws requiring use of safety glazing in buildings would not pose a serious legal obstacle to enforcement of local building code provisions containing a uniformed glazed panel definition. This means that local building officials in most States would be able to enforce their own glazed panel requirements, along the lines advanced by the three organizations of building officials.

The laws in the remaining five States—Connecticut, Delaware, Massachusetts, Illinois, and South Dakota—could present the legal problems raised by CSGC. However, contacts with officials in these five States indicate that preemption would pose no practical problem to local enforcement. In fact, the Massachusetts Building Code already contains the uniform definition for glazed panels that will be used by all of the model code organizations following revocation of the CPSC requirements. As another example, no State agency in Delaware is responsible for enforcement, and two of the three counties in the State subscribe to BOCA's model code.

Balancing the possible limits on local enforcement in fewer than a handful of States against the increased local enforcement in the rest of the country, the Commission still believes that revocation of its glazed panel provisions will benefit consumers.

D. Alternative of Revised Glazed Panel Definition

As discussed in section IIC above, the Commission sought public comment on two alternatives to the existing glazed panel provisions. Both of these alternatives—the one suggested by NGDA and the one drafted by the CPSC staff—would involve a narrowing of the definition of glazed panel. The glazing industry's comments generally supported an amendment (a vast majority preferred NGDA's suggestion to the Commission staff's). However, the comments from the State and local building code officials clearly show that neither alternative would address the basic problem that now prevents local enforcement. This problem is that the building code officials will enforce glazed panel provisions only if they have some discretion to consider whether the placement of the panel presents a risk that justifies a safety glazing requirement.

CSGC has commented that local discretion in the form of some variance procedure would be possible under Federal glazed panel requirements. The Commission believes that its resources would be even more strained by a variance approach than they currently are. Further, the Commission continues to doubt that a variance approach would provide the industry and consumers with the regulatory certainty that the law requires. Unless Federal requirements apply uniformly throughout the country, it would be difficult to know which glazed panels are included within the regulation and which are not. The proposition that the Commission could now pursue and attain a successful enforcement program based on a variance procedure is much more speculative than the partial revocation approach. Based on its current knowledge, the Commission believes that the latter approach will provide effective enforcement of its glazed panel provisions.

E. Procedural Issue

CSGC has raised a procedural issue by claiming that Congress prescribed section 26 of the CPSA for the purpose a partial revocation would serve. Section 26(c), cited by CSGC, permits a state or local government to seek an exemption from the preemptive provision of the Act. The Commission agrees that this is one way in which the preemptive effect of a consumer product safety standard can be removed. However, under section 26(a), preemption exists only when a standard is in effect and "applies to a risk of injury associated with a consumer product." If the Commission revokes the provisions that addressed the risk from glazed panels, there is no preemptive effect and an exemption under section 26(c) is unnecessary. CSGC has not explained why the existence of an exemption procedure makes a partial revocation illegal or otherwise improper. The Commission continues to believe that a partial revocation is a proper legal approach.

F. Effective Date

The Commission proposed that the partial revocation become effective on the date of its publication in final form, and the model code organizations support this approach. The revocation would allow the now-preempted local requirements to again become effective (as footnoted earlier, these generally require compliance with ANSI Z–97.1). (In fact, BOCA has already incorporated the uniform requirements into its code). The Commission therefore expects no break in consumer protection in most jurisdictions, but the uniform glazed panel requirements could not be enforced until the local jurisdictions adopted the new BOCA, SBCCI, and ICBO model code provisions. This could take as long as 18 months to occur.

Notwithstanding the comments of the model code organizations, the Commission believes that some lead time in effectiveness of the partial revocation would assure maximum safety for consumers. Under this approach, the Commission could continue to enforce the glazed panel provisions while local jurisdictions are adopting the model code provisions. If the matter is given priority, it will likely take only 12 months instead of 18 months for this to be accomplished. If some local jurisdictions take longer than 12 months, less stringent requirements (ANSI Z97.1) would probably be in place and available for local enforcement on an interim basis. A delay of longer than 12 months would unnecessarily delay the date on which the local building officials can begin to enforce the Commission's existing requirements for glazed panels. Therefore, the Commission has adopted an effective date that is 12 months from today, and notes that the model code organizations do not object to this approach (while they prefer the immediate effective date approach). The Commission finds for good cause, based on the reasons stated above and in accordance with section 9(e)(2) of the CPSC, that an effective date later than 180 days from today is in the public interest.

G. Enforcement Pending Revocation

When the Commission proposed the partial revocation in May 1979, it clarified what glazed panel provisions of the standard would apply in the interim (pending a final partial revocation or alternative regulatory action). The Commission has decided to continue in effect the same interim enforcement policies until the partial revocation becomes effective in one year:

(a) The requirements of the standard will continue to apply to items of glazing materials which meet the definition of glazed panel. However, the Commission's enforcement policy will be to give priority to alleged violations involving glazed panels that present obvious risks of injury from accidental human impact breakage because of a panel's size and shape, its proximity to a door or floor or walking surface, its presence in the same plane as a door, or the absence of any visual signal that solid material is present.

(b) In response to petition CP 78-10, the standard will not be enforced against any item of glazing material located within 12 inches of the nonmovable panel of a sliding glass door in a residential building or within 48 inches of the nonmovable panel of a sliding glass door in a nonresidential building.

(c) In response to petition CP 79-6, the standard will not be enforced against louvers of jalousie windows or other jalousie assemblies located within 12 inches of a door in a residential building or within 48 inches of a door, in a nonresidential building.

(d) The standard will not be enforced against polished wired glass used in glazed panels within 12 inches of a door in a residential building or within 48 inches of a door in a nonresidential building.

H. Environmental Considerations

As stated in the preamble to the proposed partial revocation, the Commission does not foresee any environmental effects from the revocation which would necessitate an environmental review, and has not prepared an environmental impact statement.

IV. Conclusion

The Commission has carefully considered whether its glazed panel provisions are reasonably necessary to address an unreasonable risk of injury associated with architectural glazing materials. An unreasonable risk does exist, but the public comments on the proposed partial revocation have largely discussed the best approach for addressing it. The glazing industry generally supports the present approach under which the Commission enforces a uniform set of federal requirements. In contrast, the model code organizations and the local building officials generally support an approach under which these officials would adopt and enforce the Commission's existing requirements.

Based on its enforcement experience of over three years, the Commission believes that the glazed panel provisions would be best enforced at the local level. This is true because the nature of glazed panels and the way they are generally installed place limits on the Commission's enforcement capabilities. After balancing these and all other relevant factors, discussed above, the Commission has concluded that mandatory federal safety provisions for glazed panels are not reasonably necessary to address the unreasonable risk presented by them. A more reasonable approach is to withdraw the provisions and permit the state and local governments to enforce the same provisions.

In accordance with section 9(e) of the Consumer Product Safety Act (section 9(e), Pub. L. 92-573, 86 Stat. 1215, 15 U.S.C. 2058(e)) and 5 U.S.C. 553, the Commission revokes the safety standard for architectural glazing material as it applies to glazed panels by making the following changes in Part 1201 of Title 16, Code of Federal Regulations:

§ 1201.1 [Amended]

1. In 16 CFR 1201.1(a), paragraph (5), consisting of the term "Glazed panels" is revoked and reserved;

2. In 16 CFR 1201.1(b), the fifth sentence is revised to read as follows: "For purposes of this standard, fabricators are considered to be manufacturers of the architectural products listed in paragraph (a) of this section."

§ 1201.2 [Amended]

3. In 16 CFR 1201.2(a), paragraphs (3)(iii), (4)(vi), and (10) are revoked and reserved.

4. In 16 CFR 1201.2(a)(11)(ii), the phrase "glazed panels or" is deleted.

Dated: August 21, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-26484 Filed 8-27-80; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-17080]

Stock Options

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Rule 16b-3 under the Securities Exchange Act of 1934 to exempt from the liability provisions of Section 16(b) of the Act both the delivery of stock by an officer or director as payment for the exercise of an employee stock option and the receipt of an equal amount of stock upon such exercise. In addition, the Commission is amending the caption for Rule 16b-3 to reflect the broadened coverage of the rule. These changes are being adopted as the result of several requests from the public that the Commission provide relief from Section 16(b) for the use of stock as payment for the exercise of an employee stock option.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Michael R. Kargula or Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2573.

SUPPLEMENTARY INFORMATION: In Release No. 34-16770 (May 6, 1980) [45 FR 29853], the Commission invited public comments on a proposed amendment to Rule 16b-3 [17 CFR 240.16b-3] under the Securities Exchange Act of 1934 ("1934 Act") [15 U.S.C. 78a et seq.] that would have exempted from Section 16(b) of the Act the delivery of stock by an officer or director upon the exercise of a stock option. The impetus for the proposal was provided by an Internal Revenue Service ("IRS") ruling dated April 27, 1979.[1] The ruling dealt with a nonqualified stock option and held that an employee could deliver stock already owned by him as payment for the exercise of an employee stock option without recognizing any taxable gain on the unrealized appreciation of the delivered shares. Pursuant to this ruling,

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[1] CCH Standard Federal Tax Reporter, ¶6979.

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the optionee is not taxed on the difference between his cost basis for the old shares and their market value on the date of delivery, even though the delivered shares are valued at their current market price for purposes of paying all or part of the option price.

The principal benefit of the IRS ruling is that in many instances it permits an employee who uses stock to exercise a stock option to acquire, without any cash outlay, not only a number of shares equal in all respects to the surrendered shares but also an additional number of shares having an aggregate exercise price equal to the difference between the aggregate market price of the shares delivered and the aggregate exercise price of an equal number of shares at the time of exercise.[2] Until now, however, the tax and other advantages flowing from the IRS ruling have for all practical purposes not been available to officers and directors of issuers which have a class of securities registered under Section 12 of the 1934 Act. The reason is that such persons are subject to Section 16(b) of the Act, which allows an issuer to recover any profits realized by its officers and directors on any purchase and sale, or sale and purchase, of the issuer's equity securities occurring in a period of less than six months. Since the delivery of stock upon the exercise of an option could be considered a "sale" to the issuer, and the acquisition of stock as a result of exercising the option could be deemed a "purchase," the profit on the combined sale and purchase would, unless the exemption were available, be recoverable by the issuer under Section 16(b) because it occurred in a period of less than six months.

Section 16(b) of the 1934 Act grants authority to the Commission to exempt by rules and regulations any transaction or transactions which it believes are not comprehended within the purpose of that section. Since it appears that the use of already-owned stock to exercise a stock option does not present an opportunity for the abuses which Section 16(b) is designed to prevent,[3] the Commission believes it is appropriate to exercise its exemptive authority under Section 16(b) to provide relief from that section for such transactions. This action is consistent with the Commission's prior determination to exempt from Section 16(b) certain transactions involving stock appreciation rights ("SARs").[4] The use of already-owned stock to exercise a stock option is in substance another form of stock appreciation right and does not appear to present any more opportunity for speculative abuse than stock appreciation rights payable in securities.

Nature of the Amendments

As proposed in Release 34–16770, Rule 16b–3 would have been amended to exempt only the delivery of stock upon the exercise of a stock option. All stock received by the optionee upon such an exercise would, under the original proposal, have been deemed "purchased" for purposes of Section 16(b) and could have been matched against any sales of the same securities occurring within less than six months. All except one of the 73 commenters expressed support for the original proposal, but many thought that it should be expanded to also exempt that portion of stock received upon the exercise of an option that is equal in number to the amount surrendered. In the view of these persons, the exchange of "old" shares for "new" shares was nothing more than a "wash" transaction which had no real economic effect. Only those shares received in excess of the number delivered should be deemed "purchased" for purposes of Section 16(b), according to these commentators.

The Commission believes that the point made by the above persons has merit. The effect obtained from using stock to exercise an option is that the optionee acquires, at no actual cost, a greater number of shares that the optionee acquires, at no actual cost, a greater number of shares than that held prior to the exercise. The very same effect is achieved when so-called "phantom" stock options and stock appreciation rights are exercised and stock is received. In the case of phantom stock options and SARs, the participant receives additional stock at no cost, and this new stock is considered to be purchased for purposes of Section 16(b). The same result logically should occur in those situations where old shares are swapped for a greater number of new shares upon the exercise of an option. That is, only the number of shares exceeding the number surrendered should be deemed to have been currently purchased pursuant to Section 16(b). Accordingly, the adopted amendments also exempt shares acquired upon the exercise of an option that are equal to the number delivered.

Due to the fact that the above change has added still another category of exempt transactions to the several already covered by the opening paragraph of Rule 16b–3, it was decided for the sake of clarity to revise that paragraph completely. In this revised form, the paragraph reads as follows:

> The following transactions by a director or officer shall be exempt from the operation of Section 16(b) of the Act is they occur pursuant to a plan which satisfies the conditions of this rule: the acquisition of shares of stock, except that stock acquired upon the exercise of an option, warrant or right shall be exempt only to the extent indicated in the final clause of this sentence; the acquisition, expiration, cancellation or surrender to the issuer of a stock option or stock appreciation right; the surrender or delivery to the issuer of shares of its stock as payment for the exercise of a stock option for shares of the same class; and the acquisition upon the exercise of a stock option of shares of stock equal to the number of shares of the same class surrendered or delivered to the issuer as payment for the exercise of the option. The conditions of this rule that a plan must satisfy in order for the above transactions to be exempt are as follows:

In addition to the foregoing, the Commission also has amended the caption for Rule 16b–3 in the manner proposed in Release 34–16770. The new caption, which is intended to reflect the broadened coverage of the rule, reads "Exemption from section 16(b) of certain transactions occurring under employee benefit plans."

Other Views of the Commentators

Only one of the 73 commentators raised an objection to the amendments proposed in Release 34–16770, and the objection was concerned primarily with the accounting treatment likely to be accorded to the delivery of stock upon the exercise of an option. In view of the overwhelming support expressed by the other commentators and the fact that the accounting issue does not appear to be germane to the purposes of Section 16(b), the Commission does not believe an adequate basis for withdrawing the amendments has been provided.

A number of other commentators thought that the coverage of the proposed amendments should be expanded to permit the delivery of securities: (1) other than those of the same class to which the option relates; (2) to satisfy the exercise price of warrants and rights as well as employee stock options; and (3) to cover the withholding taxes that will be incurred with respect to income realized upon the exercise of an option. Each of these suggestions goes well beyond the purpose of the originally proposed amendments, which was simply to remove the barrier imposed by Section 16(b) to reliance upon the IRS ruling previously referred to. Moreover, each would, if adopted, result in an exemption being provided for a "sale" transaction that is much greater in scope than the "wash" transaction which the original amendments sought to reach. Under the circumstances, the Commission does not believe it would be appropriate to implement any of these suggestions.

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[2] For example, if a person who holds an option for 200 shares at an exercise price of $10 per share decided to exercise the option when the stock was trading at $20 per share, he could do so by delivering 100 shares previously acquired by him (with a value of $2,000) for the 200 shares under the option.

[3] Generally, the purpose of Section 16(b) is to prevent insiders from unfairly utilizing confidential information to profit from short-term trading transactions in an issuer's securities.

[4] Release Nos. 34–13097 (December 22, 1976) [42 FR 755] and 34–13659 (June 22, 1977) [42 FR 33282].

Other Matters

The amendments to Rule 16b–3 previously described raise the question whether an amendment to an existing stock option plan allowing the delivery of already-owned stock upon the exercise of an option would constitute a material amendment that would require shareholder approval under paragraph (a) of the rule.[5] In Release 34–16770, the Commission expressed the view that such an amendment would not be material, since it would not result in any additional remuneration for directors and officers not already contemplated by option plans. As noted by the Commission, such an amendment would simply allow issuers to revise the form of consideration acceptable for the exercise of options.

The Commission invited comments on the foregoing view in Release 34–16770 and all of those who addressed the issue agreed with the Commission's opinion. Accordingly, amendments to existing stock option plans of the type described above need not be submitted to shareholders for approval under Rule 16b–3.

In order to insure uniformity and in response to public commentary, the Commission deems it advisable to specify the manner of reporting changes in beneficial ownership of securities that will occur as a result of the delivery of stock upon the exercise of a stock option. The award of the option and its exercise price should be reported in Table II of Form 4 in the customary manner. The exercise of the stock option should be reported in Table I. The number of shares surrendered in connection with the exercise of the option should be reported in Column 5 of Table I of Form 4 and the number of shares acquired should then be indicated in Column 4. Column 6 of Table I should indicate that both the acquisition and the disposition of the securities occurred as a result of the exercise of an option. In the explanation space provided on page 2 of Form 4, it should be noted that the exercise price of the option was satisfied by the delivery of already-owned shares. The other information required should be reported in the usual manner in compliance with the instructions to Form 4.

Text of the Amendments

17 CFR Part 240 is amended by revising the introductory paragraph of § 240.16b–3 to read as follows:

§ 240.16b–3 Exemption from section 16(b) of certain transactions occurring under employee benefit plans.

The following transactions by a director or officer shall be exempt from the operation of section 16(b) of the Act if they occur pursuant to a plan which satisfies the conditions of this rule: the acquisition of shares of stock, except that stock acquired upon the exercise of an option, warrant or right shall be exempt only to the extent indicated in the final clause of this sentence; the acquisition, expiration, cancellation or surrender to the issuer of a stock option or stock appreciation right; the surrender or delivery to the issuer of shares of its stock as payment for the exercise of a stock option for shares of the same class; and the acquisition upon the exercise of a stock option of shares of stock equal to the number of shares of the same class surrendered or delivered to the issuer as payment for the exercise of the option. The conditions of this rule that a plan must satisfy in order for the above transactions to be exempt are as follows:

* * * * *

(Secs. 16(b), 23(a), 48 Stat. 896, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 18, 89 Stat. 155; 15 U.S.C. 78; (b), 78w(a))

Authority

The Commission is adopting this amendment pursuant to the Securities Exchange Act of 1934, particularly Sections 16 and 23(a).

By the Commission.

George A. Fitzsimmons,

Secretary.

August 21, 1980.

[FR Doc. 80–26393 Filed 8–27–80; 8:45 am]

BILLING CODE 8010–01–M

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[5] Rule 16b–3(a) states at the end thereof that any amendment to a plan must be approved by shareholders "if the amendment would: (A) materially increase the benefits accruing to participants under the plan * * *."

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1591–4; FAP 9H5202/R64]

Fluridone; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation related to the experimental use of fluridone (1-methyl-3-phenyl-5-[3-(trifluoromethyl)-phenyl]-4(1*H*)-pyridinone) in lakes and ponds under the experimental use permit. This regulation was requested by Elanco Products Co. This rule will permit the use of fluridone in potable water while further data is collected on the pesticide.

EFFECTIVE DATE: August 28, 1980.

ADDRESS: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort (202–755–1397) at the above address.

SUPPLEMENTARY INFORMATION: On January 19, 1979, a notice was published in the **Federal Register** (44 FR 5706) that Elanco Products Co., a Div. of Eli Lilly & Co., P.O. Box 1750, Indianapolis, IN 46206 had filed a food additive petition (FAP 9H5202). This petition proposed that 21 CFR Part 193 be amended by the establishment of a regulation permitting residues of the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoromethyl)-phenyl]-4(1*H*)-pyridinone) in potable water resulting from application of the herbicide to ponds and lakes in a proposed experimental program with a tolerance limitation of 0.1 part per million (ppm). This use was in accordance with the experimental use permit (1471–EUP–67) that was submitted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136). Under this experimental use permit, fishing, swimming, drinking, or other use of treated pond water is restricted for 150 days after application. No comments were received by the Agency in response to this petition.

Elanco Products Co. subsequently amended the petition by proposing that the food additive regulation permitting residues of fluridone be decreased to a limitation of 0.01 ppm.

The data submitted in this petition and other relevant material have been evaluated. The data submitted included residue studies in fish and water; a rat oral toxicity study with a legal dose (LD_{50}) greater than 10,000 milligrams (mg)/kilogram (kg) of body weight (bw); a 90-day mouse feeding study with a no-observable-effect level (NOEL) of 30 ppm; a 90-day rat feeding study with a NOEL of 25 mg/kg/day.

Based on a 90-day rat feeding study and a 2,000 fold safety factor the acceptable daily intake (ADI) for humans is 0.0125 mg/kg of bw/day. The maximum permissible intake (MPI) is 0.75 mg/day for a 60 kg person. No permanent tolerances for fluridone have been established. A temporary tolerance in fish of 0.1 ppm is also being established.

The proposed tolerance in water at 0.01 ppm based on an estimated daily water consumption of 1200 milliliters (ml) would have a theoretical maximal residue contribution (TMRC) of 0.12 mg/day. The temporary tolerance in fish at 0.1 ppm would contribute 0.0015 mg/day to the TMRC. The approximate TMRC would be 0.1215 mg/day which is 16.2% of the MPI.

The metabolism of fluridone is adequately understood, and an adequate analytical method (gas-liquid chromatography using electron capture detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is being sought. It has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued under FIFRA. Accordingly, a food additive regulation permitting residues of fluridone with a limitation of 0.01 ppm is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. E-3708, (A-110), 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 28, 1980.

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1))

Dated: August 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, 21 CFR Part 193 is amended by establishing § 193.219 to read as follows:

§ 193.219 Fluridone.

Tolerance of 0.01 part per million is established for residues of the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoromethyl)phenyl]-4(1*H*)-pyridinone) in potable water. Such residues may be present therein only as a result of application of the herbicide fluridone to lakes and ponds under an experimental use program which expires August 20, 1981. This program is to be conducted by Elanco Products Co. Residues remaining in potable water after August 20, 1981, will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provision of the experimental use permit and the food additive tolerance.

[FR Doc. 80-26417 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 221

Miscellaneous Indian Irrigation Projects; Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this final regulation is to delete those parts that pertain to the San Carlos Reservation from § 221.105, Chapter 1, Subchapter T of Title 25 of the Code of Federal Regulations that are being replaced by a Public Notice to be published simultaneously with this regulation.

EFFECTIVE DATE: This regulation shall become effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Norman Tippeconic, Superintendent, San Carlos Agency, San Carlos, Arizona 85550, telephone 602-475-2321.

SUPPLEMENTARY INFORMATION: Pursuant to § 191.1(e) of Part 191, Chapter 1, Subchapter T, of Title 25 of the Code of Federal Regulations, this final regulation is published under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The principal author of this document is Thomas W. Neumann, Bureau of Indian Affairs, Phoenix, Arizona 85011, telephone 602-241-2285.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 385.

The final regulation shall read as follows:

Miscellaneous Indian Irrigation Projects

§ 221.105 Charges.

Pursuant to the acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387), the annual basic charges against the lands to which water can be delivered under the respective irrigation systems of the projects listed in this section are hereby fixed in the following amounts for non-Indian owned lands, Indian owned lands leased to non-Indians, and Indian owned and operated lands, for the calendar year 1981 and for each succeeding calendar year thereafter until further notice:

Annual Per Acre Assessment

	Non-Indian-owned land	Indian-owned land leased to non-Indians	Indian-owned and operated land
Pyramid Lake	$20.00	$20.00	$1.00
Warm Springs	2.00	2.00	0

Note.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

George W. Knoll,

Acting Assistant Area Director.

[FR Doc. 80-26278 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 124, 126, 161, and 164

[CGD 75-238]

Notifications of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document adopts the interim final rule for the notification requirements for vessels arrivals,

departures, hazardous conditions, and certain dangerous cargoes that was published on November 5, 1979 in the Federal Register with minor editorial changes that concern vessels on the Great Lakes. The interim final rule differed from the original proposal by enlarging the area on the Mississippi River where the regulations would apply and by changes to various reporting requirements. Interested persons were invited to comment on the interim rules and future changes have been made in response to the twenty-two comments received. These vessel movement notification requirements will provide the Captain of the Port with improved information on which to plan response activities to minimize hazards to the port or the marine environment.

EFFECTIVE DATE: December 5, 1979.

ADDRESSES: All comments and copies of the final evaluation are available for examination at the Marine Safety Council (G–CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, Trans Point Building, 2100 2nd St., S.W. Washington, D.C. 20593. Normal working hours are 8:00 a.m. to 4:30 p.m., Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Virgil R. Allen, Office of Marine Environment and Systems, Room 1100, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 755–1354.

SUPPLEMENTARY INFORMATION: In the November 5, 1979 issue of the **Federal Register** (44 FR 63672) the Coast Guard published an interim final rule because it contained changes on which the public should have an opportunity to submit comments. No public hearing was held on the interim final rule which was effective on December 5, 1979.

Drafting Information

The principal persons involved in drafting this rule are: Lieutenant Virgil R. Allen and Lieutenant David G. Dickman, Project Managers, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

One comment noted that § 126.27 contained a misprint. That section dealt with a change to § 126.27(b)(8) and not (b)(7). Accordingly, that correction is made and included with this action.

Three comments requested that the provisions to update estimated times or arrival and departure include changes to schedule, times, or other required information. The Coast Guard recognizes that instances will arise where the required notices cannot be given within the required time frame. These situations are felt to be better handled under the waiver provisions of § 161.5 than by regulatory scheme, therefore no changes have been made.

One comment noted that a reference in Part 161.13(a)(5) which read "164.34" should read "164.35." This error has been corrected.

The Commander of the Ninth Coast Guard District has granted waivers from § 161.7 to U.S. and Canadian flag vessels, except tank vessels, which operate solely on the Great Lakes and suggests this exclusion be included in the regulations. Further, the District Commander has commented that the second sentence of § 161.9(b) is not needed inasmuch as this information is readily available to the Ninth Coast Guard district from other sources. Therefore, the exclusion for U.S. and Canadian flag vessels has been added to § 161.1(c). This addition does not require further rule making because it relieves a burden. The last sentence of § 161.7(b) has been deleted in concurrence with the District Commander's recommendation.

A comment was received that requested that the interim final rule be withdrawn because, the commenter contended, the consultation requirements of Subsection 12(b) of the Ports and Waterways Safety Act were not met. The Coast Guard has determined that the consultation requirements of Subsection 12(b) have been met because interested persons have been given many opportunities to participate in the formulation of these regulations. Besides having opportunity to comment on the notice of proposed rule making and the interim final rule, the Coast Guard held public hearings in Washington, D.C. on October 12, 1978 and in Houston, Texas on October 20, 1978. Therefore, the Coast Guard has determined that there are no grounds for withdrawal and has rejected the recommendation.

Several comments questioned the rationale for reporting barge movements below Mile 235 on the lower Mississippi River, above the head of passes. It is the position of the Coast Guard that, in order for the Captain of the Port (COTP) of a major port to have full knowledge of the potential vessel traffic problems in the port, all types of vessel traffic should be required to report. There is no doubt that the port of Baton Rouge, Louisiana, is a major port that is exposed to many types of vessels and extensive barge traffic. Continuous up-to-date arrival and departure information from barges carrying certain dangerous cargo is a necessity for the COTP and extending the applicability to Mile 235, above head of passes was a necessary step.

A few comments received did not concern those changes made in the "Interim rule" or were repetitious of those answered in the discussion of comments for the "Interim rule" and are, therefore, not germane to this action.

For purposes of simplification the term "Great Lakes" has been added to the definitions and used in § 161.9 in lieu of describing the area. These changes are editiorial in nature and do not require receiving comment prior to inclusion in this final rule.

This rule has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A final evaluation has been prepared and is included in the public docket. This may be obtained as indicated in "Addresses."

In consideration of the foregoing, the Coast Guard adopts the interim final rule published in the November 5, 1979 issue of the **Federal Register** (44 FR 63672) with the changes discussed above. The complete text of the final rule is set forth below. Accordingly, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

PART 124—CONTROL OVER MOVEMENT OF VESSELS [Revoked]

1. By revoking and reserving Part 124.

PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

2. By revising § 126.05(b) to read as follows:

§ 126.05 Designated waterfront facility.

* * * * *

(b) "Facility of particular harzard" means a designated waterfront facility that is authorized to handle a cargo of particular hazard, as defineded in § 126.10.

3. By adding a new § 126.10 to read as follows:

§ 126.10 Cargo of particular hazard.

"Cargo of particular hazard" means any of the following:

(a) Class A explosive as defined in 46 CFR 146.10–7 and 49 CFR 173.53.

(b) Oxidizing material or blasting agent for which a permit is required under 49 CFR 176.415.

(c) Large quantity radioactive material, as defined in 49 CFR 173.389(b), or Fissile Class III shipments of fissile radioactive material, as defined in 49 CFR 173.389(a)(3).

(d) The following cargoes when carried in bulk:

Acetaldehyde
Acetone Cyanohydrin
Acrylonitrile
Allyl Chloride
Ammonia, anhydrous
Butadiene
Butane
Butene
Butylene Oxide
Carbon Disulfide
Chlorine
Chlorosulfonic Acid
Dimethylamine
Epichlorohydrin
Ethane
Ethylene
Ethylene Oxide
Ethyl Ether
Methane
Methyl Acetylene, Propadiene Mixture, Stabilized
Methyl Bromide
Methyl Chloride
Motor Fuel Antiknock Compounds Containing Lead Alkyls
Oleum
Phosphorous, Elemental
Propane
Propylene
Propylene Oxide
Sulfur Dioxide
Toluene Diisocyanate
Vinyl Chloride
Vinyl Ethyl Ether

4. By revising § 126.27(b)(8) to read as follows:

§ 126.27 General permit for handling dangerous cargo.

* * * * *

(b) * * *

(8) A bulk shipment of a cargo of particular hazard, as defined in § 126.10(d).

PART 161—VESSEL TRAFFIC MANAGEMENT

5. By adding a new Subpart A to Part 161 to read as follows:

Subpart A—Notifications of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

Sec.
161.1 Applicability and exceptions to applicability.
161.3 Definitions.
161.5 Waivers.
161.7 Notice of arrival: vessels bound for ports or places in the United States.
161.9 Notice of arrival: vessels bound from the high seas for ports or places on the Great Lakes.
161.11 Notice of arrival: vessels carrying certain dangerous cargo.
161.13 Notice of departure: vessels carrying certain dangerous cargo.
161.15 Notice of hazardous conditions.

Authority: Sec 2, 92 Stat. 1471 (33 U.S.C. 1221); 49 CFR 1.46(n)(4).

§ 161.1 Applicability and exceptions to applicability.

(a) This subpart prescribes notification requirements for U.S. and foreign vessels bound for or departing from ports or places in the United States.

(b) This subpart does not apply to boats under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451, et seq.) and, except § 161.15, does not apply to passenger and supply vessels when they are employed in the exploration for or in the exploitation of oil, gas, or mineral resources on the continental shelf.

(c) Sections 161.7 and 161.9 do not apply to the following:

(1) Each vessel of less than 1,600 gross tons.

(2) Each vessel operating exclusively within a Captain of the Port zone.

(3) Each vessel operating upon a route that is described in a schedule that is submitted to the Captain of the Port for each port or place of destination listed in the schedule at least 24 hours in advance of the first date and time of arrival listed on the schedule and contains—

(i) Name, country of registry, and call sign or official number of the vessel;

(ii) Each port or place of destination; and

(iii) Dates and times of arrivals and departures at those ports or places

(4) Each vessel arriving at a port or place under force majeure.

(5) Each vessel entering a port of call in the United States in compliance with the Automated Mutual Assistance Vessel Rescue System (AMVER).

(6) Each vessel entering a port of call in the United States in compliance with the U.S. Flag Merchant Vessel Locator Filing System (USMER).

(7) Each barge.

(8) Each public vessel.

(9) United States or Canadian flag vessels, except tank vessels or vessels carrying certain dangerous cargo, which operate solely on the Great Lakes.

(d) Sections 161.7, 161.11, and 161.13 apply to each vessel upon the waters of the Mississippi River between its mouth and mile 235, Lower Mississippi River, above Head of Passes. Sections 161.7, 161.11, and 161.13 do not apply to each vessel upon the waters of the Mississippi River between its source and mile 235, above Head of Passes, and all the tributaries emptying thereinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

§ 161.3 Definitions.

As used in this subpart:

"Agent" means any person, partnership, firm, company or corporation engaged by the owner or charterer of a vessel to act in their behalf in matters concerning the vessel.

"Carried in bulk" means a commodity that is loaded or carried on board a vessel without containers or labels and received and handled without mark or count.

"Certain dangerous cargo" includes any of the following:

(a) Class A explosives, as defined in 46 CFR 146.20–7 and 49 CFR 173.53.

(b) Oxidizing materials or blasting agents for which a permit is required under 49 CFR 176.415.

(c) Large quantity radioactive material, as defined in 49 CFR 173.389(b), or Fissile Class III shipments of fissile radioactive material, as defined in 49 CFR 173.389(a)(3).

(d) Each cargo under Table 1 of 46 CFR Part 153 when carried in bulk.

(e) Any of the following when carried in bulk:

Acetaldehyde
Ammonia, anhydrous
Butadiene
Butane
Butene
Butylene Oxide
Chlorine
Ethane
Ethylene
Ethylene Oxide
Methane
Methyl Acetylene, Propadiene Mixture, Stabilized
Methyl Bromide
Methyl Chloride
Phosphorous, elemental
Propane
Propylene
Sulfur Dioxide
Vinyl Chloride

"Great Lakes" means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far east as Saint Regis, and adjacent port areas.

"Hazardous condition" means any condition that could adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable water of the United States. This condition could include but is not limited to, fire, explosion, grounding, leakage, damage, illness of a person on board, or a manning shortage.

"Port or place of departure" means any port or place in which a vessel is anchored or moored.

"Port or place of destination" means any port or place to which a vessel is bound to anchor or moor.

"Public vessel" means a vessel owned by and being used in the public service of the United States. This definition does not include a vessel owned by the United States and engaged in a trade or commercial service or a vessel under contract or charter to the United States.

"Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 161.5 Waivers.

The Captain of the Port may waive, within that Captain of the Port's designated zone, any of the requirement of this subpart for any vessel or class of vessels upon finding that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

§ 161.7 Notice of arrival: vessels bound for ports or places in the United States.

(a) The owner, master, agent or person in charge of a vessel on a voyage of 24 hours or more shall report under paragraph (c) of this section at least 24 hours before entering the port or place of destination.

(b) The owner, master, agent, or person in charge of a vessel on a voyage of less than 24 hours shall report under paragraph (c) of this section before departing the port or place of departure.

(c) The Captain of the Port of the port or place of destination in the United States must be notified of—

(1) The name and country of registry of the vessel;

(2) The name of the port or place of departure.

(3) The name of the port or place of destination; and

(4) The estimated time of arrival at the port or place.

If the estimated time of arrival changes by more than six hours from the latest reported time, the Captain of the port must be notified of the correction as soon as the change is known.

§ 161.9 Notice of arrival: vessels bound from the high seas for ports or places on the Great Lakes.

In addition to complying with the requirement of § 161.7, the owner, master, agent, or person in charge of a vessel bound from the high seas for any port or place of destination on the Great Lakes shall notify the Commander, Ninth Coast Guard District, at least 24 hours before arriving at the Snell Locks, Massena, New York of—

(a) The name and country of registry of the vessel; and

(b) The estimated time of arrival at the Snell Locks, Massena, New York.

§ 161.11 Notice of arrival: vessels carrying certain dangerous cargo.

(a) The owner, master, agent, or person in charge of a vessel, except a barge, bound for a port or place in the United States carrying certain dangerous cargo shall notify the Captain of the Port of the port or place of destination at least 24 hours before entering that port or place of—

(1) The name and country of registry of the vessel;

(2) The location of the vessel at the time of the report;

(3) The name of each certain dangerous cargo carried;

(4) The amount of each certain dangerous cargo carried;

(5) The stowage location of each certain dangerous cargo;

(6) The operational condition of the equipment under § 164.35 of this chapter;

(7) The name of the port or place of destination; and

(8) The estimated time of arrival at that port or place.

If the estimated time of arrival changes by more than six hours from the latest reported time, the Captain of the port must be notified of the correction as soon as the change is known.

(b) The owner, master, agent or person in charge of a barge bound for a port or place in the United States carrying certain dangerous cargo shall report the information required in paragraph (a)(1) through (a)(8) of this section to the Captain of the Port of the port or place of destination at least 4 hours before entering that port or place.

§ 161.13 Notice of departure: vessels carrying certain dangerous cargo.

(a) The owner, master, agent, or person in charge of a vessel, except a barge, departing from a port or place in the United States for any other port or place and carrying certain dangerous cargo shall notify the Captain of the Port or place of departure at least 24 hours before departing, unless this notification was made within 2 hours after the vessel's arrival, of—

(1) The name and country of registry of the vessel;

(2) The name of each certain dangerous cargo carried;

(3) The amount of each certain dangerous cargo carried;

(4) The stowage location of each certain dangerous cargo carried;

(5) The operational condition of the equipment under § 164.35 of this chapter;

(6) The name of the port or place of departure; and

(7) The estimated time of departure from the port or place.

If the estimated time of departure changes by more than six hours from the latest reported time, the Captain of the Port must be notified of the correction as soon as the change is known.

(b) The owner, master, agent, or person in charge of a barge departing from a port or place in the United States for any other port or place and carrying certain dangerous cargo shall report the information required in paragraph (a)(1) through (a)(7) of this section to the Captain of the Port of the port or place of departure at least 4 hours before departing, unless this report was made within 2 hours after the barge's arrival.

§ 161.15 Notice of hazardous conditions.

Whenever there is a hazardous condition on board a vessel, the owner, master, agent or person in charge shall immediately notify the Captain of the Port of the port or place of destination and the Captain of the Port of the port or place in which the vessel is located of the hazardous condition.

PART 164—NAVIGATION SAFETY REGULATIONS

6. By revising § 164.53(b) to read as follows:

§ 164.53 Deviations from rules and reporting: Non-operating equipment.

* * * * *

(b) If the vessel's radar, radio navigation receivers, gyrocompass, echo depth sounding device, or primary steering gear stops operating properly, the person directing the movement of the vessel must report or cause to be reported that it is not operating properly to the nearest Captain of the Port, District Commander, or, if participating in a Vessel Traffic Service, to the Vessel Traffic Center, as soon as possible.

(Sec. 2, 92 Stat. 1471 (33 U.S.C. 1221); 49 CFR 1.46(n)4))

August 21, 1980.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 80-26564 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 38

Disaster Assistance for Crisis Counseling and Training

AGENCY: Public Health Service, HHS.

ACTION: Final technical amendments.

V 45 AG 28 80 UMI

SUMMARY: These technical amendments delete from 42 CFR Part 38 language which repeats, or does not conform to, the provisions of 45 CFR Part 74 "Administration of Grants" and standardize certain language.

EFFECTIVE DATE: These technical amendments are effective August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Lee Cummings, Legal Assistant, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 13C–06, 5600 Fishers Lane, Rockville, Maryland 20857, phone: 301/443–3200.

SUPPLEMENTARY INFORMATION: These technical amendments change regulations governing 42 CFR Part 38 (Disaster assistance for crisis counseling and training) promulgated November 26, 1976 (41 FR 52052) by conforming certain provisions to 45 CFR Part 74 pertaining to the administration of HEW grants. Previously, because 45 CFR Part 74 applied only to grants to State and local governments, individual program regulations such as 42 CFR Part 38 contained requirements for the administration of grants to entities other than State and local governments. On August 2, 1978, HEW expanded the applicability of 45 CFR Part 74 to include grants to entities other than State and local governments. The purpose of these technical amendments is to delete those provisions pertaining to the administration of grants from 42 CFR Part 38 which duplicate 45 CFR Part 74, and to standardize certain other provisions.

HHS has determined that the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable, because those procedures are unnecessary. This determination is based upon the fact that these amendments neither impose new requirements upon grant recipients nor relieve them from existing requirements. The amendments merely remove requirements that duplicate the requirements of 45 CFR Part 74 and express existing requirements in clear, uniform language.

Accordingly, 42 CFR Part 38 is amended as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.982.)

Dated: April 10, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary.

42 CFR Part 38 is amended as follows:

Paragraphs (b), (c), and (d) of § 38.5 are revised; paragraphs (e) and (f) are deleted, and paragraphs (g) and (h) are redesignated as new paragraphs (e) and (f) to read:

§ 38.5 Grant assistance.

* * * * *

(b) *Application.* The application shall contain:

(1) A proposed plan for the provision of the services for which grant assistance is requested;

(2) A proposed budget for the expenditure of the requested grant funds; and

(3) Such other pertinent information and assurances as the Secretary may require.

(c) *Grant Awards.*

(1) Preference will be given, to the extent feasible and practicable, to those public and private nonprofit agencies and organizations which are located or do business primarily in the area affected by the major disaster.

(2) Within the limits of the funds advanced by the Administrator, the amount of any grant award shall be determined on the basis of the Secretary's estimate of the sum necessary to carry out the grant purpose.

(3) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(d) *Other HHS regulations that apply.* Several other regulations apply to grants under this part. These include but are not limited to:

45 CFR Part 16. HHS grant appeals procedures

42 CFR Part 50, Subpart D. PHS grant appeals procedures

45 CFR Part 74. Administration of grants

45 CFR Part 75. Informal grant appeals procedures (indirect cost rates and other cost allocations)

45 CFR Part 80. Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81. Practice and procedure for hearings under Part 80

45 CFR Part 84. Nondiscrimination on the basis of handicap in federally assisted programs

45 CFR Part 86. Nondiscrimination on the basis of sex in federally assisted programs

45 CFR Part 91. Nondiscrimination on the basis of age in federally assisted programs

(e) *Expenditure of grant funds.* Any funds granted pursuant to this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and the conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(f) *Reports.* In exceptional circumstances, a grantee may be required to submit special progress reports, in addition to those otherwise required, relating to the conduct and results of the approved grant.

[FR Doc. 80–26468 Filed 8–27–80; 8:45 am]

BILLING CODE 4110–88–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Orders 5742, 5750

[A-9590]

Arizona; Cancellation of Public Land Order No. 5742; Withdrawal of Forest Lands for Red Mountain Geologic Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw 1,907.87 acres of national forest lands in the Coconino National Forest for a period of 20 years from the operation of the mining laws for protection of the Red Mountain Geologic Area.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602–261–4774.

By virtue of the authority contained in Section 204 of the Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5742 of July 29, 1980, FR Doc. 80–23469, appearing at page 51787 in the August 5, 1980, issue of the **Federal Register** is hereby canceled. The actions taken in said public land order are covered in the following paragraphs of this order.

2. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining

laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for preservation of a unique geologic area for scientific research.

Coconino National Forest

Red Mountain Geologic Area

Gila and Salt River Meridian

T. 25 N., R. 5 E.,
  Sec. 20, S½N½ and S½;
  Sec. 21, lots 3 to 8, inclusive, and W½SE¼;
  Sec. 28, W½E½ and W½;
  Sec. 29, all.

The areas described aggregate 1,907.87 acres in Coconino County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistant Secretary of the Interior.

August 20, 1980.

[FR Doc. 80-26315 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Orders 5743, 5751

[A-9291]

Arizona; Cancellation of Public Land Order No. 5743; Withdrawal of Forest Lands for Elden Environmental Study Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw approximately 778 acres of national forest lands in the Coconino National Forest for a period of 20 years from the operation of the mining laws to protect the Elden Environmental Study Area.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5743 of July 29, 1980, FR Doc. 80-23472, appearing at pages 51787 and 51788 in the August 5, 1980, issue of the **Federal Register** is hereby canceled. The actions taken in said public land order are covered in the following paragraphs of this order.

2. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an environmental study area in aid of programs of the Department of Agriculture:

Coconino National Forest

Elden Environmental Study Area

Gila and Salt River Meridian

T. 21 N., R. 7 E.,
  Sec. 1, S½;
  Sec. 2, lots 7 and 8, and SW¼ (less 14.25 acres in HES 86), and S½SE¼.
T. 21 N., R. 8 E.,
  Sec. 6, lots 6 and 7, NE¼SW¼, NW¼SE¼SW¼, and N½SW¼SE¼SW¼;
  Sec. 7, lot 7.

The areas described aggregate approximately 778 acres in Coconino County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistant Secretary of the Interior.

August 20, 1980.

[FR Doc. 80-26318 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Orders 5744 and 5749

[A-8684]

Arizona; Cancellation of Public Land Order No. 5744; Withdrawal for Forest Research Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw approximately 560 acres of national forest lands in the Coronado National Forest for a period of 20 years from the operation of the mining laws for research purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5744 of July 29, 1980, FR Doc. 80-23470, appearing at page 51788 in the August 5, 1980, issue of the **Federal Register** is hereby canceled. The actions taken in said public land order are covered in the following paragraphs of this order.

2. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and are reserved for a research natural area:

Goudy Canyon Research Natural Area

Gila and Salt River Meridian

Coronado National Forest

Beginning at a point from which the Webb Peak Triangulation Station bears N. 89°32′03″E., 4,360.94 feet; thence N. 44°45′W., 1,076.09 feet; thence N. 06°47′W., 627.04 feet; thence N. 32°58′W., 325.59 feet; thence S. 89°30′W., 279.39 feet; thence S. 19°38′W., 771.86 feet; thence S. 49°27′W., 846.67 feet; thence S. 76°40′W., 2,143.79 feet; thence S. 20°59′W., 4,860.15 feet; thence S. 02°06′E., 896.89 feet; thence S. 48°46′E., 1,199.12 feet; thence N. 80°22′E., 2,506.74 feet; thence N. 14°20′E., 3,915.43 feet; thence N. 37°41′E., 2,685.98 feet to the point of beginning.

This tract, when surveyed, will probably be located within sections 25, 35, and 36, Township 8 South, Range 23 East, and section 30, Township 8 South, Range 24 East.

The area described aggregates approximately 560.00 acres in Graham County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistant Secretary of the Interior.

August 20, 1980.

[FR Doc. 80-26319 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Orders 5745, 5748

[M-39381]

Montana; Cancellation of Public Land Order No. 5745; Withdrawal of National Forest Lands for Selway-Bitterroot Wilderness Trailhead Facility and Recreation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 80.72 acres of national forest land for a recreation area and trailhead facilities into the Selway-Bitterroot Wilderness Area.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406-657-6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5745 of July 31, 1980, FR Doc. 80-23883, appearing at page 52382 in the August 7, 1980, issue of the **Federal Register** is hereby canceled. The actions taken in said public land order are covered in the following paragraphs of this order.

2. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C. Ch. 2), for a trailhead facility into the Selway-Bitterroot Wilderness Area:

Lolo National Forest

Principal Meridian

T. 11 N., R. 21 W.,
  Sec. 6, West 660 feet of lot 3, East 1,000 feet of lot 4, and East 1,000 feet of lot 5.

The area described contains 80.72 acres in Missoula County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,
Assistant Secretary of the Interior.
August 20, 1980.

[FR Doc. 80-26320 Filed 8-27-80; 8:45 am]
BILLING CODE 4310-84-M

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43 CFR Public Land Orders 5746, 5747

[R-1663]

California; Cancellation of Public Land Order No. 5746; Withdrawal for National Forest Recreation and Administrative Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 789.97 acres of national forest lands from the mining laws for recreation and administrative sites in the Inyo National Forest.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916-484-4431.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is hereby ordered as follows:

1. Public Land Order No. 5746 of July 31, 1980, FR Doc. 80-23882, appearing at pages 52382 and 52383 in the August 7, 1980, issue of the **Federal Register** is hereby canceled. The actions taken in said public land order are covered in the following paragraphs of this order.

2. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the United States mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

Inyo National Forest

Mount Diablo Meridian

June Lake Loop Recreation Area, Rush Creek Campground

T. 1 S., R. 26 E.,
  Sec. 33, E½SW¼SW¼, W½SE¼SE¼.
T. 2 S., R. 26 E.,
  Sec. 4, W½ of Lot 1, E½ of Lot 2,
    SW¼NE¼, NW¼SE¼NE¼,
    NE¼SE¼NW¼, S½SE¼NW¼,
    NE¼SW¼, NE¼NW¼SW¼,
    S½NW¼SW¼, N½NW¼SE¼,
    SW¼SW¼, W½SE¼SW¼;
  Sec. 5, SE¼SE¼SE¼;
  Sec. 8, NE¼NE¼NE¼, S½NE¼NE¼,
    SE¼NE¼, SE¼SW¼NE¼;
  Sec. 9, W½W½NW¼, NE¼NW¼NW¼.

June Lake Beach

T. 2 S., R. 26 E.,
  Sec. 1, lot 5;
  Sec. 2, S½ of lot 5.

Silver Lake Campground

T. 2 S., R. 26 E.,
  Sec. 8, E½ of lot 1, W½ of lot 2,
    E½NW¼SE¼, W½NE¼SE¼,
    N½NE¼NE¼SE¼.

Oh! Ridge Viewpoint

T. 2 S., R. 26 E.,
  Sec. 12, lot 1.

Gull Lake Campground

T. 2 S., R. 26 E.,
  Sec. 14, N½SW¼SW¼;
  Sec. 15, E½E½ of lot 2.

Lone Pine Creek Recreation Area, Whitney Portal

T. 15 S., R. 34 E.,
  Sec. 35, S½SE¼NE¼, SE¼SW¼NE¼,
    E½NW¼SE¼;
  Sec. 36, E½SW¼NW¼NE¼,
    SE¼NW¼NE¼, W½SW¼NE¼NW¼,
    N½SW¼NW¼, SW¼SW¼NW¼.

Lone Pine

T. 15 S., R. 35 E.,
  Sec. 29, S½N½SE¼, N½S½SE¼.

The areas described aggregate approximately 789.87 acres in Inyo and Mono Counties.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,
Assistant Secretary of the Interior.
August 20, 1980.

[FR Doc. 80-26316 Filed 8-27-80; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FEMA-5712]

National Flood Insurance Program; Letter of Map Amendment for the City of Aurora, Colo.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within

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the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 080002 Panels 0015A and 0020A, published on October 23, 1979, in 44 FR 61024, indicates that Lots 8 through 13, Block 6; Lots 15 through 18, Block 10; Lots 21 and 22, Block 11; and Lots 1 through 8, Block 12, Brookvale Subdivision, Filing Number 2, Aurora, Colorado, recorded as Reception Number 1754661, Book 35, Pages 15 and 16, in the Office of the Recorder, Arapahoe County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080002 Panels 0015A and 0020A are hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on June 1, 1978. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator.)

Issued: July 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–26333 Filed 8–27–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

National Flood Insurance Program; Letter of Map Amendment for the City of Arvada, Colo.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Arvada, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Arvada, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 085072A Panel 03, published on October 23, 1979, in 44 FR 61024, indicates that Lots 33, 34, and 37 through 42, Ralston Valley, Filing Number 1; Lots 12 through 18, 53 through 75, 77, 78, 99, 117 through 121, 136 through 142, and 157 through 159, Ralston Valley, Filing Number 2; and Lots 1 through 3, 57 through 76, 79 through 99, 169 through 171, 188 through 202, and Tracts B, C, E, and F, Ralston Valley, Filing Number 5, Arvada, Colorado, recorded as Reception Number 715630 in Book 47, Page 25; Reception Number 739280 in Book 47, Page 67; and Reception Number 78042227 in Book 55, Page 28, respectively, in the Office of the Clerk and Recorder, Jefferson County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 085072A Panel 03 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on April 23, 1976. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: July 24, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80–26332 Filed 8–27–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

National Flood Insurance Program; Letter of Map Amendment for St. Tamany Parish, La.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Tamany Parish, Louisiana. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Tamany Parish, Louisiana, that certain property is not within the Special Flood Hazard Area.

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This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 225205A Panels 62 and 63, published on October 23, 1979, in 44 FR 61021, indicates that the portion of Drainage District No. 4, located West of the W-14 Main Diversion Canal, St. Tamany Parish, Louisiana, as established by Ordinance No. 812, adopted by the Police Jury of St. Tamany Parish, Louisiana, on May 18, 1978, is within the Special Flood Hazard Area.

Map No. H & I 225205A Panels 62 and 63 is hereby corrected to reflect that the above mentioned property, with the exception of the areas designated for Drainage Servitude as shown on the Servitude Plan, Drainage District No. 4, by J. J. Krebs & Sons, Inc., dated December 27, 1979, is not within the Special Flood Hazard Area identified on September 17, 1976. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: July 29, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26331 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

National Flood Insurance Program; Letter of Map Amendment for St. Charles County, Mo.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Charles County, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Charles County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20411, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290315 Panel 0250A, published on October 23, 1979, in 44 FR 61024, indicates that Lots 8, 10, and 48, Southgate Plat One, St. Charles County, Missouri, as recorded in Book 20, Page 47 and 48, in the Office of the Recorder, St. Charles County, Missouri, are within the Special Flood Hazard Area.

Map No. H & I 290315 Panel 0250A is hereby corrected to reflect that Lot 48 of the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This lot is in Zone c.

Map No. H & I 290315 Panel 0250A is also corrected to reflect that the existing structures on Lots 8 and 10 of the above mentioned property are not within The Special Flood Hazard Area identified on September 15, 1978. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: July 24, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-26330 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

National Flood Insurance Program; Letter of Map Amendment for the City of Tulsa, Okla.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood

insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 131, published on October 23, 1979, in 44 FR 61021, indicates that Lot 21, Pecan Acres Addition, Tulsa, Oklahoma, recorded as Document Number 298725 in Book 3658, pages 554 and 555, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 131 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: July 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26329 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

National Flood Insurance Program; Letter of Map Amendment for the Unincorporated Area of Arlington County, Va.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Arlington County, Virginia. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Arlington County, Virginia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 515520 A, Panel No. 08, published on October 23, 1979, in 44 FR 61012, indicates that the two structures numbered as Building No. 1529 and Building No. 1521/1525, George Mason Village, Unincorporated Area of Arlington County, Virginia, as recorded in Deed Book 1973, Pages 1741 and 1742, in the Office of the Clerk of the Circuit Court of Arlington County, Virginia, are located within the Special Flood Hazard Area.

Map No. H&I 515520 A, Panel No. 08, is hereby corrected to reflect that the existing Building No. 1529 and Building No. 1521/1525 located on the above-mentioned property are not within the Special Flood Hazard Area identified on December 31, 1976. Building No. 1529 is in Zone B and Building No. 1521/1525 is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26328 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 44

[CGD 79-142]

Special Service Load Line Vessels: Operation During the Hurricane Season

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations which place limitations upon the operation of merchant vessels assigned special service load lines. Under previous regulations, these vessels were effectively prohibited from operating during hurricane season on the Southeast Atlantic and Gulf Coasts. The amended regulations will permit such operation provided the vessel complies with a heavy weather operating plan filed with and approved by the Coast Guard.

EFFECTIVE DATE: This amendment is effective on September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Ewing, Office of Merchant Marine Safety (G-MMT-5/12), Room 1206, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2187.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking concerning this amendment was published in the **Federal Register** on April 21, 1980 (45 FR 26722). Interested persons were invited to submit comments on the proposal by June 5, 1980. Two comments were received from sources outside of the Coast Guard. Both of these favored the proposal's adoption. The Coast Guard is issuing it as a final rule without change.

Drafting Information

The principal persons involved in drafting this amendment are Mr. Donald L. Ewing, Project Manager, Office of Merchant Marine Safety, and Mr. Coleman Sachs, Project Counsel, Office of the Chief Counsel.

This amendment has been reviewed and determined to be nonsignificant under the Department of Transportation's Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). A final evaluation has been prepared and included in the public docket. This may be obtained from the Marine Safety Council (G-CMC/24), Coast Guard Headquarters, Washington, D.C. 20593, (202) 755-4901.

In consideration of the foregoing, Part 44 of Title 46, Code of Federal Regulations is amended as set forth below.

1. By revising § 44.01-12(b) (2) and (3) to read as follows:

§ 44.01-12 Voyage limits; special service.

* * * * *

(b) * * *

(2) Southeast Atlantic Coast—from Key West, Florida, to Jacksonville, Florida, except that the special service load line is not valid for manned vessels during the hurricane season, i.e., July 1st to November 15th, both dates inclusive, unless the vessel is operated in accordance with a Coast Guard approved heavy weather plan.

(3) Gulf of Mexico Coast—from the mouth of the Rio Grande River, Texas, to Key West, Florida, except that the special service load line is not valid for manned vessels during the hurricane season, i.e., July 1st to November 15th, both dates inclusive, unless the vessel is operated in accordance with a Coast Guard approved heavy weather plan.

* * * * *

2. By adding a new § 44.01-13 to read as follows:

§ 44.01-13 Heavy weather plan.

(a) Each heavy weather plan under § 44.01-12(b) must be prepared by the vessel owner or operator and approved by the cognizant Officer in Charge, Marine Inspection. Approval of a heavy weather plan is limited to the current hurricane season.

(b) The cognizant Officer in Charge, Marine Inspection, is—

(1) The Officer in Charge, Marine Inspection, within whose area the work site is located for a vessel that will be operating in a limited geographical area; or

(2) The Officer in Charge, Marine Inspection, within whose area the point of departure is located for a transiting vessel.

(c) The required content of the heavy weather plan is determined on a case-by-case basis by the cognizant Officer in Charge, Marine Inspection, based on knowledge of the local conditions. The heavy weather plan may contain weather radio frequencies and time schedules for seeking a harbor of safe refuge. A single heavy weather plan may be accepted for more than one vessel operating at a single work site or on a single route.

(d) The vessel owner or operator must place a copy of the heavy weather plan on each vessel to which it applies and ensure that it remains there throughout the hurricane season.

(46 U.S.C. 88a, 49 CFR 1.46(b))

Dated: August 20, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-26421 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Part 193

[Amdt. 193-1; Docket OPSO-46]

Liquefied Natural Gas Facilities; Reconsideration of Safety Standards for Siting, Design, and Construction

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: Final rules were issued on the siting, design, and construction of Liquefied Natural Gas (LNG) facilities on January 30, 1980. In response to petitions for reconsideration, MTB is amending several sections of the final rules. These amendments are: (1) To clarify that any subsequent changes in "existing LNG facilities," as defined by the Pipeline Safety Act of 1979, including expansion of capacity, if made pursuant to an application for approval filed before March 1, 1978, would not be subject to Part 193 siting requirements; (2) to provide that the Director will respond within 90 days to a petition for finding or approval unless the petitioner is otherwise notified; (3) to exclude "pipeline facilities" of the operator from thermal radiation protection requirements; (4) to clarify the vaporization rate for a design spill from a transfer line that penetrates an LNG storage tank below its liquid level; (5) to require the Director's approval for siting LNG storage tanks in certain areas of high seismic activity; (6) to modify the criteria for identification of a high seismic area, where the Director's approval for siting an LNG storage tank is required; (7) to make only impounding systems for LNG storage tanks subject to requirements relating to penetration by wind borne missiles; (8) to establish a 200 mph wind speed as an upper limit in designing for wind forces; (9) to clarify that any ultraviolet decay of insulation must not be detrimental to the insulation; (10) to clarify that only valves for use in controllable emergencies must have powered local and remote operating capabilities; (11) to clarify the dimensions required for dikes; and (12) to provide that only LNG storage tanks must meet the protection requirements for shared impoundment. MTB has also amended the scope of Part 193 to be consistent with the siting provisions of the memorandum of understanding with the U.S. Coast Guard, amended the definition of "LNG facility" to be consistent with the definition of this term in the Pipeline Safety Act of 1979; and changed the title and scope of Subpart B to refer to "Siting Requirements."

EFFECTIVE DATES: Because this document clarifies or relaxes requirements currently in effect, it is advantageous for industry to begin compliance without delay. Therefore, the final rules are effective August 28, 1980. In addition, the recordkeeping requirements of §§ 193.2119 and 193.2329, and any recordkeeping requirements incorporated by reference in Part 193, adopted as final rules in 45 FR 9184, become effective September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Walter Dennis, (202) 426-2392.

SUPPLEMENTARY INFORMATION: Final rules were published February 11, 1980, establishing standards for the siting, design, and construction of LNG facilities (45 FR 9184) in a new Part 193. These standards were issued under the Natural Gas Pipeline Safety Act of 1968, as amended by Title I of the Pipeline Safety Act of 1979 (49 U.S.C. 1671 et seq.)(the Act).

Earlier regulatory actions preceding issuance of the final rules were: (1) An advance notice of proposed rulemaking (ANPRM) (42 FR 20776, April 21, 1977), (2) A notice of proposed rulemaking (NPRM) (44 FR 8142, February 8, 1979), (3) A conference with Western LNG Terminal Associates (Western) *et al.*, held in Washington, DC, on April 24 and 25, 1979, and (4) a meeting of the Technical Pipeline Safety Standards Committee (TPSSC) held in Cambridge, Massachusetts, on June 12–15, 1979.

After the final rules were issued, the American Gas Association (AGA), Interstate Natural Gas Association of America (INGAA), and Western filed petitions for reconsideration of certain provisions in the new standards under 49 CFR Part 106. In aggregate, the petitions apply to 22 specific provisions, appearing in 16 separate sections of Part 193. Also, Western requests reconsideration of the final rules on the basis of several procedural issues.

Following receipt of the petitions for reconsideration, in accord with MTB procedures in 49 CFR 106.37, MTB sought comments on the petitions from several interested parties. Persons who commented on specific features of the petitions, either solicited or unsolicited, were:

Ted Stevens, U.S. Senator from Alaska (Stevens);
Harold T. Johnson, U.S. Representative from California (Johnson);
Robert B. Duncan, U.S. Representative from Oregon (Duncan);
The State of Alaska (Alaska);
Hollister Ranch Owners Association (Hollister);
Santa Barbara Citizens for Environmental Defense (Citizens);
Bixby Ranch (Bixby);
Sierra Club (Sierra);
James F. Devine, Acting Assistant Director of Engineering Geology, U.S. Geological Survey (Devine);
Federal Energy Regulatory Commission Staff (FERC); and Dr. Nathan M. Newmark, Consulting Engineering Services, (expert witness on seismic design for Western) (Newmark).

Except for FERC, which addressed all aspects of the petitions, the comments focused mainly on the prohibition under § 193.2061(f) against siting LNG facilities in certain areas of high seismic activity.

Both the petitioners and some commenters reference testimony given at the conference with Western *et al* in April, 1979, by expert witnesses, Newmark:

Dr. Robert D. Hanson, Chairman, Department of Civil Engineering, University of Michigan, (Hanson); and
Dr. Richard Jahns, Dean, School of Earth Sciences, Stanford University, (Jahns).

The disposition of the petitions together with the reasons for granting or denying aspects of the petitions or the basis for other decisions and the resulting amended rules follow:

General

In Part III of its petition (Parts I & II are discussed hereafter), Western asks that MTB reconsider several procedural issues and objections relating to this proceeding. While some of these matters have already been specifically answered by MTB, Western raises them to preserve its future rights in the event of court action. A brief response to each of these issues and objections follows.

A. Analysis or Evaluation

Western argues that a "Regulatory Analysis" instead of an "Evaluation" should have been prepared because the final rules will result in substantial compliance costs for the LNG industry and perhaps significantly impact consumer costs. Under the applicable Departmental procedures (43 FR 9582, March 8, 1978), a Regulatory Analysis is required for regulations that could result in a major effect on the general economy in terms of costs, consumer prices, or production, or could result in a major increase in costs or prices for individual industries, levels of government, or geographic regions. An Evaluation is required for all other regulations. Using figures from the Final Evaluation, the total annualized costs of the final rules to build from 6 to 64 facilities range from $8.4 million to $17.4 million yearly over a 20-year period. Even though Western characterizes these costs as "substantial," by any reasonable measure (there is none given in the procedures) they are not high enough to cause a "major effect" either on the general economy or the regulated LNG industry. Therefore, MTB's preparation of an Evaluation was proper under the Departmental procedures.

B. Conclusions of the Evaluation

The Final Evaluation concluded that eight sections in Part 193 have costs that exceed benefits. Western argues that adoption of these sections as final rules disregards the cost/benefit conclusions and makes the rules unreasonable and impracticable. This argument is equivalent to saying that MTB may not adopt a rule unless it is proven to be cost beneficial. Neither Executive Order 12044 nor the Departmental procedures support such a conclusion. There are many factors to be considered in deciding whether a rule should be adopted, of which compliance costs in comparison to quantifiable benefits is but one. Other factors include the need for the rule, the safety objectives to be attained, the effectiveness of the rule, the burdens it imposes, and its technical feasibility. Certainly no one of these factors should be determinative of reasonableness as Western suggests. Furthermore, MTB did not disregard the cost/benefit conclusions. A discussion of the need for the rules in light of the conclusions is included in the preamble to the final rules for each affected section.

C. Sufficiency of Economic Data

Western asserts that the data regarding the economic impacts of the final rules were insufficient for MTB to properly analyze the economic effects or consider alternatives. Although this assertion is made without foundation or examples of deficiencies, it is important to note that Departmental procedures do not require that any particular methodology be used in making an economic analysis. The use of a particular methodology, including the data for analysis, is left to the discretion of the agency concerned, subject, of course, to public scrutiny at the draft stage. MTB notes that Western did not raise this point when the Draft Evaluation was available for comment.

D. Advisory Committee Review

Western charges that MTB's handling of the advisory committee review of the proposed rules as required by section 4 of the Act was irregular in several respects: (1) The Committee lacked full membership, (2) The Committee's views were obtained, in part, by letter ballot rather than through direct discussion, and (3) MTB did not submit to the Committee for consideration proposed rules that, after their initial submission to the Committee, were later modified in a manner not approved by the Committee. MTB finds nothing in either section 4 of the Act or the Committee charter that would lend merit to any of Western's charges. The charter specifically authorizes Committee action by a majority of current members present and by letter ballot in lieu of discussion. The full intent of section 4 of the Act was met when MTB submitted all the proposed LNG rules to the Committee for review, and the Committee openly considered them at a 4-day meeting (June 12–15, 1979). Section 4 specifically permits MTB to make a final decision on proposed rules, after considering Committee views and explaining why any views are not adopted. After an initial review by the Committee, to return to the Committee for further comment in the mandatory sense suggested by Western would be equivalent to unlawfully relinquishing the final decisionmaking role to the Committee, since MTB could, under those conditions, never independently make a final rule.

E. Statutory Decisionmaking Factors

Western states that the final rules are defective because the record contains no evidence that MTB took into consideration in prescribing the rules the several factors listed in section 6(d) of the Act, particularly "the need to encourage remote siting." To the contrary, the final rules contain numerous specific provisions relating to the section 6(d) factors. For example, remote siting is an option available to operators in complying with the exclusion zones required by sections 193.2057 and 193.2059. Also, in this regard, the preamble to the April 21, 1977, advance notice discussed the need for safety standards based on different population densities, and the Evaluation analyzes the remote siting alternative. The safety advantages of "remote siting" are essentially obtained by compliance with the exclusion zone provisions, without incurring such potential drawbacks as poor positioning relative to existing pipelines, gas markets, or navigational needs.

F. Advisory Committee Advice

Under section 4 of the Act, MTB must give reasons for rejecting the views of the advisory committee upon a proposed rule. Western makes a general allegation that MTB has failed to meet this requirement with regard to proposed rules for which the Committee issued an unfavorable report. This is incorrect. For the most part, MTB adopted the views of the Committee in issuing the final rules and thus, there was no need to explain its position vis-a-vis that of the Committee. Where Committee views were not adopted, the reasons for rejection were given in the preamble to the final rules.

Section 193.2005 Applicability.

The purpose of this section is to distinguish between new and existing LNG facilities regarding the application of Part 193 standards affecting siting, design, or construction (including installation, initial inspection, or initial testing). In Part II of its petition, Western argues that in section 193.2005(b)(1), MTB has acted contrary to section 6(c)(1) of the Act by imposing new siting standards on existing LNG facilities.

Section 6(c)(1) of the Act forbids the application of new Federal LNG safety standards affecting design, location, installation, construction, initial inspection, or initial testing to an "existing LNG facility," although standards which do not affect location may under certain conditions (relating to compatibility or practicability) be applied to any "replacement component or part thereof" put in service after the standards are issued. The term "existing LNG facility" is defined by section 2(14) of the Act as any LNG facility for which an application for approval of the siting, construction, or operation was filed before March 1, 1978, with a particular Federal, State or local agency. Standards for the siting, design, and construction of any "new LNG facility" are authorized by section 6(a) of the Act; and a "new LNG facility" means any LNG facility other than an existing LNG facility.

Excepted from the meaning of "existing LNG facility" is any facility the construction of which begins on or after November 30, 1979, where the construction is pursuant to an approval initially applied for on or after March 1, 1978, in the form of an amendment to a pre-March 1, 1978, application. Under the Act, such a facility falls within the meaning of a "new LNG facility," and is therefore subject to siting, design, and construction standards for new LNG facilities authorized by section 6(a) of the Act. The intent of this exception can be illustrated using the applications filed with the Federal Energy Regulatory Commission (FERC) and its predecessor organization seeking approval for the construction and operation of an LNG facility on Staten Island, New York.

- November 1973—Application filed for a Certificate of Public Convenience and Necessity to construct and operate an LNG facility at Staten Island. Docketed as CP 74-122.
- March 1979—Amendment to CP 74-122 filed seeking authorization to operate the Staten Island facility as a peak shaving facility (using one of two 900,000 gallon storage tanks) and to construct and operate a liquefaction unit at the facility.
- February 1980—Amendment to CP 74-122 filed seeking authorization to use both of the facilities' 900,000 gallon storage tanks and existing vaporization and compressor equipment. Amendment also sought approval to construct and operate a liquefaction unit (twice the capacity of the unit filed for in the March 1979 amendment) and more vaporization units.

None of the above filings have yet been the subject of approval of FERC.

In applying the Act's definitions to the facilities subject to approval under CP-74-122, only those facilities for which approval of the siting, construction, or operation was applied for in the November 1973 filing would be considered "existing LNG facilities." In accordance with the Act's exception to the definition of "existing LNG facility," the facilities for which initial approval of the siting and construction was applied for in the March 1979 and February 1980 filed amendments would be considered "new LNG facilities," and therefore subject to the siting, design, and construction standards issued under section 6(a) of the Act.

Section 193.2005(b)(1) provides that if an existing LNG storage tank is relocated or its storage capacity is increased through replacement or significant alteration, the relocation tank, replacement tank, or significantly altered tank must meet the siting requirements of Part 193. Western argues that this provision is unauthorized because section 6(c)(1) of the Act forbids regulation of the siting of an existing LNG facility, including "any subsequent activity" that occurs with respect to the facility. Western supports this argument by referring to the plain meaning of section 6(c)(1) and its express prohibition against applying standards that affect location to any replacement of an existing facility, and by a somewhat liberal reading of the legislative history. From its reading of legislative history, Western infers that Congress did not intend to subject any reconstruction of an existing LNG facility to siting standards.

MTB does not dispute the basic premise of Western's argument, that nothing about an existing LNG facility may be regulated from a siting standpoint. In adopting this policy, Congress obviously recognized the virtual impracticability of retroactively applying new siting standards to facilities already built or under construction and, as indicated by the legislative history, the unfairness and delays that would result if siting standards were applied to facilities for which applications for approval had been pending since at least before March 1, 1978. Congress was also concerned that these existing facilities not be hindered from making needed replacements, but that the replacements be safe. Therefore, under section 6(c)(1)(B) Congress granted limited regulatory authority over the design and construction of replacements to existing LNG facilities, but specifically disallowed regulation of replacements to existing LNG facilities from a siting standpoint. We do believe, however, that Western has neglected to give recognition to the fact that the Act's definitions of "LNG facility," "existing LNG facility," and "new LNG facility"

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presuppose the possibility of a system of LNG facilities functioning as a unit, being composed of new and existing LNG facilities and also the possibility that certain relocation, reconstruction, or modification of an existing LNG facility makes the resulting facility a "new LNG facility."

For Western's argument to hold, relocated or enlarged facilities must be considered "existing LNG facilities" under section 6(c)(1). The relocated or enlarged facility would, under the statutory definition of "existing LNG facility," have to be one for which approval of the siting, construction, or operation was applied for before March 1, 1978. While we admit the possibility that a pre-March 1, 1978, application might have sought approval of subsequent relocation or enlargement activity, where it did not, such relocation or enlargement activity would need be the subject of an initial application for approval filed on or after March 1, 1978. As such, in applying the exception clause to the Act's definition of "existing LNG facility" (discussed earlier), the resulting relocated or enlarged facility would be a "new LNG facility" for which siting standards are authorized.

This reasoning, relied on in adopting § 193.2005(b)(1), is further supported by a statement from H. Rep. No. 96–201, Part 1, 96th Cong., 1st session (1979) at Page 24. At this point in its discussion of the authority to regulate existing LNG facilities, the House Committee on Interstate and foreign Commerce says:

> Standards for existing facilities are to be directed toward operational procedures only, including considerations such as the number of operators and security measures. They [standards for existing facilities] should not apply to any reconstruction or substantial modification of an existing LNG facility, which would result in a substantial increase in capacity. Such reconstruction or modification would render that facility subject to the rules promulgated for new LNG facilities, but only with respect to such reconstruction or modification. The original portion of the facility would remain "existing" but the reconstructed, modified or expanded portion would be "new".

This statement of the legislative history shows that any reconstruction activity that goes beyond mere replacement-in-kind of an existing facility to the extent that capacity is increased makes the resulting facility a new LNG facility. While the Committee continues its discussion by giving as an example of a new facility the construction of a third storage tank at a site where two had existed previously, it is important to note that the same result could be achieved (although impractically) by tearing down the original two tanks and rebuilding them to larger sizes.

Although we do not agree with Western that an existing facility remains an existing facility for purposes of section 6(c)(1) regardless of the changes it may undergo, we do concede that any subsequent construction for which approval was applied for before March 1, 1978, (even expansions of capacity) would fall within the meaning of "existing LNG facility." As currently drafted, § 193.2005(b)(1) does not reflect this distinction; and it is, therefore, changed to apply only to later modifications of existing LNG facilities that are not made pursuant to an original pre-March 1, 1978, application for approval. In addition, the term "replacement" is deleted to avoid the misunderstanding that its meaning includes reconstruction of a storage tank when storage capacity is increased, since such reconstruction would result in a new LNG facility.

Section 193.2007 Definitions. "Fail-safe".

AGA and INGAA petitioned to change the definition of "fail-safe" by deleting the word "component" and changing "control device" to "control signal." Thus for example, a "fail-safe" design of a shut-off valve would relate only to loss of power supply or control signal to the valve. In support of the change, both petitioners contend that a fail-safe design to account for a component failure as the present definition states is not possible. Also, they argue that a component can only assume a preplanned condition and that the definition would require all components to have fail-safe designs. Additionally, INGAA asserts that internal parts of valves cannot be designed or made "fail-safe," and feels that MTB does not intend that "every" component be designed to be fail-safe.

In response to the petitions, FERC comments that since the only substantive requirement for fail-safe design applies to automatic shutoff valves (§ 193.2125), the inclusion of "component" in the fail-safe definition is appropriate.

MTB adopted the present definition of "fail-safe" in response to comments on the NPRM. The broader term "component or component part" in the NPRM was changed to "component or control device" in the final rule. This change was precisely in accordance with the wording recommended by AGA and the TPSSC. INGAA made no recommendation in response to the NPRM.

Concern expressed by the petitioners that all components are required to be fail-safe because of the word "component" in the definition is not warranted. The Part 193 definitions do not by themselves impose any requirements. Rather, they are used to assist in applying the substantive rules of Part 193. The definition of "fail-safe" applies only where fail-safe designs are prescribed for specific components by substantive rules in Part 193 (e.g., § 193.2125). More important, the concept of "fail-safe" in the context of long scientific and engineering understanding is more broadly applicable than to loss of power or control signals. It applies to any malfunction of a part or system for which corrective action is needed in order to maintain a safe operation. In the case of a valve subject to § 193.2125, some internal parts would have to have a fail-safe design. For example, a diaphragm actuator may be designed to open or close a valve, as desired, in the event of diaphragm failure. Similarly, the inner valve designs may provide for the valve to close or open in the event of shaft failure from erosion or uncoupling, and instrument controls may be selected to perform appropriately in the event of loss of power, plugged bleed orifices, or linkage failure. A reaction only to loss of power or control signal does not adequately cover the intended fail-safe concept. Therefore, in accordance with the above discussion and FERC's position, the present wording of the definition of "fail-safe" is retained without change.

Section 193.2015 Petitions for finding or approval.

This section sets forth procedures that an operator must follow in requesting the Director of MTB to make findings or grant approvals as authorized by Part 193. To ensure that MTB has adequate time to respond to individual requests, the procedures require that they be submitted at least 90 days before the finding or approval is needed. AGA and INGAA argue that this provision does not commit MTB to act within a definite time frame, and that operators need to know when action will be taken on requests. Although implied by the current rule, MTB agrees that its policy to respond within 90 days should be clearly stated. At the same time, under some circumstances a period longer than 90 days may be needed. Therefore, § 193.2015 is revised to provide that within 90 days after requests are received, operators will be notified either of the action taken on requests or, in cases where the request requires more extensive consideration or where additional data or comments are

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requested and delay is expected, the date by which MTB anticipates action will be taken.

Section 193.2057(a)(1) Thermal Exclusion Zone (targets).

This section requires safe separation distances between impounding systems and certain targets for purpose of thermal radiation protection, not including targets that an operator uses as LNG facilities. In its petition, INGAA sought to except from the rule, all operator's facilities by changing the term "LNG facility" to "facility." INGAA asserted that pipe storage, maintenance yards, and other non-LNG pipeline facilities should not be subject to the separation distances.

In opposing INGAA's proposal, FERC considered the present wording to be sufficiently flexible, and argues that housing provided by an operator might not be protected from thermal radiation under the suggested change.

MTB feels the term "facility" as proposed by INGAA would open a door for broad exclusions. Concern expressed by FERC regarding operator-owned housing is in general accord with MTB's view. Housing, general office buildings, recreational facilities, or other targets not considered "pipeline facilities" should clearly not be excepted from thermal radiation protection. However, as presently written, the final rule excepts only pipeline facilities that are "LNG facilities." The MTB believes that other pipeline facilities of the operator, since they are of similar risk and purpose, should be excepted. Also, to not except them would create an undue compliance burden in situations where an operator uses common grounds for its LNG and non-LNG pipeline facility operations.

Accordingly, MTB has modified this section to except "pipeline facilities." Thus, a thermal radiation exclusion zone of an LNG facility does not apply with respect to other pipeline facilities of the operator.

Section 193.2057(a)(2) Thermal Exclusion Zone (drainage channels).

Proposals to provide a different method than required by § 193.2057(c)(1) to determine exclusion distances for elongated drainage channels were submitted by each of the petitioners. The proposals suggested that a modified method be used when the length to width ratio of a channel exceeds 4 to more realistically approximate the thermal zone from a burning elongated pool of liquid.

Each of the petitioners proposed a different method and asserted that the results of its proposed method would be conservative and either technically correct or more representative. None provide substantiation, either in the form of a logically derived detailed derivation or supportive test data. Each method generally produces different results for a given set of conditions.

In determining an exclusion distance "d" under § 193.2057 (b) and (c), INGAA recommended that an impoundment area (A) be calculated using an assumed length(l) of 4 times the width(w). This assumed value would be used to determine "d" from the formula $d=(f)(A)^{0.5}$ and to determine flame length (L) under paragraph (b)(4), in the formula $(L)=6(A/\pi)^{0.5}$.

AGA also recommends that "d" and (L) would be determined from an assumed value (A). However, AGA would calculate the assumed (A) using an assumed diameter of 4 times surface area divided by the surface perimeter.

While Western recommends use of the same formula proposed by AGA to determine an assumed (A), Western advocates using the assumed (A) to determine only the flame length (L).

In response to the petitions, FERC essentially supported the method recommended by AGA but proposed an additional provision to assure that impounding spaces associated with such drainage channels meet all other requirements of this section. In argument, FERC expressed only the view that a reduction (in the resulting exclusion distance) would be appropriate for drainage channels.

Using a 10-foot wide channel with varying lengths for comparing results under the § 193.2057 method for calculating exclusion distance ("d") to results under the proposed methods shows the following:

1. For a 40′ x 10′ channel, all methods would result in "d" equaling f(20). In the case of public streets, for example where § 193.2057(d) provides for (f)=(1.1), "d" would be 22 feet.

2. For a 41′ x 10′ channel, "d" would be—

- 22.2 feet under § 193.2057
- 22 feet under INGAA's proposed method
- 29 feet under AGA's proposed method

3. For a 1000′ x 10′ channel "d" would be—

- 110′ under § 193.2057
- 22 feet under INGAA's proposed method
- 35 feet under AGA's proposed method

As can be seen, the INGAA method results in a constant 22-foot exclusion distance no matter what the channel length. While the sudden 7-foot increase in exclusion distance for only a one-foot increase in channel length under the AGA method is not believed to be warranted for safety reasons, MTB seriously questions the adequacy of a 35-foot exclusion distance for a 1000-foot channel length.

The proposed methods of determining an assumed (A) would reduce flame length (L) in amounts proportionate to changes effected in "d." Reductions in (L) would tend to further reduce the safe separation distance between an impoundment system and targets. Whether this reduction would be significant is dependent on other parameters, such as topography, impoundment dimensions, and type of targets.

Incident thermal radiation from any unshielded source point in a flame pattern diminishes with the square of the distance from the source. Energy absorption by the atmosphere further reduces intensity with increasing distance. Therefore, MTB agrees with the implicit view of petitioners that a formula different from the one in § 193.2057(c)(1) would probably be appropriate for an elongated fire field, because incident thermal flux from its more distant source points could be considerably less than incident flux from source points of an equidimensional fire field. This problem was addressed by MTB in the NPRM. However, the proposed point source equation that was to have been applied to the problem received much inconsistent but adverse comment. An alternate methodology was not promulgated in the final rule because (a) response to the NPRM proposal regarding elongated impoundment was generally negative; (b) corroborative test data for elongated impoundment was not known to be available; (c) current thermal radiation data and analysis is imprecise; (d) a need for a specific rule for elongated impoundment was not demonstrated, in that unreasonable exclusion distances resulting from the general method prescribed would be infrequent; and (e) the final rule included in paragraph (c)(2), provisions for the use of new test methods.

The methods recommended by petitioners are not substantiated by either corroborative data or analytical derivation and cannot be logically supported. Also, the methods do not consider the changing intensity of incident flux at equidistant locations along the major and minor axes of a fire field.

The apparent source of the AGA and Western proposal is equation (F–15) in the AGA report IS–3–1. The author, Welker, does not provide either supportive data or derivation for (F–15). Moreover, the formula is proposed only for use in determining flame height by

Thomas' correlation, not for use with the incident flux equation for distance $(d)=(f)(A)^{0.5}$. Of greatest importance, the equation (F–15), is clearly proposed for use only if impoundment is "reasonably regular," that is, the ratio is "not more than" 4 to 1. An irregular flame base is discussed on Page C–69 of IS–3–1. Here a 2 to 1 ratio is suggested as the limit for equating areas. Clearly, application of the formula recommended by AGA and Western and supported by FERC does not appear to have a valid basis for use with elongated impoundment having a ratio greater than 4 to 1.

INGAA's proposal appears to be an effort to simplify. Its evident basis is an assumption that two separate fires, in a channel, separated by a space that is 4 channel widths in length, would not emit thermal radiation to a target on an orthogonal line passing 2 widths away from the end of each fire. Clearly, this is not valid and is the antithesis of safety, particularly in view of the downwind spread of vapor before ignition occurs, potential for multiple fires once a major fire occurs, and the high levels of incident flux permitted under the rule.

Section 193.2057(c)(2) provides for the use of new methods, if adequately substantiated, to determine thermal protective distance. As mentioned above, emissive flux from a channel was a factor in adopting this provision. In view of this feature and the foregoing discussion, a change in the rule is unjustified without appropriate substantiation. Present wording, therefore, is retained as written.

Section 193.2057(b)(4)(i) Measurement of flame length "L".

Only INGAA proposed a change to this section: It would delete the clause defining impoundment area (A) by measurement at the "lowest point along the top inside edge of the dike" and replace it with a clause prescribing that (A) be based only on the volume spilled before spilling is shut off by automatic systems (INGAA uses the term "maximum potential spill" to describe this volume). Such a change results in (A) being the area of a sump, rather than the total area of impounding space available to contain a spill. In this section, area (A) is used to determine (L), a length to account for flame height in the equation $(L)=6(A/\pi)^{0.5}$. INGAA's only support for its proposal is that use of the larger value for (A), as set forth in the final rule, would tend to discourage "drain-to-sump impoundment design" and that this design "should provide the most favorable safety aspects in case of an LNG spill."

In responding to the INGAA proposal, FERC expresses the view that MTB's use of design spills under § 193.2059 for vapor dispersion appears inconsistent with use of "full tank spills" for the thermal radiation protection. The MTB approach was said to be valid, however, given the greater potential for destruction from a fire close to storage tanks. Commenting that a significant reduction in thermal exclusion zone would result if an exclusion distance were based on sump design, FERC disagreed with INGAA's proposal.

The latest edition (1979) of NFPA 59A provides that thermal radiation protection be based on impoundment of a total spill for targets such as outdoor assembly of 50 or more persons, residences and certain buildings such as penal and educational structures, and "a property line which can be built upon." In the case of such property lines, protective distance would be further increased if a lower level of incident flux (3000 instead of 10,000 BTU/ft.^{2}-hr.) could result from a design spill. Each of these NFPA 59A design spill provisions is more stringent than INGAA's proposal.

Foremost for public safety, the paramount safeguard is containment of a spill. If a spill is not confined, it will spread. Vapor dispersion distance will increase and leakage into underground systems may occur, with results similar to those experienced in Cleveland, Ohio.

The Part 193 standards are designed to minimize the possibility of catastrophic failure. However, the possibility cannot be completely eliminated. Because of this possibility, some provisions to mitigate the otherwise very severe consequences of such an event must be retained. For example, standards relating to impoundment design and capacity are predicated on the premise that a catastrophic failure resulting in a full pool of LNG could occur.

Ignition and fire have greater expectancy than vapor dispersion with a large spill. On-site ignition sources are common. A spill that results in vapor dispersion may subsequently be ignited, whereas the opposite is not expectable. Therefore, fire and consequent thermal radiation is more likely to occur as the result of a spill than extensive vapor dispersion.

Sump basins to contain a small spill of flammable liquid or LNG were proposed respectively in the ANPRM and NPRM. In response to comments, this proposed requirement was dropped in the final rules. However, sumps are most effective in controlling fires from small spills and thereby serve to protect the operator's equipment. They are required in impounding systems for water collection purposes under § 193.2171. Capacity for holding small LNG spills can be provided at little or no additional cost. Therefore, the MTB disagrees with INGAA's assertion that prudent operators will be dissuaded from installing sumps unless the prescribed thermal exclusion zone is reduced by permitting a shortened flame length.

Moreover, even given an absolute assurance that a spill size would be small, much of the impoundment space surface area may be wetted from a postulated discharge and flow to a sump basin. This aspect would clearly affect thermal radiation because of fire size in the same way it affects vapor dispersion due to contact surface area and resulting vaporization rate. Thus, even if thermal radiation were to be based on a less-than-catastrophic-failure design spill, use of the sump area, as suggested by INGAA, in determining a safe exclusion distance would produce an inadequate thermal exclusion zone.

The prescribed thermal exclusion zone is not based on a full tank spill, as stated by FERC, since a spill large enough to cover the impounding space floor would result in essentially the same level of thermal radiation as a total spill. Therefore, considering: (a) The likelihood of a fire in the event of a spill; (b) the need to provide for a major or catastrophic spill since it cannot be ruled out; (c) that maximum harm is most likely during the first moments after ignition; and (d) that thermal radiation hazard would be nearly alike for various sizes of spills, § 193.2057(b)(4)(i) is retained in its present form.

Section 193.2057(d)(6) Limiting values for incident radiant flux on offsite targets.

This section establishes a protective distance between the impounding system for each LNG container or LNG transfer line and the operator's "property line," based on a maximum allowable incident radiant flux at the property line of 10,000 BTU/ft^2 hour. The rule is intended to provide a minimum level of protection against thermal radiation for persons who may be near an LNG facility outside its property line, such as on trails or in small recreation areas, for which safe separation distances are not otherwise required by § 195.2057(d).

AGA, INGAA, and Western argue that this requirement is impossible to meet for marine cargo transfer systems, since they must approach and cross an operator's property line at the shoreline. Western is also concerned that sea water vaporizers would have to be

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located further away from an unfrequented beach area than necessary for safety.

As stated in the preamble to the NPRM, MTB adopted the "property line" requirement with some modification from an existing NFPA 59A provision. this requirement and the NFPA provision can be interpreted, however, to refer to the right-of-way for a facility. The term "right-of-way" and not "property line" is used in the definition of "pipeline facility," and, in turn, "LNG facility". Although MTB agrees with the petitioners that a safe distance from a "property line"—using the term in its ordinary sense—cannot be provided for transfer lines that must cross a property line, this impossibility does not exist for distances between such a facility and its right-of-way. For these reasons, § 193.2057(d)(6) is amended by substituting "right-of-way" for "property line."

MTB does not agree with Western that § 193.2057(d)(6) should be further amended to exclude sea water vaporizers. Although some additional piping and pumping costs might result when such vaporizers are located further away from the shoreline (reduced cost for LNG and gas piping could be more than offsetting), there are no overriding compliance considerations as in the case of marine cargo transfer systems, and persons who may be near the facilities should be afforded every reasonable protection.

Section 193.2059(d)(1)(i) Flammable vapor-gas dispersion protection (design spill time criteria).

This paragraph prescribes a design vaporization rate for a spill into an impounding system serving an LNG container or LNG transfer system. The design rate is based on a presumed failure of LNG transfer piping, with additional time for piping that penetrates an LNG storage tank either above or below the liquid level. This vaporization rate is used in determining the design combustible gas dispersion distance.

Each of the petitioners requests that the minimum spill time of 10 minutes not be required for attended cargo transfer operations (transfers between a storage tank and a tank vehicle or marine vessel), arguing that a minimum time is unreasonable on top of the existing requirement in § 193.2439 that transfer piping have an automatic shutdown control system, and the proposed requirement in § 193.1117 (Notice 5; Docket No. OPSO–46) that cargo transfer operations be continuously monitored by personnel. In addition, for penetrations below the liquid level, all petitioners would eliminate the prescribed additional time for liquid head to equilibrate with that in impoundment (or otherwise reach the penetration level). This additional time for side or bottom penetrations of LNG storage tanks is viewed as unreasonable since § 193.2195(c) requires an internal shut-off valve that would have to have a fail-safe design under § 193.2125, making a prolonged spill from a tank unreasonable to assume. AGA also argues that as a maximum, the spill time should not be longer than the time required by NFPA–59A.

FERC disagrees with the petitions regarding the 10-minute minimum, stating that in actual practice, a time lapse between emergency notification and shutdown has been demonstrated. Also, FERC points out that § 193.2439(c) permits a reasonable delay in automatic shutdown time between alarm and shutdown to provide for a manual response and adds that any delay in leak detection would further increase shutdown time.

MTB disagrees with petitions to eliminate the 10-minute minimum for cargo transfer systems that are monitored or constantly attended and equipped for shutdown as required by § 193.2439. In furtherance of the concerns raised by FERC that delays in emergency response can occur, the attention of an attendant may be diverted due to other events, he may be slow to respond due to the normally quiescent nature of plant operation, or he may fail to respond effectively because of unfamiliarity with the problem or the trauma of a first time real life LNG emergency. Also, the requirements of § 193.2439 are not a satisfactory safety substitute for the 10-minute minimum design spill, because each sensor or component part would have to function properly in a possibly adverse environment during an emergency to assure a lesser shutdown period. Functional failure of any part of a control system or by an attendant would probably result in dispersion distance extending far beyond the design exclusion zone boundaries, with the attendant potential for severe consequences.

Thus, MTB believes the 10-minute spill time is necessary to account for any variety of conditions that can result in delay of shutdown. Further, the 10-minute time was adopted for consistency with the long standing NFPA 59A requirement for containers with top penetrations, perhaps an even safer situation than presented by cargo transfers.

Similar to the above discussion about § 193.2439, control of vapor dispersion from a tank impoundment should not be dependent on the operation of an internal valve required by § 193.2195, even though a fail-safe design is prescribed. Unlike top penetrations, where LNG spillage will passively terminate when power is cut off since the boiling liquid will not siphon, the internal valve is not a passive device. It clearly is part of an active control system which requires transmission of a control signal, correct response to the signal, and liquid tight closure of the valve. An active system is inherently less safe, since some positive action is required. If the petitions for removal of equilibration time were granted, the level of stringency would be the same for top, side, and bottom penetrations, yet safe control of vapor dispersion would rely on the operation of an internal valve that cannot be readily inspected or tested. The MTB believes this active system is not an adequate substitute for the current spill provision. Accordingly, the petitions to reduce the level of stringency for side and bottom penetrations to the same level required for top penetrations are denied.

Paragraph 2–2.3.3(c) of 59A provides for a one hour design spill limit for penetrations in storage tanks below the liquid level that are fitted with internal valves when surveillance and shutdown provisions are acceptable to the authority having jurisdiction. AGA argued that adopting this provision would encourage sub-diking. MTB believes this conditional one hour limit would have little effect, since in those cases where sub-diking could limit the design dispersion distance, appropriate design with a sub-diking arrangement probably could provide for about the same distances whether or not the spill time is limited to one hour. Also, where sub-diking may be encouraged, top penetrations would be discouraged.

MTB believes that encouragement of sub-diking to reduce dispersion distance does not justify an increased risk to the public from the potential dispersion of combustible vapor beyond exclusion zone boundaries if the internal valve fails to operate when needed within a one-hour time period. Therefore this alternate petition is denied, also.

However, some potential for misinterpretation of this requirement in the final rule has become apparent to MTB. Therefore, wording has been changed to clarify that the design spill is considered to continue under the condition of a failed shutoff valve until either liquid equilibration occurs, or until the liquid level in the tank falls below the tank penetration.

Section 193.2061(f) Seismic investigation and design forces (prohibitions).

This section prohibits locating LNG storage tanks where a site investigation shows that very high seismic activity could occur. By precluding the construction of facilities in areas where seismic predictability and design accommodation may be beyond the state of the art, the rule precludes the likelihood of a catastrophic or uncontained spill. If an operator believes that state-of-the-art capability can be demonstrated, an operator may apply to the Director for a waiver of the prohibition. Under this section, highly seismic areas are identified as those:

(1) Within one mile of an estimated differential displacement exceeding 60 inches on a Quaternary fault;

(2) Where estimated design acceleration exceeds 0.8g; or

(3) Where the potential for soil liquefaction cannot be accommodated.

The Issues

There are two basic issues addressed in the petitions for reconsideration. One is the appropriateness of adopting an absolute exclusionary rule like § 193.2061(f) for locating LNG storage tanks. The other is the validity of the fault-at-one-mile criteria to identify a highly seismic area where special government attention is required before a facility may be built.

First Issue; Petitions and Comments

With respect to the first issue, each of the three petitioners argues that outright prohibition should be eliminated in favor of a case-by-case government approval process for siting LNG facilities in identified highly seismic areas. The petitioners argue that prohibition is unreasonble and not in the public interest, considering energy supply and the availability of acceptable sites. AGA and INGAA contend that the regulations should require either compliance with specific conditions, or a demonstration to MTB of design safety by the operator. Knowledge of specific characteristics of the fault is necessary to justify prohibition according to Western. It cites the testimony at the April 1979 conference of Devine, Newmark, Jahns, and Hanson for support. The petitioners do not view the opportunity to seek a waiver from the prohibition as a favorable regulatory framework within which to plan and seek financing for new facilities.

In its remarks filed in support of Western, Alaska says the "prohibition" is an "aberational and inconsistent" provision in Part 193, since all other provisions have flexibility for balancing construction costs against the hazards of a location. In view of Alaska's special interest in LNG production and consequently in the availability of marketing terminals, it argues that States should be permitted to balance public health and safety with energy supply and economics.

Stevens and Johnson also advocated reconsideration favoring the petitioner's position against exclusionary seismic standards. Stevens thought that, otherwise, Alaska would be impaired in helping to offset the energy shortage. He also expressed support for Alaska's position on the matter.

Johnson expressed concern that exclusionary seismic provisions might block an LNG plant in California and plant expansion at Western's Point conception site. He concluded that design which could accommodate the seismic conditions should be available, and that the standards should provide for such judgment, but not reduce safety.

Western further argues against MTB's statement that commenters failed to substantiate that design can accommodate severe earthquakes by referring to testimony by Newmark and Jahns that dams and other structures have withstood seismic events according to design. Western also says that, according to Newmark, any probable earthquake could be accommodated by design, if there were no cost constraints. Also, Western contends that tests performed in connection with construction of facilities have demonstrated tolerance of severe seismic forces. Regarding MTB's reasoning that prohibition in highly seismic areas is in the public interest because consequences of a severe earthquake are so significant, Western again argues that experts say proper design will preclude adverse consequences, that other redundant safety standards in Part 193 (impoundment and exclusion zones) will protect the public, and that a spill at a remote site would not endanger the public even with total tank failure from an earthquake.

FERC expressed unqualified support of all of MTB's reasons for prohibition. More critically, FERC observed that no experience (even with dams) or testing has shown that LNG storage tanks have tolerance for faulting.

Comments in support of the exclusionary approach were received from Sierra, Bixby, Hollister and Citizens. In commenting on seismic features of the petitions, Sierra urged rejection, saying such changes would emasculate the final rule and are contrary to the public interest. Support of the MTB rationale as well as the content of § 193.2061(f) is expressed. The prohibition is considered to be necessary by Sierra because of the unpredictability of both the faulting, itself, as well as the effects of faulting in a geologically active area. Bixby, Hollister, and Citizens point out that the petitioners continue to ignore the opportunity for seeking a waiver. Since this administrative procedure is readily available, they say modification of the rule is unwarranted. These commenters also underscore Western's admission that the issues are repetitious. Since the rules have been extensively reviewed, they argue, the petitions should be dismissed.

MTB's Disposition of First Issue

Contrary to allegations by Western, other provisions in Part 193, such as requirements for vapor dispersion, thermal radiation, and diking, will not assure public protection if a design seismic event is exceeded. For vapor dispersion, the exclusion zone is sized to accommodate only a piping failure, rather than a catastrophic tank failure. And if diking fails, resulting in an uncontained spill, none of the basic safeguards would be sufficient. Thus, provisions exceeding the requirements of Part 193 would be necessary to assure public safety if seismic overload resulted in catastrophic failure.

Construction tests that demonstrate tolerance for severe seismic forces, as alleged by Western, are not prescribed in the final rules. FERC states there are no such tests. Higher pneumatic and full hydrostatic tests of tanks, proposed in the NPRM, could have demonstrated tolerance for some level of dynamic loading from earthquakes and wind. Other proposed requirements in the ANPRM could have provided information for post evaluation of seismic loads and stress levels. However, these proposed requirements were vigorously opposed by commenters on the ANPRM and were not adopted in the final rules. Nevertheless, there are tests and instrumentation which could demonstrate certain levels of tolerance to earthquake forces. Any reliance on such forms of demonstration should be made as part of a governmental review process.

The statement, attributed by Western to Newmark, that without cost constraint, any probable earthquake could be accommodated by design, appears to contradict Newmark's comment that designs for differential displacements larger than 2 or 3 feet require extensive study and research. Even if accommodation by design for

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extreme seismic events is possible, the principal concern is the uncertainty in predicting the nature and magnitude of the event to be accommodated.

MTB imposed the prohibition under § 193.2061(f) because of the high degree of inherent uncertainty in determining the features of a causative geology and predicting seismic effects, particularly near-field activity; and the dearth of reliable technology for structural designs to accommodate very high seismic action. Comments by Devine and FERC, expert testimony referenced by Bixby and others, and extensive technical literature bear out MTB's concerns relating to geologic and seismic uncertainties. Seismic evaluations done at Point Conception, that show a difference in earthquake energy release of about 30 to 1, emphasize this concern. Newmark; comments by Bixby, Hollister and Citizens on expert testimony; research sponsored by the National Science Foundation; and technical literature point out that more extensive study and research are needed for structural designs to accommodate large differential surface displacements.

Accordingly, in adopting § 193.2061(f), MTB took the view that little could be gained by review and approval by the Director, where adequate technology is likely to be unavailable for making sound technical judgments. However, with respect to the issue of whether outright prohibition is an appropriate regulatory approach, MTB upon reconsideration has determined that modification of the opening clause of § 193.2061(f) to provide for a case-by-case approval would be more appropriate for the following reasons: First, although an approval process is basically only a procedural variation of the prohibition/waiver approach, it provides a more favorable atmosphere within which to seek authority to build a new LNG storage tank. The safety and technical issues and background information to be considered would be the same as in a waiver proceeding, and the matters to be considered can be specified by regulation. Secondly, lead time can be controlled, permitting more timely go/no-go decisions. Thirdly, the specter of the prohibition/waiver process could reflect unfavorably on an otherwise desirable site having compensating safety features. Finally, considering the nation's energy demands, a case-by-case approval approach would establish a procedural route within the regulations for siting a high risk energy facility without foreclosing in advance any particular site. Thus, § 193.2061(f) has been revised to adopt, in part, the petitioners' request by eliminating the outright prohibition. Rejection or approval of a site relative to the risk created by high seismic activity is made subject to evaluation by the Director, as requested by petitioners.

In responding to a request for approval made under § 193.2061(f), MTB contemplates that the decision process would include submitting the request and supporting data to an ad hoc panel for evaluation and recommendations. This DOT chaired panel would, at a minimum, be composed of individuals representing the State(s) and localities most directly concerned with the proposed site and private and Federal government experts on seismic investigation and design force matters. The panel's report and recommendations would be part of the record of proceedings on the approval application and made available for public comment in advance of the Director's decision.

Second Issue; Petitions and Comments (Exclusion Distance)

With respect to the second issue—whether a one mile distance from a Quaternary fault with 60 or more inches of displacement is an appropriate indicator of a highly seismic area—AGA and INGAA proposed identical changes in § 193.2061(f)(1). Addressing the "one mile separation" aspect of this issue, the word "beneath" would replace the words "within one mile" so as to restrict the identifying criteria to a 60-inch Quaternary differential fault displacement beneath the tank foundation. Elimination of the one mile separation was also proposed by Western. However, Western seeks to modify the language describing the triggering criteria to "60 inches of differential surface displacement of a seismogenic Quaternary fault beneath the tank foundation."

AGA and INGAA contend that the only effect from a fault on a tank that is separated by one mile or any other distance will be from acceleration. Therefore, they assert, only differential fault displacement beneath the tank is applicable to identifying a high seismic risk. Also, AGA together with Western urge deletion of the one mile criterion on the basis that at shoreline sites, proof that faulting is within precribed limits is very difficult. They say that present geophysical methods necessary for offshore investigation cannot provide the required accuracy. Western goes on to comment that the 60 inches of displacement, which it proposed in response to the NPRM, was to have applied at tank location rather than at a one mile distance. Therefore, they assert use of the 60-inch criteria in conjunction with a one mile exclusion distance is unjustified.

In rebuttal to MTB's rationale in the preamble that uncertainties about future faulting and fault splays justify the one mile zone, Western argues that it is invalid to conclude that the area within one mile of a Quaternary fault is unsafe without considering whether the fault is "seismogenic" (could it produce an earthquake). Western contends that further seismic examination and design by experts is a more appropriate regulatory approach. Western also rebuts MTB's statement in the preamble that the final rule was developed with the assistance of Devine and his testimony. With reference to the public hearing in April 1979, they quote Devine as saying that one mile could not cover all unsafe situations and may be either over or under conservative, and that a determination of fault size, ongoing displacement, or surrounding faults and relative displacement on each are necessary. Western concludes that MTB cannot say that Devine is supportive of the final rule and contends that there is no evidence in the record to support the one mile criterion.

Commenting on the issues, Newmark supports the position of the petitioners regarding deletion of the one mile criterion. He proposes language that, except for the amount of displacement, is identical with the language used by AGA and INGAA. The location of the fault displacement is proposed to be changed from "within one mile" to "beneath" the tank foundation. However, no explanation is given for this proposal, or about the uncertainties associated with predicting near-field seismic activity. Newmark merely asserts that "an arbitrary distance to faults regardless of their size and probability of slip is unrealistic and arbitrary."

Misgivings about the one mile criterion were also indicated by Devine in his comments as well as his testimony. However, he points out that a fault trace is not likely to be known with the certainty necessary to assure that the next movement on the fault will not result in differential ground displacement at some distance from the known fault trace, or trace of last movement. Devine feels this factor supports exclusion zones. This factor is not acknowledged by the petitioners.

FERC disagrees with assertion by AGA and INGAA that a fault not directly beneath a component presents only an acceleration problem. FERC cites a number of features that must be acknowledged in earthquake design: (1) Liquefaction, subsidence, and tilting are potential problems regardless of distance from a fault; (2) faulting on a single continuous fault surface is rare; (3) new faulting, particularly when close to existing faults, cannot be ruled out; (4) the effects of shaking, when close to a fault, cannot be reasonably predicted, even when directional effects are ignored; and (5) directional effects, as shown by the 1979 Santa Barbara event, can be substantial.

FERC also takes exception to comments by AGA and Western that lack of accuracy in data on offshore faults would preclude shoreline locations. This, they say, is an invalid reason to eliminate an otherwise valuable restriction because if faults could not be discovered by state-of-the-art geotechnical investigation, the site would be acceptable.

Sierra, Bixby, Hollister and Citizens generally support the one-mile exclusionary zone, but indicate that, if anything, a more stringent standard is called for.

Considering the unpredictability of both the potential for faulting and its effects, Sierra feels that the one mile criterion is inadequate. In support of this view, the testimony of Hanson given at the April 1979 MTB conference is referenced. In the testimony he stated that one mile separation from significant faults would not be enough to prevent tanks from being located over a serious fault, and claimed that two or three miles would be a better standard. To exemplify, Sierra alleges that an ever increasing number of faults have been discovered over several square miles at Point Conception, California, as a result of ongoing investigations. The USGS Open File Report No. 80–229 (March 1979, at 16) is referenced for substantiation. The Report is said to conclude that the faults found so far are "structurally inseparable elements of a regional system of severe faults."

Bixby also refers to Hanson's testimony. He is quoted as recommending an exclusionary zone of two to three miles for thrust faults and one mile as a national basis, but adds that this limit may not be adequate for California.

Testimony by Newmark at the April 1979 meeting supporting the exclusionary approach is also quoted by Bixby. Newmark states, "I would support an exclusion principle that barred a facility like this within about a mile of the San Andreas fault." Bixby also relates that Newmark's testimony before FERC in June 1976 states that LNG facilities can be reliably designed within a mile or so of a fault on which earthquake motions of one or two feet might be expected. This testimony, according to Bixby, shows that Newmark, while opposing an exclusion zone in his letter supporting the petitioners, has endorsed the concept in testimony.

As a corollary, Bixby, Hollister, and Citizens all point out that the expert sworn testimony and comments in the docket contradict Western's allegation that there is no evidence in the record to support the one mile criterion.

Petitions and Comments; (Differential Displacement)

The magnitude of estimated differential Quaternary displacement is the other aspect of the second issue that must be considered. Although petitioners did not request a change in the 60 inches or more magnitude, it becomes a matter for reconsideration because of the petitions to establish displacement criteria for faults at a point beneath the tank, the associated comments on the appropriate magnitude of a fault displacement beneath the tank, and the need for changes recognized by MTB as a result of the comments.

Western asserts that the prescribed 60 inches of differential displacement over two million years is not valid criteria for discriminating against an area one mile around a fault without evaluating the potential effects at the tank site. As mentioned, Western acknowledges that this magnitude of displacement was its own proposal for a final rule made in response to the NPRM. However, Western states correctly that it was to be applied in connection with a fault location beneath the tank. This criteria, it alleges, is in accordance with testimony by Newmark and Jahns. Both men are said to be recognized experts who believe that "varying seismic conditions simply require varying design conditions." However, Western acknowledges that while Newmark speculated that "innovative" design could accommodate displacements in excess of 36 inches, he also stated that current state-of-the-art design, with innovation, can accommodate displacements of only 2 to 3 feet.

Western recalls Jahns' statement that facilities have been designed for 30 feet of displacement. The Palmsdale Dam in Southern California was cited as the example. The criteria of 60 inches of displacement located directly under a tank was therefore viewed by Western as appropriate for triggering special consideration in the installation of large LNG tanks.

Newmark's own comments also address the matter of appropriate limits for displacement directly under an LNG tank. He quotes an excerpt from his testimony at the April 1979 meeting. In part, it says that special designs, not beyond the state-of-the-art, can handle two or three feet. But, it continues, "I would not want to generalize, however, and say that one should permit relative surface motions larger than that under an important structure, or one that is essential to safety." At a following point, he asserts that design for larger displacement is possible, but would require great and extensive study and research.

In his comment, Newmark says that § 193.2061(f)(1) does not accurately reflect his testimony at the April 1979 conference. He proposes revisions in § 193.2061(f)(1) identical with that of the petitioners AGA and INGAA, except that the limit of differential displacement would be 30 inches, rather than 60 inches proposed by the petitioners.

Newmark's position, that motions exceeding 2 or 3 feet are beyond the state-of-the-art, is also referenced by Bixby to show that Newmark, who testified as Western's expert, now disagrees with Western's position that up to 60 inches is within the state-of-the-art. In addition, Bixby points out that Newmark earlier testified (El Paso, Alaska LNG Co. Case, Tr. Vol. 157, P. 25946) that LNG facilities could not be reliably designed at, over, or within a mile or so of a fault with one or two feet of expected motion.

With respect to Jahns' statement about the magnitude of displacement allowable for design purposes (30 feet), FERC argues that "no experience, even with dams (which are not comparable with LNG facilities) or tests have shown that facilities have tolerance for faulting." Also, use of the word "seismogenic," proposed by Western to describe the Quaternary fault at issue, while appearing inocuous, is considered to be a potentially serious problem by FERC. FERC contends that a fault probably could not be proven to be nonseismogenic. As a result, FERC feels that litigation could be extensive and unresolvable, yet impose excessive burdens on opposing parties. Accordingly, FERC recommends that the term not be used in the standard.

MTB's Disposition of Second Issue

Experts in the field do not uniformly agree on geologic and seismologic terms or their meanings. From the comments and related testimony, conflict about the nature and effects of earthquakes also becomes evident. This is not an unreasonable circumstance, since rapid development is being experienced in these fields. Also, these fields are not precise disciplines and must rely on

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deductive reasoning as much or more than on direct observation and measurement.

The term "differential Quaternary fault displacement" used by AGA, INGAA, and Newmark, in describing the type of displacement located beneath a tank, clearly is intended to mean differential surface displacement, (i.e., differential displacement of the ground at its interface with the tank foundation). This is made evident by Newmark's interchangable use of the term "relative surface motions." As used in the final rule, this same term means historic differential movement at the face of a Quaternary fault whether evident by measurement or estimate. Western, in an apparent effort to clarify, uses the term "differential surface displacement of a seismogenic Quaternary fault." Rather than adding clarity, this would introduce possible ambiguity, since unless a fault that is immediately beneath the tank is classified as "seismogenic," construction could apparently proceed without regard to the magnitude of surface displacement that is predicted to occur beneath the tank.

Assertions by AGA and INGAA that ground acceleration will be the only effect from a remote fault are not considered valid. Near-field seismic effects from major events, such as differential surface displacement, subsidence, tilting, vibratory motion, and liquefaction are not well known, as stated by FERC. Also, as Devine explains, differential surface displacement may occur at some unpredictable distance from a known fault, or trace of last movement.

The uncertainties in both the faulting and potential effects were also recognized by Sierra, Bixby, Hollister, and Citizens as a justification for the separation. The discussion by Sierra about the results of ongoing, detailed investigation at Point Conception lends weight to Devine's argument.

Hanson's testimony, cited by Bixby, supports the need for separation. And although Newmark expresses opposition to separation (but does not give justification for this view), he has testified in favor of separation as recently as 1976, according to Bixby.

The specter of the uncertainties associated with near-field seismic effects of an earthquake is the principal reason MTB included provisions for separation in the final rule. The San Fernando, California, Earthquake of 1971 (USGS and NOAA preliminary report, 1971) is a good example of some of these uncertainties: Acceleration and other seismic effects far exceeded anticipations for an event of only such moderate size. Rated at 6.6 Richter (the San Francisco 1906 and Alaska 1964 events, in the range of 8.3 Richter radiated a few hundred times more energy), accelerations were the highest ever recorded, measuring 1.0g horizontal and 0.7g vertical with local responses even more dramatic. Evidence suggests that buildings were accelerated vertically at 1.0g (minimum) for about 0.1 seconds. A 20 ton fire truck was moved 6 to 8 feet without showing tire marks, and wine glass stems were broken without lateral movement. Both of these occurrences would require over 1.0g vertical acceleration. A "shattered earth" effect was exhibited in some locations, and at one point a rock roadcut appeared to have exploded. The Van Norman Dam (overlooking heavily populated San Fernando Valley) was severely damaged and at the brink of catastrophic failure. Perhaps of greatest significance, some areas of great disturbance were delineated by narrow bands, with only minor damage just beyond, exemplifying the degree of uncertainty in the translation of seismic motions, as discussed by Devine.

MTB agrees with FERC that the argument by AGA and Western about the possible preclusion of shoreline facilities due to offshore investigative limitations is invalid. Investigative measures beyond state-of-the-art techniques are not presumed under the separation provision.

MTB acknowledges that the final rule adopted Western's suggested magnitude of displacement (60 inches) in conjunction with a separation provision. However, this decision is not a valid rationale for deleting the separation provision. The 60-inch criterion clearly exceeds state-of-the-art design for displacement under LNG tanks, and is more appropriate when used in conjunction with a provision for separation from a fault of such magnitude. Western's argument that MTB cannot cite Devine as authority for the final rule is contradicted by Devine's comments on the petitions. MTB together with Devine agree that the criteria are appropriate as used in the final rule.

The criterion of one mile for the separation distance in the final rule is to provide for the unpredictable lateral offset in translation of movement along new faulting (or along a splay or swarm of faults of unknown dimension or location) to a point at the surface under an LNG tank. MTB recognized that a fixed distance could not apply to all conditions. As Devine stated, it could be underconservative in some cases—overconservative in others. (The relevant comments of Devine, and others in this respect, applied to the NPRM criteria which did not prescribe a fixed limit of movement). However, basing the distance on a prescribed amount of differential Quaternary displacement clearly restricted the conditions to a limited range.

As previously stated, the one mile criterion, as used in the final rule, is supported by FERC, Sierra, and Bixby. Although Sierra, Bixby, Hollister, and Citizens indicated that an even greater distance is needed, and expert witness, Hanson, testified (with respect to the NPRM) that 2 or 3 miles would be a better standard, MTB selected one mile as the appropriate distance for a national standard, since in most areas of application, seismic data would not be well known and uncertainties in prediction would be greatest. In such areas, one mile would likely be sufficient to provide suitable attenuation and reduce the likelihood of excessive differential surface displacement occurring under the tank.

Notwithstanding Hanson's view that a distance of 2 or 3 miles would be more appropriate near a significant fault, MTB considers an exclusion distance based on such active locations to be inappropriate for a national standard. However, where more information about the seismic features of such active locations are available, or can be obtained from appropriate investigation by the prudent operator, such information may be sufficient for accurately predicting ground displacement at a tank site. If so, MTB believes the final rule should be changed to permit operators to use this information in judging the safety of a site.

In his testimony, Hanson supported the one mile criterion as a national standard, and according to comments, even Newmark, in other testimony, advocates a one mile distance under certain conditions. Contrary to Western's allegations, response to the NPRM as well as testimony at the April 1979 conference provide ample basis in the record for the one mile criteria, as stated by commenters opposing the petitions. MTB believes the one-mile criteria, when applied in conjunction with specified differential displacement on a Quaternary fault, is appropriate for locations where there is insufficient information to assure a reliable level of predictability about faulting at the tank site. Accordingly, after reconsideration, the one mile zone is retained, but the final rule is revised to narrow its application to areas where reliable prediction of site specific displacement cannot be made. The decision is consistent with petitioner's arguments that a prohibition against construction should not apply without first allowing an opportunity for more detailed investigation of projected effects at a tank site.

MTB has not adopted as a final rule Western's proposal in response to the NPRM (and restated by petitioners in this proceeding) to allow siting of a tank where no more than 60 inches of differential surface displacement is predicted to occur under the tank. Clearly this amount exceeds state-of-the-art design capabilities by a factor of about 2. Even Newmark, Western's expert, made a point of commenting on the petitions in this respect. He argues that the final rules do not reflect his testimony, and follows with an excerpt from his testimony that one should not permit designs for relative surface motions of more than 2 or 3 feet under an important structure. As FERC noted, Western's concept of acceptable displacement derives from a combination of Newmark's 2 or 3 feet for LNG tanks, and Jahns' 30 feet for the Palmsdale, California, dam. This is a contrived view that is not shared by MTB.

Opposing comments extensively debate the 60-inch value, citing expert witness testimony to show that it exceeds limits for accommodation by state-of-the-art designs. Newmark, himself, Western's expert, makes a point of commenting to show that he considers 30 inches to be the appropriate limit. He explains that design for greater displacement requires extensive study and research. And Bixby, citing Newmark's testimony in 1976 before FERC, points out that 30 inches is a quantum step from the one or two feet, within a mile, that he then favored.

Based on comments and testimony, and in consideration of the critical nature of LNG tanks and impoundment, MTB concludes that 30 inches is the outer limit of credible state-of-the-art design, and is including this value in the revised final rule in connection with the allowance made for predictions of displacements at tank sites based on historic data or field examinations.

Use of the term "seismogenic" to describe the character of Quaternary faults to be considered, as recommended by Western, is not adopted for reasons discussed by FERC.

Under the revised rule, where local geologic and seismic conditions are sufficiently well known to predict seismic response immediately beneath a tank, or impoundment for a tank, the need for government review would be dependent on whether differential surface displacement can be reliably predicted to be no more than 30 inches. Construction could proceed on decision by the operator if 30 inches or less of such displacement can be assured.

On the other hand, a differential Quaternary fault displacement exceeding 60 inches within one mile, as currently prescribed, would be the applicable criteria to determine the need for government review if local conditions are not sufficiently well known to reliably predict surface displacement beneath the tank or dike.

Thus, where reliable predictability is possible, surface displacement under the tank or dike becomes the governing criteria. This is important because in areas having the highest seismic activity, a data base for prediction is more likely. Therefore, it serves to help fill the 60.1 inch/1 mile–60-inch/0 mile gap of the current rule, as well as to minimize the likelihood that excessive displacement would occur beneath a tank or dike that has not been accommodated by design. For example, under the revised rule, review for sites more than 1 mile from the San Andreas fault may be required if there is sufficient data base for prediction of displacement at the site, but less than 30 inches relative movement under the tank and dike cannot be reliably assured. Conversely, siting a tank at distances less than a mile from a differential Quaternary fault displacement of 60 inches, or more, may be permissible without review, depending on the nature of intervening seismological conditions and data base for predicting displacement at the site.

The prohibition due to soil liquefaction has also been made subject to a petition for approval by the Director, since some of the same overriding benefits of a site, such as remoteness, might apply equally to such conditions.

The revised final rule also sets out the information that an applicant for approval must submit with a petition filed under § 193.2015. This information would include an analysis of the geologic and seismic conditions, design plans with a report showing that the design standards of § 193.2061 would be met under the predicted extreme conditions, and if applicable, any other safety-related siting or design features of the facility not required by Part 193.

Section 193.2063(b)(2) Flooding.

Both AGA and INGAA acknowledge that this section on its own merit is acceptable, as it requires that access to a facility site by offsite personnel be "reasonably assured" in a 100 year flooding event. However, they feel this section when read with the general siting requirements of § 193.2055 implies that access to the site must also be assured for fire fighting equipment along public roads. If this is the case, the petitioners say that in the Gulf Coast area, many access roads would have to be raised 20 feet or more for a distance of about 25 miles.

Section 193.2055 provides as a general requirement that a site must have "ease of access" for handling emergency situations. This general requirement covers many aspects of the means of access to an LNG facility. Section 193.2063(b)(2) deals specifically with access during flooding, and, as such, is governing under those conditions to the extent that access need only be reasonably assured. Therefore, in the example cited by the petitioners, access roads need not be raised where alternative means of access for offsite emergency personnel and equipment are available, such as by boat or helicopter. Hence, this paragraph remains unchanged.

Section 193.2067(a)(3) Wind Forces (penetration by missiles).

Design of containers and other LNG facilities listed in § 193.2051 to withstand penetration by wind borne missiles is required under this paragraph. Its purpose is to assure the integrity of the facility when impacted by objects carried by the wind (particularly a tornado).

Petitions to make only the dikes of impounding systems for LNG storage tanks subject to this requirement were submitted by AGA and INGAA. Western, who proposed a rule on wind borne missiles in response to the NPRM, did not comment. The petitioners argue that the required design is infeasible in most cases, and since all but very large spills would disperse in high winds, only LNG storage tank dikes should be subject to the requirement.

Commenting on the petitions, FERC feels the requirement is vague and design determinations are impossible where missile size and velocity is unknown.

MTB does not agree with petitioners that all damage causing winds would quickly disperse spills and associated vapor, since in the case of tornadoes, high winds quickly move away. Spillage and dispersion would continue.

With respect to the dilemma suggested by FERC, missile size would be a site specific determination. Missile velocity would be calculated using wind forces from wind velocities determined under paragraph (b). Impact loading

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could be calculated from this information.

However, MTB agrees that design for all of the prescribed facilities to meet this requirement is impractical, if not impossible. A large portion of the facilities would require shielding by protective walls. Also, while an event of this type involves the potential penetration of an LNG storage tank, MTB believes that the continued integrity of the storage tank impoundment is the appropriate safeguard for public protection.

In reconsideration, therefore, the final rule has been revised to reflect the views of petitioners. Only the impoundment systems for LNG storage tanks must be capable of withstanding impact from wind borne missiles.

Section 193.2067(b)(2) Wind Forces (design speed).

This section prescribes the bases to be used in determining design wind forces. Its purpose is to assure that containers and other LNG facilities listed in § 193.2051 are designed to withstand the highest wind velocities that can be reasonably expected at the site.

Both AGA and INGAA have petitioned for changes, arguing that a wind design under paragraph (b)(2)(i) based on the prescribed 10^{-4} probability of exceedence of the "most critical combination of wind velocity and duration" would result in unrealistically high wind loads. AGA suggests that where probability of tornado occurrence exceeds 10^{-4}, the design wind be 200 MPH, the wind speed currently prescribed under paragraph (b)(2)(ii) for use when adequate wind data are unavailable. Where probability of tornado occurrence is less than 10^{-4}, the LNG facility would be subject to ANSI–A 58.1, currently prescribed for only small shop fabricated tanks. AGA implies that determining the probability of tornado occurrence is far easier than probability of wind velocity.

AGA would also limit the required wind design to containers and storage tank dikes, but since no explanation for the proposed change was given, this aspect of the petition was not considered. MTB considers the risk of wind damage other than missile penetration to be a serious matter for all the facilities listed in § 193.2051.

INGAA recommends that the 200 MPH wind speed, now permitted for design where adequate local data are not available to predict some other value, be adopted as an upper limit design standard for all situations.

As a principal argument, both petitioners cite NBS Technical Note 868, "Statistical Analysis of Extreme Winds" to show that a probabilistic determination of wind speed is unrealistic. In providing examples of one probabilistic approach, this report shows wind speeds for various return periods. Based on one type of distribution (Type II, Frechet), and only thirty-seven sample observations, the extreme wind at Corpus Christi, Texas, with an extrapolated return period of 10,000 years is given as 970 MPH.

AGA contends a wind speed this high is physically impossible. INGAA asserts that the 970 MPH speed is unrealistic and would preclude LNG facilities at most coastal locations. It argues that the recommended 200 MPH speed is a reasonable upper limit.

In support of its proposal to use ANSI–A 58.1 for the wind design of containers, AGA states that it contains reasonable steady wind criteria and is referenced by NFPA 59A. As an alternative to referencing ANSI, AGA suggests referencing NFPA 59A which also references ANSI–A 58.1, since experts continuously evaluate NFPA standards.

In commenting on the petitions, FERC states that a change in wording of the final rule is warranted, stating that the 970 MPH wind far exceeds the 200 MPH criteria for sites lacking adequate data.

MTB believes that ANSI–A 58.1 does not provide an adequate wind design level for facilities critical to public safety, such as large LNG facilities. According to NBS 868, ANSI uses only twenty years for a data base which gives unreliable predictability. Also, a mean return period of only fifty years is used (compared to the 10,000 year period) which would result in a high risk level, not consistent with other risk criteria in Part 193. Further, the Frechet (Type II) distribution, which is disclaimed by petitioners, is the basis for ANSI criteria. In this case, however, for the ANSI fifty-year return period, predicted extreme wind velocity for Corpus Christi is reduced by one magnitude to 97 MPH.

Therefore, MTB is not persuaded to adopt AGA's proposed use of ANSI–A 58.1 or NFPA 59A as a wind design basis for areas with a low probability of tornado occurrence.

The proposed requirements for wind force design in the NPRM essentially paralleled AGA's petition to use the probability of tornado occurrence as a threshold for applying a design wind speed. Basically, AGA would only change the design wind from the NPRM speed of 250 MPH to 200 MPH, which was adopted in the final rules for use where adequate local wind data is unavailable. In response to the NPRM, many commenters argued that setting a high design wind speed based on the probability of tornado occurrence would be unreasonable since the frequency of that speed would not be considered. They advocated a site specific wind speed based on probability of nonexceedence. AGA was one of these commenters.

In addition to this reason, MTB dropped the NPRM approach because locations not subject to tornadoes might have a relatively high probability of wind speeds caused by other types of storms that greatly exceed wind speeds that produce design loads of building standards. A major gap in design for wind forces and consequent nonuniform levels of protection dependent solely on the likelihood of tornadoes occurring in the area could have resulted.

Accordingly, MTB rejects AGA's recommendation to base design wind forces on a 0.5 percent probability of a tornado occurring within fifty years at a given site.

Section 193.2067 does not require the use of NBS Technical Note 868, "Statistical Analysis of Extreme Winds," for determining the probabilistic wind speed having a return period of 10,000 years. In extrapolating for return periods of 50, 10,000, and 1,000,000 years, the respective velocities with Type II distribution for Corpus Christi are 97, 970, and 9,426 MPH. The corresponding values for Type I distribution are 78, 128 and 172 MPH. These features alone show that either or both the wind data is inadequate or the technique is inappropriate.

Moreover, the NBS report is not intended to provide a standard method for determining extreme winds at any location. Its purpose, clearly stated, is part of an effort to evaluate wind provisions in existing building codes with particular emphasis on the twenty year data base and the Gumbel and Frechet types of data distribution for modeling. In essence, the NBS report concludes:

1. The twenty year data base (using only extreme velocities) is inadequate varying up to several hundred percent for a 1000 year recurrence interval at the same station using different twenty year data sets;
2. Type I and Type II distributions with small tail lengths were both found to fit extratropical as well as tropical storm data; and
3. No single distribution was universally applicable to all data sets.

The citation by petitioners of a single datum in the NBS report to demonstrate the unreliability of one predictive technique does not reflect on the reliability of other techniques that are available. Therefore, the use of this datum by petitioners is not a valid reason to delete the present requirement. There are several techniques that might be appropriate on a site specific basis. The number of years in the data base might be expanded. Alternatively, with a more classical approach, the data base could be expanded by using a broader wind range to correlate speed with return periods by applying the method of least squares to establish best fit equations that are consistent with cycles of natural phenomena. Several analytical techniques can be used to statistically test the degree of reliability of the correlation. Nevertheless, as discussed in the preambles of both the NPRM and the final rule, such techniques are only of value where adequate wind data are available at a potential LNG site. Where they are not, the final rule sets the design wind speed at 200 MPH.

Based on a review of tornado and other wind data, MTB expects that probabilistic speeds established by using appropriate methods and data will normally fall under 200 MPH. Therefore the 200 MPH wind speed is considered to be a safe upper limit for design wind forces whether or not adequate wind data are available for reliable probabilistic prediction. Consequently, § 193.2067(b)(2) is revised, consistent with INGAA's recommendation, to allow use of the 200 MPH design wind speed without having to make a data search and evaluation to determine if adequate data are available to predict a design wind speed. Still, the predictive alternative is retained for optional use where adequate data are available and reliable predictive techniques are used.

Section 193.2109(c) Insulation.

AGA and INGAA objected to the use of the term "noncombustible" to describe insulation cover. INGAA felt "self-extinguishing" should be used in the final rule, as proposed in the NPRM. AGA preferred "will not support combustion." Both petitioners note that the final rule seems to defy the FTC decision prohibiting "* * * such terms as 'non-burning', 'self-extinguishing', or 'noncombustible' or any term of the like meaning * * *" to describe the burning characteristics of cellular plastics, but, at the same time, recommend similar terminology.

The two different suggestions suppport the MTB contention, as fully and clearly stated in the preamble, that insulation and the terminology associated with it are presently in a state of flux. As stated in the preamble, MTB will use the term "noncombustible" (NFPA 59A–1979 uses this term in 4–1.5.1) until such time as other agencies or industry develops new criteria. Under the "noncombustible" term in the final rule, material other than cellular plastics must be used as insulation cover.

INGAA also recommended that "where practical" be added to modify the requirement that insulation covering not be subject to "ultraviolet decay." MTB agrees with the contention that there are instances, as on pumps, where it is impractical to use covering materials that are not subject to even a minute degree of decay. However, MTB is adding the word "detrimental" before "ultraviolet" rather than adopting the term "where practical," as the latter term is too indefinite.

Section 193.2123(d) Valves.

INGAA requested that this section be rewritten to apply only to valves that are intended for use during a controllable emergency. Since this suggestion is consistent with the intent of the rule, MTB has made a clarifying change to eliminate any possible inference that a broader application was intended.

Section 193.2151 General design characteristics (impounding systems).

AGA and INGAA recommended that the words "to the maximum extent possible, will prevent" be deleted and replaced by "will minimize the possibility of" in describing the degree to which impoundment design must prevent liquid from escaping. It was claimed the present wording is an absolute design requirement, and one nearly impossible to achieve. MTB feels the suggested wording, "minimize the possibility," could unduly weaken the rule and would be subject to broad interpretation, and, therefore, has not adopted the INGAA suggestion. The final rule provides sufficient design flexibility but requires that design provide for foreseeable events, considering the design spill specified by § 193.2155.

Both petitioners stated the present wording was adopted without the benefit of review and comment by industry, the public, or the TPSSC. This is a curious argument since the questioned wording derives directly from the NPRM.

Section 193.2153(a) Classes of Impounding Systems.

The final rule was changed from the NPRM to allow as much as 24 inches between a dike and the component impounded in a Class 1 impounding system. AGA and INGAA stated the 24-inch space is inadequate to provide a safe working environment for the operator's employees. INGAA recommended a change to 60 inches, whereas AGA proposed more generalized wording to permit distance adequate for maintenance provided the top of the dike is at or above the maximum liquid level of the component served.

FERC felt it would be reasonable to relax the 24-inch limit because of the limited space for personnel and equipment, commenting that only in-tank pumps would be possible.

Misunderstanding about the background, features, and effects of the different classes of impounding systems in Part 193 is made apparent by the comments. The classification of impounding systems derives from NFPA 59A, § 210, 1975 edition. Beginning in the ANPRM and NPRM, two separate classes were proposed for impoundment surrounding a container: A Class 1 configuration (inner face of dike in contact with container) and a Class 2 configuration (dike separated from container). The physical distinction between these two systems results in different safety benefits for each system, and an associated design standard may vary according to the inherent level of safety provided by the class of impoundment.

For example, for low distant diking (Class 2), additional impounding capacity above the required for Class 1 is considered necessary to provide for vapor borne, low friction kinetic flow from a major tank failure, since design configurations of the dike's inner face that will reliably prevent overflow have not yet been developed. With smaller spills, added capacity serves to protect against overflow from splash, jetting, and wave action. When dikes are high, and close-in (Class 2), the addded capacity provides a factor of safety for uncertainties about formation of vapor bubbles from heat transfer and super heat and their residence time with resulting expansion and reduced density of the mix, coupled with an upward surge of the column of impounded LNG above the level of equilibration due to the kinetics of a rapid release (U-tube effect).

With Class 1 systems, a dike located against the wall of a tank would serve to mitigate the potential of overflow from these causes even in the event of a major tank failure, since contact surface temperature would be lower, and rapid discharge would be restricted. Also, such a configuration, in providing some added support to a tank, would tend to limit the extent of tank failure and resulting size of opening. Accordingly, the required Class 1 impounding capacity is only 110 percent of storage capacity.

In developing the final rules, the NPRM version of Class 1 was modified to permit under Class 1 impoundment up to 24 inches of spacing between a dike's inner face and the tank impounded. This provision was intended for use with specific designs now in use, including protective dikes required under § 193.2155(a)(5)(ii). The purpose of the spacing is to provide a buffer to cushion or prevent excessive loads or shock due to foundation settlement, earthquakes, windloading or other forces from being transmitted between dikes and tanks. Also, it could provide for eccentricities in the configuration of a tank. Certain kinds of infrequent inspection or maintenance could, by design, be accomplished remotely without entry into the annulus by personnel. In addition, the spacing would permit insulation of the inner face of the dike, outer tank surface, or both in order to further minimize vapor dispersion from an impounding system with high close-in dikes that do not have the 150 percent of storage capacity required for Class 2 systems.

Installation of equipment and entry of personnel into the annular space for maintenance duties (except for infrequent occasions when the container is purged out of service) were not considered relevant in prescribing a maximum of 24 inches of separation. The paramount consideration was to balance construction needs against the desire to maintain the benefits intended for a Class 1 system. Also, with this dimension, during operation the effects of natural phenomena, such as ice build up by the migration of moisture in accordance with the laws of natural distribution, together with meterological effects, would mandate either that the annulus be filled with insulation, inert gas or other materials and sealed or covered. Thus, while providing additional safety benefits, this design would restrict spillage to essentially the same degree as a Class 1 system having the dike in contact with the container. Accordingly, MTB concluded that classification under Class 1 impoundment was appropriate.

The INGAA and AGA petitions to reclassify a Class 2 system with more than 24 inches of separation as a Class 1 system would serve only to reduce the minimum impounding capacity for a system with a great uncertainty in overflow potential. Such a change would destroy the principle of prescribing safety factors that are proportionate to the potential for overflow. Considering spacing above 60 inches in small increments, it is evident that logical justification of a Class 2 category and related provisions would be eliminated. Accordingly, the petitions are denied.

Section 193.2161(a) Dikes, general.

Western objects to the prohibition under this section of penetrations in dikes to accommodate piping or any other purposes, and argues that penetrations in LNG storage tank dikes should be permitted to accommodate transfer piping provided the penetrations meet the same structural standards required for dikes (§§ 193.2129 and 193.2155). Western claims that the prohibition imposes high construction costs at a baseload liquefaction plant, since at a multi-tank plant, a single set of pumps can serve all tanks at a plant from a position outside the impoundment area by running LNG transfer piping through the dikes. Western points out the final rule forces the operator to have a separate pumping system for each tank and to either put the loading pumps inside the tank or impoundment. In addition to costs, such placement, Western argues, presents maintenance and handling difficulties especially if high close-in dikes are used to reduce the exclusion zone. Providing additional space for pumps and maintenance within the impoundment, Western argues, might result in more impoundment capacity than necessary under the standards. In addition, Western expressed concern that as a result of increased wetted surface area, the required exclusion distance for thermal radiation and vapor dispersion might have to be increased.

While FERC supports the prohibition of dike penetrations at peak shaving and satellite facilities so as to assure dike integrity, it opposes the prohibition of dike penetrations for transfer lines at multiple tank plants because of the advantages of a central pumping system.

Assured containment of a major LNG spill inside an impounding space is the most crucial consideration in LNG safety. Safety features that rely on impoundment integrity, such as exclusion zones for thermal radiation and vapor dispersion, would not be effective unless a spill is contained. A major spill may result from a variety of causes, and such potential forms a basis for several safety standards, other than § 193.2161. For example, thermal exclusion zones are intended to provide safe distances from burning of a spill that could range in size from one that only covers the floor of the impounding system up to a total tank failure. Also, other standards such as § 193.215(a), § 193.2155(a) thru (c), and § 193.2181, concerning impoundment design and capacity, are clearly intended to assure dike integrity in the event of major tank failure.

Moreover, impoundment is one feature in LNG plant design whose performance capability will usually remain untested after construction unless an event requiring its complete integrity occurs. Since it is the last "line of defense" against potentially very serious consequences, the benefit of impoundment integrity weighs heavily against the low possibilities of events occurring that could result in a loss of containment.

The prohibition against penetrations is founded on the premise that where dikes are penetrated, a potential avenue is created for a spill of LNG to escape impoundment. There are two basic failure modes to be considered in assessing the acceptability of penetrations: First, there is failure of the penetrating piping in a way that would provide an open conduit for liquid to escape. Second, there is failure of the diking at the point of penetration, or at the point of discontinuity in the dike structure where the sealing structure for the penetration joins the basic diking. These two hypothetical failure modes are "either/or" possibilities, and are, therefore, additive in considering the probability of loss in dike integrity.

Considering the first failure mode in light of Western's petition, an environmental event, such as seismic or wind loads that exceed design, could result in tank failure and would be likely to result in failure inside impoundment of the transfer line as well, since by their design, transfer lines have equivalent or greater susceptability to failure from such events. Also, failure of a tank that results in its collapse (e.g., toe overload or tilt from other causes with subsequent spillage from the cryogenic shell causing embrittlement and fracture of the overstressed noncryogenic outer shell) will almost certainly rupture the transfer line inside impoundment. The point of penetration through the dike would be the most likely failure location because of the physical constraint and resulting stress. Thus, for safety considerations, it must be presumed that a tank failure would be accompanied by failure of the transfer line within the impounding system.

In the event of such failure, prevention of uncontrollable flow from impoundment would rely on the transfer line and valve located beyond the diking being unimpaired with the valve closed. Such reliance is not justified in view of the susceptability to damage of transfer lines when subjected to a tank-damaging environmental event. Also, even if loss of integrity of the external transfer system does not result from the environmental event, simultaneous thermal and mechanical shock from the sudden impact of LNG could cause the external cryogenic value, if initially at ambient temperature, to rupture. An incident of this type is reported to have occurred at the LNG plant in Arzew, Algeria, on March 30, 1977. As reported, an aluminum valve on the transfer line of an inground tank shattered when impacted by LNG without precooling. Spillage was estimated at 37,500 to 150,000 gallons, and superheat explosions from LNG contact with water continued for 12 hours. Windows 15km away were claimed to have been broken. One fatality at the plant resulted.

The second failure mode—loss of dike integrity—is of equal or greater concern. Where maximum stress levels are expected to be relatively high by design, logical engineering principles require a configuration that is regular and free of discontinuities in order to minimize uncertainties in stress analysis. The importance of this principle is recognized in the gas pipeline safety standards (49 CFR Part 192) where stress levels in pipelines must be reduced at locations near valve assemblies, fabricated assemblies, and certain fittings and connections, even though stresses are relatively controllable (e.g., fluid pressure is controlled by relief or other devices). It becomes more significant when the stress producing forces are not controllable, as the case would be in extreme environmental events coupled with loading from the collapsing transfer line and thermal contraction stress from impinging LNG, along with hydrodynamic action of the spilling fluid. Penetration by transfer lines in dikes would be subject to both uncertainties in stress analysis and indeterminate loading forces, and Western has offered no substantiation that the design standards it propose to apply to penetrations can be met. Even under normal operation, the point of penetration could be subject to frequent thermal cycling with the associated possibility of time-dependent deterioration of the dike's mechanical properties. Also, the seal structure for penetration could be subject to thermal shock and high thermal gradients from an LNG spill, with resulting mechanical distortions and seal failure.

The petition and partial supporting comment by FERC are primarily based on economic grounds. While MTB believes that added costs are likely, it is important to note that the Final Evaluation did not show § 193.2161 to be a high cost section requiring a detailed probability analysis of costs and benefits.

As to the alleged maintenance and handling difficulties, MTB believes that additional pumps should increase service life as well as reduce routine preventive maintenance.

Neither additional impounding capacity or increased exclusion distance would automatically follow from the penetration prohibition. Rather, it would be a design decision of the operator, since large capacity in-tank pumps; with high discharge pressure and complete systems for removal are currently available.

Considering the broad economic picture, most existing LNG plants have elected over-the-dike transfer. Even the petitioner has incorporated tank-top transfer in its plant planned for Point Conception, California, which would presumably include transfer over the dikes as a combined feature of safety and economics. Accordingly, the petition is denied.

Section 193.2165 Dike dimensions.

INGAA finds the phrase "inside edge of the top of the dike" confusing as it applies the second time in § 193.2165. However, the recommended change for clarity does not properly define the dimensions involved. We believe the term "liquid level impounded" may be the source of confusion, because it does not necessarily mean liquid level of the component served by impoundment as intended. MTB has revised the wording for clarity.

Section 193.2175 Shared impoundment.

AGA and INGAA argue that this rule could easily be interpreted to require each component inside an impounding system to be separately impounded, which would be impractical and unreasonable. The petitioners' suggested wording would require protection in accordance with § 193.2107, dealing with high and low temperature protection.

Section 193.2175 was intended as a more stringent requirement than § 193.2107. The original intent was that if items to be impounded as required by § 193.2149 are included within a single impounding system (shared impoundment), leakage from one item should not cause another to leak and possibly overwhelm the system. MTB now recognizes the unreasonableness in applying this policy to, say, a storage tank and its transfer line or other component combinations. As by far, the greatest hazard would be a leak from an LNG storage tank causing a leak in another storage tank. MTB believes protection can be reasonably provided in these cases and is revising the section to apply only to LNG storage tanks. Other components mentioned by INGAA, such as piping, valves, compressors, etc. would be covered by § 193.2107.

Section 193.2181(a) Impoundment capacity, LNG storage tanks.

AGA recommends that the required impoundment capacity for Class 2 and 3 impounding systems be changed from 150 percent to 110 percent, arguing that a 50 percent safety factor is unreasonable in light of the vapor dispersion zone required by § 193.2059 and the allowable use of vapor barriers under § 193.2163. Western recommends 100 percent for all classes of impoundment, plus any additional volume needed to meet the requirements of § 193.2151 and 193.2165, concerning dike design, and § 193.2179, impoundment capacity in general. Western argues that these sections will require varying degrees of capacity above 100 percent in amounts sufficient to keep a liquid impounded.

FERC argues that while it may be possible to design a dike to withstand phenomena such as wetting, splash, and wave action, the lack of acceptable hydrodynamic models justifies the 150 percent capacity.

As indicated by the FERC comment, dike designs which can assure containment of a spill from a major tank failure are unproven. In the case of low distant diking, configurations which can counteract horizontal components of motion in a rising wave of LNG impacting a dike face are only theoretical. Even with more testing, a question of scaling effects may remain, since large scale tests may not be practical.

With high close-in dikes, the question about formation and residence time of vapor bubbles from vaporization, with resulting expansion which could cause the column of LNG to overflow a dike, has not been fully resolved. Also, the rise in the impounded LNG column above the level of equilibration due to the kinetics of a rapid release (U-tube effect) could add to this problem.

Since designs that will reliably prevent overflow in the event of a major spill from an LNG storage tank have not yet been established, MTB believes that excess capacity is necessary to provide a factor of safety for Class 2 and 3 systems serving LNG storage tanks. Accordingly, MTB stands by its original position stated in the preamble of the NPRM and the final rules and leaves § 193.2181(a) unchanged.

Clarifying amendments. The scope of Part 193, as stated in § 193.2001, now exempts marine cargo transfer systems from any of the requirements in Part 193. Under the MTB/USCG memorandum of understanding (MOU) on the regulation of waterfront LNG facilities (published in the NPRM), the siting of these facilities, except with respect to vessel traffic management, is to be subject to MTB regulatory authority. Thus, as currently stated, the scope of Part 193 conflicts with the MOU regarding the siting of marine cargo transfer systems and associated facilities. Section 193.2001(b)(3) is, therefore, amended to make it clear that the Part 193 siting requirements apply to marine cargo transfer systems (not including those portions in navigable water excluded from jurisdiction under § 193.2001(b)(4)).

So that there is no doubt about which of the safety standards in Part 193 govern "siting," the title and scope of Subpart B are amended to refer to the Subpart B requirements as "siting requirements," rather than site-related design requirements. The "site-related design" term was used in the ANPRM and NPRM since the Act at that time did not specifically authorize regulations for siting LNG facilities. The siting provisions were proposed, therefore, as an aspect of facility design, which it is in a generic sense of design.

The current definition of "LNG facility" refers to pipeline facilities that are "used in the process of" activities related to producing, transferring, or storing LNG or changing LNG to gas. MTB believes the words "in the process of" restrict the meaning of "LNG facility" in a way not intended by the Act. To be more consistent with the Act's definition, the term "LNG facility" under § 193.2007 is amended by replacing the words "in the process of" with the word "for." This change more correctly classifies pipeline facilities as LNG facilities that are associated with the various LNG processes, even though they may not directly be a part of a particular process.

Recordkeeping. The effective date of the recordkeeping requirements of §§ 193.2119 and 193.2329 and other provisions incorporated by reference in Part 193 was postponed in the final rules document published at 45 FR 9184 pending coordination with the Office of Management and Budget under the Federal Reports Act. MTB has since determined that such coordination is not required by that Act and, consequently, an effective date for those recordkeeping requirements is established by this document as set forth above.

In view of the foregoing, 49 CFR Part 193 is amended as follows:

1. In § 193.2001, paragraph (b)(3) is revised to read as follows:

§ 193.2001 Scope of part.

* * * * *

(b) * * *

(3) In the case of a marine cargo transfer system and associated facilities, any matter other than siting pertaining to the system or facilities between the marine vessel and the last manifold (or in the absence of a manifold, the last valve) located immediately before a storage tank.

* * * * *

2. In § 193.2005, paragraph (b)(1) is revised to read as follows:

§ 193.2005 Applicability.

* * * * *

(b) * * *

(1) The siting requirements apply only to LNG storage tanks that are significantly altered by increasing the original storage capacity or relocated, not pursuant to an application for approval filed as provided by paragraph (a)(2) of this section before March 1, 1978; and

* * * * *

3. In § 193.2007, the definition of "LNG facility" is amended to read as follows:

§ 193.2007 Definitions.

* * * * *

"LNG facility" means a pipeline facility that is used for liquefying or solidifying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas.

* * * * *

4. Section 193.2015 is revised to read as follows:

§ 193.2015 Petitions for finding or approval.

Where a rule in this part authorizes the Director to make a finding or approval, any operator may petition the Director to make such finding or approval. Petitions must be sent to the Director, Materials Transportation Bureau, 400 7th Street, SW., Washington, D.C. 20590, and be received at least 90 days before the operator requests that the finding or approval be made. Each petition must refer to the rule authorizing the action sought and contain information or arguments that justify the action. Unless otherwise specified, no public proceeding is held on a petition before it is granted or denied. Within 90 days after a petition is received, the Director notifies the petitioner of the disposition of the petition or, if the request requires more extensive consideration or additional information or comments are requested and delay is expected, of the date by which action will be taken.

5. Section 193.2051 is revised to read as follows:

§ 193.2051 Scope.

This subpart prescribes siting requirements for the following LNG facilities: Containers and their impounding systems, transfer systems and their impounding systems, emergency shutdown control systems, fire control systems, and associated foundations, support systems, and normal or auxiliary power facilities necessary to maintain safety.

* * * * *

6. In § 193.2057, paragraph (a)(1) is revised to read as follows, and item (6) of the table under paragraph (d) is amended by deleting the words "property line" and inserting the words "right-of-way" in lieu thereof:

§ 193.2057 Thermal radiation protection.

(a) * * *

(1) Within the thermal exclusion zone, the impounding system may not be located closer to targets listed in paragraph (d) of this section than the exclusion distance "d" determined according to this section, unless the target is a pipeline facility of the operator.

* * * * *

7. In § 193.2059, paragraph (d)(1)(i) is revised to read as follows:

§ 193.2059 Flammable vapor-gas dispersion protection.

* * * * *

(d) * * *

(1) * * *

(i) The rate of vaporization is not less than the sum of flash vaporization and vaporization from boiling by heat transfer from contact surfaces during the time necessary for spill detection, instrument response, and automatic shutdown by the emergency shutdown system but, not less than 10 minutes, plus, in the case of impounding systems for LNG storage tanks with side or bottom penetrations, the time necessary for the liquid level in the tank to reach the level of the penetration or equilibrate with the liquid impounded assuming failure of the internal shutoff valve.

* * * * *

8. In § 193.2061, paragraph (f) is revised, paragraph (g) is redesignated as (h), and a new paragraph (g) is added to read as follows:

§ 193.2061 Seismic investigation and design forces.

* * * * *

(f) An LNG storage tank or its impounding system may not be located at a site where an investigation under paragraph (c) of this section shows that any of the following conditions exists unless the Director grants an approval for the site:

(1) The estimated design horizontal acceleration exceeds 0.8g at the tank or dike foundation.

(2) The specific local geologic and seismic data base is sufficient to predict future differential surface displacement beneath the tank and dike area, but displacement not exceeding 30 inches cannot be assured with a high level of confidence.

(3) The specific local geologic and seismic data base is not sufficient to predict future differential surface displacement beneath the tank and dike area, and the estimated cumulative displacement of a Quaternary fault within one mile of the tank foundation exceeds 60 inches.

(4) The potential for soil liquefaction cannot be accommodated by design and construction in accordance with paragraph (b)(1) of this section.

(g) An application for approval of a site under paragraph (f) of this section must provide at least the following:

(1) A detailed analysis and evaluation of the geologic and seismic characteristics of the site based on the geotechnical investigation performed under paragraph (c) of this section, with emphasis on prediction of near-field seismic response.

(2) The design plans and structural analysis for the tank, its impounding system, and related foundations, with a report demonstrating that the design requirements of this section are satisfied, including any test results or other documentation as appropriate.

(3) A description of safety-related features of the site or designs, in addition to those required by this part, if applicable, that would mitigate the potential effects of a catastrophic spill (e.g., remoteness or topographic features of the site, additional exclusion distances, or multiple barriers for containing or impounding LNG).

(h) * * *

9. In § 193.2067, paragraphs (a)(3) and (b)(2) are revised to read as follows:

§ 193.2067 Wind forces.

(a) * * *

(3) In the case of impounding systems for LNG storage tanks, impact forces and potential penetrations by wind borne missiles.

(b) * * *

(2) For all other LNG facilities—

(i) An assumed sustained wind velocity of not less than 200 miles per hour, unless the Director finds a lower velocity is justified by adequate supportive data; or

(ii) The most critical combination of wind velocity and duration, with respect to the effect on the structure, having a probability of exceedance in a 50-year period of 0.5 percent or less, if adequate wind data are available and the probabilistic methodology is reliable.

§ 193.2109 [Amended]

10. In § 193.2109, paragraph (c) is amended by inserting the word "detrimental" between the words "to" and "ultraviolet."

11. In § 193.2123 paragraph (d) is revised to read as follows:

§ 193.2123 Valves.

* * * * *

(d) Powered local and remote operation must be provided for valves intended for use during a controllable emergency that would be difficult or excessively time-consuming to operate manually during such an emergency.

* * * * *

§ 193.2165 [Amended]

12. Section 193.2165 is amended by inserting the word "horizontal" between the words "the" and "distance" and by deleting the word "impounded" and inserting the words "in the component or vessel" in lieu thereof.

13. Section 193.2175 is revised to read as follows:

§ 193.2175 Shared impoundment.

When an impounding system serves more than one LNG storage tank, a means must be provided to prevent low temperature or fire resulting from leakage from any one of the storage tanks served causing any other storage tank to leak. The means must not result in a vapor dispersion distance which exceeds the exclusion zone required by § 193.2059.

Subpart B [Title Amended]

14. In the table of sections and the text of the rules, the title of Subpart B is amended by deleting "Site Related Design Requirements" and inserting "Siting Requirements" in lieu thereof.

(49 U.S.C. 1674a; 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on August 21, 1980.

L. D. Santman,

Director, Materials Transportation Bureau

[FR Doc. 80-26213 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Seventh Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Seventh Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation. In particular, Seventh Revised Service Order No. 1473, revises Appendix A, Item 12 of Sixth Revised Service Order No. 1473, by rescinding the authority for the Southwestern Oklahoma Railroad Company to operate between Mangum and Anadarko, Oklahoma, due to an apparent inability of the carrier to provide rail service as authorized.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

Decided: August 22, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Seventh Revised Service Order No. 1473, revises Appendix A, Item 12 of Sixth Revised Service Order No. 1473, by rescinding the authority for the

Southwestern Oklahoma Railroad Company to operate between Mangum and Anadarko, Oklahoma, due to an apparent inability of the carrier to provide rail service as authorized. This action is taken without prejudge to a future refiling by Southwestern Oklahoma Railroad wherein the carrier must assure the Commission of its ability to provide the service applied for. Please advise the Railroad Service Board if locomotive and equipment on the authorized lines cannot be removed by the effective date of this rescission. In Appendix A, all items after Item 11 are renumbered one number less.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the RI lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) Rate applicable. Inasmuch as this operation by interim operators over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., August 31, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. William F. Sibbald, Jr. not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka, and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. From Colby to Caruso, Kansas.

C. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TP&W):*

A. Keokuk, Iowa.

B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Burlington Northern, Inc. (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06).

B. Fairfield, Iowa (milepost 275.2 to milepost 274.7).

C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).

D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9).

E. CBQ Junction, Kansas (milepost 325.9) to Gem, Kansas (milepost 380.5).

6. *Fort Worth and Denver Railway Company (FW&D):*

A. From Groom, Texas (milepost 718.9) to Adrian, Texas (milepost 809.5).

B. Terminal trackage at Amarillo, Texas, including approximately (3) three miles northerly along the old Liberal Line, and at Bushland, Texas.

C. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Gove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 502.2).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).

K. From Rake (milepost 50.7) to Ocheyedan, Iowa (milepost 502).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle, Indianola, Iowa.

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. Seymour, Iowa.

C. Washington, Iowa.

D. From Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

9. *Davenport, Rock Island and North Western Railway Company (DRI):*

A. Davenport, Iowa.

B. Moline, Illinois.

C. Rock Island, Illinois, including 26th Street yard.

D. From Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.

E. From East Moline to Silvis, Illinois.

F. From Davenport to Wilton, Iowa.

G. From Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal.

10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana.

11. *St. Louis Southwestern Railway Company (SSW):* Operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas city, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.

12. *Little Rock & Western Railway Company:* From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

13. *Missouri Pacific Railroad Company:* From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

14. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*

A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth.

B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas.

C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma.

D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas.

E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only.

F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.

G. Rock Island right to interchange with and use the properties of the Great Southwest Railroad Company located in Grand Prairie, Texas.

H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.

I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles.

J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.

K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

15. *El Dorado and Wesson Railroad Company:* From El Dorado to Catesville, Arkansas, a distance of 8 miles, in order to serve the Velsical Plant.

16. *The Denver and Rio Grande Western Railroad Company:*

A. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

17. *Norfolk and Western Railway Company:* Is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

18. *St. Louis-San Francisco Railway Co.:*

A. At Okeene, Oklahoma.

B. At Lawton, Oklahoma.

19. *Southern Railway Company:*

A. At Memphis, Tennessee.

20. *Cadillac and Lake City Railroad:*

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

21. *Baltimore and Ohio Railroad Company:*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

22. *Louisiana Midland Railway Company:*

A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

[FR Doc. 80-26293 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1393; Amdt. No. 2]

Southern Pacific Transportation Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co. at Beaumont, Tex.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1393.

SUMMARY: This amendment extends the effectiveness of Service Order No. 1393, which authorized the Southern Pacific to operate over tracks of the Kansas City Southern at Beaumont, TX, until October 31, 1980, permitting the Commission time to consider Southern Pacific's permanent authority application without interruption of the temporary authority.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

Decided: August 22, 1980.

Upon further consideration of Service Order No. 1393, (44 FR 47773 and 45 FR 45913), and good cause appearing therefor:

It is ordered, That § 1033.1393, Amendment No. 2 to Service Order No. 1393, *Southern Pacific Transportation Company authorized to operate over tracks of the Kansas City Southern Railway Company at Beaumont, Texas*, Service Order No. 1393 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall remain in effect until 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. William F. Sibbald, Jr. not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26412 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1270-1279

[Docket No. 37392]

Elimination of Regulation Over Passes and Free Transportation

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rule eliminates the Commission's regulations governing passes and free transportation for railroads, water carriers and motor carriers. This rule reduces the additional recordkeeping for passenger carriers under the Commission's jurisdiction by eliminating long-standing requirements now considered unnecessary.

DATES: This rule is effective for the year beginning January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published May 1, 1980, (45 FR 29103), the Commission proposed to eliminate its regulation over passes and free transportation. The regulation was originally issued in 1911 when the issuing of passes was common to railroad operations. The regulations have applied to motor carriers and water carriers since 1936 and 1943, respectively. Originally, the regulations were formulated to prevent any substantial financial burden from loss of passenger revenue and to forestall other possible abuses, such as concessions.

In response to its notice, the Commission received comments from the National Bus Traffic Association, Inc. (NBTA).

NBTA supports our proposal to eliminate pass regulation. They state that this rule will eliminate long-standing requirements which are incompatible with many of their member carriers internal administrative procedures and which are now considered unnecessary in fulfilling the Commission's regulatory responsibilities.

This action does not significantly affect either the quality of the human environment or conservation of energy resources.

This action is taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

PARTS 1270-1279 [DELETED]

It is ordered: Parts 1270-1279 of Chapter X of Title 49 of the Code of Federal Regulations are deleted.

Decided: August 15, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26413 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of the Barnegat National Wildlife Refuge, New Jersey, to Hunting

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Barnegat National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231, Telephone No. 609-652-1665.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Barnegat National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl and coots on the Barnegat National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on only those areas designated by signs as open to hunting.

These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

1. On opening days, Saturdays and holidays a Federal permit will be required.
2. No permanent blinds or pit blinds may be constructed.
3. The use of steel shot ammunition on the refuge hunting area is required—shotshell limit 25 rounds per hunter per day. No person may have more than 25 steel shotshells or any lead shotshells in their possession while hunting waterfowl.
4. Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that the Barnegat Refuge hunting seasons be held concurrent with the New Jersey State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 21, 1980.

[FR Doc. 80-26285 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Chincoteague National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Chincoteague National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 11, 1980 through January 2, 1981.

FOR FURTHER INFORMATION CONTACT: James P. Oland, Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia, 23336, Telephone No. 804-336-6122.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chincoteague National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is by special permit only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

1. Species to be taken: (a) Archery Hunt—Sika and Whitetail deer, (b) Stag Hunt—Sika and Whitetail deer.
2. Bag Limits: (a) Archery Hunt—One per day, three per license year, (b) Stag Hunt—One per day, three per license year. During the stag hunt the first deer must be an antlerless deer or a buck with unbranched antlers. If the first deer is an antlerless deer, the second deer may be any deer. If the first deer is a buck with unbranched antlers, the second deer must be an antlerless deer or a buck with unbranched antlers. The third deer will vary depending on the first two, but the total bag of three deer may not contain more than one buck with branched antlers or more than two bucks total (one with branched antlers and one with unbranched antlers or two with unbranched antlers). If a hunter takes three deer, at least one deer *must* be an antlerless deer.
3. Season: (a) Archery—Will coincide with the State archery deer season. (b) Stag Hunt will occur within the State deer season, but will be restricted as stated in hunter permits.
4. Hunting equipment: (a) Archery—Long bow, Recurve, or Compound bow and arrows (cross bow prohibited). Archers must use broadheads with blades at least 7/8 inches wide and bows capable of propelling any arrow in their possession 125 yards. All arrows in an archer's possession while hunting must be permanently marked with hunter's name and address. Archers may not have firearms or illegal archery equipment in their possession while hunting. Quivers must have broadheads covered. (b) Stag Hunt—All firearms must function as a single shot only. Modern firearms may be used if modified to hold only one round. Rifles of .23 caliber or larger and shotguns of 20 gauge or larger will be permitted. Slugs only will be permitted in shotguns. Possession of firearms or ammunition on the refuge which is not stipulated as permitted in these regulations is prohibited.
5. Dogs are prohibited.
6. Hunting hours—Same as State

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hunting hours. All hunters must be clear of hunting areas by two hours after the close of legal hunting hours, unless authorized by refuge personnel to remain longer to track a wounded deer.

7. Carrying loaded firearms or nocked arrows in or on a vehicle or shooting from a vehicle is prohibited. Guns in vehicles must be unloaded and must be cased or be disassembled.

8. Camping and fires on refuge are prohibited.

9. All hunters under 18 years of age must be accompanied by an unarmed adult.

10. One other individual may accompany each hunter, but only the designated hunter will be allowed to carry a gun.

11. All hunters must make a reasonable effort to recover a wounded deer.

12. *All wounded but not recovered deer will be reported to refuge personnel immediately,* so that data on wounded deer can be gathered. All deer taken on the area must be brought to the maintenance area to be checked out. Jawbones may be removed by refuge personnel.

13. Shooting at wildlife other than deer is prohibited.

14. Violation of any state or federal regulation warrants withdrawal of hunting permit.

15. Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) All firearm hunters must provide proof of passing a state hunter safety course.

(b) Archery hunters must provide proof of passing the National Field Archery Association Bowhunters Education Program, or equivalent course.

(c) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material distributed over the chest and back.

(d) Youths who have not reached their 18th birthday must hunt under the control of a qualified adult hunter.

(e) Hunters/Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Archery: Place three out of five shots using broadheads in a 9" x 14" chest area of a standard size deer target at 25 yards. This qualification is required each year.

(2) Rifle and Muzzleloaders: Place three consecutive shots in a 12 inch bullseye from 50 yards or better from an offhand position. This is a life-time qualification. Each hunter will sight in his/her weapon under refuge supervision prior to hunting.

(3) Shotgun with rifle slugs: Place three consecutive shots in a 12 inch bullseye from 30 yards or better from an offhand position. This is a life-time qualification. Each hunter will sight in his/her weapon under refuge supervision prior to hunting.

(f) All hunters must carry into the field a whistle, for use in emergency circumstances.

(g) All hunters will be charged a $10 special recreation permit fee.

The provisions of this Special Regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 22, 1980.

[FR Doc. 80-26284 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Certain National Wildlife Refuges in Oklahoma and Texas; Hunting Regulations

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in the states of Oklahoma and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for hunting deer and wapita (elk).

EFFECTIVE DATES: September 20, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of these Special Regulations.

General

Public hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 E. 8th Street, Room G121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public hunting shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 32.32 Special regulations; big game; for individual wildlife refuge area.

Oklahoma

Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, Oklahoma 73749, telephone 405-626-4794. White-tailed deer.

Special conditions: (1) An archery hunt on October 18–19 and October 25–26, 1980. Thirty-two either sex permits for each two-day hunt for a total of 64 permits. A muzzle-loading rifle hunt, November 1–2, 1980. Thirty-two permits for the single two-day hunt. Limited to flintlock rifles only, forty (40) caliber or larger. A modern-gun hunt, November 22–23, November 25–26, November 29–30. Twenty-six permits for each of these two-day hunts for a total of 78 permits. Participants will be selected by the Oklahoma Department of Wildlife Conservation through its application-special permit system. (2) Permitted hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office upon leaving the area. (3) Shooting hours on the refuge will end each day at sunset. State hunting regulations will apply in all points not specifically described above.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, telephone number 405–371–2402. White-tailed deer.

Special conditions: (1) Public hunting of white-tailed deer is permitted in season on the Tishomingo National Wildlife Refuge, Oklahoma, except on the Refuge Headquarters area and that part of Farming Unit C east of Big Sandy Creek (East Flat). (2) The open season for archery hunting of deer will be for "either sex" on the Tishomingo Wildlife Management Unit (all zones) only and will extend from October 18, 1980, through November 2, 1980, inclusive. (3) A controlled hunt permit will not be required. (4) The Tishomingo Wildlife Management Unit will be closed to all public use except archery deer hunting during the archery deer hunt season. (5) The two-day season for gun hunting of deer on the Tishomingo National Wildlife Refuge, including the Tishomingo Wildlife Management Unit, will be held on November 6 and 7, 1980. (6) The Tishomingo NWR, including the Tishomingo WMU, will be closed to all public use except gun deer hunting on November 6 and 7, 1980. (7) Legal game for the gun deer hunt on the Tishomingo WMU and Delta Area of the Refuge will be "either sex." Legal game for the gun deer hunt on the Tishomingo NWR will be anterless deer. (8) Gun deer hunting on the Tishomingo WMU and the Delta Area, will be with any legal firearms, as approved by the Oklahoma Department of Conservation for hunting deer. (9) Only shotguns of 20 gauge or larger firing single rifled slugs, primitive firearms and pistols may be used on the Tishomingo NWR. Rifles are not permitted. (10) Gun deer hunting on the Tishomingo WMU and Tishomingo NWR will be by permits. Forty (40) permits being issued each day for each of the two (2) areas. Permits will be awarded by public drawing conducted by the State for these "bonus deer" hunts. (11) "Bonus deer" hunters on the Tishomingo NWR, but excluding those on the Tishomingo WMU, will be assigned hunting sites (deer stands) where they must remain until they are reassigned or until they conclude their hunt. (12) Gun deer hunting on the Delta Area of the Tishomingo NWR will be by permits issued as a result of a public drawing to be held at refuge headquarters at 3:00 p.m. on November 5, 1980. This is not a "bonus hunt." For the Delta Area segment of the Refuge's gun deer hunt, fifty (50) permits will be issued by drawing for each one-day hunt. Permits will be issued to hunters in pairs only. Applicants must be 18 years of age or older and must furnish their own boat for access to the area. Unclaimed permits and "no shows" for the Delta Area hunt will be filled at the check station on the day of the hunt on a first-come basis after 8:00 a.m. on the day of the hunt. Delta hunters will enter the hunt area from Nida Point. (13) Hunters, upon entering and leaving the hunting areas, will report at designated checking stations as may be established for the regulation of hunting activities and will furnish information pertaining to their hunt as requested.

Wichita Mountains Wildlife Refuge, RR 2, Box 448, Indiahoma, Oklahoma 73552, Telephone Number 405–429–3222. Wapiti (Elk).

Special Conditions: (1) Hunting days will be restricted to December 2, 3, 4, 9, 10, and 11, (Tuesdays, Wednesdays, and Thursdays) 1980. (2) Except as provided in special condition below, the applicable portions of the Quanah-Elk Mountain Unit will be closed to all public use except elk hunting during hunt period. (3) Authorized hunters may retain approved, unloaded hunting rifles and camp overnight (in Camp Doris only) during this period when the Quanah-Elk Mountain Unit is closed to all other public use. Such camping hunters may be accompanied by, not to exceed, one camping companion who will be confined to Camp Doris or refuge headquarters during hunt period unless authorized to assist with the removal of game by the Refuge Manager or his agent. (4) Authorized hunters will comply with all official written refuge rules and regulations issued at mandatory hunter briefings. Violation of any of these rules or regulations or of any Federal or State hunting law, will terminate the hunt of the person or persons so involved.

Texas

Aransas National Wildlife Refuge, P.O. Box 68, Austwell, Texas 77950. Telephone number 512–286–3559. White-tailed deer.

Special Conditions: (1) All hunters must check in and out of the hunt area at the refuge entrance on Texas Farm Road 2040. (2) A valid 1980-81 Texas hunting license is required of each participant. (3) No camping will be allowed on the refuge proper, however, camping outside the front gate is permitted. (4) In the event of the arrival of whooping cranes, the refuge or any portion thereof may be immediately closed to hunting. Archery Hunt; archery hunting of white-tailed deer and feral hogs is permitted on the Aransas Refuge during the following periods: September 18 through September 22 and September 25 through September 29, 1980. Hunting shall be in accordance with applicable State hunting regulations subject to the following special conditions. (a) A bag limit of three (3) deer, with no more than two (2) buck. There is no limit as to the number of wild hogs that may be taken. (b) A current State archery tag is required. (c) All hunting arrows must bear the name and address of the user in a non-water-soluable medium. (d) No target or field arrows are permitted on the refuge. (5) No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer. Firearms Hunt; (1) Firearm hunting of white-tailed deer and feral hogs is by permit only on the Aransas Refuge during the following periods: October 3–4, 5–6, 7–8, 9–10, and 11–12, 1980. Each hunter is allowed two consecutive days to hunt. (2) Hunting hours are 12:00 o'clock noon the first day, and 30 minutes before sunrise the second day of each two day hunt, until 30 minuts after sunset each evening. All hunters must be out of the refuge by dark. (3) The bag limit per hunter for the total firearm season is two deer. The first deer must be anterless or a spike buck. A spike buck is defined as a deer with at least one unforked antler. There is no limit as to the number of feral hogs that may be taken. (4) All hunters will wear international orange cap and vest. (5) There will be a lottery drawing with 200 hunter permits per two day session with 1,000 total hunter permits drawn.

Violation of any of these rules or regulations or of any Federal or State hunting law will terminate the hunt of the person(s) so involved.

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Texas 78550, Telephone 512–748–2426, White-tailed deer.

Special Conditions: (1) Hunting with, or possession of weapons other than legal long-bows is not permitted. (2) The open season for hunting deer on the refuge is from 30 minutes before sunrise to 2:00 P.M. CST, October 17 through October 26, 1980. (3) The bag limit is two deer either sex. (4) Target and field arrows are not permitted. (5) Hunters must check in and out each day of the hunt at the Laguna Atascosa Hunter Check Station, which will be open from 5:00 A.M. until 2:00 P.M. Permits will be issued and collected at this point. Failure to check out will result in loss of future hunting privileges. Deer must be checked out at this checkpoint. (6) Vehicles will not be permitted off the Bayside or Lakeside Tour roads or the County road. (7) Archery equipment must be left at the check station prior to trailing wounded deer into closed areas and for entry after 2:00 P.M. (8) Hunting is prohibited within 50 yards of the

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Bayside and Lakeside Tour roads or the County road which passes through the Refuge. (9) The construction of permanent blinds is not permitted. Hunting permitted only from portable stands, natural blinds or by stalking (still hunting). No driving of deer is permitted. (10) Hunters under 16 years of age must be accompanied by an adult 21 years of age or older. Firearms Hunt; (11) The open season for hunting deer with firearms on the refuge is 30 minutes before sunrise until 30 minutes after sunset CST, December 12 through December 16, 1980. (12) The bag limit is two (2) deer, either sex. (13) Quotas by sex and age class will be established by the refuge manager. When the quotas for a given sex or class age is reached, hunting for that sex or age class will be discontinued. (14) Hunters will be selected by a drawing held prior to the hunt. There will be no substitutions. One hundred twenty-five permits will be issued. (15) Hunters must attend a briefing prior to hunt. Those who do not attend, do not hunt. (16) Hunters must stay in assigned Unit and/or stand. Units will be assigned on each morning of the hunt. (17) Hunters must check out at check station at the end of the hunt. (18) Hunters under 16 years of age must be accompanied by an individual over 21 years of age. (19) International orange must be worn on head *and* shoulders. Red and yellow are not substitutes. (20) Possession of handguns and alcoholic beverages is prohibited. (21) Firearms must be sighted-in prior to arrival. Target practice on refuge is prohibited.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A107.

Joseph R. Higham,

Area Manager, Austin, Tex.

[FR Doc. 80–26286 Filed 8–27–80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Certain National Wildlife Refuges in Oklahoma and Texas; Hunting Regulations

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of certain National Wildlife Refuges in Oklahoma and Texas is compatible with the objectives for which the area was established, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season.

EFFECTIVE DATES: Hunting on portions of the following refuges shall be in accordance with applicable State and Federal seasons and regulations, subject to additional special regulations and conditions as indicated below.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

General

Public hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. The possession of lead shot is prohibited and non-toxic shot (steel) will be required for waterfowl hunting on the following national wildlife refuges: Anahuac, Aransas (Matagorda Island Unit), Brazoria, McFaddin Marsh, San Bernard and Sea Rim in Texas and Sequoyah in Oklahoma. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 East 8th Street, Room G–121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public hunting shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Oklahoma

Sequoyah National Wildlife Refuge, P.O. Box 695, Vian, Oklahoma 74962. Telephone 918–773–5251. Mourning doves and teal ducks. Special Conditions: (1) Firearms of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where firearms must be cased or broken down. (2) Only longbow and arrow or shotguns without slug ammunition are permitted. (3) Camping or possession of firearms on the refuge at night is prohibited. (4) All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, Telephone Number 405–371–2402. Mourning doves and teal ducks. Special Conditions: (1) The area to be hunted is the Tishomingo Wildlife Management Area. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving game. (3) Hunters, upon entering and leaving the hunting area, shall report at designated checking stations as may be established for the regulation of the hunt and shall furnish upon request information pertaining to their hunting activities. (4) Duck hunters, during the Special Early Teal Season, who hunt the following areas are required to use a boat or hunt with a retrieving dog as otherwise water depths would prevent adequate retrieval of downed birds: McAdams Pond, Teller Pond, Whiskey Creek Pond, Muel Lake, Reeves Ravine, Lost Lake and Bobcat Gulch.

Texas

Anahuac National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone Number 512–286–3559. Teal Duck. Special Conditions: (1) Open season will be each day of the special early teal season as established in the State of Texas. (2) Hunting hours will be from one-half hour before sunrise until 12 o'clock noon each day of the hunt. (3) Access to the hunting unit is by boat only. Hunters are not permitted to use refuge roads for access to the hunting area. (4) Marsh buggies, airboats, and all terrain vehicles are not allowed within the hunting unit.

Brazoria National Wildlife Refuge, Box 1088, Angleton, TX 77515, Telephone Number 713–849–6062. Early teal ducks. Special Conditions: (1) Access to the hunting areas must be entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted. Areas open to hunting are designated on maps which are available from the refuge manager at the above address. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought onto the refuge for blind construction must be removed at the end of each hunt. (3) The refuge early teal season is in accordance with the Texas state early teal season.

Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Texas 75090, Telephone Number 214–786–2826. Mourning dove. Special Conditions: (1) The open season for hunting mourning doves on the refuge is restricted to the first four weeks of the State season for the North Zone. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Matagorda Island Unit, Aransas National Wildlife Refuge, P.O. Box 68, Austwell, Texas 77950. Telephone Number 512–286–3559. Mourning Dove. Special Conditions: (1) Open season for hunting mourning dove on the Matagorda Island is restricted to the first four weeks of the State season for the South Zone. (2) All portions of Matagorda Island under Federal ownership or control will be open to dove hunting with the exception of the old Air Force base itself which is fenced off. (3) Hunters may be transported to specific hunt areas at the discretion of the refuge manager or his appointed representative, depending on the work load at the time. (4) All hunters arriving at the Island docks must register with refuge personnel prior to the hunt.

McFaddin Marsh National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone 713–267–3337. Teal Duck. Special Conditions: (1) The McFaddin Marsh will be open to hunting on Sunday, Tuesday, Thursday and Saturday of the special early teal season. (2) No firearms are permitted on the refuge prior to 3:00 a.m. or after 1:00 p.m. daily. (3) Hours are one-half hour before sunrise until 12:00 o'clock noon daily. (4) Any boat is allowed, except airboats may not have an engine of more than 10 horsepower. (5) No marsh buggies or all-terrain vehicles permitted in the refuge marsh or grass lands. (6) No hunting is allowed within 300 feet of any road, highway, or building. (7) Hunters 16 years of age or younger must be accompanied by an adult 21 years of age or older who shall be responsible for the conduct of the minor.

San Bernard National Wildlife Refuge, P.O. Box 1088, Angleton, Texas 77515. Telephone Number 713–849–6062. Special conditions: (1) Only the free waterfowl hunting areas known locally as the Cedar Lakes and the Smith Marsh are open to the hunting of teal ducks during this early season. These areas are designated on maps available from the refuge manager at the above address. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought onto the refuge for blind construction must be removed at the end of each hunt. (3) The refuge early teal season is in accordance with the Texas state early teal season.

Sea Rim National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone Number 713–267–3337. Teal Duck. Special Conditions: (1) Sea Rim National Wildlife Refuge will be open to hunting on Monday, Wednesday, Friday, and Saturday of the special early teal season. (2) Hunting hours will be from one-half hour before sunrise until 12:00 o'clock noon each day of the hunt. No firearms are permitted on the refuge prior to 3:00 a.m. or after 1:00 p.m. daily. (3) No hunting will be permitted closer than 150 yards to any road, highway, or building. (4) Access to the refuge is by foot or by outboard or inboard powered boats, canoes, mudboats or skiffs, and by airboats with engines of 10 horsepower or less. All motorcycles and marsh buggies, and all airboats with engines of more than 10 horsepower are not permitted within the refuge. (5) Hunters 16 years of age or younger must be accompanied by an adult 21 years of age or older who shall be responsible for the conduct of the minor.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Joseph R. Higham,

Area Manager, Austin, Tex.

[FR Doc. 80-26288 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR PART 32

Certain National Wildlife Refuges in Oklahoma and Texas; Hunting Regulations

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in the States of Oklahoma and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for hunting waterfowl, snipe and woodcock.

EFFECTIVE DATE: Hunting on portions of all the following refuges shall be in accordance with applicable State and Federal seasons and regulations, subject to additional special regulations and conditions as indicated below.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of these Special Regulations.

General

Public hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. The possession of lead shot is prohibited and non-toxic shot (steel) will be required for waterfowl hunting on the following National Wildlife Refuges: Anahuac, Aransas (Matagorda Island Unit), Brazoria, McFaddin Marsh, San Bernard and Sea Rim in Texas, and Sequoyah in Oklahoma. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 E. 8th Street, Room G–121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act

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requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public hunting shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds: for individual wildlife refuge area.

Oklahoma

Sequoyah National Wildlife Refuge, Route 1, Box 18A, Vian, Oklahoma 74962. Telephone: (918) 773–5251. Migratory game birds. Special conditions: (1) Hunting of ducks, geese, coots, snipe, woodcock and crow is in accordance with the Oklahoma State season for migratory birds. (2) Firearms of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigational Channel, where firearms must be cased or broken down. (3) Camping or possession of firearms on the refuge at night is prohibited.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460. Telephone: (405) 371–2402. Migratory game birds. Special conditions: (1) Public hunting of ducks and coots is permitted on Tishomingo Wildlife Management Area of the Tishomingo National Wildlife Refuge, Oklahoma. (2) Goose, ducks and coots may be hunted from one-half hour before sunrise until 11:45 a.m. on Thursdays, Saturdays and Sundays, and from 1:00 p.m. until sunset on Tuesdays, except that hunting is not permitted on Thanksgiving nor Christmas Days. (3) All hunters, upon entering or leaving the area, shall report at designated check stations as may be established for this purpose. (4) Ducks and coots may be hunted only in Management Area zones 1 and 2. Retrievers or boats must be used on zone 2 to prevent undue loss of downed birds in deep water. Temporary blinds may be constructed and placed where desired after giving due consideration to safety and hunting opportunities to other hunters already in the area. No more than 25 shells may be used by or in the possession of any hunter. (5) Geese may be hunted only in zone 3 and from the goose blinds provided. Each hunter will select the blind he wishes to use, and the order in which hunters make their selections will be determined by a daily drawing. Hunters may leave their assigned blinds to pick up decoys and return to the check station only at designated times, except that hunters may leave blinds to place or adjust decoys and to retrieve downed birds. No more than 6 shotgun shells may be used by or in the possession of any hunter; shot size may not exceed BB's. (6) As requested, hunters must provide information relating to their hunts and permit collection of tissues from their harvested birds.

Texas

Anahuac National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone: (713) 267–3337. Special conditions: (1) Hunting hours will be from one-half hour before sunrise until 12 o'clock noon each day of the hunt. (2) Access to the hunting unit is by boat only. Hunters are not permitted to use refuge roads for access to the hunting area. (3) Marsh buggies, airboats, and all terrain vehicles are not allowed within the hunting unit. (4) Pits may not be dug and permanent blinds may not be constructed.

Aransas National Wildlife Refuge, (Matagorda Island Unit), P.O. Box 68, Austwell, Texas 77950. Telephone: (512) 286–3559. Migratory game birds. Special conditions: (1) Unless otherwise specified, all laws and regulations published by the Texas Parks and Wildlife Department concerning waterfowl hunting will be applicable. (2) Taking of snow geese will not be permitted on the refuge. (3) Hunting hours: one-half (1/2) hour before sunrise until 12 o'clock noon. (4) The area will be open 3 days a week (Saturday, Sunday and Wednesday). Refuge transportation on the island will be provided to and from the Matagorda Island dock and the hunt area. Hunters will receive a short briefing covering hunter behavior, bird identification with special emphasis on the peregrine falcon and other endangered species, and refuge management on the island prior to the hunt. Hunters must be at the Island docks by 5:00 a.m., at which time a drawing will be held for blind selection. (5) In the event whooping cranes begin using habitat within the hunt area, all or portions of that area will be closed to hunting.

Brazoria National Wildlife Refuge, P.O. Box 1088, Angleton, Texas 77515. Telephone: (713) 849–6062. Migratory game birds. Special conditions: (1) Access to the hunting areas must be entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted. Areas open to hunting are designated on maps which are available from the refuge manager at the above address. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought onto the refuge for blind construction must be removed at the end of each hunt. (3) The refuge waterfowl season is in accordance with Texas State waterfowl season.

McFaddin Marsh National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone: (713) 267–3337. Migratory game birds. Special conditions: (1) The McFaddin Marsh will be open to hunting on Sunday, Tuesday, Thursday and Saturday of the early teal and regular duck season as established by the State of Texas. The refuge will not be open during the goose only seasons or on Christmas Day. (2) Hunting hours are one-half hour before sunrise until 12:00 o'clock noon daily. (3) Any boat is allowed, except airboats may not have an engine of more than 10 horsepower. (4) No marsh buggies or all-terrain vehicles permitted in the refuge marsh. (5) Pits may not be dug and permanent blinds may not be constructed. (6) No hunting is allowed within 300 feet of any road, highway or building. (7) Hunters 16 years of age or younger must be accompanied by an adult 21 years of age or older who shall be responsible for the conduct of the minor. (8) McFaddin Marsh is open to public foot and boat access at all times. (9) Refuge roads are open to public vehicle access from 7:30 a.m. until 4:00 p.m. Monday through Friday and other times as posted by signs and leaflets. Any portion of the refuge may be closed periodically because of public or wildlife hazards. (10) Overnight camping is permitted only adjacent to the Gulf of Mexico beach. Camping is limited to three days and three nights.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 20 and are effective through December 31, 1980.

San Bernard National Wildlife Refuge, P.O. Box 1088, Angleton, Texas 77515. Telephone: (713) 849–6062. Migratory game birds. Special conditions: (1) The waterfowl hunting area on this refuge is divided into two parts: Special Permit Waterfowl Hunting area (SPWH area) and Free Waterfowl Hunting areas (also locally known as the Cedar Lakes and the Smith Marsh tract). These areas are designated on maps available from the refuge manager at the above address. (2) A refuge permit will be required for participation in the SPWH area. Permit applications are available at the Refuge Office, 1208 North Velasco Street, Angleton, Texas, and must be returned to the refuge office by October 15, 1980 to be eligible for drawing for advanced reservations. (3) The refuge waterfowl season is in accordance with the Texas State waterfowl season. (4) Hunters participating in the Special Permit Waterfowl Hunt are required to be present at the check station by 4:30 a.m. for the first portion of the split season and 5:00 a.m. for the second portion. (5) The refuge will furnish duck decoys for the Special Permit Waterfowl Hunt and no other duck decoys may be used in this segment of the hunt. Goose decoys are permitted but will not be furnished. (6) Hunters participating in the Special Permit Waterfowl Hunt may not leave their blinds except to retrieve dead or wounded waterfowl or to rearrange their decoys. (7) Hunting days for the SPWH area will be Saturdays, Mondays and Wednesdays. (8) Hunters will stop hunting and shooting at 10:00 a.m., local time, in the SPWH area and return to a hunt check station to fill out a hunter questionnaire. (9) Any available hunting blinds in the SPWH area will be filled by hunters without reservations on a standby basis immediately prior to each day's hunt. (10) A "special hunter service recreation fee" of $3 will be collected from each hunter for each hunting trip on the SPWH area. Holders of "Golden Age Passports" will be charged $1.50. (11) Hunters will be required to walk through marsh terrain to assigned blinds from designated parking areas. (12) In the SPWH area, guns may not be loaded until hunters reach their assigned blinds. (13) No guest or observers are permitted in the blinds. (14) Access to the Free Waterfowl Hunting areas (Cedar Lakes and Smith Marsh tract) must be primarily over public water routes. (15) On the Free Waterfowl Hunting areas, pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (16) Birds may not be plucked on the refuge. (17) Alcoholic beverages and controlled drugs are prohibited in all hunt areas on the refuge.

Sea Rim National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514. Telephone: (713) 267–3337. Migratory game birds. Special conditions: (1) The Sea Rim National Wildlife Refuge will be open to hunting Monday, Wednesday, Friday and Saturday of the regular waterfowl season as established by the State of Texas. The refuge will not be open during the goose only seasons or on Christmas day. (2) Hunting hours will be from one-half hour before sunrise until 12 o'clock noon each day of the hunt. No firearms are permitted on the refuge prior to 3:00 a.m. or after 1:00 p.m. daily. (3) No hunting will be permitted closer than 150 yards to any road, highway or building. (4) Pits may not be dug and permanent blinds may not be constructed. (5) Access to the refuge is by foot or by outboard or inboard powered boats, canoes, mudboats or skiffs, and by airboats with engines of 10 horsepower or less. All motorcycles and marsh buggies, and all airboats with engines of more than 10 horsepower are not permitted within the refuge. (6) Hunters 16 years of age or younger must be accompanied by an adult hunter 21 years of age or older who shall be responsible for the conduct of the minor.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Joseph R. Higham,

Area Manager, Austin, Tex.

[FR Doc. 80–26289 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Umatilla National Wildlife Refuge in Oregon; Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Amendment to Special Regulations.

SUMMARY: This document amends certain portions of the special regulations governing hunting on Umatilla National Wildlife Refuge, Oregon, published on page 52394, **Federal Register**, Volume 45, No. 154, Thursday, August 7, 1980. This amendment relieves a restriction on waterfowl hunting on the Umatilla National Wildlife Refuge, Oregon, in 1980–81 to permit both lead shot and steel shot to be used experimentally in shooting tests.

DATES: September 1, 1980 to February 28, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations as amended.

FOR FURTHER INFORMATION CONTACT: L. A. Mehrhoff, Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, Idaho 83705.

SUPPLEMENTARY INFORMATION: This amendment relieves a restriction on waterfowl hunting on the Umatilla National Wildlife Refuge, Oregon, in 1980–81 to permit both lead shot and steel shot to be used experimentally in shooting tests.

The reasons for this change are as follows: (1) The U.S. Fish and Wildlife Service has determined as a result of studies over the past several years that waterfowl feeding in areas where lead shot is used are subject to lead poisoning. (2) The results of these previous tests have been contested by state wildlife agencies, wildlife related organizations, and some segments of the hunting public. (3) Additional research data is being gathered to resolve this difference of opinion which the tests at Umatilla will be a part of. (4) Shooting tests which compare the effectiveness of steel shot and lead shot in bagging waterfowl will be conducted on the Umatilla National Wildlife Refuge. On a voluntary basis hunters at certain blinds will be provided and asked to use unmarked shotgun shells. Shotguns will be provided if the hunters choose not to use the shells in their own gun. The hunters shooting activity that day will be observed and recorded. The regulations are amended to allow this testing to occur.

The Service has determined that since this amendment relieves a restriction and will provide information to help resolve a mutual problem, the notice and public comment procedure required by 5 U.S.C., 553(b) is impracticable and not in the public interest. The Service further finds the 5 U.S.C., 553(d) does not apply. Accordingly, 50 CFR Part 32 is amended by revising § 32.12 as described below.

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§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232. Special Conditions; (Amended) (4) On the area located on the Umatilla National Wildlife Refuge where a shooting test will be conducted by the U.S. Fish and Wildlife Service lead shot can be used in addition to steel shot by participants in the test.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11494 and OMB Circular A–107.

Dated: August 20, 1980.

L. A. Mehrhoff,

Boise Area Manager.

[FR Doc. 80–26290 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Opening of the Brigantine National Wildlife Refuge, New Jersey, to Hunting

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Brigantine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: September 1, 1980 through January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231, Telephone No. 609–652–1665.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Brigantine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl, and coots on the Brigantine National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on those areas designated by signs as open to hunting.

These open areas are delineated as Hunting Units 1, 2 and 3 on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Steel shotshells are required for shotguns used to hunt migratory waterfowl during the State waterfowl hunting season. Persons may not possess lead shotshells during the State waterfowl hunting season.
2. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment and ammunition.
3. Hunting on Unit 3 during the waterfowl season is open to the public during the first half of the split season and following the second Saturday of the second half of the split season. Unit 3 is restricted to Certified Young Waterfowlers Program Trainees from the opening day of the second half of the split season through the second Saturday of the second half of the split season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that the Brigantine Refuge hunting seasons be held concurrent with the New Jersey State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Howard N. Larsen,

Regional Director, Fish and Wildlife Service.

August 20, 1980.

[FR Doc. 80–26342 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Opening of the Great Swamp National Wildlife Refuge, New Jersey, to Hunting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: December 8, 1980 through December 18, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Fillio, Great Swamp National Wildlife Refuge, R.D. 1, Box 148, Basking Ridge, New Jersey 07920, Telephone No. 201–647–1222.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Great Swamp National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer of either sex with shotguns on the Great Swamp National Wildlife Refuge, New Jersey, is permitted, except on areas designated by signs as closed, during the period of December 8, 1980 to December 13, 1980, inclusive, and December 15 to December 18, 1980. Hunting of deer with firearms shall be in accordance with all State and Federal regulations subject to the following special conditions:

Deer may be taken throughout the hunt between the hours of 7 a.m. E.S.T. and 5 p.m. E.S.T. Participation will be limited to the 600 hunter permittees randomly selected for the special Great Swamp hunt. Only 250 hunters will be allowed at any given time on each day during the hunt period. Armbands and parking area permits will be issued and must be displayed as designated. Armbands and permits must be surrendered prior to departure from the refuge. Hunters must furnish and wear a minimum of 200 square inches of blaze or hunter orange in accord with State requirements. All deer taken must be checked out at the refuge check station. Vehicles are restricted to public roads and areas designated by parking permits.

A shotgun not smaller than 12 gauge will be permitted for hunting deer, and buckshot not smaller than Number 4 nor large than Number 000 will be permitted in possession during the hunt. Hunter permittees will be required to have shotguns and loads certified prior to the hunt. Target practice or test firing is not permitted, and guns must be unloaded when in areas posted as "closed". Baiting or hunting with the aid of bait is prohibited.

Regulations, summaries, maps delineating open hunting areas, and shotgun and load certification forms and requirements are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The refuge will be closed to the general public during the hunting period, December 8 through December 18, 1980.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in 50 CFR Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Howard N. Larsen,

Regional Director, Fish and Wildlife Service.

August 20, 1980.

[FR Doc. 80-26341 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 45, No. 169
Thursday, August 28, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revision of Requirements for Petitions Based on Adoptive Relationships

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This is a proposal to change the regulations concerning filing a petition for classification as an immediate relative of a United States citizen on behalf of an alien orphan, submitting a request for advance processing of such a petition, and filing a relative petition based upon an adoptive relationship. These revisions clarify and add to existing regulations and establish uniform procedures within the Service.

DATE: Comments must be received on or before October 27, 1980.

ADDRESSES: Please submit comments, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information:
Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C., 20536. Telephone: (202) 633–3048.

For Specific Information:
Alice Strickler, Immigration Examiner Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C., 20536. Telephone: (202) 633–5015.

SUPPLEMENTARY INFORMATION: The present 8 CFR 204.1(b)(1) concerns filing a petition for classification as an immediate relative on behalf of an alien orphan. The present 8 CFR 204.1(b)(2) concerns the advance processing of such petition before an orphan is located. The proposed revision sets forth new requirements and procedures for both matters and divides the two sections into smaller paragraphs to provide greater clarity.

The proposed additions to § 204.1(b) would be as follows:

(1) The new 8 CFR 204.1(b)(1)(ii) would provide that if the petitioner resides abroad, a request for advance processing may be made at the office of the Service having jurisdiction over his/her place of residence. (2) The new 8 CFR 204.1(b)(1)(iii) would permit the filing of an orphan petition at a stateside office if it would facilitate the processing of the case when a request for advance processing is already on file at that office, even though the petitioner and/or spouse, if married are/is traveling abroad to locate a child for adoption. (3) The new 8 CFR 204.1(b)(2)(iii) would provide that a child who is in the United States in parole status and who has not been adopted in the United States is eligible for the benefits of an orphan petition and for adjustment of status to that of a lawful permanent resident when all the requirements of §§ 101(b)(1)(F) and 204(e) of the Immigration and Nationality Act have been met. This proposed addition to the regulations states the new Service policy concerning the eligibility of a child in parole status in the United States for benefits under § 101(b)(1)(F) of the Act. Under former Service policy, all children in the United States were ineligible for the benefits of an orphan petition and for adjustment of status on that basis. (4) The new 8 CFR 204.1(b)(3)(ii) would provide that an unmarried petitioner at least twenty-four years of age may file an advance processing request if he/she will be at least twenty-five years of age at the time of the adoption and of filing the orphan petition.

The present 8 CFR 204.2 explains what documentation is necessary for filing a petition for classification as an immediate relative of a United States citizen or as a preference immigrant. The proposed amendment would add two sentences to 8 CFR 204.2(c)(7). That section describes the requirement for obtaining immigration benefits under § 101(b)(1)(E) of the Act. Under § 101(b)(1)(E), an adopted child may be classified as a child for immigration purposes if he/she has been adopted while under the age of fourteen and has been in the legal custody of, and has resided with, the adopting parent or parents for two years. The amendment would reflect the Board of Immigration Appeals' decision in *Matter of M———*, 8 I. & N. Dec. 118(1959), that the two-year residence with the adopted child may be satisfied by residence preceding the adoption. The Board has followed this decision to date.

The proposed amendment to 8 CFR 204.2 would also add two new sections, § 204.2(e) and § 204.2(f), and redesignate the present §§ 204.2(e) and (f) as §§ 204.2(g) and (h), respectively. The new § 204.2(e) would enable a petitioner who has located a child to avail himself/herself of a preliminary processing procedure similar to that of advance processing. The new § 204.2(e) would provide for the filing of an orphan petition on behalf of a known child without submitting either documentary evidence relating to the child or a home study. The new § 204.2(f) would explain what specific evidence and information are required in advance processing cases. In addition, it would permit the filing of an advance processing request without a home study if the home study will be submitted within one year after filing.

The following revisions and amendments are proposed:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Section 204.1(b) would be revised to read as follows:

§ 204.1 Petition.

* * * * *

(b) Orphan—(1) *Jurisdiction.* (i) *Petitioner residing in the United States.* A petition in behalf of a child defined in section 101(b)(1)(F) of the Act or a request for advance processing of such a petition must be filed with the office of the Service having jurisdiction over the place where the petitioner is residing, if the petitioner is residing in the United States.

(ii) *Petitioner residing abroad.* If the petitioner resides outside of the United States, the petition or request for advance processing must be filed with the overseas or stateside office of the Service designated to act on the petition or request. This can be ascertained by consulting an American consul.

(iii) *Petitioner proceeding abroad when advance processing request is on file at a statewide office.* When a request for advance processing is already on file at a stateside office and the petitioner and/or spouse, if married, is/are traveling abroad to locate or adopt a child, the petition in behalf of the child may be filed at the stateside office if it will facilitate the processing of the petition. Otherwise it should be filed at the Service office which has jurisdiction over the place where the child is residing.

(iv) *Petitioner residing in Canada.* Since no Service office in Canada is designated for processing orphan cases, a petitioner residing in that country shall file an orphan petition or request for advance processing with the office of the Service having jurisdiction over the place of the child's intended residence in the United States.

(2) *Petition*—(i) *Filing the petition.* A petition for a child as defined in section 101(b)(1)(F) of the Act must be filed on Form I-600 by a United States citizen. It must identify the child and must be accompanied by the fee required under section 103.7(b)(1) of this chapter. If the petitioner is married, the Form I-600 must also be signed by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-five years of age at the time of the adoption and when the petition is filed.

(ii) *Decision.* The petitioner shall be notified of the decision. If the petition is denied, the petitioner shall be advised of the reasons for the denial and of the right to appeal in accordance with the provisions of Part 103 of this chapter. When the petition is denied, the fee will not be refunded.

(iii) *Child in the United States.* A child who is in parole status and who has not been adopted in the United States is eligible for the benefits of an orphan petition and adjustment of status to permanent residence when all the requirements of section 101(b)(L)(F) and 204(e) of the Act have been met. A child in the United States either illegally or as a nonimmigrant, however, is ineligible for the benefit of an orphan petition and adjustment of status on that basis.

(3) *Advance processing request*—(i) *Circumstances where advance processing request may be submitted.* A prospective petitioner may request advance processing of a petition for a child as defined in section 101(b)(1)(F) of the Act when—

(A) a prospective orphan has not been located and identified; or

(B) the prospective petitioner and/or spouse, if married, is/are going abroad to adopt or locate a child.

(ii) *Submitting the request.*—(A) *General.* A request for advance processing shall be submitted by a United States citizen on Form I-600 with block I and the affidavit of petitioner completed. It shall be accompanied by the fee specified in section 103.7(b)(1) of this chapter. If the petitioner is married, Form I-600 shall also be signed by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-four years of age provided that he/she will be at least twenty-five at the time of the adoption and of filing the completed petition in behalf of a child.

(B) *Properly filed petition.* The petition in an advance processing case will not be regarded as properly filed until the orphan has been identified and the biographical information and documentary evidence concerning the child are furnished to this Service. When the child has been identified, a completed duplicate Form I-600 shall be submitted with all necessary documentary evidence relating to him/her.

(iii) *Disposition of the request for advance processing.* The petitioner will be informed that the request for advance processing will be retained for one year from the date of completion of all advance processing, that if a child is not identified to this Service within that year, the request will be considered abandoned, and that any further proceedings will require the filing of a new Form I-600. If the request for advance processing is considered abandoned, the fee will not be refunded.

§ 204.2 [Amended]

§ 204.2(c)(7) would be revised to read as follows:

* * * * *

(c) * * *

(7) *Relationship by adoption.* If the petitioner and the beneficiary are related to each other by adoption, a certified copy of the adoption decree must accompany the petition. Immigration benefits may be obtained under §§ 101(b)(1)(E) or 101(b)(2) of the Act by virtue of an adoptive relationship provided that the child was adopted while under the age of fourteen if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years. While the legal custody must be after the adoption, residence occurring prior to the adoption can satisfy the residence requirement.

* * * * *

The following § 204.2(e) would be added and the former § 204.2(e) would be redesignated as § 204(g). The new section would read as follows:

* * * * *

(e) *Preliminary processing of orphan petition without full documentation or home study.* When a child has been identified but the documentary evidence relating to him/her or the home study is not yet available, an orphan petition may be filed without such evidence or home study. All other evidence and the fingerprints required in paragraph (d)(1) of this section, however, must be submitted. The petition will not be considered properly filed until complete documentary evidence relating to the child and the home study are furnished. If the necessary evidence and home study are not submitted within one year from the date of submission of the petition, the petition will be considered abandoned, and the fee will not be refunded. Any further proceedings will require the filing of a new petition.

* * * * *

The following § 294.2(f) would be added and the former § 204.2(f) would be redesignated as § 204.2(h). The new section would read as follows:

* * * * *

(f) *Evidence and information to be furnished with request for advance processing of orphan petition.*

(1) *Evidence.* A request for advance processing of an orphan petition in behalf of a child who has not been identified made pursuant to § 204.1(b)(3) must be accompanied by—

(i) Fingerprints on Form FD-258 of the United States citizen petitioner and spouse, if married;

(ii) Documentary evidence relating to the petitioner and spouse, if married, as provided in paragraph (d)(1) of this section; and

(iii) A valid home study as described in paragraph (d)(2) of this section, if available. If not yet available, it shall be submitted within one year from the date of submission of the request for advance processing or the request shall be considered abandoned.

(2) *Information.* The petitioner must furnish the following information with a request for advance processing:

(i) Whether the child is coming to the United States for adoption after compliance with the preadoption requirements, if any, of the state of proposed residence or whether the child will be adopted abroad after having been personally seen and observed by the petitioner and spouse, if married.

(ii) Name and address of the organization or individual assisting the

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petitioner in locating or identifying an eligible orphan.

(iii) City, province or state and country of intended destination if the petitioner and/or spouse are/is proceeding abroad to locate or adopt a child.

(iv) Date of intended departure of the petitioner and/or spouse, if traveling abroad.

(Secs. 101(b)(1)(E) and (F), 103, 204; 8 U.S.C. 1101(b)(1)(E) and (F), 1103, 1154)

Public Comment Invited

In accordance with 5 U.S.C. 553, the Service invites comments of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before October 27, 1980 shall be considered. Comments should be submitted in writing, in duplicate, to the Commissioner of the Immigration and Naturalization Service at the address shown at the beginning of this notice.

Dated August 25, 1980

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-26465 Filed 8-27-80; 8:45 am]

BILLING CODE 4410-10—M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-ANE-33]

Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposes to realign VOR Federal Airway V-167 between Hartford, Conn., Providence, R. I., by making it a direct route. This alteration will improve the service and aid flight planning. Also, controller workload would be reduced by providing an airway in an area where aircraft are normally vectored.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 80-ANE-33, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before September 29, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of coments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability Of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Cirular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter the description of V-167 in the vicinity of Hartford, Conn. Presently, there is a dogleg in the segment between Hartford and Providence, R.I., and the FAA proposes to alter this segment by making it a direct route. This change will imporve flight planning and reduce controller workload by providing an airway in an area where aircraft are usually vectored. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-167: "Hartford; INT Hartford 081° and Providence, R.I., 270° radials; Providence;" is deleted and "Hartford, Conn.; Providence, R.I.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 19, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25969 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-48]

Proposed Designation of Transition Area, Ocean Springs, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Ocean Springs, Mississippi, Transition Area and will lower the base of controlled airspace in the vicinity of the Gulfpark Airport from 1,200 to 700 feet above ground level (AGL). A standard instrument approach procedure has been developed to the airport, and additional controlled airspace is required to protect Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: October 3, 1980.

ADDRESS: Send comments on the proposal to: Federal Aviation

Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlan D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before October 3, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Person interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Ocean Springs, Mississippi, 700-foot transition area. This action will provide controlled airspace protection for IFR operations at the Gulfpark Airport. A standard instrument approach procedure, VOR–B, to the airport, utilizing the Gulfport VORTAC, is proposed in conjunction with the designation of the transition area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Ocean Springs, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Gulfpark Airport (lat. 30°23′25″ N., long. 88°45′09″ W.); excluding that portion within the Gulfport, Mississippi, Transition Area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. a1348(a) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 15, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80–26224 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 222 and 385

[EDR–403A; ODR–22A; Docket 38329]

Air Cargo Pick-Up and Delivery Zones; Filing of Tariffs; Application for Authority To File; Delegation and Review of Action Under Delegation; Nonhearing Matters

Dated: August 25, 1980

AGENCY: Civil Aeronautics Board.

ACTION: Denial of Request for Extension of Comment Period.

SUMMARY: The CAB is denying a request for an extension of the comment period in its rulemaking proceeding to eliminate Board restrictions upon intermodal cargo services. The request was made by counsel for The Flying Tiger Line.

DATES: Comments by August 22, 1980. Reply comments by September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Di Bella, Bureau of International Aviation, Legal Division, 1825 Connecticut Avenue N.W., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: By EDR–403/ODR–22, 45 FR 42318, June 24, 1980, the Board proposed to eliminate Board restrictions upon intermodal cargo service, *i.e.*, surface cargo transportation in connection with air transportation, except in those cases where the intermodal cargo services of foreign air carriers must be restricted for international civil aviation policy reasons. Foreign air carriers would be required to apply for statements of authorization to conduct intermodal services, and approval of those applications would depend on whether a foreign carrier's government had granted U.S. carriers reciprocal rights or on broader international aviation policy considerations. The Board would also discontinue its requirement that carriers file separate tariffs for pick-up and delivery services.

The initial and reply comment deadlines set by EDR–403/ODR–22 are August 22 and September 22, 1980. At the close of business on August 20, counsel for the Flying Tiger Line asked for a 7-day extension of these deadlines to August 29 and September 29, 1980, citing the complexity of the issues in support the of request.

A 60-day comment period has provided ample time to thoroughly consider and comment upon the issues raised by this rulemaking. Moreover, the extension request was filed so late that it would be impossible to grant and publicize it in time to benefit other interested persons. Counsel for the Flying Tiger Line has offered no reason for the extension that is compelling enough to outweight this unfairness. Accordingly, I do not find good cause to extend the comment period for EDR–403/ODR–22.

Under authority delegated by the Board in 14 CFR 385.20(d), the request to extend the comment period is denied.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

Mark Schwimmer,

Acting Associate General Counsel.

[FR Doc. 80–26409 Filed 8–27–80; 8:45 am]

BILLING CODE 6320–01–M

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining; Extension of Comments Date for Advance Notice of Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Extension of comments date.

SUMMARY: The period within which comments were requested on an advance notice of proposed rulemaking to implement Public Law No. 96–283, the Deep Seabed Hard Mineral Resources Act (the "Act"), is extended form August 31, 1980, to September 10, 1980. NOAA is extending the date in recogniation of the complex issues and in the interest of encouraging all comments that will assist the agency in its decisions incidental to implementing the Act.

DATE: Comments should be received by September 10, 1980.

ADDRESS: Submit communications, which should identify the advance notice of proposed rulemaking, to Martin H. Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration (NOAA), Room 5222, Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Office of General Counsel, NOAA, Room 5816, Department of Commerce, Washington, D.C. 20230 (202–377–3403).

SUPPLEMENTARY INFORMATION: On July 28, 1980, NOAA published in the **Federal Register** at page 49953 an advance notice of proposed rulemaking pertaining to deep seabed hard mineral resources exploration licenses and commercial recovery permits, to implement the Act. The notice requested that comments be received by August 31, 1980. Interested persons have expressed the desire to submit comments but have indicated that the scope and complexity of issues relating to seabed mining, and of their anticipated comments, will prevent them from submitting comments by the above date. In recognition of these complexities, and in the interest of encouraging all comments that will assist the agency in its decisions incidental to implementing the Act, NOAA is extending the date for receiving comments on the advance notice until September 10, 1980.

Dated: August 20, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 80–26372 Filed 8–27–80; 8:45 am]

BILLING CODE 3510–12–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35–21685; file No. S7–847]

Proposed Rule to Exempt Certain Non-Utility Subsidiaries Under the Public Utility Holding Company Act of 1935

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting comments concerning a proposed rule that would exempt subsidiaries of registered holding companies primarily engaged in the production, manufacture, transmission or storage of gas from the duties, liabilities and obligations imposed under the Public Utility Holding Company Act of 1935 ("Act") on "subsidiary companies," as such, if no more than 50% of the voting securities of or other voting interests in such subsidiaries are owned, directly or indirectly, by one or more registered holding companies.

The proposed rule is intended to eliminate an impediment to participation by registered holding company systems in joint ventures with persons not subject to the Act for the purpose of providing non-utility facilities useful to the business of the registered system, by exempting the joint venture entity, whether a corporation or partnership, from the regulatory provisions of the Act.

DATE: Comments must be received on or before September 26, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie, Associate Director, Division of Corporate Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 523–5156.

SUPPLEMENTARY INFORMATION: Section 2(a)(7) of the Act defines a "holding company" as any company which owns 10% or more of the voting securities of a "public utility company," a term which includes an "electric utility company" (Section 2(a)(3)) or a "gas utility company" (Section 2(a)(4)). For purposes of the Act, a "gas utility company" is a company engaged in the *retail distribution* of natural or manufactured gas. Companies which are engaged in the manufacture or production of gas, or its transmission, are not gas utility companies, within the meaning of this definition, and the owners of such companies are not "holding companies," unless retail gas service is also undertaken. The definition of an "electric utility company," on the other hand, includes generation and transmission of power, as well as its distribution, so there is no similar distinction between the wholesale and retail functions.

The provisions of the Act, particularly Section 7, which govern security issues, apply to all subsidiaries which are only partly owned and subsidiaries which are not utility companies, unless the subsidiary is exempted by rule under Section 3(d). If a group of companies undertakes a non-utility joint project of common interest, such as a pipeline or a synthetic fuel plant, the inclusion of a member of a registered system as a significant owner may subject to Commission authority under the Act all the financing and other activities of the company created for that purpose. Since such company will not be a "gas utility company" and its other owners will not become "holding companies" within the meaning of the Act, there is no apparent need for such regulation. Such additional regulation may make potential co-venturers reluctant to include a registered system in their plans.

There are now three gas utility holding company systems registered under the Act, two of which also own major gas transmission subsidiaries. The three systems represent only about 8½% of the total gas industry, counting both pipelines and retail distribution systems. Most of the pipeline systems are not subject to the Act, and significant joint ventures will be principally with non-utility companies.

Two applications for approving joint projects, one dealing with a plant to manufacture synthetic gas, and the other with major new pipelines, have been filed and we are informed that further ventures are contemplated. Each of these projects is directed to provide gas to multiple pipeline systems from heretofore inaccessible sources for resale in existing markets. All of these projects are based on joint ownership of the company to be created to own and operate the facility. The recent passage of the Energy Security Act of 1980,[1] Title I of which is directed to promoting the development of a synthetic fuels industry in the United States, and other developments in the industry suggest that this kind of subsidiary relationship may become important in the planning of other similar projects.

Section 3(d) of the Act authorizes the Commission to:

> By rules and regulations, conditionally or unconditionally exempt any specified class or classes of person from the obligations, duties or liabilities imposed upon such persons as subsidiary companies or affiliates under any provision or provisions of this title, and may provide within the extent of any such exemption that such specified class or classes of persons shall not be deemed subsidiary companies or affiliates within the meaning of any such provision or provisions, if and to the extent that it deems the exemption necessary or appropriate in the public interest or for the protection of investors or consumers and not contrary to the purposes of this title.

Proposed Rule 16 would be an exercise of this exemption authority. It would declare the entity organized to own the specified kinds of non-utility facilities not to be a "subsidiary company" of an owner which is in a registered holding company system, provided certain conditions are met. The rule would not exempt the registered system in any other respect.

The Commission's responsibilities with respect to both the integration of the registered utility system, as defined in Section 11(b)(1) of the Act, and the financial involvement of the registered holding company system would seem to be satisfied by the exercise of its authority under Sections 9(a)(1) and 10 of the Act over that system's acquisition of an interest in the joint venture and under Sections 6(a) and 7 of the Act over the obligations it may undertake.

The rule, as proposed, does not extend to a company a majority of whose voting securities or other interests are held by registered systems, since such companies would be effectively part of the regulated systems.

Text of The Proposed Rule

It is proposed to amend 17 CFR Part 250 by adding § 250.16 to read as follows:

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

§ 250.16 Exemption of non-utility subsidiaries.

Any company which is a subsidiary company, as defined in section 2(a)(8)(A) of the Act, of a registered holding company shall be exempt from every obligation, duty, and liability imposed upon such company, as such, *Provided* That:

(a) Such company is primarily engaged in the exploration, development, production, manufacture, storage, transportation or supply of natural or synthetic gas for resale and is not a gas utility company within the meaning of section 2(a)(4) of the Act;

(b) No more than 50 percent of its voting securities or other voting interests are owned or controlled, directly or indirectly, by any one or more registered holding companies; and

(c) The acquisition of an interest in such company by a registered holding company or subsidiary thereof has been approved by order under sections 9(a)(1) and 10 of the Act.

A failure of any member of a registered holding company system to otherwise comply with the Act shall not affect the exemption herein granted.

(Sec. 3 (d) and 20(a) of the Public Utility Holding Co. Act of 1935 (15 U.S.C. 79a *et seq.*))

By the Commission.

George A. Fitzsimmons,

Secretary.

August 21, 1980.

[FR Doc. 80-26392 Filed 8-27-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 25

[Docket No. R-80-862]

Mortgagee Review Board

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on revisions in the administrative actions available to the Mortgagee Review Board and the permissible grounds for such actions. The rule would provide greater clarification of the grounds which may result in an administrative action by the Board against a HUD-FHA approved mortgagee. The rule would also provide greater flexibility in the administrative actions available to the Board to ensure compliance with HUD regulations and procedures.

DATE: Comments must be received on or before October 27, 1980.

ADDRESS: Interested persons are invited to submit written suggestions or data regarding the proposed rule to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. All relevant material received on or before will be considered before adoption of a final rule. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: K. H. Sauerbrunn, Department of Housing and Urban Development, Office of General Counsel, Room 10270, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-5557 [not a toll-free number].

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development has undertaken a review of the Administrative actions available to the Mortgagee Review Board and the bases on which the board may act in monitoring the activities of HUD-approved mortgagees. As a result of this review the Department has determined that the provisions of Part 25 should be improved and clarified. In addition, to assure that the administrative actions under this Part will accomplish their intended result and will serve the best interests of the Government and the public, the Department is presently considering further revision of the Part, which was previously amended on August 9, 1977, 42 FR 40194. The proposed revision would entail the following major changes:

1. Under the new § 25.5, the Mortgagee Review Board would have at its disposal a variety of administrative actions to enable it to act with greater flexibility in assuring that the conduct of HUD-approved mortgagees comports with HUD requirements. The new actions include the following: a notice of probable violation by which the Board may notify a mortgagee of allegations concerning its conduct and seek a written reply; a letter of reprimand by which the Board may formally warn a mortgagee against particular conduct and order it to bring its activities into compliance; a remedial order by which the Board may require a mortgagee to institute appropriate measures to correct or mitigate the effects of violations,

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[1] Pub. L. 96-294.

including the demand for indemnification against existing or future insurance claims; a probation order by which the Board may temporarily place the mortgagee in a probationary status in order to evaluate the mortgagee's compliance with HUD/FHA requirements or a remedial order; and suspension by which the Board may immediately suspend the mortgagee's approval for up to one year where the Board determines that such action is necessary in the interests of the Department or the public pending the completion of any audit, investigation or other review.

2. The new § 25.8 lists grounds for action by the Board, including: a mortgagee's failure to comply with conditions of approval; failure to comply with any statute, regulation, handbook, mortgagee letter, contract or other written requirement or instruction relating to mortgagee activities; failure to meet or maintain net worth; failure to comply with orders of the Board, the Secretary or the Hearing Office; submission of false information to HUD/FHA in connection with any insured loan; failure to respond to inquiries by the Board; indictment or conviction of a mortgagee or any of its officers, directors, principals or employees; violation of the nondiscrimination provisions of the Equal Credit Opportunity Act or the Fair Housing Act; business practices which do not conform to the practices of prudent lenders; and failure to cooperate with a HUD audit, investigation or review.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

Accordingly, it is proposed to amend Title 24, Subtitle A, by adding a new Part 25 to read as follows:

PART 25—MORTGAGEE REVIEW BOARD

Subpart A—Department of Housing and Urban Development Mortgagee Review Board

Secs.

25.1 Scope of rules of this part.
25.2 Establishment of Board.
25.3 Definitions.
25.4 Operation of the Mortgagee Review Board.
25.5 Administrative actions.
25.6 Notice of administrative action.
25.7 Hearings and hearing request.
25.8 Grounds for an administrative action.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), and Section 211 of the National Housing Act of 1934, 12 U.S.C. 1715b.

Subpart A—Department of Housing and Urban Development Mortgagee Review Board

§ 25.1 Scope of rules in this part.

The rules in this part are applicable to the operation of the Mortgagee Reveiw Board and to proceedings arising from Mortgagee Review Board administrative actions.

§ 25.2 Establishment of Board.

There is established in the Office of the Secretary a Mortgagee Review Board. Except as limited by this part, the Mortgagee Review Board shall exercise all of the authority and perform all of the functions of the Secretary with respect to administrative actions against mortgagees. The Board shall have all powers necessary and incident to the performance of these functions.

§ 25.3 Definitions.

(a) *Administrative Action.* A notice of possible violation, a remedial order, a letter of reprimand, an order of probation, a suspension or withdrawal of approval issued by the Mortgagee Review Board.

(b) *Party.* The Department of Housing and Urban Development or the respondent.

(c) *Respondent.* A mortgagee against which the Mortgagee Review Board has taken an administrative action.

(d) *Secretary.* The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Mortgagee Review Board consists of the following members: The Assistant Secretary for Housing—Federal Housing Commissioner Who serves as the Chairperson; the General Counsel; the Assistant Secretary for Administration; the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection; or their designees.

(b) *Advisor.* The Inspector General, or designee, serves as a nonvoting advisor to the Board.

(c) *Quorum.* Three members of the Mortgagee Review Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any suspension or withdrawal of mortgagee approval shall be determined by a unanimous vote of the quorum. Any other administrative action shall be determined by a majority vote of the members present and voting.

(e) *When action effective.* Any acts taken by the Board shall be effective when served in accordance with § 25.6 and § 26.16.

§ 25.5 Administrative actions.

When any report, audit, investigation or other information before the Mortgagee Review Board discloses that a basis for an administrative action against a mortgagee exists under § 25.8, the Mortgagee Review Board, depending on the nature and extent of the violations, may take one or more of the following administrative actions:

(a) *Notice of possible violation.* The Board may issue a written statement to the mortgagee informing the mortgagee as to the alleged violations and directing that the mortgagee reply in writing to the Board within a specified period of time. If the mortgagee fails to reply, it shall be deemed to have conceded the allegations in the notice. If a mortgagee either fails to reply or submits a reply which the Board determines inadequate, the Board may impose any other administrative action under this part that the Board finds appropriate.

(b) *Remedial order.* (1) The Board may issue an order directing that the mortgagee, within such reasonable time as the Board determines, shall cease any violation or institute measures as the Board deems appropriate to correct or mitigate the effects of any violation.

(2) The remedial measures imposed may include a demand that the respondent: repay sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by HUD; collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party; indemnify HUD/FHA for mortgage insurance claims on mortgages originated in violation of HUD requirements; or implement a quality control plan or other corrective measures acceptable to the Board.

(3) Failure of a mortgagee to comply with a remedial order of the Board may result in suspension or withdrawal.

(c) *Letter of reprimand.* (1) The Board may issue a letter of reprimand to a mortgagee informing the mortgagee of the existence or occurrence of a violation and directing the mortgagee to bring and maintain its activities in conformity with all HUD requirements.

(2) Failure of the mortgagee to comply with a directive in the letter of reprimand may result in any other administrative action under this part that the Board finds appropriate.

(d) *Probation.* (1) The Board may place a mortgagee on probation for a specified period of time for the purpose of evaluating the mortgagee's compliance with HUD requirements or an order of the Board. During a period of probation, the Board may impose reasonable additional requirements on a mortgagee to aid the Board in evaluating the mortgagee. Such additional requirements may include supervision of the mortgagee's activities by HUD, periodic reporting to HUD, or submission to HUD of internal audits, audits by an Independent Public Accountant or other audits.

(2) If the Board determines that a mortgagee has failed to comply with the terms of a probation or otherwise violates HUD requirements, the Board may impose any other administrative action the Board determines appropriate.

(e) *Suspension.* (1) The Board may issue an order suspending a mortgagee's approval temporarily if there exists adequate evidence of violation(s) under § 25.8 such that continuation of mortgagee approval pending completion of any audit, investigation or other review, or such administrative or legal proceeding as may ensue would not be in the public interest or in the best interests of the Department.

(2) *Duration.* A suspension shall be for a specified period of time not to exceed one year. The Board may extend the suspension for an additional six (6) months if it determines the extension is in the public interest. These time limits may be waived by the respondent.

(3) *Effect.* During the period of suspension, HUD/FHA will not commit to insure any mortgage originated by the suspended mortgagee. The Board may limit the geographical extent of the suspension or limit its scope to either the single family or multifamily activities of the suspended mortgagee.

(f) *Withdrawal.* (1) The Board may issue an order withdrawing the HUD/FHA approval of a mortgagee.

(2) *Duration.* A withdrawal shall be for a reasonable, specified period of time commensurate with the seriousness of the ground(s) for withdrawal, generally not to exceed six (6) years. A withdrawal may be for an indefinite period for egregious or willful violations by the mortgagee.

(3) *Effect.* (i) During the period of withdrawal, HUD/FHA will not commit to insure any mortgage originated by the withdrawn mortgagee. The Board may limit the geographical extent of the withdrawal or limit its scope to either the single family or multifamily activities of the withdrawn mortgagee.

(ii) Upon expiration of a period of withdrawal, the mortgagee may file a new application for approval with the Secretary pursuant to Part 203.

(iii) Where a withdrawal is for an indefinite period, the mortgagee, at the expiration of six (6) years and then no more than one time during each following year, may file with the Board a written request to set a date certain for expiration of the withdrawal. The decision to grant or deny the request is solely within the discretion of the Board.

(4) *Effective date of withdrawal.* The withdrawal of a mortgagee's approval shall be effective:

(i) Immediately if the Board determines that continuation of mortgagee approval pending a hearing under § 25.7 would not be in the public interest or in the best interests of the Department;

(ii) At the expiration of the 30 day period specified in § 25.7 if the mortgagee has not requested a hearing; or

(iii) Upon receipt of a final determination under Part 26.

(g) *Settlements.* The Board may at any time enter into a consent agreement with a mortgagee to resolve any outstanding grounds for administrative action.

§ 25.6 Notice of administrative action.

Whenever the Mortgagee Review Board takes an administrative action against a mortgagee, the Chairperson of the Board or the designee of the Chairperson shall notify the mortgagee in writing of the determination. The notice shall describe the nature and duration of the administrative action and shall state in general terms the reasons for the action. The notice shall inform the mortgagee of any right to a hearing pursuant to Part 26 and the manner and time in which to request such hearing, as required § 25.7. The notice shall be served in accordance with § 26.16.

§ 25.7 Hearings and hearing request.

(a) In the case of a suspension or withdrawal, a mortgagee is entitled to request a hearing before a Hearing Officer to challenge the suspension or withdrawal.

(b) Hearings to challenge a suspension or withdrawal shall be conducted according to the applicable rules of Part 26.

(c) *Request for hearing.* The request for hearing shall be made in writing within thirty (30) days of receipt of the notice of suspension or withdrawal. The request shall be filed in accordance with §26.16, addressed to the Mortgagee Review Board Docket Clerk. Failure to request a hearing within the thirty (30) days shall be a waiver of the mortgagee's opportunity for hearing and a waiver of its right to contest the suspension or withdrawal which shall then become final.

§ 25.8 Grounds for an administrative action.

Any administrative action under § 25.5 shall be upon one or more of the following grounds:

(a) The transfer of an insured mortgage to a nonapproved mortgagee, except pursuant to 24 CFR §§ 203.433 or 203.435;

(b) The failure of a nonsupervised mortgagee to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, or failure to deposit these funds in a special account with a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration except as otherwise provided in writing;

(c) The use of escrow funds for any purpose other than that for which they were received;

(d) The failure of a nonsupervised mortgagee to conduct its business in accordance with the plan indicated by its application for approval;

(e) The termination of a mortgagee's supervision by a governmental agency;

(f) The failure of a nonsupervised mortgagee or an investing mortgagee to submit the required annual audit report of its financial condition prepared in accordance with instructions issued by the Secretary within 75 days of the close of its fiscal year or such longer period as the Assistant Secretary for Housing—Federal Housing Commissioner may authorize in writing prior to the expiration of the 75 days;

(g) The payment by a mortgagee of any fee, kickback or other consideration, directly or indirectly, in connection with any insured mortgage transaction to any person including an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder or real eastate agent, if that person has received any other payment or other consideration from the mortgagor, the seller, the builder or any other person for services related to the transaction or related to the purchase or sale of the mortgaged property, except that compensation may be paid for the actual performance of such services as may be approved by the Assistant Secretary for Housing-Federal Housing Commissioner;

(h) Failure to comply with one or more of the conditions of approval listed on either a mortgagee's application for approval or on an approved mortgagee's application for approval of one or more branch offices;

(i) Failure of an approved mortgagee to meet or maintain the net worth in assets required by 24 CFR Part 203;

(j) Failure or refusal of an approved mortgagee to comply with an order of the Mortgagee Review Board, the Secretary or hearing officer under this part;

(k) Violation of the requirements of any contract with the Department, or violation of the requirements set forth in any statute, regulation, mortgagee letter, handbook or other written rule or instruction;

(l) Submission of false information to HUD in connection with any HUD/FHA insured mortgage transaction;

(m) Failure of a mortgagee to respond to inquiries from the Mortgagee Review Board;

(n) Indictment or conviction of a mortgagee or any of its officers, directors, principals or employees;

(o) Violation by an approved mortgagee of the nondiscrimination requirements of the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.*, Title VII of the Civil Rights Act of 1968 (Fair Housing Act, 42 U.S.C. 3601), Executive Order 11063 (27 FR 11527) and all regulations issued pursuant thereto;

(p) Business practices which do not conform to the practices of prudent lenders or which demonstrate irresponsibility;

(q) Failure to cooperate with an audit or investigation by the HUD Office of Inspector General or a review by HUD into the conduct of the mortgagee's FHA-insured business or any other failure to provide information to the Secretary or a representative related to the conduct of the mortgagee's FHA-insured business;

(r) Violation by an approved mortgagee of the requirements of prohibitions of the Real Estate Settlemen Procedures Act, 12 U.S.C. 2601 *et seq.;*

(s) Without regard to the date of insurance of the mortgage, failure to service an insured mortgage in accordance with the regulations and any other requirements of the Secretary;

(t) Failure to administer properly an assistance payment contract under Section 235 of the National Housing Act; and

(u) Any other reasons the Board, Secretary or Hearing Officer, as appropriate, determine to be justified.

Issued at Washington, D.C., August 21, 1980.

Moon Landrieu,

Secretary of Housing and Urban Development.

[FR Doc. 80-26407 Filed 8-27-80; 8:45 am]

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24 CFR Part 26

[Docket No. R-80-863]

Proceedings Before a Hearing Officer

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on new procedures for appeals before a HUD Hearing Officer. The rule would promote procedural uniformity among actions for debarment, actions for suspension, Multifamily Participation Review Committee determinations, and administrative actions by the Mortgagee Review Board.

DATE: Comments must be received on or before October 27, 1980.

ADDRESS: Interested persons are invited to submit written comments, suggestions or data regarding the proposed rule to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. All relevant material received on or before October 27, 1980, will be considered before adoption of a final rule. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: K. H. Sauerbrunn, Department of Housing and Urban Development, Office of the General Counsel, Room 10270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5557 [not a toll-free number]; or Steven Horowitz, Department of Housing and Urban Development, Office of the General Counsel, Room 10254, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-7138 [not a toll-free number].

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development has undertaken a review of its administrative procedures. As a result of this review, the Department has determined that uniform procedural rules shall apply to certain administrative actions taken by HUD, such as debarments and suspensions under 24 CFR Part 24; administrative actions taken by the Mortgagee Review Board under 24 CFR Part 25; and determinations by the Multifamily Participation Review Committee under 24 CFR 200.210 *et seq.* In order to improve the procedural guarantees presently afforded under Part 24, Part 25, and 24 CFR 200.210 *et seq.*, and also to assure that the actions under these Parts shall be applied uniformly, accomplish their intended results, and serve the best interest of the Government, the Department is currently considering adding a new Part 26, Proceedings Before a Hearing Officer. The proposed Part would provide standard rules of procedure for the adjudication of matters brought before hearing officers and thereby assure that all parties receive a fair and impartial hearing.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

Accordingly, it is proposed to amend Title 24, Subtitle A by adding a new Part 26 to read as follows:

PART 26—PROCEEDINGS BEFORE A HEARING OFFICER

Subpart A—Rules of Procedure

Sec.
26.1 Purpose.

Subpart B—Hearing Officer

26.2 Hearing officer, power and duties.
26.3 Failure to comply with hearing officer's directions.
26.4 Ex parte communications.
26.5 Disqualification of hearing officer.

Subpart C—Representation of the Parties

26.6 Department representative.
26.7 Respondent's representative.
26.8 Qualification for appearance.
26.9 Standards of practice.

Subpart D—Commencement of Action, Pleadings and Motions

26.10 Notice of administrative action.
26.11 Complaint.
26.12 Answer.
26.13 Amendments and supplemental pleadings.
26.14 Motions.
26.15 Form and filing requirements.
26.16 Service.
26.17 Time computation.

Subpart E—Discovery

26.18 General.
26.19 Depositions.
26.20 Admissions as to facts and documents.
26.21 Prehearing conference.

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Subpart F—Hearings

Sec.
26.22 Public nature and timing of hearings. transcripts.
26.23 Rules of evidence.
26.24 Hearing officer's initial determination and order.

Subpart G—Secretarial Review

26.25 Review of initial determinations of hearing officers.
26.26 Interlocutory rulings.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart A—Rules of Procedure

§ 26.1 Purpose.

This Part sets forth rules of procedure in proceedings of the Department of Housing and Urban Development presided over by a hearing officer. They apply to debarment and suspension hearings pursuant to 24 CFR Part 24, to hearings with respect to administrative actions taken by the Mortgagee Review Board pursuant to 24 CFR Part 25, and to hearings with respect to determinations by the Multifamily Participation Review Committee pursuant to 24 CFR 200.210 *et seq.* They also apply in any other case where a hearing is required by statute or regulation to the extent that rules adopted in the governing regulations are not contradictory.

Subpart B—Hearing Officer

§ 26.2 Hearing officer, powers and duties.

(a) Proceedings conducted under these rules shall be presided over by a hearing officer who shall be a member of the HUD Board of Contract Appeals or an Administrative Law Judge.

(b) The hearing officer shall set the time and place of any hearing and shall notify the parties accordingly.

(c) The hearing officer shall conduct a fair and impartial hearing and take all action necessary to avoid delay in the disposition of proceedings and to maintain order. The hearing officer shall have all powers necessary to those ends, including but not limited to the power:

(1) To administer oaths and affirmations;

(2) To request subpoenas as authorized by law;

(3) To rule upon offers of proof and receive evidence;

(4) To order or limit discovery as the interests of justice may require;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To consider and rule upon all procedural and other motions appropriate in adjudicative proceedings; and

(8) To make and file initial determinations.

§ 26.3 Failure to comply with an order of the hearing officer.

If a party refuses or fails to comply with an order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including judgement against the noncomplying party.

§ 26.4 Ex parte communications.

(a) An exparte communication if any communication with a hearing officer, direct or indirect, oral or written, concerning the merits or procedures of any pending proceeding which is made by a party in the absence of any other party.

(b) Ex parte communications are prohibited except where

(1) The purpose and content of the communication have been disclosed in advance or simultaneously to all parties;

(2) The communication is a request for information concerning the status of the case; or

(3) The communication is authorized by these rules.

(c) Any hearing officer who receives an ex parte communication which the hearing officer knows or has reason to believe is unauthorized shall promptly place the communication, or its substance, in all files and shall furnish copies to all parties. Unauthorized ex parte communications shall not be taken into consideration in deciding any matter in issue.

§ 26.5 Disqualification of hearing officer.

(a) When a hearing officer believes there is a basis for disqualification in a particular proceeding, the hearing officer shall withdraw by notice on the record and shall notify the Secretary.

(b) Whenever any party believes that the hearing officer should be disqualified from presiding in a particular proceeding, the party may file a motion with the hearing officer requesting the hearing officer to withdraw from presiding over the proceedings. This motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the hearing officer does not withdraw, the hearing shall proceed.

Subpart C—Representation of the Parties

§ 26.6 Department representative.

In each case heard before a hearing officer under this part, the Department shall be represented by an attorney from the Office of General Counsel.

§ 26.7 Respondent's representative.

The party against whom the administrative action is taken may be represented at hearing as follows:

(a) Individuals may appear on their own behalf;

(b) A member of a partnership or joint venture may appear on behalf of the partnership or joint venture; or

(c) A bona fide officer may appear on behalf of a corporation or association upon a showing of adequate authorization, or

(d) An attorney who files a notice of appearance with the hearing officer may represent any party.

§ 26.8 Qualification for appearance.

(a) Members of the bar of a Federal Court or of the highest court of any state are eligible to appear at hearings conducted under this part.

(b) A party shall not be represented by an attorney except as stated in paragraph (a) of this rule unless otherwise permitted by the hearing officer.

§ 26.9 Standards of practice.

(a) Attorneys shall conform to the standards of professional and ethical conduct required of practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) Any attorney may be prohibited, temporarily or permanently, from representing a party if the attorney is not qualified under § 26.8 or has engaged in unethical or improper conduct.

Subpart D-Pleadings and Motions

§ 26.10 Notice of administrative action.

In every case, there shall be a notice of administrative action. The notice shall be in writing and inform the party of the determination. The notice shall state in general terms the reasons for the proposed or imposed action and shall inform the party of any right to a hearing to challenge the determination, and the manner and time in which to request such hearing.

§ 26.11 Complaint.

(a) A complaint may be served upon the party against whom an administrative action is taken, who shall be called the respondent.

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(b) The complaint shall state the grounds upon which the administrative action is based.

(c) A notice of administrative action may serve as a complaint provided the notice states it is also a complaint.

(d) The complaint shall be served within fifteen (15) days after a request for hearing is made.

§ 26.12 Answer.

(a) Respondent shall file an answer within fifteen (15) days of receipt of the complaint except where the notice of administrative action serves as the complaint, in which case the answer shall be filed with a timely request for hearing.

(b) The answer shall respond specifically to each factual allegation. A general denial shall not be permitted. Where a respondent intends to rely on an affirmative defense it shall be pleaded specifically.

(c) Allegations are admitted when not specifically denied in respondent's answer.

§ 26.13 Amendments and supplemental pleadings.

(a) *Amendments.*—(1) *By right*: The Department may amend its complaint without leave at any time within thirty (30) days of the date the complaint is filed or at any time before respondent's responsive pleading is filed, whichever is later. Respondent may amend its answer at any time within thirty (30) days of the filing of its answer. A party shall plead in response to an amended pleading within fifteen (15) days of the filing.

(2) *By leave*: Upon conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the hearing officer may allow amendments to pleadings.

(3) *Conformance to evidence*: When issues not raised by the pleadings but reasonably within the scope of the proceeding initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and amendments of the pleadings necessary to make them conform to the evidence shall be allowed at any time.

(b) *Supplemental pleadings.* The hearing officer may, upon reasonable notice, permit service of a supplemental pleading concerning transactions, occurrences, or events which have happened or been discovered since the date of prior pleadings.

§ 26.14 Motions.

(a) All motions after the commencement of the action until decision shall be addressed to the hearing officer.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds for granting the motion.

(c) *Answers.* Within seven (7) days after service of any written motion, or within any other period as may be designated by the hearing officer, the opposing party shall answer the motion. Failure to make a timely answer shall constitute a party's consent to the granting of the motion. The moving party shall have not right to reply, except as permitted by the hearing officer.

(d) *Oral argument.* The hearing officer may order oral argument on any motion.

(e) *Motions for extensions.* The hearing officer may waive the requirements of this section as to motions for extensions of time.

(f) *Rulings on motions for dismissal.* When a motion to dismiss the proceeding is granted, the hearing officer shall make and file a determination and order in accordance with the provisions of § 26.24.

§ 26.15 Form and filing requirements.

(a) *Filing.* An original and two copies of all documents shall be filed with the appropriate Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, on official business days between 8:45 a.m. and 5:15 p.m.

(b) *Title.* Documents shall show clearly the title of the action and the docket number.

(c) *Form.* Except as otherwise permitted, all documents shall be printed or typewritten in clear, legible form.

§ 26.16 Service.

(a) *Method of Service.* Pleadings, motions, and other documents required or permitted under these rules shall be served upon all parties. Whenever these rules require or permit service to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the hearing officer. Service shall be made by delivering a copy to the person to be served or by mailing it to that person at the last known address. Delivery of a copy within this rule means: handing it to the person to be served; or leaving it at that person's office with a clerk or other person in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, leaving it at that person's dwelling house or usual place of abode with some person of suitable age and discretion who resides there. Service by mail is complete upon deposit in a mail box or upon posting.

(b) *Proof of Service.* Proof of service shall not be required unless the fact of service is put in issue by appropriate motion or objection on the part of the person allegedly served. In these cases, service may be established by written receipt signed by or on behalf of the person to be served, or may be established prima facie by affidavit or certificate of service of mailing.

§ 26.17 Time computation.

(a) Computation of any period of time prescribed or allowed by this part shall begin with the first business day following the day on which the act, event, development or default initiating the period of time occurred. When the last day of the period computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time in seven days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

(b) The hearing officer (or in the case of a review under § 26.25, the Secretary) may upon motion enlarge the time within which any act requried by these rules must be performed.

Subpart E—Discovery

§ 26.18 General.

The parties are encouraged to engage in voluntary discovery procedures. Parties may seek an order compelling discovery only upon a showing of necessity. Discovery shall not be permitted where it will unduly delay the hearing. Every request for discovery, objection to request for discovery, and request for admissions shall be in the form of a motion addressed to the hearing officer. In connection with any discovery procedure, the hearing officer may make any order requried to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense. Those orders may include limitations on the scope, methods, time and place for discovery, and provisions for protecting privileged information or documents. Where a party refuses to honor an order for discovery, the hearing officer may preclude that party from relying on evidence relevant to the information requested. Each party shall bear its own expenses associated with discovery.

§ 26.19 Depositions.

(a) *General.* Pursuant to an order of the hearing officer, a party may take the oral deposition of any person.

(b) *Procedure.* Reasonable written notice of deposition shall be served upon the opposing party and the deponent. The attendance of a deponent may be compelled by subpoena pursuant to 5 U.S.C. 304.

(c) *Objections.* Each person testifying on oral deposition shall be placed under oath by the person before whom the deposition is taken. The deponent may be examined and cross-examined. Objection may be made at hearing to receiving in evidence any deposition or part of it for any reason which would require the exclusion if the witness were then present and testifying. The questions and the answers, together with all objections made, shall be recorded by the person before whom the deposition is to be taken, or under that person's direction.

(d) *Submission to deponent.* A transcript of the deposition shall be submitted to the deponent for examination and signature, unless submission is waived. Any changes in form or substance which the deponent desires to make shall be entered upon the transcript by the person before whom the deposition was taken, with a statement of reasons given by the deponent for making them. The transcript shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill, cannot be found, or refuses to sign. If the transcript is not signed, the person before whom the deposition was taken shall sign it and state on the record the reason that it is not signed.

(e) *Certification and filing.* The person before whom the deposition was taken shall certify on the transcript as to its accuracy. The original and two copies of the transcript, together with the original and two copies of all exhibits, shall be sent by mail to the hearing officer unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person recording the testimony for copies of the testimony and the exhibits.

(f) *Deposition as evidence.* Subject to appropriate rulings by the hearing officer on objections, the deposition or any part may be introduced into evidence for any purpose if the deponent is unavailable. Only that part of a deposition which is received in evidence at a hearing shall constitute a part of the record in the proceeding upon which a decision may be based. Nothing in this rule is intended to limit the use of a deposition for impeachment purposes.

(g) *Payment of fees.* Fees shall be paid by the person upon whose application the deposition is taken.

§ 26.20 Admissions as to facts and documents.

(a) At any time after an answer has been filed, any party may serve upon any other party a written request for the admission of the genuineness of any relevant documents described in the request or of the truth of any relevant matters of fact. Copies of documents shall be delivered with the request unless copies have already been furnished. No order of the hearing officer is necessary.

(b) Each requested admission shall be considered admitted unless, within fifteen (15) days after service of the request, the party from whom the admission is sought serves upon the party making the request either (1) a statement denying specifically the relevant matters of which an admission is requested or setting forth in detail the reasons why the party can neither truthfully admit nor deny them, or (2) written objections on the ground that some or all of the matters involved are privileged or irrelevant. Answers on matters to which objections are made may be deferred until the objections are ruled upon, but if written objections are made only to a part of a request, the remainder of the request shall be answered.

(c) Admission obtained pursuant to this procedure may be used in evidence only for the purposes of the pending action to the same extent and subject to the same objections as other evidence.

§ 26.21 Prehearing conference.

(a) The hearing officer may, on the hearing officer's own motion or at the request of any party, direct counsel for all parties to confer with the hearing officer prior to the hearing for the purpose of considering:

(1) Simplification and clarification of the issues;

(2) Stipulations and admissions of fact and of the contents and authenticity of documents;

(3) The disclosure of the names of witnesses;

(4) Matters of which official notice will be taken;

(5) Other matters as may aid in the orderly disposition of the proceeding, including disclosure of the documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(b) The prehearing conference shall, at the request of any party, be recorded.

(c) The hearing officer shall enter in the record an order which states the rulings upon matters considered during the conference, together with appropriate directions to the parties. The order shall control the subsequent course of the proceeding, subject to modifications.

Subpart F—Hearings

§ 26.22 Public nature and timing of hearings, transcripts.

(a) All hearings in adjudicative proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed. The hearing officer may order recesses for good cause, stated on the record. The hearing officer may, for cause, order that hearings be conducted outside Washington, D.C., and, if necessary, at more than one place.

(c) *Transcripts.* Hearings shall be recorded and transcribed only by the official reporter of the Department under the supervision of the hearing officer. The original transcript shall be a part of the record and shall constitute the sole official transcript. Respondents and the public may obtain copies of transcripts from the reporter.

§ 26.23 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present its case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, privileged, or unduly repetitious evidence shall be excluded.

(b) *Testimony under oath.* All witnesses shall testify under oath.

(c) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections. Rulings on objections shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any evidentiary ruling shall be considered a waiver of objection, but no exception to a ruling on an objection is necessary in order to preserve it for appeal.

(d) *Stipulations.* The parties may stipulate as to any relevant matters of fact or the authenticity of any relevant documents. Stipulations may be received in evidence at a hearing, and

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when received shall be binding on the parties with respect to the matters stipulated.

(e) *Official notice.* All matters officially noticed by the hearing officer shall appear on the record.

(f) *Burden of proof.* The burden of proof shall be upon the proponent of an action or defense.

§ 26.24 Hearing officer's determination and order

(a) *Scope of review.* The hearing officer shall conduct a *de novo* review of the administrative action to determine whether it is supported by a preponderance of evidence or, in the case of a suspension or temporary denial of participation, by adequate evidence. Each and every charge alleged by the Department need not be proven to support the administrative action. The hearing officer may modify the determination only upon a particularized finding of facts which justifies a deviation from the determination.

(b) *Closing of hearing.* At his discretion, the hearing officer may postpone the closing of the record to a future date in order to permit the admission of other evidence into the record.

(c) Upon conclusion of the hearing, the hearing officer may request the parties to file proposed findings of fact and legal briefs. The hearing officer shall make an initial written determination and order based upon evidence and arguments presented by the parties. The determination shall be founded upon reliable and probative evidence. This determination and order shall be served upon all parties.

(d) Where the parties agree and where appropriate in the judgment of the hearing officer, a bench decision will be issued.

(e) The hearing officer shall endeavor to issue a determination within sixty (60) days from the date of the closing of the record.

(f) The determination and order shall be final unless within thirty (30) days the Secretary decides to review the determination in accordance with § 26.25 or to have the determination reviewed by a designee of the Secretary.

Subpart G—Secretarial Review

§ 26.25 Review of initial determination of hearing officers.

(a) *Petition for review.* Any party may request review of the hearing officer's initial determination or order by filing a written petition for review with the Secretary within ten (10) days of receipt of the hearing officer's determination or order. A petition for review may be granted or denied in the discretion of the Secretary. This petition shall not exceed ten (10) pages and shall specifically state the issues and basis upon which the party seeks review. This petition shall be served on all parties and the Secretary simultaneously, in accordance with § 26.16.

(b) *Briefs by opposing parties.* Opposing parties may submit briefs, not to exceed ten (10) pages, opposing review. These briefs must be filed within twenty (20) days of the party's receipt of a petition for review.

(c) *Secretarial action.* Upon granting any petition for review, the Secretary may require further briefs. Secretarial review shall be limited to the factual record produced before the hearing officer. The Secretary shall issue a written determination and shall serve it upon the parties and the hearing officer.

§ 26.26 Interlocutory rulings.

(a) *Interlocutory rulings by the hearing officer.* A party seeking review of an interlocutory ruling shall file a motion with the hearing officer within ten (10) days of the ruling requesting certification of the ruling for review by the Secretary. Certification may be granted if the hearing officer believes that (1) it involves an important issue of law or policy as to which there is substantial ground for difference of opinion and (2) meaningful review is otherwise impossible.

(b) *Petition for review.* Any party may file a petition for review of an interlocutory ruling within ten (10) days of the hearing officer's determination regarding certification.

(c) *Secretarial review.* The Secretary shall review a certified ruling. The Secretary has the discretion to grant or deny a petition for review from an uncertified ruling.

(d) *Continuation of hearing.* Unless otherwise ordered by the hearing officer or the Secretary, the hearing shall proceed pending the determination of any interlocutory appeal by the Secretary and the order or ruling of the hearing officer shall be effective pending review.

Issued at Washington, D.C., August 21, 1980.

Moon Landrieu,

Secretary of Housing and Urban Development.

[FR Doc. 80-26466 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-835]

Proposed Revision of Use of Materials Bulletin No. 79 for Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This is a revision to HUD Use of Materials Bulletin No. 79 (UM 79) dated April 25, 1978. The change is necessitated in order to incorporate a recently published national standard covering Acrylonitrile-Butadiene-Styrene (ABS) plastic drain pipe: American Society for Testing and Materials Standards No. F 628–79, Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core. The Bulletin is an Appendix to the HUD Minimum Property Standards, which is incorporated by reference in 24 CFR Part 200, Subpart J, and sets forth requirements and conditions for acceptance of PVC and ABS plastic materials used in drain, waste and vent sanitary systems.

COMMENT DUE DATE: October 27, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each person submitting a comment should include name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lynford K. Snell, Materials Acceptance Division, Office of Architecture and Engineering Standards, Room 6178, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone: (202) 755–5929. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: HUD Use of Materials Bulletin No. 79 (UM 79) was issued on April 25, 1978[1] as an update of earlier HUD Use of Materials Bulletins No. 53 and 54 for Poly(Vinyl Chloride) (PVC) and Acrylonitrile-Butadiene-Styrene (ABS) plastic drain, waste and vent pipe and fittings. UM 79 set forth the requirements and conditions for HUD Field Office acceptance of PVC and ABS plastic materials used in drain, waste and vent sanitary systems. UM 79 incorporated several references to standards published by the American Society of Testing and Materials (ASTM), the Plastic Pipe Institute (PPI) and the National Sanitation Foundation (NSF).

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[1] UM 79 was not published in the **Federal Register.**

Early in 1979 ASTM published Standard No. F 628-79, Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core. At the request of consultants to the plastic pipe industry, and after a review by a nationally known HUD consultant, UM 79 was revised and is herewith proposed for promulgation as HUD Use of Materials Bulletin No. 79a.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, at the above address.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

A copy of existing UM 79 and of proposed UM 79a are available for review during regular business hours in the Office of Architecture and Engineering Standards, Room 6178, or in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Authority: Sec. 7(d), Department of Housing and Urban Development Act of 1965, 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b and 81 Stat. 54; 5 U.S.C. 552(a).

Issued at Washington, D.C. on July 8, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Department of Housing and Urban Development, Assistant Secretary for Housing—Federal Housing Commissioner

Use of Materials Bulletin No. 79a

To: Regional Administrators, Directors, Offices of Regional Housing, Field Office Managers and Supervisors.

Subject: Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings

Members of the HUD Staff processing cases and inspecting construction shall use this information in determining acceptability of the subject material for the uses indicated.

This bulletin should be filed with Bulletins on Special Methods of Construction and Materials as required by prescribed procedures. Additional copies may be requisitioned by the field offices.

The technical description, requirements and limitations expressed herein do not constitute an endorsement, approval or acceptance by the Department of Housing and Urban Development (HUD/FHA) of the subject matter, and any statement or representation, however made, indicating approval or endorsement by the Department of Housing and Urban Development is unauthorized and false, and will be considered a violation of the United States Criminal Code 18, U.S.C. 709. Any reproduction of this Bulletin must be in its entirety and any use in sales promotion or advertising is not authorized.

Subject to good workmanship, compliance with applicable codes, and the methods of application listed herein, the materials described in this bulletin may be considered suitable for HUD Housing Programs, including Housing for the Elderly and Care-Type Housing.

The eligibility of a property under these Programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, compliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.

Section I—General Statement

This Bulletin sets forth the requirements and conditions for the acceptance of plastic drainage, waste and vent pipe and fittings manufactured from Acrylonitrile-Butadiene-Styrene (ABS) or Poly (Vinyl Chloride) (PVC) plastic. The information contained herein is available for use as a guide by manufacturers, architects, engineers and builders seeking appropriate HUD acceptance. These materials are acceptable for use in the applications detailed in Section II. Terminology used in consistent with that of the nationally recognized model plumbing codes.

This Bulletin supersedes the following Use of Materials Bulletins and Notice:

Number	Subject	Date
UM 53a	Polyvinyl Chloride Plastic Drainage Waste and Vent Pipe and Fittings.	Feb. 22, 1971.
UM 54	ABS (Acrylonitrile-Butadiene-Styrene) Plastic Drainage Waste and Vent Pipe Fittings.	Mar. 2, 1970.
*UM 79	Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.	Apr. 25, 1978.
Notice H 78-99 (HUD).	Clarification of Use of Materials Bulletin No. 79, Acyrlonitrile-Butadiene-Styrene and Poly (Vinyl Chloride) Drain, Waste and Vent Pipe and Fittings.	Sept. 20, 1978.

*Revised.

Section II—Allowable Uses

ABS and PVC pipe, fittings and joining materials conforming to the standards and other publications referenced in Section III are acceptable for use in the construction of storm and sanitary drain-waste-vent (DWV) systems and building sewers for single and multifamily structures, including Housing for the Elderly and Care-Type Housing.

Included in these uses are interior storm water conductors, building storm drains, building storm sewers, and drain lines connecting septic tanks and soil absorption systems.

Exposure of ABS and PVC DWV in parking garages, boiler/mechanical rooms or service/storage rooms—such pipe may be exposed in these spaces as long as they are protected from hot surfaces and mechanical damage, and are otherwise properly installed in accordance with the provisions of this Bulletin.

Section III—Reference Standards

The latest editions of the following publications form a part of this Bulletin:

ASTM Standards and Specifications [1]

D1784—Rigid Poly (Vinyl Chloride) (PVC) Compounds and Chlorinated Poly (Vinyl Chloride) (CPVC) Compounds.

D1788—Rigid Acrylonitrile-Butadiene-Styrene (ABS) Plastics.

D2235—Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe and Fittings.

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[1] American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

D2321—Underground Installation of Flexible Thermoplastic Sewer Pipe.
D2564—Solvent Cement for Poly (Vinyl Chloride) (PVC) Plastic Pipe and Fittings.
D2661—Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe, and Fittings.
D2665—Poly(Vinyl Chloride) (PBC) Plastic Drain, Waste, and Vent Pipe, and Fittings.
D2855—Making Solvent Cemented Joints with Poly(Vinyl Chloride) (PVC) Pipe and Fittings.
D3311—Drain, Waste, and Vent (DWV) Plastic Fittings Patterns.
E119—Standard Methods of Fire Tests of Building Construction and Materials.
F628*—Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core.

Other Publications

PPI [2] TR [3] 12—Acrylonitrile-Butadiene-Styrene (ABS) Plastic Piping Design and Installation.
PPI TR 21—Thermal Expansion and Contraction of Plastic Pipe PPI Plastics Pipe Manual.
NSF [4]—Standard No. 14, Thermoplastic Materials, Pipe, Fittings Valves, Traps and Joining Materials.

Section IV—Materials

A. *Composition and Properties*

Pipe, fittings and joint cements shall be manufactured from materials as defined in the following specifications:

Pipe and fittings	Joint cements
ABS (Pipe) Type I Grade 2 ASTM D 1788.	ASTM D 2235 (for ABS).
ABS* (Pipe) Foam Core ASTM F 628.	
ABS (Fittings) Virgin black ASTM D 2661.	
PVC (Pipe and Fittings) Virgin Type I (Grade 1 or 2), ASTM D 1784.	ASTM D 2584 (for PVC).

*Revised.

B. *Dimensional Details and Test Requirements*

Dimensions, tolerances, shapes, and applicable test requirements for pipe, fittings and joint cements shall conform with the following specifications:

Pipe and fittings	Joint cements
ABS ASTM D 2661	ASTM D 2235
ABS* ASTM F 628 (Foam Core)	ASTM D 2235
PVC ASTM D 2665	ASTM D 2564

*Revised.

Section V—System Design and Installation Requirements

A. *General Requirements*

The selection, design, installation and leak testing of plastic piping systems shall conform with all applicable requirements of the HUD Minimum Property Standards, the applicable nationally recognized model code and industry standards of good practice as referenced below and summarized in Appendix A.

B. *Requirements for Making Joints and Connections*

The materials and installation techniques used for joining pipes and fittings shall assure adequate resisitance of the completed system to leaking, and shall assure adequate resistance to joint failure from long-term exposure to the service environment. Only solvent cements with shelf life marking shall be used, and cements should be used before expiration of the shelf life period. The recommendations of the manufacturer and applicable industry standards shall be followed in making joints and connections. Standards and other publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1, *ASTM F 628, Appendix A1, PPI TR 12, Paragraph 6.2, PPI Plastics Piping Manual; Chapter 4, Page 40, Chapter 5, Pages 48–49.
PVC ASTM D 2855, ASTM D 2665, Appendix X1, PPI Plastics Piping Manual; Chapter 4, Page 40, Chapter 7, Pages 59–60.

C. *Control of Expansion and Contraction*

Design and installation detail shall provide for accommodation of thermal expansion and contraction without compromising the essential performance of the system. Hangers and supports, restraining fittings or expansion joints, and clearances adjacent to pipe and fittings shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1, *ASTM F 628, Appendix A1, PPI TR 12, Section 4.2, PPI TR 21, PPI Plastics Piping Manual, Chapter 7, Page 56.
PVC ASTM D 2665, Appendix X1, PPI TR 13, Sections 4.2 and 6.1, PPI TR 21, PPI Plastics Piping Manual, Chapter 7, page 56.

D. *Requirements for Hangers and Supports*

Hangers and straps shall not damage the pipe or fittings. Supports shall be provided for horizontal piping at intervals sufficient to prevent deflections (sagging) likely to interfere with drainage or leak resistance. Vertical stacks shall be anchored at appropriate intervals.

Selection and installation of hangers and supports shall be in accordance with the manufacturer's recommendation and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1, *ASTM F 628, Appendix A1, PPI TR 12, Paragraph 6.1, PPI Plastics Piping Manual, Chapter 5, Page 50.
PVC ASTM D 2665, Appendix X1, PPI TR 13, Paragraph 6.1, PPI Plastics Piping Manual; Chapter 4, Page 41, Chapter 7, Page 58.

E. *Requirements for Underground Installation*

Techniques used for trenching and back-filling shall not produce stresses and strains, or cutting or abrasive effects, likely to interfere with drainage or leak resistance or to result in structural collapse of pipe or fittings. Earth and live loads shall be less than the manufacturer's published load rating for the material and conditions of installation. Methods of installation used shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2321, ASTM D 2661, Appendix X1, *ASTM F 628, Appendix A1, PPI TR 12, Paragraph 6.3, PPI Plastics Piping Manual, Chapter 5, Pages 41–42.
PVC ASTM D 2321, ASTM D 2665, Appendix X1, PPI TR 13, Paragraph 6.3, PPI Plastics Piping Manual, Chapter 4, Pages 41–43.

F. *Requirements for Fire Safety*

The DWV system, as designed and installed in fire rated walls and chases, shall not compromise the fire endurance ratings of such building elements as required in Section 405 of the HUD Minimum Property Standards and as evaluated by methods based on ASTM E 119, Standard Methods of Fire Test of Building Construction and Materials.

The following construction requirements for the use of thermoplastic DWV piping shall be complied with:

1. With the exception of one and two family housing, all plastic piping installed in private and public spaces shall be installed in enclosed walls, floors, ceilings, chases and shafts complying with the fire resistance

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[2] Plastic Pipe Institute, a Division of the Society of the Plastics Industry, 355 Lexington, Avenue, New York, New York 10017.

[3] Technical Report (or the Plastics Pipe Institute).

[4] National Sanitation Foundation, P.O. Box 1468, Ann Arbor, Michigan 48106.

*Revised.

ratings of Table 4–5.1 of the Minimum Property Standards for Multifamily and Care Construction, as applicable.

Any drop ceiling containing plastic piping shall have a fire rating equivalent to the adjoining floor above, and any penetrations through fire-rated walls or floors shall be fire protectd as discussed above. Likewise, a chase containing such pipe shall have a fire rating equivalent to its adjoining wall and shall be completely enclosed (i.e., not exposed to the open wall cavity of the adjoining wall).

2. All penetrations through required fire resistive walls, partitions or chases, which are cut to allow the passage of plastic pipe, shall not be excessively larger than required for passage of the lateral and shall be back packed or sealed with plaster spackling or suitable non-combustible material resistant to deterioration or disruption caused by movement of the pipe.

3. Pipes or laterals penetrating required fire resistive wall membrane shall not be greater than three inches in diameter.

4. Thermoplastic stacks and risers in chases more than forty feet in height shall be sleeved with galvanized steel not thinner than eighteen gauge and shall be fire-stopped and back packed as described above at each floor where the pipe is anchored, but not less than every fourth floor. Sleeves shall be not less than four pipe diameters in length or twelve inches, whichever is greater, and shall be positioned midway in the firestop.

5. The pipe and fittings of a plastic piping assembly in an enclosed required fire resistive wall or chase shall have sufficient clearance so that no part of the assembly, other than the pipe lateral, penetrates the backside of the wall membrane. Departure from the above construction requirements may be taken only on the basis of tests demonstrating that fire safety is not compromised by the proposed construction.

Section VI— Handling and Storage Requirements

Exposure to sunlight, heat, and cold, impact and superimposed weight can have a deleterious effect on plastic materials. Therefore, care will be taken in handling and storage so that the performance characteristics of pipe and fittings are not compromised. Handling and storage methods shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix XI. PPI TR 12, Paragraph 5, PPI Plastics Piping Manual; Chapter 4, Page 40, Chapter 5, Page 48

PVC ASTM D 2665, Appendix XI. PPI TR 13, Paragraph 5, PPI Plastics Piping Manual; Chapter 4, Page 40

Section VII—Determination of Compliance

Marking—Pipe, fittings and joining materials shall be marked or labeled in accordance with the following standards as applicable:

ABS ASTM D 2235, ASTM D 2661, ASTM D 3311, *ASTM F 628 (Foam Core).

PVC ASTM D 2564, ASTM D 2665

The marking shall indicate the applicable ASTM Specification and shall show the logo of an acceptable nationally recognized testing laboratory. [5] In addition, the marking shall identify the manufacturer's name or trademark.

September 1979

Guide for Generally Accepted Practice for the Design and Installation of ABS and PVC Plastic Drain, Waste and Vent Systems and Building Sewers for Residential Building

Appendix A for HUD Use of Materials Bulletin No. 79a

Department of Housing and Urban Development, Office of Architecture and Engineering Standards, Washington, D.C. 20410

Contents

1. Background
2. Purpose of Scope
3. General Information on Thermoplastic DWV Pipe and Methods of Fabrication
4. Handling and Storage
5. Making Joints and Connections
6. Control of Thermal Expansion and Contraction
7. Requirements for Hangers and Supports
8. Underground Piping
9. Protection of Vent Terminals for the Effects of Long-Term Exposure to Sunlight
10. Protection Against Freezing

1. Background

It is generally understood that satisfactory plumbing systems depend on accepted good practice for design and installation. Plumbing codes and regulating agencies usually require that installations be made in accordance with established good practice and with the recommendations of the manufacturer.

Although much valuable material is available in several different publicated documents, HUD examiners and inspectors need a concise and specific summary guide which reflects accepted good practice as it pertains to their particular needs.

2. Purpose and Scope

The purpose of this guide is to provide in a single brief document for HUD field office use, the essential requirements of acceptable design and installation practice.[1] The guide should be considered as an advisory document to facilitate compliance with industry standards of good practice as referenced in HUD Use of Materials Bulletin No. 79a.

The scope of this guide is limited to ABS and PVC [1] plastic drain, waste and vent systems and building sewers and treated by HUD Use of Materials Bulletin No. 79a.

3. General Information on Thermoplastic DWV Pipe and Methods of Fabrication

Thermoplastic DWV Pipe (ABS and PVC) is usually sold in 10 foot lengths. The pipe diameters and wall thicknesses with which this *guide is concerned are defined by ASTM D 2661 and ASTM F 628 (ABS), and ASTM D 2665 (PVC). These dimensions have been abstracted in Table 3.1.

ABS and PVC plastic DWV pipe and fittings are generally joined with an appropriate solvent cement as defined by ASTM D 2235 (ABS) and ASTM D 2564 (PVC). (See Section 5 for further details).

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[5] One such testing laboratory is the National Sanitation Foundation Testing Laboratory, Ann Arbor, Michigan 48106, whose logo for DWV thermoplastic piping products is "NSF-dwv" certifying compliance with the requirements of the standard(s) identified by the marking. This program is administered under the protocol detailed in NSF 14, Thermoplastic Materials, Pipe, Fittings, Valves, Traps and Joining Materials.

[1] The information contained in this guide was summarized from the documents referenced under Section V of HUD Use of Materials Bulletin No. 79a, Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.

TABLE 3.1 DIAMETERS AND WALL THICKNESSES OF ABS AND PVC DRAIN-WASTE-VENT PIPE CONFORMING TO ASTM D 2661 AND F 628 (ABS), AND D 2665 (PVC)

Nominal Pipe Size	Outside Diameter				Total Wall Thickness			*Inner and Outer Wall Thicknesses -ABS Foam Core	
	Average	Tolerance on Average		Permissible Deviations of Diameter from Measured Average (Out-of-Roundness	Minimum	Tolerance			
	ABS & PV	ABS	PVC	ABS & PVC	ABS & PVC	ABS	PVC	Min. Inner Wall	Min. Outer Wall
Inches									
1 1/4	1.660	+0.010 -0.000	±0.005	±0.012	0.140	+0.015 -0.000	+0.020 -0.000	0.056	0.028
1 1/2	1.900	+0.010 -0.000	±0.006	±0.012	0.145	+0.015 -0.000	+0.020 -0.000	0.058	0.029
2	2.375	+0.010 -0.000	±0.006	±0.012	0.154	+0.015 -0.000	+0.020 -0.000	0.062	0.031
3	3.500	+0.015 0.000	±0.008	±0.015	0.216	+0.020 -0.000	+0.026 -0.000	0.087	0.043
4	4.500	+0.015 -0.000	±0.009	±0.015	0.237	+0.024 -0.000	+0.028 -0.000	0.095	0.047
6	6.625	+0.011 -0.011	±0.011	±0.025	0.280	+0.030 -0.000	+0.034 -0.000	0.112	0.056

*Revised

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ABS and PVC pipe can be cut by several methods. Pipe is cut by manufacturers with cut-off saws equipped with carbide-tipped circular blades. These give the best long-term tool performance and produce a neat square pipe cut without burrs. This is considered the best and most efficient means of cutting the pipe in quantity. When cutting pipe in the shop or at the building site, it is recommended that a cut-off radial arm saw be used. When this is not feasible or desirable, a number of alternatives may be utilized. These are: (a) portable electric hand saw with a fine-toothed blade; (b) hand saw and miter box; and (c) wheel type pipe cutter with special wheels for plastic pipe. Each of these three methods has certain advantages and disadvantages. The electric hand saw requires a power supply, requires some care and skill to produce a square cut, and will not cut through a 3 inch pipe in a single pass even with a 8 inch blade. It has the advantage of requiring little time and effort and produces a neat, clean, square cut. The hand saw and miter box requires a stand or base and more physical effort and time. It produces a square cut that requires little de-burring. The pipe cutter requires the most physical effort both in cutting and de-burring. However, it produces a square cut and is quite suitable for cutting pipe up to 2 inches.

4. Handling and Storage

4.1 *Protection Against Long-Term Exposure to Sunlight.* Do not store pipe and fittings in direct sunlight for long periods. However, exposure to sunlight of pipe openly stored at the building site during normal construction periods can be tolerated.

4.2 *Support of Stored Pipe.* Store pipe in such a manner as to prevent sagging or bending. Provide adequate support where piping is exposed to wind, snow and ice loading.

4.3 *Protection Against Abrasion by Sharp Objects.* Store and handle pipe and fittings so as to avoid contact with sharp objects.

4.4 *Safe Handling of Solvent Cements.*

4.4.1 General solvents contained in most plastic pipe cements are classified as airborne contaminants and are highly flammable and combustible liquids. Follow the precautions listed herein to avoid injury to personnel and the hazards of fire.

4.4.2 Avoid prolonged breathing of solvent vapors. When pipe and fittings are being joined in enclosed areas, use a ventilating device to remove hazardous vapors. Select ventilating devices and locate them so as not to provide a source of ignition to flammable vapor mixtures.

4.4.3 Keep solvent cements away from all sources of ignition, heat, sparks, and open flame.

4.4.4 Keep containers from solvent cements tightly closed except when the cement is being used. The container type shall conform with Parts 1 to 199, Title 49—Transportation, Code of Federal Regulations. Container labeling shall conform with the requirements of the Federal Hazardous Substance Act as amended.

4.4.5 Dispose of all rags and other materials used for mopping up spills in a safety waste receptacle. Empty the receptacle and destroy the contents daily in a safe manner.

4.4.6 Most of the solvents used in pipe cements can be considered eye irritants and contact with the eye should be avoided as it may cause eye injury. Proper eye protection such as chemical goggles or face shields is required where the possibility of splashing exists in handling solvent cements. In case of eye contact, call a physician immediately and flush quantities of water for 15 minutes.

4.4.7 Avoid repeated contact with the skin. Wear gloves which are impervious to and unaffected by the solvents. Use bristle paint brushes or other applicators not chemically affected to apply the solvents. Application of the solvents with bare hands is not acceptable. Dispose of used applicators in the same manner as the rags in 4.4.5. In the event of excessive skin contact, remove contaminated clothing and wash skin with soap and water. Clean contaminated clothing of flammable and toxic materials before wearing them again.

4.5 *Storage of Solvent Cements.* Store solvent cements in a cool place except when actually in use at the job site. The cements have a limited shelf lift when not stored in hermetically sealed containers. Screw top containers are not considered to be hermetically sealed. Cement containers usually are stamped with a date signifying that the cement should be sold to the user on or before this date.

Consult the cement manufacturer for specific storage recommendations. Cement is unsuitable for use on the job if it exhibits an appreciable change from the original viscosity, or if a sign of gelation is apparent. Restoration of the original viscosity or removal of gelation by *adding solvents or thinners is not acceptable* after shelf life has expired. Use only cements that are marked with a shelf-life date.

5. Making Joints and Connections

5.1 *ABS.*

5.1.1 *Solvent Cements.* Use solvent cements which meet the requirements of ASTM Specification D 2235, Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe and Fittings, and which are packaged in 1 quart containers or smaller for field use. If, within the shelf life of the cement, *thinning is required* to reduce viscosity for use with smaller pipe, use *only methyl ethyl ketone.* The solvent cement shall provide sufficient open time for making good joints and connections but joints must be completed as rapidly as possible after applying the cement. Should delay develop in assembly, an additional coat of solvent cement shall be applied immediately prior to joining. CAUTION. If longer open time (slower drying) is required for particular types of installation special instructions and specifications should be obtained from the cement manufacturer. Any solvent cement of a "long-open-time" type should be evaluated for possible deleterious effects on the pipe and fittings. The use of such solvent cement should be avoided if at all possible.

5.1.2 *Socket Fit.* ABS pipe and fittings are manufactured to close tolerances. Close tolerances are required to ensure satisfactory "interference" fit between pipe and fitting during the solvent cement joining. Use only pipe and fittings combinations that give interference fits. Pipe and fittings that give a loose fit in the socket will not properly fuse chemically. Allowable tolerances provide a forced fit, thus assuring chemical fusion and yielding maximum strength of solvent cemented joints. Attempting to compensate for a loose fit after assembly by applying additional cement will result in an unsatisfactory joint.

5.1.3 *Joining Technique.* (a) *Cutting the Pipe.* Cut the pipe square using saws or pipe cutters designed specifically for this material. Protect pipe and fittings from serrated holding devices and abrasion.

(b) *Cleaning Pipe.* Remove burrs and wipe off all moisture, dust and other foreign matter from surfaces to be cemented.

(c) *Application of Cement.* Using an ordinary pure bristle paint brush of adequate size, or the brush supplied with the can of solvent cement, first apply a moderate even coating of cement in the fitting socket, completely covering the joining surfaces only. (Heavy or excessive applications of cement in the socket may result in an obstruction inside the piping after the joint is completed). Next, without delay

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apply cement to the outside of the pipe. (Make sure that the coated distance on the pipe is equal to the depth of the fitting socket).

(d) *Assembly.* Make the joint as quickly as possible after application of the cement and before the cement dries. Insert the pipe into the fitting socket, turning the pipe slightly while inserting, (e.g. about ¼ turn, where possible) to ensure even distribution of cement. Make sure that the pipe is inserted to the full depth of the socket, and hold pipe into socket for a few seconds to prevent "backing out." Then immediately remove excess solvent cement from the exterior of the joint with a clean, dry cloth. Should the cement dry too much before the joint is made up, as indicated by difficulty in the insertion of the pipe into the fitting or by apparent dryness of the cement film, reapply cement before assembling. Do not attempt to disturb the pipe-fitting joint until after the cement has set: damage to the joint and loss of fit may result. Handling of the assembly with care is permissible within 2 minutes after joining. Allow 15 minutes for the joint to develop good handling strength.

(e) *Visibility of Marking.* Position pipe and fittings so that identifying markings are reasily visible for inspection when installed.

5.1.4 *Joints.* (a) *Threading Connections.* Do not cut threads on APS drain, waste and vent pipe. Molded threads are permitted. Adapter fittings are required. The joint between the ABS pipe and transition fitting shall be of the solvent cement type. Only approved thread tape or thread lubricant specifically intended for use with ABS plastic pipe shall be used. Conventional pipe thread compounds, putty, linseed oil base products, and unknown mixtures shall be avoided.

(b) *Connections to Traps.* Connect threaded traps and trap nuts by means of approved threaded adaptors.

(c) *Connection to Closet Flanges.* Install screw-type closet flanges in the drainage system by means of an approved threaded adapter fitting. Install calk-type closet flanges in accordance with the procedures outlined in (f) below.

(d) *Connection to Non-Plastic Piping.* When connecting plastic pipe to other types of piping, use only approved types of fittings and adaptors, designed for the specific transition intended. Consult the manufacturer.

(e) *Thread Tightness.* Where a threaded joint is made, obtain tightness by maximum hand tightening plus additional tightening with a strap wrench not to exceed one full turn.

(f) *Transition to Bell-and-Spigot Pipe.* Make connections or transitions to bell-and-spigot cast iron soil pipe and fittings, and to bell-and-spigot pipe and fittings of other materials, utilizing approved mechanical compression joints designed for ths use, or utilizing calking joints made in an approved manner. In calking, pack the joint with oakum or hemp and fill with molten lead to a depth of not less than 1 inch. Allow a period of 4 minutes for cooling, then calk the lead at the inside and outside edges of the joint. Do not overheat the lead; heat to its melting point only.

(g) *Alignment and Grade.* Align all piping system components properly without strain. Do not bend or pull pipe into position after being solvent welded. The grade of horizontal drainage and vent piping shall be as specified in the applicable code.

(h) For further information on making joints and connections with ABS pipe and fittings, consult: PPI Plastics Piping Manual, PPI TR 12.

5.2 *PVC.*

5.2.1. Solvent Cements. Use solvent cements which meet the requirement of ASTM specification D 2564, Solvent Cements for Poly(Vinyl Chloride) (PVC) Plastic Pipe and Fittings, and which are packaged in 1 quart containers or smaller for field use. If thinning is required use only thinner supplied by the cement manufacturer for the specific cement being thinned.

5.2.2 *Socket Fit.* PVC pipe and fittings are manufactured to close tolerances. Close tolerances are required to ensure satisfactory "interference" fit between pipe and fitting during solvent cement joining. Use only pipe and fitting combinations that give interference fits. Pipe and fittings that give interference fits. Pipe and fittings that give a loose fit in the socket will not properly fuse chemically. Allowable tolerances provide a force fit, thus assuring chemical fusion yielding maximum strength of solvent cemented joints. Attempting to compensate for a loose fit after assembly by applying additional cement will result in an unsatisfactory joint.

5.2.3 *Joining Technique.* (a) *Cutting the Pipe.* See 5.1.3 (a) above. Cutting requirements for PVC are the same as for ABS.

(b) *Cleaning Pipe.* See 5.1.3 (b) above. Cleaning requirements for PVC are the same as for ABS.

(c) *Application of Cement.*. See 5.1.3 (c) above. Cement application requirements for PVC are the same as for ABS.

(d) *Assembly.* See 5.1.3. (d) above. Assembly requirements for PBC are the same as for ABS.

(e) *Visibility of Marking.* See 5.1.3 (e) above. Requirements for visibility of markings are the same for PVC as for ABS.

5.2.4 *Joints.* (a) *Threaded Connections.* Do not cut threads on PVC drain; waste, and vent pipe. Molded threads are permitted. Adapter fittings for transition to threaded construction are required. The joint between the PVC pipe and transition fitting shall be of the solvent cement type. Only approved thread tape or thread lubricant specifically intended for use with PVC plastic pipe shall be used. Conventional pipe thread compounds, putty, linseed oil base products, and unknown mixtures shall be avoided.

(b) *Connections to Traps.* See 5.1.4 (b) above. Requirements for connection to threaded traps and trap nuts are the same for PVC as for ABS.

(c) *Connection to Closet Flange.* See 5.1.4(c) above. Requirements for connection to closet flanges are the same for PVC as for ABS.

(d) *Connection to Non-Plastic Pipe.* See 5.1.4 (d) above. Requirements for connection to non-plastic pipe are the same for PVC as for ABS.

(e) *Thread Tightness.* See 5.1.4 (e) above. Requirements for thread tightness are the same for PVC as for ABS.

(f) *Transition to Bell-and-Spigot Pipe. See 5.1.4 (f) above. Requirements for transition to bell-and-spigot are the same for PVC as for ABS.*

(g) *Alignment and Grade.* See 5.1.4 (g) above. Requirements for alignment and grade are the same for PVC as for ABS.

(h) For further information on making joints and connections with PVC pipe and fittings, see ASTM D 2855, Making Solvent-Cemented Joints With Poly(Vinyl Chloride) (PVC) Pipe and Fittings. This document discusses joints and connections, including cleaners and primers, viscosity of cements for different sizes of pipe, and illustrations showing techniques. See also PPI Plastics Piping Manual and PPI TR 13.

6. Control of Thermal Expansion and Contraction

6.1 Thermal Expansion. Allow for thermal expansion and movement in all piping installations by the use of approved methods. Support, but do not rigidly restrain piping at branches or at changes of direction. Do not anchor pipe rigidly in walls. Holes through framing members shall be adequately sized to allow for free movement. The amount of longitudinal thermal expansion for installations subject to temperature changes may be extimated from Tables 6.1–1 and 6.1–2. The linear expansion shown is independent of the diameter of the pipe. Buried piping, or piping installed in the crawl space under a builiding, is normally subject to less than the ambient temperature change.

ABS and PVC DWV pipes are not normally adversely affected by ordinary operating temperatures in warm spaces (nominally not over 120° F.), e.g., parking garages and boiler/mechanical rooms. However, such pipes shall be protected from mechanical damage and from potential damage due to close proximity to hot surfaces.

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TABLE 6.1-1. THERMAL EXPANSION TABLE FOR ABS PLASTIC PIPE

Length, feet	Temperature Change, F						
	40	50	60	70	80	90	100
	Length Change, in.						
20	0.54	0.67	0.80	0.94	1.07	1.21	1.34
40	1.07	1.34	1.61	1.88	2.05	2.42	2.69
60	1.61	2.01	2.41	2.82	3.22	3.62	4.02
80	2.14	2.68	3.22	3.76	4.29	4.83	5.36
100	2.68	3.35	4.02	4.70	5.36	6.03	6.70

Example:

Highest temperature expected	100 F
Lowest temperature expected	50 F
Total variation	50 F

For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 2.01 inches.

TABLE 6.1-2. THERMAL EXPANSION TABLE FOR PVC PLASTIC PIPE

Length, feet	Temperature Change, F						
	40	50	60	70	80	90	100
	Length Change, in.						
20	0.28	0.35	0.42	0.49	0.56	0.63	0.70
40	0.56	0.70	0.84	0.97	1.11	1.25	1.39
60	0.84	1.04	1.25	1.46	1.67	1.88	2.09
80	1.13	1.39	1.67	1.95	2.23	2.51	2.78
100	1.39	1.74	2.09	2.44	2.78	3.13	3.48

Example:

Highest temperature expected	100 F
Lowest temperature expected	50 F
Total variation	50 F

For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 1.04 inches.

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6.2 *Methods for Control.*

6.2.1 *Above-Ground DWV Installations.* Expansion or contraction seldom presents any problems in DWV installations in one and two family dwellings due to the short lengths of piping involved. It does become of concern in high rise buildings where long stacks are involved, or in large buildings with long runs of above-ground horizontal drains (e.g. suspended building drains). There are three generally recognized methods of accommodating expansion-contraction, as described below.

(a) If the DWV system is designed with one or more offsets in the stack or building drain, the offsets alone may provide a sufficient means for accommodating thermal expansion. The required lengths of offset for two pipe diameters and three pipe lengths with a temperature change of 50° F. are shown in Table 6.2-1[2].

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[2] See PPI Plastics Piping Manual, Chapter 3 for formula and discussion.

TABLE 6.2-1 MINIMUM LENGTH OF OFFSET, 3/ L2, FOR A 50 F TEMPERATURE CHANGE

L1 (Length of Run)	DIAMETER	L2 (Length of Offset)	
		ABS	PVC
ft.	in.	in.	in.
20	3	29	21
	4	33	24
40	3	41	30
	4	47	34
60	3	50	36
	4	57	41

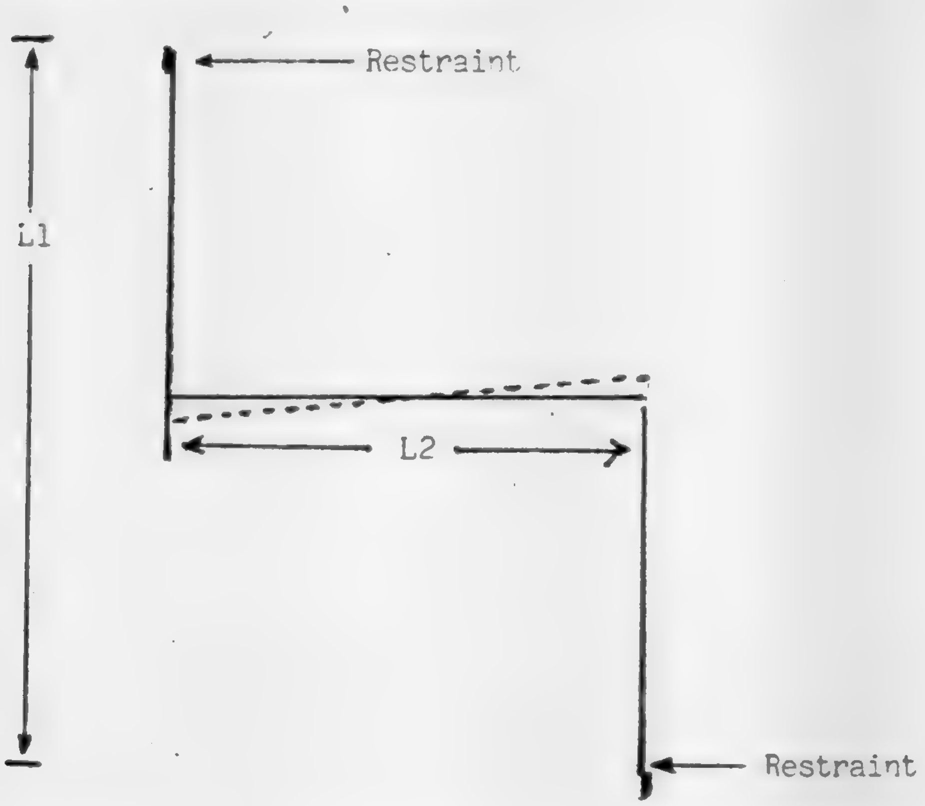

3/ Based on Eq (2), Page 25, PPI Plastics Piping Manual

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If the main run of pipe (e.g. a soil or waste stack) is subject to longitudinal movement at the point of connection of a branch pipe (e.g., a fixture drain or a trap arm) the maximum length of branch pipe shall be in accordance with Table 6.2-2.[2]

TABLE 6.2-2 MINIMUM LENGTH OF BRANCH,[3] L2, FOR A 50 F TEMPERATURE CHANGE

L1 (Length of Run)	DIAMETER	L2 (Length of Offset)	
		ABS	PVC
ft.	in.	in.	in.
6	1 1/2	10	7.5
	2	12	8.4
	3	14	10
8	1 1/2	12	8.7
	2	13	9.7
	3	16	12
10	1 1/2	14	9.7
	2	15	11
	3	18	13
20	1 1/2	19	14
	2	21	15
	3	26	19
30	1 1/2	23	17
	2	26	19
	3	32	23

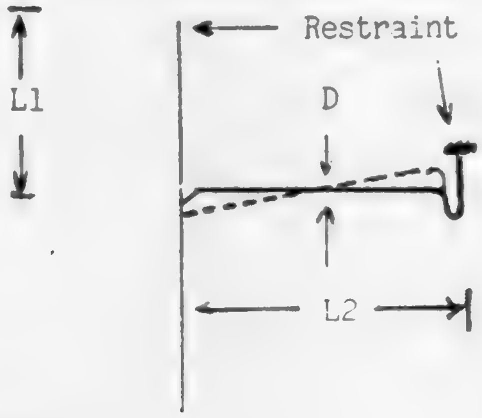

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[2] See Footnote 2, Page 12

[3] See Footnote 3, Page 13

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(b) In many designs, expansion joints may be used for either PVC or ABS. There are a number of designs available which are basically a slip joint with an elastomeric seal; others utilize a bellows principle. If these methods are employed, the expansion joints shall be installed at intervals not exceeding 30 ft., and in accordance with the manufacturer's recommendations. Except at unusually low or high ambient temperatures, install the expansion joint in the neutral (midpoint) position so that it can move in either direction to take care of either expansion or contraction. For vertical piping (e.g., soil, waste and vent stacks) the pipe shall be anchored either by securing the branches or by the installation of fixed clamps around the vertical pipe at or near each expansion joint to prevent the joint from telescoping together due to the weight of the stack. The recommendations of the expansion joint manufacturer shall be followed in the application and installation of expansion joints.

(c) For ABS DWV there is a third method—the use of restraint. Engineering studies have shown that by restraining the pipe every 30 ft. to prevent longitudinal movement, satisfactory installations can be made. Tensile or compressive forces developed by contraction or expansion are absorbed by the piping itself without harm. If the restraint method is used, special stack anchors, available from several manufacturers, shall be used and installed according to the manufacturers' recommendations.

(d) Except where rigid anchoring of DWV piping is required or is otherwise appropriately provided, pipe hangers and supports shall be installed so as to permit longitudinal movement of the pipe and fittings near walls, ceilings, floors and framing members. Such hangers and supports shall be positioned so that ample clearance is provided to avoid interference with thermal movement.

6.2.2 *Underground Piping.* Thermal expansion and contraction is generally not a problem with underground piping such as building drains and building sewers. Movements in buried piping are generally less than in above-ground installations because of the more stable temperature environment and the restraint imposed by the earth cover.

If the pipe of 3 in. diameter or less is installed at a temperature lower than the expected maximum service temperature, as in winter, the pipe may be installed straight, brought to the (higher) service temperature and the increased length taken up by snaking. The trenching may then be backfilled in the normal manner. Rigid pipe with solvent cemented joints or other rigid couplings, up to 3 in. nominal size, can be handled by snaking, provided the joint has cured sufficiently. Offsets and loop lengths for snaking rigid pipe are shown in Table 6.2-3.

For larger sizes of pipe, snaking is not practical, or possible, in most cases. When snaking is not possible the line shall be completely installed except that it is left unconnected at one end. The pipe is then brought to within 15° F. of the service temperature and the final connection made. This can be accomplished by "shade" backfilling in summer, i.e. allowing the pipe to cool at night and then connecting early in the morning, or by cooling with water. The stresses produced by the final 15° F. temperature change will be absorbed by the piping without harm.

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TABLE 6.2-3 RECOMMENDED OFFSETS AND LOOP LENGTHS FOR SNAKING RIGID PIPE
(applicable to sizes of 3 in. and less)

Temperature Change, F	10	20	30	40	50	60	70	80	90	100
Loop Length, ft.	Offset for contraction, in.									
20	1-1/2	2	2-1/2	3	3-1/3	4	4-1/2	5	5-1/2	6
50	3-3/4	5	6-1/4	7-1/2	8-3/4	10	11-1/4	12-1/2	13-3/4	15
100	7-1/2	10	12-1/2	15	17-1/2	20	22-1/4	25	27-1/2	30

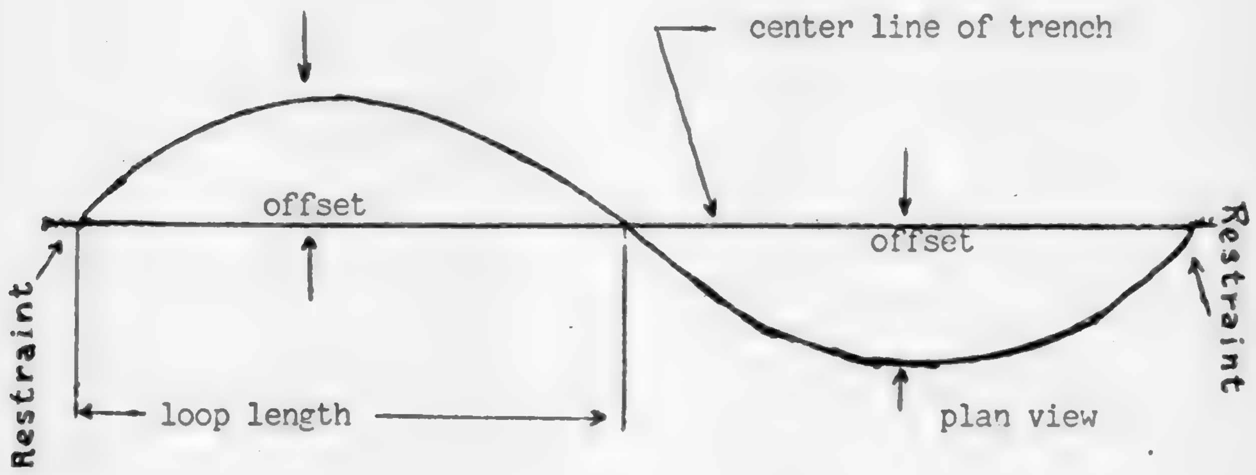
center line of trench
offset
offset
Restraint
Restraint
loop length
plan view

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7. Requirements for Hangers and Supports

Hangers and straps shall not compress, distort, cut or abrade the piping and shall allow free movement of pipe. Support all piping at intervals of not more than 4 ft., at end of branches and at change of direction or elevation. Supports shall allow free movement. Maintain vertical piping in straight alignment. Support trap arms in excess of 3 ft. in length as close as possible to the trap. Securely fasten closet rings to the floor with corrosion-resistant fasteners with top surface of closet ring ¼ in. above the finished floor. Stabilize closet bends or stubs against all horizontal or vertical movement. Protect pipe exposed to damage by sharp edges (e.g. in passages through structural members, sheet metal, subflooring etc.) with grommets or sleeves of rubber or plastic.

8. Underground Piping

8.1 *Trenching and Bedding.* (a) *Building drains under floor slabs.* Make trench bottoms smooth and of uniform grade with either undisturbed soil or a layer of selected and compacted backfill so that no settlement will be encountered. Pipe must bear on this material throughout the entire length of its barrel.

(b) *General recommendations.* The width of trench shall be no greater than required to permit joining of the pipe in the ditch.

The trench bottom shall be continuous, relatively smooth and free of rocks. Where ledge rock, hardpan or boulders are encountered, the trench bottom shall be padded using sand or compacted fine grained soils.

The pipe shall be uniform and continuously supported over its entire length on firm, stable material. Blocking shall not be used to change pipe grade or to intermittently support pipe across excavated sections.

8.2 *Burial Depth.* Provide a minimum cover of 24 in. for locations subject to heavy overhead traffic. A minimum cover of 12 to 18 in. is normally adequate for locations subject to no overhead traffic or light overhead traffic. Provide sufficient cover to prevent stress levels in excess of the manufacturer's published load ratings due to the superimposed static and dynamic loads for the applicable installation conditions. Burial depth shall be limited to depths such that combined earth loads and superimposed static and dynamic loads will not yield stress levels in excess of the manufacturer's published load ratings for the applicable installation conditions. Effects of ground freezing shall be considered also when pipe is installed at depths subject to frost penetration.

8.3 *Embedment and Backfilling.*

8.3.1 *Embedment.* Use a graded, compacted backfill material of particle size of ½ in. or less to surround the pipe. Place the backfill in layers, and compact each layer sufficiently to develop uniform laterial passive soil forces against the pipe during the backfilling and compacting operation. Sand and gravel containing a significant proportion of fine-grained material, such as silt and clay, shall be compacted by mechanical tamper or by hand.

8.3.2 *Backfilling.* The remainder of the backfill above the pipe soil encasement area shall be placed and spread in approximately uniform layers in such a manner as to fill the trench completely so that there will be no unfilled spaces under or near rocks, or lumps of earth in the backfill. Remove large rocks, frozen clods and other debris greater than 3 in. in diameter from the backfill. The final backfill only may be consolidated by using rolling equipment or heavy tampers except that under sidewalks and driveways the backfill shall be compacted in layers. Rolling equipment shall not be used in consolidating initial backfill.

8.3.3 *Compaction.* Vibratory methods are preferred when compacting sand or gravels. Best results are obtained when the soils are in a nearly saturated condition. Where water flooding is used, provide sufficient initial backfill to insure complete coverage of the pipe. Additional material shall not be added until the water flooded backfill is firm enough to walk on. Avoid floating the pipe.

Additional informtion on underground installation is given in ASTM D 2321, Underground Installation of Flexible Thermoplastic Sewer Pipe. Particular attention must be given to compacting the embedment on both sides and underneath the haunches of the pipe to ensure maximum ability to support soil loads and superimposed static and dynamic loads.

9. Protection of Vent Terminals From the Effects of Long-Term Exposure to Sunlight

Plumbing vents of ABS or PVC exposed to sunlight shall be protected by exterior type water-base synthetic latex paints. Where roof or ambient temperatures near vent terminal are expected to exceed 165° F. (for ABS) or 140° F. (for PVC) the terminal shall be protected by means of reflective shielding and thermal insulation.

10. Protection Against Freezing

When necessary to protect traps, fixtures and devices of ABS or PVC from the effects of freezing water, alcohol or petroleum products shall *not* be used. Use only approved plactic pipe antifreeze packaged for this purpose, or one of the following solutions:

(a) Sixty percent by weight of glycerin in water mixed at 73° F.

(b) Twenty-two percent by weight of magnesium chloride or sodium chloride in water.

[FR Doc. 80-26190 Filed 8-27-80; 8:45 am]
BILLING CODE 4210-01-M

Office of the Secretary

24 CFR Part 200

[Docket No. R-80-857]

Minimum Property Standards for One- and Two-Family Dwellings

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This proposed rule would incorporate appropriate portions of the current model One- and Two-Family Dwelling Code into the MPS for One- and Two-Family Dwellings; remove certain criteria from the MPS that do not bear directly on health, safety, durability and legislative requirements; reduce the length of the MPS; update certain criteria and reorganize and revise the MPS to improve readability.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following proposed rulemaking document:

24 CFR Part 200—Subpart S, Change to HUD 4900.1 Minimum Property

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Standards for One- and Two-Family Dwellings.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., August 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-26314 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 235

[Docket No. R-80-864]

Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule provides for the use of Section 235 assistance payments for eligible families who are likely to be involuntarily displaced without such assistance. The rule amends existing Section 235 to permit assistance in acquiring membership in a cooperative association or in purchasing an existing condominium unit.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 235—Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., August 22, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-26313 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1590-7]

North Carolina: Approval of Plan Revisions; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to withdraw its approval, as announced in the **Federal Register** of September 19, 1978 (43 FR 44842), of that portion of North Carolina regulation .0527 relating to emissions of sulfuric acid mist. It is also proposed to approve revised opacity limits for existing kraft pulp mill recovery furnaces, and to approve relaxed opacity limits for new sources and for existing sources other than kraft pulp mill recovery furnaces.

The public is invited to submit comments on the matters discussed here and on the actions proposed.

DATE: To be considered, comments must be received on or before September 29, 1980.

ADDRESSES: Written comments should be addressed to Mr. Walter Bishop of EPA Region IV's Air Programs Branch (see address below). Copies of relevant materials may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Programs Branch, Air & Hazardous Materials Division, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Air Planning and Environmental Standards Branch, Division of Environmental Management, North Carolina Department of Natural Resources & Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, EPA Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: A. *Sulfuric acid mist from spodumene ore roasting.* On September 29, 1978 (43 FR 44842), EPA announced its approval of new regulations which North Carolina had developed to limit emissions of sulfur dioxide and sulfuric acid mist from the roasting of spodumene ore, a process for extracting lithium. Since sulfuric acid mist is not regulated under Section 110 of the Clean Air Act (CAA), it was inappropriate for EPA to approve emission limits for this pollutant as part of the State implementation plan for the criteria pollutants. On January 29, 1979, EPA Region IV, wrote the State to that effect, asking that consideration be given to the feasibility of rewriting the acid mist limit as a particulate limit. In a letter dated November 14, 1979, the State declined to revise the regulation. Accordingly, it is proposed to withdraw EPA approval of North Carolina regulation .0527, as set forth at 40 CFR 52.1770(c)(19), as it applies to sulfuric acid mist. This proposed action would in no way affect the enforceability of the acid mist limit by the State, nor does it imply any deficiency in the particulate control strategy for sources which process spodumene ore.

B. *Visible emissions limitations.* As originally written, regulation .0521, Control of Visible Emissions, provided that existing sources were to meet a 40% opacity limit immediately and achieve 20% by July 1, 1976; new sources were to meet a limit of 20% upon starting operation. In July 1976 the State submitted a revision deferring until April 1, 1977, the date by which existing sources were to meet the 20% limit; this change was approved by EPA on April 18, 1977 (42 FR 20132).

On March 22, 1977, the State submitted a revision eliminating the 20% limit for existing sources; this change was not announced in the **Federal Register** at the time because of problems with other revisions in the submittal. In response to concerns expressed by EPA, the State on June 2, 1980, submitted additional information in support of this revision. In EPA's view, it is important to consider that if a blanket 40% opacity limit was adequate to assure compliance by all types of existing sources regulated by mass emission limits before April 1, 1977, it is still adequate unless particulate mass emission limits have been made more stringent in the interim, and in fact, they have not. Accordingly, it is proposed to approve this revision.

On April 19, 1978, the State submitted a revision in regulation .0521 such that new (post-July 1, 1971) sources could obtain an exemption from the 20% limit, and emit at up to 40%, by making certain demonstrations; at the same time the State submitted a revision setting an opacity limit of 35%, with excess emissions exempted for five minutes of any hour or twenty minutes of any 24-hour period, for existing kraft pulp mill recovery furnances. EPA now proposes to approve the latter revision, which is basically consistent with 40 CFR 60.282, governing particulate emissions from new kraft pulp mills, and to approve the opacity exemption for new sources. The proposed revision for new sources is deficient in that it is inconsistent with the provisions of 40 CFR 60.11(e)(3) concerning opacity testing, and limits source testing required of applicants for an exemption to a single test of three runs. However, North Carolina regulation .0524 provides that in the case of a new source subject to 40 CFR Part 60, the Federal regulations apply when there is a conflict with State regulations.

The public is invited to participate in this rulemaking by submitting written comments on the proposed actions. After considering pertinent comments received together with all other information available to him, the Administrator will take final action.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: August 20, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-26420 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1590-6]

Approval and Promulgation of Implementation Plans—Massachusetts; Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 2, 1979, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the Massachusetts State Implementation Plan (SIP) which would permanently amend Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof". This regulation presently allows sources in the Pioneer Valley Air Pollution Control District (PVAPCD) having an energy input capacity greater than or equal to 100 million Btu per hour to burn 2.2 percent sulfur fuel oil. Sources rated at less than 100 million Btu per hour are presently limited to burning 1 percent sulfur fuel oil. The revision which EPA is proposing to approve would allow sources rated at less than 100 million Btu per hour hear input located in Franklin and Hampshire Counties of the PVAPCD to burn 2.2 percent sulfur fuel with the exception of four sources which EPA is proposing to disapprove.

DATE: Comments must be received on or before September 29, 1980.

ADDRESSESS: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region 1, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460; and Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, MA. 02111.

Comments should be submitted to the Regional Administrator, Region 1, Environmental Protection Agency Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region 1, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: The Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted on March 2, 1979 a revision to the Massachusetts State Implementation Plan (SIP) which amends Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof". Additional technical information was submitted on January 18, 1980.

The original Massachusetts SIP, approved by EPA on May 31, 1972 (37 FR 10842), allowed all sources in the PVAPCD to burn fuel oil having a sulfur content of not more than 1 percent. Pursuant to Chapter 494 of the Massachusetts General Laws of 1974, the Massachusetts Department was required periodically to review its control strategies and to relax any regulation which was more stringent than necessary to attain the National ambient Air Quality Standards (NAAQS). As a result, the Massachusetts Department has submitted revisions to its SIP to allow the burning of higher sulfur content fuel. On May 21, 1979 (44 FR 29453) EPA approved a SIP revision allowing sources then burning 2.2 percent sulfur fuel oil in the PVAPCD to burn 2.2 percent sulfur fuel oil. All other sources rated at 100 million Btu per hour or greater were approved to burn 2.2 percent sulfur fuel oil on October 2, 1979 (44 FR 56694). Sources rated at less than 100 million Btu per hour were not included in the May 21, 1979 or October 2, 1979 revisions and are presently required to burn 1 percent sulfur fuel oil.

The Massachusetts Department's March 2, 1979 submittal requests approval for all sources located in Hampshire and Franklin Counties of the PVAPCD having a heat input capacity of less than 100 million Btu per hour to burn 2.2 percent sulfur fuel oil. Accompanying this submittal was technical support which included a modeling analysis to predict the effect on the ambient air quality of additional sulfur dioxide emissions (SO_2) which would be permitted by the revision. Subsequently, EPA performed additional modeling analyses to supplement the work of the Massachusetts Department. The mathematical modeling performed was used to determine compliance with the NAAQS and Class II Prevention of Significant Deterioration (PSD) increments for SO_2. The NAAQS are maximum allowable ambient air pollutant concentrations which are set to protect public health and welfare. The NAAQS for SO_2 is 80 $\mu g/m^3$ based on an annual averaging time; 365 $\mu g/m^3$ based on a 24-hour averaging time and 1300 $\mu g/m^3$ based on a 3-hour averaging time. The PSD increments are allowable incremental increases in ambient pollutant concentrations which are set to limit the degradation of air quality over baseline levels. The Class II PSD increments which apply to Hampshire and Franklin counties for SO_2 are 91 $\mu g/m^3$ based on a 24-hour averaging time; 512 $\mu g/m^3$ based on a 3-hour averaging time; and 20 $\mu g/m^3$ based on an annual average. It should be noted, however, that EPA promulgated amendments to its PSD regulations on August 7, 1980 (45 52676). These regulations change the definition of baseline date from August 7, 1977 to the date on which a source subject to the PSD regulations filed a permit application to construct or modify in an area designated attainment or unclassifiable under Section 107(d)(1) of the Clean Air Act. The baseline date has been set for the State of Massachusetts which is the Section 107 designated attainment area where the sources subject to these revisions are located. The date is August 4, 1978 which was set by the application filed by the Massachusetts Municipal

Wholesale Electric Company (MMWEC).

The MMWEC plant consumes increment in part of the same area that Texon, Inc. of South Hadley consumes increment. The combined increment consumption of the two sources based on an annual, 24-hour and 3-hour averaging time is 5.3 $\mu g/m^3$, 81 $\mu g/m^3$ and 394 $\mu g/m^3$, respectively. These estimates of increment consumption are conservative and do not take into account varying meteorological conditions. No refined analysis was performed since the increments were not in danger of being violated; however, sources that may wish to locate in the same area in the future may have to perform a refined interactive (all sources) modeling analysis if these conservative estimates predict increment violations.

For purposes of this modeling analysis, sources having actual annual SO_2 emissions of 100 tons or greater were modeled individually using maximum emission rates for short term (24-hour and 3-hour) modeling and annual average emission rates for long term (annual) modeling. Sources having annual SO_2 emissions of less than 100 tons were modeled using annual average emission rates for all averaging times. Sources emitting less than 100 tons per year SO_2 which are isolated by terrain or distance were modeled as point (individual) sources, while those located in the more populated areas of Northampton, Easthampton and Greenfield were grouped together to form a number of area sources. An area source consists of several small sources that are treated as one in the modeling analysis.

The proposed SIP revision was primarily evaluated with conservative EPA screening model techniques which assumed worst case meterology for short-term analyses. The annual average modeling used a joint frequency distribution (frequency distribution of wind speed, wind direction and stability) of meterological conditions recorded at Bradley Field in Connecticut. Since all 23 sources are located near rugged terrain, the VALLEY model was used for all sources. Those sources for which the VALLEY screen predicted no standards violations (violations were predicted at three sources) were also modeled with simple terrain screening models PTMAX and PTMTP. For the single source that failed the PTMAX and PTMTP screen, a more refined EPA model (CRSTER) was used. This analysis used actual hourly meterological data recorded at Bradley Field over a 5-year period.

SO_2 data from six air monitoring stations were examined for the years 1978 and 1979. Based on these data EPA determined maximum background levels of SO_2 in the two county area of 31 ug/m^3 (annual average), 179 ug/m^3 (24-hour average) and 452 ug/m^3 (3-hour average).

Since the addition of the appropriate PSD Class II increments of 20 ug/m^3 (annual), 91 ug/m^3 (24-hour) and 512 ug/m^3 (3-hour) to these background levels yields ambient levels well below all NAAQS (51 vs 80 ug/m^3 for annual, 270 vs 365 ug/m^3 for 24-hour and 964 vs 1300 ug/m^3 for 3-hour) it was apparent that compliance with the Class II increments would also ensure compliance with NAAQS. However, the modeling results for the increment consumption analysis, which shows only the modeled increases in ambient levels due to the increases in sulfur emissions, were scaled to show the total modeled impact of these sources with respect to NAAQS.

Two Erving Paper Companies are located in Erving, Massachusetts approximately 1.5 km apart. The facility being considered for the revision, the Usher Division, is the smaller of the two. The Erving Division, a larger facility was submitted to EPA in a previous SIP revision. Modeling done for this previous SIP revision predicted violations of air quality standards attributable to the Erving Division (no action has been taken on the Erving Division) and, therefore, Erving Paper Company has been gathering monitoring data to be used to refute these modeled violations. This data, however, was not available to EPA. Since the predicted impacts of the source being considered in this revision, the Usher Division, in the area of modeled violations of the Erving Division is below EPA's level of significance, EPA, determined that it was not necessary to await the availability of the monitoring data gathered by Erving Paper Company.

Violations of both the 24-hour NAAQS and Class II increments were predicted by the VALLEY model for the Millers Falls Paper Company, the Strathmore Paper Company, and the Esleeck Manufacturing Company. The PTMAX screening model indicated violations of the 24-hour and 3-hour PSD increments at Butler and Ullman, Inc. The source interaction modeling performed with the PTMTP screening model also indicated violations of the 24-hour PSD increment attributable to Butler and Ullman, Inc. A more refined flat plane analysis using the CRSTER model likewise resulted in predicted violations of the 24-hour PSD increment at Butler and Ullman, Inc. Concerning the Erving Paper Co., Usher Division, the modeling showed maximum impacts well below NAAQS and PSD increments. Because the modeling in the area of modeled violations of Erving Division predicted impacts for the Usher Division which were below the EPA level of significance, EPA is proposing approval of the Erving Paper Co., Usher Division. Consequently, EPA is proposing to approve the revision allowing sources rated at less than 100 million Btu per hour to burn 2.2 percent sulfur fuel oil with the exception of the following sources as to which EPA is proposing to disapprove the revision:

Butler and Ullman, Inc. Hadley

Esleeck Manufacturing Company, Montague

Strathmore Paper Company, Montague

Millers Falls Paper Company, Millers Falls

During the 30-day public comment period EPA will consider approval of these sources if it can be demonstrated that air quality standards will be maintained by reducing the maximum allowable emission rates of the facilities.

In recent months, there has been increased awareness of the impact of sulfur emissions on the acid rain phenomenon. In spite of the increased sulfur emissions which would result, EPA is proposing approval of this revision, except for the four excluded sources, because no NAAQS or PSD increment violations would result and because the increased sulfur emissions, 541 tons per year, are not significant compared to the total statewide emissions of approximately 425,000 tons per year. Comments are, of course, welcome on this aspect of the proposed revision.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

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Dated: August 8, 1980.

William R. Adams,

Regional Administrator, Region I.

[FR Doc. 80-26493 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1590-4]

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of Minnesota; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of Extension of Comment Period.

SUMMARY: The purpose of this notice is to announce that the comment period for USEPA's proposed rulemaking published July 18, 1980 (45 FR 48168) has been extended from August 18, 1980 to September 2, 1980.

DATE: Comments must be received on or before September 2, 1980.

ADDRESS: All comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Stephen Goranson, Chief, Air Monitoring Staff, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Illinois 60605 (312) 886-6226.

SUPPLEMENTARY INFORMATION: On March 5, 1980, the State of Minnesota submitted to USEPA a revision to its SIP which provides for the establishment of an air quality monitoring network. USEPA announced receipt of and proposed rulemaking on the proposed revisions on July 18, 1980 (45 FR 48168). At that time, USEPA invited public comments on the revisions, and set a deadline of August 18, 1980 for the receipt of all comments.

On August 18, 1980, an extension of time was requested to allow additional time for industry to respond to USEPA's proposed action.

USEPA has decided that the extension of the comment period to September 2, 1980, is a reasonable extension, and the comment period is hereby extended to September 2, 1980.

Dated: August 19, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-26180 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Parts 162 and 164

[FRL 1591-5; FRL OPP-60004A]

Rules Governing Rebuttable Presumption Against Registration (RPAR) Proceedings; Proposed Rules of Practice Governing Hearings Under Sec. 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects the address to which comments should be sent regarding the proposed "Rules Governing the Rebuttable Presumption Against Registration (RPAR) Proceedings" and the proposed "Rules Governing Hearings under section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)", published in the **Federal Register** of August 7, 1980 (45 FR 52628-52674).

FOR FURTHER INFORMATION CONTACT: David E. Menotti, Associate General Counsel for Pesticides, Office of General Counsel (A-132), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-755-0794).

SUPPLEMENTARY INFORMATION: In FR Doc. 80-23812 appearing in the **Federal Register** of August 7, 1980, (45 FR 52628), the text incorrectly stated the address to which comments should be sent. The correct address is: Document Control Officer (TS-793), Room E-447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Dated: August 22, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26418 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1591-1 OPP-260035]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Editorial Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that 40 CFR 180.1(j)(6) be amended to include parsnips and rutabagas wherein, like carrots, the tops shall be removed and discarded before analyzing roots for pesticides residues and the crop grouping "leafy vegetables" in 40 CFR 180.34(f) be amended to include upland cress. These proposals were submitted by the Interregional Project No. 4 (IR-4).

DATE: Comments must be received by September 29, 1980.

ADDRESS: Send comments to: Clinton Fletcher, Rm: E-124, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202-426-0223) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted amendments to EPA on behalf of the IR-4 Technical Committee. These amendments requested that the Administrator, pursuant to Section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR 180.1(j)(6) to include parsnips, radishes and rutabagas wherein, like carrots, the tops shall be removed and discarded before analyzing roots for pesticide residues. The IR-4 contends that the additions are justified since, as with carrots, the roots are the only part of the plant consumed. IR-4 also proposed that:

(1) The crop grouping "leafy vegetables" in 40 CFR 180.34(f) be amended to include upland cress since the present listing includes watercress and many other commodities belonging to the cruciferae family.

(2) The commodity grouping, nuts, be amended to include pistachio nuts since the present listing includes cashews, which belong to the same botanical family, Anacardiaceae, as pistachio nuts.

(3) the commodity grouping stone fruit be amended to include kiwifruit because the size of the fruit is similar to the other fruit in this group and because the description of kiwifruit (fleshy edible tissue which adheres to the skin) is similar to those in the stone fruit group.

IR-4 concluded pesticide residue behavior in or on upland cress, pistachio nuts, and kiwifruit should be similar to commodities included in the respective groups.

The Administrator concurs with the IR-4 on the proposed amendment of 40 CFR 180.1(j)(6) to include parsnips and turnips, but not radishes since information is available that indicates radish leaves may be a human food item. Also, the crop grouping "leafy vegetables" in 40 CFR 180.34(f) should be amended to include upland cress since upland cress is related to watercress and horseradish and, as

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grown under cultivation, leaf exposure, and general culture, is similar to spinach and turnips for greens.

The Administrator does not concur with the IR-4 to include pistachio nuts in the crop grouping "nuts", since the morphology of this commodity is not sufficiently similar to the other nuts to allow it to be unqualifiedly placed in the crop grouping. The most important difference between pistachio nuts and other nuts is that the shell partially splits when the nut is ripe, exposing the nutmeat. Also, kiwifruit cannot be placed in the crop grouping "stone fruit" since kiwifruit cannot be considered a stone fruit. Kiwifruit do not have a pit or stone and the skin is not eaten.

Therefore, the Administrator proposes that the pesticide regulations should be amended to reflect these changes. Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), Part 180, is amended as set forth below.

Interested persons are invited to submit comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number "OPP-260035". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, Rm. 124 East Tower, from 8:00 a.m. to 4:00 p.m., Monday through Friday.

(Sec. 4089(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: August 22, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that of 40 CFR Part 180 be amended as follows:

1. By revising § 180.1(j)(6) to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(j) * * *

(6) "Where a tolerance is established on a root vegetable including tops and/or with tops, and the tops and the roots are marketed together, they shall be analyzed separately and neither the pesticide residue on the roots nor the pesticide residue on the tops shall exceed the tolerance level, except that in the case of carrots, parsnips, and rutabagas, the tops shall be removed and discarded before analyzing roots for pesticide residues.

* * * * *

2. By alphabetically inserting in the table in § 180.34(f) a new item in the crop grouping "leafy vegetables," to read as follows:

§ 180.34 Tests on the amount of residue remaining.

* * * * *

(f) * * *

* * * * *

Group	Commodities Therein
Leafy vegetables........	Anise (fresh leaf and stock only), beet (tops), broccoli, broccoli raab, Brussels sprouts, cabbage, cauliflower, celery, Chinese cabbage, collards, dandelion, endive, escarole, fennel, kale, kohlrabi, lettuce, mustard greens, parsley, rhubarb, salsify tops, spinach, sugar beet tops, Swiss chard, turnip greens (tops), upland cress, watercress.

* * * * *

[FR Doc. 80-26463 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5845]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Conn.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Ledyard, New London County, Connecticut, previously published at 45 FR 46108 on July 9, 1980.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080) Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Ledyard, New London County, Connecticut, previously published at 45 FR 46108 on July 9, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Due to a clerical error the Town of Ledyard, Connecticut, was erroneously listed as being in New Haven County. The county name should be corrected to read New London County.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26326 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5843]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations, Ill.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based (100-year) flood elevations listed below for selected locations in the Village of South Barrington, Cook County, Illinois.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Barrington Courier-Review* on June 5, 1980 and June 12, 1980, and at 45 FR 42693 on June 25, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the

Village of South Barrington, Cook County, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) South Barrington, Cook County.	Poplar Creek	About 1,500 feet downstream of Mundhank Road	*824
			Just downstream of Mundhank Road	*830
			About 200 feet upstream of Mundhank Road	*832
			Just upstream of Covered Bridge Dam	*837
			About 800 feet upstream of Barrington Road	*841
		Poplar Creek Tributary	About 300 feet upstream Interstate 90	*815
			About 2,500 feet upstream of Interstate 90	*817

Maps available for inspection at the Village Clerk's Office, South Barrington Village Hall, Witt Road, Route #3, Barrington, Illinois.

Send comments to Honorable Frank J. Munao, Jr., Village President, Village of South Barrington, South Barrington Village Hall, Witt Road, Route #3, Barrington, Illinois 60010.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 14, 1980

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–26321 Filed 8–27–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–5845]

National Flood Insurance Program, Proposed Flood Elevation Determinations; correction; Maine

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Otisfield, Oxford County, Maine, previously published at 45 FR 46113 on July 9, 1980.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080) Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Otisfield, Oxford County, Maine, previously published at 45 FR 46113 on July 9, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Due to a clerical error the Town of Otisfield, Maine, was erroneously listed as being in Cumberland County. The county name should be corrected to read Oxford County.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–26327 Filed 8–27–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–5853]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Minnesota

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Minnetonka, Hennepin County, Minnesota, previously published at 45 FR 49612 on July 25, 1980.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–

9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Minnetonka, Hennepin County, Minnesota previously published at 45 FR 49612 on July 25, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The elevation, 919 feet, which corresponds to the location described as, "Just upstream of St. Albans Mill Road," under the Source of Flooding of Minnehaha Creek, has been changed. The elevation should be 918 feet. The accompanying Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Minnetonka, Hennepin County	Minnehaha Creek	Just upstream of St. Albans Mill Road	*918

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 14, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-26323 Filed 8-27-80; 8:45 am]

BILLING CODE 6710-03-M

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44 CFR Part 67

[Docket No. FEMA-5884]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Missouri

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

The elevations, together with the flood plain management measures required by § 60.3 (formerly § 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) De Soto, Jefferson County	Joachim Creek	About 2,850 feet downstream of Missouri-Pacific Railroad	*472
			About 150 feet upstream of Kelly Street	*502
			About 150 feet downstream of State Highway E	*519
			About 150 feet upstream of State Highway E	*524
			About 550 feet upstream of State Highway E	*525
		Ball Creek	Confluence with Joachim Creek	*476
			About 80 feet upstream of State Highway 110	*480
			About 820 feet upstream of State Highway 110	*483
		County Road Tributary	Confluence with Joachim Creek	*483
			Just downstream of Second Street	*490
			About 2,200 feet upstream of Fifth Street	*533

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Tributary	Confluence with Joachim Creek	*498
			About 350 feet upstream of Flucom Road	*528
		Tanyard Branch	Confluence with Joachim Creek	*505
			About 600 feet upstream of Elm Street	*538

Maps available for inspection at the City Hall, 413 South Second Street, De Soto, Missouri.

Send comments to Honorable Clifford Day, Mayor, City of De Soto, City Hall, 413 South Second Street, De Soto, Missouri 63020.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 14, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26325 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5853]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Ohio

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of New Paris, Preble County, Ohio, previously published at 45 FR 49615 on July 25, 1980.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of New Paris, Preble County, Ohio previously published at 45 FR 49615 on July 25, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The elevation 1,023 feet, which corresponds to the location description, "About 850 feet upstream from mouth," under the Source of Flooding of Rocky Fork, has been changed. The elevation should be 1,002 feet. The location description remains unchanged.

Under the Source of Flooding of East Fork Tributary, the location description, "About 300 feet upstream of Walnut Street," with a corresponding elevation of 1,016 feet, should be added.

The accompanying Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) New Paris, Preble County	Rocky Fork	About 850 feet upstream from mouth	*1,002
		East Fork Tributary	About 300 feet upstream of Walnut Street	*1,016

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: August 14, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26324 Filed 8-27-80; 8:45 am]

BILLING CODE 6718-03-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 16

Departmental Grant Appeals Board Procedures

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: We propose to revise the regulations of the Departmental Grant Appeals Board to provide for a dispute resolution process which is fair, simple, quick, and more advantageous to our assistance community and to the Department. In particular, we propose to make the regulations easier to understand, simplify procedures, and consider changes such as adding special procedures for small claims and for cases where an appellant elects to expedite an appeal. We also propose to add procedures for disputes arising under agreements for Federal administration of State supplementary payments in the Supplemental Security Income Program.

FOR FURTHER INFORMATION CONTACT: Judith Ballard, Departmental Grant Appeals Board, Room 2006, Switzer Building, 330 C Street, S.W., Washington, D.C., (202) 245-0222.

Dated: August 15, 1980.

Norval D. Settle,

Chair, Departmental Grant Appeals Board.

[FR Doc. 80-26467 Filed 8-27-80; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-328; RM-3546]

FM Broadcast Station in Bemidji, Minnesota; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period (Order).

SUMMARY: Action taken herein extends the time for filing comments and reply comments in the proceeding involving the proposed assignment of an FM channel to Bemidji, Minnesota. Midwest Radio-Television, Inc., requests the additional time to prepare and submit engineering information.

DATES: Comments must be filed on or before September 5, 1980, and reply comments on or before September 25, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bemidji, Minnesota) (BC Docket No. 80-328; RM-3546); Order extending time for filing comments and reply comments.

Adopted: August 18, 1980.

Released: August 21, 1980.

By the Chief, Policy and Rules Division.

1. On June 20, 1980, the Commission adopted a *Notice of Proposed Rule Making*, proposing the assignment of Channel 275 to Bemidji, Minnesota (45 FR 47457, published July 10, 1980). Comments are presently due August 22, 1980, and reply comments September 5, 1980.

2. Counsel for Midwest Radio-Television, Inc. filed a request seeking additional time for filing comments and reply comments to and including September 5, and September 25, 1980, respectively. Counsel states that the consulting engineer is currently in the process of exploring the feasibility of assigning a different Class C channel to Bemidji. He notes that a preliminary review shows at least two other channels available for assignment to Bemidji.

3. We believe that the public interest would be served by granting the extension so that Midwest Radio-Television, Inc. may file information that may be helpful to the Commission in resolving this proceeding.

4. Accordingly, IT IS ORDERED, that the dates for filing comments and reply comments in BC Docket No. 80-328 (RM-3546) ARE EXTENDED to and including September 5, and September 25, 1980, respectively.

5. This action is taken pursuant to Section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-26414 Filed 8-27-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-14; Notice 1]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice responds to a petition by Michelin Tire Corporation (Michelin) requesting that Table I, relating to tire sizes and load factors, be deleted from Federal Motor Vehicle Safety Standard 109. Before introducing and selling a new tire size, a manufacturer is now required to submit the load factor information to this agency and await the inclusion of the tire size and the load factor information in Table I through an expedited rulemaking process. Adoption of the proposal would dispense with this administrative process and expedite the introduction of new tires.

DATES: Comment closing date: Comments on this notice must be received on or before October 27, 1980.

Proposed effective date: If adopted, this rule would be effective 180 days after the final rule is issued.

ADDRESS: All comments on this notice should refer to Docket No. 80-14; and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: Standard No. 109, *New Pneumatic Tires—Passenger Cars*, 49 CFR 571.109, specifies the requirements which all tires manufactured for use on passenger cars manufactured after 1948 must meet. Briefly, the Standard requires that the tires meet specified strength, endurance, and high speed performance requirements and be labeled with certain information. Closely related to the Standard is Standard 110, *Tire Selection and Rims*, 49 CFR 571.110, which requires that each passenger car be equipped with tires that comply with

Standard 109, that the tires of the car be capable of carrying the load of the vehicle, that the rims on the car be appropriate for use with the tires, and that this information appear on a placard in the car.

For purposes of testing tires and vehicles to determine their compliance with these two standards, several variable factors such as the tire's inflation pressure, the load on the tire, and the rim on which the tire is mounted, must be specified. When a manufacturer decides to introduce a new tire size, it must submit these factors to the agency for inclusion in Table I of Appendix A of Standard 109. The manufacturer obtains these factors from the trade associations for the tire and rim industry. Until these factors are incorporated in the tire size and load table (Table I), the new tire cannot be imported into or sold in this country.

Michelin has filed a petition requesting this agency to dispense with the final steps in this process, i.e., the submission of the information to the agency and the incorporation of the information in Table I. Thus, the variable factors to be used for testing new tire sizes would continue to be those determined by the trade associations.

The National Highway Traffic Safety Administration (NHTSA) is issuing this notice to propose that these steps be taken. As discussed more fully below, there are four primary reasons for this proposal. First, the Table has served the purpose for which it was originally created, i.e., standardization of the tire loading ratings. Second, the agency already accepts the values calculated by the trade associations without undertaking any independent verification. Third, the administrative process of incorporating the variable factors in the Table has on occassion created significant delays in the introduction and sale of new tire sizes. Fourth, tire tables appear to be dispensable since Standard 119, *New Pneumatic Tire for Vehicles Other Than Passenger Cars,* has functioned well without tire tables since that standard's issuance in 1973.

Standard 109 and the requirements concerning Table I were established on November 8, 1967 (32 FR 15792). Table I was included in the Standard primarily to ensure standardization of the load ratings for the various tire sizes. In 1966 and 1967, when the Standard was being developed, such standardization often did not exist. Trade associations such as the Tire & Rim Association (T&RA), the American Trade Association, the European Tyre and Rim Technical Organisation (ETRTO), and the Japan Automobile and Tire Manufacturers Associations (JATMA) annually published yearbooks listing specifications for certain tire sizes and the maximum loads that the various tire sizes could carry at designated inflation pressures. However, the load ratings assigned by these associations to a particular tire size frequently differed, especially for radial tires.

The different load ratings resulted in confusion on the part of consumers and tire servicemen about the appropriateness of a designated tire size for use on a particular vehicle. Some trade associations said that a tire size was suitable for use on a vehicle, while others said that it was not. In addition to causing confusion, the differing values created the possibility that the same tire size would be tested under different conditions for compliance with Standard 109.

To eliminate this confusion and inconsistency, the agency decided to publish tire tables listing one value for each tire size shown in the Table. By publishing the Table, NHTSA sought to induce the trade associations to adopt uniform values for tire sizes. This effort has been successful. The trade associations have standardized the load values assigned to a particular tire by adopting the same formula for calculating the value to be assigned at a given inflation pressure. The disputes about other specifications have also been resolved to conform with the values shown in the Table.

The agency tentatively concludes that Table I need no longer be maintained to ensure standardization. Further, the agency does not perceive that any other justification for maintaining it has arisen or is likely to arise.

The second reason for this proposal concerns the limited value of the review which the agency makes of the values submitted by the manufacturers or a trade association. These submissions regarding new tire sizes indicate that the tire complies with the performance and labeling requirements of Standard 109 and provide a loading schedule for the tire. (A loading schedule is a list of the maximum loads the tire can safely carry at various inflation pressures.) NHTSA examines the petition to ascertain whether the tire has actually been subjected to all of the Standard 109 tests, and to ensure that the dimensions and loading schedule indicated for the tire size correspond exactly to those shown for that size in the trade association yearbooks. No verification of the values in the yearbooks is undertaken. Were any verification effort to be made, there would be significant additional costs for the agency and further delays in adding new tire sizes to the tire tables without any likelihood that these costs and delays would produce any additional safety benefits. Thus far, there has not been a single case, to NHTSA's knowledge, in which the dimensions and loading schedules specified by the trade associations have turned out to be inadequate.

The third reason for this proposal is that the process of reviewing the dimension and loading information and adding it to Table I is a typically time-consuming process that delays the introduction and sale of new tire sizes. The problem of delay became apparent in May 1968. At that time, the agency received its first petition requesting the addition of a new tire size to Table I. Since the tire tables were part of Standard 109, the addition could be made only by engaging in rulemaking. NHTSA realized that the normal notice and comment period of the informal rulemaking process would require a longer period of time than was appropriate for such a minor step, especially since the new tire sizes could not be introduced and sold until the requisite information concerning them was added to Table I.

The agency stated that when it received a petition to add new tire sizes, it would issue a notice stating that the new sizes would be automatically added to the table 30 days after publication unless objections to the inclusion of the new sizes were received within that period. If objections were received, then the agency would commence a notice and comment rulemaking proceeding regarding the addition of those tire sizes. Then, using this expedited process, NHTSA added the new tire sizes to Table I fairly promptly after receipt of the request.

Until 1978, use of the expedited rulemaking process kept delays in adding new tire sizes to Table I to a minimum. In early 1978, the agency received petitions from Michelin, Goodyear, and Dunlop requesting the addition of new tire sizes to Table I. These requests were for new metric tire/rim combinations. The new tires were elliptic-type tires, which offer improved fuel economy and have already been used in Europe without safety problems.

When NHTSA published its routine notice for the expedited addition of these tires to Table I, many objections were received. The primary basis for the objections was that "intermix" problems could occur with these tires and rims. According to the commenters, the near identity of the nominal diameters of the proposed metric tire/rim combinations and of certain existing English unit tire/rim combinations would make it technically possible to mount and inflate an English unit tire on one of the proposed metric rims. Another alleged technical possibility was that one of the proposed metric tires could be mounted and inflated on existing English unit rims. It was suggested that both possible intermixes could lead to tire explosions or sudden deflations.

Although the agency doubted the validity of the objections, it felt obliged to conduct some tests on the elliptic-type tires. The tests confirmed the agency's expectations that the "blow-by" feature (typically a little groove in the tire bead) of the Goodyear and Michelin elliptic tires made it impossible to inflate these tires on rims other than those for which they were designed. Thus, the primary effect of the objections was to delay the introduction of these elliptic tires in this country. One of the leading trade journals for the automotive industry editorially suggested that this effect was the goal of the objecting commenters who were attempting to gain additional time in which to bring comparable tires to market. This possibility of Table I being misused for anti-competitive purposes is one of the major considerations underlying this proposal.

The agency notes that the objections to the elliptic tires were not totally without merit. The Dunlop elliptic tire did not incorporate a "blow-by" feature and was actually subject to the intermix problems suggested by the commenters. The Dunlop tire had been approved by T&RA, the American trade association, before the agency was petitioned to have it added to Table I. That association apparently did not consider the intermix problem in approving the tire. According to T&RA, its primary functions are to establish practical and sound engineering standards for the dimensions and load ratings of tires at designated inflation pressures, and to establish the appropriate dimensions, rims, and values for those tires.

The agency believes that the intermix problem with the Dunlop elliptic tire was an anomaly. NHTSA is not aware of any intermix problem that has occurred to date other than with that tire. The issue potentially arises only with respect to new tires needing new rims similar to existing tires or rims. Recurrence of the intermix problem does not appear likely since the tire manufacturers are now routinely adding "blow-by" features to new tires needing new rims. (Objections based on the intermix issue were filed last year by General Motors to a run-flat tire whose addition to Table I was proposed by the agency (May 10, 1978; 44 FR 27396). However, that tire, like the Goodyear and Michelin elliptics, has a "blow-by" feature.)

Further assurance that the tire manufacturers will continue to design their tires in appropriate instances with "blow-by" features could be provided if the trade associations would agree among themselves not to approve the addition of new tire/rim combinations to their yearbooks unless the associations are satisfied by the presence of "blow-by" features or other factors that intermix problems will not occur. NHTSA specifically invites comment from the trade associations and other interested persons on feasibility of the associations voluntarily undertaking this role.

If the trade associations would voluntarily undertake this role, it would seem that there would be no potential safety problems which might occur with respect to tire sizes. NHTSA specifically invites comments from interested persons on the adequacy of this step for ensuring that no future intermix problems will occur. If a commenter believes that this voluntary step by the trade associations would be inadequate, the agency requests the commenter's ideas of what steps the agency should take. The agency also invites comments on what should be done if the trade associations decline to voluntarily take steps to ensure that the intermix problems do not recur. Pending the analysis of these comments, the agency does not at this time intend to follow through on plans announced in a June 5, 1978, notice to issue an advance notice of proposed rulemaking on the intermix issue.

The fourth reason for this proposal related to the successful implementation of Standard 119 without the use of tire tables. That agency tentatively concludes that Standard 109 could be equally successfully implemented were Table I to be deleted. In originally proposing Standard 119, the agency intentionally omitted tire tables. NHTSA noted that the only tire characteristics relevant to the safety performance characteristics included in the proposed standard were the general tire type, speed restrictions (if any), the maximum load rating, load range, and rim diameter. Information on each of these characteristics was either readily available or actually labeled on the tire itself. Accordingly, NHTSA decided not to include a proposal to establish the elaborate set of tire tables that would have been necessary for all these tire sizes.

To prevent the trade associations from having ultimate regulatory power over individual manufacturers, the agency included a provision in the proposal which permitted a manufacturer to assign values to its tires other than those set forth in the trade association yearbooks if it provides a listing of values to NHTSA, dealers of those tires, and, upon request, to the public. (This provision, which was ultimately adopted, has not led to any standardization problem since the manufacturers use the same constants and formulas as the associations do in calculating the variable factors.) The agency also included a provision in the proposal to prevent underrating the load of tires in any size designation. The agency proposed that individual manufacturers would be prohibited from assigning any maximum load to a particular size designation that was lower than the maximum load value published for that tire size by the trade associations.

Although the agency received some objections to establishing Standard 119 without tire tables, it published a final standard which did not include such tables. NHTSA explained its decision in the following manner:

> The inclusion in the Code of Federal Regulations of load-inflation and dimension tables for every road tire sold in this country (they presently are included in Standard No. 109 only for passenger cars) would be a vastly cumbersome process, not only in its inception, but as a continuous maintenance task.
>
> The NHTSA finds no justification at this time for undertaking to monitor substantively the manufacturing processes and testing that lead to the continual changes in the standard association tables, so its function in this regard would be largely clerical.
>
> The point is not, as the (U.S.) Rubber Manufacturers Association asserted, primarily one of administrative convenience. It is that no justification has been found for locking both the government and the world tire industry into a restrictive and unwieldy system by which the Code of Federal Regulations is formally amended every time a manufacturer decides to add a tire size, or change the load rating or dimensional specifications of one of its tires. There are many reasons to avoid over-regulation: administrative convenience is among the least of them.
>
> The agency has no intent to dilute the standardizing function of trade-association table systems that presently are used to provide necessary tire and rim information to dealers and users. These systems monitor the safety aspects of tire dimensions and load ratings satisfactorily without government regulations, and the NHTSA expects that they will continue to do so. No evidence has been presented of under or over-sizing of tires that would warrant the institution of a massive government regulatory program in the area. If such a practice should arise in the future to a degree that constitutes a public hazard, the NHTSA has ample authority to deal with it, specifically, as safety-related

defect, and prospectively under its rulemaking powers. 38 FR 31299; November 13, 1973.

The reasoning and expectations of the agency regarding the consequences of promulgating Standard 119 without tire tables have proven to be accurate. The dimensions and load ratings for tires covered by this standard have been specified by the trade associations without any safety or administrative problems.

If Table I were to be deleted from Standards 109, NHTSA would have to amend the sections in Standard 109 and 110 which refer to that table. These references require that tires being tested for compliance with Standards 109 and 110 be tested according to the specifications and loading schedules given in the tire table. Accordingly, NHTSA is proposing to replace the reference to the specifications listed in Table I with a reference to the specifications listed for that tire size in the trade association yearbooks. This is not a substantive change, since the specifications listed in Table I of Standard 109 and the specifications listed in the trade association yearbooks are identical.

Regarding the reference to the appropriate loads to be placed on the tires while they are being tested, NHTSA is proposing a slight substantive change. For the endurance tests and high speed performance tests required under Standard 109, NHTSA proposes that the load on the tire be a specified percentage of the maximum load rating labeled on the tire. This approach is currently used in Standard 119 for tires for vehicles other than passenger cars, and is recommended by the Society of Automotive Engineers for these tests; *see* SAE J341a.

It is very simple to determine the appropriate load using this method. Further, this approach is objective and is fair for all tire sizes. For all other references to the load on the tire, NHTSA proposes that the standards refer to the trade association yearbooks.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

§ 571.109 Standard No. 109; New pneumatic tires.

1. Section S4.2.1(c) is amended to read as follows:

S4.2 *Performance Reqirements.*

S4.2.1 *General.* Each tire shall conform to each of the following:

* * * * *

(c) Its load rating shall be that specified in one of the publications described in S4.4.1(b) for its size designation, type, and each appropriate inflation pressure. If the maximum load rating for a particular tire size is shown in more than one of the publications described in S4.4.1(b) with different published load ratings, the load rating on the tire shall be not less than the lowest maximum load rating published for that tire size.

* * * * *

2. In section S4.2.2.2 the introductory text of pargraphs (a) and (b) are amended to read as follows:

S4.2.2 *Test Requirements.*

S4.2.2.2 *Physical Dimensions.* Each tire, when measured in accordance with S5.1, shall conform to each of the following:

(a) Its actual section width and overall width shall not exceed the section width specified in one of the publications described in S4.4.1(b) for its size designation and type by more than:

* * * * *

(b) Its size factor shall be at least as large as that specified in one of the publications described in S4.4.1(b) for its size designation and type.

3(a) In Section S4.2.2.3.1, the introductory text and paragraph (c) are amended to read as follows: S4.2.2.3 *Tubeless tire resistance to bead unseating.*

S4.2.2.3.1 When a tubeless tire that has a maximum inflation pressure other than 60 psi is tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall be not less than:

(c) 2,500 pounds for tires with a designated section width of either (8) inches or more, using the section width specified in one of the publications described in S4.41.(b) for the applicable tire size designation and type.

3(b) In Section S4.2.2.3.2, the introductory text and paragraph (c) are amended to read as follows:

S4.2.2.3.2 When a tire that has a maximum inflation pressure of 60 psi is tested in accordance with S5.2, the applied force required to unseat the bead at the point of contact shall be not less than:

* * * * *

(c) 2,500 pounds for tires with a maximum load rating of 1,400 pounds or more, using the maximum load ratings specified in one of the publications described in S4.4.1(b) for the applicable tire size designation and type.

4. Section S4.2.2.4 is revised to read as follows:

S4.2.2.4 *Tire Strength.* Each tire shall meet the requirements for minimum breaking energy specified in Table 1 when tested in accordance with S5.3.

5. Section S4.4.1(a) is revised to read as follows:

S4.4 *Tire and rim matching information.*

S4.4.1 * * *

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to: Office of Vehicle Safety Standards, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; or

* * * * *

6. Section S5.1(a) is amended to read as follows:

S5 *Test Procedures.*

S5.1 *Physical Dimensions.* Determine tire physical dimensions under uniform ambient conditions as follows:

(a) Mount the tire on a test rim having the test rim width specified in one of the publications described in S4.4.1(b) for that tire size designation and inflate it to the applicable pressure specified in Table II.

* * * * *

7. Section S5.2.1.2 is amended to read as follows:

S5.2.1 *Preparation of tire-wheel assembly.*

* * * * *

S5.2.1.2 Inflate it to the applicable pressure specified in Table II at ambient room temperature.

* * * * *

8. Section S5.3.1.1 is amended to read as follows:

S5.3 *Tire Strength.*

S5.3.1 *Preparation of tire.*

S5.3.1.1 Mount the tire on a test rim and inflate it to the applicable pressure specified in Table II.

* * * * *

9. Section S5.4.1.1 is amended to read as follows:

S5.4 *Tire endurance.*

S5.4.1 *Preparation of tire.*

S5.4.1.1 Mount a new tire on a test rim and inflate it to the applicable pressure specified in Table II.

* * * * *

10. Section S5.4.2.3 is revised to read as follows:

S5.4.2.3 Conduct the test at 50 miles per hour in accordance with the following schedule without pressure adjustment or other interruptions:

The loads for the following periods are the specified percentage of the maximum load rating market on the tire sidewall:

4 hours	85%
6 hours	90%
24 hours	100%

11. Section S5.5.1 and S5.5.3 are amended to read as follows:

S5.5 *High speed performance.*

S5.5.1 After preparing the tire in accordance with S5.4.1, mount the tire and wheel assembly in accordance with S5.4.2.1, and press it against the test wheel with a load of 85 percent of the tire's maximum load rating as marked on the tire sidewall.

* * * * *

S5.5.3 Allow to cool to 100±5° F and readjust the inflation pressure to the applicable pressure specified in Table II.

* * * * *

12. Section S6 is revised to read as follows:

S6. *Nonconforming tires.* No tire of a type and size designation specified in one of the publications described in S4.4.1(b) that is designed for use on passenger cars and manufactured on or after October 1, 1972, but does not conform to all the requirements of this standard, shall be sold, offered for sale, introduced or delivered for introduction into interstate commerce, or imported into the United States, for any purpose.

13. Appendix A is amended by deleting Tables I–A through I–YY and redesignating Tables II and III as Tables I and II, respectively.

§ 571.110 Standard No. 110; Tire Selection and Rims.

14. Section S4.2.1 is amended to read as follows:

S4.2 *Tire load limits.*

S4.2.1 The vehicle maximum load on the tire shall not be greater than the applicable maximum load rating specified in one of the publications described in S4.4.1(b) of Motor Vehicle Safety Standard No. 109 for the tire's size designation and type.

Table I.—*Occupant loading and distribution for vehicle normal load for various designated seating capacities*

Designated seating capacity, number of occupants	Vehicle normal load, number of occupants	Occupant distribution in a normally loaded vehicle
2 through 4	2	2 in front.
5 through 10	3	2 in front, 1 in second seat.

* * * * *

15. In Section S4.3.1, paragraph (c) is amended to read as follows:

S4.3.1 No inflation pressure other than the maximum permissible inflation pressure may be specified unless—

* * * * *

(c) The tire rating specified in one of the publications described in S4.4.1.(b) of Motor Vehicle Safety Standard No. 109 for the tire size at that inflation pressure is not less than the vehicle load on the tire for that vehicle loading condition.

Interested members of the public are invited to submit comments on this proposal to the address for comments given above. It is requested but not required that 10 copies be submitted. Those persons desiring to be notified of the receipt of their comments in the docket section should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the poscard by mail.

All comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

All comments received before the close of business on the comment closing date indicated above will be considered in formulating a final decision on this proposal. All such comments will be available for public inspection in the docket before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date and it is recommended that interested persons continue to examine the docket for new material.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the address for comments given above. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter, or in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of 5 U.S.C. 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to ensure that none of the specified items has previously been released to the public.

The agency has considered the affects of this proposal and believes that it would reduce the costs for manufacturers by reducing the required paperwork and by ending delays in the introduction and sale of new tire sizes which have been approved by trade associations. Additionally, the elimination of unnecessary regulation is a useful step for the industry, the general public, and this agency. NHTSA does not anticipate that this proposal will be controversial or that it will have any adverse impacts on the environment or on fuel consumption. Therefore, NHTSA has determined that this proposal is not significant within the meaning of Executive Order 12044.

Furthermore, no regulatory evaluation is believed necessary for this proposal, because in this agency's view, there is no chance that the implementation of this proposal could increase the costs or time required by any of the parties. As has already been stated, when a tire manufacturer wants a new tire size approved by the agency, it must conduct the tests specified in Standard 109 for the tires and calculate the loading schedule and dimensions according to the factors established for that type of tire to ensure that its tire indeed complies with Standard 109. In other words, all the data which must be submitted to NHTSA under the present requirements of Standard 109 has to be generated by the manufacturer for its own purposes anyway. The proposed change would save the manufacturer the trouble of making extra copies of the data and submitting it to NHTSA. After considering the minimal cost impacts associated with the proposed change in the requirements of Standard 109, NHTSA has determined that no regulatory evaluation is needed.

The program official and attorney principally responsible for the development of this proposal are Arturo Casanova and Stephen Kratzke, respectively.

(Secs. 102, 119, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1442); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 22, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80–26312 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 80

Federal Aid in Fish and Wildlife Restoration

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This is a notice of proposed amendments to current requirements for participation in the Federal Aid in Wildlife Restoration program and the Federal Aid in Fish Restoration program. The proposed amendments are intended to simplify existing language, clarify requirements, and to delete certain sections which are no longer applicable or are adequately covered in other regulations and policies such as OMB Circular A–102.

DATES: Comments must be received by October 14, 1980.

ADDRESS: Any comments on the proposed requirements should be submitted to the Chief, Division of Federal Air, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–1526.

SUPPLEMENTAL INFORMATION: The Federal Aid in Fish and Federal Aid in Wildlife Restoration programs (CFDA numbers 15.605 and 15.611) provide financial assistance to State fish and wildlife agencies and to Puerto Rico, Guam, the Virgin Islands, and America Samoa. Rules contained in 50 CFR Part 80 are intended to provide basic requirements for participation in these programs. In addition to the rules, the Fish and Wildlife Service provides standards and procedures in a Federal Aid Manual to guide the States. This Manual incorporates applicable provisions of other requirements contained in Federal laws, regulations and policies, including OMB Circular A–102, Federal Management Circular 74–4, and OMB Circular A–95.

Principal changes to existing rules are:

1. The definition of a State fish and game department was changed to a State fish and wildlife agency and was revised to address State agencies or officials which also exercise other than fish and wildlife responsiblities.

2. A section (80.2) was added to summarize basic participant eligibility.

3. A section (80.3) was added to incorporate requirements of the Acts related to State assent legislation.

4. The prohibition against diversion of hunting and fishing license fees was modified to include capital assets acquired with license fees.

5. A section (80.5) was added to clarify those actions which are eligible for funding. References to sport hunting were removed to make clear that work on nongame wildlife was eligible.

6. The requirement for each State to notify the Director each year of its desire to participate was revised to clarify the optional methods for submitting the notice. A formal notice is not required if the State has an approved project for use of funds made available.

7. The requirement for certification of paid license holders was revised to clarify a "paid" license for the purpose of counting license holders.

8. Requirements for submission of proposals were revised to incorporate reference to OMB Circular A–95 (80.11(b)), and to delete the requirement for the State to certify as to the official(s) authorized to sign applications.

9. A section was added (80.13) to more clearly state the basic requirements for project proposals consistent with current policy.

10. The previous prohibition on use of Federal Aid funds for maintenance of improvements acquired or constructed with non-Federal Aid funds was revised to allow such use under certain conditions.

11. A section was added (80.21) to emphasize the responsibilities of the State in management and control of activities funded under the Acts.

12. A section was added (80.12) to emphasize the responsibilities of the State to comply with all applicable Federal laws, regulations and requirements.

The principal author of this proposal is Robert N. Bartel, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703/235–1526.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Fish and Wildlife Service proposes to revise 50 CFR Part 80 to read as follows:

PART 80—ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Sec.
80.1 Definitions.
80.2 Eligibility.
80.3 Assent legislation.
80.4 Diversion of license fees.
80.5 Eligible undertakings.
80.6 Prohibited activities.
80.7 Appeals.
80.8 Availability of funds.
80.9 Notice of desire to participate.
80.10 Hunting and fishing license certification.
80.11 Submission of proposals.
80.12 Cost sharing.
80.13 Substantiality in character and design.
80.14 Application of Federal Aid funds.
80.15 Allowable costs.
80.16 Federal Aid payments.
80.17 Maintenance.
80.18 Responsibilities.
80.19 Records.
80.20 Land control.
80.21 Assurances.

Authority: Federal Aid in Fish Restoration Act (16 U.S.C. 777i) and Federal Aid in Wildlife Act (16 U.S.C. 669i).

§ 80.1 Definitions.

As used in this part, terms shall have the following meanings:

(a) *The Federal Aid Acts or the Acts.* The Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended (50 Stat. 917; 16 U.S.C. 669–669i), and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, as amended (64 Stat. 430; 16 U.S.C. 777–777k).

(b) *State.* Any State of the United States; the territorial areas of Guam, the Virgin Islands, and American Samoa; and the Commonwealth of Puerto Rico.

(c) *State fish and wildlife agency.* The agency or official of a State designated under State law or regulation to carry out the laws of the State in relation to the management of fish and wildlife resources of the State. Such an agency or official which is also designated to exercise collateral responsibilities, e.g., State Department of Natural Resources, shall be considered the State fish and wildlife agency only when exercising the responsibilities specific to the management of the fish and wildlife resources of the State.

§ 80.3 Assent legislation.

A State may participate in the benefits of the Act(s) only after it has passed legislation which assents to the provisions of the Acts and has passed laws for the conservation of fish and wildlife including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than administration of the fish and game department. Subsequent legislation which amends these State laws shall be subject to review by the Secretary. If the legislation is found contrary to the assent provisions, the State shall become ineligible.

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§ 80.4 Diversion of license fees.

Revenues from fees paid by hunters and sports fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency. Administration of the State fish and wildlife agency includes all the functions of such an organization in exercising its authorities and responsibilities to manage the fish and wildlife resources of the State.

(a) A diversion of license fees occurs when a State fish and wildlife agency, through legislation or otherwise:

(1) Loses control of the expenditure of any portion of its license revenues, or

(2) Loses control of capital assets derived from license revenues, or

(3) Expends license revenues for any purpose other than administration of the State fish and wildlife agency.

(b) If a diversion of license fees occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Control of expenditure or assets is returned, and

(2) An amount equal to license revenues or the current market value of assets diverted is returned.

(c) Federal funds obligated for projects approved prior to the date a diversion is declared remain available for expenditure on such projects without regard to the intervening period of the State's ineligibility.

§ 80.5 Eligible undertakings.

The following are eligible for funding under the Acts:

(a) Federal Aid in Wildlife Restoration Act.

(1) Projects having as their primary purpose the restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of and benefits from these resources.

(2) Projects having as their primary purpose instruction and practice in the safe use of firearms and archery equipment and the avoidance of accidents associated with hunting and other related subjects.

(b) Federal Aid in Sport Fish Restoration Act.

Projects having as their primary purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for aquatic, gill-breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation.

§ 80.6 Prohibited activities.

The following are not eligible for funding under the Acts, except when necessary for the accomplishment of project purposes as approved by the regional director.

(a) Law enforcement activities conducted by the State to enforce the fish and game regulations.

(b) Public relations activities conducted to promote the State fish and wildlife agency.

§ 80.7 Appeals.

Any difference of opinion over the eligibility of proposed activities or differences arising over the conduct of work may be appealed to the Director. Final determination rests with the Secretary.

§ 80.8 Availability of funds.

Funds are available to a State for obligation or expenditure during the fiscal year for which they are apportioned and until the close of the succeeding fiscal year. For the purpose of this section, obligation of apportioned funds occurs when a project agreement is signed by the regional director.

§ 80.9 Notice of desire to participate.

Any State fish and wildlife agency desiring to avail itself of the benefits of the Acts shall notify the Secretary within 60 days after it has received a certificate of apportionment of funds available to the State. Notification to the Secretary may be accomplished by either of the following methods. In either method, the document must be signed by a State official authorized to commit the State to participation under the Act(s).

(a) Submitting to the regional director within the 60-day period a letter stating the desire of the State to participate in the Act(s); or,

(b) Having an approved Application for Federal Assistance for the use of the funds apportioned.

§ 80.10 Hunting and fishing license certification.

(a) Information concerning the number of paid hunting license holders and the number of persons holding paid licenses to fish for sport or recreation in the State in the preceding year shall be furnished upon request of the Director by the fish and wildlife agency of each State on forms furnished by the Fish and Wildlife Service.

(b) This information shall be certified as accurate by the director of the State fish and wildlife agency. When requested by the Director, evidence used in determining accuracy of the certification shall also be furnished.

(c) License holders shall be counted over a period of 12 months; the calendar year, fiscal year, or other licensing period may be used provided it is consistent from year to year in each State. In determining licenses which are eligible for inclusion, the following guidelines shall be observed.

(1) Trapping licenses, commercial licenses, and other licenses which are not for the express purpose of permitting the holder to hunt or fish for sport or recreation shall not be included.

(2) Licenses which do not return net revenue to the State shall not be included. To qualify as a paid license, the fee must produce significant net revenue for the State. Net revenue is any amount returned to the State after deducting agent or sellers fees and the cost for printing, distribution, control or other costs directly associated with the issuance of each license.

(3) Licenses which are valid for a specific number of years, the cost of which is commensurate with the period for which hunting or fishing privileges are granted, may be counted in each of the years covered by the license.

(4) Combination fishing and hunting licenses (a single license which permits the holder both to hunt and fish) shall be included in the determination of both the number of paid hunting license holders and the number of persons holding paid licenses to fish for sport or recreation.

(5) Some licensing systems require or permit an individual to hold more than one license to hunt or to fish in a State. Such an individual shall not be counted more than once as a hunting or fishing license holder. The fish and wildlife director, in certifying license information to the Director, is responsible for eliminating duplication or multiple counting of single individuals in the figures which he certifies. Sampling and other statistical techniques may be utilized by the certifying officer for this purpose.

§ 80.11 Submission of proposals.

A State may make application for use of funds apportioned under the Acts by submitting to the regional director either a comprehensive fish and wildlife management plan or project proposal.

(a) Each application shall contain such information as the regional director may require to determine if the proposed activities are in accordance with Acts, the provisions of this part, and the standards contained in the Federal Aid Manual.

(b) Each application and significant amendments of scope shall be submitted to the State Clearinghouse as required by Office of Management and Budget (OMB) Circular A–95.

(c) Applications must be signed by the director of the State fish and wildlife agency or the official(s) delegated to exercise the authority and responsibilities of the State's director in committing the State to participation under the Acts. The director of each State fish and wildlife agency shall notify the regional director, in writing, of the official(s) authorized to sign Federal Aid documents, and any changes in such authorizations.

§ 80.12 Cost sharing.

Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the project agreement, whichever is less, except that the non-Federal cost sharing for the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa shall not exceed 25 percent and may be waived at the discretion of the regional director.

(a) A minimum Federal participation of 10 percent of the estimated costs is required as a condition of approval.

(b) The non-Federal share of project costs may be in the form of cash or in-kind contributions. The allowability and evaluation of in-kind contributions are subject to the policies and standards prescribed in Office of Management and Budget (OMB) Circular A-102.

(c) The non-Federal share of project costs may not be derived from other Federal grant funds, except as authorized by specific legislation.

§ 80.13 Substantiality in character and design.

All projects proposed for funding under the Acts must be substantial in character and design. A substantial project (for fish and wildlife purposes) is one which:

(a) Identifies and describes a need within the purposes of the relevant Act to be utilized;

(b) Identifies the objectives to be accomplished based on the stated need;

(c) Utilizes accepted fish and wildlife conservation and management principles, sound design, and appropriate procedures; and

(d) Will yield benefits which are pertinent to the identified need at a level commensurate with project costs.

§ 80.14 Application of Federal aid funds.

(a) Federal Aid funds shall be applied only to activities or purposes approved by the regional director. If otherwise applied, such funds must be replaced or the State becomes ineligible to participate.

(b) Real property acquired or constructed with Federal Aid funds must continue to serve the purpose for which acquired or constructed. .

(1) When such property passes from management control of the fish and wildlife agency, the control must be fully restored to the State fish and wildlife agency or the real property must be replaced using non-Federal Aid funds. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may have a reasonable time, up to three years from the date of notification by the regional director, to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the regional director, the property may be used or disposed of as follows:

(i) the State may use the property for other eligible purposes under the applicable Act.

(ii) the State may sell the property and apply the proceeds of the sale to other eligible purposes under the applicable Act as directed by the regional director. The State may have a reasonable time, up to three years after the sale, to apply the proceeds as specified above.

(c) Federal Aid funds shall not be used for the purpose of producing income. However, income producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities shall be accounted for in the project records and disposed of as directed by the Director.

§ 80.15 Allowable costs.

Allowable costs are limited to those which are necessary and reasonable for accomplishment of approved project purposes, and are in accordance with the cost principles of Federal Management Circular 74-4.

(a) All costs must be supported by source documents or other records as necessary to substantiate the application of funds. Such documentation and records are subject to review by the Secretary to determine the allowability of costs.

(b) Costs incurred prior to the effective date of the project agreement are allowable only when specifically provided for in project agreement.

(c) Projects or facilities designed to include purposes other than those eligible under the pertinent Act shall provide for the allocation of costs among the various purposes. The method used to allocate costs shall produce an equitable distribution of costs based on the relative uses or benefits provided.

(d) Administrative costs in the form of overhead or indirect costs for State central services outside of the State fish and wildlife agency must be in accord with an approved cost allocation plan and shall not exceed in any one fiscal year three percentum of the annual apportionment.

§ 80.16 Federal aid payments.

Payments shall be made for the Federal share of allowable costs incurred by the State in accomplishing approved projects.

(a) Requests for payments shall be submitted on forms furnished by the regional director.

(b) Payments shall be made only to the office or official designated by the State fish and game department and authorized under the laws of the State to receive public funds for the State.

(c) All payments are subject to final determination of allowability based on audit. Any overpayments made to the State shall be recovered as directed by the regional director.

(d) The regional director may withold payments pending receipt of all required reports or documentation for the project.

§ 80.17 Maintenance.

The state is responsible for maintenance of all capital improvements acquired or constructed with Federal Aid funds throughout the useful life of each improvement. The maintenance of improvements acquired or constructed with non-Federal Aid funds are not allowable costs except when such improvements are necessary to accomplishment of project purposes as approved by the regional director.

§ 80.18 Responsibilities.

In the conduct of activities funded under the Acts, the State is responsible for:

(a) The supervision of each project to assure it is conducted as provided in the project documents, including:

(1) Proper and effective use of funds.

(2) Maintenance of project records.

(3) Timely submission of reports.

(4) Regular inspection and monitoring of work in progress.

(b) The selection and supervision of project personnel to assure that:

(1) Adequate and competent personnel are available to carry the project through to a satisfactory and timely completion.

(2) Project personnel perform the work to ensure that time schedules are met, projected work units are accomplished, other performance objectives are being achieved, and reports are submitted as required.

(c) The accountability and control of all assets to assure that they serve the purpose for which acquired throughout their useful life.

(d) The compliance with all applicable Federal, State, and local laws.

(e) The settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into.

§ 80.19 Records.

The State shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Federal Aid Manual and OMB Circular A-102.

(a) Financial, supporting documents, and all other records pertinent to a project shall be retained for a period of three years after submission of the final expenditure report on the project. If any litigation, claim, or audit was started before the expiration of the three-year period, the records shall be retained until the resolution is completed. Records for nonexpendable property shall be retained for a period of three years following final disposition of the property.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the State.

§ 80.20 Land control.

The State must control lands or waters on which capital improvements are made with Federal Aid funds. Controls may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 80.21 Assurances.

The State must agree to and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds under the Acts. The Secretary shall have the right to review or inspect for compliance at any time. Upon determination of noncompliance, the Secretary may terminate or suspend those projects in noncompliance, or may declare the State ineligible for further participation in program benefits until compliance is achieved.

Dated: August 20, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-26250 Filed 8-27-80; 8:45 am]

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Notices

Federal Register
Vol. 45, No. 169
Thursday, August 28, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Noranda Mining, Inc., Blackbird Project, Salmon National Forest, Lemhi County, Id.; Intent To Prepare an Environemental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, as lead agency, will prepare or cause to be prepared under agency direction, an Environmental Impact Statement (EIS). This Statement will address Noranda Mining Incorporated's proposed Blackbird Mining Project (cobalt extraction) covering 21 square miles of the Blackbird Creek drainage in the Salmon National Forest, Lemhi County, Idaho.

Noranda has indicated that their program of exploration and other feasibility studies, which have been in progress since 1977, have shown the presence of commercial ore resources in the Blackbird area sufficient to support a 2,000-ton-per-day (TPD) (approximate) mine-mill operation for a minimum of 12 years. A typical monthly balance sheet for the complex at 2,000 TPD is 60,000 tons of ore feed containing:

3,360 tons of 26% copper concentrate
2,100 tons of 12% cobalt concentrate
27,000 tons of backfill for the mined concentrate
27,540 tons of mill tailings

The principal impacts of the proposed plan are: (1) the reactivation of the Blackbird Mine; (2) possible millsite relocation on public lands; (3) use of Forest Service roads for transportation of ore concentrates, employees, and supplies; (4) location of a tailings disposal area on public land; and (5) associated direct and indirect impacts related to the approximately 600-person workforce anticipated at full production.

The Environmental Impact Statement will:

I. Address and analyze public issues and management concerns found to be significant as they relate to the project proposal.

II. Address a reasonable range of alternatives which will include at least:

A. A "no action" alternative which represents the current situation projected into the future, assuming the mining and milling proposal is not developed.

B. The proponent's proposal as represented in the operating plan.

C. Other reasonable alternatives to the proponent's proposal which becomes apparent through the agency's environmental review and analysis and which might include alternate mill and tailing sites and transportation corridors.

III. Identify, describe, and evaluate the significant environmental consequences of the alternatives considered.

IV. Identify a Forest Service selected alternative for the proposed mining and milling operation.

V. Identify monitoring and evaluation requirements.

As an early step in the assessment process, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the proposal will be invited to participate in (1) identification of the issues to be addressed, (2) identification of the issues to be analyzed in depth, (3) elimination from detailed study those issues which are not significant or have been covered by prior environmental review, and (4) identification of cooperating agencies to assist in preparing the Environmental Impact Statement.

At this time, an initial list of issues, concerns, and opportunities (ICO's) has been developed through informal contacts with State and Federal agencies, organizations, individuals, and elected officials. This preliminary effort has identified the following areas of concern: effects on water quality and wildlife and fishery resources; methods, along with short- and Long-term effects, of waste disposal practices; reclamation methods and maintenance of facilities once the mine is closed; socio-economic impacts; the nation's need for a domestic supply of cobalt; cultural-historic resoures which may be affected; and the design and maintenance of the transportation corridors which will be used.

Beginning with publication and distribution of this Notice, the Forest Service will begin a formal process to refine existing information and solicit additional input from Federal, State, and local agencies, organizations, and individuals to satisfy the requirements of items (1) through (4) above.

A public participation program has been developed which includes: (1) the distribution of information packets containing a description of the project as well as preliminary ICO's (2) personal contact with concerned individuals and organizations, (3) solicitation of responses from affected Federal, State, and local agencies, and (4) public meetings which will be held to inform concerned individuals about important aspects of the proposal and the Enviromental Impact Statement process. In addition, the Forest Service hopes to obtain public input on the significant issues, concerns, and opportunities which should be addressed by the EIS. The Forest Service will hold public meetings at the Pioneer High School multi-purpose room in Salmon, Idaho, at 7:30 p.m. on Tuesday, September 30, 1980, and at the Inter-mountain Science in Idaho, on Wednesday, October 1, 1980.

Public participation activities will begin with this Notice of Intent and continue through the filing of the final EIS document.

Information packets may be obtained by contacting Tom Buchta, Cobalt Ranger District, Salmon, Idaho 83467, or by calling either 22F11 through the Salmon operator, or 1–208–756–2240.

Mr. Richard T. Hauff, the Forest Supervisor, is the responsible official and Tom Buchta, Minerals Specialist on the Cobalt District, will be project coordinator for the Environmental Impact Statement.

It is anticipated that the Environmental Impact Statement will take approximately 12 months to complete. The Draft Environmental Impact Statement is scheduled for completion in April of 1981, with a two-month review period. The Final Environmental Impact Statement is scheduled for completion in September of 1981.

Comments on anything in this Notice of Intent, or by anyone wishing to be included on a mailing list to receive future information on the project should be sent to Tom Buchta, Cobalt Ranger

District, Salmon National Forest, Salmon, Idaho 83467. Any Federal or State agency which has jurisdiction by law or special expertise with respect to any environmental issue may request to be a cooperating agency with the responsibilities outlined in 40 CFR 1501.6, by notifying this office in writing.

Dated: August 20, 1980.

Richard K. Griswold,

Director, Planning and Budget Intermountain Region.

[FR Doc. 80-26377 Filed 8-27-80; 8:45 am]

BILLING CODE 3410-11-M

Sawtooth National Forest Land Management Plan; Notice of Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the proposed Forest Land and Resource Management Plan for the Sawtooth National Forest. The Management Plan for the Forest will encompass 2,101,422 acres.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. The Forest Plan will be prepared according to regulations promulgated by the Secretary of Agriculture. The regulations implement section 6 of the National Forest Management Act of 1976.

The resulting Plan will provide for multiple use and sustained yield of products and services from the Sawtooth National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels and procedures under the principles of multiple and sustained yield, and the availability and suitability of lands for resource management.

Review of the undeveloped and unimproved portions of the Sawtooth National Recreational Area, as required by section 5 of P.L. 92-400 (the law that established the Sawtooth National Recreation Area), will be a part of the planning process, as well as a study of the White Cloud-Boulder Wilderness Study Area.

The Forest Plan will be selected from among representative alternatives which will include at least: (1) a no-change in existing resource outputs alternative, (2) a range of alternatives that displays possible outputs of resources available at each of several expenditure levels, and (3) alternatives designed to resolve the identified major public issues and management concerns.

The Forest Plan will be coordinated with the plan of Indian tribes; local city, county, and State governmental organizations; as well as other Federal agencies.

Public participation will be an integral part of the planning process. Small "scoping" meetings to identify issues to be addressed will be held early in the process. Times and places for these meetings will be announced by notices in area newspapers; news releases to news media; and announcements mailed to other agencies, organizations, and individuals known to have interest in the management of the Sawtooth National Forest. Sixteen general meetings will be held in October of 1980 at the following locations: Twin Falls, Ketchum, Hailey, Fairfield, Mountain Home, Gooding, Buhl, Stanley, Challis, Burley, Hansen, Malta, Oakley, Rockland, and Jerome, Idaho; and Snowville, Utah.

Jeff M. Sirmon, Regional Forester, is the responsible official for this Plan.

Further information about the planning and Environmental Impact Statement process or comments on the Notice of Intent should be directed to: John L. Hougaard, Forest Planner, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, ID 83301, (208) 733-3698.

The estimated date for filing the Draft Environmental Impact Statement is December 1982, and the anticipated date for filing the Final Environmental Impact Statement is November 1983.

Dated: August 20, 1980.

Richard K. Griswold,

Director, Planning and Budget, Intermountain Region.

[FR Doc. 80-26381 Filed 8-27-80; 8:45 am]

BILLING CODE 3410-11-M

Greenbrier Wild and Scenic River Study; Monongahela National Forest, Pocahontas, Greenbrier, Monroe, and Summers Counties, W. Va.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement to determine eligibility and resulting management of the Greenbrier River for inclusion in the National Wild and Scenic River system.

The Bluestone, Gauley and Greenbrier Rivers in West Virginia were authorized for study to determine whether they qualify for designation under the National Parks and Recreation Act of 1978. The Forest Service is the lead agency conducting the Greenbrier River study. Concurrent with this project, the National Park Service, Department of Interior, is conducting studies of the Bluestone and Gauley Rivers.

Following determination of eligibility for classification of river segments, alternatives will be considered which involve the segments to be proposed for classification and their management direction.

The Forest Service held public information meetings on October 8, 1979, at the Greenbrier County Courthouse in Lewisburg, West Virginia, and on October 9, 1979, at the Pocahontas County Courthouse in Marlinton, West Virginia.

A river evaluation trip beginning just south of Durbin, West Virginia, ending at Hinton, West Virginia was conducted May 5 through May 11, 1980. The Forest Service, National Park Service, West Virginia Department of Natural Resources, Ohio River Basin Commission, and several interest groups and organizations were represented.

A field task force has been formed to conduct the river study under the coleadership of the Forest Service and National Park Service. Those agencies serving on the task force include the West Virginia Department of Natural Resources, the U.S. Army Corps of Engineers, the Soil Conservation Service, the Fish and Wildlife Service, the Heritage Conservation and Recreation Service, the Ohio River Basin Commission and other agencies as required on an ad hoc basis.

The draft environmental impact statement should be available for public review by April 1981. Public involvement activities will include hearings on the proposed alternatives and the draft environmental impact statement. The final environmental impact statement is scheduled for completion in December 1981.

The scope of the issues to be addressed will be identified through the various public involvement activities and the field task force study. A scoping meeting will not be held.

The official responsible for recommending a preferred alternative to the Secretary of Agriculture is R. Max Peterson, Chief, Forest Service. The final environmental impact statement and study report will be submitted to the President and Congress for legislative consideration by the Secretary.

Written comments and suggestions concerning this study and environmental analysis should be sent to Ralph Mumme, Forest Supervisor, Monongahela National Forest, Box 1548, Elkins, West Virginia 26241.

Questions about the proposed action and environmental impact statement should be directed to John Hazel, Wild and Scenic River Planner on the Forest Supervisor's staff at the above address, telephone number (303) 636–1800.

Jerome A. Miles,

Acting Chief, Forest Service.

August 22, 1980.

[FR Doc. 80-26343 Filed 8-27-80; 8:45 am]

BILLING CODE 3410-11-M

Direction for Floodplain Management and Wetland Protection; Proposed Policy

AGENCY: Forest Service, Agriculture.

ACTION: Notice of proposed policy.

SUMMARY: This notice provides for public review and comment of directive material the Forest Service proposes to use in implementing Executive Order (E.O.) 11988 (Floodplain Management) and E.O. 11990 (Protection of Wetlands).

DATE: Comments must be received on or before October 27, 1980.

ADDRESS: All comments should be sent to USDA-Forest Service, Watershed Management Staff, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Tracy, Director, Watershed Management (at the address above), Telephone: 703–235–8096.

SUPPLEMENTARY INFORMATION: The proposed directive material has been issued as an interim directive in the Forest Service Manual (FSM) section 2520. It is identified as ID No. 11, FSM 2527, issued May 19, 1980. It superseded interim directives issued in June 1978 and June 1979.

The policy and guidance provided by this directive is in accordance with the U.S. Department of Agriculture Secretary's Memorandum No. 1827, Revised, and Supplement No. 1, and the Department's proposed policy and agency procedures set forth in the **Federal Register** on June 9, 1978 (43 FR 25322), for complying with the Executive orders. No written comments were received with respect to the Forest Service proposed procedures published as a part of the Department's overall proposal.

The proposed manual material is intended to complement the U.S. Water Resources Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030) and to supplement the Forest Service NEPA process (43 FR 21254) and rules for National Forest System Land and Resource Management Planning (43 FR 53928) by adding specific direction for complying with the special requirements of the E.O.'s when proposed actions are within or will affect floodplains or wetlands. Those Forest Service documents should be referred to for additional information on the Forest Service planning and environmental compliance process. Copies may be obtained by contacting the Director, Land Management Planning, USDA-Forest Service, P.O. Box 2417, Washington, DC 20013; telephone 202–447–697.

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Because the final direction will be set forth in the Forest Service Manual, the numbering system used is that of the Manual commencing at FSM 2527.03.

2527.03—Policy

1. The Forest Service shall comply with the direction of E.O.'s 11988 and 11990, including public involvement requirements, through the use of the Forest Service processes for implementing NEPA and accomplishing land and resource management planning and decisionmaking (FSM 1920, 1950).

2. The agency will take action to:

a. Avoid, to the extent practicable, the long and short term adverse impacts associated with the occupancy and modification of floodplains and the destruction and modification of wetlands.

b. Avoid direct and indirect support of floodplain development and new construction in wetlands wherever there is a practicable alternative.

c. Reduce the risk of flood loss.

d. Promote the use of nonstructural flood protection methods to reduce the risk of flood hazard and flood loss.

e. Minimize the impacts of floods on human health, safety and welfare.

f. Minimize, to the extent practicable, the destruction, loss or degradation of wetlands.

g. Capitalize on opportunities to restore and preserve the natural and beneficial values served by floodplains, and to preserve and enhance the natural values of wetlands.

h. Adhere to the objectives of the Unified National Program for Floodplain Management published by the United States Water Resource Council, and provide leadership for improving and coordinating application of the conceptual framework and strategies set forth in that report in carrying out Forest Service programs.

i. Carry out the research needed to guide management decisions affecting floodplains and wetlands located on the Nation's forest and range lands.

j. Provide leadership in promoting floodplain management and protection of wetlands on non-federal forest and range lands.

k. Integrate the goals of the E.O.'s into technical assistance provided by the Forest Service through Federal-State forestry programs.

2527.04—Responsibilities

2527.04a—Chief. The Chief is responsible for:

1. Providing agency leadership for floodplain management and wetland protection and guideline procedures and standards needed to fulfill requirements of the E.O.'s.

2. Ensuring that floodplain management and wetland protection consideration are included in the land and resource management planning and the program planning and budgeting processes.

2527.04b—Regional Forester/Area Director. The Regional Forester/Area Director is responsible for:

1. Ensuring that floodplain hazards and floodplain and wetland values, and all practicable alternatives to locating in such areas, are identified, analyzed, and documented as an integral part of the Forest Service planning and decisionmaking process. (Outlined in FSM 1920 and FSM 1950.)

2. Assessing floodplain hazards and wetland values in formulating and evaluating land management prescriptions and in the identification of practicable alternatives, and ensuring that planned allocations and uses of land and water resources are appropriate to the degree of hazard and existing natural values involved.

3. Coordinating activities and interchange of floodplain and wetlands information with other concerned Federal and State agencies, including, but not limited to, the Corps of Engineers, Federal Emergency Management Agency, Soil Conservation Service, U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Bureau of Land Management, and State fish and wildlife agencies.

4. Ensuring that cooperative technical/financial assistance programs are conducted in accord with evaluation of flood hazards and in consideration of floodplain and wetland values.

5. Identifying in documents authorizing the use of the National Forest Service and in convenyances of interests in National Forest lands those

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necessary restrictions not adequately incorporated in existing Federal, State, or local laws and regulations.

6. Withholding National Forest System lands from use or disposal until the conditions of item 5 above are met, unless overriding considerations relating to the public interest exist as outlined in FSM 2527.4.

2527.04c—Forest Supervisor. The Forest Supervisor is responsible for:

1. Determining if proposed facilities or actions are located in, or if they could affect or be affected by floodplains or wetlands and, if so, assessing floodplain hazards and wetland values in formulating and evaluating land and resource management options and determining whether there is a practicable alternative action or location, and whether the "no action" option is practicable.

2. Modifying plans, activities, and designs to minimize impacts of the action and to mitigate its effects on the natural and beneficial values of the floodplain or wetland in all actions where an alternative to siting in the floodplain or wetland is not practicable.

3. Preparing and circulating a notice through the State and areawide clearinghouses (OMB Circular A–95) and providing for public involvement throughout the decisionmaking process for actions identified in 1 and 2 above (FSM 1656, 1626, and 1951.1).

4. Ensuring that all practicable mitigating measures are incorporated in specifications for the proposed action and that the implementation of the selected action is accomplished in a manner that preserves, restores, and enhances, to the extent practicable, the natural functioning of floodplains and wetlands.

5. Documenting analysis of floodplain hazards and management options in the Forest Service NEPA process (FSM 1950) and in accord with the general guidance in "A Unified National Program for Floodplain Management" published by the Water Resources Council.

6. Requiring flood hazard and wetlands evaluations prior to issuing special-use authorizations and providing assistance to applicants in obtaining help to make such evaluations in their proposals.

7. Ensuring that floodplain hazard and floodplain and wetland management considerations and appropriate restrictions are included in authorizing documents.

8. Designing, constructing, or rehabilitating Forest Service real property in accordance with standards and criteria outlined in the National Flood Insurance Program (42 U.S.C. 4001 *et seq.*) using flood proofing measures and structural elevation, where practicable. Examine the need for and apply more rigid standards where NFIP standards and criteria may not be adequate to minimize risk to lives, property, and floodplain values.

9. Providing for the conspicuous marking of highest past flood levels and probable 100-year flood heights on permanent structures, including those in developed recreation sites used by the general public during periods when flooding can occur on Federal lands administered by the Forest Service (FSM 2512.23, 7114.11).

10. Developing appropriate warning and evacuation plans or procedures, integrating available warning time into such plans.

11. Indicating in appropriate documentation those planning, program, and budget proposals which include specific actions in floodplains and assuring that these proposals are in accord with the intent of E.O. 11988.

2527.05—Definitions

1. *Action.* Any Federal activity including (1) acquiring, managing, and disposing of Federal lands and facilities, (2) providing federally undertaken, financed, or assisted construction or improvements, and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

2. *Critical Action.* Any action for which even a slight chance of flooding would be too great. The minimum floodplain of concern for critical actions is the 500-year floodplain. These may include actions which create or extend the useful life of structures or facilitites vital to the public safety and welfare, especially in disaster situations, including but not limited to: (1) The storage of hazardous substances such as pesticides or other environmental toxins; (2) essential public services such as utilities, hospitals, schools, or emergency services where loss of life and injury are high risk; (3) emergency operation centers, or data storage centers which contain records or services that may become lost or inoperative during flood and storm events, and (4) power generating plants and other principal points of utility lines.

3. *Facility.* Any man-made or man-placed items other than a structure.

4. *Flood or Flooding.* A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

5. *Flood Hazard.* A general term meaning the danger to life or damage to property from overflows of the river or stream channel, extraordinary waves or tides occurring on lake, estuary, or ocean shores; flood flows in intermittent or normally dry streams; floods on tributary streams; floods caused by accumulated debris or ice in rivers; or other similar events.

6. *Flood Risk.* The probability that one or more events will exceed a given flood frequency within a specified period of years.

7. *Flood Hazard and Risk Evaluation.* This includes factors associated with flood risk and potential for flood damage, such as flood area and depth, velocities and pressures, rates of rise and duration, seasonality and probability of occurrence, and probable load of debris and pollutants.

8. *Floodplain.* The lowland and relatively flat areas joining inland and coastal waters including debris cones and floodprone areas of offshore islands, including at a minimum, that area subject to a 1-percent (100-year recurrence) or greater chance of flooding in any given year.

9. *Floodway.* That portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest, i.e., where flood depths and velocities are the greatest.

10. *Minimize.* To reduce to the smallest practicable amount or degree.

11. *Mitigate.* These are the steps necessary to minimize the potentially adverse effects of the proposed action, and to restore and preserve the natural and beneficial values of floodplains and to preserve and enhance natural values of wetlands.

12. *Practicable.* Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment, cost, or technology.

13. *Preserve.* To prevent modification of the natural environment or to maintain it as closely as possible to its natural state.

14. *Restore.* To reestablish a setting or environment in which the natural functions of the area can again operate.

15. *Structures.* Walled or roofed buildings including mobile homes and gas or liquid storage tanks that are primarily above ground.

16. *Wetlands.* Those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires

saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

2527.06—Applicability and Exemptions

2527.06a—Test for Applicability. The requirements of this section apply to all agency actions which have the potential to adversely affect floodplains or wetlands or their occupants, or which are subject to potential harm by location in floodplains or wetlands. The basic test of the potential of an action to affect floodplains or wetlands is the actions' potential to result in the long- or short-term adverse impacts associated with one of the following:

1. The occupancy or modification of floodplains, and the direct and indirect support or floodplain development.
2. The destruction or modification of wetlands and the direct or indirect support of new construction in wetlands.

2527.06b—Exempted Emergency Actions. Assistance for emergency work performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146) are exempted from requirements of the Executive orders. This exemption applies to unanticipated emergency situations that require immediate action to prevent or reduce risk to public health or safety or serious resource losses. However, every effort will be made to comply with those requirements which can be met without interference with, or delay of, the emergency work.

2527.1—Procedural Steps. The Water Resources Council has prescribed an 8 step decisionmaking process to be followed by Federal agencies in applying the Orders to its actions. The established Forest Service processes for land and resource management planning and NEPA compliance provide for consideration of these steps. The eight steps are complementary to the planning and NEPA processes and as further assurance of and emphasis on adequate protection of floodplains and wetlands, they are repeated here. These are:

Step 1. Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (500-year floodplain for critical actions); or whether it has the potential to affect a floodplain or wetland or indirectly support floodplain develoment or new construction in a wetland. (See FSM 2527.06a). If not, or if an action is of an emergency nature (FSM 2527.06b), requirements of the Executive Orders will have been satisfied.

Step 2. Notify the public at the earliest possible time of the intent to carry out an action in a floodplain or wetland, and involve the affected and interested public in the decisionmaking process.

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain or wetland including alternative sites outside the floodplain or wetlands, alternative actions serving the same purpose as the proposed action, and the "no action" option.

Step 4. Identify the full range of potential direct or indirect adverse impacts associated with the occupancy or modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.

Step 5. Identify and evaluate mitigating measures that will minimize the potential adverse impacts of the action if avoidance cannot be achieved, and measures that will restore and preserve the natural and beneficial floodplain and wetland values that would be adversely impacted by action.

Step 6. Reevaluate the proposed action to determine first, if it is still practical, even with the application of appropriate mitigating measures, in light of its exposure to flood hazards and its potential to disrupt floodplain and wetland values and, second, if the alternatives identified in Step 3 are practicable in light of information gained in Steps 4 and 5 above.

Step 7. Prepare and provide the public with a finding and public explanation of any final decision that there is no practicable alternative to locating an action in or affecting a floodplain or wetland.

Step 8. Review the implementation and post-implementation phases of the proposed action to ensure that all provisions associated with the action, including appropriate mitigating measures as identified in the environmental assessment, are fully implemented.

2527.2—Identification of Floodplains and Wetlands

A determination of whether or not a proposed action on National Forest lands is located within or will affect a floodplain or wetland will be made during the land and resource management planning process (FSM 2527.03). See Step 1 of the procedural process (2527.1).

Definitions of a floodplain and a wetland as set forth in the Executive orders are given in FSM 2527.05. The general location of floodplains and wetlands on National Forest lands will be identified in the delineation and inventory of riparian areas (FSM 2526); their specific location will be clearly defined during the preliminary phases of planning for proposed development or new construction within those areas. For actions involving assistance within areas of predominately private ownership, the Forest Service will consult the FIA Flood Insurance Rate Map, the Flood Insurance Study and appropriate FIA Flood Hazard Boundary Maps. If data needed are not available from these sources, the Forest Service will seek assistance from other Federal and State agencies or acquire the services of persons experienced in this type of work.

2527.3—Public Notice Requirements

The Forest Service shall provide opportunity for public review and comment on proposals for actions having potential to adversely affect or be affected by floodplains or wetlands at the earliest possible time and throughout the decisionmaking process; and upon completion of this process, provide the public with an account of its final decision. Specific procedures for public involvement are set forth in FSM 1950—The Forest Service NEPA Process. These procedures include provision for adequate information, opportunity for review and comments, and the rationale for the proposed action. For actions involving floodplains or wetlands, a finding of no significant effect will be made available for a 30 day public review before the determination not to prepare an Environmental Statement is effective (FSM 1952.24). The established procedures shall fulfill procedural steps 2 and 7 as set forth in FSM 2527.1.

Notice will also be made to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised) of all ongoing or planned development activities proposed in or affecting floodplains or wetlands. These notices will include:

1. The reasons why the action is proposed to be located in the floodplain or wetland.
2. A statement indicating whether or not the action conforms to applicable State or local floodplain and wetland protection standards.
3. A list of all alternatives considered.
4. A location map identifying siting of the proposed action with respect to the floodplain or wetland boundary, as well as the general geographic location.

All request for funds for undertaking or financing, or assisting in, construction and improvement projects which are located in floodplains or wetlands and meet the test of applicability (FSM 2527.06a) require a statement documenting the fact that the project meets all requirements of Executive Order 11988 and 11990 as appropriate (FSM 1930.3).

2527.4—Analysis and Evaluation of Proposed Actions and Practicable Alternatives

An analysis and evaluation will be made of the full range of potential direct and indirect adverse impacts of a proposed action involving construction or development which could effect or be affected by a floodplain or wetland. These analyses and evaluations shall include an assessment of the effect of alternative structural or development location, design or modification, and of all practicable measures which might be appropriate for minimizing hazards and degradation of natural values and for preserving, restoring, and enhancing such areas. Relocation of facilities or their appropriate modification will be considered for existing developments. Additional development and new uses will be carefully regulated to assure the harmonious development of floodplains consistent with the hazards and values present. Filling of land within floodplains and wetlands will be avoided wherever practicable.

A flood hazard analysis and evaluation shall also be made prior to the disapproval or exchange of land within floodplains or wetlands. They shall also be made prior to the acquisition of lands within floodplains or wetlands when a facility, structure, or other development is planned for the proposed purchase (FSM 5430.3, 5431.7, and 5435.23). Known or anticipated changes in land use within floodplains or wetlands as a result of changes in land ownership and the subsequent effect of such changes on their flood hazard and on the natural and beneficial values of such areas shall be considered in making analyses and evaluations associated with land adjustment actions.

2527.—Evaluation Factors. Multiple use considerations are a fundamental responsibility on all National Forest System lands. Floodplains and wetlands will be recognized as definite areas of interrelated water and land and be considered in the context of total community, regional, and national planning and management. Floodplain and wetland impacts will not be considered in isolation since this could result in an alternative which, while avoiding some floodplain and wetland impacts, causes some other much more serious impact.

The potential direct and indirect impacts resulting from development in or effecting the floodplain and the potential direct or indirect support arising from such development will be identified. Three types of floodplain impacts are important: (1) Positive and negative, (2) concentrated and dispersed, and (3) short and long term. These will be assessed in terms of the resource values associated with water, living resources, cultural resources, agriculture, aquaculture, and forestry. Evaluations and decisions will be developed in the total land management planning context considering the public interest in: (1) Human health, safety, and welfare; (2) preventing loss of property values; (3) maintenance of natural systems; (4) economic efficiency; and (5) environmental health of Regions and localities. The characteristics of risk will also be examined. These include: depth, velocity, and rate of rise of floodwater; location in a floodway or coastal high hazard area; available warning and evacuation time; and, special problems such as flood related erosion, subsidence, sinkholes, and combination of flood sources. Efforts will be made to optimize and balance these considerations in both short and long range planning, recognizing the values protection and damage mitigation requirement of the Executive Orders. Reference to general guidelines in "A Unified National Program for Floodplain Management," issued by the U.S. Water Resources Council, will aid in this assessment.

Because of the special values and unique nature of the areas, analyses and evaluations of proposed actions in wetlands will involve the collection and interpretation of data which may or may not be required for management decisions in less sensitive areas. This includes data on water supply, water quality, recharge and discharge; pollution; flood and storm hazards; sediment and erosion; conservation and long-term productivity of existing flora and fauna; species and habitat diversity and stability; hydrologic utility; fish, wildlife, timber, food forage, fiber, and visual resources; and, recreational, scientific, and cultural uses.

A preliminary determination as to whether or not the floodplain or wetland is the only practicable location for the proposed action will be made during the analysis of the management situation (FSM 1920.84).

Where the action consists of a road, powerline, gas line or other developments of a longitudinal nature which cross numerous floodplains or wetlands of varying size and importance, the evaluation will be made for sections or projects between logical termini (See FSM 1921.45 and FSM 1922.42). The decison process will include the alternative of avoiding any action by withdrawing the proposed project. For actions where the "no-build" alternative is not a viable alternative, the decision is not whether the action should be located in or out of a floodplain or wetland, but rather which series of floodplains or wetlands to impact. That decision must be supported by a thorough evaluation of the impacts for all sections or projects involved in the alternative.

2527.42—Data Needs for Floodplain and Wetland Evaluations. Issues and concerns identified during the land management planning process determines the type of data needed for the evaluation and the degree of accuracy required. Its primary use is to meet the avoidance responsibility through the analysis of practical alternatives. Where avoidance is not practical, the data must be adequate to identify measures needed to carry out the mitigation responsibility.

2527.43—Study Methods. Flood hazard and wetland evaluations generally involve both detailed study methods, such as those used on a specific project, and approximate study methods, such as those used at the Forest Plan level. Detailed study methods for floodplain management are those that, as a minimum; involve hydrologic and hydraulic analysis to determine the 100-year flood profiles. Approximate study methods are those that do not include detailed studies and result only in an approximate determination of the 100-year flood boundaries or of the wetland.

The appropriate type, scope, and intensity of study and analysis for any particular area and proposed action will be established through the land management planning process. At the Forest Plan level, approximation of the floodplain and wetland boundaries through identification of the riparian area at the time an action is being planned (FMS 2526) will usually be adequate. Floodplain evaluations for projects or actions located within a riparian area will, at minimum, be made where the width of the 100-year floodplain is determined to be 200 feet or more, or where the drainage area of the flooding source is greater than one square mile. However, the studies and evaluations must include all floodplain locations involving existing or planned structures and facilities, such as bridges, roads, campgrounds, picnic areas, or other developments within the 100-year floodplain, regardless of floodplain width or size of flood source area.

2527.44—Reevaluation. If the preliminary evaluation clearly indicates

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that there is a practical alternative location the proposal will be modified accordingly. An analysis will also be made to determine whether the action at an alternative location will indirectly impact floodplains or wetlands or support development therein. If so, alternative actions, including the "no action" alternative will be evaluated; if not, the remaining analysis procedure set out in this section is not required. Where there is a finding that no practicable alternative location or action exists, appropriate mitigating measures to minimize potential adverse impacts and restore, preserve and enhance impacted values will be identified and evaluated. Upon determination of what measures are necessary to comply with the requirement to minimize harm to and within floodplains and wetlands the alternatives will be reevaluated to:

1. Determine if they are still practicable at a floodplain or wetland site in light of the exposure to flood risk and potential disruption of natural values.

2. Determine if there is a potential for limiting the action to increase the practicability of previously rejected non-floodplain or wetland sites and alternative actions.

2527.45—Minimization Provisions. Minimization provisions will include the following standards:

1. There shall be no new construction or substantial improvement of a structure or facility in a floodway unless one of the following conditions exists:

a. It is a functionally dependent use, such as a bridge or culvert.

b. It will facilitate an open space use.

c. It is elevated or otherwise flood-proofed for the 100-year flood (the 500-year flood for critical structures or facilities).

d. It is consistent with the criteria of the National Flood Insurance Program or any more stringent federal, State or local floodplain management standards.

e. It is designed to preserve, restore or enhance the natural and beneficial uses of floodplains and wetlands.

2. Where appropriate, integrate the proposed action into existing flood warning and preparedness plans to ensure that available flood warning time is reflected.

3. Provide adequate access to and from the site of the proposed action.

4. Provide flood proofing or relocate building contents, materials, and equipment outside or above the 100-year floodplain level (the 500-year floodplain level for critical actions).

5. Application of Best Management Practices.

2527.46—Documentation of Analyses and Evaluations. Documentation of findings from analyses and evaluations, and test of those findings against decision criteria, will be an integral part of plan development and associated environmental assessment. Sources of evaluation criteria are to be documented (FSM 1951.31). Appropriate findings will be included in Environmental Assessments and Environmental Impact Statements (FSM 1952), in notification to State and areawide A-95 clearinghouses (FSM 1565, FSM 1950.3), and in public notices of proposed actions involving floodplains or wetlands made as a part of the public involvement process (FSM 1626, FSM 1951.1).

2527.46a—Documentation Outline. Information used to evaluate floodplains and wetlands will be briefly documented in accord with FSM 1950. The following items will normally appear in supporting documentation as a single report:

1. *Findings.* Brief abstract or summary of findings, particularly those findings related to hazards to life and property and to natural values of the area.

2. *Methodology.* Brief description of the process used to determine that the area meets the definition for a floodplain or wetland.

3. *Information Search.* Contacts used in making an information search for data from other agencies.

4. *Hydrologic Evaluation.* Review of flood histories and watershed conditions including climatic and environmental factors associated with past flood events.

5. *Floodplain Evaluation.* Evaluation of flood magnitude and associated floodplain heights for the 1 percent chance events. Where critical actions or facilities are involved, the evaluations will include the 0.2 percent chance events.

6. *Mapping.* Location map and specific project map identifying flood boundaries for the 1-percent (100-year) events or boundaries of the wetland areas. Where critical actions or facilities are involved, the projected 0.2 percent (500 year) flood event boundaries will also be mapped.

7. *Alternatives.* Alternatives considered for relocation of activity or for mitigative measures. Purchases and acceptance of donations involving floodplains and wetlands acquired solely for the purpose of watershed protection or improvement are exempt from this requirement.

2527.5—Restrictions. Restrictions, as identified by Federal, State, or local regulations, on the use of floodplains or wetlands will be referenced in documents authorizing the use of National Forest System lands. The location, design, and plans for construction of facilities within floodplains and wetlands on National Forest System (NF) lands will not be approved prior to the completion of a hazard evaluation (FSM 2703). Furthermore, restrictions, as determined by Federal, State, or local regulations, will be incorporated into documents conveying title to National Forest System lands to non-Federal public or private parties by means other than land exchange. Appropriate analysis and evaluation will be accomplished for exchanges to non-Federal parties involving lands in floodplains and wetlands (FSM 5430.3). Where the inclusion of restrictions is needed but prohibited by law, the properties will normally be withheld from conveyance. However, if the EA or EIS results in a conclusion that overall environmental impact of the exchange is favorable and the potential harm to floodplain or wetland on NF lands will be offset by acquisition of floodplain or wetland on the non-Federal lands, the conveyance may be made without inclusion of restrictions.

2527.6—Posting of Past and Probable Flood Heights. All high water marks will be recorded and clearly posted as a part of flood damage surveys to show height of water and date on which the high water occurred (FSM 2512.23). Appropriate signs identifying the highest past flood level and probable 100-year flood heights on Forest Service administered lands will be clearly displayed on major bridges, on the outside of permanent structures, and in areas of concentrated public use, such as recreation developments, administrative sites, and VIS centers (FMS 7114.11).

The general priority for signing will be:

1. Areas where the probability of rapid rises of water level (flash floods) is greatest and where flood warning time is minimal, or where public use or the threat of property damage is greatest or where critical structures and facilities are involved.

2. Areas where the raise in water level is normally gradual and predictable and where warning time is generally sufficient to allow for evacuation of persons and movable property.

3. Areas where signing is primarily to create greater public awareness of the potential danger of flooding.

Douglas R. Leisz,
Acting Chief.

[FR Doc. 80-26344 Filed 8-27-80; 8:45 am]

BILLING CODE 3410-11-M

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Soil Conservation Service

"Big Ditch" and Richland Creek Erosion Control R.C. & D. Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the "Big Ditch" and Richland Creek Erosion Control RC&D Measure, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on approximately 1.1 miles of streambank. The planned works of improvement include sloping .52 miles of existing streambank to a 2:1 slope and installing rock riprap, and sloping another .56 miles of streambank and establishing permanent vegetation. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–28384 Filed 8–27–80; 8:45 am]

BILLING Code 3410–16–M

Canadian Critical Area Treatment R.C. & D. Measures in Hemphill County, Tex

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Texas 76501, telephone 817–774–1214.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statementa are not being prepared for the Canadian Critical Area Treatment RC&D Measures in Hemphill County, Texas.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment on approximately 10 separate critically eroding sites involving about 56 acres of privately owned agricultural land and 3 acres of public land. The planned works of improvement include erosion control practices such as shaping, smoothing, and establishing permanent vegetative cover, installing nine grade stabilization structures (GSS), and fencing the treated area where it is necessary for the establishment and management of the vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–28387 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

Carter Run Watershed, Virginia; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Mr. Manley S. Wilder, State Conservationist, Soil Conservation Service, Federal Building, Room 9201, 400 N. 8th Street, Richmond, Virginia 23240, telephone 804–782–2457.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Carter Run Watershed, Fauquier County, Virginia.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manley S. Wilder, State Conservationist, has determined that preparation and review of an environmental impact statement are needed for this project.

The project consists of a plan for watershed protection, flood prevention, and provision of storage for municipal, industrial, and wildlife uses. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures, and impoundments.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites the participation and consultation of all agencies and persons that have special expertise, legal jurisdiction, or interest to assist in the proposed action. A scoping meeting will be held at 11 A.M., Tuesday, September 23, 1980, in the Soil Conservation Service Conference Room, Federal Building, Richmond, Virginia, to determine the scope of the evaluation of the proposed action. Further information on the proposed action, or on this scoping meeting may be obtained by contacting Mr. Manley S. Wilder, State Conservationist, at the above address.

Dated: August 27, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–26–368 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

Morrison-Rowdy Creeks Area Critical Area Treatment R.C. & D. Measures in Lamar County, Tex.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Texas 76501, telephone 817–774–1214.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Morrison-Rowdy Creeks Area Critical Area Treatment RC&D Measures in Lamar County, Texas.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for installation of erosion control practices on privately owned agricultural land. The planned works of improvement include shaping, smoothing, and establishing permanent vegetated cover on about 660 acres of separate gullied areas; small grade stabilization structures, diversions, critical area plantings, fencing, and grassed waterways will be applied where needed to control gully erosion and associated sediment damage.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–26386 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

Homstead (Whitaker) Run, Munhall Borough, Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717–782–2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Homestead (Whitaker) Run, Munhall Borough, Critical Area Treatment RC&D Measure, Allegheny County, Pennsylvania.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include streambank sloping, vegetating, and gabion and concrete walls along a wet-weather stream affecting approximately 50 scattered areas totaling about 2,600 linear feet of streambank.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–26383 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

North Judson Park Critical Area Teatment R.C. & D. Measure, Indiana

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Suite 2200, Corporate Square-West, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317–269–6515.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northe Judson

Park Critical Area Treatment R.C. & D. Measure, Starke County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include 4 acres of critical area planting (grass), tree planting on 1 acre of blow-sand area, and planting a four-row windbreak along the north and west property line totaling 1,500 feet.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.091, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–26389 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

R. L. Vann School Flood Prevention and Land Drainage R.C. & D. Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the R. L. Vann School Flood Prevention and Land Drainage R.C. & D. Measure, Hertford County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on the school grounds. The planned works of improvement include installing catch basins, pipes, subsurface drainage tubing, and renovating an open ditch. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–26385 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

Red River Resource Conservation and Development (R.C. & D.) Critical Area Treatment Measures, North Dakota

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone 701–255–4011, Extension 421.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Red River Resource Conservation and Development (RC&D) Critical Area Treatment Measures in Grand Forks, Nelson, Pembina, and Walsh Counties, North Dakota.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern a plan for critical area treatment on approximately 160 seriously eroded sites along public and private roads that total about 430 acres. The planned works of improvement include grade stabilization structures, diversions, debris basins, fencing, grassed waterways, lined waterways or outlets, streambank protection, stream channel stabilization, and critical area plantings.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

August 15, 1980.

[FR Doc. 80–26388 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

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Silas Perkins Mini-Park Critical Area Treatment R.C. & D. Measure, Maine

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Silas Perkins Mini-Park Critical Area Treatment RC&D Measure, York County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilizing a critically eroding riverbank on publicly owned property. The planned works of improvement include installation of a layer of rock riprap on the eroding slope and grading, seeding, and landscaping the small public area above the slope.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eddie L. Wood. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.
August 15, 1980.

[FR Doc. 80–26382 Filed 8–27–80; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 80–8–133; Docket 36621]

Domestic Baggage Liability Limitations; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of August, 1980.

Most U.S. airlines set forth baggage liability limits for domestic and overseas flights in Rule 230 of CAB No. 352, the domestic passenger rules tariffs.[1] While most carriers have established a $750 ceiling on the amount of money they will pay to settle a claim for lost, damaged, or delayed baggage, a few smaller commuter carriers publish lower liability limits for joint service offered with certificated airlines. For reasons set forth in this order, the Board is directing all interested parties to show cause why we should not direct all carriers filing tariffs to increase these limits to $1,000.

Increase of Baggage Liability Limit

Historically, airlines have been permitted to file tariffs limiting their liability for mishandled baggage, as long as the limits were reasonable and the tariffs provided for higher limits when a passenger declared a higher value and paid an extra charge. Over the past 15 years, the Board has initiated two major proceedings that examined airlines' liability limits. In 1966, upon completion of the Baggage Liability Rules Case, the Board set the minimum liability ceiling at $500 for certificated carriers.[2] Before this action, limits varied from one carrier to the next and generally ranged from $100 to $250. In 1975, the Board began the Domestic Baggage Liability Rules Investigation, and two years later issued a series of orders which, among other things, raised the minimum carrier liability limit to $750 for certificated carriers.[3]

When the Board reevaluated the $500 minimum liability limit in 1976, we looked at the rate of inflation in the economy since 1966, when the limit was established, using the Consumer Price Index (CPI) as a guide. In September of 1976, the overall CPI stood at 172.6 over the 1967 base of 100, with apparel at 150.2 and nondurable goods (excluding food) at 160.4. These indexes demonstrated substantial increases in the dollar values of those items most likely to be carried in baggage by the average passenger, and we determined that they justified increasing the minimum limit to $750.

Since 1976, inflation has caused these indexes to continue upward. By May 1980, the overall CPI had risen to 244.9, apparel to 177.5, and nondurables less food to 235.5. By these measures, goods worth $750 in 1976 would now have dollar values of $1,064.17, $886.32, and $1,101.15, respectively. Thus a $1,000.00 minimum would, in our tentative view, be a more reasonable amount.

In the 1966 Baggage Liability Rules Case, the Board established the criteria for the reasonableness of baggage liability limits, stating that they "should be high enough to cover all but unusual or extraordinary cases."[4] At that time and again in the 1975 investigation, the Board ordered the carriers to conduct a survey of claims settled over a one-month period and to submit the findings with their comments. The results of the 1975 survey showed that increases in the dollar amount of the baggage claims filed that year, compared to the 1966 data, did closely parallel the CPI. We believe that the CPI reflects the effect of inflation on the value of most passengers' bags and their contents. We do, however, invite the carriers and air travelers to submit any information about baggage claims experience that may indicate that the $1,000 is too high or too low.

Joint Tariffs With Air Taxi Operators

For those services that fall under the general air taxi exemptions (14 CFR Part 298) to the Federal Aviation Act, commuter airlines and other air taxis operators do not file tariffs, but establish baggage liability by direct contract with passengers. These airlines have set baggage liability limits below the level which the Board has prescribed for certificated carriers. The

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[1] For international travel, the United States is a party to the Warsaw Convention. Under this Convention, the minimum baggage liability ceiling is set at 250 French gold francs per kilogram of checked baggage. This limit applies to transportation on flights between those countries that have signed the Convention.

[2] *Baggage Liability Rules Case,* 45 C.A.B. 182.

[3] Order 77–2–9 (February 2, 1977), Order 77–4–94 (April 20, 1977), and Order 77–9–80 (September 20, 1977). The last petition for reconsideration of Order 77–9–80, was dismissed by Order 77–11–115 (November 22, 1977). By those orders, the Board raised the minimum carrier liability to $750, increased carrier responsibility for fragile and perishable items, required the carriers to accept liability for special and consequential damages, and established certain practices for the filing of passenger claims.

[4] *Baggage Liability Rules Case,* Supra, at 187.

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reasonableness of these contract terms, including any liability ceiling the carrier tries to impose, and the adequacy of their disclosure, is ordinarily subject to court review in case of dispute with passengers, and if we finalize this order, it will remain so. Some air taxis offering joint fares with certificated carriers, however, have included these lower liability limits (between $100 and $500 per passenger) in joint tariffs with certificated carriers filed with the Board. Because these limits are filed in tariffs, court review may be restricted. In some cases, it has been argued that these tariffs purport to place lower limits on the liability of certificated carriers if a bag is lost on a connecting trip with a commuter.

When a bag is lost on an interline service, it is often impossible for the passenger to establish which airline is responsible for the loss and, when a commuter is involved, which liability limit is in effect. This variance in liability limits is confusing, and is, in our tentative view, inconsistent with the reasonable expectations of most air travelers. The Board has therefore tentatively decided that the $1,000 minimum ceiling should apply to all domestic and overseas air transportation covered by tariffs filed with the Board, including any tariffs filed by air taxi operators.

We recognize that imposing this limit on commuter carriers would constitute a substantial change for them in many cases. Although commuters and other air taxis do not have to file tariffs for all of their operations, under current Board rules they must do so to the extent that they utilize joint fares with certificated carriers. We specifically invite comments on the impact of a $1,000 baggage liability limit on commuters' joint-fare operations.

Miscellaneous

In January 1983, airlines will no longer file tariffs with the Board, and we plan, in the near future, to initiate a proceeding to examine whether it is necessary or advisable for the Board to set up rules or guidelines for whatever contractual arrangements regarding baggage claims may replace tariffs. On the one hand, there have been dramatic changes in the industry since the Board established uniform liability limits in 1966. As the industry becomes more competitive, carriers may have strong incentives to handle baggage carefully and to settle claims fairly and quickly. Airlines' liability limits themselves may become a subject of competition. Thus, the increase in liability ceilings proposed in this order is designed to adjust the $750 to reflect inflation pending a comprehensive review of alternative ways of assigning risks.

This proceeding involves the reasonableness of industry-wide baggage liability limits based on legislative-type policy considerations, and we do not anticipate that disputed issues of fact will arise that require adversary proceedings for their resolution. While the liability limits at issue have been included in tariffs filed with the Board, this of itself does not make the overall lawfulness or unlawfulness of these practices a matter to be determined only in an adjudicatory proceeding. See *Rocky Mountain Motor Tariff Bureau v. ICC*, 582 F. 2d 865.69 (10th Cir. 1979); *Central and Southern Motor Freight Tariff Ass'n v. ICC*, 582 F. 2d 113, 118–121 (1st Cir. 1978); *Phillips Petroleum Co. v. FPC*, 475 F. 2d 842, 484–50 (10th Cir. 1973), *cert. denied*, 414 U.S. 1146 (1974). We are therefore asking interested parties to submit any data or opinions they believe we should consider in the form of written comments.

Parties who believe an adjudicatory hearing is necessary to explore the matters raised in this proceeding, however, may request one, explaining in detail the issues to be treated in such a hearing and the reasons why they cannot be fully explored through a legislative-type written record.

In Docket 38021, EDR 396 (45 FR 25817, April 16, 1980), the Board is considering a substantial revision to the Board-prescribed notices posted at airport ticket offices and included in airline tickets sold in the United States. The proposed notices include a statement explaining that airlines limit their liability for lost, damaged, or delayed baggage for $750. Since our action here could affect the content of this statement, we want to complete the proceeding before the carriers print and distribute any new notices that may be prescribed in Docket 38021. We therefore intend to handle this proceeding on an expedited basis.

Accordingly: 1. The Board directs all interested parties to show cause why we should not issue an order finalizing the tentative findings and conclusions that Rule 230 in CAB No. 352, and any other domestic and overseas tariffs that set forth baggage liability limits should be amended as necessary to reflect a liability ceiling of no less than $1,000 per passenger;

2. Any interested party objecting to the issuance of such an order shall, within 45 days after the service of this order, file with the Board a statement of objection which shall set forth in detail any facts, economic or statistical data, and other evidence relied upon in support of the objection. Answers to objections shall be filed with the Board within an additional 14 days;

3. Parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons why a hearing is needed, including a statement of the facts they intend to develop in a hearing and the reasons why such facts cannot otherwise be presented;

4. If timely and properly supported objections are filed, we will consider fully the matters or issues they raise before taking further action; and

5. If no objections are filed, all further procedural steps will be deemed to have been waived, and the matter will be submitted to the Board for final action.

This order shall be served on all U.S. certificated air carriers and air taxi operators, and shall be published in the **Federal Register**.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[3]
Secretary.

[FR Doc. 80-26431 Filed 8-27-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38511]

People Express Fitness Investigation; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 9, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 21, 1980.

Elias C. Rodriguez,
Administrative Law Judge.

[FR Doc. 80-26432 Filed 8-27-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80-8-138; Docket 38629]

United States-People's Republic of China Service Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Order 80-8-138, instituting the *U.S.-People's Republic of China Service Proceeding*, Docket 38629.

SUMMARY: The Board is instituting the *U.S.-People's Republic of China Service Proceeding* to determine which U.S. carrier should be authorized to provide foreign air transportation between the coterminal points New York, New York/San Francisco, California/Honolulu, Hawaii-Tokyo, Japan-Beijing/Shanghai, the People's Republic of China. This proceeding will be processed under non-oral procedures. The complete text of the order is available as noted below.

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[3] All Members concurred.

DATES: Applications, motions to consolidate, petitions to intervene, and petitions for reconsideration shall be filed by September 4, 1980, in Docket 38629.

All applicants should submit direct exhibits and other information by September 15, 1980.

Rebuttal exhibits should be filed by September 25, 1980.

ADDRESSES: All filings should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: William J. Wagner, Legal Division, Bureau of International Aviation, B–57, Civil Aeronautics Board; (202) 673–5035.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–8–138 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–8–138 to that address.

By the Civil Aeronautics Board: August 22, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–26430 Filed 8–27–80; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration North Pacific Fishery Management Council's and Pacific Fishery Management Council's Inter-Council Salmon Coordinating Subcommittees; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council and the Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), have established Inter-Council Salmon Coordinating Subcommittees, which will meet to discuss the coordination and implementation of salmon management objectives with respect to fishery management plan development.

DATE: The meeting, which is open to the public, will convene on Thursday, September 4, 1980, at approximately 2:00 p.m., and will adjourn at approximately 5:00 p.m.

ADDRESS: The meeting will take place at the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT:

North Pacific Fishery Management Council, 333 W. Fourth Avenue, Suite 32, P.O. Box 3136 DT, Anchorage, Alaska 96813.

or

Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201.

Dated: August 25, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–26470 Filed 8–27–80; 8:45 am]

BILLING CODE 3510–22–M

National Telecommunications and Information Administration

Grant Appeals Board of the Public Telecommunications Facilities Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Memorandum opinion and order.

SUMMARY: On March 14, 1980, Independent School District Number 89 of Oklahoma County, Oklahoma, filed an Amended Petition with the Grant Appeals Board of the Public Telecommunications Facilities Program (PTFP) seeking reconsideration of an action of the PTFP staff. Although rules of the PTFP are silent as to whether an applicant may amend a petition for reconsideration, the Board feels that the additional facts contained in the District's Amended Petition should be given some consideration. Since the PTFP staff has not had any oppportunity to make a ruling as to whether these facts present "good cause" for the granting of forgiveness, the Board remands the matter to the staff for a determination.

FOR FURTHER INFORMATION CONTACT: Robert Hunter, Office of Chief Counsel, NTIA, 1800 G Street, N.W., Washington, D.C. 20504. 202/377–1866.

Memorandum Opinion and Order

In the matter of petition for reconsideration of Independent School District Number 89 of Oklahoma County, Oklahoma.

By the Grant Appeals Board: Fishman, Chairman; Chisman; and Zimmerman. Adopted:

1. The Public Telecommunications Facilities Program's (PTFP) Grant Appeals Board (Board) of the National Telecommunications and Information Administration has before it for consideration the Petition for Reconsideration and the Amended Petition for Reconsideration of Independent School District Number 89 of Oklahoma County, Oklahoma (District). These petitions were filed on May 30, 1979, and March 14, 1980, respectively, and seek reconsideration of an action of the PTFP staff denying the District's Petition for Forgiveness, filed on May 30, 1979. In its initial petition, the District sought forgiveness of its obligation to reimburse the Federal government for a portion of the ten-year Federal interest [1] remaining in equipment purchased with a grant from the former Educational Broadcasting Facilities Program (EBFP) of the Department of Health, Education, and Welfare (HEW).[2] The EBFP awarded the grant to the District for the purchase of the equipment necessary to operate an educational television station to serve Oklahoma City, Oklahoma, and the period of Federal interest began to run on April 23, 1971. With these funds the District constructed and began the operation of educational television station, KOKH–TV. Prior to the expiration of the ten-year Federal interest, however, the District ceased operation of KOKH–TV, transferred its license and sold its facilties to a commercial broadcasting entity.[3] Thereafter, the District sought forgiveness [4] of its obligation to repay the Federal Government the remaining Federal interest in the equipment sold.[5] In support of its Petition for Forgiveness, the District cited its financial need brought on by:

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[1] *See* Pub. L. No. 87–447, 76 Stat. 65 (1962), as amended by Pub. L. No. 90–129, 81 Stat. 365 (1967), and further amended by Pub. L. No. 94–309, 90 Stat. 683 (1976), 47 U.S.C. § 392.

[2] On November 2, 1978, President Carter approved the Public Telecommunications Financing Act of 1978 (Act) that transferred administration of the EBFP to the Department of Commerce.

[3] On December 14, 1978, the District notified the Director of the PTFP of its intention to cease operation of KOKH–TV and to sell its facilities.

[4] Under Section 153.21 of the rules of the former EBFP, 45 C.F.R. § 153.21, the Commissioner of Education was authorized to forgive the obligation of a grantee to reimburse the Federal Government upon a showing of "good cause." *See also* 15 C.F.R. § 2301.32.

[5] The PTFP and the District have agreed that the Federal interest equals $119,122.

(1) *Lau* Regulation Requirements,[6]

(2) Education of the Handicapped Programs, [and]

(3) Expansion of athletic programs for female students.

2. The Director of the PTFP denied the District's Petition for Forgiveness and the District subsequently filed a Petition for Reconsideration in which it realleged the facts stated in the Petition for Forgiveness and alleged two additional circumstances to establish "good cause."[7] In the alternative, the District requested that the Board allow the District to grant the amount of the Federal interest to the Oklahoma Educational Television Authority (OETA). On February 20, 1980, the Board met to consider the District's Petition for Reconsideration. At that time we were aware that the District desired to make an additional proposal, but we had not received any formal documentation. Consequently, we took no final action at that meeting and set March 14, 1980, as the final date by which the District would be allowed to file any additional materials. On March 14, 1980, the District filed an Amended Petition for Reconsideration in which it suggested that forgiveness be granted so that it could use the funds to purchase the equipment necessary to originate programming for a public channel on a local cable television system.

3. We note that neither the additional circumstances alleged in its Petition for Reconsideration, the proposed transfer to OETA, nor the District's proposed operation of a public channel on a cable television system have ever been presented to the PTFP staff for an initial decision. Thus, the staff has never made a determination as to whether any of these additional grounds constitute "good cause" for the granting of forgiveness. Therefore, we are remanding the matter to the staff for a decision.

Dated: August 20, 1980.

Grant Appeals Board of the Public Telecommunications Facilities Program.

William Fishman,
Chairman.

Forrest Chisman,
Member.

Edward Zimmerman,
Member.

[FR Doc. 80-26311 Filed 8-27-80; 8:45 am]

BILLING CODE 3510-60-M

COUNCIL ON ENVIRONMENTAL QUALITY

National Environmental Policy Act (NEPA); Implementation Procedures, Appendix I and Appendix II

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Appendix I and Appendix II to the Council on Environmental Quality's regulations for implementing the procedureal provisions of the National Environmental Policy Act (NEPA).

SUMMARY: Appendix I contains federal agency NEPA contacts. Appendix II lists federal agencies with jurisdiction by law or special expertise on environmental quality issues. These appendices are intended to improve public participation and facilitate agency compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's NEPA Regulations.

SUPPLEMENTARY INFORMATION: Appendix I revises and replaces Appendix III to the Council's Guidelines on the preparation of Environmental Impact Statements (38 FR 20550, August 1, 1973) which were replaced by the Council's NEPA regulations on July 30, 1979. Appendix II revises and replaces Appendix II to the Guidelines. For further information on the content and organization of Appendix II refer to its introductory paragraphs. Appendix II was published in the **Federal Register** (44 FR 60353, October 19, 1979) for public review and comment. As a result of public and agency review and comment, a number of changes were made and incorporated into the current list.

FOR INFORMATION CONTACT: C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, (202) 395-5750.

Appendix I.—Federal Agency—National Environmental Policy Act (NEPA) Contacts

ACTION

Office of Policy and Planning, ACTION, Room M-606, 806 Connecticut Avenue NW., Washington, D.C. 20525, (202) 254-6860.

Advisory Council on Historic Preservation

Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, Suite 536, 1522 K Street NW., Washington, D.C. 20005; (202) 254-3974.

Department of Agriculture

Director, Office of Environmental Quality, Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20250, (202) 447-3965.

Department of Agriculture Component Agencies

Animal and Plant Health Inspection Service: Office of the Administrator, Animal and Plant Health Inspection Service; Room 2135 South Agriculture Bldg., Washington, D.C. 20250, (202) 447-2290.

Agriculture Stabilization and Conservation Service: Director, Impact Analysis and Public Participation Staff, Agriculture Stabilization and Conservation Service, Room 3757 South Agriculture Bldg., Washington, D.C. 20250, (202) 447-7865.

Farmers Home Administration: Director, Environmental and Technology Staff; Farmers Home Administration, Room 6309 South Agriculture Bldg., Washington, D.C. 20250, (202) 447-3394.

Food Safety and Quality Service: Food Safety and Quality Service; Room 611 Annex Bldg., Washington, D.C. 20250, (202) 447-7745.

Forest Service: Environmental Coordinator, Forest Service Room 3210 South Agriculture Bldg., P.O. Box 2417, Department of Agriculture, Washington, D.C. 20250, (202) 447-4708.

Rural Electrification Administration: Environmental and Energy Requirements Division; Rural Electrification Administration, Room 3860 South Agriculture Bldg., Department of Agriculture, Washington, D.C. 20250, (202) 447-5755.

Science and Education Administration: Science and Education Administration, Room 20, Bldg. 005-BARC-W, Beltsville, MD 20705, (301) 344-2198.

Soil Conservation Service: Environmental Services Division, Soil Conservation Service, Room 6105 South Agriculture Bldg., P.O. Box 2890, Washington, D.C. 20013, (202) 447-3839.

Appalachian Regional Council

Division of Energy, Environment and Natural Resources, Appalachian Regional Council,1666 Connecticut Avenue NW., Washington, D.C. 20235, (202) 673-7861.

Arms Control Disarmament Agency

Office of the General Counsel, Arms Control Disarmament Agency, Room 5534, 320 21st Street NW., Washington, D.C. 20451, (202) 632-0760.

Central Intelligence Agency

Director of Logistics, Central Intelligence Agency, Room 2CO2 Page Bldg., 803 Follin Lane, Vienna, VA 22180, (703) 281-8200.

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[6] Although the District's petition did not give the citation for the *Lau* decision or explain its holding, we believe that the decision referred to is *Lau v. Nichols*, 414 U.S. 563 (1974). There the Supreme Court held that the failure of a school district to establish a program to rectify the language problem of non-English speaking students violated the equal protection clause of the Fourteenth Amendment. The District estimated that the "costs for the implementation of the *Lau* decision alone for the 1979-80 school year is $410,000."

[7] Those additional circumstances are:

(1) The District's "urgent need to expand its video tape capabilities of its television media system for disseminating information," and

(2) The District's "additional programming needs."

Civil Aeronautics Board

Office of the General Counsel, Civil Aeronautics Board, Room 909 Universal Bldg., 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5858.

Department of Commerce

Office of Environmental Affairs, Department of Commerce, Room 3425 Commerce Bldg., Washington, D.C. 20230, (202) 377–4335.

Department of Commerce Component Agencies

Economic Development Administration: Special Assistant for the Environment, Economic Development Administration, Room 7217 Main Commerce Bldg., Washington, D.C. 20230, (202) 377–4208.

Maritime Administration: Division of Environmental Activities, Maritime Administration, Department of Commerce, Washington, D.C. 20230, (202) 377–5136.

National Oceanic and Atmospheric Administration: Office of Ecology and Conservation, National Oceanic and Atmospheric Administration, Department of Commerce, Room 5811 Commerce Bldg., Washington, D.C. 20230, (202) 377–5181.

Community Service Administration

Office of Public Affairs, Community Services Administration, Room 540, 1200 19th Street NW., Washington, D.C. 20506, (202) 254–5150.

Consumer Product Safety Commission

Office of the Executive Director, Consumer Product Safety Commission, Room 528, 1111 18th Street NW., Washington, D.C. 20207, (202) 634–7770.

Department of Defense

Office of Assistant Secretary of Defense (Energy, Environment, and Safety), Department of the Defense, Room 3D825 The Pentagon, Washington, D.C. 20301, (202) 695–7820.

Department of Defense Component Agencies

Department of the Air Force: Deputy for Environment and Safety, Office of the Secretary, Department of the Air Force, Room 4C885 The Pentagon, Washington, D.C. 20301, (202) 697–9297.

Department of the Army: Army Environmental Office, H2DA(DAEN–2CE); Department of the Army, Room 1E676 The Pentagon, Washington, D.C. 20301, (202) 694–3434.

Corps of Engineers: Executive Director of Civil Works, Office of the Chief of Engineers, Corps of Engineers, Washington, D.C. 20314, (202) 272–0101.

Defense Logistics Agency: Defense Logistics Agency, Headquarters, Cameron Station, Alexandria, VA 22314, (703) 274–6967.

Department of the Navy: Environmental Protection Office, Office of the Chief of Naval Operations, Department of the Navy, Room BC 766, The Pentagon, Washington, D.C. 20350, (202) 695–3639/89.

Department of Energy

NEPA Affairs Division, Department of Energy, Room 4G064, 1000 Independence Avenue SW., Washington, D.C. 20585, (202 252–4600.

Department of Energy Component Agencies

Federal Energy Regulatory Commission: Advisor on Environmental Affairs, Federal Energy Regulatory Commission, Room 3347, 825 North Capitol Street NE., Washington, D.C. 20460, (202) 357–8228.

Environmental Protection Agency

Director, Office of Environmental Review, Environmental Protection Agency, Room 2119 Mall, 401 M Street SW., Washington, D.C. 20460, (202) 755–0777.

Export-Import Bank of the United States

Office of General Counsel, Export-Import Bank of the United States, Room 947 Lafayette Bldg., 811 Vermont Avenue NW., Washington, D.C. 20571, (202) 566–8334.

Farm Credit Administration

Governor's Office, Farm Credit Administration, 490 L'Enfant Plaza East SW., Washington, D.C. 20587 (202) 755–2130.

Federal Communications Commission

Office of General Counsel, Federal Communications Commission, Room 616, 1919 M Street NW., Washington, D.C. 20554, (202) 632–6990.

Federal Deposit Insurance Corporation

Office of the Comptroller, Federal Deposit Insurance Corporation, Room 4006A, 550 Seventeenth Street NW., Washington, D.C. 20429, (202) 389–4481.

Federal Home Loan Bank Board

Office of General Counsel, Federal Home Loan Bank Board, Third Floor, East Wing, 1700 G Street NW., Washington, D.C. 20552 (202) 377–6404.

Federal Emergency Management Agency

Office of General Counsel, Federal Emergency Management Agency, 1725 I Street NW., Washington, D.C. 20472 (202) 634–4100.

Federal Reserve System

Secretary of the Board of Governors of the Federal Reserve, Federal Reserve System, 20th and Constitution Avenue NW., Washington, D.C. 20551, (202) 452–3252.

Federal Savings and Loan Insurance Corporation

Federal Savings and Loan Insurance Corp., 1700 G Street NW., Washington, D.C. 20552, (202) 377–6000.

Federal Trade Commission

Office of General Counsel, Federal Trade Commission, Room 588, Pennsylvania Avenue at 6th St. NW., Washington, D.C. 20580, (202) 523–1928.

General Services Administration

Office of Space Management, General Services Administration, Room 2321, 18th and F Streets NW., Washington, D.C. 20405, (202) 566–1416.

Department of Health and Human Services

Office of Environmental Affairs, Office of the Assistant Secretary for Administration, Management and Budget, Department of Health, and Human Services, Room 527F Humphrey Bldg., 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472–9740.

Department of Health and Human Services Component Agencies

Food and Drug Administration: Environmental Impact Staff HFV–2/HFV–9, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4501.

Department of Housing and Urban Development

Office of Environmental Quality, Department of Housing and Urban Development, Room 7258 HUD Building, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6308.

Department of the Interior

Office of Environmental Project Review, Department of the Interior, Room 4526 Interior Bldg., C Street, between 18th and 19th NW., Washington, D.C. 20240, (202) 343–3891.

Department of the Interior Component Agencies

Bureau of Land Management: Office of Planning, Inventory and Environmental Coordination, Bureau of Land Management, Department of the Interior, 18th and C Sts. NW., Washington, D.C. 20240, (202) 343–7417.

Bureau of Indian Affairs: Bureau of Indian Affairs, Room 4525 Main Interior Bldg., C Street, between 18th and 19th NW., Washington, D.C. 20240, (202) 343–9468.

Bureau of Mines: Special Assistant for Environmental Assessment, Bureau of Mines, Department of the Interior, Room 1005 Columbia Plaza Bldg., 2401 E Street NW., Washington, D.C. 20506, (202) 634–1313.

Water and Power Resources Service: Office of Environmental Affairs, Water and Power Resource Service, Department of the Interior, Room 7622 Interior Bldg., C Street, between 18th and 19th NW., Washington, D.C. 20240, (202) 343–5287.

Geological Survey: Environmental Impact Analysis Program, Geological Survey, Department of the Interior, 760 National Center, Reston, VA 22092, (703) 860–7455, 7456, or 7457.

Fish and Wildlife Service: Office of Environmental Coordination, Fish and Wildlife Service, Department of the Interior, 18th and C Streets. NW., Washington, D.C. 20240, (202) 343–5685.

Heritage Conservation and Recreation Service: Division of Environmental Compliance and Review, Heritage Conservation and Recreation Service, Room 303 Pension Bldg., 440 G Street NW., Washington, D.C. 20243, (202) 343–5711.

National Park Service: Environmental Compliance Office, National Park Service, Department of the Interior,

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Room 1210 Main Interior Bldg., C Street, between 18th and 19th NW., Washington, D.C. 20240, (202) 343–2163.

Office of Surface Mining Control and Reclamation: Branch of Environmental Analysis, Office of Surface Mining Control and Reclamation, Department of the Interior, Room 130 South Bldg., 1951 Constitution Ave. NW., Washington, D.C. 20240, (202) 343–5287.

International Boundary and Water Commission, U.S. Section

International Boundary and Water Commission, (U.S. Section), IBW Bldg., 4110 Rio Bravo, El Paso, Texas 79902, (FTS) 572–7393.

International Communication Agency

Office of General Counsel, International Communication Agency, Room 917, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547, (202) 724–9054.

Interstate Commerce Commission

Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th and Constitution Avenue NW., Washington, D.C. 20423, (202) 275–7658.

Department of Justice

General Litigation Section, Land and Natural Resources Division, Department of Justice, Room 2127 Justice Bldg., 9th and Pennsylvania Ave. NW., Washington, D.C. 20530, (202) 633–2704.

Department of Justice Component Agencies

Office of Justice, Assistance, Research and Statistics (formerly LEAA): Environmental Coordinator, Room 1154, 633 Indiana Avenue NW., Washington, D.C. 20531, (202) 724–7659.

Bureau of Prisons: Office of Facilities Development and Operations, Bureau of Prisons, Department of Justice, 320 1st St. NW., Washington, D.C. 20534, (202) 724–3234.

Drug Enforcement Administration: Office of Science and Technology, Drug Enforcement Administration, Department of Justice, 1405 I St. NW., Washington, D.C. 20537, (202) 633–1211.

Immigration and Naturalization Service: Facilities and Engineering Branch, Immigration and Naturalization Service, Department of Justice, 425 I St. NW., Washington, D.C. 20536.

National Institute of Justice: Environmental Coordinator, National Institute of Justice, Department of Justice, Washington, D.C. 20530.

Department of Labor

Office of Health and Disability, Department of Labor, Room S–2121, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–6094.

Department of Labor Component Agencies

Occupational Safety and Health Administration: Occupational Safety and Health Administration, Room N–3651 Labor Bldg., 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–7056.

Mine Safety and Health Administration: Office of Standards, Mine Safety and Health Administration, 4015 Wilson Blvd., Arlington, VA 22032, (703) 235–1910.

Marine Mammal Commission

General Counsel, Marine Mammal Commission, Room 307, 1625 Eye Street NW., Washington, D.C. 20006, (202) 653–6237.

National Academy of Sciences

National Academy of Sciences, Room JH 804, 2101 Constitution Avenue NW., Washington, D.C. 20418, (202) 389–6864.

National Academy of Engineering

National Academy of Engineering, Room JH 804, 2101 Constitution Avenue NW., Washington, D.C. 20418, (202) 389–6864.

National Aeronautics and Space Administration

Management Support Office (External Relations), National Aeronautics and Space Administration, Code LB–4, Room 6133, 400 Maryland Avenue, SW., Washington, D.C. 20546, (202) 755–8383.

National Capital Planning Commission

Environment/Energy Branch, National Capital Planning Commission, Room 1040, 1325 G Street NW., Washington, D.C. 20576, (202) 724–0180.

National Credit Union Administration

Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street NW., Washington, D.C. 20456, (202) 357–1030.

National Science Foundation

Assistant Director, Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, (202) 632–7300.

Nuclear Regulatory Commission

Division of Site Safety and Environmental Analysis, Nuclear Regulatory Commission, Room P518A, Phillips Bldg., 7920 Norfolk Avenue, Bethesda, MD 20014, (301) 492–8446.

Overseas Private Investment Corporation

General Counsel's Office, Overseas Private Investment Corporation, Room 725, 1129 Twentieth Street NW., Washington, D.C. 20527, (202) 632–1796.

Pennsylvania Avenue Development Corporation

Office of Long Range Planning, Pennsylvania Avenue Development Corporation, Suite 1148, 425 13th Street NW., Washington, D.C. 20004, (202) 566–1218.

United States Postal Service

Director, Office of Program Planning, United States Postal Service, Room 8915, 475 L'Enfant Plaza SW., Washington, D.C. 20260, (202) 245–4304.

Securities and Exchange Commission

Office of General Counsel, Securities and Exchange Commission, Room 2327 L, 500 North Capitol Street, Washington, D.C. 20549, (202) 523–2350.

Small Business Administration

Office of Financing, Small Business Administration, Room 800, 1441 L Street NW., Washington, D.C. 20416, (202) 653–6696.

Smithsonian Institution

General Counsel, Smithsonian Institution, 1000 Jefferson Drive SW., Washington, D.C. 20560, (202) 628–4422.

Department of State

Office of Environmental Affairs, Department of State, Room 7820 State Department Bldg., 21st and C Streets NW., Washington, D.C. 20520, (202) 632–9266.

Department of State Component Agencies

Agency for International Development: Agency for International Development, Room 3245, State Department Bldg., 2201 C Street NW., Washington, D.C. 20523, (202) 632–1036.

Tennessee Valley Authority

Environmental Quality Staff, Tennessee Valley Authority, Forrestry Building, Norris, Tennessee 37828, (615) 494–9800/(FTS) 856–6450.

Department of Transportation

Office of Environment and Safety, Department of Transportation, Room 9422 Nassif Bldg., 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–4357.

Department of Transportation Component Agencies

United States Coast Guard: Office of Marine Environment and Systems, G–W5/73, U.S. Coast Guard Headquarters, 2100 2d St. SW., Washington, D.C. 20593, (202) 426–2010.

Federal Aviation Administration: Office of Environment and Energy, Federal Aviation Administration, Room 939 FOB–10A, 800 Independence Avenue SW., Washington, D.C. 20591, (202) 426–8406.

Federal Highway Administration: Office of Environmental Policy, Federal Highway Administration, Room 322 Nassif Bldg., 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–0106.

Federal Railroad Administration: Office of Policy and Program Development, Federal Railroad Administration, Room 5100 Nassif Bldg., 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–9684.

National Highway Traffic Safety Administration: Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–2992.

St. Lawrence Seaway Development Corp.: Office of Comprehensive Planning, 800 Independence Ave. SW., Washington, D.C. 20591, (202) 426–9755.

Urban Mass Transit Administration: Office of Program Analysis, Urban Mass Transit Admininstration, Room 9305 Nassif Bldg., 400 Seventh Street, SW., Washington, D.C. 20590, (202) 472–2435.

Department of the Treasury

Department of the Treasury, Room 706
Treasury Bldg., 1331 G Street NW.,
Washington, D.C. 20220, (202) 376-0289.

Veterans Administration

Environmental Affairs Coordinator, Veterans
Administration, Code 004A, 810 Vermont
Avenue NW., Washington, D.C. 20420, (202)
389-2526/2529.

Water Resources Council

Policy Analysis Division, Water Resources
Council, Suite 800, 2120 L Street NW.,
Washington, D.C. 20037, (202) 254-6453.

Water Resources Council Component Commissions

Great Lakes Basin Commission: Office of
the Chairman, Great Lakes Basin
Commission, Post Office Box 999, 2475
Plymouth Road, Ann Arbor, Michigan
48106, (313) 668-2333.

Missouri River Basin Commission: Office
of the Chairman, Missouri River Basin
Commission, 10050 Regency Circle, Suite
403, Omaha, Nebraska 68114, (406) 449-
2876.

New England River Basin Commission:
Office of the Chairman, New England
River Basins Commission, 53 State St.,
First Floor, Boston, Mass. 02109, (617)
223-6244.

Ohio River Basin Commission: Office of
the Chairman, Ohio River Basin
Commission, 36 East 4th St., Suite 208-
220, Cincinnati, Ohio 45202, (513) 684-
3831.

*Pacific Northwest River Basins
Commission:* Office of the Chairman,
Pacific Northwest River Basins
Commission, P.O. Box 908, One
Columbia River, Vancouver, Washington
98660, (206) 694-2581.

Susquehanna River Basin Commission:
Office of the Commissioner,
Susquehanna River Basin Commission,
1100 L St. NW., Room 5113, Washington,
D.C. 20240, (202) 343-4091.

*Upper Mississippi River Basin
Commission:* Office of the Chairman,
Upper Mississippi River Basin
Commission, Federal Office Bldg., Room
510, Fort Snelling, Twin Cities,
Minnesota 55111, (612) 725-4690.

Appendix II—Federal Agencies and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issses[1]

The following list is a compilation of all federal agencies with Jurisdiction by law or special expertise on environmental quality issues. Agencies with "jurisdiction by law" are defined in Section 1508.15 of the Council's NEPA regulations as federal agencies with authority to approve, deny or finance all or part of a proposal. Federal regulatory approval requirements (including permits and licenses) administered by agencies with jurisdiction by law are listed under the appropriate agency and marked by an asterisk (*).[2]

"Special expertise" is defined in Section 1508.26 of the NEPA regulations as statutory responsibility, agency mission or related program experience. The subject of "Special expertise" is listed in parentheses opposite the appropriate agency. These designations are intended to provide examples rather than to define the limits of an agency's expertise.

The Council on Environmental Quality has prepared this list to supplement its National Environmental Policy Act (NEPA) regulation which became effective on July 30, 1979. Both the public and private sectors and governmental agencies may use this list as a reference guide to facilitate their participation in and compliance with the NEPA process.[3] The list will be helpful in the following ways.

First, the Council on Environmental Quality's NEPA regulations require the federal agency having primary responsibility for preparing an environmental impact statement (EIS) under NEPA (the lead agency to determine whether any other federal agencies have jurisdiction by law or special expertise with respect to any environmental effects involved in a proposal for legislation or other major federal action significantly affecting the human environment. 40 CFR 1501.5(a), 1501.6(a), 1501.7(a). The federal lead agency must, at the earliest possible time in the NEPA process, request the participation of federal cooperating agencies with jurisdiction by law or special expertise concerning the proposal. 40 CFR 1501.6(a), 1501.7(a). The lead agency and those involved in the "scoping process" (See 40 CFR 1501.7) may use this list to help determine which other federal agencies should be requested to participate as cooperating agencies in the NEPA process. The list will also be helpful to the lead agency in determining which agencies should receive copies of the draft environmental impact statement for review and comment.

Second, this compilation will prove useful to those whose activities or proposed actions require federal regulatory approvals by facilitating the identification of those federal agencies with the authority to issue applicable permits, licenses or other federal regulatory approvals.

Third, a major goal of NEPA and the CEQ regulations is to encourage public participation in agency decisionmaking. 40 CFR 1500.2(d). Individuals, citizen groups and state and local governments who are interested in an environmental issue may use the list to help identify those agencies that have jurisdiction by law over or special expertise in the subject matter of a proposal. Those interested may then contact the potentially involved agencies to obtain information on the issues and to participate in the NEPA process.

The list is organized into four broad categories: polution control, energy, land use, and natural resource management. Because some activities may fall into more than one of these categories, users of the list should consult all pertinent entries.

Finally, since federal legal authorities, programs and agency responsibilities change periodically, the Council will periodically update this list. The public and agencies are strongly encouraged to send comments noting changes or corrections that should be made to the list. Comments should be addressed to General Counsel (ATTN: List of Agencies With Jurisdiction By Law or Special Expertise) Council on Environmental Quality, 722 Jackson Place N.W., Washington, D.C. 20006.

Dated: August 23, 1980.

C. Foster Knight,

Acting General Counsel.

Appendix II—Federal Agencies and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

Index

I. *Pollution Control*
A. Air Pollution
B. Water Pollution
(1) Water Quality
(2) Pollution of Marine Resources
C. Solid and Liquid Waste
D. Noise
E. Radiation
F. Hazardous Substances
(1) Toxic Materials
(2) Food Additives and Contamination of Food
(3) Pesticides
II. *Energy*
A. Electric Power
B. Petroleum

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[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Susquehanna, Upper Mississippi) and similar federal-state agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions. In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted and should be sent a copy of any draft and final impact statement that covers such action.

[2] Because laws are amended or new laws enacted, these responsibilities may change and new ones may be added. The definitive designation of an agency with jurisdiction by law depends on the law and not on this index.

[3] Section 1507.2 of the regulations requires agencies to have a person responsible for overall agency NEPA compliance and most agencies have an office that exercises NEPA oversight. A list of federal agency NEPA offices with addresses and telephone numbers is attached.

C. Natural Gas
D. Coal and Minerals
III. *Land Use*
A. Land Use Changes, Planning, and Regulation of Land Development
B. Public Land Management
C. Coastal Areas
D. Environmentally Critical Areas
E. Community Development
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IV. *Natural Resource Management*
A. Weather Modification
B. Waterway Regulation and Stream Modification
C. Soil and Plant Conservation and Hydrology
D. Fish and Wildlife
E. Renewable Resources
F. Energy and Natural Resources Conservation

I. POLLUTION CONTROL

A. Air Pollution

Department of Agriculture

- Forest Service (effects of air pollution on vegetation and visibility and fire smoke management on National Forest Systems lands).

*Clean Air Act, 42 U.S.C. 7470, *et seq.* as amended.

- Rural Electrification Administration (electric power plant emissions).
- Soil Conservation Service (effects of air pollution on vegetation; wind erosion).

Department of Commerce

- National Bureau of Standards (measurements, standards, data and methods).
- National Oceanic and Atmospheric Administration (meteorological and climatological research and monitoring; urban pollution; incorporation of national standards in Coastal Zone Management Plans for management and protection of coastal and marine resources).

Department of Defense

- Department of the Air Force (pollution from military aircraft).
- Department of the Army (exhaust from rotary wing military aircraft).

Department of Energy

- Office of Environment (energy policy, programs, and projects; emissions from energy sources):
- Economic Regulatory Administration.

* Exemptions from, prohibitions against burning of natural gas and oil in power plants and major fuel-burning installations, Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301; Department of Energy Organization Act, 42 U.S.C. 7101.

Department of Health and Human Services

- Public Health Service:

Center for Disease Control (effects of air pollutions on health).

National Institutes of Health (effects of air pollution on health).

Department of Housing and Urban Development

(Housing, community planning and developing.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands, effect of air pollution and smoke on vegetation and visibility).
- Bureau of Mines (air pollution for mining and minerals processing).
- Fish and Wildlife Service (effects of air pollution on fish and wildlife resources).
- Geological Survey (emissions from outer-continental shelf lease operations).
- Heritage Conservation and Recreation Service (effects on historic or recreational areas and facilities).
- National Park Service (visibility and other effects on National Park System areas and facilities).
- Office of Surface Mining Reclamation and Enforcement (surface mining and reclamation operations).

Department of Labor

- Mining Safety and Health Administration (airborne hazards in workplace (mines)).
- Occupational Safety and Health Administration (airborne hazards in workplace).

Department of Transportation

- Coast Guard (cargo tank venting and vapor recovery systems).
- Federal Aviation Administration (aircraft emissions).
- Federal Highway Administration (highway related air quality impacts; vehicle emissions).
- Federal Railroad Administration (locomotive emissions).
- Urban Mass Transportation Administration (urban transportation systems).

Environmental Protection Agency

(Effect of air pollution on public health and welfare; air quality criteria and standards; air pollution control and abatement technologies; transportation emissions and air quality impacts; stationary source emissions; monitoring technology.)

*Prevention of significant air quality deterioration. 42 U.S.C. 7470, *et seq.*

*Review of emission sources for conformance with new source performance standards. 42 U.S.C. 7411.

*Application of primary non-ferrous smelter order. 42 U.S.C. 7419.

*Assuring that federal projects conform with State Implementation Plans. 42 U.S.C. 7616.

*Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants including radioactive materials. 42 U.S.C. 7412(c).

Interstate Commerce Commission

(Air pollution from trucks and railroads.)

National Aeronautics and Space Administration

(Advanced technology for remote sensing of air quality parameters and for reduction of aircraft engine emissions.)

Nuclear Regulatory Commission

(Radioactive substances.)

Tennessee Valley Authority

(Air quality in the Tennessee Valley region, measurement and control of air pollution from fossil-fueled steamplants and effects on vegetation.)

B. Water Pollution

(1) Water Quality

Department of Agriculture

- Agricultural Stabilization and Conservation Service (agricultural lands).
- Forest Service.
- Soil Conservation Service (watershed protection).

Department of Commerce

- Maritime Administration (marine pollution from ships).
- National Bureau of Standards (Measurements, standards, data, and methods).
- National Oceanic and Atmospheric Administration (management and protection of coastal and marine resources, marine pollution research and monitoring).

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403 and 419 (33 CFR Part 322).

*Permits for river and harbor improvement projects. 33 U.S.C. 541.

*Authority to enjoin dumping of, or force removal of, refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

*Permits for private projects to improve navigable waters. 33 U.S.C. 565.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 323).

*Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413 (33 CFR Part 324).

- Department of Navy (ship pollution control).

Department of Energy

- Office of Environment (energy policy, programs and projects).

Department of Health and Human Services

- Public Health Service (effects of pollution on health).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands, coastal zone management, outer continental shelf).

*Permits (easements/leases) for water projects. 43 U.S.C. 1732(b), 1761(a)(1). (43 CFR Part 2800).

- Bureau of Mines (mining activities).
- Fish and Wildlife Service (effects on fish and wildlife resources).
- Geological Survey (hydrology).
- Heritage Conservation and Recreation Service (effects on historic or recreational areas and facilities).
- National Park Service (affecting National Park System areas and facilities).
- Office of Surface Mining, Reclamation and Enforcement (hydrologic balance in surface mining and reclamation operations).
- Office of Water Research and Technology (research in water quality and quantity, other hydrologic problems, desalinization).
- Water and Power Resources Service (public works, salinity control, sedimentation, irrigation).

Department of Transportation

- Coast Guard (oil spills, ship sanitation):

*Tanker construction, equipment, manning, operation. 46 U.S.C. 391a.

*Oil and hazardous substances discharge prevention. 33 U.S.C. 1321.

*Pollution prevention (33 CFR Parts 151, 154–6).

*Vessel navigation, waterfront facility regulations. 33 U.S.C. 1221 (50 U.S.C. 191).

*Certification of marine sanitation devices. 33 U.S.C. 1322 (33 CFR Part 159).

Enviromental Protection Agency

(Wastewater treatment works; effluent limitations; oil and hazardous substance discharges; protection of drinking water supplies; thermal discharges; monitoring technology.)

*Permits for discharge of specific pollutants from aquaculture projects. 33 U.S.C. 1328.

*Permits for disposal of sewage sludge. 33 U.S.C. 1345.

*Oil spill prevention, containment and countermeasure plans (prepared by facility owner/operator). 33 U.S.C. 1321, 1361 (40 CFR 112.7).

*Permits for treatment, storage or disposal of hazardous wastes. 42 U.S.C. 6925. (40 CFR 122, 123, 124).

*Review of permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344(c).

*Assistance for construction of publicly owned wastewater treatement works. 33 U.S.C. 1281.

*Underground injection control permits. 42 U.S.C. 300F, *et seq.*

*National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342.

Federal Emergency Management Agency

(Floodplain management.)

Federal Maritime Commission

*Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (46 CFR Part 542); 42 U.S.C. 1643 (46 CFR Part 543); 43 U.S.C. 1815 (46 CFR Part 544).

International Boundary and Water Commission, U.S. Section

(U.S.-Mexico border sanitation problems.)

National Aeronautics and Space Administration

(Advanced technology for remote sensing of water quality.)

Nuclear Regulatory Commission

(Radioactive substances.)

Tennessee Valley Authority

(Water quality in the Tennessee Valley, effects of chemical and thermal effluents.)

Water Resources Council

(Principles and standards for water plans.)

- River Basin Commissions (as geographically appropriate).

(2) Pollution of Marine Resources.

Department of Commerce

- Maritime Administration (port, coastal and ocean pollution):

*Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101 *et seq.*

*Port operations, polluting discharges, and dumping. 46 U.S.C. 867.

- National Bureau of Standards (measurements, data, standards, and methods).
- National Oceanic and Atmospheric Administration (coastal zone management; ocean pollution; ocean mining).

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403 and 419.

*Permits for private projects to improve navigable waters. 33 U.S.C. 565.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413.

*Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

*Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 133(f).

- Department of the Navy (oceanography; pollution from ships.)

Department of Energy

(Energy programs.)

Department of Health and Human Services

- Public Health Service (effects on health).
- Food and Drug Administration (shellfish sanitation; contamination of fish and shellfish with toxics).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (coastal zone management, outer continental shelf).

*Coral harvesting (outer continental shelf). 43 U.S.C. 1334 (43 CFR Part 6224).

*Mineral mining on the outer continental shelf. 43 U.S.C. 1331–1343.

- Bureau of Mines (ocean mining).
- Fish and Wildlife Service (effects on sport fisheries, estuarine areas, endangered species, outer continental shelf).
- Geological Survey:

*Permits for geological and geophysical exploration on outer continental shelf. 43 U.S.C. 1340 (30 CFR Part 251).

*Permits for exploration and development activities on federal oil and gas leases on the outer continental shelf. 43 U.S.C. 1331 *et seq.* (30 CFR Part 250).

- Heritage Conservation and Recreation Service (effects on historic and recreational values of marine resoures).
- National Park Service (affecting National Parks System areas, especially National Seashores).
- Office of Water Research and Technology (research into saline and otherwise contaminated water).
- Water and Power Resources Service (water development projects in coastal areas, estuarine effects on water developments).

Department of State

(International marine resource issues.)

Department of Transportation

- Coast Guard (ocean dumping enforcement, and marine resource protection).

Environmental Protection Agency

(Marine discharges, oil spills, ocean dumping, and environmental effects.)

*Permits for ocean discharges. 33 U.S.C. 1343.

*Permits for discharge of specific pollutants from aquaculture projects. 33 U.S.C. 1328.

*Permit for disposal of sewage sludge. 33 U.S.C. 1345.

*Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413.

*Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412, 1414.

*Review of permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344(c).

National Aeronautics and Space Administration

(Advance technology for remote sensing of water quality.)

Nuclear Regulatory Commission

*(Radioactive substances.)

Water Resources Council

(Principles and standards for water plans.)

- River Basin Commissions (as geographically appropriate).

C. Solid Waste

Department of Agriculture

- Agricultural Stabilization and Conservation Service (solid waste, especially sludge disposal on cropland).
- Forest Service (national forests and grasslands site permits).
- Rural Electrification Administration (solid waste disposal from electric power plants).
- Soil Conservation Service (watershed protection).

Department of Commerce

- Maritime Administration (marine pollution from ships).
- National Bureau of Standards (measurements, standards, data, and methods).
- National Oceanic and Atmospheric Administration (ocean pollution research and monitoring; ocean dumping; management and protection of coastal and marine resources).

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403 and 419.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413.

Department of Health and Human Services

- Public Health Service:

Center for Disease Control (effects on health). Food and Drug Administration (contamination of food resulting from disposal of municipal and industrial waste treatment sludge).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands).

*Sale or lease of land for solid waste disposal sites. 43 U.S.C. 869 *et seq.* (for sale: 43 CFR Part 2740, for lease: 43 CFR Part 2912).

- Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling).
- Fish and Wildlife Service (National Wildlife Refuges).
- Geological Survey (geologic and hydrologic effects).
- National Park Service (National Parks System areas).
- Office of Surface Mining Reclamation and Enforcement (surface mining and reclamation operation wastes).

Department of Labor

- Mine Safety and Health Administration (mine waste control).

Department of Transportation

- Coast Guard (ship sanitation).
- Research and Special Programs Administration Materials Transportation Bureau (transport of hazardous cargo).

Environmental Protection Agency

(Solid wastes; hazardous waste; resource conservation and recovery; environmental effects.)

*Permits for disposal of sewage sludge. 33 U.S.C. 1345.

*The Solid Waste Disposal Act, 42 U.S.C. 3251, *et seq.*, as amended by the Resource Conservation and Recovery Act. 42 U.S.C. 6901 *et seq.* (40 CFR Parts 122, 123, 124, 350, 257).

*Criteria for classification of solid waste disposal facilities and practices. 40 U.S.C. 6907(a)(3), 6944(a), 42 U.S.C. 345 (40 CFR Part 257).

*Identification and listing of hazardous waste. 42 U.S.C. 6921 (40 CFR Part 250).

*Standards applicable to generators and transporters of hazardous waste, and for owners and operators of hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6922, 6923, 6924 (40 CFR Part 250).

*Permits for hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6925 (40 CFR Parts 122, 123, 124).

*Preliminary notification of hazardous waste activities. 42 U.S.C. 6930 (40 CFR Part 250).

*Use of restricted toxic substances—exemptions from rules and regulations. 15 U.S.C. 2601–2629.

*Review of permits for discharges of dredged or fill material into waters of the United States. 33 U.S.C. 1344.

*Assistance for construction of solid disposal facilities. 42 U.S.C. 6981 *et seq.*

Federal Emergency Management Agency

(Disaster relief assistance, hazardous materials emergency management.)

General Services Administration

(Public building.)

Nuclear Regulatory Commission

(Radioactive waste.)

*Licensing of radioactive wastes. 42 U.S.C. 2071–2114, 5842 (10 CFR Parts 20, 40).

Tennessee Valley Authority

(Coal combustion products.)

Water Resources Council

- River Basin Commissions (as geographically appropriate).

D. Noise

Department of Agriculture

- Forest Service (noise effects on National Forests and Grasslands).

Department of Defense

- Department of the Air Force (military aircraft noise).

- Department of the Army (rotary wing and rotary wing engine noise generation of military aircraft).

Department of Health, and Human Services

(Effects on health.)

Department of Housing and Urban Development

- Office of Community Planning and Development (environmental criteria and standards for housing and land use.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands, effects of noise, noise abatement and control).

*Lease of public lands for airports. 42 U.S.C. 211–214 (43 CFR Part 2640).

*Off-road vehicle noise. (E.O. 11644).

*Standards for operation of off-road vehicles on BLM lands. (43 CFR Part 8340).

*Authority for closure of BLM lands to off-road vehicluar uses. (43 CFR Part 8364).

*Permits for off-road vehicular use special events, i.e., tours and competitions. 43 CFR Part 8372.

- Bureau of Mines (mine noise, blasting and vibration).
- Fish and Wildlife Service (effects on fish and wildlife resources).

*Permits for off-road vehicle use on National Wildlife Refuge System areas.

- Heritage Conservation and Recreation Service (effects on historic and recreational resources—include off-road vehicluar noise).
- National Park Service (National Parks System areas) (50 CFR Part 2634).

*Permits for offroad vehicle use (36 CFR Part 7).

- Office of Surface Mining Reclamation and Enforcement (surface mining and reclamation use of explosives).
- Water and Power Resources Service.

*Permits for organized off-road vehicle events. (43 CFR 420.24).

Department of Labor

- Mining Safety and Health Administration (noise in the workplace (mines)).
- Occupational Safety and Health Administration (noise in the workplace).

Department of Transportation

- Federal Aviation Administration (aircraft noise and land use compatability).

*Airport construction, alteration, etc. 49 U.S.C. 1350, 1354, 1355 (14 CFR Part 157).

- Federal Highway Administration (traffic and motor carrier noise).
- Federal Railroad Administration (railroad noise).
- Urban Mass Transportation Administration (transit noise).

Environmental Protection Agency

(Noise exposure standards, noise abatement and control techniques, noise impact assessment techniques, environmental effects).

*Noise Control Act of 1972. 42 U.S.C. 4901–4918.

Interstaste Commerce Commission

(Noise effects from trucks and railroads.)

National Aeronautics and Space Administration

(Advanced technology for reduction of aircraft noise.)

E. Radiation

Department of Commerce

- National Bureau of Standards (measurements, standards, methods and data).

Department of Energy

- Office of Environment (nuclear energy; waste disposal; radiation effects).

Department of Health, and Human Services

- Public Health Service:

Food and Drug Administration (health and safety; contamination of food with radioactive materials).

National Institutes of Health (health).

Department of Housing and Urban Development

(Housing, community planning and development.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands):

*Leases for uranium exploration and mining on acquired lands. 30 U.S.C. 351–359.

*Leases for phosphate exploration and mining. 30 U.S.C. 211.

*Withdrawal of public lands for deep-burial depositories for radioactive waste. 43 U.S.C. 1714.

- Bureau of Mines (uranium mines).
- Fish and Wildlife Service (National Wildlife Refuges).
- Geological Survey (waste disposal).
- National Park Service (National Park System areas).

Department of Labor

- Mining Safety and Health Administration (worker protection from radiation exposure in mining).
- Occupational Safety and Health Administration (worker exposure to sources of radiation not covered by other federal agencies).

Department of Transportation

- Federal Highway Administration:

Bureau of Motor Carrier Safety (enforcement of hazardous materials regulation for highway transportation in interstate commerce).

Environmental Protection Agency

(Radiation protection standards and guidance, radioactive air emissions, ocean disposal of radioactive waste, radiation limits for drinking water, radiation monitoring.)

Federal Emergency Management Agency

(Review and approval of state and local nuclear incident emergency response plans, federal contingency plans, radiation hazards emergency management.)

Nuclear Regulatory Commission

(Radiation effects—generally.)

*Licenses for special nuclear material. 42 U.S.C. 2073–2078 (10 CFR Part 70).

*Licenses for source material. 42 U.S.C. 2091–2099 (10 CFR Part 40).

*Licenses for by-product material. 42 U.S.C. 2111–2114 (10 CFR Parts 30–35).

*Licensing for utilization or production facilities for industrial or commercial purposes. 42 U.S.C. 2131–2133 (10 CFR Part 50).

*Licensing utilization or production facilities for medical therapy and research and development. 42 U.S.C. 2134 (10 CFR Part 50).

*Nuclear power reactor operator's license. 42 U.S.C. 2137 (10 CFR Part 55).

*Licensing and regulating Department of Energy demonstration reactors. 42 U.S.C. 5842 (1) and (2).

*Licensing Department of Energy facilities for receipt and long term storage of high-level radioactive wastes. 42 U.S.C. 5842(3) and (4).

Tennessee Valley Authority

(Nuclear power plant planning and monitoring, uranium mining and milling.)

F. Hazardous Substances

(1) Toxic Materials.

Consumer Product Safety Commission

(Consumer product safety.)

Department of Agriculture

- Agricultural Marketing Services (consumer protection).
- Animal and Plant Health Inspection Service (control of plant pests, noxious weeds, animal diseases, and vectors).
- Forest Service (effects on forests and grasslands).

*Permits for disposal on national forest lands.

Department of Commerce

- Maritime Administration (port, coastal and ocean pollution):

*Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101 *et seq.*

*Port operations, polluting discharges and dumping. 46 U.S.C. 867.

- National Bureau of Standards (measurements, standards, methods and data).
- National Oceanic and Atmospheric Administration (coastal and marine resources management and protection, ocean pollution research, and monitoring).

Department of Defense

(Military operations.)

Department of Health and Human Services

- Public Health Service:

Center for Disease Control (health issues).

Food and Drug Administration (contamination of food).

National Institutes of Health (health issues).

Department of Housing and Urban Development

- Office of Neighborhoods, Voluntary Associations and Consumer Protection (lead-based paint poisoning prevention, housing, community planning and development).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (public lands).
- Bureau of Mines (disposal methods for selected milling and mine wastes).
- Fish and Wildlife Service (National Wildlife Refuge System areas, effects on fish and wildlife resources).
- Geological Survey.

*Discharges from outer continental shelf mineral leases. (30 CFR Part 250).

- National Park Service (affecting National Park System areas).
- Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation operations).
- Water and Power Resources Service (water storage and delivery projects).

Department of Labor

- Mining Safety and Health Administration (mining hazards).
- Occupational Safety and Health Administration (workplace hazards).

Department of Transportation

- Coast Guard:

*Transportation of hazardous materials by vessel. 46 U.S.C. 170, 375, 391a, 416; 49 U.S.C. 1655, 1803, 1804, 1808; 50 U.S.C. 198.

*Navigation and waterfront facility regulation. 33 U.S.C. 1221, 1224, 1321; 50 U.S.C. 191.

*Hazardous substance discharge to navigable waters. 33 U.S.C. 1321.

- Federal Highway Administration.

Bureau of Motor Carrier Safety (hazardous material transportation in interstate commerce).

- Federal Railroad Administration (railroad transport).
- Research and Special Programs Administration (hazardous cargo, pipelines).

Materials Transportation Bureau:

*Transportation of hazardous materials. 42 U.S.C. 1805–1806.

*Permits for facilities to handle hazardous materials. 42 U.S.C. 1805–1806.

Environmental Protection Agency

(Pollution control and environmental effects.)

*Treatment, storage and disposal of hazardous wastes—permits. Resource Conservation and Recovery Act of 1976. 42 U.S.C. 6901, *et seq.* (40 CFR Parts 122, 123, 124, 250, 257).

*Criteria for classification of solid waste disposal facilities and practices. 40 USC 6907(a)(3), 6944(a), 42 USC 345 (40 CFR Part 257).

*Identification and listing of hazardous waste. 42 USC 6921 (40 CFR Part 250).

*Standards applicable to generators and transporters of hazardous wastes and for owners and operators of hazardous waste treatment, storage and disposal facilities. 42 USC 6922, 6923, 6924 (40 CFR Part 250).

*Permits for hazardous waste treatment, storage and disposal facilities. 42 USC 6925 (40 CFR Parts 122, 123, 124).

*Preliminary notification of hazardous waste activities. 42 USC 6930 (40 CFR Part 250).

*Authorization to Construct or Modify a Project which will Erect a Hazardous Pollutant (NESHAP). (40 CFR 61.06, 61.07, 61.08).

(2) Food Additives and Contamination of Foodstuffs.

Department of Agriculture

- Food Safety and Quality Service (meat and poultry products).

Department of Commerce

- National Oceanic and Atmospheric Administration (seafood quality).

Department of Health and Human Services

- Public Health Service:

Food and Drug Administration (effects on health).

Environmental Protection Agency

(Establishment of food additives from pesticides use.)

Federal Emergency Management Agency

(Disaster assistance, hazardous materials emergency management.)

(3) Pesticides.

Department of Agriculture

- Animal Plant Health and Inspection Service (control of animal and plant pests and exotic noxious weeds).
- Food Safety and Quality Service (consumer protection).
- Forest Service (control of animal and plant pests).
- Science and Education Administration (biological controls, food and fiber production).
- Soil Conservation Service (watershed protection).

Department of Commerce

- Maritime Administration (merchant ship operations).
- National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone, seafood quality, ocean pollution research and monitoring).

Department of Defense

- Armed Forces Pest Management Board (pesticide use on DOD lands, facilities and equipment; control of disease vectors).
- Armed-Services Explosive Safety Board (control of pests for munitions and explosive devices).

Department of Health, and Human Services

- Public Health Service:

Center for Disease Control (effects on health).

Food and Drug Administration (contamination of food).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).

- Bureau of Land Management (public lands).
- Fish and Wildlife Service (National Wildlife Refuge and National Fish Hatchery System, effects of use on fish and wildlife resources).
- National Park Service (National Park System areas).
- Water and Power Resources Service (irrigated lands and other project lands, facilities and rights of way).

Department of Labor

- Occupational Safety and Health Administration (worker exposures during manufacture of pesticides).

*Permits for transportation of hazardous materials. 49 U.S.C. 1805–1806.

*Approval for shipments of Class A explosives. 46 U.S.C. 170(7).

*Permit for facilities to handle hazardous materials. 49 U.S.C. 1805–1806.

- Coast Guard

*Permits for transportation of hazardous substances. 46 U.S.C. 170, 391a.

*Navigation and waterfront facility, regulation. 33 U.S.C. 1221, 1321; 50 U.S.C. 191.

- Federal Aviation Administration (transport by air).
- Federal Highway Administration. Bureau of Motor Carrier Safety (pesticide transport in interstate commerce).
- Federal Railroad Administration (transport by rail).
- Research and Special Programs Administration Materials Transportation Bureau (transport).

Environmental Protection Agency

(Pollution control and environmental effects.)

*Permits for hazardous waste treatment, storage and disposal facilities. 42 U.S.C. 6925 (40 CFR Parts 122, 123, 124).

*Certification of pesticide users. 7 U.S.C. 136 b, i, u. (40 CFR Part 171).

*Registration of pesticides. 7 U.S.C. 136c (40 CFR Part 162).

*Experimental pesticide use permits. 7 U.S.C. 136a (40 CFR Part 172).

*Establishment of pesticide tolerances. 21 U.S.C. 346a (40 CFR Part 180).

*Pesticide disposal and transportation. 7 U.S.C. 136q (40 CFR 165).

*Worker protection standards for agricultural pesticides. 7 U.S.C. 136w (40 CFR Part 70).

*Emergency exemptions for pesticides use. 7 U.S.C. 136p (40 CFR Part 166).

Tennessee Valley Authority

(Public lands and waters in Tennessee Valley region.)

II. ENERGY

A. Electric Power Development, Generation and Transmission, and Use

Department of Agriculture

- Forest Service (National Forests and Grasslands).

*Permits and Grants for electrical, communication, water facilities and roadways. 16 U.S.C. 522 *et seq.* (CFR 251.50), 43 U.S.C. 1761.

- Rural Electrification Administration (rural areas).

*Electrical generation and transmission projects. 7 U.S.C. 901 *et seq.*

- Farmers Home Administration (small hydro, solar, wind).

*Approval of Plans and Specifications for FMHA funded projects. 7 U.S.C. 1942.

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal energy facility planning and siting).

Department of Defense

- Army Corps of Engineers (hydro).

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403.

*Permits for discharges of dredged or fill material into waters of the United States. 33 U.S.C. 1344.

*Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333(f).

Department of Energy

- Federal Energy Regulatory Commission (hydroelectric power, electric transmission, electric supply, facility siting):

*Regulation of interconnection of electric transmission facilities and regulation of enlargement of electric transmission facilities for wheeling. 16 U.S.C. 824–825K (18 CFR 32).

*Regulation of the development of water power including the licensing of non-Federal hydroelectric power projects. Federal Power Act. 16 U.S.C. 791–825r (18 CFR 4–25, 36, 131, 141).

*Application for order directing the establishment of physical connection facilities. 16 U.S.C. 834(b).

*Withdrawal of Federal lands for power and powersite development purposes. 16 U.S.C. 818. (43 CFR 2344 *et seq.*).

- Office of Environment (energy policy, programs and projects).
- Economic Regulatory Administration.

*Exemptions from prohibitions against the burning of natural gas and petroleum in power plants and major fuel burning installations. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*

*Transmission of electric energy to a foreign country. Federal Power Act, 16 U.S.C. 824a(e) (18 CFR 32.30–32.38; 10 CFR 205.300–.309).

Department of Health and Human Services

- Public Health Service: National Institutes of Health (radiation effects).

Department of Housing and Urban Development

(Urban areas.)

Department of the Interior

- Bureau of Indian Affairs:

*Approval of leases for Indian lands. 25 U.S.C. 392–403b, 415 (25 CFR Part 131).

*Rights-of-way over Indian lands. 25 U.S.C. 311, 323–328 (25 CFR Part 161); 25 U.S.C. 15 (25 CFR 231–233).

- Bureau of Land Management (public lands):

*Leases and permits for use of public lands. 43 U.S.C. 931 c and d, (43 CFR Part 9).

*Easements (permits for rights-of-way, 43 U.S.C. 9, 43 U.S.C. 1701 *et seq.*, (43 CFR Parts 2800–2890).

*Exchange of Federal lands to facilitate energy development. 43 U.S.C. 1716, (43 CFR Parts 2200–2270).

- Bureau of Mines (mining research).
- Geological Survey (classification of federal lands as to their water power and water storage values):
- Fish and Wildlife Service (effects on fish and wildlife resources):

*Easements/permits for transmission line rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. 16 U.S.C. 668dd for refuge, 43 U.S.C. 931c and d for hatcheries. (50 CFR 29.21).

*Public works—leases, permits, easements. 43 U.S.C. 931c, 931d (43 CFR Part 9).

*Permits for powerline rights-of-way on National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460k–3, and 742(f); (50 CFR Part 100).

- Heritage Conservation and Recreation Service (effects on historic or recreational values).
- National Park Service:

*Easements for rights-of-way across National Park System land. 16 U.S.C. 5.

- Water and Power Resources Service (hydroelectric power development and transmission in the 17 contiguous western states).

*Public works—leases, permits easements. 43 U.S.C. 931c, 931d (43 CFR Part 9).

*Easements/permits for powerline rights-of-way. 43 U.S.C. 3871.

Department of Transportation

- Federal Highway Administration:

*Relocation and accommodation of utility facilities on highway rights-of-way 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).

Environmental Protection Agency

(Pollution control and environmental effects.)

*The Solid Waste Disposal Act, 42 U.S.C. 3251, *et seq.*, as amended by the Resource Conservation and Recovery Act. 42 U.S.C. 6901, *et seq.*[4]

*Prevention of significant air quality deterioration. 42 U.S.C. 7470, *et seq.*[4]

*Review of emission sources for conformance with new source performance standards. 42 U.S.C. 7411.

*Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants. 42 U.S.C. 7412(c).

*National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342.[4]

*Oil spill prevention, containment, and countermeasure plans (prepared by facility owner/operator.) 33 U.S.C. 1321, 1361 (40 CFR 112.7).

*Review of permits for discharges of dredged or fill materials into the waters of the United States. 33 U.S.C. 1344.

*Underground injection control permits. 42 U.S.C. 300f *et seq.*[4]

*Permits for ocean discharge. 33 U.S.C. 1343.

*Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413.

*Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412, 1414.

*Permits for hazardous waste treatment storage, and disposal facilities. 42 U.S.C. 6925 (40 CFR Parts 122, 123, 124).

Federal Emergency Management Agency

(Review and approval of state and local nuclear incident emergency response plans.)

International Boundary and Water Commission, U.S. Section

(Hydroelectric power installations on Rio Grande.)

Nuclear Regulatory Commission

Licensing for utilization or production facilities for industrial or commercial purposes. 42 U.S.C. 2133 (10 CFR Part 50).

*Nuclear power reactor operator's licenses. 42 U.S.C. 2137 (10 CFR Part 55).

*Licensing uranium milling operations. 42 U.S.C. 2091 *et seq.* (10 CFR Part 40).

*Licensing and regulating demonstration reactors. 42 U.S.C. 2134, 5842 (10 CFR Part 50).

Department of Transportation

(Transport of sources.)

- Federal Aviation Administration.

Tennessee Valley Authority

(Tennessee Valley Region.)

Water Resources Council

(Water resources planning and data.)

- River Basin Commissions (as geographically appropriate).

B. Petroleum Development, Extraction, Refining, Transport and Use

Department of Agriculture

- Forest Service (Permits and Rights-of-Way).

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal and marine resources—management and protection).
- Maritime Administration (port, coastal and ocean pollution):

*Merchant vessels, 42 U.S.C. 1101 *et seq.*

*Port operations, 42 U.S.C. 867.

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting the waters of the United States. 33 U.S.C. 403.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333 (f).

Department of Energy

- Office of Environment (energy policy, programs, and projects) Economic Regulatory Administration.

*Exemptions from prohibitions against the burning of petroleum in power plants and major fuel-burning installations. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

Department of the Interior

- Bureau of Indian Affairs:

*Leases for oil and gas on Federal lands. 25 U.S.C. 392 *et seq.* (25 CFR Part 131).

*Rights-of-way over Indian lands. 25 U.S.C, 311 *et seq.* (25 CFR Parts 161, 171, 172, 183, 184).

*Approval of leases for oil and gas. For allotted lands: 25 U.S.C. 396; for tribal lands: 25 U.S.C. 396a (25 CFR Parts 131, 171, 172, 183, 184).

- Bureau of Land Management (public lands and outer continental shelf):

*Leases for oil and gas deposit:

(a) Public domain lands, 30 U.S.C. 181 *et seq.* (30 CFR Part 221, 43 CFR Part 3100).

(b) Acquired lands. 30 U.S.C. 351–359, (30 CFR Part 221, 43 CFR Part 3100).

(c) Outer continental shelf lands. 43 U.S.C. 1331–1343, (30 CFR Parts 250 and 251, 43 CFR Part 3300).

(d) In and under railroad and other rights-of-way acquired under laws of the United States. 30 U.S.C. 301–306, 43 CFR Part 3100).

*Leases and land exchanges for oil shale, native asphalt, solid and semisolid bitumen and bituminous rock. For leases: 30 U.S.C. 241 (43 CFR Part 3500); for exchanges: 43 U.S.C. 1716 (43 CFR Parts 2200–2270).

*Easements/permits for oil and gas pipeline rights-of-way. 30 U.S.C. 185, 43 U.S.C. 1701, 43 CFR Parts 2800–2890.

*Grants for rights-of-way for "common carrier" oil and gas pipelines on outer continental shelf. 43 U.S.C. 1331, 43 CFR Part 3340.

*Easements/Leases/Permits for use, occupancy and development of public lands. 43 U.S.C. 1732, 43 CFR Subchapter 2000 and 3000.

*Exchange of Federal lands with oil and gas deposits (excludes outer continental shelf lands). 43 U.S.C. 1716, 43 CFR Parts 2200–2207.

- Bureau of Mines (environmental effects of oil mining).
- Fish and Wildlife Service (effects on fish and wildlife resources).

*Permits for oil and gas pipeline rights-of-way across National Wildlife Refuge and National Fish Hatchery Systems lands. 16 U.S.C. 668dd for refuges, 43 U.S.C. 931c and d for hatcheries; 50 CFR 29.21.

*Permits for oil and gas pipeline rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460k-3, and 742(f), 50 CFR Part 100.

- Geological Survey:

*Supervision of oil and gas, oil shale, and bitumen lease operations: Public domain. 30 U.S.C. 181 *et seq.* (30 CFR Part 221); Acquired land. 30 U.S.C. 351 *et seq.* (30 CFR Part 221); Outer continental shelf lands. 43 U.S.C. 1331 *et seq.* (30 CFR Parts 250, 251); Indian lands. 25

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[4] Consolidated procedures for issuance of NPDES, PSD, RCRA, and UIC permits. (40 CFR Parts 122, 123, 124).

U.S.C. 396a *et seq.* (25 CFR Parts 171, 172, 174, 183, 184)

*Applications for purchase of government royalty oil. For outer continental shelf (OCS) oil: 43 U.S.C. 1334, 30 CFR Part 225a; for non-OCS oil: 30 U.S.C. 189, 192 and 134, 30 CFR Part 225.

*Easements/rights of use for "gathering" pipelines, artificial islands, platforms and other fixed structures on any Federal or State outer continental shelf oil or gas lease. 43 U.S.C. 1334 and 1335, 30 CFR 250.18 and 19.

- Heritage Conservation and Recreation Service (effects on historical or recreational values).
- National Park Service (affecting National Park System areas).

*Permits for oil and gas operations on National Park System areas. 16 U.S.C. (36 CFR Part 9).

- Water and Power Resources Service (water storage and delivery)

*Easements/permits for oil pipeline rights-of-way. 43 U.S.C. 3871.

Department of State

*Facilities for export/import of petroleum products, coal, minerals, water, sewage permits. Executive Order 10485.

Department of Transportation

(Transport and pipeline safety.)

- Coast Guard:

*Tank vessel regulation. 46 U.S.C. 391a.

*Ports and waterways safety. 33 U.S.C. 1221.

*Construction and alteration of bridges over navigable waters (for pipelines). 33 U.S.C. 525; 33 U.S.C. 494, 495; 33 U.S.C. 513–14.

*Outer continental shelf structures. 43 U.S.C. 1331.

- Federal Highway Administration:

*Relocation and accommodation of pipelines on highway rights-of-way. 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).

- Research and Special Programs Administration Materials Transportation Bureau (pipeline safety).

Environmental Protection Agency

(Pollution control and environmental effects.)

*The Solid Waste Disposal Act, 42 U.S.C. 3251 *et seq.*, as amended by the Resource Conservation and Recovery Act. 42 U.S.C. 6901 *et seq.*[4]

*Prevention of significant air quality deterioration. 42 U.S.C. 7470 *et seq.*[4]

*Review of emission sources for conformance with new source performance standards. 42 U.S.C. 7411.

*National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342.[4]

*Oil spill prevention, containment, and countermeasure plans (prepared by facility owner/operator.) 33 U.S.C. 1321, 1361 (40 CFR 112.7)

*Review of permits for discharges of dredged or fill materials into the waters of the United States. 33 U.S.C. 1344.

*Underground injection control permits. 42 U.S.C. 300f *et seq.*[4]

*Permits for ocean discharge. 33 U.S.C. 1343.

*Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413.

*Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412, 1414

*Permits for hazardous waste treatment storage and disposal facilities. 42 U.S.C. (40 CFR Parts 122, 123, 124).

Interstate Commerce Commission

(Regulation of carriers; assessing differences in energy efficiencies between transport modes.)

C. Natural Gas Development, Production, Transmission, and Use

Department of Agriculture

- Forest Service.

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal and marine resources—management and protection).
- Maritime Administration:

*Liquified natural gas vessels. 42 U.S.C. 1101 *et seq.*

*Liquified natural gas terminals. 46 U.S.C. 867.

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting the waters of the United States. 33 U.S.C. 403.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333(f).

Department of Energy

- Federal Energy Regulatory Commission:

*Certificates for natural gas facilities (underground storage fields, LNG facilities, and transmission pipeline facilities); sale, exchange and transportation of gas; abandonment of facilities; and curtailment of natural gas service; authorization to import and export natural gas. Natural Gas Act. 15 U.S.C. 717–717w.

*Authorization compelling the expansion, improvement or connection of natural gas facilities. 15 U.S.C. 717f(a).

- Office of Environment (energy policy, programs and projects).
- Economic Regulatory Administration.

*Exemptions from prohibitions against the burning of natural gas in powerplants and major fuel-burning installations. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

Department of Housing and Urban Development

- Office of Community Planning and Development (residential and other lands).

Department of the Interior

- Bureau of Indian Affairs:

*Leases for mining, oil and gas, farming and other uses on federal lands. 25 U.S.C. 393 *et seq.* (25 CFR Parts 171, 172).

- Bureau of Land Management (public lands and outer continental shelf):

*Application for lease on phosphate, nitrate, oil, gas, and asphaltic mineral deposits. 30 U.S.C. 121, 122, 123.

*Oil and Gas Leases. 30 U.S.C. 221.

*Lease of oil and gas deposits located in rights-of-way. 30 U.S.C. 301.

*Leasing of oil and gas deposits on the outer continental shelf. 43 U.S.C. 1331–1343.

*Gas pipeline rights-of-way. 30 U.S.C. 185.

*Permits, leases, and easements of public lands for use, occupancy, and development. 43 U.S.C. 1702.

- Bureau of Mines (methane; Federal Helium Program).
- Fish and Wildlife Service (effects on fish and wildlife resources).
- Geological Survey:

*Communitization of federal oil and gas leases. 30 U.S.C. 181 *et seq.*, 315 *et seq.*

*Supervision of oil and gas lease operations: Public domain. 30 U.S.C. 181, *et seq.* (30 CFR Part 221); Acquired lands. 30 U.S.C. 351 *et seq.* (30

*Easements/rights of use for "gathering" pipelines, artificial islands, platform, and other fixed structures on any Federal or state outer continental shelf oil or gas lease. 43 U.S.C. 1334 and 1335 (30 CFR 250.18 and .19). CFR Part 221); Outer continental shelf land. 43 U.S.C. 1331 *et seq.* (30 CFR Parts 250, 251); Indian lands. 25 U.S.C. 3969, *et seq.* (25 CFR Parts 171, 172, 173, 174, 183, 184).

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[4] Consolidated procedures for issuance of NPDES, PSD, RCRA, and UIC permits. (40 CFR Parts 122, 123, 124).

- Heritage Conservation and Recreation Service (effects on historical and recreational values).
- National Park Service (affecting National Park System areas).

*Permits for oil and gas operations on National Park System lands. 16 U.S.C. 1 (36 CFR Part 9).

- Water and Power Resources Service:

*Easements/permits for gas pipeline, rights-of-way. 43 U.S.C. 3871.

Department of Transportation

(Transport and safety.)

- Coast Guard:

*Tank vessel regulation. 46 U.S.C. 391a.

*Navigation and waterfront facility regulation. 33 U.S.C. 1221, 1321; 50 U.S.C. 191.

*Construction and alteration of bridges over navigable waters (for pipelines). 33 U.S.C. 525; 33 U.S.C. 494–95; 33 U.S.C. 513–14.

*Outer continental shelf structures. 43 U.S.C. 1331.

- Federal Highway Administration:

*Relocation and accommodation of pipelines on highway rights-of-way. 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).

- Federal Railroad Administration (railroad transport).
- Research and Special Programs Administration Materials Transportation Bureau (pipeline safety).

Environmental Protection Agency

(Pollution control and environmental effects.)

*The Solid Waste Disposal Act, 42 U.S.C. 3251, *et seq.*, as amended by the Resource Conservation and Recovery Act. 42 U.S.C. 6901, *et seq.*[4]

*Prevention of significant air quality deterioration. 42 U.S.C. 7470, *et seq.*[4]

*Review of emission sources for conformance with new source performance standards. 42 U.S.C. 7411.

*Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants. 42 U.S.C. 7412(c).

*National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342[4]

*Oil spill prevention, containment, and countermeasure plans (prepared by facility owner/operator.) 33 U.S.C. 1321, 1361 (40 CFR 112.7)

*Review of permits for discharges of dredged or fill materials into the waters of the United States. 33 U.S.C. 1344.

*Underground injection control permits. 42 U.S.C. 300f, *et seq.*[4]

*Permits for ocean discharge. 33 U.S.C. 1343.

*Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413.

*Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412, 1414.

*Permits for hazardous waste treatment storage and disposal facilities. 42 U.S.C. 6925 (40 CFR 122, 123, 124).

Interstate Commerce Commission

(Regulation of carriers.)

D. Coal and Minerals Development, Mining Conversion, Processing, Transport and Use

Appalachian Regional Commission

(Appalachian region.)

Department of Agriculture

- Forest Service (National Forests and Grasslands—Mineral Materials Permits):

*Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478–555 (36 CFR Part 252).

*Mineral development on acquired lands for solid (hardrock) minerals, 16 U.S.C. 520 (36 CFR Part 252), and for phosphate, oil, gas, oil shale, sodium, potassium and sulphur, 30 U.S.C. 352.

*Coal leasing. 30 U.S.C. 201–352.

*Surface coal mining operations. 30 U.S.C. 1272.

*Geothermal resource developments. 30 U.S.C. 1014.

- Rural Electrification Administration:

*Financial assistance for purchase of coal mines and mining facilities. 7 U.S.C. 901 *et seq.*

- Soil Conservation Service (abandoned mined land; transportation)

Department of Commerce

(Technical and economic information.)

- Maritime Administration (dry bulk shipping of coal and other minerals in the inland waterways, domestic ocean, Great Lakes and U.S. foreign trades.)
- National Oceanic and Atmospheric Administration (atmospheric dispersion of effluents; acid rain; management and protection of coastal and marine resources—air and water pollution from mining, offshore and coastal mining, port planning).

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures on or affecting waters of the United States. 33 U.S.C. 403.

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

Department of Energy

- Federal Energy Regulatory Commission.
- Economic Regulatory Administration.

*Exemptions from, prohibitions against burning of natural gas and oil in powerplants and major fuel-burning installations. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301; Department of Energy Organization Act, 42 U.S.C. 7101.

- Office of Environment (energy policy, programs and projects).

Department of Housing and Urban Development

- Office of Policy Development and Research (subsidence).

Department of the Interior

- Bureau of Indian Affairs:

*Rights-of-way over Indian lands. 25 U.S.C. 311 *et seq.* (25 CFR Parts 161, 171, 172, 177).

*Leases for coal and uranium on federal lands. 25 U.S.C. 392 *et seq.* (25 CFR Part 131).

*Approval of coal and uranium leases on Indian lands. For tribal lands: 25 U.S.C. 396a; for alloted lands: 25 U.S.C. 396. (25 CFR Parts 131, 171–175, 177).

- Bureau of Land Management (public lands):

*Exploration licenses to explore for coal deposits on unleased lands. 30 U.S.C. 181 and 201(b), (43 CFR Part 3400).

*Leases/permits for recovery of coal deposits. 30 U.S.C. 181 *et seq.*, 30 U.S.C. 120 *et seq.*, 43 U.S.C. 1701 *et seq.* (43 CFR Part 3400).

*Permit to mine coal for domestic needs. 30 U.S.C. 208, (43 CFR Part 3440).

*Easements/permits for rights-of-way. 43 U.S.C. 9, 43 U.S.C. 1701 *et seq.* (43 CFR Parts 2800–2890).

*Exchange of Federal lands with coal or uranium deposits. 43 U.S.C. 1716, (43 CFR Parts 2200–2270).

*Leases for uranium exploration and mining (public domain and acquired lands) 30 U.S.C. 181 and 351–359, 30 U.S.C. 1201 *et seq.* (43 CFR Parts 3500–3800).

*Approval of plan of operations in connection with uranium leases. 30 U.S.C. 22 *et seq.*, 43 U.S.C. 1701 *et seq.* (43 CFR Part 3802, 45 FR 13968).

- Bureau of Mines (mining activities and research).
- Fish and Wildlife Service (effects on fish and wildlife resources).

*Permits for use of National Wildlife Refuge and National Fish Hatchery Systems lands. 16 U.S.C. 668dd–ee for refuges. 43 U.S.C. 931c–d for hatcheries, (50 CFR 25.41 and 29.21).

- Geological Survey:

*Consolidation of coal leases. 30 U.S.C. 202a.

*Approves and supervises coal exploration operations, on leased Federal lands, prior to issuance of a Mining Permit by Office of Surface Mining Reclamation and Enforcement. 30 U.S.C. 201(b), 30 U.S.C. 181 *et seq.*, (43 CFR Part 4300, 30 CFR Part 211).

*Approval and supervision of plan of operations for a uranium prospecting permit or mining lease. 30 U.S.C. 181 *et seq.*, (30 CFR Part 231).

- Heritage Conservation and Recreation Service (effects on historical or recreational values).
- National Park Service (affecting National Park System areas).

*Leases, permits and licenses for mining on National Park System lands involved in Wild and Scenic River Systems. 16 U.S.C. 1280.

*Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908 (36 CFR Part 9).

- Office of Minerals Policy and Research Analysis (research).
- Office of Surface Mining Reclamation and Enforcement.

*Issues and enforces permits for coal exploration operations on Federal lands within an approved mining permit area; and, if there is no approved State Coal Mining Regulatory Program, on non-Federal and non-Indian lands. 30 U.S.C. 1262, 30 CFR Ch. VII, 43 CFR Part 4300.

*Issues and enforces permits for surface coal mining operations on Federal lands except the States do this when there is both an approved State Coal Mining Regulatory Program and a Cooperative Agreement between the State and the Secretary of the Interior. 30 U.S.C. 1267, 1268, 1271, and 1273, 30 CFR Ch. VII.

*Issues and enforces permits for surface coal mining operations on non-Federal lands in those States where there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1256–1262, 30 CFR Ch. VII.

*Issues and enforces permits for surface mining and surface effects of underground coal mining operations on Indian lands—effective September 3, 1980. 30 U.S.C. 1300, 30 CFR Ch. VII and 25 CFR Part 177.

- Water and Power Resources Service (water storage and delivery projects).

*Easements/permits for access rights-of-way. 43 U.S.C. 3871.

Department of Labor

- Mine Safety and Health Administration (worker safety)
- Occupational Safety and Health Administration (worker safety in very limited situations)

Department of Transportation

- Coast Guard.

*Construction and alterations on bridges and causeways over navigable waters. 33 U.S.C. 401, 491, 494–495, 513–514, 525.

- Federal Highway Administration (coal haul roads, effects of railroad coal transport on roads and streets).
- Federal Railroad Administration (railroad transport).

Environmental Protection Agency

(Pollution control and environmental effects.)

*The Solid Waste Disposal Act, 42 U.S.C. 3251 *et seq.*, as amended by the Resource Conservation and Recovery Act (RCRA). 42 U.S.C. 6901 *et seq.*[4]

*Prevention of significant air quality deterioration (PSD). 42 U.S.C. 7470 *et seq.*[4]

*Review of emission sources for conformance with new source performance standards. 42 U.S.C. 7411.

*Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants. 42 U.S.C. 7412(c).

*National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342.

*Oil spill prevention, containment, and countermeasure plans (prepared by facility owner/operator.) 33 U.S.C. 1321, 1361 (40 CFR 112.7)

*Review of permits for discharges of dredged or fill materials into the waters of the United States. 33 U.S.C. 1344.

*Underground injection control (UIC) permits. 42 U.S.C. 300f *et seq.*[4]

*Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412, 1414.

*Permits for hazardous waste treatment storage and disposal facilities. 42 U.S.C. 6925 (40 CFR Parts 122, 123, 124).

Interstate Commerce Commission

(Regulation of carriers; environmental impacts from railroad construction for moving coal, including downline impacts; rates for coal movement by rail.)

Tennessee Valley Authority

(Tennessee Valley region.)

III. LAND USE

A. Land Use Changes, Planning, and Regulation of Land Development

Department of Agriculture

- Agricultural Stabilization and Conservation Service (Federally subsidized agricultural conservation and land use programs).
- Soil Conservation Service (data on land use patterns, soil resources and all other areas, natural resources and resource management).
- Forest Service (National Forest and Grasslands):

*Special use permits, archeological permits, leases and easements. 16 U.S.C. 497; 16 U.S.C 580d; 48 U.S.C. 341 (36 CFR Part 251), 261; 43 U.S.C. 1761.

*Permits for use of wilderness areas. 16 U.S.C. 472; 16 U.S.C. 551 (36 CFR Part 293).

*Mineral exploitation of acquired lands. 16 U.S.C. 520 (36 CFR Part 252).

*Easement and road rights-of-way in National Forests and other lands. 16 U.S.C. 533 (36 CFR 212.10).

*Grazing permits. 16 U.S.C. 580(K) and (L) (36 CFR Part 222).

*Geothermal resource developments. 30 U.S.C. 1014.

*Multiple-use sustained-yield units. 16 U.S.C. 528 (36 CFR Part 223); 30 U.S.C. 521 *et seq.*

*Surface use on public domain lands under U.S. mining laws. 16 U.S.C. 478–551 (36 CFR Part 252).

*Minerals development on acquired lands: Solid (hardrock) minerals. 16 U.S.C. 520; Phosphate oil, gas, oil shale, sodium, potassium and sulphur. 30 U.S.C. 352.

*Coal leasing. 30 U.S.C. 201–352.

*Surface coal mining operations. 30 U.S.C. 1272.

*Bankhead-Jones Farm Tenant Act, Title III—Administration of national grasslands. 7 U.S.C. 1010–1012 (36 CFR 213.3).

*Claim of privately owned horses and burros. 16 U.S.C. 1333 (36 CFR Part 222).

- Economics, Statistics and Cooperatives Service (data on natural resources; analysis of the economic impacts of agriculturally related pollution and resource degradation; and interactions of environmental programs with other federal farm policy objectives).
- Science and Education Administration (rural and community development; and the technical effects of agricultural practices on resource quality and off-farm pollution.
- Soil Conservation Service (technical planning and assistance in watershed protection for both private and public programs).

Department of Commerce

- National Oceanic and Atmospheric Administration (management and protection of coastal and marine resources).

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Department of Defense

- Army Corps of Engineers (flood plains and wetlands).

*Rules governing work on or structures in or affecting the waters of the United States. 33 U.S.C. 403.

*Permits for discharges of dredged or fill materials into the waters of the United States. 33 U.S.C. 1344.

- Department of the Air Force (land use around airfields).

Department of Housing and Urban Development

- Office of Interstate Land Sales (land sales).

*Subdivided land sales, registration. Interstate Land Sales Full Disclosure Act. 15 U.S.C. 1701.

- Office of Community Planning and Development (community development; planning activities).

Department of the Interior

- Bureau of Indian Affairs.

*Sale, exchange and conveyance of tribal trust or restricted lands. 25 U.S.C. 294, 372, 379 *et seq.*; 25 CFR 121.17–121.31.

*Rights-of-way over Indian lands. 25 U.S.C. 323–328 (25 CFR Part 161).

*Permits concessions and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 390; 25 CFR Part 203.

*Sale of timber from tribal and alloted lands. 25 U.S.C. 406, 407 *et seq.*; 25 CFR Part 141.

*Permits for grazing on Indian lands. 5 U.S.C. 301 *et seq.*; 25 CFR Part 151.

Note.—For Federal lands administered by Bureau of Indian Affairs see III B: Public Land Management.

Bureau of Land Management (effects on public lands and the outer continental shelf).

*For regulatory authorities see III B: Public Land Management.

- Bureau of Mines (minerals).
- Fish and Wildlife Service (effects on fish and wildlife resources and on components of the National Wildlife Refuge and National Fish Hatchery Systems).

*Approval of conversion of use for State lands acquired, developed or improved with grants under the (1) Pittman-Robertson Act, (2) Dingell-Johnson Act, (3) Endangered Species Act and/or (4) Anadromous Fish Act of 1965. For (1): 16 U.S.C. 669, 50 CFR 80.5; for (2): 16 U.S.C. 777, 50 CFR 80.5; for (3): 16 U.S.C. 1535; and for (4) 16 U.S.C. 757a and b.

*For regulatory authorities on Federal lands see III B: Public Land Management.

- Geological Survey (land use planning, geologic hazards, topographic and photographic mapping).
- Heritage Conservation and Recreation Service (National Trails System, Wild and Scenic Rivers System, outdoor recreation, urban parks, historic preservation).

*Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601–8(f).

*Approval of a conversion to other than public recreation uses for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2509, 36 CFR Part 1228.

*Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1): 16 U.S.C. 459 r–t; for (2): 40 U.S.C. 484(k)(2), 41 CFR Part 101 47.308–7.

*Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. la, 43 CFR Part 31.18.

- National Park Service (effects on National Park System areas).

*For regulatory authorities see III B: Public Land Management.

- Office of Surface Mining Reclamation and Enforcement (surface mining and reclamation operations).

*Issues and enforces permits for coal exploration operations on non-Federal and non-Indian lands if there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1262, 30 CFR Ch. VII.

*Issues and enforces permits for surface coal mining operations on non-Federal lands in those States where there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1256–1262, 30 CFR Ch. VII.

*Issues and enforces permits for surface effects of underground coal mining operations on non-Federal land in those States where there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1226, 30 CFR Ch. VII.

*Issues and enforces permits for surface coal mining and surface effects of underground coal mining operations on Indian lands—Effective September 3, 1980. 30 U.S.C. 1300, 30 CFR Ch. VII and 25 CFR Part 177.

- Water and Power Resources Service (effects on land irrigated by federal projects, planning for water development projects and basin-wide water studies).

*Sale of farm units on Federal irrigation projects. (Statutory jurisdiction appears in individual project authorizations.)

*Administration of excess lands and residency requirements. 43 U.S.C. 371.

Department of Transportation

- Coast Guard:

*Permits for causeways. 33 U.S.C. 401.

*Bridges over navigable waters—33 U.S.C 401, 491, 525.

*Approval of plans to alter a bridge. 33 U.S.C. 514.

- Federal Aviation Administration (airport land use compatability):

*Approval of airport development, including airport master plans and airport layout plans. 49 U.S.C. 1711–1727 (14 CFR Part 152).

*Acquisition of land for public airports. 49 U.S.C 1723 (14 CFR Part 154).

*Construction of alteration of objects affecting navigable airspace. 49 U.S.C. 1655 (14 CFR Part 77).

*Release of airport property from surplus property disposal restrictions. 49 U.S.C. 1101–1119 (14 CFR Part 155).

- Federal Highway Administration:

*Approval of highway projects and programs. 23 U.S.C. 101–156, generally, and 23 U.S.C. 204, 208–210, 212–219.

*Certification by FHWA and UMTA of urban transportation planning process. 23 U.S.C. 105(d), 134(a) and 49 U.S.C. 1604(g) (24 CFR 450.122).

*Regulation of highway-related land use: Highway beautification. 23 U.S.C. 131 (23 CFR Part 750); Junkyard control and acquisition. 23 U.S.C. 136, 315 (23 CFR Part 751); Landscapes and roadsides development. 23 U.S.C. 131, 315, 319 (23 CFR Part 752).

- Urban Mass Transportation Administration:

*Approval of Annual Element (AE) of Transportation Improvement Program (TIP). 23 U.S.C. 105 (23 CFR 450.320).

*Approval for substituting mass transit or other transit projects in lieu of interstate highway. 23 U.S.C. 103(e)(4).

*Certification by FHWA and UMTA of urban transportation planning process. 23 U.S.C. 105(d), 134(a) and 49 U.S.C. 1604(g) (24 CFR 450.122).

Environmental Protection Agency

(Pollution control and environmental effects.)

*Assistance for construction of publicly owned wastewater treatment works. 33 U.S.C. 1281.

Federal Emergency Management Agency

(National Flood Insurance Program, Disaster Relief Assistance, dam and levee safety, mitigation of natural hazards.)

International Boundary and Water Commission, U.S. Section

(Project lands, lands along international portions of Rio Grande and Colorado River and lands along international boundary in New Mexico, Arizona, and California.)

Interstate Commerce Commission

*Certificate of Public Convenience and Necessity for new railroad lines. 49 U.S.C. 1(18).

National Aeronautics and Space Administration

(Advanced technology for remote sensing of land use and land cover.)

National Capital Planning Commission

*Approval of land-use plans and construction in National Capital D.C. Code 5–428; 40 U.S.C. 74a(DC Code 9–304; D.C. Code 8–104; P.L. 90–553, ¢4; 40 U.S.C. 122 (D.C. Code 8–115.)

Tennessee Valley Authority

(Planning on public lands in Tennessee Valley region; assistance to local organizations.)

Water Resources Council

- River Basin Commissions (as geographically appropriate).

B. Public Land Management

Department of Agriculture

- Forest Service (National Forests and Grasslands management):

*Special use permits, archeological permits, leases and easements. 16 U.S.C. 497, 16 U.S.C. 580d, 48 U.S.C. 341 (36 CFR Part 251); see also § 261; 43 U.S.C. 1761.

*Geothermal resource development. 30 U.S.C. 1014.

*Surface coal mining operations. 30 U.S.C. 1272.

*Coal leasing. 30 U.S.C. 201–352.

*Mineral development on acquired lands: solid (hardrock) minerals. 16 U.S.C. 520 (36 CFR Part 252; phosphate, oil, gas, oil shale, sodium, potassium and sulphur). 30 U.S.C. 352.

*Easement and road rights-of-way in National Forests and other lands. 16 U.S.C. 533 (36 CFR 212.10).

*Grazing permits. 16 U.S.C. 580 (K) and (L) (36 CFR 227.1).

*Multiple use sustained-yield units. 16 U.S.C. 528 (36 CFR Part 223).

*Bankhead-Jones Farm Tenant Act, Title III—Administration of National Grasslands. 7 U.S.C. 1010–12 (36 CFR 213.3).

*Claim of privately owned horses and burros. 36 CFR Part 222.

Department of Commerce

- National Oceanic and Atmospheric Administration (consistency of spillover impacts from public land uses with coastal management programs).

Department of Defense

(Lands under Department control.)

- Army Corps of Engineers (project recreation lands).
- Department of the Air Force (land use around airfields).

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands):

*Sale of Federal land purchased for Indian administrative uses. 25 U.S.C. 293.

*Leases, permits and easements for public works on public lands under the jurisdiction of BIA. 43 U.S.C. 931c, 931d (43 CFR Part 9).

*Rights-of-way over Federal lands under BIA jurisdiction. 25 U.S.C. 323–328, 25 CFR Part 161.

*Permits for grazing on Federal lands under BIA jurisdiction. 5 U.S.C. 301, *et seq.*; 25 CFR Part 151.

*Leases for mining, oil and gas, coal, farming and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301, 25 U.S.C. 392, *et seq.*; 25 CFR Part 131.

*Note.—Indian lands are private and not public lands. For Indian lands see III A: Land Use Changes, etc.

- Bureau of Land Management (effects on public lands and outer continental shelf):

*Easements/permits for rights-of-way. 43 U.S.C. 9, 43 U.S.C. 1701 *et seq.*, 43 CFR Parts 2800–2900.

*Grants for rights-of-way for "common carrier" oil and gas pipelines on outer continental shelf. 43 U.S.C. 1331, 43 CFR Part 3340.

*Easements, permits and leases for public works. 43 U.S.C. 931 c and d, 43 CFR Part 9.

*Special land-use permits for habitation, occupation and other purposes. 43 U.S.C. 1732(b), 43 CFR Part 2920.

*Permits for off-road vehicular use special events, i.e., tours and competitions. 43 CFR Part 8372.

*Sale or lease of land for solid waste disposal sites. 43 U.S.C. 869 *et seq.* For sale: 43 CFR Part 2740; for lease: 43 CFR Part 2912.

*Permits for coral harvesting on the outer continental shelf. 43 U.S.C. 1334, 43 CFR Part 6224.

*Exchange of Federal lands for other property. 43 U.S.C. 1716, 43 CFR Parts 2200–2270.

*Withdrawal of public lands for deep-burial depositories for radioactive waste. 43 U.S.C. 1714.

*Leases for oil and gas deposits: (a) Public domain lands. 30 U.S.C. 181 *et seq.*, 30 CFR Part 221, 43 CFR Part 3100.

(b) Acquired lands. 30 U.S.C. 351–359, 30 CFR 221, 43 CFR Part 3100.

(c) Outer continental shelf lands. 43 U.S.C. 1331–1343, 30 CFR 250 and 251, 43 CFR Part 3300.

(d) In and under railroad and other rights-of-way acquired under laws of the United States. 30 U.S.C. 301–306, 43 CFR Part 3100.

*Leases for oil shale, native asphalt, solid and semisolid bitumen and butuminous rock. For leases: 30 U.S.C. 241, 43 CFR Part 3500; for exchanges: 43 U.S.C. 1716, 43 CFR 2200–2270.

*Leases for uranium exploration and mining (public domain and acquired lands). 30 U.S.C. 181 and 351–359, 30 U.S.C. 1201 *et seq.*, 43 CFR Parts 3500–3800.

*Leases for geothermal resources recovery. 30 U.S.C. 1001–1025, 43 CFR Parts 3200–3250.

*Exploration Licenses to explore for coal, uranium and other leasable minerals on unleased lands. 30 U.S.C. 181 and 201(b), 43 CFR Part 3400.

*Leases/permits for recovery of coal and uranium deposits. 30 U.S.C. 181 *et seq.*, 30 U.S.C. 120 *et seq.*, 43 U.S.C. 1701 *et seq.*, 43 CFR Parts 3400–3800.

*Permits to mine coal for domestic needs. 30 U.S.C. 208, 43 CFR Part 3440.

*Leases for phosphate, sodium, potash, etc., exploration and mining. 30 U.S.C. 181 *et seq.*, 43 CFR Group 3500.

*Licenses for geothermal powerplant. 30 U.S.C. 1001–1025, 43 CFR Part 3250.

*Licenses for synthetic liquid fuel facilities. 30 U.S.C. 323.

*Solar energy facility siting. 43 U.S.C. 1761.

*Permits for sand, stone and gravel. 30 U.S.C. 601, 602.

*Permits for grazing. 43 U.S.C. 315, 43 CFR Group 4100.

*Leases/transfers of public lands for a public airport. 49 U.S.C. 1115, 43 CFR Part 2640.

*Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869 *et seq.*, 43 CFR Part 2740 (sales), 43 CFR Part 2912 (leasing).

*Permits for commercial recreational use of public lands. 43 U.S.C. 1701 *et seq.*, 43 CFR Part 8370.

*Concurrence for placer mining use of the surface of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621, 43 CFR Part 3730.

*Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280; each area has special Federal Regulations.

*Management and control of wild free-roaming horses and burros and cooperative agreements for adoption. 16 U.S.C. 1331–1340, 43 CFR Group 4700.

*Sale by contract of forest products. 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 423, and 1181a; 43 CFR Group 5400.

*Permits for free use of timber. 16 U.S.C. 604 *et seq.*, 30 U.S.C. 189, 48 U.S.C. 423, 43 CFR Part 5500.

• Bureau of Mines (mineral land assessment):

*Agreements to dispose of helium of the United States. 43 U.S.C. 1201, 30 U.S.C. 180 *et seq.*, 43 CFR Part 16.

• Fish and Wildlife Service (effects on fish and wildlife resources):

*Easements/permits for transmission line, oil and gas pipeline and other rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. 16 U.S.C. 668dd *et seq.*, for refuges, 43 U.S.C. 931 c and d for hatcheries; 50 CFR 25.41 and 29.21.

*Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460k–3, and 742(f); 50 CFR Part 100.

*Permits for off-road vehicular use on National Wildlife Refuge System areas. 50 CFR Part 2634.

• Geological Survey:

*Supervision of oil and gas, oil shale and bitumen lease operations. Public domain: 30 U.S.C. 181, *et seq.;* 30 CFR Part 221. Acquired lands: 30 U.S.C. 351, *et seq.;* 30 CFR Part 221. Outer continental shelf: 43 U.S.C. 1331, *et seq.;* 30 CFR Parts 250 and 251. Indian lands: 25 U.S.C. 396, *et seq.;* 25 CFR Parts 171–174, 183, 184.

*Easements/rights of use for "gathering" pipelines, artificial islands, platforms and other fixed structures on any Federal or State outer continental shelf oil or gas lease. 43 U.S.C. 1334 and 1335, 30 CFR 250.18 and .19.

*Approves and supervises coal exploration operations, on leased Federal lands, prior to issuance of a Mining Permit by Office of Surface Mining Reclamation and Enforcement. 30 U.S.C. 201(b), 30 U.S.C. 181 *et seq.*, 43 CFR 4300, 30 CFR Part 211.

*Approval and supervision of plan of operations for a prospecting permit or a mining lease issued on public domain lands, acquired lands, and tribal and allotted Indian lands for potash, sodium, phosphate and other minerals (exclusive of oil, gas and coal). 30 U.S.C. 189 *et seq.*, 30 CFR Part 231.

*Permits for geothermal resources exploration. 30 U.S.C. 1023, 30 CFR 270.78.

*Supervision of geothermal resources lease operation. 30 U.S.C. 1023, 30 CFR Parts 270 and 271.

• Heritage Conservation and Recreation Service (funding of State and local programs for acquisition, development and preservation of public park, recreation and cultural/historical resources, Wild and Scenic Rivers System, National Trails System).

• National Park Service (effects on National Park System areas):

*Leases, permits and licenses for mining on National Park System lands involved in Wild and Scenic River System. 16 U.S.C. 1280.

*Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908 (36 CFR Part 9); 30 U.S.C. 21 *et seq.*

*Permits, leases and easements for rights-of-way, grazing, oil and gas operations, and other uses on National Park System areas. 16 U.S.C. 1 *et seq.;* 36 CFR Parts 9 *et seq.*

*Permits for commercial operations on National Park System areas. 16 U.S.C. 1 *et seq.*, 36 CFR Part 7.

*Permits for off-road vehicular use. 36 CFR Part 7.

• Office of Surface Mining Reclamation and Enforcement:

*Issues and enforces permits for coal exploration operations on Federal lands within an approved mining permit area; and, if there is no approved State Coal Mining Regulatory Program, on non-Federal and non-Indian lands. 30 U.S.C. 1262, 30 CFR Ch. VII, 43 CFR Part 4300.

*Issues and enforces permits for surface coal mining operations on Federal lands except the State does this when there is both an approved State Coal Mining Regulatory Program and a Cooperative Agreement between the State and the Secretary of Interior. 30 U.S.C. 1267, 1268, 1271 and 1273, 30 CFR Ch. VII.

• Water and Power Resources Service (water storage and delivery projects, recreational developments, salinity control, sedimentation, irrigation):

*Sale or lease of project lands to a governmental entity or a non-profit group for recreational or other public purposes. 43 U.S.C. 869.

*Lease of project lands for commercial recreational developments. 43 U.S.C. 391 *et seq.*

Department of Transportation

*Transportation programs with measures to protect land traversed (particularly parks, recreation areas and historic sites). Department of Transportation Act as amended. 49 U.S.C. 1651–1659.

• Federal Highway Administration (construction and management of National Park Service roads and forest highways):

*Approval of projects for Indian reservation roads and bridges. 23 U.S.C. 208.

*Construction of public lands highways. 23 U.S.C. 209.

*Approval of projects for public lands development roads and trails. 23 U.S.C. 214.

Environmental Protection Agency

(Pollution control and environmental effects; pesticide use and integrated pest management.)

*Underground Injection Control permits on Indian lands. 42 U.S.C. 300 f. *et seq.*

*Air emissions from federal facilities. 42 U.S.C. 7418.

*Wastewater discharges from federal facilities. 33 U.S.C. 1323.

*Solid wastes and hazardous wastes from federal facilities. 42 U.S.C. 6961.

*Pesticide use on public lands.

Federal Emergency Management Agency

(National Flood Insurance Program, disaster relief assistance.)

General Services Administration

(Public buildings management.)

• Federal Property Resources Service (land disposal).

National Aeronautics and Space Administration

(Advanced technology of remote sensing of land use and land cover.)

Tennessee Valley Authority

(Project lands.)

C. Land Use in Coastal Areas

Department of Agriculture

• Forest Service.

• Soil Conservation Service (soil stability, hydrology).

Department of Commerce

• Maritime Administration (ports).

• National Oceanic and Atmospheric Administration (coastal and marine resources and protection):

*Permits for activities in designated marine sanctuaries. 16 U.S.C. 143 *et seq.* (15 CFR Part 922).

*Approval and funding of state coastal management programs. 16 U.S.C. 1451 *et seq.* (15 CFR Parts 923, 930).

*Protection of threatened and endangered marine species and critical habitats. 16 U.S.C. 1531 *et seq.* (50 CFR Part 222).

*Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

*Consistency determinations to insure Federal development projects and Federally permitted or funded projects with an approved state coastal zone management plan. 16 U.S.C. 1451 (15 CFR Part 930).

*Review of Federal permits affecting water resources. 16 U.S.C. 661 *et seq.*

*Grants and loans under Coastal Energy Impact Program. 16 U.S.C. 1456a (15 CFR Part 931).

Department of Defense

- Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits):

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403, and 419.

*Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

*Permits for private projects to improve navigable waters. 33 U.S.C. 565.

*Permits for discharges of dredged of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

*Permits for transportation of dredge materials for dumping into ocean waters. 33 U.S.C. 1413.

Department of Energy

- Federal Energy Regulatory Commission:

*Certificates for natural gas facilities (underground storage fields, LNG facilities, and transmission pipeline facilities); sale, exchange and transportation of gas; abandonment of facilities; and curtailment of natural gas service; authorizattion to import and export natural gas. Natural Gas Act. 15 U.S.C. 717–717w.

*Authorization compelling the expansion, improvement or connection of natural gas facilities. 15 U.S.C. 717f(a).

- Office of Environment (energy policy, programs and projects).
- Economic Regulatory Administration.

*Exemptions from prohibitions against the burning of natural gas in powerplants and major fuel-burning installations. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

Department of Housing and Urban Development

(Development in coastal areas.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Bureau of Land Management (coastal zone planning and management, outer continental shelf):

*Leases for oil and gas deposits on the outer continental shelf. 43 U.S.C. 1331–1343, 30 CFR Parts 250 and 251, 43 CFR Part 3300.

*Grants for rights-of-way for "common carrier" oil and gas pipelines on outer continental shelf. 43 U.S.C. 1331, 43 CFR Part 3340.

*Permits for harvesting coral on the outer continental shelf. 43 U.S.C. 1334, 43 CFR Part 6224.

- Fish and Wildlife Service (effects on fish and wildlife resources):

*Easements/permits for transmission line, oil and gas pipeline and other rights-of-way across National Wildlife Refuge System land. 16 U.S.C. 668dd *et seq.*, 50 CFR 25.41 and 29.21.

- Geological Survey (estuarine and geophysical exploration on outer continental shelf, coastal zone planning):

*Permits for geological and geophysical exploration on outer continental shelf. 43 U.S.C. 1340 (30 CFR Part 251).

*Approval of geologic and geophysical exploration plans. 43 U.S.C. 1340.

*Drilling permits. 43 U.S.C. 1351.

*Supervision of oil and gas lease operations in the outer continental shelf. 43 U.S.C. 1331 *et seq.*, 30 CFR Parts 250 and 251.

*Easements/rights of use for "gathering" pipelines, artificial islands, platforms and other fixed structures on any Federal or State outer continental shelf oil or gas lease. 43 U.S.C. 1334 and 1335, 30 CFR 250.18 and .19.

- Heritage Conservation & Recreation Service (effects on historical and recreational values, coastal zone planning).
- National Park Service (effects on National Park System areas, barrier island ecology and coastal processes).

*Permits, leases and easements for rights-of-way, oil and gas operations and other uses on National Park System areas. 16 U.S.C. 1 *et seq.* 36 CFR Part 9 *et seq.*

- Water and Power Resources Service (water development projects in coastal areas, estuarine effects on water developments):

*Easements/permits for rights-of-way. 43 U.S.C. 3871.

Department of Transportation

- Coast Guard (bridges, pipelines/transmission lines crossing navigable waters, navigation and deepwater ports):

*Bridges over navigable waters—permits. 33 U.S.C. 525.

*Approval of plans to alter a bridge. 33 U.S.C. 514.

*Permits for causeways. 33 U.S.C. 401.

*Waterfront facilities: 33 U.S.C. 1221, 1321.

*Deepwater port regulation. 33 U.S.C. 1503–1524.

*Licensing of persons to engage in the ownership, construction or operation of a deepwater port. 33 U.S.C. 1503–1520.

Environmental Protection Agency

(Pollution control and environmental effects.)

*Permits for ocean discharges. 33 U.S.C. 1343.

*Permits for disposal of sewage sludge. 33 U.S.C. 1345.

*Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413.

*Permits for transportation of materials (other than dredged materials) for ocean dumping. 33 U.S.C. 1412, 1414.

*Oil spill prevention, containment, and countermeasure plans (prepared by facility owner/operator). 1321, 1361 (40 CFR 112.7).

*Criteria for classification of solid waste disposal facilities and practices. 40 U.S.C. 6907(a)(3), 6944(a), 42 U.S.C. 345 (40 CFR 257).

*Permits for hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6925 (40 CFR 122, 123, 124).

*Assistance for construction of publicly owned wastewater treatment works. 33 U.S.C. 1281.

*Review of permits for discharges of dredged or fill materials in waters of the United States. 33 U.S.C. 1344.

Federal Emergency Management Agency

(National Flood Insurance Program; floodplain management; sand dunes, mangrove forests, barrier islands; disaster relief assistance.)

National Aeronautics and Space Administration

(Advanced technology for remote sensing of land use and land cover.)

D. Protection of Environmentally Critical Areas

Floodplains, Wetlands, Barrier Islands, Beaches and Dunes, Unstable Soils, Steep Slopes, Aquifer Recharge Areas, Tundra, Etc.

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Department of Agriculture

*Watershed Protection and Flood Prevention Act. 16 U.S.C. 1001–1009 (7 CFR Parts 15, 23, 600).

- Agricultural Stabilization and Conservation Service (commodity and land use programs; Water Bank).
- Permits for importing or exporting terrestrial plants in compliance with the Endangered Species Act. 16 U.S.C. 1531–1543.
- Forest Service (National Forest System lands).
- Science and Education Administration (soil and water conservation program).
- Soil Conservation Service (watershed protection and flood control; soil and water conservation).

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal and marine resources, management and protection):

*Protection of threatened and endangered marine species and critical habitats. 16 U.S.C. 1531 *et seq.* (50 CFR Part 222).

*Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431 *et seq.* (15 CFR Part 922).

*Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

*Approval and funding of state coastal management programs. 16 U.S.C. 1451 *et seq.* (15 CFR Parts 923, 930).

*Review of Federal permits affecting water resources. 16 U.S.C. 661 *et seq.*

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403, 419.

*Permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

Department of Health and Human Services

- Public Health Service: Center for Disease Control (health issues).

Department of Housing and Urban Development

- Office of Community Planning and Development (urban and floodplain areas).

Department of the Interior

- Bureau of Indian Affairs (Indian lands).
- Burea of Land Management (public lands, outer continental shelf; management of "special areas"):

*Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280; each area has special Federal Regulations.

*Approval of plan of operations for a mining lease in a wilderness study area. 43 U.S.C. 1701 *et seq.*, 12 U.S.C. 1201 *et seq.*, 43 CFR 802.

*Permits for use of a designated "special area" as defined in 43 CFR 8372.0–5(g). 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 460 (1–6a), 16 U.S.C. 670 (g-n), 43 CFR Part 8370.

*Federal lands exempted from coal leasing. 30 U.S.C. 181 *et seq.*, 30 U.S.C. 351–359, 43 CFR 3400.2.

*Restrictions on use of "outstanding natural areas" and "primitive areas." 43 U.S.C. 1701 *et seq.*, 43 CFR Subpart 8352.

- Fish and Wildlife Service (protection of fish and wildlife resource values, National Wildlife Refuge and National Fish Hatchery Systems):

*Protection of endangered species and critical habitats. 16 U.S.C 1531–1543, 50 CFR Part 402.

*Determination of critical habitats for endangered and threatened species of fish and wildlife and plants. 16 U.S.C. 1533; 50 CFR Parts 17, 402 and 424.

- Geological Survey (geologic and hydrologic sensitive areas; earthquake, volcanic and other natural hazards):

*Discharges from outer continental shelf mineral leases. 30 CFR Part 250.

- Heritage Conservation & Recreation Service (historical and recreational values, Wild and Scenic River System, National Trails System):

*Identification and listing on the National Registry of Natural Landmarks of nationally significant natural areas in the United States. 16 U.S.C. 461, 36 CFR Part 1212.

- National Park Service (National Park System areas):

*See III B for regulatory authorities.

- Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation operations):

*Designation of areas unsuitable for surface coal mining and reclamation operations. 30 U.S.C. 1272 and 1276, 30 CFR Parts 760 *et seq.*

- Office of Water Research and Technology (water resource planning).
- Water and Power Resources Service (water storage and delivery projects).

Department of Transportation

- Coast Guard:

*Establishment of port access routes. 33 U.S.C. 1221.

*Construction and alterations on bridges and causeways over navigable waters. 33 U.S.C 401, 491, 494–495, 513–514, 525.

- Federal Highway Administration:

*Approval of federal-aid highway projects. 23 U.S.C. 101–156, generally.

*Approval of highway bridge replacement and rehabilitation. 23 U.S.C. 144 (23 CFR part 650).

Environmental Protection Agency

(Pollution control and environmental effects on wetlands, floodplains, and prime agricultural lands.)

*Underground injection control permits. 42 U.S.C. 300 f *et seq.*

*Criteria for classification of solid waste disposal facilities and practices. 40 U.S.C. 6907(a)(3), 6944(a), 42 U.S.C. 345 (40 CFR Part 257).

*Permits for owners and operators of hazardous waste treatment, storage and disposal facilities. 42 U.S.C. 6924 (40 CFR Part 250 Subpart D).

*Review of permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

Federal Emergency Management Agency

(National Flood Insurance Program; floodplain management; sand dunes, mangrove forests, barrier islands; disaster relief assistance.)

Tennessee Valley Authority (Tennessee Valley Region)

Water Resources Council

(Coordination of floodplain and wetland initiatives.)

- River Basin Commissions (as geographically appropriate)

E. Community Development

- Action (effects on low income populations).

Advisory Council on Historic Preservation

(Historic preservation.)

Department of Agriculture

- Science and Education Administration (rural and community development program).
- Soil Conservation Service (soil surveys).
- Farmers Home Administration (rural and community development program).
- Agricultural Stabilization and Conservation Service (USDA rural development and farm programs).

Department of Commerce

- Economic Development Administration (designated areas).
- National Oceanic and Atmospheric Administration (energy development impact on communities; financial assistance under the Coastal Energy Impact Program):

*Approval and funding of State coastal zone management programs. 16

U.S.C. 1451 *et seq.* (15 CFR Parts 923, 130).

Department of Health and Human Services

- Public Health Service: Center for Disease Control (health).
- Office of Human Development Services (problems of handicapped, aged, children and Native Americans).

Department of Housing and Urban Development

- Office of Community Planning and Development (community development; effects on low income populations: economic revitalization in distressed areas; density and congestion mitigation; rehabilitation and urban homesteading).

Department of the Interior

- Bureau of Indian Afairs (Indian peoples and lands).
- Bureau of Land Management (public lands):

*Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869 *et seq.*, 43 CFR 2740 for sales, 43 CFR 2912 for leases.

*Leases/transfers of public lands for a public airport. 49 U.S.C. 1115, 43 CFR Part 2640.

*Permits for free use of timber. 16 U.S.C. *et seq.*, 30 U.S.C. 208, 43 CFR 3440.

*Exchange of Federal lands for other property. 43 U.S.C. 1716, 43 CFR 2200–2700.

*Easements, leases and permits for public works. 43 U.S.C. 931 c and d, 43 CFR Part 9.

*Special land-use permits for habitation, occupation and other purposes. 43 U.S.C. 931 c and d, 43 CFR Part 9.

*Sale or lease of land for solid waste disposal sites. 43 U.S.C. 869 *et seq.* For sale: 43 CFR Part 2740; for lease: 43 CFR Part 2912.

- Fish and Wildlife Service (effects on fish and wildlife resources and National Wildlife Refuge and National Fish Hatchery System areas.
- Heritage Conservation & Recreation Service (landmarks, archeological remains, outdoor recreation, urban parks, historic preservation):

*Assistance to State and local agencies, through Land and Water Conservation Fund Act grants, for the acquisition and/or development of park and recreation areas and/or facilities. 16 U.S.C. 4601.

*Assistance to State and local agencies, through Urban Park and Recreation Recovery Act grants, for the development and/or improvement of park and recreation areas. 16 U.S.C. 2504, 36 CFR Part 1228.

*Assistance for the acquisition, rehabilitation, restoration and reconstruction of historic properties. 16 U.S.C. 470 *et seq.*, 36 CFR Part 1207, 36 CFR 60.3.

- National Park Service (effects on National Park System Areas).
- Water and Power Resources (water storage and delivery, irrigation):

*Sale of farm units on Federal irrigation projects (Statutory jurisdiction appears in individual project authorizations).

*Sale or lease of project lands to a governmental entity or nonprofit group for recreational or other public purposes. 43 U.S.C. 869.

Department of Transportation

- Federal Aviation Administration (effects of airport development on communities).
- Federal Highway Administration (effects of highways on communities):

*Relocation asistance in connection with highway projects. 42 U.S.C. 4601 *et seq.* (23 CFR Part 740, 49 CFR Part 25).

*Approval of economic growth center development highways. 23 U.S.C. 143.

- Urban Mass Transportation Administration.

*Urban Mass Transportation Act. 49 U.S.C. 1610.

Environmental Protection Agency

(Pollution control and environmental effects.)

Federal Emergency Management Agency

(National Flood Insurance program, disaster relief assistance, dam and levee safety, mitigation of natural hazards.)

General Services Administration

(Building design and construction.)

Interstate Commerce Commission

(Effects of freight and passenger railline abandonment on community development.)

National Capital Planning Commission

(Washington, D.C. area.)

*Approval of land use plans and construction in the National Capital. D.C. Code 5–428, 40 U.S.C. 74a (D.C. Code 9–304); D.C. Code 8–104; Pub. L. 90–553, section 4; 40 U.S.C. 122 (D.C. Code 8–115).

National Endowment for the Arts

(Effects of development on artistic values.)

F. Historic, Architectural, and Archeological Preservation

Advisory Council on Historic Preservation

(Effects of development or other actions on archeological and historic resources.)

*Procedures for the protection of historic and cultural properties, 36 CFR Part 800.

Department of Agriculture

- Forest Service (historic and archelogical resources in National Forests and Grasslands).
- Agricultural Stabilization and Conservation Service (effects on historic and archeological resources from agriculture).

Department of Commerce

- National Oceanic and Atmospheric Administration (areas for preservation and restoration under State coastal zone management programs):

*Marine Sanctuaries. 16 U.S.C. 1431.

Department of Housing and Urban Development

(Protection of historic and architectural resources in urban areas.)

Department of the Interior

*Permits to examine ruins, excavations and gathering of objects on land under jurisidiction of Interior, Agriculture and Army. 16 U.S.C. 432.

- Bureau of Indian Affairs (protection of historic and archelogical resources on Indian and Native American lands):

*Concurrence for issuance and supervision of antiquity permits (see HCRS) on Indian lands. 16 U.S.C. 432, 25 CFR Part 132.

*Protection of access to sacred sites, use and possession of sacred objects and other rights of the American Indian, Eskimo, Aleut, and Native Hawaiian. 42 U.S.C. 1996.

- Bureau of Land Management (cultural resource management on public lands and outer continental shelf):

*Concurrence for issuance and supervision of antiquity permits (see HCRS). 16 U.S.C. 432, 43 CFR Part 3.

- Fish and Wildlife Service (National Wildlife Refuge and National Fish Hatchery System lands):

*Special use permit for antiquities search and collection activities—in addition to an antiquity permit (see HCRS). 16 U.S.C. 668dd *et seq.*, 50 CFR 25.41.

- Heritage Conservation & Recreation Service (HCRS) (protection of historic, archeological, architectural properties):

*Permits to examine ruins, excavate archeological sites and gather objects of

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antiquity on Federal and Indian lands (Antiquity permits issued by the Departmental Consulting Archeologist). 16 U.S.C. 432, 43 CFR Part 3.

*Permits to excavate or remove archeological resources located on public lands or Indian lands. 16 U.S.C. 470aa *et seq.* [Regulations for the Archeological Resources Protection Act of 1979 under Development.]

*Determinations of eligibility for and listing on the National Register of Historic Places of sites, buildings, districts, structures and objects of historical, architectural, archeological, and/or cultural significance. 16 U.S.C. 470, 36 CFR Parts 60, 63 and 67, 36 CFR 800.4(a)(3).

- National Park Service (protection of archeological and historic resources on National Park System lands):

*Concurrence for issuance and supervision of antiquity permits (see HCRS). 16 U.S.C. 432, 43 CFR Part 3, 36 CFR 2.20 and 2.25.

- Water and Power Resources Service (protection of cultural resourses on water storage and delivery project lands):

*Concurrence for issuance and supervision of antiquity permits (see HCRS). 16 U.S.C. 432, 43 CFR Part 3.

Department of Transportation

*Approval of transportation programs or projects that require the use of or have significant impacts on an historic site. 42 U.S.C. 1653(f).

- Coast Guard:

*Construction and alterations on bridges and causeways over navigable waters that are or require the use of or have significant impacts on an historic site. 33 U.S.C. 401, 491, 525; 33 U.S.C. 494–495; 33 U.S.C. 513–514.

- Federal Highway Administration (effects of highway projects on cultural resources):

*Approval of transportation programs or projects that require the use of or have significant impacts on an historic site. 42 U.S.C. 138.

*Archeological and paleontological salvage on federal and federal-aid highway projects. 23 U.S.C. 305 (23 CFR Part 765).

- Urban Mass Transportation Administration (effects of rapid transit projects on architectural and historic resources).

Environmental Protection Agency

(Effects of pollution on historic, architectural and archeological resources.)

General Services Administration

- Public Buildings Service (effects of development and pollution on architectural and historic resources in urban areas).

National Capital Planning Commission

(Effects of development and pollution on architectural, historic and archeological resources in the Washington, D.C. area.)

*Approval of land use plans and construction in the National Capital. D.C. Code 5–428; 40 U.S.C. 74a (D.C. Code 9–304); D.C. Code 8–104; Pub. L. 90–553, section 3; 40 U.S.C. 122 (D.C. Code 8–115).

Tennessee Valley Authority

(Effects of development and other actions on historic and archeological resources in the Tennessee Valley region.)

G. Outdoor Recreation

Department of Agriculture

- Forest Service (National Forest land and Grasslands).

*Permits for use of wilderness areas. 16 U.S.C. 472, 16 U.S.C. 551 (36 CFR Part 293).

*Permits for hunting and fishing in refuge lands. 16 U.S.C. 551; 16 U.S.C. 683.

- Soil Conservation Service (watershed protection).

Department of Commerce

- National Oceanic and Atmospheric Administration (marine recreational fishing, coastal access planning in state coastal zone management programs

Department of Defense

- Army Corps of Engineers (recreation areas on Department of Defense lands):

*Activities on water resources development projects. 16 U.S.C. 460d (36 CFR Parts 313, 327).

Department of Health and Human Services

- Public Health Service:

Center for Disease Control (outdoor recreation and health).

Department of Housing and Urban Development

(Outdoor recreation in urban areas.)

Department of the Interior

- Bureau of Indian Affairs (outdoor recreation on Indian lands).
- Bureau of Land Management (outdoor recreation on public lands generally, including ORV use and river management):

*Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869 *et seq.* 43 CFR Part 2740 for sales, 43 CFR Part 2912 for leases.

*Exchange of Federal land for other property. 43 U.S.C. 1717, 43 CFR Parts 2200–2700.

*Permits for off-road vehicular use special events, i.e., tours and competitions. 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 460(1–6a), 43 CFR Part 8372).

*Permits for use of a national trail, developed facility and a designated "special area" as defined in 43 CFR 8372.0–5(g). 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 460 (1–6a), 16 U.S.C. 670 (g-n), 43 CFR Part 8370.

*Permits for commercial recreation use of public lands. 43 U.S.C. 1701 *et seq.* 43 CFR Part 8370.

- Fish and Wildlife Service (effects on fish and wildlife resources):

*Permits for special uses including concessions and other recreational facilities on National Wildlife Refuge System lands. 16 U.S.C. 668dd *et seq.*, 50 CFR 25.51–25.41.

*Permits for off-road vehicular use on National Wildlife Refuge System lands. 50 CFR Part 2634.

- Heritage Conservation & Recreation Service (outdoor recreation, urban parks, Wild and Scenic Rivers System, National Trails System):

*Assistance to State and local agencies, through Land and Water Conservation Fund Act grants, for the acquisition and/or development of park and recreation areas and/or facilities. 16 U.S.C. 4601.

*Assistance to State and local agencies, through Urban Park and Recreation Recovery Act grants, for the development and/or improvement of park and recreation areas. 16 U.S.C. 2504, 36 CFR Part 1228.

- National Park Service (affects on National Park System areas):

*Permits for off-road vehicle use. 16 U.S.C. 1 *et seq.*, 36 CFR 7.

- Water and Power Resources (effects on water storage and delivery projects):

*Sale or lease of project lands to a governmental entity or a non-profit group for recreational purposes. 43 U.S.C. 869.

*Lease of project lands for commercial recreational developments. 43 U.S.C. 391 *et seq.*

*Permits for organized off-road vehicular events. 43 CFR 420.24.

Department of Transportation

- Coast Guard:

*Recreational boating regulation. 46 U.S.C. 1451.

- Federal Highway Administration:

*Preservation of parklands. 23 U.S.C. 138.

*Access highways to public recreation areas on lakes. 23 U.S.C. 155.

Environmental Protection Agency

(Pollution control and environmental effects.)

National Capital Planning Commission

*Approval of land use plans and construction in the National Capital. D.C. Code 5–428; 40 U.S.C. 74a (D.C. Code 9–304); D.C. Code 8–104; Pub. L. 90–553; 40 U.S.C. 122 (D.C. Code 8–115).

Tennessee Valley Authority

(Recreation on public lands and waters in Tennessee Valley Region.)

Water Resources Council

(Recreation on water and related land resources.)

- River Basin Commissions (as geographically appropriate).

IV. NATURAL RESOURCE MANAGEMENT

A. Weather Modification

Department of Agriculture

- Forest Service (national forests and grasslands).
- Soil Conservation Service (snow survey).
- World Food and Agricultural Outlook and Situation Board (data relating to commodities).

Department of Commerce

- National Oceanic and Atmospheric Administration (research and development; reports on private activities).

Department of Defense

- Department of the Air Force (fog dissipation).

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands).
- Bureau of Land Management (effects on public lands).
- Fish and Wildlife Service (effects on fish and wildlife resources and National Wildlife Refuge and National Fish Hatchery System areas).
- Geological Survey (effects on hydrologic resources).
- National Park Service (effects on National Park System areas).
- Water and Power Resources Service (effects on water storage and delivery projects, water resources research):

*Areawide precipitation augmentation research through cloud seeding, etc. 43 U.S.C. 377.

Environmental Protection Agency (pollution control and environmental effects).

B. Waterway Regulation and Stream Modification

Department of Agriculture

- Agricultural Stablization and Conservation Service (resource conservation; Water Bank programs).
- Animal and Plant Health Inspection Service (control of exotic noxious weeds).
- Forest Service (National Forests and Grasslands).
- Science and Education Administration (soil and water conservation).
- Soil Conservation Service (watershed protection).

Department of Commerce

- Maritime Administration (merchant vessels, barges and inland vessels).
- National Oceanic and Atmospheric Administration (conservation of marine, estuarine and anadromous fish habitat; review of federal permits affecting water resources, management and protection of coastal and marine resources).

Department of Defense

- Army Corps of Engineers:

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 401, 403, and 419 (33 CFR Part 322).

*Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 323).

*Permits for activities at lakes managed by a lakeshore management plan. 33 U.S.C. 1251.

*Permits for use of river or harbor improvement built by U.S. 33 U.S.C. 408 (33 CFR 320.2(e)).

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands).
- Bureau of Land Management (effects on public lands).
- Bureau of Mines (effects on mineral resources, production and transportation).
- Fish and Wildlife Service (effects on fish and wildlife reources and National Wildlife Refuge and National Fish Hatchery System areas):

*Consultation regarding Federal or Federally permitted projects which affect streams and water bodies under the Fish and Wildlife Coordination Act. 16 U.S.C. 661 *et seq.*, 43 CFR Part 17.

- Geological Survey (hydrologic research, data collection and reporting for surface and groundwaters).
- Heritage Conservation & Recreation Service (effects on Wild and Scenic River System and other outdoor recreation areas, opportunities and users).
- National Park Service (effects on National Park System areas).
- Office of Surface Mining Reclamation and Enforcement (effects on surface mining and reclamation activities).
- Water and Power Resources Service (water storage and delivery projects and their effects):

*Construction and operation of works and structures for storage, diversion and development of waters, including flood control, navigation and river regulation and control in the 17 contiguous western States. 43 U.S.C. 391 *et seq.*

Department of Transportation

- Coast Guard (vessels, bridge, port, and waterway safety; navigation aids):

*Deepwater port regulation. 33 U.S.C. 1503–1524.

*Tank vessel regulation. 46 U.S.C. 391a.

*Ports and waterways safety. 33 U.S.C. 1224.

*Construction and alterations on bridges and causeways over navigable waters. (33 U.S.C. 401, 491, 525; 33 U.S.C. 494–95; 33 U.S.C. 513–14).

- Federal Highway Administration:

*Approval of federal-aid highway and bridge projects involving navigable waters and channel changes. 23 U.S.C. 144 (23 CFR Part 650).

*Approval of toll bridge and ferry projects. 23 U.S.C. 129.

Environmental Protection Agency (pollution control and environmental effects):

*Review of permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

Federal Emergency Management Agency

(Floodplain mapping, floodplain management, dam and levee safety, mitigation of natural hazards.)

International Boundary and Water Commission, U.S. Section

(Maintenance, restoration and protection of banks of Rio Grande and Colorado River where they form an international boundary.)

Tennessee Valley Authority

*Construction of dams, appurtenant work, or other obstruction affecting navigation, flood control, public lands or reservations on the Tennessee River System. 16 U.S.C. 831y–1.

Water Resources Council

*Water Resources Planning Act. 42 U.S.C. 1962 (18 CFR Parts 701–706; 33 CFR Part 252).

- River Basin Commissions (as geographically appropriate).

C. Soil and Plant Conversation and Hydrology

Department of Agriculture

- Agricultural Stabilization and Conservation Service (soil conservation; cost-share programs).
- Farmers Home Administration (soil erosion).
- Forest Service (soil and plant conservation and hydrology generally).
- Science and Education Administration (technical aspects of water and soil conservation).
- Soil Conservation Service (providing technical assistance and monitoring of soil and watershed conservation programs):

*Grazing Permits. 16 U.S.C. 580 (K) and (L) (36 CFR 227.1).

*Multiple-use sustained-yield units. 16 U.S.C. 528 (36 CFR 223).

*Bankhead-Jones Farm Tenant Act, Title III—Administration of National Grasslands. 7 U.S.C. 1010–1012 (36 CFR 213.3).

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal and marine resources-management and protection).

Department of Defense

- Army Corps of Engineers (dredging, aquatic plants).

*Rules governing work or structures in or affecting the waters of the United States. 33 U.S.C. 403.

*Permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344.

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands).
- Bureau of Land Management (watersheds, soil erosion and vegetation management on public lands).

*Permits for livestock. 43 U.S.C. 315, 43 CFR Group 4100.

- Bureau of Mines (hydraulic effects of mining).
- Fish and Wildlife Service (effects on fish and wildlife resources)

*Endangered, threatened plants—permits. 16 U.S.C. 1541 (50 CFR 17.62).

- Geological Survey (geology and hydrology).
- National Park Service (effects on National Park System lands).

*Special use permits, grazing permits, permits to collect soil, rock, water, and plant specimens. 16 U.S.C. 1 *et seq;* 36 CFR Parts 1, 2 and 7.

- Office of Surface Mining Reclamation and Enforcement (effects of mining on erosion, aquifers and alluvial valley floors).
- Office of Water Research and Technology (water resources research).
- Water and Power Resources Service (soil and moisture conservation, hydrology, erosion control on public lands, water storage and delivery projects.

Department of Transportation

- Federal Highway Administration (erosion control in highway projects).

Environmental Protection Agency (pollution control and environmental effects).

Federal Emergency Management Agency

(Floodplain mapping, floodplain management, dam and levee safety, mitigation of natural hazards.)

National Aeronautics and Space Administration (advanced technology for remote sensing of land covers).

Tennessee Valley Authority (National Fertilizer Development Center, endangered plants in the Tennessee Valley region).

Water Resources Council (floodplain and wetland initiatives).

- River Basin Commissions (as geographically appropriate).

D. Fish and Wildlife

Department of Agriculture

- Agricultural Stabilization and Conservation Service (agricultural conservation program, water bank program).
- Animal and Plant Health Inspection Service:

*Prevention of importation or exportation of diseased livestock or poultry. 21 U.S.C. 102–105, 111, 132a–134f.

- Forest Service (habitat management).

*Claim of privately owned horses and burros. 16 U.S.C. 1333 (36 CFR Part 222).

*Permits for hunting and fishing in refuge lands. 16 U.S.C. 551; 16 U.S.C. 683.

- Soil Conservation Service (habitat, fish ponds, aquaculture).

Department of Commerce

- National Oceanic and Atmospheric Administration (coastal and marine resources management and protection):

*Scientific research and public display of marine mammals. 16 U.S.C. 1374 (50 CFR Part 618; 50 CFR 216.31, 220).

*Consultation regarding Federal or Federally permitted projects affecting fish and wildlife habitat in coastal and offshore areas under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*

*Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR Part 922).

*Approval and funding of state coastal management programs. 16 U.S.C. 1451, *et seq.* (15 CFR Part 923; 930).

*Protection of threatened and endangered marine species and critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR Part 222).

*Protection of marine mammals. 16 U.S.C. 1361, *et seq.* (50 CFR Part 216).

*Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

*Trustee of natural resources. 43 U.S.C. 1813 (E.O. 12123).

*Scientific, propagation or survival of marine reptile—permits. 16 U.S.C. 1538 (50 CFR 223.23).

*Endangered or threatened marine fish, sea turtles—permits. 16 U.S.C. 1531 (50 CFR 222.21).

*Control of fishing by foreign and domestic vessels in the 3–200 mile Fishery Conservation Zone. 16 U.S.C. 1801, *et seq.* (50 CFR Ch. VI).

*Permit for importing marine mammals or products thereof. 16 U.S.C. 1371–74 (50 CFR Part 216).

*Whaling for scientific and subsistence purposes. 16 U.S.C. 916 (50 CFR Part 216).

Department of Defense

- Army Corps of Engineers (public works project mitigation measures).

*Rules governing work or structures in or affecting the waters of the United States, 33 U.S.C. 403.

*Permits for discharge of dredged or fill material into waters of United States. 33 U.S.C. 1344.

- Department of the Air Force (bird-aircraft strike hazard reduction).

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands and off-reservation treaty fishing).
- Bureau of Land Management (wild horses and burros; endangered species and raptors; effects of power lines and other major projects crossing public lands):

*Management and control of wild free-roaming horses and burros and cooperative agreements for adoption. 16 U.S.C. 1331–1340, 43 CFR Group 4700.

- Fish and Wildlife Service (endangered species; effects on fish and wildlife):

*Permits to take bald and golden eagles for scientific, religious and other purposes. 16 U.S.C. 668a, 50 CFR Part 22.

*Permits for the taking and importation of marine mammals. 16 U.S.C. 1361 *et seq.*, 50 CFR Part 18.

*Permits for export/import and to take for scientific and other purposes endangered or threatened wildlife and plants. 16 U.S.C. 1531 *et seq.*, 50 CFR Part 17.

*Permits for the importation of injurious mammals, birds, fish and other wildlife. 18 U.S.C. 42–44, 50 CFR 16.22.

*Permits for export/import and interstate transportation of wildlife. 18 U.S.C. 42 *et seq.*, 50 CFR Part 14.

*Permits for the banding and marking of migratory birds. 16 U.S.C. 703–711, 50 CFR 21.22.

*Permits to perform taxidermy services on migratory birds, nests and eggs for commercial uses. 16 U.S.C. 704, 50 CFR 21.24.

*Permits for special purpose uses of migratory birds, 16 U.S.C. 701, *et seq.*, 50 CFR 21.27.

*Certificates or permits of exception to Convention on International Trade in Endangered Species. 16 U.S.C. 1531–1543, 50 CFR Part 23.

*Protection of endangered species and critical habitats. 16 U.S.C. 1531–1543, 50 CFR Part 402.

*Determination of critical habitats for endangered and threatened species fish and wildlife and plants. 16 U.S.C. 1533; 50 CFR Parts 17, 402 and 424.

*Consultation regarding Federal or Federally permitted projects which affect streams and water bodies under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*, 43 CFR Part 17.

*Restoration and enhancement of anadromous fishery resources through grants for fish ladders, new anadromous fish hatcheries, new fishways, etc. 16 U.S.C. 742a–742j, 50 CFR Part 401.

*Improvement of sport fishery resources through grants to States under the Dingell-Johnson (D–J) Program. 16 U.S.C. 777–777k, 50 CFR Part 80.

*Restoration and enhancement of wildlife populations and resources through grants to States under the Pittman-Robertson (P–R) Program. 16 U.S.C. 669 *et seq.*, 50 CFR Part 80.

*Habitat acquisition and improvement and other activities for designated marine mammals through grants to States under the Marine Mammal Grant Program. 16 U.S.C. 1361 *et seq.*

*Land acquisition, management, and other activities for endangered and threatened species through grants to States. 16 U.S.C. 1531–1543, 50 CFR Part 81.

- Geological Survey (water quality and quantity).
- Heritage Conservation & Recreation Service (fishing, hunting and other outdoor recreational pursuits).
- National Park Service:

*Permits for collecting animal specimens from National Park System areas. 16 U.S.C. 1 *et seq.*, 36 CFR Part 2.

*Licenses and permits for sport or commercial fishing in certain National Park System areas. 36 CFR Part 2.

*Disposition of surplus animals from National Park System areas. 36 CFR Part 10.

- Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation activities).
- Water and Power Resources Service (water storage and delivery projects, hunting and fishing on project lands, mitigation measures, limnology).

Department of Health and Human Services

- Public Health Service (health).
- Food and Drug Administration (contamination of fish and shellfish with toxics).

Department of State

(International issues concerning fish and wildlife, including migratory birds and marine mammals.)

Department of Transportation

(Effects of highway projects on fish and wildlife habitat.)

- Federal Highway Administration (highway construction).

Environmental Protection Agency

(Pollution control and environmental effects.)

Marine Mammal Commission

(Marine mammal protection and conservation.)

Tennessee Valley Authority

(Fish and wildlife management and conservation in the Tennessee Valley.)

E. Renewable Resource Development, Production, Management, Harvest, Transport and Use

- ACTION (small-scale voluntary activities involving energy conservation, e.g., woodlot coops).

Department of Agriculture

- Economic Statistical Cooperation Service (data).
- Agricultural Stabilization and Conservation Service (conservation program, forestry incentives program.)
- Forest Service (timber sale, free use, timber management activities and grazing habitat management in National Forests and Grasslands).

*Timber use permits. 16 U.S.C. 472; 16 U.S.C. 528–531; 16 U.S.C. 1600–1614.

- Science and Education Administration (forest and range management).
- Soil Conservation Service (watershed protection; soil conservation).

Department of Commerce

- Maritime Administration (transportation of renewable resource commodities).
- National Oceanic and Atmospheric Administration (coastal and marine resources management and development, control of fishing by foreign and domestic vessels in the 3–200 mile Fishery Conservation Zone).

Department of Defense

- Army Corps of Engineers (hydro).

*Rules governing work or structures in or affecting waters of the United States. 33 U.S.C. 403.

*Permits for discharge of dredged or fill material into waters of United States. 33 U.S.C. 1344.

Department of Energy

- Federal Energy Regulatory Commission.

*Regulation of development of water resources. Federal Power Act. 16 U.S.C. 791–825r (18 CFR Parts 4–25, 36, 131, 141).

- Office of Environment (energy policy, programs and projects).

Department of Housing and Urban Development

(Building materials.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands):

*Permits for grazing on Indian lands and on Federal lands under BIA jurisdiction. 5 U.S.C. 301 *et seq.*, 25 CFR 151.

*Sale of timber from tribal and allotted lands. 25 U.S.C. 406, 407 *et seq.*; 25 CFR Part 141.

Permits, concessions and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 390, 25 CFR Part 203.

*Leases for farming and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301, 25 U.S.C. 392 *et seq.*, 25 CFR Part 131.

- Bureau of Land Management (public lands, outer continental shelf):

*Permits for coral harvesting on the outer continental shelf. 43 U.S.C. 1334, 43 CFR Part 6224.

*Permits for grazing. 43 U.S.C. 315, 43 CFR Group 4100.

*Sale by contract of forest products. 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 423, and 1181a; 43 CFR Group 5400.

*Permits for free use of timber. 16 U.S.C. 604 *et seq.*, 30 U.S.C. 189, 48 U.S.C. 423, 43 CFR Part 5500.

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*Management and control of wild free-roaming horses and burros and cooperative agreements for adoption. 16 U.S.C. 1331–1340, 43 CFR Group 4700.

- Fish and Wildlife Service (effects on fish and wildlife resources).
- Heritage Conservation and Recreation Service (funding for State and local programs for acquisition, development and preservation of public park, recreation and cultural/historical resources; effects on historical and recreational values).
- National Park Service (effects on National Park System areas):

*Permits for sport fishing, hunting and grazing. 16 U.S.C. Ch. 1 *et seq.*, 36 CFR Parts 1, 2 and 7.

- Water and Power Resources Service (water storage and delivery projects, irrigation):

*Sale of farm units on Federal irrigation projects. (Statutory authority appears in individual project authorizations.)

Department of Transportation

- Federal Highway Administration (logging haul roads, access roads).

Environmental Protection Agency

(Pollution control and environmental effects.)

Interstate Commerce Commission

(Freight rates.)

Tennessee Valley Authority

(Hydro-electric power, biomass production and use.)

F. Non-energy Mineral Resource Conservation, Development, Production, Management, Transport and Use

Department of the Interior

- Bureau of Indian Affairs (effects on Indian lands):

*Approval of leases for Indian lands. 25 U.S.C. 392–403b, 415; 25 CFR Part 131.

*Leases for mining and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301, 25 U.S.C. 392, *et seq.*, 25 CFR Part 131.

*Rights-of-way over Federal lands under BIA jurisdiction. 25 U.S.C. 323–328, 25 CFR Part 161.

- Bureau of Land Management (effects on public lands and the outer continental shelf):

*Exploration Licenses to explore for leasable minerals on unleased lands. 30 U.S.C. 181 and 201(b), 43 CFR Part 3400.

*Leases for phosphate, sodium, potassium, etc., exploration and mining. 30 U.S.C. 181 *et seq.*, 43 CFR Group 3500.

*Permits for sand, stone and gravel. 30 U.S.C. 601, 602.

*Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280; each area has special Federal Regulations.

*Concurrence for placer mining use of the surface of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621, 43 CFR Part 3730.

*Leases and permits for sulfur in Louisiana and New Mexico. 30 U.S.C. 271 *et seq.*, 43 CFR Group 3500.

*Easements/permits for rights-of-way. 43 U.S.C. 9, 43 U.S.C. 1701 *et seq.*, 43 CFR Parts 2800–2900.

*Exchange of Federal lands for other property. 43 U.S.C. 1716, 43 CFR 2200–2270.

- Bureau of Mines (mineral land assessment):

*Agreements to dispose of helium of the United States. 43 U.S.C. 1201, 30 U.S.C. 180 *et seq.*, 43 CFR Part 16.

- Fish and Wildlife Service (effects on fish and wildlife resources):

*Easements/permits for transmission line, pipelines and other rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. 16 U.S.C. 668dd *et seq.* for refuges, 43 U.S.C. 931c and d for hatcheries; 50 CFR 25.41 and 29.21.

*Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460k–3, and 742(f); 50 CFR Part 100.

- Geological survey: Approval and supervision of plan of operations for a prospecting permit or a mining lease issued on public domain lands, acquired lands, and tribal and allotted Indian lands for potash, sodium phosphate and other minerals (exclusive of oil, gas and coal). 30 U.S.C. 189 *et seq.*, 30 CFR Part 231.
- Heritage Conservation & Recreation Service (effects on public park, recreation and cultural/historical resources and values).
- National Park Service (effects on National Park System areas):

*Permits, leases and easements for rights-of-way, grazing and other uses on National Park System areas. 16 U.S.C. 1 *et seq.*, 36 CFR Part 9 *et seq.*

*Leases, permits and licenses for mining on National Park System lands involved in Wild and Scenic River Systems. 16 U.S.C. 1280.

*Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908; 30 U.S.C. 21 *et seq.*, 36 CFR Part 9.

- Office of Minerals Policy and Research Analysis (research).
- Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation activities).
- Water and Power Resources Service (effects on water storage and delivery projects):

*Easements/permits for access, pipeline and other rights-of-way. 43 U.S.C. 3871.

G. Natural Resources Conservation

Department of Agriculture

- Agricultural Stabilization and Conservation Service (resource conservation programs).
- Forest Service (conservation of forest and rangeland resources).
- Science and Education Administration (research in technical aspects of soil and water conservation; forest and range management).
- Soil Conservation Service (soil and water conservation).

Department of Energy

- Federal Energy Regulatory Commission (hydroelectric power and natural gas facilities).
- Office of Environment (energy policies, programs and projects):

*Energy Conservation Standards for New Buildings Act. 42 U.S.C. 6834.

Department of Commerce

- National Bureau of Standards (energy efficiency).
- National Oceanic and Atmospheric Administration (coastal and marine resources—management and protection, heating fuel usage forecasting, coastal energy facility planning and siting in state coastal zone management programs).

Environmental Protection Agency

(Resource recovery from wastes, pollution control and environmental effects.)

*The Solid Waste Disposal Act, 42 U.S.C. 3251, *et seq.*, as amended by the Resource Conservation and Recovery Act. 42 U.S.C. 6901, *et seq.*

*Guidelines on solid waste collection and storage for federal assistance. 42 U.S.C. 6907 (40 CFR Part 243).

*Resource recovery facilities. 42 U.S.C. 6907 (40 CFR Part 245).

*Materials recovery, solid waste management guidelines for source separation. 42 U.S.C. 6907 (40 CFR Part 246).

*Solid waste management guidelines for beverage containers. 42 U.S.C. 6907 (40 CFR Part 244).

Federal Emergency Management Agency

(Dam and levee safety.)

Department of the Interior

- Bureau of Indian Affairs (Indian lands).

- Bureau of Land Management (public lands and outer continental shelf areas).
- Bureau of Mines (land reclamation, recycling, processing and use of recycled materials).
- Fish and Wildlife Service (fish and wildlife resources, National Wildlife Refuge and National Fish Hatchery Systems).
- Geological Survey (water resources; oil, gas, geothermal, coal and other mineral operations).
- Heritage Conservation & Recreation Service (urban parks, outdoor recreation, historical and cultural resources, National Trails System, Wild and Scenic Rivers System).
- National Park Service (National Park System).
- Office of Surface Mining Reclamation and Enforcement (surface mining and reclamation).
- Office of Water Research and Technology (water resources, desalinization).
- Water and Power Resources Service (water storage and delivery projects, Soil and Moisture Conservation Program).

Department of Housing and Urban Development

- Office of Housing (previously FHA) (housing standards).
- Office of Policy Development and Research (energy, building technology and standards research).

Interstate Commerce Commission

(Energy efficiencies of rail and alternative transport modes.)

Tennessee Valley Authority

(Energy conservation, soil conservation).

[FR Doc. 80-26300 Filed 8-27-80; 8:45 am]

BILLING CODE 3125-01-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Meeting

Authority of Committee: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Pay Advisory Committee will meet on September 16, 1980, at 2:00 p.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20503.

Purpose of Meeting: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Pay Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: August 25, 1980.

David A. Henderson,

Acting Advisory Committee Management Officer.

[FR Doc. 80-26433 Filed 8-27-80; 8:45 am]

BILLING CODE 3175-01-M

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Price Advisory Committee will meet on September 10, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20503.

Purpose of Meeting: The purpose of the meeting will be to contine unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: August 25, 1980.

David Henderson,

Acting Advisory Committee Management Officer.

[FR Doc. 80-26460 Filed 8-27-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Permit Action Concerning Commercial Sand and Gravel Dredging on the French Broad, Tennessee, and Cumberland Rivers

AGENCY: U.S. Army Corps of Engineers, Nashville District.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

1. Proposed Action.

SUMMARY: Because several commercial firms have applied for Department of the Army Permits covering sand and gravel dredging, a DEIS evaluating the cumulative impacts of sand and gravel dredging in the Nashville District will be prepared. Ten companies are involved in the action. Diesel-powered hydraulic dredges are predominant although two bucket-ladder dredges are also in use. Processing methods range from processing at a land plant to total processing on-board.

2. Alternatives.

Alternatives which have been identified are (1) "no action" (denial of permits), (2) requiring alternative dredging equipment or procedures, (3) land-based extraction, and (4) alternative materials.

3. Scoping Process.

a. Public Input. The public is invited to submit written comments within 30 days of this notice to aid in determining the issues to be covered in the DEIS. Input from concerned Federal, State, and local agencies will be solicited by letter.

b. Issues. The applicants have contracted comprehensive environmental studies and a detailed Environmental Assessment which will serve as basic information for the DEIS. The following is a list of significant issues which were analyzed and which are identified for coverage in the DEIS:

(1) Effects on water quality (including turbidity, water supply impacts, toxic materials, and recreation impacts).

(2) Effects on navigation.

(3) Socioeconomic impacts.

(4) Effects on archeological sites.

(5) Effects on aquatic habitat (including changes in substrate composition and bottom geometry).

(6) Effects on benthic populations.

(7) Effects on fish.

(8) Effects on periphyton.

(9) Effects on endangered species.

The Environmental Assessment is vailable for inspection between the hours of 8:30 a.m., and 3:30 p.m., (CDT) in the District Technical Library, Room A755, Estes Kefauver Federal Building, 801 Broadway, Nashville, Tennessee.

c. Other Environmental Review and Consultation. Public Notices soliciting public comments concerning the permit actions have been distributed. Comments have also been solicited from the U.S. Fish and Wildlife Service under the Fish and Wildlife Coordination Act. Records of endangered species distribution will be reviewed. If it is determined that any endangered species might be affected, consultation as required by the Endangered Species Act will be initiated.

4. Scoping Meeting. No scoping meeting will be conducted unless written comments indicate that one is needed to adequately obtain public and agency input.

5. Estimated Completion. It is estimated that the DEIS will be made available to the public in December 1980.

Questions: The district point-of-contact for questions concerning the proposed action and DEIS is: Planning Branch, Attn: Mr. Ray Hedrick, U.S. Army Engineer District, Nashville, P.O. Box 1070, Nashville, TN 37202.

Dated: August 12, 1980.

Lee W. Tucker,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-26376 Filed 8-27-80; 8:45 am]

BILLING CODE 3710-GF-M

Department of the Navy

Privacy Act of 1974; Addition of System of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of new system of records.

SUMMARY: The Department of the Navy proposes to add one new systems notice subject to the Privacy Act of 1974.

DATES: The proposed actions shall be effective without further notice on September 29, 1980, unless comments are received before September 29, 1980, which would result in a contrary determination.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the systems manager identified in the particular systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a (Pub. L. 93-579) have been published in the **Federal Register** as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979
FR Doc 79-36798 (44 FR 68947) November 30, 1979
FR Doc 79-37052 (44 FR 74553) December 17, 1979
FR Doc 80-6599 (45 FR 13794) March 3, 1980
FR Doc 80-14965 (45 FR 32037) May 15, 1980
FR Doc 80-15427 (45 FR 33679) May 20, 1980
FR Doc 80-17286 (45 FR 38099) June 6, 1980
FR Doc 80-19603 (45 FR 43841) June 30, 1980
FR Doc 80-20317 (45 FR 43938) July 8, 1980

The Department of the Navy has submitted a new system report dated July 29, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively. The OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 25, 1980.

N00023

SYSTEM NAME:

Personal Property Program

SYSTEM LOCATION:

All Navy Personal Property Counseling and Shipping Offices and Federal Records Centers (mailing addresses are listed in the Navy directory in the appendix to the Component System Notice).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOD and other federal departmental military personnel and their dependents and civilian employees and their dependents having applied for and shipped and/or stored personal property, privately owned automobiles and mobile homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's applications for shipment and/or storage related shipping documents and records of delivery, payment, and inspection of personal property. Forms maintained include: DD 619 Statement of Accessorial Services Performed; DD 1100 Household Good Storage Record; SF 1103 U.S. Government Bill of Lading; DD 1252 U.S. Customs Declaration for Personal Property Shipments (Part I); DD 1252-1 U.S. Customs Declaration for Personal Property Shipments (Part II); DD 1299 Application for Shipment and/or Storage of Personal Property; DD 1671 Reweight of Personal Property; DD 1780 Report of Carrier Services Personal Property Shipment; DD 1781 Customer Satisfaction Report; DD 1797 Personal Property Counseling Checklist; DD 1799 Member's Report on Carrier Performance—Mobile Homes; DD 1800 Mobile Home Shipment Inspection at Destination; DD 1841 Government Inspection Report; DD 1842 Claim for Personal Property Against the United States; DD 1845 Schedule of Property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5724; DOD Regulation 4500.43; DOD Regulation 4500.34-R; "Personal Property Traffic Management Regulation;" JAG Manual; NAVSUP Publication 490, "Transportation of Personal Property."

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Navy Personal Property Shipping Offices applicable finance centers, and the Navy Material Transportation Office for effecting, coordinating and payment of personal property shipment and storage.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of member.

SAFEGUARDS:

Records are maintained in monitored or controlled areas accessible only to authorized personnel that are properly cleared and trained. Buildings-rooms locked outside regular working hours.

RETENTION AND DISPOSAL:

Records are retained in Personal Property Office files for a period of four years, then forwarded to Federal Record Centers and/or General Accounting Office for indefinite retention.

SYSTEM MANAGER(S) AND ADDRESSES:

Commander, Naval Supply Systems Command (Code 05), Washington, D.C. 20376.

NOTIFICATION PROCEDURE:

Written requests may be addressed to the apppropriate Navy personal

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property shipping office concerned (mailing addresses are listed in the Navy directory in the component system notice). Individuals should provide proof of identify, full name, rank, dates of shipment-storage, etc.

RECORD ACCESS PROCEDURES;

The agency's rules for access to records may be obtained from the Commander, Naval Supply Systems Command (Code 05), Washington, D.C. 20376.

CONTESTING PROCEDURES:

The agency's rules for contesting contents of records and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Application and related forms submitted by the individual concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-26397 Filed 8-27-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session 1 and 2 October 1980 at United Technology Corporation, East Hartford, Connecticut.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 25, 1980.

[FR Doc. 80-26396 Filed 8-27-80; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Amended Systems of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of amendments to systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter two systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATES: These systems shall be amended as proposed without further notice on September 29, 1980, unless comments are received before September 29, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the particular record system concerned.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, WHS, Room 5C315, Pentagon, Washington, D.C. 20301, telephone: 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a), Pub. L. 93-579 have been published to date in the **Federal Register** as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15604) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29590) May 5, 1980
FR Doc. 80-15479 (45 FR 34034) May 21, 1980
FR Doc. 80-15775 (45 FR 34956) May 23, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980
FR Doc. 80-23575 (45 FR 51880) August 5, 1980

The proposed amendments are within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered systems report which was submitted on July 21, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 25, 1980.

DWHS SPM001

SYSTEM NAME:

Application for Pentagon Parking Permit (44 Fr 74141, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

In line two, after "Washington Headquarters Services,", insert: "and the Air Force Data Services Center".

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At the end of the entry, change the period to a comma, and insert: "and pay parking record/receipt forms from DoD and other Federal employees".

CATEGORIES OF RECORDS IN THE SYSTEM:

At the end of the entry, change the period to a comma and insert: "and DD Form 2213 Parking Record/Receipt."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the above heading, and insert:

"ROUTINE USES (DISCLOSURE) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES:".

In line two of the first sentence, change the period to a comma, and insert: "and to record monthly payments of parking fees".

INTERNAL USERS, USES, AND PURPOSES:

In line one, delete the word "Pentagon". Delete the period at the end of the sentence, and insert: "at the Pentagon and Federal Building 2".

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Delete the above heading, and insert: *"Records management policies and practices:".*

STORAGE:

At the end of the entry, change the period to a comma, and insert: "computer magnetic tapes, disks and video screens".

RETRIEVABILITY:

At the end of the entry, delete "last name", and insert: "permit number".

SAFEGUARDS:

At the end of the entry, insert: "Computer media residents are stored in

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controlled areas. Dial-up computer terminal access is controlled by user passwords that are periodically changed".

RECORD ACCESS PROCEDURES:

In the second line of the third paragraph, delete "Pentagon", and insert: "DoD"

At the end of the third paragraph, insert: "The computer system has the facility to acess all data stored in the data base. Central Parking Control has exclusive access to the data base and controls updating the files."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Delete the above heading, and insert: "*Exemptions claimed for the system:*".

DWHS SPM002

SYSTEM NAME:

Pentagon Carpool Locator (44 FR 74141, December 17, 1979).

CHANGES:

In the above system name, insert the words "and Federal Building 2" between the words "Pentagon" and "Carpool".

SYSTEM LOCATION:

At the end of this heading, insert the following as a third paragraph:

"Office of the DoD Building Administrator, Directorate for Space Management and Services, Washington Headquarters Services, Department of Defense, Federal Building 2, Washington, D.C. 20301."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 1, insert: "and other" between the words "(DoD)" and "personnel." In line two, delete the word "Building," and insert: "and Federal Building 2" after the word "Pentagon."

CATEGORIES OF RECORDS IN THE SYSTEM:

In line two, insert: "or Federal Building 2" between the words "Pentagon:" and "office".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the above heading and insert: "*Routine uses (disclosure) of records maintained in the system, including categories of users, uses, and the purpose of such uses:*"

Delete the first sentence and insert: "This system assigns and administers allocated carpool parking spaces at the Pentagon and Federal Building 2; and provides Pentagon and Federal Building 2 carpoolers with the names of potential prospects who live near him/her."

INTERNAL USERS, USES, AND PURPOSES:

In the first paragraph, line one, after the word "Office", insert: "and the Office of the Building Administrator, Federal Building 2", and at the end of the entry, change the period to a comma, and insert: "and Federal Building 2".

In the third paragraph, at the beginning of line two after the word "printout", insert: "or area card".

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Delete the above heading, and insert: "*Records management policies and practices:*".

STORAGE:

Remove the period at the end of the line and insert: "for the Pentagon building carpools". Add as the next sentence: "Manual storage within self-help carpool locator board for Federal Building 2 participants."

RETRIEVABILITY:

Delete the period at the end of this entry, and insert: "for Pentagon building participants." Add as a second sentence: "Information is manually accessed and retrieved from cards in map grids for Federal Building 2 participants."

SAFEGUARDS:

Insert: "Pentagon—" before the first paragraph.

Add as a second paragraph:

"Federal Building 2—All participants have access to the data. Building has security guards. System is maintained in an area secured during nonworking hours and within close view of security officers."

RETENTION AND DISPOSAL:

Insert the following at the end of this entry: "Records of personnel removed from the Federal Building 2 carpool locator shall be destroyed upon removal."

RECORD ACCESS PROCEDURES:

In the second line of paragraph three, delete the word "Pentagon", and insert: "DoD".

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Delete the above heading, and insert: "*Exemptions claimed for the system:*".

DWHS SPM001

SYSTEM NAME:

Application for Pentagon Parking Permit.

SYSTEM LOCATION:

DoD Parking Control Office, Directorate for Space Management and Services, Washington Headquarters Services, and the Air Force Data Services Center, Department of Defense, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parking applications received from employees of the Department of Defense and pay parking record/receipt forms from DoD and other Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

File includes DD Form 1199, Application for Pentagon Parking Permit, DD Form 1200, Pentagon Parking Permit Replacement/Re-Use of Space Request, and DD Form 2213, Parking Record/Receipt.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

ROUTINE USES (DISCLOSURE) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES:

The purpose of this system is to assign parking to eligible Department of Defense personnel, and to record monthly payments of parking fees.

INTERNAL USERS, USES, AND PURPOSES:

To be used by DoD Parking Control Office to assign parking to eligible DoD personnel at the Pentagon and Federal Building 2.

EXTERNAL USERS, USES, AND PURPOSES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Conponent's published system notices.

RECORDS MANAGEMENT POLICIES AND PRACTICES.

STORAGE:

Card records in card file, computer magnetic tapes, disks and video screens.

RETRIEVABILITY:

Filed alphabetically by permit number.

SAFEGUARDS:

Under direct control of the DoD Parking Control Office. Office is locked and guarded. Computer media residents are stored in controlled areas. Dial-up computer terminal access is controlled by user passwords that are periodically changed.

RETENTION AND DISPOSAL:

Records are kept on active applicants and destroyed when they depart Department of Defense.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Pentaton, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Room 3C345, Pentagon, Washington, D.C. 20301, Telephone: 202-697-7241.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Room 3C345, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual and the name of the employing Component.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or DoD building pass. The computer system has the facility to access all data stored in the data base. Central Parking Control has exclusive access to the data base and controls updating the files.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Application for Pentagon Parking Permit, DD Form 1199, and related forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DWHS SPM002

SYSTEM NAME:

Pentagon and Federal Building 2 Carpool Locator.

SYSTEM LOCATION:

Primary System—Air Force Data Services Center.

Decentralized Segments—DoD Parking Control Office, Directorate for Space Management and Services, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

Office of the DoD Building Administrator, Directorate for Space Management and Services, Washington Headquarters Services, Department of Defense, Federal Building 2, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Defense (DoD) and other personnel who participate in Pentagon and Federal Building 2 carpools.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, DoD Component Code, home address, working hours, Pentagon or Federal Building 2, office room number, office phone number, map coordinate of home address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

ROUTINE USES (DISCLOSURE) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES:

This system assigns and administers allocated carpool parking spaces at the Pentagon and Federal Building 2; and provides Pentagon and Federal Building 2 carpoolers with the names of potential prospects who live near him/her.

INTERNAL USERS, USES, AND PURPOSES:

DoD Parking Control Office and the Office of the Building Administrator, Federal Building 2—To assign and administer allocated carpool parking spaces at the Pentagon and Federal Building 2.

Air Force Data Services Center—To provide a printout to each individual in the system which lists other participants who live near him/her who are potential carpool prospects, and to provide a complete printout of all participants to the DoD Parking Control Office and the General Services Administration (GSA).

Individuals—To contact other participants on either his/her individual printout or area card, or the DoD Parking Control Office's complete printout to determine their interest in carpooling.

EXTERNAL USERS, USES, AND PURPOSES:

General Services Administration—To carpool data in area-wide system when and if implemented.

RECORDS MANAGEMENT POLICIES AND PRACTICES:

STORAGE:

Computer magnetic tapes, disks and paper printouts for the Pentagon building carpools. Manual storage within self-help carpool locator board for Federal Building 2 participants.

RETRIEVABILITY:

Information is accessed and retrieved by name and home address map grid for Pentagon building participants. Information is manually accessed and retrieved from cards in map grids for Federal Building 2 participants.

SAFEGUARDS:

Pentagon—All participants have access to the data, which is under direct control of the DoD Parking Control Office. Office is locked and guarded. Computer media resident at the Air Force Data Services Center is stored in controlled areas. Dial-up computer terminal access is controlled by user passwords that are periodically changed.

Federal Building 2—All participants have access to the data. Building has security guards. System is maintained in an area secured during nonworking hours and within close view of security officers.

RETENTION AND DISPOSAL:

Data is retained only on active participants. Records of personnel removed from the Pentagon Carpool Locator shall be kept one to three months and then destroyed. Records of personnel removed from the Federal Building 2 carpool locator shall be destroyed upon removal.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Room 3C345, Pentagon, Washington, D.C. 20301, Telephone: 202-697-7241.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Department of Defense, Room 3C345, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or DoD building pass.

The computer system has the facility to access all data stored in the data base. Central Parking Control has exclusive access to the data base and controls updating the files.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Carpool Locator Card (DD Form 2170).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 80-26396 Filed 8-27-80; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Amended System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of amendments to system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below followed by the system published in its entirety as amended.

DATES: This system shall be amended as proposed without further notice on September 29, 1980, unless comments are received before September 29, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the particular record system concerned.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, WHS, Room 5C315, Pentagon, Washington, D.C. 20301, telephone: 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices inventory subject to the Privacy Act of 1974 (5 USC 552a), Pub. L. 93-579 have been published to date in the **Federal Register** as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15604) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29590) May 5, 1980
FR Doc. 80-15479 (45 FR 34034) May 21, 1980
FR Doc. 80-15775 (45 FR 34956) May 23, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980
FR Doc. 80-23575 (45 FR 51880) August 5, 1980

The proposed amendments are within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report which was submitted on July 31, 1980.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 25, 1980.

WUSU01

SYSTEM NAME:

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES (USUHS) PERSONNEL FILES.

SYSTEM LOCATION:

A central personnel record file will be maintained at USUHS Personnel/Manpower Directorate, 4301 Jones Bridge Road, Bethesda, MD. 20014. Copies of 171's and curriculum vitae's of applicants and employees will be maintained in the Personnel/Manpower Directorate by the Dean of the School of Medicine, and by the Department Chairperson, having a need for the information. A supplemental file consisting of summary data on each civilian employee will be stored in the computer at Bolling Air Force Base (AFB), Washington, D.C. 20332; for military personnel assigned to USUHS: at Walter Reed Army Medical Center (WRAMC) military personnel office, National Naval Medical Center (NNMC) military personnel office, Andrews Air Force Base (AFB) personnel office and at Public Health Service (PHS) personnel office, Parklawn Bldg., Rockville, Md. 20850. Home phone numbers of key personnel will be provided to other key personnel, and those of students to other students on a need-to-know basis, and only with the express permission of the individual concerned, for an emergency call system. Biographical information on students to be maintained in the Commandant's office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained on all personnel assigned to USUHS full-time and part-time.

CATEGORIES OF RECORDS IN THE SYSTEM:

The type of information which will be maintained on employees is as follows: Identity and demographic information (e.g., Social Security Number (SSN), name, sex, address, birth date, minority status, etc.); Academic and experience background data consisting of: (1) Schools attended; (2) Degrees earned; (3) Work experience, awards, etc.; (4) Letters of reference, performance evaluation, etc.; (5) Time and attendance cards; and (6) Biographical data file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, United States Code, Section 136.

ROUTINE USES (DISCLOSURE) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES.

INTERNAL USERS, USES, AND PURPOSES:

The System will be used for documenting the work experience of applicants and USUHS personnel and for notification of key personnel in case of emergency during nonworking hours. Biographical data file will be used for providing background information on USUHS students to lecturers.

EXTERNAL USERS, USES, AND PURPOSES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

RECORDS MANAGEMENT POLICIES AND PRACTICES:

STORAGE:

Material stored in file folders at USUHS, supported by automated copies of pertinent data of each employee's folder which are maintained on magnetic tape and disk at USUHS Personnel/Manpower Directorate, Bethesda, Md. 20014.

RETRIEVABILITY:

The system will be indexed by name and Social Security Number (SSN). Also, any combination of data in the file can be used to select individual data. Only Personnel/Manpower Directorate personnel will be provided with the password that allows access to the data, and those individuals are authorized access to all data in the file. Records will be available to: The individual concerned. Employees of USUHS on a need-to-know basis. Other agencies of the Government to satisfy requests for routine reports.

SAFEGUARDS:

The files will be maintained in securable file cabinets located in a limited access area at the University. The computer hardware, disks, tapes and other materials are secured in locked cabinets in a controlled and guarded area. Access is via controlled dial-in and is password controlled.

Passwords are changed semiannually, or upon the departure of any person knowing the password.

The automated system is operated by USUHS Personnel/Manpower Directorate personnel and only those personnel will be given the password and user identification information needed to access the computer system. Those persons are authorized access to all fields in the data base. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select individual records.

RETENTION AND DISPOSAL:

Indefinite files that are retained while the individual is employed and then retired.

SYSTEM MANAGER(S) AND ADDRESS:

The personnel officer of the University will be the custodian of this file (business address: 4301 Jones Bridge Road, Bethesda, Md. 20014, telephone: 202-295-3080).

NOTIFICATION PROCEDURE:

Inquiries regarding the personnel files should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Information on the procedures for gaining access to and contesting records will be furnished each employee by the Personnel Office upon entry on duty with USUHS.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information contained in the file is furnished by the employees, supervisors and references supplied by the employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

WUSU01

SYSTEM NAME:

Uniformed Services University of the Health Sciences (USUHS) Personnel Files (44 FR 74778, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

Delete the entry under the above heading, and insert:

"A central personnel record file will be maintained at USUHS Personnel/Manpower Directorate, 4301 Jones Bridge Road, Bethesda, Md. 20014. Copies of 171's and curriculum vitae's of applicants and employees will be maintained in the Personnel/Manpower Directorate by the Dean of the School of Medicine, and by the Department Chairperson, having a need for the information. A supplemental file consisting of summary data on each civilian employee will be stored in the computer at Bolling Air Force Base (AFB), Washington, D.C. 20332; for military personnel assigned to UHUHS: at Walter Reed Army Medical Center (WRAMC) military personnel office, National Naval Medical Center (NNMC) military personnel office, Andrews Air Force Base (AFB) personnel office and at Public Health Service (PHS) personnel office, Parklawn Bldg., Rockville, Md. 20850. Home phone numbers of key personnel will be provided to other key personnel, and those of students to other students on a need-to-know basis, and only with the express permission of the individual concerned, for an emergency call system. Biographical information on students to be maintained in the Commandant's office."

CATEGORIES OF RECORDS IN THE SYSTEM:

In line two, delete "SSAN", and insert: "Social Security Number (SSN)".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the above heading, and insert:

"ROUTINE USES (DISCLOSURE) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSE OF SUCH USES:".

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Delete the above heading, and insert:

"RECORDS MANAGEMENT POLICIES AND PRACTICES:"

STORAGE:

Remove the period at the end of the sentence, and insert: "at USUHS, supported by automated copies of pertinent data of each employee's folder which are maintained on magnetic tape and disk at USUHS Personnel/Manpower Directorate, Bethesda, Md. 20014."

RETRIEVABILITY:

In line one, delete "SSAN", and insert: "Social Security Number (SSN)". Then insert: "Also, any combination of data in the file can be used to select individual data. Only Personnel/Manpower Directorate personnel will be provided with the password that allows access to the data, and those indviduals are authorized access to all data in the file."

SAFEGUARDS:

Delete the period at the end of the sentence, and insert: "located in a limited access area at the University. The computer hardware, disks, tapes and other materials, are secured in locked cabinets in a controlled and guarded area. Access is via controlled dial-in and is password controlled.

Passwords are changed semiannually, or upon the departure of any person knowing the password.

The automated system is operated by USUHS Personnel/Manpower Directorate personnel and only those personnel will be given the password and user identification information needed to access the computer system. Those persons are authorized access to all fields in the data base. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select individual records."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Delete the above heading, and insert:

"EXEMPTIONS CLAIMED FOR THE SYSTEM:".

[FR Doc. 80-26399 Filed 8-27-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Case No. 50126-9062-08-82]

Atlantic City Electric Co.; Extension of Second Public Comment Period on Proposed Prohibition Order Issued Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.51(b)(5) that the second three-month public comment period relating to the proposed prohibition order published January 2, 1980 (45 FR 72), is extended to November 23, 1980.

Basis for Extending the Second Public Comment Period

The notice of the proposed prohibition order issued to the Deepwater Unit 8 powerplant, owned by Atlantic City Electric Company (ACEC) and located at Pennsgrove, New Jersey, provided a public comment period of at least three-months. This first comment period expired on April 2, 1980. Pursuant to 10 CFR 501.51(b)(4) a Notice of Intention to Proceed with Prohibition Order Proceedings, which commenced a second three-month comment period, was published on May 23, 1980. During this second comment period ACEC may present evidence to demonstrate that Unit 8 would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

By letter dated June 20, 1980 (supplemented by a letter from Counsel for ACEC, dated August 14, 1980), ACEC has requested that the second comment period be extended from August 23, 1980, to November 23, 1980, and has given ERA the following information as justification for the granting of the request:

(1) The emission control equipment presently installed on Deepwater Unit 8 would not permit this unit to burn coal and comply with all applicable Federal and State air pollution requirements. ACEC has been advised by its consultant, Stone & Webster Engineering Corporation, that installation of new emission control equipment cannot be completed before mid-1983. ACEC, therefore, believes it can demonstrate that Deepwater Unit 8 is eligible for a temporary exemption pursuant to 10 CFR 504.23 because the unit is unable to comply with environmental requirements. (By letter dated March 20, 1980, ACEC advised ERA that Deepwater Unit 8 may also be eligible for other permanent or temporary exemptions from the proposed prohibition order.)

(2) In an effort to effect the early conversion of this unit to coal, ACEC has sought temporary relaxation of Federal and State air pollution requirements by asking the United States Environmental Protection Agency (EPA) to approve a delayed compliance order pursuant to section 113(d)(5) of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, for Deepwater Unit 8 and by asking the New Jersey Department of Environmental Protection (DEP) to provide similar relief from applicable State regulations.

(3) If appropriate relief from Federal and State air pollution requirements is obtained, ACEC intends to voluntarily convert Deepwater Unit 8 to coal prior to the installation of new pollution abatement equipment. Such relief would obviate the need for ACEC to substantiate its qualifications for an exemption which would constitute a defense to the issuance of a final prohibition order. (ERA has been apprised of the efforts and activities of ACEC in securing temporary relief from applicable air pollution requirements for Deepwater Unit 8 from EPA and the New Jersey DEP.)

(4) Under the circumstances, ACEC believes it would serve no useful purpose for it to gather and submit, or for ERA to review, information that would support a determination of qualification for an exemption for Deepwater Unit 8 until after EPA and the New Jersey DEP have had an opportunity to act on ACEC's requests.

Extension of Comment Period

Based upon the information submitted by ACEC, ERA believes that it is reasonable to expect that ACEC may receive a delayed compliance order from EPA and similar relief from the New Jersey DEP prior to November 23, 1980. Since ERA is interested in reducing the regulatory burden on proposed order recipients whenever it is feasible, ERA exercises its discretion pursuant to 10 CFR 501.51(b)(5) and hereby extends the second comment period with respect to the proposed prohibition order for Deepwater Unit 8 until November 23, 1980.

For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 653–4055.

Elmer Lee, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3302D, Washington, D.C. 20461, (202) 653–4200.

James Renjilian, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., August 22, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–26423 Filed 8–27–80; 8:45 am]

BILLING CODE 6450–01–M

Belridge Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 10, 1980.

Comments by: September 29, 1980.

ADDRESS: Send Comments to: Lon W. Smith, District Manager of Enforcement, Western District Office, Department of Energy, 333 Market St., 6th Floor, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Lon W. Smith, District Manager of Enforcement, Western District Office, Department of Energy, 333 Market St., 6th Floor, San Francisco, CA 94105 ((415) 764–7038).

SUPPLEMENTARY INFORMATION: On July 10, 1980, the Office of Enforcement of the ERA executed a Consent Order with Belridge Oil Company (Belridge) of Los Angeles County, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. Consent Order

Belridge, with its home office in Los Angeles County, California, is engaged in gas processing and sale of natural gas liquid products (NGLP) and is subject to the Manatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212.

To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of the audit of Belridge, the Office of Enforcement, ERA, and Belridge entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was August 1, 1975 through July 31, 1979.
2. DOE alleges that Belridge charged prices for NGLPs processed from natural gas in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 10 CFR 212, Subpart K.
3. Belridge, without admitting to any violation of the DOE regulations, agrees to refund to its identifiable overcharged customers and the DOE $65,616.13 plus interest thereon. Interest through July 31, 1979 totals $30,532.63.
4. The refund shall be made by Belridge in two separate payments of $327.27 and $95,821.49 which are due on or before June 30, 1980. These payments represent overcharges plus interest due to identified and unidentified overcharges parties, respectively.
5. DOE agrees that it will not seek civil penalties against Belridge in connection with the sales for the audit period.
6. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Belridge agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of transactions specified in I.2, above, the sum of $65,616.13, plus interest, on or before June 30, 1980. $222.92, plus interest, will be refunded to a consumer of the NGLP's. Refunded overcharges of $65,393.21, plus interest, for NGLP's sold to purchasers other than consumers, will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute those refunded amounts paid to DOE in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to indentify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payments to the Treasury of the United States pursuant to 10 CFR 205.1991(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount to be paid to DOE should provide written notification of the claim to the ERA at this time. Proof of claim is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Lon W. Smith, District Manager of Enforcement, Western District Office, Department of Energy, 333 Market Street, 6th Floor, San Francisco, CA 94105. You may obtain a free copy of this Consent Order by writing to the same address or be calling (415) 764–7038.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Belridge Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 29, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco, California on the 5th Day of August, 1980.

Lon W. Smith,

District Manager, Office of Enforcement, Western District Economic Regulatory Administration.

[FR Doc. 80-26422 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-01-M

Lake Erie Interconnection; Notice of Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice is hereby given that the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) to assess the environmental implications of a proposed ERA action: to grant or deny a permit authorizing the Jersey Central Power & Light Company (JCP&L), a subsidiary of the General Public Utilities Corporation (GPU) to construct, operate and maintain facilities at the international border, between the United States and Canada, for the transmission of electric energy from Ontario Hydro (OH) to JCP&L.

SUMMARY: On June 25, 1980, Jersey Central Power & Light Company (JCP&L), a subsidiary of the General Public Utilities Corporation (GPU), filed an application with the Economic Regulatory Administration (ERA) to install and maintain electric power facilities at the border between the United States and Canada, for the transmission of electric energy from Ontario Hydro (OH) to JCP&L. Specifically, JCP&L seeks authority to construct, connect, operate and maintain the United States portion of high voltage direct current (DC) transmission circuits extending from the Nanticoke Generating Station in Ontario, Canada to the West Erie substation located near Erie, Pennsylvania. These circuits will employ submarine cable with a 1000 megawatt capability and will be located on the botton of Lake Erie. Overhead facilities will carry the lines from the lake shore to the Erie West substation where DC/AC conversion equipment will be located. The international border is the middle of Lake Erie and, as such, the U.S. portion will be from the Erie West Substation to the middle of Lake Erie. JCP&L is a member of the Pennsylvania, New Jersey, Maryland (PJM) Interconnection, and it is expected that arrangements will be made such that the transmission facilities operated by members of this power pool will be used for delivery of the power across Pennsylvania to the JCP&L service area in New Jersey. JCP&L further states in the application that the electric power imported will be partly utilized by the other subsidiary utilities of the GPU organization. These are the Pennsylvania Electric Company and the Metropolitan Edison Company.

Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meetings which will be held on September 23, 1980, in Erie, Pennsylvania, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at one of the scoping meetings should provide advance notice to ERA as described below under Comments and Scoping Meeting. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time comments will be solicited.

Written comments on this activity should be addressed to: Mr. James M. Brown, Jr., Chief, System Reliability & Emergency Response Branch, Economic Regulatory Administration, Room.4110–E, 2000 M Street NW., Washington, D.C. 20461.

For general information on the EIS process contact: NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of the Assistant

Secretary for Environment, U.S. Department of Energy, ATTN: Ms. Linda Desell, Room 4G–059, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4610.

DATE: Scoping meetings 1:00 p.m. and 7:00 p.m., September 23, 1980, in Erie, Pennsylvania in Room 101 of the Zurn Building at Gannon College, Perry Square, Erie, Pennsylvania.

Written comments due: October 31, 1980.

BACKGROUND INFORMATION: The primary purpose of JCP&L in proposing to establish this 1000 MW high voltage DC interconnection between Ontario and Pennsylvania is to enable JCP&L to purchase, and Ontario Hydro to sell, substantial amounts of electrical energy and capacity during the period from 1984 through 1991.

JCP&L states that it needs to purchase power during this period so as to have adequate capacity to supply the projected requirements of its customers. The ability of Ontario Hydro to supply the electric power through 1991 is primarily the result of an internal load growth at a lower rate than had been expected when recently completed generating plants were planned.

According to JCP&L there appears to be little probability that it could purchase the required power from other U.S. utilities within the PJM interconnection. If this were available, the generation of the power would required additional operation of oil-fueled generating plants, increasing oil use by U.S. utilities. Since oil will be the fuel, JCP&L expects that the cost of power purchased from other PJM companies would be substantially greater than under the proposed arrangement with Ontario Hydro. Power deliveries from Ontario Hydro would be generated in either coal-fired or nuclear power plants.

The application also states that an additional long-term benefit could be expected from the proposed Lake Erie interconnection, since it would increase the ability of Ontario Hydro and the PJM utilities to transfer power either in response to emergency situations or to minimize generation costs. This facility may become an important asset to the regional power supply network in that no connection between PJM and a Canadian utility now exists and system performance is expected to be improved.

The proposed project will have associated cost and risk which will be weighed against potential benefits. JCP&L estimates the proposed facilities will cost about $285 million (1984 dollars). Environmental costs would also be incurred, and a major purpose of the EIS is to assess these for the proposed project and for alternatives to it. In addition, a number of electric power studies including load flows, stability analysis and production costs, will be made to assess this project's public interest value. The results of these studies will be included in the final Environmental Impact Statement.

The proposed project is subject to the jursidiction of ERA pursuant to Executive Order 10485 as amended because a Presidential Permit is specifically required for the construction, connection, operation and maintenance of electric transmission facilities at an international boundary of the United States. Authority to grant or deny such permits is vested in the Secretary of Energy and has been delegated by the Secretary to the Administrator of ERA. JCP&L applied for a permit in connection with the project on June 25, 1980, which was accepted by ERA subject to the supplemental filing of certain materials. Notice of the application was published in the **Federal Register** on July 21, 1980, (45 FR 48690). One of the actions required of JCP&L, prior to an ERA decision, is the preparation of an applicant's Environmental Report.

Preliminary Definition of Environmental Issues: The purpose of this notice is to solicit comments and suggestions for consideration in preparing the EIS. Any written comments or oral remarks made at the scoping meetings will be considered in the EIS process. The following list of environmental issues has been tentatively identified for analysis and assessment in the EIS. This list is not all-inclusive nor does it imply any predetermination of impacts. Additional issues for analysis may be identified as the result of public comment.

A. Environmental Issues That May Be Associated With Installation of the Proposed Submarine Cables

(1) temporary disruption and stress of aquatic and bottom dwelling flora and fauna during the laying of the cable;

(2) if the cable is laid in a trench, stress and mortality of aquatic populations during blasting or dredging operations, and if there is permanent change in bottom habitat in and near the trench;

(3) if dredging is required, habitat changes and other environmental effects at the site for disposal of dredged material;

(4) temporary disruption of littoral populations during construction and permanent changes in habitat due to rip-rap or other provisions for mechanical protection of the cables at the shoreline; and

(5) temporary socio-economic perturbations due to the influx of marine construction equipment and workers.

B. Environmental Issues That May Be Associated With the Construction of On-Shore Facilities and Aerial Transmission Lines, including

(1) temporary disruption of wildlife communities, agricultural production and other land uses along the line route during actual construction;

(2) permanent removal of tall growing vegetative species from the right-of-way, and of all vegetation from tower footings, access roads and substation sites;

(3) some socio-economic perturbations due to the influx of construction workers and equipment;

(4) temporary noise and air pollution resulting from operation of construction equipment and from burning of right-of-way slash;

(5) permanent visual impacts; and

(6) subterranean impacts related to installing structure footings.

C. Environmental Issues That May Be Associated With Operation and Maintenance of the Proposed Interconnection

(1) possible environmental effects associated with cable failure and the environmental effects of repair activities;

(2) periodic interference with plant and wildlife communities along the right-of-way, due to the required maintenance activities, particularly vegetation control;

(3) generation of acoustic noise and electromagnetic intereference to radio and television reception along the right-of-way;

(4) possible biological effects on human health or effects, such as reduced growth or viability for plant and animal species resident within or in proximity to the right-of-way.

(5) possibly long-term effects due to the use of herbicides for vegetation control; and

(6) indirect ecological and socio-economic effects resulting from easier unauthorized human access to some areas via access roads and right/of-way, such as increased hunting or use by motorcycles or snowmobiles.

(7) possible effect on water surrounding the energized cable.

D. Other Environmental Issues That May Be Associated With the Project

(1) the possibility of affecting threatened or endangered species or critical habitats for such species;

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(2) identification and review of alternatives to construction within a 100-year floodplain or identified wetland and identification and review of mitigating measures to be taken if it is found that there are no practicable alternatives to construction in a floodplain or wetland;

(3) possible direct and adverse effects on the values for which a wild, scenic or recreational river was established;

(4) environmental factors relevant to any proposed construction in or over navigable rivers, or to any proposed actions resulting in the discharge of dredge or fill materials into any waters of the U.S.;

(5) actions having an impact on the continued use and viability of prime and unique farmlands;

(6) possible effects on sites or properties included on, nominated for, or eligible for inclusion in the National Register of Historic Places, or historical, architectural or archeological sites of national significance.

Preliminary Definition of Alternatives: Significant consideration will be given to alternatives to the proposed action, and the assessment of the environmental impacts to be expected from each alternative. The broad classes of alternatives which have been tentatively identified are described briefly below. Two alternative Federal actions are possible: (a) to grant a permit on the basis of JCP&L's complete application (including supporting materials such as the Environmental Report which will not be completed until late 1980), or (b) to deny the permit. However, substantive environmental consequences of each of the possible Federal decisions wouuld result from the subsequent course of action followed by JCP&L (and other GPU subsidiaries) in response to the decision. Therefore, only those reasonable alternatives available to JCP&L will be considered in the EIS.

Major Types of Project Alternatives: Three alternatives tentatively have been identified:

(1) JCP&L and the other GPU subsidiaries could actively promote conservation and the use of alternative decentralized energy sources, such as solar heating and cogeneration, within their service areas and thereby reduce the need for power purchases;

(2) JCP&L and the other GPU subsidiaries could obtain purchased power equal to the Canadian import from a United States utility or utilities; and

(3) JCP&L and the other GPU subsidiaries couild construct a generating station with a net capability of 1000 MW.

Impact Mitigation Alternatives: The environmental impacts which would result from construction and operation of the proposed project would depend on the choice among a number of alternative possibilities as to where and how the project was constructed, as well as the choice of alternative maintenance and repair procedures during operation. Tentatively, identified groups of alternatives for consideration in the EIS include (a) design, (b) route selection, (c) construction practices and (seasonal) timing, and for the on-shore portion, (d) right-of-way clearing procedures, and (e) right-of-way maintenance practices.

Comments and Scoping Meeting. The scoping meetings will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meetings will be made. The Economic Regulatory Administration has designated Mr. James M. Brown, Jr., as presiding officer at these meetings. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meetings.

Speakers will be alloted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time or to provide further information for the record, such additional information should be submitted in writing by October 31, 1980. Written comments will be considered and given equal weight with oral comments.

A transcript of the scoping meetings will be retained by DOE and made available for inspection at the Freedom of Information Library, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Firday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcripts.

Draft EIS Schedule and Availability. The draft EIS (DEIS) is expected to be completed by October 1, 1981, at which time its availability will be announced in the **Federal Register** and public comments will again be solicited.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the DEIS for review and comments when it is issued should notify James M. Brown, Jr., at the address given in the Summary section above. Those seeking further information may inquire of either Mr. Brown or Ms. Linda Desell.

Copies of the applicants' Environmental Report and other documents to be used in preparation of the DEIS will be made available for public inspection at the applicant's general headquarters; at the local Erie Office of the Pennsylvania Electric Company; at the Erie County Library System, 3 South Perry Square, Erie, Pennsylvania, and at a number of DOE locations throughout the U.S. A notice of locations for such availability will be published in the **Federal Register** during January, 1981, when the permit application is expected to be completed.

Dated: August 25, 1980.

John C. Whitnah,

Acting Assistant Secretary for Environment.

[FR Doc. 80 26469 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Study of Impacts on Electric Power Systems Due to Volcanic Activity in Pacific Northwest

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of study by the Economic Regulatory Administration (ERA) of the impacts on electric power systems in the Pacific Northwest due to the recent eruptions of Mount St. Helens.

SUMMARY: ERA plans to study the impacts of recent volcanic activity on electric power systems in the Pacific Northwest.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3825.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5E-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: In recent months, ash and other emissions from Mount St. Helens have affected the continuity of the power supply in the States of Oregon and Washington. ERA proposes to study the impacts of the recent volcanic activity on electric power systems in that area. The overall objective of the study will be to ascertain the degree of impact on electric service reliability, the mitigative measures employed, and possible changes which might be made in the methods used. The study also will determine the outages and other effects on system reliability resulting from the eruptions of Mount St. Helens and will evaluate the immediate short-term

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effects with emphasis on insulator contamination and effects on equipment rating. Finally, it will consider the long-range effects of the eruptions, including corrosional water and sulfide insulation treeing. At the conclusion of the study a report concerning the findings made by ERA will be published and submitted to Congress, pursuant to Section 311 of the Federal Power Act.

Any person desiring to submit information concerning this activity should do so to the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, NW. Washington, D.C. 20461, in accordance with Part I of the Rules of Practice and Procedure (18 CFR 1.1. *et seq.).*

Any such information should be filed on or before September 5, 1980; such information will be considered by ERA in determining the appropriate action to be taken.

Dated: August 22, 1980.

Jerry L. Pfeffer,

Assistant Administrator, Office of Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-26254 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Study Regarding Recent Storm-Related Power Outages in Washington Metropolitan Area

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of a proposed study regarding recent storm-related power outages in the Washington metropolitan area.

SUMMARY: The Economic Regulatory Administration (ERA) proposes to conduct a study regarding recent storm-related power outages in the Washington metropolitan area in order to determine the similarities and the differences in the electric power distribution system design, maintenance and operating criteria of the utilities supplying the Washington area.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3825.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5E-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: ERA proposes an analysis of recent storm-related power system outages in the Washington metropolitan area. Specifically, the analysis will focus on similarities and differences in the electric power distribution systems, maintenance, and operating criteria of the utilities supplying the area; these criteria will be correlated with the frequency and duration of storm-related outages. ERA also will examine whether the outage frequency has changed in recent years.

The major study areas are expected to be: (1) a review of available meteorological data for the last five years to determine whether the number and extent of outages can be correlated with this data; (2) an evaluation of the number and extent of customer outages by each utility serving the metropolitan area; and (3) a comparison of the distribution system design and maintenance practices, and their relationship to the recent power system outages; and (4) a comparison of the service restoration plans of the supplying utilities, with highlights of the better features of those plans. At the conclusion of the analyses a report concerning the findings made by ERA will be published and submitted to Congress, pursuant to Section 311 of the Federal Power Act.

Any person desiring to submit information concerning this activity should do so to the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, in accordance with Part I of the Rules of Practice and Procedure (18 CFR 1.1 *et seq.*).

Any such information should be filed on or before September 15, 1980; such information will be considered by ERA in determining the appropriate action to be taken.

Dated: August 22, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-26253 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-01-M

Vangas; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES:

Effective date: July 30, 1980.

Comments by: September 29, 1980.

ADDRESS: Send comments to: Lon W. Smith, District Manager of Enforcement, Department of Energy, 333 Market Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Lon W. Smith, District Manager of Enforcement, Department of Energy, 333 Market Street, San Francisco, CA 94105, telephone (415) 764-7038.

SUPPLEMENTARY INFORMATION: On July 30, 1980, the Office of Enforcement of the ERA executed a Consent Order with Vangas, Inc. of Fresno, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Vangas, Inc., with its home office located in Fresno, California, is a firm engaged in the sale of liquid propane and the rental of propane tanks, and is subject to the Mandatory Petroleum Price and Allocation Regulations a 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Vangas, the Office of Enforcement, ERA, and Vangas entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through October 31, 1977. the audit included all sales of propane and rentals of tanks for that period. These sales and rentals were made to wholesalers, retail end-users and tank rental customers of Vangas.

2. Vangas allegedly misapplied the provisions of 10 CFR 212 and 10 CFR 210 when determining the prices charged, for propane tank rentals, to propane retail customers in Vangas' California region.

3. In order to expedite resolution of the disputes involved, the DOE and Vangas have agreed to a settlement in the amount of $403,628, excluding interest. The settlement was determined to be in the public interest, as well as the best interests of DOE and Vangas, without Vangas admitting that it has violated any regulations or overcharged any customers.

4. $403,628, plus interest, shall be paid to retail propane customers in the California region, who rented tanks owned by Vangas. This will be accomplished by Vangas' sale of liquid

propane to these customers at a price $.02 per gallon below the maximum legal selling price or the market price charged, whichever is lower, until such time as the entire $403,628, plus interest, has been paid.

5. The provisions of 10 CFR 205.199J, including the publication of this notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Vangas agrees to refund, in full settlement of any civil liability with respect to action which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in part I, 1, above, the sum of $403,628, plus interest, on or before July 31, 1981. Refunds of overcharges will be made directly to tank rental customers in Vangas' California retail division, through use of the method described in Part I,4, above.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to Lon W. Smith, District Manager of Enforcement, Department of Energy, 333 Market Street, San Francisco, California 94105. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 764-7038.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation "Comments on Vangas Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 29, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco, California on the 19th day of August, 1980.

Lon W. Smith,

District Manager Office of Enforcement, Western District Economic Regulatory Administration.

[FR Doc. 80-26438 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3213]

City of Reading, Pa.; Application for Preliminary Permit

August 22, 1980.

Take notice that the city of Reading, Pennsylvania (Applicant) filed on June 11, 1980, and application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C §§ 791(a)-825(r)] for proposed Project No. 3213 to be known as the Ontelaunee Project located on Maiden Creek in Berks County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. George C. Patton, Chief Engineer, Bureau of Water, City of Reading, 8th & Washington Streets, Reading, Pennsylvania 19601.

Project Description—The proposed project would include the following existing works: (1) a dam comprising a 3200-foot long earth embankment section and a 550-foot long and 55-foot high concrete spillway section; and (2) a 1,350-acre reservoir currently used by the city as a source of potable water. In addition, a powerhouse with appurtenant works would be constructed at the left abutment of the concrete spillway. The project would have an installed generating capacity of 1,200 kW and an average net annual generation of 6,500,000 kWh.

Purpose of Project—Project energy would be used to supplement the electrical needs of the City-owned treatment plant and pumping station located approximately two miles downstream of the dam.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would make preliminary designs, estimate economic feasibility, and determine potential environmental and social impacts. Depending upon the outcome of the preliminary permit studies, the Applicant would determine whether to proceed with the filling of an application for license. The Applicant estimates that the total cost of permit studies would be $55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as decribed in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 5, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or other comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26439 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-488]

Cleveland Electric Illuminating Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Interventions, and Establishing Hearing Procedures

Issued August 22, 1980.

On June 25, 1980, Cleveland Electric Illuminating Company (CEI) submitted

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for filing a supplement to its interconnection agreement with the City of Cleveland, Ohio (Cleveland) providing for firm partial requirements service,[1] and a supplement to its tariff providing transmission service.[2] In the proposed supplement to the interconnection agreement, CEI seeks a rate increase of $1.3 million; and in the proposed supplement to the transmission tariff CEI requests an increase of $111,000.

Under the existing interchange agreement, the rate for firm partial requirements service consists of a demand charge of $8.10 kW/month and an energy charge of 19.8 mills/Kwh, subject to a fuel adjustment clause. In this filing, CEI proposes to increase the demand charge to $8.24 kW/month and to increase the base energy charge to 21.0 mills/kWh, subject to the same fuel adjustment clause.

CEI now provides transmission service to Cleveland at a demand charge of $1.27 kW/month of contract demand. Under CEI's proposed rate, this demand charge for transmission service would increase to $1.69 kW/month. Based upon CEI's test period ending December 31, 1980, CEI's proposed rates would increase total revenues from Cleveland by 10.1%, yielding an overall rate of return of 10.51%, with a 14.25% return on equity.

Notice of CEI's filing was issued on July 1, 1980,[3] with comments due by July 22, 1980. On July 22, 1980, Cleveland filed a protest and petition to intervene. Although Cleveland asserts that its analysis and contentions are of a preliminary nature, it does raise several objections to CEI's proposed rates. Cleveland objects to CEI's claims for rate of return and a cash working capital allowance, as well as to CEI's inclusion of advertising costs and amortization of abandonment losses on cancelled power plants[4] in the test period cost of service. Cleveland also objects to CEI's use of a demand ratchet in the firm power rate schedule since the demand related costs are allocated on the 12 monthly coincident peak method. Finally, Cleveland challenges CEI's method of functionalizing certain transmission facilities. On the basis of these objections, Cleveland requests that CEI's proposed rates be suspended for five months. CEI disputed these objections in a response filed August 6, 1980.

Discussion

We find that participation in this proceeding by Cleveland may be in the public interest and we shall therefore grant the petition to intervene.

Our initial analysis indicates that CEI's proposed rates would not yield excess revenues. However, considering Cleveland's allegations, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[5] We have done this as a predicate to our acting on this matter.

Through the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[6] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that a variety of contentions have been raised by Cleveland, but that our preliminary analysis indicates that the proposed rates would not yield excessive revenues. In fact, the rates are substantially below the rate level that staff's analysis would justify. We therefore believe that a five month suspension is unnecessary and may be inequitable to CEI. However, in order to ensure refund protection for Cleveland pending further review of the proposed rates in light of the City's allegations, we believe we should exercise our discretion to suspend the rates for one day, permitting the rates to take effect on August 26, 1980, subject to refund.

The Commission orders:

(A) CEI's proposed rates for firm partial requirements service and for transmission service are hereby accepted for filing and suspended for one day, to become effective on August 26, 1980, subject to refund.

(B) Cleveland's petition to intervene is hereby granted subject to the rules and regulations of the Commission; *Provided, however,* that the participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *Provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, specifically Sections 205 and 206, and by the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act [18 CFR, Chapter I (1979)], a public hearing shall be held concerning the justness and reasonableness of CEI's proposed rates.

(D) Staff shall serve top sheets in this proceeding on or before November 6, 1980. (E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within ten days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates, and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

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[1] Rate Schedule Designation: Supplement No. 5 to CEI Rate Schedule FPC No. 12 (Supersedes Supplement No. 4 to CEI Rate Schedule FPC No. 12).

[2] Rate Schedule Designation: Original Sheet No. 6–A to FERC Electric Tariff, Original Volume No. 1.

[3] 45 Fed. Reg. 46164 (1980).

[4] On January 23, 1980, CEI, Toledo Edison Company, Duquesne Light Company, and Ohio Edison Company announced the cancellation of plans to build four nuclear units. CEI proposes to amortize its 24.5% share ($58.5 million) of pre-construction costs incurred for these plants over a 10 year period.

[5] *Connecticut Light and Power Company* v. *F.E.R.C.*, —— F.2d —— (D.C. Cir. May 30, 1980).

[6] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26440 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3253]

The Dole & Roberts Sales Corp.; Application for Preliminary Permit

August 21, 1980.

Take notice that the Dole & Roberts Sales Corporation (Applicant) filed on July 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed project No. 3253 to be known as the Campton Dam Project located on the Mad River in Grafton County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Moody Dole, President, Dole & Roberts Sales Corporation, P.O. Box 8, Campton, New Hampshire 03223.

Project Description—The proposed project would utilize the U.S. Forest Service's existing Campton Dam and Reservoir, and would consist of: (1) a proposed powerhouse with an installed capacity of 250 kW; and (2) appurtenant facilities. It is estimated that the average annual net generation of the project would be 1,300 MWh.

Purpose of Project—Energy produced by the project would be sold to the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks a preliminary permit for a period of two years to prepare engineering and economic studies and an environmental assessment. The Applicant would also prepare applications for necessary Federal, State, and local permits, including an application for FERC license for the project. The Applicant estimates that the cost of studies under the permit would be less than $25,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 23, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 22, 1980. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before October 23, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26472 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2232]

Duke Power Company; Application for Change in Land Rights

August 22, 1980.

Take notice that an application was filed on March 13, 1980, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by Duke Power Company for a change in land rights, for the Cowans Ford Development of FERC Project No. 2232 (Catawba Wateree). The project lands affected are located on the Catawba river (Lake Norman) in Lincoln County, North Carolina. Correspondence with the Applicant on this matter should be addressed to: Mr. John E. Lansche, Assistant General Counsel, Duke Power Company, Box 33189, Charlotte, North Carolina 28242.

Applicant requests Commission approval to lease 6.31 acres of project land to Mr. and Mrs. Hal T. Baxter for the construction and operation of the private sailboat marina. The marina, part of which has been constructed would consist of: (1) a combination stationary and floating T-shaped pier extending 295 feet from the shoreline for approximately 140 boat slips located in a 475-foot long section of the pier; (2) a 110-foot long concrete boat ramp located approximately 30 feet from the T-shaped pier; and (3) a combination stationary and floating pier extending approximately 158 feet from the shoreline used for serving transient sailboaters, and located approximately 400 feet around the point from the boat ramp.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest or petition to intervene must be filed on or before October 9, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26441 Filed 8-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ES80-70]

El Paso Electric Co.; Application

August 22, 1980.

Take notice that on August 15, 1980, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authority to negotiate for the placement of up to 2,000,000 shares of Common Stock, no par value. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Common Stock will be used to finance Applicant's construction program.

Any person desiring to be heard of to make any protest with reference to the application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26442 Filed 8-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3249]

Britt R. Gilbert; Application for Preliminary Permit

August 8, 1980.

Take notice that Britt R. Gilbert (Applicant) filed on July 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3249 to be known as the Edinburg Dam Project located on the Shenandoah River in Shenandoah County, Virginia. Correspondence with the Applicant should be directed to: Mr. Britt R. Gilbert, Route 2, Box 11, Woodstock, Virginia 22664; and Attorney Thomas F. Nolan IV, 401 C St., N.E., Washington, D.C. 20002.

Project Description—The proposed project would consist of: (1) an existing concrete dam with a maximum height of 14 feet and a length of 423 feet; (2) a reservoir with a surface area of 14.6 acres and a storage capacity of 117 acre-feet; (3) a new powerhouse to be constructed at the site of a former powerhouse; and (4) appurtenant works. The installed capacity would be approximately 500 kW. Applicant estimates that the average annual generation would be 1,752 megawatt-hours. The project is currently owned by the Virginia Electric Power Company.

Purpose of Project—Project energy would be sold to the Virginia Electric Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of nine months, during which time it would determine the economic and technical feasibility and environmental impacts of the project. If the project is found to be feasible, Applicant would then prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $20,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 11, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 10, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended,* 44 Fed. Reg 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended,* 44 Fed. Reg. 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 11, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26443 Filed 8-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA80-96]

Guam Oil & Refining Co., Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

August 22, 1980.

Take notice that Guam Oil & Refining Company, Inc. on August 20, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 5, 1980, with the

Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 5, 1980, accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28444 Filed 8-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2930]

Idaho Power Co.; Land Withdrawal; Idaho

August 8, 1980.

On May 11, 1979, the Idaho Power Company filed Exhibits H and I (FERC No. 2930-1) as part of an application for preliminary permit for the North Fork Payette River Project, designated as Project No. 2930, and located in the Counties of Boise and Valley, Idaho. Therefore, in accordance with the provisions of Section 24 of the Federal Power Act, 16 U.S.C. 818, notice is hereby given that the lands hereinafter described, insofar as title remains in the United States, are from the date of said filing, reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

All portions of the following described subdivisions lying within the project boundary as delimited on Exhibits H and I (FERC No. 2930-1):

Boise Meridian, Idaho

T. 9 N., R. 3 E.,
Sec. 4, lot 1;
Sec. 5, lot 1, SE¼;
Sec. 8, NE¼, E½SE¼;
Sec. 16, lot 2, W½SW¼;
Sec. 17, E½NE¼, NE¼SE¼;
Sec. 21, NW¼NW¼, SE¼NW¼, E½SW¼;
Sec. 28, lots 2, 6, N½NW¼.
T. 10 N., R. 3 E.,
Sec. 9, lot 7;
Sec. 16, lot 2;
Sec. 32, lots 1, 2, 3, 4, 5, SE¼SE¼;
Sec. 33, lot 2.

Approximately 365 acres of U.S. lands are withdrawn by the subject application for permit. Copies of the aforementioned Exhibits have been transmitted to the U.S. Geological Survey and the Bureau of Land Management, Department of the Interior.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28445 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-674]

Illinois Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that on August 14, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 3, dated August 11, 1980, to the Interconnection Agreement, dated January 14, 1975, between the City of Springfield and Illinois Power.

Illinois Power indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79-29, "which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power."

Illinois Power states that a copy of the filing was served upon the City of Springfield and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28473 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-675]

Illinois Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that on August 14, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 6, dated August 11, 1980, to the Interconnection Agreement, dated July 25, 1975, between Western Illinois Power Cooperative, Inc. (WIPCO) and Illinois Power.

Illinois Power indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79-29, "which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power."

Illinois Power states that a copy of the filing was served upon WIPCO and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-28474 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-672]

Indiana & Michigan Electric Co. and Ohio Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Indiana & Michigan Electric Company (I&ME) and Ohio Power Company (OPCo.) tendered for filing on August 13, 1980, Modification No. 8 and Modification No. 9 to the Federal Energy Regulatory Commission OPCo. Rate Schedule No. 21 and I&ME Rate Schedule No. 16 which represents an Interconnection Agreement with the

V 45 AG 28 80 UMI

Cincinnati Gas & Electric Company. These proposed Modifications are stated to be a filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26475 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-659]

Interstate Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that Interstate Power Company on August 13, 1980, tendered for filing Supplement A to FERC Rate Schedule No. 69 dated August 8, 1980, to the Interconnection Agreement between Commonwealth Edison Company and Interstate Power Company dated May 1, 1964, as amended.

The Company indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26446 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-597]

Mid-Continent Area Power Pool; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980 Mid-Continent Area Power Pool (MAPP) submitted for filing Amendment No. 11 to the MAPP Agreement.

MAPP indicates that this filing is in response to Commission Order No. 84, issued May 7, 1980, in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 to 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26478 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-108]

Missouri Public Service Co.; Order Granting Motion for Authority To Collect Proposed Settlement Rates in Lieu of Filed Rates

Issued August 22, 1980.

On July 14, 1980, Missouri Public Service Company (MPSC) filed a motion for permission to collect proposed settlement rates in lieu of its filed rates in Docket No. ER80-108, pending the Commission's consideration of an offer of settlement submitted by MPSC on July 8, 1980.

On November 27, 1979, MPSC submitted for filing proposed rate increases for firm power service to eight municipal customers. By order issued January 22, 1980, as modified by an errata notice issued January 25, 1980, the Commission accepted MPSC's submittal for filing and suspended the rates as to six of the affected municipalities[1] for three months until April 27, 1980, at which time they became effective subject to refund. With respect to the two remaining municipalities,[2] we waived the 120 day notice requirement of § 35.3 (a) of the regulations, but stated that any rate change for service to these customers may become effective prospectively only upon expiration or renegotiation of their respective contracts and the filing of superseding service agreements.

On July 8, 1980, MPSC filed an offer of settlement pursuant to Section 1.18(e) of the Commission's regulations. The proposed settlement rates would result in increased annual revenues of approximately $385,000, or a reduction of approximately $100,000 from the originally proposed rates.

MPSC has moved to collect the proposed settlement rates in lieu of its filed rates from August 1, 1980, until such time as the Commission acts on the settlement offer. On July 22, 1980, the Commission staff filed comments in support of MPSC's motion and its offer of settlement. No other comments were received in response to the motion or the settlement offer.

Upon review, the Commission believes that MPSC's proposal is in the public interest. We shall therefore allow MPSC to collect the settlement rates in lieu of its originally filed rates pending the Commission's disposition of the offer of settlement in this docket.[3] This order shall be without prejudice to our subsequent determination on the merits of the proposed settlement. If we should disapprove the settlement, MPSC may therafter collect the higher filed rate prospectively only.[4]

The Commission orders:

(A) MPSC's motion to collect its proposed settlement rates in lieu of its originally filed rates is hereby granted.

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[1] Eldorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill and Rich Hill.

[2] Because the Cities of Odessa and Gilman City are served under fixed rate contracts with no provision for unilateral changes, MPSC did not propose to increase the rates applicable to these customers until expiration of their contracts.

[3] We note that, as to certain customers, the originally filed rates became effective subject to refund on April 27, 1980. In the event that the Commission approves the offer of settlement, refunds will be required for the period April 27, 1980 through July 31, 1980.

[4] *See Gulf States Utilities Company,* Docket No. ER80-57, order issued June 4, 1980; *Upper Peninsula Power Company,* Docket No. ER 80-112, order issued June 4, 1980; *Cincinnati Gas and Electric Company,* Docket Nos. ER79-528 and ER80-153, order issued May 2, 1980; and *Public Service Company of Oklahoma,* Docket No. ER78-511, order issued December 27, 1978.

(B) MPSC is hereby authorized to collect its proposed settlement rates beginning August 1, 1980, and continuing until such time as the Commission acts on the offer of settlement tendered by MPSC on July 8, 1980.

(C) If the Commission ultimately rejects the settlement, MPSC will be permitted to collect, only prospectively from the date the Commission order rejecting the settlement becomes final, either the higher filed rates or such other rates as the Commission may determine at that time to be just and reasonable.

(D) Within thirty days of the issuance of this order, all amounts collected in excess of the proposed settlement rates since August 1, 1980, shall be refunded to the respective wholesale customers with interest computed according to § 35.19a of the Commission's regulations.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26447 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-593]

Monongahela Power Co. and West Penn Power Co., Changes in Rates and Charges

August 22, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on August 8, 1980 tendered for filing on behalf of Monongahela Power Company (Monongahela) and West Penn Power Company (West Penn), two of the electric utilities which make up the integrated Allegheny Power System, Amendment No. 8, dated August 1, 1980, to the Interchange Agreement dated October 17, 1968 between Monongahela, West Penn and the Ohio Edison Company and Pennsylvania Power Company (Ohio Edison) designated Monongahela Rate Schedule FPC No. 29, West Penn Rate Schedule FPC No. 27, Ohio Edison Rate Schedule FPC No. 69, and Pennsylvania Power Rate Schedule FPC No. 20.

The Company indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26448 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-670]

Niagara Mohawk Power Corp.; Filing

August 22, 1980.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on August 15, 1980 tendered for filing a Notice of Cancellation of FERC's Rate Schedule No. 104, dated February 8, 1979, between Niagara Mohawk and Central Hudson Gas & Electric Company.

Niagara Mohawk indicates that this cancellation is to be effective as of November 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26449 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-673]

Ohio Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 13, 1980, Supplement No. 9 and Supplement No. 10 to the Federal Energy Regulatory Commission Rate Schedule No. 25 which represents an Interconnection Agreement with Ohio Edison Company (OE).

The proposed Supplement No. 9 is stated to be a filing in compliance with Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980. The proposed Supplement No. 10 adds a new Service Schedule, namely, Emergency Service which is similar to Schedules that OPCo. and OE have filed with other systems. The requested effected date of Supplement No. 10 is August 11, 1980.

Any peson desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rule of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 80-26477 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-669]

Orange and Rockland Utilities, Inc., and Public Service Electric & Gas Co.; Notice of Filing

August 22, 1980.

The filing Company sumits the following:

Take notice that Orange and Rockland Utilities, Inc. (O&R) on August 14, 1980 tendered for filing an agreement between O&R and Public Service Electric and Gas Company of New Jersey (PSE&G) providing for the sale of generation capability to PSE&G and for associated energy transactions starting August 14, 1980 and continuing until terminated by either party O&R requests waiver of the Commission's notice requirements to permit the agreement to become effective as of August 14, 1980.

Any person desiring to protest said filing should file a petition to intervene or protest with the Federal Energy

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Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of procedure, (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party, must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26450 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. ER80-484 and ER80-485]

Pennsylvania-New Jersey-Maryland Interconnection and Virginia Electric Power Co.; Order Accepting for Filing and Suspending Revised Interconnection Agreement, Waiving Regulations, Initiating Hearing, and Terminating Prior Docket

Issued August 21, 1980.

On June 24, 1980, Pennsylvania-New Jersey-Maryland Interconnection (PJM)[1] and Virginia Electric Power Company (VEPCO) filed certain revisions to their Interconnection Agreement.[2] The proposed revisions in Docket No. ER80-484 include: (1) an increase in the demand charge for fuel conservation energy; (2) a decrease in the related third party transmission demand charge; and (3) the replacement of percentage adders with fixed adders. In Docket No. ER80-485, the proposed changes consist of: (1) an increase in demand charges for emergency power, short-term power, and related third party transmission service; and (2) replacement of percentage adders with fixed adders. These submittals have been tendered in lieu of additional materials requested of the parties by a February 12, 1980 deficiency letter issued with reference to a previous filing by the parties in Docket No. ER80-189. In light of the current submittals, the parties now request termination of Docket No. ER80-189.

Public notice of the filings in Docket Nos. ER80-484 and ER80-485 was issued on July 1, 1980, with comments required to be filed on or before July 21, 1980. No comments, protests, or petitions to intervene have been filed.

Discussion

The proposed revisions to the fuel conservation service schedule would increase the demand charge for fuel conservation energy from 3.0 mills/kWh to 5.0 mills/kWh and would decrease the third party fuel conservation transmission demand charges from 1.75 mills/kWh to 1.3 mills/kWh and 1.1 mills/kWh for PJM and VEPCO, respectively. We recently approved identical rates for PJM in an order issued on July 31, 1980, in Docket Nos. ER80-427 *et al.* ("Accepting For Filing Revised Rates For Interchange Services And Terminating Dockets"). For the reasons stated in our prior order, as to PJM, we again find these rates to be adequately supported as to PJM.

Circumstances differ, however, with respect to VEPCO. VEPCO has submitted a non-levelized cost analysis which purports to support a fuel conservation demand charge of 5.17 mills/kWh and a third party transmission demand charge of 1.09 mills/kWh, based on an average system production net investment (including nuclear and pumped storage hydrogenerating facilities) of $191.38/kW, and average transmission net investment of $58.53/kW, and annual production and transmission fixed charge rates of 18.67% and 16.32%, respectively, applied to average net investment. This study includes a 9.6% rate of return with a return on equity of 14%.

As we stated in our July 31 order in Docket Nos. ER80-427, *et al.*, the use of average system production investment in support of a fuel conservation demand charge is improper since it does not accurately track the demand-related costs of the units assigned to interchange service. We also observed that this methodology is inconsistent with the Statement of Principles issued on March 28, 1980, in Docket Nos. ER78-229, *et al.*,[3] which require that fuel conservation demand charges reflect the annualized cost of the units expected to provide the service weighted by relative expected hours of use. Our analysis, based upon additional information provided by the Commission staff,[4] indicates that VEPCO's proposed fuel conservation demand charge may produce excess revenues. The third party fuel conservation transmission demand charge, on the other hand, does appear to be cost justified.

We note that the proposed fuel conservation schedules contain language describing dispatch priority and replacement pricing methodology which is generally consistent with the above-mentioned Statement of Principles in Docket Nos. ER78-229, *et al.* As in Docket Nos. ER80-427, *et al.*, this language is quite broad; however, we find that these descriptions are acceptable.

With respect to the proposed short-term demand charges, PJM and VEPCO propose to increase these charges from 0.50/kW/week to $0.85/kW/week. The parties further propose to increase related third party transmission demand charges from $0.125/kW/week to $0.24/kW/week. We again note that the same charges were previously approved for PJM in our order of July 31, 1980, in Docket Nos. ER80-427, *et al.*, and we continue to believe that these charges are acceptable as to PJM. Although the short-term third party transmission demand charge appears reasonable for VEPCO, as in the case of the fuel conservation demand charges, we cannot conclude that the proposed $0.85/kW/week demand charge for short-term power is reasonable as applied to VEPCO.

The instant filings also propose to revise the demand charges for extended emergency service[5] from $35/MW/day (1.5 mills/kWh) to 5 mills/kWh. Third party transmission demand charges for this service would be increased from $21/MW/day (.9 mill/kWh) to 1.1 mills/kWh and 1.3 mills/kWh for VEPCO and PJM, respectively. These proposed charges are the same as those requested for fuel conservation energy and related third party transmission. As discussed previously, the charges proposed for PJM are identical to those approved for PJM in Docket Nos. ER80-427, *et al.* Accordingly, with respect to PJM, we find that both the extended emergency demand charge and the related third party transmission charge are reasonable. However, in the case of VEPCO, we are able to conclude only that the third party transmission charge is justified.

The parties have also proposed to replace traditional percentage adders, applied to incremental energy costs or purchased energy price, with fixed adders. We find that the fixed adders proposed by PJM and VEPCO are consistent with the Commission's proposed rule making in Docket No. EM79–29, issued on April 4, 1979, with Order No. 84, issued on May 7, 1980, in Docket No. RM79–29, and with the Statement of Principles, issued on March 28, 1980, in Docket Nos. ER78–229, *et al.* The proposed adders are below 2 mills/kWh for interchange service that is generated and sold directly to purchasing parties, and below 1 mill/kWh for third party transmission service.

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[1] See Attachment for rate schedule designations.

[2] PJM member companies include: Public Service Electric and Gas Company, Philadelphia Electric Company, Pennsylvania Power and Light Company, Baltimore Gas and Electric Company, Potomac Electric Power Company, Jersey Central Power and Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company.

[3] "Order Establishing Principles for Settlement of Fuel Conservation Energy Rate Schedule Proceedings and Providing for Filings."

[4] In Docket No. ER80-247, *et al.* (order issued July 31, 1980, slip at 4), we noted some dissatisfaction with the cost support supplied by the interested utilities and questioned the degree of compliance with paragraph (2) of the March 28, 1980 Statement of Principles. Having once expressed that concern for future reference, there should be no need to reiterate our caution in its entirety.

[5] Extended emergency service is defined as emergency service in excess of 48 hours.

As indicated above, PJM and VEPCO have submitted the instant filings in lieu of further submittals in Docket No. ER80–189. They have therefore requested termination of the prior docket. Under the circumstances, it is appropriate, and in the public interest, to allow withdrawal of the pleadings in Docket No. ER80–189 and to terminate that proceeding.

PJM and VEPCO have further requested waiver of the 60-day statutory notice requirement of the Federal Power Act, acceptance of these filings without suspension and hearing, and an effective date for both filings of August 1, 1980. For the reasons previously stated, we shall grant these requests insofar as they apply to PJM, thereby permitting the PJM rates to become effective August 1, 1980. However, VEPCO's proposed demand charges for extended emergency service, short-term power, and fuel conservation energy have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, with respect to the rate proposed for VEPCO, we shall waive the notice requirements and accept the submittal for filing, but we shall suspend each of the proposed rates, other than those applicable to third party transmission services, as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

This decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that *"any* [emphasis added] rate or charge that is not just and reasonable is hereby declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. As we have noted, our analysis reveals that certain of VEPCO's proposed rates may produce excess revenues. However, the impact of these excess revenues should be mitigated, in part, by the replacement of percentage adders with fixed adders and the resulting reduction in energy charges for both self-generated and third party energy transactions. Moreover, the services at issue lend themselves to a limited period of suspension. Accordingly, we believe we should exercise our discretion to suspend VEPCO's proposed rates, other than those applicable to third party transmission services, for one day following the proposed effective date, permitting them to take effect on August 2, 1980, subject to refund.

We shall also order a hearing to be convened in this proceeding. However, the scope of the hearing shall be confined to the limited issue of the proper development of the production component of VEPCO's proposed demand charges for extended emergency power, short-term power, and fuel conservation energy.

The Commission orders:

(A) The request for waiver of the Commission's notice requirements is hereby granted.

(B) The revisions to the PJM/VEPCO Interconnection Agreement tendered in Docket Nos. ER80–484 and ER80–485—other than the proposed demand charges applicable to VEPCO for extended emergency power, short-term power, and fuel conservation energy—are hereby accepted for filing to become effective on August 1, 1980.

(C) The proposed demand charges applicable to VEPCO for extended emergency power, short-term power, and fuel conservation energy are hereby accepted for filing and suspended for one day to become effective, subject to refund, on August 2, 1980.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act, and by the Federal Power Act and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by VEPCO in this instant docket. The scope of this investigation shall be limited to the issue of the proper development of the production component of VEPCO's proposed demand charges for short term power, extended emergency power, and fuel conservation energy.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference within 15 days of the issuance of this order in a hearing room of the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. This conference shall be held for the purposes of expediting discovery and establishing a procedural schedule, including a date for the timely submission of a case-in-chief by VEPCO. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided in the Commission's rules of practice and procedure.

(F) The request to terminate Docket No. ER80–189 is hereby granted and that docket is hereby terminated.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

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[6] *Connecticut Light & Power Co.* v. *F.E.R.C.*, No. 78–2312, —— F.2d —— (D.C. Cir. May 30, 1980).

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

By the Commission. Commissioner Hall voted present.

Kenneth F. Plumb,

Secretary.

Pennsylvania-New Jersey-Maryland Interconnection—Dockets Nos. ER80-484 and ER80-485

Filed: July 24, 1980.
Dated: June 18, 1980.
Nature: Amendments to Interconnection Agreement.

Rate Schedules Designations and Description

(1) Supplement No. 9 (Supersedes Supplement No. 5)—Schedule 5.04.
(2) Supplement No. 10 (Supersedes Supplement No. 7)—Schedule 7.04.
(3) Supplement No. 11 (Supersedes Supplement No. 2)—Schedule 8.03.
(4) Supplement No. 12 (Supersedes Supplement No. 8)—Schedule 9.03.

The above Supplements apply to the following rate schedules:

Virginia Electric & Power Company—FPC No. 73.
Public Service Electric and Gas Company—FPC No. 37.
Philadelphia Electric Company—FPC No. 28.
Pennsylvania Power and Light Company—FPC No. 43.
Baltimore Gas and Electric Company—FPC No. 18.
Potomac Electric Power Company—FPC No. 23.
Jersey Central Power and Light Company—FPC No. 23.
Metropolitan Edison Company—FPC No. 28.
Pennsylvania Electric Company—FPC No. 48.

[FR Doc. 80-26478 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3178]

Public Utility District No. 1 of Mason County; Application for Preliminary Permit

August 22, 1980.

Take notice that Public Utility District No. 1 of Mason County (Applicant) filed on June 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3178 to be known as the Hamma Hamma Hydroelectric Project located on the Hamma Hamma River in Mason County, Washington. Correspondence with the Applicant should be directed to: Mr. John P. Robertson, Public Utility District No. 1 of Mason County, Route 5, Box 555, Shelton, Washington 98584 and Heuston & Settle, Attorneys, P.O. Box 308, Angle Bldg., Shelton, Washington 87584.

Project Description—The proposed run-of-the-river project would consist of: 1) a concrete diversion structure 25 feet high and 50 feet long, creating a 100 acre-foot pond; 2) a 2000-foot long, 6-foot diameter concrete pipeline; 3) a 400-foot long, 5-foot diameter steel penstock serving; 4) a powerhouse to contain one Francis-type turbine-generator unit having a rated capacity of 9,300 kW; and 5) a new 0.5-mile long, 115-kV transmission line to be constructed between the powerhouse and the Bonneville Power Administration's existing 115-kV transmission line.

Purpose of Project—The power generated at the project would used to meet the Applicant's load growth or to offset power purchases now being made by the Applicant to supply its customers. Applicant estimates the project would be capable of producing an annual output of about 50 million kWh.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application are estimated by the Applicant to be about $300,000.

Work Plan for New Dam Construction—A detailed work plan and schedule was submitted as part of the application. The work plan includes field surveys, geological investigations, geotechnical work, and establishing engineering design criteria. During field survey, some trimming or clearing of heavy underbrush will be required to assure accurate survey work. All trimming or clearing will be kept to a minimum and will only be done where essential. Test boring of the dam site or powerhouse will be done by a small drill rig. Where logging road access is not possible the rig may be carried to the site by three or four men. Borings to a depth of 20 to 50 feet will be taken; after core drilling, drill holes would be capped and sealed. At a typical drill site an area approximately 10 feet by 10 feet may be affected by drilling activities. No new road construction would be required to conduct feasibility studies under the proposed permit.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A Permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an aplication for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 5, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979), a competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. the Application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26451 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-99]

Santa Fe Energy Co. (Section 108 NGPA Determination, Carlson B-25 No. 2 Well, USGS-New Mexico, JD No. 80-5419); Petition To Withdraw Well Category Determination

August 22, 1980.

Take notice that on May 7, 1980, Santa Fe Energy Company (Santa Fe), One Security Park, 7200 1-40 West, Amarillo, Texas 79106, filed with the Federal Energy Regulatory Commission (Commission), pursuant to section 275.202 of the Commission's regulations, a request to withdraw its section 108 stripper well category determination and its filing for interim collection of section 108 prices under the Natural Gas Policy Act of 1978 (NGPA) for the Carlson B-25 No. 2 well.

Santa Fe states that its well does not qualify under the Commission's rate of production rule for determining stripper well eligibility set out in section 271.804 of the Commission's regulations. Section 271.804 requires the calculation of the rate of production on the basis of total well volume, regardless of whether the well has more than one completion location.

Any person desiring to be heard or to protest this request should, on or before September 29, 1980 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 C.F.R. §§ 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestant parties to the proceeding. Any person wishing to become a party to proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26479 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

South Sutter Water District; Application for Major License

[Project No. 2997]

August 8, 1980.

Take notice that on June 20, 1980, the South Sutter Water District (Applicant) filed an application for a major license [pursuant to the Federal Power Act, 16 U.S.C., §§ 791(a)-825(r)] for the proposed Camp Far West Dam and Reservoir Project, FERC No. 2997, to be located on the Bear River in the counties of Placer and Yuba, California. The project would affect the interests of interests commerce. Correspondence with the Applicant should be directed to: Mr. Robert L. Melton, Secretary-Manager, South Sutter Water District, P.O. Box 36, Trowbridge, California 95687; and Mr. W. Wesley Jopson, President, Board of Directors, South Sutter Water District, P.O. Box 36, Trowbridge, California 95687.

Project Description—The proposed Camp Far West Dam and Reservoir Water Power Project would consist of: (1) an existing reservoir with a gross storage capacity of 141,000 acre-feet; (2) an existing 170-foot high and 2,100-foot long, zoned earth-filled dam; (3) a proposed reinforced concrete intake structure; (4) a proposed 760-foot long, 84-inch diameter reinforced concrete tunnel through the left abutment; (5) a new powerhouse at the terminus of the tunnel containing one generating unit with a rated capacity of 6,800 kW; and (6) a proposed 60-kV transmission line. The proposed hydroelectric power project would add a non-conflicting use of water released for current irrigation use, and utilize uncontrolled spillway flows during wet periods. Much of the power plant's output would be used for peaking purposes. The estimated average annual energy generation is 26.9 million kWh. No lands of the United States are within the proposed project boundary.

Purpose of Project—The power and energy developed by the project would be used to offset fossil-fired generation capacity and would be sold to the Sacramento Municipal Utility District.

Estimated Cost—The cost of the project is estimated by the Applicant to be $7,976,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 21, 1980, either the competing application itself or a notice of intent, to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 19, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before September 21, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26452 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 67]

Southern California Edison Co.; Application for Amendment of License

August 22, 1980.

Take notice that on Feburary 29, 1980, the Southern California Edison Company (Licensee) filed an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the existing Big Creek No. 2A and No. 8 Project, FERC Project No. 67, located on the South Fork San Joaquin River and Big Creek in Fresno County, California. Correspondence with the Applicant should be directed to: Mr. John R. Bury, General Counsel, Southern California Edison Company, P.O. Box 80, Rosemead, California 91770.

The Licensee seeks authorization to construct: (1) a 6,000-foot long diversion tunnel, with a 16.5-foot wide, horseshoe-shaped cross-section from the existing Tunnel No. 7 of Project No. 67 to; (2) Balsam Meadow Forebay having a gross storage capacity of 1,960 acre-feet and a surface area of 60 acres at maximum water surface elevation 6,670 feet; (3) Balsam Meadow Dam, a rock-filled embankment, 1,400 feet long and 120 feet feet high, having a concrete-faced upstream surface and a side channel spillway located on the west fork of Balsam Creek; (4) an invert-lined power tunnel, 4,320 feet long, with a 20-foot wide, horseshoe-shaped cross-section leading from the forebay to; (5) an underground powerhouse containing a single pump-turbine rated at 200,000 kW; (6) an invert-lined tailrace tunnel, 6,680 feet long, with a 20-foot wide, horseshoe-shaped cross-section leading from the powerhouse transformer located inside the powerhouse cavern; (8) a surface switchyard; and (9) a 230-kV transmission line, 4.5 miles long, leading to the Big Creek No. 1 switchyard.

The Licensee estimates the cost of the proposed construction to be $204 million assuming an in-service date of August 1986. Energy generated by the proposed Balsam Meadow Powerhouse would be used by Southern California Edison Company to meet its load requirements.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before October 3, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26453 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI80-436]

Texaco Inc.; Application

August 8, 1980.

Take notice that on July 23, 1980, Texaco Inc., P.O. Box 52332, Houston, Texas 77052, filed in Docket No. CI80-436 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 1.2 miles of 12-inch line connecting existing Platforms "A" and "C" in the Mound Point Field located in State Lease 340, Offshore Iberia Parish, Lousiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Installation of the line will assist Texaco in maintaining its ability to deliver contracted gas production from the Mound Point Field into its Henry Plant gathering system for processing and ultimate sale to Texas Gas Transmission Corporation and Natural Gas Pipeline Company of America. This line will also deliver gas from the state lease for redelivery to and transmission by Sabine Pipe Line Company. It is also essential to maintain gas condensate production at the Mound point Field. It is stated that the total cost of the proposed facilities is $1,200,000.00 which cost Texaco would finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 18, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26454 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-678]

Union Electric Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that on August 15, 1980, Union Electric Company (UE) tendered for filing Amendments to Interconnection Agreements with Associated Electric Coop., Inc., City of Columbia, MO, Iowa Power & Light, Iowa Southern Utilities, Arkansas-Missouri EHV, Arkansas-Missouiri Power Co., Kansas City Power & Light, Kentucky Utilities, Missouiri-Kansas-Oklahoma EHV, and Missouri Public Service Company. Said Amendments have been filed to comply with Order 84 of the Federal Energy Regulatory Commission in Docket No. RM 79-29 which requires revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petition or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26480 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-121]

Utah Power & Light Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take notice that on July 30, 1980, Utah Power and Light Company submitted for filing a report of refunds made to all customers included in the settlement agreement with Sierra Pacific Power Company and the Tri State Intervention Group.

A copy of this filing has been sent to the appropriate regulatory commission of Utah, Idaho, Wyoming, Nevada, and California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26481 Filed 8-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA80-77]

Warrior Asphalt Co. of Alabama, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

August 22, 1980.

Take notice that Warrior Asphalt Company of Alabama on July 18, 1980, filed a Petition for Review under 42 U.S.C. 7194 (b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 5, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any person who has denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 5, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26455 Filed 8-27-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-113]

Western Power Division Central Telephone & Utilities Corp.; Order Granting Motion for Permission To Collect Proposed Settlement Rates in Lieu of Filed Rates

Issued August 22, 1980.

On August 4, 1980, Central Telephone & Utilities Corporation, Western Power Division (CTU) and the intervenors in this proceeding [1] filed a joint motion seeking Commission authorization to impose interim rates in lieu of the rates originally filed in this docket pending the Commission's action on a settlement agreement expected to be filed by August 12, 1980.

In their motion, the parties stated that a settlement in prinicpal had been reached and that the rates proposed as interim rates were agreed to by the parties. These interim rates were set forth in an attachment to the joint motion. The parties further agreed to make the interim rates effective as of August 12, 1980, the designated effective date of the filed rates, provided that the anticipated settlement agreement was filed by that date. The proposed settlement agreement was, in fact, filed on August 12, 1980.

We note that the interim rates would produce test year revenues of $24,578,774, as compared to $26,440,252 which would have been generated under the originally filed rates.

The joint motion provides that in the event the Commission issues an order disapproving the settlement agreement, in whole or in part, the filed rates would be deemed to be effective, subject to refund, on the date of issuance of such an order, with a surcharge (also subject to refund) to be added to the first bill rendered thereafter to each customer. According to the parties, the surcharge is designed to enable CTU to recover the difference between revenues collected under the interim rates and the revenues that would have been collected under the filed rates for the period of time when the interim rates are in effect. There is also a provision for interest on the surcharge amounts at an average prime rate.

The Commission has not ordinarily allowed such a surcharge provision, but instead has permitted the electric utility to collect the higher filed rates prospectively only, in the event that a proposed settlement is disapproved. *See Public Service Company of Oklahoma,* Docket No. ER78-511, order issued December 27, 1978. Here, however, the affected customers concur in the provision. Therefore, we shall permit the surcharge provision to operate in the event that the settlement is not approved.

Pursuant to § 35.1(e) of the regulations, we find that good cause exists to permit the collection of the interim rates as of August 12, 1980, until such time as we may act on the settlement agreement to be filed by CTU. This order shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The joint motion to collect interim rates in lieu of the rates originally filed in this docket is hereby granted.

(B) CTU is hereby authorized to collect its interim rates in lieu of the rates originally filed in this proceeding, from August 12, 1980, until such time as we act on the settlement proposal tendered by CTU. CTU's proposed surcharge as described in this order will operate in the event that the proposed settlement is not approved by the Commission.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

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[1] Joining in CTU's motion were a group of CTU's rural electric cooperative customers (REA Cooperative Customers), a group of CTU's municipal customers (Kansas Municipal Group), and Central Kansas Electric Coopertive, Inc. (CKEC).

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By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26456 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-676]

Wisconsin Electric Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take Notice that Wisconsin Electric Power Company (Wisconsin Electric) on August 15, 1980, tendered for filing an Amendment, effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Cliffs Electric Service Company (Service Company).

This amendment, modifies Service Schedules A-Limited Term Power, B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy of the Interconnection Agreement, dated January 1, 1980, to provide for an energy transmission rate between Wisconsin Electric and Service Company pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 55 and Service Company Rate Schedule FERC No. 7. Wisconsin Electric and Service Company maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Service Company and also that a copy of the herein filing has been mailed to both the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26482 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-677]

Wisconsin Electric Power Co.; Filing

August 22, 1980.

The filing Company submits the following:

Take Notice that Wisconsin Electric Power Company (Wisconsin Electric) on August 15, 1980, tendered for filing an Amendment, effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Upper Peninsula Power Company (Upper Peninsula).

This amendment, modifies Service Schedules A-Limited Term Power, B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy of the Interconnection Agreement, dated April 9, 1974, to provide for an energy transmission rate between Wisconsin Electric and Upper Peninsula pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 45 and Upper Peninsula Rate Schedule FERC No. 19. Wisconsin Electric and Upper Peninsula maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Upper Peninsula and also that a copy of the herein filing has been mailed to both the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26483 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-668]

Wisconsin Power & Light Co.; Filing Revised Service Schedules

August 22, 1980.

The filing company submits the following:

Take notice that Wisconsin Power & Light Company (WPL) tendered for filing on August 14, 1980 revised service schedules to the Interconnection Agreement between WPL and Dairyland Power Cooperative (DPC).

The revised service schedules B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy applicable to the existing WPL-DPC Interconnection Agreement provide for an energy transmission rate between WPL and DPC in accordance with the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket No. RM79-29. WPL and DPC maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

WPL states that signed duplicate originals or the revised service schedules have been provided to DPC and that a copy of this filing has been provided to the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26457 Filed 8-27-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-666]

Wisconsin Power & Light Co.; Filing Revised Service Schedules

August 22, 1980.

The filing company submits the following:

Take notice that Wisconsin Power & Light Company (WPL) tendered for filing on August 14, 1980 revised service schedules to the Interconnection Agreement between WPL and Madison Gas and Electric Company (MGE).

The revised service schedules A—Participation Capacity, § 1.02 Capacity and Contract Energy, B—Emergency Energy, D—Short Term Power, E—Maintenance Energy, and F—General Purpose Energy, applicable to the existing WPL–MGE Interconnection Agreement provide for an energy transmission rate between WPL and MGE in accordance with the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket No. RM79–29. WPL and MGE maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

WPL states that signed duplicate originals or the revised service schedules have been provided to MGE and that a copy of this filing has been provided to the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26458 Filed 8–27–80; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1590–8; PP 5G1623/T263]

Amitraz; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a renewal of temporary tolerances for residues of the insecticide amitraz (*N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and its metabolites *N'*- (2,4-dimethylphenyl-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl) formamide in or on the agricultural commodities grapefruits, lemons, oranges, and tangerines at 1.0 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Rm: E–343, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. (202–426–9458).

SUPPLEMENTARY INFORMATION: On September 9, 1975, EPA issued a notice that published in the **Federal Register** (40 FR 41836) that Upjohn Co. Agricultural R & D, Kalamazoo, MI 49001 submitted a pesticide petition (PP 5G1623). The petition requested that temporary tolerances be established for residues of the insecticide *N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and its metabolites *N'*- (2,4-dimethylphenyl-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl) formamide in or on the raw agricultural commodities: grapefruits, lemons, oranges, and tangerines at 1.0 ppm. These tolerances expired September 2, 1976.

The Upjohn Co. has requested a one-year renewal of the temporary tolerances to permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 92 Stat. 186; 7 U.S.C. 136.

The scientific data reported and all other relevant material were evaluated, and it was determined that renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the experimental use permit be used with the following provisions:

1. The amount of the insecticide used must not exceed the amount authorized in the experimental use permit.
2. Upjohn Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

The temporary tolerances expire July 17, 1981. Residues not in excess of 0.1 ppm in or on grapefruits, lemons, oranges, and tangerines after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if any scientific data or experience with the pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j) 68 Stat. 561; (21 U.S.C. 136(j))

Dated: August 19, 1980.

Herbert Harrison,

Acting Director, Registration Division Office of Pesticide Programs.

[FR Doc. 80–26435 Filed 8–27–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1591–3; PP 9G2182/T265]

Hercon Products Group; Renewal of Temporary Exemption From the Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: A temporary exemption from the requirement of a tolerance has been renewed for the insecticide *n*-tetradecyl formate in or on cotton when used as a pheromone to control the adult moths of the tobacco budworm.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–341, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460 (202–426–9417).

SUPPLEMENTARY INFORMATION: On May 1, 1970, EPA issued a notice that published in the **Federal Register** (44 FR 25506) that Hercon Products Group, Herculite Products, Inc., 1107 Broadway, NY, NY 10010, had filed a pesticide petition (PP 9G2182). The petition requested that an exemption from the requirement of a tolerance be established for residues of the insecticide *n*-tetradecyl formate in or on the raw agricultural commodity cotton when used as a pheromone to control the adult moths of the tobacco budworm.

This temporary exemption is to permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated and it has been determined that renewal of the temporary exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption has been renewed under the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active insecticide to be used must not exceed tha amount authorized in the experimental use permit.

2. Hercon must immediately notify the EPA of any findings from the experimental use or the temporary exemption from a tolerance that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption expires July 21, 1981. Residues in or on the above raw agricultural commodity after expiration of this temporary exemption will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation if necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: August 22, 1980.

Reto Engler,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–26436 Filed 8–27–80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-8]

FM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: August 27, 1980.

Cutoff date: October 7, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on October 7, 1980. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on October 7, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

–800725AB (new) Evergreen, Alabama, Vogel-Moody Corporation, Req: 93.5 MHz; channel No. 228A, ERP: 3kW; HAAT: 259 ft.

BPH–790831AH (new) Deadwood, South Dakota, Associated Investors, Inc., Req: 95.1 MHz; channel No. 236C, ERP: 100 kW; HAAT: 1707 ft.

BPH–790904AH (new) Westerville, Ohio, B & B Communications, Inc., Req: 103.9 MHz; channel No. 280A, ERP: 2 kW; HAAT: 356 ft. (Mutually exclusive with renewal of WBBY.)

BPH–790904AI (new) Cleveland, Ohio, International Broadcasting Company, Req: 106.5 MHz; channel No. 293B, ERP: 50 kW; HAAT: 480 ft. (Mutually exclusive with renewal of WZZP.)

BPH–790904AK (new) Westerville, Ohio, Metro Broadcasting, Inc., Req: 103.9 MHz; channel No. 280A, ERP: 2 kW; HAAT: 360 ft. (Mutually exclusive with renewal of WBBY.)

BPH–791218AC (new) Rosamond, California, Ms. Carole R. Prenter, Req: 105.5 MHz; channel No. 288A, ERP: 3 kW; HAAT: 300 ft.

BPH–800331AJ (new) Rosamond, California, Laurens C. Hall, Req: 105.5 MHz; channel No. 288A, ERP: 3kw; HAAT: –5.5 ft.

BPH–800401AG (new) Powell, Wyoming, Camdeck Corporation, Req: 92.9 MHz; channel No. 225C, ERP: 87.1 kW; HAAT: 1857 ft.

BPH–800403AB (new) Fayetteville, Arkansas, Boston Mountain Broadcasting Corp., Req: 107.9 MHz; channel No. 300C, ERP: 100 kW; HAAT: 1259 ft.

BPH–800408AC (new) Powell, Wyoming, Jack H. Jensen, Req: 92.9 MHz; channel No. 225C, ERP: 99.5 kW; HAAT: 1657 ft.

BPH–800620AH (new) Berlin, New Hampshire; Berlin Broadcasting Company, Inc., Req: 103.7 MHz; channel No. 279C, ERP: 17 kW; HAAT: 160 ft.

BPH–800723AI (KKEG) Fayetteville, Arkansas; Little Chief B/C Co. Fayetteville, Inc.; Has: 92.1 MHz; channel No. 221A, ERP: 3 kW; HAAT: 190 ft. (lic); ERP: 100 kW; HAAT: 1293 ft.

BPH–800724AD (new) Berlin, New Hampshire, Christina and Joel Martin, Req: 103.7 MHz; channel No. 279C, ERP: 17 kW; HAAT: 257 ft.

BPH–800725AA (new) Fayetteville, Arkansas, Fayetteville Communications Co., Req: 107.9 MHz; channel No. 300C, ERP: 100 kW; HAAT: 1252 ft.

BPH–800725AE (new) Cairo, Georgia, Grady Mitchell Broadcasting Company, Req: 102.3 MHz; channel no. 272A, ERP: 3 kW; HAAT: 300 ft.

BPH–800725AF (new) Berlin, New Hampshire, Sico Communications, Inc., Req: 103.7 MHz; channel No. 279C, ERP: 17 kW; HAAT: 160 ft.

BPED–791101AA (new) Chicago, Illinois, Open Media Corporation, Req: 90.1 MHz; channel No. 211B, ERP: 100 kW; HAAT: 440 ft. (Mutually exclusive with renewal of WMBI–FM.)

[FR Doc. 80–26646 Filed 8–27–80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1245]

Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

August 19, 1980.

The following listing of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Docket or RM No.	Rule section	Subject	Date received
20642		Clear Channel Broadcasting in the AM Broadcast Band	
		(Filed by R. Russell Eagan & David E. Hilliard, Attorneys for Clear Channel Broadcasting Service).	7-28-80
Gen 78-167		Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking Proceedings.	
		(Filed by Andrew Jay Schwartzman & Douglas L. Parker, Attorneys for Media Access Project).	7-30-80
		(Filed by Henry Geller, Assistant Secretary for Communications and Information & Gregg P. Skall & Robert T. Perry Attorneys for National Telecommunications and Information Administration).	8-4-80

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-26348 Filed 8-27-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-15]

TV Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: August 21, 1980.

Cutoff Date: October 1, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after October 1, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 1, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than October 1, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 1, 1980.

Applications for new stations may not be filed against the applications on the attached list which are marked with an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Report No. A-15

Applications for a new station may not be filed against any application appearing on this list which is designated by an asterisk (*).

BPCT-800724KF (new), Wilmington, Del., Sixty-One Corp. Channel 61, ERP: Vis. 1164 kW; HAAT: 974 feet.

BPCT-800612KF (new), Murfreesboro, Tenn., Family Television, Inc., Channel 39, ERP: Vis. 896 kW; HAAT: 1286 feet.

BPCT-800627KE (new), Murfreeboro, Tenn., Channel 39 of Murfreesboro, Inc., Channel 39, ERP: Vis. 1762 kW; HAAT: 808 feet.

BPCT-800715KE (new), Salem, Oreg., Greater Willamette Vision Ltd., Channel 22, ERP: Vis. 1702 kW; HAAT: 1187 feet.

BPCT-800630KE (new), Dension, Tex., (Sherman allocation), Broadcast Affiliates, Inc., Channel 20, ERP: Vis. 5000 kW; HAAT: 1089 feet.

*BPCT-800701KE (WAIM-TV), Anderson, S.C., New South Television Corp., Channel 40, Change site; increase ERP Vis. to 2588 kW; increase HAAT to 839 feet.

*BPCT-800625KF (WJFT-TV), Albany, Georgia, Southwest Broadcasting, Inc., Channel 19, Change site; increase ERP Vis. to 5000 kW; increase HAAT to 1518 feet.

*BPCT-800808KE (WGNN-TV), Winston-Salem, N.C., Good News TV, Inc., Channel 45, Change site; increase ERP Vis. to 5000 kW; increase HAAT to 2000 feet.

BMPCT-800701KF (WTSP-TV), St. Petersburg, Fla., WTSP-TV, Incorporated, Channel 10, Change city of license from Largo, Florida.

[FR Doc. 80-26345 Filed 8-27-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-629-DR]

Commonwealth of Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA-629-DR), dated August 19, 1980, and related determinations.

DATED: August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 19, 1980, the President declared a major disaster as follows:

> I have determined that the damage in certain areas of the Commonwealth of Pennsylvania resulting from severe storms and flooding beginning on or about August 14, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Commonwealth of Pennsylvania.
>
> In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal Government will provide 75 percent of all eligible public assistance under PL 93-288 in designated areas.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. James F. Oesterling of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the Commonwealth of Pennsylvania to have been affected adversely by this declared major disaster.

The following counties for Individual Assistance and Public Assistance: Armstrong, Butler, Clarion.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-26270 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-23-M

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[FEMA-627-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-627-DR), dated August 11, 1980, and related determinations.

DATED: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall, H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7848.

NOTICE: The notice of a major disaster for the State of Texas dated August 11, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 11, 1980.

The following Counties for individual assistance only: Aransas, Brooks, and Hidalgo.

(Catalog of Federal Domestic Assistance No. 14.701, disaster assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-26268 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-23-M

West Virginia; Major Disaster and Related Determinations

[FEMA-628-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA-628-DR), dated August 15, 1980, and related determinations.

DATED: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 15, 1980, the President declared a major disaster as follows:

> I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms and flooding beginning on or about August 4, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of West Virginia.
>
> In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal Government will provide a maximum share of 75 percent for all eligible public assistance under Pl 93-288 in designated areas.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Guy Brackett of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of West Virginia to have been affected adversely by this declared major disaster.

Harrison County for individual assistance and public assistance.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-26269 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; Systems of Records: Annual Publication

The Privacy Act of 1974 [5 USC 552a(e)(4)] requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Federal Mediation and conciliation Service last published the full text of its systems of records at 43 FR 38512, August 28, 1978. These systems remain in effect as published.

The full text of the systems of records also appears in Privacy Act Issuances, 1979 Compilation, Volume 4, page 2765. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of the volume is $10.00.

One system of records is being maintained by the Federal Mediation and Conciliation Service which was previously covered under "OPM/GOVT-2, Grievance Records." The Office of Personnel Management advises that they intend to delete this government-wide system. To insure coverage for the records that Federal Mediation and Conciliation Service is maintaining on employee grievances, the following system is being published and is described below:

SYSTEM NAME:

Grievance Records

SYSTEM LOCATION:

These records are located in the Office of the General Counsel of the Federal Mediation and Conciliation Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees who have submitted grievances with Federal Mediation and Conciliation Service in accordance with Directive 4609 of the Federal Mediation and Conciliation Service Directives Manual or under the negotiated grievance procedure for the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under the above cited directive or grievance procedure for the Agency. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems for employees covered by either the agency grievance procedure or the negotiated grievance procedure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a), and 5 CFR Part 771.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2908.

g. By the agency maintaining the records or the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. 20427

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the Office of the General Counsel regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of closing of the case and kind of action taken.

c. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the Office of the General Counsel.

Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Approximate date of closing of the case and kind of action taken.

c. Organizational component involved.

Individuals requesting access must also follow the agency's Privacy Act regulations regarding access to records and verification of identity. (29 CFR subsection 1410.3 and subsection 1410.4)

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the Office of the General Counsel.

Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of closing of the case and kind of action taken.

c. Organizational component involved.

Individuals requesting amendment must also follow the Agency's Privacy Act regulations regarding amendment to records and verification of identity. (29 CFR subsection 1410.4 and subsection 1410.6)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

Wayne L. Horvitz,

Director.

[FR Doc. 80-26461 Filed 8-27-80; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

American Bank Capital Corp. of Florida; Formation of Bank Holding Company

American Bank Capital Corporation of Florida, Stuart, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of

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American Bank of Martin County, Stuart, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 21, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26282 Filed 8-27-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 19, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Chemical New York Corporation, New York, New York (investment advisory activities; Florida), to engage through its subsidiary, Chemical Investment Advisers, Inc. in activities that may be carried on by an investment adviser, including offering portfolio investment advice to individuals on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Palm Beach, Florida, servicing all of Palm Beach County.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120.

1. Security Pacific Corporation, Los Angeles, California (mortgage banking activities; Texas): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others, and the servicing of such loans for others. These activities would be conducted from an office in Dallas, Texas, serving the State of Texas.

2. Wells Fargo & Company, San Francisco, California (finance activities; nationwide): To engage, through its subsidiary, Wells Fargo Ag Credit, in making loans and extensions of credit primarily to corporations, individuals, or partnerships engaged in agricultural production, distribution, processing, or other agricultural activities, and in servicing such loans or extensions of credit, including loan participations with other lenders. These activities would be conducted from offices of Applicant's subsidiary in Englewood, Colorado, serving the states of Alabama, Alaska, Arizona, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin, in addition to those states currently served by Applicant's subsidiary for which approval already has been granted.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 20, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26281 Filed 8-27-80; 8:45 am]

BILLING CODE 6210-01-M

Brownfield Bancshares, Inc.; Formation of Bank Holding Company

Brownfield Bancshares, Inc., Brownfield, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more, less directors' qualifying shares, of the voting shares of Brownfield State Bank & Trust Co., Brownfield, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 21, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26280 Filed 8-27-80; 8:45 am]

BILLING CODE 6210-01-M

Hamilton Bancgroup & Co.; Formation of Bank Holding Company

Hamilton Bancgroup & Co., St. Louis, Missouri, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers State Bank of Dahlgren, Dahlgren, Illinois. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 21, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26279 Filed 8-27-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Select Panel for the Promotion of Child Health; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Select Panel for the Promotion of Child Health, established pursuant to section 211 of the Health Services and Centers Amendments of 1978 (Pub. L. 95-626), will meet on Monday, Tuesday, and Wednesday, September 8, 9, and 10, 1980, at 9:00 a.m. at the Holiday Inn in Georgetwon, 2101 Wisconsin Avenue, N.W., Washington, D.C. The Panel has responsibility for the formulation of national goals with respect to the promotion of the health status of children and expectant mothers, the development of a comprehensive national plan for the achievement of these goals and otherwise promoting the health of children in the United States, and, the transmittal of a report to the Secretary and the Congress detailing the comprehensive national plan and recommendations for administrative, legislative, and other actions necessary to implement this plan and to otherwise promote the health of children in the United States. This meeting of the Panel will be devoted to final report review. Meetings of the Panel are open for public observation.

Further information on the Panel may be obtained by contacting John A. Butler, Staff Director, Select Panel for the Promotion of Child Health, Room 711, Riviere Building, 1832 M Street, N.W., Washington, D.C. 20036, telephone (202) 634-4805.

Dated: August 18, 1980.

John A. Butler,

Staff Director, Select Panel for the Promotion of Child Health.

[FR Doc. 80-26402 Filed 8-25-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-28]

Colorado Springs, Colo. Metropolitan Area; Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Areawide EIS on the Colorado Springs, Colorado Metropolitan area. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the projects to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., August 18, 1980.

James Miller,

Acting Director, Office of Environmental Quality.

Appendix.—Areawide EIS on the Colorado Springs, Colo., Metropolitan Area

The U.S. Department of Housing and Urban Development (HUD) intends to prepare an areawide Environmental Impact Statement (EIS) for the Colorado Springs metropolitan area. The Department hereby solicits comments and information for consideration in this EIS.

Description: This EIS will analyze the impacts of growth for the year 2000 for the Colorado Springs, Colorado metropolitan area. The general boundaries of the study area are: North-Douglas and El Paso County line, East—a line running north and south four (4) miles East of Powers Blvd. extended, South—Fountain, and West-edge of the Federally owned lands.

Need: HUD anticipates a large volume of applications for housing assistance from this rapidly growing area. Many of these applications will likely exceed HUD's automatic threshold and require the preparation of a project level EIS. This areawide EIS will eliminate the need for many of the project level EISs, reduce processing time for individual proposals and permit a cumulative evaluation of impacts resulting from residential development.

Alternatives Perceived: The Department can continue conducting environmental analyses on a project-by-project basis. This procedure will likely delay some proposals as long as nine months. The Department can issue an areawide EIS for this growth area and subsequently reduce the time required to conduct an environmental clearance.

Scoping: A public scoping meeting will not be held. HUD will request information from appropriate government agencies and service organizations. Also, an Advisory Committee representing State and local entities will provide scoping information to HUD. This notice will also appear in a paper of local circulation in Colorado Springs, Colorado.

Comments: Comments should be forwarded on or before September 18, 1980, to: Walter O. Kelm, Regional Environmental Officer, U.S. Department of HUD, 1405 Curtis Street, Denver, Colorado 80202, phone (303) 327-3102.

[FR Doc. 80-26276 Filed 8-27-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

San Carlos Reservation, Arizona; Operation and Maintenance Rates

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public notice.

SUMMARY: The purpose of this public notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the San Carlos Reservation to properly reflect the actual costs for

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labor, materials, equipment and services. The change is from $35.23 to $70.81 per assessable acre per annum for subjugated lands in non-Indian ownership, and Indian-owned land leased to non-Indians.

This public notice will replace that part of § 221.105, Chapter 1, Subchapter T of Title 25 of the Code of Federal Regulations that pertains to the San Carlos Reservation which is being amended by a Final Rule to be published in the **Federal Register** simultaneously with this public notice.

EFFECTIVE DATE: This publication notice shall be effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Norman Tippeconic, Superintendent, San Carlos Agency, San Carlos, Arizona 85550, telephone 602-475-2321.

SUPPLEMENTARY INFORMATION: All irrigated land on the San Carlos Reservation is tribally owned. The proposed changes in the assessment rates were presented to the Chairman of the San Carlos Apache Tribe of the San Carlos Reservation and were approved. The principle author of this document is Thomas W. Neumann, Bureau of Indian Affairs, Phoenix, Arizona 85011, telephone 602-241-2285.

Pursuant to § 191.1(e) of Part 191, Chapter 1, Subchapter R, of Title 25 of the Code of Federal Regulations, this public notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 385.

The Public Notice shall read as follows:

San Carlos Reservation Irrigation Project, Arizona

Annual Operation and Maintenance Charges

1. Basic Water Charges: Pursuant to the acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387), the annual basic charges against the lands to which water can be delivered, whether water is used or not, are hereby fixed in the following amounts for non-Indian owned land, Indian owned land leased to non-Indians, and Indian-owned and operated lands for calendar year 1981 and for each succeeding calendar year thereafter until further notice:

Annual Per Acre Assessment

	Non-Indian owned land	Indian-owned land leased to non-Indians	Indian-owned and operated land
Subjugated lands	$70.81	$70.81	$5.00

2. Payment of Charges: The annaul charges fixed herein shall become due on April 1 of each year, are payable on or before that date, and any charges that remain unpaid after the due date, shall stand as a first lien against the land until paid.

3. Water Delivery: The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except under the following conditions:

(a) When any Indian landowner, whose land is not under lease to a non-Indian, is financially unable to pay the operation and maintenance charges on the due date from cash on hand, the Superintendent may make the necessary arrangements for such Indian owner to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year provided written statements to that effect are furnished by the Indian owner on or before the due date.

(b) In any instance where the Superintendent is convinced that an Indian landowner whose land is not under lease to a non-Indian, is financially unable to pay his operation and maintenance charges from the proceeds of crops grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the Superintendent to the official in charge of the irrigation project that such Indian is financially unable to pay the charges. In such cases, the unpaid charges will stand as a first lien against the land until paid but without penalty for delinquency.

4. Water User Responsibility: The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the economical use of the irrigation water. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

George W. Knoll,

Acting Assistant Area Director.

[FR Doc. 80-26277 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-02-M

Plan for the Use and Distribution of Pribilof Islands Judgment Funds in Dockets 352 and 369-A Before the United States Court of Claims

August 20, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on July 4, 1979, in satisfaction of the award granted to the Pribilof Islands in Indian Claims Commission Dockets 352 and 369-A. The plan for the use and distribution of the funds was submitted to the Congress, after a 90-day extension had been granted, with a letter dated April 16, 1980, and was received (as recorded in the Congressional Record) by the House of Representatives on April 17, 1980 and by the Senate on April 18, 1980. Congress not having adopted a resolution disapproving it, the plan became effective on June 22, 1980, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows: "The funds appropriated on July 24, 1979, in satisfaction of an award granted to the Aleut Community of St. Paul Island and the Aleut Community of St. George Island in Dockets 352 and 369-A before the U.S. Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Per Capita Payment Aspect

Eight (80) percent of the funds shall be distributed by the Secretary of the Interior (hereinafter 'Secretary') in the form of per capita payments, in a sum as equal as possible, to all persons duly enrolled as members of the Pribilof Islands Aleut Communities of St. Paul and St. George Islands and born on or prior to and living on the effective date of this plan.

The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. Shares of minors shall be handled pursuant to 25 CFR 60.109(a) and (b)(1) and 104.4.

Programming Aspect

Twenty (20) percent of the funds, and any shares remaining after the per capita payment provided above, shall be apportioned between the Aleut Community of St. Paul Island and the Aleut Community of St. George Island on the bais of the relative numbers of enrollees of each community to the total enrollment of the Pribilof Islands Aleut Communities as of the effective date of this plan. Such shares shall be maintained in separate accounts and be invested by the Secretary and shall not be available for per capita payments.

When either the Aleut Community of St. Paul Island or the Aleut Community of St. George Island Develops a specific social and economic development program it shall withdraw funds from its respective share on an annual budgetary basis subject to the approval of the Secretary. Such programs may include, but are not limited to, the following: a joint investment and use program for the Pribilof Islands Aleut Communities designed to yield periodic dividend payments; land purchase and development; business development and investment; education assistance; community development; and assistance to the elderly and the handicapped.

None of the funds distributed per capita or made available under the programming aspect of this plan shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State or local programs.

Philip S. Deloria,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-26306 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-02-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 0935, Block 89, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 19, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-26301 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4264, Block 312, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

August 20, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-26302 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Ocean Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2893, Block 24, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, public records, room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised

Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 20, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 26303 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A. Unit Operator of the South Timbalier Block 172 Federal Unit Agreement No. 14-08-0001-8946, submitted on August 12, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the South Timbalier Block 172 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 21, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation, Gulf of Mexico OCS Region.

[FR Doc. 80-26304 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed supplemental development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1025, Block 239, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 21, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 80-26259 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3245, Block A-508, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 7, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 Title 30 of the Code of Federal Regulations.

Dated: August 21, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 80-26260 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Sun Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 2027 and OCS-G 4268, Blocks 639 and 648, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 22, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 80-26261 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

California Wilderness Inventory Program; Decisions on Protests to the Final Intensive Wilderness Inventory Public Lands Administered by BLM California Outside the California Desert Conservation Area

SUMMARY: This notice is to advise the public of my decisions on the protests received on the "Final Intensive Wilderness Inventory, Public Lands Administered by BLM California outside the California Desert Conservation Area," December 1979.

FOR FURTHER INFORMATION CONTACT: Phil Lord, Wilderness Coordinator, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825. Telephone (916) 484-4636.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1980, I announced my final intensive wilderness inventory decisions for the public lands administered by the California State Office, BLM, outside the Californina Desert Conservation Area (**Federal Register**, Volume 45, number 4 page 1457). The above notice and the Final Intensive Wilderness Inventory Report, December 1979, advised the Pubilic of their right to file a protest to my decisions. A total of 35 protests on 93 inventory units were received during the protest period provided. Announcement of the areas under protest was made in the **Federal Register** on April, 3, 1980 (Volume 45, number 66, page 22198).

As a result of the evaluation of information contained in these protests, I am announcing amendments to nine inventory unit decisions and am making one map clarification. A report with revised narratives and maps for these changes is being sent to all persons on BLM's California Statewide Wilderness mailing list. This report is titled "Amendments and Clarification to the Final Intensive Wilderness Inventory, Public Lands Administered by BLM California outside the California Desert Conservation Area," August 1980. Additional copies are available from the Bureau of Land Management (Wilderness) Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Amended Decisions

The Inventory decision amendments and the map clarification are summarized as follows:

CA-010-064 Symmes Creek

Part of the Wilderness Study Area (WSA) has been eliminated due to roads and other marks of man.

CA-010-075 White Mountain

The portions of this unit which are natural and are contiguous with the U.S. Forest Service White Mountain RARE II area (futher planning) have been designate as a WSA.

CA-020-211 Tule Mountain

Additional field investigation found that the unit would provide outstanding opportunities for solitude and primitive types of recreation. This unit has been designated as a WSA.

CA-020-609 Five Springs

A road on the west side has been found to not meet the road definition and has been removed from the map. Additional field investigation found that the unit would provide outstanding opportunities for solitude and primitive types of recreation. This unit has been designated as a WSA.

CA-020-1013 Massacre Rim

Additional, field investigation found that the unit would provide outstanding opportunities for solitude. This unit has been designated as a WSA.

CA-030-402 Tunnel Ridge

The WSA in this unit has been expanded west and southwestward to include all of the contiguous natural area.

CA-030-501 Yolla Bolly

This unit is contiguous with the Yolla Bolly wilderness and has been designated as a WSA.

CA-030-504 Oroville Lake

This unit is contiguous with the U.S. Forest Service Bald Rock RARE II area (further planning) and has been designated as a WSA.

CA-060-026 Table Mountain

The WSA portion of this unit has been expanded southwestward to the bottom of the ridge to include all of the contiguous natural area.

Map Clarification Only

CA-010-088 Excelsior

The published map failed to show the existing utility line and service road through a corner of one of the subunits of CA-010-088. The revised map shows the small corner which is not part of the WSA.

Right to Appeal

The publication of this **Federal Register** notice starts a 30-day appeal period. This appeal period is for each of the nine separate amendments to my December 1979 wilderness inventory decisions only—no other part of California's Final Intensive Wilderness Inventory is open to appeal.

An appeal from these decisions may be taken to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR Part 4, Subpart E. If an appeal is taken, the notice of appeal must be filed in this office (not with the Board) so that the case file can be sent to the Board. A copy of the notice of appeal and of any statement of reasons, written arguments, or briefs must be served on the Associate Solicitor, Division of Energy and Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, within 15 days of the filing of any specific document. If the procedures set forth in the regulations are not followed, an appeal is subject to dismissal. Form 1842-1 is available for additional information.

Appeals should address specific inventory units and be sent to the State Director, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825. Appeals will be accepted until September 26, 1980, on any of these amended wilderness inventory decisions. Appeals postmarked on or before this date will be accepted.

Intensive Inventory Decisions Under Appeal

Each of the original protestors was notified of their right to file an appeal of my response to their protest with the Interior Board of Land Appeals. Appeals have been filed on 9 intensive inventory unit decisions. Accordingly, the wilderness inventory decision for each unit is stayed while it is under appeal. The interim management requirements of Section 603(c) of FLPMA (Federal Land Policy and Management Act of

1976) remains in effect on each of these units while they are under appeal. The following final intensive wilderness inventory decisions are under appeal:

Bakersfield District: CA–010–040 (Freeborn/Hubbard), –063 (Paiute), –065 (Coyote Southeast), –060 (Black Canyon), and –068 (Wheeler Ridge).

Ukiah District: CA–050–131 (Cahto Peak), –134 (Elkhorn Ridge), –135 (Brush Mountain), and –211 (Big Butte).

Final Decisions

The remaining protested intensive inventory decisions were not amended or appealed. My original decisions, as published in the December 1979 report, are now final. The inventory units or parts thereof listed below with an asterisk (*), were identified as having wilderness values and have been designated as Wilderness Study Areas. These WSA's will continue to be managed under the requirements of Section 603–C of FLPMA. The following protested intensive inventory decisions are not final:

Bakersfield District: CA–010–022* (Sheep Ridge), –023* (Milk Ranch/Case Mountain), –027* (Sacatar Meadows), –028 (Bear Mountain), –029* (Rockhouse), –045* (Kelso Creek Valley), –055* (Cerro Gordo), –056* (Southern Inyo), –057* (Independence Creek), –058* (Wonoga Peak), –059* (Tinemaha), –062* (Crater Mountain), –080* (Fish Slough), –081* (Volcanic Tableland), –082* (Casa Diablo), –083 (Owens River Gorge), –084 (Petroglyphs), –088* (Excelsior, –091B (Paoha Island), –104 (Long), –106 (Coleville), and 110 (Mt. Olsen).

Susanville District: CA–020–003 (Fitzhugh), –004 (Likely Tableland), –005 (East Field), –006 (Infernal Caverns), –102 (Beaver Creek), –209 (South Ash Valley), –210 (Nelson Corral), –212 (Moon Lake), –303 (Fredonyer), –307 (Pacific West), –308 (Snowstorm), –309 (Karlo Tableland), –310 (Shaffer Mountain), –313 (Hagata), –313A (Barron), –402 (Doyle-Plumas), –604 (Buckhorn), –605 (Observation), –605B (Spanish Springs), –606 (Big Springs), –611 (Little Mud Flat), –613 (Flanigan), –614 (Dry Valley), –619B (Parsnip Creek), –619C (Salt Works), –703 (S.O.B. Lake), –705 (Tuledad), –706 (Silver Creek), –904 (Surprise Valley), –905 (Sand Creek), –910 (Hanging Rock Canyon), –911A (Stevens Camp), –913A (Yellow Rock Canyon), –913B (High Rock Canyon), –915 (Wall), –916 (Wildcat Gorge), –1006 (Crooks Lake), –1007 (Lieberman Canyon), –1008 (Little Coleman Canyon), and –1009 (Calcutta).

Folsom District: CA–040–202 (Ferguson Ridge RARE II Contiguous), –203* (Merced River), and –207 (Stanislaus River).

Ukiah District: CA–050–213 (Brushy Mountain), –214* (Eden Valley Middle Fork Eel River), –312 (Lodoga Peak), –316 (Hough Ridge), –318 (Blue Ridge), –319 (Knoxville), and –332 (Rocky Ridge).

Riverside District: CA–060–020D (Beauty Mountain D), and –020E (Beauty Mountain E).

Roland A. Rush,

Acting State Director.

[FR Doc. 80–24522 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–84–M

Cedar City District Multiple Use Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Cedar City District Multiple Use Advisory Council will be held on October 9, 1980.

The meeting will begin at 9:30 a.m. at the Cedar City District Office, 1579 North Main, Cedar City, Utah 84720. The purpose of the meeting will be to elect officers, discuss administrative procedures, and provide an orientation to current programs within the district.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 4:00 p.m. or file written statements for the council's consideration. Anyone wishing to make oral statements must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by October 8, 1980. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Dennis Curtis,

Acting District Manager.

August 19, 1980.

[FR Doc. 80–26273 Filed 8–27–80; 8:45am]

BILLING CODE 4310–84–M

[ORE 016183]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management has filed a statement of justification for continuation of 12 existing recreation site withdrawals made by Public Land Order 3869 on November 12, 1965. The Bureau desires to continue the withdrawals in their entirety for a 20-year period, pursuant to the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands are included in the proposed continuation:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

Scaponia Recreation Site

T. 4 N., R. 3 W.,
  Sec. 7, SW¼SE¼NE¼, S½SE¼SE¼NE¼, NE¼NE¼SE¼, and N½NW¼NE¼ SE¼.
  Containing 30 acres in Columbia County.

Little Bend Recreation Site

T. 3 N., R. 3 W.,
  Sec. 21, W½NE¼NW¼.
  Containing 20 acres in Washington County.

North Fork Eagle Creek Recreation Site

T. 3 S., R. 4 E.,
  Sec. 11, W½NE¼ and E½NW¼.
  Containing 160 acres in Clackamas County.

Mill Creek Recreation Site

T. 7 S., R. 6 W., a metes and bounds description in sections 4 and 9.
  Containing 165 acres in Polk County.

Fishermen's Bend Recreation Site

T. 9 S., R. 2 E.,
  Sec. 25, SW¼NW¼, N½SW¼, and SE¼SW¼.
  Containing 160 acres in Marion and Linn Counties.

Canyon Creek Recreation Site

T. 9 S., R. 3 E.,
  Sec. 7, E½SE¼.
  Containing 80 acres in Marion County.

Elkhorn Valley Recreation Site

T. 9 S., R. 3 E.,
  Sec. 9, N½SW¼ and NW¼SE¼.
  Containing 120 acres in Marion County.

Yellowbottom Recreation Site

T. 11 S., R. 4 E.,
  Sec. 19, SE¼SW¼ and SW¼SE¼.
  Containing 80 acres in Linn County.

Dogwood Recreation Site

T. 12 S., R. 3 E.,
  Sec. 3, N½SE¼.
  Containing 80 acres in Linn County.

Alsea Falls Recreation Site

T. 14 S., R. 7 W.,
  Sec. 25, W½SW¼NW¼;
  Sec. 26, E½SE¼NE¼.
  The areas described aggregate 40 acres in Benton County.

Missouri Bend Recreation Site

T. 14 S., R. 9 W.,
  Sec. 13, SW¼SE¼.
  Containing 40 acres in Benton County.

Alder Glenn Recreation Site

T. 3., R. 7 W.,
  Sec. 32, SE¼SE¼SW¼NW¼ and S½S½SE¼NW¼;
  Public Domain Land.
T. 3 S., R. 7 W.,
  Sec. 32, N½NE¼SW¼ and NE¼NE¼NW¼ SW¼.
  Containing 35 acres, of which 22.5 acres are O&C and 12.5 acres are public domain land, in Tillamook County.

The areas described aggregate 997.5 acres of O&C and 12.5 acres of public domain lands.

The purpose of the withdrawals is to protect the public recreational values within the described sites. The lands are currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws (except that within the Yellowbottom Recreation Site the United States does not own the mineral estate). No change is proposed in the purpose or segregative effect of the withdrawals.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before October 8, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before October 8, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for; and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 22, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-28272 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Albuquerque District, N. Mex.; District Advisory Council Meeting

The second meeting of the Albuquerque District Advisory Council will be held September 24 and 25, 1980 at the Inn in Farmington, New Mexico. The meeting will consist of a briefing on the variety of resources in the Bisti Coal Region, Wednesday starting at 7:00 p.m., followed by a tour of the area all day Thursday, and concluding with a business meeting and an election of officers at 8:00 p.m. Thurday.

This council is managed in accordance with the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1976.

The public is welcome to attend all portions of this meeting, although transportation for the tour is arranged only for District Advisory Council members. Statements by the Public may be made to the Council at 8:00 p.m. Wednesday, September 24. A time limit may be imposed for each statement depending on the number of people wishing to speak to the Council.

The tour itinerary Thursday, September 25, leaving the Inn at 7:00 a.m. will include: a coal strip mine reclamation project; the Navajo Irrigation Project; grazing on public land; the Bisti Wilderness Study Area; the Fossil Forest; proposed site for a company town to run the proposed New Mexico Generating Station; unauthorized occupancies on public land; and archeological site; a Navajo Chapter House; and oil and gas development sites.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

L. Paul Applegate,

District Manager.

August 15, 1980.

[FR Doc. 80 28285 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

[LA 0135993 WR]

California; Proposed Continuation of Withdrawal and Opportunity for Public Hearing

August 22, 1980.

As a result of the review made pursuant to Section 204(l) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714), the Bureau of Land Management, U.S. Department of the Interior, proposes to continue the McCain Valley National Cooperative Land and Wildlife Management Area withdrawal for a period of 20 years.

This withdrawal was created by Public Land Order 2460 of August 11, 1961, to ensure that the lands so reserved were managed for the development, conservation, utilization, and maintenance of thier natural resources, including their recreational and wildlife resources. The lands are segregated from application under the nonmineral public land laws and from disposition under the desert land laws.

No change to the segregative effect of the withdrawal or the use of the lands is proposed.

The area affected aggregates approximately 38,342 acres in southeastern San Diego County, California. Additional information pertaining to this withdrawal, including legal description, is available for public inspection in Room E-2807 at the address below.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposed continuation must submit a written request for a hearing to the undersigned officer. If the State Director, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The Bureau of Land Management's procedures provide that the authorized officer will review the justification and recommended termination date for each existing BLM withdrawal to ensure that continuation provides for maximum public and private use of the withdrawn lands consistent with the purpose of the withdrawal and that all withdrawals lacking justification are recommended for either total or partial revocation.

The authorized officer will prepare a report for consideration by the Secretary of the Interior, who will determine whether, and for how long, the continuation of the existing withdrawal is justified. The determination of the Secretary will be published in the **Federal Register.**

All communications in connection with the withdrawal continuation should be addressed to the undersigned, Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–26378 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–84–M

Carson City District Multiple Use Advisory Council; Meeting

The Carson City District Multiple Use Advisory Council will meet on Wednesday, October 8, 1980. The meeting will take place in the Carson City District Office of the Bureau of Land Management, 1050 East William, Suite 335, Carson City, Nevada 89701. It will begin at 9:00 a.m. and continue into the afternoon after a break for lunch.

The agenda of the meeting will include introductions of new members, election of officers, orientation to the functions of the Council, and introductory briefings about the management programs of the Bureau.

The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Council at 3:00 p.m.

Date signed: August 20, 1980.

Thomas J. Owen,

District Manager.

[FR Doc. 80–26284 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–84–M

Idaho Off-Road Vehicle Designations

August 1980.

AGENCY: Bureau of Land Management.

ACTION: Notice of Interim Off-Road Vehicle Designations—8340.

DECISION: Notice is hereby given on the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of Bureau of Land Management are designated as closed, limited or open to off-road vehicle use.

The area affected by these designations is known as the Big Desert Planning Unit, which includes all public lands bounded on the south and east by the Snake River, on the west by the Great Rift and the Shoshone District, and on the north by U.S. Highway 20. These designations are a result of land use decisions developed with public involvement in the 1980 Big Desert Management Frameworks Plan. This area contains 709,815 acres.

The areas of the Big Desert Planning unit with an interim designation as *closed* are:

1. China Cup Research Natural Area lies about 8 miles south of Big Southern Butte. Closure is necessary to protect this unique butte's fragile cinder slopes. China Cup area contains 160 acres.
2. Cedar Butte is located about 5 miles east of Big Southern Butte. Closure is necessary to protect the relatively undisturbed scenic values of the butte. Cedar Butte is 640 acres in size.
3. Saddle Butte, about 80 acres in size, lies 8 miles south of the Solenburg Ranch and 15 miles west of Big Southern Butte. Closure is necessary to protect significant cultural values and the butte's fragile cinder slopes.

The areas in the Big Desert Planning Unit with an interim designation as *limited* are:

1. Quaking Aspen Butte, located 8 miles west of Big Southern Butte, is about 160 acres. Vehicle use in this areas will be restricted to designated roads and trails to protect significant cultural values, prevent undue erosion and minimize conflicts with other resource uses. All vehicular use is restricted to existing roads and trails. Specific roads and trails will be posted as open or closed at a later date.

With the exception of Big Southern Butte, on which ORV use has been limited to existing roads and trails since 1975, the remainder of all public lands in the Big Desert Planning Unit are designated as open to off-road vehicle use. Open designation was determined to be appropriate for these public lands since off-road vehicle use is important to recreational activity and supports other authorized resource uses. Also, considerable adverse effects of off-road vehicle use upon other resource values and uses have not been identified on these areas of public lands. The area affected by this interim open designation contains about 702,975 acres of public land.

These interim designations become effective August 28, 1980, and will remain in effect until rescinded or modified by the State Director.

ADDRESS: For further information about these interim designations, contact the Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401, O'dell Frandsen, District Manager. Call (208) 529–1020.

Dated: August 21, 1980.

O'dell A. Frandsen,

District Manager.

[FR Doc. 80–26286 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–84–M

[Serial Nos. I–15376, I–15593B]

Idaho; Proposed Withdrawal Continuations

August 22, 1980.

The Bureau of Land Management has filed statements of justification for continuation of two existing Public Water Reserve Withdrawals. The Bureau desires to continue the withdrawals in their entirety for a period of 20 years. The continuations would be made pursuant to the authority contained in section 204(L) of the Federal Land Policy and Management Act of October 21, 1976, (90 Stat. 2754; 43 U.S.C. 1714). The following described land is included in the proposed continuations:

Boise Meridian, Idaho

(I–15376)

Public Water Reserve 107
Secretarial Order of Interpretation #209
T. 14 S., R. 25 E.,
Sec. 26, SW¼NW¼.

The area described aggregates 40 acres in Cassia County, Idaho.

(I–15593B)

Public Water Reserve #66
Executive Order
T. 15 S., R. 22 E.,
Sec. 34, W½NE¼, E½NW¼, NW¼NW¼.

The area described aggregates 200 acres in Cassia County, Idaho.

The land is segregated from operation of the public land laws, including location for non-metaliferous minerals under the mining laws. It is otherwise open to the mining and mineral leasing laws. No change in the segregative effect of the withdrawals or use of the lands is proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposals must submit written request for a hearing to the undersigned officer on or before September 29, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuations may be filed with the undersigned officer on or before September 29, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justifications to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communication in connection with these proposed withdrawal continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 80-26371 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

[N-30383]

Nevada; Airport Lease Application

August 20, 1980.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Gene H. Ritchie has applied for an airport lease for the following land:

Mount Diablo Meridian

T. 17 S., R. 49 E.,
Sec. 11, E½

The area described comprises 320 acres in Clark County, Nevada. The application was filed on July 11, 1980, and on that date the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, P.O. Box 5400, Las Vegas, Nevada 89102.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-26287 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

[Coal Exploration License Application M 48730(ND)]

North Dakota; Invitation

August 18, 1980.

Members of the public are hereby invited to participate with Tenneco Coal Company, in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Golden Valley County, North Dakota:

T. 141 N., R. 105 W., 5th P.M.,
Sec. 20: NE¼
T. 139 N., R. 106 W., 5th P.M.,
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½
Sec. 10: Lots 1 and 2
T. 140 N., R. 106 W., 5th P.M.,
Sec. 10: Lots 3, 4, SE¼
Sec. 34: Lots 2, 3, 4

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Tenneco Coal Company, P.O. Box 2511, Houston, Texas 77001. Such written notice must refer to serial number M 48730(ND) and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in this newspaper, whichever is later. This Notice will be published for two consecutive weeks.

The proposed exploration plan is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management. Copies of the exploration plan as submitted by Tenneco Coal Company may be examined during normal business hours at the Bureau of Land Management State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-26379 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

[Oil and Gas Lease Sale No. A62, September 30, 1980]

Outer Continental Shelf Oil and Gas Lease Sale, Gulf of Mexico; Correction

In FR Doc. 80-25387 appearing at page 55931 in the issue of Thursday, August 21, 1980, make the following changes:

1. On page 55937 the bidding system indicated for Tract A62-128 which appeared with the code SS-PS should read with code PS to indicate that the tract is to be offered under the fixed net profit share system.

2. On page 55940 the bidding system for Tract A62-233 was omitted; the bidding system code should appear as PS to indicate that the Tract is to be offered under the fixed net profit share bidding system.

Dated: August 26, 1980.

Ed Hastey,

Director, Bureau of Land Management.

[FR Doc. 80-26491 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Proposed Grazing Mangement Program for the Benton/Owens Valley Planning Unit, Bishop Resource Area, Bakersfield District, Calif.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court order, the Bureau of Land Management will prepare a draft environmental impact statement for the Benton/Owens Valley Grazing Management Program on 542,000 acres of public land near Bishop California.

Four grazing management alternatives will be analyzed. The alternatives consider different levels of forage allocation to livestock, wild horses, deer and Tule elk, as well as various combinations of grazing management systems, non-intensive management and range improvements.

The proposed action allocates 18,462 AUMs to livestock, 187 AUMs to wild horses and 2,967 AUMs to deer and Tule elk. The alternatives consider no domestic livestock grazing, no action (continue with 21,010 AUMs to livestock), and stocking by condition class (11,894 AUMs to livestock).

Various individuals and organizations have already had input into the development and analysis of the alternatives. Others wishing to make suggestions or wanting further information should contact: Jerry Boggs, EIS Team Leader, Bureau of Land Management, 800 Truxtun Avenue, Room 302, Bakersfield, CA, Telephone: (805) 861-4191.

Date: August 4, 1980.

James B. Ruch,

State Director, California.

[FR Doc. 80-26380 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Vale District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the

Vale District Advisory Board will be held on October 16, 1980.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management at 365 "A" Street West, Vale, Oregon 97918.

The agenda for the meeting will include: (1) Proposed expenditure of range betterment funds in fiscal year 1981 and (2) Discussions on the development of Allotment Management Plans, subject to the completion of the Ironside Environmental Impact Statement.

The meeting is open to the public. Interested persons may make oral statements to the board, or may file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, by October 15, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available during regular business hours for public inspection and reproduction within 30 days following the meeting.

Thomas A. Moore,

Acting District Manager.

[FR Doc. 80-23674 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Vale District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 92-579 that a meeting of the Vale District Multiple Use Advisory Council will be held October 17, 1980, beginning at 9:00 A.M. in the conference room of the Bureau of Land Management office at 365 "A" Street West, Vale, Oregon 97918.

The agenda for this meeting will include: (1) Introduction of Council members and participating BLM officials, (2) Review of the Multiple Use Advisory Council Charter, (3) Election of Council Officers, (4) FY 1981 Budget Report, (5) Four-year forecast of funds and manpower, (6) Review special on-going projects, (7) Appointment of Council members to sub-committee study groups, (8) Public comment period, and (9) Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council, or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, telephone 503-473-3144, by close of business October 16, 1980. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available during regular business hours for public inspection, for cost of duplication, within 30 days following the meeting.

Dated: August 15, 1980.

Thomas A. Moore,

Acting District Manager.

[FR Doc. 80-26375 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

[W-71783]

Wyoming; Application

August 19, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma, filed an application for a right-of-way to construct a 4½ inch, 6⅝ inch, 8⅝ inch, and 12¾ inch O.D. natural gas pipeline for the purpose of transporting gas from the Creston 21-1, 1-28, 1-27, and 1-26 wells across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 91 W.,
  Sec. 8, SE¼SW¼;
  Sec. 18, SE¼SE¼.
T. 18 N., R. 92 W.,
  Sec. 24, SE¼SE¼;
  Sec. 26, N½S½;
  Sec. 28, E½NE¼, and N½SE¼.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-26373 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Notice Requesting Filing of All Existing Surface Owner Consent Agreements of Surface Mining of Federal Coal

August 20, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR Part 3427, the Bureau of Land Management (BLM) is advising the public that valid written consent or evidence thereof, which would permit surface mining of the underlying Federal coal, given by qualified surface owners, should be filed with the Wyoming State Office, BLM. In addition, at this time, written statements from qualified surface owners of refusal to consent to surface coal leasing may be filed with the Wyoming State Office.

This notice applies only to areas identified as acceptable for further consideration for coal leasing in the Gillette Review Area land use plan in the Wyoming portion of the Powder River Federal Coal Production Region.

DATES: Copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners should be received by September 15, 1980. Valid written consents given for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government (split estate lands) will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, in accordance with the announced schedule of regional lease sales set forth by Secretarial decision. However, submission at this time of consent documents that presently exist will provide information regarding whether the public interest would be served by offering for lease the Federal coal lands to which the qualified surface owner consents apply. The lack of a valid written consent at this time will not preclude consideration of Federal coal tracts during the coal activity planning process, but it is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

To preclude consideration of lands that cannot be leased, we encourage written statements from qualified surface owners who firmly refuse to consent to surface coal leasing to be filed with the Wyoming State Office.

ADDRESSES: Copies of the surface owner consent agreements, or evidence thereof, should be sent to State Director,

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Wyoming State Office, BLM, P.O. Box 1828, Cheyenne, Wyoming 82001. Information concerning the requirements for surface owner consent agreements or statements of refusal to consent may also be obtained from this address.

Maps showing the areas acceptable for further consideration for coal leasing in the Gillette Review Area land use plan in the Wyoming portion of the Powder River Federal Coal Production Region may be obtained at the BLM Wyoming State Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. J. Stan McKee, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001, 307-778-2220, extension 2413, or FTS 328-2413.

SUPPLEMENTARY INFORMATION: The BLM is requesting that valid written consent agreements, or evidence thereof, for lands in which the surface is held by qualified surface owners and the ownership of the undrlying coal is reserved to the Federal Government (split estate lands) should be filed with the Wyoming State Office, at the address given above, by September 15, 1980.

The information being sought by the BLM will be used in the Federal coal activity planning process by the Powder River Regional Coal Team and will provide information regarding whether the public interest would be served by offering for lease the Federal coal lands to which the consents apply. Valid written consents will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, as set forth in the Secretarial decision and announcement of regional lease sales to be scheduled, in accordance with 43 CFR 3427.2(a) and 3420.6-2(b). However, early submission of surface owner consent documents that currently exist will aid the Regional Coal Team in considering the split estate coal tracts during the tract delineation, ranking, and scheduling. As indicated in 43 CFR 3420.6-1(b) and 3427.2(d), split estate tracts that would be mined by other than underground mining techniques, covered by written consents that have been filed with the appropriate BLM State Office before a decision on a pending regional coal lease sale schedule, will be given priority over those split estate tracts where there is no written consent from the qualified surface owner, all othe factors being nearly equal. Surface owner consents may still be entered into during the activity planning stage, but parties intending to file written consents are responsible for being aware of pending lease sale notice dates. Information concerning lease sale notice dates may be obtained from the Wyoming State Office at the address given above.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0-5(pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0-5(zz)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tracts to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Wyoming State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0-5 (zz)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of

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the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Wyoming State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and that the owner(s) does not intend to give consent for the expected future life of the Gillette Review Area land use plan in the Wyoming portion of the Powder River Federal Coal Production Region. The refusal will be binding during the life of this land use plan, in this case 10 years maximum, or until the ownership of the surface estate changes.

Upon receipt and verification of the refusal to consent, the BLM will remove the Federal coal underlying the qualified surface owner's land from further consideration in the tract delineation, ranking, and scheduling process until such time as the Gillette Review Area land use plan is revised or until the ownership of the surface estate changes. Upon revision of the Gillette Review Area land use plan, the qualified surface owner will be notified that the prior written refusal to consent is about to expire, and the owner will be given the opportunity to submit another statement of refusal.

Written statements of refusal to consent shall be signed and dated by the owner(s) as well as witnessed and/or notarized, and shall specify: (1) the location (State and county) and legal description of the lands (2) the present legal address of the qualified surface owner involved in the refusal to consent; (3) that the owners have held legal or equitable title to the specified land surface for a period of at least three years prior to the refusal to consent; (4) whether the lands involved are the principal place of residence of the owner(s); (5) whether the lands involved are used to conduct farming or ranching; and (6) to what degree or percentage income from farming or ranching of the specified land surface contributes to the total income of the qualified surface owner(s). The submission of personal income records or other personal information is not to be made by the owner(s).

The written statements of refusal to consent by qualified surface owners will become part of the public record since the refusal will be the principal reason for not considering a particular tract in the tract delineation, ranking, and scheduling process. The written statements will be made available for public inspection in the Wyoming State Office.

Maxwell T. Lieurance,

State Director.

[FR Doc. 80-26670 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

National Environmental Policy Act Implementing Procedures; Proposed Instructions for Lowell Historic Preservation Commission

AGENCY: Department of the Interior.

ACTION: Notice of proposed instructions for the Lowell Historic Preservation Commission.

SUMMARY: This notice proposes NEPA implementing procedures for the Lowell Historic Preservation Commission, a component of the Department of the Interior. The Departmental procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: Comments due by September 30, 1980.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891. FTS: 343-3891.

For Lowell Historic Perservation Commission, Contact: Nancy Bellows, Telephone (617) 458-7653, FTS 223-0766.

SUPPLEMENTARY INFORMATION: These proposed implementing procedures provide more specific NEPA compliance guidance to the Lowell Historic Preservation Commission. They were prepared in consultation with the Office of Environmental Project Review in accordance with 516 DM 6.5(C). They should be read in conjunction with the Departmental procedures (516 DM 1-6) which are published in the **Federal Register** on April 23, 1980, and with the regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508). Copies of these procedures are also available for inspection at the Commission's offices at 204 Middle Street, Lowell, MA 01825.

Comments on the proposed procedures are invited. To be considered in the preparation of final procedures, comments must be received by September 30, 1980.

Dated: August 22, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Lowell Historic Preservation Commission

1. NEPA Responsibility

A. *Chairman*—Is responsible for NEPA compliance for Lowell Historic Preservation Commission (the Commission) activities.

B. *Executive Director*—Is responsible for insuring that the Commission staff activities and recommendations are conducted in accordance with the requirements and the spirit of NEPA.

C. *Planning Director*—(1) Is responsible for coordination and oversight of the NEPA process. Information about Commission NEPA documents or the NEPA process can be obtained by contacting the Planning Director at the Commission office.

(2) Is responsible for integrating the NEPA process into the Commission's activities and will insure that environmental concerns, as covered in environmental documents, are addressed when the Commission carries out its preservation and cultural activities.

2. Guidance to Applicants

A. Actions that are initiated by private or non-Federal entities through applications include: grants for private residential and commercial facade rehabilitation; grants for cultural programs; loans to private firms for facade improvement programs; emergency grants or loans for facade stabilization.

B. Applicants are required to complete an application form which includes a checklist of environmental impacts that may result from the work; they will be informed by the Commission staff as to what environmental information is needed when they initiate their application. The Commission staff, using this information will advise applicants whether further environmental documentation is required.

C. A Grant Application Package is available on request at the Commission office, 204 Middle Street, Lowell, MA 01852.

3. Major Actions Normally Requiring an EIS

There are no categories of actions where an EIS will normally be prepared.

4. Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix I of 516 DM 2, many of which the Commission also performs, the following Commission actions are designated categorical exclusions unless the actions qualify as an exception under 516 DM 2.3 A(3):

A. *Operating Activities*— (1) Professional services, including such things as architectural plans, studies, maps, renderings, and photographs; engineering studies; appraisals; graphic design; and building inventories and surveys.

(2) Identifying the eligibility for and nominating, properties for the National Register of Historic Places and the National Historic Landmark and National Natural Landmark programs.

B. *Development Activities*— (1) Minor revisions in the boundaries of the Preservation District recommended pursuant to Section 101(2)(b) of Pub. L. 95–290.

(2) Grants to private property owners on a matching basis for the rehabilitation of building facades provided that this rehabilitation does not adversely alter the intergrity of the setting or increase public use of the area to the extent of compromising the nature and character of the property or cause a nuisance to adjacent property owners or occupants. This includes the case where the owner intends to change the use of the building.

(3) Matching grants to private property owners for construction or rehabilitation work on existing non-Federal properties which are required to meet health, safety, and handicapped regulations.

(4) Grants for construction, demolition, addition, expansion of new non-residential facilities if the new facilities will not increase public use of the area to the extent of compromising the nature and character of the property or causing physical damage to it; institute non-compatible uses which might compromise the nature and characteristics of the property or cause physical damage to it; or cause a nuisance to adjacent property owners or occupants.

(5) Leasing or disposition or any interagency transfer or use of rail right-of-way for continued rail-related uses.

(6) Operation of a trolley system for resident and visitor use utilizing existing rights-of-way and tracks.

(7) Long and short term leasing of office, display, or other space from public or private owners.

(8) Acquisition or disposition of interests in real property, including but not limited to leaseholds, easements, rights-of-way or fee interests.

(9) Cultural programs, including such things as outdoor summer theater programs; art exhibits, demonstrations, and feasibility studies.

[FR Doc. 80–26263 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–10–M

Water and Power Resources Service

Negotiations With Santa Clara Valley Water District To Establish Terms and Conditions for the Transfer of Operation and Maintenance of Certain Works of the San Felipe Division, Central Valley Project, California; Intent To Initiate Negotiations

The Department of the Interior, through the Water and Power Resources Service, intends to negotiate an agreement with the Santa Clara Valley Water District, San Jose, California. The agreement will establish the terms, conditions, operational criteria, financial responsibility, and cost sharing arrangements for the transfer of operation and maintenance (O&M) of the Pacheco Pumping Plant and Tunnel, and approximately 40,000 feet of conveyance facilities downstream to the bifurcation of the Hollister and Santa Clara conduits, facilities of the San Felipe Division, Central Valley Project, California.

The facilities will provide Central Valley Project Water to water user entities in the counties of Santa Clara, San Benito, Santa Cruz, and Monterey. Each entity contracting for water from the division facilities will be required to share in the cost of O&M as provided in its water service contract. Water service contracts have been executed with the San Benito County Water Conservation and Flood Control District and with the Santa Clara Valley Water District.

Items to be negotiated may include the location of the operating office, communications among the facilities, communication redundancy, communication to provide input to Central Valley Project and State Water Project operations offices, transfer of O&M equipment, supplies, and records, record keeping, access to office procedures and records, and provisions regarding the temporary reassumption of O&M responsibilities by the United States in the event the district does not operate and maintain the facilities properly.

All meetings scheduled by the Service with the Santa Clara Valley Water District for the purpose of discussing terms and conditions of a proposed contract shall be open to the general public as observers. Advance notice of all meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meeting. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract no later than 30 days after the contract draft is declared to be available to the public. Unless significant public interest in the proposed contract is demonstrated in response to this notice, the availability of the negotiated draft contract will not be publicized. The Commissioner of Water and Power Resources will review the comments submitted and based on the number, source, and nature of the comments, will decide whether to hold public hearings.

For further information, please contract Mr. John B. Budd, Division of Water and Power Resources Management, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4380.

Dated: August 22, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80–26434 Filed 8–27–80; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be

V 45 AG 28 80 UMI

obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI-016

Decided: Aug. 14, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 38400 (Sub-7F), filed August 13, 1980. Applicant: HITCHCOCK BROS., INCORPORATED, P.O. Box 212, Canaan, CT 06013. Representative: C. F. Hitchcock (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Millerton and Amenia, NY, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 123391 (Sub-16F), August 12, 1980. Applicant: MACHISE INTERSTATE TRANSPORTATION CO., a corporation, 500 N. Egg Harbor Road, Hammonton, NJ 08037. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 124821 (Sub-99F), filed August 13, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 124821 (Sub-100F), filed August 13, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 138480 (Sub-5F), filed August 11, 1980. Applicant: CENTRAL DELIVERY SERVICE OF WASHINGTON, INC., 8547 Piney Branch Road, Silver Spring, MD 20901. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 142330 (Sub-14F), filed August 11, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 146110 (Sub-3F), filed August 11, 1980. Applicant: SMALL SHIPMENT EXPRESS OF ILLINOIS, INC., 9623 North Karlov Ave., Skokie, IL 60076. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 147400 (Sub-3F), filed August 12, 1980. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53403. Representative: William D. Brejcha, Ten South LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151510F, filed August 8, 1980. Applicant: P & L TRUCKING SERVICE, INC., 3592 Ivy Street, Denver, CO 80207. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OPI-017

Decided: August 15, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 104430 (Sub-60F), filed August 11, 1980. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 130980F, filed August 12, 1980. Applicant: NETWORK TRANSPORTATION SERVICES, INC., 1004 S.E. 102nd Ave., Vancouver, WA 98664. Representative: David L. Jacques (same address as applicant). *Broker,* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 151501F, filed August 8, 1980. Applicant: GARRISON EXPRESS, INC., P.O. Box 686, Princeton Jct., NJ 08550. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPI–019

Decided: August 19, 1980.

By the Commission. Review Board Number 3. Members Parker, Fortier and Hill.

MC 133841 (Sub-20F), filed August 18, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main St., Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 138741 (Sub-109F), filed August 11, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Patricia F. Scott, 20 East Franklin, Liberty, MO 64068. Transporting *general commodities,* between Santa Rosa, Tucumcari, Logan, Maravisa, and Endee, NM; Stratford, Glenrio, Adrian, Vega, Wildorado, Amarillo, Alanreed, McLean, Shamrock, St. Francis, Fritch, Sunray, Etter, Brum, Wilco, Stinnett, Pringle, Morse, Gruver, Dalhart, Irving, Dallas, Waxahachie, Corsicana, Teague, Newby, Normangee, Tomball, Houston, Texas City, Galveston, Fort Worth, Graham, Jacksboro, Bowie, Ringgold, and Mexia, TX; Texalo, Sayre, Elk City, Clinton, Weatherford, Bridgeport, Texhoma, Hitchland, Hardesty, Guymon, Mangum, Grantie, Hobart, Carnegie, Anadarko, Apache, Chickasha, Marlow, Duncan, Comanche, Homestead, Alva, Ingersoll, Enid, Billings, Ponca City, Augusta, Kingfisher, El Reno, Oklahoma City, Shawnee, Seminole, Wewoka, Holdenville, McAlester, Haileyville, Hartshorne, Wilburton, Wister, Howe, Medford, Warren, Geary, Okeene, Fort Bill, Verden, Lawton, Walter, Temple, Waurika, and Terral, OK; Eunice, Lecompte, Alexandria, Winnfield, Jonesboro, Hodge, Ruston, Dubach, Bernice, and Junction City, LA; Eldorado, Camden, Crossett, Hermitage, Mace, Banks, Kingman, Fordyce, Carthage, Sparkman, Malvern, Hot Springs, Haskell, Benton, Little Rock, Bauxite, North Little Rock, Carlisle, Hazen, Des Arc, Mesa, DeValls Bluff, Brinkley, Wheatley, Forest City, West Memphis, Edmondson, Stuttgart, Roland, Bigelow, Perry, Cla, Booneville, Mansfield, and Hartford, AR; Kansas City, Southlea, Pleasant Hill, Windsor, Hay, Versaille, Eldon, Meta, Gasconde, Belle, Owensville, Union, Labadie, St. Louis, Liberty, Excelsior Springs, Polo, St. Joseph, Clarksdale, Maysville, Wetherby, Altamont, Coburn, Trenton, and Princeton, MO; Caldwell, Wellington, Wichita, Peabody, Marion, Harrington, Liberal, Plains, Meade, Fowler, Mineola, Bucklin, Dodge City, Greensburg, Pratt, Hutchinson, Medora, McPherson, Salina, White City, Alta Vista, Goodland, Colby, Norton, Phillipsburg, Smith Center, Mankato, Belleville, Cuba, Clyde, Clifton, Clay Center, Riley, Manhattan, McFarland, Topeka, Holton, Horton, Troy, Atchison, and Kansas City, KS; Burlington, Stratton, Flaglea, Arriba, Limon, Simla, Roman, Calhan, Colorado Springs, and Denver, CO; Thompson, Ruskin, Deshler, Hebron, Fairbury, Jansen, Witt, Lincoln, South Bend, Omaha, and Beatrice, NE; Council Bluffs, Shelby, Oakland, Avoca, Audubon, Walnut, Menlo, Stuart, Winterest, Indianola, Chariton, Corydon, Allerton, Seymore, Centerville, Eldon, Ottumwa, Evans, Pella, Monroe, Des Moines, Colfax, Newton, Grimmell, Brooklyn, Marengo, Iowa City, West Liberty, Stockton, Davenport, Clinton, Fairfield, Keosauqua, South Burlington, Buffalo Center, Burlington, Mount Zion, Keokuk, Washington, Ainsworth, Columbus Jct., Nichols, Muscatine, Wilton, Elmira, Cedar Rapids, West Union, Oelwein, Vinton, Waterloo, Cedar Falls, Nevada, McCallsburg, Renwick, Iowa Falls, Hampton, Mason City, Maysfield, Manly, Dows, Belmond, Titonka, Armstrong, Northwood, Emmetsburg, Estherville, Spirit Lake, Lake Park, Gowrie, Hanson, Pocohontas, Hartley, and Sibley, IA; Elsworth, Worthington, Lismore, Albert Lea, Hollandale, Clarks Grove, Owatona, Faribault, Northfield, Farmington, West St. Paul, and St. Paul, MN; and Rock Island, Milan, Moline, East Moline, Silvis, Colona, Geneseo, Sheffield, Bureau, Tonlon, Henry, Chillicothe, Peoria, Pekin, Lasalle, Ottawa, Joliet, Elwood, and Chicago, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 142040 (Sub-6F), filed August 14, 1980. Applicant: AMBER DELIVERY SERVICE, INC., P.O. Box 361, Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 142330 (Sub-15F), filed August 15, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2–024

Decided: August 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 116073 (Sub-380F), filed August 6, 1980. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., Moorhead, MN 56560. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., Elkhart, IN 46516.Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 123343 (Sub-2F), filed August 5, 1980. Applicant: AIRBORNE FREIGHT CORPORATION, a DE corporation, 190 Queen Anne Ave. North, P.O. Box 662, Seattle, WA 98111. Representative: Harry K. Sprague (address same as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 129742 (Sub-13F), filed August 6, 1980. Applicant: PUROLATOR COURIER LTD., 304 The East Mall, Islington, Ontario, Canada M9B 6E2. Representative: Peter A. Greene, 900 17th St. NW, Washington, DC 20006. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 141153 (Sub-1F), filed August 13, 1980. Applicant: CAPITAL MESSENGERS, INC., 11309 Frederick Ave., Beltsville, MD 20705. Representative: Nancy Pyeatt, 815 15th St., NW, Washington, DC 20005. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 148793 (Sub-3F), filed August 4, 1980. Applicant: M & L MESSENGER SERVICE, INC., Jewel Lane, New Fairfield, CT 06810. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting *shipments,* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in CT, MA, NJ, NY, and PA.

MC 149502F, filed August 6, 1980. Applicant: KENNETH SCHUCK TRUCKING, INC., R.D. #8, Box 392, Allentown, PA 18104. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1115, Washington, DC 20036. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, and (2) *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceed 100 pounds, between points in the U.S.

MC 151462F, filed August 4, 1980. Applicant: NORMAN D. MASON, R.R. 5, Box 286, Huron, SD 57350. Representative: Norman D. Mason (same address as applicant). Transporting *food and other edible products* and *by-products* (except alcholic beverages and drugs) *intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 151492F, filed August 6, 1980. Applicant: J. D. SIMPSON, d.b.a. SIMPSON TRUCKING COMPANY, 801 Hilltop Drive, Warrior, AL 35180. Representative: J. D. Simpson (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151493F, filed August 6, 1980. Applicant: VICTORY LEASING, INC., P.O. Box 346, Millersburg, PA 17061. Representative: Dale G. Wolfgang, 675 North Market St., Millersburg, PA 17061. Transporting *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons munitions), between points in the U.S. for the United States Government. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 151502F, filed August 7, 1980. Applicant: JOHN AMENDOLARA, 130 West 16th St., New York, NY 10011. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151542F, filed August 13, 1980. Applicant: P & K TRUCKING, a corporation, 3049 Sacramento St., San Francisco, CA 94115. Representative: Kenneth Kinnard (same as applicant). Transporting *general commodities* (except household goods, hazardous or secret materials and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP2-026

Decided: August 21, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 37303 (Sub-3F), filed August 19, 1980. Applicant: A.E.F.—SELOVER TRANSPORTATION, INC., 650 Eddystone Ave., Eddystone, PA 19013. Representative: Alan Kahn, 1430 Land Title, Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 115162 (Sub-538F), filed August 19, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same as applicant). Transporting (1) *refractories, refractory products, insulation, insulating materials, alumina, calcined or hydrated,* and (2) *materials, equipment and supplies* used in the manufacture, sale, distribution and installation of commodities in (1) above, between points in Audrain, Callaway, and Montgomery Counties, MO, on the one hand, and, on the other, points in the U.S.

MC 139973 (Sub-85F), filed August 15, 1980. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government between points in the U.S.

MC 144622 (Sub-182F), filed August 19, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 145642 (Sub-2F), filed August 19, 1980. Applicant: GENE INMAN TRUCKING, INC., RFD 1, Box 148-A, Whiteville, NC 28472. Representative: F. Kent Burns, P.O. Box 1406, Raleigh, NC 27602. Transporting (1) *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *food and other edible products (including edible by-products but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners and agricultural fertilizers, by the owner of the motor vehicle in such vehicle,* between points in the U.S.

Volume No. OP3-008

Decided: August 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 145682 (Sub-3F), filed August 15, 1980. Applicant: AAA COURIER SERVICE, INC., P.O. Box 1471, 305 East Tenth St., Chattanooga, TN 37401. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402.Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 106674 (Sub-496F), filed August 11, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 135524 (Sub-154F), filed August 5, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. Transporting *shipments weighing 100 pounds or less* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151494F, filed August 6, 1980. Applicant: WINSTON CRUTCHLEY, Route 3, Box 83, Black River Falls, WI 54615. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* between points in the U.S., when such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations.

MC 130985F, filed August 11, 1980. Applicant: TRANSPORTATION

SERVICES, INC., P.O. Box 18022, Minneapolis, MN 55418. Representative: Andrew F. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3-010

Decided: August 20, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 123194 (Sub-12F), filed August 12, 1980. Applicant: ENTERPRISE TRUCK LINE, INC., 7336 West 15th Ave., Gary, IN 46406. Representative: Anthony E. Young, 29 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 151545F, filed August 12, 1980. Applicant: C. R. JOHNSON, d.b.a. C.R. JOHNSON TRUCKING, P.O. Box 3327, Santa Fe Springs, CA 90670. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP4-017

Decided: Aug. 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 35807 (Sub-114F), filed August 11, 1980. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 112107 (Sub-14F), filed August 8, 1980. Applicant: NEW ENGLAND MOTOR FREIGHT, INC., 454 Main Ave., Wallington, NJ 07057. Representative: A. Dayton Schell (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 130986F, filed August 11, 1980. Applicant: THOMAS CRUM & ASSOC., INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 130987F, Filed Augsut 11, 1980. Applicant: BALANCED TRANSPORT SYSTEMS, P.O. Box 878, Pembroke, MA 02359. Representative: Robert L. Snowdale, 7 Station St., Pembroke, MA 02359. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 139017 (Sub-7F), filed August 11, 1980. Applicant: HEAD ENTERPRISES, INC., Rt. 2, Box 88, Adairsville, GA 30103. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 151087 (Sub-1F), filed August 11, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26232 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that is be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

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Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 304

Decided: August 15, 1980.

By the Commission, Revew Board Number 2, Members Chandler, Eaton and Liberman. Member Liberman not participating.

MC 1334 (Sub-31F), filed July 1, 1980. Applicant: RITEWAY TRANSPORT, INC., P.O. Box 6849, Phoenix, AZ 85005. Representative: Robert R. Digby (same address as applicant). Transporting (1) *furniture, furniture parts, supplies, baskets, containers, lamps, decorative ornaments, fiberglass, plastic and paper articles,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Pinal County, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 1824 (Sub-126F), filed June 30, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Building, 918 Sixteenth Street, N.W., Washington, D.C. 20006. Over *regular routes* transporting *general commodities,* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Cumberland, Gloucester, and Salem Counties, NJ, as off-route points in connection with applicant's presently authorized regular route between Baltimore, MD and New York, NY.

Note.—Applicant intends to tack this authority with its existing authority. Applicant intends to interline with present connecting carriers at authorized points including Baltimore, MD, Pittsburgh, PA and Cleveland, OH.

MC 2505 (Sub-6F), filed June 17, 1980. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga St., Moravia, NY 13118. Representative: John F. Sloat (same address as applicant). *Contract carrier,* transporting (1) *paper, paper products, woodpulp, plastic and plastic products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of (1) above (except liquid commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with Georgia-Pacific Corporation, of Darien, CT.

MC 2835 (Sub-45F), filed June 6, 1980. Applicant: ADIRONDACK TRANSIT LINES, INC., d.b.a. Adirondack Trailways, 18 Pine Grove Ave., P.O. Box 1758, Kingston, NY 12401. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Over regular routes, transporting *passengers and their baggage and express and newspaper* in the same vehicle with passengers, (1) between Albany and Syracuse, NY, from Albany over Interstate Hwy 90 to junction Interstate Hwy 690 and then over Interstate Hwy 690 to Syracuse, and return over the same route, (2) between Albany, NY and junction Interstate Hwy 87 and Interstate Hwy 90, over Interstate Hwy 87, (3) between junction Interstate Hwy 90 and NY Hwy 30 and Amsterdam, NY, over NY Hwy 30, (4) between junction Interstate Hwy 90 and NY Hwy 30A, and Fonda, NY, over NY Hwy 30A, (5) between junction Interstate Hwy 90 and Interstate Hwy 790 and Utica, NY, over Interstate Hwy 790, (6) between junction Interstate Hwy 90 and Interstate Hwy 481 and Syracuse, NY, from junction Interstate Hwy 90 and Interstate Hwy 481 over Interstate Hwy 481 to junction Interstate Hwy 690, then over Interstate Hwy 690 to Syracuse, and return over the same route, (7) between junction Interstate Hwy 90 and Interstate Hwy 81 and Syracuse, NY, over Interstate Hwy 81, and (8) serving all intermediate points in (1) through (7) above.

MC 30204 (Sub-42F), filed July 1, 1980. Applicant: HEMINGWAY TRANSPORT INC., 438 Dartmouth St., New Bedford, MA 02740. Representative: Thomas N. Willess, 1000 Sixteenth St., NW., Suite 502, Solar Bldg., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, and Boston, MA, on the one hand, and, on the other, points in NY.

Note.—By this application, applicant seeks to eliminate the gateway of Allentown, PA, and relies on evidence pertaining to past operating economies and efficiencies.

MC 58035 (Sub-32F), filed June 30, 1980. Applicant: TRANS-WESTERN EXPRESS, LTD., 5231 Monroe St., Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Denver, CO, and Green River, WY, from Denver over Interstate Hwy 25 to Cheyenne, WY, then over Interstate Hwy 80 to Green River, and return over the same route, serving all intermediate points, and serving off-route points in Sweetwater, Carbon, Albany and Laramie Counties, WY; and (2) between junction then over Interstate Hwy 25 and CO Hwy 14, and Laramie, WY, from junction then over Interstate Hwy 25 and CO Hwy 14 over CO Hwy 14 to Ft. Collins, CO, then over U.S. Hwy 287 to Laramie, WY, and return over the same route, serving all intermediate points in WY between the CO–WY State line and Laramie.

MC 62824 (Sub-3F), filed June 25, 1980. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1089, Greer, SC 29651. Representative: Roy F. Chason (same address as applicant). Transporting *such commodities* as are dealt in or used by chain stores and grocery houses, (except commodities in bulk and those requiring special equipment), between points in Chatham County, GA, on the one hand, and, on the other points in AL, GA, MS, NC, SC, TN, and VA.

MC 85934 (Sub-122F), filed June 16, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *silica sand,* in bulk, from Vassar, MI, to Forest Park, IL.

MC 89684 (Sub-112F), filed June 16, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, 3626 West 2100 South, Salt Lake City, UT 84120. Representative: John J. Morrell (same as applicant). Transporting *food supplements, cleaning compounds, candy, vitamins, cosmetics, plastic articles and printed matter,* between the facilities of Shaklee Corporation, at or near Hayward, CA, on the one hand, and, on the other, points in NV, UT, ID, WY, CO, and NE.

MC 97394 (Sub-33F), filed June 26, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Nashville, TN, on the one hand, and, on the other, points in IL, IN, and OH, restricted to traffic originating at or destined to the facilities of Ferro Corporation. (Hearing site: Nashville, TN.)

MC 99565 (Sub-20F), filed July 1, 1980. Applicant: FORE WAY EXPRESS, INC., 204 S. Bellis St., Wausau, WI 54401. Representative: Nancy J. Johnson, 103 East Washington St., P.O. Box 218, Crandon, WI 54520. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A)(1) between Wausau, WI and Minneapolis, MN, from Wausau over WI Hwy 29 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, and return over the same route, serving all intermediate points and the off-route point of Eau Claire, WI; (2) between Wausau, WI and Madison, WI, from Wausau over WI Hwy 29 to junction WI Hwy 97, then over WI Hwy 97 to junction WI Hwy 13, then over WI Hwy 13 to junction U.S. Hwy 16, then over U.S. Hwy 16 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Madison, and return over the same route, serving all intermediate points; (3) between Madison, WI and Minneapolis, MN, over Interstate Hwy 94, serving all intermediate points and the off-route point of Chippewa Falls, WI. (B) Alternate routes for operating convenience only: (1) between Milwaukee, WI and Menomonie, WI, over Interstate Hwy 94, serving no intermediate points; (2) between Chippewa Falls, WI and Eau Claire, WI, over U.S. Hwy 53, serving no intermediate points; and (3) between Stevens Points, WI and Marshfield, WI, over U.S. Hwy 10, serving no intermediate points.

Note.—Applicant intends to tack all of the authority in (A) and (B) above with its regular-route authority and to interline at Minneapolis, MN and its Wisconsin terminal points.

MC 107515 (Sub-1385F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *carpets, rugs and tufted textile products,* from Ringgold, GA to points in IL.

MC 107515 (Sub-1386F), filed June 27, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in or used by distributors, suppliers and dealers of health and beauty aids, between points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities used by LaMaur, Inc.

MC 107515 (Sub-1389F), filed July 1, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities as are dealt in or used by drug, grocery and food business houses* (except commodities in bulk), between points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Warner-Lambert Company and its affiliates and subsidiaries.

MC 107665 (Sub-1F), filed June 26, 1980. Applicant: CRIST TRUCKING, INC., 44 Elm Avenue, Larchmont, NY 10538. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *paper, paper products, printed matter, plastic articles and papermill supplies* (except commodities in bulk), and (2) *materials* used in the manufacture of paper, paper products, and plastic articles (except commodities in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC.

MC 108835 (Sub-53F), filed June 16, 1980. Applicant: HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except those of unusual value, household goods, classes A and B explosives, commodities in bulk, and those requiring special equipment), (A) over regular routes, (1) between Minneapolis, MN, and Milwaukee, WI, over Interstate Hwy 94, serving the intermediate point of Waukesha, WI; (2) between Rock Island, IL and Milwaukee, WI, from Rock Island over IL Hwy 5 to junction IL Hwy 88, then over IL Hwy 88 to junction IL Hwy 2, then over IL Hwy 2 to the IL–WI State line, then over WI Hwy 15 to Milwaukee, WI, and return over the same route, serving no intermediate points but serving the off-route point of Waukesha, WI; (3) between Chicago, IL and Milwaukee, WI, over Interstate Hwy 94, serving no intermediate points but serving the off-route points of Kenosha, Racine and Waukesha, WI; (4) between Chicago, IL and Dayton, OH, from Chicago, IL over Interstate Hwy 94 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 35, then over U.S. Hwy 35 to junction U.S. Hwy 31, then over U.S.

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Hwy 31 to junction IN Hwy 38, then over IN Hwy 38 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Dayton, OH, and return over the same route, serving all intermediate points and the off-route points of Peru, Marion, and Richmond, IN; (5) between Chicago, IL, and Cincinnati, OH, from Chicago, IL over Interstate Hwy 94 to junction Interstate Hwy 80/90, then over Interstate 80/90 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Cincinnati, OH, and return over the same route, serving all intermediate points and the off-route points of Lafayette, West Lafayette, Columbus, Rushville, Connersville, Brookville and Lawrenceburg, IN; (6) between Rock Island, IL and Indianapolis, IN, from Rock Island over Interstate Hwy 74 to Danville, IL, then over U.S. Hwy 136 to Indianapolis, IN, and return over the same route, serving all intermediate points; (7) between Rock Island, IL and Kokomo, IN, from Rock Island, IL over Interstate Hwy 74 to junction U.S. Hwy 24 then over U.S. Hwy 24 to junction U.S. Hwy 35, then over U.S. Hwy 35 to Kokomo, IN, and return over the same route, serving all intermediate points; (8) between Cincinnati, OH and Dayton, OH, from Cincinnati, OH over U.S. Hwy 127 to junction OH Hwy 4, then over OH Hwy 4 to junction OH Hwy 725, then over OH Hwy 725 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Dayton, OH, and return over the same route, serving all intermediate points and the off-route points of Oxford and Xenia, OH; (9) between Indianapolis, IN and New Castle, IN, from Indianapolis, IN over Interstate Hwy 70 to junction IN Hwy 3, then over IN Hwy 3 to New Castle, IN, and return over the same route, serving all intermediate points; (10) between Indianapolis, IN and Fort Wayne, IN, from Indianapolis over Interstate Hwy 69 to junction IN Hwy 67, then over IN Hwy 67 to junction IN Hwy 3, then over IN Hwy 3 to junction IN Hwy 218, then over IN Hwy 218 to junction Interstate Hwy 69 to Ft. Wayne, IN, and return over the same route, serving all intermediate points; and (11) between junction U.S. Hwy 30 and U.S. Hwy 35, and Fort Wayne, IN for operating convenience, over U.S. Hwy 30, serving no intermediate points; and (B) over irregular routes, (1) between Minneapolis, MN, Davenport and Bettendorf, IA, and Moline, Rock Island, and Chicago, IL, on the one hand, and, on the other, points in Burnett, Washburn, Sawyer, Polk, Barron, Rusk, St. Croix, Dunn, Chippewa, Taylor, Pierce, Pepin, Eau Claire, Clark, Buffalo, Trempealeau, Jackson, LaCrosse and Monroe Counties, WI, and (2) between points in Burnett, Washburn, Sawyer, Polk, Barron, Rusk, St. Croix, Dunn, Chippewa, Taylor, Pierce, Pepin, Eau Claire, Clark, Buffalo, Trempealeau, Jackson, LaCrosse, and Monroe Counties, WI.

Note.—Applicant intends to tack this authority with its existing authority.

MC 111274 (Sub-60F), filed July 1, 1980. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). *Contract carrier,* transporting *iron and steel articles,* from the facilities of United States Steel Corporation, at or near (a) Gary, IN, and (b) South Chicago, and Joliet, IL, to points in IL, IA, KS, and MO, under continuing contract(s) with the United States Steel Corporation.

MC 111274 (Sub-61F), filed June 25, 1980. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). *Contract carrier,* transporting *lumber* and *lumber mill products,* from points in GA, AL, MS, AR, CA, OR, WA, ID, MT, WY, SD, LA, OK, MO, NM, AZ, CO, NE, and TX and ports of entry on the U.S.-Canada international boundary line in MN, to points in WI, MN, IL, IA, IN, and MT, under continuing contract(s) with Midwest Lumber Associates of Sun Prairie, WI.

MC 115554 (Sub-35F), filed July 1, 1980. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R.R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *telephones, telephone sets, and telephone equipment,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, installation, and operation of the commodities in (1) above (except commodities in bulk), from Houston, TX, to Shreveport, LA, restricted to traffic originating at or destined to the facilities of Western Electric Company, Inc.

MC 115554 (Sub-36F), filed July 1, 1980. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R.R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *insulation materials* (except in bulk), from Rogers, TX, to points in the U.S. (except AK and HI).

MC 116374 (Sub-2F), filed July 2, 1980. Applicant: JAMES L. SPOONER, d.b.a. WHITE LINE TRUCKING CO., 207 North Second, Kelso, WA 98626. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *Contract carrier,* transporting *lumber,* between points in Columbia County, OR, on the one hand, and, on the other, points in Clallam, Clark, Cowlitz, Grays Harbor, King, Kitsap, Jefferson, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, WA, and points in Multnomah County, OR, under continuing contract(s) with Crown Zellerbach Corporation of Portland, OR.

MC 117815 (Sub-339F), filed June 26, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *such commodities as are dealt in or used by food business houses, hardware stores and automotive service centers* except commodities in bulk), (1) between the facilities of S. C. Johnson & Sons Inc., at Racine, WI, on the one hand, and, on the other, Dallas, TX; and (2) from the facilities of S.C. Johnson & Sons, Inc., at Racine, WI, to Houston, TX, and Memphis, TN.

MC 119875 (Sub-14F), filed July 1, 1980. Applicant: WAR-HUNT TRUCKING CO., INC., R.D. 3, Allentown, PA 18104. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW., Suite 960, Washington, DC 20036. Transporting *confectioneries,* and *materials and supplies* used in the manufacture and distribution of confectioneries (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in Dauphin, Lancaster, and Cumberland Counties, PA, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, and RI, restricted to traffic originating at or destined to the facilities of Hershey Food Corporation.

MC 120364 (Sub-26F), filed January 28, 1980. Applicant: A & B FREIGHT LINES, INC., 2800 Falund St., Rockford, IL 61109. Representative: Robert M. Kaske (same address as applicant). Transporting *general commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Freeport and Rockford, IL, and Beloit, WI, on the one hand, and, on the other, points in IA, IN, and WI.

MC 124174 (Sub-173F), filed June 30, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting *sinks, lavatories, and tubs* from Nashua, NH, to Morristown, TN and Elizabeth City, NC, and points in Dade and Broward Counties, FL.

MC 126514 (Sub-72), filed July 1, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, 85301. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor, Phoenix, AZ 85003. Transporting (1) *sorter machines and* (2) *parts* for sorter machines from Santa Ana, CA, to the facilities of Nashua Corporation at Nashua and Merrimack, NH.

MC 126514 (Sub-73F), filed May 15, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Transporting *such commodities* as are dealt in or used by drug, variety, and grocery stores (except commodities in bulk), (1) between Andover and Boston, MA, on the one hand, and, on the other, points in TX, IL, CA, and WA, and (2) between Los Angeles, CA, and points in IL.

MC 126514 (Sub-74F), filed May 15, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Transporting (1) *film, plastics, and chemicals,* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of microfilm and microfiche (except commodities in bulk), between points in Santa Clara County, CA, on the one hand, and, on the other, points in MA, NY, IL, PA, LA, SC, VA, DE, MD, OH, TN, and NC.

MC 126514 (Sub-75F), filed May 15, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of home products (except commodities in bulk), from the facilities of Stanley Home Products, at or near Easthampton, MA, to points in CA.

MC 126555 (Sub-87F), filed July 1, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *copper mill slag,* from points in AZ and TX, to points in CO.

MC 129455 (Sub-43F), filed June 26, 1980. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17, North, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). *Contract carrier,* transporting *materials and supplies* used in the manufacture of drugs, medicines, shampoo and toilet preparations, in bulk, between NJ and NY, on the one hand, and, on the other, points in MO and IL, under continuing contract(s) with Bristol-Myers Products Co., Inc.

MC 129974 (Sub-25F), filed June 19, 1980. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, NJ 08610. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *insulation board,* from the facilities of Celotex Corp., at or near Pennsauken, NJ, to points in OH.

MC 133614 (Sub-9F), filed July 2, 1980. Applicant: PAPPAS TRUCKING, INC., P.O. Box 8, Gering, NE 69341. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier,* transporting *general commodities,* between the facilities of Lockwood Corporation, at or near Gering, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Lockwood Corporation of Gering, NE.

Note.—To the extent any certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 135524 (Sub-153F), filed July 1, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. Transporting (1) *iron and steel articles, aluminum articles, plastic articles* and *hardware,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Mercer County, PA, and those points in OH on and east of OH Hwy 14, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI).

MC 135895 (Sub-109F), filed June 30, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *paper products, plastic articles, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of International Paper Company, and its subsidiaries.

MC 135895 (Sub-110F), filed July 1, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Transporting *(1) paper and paper articles, and (2) materials, equipment, and supplies* use, in the manufacture and distribution sale of paper and paper articles (except commodities in bulk) between the facilities of the Alton Box Board Company, in AL, AR, FL, GA, IL, IN, KY, LA, MO, NC, OH, TN, TX, and WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 136285 (Sub–37F), filed June 26, 1980. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles), having an immediately prior or subsequent movement by water, and empty containers and trailers, between points in VA, on the one hand, and, on the other, points in NC, SC, VA, WV, TN, AL, FL, GA, and KY.

MC 136635 (Sub-36F), filed June 30, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Indianapolis, IN, on the one hand, and, on the other, points in IN, restricted to traffic destined to the facilities of K-Mart Corporation.

MC 141804 (Sub-459F), filed July 1, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting (1) *file folders* and (2) *materials and supplies* used in the manufacture and distribution of file folders, from Mayville, WI, to points in the U.S. (except CA, CO, OR, WA, AK, and HI).

MC 141865 (Sub-7F), filed June 27, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall

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Drive, Grand Prairie, TX 75051. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting *agricultural chemicals,* in containers, from the facilities of Sellers Chemical Co. at Harahan, LA, to points in CA, CO, GA, IA, MI, NJ, TX and WA.

MC 141914 (Sub-83F), filed June 26, 1980. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *Carpet strip and carpet adhesives,* from Asheville, NC, to those points in the U.S. in and east of MT, WY, CO and NM, and (2) *nails,* from Savannah, GA, to Asheville, NC.

MC 141914 (Sub-84F), filed June 26, 1980. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *adhesives, cleaning, preserving, and sealing products, solvents, stains, plastic carpeting, carpet strip, and moldings; and* (2) *equipment and supplies* used in the installation of the commodities in (1), from Kalamazoo, MI and Dayton, OH, to those points in the U.S. in and east of MT, WY, CO and NM.

MC 142364 (Sub-40F), filed July 2, 1980. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, P.O. Box 368, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting (1) *animal feed supplements and animal health care products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between the facilities of Diamond Shamrock, Inc., at or near Van Buren, AR, on the one hand, and, on the other, points in CA, CO, IA, KS, MN, MO, NE, NM, OK, and TX.

MC 143775 (Sub-159F), filed June 27, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A & B explosives, commodities in bulk, commodities requiring the use of special equipment, household goods as defined by the Commission and commodities of unusual value), from Cincinnati, OH, to points in AL, CT, IL, LA, MA, MS, NJ, NC, RI and TN.

MC 144244 (Sub-5F), filed June 18, 1980. Applicant: CRESTON TRANSPORTATION, INCORPORATED, East Highway 34, Creston, IA 50801. Representative: David L. Charles, 2600 Ruan Center, Des Moines, IA 50309. Transporting *fertilizer and anhydrous ammonia,* between points in IA, on the one hand, and, on the other, points in NE and MO.

MC 145934 (Sub-4F), filed June 30, 1980. Applicant: B & G SUPPLY COMPANY, a corporation, 589 Great Western Rd., P.O. Box 777, Brighton, CO 80601. Representative: C. Vincent Phelps, 25 South 4th Ave., P.O. Box 439, Brighton, CO 80601. *Contract carrier,* transporting (1) *oil field treating chemicals,* and (2) *tools* for applying oil field treating chemicals (except in bulk), between points in CO, KS, NV, and CA, under continuing contract(s) with Dowell, Div. of Dow Chem. Co., of Denver, CO.

MC 146515 (Sub-1F), filed June 27, 1980. Applicant: PLYMOUTH TRANSPORT, INC., 2280 Butler Pike, Plymouth Meeting, PA 19462. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier,* transporting *such commodities* as are used in the production and distribution of electrical energy, between the facilities of Philadelphia Electric Company in PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA, under continuing contract(s) with Philadelphia Electric Company of Philadelphia, PA.

MC 147074 (Sub-20F), filed June 27, 1980. Applicant: E Z FREIGHT LINES, a corporation, 70 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *Air conditioners* and *dehumidifers* from Woodbridge and Linden, NJ, and the facilities of Emerson Quiet Kool Co., in NJ, to Atlanta, GA, Memphis, TN, and Bensonville, Des Plaines, and Elk Grove, IL, and (2) *materials and supplies* used in the manufacture and sale of the commodities described in (1) (except in bulk), from Cleveland and Marion, OH, Chicago and Elk Grove, IL, Somerset, KY and Milwaukee, WI, to Woodbridge, NJ.

MC 147974 (Sub-2F), filed June 11, 1980. Applicant: NOEL TERRY BORDEN, d.b.a. BORDEN AND SONS CRANE AND RIGGING, 1112 East Service Rd., Ceres, CA 95305. Representative: San Juan Manufacturing, Northern California Inc., P.O. Box 347, San Jose, CA 95103. Transporting *molded fiberglass pools,* from points in CA, to points in AZ, CO, NM, and NV.

MC 148335 (Sub-2F), filed May 1, 1980. Applicant: RAIL FLITE TRANSPORTATION, INC., 7718 Stevens St., Darien, IL 60559. Representative: Romalda M. Schwed (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IA, points in Franklin, Miami, Douglas, Johnson, Wyandotte, Leavenworth, Jefferson, Atchison, Doniphan, and Brown Counties, KS, points in Platte, Ray, Carrol, Chariton, Randolph, Monroe, Ralls, Buchanan, Clinton, Caldwell, Livingston, Linn, Makon, Shelby, Marrion, Lewis, Knox, Adar, Sullivan, Grundy, Daviess, De Kalb, Andrews, Holt, Atchison, Nodaway, Gentry, Worth, Harrison, Mereer, Putnam, Schuyler, Scottland, and Clark Counties, MO, and points in Pawnee, Richardson, Johnson, Nemaha, Otoe, Cass, Sarpy, Douglas, Washington, Burt, Thurston, and Dakota Counties, NE, restricted to traffic having a prior or subsequent movement by rail.

MC 148655 (Sub-7F), filed June 24, 1980. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44114. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *adhesives; cleaning, preserving and sealing compounds and products; solvents; stains; plastic carpeting; carpet strip and moldings; and* (2) *equipment and supplies* used in the installation of the commodities in (1), from Kalamazoo, MI and Dayton, OH, to points in the U.S. in and east of MT, WY, CO, and NM.

MC 148965F, filed November 26, 1979, previously published in the FR issue of March 27, 1980. Applicant: CLARK BROS. TRANSPORTATION, INC., 1808 30th St., Birmingham, AL 35207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *pipe, valves, hydrants,* and *fittings,* (2) *metal and metal articles,* (3) *paper, plastic and paper and plastic products,* (4) *lumber, lumber products, and particleboard,* (5) *containers,* and *container ends* and *closures,* (6) *construction materials,* and (7) *materials, equipment,* and *supplies* used in the manufacture and sale of the commodities in (1) through (6) above (except commodities in bulk, in tank vehicles), between points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX.

Note.—This republication corrects the commodity description.

MC 149075 (Sub-5F), filed July 1, 1980. Applicant: OVER LAND, INC., 4121 Augusta Road, Garden City, GA 31408.

Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Transporting *building tiles and building slabs,* from Brunswick, GA, to points in FL, AL, NC and SC.

MC 149434F, filed June 10, 1980. Applicant: H. D. EDGAR TRUCKING COMPANY, INC., Route 1, Box 48, Opp, AL 36467. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW. *Contract carrier,* transporting (1) *textiles,* (a) from the facilities used by Monsanto Company, at Decatur and Sand Mountain (Near Guntersville), AL; Greenwood and Blacksburg, SC, and Gonzalez, FL, (b) from the facilities used by Monsanto, Inc., at Fayetteville, NC, (c) from the facilities used by Fovil Manufacturing Company, Inc., at Foley, AL and Abbeville, SC, and (d) from the facilities used by Monsanto Company, at Huntsville and Birmingham, AL, to points in CA, NM, OK, OR, TX, and WA, (2) *resin plasticizers* (except in bulk), from the facilities used by Monsanto Company, at Inman, SC, to Los Angeles, CA, (3) *insecticides* and *resin plasticizers* (except in bulk), from the facilities used by Monsanto Company, at Anniston, AL, to Los Angeles, CA, and points in KS, TX, and CO; (4) *bleach assistant compounds* (except in bulk), from the facilities used by Monsanto Company, at Luling, LA, to Los Angeles, Santa Clara, San Francisco, and Oakland, CA, (5) *food preserving compounds* (except in bulk), from the facilities used by Monsanto Company, at Texas City and Chocolate Bayou, TX, to Los Angeles, Santa Clara, San Francisco, and Oakland, CA; (6) *chemical feed supplements* (not frozen), *rubber preservatives,* and *rubber accelerators* (except commodities in bulk), from the facilities of Monsanto Company, at Nitro and Dunbar, WV, to points in CA, (7) *heat transfer agents and media,* from Anniston, AL, to points in CA; and (8) *chemicals, fabricated products, plastic film,* and *plastic sheeting* (except in bulk), from the facilities of Monsanto Company, at or near (a) Cincinnati, OH, (b) Detroit and Trenton, MI, and (c) Gonzalez and Olive, FL, to points in AZ, CA, KS, OR, TX, and WA, under a continuing contract with Monsanto Company, of St. Louis, MO.

MC 150035 (Sub-1F), filed July 2, 1980. Applicant: KALL–WALKER ENTERPRISES, INC., d.b.a. TERMINAL DISTRIBUTION SERVICE, P.O. Box 156 Mid-City Station, 20–60 Eaker Street, Dayton, OH 45402. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by food distribution centers and grocery and food business houses, between the facilities of Terminal Cold Storage, at Dayton, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, PA, and WV.

MC 150255 (Sub-1F), filed May 16, 1980. Applicant: LEPRINO TRANSPORTATION, INC., 3740 Shoshone Street, P.O. Box 8400, Denver, CO 80201. Representative: John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. Transporting (1) *Malt beverages* (except in bulk), from points in Jefferson County, CO, to points in CA, AZ and NV; and (2) *used containers and materials, supplies and equipment dealt in or used by breweries* (except in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of the Adolph Coors Company.

MC 150644 (Sub-1F), filed June 27, 1980. Applicant: GARY L. SODERBERG and LEROY E. SODERBERG, d.b.a. SODERBERG FARMS, Route 1, Townline Road, Beloit, WI 53511. Representative: Rolfe E. Hanson, 121 West Doty St., Madison, WI 53703. Transporting *fertilizer and fertilizer ingredients,* in bulk, in tank vehicles, from Lemont, Amboy, and Fulton, IL, and Clinton, and Dubuque, IA, to Clinton, WI.

MC 150594 (Sub-1F), filed March 17, 1980. Applicant: DORAY, INC., 61 New Jersey Ave., Bergenfield, NJ 07621. Representative: Allan P. Browne, 235 Closter Dock Road, Closter, NJ 07624. *Contract carrier,* transporting *refined coconut oil,* from the facilities of Bayonne Industries, at or near Bayonne, NJ, to Philadelphia, PA, under continuing contract(s) with Granex, Inc., of San Francisco, CA.

MC 159744 (Sub-1F), filed June 25, 1980. Applicant: DONALD P. AVERILL, d.b.a. DON AVERILL TRUCKING, 405 Main, (P.O. Box 191), Tillamook, OR 97141. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *wood residuals,* from points in Tillamook County, OR to Longview and Camas, WA.

MC 151035F, filed July 1, 1980. Applicant: BERNARD D. REIMER, P.O. Box 566, Meade, KS 67864. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *gasoline, gasohol, and diesel fuel,* from the facilities of Phillips Refinery Co., at or near Borger, TX, and the pipeline terminals used by Phillips Refinery Co., at or near Laverne and Turpin, OK, to points in Meade County, KS.

MC 151084F, filed June 23, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Contract carrier, transporting (1) *lift trucks, and hydraulic platforms,* and (2) *parts* for the commodities in (1) above, between the facilities of Calavar Corporation, at Santa Fe Springs, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Calavar Corporation, of Santa Fe Springs, CA.

MC 151114F, filed June 30, 1980. Applicant: BROWN & WATSON, INC., P.O. Box 21, Howard, GA 31039. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. Transporting *sand,* in bulk, between the facilities of Jessie S. Morie & Son, Inc., at or near Junction City, GA, on the one hand, and, on the other, the facilities of Brockway Glass Company, Inc., at or near Montgomery, AL.

MC 151144 (Sub-1F), filed June 24, 1980. Applicant: JERRY HINES, d.b.a. JERRY HINES HAULING, 644 Overhill Dr., Spartanburg, SC 29303. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *flyash, concrete products, fertilizer, fertilizer materials, fertilizer ingredients, sand, rock, lime, dirt and quarry products,* between points in SC, on the one hand, and, on the other, points in NC, SC, GA and TN.

MC 151155 (Sub-1F), filed June 27, 1980. Applicant: PHILLIPS TRUCKING COMPANY, a corporation, 100 Edison Avenue, Alamosa, CO 81101. Representative: Nancy P. Bigbee, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Transporting *such commodities as are dealt in or used by food and agriculture feed business houses;* between points in AZ, CO, NM, and TX, restricted (1) against transportation of liquid commodities in bulk in tank vehicles (2) against transportation of traffic between Fort Lupton, CO and points in TX, and (3) to traffic originating at or destined to facilities used by the Ralston Purina Company.

MC 151195F, filed June 26, 1980. Applicant: DUWAINE HELLICKSON, P.O. Box 146, Ostrander, MN 55961. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *iron and steel articles,* from the facilities of Armco Inc., at (a) Ashland, KY, and (b) Middletown, OH, to points in IA, MN, ND, SD, and WI, restricted to traffic originating at the named facilities.

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MC 151325F, filed June 16, 1980. Applicant: H & R TRANSPORT LTD., 3601—2 Ave., North, P.O. Box 585, Lethbridge, Alberta, Canada T1J 3Z4. Representative: Alvin A. Foder (same address as applicant). *Contract carrier*, in foreign commerce only, transporting *fruit juice concentrate*, and *vegetable juices*, from points in CA and WA, to the ports of entry on the international boundary line between the U.S. and Canada, in WA, ID, MT, ND, MN, MI, NY, VT, NH, and ME, under continuing contract(s) with Scott National Company Limited, of Calgary, Alberta, Canada.

FF 95 (Sub-9F), filed June 24, 1980. Applicant: LIFSCHULTZ FAST FREIGHT, INC., 386 Park Ave., South, New York, NY 10016. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. *Freight forwarder* of *general commodities*, between points in IL, IN, IA, and WI, on the one hand, and, on the other, points in WA, OR, AZ, CA, NV, ME, NH, VT, MA, RI, CT, NY, PA, MD, DE, NJ, VA, KY, TN, SC, GA, AL, MS, NC, FL, and DC.

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Decided: August 12, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 106054 (Sub-7F), filed May 30, 1980. Applicant: GRILEY FREIGHTLINES, 11060 Artesia Blvd., Suite D, Cerritos, CA 90801. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *general commodiites* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (A) over regular routes, (1) between Santa Rosa, CA, and the international boundary line between the U.S. and Mexico at San Ysidro, CA, from Santa Rosa over U.S. Hwy 101 to junction Interstate Hwy 5 at Los Angeles, CA, then over Interstate Hwy 5 to the international boundary line between the U.S. and Mexico at San Ysidro, and return over the same route, serving all intermediate points and points in Sonoma, Marin, San Mateo, Santa Clara, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties, CA, as off-route points; (2) between San Franciso, CA, and junction CA Hwy 1 and Interstate Hwy 5 (near Capistrano Beach, CA), over CA Hwy 1, serving all intermediate points and points in San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Orange Counties, CA as off-route points; (3) between Sacramento, CA, and the international boundary line between the U.S. and Mexico at Calexico, CA, from Sacramento over Interstate Hwy 5 to junction Interstate Hwy 10 at Los Angeles, CA, then over Interstate Hwy 10 to Indio, CA, then over CA Hwy 111 to the international boundary line between the U.S. and Mexico at Calexico and return over the same route, serving all intermediate points and points in Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Los Angeles, Riverside Imperial, and San Bernardino County, CA as off-route points; (4) between Sacramento, CA, and junction CA Hwy 99 and Interstate Hwy 5 near Wheeler Ridge, CA, over CA Hwy 99, serving all intermediate points and serving points in Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare and Kern Counties, CA as off-route points, (5) between San Francisco, CA, and Roseville, CA, over Interstate Hwy 80, serving all intermediate points and those points in Alameda, Contra Costa, Napa, Solano, Yolo, and Sacramento Counties, CA as off-route points, (6) between junction Interstate Hwy 680 and Interstate Hwy 80 near Cordelia, CA, and San Jose, CA, over Interstate Hwy 680, serving all intermediate points and those in Contra Costa, Alameda, and Santa Clara Counties, CA as off-route points (7) between junction CA Hwy 4 and Interstate Hwy 80 near Pinole, CA, and Stockton, CA, over CA Hwy 4, serving all intermediate points, (8) between junction Interstate Hwy 580 and Interstate Hwy 80 at Emeryville, CA, and junction Interstate Hwy 580 and Interstate Hwy 5 near Vernalis, CA, over Interstate Hwy 580, serving all intermediate points, and points in Alameda and San Joaquin Counites, CA as off-route points; (9) between junction Interstate Hwy 205 and Interstate Hwy 580, and junction Interstate Hwy 205 and Interstate Hwy 5, over Interstate Hwy 205, serving all intermediate points; (10) between San Francisco, CA and San Jose, CA, over (a) Interstate Hwy 280 and (b) CA Hwy 82, serving all intermediate points on (a) and (b); (11) between Oakland, CA, and Santa Cruz, CA, over CA Hwy 17, serving all intermediate points; (12) between junction CA Hwy 156 and CA Hwy 1, and junction CA Hwy 156 and CA Hwy 101 over CA Hwy 156, serving all intermediate points; (13) between Gilroy, CA and Fairmead, CA, over CA Hwy 152, serving all intermediate points; (14) between Paso Robles, CA, and Famoso, CA, over CA Hwy 46, serving all intermediate points; (15) between Fresno, CA, and junction CA Hwy 41 and Interstate Hwy 5 near Kettleman City, CA, over CA Hwy 41, serving all intermediate points; (16) between Fresno, CA, and junction CA Hwy 65 and 99, from Fresno over CA Hwy 180 to junction CA Hwy 63, then over CA Hwy 63 to junction CA Hwy 198, then over CA Hwy 198 to junction CA Hwy 65, then over CA Hwy 65 to junction CA Hwy 99, and return over the same route, serving all intermediate points; (17) between junction CA Hwy 58 and Interstate Hwy 5, and Boron, CA, over CA Hwy 58, serving all intermediate points; (18) between Mojave, CA, and junction CA Hwy 14 and Interstate Hwy 5, over CA Hwy 14, serving all intermediate points; and those in Los Angeles County, CA as off-route points; (19) between junction Interstate Hwy 405 and Interstate Hwy 5, near San Fernando, CA, and junction Interstate Hwy 405 and Interstate Hwy 5 near El Toro, CA, over Interstate Hwy 405, serving all intermediate points; (20) between junction Interstate Hwy 210 and Interstate Hwy 5, and junction Interstate Hwy 10 and Interstate Hwy 210, over Interstate Hwy 210, serving all intermediate points; (21) between junction Interstate Hwy 605 and Interstate Hwy 210, and junction Interstate Hwy 605 and Interstate Hwy 405, over Interstate Hwy 605, serving all intermediate points; (22) between junction CA Hwy 57 and Interstate Hwy 210, junction CA Hwy 57 and Interstate Hwy 5, over CA Hwy 57, serving all intermediate points; (23) between Los Angeles, CA, and Beaumont, CA, over CA Hwy 60, serving all intermediate points; (24) between junction Interstate Hwy 15 and Interstate Hwy 15E at Devore, CA, and San Diego, CA, from junction Interstate Hwy 15 and Interstate Hwy 15E at Devore, CA over Interstate Hwy 15E to junction Interstate Hwy 15, then over Interstate Hwy 15 to San Diego, CA, and return over the same route, serving all intermediate points and those in San Bernardino, Riverside and San Diego Counties, CA as off-route points; (25) between Oceanside, CA, and Escondido, CA, over CA Hwy 78, serving all intermediate points; (26) between junction CA Hwy 111 and Interstate Hwy 10 near White Water, CA, and Indio, CA, over CA Hwy 111, serving all intermediate points; (27) between junction CA Hwy 86 and CA Hwy 111 and El Centro, CA, over CA Hwy 86, serving all intermediate points; (28) between San Diego, CA, and Nogales, AZ, from San Diego over Interstate Hwy 8 to junction Interstate Hwy 10 near Eloy, AZ, then over

Interstate Hwy 10 to junction Interstate Hwy 19 at Tuscon, AZ, then over Interstate Hwy 19 to Nogales and return over the same route, serving all intermediate points and points in San Diego and Imperial Counties, CA and points in Yuma, Maricopa, Pinal, Pima and Santa Cruz Counties, AZ as off-route points; (29) between Indio, CA, and junction Interstate Hwy 10 and Interstate Hwy 8 near Eloy, AZ, over Interstate Hwy 10, serving all intermediate points and serving Riverside County, CA, and Yuma, Maricopa and Pinal Counites, AZ as off-route points; (30) between junction AZ Hwy 85 and Interstate Hwy 8 near Gila Bend, AZ and Phoenix, over AZ Hwy 85, serving all intermediate points; (31) between Phoenix, AZ, and Flagstaff, AZ, (a) over Interstate Hwy 17, and (b) from Phoenix over U.S. Hwy 89 to junction Alternate U.S. Hwy 89, then over Alternate U.S. Hwy 89 to Flagstaff, AZ, serving all intermediate points on (a) and (b), and points in Maricopa, Yavapai and Coconino Counties, AZ as off-route points in (a) and (b); (32) between junction AZ Hwy 69 and U.S. Hwy 89 and junction AZ Hwy 69 and Interstate Hwy 17, over AZ Hwy 69, serving all intermediate points; (33) between junction AZ Hwy 71 and U.S. Hwy 60 and junction AZ Hwy 71 and U.S. Hwy 89, over AZ Hwy 71, serving all intermediate points; and (34) between junction U.S. Hwy 60 and Interstate Hwy 10 near Quartzsite, AZ, and Globe, AZ, over U.S. Hwy 60, serving all intermediate points, and serving points in Yuma, Maricopa and Pinal Counties, AZ as off-route points. (B) over irregular route, between points in Los Angeles and Orange Counties, CA. Condition: Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC-106054, Sub-6 at applicant's written request.

Note.— (a) Applicant intends to tack this authority with the presently existing authority; and (b) Applicant states the purpose of this application is to convert the existing certificate of registration in MC-106054 Sub 6 in connection with certain extensions between specified points in CA and AZ.

MC 121834 (Sub-1F), filed June 27, 1980. Applicant: EZZELL TRUCKING, INC., P.O. Box 67, U.S. 421 N., Harrells, NC 28444. Representative: James A. Ezzell, U.S. 421 N., P.O. Box 67, Harrells, NC 28444. Transporting *feed ingredients*, between Hartsville, SC, and Harrells, NC.

MC 125285 (Sub-10F), filed June 23, 1980. Applicant: SKYLINE EXPRESS, INC., 1703 Highway Two, Duluth, MN 55810. Representative: E. L. Newville (same address as applicant). Transporting *forest products*, from points in MN on and north of U.S. Hwy 2 to points in MI, MN, IA, ND, SD, and WI.

MC 135185 (Sub-49F), filed June 30, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract carrier*, transporting: (1) *cleaning, scouring, and washing compounds; polishing and buffing compounds; disinfectants, household cleaning supplies; deodorants; drugs; toilet preparations; insecticides; vernin exterminator insect repellent; chemicals; hydraulic cement; sand; coal tar; adhesive tape; plastic synthetics; paint solvents; rubber cement; caulking and brazing compounds; varnish; paints; cloths; towels and towelling*, and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk)*, between points in the U.S. under a continuing contract(s) with Lehn & Fink Products Co., a Division of Sterling Drug, Inc.

MC 145914 (Sub-6F), filed June 30, 1980. Applicant: COASTAL TRUCK LINES, INC., P.O. Box 2015, New Brunswick, NJ 08903. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. *Contract carrier*, transporting (1) *containers and container closures*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except aluminum sheet and commodities in bulk) between points in the U.S., under continuing contract(s) with Reynolds Metal Company.

MC 146765 (Sub-5F), filed June 2, 1980. Applicant: DAYTON ENTERPRISES, INC., 110 First Ave., Clarence, Iowa 52216. Representative: Donald S. Mullins, 1033 Graceland Ave., DesPlaines, IL 60016. Transporting *iron and steel articles*, from the facilities of Jones and Laughlin Steel Corp., at or near Hennepin, IL, to points in CO, MN, NE, and in that part of KS on and west of U.S. Hwy 77.

MC 147815 (Sub-3F), filed July 1, 1980. Applicant: CARGO TRANSPORT, INC., 918 West Fifth St., Dayton, OH 45407. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting (1) *chemicals, plastics, plastic products, plastic lined pipe* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Dow Chemical U.S.A., at Bay City, Ludington, and Midland, MI, on the one hand, and, on the other, points in IL, IN, WI, KY, and OH.

MC 148425 (Sub-1F), filed June 30, 1980. Applicant: SUNDANCE STAGE LINES, INC., 5920 Mission Gorge Rd., San Diego, CA 92120. Representative: Roger Curtis McKee, 110 West "C" St., Suite 1803, San Diego, CA 92101. Transporting *passengers and their baggage*, in the same vehicle with passengers, between points in the Commercial Zone of San Diego, CA, and points in the Commercial Zone of Las Vegas, NV.

MC 149504F, filed April 1, 1980. Applicant: WADDELL TRANSFER, INC., P.O. Box 168, Atkins, VA 24311. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting (1) *moulding and cabinet parts*, from points in Smyth County, VA, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of moulding and cabinet parts, in the reverse direction.

MC 151424F, filed June 6, 1980. Applicant: ST. ANTHONY FEED MILL, INC., 5458 State Route 49, Fort Recovery, OH 45846. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. *Contract carrier*, transporting (1) *animal feed* and *feed ingredients, molasses*, and *animal health and sanitation products;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except liquid commodities in bulk), between points in the U.S., under continuing contract(s) with Ralston Purina Co., Bloomington, IL.

MC 130834F, filed April 2, 1980, previously noticed in the FR issue of May 22, 1980 erroneously as MC 130843F. Applicant: VIGNERI ENTERPRISES, INC., 11436 Queens Dr., Omaha, NE 68164. Representative: Vincent S. Vigneri (same address as applicant).

Note.—This republication indicates the correct docket number which is MC 130834.

Volume No. 316

Decided: August 19, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 31389 (Sub-307F), filed July 2, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman,

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Esquire, P.O. Box 213, Winston-Salem, NC 27102. Regular route transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Ticonderoga, NY and New York, NY: from Ticonderoga over NY Hwy. 9N to the junction of U.S. Hwy. 9 to New York (also from Ticonderoga over NY Hwy. 22 to Whitehall, thence over U.S. Hwy. 4 to the junction of U.S. Hwy. 9), and return over the same route; (2) between Albany, NY and Cleveland, OH: from Albany over U.S. Hwy. 20 (also from Albany over NY Hwy. 5 to Auburn, NY) via Buffalo, NY to Cleveland, and return over the same route; (3) between Fishkill, NY and Cleveland, OH: from Fishkill over NY Hwy. 52 to the junction of Interstate Hwy. 84, thence over Interstate Hwy. 84 to the junction of Interstate Hwy. 81, thence over Interstate Hwy. 81 to junction of Interstate Hwy. 80, thence over Interstate Hwy. 80 to the junction of U.S. Hwy. 422, thence over U.S. Hwy. 422 to Cleveland, and return over the same route; (4) between Westfield, NY and New York, NY: from Westfield over NY Hwy. 17 to the junction of NJ Hwy. 17, thence over NJ Hwy. 17 to the junction of NJ Hwy. 4, thence over NJ Hwy. 4 to the junction of U.S. Hwy. 1, thence over U.S. Hwy. 1 to New York, and return over the same route; (5) between Syracuse, NY and Scranton, PA over Interstate Hwy. 81; (6) between Utica, NY and Binghamton, NY over NY Hwy. 12; (7) between Waverly, NY and the junction of U.S. Hwy. 220 and Interstate Hwy. 80: over U.S. Hwy. 220; (8) between Troy, NY and Binghamton, NY over NY Hwy. 7; (9) between Hague, NY and the junction of NY Hwys. 5 and 365: from Hague over NY Hwy. 8 to the junction of NY Hwy. 365 north of Ohio, NY, then over NY Hwy. 365 to the junction of NY Hwy. 5, and return over the same route; (10) between Geneva, NY and the New York-Pennsylvania State Line over NY Hwy. 14; (11) between the junction of U.S. Hwy. 9 and NY Hwy. 9N and the junction of NY Hwys. 17 and 30: from the junction of U.S. Hwy. 9 and NY Hwy. 9N over NY Hwy. 9N to Hadley, NY, then over unnumbered highway to Northville, NY, then over NY Hwy. 30 (also over NY Hwy. 30A via Johnstown, NY to the junction of NY Hwy. 30) to the junction of NY Hwy. 17, and return over the same route; (12) between Cortland, NY and Hudson, NY: from Cortland over NY Hwy. 41 to the junction of NY Hwy. 26, then over NY Hwy. 26 to the junction of NY Hwy. 23, then over NY Hwy. 23 to the junction of NY Hwy. 9G, then over NY Hwy. 9G to Hudson, and return over the same routes; (13) between Oneonta, NY and Poughkeepsie, NY: from Oneonta over NY Hwy. 28 to Kingston, NY, then over U.S. Hwy. 9W to highland, NY, then over U.S. Hwy. 44 to Poughkeepsie, and return over the same route; (14) between Cazenovia, NY and Horseheads, NY over NY Hwy. 13 serving (A) those points in NY on, south, and east of a line beginning at Fort Ticonderoga, NY, and extending along NY Hwy. 8 to its junction with NY Hwy. 365 and thence along NY Hwy. 5 to Geneva, NY, thence along NY Hwy. 14 to the NY–PA State line as intermediate or off-route points in connection with the routes described above, and (B) serving Buffalo and Westfield, NY, Scranton, PA, the junction of U.S. Hwy. 220 and Interstate Hwy. 80 and the junction of NY Hwys. 15 and 17 for purposes of joinder only.

MC 63838 (Sub-10F), filed February 11, 1980, previously noticed in FR issue of April 8, 1980. Applicant: BOLUS MOTOR LINES, INC., 700 North Keyser Ave., Scranton, PA 18508. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting (1) *bicarbonate of soda, washing componds, cleaning compounds and scouring compounds,* from the facilities of Church & Dwight Co., Inc., at Old Fort and Green Springs, Seneca County, OH, to points in IN, WI, IA, IL, MO, AR, LA, MS, AL, TN, KY, GA, FL, NC, SC, VA, WV, PA, MD, NY, CT, MA, VT, NH, ME, RI, MI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture of the above commodities, in the reverse direction.

Note.—This republication adds Green Springs, OH, to the original publication.

MC 76449 (Sub-30F), filed June 26, 1980. Applicant: NELSON'S EXPRESS, INC., 675 Market Street, Millersburg, PA 17061. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in by manufacturers and distributors of electronics, automotive, aerospace and aircraft components, (except commodities in bulk, and those requiring special equipment) between points in Amherst, Augusta, Bedford, Botetourt, Nelson, Roanoke, Rockbridge, and Rockingham Counties, VA, and those in PA in and east of the western boundaries of Tioga, Lycoming, Clinton, Centre, Mifflin, Juniata and Franklin Counties, restricted to traffic originating at or destined to the facilities of AMP, Inc.

MC 108589 (Sub-35F), filed July 1, 1980. Applicant: EAGLE EXPRESS COMPANY, a corporation, 11425 Williamson Road, Cincinnati, OH 45241. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cookeville and Carthage, TN, from Cookeville over Interstate Hwy 40 to junction TN Hwy 53, then over TN Hwy 53 to Carthage, and return over the same route, and (2) from Cookeville over Interstate Hwy 40 to junction TN Hwy 56, then over TN Hwy 56 to junction TN Hwy 85 to Carthage, and return over the same route, serving in (1) above all intermediate points and serving points in Smith County, TN, as off-route points, and serving in (2) above no intermediate points as an alternate route for operating convenience only and serving the termini for purpose of joinder only.

Note.—Applicant intends to tack with its existing authority.

MC 121298 (Sub-3F), filed June 25, 1980. Applicant: SEAWAY TRANSPORT CO., a corporation, 1149 E. 5th St., Ashtabula, OH 44004. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B exploseives, household goods as defined by the Commission, liquid commodities in bulk, and those requiring special equipment), between the facilities of The Pinney Dock & Transport Company at Ashtabula, OH, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 135678 (Sub-21F), filed May 21, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting (1) *canned goods and candies,* (2) *wine,* in container, and (3) *paint* (except in bulk), from points in CA and NV to points in OK.

MC 140409 (Sub-5F), filed June 23, 1980. Applicant: CIRCLE B TRANSPORTATION COPORATION OF NORTH DAKOTA, P.O. Box 207, Wheatridge, CO 80033. Representative: Al Lagerheim (same address as applicant). Transporting *cooked, cured, preserved, and frozen foodstuffs,* between the facilities of Packer Cold Storage, Inc., at (a) Fullerton, La Habra, and Anaheim, CA, and (b) Laramie, WY, on the one hand, and, on the other points in AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, ND, NE, NJ, NM, NC, OR, OH, OK, PA, SC, SD, TN, TX, UT, WA, WI, WY, and DC.

MC 140768 (Sub-44F), filed August 20, 1979, previously noticed in the **Federal Register** issue of February 26, 1980 and May 29, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *malt beverages,* from the facilities of G. Heileman Brewing Company, Inc., at or near Evansville, IN, to points in AL, LA, MS, KY, and TN, (2) (a) *charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fuel, charcoal grills and accessories* for charcoal grills, from the facilities of Husky Industries, Inc., at or near Scotia and Stamford, NY to points in CT, DE, KY, MA, ME, MD, NH, NJ, OH, PA, RI, VA, VT, WV, and DC, and (b) *materials, equipment and supplies* used in the manufacture and distribution of the commodites specified in (2) (a) (except commodities in bulk and those which, because of size or weight, require the use of special equipment), in the reverse direction, (3) *such commodities* as are dealt in or used by grocery, department, and food business houses, (except commodities in bulk and those which, because of size or weight, require the use of special equipment) from the facilities of Lever Brothers Company at or near (a) Baltimore, MD, to points in ME, VT, NH, MA, CT, RI, and OH, and (b) Morrows, GA, to points in AL, restricted in (1), (2)(a) and (3)(a) to traffic originating at the named facilities and destined to the indicated destinations and further restricted in (2)(b) to traffic originating at the indicated origins and destined to the named facilities. (Hearing site: New York, NY.)

Note.—This republication broadens the territorial description of Part 3.

MC 141269 (Sub-2F), filed August 10, 1979, previously noticed in the **Federal Register** issue of February 26, 1980. Applicant: CHAS. R. MORGAN, INC., 18574 South Highway 99E, Oregon City, OR 97045. Representative: Earle V. White, 2400 SW Fourth Ave., Portland, OR 97201. *Contract carrier,* by transporting *malt beverages,* from Portland, OR, to Carson City and points in Washoe, Douglas, Storey, Lyon, and Churchill Counties, NV, and those points in CA north of Monterey, San Benito, Fresno, and Inyo Counties, under continuing contract(s) with Blitz Weinhard Company, of Portland, OR. (Hearing site: Portland, OR.)

Note.—This republication adds the NV portion to the territory description.

MC 144598 (Sub-3F), filed May 28, 1980. Applicant: C & J TRANSPORT, INC., P.O. Box 42, North Vassalboro, ME 04962. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Transporting *such merchandise* as is dealt in by grocery stores and discount houses (except commodities in bulk), from points in MD, DE, PA, NJ, NY, and MA, to points in ME on and south of ME Hwy 6.

MC 145878 (Sub-2F), filed June 26, 1980. Applicant: JOHNNY KNOL TRUCKING COMPANY, INC., Route #1, Box 105–X, Oklahoma City, OK 73111. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting *pumps, plastic pipe, and materials, equipment and supplies* used in the manufacture of agricultural water well pump systems, in shipper-owned trailers, from Oklahoma City, OK, to Amarillo, Dallas, and San Antonio, TX, Wichita, KS, and Ft. Smith, AR, under continuing contract(s) with Modern Pipe Inc., of Oklahoma City, OK.

MC 147549 (Sub-2F), filed June 7, 1979. (Republication). Applicant: ROADAIR LEASING, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: James D. Ferguson, 6520 Rollymeade Ave., Cincinnati, OH 45243. *Contract carrier,* transporting *such commodities* as are dealt in or used by retail drug stores, between Louisville KY and Cleveland, TN on the one hand, and, on the other, points in AR, IL, IN, KS, KY, LA, MI, MO, OH, OK, TN, and TX, under continuing contract(s) with SupeRx, Inc., of Cincinnati, OH. NOTE: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. Dual operations may be involved. (Hearing site: Cincinnati or Columbus, OH.)

Note.—This republication corrects the territorial description as published May 29, 1980.

MC 148709 (Sub-2F), filed May 19, 1980. Applicant: D & H TRUCKING CO., a corporation, Route 2, Box 2161, Nampa, ID 83651. Representative: Stephen L. Beer, 1220 Hays, Boise, ID 83702. Transporting *oil drilling mud compounds,* between Rock Springs, WY, Soda Springs, ID, and Battle Mountain, NV.

MC 149508F, filed June 2, 1980. Applicant: 5 BROTHERS, INC., 767 St. George Ave., Woodbridge, NJ 07095. Representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, NY 11743. Transporting *heat resisting materials and refractory products,* (a) from points in DE, CT, MD, MA, NJ, NY, OH, PA, RI, and DC to points in DE, CT, MD, NJ, NY, and PA, (b) from points in NJ to points in OH, (c) from Baltimore, MD, to points in OH, and (d) between points in NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, RI, and DC.

Note.—Applicant seeks to convert its existing permit to a certificate.

MC 150219 (Sub-1F), filed March 7, 1980. Applicant: SILVER EAGLE SERVICES, INC., 577 Meadowlark Lane, Grand Junction, CO 81503. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *such commodities* as are dealt in by drug and pharmaceutical supply houses, between Grand Junction, CO, on the one hand, and on the other, points in San Juan, Grand, Emery, Carbon, Duchesne, Uintah, and Daggett Counties, UT, San Juan County, NM, and Uinta, Sweetwater and Carbon Counties, WY, under continuing contract(s) with C. D. Smith Company, of Grand Junction, CO.

MC 151118 (Sub-2F), filed June 23, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *Footwear, and equipment, materials, and supplies* used in the manufacture and distribution of footwear (except commodities in bulk and those requiring special equipment), between the facilities of Consolidator's Warehouse Co., at or near Brockton, MA, on the one hand, and, on the other, Memphis, TN, and points in AR.

MC 151138 (Sub-2F), filed May 7, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box 1181, Roswell, GA 30075. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of resins and foundry core compounds, between the facilities of Delta Oil Products Corporation at or near (a) St. Louis, MO, and (b) Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. 317

Decided: August 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 28808 (Sub-57F), filed June 26, 1980. Applicant: NORTH & SOUTH

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LINES, INC., 2710 So. Main St., Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Transporting (1) *such articles* as are dealt in by grocery houses, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) between points in NY, NJ, PA, MD, DE, DC, and that part of WV on and east of U.S. Hwy. 220, on the one hand, and, on the other, points in the U.S.

MC 28808 (Sub-58F), filed June 26, 1980. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main St., Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Transporting *stoves and fireplace inserts,* and *materials, equipment, and supplies* used in the manufacture of stoves and fireplace inserts, between points in Rockingham County, VA, on the one hand, and, on the other, points in the U.S.

MC 35628 (Sub-434F), filed June 26, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, P.O. Box 175, 110 Ionia Ave., NW, Grand Rapids, MI 49501. Representative: Michael P. Zell (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Monterey Mills of Tennessee, Inc., at or near Cowen, TN as an off-route point in connection with applicant's presently authorized regular route operations.

MC 106398 (Sub-891F), filed April 26, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting (1) *construction materials,* from the facilities of Barclay Industries at (a) Lodi, NJ, to points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WV, WI, WY, and DC, (b) Deer Park, NY to points in the U.S.; (c) Los Angeles, CA to points in the U.S.; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) from points in the U.S. to the named facilities in (a), (b), and (c), restricted to traffic originating at or destined to the named facilities.

MC 111839 (Sub-11F), filed June 23, 1980. Applicant: BEE LINE EXPRESS, INC., P.O. Box 388, Birmingham, AL 35203. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Benham Corporation and Skyline Corporation at or near Skyline, AL as off-route point in connection with carrier's existing regular-route authority.

MC 115669 (Sub-199F), filed June 26, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933 Representative: Wilbur G. Hoyt (same address as applicant). Transporting *salt and salt products,* between the facilities of Morton Salt, Division of Morton-Norwich Products, Inc., at or near Saltair, UT, on the one hand, and, on the other, points in AZ, CO, IA, KS, MN, NE, ND, and SD.

MC 120728 (Sub-8F), filed May 12, 1980. Applicant: MOJAVE TRANSPORTATION CO., 14410 South Avalon Blvd., Gardena, CA 90247. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting (1) *commodities* necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casinghead plants; (2) *construction equipment and materials, and farm equipment;* (3) *commodities,* the transportation of which because of size or weight requires the use of special equipment; (4) *self-propelled articles* (except automobiles, trucks and trailers other than used construction equipment, and parts and related equipment), transported on trailers; (5) *pipe;* and (6) *iron and steel articles,* between points in CA.

Note.—Applicant states that by this application it seeks to convert its Certificate of Registration No. MC 120728 Sub 5 to a certificate of public convenience and necessity. Issuance of a certificate is conditioned upon applicant's written request for the coincidental cancellation of its Certificate of Registration in Sub-No. 5.

MC 130908F, filed May 14, 1980. Applicant: FUGAZY INTERNATIONAL TRAVEL, One Boston Place, Boston, MA 02108. Representative: Lawrence A. Smith (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Boston, MA, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in charter operations, beginning and ending at points in MA, and extending to points in the U.S. and Canada. (Hearing: Boston, MA.)

MC 136168 (Sub-46F), filed June 19, 1980. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Contract carrier, transporting meats, meat products, meat byproducts and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under continuing contract(s) with Wilson Foods Corporation of Oklahoma City, OK.

MC 139009 (Sub-5F), filed June 10, 1980. Applicant: R & W EXPRESS, INC., P.O. Box 9, 6871 Main St., Lithonia, GA 30058. Representative: James L. Sane (same address as applicant.) Transporting *general commodities,* between points in Hall and Fulton Counties, GA, restricted to traffic having a prior or subsequent movement by rail.

Note.—Applicant intends to tack the sought rights with existing authority at points in Hall County.

MC 140349 (Sub-4F), filed June 6, 1980. Applicant: COPE/BESTWAY EXPRESS, INC., 2024 Harvey Rd., Grand Island, NY 14072. Representative: D. Thomas Cope (same address as applicant). Transporting (1) *abrasives and materials* used in the manufacture of abrasives, (2) *insulating materials and high temperature insulating paper, and materials, used in the manufacture of high temperature insulating materials,* and (3) *refractory products,* between points in MA on the one hand, and, on the other, North Tonawanda, NY, and points in Erie County, NY, under continuing contract(s) with Ferro Corp. Electro Div., of Lackawana, NY, Flex-O-Vit Corp., of Angola, NY, and National Grinding Wheel, Div. Federal Mogul, of North Tonawanda, NY.

MC 144548 (Sub-1F), filed June 27, 1980. Applicant: INDIAN TRUCKING CO., INC., P.O. Box 540, Portage, IN 46368. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier,* transporting *slag,* between points in the U.S., under continuing contract(s) with The Levy Company, Inc., of Portage, IN.

MC 144888 (Sub-14F), filed June 30, 1980. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset St., Somerville, NJ 08876. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *clay,* ground or crude (except in bulk), from Ochlocknee, GA and Ripley, MS to points in DE, NJ, PA, NY, MA, CT, OH, and MI, under continuing contract(s) with Oil-Dri Corporation of America, of Chicago, IL.

MC 149078 (Sub-1F), filed December 27, 1979. (Republication.) Applicant: ROAD WEST, INC., 1315 E. Holt Blvd. (P.O. Box 3637), Ontario, CA 91761. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *label stock, and equipment, parts and supplies used in the manufacture of label stock* (except commodities in bulk and those requiring special equipment), between Peach Tree City, GA, Fitchburg and Holyoke, MA, International Falls, MN, Akron, Dayton, Hamilton and Painesville, OH, Quakertown, PA, and Rheinlander, WI, on the one hand, and, on the other, the facilities of Fasson, an Avery International Company at Cucamonga, CA.

Note.—This republication broadens the territorial description as published April 3, 1980.

MC 149078 (Sub-2F), filed December 27, 1979. (Republication.) Applicant: ROAD WEST, INC., 1315 E. Holt Blvd. (P.O. Box 3637), Ontario, CA 91761. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *auto parts, and equipment, materials and supplies used in the manufacture, display, sale or merchandising* of auto parts (1) from Lynchburg, VA, to Burlington, IA, and (2) between Lynchburg, VA, and Burlington, IA, on the one hand, and, on the other, points in CA, GA, OR, OH, TX and WA. (Hearing site: Los Angeles, CA.)

Note.—This republication broadens the territorial description as published April 3, 1980.

MC 150318 (Sub-1F), filed May 27, 1980. Applicant: TAYLOR WAREHOUSE & TRUCKING COMPANY, INC., 14615 Anson Avenue, Santa Fe Springs, CA 90670. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* transporting: *plastic materials* (except in bulk), (1) Between De Ridder, LA, Terre Haute, IN, and Mt. Vernon, NY, (2) from De Ridder, LA, Terre Haute, IN, and Mt. Vernon, NY, to points in AZ, CA, CO, NV, OR, TX, UT, and WA, and (3) from Santa Fe Springs, CA, to points in AZ, OR, and WA, under a continuing contract(s) with Ampacet Corporation of Santa Fe Springs, CA. (Hearing site: Los Angeles, CA.)

MC 150359 (Sub-1F), filed June 19, 1980. Applicant: E-TRONIC TRANSPORT & LEASING, INC., 435 Highland St., East Bridgewater, MA 02333. Representative: A. Joseph Mega, 175 Forbes St., East Providence, RI 02915. *Contract carrier* transporting (1) *instrument control panels,* and (2) *raw materials* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Emanon Company, Inc., of Canton, MA.

MC 150599 (Sub-1F), filed July 1, 1980. Applicant: HOWARD AND KEN DeYOUNG, d.b.a. De YOUNG TRUCKING, R. R. 1, Laurens, IA 50554. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *dry animal feed* and *dry animal feed ingredients,* from Laurens, IA, to points in IL, MO, NE, MN, WI, ND, SD, GA, TN, OH, NY, and PA, and (2) *materials and supplies* used in the manufacture of the commodities in (1) (except liquid commodities in bulk), in the reverse direction.

MC 151118F, filed June 30, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *athletic equipment and supplies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk and those requiring special equipment), between the facilities of Penn/Athletic Products, a Division of General Tire Corp. at or near Jonesboro, AR, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the named facilities.

MC 151118 (Sub-1F), filed June 30, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *footwear* and *materials, equipment and supplies* used in the manufacture and distribution of footwear (except commodities in bulk, and those requiring special equipment), between the facilities of Frolic Footwear, Division of Wolverine Worldwide, Inc. at or near Jonesboro, AR, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, TN, MS, and LA.

MC 151139F, filed June 20, 1980. Applicant: CELESTIAL TRANSPORT, INC., 1780 55th St., Boulder, CO 80301. Representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO. *Contract carrier* transporting (1) *beverages, foodstuffs, and vitamins,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Celestial Seasonings, Inc., of Boulder, CO.

MC 151258F, filed June 18, 1980. Applicant: DAWES TRANSPORT, INC., 8704 West Bonnewell Road, Mequon, WI 53092. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring refrigeration, and commodities requiring special equipment) between points in WI, on the one hand, and, on the other, points in CA.

Volume No. 318

Decided: August 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 32882 (Sub-125F), filed October 1, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same as applicant). Transporting *such commodities* as are dealt in or used by machinery, logging and contracting equipment distributors, (except commodities in bulk), between points in the U.S. in and west of MN, WI, IL, MO, AR and LA, (excluding AK and HI), restricted to traffic originating at or destined to the facilities utilized by the Rasmussen Co., Inc.

MC 32882 (Sub-126F), filed October 4, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same as applicant). Transporting (1)(a) *commodities* which because of size or weight require the use of special equipment, and (b) *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), when moving in mixed shipments with the commodities named in (1)(a) above, (2)(a) *self-propelled articles* (except automobiles, trucks and buses, other than construction equipment), in truckaway service and (b) *machinery, parts, and supplies* for self-propelled articles, moving in connection with commodities in (2)(a) above, (3) *metal and metal articles,* (4) *pipe* (except iron and steel), and (5) *construction materials,* between points in CA, on the one hand, and, on the other, points in AZ, NM, TX, OK, and LA.

MC 47203 (Sub-3F), filed June 6, 1980. Applicant: PETROLEUM CARRIERS, INC., 86 Westboro Rd., North Grafton, MA 01536. Representative: David M. Marshall, 101 State St., Suite 304,

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Springfield, MA 01103. Transporting (1) *alcohol,* in bulk, between points in MA, CT, RI, VT, NH, ME, NY, NJ, and PA; and (2) *petroleum and petroleum products,* in bulk, between points in MA, CT, RI, VT, NH, and ME.

MC 110683 (Sub-171F), filed February 28, 1980. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Meriden, CT and Albany, NY: From Meriden over CT Hwy 66 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction CT Hwy 8, then over CT Hwy 8 to junction MA Hwy 8, then over MA Hwy 8 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Albany, and return over the same route, serving no intermediate points and (2) serving points in Albany, Columbia, Rensselaer, Saratoga and Schenectady Counties, NY, as off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant states (a) it intends to tack and interline, and (b) the purpose of this application is to convert irregular-route authority to regular-route.

MC 110683 (Sub-172F), filed March 6, 1980. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving points in Floyd, Clark, Scott, Jackson, Jennings, Jefferson, Switzerland, Ripley, Ohio, Dearborn, Bartholomew, Decatur, Johnson, Shelby, Rush, Franklin, Fayette, Union, Marion, Hancock, Henry, and Wayne Counties, IN, as intermediate and off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant states the purpose of this application is to (1) convert a portion of irregular-route authority held in MC-110683 Sub 84 to regular-route authority, (2) eliminate a WV gateway, and (3) secure authority in the remainder of the territory described above, but not included in the conversion.

MC 144212 (Sub-4F), filed June 3, 1980. Applicant: SLACK TRANSPORT LIMITED, Box 579, Caledonia, Ontario, Canada NOA 1AO. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. In foreign commerce only, transporting (1) *marble chips, decorative stone, kitty-litter, processed manure, and soil,* and (2) *horticultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526 (a)(6) in mixed loads with the commodities in (1) above, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with (a) J. B. Ogilvie, Inc., (b) Glenn D. Ogilvie Limited, and (c) Life Horticultural Products, Inc., all of Caledonia, Ontario, Canada.

Volume No. 321

Decided: August 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2202 (Sub-636F), filed May 2, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Green Bay and Menominee, WI, over U.S. Hwy 41, (2) between Green Bay and Sturgeon Bay, WI, over WI Hwy 57, (3) between Jct. WI Hwy 29 and U.S. Hwy 141, and Jct. WI Hwy 42 and WI Hwy 57: from Jct. WI Hwy 29 and U.S. Hwy 141 over WI Hwy 29 to Jct. WI Hwy 42, then over WI Hwy 42 to Jct. WI Hwy 57, and return over the same route, (4) between Wausau and Wittenberg, WI: from Wausau over U.S. Hwy 51 to Jct. WI Hwy 64, then over WI Hwy 64 to Jct. U.S Hwy 45, then over U.S. Hwy 45 to Wittenberg, and return over the same route, (5) between Eau Claire, WI and Duluth, MN, over U.S. Hwy 53, serving no intermediate points, (6) between St. Paul and Duluth, MN, over U.S. Hwy 61, serving no intermediate points, (7) between St. Paul and Little Falls, MN, over U.S. Hwy 10, serving points in Sherburne, Benton, and Monticellow Counties, Mn and those in Sterns County, MN on and east of MN Hwy 22 as off-route points, (8) between Jct. U.S. Hwys 169 and 10, and Paynesville, MN: from Jct. U.S. Hwys 169 and 10 over U.S. Hwy 169 to Jct. Mn Hwy 23, then over MN Hwy 23 to Paynesville, and return over the same route, serving points in Benton and Sherburne Counties, MN as off-route points, (9) between Sain and Coud and Albany, MN over U.S. Hwy 52, (10) between Minneapolis and Litchfield, MN over U.S. Hwy 12, (11) between Minneapolis, Mn, and, Jct. U.S. Hwy 212 and MN Hwy 15, over U.S. Hwy 212, (12) between Jct. Mn Hwy 5 and U.S. Hwy 212, and Fairfax, MN: from Jct. MN Hwy 5 and U.S. Hwy 212 over MN Hwy 5 to Jct. MN Hwy 19, then over Mn Hwy 19 to Fairfax, and return over the same route, serving Arlington, MN as an off-route point, (13) between Jct. MN Hwy 111 and U.S. Hwy 212, and Jct. Mn Hwys 111 and 19 over MN Hwy 111, (14) between Jct. Mn Hwy 22, and U.S. Hwy 212, and Jct. Mn Hwys 22 and 15 over Mn Hwy 22, (15) between Jct. MN Hwy 15 and U.S. Hwy 12, and Jct. Mn Hwys 15 and 19, over MN Hwy 15, (16) between Jct. Mn Hwy 261 and U.S. Hwy 212, and Jct. MN Hwy 261 and U.S. Hwy 12 over Mn Hwy 261 serving no intermediate points, (17) between Jct. U.S. Hwys 169 and 212, and Winnebago, MN, over U.S. Hwy 169, serving points in Nicollet, Blue Earth, Waseca, and Le Sueur Counties, MN as off-route points, (18) between Jct. Mn Hwy 99 and U.S. Hwy 169, and, Montgomery, MN; from Jct MN Hwy 99 and U.S. Hwy 169 over MN Hwy 99 to Jct. MN Hwy 13, then over MN Hwy 13 to Montgomery, and return over the same route, (19) between New Ulm and Owatonna, MN over U.S. Hwy 14, serving points in Nicollet, Blue Earth, Waseca, and Le Sueur Counties, MN and those in Steele and Rice Counties, MN, on and west of U.S. Hwy 65 as off-route points, (20) between Jct. MN Hwy 60 and Jackson, MN: from Jct. MN Hwy 60 and U.S. Hwy 169 over MN Hwy 60 to Jct. U.S. Hwy 71, then over U.S. Hwy 71 to Jackson, and return over the same route, serving Madelia, St. James, and Windom, MN as intermediate points, (21) between Saint James and Sherburne, MN, over MN Hwy 4, serving no intermediate points, and serving Sherburne for purposes of joinder only, (22) between Jct. Interstate Hwy 90 and U.S. Hwy 65, and, Jackson, MN, over U.S. Hwy 90, serving Blue Earth and Fairmont, MN as intermediate points, (23) between Jct. MN Hwys 15 and 60, and, Jct. MN Hwy 15 and Interstate Hwy 90, over MN Hwy 15, serving no intermediate points, and serving Jct. MN Hwys 15 and 60 for purposes of joinder only, (24) between Albert Lea, MN and Des Moines, IA, over U.S. Hwy 69, serving all intermediate points (except those south of Jct. U.S. Hwys 69 and 18), and serving Blairsburg and Ames, IA for purposes of joinder only, (25) between Albert Lea, MN and Garner, IA: from Albert Lea over U.S. Hwy 65 to Jct. U.S. Hwy 18, then over U.S. Hwy 18 to Garner, and return over the same route, (26) between Jct. IA Hwy 105 and U.S. Hwy 69, and, Jct. IA Hwy 105 and U.S. Hwy 65, over IA Hwy 105, (27) between Jct. U.S. Hwy 20 and Interstate Hwy 35, and, Fort Dodge, IA, over U.S. Hwy 20, serving points in Webster and Humboldt, Counties, IA on and south of IA Hwy 3, those in Hamilton County, IA on and west of IA Hwy 17, and those in Wright County, IA on and west and south of IA Hwy 17, as off-route points, (28) between Ames and Boone, IA: from Ames over U.S. Hwy 30 to Jct. IA Hwy 164, then over IA Hwy 164 to Boone, and return over the same route, (29) between Sioux Falls, SD and Jct. Interstate Hwy 29 and IA Hwy 2: from Sioux Falls over U.S. Hwy 77 to Jct. Interstate Hwy 29, then over Interstate Hwy 29 to Jct. IA Hwy 2, and return over the same route, serving all intermediate points between Sioux Falls, SD, and Sioux City, IA, and serving Council Bluffs, IA, Jct. Interstate Hwy 29 and U.S. Hwy 34, and Jct. Interstate Hwy 29 and IA Hwy 2, for purposes of joinder only, and serving points in Minnehaha County, SD, those in Lincoln County, SD on and north of U.S. Hwy 18, those in Plymouth County, IA on and west of U.S. Hwy 75 and on and south of IA Hwy 3, and those in Dixon and Dakota Counties, NE on and east of NE Hwy 9, as off-route points, (30) between Yankton, SD, and, Jct. SD Hwy 50 and U.S. Hwy 77, over SD Hwy 50, (31) between Alton and Sioux City, IA: from Alton over IA Hwy 60 to Jct. U.S. Hwy 75, then over U.S. Hwy 75 to Sioux City, and return over the same, serving Lamans, IA as an intermediate point, and serving Orange City and Sioux City, IA for purposes of joinder only, (32) between Lincoln, NE, and, Jct. IA Hwy 2 and U.S. Hwy 71: from Lincoln over NE Hwy 2 to the NE–IA State line, then over IA Hwy 2 to Jct. U.S. Hwy 71, and return over the same route, serving Syracuse and Nebraska City, NE and points in IA as intermediate points, (33) between Jct. U.S. Hwy 34 and Interstate Hwy 29 and Shenendoah, IA: from Jct. U.S. Hwy 34 and Interstate Hwy 29 over U.S. Hwy 34 to Jct. IA Hwy 48, then over IA Hwy 48 to Shenendoah, and return over the same route, serving all intermediate points between Red Oak and Shenendoah, IA, (34) between Seward and Beatrice, NE: from Seward over U.S. Hwy 34 to Jct. U.S. Hwy 77, then over U.S. Hwy 77 to Beatrice, and return over the same route, (35) between Omaha and Cozad, NE: from Omaha over U.S. Hwy 275 to Jct. U.S. Hwy 30, then over U.S. Hwy 30 to Cozad, and return over the same route, serving Valley, Freemont, Columbus, and points between Grand Island and Lexington, NE as intermediate points, (36) between Grand Island and Elm Creek, NE: from Grand Island over U.S. Hwy 34 to Jct. U.S. Hwy 183, then over U.S. Hwy 183 to Elm Creek, and return over the same route, serving Hastings, Minden, and Holdredge, and points between Holdredge and Elm Creek, NE, as intermediate points, (37) between Kearney and Minden, NE: from Kearney over NE Hwy 44 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Minden, and return over the same route serving no intermediate points, (38) between Wentzville and LaGrange, MO, over U.S. Hwy 61, (39) between Vandalia and Louisiana, MO, over U.S. Hwy 54, (40) between Taylor, MO and Quincy, IL, over U.S. Hwy 24, (41) between Hannibal and Cameron, MO, over U.S. Hwy 36, (42) between Macon and Kirksville, MO, over U.S. Hwy 63, (43) between Chilliclothe and Trenton, MO over U.S. Hwy 65, (44) between Salisbury and Paris, MO over U.S. Hwy 24, (45) between Jct MO Hwy 22 and U.S. Hwy 63 and Tipton, MO: from Jct MO Hwy 22 and U.S. Hwy 63 over MO Hwy 22 to Jct U.S. Hwy 54 then over U.S. Hwy 54 to Jct MO Hwy 52 then over MO Hwy 52 to Jct MO Hwy 5 then over MO Hwy 5 to Tipton and return over the same route, (46) between Columbia and Jefferson City, MO over U.S. Hwy 63, (47) between Jct MO Hwy 5 and U.S. Hwy 40 and MO Hwy 13 and U.S. Hwy 15: from Jct. MO Hwy 5 and U.S. Hwy 40 over MO Hwy 5 to Jct MO Hwy 240 then over MO Hwy 240 to Jct. U.S. Hwy 65, then over U.S. Hwy 65 to Jct MO Hwy 7 then over MO Hwy 7 to MO Hwy 13, then over MO Hwy 13 to Jct with U.S. Hwy 50 and return over the same route, (48) between Jefferson City and St. Joseph, MO: from Jefferson City over U.S. Hwy 50 to Kansas City, MO then over U.S. Hwy 71 to St. Joseph, MO, and return over the same route, serving Whitman Air Force Base as an off route point, (49) between Pittsville, MO and Holden, MO over MO Hwy 131, (50) between Aullville and Kansas City, MO: from Aullville over MO Hwy 13 to Jct U.S. Hwy 24 then over U.S. Hwy 24 to Kansas City and return over the same route, (51) between Jct MO Hwy 100 and U.S. Hwy 50 and Hermann, MO over MO Hwy 100, (52) between Jct Interstate Hwy 44 and U.S. Hwy 50 and Owensville, MO over U.S. Hwy 50, (53) between Saint Claire and Marthasville, MO over MO Hwy 47, (54) between Salem and Bland, MO: from Salem over MO Hwy 72 to Jct U.S. Hwy 63 then over U.S. Hwy 63 to Jct MO Hwy 28, then over MO Hwy 28 to Bland, and return over the same route, (55) between Jct MO Hwy 28 and Interstate Hwy 44 and Dixon, MO, over MO Hwy 28, (56) between Saint Robert and Iberia, MO over MO Hwy 17, serving Fort Leonard Wood as an off-route point, (57) between Laque and Richland, MO over MO Hwy 7, (58) between De Sota and Fredericktown, MO: from De Sota over MO Hwy 110 to Jct U.S. Hwy 67, then over U.S. Hwy 67 to Fredericktown, and return over the same route, (59) between Potosi, MO and Jct MO Hwy 51 and Interstate Hwy 55 from Potosi over MO Hwy 8 to Jct MO Hwy 32, then over MO Hwy 32 to Jct U.S. Hwy 61, then over U.S. Hwy 61 to Jct MO Hwy 51, then MO Hwy 51 to Jct Interstate Hwy 55, and return over the same route, (60) between Lutesville and Advance, MO: from Lutesville over MO Hwy 34 to Jct MO Hwy 72, then over MO Hwy 72 to Jct MO Hwy 74, then over MO Hwy 74 to Jct MO Hwy 25, then over MO Hwy 25 to Advance, and return over the same route, (61) between Cape Girardeau, MO and Cairo, IL: from Cape Girardeau over IL Hwy 146 to Jct IL Hwy 3, then over IL Hwy 3 to Cairo, and return over the same route, serving the termini for purposes of joinder only, (62) between Jct MO Hwys 77 and 25 and Jct U.S. Hwy 61 and Interstate Hwy 55: from Jct of MO Hwy 77 and MO Hwy 25 over MO Hwy 77 to Jct U.S. Hwy 61, then over U.S. Hwy 61 to Jct Interstate Hwy 55, and return over the same route, (63) between Popular Bluff and Charleston, MO, over U.S. Hwy 60, serving Bloomfield, MO as an off-route point, (64) between Dexter and Lilbourn, MO: from Dexter over MO Hwy 25 to Jct U.S. Hwy 62 then over U.S. Hwy 62 to Lilbourn, and return over the same route, serving Parma, MO as an off-route point, (65) between Mountain Grove, MO and Jct U.S. Hwys 60 and 63: from Mountain Grove over U.S. Hwy 60 to Jct MO Hwy 17, then over MO Hwy 17 to Houston, MO, then over U.S. Hwy 63 to Jct U.S. Hwy 60, and return over the same route, (66) between Jct U.S. Hwys 60 and 63 and West Plaines, MO: over U.S. Hwy 63, (67) between Bolivar and Ava, MO: from Bolivar over MO Hwy 13 to Springfield, MO, then over U.S. Hwy 60 to Mansville, MO, then over MO Hwy 5 to Ava, and return over the same route, (68) between Neosho and Springfield, MO over U.S. Hwy 60, (69) between Jct MO Hwy 37 and Interstate Hwy 44, and, Cassville, MO, over MO Hwy 37, (70) between Lamar, MO and Ft. Scott, KS: from Lamar over U.S. Hwy 71 to Jct U.S. Hwy 54, then over U.S. Hwy 54 to Ft. Scott, and return over the same route, (71) between Nevada and Eldorado Springs, MO, over U.S. Hwy 54, (72) between Portageville and Steele, MO, over U.S. Hwy 61, (73) between Kennett and Caruthersville, MO, over MO Hwy 84, (74) between Seneca and Williamstown, KS: from Seneca over U.S. Hwy 36 to Jct U.S. Hwy 59, then over U.S. Hwy 59 to Williamstown, and return over the same route, (75) between Junction City and Clay Center, KS: from Junction City over U.S. Hwy 40 to Abilene, then over KS Hwy 15 to Clay Center, and return over the same route, serving no intermediate points, and serving Enterprise, KS as an off-route point, (76) between Olathe, KS and Jct U.S. Hwy 169 and KS Hwy 7, over U.S. Hwy 169, serving Paola and Osawtomie, KS as off-route points, (77) between Iola and Chanute, KS: from Iola over U.S. Hwy 54 to Yates Center, then over U.S. Hwy 75 to Jct KS Hwy 39, then over KS Hwy 39 to Chanute, and return over the same route, (78) between Urbana and Fredonia, KS, over KS Hwy 47, (79) between Altoona and Chetopa, KS: from Altoona over U.S. Hwy 75 to Jct U.S. Hwy 160, then over U.S. Hwy 160 to Jct U.S. Hwy 59, then over U.S. Hwy 59 to Chetopa, and return over the same route, (80) between McPherson, KS and Ponca City, OK: from McPherson over U.S. Hwy 81 to Jct U.S. Hwy 160, then over U.S. Hwy 160 to Jct U.S. Hwy 77, then over U.S. Hwy 77 to Ponca City, and return over the same route, serving all intermediate points between McPherson and Wellington, KS and those between Winfield, KS and Ponca City, OK, and Moundridge, KS as an off-route point, (81) between Partridge and Newton, KS, over U.S. Hwy 50, serving Halstead, KS as an off-route point, (82) between Kingman and Eldorado, KS, over U.S. Hwy 54, and (83) serving all intermediate points in routes (1) through (82) above [except as noted in routes (5), (6), (16), (20) through (24), (29), (31) through (33), (35) through (37), (75), and (80) above]. NOTE: Applicant states (a) it intends to tack with its existing authority, and (b) it proposes to interline at gateway points throughout its existing system.

MC 11722 (Sub-73F), filed May 20, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 272, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 NE Weidler St., Portland, OR 97232. Transporting *liquid sweetner*, in bulk, in tank vehicles, from Harrah, WA, to Missoula, Butte, and Great Falls, MT, and Lewiston, ID.

MC 43593 (Sub-10F), filed June 16, 1980. Applicant: FUNK'S HAULING SERVICE, INC., 2750 Grant Ave., Philadelphia, PA 19114. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of John Wanamaker Company, at Pennsauken, NJ, to Wilmington, DE, New York, NY, and those points in PA in and east of the western boundaries of Tioga, Lycoming, Union, Snyder, Juniata, and Franklin Counties, PA.

MC 110683 (Sub-175F), filed March 25, 1980. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Pine Knot, KY and Chattanooga, TN, over U.S. Hwy 27, (2) between Static, KY and Chattanooga, TN, over U.S. Hwy 127, (3) between Cookeville and Chattanooga, TN: from Cookeville over TN Hwy 42 to junction TN Hwy 111, then over TN Hwy 111 to junction TN Hwy 8, then over TN Hwy 8 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Chattanooga, and return over the same route, (4) between junction U.S. Hwy 41–A and Int. Hwy 24 and Nashville TN, over Int. Hwy 24, and (5) between junction U.S. Hwy 31–W and Int. Hwy 65 (near the KY–TN State line) and Nashville, TN, over Int. Hwy 65; over routes (1) through (5) above as alternate routes for operating convenience only, serving no intermediate points. NOTE: Applicant states it intends to tack and interline.

MC 125433 (Sub-353F), filed November 13, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. Transporting (1) *construction equipment and material handling equipment*, from the facilities of The General, Inc., at or near Wichita, KS to points in the US (except AK and HI), and (2) *parts, attachments and accessories* for the commodities listed in (1) above, in the reverse direction.

MC 140952 (Sub-3F), filed March 21, 1980. Applicant: REFRIGERATED EXPRESS, INC., 720 12th St., Huntington, WV 25701. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Transporting *such commodities* as are dealt in or used by food and drug business houses, between Jackson and Pearl, MS, on the one hand, and, on the other, points in MS, those in AR on, south, and east of a line beginning at the Mississippi River and extending along AR Hwy 4 to McGehee, then along U.S. Hwy 65 to junction U.S. Hwy 165, then along U.S. Hwy 165 to the AR–LA State line and extending south along U.S. Hwy 167 to the Gulf of Mexico, and those in AL on, west, and south of a line beginning at the AL–MS State line and extending along U.S. Hwy 80 to junction U.S. Hwy 43, then south along U.S. Hwy 43 to Mobile, then along U.S. Hwy 90 to junction U.S. Hwy 80, then along U.S. 90 to the AL–MS State line.

MC 144572 (Sub-26F), filed October 3, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in NJ and PA to points in CA, CO, and IL, restricted to traffic originating at or destined to the facilities of Delaware Valley Shippers Association, Inc., or its members affiliates.

MC 148622 (Sub-1F), filed April 1, 1980. Applicant: EXPRESS SERVICE, INC., P.O. Box 263, Antioch, TN 37013. Representative: Bryan E. Hubbard (same address as applicant). Transporting (1) *parts, supplies, and accessories*, used in the manufacture of automobile, trucks, farm equipment, earth moving equipment and industrial machinery, (2) *printed matter* (3) such *commodities* which have a prior or subsequent movement by air between Nashville, TN, on the one hand, and, on the other, points in Simpson, Warren, Barren, Allen, Metcalfe, and Monroe Counties, KY, and Montgomery, Robertson, Sumner, Macon, Trousdale, Cheatham, Wilson, Smith, Putnam, Dekalb, White, Williamson, Rutherford, Cannon, Maury, Marshall, Bedford, Lawrence, Giles, Lincoln, Clay, Jackson, Overton, Warren, Coffee, Franklin, and Moore Counties, TN.

MC 149213 (Sub-2F), filed May 6, 1980. Applicant: WARNER ROSS TRUCKING, INC., Route 1, Box 282, Toone, TN 38381. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting (1) *crossties, lumber, and lumber mill products*, between those points in TN on and west of the TN River on the one hand, and, on the other, points in IN, KY, GA, MO, MS, AL, IL, and AR; and (2) *log homes*, complete or knocked down, from

Mooreville, MS, to points in AL, AR, GA, IL, IN, KY, and MO.

MC 150622F, filed November 23, 1979. Applicant: INTERSTATE CARTAGE CO., INC., 550 Donaldson Center, Greenville, SC 29605. Representative: John H. Lumpkin, Jr., 1250 SCN Center, Columbia, SC 29201. *Contract carrier,* transporting (1) *plastic bottles, plastic base cups, plastic granules, and plastic preforms, and (2) equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. under continuing contract(s) with Seawell Plastic Company, Inc., of Mauldin, SC. (Hearing site: Columbia, SC, or Charlotte, NC.)

Volume No. OP4-019

Decided: August 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 111687 (Sub-39F), filed June 5, 1980. Applicant: BEN RUEGSEGGER TRUCKING SERVICE, INC., R #1, Kawkawlin, Michigan 48631. Representative: Benjamin H. Ruegsegger (address same as applicant). Transporting *malt beverages* from the facilities of Pabst Brewing Company at Peoria, IL to points in the Lower Peninsula of MI and Points in IN.

MC 119777 (Sub-483F), filed June 19, 1980, previously noticed in the **Federal Register** issue of July 24, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *commodities which because of size or weight require the use of special equipment,* between (a) the facilities of C-G Mixer Company and U.S. Smelting Furnace Co., at or near Belleville, IL, and (b) E. St. Louis, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

MC 125996 (Sub-93F), filed May 27, 1980. Applicant: GOLDEN TRANSPORTATION, INC., 2200 South 400 West, Salt Lake City, UT 84125. Representative: William J. Lawson, P.O. Box 26908, Salt Lake City, UT 84125. Transporting *frozen potato products,* from Connell and Moses Lake, WA, Nampa, ID, and Hermiston, OR, to Independence, MO.

MC 147536 (Sub-16F), filed August 6, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Transporting (1) *insulation, insulating materials, lead, silicate, litharge, sublimed lead, zinc oxide, fertilizer and feed compounds,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SC, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to the facilities of Eagle Picher Industries, Inc.

MC 147657 (Sub-4F), filed January 31, 1980. Applicant: FLEETCO INC., 801 N. Interstate Hwy 85, Charlotte, NC 28216. Representative: W. G. Reese III, P.O. Box 3004, Charlotte, NC 28203. Transporting *lumber and forest products,* between the facilities of Vanply Inc., at or near Charlotte, NC, on the one hand, and, on the other, points in NC and SC.

MC 149167 (Sub-3F), filed April 24, 1980. Applicant: MAVERICK RENTING & LEASING, INC., 105 Howell St., Jersey City, NJ 07306. Representative: Arthur J. Piken, 95-25 Queens Blvd., Rego Park, NY 11374. Transporting *such commodities* as are used in the manufacture and distribution of bakery products (except commodities in bulk), between the facilities of Entenmann's, Inc., at North Lake, IL, and points in PA, GA, and NY.

MC 149406F, filed January 24, 1980. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *vegetable oils, vegetable meals* and *by-products* thereof, between the facilities of Cargill, Inc., at or near Riverside, ND, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

Volume No. OP4-020

Decided: August 15, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 114457 (Sub-578F), filed June 30, 1980. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, Minnesota 55114. Representative: James H. Wills (same address as applicant). Transporting *railway lubricating pads,* from Baltimore, MD, to Atlanta, GA, Indianapolis, IN, and Houston, TX.

MC 114457 (Sub-579F), filed June 30, 1980. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting (1) *pet food,* from Hopkins and Mankato, MN, and Louisville, KY to those points in the U.S. in and east of MT, WY, CO, and NM; and (2) *flour* (except in bulk), from Mankato, MN, and Rapid City, SD, to those points in the U.S. in and east of MT, WY, CO, and NM, restricted in (1) and (2) above to traffic originating at the facilities of Hubbaed Milling Company.

Volume No. OP4-021

Decided: August 21, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 11207 (Sub-557F), filed May 21, 1980, and previously noticed in the FR issue of July 17, 1980. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of or used by CIBA-GEIGY Corporation at or near Birmingham, Mobile, and McIntosh, AL, Baton Rouge, Port Allen, and St. Gabriel, LA, and Memphis, TN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—This republication is to correctly reflect the territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26233 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-018

Decided: August 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 6031 (Sub-59F), filed August 15, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Associated Grocers, Inc., of New Berlin, WI.

MC 61440 (Sub-196F), filed August 12, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Amarillo, TX, and Los Angeles, CA, from Amarillo, TX over Interstate Hwy 40 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Los Angeles, CA, and return over the same route; (2) between Kingman, AZ, and Las Vegas, NV, over U.S. Hwy 93; (3) between Flagstaff and Phoenix, AZ, over Interstate Hwy 17, serving Prescott, AZ as an off-route point; (4) between Denver, CO, and El Paso, TX, from Denver, CO over Interstate Hwy 25 to Las Cruces, NM, then over Interstate Hwy 10 to El Paso, TX, and return over the same route; (5) between Denver, CO, and junction Interstate Hwys 15 and 10, from Denver, CO over Interstate Hwy 70 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 10, and return over the same route; (6) between junction Interstate Hwys 70 and 15 and Salt Lake City, UT, over Interstate Hwy 15; (7) between Denver, CO, and Sacramento, CA, from Denver, CO over Interstate Hwy 25 to Cheyenne, WY, then over Interstate Hwy 80 to Sacramento, CA, and return over the same route, serving Wendover, UT as an off-route point, and serving all intermediate points in connection with routes (1) to (7) above, and (8) serving Salt Lake City and points in Utah, Salt Lake, Weber, Cache, Morgan and Rich Counties, UT as off-route points in connection with routes (6) and (7) above.

Note.—Applicant intends to tack the sought rights to its existing authority. Applicant presently serves the termini on routes (1), (3), (4), (5) and (7). The purpose of this application is to obtain short routes for fuel economy on the numbered routes and obtain intermediate point authority.

MC 19311 (Sub-70F), filed August 15, 1980. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Heights, MI 58077. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. (A) Over *regular routes,* transporting *general commodities,* (except household goods as defined by the Commission, classes A and B explosives, and liquid commodities in bulk), (1) between Buffalo, NY, and junction US Hwy 11 and NY Hwy 31, from Buffalo over NY Hwy 33 to junction NY Hwy 31, then over NY Hwy 31 to junction US Hwy 11, and return over the same route; (2) between Buffalo and Dunkirk, NY, over US Hwy 20; (3) between the junction of the NY-PA State Line and US Hwy 11 and the junction of US Hwy 11 and the NY-VT State Line; (4) between the junction of the IL-WI State Line and US Hwy 51 and junction US Hwy 51 and the WI-MI State Line; (5) between the junction of the MI-WI State Line and US Hwy 2 and junction US Hwy 28 and Interstate Hwy 75; (6) between Milwaukee, WI, and junction US Hwy 2 and Interstate Hwy 75, from Milwaukee over US Hwy 41 to junction US Hwy 2, then over US Hwy 2 to junction Interstate Hwy 75, and return over the same route; (7) between junction IL Hwy 1 and Interstate Hwy 64 and Buffalo, NY, from junction IL Hwy 1 and Interstate Hwy 64 over Interstate Hwy 64 to junction US Hwy 219, then over US Hwy 219 to Buffalo, and return over the same route; (8) between South Bend, IN and Louisville, KY; (9) between Cincinnati, OH and Metropolis, IL, from Cincinnati over Interstate Hwy 75 to junction US Hwy 62, then over US Hwy 62 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Metropolis, and return over the same route; (10) between Cincinnati, OH, and junction Interstate Hwy 65 and US Hwy 62, from Cincinnati over Interstate Hwy 71 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction US Hwy 62, and return over the same route; and (11) between Indianapolis, IN, and junction Interstate Hwy 70 and US Hwy 40, serving in routes (1) through (11) points in OH, IN, IL, KY, MI, and WI, those in NY on, west, and north of US Hwy 11, and those in PA and WV on and west of US Hwy 219 as intermediate and off-route points in connection with carrier's otherwise authorized regular route operations; and (B) Over *irregular routes,* transporting *general commodities,* (except household goods as defined by the Commission, classes A and B explosives, and liquid commodities in bulk), between points in OH, IN, IL, KY, MI, and WI, those points in NY on, west, and north of US Hwy 11, and those points in PA and WV on and west of US Hwy 219 on the hand, and, on the other, points in the US.

MC 61231 (Sub-178F), filed August 14, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *paint, paint products, solvents, cleaners, varnishes, lacquers;* (2) *plastic articles;* and (3) *materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in AR, AZ, CO, ID, IL, IN, IA, KS, KY, LA, MI, MO, MT, MS, NE, NM, ND, OH, OK, OR, SD, TN, TX, WI, WA and WY, restricted to traffic originating at or destined to the facilities of Valspar Corporation and its subsidiaries.

MC 61231 (Sub-179F), filed August 14, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by printing plants, between the facilities of Meredith Printing, Division of Meredith Corporation, at Des Moines, IA, on the one hand, and, on the other, points in CO, KS, MO, ND, NE, OK, SD, and TX.

MC 75320 (Sub-231F), filed August 18, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AL, AR, LA, and MS.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 78400 (Sub-90F), filed August 15, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *charcoal;* and (2) *materials and supplies* used in the manufacture and distribution of charcoal, between Steelville, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 103051 (Sub-486F), filed August 18, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Transporting *chemicals,* in bulk, between Brunswick, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109101 (Sub-11F), filed August 11, 1980. Applicant: J. H. MARKS TRUCKING CO., INC., P.O. Box 2192, Odessa, TX 79760. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *oil field equipment and supplies,* between points in TX.

MC 113861 (Sub-82F), filed August 14, 1980. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Ave., Memphis, TN 38106. Representative: James N. Clay III, 2700 Sterick Bldg., Memphis, TN 38103. Transporting *liquefied petroleum gas,* in shipper-owned trailer, from West Memphis, AR, to Jeffersonville, IN, and points in AL, FL, GA, KY, LA, MO, MS, NC, SC, TN, and VA. Condition: The certificate to be issued in this proceeding shall be limited, in point of time, to a period expiring 5 years from date of issuance.

MC 115651 (Sub-90F), filed August 18, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *alcohol,* in bulk, in tank vehicles, (1) from Decatur, IL, to points in MN, NE, SD, and WI, and (2) from Peoria, IL, to points in IA, MN, NE, SD, and WI.

MC 123900 (Sub-7F), filed August 15, 1980. Applicant: DORIC TRANSPORTATION CORP., 370 E. 76th Street, New York, NY 10021. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between points in the U.S., under continuing contract(s) with American Book-Stratford Press, Inc., and its wholly owned subsidiaries, Graphic Arts Warehouses, Inc., H. Wolff Book Manufacturing Co., Inc., Saddle Brook Warehouses, Inc., Stratford Book Creators, Inc., American-Stratford Graphic Services, Inc., and Nivram Corp., all of New York, NY.

MC 124511 (Sub-67F), filed August 14, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. BOX 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *coal,* between points in IA, IL, MO, and OK.

MC 128290 (Sub-11F), filed August 18, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. Transporting (1) *containers,* from points in WV, to points in MD, NJ, NY, PA, and VA, and (2) *materials and supplies* used in the manufacture and distribution of containers, in the reverse direction.

MC 133490 (Sub-14F), filed August 14, 1980. Applicant: LEE'S TRUCKING, INC., Route 2, Box 463, North Branch, MN 55056. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with Minnetonka, Inc., of Minnetonka, MN.

MC 135861 (Sub-84F), filed August 15, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1) *alcoholic and non-alcoholic beverages,* and (2) *materials, equipment, and supplies* used in the distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with (a) Faith Distributing Co., of Ennis, TX, (b) Longhorn Liquors, Ltd., of Arlington, TX, (c) Central Beverage, Inc., of Dallas, TX, (d) Metro Beer Distributing Company, of Fort Worth, TX, (e) Penland Distributors, Inc., of Dallas, TX, and (f) Julius Schepps Wholesale Liquors, of Dallas, TX.

MC 139460 (Sub-32F), filed August 11, 1980. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, NY 12828. Representative: J. Fred Relyea (same address as applicant). Transporting (1) *commodities in bulk* (except edibles), (2) *building materials,* and (3) *propane storage tanks,* (a) between points in CT, ME, MA, NH, NY, RI, and VT, (b) from points in CT, ME, MA, NH, NY, RI, and UT, to points in DE, IL, IN, KY, MD, MI, NJ, NC, OH, PA, SC, TN, VA, WV, and WI, and (c) from the destination points named in (b) above, to points in CT, ME, MA, NH, NY, RI, and VT. Condition: Issuance of a certificate in this proceeding is subject to (1) the coincidental cancellation at applicant's written request of its Permit in MC-139460 and Subs 13, 15, 17, 21, 23, 26, 28, 29, and 31, and (2) the withdrawal at applicant's written request of any of the proceedings still pending in MC-134730 Subs 29 and 31.

MC 140511 (Sub-12F), filed August 14, 1980. Applicant: AUTOLOG CORPORATION, 319 West 101 Street, New York, NY 10025. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting *motor vehicles,* in truckaway service, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation of certificates Nos. MC-140511 Subs 2, 5 and 9.

MC 144631 (Sub-2F), filed August 15, 1980. Applicant: HVH TRANSPORTATION, INC., d.b.a. THACKER TRANSPORTATION, 4201 East 52nd Ave., Commerce City, CO 80022. Representative: Richard P. Kissinger, 50 South Steele St., Denver, CO 80209. Over regular routes,

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transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between Denver and Lamar, CO, from Denver over Interstate Hwy 25 to Pueblo, CO, then over U.S. Hwy 50 to Lamar, CO, and return over the same route, serving all intermediate points and the off-route point of Pueblo West, CO, (2) between Denver, CO, and junction CO Hwy 83 and Interstate Hwy 25, over CO Hwy 83, serving all intermediate points.

MC 145841 (Sub-21F), filed August 14, 1980. Applicant: CAYOTE TRUCK LINE, INC. 501 Sam Ralston Rd., Lebanon, IN 46052. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Chicago, IL, to Houston, TX, (2) between Dallas, TX, on the one hand, and, on the other, Los Angeles, CA, and (3) from points in GA, NC, TN, SC, and VA to Lenoir, NC, and points in AZ, CA, NV, and UT, restricted to traffic originating at or destined to the facilities of Terminal Freight Cooperative Association or its member affiliates.

MC 146251 (Sub-5F), filed August 12, 1980. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightville, GA 31096. Representative: Ronald K. Kolins, 420 International Square, 1875 Eye St., NW., Washington, DC 20006. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery stores, between points in AL, AR, CT, DE, FL, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC, on the one hand, and, on the other, points in GA.

MC 146251 (Sub-6F), filed August 12, 1980. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightville, GA 31096. Representative: Ronald K. Kolins, 420 International Square, 1875 Eye St., NW., Washington, DC 20006. Transporting (1) *moulded plastic articles,* and (2) *materials, equipment and supplies* used in the manufacture of moulded plastic articles, between points in Emanuel County, GA, and Darke County, OH.

MC 147810 (Sub-2F), filed August 15, 1980. Applicant: POWELL TRUCKING CO., INC., 117 Wilson Avenue, Grove Hill, AL 36451. Representative: Robert E. Tate, PO Box 517, Evergreen, AL 36401. Transporting *lumber and particleboard,* between points in AL, FL, GA, MS, NC, SC, LA, TN, and TX.

MC 149510F, filed August 14, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV, 26003. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Joy Manufacturing Company of Pittsburgh, PA.

MC 150331 (Sub-1F), filed August 14, 1980. Applicant: RPH, INC., 801 W. Pioneer St., Champaign, IL 61820. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *malt beverages,* in containers, between points in the U.S., under continuing contract(s) with (a) C & H Distributing Co., Inc., (b) R & H Distributing Co., Inc., (c) Champaign Distributing Company, Inc., all of Champaign, IL, (d) Twin Rivers Distributing Co., Inc., of Alton, IL, and (e) H & I Distributing Company of Redmon and Champaign, IL.

MC 150451 (Sub-1F), filed August 14, 1980. Applicant: G & L TRANSPORT, Route 9, Troy, ME 04987. Representative: George Cole (same address as applicant). Transporting *manufactured wood products,* between points in the U.S., under continuing contract(s) with Solon Manufacturing Co., Inc., of Solon, ME.

MC 151191 (Sub-1F), filed August 14, 1980. Applicant: ESPENSCHIED TRANSPORTATION CORPORATION, 322 South 600 East, Centerville, UT 84014. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under continuing contract(s) with J. C. Penney Co., Inc., of New York, NY.

MC 151530F, filed August 11, 1980. Applicant: AMERICAN BACKHAULERS COMPANY, 407 South Dearborn, Room 985, Chicago, IL 60605. Representative: Paul Loeb (same address as applicant). Transporting *coal, nonmetallic minerals, except fuels, clay, concrete, glass or stone products, primary metal products, including galvanized, except coating or allied processing, rubber and plastics,* between points in the U.S., under continuing contract(s) with Warren Sand Company Inc. and American Filter Sand Co., Inc., of Chicago, IL.

Volume No. OP2–023

Decided: August 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 8973 (Sub-69F), filed August 5, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10084. Transporting *petroleum products,* and *plastic materials,* in containers, between points in IL and IN, on the one hand, and, on the other, points in CA, and those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 52473 (Sub-12F), filed August 4, 1980. Applicant: BEHNKE, INC., 77 South Monroe St., Battle Creek, MI 49017. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting *paper and paper products,* between points in the U.S. under continuing contract(s) with Crown Zellerbach Corporation, of South Glen Falls, NY.

MC 52932 (Sub-35F), filed August 6, 1980. Applicant: NORTH PENN TRANSFER, INC., Box 230, Lansdale, PA 19446. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Phillipsburg, NJ and Baltimore, MD, on the one hand, and, on the other, points in PA, on and east of U.S. Hwy 15.

MC 69052 (Sub-44F), filed August 13, 1980. Applicant: REED TRUCKING CO., a corporation, P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., NW. Washington, DC 20004. Transporting *foods* as described in Item 20 of the Standard Transportation Commodity Code Tariff between those points in Philadelphia and York Counties, PA, on the one hand, and, on the other, those points in Somerset, Wicomico, and Dorchester Counties, MD.

MC 106863 (Sub-1F), filed August 11, 1980. Applicant: BACON MOTOR EXPRESS, INC., P.O. Box 11207, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *crumbs and cracker meal,* in packages, *bakery goods,* (except frozen) *cereal preparations, boxes, potato chips, and ice cream cones,* between point in the U.S., under continuing contract(s) with Sunshine Biscuits, Inc., of Sayreville, NJ.

MC 115162 (Sub-537F), filed August 6, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant).

Transporting *metal can ends,* from points in PA, to points in LA and MS.

MC 117883 (Sub-270F), filed August 4, 1980. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Robert Von Aschen, P.O. Box 62, Versailles, OH 45380. Transporting *plastic and plastic articles* (except commodities in bulk, in tank vehicles), from points in Midland County, MI, to points in Summit County, OH.

MC 117883 (Sub-271F), filed August 11, 1980. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Robert Von Aschen, P.O. Box 62, Versailles, OH 45380. Transporting *meat and meat products,* from Finney County, KS, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, NE, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC.

MC 118202 (Sub-159F), filed August 7, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Edina, MN 55435. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 128633 (Sub-28F), filed August 7, 1980. Applicant: LAUREL HILL TRUCKING CO., a corporation, 614 New County Rd., Secaucus, NJ 07094. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Transporting *paper and chemicals* and *materials, supplies* and *equipment* used in the manufacture of paper and chemicals, between points in the U.S., under a continuing contract(s) with Sterling Drug, Inc., of New York, NY, and its Divisions and Subsidiaries.

MC 130983F, filed August 7, 1980. Applicant: J & L ENTERPRISES, 242 Sable Dr., P.O. Box 1147, Ft. Myers, FL 33902. Representative: Linda W. Jubin (same address as applicant). To operate as a *broker* at Ft. Myers, FL, in interstate or foreign commerce, to arrange for the transportation by motor vehicle, of passengers and their baggage, between points in FL, on the one hand, and, on the other, points in the U.S.

MC 133233 (Sub-77A), filed August 6, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). Transporting (1) *Lumber products and wood products,* and (2) *pulp, paper, and allied products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 139193 (Sub-117F), filed August 5, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW, Washington, DC 20006. Transporting *bananas, fresh, frozen, and hermetically sealed in cans or drums,* between points in the U.S., under continuing contract(s) with Chiquita Brands, Inc., of Montvale, NJ.

MC 141532 (Sub-91F), filed August 6, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* as described in Item 33 of the Standard Transportation Commodity Code Tariff, and *fabricated metal products,* (except ordnance) as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 142513 (Sub-9F), filed August 11, 1980. Applicant: BIRK TRANSFER, INC., 360 Wheatland Ave., Conemaugh, PA 15909. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting: (1) *railroad car and locomotive wheels,* and (2) *materials and supplies* used in the manufacture of railroad car and locomotive wheels, between points in Somerset County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143993 (Sub-7F), filed August 11, 1980. Applicant: BLACK HILLS TRUCKING, INC., 106 River Cross Rd., Casper, WY 82601. Representative: Manuel A. Lojo, 106 River Cross Rd., Casper, WY 82601. Transporting *petroleum,* in bulk, in tank vehicles, from points in Hutchison County, TX, to points in Harper and Ellis Counties, OK.

MC 144363 (Sub-11F), filed August 5, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: George L. Hirschbach (address same as applicant). Transporting *such commodities* as are dealt in by retail stores and mail order houses, and *materials and supplies* used in conducting such business, between points in the U.S., under continuing contract(s) with (1) The Fingerhut Corporation, of St. Cloud, MN, (2) Ardan Wholesale, Inc., of Des Moines, IA, (3) Modern Merchandising, Inc., of Minneapolis, MN, and (4) Dayton's, of Minneapolis, MN.

MC 145773 (Sub-4F), filed August 4, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *fabricated metal products,* between points in the U.S., under continuing contracts(s) with D.A.B. Industries, Inc., of Troy, MI.

MC 147003 (Sub-10F), filed August 4, 1980. Applicant: RAWHIDE CARRIERS, INC., P.O. Box 1171, Grand Island, NE 68801. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Transporting (1) *steel building,* knocked down or in sections, and *components, parts, materials, supplies and fixtures* for steel buildings, from the facilities used by Conrad American, Inc., at Houghton, IA, to points in the U.S. (except AK and HI), and (2) *materials, parts and supplies* used in the manufacture of steel buildings (except commodities in bulk, in tank vehicles), in the reverse direction.

MC 149503F, filed July 28, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting *meat, meat products, meat byproducts and articles* distributed by meat packinghouses as decribed in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., at or near Emporia, Holcomb and Wichita, KS.

MC 150293 (Sub-2F), filed August 13, 1980. Applicant: CLARE L. BENDER, 809 Flora, Prescott, AZ 86301. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320, Phoenix, AZ 85008. Transporting: *alcoholic beverages* (except in bulk), from those points in CA in and south of the Counties of Marin, Sonoma, Napa, Solano, Sacramento, and El Dorado, to Phoenix, AZ.

MC 150432 (Sub-2F), filed August 12, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative:

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Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036. Transporting *steel strapping,* from Columbus, OH, to points in the U.S., under continuing contract(s) with Samuel Strapping Systems, Inc., of Columbus, OH.

MC 151033 (Sub-1F), filed August 13, 1980. Applicant: GLENN MITCHELL d.b.a. MITCHELL TRUCKING CO., 1409 S. Eleventh Street, Ozark, MO 65721. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. Transporting *sand and lime,* in bulk (1) from points in Christain and Greene Counties, MO, to points in AR and OK, and (2) from points in Muskogee County, OK, to points in MO.

MC 151053 (Sub-1F), filed August 12, 1980. Applicant: SOUTHWEST FREIGHT, INC., 9005 Spikewood Drive, Houston, TX 77078. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), moving on bills of lading of the Charter Oak Shippers Cooperative Association, Inc., between Dallas and Houston, TX, on the one hand, and, on the other points in TX, OK, LA, and AR.

MC 151323 (Sub-1F), filed August 11, 1980. Applicant: WESTLAND INDUSTRIES, INC., P.O. Box 296, Liberty, MO 64068. Representative: Author J. Cerra, 2100 TenMain Center, P.O. Box 11951, Kansas City, MO 64141. Transporting *crude petroleum, natural gas, or gasoline,* as described in Item 13 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Midland Energy Corp., of Liberty, MO.

MC 151463F, filed August 5, 1980. Applicant: BIGBEE TRANSPORTATION, INC., 2025 Hwy 45 North, Columbus, MS 39701. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) *paper, paper products, and wood pulp,* from points in Lowndes County, MS, to points in the U.S., and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, (except commodities in bulk, in tank vehicles).

MC 151483F, filed August 7, 1980. Applicant: LOVE'S TRUCKING, INC., 1841 East State Route 55, Troy, OH 45373. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *fabricated metal products* (except ordinance, machinery or transportation equipment), between points in Butler, Clark, Franklin, Montgomery, and Warren Counties, OH, and Mercer County, PA, on the one hand, and, on the other, points in GA, IN, IL, KY, TN and OH.

MC 151523, filed August 11, 1980. Applicant: NORTH EAST TRANSFER, INC., P.O. Box 384, Totowa, NJ 07512. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 West Duval St., Jacksonville, FL 32202. Transporting (1) *footwear and footwear accessories* and (2) *materials and supplies* used in the distribution and display of footwear, between points in the U.S. under continuing contract(s) with Meldisco Division of Melville Corporation, of Hackensack, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 151532F, filed August 11, 1980. Applicant: DONAL TRANSPORTATION CO., INC., 1016 East 18th St., North Kansas City, MO 64116. Representative: Donald J. Quinn, Suite 900 1012 Baltimore, Kansas City, MO 64105. Transporting (1) *foods,* as described in Item 20 of the Standard Transportion Commodity Code Tariff, (2) *paper and paper products,* as described in Item 26 of the Standard Transportation Commodity Code, (3) *printed matter,* as described in Item 27 of the Standard Transportation Commodity Code Tariff, (4) *Chemicals,* as described in Item 28 of the Standard Transportation Commodity Code Tariff, (5) *petroleum and petroleum products,* as described in Item 29 of the Standard Transportation Commodity Code Tariff, (6) *clay, concrete, glass or stone products,* as described in Item 32 of the Standard Transportation Commodity Code Tariff, (7) *containers,* as described in Item 42 of the Standard Transportation Commodity Code Tariff, and (8) *hazardous materials* as described in Item 49 of the Standard Transportation Commodity Code Tariff, between points in IA, KS, MO, NE, and OK.

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Decided: August 20, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 106074 (Sub-154F), filed August 11, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy 221 South, P.O. Box 727, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *petroleum products and chemicals,* in containers, from points in Wyandotte County, KS, to points in FL, GA, NC, and SC, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, in the reverse direction.

MC 106674 (Sub-497F), filed August 14, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, and household goods as defined by the Commission), between those points in the U.S. In and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of United States Gypsum Company.

MC 114725 (Sub-113F), filed August 11, 1980. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: Greg A. Dickinson, 7171 Mercy Rd., Suite 610, Omaha, NE 68106. Transporting *chemicals,* in bulk, in tank vehicles, between points in the U.S. (except AK and HI).

MC 117644 (Sub-57F), filed August 14, 1980. Applicant: D & T TRUCKING CO., INC., 498 First St., N.W., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Minnetonka, Inc.

MC 117644 (Sub-58F), filed August 8, 1980. Applicant: D & T TRUCKING CO., INC., 498 First St., N.W., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Land O'Lakes, Inc., of Minneapolis, MN.

MC 119815 (Sub-23F), filed August 8, 1980. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., P.O. Box 579, Bedford, IN 47421. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with

Kaiser Aluminum & Chemical Corp., of Oakland, CA.

MC 129645 (Sub-84F), filed August 14, 1980. Applicant: SMEESTER BROS., INC., 1330 South Jackson St., Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *machinery and mining supplies,* and (2) *clay, concrete, glass, and stone products,* between points in MI, MN, and WI, on the one hand, and, on the other, points in AL, AZ, CA, FL, IL, IN, MD, MI, MN, MS, NH, OH, PA, TX, WI, and WV.

MC 136315 (Sub-134F), filed August 11, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) *forest products, lumber, cross-ties, particleboard, insulation board, insulation sheets, gypsom wallboard,* and *laminated wood products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Weyerhaeuser Company.

MC 140645 (Sub-18F), filed August 14, 1980. Applicant: UNITED TRUCKING, INC., P.O. Box 398, Tallapoosa, GA 30716. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *bakery goods,* between points in the U.S., under continuing contract(s) with Keebler Company, Inc., of Elmhurst, IL.

MC 145715 (Sub-16F), filed August 11, 1980. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Rd., Van Buren, AR 72965. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. Transporting *plastic film,* between points in AR, IL, IN, and OH.

MC 147805 (Sub-1F) filed August 12, 1980. Applicant: CLIFFORD PIERCE, WILLIAM PARKS & GORDON KEATS, d.b.a. VALLEY FREIGHT, P.O. Box 6303, Modesto, CA 95355. Representative: James H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in CA, restricted to traffic having a prior to subsequent movement by air via a foreign air carrier.

MC 15064 (Sub-1F), filed August 14, 1980. Applicant: C. E. MELTON TRANSPORT, Route 4, Highway 280 East, Americus, GA 31709. Representative: Carl E. Melton (same address as applicant). Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Macon, Cordele, and Columbus, GA, on the one hand, and, on the other, points in Harris, Talbot, Meriwether, Upson, Monroe, Crawford, Bibb, Twiggs, Bleckley, Dodge, Houston, Peach, Macon, Marion, Chattachoochee, Schley, Pulaski, Talfair, Wilcox, Dooly, Crisp, Sumter, Webster, Stewart, Quitman, Terrell, Lee, Turner, Ben Hill, Irwin, Tift, Colquitt, Worth, Mitchel, Baker, Dougherty, Early, Calhoun, Clay, Randolph Counties, GA, restricted to traffic having a prior or subsequent movement by rail.

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Decided: Aug. 15, 1980.

By the Commission. Review Board Number 1, Members Carleton, Joyce and Jones.

MC 21866 (Sub-176F), filed August 11, 1980. Applicant: MOST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *automotive parts, assessories* and *supplies,* between points in DE, MD, MI, NJ, NY, OH, PA, VA, and WV, restricted to traffic originating at or destined to the facilities of Chrysler Corporation, Service and Parts Division, or its dealers.

MC 59806 (Sub-19F), filed August 11, 1980. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Ave., Edison, NJ 08817. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Rotelle, Inc., of Spring House, PA.

MC 92306 (Sub-29F), filed August 8, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave., N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting (1) *electrical equipment and parts,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in RI, MA, CT, NY, and NC, on the one hand, and, on the other, points in NC and GA.

MC 113106 (Sub-98F), filed August 11, 1980. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 E. Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. Transporting (1) *apple products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the apple products, between points in Shenandoah County, VA, on the one hand, and, on the other, and those points in the U.S. in and east of TX, OK, MO, IA, and MN.

MC 117686 (Sub-288F), filed August 11, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: Robert A. Wichser (same address as applicant). Transporting *automobile accessories,* between points in Shelby County, TN, on the one hand, and, on the other, points in Lancaster County, NE, and Minnehaha County, SD.

MC 126346 (Sub-45F), filed August 11, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 So. LaSalle, St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers of lawn and garden products, between points in the U.S., under continuing contract(s) with AMF Lawn & Garden Division, of Des Moines, IA.

MC 129897 (Sub-7F), filed August 11, 1980. Applicant: M.S.B.P., Inc., P.O. Box 8, Papillion, NE 68406. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. Transporting *general commodities* (except household goods, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Peter Cooper Corporations, of Oak Creek, WI, and its subsidiaries.

MC 143127 (Sub-74F), filed August 11, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of W. R. Grace & CO.

MC 147536 (Sub-24F), filed August 7, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AR, MO, OK, and TX, on the one hand, and, on the other, points in AL, AR, FL,

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GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NC, OH, OK, SC, TN, TX, and WI.

MC 147536 (Sub-25F), filed August 11, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Transporting *paper and paper products*, and *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, between points in AL, AZ, AR, CA, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, PA, SD, TN, TX, and WI.

MC 148307 (Sub-2F), filed August 11, 1980. Applicant: ED H. BURGENER, P.O. Box 386, La Porte, CO 80535. Representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *nonmetallic minerals, except fuels*, and *clay, concrete, glass or stone products* as described in Items 14 and 32 of the Standard Transportation Commodity Code Tariff, between points in CO and WY.

MC 148517 (Sub-2F), filed August 11, 1980. Applicant: CENTRAL MICHIGAN TRUCKING, INC., 3801 36th St., Grand Rapids, MI 49508. Representative: Michael P. Zell, P.O. Box 175, Grand Rapids, MI 59503. Transporting (1) *furniture, appliances, fixtures, new furnishings* (except household appliances), *floor padding and covering*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between those points in the U.S. in and east of MN, IA, and MO, and those in and north of KY and VA.

MC 149506 (Sub-1F), filed August 5, 1980. Applicant: SOUTHERN PARK LIMO SERVICE, INC., 133 Boardman-Poland Rd., Boardman, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 150496 (Sub-3F), filed August 11, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri (same address as applicant). Transporting *such commdities* as are dealt in or used by home improvement centers, and *materials, equipment, and supplies* used in their manufacture and distribution, from points in the U.S. (except AK and HI), to points in AR, MS, MO, and OK.

MC 150626 (Sub-1F), filed August 11, 1980. Applicant: HAROLD IVES TRUCKING CO., a corporation, P.O. Box 885, Hwy 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *foodstuffs*, between points in Hudson County, NJ, on the one hand, and, on the other, points in TX, LA, and FL.

Agatha C. Mergenovich,
Secretary.

[FR Doc. 80-26231 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-021]

Motor Carrier, Permanent Authority Decisions; Decision-Notice

Decided: August 22, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 113981 (Sub-15F), filed August 14, 1980. Applicant: VEGAS TRUCKING CO., a corporation, 2853 Cedar Street, Las Vegas, NV. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *general commodities* (except used household goods, hazardous or secret materials, and munitions), for the United States Government, between points in the U.S.

MC 130990F, filed August 18, 1980. Applicant: LLOYD MULLINS, d.b.a. MULLCO, Rt. 2, Box 110, Terrell, TX 75160. Representative: Stephen G. Davis, 4607 Bridlewood Dr., Dallas, TX 75211. *Broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 130991F, filed August 18, 1980. Applicant: DOMESTIC & INTERNATIONAL TRANSPORTATION SERVICES, 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254. *Broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 140460 (Sub-8F), filed August 18, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *general commodities* (except used household

goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 143701 (Sub-27F), filed August 20, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *foodstuffs*, between points in LA, on the one hand, and, on the other, those points in the U.S. in and east of NM, CO, WY, and MT.

MC 149520F, filed August 18, 1980. Applicant: ERNST TRUCKING, 2002 South Hiway 281, Aberdeen, SD 57401. Representative: Patti A. Ernst (same address as applicant). Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

[FR Doc. 80-26297 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 14, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-020

Decided: August 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 2900 (Sub-429F), filed August 18, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) described in item 51 of the Standard Transportation Commodity Code Tariff (1) between Dallas, TX, and San Diego, CA, over U.S. Hwy 80, (2) between Oklahoma City, OK, and Los Angeles, CA, over U.S. Hwy 66, (3) between Ft. Worth, TX, and Portland, OR, from Ft. Worth over U.S. Hwy 287 to jct. U.S. Hwy 30, then over U.S. Hwy 30 to jct. U.S. Hwys 30N and 30S, then over U.S. Hwy 30N (also U.S. Hwy 30S) to jct. U.S. Hwy 30, then over U.S. Hwy 30 to Portland, and return over the same route, (4) between Denver, CO, and San Francisco, CA, over U.S. Hwy 40, (5) between Denver, CO, and Barstow, CA, from Denver over U.S. Hwy 6 to jct. U.S. Hwy 91, then over U.S. Hwy 91 to Barstow, and return over the same route, (6) between Denver, CO, and Amarillo, TX, from Denver over U.S. Hwy 85 to Las Cruces, NM, then over U.S. Hwy 70 to Clovis, NM, then over U.S. Hwy 60 to Amarillo, and return over the same route, (7) between the jct. U.S. Hwy 30 and U.S. Hwy 89 and Nogales, AZ, over U.S. Hwy 89, (8) between Los Angeles, CA, and Spokane, WA, from Los Angeles over U.S. Hwy 99 (Also Interstate Hwy 5) to Seattle, then over U.S. Hwy 10 to Spokane, and return over the same route, (9) between San Bernardino, CA, and Ellensburg, WA, from San Bernardino over U.S. Hwy 395 to jct. CA Hwy 36, then over CA Hwy 36 to U.S. Hwy 99, then over U.S. Hwy 99 to jct. U.S. Hwy 97, then over U.S. Hwy 97 to Ellensburg, and return over the same route, and (10)) between Los Angeles, CA, and Wickenburg, AZ, over U.S. Hwy 60, serving all intermediate points and those in CA, OR, and WA as off-route points in connection with routes (1) to (10) above.

Note.—Applicant intends to take the sought rights to its existing authority.

MC 61231 (Sub-180F), filed August 18, 1980. Applicant: EASTERN ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309, Transporting (1) *tires, tire tubes, tire valves, wheels and wheel weights*, (a) between Des Moines, IA, on the one hand, and, on the other, points in AR, LA, KY, MS, NM, OH and WY, and (b) from points in AZ, CO, IL, IN, KS, MI, MN, MO, MT, ND, NE, OK, SD, TN, TX, and WI, to Des Moines, IA, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Des Moines, IA, on the one hand, and, on the other, points in AR, AZ, CO, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, ND, NE, NM, OH, OK, SD, TN, TX, WI and WY.

MC 119991 (Sub-37F), filed August 19, 1980. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *hides*, from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S. (except AK and HI), restricted to traffic originating at the named facilities.

MC 120380 (Sub-3F), filed August 20, 1980. Applicant: GARVEY TRANSPORT, INC., 2 Water St., Holbrook, MA 02343. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Transporting (1) *such commodities* as are dealt in or used by retail drug outlets and retailers of building materials, between points in CT, ME, MA, NH, RI, and VT, restricted to traffic originating at or destined to the facilities of (a) Osco Drug Inc., and (b) Grossman's Division of Evans Products, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA. Condition: Issuance of a certificate in this proceeding shall be subject to coincidental cancellation at applicant's written request, of its Certificate of Registration No. MC-120380 Sub. No. 2.

MC 125951 (Sub-64F), filed August 20, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 126140 (Sub-9F), filed August 20, 1980. Applicant: TRANS-PETRO, INC., Box 124, Wood River, IL 62905. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *road oil and asphalt,* between points in the U.S., under continuing contract(s) with Louis Marsch, Inc., of Morrisonville, IL. Condition: Issuance of a permit in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its permit in MC-126140 Sub-8.

MC 127840 (Sub-168F), filed August 18, 1980. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *non-exempt food and kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Will County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139900 (Sub-3F), filed August 20, 1980. Applicant: L. CAPONE TRUCKING, INC., New Freedom-New Brooklyn Road, Berlin, NJ 08009. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. and Cottman St., Jenkintown, PA 19046. Transporting *building materials,* between points in the U.S., under continuing contract(s) with Atlas Building Systems, Division of Atlas Corporation, of Marlton, NJ.

MC 142830 (Sub-10F), filed August 20, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by horticultural suppliers, (except commodities in bulk), between points in the U.S., under continuing contract(s) with Jiffy Products of America, of West Chicago, IL.

MC 145441 (Sub-119F), filed August 11, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and those requiring special equipment), from the facilities of the Ohio Valley Shippers Association at points in IN, KY, and OH to points in the U.S. (except AK and HI).

MC 146360 (Sub-25F), filed August 19, 1980. Applicant: FLOYD SMITH JR. TRUCKING, INC., 4415 Highline St., Suite 107, Oklahoma City, OK 73148. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting *paper and paper products,* between points in CA, MN, NH, and WI, on the one hand, and, on the other, points in ID, MT, OR, WA, and UT.

MC 147811 (Sub-6F), filed August 19, 1980. Applicant: FLO-JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson (same address as applicant). Transporting *lumber,* between points in the U.S., under continuing contract(s) with Can-Am Lumber Co., of Skowheghan, ME.

MC 148200 (Sub-5F), filed August 19, 1980. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: John R. Bagileo, 918 16th St. NW., Washington, DC 20006. Transporting (1) *electrical appliances and equipment,* and (2) *parts* for electrical appliances and equipment, between points in the U.S., under continuing contract(s) with RCA Corporation, of Cherry Hill, NJ.

MC 148891 (Sub-2F), filed August 19, 1980. Applicant: WESTERN HOT SHOT, INC., 1084 East Northern Hills Drive, Bountiful, UT 84010. Representative: David S. Cook, 85 West 400 North, Bountiful, UT 84010. Transporting (1) *equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and (2) *materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, UT, ID, MT, WA, OR, CA, NV, AZ, CO, NM, TX, LA, MI, OK, KS, NE, SD, and ND.

MC 149521F, filed August 15, 1980. Applicant: HAPPY HAULERS, LTD., P.O. Box 127, Johnston, IA 50131. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *petroleum products and alcohol,* between points in the U.S., under continuing contract(s) with Ma & Pa Stores, Inc., and Pothoven Oil, Inc., both of Oskaloosa, IA.

MC 150500 (Sub-1F), filed August 19, 1980. Applicant: VINCE PROCOPIO, d.b.a. PROCOPIO & SONS, P.O. Box 251, Newcastle, CA 95658. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. Transporting *motor vehicles,* in secondary movements, in truckaway and driveaway service, between points in the U.S., under continuing contract(s) with Jim Taylors Auto-Body, of Santa Fe Springs, CA.

MC 151310 (Sub-1F), filed August 19, 1980. Applicant: HAROLD R. SNYDER, Rural route 1, Converse, IN 46919. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *animal and poultry feeds,* between points in Kosciusko County, IN, on the one hand, and, on the other, points in MI.

Volume No. OP2-027

Decided: August 21, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 16903 (Sub-84F), filed August 19, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47402. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *machinery,* and (2) *materials and supplies* used in the manufacture and distribution of machinery, between points in Madison County, IN, on the one hand, and, on the other, points in the U.S.

MC 20492 (Sub-10F), filed August 18, 1980. Applicant: FRANCIS P. RYAN CORPORATION, 30 Bernhard Road, North Haven CT 06473. Representative: Sidney L. Goldstein, 109 Church St., New Haven CT 06510. Transporting *contractors' equipment, machinery, supplies, and materials,* (except commodities in bulk and cement), between points in CT on the one hand, and, on the other, points in DE, MD, NJ, PA, WV, VA, KY, NC, SC, GA, FL, and DC.

MC 47583 (Sub-130F), filed August 19, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting (1) *paper and paper products, containers, container closures and components, and scrap materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Woodburry County, IA, Rock Island County, IL, St. Louis County, MO, Hamilton County, OH, Shelby County, TN, Muskogee County, OK, Dallas, Tarrant, and Harris Counties, TX, and Jefferson County, LA, on the one hand, and, on the other, points in the U.S.

MC 104523 (Sub-80F), filed August 19, 1980. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *bentonite, bentonite clay,* and *drilling mud compounds;* and (2) *materials, supplies,* and *equipment* used in the manufacture of the commodities in (1) above, between Greybull and Lovell, WY, on the one hand, and, on the other, points in AR, IL, KS, MO, NE, OK, and TX, restricted to traffic originating at or destined to the facilities of Wyo–Ben, Inc.,

MC 107323 (Sub-65F), filed August 19, 1980. Applicant: GILLILAND TRANSFER CO. a corporation, 7180 W. 48th St., Fremont, MI 49412. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting (1) *water soluble lubricants* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk) between Fremont, MI, on the one hand, and, on the other, points in the U.S.

MC 108223 (Sub-36F), filed August 18, 1980. Applicant: CENTURY–MERCURY MOTOR FREIGHT, INC., 2160 Mustang Drive, St. Paul, MN 55112. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *charcoal, charcoal briquettes, and barbecue accessories,* and (2) *equipment, materials and supplies* used in the manufacture or distribution of the commodities listed in (1) above, between points in Stark County, ND, on the one hand, and, on the other, points in the U.S.

MC 112713 (Sub-309F), filed August 19, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, (same as applicant). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), between points in Bates County, MO, on the one hand, and, on the other, points in the U.S.

MC 112963 (Sub-88F), filed August 14, 1980. Applicant: ROY BROS., INC., 764 Boston Rd., Pinehurst, MA 01866. Representative: Leonard E. Murphy, (same address as applicant). Transporting *commodities,* in bulk, between points in the U.S.

MC 118803 (Sub-20F), filed August 19, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of perfunes and cosmetics, (except commodities in bulk), between points in the U.S. under continuing contract(s) with Chanel, Inc, of Piscataway, NJ.

MC 121272 (Sub-9F), filed August 18, 1980. Applicant: HESS TRUCKING CO., a corporation, 1000 West Chocolate Ave., Hershey, PA 17033. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), from the facilities of Dauphin Distribution Services Co., in Cumberland County, PA to points in PA.

MC 124062 (Sub-20F), filed August 19, 1980. Applicant: FRICK TRANSPORT, INC., General Delivery, Wawaka, IN 46794. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *liquid aluminum sulphate,* between points in Marion County, IN, on the one hand, and, on the other, points in IL, KY, MI, and OH.

MC 127042 (Sub-302F), filed August 15, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis, (same address as applicant). Transporting *non-exempt food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Woodbury County, IA, Finney and Lyon Counties, KS, Blue Earth and Martin Counties, MN, and Douglas County, NE, on the one hand, and, on the other, points in the U.S.

MC 127042 (Sub-303F), filed August 18, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same as applicant). Transporting *non-exempt food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code, between points in Plymouth, Sioux, and Woodbury Counties, IA, on the one hand, and, on the other, points in the U.S.

MC 128652 (Sub-19F), filed August 19, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Ave. South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 E West 21st St., South Sioux City, NE 68776. Transporting *chain saws, snow-throwers, and garden, lawn, turf and golf course care equipment,* between points in the U.S., under continuing contract(s) with The Toro Company, of Minneapolis, MN.

MC 129282 (Sub-56F), filed August 19, 1980. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75606. Representative: Fred S. Berry (same address as applicant). Transporting *mill products and mill supplies and materials and supplies* used in the manufacture, repair and distribution of mill products and mill supplies, between points in the U.S. on the one hand, and, on the other, points in AR, LA, MS, OK, and TX.

MC 135052 (Sub-30F), filed August 18, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *water closets and faucets,* (1) from Decatur, MI, to point in AZ, FL, IN, NC, NV, OK, and TX, and (2) from Greensburg, IN, to points in AZ, FL, MI, NC, NV, OK, and TX.

MC 135283 (Sub-65F), filed August 15, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Rd., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *agricultural equipment,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between point in Platte County, NE, on the one hand, and, on the other, points in the U.S.

MC 138882 Sub 373F, filed August 15, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081 Representative: John J.

Dykema (same address as applicant). Transporting (1) *malt beverages and metal cans*, and (2) *materials, equipment, and supplies* use in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of the Jos. Schilitz Brewing Company, at or near (a) Winston-Salem, NC, (b) Tampa, FL, (c) Longview, TX, and (d) Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141532 (Sub-93F), filed August 15, 1980. Applicant: PACIFIC STATES TRANSPORT, INC. 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting (1) *lumber or wood products;* except furniture, (2) *rubber or miscellaneous plastic products*, (3) *clay, concrete, glass or stone products*, (4) *primary metal products;* including galvanized; except coating or other allied processing, (5) *fabricated metal products;* except ordnance, and (6) *machinery and supplies*, as described in Items 24, 30, 32, 33, 34, and 35 of the Standard Transportation Commodity Code Tariff, respectively, between points in the U.S.

MC 143002 (Sub-21F), filed August 19, 1980. Applicant: C.D.B., INCORPORTATED, 155 Spaulding, S.E. Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting, *general commodities* (classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with American Seating Company, of Grand Rapids, MI.

MC 143233 (Sub-7F), filed August 19, 1980. Applicant: DENNY TRANSPORT, INC., 3405 Industrial, Parkway, Jeffersonville, IN 47130. Representative: David G. Abraham, Suite 304, 6400 Goldsboro Rd., Washington, DC 20034. Transporting, *inedible animal grease, tallow, oil*, and *stearine*, and *tall oil*, in bulk, in shipper-owned tank vehicles, between points in the U.S., under continuing contract(s) with Geo. Pfau's Sons Company Inc., of Jeffersonville, IN.

MC 144203 (Sub-6F), filed August 15, 1980. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., Omaha, NE 68101. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S. under continuing contract(s) with MG Burdett Gas Products Company, of Norristown, PA.

MC 144622 (Sub-183F), filed August 19, 1980. Applicant: GLENN BROTHERS TRUCKING, INC. P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *such commodities* as are dealt in by variety and good business houses between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S.

MC 144672 (Sub-24F), filed August 18, 1980. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and converters of paper, paper products, and pulp, between points in McMinn County, TN, on the one hand, and, on the other, points in AR, KS, LA, MS, OK, and TX.

MC 144672 (Sub-25F), filed August 19, 1980. Applicant: VICTORY EXPRESS, INC., Trotwood, OH 45426. Representative: Richard Schaefer (same address as applicant). Transporting (1) *business forms, office equipment, office supplies*, and *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the U .S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Standard Register Company.

MC 144693 (Sub-6F), filed August 15, 1980. Applicant: GLENN'S TRUCK SERVICE, INC. No. 1 Produce Row, St. Louis, MO 63102. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *foodstuffs* (except commodities in bulk), from the facilities of Sunmark, Inc., at or near (a) St. Louis, MO, and (b) Itasca, IL, to points in the U.S.

MC 146213 (Sub-8F), filed August 15, 1980. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Jack Meyer, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, between points in Portage and Wood Counties, WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 148433 (Sub-3F), filed August 19, 1980. Applicant: GENERAL PARTS EXPRESS, INC., P.O. Box 243, Hanover, MD 21076. Representative: Frank B. Hand, Jr., P.O. Box 2018, Winchester, VA 22601. Transporting automotive accessories and *such commodities* as are dealt in or used by distributors of automotive parts (except commodities in bulk) between points in the U.S. under continuing contract(s) with General Motors Corporation (General Motors Parts Division), of Flint, MI.

MC 148763 (Sub-3F), filed August 18, 1980. Applicant: GRIBBLE BROS. RENTAL SERVICE, INC., 4958 Atlanta Rd. SE., Smyrna, GA 30080. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *forest products, lumber, and particleboard*, between points in AL, FL, GA, SC, and TN.

MC 150822 (Sub-1F), filed August 18, 1980. Applicant: FLEXIBLE TRANSPORTATION, INC., 18 Hackensack Ave., S. Kearny, NJ 07032. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Transporting (1) *cable television installation and transmission equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cable television installation and transmission equipment, between points in the U.S., under continuing contract(s) with Anixter-Pruzan, of Wharton, NJ.

MC 151552 (Sub-1F), filed August 18, 1980. Applicant: B & B TRANSPORT, INC., 1301 West 6th St., Mishawaka, IN 46544. Representative: Sanford M. Brook, Suite 710 JMS Bldg., South Bend, IN 46601. Transporting *petroleum, petroleum products, and coal products*, between points in the U.S., under contract(s) with (a) Berreth Oil, Inc., of Mishawaka, IN, (b) Bellman Oil, Inc., of Bremen, IN, and (c) Devine Oil, Inc., of New Paris, IN. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of liquefied petroleum gas, it shall be limited to a period expires 5 years from its date of issue.

Volume No. OP3–007

Decided: August 13, 1980.

By the Commission Review Board Number 3, Members Parker, Fortier, and Hill.

MC 1824 (Sub-127F), filed August 4, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant). Transporting (1) *foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, between points in Onondago County, NY, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and DC.

MC 15975 (Sub-31F), filed August 1, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting (1) *automobile parts* and (2) *materials, supplies, and equipment* used in the manufacture of motor vehicles, between the facilities of Ford Motor Company, at or near Detroit, MI, on the one hand, and, on the other, St. Louis, MO.

MC 42605 (Sub-6F), filed August 1, 1980. Applicant: CARL H. BETZ, R.D. No. 1, Orefield, PA 18069. Representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 18104. Transporting *gypsum rock,* in bulk, in dump vehicles, from Canden, NJ to points in Berks, Lehigh and Northampton Counties, PA.

MC 52704 (Sub-278F), filed July 31, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *pulp, paper, and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and conversion of commodities in (1) above, between Atlanta, GA, and New Orleans, LA, and points in Crawford and Sebastian Counties, AR, Maricopa County, AZ, Los Angeles and Orange Counties, CA, Dougherty County, GA, Kankakee County, IL, Ouachita County, LA, Kent and Shiawassee Counties, MI, Clay, Jackson, and Platte Counties, MO, Washoe County, NV, Guilford County, NC, Hamilton County, OH, and Dallas County, TX, on the one hand, and, on the other, points in the U.S.

MC 52704 (Sub-279F), filed August 1, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *wearing apparel,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of wearing apparel, between points in Randolph County, AL, on the one hand, and, on the other, points in the U.S.

MC 73165 (Sub-520F), filed August 4, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *metal products,* and (2) *machinery, equipment, and supplies* used in the manufacture and distribution of metal products, between VA and PA, on the one hand, and, on the other, points in the U.S.

MC 94265 (Sub-360F), filed August 4, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *foodstuffs,* from points in Baltimore County, MD, and Fulton, Clayton, DeKalb, Cobb and Douglas Counties, GA, to points in AR, KS, LA, TX, and OK and those in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi river to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada; and (2) *materials, equipment, and supplies* used in the manufacture of foodstuffs, in the reverse direction.

MC 94265 (Sub-361F), filed August 4, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *clothing,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodity named in (1) above, (1) between Paris, TX; Memphis, TN; Burlington, NJ, and Hamilton, AL; (2) between Hominy, OK, and Minneapolis, MN; and (3) from points in NC, SC, GA, and TN, to Minneapolis, MN.

MC 107515 (Sub-1391F), filed August 1, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., Atlanta, GA 30326. Transporting *meats, meat products, meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 111045 (Sub-185F), filed August 1, 1980. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). Transporting *chemicals and plastics,* between points in Santa Rosa County, FL, and points in the U.S., in and west of TX, OK, KS, NE, SD, and ND.

MC 113874 (Sub-4F), filed July 31, 1980. Applicant: GIBLERT TRANSFER COMPANY, P.O. Box 12687, Winston-Salem, NC 27107. Representative: A. W. Flynn, Jr., 314 S. Eugene St., P.O. Box 180, Greensboro, NC 27402. Transporting *corrugated boxes and paper displays,* between points in the U.S., under continuing contract(s) with Southern Corrugated Box Corporation of Winston-Salem, NC.

MC 114725 (Sub-112F), filed July 30, 1980. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: Donald L. Stern, 7171 Mercy Road, Suite 610, Omaha, NE 68106. Transporting *dinitro phenol solution* (in bulk, in tank vehicles), from points in Tunica County, MS, to points in CA and AZ.

MC 116004 (Sub-60F), filed August 4, 1980. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving Stillwater, OK as an off-route point in connection with carrier's otherwise-authorized regular-route operations.

MC 116045 (Sub-53F), filed August 5, 1980. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, WY 82301. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264. Transporting *petroleum and coal products* as described in Item 29, and *chemicals and allied products* as described in Item 28 of Standard Transportation Commodity Tariff, between points in WY on the one hand, and, on the other, points in AZ, CO, ID, MT, NE, NM, SD, and UT.

MC 121664 (Sub-129F), filed August 1, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 First Ave. South, Birmingham, AL 35233. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 139294 (Sub-7F), filed August 1, 1980. Applicant: H. T. L., INC., P.O. Box 122, Fairfield, AL 35064. Representative: Pete M. Hanna, P.O. Box 122, Fairfield, AL 35064. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in KS, OK, TX, IL, MO, AR, LA, MI, IN, KY, TN, MS, AL, PA, WV, MD, VA, NC, SC, GA, FL, and DC.

MC 140174 (Sub-6F), filed August 1, 1980. Applicant: BROOKS TRUCKING, INC., P.O. Box 187, East North St., Vanlue, OH 45890. Representative: Richard H. Brandon, P.O. Box 97, 220 W.

Bridge St., Dublin, OH 43017. Transporting (1) *steel tubing,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of steel tubing, between points in the U.S., under continuing contract(s) with Copperweld Corporation of Pittsburgh, PA.

MC 141914 (Sub-85F), filed August 6, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. N.W., Washington, DC 20001. Transporting (1) *printed matter,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of printed matter, between points in Cook and DuPage Counties, IL, Muscatine County, IA, Lake and Marion Counties, IN, Fayette and Woodford Counties, KY, Bristol County, MA, Westchester County, NY, and Davidson County, TN, on the one hand, and, on the other, points in the U.S.

MC 142954 (Sub-10F), filed August 4, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *meats, meat products and meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in the U.S., under continuing contract(s) with Glenn Brothers Meat Company, Inc., of Richardson, TX.

MC 145914 (Sub-7F), filed August 6, 1980. Applicant: COASTAL TRUCK LINES, INC., How Lane, New Brunswick, NJ 08903. Representative: Lawrence S. Burstein, Suite 2373, One World Trade Center, New York, NY 10048. Transporting (1) *containers and container closures* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points, in the U.S. under continuing contract(s) with National Can Corporation, Piscataway, NJ.

MC 145955 (Sub-8F), filed August 4, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products, meat byproducts, and articles* distributed by meat packing houses, as described in Section A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in Clay and Pottawattamie Counties, IA, on the one hand, and, on the other, points in IL, IN, MI, and WI.

MC 145955 (Sub-9F), filed July 30, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products, meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between Chicago, IL, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE, ND, and SD.

MC 145955 (Sub-9F), filed August 5, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Peoria and Tazwell Counties, IL, on the one hand, and, on the other, points in IA, KS, MN, MO, NE, and SD.

MC 146774 (Sub-2F), filed August 4, 1980. Applicant: ARTHUR F. COOPER, d.b.a. COOPER BOAT MOVING CO., 1664 W. 9th St., Long Beach, CA 90813. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting (1) *yachts and boats,* and (2) *parts, materials, equipment, and supplies* used for the commodities in (1) above, between points in Los Angeles County, CA, on the one hand, and, on the other, points in WA and OR.

MC 150345 (Sub-1F), filed July 30, 1980. Applicant: LUMBER SALES, INC., 3500 W. Flamingo Rd., Las Vegas, NV 89103. Representative: John Paul Fisher, 256 Montgomery St., 5th Floor, San Francisco, CA 94104. Transporting *gypsum and gypsum products, and supplies* used in the installation of the foregoing commodities, from points in Clark County, NV, to points in OR, WA, CA, and ID.

MC 151395 (Sub-1F), filed August 1, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *traffic marking paints,* from Atlanta, GA, Marble Falls, TX, and Montgomery and Pennsdale, PA, to points in the U.S., and (2) *materials and supplies* used in the manufacture and distribution of traffic marking paints, in the reverse direction.

MC 151395 (Sub-2), filed August 4, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *bread-making compounds and cooking oils,* from Atlanta, GA, to points in the U.S., and (2) *materials, equipment and supplies* used in the manufacture or distribution of commodities named in (1) above, in the reverse direction.

MC 151425F, filed July 30, 1980. Applicant: DEAN WEDGEWOOD, d.b.a. IRON LINE, P.O. Box 141, Jackson, NE 68743. Representative: Robert A. Wischer, 920 West 21st St., South Sioux City, NE 68776. Transporting *waste or scrap materials not identified by industry producing,* between points in IL, IA, MN, MO, NE, and SD.

MC 151465F, filed filed august 4, 1980. Applicant: RAY BENDIT TRUCKING & MOVING, INC., 57 Middle St., Woonsocket, RI 02895. Representative: Leo Benoit, 55 Fabien St., Woonsocket, RI 02895. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, and points in RI, MA, NH, and CT, and (2) *household goods,* between points in NH, RI, MA, NY, PA, NJ, CT, DE MD, VA, NC, SC, GA, FL, and DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26298 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Application; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is pubished in the **Federal Register.**

Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the the proposed transaction should be authorized as stated below. Except where specificially noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to ensure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate as applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 21, 1980.

By the Commission, Review Board Number 5, Members Krock Taylor and Williams. (In MC-60580 (Sub-No. 42F), Member Taylor voted to publish with an impediment to reflect that it cannot be considered directly related to the proceeding in MC-F-14407F. In MC-99569 (Sub-No. 6F), Member Taylor dissented stating that applicant has failed to explain why it seeks regular route authority in this proceeding which duplicates the authority sought in MC-F-14408F, or why the granting of such authority would be consistent with the public interest. Board Member Taylor dissents in MC-113855 (Sub-No. 514F) and votes to publish it with an impediment to the effect that applicant has failed to meet its burden of proof and that the application be held open for further handling).

MC-F-14286F, Filed January 7, 1980. GEORGIA HIGHWAY EXPRESS, INC. (Georgia) (2090 Jonesboro Road, S.E., Atlanta, GA 30315)—PURCHASE—TEXTILE WAREHOUSE COMPANY, INC. (Textile) (P.O. Box 1653, Spartanburg, SC 29304). Representative: Fritz R. Kahn, 1660 L Street, N.W., Suite 1000, Washington, DC 20036. Georgia seeks to purchase the operating rights of Textile. Transus, Inc., a holding company which controls Georgia through sole stock ownership, and in turn H. D. Winship, Jr., Wadleigh Winship, and Emory Winship who controls Transus through stock ownership, seek to acquire control of the rights of Textile through the transaction. Georgia seeks to purchase the interstate operating rights of Textile contained in MC-11402, which authorizes the transportation as a motor common carrier, over irregular routes, of *general commodities,* with usual exceptions, between Greenville, SC, on the one hand, and, on the other, those points in NC, SC, and GA within 100 miles of Greenville, SC. Georgia is authorized pursuant to MC-58923 and subnumbers thereunder to operate as a motor common carrier in AL, CA, FL, GA, IL, MO, OH, and SC. Georgia controls Fuller Transportation Inc., through ownership of all of its capitol stock. Fuller operates under Certificate No. MC-33426 and sub-numbers thereunder. A wholly owned subsidiary of Georgia is Surf-Air, Inc. Surf-Air was issued a permit as Surface Freight Forwarder under FF-500. (Hearing site: Atlanta, GA, or Washington, DC.)

Notes.—(1) An application has been filed for temporary authority under 49 U.S.C. 11349.

(2) An application has been filed in MC-58923 (Sub-No. 56F) and published in this same **Federal Register** issue. Although it was filed in conjunction with this finance application, it is not considered directly related thereto.

MC-F-14407F, filed June 2, 1980. MAISLIN TRANSPORT OF DELAWARE, INC. (Delaware) (7401 Newman Blvd., LaSalle, Quebec H8N 1X4, Canada)—Purchase (Portion)—GATEWAY TRANSPORTATION CO., INC. (Gateway) (445 Park Plaza Drive, P.O. Box 851, La Crosse, WI 54601). Representatives: A. David Milner and Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Delaware seeks authority to purchase a portion of the interstate operating rights of Gateway. Maislin Transport, Ltd., of LaSalle, Quebec, Canada, the sole stockholder of Delaware, and in turn Miaslin Industries, Ltd., a non-carrier holding company of LaSalle, Quebec, Canada, and sole stockholder of Maislin Transport, Ltd., seek to acquire control of such rights through the transaction. The operating rights to be acquired by Delaware are contained in a certificate purchased by Gateway in MC-F-13071, MC-2202 (Sub-No. 268), which authorizes the transportation of *general commodities,* usual exceptions, as a common carrier over regular routes, (1) Between junction U.S. Highways 62 and 20 at or near Big Tree, N.Y., and Crittenden, N.Y., serving all intermediate points: From junction U.S. Highways 62 and 20 over U.S. Highway 20 via Depew, N.Y., to Alden, N.Y., thence over New York Highway 239 to Crittenden, and return over the same

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route. (2) Between Buffalo, N.Y., and Syracuse, N.Y., serving all intermediate points: From Buffalo over New York Highway 5 to junction U.S. Highway 20 near Avon, N.Y., thence over U.S. Highway 20 to Skaneateles, N.Y., thence over New York Highway 175 to Syracuse, and return over the same route. (3) Between New York points, serving all intermediate points, as follows: (a) From junction U.S. Highway 20 and New York Highway 78 at or near Depew, N.Y., over New York Highway 78 to Lockport, and return over the same route. (b) From Buffalo over New York Highway 263 to Millersport, and return over the same route. (c) From Buffalo over New York Highway 384 to Niagara Falls, and return over the same route. (d) From Buffalo over U.S. Highway 62 to Niagara Falls, and return over the same route. (e) From Le Roy over New York Highway 19 to Bergen, and return over the same route. (f) From Rochester over U.S. Highway 15 to East Avon, and return over the same route. (g) From Rochester over New York Highway 31 (formerly portion New York Highway 2) to junction New York Highway 96 (formerly portion New York Highway 2), thence over New York Highway 96 to Waterloo, and return over the same route. (h) From Rochester over New York Highway 31F (formerly portions New York Highways 33 and 33B) to Fairport, N.Y., thence over New York Highway 250 to junction New York Highway 96 (formerly New York Highway 2), and return over the same route. (i) From Manchester over New York Highway 21 to Canandaigua, N.Y., thence over New York Highway 332 to junction N.Y. Highway 96 (formerly New York Highway 2), and return over the same route. (j) From Lyons over New York Highway 14 to Geneva, N.Y., thence over New York Highway 96A (formerly New York Highway 2A) to Ovid, N.Y., thence over New York Highway 96 (formerly New York Highway 2) to Interlaken, and return over the same route. (k) From Port Byron over New York Highway 38 to Auburn, N.Y., thence over New York Highway 5 to junction New York Highway 313, and return over the same route. From Syracuse over New York Highway 57 to Oswego (also from Syracuse over New York Highway 48 to Oswego) and return over the same routes. From Syracuse over New York Highway 5 junction New York Highway 365, thence over New York Highway 365 to Rome (also from Syracuse over New York Highway 298 to junction New York Highway 31, thence over New York Highway 31 to junction New York Highway 365, thence over New York Highway 365 to Rome), and return over the same routes. Between Niagara Falls, N.Y., and Rochester, N.Y., serving the intermediate point of Lockport, N.Y.: From Niagara Falls over New York Highway 31 to Rochester, and return over the same route. Between Albany and Syracuse, N.Y., serving all intermediate points including off-route points within ten miles of the described routes, and those within 10 miles of Syracuse, except points on New York Highway 5 west of Syracuse: From Albany over U.S. Highway 20 via Cazenovia, N.Y., to junction New York Highway 92, thence over New York Highway 92 to Syracuse, and return over the same route. From Albany over New York Highway 5 via Vernon, N.Y., to Syracuse, and return over the same route. From Vernon over New York Highway 234 to junction New York Highway 234 to junction New York Highway 31, thence over New York Highway 31 to Cicero, N.Y., thence over U.S. Highway 11 to Syracuse, and return over the same route. Delaware is a motor common carrier pursuant to authority issued in certificates in MC-60580 and sub-numbers thereunder, which authorizes the transportation of general and specified commodities, over regular and irregular routes, in CT, DE, MA, MD, NE, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. Maislin Transport, Ltd., is a motor common carrier pursuant to authority issued in certificates in MC-108006, and sub-numbers thereunder, which authorize the transportation of general and specified commodities over regular and irregular routes, in CT, ME, MA, NH, NJ, PA, RI, and VT. (Hearing site: New York, N.Y., or Washington, D.C.)

Note.—(1) Authority to transport *general commodities*, usual exceptions, serving the intermediate point of Albany, NY, in connection with carrier's regular route operations presently authorized between Buffalo, NY, and New York, NY, and serving all intermediate points between Peekskill and New York, NY, will not be transferred through this application. This authority is carved out of a grant of authority to conduct operations between Cleveland, OH, and New York, NY, serving all intermediate points, which possibly could have included Buffalo. This off-route authority had been purchased by Gateway is a prior proceeding. It is unclear, however, whether Gateway had a route between Cleveland, OH, and New York, NY, or between Buffalo and New York, NY. Accordingly, we cannot grant this part of the application. However, this authority will be granted to Maislin in the directly related application filed. (2) A directly related application was filed in MC-60580 (Sub-No. 42F) and published in the same **Federal Register** issue.

MC-F-14408F, filed June 2, 1980. STOTT & DAVIS MOTOR EXPRESS, INC., (Stott) (18 Garfield St., Auburn, NY 13021)—Purhase (Portion)—GATEWAY TRANSPORTATION CO., INC. (Gateway) (455 Park Plaza Dr., P.O. Box 851, La Grosse, WI 54601). Representatives: Martin Werner, 888 Seventh Avenue, New York, N.Y. 10019, and A. David Millner, 1730 M. Street, N.W., Washington, DC 20036. Stott seeks authority to purchase a portion of Gateway's operating rights. Jack N. Davis and Lillian D. Ellis (both at 18 Garfield St., Auburn, NY 13021), who control Stott through stock ownership, seek to acquire control of the rights described below through this transaction. The operating rights which Stott seeks to purchase are now held by Gateway. That authority was transferred to Gateway from Roadway Express under No. MC-F-13071, served September 22, 1977. No certificate in the Gateway MC-80430 series has been issued against this authority.[1]

Those operating rights authorize the transportation as a motor common carrier, of *general commodities*, except those of unusual value, class A and B explosives, livestock, liquids in bulk, in tank trucks, commodities requiring special equipment, and household goods as defined by the Commission over a regular route between Buffalo, NY and Syracuse, NY, serving the intermediate point of Rochester, NY: from Buffalo, NY via New York Highway 33 to Rochester, NY, then via New York Highway 31 to Baldwinsville, NY, then over New York Highway 370 to Liverpool NY, and then over New York Highway 57 to Syracuse, NY, and return over the same route. Stott is a motor common carrier of commodities between points in NY, pursuant to authority under MC-99569. In No. MC-F-14252F Maislin Transport of Delaware, Inc., (Maislin) seeks to control Gateway through acquisition of the latter's stock. Gateway proposes to transfer the Buffalo-Syracuse authority described above to Stott in order to eliminate duplicating operating rights. The Commission's Notice of Effectiveness will require the parties to consummate the transaction in MC-F-14408F before consummation of MC-F-14252F. (Hearing site: Syracuse, NY.)

Note.—This application is filed in conjunction with MC-95569 (Sub-No. 6F), published in this same **Federal Register** issue.

MC-F-14412F, filed June 10, 1980. INTERNATIONAL TRANSPORT, INC. (International) (2450 Marion Road, SE, Rochester, MN 55901)—Merger—DEALERS TRANSIT, INC. (Dealers) (P.O. Box 236, Tulsa, OK 74101). Representative: Alan Foss, 502 First

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[1] Roadway held the authority in certificate No. MC-2202 (Sub-No. 127).

National Bank Bldg., Fargo, ND 58126. International seeks authority for the merger of the interstate operating rights and property of Dealers into International for ownership, management, and operation. International Transport Industries, Inc., a non-carrier holding company and sole stockholder of International, and in turn, Butler International, Inc., a publicly held corporation and sole stockholder of International Transport Industries, Inc., seek authority to acquire control of said rights and property through the transaction. Dealers holds motor common carrier authority pursuant to certificates and E-letters issued in MC-4405 and sub-numbers thereunder, which authorize the transportation, over irregular routes of *pipeline and oilfield machinery and equipment, size or weight commodities, self-propelled articles, heavy machinery, trucks, truck bodies, buses, and trailers, iron and steel articles,* and *numerous other specified commodities,* from, to, and between specified points in the United States, including AK, but excluding HI. This notice does no purport to be a complete description of all the operating rights of the carrier involved. International is authorized to operate as a common carrier in all the States in the United States, including AK, but excluding HI, pursuant to authority issued in MC-113855 and sub-numbers thereunder. Applicants are presently under common control in Docket No. MC-F-12608. condition: Butler International, Inc., the non-carrier parent, will continue to be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV and subjected to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating the reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities, as previously subjected in Docket No. MC-F-11308.

Note.—A directly related gateway elimination application has been filed in MC 113855 (Sub-No. 514F), published in this same **Federal Register** notice issue.

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application or the following operating rights applications directly related thereto filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 58923 (Sub-No. 56F), filed January 7, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., Atlanta, GA 30315. Representative: Fritz R. Kahn, Suite 1100, 1660 L Street, N.W., Washington, DC 20036. To operate as a *common carrier,* in interstate or foreign commerce, over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA, and Greenville, SC, over Interstate Hwy 85, serving no intermediate points. Condition: Coincidental cancellation of applicant's authority in MC–58923 (Sub-53F) and payment of filing fee of $350.

Notes.—(1) The purpose of this application is to allow joinder at Greenville, SC. MC–58923 (Sub-No. 53F), is restricted to transportation of traffic received from or delivered to connecting carriers at Greenville, SC. (2) This application is filed in conjunction with but not directly related to MC–F–14286, published in this same **Federal Register** issue. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 60580 (Sub-No. 42F), filed June 2, 1980. Applicant: MAISLIN TRANSPORT OF DELAWARE, INC., 7401 Newman Boulevard, LaSalle, Quebec, Canada H8N 1X4. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier,* over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the intermediate point of Albany, NY, in connection with carrier's regular route operations presently authorized between Buffalo, NY, and New York, NY, serving all intermediate points between Peekskill and New York, NY.

Notes.—(1) This application is directly related to MC–F–14407F published in the same **Federal Register** issue. (2) The purpose of this application is to add the intermediate points and off-route point as stated above. (Hearing site: New York, NY, or Washington, DC.)

MC 99569 (Sub-No. 6F), filed June 2, 1980. Applicant: STOTT & DAVIS MOTOR EXPRESS, INC.—Extension—18 Garfield Street, Auburn, NY 13021. Representative: Martin Werner, 888 Seventh Avenue, New York, NY 10019. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over a regular route between Buffalo, NY and Syracuse, NY, serving all intermediate and off-route points in Erie, Niagara, Orleans, Genese, Monroe, and Wayne Counties, NY: from Buffalo over New York Highway 33 to Rochester, NY, then over New York Highway 31 to Baldwinsville, NY, then over New York Highway 37C to Liverpool, NY, and then over New York Highway 57 to Syracuse, and return over the same route. (Hearing site: Syracuse, NY.)

Note.—This application is filed in conjunction with the application filed in MC–F–14406F, published in this same **Federal Register** issue. The purpose of this application is to add all intermediate points and the off-route points stated above.

MC 113855 (Sub-514F), filed June 10, 1980. Applicant: INTERNATIONAL TRANSPORT, INC.—gateway eliminating, 2450 Marion Road SE., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Authority sought to operate as a *common* carrier, by motor vehicle, over irregular routes transporting: A(1) *Commodities,* the transportation of which because of size or weight require the use of special equipment, and (2) *self-propelled articles* each weighing 15,000 lbs. or more, restricted in (2) above to commodities which are transported on trailers: I. between points in ND, on the one hand, and, on the other, points in WA(1), OR(1), AZ(2), NM(2), OK(3), TX(4), AR(5), LA(5), MS(5), AL(5), FL(5), GA(5), SC(5), NC(5), TN(5), VA(5), and NY(6). II. between points in SD, on the one hand, and, on the other, points in WA(1), AZ(7), NM(7), TX(8), OK(9), AR(10), LA(10), MS(10), AL(10), FL(10), GA(10), SC(10), NC(10), TN(10), VA(10), NY(11). III. between points in MN, on the one hand, and, on the other, points in KS(12), OK(12), AZ(13), NM(14), MO(16), AR(17), LA(17), MI(18), IL(19), TN(20), MS(20), TX(15), AL(20), GA(20), FL(20), SC(20), NC(20), and VA(20). IV. between points in Mt, on the one hand, and, on the other, points in AZ(21), NM(22), NV(23), KS(24), OK(24), TX(25), AR(26), LA(26), MS(26), TN(26), AL(26), GA(26), FL(26), SC(26), NC(26), VA(26), and NY(27). V. between points in WY, on the one hand, and, on the other, points in NY(28), VA(29), NC(29), SC(29), GA(29), FL(29), AL(29), TN(29), MS(29), LA(29), AR(29), MO(29), KS(30), OK(30), TX(31), NM(32), AZ(33), and NV(34). VI. between points in NE, on the one hand, and, on the other, points in MD(35), IL(36), IN(37), and NY(38). VII. between points in UT, on the one hand, and, on the other, points in TN(39), SC(39), GA(39), FL(39), AL(39), MS(39), LA(39), AR(39), TX(40), OK(41), KS(41), NM(42), AZ(43), and NV(44). VIII. between points in CO, on the one hand, and, on the other, points in MI(45), IN(46), NY(47), IL(48), TX(49), NM(50), AZ(51), NV(52), OR(53), and WA(53). IX. between points in CA, on the one hand, and, on the other, points in AZ(54), NM(55), and CO(53). X. between points in WA, on the one hand, and, on the other, points in KS(57), and OR(58). XI. between points in ID, on the one hand, and, on the other, points in SC(59), GA(59), FL(59), AL(59), MS(59), TN(59), LA(59), AR(59), TX(60), OK(61), KS(61), NM(62), NV(63), OR(64), and WA(64). XII. between points in AZ, on the one hand, and, on the other, points in MA(65), CT(65), RI(65), NY(65), PA(66), NJ(66), DE(65), MD(65), MI(67), IL(67), and DC(66). XIII. between points in NM, on the one hand, and, on the other, points in PA(68), NY(65), NJ(65), MA(65), CT(65), RI(65), IL(69), DE(65), NE(73), MD(65), and DC(65). XIV. between points in KS, on the one hand, and, on the other, points in MA(70), CT(70), RI(70), NY(70), NJ(70), PA(68), DE(70), MD(70), OH(70), IN(70), IL(48), LA(71), NV(56), and DC(70). XV. between points in IA, on the one hand, and, on the other, points in AZ(72), NM(73), TX(74), OK(75), KS(75), MO(75), AR(76), LA(76), MS(76), AL(77), GA(77), FL(77), SC(77), NC(77), TN(77), KY(77), VA(77), WV(77), OH(78), IN(78), IL(78), MI(78), WI(78), MD(79), DE(79), NJ(79), PA(79), NY(79), MA(79), CT(79), RI(79), and DC(79). XVI. between points in WI, on the one hand, and, on the other, points in AZ(80), NM(81), TX(82), OK(83), KS(83), MO(83), AR(84), LA(84), MI(85), TN(86), MS(86), AL(86), GA(86), FL(86), SC(86), NC(86), and VA(86). XVII. between points in OK, on the one hand, and, on the other, points in MA(87), CT(87), RI(87), NY(87), PA(88), NJ(87), DE(87), MD(87), OH(87), IN(87), IL(89), and DC(87).

XVIII. between points in TX, on the one hand, and, on the other, points in MA(90), CT(90), RI(90), NY(90), NJ(90), PA(91), DE(90), MD(90), IL(92), and DC(90). XIX. between those points in IL on, north, and west of a line beginning at Quincy, IL and extending along IL Hwy. 104 to junction U.S. Hwy. 66, thence northward along U.S. Hwy. 66 to junction IL Hwy. 53, located at or near Gardner, IL, thence along IL Hwy. 53, to junction U.S. Hwy. 66 located at a point approximately 10 miles northeast of Plainfield, IL, and thence along U.S. Hwy. 66 to Chicago, IL, on the one hand, and, on the other, points in MO(93), AR(94), LA(94), MS(95), AL(95), GA(95), FL(95), SC(95), NC(95), TN(95), KY(95), VA(95), and WV(95). XX. between points in MO, on the one hand, and, on the other, points in IN(96), OH(96), MI(97), NY(96), NJ(96), MA(96), CT(96), RI(96), DE(96), MD(96), and DC(96). XXI. between points in AR, on the one hand, and, on the other, points in MA(98), CT(98), RI(98), NY(98), NJ(98), DE(98), MD(98), and DC(98). XXII. between points in LA, on the one hand, and, on the other, points in MA(98), CT(98), RI(98), NY(98), NJ(98), DE(98), MD(98), and DC(98). XXIII. between points in IN and MI, on the one hand, and, on the other, points in MA(99), CT(99), RI(99), NY(99), NJ(99), DE(99), and MD(99), and DC(99). XXIV. between Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, PA, and mines in that part of PA south and west of a line beginning at the PA-OH State line and extending along US.

Hwy. 19 near Rose Point, PA, thence along U.S. Hwy. 19 to junction unnumbered highway near Portersville, PA, thence along unnumbered highway via Prospect, PA, to junction U.S. Hwy. 422, thence along U.S. Hwy. 422 to Ebensburg, PA, thence along U.S. Hwy. 22 to junction U.S. Hwy. 522, thence along U.S. Hwy. 522 to junction PA Hwy. 641 (formerly PA Hwy. 433), thence along PA Hwy. 641 to junction PA Hwy. 997, and thence along PA Hwy. 997 to the PA–MD State line, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in MO(96), AR(101), LA(101), IN(99), and MI(100). XXV. between points in PA, on and east of a line beginning at the MD–PA State line and extending along unnumbered highway (formerly portion U.S. Hwy. 15) to junction Business U.S. Hwy. 15, near Fairplay, PA, thence along Business U.S. Hwy. 15 through Gettysburg, PA, to junction U.S. Hwy. 15, thence along U.S. Hwy. 15 to junction unnumbered highway (formerly portion U.S. Hwy. 15), thence along unnumbered highway through Clear Spring, PA, to junction U.S. Hwy. 15 thence along U.S. Hwy. 15 to the PA–NY State line (except points in Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA, and points in PA on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, PA, and points in PA, on and east of U.S. Hwy. 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northcumberland, Montour, and Columbia Counties PA), on the one hand, and, on the other, points in MO(96), AR(102), LA(103), MS(102), AL(102), GA(102), FL(102), SC(102), TN(102), IN(102), MI and KY(102). XXVI between points in MA, CT, RI, NY, NJ, MD, DE, and DC, on the one hand, and, on the other, points in FL(95), GA(95), SC(95), NC(95), AL(95), MS(96), TN(95), KY(95), WV(95), and VA(95). B. *Lumber and lumber mill products* which are also construction materials between points in MO, NE, KS, OK and CO, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI)(105). C. *Material handling equipment and parts for material handling equipment* from the Los Angeles Harbor Commercial Zone as defined by the Commission to points in the U.S. (including AK, but excluding HI)(106). D. (a) *Agricultural implements and adapter kits,* (b) *canopies and cabs,* (c) *Agricultural implement and contractors' equipment safety guards,* (d) *logging, forestry,* and *construction equipment,* (e) *air conditioners,* (f) *attachments* for the commodities in (a) through (e) above, and (g) *parts* for the commodities in (a) through (f) above, restricted in (a) through (g) above to such commodities which because of their size or weight require the use of special equipment, or which are self-propelled each weighing 15,000 lbs. or more, from points in NC(107), SC(107), GA(107), FL(107), AL(107), TN(107), VA(108), WV(108), KY(108), MS(109), LA(109), AR(109), TX(110), OK(110), NM(111), AZ(111), CA(112), NV(112), UT(112), WY(112), MT(112), MO(113), CO(114), NE(114), IA(114), MN(114), ND(114), SD(114), KS(115), WI(116), IL(116), MI(116), IN(117), OH(117), PA(117), MA(118), CT(118), RI(118), NJ(118), DE(118), NY(119), MD(119), and DC(119) to points in AK. E. (1) *Iron and steel articles* and (2) *aluminum and aluminum products,* restricted in (1) and (2) to such commodities which beause of their size or weight require the use of special equipment, from points in SC(120), GA(120), FL(120), AL(120), MS(120), TN(120), LA(120), MO(120), AR(121), MO(121), OK(121), KS(121), CO(121), UT(122), NM(123), AZ(124), MN(125), ND(125), SD(125), MT(126), WI(126), and MI(126), to points in AK. (Hearing site: Denver, CO, Chicago, IL and Washington, DC.).

Note.—The purpose of this application is to eliminate the gateways for the above paragraphs as follows: (1) MT, (2) NE or KS, (3) NE or KS, (4) NE or KS (5) MO, KY or IN, (6) IN, (7) NE or KS, (8) NE or KS, (9) NE or KS, (10) MO, KY or IN, (11) IN, (12) NE or KS, (13) NE or KS, (14) NE or KS, (15) NE or KS, (16) NE or KS, (17) MO or NE, (18), MO or NE, (19) IN, (20) IN or KY, (21), CA, CO, NE or ID, (22), NE, KS or CO, (23) OR or CA, (24) NE or CO, (25) NE or CO, (26) MO, KY or IN, (27) IN, (28) IN, (29) MO, KY or IN, (30) NE, (31) NE or CO, (32) NE or CO, (33) ID, NE, CO or CA, (34) CA or OR, (35) IN, (36) NE, (37) NE and IN, (38) NE and IN, (39) CO, (40) CO, NE or KS, (41) CO, (42) CO or KS, (43) CA or ID, (44) CA or OR, (45) NE, (46) MO, (47) MO and IN, (48) NE, (49) CO, (50) CO or NE, (51) CO, NE or CA, (52) UT and OR or CA, (53) UT, (54) NV, (55) NV, (56) CA or NE, (57) KS or NE (58) NV, CA or MT, (59) MO, IN or KY, (60) CO, NE or KS, (61) CO or NE, (62) CO or NE, (63) CA, (64) MT, WY, UT or CA, (65) IN, (66) NE or KS, (67) NE, (68) NE or KS, (69) NE, (70) MO, (71) NE, (72) NE, (73) NE, (74) NE, (75) NE, (76) NE, (77) NE or IN, (78) NE, (79) NE, (80) NE or KS, (81) NE or KS, (82) NE or KS, (83) NE or KS, (84) NE or IN, (85) IL, (86) IN or KY, (87) MO, (88) NE or KS, (89) NE, (90) MO, (91) NE or KS, (92) NE (93) MO and IA, (94) MO and IA, (95) IN, (96) MO, (97) MO and IN, (98) MO, (99) IN, (100) IN, (101) MO, (102) OH or VA, (103) OH, (104) OH, (105) St. Joseph, MO, (106) LaMirada, CA, (107) Portland, OR, (108) Portland, OR, (109) Portland, OR, (110) Portland, OR, (111) Portland, OR, (112) Portland, OR, (113) Portland, OR, (114) MT, UT or WY and Portland, OR, (115) NE and WY and Portland, OR, (116) WY and Portland, OR, (117) WY and Portland, OR, (118) WY and Portland, OR, (119) UT and Portland, OR, (120) NE or MO, (121) NE, (122) NE, (123) NE, (124) Pierce County, WA, (125) MT and Pierce County, WA, (126) MT and Pierce County, WA. This is a matter directly related to a finance proceeding in MC–F 14421F, International Transport, Inc.—Merger—Dealers Transit, Inc.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26296 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications Decision-Notice

The following applications filed on or after July 3, 1980, seek apporval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g.,

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jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 15, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams (Member Taylor dissents in MC–F 14451, stating that Basye did not join in the application and that Express has not shown itself to be financially fit. The proposed restriction and resulting split of rights may not be approved. Member dissents in MC–F 14452F, stating that it appears that Matthew and Berry Molitch do not own by 26.7 percent of Clark's outstanding common stock while Berry also owns 11.7 percent of the preferred stock. Therefore it would appear that additional stockholders should join in the application.

MC–F–14452F, filed July 29, 1980. CLARK TRANSFER, INC. (Clark) (P.O. Box 190, Burlington, NJ 08016)—PURCHASE—UNTCO, INC. (UNTCO) (850 N. Luzerne Street, Philadelphia, PA 19124). Representatives: David A. Sutherland, 1150 Connecticut Avenue, N.W., Suite 400, Washington, DC 20036 and Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, DC 20036. Clark seeks authority to purchase the interstate operating rights and operating properties of UNTCO. Matthew Molitch and Barry Molitch, who control Clark through stock ownership and management positions, seek authority to acquire control of said rights through the transaction. Clark is purchasing the operating authority contained in UNTCO's certificates in MC–107615 and sub-numbers thereunder and permit MC–148605 (Sub-No. 1), which authorize the transportation over irregular routes of (1) *newspapers, magazines, books, catalogs, pamphlets, periodicals, publications and parts, display stands, news vending machines, advertising materials, premiums, and printing plates,* between Harrisburg, PA, Baltimore, MD, and points in the Philadelphia, PA, commercial zone, Washington, DC, commercial zone, and New York, NY, commercial zone, on the one hand, and, on the other, points in MD, DE, NJ, PA, DC commercial zone, Rockland, Nassau, Westchester, and Suffolk Counties, NY, except that no transportation for compensation shall be performed from North Bergen, Newark, Paterson, Hackensack, Passaic, New Brunswick, Elizabeth, Dunellen, NJ, to points in New York, nor from New York City to points in the four New York Counties named above, (2) *printed matter,* (a) from the facilities of Judd, Inc., at or near Strasburg, VA, to points in DE, MD, NJ, PA, DC, New York, NY, and those points in Rockland, Suffolk, and Westchester Counties, NY, which are not within the limits of the New York, NY, commercial zone, (b) between the facilities of UNTCO, Inc., at Harrisburg, PA, on the one hand, and, on the other, points in WV, (c) between points in NJ and points in Rockland, Westchester, Nassau and Suffolk Counties, NY, and New York, NY, on the one hand, and, on the other, points in WV, (d) between points in VA, on the one hand, and, on the other, New York, NY, points in Rockland, Suffolk and Westchester Counties, NY, and points in DE, MD, NY, PA, and DC, (e) from North Bergen, NJ, and Harrisburg and Lancaster, PA, to points in VA, (f) from Luray, VA, to Wilmington, DE, Baltimore, MD, Newark, NJ, New York, NY, and points in PA, and (g) from East Greenville, PA, to points in DE, MD (except Baltimore), NJ, VA, WV, and those points in Rockland, Suffolk, and Westchester Counties, NY, which are not within the limits of the New York, NY, commercial zone, (3) *printed matter and products, materials and supplies used in the manufacture and production thereof* (except in bulk), between East Greenville, PA, on the one hand, and, on the other, points in MD, DE, NJ, WV, VA, DC, New York, NY, and points in Rockland, Suffolk, and Westchester Counties, NY (except points within the New York, NY commercial zone), (4) *printed matter, materials and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), (1) between Lancaster, PA, on the one hand, and, on the other, points in NY, NJ, PA, WV, MD, DE, VA, NC, SC, GA, FL, and DC, and (2) between points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and DC (restricted to no transportation of paper and paper products from Glen Falls, NY, Fitchburg, MA, Berlin, NH, and Westbrook, MA; to points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT), and (5) *general commodities,* except in bulk, between points in PA, MD, DE, VA, WV, NJ, CT, DC, and New York, NY, and points in Westchester, Nassau and Suffolk Counties, NY, restricted to the transportation of shipments having a prior or subsequent movement by water or air, under a continuing contract or contracts with Caribbean Worldwide, Inc. Clark is a motor common carrier pursuant to authority issued in MC 116859 and sub-numbers thereunder. Condition: Applicants have advised that certain UNTCO authority purported being acquired by Clark is involved in pending proceeding where certificates or permits have not yet been issued. Such unissued authority is not subject to transfer. Therefore, if those certificates or permits have not been issued to UNTCO prior to consummation of this proceeding, Clark must request substitution into these proceedings in lieu of UNTCO. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—An application for temporary authority has been filed.

MC–F–14451F, filed July 29, 1980. DIXIE EXPRESS, INC., (Dixie) (P.O. Box 7098, 1270 Hilbish Avenue, Akron, OH 44306)—PURCHASE (PORTION)—DIXIE EXPRESS, INC., (Dixie Express) (66 South Miller Road, Akron, OH 44313). Representative: John P. McMahon, 100 E Broad Street, Columbus, OH 43215. Dixie seeks authority to purchase a portion of the interstate operating rights of Dixie Express. Basye and Associates, Inc., a non-carrier, who controls Dixie through 100% stock ownership, seek authority to acquire control of said rights through the transaction. Dixie is purchasing that portion of the operating authority contained in MC 123956 and (Sub-Nos. 1, 2, 4, 5G, and 7), which authorizes the transportation as a common carrier, 1. over regular routes, in transporting (a) carpeting, between Cincinnati, OH, and

Cordele, GA, serving the intermediate points of Atlanta, Griffin, and Macon, GA, and the off-route points of Columbus, Albany, and Rome, GA; from Cincinnati over U.S. Hwy 25 to Lexington, KY, then over U.S. Hwy 27 to Chattanooga, TN, then over U.S. Hwy 41 via Atlanta, GA, to Cordele, and return over the same route, (b) *white, red, and sublime lead, litharge, zinc oxide, lithapone, pig ingot and bar lead, lead pipe and fittings, lead roof flanges, solder, babbitt, base metal alloy, and pig tin,* from Cincinnati, OH, to points in that part of GA specified immediately below, serving no intermediate points on the following regular routes; from Cincinnati over U.S. Hwy 25 to Lexington, KY, then over U.S. Hwy 27 to Chattanooga, TN, then over U.S. Hwy 41 to the TN–GA state line, and then over irregular routes to points in that part of GA on and west of a line beginning at a point on the NC–GA state line near Dillard, GA, and extending along GA Hwy 15 to Dublin, GA, then along GA Hwy 31 to junction U.S. Hwy 129, and then along U.S. Hwy 129 to the GA–FL state line, including points in GA on the indicated portions of the hwys specified; and return over irregular routes to the GA–TN state line, then over the above-specified regular route to Cincinnati, 2. over irregular routes, transporting (a) *such commodities* as are manufactured, processed or dealt in by rubber or rubber-products manufacturers, including supplies incidental to the conduct of such business (except commodities in bulk) (1) from Newark, OH, to points in AL, GA, and TN, and (2) from Akron, OH, to Knoxville, Chattanooga, and Nashville, TN, and points in AL and GA, (b) *rejected shipments* of the commodities specified immediately above, from points in AL, GA (except Atlanta), and TN, to Newark, OH, (c) *returned or rejected shipments* of such commodities as are manufactured, processed, or dealt in by rubber or rubber products manufacturers, and *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), from Atlanta, GA, to Newark, OH, (d) *materials* used in the manufacture of rubber products, and *returned or rejected shipments* of such commodities as are manufactured, processed, or dealt in by rubber or rubber-products manufacturers, including supplies incidental to the conduct of such business, (except commodities in bulk) from Knoxville, Chattanooga, and Nashville, TN, and points in AL and GA, to Akron, OH, (e) *such commodities* as are manufactured, processed, or dealt in by rubber and rubber-products manufacturers, and supplies used in the conduct of such businesses, (except in bulk) (1) from Akron, OH, to Jackson, Laurel, Meridian, and Columbus, MS, and (2) from Mansfield, OH, to Nashville, Knoxville, and Chattanooga, TN, and points in AL and GA, (f) *rejected articles and empty used containers,* from the destination points specified in the two paragraphs next above, to their respective origin points, (g) *equipment, materials, and supplies* used in the conduct of such businesses as specified above (except textiles and textile products and commodities in bulk), (1) from Jackson, Laurel, Meridian, and Columbus, MS, to Akron, OH, and (2) from Nashville, Knoxville, and Chattanooga, TN, and points in AL and GA, to Mansfield, OH, (h) *rejected articles and empty used containers,* from the destination points specified in the two paragraphs next above, to their respective origin points, (i) *textiles and textile products,* (1) from points in that part of GA on and north of U.S. Hwy 80 from Columbus to Macon and on and west of U.S. Hwy 129 from Macon to the GA–NC state line, to Mansfield, OH, and (2) from Tallassee, AL, and points in that parts of GA on and north of U.S. Hwy 80 from Columbus to Macon and on and west of U.S. Hwy 129 from Macon to the GA–NC state line, to Newark, OH, (j) *rejected articles and empty used containers,* from the destination points specified in the two paragraphs next above, to their respective origin points.

(k) *machinery* used in the manufacture of rubber products, between Kent, OH, on the one hand, and, on the other, Knoxville, Chattanooga, and Nashville, TN, Jackson, Laurel, Meridian, and Columbus, MS, and points in AL and GA, (Sub-No. 1) transporting (a) *such commodities* as are usually manufactured processed, or dealt in by rubber and rubber products manufacturers, and empty textile cones, (except commodities in bulk) from Akron, OH, to points in TN, and (b) returned or rejected shipments of the commodities specified above, from points in TN to Akron, OH, restricted to shipments are limited to those moving from, to, or between facilities of rubber product manufactures, (Sub-No. 2) transporting (a) *rubber products,* (except in bulk), from the plant site of B.F. Goodrich Company, approximately 13 miles east of Fort Wayne, IN, in Milan Township, Allen County, IN, to points in AL, GA, and TN, and to Columbus, Jackson, Laurel, and Meridian, MS, and (b) *equipment, materials, and supplies* used in the manufacture of rubber products, from points in AL, GA, and TN, and from Columbus, Jackson, Laurel, and Meridian, MS, to the said plant site, restricted against the transportation of chemicals, in bulk, in tank vehicles, from Knoxville, TN, to said plant site, (Sub-No. 3) *tires, tubes, flaps, and tire tread stock,* from Meridian, OH, to points in GA, AL, and TN, (Sub-No. 4) (a) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, air-conditioning and heating equipment, building materials, contractors' equipment, structural steel, lumber, concrete blocks, concrete sewer pipe, tar and asphalt, machinery and implements, and musical instruments), between Cincinnati, OH (except those points in KY within the Cincinnati, OH, commerical zone, on the one hand and, on the other, points in OH, and (b) *general commodities,* usual exceptions, between Arkon, OH, and points within 5 miles of Akron, on the one hand, and, on the other, points in OH, (Sub-5G), (a) *such commodities* as are usually manufactured, processed, or dealt in by rubber and rubber-products and *empty textile cones,* (except commodities in bulk) from points in OH, to points in TN, restricted to shipments moving from, to, or between facilities of rubber products manufacturers, (b) *such commodities* as are manufactured, processed, or dealt in by rubber-products manufacturers, including supplies incidential to or used in the conduct of such business, (except commodities in bulk) from points in OH, to Knoxville, Chattanooga and Nashville, TN, and points in AL and GA, and (c) *materials, equipment and supplies* (except in bulk) used in the manufacture of rubber products, from Knoxville, Chattanooga and Nashville, TN, and points in AL and GA, to points in OH, and (Sub-No. 7) *materials* used in the manufacture of rubber products, and *returned shipments* of such commodities as are manufactured, processed, or dealt in by rubber products manufactures, and *supplies* used in the conduct of such businesses (except commodities in bulk, in tank vehicles), from the facilities of Firestone Tire and Rubber Co., in Davidson and Rutherford Counties, TN, to points in OH. Dixie Express is retaining authority from MC–123956 to transport (a) *such bulk commodities* as are manufactured, processed, or dealt in by rubber or rubber-products manufacturers, including bulk supplies incidential to the conduct of such business, (1) from Newark, OH, to points in AL, CA, and TN, and (2) from Akron, OH, to knoxville, Chattanooga, and

Nashville, TN, and points in AL and GA, (b) *rejected shipments* of the commodities specifically immediately above, from points in AL, GA (except Atlanta), and TN, and Newark, OH, (c) *returned or rejected shipments of such bulk commodities* as are manufactured, processed, or dealt in by rubber or rubber products manufacturers, and *bulk materials, and supplies* used in the conduct of such businesses, from Atlanta, GA, to Newark, OH, (d) *bulk materials* used in the manufacture of rubber products, and *returned or rejected shipments* of such bulk commodities as are manufactured, processed, or dealt in by rubber or rubber-products manufacturers, including bulk supplies incidental to the conduct of such businesses, from Knoxville, Chattanooga, and Nashville, TN, and points in AL and GA, to Akron, OH, (e) *such bulk commodities* as are manufactured, processed, or dealt in by rubber and rubber-products manufacturers, and *bulk supplies* used in the conduct of such businesses, (a) from Akron, OH, to Jackson, Laurel, Meridian, and Columbus, MS, and (b) from Mansfield, OH, to Nashville, Knoxville, and Chattanooga, TN, and points in AL and GA, and (f) *bulk materials and supplies* used in the conduct of such businesses as specified above (except textiles and textiles products), (1) from Jackson, Laurel, Meridian, and Columbus, MS, to Akron, OH, and (2) from Nashville, Knoxville, and Chattanooga, TN, and points in AL and GA, to Mansfield, OH from (Sub-No. 1) to transport (a) *such bulk* commodities as are usually manufactured, processed, or dealt in by rubber and rubber products manufacturers, from Akron, OH, to points in TN, and (b) *returned or rejected shipments* of the commodities specified above, from points in TN to Akron, OH, shipments are limited to those moving from, to, or between facilities of rubber products manufacturers, from (Sub-No. 2) to transport (a) *bulk rubber products*, from the plant site of B.F. Goodrich Company, approximately 13 miles east of Fort Wayne, IN, in Milan Township, Allen County, IN, to points in AL, GA, and TN, and to Columbus, Jackson, Laurel, and Meridian, MS, (b) *bulk materials and materials* used in the manufacture of rubber products, from point in AL, GA, and TN, and from Columbus, Jackson, Laurel, and Meridian, MS, to said plant site, restricted against the transportation of chemicals, in bulk, in tank vehicles, from Knoxville, TN to said plant site, (Sub-No. 5–G) to transport (a) *such bulk commodities* as are usually manufactured, processed or dealt in by rubber and rubber-products, from points in OH, to points in TN, restricted to shipments moving from, to, or between facilities of rubber products manufacturers, and (b) *bulk commodities* as are manufactured, processed, or dealt in by rubber or rubber-products manufacturers, including supplies incidential to or used in the conducts of such businesses, from points in OH, to Knoxville, Chattanooga, and Nashville, TN, and points in AL and GA, and (c) *bulk materials and supplies* used in the manufacture of rubber products, from Knoxville, Chattanooga and Nashville, TN, and points in AL and GA, to points in OH. Dixie holds no authority from the Interstate Commerce Commission. Basye and Associates, Inc., who controls Dixie, also controls Priority Freight System, Inc. through 100% of capital stock, a motor common carrier operating under certificate of public convenience and necessity No. MC 136277. Condition: Bayse and Associates, Inc., the sole stockholder of Dixie, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized, Bayse and Associates, Inc., will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will be therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Columbus, OH.)

Note.—An application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26291 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questons involving possible unlawful control, or improper divisions of operationg rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 19, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-F-14456F, filed August 8, 1980. E. I. KANE, INC. (Kane) (4546 Annapolis Road, Baltimore, MD 21227)—continuance in control—INTERMODAL TRANSPORT, INC. (Intermodal) (4546 Annapolis Road, Baltimore, MD 21227). Representative: Robert H. Shertz, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Kane seeks to continue in control Intermodal upon the institution by Intermodal of operations, in interstate or foreign commerce, as a motor common carrier. Eugene I. Kane, the sole stockholder of Kane, seeks authority to acquire control of said rights through the transaction. Kane is a motor common carrier pursuant to a certificate issued in No. MC-34479 which authorizes the transportation of general and specified commodities, over regular and irregular routes, in MD, VA, and DC. (Hearing site: Washington, DC, or Baltimore, MD.)

Note.—Intermodal has filed as a directly related application its initial common carrier application. This application, docketed No. MC-151512F is published in this same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

MC 151512F, filed August 8, 1980. Applicant: INTERMODAL TRANSPORT, INC., 4546 Annapolis Road, Baltimore, MD 21227. Representative: Robert H. Shertz, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *containers, container chassis, trailers,* and *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), having a prior or subsequent movement by water or rail, between Alexandria, Arlington, Charlottesville, Colonial Heights, Culpepper, Falls Church, Farmville, Fredericksburg, Front Royal, Hampton, Harrisonburg, Hopewell, Leesburg, Manassas, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, Suffolk, Vienna, Warrenton, Waynesboro, Williamsburg, and Winchester, VA, and points in Accomack, Albermarle, Arlington, Caroline, Charles City, Chesterfield, Clarke, Culpepper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Hanover, Henrico, Isle of Wright, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Madison, Matthews, Middlesex, New Kent, Northampton, Northumberland, Orange, Page, Prince Edward, Prince George, Prince William, Powhatan, Rappahannock, Richmond, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York Counties, VA, Adams, Berks, Bedford, Blair, Bucks, Cambria, Carbon, Centre, Chester, Clearfield, Clinton, Cumberland, Dauphin, Delaware, Franklin, Bulton, Juniata, Lancaster, Lebanon, Lehigh, Montgomery, Northumberland, Perry, Philadelphia, Snyder, Your, and Union Counties, PA, Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties, NJ, DE, MD, and DC. (Hearing site: Washington, DC, and Baltimore, MD.)

Notes.—(1) This application is directly related to MC-F-14456F, published in this same **Federal Register** issue. (2) Part of the authority sought in this application, containers, container chassis, and trailers, and general commodities, usual exceptions, between points in MD, duplicates the authority presently held by E. I. Kane, Inc., an affiliated company, "between points in the Baltimore, MD, commercial zone. We find these duplications to be deminimus.

Agatha L. Mergenovich,

Secretary.

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Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 21, 1980.

By the Commission, Review Board Number 5, Member Krock, Taylor and Williams. (In MC-F-14406 Member Taylor voted to publish with an impediment that duplications between authority to be sold and that retained by Maislin in MC-60580 (Sub-26 and 36).

MC-F-14436F, filed June 6, 1980. MAISLIN TRANSPORT OF DELAWARE, INC. (Delaware) (7401 Newman Blvd., LaSalle, Québec, Canada H8N 1X4)—Control—QUINN FREIGHT LINES, INC. (Quinn) (1093 North Montello Street, Brockton, MA 02403). Representatives: A David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006, and Frank J. Weiner, 15 Court Square, Boston, MA 02108. Delaware seeks to acquire control of Quinn through the purchase by Delaware of all the issued and outstanding capital stock of Quinn. Maislin Transport, Ltd., of LaSalle, Quebec, Canada, the sole stockholder of Delaware, and, in turn, Maislin Industries, Ltd., a non-carrier holding company of LaSalle, Quebec, Canada, and the sole stockholder of Maislin Transport, Ltd., seek to acquire control of Quinn through the transaction. Quinn is a motor common carrier pursuant to authority issued in Certificates in MC-4941 and sub-numbers thereunder which authorize the transportation, in interstate or foreign commerce, of numerous general commodities in MA, ME, VT, NH, RI, CT, NY, PA, NJ, MD, VA, and DC, and specified commodities throughout the United States. Delaware is a motor common carrier pursuant to authority issued in Certificates in MC-60580 and sub-numbers thereunder, which authorize the transportation of general and specified commodities, over regular and irregular routes, in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. Maislin Transport, Ltd., is a motor common carrier pursuant to authority issued in Certificates in MC-108006 and sub-numbers thereunder, which authorize the transportation of general and specified commodities, over regular and irregular routes, in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. Impediments: (1) Inasmuch as the securities to be issued fall within the meaning of 49 U.S.C. 11302, application should be filed for approval to issue securities under that section. (2) Applicants state that duplicating operating rights will exist and that they plan to sell those duplicating rights prior to consummation of this transaction. Applicants must identify, in writing and in detail, all such duplications.

Note.—Application for temporary authority has been filed.

MC-F-14429F, filed June 12, 1980. RYDER TRUCK LINES, LTD. Ryder (2600 York Centre, 145 Kings Street West, Toronto, Ontario, Canada M5H 3K4)-PURCHASE-RELIABLE TRANSPORT (U.S.) Limited (Reliable) (64 Mackenaw Street, Buffalo, NY 14202). Representative: Roland Rice, 501 Perpetual Building, 1111 E Street, NW., Washington, DC 20004. Ryder seeks to acquire all of the operating rights held by Reliable in No. MC-52214 and Sub-No. 1 thereunder, authorizing the transportation, in interstate or foreign commerce, of general commodities (with the usual exceptions), over regular routes, (1) between Buffalo, NY and the port of entry on the International Boundary line between the United States and Canada at Buffalo, NY and (2) between Rochester, NY and Buffalo, NY as follows: from Rochester over New York Hwy. 33 to Mumford, NY, then over New York Hwy. 36 to Caledonia, and then over New York Hwy. 5 to

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Buffalo and return over the same route, serving all intermediate points and the following off-route points of Oakfield, Elba, Akron, Byron, Bergen, South Alabama, Roanoke, Morganville, Langton Corners, Industry, Indian Falls, East Bethany, Clarence Center, Chili Station, Chili Center, Byron Center, and Basin, NY. By the same application, Ryder Truck Line, Inc., the parent of purchaser, and in turn I.U. Transportation Services, Inc., which controls Ryder Truck Line, Inc., and again in turn I.U. International Corporation, which controls I.U. Transportation Services, Inc. seek authority under the same section to acquire control of the said operating rights through the transaction. Ryder is ■ newly formed corporation and at present holds no operating authority.

Note.—Impediment: The authority sought to be purchased duplicates in part that held by Ryder's parent, Ryder Truck Lines, Inc. (RTL).

RTL holds authority in No. MC-2900 (Sub-No. 191) to transport general commodities (with the usual exceptions), over New York Hwy. 33 between Rochester and Buffalo, NY. This route duplicates the route sought to be purchased in No. MC-52214, authorizing the transportation of general commodities (with exceptions) between Rochester and Buffalo, NY over New York Hwy. 33, serving all intermediate points and named off-route points. In addition, RTL holds authority in No. MC-2900 (Sub-No. 242) to transport general commodities (with the usual exceptions), over regular routes (1) between Buffalo and Betaviz, NY, over New York Hwy. 33 serving all intermediate points; this duplicates in part the route in No. MC-52214 between Rochester and Buffalo over New York Hwy. 33, (2) between Buffalo and the junction of New York Hwys. 5 and 93 over New York Hwy. 5, serving named intermediate points; this duplicates in part the route sought to be purchased in No. MC-52214, which authorizes the transportation of general commodities (with the usual exceptions) between Buffalo and Rochester using, over part of the route, New York Hwy. 5 and (3) between Buffalo and the junction of New York Hwys. 33 and 78, over New York Hwy. 33; this duplicates in part the route sought to be purchased in No. MC-52214 between Buffalo and Rochester over New York Hwy. 33. The holding of such duplicating authority by carriers under common control is prohibited by 49 CFR 1134.53.

MC-F-14383F, filed April 28, 1980. CLEAR WATER TRUCK COMPANY, INC., (Clear Water) (9101 North West Street, Valley Center, KS 67148)—Purchase (Portion)—REFRIGERATED FOODS, INC. (Refrigerated Foods) (1420 33rd Street, P.O. Box 1018, Denver, CO 80201). Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501). Clear Water seeks to purchase ■ portion of the interstate operating rights of Refrigerated Foods. By the same application, Claude A. Hayster and Rosann Hayster, of Valley Center, KS who control Clear Water through stock ownership, seek authority to acquire control of the subject operating rights through the transaction. Clear Water is purchasing (1) a portion of the interstate operating rights acquired by Refrigerated Foods in No. MC-F-13651, *Refrigerated Lines, Inc.*, decision of Review Board Number 5, dated November 2, 1978, certificates not yet issued in Refrigerated Foods' name, but described as No. MC-134068 (Sub-Nos. 5 and 30), authorizing the transportation, as a motor common carrier, over irregular routes of (a) *canned goods*, from the plantsite of Bryan Bros. Packing Co., located near West Point, MS, to points in WA, OR, CA, NV, AZ, UT, and CO and points in that part of KS on and west of U.S. Hwy 75, and (b) *children's wheel goods* and *children's gymnasium apparatus*, from Olney, IL to points in AZ, CA, DO, ID, MT, NV, NM, OR, TX, UT, WA and WY and (2) ■ portion of that authority acquired by Refrigerated Foods in No. MC-F-13271, *Refrigerated Foods, Inc.,—Purchase—Fast Freightways, Inc.*, initial decision dated May 29, 1978 and made effective by notice dated August 14, 1978, authority not yet issued in Refrigerated Foods' name, but described as a portion of No. MC-118207, authorizing the transportation, as motor common carrier, over irregular routes, of (a) *frozen fruits, frozen berries, and frozen vegtables*, from Watsonville, CA and points in Oregon, to Hutchinson, KS, (b) *frozen juices*, from Portland, OR, to Hutchinson, KS, and (c) *frozen potato products*, from Portland and Ontario, OR, to Hutchinson, KS. Clear Water is authorized to operate pursuant to Certificate No. MC-134966 and Permit No. 127304 and subnumber thereunder. The common carrier authority involves the transportation of motorcycles, over irregular routes, from Los Angeles and Long Beach, CA to points in KS, except the Kansas City commercial zone. The contract carrier authority involves the transportation of (1) *fluorohydrocarbons*, from Wichita, KS, to points in the conterminous United States and *new containers*, in the reverse direction and 92) meats, meat products, and meat byproducts, and articles distributed by meat packinghouses, as described in Section A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between various points in the United States. This authority subsumes that portion of the authority acquired by Refrigerated Foods, Inc. in No. MC-F-132271, *Refrigerated Foods, Inc.—Purchase—Fast Freightways, Inc.*, initial decision dated May 29, 1978, which authorizes, as pertinent, the transportation of frozen fruits, frozen berries, and frozen vegetables, from points in Oregon to Hutchinson, KS. (Hearing site: Wichita, KS).

Note.— (a) Impediment: Transferor seeks to retain authority in No. MC-134068 (Sub-No. 31) authorizing as pertinent, the transportation of *foodstuffs* (except in bulk), over irregular routes, from points in Oregon to points in Kansas.

MC-F-14406F, filed June 2, 1980. SCOTT & DAVIS MOTOR EXPRESS, INC. (Stott) (18 Garfield Street, Auburn, NY 13021)—Purchase (Portion)—MAISLIN TRANSPORT OF DELAWARE, INC. (Maislin) (7401 Newman Boulevard, LaSalle, Quebec Canada H8N 1X4). Representatives: Martin Werner, 888 7th Avenue, New York, NY 10019 and A. David Millner, 167 Fairfield Rd. P.O. Box 1409, Fairfield, NJ 07006. Stott seeks authority to purchase a portion of Maislin's operating rights. Jack N. Davis and Lillian D. Ellis, who control Stott through stock ownership, seek to acquire control of said rights through this transaction. Stott is purchasing those portions of the interstate operating rights contained in Maislin's certificate No. MC-60580 (Sub-No. 27) which authorized the transportation of *general commodities*, usual exceptions, over regular routes, (1) between Syracuse, NY, and Albany, NY, serving all intermediate points, and the off-route points of Fort Plain, Canajoharie, Fultonville, Sprakers, Johnstown, and Gloversville, NY; from Syracuse over NY Hwy 5, (2) between Utica, NY, and Herkimer, NY, serving all intermediate points; from Utica over NY Hwy 5S to Mohawk, NY, then over NY Hwy 28 to Herkimer, and return over the same route, (3) between Schenectady, NY, and Albany, NY, serving all intermediate points, and the off-route points of Cohoes and Waterford, NY; from Schenectady over NY Hwy 7 to Troy, NY, then over U.S. Hwy 4 to junction NY Hwy 43, then over NY Hwy 43 to Albany, and return over the same route, and (4) between Utica, NY, and junction NY Hwy 365 and 5, serving all intermediate points; from Utica over NY Hwy 69 to Rome, NY, then over NY Hwy 365 to junction NY Hwy 5, and return over the same route. Maislin is retaining the following authority from its Sub-No. 27 certificate authorizing the transportation of *general commodities*, usual exceptions, over regular routes, (1) between Fulton, NY, and Syracuse, NY, over NY Hwy 57, (2) between Albany, NY, and New York, NY; from Albany over U.S. Hwy 9W to Catskill, NY, then over U.S. Hwy 9W to Newburgh, NY, then over NY Hwy 32 to junction NY Hwy 17 near Harriman, NY, then over NY Hwy 17 to the NY–NJ state line, then over NJ Hwy 17 to Newark, NJ, then over Truck U.S. Hwy 1 to Jersey City, NJ, then through the Holland Tunnel to New York, and return over the same route, (3) between Palantine Bridge, NY, and Catskill, NY, as an alternate route for operating convenience only, serving no intermediate points or Catskill, NY; from Palatine Bridge over NY Hwy 10 to Canajoharie, NY, then over NY Hwy 5S to Sprakers, NY, then over NY Hwy 162 to Sloansville, NY, then over NY Hwy 30A via Central Bridge, NY, to junction NY Hwy 7, then over NY Hwy 7 to junction NY Hwy 30, then over NY Hwy 30 to Middleburg, NY, then over NY Hwy 145 to Catskill, and return over the same route; (4) between Rochester, NY, and Fulton, NY, serving all intermediate points, and off-route points between Rochester and Fulton, NY, bounded on the north by Lake Ontario, on the east by NY Hwy 57, and on the south and west by NY Hwy 31 including points on the indicated portions of the hwys specified; (a) from Rochester over U.S. Hwy 104 to Oswego, NY, then over NY Hwy 57 to Fulton, and return over the same route, (b) from Rochester over U.S. Hwy 104 to Red Creek, NY, then over NY Hwy 104A to junction U.S. Hwy 104, then over U.S. Hwy 104 to Oswego, NY, then over NY Hwy 48 to Fulton, and (c) return from Fulton over NY Hwy 3 to junction U.S. Hwy 104, then over U.S. Hwy 104 to Rochester, (5) between Buffalo, NY, and Rochester, NY, serving all intermediate points, and the off-route points of East Pembroke, Elba, South Bryon, Clarendon, and Bergen, NY; from Buffalo over NY hwy 33 to Rochester, and return over the same route, (6) between Batavia, NY, and Rochester, NY, serving the intermediate points of stafford, Le Ray, Calendonia, and Avon, NY, and the off-route points of Mumford, NY; (a) from Batavia over NY Hwy 33 to junction NY Hwy 33A, then over NY Hwy 33A to Rochester, and return over the same route, and (b) from Batavia over NY Hwy 5 to East Avon, NY, then over NY Hwy 15 to Rochester, and return over the same route, (7) between Albion, NY, and Buffalo, NY, serving all intermediate points and the off-route points of Ashwood, Eagle Harbor, Kendall, Millers and West Kendall (Orleans County), NY; (a) from Albion over NY Hwy 279 to Waterport, NY, then over unnumbered county road to Lyndonville, NY, then over NY Hwy 63 to Medina, NY, then over NY Hwy 31 to Lockport, NY, then over NY Hwy 78 to junction NY Hwy 263, then over NY Hwy 263 to Buffalo, and return over the same route, (b) from Buffalo over NY Hwy 263 to junction NY Hwy 78, then over NY Hwy 78 via Lockport, NY, to Olcott, NY, then over NY Hwy 18 to Sommerset, NY, then over unnumbered county road to junction U.S. Hwy 104, then over U.S. Hwy 104 to Hartland, NY, then over unnumbered county road to Gasport, NY, then over NY Hwy 31 to Medina, NY, then over NY Hwy 63 to Lyndonville, NY, then over unnumbered county road to Waterport, NY, then over NY Hwy 279 to junction NY Hwy 98, then over NY Hwy 98 to Albion, and return over the same route. Irregular routes: (1) *general commodities*, usual exceptions, between New York, NY, on the one hand, and, on the other, points in Bergen, Passaic, Essex, Morris, Hudson, Union, Middlesex, Monmouth, and Somerset Counties, NJ, (2) *general commodities*, (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) from New York, NY, and Newark, NJ, and points in that part of NJ within 30 miles of Newark, to points in that part of NY east and north of a line beginning at Lake Ontario and extending in a southerly direction along NY Hwy 57 to Syracuse, then along U.S. Hwy 11 to Binghamton, then in a northeasterly direction along NY Hwy 7 to junction U.S. Hwy 20, then in a southeasterly direction along U.S. Hwy 20 to the NY–MA state line, including points on the indicated portions of the hwys specified (except points in Jefferson, Lewis, Franklin, St. Lawrence, Clinton, Essex, Hamilton, Warren, Saratoga, and Washington, Counties, NY). (b) from Syracuse, NY, to New York, NY, and Newark, NJ, and points in NJ within 30 miles of Newark, (3) *cheese* (except in bulk), from Rome and Alfred Station, NY, to Pittsburgh, East Stroudsburg, Stroudsburg, Scranton, Harrisburg, Wilkes-Barre, Allentown, Easton, Reading, Hazleton, PA, Providence, Woonsocket and Pawtucket, RI, Portland, ME, and points in CT, (4) *empty oil drums*, from points in that part of NY on and east of a line beginning at Oswego and extending along NY Hwy 57 to Syracuse, then along U.S. Hwy 11 to the NY-PA state line, (except Syracuse, and points in Jefferson, Lewis, Franklin, St. Lawrence, Clinton, Essex, Hamilton, Warren, Saratoga, and Washington, Counties, NY) to Sewaren and Rutherford, NJ, (5) *cheese, and supplies and equipment* used in the manufacture of cheese, (except commodities in bulk, (a) from South Edmeston, NY, to Boston, Cambridge, and Springfield, MA, Providence, RI, Hartford, and Berlin, CT, and Bangor, ME, (b) from Rome and Alfred Station, NY, to Philadelphia, PA, New York, NY, Newark, NJ, and ponts in NJ within 30 miles of Newark, and Boston, Cambridge, and Springfield, MA, and (6) *used empty containers, pallets, skids, and cores*, (a) from points in that part of NY (except points in Jefferson, Lewis, Franklin, St. Lawrence, Clinton, Essex, Hamilton, Warren, Saratoga, and Washington Counties, NY) east and north of a line beginning at Lake Ontario and extending in a southerly direction along NY Hwy 7 to junction U.S. Hwy 20 then in a southeasterly direction along U.S. Hwy 20 to the NY-MA state line, including points on the indicated portions of hwys specified, to New York, NY, Newark, NJ, and points in NJ within 30 miles of Newark, (b) from Philadelphia, Pittsburgh, Stroudsburg, East Stroudsburg, Scranton, Harrisburg, Wilkes-Barre, Allentown, Easton, Reading, and Hazleton, PA, Providence, Woonsocket, and Pawtucket, RI, and points in CT, (c) from Boston, Cambridge, and Springfield, MA, Providence, RI, Hartford and Berlin, CT, and Bangor, ME, to South Edmeston, NY, (d) from New York, NY, Newark, NJ, and points in NJ within 30 miles of Newark, to Alfred Station, NY, (e) from Portland, ME, and Boston, Cambridge and Springfield, MA, to Rome and Alfred Station, NY. Stott is a motor common carrier of commodities between points in NY, pursuant to authority issued in certificate No. MC–99569 and subnumbers thereunder. (Hearing site: Syracuse, NY.)

MC–F—14410F, filed June 3, 1980. ST. JOHNSBURY TRUCKING COMPANY, INC. (St. Johnsbury) (87 Jeffrey Avenue, Holliston, MA 01746)—Purchase (Portion)—GATEWAY TRANSPORTATION CO., INC. (Gateway) (455 Park Plaza Drive, La Crosse, WI 54601). Representatives: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006 and Harry J. Jordan, Suite 502 Solar Building, 1000 16th Street, N.W., Washington, DC 20036. St Johnsbury seeks to purchase a portion of the interstate operating rights of Gateway. S.J.T., Inc. which controls St. Johnsbury through ownership of all of its capital stock and Sun Carriers, Inc. which in turn owns approximately 80 percent of the capital stock of S.J.T., Inc., and in turn Sun Company, Inc., which owns 100 percent of the outstanding stock of Sun Carriers, Inc. St. Johnsbury is purchasing those portions of the interstate operating rights contained in Gateway's certificate issued in MC-80430 (Sub-No. 132), which authorizes the transportation, as a motor common carrier as follows: *general commodities*, usual exceptions, (1) between Pittsburgh, PA, and New York, NY; from Pittsburgh over U.S. Hwy 22 to Harrisburg, PA, then over U.S. Hwy 422 to Philadelphia, PA, then across the Delaware River to Camden, NJ, then over U.S. Hwy 130 to junction U.S. Hwy 206, then over U.S. Hwy 206 to Trenton, NJ, and then over U.S. Hwy 1 to New York, and return over the same route. Service is authorized to and from the intermediate points on U.S. Hwy 22, between Ebensbury and Pittsburgh, including Ebensburg, and those in NJ. Service is authorized to and from off-route points of Butler, Altoona, and Johnstown, PA, points in that part of PA bounded by a line beginning at New Alexandia, PA, and extending along U.S. Hwy 119 to Uniontown, PA, then along U.S. Hwy 40 to junction PA Hwy 18, then along PA Hwy 18 to Florence, PA, and then along U.S. Hwy 22 to the point of beginning, those on or within 1 mile of the Ohio River between Pittsburgh and Aliquippa, PA, including Aliquippa, and those on or within 1 mile of the Allegheny River between Pittsburgh and Brackenridge, PA, including Brackenbridge and those on Long Island, NY, west of NY Hwy 110, including points on the indicated portions of the Hwys specified; from Pittsburgh, PA, to Boston, MA, serving the intermediate and off-route points of Bridgeport, New Haven, and New Britain, CT, Providence, RI, and those in PA, NJ, and NY specified above; from Pittsburgh over the above described routes to New York, NY, and then over U.S. Hwy 1 to Boston, and return over the same route. St. Johnsbury is a motor common carrier of general commodities serving the New England states, NY, NJ, and parts of PA and DE, pursuant to certificate No. MC-108473 and sub-numbers thereunder. Sun Company and Sun Carriers commonly control Milne Truck Lines, Inc., of Salt Lake City, UT operating under docket No. MC-44605 and sub-numbers thereunder, Jones Truck Lines, Inc. of Springdale, AR operating under docket No. MC-11123 and sub-numbers thereunder, and St. Johnsbury. Condition: S.J.T., a non-carrier which directly controls St. Johnsbury and in turn Sun Carriers, Inc., also a non-carrier shall continue to be deemed a carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV, subject to subchapter III of chapter 111 relating to reporting and accounting, and 49 U.S.C. 11302 relating to the issuance of securities. Impediment: Duplicating authority exists between what Gateway is selling and what authority they are retaining, from Pittsburgh over U.S. Hwy 22 to Harrisburg, and from Philadelphia over U.S. Hwy 1 to New York.

Note.—An application for temporary authority has been filed. (Hearing site: Washington, DC.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26292 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

[No. 37474]

Railroad Freight Rates and Charges; Kentucky Intrastate Freight Rates and Charges on Coal

Decided: August 21, 1980.

By a petition filed July 14, 1980 the Chesapeake and Ohio Railway Company (C&O or petitioner), requests an investigation of Kentucky intrastate freight rates and charges on coal, limestone, liquified petroleum gas, and common lime (commodities), under 49 U.S.C. 11501. Petitioner seeks an order directing that the rates and charges for the intrastate transportation of these commodities be increased upon one day's notice in the same amounts approved for interstate and foreign application by this Commission in Ex Parte No. 357-A and Ex Parte No. 368-A.

Petitioner has stated grounds sufficient to warrant instituting an investigation. The C&O states that it filed an application on December 15, 1978 with the Kentucky Railroad Commission (KRC) to apply the rate increases authorized in Ex Parte No. 357-A to the Kentucky intrastate rates. A lesser increase than that sought was granted by the KRC on September 12, 1979. On August 24, 1979 petitioner filed an application with the KRC to apply the rate increases authorized in Ex Parte No. 368-A to the Kentucky intrastate rates. On March 24, 1980 the KRC auhorized a leaser increase than that sought.

In this investigation under 49 U.S.C. 11501 we will consider whether the Kentucky intrastate rail freight rates, for the above named commodities, cause unjust discrimination against or impose a burden upon interstate or foreign commerce or cause undue or unreasonable advantage, preference or prejudice between persons or localities in intrastate commerce and in interstate and foreign commerce due to the failure to apply to the intrastate traffic of the petitioning railroads the increases authorized by the Commission in Ex Parte No. 357-A and 368-A. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

Persons who wish to participate in this proceeding and to file and receive copies of pleadings must notify the Commission (Room 5340) within fifteen days. Persons with common interests are encouraged to consolidate their presentations.

As soon as possible after the final date for submitting notices of participation in this proceeding, we will serve a list of names and addresses upon all persons designated for service of the pleadings. The proceedings will then be assigned for oral hearing or for modified procedure.

A copy of this decision shall be served upon the petitioner, and copies shall be sent by certified mail to the Kentucky Railroad Commission and the Governor of Kentucky. Further public notice shall be made by depositing a copy of this decision in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and to the Director, Office of the Federal Register, for publication therein.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26294 Filed 8-27-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5, U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Wednesday, September 24, 1980, 9:00 a.m., at the Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006.

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The Commission will consider domestic procedures for implementation of the Convention, applications for international trade in species protected by the Convention, and miscellaneous business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Washington, D.C. 20240, telephone 202/343-7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., September 22, 1980.

Dated: August 25, 1980.

William Y. Brown,

Executive Secretary, International Convention Advisory Commission.

[FR Doc. 80-26400 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-68-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 136]

Delegation of Authority; Controller, AID

Pursuant to the authority delegated to me by TDP Delegation of Authority No. 2 of July 23, 1980, I hereby delegate all authorities delegated to me by the aforesaid delegation to the Controller, AID.

Authorities delegated herein may be exercised by the person who is performing the functions of the AID Controller in an acting capacity.

This delegation of authority shall be deemed effective as of July 1, 1980, and actions within the scope of this delegation undertaken prior hereto which are consistent with the terms and scope of this delegation of authority are hereby ratified and confirmed.

Dated: July 24, 1980.

Douglas J. Bennet, Jr.,

Administrator.

[FR Doc. 80-26307 Filed 8-27-80; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.114]

Delegation of Contracting Officer Authority to John Stuart

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. John Stuart the authority to sign the following instruments, up to an amount of $1,000,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

(5) Advance payments to non-profit organizations that collect no fee for services.

The authority delegated herein is to be exercised in accordance with A.I.D. regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective on the date of signature.

Dated: August 8, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-26309 Filed 8-27-80; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.105; Amendment No. 1]

Mission Director, USAID/Indonesia; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.105, dated December 18, 1978, to add the authority to authorize advance payments to other than profit-making organizations not collecting a fee.

Except as provided herein, the Redelegation of Authority remains unchanged and continued in full force and effect.

This amendment is effective on the date of signature below.

Dated: August 8, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-26308 Filed 8-27-80; 8:45 am]

BILLING CODE 4710-02-M

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974; Addition to System of Records

The following addition to the Commission's System of Records is published due to the Office of Personnel Management's proposal to delete the governmentwide system of records: "OPM/GOVT-2, Grievance Records".

NCPC-4

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

These records are located in the Administrative Office of the National Capital Planning Commission.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of the National Capital Planning Commission who have submitted grievances in accordance with part 771 of the regulations of the U.S. Office of Personnel Management (5 CFR 771).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under part 771 of regulations issued by the U.S. Office of Personnel Management (OPM). These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218, E.O. 10987, 3 CFR 1959-1963 Comp., p. 519, agency employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

(a) To disclose pertinent information to the appropriate Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(b) To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

(c) To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

(d) To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

(e) To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

(f) By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

(g) By the Commission or by the U.S. Office of Personnel Management (OPM) in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual indentifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

(h) To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

(i) To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

(j) To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576.

NOTIFICATION PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, also contact the agency administrative office regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

(a) Name
(b) Date of birth
(c) Approximate date of closing of the case and kind of action taken
(d) Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the agency administrative office.

Individuals must provide the following information for their records to be located and identified.

(a) Name
(b) Date of birth
(c) Approximate date of closing of the case and kind of action taken
(d) Organizational component involved.

Individuals requesting access must also follow the Privacy Act regulations of the U.S. Office of Personnel Management regarding access to records and verification of identity (5 CFR 297.203 or 297.201).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the agency administrative office. Individuals must furnish the following information for their records to be located and identified;

(a) Name
(b) Date of birth
(c) Approximate date of closing of the case and kind of action taken
(d) Organizational component involved.

Individuals requesting amendment must also follow the Privacy Act regulations of the U.S. Office of Personnel Management regarding amendment to records and verification of identity (5 CFR 297.208 and 297.201).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

(a) By the individual on whom the record is provided:
(b) By testimony of witnesss
(c) By agency officials
(d) From related correspondence from organizations or persons.

Edward H. Rickels,
Secretary.
August 21, 1980.

[FR Doc. 80-26369 Filed 8-27-80; 8:45 am]
BILLING CODE 7520-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-35]

Safety Recommendations and Responses; Availability

Aviation Safety Recommendation Letter

A-80-78 and -79 to the Federal Aviation Administration, August 19, 1980.—Two "Class I, Urgent Action" recommendations have been issued by the National Transportation Safety Board as a result of investigation into the crash of a Bell 205A-1 helicopter, N6207N. The helicopter, equipped with fixed-type floats (inflated), was returning to the Arcola-Houston (Texas) Airport on a flight from an offshore oil rig when the accident occurred, on July

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18, 1980. Immediately after acknowledging airport advisories on the radio, the pilot, who was the sole occupant, reported that he was in trouble. When the aircraft wreckage was located 3 miles east of the airport, it was inverted and burned. The main rotor system was found 350 yards from the main impact area. The pilot was killed.

Examination of the wreckage by the Safety Board revealed that a fatigue crack existed on the right forward cross tube (PN 205–050–114–9) where the support saddle fitting (PN 204–050–011–21) was riveted. The fatigue crack was located between two rivet holes. The remaining fracture in the cross tube diameter was caused by static overload. Separation of the float support in this area would have caused the flat to swing outboard as it pivoted around the aft cross tube attachment and to expose a large flat plate drag area to the slip stream, which could have resulted in the pilot's losing control of the helicopter.

The Safety Board notes that Airworthiness Directive 76–14–03, Bell Amendment 39–2665, effective August 7, 1976, required that the cross tubes in the float kit installed on this model helicopter be removed before they had been operated 500 hours. The operator of the accident helicopter reported that the aircraft had been operated approximately 440 hours since the float kit had been installed. The manufacturer reported that replacement cross tubes with clamp-on saddle support fittings are available and they estimated that there are still 35 or more float kits with the riveted saddle fittings in service.

To prevent recurrence of this type of accident the Safety Board recommends that FAA:

> Issue a telegraphic airworthiness directive applicable to all Bell 205 and 212 helicopter models equipped with fixed float kits (PN 205–706–050–1 and 7), on which AD 76–14–03 has not been accomplished, to require an immediate one time X-ray or equivalent inspection of all cross tube inner diameters in the areas where the support saddle fittings are riveted for evidence of cracks. (A–80–78)
>
> Issue an airworthiness directive to require the removal of forward and aft cross tubes (PN 205–050–114–1, -3, -5, -7) and cross tube assemblies (PN205–706–050–5 and -9) from all Bell Models 205A–1 and 212 helicopters within the next 50 hours time in service and replacement with clamp-on saddle support fittings. (A–80–79)

Railroad Safety Recommendation Letters

R–80–30 to the National Railroad Passenger Corporation (Amtrak), August 15, 1980.—About 4 p.m. last March 14, westbound Amstrak train No. 7, the Empire Builder, derailed two locomotive units and eight cars while moving at 37 mph through a 6°08′ curve on the Burlington Northern track at Glacier Park, Mont. Of the 170 passenger and 20 crewmembers, 115 persons were injured and 35 were hospitalized. Property damage was estimated at $546,800.

Investigation of this accident disclosed that the baggage car on train No. 7 was being operated with a number of defective conditions which could cause the derailment of a passenger train. Although the defects did not cause or contribute to the cause of the derailment at Glacier Park, the missing springs on the lead truck, the improper coupler height, the missing bolts in the centerplate of the lead truck, and the missing lateral clearance shims on the lead axle indicate inadequate inspection and maintenance of the car. Therefore, the Safety Board recommends that Amtrak:

> Prohibit the use in revenue service trains of passenger train cars with defective conditions that may affect their safe operation. (R–80–30)

R–80–31 and –32 to the Federal Railroad Administration, August 15, 1980.—A companion letter notes that investigation of the Amtrak train derailment disclosed that maintenance forces were to replace several of the low rails in the curve because of corrugations and shelling. These rail conditions were noted by Burlington Northern inspectors as early as March 7, 1980; however, no slow order was issued to reduce the speed of trains to 20 mph until the rails were replaced as required by 49 CFR 213.113(b). Track inspection records also did not indicate that these rails were in the track and that any remedial action was to be taken as implied by 49 CFR 213.241(b).

Investigation also revealed that the baggage car in train No. 7 was being operated with a number of defective conditions which could cause derailment. These defects, which are not covered by Federal regulations, should be, even though they did not cause or contribute to the cause of the derailment at Glacier Park. Minimum safety standards for passenger car inspection and maintenance are vital to safe railroad passenger tranportation. The Safety Board notes that a major problem countered during the evacuation was removing the injured passengers from the overturned cars. Some of the injured had to be lifted to overhead windows and down ladders; some of those injured were removed on stretcher boards. Accordingly, the Board recommends that FRA:

> Promulgate regulations to establish minimum safety standards for the inspection and maintenance of railroad passenger cars. (R–80–31)
>
> Amend track safety standard 49 CFR 213.241, Inspection Records, to require railroad inspectors to list on their inspection records the location of rails which exhibit the external conditions listed in subpart (b) of 49 CFR 213.113, Defective Rails, and the remedial action they have taken. (R–80–32)

In addition, the Safety Board reiterates to FRA the following recommendation:

> Require that rail passenger equipment be fitted with roof hatches so that passengers can escape through the ceiling of a car which is lying on its side. (R–78–21).

R–80–33 to the Burlington Northern, August 15, 1980.—In this recommendation letter, also concerning the Glacier Park accident, the Safety Board notes that investigation disclosed that forces were to replace several of the low rails in the curve because of corrugations and shelling. These conditions were noted by Burlington Northern inspectors as early as March 7, 1980; however, no slow order was issued to protect against the possibility of these rails breaking under a train or causing a derailment because of excessive car bouncing or rocking. Federal regulations require a maximim speed of 20 mph over such rails until they are replaced. Also, several of the rails exhibited ½-in. rail end batter, which required the track to be classified to Class I with a maximum speed of 15 mph for passenger trains until the rails were replaced.

In addition, the Board notes that track conditions were found during the postaccident investigation that could cause gage widening or tipping of the high rail in the curve. Previous industry tests have indicated that these conditions can be troublesome when the crossties are frozen in the ballast, as was the case at Glacier Park, particularly if snow and ice get between the base of rail and tie plates. Snow was plowed from the track about 30 minutes before the arrival of No. 7, and plowing could have aggravated the weakened track condition. Accordingly, the Safety Board recommends that the Burlington Northern:

> Insure that track supervisors and inspectors take proper action to protect against conditions affecting safety of railway operations pending correction of defective track conditions as prescribed in Burlington Northern maintenance of way circulars and Federal regulations. (R–80–33).

Each of the above railroad safety recommendations is designated "Class II, Priority Action." Copies of the Safety Board's formal investigation report are being prepared for distribution and will be available in the near future.

Responses to Safety Recommendations

Aviation

A-77-12, from the Federal Aviation Administration, July 28, 1980.—Letter updates action taken to implement the Safety Board's recommendation which asked FAA to formulate, in cooperation with the National Fire Protection Association, a training program for use by local fire departments as a minimum standard for firefighting personnel involved, in CFR activities at noncertificated airports.

FAA reports that its Advisory Circular (AC) 150/5210-6B, Aircraft Fire and Rescue Facilities and Extinguishing Agents, dated January 26, 1973, contains, in Chapter 3, the recommended scales of protection (in terms of equipment and agent) for airport firefighting and rescue services at general aviation (noncertificated) airports. FAA's previous response to A-77-13, notes that AC 139.49-1, Programs for Training of Fire Fighting and Rescue Personnel, dated November 12, 1973, contains FAA's recommended minimum training program for airport firefighters at both certificated and noncertificated airports. FAA states that the potential usefulness of these two documents has been strengthened by the recent adoption by the National Fire Fighter Protection Association of a new "Standard for Airport Fire Fighter Professional Qualifications" (1003-1978). This standard, made available in 1979, identifies the professional level of competence that should be attained by an airport firefighter. AC 150/5200-27, dated August 27, 1979, announces the availability of NFPA Standard 1003-1978 to the public. FAA believes that this now constitutes a complete system: The recommended level of protection equipment has been identified (AC 150/5200-6B), the equipment operator's (airport firefighter) level of competence has been specified (AC 150/5200-27), and a training program outline has been provided (AC-139.49.1).

FAA notes that recommendation A-77-13 was classified as "Closed—Acceptable Action" on November 23, 1977. FAA now considers action on recommendations A-77-12 and -13 complete.

A-77-68, from the Federal Aviation Administration, August 13, 1980.—Response is to the Safety Board's comments of June 6, 1980, concerning FAA's initial response dated January 11, 1978 (43 FR 4471, February 2, 1978). The recommendation stemmed from the Southern Airways DC-9 accident at New Hope, Ga., on April 4, 1977, and asked FAA to formulate rules and procedures for the timely dissemination by air traffic controllers of all available severe weather information to inbound and outbound flightcrew in the terminal area. The Board noted that FAA's response indicated that a plan had been drafted for analyzing and disseminating severe weather data in terminal areas and that the final plan would include a means of delivery that could be accomplished without derogating the controllers' primary responsibility for preventing midair collisions. The Board was subsequently advised through staff sources that the draft report had been approved and that an FAA Weather Program Manager had been established to execute and maintain the "Aviation Weather System Program Plan." The Board asked to be advised of the present status of this recommendation.

FAA's August 13 letter reports that a task group addressing the problem had made a recommendation which resulted in activating a Center Weather Service Unit (CWSU) in 13 FAA air route traffic control centers (ARTCC) in April 1978. By October 1980, FAA will have its planned total of 21 of these CWSU's in the 20 ARTCC's in the contiguous 48 States and in the Anchorage, Alaska, ARTCC. FAA notes that the CWSU staffing is made up of an FAA weather coordinator and a National Weather Service meteorologist. This unit is under the direction of the assistant chief in charge of the ARTCC. The mission of the unit is to: "Function as a team to make appropriate decisions, which are pertinent to flight safety/operations." The dissemination of the weather intelligence includes the terminal facilities within the ARTCC's areas of responsibility. The information provided includes hazardous (severe) weather information.

Further, FAA notes that in addition to this procedural change, another program FAA has instituted has changed its terminal wind shear procedures. The program title is: Low Level Wind Shear Alert System. This system is being installed at major airports to detect approaching low level wind shear conditions. Four to six wind speed and direction sensors are installed around the periphery of each airport, and the outputs of these sensors are monitored continuously by the system. If a significant wind shift (shear) is detected, the system activates a visual and audible alarm in the air traffic control tower cab. The controller in the tower cab then provides this wind shear information to inbound and outbound flightcrews. FAA has installed these systems at 24 major airports, has 34 more under contract which will be installed by the end of fiscal year 1981, and has plans to install these systems at a total of 110 airports by the end of fiscal year 1984.

FAA reports that the draft plan, mentioned in the January 11, 1978, response, is presently under revision to cover all FAA aviation weather requirements, including the terminal one involved in recommendation A-77-68. The existence of the plan in either draft or final form did not deter FAA from implementing the two terminal area procedural changes above referenced.

A-78-54, from the Federal Aviation Administration, July 29, 1980.—Letter supplements FAA's previous responses of November 9, 1978, and May 23, 1979 (44 FR 32756, June 7, 1979) to a recommendation issued following investigation of the fatal accident involving a Columbia Pacific Airlines Beechcraft model 99 which attained an excessively steep climb immediately after takeoff on February 10, 1978, from Richland (Wash.) Airport and crashed. The recommendation asked FAA to require an inspection to insure that the primary and secondary mode of the horizontal stabilizer actuator are capable of deflecting the stabilizer under specified airloads; the exact instructions should be furnished by the Beech Aircraft Company and the inspection made as soon as the Beech instructions are available and repeated at 2,000-hour intervals.

FAA reports that Beech has amended the Maintenance Manuals for both the Beech 99 and 100 by revision 1A8 dated July 27, 1979 (copy provided). The revision identifies a kit, which is now available, designed to satisfy the inspection requirements of recommendation A-78-54. Pictures, instructions, and sketches are included in the kit for use in preventing damage to the aircraft. These kits have been distributed and are now in the field for general use, FAA states. Test Instructions provide that "After the first 2,000 actuator hours of service and every 2,000 actuator service hours thereafter, the horizontal stabilizer trim actuator must be load tested. This consists of both a tension and compression load test. The load test is to be accomplished by obtaining the required Instructions Kit No. 99-5012-15. . . ." FAA inspectors will monitor owner/operator actions for compliance with this requirement.

A-80-38, from the Federal Aviation Administration, August 11, 1980. Response is to a recommendation issued May 14, 1980, as a result of Board investigation of an incident occurring last August 7 involving a Beech 65-80 (Queen Air), N99FA. After departing Gaithersburg, Md., and shortly after reaching 20,000 ft m.s.l. while climbing southbound, the crew saw white smoke and smelled fumes in the cockpit. An emergency was declared and the aircraft was landed without futher incident at Dulles International Airport, Washington, D.C. Investigation revealed that both voltage regulators and both alternator-rectifiers were inoperative and the nickel-cadmium battery was venting gas overboard. Fire damage was found on the cockpit floor between the pilot seats, and both alternator field windings were burned and shorted. The recommendation asked FAA to issue a General Aviation Airworthiness Alert describing the effects of damage to the floor-mounted alternator field current breakers and mainline circuit breakers in Beech Model 65–80 aircraft; the advisory should emphasize the desirability of compliance with Beech Service Bulletin No. 67–28, dated December 29, 1967. (See also 45 FR 34476, May 22, 1980.)

FAA concurs with recommendation A–80–38 and reports that the following article will appear in the August 1980 issue of the General Aviation Airworthiness Alert, AC No. 431–16:

Model: Beech Model 65, A65, and 65–80 Series.
Subject: Alternator Field Circuit Breakers P/N PSM–10N.
Text: Cockpit personnel are cautioned to avoid stepping on these circuit breakers.
These floor-mounted circuit breakers are subject to damage as a result of heavy foot pressures and inadvertently being struck by persons in the cockpit. If damaged, those circuit breakers may not provide protection for the alternator field circuit and associated aircraft wiring.
Beech issued Service Bulletin No. 67–28 in September 1967, to provide information which could be used to relocate the floormounted circuit breaker bracket to a lower, less vulnerable postition to help prevent accidental damage to the circuit breakers. It is recommended that this Service Bulletin by complied with if not already accomplished.
Aircraft affected: Models 65 and A65, S/N's LC–143 thru LC–270, and all airplanes prior to LC–143 that have complied with Model 65 Service Bulletin No. 11; Models 65–80, 65–A80, and 65–B80, S/N's LD–13 through LD–350 and LD–352, and all airplanes prior to LD–13 that have complied with Model 65–80 Service Bulletin No. 2.

FAA will forward to the Safety Board a copy of the August 1980 General Aviation Airworthiness Alert when it is published.

Highway

H–80–28, from the Secretary, U.S. Department of Transportation, August 6, 1980.—Response is to a recommendation issued April 22 as a result of the Safety Board's safety effectiveness evaluation of the rulemaking process of the National Highway Traffic Safety Administration. The recommendation called for a Department review of its regulatory policies and procedures concerning the consideration of regulatory alternatives, to determine whether modifications are needed and applicable on a DOT-wide basis, particularly with respect to whether the regulatory polices and procedures should (a) specify that more than one alternative should be considered and evaluated, (b) specify that all significant and practicable alternatives be fully supported by sufficient data to allow a comprehensive analysis and comparison during the Regulatory Analysis, and (c) require that all significant and practicable alternatives be fully discussed in public notices with specific reference to the supporting data and documents. (See 45 FR 29144, May 1, 1980.)

DOT agrees that careful and complete consideration of alternative approaches is essential to quality rulemaking for all modes of transportation, and, in response to the Board's recommendation, has reviewed its regulatory policies and procedures with respect to those provisions that deal with the consideration of alternatives. The recommendation was circulated to each of the Department's operating administration heads and Assistant Secretaries for their views. Based on the review, the Department does not agree with Board's statement that DOT's Regulatory Policies and Procedures do not contain specific policy guidance on the consideration of alternatives. In fact, those policies and procedures contain a number of provisions which specifically require the consideration of alternatives in the rulemaking process. For example:

1. Paragraph 6.e states that it is Departmental policy in issuing and revising all regulations that adequate consideration be given to alternatives.
2. Paragraph 9.b requires that before an initiating office proceeds to develop a significant regulation, the head of the initiating office must consider the alternative approaches to be explored.
3. Paragraph 9.f.(3) requires that before a significant final rule is submitted to the Secretary for approval, the initiating office must ensure that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen.
4. Paragraphs 10.b.(2) and (4) require that the Regulatory Analyses, which are prepared for the most important Departmental regulations, describe the major alternative ways of dealing with the problems that were considered and explain the reasons for choosing one alternative over the other.
5. Paragraph 10.d. requires that each advance notice and notice of proposed rulemaking, concerning a major rule, include a description of the alternative approaches being considered.

The Secretary states, "We believe these provisions establish a workable and effective framework for the consideration of alternatives by our operating administrations. At the same time, they provide the rulemaking initiating offices within the Department with sufficient flexibility to avoid overly burdensome, costly, and time consuming analyses of inconsequential regulations and regulations needed expeditiously due to exigent circumstances. Our experience over the two and one half years since the implementation of our policies and procedures has indicated to us that alternatives are being considered adequately in Departmental rulemaking. Efforts are continuing to be made to improve the consideration of alternatives."

DOT notes that the two NHTSA rulemaking proceedings reviewed by the Board in connection with its recommendation were initiated long before the adoption of the DOT Regulatory Policies and Procedures. With respect to the particular modifications recommended by the Board, DOT believes they are unnecessary and in most respects are already adequately covered by the provisions noted above. "To the extent they are not," the Secretary states, "the modifications would require excessive detail which would act to unnecessarily bog down the rulemaking process. For example, to require references to supporting data and documents relating to all significant and practicable alternatives in all rulemaking notices, as suggested by the Board, would substantially and unjustifiably complicate the processing of the vast majority of DOT rulemaking proceedings which are economically unimportant, procedural in nature or of limited public interest. To preclude these problems, the regulatory policies and procedures currently require this kind of information only in those notices that relate to the Department's major rulemaking proceedings."

By way of reemphasizing the need to consider alternatives during the development of rules, a copy of the Secretary's letter was transmitted to each of the Department's Assistant Secretaries and operating administration heads.

Railroad

R–80–10 through 16, from the Federal Railroad Administration, August 8, 1980.—Response is to recommendations issued last March 12 in conjunction with the Safety Board's special investigation report, "The Accident Performance of Tank Car Safeguards." (See 45 FR 18211, March 20, 1980.)

Recommendation R–80–10 asked FRA to extend the requirements for top-and-bottom shelf couplers to all tank cars used to transport hazardous materials, and recommendation R–80–11 called on FRA to extend the requirements of 49 CFR 197.105, including those for head shields and thermal protection, to include new and rebuilt specification 105 tank cars. In response, FRA and the Materials Transportation Bureau agree with these recommendations. FRA reports that a notice of proposed rulemaking was published on July 21, 1980, at 45 FR 48671. The proposal includes requirements for application of top-and-bottom shelf couplers to all tank cars transporting hazardous materials and for new 105 tank cars to be consistent with 49 CFR 179.105.

Recommendation R–80–12 asked FRA to examine specialty products and Class A poisons which are shipped in Type 111 tank cars to determine if the toxicity hazard is sufficient to justify the protection afforded by 49 CFR 179.105. FRA reports studying, with the Materials Transportation Bureau, on a commodity-by-commodity basis the application of "protection" to "nonpressure" tank cars, set forth in 49 CFR 179.105, including Type 111 tank cars. As a first step, the DOT 105 tank car fleet is being assessed. Public assistance has been solicited by using an advance notice of proposed rulemaking published at 45 FR 48668 on July 21, 1980. Based upon results of this process, FRA and MTB will consider using a similar procedure in examining "nonpressure" tank cars. FRA notes that, currently, 49 CFR 173 Subpart H does not authorize the transport of "Class A Poisons" in "nonpressure" (Type 111/103) tank cars.

In response to recommendation R–80–13, which urged FRA to take immediate steps to cause the modification of both new and existing tank cars so that damage to the top fittings and bottom outlet valves is minimized in train accidents, FRA notes that numerous train accidents confirm that damaged top and lower outlet fittings resulting from pileups during derailments are a significant source of product release. From investigations, it appears that the bottom outlet on stub-sill, noninsulated, low-pressure, Class 111A tank cars are most vulnerable. However, due to the elevated derailment forces involved, FRA states, effective countermeasures to protect such outlets on existing cars are not feasible. FRA accident records covering 1973 through 1979 contain no direct reported incidences of bottom outlet failure for the more crucial groups of pressure tank cars. Nevertheless, FRA is assessing further actions to mitigate the problem in new car construction.

Recommendation R–80–14 called for a collection of data on tank car derailment behavior to identify breach mechanisms, an analysis of these mechanisms, identification of control methods, and incorporation of findings in new car construction. Recommendation R–80–16 asked FRA to require crashworthiness testing of new hazardous materials tank car designs to resist breaching in the derailment environment. In response to these two recommendations, FRA reports that it is currently working with the U.S. Army Ballistics Research Laboratory, Aberdeen, Md., to study mechanisms involved in the breaching of tank cars. A facility has been constructed at Socorro, N.M., for testing concepts to resist breaching. The testing will be initiated in the last quarter of 1981. FRA is also working with the National Bureau of Standards in the study of steels for new tank car construction; research is scheduled to be completed by December 1980. Additionally, FRA is working jointly with the Safety Board in testing a 112S tank car which was involved in an accident at Inwood, Ind., on November 8, 1979. The test will include ascertaining the metallurgical properties of the tank.

In response to recommendation R–80–15, which asked FRA to conduct tests of tank cars in freight train derailments to determine if the severity of collision damage can be reduced by tank car placement in trains and to identify and test countermeasures, FRA reports that studies will be conducted to evaluate safe position(s) in freight trains for placarded hazardous materials rail cars. FRA says its "research evaluator project" which was awarded to Teledyne Ryan, Inc., in September 1979 will be capable of modeling train operations including individual car action under various types of braking conditions. The evaluator is expected to be completed by the end of 1982. Also, FRA is conducting research on the coefficient of friction of various brake shoes. A contract was awarded to ITTRI, Inc., on May 1980, and is scheduled to be completed by the end of 1981. This work will enable FRA to accurately simulate train operations, stopping distances and car interactions. FRA says it will use the information developed from these projects to assess severity of damage and to identify and test countermeasures relative to the placement of tank cars in trains.

R–80–17 through –19, from Illinois Central Gulf (ICG), August 8, 1980.—Letter concerns recommendations developed as a result of Board investigation of the collision of an Amtrak passenger train with an ICG freight train at Harvey, Ill., October 12, 1979. The Safety Board on July 16 forwarded to ICG comments on ICG's previous response of April 30 which was directed to the subject recommendations, issued April 21, and to recommendations R–79–75 through –77, issued last December 18 (45 FR 34479, May 22, 1980). The Board's July 16 letter states that recommendations R–79–75, –76, and –77 are now "Closed—Acceptable Action."

With respect to recommendation R–80–17, which concerned an improved communications system between the switchtender and the train director, the Safety Board noted that the three telephones mentioned in ICG's April 30 letter were available to the switchtender at Harvey at the time of the accident. The Board said that the communications problem between the train director and the switchtender, which was examined during the investigation, was that the train director could not contact the switchtender when he was out of the building because of the limited range of the switchtender's portable radio. Since the switchtender works mostly outside and is not near any of the three telephones, this developed a practice of the train director's calling the yardmaster to relay by radio switching instructions for the switchtender. Thus, a third party became involved when establishing an operating block for a train movement against the current of traffic. Such instructions issued to the switchtender cannot be verified by the train director, and this is a violation of ICG instructions dated June 23, 1975. The Board asked for reconsideration of recommendation R–80–17 and classified the recommendation in an "Open—Unacceptable Action" status. In its August 8 response, ICG reported that effective August 4, 1980, a six-watt handset end-to-end communication radio was placed with the switchtender, which will enable him to reach the train director from Harvey.

With respect to recommendation R–80–18 regarding assignment of radio channels, the Safety Board's July 16 letter notes from ICG's initial response that the proper radio channel is coordinated between interested parties prior to commencement of duty. This does not appear to the Board to solve the problem identified during the investigation of the Harvey accident. The switchtender had a two-channel portable radio and was required to use both channels in the performance of his assignment. When working with yard and transfer crews, he would use a channel different from the one he would use when working with crews on the main line. But nothing in the ICG requirements identifies the channel which he should monitor for instructions. The Board asked for reconsideration and classified R–80–18 as "Open—Unacceptable Action." ICG's August 8 response notes that the switchtender is required to work on Channel 1 only. Any assignment trying to reach the switchtender will have to do so on Channel 1. He must, according to the operating rules, move trains and engines through the Harvey area by hand signals only, and not through the use of radio communications.

With respect to recommendation R–80–19 regarding supervisors monitoring the activities of employees, the Safety Board said it found during the investigation that the switchtender was not being properly audited to ascertain if he was capable of performing his duties. The Board asked if there had been a change since the accident in ICG's program for employee safety performance audits and Transportation Department rule efficiency tests. The Board also asked if the switchtender is now being included in those checks and whether the checks are thorough enough to determine if the switchtender can adequately perform his duties. Pending receipt of ICG's response, the Board retained recommendation R–80–19 in "Open—Unacceptable Action" status. ICG's response reports that remedial training was given switchtenders and all new employees now receive such training. ICG officers also monitor performance of the switchtenders while conducting efficiency tests. Additionally, unannounced checks are made in order to evaluate the switchtenders daily performance.

R–80–26, from the Federal Railroad Administration, August 18, 1980.—Response is to a recommendation issued June 3 as a result of investigation of the Amtrak train derailment which occurred at Lawrence, Kans., last October 2. The recommendation asked FRA to determine and advise if test procedures being employed by the Atchison, Topeka and Santa Fe Railway Company at all locations are sufficient to determine if automatic train stop apparatus is functioning properly for inservice operation. (See 45 FR 39988, June 12, 1980.)

In response, FRA notes that the Santa Fe does not regularly operate trains that are required to be equipped with automatic trainstop (ATS) devices. Therefore, the Santa Fe only tests wayside ATS apparatus. The onboard ATS equipment of Amtrak locomotives operating over the Santa Fe is tested at Amtrak's facilities located in Chicago, Ill., and Redondo, Calif. During June, 1980, FRA personnel inspected these two facilities and found that ATS equipment is being properly tested. Also, in June, FRA inspected Santa Fe's Electrical Shop and Signal Repair Shop at San Bernardino, Calif., where ATS relays are repaired for Amtrak. Knowledgeable and skilled craftsmen were observed performing the work in accordance with manufacturer's specifications. In addition, inspections at San Bernardino, Calif.; Topeka, Kans.; Argentine, Kans.; and Fort Madison, Iowa, indicated that ATS inductors are inspected and tested in compliance with FRA's requirements.

FRA believes that at all locations Santa Fe and Amtrak personnel involved with the maintenance, testing, and repair of ATS equipment are qualified and highly competent. Further, FRA believes that the ATS apparatus on the Santa Fe is being appropriately tested to assure it is functioning properly for inservice operation.

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 22, 1980.

[FR Doc. 80–26401 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–348]

Alabama Power Co; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF–2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment changes the low-low steam generator water level reactor trip setpoint to compensate for high containment temperature following a postulated high energy line break. A second change corrects an error in the minimum number of 600 volt load centers.

The application for the amendment complies with the standards and requirements of theAtomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 30, 1979, supplemented by letter dated March 31, 1980 and your application dated June 2, 1980, (2) Amendment No. 15 to License No. NPF–2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of August 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1
Division of Licensing.

[FR Doc. 80–26354 Filed 8–27–80; 8:45 am]

BILLING CODE 7590–01–M

Availability of Draft NRC Staff Review of the "Heidelberg Report"

The staff of the Nuclear Regulatory Commission (NRC) has completed a draft technical review of a report prepared by advisers to the Department of Environmental Protection of the University of Heidelberg, entitled "Radioecological Assessment of the Wyhl Nuclear Power Plant" (Heidelberg Report). The purpose of this notice is twofold: (1) to give notice that the NRC staff draft review is available to the public; and (2) to solicit comments on the draft review.

The results of the staff review have been published in draft form for public comment, both as a main report for the technical community (identified as NUREG–0668) and as a summary report for general public information (identified as NUREG–0668, SUMMARY). Requests for single copies of the "Staff Review of 'Radioecological Assessment of the Wyhl Nuclear Power Plant' " (identified as NUREG–0668, or NUREG–0668, SUMMARY), and "Radioecological Assessment of the Wyhl Nuclear Power Plant" (identified as NRC Translation 520) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, ATTN: Director, Division of Systems Integration.

A summary of the NRC staff review follows:

Summary of the NRC Staff Review of the Heidelberg Report

The staff of the Nuclear Regulatory Commission (NRC) has reviewed a report known formally as the "Radioecological Assessment of the Wyhl Nuclear Power Plant", and informally as the "Heidelberg Report".[1]

This report was written by advisers to the Department of Environmental Protection of the University of Heidelberg, West Germany. It presents an assessment of the environmental radiological impact of a proposed pressurized-water ractor to be built near Wyhl, West Germany.

The assessment is based largely on mathematical models that are used to calculate doses to humans in the area surrounding a reactor site and describe the movement of radioactive materials in the environment. These are the same mathematical models that are used by the U.S. Nuclear Regulatory Commission (NRC) in licensing reactors in the United States. The NRC uses these models to calculate doses to ensure that only radiation exposure due to an operating ractor is far below national and international recommended "safe" levels, and also well below natural background radiation levels.

The NRC staff reviewed the Heidelberg Report because the report implied that the NRC may be substantially underestimating doses to individuals living near nuclear power plants by using incorrect values for parameters in the mathematical models. Although the Heidelberg Report assessment is based largely on environmental models described in four NRC Regulatory Guides, the NRC staff's review of the Heidelberg Report indicates that the Heidelberg authors used values for some model parameters that are too high.

As a result, the Heidelberg Report estimated doses to the public by some pathways that are up to 10,000 times higher than the doses calculated using the NRC values for those models parameters. The Heidelberg Report documents the parameters chosen for the dose estimates by referring to over 200 documents selected from the scientific literature.

The NRC staff's review of the Heidelberg Report concluded the following:

(1) The average actual measured concentrations of radioactive materials near U.S. nuclear power plants lead to dose estimates that are much lower than those estimated in the Heidelberg Report for the Wyhl nuclear power plant.

(2) The actual amounts of radioactive materials that are released into air from U.S. operating reactors are much less than the Heidelberg Report estimated amounts for the most significant radioactive materials. For example, the average actual measured releases of the two most significant radioactive materials in the Heidelberg Report, cesium–137 and strontium–90, from U.S. operating pressurized water reactors have been less than 1 percent of the corresponding amounts assumed in the Heidelberg Report.

(3) The Heidelberg Report uses values for several critical parameters in the mathemathical models used to calculate doses that are equal to or higher than the highest values derived from the references cited in their report. For example, the following values in the Heidelberg Report are, in general, equal to or higher than the highest values cited in their references: (a) the numbers used to calculate the amount of cesium assumed to be absorbed from the soil by plants such as leafy vegetables and grass, (b) the numbers used to calculate the amount of strontium assumed to be absorbed by plants from the soil, (c) the number used to calculate the dose to the bone resulting from eating food or drinking liquids containing strontium–90, and (d) the number used to calculate the dose to the kidneys resulting from eating food or drinking liquids containing cesium–137. The NRC uses values for these parameters that are averages of the substantial literature values or those used by the International Commission on Radiological Protection. The NRC values are much lower than those used by the Heidelberg authors.

(4) The Heidelberg Report values for some critical parameters are unsubstantiated. For example, the Report does not justify, either by reference or textual comment, its assumed values for the amount of cesium–137 absorbed into the kidney and the amount of strontium–90 absorbed into the bone. These values are much higher than the values NRC uses which are based on well known sources.

Interested persons may submit comments on the NRC draft report for the NRC staff's consideration. Comments are due by October 24, 1980. Comments should be addressed to the Director, Division of Systems Integration, at the address below:

Denwood F. Ross, Jr., Director, Division of Systems Integration, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

After an analysis of comments on the draft report, the staff will issue a final report.

Dated at Bethesda, Maryland, this 19th day of August, 1980.

For the Nuclear Regulatory Commission.

William E. Kreger,

Assistant Director for Radiation Protection, Division of Systems Integration, Office of Nuclear Reactor Regulation.

[FR Doc. 80–26355 Filed 8–27–80; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–317 and 50–318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 45 and 28 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas & Electric Company (the licensee), which revised the licenses for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility), located in Calvert County, Maryland. The amendments are effective as of the date of issuance and are to be fully implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendments add license conditions to include the Commission-approved Safeguards Contingency Plan as part of the licenses.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules

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[1] In earlier drafts of this review, NRC staff referred to this report as the Wyhl Report. However, popular reference to this report has established the document as the Heidelberg Report.

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and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

The licensee's filings dated March 19, 1979, revised March 20, 1980 are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendments Nos. 45 and 28 to Licenses Nos. DPR-53 and DPR-69 and (2) the Commission's related letter to the licensee dated Aug. 19, 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of August 1980.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-26365 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-39, and Amendment No. 53 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of September 1, 1980.

The amendments revise the Technical Specifications contained in Appendix A of the licenses to be consistent with the requirements of the model Technical Specifications for engineered safety feature ventilation filter systems for operating nuclear reactors and with Positions C.5 and C.6 of Regulatory Guide 1.52 (Revision 2), "Design, Testing, and Maintenance Criteria for Atmospheric Cleanup System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants."

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 21, 1975, supplemented by letters of December 19, 1978 and April 28, 1980, (2) Amendment Nos. 56 and 53 to License Nos. DPR-38 and DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated At Bethesda, Maryland, this 8th day of August, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-26363 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-39, and Amendment No. 52 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments provide Technical Specifications for and approve the Zion Station Inservice Inspection Program and provide relief or alternative examinations from ASME Code Requirements where appropriate.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 27, 1977, as supplemented by letters dated June 29, August 9, and December 13, 1977, March 15, 1978, June 28 and October 26, 1979, and March 4, 1980, (2) Amendment Nos. 55 and 52 to License Nos. DPR-38 and DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of August, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-26364 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409-SC; Prov. Op. Lic. DPR-45]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Prehearing Conference

August 22, 1980.

Notice is hereby given that the prehearing conference announced in the Licensing Board's Memorandum and Order of August 5, 1980 will commence at 9:30 a.m. on Thursday, September 11, 1980, in Room 303, Cartwright Center, University of Wisconsin at La Crosse, La Crosse, Wisconsin 54601. The conference will consider the various requests for a hearing and/or petitions for intervention which have been filed in this show-cause proceeding, as well as the parties' and petitioners' preliminary views of discovery they would seek and evidentiary presentations which they would propose to present should a hearing be authorized. The public is invited to attend this conference, but no oral limited appearance statements will be taken.

Dated at Bethesda, Maryland, this 22nd day of August 1980.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman.

[FR Doc. 80-26356 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana & Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment revises the Unit 1 Technical specifications to allow operation of the Unit with Exxon Nuclear Company (ENC) power distribution control procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in ahy significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 12, 1980, (2) Amendment No. 38 to License Nos. DPR-58 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July 1980.

For the Nucleaar Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactor Branch No. 1, Division of Licensing.

[FR Doc. 80-26362 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company for operation of the Millstone Nuclear Power Station, Unit No. 2, (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to (1) allow containment electrical penetrations module replacement concurrent with fuel movement or core alterations, and (2) renumber the access doors to the spent fuel pool area to agree with the security plan.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated June 26 and July 10, 1980 as supplemented May 13 and August 7, 1980, (2) Amendment No. 60 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of August 1980.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-26360 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-367]

Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the

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Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit extension proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Thomas S. Moore

Dated: August 22, 1980.

Jean Bishop,
Secretary to the Appeal Board.

[FR Doc. 80-26357 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in York County, Pennsylvania.

The amendment was authorized by phone on July 19, 1980. It revises temporarily Technical Specification 3.11.D.2 to permit inoperability of a specific snubber located on one of the Residual Heat Removal System lines for the period July 17–26, 1980 (10 days in lieu of 72 hours). The urgency associated with this action was attributed to critical power demands in the northeast section of the country at the time of the licensee's request. Thus, the Commission conducted an expedited review of the application and in view of the acceptability of the action, issued a temporary authorization to permit the orderly repair of this snubber or verification of its design margin for assuring operability.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 22, 1980 (telecopy dated July 18, 1980), (2) the Commission's letter to the licensee dated July 22, 1980, (3) Amendment No. 71 to License No. DPR-56, and (4) the Commission's related Safety Evaluation. all of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-26359 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Co. of Colorado; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-34, issued to Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to: (1) change the amount of diesel fuel in each diesel generator set day tank to 325 gallons; (2) update company reorganization based on NRC requirements; (3) change the number of hours that the ACM diesel generator can operate with 10,000 gallons of fuel to 108 hours; (4) alter the Fire Protection Technical Specifications to follow the requirements of STS on Fire Protection; (5) change the frequency and method of Reactor Protective System Surveillance to satisfy the requirement of IEEE-279-1971; (6) update the listing of all snubbers; (7) change the fissile particle thorium to uranium ratio of reflect "as manufactured" specifications; and (8) change the values for core region peaking factors and outlet temperature dispersions to reflect existing values in conjunction with accident reanalyses in support of full power operation.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any sigificant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see: (1) the applications for amendment dated March 23, 1976 (P-76075), November 1, 1977 (P-77221), March 7, 1979 (P-75056), August 13, 1979 (P-79170), August 29, 1979 (P-79164), September 28, 1979 (P-79218) and January 11, 1980 (P-80003); (2) Amendment No. 22 to License No. DPR-34, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., 20555, and at the Greeley Public Library, Cite Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C., 20555. Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 19th day of August, 1980.

For the Nuclear Regulatory Commission.

Robert L. Tedesco,
Assistant Director for Licensing, Division of Licensing.

[FR Doc. 80-26366 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory

Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.146, "Qualification of Quality Assurance Program Audit Personnel for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to qualification of personnel who audit quality assurance programs for nuclear power plants. The guide endorses with certain exceptions ANSI/ASME N45.2.23–1978, "Qualification of Quality Assurance Program Audit Personnel for Nuclear Power Plants."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 20th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80–26358 Filed 8–27–80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–281]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR–37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit No. 2 (the facility) located in Surry County, Virginia. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reflect changes as a result of modifications made to alleviate Net Positive Suction Head (NPSH) problems with the Low Head Safety Injection and Recirculation Spray Pumps and modifications made to the containment spray system. Changes have been made to service water temperature, containment temperature, containment air partial pressure, refueling water storage tank volume and outside recirculation pump flow rate. These limits have been transferred to the Technical Specifications from the license.

The application for the amendment complies with the standards and requirement of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 30, 1980, (2) Amendment No. 59 to License No. DPR–37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated At Bethesda, Maryland, this 1st day of August, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80–26361 Filed 8–27–80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–339]

Virginia Electric & Power Co.; Issuance of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Facility Operating License NPF–7, issued to the Virginia Electric and Power Company (VEPCO), which authorizes operation of the North Anna Power Station, Unit 2 at reactor core power levels not in excess of 2775 megawatts thermal (100% power) in accordance with the provisions of the license and the Technical Specifications.

The North Anna Power Station, Unit 2 is a pressurized water nuclear reactor located at the licensee's site near Mineral in Louisa County, Virginia. The license is effective as of its date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was issued in the **Federal Register** on May 25, 1973 (38 FR 13772).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by this license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License NPF–7, and (2) the Commission's related Safety Evaluation, NUREG–0053, Supplement Nos. 11 and 12, dated August 1980.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document rooms in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901 and at the Office of the Board of Supervisors, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093. A copy of item 1 may be

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obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation. Copies of item 2 may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 21st day of August, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-26367 Filed 8-27-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

August 25, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Food Safety and Quality Service
Evaluation Form
Single Time
Elementary, junior high and senior high school teachers, 600 responses, 50 hours
Charles A. Ellett, 395-7340

Revisions

Economics, Statistics, and Cooperatives Service
Rice Production and Farm Stock
Other (see SF-83)
Rice Farmers, 12,275 responses, 3,102 hours
Off. of Federal Statistical Policy and Standard 673-7974
Economics, Statistics, and Cooperatives Service
Poultry Slaughter (non-federally inspected plants)
Annually
Poultry slaughter plants, 190 responses, 25 hours
Off. of Federal Statistical Policy and Standard 673-7974
Economics, Statistics, and Cooperatives Service
Field Seed Survey
Other (see SF-83)
Seed growers, shippers, cleaners, 12,600 responses, 2,650 hours
Off. of Federal Statistical Policy and Standard 673-7974

Extensions

Forest Service
Youth Conservation Corps Long-Term Benefits Evaluation
Other (see SF-83)
YCC applicants and parents of YCC applicants, 3,400 responses, 1,700 hours
Charles A. Ellett, 395-7340

Reinstatements

Food and Nutrition Service
Guidelines for Financial Management Cost Based
Accountability System-School Food Programs
FNS Instruct 796-L
On occasion
State Departments of Education
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer, Edward Michals—377-3627

New Forms

Maritime Administration
Market Strategy Model Survey
On occasion
Export or import shippers of oceanborne cargo, 800 responses, 600 hours
William T. Adams, 395-4814
Maritime Administration
Application for Construction Reserve Fund
On occasion
Shipowners/operators, 238 responses, 410 hours
William T. Adams, 395-4814

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

New Forms

Departmental and Other
Guidelines for Contractor Presentation of (IR&D) Information
DTIC 271
Annually
Mayor defense contractor, 80 responses, 48,000 hours
Kenneth B. Allen, 395–3785

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Health Care Financing Administration (Medicare)
Independent Rural Health Clinic Cost Reporting Form and Instructions
HCFA–222
Semi-Annually
Indep. rural health clinics not receiving ECHS grants, 800 responses, 6,400 hours
Eisinger, Richard, 395–6880
National Institutes of Health
Smoking Cessation Education in Family Planning Clinics
(Baltimore, Maryland)
On occasion
Clients and staff in family planning clinics, 3,416 responses, 644 hours
Eisinger, Richard, 395–6880
Social Security Administration
Study of Extent of Impairment and Potential SSDI Eligibles
SSA–4220
Single time
Noninstitutionalized adults of working age 18 thru 64
Barbara F. Young, 395–6880

Revisions

Alcohol, Drug Abuse and Mental Health Administration
Alcoholism Treatment Center Questionnaire
On occasion
Alcoholism program grantees, 288,332 responses, 10,644 hours
Eisinger, Richard, 395–6880
Office of Human Development
Instructions for Applying for Grants From HDS Programs
SF–424
On occasion
Non-profit organizations, 12,000 responses, 36,000 hours
Barbara F. Young, 395–6880
Office of Human Development
Program Performance and Financial Status Reports
OS9–75
Quarterly
State agencies on aging, 228 responses, 5,472 hours
Barbara F. Young, 395–6880
Social Security Administration
Application for Wife's or Husband's Insurance Benefits
SSA–2–F6
On occasion
Wives or husbands eligible for monthly benefits, 700,000 responses, 70,000 hours
Barbara F. Young, 395–6880
Social Security Administration
Application for Surviving Child's Insurance Benefits
SSA–6–F6
On occasion
Children of deceased wage earners, 815,000 responses, 108,666 hours
Barbara F. Young, 395–6880

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Lafson—523–6341

Extensions

Bureau of Labor Statistics
Quarterly Survey of Union Wage Scales and Employer
Contribution in the Building Trades
BLS–1150.6
Quarterly
700 Unions and councils, 2,800 responses, 700 hours
Off. of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

Reinstatements

Research and Special Programs Administration
Hazardous Materials Incident Report
On occasion
Transportation carriers of hazardous materials, 18,285 responses, 14,001 hours
Hayward, Corinne D., 395–7340

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0747

New Forms

Site Inspection Report
T2070–3
Single Time
Hazardous waste sites or State site programs, 1,800 responses, 14,400 hours
Edward H. Clarke, 395–7340

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–9515

Revisions

Application for Disaster Recovery Assistance
FEMA 90–1
On occasion
Disaster recovery assistance, 5,000 responses, 20,000 hours
Veeder, Robert N., 395–4814

Reinstatements

Statement of Interest in Mobile
Home Purchase
On occasion
Victims of presidentially declared disasters, 1,200 responses, 300 hours
Veeder, Robert N., 395–4814
Change of Information Record Temporary Housing Assistance
On occasion
Victims of presidentially declared disasters, 6,000 responses, 3,000 hours
Veeder, Robert N., 395–4814
Pre-Placement questionnaire—Temporary Housing Assistance
On occasion
Occupants of disaster temporary housing, 3,000 responses, 1,500 hours
Veeder, Robert N., 394–4814
Financial Statement
On occasion
Occupants of disaster temporary housing, 10,000 responses, 2,500 hours
Veeder, Robert N., 395–4814
Verification of Income
On occasion
Employers of occupant of temporary housing, 4,000 responses, 1,000 hours
Veeder, Robert N., 395–4814
Recertification Questionnaire and Recommendation Quarterly
Victims of presidentially declared disasters, 20,000 responses, 10,000 hours
Veeder, Robert N., 395–4814

TENNESSEE VALLEY AUTHORITY

Agency Clearnance Officer—Eugene E. Mynatt—857–2596

New Forms

Questionnaire to Identify Women-Owned Businesses
Single time
Vendors recorded on TVA master file, 5,000 responses 833 hours
Charles A. Ellett, 395–7340

VETERANS ADMINISTRATION

Agency Clearance Officer—R.C. Whitt—389–2146

Revisions

Monthly Certification of Flight Training
22–6553C

V 45 AG 28 80 UMI

Monthly
Veteran student and flight schools, 190,000 responses, 47,500 hours
Laverne V. Collins, 395–6880

Reinstatements

Application for Readmission to Hospital or Domiciliary
VA–10–10R
On occasion
Veterans, 80,000 responses, 64,000 hours
Laverne V. Collins, 395–6880

C. Louis Kincannon,
Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80–26410 Filed 8–27–80; 8:45 am]
BILLING CODE 3110–01–M

[FRL 1591-2]

Radiation Policy Council; Three Task Forces' Report to Radiation Policy Council

Summary

Three task forces were created by the Radiation Policy Council in May, 1980 to examine Radon in Structures; Occupational Radiation Exposure Regulations; and Low-level Radioactive Wastes. Each task force has submitted a position paper, summarized below, to the Council.

Based on these papers, the Council's Working Group will make recommendations to the Council for consideration at the next Council meeting currently scheduled for September 25, 1980.

Summary of Position Paper on Radon in Structures

The Task Force reviewed the physical and biological bases for concern about radon exposures to the general public and examined the status of Federal activities in four areas: epidemiological studies, regulatory authorities, programs to measure radon levels in homes, and the coordination of Federal radon research. The Task Force concluded that Council attention to this problem is warranted because of the possible prevalence of relatively large exposures, a trend toward even higher exposures due to improved energy efficiency in inhabited structures, the risk from such exposures, and the potential large population at risk.

The Task Force considered whether enough information is available to start a national program on radon control. It concluded wide ranging programs should not be undertaken until more is known about the prevalence of high exposures and ways of controlling them. The thrust should be towards developing an information base that will allow good policy decisions. The Task Force also concluded that although current Federal authority cannot address some radon exposure situations, it would be premature to request additional authority until the technical basis for determining radon levels and reducing them is more fully established.

The Task Force makes five recommendations:

1. The Radiation Policy Council should take responsibility for the overall development of Federal research and policy related to the assessment and control of indoor radon exposure.
2. The Radiation Policy Council should sponsor an expert committee to evaluate and provide guidance on Federal scientific progams related to radon exposure and control. The committee's basic mission would be to provide the Council with technical evaluations and recommendations for research.
3. The Radiation Policy Council should encourage the timely acquisition and analysis of epidemiological data by Federal agencies. Moreover, the Council should request Federal agencies to make the data obtained in epidemiological studies of exposed miners and other groups available to as many analysts as possible.
4. The Radiation Policy Council should defer considering a Federal Radiation Protection Guide for indoor radon exposure.
5. The Council should prepare recommendations on the appropriate division of responsibilities between the various Federal agencies for radon control. Legislative as well as administrative approaches should be considered.

Summary and Conclusion of Position Paper on Occupational Exposure Regulations

The issues relative to occupational radiation exposure regulations were judged to revolve directly or indirectly around the decision-making process under which Federal regulations are developed, promulgated and enforced. Overall, the Task Force concluded that problems in uniformity and interagency coordination deserved serious attention. It was also the concensus that better-established and agreed-upon criteria upon which to base regulation should be sought.

Overall conclusions reached were:

A. Although the quality of work of the Environmental Protection Agency (EPA) in developing guidance is high, it is difficult for EPA, as it would be for any lead agency to expedite guidance development in the face of limited resources and competition for management priorities. Options are presented for improving the guidance function.

B. Inconsistencies of jurisdiction and regulatory programs were considered to be a problem that should be addressed. Specific options for addressing the relevant issues are presented as well as recommendations for further study.

C. Developing uniform policy with respect to dose limits was considered, in general, to be a proper function of the Federal guidance. However, because of the extreme importance of the subject, issues and options are raised in order to both reinforce and supplement the provisions to be considered in the forthcoming EPA Federal Guidance proposal.

D. Confusion has resulted from inconsistencies in ways in which regulatory agencies and the public regard and interpret data or the meaning and significance of exposure levels and their monitored values. Such confusion extends to what the policy should be in many areas covered in the foregoing subject areas. The Task Force has identified three key issues and suggested initial action for addressing them.

Following are specific issues covered under each category:

A. Federal Guidance

Management priorities and resources for Federal guidance.

B. Interagency Consistency and Coordination

1. Multi-agency jurisdiction and overlap.
2. Inconsistencies in occupational radiation protection regulations.
3. Interagency mechanism for resolving technical problems.
4. Gaps in radiation protection for workers.
5. Implementation of ALARA.
6. Intergration of national/international standards.
7. National repository for radiation exposure record keeping.

C. Dose Limit Policy

1. Dose Limit for occupational, whole body external exposure.
2. Occupational Radiation dose limits for women.
3. Emergency dose guides.
4. Relaxation of occupational radiation protection requirements.

D. Underlying Scientific and Technical Issues

1. Dose-effect relationships.
2. Quality assurance for measurements and protective equipment.
3. SI units.

Summary of Position Paper on Low-Level Radioactive Waste

The Radiation Policy Council formed a Task Force in May, 1980 to consider the problems associated with low-level radioactive waste disposal. The Task Force was chaired by DHHS and was composed of representatives from DHHS, DOE, EPA, NRC, FEMA, DOT, and DOD. Two major objectives were developed by the Task Force:

Objective One: To recommend Federal Policy for improving coordination and implementation of Federal and non-Federal programs that have been established to obtain solutions to existing low-level waste disposal problems.

Objective Two: To recommend Federal Policy for Disposal of Low-level waste containing minimal activity for which alternative disposal methods to existing shallow land burial practices may be acceptable for protecting the Public Health.

The representatives of the above agencies prepared reports related to these objectives and public input was received from 39 organizations and individuals in response to a solicitation for input appearing in the **Federal Register** on June 30, 1980. As a result of Task Force members' reports, Task Force meetings, and consideration of the public in-put, the discussion and recommendations contained herein were produced.

There exists a movement in the Federal, State, and private sector to have the States, or groups of States, provide disposal capacity in their regions. The Task Force recommends that the Radiation Policy Council endorse this approach, and urges Federal agencies and the Congress to facilitate requisite legislation and provision of appropriate technical resources. Because there is uncertainty about continuing adequacy of disposal capacity, the Task Force recommends that the Radiation Policy Council encourage the State Planning Council, NRC, and DOE to urge States to aggressively develop strategies to ensure continuing availability of disposal alternatives for low-level waste generators, and, that the NRC and DOE be directed to provide technical support of these activities and monitor their progress. The EPA should expedite development of generally applicable radiation protection standards for low-level waste and the Radiation Policy Council should ensure, through the Interagency Working Committee on Radioactive Waste Management, effective coordination between the EPA, DOE, and NRC so that a consistent regulatory posture evolves.

The Task Force considered the feasibility of setting generic "de minimus" levels applicable to all low-level waste disposal, but concluded that this would involve extremely conservative assumptions and would likely lead to derivation of levels that would be too low to be of practical value. However, similar efforts, directed at specific waste streams, should be productive and facilitate low-level waste disposal without endangering the public health. Such limits should be derived, paying specific attention to the possibility of disposal via conventional means. The Radiation Policy Council should endorse, and thus encourage, such efforts by the NRC. It should also encourage the NRC to provide review of licensees' applications that propose changes in waste disposal practices that will improve waste management and lessen the burden on commercial shallow land burial sites.

Public input reflected a feeling of frustration due to confusion about who to contact and a lack of timely knowledge about currently feasible and acceptable low-level waste disposal alternatives. The Task Force recommends the establishment of a single Federal contact point for the public and generators to seek authoritative information. It is further recommended that waste management information guide be prepared cooperatively by the DOT, EPA, NRC, and DOE for the purpose of informing medical and institutional generators of currently acceptable practice and volume reduction methods; it should provide clear and direct guidance with appropriate examples and a listing of contacts for authoritative information. Agencies involved in low-level waste management and regulation should participate in conferences that will provide for exchange of information, clarity of position, and opportunity for discussion of practical and achievable strategies for waste disposal, and which can be used to convey the approaches that are currently being considered by the agencies involved in resolving problems associated with low-level waste management

FOR FURTHER INFORMATION CONTACT:
U.S. Radiation Policy Council, Room 3026, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Carl R. Gerber,
Director.

[FR Doc. 80-26437 Filed 8-27-80; 8:45 am]

BILLING CODE 6560-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1980, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1980, 21.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 78.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.

Dated: August 19, 1980.

R. F. Butler,
Secretary of the Board.

[FR Doc. 26322 Filed 8-27-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17081; File No. SR-DTC-80-5]

Depository Trust Co.; Proposed Rule Change by Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 18, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

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Statement of the Terms of Substance of the Proposed Rule Change

Fee Schedule for Major Services

A. Usage Charge	$260 per month
B. Deliveries via Book-Entry	
1. Deliver Orders (DOs) and deliveries via the Participant Terminal System or API (tape) for the movement of shares from the DTC account of one Participant to another Participant (including settlement service).	[$0.70] for each item delivered, received, or reclaimed by the following method: Paper - $0.50/PTS - $0.34/API (tape) - $0.34.
Paper copies of PTS generated Deliver Orders	PTS users who wish paper copies of Deliver Order receive notices, whether or not they get such notices by PTS, will pay a $0.05 charge for any such paper notice.
Override delivery Instructions (DOs) to Continuous Net Settlement (CNS).	
One regular DO delivery fee charged only to the submitting Participant for each override DO processed specifying National Securities Clearing Corporation's CNS system as the receiver.	[$0.70] $0.50 for each item (paper) delivered. $0.34 for each item (PTS or API tape) delivered.
Regular delivery instructions (DOs) which are not completed (dropped). One regular DO delivery fee charged only to the submitting Participant for each DO dropped because of insufficient securities position, unless DTC's system shows that the submitting Participant's drop was caused by notice of potential receive of a delivery from another Participant which subsequently dropped.	[$0.70] Paper - $0.50/PTS - $0.34/API (tape) - $0.34 per drop.
2. Regular delivery which DTC rejects.	$2.00 charged to the submitting Participant for each instruction rejected because of wrong Cusip number, wrong input form, requests in securities issues which are not DTC-eligible, missing identifier for the submitting Participant (or receiving Participant on DOs), or illegible data.
3. Payment order service for each Premium Payment Order (PPO) or Securities Payment Order (SPO) processed.	To be determined.
4. Institutional Delivery (ID) System (including settlement service)	[$0.64] $0.34 for each item delivered or received.
C. Interdepository Deliveries	
This covers only deliveries between a Participant of DTC and a different Participant of another depository.	$0.70 surcharge (above the fees described in (B)) for DOs for each item delivered, received or reclaimed.
D. Deliveries via Book-Entry to Continuous Net Settlement systems.	[$0.27] $0.08 for each item delivered or received.

E. Conditional Deliver Orders (CDOs)	
1. For book-entry movements of borrowed securities from lending Participants to borrowing Participants (including settlement service).	[$0.70] $0.50 for each item delivered or received.
2. For return [by] via DTC of borrowed securities not needed (including settlement service).	No charge
F. Deposit of Physical Certificates	[$0.30 per deposit with no limit on the number of certificates or shares for the issue being deposited. $1.75 per deposit received between the hours of 11:00 a.m. and 11:30 a.m. Eastern time.] Zone Charge A. (4:00 p.m. - 8:00 p.m. 7:30 a.m. - 9:30 a.m.) [$0.30] $0.75 B. (9:30 a.m. - 11:00 a.m.) $1.10 C. (11:00 a.m. - Noon) [$1.75] $2.50 Plus certificate charge beyond first 10 certificates of $0.25 per group of up to 10 certificates (e.g. $0.25 for 11 to 20 certificates) but not to exceed $3.00 per deposit if scheduled in advance with DTC Deposit Section.
1. Record date deposit surcharge	$2.50 per record date deposit surcharge.
2. Mail issue surcharge	$0.90 per deposit for Mail issue surcharge.
G. Legal Deposits	
1. For bulk Legal Deposits where the value of the securities to be deposited is approximately $100 million or more.	[$25.00] $10.00 per deposit. [Discount for bulk deposits varies based on DTC's costs.] One time discount to be determined on a case-by-case basis.
H. Transfer to Customer or Firm Name (W/T): For each separate assignment ("Fanfold").	[$0.63] $1.80 per assignment submitted on paper documents. [$0.56] $1.15 per assignment submitted on magnetic tape. $0.90 per assignment for Mail issue surcharge.
I. Withdrawal of Nominee Certificates (COD):	
1. a. For each regular withdrawal submitted by paper instruction.	[$2.65] $4.30 per withdrawal.
b. For each regular withdrawal by PTS.	[$2.65] $3.70 per withdrawal.
c. For each certificate after the first certificate. Only if requested.	[$0.55] $0.90 per certificate.

2. a. For each Fast Automated Securities Transfer (FAST) withdrawal submitted by paper instruction.	[$3.50] $4.30 per withdrawal.
b. For each FAST withdrawal by PTS.	[$3.50] $3.70 per withdrawal.
c. For each FAST certificate after the first certificate. Only if requested.	[$0.55] $0.90 per certificate.
d. Mail Issue surcharge.	$0.90 per COD.
3. Urgent withdrawal instructions (CODs) which DTC rejects.	$2.00 charged to the submitting Participant for each instruction rejected because of wrong Cusip number, wrong input form, requests in securities issues which are not DTC-eligible, missing identifier for the submitting Participant, or illegible data.

J. Collateral Loans

1. For each security (line item) pledged, released or substituted.	$0.42 per line item assessible to each of the pledgee and pledgor in each transaction.
2. Monthly Pledgee Bank usage fee. A Participant which is also a Pledgee Bank pays only a single usage fee.	$260 per month.
3. Collateral Loan Report	
a. A detailed daily report of a bank or broker Participant's DTC collateral loans valued to the "market". Distributed each day of the month.	$0.02 per line item with a minimum charge of $250 monthly for each subscribing Participant.
b. Individual daily copies of this report are also available upon request.	$25 per copy.

4. Error charge

For each pledge or release corrected or returned to a Participant because of error.

From 0 to 1%	No charge
1 to 3%	$5 per reject
3 to 5%	$10 per reject
Over 5%	$15 per reject

K. Maintenance of Long Position

1. For each issue (monthly) based on the daily average.	[$0.49] $0.53 per issue	
2. For each 100 shares or $4000 bonds (monthly), ($1000 bond = 25 shares) based on the average daily number of shares or bonds.	$.0050	0-25 million shares
	$.0013	More than 25 up to 200 million shares
	$.000652	More than 200 up to 300 million shares
	No charge	Over 300 million shares

L. Deposit & Transfer Error Charge

For each deposit and transfer corrected or returned to a Participant because of error:

From 0 to 1%	No charge
1 to 3%	$5 per reject
3 to 5%	$10 per reject
Over 5%	$15 per reject

M. Form Charge

For forms (including blank magnetic tapes) provided by DTC.	Cost plus handling charge.

N. Participant Output Services (Optional)

1. Master file of eligible securities.

A list of those issues that are eligible for DTC activity.	Hardcopy Booklet	Monthly/$3 per copy
	Additional Hardcopy Booklet	Upon request/$3 per copy
	Hardcopy File Printout	Upon request/$25 per copy
	Cards	Upon request/$100 per deck
	Mag tape (supplied by Participant)	Upon request/$100 per tape

2. Position Statement

Total share position on deposit in DTC detailed by the accounts in which the position is resident. Share position is listed by issue.	Hardcopy	Monthly/no charge (1st copy)
	Additional Hardcopy	Upon request/$25 per copy
	Cards	Upon request/$50 per deck
	Mag tape	Upon request/$50 per tape
	Mag tape (supplied by Participant)	Daily/$550 monthly
	Microfiche (in lieu of hardcopy)	Monthly/no charge (1st copy); $0.25 for each additional microfiche copy
	Microfiche (in addition to hardcopy)	Monthly/$1.00 for 1st copy; $0.25 for each additional microfiche copy

3. Daily Activity Statement

A detailed statement of activity on a given business day.	Hardcopy	Daily/no charge (1st copy)
	Additional Hardcopy	Upon request/$25 per copy
	Additional Hardcopy	Daily/$200 monthly
	Cards	Daily/$100 monthly
	Mag tape (supplied by Participant)	Daily/$250 monthly
	Microfiche (in lieu of hardcopy)	Monthly/no charge (1st copy); $0.25 for each additional microfiche copy
	Microfiche (in addition to hardcopy)	Daily/$1.00 for first microfiche copy; $0.25 for each additional microfiche copy.

O. Sub-accounting	
To enable a Participant to segregate a portion of its security position for whatever reason it deems necessary. Note that all DTC activity (deliveries, withdrawals, etc.) originates from the General or Interim Free account. Consequently, all segregated positions must first be moved out of the sub-account before being eligible for further activity.	$0.45 for each of the move into and the move out of the sub-account.
P. Investment Identification (Billed under Sub-accounting)	
To enable a Participant to segregate and identify a portion of his security position for tax identification purposes.	$0.45 for each of the move into and the move out of the investment identification account.
Q. Options (Billed under Collateral Loans)	
To enable a Participant to block securities to the Options Clearing Corporation.	$0.42 per line item for each of the blocking and the subsequent release.
R. Depository Facilities	
1. Facility bank usage fee (monthly).	$0.30 per deposit with a $100 minimum and a $200 maximum.
2. Facility deposit.	$0.12 per deposit chargeable to the depository Participant, [with no limit on the number of certificates or shares] plus the $0.75 fee (Zone A) and certificate charge as described in F above.
3. Piggy-back deposit/delivery.	[$0.70] $0.75 per deposit chargeable to the receiving Participant.
S. Reconciliation Special Charges	
1. Photocopies of statements or certificates.	Upon request/$2.00 per copy
2. Photocopies of certificate numbers.	Upon request/$1.00 per certificate number
3. Research on aged and other special items.	Upon request/according to nature of research.
T. Participants Fund	
The Fund consists of Participant contributions of cash and pledged securities. The amount of each Participant's contribution is adjusted periodically, based upon the formula "2 1/2% of average daily gross settlement debits and credits." Each Participant must contribute a minimum of $10,000 in cash. Any required indebtedness above $10,000 can be secured by pledging AAA or AA government or municipal bonds or notes or AAA DTC eligible corporate registered bonds. Refer to DTC Rule 4 for specific guidelines.	Example: Average daily gross purchase and sale activity for Participant A is $1 million. Participant Fund contribution is 2 1/2% x $1,000,000 = $25,000. Participant A contributes $10,000 cash, $15,000 bonds.

U. Additional Accounts	
1. If a Participant elects to open an additional DTC account(s), such account(s) will be subject to an additional monthly Usage Charge.	$260 per month.
2. When calculating the Participants Fund contribution, average daily gross debits and credits will be totalled for all DTC accounts and multiplied by 2 1/2% per cent. Separate minimum $10,000 cash contributions will not be required for each additional account.	
V. Underwritings	
Billed to managers of underwritings.	$2 per million dollars principal amount for bonds ($70 minimum-maximum $1,000). $8 per million dollars offering value for stocks (same minimum and maximum).
W. Dividend Reinvestment Service	$8.10 per instruction.
A charge for each Dividend Reinvestment Service instruction to receive stock in lieu of cash dividend.	
X. Municipal Bonds	
1. Deposit of municipal bonds in bearer form at the transfer agent (in addition to regular DTC deposit fee).	Fees (per deposit and/or per certificate), if any, charged to DTC by the transfer agent.
2. Withdrawal of municipal bonds in bearer form (in lieu of any other DTC withdrawal fee).	$1.00 per withdrawal, plus fees (per withdrawal and/or per certificate), if any, charged to DTC by the transfer agent.
Y. Participant Terminal System (PTS)	
1. Full PTS terminal (one CRT screen and printer).	$595 per month plus any applicable taxes and related communications line costs.
2. Advanced PTS terminal (one CRT screen plus a separately addressable high speed printer, plus local back-up line and switch).	$745 per month plus any applicable taxes and related communications line costs.
3. Advanced 2 CRT PTS terminal (two CRT screens plus a separately addressable high speed printer, plus local back-up line and switch).	$845 per month plus any applicable taxes and related communications line costs.
4. Dial-in terminal service charge.	
a. Participants	$75 per month plus regular PTS transaction charges.
b. Non-Participants (ID confirmations only)	$120 per year.

5. Unsolicited messages	[$0.05] $0.04 per message.
6. Inquiries	[$0.05] $0.04 per inquiry.
7. Reports	$25 per month per report series plus $0.05 per line.
a. The Dropped Delivery Report b. The Dropped COD Report c. The Cash Dividend Report	
8. Pre-Update Edits	$0.05 per edit.
9. Broadcast	$0.12 per 300-character message per addressee.
Z. Dividend/Interest Credits	[$0.25] $0.50 per credit.
AA. Institutional Delivery (ID) System Confirm	
1. By paper, card or magnetic tape at DTC	$0.15
2. By PTS or dial-in	$0.15
3. By facsimile transmittal	$0.35
4. By magnetic tape transmittal	$0.25
BB. Corrections to erroneous DOs and CDOs.	$2.00 per correction.
CC. Conversion of convertible securities	$0.01 per share of underlying security (usually common stock) resulting from the conversion of bonds or preferred stock, subject to a minimum transaction charge of $7.50 and a maximum charge of $37.50; plus two regular DO delivery fees for the two book-entry movements affecting a Participant's account to deduct the convertible securities and add the underlying security.

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Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed changes in the Fee Schedule for Major Services is to move major service fees closer to costs without establishing fees which would unduly discourage use of the depository system for book-entry settlement and immobilization of securities. The proposed Fee Schedule was designed to yield approximately the same amount of revenue as the present Fee Schedule.

The proposed rule change would carry out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating fees among DTC Participants.

Comments regarding a test Fee Schedule which differs somewhat from the Fee Schedule set forth above were solicited from all DTC users by Important Notice dated June 3, 1980, transmitting a DTC Memorandum dated May 20, 1980, attached as Exhibit 2 to DTC's filing on Form 19b–4A, File No. SR–DTC–80–5. The changes in the Fee Schedule set forth above as compared with the Fee Schedule in Exhibit 2 were made in response to the comments described below and other recent developments.

Participants' comments focused on two areas: (1) the Deposit fee received the greatest amount of criticism, particularly the zone charges to which a number of regional brokers and banks objected. (2) Broker-dealer participants, because of the retail character of their businesses, objected to the increased fee for Withdrawal by Transfer (WTs). In many instances the same participants objected to the Deposit fee.

Other fee increases or new fees received little comment.

Participants, Pledgees and Depository Facilities were notified of the new Fee Schedule above by Important Notice dated July 18, 1980, transmitting DTC Memorandum dated July 16, 1980, attached as Exhibit 4 to DTC's filing on Form 19b–4A, File No. SR–DTC–80–5.

DTC perceives no burden on competition by reason of the proposed rule change.

On or before October 2, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 18, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 21, 1980.

[FR Doc. 80–26394 Filed 8–27–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11313; 812–4595]

Leasco Corp.; Filing of Application

August 21, 1980.

Notice is here by given that Leasco Corporation ("Applicant"), 919 Third Avenue, New York, New York 10022, a Delware corporation, filed an application on January 21, 1980, and amendments thereto on February 29, 1980, April 15, 1980, and August 1, 1980, pursuant to Sections 6(c) and 6(e) of the Investment Company Act of 1940 ("Act"), for an order exempting it from all provisions of the Act and its rules, other than: (1) Sections 9, 17(a)–(e), 31, 36(a) and 37 of the Act and the rules thereunder; (2) all sections of the Act and the rules thereunder necessary to implement the above sections of the Act; and (3) all administrative, procedural and jurisdictional sections of the Act, subject to certain conditions and exceptions set forth in the application and discussed below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant was incorporated in 1978 as a wholly owned subsidiary of Reliance Group, Incorporated ("Reliance"). In order to acquire the computer leasing operations of Reliance which, prior to that time, had been conducted by two other Reliance subsidiaries. Thereafter, on January 29, 1979, Reliance's board of directors declared a dividend of Applicant's common stock to be distributed to holders of Reliance common stock, and on May 14, 1979, Applicant's common stock was so distributed ("spin off"). Prior to the spin off: (1) assets ralating to Reliance's computer leasing operations with a value of $25,000,000 were transferred to Applicant and one of its subsidiaries; (2) Applicant issued $25,000,000 of its Series A preferred stock to a Reliance subsidiary; and (3) Leasco Europa, Ltd. ("Europa"), a subsidiary of Reliance with a net book value of $10,000,000, was transferred to Leasco Computer, Inc., a subsidiary of Applicant, in exchange for common stock of Applicant.

According to the application, Saul P. Steinberg ("Mr. Steinberg") is Chairman of the Board, President and Chief Executive Officer of Applicant, and with members of his family and certain estates and trusts for the benefit of his family (hereinafter referred to collectively as the "Steinberg Family") owns approximately 51 percent of Applicant's outstanding common stock. The application states that Mr. Steinberg also is founder, Chairman of the Board, President and Chief Executive Officer of Reliance, and that as of April 1, 1980, the Steinberg Family owned 15.24 percent of Reliance's outstanding common stock. The application further states that sixty percent of Applicant's directors are either directors or senior officers of Reliance.

Applicant states that, because of certain risks inherent in the computer leasing business, it investigated opportunities for the acquisition of businesses outside the computer leasing area in order to add stability and profits to its operations. Applicant's management believes that over time Applicant's computer leasing business will decline in value. Applicant states that it looked at hundreds of acquisition candidates, and that Reliance compared favorably with other companies investigated in terms of past and prospective returns on investment. Thus, Applicant has purchased 250,000 shares of Reliance common stock and is actively considering purchasing up to 1,000,000 additional shares. The 250,000 shares of Reliance held by Applicant were valued, on January 14, 1980, at approximately $15,000,000 and comprised nearly 31 percent of

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Applicant's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Applicant states that, in addition to its holdings of Reliance, it presently holds or may acquire the following additional securities: (1) a $30,000 Port of New York Authority Bond due February 1, 1996, and common stock in two publicly held corporations having a combined fair market value on June 4, 1980, of $1,395,350; (2) a warrant to purchase 40 percent of the outstanding common stock of North American Broadcasting, Inc. ("Broadcasting"), for $20,000 and subordinated notes issued by Broadcasting with a face value of $2,000,000; and (3) perferred stock of Securilease, Inc. ("Securilease"), with a redemption value of $380,000, and a non-recourse senior note of Securilease in the amount of $2,000,000. The transactions resulting in Applicant's acquisitions of securities issued by Broadcasting and Securilease, and the terms of such securities, are described in the application. Briefly, the securities of Broadcasting are being issued to Applicant in exchange for a loan and a loan guarantee made by Applicant, and the securities of Securilease were issued in connection with the sale of a Subsidiary by a subsidiary of Applicant.

Section 3(a)(3) of the Act defines the term "investment company" to mean any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a) of the Act defines the term "investment securities" to include all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority owned subsidiaries of the owner which are not investment companies. Applicant states that it does not presently hold more than 40 percent of its total unconsolidated assets in investment securities, but that either additional purchases of Reliance common stock or the holding of the subordinated notes of Broadcasting could cause Applicant to exceed the 40 percent requirement and, therefore, meet the definition of investment company contained in the Act. Accordingly, Applicant has requested an order exempting it from all provisions of the Act and of the rules thereunder, except certain specified provisions.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any of the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) of the Act provides that if, in connection with any order under Section 6 of the Act exempting any investment company from Section 7 of the Act, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of the Act pertaining to 6(e) of the Act, to permit its continued operations without the necessity of registered investment companies shall be applicable in respect of such company, the provisions so specified shall apply to such company, and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Applicant states that many of its activities and operations, especially those relating to Reliance, could conflict with various provisions of the Act and, therefore, has filed the present application, pursuant to Sections 6(c) and registering as an investment company under the Act. Applicant asserts that its holdings in Reliance are not for investment, and that it has no present intention to sell or otherwise dispose of the Reliance shares it now owns or may purchase. In this regard, Applicant submits that it has determined to engage in the insurance business through its ownership interest and management participation in Reliance. Applicant states that its management is experienced and expert in the operations of Reliance's wholly owned businesses, and expects to continue to participate fully in Reliance's operations.

Applicant represents that it has not engaged and, except to the extent that it will purchase additional shares of Reliance stock, does not expect to engage in the continuous purchase of portfolio securities. Applicant further represents that: (1) its primary business is not investing, but that it is a company which has engaged in computer leasing and related businesses through wholly owned subsidiaries; (2) it has no present intention to sell to the public, distribute to its shareholders or otherwise dispose of any shares of Reliance which it now holds or may acquire; (3) it has not emphasized an intent to invest in securities; and (4) it is not the type of company for which the Act was designed. Applicant submits that the granting of the requested exemption will permit the ordinary operations of Applicant and its subsidiaries without relinquishing appropriate investor protections.

As conditions to the granting of the requested order, Applicant has agreed to remain subject to all administrative, procedural and jurisdictional sections of the Act. Applicant has also agreed to comply with Section 9 of the Act, and Sections 17(a)–(e) of the Act to the extent transactions, in the case of Section 17, involve (1) Applicant or "downstream" controlled companies of Applicant (other than Reliance) on the one hand, and (2) Reliance, the Steinberg Family or affiliated persons of Reliance or the Steinberg Family on the other hand. Applicant will also remain subject to Sections 31, 36(a) and 37 of the Act and the rules thereunder, as well as all sections of the Act and of the rules thereunder necessary to implement and to enforce the above sections of the Act, with the following exceptions:

(1) That Mr. Steinberg, his agents, servants, employees and attorneys shall not be prohibited by Section 9 of the Act from serving in the capacity of employee, officer, director, or member of an advisory board of Applicant by reason of any order, judgment or decree issued prior to the issuance of the order requested in the application, including the final judgment of permanent injunction entered on August 29, 1978, pursuant to an agreement of settlement and consent, without admission or denial of any of the allegations contained in the complaint, involving an allegation by the Commission that Mr. Steinberg has sold securities of Pulte Home Corporation, which he held as a personal investment, while discussing with acquaintances his opinion of the good business prospects for that corporation. (Applicant asserts that, with the exception of the above mentioned injunction, no other employees, officers and directors of Applicant or of any of its subsidiaries would be subject directly to the prohibitions of Section 9).

(2) That Sections 17(a)–(e) of the Act, which prohibit certain types of affiliated transactions, not apply to prohibit:

(a) Applicant and Reliance from carrying out the terms of a management agreement whereby Reliance provides certain services to Applicant;

(b) The sale by Applicant of any part of its holdings of Reliance stock to

Reliance for fair market value at the time of sale;

(c) The leasing of computers to Reliance or any affiliate thereof at fair market value;

(d) The redemption by Applicant of its outstanding Series A preferred stock held by Reliance or the exchange by Applicant of other property for such preferred stock;

(e) The purchase by Applicant of real estate services for fair market value from a wholly owned Reliance subsidiary;

(f) The purchase by Reliance from Applicant of computer services for fair market value;

(g) The subleasing of office space in the United Kingdom by Europa from a subsidiary of Reliance at fair market value;

(h) The joint coverage of Applicant and Reliance under various insurance policies;

(i) The purchase by Applicant from Reliance or its subsidiaries of insurance policies whereunder Applicant is the named insured or the beneficiary;

(j) The joint participation by Applicant and Reliance in the administration of each company's pension and profit sharing plans;

(k) The receipt by directors and officers of Applicant and Reliance of directors' fees, salaries, bonuses and benefits pursuant to employee benefit plans, including stock option plans, from Applicant and Reliance, respectively; provided, however, that any stock option plan of Applicant be approved by a vote of a majority of Applicant's shareholders, and further provided that all stock options so granted (i) will not exceed 10 percent of Applicant's outstanding shares, (ii) will not be exercisable for at least one year from the date of grant, and (iii) will have an exercise price of at least 100 percent of the market price of Applicant's common stock on the date of grant;

(l) The purchase of Reliance common stock in the open market and any public tender or exchange offer for such Reliance stock by Applicant to all Reliance shareholders, including Mr. Steinberg;

(m) The granting to Applicant by Mr. Steinberg of any option to purchase Reliance stock owned by Mr. Steinberg, such option to include the right of Applicant to vote the stock during the option period, provided that Applicant pays no more than a nominal fee in exchange for the option;

(n) The purchase by Applicant of consulting services from Reliance or its subsidiaries for fair market value;

(o) The continuance of the debtor-creditor relationship presently existing between Reliance and Michael F. Morrell ("Morrell"), Director and Executive Vice President of Applicant, with respect to $138,125 loaned to Morrell by Reliance which bears interest at eight percent per year and is due in April 1981;

(p) The subleasing of office space in the United States by Applicant from Reliance at Reliance's cost;

(q) The leasing of fleet cars by Applicant and Reliance for their respective use under the same leasing agreement; and

(r) The joint entering by Applicant and Reliance into a national buying program for the purchase of office equipment and supplies, and other material.

(3) That for purposes of the recordkeeping provisions of Section 31 of the Act and the rules thereunder, Applicant will maintain records in accordance with such provisions only to the extent to which transactions in which it engages are of the type described in such section and rules (such records shall be subject at anytime and from time to time to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe).

As further conditions to the requested order, Applicant has agreed:

(1) Not to acquire investment securities other than the common stock of Reliance if to acquire such investment securities would cause Applicant to hold more than five percent of its total consolidated net assets in investment securities, except that: the acquisition and continued holding of the securities issued by Broadcasting and Securilease in connection with certain transactions described in the application shall be permissible, as shall be the purchase of money market instruments, and shares of money market funds, acquired and held by Applicant as a cash management tool;

(2) To liquidate, within three months from the date of issuance of the rquested order, its holdings of common stock in the two publicly held corporations and the $30,000 Port of New York Authority Bond; and

(3) Not to take corporate action, such as repurchasing its outstanding shares or entering into a reorganization, which would serve to reduce its net assets and cause its holdings of investment securities to be more than five percent of its total consolidated net assets without first obtaining an order of the Commission modifying the order which may be granted on the present application.

Compliance with the above three conditions shall not require Applicant to sell investment securities if by reason of an increase in the market value of such securities, or a decline in the fair market value of other assets of Applicant, such investment securities have a value exceeding five percent of Applicant's total consolidated net assets.

Notice is further given that any interested person may, not later than September 15, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether hearing is ordered, will receive any notices and others issued in this matter, including the date of the hearing (if ordered) and any potponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–26395 Filed 8–27–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22-10612]

United Technologies Corp. (a Delaware Corporation); Application and Opportunity for Hearing

August 22, 1980.

Notice is hereby given that Unitied Technologies Corporation (a Delaware corporation) ("United") has filed an application under clause (ii) of Section 310.(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Manufacturers Hanover Trust Company under three indentures, all heretofore qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover Trust Company from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign.

Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

United alleges that:

1. Carrier Corporation, a Delaware corporation ("Old Carrier"), has issued and outstanding $46,942,000 principal amount of its twenty-five year 7¾% Debentures due 1998 (the "1973 Debentures") under an Indenture, dated as of October 1, 1973 (the "1973 Indenture"), between Old Carrier and Manufacturers Hanover Trust Company, Trustee. The 1973 Indenture was filed as Exhibit 2 to Registration Statement No. 2–49034 of Old Carrier under the Securities Act of 1933 and has been qualified under the Trust Indenture Act of 1939.

2. On July 6, 1979 Old Carrier merged into United Technologies Holding Corporation ("UTHC") a Delaware corporation and a wholly-owned subsidiary of United, also a Delaware corporation. Simultaneously with the consummation of the merger, UTHC changed its name to Carrier Corporation ("New Carrier").

United and New Carrier jointly and severally assumed the due and punctual payment of the principal of (and premium, if any) and interest on the 1973 Debentures. United and New Carrier are thus joint obligors under the 1973 Indenture and are hereinafter referred to collectively as the "Company".

3. United has issued and there is presently outstanding $200,000,000 principal amount of United's 9⅜% Sinking Fund Debentures due January 15, 2004 (the "1979 Debentures") under an Indenture dated as of January 15, 1979 between United and Citibank, N.A., Trustee. United also has issued and there is presently outstanding $100,000,000 principal amount of United's 9.45% Notes due January 15, 1989 (the "1979 Notes") under an Indenture dated as of January 15, 1979 between United and Citibank, N.A., Trustee. The above referenced Indentures will hereinafter be referred to collectively as the "1979 indentures".

The 1979 Indentures were filed as Exhibits 2(b) and 2(d), respectively, to Registration Statement No. 2–63367 of United under the Securities Act of 1933 and have been qualified under the Trust Indenture Act of 1939.

Citibank, N.A., on June 12, 1980, gave written notice to United of its resignation as Trustee under the 1979 Indentures because of a conflict arising under Section 608(c)(4) of the 1979 Indentures due to the election, on April 21, 1980, of Messrs. William E. Simon and Darwin E. Smith, directors of Citibank, N.A., as directors of United. As a result, a total of four directors of United are also directors of Citibank, N.A. United has requested Manufacturers Hanover Trust Company to accept appointment as successor Trustee under the 1979 Indentures.

4. As required by Section 3.10(b) of the Trust Indenture Act of 1939, Section 7.08 of the 1973 Indenture provides in applicable part as follows:

> (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10.
>
> (b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 7.08, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the debentureholders in the manner and to the extent provided in subsection (c) of Section 5.04.
>
> (c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interestif—
>
> (1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, *provided* that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest of participation in other securities of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the Trusteeeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

Section 608 of each of the 1979 Indentures is substantially the same as Section 7.08 of the 1973 Indenture, except that each of the 1979 Indentures explicitly excludes from the operation of paragraph (c)(1) thereof the other 1979 Indenture.

5. Manufacturers Hanover Trust Company believes that if it accepts the appointment as successor Trustee under the 1979 Indentures it may have a conflict of interest within the meaning of Section 608 of the 1979 Indentures because those Sections do not explicitly exclude from the operation of paragraph (c)(1) thereof the 1973 Indenture.

6. The 1973 Debentures, the 1979 Debentures and the 1979 Notes are all wholly unsecured and of equal rank. Accordingly, in the opinion of United the trusteeships of Manufacturers Hanover Trust Company under the 1973 Indenture and the 1979 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors that Manufacturers Hanover Trust Company be disqualified from acting as trustee under the 1973 Indenture and the 1979 Indentures.

7. United hereby waives notice of hearing, and waives hearing, in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street N.W., Washington, D.C.

Notice is further given that any interested person may, not later than September 17, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26391 Filed 8-27-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10627]

United Technologies Corp. (a Delaware Corportation); Application and Opportunity for Hearing

August 22, 1980.

Notice is hereby given that United Technologies Corporation, a Delaware corporation (the "Company"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exhange Commission that the trusteeship of Morgan Guaranty Trust Company of New York, a New York corporation ("Morgan Guaranty"), under certain indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, *inter alia,* that an indenture to be qualified shall provide that if the indenture trustee has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (i) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting intertest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indenture.

The Company alleges that:

1. The predecessor to the Company, United Aircraft Corporation, issued and sold $100,000,000 principal amount of 9% Notes due April 15, 1985 (the "United 1975 Notes") and $100,000,000 principal amount of 9⅞% Sinking Fund Debentures due April 15, 2000 (the "United 1975 Debentures"), under indentures, each dated as of April 15, 1975 (collectively, the "United Indentures"), between the company and Morgan Guaranty. The United 1975 Notes and the United 1975 Debentures were each registered with the Securities and Exhange Commission under the Securities Act of 1933 (the "1933 Act") and the United Indentures were qualified under the Act (Registration No. 2-52928).

2. On July 6, 1979 Carrier Corporation, a Delaware corporation ("Old Carrier"), was merged into United Technologies Holding Corporation, a Delaware corporation and a wholly-owned subsidiary of the Company ("UT Holding"). Upon consummation of the merger, UT Holding's name was changed to Carrier Corporation ("New Carrier").

3. Old Carrier was the obligor on $7,500,000 principal amount of 6% Convertible Debentures due December 1, 1989 (the "Carrier 1969 Debentures") issued under an indenture dated as of December 1, 1969 between Carrier Overseas Finance Corporation, a Delaware corporation and a wholly-owned subsidiary of Old Carrier ("Carrier Overseas"), and Morgan Guaranty and $25,000,000 principal amount of 8% Debentures due June 15, 1987 (the "Carrier 1972 Debentures") issued under an indenture dated as of June 15, 1972 between Carrier International Finance N.V., a Netherlands Antilles corporation and a wholly-owned subsidiary of Carrier ("Carrier International"), and Morgan Guaranty, respectively (collectively, the "Carrier Indentures"). As the Carrier 1969 Debentures and Carrier 1972 were issued and sold outside the United States to persons in transactions to which, in the opinion of Old Carrier's counsel, the registration requirements of the 1933 Act were not applicable, the Carrier Indentures were not qualified under the Act.

By a First Supplemental Indenture dated as of June 15, 1974, Old Carrier assumed the due and punctual payment of the principal of and premium, if any, and interest on the Carrier 1972 Debentures and the due and punctual performance of all the covenants and conditions to be performed by Carrier International under the indenture dated as of June 15, 1972 to which Carrier International and Morgan Guaranty were parties.

By a First Supplemental Indenture dated as of December 3, 1974, Old Carrier assumed the due and punctual payment of the principal of an premium, if any, and interest on the Carrier 1969 Debentures and the due and punctual performance of all the convenants and conditions to be performed by Carrier Overseas under the indenture dated as of December 1, 1969 to which Carrier Overseas and Morgan Guaranty were parties.

4. Concurrently with the merger of Old Carrier into UT Holding, New Carrier and the Company each assumed the obligations of Old Carrier to make due and punctual payment of the principal of and premium, if any, and interest on the Carrier 1969 Debentures and the Carrier 1972 Debentures in indentures supplemental to the Carrier Indentures. The Company thus became an obligor on these debentures.

5. The United Indentures contain the provisions permitted by the proviso of Section 310(b)(1) of the Act, and each of the United Indentures excludes the other United Indenture from the operation of the disqualification provisions of the Act as set forth in such indenture. The indenture relating to the United 1975 Debentures provides in applicable part as follows:

> (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in this Article.
>
> (b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit by mail to all Holders, as their names and addresses appear on the Debenture Register, notice of such failure.
>
> (c) For the purposes of this Section the Trustee shall be deemed to have a conflicting interest if—
>
> (1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are

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outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph [the Indenture relating to the United 1975 Notes] and any other indenture or indentures under which other securities, or certificates of interest of participation in other securities of the Company are outstanding, if

(i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act, unless the Commission shall have found and declared by order pursuant to Section 305(b) or Section 307(b) of the Trust Indenture Act that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or

(ii) the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

The indenture relating to the United 1975 Notes contains a similar provision except that such indenture explicitly excludes from the operation of such provision the indenture relating to the United 1975 Debentures.

6. By reason of the Company's assumption of obligations of Old Carrier on the Carrier 1969 Debentures and the Carrier 1972 Debentures, Morgan Guaranty's trusteeships under the Carrier Indentures have become trusteeships under indentures governing securities upon the Company is an obligor. Therefore, Morgan Guaranty may be deemed to be trustee under other indentures under which other securities of the Company are outstanding within the meaning of Section 310(b)(1) of the Act.

7. The United Indentures and the Carrier Indentures are wholly unsecured and the Company and New Carrier are not in default under any of the United Indentures or the Carrier Indentures. The rights of the holders of the United 1975 Notes and the United 1975 Debentures, and the rights of the holders of the Carrier 1969 Debentures and the Carrier 1972 Debentures rank equally with each other. Accordingly, in the opinion of United the trusteeships of Morgan Guaranty under the United Indentures and the Carrier Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as trustee under any of said indentures.

8. The Company hereby waives notice of hearing and waives hearing in connection with matters referred to in the application, and also waives any and all right to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than September 17, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26390 Filed 8-27-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5358

Amistad DOT Venture Capital, Inc.; Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Amistad DOT Venture Capital, Inc. (Amistad), 801 Second Avenue, Suite 303, New York, New York 10017. A Federal Licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to 13 C.F.R. 107.1004 (1980) for approval of a conflict of interest transaction.

It is proposed that Amistad loan of $50,000 to Andrews Brothers, Inc. (Andrews), 330 Merscheidt Street, San Antonio, Texas 78203. The funds will be used for working capital. Amistad will make a 3-year loan, principal and interest payable quarterly. The interest rate would be 13 percent and Amistad would receive a warrant to buy 10% of Andrews at $1.00 per share and require Andrews to buy them back at book value at a later date. Mr. Charles G. Andrews, Jr., President of the company, would personally guarantee the loan.

The Andrews Brothers are nephews of Percy E. Sutton. Pursuant to Section 107.3(e) of the Regulations, the Andrews Brothers are considered to be Associates of Amistad.

Accordingly, the transaction falls within the purview of 13 C.F.R. 107.1004 (1980) requiring prior written approval of the Small Business Administration (SBA).

Notice is further given that any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transaction.

Any such communications should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by Andrews in a newspaper of general circulation in San Antonio, Texas.

(Catalog of Federal Domestic Assistant Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-26424 Filed 8-27-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0410]

Clinton Capital Corp.; Notice of Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Clinton Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $505,000.

The Applicant will have its place of business at 135 Middagh Street, New York, New York 11201, and it intends to conduct operations primarily in the State of New York.

The officers, directors and stockholder of the corporation will be:

Mark Lewis Scharfman, President, Director, 100 percent stockholder, 201 East 21st Street, New York, New York 10010.
Sidney Scharfman, Secretary, Director, 35 West 81st Street, New York, New York 10024.
Anne Miller Scharfman, Vice President, Director, 35 West 81st Street, New York, New York 10024.

All the stock of the Applicant will be owned by Mark Lewis Scharfman.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, not later than September 12, 1980, submit written comments on the Applicant to the Associate Administrator for Investment, Small Business Administration, 14441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in the city of New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 20, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-26426 Filed 8-27-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0315]

Fifty-Third Street Ventures, Inc.; Filing of Application for Approval of a Conflict of Interest Transaction Between Associates

Pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1980)), notice is hereby given by the Small Business Administration (SBA) of a conflict of interest transaction between Fifty-Third Street Ventures, Inc. (FTS) and Computer Identics Corporation, a Massachusetts corporation (CIC). FTS was licensed by SBA on July 29, 1976. Alan J. Patricoff, the Chairman of the Board of the Licensee, is and has been a director of CIC since 1972.

The proposed financing by FTS falls within the purview of § 107.1004(b)(1) of the Regulations and requires a written exemption from SBA. SBA is considering a request for such exemption.

Notice is further given that any person may, not later than September 12, 1980, submit to SBA, in writing, comments on the proposed transaction.

Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW, Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

FR Doc. 80-26427 Filed 8-27-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 01/02-5415]

Seoul Capital Corp.; Notice of Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has filed by Seoul Capital Corp., (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

In Wha Whang, 19 Dorset Rd., Great Neck, N.Y. 11020, President/Director.
OH Joon Kwon, 534 Third Avenue, New York, N.Y., Secretary/Director.
In Suck Whang, 19 Dorset Rd., Great Neck, N.Y. 11020, Director.

The Applicant is a New York corporation with its principal office at 277 Broadway, Suite 1404, New York, New York 10007, and will begin operations with $500,000 of paid-in capital and paid-in surplus.

The Applicant will conduct its activities primarily in the State of New York.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of the notice, submit to SBA written comments on the proposed Applicant to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in an newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-26425 Filed 8-27-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 721]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting its July 1980 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

V 45 AG 28 80 UMI

Dated: August 14, 1980.

George A. Furness, Jr.,

Acting Director, Office of International Conferences.

U.S. Delegation to the International Telecommunication Union (ITU/CCIR), Geneva, June 16 to July 4, 1980

Chairman

Harold J. Dougherty, Chief, Microwave Prediction, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce.

Advisers

John F. Cavanaugh, Branch Head, Dahlgren Laboratory, Surface Weapons Center, Department of Navy, Dahlgren, Virginia.

William A. Daniel, Staff Engineer, Research Division, Office of Chief Scientist, Federal Communications Commission.

William E. Frazier, Staff Engineer, Federal Systems and Spectrum Management, National Telecommunications and Information Administration, Department of Commerce.

Private Sector Advisers

Robert K. Crane, Manager, Atmospheric Science Section, Environmental Research and Technology, Inc., Concord, Massachusetts.

Geoffrey Hyde, Manager, Propagation Studies, COMSAT Laboratories, Communications Satellite Corporation, Clarksburg, Maryland.

Ernest K. Smith, Spectrum Engineer, Jet Propulsion Laboratory, California Institute of Technology, Pasadena, California.

Hans J. Weiss, Director, Systems Studies Division, Communications Satellite Corporation, Washington, D.C.

International Telecommunication Union/CCIR; Study Group I, Geneva, June 18 to July 3, 1980.

Chairman

William F. Utlaut, Deputy Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado.

International Chairman

Julian T. Dixon, Chief, Research and Analysis Division, Office of Chief Scientist, Federal Communications Commission.

Advisers

Leslie A. Berry, Systems Analyst, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado.

David J. Cohen, Staff Engineer, National Telecommunications and Information Administration, Department of Commerce, Annapolis, Maryland.

William L. Kilpatrick, Electronics Engineer, Field Operations Bureau, Federal Communications Commission, Powder Springs, Georgia.

William A. Luther, Chief, Engineering Division, Field Operations Bureau, Federal Communications Commission.

Robert J. Mayher, Staff Engineer, Frequency Management Support Division, National Telecommunications and Information Administration, Department of Commerce, Annapolis, Maryland.

Private Sector Adviser

John P. Berry, Director, Research and Development Programs, Planning and Technology Operations Center, Advance Technology, Inc., McLean, Virginia.

U.S. Delegation to the Food Aid Committee, International Wheat Council Commodities, London, June 27 to July 2, 1980

Representative

Donald F. Hart, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.

Alternate Representatives

Edmund M. Parsons, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.

Donald Phillips, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture.

Adviser

Frank C. Coolidge, Assistant Agricultural Attache, American Embassy, London.

Private Sector Advisers

Jack Felgenhauer, President, National Association of Wheat Growers, Washington, D.C.

Larry Montgomery, President, U.S. Wheat Associates, Inc., Washington, D.C.

U.S. Delegation to the Second Session of the United Nations Economic and Social Council (ECOSOC) for 1980, Geneva, July 3 to 25, 1980.

Representative

The Honorable Donald F. McHenry, Ambassador Extraordinary and Plenipotentiary, U.S. Representative to the United Nations.

Deputy Representative

The Honorable Joan Spero, Ambassador U.S. Representative to the Economic and Social Council of the United Nations.

Alternate Representative

Robert Kaufman, United States Mission to the United Nations.

Advisers

Frank Brecher, United States Mission to the United Nations.

William Falkner, United States Mission to the United Nations.

John Hope, International Economic Policy Staff, Bureau of International Organization Affairs, Department of State.

Edward Lollis, Office of the Special Economic Negotiator, Bureau of Economic and Business Affairs, Department of State.

Richard T. Miller, International Economic Policy Staff, Bureau of International Organization Affairs, Department of State.

William Renison, United States Mission to the United Nations.

Sandra Taylor, United States Mission to the United Nations.

Private Sector Adviser

Karl E. Rolvaag, Former Governor—State of Minnesota, Consultant—Department of State.

U.S. Delegation to the Twenty-Second Session of the Subcommittee on Ship Design and Equipment of the Maritime Safety Committee (MSC), Intergovernmental Maritime Consultative Organization (IMCO), London, July 7 to 11, 1980

Representative

Richard L. Brown, Captain, USCG, Assistant Chief, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Alternate Representative

James C. Card, Commander, USCG, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

J. W. Calhoun, Lieutenant Commander, USCG, Merchant Marine Technical Division, United States Coast Guard, Department of Transportation.

John C. Maxham, Lieutenant Commander, USCG, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

John F. Simmons, Jr., Shipping Attache, American Embassy, London.

Samuel H. Wehr, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Private Sector Adviser

William A. Mayberry, Captain, USCG (ret.), Executive Director, Offshore Marine Service Association, New Orleans, Lousisiana.

U.S. Delegation to the 19th Session, International Tin Council (ITC), London, July 14 to 18, 1980

Representative

Ralph R. Johnson, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Frederick McEldowney, Office of the United States Trade Represesntative, Geneva.

Advisers

Timothy Dulaney, Office of Raw Materials and Oceans Policy, Department of the Treasury.

Paul Pilkauskas, American Embassy, London.

Willaim Sugg, International Commodities Division, Department of Commerce.

Private Sector Advisers

Charles L. Dimmler, III, Vice President, MRI Corporation, Clark, New Jersey.

George B. Keagle, General Manager—Purchasing, Materials and Energy, United States Steel Corporation, Pittsburgh, Pennsylvania.

Malcolm Owings, Vice President, Continental Can Company, Chicago, Illinois.

U.S. Delegation to the Fifteenth Session of the Subcommittee of Lifesaving Appliances of the Maritime Safety Committee, Intergovernmental Maritime Consultative Organization (IMCO), London, July 14 to 18, 1980

Representative

Norman W. Lemley, Chief, Survival Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Alternate Representative

Robert L. Markle, Jr., Survival Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Advisers

James C. Card, Commander, USCG, Chief, Survival Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

John F. Simmons, Jr., Shipping Attache, American Embassy, London.

Samuel E. Wehr, Chief, Survival Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Private Sector Adviser

John Simonsen, President, Datrex, Inc., Miami, Florida.

U.S. Delegation to the Plenary Meeting of the United Nations Commission on International Trade Law, New York, July 14 to 25, 1980

Representative

Peter H. Pfund, Office of the Legal Adviser, Department of State.

Alternate Representative

Professor Howard M. Holtzmann, Arbitration Association, New York, New York.

Advisers

Professor E. Allan Farnsworth, Columbia Law School, New York, New York.

James C. Gray, Jr., United States Mission, to the United Nations.

Professor John O. Honnold, University of Pennsylvania, Philadelphia, Pennsylvania.

Jamison M. Selby, Office of the Legal Adviser, Department of State.

Professor Joseph C. Sweeney, Fordham University, New York, New York.

Private Sector Adviser

Richard Kearney (July 21 to 23), Ambassador (Ret.), Sherwood Forest, Md.

U.S. Delegation to the 32nd Annual Meeting of the International Whaling Commission, Brighton, July 14–26, 1980

Commissioners

Richard A. Frank (Head of Delegation), Administrator, National Oceanic and Atmospheric Administration.

Thomas Garrett, Deputy U.S. Commissioner, Garrett, Wyoming.

Congressional Advisers

The Honorable Les AuCoin, United States House of Representatives.

The Honorable Don Bonker, United States House of Representatives.

The Honorable Paul N. McCloskey, Jr., United States House of Representatives.

Advisers

William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

Robert Brownell, Department of the Interior.

Douglas Chapman, Chairman, Marine Mammal Commission.

Robert Eisenbud, General Counsel, Marine Mammal Commission.

Jerry Gilliland, Special Assistant to the Secretary for Alaska, Department of the Interior.

Katherine Gillman, Council on Environmental Quality.

Eldon Greenberg, General Counsel, National Oceanic and Atmospheric Administration.

Claudia Kendrew, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

Terry L. Leitzell, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Joan McKenzie, Office of the General Counsel, National Oceanic and Atmospheric Administration.

R. Tucker Scully, Acting Director, Office of Oceans and Polar Affairs, Department of State.

Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

Michael Tillman, Director, National Marine Mammal Laboratory.

Private Sector Advisers

David R. Brower, Friends of the Earth.

Richard Ellis, National Audubon Society.

Phoebe Wray, Endangered Species Productions.

Congressional Staff Advisers

Peter Friedmann, Minority Staff Counsel, Committee on Commerce, Science, and Transportation, United States Senate.

Claire L. Fronville, Congressional Staff, United States House of Representatives.

Carole A. Grunberg, Congressional Staff, United States House of Representatives.

Steven Perles, Legislative Assistant to Senator Stevens, United States Senate.

Donna Williams, Congressional Staff, United States House of Representatives.

[FR Doc. 80–26274 Filed 8–27–80; 8:45 am]

BILLING CODE 4710–19–M

[CM–8/312]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Bulk Cargoes under the SOLAS Subcommittee Working Group on Subdivision and Stability will conduct an open meeting at 10:00 a.m. on Tuesday, September 9, 1980, in Room 6332 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to: Prepare for the 22nd Session of the IMCO Subcommittee on Containers and Cargoes.

For further information contact Captain S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, N.Y. 10048. Telephone (212) 432–1280.

August 14, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80–26256 Filed 8–27–80; 8:45 am]

BILLING CODE 4710–01–M

[CM–8/313]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The U.S. SOLAS Working Group on Subdivision, Stability, and Load Line will conduct an open meeting at 10:00 a.m. on September 10, 1980 in Room 1303 of Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting will be a review of the agenda items and delegation papers received by that time in preparation for the 25th Session of the IMCO Subcommittee on Subdivision, Stability and Load Line.

In particular the Working Group will discuss:

Final U.S. positions for all agenda items in particular:

Item 3. Improvement of Load Line Convention.

Item 4. Intact Stability.

For further information contact Mr. William A. Cleary, Jr., U.S. Coast Guard (G–MMT–5/TP12), 2100 2nd Street, S.W., Washington, D.C. 20593. Telephone: (202) 426–2188.

August 15, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-26257 Filed 8-27-80; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/314]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Standards of Training and Watchkeeping of the Subcommittee on Safety of Life at Sea will conduct an open meeting to be held at 0930 hours on Wednesday, September 24, 1980 in Room 4234 of the Nassif Building, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss the following agenda items of the Fourteenth Session of the IMCO Subcommittee on Standards of Training and Watchkeeping tentatively scheduled for January 1981:

Manning of seagoing ships.

Training in the use of automatic radar plotting aids.

Training in radar observation and plotting.

Training and certification of crews of fishing vessels.

Training, qualifications and operational procedures for maritime pilots.

Training and qualification of officers and ratings in the handling of hazardous or noxious dry chemicals in bulk.

Security of certificates of competency.

Further information may be obtained by contacting Captain D. E. Hand, U.S. Coast Guard Headquarters, 2100 2nd Street, S.W., Washington, D.C. 20593. Telephone (202) 426-1500.

The Chairman will entertain comments from the public as time permits.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

August 5, 1980.

[FR Doc. 80-26258 Filed 8-27-80; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/315]

National Committee of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 16, 1980 at 10:30 a.m. in Room 1205, Department of State, 2201 C Street, N.W., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the international Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to September 15, 1980 members of the general public who plan to attend the meeting inform Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, telephone (202) 632-1007, of their intention. All non-Governmental attendees must use the C Street entrance to the building.

The purpose of the meeting on September 16 will be to discuss preparations for U.S. participation at the VIIth Plenary Assembly of the CCITT, to be held in November 10-21, 1980, in Geneva, Switzerland. This will be the second of two such preparatory meetings.

August 19, 1980.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 80-26255 Filed 8-27-80; 8:45 am]

BILLING CODE 471007-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Hearings on Articles Being Considered for Duty Modification

1. *Notice of Public Hearings.* Section 133 of the Trade Act of 1974 (19 U.S.C. 2153) requires that an opportunity be afforded to interested parties to present their views concerning any article being considered for modification of duties. In accordance with that requirement, the Trade Policy Staff Committee, chaired by the Office of the United States Trade Representative, has scheduled public hearings for November 5, 6, 7 and 10, 1980, concerning articles being considered for possible duty modification, notice of which was published in the **Federal Register** of August 8, 1980 (45 FR 52978) and modified in the **Federal Register** of August 20, 1980 (45 FR 55556). The purpose of this notice is to solicit views concerning only those articles listed in Annex I of the **Federal Register** notice. Views concerning articles listed in Annex II of the notice, that is, articles which may be considered for designation as eligible articles for purposes of the United States Generalized System of Preferences (GSP), are not being solicited at this time. Changes in the list of articles eligible for GSP treatment will continue to be considered during annual product reviews conducted in accordance with regulations published at CFR Parts 2001-2003 and 2007. Part 2007 was published in the September 9, 1977, **Federal Register** (42 FR 45532).

On behalf of the President and in accordance with sections 131(a) and 503(a) of the Trade Act, the International Trade Commission has been furnished with the lists of articles published in the **Federal Register** notice of August 8, 1980 and modified in the **Federal Register** notice of August 20, 1980 for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles and on consumers, (a) with respect to the articles listed in Annex I of that notice, of the reduction of United States duties by the maximum amount permissible under section 124 of the Trade Act, or continuance of United States duty-free or excise treatment, and (b) with respect to articles listed in Annex II of that notice, of the designation of such articles for purposes of the GSP.

The Commission will be holding public hearings to assist it in the preparation of its advice to the President. The Commission's hearings will be held concurrently with those of the Trade Policy Staff Committee.

2. *Time and Place of Hearings.* The Committee's hearings will open at 10 a.m., EST, on November 5, 1980 and will continue November 6, 7 and 10, 1980, if required. They will be held in Washington, D.C., New Executive Office Building, entrance on Seventeenth Street between Pennsylvania Avenue and H Street, N.W., Room 2010 on November 5 and 6 in Room 2008 on November 7 and 10.

The Committee has no prearranged schedule for the presentation of subject matter but will try to arrange appearances so that those interested in a particular subject will be scheduled to appear on the same day.

3. *Requests to Present Oral Testimony.* All requests to present oral testimony must be received by the Secretary of the Trade Policy Staff Committee, Room 735, 1800 G Street, N.W., Washington, D.C. 20506 not later than close of business Tuesday, October 14, 1980. The schedule for the proposed hearings will be formulated on the basis of requests to appear received as of that date. Requests to present oral testimony must conform with the regulations of the Committee which appeared in section 2003 of Title 15 of the Code of Federal Regulations.

Pursuant to the regulations referred to in the preceding sentence, a request to present oral testimony will be granted only if a written brief is submitted before the deadline for submitting such briefs (in this instance, October 21, 1980). The requirements for written briefs are described in section 4 below.

Requests to present oral testimony must state briefly the interest of the applicant in the subject matter and the position to be taken by the applicant.

The requirements described in the two preceding paragraphs may be waived by the United States Trade Representative, the Deputy United States Trade Representative, or the Chairman of the Trade Policy Staff Committee, for reasons of equity and the public interest.

In addition, requests to present oral testimony should include the following information:

(a) The name, address, telephone number, and official position (if applicable) of the party submitting the request.

(b) The description and, if possible, the tariff item number(s), whether foreign or domestic, of the commodity or commodities in which the party has an interest.

(c) The subject or subjects to be dealt with in the proposed testimony, listed individually and, in the case of import restrictions other than duties, described with sufficient particularity to identify the restriction to be discussed.

(d) The name, address, and telephone number of the person (or persons) who will present oral testimony.

(e) The amount of time requested for the presentation or oral testimony, and if more than 15 minutes is requested, the reasons therefor.

Each person scheduled to appear before the Committee will be notified of the date and the amount of time allotted for his presentation. If such time is inconvenient to the person requesting appearance, the Committee will consider rescheduling that person. The Committee reserves the right to restrict the time allotted for oral presentation and to deny requests when it determines that the proposed testimony is not relevant to the hearings.

4. *Submission of Written Briefs.* Any interested party may submit a written brief to the committee concerning the subject matter of the hearings. Each party presenting oral testimony must also file a brief. Briefs should be prefaced by a concise summary.

Briefs must conform to the Committee's regulations, published in the **Federal Register** of April 28, 1975. Briefs must be submitted in 20 copies, one of which must be made under oath or affirmation. In addition, each brief shall clearly designate on the first page the name and address of the party submitting the brief, the subject matter of the brief and the item number of the commodity (or commodities) in the Tariff Schedules of the United States to which the brief pertains, if any.

Every written brief must present in nonconfidential form a statement of the party's position and supporting arguments sufficient to inform any other party of the arguments he must meet in order to oppose the position taken in the brief.

5. *Rebuttal Briefs.* In order to assure parties the opportunity to contest the information provided by other interested parties, the Committee will entertain rebuttal briefs filed by any party within two weeks after the close of the hearings. Rebuttal briefs must conform, in form and number, to the regulations of the Committee and the provisions of this notice applicable to written briefs. Rebuttal briefs should be limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearings, and should be as concise as possible.

6. *Information Exempt from Public Inspection.* Parties are referred to § 2003.6 of the Committee's regulations published in Title 15 of the Code of Federal Regulations for the rules concerning information labeled "Business Confidential" and exempt from public inspection.

Oral testimony should contain no confidential information. Briefs containing business confidential information should be so marked on the cover page. In addition, the business confidential information should be easily separable. If the Committee determines that it cannot accord confidential treatment to information submitted, that material will be returned to the addressee.

7. *Public Inspection of Written Materials.* Subject to the regulations of the Committee all written materials filed with the Committee in connection with these hearings will be open to public inspection, by appointment, at the office of the Trade Policy Staff Committee, Room 735, 1800 G Street NW., Washington, D.C. 20506.

8. *Transcripts of the Hearings.* All oral testimony before the Committee will be recorded and transcribed. Persons giving testimony before the Committee may correct errors of form or expression in their testimony, but may not change substance. All corrections must be approved by the Secretary of the Committee. The cost of making such corrections will be the responsibility of the person requesting the corrections.

Transcripts of the hearings will be available for inspection or purchase.

9. *Attendance at the Hearings.* The hearings will be open to the public. Heavy or disruptive equipment, such as television equipment, will not be admitted to the hearings without the permission of the Chairman.

10. *Communications.* All communications with regard to these hearings should be addressed to: Secretary, Trade Policy Staff Committee, Office of the U.S. Trade Representative, 1800 G Street, N.W., Room 735, Washington, D.C. 20506. The telephone number of the Secretary of the Committee is (202) 395-3487.

Ann Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-26310 Filed 8-27-80; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS); Meeting Change

This Notice announces a change in location of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 139 meeting to be held on September 3-5, 1980, and announced in the **Federal Register** on August 18, 1980, (45 FR 54921). The meeting will be held in Conference Rooms 8A-B, DOT/Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C., commencing at 9:30 a.m.

Issued in Washington, D.C. on August 19, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-25930 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from October 6 at 1 p.m. through October 10 at 1 p.m., in the Conference Rooms, 6A and B at FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mr. Daniel F. Creedon, Acting Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–300, 800 Independence Ave., SW, Washington, D.C. 20591, telephone (202) 426–3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 18, 1980.

Daniel F. Creedon,

Acting Executive Director, ATPAC.

[FR Doc. 80–26152 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–13–M

McDonnell Douglas Model DC–9–80; Aircraft Certification and Availability of Documents

A notice of the status of the application filed by McDonnell Douglas Corporation for the type certification of the DC–9–80 aircraft was published in the **Federal Register** on July 10, 1980 (45 FR 46604). The notice set forth the airworthiness standards established by the Federal Aviation Administration for the type certification of the DC–9–80 aircraft, advised that the certification program was entering its final phase, and stated that certain issues had to be resolved prior to certification. That information was updated in a notice published August 7, 1980 (45 FR 52539).

The formal certification process for the DC–9–80 aircraft has taken nearly three years. The certification task was a large and technically complex one, involving over 30,000 hours of direct effort by the FAA Western Region staff. Literally thousands of documents were reviewed, and over 1,000 hours of flight tests were conducted, more than 40% of which were flown by FAA pilots. In the past several months substantial public interest in this effort has also been stirred. The primary reasons for this interest are the two unfortunate accidents which occurred on test flights of prototype aircraft, and a heated controversy which has arisen over the determination of the safety of two-crewmember operations of this or any other aircraft.

The Administrator has devoted considerable personal time and attention to this project. This has included review of the certification team recommendations in detail and participation in meetings and briefings so as to understand and evaluate the arguments presented by all parties on every side of the issues. Considerable effort has been devoted to discussions with the Air Line Pilots Association (ALPA), including a number of meetings with the ALPA technical staff and the union's most senior elected management officers. The Administrator has also met with representatives of pilot's associations of other nations and has been briefed on the views of U.S. airline pilots not affiliated with ALPA. He has discussed the issues with members of Congress and their staff and with the Secretary of Transportation and his staff. Independent expert counsel was also obtained through the employment of two renowned experts in different fields: Dr. Laurence Young, Director of the Man-Vehicle Laboratory at the Massachusetts Institute of Technology, and Mr. Paul Soderlind, retired Chief Technical Pilot of Northwest Airlines.

The Administrator has conducted a thorough review of the issues involved in the DC–9–80 type certification program and the findings of the FAA certification team. He has also reviewed and discussed at length with his senior staff a three volume: "Summary of Decision Basis for Type Certification of the McDonnell Douglas Model DC–9–80". The Administrator has also read and considered the reports and conclusions of the FAA consultants employed on this project and the briefings provided by the Air Line Pilots Association and other pilots as well as their written contributions to the certification project. During this review, the Administrator specifically considered the FAA Western Region staff's evaluation of the crew complement issue, and concurs in their finding that two-crewmember operation of the DC–9–80 aircraft will provide the high level of airline safety rightfully demanded by today's traveling public.

Based on a review of the entire certification process the Administrator approved issuance of the DC–9–80 type certificate as recommended by the FAA Western Region staff, and Type Certificate A6WE for the DC–9 aircraft series has been amended to include approval of the DC–9–80.

A copy of the three volume "Summary of Decision Basis for Type Certification of the McDonnell Douglas Model DC–9–80" is on file in the FAA Rules Docket. The bulk of this report is devoted to summarizing the tests and analysis required of McDonnell Douglas to demonstrate compliance with FAA certification requirements. Detailed appendices include delineation of the specific legal compliance required by each rule; a summary of the method by which compliance was established for each and a bibliography of the reports documenting that compliance; and a summary of the objectives and results of each of the hundreds of flight tests performed by FAA. The report is available for examination and copying at the FAA Rules Docket, Room 916, 800 Independence Avenue, SW, Washington, D.C. Copies of the report may be obtained from the Office of the Associate Administrator for Aviation Standards, Room 1000W, 800 Independence Avenue, S.W., Washington, D.C.

Issued in Washington D.C. on August 25, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80–26406 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Pitt County, N.C.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Pitt County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Ronald E. Heinz, Division Administrator, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 755–4346.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North

Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed US 264 bypass of Greenville in Pitt County. the proposed action would be the construction of a controlled-access highway on new location from US 264 (relocated) to US 13–NC 11 around the northwest side of Greenville. The proposed by pass is needed to serve the projected traffic demand in the US 264 corridor and to relieve anticipated traffic congestion on US 13–NC 11 and Greenville streets resulting from the relocation of US 264 to the west of Greenville. The proposed action would also provide a new crossing of the Tar River.

Alternatives under consideration include (1) the "no-build", (2) improving existing facilities, and (3) a controlled access highway on new location. The new location alternatives will involve studies of various design alternatives ranging from an at-grade expressway to a full freeway with access only at interchanges.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and a meeting with local officials have been held in the study area and a public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, (Highway Research, Planning, and Construction).

The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.

Issued on August 20, 1980.

Ronald E. Heinz,

Division Administrator, Raleigh, North Carolina.

[FR Doc. 80–26206 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Alameda County, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway operational study in Alameda County, California.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809. Telephone: (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to re-evaluate the operation of I–580 in Alameda County, California. The limits of the EIS are to be the same as those for the 1972 adopted Final EIS for the joint Freeway/Mass Transit Corridor project, which is for Routes 580 and 238 from the Western Pacific Railroad on Route 238 near Hayward to Route 680 in Dublin, for a distance of 10.2 miles.

The EIS will include the various operational alternatives available within the approved roadway template described in the adopted Final EIS. The alternates to be considered include the existing operation of two mixed-flow lanes and one high occupancy vehicle (HOV) lane in each direction (no change), increase mixed traffic lanes (six mixed-flow lanes), delete HOV lanes (eight mixed-flow lanes), increase transit, others identified through the scoping and consultation process, and any combination of those described. A formal inter-disciplinary team approach is planned for this study to insure the interaction of different disciplines in the development and evaluation of alternatives. This inter-disciplinary team will be referred to as the Operational Study Team, which will include representatives from the appropriate federal, state, local agencies, and private organizations which have previously expressed interest in this proposal.

As part of the scoping process an informational public meeting will be held at Alameda County Fairgrounds, Cafeteria, Pleasanton Avenue, Pleasanton, California at 7:30 P.M. on September 24, 1980. Public notice will be given of the time and place of the information meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues

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identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 20, 1980.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 80-26305 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

[CGD 80-110]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Wednesday and Thursday, October 1 and 2, 1980, at the Lutsen Resort, Lutsen, Minnesota, beginning at 9:30 a.m. on both days. The meeting is scheduled to recess at 5:00 p.m. on Wednesday, October 1, 1980, and adjourn at 4:00 p.m. on Thursday, October 2, 1980. The agenda for the meeting will be as follows:

1. Review of action taken at the twenty-fourth Meeting of the Council.
2. Executive Directors Report.
3. Level Flotation Update.
4. Update on Navigation Lights.
5. Presentation on 1979 Boating Accident Statistics.
6. Progress Report on Fire Extinguishing Equipment Testing and Requirements.
7. Rules of the Road Advisory Committee (RORAC) Report.
8. Discussion of Inflatable Personal Flotation Device Project.
9. Comments on Bridge Regulations for Intra-Coastal Waterways.
10. Vessel Traffic Control System Discussion.
11. Report on Status of Kill Switch Regulations.
12. Demonstration of New Approved Hand Held Visual Distress Signals.
13. Report on Inland Rules Act 1980.
14. Update on Marine Sanitation Device Regulations.
15. Annual Report of Office of Boating, Public, and Consumer Affairs.
16. American Boat & Yacht Council Report on Diesel Powered Recreational Boats.
17. Members Items.
18. Chairman's Session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Commander Neal Mahan, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BA), Washington, D.C. 20593, or by calling (202) 426-1080.

Issued in Washington, D.C. August 20, 1980.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 80-26428 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement, Hennepin and Scott Counties, Minn.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hennepin and Scott Counties, Minnesota.

FOR FURTHER INFORMATION CONTACT: Stephen J. Bahler, Area Engineer, Federal Highway Administration, Suite 490 Metro Square Building, St. Paul, Minnesota 55101, Telephone (612) 725-5956; or C. E. Weichselbaum, District State Aid Engineer, Minnesota Department of Transportation 2055 North Lilac Drive, Golden Valley, Minnesota 55422, Telephone (612) 545-3761.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation, the Hennepin County Department of Transportation and the Scott County Highway Department, will prepare an environmental impact statement (EIS) on a proposal to improve County State Aid Highway 18 in Hennepin and Scott Counties. The proposed improvement would involve reconstruction of existing County State Aid Highway 18 between the cities of Bloomington and Eden Prairie in Hennepin County from I-494 south to Minnesota State Trunk Highway 101 between the cities of Savage and Shakopee in Scott County. This proposal includes a crossing of the Minnesota River which is the boundary line of two counties. The approximate length of the proposal is 6 miles. Improvements to the corridor are considered necessary to provide for existing and projected traffic demand. Also included in this proposal is the replacement of the existing Bloomington Ferry Bridge.

Alternatives under consideration include (1) taking no action; (2) upgrading the existing two-lane facility to a four-lane facility; (3) upgrading the existing two-lane facility to a freeway, and (4) constructing a four-lane or freeway facility on a new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in the proposal. A series of public meetings will be held. In addition, a public hearing will be held. A scoping process is being conducted which includes monthly meetings of a technical advisory committee composed of representatives from governmental agencies and a citizens' advisory group composed of appointed citizens from each of the local governmental units affected. As a part of the scoping process, a public information meeting is being held October 1, 1980, at the Hennepin Technical Center, South Campus, 9200 Flying Cloud Drive, Eden Prairie, Minnesota, at 7:30 p.m. in the right auditorium. Public notice will be given of this and future meetings and the hearing. The draft EIS, when completed, will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and this EIS should be directed to the FHWA at the address provided above.

Issued on August 20, 1980.

John S. Bowers,

Acting Division Administrator.

[FR Doc. 80-26262 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Senior Executive Service (SES) Bonuses

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of schedule for awarding SES bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Henry C. DeSeguirant, Director of Personnel, Room 2426, 1500 Pennsylvania Ave., N.W., Washington D.C. 20220; Telephone 566-2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. Except for those bureaus whose initial SES performance appraisal periods end after September 30, the Department of the Treasury is scheduled to award bonuses to eligible career senior executives between September 1 and September 30, 1980. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (PL 95-454), codified in 5 U.S.C. 5384, and by section 303 of the Supplemental Appropriations and Rescission Act, 1980 (PL 96-304).

This notice does not meet the Department's criteria for significant regulations.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 80-26334 Filed 8-27-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Additional Routine Use

Notice is hereby given that the Veterans Administration is considering adding a new routine use that appears in three systems of VA records. The system names, date and page number of last publication in the **Federal Register** are as follows:

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records-VA, September 28, 1978, p. 44740.

50VA22 Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Record—VA, September 28, 1978, p. 44741.

58VA21/22 TARGET—Compensation, Pension, Education and Rehabilitation Records—VA, September 28, 1978, p. 44743.

Under previously published routine use statements in each of the systems of records named above, the Veterans Administration has provided information to a debtor's employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 USC 5514, 4 CFR 102.5 and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469). These routine use statements, however, do not specifically identify the information which may be disclosed.The purpose for this new routine use is the same as the existing routine use, namely, to provide information to a debtor's Federal employment agency or commanding officer so that the debtor-employee may be counseled. However, consistent with Section 5(c)(3)(a) of the OMB Guidelines for the Conduct of Matching Programs, the current routine use statement is being added to specify the types of information that may be disclosed to other Federal agencies in order to assist the VA in the collection of unpaid financial obligations owed the VA and identifies that, in certain instances, some of the information which may be disclosed under this routine use, such as a debtor's current Federal employment, is associated with a computer matching program. Accordingly, this routine use statement is proposed for inclusion in the systems of records named above.

Interested persons are invited to submit written comments, suggestions, or objections regarding the revised routine use statements to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before September 29, 1980 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until October 7, 1980. Any person visiting the above address for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in VA Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised routine use statements are effective August 21, 1980.

Approved: August 21, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

Notice of Systems of Records

In the system of records identified as 49VA21, "Veterans, Dependents and Beneficiaries Compensation and Pension Records VA", appearing at 43 FR 44740, the following routine use statement is added to read as follows:

SYSTEM NAME:

Veterans, Dependents and Beneficiaries Compensation and Pension Records-VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

28. Information such as the name, social security number, current employment location, file number and nature and amount of financial obligation may be disclosed to a debtor's Federal employing agency, the Department of Defense, military service departments, the Coast Guard, the Public Health Service, or to the National Oceanic and Atmospheric Administration upon its official request, so that a debtor-employee may be counseled by his or her Federal employer or commanding officer. This disclosure is made in order to assist the VA in the collection of unpaid financial obligations owed the VA and is consistent with 5 USC 5514, 4 CFR 102.5 and Section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469). Some of the information which may be disclosed under this routine use, such as a debtor's current Federal employment, is associated with a computer matching program.

In the system identified as 50VA22, "Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records-VA", appearing at 43 FR 44741, the following routine use statement is added to read as follows:

SYSTEM NAME:

Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

36. Information such as the name, social security number, current employment location, file number and nature and amount financial obligation may be disclosed to a debtor's Federal employing agency, the Department of Defense, military service departments, the Coast Guard, the Public Health Service, or to the National Oceanic and Atmospheric Administration upon its official request, so that a debtor-

employee may be counseled by his or her Federal employer or commanding officer. This disclosure is made in order to assist the VA in the collection of unpaid financial obligations owned the VA and is consistent with 5 U.S.C. 5514, 4 CFR 102.5 and Section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469). Some of the information which may be disclosed under this routine use, such as a debtor's current Federal employment, is associated with a computer matching program.

In the system of records identified as 58VA21/22, "TARGET-Compensation, Pension, Education and Rehabilitation Records-VA", appearing at 43 FR 44743, the following routine use statement is added to read as follows:

SYSTEM NAME:

TARGET-Compensation, Pension, Education and Rehabilitation Records-VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

36. Information such as the name, social security number, current employment location, file number and nature and amount of financial obligation may be disclosed to a debtor's Federal employing agency, the Department of Defense, military service departments, the Coast Guard, the Public Health Service, or to the National Oceanic and Atmospheric Administration upon its official request, so that a debtor-employee may be counseled by his or her Federal employer or commanding officer. This disclosure is made in order to assist the VA in the collection of unpaid financial obligations owed the VA and is consistent with 5 U.S.C. 5514, 4 CFR 102.5 and Section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469). Some of the information which may be disclosed under this routine use, such as a debtor's current Federal employment, is associated with a computer matching program.

[FR Doc. 80-26462 Filed 8-27-80; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 169
Thursday, August 28, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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COUNCIL ON ENVIRONMENTAL QUALITY.

August 26, 1980.

TIME AND DATE: 11:30 a.m., September 11, 1980.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Briefing on the Status of the Presidential Interagency Task Force To Study Alternatives to the Davis Pumped Power Project.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III (202) 395–4616.

[S–1609–80–Filed 8–26–80; 12:19 pm]

BILLING CODE 3125–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, September 2, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 26, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1605–80 Filed 8–26–80; 11:12 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11:30 a.m. on Monday, August 25, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, for consent to establish a branch on the south side of East Bay Drive, approximately 600 feet west of its intersection with Belcher Road, Unincorporated Pinellas County (P.O. Largo), Florida.

Notice of acquisition of control: The Bank of Lexington, Inc., Lexington, Kentucky.

The Board further determined, by that same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Bank of Guam, Agana, Guam, for consent to purchase the assets of and assume the liability to pay deposits made in the Majuro and Truk Offices, located in the United States Trust Territory of the Pacific Islands, and the Saipan Office, plus two limited-service facilities operated in conjunction with the Saipan Office, lcoated in the Commonwealth of the Northern Mariana Islands, of Bank of America National Trust and Savings Association, San Francisco, California, and for consent to establish these offices as branches of Bank of Guam.

Memorandum regarding proposed board of directors nominations to First Pennsylvania Corporation, Philadelphia, Pennsylvania and First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

The Board further determined, by that same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), and (c)(8)).

Dated: August 25, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1606 Filed 8–26–80; 11:12 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 11:00 a.m. on Monday, August 25, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of

Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A memorandum proposing the adoption of a Uniform Commercial Bank Performance Report.
A memorandum proposing a revision to Federal Deposit Insurance Corporation Employee Grievance Procedures.

The Board further determined, by that same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding proposed amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct."

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: August 25, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1607-80 Filed 8-26-80; 11:12 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, September 2, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b, (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Antelope Valley Bank, a proposed new bank, to be located at 44288 10th Street West, Lancaster, California, for Federal deposit insurance.
Madison Bank and Trust Company, a proposed new bank, to be located at the intersection of Louisiana State Highways 601 and 3202, Richmond, Louisiana, for Federal deposit insurance.

Request for modification of a condition previously imposed in connection with the approval of an application for Federal deposit insurance:

Bank of Yucca Valley, Yucca Valley, California.

Application for consent to purchase assets, assume liabilities, and establish a branch:

Bank of Quitman, Quitman, Mississippi, for consent to purchase the assets of and assume the liability to pay deposits made in First National Bank of Waynesboro, Waynesboro, Mississippi, and for consent to establish the sole office of First National Bank of Waynesboro as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,417-L—First Augusta Bank and Trust Company, Augusta, Georgia.
Case No. 44,418-L—First Augusta Bank and Trust Company, Augusta, Georgia.
Case No. 44,441-L—First State Bank of Northern California, San Leandro, California.
Case No. 44,448-SR—The Farmers State Bank, Protection, Kansas.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections, (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officer's report and recommendations with respect to the formal grievance of a Corporation employee:

Names of employee authorized to be exempt from disclosure pursuant to the provisions of subsections, (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 26, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1608-80 Filed 8-26-80; 11:12 am]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, September 3, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel, Litigation, Compliance 9038(a) Audits..

* * * * *

DATE AND TIME: Thursday, September 4, 1980 at 10 a.m.

PLACE: 1325 K Street N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certifications
Advisory opinions:
  Draft AO 1980-81: Henry F. Frisch (on behalf of Mark Dayton).
  Draft AO 1980-83: Jan W. Baran (Crane for President Committee, Inc.).
  Draft AO 1980-87: John W. Hetherington (Pelham Republican Town Committee).
  Draft AO 1980-88: Harry S. Davis, citizens for the election of Harry Davis as President.
  Draft AO 1980-89: Tony Coelho, U.S. House of Representatives.
  Draft AO 1980-90: Samuel A. Peters, Senior Counsel, Public Affairs, Atlantic Richfield Company.
  Draft AO 1980-93: John Sullivan, Treasurer, Bozzuto U.S. Senate '80 Committee.
  Draft AO 1980-96: Mitchell Rogovin, Counsel to John B. Anderson and General Counsel for the National Unity Campaign for John Anderson.
1980 election and related matters
Appropriations and budget
  1982 Budget
Contributions from unregistered committees
Pending legislation
Classification actions
Routine administrative matters

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PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Lona L. Stafford,
Acting Secretary to the Commission.

[S-1615-80 Filed 8-26-80; 3:27 pm]

BILLING CODE 6715-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 56224, August 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 27, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

M-9—RM79-34, Transportation Certificates for Natural Gas for the Displacement of Fuel Oil.

Kenneth F. Plumb,
Secretary.

[S-1612-80 Filed 8-26-80; 1:27 am]

BILLING CODE 6450-85-M

8

[No. 385]

FEDERAL HOME LOAN BANK BOARD.

August 26, 1980.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 166, FR p. 56534, August 25, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 A.M., AUGUST 28, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The meeting previously scheduled for 9:30 a.m., August 28, 1980, has been cancelled.

[S-1614-80 Filed 8-26-80; 2:47 pm]

BILLING CODE 6720-01-M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., September 3, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 7680-39: Modification of the American West African Freight Conference Agreement to reinstate its intermodal authority.
2. Joint Petition of Hapag-Lloyd AG and the Port of Seattle for relief from double payment of wharfage and dockage charges.
3. Docket No. 80-34: Exemption of Nonexclusive Transshipment Agreements From Section 15 Approval Requirements—Review of comments received in response to notice of proposed rulemaking.
4. East Asian Trade Study.

Portion closed to the public:

1. Docket No. 79-82: Pier Services, Inc. v. Portside Refrigerated Terminals, Inc.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1610-80 Filed 8-26-80; 12:30 pm]

BILLING CODE 6730-01-M

10

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, September 3, 1980.

PLACE: Board Hearing Room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board action taken by notation voting during the month of August, 1980.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

Dated: August 25, 1980.

[S-1616-80 Filed 8-26-80; 3:35 pm]

BILLING CODE 7550-01-M

11

[Meeting No. 12511]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., Tuesday, September 2, 1980.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

OLD BUSINESS ITEM:

1. Final rate review.

NEW BUSINESS ITEMS:

B—Purchase Awards

1. Req. No. 826975—Insulation for precipitators, ductwork, and related equipment, including installation, at Cumberland Fossil Plant.
2. Amendment to Contract 74061-85499 with Brown Boveri Corporation, North Brunswick, New Jersey, for turbine generators for Hartsville and Phipps Bend Nuclear Plants.
3. Req. No. 828174—Material installation, boiler balanced-draft conversion for Cumberland Steam Plant, Units 1 and 2.

C—Power Items

*1. Lease and amendatory agreement with Gibson County Electric Membership Corporation covering lease of TVA's Ridgely, Tiptonville, and Troy Substations.

*2. Lease and amendatory agreement with city of Covington, Tennessee, and Southwest Tennessee Electric Membership Corporation covering arrangements for service to both distributor at TVA's Covington 161-kV Substation.

3. Deed and bill of sale conveying to the town of Clinton, Tennessee, the Petros Substation and a 6.1-mile section of the Petros-Norris 69-kV Transmission Line.

4. New power contract with Princeton, Kentucky.

5. New power contract with Electric Plant Board of the City of Paducah, Kentucky.

6. Proposed sale of surplus powerline at the Eads Mine in Jefferson County, Illinois, to Central Illinois Public Service Company.

*7. TVA residential conservation service plan developed in response to the National Energy Conservation Policy Act.

D—Personnel Items

*1. Change of status for Robert C. Glinski, Attorney, Office of the General Counsel, Knoxville, Tennessee.

*2. Change of status for John S. Rozek from Director of Property and Services to Chief, Public Safety Services, Office of Management Services, Knoxville, Tennessee.

*3. Change of status for William R. Norwood from Assistant General Manager to Director of Property and Services, Office of Management Services, Knoxville, Tennessee.

*4. Change of status for Douglas A. Horne from Staff Assistant, Office of the General Manager, to Assistant to the Director, Division of Property and Services, Office of Management Services, Knoxville, Tennessee.

*5. Change of status for Donald L. McLeod from Program Coordinator to Staff Assistant to the General Manager, Office of the General Manager, Knoxville, Tennessee.

*6. Change of status for Morris G. Herndon from Assistant to the Manager, Office of Engineering Design and Construction, to Staff Assistant to the General Manager, Office of the General Manager, Knoxville, Tennessee.

7. Personal services contracts with Kenneth D. McCasland, Sr., Kenneth L. Penegar, and Richard S. Wirtz for services in connection with contract disputes appeals.

8. Renewal of consulting contract with Dr. Geno Seccomanno, Grand Junction, Colorado, for services in connection with environmental

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*Approved by individual Board members. This would give formal ratification to the Board's action.

and safety aspects of the effects of nuclear power plants, requested by the Division of Occupational Health and Safety.

9. Renewal of consulting contract with Robert H. Park, Brewster, Massachusetts, for services in connection with the improvement of stability of large generators and reliability of bulk power supply at TVA power plants, requested by the Office of Power.

E—Real Property Transactions

1. Filing of condemnation suits.

F—Unclassified

1. Interagency agreement with Department of Energy covering arrangements for process engineering assistance needed by the fertilizer industry.

2. Revised TVA policy code relating to procurement.

3. Contracts with the Tennessee Valley Capital Corporation (TVCC) and Valley Development Corporation (VDC) for operation of and assistnce to the TVA-sponsored Small Business Investment Company (MESBIC).

*4. Settlement of action brought by TVA against Lukens Steel Company, et al, for delay damages sustained as a result of defective components fabricated for the Raccoon Mountain Pumped-Storage Project.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can repond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245–0101.

Dated: August 26, 1980.

[S-1613-80 Filed 8-26-80; 1:38 pm]

BILLING CODE 8120-01-M

12

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., September 4, 1980.

PLACE: 955 L'Enfant Plaza North, S.W., Board room, room 2–500, fifth floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public (9 a.m.)

1. Consideration of internal personnel matters.

2. Review of Conrail proprietary and financial information for monitoring and investment purposes.

3. Litigation report.

Portions open to the public (10 a.m.):

4. Approval of minutes of the August 7, 1980 Board of Directors meeting.

5. Report on Conrail monitoring.

6. Consideration of Conrail drawdown request for September.

7. Conrail Fourth Quarter Commitment Request.

8. Status Report on the Section 211(h) loan program.

9. Retention Pay Plan.

10. Contract Actions (extensions and approvals).

11. Legislative Report.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) 426–4250.

[S-1611-80 Filed 8-26-80; 1:27 pm]

BILLING CODE 8240-01-M

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federal register

Thursday
August 28, 1980

Part II

Department of Transportation

Federal Highway Administration and
Office of the Secretary

Motor Carrier Act of 1980; Minimum Levels of Financial Responsibility and Delegation of Authority; Final Rules and Proposed Rule

V 45 AG 28 80 UMI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-156]

Organization and Delegation of Powers and Duties; Minimum Levels of Financial Responsibility Under the Motor Carrier Act of 1980

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: In section 30 of the recently-enacted Motor Carrier Act of 1980 (July 1, 1980; Pub. L. 96–296), the Congress has required that certain types of motor carriers operating vehicles with a gross vehicle weight rating of 10,000 pounds or more maintain minimum levels of financial responsibility covering public liability, property damage, and environmental restoration. The requirements may be met either by purchasing various forms of insurance, giving evidence of ability to self-insure, or a combination of means, all subject to approval by DOT. This document delegates to the Federal Highway Administrator the authority vested in the Secretary to prescribe minimum financial responsibility levels for motor carriers.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: John DeVierno, Office of the General Counsel, 202–426–4687.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure on it are not required and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

Discussion of the Delegation

In section 30 of the recently-enacted Motor Carrier Act of 1980 (July 1, 1980; Pub. L. 96–296), the Congress has required that certain types of motor carriers operating vehicles with a gross vehicle weight rating of 10,000 pounds or more maintain minimum levels of financial responsibility covering public liability, property damage, and environmental restoration. The requirements may be met either by purchasing various forms of insurance, giving evidence of ability to self-insure, or a combination of means, all subject to approval by DOT. Two types of motor carrier are covered—(1) motor carriers of property for hire engaged in interstate or foreign commerce and (2) motor carriers of hazardous materials, substances, or wastes, or of oil, engaged in intrastate or interstate commerce. Effective July 1, 1981, section 30 requires the following minimum levels of financial responsibility: $750,000 for the interstate or foreign for-hire transportation of general freight; $5,000,000 for the intrastate or interstate transportation of certain extremely hazardous materials; and $1,000,000 for the intrastate or interstate transportation of other hazardous materials. DOT is given discretion to reduce the $750,000 and $1,000,000 requirements to $500,000 and the $5,000,000 to $1,000,000 for up to two years if DOT determines that a phase-in period is appropriate. If DOT provides for a full two-year phase-in period, then the minimum levels of $750,000 $1,000,000, and $5,000,000 will take effect on July 1, 1983.

Appearing elsewhere in today's **Federal Register** is an advanced notice of proposed rulemaking (ANPRM) published by the Bureau of Motor Carrier Safety (BMCS) of DOT's Federal Highway Administration inviting public participation in the determination of whether a phase-in of the levels set by statute is appropriate and, if so, what the particular details of such a phase-in should be. Since section 30 also requires DOT to report to the Congress by July 1, 1981 on any phase-in that may be implemented, the ANPRM also invites input to that report.

Because of the significant impact that the minimum levels of financial responsibility may have upon transportation of hazardous materials and other substances under the jurisdiction of the Materials Transportation Bureau (MTB) of DOT's Research and Special Programs Administration, I am requiring close coordination between BMCS and MTB in the development of any phase-in period and in the preparation of the report. Further, since section 30 applies to transporters of hazardous wastes or substances, as those terms are defined by the Administrator of the Environmental Protection Agency (EPA), I am also inviting EPA to participate through submission of comments. Finally, I believe that the rulemaking being initiated today by BMCS is significant, as that term is used in Executive Order 12044, Improving Government Regulations (March 24, 1978; 43 FR 12661) and in the implementing DOT policies and procedures (February 26, 1979; 44 FR 11034). This means full analysis of all relevant considerations and involvement of the public and my staff in development of any rule.

In consideration of the foregoing, § 1.48 of Title 49 of the Code of Federal Regulations is amended by adding a new paragraph (w) at the end thereof to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to—

* * * * *

(w) Carry out the functions vested in the Secretary by section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296), relating to the establishment of minimum levels of financial responsibility for motor carriers.

(Sec. 9(e), Department of Transportation Act, (49 U.S.C. 1657(e)))

Issued in Washington, D.C., on August 21, 1980.

William J. Beckham, Jr.

Acting Secretary.

[FR Doc. 80–26351 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

49 CFR Part 301

Delegation of Authority Relating to Motor Carrier Safety

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The authority to prescribe minimum financial responsibility levels for motor carriers was vested in the Secretary of Transportation by the Motor Carrier Act of 1980 (Pub. L. 96–296) effective July 1, 1980. Elsewhere in today's **Federal Register** is a final rule published by the Office of the Secretary of Transportation delegating to the Federal Highway Administrator the authority to carry out the functions vested in the Secretary by Section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296), relating to the establishment of minimum levels of financial responsibility for motor carriers. (49 CFR 1.48(w).) By this document, this authority is being further delegated from the Federal Highway Administrator to the Associate Administrator for Safety then from the Associate Administrator for Safety to the Director of the Bureau of Motor Carrier Safety (BMCS). The Bureau of Motor Carrier Safety is the entity within the Federal Highway Administration primarily responsible for all other programs dealing with motor carriers.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, 202-426-9767, or Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Since this amendment relates to the Departmental management, procedures, and practices, notice and public procedure on it are not required and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

In consideration of the foregoing, 49 CFR 301.60 is amended by adding paragraph "(w)" to paragraphs (d)(1)(i) and (e)(1) to read as follows:

§ 301.60 [Amended]

* * * * *

(d)(1)(i) Perform the functions, powers, and duties enumerated in § 1.48, paragraphs (a), (d), (e), (f), (g), (h), (k), (p), (u), (v), and (w) in Part 1 of this title.

* * * * *

(e)(1) Perform the functions, powers, and duties enumerated in § 1.48, paragraphs (a), (d), (e), (f), (g), (h), (k), (p), (u), (v), and (w) in Part 1 of this title except the powers to call a matter for a hearing, appoint a hearing officer, and issue a final decision under Part 386 of this chapter.

* * * * *

(Section 30, Pub. L. 96-296, 94 Stat. 793; 49 U.S.C. 1655; 49 CFR 1.48)

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this rule is so minimal that it does not warrant the preparation of a regulatory evaluation. (Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

Issued on: August 25, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-26352 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-22-M

V45 AG 28 80 UMI

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Ch. III

[BMCS Docket No. MC-94; Notice No. 80-8]

Minimum Levels of Financial Responsibility for Motor Carriers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Comments and information are solicited regarding implementation of Section 30 of the Motor Carrier Act of 1980. The Act establishes certain requirements for levels of insurance, or other evidence of financial responsibility, which must be maintained by motor carriers, and empowers the Secretary of Transportation to make certain adjustments in the statutory requirements. This document sets forth a number of questions for the purpose of gathering information which should assist the FHWA in both promulgating reasonable and comprehensive regulations in the area of motor carrier financial responsibility and in developing a report for the Secretary of Transportation to submit to the Congress.

DATE: Comments must be received on or before October 27, 1980.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and should be submitted in an origingal and two copies to Room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426-9767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346; Federal Highway Administration, 400 Seventh Street, SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA has determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the program office at the address specified above.

On July 1, 1980, the President signed the Motor Carrier Act of 1980, Pub. L. 96-296. Section 30 of the Act establishes minimum levels of financial responsibility to be set for all for-hire motor carriers of property involved in interstate or foreign transportation and for all motor carriers transporting hazardous materials in intrastate or interstate commerce. The Motor Carrier Act of 1980 limits the applicability of these requirements to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

The law establishes minimum levels of financial responsibility that must be carried by affected persons 1 year from the date ofenactment of the Act unless the Secretary exercises the statute's authority to adjust those limits. The Secretary may promulgate those regulations to require higher levels. The Secretary also has limited authority to reduce those levels. The statute precludes the Secretary from reducing the minimum levels below specified levels and provides that the authority to impose reduced levels applies only to a period of up 2 years beginning (1) on the effective date of the rule provided that a rule is made effective within one year after enactment, or (2) on the 366th day after enactment provided a rule is made effective one year after enactment or later.

The purpose of the financial responsibility provision of the Motor Carrier Act of 1980 is to create incentives for the motor carrier industry to focus on the safety aspects of highway transportation and to assure the general public that a motor carrier maintains an adequate level of financial responsibility requirements sufficient to satisfy claims covering public liability, property damage, and environmental restoration. The legislative history regarding Section 30 indicates a Congressional belief that increased financial responsibility will lead to improved safety performance as unsafe motor carriers will incur higher premiums than safe carriers, or will be unable to obtain coverage. Motor carriers who maintain high levels of safety may be evaluated in a favorable light by insurance companies, since generally the premiums that insurance companies actually charge are directly related to their insured's record of loss experience. The new minimum levels of financial responsibility for public liability, property damage, and environmental restoration as required in the Motor Carrier Act of 1980 should initiate a new and major focus on motor carrier safety.

Also appearing in today's **Federal Register** are the delegations of authority necessary for the issuance of this advance notice of proposed rulemaking (ANPRM). The Motor Carrier Act of 1980 vests the Secretary with the authority to prescribe minimum financial responsibility levels. This authority is delegated to the FHWA, and, in turn, the FHWA is delegating the authority to the Director, Bureau of Motor Carrier Safety.

The minimum levels of financial responsibility set forth in the Act, levels that will take effect 1 year after enactment unless the Secretary exercises the statutory authority to establish different levels, are:

1. $750,000 for the transportation of property by for-hire motor vehicle in interstate or foreign commerce;
2. $5 million for the transportation by motor vehicle in interstate or intrastate commerce of:
   (a) Hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper type vehicles, with capacities in excess of 3,500 water gallons;
   (b) Class A explosives, poison gas, liquefied gas, or compressed gas, in bulk; or
   (c) Large quantities of radioactive materials; and
3. $1 million for the transportation by motor vehicle in interstate or intrastate commerce of any hazardous material (as defined by the Secretary), oil, or hazardous substance or waste (both as defined by the Administrator of the Environmental Protection Agency) other than these materials described in 2 (a), (b), or (c).

The Secretary's authority to establish reduced requirements allows reductions as follows:

1. $750,000 to no less than $500,000;
2. $5 million to no less than $1 million; and
3. $1 million to no less than $500,000.

Generally, the Secretary may make these reductions provided such reductions (1) will not adversely affect public safety; and (2) will prevent a serious disruption in transportation service. However, as to the transporation of hazardous materials, oil, substance, or waste in interstate Commerce, other than bulk, the Secretary may reduce the amounts if the Secretary finds that such a reduction will not adversely affect safety.

It should be noted that the term "for-hire transportation" applicable to the $75,000 minimum levels include all motor carriers operating under contract or common carrier authority issued by the Interstate Commerce Commission

(ICC) and interstate for-hire carriers that are exempt from the ICC's economic regulations. Examples of interstate motor carrier activities that are exempt from the ICC's economic regulation but subject to regulation under Section 30 include, but are not limited to—

1. The for-hire transportation of exempt commodities, such as unprocessed agricultural commodities, including fresh fruits and vegetables; liverstock and poultry feed and certain seeds and plants being transported to a site of agricultural production; fish or shellfish by-products not intended for human consumption; used pallets, and used empty "shipping" containers; pumice stone and other natural crushed volcanic rock to be used for decorative purposes; wood chips; newspapers; livestock; agricultural or horticultural commodities; commodities listed as exempt in the commodity list incorporated in ICC ruling, number 107, published on March 19, 1958; certain cooked or uncooked fish; and

2. Exempt interstate operations, such as: the for-hire transfer, pickup and delivery of property in a terminal area of a rail carrier, water carrier, or freight forwarder; operations conducted under a one-State exemption certificate; operations incidental to air transportation and in lieu of air transportation due to weather conditions or mechanical failure; interstate operations of a cooperative association for compensation; commercial zone operations; casual, occasional, or reciprocal transportation; and emergency towing of disabled vehicles. Intrastate carriage of nonhazardous materials, however, is not covered by Section 30.

The BMCS is considering the impact of the levels of financial responsibility prescribed in Section 30 of the Act, as well as any other levels that might be prescribed by the Secretary, on the affected motor carrier population, insurance companies, and the general public.

The principal reason for issuing this ANPRM is to obtain comments and data to assist the BMCS in determining—

1. What minimum levels of financial responsibility should be established;

2. If there should be a phase-in of the requirements over a period of time and, if so, what that phase-in period should be; and

3. If the levels prescribed in any phase-in period should remain constant throughout that period.

Comments and data are also solicited to obtain information that will assist the BMCS in developing a report to Congress, as required by the statute, addressing the impact of the minimum levels of financial responsibility on—

1. The safety of motor vehicle transportation;

2. The economic condition of the motor carrier industry including, but not limited to, small and minority motor carriers and independent owner-operators; and

3. The ability of insurance companies to provide designated coverage.

Information on these three factors would contribute to the rulemaking process as well as to the development of this report.

The BMCS invites comments from interested persons on the need for regulations that would change the minimum levels of financial responsibility for up to a 2-year phase-in period as authorized by the Motor Carrier Act of 1980. Comments are especially invited on the questions below. Responses to these questions, other relevant comments, and factual data in support thereof are solicited so that minimum level requirements can be promulgated in light of how readily motor carriers and insurance companies could meet the requirements, and as to the extent to which various levels could be expected to affect the safety of the public and the ability of motor carrier service.

A number of the specific questions concern insurance industry practices. However, the content of this ANPRM is in no way intended to imply an effort to regulate the insurance industry. These questions have been included in the belief that data about insurance practices will help the BMCS better understand the relationship between insurance requirements and safety performance which is critical to the development of the most appropriate rule. Also, it should be noted that the scope of the rulemaking concerns only liability insurance, not cargo insurance.

Lastly, all relevant data and comments are welcome, even if not specfically requested by any of the following questions:

1. What dollar figure of financial responsibility is sufficient to "protect" the general public from the operation of motor carriers of nonhazardous materials? Why?

2. What dollar figure of financial responsibility is sufficient to "protect" the general public from the operation of motor carriers of hazardous materials? Why?

3. By establishing a $5 million financial responsibility requirement for some hazardous materials movements but only a $1 million requirement for other hazardous materials, the Act indicates that different kinds of hazardous material movements deserve different levels of financial responsibility. Should the Secretary establish levels for the transportation of certain hazardous materials higher than is required by the statute? If so, for which hazardous materials? What should the limits be? Why?

4. By what percentage would a motor carrier's insurance premiums be increased if the minimum limits were set for carriers of nonhazardous materials at $500,000? $750,000? $1 million? If set at $1 million for carriers of hazardous materials? $5 million? Assume that most carriers meet the current limits of $100,000 (per person)/$300,000 (for all persons) as set by the ICC.

5. What will the economic impact of increased insurance premiums be on carriers of hazardous materials? Would small and minority controlled carriers be affected differently than other such carriers?

6. What will the economic impact of increased insurance premiums be on carriers of nonhazardous materials? Would small and minority controlled carriers be affected differently than other such carriers?

7. Should there be lower financial responsibility limits established for all or any part of the 2-year phase-in period? For which classes of carriers? Why? Would the establishment of lower limits either adversely affect public safety or seriously disrupt transportation service?

8. Will the insurance industry be able to provide motor carriers with the expanded coverage required by the Act 1 year after the Act takes effect? 2 years? 3 years?

9. Will the insurance industry be able to issue self-insurance surety bonds to motor carriers in amounts up to $5 million and greater? If "yes," what criteria are now used by insurance companies in making a determination whether to issue such a surety bond? What criteria would be used in making such a determination once new levels of financial responsibility are established? What evidence of compliance should be required?

10. What criteria should the Secretary use in determining and approving financial responsibility of those carriers who choose to be self-insured?

11. Should a motor carrier be allowed to aggregate the required insurance coverage with more than one insurance company?

12. Should motor carriers be required to obtain insurance or other security equal to minimal levels of financial responsibility that cannot be cancelled or withdrawn for a finite period? If

"yes," what time period should be established for cancellation notices? 30 days? 60 days? 1 year?

13. What evidence should be required of motor carriers to ensure compliance with the minimum levels of financial responsibility?

14. Should motor carriers obtain insurance only from companies that belong to State Insurance Guaranty Funds?

15. Should motor carriers be required to purchase insurance only from insurance companies that provide loss prevention services to their insureds?

16. Should motor carriers obtain insurance only from those companies legally authorized to issue policies in each State in which the motor carriers operate?

17. Should the coverage of fiduciaries be included in insurance policies, guarantees, surety bonds, qualifications as self-insurers, or notices of cancellation issued by or in behalf of motor carriers?

18. What likelihood exists that motor carriers with good safety records will end up subsidizing less safe motor carriers? If so, why, and to what extent? Do rating plans and premium requirements provide the necessary incentives for motor carriers to administer effective loss prevention programs?

19. Can insurers establish a rating plan for newly established motor carriers? If so, what would the requirements be?

20. What new factors would the insurance industry use in establishing rates for individual motor carriers?

21. The Act provides for mandatory insurance limits for for-hire interstate transportation but no limits are prescribed for private transportation of nonhazardous materials in interstate operations. Will this distinction result in a diversion of traffic from for-hire motor carriers to private motor carriers?

22. The Act provides for higher limits for the transportation of large quantities of radioactive materials. "Large quantity radioactive materials" are currently defined, pursuant to the Department's Hazardous Materials Regulations, as a quantity, the aggregate radioactivity of which in one package exceeds that specified as follows:

(a) Group I or II radionuclides: 20 curies;

(b) Group III or IV radionuclides: 200 curies;

(c) Group V radionuclides: 5,000 curies; and

(d) Group VI or VII radionuclides: 50,000 curies (49 CFR 173.389(b)). Should this definition be incorporated in the new rules?

23. The Act provides that the Secretary may establish levels of financial responsibility for the transportation of Class A explosives, poison gas, liquefied gas, or compressed gas in bulk. How should the term "in bulk" be applied to each of these materials?

(Sec. 30, Pub. L. 96–296, 94 Stat 793; 23 U.S.C. 315; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: August 25, 1980.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 80–26353 Filed 8–27–80; 8:45 am]

BILLING CODE 4910–22–M

federal register

Thursday
August, 28, 1980

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Endangered Maryland Darter

V 45 AG 28 80 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Endangered Maryland Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; critial habitat for the Maryland darter.

SUMMARY: The Service proposes to designate Critical Habitat for the Maryland darter (*Etheostoma sellare*). Self-sustaining populations of this fish species are now believed to exist only in two small segments of streams in Harford County, Maryland. The Maryland darter was listed as Endangered on March 11, 1967 (32 FR 4001, and is protected under the provisions of the Endangered Species Act of 1973. Its Critical Habitat has not been determined, pending study of its hibitat needs by the Maryland Darter Recovery Team and review by the Service of recovery team findings. An earlier proposal in 1978 (43 FR 20518) was withdrawn by the Service (44 FR 12382). The proposed rule would identify habitat subject to Federal agency consultation pursuant to Section 7(a) of the Act. Comments and data related to this proposal are solicited.

DATES: Comments on this proposed rule must be submitted by November 26, 1980. Public meetings on this proposal will be held at 7:00 PM on Tuesday, September 30, 1980, at Dickson Hall, Building 3074, Raritan Avenue, Aberdeen Proving Ground, Maryland.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The public meeting will be held at Dickson Hall, Building 3074, Raritan Avenue, Aberdeen Proving Ground, Maryland.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule contact Mr. John L. Spinks, Jr. Chief, Office of Endangered Species (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Maryland darter is a small fish of the freshwater perch family, which, in addition to darters, includes the larger and better known yellow perch and walleyed pike. Like many other darters, Maryland darters evidently inhabit rock crevices and similar shelters in clean, well-oxygenated, swiftly flowing parts of streams, the riffle habitat. Like most darters, they remain usually on or near the botton, where they dart quickly from shelter to shelter, hence their name. Exact life history details have been difficult to obtain for this rare species; related species survive poorly and often fail to reproduce if confined to still water, or even in flowing streams where botton crevice shelters have been eliminated by siltation. Darters feed mostly on small riffle insects and other invertebrates with habitat requirements similar to their own.

This species was described in 1913, from two individuals collected the year before in the vicinity of Havre de Grace, Maryland. The original collection locality was listed as Swan Creek, from a long stony riffle which cannot be identified today. It might have been in a small eastern tributary now known as Gasheys Run, although the riffle as described would be more typical of Swan Creek. Intensive searches of Swan Creek by many bioligists during subsequent years have never produced any specimens. This failure prompted Matthieson to list the species as probably extinct in his 1959 book "Wildlife in America."

A single juvenile Maryland darter found in Gasheys Run in 1962 stimuated renewed bioligical interest, resulting, in 1965, in discovery of an apparently self-sustaining population in the lower part of nearby Deer Creek, about six miles northwest of Havre de Grace. Current opinion of some biologists is that the 1962 Gasheys Run specimen, and one other taken there in 1965, could have been stragglers displaced down the Susquehanna River from the Deer Creek population, and that perhaps insufficient habitat now exists in Swan or Gasheys creeks to satisfy breeding requirements there.

Repeated collections in the middle and upper stretches of Deer Creek have also failed to yield any Maryland darters, even from several riffles that might otherwise be judged as suitable habitat for them. Perhaps habitat needs limit this species to base level parts of the stream, or perhaps other fish species have a competitive advantage in the upper reaches. Widespread survey collecting elsewhere in the region now indicates it is unlikely that other breeding populations exist. Base level reaches of most other lower Susquehanna tributaries entered the river above Conowingo Dam and are now part of the reservoir, lacking riffles. Whether or not the Susquehanna main channel is or ever has been suitable habitat is debatable, but firm evidence either way is not yet available. Experimental approaches to learning exact habits of this fish are hampered by its extreme rarity, and by fears that removing individuals for test might have adverse or critical effects on population survival.

Deer Creek was designated a scenic river under the Maryland Wild and Scienic Rivers Act of 1968 by an act of the State Legislature in 1973.

A proposal to determine Critical Habitat for the Maryland darter was published in 1978 (43 FR 20518), but was subsequently withdrawn by the Service (44 FR 12382). This was in accordance with the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The proposed rule will bring the Critical Habitat proposal into conformity with these amendments. Endangered status of the Maryland darter under the provisions of Section 4(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) is not affected by this proposal to determine Critical Habitat.

Critical Habitat

The Act defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species, at the time that the species is listed, which are essential to the conservation of the species and which may require special management considerations or protection; and (b) specific areas outside the geographic area occupied by the species at the time of listing, upon a determination by the Secretary that such areas are essential for the conservation of the species.

As specified in the rules for designating Critical Habitat (to be codified at 50 CFR Part 424, *see* 45 FR 13010), the Director shall consider in determining what areas are critical those physiological, behavioral, ecological and evolutionary requirements essential to the conservation of the species and which may require special management considerations. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of listed species.

Each of the above five factors pertains to the Maryland darter as summarized below:

Based on data presently available, the proposed Deer Creek area appears to include sufficient area for individual and population growth and for normal behavior. Immature fish have been collected in the Gasheys Run area and it may support a breeding population. Riffle and pool areas in both streams provide habitat for aquatic insects and snails, the Maryland darter's food. Large gravel and cobbles in the streams provide cover for the Maryland darter. Although reproduction has not been observed directly, it is presumed to occur in these streams, since the fish have not been taken elsewhere. These streams are the only habitats known to represent the geographic distribution of the species.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements in the habitat of the Maryland darter:

1. Continuity and sufficiency of stream flow. Like most fishes, this one could not be expected to survive removal of all water from its habitat for more than a few minutes.

2. Permanence of riffle habitat. Like many other darters, this one shows evidence of permanent residence in the shallower, swifter segments of streams. Both reproduction and ultimately survival can reasonably be predicted to be adversely affected if the population is forced by low water into stagnant or even still pools for prolonged periods. This constraint probably holds also for most organisms that are the darter's natural food.

3. Pollution sensitivity. Coupled with most darter's preference for swift water is a high oxygen requirement, making darters among the first fishes to show respiratory stress and failure in any reduction of oxygen availability. Selective mortality of darters in habitats subjected to various other kinds of pollution is also documented.

4. Presence and quality of cover. Darters inhabiting riffles are known to use crevices among stones, smaller pebbles, vegetation or trapped wood flotsam both for cover from their predators and for spawning and egg protection. They have been noted to disappear from riffles when silt deposition eliminated such crevices. Darter eggs have been shown to be particularly vulnerable to smothering by silt, so that even less siltation can normally be tolerated during the spawning season.

In 50 CFR § 424.12(c) the Director is required to identify significant activities which would affect an area considered for designation as Critical Habitat or be likely to be affected by the designation. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

The Service has not been notified of specific Federal activities or federally authorized actions that may be affected by the proposed Critical Habitat designation. Construction of dams or other structures traversing Deer Creek would require Federal authorization. Direct impoundment of the stream segment designated below would almost certainly destroy the Maryland darter population. Impoundments upstream could bring some or all of the water removal factors listed below into consideration.

Other types of non-federal activities can go forward freely in the proposed Critical Habitat area, even though they may adversely affect the area. The following specific activities could have adverse impacts on the Critical Habitat of the Maryland darter:

1. Water removal. Adverse impacts related to removing stream water can be expected beyond certain maximum and/or minimum stream depths, discharge rates, and rates of water level change in the riffle areas, with sharp increase in impact beyond the threshold limits. Since the darter seeks shelter under stones in shallow riffles, they are more vulnerable than most other fishes to sudden water level changes associated with onset or cessation of water removal: through stranding, being crushed by shifting stones, and other hydrologic changes. Seasonal changes in water depth sensitivity are also probable, related to the effects of flow rate on water temperature in very hot or cold weather, and to spawning.

2. Introduction of chemicals, organic waste matter or silt. Special sensitivities of darters to these factors have been suggested by work on other species (see above).

Because many such activities are not Federal activities *per se*, or federally authorized actions, they will not be affected by the Critical Habitat designation. Critical Habitat for the Maryland darter is as follows:

The riffle zones of Deer Creek downstream from its confluence with Elbow Branch, including adjacent pool areas which may be necessary nursery and/or food supply zones. The designated segment extends from approximately one half mile upstream from the Stafford Bridge. Across Deer Creek to approximately one mile downstream from Stafford Bridge. The area in Gasheys Run (also known as Gasheys Creek) includes both forks from their crossing of Penn Central Railroad to the confluence with Swan Creek.

The Service is required to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration of this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of preparing a final rule, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the Maryland darter.

Effect of this Proposal if Published as a Final Rule

Section 7(a) of the Act provides (in part):

> (1) The secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of this Act.
>
> (2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse

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modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of the Maryland darter, but also requires them to insure their actions are not likely to result in the destruction or adverse modification of this Critical Habitat which has been determined by the Director (who is authorized to make such designations on behalf of the Secretary). Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Sources

Harford County Advisory Board and Maryland Department of Natural Resources. 1979. Deer Creek Scenic River, Revised Edition. Md. Dept. Natural Resources, Annapolis, 68 pp., 8 maps.

Knapp, L. 1976. Redescription, relationships and status of the Maryland darter, *Etheostoma sellare* (Radcliffe and Welsh), an endangered species. Proc. Biol. Soc. Washington 89(6):99–117.

Knapp, L., W. J. Richards, R. V. Miller and N. R. Foster. 1963. Rediscovery of the percid fish *Etheostoma sellare* (Radcliffe and Welsh). Copeia 1963(2):455.

Radcliffe, L., and W. W. Welsh. 1913. Description of a new darter from Maryland. Bull. U.S. Bur. Fish. 32(1912):29–32.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species or the habitat included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities which may adversely affect the subject areas which are being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relating to the public meeting is set out below:

Place: Dickson Hall, Building 3074, Raritan Ave., Aberdeen Proving Ground, Maryland.
Date: Tuesday, September 30, 1980.
Time: 7:00 PM.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR 1500–1508.

Primary Author

The primary author of this proposed rule is Dr. George E. Drewry, Office of Endangered Species, Arlington, Virginia (703/235–1975).

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed that § 17.95(e) Fishes be amended by adding Critical Habitat of the Maryland darter after that of the leopard darter as follows:

Maryland (Harford County): (1) Deer Creek main channel from the junction with Elbow branch thence downstream to the junction with the Susquehanna River. (2) Gasheys Run (also known as Gasheys Creek) main channels of east and west forks from their intersections with Penn Central Railroad south to their confluence, thence south to the confluence with Swan Creek.

Maryland Darter

Harford County, Md.

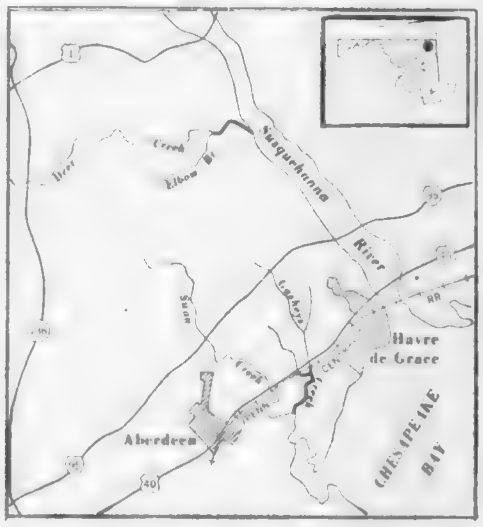

Primary constituent elements of this habitat are considered to be quality and permanence of streamflow in shallow areas of the streams (riffles), and presence of unsilted rocky crevices for shelter.

Dated: August 8, 1980.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-26317 Filed 8-27-80; 8:45 am]

BILLING CODE 4310-55-M

federal register

Thursday
August 28, 1980

Part IV

Department of Transportation

Federal Aviation Administration

Proposed Elimination of Duties and Activities of Flight Crew Members Not Required for the Safe Operation of Aircraft

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 20659; Notice No. 80-12]

Proposed Elimination of Duties and Activities of Flight Crew Members Not Required for the Safe Operation of Aircraft.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposal is to enhance aviation safety by prohibiting performance of duties and activities by flight crewmembers during critical phases of flight which are not required for the safe operation of aircraft. The FAA is aware that non-essential flight crewmember duties and activities can create distractions in the flight crew compartment. These proposed rules would require aircraft operators and flight crewmembers to assure an environment in the flight crew compartment that is free from such potentially dangerous distractions.

DATES: Comments must be received on or before: October 27, 1980.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 800 Independence Avenue, SW., Washington, DC 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC. Comments may be examined in the Rules Docket, weekdays except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Norman C. Miller, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 20659. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Discussion of the Proposed Amendments

The FAA is aware that duties and activities assigned to flight crewmembers that are not required for the safe operation of the aircraft are possible sources of dangerous distraction to flight crewmembers and can result in a compromise of safety of flight especially during critical phases of flight.

Elimination of distractions caused by flight crewmember performance of duties and activities unnecessary for the safe operation of aircraft can result in the reduction of accident potential. The FAA proposes to enhance aviation safety by prohibiting the performance of non-safety related duties and activities by flight crewmembers during critical phases of flight.

FAA review of data derived from the National Aeronautics and Space Administration (NASA) Aviation Safety Reporting System (ASRS) reveals many examples of flightcrew errors, omissions and non-compliance with Air Traffic Control (ATC) directives which reportedly resulted from distractions caused by the performance of non-essential duties and activities by flight crewmembers. Although ASRS is an unconfirmed source of reports and not subject to verification, it nevertheless may suggest areas where further FAA investigation and analysis is needed in order to promote aviation safety. Distractions reflected in ASRS data fall into three general categories. One such category involves radio communications which the company requires flight crewmembers to make for a wide variety of non-safety related purposes such as to check on connecting flights for passengers. In one ASRS incident, for example, the flight crew reportedly permitted the aircraft to descend below its assigned altitude. The flight engineer stated that a contributing factor was his preoccupation with a company call placed to arrange passenger connections which diverted his attention away from an important crosscheck.

A second category of distractions reflected in ASRS data involves certain company-required public address announcements to the passengers by flight crewmembers. In one ASRS report, the pilot stated that he deviated from ATC instructions to maintain a certain compass heading after takeoff because he was engaged in making a company-required takeoff announcement. In another ASRS incident the flight engineer reported that he came within 300 pounds of fuel flame-out of the aircraft's No. 1 engine because he was busy making an announcement pointing out sights of interest on the ground below.

The third major category of distractions involves unnecessary communications between the flight crew and cabin crew. ASRS data are replete with examples of incidents that reportedly resulted from distractions caused by flight attendants entering the flight crew compartment for non-safety related purposes. Illustrative is the ASRS incident in which the following was reported to have occurred: the co-pilot was flying during descent while the captain was involved in radio communications with the company. During this time a senior flight attendant entered the flight crew compartment to make "small-talk". Meanwhile the co-pilot received an ATC clearance to level off at a certain altitude, which he misunderstood. The captain did not recognize this error and the aircraft proceeded to level off at an improper altitude. The captain blamed the incident in part on his conversation with the senior flight attendant which he labelled "a distraction we could have done without".

Elimination of non-safety related duties and activities should result in a tightening of flight crew discipline and make crews more aware that extraneous conversation during critical phases of flight contributes to safety problems. Inadequate discipline in the flight crew compartment is a commonly cited cause of aviation accidents. For example, when an Eastern Airlines airplane crashed short of a runway in Charlotte, North Carolina, the National Transportation Safety Board (NTSB) determined that the probable cause of the accident was the flightcrew's lack of altitude awareness at critical points during the approach due to poor in flight crew compartment discipline. The NTSB found that company-required callouts were not made. The flightcrew involved in this accident was engaged in conversations ranging from politics to used cars during descent from cruise altitude until approximately two and one-half minutes prior to the crash. In its accident report the NTSB stated: "These conversations were distractive and reflected a casual mood and lax cockpit atmosphere, which continued throughout the remainder of the approach and which contributed to the accident."

The FAA has encouraged aircraft operators to voluntarily establish periods of "cockpit sterilization" during which flight crews would not be disturbed by such things as irrelevant communications with the company, calls from flight attendants for non-safety related purposes, or unnecessary personal conversations in the cockpit. However attempts to achieve voluntary compliance with this FAA recommendation have not been totally successful, as evidenced by the July, 1978 accident near San Diego in which a Pacific Southwest Airlines (PSA) flight collided in midair with a Cessna. The NTSB determined that the probable cause of the accident was the failure of the PSA flightcrew to comply with the provisions of a maintain-visual-separation clearance, including the requirement to inform the controller when they no longer had the Cessna aircraft in sight. In its report, the NTSB pointed to the fact that the PSA flight engineer was involved with radio communications with the company when the Cessna's presence was reported by ATC and the visual separation instruction was issued. The NTSB stated that since this extraneous conversation ceased after the flightcrew told the approach controller they had the Cessna in sight, the extraneous conversation cannot be considered a contributing factor, but the NTSB went on to emphasize that this conversation persisted until the flight descended to 3200 feet and while a checklist was being accomplished. According to the NTSB, while this extraneous conversation was in progress, a company flight preceding the ill-fated PSA flight was advised of the presence of the Cessna and its future flightpath. However, in the NTSB's view, no assumption can be made as to whether the PSA flightcrew heard or understood the advisory. In direct reference to the extraneous conversation in the PSA cockpit preceding the collision the NTSB stated: "Although the conversation was not casual, it does point out the dangers inherent in this type of cockpit environment during descent and approach to landing." The FAA is in agreement with the NTSB's assessment of the dangers associated with extraneous conversation and anticipates that adoption of this rulemaking proposal which eliminates such non-safety related activities during the critical phases of flight, will greatly reduce such dangers.

Description of the Proposed Amendments

The FAA proposes to enhance flight safety by prohibiting non-safety related flight crewmember duties and activities during critical phases of flight which could cause distractions in the flight crew compartment. Critical phases of flight is defined as, "all ground operations involving taxi, takeoff and landing, and other flight operations except cruise flight." The following are some examples of flight crewmember duties which the FAA considers to be unnecessary for the safe operation of an aircraft: company-required calls made for such non-safety related purposes as ordering galley supplies and confirming passenger connections; PA announcements made to promote passenger entertainment including announcements pointing out sights of interest on the ground below; and time spent in the flight crew compartment filling out company paycards and personnel records.

In addition to prohibiting the assignment of duties that are not required for the safe operation of an aircraft during critical phases of flight, the proposal also prohibits flight crewmembers from engaging in non-safety related activities during these periods. The following are examples of activities which the proposal would prohibit: unnecessary communications between the flight crew and cabin crew such as flight attendants entering the cockpit to talk or take meal orders; extraneous conversation between flight crewmembers, and flight crewmembers and company employees who are deadheading onboard a flight; eating crew meals; and flight crewmember participation in inflight passenger games.

Economic Impact

The FAA has determined that this amendment will have no economic impact. The proposal does provide for an increase in safety, however, by upgrading the Federal Aviation Regulations, and is fully in compliance with the President's directive (Executive Order 12044) that regulations be as simple and clear as possible and impose no unnecessary burden on the public.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (14 CFR Parts 121 and 135) as follows: . . .

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By adding a new § 121.542 to read as follows:

§ 121.542 Flight crewmember duties.

(a) No certificate holder shall require, nor shall any required flight crewmember perform, any duty not required for the safe operation of the aircraft during critical phases of flight. Duties which are prohibited include but are not limited to the following: company-required calls made for such non-safety related purposes as ordering galley supplies and confirming passenger connections; announcements made to passengers promoting the air carrier, or pointing out sights of interest on the ground below; and filling out company payroll and related records.

(b) No required flight crewmember shall engage in any activity which could divert attention from the safe operation of the aircraft during critical phases of flight. Activities which are prohibited include but not limited to the following: unnecessary communications between the flight crew and cabin crew such as flight attendants entering the cockpit to talk or take meal orders; extraneous conversation between flight crewmembers, and flight crewmembers and company employees who are deadheading onboard a flight; and eating meals.

(c) For the purposes of this section, critical phases of flight include all ground operations involving taxi, takeoff and landing, and other flight operations except cruise flight.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. By adding a new § 135.100 to read as follows:

§ 135.100 Flight crewmember duties.

(a) No certificate holder shall require, nor shall any required flight crewmember perform, any duty not required for the safe operation of the aircraft during critical phases of flight. Duties which are prohibited include but are not limited to the following: company-required calls made for such non-safety related purposes as ordering galley supplies and confirming passenger connections; announcements made to passengers promoting the air carrier, or pointing out sights of interest on the ground below; and filling out company payroll and related records.

(b) No required flight crewmember shall engage in any activity which could divert attention from the safe operation of the aircraft during critical phases of flight. Activities which are prohibited include but are not limited to the following: unnecessary communications between the flight crew and cabin crew such as flight attendants entering the cockpit to talk or take meal orders; extraneous conversation between flight crewmembers, and flight crewmembers and company employees who are deadheading onboard a flight; and eating meals.

(c) For the purposes of this section, critical phases of flight includes all ground operations involving taxi, takeoff and landing, and other flight operations except cruise flight.

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Washington, DC, on August 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-26488 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

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federal register

Thursday
August 28, 1980

Part V

Department of Transportation

Federal Aviation Administration

Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 39, and 91

[Docket No. 20660; Notice 80-13]

Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposed amendments to the certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers, including major changes, to: (1) Provide a mechanism by which the FAA may act more systematically to ensure that aircraft in service satisfy up-to-date level-of-safety expectations; (2) Ensure that the certification procedures regulations of Part 21 are consistent for the issuance of type certificates, type certificate amendments, or supplemental type certifcates in order to ensure the same level of effort by applcants and by the FAA for affected products, irrespective of the type design approval procedure used; and (3) Make other necessary amendments to Part 21 consistent with longstanding administrative practice in the issuance of type certificates, type certificate amendments, and supplemental type certificates. Amendments to Parts 39 and 91 are also proposed to facilitate application of type design change requirements to aircraft, aircraft engines, and propellers in service when necessary for safety.

DATE: Comments must be received on or before October 27, 1980

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 20660, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 20660. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environment, energy, or economic impact that might result from adoption of proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact concerned with this proposal will be filed in the Rules Docket. Commenters wishing acknowledgment of mailed comments should enclose a stamped, self-addressed postcard on which the following statement is made: "Comments on Docket No. 20660." The postcard will be dated and time stamped and returned to the commenter.

Each proposal in this notice is numbered separately. Persons submitting comments should refer to proposals by these numbers or by the sections of the regulations to which they relate.

Availability of Additional Copies of Notice

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 426-8058. Each communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

Backgound

The FAA approves the type design of civil aircraft, aircraft engines, and propellers by issuing a type certificate. Major changes to approved type designs are granted by issuance of either a type certificate amendment or a supplemental type certifcate. Only the type certificate holder can obtain a type certificate amendment; but any person, including the type certificate holder, can obtain a supplemental type certificate. Type design approvals are granted when the applicant shows and the FAA finds that the product design meets designated airworthiness and noise standards and the FAA finds the product has no feature or characteristic that makes the product unsafe for the category in which certification is requested.

Generally the airworthiness standards of Parts 23 through 35 of the Federal Aviation Regulations, in effect on the date of application for original design approval plus special conditions to address novel or unusual design features, plus the applicable noise standards, form the regulatory basis for issuance of type certificates. These regulations become known as the type certification basis and generally are carried forward to form the regulatory basis for evaluating major changes to the type design.

Type certificates and supplemental type certificates generally remain in effect indefinitely, unless some special safety consideration has caused them to be suspended or revoked. This means in effect that new aircraft, aircraft engines, and propellers may be manufactured and receive FAA airworthiness approval so long as they conform to the approved type design, notwithstanding when the type certificate or supplemental type certificate was issued, even though the airworthiness standards may have been updated considerably since that time.

The type certification process leading to FAA approval of a new design or major design change is prospective in nature. Extensive analyses and tests are conducted on the design, including prototypes of the design, against established airworthiness standards to predict the level of safety that will be achieved by products of the type in service. Once a product begins to accumulate service experience, the actual or achieved level of safety of the design becomes measurable.

Design evaluation does not end with the issuance of the type certificate, type certificate amendment, or supplemental type certificate. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily and which regulations require aircraft owners and operators to submit, such as service difficulty reports; failure, malfunction and defect reports; reviews in connection with the issuance of amendments to type certificates and supplemental type certificates; and investigation reports of incidents and accidents. It should also be noted that in the past the FAA has conducted post-certification design reviews of the complete aircraft when service experience has shown a need for such a review. Evaluation of an aircraft, aircraft engine, or propeller design based on service experience never ends so long as there is a product of the type in service. If, during any evaluation, an unsafe condition is unveiled after a product enters service, and that condition is likely to exist or develop in other products of the same type, the FAA issues an airworthiness directive under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are retroactive applications of required type design changes to the type certificate or supplemental type certificate. However, the level of safety achieved by type-certificated designs as related to subsequent amendments to the airworthiness standards is seldom evaluated in detail.

The airworthiness standards published in Parts 23 through 35 of the Federal Aviation Regulations are amended from time to time, generally for one of three basic reasons:

(a) To consider new technologies or new emerging design features which would otherwise not be adequately or appropriately addressed by the unamended airworthiness standards;

(b) To preclude future, yet unproven designs from incorporating features or characteristics which service experience has shown could result in an unsafe situation; and

(c) To upgrade the existing level of safety.

Only the latter reason is of concern for products in service or in production. In the past, when a decision was made to apply a new airworthiness standard retroactively to upgrade existing products, either in general or for products used in specialized service such as air transportation, it was accomplished by incorporating the requirement in one of the operational regulations, i.e., Parts 91, 121, 127, or 135. One notable exception was the upgrading of the transport airplane crashworthiness and emergency evacuation requirements in September 1967 and subsequently, which were made retroactive both by amendments to Part 121 and by a then new "special retroactive requirements" section of Part 25. In another case, safety required upgrading of the design of "wide-body" transport category airplanes in service. Because of its limited applicability, design change was required by an airworthiness directive made applicable to all existing wide-body airplanes.

The FAA believes that the proposed certification policy procedure and regulatory changes are necessary to provide for the retroactive application of new airworthiness standards to aircraft, aircraft engines, and propellers, both under manufacture and in service. Other policy and regulatory changes needed relative to the FAA design approval procedures are also proposed. These are explained in the following sections.

Proposed Policy Changes

The FAA believes that to permit the continued manufacture of aircraft, aircraft engines, or propellers designed to standards that have been substantially superseded, periodic reevaluations of approved type designs are necessary at specific intervals to ensure the products meet the required level of safety. The FAA therefore intends that for aircraft, aircraft engines, and propellers type certificated after January 1, 1980, and for type certificate amendments and supplementary type certificates issued after that date, a review of the type certification basis and level of safety achieved be made after a certain time period. In the case of large transport category aircraft, it is intended that this reevaluation begin at approximately the eighth year after issuance of the certificate or the last reevaluation in order to ensure that the affected design provides the level of safety consistent with the airworthiness standards in effect at the time of the reevaluation. In addition, it is the intent of the FAA that reevaluation be completed before the end of the tenth year and any necessary changes to the subject type design be defined by that time.

To assure the public an opportunity to participate, the initiation of a certificate reevaluation will be announced in the **Federal Register** with a request for the submission of relevant information concerning service experience with the aircraft, aircraft engine, or propeller design under review. Data supplied by owners and operators of the product as well as that of the certificate holder should assure that necessary changes to the design are identified. A report will also be published in the **Federal Register** at the conclusion of a reevaluation, and any requirement imposed on the manufacturer and/or the owners and operators of the products will be accomplished through the rulemaking procedures of Part 11 of the Federal Aviation Regulations with full consideration of the economic effects of the requirements as provided for in the Administrative Procedure Act and Executive Order 12044.

In the future, the FAA will place more emphasis on assessing the possible effects of supplemental type certificated design changes incorporated into a product when investigating service difficulties of the product. The holders of supplemental type certificates will also be held more accountable for submitting design change data when requested to correct an unsafe condition caused by the supplemental type certificated installation.

As was done in the past for certain transport category crashworthiness and emergency evacuation regulations made retroactive by § 25.2, in all future rule making directed toward amending the airworthiness standards of Parts 23 through 35 of the Federal Aviation Regulations, the FAA will consider the need to apply new regulations as special retroactive requirements. The extent of retroactivity may range from its application to only major design changes made after the effective date of the amendment, to all newly manufactured products after a specified date, to all products in service of a particular category or class. If it is determined there is a need to apply special retroactive airworthiness standards to particular aircraft, aircraft engines, and propellers in service, the airworthiness directive rule-making process would be used to establish the requirement.

When changes to the airworthiness standards are adopted after an application for type certificate is filed but before the type certificate is issued, the provisions of existing § 21.17(a)(1)(i) will be used by the FAA to apply these later standards where it is determined the change should be applied.

In the future, the FAA would not accept applications for type certification that do not sufficiently describe the product design to permit designation of the applicable airworthiness standards. Deficient applications would be returned to the applicant with an explanation of the reason for nonacceptance. In addition, applicants for supplemental type certificates would be required to show the FAA that they have access to sufficient data on the design being changed to make an adequate compliance evaluation of the

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proposed change. This showing would be required before the FAA would expend significant resources on the project. Furthermore, the FAA will not undertake certification projects when any testing required would be conducted outside the United States, unless the Administrator determines that the test location will place no undue burden on the FAA in administering the applicable airworthiness requirements.

Thus, essentially the same certification procedures will be used by the FAA in the future for the evaluation of both new designs and major design changes, irrespective of whether approval is requested as a new type certificate, as a type certificate amendment, or as a supplemental type certificate.

Proposed Regulatory Changes

1. Section 21.15(b) would be amended to require, in addition to a three-view drawing of the aircraft for which application for a type certificate is being made, sufficient preliminary basic design data to enable the Administrator to designate the applicable airworthiness regulations. As mentioned before, applications which do not contain sufficient data would not be honored and would be returned to the applicant with an explanation of the reasons for nonacceptance.

2. Section 21.17(a) would be amended to provide for the application of special retroactive requirements for the issuance of new type certificates, notwithstanding the date of application. See also proposal 5.

3. Section 21.51(b) would be added to provide for the suspension of the type certificate if the holder fails to provide adequate design change data, when requested by the FAA, for compliance with the terms of either an applicable airworthiness directive or a special retroactive requirement. See also proposal 4.

4. Similar to what is now required in the case of airworthiness directives, new § 21.99(b) would require the holder of a certificate to submit adequate design data for compliance with special retroactive requirements. Proposed § 21.99(d) would make it clear that § 21.99 (a) and (b) are equally applicable to supplemental type certificate holders. See also proposal 3.

5. Section 21.101(a) would be amended to provide for the application of special retroactive requirements for the issuance of type certificate amendments and supplemental type certificates. Section 21.101(b) would be amended to provide for the application of later amendments to the airworthiness standards and special conditions for the issuance of type certificate amendments and supplemental type certificates. See also proposals 2 and 11.

6. A new § 21.103(a) would be added to provide the same procedural regulations to the issuance of type certificate amendments as is now applied under § 21.21 to the issuance of new type certificates. Section 21.103(b) would permit credit for well documented service experience in showing compliance with the applicable airworthiness requirements when analysis of this experience shows that the required level of safety has been achieved by the existing design.

7. Section 21.111(b) would be added to make it clear that supplemental type certificate holders are governed by the procedural rules of Subpart E.

8. A new § 21.112 would be added to provide that supplemental type certificates would not be issued if any testing required to show compliance with the airworthiness requirements is accomplished outside the United States, unless the test location was found to cause no undue burden on the FAA. This proposal is analogous to that applied to applicants for new type certificates and type certificate amendments by § 21.43.

9. Section 21.115 would be amended to clearly state which sections of Subpart B are applicable for issuance of supplemental type certificates.

10. Existing § 21.117(b) would be recodified as § 21.116 without substantive change.

11. Section 21.117(a) would be amended to apply the same procedural regulations to the issuance of supplemental type certificates as are now applied under § 21.21 to the issuance of new type certificates and as would be applied under proposed § 21.103(a) to the issuance of type certificate amendments. See proposal 6. Section 21.117(a) would also require that applicants for a supplemental type certificate show that they have access to sufficient data on the design being changed to make an adequate compliance evaluation of the proposed change. Section 21.117(b) would permit credit for well documented service experience in showing compliance with the applicable airworthiness requirements when analysis of this experience shows that the required level of safety has been achieved by the existing design.

12. Section 21.118 would be added to clarify that the Administrator has the same access to supplemental type certificates for review as is now provided by § 21.49 for type certificates.

13. Section 21.120 (a) and (b) would be added to make it clear that a supplemental type certificate would have the same duration as is provided for the basic type certificate by the proposed amendments to § 21.51. Section 21.120(b) would clarify existing practices on the transferability of supplemental type certificates consistent with that provided by existing § 21.147 for type certificates.

14. Section 21.159(b) would be added to permit the suspension of production privileges if the holder of the type certificate or supplemental type certificate for the product fails to provide adequate design change data when requested by the FAA. See proposal 3.

15. Section 39.1(b) would be added to make the airworthiness directive process available for the application of special retroactive regulations to aircraft, aircraft engines, and propellers in service.

16 and 17. Section 91.29 would be amended to recodify existing § 39.3 as new § 91.29(a)(2) without substantive change to place this operating requirement in an operating part of the regulations.

Additional Comments Invited

In order that full consideration be given to the economic and other impacts which will be required by future rulemaking action, it is requested that commentors from industry and the public address themselves to these questions insofar as possible. For instance, what effects would a 10-year type design reevaluation cycle have on your products? On your organization, suppliers, customers? To what extent do you have access to information which will enable you to anticipate changes you may be required to make in the future? Can you now evaluate the cost of such changes? Are there better methods and vehicles for implementing the objectives of the rules and policy changes presented in this Notice?

Information received from commenters will be valuable to the FAA for use in consideration of the proposals and preparation of regulatory evaluations under Executive Order 12044.

The Proposed Amendment

In consideration of the foregoing, it is proposed to amend Parts 21, 39, and 91 of the Federal Aviation Regulations (14 CFR Parts 21, 39, and 91) as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By revising § 21.15(b) to read as follows:

§ 21.15 Application for type certificate.

* * * * *

(b) An application for an aircraft type certificate must be accompanied by a three-view drawing of that aircraft and sufficient preliminary basic data to allow the Administrator to designate the applicable regulations in accordance with § 21.17.

* * * * *

2. By revising § 21.17(a) to read as follows:

§ 21.17 Designation of applicable regulations.

(a) Except as provided by any special retroactive requirements issued under an airworthiness standards part of this subchapter and in Part 36 of this chapter, an applicant for a type certificate must show that the aircraft, aircraft engine, or propeller concerned meets—

* * * * *

3. By redesignating existing § 21.51 as § 21.51(a) and by adding a new § 21.51(b) to read as follows:

§ 21.51 Duration.

(a) * * *

(b) The Administrator may suspend a type certificate if the holder does not submit adequate design change data for approval when requested under § 21.99(a) or (b).

4. By redesignating existing § 21.99(b) as (c) and by adding new paragraphs (b) and (d) to read as follows:

§ 21.99 Required design changes.

* * * * *

(b) When a special retroactive requirement is issued under an airworthiness standards part of this subchapter that affects previously approved designs, the holder of the type certificate for the affected products must—

(1) Submit appropriate design change data for approval; and

(2) Upon approval of the type design changes necessary to meet the special retroactive airworthiness requirement—

(i) Incorporate the design change on all newly manufactured products affected by the change prior to standard airworthiness certification or airworthiness approval; and

(ii) Make available the descriptive data covering the changes to all operators of products previously certificated under the type certificate.

* * * * *

(d) The requirements of paragraphs (a) and (b) apply to holders of supplemental type certificates if the required design changes are necessitated or otherwise affected by a design change approved under the supplemental type certificate.

5. By revising § 21.101(a), (b)(1), and (b)(2) to read as follows:

§ 21.101 Designation of applicable regulations.

(a) Except as provided by a special retroactive requirement issued under an airworthiness standards part of this subchapter and in Part 36 of this chapter, an applicant for a change to a type certificate must comply with either—

* * * * *

(b) * * *

(1) The applicable provisions of this subchapter, in effect on the date of the application for the change, that the Administrator finds necessary to provide a level of safety equal to that established by the regulations in effect on the date of application for change to the type certificate; and (2) Special conditions, and amendments to previously issued special conditions, issued in accordance with § 21.16 if the applicable regulations of this subchapter do not contain adequate or appropriate safety standards for an aircraft, aircraft engine, or propeller because of a novel or unusual design feature of the proposed change.

6. By adding a new § 21.103 to read as follows:

§ 21.103 Issuance of amendments to type certificates.

(a) A holder of a type certificate is entitled to an amendment to the type certificate for the purpose of approving a major change if the applicant submits the type design, test reports, and computations necessary to show that the product to be certificated meet the applicable airworthiness and aircraft noise requirements of the Federal Aviation Regulations and any special conditions prescribed by the Administrator, and the Administrator finds—

(1) Upon examination of the type design, and after completing all tests and inspections, that the type design and the product meet the applicable aircraft noise requirements of the Federal Aviation Regulations and further finds that they meet the applicable airworthiness requirements of the Federal Aviation Regulations or that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and

(2) For an aircraft, that no feature or characteristic makes it unsafe for the category in which certification is requested.

(b) The Administrator may relieve an applicant from strict compliance with a specific provision of the applicable airworthiness requirements designated by § 21.101, including any special retroactive airworthiness requirements, if the applicant shows through an analysis of substantial service experience and the Administrator finds that the unchanged features or characteristics of the type design provide an equivalent level of safety to that envisaged by the requirement of concern.

7. By revising § 21.111 to read as follows:

§ 21.111 Applicability.

This subpart prescribes—

(a) Procedural requirements for the issuance of supplemental type certificates for aircraft, aircraft engines, and propellers; and

(b) Rules governing the holders of those certificates.

8. By adding a new § 21.112 to read as follows:

§ 21.112 Eligibility.

Any interested person may apply for a supplemental type certificate, except that the Administrator does not issue a supplemental type certificate if any of the testing required to show compliance with the applicable airworthiness regulations is accomplished outside the United States, unless the Administrator finds that the test location places no undue burden on the FAA in administering the applicable airworthiness requirements.

9. By deleting the words "paragraphs (a) and (b) of" from § 21.115(a) and adding the phrase "and § 21.97" after the existing reference to § 21.101, and by revising § 21.115(b) to read as follows:

§ 21.115 Applicable requirements.

* * * * *

(b) Each applicant for a supplemental type certificate must meet §§ 21.33 21.35, 21.37, 21.39, 21.50, and 21.53 with respect to each change in the type design.

10. By adding a new § 21.116 to read as follows:

§ 21.116 Supplemental type certificates.

A supplemental type certificate consists of—

(a) The approval of the Administrator of a change in the type design of the product; and

(b) The type certificate previously issued for the product.

11. by revising § 21.117 to read as follows:

§ 21.117 Issuance of supplemental type certificates.

(a) An applicant is entitled to a supplemental type certificate to approve a major change to a type design if the applicant shows that he has access to

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sufficient type design data previously approved under the type certificate being changed to adequately evaluate the proposed change and submits the proposed type design changes, test reports, and computations necessary to show that the product to be certificated meets the applicable airworthiness and aircraft noise requirements of the Federal Aviation Regulations and any special conditions prescribed by the Administrator, and the Administrator finds—

(1) Upon examination of the type design, and after completing all tests and inspections, that the type design and the product meet the applicable aircraft noise requirements of the Federal Aviation Regulations, and further finds that they meet the applicable airworthiness requirements of the Federal Aviation Regulations or that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and

(2) For an aircraft, that no feature or characteristic makes it unsafe for the category in which certification is requested.

(b) The Administrator may relive an applicant from strict compliance with a specific provision of the applicable airworthiness requirements designated by § 21.101, including any special retroactive airworthiness requirements, if the applicant shows through an analysis of substantial service experience and the Administrator finds that the unchanged features or characteristics of the type design provide an equivalent level of safety to that envisaged by the requirement of concern.

12. By adding a new § 21.118 to read as follows:

§ 21.118 Availability.

The holder of a supplemental type certificate shall make the certificate available for examination upon the request of the Administrator or the National Transportation Safety Board.

13. By adding a new § 21.120 to read as follows:

§ 21.120 Duration and transferability.

(a) A supplemental type certificate is effective until surrendered, suspended, or revoked or a termination date is otherwise established by the Administrator, except that if the type certificate under which the supplemental type certificate is issued is suspended, revoked, or terminated, then the supplemental type certificate is likewise suspended, revoked, or terminated.

(b) The Administrator may suspend a supplemental type certificate if the holder does not submit appropriate design change data for approval when requested by the Administrator under § 21.99 (a) or (b).

(c) A supplemental type certificate may be transferred to or made available to third persons by licensing agreements. Each grantor shall, within 30 days after the transfer of a certificate or execution or termination of a licensing agreement, notify in writing the appropriate FAA Regional Office. The notification must state the name and address of the transferee or licensee, date of the transaction, and in the case of a licensing agreement, the extent of authority granted the licensee.

§ 21.159 [Amended]

14. By amending § 21.159 by redesignating present § 21.159 as paragraph (a) and adding a new paragraph (b) to read as follows:

* * * * *

(b) The administrator may suspend a production certificate if the holder of the type certificate or supplemental type certificate does not submit adequate design change data for approval when requested under § 21.99 (a) or (b).

PART 39—AIRWORTHINESS DIRECTIVES

15. By revising § 39.1 (a) and (b) to read as follows:

§ 39.1 Applicability.

* * * * *

(a) An unsafe condition exists in a product and that condition is likely to exist or develop in other products of the same type design; and

(b) A design change is required to meet a special retroactive requirement issued under an airworthiness standards part of this subchapter.

16. By deleting § 39.3 and labeling the section "Reserved":

§ 39.3 [Reserved]

PART 91—GENERAL OPERATING AND FLIGHT RULES

17. By revising § 91.29(a) to read as follows:

§ 91.29 Civil aircraft airworthiness.

(a) No person may operate a civil aircraft unless—

(1) The aircraft is in an airworthy condition; and

(2) The aircraft and all installed engines, propellers, and appliances are operated in accordance with the requirements of applicable airworthiness directives issued under Part 39 of this chapter.

* * * * *

[Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655)); and 14 CFR 11.45]

Note.—The FAA has determined that this document involves proposed regulations which are not in themselves considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11304; February 26, 1979). Therefore, the impact of this proposal is so minimal that an evaluation is not necessary.

Issued in Washington, D.C., on August 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-26489 Filed 8-27-80; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
August 28, 1980

Part VI

Department of Transportation

Federal Aviation Administration

FAA Access to Flight Data Recorder and Cockpit Voice Recorder Tapes

V 45 AG 28 80 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 & 135

[Docket No. 20661; Notice No. 80–14]

FAA Access to Flight Data Recorder and Cockpit Voice Recorder Tapes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposals will allow the Administrator to obtain flight data recorder information and cockpit voice recorder information at any time and at any place. This information will be used to study the human factor element associated with aircraft operation and design to determine what, if any, regulatory changes should be made to enhance aviation safety. These proposals are responsive to public and Congressional interest in the subject, and more particularly result from the technical arguments of the Air Line Pilots Association (ALPA) in its criticism of the FAA's crew complement certification process. These proposals will not in any way change the Administrator's policy regarding use of information derived from flight data recorders and cockpit voice recorders in enforcement proceedings.

DATES: Comments must be received on or before October 27, 1980.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No., 800 Independence Avenue, SW., Washington, D.C. 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Norman C. Miller, Regulatory Projects Branch (AVS–24); Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 20661. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Avilability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Discussion of the Proposed Amendment

Historically, human factors in aviation have received ever-increasing attention as airplanes have flown faster, higher, and in a more complex environment. As the complexities of aviation operations increase, the FAA recognizes the need for enhanced knowledge of human factors requirements in aircraft operations and design. Approximately one and one-half years ago the Administrator established a human factors task force under the direction of the Associate Administrator for Aviation Standards. Based upon the analysis of this task force to date, the FAA is now prepared to launch a broader based effort to further the available knowledge on the subject of human factors. This proposal is but one small part of that effort.

Predicated upon the insight the FAA has secured from the intense examination of the crew complement issue during the DC–9–80 certification process, and, particularly in recognition of the arguments raised by ALPA to the effect that the FAA lacks hard statistical data on day-to-day working conditions in the cockpit, the FAA recognizes the need to collect data as herein proposed. This proposal is a crucial part of the human factors program because the FAA has found that neither ALPA nor any other segment of the industry or government has hard statistical data as to what goes on in the cockpit when FAA inspectors are not on board and under the plethora of circumstances that occur in the everyday air transportation environment. Enactment of this proposal will enable the FAA to establish a data base that significantly advances the state of aviation human factors knowledge and, allow the agency to increase the thoroughness of its crew complement certification process. It should be noted that the United Kingdom has studied such inflight data for years. In 1979, for example, the United Kingdom collected samples of 140,000 flights, automatically evaluated 85,000 tapes, and identified 4,700 events which called for further investigation and analysis.

The FAA is fully aware of the opposition which has come from the pilot segment of the aviation community when proposals similar to this have been discussed previously. However in light of the arguments advanced by ALPA in the DC–9–80 certification process it would seem that the pilots have now come to recognize the need to establish the data based that this proposal envisions. As Captain Geoffrey F. Mussett stated in an article on crew complement in the August 1980 issue of Air Line Pilot magazine, "What the manufacturers and authorities so studiously ignore is the real world of aviation, which is a complex, varied, and everchanging scenario in time and place. This is the world into which we, the pilots, have to pitch our fallibility." In correspondence, ALPA has on various occasions referred to "deficiencies in the FAA certification process" and "unsubstantiated conclusions" reached by the FAA on the subject of crew workload. ALPA has stated that the FAA has "no specific workload data" to justify some of its conclusions, and that "man's limitations are not given sufficient weight in the FAA's certification process." In a similar vein, in an article appearing in the July 29, 1980 issue of Aviation Daily entitled "FAA Must Recognize 'Real World' Company Cockpit Duties—ALPA", ALPA spokesman John LeRoy stated, "FAA should recognize that flying an airliner requires the cockpit crew to perform many duties not directly related to safety, but which nonetheless distract from flying duties." Obtaining the data which currently exists on cockpit voice recorders and flight data recorders is the one way to satisfy all of these ALPA demands.

The FAA's "Human Factors Program" includes a major emphasis on identification and reduction of factors causing crew errors. One aspect of the program is a human factors workshop scheduled for October, 1980 at which the FAA, industry and consumers will come together to further study human factors. The program has also generated FAA proposed rulemaking designed to eliminate flight crewmember performance of duties and activities which are not required for the safe operation of aircraft. The program also includes a rulemaking proposal which provides for the periodic review of aircraft type certification, including amendments to those type certificates and supplemental type certificates. A fourth aspect of the program involves development of a notice of proposed rulemaking requiring line oriented flight training (LOFT) as part of air carrier simulator recurrent training programs. LOFT can be a means to correct problems identified in human factor studies through flight crew simulator training.

Study of on-board recording of flight data and cockpit voice recorder tapes offers an opportunity to further our understanding of the human factors at play in the cockpit environment. Use of inflight data derived from flight data recorders and cockpit voice recorders should assure that air carrier operations in years to come are at the highest level of human factors technology. Such data will provide valuable information for future studies affecting many areas of aviation safety and might be used in assisting in the evaluation of such important issues as minimum flights crew complement and pilot workload, pilot training, pilot/controller interface in the National Aviation System, Air Traffic Control (ATC) systems employing increased automation, and aircraft performance and pilot response.

Current FAA study of the subject of flightcrew complement has spawned comlex questions about flightcrew workload and the impact on workload of FAA-mandated systems and procedures. To make determinations regarding flightcrew workload and crew complement, it will be necessary to have improved, validated, and standardized workload assessment techniques which have sufficient objectivity to be used in the development of guidelines or standards. Since accident investigations and studies of violations provide no adequate data to support allegations of excessive workload in particular operations, these questions require analysis of a siginifcant sample of actual line flights. Flight data recorder and cockpit voice recorder data would be invaluable in such an analysis.

Examination of the cockpit environment through use of flight data recorder and cockpit voice recorder data will aid in evaluating the relationship between total workload and safety, thereby attempting to establish the level of workload that is conducive to optimum safety. Considerations to be made in this study include the division of responsibilities between crewmembers, the effects of command responsibility, and the effects of increased airborne system automation and integration on planning, problem solving, systems monitoring, and external surveillance. Consideration may be given to possible flightcrew over-reliance on automated devices and complacency in the face of malfunctions.

The inflight data acquired may be used, for example, to determine how equipment or procedural changes affect workload. Such information can be used to determine if some system change or presumed improvement actually aids the pilot or if it saddles him with additional monitoring functions and responsibilities to revert to manual control in case of an equipment failure.

The inflight data base will provide essential information for the human engineering of new cockpit layouts and cockpit displays. New cockpit design and display concepts can be evaluated against the empirically derived workload baselines.

Inflight data derived from flight data recorders and cockpit voice recorders will address the controversy which has been generated regarding the safety of two-member versus three-member crews. Civil aviation authorities in many countries have studied and certificated two-pilot operations in turbojet aircraft, yet important segments of both U.S. and overseas pilot groups maintain that such two-member crew operations are potentially less safe than three-member crew operations. Proponents of the two-member crew concept argue, for example, that crew coordination with a three-member crew is more complex than with a two-member crew. They cite the cockpit conversation of the three-member crew aircraft that had a midair collision in San Diego as on example of lack of proper crew coordination with three-member crews that has not occurred with two-member crews. Increased study of flight data and cockpit voice recordings will enhance the knowledge of all segments of the aviation industry regarding crew coordination problems.

Those who favor three-member crews are concerned with what they consider to be excessive cockpit workloads for two-member crews. Research of this point is difficult at present because when FAA inspectors are on board a flight, cockpit work follows standard procedures and workload patterns appear to duplicate those found during certification flight tests. Charges by crew associations that workload distributions in actual line operations are higher than those experienced during FAA enroute inspections and line checks cannot be evaluated without the review of flight data and cockpit voice recordings to determine the existence or causes of the stated problems.

Equally important, an examination of the accident data for two versus three crew aircraft reveals that there is no significant difference between the two. This leads to the conclusion that there is some generic human factor problems that the FAA needs to understand. Put somewhat differently, there is an unproven assumption that three is safer than two. More may not necessarily be better. This proposal will provide the tools to make the proper analysis.

Study of the human factors present in the cockpit environment, through use of flight data recorder and cockpit voice recorder data, may also shed light on pilot training effectiveness.

Human factor data derived from flight data recorders and cockpit voice recorders might also be used in determinations of the workload impact and coordination effectiveness between the pilot and air traffic controller. This evaluation will be particularly useful in assessing the effectiveness of ATC data line use in pilot/controller communications.

Now that the ability to provide traffic information to the cockpit exists, it is unclear what the pilot's ability is to use this information or what the impact of using it is on the ATC system. The benefits and deficiencies of various types of traffic information are unknown. Access to flight data and cockpit voice recorder tapes could assist in a possible evaluation of Cockpit Display Taffic Information (CDTI) configurations and applications from both a cockpit and ATC system viewpoint. Such access will aid with evaluation of the impact of CDTI on the pilot, controller, and the ATC system.

Runway/taxiway transgressions are a pervasive problem throughout the airport system. A number of accidents and incidents have been caused by aircraft taxiing onto active runways during takeoff, landing, or taxiing operations. FAA and NASA records indicate that 279 cases of this type have been recorded over the past 10 years, and recent investigations indicate that many such incidents go unreported. The FAA desires to learn more about why these incidents occur and for that reason also access to cockpit voice recorder information is sought.

With the use of flight data recorder and cockpit voice recorder data, studies related to aircraft performance and pilot response may be implemented and furthered. Possible areas which may be explored include the takeoff and landing of aircraft, go-around, overrun, forces on the aircraft and origin of such forces, adherence to desired flight path, abrupt maneuvers for collision avoidance, and pilot reaction to turbulence and inadvertent vortex encounters.

An examination of aviation accidents over the past decade indicates a need to more thoroughly study the human factors aspect of aviation safety, particularly with regard to the flight cockpit environment. Instances of laxity in following prescribed procedures and flightcrew inattentiveness have suggested a need for more discipline in the cockpit.

Inadequate cockpit discipline is a commonly cited cause of accidents. For example, when a Eastern Airlines airplane crashed short of a runway in Charlotte, North Carolina, the National Transportation Safety Board (NTSB) determined that the probable cause of the accident was the flightcrew's lack of altitude awareness at critical points during the approach due to poor cockpit discipline. The NTSB found that company required callouts were not made. The extraneous conversation conducted by the flightcrew during the descent, said the NTSB, was symptomatic of a lax atmosphere in the cockpit which continued throughout the approach.

The need to study human factors in the cockpit environment is supported by findings of the NTSB that errors of judgment or management in the cockpit play an important role in airline accidents. In May 1978, for example, a National Airlines jet crashed into Escambia Bay while executing an approach to the Pensacola, Florida, regional airport. The NTSB determined that the probable cause of the accident was the flightcrew's unprofessionally conducted nonprecision instrument approach in that the captain and the crew failed to monitor the descent rate and altitude and the first officer failed to provide the captain with required altitude and approach performance callouts. The crew failed to check and utilize all instruments available for altitude awareness, turned off the ground proximity warning system, and failed to configure the aircraft properly in a timely manner for the approach.

Although the majority of fatal aviation accidents involve some element of crew error such as these, catagorization of accidents as to the nature of the crew error and the identification of underlying human problems has never been accomplished. Utilization of flight data and cockpit voice recorder tapes will enable the FAA to study and analyze the complex interactions between the man-machine environment.

Description of the Proposed Amendments

These proposals would require that the recorded data be made available to the Administrator at such time and place as the Administrator may designate. Since the flight data recorder may have many hours remaining on it (25 in the case of the digital flight data recorder or several hundred in the case of the metal foil type), the certificate holder would be allowed to continue to use it until reaching a point where it could be replaced. However, if the Administrator determines that the recorded data requested will be erased or otherwise obliterated or will be needed before the aircraft reaches a point where the recorder can be replaced he may request the information immediately.

Since the cockpit voice recorder has only a 30-minute tape in it, the Administrator, in most cases, will request that the recording data be made available immediately. This will necessitate the removal of the cockpit voice recorder in order to obtain the recorder magazine containing the recorded data. In such cases the proposal would allow the aircraft to be operated without the cockpit voice recorder for up to 8 hours which is the maximum most aircraft operate in a day. However, it would not be authorized to depart an airport where a replacement was available. This would preclude an operator from operating an aircraft for several days without the cockpit voice recorder just because it never landed at an airport where a replacement was available. If the airplane was scheduled to embark on a flight which would cause it to exceed the 8-hour limit then it may not depart unless a cockpit voice recorder has first been installed. The aircraft minimum equipment lists (MEL) will be amended to authorize such operations when the cockpit voice recorder or flight data recorder is removed at the request of the Administrator.

The FAA is concerned that operation of an aircraft without a cockpit voice recorder may result in the loss of valuable data should an accident occur, and therefore will attempt to remove the cockpit voice recorder at an airport where a replacement is available. In this regard it appears that cockpit voice recorders are easily accessible and require no special instruments to remove and install. Furthermore, it appears that such removal and installation can be accomplished in approximately 15 minutes, with only an additional 30 minutes required to remove and replace the magazine containing the recorded data. Therefore, if the air carriers maintained one spare cockpit voice recorder at each of their stops in addition to a number of spare magazines containing the recorded tape, the necessity of operating an aircraft without a cockpit voice recorder would be eliminated. The FAA solicits comments on the availability of cockpit voice recorders and cockpit voice recorder magazines at the various air carriers stations, and possible problems with removal and installation of the cockpit voice recorder and its magazine which would make the 15 and 30 minute time-frame mentioned above unreasonable.

The proposed rule, with respect to the cockpit voice recorder, requires the pilot in command to ensure that the power source to the cockpit voice recorder is disconnected when notified and so instructed by the certificate holder (by means of a dispatcher or other appropriate company employee or by the Administrator. This could be done, for example, by pulling a circuit breaker or activating a switch, as the case may be. Because of the location of the cockpit voice recorder circuit breakers or switches, it may be necessary for the first officer or flight engineer to disconnect the power source. This would be done at the pilot in command's direction. The notification to the pilot in command would also include the time and or place at which the power source is to be disconnected. For example, the disconnect may be requested immediately or it may be at some point in the future such as after completion of the landing roll. Advanced notification that the cockpit voice recorder must be deactivated would prevent unnecessary communications between the cockpit and the ground personnel at a time when the flightcrew may be busy conducting other duties such as obtaining a clearance.

These proposals would also prohibit the erasure or obliteration of any previously recorded information. This prohibition would include actuating any erasure device such as a button on the cockpit voice recorder, if so equipped, or permitting the cockpit voice recorder to continue to run so as to record over the requested information.

These proposals will not in any way change the Administrator's policy regarding use of information derived from flight data recorders and cockpit voice recorders in enforcement proceedings. The only records the FAA has never used in any civil penalty or certificate action are the cockpit voice recorder records and reports submitted to the National Aeronautics and Space Administration (NASA) under the Aviation Safety Reporting Program (with the exception of criminal offenses and accidents). Sections 121.359(e) and 135.151(e) of the Federal Aviation Regulations prohibit the use of cockpit voice recorder data in any civil penalty or certificate action. However, as noted in the Preamble to Amendment 13–14 (44 FR 63720, Nov. 5, 1979) which adopted § 13.7 of the regulations, flight recorder data are no different from any other record or report required by the regulations, and information from these recorders may be reviewed and used in investigations and enforcement actions. The fact that information in records and reports required by regulations may provide information which might be useful for a specified purpose does not preclude its use for another safety purpose; i.e., to ensure compliance with the Federal Aviation Regulations.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (14 CFR 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By revising § 121.343 by redesignating paragraphs (d), (e), (f), and (g) as (e), (f), (g), and (h) respectively, and adding a new paragraph (d) to read as follows:

§ 121.343 Flight recorders.

* * * * *

(d) The recorded data prescribed in paragraph (a) of this section shall be made available to the Administrator at such time and place as the Administrator may designate.

* * * * *

2. By revising § 121.359 by adding new paragraphs (f), (g), and (h) to read as follows:

§ 121.359 Cockpit voice recorders.

* * * * *

(f) the recorded data prescribed by this section shall be made available to the Administrator at such time and place as the Administrator may designate.

(g) Notwithstanding paragraph (a) of this section, an airplane which has had its cockpit voice recorder or cockpit voice recorder magazine removed under paragraph (f) of this section in order for the Administrator to obtain the recorded data may be operated without an operative cockpit voice recorder provided: (1) The airplane may not depart an airport where a replacement cockpit voice recorder or cockpit voice recorder magazine is available.

(2) The cockpit voice recorder or cockpit voice recorder magazine must be replaced prior to the airplane exceeding 8 additional hours of flight time.

(h) The pilot in command shall ensure that: (1) Upon notification by the Administrator or the certificate holder, the power source to the cockpit voice recorder is disconnected at the time and place designated, and

(2) The previously recorded information is not erased or otherwised obliterated.

(i) No person may erase or otherwise obliterate recorded data which the Administrator has requested.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

3. By revising § 135.151 by adding new paragraphs (c), (d), and (e) to read as follows:

§ 135.151 Cockpit voice recorders.

* * * * *

(c) The recorded data prescribed by this section shall be made available to the Administrator at such time and place as the Administrator may designate.

(d) Notwithstanding paragraph (a) of this section, an airplane which has had its cockpit voice recorder or cockpit voice recorder magazine removed under paragraph (c) of this section in order for the Administrator to obtain the recorded data may be operated without an operative cockpit voice recorder provided: (1) The airplane may not depart an airport where a replacement cockpit voice recorder magazine is available.

(2) The cockpit voice recorder or cockpit voice recorder magazine must be replaced prior to the airplane exceeding 8 additional hours of flight time.

(e) The pilot in command shall ensure that: (1) Upon notification by the Administrator or the certificate holder, the power source to the cockpit voice recorder is disconnected at the time and place designated, and

(2) The previously recorded information is not erased or otherwise obliterated.

(f) No person may erase or otherwise obliterate recorded data which the Administrator has requested.

(Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1354(a), 1421, and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR Part 11)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained n the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Washington, D.C., on August 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-26490 Filed 8-27-80; 8:45 am]

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[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS*		DOT/COAST GUARD	USDA/APHIS*
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

50324 7-28-80 / Papayas grown in Hawaii; handling regulations

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 14, 1980

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V45 AG28 80
UMI

V 45 AG 28 80 UMI

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1980)

Quantity	Volume	Price	Amount
______	Title 21—Food and Drugs (Parts 1 to 99)	$6.00	$______
______	Title 21—Food and Drugs (Parts 300 to 499)	8.00	______
______	Title 22—Foreign Relations	8.00	______
______	Title 23—Highways	7.00	______
______	Title 24—Housing and Urban Development (Parts 0 to 499)	11.00	______
		Total Order	$______

[*A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).*]

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8-29-80
Vol. 45 No. 170
Pages 57699-58096

federal register

Friday
August 29, 1980

Highlights

BIWEEKLY PUBLICATION SCHEDULE

For a change in the schedules of "Agency Publication on Assigned Days of the Week" see the note appearing in the Reader Aids Section of this issue.

58040 **Fair Housing** HUD/FHC amends Section 8 Fair Market Rents applicable to new construction and substantial rehabilitation for all market areas; effective 10-1-80, comments by 9-29-80 (Part IX of this issue)

58090 **Grant Programs—Medicaid** HHS/HCFA solicits applications from State Medicaid agencies for demonstration projects; apply by 9-30-80 (Part X of this issue)

57752 **Loan and Grant Programs—Real Estate** USDA/FMHA gives notice regarding rural rental housing loan policies, procedures, and authorizations

57954, 57958, 57980, 57994, 58022 **Energy Conservation** Many agencies amend Federal financial assistance programs to encourage additional conservation of petroleum and natural gas (Parts IV through VIII of this issue) (20 documents)

57756 **Fuel** DOE appropriated $5 billion to provide financial assistance for synthetic fuel; comments by 9-12-80

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

57749 **Medicare** HHS/HCFA modifies conditions and duration of entitlement to hospital insurance under medicare

57728 **Banking** FHLBB proposes regulations regarding acquisition, exercise, and termination of trust powers by Federal savings and loan associations; comments by 10–21–80

57739 **Interest Rates** Treasury/IRS publishes proposal regarding imputed interest on loans between related entities and on deferred payments; comments by 10–28–80

57727 **Gasoline** DOE/ERA publishes proposal clarifying maximum lawful selling price for unleaded gasoline

57758 **Petroleum Allocation** DOE/ERA announces June 1980 entitlement notice for domestic crude oil allocation program

57712 **Residential Energy Credit** Treasury/IRS publishes regulations changing applicable tax laws

57747 **Securities** Treasury/FS proposes to revise regulations governing U.S. Treasury Certificates of Indebtedness, notes and bonds—State and local government series; comments by 9–30–80

57745 **Exports** Treasury/ATF amends proposal relating to markings on cases and bulk containers of distilled spirits, wine or beer for export; comments by 10–28–80

57702 **Securities** SEC revises procedures for processing post-effective amendments filed by investment companies; effective 10–6–80

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57860 GSA
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57805 Treasury/Sec'y

57807 **Sunshine Act Meetings**

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57906 **Part III, Labor/ESA**
57954 **Part IV, Interagency Coordinating Council**
57958 **Part V, USDA/FmHA, Commerce/EDA, HUD/CPD**
57980 **Part VI, HUD/FHC, VA**
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Rules and Regulations

Federal Register
Vol. 45, No. 170
Friday, August 29, 1980

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

FEDERAL SERVICE IMPASSES PANEL

5 CFR Chapter XIV

Change in Current Regional Address; New York, N.Y.

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This rule amends Appendix A, paragraph (d)(2) (45 FR 3522) of the final rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 45 FR 3482, to correct the zip code of the Authority's New York, N.Y., Regional Office.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: D. Randall Frye, Assistant General Counsel (202)—632–6284.

SUPPLEMENTARY INFORMATION: Effective January 17, 1980, the Authority, General Counsel and Panel published, at 45 FR 3482, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. These rules and regulations are required by Title VII of Civil Service Reform Act of 1978.

Appendix A, paragraph (d) of the rules and regulations (45 FR 3522) sets forth the current office addresses and telephone numbers of the Regional Directors of the Authority. The Authority's New York, N.Y., Regional Office has corrected its zip code presently noted in paragraph (d)(2) of Appendix A.

Accordingly, Appendix A, paragraph (d)(2) of the Authority, General Counsel, and Panel rules and regulations (45 FR 3482) is amended, in part, to read as follows:

Appendix A—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(2) *New York, N.Y. Regional Office*—26 Federal Plaza, Room 241, New York, N.Y. 10278. Telephone: FTS—264–4934; Commercial—(212) 264–4934.

* * * * *

(5 U.S.C. 7134)

Dated: August 26, 1980.

Ronald W. Haughton,
Chairman.
Henry B. Frazier III,
Member.
Leon B. Applewhaite,
Member.
S. Jesse Reuben,
Deputy General Counsel.

[FR Doc. 80–26601 Filed 8–28–80; 8:45 am]

BILLING CODE 6325–19–M

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5 CFR Chapter XIV

Change in Current Regional Address; Chicago, Ill.

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This rule amends Appendix A, paragraph (d)(5) (45 FR 3522) of the final rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 45 FR 3482, to establish a new address and telephone numbers for the permanent location of the Authority's Chicago, Illinois Regional Office.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Alvin H. Gandal, Assistant General Counsel (202)—632–6860.

SUPPLEMENTARY INFORMATION: Effective January 17, 1980, the Authority, General Counsel and Panel published, at 45 FR 3482, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. These rules and regulations are required by Title VII of Civil Service Reform Act of 1978.

Appendix A, paragraph (d) of the rules and regulations (45 FR 3522) set forth the current office addresses and telephone numbers of the Regional Directors of the Authority. The Authority's Chicago, Illinois Regional Office has changed its address and telephone numbers presently noted in paragraph (d)(5) of Appendix A.

Accordingly, Appendix A, paragraph (d)(5) of the Authority, General Counsel, and Panel rules and regulations (45 FR 3482) is amended, in part, to read as follows:

Appendix A—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(5) *Chicago Regional Office*—175 West Jackson Boulevard, Suite 1359–A, Chicago, Illinois 60604. Telephone: FTS—886–3468, 3469; Commercial—(312——353–6306.

* * * * *

(5 U.S.C. 7134)

Dated: August 26, 1980.

Ronald W. Haughton,
Chairman.
Henry B. Frazier III,
Member.
Leon B. Applewhaite,
Member.
S. Jesse Reuben,
Deputy General Counsel.

[FR Doc. 80–26600 Filed 8–28–80; 8:45 am]

BILLING CODE 6325–19–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: This action authorizes expenses and a rate of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the Lemon Administrative Committee which locally administers the Federal marketing order covering lemons grown in California and Arizona.

DATES: The 1980–81 fiscal year beginning August 1, 1980, and ending July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under Marketing Order 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the committee established under the marketing order, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). This order requires that the rate of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which began August 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, a new § 910.218 is added to read as follows: (§ 910.218 expires July 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 910.218 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the period August 1, 1980, through July 31, 1981, will amount to $476,250.

(b) The rate of assessment for said period payable by each handler in accordance with § 910.41 is fixed at $0.0380 per carton of lemons.

(c) $10,000 of unexpended assessment funds from the fiscal year ended July 31, 1980, shall be carried over to the operating monetary reserve in accordance with § 910.42.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 25, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26525 Filed 8–28–80; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1475

[Amdt. 1]

Emergency Feed Program

Correction

In FR Doc. 80–26010, appearing on page 56329, in the issue of Monday, August 25, 1980, correct the part heading to read as set forth above.

BILLING CODE 1505–01–M

Animal and Plant Health Inspection Service

9 CFR Part 92

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document adds the State of North Carolina to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that this State has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further insure their freedom from CEM as required by the regulations.

DATES: Effective date: August 25, 1980. Comment Date: Comments must be received on or before October 28, 1980.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301–436–8170.

This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

SUPPLEMENTARY INFORMATION: Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants the publication of this final action without opportunity for a public comment period on this action since the State has met the criteria stated in § 92.4(a)(6) of the regulations.

This amendment relieves certain restrictions presently imposed on certain horses being imported into the United States. It should be made effective immediately in order to permit affected persons to move certain horses into the United States without undue restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Section 92.2(i)(2) of Title 9, Code of Federal Regulations (9 CFR 92.2(i)(2)) authorizes the importation of male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into specified States for further inspection, treatment and testing by the State of destination. The amendment established minimum standards which a State must meet in order to be approved to receive stallions imported from CEM-affected countries. These standards contain treatment, testing and handling procedures believed necessary to insure that the stallions being imported into the United States are free of the contagion of CEM.

This document adds the State of North Carolina to the list of specifically approved States to receive such horses, on the basis of a determination of their eligibility for such approval under § 92.4(a)(6) of the regulations.

Accordingly, § 92.4(a)(5)(ii) of Title 9, Code of Federal Regulations is amended by adding "The State of North Carolina," after "The State of Kentucky," and prior to South Carolina as States approved to receive stallions pursuant to § 92.4(i)(2)(iv) of the regulations.

(Sec. 2, 32 Stat. 792 as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

Done at Washington, D.C., this 25th day of August 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-26527 Filed 8-28-80; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 33-6228]

Delegation of Authority to the Director of the Division of Investment Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its rules relating to general organization to delegate to the Director of the Division of Investment Management, with respect to matters pertaining to certain contracts funded by or through the general assets or separate accounts of insurance companies, the authority to perform the same functions as are now delegated to the Director of the Division of Corporation Finance. This authority should result in a more expeditious and responsive processing of filings pertaining to these contracts by eliminating the delay involved in obtaining Commission approval for the acceleration of effective dates for such filings.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: William L. Strickland, Esq., Office of Compliance and Insurance Products, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2057.

SUPPLEMENTARY INFORMATION: The Director of the Division of Corporation Finance has delegated authority to perform certain functions with respect to registration statements under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("Act").[1] The Commission is amending its rule relating to general organization (17 CFR 200.30-5) to delegate to the Director of the Division of Investment Management the authority to perform the same functions with respect to matters pertaining to certain contracts funded by or through the general assets or separate accounts of insurance companies, except where the Director of the Division of Investment Management believes it appropriate to submit the matter to the Commission.

Last year the Commission published its General Statement of Policy ("Release 6051") regarding the determination of the status under the federal securities laws of certain contracts issued by insurance companies, including what are generally known as guaranteed investment contracts ("GIC") funded by or through the general assets of the companies.[2] Such contracts had never been registered under the Securities Act of 1933 in reliance upon the exemption from registration for annuity contracts provided by Section 3(a)(8) of the Act [15 U.S.C. 77c(a)(8)].[3] The development of new types of contracts and the publication in Release 6051 of the Commission's view with respect to the status of such contracts under the federal securities laws have resulted in the filing of a number of registration statements which are being or have been considered by the Division. In anticipation of future filings, the Commission is delegating authority to the Director of the Division of Investment Management to process such filings.

The delegation of authority should result in a more expeditious and responsive processing of filings pertaining to certain contracts funded by or through the general assets or separate accounts of insurance companies by eliminating the delay involved in obtaining Commission approval for the acceleration of effective dates for such filings. Further, the resulting delegated authority will obviate the need for the Commission to address matters which it has previously considered and eliminate the burden of considering such matters in the future, except where the Director of the Division believes it appropriate to submit the matter to the Commission.

Authority, Effective Date: The Commission hereby amends Article 30-5 Section (b) of the rules of the Commission relating to general organization (17 CFR 200.30-5) pursuant to the authority contained in Pub. L. No. 87-592, 76 Stat. 394 [15 U.S.C. 78d-1, 78d-2].

The Commission finds, in accordance with Section 553(b)(A) and 553(d) of the Administrative Procedure Act [5 U.S.C. 553(b)(A), 553(d)], that the foregoing action relates solely to agency organization, procedure, or practice; that Section 553(b) of such act [5 U.S.C. 553(b)] makes it unnecessary to notice and publish procedures required by Section 553 of such Act [5 U.S.C. 553]; and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. Accordingly, the amendment to Rule 30-5 is effective immediately.

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[1] *See* Sections (a), (c) and (d) of Article 30-1 (17 CFR 200.30-1).

[2] Securities Act Release No. 6051, April 5, 1979 [44 FR 21626, April 11, 1980].

[3] Section 3(a)(8) exempts from the registration requirements of the Act: Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia.

Commission Action: Part 200 of Chapter II of Title 17 of the Code of Federal Regulations is amended by amending paragraph (b) of § 200.30–5 to read as follows:

§ 200.35 Delegation of authority to Director of Division of Investment Management.

* * * * *

(b) With respect to matters pertaining to investment companies registered under the Investment Company Act of 1940, pooled investment funds or accounts, and the general assets or separate accounts of insurance companies, all arising under the Securities Act of 1933, the Securities Exchange of 1934 and the Trust Indenture Act of 1939, the same functions as are delegated to the Director of the Division of Corporation Finance in regard to companies other than such registered investment companies in sections (a), (c) and (d) of Article 30–1 (§ 200.30–1 of this Chapter) of these articles.

By the Commission.

George A. Fitzsimmons,
Secretary.
August 22, 1980.
[FR Doc. 80–26603 Filed 8–28–80; 8:45 am]
BILLING CODE 8010–01–M

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17 CFR Parts 200, 230, 239, 274

[Release Nos. 33–6229, IC–11315]

Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and amendments to forms.

SUMMARY: The Securities and Exchange Commission today is adopting a rule which will permit most post-effective amendments to registration statements filed by open-end management investment companies and unit investment trusts, other than insurance company separate accounts, to become effective automatically, without affirmative action on the part of the Commission or its staff. The Commission is also adopting amendments to its Rules of Organization and Program Management and to the registration statement forms for open-end management investment companies and unit investment trusts. The amendments to the Rules of Organization and Program Management delegate to the staff the authority to suspend automatic effectiveness of post-effective amendments and to declare amendments effective pursuant to the rule. The amendments to the registration statement forms require registrants to specify on the facing sheet of the filing if the amendment will become effective upon filing or within the time permitted by the rule. The form amendments will also require registrants to make certain representations on the signature page of the amendment. The Commission is taking this action to eliminate review of certain filings which are routine, and to permit registrants to assume greater responsibility for their compliance with the disclosure requirements of the federal securities laws.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Dianne E. O'Donnell, Special Counsel, (202) 272–2115, or Kathleen A. Jackson, Attorney, (202) 272–2118, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of rule 465 [17 CFR 230.465] under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("1933 Act"), and related amendments to rule 30–5 of the Commission's Rules of Organization and Program Management [17 CFR 200.30–5]; Form S–6 [17 CFR 239.16], the registration statement form for unit investment trusts under the 1933 Act; and Form N–1 [17 CFR 239.15, 17 CFR 274.11], the registration statement form for open-end management investment companies under the 1933 Act and the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a–1 et seq.]. The new rule and related form amendments will result in the elimination of routine staff review of, and comment on, certain post-effective amendments filed by investment company registrants on Form S–6 or Form N–1. These amendments will become effective upon filing with the Commission or upon any subsequent date within twenty days of the date of filing specified by the registrant on the facing sheet of the amendment. Other post-effective amendments filed by investment company registrants, including those which contain disclosure relating to material events occurring since the effective date of the issuer's registration statement or its most recent post-effective amendment which included a prospectus, will still be subject to staff review and comment but will normally become effective automatically sixty days after filing.

Where the staff's review reveals circumstances suggesting that a post-effective amendment should not become effective after the sixty-day period, the rule provides that the operation of its automatic effectiveness provision may be suspended upon written notice to the registrant. Should automatic effectiveness be suspended with respect to a particular post-effective amendment, the amendment will not become effective until it is so declared by the Commission, or the staff pursuant to delegated authority, in accordance with section 8(c) of the 1933 Act [15 U.S.C. 77h(c)].

The amendment to the Commission's Rules of Organization and Program Management delegates to the staff the authority to suspend automatic effectiveness and to declare effective amendments with respect to which operation of the rule has been suspended. This amendment also delegates to the staff the authority to determine post-effective amendments filed pursuant to the rule to be effective within shorter periods of time than sixty days after filing when circumstances so warrant.

Background

Investment companies which issue redeemable securities file post-effective amendments to their 1933 Act registration statements for a number of reasons associated with the continuous offer and sale of securities to the public. Such investment companies are permitted to increase the amount of their securities registered under the 1933 Act[1] and to register an indefinite number of amount of securities[2] by post-effective amendment. Moreover, because an investment company that continuously offers and sells securities to the public must also maintain a current prospectus, such companies must bring the information contained in their prospectuses up to date at approximately yearly intervals. Accordingly, most open-end management investment companies and unit investment trusts annually file post-effective amendments with the Commission in order to update the financial and narrative disclosures contained in their prospectuses, to register additional securities, or both. Post-effective amendments might also be filed by such registrants to correct deficiencies in their registration statements discovered after the statements have become effective, or to incorporate into the prospectus any important changes or developments in the business, operations or services of the company.

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[1] Pursuant to section 24(e)(1) of the 1940 Act [15 U.S.C. 80a–24(e)(1)].

[2] Pursuant to section 24(f) of the 1940 Act [15 U.S.C. 80a–24(f)] and rule 24f–2 thereunder [17 CFR 270.24f–2].

In the Commission's experience, the majority of post-effective amendments filed by open-end management investment companies and unit investment trusts do not present novel or complex questions of law or fact. Nevertheless, the staff has always examined and, under section 8(c) of the 1933 Act, declared effective each filing individually, although the staff has implemented several procedures for limited review in an effort to maintain expeditious processing of filings in the face of a steady increase in the number of registered investment companies and thus the number of post-effective amendments filed by such companies.[9] While these procedures have helped the Commission to make better use of its resources, the total number of post-effective filings made by investment company registrants under the 1933 Act has continued to increase. For this and other reasons it seemed to the Commission that a basic revision to the review process of investment company post-effective amendments was necessary, and in April, 1980, the Commission proposed rule 465 under the 1933 Act and related amendments to Forms N–1 and S–6 (Securities Act Release No. 6205, April 3, 1980) [45 FR 24500, April 10, 1980]. Rule 465 was intended to eliminate review of those filings which, because of their routine nature, do not need review, and to allow the Commission and its staff to concentrate its resources on those filings which discuss material events affecting an investment company and thus require review. Moreover, by permitting filings to become effective automatically, without affirmative action by the Commission or its staff, rule 465 was intended to permit registrants to assume greater responsibility for compliance with the disclosure requirements of the 1933 and 1940 Acts. The Commission today adopts rule 465 and its related form amendments with the revisions described below.

Public Comments and Modifications to Proposed Rule 465

The comments received concerning the proposed rule unanimously favored the concept underlying the proposal, although many commentators suggested modifications. All comments received have been considered and the main points raised by the commentators are addressed below.

Opinion of Counsel

Paragraph (f) of the rule as proposed required an opinion of counsel relating to the representations required to be made by registrants in connection with filing post-effective amendments to become effective immediately without staff review, pursuant to paragraph (b) of the proposed rule. Specifically, paragraph (b)(3) of the proposed rule provided that when a registrant filed an amendment pursuant to paragraph (b) it was required to represent that none of the material events listed in paragraph (b)(2) were disclosed in the filing and that no other material change "requiring disclosure in the prospectus" has occurred since the effective date of the last registration statement or post-effective amendment containing a prospectus, whichever was later. Additionally, if the amendment contained disclosure about the resignation of any of the registrant's directors, a representation was required to the effect that the resignation was not the result of a disagreement on any matter relating to the registrant's operations, policies or practices. A similar representation was required when the amendment contained disclosure about a change in the registrant's independent public accountant. Paragraph (f) of the proposed rule provided that if counsel prepared or reviewed the post-effective amendment filed pursuant to paragraph (b), the representations of the registrant described above had to be supported by an opinion of counsel to the effect that counsel was not aware of any facts which would lead counsel to believe that the amendment could not properly be filed pursuant to paragraph (b). This provision was opposed by several commentators who urged its revision or deletion on the grounds that counsel should not be required to give an opinion as to factual matters (such as the resignation of directors), that it would be inappropriate to formalize the role of counsel in a rule under the federal securities laws, and that the required opinion merely restated the existing responsibility of counsel with respect to filings. It was also stated that the provision would discriminate against those registrants which had counsel review or prepare their filings.

The purpose of the requirement for an opinion was not, as suggested by some commentators, to make counsel a guarantor of the adequacy of the disclosure contained in the amendments which counsel reviewed, or to make counsel potentially liable to registrants or others for the content of the required opinion. Rather the purpose of the provision was to ensure that where an amendment was filed under paragraph (b), and thus would become effective without staff review, the amendment would, to the best of counsel's knowledge, be properly filed, and counsel could be accountable to the Commission for counsel's determination to this effect. The Commission continues to believe that where, as is usually the case, a post-effective amendment is prepared or reviewed by counsel (whether outside counsel or a fulltime employee of the registrant), a specific statement by counsel that the amendment can properly be filed under paragraph (b) will serve as an important safeguard against the improper filing of amendments under that paragraph. However, to avoid some of the difficulties alluded to by the commentators, the revised rule (in new paragraph (e)) requires counsel who prepares or reviews a post-effective amendment filed pursuant to paragraph (b) of the rule to state only that the amendment does not contain disclosure which would render it ineligible to become effective pursuant to paragraph (b). Furthermore, under the revised rule this statement will be in the form of a representation to the Commission rather than an opinion of counsel.

Effective Date of Amendments

The proposed rule provided that post-effective amendments filed pursuant to paragraph (a) of the rule would become effective on the sixtieth day after filing, and that amendments filed pursuant to paragraph (b) would become effective upon filing. Several commentators who addressed these effective date provisions pointed out that where a filing was transmitted by mail, particularly over a long distance, it would be difficult for the registrant to predict the exact date upon which the filing would be received by the Commission and hence the exact date upon which the amendment would become effective. Accordingly, it was suggested that the Commission allow some flexibility in the effective dates of amendments. Another suggested alternative was that the Commission issue an interpretation to the effect that registrants would be permitted to use a prospectus which was still current for purposes of section 10(a)(3) of the 1933 Act [15 U.S.C. 77j(a)(3)] (because the financial statements contained therein were not as of a date more than sixteen months prior to its use) for a specified period after a more recent post-effective amendment containing a prospectus had become effective pursuant to the rule.

The Commission has historically taken the position that any prospectus

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[9] A two-part filing procedure was adopted in 1976 in Securities Act Release No. 5738 (September 3, 1976) [41 FR 39013, Sept. 14, 1976], and in 1978, a procedure for "redline" review of post-effective filings by investment companies was announced in Securities Act Release No. 5988 (October 19, 1978) [43 FR 49886, Oct. 25, 1978].

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filed by an investment company registrant, even one which is still current for purposes of section 10(a)(3) of the 1933 Act, becomes stale the moment a more recent amendment containing a changed prospectus becomes effective. This position is based on section 24(e)(3) of the 1940 Act [15 U.S.C. 80a–24(e)(3)] which provides that for purposes of the liabilities imposed by section 11 of the 1933 Act [15 U.S.C. 77k], the effective date of a post-effective amendment filed by an investment company registrant becomes the effective date of the registration statement with respect to securities sold after the amendment becomes effective. Therefore, it is conceivable that where an amendment became effective upon filing pursuant to paragraph (b) of the proposed rule, but the registrant had not yet received a certified mail receipt or other confirmation of the filing date of its amendment, the registrant might inadvertently use a stale prospectus to sell shares. It would be equally unfortunate if a registrant filing pursuant to paragraph (b) were to use a prospectus before the amendment in which it was contained was received by the Commission and thus became effective. To avoid these problems, the revised rule permits registrants filing amendments pursuant to paragraph (b) of the rule to choose the effective date of the amendment, provided that the date chosen is within twenty days after the date on which the amendment is filed. Registrants should designate the date on the facing sheet of their amendment, and the amendment will become effective automatically on the date chosen. Registrants can still choose effectiveness immediately upon filing. The twenty-day period is adequate to permit registrants to receive a certified mail receipt or other confirmation of the filing date of an amendment in advance of the proposed effective date.

Paragraph (a) of the revised rule has not been modified because the sixty day period between the filing and effective dates of an amendment filed pursuant to that paragraph is sufficient to allow registrants to receive confirmation of the filing date well in advance of automatic effectiveness of the amendment.

Technical Changes

Paragraph (c) of the proposed rule provided that an amendment filed pursuant to the rule must recite on its facing sheet the provision of the rule pursuant to which it was filed. The release accompanying proposed rule 465 stated that because the rule was intended to provide the exclusive procedure for the review and processing of all post-effective amendments filed by open-end management investment companies and unit investment trusts (other than insurance company separate accounts), any amendment which did not recite on its facing sheet the provision of the rule pursuant to which it was filed would be deemed not to have been filed and would be returned to the registrant.

In response to comments, the Commission has concluded that the combined effect of paragraph (c) of the proposed rule and the statement made in the release would be more harsh than necessary. Accordingly, paragraph (c) of the rule has been revised to provide (in new paragraph (b) (4)) that only those amendments which are filed pursuant to paragraph (b) need recite that fact on the facing sheet. Similar modifications to the facing sheets of Form N–1 and Form S–6 have also been made. Thus, under the revised rule, amendments within the purview of the rule which do not recite on the facing sheet that they are filed pursuant to paragraph (b) of the rule will be presumed to have been filed pursuant to paragraph (a), and will become effective in accordance with that paragraph.

Some commentators requested clarification of the form in which a registrant should make the representations required in conjunction with filing an amendment pursuant to paragraph (b) of the rule. Revisions to the rule and the form amendments accommodate this request. New paragraph (e) of the rule requires the representations of the registrant to be made by certification on the signature page of the post-effective amendment. The required certification is to the effect that the registrant meets all of the requirements for effectiveness of the amendment pursuant to paragraph (b) of the rule. The textual portions of the signature pages of Forms N–1 and S–6 have been amended to include this certification.

Other Comments

A number of commentators suggested that if some of the restrictions on immediate effectiveness under proposed rule 465 were removed, more post-effective amendments would be filed pursuant to paragraph (b), thus enabling the staff to avoid reviewing a greater number of filings. Although one purpose of rule 465 is to eliminate staff review of investment company filings which are purely routine, the Commission is unwilling to eliminate review of investment company filings which are not routine. Moreover, while the Commission believes that a significant number of post-effective amendments will qualify for filing under paragraph (b), it also believes that rule 465 will serve a useful purpose even if the number of amendments which are not reviewed by the staff proves smaller than expected. A principal objective of automatic effectiveness for all filings is to permit registrants to assume greater responsibility for compliance with the disclosure standards of the federal securities laws.

In this regard, as stated in the release proposing rule 465, the power under paragraph (c) (former paragraph (d)) to suspend effectiveness of an amendment filed pursuant to paragraph (a) will usually be exercised only where the Commission has authorized injunctive action or administrative proceedings against the registrant or persons associated with it. If a post-effective amendment appears to raise the possibility of being materially incomplete or inaccurate, but the Commission is not yet prepared to take action against the registrant of the type described above, the amendment will normally be allowed to become effective, and the registrant assumes the risk that the Commission might later determine to take action on the ground that the filing is misleading or otherwise deficient. For this reason registrants who certify that their amendments can become effective pursuant to paragraph (b) should take special care in determining that no material event has occurred which would make the amendments ineligible for effectiveness under paragraph (b). For example, registrants who are aware that they are subject to a formal order of investigation by the Commission should consider the materiality of the matters being investigated in determining whether to file under paragraph (b).

Several commentators addressed paragraph (b)(1)(iii) of the rule which, as proposed, permitted immediate effectiveness of amendments "filed for no purpose other than * * * [b]ringing the financial statements and other information up to date pursuant to section 10(a)(3)" of the 1933 Act. They argued that this provision should be revised to include explicitly amendments which, in addition to updating this information, also correct inconsistencies, typographical or other technical errors, or make other changes which the registrant represents not to be material. To make clear that paragraph (b)(1)(iii) of the rule is intended to include minor changes of the type described by the commentators, that paragraph now specifically provides that registrants may make such other non-material changes in connection with the annual update as they deem appropriate. Paragraph (b)(1) has also been amended to clarify that registrants may file amendments pursuant to paragraph (b) for any one or combination of the purposes listed in that paragraph.

Several commentators argued that the sixty days waiting period for effectiveness in paragraph (a) was too long, and urged its reduction to thirty or forty-five days. The Commission, however, believes that a period of fewer than sixty days may not allow sufficient time for staff review of filings which discuss material events. Moreover, since registrants obviously can know at any time the date upon which their current prospectuses will become stale, the Commission does not believe that it is unduly burdensome for them to file their post-effective amendments subject to rule 465(a) at least sixty days before that date.

The rule, as proposed, applied only to open-end management investment companies and unit investment trusts which were not registered separate accounts of insurance companies as defined in section 2 (a)(37) of the 1940 Act [15 U.S.C. 80a-2(a)(37)]. Several commentators urged the Commission to reconsider this aspect of the applicability of the rule. Rule 465 as adopted does not apply to such companies. In the future, however, the Commission will be prepared to consider applying procedures similar to those set forth in rule 465 to registered separate accounts of insurance companies.

Filing Procedures Under Rule 465

The adoption of rule 465 represents a significant departure from the procedures which heretofore have been applicable to the review and processing of post-effective amendments filed by investment company registrants, and the Commission wishes to bring certain matters to the attention of registrants.

First, the two-part filing procedure currently in effect [4] will not apply to filings subject to rule 465. Thus, the "narrative-only" filing now requested to be filed before the end of registrant's fiscal year has been eliminated.

Paragraph (d) (former paragraph (e)) of the rule provides that a post-effective amendment which includes a prospectus and which is filed pursuant to paragraph (a) shall not become effective automatically if a subsequent amendment relating to that prospectus is filed before the first amendment becomes effective. Thus, where it is appropriate for a registrant to file a later post-effective amendment (for example, to reflect changes made to prospectus disclosure as a result of staff comments on an earlier amendment), the subsequent amendment will become effective on the sixtieth day after it is filed unless the effective date is advanced. The effective date of amendments filed in response to staff comments will be advanced in most instances, however, so that the subsequent amendment will become effective on the sixtieth day after the original amendment was filed. Some commentators suggested that post-effective amendments filed in response to comments should be permitted to become effective automatically on the sixtieth day after the original amendment was filed. The rule has not been modified in response to this comment, however, because such amendments may contain substantial changes in disclosure which require full review, as opposed to a simple checking or verification procedure. This review may not be completed before the sixtieth day after the original amendment was filed, particularly if the subsequent amendment is filed late in the sixty day period.

As noted above, if refiling in response to staff comments is necessary, paragraph (d) of the rule will operate to prevent the original amendment from becoming effective pursuant to paragraph (a). However, where the refiled amendment responds satisfactorily to all staff comments given which were not waived or otherwise withdrawn, the staff normally will exercise its authority under section 8(c) of the 1933 Act to declare the original amendment effective. This procedure will eliminate any necessity for registrants to pay duplicate filing fees where the original amendment sought to register additional shares, and will also make it unnecessary to refile all exhibits contained in the original filing.[5]

In order for a post-effective amendment to be properly filed pursuant to paragraph (b) of the rule, the filing must satisfy the following requirements. First, the box indicating that the filing is made pursuant to paragraph (b) must be checked on the facing sheet of the filing. Second, the registrant's certification must appear on the signature page of the filing. Third, if the post-effective amendment was prepared or reviewed by counsel, the filing must contain the required counsel's representation. Should counsel's representation (where appropriate), the registrant's certification, or the checked box on the facing sheet be omitted from the amendment, it will be deemed filed pursuant to paragraph (a) of the rule. As such, it will be subject to staff review and comment and will not become effective automatically until the sixtieth day after filing. As a result, the shares sought to be registered by such an amendment may not be sold, nor may any prospectus contained therein be used for purposes of offering or selling shares, before the sixtieth day after the amendment was filed. Any such sale or use would violate provisions of the 1933 Act. Therefore, registrants should take special care in the preparation of post-effective amendments filed pursuant to paragraph (b) in order to avoid these problems.

Rule 437 under the 1933 Act [17 CFR 230.437] concerns applications to dispense with the written consents of experts required by section 7 of the 1933 Act [15 U.S.C. 77g]. This rule provides that such applications shall have been filed, and the consent of the Commission shall have been obtained, prior to the effective date of a registration statement. The commission and its staff are currently considering the appropriateness of waivers under rule 437. In the interim, however, registrants (particularly unit investment trusts investing in municipal or corporate bonds), which routinely file applications pursuant to rule 437, should be aware that rule 465 does not in any way modify the requirements of rule 437. It is the registrant's responsibility to ensure that the application is filed and approved before the amendment becomes effective pursuant to rule 465.

The staff will prepare notifications of effectiveness only in two cases: for amendments as to which the effective date has been advanced, and those which are being made effective following suspension of effectiveness. Thus, notifications of effectiveness will not be prepared for amendments which become effective on the date chosen by the registrant within twenty days after filing, pursuant to paragraph (b), or on the sixtieth day after filing, pursuant to paragraph (a). Rule 474 under the 1933 Act [17 CFR 230.474] states that the date on which amendments are actually received by the Commission shall be the filing date. In order to be aware of the exact filing date, registrants which file in person may wish to provide an extra copy of the amendment or a cover letter to be date-stamped and returned to the registrant. Registrants which do not file in person at the Commission may choose to send their amendments by certified mail requesting a receipt, or to enclose a stamped, self-addressed envelope as part of the filing together with a duplicate of the cover letter so that the duplicate can be date-stamped and returned to the registrant.

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[4] *See* note 3, *supra*.

[5] Thus, registrants should omit any reference to the registration of shares from the facing sheet of the later filing.

Registrants are reminded that the statutory burden of full disclosure is on the issuer, its affiliates, the underwriter, the accountants and others responsible for the filing. As a matter of law, this burden cannot be shifted to the Commission or its staff. To monitor compliance with these statutory responsibilities, the Commission staff will undertake a program of spot-checking amendments filed pursuant to paragraph (b).

Delegation of authority

As stated in the release proposing rule 465, the Commission is adopting an amendment to rule 30-5 of its Rules of Organization and Program Mangement [17 CFR 200.30-5], delegating to the Director of the Division of Investment Management the authority to advance the effective date of post-effective amendments filed pursuant to paragraph (a) of rule 465, and to suspend the operation of paragraph (a) with respect to amendments filed pursuant to that section.

Text of Rule 465, Amendments to Form N-1 and Form S-6, and Amendment to Rule 30-5

I. Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 230.465 to read as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.465 Effective date of post-effective amendments filed by certain registered investment companies.

(a) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(37)], shall become effective on the sixtieth day after the filing thereof, unless the Commission, having due regard to the public interest and the protection of investors, declares such amendment effective on an earlier date.

(b) A post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(37)], shall become effective on the date upon which it is filed with the Commission, or such later date designated by the registrant on the facing sheet of the amendment, which date shall be not later than twenty days after the date on which the amendment is filed, provided that the following conditions are met:

(1) It is filed for no purpose other than one or more of the following:

(i) Increasing the number or amount of securities proposed to be offered pursuant to section 24(e)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a-24(e)(1)];

(ii) Registering an indefinite number or amount of securities pursuant to section 24(f) of the Investment Company Act of 1940 [15 U.S.C. 80a-24(f)] and Rule 24f-2 thereunder [17 CFR 270.24f-2]; and

(iii) Bringing the financial statements and other information up to date pursuant to section 10(a)(3) of the Act [15 U.S.C. 77j(a)(3)], and, in conjunction therewith, making such other non-material changes as the registrant deems appropriate;

(2) Any prospectus filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later:

(i) Termination of an investment advisory contract;

(ii) A change in the registrant's investment objectives, in any of its policies listed in section 8(b)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a-8(b)(1)], or in any other investment policy which the registrant deems fundamental or which, pursuant to section 13 of the Investment Company Act of 1940 [15 U.S.C. 80a-13], is changeable only by shareholder vote;

(iii) Suspension of sales or redemptions of securities issued by the registrant;

(iv) Resignation of any of the registrant's directors, unless the registrant represents that such director did not resign due to disagreement with the registrant on any matter relating to the registrant's operations, policies or practices;

(v) A change in the registrant's independent public accountant, unless the registrant represents that there were no disagreements with the former accountant on any matter of accounting principles or practices or financial statement disclosures; or

(vi) If registrant is a unit investment trust the assets of which do not consist solely of securities issued by a management investment company, any substitution by the depositor or trustee of the trust of securities held by the trust with a value of 5% or more of the trust's net assets; and

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later; and

(4) Such amendment recites on the facing sheet thereof that the registrant proposes that the amendment will become effective pursuant to paragraph (b) of this section.

(c) No amendment shall become effective pursuant to paragraph (a) of this section if, prior to the effective date of such amendment, it should appear to the Commission that the amendment may be incomplete or inaccurate in any material respect, and the Commission furnishes to the registrant written notice that the effective date of the amendment is to be suspended. Following such action by the Commission, the registrant may file with the Commission at any time a petition for review of the suspension. The Commission will order a hearing on the matter if a request for such a hearing is included in the petition. If the Commission has suspended the effective date of an amendment, the amendment shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(d) A post-effective amendment which includes a prospectus shall not become effective pursuant to paragraph (a) of this section if a subsequent post-effective amendment relating to such prospectus is filed before such amendment becomes effective.

(e) The representations of the registrant referred to in paragraphs (b)(2)(iv), (b)(2)(v) and (b)(3) of this section shall be made by certification on the signature page of the post-effective amendment that such amendment meets all of the requirements for effectiveness pursuant to paragraph (b) of this section. If counsel prepared or reviewed the post-effective amendment filed pursuant to paragraph (b) of this section, such counsel shall furnish to the Commission at the time the amendment is filed a written representation that the amendment does not contain disclosures which would render it ineligible to become effective pursuant to paragraph (b).

II. Parts 239 and 274 of Chapter II of Title 17 of the Code of Federal Regulations are amended by: (1.) Amending the facing sheet of Form N–1 and (2.) amending the signature page of Form N–1 as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

§ 274.11 Form N–1, registration statement of open-end management investment companies.

[1. Amendment to facing sheet. Insert the following after "Approximate Date of Proposed Public Offering":

☐ Check box if it is proposed that this filing will become effective (immediately upon filing or on (date)) pursuant to paragraph (b) of Rule 465.]

[2] Amendment to signature page. The first textual paragraph under "SIGNATURES" is amended as follows:

Pursuant to the requirements of the Securities Act of 1933 (and) (or) the Investment Company Act of 1940 the Registrant (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to rule 465(b) under the Securities Act of 1933 and) has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of __________, and State of on the ___ day of __________, 19___.

[3] Amending the facing sheet of Form S–6 and (4.) amending the signature page of Form S–6 as follows:

§ 239.16 Form S–6 for unit investment trusts registered on Form N–8B–2.

[3] Amendment to facing sheet. Insert the following after "Name and complete address of agent for service":

☐ Check box if it is proposed that this filing will become effective (immediately upon filing or on (date)) pursuant to paragraph (b) of Rule 465.

[4] Amendment to signature page. The textual paragraph under "SIGNATURES" is amended as follows:

Pursuant to the requirements of the Securities Act of 1933, the registrant, __________, (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to rule 465(b) under the Securities Act of 1933 and) has duly caused this registration statement to be signed on its behalf by the undersigned thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the city of __________, and State of __________, on the ___ day of __________, 19___]

III. Part 200 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding paragraph (b–2) to § 200.30–5 to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(b–2) With respect to post-effective amendments filed pursuant to paragraph (a) of rule 465 under the Act (17 CFR 230.465(a)):

(1) To suspend the operation of said paragraph (a) and to issue written notices to registrants of such suspensions; and

(2) To determine such amendments to be effective within shorter periods of time than the sixtieth day after the filing thereof.

Statutory Authority: The Commission hereby adopts Rule 465 and amendments to Form S–6 and Form N–1 pursuant to the provisions of Sections 7, 8 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77g, 77h and 77s(a)], and Sections 8 and 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–8 and 80a–37(a)]. Further, the Commission hereby amends rule 30–5 pursuant to authority contained in the Act of August 30, 1962, Pub. L. No. 87–592, 76 Stat. 394 [15 U.S.C. 78d–1, 78d–2] and Section 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–37].

By the Commission.

George A. Fitzsimmons,
Secretary.

August 25, 1980.

[FR Doc. 80–26604 Filed 8–28–80; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 34–17085; File No. S7–848]

Notice Obligations of Self-Regulatory Organizations With Respect to Final Disciplinary Actions, Denials, Bars or Limitations Respecting Membership, Association, Participation or Access to Services and Summary Suspensions

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting the proposed amendment to its rule governing notice obligations of self-regulatory organizations with respect to final disciplinary actions to exclude the requirement that national securities exchanges provide the Commission with notice of uncontested summary disciplinary actions involving infractions of floor decorum regulations.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Susan M. Wilk, Esq., Division of Market Regulation, Securities and Exchange Commission, Room 341, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2824.

SUPPLEMENTARY INFORMATION: On March 5, 1980, the Commission issued a release proposing for comment an amendment to subsection (c) of Rule 19d–1 which would exempt from the rule's reporting requirement uncontested summary disciplinary actions for infractions of exchange rules governing personal decorum on the trading floor.[1]

Rule 19d–1 [17 CFR 240.19d–1] prescribes the content of notices by self-regulatory organizations of final disciplinary actions, denials, bars or limitations respecting membership, association, participation or access to services, and summary suspensions. The rule was adopted in July 1977,[2] pursuant to section 19(d)(1) of the Securities Exchange Act ("Act")[3] which requires that self-regulatory organizations promptly report any of the above-noted actions to the Commission (or appropriate regulatory agency) in such form as the Commission (or appropriate regulatory agency) prescribes by rule. Subsection (c) of Rule 19d–1, which the Commission is amending, presently requires any self-regulatory organization, for which the Commission is the appropriate regulatory agency, that takes any final disciplinary action with respect to any person to file promptly a notice thereof with the Commission.[4] No comments were received on the proposed amendment.[5]

The Commission has determined to amend Rule 19d–1 in the manner proposed in its March release based on its conclusion that, during the three years Rule 19d–1 has been in effect, the

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[1] Securities Exchange Act Release No. 16628 (March 5, 1980), 45 FR 15942 (March 12, 1980).

[2] Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36412 (July 14, 1977).

[3] Section 19(d), 15 U.S.C. 78s(d)(1), was enacted as part of the Securities Acts Amendments of 1975, Pub. L. 94–29 (June 4, 1975).

[4] Rule 19d–1(c). Subsection (d) of Rule 19d–1 prescribes the content of notices of final disciplinary actions.

[5] The substance of the proposed amendment initially was suggested by the American Stock Exchange. Petition to Commission to amend Rule 19d–1 from American Stock Exchange (March 15, 1979).

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administrative burdens on the Commission staff and on the exchanges have outweighed the utility of reports of uncontested summary sanctions for violations of trading floor decorum regulations. The amendment to Rule 19d–1(c) exempts from the rule's reporting requirements uncontested disciplinary actions in which an exchange summarily imposes a fine not exceeding $500 or suspends floor privileges of a clerical employee for not more than five days for violation of regulations governing personal decorum on the trading floor. The amendment to Rule 19d–1(c) is not available for disciplinary sanctions involving recordkeeping, the handling of orders, or the execution of any securities transaction on an exchange.

The Commission notes that regulations regarding floor decorum will continue to be reviewed by the Commission to determine whether they are consistent with the Act at the time they are adopted by an exchange pursuant to Section 19(b) of the Act.[6] The Commission also notes that exchanges are required by Commission Rule 17a–1(a)[7] to keep a record of all disciplinary sanctions, including those for floor decorum violations, for five years. The Commission emphasizes that exchanges also will still be required to file notices of any contested summary decorum sanctions and decorum sanctions that are imposed at or as a result of a hearing. Reporting under those circumstances is consistent with the purposes of Section 19(d) and provides the Commission with information necessary to perform its oversight of exchange enforcement and disciplinary activities. The amendment also does not affect subsection (i) of Rule 19d–1,[8] which requires that summary suspensions of membership or summary limitations of access to services, for whatever reason, be reported to the Commission within 24 hours of the effectiveness of those sanctions.

For the reasons stated above, the Commission finds that the proposed amendment is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act. Accordingly, the Commission, acting pursuant to its authority under Section 23(a)(1) of the Act,[9] hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising paragraph (c) of § 240.19d–1 as follows.

§ 240.19d–1 Notices by self-regulatory organizations of final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services, and summary suspensions.

* * * * *

(c) *Notice of final disciplinary action.* Any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person shall promptly file a notice thereof with the Commission in accordance with paragraph (d) hereof. For the purposes of this rule, a "final disciplinary action" shall mean the imposition of any final disciplinary sanction pursuant to section 6(b)(6), 15A(b)(7), or 17A(b)(3)(G) of the Act or other action of a self-regulatory organization which, after notice and opportunity for hearing, results in any final disposition of charges of:

(1) One or more violations of—

(i) The rules of such organization;

(ii) The provisions of the Act or rules thereunder; or

(iii) In the case of a municipal securities broker of dealer, the rules of the Municipal Securities Rulemaking Board;

(2) Acts or practices constituting a statutory disqualification of a type defined in subparagraph (D) or (E) (except prior convictions) of section 3(a)(39) of the Act; or

(3) In the case of a proceeding by a national securities exchange or registered securities association based on sections 6(c)(3)(A)(ii), 6(c)(3)(B)(ii), 15A(g)(3)(A)(ii), or 15A(g)(3)(B)(ii) of the Act, acts or practices inconsistent with just and equitable principles of trade.

Provided, however, That in the case of a disciplinary action in which a national securities exchange summarily imposes a fine not exceeding $500 or suspends floor privileges of a clerical employee for not more than five days for violation of any of its regulations concerning personal decorum on a trading floor, the disposition shall not be considered "final" for purposes of this paragraph if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the exchange with respect to the matter. *Provided further,* That this exemption from the notice requirement of this paragraph shall not be available where a decorum sanction is imposed at, or results from, a hearing on the matter.

* * * * *

By the Commission.

George A. Fitzsimmons,
Secretary.

August 22, 1980.

[FR Doc. 80–26630 Filed 8–28–80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM80–63]

Discontinuance of Form RO211; Notice of Change of Effective Date

August 21, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of change of effective date.

SUMMARY: On June 2, 1980, the Federal Energy Regulatory Commission issued Order No. 89, "Discontinuance of Form RO211" (45 FR 38354, June 9, 1980). The reporting requirement, Form RO211 was to be eliminated, effective September 1, 1980. By this notice, the effective date of Order No. 89 is changed to December 31, 1980.

DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 3329, Washington, DC 20426 (202) 357–8318.

SUPPLEMENTARY INFORMATION: The Federal Regulatory Commission's (Commission) Order No. 89, "Discontinuance of Form RO211," was issued June 2, 1980 (45 FR 38354, June 9, 1980). The reporting requirement, Form RO211, and its corresponding regulation set forth at 18 CFR 141.58 require a report of impending emergencies, load reductions and/or service interruptions in bulk electric power supply and related power supply facilities. The form is no longer necessary to the performance of the Commission's regulatory responsibilities. Form RO211 was issued with a delayed effective date of September 1, 1980 so as to allow the Economic Regulatory Administration (ERA) sufficient time to devise and receive approval for its own form which would collect the information in Form RO211 that ERA needed to perform its statutory responsibilities.

The Commission has learned that ERA has not completed its rulemaking process to effect such a form, and does not expect to implement regulations which would include the reporting requirement RO211 until late December 1980. The Commission is, therefore, extending the effective date for elimination of Form RO211 to December 31, 1980.

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[6] 15 U.S.C. 78s(b).

[7] 17 CFR 240.17a–1(a).

[8] 17 CFR 240.19d–1(i).

[9] 15 U.S.C. 78w(a)(1).

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26553 Filed 8-28-80; 8:45 am]

BILLING CODE 6450-65-M

RAILROAD RETIREMENT BOARD

20 CFR Part 362

Employees' Personal Property Claims

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board amends Chapter II of Title 20 of the Code of Federal Regulations by adding a new Part 362 to Subchapter F of its regulations to provide a procedure for the settlement of claims against the United States made by an officer or employee of the Board.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Dale G. Zimmerman, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935.

SUPPLEMENTARY INFORMATION: In accordance with the Board's Report issued under Executive Order 12044, a proposal to develop a procedure for the settlement of claims against the United States made by an officer or employee of the Board was submitted to the Chief Executive Officer for a determination as to whether the proposed regulations would constitute significant regulations. The Chief Executive Officer determined that these regulations would not constitute significant regulations.

Although public comment has not been invited with respect to these regulations, the Board will accept comments from the public concerning these regulations. Interested persons may submit written comments, suggestions, or data, to Mr. Zimmerman. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, these regulations will remain in effect, thus permitting agency business to proceed more expeditiously.

Title 20, Chapter II, is amended as follows:

SUBCHAPTER F—INTERNAL ADMINISTRATION, POLICY AND PROCEDURES

New Part 362 reads as follows:

PART 362—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Sec.

362.1 Purposes.
362.2 Definitions.
362.3 Who may file a claim.
362.4 Delegation of authority.
362.5 Time limits for filing a claim.
362.6 Procedure for filing a claim.
362.7 Factors to be considered in settling a claim.
362.8 Investigation of a claim.
362.9 Fraudulent claims.
362.10 Principal types of claims allowable.
362.11 Principal types of claims not allowable.
362.12 Computation of amount of reimbursement.
362.13 Property recovered after payment of claim.
362.14 Finality of settlement.
362.15 Agent's or attorney's fee.

Authority: Section 3(a), Pub. L. 88-558, 78 Stat. 767 (31 U.S.C. 241(b)(1)).

§ 362.1 Purposes.

(a) This Part prescribes regulations under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, for the settlement of a claim against the United States made by an officer or employee of the Railroad Retirement Board for damage to, or loss of, personal property incident to his service. In accordance with that Act, the possession of such property must be reasonable, useful, or proper under the circumstances.

(b) The Railroad Retirement Board is not an insurer of its officers' or employees' personal property and does not underwrite the damage or loss of such property that may be sustained by an officer or employee. Officers and employees of the Board are encouraged to carry private insurance to the maximum extent practicable to avoid large losses or losses which may not be recoverable from the Board. The procedures set forth in this section are designed to enable the claimant to obtain the maximum amount of otherwise unreimbursed or uninsured compensation for his loss or damage. Failure of the claimant to comply with these procedures may reduce or preclude payment of his claim under this Part.

§ 362.2 Definitions.

As used in this Part:

(a) "Act" means the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243).

(b) "Article of extraordinary value" means an article which was purchased or which the employee values at a monetary amount which is in excess of the usual, regular or customary amount paid for an article which is capable of accomplishing the same purposes.

(c) "Benefit of the Board" means that the operations and service of the Board were assisted, facilitated or improved.

(d) "Board" means the Railroad Retirement Board.

(e) "Employee" means an officer or employee of the Board.

(f) "Settle" means consider, ascertain, adjust, determine and dispose of any claim, whether by full or partial allowance or by disallowance.

§ 362.3 Who may file a claim.

A claim may be filed by an employee, by his spouse in his name as authorized agent, or by any other authorized agent or legal representative of the employee. If the employee is dead, his (a) spouse, (b) child, (c) father or mother, or both, or (d) brother or sister, or both, may file the claim and be entitled to payment in that order of priority.

§ 362.4 Delegation of authority.

The General Counsel of the Board is authorized to settle any claim filed under this Part.

§ 362.5 Time limits for filing a claim.

A claim under this Part may be considered only if:

(a) The damage or loss occurred after August 31, 1964; and

(b) The claim is filed in writing within two years after the damage, loss or theft occurred or became known to the employee.

§ 362.6 Procedure for filing a claim.

(a) Railroad Retirement Board Form G-108, Employee Claim for Loss or Damage to Personal Property, is the prescribed form for filing claims pursuant to the regulations in this Part and must be completed by the employee, the person acting on his behalf, or his survivor and forwarded directly to the General Counsel of the Board for processing. Railroad Retirement Board Form G-108 may be obtained from the Board's Bureau of Law.

(b) In addition to the information required to complete the form described § 362.6(a), the following information or data must be submitted with each claim:

(1) With respect to claims involving property which is stolen or lost, the purchase receipt, or if not available, statements from the employee estimating the value and what security measures or precautions were taken to protect the property;

(2) With respect to claims involving property which is damaged, an itemized repair estimate from an appropriate commercial source, or, if beyond repair, a statement from an appropriate

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commercial source or, if such a statement is not available, from the employee, indicating that the damaged property is beyond repair;

(3) With respect to claims involving property stated to be beyond repair in accordance with § 362.6(b)(2), a statement from the employee estimating the value and the purchase receipt, if available;

(4) With respect to claims considered under § 362.10(b)(3), a statement by the employee's supervisor verifying that the supervisor required the employee to provide, or that the supervisor consented to having the employee provide, such property and that the provision of such personal property was in the interest of the Board;

(5) With respect to a claim filed by an agent or survivor of an employee, a power of attorney or other satisfactory evidence of authority to file the claim.

§ 362.7 Factors to be considered in settling a claim.

Claims are payable only for such types, quantities or amounts of tangible personal property as the General Counsel of the Board shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss, theft or damage of the property. In determining what is reasonable, useful or proper the General Counsel will consider the type and quantity of property involved, the circumstances attending acquisition and use of the property, and whether possession or use by the employee at the time of loss, theft or damage was incident to the employee's service. What is reasonable, useful or proper is a question of fact to be determined by the General Counsel.

§ 362.8 Investigation of a claim.

The General Counsel or his designee may investigate the circumstances surrounding the theft, loss or damage of an employee's property. In order to complete such investigation, the General Counsel or his designee may request the submission of information in addition to that described in § 362.7 of this Part.

§ 362.9 Fraudulent claims.

Claims are not payable for items fraudulently claimed. When investigation discloses that an employee, an agent of the employee, or a survivor of the employee has intentionally misrepresented an item claimed, as to cost, condition, cost of repair or other significant information, the claim as to that item will be disallowed in its entirety even though some actual loss or damage may have been sustained. However, if the remainder of the claim is proper it will be paid as to other items. This section does not preclude appropriate prosecution and disciplinary action if warranted.

§ 362.10 Principal types of claims allowable.

(a) In general, a claim may be allowed only for tangible personal property of a type and quantity that was, from the Board's perspective, reasonable, useful, or proper for the employee to possess under the circumstances at the time of the loss or damage. Any questions in this regard are to be resolved by the General Counsel.

(b) Claims that will ordinarily be allowed include, but are not limited to, cases in which the loss or damage occurred:

(1) In a common or natural disaster;

(2) When the property was subjected to extraordinary risks in the performance of duty or efforts to save human life or property of the United States Government;

(3) When the property was used for the benefit of the Board at the direction, or with the consent, of a supervisor.

§ 362.11 Principal types of claims not allowable.

(a) Claims will be disallowed when:

(1) The personal property was lost, stolen or damaged prior to August 31, 1964;

(2) The loss or damage totals less than $5 or, to the extent of the excess, more than the maximum amount provided in § 241(b)(1) of Title 31 of the United States Code;

(3) The loss or damage was caused, at least in part, by the negligence of the employee or his agent;

(4) The personal property was acquired, possessed or transported in violation of law or regulation;

(5) The personal property was brought into Board offices for temporary storage in anticipation of delivery to another person or removal to another location;

(6) The personal property lost or damaged was food-stuffs or furniture;

(b) Claims which will ordinarily not be allowed include, but are not limited to, claims for:

(1) Money or currency, except when lost in a common or natural disaster;

(2) Articles of extraordinary value;

(3) Articles being worn (unless allowable under § 362.10);

(4) Intangible property, such as bank books, checks, notes, stock certificates, money orders or travelers' checks;

(5) Property owned by the United States, unless the employee is financially responsible for it to another United States government agency;

(6) Losses of insurers or subrogees and those losses recoverable from an insurer or carrier;

(7) Losses or damages sustained in quarters not assigned or otherwise provided in kind by the Board;

(8) Losses recoverable or recovered pursuant to contract;

(9) Loss or damage to any vehicle used for transportation or in transportation (unless allowable under § 362.10).

§ 362.12 Computation of amount of reimbursement.

(a) The amount awarded with regard to any item of personal property will not exceed its depreciated replacement cost at the time of loss. Unless proven to be otherwise, replacement cost will be based on the price paid in cash for the property or, if not acquired by purchase or exchange, the value at the time of acquisition. The amount normally payable on property damaged beyond economical repair is found by determining its depreciated value immediately before it was damaged or lost, less any salvage value. If the cost of repair is less than the depreciated value of the property, then it is economically repairable, and the cost of repair is the amount payable.

(b) Depreciation in value of an item of personal property is determined by considering the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the date of acquisition and the date of accrual of the claim.

(c) Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter.

§ 362.13 Property recovered after payment of claim.

When previously lost or stolen property is recovered by the employee after allowance of a claim by the Board, the employee shall return the amount of reimbursement.

§ 362.14 Finality of settlement.

Notwithstanding any other provision of law, settlement of a claim under the Act and this Part is final and conclusive.

§ 362.15 Agent's or attorney's fee.

Under the terms of the Act, no more than 10 percent of the amount paid in settlement of a claim submitted and settled under this Part may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding.

Dated: August 21, 1980.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-26616 Filed 8-28-80; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 80F-0121]

Antioxidants and/or Stabilizers for Polymers; Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of 1,3,5-tris (4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione as an antioxidant and/or stabilizer in polystyrene and rubber-modified polystyrene. This is in response to a food additive petition from American Cyanamid Co.

DATES: Effective August 29, 1980; objections by September 29, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of May 6, 1980 (45 FR 29892) announced that a food additive petition (FAP 9B3471) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* be amended to provide for the use of 1,3,5-tris(4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione as an antioxidant in polystyrene and rubber-modified polystyrene.

FDA has evaluated data in the petition and other relevant material and concludes that § 178.2010 should be amended as set forth in this document.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010(b) by revising the item "1,3,5-Tris(4-*tert*-butyl-3-hydroxy-2,6-dimethyl-benzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
1,3,5-Tris(4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione. [CAS Reg. No. 40601-76-1].	For use only: 1. At levels not to exceed 0.1 percent by weight of polypropylene and polyethylene that comply with § 177.1520 of this chapter, provided that the finished polypropylene and polyethylene contact food only under the conditions described in § 176.170(c) of this chapter, table 2, under conditions of use E through G. 2. At levels not to exceed 0.1 percent by weight of polystyrene and rubber-modified polystyrene that comply with § 177.1640 of this chapter, provided that the finished polystyrene and rubber-modified polystyrene contact food only under the conditions described in § 176.170(c) of this chapter, table 2, under conditions of use E through G.
* * *	* * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 29, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 29, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) 348))

Dated: August 21, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26165 Filed 8-28-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

Oxytetracycline Hydrochloride Injection; Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Philips Roxane, Inc., providing for intramuscular use of a 100-milligram-per-milliliter (mg/mL) oxytetracycline hydrochloride injection for treating certain infections of swine.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, filed a supplemental NADA (95-642) providing for intramuscular use of a 100-milligram-per-milliliter (mg/mL) oxytetracycline hydrochloride (OTC HCl injection in swine for treating bacterial enteritis, pneumonia, and leptospirosis; and in sows as an aid in controlling infectious enteritis in suckling pigs). Philips Roxane currently holds approvals for

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intramuscular use of 100 mg/mL injection in cattle, for intramuscular or intravenous use of a 50 mg/mL injection in cattle, and for intramuscular use of a 50 mg/mL injection in swine and sows. Philips Roxane's 100 mg/mL OTC HCl injection has been shown, through crossover blood level studies, to be biocomparable to Pfizer's Terramycin (50-milligrams-per-milliliter OTC injection). Terramycin has been reviewed by the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, and declared by the agency to be effective for swine use. Accordingly, the regulation is amended in § 522.1662a(b) (21 CFR 522.1662a(b)) to reflect this approval and to revise editorially certain portions of the text.

Approval of this supplemental application poses no increased human risk from exposure to residues of oxytetracycline because the approval concerns using a 100 mg/mL oxytetracycline injectable in the same manner as currently provided for the 50 mg/mL injectable. Therefore, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this approval did not require reevaluation of the safety and effectiveness data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii), a summary of safety data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1662a by revising paragraph (b), to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(b)(1) *Specifications.* Each milliliter of sterile solution contains 50 or 100 milligrams of oxytetracycline (as oxytetracycline hydrochloride).

(2) *Sponsor.* See 000010 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Beef cattle and nonlactating dairy cattle*—(*a*) *Amount.* Three to 5 milligrams of oxytetracycline per pound of body weight per day; 5 milligrams per pound of body weight per day for the treatment of anaplasmosis, severe foot-rot, and severe cases of other indicated diseases.

(*b*) *Indications for use.* Treatment of diseases due to oxytetracycline-susceptible organisms as follows: Pneumonia and shipping fever complex associated with *Pasteurella spp.*, *Hemophilus spp.*, and *Klebsiella spp.*, foot-rot and diphtheria caused by *Spherophorus necrophorus*, bacterial enteritis (scours) caused by *Escherichia coli*, wooden tongue caused by *Actinobacillus lignieresi*, leptospirosis caused by *Leptospira pomona*, and wound infections and acute metritis caused by *Staphylococcus spp.* and *Streptococcus spp.* If labeled for use by or on the order of a licensed veterinarian, it may be used for the treatment of anaplasmosis caused by *Anaplasma marginale*.

(*c*) *Limitations.* For 50-milligram-per-milliliter solution, administer intramuscularly or intravenously; for 100-milligram-per-milliliter solution, administer intramuscularly only. Treatment of all diseases should be instituted early and continue for 24 to 48 hours beyond remission of disease symptoms, but not to exceed a total of 4 consecutive days. Consult your veterinarian if no improvement is noted within 48 hours. Do not inject more than 10 milliliters per site in adult cattle, reducing the volume according to age and body size to 0.5 to 2 milliliters in small calves. Exceeding the highest recommended dose of 5 milligrams per pound of body weight, administering at recommended levels for more than 4 consecutive days, and/or exceeding 10 milliliters intramuscularly per injection site may result in antibiotic residues beyond the withdrawal time. Discontinue treatment at least 18 days prior to slaughter. Not for use in lactating dairy cattle.

(ii) *Swine*—(*a*) *Amount.* Three to 5 milligrams of oxytetracycline per pound of body weight per day. Sows: 3 milligrams of oxytetracycline per pound of body weight, approximately 8 hours before farrowing or immediately after completion of farrowing.

(*b*) *Indications for use.* For treatment of bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and leptospirosis caused by *Leptospira pomona*. Sows: as an aid in control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *Escherichia coli*.

(*c*) *Limitations.* Administer intramuscularly. Do not inject more than 5 milliliters per site. Do not use for more than 4 consecutive days. Discontinue treatment at least 26 days before slaughter.

* * * * *

Effective date. This regulation is effective August 29, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 21, 1980.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7717]

Income Tax; Taxable Years Beginning After Dec. 31, 1953; Residential Energy Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the residential energy credit. Changes to the applicable tax law were made by the Energy Tax Act of 1978. These regulations provide the public with guidance needed for determining whether a residential energy credit is available with respect to certain expenditures.

DATE: The amendments are effective with respect to expenditures made after April 19, 1977, and before January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 44C and 1016 of the Internal Revenue Code of 1954 and to the Statement of Procedural Rules (26 CFR Part 601). The amendments were proposed to conform the regulations to section 101 of the Energy Tax Act of 1978 (92 Stat. 3175). A public hearing was held on September 12, 1979. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. A new § 1.44C–6 is added to deal with the procedure and criteria for additions to the list of energy-conserving components or renewable energy sources which was previously the subject of § 1.44C–5. Section 1.44C–6 is reserved in this Treasury decision and will be dealt with in another regulation project. It should be noted that this Treasury decision does not reflect any of the amendments to section 44C made by the Crude Oil Windfall Profit Tax Act of 1980.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, other Government agencies, and offices within the Treasury Department and Internal Revenue Service. Under the regulations, no additional reporting or filing requirements have been imposed on taxpayers.

In General

The Energy Tax Act of 1978 provides a residential energy credit for insulation, certain other energy-conserving components, and certain renewable energy source property expenditures made in connection with the taxpayer's principal residence. In the case of insulation and other energy-conserving components, the credit is 15 percent of the first $2,000 of expenditures, for a maximum credit of $300. In the case of solar, wind, and geothermal energy property, the credit provided by the 1978 Act is 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 of expenditures, for a maximum credit of $2,200 for expenditures made after April 19, 1977 and before January 1, 1980. It should be noted that the Crude Oil Windfall Profit Tax Act of 1980 has increased the credit for solar, wind, and geothermal property to 40 percent of $10,000 for a maximum of $4,000 for expenditures made after December 31, 1979 and before January 1, 1986. The taxpayer must reduce the maximum amount of allowable expenditures with respect to the dwelling unit to be used in computing the credit by the prior expenditures which were made by the taxpayer, and which were taken into account in computing the credit for prior taxable years.

The credit applies only to expenditures made on or after April 20, 1977, and before January 1, 1986. A credit with respect to expenditures made during 1977 (*i.e.,* on or after April 20) is to be claimed on the taxpayer's 1978 tax return. In the case of insulation and other energy-conserving component expenditures, the credit is available only with respect to a taxpayer's principal residence the construction (including reconstruction) of which was substantially completed before April 20, 1977. To the extent that the credit exceeds the taxpayer's tax liability, the taxpayer is allowed to carry over the unused credit to subsequent taxable years beginning before before January 1, 1988.

Definitions of Qualified Items

A number of comments requested that the definitions of various items qualifying for the credit be expanded, *e.g.,* that the definition of insulation be expanded to include awnings and shades; that the definition of a storm or thermal window be revised to include window films; and that the definition of solar energy property be made to include woodburning stoves or heat pumps. The regulations have not been expanded to include these items because we believe that Congress did not intend their inclusion. In the case of insulation, the regulations have been clarified to provide that an item must be installed between a conditioned area (*i.e.,* heated or cooled by conventional or renewable energy source means) and a nonconditioned area to qualify as insulation (except when installed on a water heater, water pipe, or heating/cooling duct).

It was suggested that the definition of a storm or thermal window should be in terms of R-values, rather than inches of insulating material. The regulations have been amended to reflect this suggestion.

Several comments suggested that the rule excluding materials and components having a dual purpose from the definition of solar energy property be deleted. It was argued that this rule would disqualify most expenditures for passive solar construction or for modifications to an existing structure. Additional comments requested that the regulations be revised to allow a partial credit for materials and components that serve a dual purpose. The dual purpose rule was not deleted or modified to allow a partial credit in view of the support for the exclusion found in the House and Senate reports to the Act which clearly require the exclusion of property with a significant structural function.

However, the regulations have been revised to include a more comprehensive definition of a passive solar system. The final regulations provide that a qualifying passive solar system used for heating purposes must be composed of the following components: a solar collection area, an absorber, a storage mass, a heat distribution method, and heat regulation devices.

In response to inquiries, the definition of wind energy property has been revised to make it clear that devices that use wind merely to ventilate do not qualify as wind energy property.

The residential energy credit applies to property which transmits or uses energy derived from a geothermal deposit to heat or cool a dwelling or provide hot water for use within the dwelling. Several comments suggested that the definition of geothermal deposit be revised either by deleting the 60° Celsius temperature limitation or by lowering the temperature limitation. The temperature limitation has been lowered to 50° Celsius. It has been concluded that 50° Celsius is an appropriate measure for determining whether heat is derived from geothermal reservoirs (heated by the earth's magma) or is derived from heat associated with ground water that is affected by atmospheric temperatures.

Definition of Construction

One comment objected to defining reconstruction as construction for purposes of the April 20, 1977, cut-off date for new construction. This objection was rejected on the ground that a house that is reconstructed is basically a new house. Therefore, the cut-off date pertaining to new construction should also be applicable to reconstruction.

Certification Procedure

One comment suggested that the regulations be revised to allow request from any source for certification of items as qualifying for the credit. This suggestion was not adopted because the statute only authorizes the manufacturer to seek certification of an item.

It should be noted that the certification procedure is the subject of Rev. Proc. 80–36.

Drafting Information

The principal author of this regulation is Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Parts 1 and 601 published as a notice of proposed rulemaking in the **Federal Register** for May 23, 1979 (44 FR 29923), are hereby adopted as proposed, subject to the following changes:

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Paragraph 1. Section 1.44C–2, as set forth in paragraph 1 of the notice, is amended by revising paragraph (c)(1) and (4), by revising so much of paragraph (c) as follows subparagraph (3) thereof, by revising paragraph (d)(3), by revising subdivisions (i), (iii), (iv)(B)(*3*) and (viii) of paragraph (d)(4), by adding a sentence at the end of paragraph (d)(4)(iv), and by revising paragraphs (e)(2), (f), (g) and (h), to read as follows:

§ *1.44C–2 Definitions.*

* * * * *

(c) *Insulation.* * * *

(1) The item is specifically and primarily designed to reduce, when installed in or on a dwelling or on a water heater, the heat loss or gain of such dwelling or water heater. To qualify as insulation the item must be installed between a conditioned area and a nonconditioned area (except when installed on a water heater, water pipe, or heating/cooling duct). Thus for example, awnings do not qualify as insulation. For purposes of this section the term "conditioned area" means an area that has been heated or cooled by conventional or renewable energy source means. Insulation includes materials made of fiberglass, rock wool, cellulose, urea based foam, urethane, vermiculite, perlite, polystyrene, and extruded polystyrene foam.

* * * * *

(4) The item meets the applicable performance and quality standards prescribed in § 1.44C–4 (if any) that are in effect at the time the taxpayer acquires the item.

The term "insulation" shall not include items whose primary purpose is not insulation (*e.g.*, whose function is primarily structural, decorative, or safety-related). For example, carpeting, drapes (including linings), shades, wood paneling, fireplace screens (including those made of glass), new or replacement walls (except for qualifying insulation therein) and exterior siding do not qualify although they may have been designed in part to have an insulating effect.

(d) *Other energy-conserving components.* * * *

(3) The item meets the applicable performance and quality standards prescribed in § 1.44C–4 (if any) that are in effect at the time of the taxpayer's acquisition of the item.

(4) * * *

(i) *A furnace replacement burner.* The term "furnace replacement burner" means a device (for oil and gas-fired furnaces or boilers) that is designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency. The burner must replace an existing burner. It does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

* * * * *

(iii) *A furnace ignition system.* The term "furnace ignition system" means an electrical or mechanical device, designed for installation in a gas-fired furnace or boiler that automatically ignites the gas burner. In order to qualify, the device must replace a gas pilot light. Furthermore, it does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

(iv) *A storm or thermal window or door.* * * *

(B) * * *

(*3*) A prime exterior door that has an R-value (a measurement of the ability of insulation to resist the flow of heat) of at least 2 throughout.

* * * For purposes of this subdivision, a storm or thermal window or door does not include any film applied on or over the surface of a window or door.

* * * * *

(viii) *Components specified by the Secretary.* The Secretary (or his delegate) may, in his discretion, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, specify by regulation other energy-conserving components for addition to the list of qualified items. See § 1.44C–6 for the procedures and criteria to be used in determining whether an item will be considered for addition to the list of qualified items by the Secretary.

* * * * *

(e) *Renewable energy source property.* * * *

(2) *Renewable energy source specified by the Secretary.* In addition to solar, wind, and geothermal energy property, renewable energy source property includes property that transmits or uses another renewable energy source that the Secretary (or his delegate) specifies by regulations, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, to be of a kind that is appropriate for the purpose of heating or cooling the dwelling or providing hot water for use within the dwelling. For purposes of this section, references to the transmission or use of energy includes its collection and storage. See § 1.44C–6 for the procedures and criteria to be used in determining when another energy source will be considered for addition to the list of qualified renewable energy sources.

(f) *Solar energy property*—(1) *In general.* The term "solar energy property" means equipment and materials of a solar energy system as defined in this paragraph (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses solar energy to heat or cool the dwelling or to provide hot water for use within the dwelling. For this purpose, solar energy is energy derived directly from sunlight (solar radiation). Property which uses, as an energy source, fuel or energy which is indirectly derived from sunlight (solar radiation), such as fossil fuel or wood or heated underground water is not considered solar energy property. Materials and components of "passive solar systems" as well as "active solar systems", or a combination of both types of systems may qualify as solar energy property.

(2) *Active solar system.* An active solar system is based on the use of mechanically forced energy transfer, such as the use of fans or pumps to circulate solar generated energy, or thermal energy transfer, such as systems utilizing thermal siphon principles. Generally, this is accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to heat air or water).

(3) *Passive solar system.* A passive solar system is based on the use of conductive, convective, or radiant energy transfer. In order to qualify as a passive solar system, a solar system used for heating purposes must contain all of the following: a solar collection area, an absorber, a storage mass, a heat distribution method, and heat regulation devices. The term "solar collective area" means an expanse of transparent or translucent material, such as glass which is positioned in such a manner that the rays of the sun directly strike an absorber. The term "absorber" means a surface, such as a floor, that is exposed to the rays of the sun admitted through the solar collection area, which converts solar radiation into heat, and then transfers the heat to a storage mass. The term "storage mass" means material, such as masonry, that receives and holds heat from the absorber and later releases the heat to the interior of the dwelling. The storage mass must be of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the relative size of the dwelling. In addition, the storage mass must be located so that it is capable of distributing the stored heat directly to the habitable areas of the dwelling through a heat distribution method. The term "heat distribution method" means the release of radiant heating from the storage mass within the habitable areas of the dwelling, or convective heating from the storage mass through airflow paths provided by openings or by ducts in the storage mass, to habitable areas of the dwelling. The term "heat regulation devices" means shading or venting mechanisms (such as awnings or insulated drapes) to control the amount of solar heat admitted through the solar collection areas and nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of the dwelling.

(4) *Components with dual function.* To the extent that a passive or active solar system utilizes portions of the structure of a residence, only the materials and components whose sole purpose is to transmit or use solar radiation (and labor costs associated with installing such materials and components) are included within the term "solar energy property". Accordingly, materials and components that serve a dual purpose, *e.g.*, they have a significant structural function or are structural components of the dwelling (and labor costs associated with installing such materials and components) are not included within the term "solar energy property". For example, solar collectors and roof ponds that form part of a roof (including additional structural components to support the roof), windows (including clerestories and skylights), and greenhouses do not qualify as

solar energy property. In the case of a trombe wall (a south facing wall composed of a mass wall and exterior glazing), the mass wall (and labor costs associated with installing the mass wall) will not qualify. However, the exterior (non-window) glazing will qualify. Any shading, venting and heat distribution mechanisms or storage systems that do not have a dual function will also qualify.

(g) *Wind energy property.* The term "wind energy property" includes equipment (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses wind energy to produce energy in a useful form for personal residential purposes. Examples of equipment using wind energy to produce energy in a useful form are windmills, wind-driven generators, power conditioning and storage devices that use wind to generate electricity or mechanical forms of energy. Devices that use wind merely to ventilate do not qualify as wind energy property.

(h) *Geothermal energy property.* The term "geothermal energy property" includes equipment (and parts solely related to the functioning of such equipment) necessary to transmit or use energy from a geothermal deposit to heat or cool a dwelling or provide hot water for use within the dwelling. Equipment such as a pipe that serves both a geothermal function (by transmitting hot geothermal water within a dwelling) and a non-geothermal function (by transmitting hot water from a water heater within a dwelling) does not qualify as geothermal property. A geothermal deposit is a geothermal reservoir consisting of natural heat which is from an underground source and is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure), having a temperature exceeding 50 degrees Celsius as measured at the wellhead or, in the case of a natural hot spring (where no well is drilled), at the intake to the distribution system.

Par. 2. Section 1.44C–3, as set forth in paragraph 1 of the notice, is amended by revising paragraph (c) to read as follows:

§ *1.44C–3 Special rules.*

* * * * *

(c) *Expenditures financed with Federal, etc., grants.* Qualified expenditures financed with Federal, State or other grants shall be taken into account for purposes of computing the residential energy credit only if such amounts are taxable as gross income under section 61 (relating to the definition of gross income) and the regulations thereunder.

* * * * *

Par. 3. Section 1.44C–5, as set forth in paragraph (1) of the notice, is amended by revising the heading thereto, by revising so much of paragraph (a) as precedes subparagraph (1) thereof, by deleting paragraphs (b) and (c), by redesignating paragraphs (d) and (e) as paragraphs (b) and (c) respectively, and by revising paragraphs (b) and (c) as redesignated, to read as follows:

§ *1.44C–5 Certification procedures.*

(a) *Certification that an item meets the definition of an energy-conserving component or renewable energy source property.* Upon the request of a manufacturer of an item pursuant to paragraph (b) of this section which is supported by proof that the item is entitled to be certified, the Assistant Commissioner (Technical) shall certify (or shall notify the manufacturer that the request is denied) that:

* * * * *

(b) *Procedure*—(1) *In general.* A manufacturer of an item desiring to apply under paragraph (a) shall submit the application to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical), T:C:E, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Upon being advised by the National Office, orally or in writing, that an adverse decision is contemplated a manufacturer may request a conference. The conference must be held within 21 calendar days from the date of that advice. Procedures for requesting an extension of the 21-day period and notifying the manufacturer of the Service's decision on that request are the same as those applicable to conferences on ruling requests by taxpayers (see section 9.05 of Rev. Proc. 80–20).

(2) *Contents of application.* The application shall include a description of the item (including appropriate design drawings and specifications) and an explanation of the purpose and function of the item. There shall accompany the application a declaration in the following form: "Under penalties of perjury, I declare that I have examined this application, including accompanying documents and, to the best of my knowledge and belief, the facts presented in support of the application are true, correct, and complete." The statement must be signed by the person or persons making the application.

(c) *Effect of certification under paragraph (a).* Certifications granted under paragraph (a) (1), (2), or (3) will be applied retroactively to April 20, 1977. However, certifications granted under paragraph (a) (4) or (5) will be applied retroactively only to the date the applicable energy-conserving component or renewable energy source was added by Treasury decision to the list of qualifying components or sources. Certification of an item under this section means that the applicable definitional requirement of § 1.44C–2 is considered satisfied in the case of any person claiming a residential energy credit with respect to such item. However, it does not relieve manufacturers of the need to establish that their items conform to performance and quality standards (if any) provided under § 1.44C–4 and that their items can reasonably be expected to remain in operation at least 3 years, in the case of insulation and other energy-conserving components, or at least 5 years, in the case of renewable energy source property.

Par. 4. There is inserted after § 1.44C–5, as set forth in paragraph 1 of the notice, the following new section:

§ *1.44C–6 Procedure and criteria for additions to the approved list of energy-conserving components or renewable energy sources.*

[*Reserved.*]

Par. 5. Paragraph 4 of the notice is deleted.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 30, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

[26 CFR Part 1]

Paragraph 1. There are inserted immediately after § 1.44–5 the following new §§ 1.44C–1, 1.44C–2, 1.44C–3, 1.44C–4, 1.44C–5 and 1.44C–6:

§ 1.44C–1 Residential energy credit.

(a) *General rule.* Section 44C provides a residential energy credit against the tax imposed by chapter 1 of the Internal Revenue Code. The credit is an amount equal to the individual's qualified energy conservation expenditures (set out in paragraph (b)) plus the individual's qualified renewable energy source expenditures (set out in paragraph (c)) for the taxable year. However, the credit is subject to the limitations described in paragraph (d) and the special rules contained in § 1.44C–3. The credit is nonrefundable (that is, the credit may not exceed an individual's tax liability for the taxable year). However, any unused credit may be carried over to succeeding years to the extent permitted under paragraph (e). Renters as well as owners of a dwelling unit may qualify for the credit. See § 1.44C–3(h) for the rules relating to the allocation of the credit in the case of joint occupants of a dwelling unit.

(b) *Qualified energy conservation expenditures.* In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of the energy conservation expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of $2,000 of such expenditures. See § 1.44C–2(a) for the definition of energy conservation expenditures.

(c) *Qualified renewable energy source expenditures.* In the case of any dwelling unit, the qualified renewable energy source expenditures are the renewable energy source expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of—

(1) 30 percent of the expenditures up to $2,000, plus

(2) 20 percent of the expenditures over $2,000, but not more than $10,000.

See § 1.44C-2(b) for the definition of renewable energy source expenditures.

(d) *Limitations*—*(1) Minimum dollar amount.* No residential energy credit shall be allowed with respect to any return (whether joint or separate) for any taxable year if the amount of the credit otherwise allowable (determined without regard to the tax liability limitation imposed by paragraph (d)(3) of this section) is less than $10.

(2) *Prior expenditures taken into account*—(i) *In general.* For purposes of determining the credit for expenditures made during a taxable year, the taxpayer must reduce the maximum amount of allowable expenditures with respect to the dwelling until in computing qualified energy conservation expenditures (under paragraph (b)) or qualified renewable energy conservation expenditures (under paragraph (c)) by prior expenditures which were made by the taxpayer or by joint occupants (see § 1.44C-3(h)) with respect to the same dwelling unit, and which were taken into account in computing the credit for prior taxable years. The reduction of the maximum amount under paragraph (c) must first be made with respect to the first $2,000 of expenditures (to which a 30 percent rate applies) and then with respect to the next $8,000 of expenditures (to which a 20 percent rate applies). This reduction must be made if all or any part of the credit was allowed in or was carried over from a prior taxable year.

(ii) *Change of principal residence.* A taxpayer is eligible for the maximum credit for qualifying expenditures made with respect to a new principal residence notwithstanding the allowance of a credit for qualifying expenditures made with respect to the taxpayer's previous principal residence. Furthermore, except in certain cases involving joint occupancy (see § 1.44C-3(h)), a taxpayer is eligible for the maximum credit notwithstanding the allowance of a credit to a prior owner of the taxpayer's new principal residence.

(iii) *Example.* The rules with respect to the reduction for prior expenditures are illustrated by the following example:

Example. In 1978, A has $1,000 of energy conservation expenditures and $5,000 of renewable energy source expenditures in connection with A's principal residence. A's residential energy credit for 1978 is $1,350, made up of $150 of qualified energy conservation expenditures (15 percent of $1,000) plus $1,200 of qualified renewable energy source expenditures (30 percent of the first $2,000 plus 20 percent of the next $3,000). In 1979 A has an additional $2,000 of energy conservation expenditures and $3,000 of renewable energy source expenditures in connection with the same principal residence. A's residential energy credit for 1979 is $750, made up of $150 of qualified energy conservation expenditures (15 percent of the new maximum $1,000, which was reduced from $2,000 by $1,000 of energy conservation expenditures taken into account in 1978) plus $600 of qualified renewable energy source expenditures (20 percent of $3,000, which reflects the reduction of the maximum allowable expenditures by the $5,000 of renewable energy source expenditures taken into account in 1978). The maximum residential energy credit allowable to A with respect to the same principal residence in subsequent years in which the credit is allowable is $400 (20 percent of the new maximum of $2,000 for renewable energy source expenditures and none for energy conservation expenditures).

(3) *Tax liability limitation.* The credit allowed by this section shall not exceed the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year, reduced by the sum of the credits allowable under—

(i) Section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds),

(ii) Section 33 (relating to the taxes of foreign countries and possessions of the United States),

(iii) Section 37 (relating to retirement income),

(iv) Section 38 (relating to investment in certain depreciable property),

(v) Section 40 (relating to expenses of work incentive programs),

(vi) Section 41 (relating to contributions to candidates for public office),

(vii) Section 42 (relating to the general tax credit),

(viii) Section 44 (relating to purchase of new personal residence),

(ix) Section 44A (relating to expenses for household and dependent care services), and

(x) Section 44B (relating to employment of certain new employees).

(e) *Carryover of unused credit.* If the credit allowable by this section exceeds the tax liability limitation imposed by section 44C(b)(5) and paragraph (d)(3) of this section, the excess credit shall be carried over to the succeeding taxable year and added to the credit allowable under this section for the succeeding taxable year. A carryover that is not used in the succeeding year because it exceeds the tax liability limitation shall be carried over to later taxable years until used, except that no excess credit may be carried over to any taxable year beginning after December 31, 1987.

§ 1.44C-2 Definitions.

For purposes of section 44C and regulations thereunder—

(a) *Energy conservation expenditures*—(1) *In general.* The term "energy conservation expenditure" means an expenditure made on or after April 20, 1977, and before January 1, 1986, by a taxpayer for insulation or any other energy-conserving component, or for labor costs allocable to the original installation of such insulation or other component, if all of the following conditions are satisfied:

(i) The insulation (as defined in paragraph (c)) or other energy-conserving component (as defined in paragraph (d)) is installed in or on a dwelling unit that is used as the taxpayer's principal residence when the installation is completed. See § 1.44C-3(e) for the definition of principal residence.

(ii) The dwelling unit is located in the United States (as defined in section 7701(a)(9)).

(iii) The construction of the dwelling unit was substantially completed before April 20, 1977. See § 1.44C-3(f) for the definition of the terms "construction" and "substantially completed". In the case of expenditures made with respect to the enlargement of a dwelling unit, the construction of the enlargement must have been substantially completed before April 20, 1977.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). In 1978. A spent $500 for the purchase and installation of new storm windows to replace old storm windows, $100 to reinstall old storm windows, and $150 to transfer a A's house insulation which had been installed in A's garage. Only the $500 spent for new storm windows qualifies as an energy conservation expenditure. The $100 spent to reinstall storm windows and the $150 spent to transfer insulation to A's house do not qualify since the only installation costs that qualify are those for the original installation of energy conservation property the original use of which commences with the taxpayer.

Example (2). In June 1977, B purchased for B's principal residence a new house that was substantially completed before April 20, 1977. Pursuant to B's request the builder installed storm windows on May 1, 1977, the cost of this option being included in the purchase price of the house. The portion of the purchase price of the residence allocable to the storm windows constitutes an energy conservation expenditure. However, no other part of the purchase price may be allocated to energy conservation property (insulation and other energy conserving components) installed before April 20, 1977. To qualify as an energy conservation expenditure, an expenditure must be made (*i.e.*, installation of the energy conservation property must be completed) on or after April 20, 1977.

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(b) *Renewable energy source expenditures.* The term "renewable energy source expenditures" means an expenditure made on or after April 20, 1977, and before January 1, 1986, by a taxpayer for renewable energy source property (as defined in paragraph (e)), or for labor costs properly allocable to the on-site preparation, assembly, or original installation such property, if both of the following conditions are satisfied:

(1) The renewable energy source property is installed in connection with a dwelling unit that is used as the taxpayer's principal residence when the installation is completed. See § 1.44C–3(e).

(2) The dwelling unit is located in the United States (as defined in section 7701(a)(9)).

Eligibility as a renewable energy source expenditure does not depend on the date of construction of the dwelling unit. Thus, such an expenditure may be made in connection with either a new or an existing dwelling unit. Renewable energy source expenditures need only be made in connection with a dwelling, rather than in or on a dwelling unit. For example, a solar collector that otherwise constitutes renewable energy source property is not ineligible merely because it is installed separately from the dwelling unit. The term "renewable energy source expenditure" does not include any expenditure allocable to a swimming pool even when used as an energy storage medium or to any other energy storage medium whose primary function is other than the storage of energy. It also does not include the cost of maintenance of an installed system or the cost of leasing renewable energy source property.

(c) *Insulation.* The term "insulation" means any item that satisfies all of the following conditions:

(1) The item is specifically and primarily designed to reduce, when installed in or on a dwelling or on a water heater, the heat loss or gain of such dwelling or water heater. To qualify as insulation the item must be installed between a conditioned area and a nonconditioned area (except when installed on a water heater, water pipe, or heating/cooling duct). Thus for example, awnings do not qualify as insulation. For purposes of this section the term "conditioned area" means an area that has been heated or cooled by conventional or renewable energy source means. Insulation includes materials made of fiberglass, rock wool, cellulose, urea based foam, urethane, vermiculite, perlite, polystyrene, and extruded polystyrene foam.

(2) The original use of the item begins with the taxpayer.

(3) The item can reasonably be expected to remain in operation at least 3 years.

(4) The item meets the applicable performance and quality standards prescribed in § 1.44C–4 (if any) that are in effect at the time the taxpayer acquires the item. The term "insulation" shall not include items whose primary purpose is not insulation (e.g., whose function is primarily structural, decorative, or safety-related). For example, carpeting, drapes (including linings), shades, wood paneling, fireplace screens (including those made of glass), new or replacement walls (except for qualifying insulation therein) and exterior siding do not qualify although they may have been designed in part to have an insulating effect.

(d) *Other energy-conserving components.* The term "other energy-conserving component" means any item (other than insulation) that satisfies all of the following conditions:

(1) The original use of the item begins with the taxpayer.

(2) The item can reasonably be expected to remain in operation for at least 3 years.

(3) The item meets the applicable performance and quality standards prescribed in § 1.44C–4 (if any) that are in effect at the time of the taxpayer's acquisition of the item.

(4) The item is one of the following items:

(i) *A furnace replacement burner.* The term "furnace replacement burner" means a device (for oil and gas-fired furnaces or boilers) that is designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency. The burner must replace an existing burner. It does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

(ii) *A device for modifying flue openings.* The term "device for modifying flue openings" means an automatically operated damper that—

(A) Is designed for installation in the flue, between the barometric damper or draft hood and the chimney, of a furnace; and

(B) Conserves energy by substantially reducing the flow of conditioned air through the chimney when the furnace is not in operation. Conditioned air is air that has been heated or cooled by conventional or renewable energy source means.

(iii) *A furnace ignition system.* The term "furnace ignition system" means an electrical or mechanical device, designed for installation in a gas-fired furnace or boiler that automatically ignites the gas burner. In order to qualify, the device must replace a gas pilot light. Furthermore, it does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

(iv) *A storm or thermal window or door.* The terms "storm or thermal window" and "storm or thermal door" include the following:

(A)(*1*) A window placed outside or inside an ordinary or prime window, creating an insulating air space.

(*2*) A window with enhanced resistance to heat flow through the glazed area by multi-glazing.

(*3*) A window that consists of glass or other glazing materials that have exceptional heat-absorbing or heat-reflecting properties. For purposes of this subdivision (iv), the term "glazing material" does not include films and coatings applied on the surface of a window.

(B)(*1*) A second door, installed outside or inside a prime exterior door, creating an insulating air space.

(*2*) A door with enhanced resistance to heat flow through the glazed area by multi-glazing.

(*3*) A prime exterior door that has an R-value (a measurement of the ability of insulation to resist the flow of heat) of at least 2 throughout.

For purposes of this subdivision, "multi-glazing" is an arrangement in which two or more sheets of glazing material are affixed in a window or door frame to create one or more insulating air spaces. Multi-glazing can be achieved by installing a preassembled, sealed insulating glass unit or by affixing one or more additional sheets of glazing onto an existing window (or sash) or door. For purposes of this subdivision, a storm or thermal window or door does not include any film applied on or over the surface of a window or door.

(v) *Automatic energy-saving setback thermostat.* The term "automatic energy-saving setback thermostat" means a device that is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses—

(A) A temperature control device for interior spaces incorporating more than one temperature control level, and

(B) A clock or other automatic mechanism for switching from one control level to another.

(vi) *Caulking and weatherstripping.* The term "caulking" means pliable materials used to fill small gaps at fixed joints on buildings to reduce the passage of air and moisture. Caulking includes, but is not limited to, materials commonly known as "sealants", "putty", and "glazing compounds". The term

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"weatherstripping" means narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

(vii) *Energy usage display meter.* The term "energy usage display meter" means a device the sole purpose of which is to display the cost (in money) of energy usage in the dwelling. It may show cost information for electricity usage, gas usage, oil usage, or any combination thereof. The device may measure energy usage of the whole dwelling, or individual appliances or systems on an instantaneous or cumulative basis.

(viii) *Components specified by the Secretary.* The Secretary (or his delegate) may, in his discretion, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, specify by regulation other energy-conserving components for addition to the list of qualified items. See § 1.44C–6 for the procedures and criteria to be used in determining whether an item will be considered for addition to the list of qualified items by the Secretary.

The term "other energy-conserving component" is limited to items in a category specifically listed in section 44C(c)(4)(A) (i) through (vii) or added by the Secretary.

(e) *Renewable energy source property*—(1) *In general.* The term "renewable energy source property" includes any solar energy property, wind energy property, geothermal energy property, or property referred to in subparagraph (2), which meets the following conditions:

(i) The original use of the property begins with the taxpayer.

(ii) The property can reasonably be expected to remain in operation for at least 5 years.

(iii) The property meets the applicable performance and quality standards prescribed in § 1.44C–4 (if any) that are in effect at the time of the taxpayer's acquisition of the property.

Renewable energy source property does not include heating and cooling systems which serve to supplement renewable energy source equipment in heating or cooling a dwelling unit, and which employ a form of energy (such as electricity, oil or gas) other than solar, wind, or geothermal energy (or other forms of renewable energy provided in subparagraph (2)). Thus, heat pumps or oil or gas furnaces, used in connection with renewable energy source property, are not eligible for the credit. In order to be eligible for the credit for renewable energy source property, the property (as well as labor costs properly allocable to onsite preparation, assembly or installation of equipment) must be clearly identifiable. See § 1.44C–3(l) for recordkeeping rules.

(2) *Renewable energy source specified by the Secretary.* In addition to solar, wind, and geothermal energy property, renewable energy source property includes property that transmits or uses another renewable energy source that the Secretary (or his delegate) specifies by regulations, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, to be of a kind that is appropriate for the purpose of heating or cooling the dwelling or providing hot water for use within the dwelling. For purposes of this section, references to the transmission or use of energy include its collection and storage. See § 1.44C–6 for the procedures and criteria to be used in determining when another energy source will be considered for addition to the list of qualified renewable energy sources.

(f) *Solar energy property*—(1) *In general.* The term "solar energy property" means equipment and materials of a solar energy system as defined in this paragraph (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses solar energy to heat or cool the dwelling or to provide hot water for use within the dwelling. For this purpose, solar energy is energy derived directly from sunlight (solar radiation). Property which uses, as an energy source, fuel or energy which is indirectly derived from sunlight (solar radiation), such as fossil fuel or wood or heated underground water is not considered solar energy property. Materials and components of "passive solar systems" as well as "active solar systems", or a combination of both types of systems may qualify as solar energy property.

(2) *Active solar system.* An active solar system is based on the use of mechanically forced energy transfer, such as the use of fans or pumps to circulate solar generated energy, or thermal energy transfer, such as systems utilizing thermal siphon principles. Generally, this is accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to heat air or water).

(3) *Passive solar system.* A passive solar system is based on the use of conductive, convective, or radiant energy transfer. In order to qualify as a passive solar system, a solar system used for heating purposes must contain all of the following: a solar collection area, an absorber, a storage mass, a heat distribution method, and heat regulation devices. The term "solar collection area" means an expanse of transparent or translucent material, such as glass which is positioned in such a manner that the rays of the sun directly strike an absorber. The term "absorber" means a surface, such as a floor, that is exposed to the rays of the sun admitted through the solar collection area, which converts solar radiation into heat, and then transfers the heat to a storage mass. The term "storage mass" means material, such as masonry, that receives and holds heat from the absorber and later releases the heat to the interior of the dwelling. The storage mass must be of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the relative size of the dwelling. In addition, the storage mass must be located so that it is capable of distributing the stored heat directly to the habitable areas of the dwelling through a heat distribution method. The term "heat distribution method" means the release of radiant heating from the storage mass within the habitable areas of the dwelling, or convective heating from the storage mass through airflow paths provided by openings or by ducts in the storage mass, to habitable areas of the dwelling. The term "heat regulations devices" means shading or venting mechanisms (such as awnings or insulated drapes) to control the amount of solar heat admitted through the solar collection areas and nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of the dwelling.

(4) *Components with dual function.* To the extent that a passive or active solar system utilizes portions of the structure of a residence, only the materials and components whose sole purpose is to transmit or use solar radiation (and labor costs associated with installing such materials and components) are included within the term "solar energy property". Accordingly, materials and components that serve a dual purpose, *e.g.,* they have a significant structural function or are structural components of the dwelling (and labor costs associated with installing such materials and components) are not included within the term "solar energy property". For example, solar collectors and roof ponds

that form part of a roof (including additional structural components to support the roof), windows (including clerestories and skylights), and greenhouses do not qualify as solar energy property. In the case of a trombe wall (a south facing wall composed of a mass wall and exterior glazing), the mass wall (and labor costs associated with installing the mass wall) will not qualify. However, the exterior (non-window) glazing will qualify. Any shading, venting and heat distribution mechanisms or storage systems that do not have a dual function will also qualify.

(g) *Wind energy property.* The term "wind energy property" includes equipment (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses wind energy to produce energy in a useful form for personal residential purposes. Examples of equipment using wind energy to produce energy in a useful form are windmills, wind-driven generators, power conditioning and storage devices that use wind to generate electricity or mechanical forms of energy. Devices that use wind merely to ventilate do not qualify as wind energy property.

(h) *Geothermal energy property.* The term "geothermal energy property" includes equipment (and parts solely related to the functioning of such equipment) necessary to transmit or use energy from a geothermal deposit to heat or cool a dwelling or provide hot water for use within the dwelling. Equipment such as a pipe that serves both a geothermal function (by transmitting hot geothermal water within a dwelling) and a non-geothermal function (by transmitting hot water from a water heater within a dwelling) does not qualify as geothermal property. A geothermal deposit is a geothermal reservoir consisting of natural heat which is from an underground source and is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure), having a temperature exceeding 50 degrees Celsius as measured at the wellhead or, in the case of a natural hot spring (where no well is drilled), at the intake to the distribution system.

§ 1.44C–3 Special rules.

(a) *When expenditures are treated as made*—(1) *Timeliness of an expenditure for the energy credit.* In general, for the purpose of determining whether an expenditure qualifies as being timely for the residential energy credit under section 44C (*i.e.*, is made after April 19, 1977, and before January 1, 1986), the expenditure is treated as made when original installation of the item is completed. Thus, solely for that purpose, the time of payment or accrual is irrelevant.

(2) *Special rule for renewable energy source expenditures in the case of construction or reconstruction of a dwelling.* In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling that becomes the taxpayer's new principal residence, the expenditures are to be treated as made (for the purpose of determining the timeliness of an expenditure for the residential energy credit) when the taxpayer commences use of the dwelling as his or her principal residence following its construction or reconstruction. The term "reconstruction" means the replacement of most of a dwelling's major structural components such as floors, walls, and ceiling. When a taxpayer reoccupies a reconstructed dwelling that was the taxpayer's principal residence prior to reconstruction, a renewable energy source expenditure is considered made when the original installation of the renewable energy source property is completed.

(3) *Taxable year in which credit is allowable.* For the purpose of determining the taxable year in which the credit for an expenditure is allowable (once it has qualified as timely under subparagraph (1) or (2)), an expenditure is treated as made on the later of (i) the date on which it qualifies as timely; or (ii) the date on which it is paid or incurred by the taxpayer.

(b) *Expenditures in 1977.* No credit under section 44C shall be allowed for any taxable year beginning before 1978. However, the amount of any credit under section 44C for the taxpayer's first taxable year beginning after December 31, 1977, shall take into account qualified energy conservation expenditures and qualified renewable energy source expenditures made during the period beginning April 20, 1977, and ending on the last day of such first taxable year.

(c) *Expenditures financed with Federal, etc., grants.* Qualified expenditures financed with Federal, State or other grants shall be taken into account for purposes of computing the residential energy credit only if such amounts are taxable as gross income under section 61 (relating to the definition of gross income) and the regulations thereunder.

(d) *Expenditures qualifying both as energy conservation expenditures and renewable source expenditures.* In the case of an expenditure which meets both the definition of an energy conservation expenditure (as defined in § 1.44C–2(a)) and a renewable energy source expenditure (as defined in § 1.44C–2(b)), the taxpayer may claim either a credit under § 1.44C–1(b) (relating to qualified energy conservation expenditures) or § 1.44C–1(c) (relating to qualified renewable energy source expenditures) but may not claim both credits with respect to the same expenditure.

(e) *Principal residence.* For purposes of section 44C, the determination of whether a dwelling unit is the taxpayer's principal residence shall be made under principles similar to those applicable to section 1034 and the regulations thereunder (relating to sale or exchange of a principal residence) except that ownership of the dwelling unit is not required. In making this determination, the period for which a dwelling is treated as a taxpayer's principal residence includes the 30-day period ending on the first day on which the dwelling unit would (but for this sentence) be treated as being used as the taxpayer's principal residence under principles similar to those applicable to section 1034. Thus, installation that are completed within that 30-day period may be eligible for the credit although, in the absence of the 30-day rule, the date of habitation of the dwelling unit by the taxpayer would mark the beginning of the taxpayer's use of the unit as a principal residence.

(f) *Construction substantially completed.* Construction of a dwelling unit is substantially completed when construction has progressed to the point where the unit could be put to use as a personal residence, even though comparatively minor items remain to be finished or performed in order to conform to the plans or specifications of the completed building. For this purpose, construction includes reconstruction as defined in paragraph (a)(2). This rule may be illustrated by the following example:

Example. On January 1, 1979, A purchases a dwelling that is to become A's prinicpal residence. The dwelling unit was originally constructed in 1950. A spends $50,000 to reconstruct the dwelling by replacing most of the dwelling's major structural components such as floors, walls, and ceilings. Included in the cost is $3,000 attributable to energy-conserving components. Reconstruction is substantially completed on April 1, 1979, and A moves into the reconstructed residence on May 1, 1979. Since construction includes reconstruction, A's reconstructed residence is not considered substantially completed before April 20, 1977. Thus, amounts spent with respect to A's reconstructed residence for energy-conserving components do not qualify as energy conservation expenditures.

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(g) *Residential use of property.* To be eligible for the residential energy credit, expenditures must be made for personal residential purposes. If at least 80 percent of the use of a component or item of property is for personal residential purposes, the entire amount of the energy conservation expenditure or the renewable energy source expenditure is taken into account in computing the credit under this section. If less than 80 percent of the use of a component or item of property is for personal residential purposes, the amount of an expenditure taken into account is the amount that bears the same ratio to the amount of the expenditure as the amount of personal residential use of the component or item bears to its total use. For purposes of this paragraph, use of a component or an item of property with respect to a swimming pool is not a use for a personal residential purpose. The rules with respect to residential use of property are illustrated by the following examples:

Example (1). In 1978 A makes an expenditure of $3,000 for the installation of storm windows of which 50 percent is on the portions of A's dwelling used as the principal family residence and 50 percent is on the portion of the dwelling used as an office. A has made no other energy conservation expenditures for the residence. The allowable energy conservation expenditure is $1,500 (50 percent of $3,000), the portion attributable to residential use. Therefore, the residential energy credit is $225 (the qualified conservation expenditure of 15 percent of $1,500).

Example (2). During 1979, B makes $10,000 of renewable energy source expenditures on solar energy property for B's principal residence. Approximately 60 percent of the use of the solar energy property will be for heating B's swimming pool; the other 40 percent will be for heating the dwelling unit. B had not previously made renewable energy source expenditures with respect to the residence. Since use for a swimming pool is not considered a residential use, less than 80 percent of the use of B's solar energy property is considered used for personal residential purposes. Therefore, only $4,000 (40 percent of $10,000), the proportionate part of B's expenditures representing personal residential use, is treated as a renewable energy source expenditure. B is allowed a $1,000 residential energy credit (30 percent of $2,000 plus 20 percent of $2,000) for 1979.

(h) *Joint occupancy*—(1) *In general.* If two or more individuals jointly occupied and used a dwelling unit as their principal residence during any portion of a calendar year—

(i) The amount of the credit allowable under section 44C by reason of energy conservation expenditures or by reason of renewable energy source expenditures shall be determined by treating all of the joint occupants as one taxpayer whose taxable year is such calendar year; and

(ii) The credit under section 44C allowable to each joint occupant for the taxable year with which or in which such calendar year ends shall be an amount which bears the same ratio to the amount determined under paragraph (h)(1)(i) of this section as the amount of energy conservation expenditures or renewable energy source expenditures made by that occupant bears to the total amount of each type of such expenditures made by all joint occupants during such calendar year.

The provisions of this subparagraph may be illustrated by the following example:

Example. A, a calendar year taxpayer, and B, a June 1 fiscal year taxpayer, make energy conservation exenditures of $2,000 (A making expenditures of $500 and B making expenditures of $1,500) on their principal and jointly occupied residence in 1978. A and B have not previously make energy conservation expenditures with respect to this residence. Of the $300 credit (15 percent of $2,000), $75 will be allocated to A ($500/$2,000 × $300) and $225 to B ($1,500/$2,000 × 300). A will claim the allocable share of the credit on A's 1978 tax return and B will claim the allocable share of the credit on B's tax return for the fiscal year ending May 31, 1979.

(2) *Minimum credit.* The fact that one joint occupant may be unable to claim all or part of the credit under section 44C because of insufficient tax liability or because that occupant's allowable credit does not exceed the $10 minimum credit (as set forth in paragraph (d)(1) of § 1.44C–1) shall have no effect upon the computation of the amount of the allowable credits for the other joint occupants.

(3) *Prior expenditures.* Because joint occupants are treated as one taxpayer for purposes of determining the residential energy credit, the maximum amount of energy conservation expenditures or renewable energy source expenditures must be reduced by the total amount of such expenditures made in connection with the dwelling unit during prior calendar years in which any one of the residents of the unit during the current calendar year was a resident (whether made by the current resident or by an individual previously occupying the dwelling with the current resident). However, the preceding sentence shall not apply to prior expenditures no part of which was taken into account in computing the credits under section 44C for such years. Prior years' expenditures are not to be allocated among joint occupants to take into account the specific expenditures of each of the occupants in prior years.

(4) The rules of this paragraph may be illustrated by the following examples:

Example (1). Assume A and B have together made prior years' energy conservation expenditures of $1,600 (A having made $1,200 of expenditures and B having made $400) on their principal and jointly occupied residence. In the current year, each makes energy conservation expenditures of $300 with respect to the same residence. The maximum qualified expenditure with respect to the residence is reduced by the $1,600 of prior expenditures made by A and B. Therefore, only $400 of the $600 current expenditures are eligible as energy conservation expenditures. The resulting residential energy credit is $60 (15 percent of $400) of which $30 apiece will be allocated to A and B ($300/$600 × $60). The fact that A had previously computed the credit in prior years with respect to $1,200 of the total $1,600 of expenditures is irrelevant to the apportionment of the credit in the current year.

Example (2). Spouses C and D make $10,000 of renewable energy source expenditures with respect to their principal residence, half of which is paid by each spouse. No prior renewable energy source expenditures have been taken into account with respect to that residence by either C or D. C and D file separate returns for the calendar year. Under the joint occupancy rule, the maximum allowable renewable energy source credit with respect to C and D's principal residence is $2,200 (30 percent of the first $2,000, and 20 percent of the next $8,000 of expenditures). Half of this amount or $1,100, will be allowed to each spouse. If either spouse makes renewable energy source expenditures with respect to the same principal residence in future years, none of those expenditures would be qualified renewable energy source expenditures for which a credit can be claimed. That is, not more than $2,200 may be taken in the aggregate by C and D as a renewable energy source credit with respect to their principal residence.

Example (3). In 1978, E and F make energy conservation expenditures of $1,500 on their principal and jointly occupied residence. In 1979, E moves away and G becomes the other joint occupant of the residence. F and G make energy conservation expenditures of $1,000 in 1979. In 1980 F moves away and H moves in with G. G and H make energy conservation expenditures of $500. The maximum qualified expenditure made by F and G with respect to the residence is reduced by the $1,500 of prior expenditures made in 1978 by E and F. The maximum qualified expenditures made by G and H with respect to the residence is reduced only by the expenditures in prior years in connection with the residence during which either G or H was a joint occupant. Accordingly, the maximum qualified expenditures made by G and H with respect to the residence is reduced only by the $1,000 of prior expenditures made in 1979 by F and G.

(1) *Condominiums and cooperative housing corporations.* An individual

who is a tenant stockholder in a cooperative housing corporation (as defined in section 216) or who is a member of a condominium management association with respect to a condominium which he or she owns shall be treated as having made a proportionate share of the energy conservation expenditures or renewable energy source expenditures of such corporation or association. The cooperative stockholder's allocable share of the expenditures is to be the same as his or her proportionate share of the cooperative's total outstanding stock (including any stock held by the corporation). However, in the case where only certain cooperative stockholders are assessed for the expenditures made by the cooperative housing corporation, only those cooperative stockholders that are assessed shall be treated as having made a share of the expenditures of such corporation. In such case, the cooperative stockholder's share of the expenditures is the amount that the stockholder is assessed. The allocable share of a condominium management association member's energy conservation of renewable energy source expenditures is the amount that the member is assessed (or would be assessed in the case where expenditures are from general funds) by the association as a result of such expenditures. The residential energy credit for a qualified expenditure is allowable for the year in which the association or corporation has completed original installation of the item (or has paid or incurred the expenditure, if later). For purposes of this paragraph, the term "condominium management association" means an organization meeting the requirements of section 528(c)(1) of the Code (other than subparagraph (E) of that section), with respect to a condominium project substantially all the units of which are used as residences.

(j) *Joint ownership of renewable energy source property*—(1) *In general.* Renewable energy source property includes property which is jointly owned by the taxpayer and another person (or persons). For example, the fact that a windmill, solar collector, or geothermal well and distribution system is owned by two or more individuals does not by itself preclude qualification as renewable energy property.

(2) *Example.* The application of this subparagraph may be illustrated by the following example:

Example. A, B, and C each has a separate principal residence. They agree to finance jointly the construction of a solar collector, each providing one-third of the costs and taking one-third of the output of the collector. Each will separately pay for the costs of connecting the solar collector with his or her principal residence. Provided the solar collector and connection equipment otherwise qualify as renewable energy source property, A, B, and C will each be considered to have made renewable energy source expenditures equal to one-third of the cost of the collector plus his or her separate connection costs. Such expenditures will be subject to the limitations and other rules separately applicable to A, B, and C with respect to each principal residence, such as those with respect to the $10 minimum (§ 1.44C–1(d)(1)), prior expenditures (§ 1.44C–1(d)(2)), residential use (paragraph (g) of this section), and joint occupancy (paragraph (h) of this section).

(k) *Basic adjustments.* If a credit is allowed under section 44C for any expenditure with respect to any property, the increase in the basis of that property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit allowed.

(l) *Recordkeeping*—(1) *In general.* No residential energy credit is allowable unless the taxpayer maintains the records described in paragraph (l)(2) of this section. The records shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

(2) *Records.* The taxpayer must maintain records that clearly identify the energy-conserving components and renewable energy source property with respect to which a residential energy credit is claimed, and substantiate their cost to the taxpayer, any labor costs properly allocable to them paid for by the taxpayer, and the method used for allocating such labor costs.

§ 1.44C–4 Performance and quality standards. [Reserved.]

§ 1.44C–5 Certification procedures.

(a) *Certification that an item meets the definition of an energy-conserving component or renewable energy source property.* Upon the request of a manufacturer of an item pursuant to paragraph (b) of this section which is supported by proof that the item is entitled to be certified, the Assistant Commissioner (Technical) shall certify (or shall notify the manufacturer that the request is denied) that:

(1) The item meets the definition of insulation (see § 1.44C–2(c)(1)).

(2) The item meets the definition of an other energy-conserving component specified in section 44C(c)(4) see (§ 1.44C–2(d)(4)).

(3) The item meets the definition of solar energy property (see § 1.44C–2(f)), wind energy property (see § 1.44C–2(g)), or geothermal energy property (see § 1.44C–2(h)).

(4) The item meets the definition of a category of energy-conserving component that has been added to the list of approved items pursuant to paragraph (d)(4)(viii) of § 1.44C–2.

(5) The item meets the definition of renewable energy source property that transmits or uses a renewable energy source that has been added to the list of approved renewable energy sources pursuant to paragraph (e)(2) of § 1.44C–2.

(b) *Procedure*—(1) *In general.* A manufacturer of an item desiring to apply under paragraph (a) shall submit the application to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical), TCE, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Upon being advised by the National Office, orally or in writing, that an adverse decision is contemplated a manufacturer may request a conference. The conference must be held within 21 calendar days from the date of that advice. Procedures for requesting an extension of the 21-day period and notifying the manufacturer of the Service's decision on that request are the same as those applicable to conferences on ruling requests by taxpayers (see section 9.05 of Rev. Proc. 80–20).

(2) *Contents of application.* The application shall include a description of the item (including appropriate design drawings and specifications) and an explanation of the purpose and function of the item. There shall accompany the application a declaration in the following form: "Under penalties of perjury, I declare that I have examined this application, including accompanying documents and, to the best of my knowledge and belief, the facts presented in support of the application are true, correct, and complete." The statement must be signed by the person or persons making the application.

(c) *Effect of certification under paragraph (a).* Certifications granted under paragraph (a)(1), (2), or (3) will be applied retroactively to April 20, 1977. However, certifications granted under paragraph (a) (4) or (5) will be applied retroactively only to the date the applicable energy-conserving component or renewable energy source was added by Treasury decision to the list of qualifying components or sources. Certification of an item under this section means that the applicable definitional requirement of § 1.44C–2 is considered satisfied in the case of any person claiming a residential energy

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credit with respect to such item. However, it does not relieve manufacturers of the need to establish that their items conform to performance and quality standards (if any) provided under § 1.44C–4 and that their items can reasonably be expected to remain in operation at least 3 years, in the case of insulation and other energy-conserving components, or at least 5 years, in the case of renewable energy source property.

§ 1.44C-6 Procedure and criteria for additions to the approved list of energy-conserving components or renewable energy sources.

[Reserved]

§ 1.1016 [Deleted]

Par. 2. Section 1.1016 is deleted.

Par. 3. Section 1.1016–5 is amended by adding a new paragraph (t) to read as follows:

§ 1.1016-5 Miscellaneous adjustments to basis.

* * * * *

(t) *Section 44C credit.* In the case of property with respect to which a credit has been allowed under section 44C (relating to residential energy credit), basis shall be adjusted as provided in paragraph (k) of § 1.44C–3.

[FR Doc. 80-26561 Filed 8-28-80; 4:04 pm]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Reregulation of Radio and TV Broadcasting; Erratum

AGENCY: The Federal Communications Commission.

ACTION: Final rule, correction to order.

SUMMARY: Correction to Order FCC 80–165 published in the **Federal Register** on April 17, 1980, at 45 FR 26059.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, Broadcast Bureau, (202) 653–7275.

SUPPLEMENTARY INFORMATION: In the matter of reregulation of radio and TV broadcasting; erratum.

Released: August 18, 1980.

In the above captioned *Order*, released April 16, 1980, and published in the **Federal Register** on April 17, 1980, at 45 FR 26059, subparagraph (h)(3) of § 73.93, Operator requirements (Item 5 of the Appendix) is stated incorrectly. It is corrected to read:

§ 73.93 [Corrected]

(h) * * *

(3) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated or, if designated, for any reason is unable to assume the duties of the chief operator, the licensee must designate another first-class radiotelephone operator as acting chief operator on a temporary basis.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-26551 Filed 8-28-80; 8:45 am]

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47 CFR Part 83

[PR Docket No. 79-86]

Simplification of the FCC's Rules for Recreational Boaters; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction (Errata).

SUMMARY: This action corrects the frequency listed in the final rule published at 45 FR 49934 for the Weather channel WX–3 which was incorrect.

EFFECTIVE DATE: August 21, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION: In the matter of simplification of the FCC's rules for recreational boaters. PR Docket No. 79–86; Errata

Released: August 22, 1980.

In the Report and Order in the above-captioned matter, FCC 80–398, released July 28, 1980 at 45 FR 49934 the Weather channel WX–3 shown in Section 83.1012 was incorrectly indicated as 162.445 MHz. The Report and Order is corrected to show channel WX–3 properly as 162.475 MHz.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-26552 Filed 8-28-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

Fishermen's Protective Act Procedures; Provision for Fees

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Final regulation.

SUMMARY: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971–1980) authorizes the fees paid by vessel owners entering into agreements under Section 7. These fees are used to carry out a vessel seizure indemnification program under Section 7. This amendment establishes fees for the agreement year October 1, 1980 through September 30, 1981.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone Number: (202) 634–7496.

SUPPLEMENTARY INFORMATION: Section 7 indemnifies against certain losses resulting from a foreign country's seizure of a United States vessel based on territorial oceanic rights which are either not recognized by the United States or (a) are unrelated to fishery conservation and management, (b) fail to consider traditional fishing practices of U.S. vessels, (c) are more onerous than those applied by the United States to foreign fishing vessels, or (d) fail to allow U.S. fishing vessels equitable access to foreign fishery zones.

Section 7 regulations have annually established fees based on prior and anticipated experience. The following amendment of the Section 7 regulations will establish fees for the agreement year beginning October 1, 1980.

All holders of agreements for the present agreement year ending 1980, who wish them extended through September 30, 1981, by amendment (rather than entering into an entirely new agreement) must submit their fees required by the following amendment. Failure to do so will result in agreement termination October 1, 1980.

This amendment is exempt from the rulemaking requirements of the Administrative Procedures Act (5 U.S.C. 553) and makes no substantive change in the program's conduct.

Regulatory Analysis

The Assistant Administrator for Fisheries initially determined that this amendment is neither significant under Executive Order 12044 nor requires an environmental impact statement under the National Environmental Policy Act.

Dated: August 25, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Section 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is revised to read as follows:

§ 258.5 Fees.

(a) Fees must pay administrative costs and a minimum of 25 percent of estimated claim payments. Fees are based on prior and anticipated experience. Fees may be adjusted by amending this part. Fund experience requires the following higher fees:

(b) Fees to be paid by an applicant for guarantee agreements for the agreement year October 1, 1980, through September 30, 1981 shall be $4.00 per gross vessel ton as listed on the vessel's document. Fractions of a ton shall not be included.

(c) No fees will be returned after a guarantee agreement is executed by the Secretary.

(d) A guarantee agreement may, with the Secretary's consent, be assigned to a new owner of a vessel if the vessel is transferred during the period in which the agreement is in force.

[FR Doc. 80–26605 Filed 8–28–80; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

Commercial and Recreational Salmon Fisheries Off the Coasts of Oregon, Washington, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final rulemaking.

SUMMARY: The Acting Director, Northwest Region (RD), National Marine Fisheries Service, (NMFS) issues a final regulation (Field Order) applicable to commercial and recreational fishing for salmon off the coasts of Washington and Oregon, in accordance with 50 CFR 661.12(b), which implements the fishery management plan for the Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California, as amended (FMP). This Field Order closes the fishery conservation zone (FCZ) from Leadbetter Point, Washington, to the U.S.-Canada border to commercial and recreational salmon fishing at midnight August 25. It also closes the FCZ southward from Cape Falcon, Oregon, to the Oregon-California border (salmon management sub-areas B and C) to recreational salmon fishing for coho salmon at midnight on September 1, but allows recreational fishing for chinook salmon only to continue in that area from, September 2 through October 31. This Field Order remains in effect until September 15, 1980, unless superceded before that time.

EFFECTIVE DATE: 2400 hours PDT August 25, 1980, unitl 2400 hours PDT September 14, 1980.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, Telephone (206) 442–7575.

SUPPLEMENTARY INFORMATION: The final regulations implementing the FMP at 50 CFR Part 661, were filed with the **Federal Register** on July 31, 1980 (45 FR 50764). They specify in § 661.12(b) that the Acting Director, Northwest Region, NMFS, on August 22, may modify the open seasons and catch limits set forth in § 661.10 and § 661.11 in any portion of sub/areas A, B or C by issuing a filed order if the RD finds that (1) actual conditions of abundance and distribution of salmon and fishing efforts and catches differ from conditions anticipated prior to May 1; and (2) in-season modifications are reasonably necessary to provide adquate escapement for spawning, to meet treaty-Indian allocation requirements or to maintain, insofar as possible, the historical harvest ratio between commercial and recreational salmon fisheries. Sub-area A is the area extending from the U.S./Canadian Boundary to Cape Falcon, Oregon; Sub-area B is the area from Cape Falcon to Cape Blanco, Oregon, and Sub-area C extends from Cape Blanco to the California/Oregon border.

In accordance to § 661.12(d)(1) of the regulations, the RD on August 7, 1980, conducted a preliminary review of pre-season estimates of coho salmon stock abundance and total ocean harvest of coho to that date based on the following criteria:

(A) The number of participants, amount and distribution of fishing effort, in the commercial and recreational fisheries as of August 7 compared to similar time periods in prior years; and

(B) The current and historical coho salmon harvest ratios between the commercial fishery and the recreational fishery, as set forth in paragraph (e) of this section; and

(C) Abundance estimates and catches of coho stocks in the Washington Production Projection (WPP) Regulatory Area as of August 7 compared to the WPP estimate of coho salmon abundance and catch data for the 1974–1976 period; and

(D) Abundance estimates and catches of coho stocks in the Oregon Production Index (OPI) Regulatory Area, including private hatchery fish, compared to the original OPI predictions; and

(E) Data from marked-fish recoveries, including analysis of recoveries of coho salmon with implanted coded-wire tags; and

(F) Any other scientific information relevant to the abundance and distribution of coho stocks, total fishing efforts and catches that is available as of August 7.

On the basis of his August 7 review, the RD concluded that although there were indications that coho abundance was slightly higher in the OPI than originally forecast and slightly lower in the WPP regulatory area than forecast, there was insufficient information to determine the actual numerical differences. Notice of the preliminary evaluation was issued on August 8, 1980, and published in the **Federal Register** on August 14, 1980 (45 FR 54113). Comments were invited until August 21, 1980.

Public comments were received in writing and orally at a scheduled meeting of the Pacific Fishery Management Council (PFMC) held August 20–21 in Seattle, Washington.

In accordance with § 661.12(d)(2) of the regulations, the RD considered all public comments received during the comment period, consulted with the PFMC, the Directors of the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fisheries (WDF), applied the criteria used in making his preliminary evaluation and made the following findings about the performance of the coho fisheries in the WPP and OPI areas:

The Washington Production Projection (WPP) Regulatory Area

Coho Catch

The ocean harvest of coho in the WPP through August 10, 1980, was approximately 625,448 fish: 291,448 caught in the troll fishery and 334,000 in the recreational fishery. These data indicate a harvest ratio between the commercial and recreational fisheries of 47:53 as compared to a 60:40 ratio for the 1971–75 period. Projected through August 24, 1980, the total ocean harvest of coho in the WPP is between 824,000 (WDF estimate) and 803,600 (ODFW estimate) fish. Based on these projections, it is estimated that the commercial/recreational harvest ratio through the same date will reach between 53:47 (WDF) and 51:49 (ODFW), a significant movement by the

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troll fishery toward the historic ratio since the preliminary evaluation was made on August 7, 1980.

Coho harvest figures for 1979 for the WPP through August 10, 1980, were 688,450 fish: 465,800 caught in the troll fishery and 222,650 in the recreational fishery. Comparable data for the 1974–76 period through August 15 reveal an average WPP ocean coho harvest of 1,156,500 fish: 643,500 by the troll fishery and 513,000 by the recreational fishery.

Fishing Effort

Current WPP troll effort through August 10, 1980, is 18,238 boat days, down approximately 31% from the 1979 effort through August 10 of 26,575 boat days. Recreational effort through the same date was 225,615 angler trips as compared to a 1979 level of 250,129 angler trips.

WPP Coho Abundance and Catch Projections

Analysis of coded-wire tag (CWT) recoveries indicates a significant increase in the percentage contribution of Columbia River-origin coho to ocean catches in all four Washington coastal areas (Columbia River, Grays Harbor, Quillayute and Cape Flattery) when compared to pre-season forecasts. The implications of this abnormal northward distribution are that: (a) some Columbia River and Oregon coastal fish normally found within the OPI area (south of Leadbetter Point) have shifted to the north, thus increasing the abundance of these stocks off the Washington coast; but (b) significant numbers of coho from Puget Sound and the Washington coast have moved into Canada and are no longer available to the U.S. ocean fishery. This reduction in availability necessitates a decrease in the total allowable non-treaty ocean harvest since a portion of the 857,000 allowable non-treaty ocean harvest of coho have moved into Canadian waters and are no longer available to the U.S. ocean fishery.

The effect of 1980's abnormal ocean distribution is most marked on Puget Sound coho. Puget Sound-origin coho normally range from southern Oregon to central British Columbia with peak concentrations centered off Washington's Cape Flattery fishing area. The northerly coho distribution shift of approximately 50 miles in 1980 has the effect of reducing Puget Sound stock availability off the Washington coast by as much as 30%. This availability shift requires a reduction as high as 30% in the pre-season allowable Puget Sound-origin harvest of 380,600. This in-season adjustment equates to a new target harvest of 266,400. The in-season estimate of Puget Sound-origin catch north of Cape Falcon through August 17 (based on CWT recoveries) is 224,300 coho including 35,300 during the most recent week (excluding treaty Indian troll catch). The remainder of the Puget Sound quota will be taken on or about August 25.

The Oregon Production Index (OPI)

Coho Catch

An estimated 791,400 coho have been harvested by the ocean fisheries in the OPI area as of August 10. This catch represents 97% of the preseason predicted catch of 820,000 for the OPI area. This total includes catches of 159,800 of Ilwaco, 573,300 for Oregon and 58,300 for California. Of the total catch of 791,400, the troll fishery has harvested 348,100 compared with 443,300 for the recreational fishery. The harvest ratio between the commercial and recreational fisheries through August 10 is 44:56 as compared to the 1971–75 historic ratio of 71:29.

OPI catch as of August 10 for the 1979 season was approximately 862,387 coho for the troll fishery and 260,000 coho for the recreational fishery.

Fishing Effort

Effort for the combined Oregon and Ilwaco, Washington, area through August 10, 1980, was 23,192 boat days for the troll fishery and 312,377 angler trips for the recreational fishery. This is compared to 1979 effort through a comparable date of 27,642 boat days for the troll fishery and 322,948 angler trips for the recreational fishery.

Coho Abundance and Catch Projections

Available data indicates that the 1980 pre-season OPI abundance estimate of 1,024,600 fish may be low. The OPI is known to range as much as 15% above or below this single point abundance estimate (870,900 to 1,178,300 coho). An examination of the trend resulting from the delayed release of 20–25% of the Columbia River hatchery production in recent years reveals that although fewer jack (immature) salmon return, adult coho returns are better as a result of later hatchery releases. As the 1980 pre-season prediction of adult coho in the OPI was based on the number of jacks, an underestimate in the number of returning adults is suspected. Consequently the choice of the upper end of the OPI prediction range (1,178,300 coho) seemed justifiable to ODFW. For the same reason WDF suggested an upward modification to 1,364,800 coho in the OPI.

In addition WDF believes the abnormal northerly shift of coho coastwide will cause an estimated 15% reduction in stock availability in the OPI south of Leadbetter Point. Subtracting 15% from WDF's abundance update of 1,364,800 coho results in a net revision of WDF's OPI abundance estimate to 1,160,080 or 18,220 coho fewer than the ODFW estimate of 1,178,300.

In-season evaluation also indicates that private aquaculture contributed about 4.1% to the coho catch through July 27. If ocean catch rates continue at the present rate for the remainder of the season, the private aquaculture contribution will be about 39,000 coho. When the 39,000 are added to the ODFW and WDF revised estimates, coho abundance in the OPI is raised to between 1,199,080 and 1,217,300 coho. Subtracting the 260,000 fish which must be allowed for proper escapement from the OPI yields a revised allowable ocean harvest of coho in the OPI of between 939,080 and 957,300 fish.

WDF and ODFW differed markedly in estimating the projected harvest of coho in the OPI to the end of the regularly scheduled season: ODFW estimated a total catch to the end of the regularly scheduled season of 950,300 coho while WDF estimated that 937,000 coho would be taken in the OPI by August 24, 1980.

Comments

Two written comments were received during the August 8–21 comment period. The Hoh Indian Tribe urged closure of the ocean salmon fishing season north of Cape Falcon to provide increased escapement to the Hoh River. The Port of Ilwaco requested an extension of the ocean fishing season and discouraged any further closures.

A closure of the season north of Leadbetter Point, Washington should maximize escapement to the Hoh River for treaty Indian river harvest. As Ilwaco is south of the Leadbetter Point closure line, economic impacts on the Port of Ilwaco should be minimized.

Conclusions

The RD has reviewed the most recent catch and effort data and revised abundance estimates supplied by ODFW and WDF, has considered all public comments and has reached the following conclusions:

1. It is apparent from the available data that the ocean fishing season off the Washington coast must be curtailed if necessary escapement to Puget Sound is to be met. WDF estimates that the allowable ocean harvest of Puget Sound origin fish will be reached by August 25, 1980.

As of that date the troll/recreational harvest ratio is expected to more nearly approximate the historic 60:40 ratio. The shift of coho stocks northward indicates that some OPI coho will move north of Cape Falcon, Oregon, into the southernmost portion of the WPP regulatory area. To afford an opportunity to take the allowable ocean harvest of WPP coho without jeopardizing escapement to either Puget Sound or Washington coastal streams, a closure of the ocean to all commercial and recreational fishing north of Leadbetter Point on August 25, 1980, is necessary and appropriate.

2. WDF and ODFW data indicate that a total allowable OPI ocean coho harvest for the 1980 season of 939,080–957,300 fish would provide for the necessary spawning escapement of 260,000 coho. As 791,400 coho were taken in the OPI as of August 10, 1980, the spawning escapement goal can only be met if no more than 147,680–165,900 OPI coho are taken in the ocean after August 10, 1980. ODFW estimates that an additional 158,900 coho will be caught in the OPI area by the combined ocean troll and recreational fisheries after August 11, 1980, to the end of the regularly scheduled seasons. To avoid exceeding the lower limit of the total number of OPI coho which can be harvested after August 10 (147,680), either the recreational or the troll season or both must be reduced.

Given the disproportionately high ocean harvest experienced by the recreational fishery south of Leadbetter Point in contrast to the troll fishery in that area, the need to approximate a historic harvest ratio dictates that the recreational fishing season be shortened and the troll season allowed to continue until the total allowable OPI ocean harvest of coho is taken. If the recreational fishery south of Leadbetter Point were closed on August 24 rather than September 14, 1980, approximately 71,800 fish would be saved (ODFW estimate). Continuation of the recreational fishery for an additional week until September 1 would result in the harvest of approximately 24,000 additional fish and would allow that fishery to operate through the Labor Day holiday, an important time for the recreational fishery. The continuation of the troll fishery south of Leadbetter Point until September 8, 1980, is expected to result in the harvest of the remaining allowable OPI harvest (123,680) and will allow that fishery the opportunity to partially recoup from the unusually low harvest experienced through August 10, 1980.

Effect of Conclusions on Columbia River Fall Chinook

The decision to close the all species season north of Leadbetter Point, Washington, on August 25, 1980, and to stop the recreational season south of that point on September 1, 1980, will result in a significant savings of chinook salmon (primarily Columbia River fish) which would otherwise be harvested in the ocean by the troll and recreational fisheries. This savings is estimated to be approximately 24,400 fish (8,700 troll and 15,700 recreational). Of this number approximately 9,000 fish, if caught (4,250 troll and 4,750 recreational) could be expected to be 4 and 5 year olds, most of which are maturing. Some additional maturing 3 year old fish would also be saved.

It is estimated that between 4,200 and 4,300 chinook will be taken by the troll and recreational fisheries combined south of Leadbetter Point after August 25, 1980, 1,150 by the troll fishery for the 2 remaining weeks in that season and 3,100 by the recreational fishery for the remaining week of that season. Between 1,000 and 1,300 of the combined total of 4,250, if taken, could be expected to be maturing 4 and 5 year old fish.

Not accounting for effort shifts the net savings of chinook coastwide as a result of the early closure north of Leadbetter Point and the curtailed recreational season south of Leadbetter Point is estimated at 20,000 fish (mature and immature combined). If an effort shift due to the early closure north of Leadbetter Point resulted in an additional harvest south of that point as high as 50 percent above the recent year average, the net coastwide savings of chinook salmon would, nevertheless, approximate 17,000 to 18,000 fish.

A Supplemental Environmental Impact Statement (SEIS) was prepared for the 1980 Amendment to the fishery management plan for *Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978,* and is on file with the Environmental Protection Agency. As this action does not constitute a "significant action" under Executive Order 12044 the preparation of a regulatory analysis is not necessary.

For the reasons set forth below, the Regional Director for good cause finds that further opportunity for public comment prior to the effective date of this field order (final regulation), is impracticable, unnecessary, and contrary to the public interest, and that there is good cause for this field order to take effect on the date specified herein.

1. Further public comment and further delay in implementing this order is unnecessary because the public had advance notice of this impending action, is familiar with it, and was afforded a reasonable opportunity to review data and submit information from August 8 to August 21 pursuant to procedures fully set forth at 50 CFR 661.12, the FMP itself, and the Notice of Preliminary Projection issued on August 8, 1980, which was also publicized through regional news media. Relevant data was made available to the public as set forth at 50 CFR 661.12 and summarized in the Notice of Preliminary Projection. The public participated in development of the 1980 Amendment to the FMP/SEIS, both orally and in writing, and has had opportunity to comment on the implementing regulations since May 1. The opportunity afforded for public comment is reasonable because the determination made by the Regional Director under § 661.12, and relevant public input, is limited to the narrow factual question of coho stock abundance and projected harvest of the troll and recreational fisheries in Management Areas A, B, and C to September 14.

2. A delay in issuing this field order is not practicable. Data necessary for the Regional Director to review and for the public to review in order to submit relevant comments was made available at the earliest practicable time. Such data is only available during the fishing season and enough of the fishing season must elapse for there to be a sufficient amount of catch and effort information to make reasonably precise numerical stock abundance forecasts and harvest projections. Issuing this field order at a later time would be contrary to the purpose for which this action is being taken: to provide a sufficient escapement of coho salmon from the ocean and to limit the recreational ocean catch to an appropriate share of the ocean harvest as set forth in the FMP and at 50 CFR 661.12. The procedures followed maximize the information available to the public, and the scientific and public input necessary to the determinations made by the Regional Director consistent with the timetable are necessary to attain the objectives of the FMP and of 50 CFR 661.12.

3. A delay in the effective data of this field order would be contrary to the public interest. Such a delay would substantially increase the likelihood that the objectives of the FMP, including ocean escapement goals necessary to meet spawning, treaty-Indian, and other inland harvest objectives, would not be achieved without creating a severe imbalance in the harvest opportunity between commercial and recreational ocean fishermen.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C. this 25th day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Accordingly, 50 CFR Part 661 is superseded from 2400 hours local time, August 25, 1980, through 2400 hours local time September 14, 1980, as follows:

1. In section 661.10, paragraph (a)(1)(ii) is revised to read as follows:

§ 661.10 Recreational fishing.

(a) * * *

(1) * * *

(ii) The season for all salmon species, including coho, shall begin on July 15, and terminate on August 25 north of Leadbetter Point, Washington, and terminate on September 8, south of Leadbetter Point, Washington.

* * * * *

2. In § 661.11, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 661.11 Treaty Indian fishing.

(a) * * *

(1) In Sub-Area A the season for all salmon species shall begin on May 10, and terminate on August 25 north of Leadbetter Point, Washington, and terminate on September 1 south of Leadbetter Point, Washington. In Sub-Areas B and C the season for all salmon species shall begin on May 10 and terminate on September 1.

(2) In Sub-Areas B and C a season for chinook salmon only shall begin on September 2 and terminate on October 31.

* * * * *

(16 U.S.C. 1801; 45 FR 50764; 50 CFR 661.12(b))

[FR Doc. 80-26459 Filed 8-28-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 170
Friday, August 29, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Electric Loan Policies and Application Procedures for Supplemental Resources Loans

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: REA proposes to issue a supplement to REA Bulletin 20-2, Electric Loan Policies and Application Procedures concerning the making of loans and loan guarantees to borrowers for project utilizing alternative or supplemental energy sources. REA policy is to encourage the development of other energy sources such as a low head hydro, geothermal, solar, wind, coal bed gas recovery, wood by-product and solid waste utilizations, and other types of projects of a proven technology as may be determined by the Administrator. Such policy is in conformance with natural energy goals including the Public Utilities Regulatory Policies Act of 1978 (PURPA) and the Power Plant and Industrial Fuel Use Act of 1978.

DATE: Public comments must be received no later than September 29, 1980.

ADDRESS: Submit written comments to the Director, Electric Loans and Management Division, Rural Electrification Administration, Room 3342 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Francis E. Saulnier, telephone number (202) 447-8466.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.), REA proposes to issue a supplement to Bulletin 20-2 which will outline the policies and procedures for loan applications for supplemental energy sources. The bulletin will permit REA financing of feasibility, and other studies including certain other "front-end" costs of developing a supplemental energy source project.

All written submissions made pursuant to this notice will be made available for public inspection during regular business hours, address above.

Dated: August 20, 1980.

Joe S. Zoller,
Assistant Administrator—Electric.

[FR Doc. 80-26415 Filed 8-28-80; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-26]

Maximum Lawful Selling Price for Unleaded Gasoline

AGENCY: Economic Regulatory Administration; Department of Energy.

ACTION: Clarification of proposed rulemaking.

SUMMARY: On August 8, 1980, the Economic Regulatory Administration of the Department of Energy issued a Further Notice of Proposed Rulemaking and Public Hearing (45 FR 54694, August 15, 1980) concerning several methods for imputing the May 15, 1973 selling price for unleaded gasoline. In the Supplementary Information section of the Proposed Amendments certain words were inadvertently omitted which could cause confusion although the text of the proposed regulation provides the correct intention.

FOR FURTHER INFORMATION CONTACT: Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3220.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-24831 on page 54695, middle column, the first sentence of the second paragraph under "A. Optional Calculation of Imputing a May 15, 1973 Selling Price" should read "Specifically, DOE is proposing that beginning on the date the final rules, if any, are adopted, firms which sold unleaded gasoline on May 15, 1973, *be given the option of imputing a May 15, 1973,* selling price for unleaded gasoline pursuant to the rules set forth in § 212.112(b)." (Inserted words are underlined.)

Issued in Washington, D.C., August 25, 1980.

F. Scott Bush,
Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-26594 Filed 8-28-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Leasing Policy Development

10 CFR Part 378

Coal Leasing; Rescheduling of Hearing on Proposed Rulemaking Regarding Bidding Systems

AGENCY: Department of Energy.

ACTION: Rescheduling of hearing on proposed rulemaking.

SUMMARY: On July 1, 1980, the Department of Energy issued a Notice of Proposed Rulemaking entitled "Bidding Systems for Coal Leasing: Proposed Rulemaking and Public Hearing" (45 FR 46742, July 10, 1980). Public hearings were scheduled for August 5, 1980, in Denver, Colorado, and August 7, 1980, in Washington, D.C. Because only one request to speak was received for each hearing, a notice was published in the **Federal Register** on August 4, 1980 cancelling both hearings. Since that time, however, there have been numerous inquiries about the proposed regulation and the possibility of rescheduling the hearings. Because of the number of such inquiries and because the reasons given for the initial lack of response appear to be valid, the Washington, D.C. public hearing is being rescheduled.

DATES: The rescheduled Washington hearing will be held on September 23, 1980. Requests to speak are due by September 16, 1980. Witnesses who are chosen to speak will be notified by September 18, 1980, and copies of their statements must be received by 4:30 p.m. on September 22.

Written comments are due by September 10, 1980, as stated in the original **Federal Register** notice. However, in light of the rescheduled hearing, the record will be held open until September 30 for submission of additional or amended comments based on the material presented at the hearing. By maintaining the September 10

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deadline for written comments, those attending the hearing will have an opportunity to review the comments of other interested parties prior to the hearing.

ADDRESSES: All written comments and requests to speak should be sent to the Office of the Hearings Management, Economic Regulatory Administration, Room B–210, Docket No. LPD–79–06, 2000 M Street, N.W., Washington, D.C. 20461.

Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, 2000 M Street, N.W., Room 2214C, Washington, D.C. 20461 (202) 254–5201.

SUPPLEMENTARY INFORMATION: If you are selected to speak, one hundred copies of your statement, labeled "Box XT, DOE proposed Coal Bidding System Regulation", are due by September 22 and should be delivered to the "Request to Speak" address indicated in the beginning of this notice. In the event any person wishing to testify cannot meet the 100-copy requirement, alternative arrangements can be made with the Office of Hearing Management in advance of the hearing by so indicating in the letter requesting the opportunity to make an oral presentation or by calling the Office of Hearing Management at (202) 653–3757.

All other procedures for requesting to speak and the conduct of the hearing remain as published in the original July 10, 1980, **Federal Register** notice.

Issued in Washington, D.C. on August 25, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80–26595 Filed 8–28–80; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 550 and 571

[No. 80–528]

Trust Powers Authorization

Dated: August 21, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: The Federal Home Loan Bank Board is proposing regulations by Federal savings and loan associations.

DATE: Comments must be received by: October 21, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Office of General Counsel, Federal Home Loan Bank Board, at the above address. Telephone number: (202) 377–6457.

SUPPLEMENTARY INFORMATION:

Background

The Federal Home Loan Bank Board is proposing a new Part 550 to implement the recent statutory authorization for the granting of trust powers to Federal savings and loan associations. Section 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96–221, 94 Stat. 132) amends the Home Owners' Loan Act of 1933 ("HOLA") (12 U.S.C. 1464), by adding a new subsection (n) to section 5 of that law. The Board is thereby authorized "to grant by special permit to an association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which state banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the state in which the association is located." 12 U.S.C. 1464(n)(1). The Board is also empowered to issue regulations regarding the proper exercise of Federal association trust powers. 12 U.S.C. 1464(n)(10)(D).

The application procedure of Part 550 would only be used when a Federal association chooses to establish a separate trust department. A Federal association that wishes to invest in a service corporation engaged in trust activities would follow the procedures and limitations contained in § 545.9–1 of the Regulations for the Federal Savings and Loan System (12 CFR 545.9–1). The Board believes, however, that it is desirable that any trust activities in which a Federal association is involved should be conducted in accordance with Part 550 and intends to approve investments in service corporations performing trust services only if the service corporations adhere to the principles of Part 550. The Board also recognizes that state-chartered institutions may soon be authorized to exercise trust powers. In order to ensure that all trust activities are conducted as safely as possible by Federal associations and other institutions whose accounts are insured by the Federal Savings and Loan Insurance Corpooration, the Board proposes to adopt a policy statement under the Regulations for Insurance of Accounts specifying that trust powers vested in an insured institution or in a service corporation in which an insured institution has an interest should be exercised in accordance with Part 550.

The basic provisions of HOLA section 5(n) closely resemble those of 12 U.S.C. 92a, which authorizes the Comptroller of the Currency to grant trust powers to national banks. Pursuant to that authority, the Comptroller has adopted Regulation 9 (12 CFR Part 9) regarding the acquisition, exercise, and termination of national bank trust powers. In order to provide continuity and to facilitate inter-agency coordination of examination activities, the proposed Part 550 will, to a large extent, draw on Regulation 9. Any significant departures from Regulation 9 are noted and explained in the following summary.

Acquisition of Trust Powers

1. *Applications: § 550.2.* HOLA section 5(n) specifies that trust powers may only be granted to associations which have applied for them. In addition, the statutory amendments suggest factors that the Board may take into account when considering applications. Under proposed § 550.2, Federal associations wishing to exercise trust powers shall file applications with their Supervisory Agent. HOLA section 5(n) states that, in passing on applications, the Board may take into consideration: (1) whether the association has sufficient capital and surplus to exercise the powers sought, and (2) the needs of the community to be served, in addition to any other factors deemed appropriate. In no event, however, may trust powers be granted to an institution having less capital and surplus than that required of state banks, trust companies, and similar corporations. *See* 12 U.S.C. 1464(n)(9). In addition to the criteria listed in section 5(n), proposed § 550.2 includes several considerations contained in Regulation 9, including review of the general condition of the association and management ability. Applications should provide the information needed to make these determinations. The proposal would also allow the Board to grant partial trust powers and conditional trust powers.

2. *Mergers and Consolidations: § 550.3.* In order to ensure continuous service to trust accounts, the proposal provides that associations resulting from mergers or consolidations of Federal associations may exercise trust powers granted to either of the original associations. This is in conformity with the Comptroller's Regulation 9.4 and

what appears to be the emerging trend in state law. *See* Scott on Trusts § 96.7.

3. *Deposit of Securities with State Authorities: § 550.4.* The new HOLA section 5(n)(6) requires associations acting as fiduciaries to deposit securities with state authorities whenever state law so requires of corporations acting as fiduciaries. It is foreseeable, however, that state authorities may not be empowered to accept securities from Federal associations. In such cases, the appropriate amount of securities would be deposited with the Federal Home Loan Bank in the district in which the association is located.

Exercise of Trust Powers

1. *Administration of Fiduciary Powers:* § *550.5.* The proposal emphasizes that the board of directors of the association is responsible for the proper exercise of the trust powers granted. Although the administration of fiduciary powers may be assigned to committees of directors, officers, or employees, primary responsibility will rest with the board of directors. Proposed § 550.5 requires that the board or those designated by it approve all new accounts and promptly review the assets of an account upon acceptance. Account assets must be reviewed annually thereafter. Annual reviews should also be made of trust accounts whose investments are directed by other parties. The proposal requires that associations setting up trust departments establish procedures to ensure that Federal securities laws are not violated in connection with investment decisions. Such procedures must specifically prevent the use of insider information in the purchase or sale of securities. Proposed § 550.5 additionally obliges the association to have legal counsel available on a continuing basis to advise the association in fiduciary matters. Finally, the proposal reserves the authority of the Board to require associations to secure bond coverage for directors, officers, and employees involved in the trust department. This bonding would be in addition to that required by § 563.19 of the Regulations for Insurance of Accounts (12 CFR 563.19). The Board requests comments on whether the bonding requirements for trust personnel should be specified as to dollar amounts and, if so, what those amounts should be.

2. *Books and Accounts:* § *550.6.* A Federal association exercising trust powers would be required to keep records of its fiduciary activities which are separate and distinct from its other records. In addition, the proposal requires association to keep an adequate record of all pending litigation to which it is a party in connection with its fiduciary activities. *See* 12 U.S.C. 1464(n)(3).

3. *Audit of Trust Department:* § *550.7.* Proposed § 550.7 would require a Federal association's trust department to be audited at least once a year in a manner consistent with § 563.17–1 of the Regulations for Insurance of Accounts (12 CFR 563.17–1). Audits of the trust department would be part of the annual audit required by § 563.17–1. Although this requirement is somewhat different from its parallel in Regulation 9, it is more consistent with current savings and loan practice.

4. *Funds Awaiting Investment or Distribution:* § *550.8.* According to § 170 of the Restatement of the Law of Trusts, it would be a breach of trust for a trust department to deposit trust funds in its banking department unless authorized by the trust instrument. The justification for this position is that the bank is engaged in self-dealing by landing trust funds to itself. See Scott on Trusts § 170.18. HOLA section 5(n) specifically permits such deposits of trust funds, however, when the association first sets aside U.S. Bonds or other approved securities as collateral with the trust department. 12 U.S.C. 1464(n)(4). Proposed § 5508 implements this provision and additionally allows such deposits without collateral when the funds deposited are insured by the Federal Savings and Loan Insurance Corporation. Funds placed in such deposits, however, must be invested within a reasonable time as required by paragraph (a) of proposed § 550.8.

5. *Investment of Funds Held as Fiduciary:* § *550.9.* Proposed § 550.9 prescribes the standards that associations must follow in investing funds held in a fiduciary capacity. Trust accounts must be invested in accordance with the trust instrument. When the instrument does not contain specific instructions, investments must be made in accordance with local law. *See* proposed § 550.1(h). When Federal associations are permitted investment discretion as court-appointed trustees, investments must again be in accordance with local law. Collective investment funds must meet the standards of § 550.13 (which requires a written pertaining to investment policy and procedures).

6. *Self-dealing:* § *550.10.* When acting in a fiduciary capacity, an association must place the interests of the beneficiaries above its own. *See* Scott on Trusts § 170. Accordingly, the association must avoid putting itself in a postion in which it would violate this duty of exclusive loyalty to the beneficiary. These conflicts of interest naturally tend to be greatest when the association as fiduciary is dealing with itself. Accordingly, self-dealing has been traditionally considered a breach of trust.

Although proposed § 550.10 contains the traditional prohibitions against self-dealing, it also incorporates the exceptions included in Regulation 9.12. Paragraph (a) forbids the use of trust funds to purchase obligations, stock or other property held by the association, its directors, officers, or employees. Section 550.10(a) would also prescribe such dealings with affiliates of the association and their directors, officers and employees. Finally, the same prohibition would be applied to a purchase from "individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the best judgment of the association in acquiring the property." Any of the above transactions, however, would be authorized if expressly provided for by the trust instrument, local law, or court order.

In a similar manner, paragraph (b) of § 550.10 bars the sale of loan of trust assets to the association, its directors, officers, employees, affiliates, or other closely connected parties. Again, such transactions could be authorized by the instrument, local law, or court order. In addition, sales of trust assets to the association would be sanctioned when, in the opinion of its counsel, the association trustee has incurred a potential or contingent liability that would be relieved by expeditious sale of the trust asset at no loss to the account. The actual transfer could be made only with the appoval of the association's board of directors and the Supervisory Agent. Sales of trust assets to the association pursuant to this exception generally would be made when it has determined that an investment of trust assets was improper or unfair to the account. For example, if the trust department used trust funds to buy an asset at a price in excess of its fair market value, the association could buy the asset at the same price and thereby make the trust account whole. Sales of trust assets to the association would also be allowed when ordered by the Federal Home Loan Bank Board. This form of self-dealing may be necessary to avoid greater liability to the association.

Paragraph (c) of § 550.10 forbids investment of trust funds in stock or obligations of the associations or its affiliates. Although not considered true self-dealing in the sense of a direct purchase or sale, such investments may

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put the fiduciary in a position of divided loyalty. *See* Scott on Trusts § 170.15. Proposed § 550.10(c) prohibits this activity unless authorized by law, court order, or the assessment. Even if such investment is authorized, however, the association may not vote its stock held in a fiduciary capacity unless, under the trust instrument, the donor or beneficiary directs how the stock is to be voted. Although Regulation 9 does not contain this prohibition, such activity by national banks would be barred by 12 U.S.C. 61. A similar limitation is necessary with respect to a Federal association holding its own stock in trust to prevent its voting its shares in its own self-interest. When retention of its own shares is authorized, an association may receive stock dividends and exercise conversion rights normally incident to such ownership if not otherwise unlawful.

Proposed paragraph (d) of § 550.10 authorized certain sales and loans between trust accounts when authorized by the instrument and local law and if the transaction is fair to both accounts.

It should be noted that the restrictions on self-dealing cover many situations not addressed in the Board's conflict-of-interest regulations (12 CFR 563.40–563.45). Although purchases and sales of real property involving affiliated persons are proscribed in certain cases by § 563.41, those regulations would not prohibit sales of securities and other personal property. In addition, the definition of affiliated person in 12 CFR 561.29 would not include the association itself. Accordingly, the conflict-of-interest regulations would not reach transfers between the trust department and the association or its service corporations. Finally, by extending the self-dealing prohibition to "individuals with whom there exists such a connection, or organizations in which there exists such an interest as might affect the exercise of best judgment by the association", § 550.10 would reach situations in which a party is not controlled by an affiliated person but still may be deemed to exert influence over the association in this particular situation.

In all events, an association exercising trust powers should adhere to the directive in § 571.7 against the appearance of a conflict of interest.

7. *Custody of investments: § 550.11.* The proposal requires that investments of each account be kept separate from the other assets of the association and be placed in the custody of at least two of the officers or employees designated for that purpose. Investments of each account must be kept separate from those of other accounts unless collectively invested or otherwise adequately identified.

8. *Compensation of the Association: § 550.12.* The proposal provides that a Federal association acting as a fiduciary may deduct reasonable compensation for its services when compensation is not specified in the trust instrument or by local law. Proposed § 550.12 also describes circumstances under which trust officers and employees may act as co-fiduciaries with the association or may accept bequests and gratuities from trust accounts.

Collective Investment of Trust Assets

A trust department may find it advantageous to combine smaller trust accounts into one large investment pool. In *Brooklyn Trust Co. v. Commissioner,* however, such common trust funds were declared separate taxable entities. 80 F. 2d 865 (2d Cir.), *cert. denied,* 298 U.S. 659 (1936). Subsequently, the Internal Revenue Code was amended to lessen the impact of the decision. Common trust funds maintained for the investment and reinvestment of funds held in a fiduciary capacity now may be exempted from taxation under IRC section 584. Section 584 also requires these funds to meet the standards for collective investment in Comptroller's Regulation 9.18, regardless of the identity of the fiduciary. *See* I.R.C. section 584(a)(2). Accordingly, Federal associations maintaining section 584 common trust funds would be bound by Regulation 9.18.

Some common trust funds, however, may become tax-exempt without adhering to Regulation 9. Under section 501 of the Internal Revenue Code, for example, a common employee benefit trust may acquire tax-exempt status by qualifying under I.R.C. section 401. Although section 401 would prevent some abuses associated with trusts, the section does not directly concern the responsibilities of the corporate fiduciary with respect to administering the fund. The Comptroller has made Regulation 9.18 applicable to all common trust funds administered by a national bank. Similarly, the Board's proposal would require Federal associations to observe the requirements of Regulation 9.18 in administering any common fund. This approach ensures that both types of funds are governed by uniform standards and will be administered in the most prudent manner. The basic requirements of Regulation 9.18 are summarized below.

1. *Collective Investment: Section 550.13.* Proposed section 550.13 incorporates Regulation 9.18 by reference. The Comptroller's regulation requires that collective investment funds be established and maintained in accordance with a written plan approved by the board of directors and filed with the Comptroller. Proposed section 550.13 would also require that the plan be filed with the Federal Home Loan Bank Board which would have the right of reviewing the document.

The plan adopted by the board of directors must detail the collective fund's investment powers and contain a general statement of investment policy. Procedures for admission to, and withdrawal from, the fund must be explained. The plan must also address other matters such as valuation of assets and termination procedures. Regulation 9.18 requires annual audits of the fund, the results of which must be made available to participants and prospective customers on request. Other parts of 9.18 regulate self-dealing, limit individual participations and investments, impose liquidity requirements, and provide special rules for mortgages held by the fund. In addition, regulation 9.18 requires the association to have exclusive management of the fund, prohibits the issuance of certificates evidencing an interest in the fund, and provides a good-faith defense to violations.

Termination of Trust Powers

1. *Surrender of Trust Powers: Section 550.14.* The proposal implements the provisions of new HOLA section 5(n)(10), which allow a Federal association to surrender its trust powers by filing a certified copy of a board resolution signifying this intention. When the Board is satisfied that the association has properly wound up its fiduciary affairs, the Board may issue a certificate indicating that the association may no longer exercise trust powers and is entitled to the return of any securities deposited with state authorities or a Federal Home Loan Bank under section 550.4.

2. *Appointment of Receiver or Conservator or Voluntary Dissolution: Section 550.15.* Proposed section 550.15 provides that whenever a receiver or conservator is appointed under Part 547, the receiver or conservator shall be charged with closing all fiduciary accounts held by the association. Similarly, in cases of voluntary dissolution under section 546.4, the liquidating agent shall be obliged to oversee the discharge of the association's fiduciary responsibilities.

3. *Revocation of Trust Powers: Section 550.16.* As provided in HOLA section 5(n)(11), the proposal authorizes the Board to begin revocation proceedings against an association that

has unlawfully or unsoundly exercised its trust powers or that has failed to exercise its powers for five consecutive years. Notice of the intent to initiate revocation proceedings will be sent to the association and a hearing will be held in accordance with the Board's Rules of Practice and Procedure (12 CFR Part 509). This procedure would be used in addition to cease and desist orders and other sanctions available under the Rules and Regulations for the Federal Savings and Loan System.

Effect of Securities Laws

Section 5(n) of the Home Owners' Loan Act authorizes Federal associations, with Board approval, to act in any fiduciary capacity in which state-chartered banks, trust companies, and other corporations may engage. This broad authority would include the power to act as a stock transfer agent. Entities engaged in this activity are normally required to register and submit to the authority of the Securities and Exchange Commission under section 17A of the Securities Exchange Act of 1934, 15 U.S.C. 78q–1. Section 17A(c), however, provides an exception for bank transfer agents, allowing them to register with the "appropriate regulatory agency." Pursuant to this exception, Regulation 9 prescribes procedures for registration of national bank transfer agents with the Comptroller and outlines proceedings for stays and review of sanctions by clearing agencies. *See* 12 CFR 9.20–9.22. At this time, however, the Federal Home Loan Bank Board is not designated as an "appropriate regulatory agency" under section 3(a)(34), 15 U.S.C. 78c(a)(34). As a result, the Board cannot act in a similar role with respect to Federal associations acting as stock transfer agents, and such associations would be required to register with the Securities and Exchange Commission.

Accordingly, the Board hereby proposes to amend the Rules and Regulations for the Federal Savings and Loan System by adding a new Part 550 thereto, and to amend the Rules and Regulations for Insurance of Accounts by adding a new § 571.15 thereto, to read as set forth below.

SUBCHAPTER C—REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

PART 550—TRUST POWERS OF FEDERAL ASSOCIATIONS

1. Add a new Part 550, to read as follows:

Sec.
550.1 Definitions.
550.2 Applications.
550.3 Consolidation or merger of two or more Federal associations.
550.4 Deposit of securities with state authorities.
550.5 Administration of trust powers.
550.6 Books and accounts.
550.7 Audit of trust department.
550.8 Funds awaiting investment or distribution.
550.9 Investment of funds held as fiduciary.
550.10 Self-dealing.
550.11 Custody of investments.
550.12 Compensation of association.
550.13 Collective investment.
550.14 Surrender of trust powers.
550.15 Receivership or voluntary liquidation of association.
550.16 Revocation of trust powers.

Authority: Sec. 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221; 94 Stat. 132, 12 U.S.C. 1464(n); secs. 402, 402, and 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 D Fed. Reg. 4981, 3 CFR 1071 (1943–48 Compilation).

§ 550.1 Definitions.

For purposes of this Part:

(a) "Account" means the trust, estate or other fiduciary relationship which has been established with an association;

(b) "Association" shall include two or more associations which are members of the same affiliated group with respect to any fund established pursuant to § 550.13 of this Part of which any of such affiliated associations is trustee, or two or more of such affiliated associations are co-trustees;

(c) "Equity security" means any stock or similar security convertible, with or without consideration, into such a security; or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Board shall deem to be of similar nature and considers necessary or appropriate to treat as an equity security in the public interest;

(d) "Fiduciary" means an association undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking, and includes trustee, executor, administrator, guardian, and any other similar capacity;

(e) "Fiduciary records" means all matters which are written, transcribed, recorded, received or otherwise come into the possession of an association and are necessary to preserve information concerning the actions and events relevant to the fiduciary activities of an association;

(f) "Guardian" means the guardian or committee by whatever name employed by local law, of the estate of an infant, an incompetent individual, an absent individual, or a competent individual over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws;

(g) "Investment authority" means the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select or change investments, review investment decisions made by others, or to provide investment advice or counsel to others;

(h) "Local law" means the law of the state or other jurisdiction governing the fiduciary relationship;

(i) "State-chartered corporate fiduciary" means any state bank, trust company, or other corporations which come into competition with associations and are permitted to act in a fiduciary capacity under the laws of the state in which the association is located;

(j) "Trust department" means that group or groups of officers and employees of an association organized under the supervision of officers or employees to whom are designated by the board of directors the performance of the fiduciary responsibilities of the association, whether or not the group or groups are so named;

(k) "Trust powers" means the power to act in any fiduciary capacity authorized by § 403 of the Depository Intstitution Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, 94 Stat. 132, 12 U.S.C. § 1464(n). Under that Act, a Federal association may be authorized to act, when not in contravention of local law, as trustee, executor, administrator, guardian, or in any other fiduciary capacity which state-chartered corporate fiduciaries exercise under local law: *provided*, That the granting to, and exercise of, such powers shall not be deemed to be in contravention of state or local law whenever the laws of such state authorize or permit the exercise of any or all of the foregoing powers by state banks, trust companies, or other corporations which compete with Federal associations.

§ 550.2 Applications.

(a) An association desiring to exercise fiduciary powers shall file with the Supervisory Agent an application indicating which trust services it wishes to offer and providing the information necessary to make the determination under paragraph (b).

(b) In addition to any other facts or circumstances deemed proper, the Board, in passing upon an application to exercise trust powers, will give consideration to the following:

(1) whether the association has sufficient capital and surplus to exercise the fiduciary powers applied for, which capital and surplus in no case shall be

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less than that required by state laws of state-chartered corporate fiduciaries;

(2) the needs of the community for fiduciary services and the probable volume of such fiduciary business available to the association;

(3) the general condition of the association, including the adequacy of its capital and surplus in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the exercise of fiduciary powers:

(4) The general character and ability of the amendment of the association;

(5) the nature of the supervision to be given to the fudiciary activities, including the qualifications, experience and character of the proposed officer or officers of the trust department;

(6) whether the association has available legal counsel to advise and pass upon fudiciary matters wherever necessary.

(c) The Board may grant such trusts powers as it deems warranted and on the conditions it deems advisable.

§ 550.3 Consolidation or merger of two or more Federal associations.

Where two or more Federal associations consolidate or merge, and any one of such associations has, prior to such consolidation or merger, received a permit from the Board to exercise trust powers which permit is in force at the time of the consolidation or merger, the rights existing under such permit pass to the resulting association, and the resulting association may exercise such trust powers in the same manner and to the same manner and to the same extent as the association to which such permit was originally issued; and no new application to continue to exercise such powers is necesssary. However, when the name or charter number of the resulting association differs from that of the association to which the right to exercise trust powers was originally granted, in order that the records of the resulting association may be complete and that it have convenient evidence of its right to exercise trust powers, the Board will issue a certificate to that association showing its right to exercise the trust powers theretofore granted to any of the associations participating in the consolidation or merger.

§ 550.4 Deposit of securities with state authorities.

Whenever local law requires corporations acting as fiduciary to deposit securities with state authorities for the protection of private or court trusts, associations in that state authorized to exercise trust powers shall, before undertaking to act in any fudiciary capacity, make a similar deposit with the state authorities. If the state authorities refuse to accept such a deposit, the securities shall be deposited with the Federal Home Loan Bank of which the association is a member, and such securities shall be held for the protection of private or court trusts with like effect as though the securities had been deposited with the state authorities.

§ 550.5 Administration of trust powers.

(a)(1) *Responsibility of the board of directors.* The board of directors is responsible for the proper exercise of fiduciary powers by the association. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the association in the exercise of its fiduciary powers, are the responsibility of the board. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the association's fiduciary powers as it may consider proper to assign to such director(s), officer(s), employee(s), or committee(s) as it may designate.

(2) *Administration of accounts.* No fiduciary account shall be accepted without the prior approval of the board, or of the director(s), officer(s), or committee(s) to whom the board may have assigned the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the association has investment responsibilities, a prompt review of the assets shall be made. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or held for each fiduciary account for which the association has investment responsibilities are reviewed to determined the advisability of retaining or disposing of such assets.

(b) *Compliance with Federal securities laws.* Every association exercising fiduciary powers shall adopt written policies and procedures to ensure that the Federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. Such policies and procedures, in particular, shall ensure that the Federal association's trust departments shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.

(c) *Legal counsel.* Every association exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be readily available to pass upon fiduciary matters and to advise the association and its trust department.

(d) *Bonding.* In addition to the minimum bond coverage required by § 563.19 of this Chapter, directors, officers, and employees engaged in the operation of the trust department shall acquire such additional bond coverage as the Board may require.

(e) *Use of other association personnel.* The trust department may utilize personnel and facilities of other departments of the association, and other departments of the association may utilize personnel and facilities of the trust department only to the extent not prohibited by law.

§ 550.6 Books and accounts.

(a) *General.* Every association exercising trust powers shall keep its fiduciary records separate and distinct from other records of the association. All fiduciary records shall be so kept and retained for such time as to enable the association to furnish such information or reports with respect thereto as may be required by the Board. The fiduciary records shall contain full information relative to each account.

(b) *Record of pending litigation.* Every association shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

§ 550.7 Audit of trust department.

At least once during each calendar year, the association's trust department shall be audited by auditors in a manner consistent with § 563.17–1 of this Chapter. A copy of the report of the audit shall be promptly filed with the Board's District Director-Examinations of the Federal Home Loan Bank District in which the home office of the association is located. Trust department audits may be made as part of the annual audits required by § 563.17–1.

§ 550.8 Funds awaiting investment or distribution.

(a) *General.* Funds held in a fiduciary capacity by an association awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

(b) *Use by association in regular business.* (1) Funds held in trust by an association awaiting investment or distribution may, unless prohibited by the instrument creating the trust or by local law, be deposited in other departments of the association, provided that the association shall first set aside under control of the trust department as collateral security:

(i) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest;

(ii) Readily marketable securities of the classes in which state-chartered corporate fiduciaries are authorized or permitted to invest trust funds under the laws of the state in which such association is located; or

(iii) Other readily marketable securities as the Board may determine.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in face value to the amount of trust funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by the Federal Savings and Loan Insurance Corporation. The requirements of this paragraph are met when qualifying assets of the association are pledged to secure a deposit in compliance with local law, and no duplicate pledge shall be required in such case.

(2) Any funds awaiting investment or distribution deposited in other departments of the association shall earn interest at competitive market rates.

§ 550.9 Investment of funds held as fiduciary.

(a) *Private trusts.* Funds held by an association in a fiduciary capacity shall be invested in accordance with the instrument establishing the fiduciary relationship and local law. When such instrument does not specify the character or class of investments to be made and does not vest in the association, its directors, or its officers investment discretion in the matter, funds held pursuant to such instrument shall be invested in any investment in which state-chartered corporate fiduciaries may invest under local law.

(b) *Court trusts.* If, under local law, corporate fiduciaries appointed by a court are permitted to exercise a discretion in investments, or if an association acting as fiduciary under appointment by a court is vested with a discretion in investments by an order of such court, funds of such accounts may be invested in any investments which are permitted by local law. Otherwise, an association acting as fiduciary under appointment by a court must make all investments of funds in such accounts under an order of that court. Such orders in either case shall be preserved with the fiduciary records of the association.

(c) *Collective investment of trust funds.* The collective investment of funds received or held by an association as fiduciary is governed by § 550.13 of this Part.

§ 550.10 Self-dealing.

(a) *Purchase of obligations, etc., from association.* Unless lawfully authorized by the instrument creating the relationship, or by court order or local law, funds held by an association as fiduciary shall not be invested in stock or obligations of, or property acquired from, the association or its directors, officers, or employees, or individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the association in acquiring the property, or in stock or obligations of, or property acquired from, affiliates of the association or their directors, officers or employees.

(b) *Sale or transfer of trust assets to association.* Property held by an association as fiduciary shall not be sold or transferred, by loan or otherwise, to the association or its directors, officers, or employees, or to individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the association in selling or transferring such property, or to affiliates of the association or their directors, officers or employees, except:

(1) When lawfully authorized by the instrument creating the relationship or by court order or by local law;

(2) In cases in which the association has been advised by its counsel in writing that it has incurred as fiduciary a contingent or potential liability and desires to relieve itself from such liability, in which case such a sale or transfer may be made with the approval of the board of directors and the Supervisory Agent, provided that in all such cases the association, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account;

(3) As provided in the laws and regulations governing collective investments; and

(4) When required by the Board.

(c) *Investment in stock of association.* Except as provided in § 550.8(b) of this Part, funds held by an association as fiduciary shall not be invested by the purchase of stock or obligations of the association or its affiliates unless authorized by the instrument creating the relationship or by court order or by local law: *provided,* that if the retention of stock or obligations of the association or its affiliates is authorized by the instrument creating the relationship or by court order or by local law, it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders, unless such exercise is forbidden by local law. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired. In no event may an association's share held by the associaton as sole fiduciary, whether in its own name as fudiciary or in the name of its nominee, be voted by the registered owner unless, under the terms of the trust, the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and the donor or beneficiary actually directs how the shares will be voted.

(d) *Transactions between accounts.* (1) An association may sell assets held by it as fiduciary in one account to itself as fiduciary in another account if the transaction is fair to both accounts and if such transaction is not prohibited by the terms of any governing instrument or by local law.

(2) An association may make a loan to an account from the funds belonging to another such account, when the making of such loans to a designated account is authorized by the instrument creating the account from which such loans are made, and is not prohibited by local law, and the terms of the transaction are fair to all accounts.

(3) An association may make a loan to an account and may take as security therefor assets of the account, provided such transaction is fair to such account and is not prohibited by local law.

§ 550.11 Custody of investments.

(a) *Segregation of trust assets and joint custody.* The investments of each account shall be kept separate from the assets of the association, and shall be placed in the joint custody or control of not fewer than two of the officers or employees of the association designated for that purpose by the board of directors of the association or by one or more officers designated by the board of directors of the association, and all such officers and employees shall be adequately bonded. To the extent permitted by law, an association may permit the investments of a fiduciary account to be deposited elsewhere.

(b) *Segregation of accounts.* The investments of each account shall be either:

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(1) Kept separate from those of all other accounts, except as provided in § 550.15 of this Part; or

(2) Adequately identified as the property of the relevant account.

§ 550.12 Compensation of association.

(a) *General.* If the amount of the compensation for acting in a fiduciary capacity is not regulated by local law or provided for in the instrument creating the fiduciary relationship or otherwise agreed to by the parties, an association acting in such capacity may charge or deduct, a reasonable compensation for its services. When the association is acting in a fiduciary capacity under appointment by a court, it shall receive such compensation as may be allowed or approved by that court or by local law.

(b) *Officer, or employee of association as co-fiduciary.* No association shall, except with the specific approval of its board of directors, permit any of its officers or employees, while serving as such, to retain any compensation for acting as a co-fiduciary with the association in the administration of any account undertaken by it.

(c) *Bequests or gifts to trust officers and employees.* No officer or employee engaged in the operation of the trust department shall accept a bequest or gift of trust assets unless the bequest or gift is directed or made by a relative or is approved by the board of directors of the association.

§ 550.13 Collective investment.

(a) When not in contravention of local law, funds held by an association as fiduciary may be held in:

(1) A common trust fund maintained by the association exclusively for the collective investment and reinvestment of moneys contributed thereto by the association in its capacity as trustee, executor, administrator, guardian, or custodian under a Uniform Gifts to Minors act; or

(2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code.

(b) Collective investments of funds or other property by an association under paragraph (a) of this section shall be administered in accordance with Comptroller of the Currency Regulation 9.18, 12 CFR 9.18: *provided,* that any documents required to be filed with the Comptroller of the Currency shall also be filed with the Supervisory Agent and that the Board may review such documents for compliance with these and other laws and regulations.

§ 550.14 Surrender of trust powers.

(a) Any association which has been granted the right to exercise trust powers and which desires to surrender such rights shall file with the Board a certified copy of the resolution of its board of directors signifying such desire.

(b) Upon receipt of such resolution, the Board shall make an investigation and if it is satisfied that the association has been discharged from all fiduciary duties which it has undertaken, it shall issue a certificate to such association certifying that it is no longer authorized to exercise fiduciary powers.

(c) Upon issuance of such a certificate by the Board, such association: (1) shall no longer be subject to the provisions of these regulations, (2) shall be entitled to have returned to it any securities which it may have deposited with state authorities or a Federal Home Loan Bank under § 550.4 of this Part, and (3) shall not exercise thereafter any of the powers granted by this Part without first applying for and obtaining new authorization to exercise such powers.

§ 550.15 Effect on trust accounts of appointment of conservator or receiver or voluntary dissolution of association.

(a) *Appointment of conservator or receiver.* Whenever a conservator or receiver is appointed for an association under Part 547 of this title, such receiver or conservator shall, pursuant to the instructions of the Board and the orders of the court having jurisdiction, proceed to close such of the association's trust accounts as can be closed promptly and transfer all other such accounts to substitute fiduciaries.

(b) *Voluntary dissolution.* Whenever an association exercising trust powers is placed in voluntary dissolution, the liquidating agent shall, in accordance with local law, proceed at once to liquidate the affairs of the trust department as follows:

(1) All trusts and estates over which a court is exercising jurisdiction shall be closed or disposed of as soon as practicable in accordance with the order or instructions of such court; and

(2) All other accounts which can be closed promptly shall be closed as soon as practicable and final accounting made therefor, and all remaining accounts shall be transferred by appropriate legal proceedings to substitute fiduciaries.

§ 550.16 Revocation of trust powers.

(a) In addition to the other sanctions available, if, in the opinion of the Board, an association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this Part or otherwise fails or has failed to comply with the requirements of this Part, the Board may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this part. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(b) Such hearing shall be conducted in accordance with the provisions of Part 509 of this Chapter, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Board at the request of an association so served.

(c) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any allegation specified in the notice of charges has been established, the Board may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this Part except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(d) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

* * * * *

2. Add a new § 571.17, to read as follows:

§ 571.17 Fiduciary activities of state-chartered insured institutions and service corporations.

Although state law would primarily govern the fiduciary activities of state-chartered insured institutions and service corporations in which insured institutions invest, it must be recognized that these activities may have implications with respect to the Federal interest in the safe and sound operation of insured institutions. Accordingly, insured institutions are urged to follow the standards for the exercise of trust powers contained in Part 550 of this Chapter. Insured institutions are particularly urged not to engage in dealings prohibited by § 550.10. In establishing trust departments, insured institutions should also observe the procedures and policies required by §§ 550.5, 550.6, 550.7, 550.8, 550.9, 550.11, and 550.13. Both Federally-chartered and state-chartered insured institutions should also take whatever steps are necessary to ensure that their service corporation subsidiaries adhere to these standards. The examination staff will monitor the fiduciary activities of all insured institutions and may take exception to practices which deviate materially from the standards of Part 550, and the Corporation may regulate or prohibit such fiduciary activities that threaten the safety or soundness or insured institutions.

(Sec. 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132, 12 U.S.C. 1464(n); Secs. 402, 403, & 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1071 (1943–48 Compilation))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-26596 Filed 8-28-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 444, 448, and 455

[Docket No. 79N-0341; DESI Nos. 8615, 9152, 9186, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs

AGENCY: Food and Drug Administration (FDA).

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the antibiotic drug regulations by (1) increasing the minimal level of polymyxin B in the various combinations of steroids and anti-infectives for ophthalmic use currently on the market, and (2) adding two new monographs, and new paragraphs to several existing monographs, to provide for the certification of such products that heretofore have been released.

DATES: Comments by October 28, 1980. Requests for informal conference by September 29, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Comments received may be seen at the office of the Hearing Clerk.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In notices appearing elsewhere in this issue of the **Federal Register**, FDA is revoking the exemption for continued marketing of certain ophthalmic combination products, reclassifying the products, and announcing the conditions for their further marketing, including a revised indication for their use. As part of this action, the agency is proposing herein to amend the antibiotic drug regulations by increasing the minimal level of polymyxin B in various combination products currently on the market. It is also proposing to add provisions for certification of products that heretofore have been released instead of certified.

The level of polymyxin B in the various formulations of anti-infective/steroid combinations for ophthalmic use currently on the market ranges from 5,000 units per milliliter or gram (units/mL or g) to 16,250 units/mL or g. Polymyxin B is present in these formulations because it is active against gram-negative organisms, particularly *Pseudomonas*. None of the other ingredients is active against this organism. *Pseudomonas* constitutes a very great risk to the eye and can produce a proteolytic enzyme that can be destructive to corneal tissue in 24–48 hours. Because of the changes in the labeled indication for the use of these anti-infective/steroid combinations, polymyxin B (in those formulations that contain it) will be utilized as a prophylactic agent when the possible presence of *Pseudomonas* and other gram-negative organisms is suspected. With this labeling change, the agency does not intend to imply that these products can also be used therapeutically, i.e., to treat an obvious *Pseudomonas* infection of the eye. In such cases, other forms of therapy are essential. Topical therapy alone is never used to treat an obvious pseudomonal infection of the eye, although it may be used in combination with a systemic or sub-conjunctival drug. Where the use of a steroid is necessary, the physician will have the choice of using a combination containing the anti-infective agent(s) in addition to the steroid. Since at the time this decision is made, the organisms present in the eye will not have been identified, a variety of organisms must be assumed as a potential hazard for the patient and therefore the antibiotics included should be active against a broad spectrum of microorganisms.

Currently, the lowest level of polymyxin B present in many of the combination drops and ointments on the market is 5,000 units/mL or g. FDA has concluded, for reasons explained below, that this level is too low to provide reliable adequate activity against gram-negative organisms, particularly against *Pseudomonas* and that these products should contain as high a level of polymyxin B as is feasible. The highest level now formulated is 16,250 units/mL or g. Although this high level would be the most desirable for its antibacterial activity, it can be irritating to the eye thereby encouraging a greater possibility of noncompliance. We therefore cannot recomment 16,250 units/mL or g as the lowest concentration permitted. Instead, FDA is recommending that 10,000 units of polymyxin per milliliter or gram be the lowest permitted concentration for formulation in those combination drugs that contain it. The formulations containing 16,250 units/mL or g should of course continue to be available for use by patients who can tolerate them or in situations where the clinician selects it.

A concentration of 10,000 units/mL or g has been selected as the minimal concentration on the basis of an evaluation of the concentrations of polymyxin obtainable in the eye, the tendency of these concentrations to become rapidly diluted, and the concentrations required to kill *Pseudomonas*. In some cases reasonable assumptions were made in the absence of available data.

Five thousand units/mL or g, while seemingly a high concentration, is not an adequate dose when applied to the eye because factors unique for ocular administration tend to reduce rapidly the concentration of available drug from the applied dose and bring it below the level needed to inhibit or kill *Pseudomonas*. Since the polymyxin is present to act on gram negative

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organisms, particularly *Pseudomonas*, the concentration of polymyxin should be adequate to eliminate those organisms if they are present.

It is difficult to estimate the actual susceptibility of *Pseudomonas* to polymyxin B sulfate. There is considerable literature dealing with this issue, but much of the data were accumulated before the procedures for antibiotic susceptibility testing were standardized. It has long been recognized that the diffusion of polymyxin B through agar is very slow, and therefore the use of a susceptibility disc and zone of inhibition to measure susceptibility is questionable. Because of the difficulties described, many of the recorded minimal inhibitory concentration (MIC) values are probably not accurate. Probably the most reliable procedure is the tube dilution in broth. It is, in any case, widely recognized that although most *Pseudomonas* species are susceptible to polymyxin B sulfate, resistant strains do occur. In the literature, susceptebilities (minimal inhibitory concentrations, or MIC) of 6–12.5 micrograms/milliliter (mcg/mL) are commonly reported. In the following calculations we have selected an MIC of 25 mcg/mL. This high level, reported recently in the World Health Organization International Collaborative Study for Susceptibility Testing, was chosen so that a concentraion of polymyxin B can be selected that will, so far as possible, eliminate *Pseudomonas* even if relatively resistant strains are present. (A drug concentration effective against a relatively resistant strain would of course be effective against a less resistant organism.)

Since the susceptibility is recorded in mcg/mL or parts-per-million, it is necessary to use the conversion factor for the standard for polymyxin B sulfate, which is one Unit=0.1274 mcg, as translated from the master standard. This converts into a value of 196.23 units. The MIC does not refer to bactericidal activity and is conventionally doubled to obtain the minimal bactericidal concentration (MBC). Bactericidal action is necessary in this context because of the implied prophylactic claim in the labeled indications and the brief exposure time. Therefore, in order to achieve a bactericidal concentration for pseudomonal organisms which might be present in the eye, 400 units/mL would be necessary.

There are several factors which reduce the concentration of drugs applied to the eye. Briefly, these are: (1) Only part of the administered drop of medication can be retained in the cul-de-sac; (2) the tears already present in the cul-de-sac dilute the drug further; (3) polymyxin binds to tear protein which unpredictably reduces the amount of free drug; and (4) the concentration of drug is reduced by washout as the patient blinks and more tears are secreted.

The effect of these factors on the achievable level of polymyxin B when an anti-infective/steroid combination is administered to the eye is illustrated in the following paragraphs, using a product a solution vehicle and the lowest level of plymyxin B currently available 5,000 units per milliliter (units/mL) or gram (units/g):

1. *Volume of the tears in the cul-de-sac of the eye.* If the maximal volume that the cul-de-sac of the eye (the area enclosed by the upper and lower lids) will hold is assumed to be 30 microliters and the volume of tears normally in this space is assumed to be 10 microliters, then at any point in the cul-de-sac after the administration of a single drop, the tears should reduce the concentration of the applied dose by one-third. The maximal retained dose of the 30 microliters administered will be 20 microliters of the drop (assuming that a drop usually contains 50 microliters when administered). If the 5,000 units/mL in the administered dose is diluted one-third when applied to the cul-de-sac, then 3,350 units/mL is the resulting concentration in the eye after a single drop.

2. *Binding to Tear Protein.* Many references note that as with many other antibiotics, there is considerable binding to serum protein of polymyxin B sulfate. The figure generally given for serum binding is 50 percent. It is not known whether the tear protein binds to the same degree as serum protein but in the absence of certain knowledge in this area, we have assumed that the figure for tear protein is at least 50 percent. If this assumption is made, the concentration of free drug in the cul-de-sac immediately after administration is 1,675 units/mL.

3. *Washout.* When drugs are administered to the eye, the concentration decreases as the individual blinks. It is recognized in the literature that the time of exposure to a drug topically administered to the cul-de-sac of the eye in the form of a solution is very short, approximately 30 seconds to 1 minute. The rapid reduction in drug level after application is referred to as "washout" of the drug. As a result of blinking and other mechanical factors, 50 percent of the drug is lost somewhere between 30 seconds and 1 minute after application. At this rate only about 100 units/mL will remain in the eye after 2 (assuming a loss of 50 percent every 30 seconds) to 4 (assuming a loss of 50 percent every minute) minutes. This is a time period far short of the 20 to 30 minutes recorded time required for the bactericidal activity of polymyxin B sulfate.

4. *Drug Multiple.* If the concentration of drug in the cul-de-sac after administration is 1,675 units/mL, and the susceptibility/resistance of the organism which may be present is 400 units/mL, the multiple of drug present in the cul-de-sac compared to the required concentration to kill pseudomonal cells is approximately four. The multiple of the concentration of drug available to the susceptibility of the organism, as recorded in units or mcg/mL, to effectively eradicate an organism is unknown. With topically administered drugs, an exceedingly high multiple is traditionally used. A multiple of four might be considered marginally acceptable provided the concentration could be assured for an adequate time period.

Although no exact figures can be attached to this factor, there is a relationship between the number of cells to be killed and the amount of drug required. The activity of polymyxin B sulfate on the gram negative cell is at the cell surface level. It has been noted in the literature that the concentration of this drug required for activity is inversely proportional to the concentrations of cells present. It may be concluded that for low concentrations of cells to be destroyed fairly high concentrations of durg are required. The level of gram negative organisms present in the cul-de-sac, in the absence of a gram negative ulcer is likely to be low.

When all of the above factors are considered, it is apparent that the concentration of durg in the eye after use of products containing 5,000 units/mL of polymyxin B sulfate is inadequate.

When the vehicle of the formulation is a cream or ointment rather than a solution, the above considerations become complicated by slower or less reliable release of the drug from the vehicle. There is also an increased retention of durgs so that there is more prolonged contact of the antibiotic with the tissue of the eye. Nonetheless, the free drug present even a few minutes after administration will be marginal at best. As the polymyxin B is intended to prevent infection by a dreaded (in the eye) organism, it is obviously prudent to utilize the highest possible concentration.

Therefore, FDA concludes that the level of polymyxin B in the combination anti-infective/steroid products which contain it should be not less than 10,000 units/mL or g. The calculations given above clearly lead to the conclusion that 16,250 units/mL or g would be an even better selection. There is a problem associated with raising the level of polymyxin B this high, however, because as the level is raised, the formulation tends to become more irritating. Although some degree of irritation may be experienced at a concentration of 10,000 units/mL or g, it is frequently offset by the presence of steroid and there are numerous products currently marketed with this level of polymyxin B sulfate. As noted earlier, a still higher concentration of polymyxin is desirable and should be used, if tolerated.

The agency has carefully considered the potential environmental impacts of this proposal and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (in accordance with 21 CFR 25.31, proposed December 11, 1979, 44 FR 71742) may be seen in the office of the Hearing Clerk, Food and Drug Administration (address given above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.78), the Director of the Bureau of Drugs proposes that Chapter I of Title 21 of the Code of Federal Regulations, Parts 444, 448, and 455 be amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. In § 444.342a, paragraph (a)(1)(iv) is revised by changing the period to a semicolon and adding the word "or" and new paragraph (a)(1)(v) is added to read as follows:

§ 444.342a Neomycin sulfate-ophthalmic suspension; neomycin sulfate-ophthalmic solution (the blanks being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(iv) 1 milligram of sodium dexamethasone phosphate; or

(v) 5 milligrams of prednisolone phosphate.

* * * * *

2. In § 444.342b, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 444.342b Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution is a solution containing in each milliliter, 1.7 milligrams of neomycin, 10,000 units of polymyxin B and 0.025 milligram of gramicidin, and with one or more suitable and harmless buffers, dispersants, and preservatives in a suitable and harmless isotonic aqueous vehicle. * * *

* * * * *

3. In § 444.342d, paragraph (a)(1)(ii) is revised by changing the period to a semicolon and adding the word "or," and new paragraph (a)(1)(iii) is added to read as follows:

§ 444.342d Neomycin sulfate-polymyxin B sulfate-ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(ii) 5 milligrams of neomycin, 15,000 units of polymyxin B, and 2.5 milligrams of hydrocortisone; or

(iii) 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 10.0 milligrams of hydrocortisone.

* * * * *

4. In § 444.342h, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 444.342h Neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains in each gram, neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B with suitable preservatives in a suitable and harmless ointment base. * * *

* * * * *

5. In § 444.342i, by revising the second sentence of paragraph (a)(1) to read as follows:

§ 444.342i Neomycin sulfate-polymyxin B sulfate ophthalmic solution.

(a) * * *

(1) * * * Each milliliter contains: (i) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B; or (ii) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 16,250 units of polymyxin B.

* * * * *

6. By adding the following new section, § 444.342j to read as follows:

§ 444.342j Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic suspension is an aqueous suspension containing in each milliliter 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 1.0 milligram of dexamethasone. It may contain one or more suitable and harmless irrigants, dispersants, buffers, and preservatives. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 5.2 and not more than 5.8. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, sterility, and pH.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 6 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately measured

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representative portion of the sample into an appropriate-sized volumetric flask with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use 0.25 milliliter in lieu or 1.0 milliliter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

7. By adding the following new section, § 444.342k, to read as follows:

§ 444.342k Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment contains in each gram neomycin sulfate equivalent to 3.5 milligrams of neomycin, polymyxin B sulfate equivalent to 10,000 units of polymyxin B and 1.0 milligram of dexamethasone with suitable preservatives in a suitable and harmless ointment base. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 perecent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 425.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, moisture, and metal particles.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) Polymyxin B content. Proceed as directed in § 436.105 of this chapter, except add each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighted representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

8. In § 444.542a, paragraph (a)(1)(ii)(*f*) is revised by changing the period to a semicolon and adding the word "or," and new paragraph (a)(1)(ii)(*g*) is added to read as follows:

§ 444.542a Neomycin sulfate ointment; neomycin sulfate-ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(ii) * * *

(*f*) 2.5 milligrams or 5.0 milligrams of prednisolone acetate; or

(*g*) 15.0 milligrams of cortisone acetate.

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

9. In § 448.310b, the second sentence in paragraph (a)(1) is revised to read as follows:

§ 448.310b Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Each gram contains 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B. * * *

* * * * *

10. In § 448.313b, paragraph (a)(1)(i) is revised to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate opthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment.

(a) * * *

(1) * * *

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate; or

* * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

11. In § 455.310d, the first sentence of paragraph (a)(1) is revised by changing the figure "5,000" to read "10,000" as follows:

§ 455.310d Chloramphenicol-polymyxin ointment.

* * * * *

(a) * * *

(1) It contains not less than 10,000 units of polymyxin B per gram. * * *

* * * * *

Interested persons may on or before October 28, 1980, submit to the Hearing Clerk (HFA-305) (address given above), written comments on this proposal. Four copies of all comments shall be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before September 29, 1980 submit to the Hearing Clerk a request for an informal conference. The participants in an informal conference, if one is held, will have until the end of the comment period, or 30 days from the date of the conference, whichever is later, to submit comments.

In accordance with Executive Order 12044, the economic effects of this rule have been carefully analyzed, and it has been determined that the rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis supporting this assessment is on file with the Hearing Clerk.

Dated: July 24, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-26520 Filed 8-28-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-221-78]

Imputed Interest Rates; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the interest rate used to impute interest on loans between related entities and on deferred payments in the case of certain sales of property. These provisions would affect any taxpayer involved in such transactions, and would provide guidance for the public in complying with the law.

DATE: Written comments and requests for a public hearing must be delivered or mailed by October 28, 1980. The proposed regulations under section 482 are proposed to be effective with respect to transactions entered into on or after August 29, 1980. The proposed regulations under section 483 are proposed to be effective with respect to transactions entered into on or after September 29, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-221-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3432, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document gives notice that the Treasury Department is issuing proposed regulations under sections 482 and 483 of the Internal Revenue Code of 1954 in the form of proposed amendments to the existing regulations under those sections.

These proposed amendments are necessary so that the interest rates imputed under the two sections will more accurately reflect the market interest rates in effect when transactions affected by those sections are entered into. The safe haven rule for loans and advances under section 482 will consist of a range from 11 percent to 13 percent per annum simple interest. If the rate actually charged does not fall within this range, and the taxpayer does not establish a more appropriate rate, the interest rate imputed under section 482 will be 12 percent per annum simple interest. A new rule provides that section 482 does not apply to loans or advances, the interest or principal amount of which is expressed in a foreign currency.

The interest rate imputed on transactions involving deferred payments will be 10 percent compounded semiannually. The test rate used to determine whether the imputed rate will be applied is changed to 9 percent per annum simple interest. A new set of tables is being added to provide present value factors for the new higher interest rates.

The difference between the interest rates under sections 482 and 483 is explained by the fact that the 10 percent rate in section 483 is absolutely binding whereas the range of interest rates in section 482 is only a safe harbor. Therefore, it was decided that the proposed regulations should take a more lenient approach under section 483 than under section 482.

The Treasury Department is presently considering the possibility of adopting a self-adjusting interest rate under these two sections at some time in the future.

The amendments are being issued under the authority contained in sections 482, 483 (b) and (c)(1)(B), and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 482, 483 (b) and (c)(1)(B), and 7805).

Comments and Requests for Public Hearing

Before adoption as permanent regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these regulations is John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations in matters of both substance and style.

V 45 AG 29 80 UMI

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.482–2 is amended by making the following changes to paragraph (a) of § 1.482–2:

1. Paragraph (1)(2)(ii) of § 1.482–2 is amended to read as set forth below.

2. Paragraph (a)(2)(iii) of § 1.482–2 is amended to read as set forth below.

3. Paragraph (a)(2)(iv) of § 1.482–2 is deleted.

§ 1.482–2 Determination of taxable income in specific situations.

(a) *Loans or advances* * * *

(2) *Arm's length interest rate* * * *

(ii) *Funds obtained at situs of borrower.* Notwithstanding the other provisions of paragraph (a)(2) of this section, if the loan or advance represents the proceeds of a loan obtained by the lender at the situs of the borrower, the arm's length rate for any taxable year shall be equal to the rate actually paid by the lender increased by an amount which reflects the costs or deductions incurred by the lender in borrowing such amounts and making such loans, unless the taxpayer establishes a more appropriate rate under the standards set forth in paragraph (a)(2)(i) of this section.

(iii) *Safe haven rule for certain loans and advances.* (A) Paragraph (a)(2)(iii) of this section applies to interest paid or accrued—

(*1*) Pursuant to a loan or advance (other than a loan or advance entered into pursuant to a binding contract entered into prior to August 29, 1980), which was entered into on or after such date, and

(*2*) On or after August 29, 1980, pursuant to a demand loan or advance.

(B) If a creditor was not regularly engaged in the business of making loans or advances of the same general type as the loan or advance in question to unrelated parties, the arm's length rate of interest to which paragraph (a)(2)(iii) of this section applies shall be for purposes of this paragraph—

(*1*) The rate of interest actually charged if at least 11, but not in excess of 13, percent per annum simple interest, or

(*2*) 12 percent per annum simple interest if no interest was charged or if the rate of interest charged was less than 11, or in excess of 13 percent per annum simple interest,

unless the taxpayer establishes a more appropriate rate under the standards set forth in paragraph (a)(2)(i) of this section. For purposes of the preceding sentence, if the rate actually charged is greater than 13 percent per annum simple interest and less than the rate determined under the standards set forth in paragraph (a)(2)(i) of this section, or if the rate actually charged is less than 11 percent per annum simple interest and greater than the rate determined under the standards set forth in paragraph (a)(2)(i) of the section, then the rate actually charged shall be deemed to be a more appropriate rate under the standards set forth in paragraph (a)(2)(i) of this section.

(C) In order to determine the safe haven interest rate for other loans or advances, see 26 CFR 1.482–2(a)(2) (revised as of April 1, 1980).

(D) Paragraph (a)(2)(iii) of this section does not apply to any loan or advance, the interest or principal amount of which is expressed in a currency other than U.S. dollars.

Par. 2. Section 1.483–1 is amended as follows:

1. Paragraph (c)(2)(ii) is revised to read as set forth below.

2. That part of paragraph (c)(3) that precedes example (1) is revised to read as set forth below.

3. Example (7) is added to paragraph (c)(3).

4. Paragraph (c)(4) is revised to read as set forth below.

5. A new paragraph (c)(5) is added to read as set forth below.

6. Paragraph (d)(1)(ii) is revised to read as set forth below.

7. That part of paragraph (d)(4) that precedes example (1) is revised to read as set forth below.

8. Example (7) is added to paragraph (d)(4).

9. That part of paragraph (e)(3) that precedes example (1) is revised to read as set forth below.

10. Example (8) is added to paragraph (e)(3).

11. That part of paragraph (f)(5) that precedes example (1) is revised to read as set forth below.

12. That part of paragraph (f)(6)(iv) that precedes example (1) is revised to read as set forth below.

13. Paragraph (g) (9), (10), and (11) is added to paragraph (g); paragraph (g) (6), (7)(i), and (8) is revised; that part of paragraph (g)(7)(ii) that precedes paragraph (g)(7)(ii)(*a*) is revised; and in paragraph (g)(2) the headings of tables IV through VI are revised and tables VII through IX are added to read as set forth below.

§ 1.483–1 Computation of interest on certain deferred payments.

* * * * *

(c) *Total unstated interest* * * *

(2) *Present value of payment*—(i) *In general.* * * *

(ii) *Prescribed interest rates.*

(A) For payments on account of a sale or exchange of property entered into before July 24, 1975, as well as a sale or exchange of property pursuant to a binding written contract (including an irrevocable written option) entered into before such date, the interest rate prescribed by paragraph (c)(2)(ii)(A) shall be 5 percent per annum compounded semiannually. (See paragraph (c)(4) of this section for special rules where there has been a substantial change in the terms of a binding written contract entered into before July 24, 1975.)

(B) For payments on account of a sale or exchange of property entered into on or after July 24, 1975, and before September 29, 1980, except a sale or exchange entered into pursuant to a binding written contract (including an irrevocable written option) entered into before July 24, 1975, the interest rate prescribed by paragraph (c)(2)(ii)(B) of this section shall be 7 percent per annum compounded semiannually. For payments on account of a sale or exchange of property entered into on or after September 29, 1980, pursuant to a binding written contract (including an irrevocable written option) entered into after July 23, 1975, and before September 29, 1980, the interest rate prescribed by paragraph (c)(2)(ii)(B) of this section shall be 7 percent per annum compounded semiannually. (See paragraph (c)(5) of this section for special rules where there has been a substantial change in the terms of a binding written contract entered into after July 23, 1975 and before September 29, 1980.)

(C) For payments on account of a sale or exchange of property entered into on or after September 29, 1980, except a sale or exchange entered into pursuant to a binding written contract (including an irrevocable written option) entered into before such date, the interest rate described by paragraph (c)(2)(ii)(C) of this section shall be 10 percent per annum compounded semiannually. (See paragraph (c)(5) of this section for special rules where there has been a substantial change in the terms of a binding written contract entered into before September 29, 1980.)

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples: (Note that examples (1) through (6) use Tables I through VI because such tables generally apply to transactions entered into before September 29, 1980, and that the principles illustrated by such examples would apply for transactions entered into on or after September 29,

1980, in which case Tables VII through IX would generally be applied.):

* * * * *

Example (7). On December 31, 1980, A sells property to B under a contract which provides that B is to make two payments of $1,000 each, payable August 1, 1981, and November 1, 1981, and a third payment of $2,000, payable March 1, 1982. No interest is provided for in the contract. For purposes of paragraph (a) of this section, the total unstated interest under the contract is $326.53 computed as follows:

Sum of payments to which sec. 483 applies		$4,000.00
Less:		
Present value of $1,000 due August 1, 1981 ($1,000× .95238 (factor for 6 to 9 months, col. (b), Table VII))	$952.38	
Present value of $1,000 due November 1, 1981 ($1,000× .90703 (factor for 9 to 15 months, col. (b), Table VII))	907.03	
Present value of $2,000 due March 1, 1982 ($2,000× .90703 (factor for 9 to 15 months, col. (b), Table VII))	1,814.06	3,673.47
Total unstated interest		326.53

(4) *Special rules for binding contracts entered into before July 24, 1975.* (i) Payments made pursuant to a sale or exchange occurring before July 24, 1975, shall continue to be subject to the 5 percent prescribed interest rate of paragraph (c)(2)(ii)(A) of this section and the 4 percent prescribed test rate of paragraph (d)(1)(ii)(A) of this section even though there has been a change in the terms of the contract.

(ii) Where payments are made pursuant to the sale or exchange of property on or after July 24, 1975, and before September 29, 1980, but under the terms of a binding written contract (including an irrevocable written option) entered into before July 24, 1975, and there has been a substantial change (within the meaning of paragraph (b)(4) of this section) in terms of such contract, then if the change occurs on or after July 24, 1975, the 7 percent prescribed interest rate of paragraph (c)(2)(ii)(B) of this section and the 6 percent prescribed test rate of paragraph (d)(1)(ii)(B) of this section shall be applied to payments made after the occurrence of such substantial change. If the change occurs before July 24, 1975, the payments shall continue to be subject to the 5 percent prescribed interest rate of paragraph (c)(2)(ii)(A) of this section and the 4 percent prescribed prescribed test rate of paragraph (d)(1)(ii)(A) of this section.

(iii) Where payments are made pursuant to a sale or exchange occurring on or after September 29, 1980, but under the terms of a binding written contract (including an irrevocable written option) entered into before July 24, 1975, and there has been a substantial change (within the meaning of paragraph (b)(4) of this section) in the terms of such contract on or after July 24, 1975, then the prescribed interest rate and the prescribed test rate applied to payments made after the occurrence of the substantial change shall be the rates applicable to payments made pursuant to a sale or exchange entered into at the time of the change and not entered into pursuant to a binding written contract. If the change occurs before July 24, 1975, the payments shall continue to be subject to the 5 percent prescribed interest rate of paragraph (c)(2)(ii)(A) of this section and the 4 percent prescribed test rate of paragraph (d)(1)(ii)(A) of this section.

(5) *Special rule for binding contracts entered into on or after July 24, 1975, and before September 29, 1980.* Payments made pursuant to a sale or exchange occurring after July 23, 1975, and before September 29, 1980, except a sale or exchange entered into pursuant to a binding written contract (including an irrevocable written option) entered into before July 24, 1975, shall continue to be subject to the 7 percent prescribed interest rate of paragraph (c)(2)(ii)(B) of this section and the 6 percent prescribed test rate of paragraph (d)(1)(ii)(B) of this section even though there has been a change in the terms of the contract. However, where payments are made pursuant to a sale or exchange occurring on or after September 29, 1980, but under the terms of a binding written contract entered into after July 24, 1975 and before September 29, 1980, and there has been a substantial change (within the meaning of paragraph (b)(4) of this section) in the terms of such contract on or after September 29, 1980, then the 10 percent prescribed interest rate of paragraph (c)(2)(ii)(C) of this section and the 9 percent prescribed test rate of paragraph (d)(1)(ii)(C) of this section shall be applied to payments made after the occurrence of such substantial change. If the substantial change occurs before September 29, 1980, then the payments shall continue to be subject to the 7 percent interest rate of paragraph (c)(2)(ii)(B) of this section and the 6 percent test rate of paragraph (d)(1)(ii)(B) of this section.

(d) *Test of whether there is total unstated interest under a contract*—(1) *In general.* * * *

(ii) *Prescribed test rates.* (A) For payments on account of a sale or exchange of property entered into before July 24, 1975, as well as a sale or exchange of property entered into pursuant to a binding written contract (including an irrevocable written option) entered into before such date, the test prescribed by paragraph (d)(1)(ii)(A) of this section shall be 4 percent per annum simple interest. (See paragraph (c)(4) of this section for special rules where there has been a substantial change in the terms of a binding written contract entered into before July 24, 1975.)

(B) For payments on account of a sale or exchange of property entered into on or after July 24, 1975, and before September 29, 1980, except a sale or exchange entered into pursuant to a binding written contract (including an irrevocable written option) entered into before July 24, 1975, the test rate prescribed by paragraph (d)(1)(ii)(B) of this section shall be 6 percent per annum simple interest. For payments on account of a sale or exchange of property entered into on or after September 29, 1980, pursuant to a binding written contract (including an irrevocable written option) entered into after July 23, 1975, and before September 29, 1980, the test rate prescribed by paragraph (d)(1)(ii)(B) of this section shall be 6 percent per annum simple interest. (See paragraph (c)(5) of this section for special rules where there has been a substantial change in the terms of a contract entered into after July 23, 1975 and before September 29, 1980.

(C) For payments on account of a sale or exchange of property entered into on or after September 29, 1980, except a sale or exchange entered into pursuant to a binding written contract (including an irrevocable written option) entered into before such date, the test rate prescribed by paragraph (d)(1)(ii)(C) of this section shall be 9 percent per annum simple interest. (See paragraph (c)(5) of this section for special rules where there has been a substantial change in terms of a contract entered into before September 29, 1980.

* * * * *

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples (Note that examples (1) through (6) use Tables I through VI, because such tables apply generally to transactions entered into before September 29, 1980, and that the principles illustrated by such examples would apply for transactions entered into on or after September 29, 1980, in which case Tables VII through IX would generally be applied.):

* * * * *

Example (7). On December 31, 1980, A sells property to B under a contract which provides that B is to make payments of $2,040 ($2,000 sales price plus $40 interest), $2,080 ($2,000 sales price plus $80 interest), and $2,120 ($2,000 sales price plus $120 interest), such payments being due, respectively, 1, 2, and 3 years from the date of sale. Because the contract was entered into after September 29, 1980, the determination of whether there is total unstated interest under the contract is made using Table VII in the following manner:

(i) Sum of payments to which sec. 483 applies		$6,000.00
(ii) Sum of:		
Present value of $2.040 due 1 yr. from date of sale ($2 040 × .91743 (factor for 9 to 15 months, col. (a), Table VII))	$1,871.56	
Present value of $2,080 due 2 yrs. from date of sale ($2,080 × .84746 (factor for 21 to 27 months, col. (a), Table VII))	1,762.72	
Present value of $2,120 due 3 yrs. from date of sale ($2,120 × .78740 (factor for 33 to 39 months, col. (a), Table VII))	1,669.29	5,303.57
Total unstated interest		696.43

Since the sum of the payments to which section 483 applies ($6,000) exceeds the sum of the present values of such payments and the present values of the stated interest payments ($5,303.57), there is total unstated interest under the contract, and the provisions of section 483 apply to the payments of sales price due under the contract. For the method of computing the amount of total unstated interest which is includible in or deductible from income, see paragraph (c) of this section.

(e) *Payments that are indefinite as to time, liability, or amount.* * * *

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples (Note that examples (1) through (7) use Tables I through VI, because such tables generally apply to transactions entered into before September 29, 1980, and that the principles illustrated by such examples would apply for transactions entered into on or after September 29, 1980, in which case Tables VII through IX would generally be applied.):

* * * * *

Example (8). M Corporation and N Corporation each own one-half of the stock of O Corporation. On December 31, 1980, pursuant to a reorganization qualifying under section 368(a)(1)(b), M contracts to acquire the one-half interest held by N for an initial distribution on such date of 30,000 shares of M voting stock, and a non-assignable right to receive up to 10,000 additional shares of M's voting stock during the next 3 years provided the net profits of O Corporation exceed certain amounts specified in the contract. No interest is provided for in the contract. No additional shares are received in 1981 or 1982, but in 1983 the annual earnings of O Corporation exceed the specified amount and on December 31, 1983, an additional 3,000 voting shares are transferred to N. The fair market value of such shares on the date of transfer is $60,000 ($20 per share). The total unstated interest applicable to the indefinite payment is computed as follows:

Indefinite payment to which sec. 483 applies	$60,000.00
Less:	
Present value of such payment ($60,000 × .74622 (factor for 33 to 39 months, col. (b), Table VII))	44,773.20
Total unstated interest	$15,226.80

See paragraph (a)(2) of § 1.483–2 for the effect on a reorganization defined in section 368 (a)(1) of treating a portion of voting stock as interst under section 483.

(f) *Changes in terms of contract.* * * *

(5) *Examples.* The provisions of paragraph (f) (1) through (5) of this section may be illustrated by the following examples (Note that the examples use Tables I through III because the examples deal with transactions to which these tables apply. These tables generally apply to transactions entered into after July 30, 1963, and before July 24, 1975. The principles illustrated by the examples also apply to all other transactions to which section 483 applies. However, Tables IV through VI are used for transactions to which those tables apply, generally transactions entered into after July 23, 1975, and before September 29, 1980. In addition, Tables VII through IX are used for transactions to which those tables apply, generally transactions entered into on or after September 29, 1980.):

* * * * *

(6) *Transfer of obligation to make or contract right to receive deferred payments.* * * *

(iv) The provisions of paragraph (f)(6) of this section may be illustrated by the following examples (Note that the examples use Tables I through III because the examples deal with transactions to which these tables apply. These tables apply generally to transactions entered into after July 30, 1963, and before July 24, 1975. The principles illustrated by the examples also apply to all other transactions to which section 483 applies. However, Tables IV and VI are used for transactions to which these tables apply, generally transations entered into after July 23, 1975, and before September 29, 1980. In addition, Tables VI through IX are used for transactions to which those tables apply, generally transactions entered into on or after September 29, 1980.):

* * * * *

(g) *Present value tables.* * * *

(2) *Tables.* * * *

Table IV—Present Value of Deferred Payment. (Applicable to contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.)

* * * * *

Table V—Present Value of Annuity Certain: $1 Every 6 Months

(Applicable to contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.)

* * * * *

Table VI—Present Value of Annuity Certain: $1 Every 12 Months

(Applicable to contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.)

* * * * *

Table VII—Present Value of Deferred Payment

(Applicable to contracts entered into on or after September 29, 1980, to which paragraphs (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply.)

[Col. (a) 9 percent simple interest; Col. (b) 10 percent, compounded semiannually.]

Number of months deferred			
More than	But not more than	Col. (a)[1]	Col. (b)[2]
0	6	1.00000	1.00000
6	9	.95694	.95238
9	15	.91743	.90703
15	21	.88106	.86384
21	27	.84746	.82270
27	33	.81633	.78353
33	39	.78740	.74622
39	45	.76046	.71068
45	51	.73529	.67684
51	57	.71174	.64461
57	63	.68966	.61391
63	69	.66890	.58468
69	75	.64935	.55684
75	81	.63091	.53032
81	87	.61350	.50507
87	93	.59701	.48102
93	99	.58140	.45811
99	105	.56657	.43630
105	111	.55249	.41552
111	117	.53908	.39573
117	123	.52632	.37689
123	129	.51414	.35894
129	135	.50251	.34185
135	141	.49140	.32557
141	147	.48077	.31007
147	153	.47059	.29530
153	159	.46083	.28124
159	165	.45147	.26785
165	171	.44248	.25509
171	177	.43384	.24295
177	183	.42553	.23138
183	189	.41754	.22036
189	195	.40984	.20987
195	201	.40241	.19987
201	207	.39526	.19035
207	213	.38835	.18129
213	219	.38168	.17266
219	225	.37523	.16444
225	231	.36900	.15661
231	237	.36298	.14915
237	243	.35714	.14205
243	249	.35149	.13528
249	255	.34602	.12884
255	261	.34072	.12270
261	267	.33557	.11686
267	273	.33058	.11130
273	279	.32573	.10600

Number of months deferred		Col. (a)[1]	Col. (b)[2]
More than	But not more than		
279	285	.32103	.10095
285	291	.31646	.09614
291	297	.31201	.09156
297	303	.30769	.08720
303	309	.30349	.08305
309	315	.29940	.07910
315	321	.29542	.07533
321	327	.29155	.07174
327	333	.28777	.06833
333	339	.28409	.06507
339	345	.28050	.06197
345	351	.27701	.05902
351	357	.27360	.05621
357	363	.27027	.05354
363	369	.26702	.05099
369	375	.26385	.04856
375	381	.26076	.04625
381	387	.25773	.04404
387	393	.25478	.04195
393	399	.25189	.03995
399	405	.24907	.03805
405	411	.24631	.03623
411	417	.24361	.03451
417	423	.24096	.03287
423	429	.23838	.03130
429	435	.23585	.02981
435	441	.23337	.02839
441	447	.23095	.02704
447	453	.22857	.02575
453	459	.22624	.02453
459	465	.22396	.02336
465	471	.22173	.02225
471	477	.21954	.02119
477	483	.21739	.02018
483	489	.21529	.01922
489	495	.21322	.01830
495	501	.21119	.01743
501	507	.20921	.01660
507	513	.20725	.01581
513	519	.20534	.01506
519	525	.20346	.01434
525	531	.20161	.01366
531	537	.19980	.01301
537	543	.19802	.01239
543	549	.19627	.01180
549	555	.19455	.01124
555	561	.19286	.01070
561	567	.19120	.01019
567	573	.18957	.00971
573	579	.18797	.00924
579	585	.18639	.00880
585	591	.18484	.00838
591	597	.18332	.00798
597	603	.18182	.00760
603	609	.18034	.00724
609	615	.17889	.00690
615	621	.17746	.00657
621	627	.17606	.00626
627	633	.17467	.00596
633	639	.17331	.00567
639	645	.17197	.00540
645	651	.17065	.00515
651	657	.16935	.00490
657	663	.16807	.00467
663	669	.16681	.00445
669	675	.16556	.00423
675	581	.16434	.00403
681	687	.16313	.00384
687	693	.16194	.00366
693	699	.16077	.00348
699	705	.15962	.00332
605	711	.15848	.00316
711	717	.15736	.00301
717	723	.15625	.00287

[1] Present value of $1 at 9 percent simple interest.

[2] Present value of $1 at 10 percent compounded semiannually.

Table VIII.—*Present Value of Annuity Certain: $1 Every 6 Mo.*

[Applicable to contracts entered into on or after September 29, 1980, to which pars. (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply]

[Col. (a) 9 pct simple interest; Col. (b) 10 pct, compounded semiannually]

Number of years final payment deferred	Col. (a)[1]	Col. (b)[2]
.5	.95694	.95238
1.0	1.87437	1.85941
1.5	2.75543	2.72325
2.0	3.60289	3.54595
2.5	4.41922	4.32948
3.0	5.20662	5.07569
3.5	5.96708	5.78637
4.0	6.70237	6.46321
4.5	7.41411	7.10782
5.0	8.10377	7.72173
5.5	8.77267	8.30641
6.0	9.42202	8.86325
6.5	10.05293	9.39357
7.0	10.66643	9.89864
7.5	11.26344	10.37966
8.0	11.84484	10.83777
8.5	12.41141	11.27407
9.0	12.96390	11.68959
9.5	13.50298	12.08532
10.0	14.02930	12.46221
10.5	14.54344	12.82115
11.0	15.04595	13.16300
11.5	15.53735	13.48857
12.0	16.01812	13.79864
12.5	16.48871	14.09394
13.0	16.94954	14.37519
13.5	17.40101	14.64303
14.0	17.84349	14.89813
14.5	18.27733	15.14107
15.0	18.70286	15.37245
15.5	19.12040	15.59281
16.0	19.53024	15.80268
16.5	19.93265	16.00255
17.0	20.32791	16.19290
17.5	20.71626	16.37419
18.0	21.09794	16.54685
18.5	21.47317	16.71129
19.0	21.84217	16.86789
19.5	22.20515	17.01704
20.0	22.56229	17.15909
20.5	22.91378	17.29437
21.0	23.25980	17.42321
21.5	23.60052	17.54591
22.0	23.93609	17.66277
22.5	24.26667	17.77407
23.0	24.59240	17.88007
23.5	24.91343	17.98102
24.0	25.22989	18.07716
24.5	25.54190	18.16872
25.0	25.84959	18.25593
25.5	26.15308	18.33898
26.0	26.45248	18.41807
26.5	26.74790	18.49340
27.0	27.03945	18.56515
27.5	27.32722	18.63347
28.0	27.61131	18.69854
28.5	27.89181	18.76052
29.0	28.16882	18.81954
29.5	28.44242	18.87575
30.0	28.71269	18.92929
30.5	28.97971	18.98028
31.0	29.24356	19.02883
31.5	29.50432	19.07508
32.0	29.76205	19.11912
32.5	30.01683	19.16107
33.0	30.26872	19.20102
33.5	30.51779	19.23907
34.0	30.76410	19.27530
34.5	31.00771	19.30981
35.0	31.24867	19.34268
35.5	31.48705	19.37398
36.0	31.72290	19.40379
36.5	31.95627	19.43218
37.0	32.18722	19.45922
37.5	32.41579	19.48497
38.0	32.64203	19.50950
38.5	32.86599	19.53285
39.0	33.08772	19.55510
39.5	33.30726	19.57628
40.0	33.52465	19.59646
40.5	33.73994	19.61568
41.0	33.95316	19.63398
41.5	34.16435	19.65141

Table VIII.—*Present Value of Annuity Certain: $1 every 6 months*—Continued

Number of years final payment deferred	Col. (a)[1]	Col. (b)[2]
42.0	34.37356	19.66801
42.5	34.58081	19.68382
43.0	34.78615	19.69887
43.5	34.98961	19.71321
44.0	35.19122	19.72687
44.5	35.39102	19.73987
45.0	35.58904	19.75226
45.5	35.78531	19.76406
46.0	35.97986	19.77529
46.5	36.17272	19.78599
47.0	36.36392	19.79619
47.5	36.55349	19.80589
48.0	36.74146	19.81513
48.5	36.92785	19.82394
49.0	37.11269	19.83232
49.5	37.29601	19.84031
50.0	37.47783	19.84791
50.5	37.65817	19.85515
51.0	37.83706	19.86205
51.5	38.01452	19.86862
52.0	38.19058	19.87488
52.5	38.36525	19.88083
53.0	38.53856	19.88651
53.5	38.71053	19.89191
54.0	38.88116	19.89706
54.5	39.05053	19.90196
55.0	39.21860	19.90663
55.5	39.38541	19.91108
56.0	39.55097	19.91531
56.5	39.71531	19.91934
57.0	39.87844	19.92318
57.5	40.04038	19.92684
58.0	40.20115	19.93033
58.5	40.36077	19.93364
59.0	40.51925	19.93680
59.5	40.67661	19.93981
60.0	40.83286	19.94268

[1] Present value of $1 at 9 percent simple interest.

[2] Present value of $1 at 10 percent compounded semiannually.

Table IX—*Present Value of Annuity Certain: $1 every 12 months*

(Applicable to contracts entered into on or after Sept. 29, 1980, to which paragraphs (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply)

[Col. (a) 9 percent simple interest; Col. (b) 10 percent, compounded semiannually]

Number of years final payment deferred	Col. (a)[1]	Col. (b)[2]
1.0	0.91743	0.90703
2.0	1.76489	1.72973
3.0	2.55229	2.47595
4.0	3.28758	3.15279
5.0	3.97724	3.76670
6.0	4.62659	4.32354
7.0	5.24009	4.82861
8.0	5.82149	5.28672
9.0	6.37398	5.70224
10.0	6.90030	6.07913
11.0	7.40281	6.42098
12.0	7.88358	6.73104
13.0	8.34441	7.01229
14.0	8.78689	7.26738
15.0	9.21242	7.49876
16.0	9.62226	7.70862
17.0	10.01752	7.89898
18.0	10.39920	8.07163
19.0	10.76820	8.22824
20.0	11.12534	8.37029
21.0	11.47136	8.49913
22.0	11.80693	8.61599
23.0	12.13266	8.72198
24.0	12.44912	8.81813
25.0	12.75681	8.90533
26.0	13.05621	8.98443
27.0	13.34776	9.05617
28.0	13.63185	9.12124
29.0	13.90886	9.18026
30.0	14.17913	9.23380
31.0	14.44298	9.28236
32.0	14.70071	9.32640
33.0	14.95260	9.36635
34.0	15.19891	9.40259

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Table IX—*Present Value of Annuity Certain: $1 every 12 months*—Continued

Number of years final payment deferred	Col. (a)[1]	Col. (b)[2]
35.0	15.43987	9.43545
36.0	15.67572	9.46526
37.0	15.90667	9.49230
38.0	16.13291	9.51683
39.0	16.35464	9.53907
40.0	16.57203	9.55925
41.0	16.78525	9.57755
42.0	16.99446	9.59415
43.0	17.19980	9.60921
44.0	17.40141	9.62286
45.0	17.59943	9.63525
46.0	17.79398	9.64648
47.0	17.98518	9.65668
48.0	18.17315	9.66592
49.0	18.35799	9.67430
50.0	18.53981	9.68191
51.0	18.71870	9.68880
52.0	18.89476	9.69506
53.0	19.06807	9.70074
54.0	19.23872	9.70588
55.0	19.40679	9.71055
56.0	19.57235	9.71479
57.0	19.73548	9.71863
58.0	19.89625	9.72211
59.0	20.05473	9.72527
60.0	20.21098	9.72814

[1] Present value of $1 at 9 percent simple interest.
[2] Present value of $1 at 10 percent compounded semiannually.

* * * * *

(6) *Instructions for Table IV.* In general, the instructions for Table I are applicable to Table IV, taking into account the change in the rate of imputed interest for contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.

(7) *Instructions for Table V.* (i) In general, the instructions for Table II are applicable to Table V, taking into account the change in the rate of imputed interest for contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.

(ii) Notwithstanding the preceding subdivision, where a contract entered into after July 23, 1975, and before September 29, 1980, is otherwise described in paragraph (g)(4)(iii) of this section, then the present value of a series of equal payments described in that subsection shall be computed under Table V as follows:

* * * * *

(8) *Instruction for Table VI.* In general, the instructions for Table III are applicable to Table VI, taking into account the change in the rate of imputed interest for contracts entered into after July 23, 1975, and before September 29, 1980, to which paragraphs (c)(2)(ii)(B) and (d)(1)(ii)(B) of this section apply.

(9) *Instructions for Table VII.* In general, the instructions for Table I are applicable to Table VII, taking into account the change in the rate of imputed interest for contracts entered into on or after September 29, 1980, to which paragraphs (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply.

(10) *Instructions for Table VIII.* In general, the instructions for Table II are applicable to Table VIII, taking into account the change in the rate of imputed interest for contracts entered into on or after September 29, 1980, to which paragraphs (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply.

(ii) Notwithstanding the preceding subdivision, where a contract entered into on or after September 29, 1980, is otherwise described in paragraph (g)(4)(iii) of this section, then the present value of a series of equal payments described in that subsection shall be computed under Table VIII as follows:

(*a*) Determine the factor contained in the applicable present rate column (that is, col. (a) or col. (b)) for the appropriate number of years the final payment under the contract is deferred;

(*b*) Adjust the factor determined under (*a*) of this subdivision by increasing such factor either by .04306 (1 minus the column (a) factor for deferral of payment for 0.5 years; in this case .95694) if the present value computation is made under column (a), or by .04762 (1 minus the column (b) factor for deferral of payment for 0.5 years; in this case .95238) if the present value computation is made under column (b); and

(*c*) Multiply the amount of a single payment under the contract by the adjusted factor determined under paragraph (g)(10)(ii) of this section.

For example, the present value, using a rate of 9 percent per annum simple interest, of a series of eight $1,000 payments, the first payment being due exactly 6 months from the date of sale and the remaining seven payments being due, respectively, every 6 months thereafter (so that under the rule of paragraph (g)(10)(i) of this section the final payment is deferred 4 years), is $6,745.43 ($1,000 x (6.70237 plus .04306)).

(11) *Instructions for Table IX.* In general, the instructions for Table III are applicable to Table IX, taking into account the change in the rate of imputed interest for contracts entered into on or after September 29, 1980, to which paragraphs (c)(2)(ii)(C) and (d)(1)(ii)(C) of this section apply.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-26287 filed 8-28-80; 8:45 am]

BILLING CODE 4830-01-M

[LR-234-79]

26 CFR Part 26

Generation-Skipping Transfer Tax Regulations Under the Tax Reform Act of 1976; Return Requirements; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the filing of returns for the tax on generation-skipping transfers.

DATES: The public hearing will be held on November 5, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by October 22, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-234-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 2621 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, August 5, 1980 (45 FR 51771, 51840).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by October 22, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-26602 Filed 8-28-80; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 252

[Notice No. 348]

Export Markings

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend regulations relating to markings on cases and bulk containers of distilled spirits, wine or beer for export. Under these amended regulations, export markings for all products will read simply "Export" or "Export—Drawback Claimed." Requirements for the additional markings "Without Payment of Tax", "Use on Vessels (or Aircraft)", "Deposit in C.M.B.W.—Cl. 6", "Export via F.T.Z. No.", or "Deposit in C.B.W." are eliminated. This amendment is intended to give exporters greater flexibility when bottling or shipping distilled spirits, wine, or beer for export.

DATE: Written comments must be received by October 28, 1980.

ADDRESS: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Markings on Containers for Export

ATF is proposing to liberalize markings required to be placed on packages or cases of wine, distilled spirits, or beer being exported. Present regulations in Part 252 require that the type of exportation be indicated on the package or case when exported. Thus, under § 252.103, distilled spirits being directly exported to a foreign country, or to the armed services, must be marked with the word "Export." Similarly, distilled spirits being removed to a customs bonded warehouse must be marked "Deposit in C.B.W." or "Deposit in C.B.W.—Cl. 6" for removal to a manufacturing bonded warehouse. Other markings show removal to a foreign trade zone, "Export via F.T.Z." and withdrawals for ship or aircraft supplies, "Use on Vessels (or Aircraft)." To the extent that these types of exportation are allowed by law, similar requirements exist for marking wine or malt beverages for export.

ATF believes that markings indicating the type of exportation are unnecessary to protect Federal revenues, and that one simplified mark, "Export" would be sufficient to denote the status of alcoholic beverages being exported. Marking the word "Export" on all packages or cases of alcoholic beverages will differentiate these products from those entering domestic markets, and will indicate they are to be used only beyond the jurisdiction of the internal revenue laws, and thus not subject to tax. At the same time, by using only one marking, distillers, vintners, brewers, and wholesalers who export will be relieved of marking cases of containers with different marks for each type of exportation. Thus, inventories of products for export may be reduced since it will be unnecessary to maintain separate inventories for products being exported by different means. It is believed this will result in some cost savings to the affected industry, and will allow industry members more flexibility in their bottling and warehouse operations.

Although ATF is proposing to delete the markings denoting the method of exportation, we feel it remains necessary to differentiate between those products which are exported without payment of tax or free of tax, and those which are exported with benefit of drawback or refund of taxes paid. Therefore, ATF proposes that all exportations made without payment of tax or free of tax, §§ 252.103, 252.123, 252.143, 252.150e, and 252.154, be marked simply "Export." Those exportations with benefit of drawback, §§ 252.193, 252.216, and 252.223, would be marked "Export—Drawback Claimed" to show that taxes had been paid on those products. Upon exportation, taxes paid would be refunded to the exporter or bottler.

Other Conforming Changes

It is proposed to change the title of all sections which prescribe markings on export containers in Part 252 to read "Export marks." This title more accurately describes the content of those sections, and makes the titles uniform. Sections affected are §§ 252.103, 252.123, 252.143, 252.150e, 252.154, 252.216, and 252.223.

Other editorial changes are made throughout the affected sections to make them easier to read and understand. Statutory citations are updated to conform with **Federal Register** requirements.

Finally, requirements relating to the size and placement of the export marks have been deleted from §§ 252.123, 252.143, 252.150e, 252.154, 252.193, 252.216, and 252.223. These requirements are unnecessary.

Public Participation

Copies of the proposed regulations and any written comments will be available for public inspection during normal business hours at the:

ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20226.

ATF requests comments from all interested persons concerning this proposal. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be as inappropriate for disclosure to the public should not be included in comments. The name of the person submitting comments is not exempt from disclosure.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Compliance With Executive Order 12044

This proposed regulation does not meet the Department's criteria for significant regulations as set forth in the **Federal Register** of November 8, 1978.

Authority and Issuance

This notice of proposed rulemaking is issued under the authority of 26 U.S.C. 7805 (68A Stat. 917, as amended).

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Accordingly, 27 CFR Part 252 is amended as follows:

PART 252—EXPORTATION OF LIQUORS

Paragraph 1. Amend the table of sections to read as follows:

* * * * *

Sec.
252.103 Export marks.

* * * * *

252.123 Export marks.

* * * * *

252.143 Export marks.

* * * * *

252.150e Export marks.

* * * * *

252.154 Export marks.

* * * * *

252.216 Export marks.

* * * * *

252.223 Export marks.

* * * * *

Par. 2. Section 252.103 is amended by (1) deleting the requirement to mark packages or cases of distilled spirits withdrawn for exportation with the words "Without Payment of Tax" or with words denoting the type of exportation; (2) updating the statutory citation; and (3) changing the title of the section. As amended, § 252.103 reads as follows:

§ 252.103 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages and cases of distilled spirits at the time they are filled under the provisions of Part 19 of this chapter, the proprietor shall mark the word "Export" on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word "Export" on the containers if the regional regulatory administrator finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

Par. 3. Section 252.123 is amended by (1) deleting the requirement to mark packages or cases of wine withdrawn for exportation with the words "Without Payment of Tax" or with words denoting the type of exportation; (2) updating the statutory citation; and (3) changing the title of the section. As amended, § 252.123 reads as follows:

§ 252.123 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages or cases of wine at the time they are filled under the provision of Part 240 of this chapter, the proprietor shall mark the work "Export" on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word "Export" on the containers if the regional regulatory administrator finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Par. 4. Section 252.143 is amended by deleting the requirement to mark containers or cases of beer withdrawn for exportation with the words "Without Payment of Tax", or with words denoting the type of exportation, and by changing the title of the section. As amended, § 252.143 reads as follows:

§ 252.143 Export marks.

In addition to the marks and brands required to be placed on each shipping tank or package (including crates) of beer at the time they are filled under the provisions of Part 245 of this chapter, the brewer shall mark the word "Export" on each container or case before removal from the brewery for any exportation authorized under this subpart.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Par. 5. Section 252.150e is amended by deleting the requirement to mark containers of beer concentrate withdrawn for exportation with the words "Without Payment of Tax", or with words describing the type of exportation, and by changing the title of the section. As amended, § 252.150e reads as follows:

252.150e Export marks.

In addition to the marks and brands required to be placed on containers of beer concentrate under the provisions of Part 245 of this chapter, the brewer shall mark the words "Beer concentrate for Export" on each container before removal from the brewery for any exportation authorized under this subpart.

Par. 6. Section 252.154 is amended by (1) deleting the requirement to mark containers of specially denatured spirits withdrawn for exportation with the words "Tax-Free" or with words denoting the type of exportation; (2) changing the title of the section; and (3) updating the statutory citation. As amended, § 252.154 reads as follows:

§ 252.154 Export marks.

In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 19 of this chapter, the proprietor shall mark the word "Export" on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

Par. 7. Section 252.193 is amended by deleting the requirement to mark packages or cases of distilled spirits exported with words denoting the type of exportation. As amended, § 252.193 reads as follows:

§ 252.193 Export marks.

* * * * *

In addition to the marks and brands required to be placed on packages or other bulk containers and cases at the time they are filled under the provisions of Part 19 of this chapter, the exporter shall mark the words "Export—Drawback Claimed" on the Government side of each case or Government head of each container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone or a customs bonded warehouse.

(Sec. 309, Tariff Act of 1930, * * *)

Par 8. Section 252.216 is amended by deleting the requirement to mark containers or cases of wine exported with words denoting the type of exportation, and by changing the title of the section. As amended, § 252.216 reads as follows:

§ 252.216 Export marks.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases under the provisions of Parts 231 or 240 of this chapter, the exporter shall mark the words "Export—Drawback Claimed" on the Government side of each case or Government head of each container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone.

(Sec. 309, Tariff Act of 1930, * * *)

Par. 9. Section 252.223 is amended by (1) deleting the requirement to mark containers or cases of beer exported with words denoting the type of exportation; (2) changing the title of the section; and (3) updating the statutory citation. As amended, § 252.223 reads as follows:

§ 252.223 Export marks.

In addition to the marks and brands required to be placed on kegs, barrels, cases, crates or other packages under the provisions of Part 245 of this chapter, the exporter shall mark the words "Export—Drawback Claimed" on each container or case before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5055))

Signed: August 7, 1980.

Stephen E. Higgins,

Acting Director.

Approved: August 25, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations)

[FR Doc. 80-26557 Filed 8-28-80; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Rules and Regulations for Reporting and Disclosure and Minimum Standards for Employee Pension Benefit Plans; Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans

Correction

In FR Doc. 80-23855, appearing in the issue of Friday, August 8, 1980, make the following corrections:

(1) On page 52825, first column, the 23rd line should have read: "implement Executive Order 12044 (44 FR".

(2) On page 52828, second column, the eighth line from the bottom of the page should have read: "described in section 6057(a)(2)(C) (i.e., to".

(3) On page 52830, first column, the seventh line in paragraph "E. Effective Dates" should have read: "regulations, the Department contemplates providing that these regulations would not become effective".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

31 CFR Part 344

Regulations Governing U.S. Treasury Certificates of Indebtedness, Treasury Notes and Bonds—State and Local Government Series

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury proposes to revise the regulations governing United States Treasury Certificates of Indebtedness, Notes and Bonds—State and Local Government Series, in Department of the Treasury Circular No. 3-72, Revised (31 CFR, Part 344). Under the new revision, the class of entities eligible to invest in the above securities will be slightly expanded; advance notice of the intention to invest in the obligations, as well as to redeem them prior to maturity, will be required; and, the previously announced prohibition on reinvestment of the proceeds of SLG securities redeemed prior to maturity will be implemented.

DATES: Comments will be received on or before September 30, 1980.

ADDRESS: Send comments to Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT: Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Washington, D.C. 20226 (202-376-0244).

SUPPLEMENTARY INFORMATION: Department of the Treasury Circular No. 3-72, Revised, governs the offering of a special series of public debt securities to State and local government investors. The purpose of this offering is to make available securities that would enable these investors to avoid the arbitrage restrictions prescribed in the Internal Revenue Service regulations at 26 CFR 1.103.

Specifically, the changes being proposed are as follows:

(1) Section 344.0 is being changed to expand the definition of the term "government body" to include entities which, by virtue of their involvement in a State and local governmental financing, hold funds subject to yield restriction.

(2) Section 344.2 is being amended to prescribe an advance notice of twenty (20) days of the intent to invest in the securities being offered under this circular. The notice will enable the Treasury to better administer its cash management program.

(3) Section 344.2 is being further amended to incorporate into the regulations the decision announced by the Treasury on February 28, 1980, that it would not sell SLG securities to investors using funds obtained from the early redemption of other such securities.

(4) Section 344.4 is being amended to require owners to provide a twenty (20) calendar day notice of their intention to redeem securities prior to maturity. A one week's notice is presently prescribed. Although the new notice requirement would be mandatory only as to securities hereafter issued, owners of SLG obligations previously issued are encouraged whenever possible to observe the new notice.

* * * * *

The offering of Treasury securities relates to the fiscal policy of the United States, and, accordingly, is not subject to notice and public procedures. In this case, however, the Fiscal Service seeks to give investors eligible to participate in this offering, and other interested parties, an opportunity to comment on the proposed rules. The Treasury has also previously consulted, on an informal basis, about the effect and acceptability of some of these changes, with representatives of firms that provide investment and financing counsel to State and local government entities. As this offering is a continuous one, the changes described shall generally apply to all purchases of these securities made during the period between this publication and the adoption of the final regulations. Interested parties are invited to file written comments on these regulations. If appropriate, a public hearing will be held.

Dated: August 26, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

Part 344 of Title 31, CFR, is proposed to be revised as follows:

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PART 344—REGULATIONS GOVERNING U.S. TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES; U.S. TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES; AND U.S. TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

Sec.
344.0 Offering of securities.
344.1 Description of securities.
344.2 Subscription for purchase.
344.3 Issue date and payment.
344.4 Redemption.
344.5 General provisions.

Authority: Sections 1, 5, 18, 19, and 20 of the Second Liberty Bond Act, as amended, 40 Stat. 288, 290, and 1309, as amended, 48 Stat. 343, as amended (31 U.S.C. 752, 753, 754, 754a, and 754b); Section 601 of the Tax Reform Act of 1969, 83 Stat. 656 (26 U.S.C. 103(c)); and 5 U.S.C. 301.

§ 344.0 Offering of securities.

In order to provide States, municipalities and other government bodies described in Section 103(a)(1) of the Internal Revenue Code, and the regulations issued under Section 103, with investments tailored to their needs under those provisions, the Secretary of the Treasury offers for sale thereto, under the authority of the Second Liberty Bond Act, as amended:

(a) United States Treasury Certificates of Indebtedness—State and Local Government Series,

(b) United States Treasury Notes—State and Local Government Series, and

(c) United States Treasury bonds—State and Local Government Series.

The term "government body", as used herein, refers to any one of the entities described in Section 103(a)(1), as well as to any other entity, holding funds to which the yield restrictions in Section 103(c) apply, as provided by Internal Revenue Service regulations. This offering will continue until terminated by the Secretary of the Treasury.

§ 344.1 Description of securities.

(a) *General.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Washington, D.C. 20226. They may not be transferred by sale, exchange, assignment or pledge, or otherwise.

(b) *Terms.* (1) *Certificates of Indebtedness.* The certificates will be issued in a minimum of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body, from 45 days up to one year, or for any intervening period.

(2) *Notes.* The notes will be issued in the minimum amount of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body, from one year and one day up to and including ten years, or for any intervening period.

(3) *Bonds.* The bonds will be issued in the minimum amount of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body from ten years and one day or for any longer period specified by year, month and day, not to exceed 40 years.

(c) *Rates of interest.* Each certificate, note or bond will bear such rate of interest as the government body shall designate, provided, however, that it shall not be more than one-eighth of 1 percent below a then current Treasury rate on a security of comparable maturity. Interest on certificates will be computed on an annual basis and will be payable at maturity with the principal amount. Interest on notes and on bonds will be paid beginning on any interest payment date requested in the subscription form, and on a semiannual basis thereafter to maturity.[1] If the date requested for the first interest payment is less than forty-five (45) days from the date of issue, no assurance can be given that such payment will be timely made. The final semiannual interest payment of notes and bonds shall coincide with their maturity and will be paid with the principal. The applicable maximum interest rates for each week may be determined from tables which will be generally available no earlier than the first business day of that week at Federal Reserve Banks and Branches. The rate tables will be effective for all subscriptions actually received by the Banks and Branches during the week to which the tables apply, or, where mailed, by the stamp date. All subscriptions submitted by mail must be sent by certified or registered mail.

§ 344.2 Subscription for purchase.

(a) *Subscription requirements.* A government body may purchase securities under this offering by submitting a subscription to a Federal Reserve Bank or Branch, completed to provide payment thereon no earlier than twenty (20) calendar days after the date on which the subscription is tendered and received. The subscription, dated and signed by an official authorized to make the purchase, must show the amounts, issue dates, maturities, and, on the basis of the applicable table, specify the interest rates of the securities desired; the semiannual interest payment dates (in the case of notes and bonds); and, the title(s) of the designated official(s) authorized to request early redemption of such securities. Subscriptions submitted for certificates, notes and bonds must separately itemize securities of each maturity and each interest rate. Each subscriber will be required to certify as follows:

(1) that the total investment consists only of the proceeds of obligations described in Section 103(a) of the Internal Revenue Code, or certain other proceeds treated as such and restricted as in (2) below;

(2) that the total investment is not more nor less, within authorized multiples ($1,000 minimum and increments of $100 over such amount) of such proceeds, subject to yield restrictions under Section 103(c) of the Code, and the regulations issued thereunder, except for any portion thereof required for payment due less than 45 days from the date settlement is made for the securities subscribed for; and

(3) that none of the proceeds submitted in payment are derived from the redemption prior to maturity of other securities of the State and Local Government Series.

(b) *Authority of subscriber.* Where a commercial bank submits a subscription on behalf of a government body, it must certify that it is acting under the latter's specific authorization; ordinarily, evidence of such authority will not be required. Subscriptions submitted by an agent other than a commercial bank must be accompanied by evidence of the agent's authority to act. Such evidence must describe the nature and scope of the agent's authorization, the legal authority under which the agent was designated, and relate by its terms to the investment action being undertaken. Subscriptons unsupported by such evidence will not be accepted.

§ 344.3 Issue date and payment.

The subscriber shall fix the issue date of each security for which a subscription has been submitted, but in no case may such date exceed by more than sixty (60) calendar days either the date of receipt of the subscription at the Federal Reserve Bank or Branch to which it was submitted or, where mailed, the stamp date thereof. Full payment for each subscription in immediately available funds must be made on the date of issue, or at any time prior thereto. Except in cases where failure to complete a subscription is established to have been due to circumstances not foreseen or contemplated, any subscriber which fails to make timely payment for its subscription will be ineligible thereafter to subscribe for securities under this offering for a period of not less than six (6) months. A subscriber may cancel a paid subscription within thirty (30) days of the issue date, in which event the purchase price, without interest, will be refunded. No substitute subscription therefor will be accepted for a period of six (6) months.

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[1] If the first interest payment date on a note or bond is March 31, May 31, August 29, 30 and 31, October 31, or December 31, the alternate semiannual interest payment date will be September 30, November 30, February 28 (February 29 in leap year), April 30 or June 30, respectively. Otherwise, interest payment will be made on numerically corresponding dates at six-month intervals.

§ 344.4 Redemption.

(a) *At maturity.* A security may not be called for redemption by the Secretary of the Treasury prior to maturity. Upon the maturity of a security, the Treasury will make payment of the principal amount and interest to the owner thereof (1) by a direct credit for its account through a member bank of the Federal Reserve System, (2) by Treasury check, or (3) in accordance with other prior arrangements made by the subscriber with the Bureau of the Public Debt.

(b) *Prior to maturity.* A security may be redeemed at the owner's option on twenty (20) calendar days' notice after forty-five (45) days from the issue date in the case of a certificate, and after one (1) year from the issue date in the case of a note or bond. Where redemption prior to maturity occurs, the interest for the entire period the security was outstanding shall be calculated on the basis of the lesser of (1) the original interest rate at which the security was issued, or (2) the interest rate that would have applied had the term for the security actually been for the shorter period. There shall be deducted from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments at a higher rate based on the original longer period to maturity. In addition, a penalty shall be assessed in all cases where the current borrowing costs to the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The difference between the two rates shall be the applicable penalty. It shall be assessed by deducting from the redemption proceeds the amount required to offset the increased costs to finance the amount being redeemed. Where a note or bond is being redeemed prior to maturity, its redemption will be effected only as of an interest payment date; no interest will be paid for any fractional part of an interest period. A notice to redeem a security prior to the maturity date must be given by the official(s) authorized to redeem it, as shown on the subscription form, to the Bureau of the Public Debt, Division of Investor Accounts, Detailed Accounts Branch, Washington, D.C. 20226, by letter or wire. A complete description of the securities being redeemed, as set out in the owner's statement of account, should be provided.

§ 344.5 General provisions.

(a) *Regulations.* United States Treasury Certificates of Indebtedness—State and Local Government Series, United States Treasury Notes—State and Local Government Series, United States Treasury Bonds—State and Local Government Series, shall be subject to the general regulations with respect to United States securities, which are set forth in the Department of the Treasury Circular No. 300, current revision (31 CFR, Part 306), to the extent applicable. Copies of the circular may be obtained from the Bureau of the Public Debt, Washington, D.C. 20226, or a Federal Reserve Bank or Branch.

(b) *Fiscal Agents.* Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the purchase of, and transactions, in, the securities being offered hereunder.

(c) *Reservations.* The Secretary of the Treasury reserves the right to reject any application for the purchase of securities hereunder, in whole or in part, and to refuse to issue or permit to be issued any such securities in any case or any class or classes of cases if he deems such action to be in the public interest, and his action in any such respect shall be final. The Secretary of the Treasury may also at any time, or from time to time, supplement or amend the terms of these regulations, or of any amendments or supplements thereto.

[FR Doc. 80-26646 Filed 8-28-80; 8:45 am]

BILLING CODE 4810-40-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[FRL 1593-3; OPP-00127A]

FIFRA Scientific Advisory Panel Meeting; Change in Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: The agenda for the two-day meeting in September of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has been changed. The Panel will discuss Subpart N: Chemistry Requirements: Environmental Fate, of the Guidelines for Registering Pesticides in the United States. The meeting will be open to the public.

DATE: Thursday and Friday, September 4 and 5, 1980, from 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: The meeting will be held at: Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA, 703-421-5500.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS-766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7560.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, August 14, 1980 (45 FR 54094), notice of the September 4-5, 1980, meeting of the FIFRA Scientific Advisory Panel was published. At the request of the Agency, item 1, review by the Panel on proposed rulemaking on Subpart M: Data Requirements for Biorational Pesticides of the Guidelines for Registering Pesticides in the United States, has been dropped from the agenda. The Agency has asked that it be postponed for a future meeting. The remaining items on the agenda are unchanged.

(Sec. 25(d), as amended, 92 Stat. 891; (7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: August 26, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26707 Filed 8-28-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 408

Entitlement to Medicare Benefits Based on Disability Entitlement

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: Pub. L. 96-265, effective 12/1/80, modifies the conditions and duration of entitlement to hospital insurance under Medicare that is based on entitlement to disability benefits under either the Social Security Act or Railroad Retirement Act.

The modifications (1) eliminate the requirement that the 24 months in the qualifying period for entitlement to Medicare be consecutive, and (2) permit Medicare entitlement to continue for 24 months beyond the termination of disability benefit entitlement, if the termination occurred because the individual demonstrated the ability to engage in substantial gainful activity although still suffering from a disability.

On May 30, 1980, we published a notice of proposed rulemaking (45 FR 36443) that recodified 42 CFR Part 405, Subpart A, which is the portion of HCFA regulations appropriate for incorporating these legislative changes. Since the changes mandated by P.L. 96–265 are technical and require no HHS policy decisions, we plan to incorporate those changes when we publish the final regulations for the May 30 proposed recodification.

FOR FURTHER INFORMATION CONTACT: Harold Fishman (301) 594–9077.

Dated: August 2, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80–26619 Filed 8–28–80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

Final Environmental Impact Statement—Surface Management of Public Lands Under the U.S. Mining Laws—43 CFR 3809

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final environmental impact statement (FEIS)

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental impact statement on the proposed 43 CFR 3809 Regulations—Surface Management of Public Lands under the U.S. Mining Laws (45 FR 13956, March 3, 1980).

The final statement analyzes environmental impacts that may result from implementation of the proposed regulations on prospecting, exploration and development of mining claims on approximately 60% of the 447,000,000 acres of public lands managed by the Bureau of Land Management, primarily in the Western States and Alaska.

ADDRESSES: Single copies of the final statement are available at the following Bureau of Land Management Offices:

Alaska State Office: 701 C Street, Box 13, Anchorage, Alaska 99513.

Arizona State Office: 2400 Valley Bank Center, Phoenix, Arizona 85073.

California State Office: Federal Office Bldg., Rm. E–2841, 2800 Cottage Way, Sacramento, California 95825.

Montana State Office: Granite Tower, 222 N. 32nd Street, P.O. Box 30157, Billings, Montana 59107.

Nevada State Office: Federal Bldg., Rm. 3008, 300 Booth Street, Reno, Nevada 89509.

New Mexico State Office: U.S. P.O. and Federal Bldg., South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

Colorado State Office: Colorado State Bank Bldg., Rm. 700, 1600 Broadway, Denver, Colorado 80202

Eastern States Office: 350 South Pickett Street, Alexandria, Virginia 22304.

Idaho State Office: Federal Bldg., Rm. 398, 550 West Fort Street, Box 042, Boise, Idaho 83724.

Washington Office: Director (520), Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets N.W., Washington, D.C. 20240.

Oregon State Office: 729 NE Oregon Street, P.O. Box 2965, Portland, Oregon, 97208.

Utah State Office: University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.

Wyoming State Office: 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

In addition, copies may be examined at any of the 56 Bureau of Land Management District Offices located in key cities and towns of the Western United States. Copies of the final statement may also be found in the public libraries of those cities and towns where the offices are located.

No final action will be taken until 30 days after this document has been filed with EPA.

FOR FURTHER INFORMATION CONTACT: Bob Anderson, Vincent J. Hecker, or Zareh Mozian, Telephone (202) 343–8537.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 25, 1980.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

[FR Doc. 80–26554 Filed 8–28–80; 8:45 am]

BILLING CODE 4310-84-M

Notices

Federal Register
Vol. 45, No. 170
Friday, August 29, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Wednesday, September 10, 1980, at 7 p.m., a public information meeting will be held at the Orpheum Room, Five Flags Civic Center, Fourth and Main Streets, Dubuque, Iowa.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed 561 Freeway, an undertaking assisted by the Federal Highway Administration that will adversely affect cultural properties in Dubuque, Iowa, included in or eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting.

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the properties by the Federal Highway Administration.

III. A statement by the Iowa State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statements to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005; 202-254-3495; attention: Patrick H. Steele.

Dated: August 25, 1980.

Robert R. Garvey, Jr.
Executive Director.

[FR Doc. 80-26522 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Cotton: Proposed Determinations Regarding 1981—Crop Loan and Payment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determination.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1981 crops of upland and extra long staple cotton (referred to as "ELS cotton"):

a. Loan level for upland lint cotton.

b. Loan level and payment rate for ELS lint cotton.

c. Specifications for bale packaging materials.

d. Whether a seed cotton loan program should be offered and, if so, the loan levels for such seed cotton.

The above determinations are authorized by the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 28, 1980.

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham Chief, Program Analysis Branch, Production Adjustment Division USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, 202-447-7873. The Draft Impact Analysis describing the options considering in developing this proposed rule and the impact of implementing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed determination has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant".

In compliance with Secretary's Memorandum No. 1955 and "Improving Government Regulations" (43 FR 50988), it is determined after review of these regulations contained in 7 CFR 1427 for need, currency, clarity and effectiveness that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in the development of the final rule.

The title and number of the federal assistance programs that this notice applies to are: Title-Commodity Loans and Purchases; Number 10.051; as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Proposed Determinations

1. The following determinations with respect to the 1981 crops are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended (hereinafter referred to as the "Act"):

(a) *Loan Level for upland lint cotton.* Section 103(f)(1) of the Act requires the Secretary to determine and announce the loan level for the 1981 crop by November 1, 1980. Such loan level must reflect for Strict Low Middling (SLM) 1 1/16-inch upland cotton (micronaire 3.5 through 4.9), at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during the five year period ending July 31, 1980, excluding the year with the highest and

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the year with the lowest average price, or (2) 90 percent of the average, for the fifteen-week period beginning July 1, 1980, of the five lowest priced growths of the growths quoted for Strict Middling (SM) 1 1/16-inch cotton, C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15, 1980, through October 15, 1980, between such average Northern Europe price quotation for such quality of cotton and the market quotations in the designated United States spot markets for SLM 1/16-inch cotton (micronaire 3.5 through 4.9)).

In no event, however, shall such loan level be less than 48 cents per pound. Further, if the Northern Europe calculation results in a loan level less than that derived from the spot market calculation, the Secretary may increase the loan level up to that level provided by the spot market calculation.

The spot market calculation is as follows: (1) Weighted average spot market prices for SLM 1 1/16 inch upland cotton, micronaire 3.5 through 4.9:

August 1975 through July 1976—55.29 cents.
August 1976 through July 1977—71.59 cents.
August 1977 through July 1978—51.15 cents.
August 1978 through July 1979—61.01 cents.
August 1979 through July 1980—68.87 cents.

(2) Average of the five years, excluding the highest and lowest years: $55.29+61.01+68.87/3=61.72$ cents.

(3) Loan rate based on U.S. spot market calculation: $61.72\times0.85=52.46$ cents.

The Northern Europe calculation cannot be completed until after October 15. Based on quotations to date, it appears that the Northern Europe calculation will be higher than the spot market calculation. If this turns out to be the case, the Northern Europe calculation will not be applicable and the 1981 loan rate would be 52.46 cents per pound.

(b) *Loan level and payment rate for ELS lint cotton.* Section 101(f) of the Act requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 85 percent or more than 135 percent in excess of the loan level established for Strict Low Middling 1 1/16 inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 55 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate provided for is announced. Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

The anticipated loan rate of 52.46 cents per pound for upland cotton is basis 3.5 through 4.9 micronaire. This rate must be converted to average micronaire by deducting 0.85 cents—the estimated premium included in the upland rate for 3.5 through 4.9 micronaire—before it can serve as the basis for the ELS loan rate. The possible range of the loan rate for ELS cotton would be 95.48 to 121.28 cents.

The August 1980 parity price for ELS cotton is $1.76 per pound. If the total support (loan rate plus payment rate) were being determined during August, the minimum support would be 96.8 cents per pound, or 55 percent of parity. Total support could be set as high as 158.0 cents per pound, or 90 percent of parity. If the ELS loan rate for 1981 is established at less than the total support, the difference would be paid directly to ELS producers as support payments.

c. *Specifications for bale packaging materials.* The specifications for bale packaging materials used for cotton tendered to the Commodity Credit Corporation under its cotton loan program are being reviewed for 1981. The latest revision of the bale packaging specifications was published in the **Federal Register** on June 7, 1979, (44 FR 32637). Consideration will be given to amending the specifications as recommended by the Cotton Industry Bale Packaging Committee.

2. The following determinations are to be made pursuant to Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c): a. *Whether a seed cotton loan program should be offered.* The Department is not required to offer a seed cotton loan program. However, such a program—providing for recourse-type loans—was instituted by the Commodity Credit Corporation for 1971-crop seed cotton and has been renewed each crop year since. The program is being reviewed to determine whether it should be continued for 1981. Recourse loans are offered under this program as a means of affording interim financing to producers until their cotton is ginned in the form in which it can be marketed and eligible for regular loans under the Agricultural Act of 1949, as amended.

b. *Loan levels for seed cotton if program is offered.* Consideration is being given to the levels at which loans should be made available for seed cotton under the 1981 program.

Prior to determining these provisions, consideration will be given to all views and recommendations received.

Comments will be made available for public inspection in room 3623 of the USDA's South Building during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C. on August 26, 1980.

John W. Goodwin,
Acting Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-26550 Filed 8-28-80; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

[FCDA No. 10.415]

Rural Rental Housing Loan Policies, Procedures, and Authorizations; Memorandum of Understanding Between Farmers Home Administration and Administration on Aging

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: On May 18, 1979, the Farmers Home Administration (FmHA) published in the Federal Register (44 FR 29131) the 10 counties selected for a congregate housing demonstration effort and invited interested parties to participate in the pilot project as applicants under FmHA's Section 515 Rural Rental Housing Program. The pilot project is a joint FmHA and Administration on Aging (AoA) demonstration effort. Applications were reviewed, evaluated, and selections made by the Administrator, Farmers Home Administration.

On June 20, 1980, (45 FIC 41684) the Farmers Home Administration (FmHA) published a notice of intent to include two congregate housing facilities for older Indians in the joint FmHA and

Administration on Aging (AoA) demonstration effort. The intended effect of the action was to provide needed housing for older Indians. The action was taken as a result of an administrative decision.

Concurrent with the publication on June 20, 1980, FmHA forwarded letters of notification to tribes on ten Indian Reservations which were selected based on their total population and the percentage of persons 65 years of age and older. The letters were sent to determine the tribes' intent for participation and to request information related to criteria that will be used in the selection of the two tribes to participate in the demonstration effort. Letters of intent with supporting information related to the selection criteria will be reviewed by FmHA and AoA. Such letters were to be received by FmHA no later than August 1, 1980.

This is to provide notice that the deadline for receipt of letters of intent with supporting information is extended to September 17, 1980. The information should be forwarded to the FmHA State Office so that it can be forwarded to the FmHA National Office as soon as possible after September 17, 1980.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Hammond, Acting Director Rural Rental Housing Loan Division, FmHA, Room 5331, S. Agriculture Building, 14th St. and Independence Avenue, SW, Washington, D.C. 20250. Telephone: (202) 447-7207.

Dated: August 21, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-26526 Filed 8-28-80; 8:45 am]

BILLING CODE 3410-07-M

Rural Electrification Administration

Intent To Prepare a Draft Environmental Impact Statement and Conduct Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare a Draft Environmental Impact Statement (DEIS) and conduct public scoping meetings in order to fulfill its requirements under the National Environmental Policy Act of 1969 in connection with a possible loan guarantee commitment to Soyland Power Cooperative, Inc., (Soyland), P.O. Box A1606, Decatur, Illinois 62525, for the construction of certain generation and related transmission facilities. Soyland tentatively proposes that the generating facilities be located in the state of Illinois and is investigating possible sites in the counties of Pike, Randolph, and Wabash.

The sites are being investigated for a possible 450 MW coal-fired generating station. Associated with the proposed generating station will be coal transportation and handling facilities, bulk transmission, pollution control equipment, cooling towers, waste disposal areas, retention ponds, water supply facilities, and other ancillary facilities.

Alternatives to be considered by REA are described in REA Bulletin 20-21:320-21 and may include among other options: (1) no project, (2) conservation and load management, (3) purchase power from other utilities, (4) shared generating units with other utilities, (5) alternative sites for the proposed generating plant and transmission lines, (6) alternative fuels, and (7) alternative methods of generation.

REA will hold public scoping meetings in each affected county in accordance with the following schedule: on October 7, 1980, at the Pike County Courthouse, Washington Street, in Pittsfield, Illinois, at 7:00 p.m.; on October 8, 1980, at the Knights of Columbus Hall, Liberty and Broad Streets, in Evansville, Illinois, at 7:00 p.m.; and an October 9, 1980, at Brubeck Auditorium, on the campus of Wabash Valley College, 2200 College Drive, in Mt. Carmel, Illinois, at 7:00 p.m.

The public scoping meetings will be conducted by representatives of REA. These public scoping meetings will be held in order to solicit public input and comments including but not limited to the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the REA environmental impact statement. A record will be made of the meetings and comments made will be addressed in the DEIS.

All agencies, groups, and individuals are invited to attend and participate in this series of public scoping meetings. All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, if they desire to have their comments as part of the formal record for these scoping meetings. Comments may be sent to Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Requests for additional information concerning the scoping meetings may also be directed to Soyland at the address given above.

REA financing assistance to Soyland will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental impact statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C. this 20th day of August, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-26528 Filed 8-28-80; 8:45 am]

BILLING CODE 3410-5-M

Soil Conservation Service

Stevens Brook Watershed, Maine

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

NOTICE: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Stevens Brook Watershed project, Cumberland and Oxford Counties, Maine, effective on August 4, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 18, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-26529 Filed 8-29-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Dockets 33361 and 38495]

Former Large Irregular Air Service Investigation and Universal Airlines, Inc. Fitness Investigation; Postponement of Prehearing Conference

At the request of counsel for the Bureau of Domestic Aviation, the prehearing conference in this proceeding now scheduled for August 27, 1980 (45 FR 44402, dated August 20, 1980), is

V 45 AG 29 80 UMI

hereby postponed until August 28, 1980, at 9:30 a.m. in Hearing Room 1003A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

The Bureau of Domestic Aviation is directed to notify counsel for the applicant, the Bureau of Consumer Protection, and the Dockets Section of the Civil Aeronautics Board.

Accordingly, there being no objections by the applicant or the Bureau of Consumer Protection to the one day postponement, the request is hereby granted.

Dated at Washington, D.C., August 25, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80-26585 Filed 8-28-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-8-123; Docket 34802]

Wien Air Alaska, Inc.; Petition for Estblishment of Fair and Reasonable Service Mail Rates; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of August, 1980.

By Order 80-4-53 the Board adopted a review procedure and updating formula for establishing final intra-Alaska service mail rates for Wien Air Alaska, Inc. for future periods on a semi-annual basis.[1] The present order to show-cause implements the procedure for establishing future final mail rates for the first time.

It was necessary to modify slightly our usual updating technique for determining the nonfuel cost escalation factors. In normal circumstances, these are based on comparisons of data for the most current four-quarter period with data for the identical period of the prior year. However, nonfuel unit costs for the year ended March 31, 1980, are lower than those of a year ago. This increased efficiency is due to the retirement of older, less efficient equipment, improved utilization, and longer average stage lengths. We do not believe that it is appropriate to project a continued decline in unit costs in view of the current trends of continually rising prices. For this reason we have elected to compare data for the year ended March 31, 1980, withdata for the year ended September 30, 1979. This comparison showedthat unit costs had revesed their temporary downward trend and resumed their longterm upward trend, increasing by 0.49 percent over the six-month period. We have applied this six-month escalation factor to the year ended March 31, 1980, unit costs to project the estimated unit costs as at March 31, 1980. This six-month rate ofescalation was compounded to arrive at the 0.98 percent cost escalation factor used to project unit costs as at September 30, 1980.

The fuel cost escalation factor used to estimate unit costs at March 31, 1980, reflects the average cost per gallon for the first six months of 1980. The cost per gallon as at September 30, 1980, is estimated by (a) computing the average monthly increase in proce over the latest four months; (b) projecting the average monthly increase for a period of three and one-half months; and (c) adding the three-and-one-half month increase to the June 1980 average cost per gallon. (see Appendix (C).[1A]

The rates for the first half of 1980 reflects a decrease of 2.99 percent, while the rates for the last half of 1980 represent an increase of 1.01 percent over the currently effective temporary rates.

Inasmuch as the temporary rates of compensation paid to Great Northern Airlines, Inc. (GNA) are based upon rates for Wien,[2] the establishment of new final rates for Wien will result in the fixing of new temporary rates for GNA.

Accordingly, the Board tentatively finds and concludes that:

(1) The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to Wien Air Alaska, Inc., for the period January 1 through June 30, 1980, pursuant to the provisins of section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over its intra-Alaska routes, the faiclities used and useful therefor, and the services connected therewith are $2.263 per great-circle mail ton-mile for priority mail and $0.9228 per great-circle mail ton-mile for nonpriority mail.

(2) The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to Wien Ajr Alaska, Inc., for the period July 1 through December 31, 1980, pursuant to Wien Air Alaska, Inc., for the period July 1 through December 31, 1980, pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over its intra-Alaska routes, te facilities used and useful therfor, and the services connected therewith are $2.3181 per great/circle mail ton-mile for priority mail and $0.9608 per great-circle mail ton-mile for nonpriority mail.

(3) The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General to Wien Air Alaska, Inc. for the transportation of mail by aircraft in intra-Alaska service on and after January 1, 1981, until further Board order are the final rates established for the period July 1 through December 31, 1980.

Accordingly, pursuant to the Federal Aviation Act of 1958 as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons to show cause why the Board should not adopt the foregoing tentative findings and conclusions, and fix, determine and publixh the final rates specified above.

2. We direct all interested persons having objections to the rates or to the tentaive findings and conslusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents with 30 days after service of this order.

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix A.

A. We shall serve this order upon the Postmaster General, Wien Air Alaska, Inc. and Great Northern Airlines, Inc.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-26583 Filed 8-28-80; 8:45 am]

BILLING CODE 6320-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by and services to be provided

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[1] See also Order 79-11-22.

[1A] Appendices A, B, and C filed as part of the origianl document.

[2] See orders 79-11-203, 79-12-84, 80-1-51, and 80-4-53.

by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 29, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On May 23, 1980, May 9, 1980, and July 3, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 34949, 45 FR 30667, and 45 FR 45342) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1980:

Class 6530

Bag, Urine Collection, 6530–00–761–0932, 6530–00–761–0936.

SIC 7349

Janitorial/Custodial Service for the following buildings: Administration Building, U.S. Post Office, GSA Motor Pool Building, The Charles Building, The Maurice Building, Executive Terminal Building, Salt Lake City, Utah.

SIC 7349

Elevator Service, Federal Building, 35 Ryerson Street, Brooklyn, New York.

C. W. Fletcher,

Executive Director

[FR Doc. 80–26530 Filed 8–28–80; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 1, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7920

Sponge, Plastic, 7920–00–633–9908, 7920–00–633–9911, 7920–00–633–9915, 7920–00–685–4152.

SIC 7349

Janitorial/Custodial Service, Federal Building, 801 I Street, Sacramento, California.

C. W. Fletcher,

Executive Director.

[FR Doc. 80–26531 Filed 8–28–80; 8:45 am]

BILLING CODE 6820–33–M

DELAWARE RIVER BASIN COMMISSION

North Branch Water Treatment Plant and Related Components; Negative Declaration

On February 15, 1980 public notice was given that the Delaware River Basin Commission had prepared an environmental assessment on the proposal by the Neshaminy Water Resources Authority for the North Branch Water Treatment Plant and associated components, including the Point Pleasant Pumping Station on the Delaware River and force main to the Bradshaw Reservoir. The environmental assessment also included the proposal by the Philadelphia Electric Company for the Bradshaw Reservoir and force main to the East Branch of Perkiomen Creek. The assessment concluded that an environmental impact statement on the North Branch Water Treatment Plant, and a supplemental environmental impact statement on the Point Pleasant Diversion Plan, were not necessary. Accordingly, the Executive Director gave notice of his intention to issue a negative declaration, based upon the environmental assessment, in accordance with the Commission's Rules of Practice and Procedure. Numerous comments were received from public agencies, civic organizations and private parties in response to the Executive Director's notice of intent.

The Executive Director has reviewed and considered: 1. Three previous environmental impact statements on the Point Pleasant Pumping Station and its related components;

2. The Commission's environmental assessment of February 1980 of the Authority's water supply proposal;

3. The public and agency comments received since February 15, 1980;

4. Commission staff responses to that public comment; and

5. A final Commission environmental assessment of the Authority's water supply proposal coupled with a reappraisal of the overall Point Pleasant project.

The Executive Director finds that circumstances have not changed concerning the Authority's water supply system and the overall Point Pleasant project to such an extent as would require the preparation of another environmental impact statement. Accordingly, this negative declaration is issued pursuant to Article 4 of the Commission's Rules of Practice and Procedure on this 25th day of August, 1980.

The final environmental assessment of the Neshaminy Water Resources Authority proposed water supply project, and a reappraisal of the Point Pleasant Pumping Station and related components, dated August 1980, is available from the Commission upon request to the Commission's Environmental Unit. A brief description of the project and discussion of the categories of environmental impact issues, together with a summary of DRBC staff responses to objections, is also available from the Commission. Copies of these documents may also be examined at the following locations:

Library, Bucks County Planning Commission, Cross Keys Office Center, 4259 Swamp Road, Doylestown, Pa.

Montgomery County Planning Commission, 1 Montgomery Plaza, Swede and Airy Streets, Norristown, Pa.

Water Resources Association, Valley Forge Office Colony, Building No. 2, Valley Forge, Pa. (off Route 23 west of Valley Forge Park.)

August 15, 1980.

Gerald M. Hansler,

Executive Director.

[FR Doc. 80–26486 Filed 8–28–80; 8:45 am]

BILLING CODE 6360–01–M

V 45 AG 29 80 UMI

DEPARTMENT OF EDUCATION

Women's Educational Programs National Advisory Council Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policies, Practices, and Programs, Civil Rights and WEEA Program Committees. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 15, 1980, 7:30 p.m. to 9:30 p.m.; September 16, 1980, 8:30 a.m. to 4:30 p.m.; and September 17, 1980, 8:30 a.m. to 5:00 p.m.

ADDRESS: 1832 M Street, NW., Suite 821, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Dauito, Administrative Assistant, National Advisory Council on Women's Educational Programs, 1832 M Street, NW., Suite 821, Washington, D.C. 20036, (202) 653–5846.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on September 15, 1980 from 7:30 p.m. to 9:30 p.m. The agenda will include plans for the Council meeting as well as a discussion of current activities and future plans.

The meeting of the Federal Policies, Practices, and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on September 16, 1980 from 9:30 a.m. to 4:30 p.m.

The agenda for the Federal Policies, Practices, and Programs Committee will include a review of the status of pending legislation on higher education, review of the progress of the study of implementation of the sex equity provisions in vocational education programs, and the election of the Committee Chair.

The agenda for the Civil Rights Committee will include discussion of matters concerning the implementation of Title IX, 1972 Education Amendments, and other non-discrimination initiatives, as well as the election of Committee Chair.

The agenda for the Program Committee will include a review of draft evaluation report on the Women's Educational Equity Program for fiscal year 1979 and a status report from WEEAP Director.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 9:30 a.m. on September 16 and from 8:30 a.m. to 5:00 p.m. on September 17, 1980. The agenda will include reports of the Executive Director and the Women's Educational Equity Act Program, recommendations of the Council's standing Committees; and plans for future Council meetings.

The meetings of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 1832 M Street, NW., Suite 821, Washington, D.C. 20036.

Signed at Washington, D.C. on August 26, 1980.

Joy R. Simonson,

Executive Director.

[FR Doc. 80–26598 Filed 8–28–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Financial Assistance Solicitations Availability and Public Conference

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy has been appropriated a total of $5 billion to provide financial assistance for synthetic fuels projects under Pub. L. 96–126 and Pub. L 96–304. The Department is issuing two draft solicitations for applications against this funding for projects requiring Government financial assistance in the form of purchase commitments, price guarantees, or loan guarantees to construct and operate commercial-scale plants. The public is invited to comment on these draft solicitations.

COMMENTS BY: September 12, 1980. Comments should be submitted to the address below.

FOR FURTHER INFORMATION CONTACT: Ray Davis, U.S. Department of Energy, Resource Applications, Room 3500, Mail Station 3344, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Alternative Fuels Task Force Office 9202) 633–8365 or 633–8377.

SUPPLEMENTARY INFORMATION: Two solicitations are available in draft form, one pursuant to the Defense Production Act of 1950, as amended, and the second under the Authority of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended. The Department plans to seek proposals for financial assistance under these solicitations for projects which are essentially ready to begin the construction of commercial synthetic fuels production facilities.

Specified liquid fuels for Department of Defense needs which can be derived from coal (including lignite and peat), oil shale, tar sands and certain heavy oil reserves, may be proposed under the Defense Production Act solicitation. Proposals are sought under the Federal Nonnuclear Energy Research and Development Act for financial assistance for the production of alternative fuels (gases, liquids and chemical feedstocks) derived from the following domestic resources: coal (including lignite and peat), oil shale, tar sands, unconventional natural gas, and other minerals. Heavy oil is not currently eligible, but legislation to amend the existing definition of eligible fuels is under Congressional consideration.

Please note that fuels from biomass, including alcohol fuels and municipal and solid wastes are *not* eligible under either of these solicitations. The Department has received separate funding for these technologies and is implementing its financial assistance through separate mechanisms. (See 45 FR 54264, August 14, 1980.)

The solicitations are available in draft form for public comment prior to issuance in September. Any party wishing to comment on these draft solicitations can obtain copies from the U.S. Department of Energy, Resource Applications, Room 3500, Mail Station 3344, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, or DOE Regional Offices as follows:

Regional Contacts

Boston (Region I)
Bob Ruttenberg, Analex Building, Room 700, 150 Causeway Street, Boston, MA 02114, 617/223–5207 ext. 23.
New York (Region II)
Edward Fedak, 26 Federal Plaza, Room 3200, New York, NY 10278, 212/264–4834.
Philadelphia (Region III)
Ed Gray, 1421 Cherry Street, 10th Floor, Philadelphia, PA 19102, 215/597–3606.
Atlanta (Region IV)
Bill Rankin, 655 Peachtree Street, NE, 8th Floor, Atlanta, GA 30367, 404/881–2390.
Chicago (Region V)
Gary Pitchford, 175 W. Jackson Blvd., Room A–1136, Chicago, IL 60604, 312/353–5760.
Dallas (Region VI)
Gene Campbell, Post Office Box 35228, 2626 W. Mockingbird Lane, Dallas, TX 75235, 214/767–7736.
Kansas City (Region VII)
Winfield Hull, 324 East 11th Street, Kansas City, MO 64106, 816/374–3116.
Denver (Region VIII))
Jack Hallowell, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, CO 80226, 303/234–2420.
San Francisco (Region IX)
Energy Resources Center, 7th Floor, 333 Market Street, San Francisco, CA 94105, 415/764–7035.
Seattle (Region X)
Lee Johnson, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174, 206/442–7285.

Comments should only be mailed to the Alternative Fuels Task Force Office at the address below. DOE encourages public comments on these solicitations and will hold a presolicitation conference for this purpose on September 8 at the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue, N.W., Washington, D.C., at 9:00 a.m. The chairperson of the conference is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public wishing to file a written statement may do so either before or after the meeting but prior to final issuance of the solicitations. Any party wishing to make an oral statement (not to exceed five minutes in length) should inform the Alternative Fuels Task Force Office, U.S. Department of Energy (202/633–8365) before the meeting, and reasonable provision will be made for the appearance of such party on the agenda.

Transcripts of the conference will be available for public review at the Freedom of Information Public Reading Room, 5B–180, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays, and at DOE Regional Offices in San Francisco, Chicago, Denver, Boston, and Atlanta.

Persons wishing to be on the mailing list for the final solicitations should so indicate in writing only to Alternative Fuels Task Force Office, U.S. Department of Energy, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Issued at Washington, D.C., on August 26, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80–26712 Filed 8–29–80; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary

International Energy Agency; Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of the International Energy Agency (IEA) Group of Reporting Companies will be held on September 9, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Background on the IEA and the International Energy Program.
3. Review emergency sharing system.
4. Review AST–3 Test Guide:
   A. Objectives and scope.
   B. Scenario and timing.
   C. Organizational structure.
   D. NESO participation including European Economic Community interaction.
   E. Data base and use.
   F. Communications, including description of voluntary offer submission system.
5. Test appraisal.
6. Legal considerations and clearances.
7. Closing remarks.
8. Supplemental discussion for new Reporting Companies on questionnaire reporting instructions.

II. The meeting of the Industry Advisory Board (IAB) to the IEA, to be held on September 4 and 5, at the offices of the Ministry of energy, Mines and Resources, 580 Booth Street, Ottawa, Canada, previously noticed for 9:30 AM, September 4 (45 FR 55804, August 21, 1980), will begin at 9:00 AM on September 4. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a meeting of an IEA Standing Group on Emergency Questions (SEQ) Special Subgroup to design the third IEA Allocations Systems Test (AST–3), which is being held at Ottawa on those dates.

The agenda for the meeting is under the control of the SEQ Special Subgroup. It is expected that the following agenda will be followed:

1. Opening remarks.
2. Discussion and review of AST–3 Test Guide draft.
3. Completion of AST–3 Test Guide.
4. Other matters pertaining to AST–3.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, verbatim transcripts of these meetings will be made; the transcripts, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1–9a.8, will be available in the Reading Room of the Department of Energy, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

Issued in Washington, D.C., August 26, 1980.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80–26593 Filed 8–28–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Good Hope Industries, Inc., Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of a comment received from the public.

DATE: Effective date: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director, Enforcement, Department of Energy, Northeast District (Economic Regulatory Administration), Room 700, 150 Causeway Street, Boston, MA 02114, 617–223–3728.

SUPPLEMENTARY INFORMATION: On August 20, 1979 the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Good Hope Industries, Inc. (Good Hope) and DOE on July 31, 1979 (44 FR 48745, August 20, 1979). With that Notice, and in accordance with 10 CFR Section 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. Under the terms of 10 CFR 204.199J(b), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby given Notice of final action taken on the Consent Order.

Subsequent to the Publication of August 20, 1979, the Plan of Reorganization which was incorporated by reference in the Consent Order was amended, and the amended plan approved by the District Court in the District of Massachusetts on May 9, 1980, as of No. 75–2741–G. In connection therewith and because of Good Hope's status as a debtor in proceedings under Chapter 11 of the bankruptcy code, Department of Justice approval was also requested and obtained to the amendment as well as to the Consent Order and Plan of Reorganization.

The amended Plan of Reorganization changed, and in view of the Office of Enforcement of the Department of Energy improved the security position of the Department of Energy in connection with the payment of its claim. The original security, a subordinated interest in the assets of Good Hope Industries, has been replaced by a bank letter of credit satisfactory to the Department of Energy. In the opinion of the Economic Regulatory Administration, no new initial Consent Order pursuant to the provisions of 10 CFR 205.199J(c) need be published inasmuch as (a) the Consent Order has remained unchanged, (b) the Consent Order contemplated amendments to the Plan of Arrangement which would not adversely affect the treatment provided for the DOE claim and which would be approved by the District Court for the District of Massachusetts and (c) in any event, the new security arrangement did not significantly change the terms of the impact of the original order, but rather improved the security provided for the Department of Energy.

DETERMINATIONS: In response to its publication of Notice of Proposed Consent Order, the Office of Enforcement of the ERA received only one comment. That comment sought: (i) an extension of the comment period to permit DOE response to a pending Freedom of Information Act (FOIA) request for Good Hope case file documents; (ii) DOE neutrality on regulatory issues which might prejudice pending litigation between the Commentor and Good Hope and, in particular deletion of Section V, page 15 of the Consent Order to assure that such provision would not preclude DOE's voluntary participation as a party adverse to Good Hope in other proceedings, and; (iii) justification for the fractional settlement of the DOE claim and the failure of DOE to assert a position as a preferred creditor under the pending Chapter XI proceedings with Good Hope.

With respect to comment (i), supra, seeking an extension of the comment period to permit response to the commentor's pending FOIA request, as a result of a negotiated stipulation between the requesting commentor and the cognizant DOE Information Access Officer, an index responsive to the DOIA request was prepared and directed to the commentor by the DOE Region I Information Access Officer on February 22, 1980. No further request has been received from the commentor, so that his request may be assumed to be satisfied.

With respect to comment (ii), supra, the Office of Enforcement considered and determined the compromise of overcharges as described in the Consent Order to be both a proper and appropriate disposition within the scope of its statutory and regulatory powers under 10 CFR Chapter II. The Office of Enforcement of ERA further notes that the commentor did not assert any rights under the Consent Order and concluded that retention of Section V, page 16 of the Consent Order would not in any event preclude DOE's voluntary participation as a party adverse to Good Hope in other proceedings for periods of matters not encompassed by the Consent Order.

Finally, with respect to comment (iii), the Office of Enforcement of ERA considered and predicated the compromise of overcharges upon an assessment of litigation risks for this case, and analysis of Good Hope's ability to pay and Good Hope's status as a debtor-in-possession under Chapter XI of the Federal Bankruptcy Code. On these bases, the Office of Enforcement of ERA determined that the settlement contained in its negotiated Consent Order was both appropriate and reflective of the best terms obtainable by the Government under the circumstances. As to the commentor's assertion concerning DOE's status as subordinated creditor, as already noted, DOE has obtained a new security agreement which in the opinion of the Economic Regulatory Administration provides appropriate and adequate security for payment of the obligation to the Department of Energy.

Therefore, after due consideration, the Office of Enforcement has concluded that the Consent Order as proposed and as executed between DOE and Good Hope is an appropriate resolution of the compliance proceedings described in the Notice published on August 20, 1979 and hereby given Notice that the Consent Order is made effective on this date.

Issued in Philadelphia, Pa., on this 7th day of August 1980.

Edward F. Momorella,
District Manager of Enforcement, Northeast District.

[FR Doc. 80–26592 Filed 8–28–80; 8:45 am]

BILLING CODE 6450-01-M

Domestic Crude Oil Allocation Program; Entitlements Notice for June 1980

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: June 1980 entitlements notice.

SUMMARY: Under the Department of Energy's (DOE) Domestic Crude Oil Allocation (Entitlements) Program, this is the monthly Entitlements Notice which sets forth the entitlements purchase or sale requirements of domestic refiners and eligible firms for June 1980.

DATES: Payments for entitlements required to be purchased under this notice must be made by August 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by September 10, 1980.

FOR FURTHER INFORMATION CONTACT:

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, NW., Room 6128Q, Washington, D.C. 20461, (202) 653–3459.

Jeffrey Stoermer (Officer of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room 6A–127, Washington, D.C. 20585, (202) 252–6911.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR § 211.67 relating to the Domestic Crude Oil Allocation Program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for June 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlements adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4), the national domestic crude oil supply ratio for June is calculated to be .198908.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of June 1980 each barrel of old oil is equal to one barrel of deemed old oil, each barrel of upper tier crude (excluding ANS upper tier) oil is equal to .713412 of a barrel of deemed old oil and each barrel of ANS upper tier crude oil is equal to .386136 of a barrel of deemed old oil.

The issuance of entitlements for the month of June 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of June 1980 is hereby fixed at $27.32 which is the exact differential as reported for the month of June 1980 between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of June 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of June 1980 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of June 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for the month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiner's old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

The listing contained in the Appendix identifies, in a separate column labeled "Exceptions and Corrections", additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlements notice. The "Consolidated Sales" entry is equal to the June 1980 entitlements purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its June entitlements purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlements Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of June 1980 imports of residual fuel oil eligible for entitlement issuances totaled 16,673,270 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	1,320,423	26
California upper tier crude oil	2,110,184	27

The total number of entitlements required to be purchased and sold under this notice is 17,470,299.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for June 1980 the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of barrels per day	Weighted average cost	Percent of total volumes [1]
Lower tier	1,320	7.20	9.0
Upper tier (excluding ANS)	1,901	15.03	13.0
ANS upper tier	987	23.97	6.8
Exempt Domestic:			
Other ANS	376	34.41	2.6
Heavy and market tier	1,306	33.51	8.9
Naval petroleum reserve	168	33.46	1.2
Newly discovered	410	37.69	2.8
Stripper	1,781	34.98	12.2
Tertiary	51	27.49	0.3
Total domestic	8,300	24.48	56.9
Imported	6,299	34.48	43.1
Total uncontrolled (exempt domestic and imported)	10,391	34.52	71.2
Total reported crude oil receipts	14,599	28.80	
Total reported crude oil runs to stills	14,165		

[1] Volumes may not total 100 percent due to rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for June 1980 must be made by August 31, 1980.

On or prior to September 10, 1980 each firm which is required to purchase or sell entitlements for the month of June 1980 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of June 1980. The monthly transaction report forms (ERA-116) for the month of June 1980 have been mailed to all reporting firms. Firms that have been unable to locate other firms for the required entitlements transactions by August 31, 1980 are requested to contact the ERA at (202) 653-3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to August 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 18, 1980.

Issued in Washington, D.C. on August 22, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Notice of Entitlements for Domestic Crude Oil [August 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
-Consol'd-Sales	−38,842	0	0	0	0	0	[138],842
A-Johnson	0	73,585	0	0	0	0	73,585
Adm	0	15,074	0	0	0	0	15,074
Akron-Ohio	0	1,550	0	0	0	0	1,550
Alexandria-Va	0	546	0	0	0	0	546
Allied	56,304	37,826	0	0	0	18,478	0
Amer-Petrofina	328,499	769,040	0	0	0	0	440,541
Amerada-Hess	2,435,196	2,079,675	0	100,988	0	355,521	0
American-Can-Co	0	2,413	0	0	0	0	2,413
Ames-Iowa	0	392	0	0	0	0	392
Amoco	8,285,712	5,130,128	0	0	0	3,155,584	0
Anchor	0	43,653	0	0	0	0	43,653
Arco	5,301,428	4,166,328	0	0	2,704	1,135,100	0
Arizona	63,241	24,399	0	0	357	[138],8420	0
Arizona-Chem	0	2,796	0	0	0	0	2,796
Asamepa	70,078	127,289	0	0	0	0	57,211
Ashland	685,293	2,114,841	0	0	0	0	1,429,548
Bayou	10,156	18,535	0	0	0	0	8,379
Beacon	137,335	95,962	0	0	5,114	41,373	0
Belcher	0	143,319	0	143,319	0	0	143,319
Bergen-County	0	1,031	0	0	0	0	1,031
Bronco	0	12,462	0	0	0	0	12,462
Brun	31,734	75,914	0	0	0	0	44,180
C&H	0	368	0	0	0	0	368
Cadence-Chem	0	2,746	0	0	0	0	2,746
Calcasieu	2,782	38,947	0	0	0	0	36,165
Calumet	12,716	9,263	0	0	0	3,453	0
Canal	98,528	37,870	0	0	0	60,658	0
Carbonit	0	33,455	0	0	0	0	33,455
Caribu	73,057	57,127	[5]14,486	0	0	15,930	0
Castle	0	16,838	0	16,838	0	0	16,838
CEA	0	276	0	0	0	0	276
Central	0	16,550	0	16,550	0	0	16,550
Champlin	875,557	888,270	0	0	22,122	0	12,713
Charter	0	369,702	0	0	0	0	369,702
Chevron	5,702,187	7,280,027	0	0	27,467	0	1,577,840
Cibro	0	103,228	0	37,782	0	0	103,228
Citgo	2,338,127	1,428,555	0	0	0	909,572	0
City-of-Wichita	0	1,152	0	0	0	0	1,152
Claiborne	16,330	27,463	0	0	0	0	11,133
Clark	304,287	652,754	0	0	0	0	348,467
Coastal	321,523	931,637	0	78,256	0	0	610,114
Coastal-Petro	0	32,285	0	0	0	0	32,285
Coldwater	0	1,794	0	0	0	0	1,794
Colonial	0	32,946	0	32,946	0	0	32,946
Columbus-Ohio	0	2	0	0	0	0	2
Conoco	2,246,666	1,654,854	0	10,966	10,935	591,812	0
Consumers-Power	0	49,977	0	49,977	0	0	49,977
Copano	0	29,139	0	0	0	0	29,139
Coral	0	275,366	0	0	0	0	275,366
Corco	257,625	566,584	[5] −270,540	576,712	0	0	[6]308,959
Cra-Farmland	218,902	459,898	0	0	0	0	240,996
Cross	18,338	40,543	0	0	0	0	22,205
Crown	256,840	465,036	0	0	0	0	208,196
Crystal-Oil	78,649	69,723	0	0	0	8,926	0
Crystal-Ref	0	7,651	0	0	0	0	7,651
Deepwater	0	17,778	0	17,778	0	0	17,778
Delta	142,977	72,675	0	0	0	70,302	0
Demen[illegible]o	0	33,673	0	0	0	0	33,673
Detroit-Ed	0	36,903	0	36,903	0	0	36,903
DFSC	0	18,348	0	18,348	0	0	18,348
Diamond	361,120	360,656	0	0	0	464	0
Dillman	0	75	0	0	0	0	75
Dorchester	7,975	64,563	0	0	0	0	56,588
Dow	31,168	372,735	0	0	0	0	341,567
E-Seaboard	0	31,958	0	31,958	0	0	31,958
East-Bay-Mud	0	172	0	0	0	0	172
Eco	0	3,329	0	0	0	0	3,329
Eddy	71,757	22,818	0	0	0	48,939	0
Elgin-Il	0	18	0	0	0	0	18
Energy-Coop	0	310,358	0	0	0	0	310,358
Erickson	2,854	124,393	0	0	0	0	121,539
Essex-Union	0	253	0	0	0	0	253
Evangeline	32,086	15,456	0	0	0	16,630	0
Exxon	9,666,480	7,900,800	0	288,655	0	1,765,680	0
Ez-Serve	4,619	47,828	0	0	0	0	43,209
Farmers-Un	223,294	157,543	0	0	0	65,751	0
Fletcher	90,163	161,870	0	0	0	0	71,707
Flint	5,127	3,889	0	0	0	1,238	0
Friendswood	7,677	69,865	0	0	0	0	62,188
Funding	76,598	30,158	0	0	0	46,440	0

Notice of Entitlements for Domestic Crude Oil [August 1980]—Continued

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Gary	107,475	59,939	0	0	0	47,536	0
Getty	787,352	1,346,967	0	0	5,462	0	559,615
Getty-Syn	0	917	0	0	0	0	917
Giant	10,172	34,579	0	0	0	0	24,407
Gibson	0	2,704	0	0	0	0	2,704
Glacier-Park	−307	0	0	0	0	0	307
Gladieux	−10,156	65,802	0	0	0	0	75,958
Glenrock	0	2,281	0	0	0	0	2,281
Golden-Eagle	0	41,380	0	0	0	0	41,380
Goldking	31,531	138,720	0	0	0	0	107,189
Good-Hope	52,823	412,468	0	0	0	0	359,645
Guam	0	181,321	[5] −30,820	0	0	0	181,321
Gulf	6,646,415	4,588,501	0	40,345	5,451	2,057,914	0
Gulf-Energy	−41,530	10,649	0	0	0	0	52,179
Gulf-Sts	89,647	0	0	0	0	89,647	0
Harrisburg-Pa	0	4,433	0	0	0	0	4,433
Health-Care	0	78	0	0	0	0	78
Hempstead-Town	0	2,693	0	0	0	0	2,693
Hiri	0	283,187	0	0	0	0	283,187
Howell	499,120	207,321	0	0	0	291,799	[illegible]
Hudson-Oil	25,491	81,187	0	0	0	[illegible]	55,696
Hunt	196,391	171,699	0	0	0	24,692	0
Huntway	0	33,625	0	0	0	0	33,625
Husky	372,846	372,846	[2] 110,246	0	0	0	0
Independent-Ref	0	96,337	0	0	0	0	96,337
Indiana-Farm	17,157	119,158	0	0	0	0	102,001
Indust-Fuel	14,026	24,513	0	0	0	0	10,487
Inter-Process	−155	86,793	0	0	0	0	86,948
Irving	0	21,750	0	21,750	0	0	21,750
Kenco	52,112	21,707	0	0	0	30,405	0
Kentucky	14,107	13,924	[5] 6,632	0	0	183	0
Kern	11,176	85,044	0	0	606	0	73,868
Kerr-McGee	815,077	624,113	0	0	0	190,964	0
Koch	507,184	736,389	0	44,500	0	0	231,205
La-County	[illegible]	4,469	0	0	0	0	4,469
Lagloria	267,559	291,839	0	0	0	0	24,280
Lake-Charles	−1,872	104,237	0	0	0	0	106,109
Lakeside	15,392	13,017	0	0	0	2,375	0
Laketon	64,535	58,418	[5] 27,983	0	0	6,117	0
Liquid-Energy	−242	47,674	0	0	0	0	48,116
Little-Amer	725,064	721,861	[5] 263,222	0	0	3,203	0
Los-Angeles-Ca	0	3,792	0	0	0	0	3,792
Louisiana-Land	551,659	286,690	0	0	0	264,969	0
Macmillan	14,403	92,284	0	0	−363	0	77,881
Madison-Chatham	0	14	0	0	0	0	14
Madison-City-Wi	0	877	0	0	0	0	877
Madison-Wi	0	208	0	0	0	0	208
Mallard	0	32,038	0	0	0	0	32,038
Marathon	3,167,559	2,479,075	0	0	0	668,484	0
Marion	−232	140,149	0	0	0	0	140,381
Marlex	543	70,752	0	0	42	0	70,209
Metro-Seattle	0	754	0	0	0	0	754
Metropolitan	0	26,257	[4] 465	25,792	0	0	26,257
Mid-Amer	351	25,453	[5] 8,629	0	0	0	25,102
Midwest-Solv	0	679	0	0	0	0	679
Milwaukee-Wi	0	796	0	0	0	[illegible]	796
Mobil	4,839,022	4,051,382	0	20,440	937	787,640	0
Mobile-Bay	1,653	56,045	0	0	0	0	54,392
Monoco	0	5,015	0	5,015	0	0	[6] 5,015
Monroe-Wi	0	148	0	0	0	[illegible]	148
Monsanto	180,761	138,486	0	0	0	42,275	0
Morrison	33,938	13,281	0	0	0	20,657	0
Mountaineer	[illegible]	1,010	0	0	0	0	1,010
MSDGC	0	1,664	0	0	0	0	1,664
Mt-Airy	17,551	88,229	0	0	0	0	70,678
Murphy	839,014	538,219	0	[illegible]	0	300,795	0
N-Amer-Petro	337	113,300	0	0	0	0	112,963
Nashville-Tenn	0	2,719	0	0	0	0	2,719
Nassau-County	0	3,428	0	0	0	0	3,428
Natl-Coop	151,491	314,647	0	0	0	0	163,156
Navajo	270,327	233,972	[5] 51,702	0	0	36,355	0
Nevada	2,266	14,004	0	0	0	0	11,738
New-Edglington	63,969	178,389	[illegible]	0	5,345	0	114,420
New-Engl-Petro	0	142,709	0	142,709	0	0	142,709
New-Engl-Power	0	37,175	0	37,175	0	0	37,175
New-York-Ep	0	4,030	0	0	0	0	4,030
Newhall	1,221	101,530	0	0	94	0	100,309
Northeast-Petro	0	13,732	0	13,732	0	0	13,732
Northland	5,906	5,906	[5] 4,139	0	0	0	0
Northville	0	1,684	[4] 1,684	0	0	0	1,684
Occoquan	0	352	0	0	0	0	352
Ocean-Township	0	19	0	0	0	0	19
Ocean-Utilities	0	178	0	0	0	0	178
OKC	−15,467	146,004	0	0	0	0	161,471
Okla-Ref	17,392	83,766	0	0	0	0	66,374
Orange-County	0	1,647	0	0	0	0	1,647
Osceola-AR	0	162	0	0	0	0	162

Notice of Entitlements for Domestic Crude Oil [August 1980]—Continued

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Oxnard	0	17,854	0	0	0	0	17,854
Pennzoil	222,628	324,304	0	0	0	0	101,676
Peoria-IL	0	220	0	0	0	0	220
Pester	81,159	118,002	0	0	0	0	36,843
Petro-Heat-Pa	0	7,829	0	7,829	0	0	7,829
Phillips	1,432,735	1,636,293	0	0	0	0	203,558
Phillips-Pr	0	206,489	0	206,489	0	0	206,489
Pioneer	47,232	38,203	0	0	0	9,029	0
Placid	555,605	271,023	0	0	0	284,582	0
Plateau	81,409	160,371	[5]42,554	0	0	0	78,962
Port	0	41,166	0	0	0	0	41,166
Powerine	43,680	194,739	0	0	1,919	0	151,059
Pride	0	177,373	0	0	0	0	177,373
Quaker-St	11,169	140,504	0	0	0	0	129,335
Quitman	0	40,264	0	0	0	0	40,264
Racine-Waste-UT	0	65	0	0	0	0	65
Rahway	0	148	0	0	0	0	148
Rancho-Ref	197	17,004	0	0	0	0	16,807
Resco	0	8,616	0	0	0	0	8,616
Richards	0	250	0	0	0	0	250
Road-Oil	0	18,122	0	0	0	0	18,122
Rock-Island	73,681	218,492	0	0	0	0	144,811
Saber-Tex	27,330	4,989	0	0	0	22,341	0
Saber-Cal	0	37,389	[5]−1,497	0	0	0	37,389
Sage-Creek	4,930	1,403	[5]1,403	0	0	3,527	0
San-Joaquin	0	94,239	0	0	0	0	94,239
Scallop	0	127,188	0	127,188	0	0	127,188
Scanoil	0	72,414	0	72,414	0	0	72,414
Schutze	0	1,281	0	0	0	0	1,281
Seaview	0	97,034	0	0	0	0	97,034
Seminole	7,660	79,983	0	0	0	0	72,323
Sentry	0	64,694	0	0	0	0	64,694
Shell	8,436,883	5,375,164	0	0	5,354	3,061,719	0
Shepherd	1,827	26,961	0	0	0	0	25,134
Sigmor	10,351	151,402	0	0	0	0	141,051
Silver-Eagle	3,159	1,728	0	0	0	1,431	0
Slapco	17,273	70,843	0	0	0	0	53,570
Smrsa	0	22	0	0	0	0	22
So-Hampton	23,206	79,855	0	0	0	0	56,649
Sohio	1,406,975	2,302,265	0	0	0	0	895,290
Somerset	10,163	29,959	0	0	0	0	19,796
Sooner	−3,123	41,437	0	0	0	0	44,560
Sound	46,616	42,856	0	0	0	3,760	0
Southern-Union	137,713	186,768	0	0	0	0	49,055
Southland	258,262	176,872	[5]44,486	0	0	81,390	0
Southwestern	5,353	5,691	[5]1,112	0	0	0	338
Sprague	0	92,731	0	92,731	0	0	92,731
St & San-Chicago	0	9,330	0	0	0	0	9,330
St-Cloud-Minn	0	62	0	0	0	0	62
Steuart	0	3,978	0	3,978	0	0	3,978
Stinnes-Inter	0	29,153	[4]29,153	0	0	0	29,153
Sunland	147	72,513	0	0	−138	0	72,366
Sunoco	2,452,785	2,535,708	0	0	0	0	82,923
Swann	0	40,703	0	40,703	0	0	40,703
T&S	226	0	0	0	0	226	0
Tarco	27,655	6,434	0	0	0	[3]21,221	0
Tenneco	867,647	573,695	0	0	2,637	293,952	0
Tesoro	359,484	282,695	0	0	0	76,789	0
Texaco	5,543,472	5,694,950	0	59,225	3,424	0	151,478
Texas-American	40,734	39,664	0	0	0	1,070	0
Texas-City	372,818	509,330	0	0	0	0	136,512
Thagard	32,042	47,553	0	0	1,139	0	15,511
Thorn-Creek	0	32	0	0	0	0	32
Thriftway	36,824	22,612	[5]6,700	0	0	14,212	0
Thunderbird	41,200	54,130	0	0	0	0	12,930
Tipperary	4,473	61,968	0	0	0	0	57,495
Tonkawa	−12,321	72,103	0	0	0	0	84,424
Tosco	1,351,112	1,021,905	0	0	15,743	329,207	0
Total-Petroleum	21,592	498,613	0	0	0	0	477,021
UCC-Caribe	0	164,876	0	164,876	0	0	[6]164,876
Uni-Ref	0	49,448	0	0	0	0	49,448
Union-Carbide	0	426	[4]426	0	0	0	426
Union-Oil	2,285,452	2,321,039	0	0	13,864	0	35,587
Untd-Ref	110,250	178,254	0	0	0	0	68,004
US-Oil	11,504	46,259	0	0	651	0	34,755
USA-Petroleum	25,091	137,114	0	0	731	0	112,023
Val-Verde	0	2,603	0	0	0	0	2,603
Vickers	103,319	359,579	0	0	0	0	256,260
Vicksburg	614	36,270	0	0	0	0	35,656
Warrior	59,029	29,889	[5]10,309	0	0	29,140	0
Watson	0	582	0	0	0	0	582
West-Coast	3,446	108,590	0	0	154	0	105,144
West-Monmouth	0	29	0	0	0	0	29
Western	−89	45,180	0	0	0	0	45,269
Winston	58,295	77,347	0	0	0	0	19,052

Notice of Entitlements for Domestic Crude Oil [August 1980]—Continued

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and corrections	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Wireback	0	284	0	0	0	0	284
Witco	2,815	120,721	0	0	42	0	117,906
Wyatt	0	21,435	0	21,435	0	0	21,435
Wyoming	10,095	48,299	0	0	0	0	38,204
Young	31,022	34,861	[5]13,267	0	0	0	3,839
Total	89,109,003	89,109,003	335,741	2,606,302	131,780	17,470,299	17,470,299

[1] See discussion in Notice.

[2] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), *remanded* 582 F.2D 644 (TECA, August 10, 1978).

[3] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.* v. *FEA*, 1975).

[4] Correction of prior month.

[5] Exception from Office of Hearings and Appeals.

[6] Includes exception relief.

[FR Doc. 80-26555 Filed 8-28-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of July 14 Through July 18, 1980

During the week of July 14 through July 18, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 26, 1980.

Proposed Decisions and Orders

City of Long Beach, California, Long Beach, California, BXE-1149 crude oil

City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block II Unit for the benefit of the working interest owners at upper tier ceiling prices. On July 17, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Darsey Oil Co., Albany, Georgia, BEE-0755 gasohol

Darsey Oil Company filed an Application for Exception from the provisions of 10 CFR., Part 211. The exception request, if granted, would permit Darsey to receive an increased allocation of unleaded motor gasoline to produce gasohol. On July 18, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Energy Cooperation, Inc., Phoenix, Oregon, BEE-0952 gasohol

Energy Cooperation, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Energy Cooperation to receive an increased allocation of unleaded gasoline to produce gasohol. On July 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Husky Oil Company, Denver, Colorado, BEE-1248 gasohol

Husky Oil Company filed an Application for Exception from the provisions of 10 CFR § 212.83. The exception request, if granted, would permit Husky to treat gasohol as a separate category and grade of gasoline for cost pass through purposes. On July 17, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Industrial Fuel and Asphalt of Indiana, Inc., Hammond, Indiana, BEE-0962 crude oil

Industrial Fuel and Asphalt of Indiana, Inc. (IFAI) filed an Application for Exception from the provisions of 10 CFR, § 211.65(c)(2). The exception request, if granted, would treat as IFAI's own crude oil the crude oil which it processed for another refiner in determining the firm's eligibility for emergency allocations of crude oil. On July 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

South Florida Gasohol, Inc., Delray Beach, Florida, BEE-0932 gasohol

South Florida Gasohol, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit South Florida Gasohol to obtain an allocation of unleaded gasoline for the purpose of commencing gasohol operations. On July 14, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Webber Oil Company, Fort Walton Beach, Florida, BEE-0804 gasohol

Webber Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Webber to receive an increased allocation of motor gasoline for the purpose of producing gasohol. On July 18, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

V 45 AG 29 80 UMI

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Allison Oil Co., DEE-3034, Ardmore, OK.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued proposed Decisions and Orders which determined that the exception requests be denied.

Company name	Case	Location
Blackwell Oil Co.	DDE-5887	Idaho Springs, Co.
Draper Fuel Co., Inc.	DDE-3919	Wilton, NH.
Fireline Pet, Inc.	BBE-0650	Wash., DC.
McWirter Dist. Co., Inc.	DDE-6506	San Fran., CA.
Polpet, Inc.	DDE-6506	
J. E. Dewitt Inc.	DDE-6508	
Mike Monahan d.b.a. Dixie Automotive Service	DDE-4380	ClearlakeOaks,CA.
Tomales Garage & Machine Shop	DDE-5862	Tomales, CA.
Weiss Oil Co., Inc.	DDE-7608	Danville, IL.
Wood Oil Co.	DDE-7168	Mena, AR.

[FR Doc. 80-26591 Filed 8-28-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1578-6]

Commonwealth of Virginia, Marine Sanitation Device Standard; Receipt of Supplemental Information in Support of Petition

Correction

In FR Doc. 80-25302, published on page 55526, on Wednesday, August 20, 1980, in the second column, in the DATES: paragraph, in the second line, "comments on the petition October 6," should be corrected to read "comments on the petition until October 6,".

BILLING CODE: 1505-01-M

[FRL 1591-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EIS's) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 18, 1980 to August 22, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from August 29, 1980 and will end on October 13, 1980. The 30-day review period for final EIS's as calculated from August 29, 1980 will end on September 29, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

FOR PUBLIC AVAILABILITY AND/OR HARD COPY REPRODUCTION OF EIS'S FILED PRIOR TO MARCH 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

FOR HARD COPY REPRODUCTION OR MICROFICHE: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 18, 1980 to August 22, 1980 the 30-day review period will be calculated from August 29, 1980. The review period will end on September 29, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 18, 1980 to August 22, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 26, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of August 18 Through 22, 1980

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Metropolitan Atlanta Water Resources Mgmt. Study, several counties, Georgia, August 18: Proposed is a water resources plan for the metropolitan Atlanta area of Cobb, Fulton, Gwinnet, Clayton, De Kalb, Douglas, and Rockdale Counties, Georgia. The major water resource for this area is Lake Lanier and the Chattahoochee River. All alternative plans were developed to provide for future average annual water supply demands of 431 MGD from the river and withdrawals of 53 MGD from the lake. Plan A involves the construction of a 4,100 arce-foot reregulation reservoir. Plan B involves reallocation of storage at Lake Lanier. Plan C involves dredging of Morgan Falls Reservoir and reallocation of storage at Lake Lanier (Savannah District). (EIS Order No. 800611.)

Final

Allegheny River Sand and Gravel Dredging, several counties, Pennsylvania, August 19: The proposed action is the issuance of permits to allow continued commercial sand and gravel dredging from the lower Allegheny River within the reach extending from mile 0 to mile 72, in western Pennsylvania. These permits are required under section 10 of the River and Harbor Act of 1899 and section 404 of the Federal Water Pollution Control Act Amendments of 1972. Two firms currently maintain four commercial dredging operations under permit which operate at various points within or adjoining the lower Allegheny River, below mile 72 (Pittsburgh District). Comments made by: USDA, DOT, DOI, EPA, ORBC, State and local agencies, groups, and individuals. (EIS Order No. 800612.)

Final

Kenmore Navigation Channel, Lake Washington, King County, Wash., August 22: Proposed is the construction of channel improvements in Lake Washington for the Kenmore Industrial Park, King County, Washington. The project would involve dredging about 123,000 cubic yards of material for the channel and 3,000 cubic yards for the berthing channel area. The alternatives consider: (1) no action, (2) three different channel depths, (3) four upland sites, and (4) two open-water disposal sites (Seattle District). Comments made by: AHP, USDA, DOC, DOE, EPA, HEW, HUD, DOI, DOT, State and local agencies, groups, and businesses. (EIS Order No. 800623.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600.

Draft

Anvil Points Oil Shale Facility, Rifle, Garfield County, Colo., August 22: Proposed is the mining of oil shale from the naval oil shale reserves at Anvil Points in Rifle, Garfield County, Colorado. The mining operations will require the construction and operation of an experimental full-size shale retort module on a 365 acre lease tract having a 4,700 bbl/day production capacity. The proposal also considers modification or new leasing of the facility. Programmatic, site and process alternatives are considered (DOE/EIS-0700). (EIS Order No. 800629.)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

National Oceanic and Atmospheric Administration

Final

Connecticut Coastal Management Program, CZM, Connecticut, August 21: Proposed is a coastal management program for the State of Connecticut. The major components of the program include: (1) Management of coastal land and water resources, (2) Management of coastal uses, and (3) Management of governmental programs that effect the coastal area. Other features will include: (1) Implementation of special management techniques for certain areas; and (2) Implementation of special planning procedures in the areas of shoreline erosion, shore front access and protection, energy facilities, and dredging and disposal of dredged materials. Comments made by: USDA, COE, EPA, FERC, GSA, HUD, DOT, USN, State and local agencies, businesses. (EIS Order No. 800620.)

New Jersey Coastal Management Program, several counties, New Jersey, August 22: Proposed is the New Jersey coastal zone management program. The program would enhance governance of the coastal land and water area and uses according to the coastal policies and standards. The effect of these policies would be to condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. Comments made by: USDA, COE, DOE, DOI, USN, EPA, FERC, State and local agencies, groups and businesses. (EIS Order No. 800633.)

Final

American Samoa Coastal Management Program, CZM, US territory, August 22: Proposed is a coastal management program for the American Samoa Islands. Approval would allow program administrative grants to be awarded to the territory and require that federal actions be consistent with the program. Implementation of the program will enhance governance of the territory's coastal land and water areas and uses according to the coastal policies. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. Comments made by: DOI, FERC, AHP, USDA, HUD, COE, EPA, State agencies, groups. (EIS Order No. 800627.)

Mississippi Coastal Management Program, CZM, Mississippi, August 22: proposed is approval of the Mississippi coastal management program. Approval would allow program administrative grants to be awarded to the state, require that federal actions be consistent with the program, and enhance management of the state's coastal resources according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various activities in parts of the coastal area, while encouraging development and other uses in other parts. Comments made by: USDA, COE, DOD, DOE, FERC, HUD, DOI, DOT, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800625.)

Final

Pennsylvania Coastal Management Program, CZM, Pennsylvania, August 22: Proposed is the state of Pennsylvania coastal zone management program. Approval would allow program administrative grants to be awarded to the state, and require that federal actions be consistent with the program. Implementation of the program will enhance governance of the state's coastal land and water areas and uses according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. Comment made by: USDA, FERC, COE, USN, DOC, EPA, DOI, State and local agencies, groups, individuals and businesses. (EIS Order No. 800628.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566-1416.

Draft

Smithsonian institution quadrangle development, District of Columbia, August 22: Proposed is development of the Smithsonian Institution quadrangle located in the District of Columbia. The development consists of a 460,000 square foot structure principally housing underground museum programs including an extension to the freer gallery of art and new Center for Eastern Art, an education center, and the Museum of African Art. Also to be included will e related program functions, facilities, officies, and a small above-ground pavilion for each museum. (EIS Order No. 800631.)

Frankford Arsenal Disposal, Philadelphia, Philadelphia County, Philadelphia, Pennsylvania, August 22: Proposed is the disposal of surplus Federal real property at the Frankfort Arsenal in the city of and County of Philadelphia, Pennsylvania. Several uses for the property are being considered which include: (1) conveyance to a Federal agency, (2) public sale for unrestricted use, (3) use by the State as a waterfront park and marina, and (4) others. (EIS Order No. 800630.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

The following are community development blcok grant statements prepared and circulated directly by applicants pursuant to section 104 (H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Rincon Point-South Beach Redevelopment, CDBG, San Francisco County, California, August 22: proposed is a redevelopment plan for the Rincon Point-South Beach area of the city and county of San Francisco, California. Each of the subareas contains a number of action sites, for which some general and some specific redevelopment action sare considered. Some of the land uses addressed

V 45 AG 29 80 UMI

include: (1) Commercial, (2) residential, (3) hotel development, and (4) park and open space use. (EIS Order No. 800617.)

Final

Mid Valley Industrial Park, UDAG, Lackawanna County, Pennsylvania, August 18: proposed is the awarding of a UDAG fot the construction of the MID Valley Industrial Park complex to be located in the boroughts of JESSUP, Olyphant and Throop, Lackawanna County, Pennsylvania. The area, which encompasses 483 acres, has been divided into 33 parcels. The alternativs considered include: (1) no action, (2) residential development, (3) shopping center, and (4) public recreation. Comments made by: EPA Stae and Local Agencies. (EIS Order No. 800610.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Fish and Wildife Service

Draft

Trinity River Flow Management, Trinity and Humboldt counties, California, August 22: proposed is a flow management program for the Trinity River in Trinity and Humboldt Counties, California, for the purpose of protecting and restoring Chinnok Salmon and Steelhead Trout populations. The area encompasses aproximately 2,965 square miles. The alternatives consider: (1) No action—120,500 AC-FT annual release in all years, (2) 215,000 AC-FT annual release in all years, (3) 287,000 AC-FT annual release in all years, and (4) 287,000 AC-FT annual release except in dry or critically dry years, when release would be reduced to 120,500 AC-FT. The cooperating agencies are BIA and WPRS. (INT-DES-54) (EIS Order No. 800622.)

Bureau of Mines

Draft

Horse draw oil shale research tract, Rio Blanco County, Colorado, August 21: proposed is an oil shale research program at the U.S. Oil Shale Mining Environmental Research Facility in RIO Blanc County, Colorado. The project wuld involve subsurface phrolysis of oil shale and leaching of residual alumia and soda ASH using existing surface and subsurface facilities. The alternatives consider two no action proposls which consider either preserving or reclaiming the research site. (EIS Order No. 800621.)

Bureau of Land Management

Draft

APS/SDC&E interconnection project within several counties in Arizona and California, August 19: propsed is an interconnection project between two utility companies to connect their power networks within the counties of Maricopa and Yuma Counties, Arizona, and Imperial and San Diego Counties, California. The project involves: (1) A single-circuit 500KV transmission line 280 miles long, From Palo Verde station to the Miguel Substation; and (2) a double-circuit 230KV transmission line from Miguel substation to mission tap 24. Ancillary facilities include: (1) intermediate substations, (2) a 161KV Transmission line, and (3) communications facilities througout the system. existing substations at Palo Verde, Yuma, Miguel and Los Coches would be modifieded or expanded. (EIS order No. 800613.)

Final

Surface mangement of public lands, regulatory, August 22: Proposed is the issuance of regulations for the surface management of public lands under the mining law of 1972 as restricted by the Federal Land Policy and Management Act. The procedures established wiull include: (1) Prevention of unnecessary or undue degradation of public lands, (2) Protection oof the california desert conservation area against undue impairment, and (3) Management of wilderness study areas for suitability as preserved wilderness. (FES-80-26.) Comments made by: EPA, DOI, NRC, USDA, AHP groups, individuals, and business. (EIS Order No. 800626.)

Missouri River Basin Commission

Contact: Mr. Millard W. Hall, Chairman, Missouri River Basin Commission, Suite 403, 10050 Prgency Circle, Omaha, Nebraska 68114, (402) 397-5714.

Draft

Upper Missouri River Basin, Level B study, in several counties in Montana, August 19: proposed is a water and related land resources management plan for the upper Missouri River basin in several counties of Montana. The plan includes elements concerning: (1) irrigation, (2) water conservation, (3) fish and wildlife programs, (4) flood control, (5) hydropower, (6) land conservation, (7) land use planning, (8) water quality, and (9) multipurpose features. (EIS Order No. 800614.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Aviation Administration

Final

Akron-Canton Airport Improvements, Summit and Stark Counites, Ohio, August 21: proposed is financial assistance for improvements to the Akron-Canton Regional Airport in North Canton, Summit and Stark Counties, Ohio. The project will include: (1) acquisition of approximately 210 acres of land, (2) the extension of runway 5-23, (3) extension of a parallel taxiway and lighting, (4) relocation of the instrument landing system laocalizer, and (5) relocation of Mt. Pleasant Road. The alternatives consider: (1) no development, (2) other modes of transportation, and (3) service from other airports. Comments made by: COE, DOI, USDA, EPA, and local agencies (EIS Order No. 800618.)

Federal Highway Administration

Draft

Cochrane Bridge replacement, mobile river, Mobile, Alabama, August 22: propsed is the replacement of the Cochrane Bridge which carries US 31 and US 90 over the Mobile River in the city and county of Mobile, Alabama. The project would begin at Bay Bridge Road and terminate at the Cochrane causeway. Overall project length will be 2.6 miles. The total length of the bridge will be 8,250 feet. A 650 foot long main span flanked by two side spans each 325 to 400 feet in length will provide horizontal clearance of aproximately 600 feed across the shipping channel and a vertical clearance of 135 feet under the span. (EIS Order No. 800632.)

Draft

Mississippi River Bridge Replacement, Wabasha, Wabasha County, Minnesota, August 20: Proposed is the replacement of the Mississippi River bridge and improvement of approaches in the city and county of Wabasha, Minnesota. Five Location Alternatives and no build are considered. The facility would contain two 12-foot wide traffic lanes, 20 foot wide shoulders and partial access control. The alternatives vary in length from 1.0 to 1.8 miles. The bridge carries MN-60 and WI-25 from Wabasha, Minnesota to Nelson, Wisconsin. (FHWA-MN-EIS-80-01-D) (EIS Order No. 800616.)

Final

Naper Blvd., Naperville Rd. to Washington St., Du Page and Will Counties, Illinois, August 22: Proposed are improvements to Naper Boulevard from the Naperville road interchange on the East-West tollway south 6.9 miles to Washington Street, in Du Page and Will Counties, Illinois. The roadway will consist of a basic four-lane divided roadway with all cross-street intersections at grade. Intersections will be channelized and signalized as warranted by traffic demand. A crossing of the Burlington-Northern railroad tracks in the north segment will be grade separated. (FHWA-IL-EIS-77-01-F) Comments made by: EPA, DOI, COE, State and local agencies groups (EIS Order No. 80624.)

Draft Supplement

Henry Watterson Expressway/I-264, US 31 to US 60, Jefferson County, Kentucky, August 21: Proposed is improvement of the Henry Watterson Expressway/I-264 from Dixie Highway/US 31 to Shelby Road/US 60 In Louisville, Jefferson County, Kentucky. The improvements include: 1) reconstruction of six lanes between dixie highway and crittenden drive, 2) reconstruction to eight lanes from crittenden drive, to Shelbyville Road, 3) upgrading of safety deficiencies, 4) reconstruction of interchanges as necessary, and 5) placement of frontage/service roads and crossovers as needed. (FHWA-KY-EIS-73-06-DS01) (EIS Order No. 800619.)

EIS's Filed During the Week of Aug. 18 Through Aug. 22, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Alabama	Mobile	Draft	Cochrane Bridge Replacement, Mobile River	800632	Aug. 22, 1980	DOT
Arizona		Draft	APS/SDG&E Interconnection Project	800613	Aug. 19, 1980	DOI
California		Draft	APS/SDG&E Interconnection Project	800613	Aug. 19, 1980	DOI
	Humboldt	Draft	Trinity River Flow Management	800622	Aug. 22, 1980	DOI
	San Francisco	Draft	Rincon Point-South Beach Redevelopment, CDBG	800617	Aug. 22, 1980	HUD
	Trinity	Draft	Trinity River Flow Management	800622	Aug. 22, 1980	DOI
Colorado	Garfield	Draft	Anvil Points Oil Shale Facility, Rifle	800629	Aug. 22, 1980	DOE
	Rio Blanco	Draft	Horse Draw Oil Shale Research Tract	800621	Aug. 21, 1980	DOI
Connecticut		Final	Connecticut Coastal Mgmt. Program, CZM	800620	Aug. 21, 1980	DOC
District of Columbia		Draft	Smithsonian Institution Quadrangle Development	800631	Aug. 22, 1980	GSA
Georgia	Several	Draft	Metropolitan Atlanta Water Resources Mgmt. Study	800611	Aug. 18, 1980	COE
Illinois	Du Page	Final	Wheaton-Naperville Rd. Extension	800624	Aug. 22, 1980	DOT
	Will	Final	Wheaton-Naperville Rd. Extension	800624	Aug. 22, 1980	DOT
Kentucky	Jefferson	Supple	Henry Watterson Expressway/I-264, U.S. 31 to U.S. 60.	800619	Aug. 21, 1980	DOT
Minnesota	Wabasha	Draft	Mississippi River Bridge Replacement, Wabasha	800616	Aug. 20, 1980	DOT
Mississippi		Final	Mississippi Coastal Mgmt. Program, CZM	800	Aug. 22, 1980	DOC
Montana	Several	Draft	Upper Missouri River Basin, Level B Study	800614	Aug. 19, 1980	MRBC
New Jersey	Several	Final	New Jersey Coastal Management Program	800633	Aug. 22, 1980	DOC
Ohio	Summit	Final	Akron-Canton Airport Improvements	800618	Aug. 21, 1980	DOT
	Stark	Final	Akron-Canton Airport Improvements	800618	Aug. 21, 1980	DOT
Pennsylvania		Final	Pennsylvania Coastal Mgmt. Program, CZM	800628	Aug. 22, 1980	DOC
	Lackawanna	Final	Mid Valley Industrial Park, UDAG	800610	Aug. 18, 1980	HUD
	Philadelphia	Draft	Frankford Arsenal Disposal, Philadelphia	800630	Aug. 22, 1980	GSA
	Several	Final	Allegheny River Sand and Gravel Dredging	800612	Aug. 19, 1980	COE
Regulatory		Final	Surface Management of Public Lands	800626	Aug. 22, 1980	DOI
Washington	King	Final	Kenmore Navigation Channel, Lake Washington	800623	Aug. 22, 1980	COE
U.S. Territory		Final	American Samoa Coastal Mgmt. Program, CZM	800627	Aug. 22, 1980	DOC

Appendix II.—*Extension/Waiver of Review Periods, on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/extension	Date review terminates
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	APS/SDG&E Interconnection Project, Arizona and California.	Draft 800613	Aug. 29, 1980 (see app. I).	Extension	Oct. 15, 1980.
	Horse Draw Oil Shale Research Program, Rio Blanco County, Colorado.	Draft 800621	Aug. 29, 1980 (see app. I).	Extension	Oct. 28, 1980.
	Trinity River Flow Management, California.	Draft 800622	Aug. 29, 1980 (see app. I).	Extension	Oct. 17, 1980.
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Mississippi River Bridge and Approaches, Wabasha, Minnesota.	Draft 800616	Aug. 29, 1980 (see app. I).	Extension	Oct. 17, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of Report	Date made available to EPA	Accession No.
CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: Daen-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	McNary Lock and Dam Second Powerhouse, Columbia River, Oregon and Washington.	Aug. 20, 1980	800615

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Biscayne Bay Port Expansion Program, Dade County, Florida, Permit.	Final 800589	Aug. 22, 1980	The EIS was published with an incorrect title (Surry Power Station). The correct title is as it appears to left. All other information was correct.

[FR Doc. 80-26613 Filed 8-28-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1593-2]

Provision for Public Participation in the State Enforcement Process by the State of Illinois

On May 2, 1980, the Administrator, United States Environmental Protection Agency (U.S. EPA), signed new regulations which contain requirements established in response to the decision of the Court of Appeals for the Seventh Circuit in *Citizens for a Better Environment* v. *EPA*, 596 F. 2d 270, petition for rehearing denied, 13 ERC 1095 (7th Cir. 1979). In that opinion the Court invalidated the Administrator's approval of Illinois' NPDES permit program on the ground that the U.S. EPA had failed to promulgate regulations providing for public participation in State enforcement actions. However, the Court stayed enforcement of its decision in order to allow U.S. EPA to promulgate remedial regulations and to review the adequacy of the Illinois program under these new regulations.

Regulations, 40 CFR § 123.9(d) were published in the **Federal Register** on May 19, 1980, and became effective on July 18, 1980.

In response to the *CBE* decision, 40 CFR § 123.9(d) specifies that States administering a program must provide participation in the State enforcement process by providing either:

(1) Authority which allows intervention as of right in any civil or administrative action to obtain certain civil remedies by any citizen having an interest which is or may be adversely affected; or

(2) Assurance that the State agency or enforcement authority will:

(i) Investigate and provide written response to all citizen complaints of possible violations;

(ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule or regulation; and

(iii) Publish notice of and provide at least 30 days for public comment on any proposed settlement of a State enforcement action

Illinois has chosen option 2 and has submitted to U.S. EPA two letters: one from the Director of the Illinois Environmental Protection Agency (IEPA) that the "IEPA will investigate and provide written responses to all written complaints from citizens and will publish notice, providing at least 30 days for public comment, on any proposed settlement of an administrative or civil action to enforce any provision relating to the State's NPDES program filed at thee request of IEPA"; and the other from the office of the Attorney General of Illinois that the State "has a policy of not opposing citizen intervention in proceedings under the National Pollutant Discharge Elimination System in those cases where intervenors meet the statutory and regulatory requirements for intervention."

These two letters appear to satisfy the requirements of the regulations for public participation in State enforcement actions. However, before U.S. EPA makes its final decision as to the adequacy of the illinois program under the new regulations, it is providing a 30 day comment period ending on September 28, 1980. Illinois Environmental Protection Agency, Public Notice Clerk, 2200 Churchill Road, Springfield, Illinois 62706 and

U.S. Environmental Protection Agency, Region V, Permit Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

All comments should be submitted to:

U.S. Environmental Protection Agency, Region V, Permit Branch, 230 South Dearborn Street, Chicago, Illinois 60604, Attention: Public Notice Clerk.

In the event there is significant public interest in this matter, a public hearing may be held.

Dated: August 18, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-26715 Filed 8-28-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-19]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: August 22, 1980.

Cutoff date: October 3, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after October 3, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 3, 1980, which

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involves a conflict necessitating a hearing with any applications on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on October 3, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of businesss on October 3, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH–790613AB (WSVL–FM), Shelbyville, Ind., Emmis Broadcasting Corp. Has: 97.1 mHz; Channel No. 246B, ERP: 34 kW; HAAT: 295 feet (LIC). Req: 97.1 mHz; Channel No. 246B, ERP: 27 kW; HAAT: 666 feet.

BPH–790808AF (New), Sweet Home, Orge., James D. & Mercedes F. McDaniel. Req: 107.1 mHz; Channel No. 296A. ERP: 3 kW; HAAT: −143 feet.

BPH–791203AD (New), Elk City, Okla., Beckham Broadcasting Co., Inc. Req: 96.5 mHz; Channel No. 243C. ERP: 100 kW; HAAT:631 feet.

BPH–791228BP (KQMT), Mammoth Lake, Calif., Mammoth Mountain FM Associates, Inc. Has: 106.8 mHz; Channel No. 292A. ERP: 3 kW; HAAT: 155 feet (LIC). Req: 106.3 mHz; Channel No. 292A. ERP: .055 kW; HAAT: 2159 feet.

BPH–800624AC (KWLS–FM), Pratt, Kans., Lesso, Inc. Has: 93.1 mHz; Channel No. 2260. ERP: 29 kW; HAAT: 120 feet (LIC). Req: 93.1 mHz; Channel No. 2260C. ERP: 100 kW; HAAT: 530 feet.

BPH–800626AA (New), Ponce, Puerto Rico, Ivanhoe Broadcasting Corp. Req: 101.1 mHz; Channel No. 266B. ERP: 50 kW; HAAT: 231 feet.

BPH–800626AB (New), Ephrata, Wash., Read Broadcasting. Req: 95.9 mHz; Channel No. 240A. ERP: 1.06 kW; HAAT: 470 feet.

BPH–800702AE (New), Carthage, Tex., Beverly E. Brown. Req: 98.9 mHz; Channel No. 255C. ERP: 100 kW; HAAT: 560.9 feet.

BPH–800703AA (New), Bandera, Tex. Paloma Blanca Broadcasting Corp. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT: 264 feet.

BPH–800703AF (WGFA–FM), Watseka, Ill. Iroquois County Broadcasting Co. Has: 94.1 mHz; Channel No. 231B. ERP: 19 kW; HAAT: 140 feet (LIC). Req: 94.1 mHz; Channel No. 231B. ERP: 9.02 kW; HAAT: 366 feet.

BPH–800710AF (New), Malakoff, Tex., Cedar Creek Radio Co. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 feet.

BPH–800711AI (WAQX), Manlius, N.Y., AGK Communications, Inc. Has: 95.3 mHz; Channel No. 237A. ERP: .410 kW; HAAT: 700 feet. (LIC). Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 feet.

BPH–800714AK (New), St. Simons Islands, Ga., Cannon's Point Broadcasting Co., Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 300 feet.

BPH–800721AE (New), Moab, Utah, Moab Broadcasting & Television Corp. Req: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT: −457 feet.

BPH–800721AQ (KHIP), Hollister, Calif., Vernon Miller. Has: 93.5 mHz; Channel No. 228A. ERP: 1.40 kW; HAAT: −390 foot (LIC). Req: 93.5 mHz; Channel No. 228A. ERP: .09 kW; HAAT: 1517 feet.

BPH–800723AH (New), Gold Beach, Oreg., James N. Hoff. Req: 92.7 mHz; Channel No. 224A. ERP: .263 kW; HAAT: 1030 feet.

BPH–800724AB (New), Soda Springs, Idaho, Thomas W. Mathis. Req: 100.1 mHz; Channel No. 261A. ERP: 3 kW; HAAT: −275 feet.

BPH–800724AC (New), Greenwood, Ark., J. Robin Communications. Req: 106.3 mHz; Channel No. 292A. ERP: 1.3 kW; HAAT: 431 feet.

BPH–800731AB (WRKZ), Hershey, Pa., Penn Broadcasting Corp. HAS: 106.7 mHz; Channel No. 294B. ERP: 20 kW; HAAT: 500 feet (LIC) (Elizabethtown, Pa.). Req: 106.7 mHz; Channel No. 294B. ERP: 20 kW; HAAT: 500 feet., (Hershey, Pa.).

BPH–800731AD (New), Whitehouse, Tex., Hine Broadcasting Co., Req: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: 300 feet.

BPED–2705 (New), Blythe, Calif., Escuela De La Raza Unida. Req: 88.5 mHz; Channel No. 203D. TPO: .01 kW.

BPED–781214BZ (New), Ceredo, W. Va., Wayne County Board of Education. Req: 94.9 mHz; Channel No. 235D. TPO: .01 kW.

BPED–790803AA (New), Nashville, Tenn., Tennessee State University. Req: 91.7 mHz; Channel No. 219A. ERP: .813 kW; HAAT: 580 feet.

BPED–790809AI (WLCA), Godfrey, Ill., Lewis & Clark Community College. Has: 89.9 mHz; Channel No. 210DS. ERP: .01 kW; HAAT: ? feet (LIC). Req: 89.9 mHz; Channel No. 210A. ERP: .70 kW; HAAT: 178 feet.

BPED–791011AA (KTSC–FM), Pueblo, Colo., University of Southern Colorado. Has: 89.5 mHz; Channel No. 208C. ERP: 9.8 kW; HAAT: 165 feet (LIC). Req: 89.7 mHz; Channel No. 209C. ERP: 100 kW; HAAT: 1124 feet.

BPED–791029AH (New), Charlotte Amalie, Virgin Islands, Miltony, Inc. Req: 38.3 mHz; Channel No. 202A. ERP: .103 kW; HAAT: ? feet.

BPED–791105AJ (WKKL), West Barnstable, Mass., Cape Cod Community College. Has: 91.1 mHz; Channel No. 216D. TPO: .01 kW; (LIC). Req: 90.7 mHz; Channel No. 214A. ERP: .205 kW; HAAT: 123 feet.

BPED–791105AL (WMCO), New Concord, Ohio, Muskingum College Speech Department. Has: 90.7 mHz; Channel No. 214DS. ERP: .01 kW; HAAT: ? feet (LIC). Req: 90.7 mHz; Channel No. 214A. ERP: 1.32 kW; HAAT: 84 feet.

BPED–791109AG (WDWN), Auburn, N.Y., Bd of Trustees, Cayuga Cnty Comm Coll. Has: 88.9 mHz; Channel No. 205D. TPO: .01 kW. (LIC). Req: 88.9 mHz; Channel No. 205A. ERP: .25 kW; HAAT: 88.6 feet.

BPED–791113AE (New), Starke, Fla., First Baptist Church. Req: 88.3 mHz; Channel No. 202C. ERP: 4.55 kW; HAAT: 141 feet.

BPED–791126AL (WPIO), Titusville, Fla., Florida Public Radio, Inc. Has: 89.3 mHz; Channel No. 207A. ERP: 1.6 kW; HAAT: 115 feet (LIC). Req: 89.1 mHz; Channel No. 206A. ERP: 3 kW; HAAT: 300 feet.

BPED–791203AY (KWCR–FM), Ogden, Utah, Weber State College. Has: 88.1 mHz; Channel No. 201D. TPO: .01 kW. (LIC). Req: 88.1 mHz; Channel No. 201A. ERP: .131 kW; HAAT: −469 feet.

BPED–791204AC (KTEC), Klamath Falls, Oreg., the State Board of Higher Education. Has: 88.1 mHz; Channel No. 201D. TPO: .01 kW. (LIC). Req: 88.1 mHz; Channel No. 201A. ERP: .100 kW; HAAT: [illegible]83 feet.

BPED–791206AA (KSJU), Collegeville, Minn., St. John's University. Has: 89.1 mHz; Channel No. 206DS. ERP: .01 kW; HAAT: ? feet (LIC). Req: 89.1 mHz; Channel No. 206A. ERP: 7.71 kW; HAAT: 480 feet.

BPED–791206AC (WOBC–FM), Oberlin, Ohio, Oberlin College Student Network, Inc. Has: 88.7 mHz; Channel No. 204DS. ERP: .01 kW; HAAT: ? feet (LIC). Req: 91.5 mHz; Channel No. 218A. ERP: .435 kW; HAAT: 125 feet.

BPED–791207AB (KSLU), Hammond, La., Southeastern Louisiana University. Has: 90.9 mHz; Channel No. 215DS. ERP: .01 kW; HAAT: ? feet (LIC). Req: 90.9 mHz; Channel No. 215A. ERP: .270 kW; HAAT: 110 feet.

BPED–791210AC (KBVR),Corvallis, Oreg., State of Oregon, Bd of Higher Educ. Has: 90.1 mHz; Channel No. 211DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 88.7 mHz; Channel No. 204A. ERP: .355 kW; HAAT: −80.6 feet.

BPED–791214AA (KCSS), Turlock, Calf., California State College. Has: 91.9 mHz; Channel No. 220D. TPO: .01 kW; (LIC). Req: 91.9 mHz; Channel No. 220A. ERP: .151 kW; HAAT: 50.9 feet.

BPED–791217AE (WRHO), Oneonta, N.Y., Hartwick College. Has: 89.5 mHz; Channel No. 208DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 89.7 mHz; Channel No. 209A. ERP: .269 kW; HAAT: −13 feet.

BPED–791218AA (WUNF-FM), Asheville, N.C., The University of NC at Asheville. Has: 88.1 mHz; Channel No. 201D. TPO: .01 kW. (LIC). Req: 88.1 mHz; Channel No. 201A. ERP: .110 kW; HAAT: 872 feet.

BPED–791219AE (New), Grand Junction, Colo., Columbus Evangelical Free Church, Req: 90.3 mHz; Channel No. 212A. ERP: 2 kW; HAAT: −441 feet.

BPED–791219AH (WSUC-FM),Cortland, N.Y., State University of New York Has: 90.7 mHz; Channel No. 214D. TPO: .01 kW. (LIC). Req: 90.5 mHz; Channel No. 213A. ERP: .241 kW; HAAT: −101 feet.

BPED–791220AF (KVMR), Nevada City, Calif., The American Victorian Museum, Inc. Has: 89.5 mHz; Channel No. 208D. ERP: .019 kW; HAAT: 980 feet. (LIC). Req: 89.5 mHz; Channel No. 208B. ERP: 1.96 kW; HAAT: 978 feet.

BPED–791220AG (WCSK), Kingsport, Tenn., Kingsport City School Bd. of Educ. Has: 90.3 mHz; Channel No. 212DS. ERP: .019 kW; HAAT: 920 feet. (LIC). Req: 90.3 mHz; Channel No. 212A. ERP: .193 kW; HAAT: 924.5 feet.

BPED–791220AH (KSCL), Shreveport, La., Centenary College of Louisiana. Has: 91.3 mHz; Channel No. 217DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 91.3 mHz; Channel No. 217A. ERP: .148 kW; HAAT: 80.6 feet.

BPED–791220AO (WIDR), Kalamazoo, Mich., Western Michigan University. Has: 89.1 mHz; Channel No. 206DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 89.1 mHz; Channel No. 206A. ERP: .106 kW; HAAT: 177 feet.

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BPED–791221AC (WPRG), Baton Rouge, La., La State Univ. Agric. & Mech. College. Has: 107.3 mHz; Channel No. 297D. ERP: .008 kW; HAAT: 130 feet. (LIC). Req: 91.1 mHz; Channel No. 216A. ERP: 1.82 kW; HAAT: 300 feet.

BPED–791221AI (WIXQ), Millersville, Pa., Millersville State College. Has: 91.7 mHz; Channel No. 219D. TPO: .01 kW. (LIC). Req: 91.7 mHz; Channel No. 219A. ERP: .129 kW; HAAT: 69 feet.

BPED–791226BA (KHIB), Durant, Okla., Southeastern Oklahoma State Univ. Has: 91.9 mHz; Channel No. 220D. TPO: .01 kW. (LIC). Req: 91.9 mHz; Channel No. 220A. ERP: .323 kW; HAAT: 133 feet.

BPED–791226BV (WWAS), Williamsport, Pa., Williamsport Area Community College. Has: 88.1 mHz; Channel No. 201DS. ERP: .009 kW; HAAT: −332 feet. (LIC). Req: 88.1 mHz; Channel No. 201A. ERP: .100 kW; HAAT: −332 feet.

BPED–791226BX (WUIZ), Summertown, Tenn., Radio Free Broadcasting Co. Has: 88.3 mHz; Channel No. 202D. TPO: .01 kW. (LIC). Req: 88.3 mHz; Channel No. 202A. ERP: .200 kW; HAAT: 267.8 feet.

BPED–791226CB (KNGX), Claremore, Okla., Claremore College. Req: 91.3 mHz; Channel No. 217A. ERP: .221 kW; HAAT: 365 feet.

BPED–791226CP (New), Manchester, N.H., Saint Anselm's College. REQ: 90.7 mHz; Channel No. 214A. ERP: .283 kW; HAAT: 23 feet.

BPED–791226CQ (WESS), East Stroudsburgh, Pa., East Stroudsburgh State College. Has: 90.3 mHz; Channel No. 212DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 90.3 mHz; Channel No. 212A. ERP: 1 kW; HAAT: −164 feet.

BPED–791226CT (WBRH), Baton Rouge, La., East Baton Rouge School Board. Has: 90.1 mHz; Channel No. 211DS. ERP: .01 kW; HAAT: feet. (LIC). Req: 90.3 mHz; Channel No. 212A. ERP: 1.31 kW; HAAT: 143 feet.

BPED–791018AC (KBJC), Great Bend, Kans., Barton County Community Jr. College. Has: 91.9 mHz; Channel No. 220DS. ERP: .01 kW; HAAT: feet. (LIC). Has: 91.9 mHz; Channel No. 220A. ERP: 1.4 kW; HAAT: 210 feet (CP). Req: 91.9 mHz; Channel No. 220A. ERP: .242 kW: HAAT: 207.5 feet.

[FR Doc. 80–26347 Filed 8–29–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; System of Records; Notice of Continuation of System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of continuation of System of Records.

SUMMARY: The FDIC is publishing notice of the continuation of its "Grievance Records" Privacy Act System of Records. The Office of Personnel Management notice covering the system is being withdrawn and FDIC is publishing its own notice in its place.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202–389–4433), Room 4126E, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974 (5 U.S.C. 552a) the FDIC is required to publish notice of all the systems of records it maintains. It is not, however, required to publish a notice regarding a system of records if that system is covered by a notice published by another agency. The FDIC maintains a "Grievance Records" system which is covered by the notice appearing at 44 FR 30884 and amended at 44 FR 61708 published by the Office of Personnel Management ("OPM"). That notice will be withdrawn sometime in September of 1980. It is therefore necessary for the FDIC to publish its own notice covering the system.

The categories of indiviuals covered by the system and the routine uses of the information in the system have not changed except to the extent necessary to identify the covered individuals as current or former FDIC employees. (The OPM notice covered current or former Federal government employees.) In addition, the remaining portions of the existing notice have been rewritten so as to properly refer to FDIC's system of records manager, the location of the system, and FDIC's Privacy Act regulations governing access to records and the amendments of records. The notice refers the reader to "Appendix A" for the location of FDIC Regional Offices. Appendix A can be found at the end of Part 310 of FDIC's regulations as published in the Federal Deposit Insurance Corporation Looseleaf Service put out by Prentice-Hall, Inc.

As there have been no substantive changes from the existing notice, and because FDIC's notice is being published prior to the withdrawal by OPM of the existing notice, FDIC's notice is considered to be a notice of continuation of an existing system of records. No public comment need be solicited and no report on a new system of records is required to be filed with the Office of Management and Budget or Congress.

In consideration of the foregoing, the FDIC hereby publishes the following notice of continuation of an existing system of records.

30–64–0018

"Grievance Records" System—FDIC

SYSTEM NAME:

"Grievance Records"

SYSTEM LOCATION:

These records are located in the Office of Employee Relations, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations and arbitration are located in the FDIC Regional Office where originated. (See Appendix A for the location of FDIC Regional Offices.) Duplicate copies may be maintained as records by the Office of Employee Relations for the purpose of coordinating grievance and arbitration handling.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC employees who have submitted grievances in accordance with part 771 of the Office of Personnel Management's regulations (5 CFR 771) or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under part 771 of the Office of Personnel Management's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that FDIC may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p218, E.O. 10987, 3 CFR 1959–1963 Comp. p519, agency employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where the FDIC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2098.

g. By the FDIC or the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Cousel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORING:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Employee Relations, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. The appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may contact the Executive Secretary, Records Unit, 550 17th Street, N.W., Washington, D.C. 20429 regarding the existence of records on them. They must furnish the following information in order for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. After the action has been closed, an individual may request access to the official copy of the grievance file. See "Notification" above.

Individuals requesting access must also follow the FDIC's Privacy Act regulations regarding access to records and verification of identity. (12 CFR 310.3, 310.4, and 310.9).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the Executive Secretary, Records Unit. See "Notification" above.

Individuals requesting amendment must also follow the FDIC's Privacy Act regulations regarding amendment to records and vertification of identity. (12 CFR 310.4, 310.7, 310.8, and 310.9).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.
b. By testimony of witnesses.
c. By agency officials.
d. From related correspondence from organizations or persons.

By order of the Board of Directors dated August 25, 1980.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 80-26492 Filed 8-28-80; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Repeal of Rule Prescribing Interest Policy; Notice of Filing of Petition

August 26, 1980.

Notice is given that a petition has been filed by Far East Conference, Pacific Westbound Conference, Pacific Straits Conference, and Pacific Indonesian Conference for repeal by the Commission of its statement of policy to grant interest at the rate of 12 percent on awards of reparation in cases involving the misrating of cargo and arising under section 18(b)(3) of the Shipping Act, 1916 and section 2 of the Intercoastal Shipping Act, 1933. The policy requires accrual of interest from date of payment of freight charges. Such statement of policy was published in the **Federal Register** on May 14, 1980 (45 FR 31722).

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW, Room 11101, or may inspect the petition at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested persons may submit replies to the petition to the Secretary, Federal Maritime Commission, Washington, D.C., 20573 on or before

September 20, 1980. An original and fifteen copies of such replies shall be submitted.

Francis C. Hurney,
Secretary.

[FR Doc. 80-26543 Filed 8-28-80, 8:45 am]
BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons or Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. 540): Delta Steamship Lines, Inc. and PSS Steamship Company, Inc., c/o Delta Steamship Lines, Inc., P.O. Box 50250, New Orleans, Louisiana 70150.

Dated: August 26, 1980.

Francis C. Hurney,
Secretary.

[FR Doc. 80-26532 Filed 8-28-80; 8:45 am]
BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Castellana Maritime, Inc., Royal Cruise Line, Ltd., and Royal Cruise Line (U.S.A.), Inc., c/o Royal Cruise Line, One Maritime Plaza, San Francisco, California 94111.

Dated: August 26, 1980.

Francis C. Hurney,
Secretary

[FR Doc. 80-26533 Filed 8-28-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Atkinson County Bankshares Corp.; Formation of Bank Holding Company

Atkinson County Bankshares Corporation, Willacoochee, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Willacoochee, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,
Assistant Secretary of the Board.

[FR Doc. 80-26535 Filed 8-28-80; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 22, 1980.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690;

Hams, Inc., Tama, Iowa (insurance activities: Iowa): to continue to engage through Tama Insurance Agency in operating a general insurance agency in a community with a population under 5,000. These activities will be conducted from an office in Tama, Iowa, serving Tama County, Iowa. Comments on this application must be received by September 16, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (finance and credit-related insurance activities; Missouri): to engage through its subsidiary, The Bankers Investment Company dba Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices in Kansas City, Manchester and St. Louis, Missouri, serving the State of Missouri.

2. Wells Fargo & Company, San Francisco, California (finance activities; United States): to engage through its subsidiary, Wells Fargo Ag Credit, in the activities of making and servicing loans and other extensions of credit primarily to persons engaged in agriculture. These activities would be conducted from offices in Billings, Montana, and Tulsa, Oklahoma, serving the entire United States.

C. *Other Federal Reserve Banks:* None.

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Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26534 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Barclays Bank Ltd. and Barclays Bank International Ltd.; Proposed Acquisition of Aetna Business Credit, Inc.

Barclays Bank Limited and Barclays Bank International Limited, both of London, England, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through their subsidiary, Barclays American-Corporation, all the outstanding shares of Aetna Business Credit, Inc., a commercial finance company and a subsidiary of Aetna Life and Casualty Company.

Applicant states that the proposed subsidiary would engage in (i) commercial finance, *i.e.*, making secured loans to small and medium sized businesses, and (ii) factoring.

Aetna Business Credit, Inc. is headquartered in Hartford, Connecticut and has offices in the following other states: California, Florida, Georgia, Illinois, New York, Michigan, Minnesota, North Carolina, Texas and Wisconsin. The office in Hartford, Connecticut services customers throughout the country; the offices in California, Georgia, Illinois, Minnesota, New York and Texas serve customers in those states and surrounding regions; the offices in North Carolina and Wisconsin are primarily service facilities; and the offices in Florida and Michigan are loan production offices. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 22, 1980.

Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26536 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Insurance by Strehlow, Inc.; Proposed Retention of General Insurance Agency Business

Insurance by Strehlow, Inc., Casselton, North Dakota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in operating a general insurance agency in a community that has a population not exceeding 5,000.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency. These activities would be performed from offices of Applicant's subsidiary in Casselton, North Dakota, and the geographic area to be served is Cass County, North Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The applicaiton may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 22, 1980.

Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26537 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Maryland National Corp.; Proposed Expansion of Reinsurance Activities of Mid Atlantic Life Insurance Co.

Maryland National Corporation, Baltimore, Maryland, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the reinsurance activities of Mid Atlantic Life Insurance Company, Baltimore, Maryland.

Applicant states that the proposed subsidiary would expand its activities of reinsuring credit life and credit accident and health insurance to include reinsuring such insurance sold in connection with extensions of credit by its subsidiaries located in New Jersey and Virginia. These activities would be performed from offices of Applicant's subsidiary in Baltimore, Maryland, and the geographic areas to be served are the states of New Jersey and Virginia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

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fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 22, 1980.

Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26538 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Munter Agency, Inc.; Proposed Retention of Union Insurance Agency

Munter Agency, Inc., Strawberry Point, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain Union Insurance Agency, Strawberry Point, Iowa.

Applicant states that the proposed subsidiary engages in general insurance activities in a town with a population of less than 5,000 people. These activities would be performed from offices of Applicant's subsidiary in Strawberry Point, Iowa, and the geographic area to be served is a 25 mile radius of Strawberry Point, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 25, 1980.

Board of Governors of the Federal Reserve System, August 25, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26539 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Security Financial Services, Inc.; Acquisition of Bank

Security Financial Services, Inc., Sheboygan, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Bank of Menasha, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 25, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26540 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

Silverton Bancshares, Inc.; Formation of Bank Holding Company

Silverton Bancshares, Inc., Silverton, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank, Silverton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26541 Filed 8-28-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on August 22, 1980 (ICC) and August 25, 1980 (FCC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such acceptances.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 16, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests an extension-without-change clearance of Special Temporary Authority Rules in the Cable Television Service; specifically section 76.29 which states that in circumstances requiring temporary use of cable television facilities for operations not authorized pursuant to a valid certificate of compliance, a cable television service may request special temporary authority to operate. The Commission may grant special temporary authority upon a finding that the public interest would be served, for a period not to exceed 90 days and may extend such authority upon a like finding for one additional period not to exceed 90 days. Specific statutory authority for this rule is derived from Section 309(f) as well as Sections 2, 4 (i) and (j), 30, 303, and 307 of the Communications Act. The FCC estimates that approximately 50 requests will be received annually and that burden will average one hour per request.

Interstate Commerce Commission

The ICC requests clearance of a revision to Form R–1, Annual Report, required to be filed by some 48 Class I line-haul railroads and railroad holding companies, pursuant to section 11145 of the Interstate Commerce Act. Data collected by Form R–1 are used for economic regulatory purposes. The revision to the Report is that it will include the schedules previously submitted in the annual report Form PTR–R. The ICC estimates that reporting burden will average 1,300 hours per report.

The ICC requests clearance of a revision to Form R–2, Annual Report, required to be filed by some 19 Class II line-haul railroads pursuant to section 11145 of the Interstate Commerce Act. Data collected by Form R–2 are used for economic regulatory purposes. The revision to the Report is that it will include the schedules previously submitted in the annual report Form PTR–R. The ICC estimates that reporting burden will average 220 hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–26524 Filed 8–28–80; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

[F–80–17]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Indiana Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Indiana Public Service Commission involving the application of the Indiana Bell Telephone Company for increases in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 21, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–26562 Filed 8–28–80; 8:45 am]

BILLING CODE 6820–25–M

Senior Executive Service; Schedule for Awarding Bonuses

The General Services Administration plans to award bonuses to Senior Executive Service members on or about September 15, 1980.

For further information, contact Gregory Knott, Director, Executive Resources Division (202–566–1207). Mailing address: General Services Administration (HPX), Washington, DC 20405.

Dated: August 22, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–26563 Filed 8–28–80; 8:45 am]

BILLING CODE 6820–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Birth Defects and Military Service in Vietnam Study Work Group; Open Meeting

On September 18, 1980, the Center for Disease Control (CDC) will convene an open meeting of a work group to discuss the protocol for a study of birth defects and military service in Vietnam. Persons invited to attend from outside CDC include two epidemiologists, a biostatistician, and a medical geneticist. The meeting is open to the public, limited only space available. Time will be set aside for public comment.

The meeting is scheduled to begin at 9:00 a.m., in Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

All inquiries should be sent to:

J. David Erickson, D.D.S., Ph.D., Deputy Chief, Birth Defects Branch, Chronic Diseases Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Georgia 30333, Telephones: FTS: 236–4035. Commercial: 404/452–4035.

Dated: August 22, 1980.

Donald R. Hopkins,

Acting Director, Center for Disease Control.

[FR Doc. 80–26565 Filed 8–28–80; 8:45 am]

BILLING CODE 4110–86–M

Food and Drug Administration

[Docket No. 80F–0267]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium zinc potassium polyphosphate as a pigment dispersant in the manufacture of paper and paperboard intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371)), notice is given that a petition (FAP 9B3465) has been filed by Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230,

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proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* be amended to provide for the safe use of sodium zinc potassium polyphosphate as a pigment dispersant in the manufacture of paper and paperboard intended for food-contact use.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, and environmental assessment report as applicable will be published in the **Federal Register** as required by 21 CFR 25.25(b).

Dated: August 15, 1980.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 80-26164 Filed 8-28-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0265]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy hydrocinnamate as an antioxidant and/or stabilizer for nitrile rubber modified acrylonitrile-methyl acrylate copolymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB3522) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy hydrocinnamate as an antioxidant and/or stabilizer in nitrile rubber modified acrylonitrile-methyl acrylate copolymers intended to contact food.

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting the document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1980.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 80-26163 Filed 8-28-80; 8:45 am]

BILLING CODE 4110-03-M

C. R. Bard, Inc.; Premarket Approval of USCI® Gruntzig Dilaca™ Coronary Artery Balloon Dilatation Catheter

Correction

On Friday, August 15, 1980 on page 54444 appearing correcting FR Doc. 80-21465 (45 FR 48254, July 18, 1980). Two errors were made in the correction document and they should be corrected as follows:

(1) Correct the heading to read as set forth above;

(2) In correction paragraph (3), in the sixth line "Gruntzig Dilaca" should be corrected to read "Gruntzig Dilaca® ".

BILLING CODE 1505-01-M

[Docket No. 79N-0339; DESI Nos. 8615, 9152, 9188, and 50168]

Certain Ophthalmic Antibiotic Combination Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces the conditions for marketing certain ophthalmic combinations containing an antibiotic for the indications for which they are now regarded as effective. It also discusses those products now regarded as lacking substantial evidence of effectiveness. It states that to obtain effective levels for products containing polymyxin B, the polymyxin B concentration must be not less than 10,000 units per milliliter or gram.

DATES: Effective August 29, 1980; petitions due on or before September 29, 1980.

ADDRESSES: Communications in response to this notice should be identified with the appropriate DESI number, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Amendments (identify with NDA number): Division of Anti-Infective Drug Products (HFD-140), Rm. 12B-45, Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Petitions (identify with Docket No. 79N-0339): Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION:

I. Background

In notices published in the **Federal Register** of July 17, 1971 (36 FR 13282) (DESI 8615), June 23, 1972 (37 FR 12419) (DESI 9152), June 6, 1972 (37 FR 11283) (DESI 9188), and June 20, 1972 (37 FR 12166) (DESI 50168), FDA announced its conclusions after evaluating reports from the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group concerning certain ophthalmic combination drug products. The products under DESI 8615 were classified as possibly effective for their labeled indications relating to use in inflammatory or infectious conditions of the eye. The products under DESI 9152 were classified as lacking substantial evidence of effectiveness for use in furunculosis and for use in spastic entropion caused by local irritation, and possibly effective for their other labeled indications. The products under DESI 9188 were classified as lacking substantial evidence of effectiveness for use in mustard gas keratitis and Sjogren's keratoconjunctivitis (with systemic steroids), and corneal injury following surgery, and possibly effective for their other labeled indications. The products under DESI 50168 were classified as possibly effective for all their labeled indications.

These products have been allowed to remain on the market beyond the time limit established for implementation of the drug efficacy study (DESI). The temporary exemption to permit continued marketing was announced in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as modified February 17, 1978 (43 FR 7044).

The ophthalmic antibiotic combinations that are affected by this notice are subject to the antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 357.

Because issues concerning the effectiveness of the products have now been resolved, in notices appearing elsewhere in this issue of the **Federal Register,** FDA is (1) revoking the temporary exemption for continued marketing these products, (2) announcing the conditions for marketing a nonantibiotic ophthalmic combination, and (3) proposing to amend the antibiotic regulations to increase the lowest concentration of polymyxin B to 10,000 units per milliliter or gram in those products containing it.

II. Products Regarded as Effective

The Food and Drug Administration has reviewed all available evidence and concludes that the following drug products are effective for the indication in the labeling below. The polymyxin B content in those that contain that component is not less than 10,000 units per milliliter or gram.

DESI 8615

1. NDA 50–169; Cortisporin Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate (10,000 units per milliliter), and hydrocortisone; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 22709.
2. NDA 50–202; Chloromycetin Hydrocortisone Ophthalmic Suspension containing chloramphenicol and hydrocortisone acetate; Parke-Davis, Division of Warner-Lambert Co., Morris Plains, NJ 07950.
3. NDA 50–272; Achromycin Ophthalmic Ointment with Hydrocortisone containing tetracycline hydrochloride and hydrocortisone; Lederle Laboratories Division, American Cyanamid Co., Pearl River, NY 10965.
4. NDA 50–362; Metimyd with Neomycin Ophthalmic Ointment containing neomycin sulfate, prednisolone acetate, and sodium sulfacetamide; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.
5. NDA 60–310; Neomycin Sulfate with Hydrocortisone Acetate Ophthalmic Ointment; Biocraft Laboratories, Inc., 92 Route 42, East Patterson, NJ 07407.
6. NDA 60–452; Isopto P-H-N Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate (16,250 units per milliliter), and hydrocortisone acetate; Alcon Laboratories, Inc., 2601 South Freeway, Fort Worth, TX 76134.
7. NDA 60–464; Neo-Deltef Eye Drops containing neomycin sulfate and prednisolone; the Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001.
8. NDA 60–788; Di-Hydrin Ophthalmic Solution containing neomycin sulfate, polymyxin B sulfate (15,000 units per milliliter), and hydrocortisone; Broemmel Pharmaceuticals, 1235 Sutter St., San Francisco, CA 94109.
9. NDA 60–790; Neo-Polycin HC Ophthalmic Ointment containing bacitracin, neomycin sulfate, polymyxin B sulfate (10.000 units per gram), and hydrocortisone acetate; Pitman-Moore Co., Division of the Dow Chemical Co., 55 West Sheffield, Englewood, NJ 07631.
10. NDA 60–925; Florinef-S Ophthalmic Ointment and Suspension containing neomycin sulfate, gramicidin, and fludrocortisone acetate; E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.
11. NDA 61–045; Neosone Ophthalmic Ointment containing neomycin sulfate and cortisone acetate; The Upjohn Co.
12. NDA 61–075; Hydrocortisone-Neomycin Ophthalmic Ointment containing neomycin sulfate and hydrocortisone acetate; Day-Baldwin, Inc., 1460 Chestnut Ave., Hillside, NJ 07205.
13. NDA 61–107; Neomycin Sulfate with Hydrocortisone Acetate Ophthalmic Ointment; Kasco Laboratories, Inc., Cantiaque Rd., P.O. Box 73, Hicksville, NY 11802.

DESI 9152

1. NDA 61–016; Terra-Cortril Eye-Ear Suspension containing oxytetracycline hydrochloride and hydrocortisone acetate; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017.

DESI 9188

1. NDA 50–322; Neo-Decadron Ophthalmic Solution containing dexamethasone sodium phosphate and neomycin sulfate; Merck, Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.
2. NDA 50–324; Neo-Decadron Ophthalmic Ointment containing dexamethasone sodium phosphate and meomycin sulfate; Merck Sharp & Dohme.
3. NDA 50–378; Neo-Hydeltrasol Ophthalmic Ointment containing prednisolone sodium phosphate and meomycin sulfate; Merck Sharp & Dohme.
4. NDA 50–379; Neo-Hydeltrasol Ophthalmic Solution containing prednisolone sodium phosphate and neomycin; Merck Sharp & Dohme.
5. NDA 50–188; Cor-Oticin Eye-Ear Suspension containing hydrocortisone acetate and neomycin sulfate; Maurry Biological Co., Inc., 6109 South Western Ave., Los Angeles, CA 90047.
6. NDA 60–442; Neo-Aristocort Eye-Ear Ointment containing triamcinolone acetonide and neomycin sulfate; Lederle Laboratories.
7. NDA 60–610; Neo-Cortef Eye-Ear Ointment containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co.
8. NDA 60–612; Neo-Cortef Eye-Ear Drops containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co.
9. NDA 60–645; Neo-Medrol Eye-Ear Ointment containing methylprednisolone and meomycin sulfate; The Upjohn Co.
10. NDA 61–037; Neo-Delta-Cortef Eye-Ear Drops containing prednisolone acetate and neomycin sulfate; The Upjohn Co.
11. NDA 61–039; Neo-Delta-Cortef Eye-Ear Ointment containing prednisolone acetate and neomycin sulfate; The Upjohn Co.

The general outline for labeling of the above products is as follows:

Description

[Each labeling piece for a specific product should contain all information necessary to fulfill current labeling requirements.]

[The manufacturer and/or distributor shall state the proprietary name and established name (as defined in section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act), if any, of the products, the dosage form(s), and the route of administration to which the labeling applies. It shall also state the chemical formula(e), if known, of the active ingredient(s) in the drug product, the pharmacologic or therapeutic class of the drug product, and the same quantitative ingredient information about the ingredients as that required for labels. This section may also contain other important information such as physical descriptions, physical constants, sterility status, pH, etc.]

Clinical Pharmacology

Corticoids suppress the inflammatory response to a variety of agents and they probably delay or slow healing. Since corticoids may inhibit the body's defense mechanism against infection, a concomitant antimicrobial drug may be used when this inhibition is considered to be clinically significant in a particular case.

The anti-infective component in the combination is included to provide action against specific organisms susceptible to it. [*Insert name of anti-infective(s) to be labeled*] is (are) considered active against the following microorganisms: [*list usually susceptible organisms*].

When a decision to administer both a corticoid and an antimicrobial(s) is made, the administration of such drugs in combination has the advantage of greater patient compliance and convenience, with the added assurance that the appropriate dosage of both drugs is administered, plus assured compatibility of ingredients when both types of drug are in the same formulation and, particularly, that the correct volume of drug is delivered and retained.

The relative potency of corticosteroids depends on the molecular structure, concentration, and release from the vehicle.

Indications and Usage

A steroid/anti-infective combination is indicated in ocular inflammation when concurrent use of an antimicrobial is judged necessary.

Contraindications

Epithelial herpes simplex keratitis (dendritic keratitis), vaccinia, varicella, and many other viral diseases of the cornea and conjunctiva. Mycobacterial infection of the eye. Fungal diseases of ocular structures. Hypersensitivity to a component of the medication. (Hypersensitivity to the antibiotic component occurs at a higher rate than for other components.)

The use of these combinations is always contraindicated after uncomplicated removal of a corneal foreign body.

Warnings

Prolonged use may result in glaucoma, with damage to the optic nerve, defects in visual

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acuity and fields of vision, and posterior subcapsular cataract formation. Prolonged use may suppress the host response and thus increase the hazard of seconday ocular infections. In those diseases causing thinning of the cornea or sclera, perforations have been known to occur with the use of topical steroids. In acute purulent conditions of the eye, steroids may mask infection or enhance existing infection. If these products are used for 10 days or longer, intraocular pressure should be routinely monitored even though it may be difficult in children and uncooperative patients.

Employment of steroid medication in the treatment of herpes simplex requires great caution.

[If the combination contains a sulfa drug, add the following Warning statement:]

> A significant percentage of staphylococcal isolates are completely resistant to sulfa drugs.

Precautions

The initial prescription and renewal of the medication order beyond 20 milliliters or 8 grams should be made by a physician only after examination of the patient with the aid of magnification, such as slit lamp biomicroscopy and, where appropriate, fluorescein staining.

The possibility of persistent fungal infections of the cornea should be considered after prolonged steroid dosing.

Adverse Reactions

Adverse reactions have occurred with steroid/anti-infective combination drugs which can be attributed to the steroid component, the anti-infective component, or the combination. Exact incidence figures are not available since no denominator of treated patients is available.

Reactions occurring most often from the presence of the anti-infective ingredient are allergic sensitizations. The reactions due to the steroid component in decreasing order of frequency are: elevation of intraocular pressure (IOP) with possible development of glaucoma, and infrequent optic nerve damage; posterior subcapsular cataract formation; and delayed wound healing.

Secondary Infection: The development of secondary infection has occurred after use of combinations containing steroids and antimicrobials. Fungal infections of the cornea are particularly prone to develop coincidentally with long-term applications of steroid. The possibility of fungal invasion must be considered in any persistent corneal ulceration where steroid treatment has been used.

Secondary bacterial ocular infection following suppression of host responses also occurs.

Dosage and Administration

Specific prescribing information to be supplied by the manufacturer and/or distributor.

Not more than 20 milliliters or 8 grams should be prescribed initially and the prescription should not be refilled without further evaluation as outlined in Precautions above.

How Supplied

[The remaining information regarding the available dosage forms, potencies, and units of each, are to be supplied by each manufacturer and/or distributor.]

Batches of such drugs with labeling bearing indications other than that specified above are no longer acceptable for certification or release.

Any person who will be adversely affected by this change in indications may, by September 29, 1980, petition for the issuance of a regulation providing for the revised indication. The petition must be supported by a full factual and well-documented medical analysis which shows reasonable grounds for the issuance of a regulation.

A petition for issuance of a regulation should be filed (preferably in four copies) with the Hearing Clerk, Food and Drug Administration (HFA-305) (address above).

III. Products Lacking Substantial Evidence of Effectiveness

The drug products described below lack substantial evidence of effectiveness as currently labeled.

The level of polymyxin B in the various formulations of anti-infective/steroid combinations that contain polymyxin B for ophthalmic use currently on the market ranges from 5,000 units per milliliter or gram to 16,250 units per milliliter or gram. Polymyxin B is included in some of these drug products because it is active against gram-negative organisms, particularly *Pseudomonas*, and none of the other ingredients is active against this organism. *Pseudomonas* constitutes a very great risk to the eye. To be effective against this organism, the level of the polymyxin B concentration in formulations containing it must be not less than 10,000 units per milliliter or gram. The reasons for this conclusion are explained in detail in a notice appearing elsewhere in this issue of the **Federal Register** proposing to amend the antibiotic regulations to increase the lowest level of polymyxin B concentration to 10,000 units per milliliter or gram.

DESI 8615

1. NDA 50-081; Predmycin-P Liquifilm Ophthalmic Suspension containing neomycin sulfate, polymyxin B Sulfate (5,000 units per milliliter), and prednisolone acetate; Allergan Pharmaceuticals, 1000 South Grand Ave., Santa Ana, CA 92705.

2. NDA 50-201; Ophthocort Ophthalmic Ointment containing chloramphenicol, polymyxin B sulfate (5,000 units per gram), and hydrocortisone acetate; Parke-Davis.

3. NDA 60-305; Bacitracin-Neomycin-Polymyxin B and Hydrocortisone Ophthalmic Ointment containing bacitracin, neomycin sulfate, polymyxin B sulfate (5,000 units per gram), and hydrocortisone acetate; Biocraft Laboratories, Inc.

4. NDA 60-731; Bacitracin-Polymyxin-Neomycin with Hydrocortisone Ophthalmic Ointment containing zinc bacitracin, neomycin sulfate, polymyxin B sulfate (5,000 units per gram), and hydrocortisone acetate; Kasco Laboratories, Inc.

DESI 50168

1. NDA 50-416; Cortisporin Ointment containing polymyxin B sulfate (5,000 units per gram), zinc bacitracin, neomycin sulfate, and hydrocortisone; Burroughs Wellcome & Co.

Products containing polymyxin B sulfate that contain less than 10,000 units of it per milliliter or gram, and with present labeling, will continue to be eligible for certification or release under existing monographs pending finalization of the proposed amendments. For those products, the labeling set forth above in this notice will not be acceptable because it is predicated on not less than 10,000 units of polymyxin B per milliliter or gram in products that contain it.

Manufacturers may elect to reformulate their products now to contain no less than 10,000 units of polymyxin B per milliliter or gram rather than await final resolution of the proposed amendments. Such reformulated products will then be regarded as effective when labeled as described above in this notice. Their reclassification to effective will be announced in the **Federal Register**. The reformulated products will be acceptable for certification under the existing monographs even though those monographs now prescribe a lower concentration of ploymyxin B.

This notice is issued under the Federal Foods Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: July 24, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-26515 Filed 8-28-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0275; DESI Nos. 8615, 9152, 9188, 10210, and 50168]

Certain Ophthalmic Combination Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of certain ophthalmic combination drug products because questions concerning the products' effectiveness have now been resolved. Under the exemption, the drugs have been allowed to remain on the market beyond the time limit scheduled for implementation of the drug efficacy study.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** of July 17, 1971 (36 FR 13282) (DESI 8615), June 23, 1972 (37 FR 12419) (DESI 9152), June 6, 1972 (37 FR 11283) (DESI 9188), July 27, 1972 (37 FR 15037) (DESI 10210), and June 20, 1972 (37 FR 12166) (DESI 50168), FDA announced its conclusions after evaluating reports from the National Academy of Sciences-National Research Council (NAS/NRC), Drug Efficacy Study Group on certain ophthalmic combination drug products. The products under DESI 8615 were classified as possibly effective for their labeled indications relating to the use in inflammatory or infectious conditions of the eye. The products under DESI 9152 were classified as lacking substantial evidence of effectiveness for use in furunculosis and for use in spastic entropion caused by local irritation, and possibly effective for their other labeled indications. The products under DESI 9188 were classified as lacking substantial evidence of effectiveness for use in mustard gas keratitis and Sjogren's keratoconjunctivitis (with systemic steroids), and corneal injury following surgery and possibly effective for their other labeled indications. The products under DESI 10210 were classified as lacking substantial evidence of effectiveness for spastic entropion due to local irritation and possibly effective for their other labeled indications. Finally, the products under DESI 50168 were classified as possibly effective for their labeled indications.

These products have been allowed to remain on the market beyond the time limit established for implementation of the drug efficacy study. The temporary exemption to permit continued marketing was announced in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as modified February 17, 1978 (43 FR 7044).

The agency has reevaluated these products, and in notices appearing elsewhere in this issue of the **Federal Register**, is reclassifying and announcing the conditions for further marketing of such products. Therefore, the temporary exemption granted by the December 14, 1972 notice (as modified) for the following products is hereby revoked. The DESI 12813 product (Blephamide Liquifilm Ophthalmic Suspension) that has also been exempted is not affected by this notice but will be the subject of a subsequent **Federal Register** notice.

DESI 8615

1. NDA 50-081; Predmycin-P Liquifilm Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate, and prednisolone acetate; Allergan Pharmaceuticals, 1000 South Grand Ave., Santa Ana, CA 92705.
2. NDA 50-169; Cortisporin Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate, and hydrocortisone; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 22709.
3. NDA 50-201; Ophthocort Ophthalmic Ointment containing chloramphenicol, polymyxin B sulfate, and hydrocortisone acetate; Parke Davis, Division of Warner-Lambert Co., Morris Plains, NJ 07950.
4. NDA 50-202; Chloromycetin Hydrocortisone Ophthalmic Suspension containing chloramphenicol and hydrocortisone acetate; Parke Davis.
5. NDA 50-272; Achromycin Ophthalmic Ointment with Hydrocortisone containing tetracycline hydrochloride and hydrocortisone; Lederle Laboratories, Division of American Cyanamid Co., Pearl River, NY 10965.
6. NDA 50-362; Metimyd with Neomycin Ophthalmic Ointment containing neomycin sulfate, prednisolone acetate, and sodium sulfacetamide; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.
7. NDA 60-305; Bacitracin-Neomycin-Polymyxin B and Hydrocortisone Ophthalmic Ointment containing bacitracin, neomycin sulfate, polymyxin B sulfate, and hydrocortisone acetate; Biocraft Laboratories, Inc., 92 Route 46, East Patterson, NJ 07407.
8. NDA 60-310; Neomycin Sulfate with Hydrocortisone Acetate Ophthalmic Ointment; Biocraft Laboratories, Inc.
9. NDA 60-452; Isopto P-H-N Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate, and hydrocortisone acetate; Alcon Laboratories, Inc., 2601 South Freeway, Fort Worth, TX 76134.
10. NDA 60-464; Neo-Deltef Eye Drops containing neomycin sulfate and prednisolone; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001.
12. NDA 60-731; Bacitracin-Polymyxin-Neomycin with Hydrocortisone Ophthalmic Ointment containing zinc bacitracin, neomycin sulfate, polymyxin B sulfate, and hydrocortisone acetate; Kasco Laboratories, Inc., Cantiaque Rd., P.O. Box 73, Hicksville, NY 11802.
13. NDA 60-778; Di-Hydrin Ophtalmic Solution containing neomycin sulfate, polymyxin B sulfate, and hydrocortisone; Broemmel Pharmaceuticals, 1235 Sutter St., San Francisco, CA 94109.
14. NDA 60-790; Neo-Polycin HC Ophthalmic Ointment containing bacitracin, neomycin sulfate, polymyxin B sulfate, and hydrocartisone acetate; Pitman-Moore Co., Division of the Dow Chemical Co., 55 West Sheffield, Englewood, NJ 07631.
15. NDA 60-925; Florinef-S Ophthalmic Ointment and Suspension containing neomycin sulfate, gramicidin, and fludrocortisone acetate; E. R. Squibb & Sons, P.O. Box 4000, Princeton, NJ 08540.
16. NDA 61-045; Neosone Ophthalmic Ointment containing neomycin sulfate and cortisone acetate; The Upjohn Co.
17. NDA 61-075; Hydrocortisone-Neomycin Ophthalmic Ointment containing neomycin sulfate and hydrocartisone acetate; Day-Baldwin, Inc., 1460 Chestnut Ave., Hillside, NJ 07205.
18. NDA 61-107; Neomycin Sulfate with Hydrocortisone Acetate Ophthalmic Ointment; Kasco Laboratories, Inc.

DESI 9152

1. NDA 61-016; Terra-Cortril Eye-Ear Suspension containing oxytetracycline hydrochloride and hydrocortisone acetate; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017.

DESI 9188

1. NDA 50-322; Neo-Decadron Ophthalmic Ointment containing dexamethsone sodium phosphate and neomycin sulfate; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.
2. NDA 50-324; Neo-Decadron Ophthalmic Ointment containing dexamethasone sodium phosphate and neomycin sulfate; Merck Sharp & Dohme.
3. NDA 50-378; Neo-Hydeltrasol Ophthalmic Ointment containing prednisolone sodium phosphate and neomycin sulfate; Merck Sharp & Dohme.
4. NDA 50-379; Neo-Hydeltrasol Ophthalmic Solution containing prednisolone sodium phosphate and neomycin; Merck Sharp & Dohme.
5. NDA 60-188; Cor-Oticin Eye-Ear Suspension containing hydrocortisone acetate and neomycin sulfate; Maurry Biological Co., Inc., 6109 South Western Ave., Los Angeles, CA 90047.
6. NDA 60-442; Neo-Aristocort Eye-Ear Ointment containing triamcinolone acetonide and neomycin sulfate; Lederle Laboratories.
7. NDA 60-610; Neo-Cortef Eye-Ear Ointment containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co.
8. NDA 60-612; Neo-Cortef Eye-Ear Drops containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co.

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9. NDA 60–645; Neo-Medrol Eye-Ear Ointment containing methylprednisolone and neomycin sulfate; The Upjohn Co.

10. NDA 61–037; Neo-Delta-Cortel Eye-Ear Drops containing prednisolone acetate and neomycin sulfate; The Upjohn Co.

11. NDA 61–039; Neo-Delta-Cortef Eye-Ear Ointment containing prednisolone acetate and neomycin sulfate; The Upjohn Co.

DESI 10210

1. NDA 10–210; Metimyd Ophthalmic Suspension containing prednisolone acetate and sodium sufacetamide; Schering Corp.

DESI 50168

1. NDA 50–416; Cortisporin Ointment containing polymyxin B sulfate, zinc bacitracin, neomycin sulfate, and hydrocortisone; Burroughs Wellcome & Co.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–1053 as amended 59 Stat. 463 as amended (21 U.S.C. 352, 355, 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: August 8, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–26516 Filed 8–28–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79N–0340; DESI No. 10210]

Prednisolone Acetate and Sodium Sulfacetamide; Ophthalmic Suspension; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces the conditions for marketing a nonantibiotic ophthalmic combination drug product containing prednisolone acetate and sodium sulfacetamide for the indications for which it is now regarded as effective.

DATES: Hearing requests due by September 29, 1980; supplements to approved new drug applications due on or before October 28, 1980.

ADDRESSES: Communications in response to this notice should be identified with DESI number 10210, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Anti-Infective Drug Products (HFD–140), Rm. 12B–45, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFA–305), Rm. 4–62.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 27, 1972 (37 FR 15037)(DESI 10210), the Food and Drug Administration announced its conclusion after evaluating reports received from the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group concerning the nonantibiotic ophthalmic combination drug product named below. The product was classified as lacking substantial evidence of effectiveness for spastic entropion due to local irritation and possibly effective for its other labeled indications which are as follows:

> Infection of the palpebral and bulbar conjunctiva and cornea by microorganisms sensitive to the sulfonamide component of this preparation and which is accompanied by an inflammatory response which it is desirable to suppress; inflammatory and allergic conditions affecting the eyelids and anterior of the eye: *Eyelids:* allergic blepharitis, blepharitis associated with seborrheic dermatitis, and other nonpurulent types of blepharitis; *Conjunctiva:* allergic conjunctivitis, i.e., vernal, phlyctenular and other nonpurulent forms of conjuctivitis including that associated with hay fever and conjunctivitis due to physical agents such as foreign bodies, chemicals (acids, alkalies) and other irritants; *Cornea, sclera, iris:* interstitial keratitis and other keratitides; corneal ulcer; herpes zoster ophthalmicus; phlyctenular keratoconjunctivitis, corneal neovascularization, scleritis, episcleritis, acute, chronic and traumatic iritis, iridocyclitis.

The product has been allowed to remain on the market beyond the time limit established for implementation of the drug efficacy study (DESI). The temporary exemption to permit continued marketing was announced in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as modified February 17, 1978 (43 FR 7044).

Because the effectiveness questions have been resolved for the product, elsewhere in this issue of the **Federal Register** FDA is revoking the temporary exemption for continued marketing of the product.

NDA 10–210; Metimyd Ophthalmic Suspension, each milliliter containing 5 milligrams prednisolone acetate, and 100 milligrams sodium sulfacetamide; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD–310), (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication described in the labeling conditions below. The other indications evaluated as possibly effective in the July 27, 1972 notice now lack substantial evidence of effectiveness.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in a form suitable for ophthalmic administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The general outline for labeling follows:

Description

[Each labeling piece for a specific product should contain all information necessary to fulfill current labeling requirements.]

[The manufacturer and/or distributor shall state the proprietary name and established name (as defined in section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act), if any, of the products, the dosage form(s), and the route of administration to which the labeling applies. It shall also state the chemical formula(e), if known, of the active ingredient(s) in the drug product, the pharmacologic or therapeutic class of the drug product, and the same quantitative ingredient information about the ingredients as that required for labels. This section may also contain other important information such as physical descriptions, physical constants, sterility status, pH, etc.]

Clinical Pharmacology

Corticoids suppress the inflammatory response to a variety of agents and they probably delay or slow healing. Since corticoids may inhibit the body's defense mechanism against infection, a concomitant antimicrobial drug may be used when this inhibition is considered to be clinically significant in a particular case.

The anti-infective component in the combination is included to provide action against specific organisms susceptible to it. *[Insert name of anti-infective(s) to be labeled]* is (are) considered active against the following microorganisms: *[list usually susceptible organisms]*.

When a decision to administer both a corticoid and an antimicrobial(s) is made, the administration of such drugs in combination has the advantage of greater patient compliance and convenience, with the added assurance that the appropriate dosage of both drugs is administered, plus assured compatibility of ingredients when both types of drug are in the same formulation and, particularly, that the correct volume of drug is delivered and retained.

The relative potency of corticosteroids depends on the molecular structure, concentration, and release from the vehicle.

Indications and Usage

A steroid/anti-infective combination is indicated in ocular inflammation when concurrent use of an antimicrobial is judged necessary.

Contraindications

Epithelial herpes simplex keratitis (dendritic keratitis), vaccinia, varicella, and many other viral diseases of the cornea and conjunctiva. Mycobacterial infection of the eye. Fungal diseases of ocular structures. Hypersensitivity to a component of the medication. (Hypersensitivity to the antibiotic component occurs at a higher rate than for other components.)

The use of these combinations is always contraindicated after uncomplicated removal of a corneal foreign body.

Warnings

Prolonged use may result in glaucoma, with damage to the optic nerve, defects in visual acuity and fields of vision and in posterior subcapsular cataract formation. Prolonged use may suppress the host response and thus increase the hazard of secondary ocular infections. In those diseases causing thinning of the cornea or sclera, perforations have been known to occur with the use of topical steroids. In acute purulent conditions of the eye, steroids may mask infection or enhance existing infection. If these products are used for 10 days or longer, intraocular pressure should be routinely monitored even though it may be difficult in children and uncooperative patients.

Employment of steroid medication in the treatment of herpes simplex requires great caution.

A significant percentage of staphylococcal isolates are completely resistant to sulfa drugs.

Precautions

The initial prescription and renewal of the medication order beyond 20 milliliters or 8 grams should be made by a physician only after examination of the patient with the aid of magnification, such as slit-lamp biomicroscopy and, where appropriate, fluorescein staining.

The possibility of fungal infections of the cornea should be considered after prolonged steroid dosing.

Adverse Reactions

Adverse reactions have occurred with steroid/anti-infective combination drugs which can be attributed to the steroid component, the anti-infective component, or the combination. Exact incidence figures are not available since no denominator of treated patients is available.

Reactions occurring most often from the presence of the anti-infective ingredient are allergic sensitizations. The reactions due to the steroid component in decreasing order of frequency are: elevation of intraocular pressure (IOP) with possible development of glaucoma, and infrequent optic nerve damage; posterior subcapsular cataract formation; and delayed wound healing.

Secondary Infection. The development of secondary infection has occurred after use of combinations containing steroids and antimicrobials. Fungal infections of the cornea are particularly prone to develop coincidentally with long-term applications of steroid. The possibility of fungal invasion must be considered in any persistent corneal ulceration where steroid treatment has been used.

Secondary bacterial ocular infection following suppression of host responses also occurs.

Dosage and Administration

Specific prescribing information to be supplied by the manufacturer and/or distributor.

Not more than 20 millimeters or 8 grams should be prescribed initially and the prescription should not be refilled without further evaluation as outlined in Precautions above.

How supplied

[The remaining information regarding the available dosage forms, potencies, and units of each, are to be supplied by each manufacturer and/or distributor.]

3. *Marketing Status.* a. Marketing of such drug products that are not the subject of an approved or effective new drug application may be continued provided that, on or before *(insert date 60 days after date of publication in the* **Federal Register**), the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). The revised labeling may be put into use before approval of the supplemental new drug application, as provided for in 21 CFR 314.8(d) and (e).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such product. An abbreviated application will be acceptable only for the formulation specifically named in this notice. Any new combination requires a new drug application and appropriate studies. Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), 21 CFR 314.111(a)(5), and 21 CFR 300.50 that demonstrates the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of that part of the new drug application and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of that part of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before September 29, 1980, a written notice of appearance and request for hearing, and (2) on or before October 28, 1980, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the persons who request the hearing, making findings and conclusions, denying a hearing.

All submissions under this notice shall be filed in quintuplicate. Such submissions except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

(Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) auth. del. Director of the Bureau of Drugs (21 CFR 5.70))

Dated: July 24, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-26517 Filed 8-28-80; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1980:

Name: Graduate Medical Education National Advisory Committee.

Date and Time: September 22–23, 1980, 8:30 a.m.

Place: Room 425–A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Open for entire meeting.

Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; (3) the impact of various activities which influence speciality distribution and the availability of training opportunities including systems of reimbursement and the financing of graduating medical education.

Agenda: Discussion of future agenda issues for graduate medical education.

Due to limited seating, attendance by the public will be provided on a first-come, first-served basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information, should write to or contact Ms. EDNA SIMON, Office of Graduate Medical Education, Health Resources Administration, Room 10-30, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6430.

Agenda items are subject to change as priorities dictate.

Dated: August 25, 1980.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 80-26542 Filed 8-28-80, 8:45 am]

BILLING CODE 4110-83-M

Office of the Secretary

Interagency Work Group To Study Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants; Meeting

The Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants will hold a public meeting on September 22, 1980, from 10:00 A.M. until 4:30 P.M. in the auditorium, North Building, 330 Independence Avenue, S.W., Washington, D.C.

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The Interagency Work Group was established by the White House last December. It oversees all Federal research efforts regarding the possible health effects of herbicides such as Agent Orange, and is charged with reporting to the public the results and implications of this research. The Work Group is chaired by Joan Z. Bernstein, General Counsel of the Department of Health and Human Services. It includes representatives of the Departments of Health and Human Services and Defense and the Veterans Administration. Representatives of the Environmental Protection Agency, the Departments of Agriculture and Labor, the White House Office of Science and Technology Policy, and the Congress' Office of Technology Assessment also participate as observers.

The agenda for the meeting (subject to adjustment) is: 1. Report to the public from the Work Group on its efforts and progress to date, including a review of the state of scientific knowledge about Agent Orange. (45 minutes: 10:00 A.M.–10:45 A.M.)

2. Statements from the public concerning phenoxy herbicides and contaminants (including Agent Orange) as submitted in advance of the meeting with responses from the Work Group as appropriate. (3 hours and 15 minutes: 10:45 A.M.–1:00 P.M., 2:00 P.M.–approximately 3:00 P.M.)

3. Questions from the public, as time permits. (1 hour and 30 minutes: approximately 3:00 P.M.–4:30 P.M.)

Persons who wish to appear before the Work Group should submit a request to appear, along with a copy of their written statement, to the Office of General Counsel, Department of Health and Human Services, Room 716E, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201 by no later than 5:00 P.M. September 15, 1980. The Work Group is particularly interested in receiving statements relating to scientific information on the possible health effects of phenoxy herbicides and contaminants, and especially encourages the scientific community as well as all other interested persons to attend and participate in the meeting. Individuals will have 10 minutes in which to summarize orally at the meeting their written submissions. The order of appearance of witnesses will be determined by the Work Group and made available to the public prior to the meeting. The public is also invited to submit statements in writing for the record only.

The Work Group will try to respond to all written questions received by noon September 22 during the afternoon session scheduled to begin at approximately 3 P.M. If time does not permit all written questions submitted by noon September 22 to be responded to at the public meeting, responses to remaining written questions will be provided and made public by the Work Group.

Individuals who wish to submit questions for the Work Group to respond to should deliver them in writing to Room 716E, HHH Building, 200 Independence Avenue, S.W., Washington, D.C., by 4:00 P.M. Friday, September 19. We encourage the public to submit any questions by that date. In addition, questions may be submitted in writing before noon on September 22 to designated Work Group staff who will be present at the meeting.

For additional information, contact: Sue Nelson Wrenn, Office of Public Affairs, Department of Health and Human Services, 200 Independence, S., Washington, D.C. 20201. Phone: (202) 245–1897.

Dated: August 22, 1980.

Joan Z. Bernstein,

General Counsel, Department of Health and Human Services and Chair, Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants.

[FR Doc. 80–28558 Filed 8–28–80; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

August 19, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Cow Creek Band of Umpqua Indians, c/o Mrs. Sue Crispen Shaffer, Box 456, Canyonville, Oregon 97417, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on June 25. The petition was forwarded and signed by Mrs. Sue Crispen Shaffer.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under Section 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Philip S. Deloria,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80–28523 Filed 8–28–80; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6701–E]

Alaska Native Claims Selection

On December 17, 1974, Seldovia Native Association, Inc., filed selection application AA–6701–E, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of lands located in the Seldovia area.

The Village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)).

Section 12(a)(1) of NACSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected and were tentatively approved, have been properly selected under village selection application AA–6701–E. Accordingly, State selection application A–050904, filed December 29, 1959, as amended, is hereby rejected and the tentative approvals of November 22, 1961, and September 9, 1963, are hereby rescinded as to the following described lands:

Seward Meridian, Alaska (Surveyed)

T. 8 S., R. 12 W.,

Those portions of Tract A more particularly described as protracted:

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Sec. 5 (fractional), excluding ADL 49431 located in the W½W½SW¼;
Sec. 6 (fractional), excluding ADL 48787 and ADL 49431 located in the E½SE¼; ADL 46149, ADL 46150, ADL 46151, ADL 46152, ADL 46153 and ADL 46650 located in the N½SE¼; and ADL 41043 located in the SW¼NE¼ and NW¼SE¼;
Secs. 7 and 8 (fractional), all;
Secs. 9, 10, and 11, all;
Secs. 14 and 15, all;
Sec. 16 (fractional), excluding ADL 46773 located in the SW¼SW¼;
Sec. 21 (fractional), excluding ADL 47665 located in the SW¼NW¼, ADL 41036 located in the N½SW¼, ADL 41300 located in the S½SW¼;
Secs. 22 and 27, inclusive, all.

Containing approximately 9,928.83 acres.

The State selection rejected above aggregates approximately 9,928.83 acres. Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Seldovia Native Association, Inc., is 67,415.31 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

The State of Alaska issued patents for lands to which it has received tentative approval. Section 6(g) of the Alaska Statehood Act gave the State authority to execute conditional leases and to make conditional sales of such lands. Where patents have been issued to third parties by the State of Alaska, these patents are valid rights, and shall be accorded the same dignity as Federal patents. (See 19 IBLA 178 (March 18, 1975), 84 I.D. 349 (June 9, 1977) and Secretarial Order No. 3029.)

In view of this, State selection application A–050904 remains in effect, the tentative approval remains valid, and village selection application AA–6701–E must be and is hereby rejected as to the following described lands:

Tract A of Alaska State Land Survey No. 73–111, located within Sec. 21, T. 8 S., R. 12 W., Seward Meridian, containing 5.00 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on April 17, 1975, as Plat No. 75–61 (patent No. 2425, ADL 41036);

Tract A of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 2.99 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 3683, ADL 41043);

Tract B of Alaska State Land Survey No. 73–111, located within Sec. 21, T. 8 S., R. 12 W., Seward Meridian, containing 4.60 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on April 17, 1975, as Plat No. 75–61 (patent No. 2427, ADL 41300);

Alaska State Land Survey No. 75–97, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 1.10 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on November 22, 1976, as Plat No. 76–10 (patent No. 3417, ADL 46149);

Tract E of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 4.49 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 3288, ADL 46150);

Tract B of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 0.93 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 2618, ADL 46151);

Tract C of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 1.83 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 2619, ADL 46152);

Tract D of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 1.71 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 2620, ADL 46153);

Alaska State Land Survey No. 73–81, located within Sec. 21, T. 8 S., R. 12 W., Seward Meridian, containing 1.75 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 23, 1979, as Plat No. 79–8 (patent No. 4688, ADL 47665);

Alaska State Land Survey No. 70–14, located within Sec. 16, T. 8 S., R. 12 W., Seward Meridian, containing 4.54 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on April 10, 1973, as Plat No. 73–50 (patent No. 2212, ADL 46773);

Tract G of Alaska State Land Survey No. 73–80, located within Sec. 6, T. 8 S., R. 12 W., Seward Meridian, containing 3.76 acres, more or less, according to the survey plat recorded in the Seldovia Recording Office on July 2, 1975, as Plat No. 75–107 (patent No. 2746, ADL 48787).

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 9,928.83 acres, is considered proper for acquisition by Seldovia Native Association, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 8 S., R. 12 W.,

Those portions of Tract A more particularly described as protracted:

Sec. 5 (fractional), excluding ADL 49431 located in the W½W½SW¼
Sec. 6 (fractional), excluding ADL 48787 and ADL 49431 located in the E½SE¼; ADL 46149, ADL 46150, ADL 46151, ADL 46152, ADL 46153 and ADL 46650 located in the N½SE¼; and ADL 41043 located in the SW¼NE¼ and NW¼SE¼;
Secs. 7 and 8 (franctional), all;
Secs. 9, 10, and 11, all;
Secs. 14 and 15, all;
Sec. 16 (fractional), excluding ADL 46773 located in the SW¼SW¼;
Sec. 21 (fractional), excluding ADL 47665 located in the SW¼NW¼, ADL 41036 located in the N½SW¼, ADL 41300 located in the S½SW¼;
Secs. 22 to 27, inclusive, all.

Containing approximately 9,928.83 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances of whatsoever nature, accuring unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 US.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6701–EE, is reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 26 D9) An easement for an existing access trail twenty-five (25) feet in width from the north section line of Sec. 29, T. 8 S., R. 12 W., Seward Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands

hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Seldovia Native Association, Inc., is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 67,562.64 acres. The remaining entitlement of approximately 47,637.36 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Cook Inlet Region, Inc., when the surface estate is conveyed to Seldovia Native Association, Inc., and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until September 29, 1980 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and the requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

The notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Seldovia Native Association, Inc., P.O. Box 185, Seldovia, Alaska 99663.
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Barbara A. Yoppke,
Acting Chief, Branch of Adjudication.

[FR Doc. 80–26545 Filed 8–28–80; 8:45 am]
BILLING CODE 4310–84–M

[AA–6680–C]

Alaska Native Claims Selection

On December 4, 1974, Paug-Vik Incorporated, Limited for the Native village of Naknek, filed selection application AA–6680–C, as amended, under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Naknek.

As to the lands described below, the application, submitted by Paug-Vik Incorporated, Limited, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating 80 acres, is considered proper for acquisition by Paug-Vik Incorporated, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 17 S., R. 44 W.,
Sec. 33, SE¼NE¼;
Sec. 34, SW¼NW¼.
Containing 80 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

> The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA) any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Paug-Vik Incorporated, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. To date, approximately 104,068 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 11, 132 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Paug-Vik Incorporated, Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

V 45 AG 29 80 UMI

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until September 29, 1980 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and the requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

Paug-Vik Incorporated, Limited, Naknek, Alaska 99633.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Barbara A. Yoppke,

Acting Chief, Branch of Adjudication.

[FR Doc. 80-26544 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-84-M

Designation of Public Lands for Off-Road Vehicle (ORV) Use

ORV Use Designations

Notice is hereby given that use of ORV's on all BLM-administered public lands in Chelan, Douglas, and Okanogan Counties, Washington, is permanently allowed, prohibited, or restricted as listed below. These designations are in accordance with 43 CFR Part 8340 and are the result of decisions made in the Upper Columbia Management Framework Plan. They received full public review during a formal comment period. These designations do not apply to any non-amphibious registered motorboat; any military, fire, emergency, or law enforcement vehicle being used for emergency purposes; any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; vehicles in official use; or any combat or combat support vehicle when used in times of national defense emergencies.

The areas permanently closed to ORV use include:

1. Hot Lake Research Natural Area, located five (5) miles west of Oroville, Washington. This is a republication of an existing closure. The area is closed to protect a lake with unique thermal qualities, and which contains a species of brine shrimp. The closed area totals approximately 50 acres.

The legal description of the closed lands is:

Willamette Meridian

T. 40 N., R. 27 E.,
  Sec. 7, an irregular portion of the SE¼;
  Sec. 8, an irregular portion of the NE¼.

2. Wenatchee River Access sites. This includes four (4) sites along the Wenatchee River in Chelan County, Washington. These sites are being closed to protect vegetation and reduce the possibility of increased siltation into the river. The closed areas total approximately 100 acres. The legal descriptions of the closed lands are:

Willamette Meridian

T. 23 N., R. 19 E., section 14: NW¼NE¼;
T. 24 N., R. 18 E., section 22: Lot 8; section 36: Lots 1 and 3.

The following lands in Okanogan County, Washington, are designated as restricted to designated open roads and trails from November 15 to March 1 each year. This restriction is to provide protection to wildlife on critical deer winter range and mountain goat range, and totals approximately 3000 acres. The restricted lands are as follows:

Willamette Meridian

T. 34 N., R. 25 E.,
  Sec. 5, N½, less patented mining claims, N½S½, less patented mining claims; E½SE¼SW¼; W½SW¼SE¼.
T. 35 N., R. 25 E.,
  Sec. 19, W½SE¼, SE¼SW¼;
  Sec. 20, SW¼SE¼, SE¼SW¼;
  Sec. 29, all, less patented mining claims;
  Sec. 30, E½, less patented mining claims;
  Sec. 31, E½E½, less patented mining claims;
  Sec. 32, S½, N½, less patented mining claims;
  Sec. 33, S½NW¼.
T. 39 N., R. 25 E.,
Sec. 12, SW¼, N½SE¼, W½NW¼, SW¼SE¼; SE¼NW¼, SW¼SE¼SE¼;
Sec. 13, NW¼, W½NE¼SW¼; W½NW¼NE¼; NW¼NW¼SW¼; SW¼SW¼SW¼; NE¼NW¼NE¼.

The following lands in Douglas County, Washington, are designated as restricted to designated open roads and trails from February 15 to June 1 each year. This restriction is to provide protection to soils, which are more susceptible to damage in the springtime when soil moisture is high, and totals approximately 5,160 acres. The legal description of the restricted lands follows:

T. 23 N., R. 23 E.,
  Sec. 14, SW¼, SW¼SE¼;
  Sec. 15, W½, SE¼, S½NE¼;
  Secs. 20, 21, 22, and 23, All;
  Sec. 24, SW¼, SW¼NW¼;
  Sec. 25, N½NW¼, SW¼NW¼;
  Sec. 26, W½, S½NE¼;
  Sec. 28, N½, SE¼;
  Sec. 34, All.

The following lands in Chelan, Douglas, and Okanogan Counties, Washington, are designated as restricted to designated open roads and trails all year long. These designations are to protect watershed, wildlife, scenic, or other recreation values and total approximately 27,500 acres. The legal descriptions of the restricted lands are as follows:

Willamette Meridian

Chelan County

T. 23 N., R. 20 E.,
  Sec. 4, E½, N½NW¼;
  Sec. 10, W½W½, SE¼NW¼.
T. 24 N., R. 20 E.,
  Sec. 24, W½NW¼;
  Sec. 26, NE¼NW¼, NW¼NE¼.
T. 24 N., R. 21 E.,
  Sec. 6, W½,W½E½.
T. 25 N., R. 20 E.,
  Sec. 1, W½NW¼;
  Sec. 2, All.
T. 25 N., R. 21 E.,
  Sec. 4, SW¼NW¼NW¼SW¼;
  Sec. 18, NW¼NW¼;
  Sec. 20, NW¼, N½SW¼, SW¼SW¼;
  Sec. 30, N½, N½S½.
T. 26 N., R. 20 E.,
  Sec. 20, Lots 4, 6, and 7;
  Sec. 28, Lot 1;
  Sec. 29, Lot 1;
  Sec. 34, SE¼, N½NW¼, N½SW¼.
T. 26 N., R. 21 E.,
  Sec. 9, NW¼NW¼;
  Sec. 20, N½NE¼;
  Sec. 32, W½SE¼, SW¼NW¼, SE¼SE¼, NW¼NE¼.
T. 26 N., R. 22 E.,
  Sec. 1, Lots 5 and 6;
  Sec. 2, Lots 1, 4, 5, 6, and 7;
  Sec. 3, SW¼SW¼;
  Sec. 6, Lots 3, 4, and 5;
  Sec. 8, Lot 7.
T. 27 N., R. 22 E.,
  Sec. 21, SW¼SW¼;
  Sec. 24, S½SE¼, NE¼SE¼, SE¼SW¼;
  Sec. 25, S½, W½NW¼, NE¼NW¼;

Sec. 26, S½N½, SW¼, NE¼NE¼, NE¼NW¼;
Sec. 27, SE¼, S½NW¼, N½NW¼;
Sec. 28, NE¼NE¼;
Sec. 31, W½NE¼, Lots 1, 2, and 4;
Sec. 33, SE¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, N½N½, SE¼NW¼, SW¼NE¼, NW¼SE¼.
T. 27 N., R. 23 E.,
Sec. 9, Lots 3 and 4.

Willamette Meridian

Douglas County

T. 21 N., R. 22 E.,
Sec. 12, E½SE¼;
Sec. 14, E½NW¼; NW¼SW¼
Sec. 24, W½NW¼, NE¼NW¼, NW¼SW¼;
Sec. 26, N½NW¼.
T. 21 N., R. 23 E.,
Sec. 6, S½SE¼.
T. 22 N., R. 23 E.,
Sec. 2, E½SE¼, W½NW¼, SE¼NE¼, NW¼SW¼;
Sec. 4, S½SE¼, SE¼SW¼;
Sec. 8, E½SE¼, NW¼, NE¼SW¼;
Sec. 10, NW¼, N½NE¼, W½SW¼;
Sec. 12, W½;
Sec. 14, NE¼, E½NW¼, W½SW¼, SW¼NW¼, SE¼SW¼, SW¼SE¼, NE¼SE¼;
Sec. 22, SE¼, E½NE¼;
Sec. 30, SE¼SE¼;
Sec. 32, W½NW¼, SE¼SE¼.
T. 23 N., R. 23 E.,
Sec. 10, S½, S½NW¼, NW¼NW¼;
Sec. 11, SW¼, SW¼NW¼, SW¼SE¼;
Sec. 13, W½SW¼, SW¼NW¼;
Sec. 14, N½, N½SE¼, SE¼SE¼;
Sec. 24, E½NE¼, SW¼SE¼, NE¼SE¼;
Sec. 25, NE¼, SE¼NW¼.
T. 23 N., R. 24 E.,
Sec. 30, W½;
Sec. 32, NW¼;
Sec. 34, NE¼, NE¼SE¼, SW¼SW¼.
T. 24 N., R. 25 E.,
Sec. 1, N½NW¼, NW¼NE¼;
Sec. 2, N½NW¼, NE¼NE¼, SW¼NW¼.
T. 25 N., R. 25 E.,
Sec. 13, SE¼, E½NE¼;
Sec. 23, E½SE¼, SW¼SE¼;
Sec. 24, N½N½, SW¼, S½SE¼, SW¼NW¼;
Sec. 25, NW¼, NW¼NE¼, NE¼SW¼;
Sec. 26, NE¼, SW¼, W½SE¼, E½NW¼, SW¼NW¼, NE¼SE¼;
Sec. 27, S½NE¼, NE¼SE¼;
Sec. 34, NE¼, N½SE¼, SE¼SE¼;
Sec. 35, All.
T. 25 N., R. 26 E.,
Sec. 19, SW¼SW¼.
T. 29 N., R. 25 E.,
Sec. 25, SW¼NE¼, NW¼SE¼.
T. 29 N., R. 26 E.,
Sec. 9, SW¼SW¼, SW¼SE¼;
Sec. 30, SW¼NW¼.
T. 30 N., R. 24 E.,
Sec. 24, SW¼SE¼, NE¼SW¼;
Sec. 25, NE¼NE¼.
T. 30 N., R. 26 E.,
Sec. 25, Lots 3 and 4; NW¼NE¼;
Sec. 35, Lots 4, 5, 6, and 7; NE¼SE¼, SW¼SE¼.
T. 30 N., R. 27 E.,
Sec. 28, SE¼SE¼, NW¼SE¼, SW¼NW¼;
Sec. 29, NE¼NW¼;
Sec. 34, E½SW¼, SW¼NW¼, SW¼SE¼.
T. 30 N., R. 28 E.,
Sec. 9, Lot 2;
Sec. 15, SE¼NE¼, NE¼SE¼, SW¼NW¼;
Sec. 16, N½SW¼, SW¼NW¼;
Sec. 21, NE¼NE¼.

Willamette Meridian

Okanogan County

T. 30 N., R. 24 E.,
Sec. 6, S½NW¼, NW¼SW¼;
Sec. 17, NE¼NW¼;
Sec. 18, S½SW¼.
T. 39 N., R. 25 E.,
Sec. 24, SE¼SE¼;
Sec. 25, NE¼, E½SE¼.
T. 39 N., R. 26 E.,
Sec. 17, E½, SW¼, SE¼NW¼;
Sec. 18, SE¼SW¼;
Sec. 19, All, less patented mining claims;
Sec. 20, N½, less patented mining claims;
Sec. 27, NW¼;
Sec. 29, NW¼SW¼;
Sec. 30, All, less patented mining claims;
Sec. 31, NW¼, NW¼NE¼, W½NW¼ SW¼.

T. 40 N., R. 24 E.,
Sec. 13, S½NW¼;
Sec. 14, N½NW¼.
T. 40 N., R. 25 E.,
Sec. 1, SW¼NW¼, SE¼SW¼, SE¼SE¼;
Sec. 2, E½NE¼;
Sec. 5, W½W½;
Sec. 6, All, less patented mining claims;
Sec. 7, W½W½, less patented mining claims;
Sec. 12, NW¼NW¼;
Sec. 17, W½W½;
Sec. 18, All, less patented mining claims;
Sec. 19, All;
Sec. 20, W½, SE¼, S½NE¼,NW¼NE¼;
Sec. 21, SW¼, less patented mining claims;
Sec. 27, SW¼SW¼;
Sec. 28, All, less patented mining claims;
Sec. 29, All;
Sec. 32, N½, E½SE¼;
Sec. 33, All;
Sec. 34, SW¼, E½SE¼, W½NW¼.
T. 40 N., R. 26 E.,
Sec. 3, SW¼SW¼;
Sec. 4, N½SW¼, S½SE¼;
Sec. 5, N½S½;
Sec. 6, S½S½;
Sec. 7, W½NE¼, less patented mining claims;
Sec. 8, N½NE¼;
Sec. 9, NE¼, N½NW¼.
T. 40 N., R. 26 E.,
Sec. 10, SW¼, less patented mining claims; S½NE¼, N½SE¼, less patented mining claims.
Sec. 11, N½S½, less patented mining claims; S½NW¼, NE¼NE¼, SW¼NE¼, SW¼SW¼;
Sec. 12, W½, W½E½;
Sec. 13, N½N½.

The public lands in the Upper Columbia Planning Unit that are not listed in the permanent closure or restricted areas are designated as open to ORV use. The approximate total acres designated as open are 75,000 acres.

All lands designated as closed, restricted, or open are depicted on an ORV designation map which is available from the Spokane District Office, Bureau of Land Management, Room 551, U.S. Court House, Spokane, WA 99201.

All designations are effective immediately and will remain in effect until revised, revoked, or amended by the authorized officer pursuant to 43 CFR Part 8340.

Albert L. Martin,

Acting, District Manager.

[FR Doc. 80-26487 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-84-M

[8AC 074614]

Termination of Proposed Withdrawal and Reservation of Land

Correction

In FR Doc. 80-19277 appearing at page 43253 in the issue of Thursday, June 26, 1980, the third from last line of the second land description in the third column on page 43253 should read, "E½ NE¼ SW¼".

BILLING CODE 1505-01-M

District Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Rawlins District Advisory Council will be held on October 7, 1980.

The meeting will begin at 9:30 a.m. in the annex conference room of the Rawlins District Office, Bureau of Land Management, 1300 No. Third Street, Rawlins, Wyoming.

The agenda will include: (1) Election of officers; (2) Review of Council procedures; responsibilities and purpose (3) Introduction to District public land programs and activities; (4) Determination of topics for next meeting. Detailed agenda will be available upon request.

The meeting will be open to the public. Interested persons may make oral statement before the Council or file written statements for the Councils consideration. Persons wishing to make oral statements are asked to notify the Rawlins District Manager, 1300 N. Third Street, P.O. Box 670, Rawlins, Wyoming 82301, by close of business September 26, 1980.

Elbert W. Spencer,

Acting District Manager.

[FR Doc. 80-26569 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-84-M

Lakeview District Advisory Council Meeting

Notice is hereby given, in accordance with Public Law 94-579 and 43 CFR Part 1780, that a meeting of the Lakeview District Multiple Use Advisory Council will be held on Tuesday, September 16, 1980 at 9:00 a.m. at the Bureau of Land Management Office, 1000 South Ninth Street, Lakeview, Oregon 97630. The meeting is open to the public.

Agenda for the meeting will include:

(1) Introduction of individual members.

(2) Organization of the council.

(3) Discussion of the function of the council.

(4) Briefing and discussions on the current status of the MFP in preparation for the Lakeview E.I.S.

(5) Arrangements and agenda for next meeting.

(6) Public comments.

Summary minutes of the meeting will be kept in the Lakeview District Office and will be available for public inspection and reproduction during regular business hours within 30 days after the meeting.

Richard A. Gerity,

District Manager, Lakeview District Office.

August 21, 1980.

[FR Doc. 80-26584 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 25, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted on or before September 15, 1980.

California

Los Angeles County

Long Beach, *Hughes Flying Boat (Hercules)* Port of Long Beach.

Sarah G. Oldham,

Acting Chief, Registration Branch.

[FR Doc. 80-26485 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-18774, appearing at page 42051 in the issue for Monday, June 23, 1980, in the application MC 29910 (Sub No. 5-20TA), Arkansas-Best Freight System, Inc., which begins on page 42069, make the following corrections:

(a) On page 42069, middle column, 32nd line, delete "thence over US Hwy 10,".

(b) On page 42070, third column, in the 12th line, after the word "regular" insert "-route".

(c) On page 42070, third column, in the 28th line, after "Madison," insert "WI,".

(d) On page 42071, in the middle column, make the following corrections:

(1) In the second line, delete ", located".

(2) Delete the third and fourth lines.

(3) In the fifth line delete "Interstate Hwy 94".

(4) In the eighth line delete "to its junction".

(5) In the ninth line delete "with WI Hwy 15,".

(6) The tenth line should read: "WI, thence over WI Hwy 15 to its junction with US Hwy 51, to Mendota".

(7) Delete lines 18, 19, 20, and 21.

(e) On page 42071, in the third column, in the 32nd line, "US Hwy 129" should read "OH Hwy 129".

(f) On page 42071, in the third column, in the 56th line, "OH Hwy 27" should read "US Hwy 27".

(g) On page 42073, in the first column, in the 34th line, between "SD Hwy 37" and "Mitchell" insert "to".

(h) On page 42073, in the first column, in the 52nd line, between the words "12 miles" and "of" insert "east".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-18774 appearing at page 42051 in the issue for Monday, June 23, 1980, in MC 29910 (Sub No. 5-23TA), Arkansas-Best Freight System, Inc., beginning on page 42078, make the following corrections:

(1) On page 42078, first column, second complete paragraph, in the 38th line, after "IN" insert "and Lafayette, IN".

(2) On page 42079, in the middle column, in the 22nd line, "Highway 14" should read "Highway 114".

(3) On page 42083, in the middle column, in the 24th line, before "Highway 460" insert "Highway 64 and US".

(4) On page 42084, in the first column, in the first line, delete the word "livestock".

(5) On page 42084, in the first column, in the tenth line, between "value," and "Classes A and B" insert "livestock,".

BILLING CODE 1505-01-M

Motor Carrier Finance Applications; Decision-Notice

Correction

In FR Doc. 80-22950 appearing at page 50946 in the issue of Thursday, July 31, 1980, on page 50948, 1st column, 1st complete paragraph starting Miller Transfer & Rigging Co., "MC-F-14393F, filed May 15, 1980." Should begin the line. It should be corrected to read "MC-F-14393F, filed May 15, 1980. Miller Transfer & Rigging Co."

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 55-80]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Departmant of Justice proposes to establish a new system of records to be maintained by the Antitrust Division.

The Public Complaints and Inquiries File (JUSTICE/ATR-009) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget, which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress within 60 days from the date of publication of this notice, the system will be implemented without further notice in the **Federal Register.** No oral hearings are contemplated.

V 45 AG 29 80 UMI

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate and to the Speaker of the House of Representatives.

Dated: August 21, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Justice/ATR-009

SYSTEM NAME:

Public Complaints and Inquiries File

SYSTEM LOCATION:

U.S. Department of Justice, Washington, D.C. 20530 and field office locations as follows: 1776 Peachtree St., N.W., Suite 420, Atlanta, GA 30309; 2634 Everett M. Dirksen Bldg., 219 S. Dearborn St., Chicago, IL 60604; 995 Celebrezze Federal Bldg., 1240 E. 9th St., Cleveland, OH 44199; Earl Cabell Federal Bldg., Room 8C6, 1100 Commerce St., Dallas TX 75242; 300 N. Los Angeles St., Room 3101 Federal Bldg., Los Angeles, CA 90012; Room 3630, 26 Federal Plaza, New York, NY 10007; 3430 U.S. Courthouse, Independence Mall West, 601 Market St., Philadelphia, PA 19106; and 450 Golden Gate Ave., Box 36046, San Francisco, CA 94102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public who submit unsolicited complaints and inquiries to the Division on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file will contain letters or notes of other contacts by members of the public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file will be established and maintained pursuant to 44 U.S.C. 3101 and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file will be used by Antitrust Division personnel to assure adequate response to initial and subsequent contacts by the same individuals or to other contacts regarding the same subject. Some of these contacts will also serve to further ongoing Antitrust investigations or to initiate an investigation for enforcement purposes. Complaints/inquiries may be referred to other federal or state and local agencies, only if deemed appropriate to assure complete action on the matter.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records will be maintained in the form in which they are originated, i.e., paper letters, notes and log sheets.

RETRIEVABILITY:

Information will be retrieved by name, subject matter and date.

SAFEGUARDS:

Information contained in the system will be unclassified. Records will be maintained only in the offices of the Antitrust Division and accessed only by Division employees whose official duties require such access.

RETENTION AND DISPOSAL:

Records of contacts will be kept by individual name for one year, after which they will be destroyed. Copies of these contact records may be placed in a subject matter or case file if they contain substantive information on antitrust enforcement matters. Case and subject matter files are normally maintained for thirty years.

SYSTEM MANAGER AND ADDRESS:

Executive Officer, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

All information will be obtained from the complaining individuals themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-26568 Filed 8-28-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Cyclo Chemical Division; Manufacture of Controlled Substances Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 6, 1979, Cyclo Chemical Division, Division of Alameda Laboratories, Inc., 1922 East 64th Street, Los Angeles, CA 90001, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance diphenoxylate.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 29, 1980.

Dated: August 25, 1980.

Frederick A. Rody, Jr.

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-25649 Filed 8-28-80; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 80-17]

Thomas E. Johnston, D.O.; Hearing on Suspension of Registration

Notice is hereby given that on June 4, 1980, the Drug Enforcement Administration, Department of Justice, issued to Thomas E. Johnston, D.O., Overland Park, Kansas, an Order To Show Cause and Immediate Suspension of Registration. Respondent was afforded an opportunity to show cause why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AJ7877799.

Thirty days having elapsed since the said Order To Show Cause and Immediate Suspension of Registration was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, September 16, 1980, in the Hearing

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Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: August 25, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-26548 Filed 8-28-80; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with Section 1311.42 of Title 21 Code of Federal Regulations (CFR), notice is hereby given that on January 10, 1980, Merck & Co., Inc., Merck Chemical Manufacturing Div., P.O. Box 2000, Lincoln Avenue, Attn: Office of the Secretary, Rahway, New Jersey 07065, made application to the Drug Enforcement Administration to be registered as an importer of Concentrate of Poppy Straw, a basic class controlled substance in schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objection to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 29, 1980.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: August 25, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-20546 Filed 8-28-80; 8:45 am]

BILLING CODE 4410-09-M

Carlton Turner, Importation of Controlled Substances Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958 (h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of controlled substance in schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21 Code of Federal Regulations (CFR), notice is hereby given that on 10–2–79, Carlton Turner, Dept. of Pharmacognosy, School of Pharmacy, University of Mississippi, University, MS 38677, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360), a basic class controlled substance in Schedule I.

As to the basic class of controlled substances listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or request for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 29, 1980.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: August 25, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-26547 Filed 8-28-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agricultural for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commerical or industrial enteprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C., this 22nd day of August 1980.

Earl T. Klein,

Director, Office of Program Services.

APPLICATIONS RECEIVED DURING THE WEEK ENDING AUG. 23, 1980

Name of applicant and location of enterprise	Principal product or activity
Black Swan Marina Properties Corp., Old Saybrook, Connecticut.	Marina, shopping center and restaurant.
Reading Industries, Inc., Ontelaunee Township, Pennsylvania.	Production of copper and copper base alloy pipe and tubing.
Highlands County Title & Guaranty Land Co., Sebring, Florida.	Motel.
The Friendly Village, Inc., Rhinelander, Wisconsin.	Nursing home.
Industrial Buildings Limited, Kerman, California.	Cotton yarn mill.
The Snowmass Company, Limited Snowmass Village, Colorado.	Athletic club/center, restaurant and lodging.
Hospitality Marketing & Management Inc., Downtown Grand Junction, Colorado.	Hotel.

[FR Doc. 80-26429 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-103-C]

Belibe Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Belibe Coal Corporation, P.O. Box 875, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1605(k) (berms and guards) to its No. 10 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards shall be provided on the outer bank of elevated roadways.

2. As an alternative to complying with the standard, petitioner proposes that berms or guard rails shall be provided on the outer banks of the elevated roadways:

a. at the turn-around location where vehicles turn to approach the load-out facilities, and

b. at the switch backs where trucks cannot make a turn without backing up.

3. At all other locations where berms or guard rails are not provided:

a. a daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service;

b. roadway surfaces shall be kept free of debris, excessive water, snow or ice and maintained as free as practicable of small ditches (washboard effects);

c. a traffic system shall be put into use requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel;

d. warning signs shall be posted designating curves, steep grades, one-lane traffic, intersections and passing points;

e. all equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on the haulage road;

f. all haulage equipment shall have original manufacturer's brakes, engines or Jacobs brakes and emergency (parking) braking systems;

g. adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery;

h. a minimum width of 30 feet shall be provided and maintained along two-lane roads; widths of less than 30 feet shall be designated as single lane roads;

i. a minimum width of 16 feet shall be maintained for all single lane roads with passing points provided at intervals of not more than 1,000 feet; if visibility is obscured by brush or other materials, passing points shall not be more than 500 feet apart;

j. where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road; and

k. all rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules shall be made part of the training and retraining programs.

4. Petitioner states that the proposed alternate method will provide the same or greater protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-26581 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-77-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-24(a) (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the peititioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As alternative to the application of 30 CFR 57.21-24(a), the petitioner proposes to:

V 45 AG 29 80 UMI

a. Refrain from all methane-liberating activities such as blasting, drilling, and undercutting during any main fan stoppage, and

b. Stop all work in the affected area and remove miners to fresh air within the mine if the methane concentration reaches 1.0 percent. If the methane concentration exceeds 1.5 percent, the petitioner will deenergize all sources of ignition.

4. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entires where drilling or undercutting is in progress.

5. The petitioner states that deenergizing all sources of ignition, not merely the power, provides miners with greater safety than provided by 30 CFR 57.21–24(a)(2).

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will at all times guarantee miners no less than the same measure of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26580 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–89–M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–98 (gassy mines—explosives) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–98, the petitioner proposes to continue using Ammonium Nitrate Fuel Oil (AN–FO) explosives without stemming.

4. The petitioner claims stemming contaminates the salt and causes excessive break-up of material. There is no need for a requirement for stemming boreholes because all miners will be on the surface when gassy zones are blasted.

5. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26578 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–80–M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–36 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–36, the petitioner proposes to modify the standard by defining the term "combustible areas" to mean areas where at least thirty percent of the surface area of the opening is composed of wood or other combustible material.

4. The petitioner asserts that application of the standard 30 CFR 57.21–36, as modified by this petition, and in conjunction with proposed modifications, will in no way diminish the protection intended by the standard. It will, however, clarify operators' and miners' understanding of the application of the standard. Better understanding of the standard by operators and miners will serve to enhance the safety of all personnel.

5. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less than the same measure of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26579 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–13–M

[Docket No. M–80–78–M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–25 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–25, the petitioner proposes to:

a. Withdraw miners into fresh air when methane concentrations exceed 1.0 percent;

b. Stop all methane liberating activities if methane concentrations exceed 1.0 percent, and

c. Deenergize all sources of ignition in affected areas and withdraw miners from the mine when methane concentrations exceed 1.5 percent. Persons shall not be permitted to reenter the affected area, nor shall methane-liberating activities be resumed, nor shall any ignition source be reenergized until a competent person(s) has determined, by taking representative samples throughout the affected area with a testing device approved by the Secretary, that the methane concentration in such affected area has been reduced to less than 1.0 percent.

4. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will at all times guarantee miners no less than the same measure of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26577 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–76–M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–20 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

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A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–20, the petitioner proposes to utilize existing underground fans to provide ventilation until completion of a third vertical shaft.

4. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petitioner states that reversing the flow of air (30 CFR 57.21–20(b) requires main fans to be installed to permit prompt reversal of air flow) could endanger miners not previously exposed to danger. Several hours may be required to completely reverse the flow through the large rooms because of the massive volumes of air involved.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less and, in fact, an even greater degree of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26576 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. 80–112–C]

Everidge and Nease Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Everidge and Nease Coal Company, Inc., Rt. 2, Box 762, Whitesburg, Kentucky 41858, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine in Letcher County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

A summary of the petitioner's statements follows:

1. The standard requires the installation of cabs or canopies on all mobile electric face equipment where the mining height is 42 inches or greater.

2. The following equipment is used in the petitioner's coal mine: 11RU Cutting Machines, AR75 Scoop, Pauls Roof Bolt Machine, 14 BU Joy Loaders, 21 SC Joy Shuttle Cars, 200 S&S Battery Motors W/Push Out Cars, Wise Battery Motor W/Push Out Cars.

3. Petitioner states that installation of cabs or canopies on mining equipment in his mine's low mine height would diminish miner safety because canopies decrease visibility, cramp the equipment operator, and increase the possibility that machinery will strike roof supports.

4. Petitioner states that previous attempts to install canopies in accordance with the standard have been unsuccessful.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 22, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–26575 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–90–M]

Georgia Marble Co.; Petition for Modification of Application of Mandatory Safety Standard

Georgia Marble Company, 2575 Cumberland Parkway, N.W., Atlanta, Georgia 30339 has filed a petition to modify the application of 30 CFR 57.20–32 (underground communications equipment) to its Whitestone Division Mines numbers 1, 2, 3, 4, 5 and 6 located in Pickens and Gilmer Counties, Georgia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of telephones or other two-way communications equipment between underground and surface operations at the petitioner's mines.

2. The mines are large marble mines using the room pillar method of mining with multiple openings to the surface which are large enough to accommodate any emergency vehicle that would operate on the surface. Roadways are kept graded and are wide enough to accommodate two-way traffic for any type vehicle.

3. The mines have no shafts, elevators, etc. which could malfunction in the event of an emergency and cause entrapment of the miners.

4. In the 67-year history of these mines, communication has never been hampered by entrapment, oxygen deficiency, harmful gases or other hazardous conditions.

5. Should a disaster occur, the delay between reaching help by telephone and by walking out or travelling out of the multiple exists to the mine could be crucial to the safe exit of all miners involved.

6. Additional wiring required to route telephone lines from the outside mine sation and to the working areas of mines would constantly cause additional hazards in the movement of these as the development of the mines progresses to various areas.

7. Telephones could also cause static electricity that could possibly adversely affect the blasting procedures of the underground mines.

8. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 29, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 22, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-26574 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-111-C]

Texas Utilities Generating Co.; Petition for Modification of Application of Mandatory Safety Standard

Texas Utilities Generating Company, 2001 Bryan Tower, Dallas, Texas 75201 has filed a petition to modify the application of 30 CFR 77.216-3(a) (examination of water, sediment, or slurry impoundments and impounding structures) to its Martin Lake Strip located in Panola County, Texas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The standard requires that a qualified person examine impoundments at weekly intervals.
2. Petitioner states that in the Martin Lake Strip Mine the dam structure for the impoundment is covered with a county road traveled several times daily by the people responsible for the structure.
3. Under 30 CFR 1713(a) a certified person examines active working areas, including the water impoundment in question, for hazardous conditions at least once each shift.
4. Because of the above, petitioner asserts that modifying the standard to require that a qualified person examine impoundments at intervals not exceeding three months will at all times achieve no less protection than does the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before (insert date 30 days from publication in the **Federal Register**). Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 20, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-26582 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

Employee Benefit Plans; Proposed Alternative Method of Compliance for the L. M. Blumstein, Inc. Employee Benefit Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed alternative method of compliance.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed alternative method of compliance with the summary plan description and summary of material modification requirements of the Employee Retirement Income Security Act of 1974 (the Act) for the L. M. Blumstein, Inc. Employee Benefit Plan (the Plan). The proposed alternative method of compliance, if granted, would affect participants and beneficiaries and the plan administrator of the Plan.

DATE: Written comments must be received by the Department on or before November 12, 1980.

ADDRESSES: All written comments (six copies) should be submitted to: Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Blumstein Alternative. The petition for an alternative method of compliance and all comments received will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, 202-523-7901. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed alternative method of compliance with certain disclosure requirements of the Act for the Plan. The proposed alternative method of compliance was requested in a petition filed by Joseph T. Blumstein, Treasurer of L. M. Blumstein, Inc., sponsor and administrator of the Plan, pursuant to section 110(a) of the Act.

Summary of Facts and Representations

The petition contains facts and representations with regard to the proposed alternative method of compliance which are summarized below. Interested persons are referred to the petition on file with the Department for the complete representations of the petitioner.

1. The Plan is a profit-sharing plan, established in 1944, that was partially terminated as of October 2, 1976. The partial termination resulted from a reduction in the staff of the Plan sponsor, L. M. Blumstein, Inc., following the discontinuance of the retail operation of the Plan sponsor.
2. Twenty-four participants ceased participating in the Plan as a result of the partial termination. These 24 participants received lump-sum payments of their entire interests under the Plan on September 23, 1977.
3. After September 23, 1977, the Plan covered only four participants. These four participants are the trustees of the Plan and sit on the committee managing the affairs of the Plan.
4. It is unlikely that the Plan will cover in the future any participants other than the four participants who are the trustee of the Plan.
5. The Internal Revenue Service issued a favorable determination letter on June 7, 1977, regarding the effect of the partial termination on the Plan's qualified status under section 401 of the Internal Revenue Code of 1954.
6. Petitioner asserts that each of the four participants remaining in the Plan has had a complete knowledge of the Plan's activities for over five years. Therefore, he asserts that disclosure to the four participants of the information required to be contained in the summary plan description and summaries of material modifications is unnecessary since these participants have already become familiar with this information in the course of their work as trustees of the Plan.
7. In lieu of furnishing participants and beneficiaries with a summary plan description as required by sections 101(a)(1), 102(a)(1) and 104(b) of the Act, the plan administrator will furnish free of charge, upon the written request of any participant or beneficiary, a copy of the instrument under which the Plan is established or operated. In addition, the plan administrator will be exempt from filing a summary plan description with

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the Department as required by sections 101(b)(1) and 104(a)(1)(C) of the Act.[1]

8. If the Plan is amended or changed, in lieu of furnishing participants and beneficiaries with a summary of any material modifications and changes as required by sections 102(a)(1) and 104(b)(1) of the Act, the plan administrator will furnish a copy of the amendment or other change to the Plan free of charge to each participant and beneficiary. In addition, the plan administrator will be exempt from filing a summary of the material modification with the Department as required by sections 101(b)(3) and 104(a)(1)(D) of the Act.[2]

Notice to Interested Persons

Not later than September 29, 1980, the plan administrator of the Plan will furnish to each participant a notice that a petition has been filed for an alternative method of compliance with the disclosure requirements of the Act. Such notice shall contain a copy of the proposed alternative method of compliance as published in the **Federal Register** and shall include the following statements:

> Any interested person, including any participant in the L. M. Blumstein, Inc. Employee Benefit Plan, may present his or her view on the proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 for the above-named plan on or before November 12, 1980, by writing to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N–4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Blumstein Alternative.

General Information

Before an alternative method of compliance with the reporting and disclosure requirements may be prescribed under section 110 of the Act, the Department must determine that the use of such alternative method is consistent with the purposes of Title I of the Act and that it provides adequate disclosure to the participants in the plan and adequate reporting to the Department, that the application of the reporting and disclosure requirements of the Act would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved, and that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

Alternative Method of Compliance

Based upon the facts and representations set forth in the petitions, the Department is considering granting the requested alternative method of compliance under the authority of section 110 of the Act. If an alternative method of compliance is granted, the plan administrator of the Plan would not be required to prepare and distribute summary plan descriptions and summaries of material modifications to Plan participants or file such documents with the Secretary of Labor, provided that the plan administrator (1) upon the written request of any participant or beneficiary, furnishes free of charge a copy of the instruments under which the Plan is established or operated, and (2) furnishes free of charge to each Plan participant and beneficiary a copy of each amendment or other change to the Plan in the event the Plan is amended or changed. The alternative method of compliance would also be conditioned on the Plan's having no participants other than those described in the submissions.

Signed at Washington, D.C., this 22nd day of August 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80–26404 Filed 8–25–80; 4:49 pm]

BILLING CODE 4510–29–M

Employee Benefit Plans; Proposed Alternative Method of Compliance for the F. Kunreuther Associates, Inc., Employees' Profit Sharing Plan and the F. Kunreuther Associates, Inc., Employees' Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed alternative method of compliance.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed alternative method of compliance with the summary plan description and summary of material modification requirements of the Employee Retirement Income Security Act of 1974 (the Act) for the F. Kunreuther Associates, Inc. Employees' Profit Sharing Plan and the F. Kunreuther Associates, Inc. Employees' Pension Plan (the Plans). The proposed alternative method of compliance, if granted, would affect participants and beneficiaries and the plan administrators of the Plans.

DATE: Written comments must be received by the Department on or before November 12, 1980.

ADDRESSES: All written comments (six copies) should be submitted to: Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N–4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Kunreuther Alternative. The petition for an alternative method of compliance and all comments received will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, 202–523–7901. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed alternative method of compliance with certain disclosure requirements of the Act for the Plans. The proposed alternative method of compliance was requested in a petition filed by F. Kunreuther, President of F. Kunreuther Associates, Inc., the sponsor of the Plans, pursuant to section 110(a) of the Act.

Summary of Facts and Representations

The petition contains facts and representations with regard to the proposed alternative method of compliance which are summarized below. Interested persons are referred to the petition on file with the Department for the complete representations of the petitioner.

1. The Plans cover only two employees: Messrs. F. Kunreuther and D. W. Miller. Both of these participants are trustees of both Plans. Both participants were deeply involved in developing the amendments of the Plans and the filings of Forms EBS–1. Both participants have copies of the complete Plans, including the amended versions.

3. No other persons have been employed by the Plan's sponsor since 1973. It is not anticipated that any other person will be employed by the Plans' sponsor in the future.

4. The Internal Revenue Service issued favorable determination letters on June 24, 1977, regarding the effect of the amendments to the Plans on their qualified status under section 401 of the Internal Revenue Code of 1954.

5. Petitioner asserts that disclosure to the two participants of the information required to be contained in the summary plan description and summaries of material modifications would serve no

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[1] Under section 104(a)(1) of the Act, however, a plan administrator is required to furnish to the Department, upon request, any document under which the plan is established or operated.

[2] See footnote 1, above.

useful purpose since both participants have become completely familiar with all the terms of both Plans in the course of their work as trustee.

6. Petitioner also asserts that complying with the requirement of preparing a summary plan description and summary of material modification would place an undue burden on the only two available employees who are completely occupied by professional consulting activities in their work for the plan sponsor.

7. In lieu of the furnishing participants and beneficiaries with a summary plan description as required by sections 101(a)(1), 102(a)(1) and 104(b) of the Act, the plan administrator will furnish free of charge, upon the written request of any participant or beneficiary, a copy of the instrument under which each of the Plans is established or operated. In addition, the plan administrator will be exempt from filing a summary plan description with the Department as required by sections 101(b)(1) and 104(a)(1)(C) of the Act.[1]

8. If either of the Plans is amended or changed, in lieu of furnishing participants and beneficiaries with a summary of any material modifications and changes as required by sections 102(a)(1) and 104(b)(1) of the Act, the plan administrator will furnish a copy of the amendment or other change to the plan free of charge to each participant and beneficiary. In addition, the plan administrator will be exempt from filing a summary of the material modification with the Department as required by sections 101(b)(3) and 104(a)(1)(D) of the Act.[2]

Notice to Interested Persons

Not later than September 29, 1980, the plan administrator of the Plans will furnish to each participant a notice that a petition has been filed for an alternative method of compliance with the disclosure requirements of the Act. Such notice shall contain a copy of the proposed alternative method of compliance as published in the Federal Register and shall include the following statements:

> Any interested person, including any participant in the F. Kunreuther Associates, Inc. Employees' Profit Sharing Plan and the F. Kunreuther Associates, Inc. Employees' Pension Plan may present his or her view on the proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 for the above-named plans on or before November 12, 1980, by writing to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Kunreuther Alternative.

General Information

Before an alternative method of compliance with the reporting and disclosure requirements may be prescribed under section 110 of the Act, the Department must determine that the use of such alternative method is consistent with the purposes of Title I of the Act and that it provides adequate disclosure to the participants in the plan and adequate reporting to the Department, that the application of the reporting and disclosure requirements of the Act would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved, and that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

Alternative Method of Compliance

Based upon the facts and representations set forth in the petition, the Department is considering granting the requested alternative method of compliance under the authority of section 110 of the Act. If an alternative method of compliance is granted, the plan administrator of the Plans would not be required to prepare and distribute summary plan descriptions and summaries of material modifications to plan participants or file such documents with the Secretary of Labor, provided that the plan administrator (1) upon the written request of any participant or beneficiary, furnishes free of charge a copy of the instruments under which each of the Plans is established or operated, and (2) furnishes free of charge to each plan participant and beneficiary a copy of each amendment or other change to either of the Plans in the event the plan is amended or changed. The alternative method of compliance would also be conditioned on the Plans' having no participants other than those described in their submissions.

Signed at Washington, D.C., this 22 day of August 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-26403 Filed 8-25-80; 4:49 pm]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-7622]

Aileen, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 4-8, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determination

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-7622; Aileen, Inc., Brookneal, Va.

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

I hereby certify that the aforementioned determinations were issued during the period August 4-8, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26573 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-28-M

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[1] Under section 104(a)(1) of the Act, however, a plan administrator is required to furnish to the Department, upon request, any document under which the plan is established or operated.

[2] See footnote 1, above.

[TA-W-8072]

Firestone Tire & Rubber Co.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period July 14–18, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-8072; Firestone Tire & Rubber Co., Lavegne, Tenn.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

I hereby certify that the aforementioned determinations were issued during the period August 4–8, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–26572 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-8613]

General Motors Corp.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 4–8, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Affirmative Determination

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA-W-8613; General Motors Corp., Fairfax, Kansas

A certification was issued covering all workers of the firm separated on or after December 1, 1979.

I hereby certify that the aforementioned determinations were issued during the period August 4–8, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–26571 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Wednesday and Thursday, September 10–11, 1980, in the B–100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry public interest organizations and State and local government, was established by Congress by Public Law 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress

The Agenda contains the following topics:

September 10, 1980

Plenary Session

9:00 a.m.–10:00 a.m.—Announcements. Reports on Independent Area Task Subgroups of the Goals and Objectives Panel.

10:00 a.m.–11:00 a.m.—Ocean Policy Issues: Dan Pashin, Staff Director, *ad hoc* Select Committee on Maritime Education and Training (Congressman AuCoin, Chairman).

11:00 a.m.–Noon—Guest Speaker: Congressman John B. Breaux Chairman, Subcommittee on Fisheries, Wildlife Conservation, and the Environment; Committee on Merchant Marine and Fisheries; U.S. House of Representatives.

12:00 Noon–1:15 p.m.—Lunch.

1:15 p.m.–4:00 p.m.—Panel Meeting. Weather and Climate Panel—Louis J. Battan. Support for Atmospheric Research Facilities—Instrumented Aircraft. Invited participants: Donald Veal—University of Wyoming. C. B.

Emmanual—National Oceanic and Atmospheric Administration. Charles Mason—National Aeronautics and Space Administration. Clifford Murino—Desert Research Institute (to be announced)—Air Force Geophysics Laboratory.

4:00 p.m.–5:00 p.m.—Steering Committee Meeting.

September 11, 1980

8:30 a.m.–9:00 a.m.—Closed Session.

9:00 a.m.–Noon—Panel Meeting. Waste Management Panel—John Knauss. Review Panel's draft recommendations and peer comments on "Ocean Waste Disposal" report.

Noon–1:00 p.m.—Lunch.

1.00 a.m.–1:45 a.m.—U.S. Coast Guard Criteria for Developing Ship Characteristics Speaker: Paul D'Zmura—Office of Operations.

1:45 p.m.—Adjourn.

The public is welcome at the open sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

With respect to the closed session from 8:30 a.m. to 9:00 a.m. on Thursday, September 11, the Assistant Secretary for Administration with the concurrence of the General Counsel, formally determined on August 22, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, Public Law 94–409, that the matters to be disclosed during this closed session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because it will be considered within the purview of 5 U.S.C. 552b(c)(6), i.e., information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meeting will be open to the public.

A copy of the determination to close a portion of this meeting is available for public inspection and copying in the Central Reference an Records Inspection Facility, Room 5317, Department of Commerce, Washington, DC 20230, telephone (202) 377–4217

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committe on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80–26647 Filed 8–28–80; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 96 Stat. 770) notice is hereby given that the National Commission for Employment Policy will hold its twentieth formal meeting on October 2, 1980, at the Dulles Marriott Hotel at the Dulles International Airport. The meeting will begin at 1:00 p.m. and adjourn at 4:45 p.m.

The National Commission for Employment Policy was established pursuant to Title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95–524). The Act charges the Commission with the broad responsibility of advising the President, and the Congress, as well as Federal agency administrators on national employment issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The agenda will be concerned with possible recommendations on economic development policies to reduce structural unemployment. This work is part of the Commission's 1980 agenda and will be the focus of the Sixth Annual Report to be issued in December 1980.

The business meetings are open to the general public. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director not later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be applicable to the announced agenda and written application must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda, the amount of time requested, the individual's qualifications to speak on the subject matter, and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection at the Commission's headquarters located at 1522 K Street, N.W., Suite 330, Washington, D.C.

Signed at Washington, D.C., this twenty-second day of August, 1980.

Daniel H. Saks,

Director, National Commission for Employment Policy.

[FR Doc. 80–26570 Filed 8–28–80; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel: Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506.

(1) Date: September 23, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Program: This meeting will review preliminary proposals for NEH Seminar (practitioner) directorships submitted to the Division of Fellowships and Seminars from persons in the field of Literature for programs beginning after January 1, 1981.

(2) Date: September 24, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Program: This meeting will review preliminary proposals for NEH Seminar (practitioner) directorships submitted to the Division of Fellowships and Seminars from persons in the field of Law for programs beginning after January 1, 1981.

(3) Date: September 30, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Program: This meeting will review preliminary proposals for NEH Seminar (practitioner) directorships submitted to the Division of Fellowships and Seminars from persons in the field of Philosophy for programs beginning after January 1, 1981.

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(4) Date: October 1, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Program: This meeting will review preliminary proposals for NEH Seminar (practitioner) directorships submitted to the Division of Fellowships and Seminars from persons in the field of History for programs beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose,

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to public pursuant to subsections (c)(4), (6) and (9)(B) of section 552B of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80–26580 Filed 8–28–80; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulation under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by September 30, 1980. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations appeared in final form in the 7 June 1979 **Federal Register**. Additional information was published in the 31 July 1980 **Federal Register**, page 51004.

The application received is:

1. *Applicant:* Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

2. *Activities for which Permit Requested.* Taking (capture—tag and release) seals—*Leptorychotes weddelli:* 400 pups, 300 adults; *Hydrurga leptanyx:* 25 pups, 100 adults; *Lobodon carcinophagus:* 25 pups, 100 adults; *Ommatophoca rossi:* 15 pups, 30 adults.

The objectives of this proposed research are to obtain data on movements and activity patterns of seals, document social behavior during the pupping and mating season, collect information on seasonal and age-related differences in food habits, collect data on population parameters, and clarify trophodynamic relationships in the upper levels of the antarctic marine food web.

3. *Location:* McMurdo Sound, Antarctic Peninsula—vicinity of Palmer Station, Gerlache Strait, and King George Island.

4. *Dates:* October 1, 1980 to October 1, 1981.

Authority to take this action has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 80–26566 Filed 8–28–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 413A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. for the Catawba Nuclear Station, Unit 1. The current holder of the construction permit is Duke Power Company.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in Mecklenburg County, North Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 1.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the **Federal Register** on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Electric

Membership Corporation and the Saluda River Electric Cooperative, Inc. presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before October 7, 1980.

Dated at Bethesda, Maryland, this 30th day of July, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24004 Filed 8-7-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21688; 70-6487]

Public Service Co. of Oklahoma and Transok Pipeline Co.; Proposal To Privately Place Sinking Fund Debentures Guaranteed by the Issuer's Parent; Order Granting Exception From Competitive Bidding in Connection Therewith

August 25, 1985.

In the matter of Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119 and Transok Pipeline Company, 600 South Main Street, Tulsa, Oklahoma 74101 (70-6487).

Notice is hereby given that Transok Pipeline Company ("Transok"), and intrastate natural gas transmission pipeline, and Public Service Company of Oklahoma ("PSO"), the parent of Transok and an electric utility subsidiary of Central and South West Corporation, a registered holding company, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6, 7, 12(b) and 12(f) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

On November 1, 1980, $27,000,000 of first mortgage bonds of Transok which represent all of its outstanding long-term debt will mature. Also Transok will need additional funds for its 1981 construction program. Transok's 1980-82 capital expenditure program is as follows: 1980-$13,900,000, 1981-$19,900,000 and 1982-$10,300,000. It is anticipated that during the next ten years Transok's internal generation of funds will exceed its construction expenditures thereby allowing it to repay a portion of the long-term debt proposed to be issued through the operation of a cash sinking fund. Since substantially all of Transok's natural gas sales are to PSO, to sell its debt to outside investors PSO must guarantee the payment of interest and principal on the indebtedness. All existing long-term debt of Transok is presently guaranteed by PSO.

Transok therefore proposes to issue up to $35,000,000 principal amount of its ——% guaranteed sinking fund debentures to a group of institutional investors pursuant to a negotiated underwriting. Transok proposes that the indenture under which the debentures will be issued will contain a mandatory annual sinking fund of 4%, with an additional optional sinking fund at the discretion of Transok of 4% beginning in 1982. the debentures are scheduled to mature in 1990 and cannot be called prior to 1990 out of funds having an interest cost lower than the debentures. Transok will be effectively precluded from issuing funded indebtedness ranking senior to the indebtedness, but will be able to issue additional debentures if earnings and capitalization tests are met.

Transok intends to privately place the debentures; such negotiations could result in modifications to the terms to enable Transok to obtain the best cost of money based on market conditions. Such modifications could include using a loan agreement and issuing notes, rather than an indenture and debentures. In the event notes are issued, the loan agreement would contain provisions similar to those set forth in the Commission's Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (HCAR No. 13105).

Although Transok has historically issued its securities at competitive bidding, it is proposed that this issue will be privately placed and that Transok will negotiate with underwriters to place the securities directly with large institutional investors. It is stated that Transok's last issue in 1975 occurred prior to many regulatory and legal changes which have made the issuance of these securities at competitive bidding inappropriate. With a private placement, PSO and Transok would have the opportunity to discuss the financing with more sophisticated institutional investors and such negotiations would provide the flexibility required to determine the appropriate terms for the securities in light of Transok's unique circumstances. In view of the comparatively small size of the issue, Transok is of the opinion that the securities could be marketed at a more favorable rate and with less expense through the vehicle of private placement rather than public offering. It is stated that since $27,000,000 of the anticipated financing will be used to repay existing indebtedness, a private placement gives Transok greater flexibility in timing take-downs to coincide with the maturity of the existing indebtedness and gives Transok flexibility to negotiate the rate over period of several months rather than one instant in time. The effect of this can be to reduce the necessity of doing the financing early and thus having excess funds available for some period of time or doing the financing after the maturity date of the existing indebtedness and being required to secure alternative financing until long-term funding can be taken down.

The sale of debentures rather than first mortgage bonds will enable Transok to eliminate payment of mortgage taxes in the state of Oklahoma and will give Transok greater flexibility with respect to transfers and retirements of property and other matters governed by the indenture. This additional flexibility should also result in lower trustee costs.

The proceeds of the debenture sale will be used by Transok to repay $15,000,000 of its 6⅝% Series First Mortgage Bonds due November 1, 1980 and $12,000,000 of its 9% Series First Mortgage Bonds due November 1, 1980. The additional proceeds estimated at $7,000,000 will be used by Transok for anticipated expenditures in its 1981 construction program.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 18, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and

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Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

Upon the basis of the facts in the record it is found that the applicable standards of the Act and the rules thereunder are satisfied with respect to the proposed exception from the competitive bidding requirements of Rule 50 and that no adverse findings are necessary with respect thereto.

It is ordered that Transok be, and it hereby is, granted an exception from the competitive bidding requirements of Rule 50 promulgated under the Act for the purpose of negotiating with underwriters for the private placement of the securities described herein with institutional investors.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26599 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17068 File No. SR-CBOE-1980-21]

Chicago Board Options Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 13, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

Rule 4.4. No member shall give any compensation or gratuity in excess of [$25.00] *$100.00* in any one year to any employee of the Exchange, of any other member or of any non-member broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange.

The Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

This change raises from $25 to $100 the value of permissible, unsolicited gifts in order to reflect inflationary factors and to make the Rule less onerous in its effect.

The basis for the rule is section 6(b)(5) of the Securities Exchange Act of 1934, the protection of the public interest. The proposed change would make the rule more realistic and therefore more enforceable.

No comments on this proposed rule change have been solicited or received from members.

The Exchange does not believe that the proposed change will impose any burden on competition.

On or before October 3, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such dat if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be advailable for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 25, 1980.40

[FR Doc. 80-28588 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21687; 30-207 and 30-165]

Delmarva Power & Light Co. and IU International Corp.; Applications for Orders Declaring That Companies Have Ceased To Be Holding Companies

August 25, 1980.

Notice is hereby given Delmarva Power & Light Company ("Delmarva"), 800 King Street, Wilmington, Delaware 19801, and IU International Corporation ("IU"), formerly International Utilities Corporation, 1105 North Market Street, Wilmington, Delaware 19801, have each filed an application under Section 5(d) of the Public Utility Holding Company Act of 1935 ("Act") requesting the Commission to declare by order that each company has ceased to be a holding company and that the registration of each company as such under the Act be terminated.

Delmarva, a Delaware and Virginia corporation, is a public utility which provides electric service to the Delmarva Peninsula and retail gas service in northern Delaware, including the City of Wilmington. Delmarva registered as a holding company under the Act in 1943 upon acquiring as subsidiaries several public utility companies. Its only public-utility company subsidiaries on December 31, 1979 were Delmarva Power & Light Company of Maryland ("Delmarva-Maryland"), a Maryland corporation, and Delmarva Power & Light Company of Virginia ("Delmarva-Virginia"), a Virginia corporation. By order dated October 19, 1976 (HCAR No. 19717), Delmarva, Delmarva-Maryland and Delmarva-Virginia were granted an exemption from further regulation under the Act pursuant to Section 3(a)(2), with certain reservations of jurisdiction.

The application states that, on December 31, 1979, Delmarva-Maryland and Delmarva-Virginia were merged into Delmarva, the surviving company, and that Delmarva does not now have any subsidiary company which is a public-utility company. Accordingly, Delmarva requests the Commission to enter an order pursuant to Section 5(d) of the Act declaring that Delmarva has ceased to be a holding company under the Act and that its registration as a holding company shall cease to be in effect, and releasing jurisdiction heretofore reserved in the Commission's Order of October 19, 1976.

IU, a Maryland corporation, registered under Section 5(a) of the Act on January 11, 1939. On November 1, 1945, the Commission approved an application filed by IU and a subsidiary for the sale of the common stock of Rockland Gas Company, Inc., which represented IU's last remaining interest in any public utility company operating in the United States, and finding that, with respect to its remaining subsidiaries, three of which were public utility companies organized and operating in Canada, IU was entitled to an exemption as a holding company under Section 3(a)(5) of the Act. *International Utilities Corporation, et al.*, 21 SEC 283 (1945). Effective January 1972, all of IU's foreign public utility subsidiaries were reorganized as direct or indirect subsidiaries of Canadian Utilities, Limited, an intermediate holding company and a Canadian corporation. The application states that, on June 19, 1980, IU disposed of its entire interest in Canadian Utilities, Ltd., and that IU does not now have any subsidiary company which is a public utility company. Accordingly, IU requests the Commission to enter an order pursuant to Section 5(d) of the Act declaring that IU has ceased to be a holding company and that its registration as a holding company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 19, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by either of said applications which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applications, as filed or as either may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26590 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17089; File No. SR-NYSE-80-31]

New York Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 18, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendments to Rules 118.30, 123A.50 and 123A.55 would provide the Exchange with greater flexibility in scheduling confirmation dates for "good 'til cancelled" (GTC) orders[1] so as to avoid heavy volume periods; and also to enable the Exchange to schedule the confirmation dates on non-business days rather than on business days.

The amendments will require that specialists and members and member organizations having GTC orders be represented on the trading floor on the confirmation day. Further, the Exchange may prescribe specific hours during which specialists and other members and member organizations must have staff available.

The Exchange's Statement of Purpose

Because of numerous periods of heavy volume during the past two years, the Exchange has been unable to adhere to strict six-month intervals in designating confirmation dates. On several occasions the Exchange found it necessary to schedule confirmation dates on Saturdays.

To ensure proper staffing, particularly when confirmation dates fall on non-business days, the Exchange is also proposing to add a provision to rule 123A.55, which would make it the responsibility of each member and member organization to have adequate staff available on the Floor and in its office, as appropriate, on all such dates.

Basis Under the Act for Proposed Rule Change

The proposed rule changes enhance the ability of members and member organizations to conduct business and utilize their resources efficiently and are therefore consistent with Section 11A of the Act. The proposed rule changes also foster cooperation and coordination with persons engaged in regulating, clearing, settling, and facilitating transactions in securities and are therefore also consistent with Section 6(b)(5) of the Act.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not solicited comments regarding the proposed rule changes and has received none.

Burden on Competition

The proposed rule changes will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 19, 1980.

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[1] A GTC order is an order to buy or sell which remains in effect until it is either executed or cancelled.

V 45 AG 29 80 UMI

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 25, 1980.

[FR Doc. 80-26587 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17090; File No. SR-Phlx-80-18]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) ("Act"), notice is hereby given that on August 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Summary of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx") proposes by-law amendments relating to discipline, enforcement and hearing procedures, and committee functions.

The Business Conduct Committee would determine whether probable cause exists for the issuance of complaints charging rule violations and would have authority to issue complaints. A Hearing Committee composed of governors, Exchange members, general partners or officers of member organizations or other qualified persons would be appointed in sufficient size to constitute a pool for Hearing Panels composed of five members. The Hearing Panels would conduct hearings on complaints, render decisions and impose penalties. Appeals would be to the Board of Governors or a Subcommittee thereof whose decision would not be subject to review except by the SEC.

All standing committees would continue to administer rules within their jurisdiction but only the Business Conduct and Hearing Committees would have jurisdiction over enforcement, prosecution and hearing functions. An exception would be the authority retained by the Floor Procedure and Options Committees to enforce rules and regulations relating to order, decorum, health, safety and welfare on the trading floors.

The amendments also would abolish the Member Firms Committee, assigning its functions to the Business Conduct Committee; establish the Marketing Committee as a standing committee; increase the minimum number of members on the standing committees and decrease the requisite number of Board members serving thereon.

Exchange's Statement of Basis and Purpose Under the Act for the Proposed Rule Change

The proposed amendments would enhance the Exchange's ability to carry out its obligation under the Act to enforce compliance with the Act, the rules and regulations thereunder and its own rules (Act, Sec. 6(b)(1)); to discipline its members and their associated persons for rule violations in an appropriate manner with fitting sanctions (Act, Sec. 6(b)(6)); and to provide fair procedures for discipline (Act, Sec. 6(b)(7)).

The purpose of the amendments is to vest in the Business Conduct Committee and a new Hearing Committee the responsibility for disciplinary, enforcement and hearing procedures involving violations of applicable Federal statutes and rules, and Exchange by-laws and rules. Jurisdiction would extend over any violations involving the activities of members, member organizations, or any partners, officers, directors or persons employed by or associated with members or member organizations, except for those activities involving order, decorum, health, safety and welfare on the equity and options floors. Enforcement jurisdiction relating to violations involving the latter activities would remain with the Floor Procedure and Options Committees respectively.

In addition, the amendments are designed to change the composition and size of standing committees and clarify their authority to adopt disciplinary procedure rules and to impose penalties.

No comments have been received and none were solicited except through circulation of the By-Law amendment notice.

The Exchange believes no burden on competition will be imposed by the proposed amendment.

On or before October 3, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 3, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 25, 1980.

[FR Doc. 80-26588 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17091; Filed No. SR-PHLX 80-19]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on August 19, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx") proposes to amend By-Law 10-7 Rule 950 with respect to how non-member controversies in excess of $2,500 are to be handled henceforth under that rule.

Basis and Purpose of the Proposed Rule Change

Amendments to Rule 950 concerning the provision for claims in excess of $2,500 were recently approved by the Securiites and Exchange Commission ("Commission"), in Release No. 34-16906.

The proposed rule change is consistent with Sec. 6(b) of the Act in general, and further the objectives of the Act, in particular, in that it is to promote just and equitable principles of trade and to protect investors and the public interest.

Comments were neither solicited nor received.

The PHLX believes that the proposed rule change imposes no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 19, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 25, 1980.

[FR Doc. 80-26589 Filed 8-28-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Privacy Act of 1974; Revised System of Records

AGENCY: Office of the Secretary, Department of the Treasury.

ACTION: Notice of revision of Privacy Act Systems of Record.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) the Director of Personnel gives notice of publication of a revised system of records. OMB has advised that OPM will delete OPM/GOVT-2, Grievance Records, from its annual republication of notices in September, 1980. Therefore, departments/agencies are responsible for issuing their own notices to cover records currently maintained under OPM/GOVT-2 after OPM's republication. This revision essentially duplicates OPM/GOVT-2, constitutes Treasury's notice and provides the same coverage within the Department as currently provided by OPM/GOVT-2.

EFFECTIVE DATE: August 29, 1980. No public comments required.

FOR FURTHER INFORMATION CONTACT: Mrs Muriel A. Graves, Assistant Director of Personnel (Employee Relations and Special Programs), Department of the Treasury, Room 2425MT, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Dated: August 25, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

Treasury/OS 00.005

SYSTEM NAME:

Grievance Records

SYSTEM LOCATION

These records are located in personnel or designated offices in the bureaus in which the grievances were filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees who have submitted grievances with their bureaus in accordance with part 771 of the Office of Personnel Management's (OPM) regulations (5 CFR 771), the Treasury Employee Grievance System (TPM Chapter 771), or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by Treasury employees under part 771 of the OPM's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that bureaus and/or the Department may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577.3 CFR 1954–1958 Comp., p. 218. E.O. 10987, 3 CFR 1959–1963 Comp., p. 519, agency employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2908.

g. By the bureau maintaining the records of the Department in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way a to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit System Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, the Equal Employment Opportunity Commission, or the Office of Personnel Management when requested in performance of their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

ATF

Chief, Personnel Division, 1200 Pennsylvania Avenue, NW., Room 2212, Washington, D.C. 20226.

BGFO

Personnel Officer, Pennsylvania Avenue & Madison Pl. NW., Room 112, Annex, Washington, D.C. 20226.

Customs

Director, Personnel Management Division, 1301 Constitution Avenue NW., Room 1316, Washington, D.C. 20229.

E&P

Chief, Office of Industrial Relations, 14th & C Streets SW., Room 717–A, E&P Annex, Washington, D.C. 20226.

FLETC

Personnel Officer, Building 94, Room 1F–14, Glynco, Georgia 31520.

IRS

Director, Personnel Division, 1111 Constitution Avenue NW., Room 3316, IRS Building, Washington, D.C. 20224.

OS

Assistant Director for Personnel Management, 15th & Pennsylvania Avenue NW., Room 1330, Main Treasury Building, Washington, D.C. 20220.

PD

Personnel Officer, 13th & C Streets SW., Room 226, E&P Annex, Washington, D.C. 20226.

SB

Personnel Officer, 1111 20th Street NW., Room 225, Vanguard Building, Washington, D.C. 20226

SS

Chief, Personnel Division, 1800 G Street NW., Room 941, Washington, D.C. 20226.

Mint

Assistant Director for Personnel, 501 13th Street NW., Room 921, Warner Building, Washington, D.C. 20004.

OCC

Director, Human Resources, 490 L'Enfant Plaza East SW., 2nd Floor, Washington, D.C. 20219.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the agency personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified.

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the bureau personnel or designated office where the action was processed.

Individuals must provide the following information for their records to be located and identified.

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the bureau personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:

a Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided.

a. By the individual on whom the record is maintained.
b. By testimony of witnesses.
c. By agency officials.
d. From related correspondence from organizations or persons.

[FR Doc. 80–26510 Filed 8–28–80; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 45 No. 170
Friday, August 29, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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Items
Federal Energy Regulatory Commission 1
National Credit Union Administration.... 2
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Neighborhood Reinvestment Corporation 4

1

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 56224, August 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 27, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

CAM-6: QF80-7, The South San Joaquin Irrigation District & Small Power Production and Cogeneration Facilities—Qualifying Status.

Kenneth F. Plumb,
Secretary.

[S-1617-80 Filed 8-27-80; 10:55 am]
BILLING CODE 6450-85-M

2

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, September 4, 1980.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS OF BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Reimbursement of Agent Members of Central Liquidity Facility.
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant, telephone (202) 357-1100.

[S-1619-80 Filed 8-27-80; 3:10 pm]
BILLING CODE 7535-01-M

3

[NM-80-31]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 56967, August 26, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, September 2, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first three items will be open to the public; the fourth will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Head-on Collision of Amtrak Train No. 82 and Seaboard Coastline Extra 2771, Lakeview, North Carolina, April 2, 1980, and *Recommendation* to the Federal Railroad Administration.
2. *Marine Accident Report*—Liberian Tank Vessel M/V *Seatiger*, Explosion and Fire, Sun Oil Terminal, Nederland, Texas, April 19, 1979, and *Recommendations* to the U.S. Coast Guard, the American Bureau of Shipping, and Sunoco Terminals, Inc.
3. *Special Study*—Safety of Plastic Pipe in the Natural Gas Distribution Process.
4. *Opinion and Order—Administrator* v. *Chandler Flyers and Phoenix Aviation*, Dkt. SE-4850; disposition of the appeal of each party.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-462-6022.

August 27, 1980.

[S-1618-80 Filed 8-27-80; 1:43 p.m.]
BILLING CODE 4910-58-M

4

NEIGHBORHOOD REINVESTMENT CORPORATION.

Meeting of the board of directors.

Pursuant to the Provision of the Neighborhood Reinvestment Corporation Act (Title VI of the Housing and Community Development Amendments of 1978, Pub. L. 95-557), notice is hereby given of a meeting of the Neighborhood Reinvestment Corporation.

TIME AND DATE: 2:30 p.m.; September 3, 1980.

PLACE: Board Room sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open and closed.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Assistant Director for Communications (202) 377-6815.

AGENDA: *Open Session:*

Call to order and remarks of the chairman.
Approval of minutes, June 4, 1980.
Report of the personnel committee.
Resolution: Approval of pension plan.
Report on fiscal year 1980 results and discusson of fiscal year 1981 budgetary needs.
Resolution: Approval of fiscal year 1981 budget.

Closed Session:

Discussion of fiscal year 1982 budgetary needs.
Resolution: Approval of fiscal year 1982 budget submission.

Donnie L. Bryant,
Secretary

No. 15, August 27, 1980.

[S-1620-80 Filed 8-27-80; 3:21 pm]
BILLING CODE None.

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federal register

Friday
August 29, 1980

Part II

General Services Administration

Privacy Act of 1974; Systems of Records Annual Publication

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Annual Notice of Systems of Records

AGENCY: General Services Administration.

ACTION: Annual Notice of Privacy Act systems of records.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give notice of certain records that they maintain. The purpose of this document is to fulfill the Privacy Act annual notice requirement by publishing an annual notice of the systems of records currently being maintained by GSA. In addition, this notice includes substantive changes in the GSA system of records that have not previously been published.

DATES: Any interested party may submit written comments regarding the proposed changes to the routine use portion of the GSA notices. To be considered, comments must be received on or before the 30th day following publication of this notice. The changes to the systems of records routine uses shall become effective as proposed without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (HRAR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, Records Management Branch, Information Management Division, (202) 566–0673.

SUPPLEMENTARY INFORMATION: This notice of the current GSA systems of records incorporates the 1979 annual publication of the systems of records, 44 FR 55658 through 55660, with subsequent revisions published in 44 FR 58544 and 58545 and 45 FR 8722 through 8725. In addition, this notice includes the following substantive changes to the GSA systems of records that have not previously been published:

1. A review was conducted of the routine use portion of the GSA systems of records notices. Instead of applying all the general routine uses in the appendix to each system of records, the general routine uses were lettered and each system of records now references only those routine uses applicable to that particular system. In addition, the systems of records GSA/HRO–1 through GSA/HRO–9 and GSA/HRO–37 were rewritten to specify the routine uses that apply to each system of records instead of referencing the general routine uses.

2. A new system of records GSA/HRO–10, Grievance Records, is established. With the exception of one additional routine use pertaining to GSA agents, the system of records notice duplicates the information in the Office of Personnel Management system of records OPM/GOVT–2, Grievance Records. In accordance with OMB memorandum of July 10, 1980, to Privacy Act Points of Contact, a report of a new system of records is not required.

3. The system of records Federal Information Center (FIC) Client Case Files GSA/AV–1 (23–00–0105) is deleted. The complaint handling experiment associated with the case files was canceled in February 1979 and all the files have been destroyed.

4. The following systems of records are deleted as it has been determined that the systems of records are covered by and duplicative of Office of Personnel Management systems of records OPM/GOVT–1, General Personnel Records, and/or OPM/GOVT–9, Position Classification Review and Retained Rate of Pay Appeals:

a. Career and Executive Development Records GSA/OAD–11 (23–00–0011),

b. Executive Assignment, Promotion, and Retirement GSA/OAD–12 (23–00–0012),

c. Personnel Office General Staffing Information GSA/OAD–15 (23–00–0015), and

d. Compensation and Classification Records GSA/OAD–17 (23–00–0017).

5. A system of records notice, OPM Government-wide notices, is being added. This notice serves as a recap of the records maintained by GSA that are a part of the Office of Personnel Management's (OPM) system of records or subject to control by OPM.

6. To reflect organizational changes within GSA, the system numbers of the following systems of records have been changed:

a. GSA/OAD–1 to GSA/HRO–1,
b. GSA/OAD–4 to GSA/HRO–2,
c. GSA/OAD–6 to GSA/HRO–3,
d. GSA/OAD–7 to GSA/HRO–4,
e. GSA/OAD–9 to GSA/HRO–5,
f. GSA/OAD–22 to GSA/HRO–6,
g. GSA/OAD–26 to GSA/HRO–7,
h. GSA/OAD–25 to GSA/HRO–8,
i. GSA/OAD–27 to GSA/HRO–9,
j. GSA/OAD–29 through 34 to GSA/PPFM–1, through 6, and
k. GSA/OAD–36 to GSA/OEA–1.

7. Minor changes have been made throughout the GSA notices in the system location, system manager, notification procedures, records access procedures, contesting record procedures, and address appendixes portions of all the GSA notices to reflect changes due to reorganizations and/or relocations.

8. The safeguard portions of notices GSA/NARS–1 through GSA/NARS–10 have been reworded to more accurately reflect the procedures in effect.

9. The following systems of records are consolidated into one system of records notice now designated as Employee Related Files GSA/AGENCY–1:

a. Office Personnel Files GSA/OAD–19 (23–00–0019),
b. Employee Related Files GSA/NARS–10 (23–00–0055),
c. Employee Related Files GSA/REGADM–2 (23–00–0069),
d. Employee Related Files GSA/PBS–1 (23–00–0073),
e. Employee Related Files GSA/FSS–8 (23–00–0090),
f. Employee Related Files GSA/FPRS–1 (23–00–0109),
b. Employee Related Files GSA/TPUS–1 (23–00–0108),
h. General Personnel Files GSA/OGC–5 (23–00–0043),
i. Discretionary Supervisor Files GSA/ADTS–3 (23–00–0078),
j. Personnel Administrative Files GSA/ADTS–6 (23–00–0081), and
k. Staffing Reporting System GSA/OAD–23 (23–00–0023).

Dated: August 14, 1980.

Ben Schiffman,
Director of Administrative Services.

GSA No.	OMB No.	Name of system
....		OPM governmentwide notices.
GSA/Agency-1.		Employee related files.
GSA/HRO-1.....	23-00-0001	Standards of conduct files.
GSA/HRO-2.....	23-00-0004	Employee drug abuse/alcoholism files.
GSA/HRO-3.....	23-00-0006	Occupational health and injury files.
GSA/HRO-4.....	23-00-0007	Labor-management relations files.
GSA/HRO-5.....	23-00-0009	Employee benefits files.
GSA/HRO-6.....	23-00-0022	Listing of physicians.
GSA/HRO-7.....	23-00-0027	Motor vehicle operator applications.
GSA/HRO-8.....	23-00-0026	Credentials, passes, and licenses.
GSA/HRO-9.....	23-00-0104	Emergency notification rosters and files.
GSA/HRO-10 ..		Grievance records.
GSA/HRO-37 ..	23-00-0110	Security staff files.
GSA/PPFM-1...	23-00-0032	Disbursement and accounts payable files.
GSA/PPFM-2...	23-00-0033	Accounts receivable claims files.
GSA/PPFM-3...	23-00-0034	Travel system.
GSA/PPFM-4...	23-00-0035	Manpower and payroll statistics system (MAPS).
GSA/PPFM-5...	23-00-0036	Payroll, time, and attendance reporting system.
GSA/PPFM-6...	23-00-0100	Employee credit reports.
GSA/ADM-24 ..	23-00-0024	Investigation case files.
GSA/OEA-1.....	23-00-0103	Defunct agency records.
GSA/OGC-2	23-00-0040	Attorney placement.
GSA/OGC-4	23-00-0042	General law files.
GSA/OGC-6	23-00-0044	Potential employee referrals.

GSA No.	OMB No.	Name of system
GSA/NARS-1 ..	23-00-0046	Researcher application files.
GSA/NARS-2 ..	23-00-0047	Reference request files.
GSA/NARS-3 ..	23-00-0048	Donors of historical materials files.
GSA/NARS-4 ..	23-00-0049	National archives advisory council files.
GSA/NARS-5 ..	23-00-0050	Conference and related activities files.
GSA/NARS-6 ..	23-00-0051	Mailing list files.
GSA/NARS-7 ..	23-00-0052	Review of classified document/request files.
GSA/NARS-8 ..	23-00-0053	Classified records access authorization files.
GSA/NARS-9 ..	23-00-0054	Authors files.
GSA/REGADM-3.	23-00-0070	Biographical sketches.
GSA/REGADM-4.	23-00-0071	Official correspondence files.
GSA/REGADM-6.	23-00-0102	Council of governments carpool system.
GSA/PBS-3......	23-00-0075	Incident reporting, investigation, and security case files.
GSA/ADTS-1...	23-00-0076	Classified control files.
GSA/ADTS-2...	23-00-0077	Congressional files.
GSA/ADTS-4...	23-00-0079	Emergency notification files.
GSA/ADTS-5...	23-00-0080	Financial management files.
GSA/ADTS-7...	23-00-0082	Workload measurement files.
GSA/ADTS-8...	23-00-0096	Special purpose telephone contact listings.
GSA/FSS-9......	23-00-0091	Cataloging action master file-work measurement.
GSA/FSS-12....	23-00-0094	Accountability and property inventory.
GSA/FPRS-2...	23-00-0110	Hazardous materials exposure history system.
GSA/TPUS-2...	23-00-0107	Accountability and property inventory system.

SYSTEM NAME:

OPM Government-wide notices

The General Services Administration maintains personnel records and files which are a part of the Office Personnel Management's (OPM) systems of records or subject to control by OPM. These systems are as follows:

OPM/GOVT-1.........	General personnel records
OPM/GOVT-3.........	Adverse action records.
OPM/GOVT-5.........	Recruiting, examining, and placement records.
OPM/GOVT-6.........	Personnel research and test validation records.
OPM/GOVT-7.........	Applicant race, sex, ethnicity and disability status records.
OPM/GOVT-9.........	Position classification review and retained rate of pay appeals
CSC/GOVT-1.........	Appeals, grievances and complaint records.

SYSTEM LOCATION:

The above systems are located in the personnel offices of the General Services Administration at the locations listed in the appendix for the Office of Personnel following the notice GSA/HRO-7.

NOTIFICATION PROCEDURES:

Current employees may obtain information about whether they are a part of these systems of records from their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA-HRO-7. Former employees may obtain information as set forth in the OPM system notices.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/OHR-7. Former employees should direct requests to gain access to information pertaining to them as set forth in the OPM system notices.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determination are promulgated in 41 CFR 105-64 published in the **Federal Register.** OPM rules are promulgated in 5 CFR 297.201 and 208, published in the **Federal Register.**

SYSTEM NAME:

Employee related files.

SYSTEM LOCATION:

This system may be maintained at the supervisory or administrative office level at all facilities throughout the General Services Administration, nationwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYTEM:

Former and current GSA employees, applicants or potential applicants for employment, employees of other agencies for employee relief bills, volunteer workers, uncompensated workers, and relatives of employees of the National Personnel Records Center.

CATEGORIES OF RECORDS IN THE SYTEM:

This system consists of a variety of employee related records maintained by operating officials for the purpose of administering personnel matters affecting their employees and uncompensated workers. The documents include, but are not limited to, information on the individuals relating to name, social security number, birth, home and emergency addresses and telephone numbers, personnel actions, professional registration, qualifications, training, congressional employee relief bills, injuries, employment history, awards and other recognition, counseling, warnings, reprimands, grievances, appeals, conduct, leave, pay, attendance, work assignments, performance, assessments, applications for permits and passes, indebtedness complaints, travel, and outside employment. The documents include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. This system does not include official personnel files which are covered by the Office of Personnel Management's systems of records OPM/GOVT-1 through 9 and CSC/GOVT-1.

AUTHORITY FOR MAINTENANCE OF THE SYTEM:

Federal Property and Administrative Services Act of 1949, as amended, (63 Stat. 377); Title 5 U.S.C. generally; and Title 31 U.S.C. generally.

PURPOSE(S):

The purposes of this system are to initiate requests for personnel actions, to plan and schedule training, to counsel employees on their performance, to establish a basis for proposing recommendations for disciplinary actions, and to carry out personnel management responsibilities in general.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsibile for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration becomes aware of an indication of a violation of potential violation of civil or criminal law or regulation.

b. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission

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when requested in performance of their authorized duties.

f. To disclose information to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, exclusive representative, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

g. To disclose information to the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

h. To disclose information to an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty and to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

i. Additionally, U.S. Army military service relating to National Personnel Records Center (St. Louis) employees and their relatives may be disclosed to United States Army Reserve Components Personnel and Administration Center officials when required for the operation of their record security program.

Note.—To the extent that official personnel records in the custody of GSA are covered within systems of record published by the Office of Personnel Management as Government-wide records, they will be considered to be as a part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file holders and card files.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable file cabinets, lockable desk drawers, and/or in secured rooms.

RETENTION AND DISPOSAL:

Records are reviewed annually, documents are updated, and irrelevant documents destroyed. No copies of records are retained in this system after the original or copies of the same records have been purged from the Office of Personnel Folders. When an employee leaves the agency through transfer or other separation, the records in this system are immediately forwarded to the office maintaining the Official Personnel Folder. There the records are screened to ensure that there are no records that should be permanently filed in the Official Personnel Folder. The records in this system are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Agency officials with overall responsibility for systems of records under their jurisdiction are the Heads of Services and Staff Offices for Central Office employees and the Regional Administrators for regional employees. Officials responsible for geographically dispersed systems of records are the senior official at the facility or the supervisor of the employees (or of the former employees, or volunteers at all locations). The addresses of the Central Office and regional offices are listed in the appendix following this notice. The addresses of the field activities are listed following the notices GSA/ADTS-8, GSA/NARS-9, GSA/PBS-3, GSA/FSS-12, and GSA/FPRS-2.

NOTIFICATION PROCEDURES:

Information about whether an individual is a part of this system of records may be obtained from the supervisors or officials at the appropriate repository where the individuals have records. If not known, general inquiries should be made to the Head of the Service or Staff Office for Central Office employees, or to the Regional Administrator for regional office employees at the addresses listed in the appendix following this notice.

RECORD ACCESS PROCEDURES:

Same as above. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105-654, published in the Federal Register.

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, personnel records, and third parties submitting indebtedness complaints.

Appendix—GSA/Agency Addresses of Locations

Central Office

General Services Building, 18th and F Streets NW., Washington, D.C. 20405.

Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington, VA 20406.

Crystal Square Building 5, 1755 Jefferson Davis Highway, Arlington, VA 20406.

Chester Arthur Building, 425 I Street NW., Washington, DC 20405.

Archives Building, 7th and Pennsylvania Avenue NW., Washington, DC 20408.

Region Offices

National Capital Region, Regional Office Building, 7th and D Streets SW., Washington, DC 20407.

Region 1, J.W. McCormack Post Office and Courthouse Building, Boston, MA 02109.

Region 2, 26 Federal Plaza, New York, NW 1007.

Region 3, Regional Office Building, 9th and Market Streets, Philadelphia, PA 19107.

Region 4, 75 Spring Street SW., Atlanta, GA 30303.

Region 5, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604.

Region 6, Federal Building, 1500 East Bannister Road, Kansas City, Missouri 64131.

Region 7, 819 Taylor Street, Fort Worth, Texas 76102.

Region 8, Building N. 41, Denver Federal Center, Denver, Colorado 80225.

Region 9, 525 Market Street, San Francisco, California 94105.

Region 10, GSA Center, Auburn, Washington, 98002.

GSA/HRO-1 (23-00-0001)

SYSTEM NAME:

Standards of Conduct Files.

SYSTEM LOCATIONS:

The system is located in the personnel offices of GSA at the addresses listed in the appendix for the Office of Personnel following the notice, GSA/HRO-7; the Central Office, Office of Personnel, 18th & F Sts. NW., Washington, DC 20405; and the offices of supervisors and management officials who have a need for information relating to an employee's outside employment.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees who have requested permission to engage in outside employment, received a copy of the standards of conduct, or have been the object of debt complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Application to engage in outside employment, business or professional activities (GSA Form 1974).

2. Acknowledgement of receipt of GSA Standards of Conduct (GSA Form 2160).

3. Debt complaint files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7351; 5 C.F.R. 735.203 and 207.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To disclose information to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

g. To disclose information to the Office of Management and Budget (OMB) in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

j. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

k. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide records, they will be considered as a part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

l. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Disposition or records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th and F Streets NW., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix following the notice GSA/HRO–7, or from the Director of Personnel at the address noted above, whichever is applicable. Former employees may obtain information from the personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix following the notice GSA/HRO–7, or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORDS PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Employees requesting permission to engage in outside employment, firms and/or collection agencies filing debt complaints, supervisors, and management officials.

GSA/HRO–2 (23–00–0004)

SYSTEM NAME:

Employee Drug Abuse/Alcoholism Files.

SYSTEM LOCATION:

The system is located in the personnel offices of GSA at the addresses listed in the appendix for the Office of Personnel following the notice GSA/HRO–7; the Central Office, Office of Personnel at 18th & F Sts. NW., Washington, DC 20405; in the offices of designated counselors; and in the offices of supervisors who have had employees suspected or known to have drug abuse problems (including alcoholism).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA employees who have been suspected or known to have an alcohol abuse or other drug abuse problem.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Records of referrals for counseling.
2. Records of counseling.
3. Records of referrals for rehabilitative assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 92–255 and 5 U.S.C. 7901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To document that supervisors have properly dealt with employees whose work is affected by alcohol abuse or other drug abuse.

b. To communicate information to personnel having a need for the information in connection with their duties; such as medical or health personnel, alcohol or other drug abuse counselors, alcohol or other drug abuse program administrators, and qualified service organizations.

c. To provide a basis for meeting reporting requirements to the Office of Personnel Management.

d. To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of the activities of GSA in connection with such individual.

Such disclosures will be restrictively made; in particular, disclosures of information pertaining to an individual with a history of alcohol or other drug abuse will be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records regulations, 45 CFR Part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file drawers or cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Records are maintained for 1 year after the employee's last contact with the counselor, or until the employee's separation or transfer, whichever comes first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th & F Sts.

N.W., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/HRO–7, or from the Director of Personnel at the address noted above, whichever is applicable. Former employees may obtain information from the personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the GSA/HRO–7 notice, or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules to access to records and for contesting the contents and appealing initial determination are promulgated in 41 CFR 105–64, published in the Federal Register.

RECORD SOURCE CATEGORIES:

Supervisors, counselors, personnel specialists, and the employees themselves.

GSA/HRO–3 (23–00–0006)

SYSTEM NAME:

Occupational Health and Injury Files.

SYSTEM LOCATION:

The system is located in the personnel offices of GSA at the locations listed in the appendix for the Office of Personnel following the notice GSA/HRO–7; the Central Office, Office of Personnel, 18th & F Sts. NW., Washington, DC 20405; the Accident and Fire Prevention Branch, Buildings Management Division, PBS; and the offices of all supervisors who have had employees injured on the job or other occupational health problems with employees supervised.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA employees who have sustained injuries or other occupational health problems with employees supervised.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Accident reports (including CA–1 & 2: Federal Employees Notice of Injury or Occupational Disease).
2. Claims for compensation for injury or occupational disease (CA 4).
3. Claims for continuance of compensation on account of disability (CA 8).
4. Lists of employees receiving medical services.
5. Health records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chap 81 and 5 U.S.C. 7153 and 7901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To identify and record those employees who have sustained injuries or other occupational health problems.

b. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To disclose information to the Office of Workers Compensation Programs in connection with a claim for benefits filed by an employee.

f. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel, 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/HRO-7, or from the Director of Personnel at the address noted above, whichever is applicable. Former employees may obtain information from the personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/HRO-7, or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For indentification requirements refer to the agency regulations as outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105-64, published in the Federal Register.

RECORD SOURCE CATEGORIES:

The information in this system of records is provided by the individuals to whom the records pertain, or by the personnel specialists who prepare various records or claims.

GSA/HRO-4 (23-00-0007)

SYSTEM NAME:

Labor-Management Relations Files

SYSTEM LOCATION:

The system is located in the personnel offices of GSA at the locations listed in the appendix for the Office of Personnel following the notice GSA/HRO-7; the Central Office, Office of Personnel at 18th & F Sts. NW., Washington, DC 20405, and various service and staff offices throughout GSA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA employees who are union officials or are in an exclusively recognized unit. Also GSA employees who have filed grievances under the negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Union dues withholding request or revocation.
2. List of employees who are elected or appointed union officers or officials.
3. Arbitration awards based on employee or union grievance.
4. GSA Form 3079, Official Time for Representational Functions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5. U.S.C. 7101 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To identify and record those employees who are included in exclusively recognized units, are under dues withholding, are elected or appointed as union officers, whose grievances have been resolved by arbitration awards, and who use official time for representational functions.

b. To the Department of Labor in carrying out its functions regarding labor-managemnt relations in the Federal service.

c. To officials of labor organizations recognized under Pub. L. 95-454, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

d. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

e. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

i. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

j. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

k. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

l. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide system, they will be considered as part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and acitivities as a routine use.

m. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records and machine listings in file cabinets.

RETRIEVABILITY:

Filed alphabetically at locations by name.

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SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/HRO-7, or from the Director of Personnel at the address noted above, whichever is applicable. Former employees may obtain information from the personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notice GSA/HRO-7, or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determination are promulgated in 41 CFR 105-64 published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Officials preparing files and records submitted by employees.

GSA/HRO-5 (23-00-0009)

SYSTEM NAME:

Employee Benefits Files.

SYSTEM LOCATION:

The system is located in the personnel offices of GSA at the addresses listed in the appendix for the Office of Personnel following the notice GSA/HRO-7; the Central Office, Office of Personnel at 18th & F Sts. NW., Washington, DC 20405, and the offices of supervisors and management officials promoting blood donation and savings bonds programs and soliciting employees to attend White House ceremonies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees receiving severance pay, contributing blood, authorizing withholding for savings bonds, attending White House ceremonies, and deceased employees with survivors entitled to death benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Severance pay files.
2. Savings bonds lists.
3. Blood donation requests.
4. White House ceremonies files.
5. Death case files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chap. 81, 5 U.S.C. 7153 and 7901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To identify and record those employees who have received severance pay, authorized withholding for savings bonds, made blood donations, attended White House ceremonies, and/or died leaving survivors entitled to death benefits.

b. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the recipient's benefit program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Personnel Management; Office of Workers Compensation Program; Veterans Administration Pension Benefits Program; DHEW's Social Security Old Age, Survivor and Disability Insurance and Medical Programs; Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement System); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

c. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might be properly disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next-of-kin may be recognized as the representative of the estate.

d. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

e. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by a law, and if the head of the agency or instrumentality has made a written request to GSA specifying the particular portion(s) of the record(s) desired (including an address) and the law enforcement activity for which the record is sought.

f. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

h. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

i. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. To disclose information to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

k. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

l. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

m. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide records, they will be considered as a part of that Government-wide sytem. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

n. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in files.

RETRIEVABILITY:

Filed alphabetically at each location by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following the notices GSA/HRO–7, or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURE:

GSA rules for access to records and for contesting the contents and appealing initial determination are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The information in this system of records is provided by the individuals to whom the records pertain or by the personnel specialists who prepare various records for claims.

GSA/HRO–6 (23–00–0023)

SYSTEM NAME:

Listing of Physicians.

SYSTEM LOCATION:

This system is located in the personnel offices of GSA at the addresses listed in the appendix for the Office of Personnel following the notice GSA/HRO–7.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Physicians certified by a board of qualified medical officials established by the Office of Personnel Management and in some cases, other physicians approved by GSA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, addresses, and phone numbers of the physicians included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FPM Chapter 339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To serve as a referral source for those who are in need of a physician for a fitness for duty examination or for on-the-job inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

The records within this system are primarily on papers.

RETRIEVABILITY:

The records within this system are primarily retrievable by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2)

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th & F Sts. NW., Washington, D.C. 20405. Mailing address: General Services Administration (HP), Washington, D.C. 20405.

NOTIFICATION PROCEDURE:

Individuals may obtain information about whether they are included in this system by contacting the personnel office listed in the appendix for the Office of Personnel following the notice GSA/HRO–7.

RECORD ACCESS PROCEDURES:

Individuals should direct requests to access records to the personnel office listed in the appendix for the Office of Personnel following the notice GSA/HRO–7, which is in their particular area. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and contesting the contents and appealing initial determination are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORDS SOURCE CATEGORIES:

The information in this system of records is provided by the individual themselves to either GSA or to the Office of Personnel Management of Public Health Service who forwarded the information to GSA.

Appendix GSA/OAD Addresses of Locations

Central Office

Central Office Personnel Division (HPO), General Services Administration, 18th & F Streets NW.,

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Washington, DC 20405, Area Code 202-566-0040.

Regional Offices

National Capital Region (WBP), Regional Personnel Office, General Services Administration, 7th & D Streets SW., Washington, DC 20407, Area Code 202-472-1939.

Region 1

Regional Personnel Office (1BP), General Services Administration, John W. McCormack Post Office and Courthouse, Boston, MA 02109, Area Code 617-223-2624.

Region 2

Regional Personnel Office (2BP), General Services Administration, 26 Federal Plaza, New York, NY 10007, Area Code 212-264-8318.

Region 3

Regional Personnel Office (3BP), General Services Administration, 9th and Market Sts. Rm. 4203, Philadelphia, PA 19107, Area Code 215-597-1351.

Baltimore Area Office, Federal Building, Room 110B, Baltimore, MD 21201, Area Code 301-962-4357.

Region 4

Regional Personnel Office (4BP), General Services Administration, Richard B. Russell Building, 75 Spring Street SW., Atlanta, GA 30303, Area Code 404-221-5127.

Region 5

Regional Personnel Office (5BP), General Services Administration, 230 South Dearborn Street, Chicago, IL 60604, Area Code 312-253-5550.

Region 6

Regional Personnel Office (6BP), General Services Administration, 1500 E. Bannister Road, Kansas City, MO 64131; Area Code 816-926-7206.

St. Louis Area Office, 9700 Page Boulevard, Overland, MO 63132, Area Code 314-268-7273.

Region 7

Regional Personnel Office (7BP), General Services Administration, 819 Taylor Street, Fort Worth, TX 76102, Area Code 817-334-2366.

Region 8

Regional Personnel Office (8BP), General Services Administration, Denver, CO 80225, Area Code 303-234-2346.

Region 9

Regional Personnel Office (9BP), General Services Administration, 525 Market Street, San Francisco, CA 94105, Area Code 415-556-6527.

Region 10

Regional Personnel Office (10BP), General Services Administration, GSA Center, Auburn, WA 98002, Area Code 206-833-5212.

GSA/HRO-7 (23-00-0027)

SYSTEM NAME:

Motor Vehicle Operator Applications.

SYSTEM LOCATION:

This system of records is maintained in the personnel offices of GSA at the addresses listed in the appendix for the Office of Personnel following this notice and in the offices of all designated officials who require such forms prior to issuing a U.S. Government Motor Vehicle Operator's Identification Card.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees who require the issuance of a motor vehicle operators license.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. SF 47, Physical Fitness Inquiry for Motor Vehicle Operators.
2. SF 78, Certificate of Medical Examination.
3. GSA 1293, Application for Motor Vehicle Operator's Identification Card (SF 46).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To assess the ability of an employee to safely operate a Government motor vehicle and to determine the issuance of a government drivers license (SF 46).

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To disclose information to a Federal agency, in response to its request, is connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision of the matter.

f. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

h. to disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

j. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

k. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide system, they will be considered as a part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

l. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinest or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 18th & F Sts. NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they ar a part of this system of records from the designated official or from their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following this notice or from the Director of Personnel at the address noted above, whichever is applicable. Former employees may obtain information from the personnel officer at the addressed listed in the appendix.

RECORD ACCESS PROCEDURES:

Requests from current employees to gain access to information pertaining to them should be directed to the designated official or to their personnel officer at the appropriate address listed in the appendix for the Office of Personnel following this notice or to the Director of Personnel at the address noted above, whichever is applicable. Former employees should direct requests to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to systems of records, contesting the contents of a system of record, and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The employee, designated officials, and physicians.

GSA/HRO-8 (23-00-0026)

SYSTEM NAME:

Credentials, Passes, and Licenses.

SYSTEM LOCATION:

This system of records is maintained by the Director of Administrative Services, 18th & F Sts. NW., Washington, DC and by the regional Administrative Services Divisions as listed in the appendix following notice GSA/HRO–9.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees whose assigned responsibilities require the issuance of credentials for identification and security purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. GSA Form 15, Weekend and Holiday Pass (Various personal characteristics).
2. GSA Form 22, Employee Identification Credential-Regional (Photo, name, birth date, Social Security Number (SSN), description of individual, issuance date, serial number, employee signature, and issuing official).
3. GSA Form 47, Physical Fitness Inquiry for Motor Vehicle Operators (Name, date of birth, title of position, home address, agency, medical inquiry, applicant's signature, date, signature of designated official, date).
4. GSA Form 48, Request for and Record of Credential or Pass (Name, description of individual, and place of employment).
5. GSA Form 208, Employee Identification Card (Name, service, and date of issuance).
6. GSA Form 277, Employee Identification and Authorization Credential-General (Photo, signature of bearer, name of employee, signature of issuing official, date issued, identification serial number, SSN, and date of birth).
7. GSA Form 1293, Application for Motor Vehicle Operator's identification Card (SF 46) (Name, organization, type of SF 46 applied for, previously issued SF 46 by GSA, mailing address, type of vehicle, personal data and driving record, applicant's signature and date, physical fitness certification by signature of certifying official, certification of eligibility by signature of certifying official).
8. GSA Form 1315, Civil Defense Identification Card Data (Name, address, and personal characteristics).
9. SF 138, Civil Defense Identification Card (Name, service, and ID number).
10. OF 7, Property Pass (Name, building, description of property, agency, and effective date).
11. OF 55, U.S. Government Identification.
12. GSA Form 2941, Parking application (Name, address, agency, correspondence symbol, office telephone number, and length of service).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To facilitate the issuance and control of cards, parking permits, building passes, drivers licenses, and similar credentials.

b. To disclose pertinent information to the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structed in such a way as to make the data individually identifiable by influence.

g. To disclose information to the Office of Management and Budget in

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connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in the circular.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

j. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

k. To the extent that official personnel records in the custody of GSA are covered within systems or records published by the Office of Personnel Management as Government-wide records, they will be considered as a part of that Government-wide system. Other official personnel records covered by notices, published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

m. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper forms.

RETRIEVABILITY:

Name.

SAFEGUARDS:

When not in use by an authorized person, these records will be stored in lockable metal file cabinets or in secured areas.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for this system is the Director of Administrative Services, 18th & F Sts. NW., Washington, DC 20405. Since this is a geographically dispersed system, individuals may gain access to it by contacting the officials at locations as listed in the appendix following notice GSA/HRO-9.

NOTIFICATION PROCEDURE:

The address of the agency offices to which inquires should be addressed and addresses of locations at which the individual may present a request as to whether a system contains records pertaining to himself or herself is the same as that shown in the appendix following notice GSA/HRO-9. Individuals should provide name, social security number, period of employent, and position held to assist the office in locating the record.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to an contesting records form the Director, Office of Administrative Services, or Regional Director, Administrative Services Division, as shown in the appendix following notice GSA/HRO-9.

CONTESTING RECORD PROCEDURES:

GSA rules for access to system of records, contesting the contents of system of record, and appealing initial determination are promulgated in 41 CFR 105-64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Information is provided by employee being issued credential and issuing official.

GSA/HRO-9 (23-00-0104)

SYSTEM NAME:

Emergency Notification Rosters and Files.

SYSTEM LOCATION:

This system of records is maintained in the Office of Administrative Services, 18th & F Sts. NW., Washington, DC and in the regional Administrative Services Divisions listed in the appendix following this notice. In addition, subsidiary records are maintained by the Central Office and regional offices which have provided input into this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA officials at division director level and above, and GSA officials and employees with emergency assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of GSA Form 2177, Roster of GSA Officials; employee emergency assignments; and essential residence telephone service. Information includes name, office and home telephone numbers, home address, title and emergency assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To maintain current directory information on key GSA regional office officials or for use by the Central Office contact point during weekends, holidays, and emergencies; provide essential telephone service to key employees during emergencies; and to notify officials and employees under emergency conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

j. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

k. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

l. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide records, they will be considered as a part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

m. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

When not in use by an authorized person, these records will be stored in lockable metal file cabinets, or in secured areas, except for cascade lists which are kept in the possession of each applicable individual.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The official with overall responsbility for the system of records is the Director of Administrative Services, 18th & F Sts., NW., Washington, DC 20405. Officials responsibile for the regional system of records are the applicable regional directors as shown in the appendix following this notice.

NOTIFICATION PROCEDURE:

Employees may obtain information as to whether they are part of this system of records from the Director of Administrative Services or the applicable regional director as shown in the appendix following this notice.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to records from the Director of Administrative Services or the applicable regional director listed in the appendix following this notice.

CONTESTING RECORD PROCEDURES:

GSA rules for access to system of records, contesting the contents of a system of record and appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information is provided by subject individuals, their supervisors, or the applicable service and staff office.

GSA/HRO-10

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

These records are located in the personnel offices of GSA at the location listed in the appendix following the notice GSA/HRO-6 or designated offices in GSA in which the grievances were filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees who have submitted grievances with GSA in accordance with part 771 of the Office of Personnel Management (OPM) Regulations (5 CFR 771) or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under part 771 of the OPM regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that are established through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, and 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p218; E.O. 10987; 3 CFR 1959–1963 Comp., p519.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, proscuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purposes(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security of suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By GSA or the Office of Personnel Management in the production of summary description statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published

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statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

j. To an expert, a consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel, 18th and F Streets NW., Washington, DC 20405. Mailing address: General Services Administration (HP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the GSA personnel, or other designated office, where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case and kind of action taken, and the organization component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the GSA personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case and kind of action taken, and organization component involved. Individuals requesting access must also follow the GSA regulations as outlined in 41 CFR 105–64 regarding access to records.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determine if the record accurately documents the action of GSA's ruling on the case and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment to their records to correct factual errors should contact the GSA personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case and kind of action taken, and organizational component involved. Individuals must also follow the GSA Privacy Act regulations regarding amendment to records (ADM 7900.4).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual on whom the record is maintained, by testimony of witnesses, by agency officials, and from related correspondence from organizations or persons.

Appendix GSA/HRO Addresses of Locations of Administrative Services Divisions

Central Office

Office of Administrative Services (HR), General Services Administration, 18th and F Streets NW., Washington, DC 20405.

Regional Offices

Region 1: Director, Administrative Services Division (1BR), General Services Administration, McCormack Post Office and Courthouse, Boston, MA 02109.

Region 2: Director, Administrative Services Division (2BR), General Services Administration, 26 Federal Plaza, New York, NY 10007.

Region 3: Director, Administrative Services Division (3BR), General Services Administration, Ninth and Market Streets, Philadelphia, PA 19107.

National Capital Region: Director, Administrative Services Division (WBR), General Services Administration, 7th and D Streets SW., Washington, DC 20497.

Region 4: Director, Administrative Services Division (4BR), General Services Administration, Richard B. Russell Building, Atlanta, GA 30303.

Region 5: Director, Administrative Services Division (5BR), General Services Administration, 230 South Dearborn Street, Chicago, IL 60604.

Region 6: Director, Administrative Services Division (6BR), General Services Administration, 1500 E. Bannister Road, Kansas City, MO 64131.

Region 7: Director, Administrative Services Division (7BR), General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.

Region 8: Director, Administrative Services Division (8BR), General Services Administration, Denver Federal Center, Bldg. 41, Denver, CO 80225.

Region 9: Director, Administrative Services Division (9BR), General Services Administration, 525 Market Street, San Francisco, CA 94105.

Region 10: Director, Administrative Services Division (10BR), General Services Administration, GSA Center, Auburn, WA 98002.

GSA/HRO–37 (23–00–0110)

SYSTEM NAME:

Security Staff Files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant ot Executive Order 12065.

SYSTEM LOCATION:

The system in the Office of Security and Occupational Safety and Health, Office of Human Resources and Administration, GS Building, 18th and F Sts. NW., Washington, DC 20405.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of GSA and of commissions, committees, and small agencies serviced by GSA. Also included are historical researchers, experts or consultants, and employees of contractors performing services under GSA jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files contain information such as name, date and place of birth, address, social security number, education, occupation, experience, and investigatory material. These records are used as bases for issuance of security and ADP clearances; suitability determinations; and civil, criminal, and administrative action. Information security files contain records of security violations which may include employees' names and positions. These records are used for recommending administrative action against employees found to be in violation of GSA document security regulations. The assets protection files contain survey and inspection reports of all GSA owned or leased facilities and may include employees' names and positions. These records are used for recommending assets protection measures and procedures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, April 27, 1953, as amended; Executive Order 12065, June 28, 1978; 31 U.S.C. 686; and 40 U.S.C. 318(a) through (d).

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigation, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card file folders.

RETRIEVABILITY:

Retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident.

SAFEGUARDS:

Records are stored in locked alarmed vault type room and/or three-way combination dial safes with access limited to authorized personnel. Information is released only to authorized officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of records is in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2). Records are destroyed by burning, pulping, or shredding.

SYSTEM MANAGER AND ADDRESS:

The official responsible for the system is the Director, Office of Security and Occupational Safety and Health, Office of Human Resources and Organization, 18th and F Streets NW., Washington, DC. Mailing address: General Services Administration (HS), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other Government agencies, employees references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the act.

GSA/PPFM-1 (23-00-0032)

SYSTEM NAME:

Disbursement and accounts payable files.

SYSTEM LOCATION:

The system is located in the General Services Administration Central Office service and staff offices and other GSA offices at the addresses listed in the appendix following notice GSA/PPFM–6.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides for reporting each account's status. Accordingly, records may include but are not limited to name, address, telephone number, vendor identification number, and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 65 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent necessary the records are available outside GSA to monitor and document adverse action proceedings, and advise on credit inquiries. The routine use statements A, D, and E, described in the appendix following the GSA notices, also apply to this system of records.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders and card files.

RETRIEVABILITY:

Filed alphabetically by name or identifying number.

SAFEGUARDS:

Stored in guarded buildings and/or in areas controlled by authorized personnel.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2)

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Systems Branch, Communications and ADP Accounting Division, General Services Administration, 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administrations (BCNP), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Individuals may obtain information about whether they are part of this system of records from the finance office at the appropriate address listed in the appendix following the notice GSA/PPFM-6 or the Chief, Financial Systems Branch, at the above address.

RECORD ACCESS PROCEDURE:

Request to access records should be directed to the finance officer at the appropriate address listed in the appendix following notice GSA/PPFM-6. Inquiries should provide full name, social security number, vendor number, address, and telephone number and appropriate dates and transactions giving rise to the record. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURE:

GSA rules for access to records and for contesting the contents and appealing the initial determinations are promulgated in 41 CFR 105-64 published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The individuals themselves, employees, other agencies, management officials, and non-Federal sources such as private firms.

GSA/PPFM-2 (23-00-0033)

SYSTEM NAME:

Accounts receivable claims files.

SYSTEM LOCATION:

The system is located in the General Services Administration Central Office service and staff offices and other GSA offices at the addresses listed in the appendix following notice GSA/PPFM-6.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides for reporting each account's status. Accordingly, records may include but are not limited to name, address, telephone number, vendor identification number and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 65 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent necessary the records are vailable outside GSA to monitor and document adverse action proceedings, and advise on credit inquiries. The routine use statements A, D, and E, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders and card files and magnetic tape files.

RETRIEVABILITY:

Filed alphabetically by name or identifying number.

SAFEGUARDS:

Stored in guarded buildings and/or in areas controlled by authorized personnel.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial systems Branch, Communications and ADP Accounting Division, General Services Administration, 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (BCNP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Individuals may obtain information about whether they are part of this system of records from the finance office at the appropriate address listed in the appendix following notice GSA/PPFM-6 or the Chief, Financial Systems Branch, at the above address.

RECORD ACCESS PROCEDURES:

Request to access records should be directed to the finance officer at the appropriate address listed in the appendix following notice GSA/PPFM-6. Inquiries should provide full name, social security number, vendor number, address, and telephone number and appropriate dates and transactions giving rise to the record. For identification requirements, refer to agency regulations as outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing the initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The individuals themselves, employees, other agencies, management officials, and non-Federal sources such as private firms.

GSA/PPFM-3 (23-00-0034)

SYSTEM NAME:

Travel System.

SYSTEM LOCATION:

This system is located in the General Services Administration (GSA) Central Office service and staff offices and other GSA offices at the addresses listed in the appendix following notice GSA/PPFM-6.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include employees and former employees of GSA and other independent offices and commissions, such as Presidential commissions, serviced by GSA including those persons other than full time employees authorized to travel on Government business.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system provides control over expenditure of funds for travel and related expenses. Therefore, provisions are made to authorize travel, provide and account for advances, and to pay for travel costs. In this connection, the system contains records which may include, but are not limited to, name, social security number, residence address, dependents names and ages, duty stations, and itinerary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5701–5709.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, F, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders and card files and magnetic tape files.

RETRIEVABLILITY:

Filed alphabetically.

SAFEGUARDS:

Stored in guarded buildings and/or in areas controlled by authorized personnel.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll, Travel, and Property Liaison Branch, General Services Administration, 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (BCAP), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Current employees may obtain information about whether they are a part of this system of records from their supervisor or finance office at the appropriate address listed in the appendix or from the Chief, Payroll, Travel, and Property Accounting Liaison Branch, at the above address, whichever is applicable. Former employees may obtain information from the finance office at the appropriate address listed in the appendix following notice GSA/PPFM–6.

RECORD ACCESS PROCEDURES:

Requests to access records from current employees should be directed to the employee's supervisor, the appropriate regional finance offices, or to the Chief, Payroll, Travel, and Property Accounting Liaison Branch, at the address listed in the appendix following GSA/PPFM–6. Former employees should direct requests to access records to the appropriate regional finance officer or the the Chief, Payroll, Travel, and Property Accounting Liaison Branch, at the address listed in the appendix following notice GSA/PPFM–6. For written request, former employees should provide full name, social security number, address, and telephone number, and approximate dates and places of employment. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA Rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, other agencies, management officials, and non-Federal sources such as private firms.

GSA/PPFM–4 (23–00–0035)

SYSTEM NAME:

Manpower and Payroll Statistics System (MAPS).

SYSTEM LOCATION:

The system is located in the General Services Administration Central Office service and staff offices and other GSA offices at the addresses listed in the appendix following notice GSA/PPFM–6.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include employees and former employees of the General Services Administration including those persons in intern, youth employment, and work study programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Manpower and Payroll Statistic System (MAPS) is a comprehensive computerized payroll and personnel statistics information system with the dual purposes of paying employees salaries and providing for related accounting and statistical reporting. Thus, MAPS achieves multiple benefits from each data element introduced into the system which is patently designed to meet payroll and personnel statistics needs of all types and sizes of Government departments, agencies, bureaus and commissions. To accomplish the above, MAPS can and does provide a number of outputs to the payroll office such as a comprehensive payroll, detail accounting distribution of costs, annual—LWOP—sick leave data reports summary, an employee's statement of earnings deductions and leave every payday for each employee, State and city unemployment compensation report, quarterly Federal and State tax report, W–2 wage and tax statements, and produces reports of withholdings and contributions.

For the personnel office, MAPS produces reports such as organization roster, classification survey lists, retention register, retirement lists, report of the Federal civilian employment, personnel change listing, length of service and awards lists, and listing of within grade increases.

Records consist of information accumulated by operating officials as well as personnel and finance officials in administering payroll and personnel matters for or about employees. In addition the system contains data necessary to perform detail accounting distributions and to automatically provide for such tasks as mailing checks and bonds, and preparing and mailing tax returns and reports. Accordingly the system contains a large number of records which may include, but are not limited to, name, social security number, date of birth, sex, region and agency, veterans preference, tenure group, service computation date, physical handicap, agency transferred to (former employee), position title, position classification number, supervisory code, organization location, geographic location—State or continent, geographic location—city, geographic location—county or country, type of appointment, occupation code, pay plan, grade, step, annual salary-table, hourly salary, second shift differential-rate, third shift differential rate, post differential, quarters allowance, cost of living allowance, hazardous duty allowance, within-grade beginning date, days worked since last step increase, date of next within-grade eligibility, within-grade withheld date, full-time/part-time intermittent code, pay rate determinate, employment limits—expiration date, employment limits—total hours, employment limits—balance of hours, employment limits—total salary, employment limits—balance of salary, Government life insurance code, type of retirement status code, normal hours, accounting distribution fund code (designates specific appropriation or revolving fund to be charged), accounting distribution allotment or general ledger account, accounting distribution location facility, accounting distribution craft code, accounting distribution object class, wage board shift differentials, sick leave award, in-out of DC., retirement annuity, date of last past period, State tax code, State tax exemptions, Federal tax exemptions, Federal tax marital status/options or additional withholdings, Federal employee health benefits plan number,

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Federal health benefits employee share of costs, balance of terminal leave repayment, per pay period terminal leave repayment, balance of Internal Revenue levy, per pay period Internal Revenue levy, union codes and dues, charity codes and amounts, other deduction code and amount, residence code, shift code, severance pay—total entitled and unpaid balance, check mail code, premium pay percent code, savings allotments deductions amounts, constant for deducting regular Government life insurance, wage board schedule number, days worked calendar year-to-date, review date—detail, review date—temporary promotion, review date—temporary position, position occupied, promotion exception, U.S. citizenship, Federal employees health benefits Government share of costs, competitive service level, permanent from date, entered on duty date, date entered present grade, probationary period beginning date, educational level, degree—year and academic discipline, city tax code, city tax deduction, city tax deduction calendar year-to-date, military retired pay grade, military service retired from, military retirement date, calendar year-to-date (cytd) base salary, cytd night differential, cytd post differential, cytd holiday pay, cytd Sunday premium pay, cytd post differential, cytd quarters allowance, cytd cost of living, cytd awards, cytd education allowance, cytd terminal leave, cytd other earnings, cytd gross pay, cytd retirement, cytd Federal tax, cytd savings bond, cytd FICA deduction, cytd FICA gross, cytd Internal Revenue levy, cytd leave repayment, cytd union dues, cytd charity deductions, cytd savings allotments, cytd health insurance—employee share and Government share, cytd State taxes, cytd Government life insurance employee deduction and Government deduction, cytd other deduction, cytd net pay, cytd severance pay, leave category, annual leave (AL) ceiling, AL carry-over, AL credited, AL used year-to-date (ytd), AL credit balance, AL earned ytd, AL earned balance, sick leave (SL) carry-over, SL credited ytd, SL used ytd, SL balance, compensatory leave (CL) earned ytd, CL used ytd, CL balance, leave without pay (LWOP) used ytd, LWOP used since date shown for last step increase, LWOP carryover, absent without authorized leave (AWOL) used ytd, AWOL used since last step increase, military leave (ML) ytd, court leave ytd, other leave ytd, net terminal leave hours, ML used prior year, bond denomination, bond deduction, bond accumulated balance, bond direct mail code, bond designee number (refers to an individual), bond designee counter (shows which designee is to appear on next bond issued), bond issue date, Mr.—Mrs. Miss code, bond owner name (may be employee or another person such as a child), bond owner social security number, bond address line 1, bond address line 2, bond address line 3, W–2 street address, W–2 city-State-zip codes, savings allotments (SA) institution name, SA bank identification, SA bank employee account number, SA address line 1, SA bank address line 1, SA bank address line 2, SA bank zip code, net pay deposit for employee (NPD) bank name, NPD employee account number, NPD bank identification—composite checks, NPD bank address line 1, NPD bank address line 2, NPD bank zip code, check direct mail address and zip code pay, earnings history by pay period, and year-to-date cumulative earnings and deduction records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Part III, is the authority for the overall system. Specific authority for use of Social Security numbers is contained in Executive Order 9397, 26 CFR 31.6011(b)–2, and 26 CFR 31.6109–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses of records maintained in the system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Assistant Administrator for Plans, Programs, and Financial Management, General Services Administration (B), Washington, DC 20405.

To the extent necessary, records are available outside GSA to monitor and document grievance proceedings, EEO complaints, and adverse actions; to provide references to other agencies and persons for employees seeking employment elsewhere; to conduct counseling sessions; and to prepare biographical sketches of employees for release to other agencies and persons.

Some routine uses of MAPS output data are shown by examples listed below:

1. SF 1150 Leave transcript: The SF 1150 is printed when an employee separates from an agency and is transferred along with the employee to wherever his or her destination may be. This is the primary vehicle by which an employee's leave is transferred from one agency to another. Information is provided for annual and sick leave, military leave, health benefits, and Government life insurance;

2. Alphabetical listing of employees: The alphabetical listing is a monthly general use printout of all employees arranged alphabetically by last name. The listing contains information of interest to both payroll and personnel, and it serves as a handy reference in place of the official personnel folders to locate employees, verify employment and to supply basic employment information to answer questions for credit and other purposes outside GSA;

3. Alpha listing of employees by service: This report is identical to the alphabetical listing of employees except that is sorted by the service in which the employee is located. The report contains the basic personnel employment record for each listed employee; therefore, the report is used in the same manner as the alphabetical listing of employees to locate employees, verify employment, and to supply basic employment information for credit and other purposes rather than refer to an employee's official personnel folder;

4. Organization Roster. The organizational roster is a monthly listing of all employees by their organizational location. A separate report is produced for the Central Office and each of the 11 regions. The uses of this listing are the same as those for the alphabetical listing of employees and the alpha listing of employees by service except this report is better for showing an accurate picture or the organizational structure of an office or other units;

5. Retention register: The retention register is a listing of all employees grouped by the factors which determine retention rights for reduction in force (RIF) purposes;

6. Executive health maintenance list: The executive health maintenance list is a listing of all employees over 40 years of age who are qualified for the Executive Health Maintenance Program according to parameters set by each region. The listing is available upon request to management officials and Health Unit officials on a need-to-know basis.

7. The routine use statements A, B, C, D, E, F, and G, described in the

appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files, microfilm records in reels and cabinets, magnetic tapes and cards in cabinets and storage libraries, computer records within a computer and attached equipment.

RETRIEVABILITY:

Filed alphabetically by name, by social security number, or both methods at each location for each person.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal containers or in secured rooms.

RETENTION AND DISPOSAL:

Dispositions of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Staff, Finance Division, General Services Administration (6BCS), 1500 E. Bannister Road, Kansas City, MO 64131.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are part of this system of records from their supervisor or from their personnel office at the appropriate address listed in appendix following notice GSA/PPFM–6 or from the Director of Personnel at General Services Administration, 18th & F Sts. NW., Washington, DC 20405 whichever is applicable. Former employees may obtain information from the Director of Personnel or the Chief of the Systems Staff at the above listed address.

RECORD ACCESS PROCEDURES:

Requests to access records from current employees should be directed to the employees' supervisor or to the personnel officer at the address in the appendix noted below or to the Director of Personnel or the Chief of the Systems Staff at the address noted above, whichever is applicable. Former employees should direct requests to access records to the personnel officer at the proper address listed in appendix following notice GSA/PPFM–6 or the Director of Personnel or the Chief of the Systems Staff at the address noted above, whichever is applicable. For written requests, former employees should provide full name, social security number, address, and telephone number, and approximate dates and place of employment. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, other agencies management officials, and non-Federal sources such as private firms.

GSA/PPFM–5 (23–00–0036)

SYSTEM NAME:

Payroll and time and attendance reporting system.

SYSTEM LOCATION:

The system is located in the General Services Administration Central Office service and staff offices and other offices wherever there are timekeepers and at the addresses listed in the appendix following notice GSA/PPFM–6.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides for reporting each employee's status as either on the job time or as paid or unpaid time including absences without authorized leave. Accordingly, records include but are not limited to name, home address, telephone number, work location, social security number, hours of duty and attendance information for processing of the data to the Manpower and Payroll Statistics System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Part III, is the authority for the overall system. Specific authority for use of Social Security Number is contained in Executive Order 9397.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent necessary, the records are available outside GSA to monitor and document grievance proceedings, EEO complaints, and adverse actions; and to conduct counseling sessions. The routine use statements A, B, C, D, E, F, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in filed folders and card files.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Stored in guarded buildings and/or in areas controlled by authorized personnel.

RETENTION AND DISPOSAL:

Dispostion of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll, Travel, and Property Accounting Liaison Branch, General Services Administration, 18th and F Streets NW., Washington, DC 20405. Mailing address: General Services Administration (BCAP), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are part of this system of records from their supervisor or from the Chief, Payroll, Travel, and Property Accounting Liaison Branch, Office of Finance, at the General Services Administration, 18th & F Sts. NW., Washington, DC 20405, whichever is applicable. former employees may obtain information at the address listed above.

RECORD ACCESS PROCEDURES:

Requests from current or former employees to access records should be directed to the employees' supervisor or to the Chief, Payroll, Travel, and Property Accounting Liaison Branch, Office of Finance, at the address noted above, whichever is applicable. For written request, former employee should provide full name, social security number, address, and telephone number, and approximate dates and places of employment. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and appealing initial determinations are promulgated in 41 CFR 105–64 published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, other agencies, management officials, and non-Federal sources such as private firms.

GSA/PPFM-6 (23-00-0100)

SYSTEM NAME:

Employee credit reports GSA/OAD.

SYSTEM LOCATION:

The system is located in the General Services Administration, Office of Finance, Financial Management Division, Credit and Finance Branch, 18th & F Sts. NW., Washington, DC 20405.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees who have refused to abide by the terms of their training agreement and/or other employment related contracts, and thereby have incurred a liability to the Government. If appropriate, similar information will be gathered on spouses.

CATEGORES OF RECORDS IN THE SYSTEM:

The categories of records are as follows: Name and address; age; number of dependents; name of employer; nature of business; position held/length held; full time or part-time employment; prospects for continued permanent employment; net worth and what it consist of; annual earned income; additional income; reputation; credit record; and financial record and personal history. Records are used in GSA to investigate employees who have defaulted on employment related contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 951-953.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referred to GAO. The routine use statement A described in the appendix following the GSA notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

The records for both GSA and the contractor will be stored on paper.

RETRIEVABILITY:

The records within the system will be kept in alphabetical order by name.

SAFEGUARDS:

All correspondence between GSA and the contractor will be secured in a locked cabinet in the Credit and Finance Branch. Only those people designated authority will handle this data. The contracor will retain his or her records in a secured office.

RETENTION AND DISPOSAL:

Disposal is in accordance with HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Credit and Finance Branch, Financial Management Division, Office of Finance, 18th & F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (BCFC), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Information may be obtained from the official listed above.

RECORD ACCESS PROCEDURES:

Procedures for contesting records are contained in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

Procedures for access to records are contained in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Credit companies, individuals, employers/supervisors, former employers, banks, and GSA contracted credit investigators.

Appendix GSA/PPFM Addresses of Locations

Central Office, Office of Plans, Programs, and Financial Management, Office of Finance, GS Building, Room 3127, 18th and F Streets NW., Washington, DC 20405.

Automated Data and Telecommunications Service, Financial Management Division, GS Building, Room 1204, 18th & F Sts. NW., Washington, DC 20405.

Federal Supply Service, Office of Executive Director, Crystal Mall, Building 4, 1941 Jefferson Davis Highway, Room 1111, Arlington, VA 20406.

National Archives and Records Service, Office of Executive Director, Archives Building, 7th & Pennsylvania Ave., NW., Room 106, Washington, DC 20408.

Public Buildings Service, Office of Executive Director, GS Building, Room 6340, 18th & F Sts. NW., Washington, DC 20405.

Regional Offices

National Capital Region (NCR), Finance Division, General Services Administration, 7th and D Sts. SW., Washington, DC 20407.

Region 1

Finance Division, General Services Administration, John W. McCormack, Post office and Courthouse, Boston, MA 02109.

Region 2

Finance Division, General Services Administration, 26 Federal Plaza, New York, NY 10007.

Region 3

Finance Division, General Services Administration, 9th and Market Streets, Room 1350, Philadelphia, PA 19107.

Baltimore Area Office, Federal Building, Room 110B, Baltimore, MD 21201.

Region 4

Finance Division, General Services Administration, 75 Spring St. SW., Atlanta, GA 30303.

Region 5

Finance Division, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604.

Region 6

Finance Division, General Services Administration, 1500 E. Bannister Road, Kansas City, MO 64131.

St. Louis Area Office, 9700 Page Boulevard, Overland, MO 63132.

Region 7

Finance Division, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.

Region 8

Finance Division, General Services Administration, Denver Federal Center, Bldg. 41, Denver, CO 80225.

Region 9

Finance Division, General Services Administration, 525 Market Street, San Francisco, CA 94105.

Stockton Area Office, Building 414, Rough and Ready Island, Stockton, CA 95204.

Region 10

Finance Division, General Services Administration, GSA Center, Auburn WA 98002.

GSA/ADM-24 (23-00-0024)

SYSTEM NAME:

Investigation Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 11652.

SYSTEM LOCATION:

The system is located in the Office of Inspector General, 18th and F Streets NW., Washington, DC 20405.

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of GSA and commissions, committees, and small agencies serviced by GSA. Also included are historical researchers, employees of contractors performing custodial or guard services in buildings under GSA jurisdiction, individuals who were the source of an individual complaint or an allegation that a crime had taken place, witnesses having information or evidence on any side of an investigation, and identification of possible and actual suspects in the criminal, administrative, or civil actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files contain information such as name, date and place of birth, experience, and investigatory material. These records are used as a basis for issuance of subpoenas; security clearances; suitability determinations; and civil, criminal, and administrative actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. Section 2 et seq.; Executive Order 10405, April 27, 1953; Executive Order 11476, August 8, 1969; Executive Order 11652, March 8, 1972, Executive Order 11246, September 24, 1965; and 40 U.S.C. 276a through a–7, 276c, 318 (a) through (d), and 327 through 331.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used by GSA officials and representatives of other Government agencies on a need-to-know basis in the performance of their official duties under the authorities set forth above and also for the following routine uses:

1. *Law enforcement:* Records maintained by the Office of Inspector General may be disseminated in any of the following manners:

a. A record of any case in which there is an indication of a violation of law, whether civil, criminal, or regulatory in nature, may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

b. A record may be disseminated to a Federal, State, local, or foreign agency or to an individual organization in the course of investigating a potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

c. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

d. A record relating to a case or matter may be disseminated to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

e. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement or that involves a case or matter within the jurisdiction of any agency may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made or to make such other inquiries and reports as are necessary during the processing of the case or matter;

f. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

g. A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

h. A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letter of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; or

i. A record may be disseminated to the public, news media, trade associations, or organized groups when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi.

2. *Grievance, complaint, appeal:* A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

3. *Congressional inquiries:* A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

4. *Private relief legislation:* The information contained in this system or records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the circular.

5. *GSA agents:* A record from this system of records may be disclosed as a routine use (a) to an expert, a consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty and (b) to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident.

SAFEGUARDS:

Records are stored in locked alarmed vault type rooms and/or three-way combination dial safes with access limited to authorized personnel. Information is released only to authorized officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of records is in accordance with the HB, GSA Records

Maintenance and Disposition System (OAD P 1820.2). Records are destroyed either by burning or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Executive Director, Office of Inspector General, 18th and F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (JM), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager or to the Director of Information (XI), 18th and F Sts. NW., Washington, DC 20405.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the Executive Director, Office of Inspector General, and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other government agencies, employers, references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(j), this system of records is exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (i) of the act, to the extent that information in the system pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (1) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (2) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (3) reports of enforcement of the criminal laws, from arrest or indictment through release from supervision. This system is exempted to maintain the efficacy and integrity of the Office of Inspector General's law enforcement function.

In accordance with 5 U.S.C. 552a(k), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the act, under an implied promise that the identity of the source would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the act, under an implied promise that the identity of the source would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Office of Inspector General's law enforcement responsibilities and responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

GSA/OEA-1 (23-00-0103)

SYSTEM NAME:

Defunct Agency Records.

SYSTEM LOCATION:

The system records are located in the GSA Regional Office Building, 7th & D Sts., SW, Washington, DC 20407, and the National Payroll Center, Kansas City, KS.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of defunct agencies, including but not limited to Presidential Commissions, committees, small agencies, and boards, the records of which were serviced by GSA under a reimbursable administration support agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll and financial records including but not limited to time and attendance cards, payment vouchers, comprehensive listing of employees, health benefits records, requests for deductions, tax forms, W-2 forms, overtime requests, leave data, retirement records, and vendor register and payment tapes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Economy Act, 31 U.S.C. 686 and the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by GSA personnel in concluding the administrative operations of the defunct agency. Routine uses of records maintained in the system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Regional Administrator, General Services Administration (WA), Washington, DC 20407. The request must include a copy of the applicable statute or ordinance authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Regional Administrator, General Services Administration (WA), Washington, DC 20407.

Records are also released to the General Accounting Office for audits, to the Internal Revenue Service for investigations, and to the Office of Personnel Management (OPM) concerning pay, benefits, retirement deductions, and other information necessary for the OPM to carry out its Government-wide personnel management functions.

The routine use statements A, B, C, D, E, F, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders and card files, microfilm records in reels and cabinets, magnetic tapes and cards in cabinets and storage libraries, and computer records within a computer and attached equipment.

RETRIEVABILITY:

Payroll records are retrieved by the social security number and all other records by name.

SAFEGUARDS:

When not in use by an authorized person, the records are stored in lockable metal containers or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records will be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2)

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Director, Agency Liaison Division, Regional Office Building, 7th and D Sts., SW., Washington, DC. Mailing address: General Services Administration (WXL), Washington, DC 20407.

NOTIFICATION PROCEDURE:

Requests for assistance should be made to the Director of Information, General Services Administration (AVI), Washington, DC 20405.

RECORD ACCESS PROCEDURES:

GSA procedures for record access are contained in 41 CFR 105–64. Address request in writing to the system manager. The legend "Privacy Act Request" shall appear on the letter and envelope.

CONTESTING RECORD PROCEDURES:

GSA procedures for contesting records are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Upon termination, the agency being serviced by GSA publishes a notice in the Federal Register transferring administration responsibilities for the records to GSA.

GSA/OGC. 2 (23–00–0040)

SYSTEM NAME:

Attorney Placement, GSA/OGC. This notice covers six unique systems of records of related subject matter.

SYSTEM LOCATION:

Each system is located in one of the following six offices; the supervisor in each of these six offices is the official who sets policies and procedures for the records in his or her own office; the General Counsel, L, and the Office of the Regional Counsels, Regions 1, 2, 5, 6, and 7. See appendix following notice OGC 6 for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each of the six systems covers attorneys and law students applying for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each of the six systems covers qualifications of applicants for legal positions; the General Counsel, L, and the Regional Counsels for Regions 1, 2, 5, 6, and 7 and other authorized OGC employees use the records in their respective offices to fill vacancies and new positions with qualified applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Each of the six systems is authorized by 5 U.S.C. 3101 and the Federal Property and Administrative Service Act of 1949 as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper.

RETRIEVABILITY:

Manual by name.

SAFEGUARDS:

File folders are kept in guarded buildings and released only to authorized persons.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 18202.2).

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for the six systems are respectively: General Counsel, L; and Regional Counsels, Region 1, 2, 5, 6, and 7 for records within their offices. See appendix following notice OGC 6 for addresses.

NOTIFICATION PROCEDURE:

GSA notification procedures are contained in 41 CFR 105–64.

RECORD ACCESS PROCEDURES:

GSA procedures for record access are contained in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting records are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Information in each of the six systems comes from one of the following sources: Applicants, placement offices, and interviewers.

GSA/OGC 4 (23–00–0042)

SYSTEM NAME:

General Law Files, GSA/OGC. This notice covers 22 unique systems of records involving related subject matter.

SYSTEM LOCATION:

The General Law Files of OGC are divided into 22 unique systems of related subject matter. Each system is located in one of the following 22 offices; the supervisor in each of these 22 offices is the official who sets policies and procedures for the records in his own office: L, LL, LB, LC, LE, LF, LM, LP, LR, LT, LX, and office of the Regional Counsels, Regions 1–10 and the National Capital Region, for records in their respective offices. See appendix following notice OGC 6 for addreses.

For information on the location of specific law files contact L at the address listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each of the 22 systems covers one or more of the following categories of individuals:

GSA employees, past and present; other agency employees, members of the public (including individuals, corporations, and firms); witnesses in regulatory proceedings; persons who have made Freedom of Information and Privacy Act requests and persons about whom such requests have been made; persons pursuing tort claims or involved in litigation with GSA; and grievances under collective bargaining agreement appellants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each of the 22 systems covers one or more of the following categories of records: Among other data, name of individual; position description; grade; salary; SSN; work history; complaint; history of the case; applicable law; working papers of attorney; testimony of witnesses; background investigation materials; records subject to complaint, request, or litigation; correspondence; damage reports; contracts; accident reports; GSA Form 1593; SF 91; SF 91A; SF 92; pleadings; affidavits; credit ratings; medical diagnoses and prognoses; doctor's bills; estimates of repair costs; invoices; litigation reports; and financial data. Records are used to give general legal advice, as requested, throughout GSA, and to prepare attorneys for hearings and trials, to reference past actions, and to maintain internal statistics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Each of the 22 systems is authorized by one or more of the following statutes or Executive Orders:

Federal Property and Administrative Services Act of 1949, 63 Stat. 377 as amended; Freedom of Information Act, 5 U.S.C. 552 as amended; the Privacy Act of 1974, 5 U.S.C. 552a; 5 U.S.C., Part II (Civil Service Commission); 5 U.S.C., Chap. 33 (examination, selection and placement); Equal Employment Opportunity Act of 1972, 86 Stat. 103, 5 U.S.C. 5108, 5314–5316 and 42 U.S.C. 20003, et seq.; 5 U.S.C. 7151–7154 (antidiscrimination in employment); 5 U.S.C. 7301 (regulation of conduct); 5 U.S.C. 7501, note (adverse actions); 5 U.S.C., Chapter 77 (appeals); title 11 U.S.C. (bankruptcy); Federal Tort Claims Act, 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110, 2401(b), 2402, 2411(b), 2412(c), 2671–2680; 1 Stat. 515, 676, 31 U.S.C. 191 (debts owed by or due to U.S.); Federal Claims Collection Act of 1972, 80 Stat. 308–309; 31 U.S.C. 951–953, 78 Stat. 767, 768, 79 Stat. 789, 82 Stat. 998, 84 Stat. 412, 86 Stat. 491, 31 U.S.C. 240–243 (settlement of claims); E.O. 6166 Reorganization of Executive Agencies; E.O. 10577, Amending the Civil Service Rules and Authorizing a new Appointment System for the Competitive Service; E.O. 11491, Labor-Management Relations in the Federal Service; E.O. 11787, Revoking Executive Order 10987, Relating to Agency Systems for Appeals from Adverse Actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released to the Department of Justice in review, settlement, defense, and prosecution of claims, complaints, and law suits involving contracts, torts, debts, bankruptcy, personnel adverse action, EEO, unit determination, unfair labor practices, and Freedom of Information and Privacy Act requests. The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper.

RETRIEVABILITY:

Manual, by name.

SAFEGUARDS:

Records are stored in secured buildings; available to authorized persons only.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for the 22 systems are respectively:

General Counsel, L; Deputy General Counsel for Law, LL; Assistant General Counsels, LB, LC, LE, LF, LM, LP, LR, LT, LX and regional Counsels for Regions 1–10 and the National Capital Region. See appendix following notice OGC 6 for addresses.

NOTIFICATION PROCEDURE:

GSA notification procedures are contained in 41 CFR 105–64.

RECORD ACCESS PROCEDURES:

GSA procedures for record access are contained in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for record access are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Information in each of the 22 systems comes from one or more of the following sources: Federal employees and private parties involved in tort, contracts, personnel actions, unfair labor practices, and debts concerning the Federal Government; general law texts and sources; Dun and Bradstreet and other sources of financial information; law enforcement officers; witnesses; and others.

GSA/OGC 6 (23-00-0044)

SYSTEM NAME:

Potential employees referrals.

SYSTEM LOCATION:

LC. See appendix following notice GSA/OGC 6 for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment at GSA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Resumes, applications, recommendations, and replies, previous work history, reference checks, and notes. Used inside the agency in connection with litigation and hearings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Civil Service Rule 5, 5 CFR 5.1–5.4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, apply to this system of records. Also may be transferred to OPM, outside counsel, and respondents in connection with ongoing litigation and hearings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper.

RETRIEVABILITY:

Manually, by name.

SAFEGUARDS:

Stored in locked room in guarded building, accessible to authorized persons only.

RETENTION AND DISPOSAL:

At the termination of all litigation and hearings relevant to the records, records will be integrated into individual Official Personnel Folders, to the extent possible. The remaining records will be disposed of in accordance with normal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, LC. See appendix following notice GSA/OGC 6 for address.

NOTIFICATION PROCEDURE:

GSA notification procedures are contained in 41 CFR 105–64.

RECORD ACCESS PROCEDURES:

GSA procedures for record access are contained in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting records are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

GSA Personnel Office, the individual, persons who provided reference, former employees, and GSA employees involved in personnel work.

Appendix GSA/OGC Address of Locations

Office of General Counsel, Central Office Divisions located at the General Services Building, 18th and F Sts. NW., Washington, DC 20405. Business hours are 8:00–4:30 EST.

L—General Counsel, (202) 566–1200.

LL—Deputy General Counsel for Law, (202) 566–0050.

LA—Administrative Officer, (202) 566–0681.

LB—Assistant General Counsel, Public Buildings Division, (202) 566–0500.

LC—Assistant General Counsel Claims and Litigation Division (202) 566–1594.

LE—Assistant General Counsel Preparedness and Policy Division (202) 566–0528.

LM—Assistant General Counsel Labor Law Division (202) 566–1146.

LR—Assistant General Counsel Administration and Records Division (202) 566–1460.

LT—Assistant General Counsel Regulatory Law Division (202) 566–0750.

LX—Assistant General Counsel Automated Data and Telecommunications Division (202) 566–1156.

Office of General Counsel, Central Office Division (Transportation Audit), located at 425 I Street NW, Washington, DC 20406. Business hours are 7:45–4:15 EST.

LF—Assistant General Counsel Transportation Audit Division (202) 275–6101

Office of General Counsel, Central Office Division (Procurement), located at Crystal Mall, Building 4, Room 819, Washington, DC 20406. Business hours are 7:45–4:15 EST.

LP—Assistant General Counsel, Procurement Division, (202) 557–8417.

Office of General Counsel, Regional Offices located at National Capital Region—GSA Regional Counsel, 7th and D Streets SW., Washington, DC 20407, (202) 472–1809, 8:15–4:45 EST.

Region 1—GSA Regional Counsel, J. W. McCormack Post office and Courthouse, Boston, MA 02109, (617) 223–2621, 8:20–4:50 EST.

Region 2—GSA Regional Counsel, 26 Federal Plaza, New York, NY 10007.

Region 3—GSA Regional Counsel, 9th and Market Sts., Rm. 5214, Philadelphia, PA 19107, Area Code 215–597–1319, 8:00–4:30 EST.

Region 4—GSA Regional Counsel, 75 Spring St. SW., Atlanta, GA 30303, (404) 221–5105, 8:00–4:30 EST.

Region 5—GSA Regional Counsel, 230 S. Dearborn Street, Chicago, IL 60604, (312) 353–5392, 8:30–5:00 CST.

Region 6—GSA Regional Counsel, 1500 E. Bannister Road, Kansas City, MO 64131, (816) 926–7212, 8:00–4:30 CST.

Region 7—GSA Regional Counsel, 819 Taylor Street, Fort Worth, TX 76102, (817) 334–2325, 7:45–4:15 CST.

Region 8—GSA Regional Counsel, Building 41, Denver Federal Center, Denver, CO 80225, (303) 234–3813, 7:30–4:00 MST.

Region 9—GSA Regional Counsel, 525 Market Street, San Francisco, CA 94105, (415) 556–3963, 7:45–4:15 PST.

Region 10—GSA Regional Counsel, GSA Center, Auburn, WA 98002, (206) 833–5225, 7:30–4:00 PST.

GSA/NARS 1 (23-00-0046)

SYSTEM NAME:

Researcher Application Files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, Presidential libraries, Washington National Records Center, National Personnel Records Center, Federal Records Centers, and Federal archives and records centers. The addresses are listed in the appendix, following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers who apply to use records in the National Archives, Presidential libraries, and records centers.

CATEGORIES OF RECORDS IN THE SYSTEM.

Applications to use records including name, address, telephone number, occupation, research topic, education level, and field of interest. The records are used by officers and employees of GSA who have a need for the records in the performance of their duties to identify and record the individuals who use records in the National Archives and other repositories listed above, to provide a means of contacting the individual if additional information of research interest to him or her is found, and to mail notices of events and programs of interest to users of the records in the National Archives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held one year, and retired. After 14 additional years they are destroyed. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Avenue, NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the Directors of the Presidential Libraries, The Directors of the Federal Archives and Records Centers, and the Directors of Federal Records Centers at the addresses listed for these locations in the appendix following Notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropiate respository where individuals have used records.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National

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Archives, the directors of the Presidential libraries, the directors of Federal archives and records centers, or the directors of Federal records centers, depending on where individuals have used records. In person requests may be made during business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates records were used. For personal visits, the individual should be able to provide some acceptable identification, such as driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Researchers.

GSA/NARS 2 (23-00-0047)

SYSTEM NAME:

Reference request files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, Presidential libraries, Washington National Records Center, National Personnel Records Center, Federal records centers, and Federal archives and records centers. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers and correspondents requesting information from the records in the National Archives, Presidential libraries, and record centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, reference service slips, receipts for money, deposit account records, reproduction orders, reference logs, lending files, and reference files pertaining to requests for information, including all or parts of the following requester's name, address, telephone number, occupation, research topic, education level, and field of interest. Biographical material relating to the individuals who are the subject of the reference inquiries may also be included. The records are used by officers and employees of GSA who have a need for the records in the performance of their duties to record individual requests for information and the responses to those requests; to maintain control over information requests received and answered; to enable later contact with the requester if required; to assist in the preparation of standard replies to similar questions; to facilitate preparation of statistical and other reports; to establish researcher accountability for records; to maintain control of records being used; to record payment for reproduction orders; and funds placed on deposit; to record loans of materials or records from the above locations; to monitor Freedom of Information Act requests and prepare reports; and, when requested by the individual researcher, to write recommendations for researchers for grants or employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104 and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION OF DISPOSAL:

Records which are:

(1) Created in the administration of loans of materials are cut off after the return of the materials, held one year, and destroyed.

(2) Created in the process of providing reference service by mail are cut off annually, held two years, and destroyed.

(3) Created in the process of providing records to researchers in the National Archives research rooms are cut off annually, held one year and retired. After 14 additional years they are destroyed.

These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the Directors of the Presidential Libraries, the Directors of the Federal Archives and Records Centers, and the Directors of Federal Records Centers at the addresses listed for these locations in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records or directed inquires. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives, the Directors of the Presidential libraries, the Directors of Federal Archives and Records Centers, or the Directors of Federal Records Centers, depending on where individuals used records or directed inquiries. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates of the correspondence or transaction.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Researchers, correspondents, and employees of the National Archives.

GSA/NARS 3 (23-00-0048)

SYSTEM NAME:

Donors of historical materials files GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building and the Presidential libraries. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors and potential donors of papers or other historical materials to the National Archives and Presidential libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, deeds of gift, deposit agreements, accession files, accession cards, administrative files, inventory of museum objects, oral history use agreements, tapes, and transcripts, all of which are related to the solicitation and preservation of donations. Also included are biographical data on donors as well as their addresses, telephone numbers, and occupations. The records are primarily used by officers and employees of GSA who have a need for the records in the performance of their duties to record solicitation efforts and accessioning of papers and other historical materials for preservation in the above locations; to maintain control over the accessions program; to facilitate future solicitations of gifts; to record deeds of gift; and to record agreements of use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2107 and 2108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of records include releasing biographical material about donors and prospective donors to the public as well as the routine use statements A, B, C, E, and G, described in the appendix following the GSA notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders; sound recordings.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual donor.

SAFEGUARDS:

Buildings employ security guards, and records and other materials are maintained in areas accessible only to authorized personnel of NARS.

RETENTION AND DISPOSAL:

Records are permanent. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Presidential Libraries at the National Archives Building, and the Directors of the Presidential Libraries. The addresses are listed in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURES:

Information may be obtained from the officials cited above at the appropriate repository where individuals have donated materials or from which they have received requests for donations. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives or the Assistant Archivist for Presidential Libraries or the directors of Presidential libraries depending on which repository the individual has been associated with. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates of the correspondence or transaction. For personal visits the individual should be able to provide some acceptable identificated such as driver's license, employee identification card, etc. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Donors, potential donors, and employees of the National Archives.

GSA/NARS 4 (23–00–0049)

SYSTEM NAME:

National and Regional Archives Advisory Council files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, the Federal archives and records centers, and the regional archives headquarters. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former, current, and prospective Council members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with and biographical information about former, current, and prospective Council members including all or parts of the following: name, address, telephone number, education, professional vita, and publications. The records are used by officers and employees of GSA who have a need for the records in the performance of their duties to review professional qualifications of prospective council members; to document activities of the Councils themselves; to conduct future correspondence with Council members; to serve as a mailing list with current and past members; to record the individual Council members' role; and to help formulate Council policy.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Appendix I, Section 8.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Biographic material relating to Council members is made available to the public for purposes of publicizing the membership and activities of the Councils. The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

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RETENTION AND DISPOSAL:

Records are cut off after each meeting, held five years, and offered to the National Archives (Regional council files are destroyed after five years). These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eight and Pennsylvania Avenue NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Educational Programs at the National Archives Building, the Directors of the Federal Archives and Records Centers and the Assistant Regional Administrators, NARS. The addresses are listed in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate location in the region where individuals serve, have served, or might serve on the Council. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORDS ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives or to the Assistant Archivist for Educational Programs, or the Assistant Regional Administrators, National Archives and Records Service, depending on the location of the Council with which the individual has been associated. In person requests may be made during normal business hours listed for each location in the appendix, following Notice GSA/NARS 10. For written requests, the individual should provide full name, address, telephone number, and if applicable, dates of service. For personal visits, the individual; should be able to provide some acceptable identification, such as driver's license, employee identification card, etc. Only general inquires may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Former, current, and prospective Council members, association of Council members, and employees of the National Archives.

GSA/NARS 5 (23-00-0050)

SYSTEM NAME:

Conference and related activities files GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, the Presidential libraries, Washington National Records Center, National Personnel Records Center, Federal records centers, the Federal archives and records centers, and NARS regional headquarters offices. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants or potential participants in symposia, conferences, lectures, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about individuals involved in these activities including the individuals name, address, telephone number, area of expertise, research interest, occupation, education, and publications. The records are used by officers and employees of GSA who have a need for the records in the performance of their duties in the various archival programs indicated above; to provide a record of previous activities; to promote the use of archival materials; to provide mailing lists; to facilitate publication of the activity's proceedings; and to register persons attending the activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2105.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off after the event, held for one year, and destroyed. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2)

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Educational Programs at the National Archives Building, the directors of the Presidential Libraries, the directors of Federal Records Centers, and the Assistant Regional Administrators, National Archives and Records Service. The addresses are listed in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate location which sponsored the activity which the individual attended or in which he or she participated. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Educational Programs, the directors of Presidential libraries, the directors of Federal records centers, or the Assistant Regional Administrators, National Archives and Records Service. In person requests may be made during normal working hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, telephone number, and the dates of activity. For personal visits, the individual should be able to provide some acceptable identification such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Participants, attendees, and employees of the National Archives.

GSA/NARS 6 (23-00-0051)

SYSTEM NAME:

Mailing list files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, Presidential libraries, Washington National Records Center, National Personnel Records Center, Federal records centers, Federal archives and records centers, and NARS regional headquarters offices. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers, tourists, government officials, professional colleagues, professionals in related fields, such as librarians, teachers, associates of the National Archives and others with an interest in National Archives activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include telephone number, title, occupation, institutional affiliation and in the case of associates, type of membership. Records are used by officers and employees of GSA who have a need for the records in the performance of their duties, to address newsletters, announcements, programs, and material about special events; to bill researchers for reproduction orders; and to mail press releases and other information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2105, 2108, 2307, 2902, and 2904.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Where the proposed use is compatible with the purpose for which the mailing list was compiled, copies of the lists are occasionally provided to archival, historical, and records management associations whose purposes relate to the programs and aims of the National Archives and Records Service. The routine use statements A, E, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files, index cards, address plates, magnetic cards, punch cards, cassettes, and magnetic tape.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Lists are reviewed annually and updated. Outdated information is purged. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, the Assistant Archivist for Educational Programs and the Assistant Archivist for Records Management, all located in the National Archives Building. Other officials are the directors of the Presidential libraries, the directors of federal records centers, directors of Federal archives and records centers, and the Assistant Regional Administrator, National Archives and Records Service. The addresses for these locations are listed in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURES:

Information may be obtained from the officials cited above at the appropriate location in which the individual has expressed an interest or in which he or she has a potential interest. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, the Assistant Archivist for Educational Programs, the Assistant Archivist for Records Management, the directors of the Presidential libraries, the directors of the Federal records centers, or the Assistant Regional Administrator, National Archives and Records Service, depending on which archives activity the individual expressed an interest in. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, and telephone number, and the approximate date of communication with the repository. For personnel visits, the individual should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records, for contesting the contents, and for appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Individuals expressing an interest in archives activities and NARS employees.

GSA/NARS 7 (23-00-0052)

SYSTEM NAME:

Mandatory review of classified documents/request files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, Presidential libraries; Washington National Records Center, Federal records centers, and Federal archives and records centers. The addresses are listed in the appendix following GSA notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers requesting mandatory review of security classified documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications requesting mandatory review of classified documents including requestor's name, address, telephone number, occupation, employer, and research topic. Records are used by officers and employees of GSA who have a need for the records in the performance of their duties to record requests for access to security-classified records; to record status of each mandatory review request; to assist in preparation of monthly reports on mandatory declassification review requests; and to record action taken on requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11652, June 1, 1972.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held one year, and retired. After 14 additional years they are destroyed. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. N.W., Washington, DC 20408. Officials responsibile for the geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the Directors of the Presidential Libraries, the Directors of the Federal Archives and Records Centers, and the Directors of Federal Records Centers at the addresses listed for these locations in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have requested mandatory review of classified records. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential libraries, directors of Federal archives and records centers, and the directors of the Federal records centers, depending on where the individual requested the mandatory review. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10.

For written requests, the individual should provide full name, address, telephone number, and the approximate dates research was conducted. For personal visits, the individual should be able to provide some acceptable identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records, for contesting the contents, and for appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Researchers who have requested mandatory review of records.

GSA/NARS 8 (23-00-53)

SYSTEM NAME:

Restricted and classified records/access authorization files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, Presidential libraries, Washington National Records Center, National Personnel Records Center, Federal records centers, and Federal archives and records centers. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers who apply to use agency-restricted or classified records in the National Archives, Presidential libraries, and records centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and letters of authorization to use restricted/classified records, including name, address, telephone number, occupation, employer, security clearance, social security number, date and place of birth, purpose, field of interest, citizenship, intention to publish, and type of publication. Records are used by officers and employees of GSA who have a need for the records in the performance of their duties to control access to restricted materials; to maintain a record of requests for access; and to authorize access to restricted/classified matter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of records include disclosing records to officials of the agencies whose records are restricted as well as the routine use statements, A, B, C, E, and G, described in the appendix following the GSA notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored. by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records relating to private individuals requesting access are cut off annually, held one year, and retired. After 14 additional years they are destroyed. Records relating to agency officials requesting access are destroyed on supersession or obsolescence of the authorization document, or on transfer or separation of the individual concerned. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the Directors of the Federal Archives and Records Centers, and the Directors of Federal records Centers at the addresses listed for these locations in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have applied for access to records. The addresses are listed in the appendix, following notice GSA/NARS 10.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential libraries, directors of Federal archives and records centers, or the directors of the Federal records centers, depending on where the individual submitted his or her application for access to the records. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, telephone number, and the approximate dates the application was made. For personal visits, the individual should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records and for contesting the contents and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Researchers and agency officials.

GSA/NARS 9 (23-00-0054)

SYSTEM NAME:

Authors files, GSA/NARS.

SYSTEM LOCATION:

The system is located in the National Archives Building, the Presidential libraries, and the Federal archives and records centers. The addresses are listed in the appendix following notice GSA/NARS 10.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors, whose publications are based on National Archives holdings, authors who have submitted manuscripts which have been published or considered for publications in Prologue: The Journal of the National Archives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about the authors including such information as name, address, telephone number, occupation, education, and research interests, and manuscript copies of writtings. Records are used by officers and employees of GSA who have a need for the records in the performance of their duties to provide an indication of specific areas of interest in archival holdings and the extent to which the scholarly community relies on National Archives holdings as primary source material; and to maintain a record of manuscripts which Prologue has rejected or accepted and published.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARS. After hours, buildings employ security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held two years, and retired. These procedures are in accordance with the HB, GSA Records Maintenance and Disposition System (OAD 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Archivist of the United States, National Archives Building, Eighth and Pennsylvania Ave. NW., Washington, DC 20408. Officials responsible for the geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Educational Programs at the National Archives Building, the directors of the Presidential libraries, and the directors of the Federal archives and records centers. The addresses are listed in the appendix following notice GSA/NARS 10.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records or submitted manuscripts for publication. The addresses are listed in the appendix following notice GSA/NARS 10.

RECORDS ACCESS PROCEDURES:

Requests for individuals to access records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Educational Programs, the directors of the Presidential libraries, or the directors of Federal archives and records centers. In person requests may be made during normal business hours listed for each location in the appendix following notice GSA/NARS 10. For written requests, the individual should provide full name, address, telephone number, and the title of his or her publication. For personal visits, the individuals should be able to provide some acceptable identification such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA/NARS rules for access to records, for contesting the contents, and appealing initial determinations are found in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Authors and National Archives employees.

Appendix: GSA/NARS Addresses of Locations, Telephone Numbers, and Business Hours

National Archives Building, Eighth and Pennsylvania Avenue NW., Washington, DC 20408, telephone (202) 655-4000, hours: 8:45 a.m. to 5:15 p.m. (Monday thru Friday).

Presidential Libraries

Herbert Hoover Library, South Downey Street, West Branch, IA 52358, telephone (319) 643-5301, hours: 9:00 a.m. to 5:00 p.m. (Monday through Friday).

Franklin D. Roosevelt Library, Albany Post Road, Hyde Park, NY 12538, telephone (914) 229-8114, hours: 9:00 a.m. to 5:00 p.m. (Monday thru Friday).

Harry S. Truman Library, Highway 24 at Delaware Street, Independence, MO 64050, telephone (816) 833-1400, hours: 9:00 a.m. to 5:00 p.m. (Monday through Friday).

Dwight D. Eisenhower Library, South East Fourth Street, Abilene, KS 67410, telephone (913) 263-4751, hours: 9:00 a.m. to 5:00 p.m. (Monday through Friday).

John F. Kennedy Library, Morrissey Boulevard, Columbia Point, Boston, MA 02125, telephone (617) 929-4500,

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hours: 8:30 a.m. to 5:00 p.m. (Monday through Friday).

Lyndon B. Johnson Library, 2313 Red River, Austin, TX 78705, telephone (512) 397–5137, hours: 9:00 a.m. to 5:00 p.m. (Monday through Friday).

Washington National Records Center, 4205 Suitland Road, Suitland, MD—Mailing address: General Services Administration, Washington National Records Center, Washington, DC 20409.

National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, Overland, MO 63132, telephone (314) 268–7246, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118, telephone (314) 425–5772, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

Federal Records Centers

Defense Activities, Building 308, Mechanicsburg, PA 17055, telephone (717) 790–3477, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

3150 Bertwynn Drive, Dayton, OH 45439, telephone (513) 225–2878, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

Federal Archives and Records Centers

380 Trapelo Road, Waltham, MA 02154, telephone (617) 223–2657, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

Military Ocean Terminal, Building 22, Bayonne, NJ 07002, telephone (201) 645–6455, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

5000 Wissahickon Avenue, Philadelphia. PA 19144, telephone (215) 951–5591, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

1557 St. Joseph Avenue, East Point, GA 30344, telephone (404) 763–7476, hours: 8:00 a.m. to 5:00 p.m. (Monday through Friday).

7358 South Pulaski Road, Chicago, IL 60629, telephone (312) 353–0164, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

2306 East Bannister Road, Kansas City, MO 64131, telephone (816) 926–7271, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

4900 Hemphill Street, Mailing address: P.O. Box 6216, Fort Worth, TX 76115, telephone (817) 334–5515, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

Building 48, Denver Federal Center, Denver, CO 80225, telephone (303) 234–5271, hours: 7:30 a.m. to 4:00 p.m. (Monday through Friday).

1000 Commodore Drive, San Bruno, CA 94066, telephone (415) 876–9003, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

24000 Avila Road, Laguna Niguel, CA 92677, telephone (714) 831–4220, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

6125 Sand Point Way, Seattle, WA 98115, telephone (206) 442–4502, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

National Archives and Records Service—Regional Offices

General Services Administration, McCormick Post Office and Courthouse, Boston, MA 02109, telephone (202) 472–1223, hours: 8:15 a.m. to 4:45 p.m. (Monday through Friday).

General Services Administration, 26 Federal Plaza, New York, NY 10007, telephone (212) 264–3514, hours: 8:15 a.m. to 4:45 p.m. (Monday through Friday).

General Services Administration, Room 7016, 7th & D Streets SW., Washington, DC 20407, telephone (202) 472–1223, hours: 8:15 a.m. to 4:45 p.m (Monday through Friday).

General Services Administration, 75 Spring Street SW., Atlanta, GA 30303, telephone (404) 221–5124, hours: 7:45 a.m. to 4:30 p.m. (Monday through Friday).

General Services Administration, 819 Taylor Street, Fort Worth, TX 76102, telephone (817) 334–2759, hours: 7:45 a.m. to 4:15 p.m. (Monday through Friday).

General Services Administration, 525 Market Street, San Francisco, CA 94105, telephone (415) 556–2782, hours: 8:00 a.m. to 4:30 p.m. (Monday through Friday).

GSA/REGADM 3 (23–00–0070)

SYSTEM NAME:

Biographical sketches.

SYSTEM LOCATION:

This system is located in the offices of the Regional Administrators at the addresses listed below:

GSA National Capitol Region, Office of the Regional Administrator (WA), 7th and D Streets SW., Washington, DC 20407.

GSA Region 4, Office of the Regional Administrator (4A), 75 Spring St. SW., Atlanta, GA 30303.

GSA Region 6, Office of the Regional Administrator (6A), 1500 East Bannister Road, Kansas City, MO 64131.

Region 7, Fort Worth Business Service Center (7X), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8, Office of the Regional Administrator (8A), Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9, Office of the Regional Administrator (9A), 525 Market Street, San Francisco, CA 94105.

GSA Region 10, Office of the Regional Administrator (10A), GSA Center, Auburn, WA 98002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include GSA and other Federal government officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of biographical sketches of GSA and other Federal government officials. Records are used by the Regional Administrator and his or her staff for the purpose of preparing introductions for GSA and other Federal government officials for speeches, and public relations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, and E, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Access limited to official use only on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The officials responsible for the system of records are the Regional Administrators at the addresses listed above.

NOTIFICATION PROCEDURE:

Information may be obtained from the Regional Administrators at the addresses listed above.

RECORD ACCESS PROCEDURES:

Requests to access records may be directed to the Regional Administrators at the addresses listed above, in accordance with the GSA rules as promulgated in 41 CFR 105–64, published in the **Federal Register.**

CONTESTING RECORDS PROCEDURES:

GSA rules for access to systems of records, contesting the contents of a system of records and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Public information, the individuals themselves, or news releases.

GSA/REGADM 4 (23–00–0071)

SYSTEM NAME:

Official Correspondence Files.

SYSTEM LOCATION:

The system is located in the offices to the Regional Administrators listed below:

GSA Region 4, Office of Regional Administrator (4A), 75 Spring St. SW., Atlanta, GA 30303.

GSA Region 6, Office of the Regional Administrator (6A), 1500 East Bannister Road, Kansas City, MO 64131.

GSA Region 7, Office of the Regional Administrator (7A), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8, Office of the Regional Administrator (8A), Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9, Office of the Regional Administrator (9A), 525 Market Street, San Francisco, CA 94105.

GSA Region 10, Office of the Regional Administrator (10A), GSA Center, Auburn, WA 98002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include those corresponding with the Regional Administrators regarding savings bond campaigns, employees receiving letters of appreciation and commendation, members of Congress, mayors and their staffs, and other individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of incoming correspondence, background material, and outgoing correspondence to individuals described in the system. The system is used as a record of correspondence received by the offices of the Regional Administrators and as a reference in preparing and replying to immediate and future correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of the individual or firm.

SAFEGUARDS:

Access limited to Regional Administrator and staff for official use only on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The officials responsible for the system of records are the Regional Administrators at the addresses listed above.

NOTIFICATION PROCEDURE:

Information may be obtained from the Regional Administrators at the addresses listed above.

RECORD ACCESS PROCEDURES:

Requests to access records may be directed to the Regional Administrators at the addresses listed above, in accordance with the GSA rules as promulgated in 41 CFR 105–64, published in the **Federal Register.**

CONTESTING RECORD PROCEDURES:

GSA rules for access to systems of records, contesting the contents of a system of records, and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The actual correspondence and agency records.

GSA/REGADM 6 (23–00–0102)

SYSTEM NAME:

Council of Governments Carpool System, GSA/Region 3.

SYSTEM LOCATION:

Public Buildings Service (WP), GSA Regional Office Building, 7th & D Sts. SW., Washington, DC 20407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees in the Washington, DC metropolitan area who voluntarily participate in the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Carpool applications which include the name, home address, and business address of the person interested in joining a carpool; individual lists which include names and business information; and master lists which include all the information solicited.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended and Air Pollution Prevention and Control Act, 42 U.S.C., Chap. 15B.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Employee applications are collected by Federal agencies and transferred without processing to GSA. GSA transfers the applications without processing to COG. COG transcribes the data on the applications to machine-readable form for computer processing. Computerized individual lists and master lists are prepared showing compatible carpool participants. The individual lists are sent from COG, through GSA, to employer agencies for distribution to the participating employees. The masterlists are retained by COG and GSA. The routine use statements A, B, and C, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Carpool applications are on paper forms. Individual and master carpool lists are computer printouts.

RETRIEVABILITY:

Individual printouts are by name. Master lists are organized alphabetically be name and by location of home address.

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SAFEGUARDS:

Applications are stored in lockable files pending transfer to COG. Master lists are filed in lockable files.

RETENTION AND DISPOSAL:

Applications are transferred to COG promptly upon receipt and destroyed upon transcription to machine storage. Master lists are destroyed upon receipt of updated lists.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Assistant Regional Administrator, Public Buildings Service (WP), GSA Regional Office Building, 7th & D Sts. SW., Washington, DC 20407.

NOTIFICATION PROCEDURE:

Information may be obtained from the Assistant Regional Administrator, PBS, at the address listed above.

RECORD ACCESS PROCEDURES:

Requests to access records may be directed to the Office of the Regional Commissioner, PBS, at the address listed above, in accordance with the GSA rules as promulgated in 41 CFR 105–64, published in the **Federal Register.**

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Federal employees who desire to avail themselves of the benefits of the COG carpool matching program.

GSA/PBS 3 (23–00–0075)

SYSTEM NAME:

Incident Reporting, Investigation, and Security Case Files.

SECURITY CLASSIFICATION:

Unclassified to Top Secret.

SYSTEM LOCATION:

The systems are located at each FPS Operations Office, each regional office and Central Office. (See addresses of each location listed in the appendix following notice GSA/PBS 3.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These files include records on the following categories of individuals:

a. Individuals who were the source of (1) the initial complaint or (2) an allegation that a crime has taken place;

b. Witnesses having information or evidence relating to any side of an investigation;

c. Possible and actual suspects in the criminal situation that is subject of investigation;

d. Subjects of investigation, both those whose identity is known and and those who are unknown;

e. Employees of GSA contractors performing custodial or guard services in buildings and areas under GSA jurisdiction;

f. Individuals who are applicants for or have been appointed to the position of Federal Protective Officer; and

g. Sources of information and sources of evidence. The identity for these individuals may be confidential as well as the subject matter they contribute. These files contain information vital to the outcome of administrative procedures, civil and criminal cases. Much of this information is subject to the Jencks Act, the Freedom of Information Act, and the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records contains records consisting of:

a. Preliminary and other reports of criminal investigations from the opening of a case until it is closed. The cases may be closed administratively or by final court disposition. These records are used in the enforcement of criminal laws and rules and regulations that provide punitive sanctions. They are used in police efforts to prevent, control, or reduce crime and to apprehend criminals. They are also used by prosecutors, the courts, and in connection with correction, probation, pardon, and parole activities. These records are instituted and maintained at varying points in the process. The processes of criminal justice and civil or administrative remedies require their partial or total disclosure.

b. Security files. These records contain information such as name, date and place of birth, address, social security number, education, occupation, experience, and investigatory material. These records are used as a basis for suitability determinations for GSA contract guards and cleaners.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 276a through a–7, 276c, 318 (a) through (d), and 327 through 331; Executive Orders 10405, 11478, 11652, 11246, and 12065; GSA Order, Changes in organization (ADM 5440.154); and the GSA Organization Manual (OFA P 5440.1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To officers and employees of the Federal Protective Service who need their content in the performance of their authorized duties;

b. To the various bureaus and divisions of the Justice Department that have primary jurisdiction in locations and on subject matters that the FPS shares, to some extent, the same jurisdiction;

c. To those subdivisions of the Justice Department that have the responsibility for prosecuting criminal cases and pursuing civil cases arising from authorized activities of the FPS;

d. To the Office of Personnel Management for purposes which they are authorized to use the information;

e. Law enforcement agencies which have lawfully participated in an investigation jointly conducted with the FPS. The routine use statements A, B, C, D, and E, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper, mag tape, index cards.

RETRIEVABILITY:

Manually by name, file number, case number, by incident and location as well as type of incident.

SAFEGUARDS:

Stored in steel filing cabinets with built in 3 position dial type combination safe locks, in space assigned FPS investigations in various Government owned and leased buildings.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for this system of records is:

Assistant Commissioner for Federal
Protective Service Management,
General Services Administration,
Room 2042, 18th & F Streets NW.,
Washington, DC 20405.

NOTIFICATION PROCEDURE:

Same as above. Direct inquiries for information from these files to the system manager. Information as how to proceed under the act is set forth in 41 CFR 105–66. If a question of content or a protest of content arises the FPS must so notify recipients of all accounted disclosures; also of all corrections made in the record.

RECORD ACCESS PROCEDURES:

Same as above. GSA rules for access to systems of records, contesting the contents of a system of record, and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

CONTESTING RECORDS PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information contained in these record systems is developed through investigations, informants, witnesses, official records, investigative leads, statements, depositions, business records or any other information source available to the Federal Protective Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(j), the criminal investigation case files in this system of records are exempt from all provisions of the act with the exception of subsections (b), (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (i) of the act. In accordance with 5 U.S.C. 552a(k), the general investigation and security files in this system of records are exempt from subsections (c)(3); (d); (e)(4) (G), (H), and (I); and (f) of the act.

Appendix GSA/PBS Addresses of Location

Regional Offices

Region 1, 840 John W. McCormack Post Office and Courthouse, Boston, MA 02109.
Region 2, 26 Federal Plaza, Room 2836, New York, NY 10007.
Region 3, Regional Office Building, 9th and Market Streets, Philadelphia, PA 19107.
Region 4, 75 Spring Street SW., Atlanta, GA 30303.
Region 5, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604.
Region 6, Federal Building, 1500 East Bannister Road, Kansas City, Missouri 64131.
Region 7, 819 Taylor Street, Fort Worth, TX 76102.
Region 8, Building 41, Denver Federal Center, Denver, CO 80225.
Region 9, 525 Market Street, San Francisco, CA 94105.
Region 10, GSA Center, Auburn, Washington 98002.
National Capital Region, 7th and D Streets, SW., Washington, D.C. 20407.

Region 1

Area Office and Address

J. W. McCormack, Post Office and Courthouse, Rm. 501, Boston, MA 02109.

Field Offices and Addresses

John Fitzgerald Kennedy, Federal Building Field Office, Rm. E131, Government Center, Boston, MA 02203.
John W. McCormack, Post Office & Courthouse Field Office, Rm. 903, Post Office Square, Boston, MA 02109.
John F. Kennedy Library, South Shore Field Office—5th Floor, Columbia Point, Dorchester, MA 02125.

Area Office and Address

Manchester, 728 Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03103.

Field Office and Addresses

Andover, P.O. Box 521, Andover, MA 01810.
Augusta, Rm. 101E, Federal Building & Post Office, 40 Western Avenue, Augusta, ME 04330.
Burlington, Rm. 607, Federal Building, Burlington, VT 05401.
Manchester, Rm. 722, Norris Cotton Federal Building, 725 Chestnut Street, Manchester, NH 03103.

Area Offices and Addresses

Providence, Rm. 240, Federal Building, Post Office, Exchange Terrace, Providence, RI 02903.

Field Offices and Addresses

Hartford, Rm. 403, Federal Building, 450 Main Street, Hartford, Ct 06103.
New Haven, 150 Court Street, Rm. 107, New Haven, CT 06510.
Providence, Rm. 239, Federal Building, Post Office, Exchange Terrace, Providence, RI 02903.
Worchester, Rm. 400, Federal Building, Courthouse, 595 Main Street, Worchester, MA 01608.

Region 2

Area Office and Address,

Albany, Rm. 929, Federal Building, Clinton Ave. & N. Pearl St., Albany, NY 12207.

Field Offices & Addresses

Albany, Rm. 213, Post Office & Courthouse, Albany, NY 12201.
Plattsburg, Federal Building, Plattsburg, NY 12901.
Scotia, Bldg. 12, GSA Scotia Depot, Scotia, NY 12302.

Area Office and Address

Brooklyn, Building 245, Mezzine, Raritan Depot, Edison, NJ 08817.

Field Offices and Addresses

Airport, Rm. 101, Federal Building, JFK International Airport, Jamaica, NY 11430.
Belle Mead, GSA Belle Mead Depot, Belle Mead, NY 08502.
Brookhaven, Bldg. 1, IRS Center, 1040 Waverly Avenue, Holtsville, NY 11742.
Brooklyn, Rm. 327D, Federal Building and Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201

Field Offices and Addresses

Newark, Rm. 135, Federal Building, 970 Broad Street, Newark, NJ 07102.
Trenton, Rm. 207, Post Office and Courthouse, Trenton, NJ 08608.

Area Office and Address

Buffalo, Rm. 618, Federal Building, 111 W. Huron Street, Buffalo, NY 14202.

Field Offices and Addresses

Buffalo, Rm. 30, Federal Building, 111 W. Huron Street, Buffalo, NY 13901.
Binghamton, Rm. 200, Administration Building, GSA Depot, Hoyt Avenue, Binghamton, NY 13901.
Rochester, Rm. 309, Federal Building and Courthouse, 100 State Street, Rochester, NY 14614.

Area Office and Address

Manhatten, Rm. 2421, 26 Federal Plaza, New York City, NY 10007.

Field Offices and Addresses

Battery, Rm 881, 6 World Trade Center, New York City, NY 10048.
Federal Plaza, Rm. 309, Federal Building, 26 Federal Plaza, New York City, NY 10007
Greater Manhattan, 5th Floor, 252–7th Avenue, New York City, NY 10001

Courthouse

U.S. Courthouse, 40 Foley Square, Rm. 104, New York City, NY 10007.

Area Office and Address

Puerto Rico, GSA, PO Box 3672, San Juan, PR 00904.

Field Office and Address

San Juan, GSA, PO Box 3672, San Juan, PR 00904.

NCR

Area Offices and Address

South, Rm. 1G–024, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20407

Field Offices and Addresses

Anacostia, Building 205 NYA, 2nd and M Streets, SE., Washington, DC 20407.

Central Support, 10 P Street, SW., Washington, DC 20407.

Forrestal, Rm. 1G–024, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20407.

Agriculture, Rm. 1509 South Agriculture Bldg., 14th and Independence Avenue, SW., Washington, DC 20407.

HEW, Rm. 1264, HEW North Building, 330 Independence Avenue, SW., Washington, DC 20407.

Southwest, Rm. L–100, 1900 Half St. SW., Washington, DC 20407.

Mall, Rm. 1102, GSA Regional Office Building, 7th and D Streets, SW., Washington, DC 20407.

Suitland, Rm. 1037, Federal Building 3, Suitland, MD 20033.

Area Office and Address

White House, Rm. 44, EOB, 17th and Pennsylvania Ave., NW., Washington, DC 21056.

West, Rm. 355, 2000 K St., NW., Washington, DC 20037.

Field Offices and Addresses

ERDA, Rm. G–075, ERDA Building, Germantown, MD 20407.

Commerce, Rm. 1036, Commerce Building, 14th and Constitution Ave., NW., Washington, DC 20231.

Lafayette, Suite 700, 1612 K Street, NW., Washington, DC 20407.

Interior, Rm. 1332, Federal Building 9 1900 E Street, NW., Washington, DC 20415.

Rock Creek, Rm. 101, Gelman Building, 2120 L Street, NW., Washington, DC 20407.

State, Rm. 1481, State Building, 320 21st Street NW., Washington, DC 20520.

Veterans, Rm. 120, Veterans Building, 810 Vermont Ave. NW., Washington, DC 20005.

Area Office and Address

Arlington, Rm. 1A–1063, Pentagon Building, Arlington, VA 20301.

Field Offices and Addresses

Alexandria, Rm 428, Hoffman 1, 2461 Eisenhower Avenue, Alexandria, VA.

Columbia Pike, Rm. 1032, Federal Building 2, Columbia Pike, Arlington, VA 22202.

Jefferson Davis, Rm. 946, Crystal Plaza 6, 2221 Jefferson Davis Highway, Arlington, VA 22202.

McLean, Rm. 1E–12, CIA Building, McLean, VA 20505.

Pentagon, Rm. 1A–325, Pentagon Building, Arlington, VA 20301.

Rosslyn, Rm. 126, Architect Building, 1400 Wilson Boulevard, Arlington, VA 22209.

Area Office and Address

Heating Operation and Transmission Area, Rm. 600 ROB, 7th and D Streets SW., Washington, DC 20407.

Field Offices and Addresses

District, 409 Old Jefferson Davis Highway, Arlington, VA 20301.

MD–VA, SE Pentagon, Clark Street, Arlington, VA 20301.

Technical, Rm. 600, ROB, 7th and D Streets, SW., Washington, DC 20407.

Area Office and Address

North, Rm. 1346, New Post Office Bldg., 12th and Pennsylvania Ave. NW., Washington, DC 20407.

Field Offices and Addresses

GAO, Rm 1057, GAO Building, 441 G Street NW., Washington, DC 20407.

Hyattsville, Rm. 1010, 6525 Belcrest Road, Hyattsville, MD 20782.

Justice, Rm. 1B858, J. E. Hoover Bldg. NW., 935 Pennsylvania Ave., Washington, DC 20407.

Labor, Rm. S–1207, 3rd and Constitution Ave. NW., Washington, DC 20407.

Patrick Henry, Rm. 3326, 601 D Street NW., Washington, DC 20407.

Revenue, Rm. 1314, IRS Bldg. NW., Washington, DC 20407.

Region 3

Area Office and Address

Philadelphia, Rm. 9428, Federal Building, 600 Arch Street, Philadelphia, PA 19106.

Field Offices and Addresses

E. Philadelphia, Rm. 1211, Federal Building, 600 Arch Street, Philadelphia, PA 19106.

W. Philadelphia, 5000 Wissahickon Ave., Philadelphia, PA 19102.

Harrisburg, Rm. 863, Courthouse and Federal Building, 228 Walnut Street, Harrisburg, PA 17108.

Pittsburgh, Room 2136, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Wilkes-Barre, Rm. 504, Wyoming Valley, Vets Building, 19 N. Main Street, Wilkes-Barre, PA 18701.

Richmond, Federal Building, 400 North 8th Street, Richmond, VA 23240.

James River, Federal Building 2, 11th and Main Sts., Richmond, VA 23205.

Kanawha, Room 309, U.S. Post Office, 501 9th Street, Huntington, WV 25709.

Norfolk, Rm. 120, Bank of Virginia Building, 870 N. Military Highway, Norfolk, VA 23502.

Parkersburg, Rm. 3321, Federal Building, Juliana and 5th Streets, Parkersburg, WV 26101.

Charlottesville, Rm. 102, Federal Building, 220 7th Street NE., Charlottesville, VA 22901.

Roanoke, Rm. 106, Federal Building, 210 Franklin Rd. SW., Elkins, WV 26241.

Area Office and Address

Baltimore, Rm. 1111, Garmat 3, Federal Building and Courthouse, 101 W. Lombard St., Baltimore, MD 21201.

Field Offices and Addresses

Chesapeake, Rm. 315, Federal Building, 31 Hopkins Plaza, Baltimore, MD 21202.

Fort Meade, Rm. 9809, NSA Building, Fort Meade, MD 20755.

West Maryland, Rm. 1–J23, 6401 Security Blvd., Baltimore, MD 21235.

Woodlawn, 1 Rutherford Plaza, 7133 Rutherford Road, Baltimore, MD 21207.

Metro-West Field, 300 N. Greene Street, Baltimore, MD 21202.

Region 4

Field Office and Address

Atlanta, Federal Building, 272 Ivy Street NE., Atlanta, GA 30308.

Field Offices and Addresses

Birmingham, Rm. 428, Federal Building, 1800 5th Avenue N., Birmingham, AL 35203.

Huntsville, Rm. 1E, 1600 Ballistic Missile Center, P.O. Box 1367, West Station, Huntsville, AL 35807.

Jackson, Rm. 20, Post Office and Courthouse, 245 E. Capital Street, P.O. Box 1250, Jackson, MS 39205.

Mobile, Rm. 407, Federal Building and Courthouse, Mobile, AL 36602.

Montgomery, Rm. 400, Post Office and Courthouse, Corner Church and Lee Street, Montgomery, AL 36104.

Tupelo, Rm. 320, Federal Building and Post Office, 500 W. Main, P.O. Box 711, Tupelo, MS 38801.

Field Offices and Addresses

Ashville, Rm. 87, Federal Building, Battery Park Avenue, Ashville, NC 28801.

Charleston, Rm. 621, Federal Building, 334 Meeting Street, Charleston, SC 29403.

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Columbia, Strom Thurmond Federal Building, 1835 Assembly Street, Rm. 813, Columbia, SC 29201.

Raleigh, Rm. 520, Federal Building Post Office and Courthouse, 310 New Bern Avenue, Raleigh, NC 27601.

Field Offices and Addresses

Jacksonville, Rm. 448, Federal Building, 400 W. Bay Street, P.O. Box 35005, Jacksonville, FL 32202.

Miami, Rm. 1517, Federal Building, 51 SW 1st Avenue, Miami, FL 33130.

Savannah, Rm. 232, Post Office and Courthouse, Bull and State Streets, Savannah, GA 31402.

Tampa, Rm. 733, Federal Building, 500 Zack Street, Tampa, FL 33602.

Thomasville, Rm. 208, Federal Building, P.O. Box 1355, Broad and Monroe Streets, Thomasville, GA 31792.

Field Offices and Addresses

Covington, Rm. 138, IRS Center, 4th and Russell Streets, Covington, KY 41011.

Louisville, Rm. 273, Federal Building, 600 Federal Place, Louisville, KY 40202.

Memphis, Rm. 382, Clifford Davis, Federal Building, 167 N. Main Street, Memphis, TN 38103.

Nashville, Rm. 117, Federal Building and Courthouse, 801 Broadway, Nashville, TN 37203.

Oak Ridge, Rm. 1206, Federal Building, Administration Road, P.O. Box 3474, Oak Ridge, TN 37830.

Region 5

Field Offices and Addresses

LOOP, Rm. 286, Everett McKinley, Dirksen Building, 219 S. Dearborn, Chicago, IL 60604.

Midwest, Rm. 2440, Everett McKinley Dirksen Building, 219 S. Dearborn, Chicago, IL 60604.

Central, Rm. 292, Federal Building, 536 S. Clark Street, Chicago, IL 60605.

Indianapolis, Rm. 349, Federal Building and Courthouse, 46 E. Ohio Street, Indianapolis, IN 46204.

Jeffersonville, Rm. 160, Federal Center, 1201 S. 10th Street, Jeffersonville, IN 47130.

Akron, Federal Building and Courthouse, 2 S. Main St., Akron, OH 44308.

Cincinnati, Rm. 440, Post Office and Courthouse, 5th Main and Walnut Streets, Cincinnati, OH 45202.

Cleveland, Rm. 227, Anthony J. Celebrezze Federal Building, 1240 E. 9th St., Cleveland, OH 44199.

Columbus, Rm. 445, Federal Building and Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

Detroit, Rm. 1196, Patrick C. McNamara, Federal Building, 477 Michigan, Detroit, MI 48226.

Grand Rapids, Rm. 180, Gerald R. Ford Federal Building and Courthouse, 110 Michigan Street NW., Grand Rapids, MI 49502.

Battle Creek, Rm. 214, Federal Center, 74 N. Washington, Battle Creek, MI 49017.

Twin Cities, Rm. 226, Federal Building, Ft. Snelling, Twin Cities, St. Paul, MN 55111.

Milwaukee, Rm. 102, Federal Building and Courthouse, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

Springfield, Rm. 1138, Federal Building and Courthouse, 600 E. Monroe Street, Springfield, IL 62701.

Region 6

Area Office and Address

Missouri/Kansas (except metropolitan Kansas City and St. Louis), Federal Building, U.S. Courthouse, 444 SE Quincy, Rm. 297, Topeka, KS 66683.

Field Office and Addresses

Columbia, Rm. 117, Federal Building, 608 E. Cherry Street, Columbia, MO 65201.

Rolla, 1400 Independence Road, Mail Stop 113, Rolla, MO 64801.

Topeka, Federal Building, U.S. Courthouse, 444 S.E. Quincy, Rm. 297, Topeka, Kansas 66683.

Wichita, U.S. Post Office and Courthouse, 401 N. Market St., Rm. 106, Wichita, KS 64106.

Area Office and Address

Room 635, U.S. Court and Customhouse, 1114 Market Street, St. Louis, MO 63102.

Field Offices and Addresses

Mart, Room 113, Federal Building, 405 S. 12th Street, St. Louis, MO 63102.

Downtown, Room 162B, Federal Building, 1520 Market Street, St. Louis, MO 63102.

MPRC, Room 2015, 9700 Page Boulevard, St. Louis, MO 63132.

Federal Center, Room 110, Building 107, Federal Center, 4300 Goodfellow Boulevard, St. Louis, MO 63120.

Area Office and Address

Rm. 1006, Federal Building and Courthouse, 215 N. 17th Street, Omaha, NE 68102.

Area Office and Address

Kansas City, Missouri, Federal Building, 1500 E. Bannister Road, Kansas City, MO 64131.

Field Offices and Address

Kansas City North, Room 109, Federal Building, 601 E. 12th Street, Kansas City, MO 64106.

Kansas City South, Room B–1, Federal Building, 1500 E. Bannister Road, Kansas City, MO 64131.

Region 7

Area Office and Address

Austin, Rm. 109, Courthouse, 200 W. 8th Street, Austin, TX 78701.

Field Offices and Addresses

Austin, Rm. G100, Federal Building and Post Office, 300 E. 8th Street, Austin, TX 78701.

Field Offices & Addresses

Cedar Rapids, Rm. 126, Federal Building and Courthouse, 101 First Street SE., Cedar Rapids, IA 52401.

Fort Dodge, Rm. B–2, Federal Building, Post Office and Courthouse, 205 S. 8th Street, Fort Dodge, IA 50501.

Des Moines, Rm. 118, Federal Building, 210 Walnut Street, Des Moines, IA 50309.

Omaha, Rm. 1118, Federal Building, Post Office and Courthouse, 215 N. 17th Street, Omaha, NE 68102.

North Platte, Rm. 104, Federal Building, Post Office and Courthouse, 300 E. 3rd Street, North Platte, NE 69101.

Lincoln, Rm. 181, Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 69101.

El Paso, Rm. 105, Courthouse, 500 E. San Antonio Street, El Paso, TX 79901.

Laredo, Rm. 103, Post Office and Courthouse, Matamores and Juarez Streets, Laredo, TX 78040.

San Antonio, Rm. A101, Federal Building, 727 East Durango, San Antonio, TX 78206.

Area Office & Address

Little Rock, Rm. 1329, Federal Building, 700 W. Capitol Street, Little Rock, AR 72201.

Field Offices and Addresses

Little Rock, Rm. 1120, Federal Building, 700 W. Capitol Street, Little, Rock, AR 72201.

Russellville, West Main and South Fargo Streets, PO box 723, Russellville, AR 72801.

Area Office and Address

New Orleans, Hale Boggs Federal Building, U.S. Courthouse, 500 Camp Street, New Orleans, LA 70130.

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Field Offices and Addresses

Lafayette, Rm. 401, Federal Building, Post Office and Courthouse, Jefferson & Main Streets, Lafayette, LA 70501.
New Orleans, Rm. 1044, Hale Boggs Federal Building, U.S. Courthouse, 500 Camp Street, New Orleans, LA 70130.
Ruston, Rm. 108, Federal Building, Mississippi & Vienna Streets, Ruston, LA 72170.

Area Office and Address

Dallas, Rm. 101, Federal Building and Courthouse, 1114 Commerce Street, Dallas, TX 75242.

Field Offices and Addresses

Albuquerque, Rm. 1018, Federal Building, 517 Gold Avenue, SW, Albuquerque, NM 87103.
Dallas, Rm. 1B51, Earle Cabell Federal Building and U.S. Courthouse, 1100 Commerce Street, Dallas, TX 75242.
Fort Worth, Rm. 14A18, Fritz G. Lanham, Federal Building, 819 Taylor, Fort Worth, TX 76102.
Lubbock, Rm. 118, Federal Building and Courthouse, 1205 Texas Street, Lubbock, TX 79401.
Sante Fe, Rm. 1221, Federal Building, S. Federal and Grant, Sante Fe, NM 87501.

Area Office and Address

Houston, Rm. 3102, 515 Rusk Avenue, Houston, TX 77002.

Field Offices and Addresses

Beaumont, Rm. 256, Post Office and Courthouse, Broadway and Willow Streets, Beaumont, TX 77701.
Houston, Rm. 5009, Federal Building and Courthouse, 515 Rusk Avenue, Houston, TX 77002.

Area Office and Address

Oklahoma City, Rm. 5001, Federal Building, U.S. Courthouse, 200 NW 4th Street, Oklahoma, OK 73101.

Field Offices and Addresses

Muskogee, Rm. 012, Federal Building, U.S. Courthouse, 5th & W Okmulgee Streets, Muskogee, OK 74401.
Oklahoma City, Rm. B031, Post Office, Courthouse, and Federal Building, 201 NW 3rd Street, Oklahoma, OK 73101.
Tulsa, Rm. 106, Federal Building, 224 S. Boulder, Tulsa, OK 74103.

Region 8

Field Offices and Addresses

Denver Federal Center, Entrance E, Building 41, Denver, CO 80225.
Denver, Rm. 120, Federal Building and Courthouse, 1961 Stout Street, Denver, CO 80294.
Colorado Springs, Chidlaw Building, Peterson AFB, CO 80914.
Billings, Federal Building & Courthouse, PO Box 1477, Billings, MT 59103.
Helena, Federal Building, U.S. Courthouse, Drawer 10094, 301 South Park, Helena, MT 59601.
Missoula, Federal Building, Post Office & Courthouse, Rm. 1003, PO Box 8205, Missoula, MT 59807.
Bismarck, Federal Building, Post Office & Courthouse, Rm 228, 220 East Rosser, PO Box 2237, Bismarck, ND 58501.
Fargo, Federal Building and Post Office, Rm. 204, 657 2nd Avenue, N, Fargo, ND 58102.
Aberdeen, Federal Building, 115 4th Avenue, SE, Aberdeen SD 57401.
Pierre, Rm. 203, Federal Building, Post Office and Courthouse, 225 S. Pierre Street, Pierre, SD 57501.
Salt Lake City, Rm 2201, Federal Building, 125 S. State Street, Salt Lake City, UT 84138.
  Ogden, c/o IRS Service Center, P.O. Box 9941, Ogden, VT 84409.
Casper, Rm. 1010, Federal Building and Post Office, 100 East B Street, Casper, WY 82601.
Cheyenne, Joseph O'Mahoney Federal Center, 2120 Capitol Avenue, Rm. 2016, Cheyenne, WY 82001.

Region 9

Field Offices and Addresses

Sansome Street, U.S. Customs House, Attic #2, 555 Battery Street, San Francisco, CA 94111.
Golden Gate, Rm. 13019 Federal Building, 450 Golden Gate, San Francisco, CA 94102.
East Bay, Rm. 416, Federal Building, 1515 Clay Street, Oakland, CA 94612.
Sacramento, Rm. 8538, Federal Building and Courthouse, 650 Capitol Mall, Sacramento, CA 95814.
San Jose, 175 W. Taylor, Building #3, San Jose, CA 95110.
Fresno, Rm. 4205, Federal Building and Courthouse, 1130 'O' Street, Fresno, CA 93721.
Santa Ana, Federal Building, 34 Civic Center Plaza, Delle, CA 92701.
North Spring Street, Rm. G–11, Courthouse, 312 N. Spring Street, Los Angeles, CA 90012.
West Los Angeles, Rm. 1021, Federal Building, 11000 Wilshire Boulevard, Los Angeles, CA 90024.
North Los Angeles, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90012.
San Diego, Federal Building and Courthouse, 880 Fron Street, Rm. 1–5–3, San Diego, CA 92188.
Phoenix, Rm. 3041, Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.
Tucson, 301 W. Congress, Tucson, AZ 85701.
Honolulu, Prince Kuhio Kalanianaoce Federal Building, Rm. 6119, 300 Ala Moana Blvd., Honolulu, HI 96850.
Reno, Rm. 1030 Booth Street, Reno, NV 89509.
Las Vegas, Rm. I–620, Federal Building and Courthouse, 300 Las Vegas Blvd. South, Las Vegas, NV 89101.

Region 10

Field Offices and Addresses

Seattle, Rm. 556, Federal Building, 915 2nd Avenue, Seattle, WA 98174.
Bellingham, Rm. 315, Federal Building, 104 West Magnolia, Bellingham, WA 98225.
Spokane, Rm. 120, Courthouse, W 920 Riverside Avenue, Spokane, WA 99201.
Richland, Rm. G62, Federal Building, Post Office and Courthouse, P.O. Box 400, Richland, WA 99352.
Auburn, Bldg. 815, GSA Center, Auburn, WA 98002.
Portland, Rm. 385, Federal Building, 1220 SW Third Ave., Portland, OR 97204.
Eugene, Federal Building and Courthouse, Rm. 220, 211 East Seventh Ave., Eugene, OR 97401.
Boise, Rm. 164, Federal Building and Courthouse, Box 021, Boise, ID 83724.

Field Offices and Addresses

Anchorage, Federal Building and Courthouse, Rm. C–522, 701 C. Street, Box 5, Anchorage, AK 99513.

GSA/ADTS 1 (23–00–0076)

SYSTEM NAME:

Classified Control Files, GSA/ADTS.

SYSTEM LOCATION:

Central Office and regional offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of GSA, other Government agencies, and commercial corporations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in this nonautomated system for the purpose of ensuring control over access to classified information and facilities. Contains records such as: Security clearance level, identification credentials, registers, access authorizations, official courier/messenger designations, security officer appointments, files custodian lists, security briefings, and acknowledgements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, April 27, 1953.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintaining and exchanging current information regarding authority of personnel to gain access to classified material or facilities. Documenting responsibilities of designated personnel to administer the overall security program. Used to verify clearance for access to classified material or facilities, to allow performance of maintenance and repair of classified communications equipment, to verify authority to release, transport and receive classified material, both inter- and intra-agency. The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files kept in safes or storage cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

Buildings employ security guards. Storage containers are either locked or located in a limited access area.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Secure and Emergency Communications Branch, Office of Systems Engineering and Operations, GSA, ADTS, 18th & F Streets NW., Washington, D.C.; mailing address: General Services Administration (CTDS), Washington, D.C. 20405, and the Assistant Regional Administrators, ADTS, at the addresses listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the system managers listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The individuals themselves, requests for clearance and/or access, and other security forms.

GSA/ADTS 2 (23-00-0077)

SYSTEM NAME:

Congressional Files, GSA/ADTS.

SYSTEM LOCATION:

ADTS Central Office and in the regional offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress and their staffs, State governors and their staffs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in this nonautomated system for the purpose of ensuring that proper action is being taken on Congressional and State requests for ADP and telecommunications service. Contains records used for ordering, billing, and budget purposes. Contains telephone service requests, ADP service requests, billing for FTS and extended service, general inquiries, records of meetings, service complaints, and remedial actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 31, U.S.C. Section 680a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, storage cabinets, and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

Buildings employ security guards. Access is restricted to authorized personnel. Records are released only to authorized officials.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Congressional Liaison (CLSS), GSA, ADTS, 7th and D Streets SW., Washington, DC 20407 and the Assistant Regional Administrators, ADTS, at the addresses listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the system managers listed above.

RECORD ACCESS PROCEDURES:

Same individuals as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The individuals themselves (correspondence, telephone calls, etc.), the staffs of the individuals concerned, and other ADTS employees involved.

GSA/ADTS 4 (23-00-0079)

SYSTEM NAME:

Emergency Notification Files GSA/ADTS.

SYSTEM LOCATION:

Central Office and regional offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA/ADTS Central Office and regional employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in this nonautomated system for the purpose of notifying and identifying employees or their designees under emergency conditions. Contains records such as: Employees, name, address, position title, office phone number, and home phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C. Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintaining a current listing of Federal officials to be contacted during national disasters, contingency and emergency situations, and providing this

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information as necessary, in disasters or public or personal emergencies, to concerned agencies, telephone companies, telecommunications common carriers, civil defense and other activities and individuals involved in the emergency or relief effort. Contacting officials in support of Federal Emergency Plan D and NCS Plan for Communications Support in major disasters and emergencies. Notifying personnel in cases of operational or personal emergencies. The routine statements A, B, C, D, E, and G, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files kept in safes or lockable storage cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

Buildings employ security guards. Storage containers are either locked or located in a limited access area.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Secure and Emergency Communications Branch, Office of Systems Engineering and Operations, GS Building, 18th & F Streets NW., Washington, DC; mailing address: General Services Administration (CTDS), Washington, DC 20405 and Assistant Regional Administrators, ADTS, at the addresses listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the system managers identified above.

RECORD ACCESS PROCEDURES:

Same individuals as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial deteminations are promulgated in 41 CFR 105–64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The individuals themselves, their supervisors, emergency listings, disaster plans, and personnel files.

GSA/ADTS 5 (23–00–0080)

SYSTEM NAME:

Financial Management Files, GSA/ADTS.

SYSTEM LOCATION:

Financial Management Division and offices of the Central Office and regional offices of ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

GSA/ADTS Central Office and regional employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in both paper and automated form for the purpose of financial management. Contains information on financial projections for short and long range planning, preparation of annual financial plans, monthly and quarterly analysis of operation funds, and verifying accounting reports. Contains records such as: Travel logs, transportation requests, claims, vouchers, within grade notices and pay changes, operator cost data, credit cards, requisitions, overtime requests, operating plans, time and attendance files, payroll, commercial call certifications, employment staffing, retirement eligibility, and manpower and payroll statistics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 31 U.S.C. Sections 66a, 66b.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, F, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files kept in storage containers. Magnetic tapes are filed in a tape library.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

Buildings employ security guards. Records containing personal information are maintained in metal lockable filing cabinets or metal lockable desk drawers, with limited access. Tapes and other records are stored in a limited access area.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, GS Building, 18th & F Streets NW., Washington, DC; mailing address: General Services Administration (CXM), Washington, DC 20405; Director, Budgetary Control Division (CXB), ADTS, GS Building, 18th and F Sts. NW., Washington, DC 20405, and the Assistant Regional Administrator, ADTS, at the addresses listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the system managers identified above.

RECORD ACCESS PROCEDURES:

Same individuals as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the Federal Register.

RECORD SOURCE CATEGORIES:

Individuals submitting the various types of claims, vouchers, and requests and manpower and payroll statistics.

GSA/ADTS 7 (23–00–0082)

SYSTEM NAME:

Workload Measurement Files, GSA/ADTS.

SYSTEM LOCATION:

Regional and Central Offices, ADTS, at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of GSA/ADTS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in both paper and magnetic tape in this system for the purpose of measuring the productivity of ADTS technical and operational personnel in the Central Office and regions. Contains records such as: Tape, test, re-run logs, applied data processing time, productive performance, project status, personnel time summary, switchboard operator evaluation, RAMUS reports, systems and programming project status, tape error detection, FTS incoming and outgoing service message, switchboard operations reports, computer console, balance and job control sheets, historical and workload files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C. Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, F, and G, described in the appendix following the GSA notices apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files are kept in file cabinets and desk drawers. Automated records are maintained in a tape library.

RETRIEVABILITY:

Records are filed alphabetically by individuals' name, number, initials or operating location.

SAFEGUARDS:

Buildings employ security guards and storage containers for paper records are either locked or in a limited access area. Automated records are maintained in a controlled tape library.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Services Staff (CMA), GSA, ADTS, 18th and F Streets, NW., Washington, DC 20405 and the Assistant Regional Administrators, ADTS at the addresses listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Inquires should be directed to the system managers identified above.

RECORD ACCESS PROCEDURES:

Same individuals as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

The supervisor's review of message and tape logs, trouble reports, re-run sheets, the employee themselves, and other employees.

GSA/ADTS 8 (23-00-0096)

SYSTEM NAME:

Special purpose telephone contact listings GSA/ADTS.

SYSTEM LOCATION:

GSA/ADTS Regional Offices and GSA operated switchboards within the 11 GSA regions and the FTS Central Information Service and Emergency Poison Control listings at GSA, ADTS, National Capital Region, at the addresses listed in the appendix following the GSA/ADTS notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal agency personnel as designated by the Federal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes listings such as key personnel and Essential Residence Telephone Listing for the purpose of identifying essential residential telephone service to designated key officials in time of emergency; FTS Central Information Service for the purpose of contacting key officials for necessary day-to-day operations and in emergency situations; Emergency Poison Control Listings for the purpose of providing emergency medical assistance; and other listings of key officials for the purpose of day-to-day operations and emergencies. These listings may include name, position title, office address, office telephone number, home address, and/or home telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of these records shall include: (1) The transfer of GSA of the above described information from the Federal agency responsible for collecting the information for inclusion in the GSA-maintained nationwide central information service and in regional listings of Federal personnel designated as key personnel or points of contacts; (Personnel information; i.e., home address or telephone number, will not be disclosed to a caller. The GSA switchboard operator will either 'patch' the call through to the subject, or will notify the subject that a call has been made to him or her for call-back purposes.); (2) the transfer of designated essential residence information (and deletions from such list) in the regions to the appropriate telephone companies to provide emergency line load control pursuant to 41 CFR 105-35.6; and (3) the routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper, tapes, and/or cards.

RETRIEVABILITY:

Indexed by name and/or agency.

SAFEGUARDS:

Limited access areas and records are accessible only to authorized personnel of GSA.

RETENTION AND DISPOSAL:

Maintained until rescinded by authorized agency.

SYSTEM MANAGER(S) AND ADDRESS:

The officials responsible for the telephone contact listings are (1) Central Information Service and Emergency Poison Control: Assistant Regional Administrators, ADTS, National Capital Region; (2) Regional listings: Assistant Regional Administrators, ADTS, in the appropriate regions. The addresses are listed in the appendix following the GSA/ADTS notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the system managers listed above.

RECORD ACCESS PROCEDURES:

Same individuals as above.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Information provided by Federal agencies and subject individuals.

Appendix GSA/ADTS Address of Locations

ADTS/GSA Central Office, 18th and F Streets, NW., Washington, DC 20405, Telephone: 202-566-1000.

National Capital Region, Assistant Regional Administrator, ADTS, 7th and D Streets, SW., Washington, DC 20407, Telephone: 202-472-1200.

Region 1

Assistant Regional Administrator, ADTS, John W. McCormack, P.O. and Courthouse, Post Office Square,

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Boston, MA 02109, Telephone: 617–233–5055.

Region 2

Assistant Regional Administrator, ADTS, 26 Federal Plaza, New York, NY 10007, Telephone: 216–264–1711.

Region 3

Assistant Regional Administrator, ADTS, 9th and Market Streets, Philadelphia, PA 19107, Telephone: 215–597–4901.

Region 4

Assistant Regional Administrator, ADTS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA 30303, Telephone: 404–242–5104.

Region 5

Assistant Regional Administrator, ADTS, 230 South Dearborn Street, Chicago, IL 60604, Telephone: 312–886–3807.

Region 6

Assistant Regional Administrator, ADTS, 1500 E. Bannister Road, Kansas City, MO 64131, Telephone: 816–926–7309.

Region 7

Assistant Regional Administrator, ADTS, 819 Taylor Street, Fort Worth, TX 76102, Telephone: 817–334–2871.

Region 8

Assistant Regional Administrator, ADTS, Building 41, Denver Federal Cen., Denver, CO 80225, Telephone: 303–234–4337.

Region 9

Assistant Regional Administrator, ADTS, 525 Market Street, San Francisco, CA 94105, Telephone: 414–556–3272.

Region 10

Assistant Regional Administrator, ADTS, GSA Center, Auburn, WA 98002, Telephone: 206–833–6500 X421.

ADTS Central Office Field Activities

GSA/ADTS/CF, Skyline Two, Rm. 1100, 5203 Leesburg Pike, Falls Church, VA. 22041.

GSA/ADTS/CIF, 1815 North Lynn St., Arlington, VA. 22209.

GSA/ADTS/CDDE, Rm. A–114, Bldg. 225, Gaithersburg, MD. 20762.

GSA/ADTS/CTDDM–R, P.O. Box 430, Romney, WV 26757.

GSA/ADTS/CTDDM–T, P.O. Box 17000, Austin, TX. 78764.

GSA/ADTS/CTOC, 218A West Main St., Scott Air Force Base, Belleville, IL 62220.

GSA/ADTS/CDPXW, Rm. 7A38, 819 Taylor St., Fort Worth, TX 76102.

GSA/FSS 9 (23–00–0091)

SYSTEM NAME:

Cataloging Action Master File—Work Measurement System.

SYSTEM LOCATION:

General Services Administration, Tape Library, 7th & D Streets SW, Washington, DC 20407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Supply catalogers processing catalog action requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of records kept on each individual showing the status of transactions the individual has in process and the number of actions completed, rejected, or approved. The records are primarily used by officers and employees of the agency to determine status of transactions and to summarize work done by individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 40 U.S.C., Section 487.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, and D, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Mag-tape and print-outs.

RETRIEVABILITY:

Alphabetic code assigned to individuals.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of FSS.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system of records is the Director, Programs and Systems Development Division, Office of Item Management, Crystal Mall 4, Federal Supply Service, Washington, DC 20405. Mailing address: General Services Administration (FRID), Washington, DC 20406.

NOTIFICATION PROCEDURE:

Information may be obtained from the official cited above.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the official cited above. In person, requests may be made during normal business hours listed for each location in the appendix following notice GSA/FSS 12.

For written requests, the individual should provide full name, address and telephone number, period of employment, and position held to assist the office in locating the record. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORDS PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Data provided by individuals.

GSA/FSS 12 (23–00–0094)

SYSTEM NAME:

Accountability and Property Inventory Systems GSA/FSS.

SYSTEM LOCATION:

Assistant Regional Administrator's offices; regional offices of the Retail Services Division and Procurement Divisions; and supply distribution facilities at the addresses listed in the appendix following this notice. In addition, portions of the systems of records are maintained at retail stores in the regions. Addresses of these locations can be obtained from the applicable regional director.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Depot personnel, store managers, and contracting officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Custody of wax seals, records of keys issued, accountability of Government property and supplies, bonding of collection officers, contracting officer designations and discrepancy reports. (The records are primarily used by officers and employees of the agency who have a need for the record in the performance of their duties.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 40 U.S.C. Section 483; Title 5 U.S.C. generally; Title 21 U.S.C. generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper Forms.

RETRIEVABILITY:

Filed alphabetically by individual name.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of FSS.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system of records is the Support Services Supervisor, Administrative Services Division, Office of Management, Crystal Mall 4, Federal Supply Service, Washington, DC 20406. Mailing address: General Services Administration (FPC), Washington, DC 20406.

NOTIFICATION PROCEDURE:

Information may be obtained from the regional director of the applicable activity shown in the location portion of this notice in which the individual is or was employed with. If not known, general inquiries should be made to the Support Services Supervisor, Administrative Services Division, Office of Management, Federal Supply Service, Washington, DC 20406.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the officials cited above. In person requests may also be made during normal business hours listed for each location in the appendix following this notice.

For written requests, the individual should provide full name, address and telephone number, period of employment and position held to assist the office in locating the record. For personal visits, the individual should be able to provide some acceptable identification such as driver's license and employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records, for contesting the contents, and for appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individual prepared forms, agency supervisors, and personnel action forms.

Appendix—GSA/FSS Addresses of Locations

Regional Offices

National Capital Region

7th and D Streets SW., Washington, DC 20407.

Region 1

805 John W. McCormack Post Office and Courthouse, Post Office Square, Boston, MA 02109.

Region 2

26 Federal Plaza, Room 2836, New York, NY 10007.

Region 3

9th and Market Sts, Philadelphia, GA 19107.

Region 4

75 Spring St. SW., Atlanta, GA 30303.

Region 5

John C. Kluezynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604.

Region 6

Federal Building, 1500 East Bannister Road, Kansas City, MO 64131.

Region 7

819 Taylor Street, Fort Worth, TX 76102.

Region 8

Building No. 41, Denver Federal Center, Denver, CO 80225.

Region 9

525 Market Street, San Francisco, CA 94105.

Region 10

GSA Center, Auburn, WA 98002.

GSA Supply Distribution Facilities

GSA Supply Distribution Facility, 295 Lincoln Street, Hingham, MA 02043.

GSA Supply Distribution Facility, Belle Mead, NJ 08502.

GSA Supply Distribution Facility, Military Ocean Terminal Bayonne, NJ 07002.

GSA Supply Distribution Facility, Building 246, Raritan Depot, Edison, NJ 08817.

GSA Supply Distribution Facility, Springfield, VA 22150.

GSA Supply Distribution Facility, Federal Supply Service, 2800 Eastern Boulevard, Middle River, MD 21220.

GSA Supply Distribution Facility, Hampton Roads Army Terminal, 7737 Hampton Boulevard, Norfolk, VA 23505.

GSA Supply Distribution Facility, 3312 Berkely Lake Rd, Duluth, GA 30136.

GSA Supply Distribution Facility, Garden City Terminal, Savannah State Docks and Warehouses, P.O. Box 7076, Garden City, GA 31408.

GSA Supply Distribution Facility, 4100 W. 76th Street, Chicago, IL 60629.

GSA Supply Distribution Facility, Building 31, Shelby, OH 44875.

GSA Supply Distribution Facility, 1500 E. Bannister Road, Kansas City, MO 64131.

GSA Supply Distribution Facility, Warehouse 3, Federal Center, Fort Worth, TX 76115.

GSA Supply Distribution Facility, 500 Edwards Avenue, Harahan, LA.

GSA Supply Distribution Facility, Building 810, Denver Federal Center, Denver, CO 80225.

GSA Supply Distribution Facility, 1600 12th Street NW., Albuquerque, NM.

GSA Supply Distribution Facility, Building C6, Annex 3, Federal Depot, Clearfield, UT 84016.

GSA Supply Distribution Facility, Building T3069, Hickam AFB, Honolulu, HI 96824.

GSA Supply Distribution Facility, Building 414, Rough and Ready Island, Stockton, CA 95203.

GSA Supply Distribution Facility, Auburn, WA 98002.

GSA/FPRS-2 (23-00-0110)

SYSTEM NAME:

Hazardous materials exposure history system

SYSTEM LOCATION:

Records are maintained at the GSA/FPRS stockpile depots at the addresses shown in the appendix following this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel working or visiting storage areas containing hazardous materials.

V 45 5 AG 29 80 UMI

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of the daily dosage of radiation received and hourly exposure to dangerous levels of asbestos. The records are primarily used by officers and employees of the agency who have a need for the records in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970, as amended (84 Stat. 1590).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information on exposure readings is provided to the regulatory agencies charged with the responsibilities for regulating the handling of hazardous materials. The routine use statements A, B, C, D, and E, described in the appendix following the GSA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper forms.

RETRIEVABILITY:

Filed alphabetically by individual's name.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of FPRS.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

Assistant Commissioner, Office of Property Management (DM), Crystal Square Building 5, Arlington, VA. Mailing address: General Services Administration (DM), Washington, DC 20406.

NOTIFICATION PROCEDURES:

Individuals may obtain information about whether they are part of this system of records from the director of the applicable activity that the individual is or was employed with. If not known, general inquiries should be made to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the official cited above. In person requests may also be made during normal business hours at each location listed in the appendix following this notice. For written requests, the individual should provide full name, address, telephone number, period of employment, and the position held to assist the office in locating the record. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting records and for appealing initial determinations are contained in 41 CF 105–64.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from film badges, dosimeters, other instrumentation, work logs, and medical examinations.

Appendix—GSA/FPRS Location Addresses

Regional Offices

National Capital Regional (NCR), 7th and D Streets SW., Washington, DC 20407.

Region 1

John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts 02109.

Region 2

26 Federal Plaza, New York, New York 10007.

Region 3

7th and D Streets SW., Washington, DC 20407.

Region 4

75 Spring Street SW., Atlanta, Georgia 30303.

Region 5

230 South Dearborn Street, Chicago, Illinois 60604.

Region 6

1500 E. Bannister Road, Kansas City, Missouri 64131.

Region 7

89 Taylor Street, Forth Worth, Texas 76102.

Region 8

Building 41, Denver Federal Center, Denver, Colorado 80225.

Region 9

525 Market Street, San Francisco, California 94105.

Region 10

GSA Center, Auburn, Washington 98002.

GSA/FPRS Stockpile Depots

GSA–FPRS Baton Rouge Depot, 2695 N. Sherwood Forest Drive, Baton Rouge, LA 70810.

GSA–FPRS Federal Service Center (C/D), 4747 Eastern Avenue, Building 1, Bell, CA 90201.

GSA–FPRS Bethlehem Depot, Bethlehem, PA 18015.

GSA–FPRS Belle Mead Depot, Belle Mead, NJ 08502.

GSA–FPRS Binghamton Depot, Binghamton, NY 13901.

GSA–FPRS Casad Depot, New Haven, IN 46774.

GSA–FPRS Depot, The Federal Depot, Clearfield, UT 84016.

GSA–FPRS Curtis Bay Depot, Baltimore, MD 21226.

GSA–FPRS Dayton Depot, 2400 West Dorothy Lane, Dayton, OH 45439.

GSA–FPRS Erie Depot, P.O. Box 344, Port Clinton, OH 43452.

GSA–FPRS Fort Worth Depot, 819 Taylor Street, Fort Worth, TX 76102.

GSA–FPRS Gadsden Depot, P.O. Box 918, Hammond, IN 46325.

GSA–FPRS Marion Depot, P.O. Box 348, Marion, OH 43302.

GSA–FPRS Building 7050, P.O. Box 6, Mira Loma, CA 91752.

GSA–FPRS New Bedford Depot, King Street and Nash Road, New Bedford, MA 20745.

GSA–FPRS Point Pleasant Depot, 2601 Madison Avenue, Point Pleasant, WV 25550.

GSA–FPRS Scotia Depot, Scotia, NY 12302.

GSA–FPRS Sharonville Depot, P.O. Box 41131, Cincinnati, OH 45241.

GSA–FPRS Somerville Depot, Somerville, NJ 08876.

GSA–FPRS Depot, Rough and Ready Island, Building 606, Stockton, CA 95203.

GSA–FPRS Topeka Depot, Building 301, Topeka, KS 66601.

GSA–FPRS Warren Depot, Warren OH 44482.

GSA–FPRS Buffalo Depot (Address all mail to the Sharonville Depot).

GSA–FPRS Marietta Depot (Address all mail to Region 3).

GSA–FPRS Terre Haute Depot (Address all mail to the Sharonville Depot).

GSA–FPRS Voorheesville Depot (Address all mail to the Scotia Depot).

GSA/TPUS–2 (23–00–0107)

SYSTEM NAME:

Accountability and Property Inventory System.

SYSTEM LOCATION:

Records are maintained at the Assistant Regional Administrator offices and motor equipment divisions at the addresses listed in the appendix following this notice. In addition, portion of the records are maintained at motor pools located throughout the regions, the addresses of which can be obtained from the applicable regional director.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Motor pool personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of keys issued, accountability of Government property and supplies, bonding of collection officers, contractor officer designations, and discrepancy reports. The records are primarily used by officers and employees of the agency who have a need for the records in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 40 U.S.C. Section 483; Title 5 U.S.C. generally; and Title 31 U.S.C. generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements A, B, C, D, E, and G, described in the appendix following the GSA notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper forms.

RETRIEVABILITY:

Individual's name.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of TPUS.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director (TS), Transportation and Public Utilities, Service, 425 I Street, NW., Chester A. Arthur Building, Washington, DC 20406. Mailing address: General Services Administration (TS), Washington, DC 20406.

NOTIFICATION PROCEDURES:

Individuals may obtain information about whether they are part of this system of records from the regional director of the applicable activity shown in the location portion of this notice in which the individual is or was employed. If not known, general inquiries should be made to the Office of the Executive Director (TS), Transportation and Public Utilities Service, 425 I Street, NW., Chester A. Arthur Building, Washington, DC 20406.

RECORD ACCESS PROCEDURES:

Requests from individual to access records should be addressed to the officials cited above. In person requests may also be made during normal business hours at each location listed in the appendix following this notice. For written requests, the individual should provide full name, address, and telephone number; approximate dates and places of employment; and any other information which the individual believes would facilitate locating the record. For personal visits, the individual should be able to provide some acceptable identification such as a driver's license or employment identification card. Only general inquiries may be made by telephone.

CONTESTING RECORDS PROCEDURES:

GSA rules for contesting records and for appealing initial determinations are contained in 41 CFR 105–64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individuals, agency supervisors, and personnel action forms.

Appendix—GSA/TPUS Addresses of Locations

Region 1

John W. McCormack Post Office and
Courthouse Office Square, Boston, MA 02109.

Region 2

26 Federal Plaza, New York, NY 10007.

Region 3

9th and Market Streets, Philadelphia, PA 19107.

Region 4

75 Spring Street, SW., Atlanta, GA 30303.

Region 5

230 South Dearborn Street, Chicago, IL 60604.

Region 6

1500 E. Bannister Road, Kansas City, MO 64131.

Region 7

817 Taylor Street, Fort Worth, TX 76102.

Region 8

Building 41, Denver Federal Center,
Denver, CO 80225.

Region 9

525 Market Street, San Francisco, CA 94105.

Region 10

GSA Center, Auburn, WA 98002.

National Capital Region

7th and D Streets SW., Washington, DC 20407.

Appendix

The following routine use statements will apply to General Services Administration notices where indicated:

A. Routine Use—Law Enforcement: In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or role, regulation or order issued pursuant thereto.

B. Routine Use—Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use—Disclosure of Requested Information: A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision, on the matter.

D. Routine Uses—Grievance, Complaint, Appeal: A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management. To the extent that official personnel records in the custody of GSA are covered within systems of records published by the Office of Personnel Management as Government-wide records, those records will be considered as a part of that Government-wide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

E. Routine Use—Congressional Inquiries: A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

F. Routine Use—Private Relief Legislation: The information contained in this systems of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

G. Routine Use—GSA Agents: A record from this system of records may be disclosed as a routine use (1) to an expert, a consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty and (2) to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

[FR Doc. 80-25712 Filed 8-28-80; 8:45 am]

BILLING CODE 6820-34-M

federal register

Friday
August 29, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA78-5122	Aug. 11, 1978.
CA80-5110	Mar. 14, 1980.
CA80-5114	Apr. 18, 1980.
CA80-5117	May 23, 1980.
Mississippi:	
MS80-1001	Jan. 18, 1980.
MS80-1002	Jan. 18, 1980.
MS80-1003	Jan. 18, 1980.
MS80-1004	Jan. 18, 1980.
MS80-1005	Jan. 18, 1980.
MS80-1006	Jan. 18, 1980.
MS80-1028	Jan. 18, 1980.
Montana:	
MT80-5120	June 27, 1980.
MT80-5121	June 27, 1980.
MT80-5122	June 27, 1980.
Pennsylvania:	
PA79-3001	Feb. 2, 1979.
PA79-3020	July 20, 1979.
PA80-3027	Apr. 18, 1980.
PA80-3037	May 2, 1980.
PA80-3030	May 30, 1980.
PA80-3044	July 25, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA78-4107 (IA80-4048)	Nov. 24, 1978.
Kentucky:	
KY79-1031 (KY80-1101)	Feb. 9, 1979.
Maryland:	
MD78-3002 (MD80-3047)	Mar. 3, 1978.
MD79-3026 (MD80-3042)	Aug. 3, 1979.

Massachusetts:	
MA79-2006 (MA80-2070)...	Feb. 23, 1979.
New York:	
NY79-3038 (NY80-3049)....	Dec. 21, 1979.
NY79-3040 (NY80-3050)....	Nov. 23, 1979.
North Carolina:	
NC79-1027 (NC80-1099) ...	Mar. 16, 1979.
Pennsylvania:	
PA78-3099 (PA80-3031)	Dec. 15, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 22nd day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

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MODIFICATION PAGE 1

DECISION NO. CA78-5122 - Mod. #9
(43 FR 35835 - August 11, 1978)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Roofers:					
San Luis Obispo and Santa Barbara Cos.	$13.37	.645	1.49		

MODIFICATION PAGE 2

DECISION #CA80-5110 - Mod. #5
(45 FR 16796-March 14, 1980)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Roofers:					
San Francisco and San Mateo Counties:					
Roofers	$13.54	$1.06	$1.70	$2.45	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	13.79	1.06	1.70	2.45	.10
Bitumastic; Enamelers Pipewrappers; Coal tar	15.54	1.06	1.70	2.45	.10

MODIFICATION PAGE 3

DECISION #CA80-5114 - Mod. #4
(45 FR 26610 - April 18, 1980)
Alameda, Amador, Calaveras, Contra Costa, El Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Solano, and Yolo Counties (excluding portions of Counties in Lake Tahoe Area):					
Brush	$14.90	$1.50	$2.00	.80	.06
Spray	15.40	1.50	2.00	.80	.06
Tapers	15.90	1.50	2.00	.80	.06
Roofers:					
Marin, Napa, Solano, and Sonoma Counties:					
Roofers	13.44	1.10	1.65	2.45	.10
Mastic Workers; Kettlemen (2 Kettles w/o pumps)	13.69	1.10	1.65	2.45	.10
Bitumastic; Enamelers; Pipe-wrapper; Coal tar pitch	15.44	1.10	1.65	2.45	.10
San Francisco and San Mateo Counties:					
Roofers	13.54	1.06	1.70	2.45	.10
Mastic Workers and Kettlemen (2 kettles w/o pumps)	13.79	1.06	1.70	2.45	.10
Bitumastic; Enamelers; Pipe-wrappers; Coal tar	15.54	1.06	1.70	2.45	.10

MODIFICATION PAGE 4

DECISION NO. CA80-5117 - Mod. #5
(45 FR 35110 - May 23, 1980)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, Calif.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
ELECTRICIANS:					
Kern Co. (China Lake Naval Ordnance Test Station, Edwards AFB):					
Electricians, Technicians	$19.00	1.10	3%+1.95		.15
Cable Splicers	20.90	1.10	3%+1.95		.15
LINE CONSTRUCTION:					
Kern Co. (China Lake Naval Ordnance Test Station, Edwards AFB):					
Lineman, Equipment Op.	19.00	1.10	3%+1.95		.15
Cable Splicer	20.90	1.10	3%+1.95		.15
Groundman	15.00	1.10	3%+1.95		.15
Change:					
ROOFERS:					
Area 5:	13.37	.645	1.49		

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MODIFICATION PAGE 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MS80-1001 - MOD. #1 (45 FR 3863 - January 18, 1980) Zone 1 Counties: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION *Zone 1 Counties: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, (excluding Tennessee-Tombigbee Waterway), Lafayette, Lee (excluding Tennessee-Tombigbee Waterway), Lowndes (excluding Tennessee-Tombigbee Waterway), Marshall, Monroe (excluding Tennessee-Tombigbee Waterway), Oktibbeha, Pontotoc, Prentiss (excluding Tennessee-Tombigbee Waterway), Tippah, Tishomingo (excluding Tennessee-Tombigbee Waterway), Union, and Webster					
DECISION NO. MS80-1002 - MOD. #2 (45 FR 3863 - January 18, 1980) *Zone II Counties: Bolivar, Carroll, Coahoma, De Soto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica,					

MODIFICAITON PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MS80-1002 - MOD. #2 (Cont'd) Washington, and Yalobusha Counties, Mississippi CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATEH LINE CONSTRUCTION					
DECISION NO. MS80-1003 - MOD. #1 (45 FR 3864 - January 18, 1980) Zone III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION					
DECISION NO. MS80-1004 - MOD. #1 (45 FR 3864 - January 18, 1980) Zone IV Counties: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION					

MODIFICATION PAGE 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MS80-1005 - MOD. #1 (45 FR 3865 - January 18, 1980) Zone V Counties: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION					
DECISION NO. MS80-1006 - MOD. #1 (45 FR 3865 - January 18, 1980) Zone VI Counties: George, Pearl River, and Stone Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION					
DECISION NO. MS80-1028 - MOD. #1 45 FR 3866 - January 18, 1980) Zone VII Counties: Hancock, Harrison, and Jackson Counties, Mississippi. CHANGE: DESCRIPTION OF WORK: SEWER LINE AND WATER LINE CONSTRUCTION					

MODIFICATION PAGE 8

DECISION #MT80-5120 Mod. #4
45 FR 43598 June 27, 1980

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STATEWIDE, MONTANA					
CHANGE:					
Electricians					
Area 9	$12.35	.50	3%+.50		½%
Painters					
Area 6	10.90				
OMIT:					
Power Equipment Operators					
Heavy Duty Driller	11.78	.87	.75	.50	.07
ADD:					
Painters					
Area 9 (See below for jurisdiction)					
Signwriting	11.35	.69	.40		1%
Spray and roller (in shop)	11.35	.69	.40		1%
Spray and roller (out of shop)	12.75	.69	.40		1%
Power Equipment Operators					
Hoist Operator, Single Drum	11.96	.87	.75	.50	.07
Mechanic Shop (Dec. 1 to April 1)	11.89	.87	.75	.50	.07

JURISDICTION FOR PAINTER'S AREA 9: Glacier County, excluding the Northwest tip of the County; (that which contains Glacier National Park), Toole County, Pondera County, Teton County, the Northern part of Lewis & Clark County, from a line running East-West through the Northern limits of Craig, Montana, Cascade County, Judith-Basin County, Fergus County, Petroleum County, and the Northern portion of Wheatland County from a line running East-West through the Southern city limits of Harlowtown, Montana, the southern part of Choteau County from a line running East-West through the Southern limits of Big Sandy, Montana, Phillips County, Valley County, Daniels County, Sheridan County, Roosevelt County, Richland County, McCone County, Garfield County, and /or any area or territory which has been granted to Local Union #260 by the International Brotherhood of Painters and Allied Trades.

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MODIFICATION PAGE 9

DECISION #MT80-5121 Mod. #4
45 FR 43608 June 27, 1980

page 1

STATEWIDE, MONTANA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers					
Area 1	$14.20		.55		
Carpenters					
Area 6					
Millwrights	11.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
Electricians					
Area 9	12.35	.50	3%+.50		½%
Laborers					
Carter, Custer, Dawson, Fallon, Powder River, and Wibaux Counties.					
Group 1	9.45	.70	.60	.20	.05
Group 2	9.67	.70	.60	.20	.05
Group 3	9.70	.70	.60	.20	.05
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure, and Yellowstone Cos.					
Group 1	9.60	.70	.60	.20	.05
Group 2	9.82	.70	.60	.20	.05
Group 3	9.85	.70	.60	.20	.05
Painters					
Area 5	10.90				
Power Equipment Operators					
Hot plant oiler, 100 ton per hour	11.68	.87	.75	.50	.07
Hydralift and similar type	12.09	.87	.75	.50	.07
Rubber tired front end loader, over 3 cy. to and including 5cy.	12.31	.87	.75	.50	.07
Washing and Screening plant oiler	11.68	.87	.75	.50	.07
Chip gravel spreader, self propelled	11.91	.87	.75	.50	.07
Grade setter	11.65	.87	.75	.50	.07

MODIFICATION PAGE 10

DECISION #MT-5121 Mod. #4 cont'd

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Power Equipment Operators					
Heavy duty driller	$11.78	.87	.75	.50	.07
ADD:					
Painters					
Area 7 (See below for jurisdiction)					
Spray & roller (in shop)	11.35	.69	.40		1%
Signwriter	11.35	.69	.40		1%
Spray & roller (out of shop)	12.75	.69	.40		1%
Power Equipment Operators					
Hoist Operator, single drum	11.96	.87	.75	.50	.07
Mechanic shop (Dec. 1 to April 1)	11.89	.87	.75	.50	.07

JURISDICTION FOR PAINTERS AREA 7: Glacier County, excluding the Northwest tip of the County; (that which contains Glacier National Park), Toole County, Teton County, the Northern part of Lewis and Clark County, from a line running East-West through the Northern limits of Craig, Montana, Cascade County, Judith Basin County, Fergus County, Petroleum County, and Northern portion of Wheatland County from a line running East-West through the Southern city limits of Harlowtown, MOntana, the southern part of Chotcau County from a line running East-West through the Southern limits of Big Sandy, MOntana, Phillips County, Valley County, McCone County, Garfield County, and or any area or territory which has been granted to Local Union #260 by the International Brotherhood of Painters and Allied Trades.

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DECISION #MT80-5122 Mod. #4
45 FR 43624 June 27, 1980

Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow, and Valley Cos., Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers:					
Area 6	$14.20		.55		
Painters:					
Area 5	10.90				
Plumbers, Pipefitters, and Steamfitters:					
Area 1	15.10	.75	1.10		.16
Power Equipment Operators					
Hot plant oiler, 100 ton per hour	11.68	.87	.75	.50	.07
Hydralift and similar type	12.09	.87	.75	.50	.07
Rubber tired-front end loader, over 3cy. to and including 5cy.	12.31	.87	.75	.50	.07
Washing and screening plant oiler	11.68	.87	.75	.50	.07
Chip or gravel spreader, self propelled	11.91	.87	.75	.50	.07
Grade setter	11.65	.87	.75	.50	.07
OMIT:					
Power Equipment Operator					
Heavy Duty Driller	11.78	.87	.75	.50	.07
ADD:					
Power Equipment Operator					
Hoist operator, single drum	11.96	.87	.75	.50	.07
Mechanic shop (Dec. 1 to April 1)	11.89	.87	.75	.50	.07

MODIFICATION PAGE 12

DECISION NO. PA79-3001
MOD. NO. 4
(44 FR 6886 - February 2, 1979)
Northampton County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Bricklayers & Stonemasons	12.10	.60	.75		.01
Carpenters	11.75	.84	.72		.05
Cement masons	12.00	.60	.75		.01
Electricians:					
Allen, Hanover, Lehigh, Bath, Freemansburg, Hellertown and Bethlehem	12.45	.70	3%+.80		.02
Remainder of County	13.50	7%	3%+1.00		.02
Ironworkers	13.45	1.34	1.36		
Laborers:					
Laborers & window cleaners	8.69	.62	.59		
Operator of jackhammer, paving breaking and mechanical tools coming under the jurisdiction of laborers, laying of all clay terra cotta, ironstone, vitified concrete or non-metallic pipe and the making of joints for same and cofferdams (below 10')	8.94	.62	.59		
Wagon drills and men handling burning torches in the wrecking of buildings	9.44	.62	.59		
Plaster and mason tenders, scaffold builders and handling of all material to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and moldeo-D and sandblaster helpers, power buggiesm all floor hardner and "cure" application shall be work of the mason tender, all pumps such as the concrete,					

MODIFICATION PAGE 13

DECISION NO. PA79-3001 -
MOD. NO. 4, CONT'D.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D.					
plaste mortar and water, installing rafractory materials in connection with the boiler work	9.19	.62	.59		
Barko tamper operator	9.71	.62	.59		
Millwrights	12.15	.84	.72		.05
Plasterers	11.89	.60	.75		.01
Piledrivermen	11.97	2.63	1.40	a	.13
Painters:					
Bethlehem					
Brush	11.45	1.28	.80		.05
Structural steel	12.65	1.28	.80		.05
Spray	12.45	1.28	.80		.05
POWER EQUIPMENT OPERATORS:					
Group 1	13.19	7.9%	10.3%	a	1.8%
Group 2	12.90	7.9%	10.3%	a	1.8%
Group 3	12.03	7.9%	10.3%	a	1.8%
Group 4	11.26	7.9%	10.3%	a	1.8%
Group 5	10.79	7.9%	10.3%	a	1.8%
Group 6	9.88	7.9%	10.3%	a	1.8%
Group 7	13.44	7.9%	10.3%	a	1.8%
Group 7-A	13.69	7.9%	10.3%	a	1.8%
Group 7-B	13.93	7.9%	10.3%	a	1.8%
Roofers:					
Composition, Slate & Tile	12.28		1.55		
Soft Floor Layers	10.25	.64	.72	.65	
Terrazzo Workers	11.00	.60	.75		.01
Sprinkler Fitters	14.53	.85	1.20		.08
Sheet metal workers	11.66	1.44	1.18		.14

MODIFICATION PAGE 14

DECISION NO. PA79-3020
MOD. NO. 2
(44 FR 42880 - July 20, 1979)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$15.57	1.275	1.00		.02
Bricklayers & Stonemasons:					
Zone 1	11.40	1.00	1.15		.01
Zone 2	11.75	.85	.75		
Zone 4	11.81	1.15	.50		
Carpenters Zone 2	11.86	.60	.70		.05
Cement masons Zone 2	11.81	1.15	.50		
ELECTRICIANS:					
Carbon County: Towamensing Lower Towamensing, East Penn Township and the Borough of Parryville in their entirety	12.45	.70	3%+.80		.02
Penn Forest, Lehigh, Lausane, Banks, Packer, Mauch Chunk, Franklin, Mahoning Townships and East Side Borough in their entirety and that portimn of Kidder Township south of State Highway 940, but excluding Perryville Borough	12.52	.65	3%+.30	a	.05
Monroe County: Polk, Eldred, Chestnut Hill, Ross, Hamilton, Jackson, Pocono, Stroud, Smithfield, and Middle Smithfield Townships	13.50	7%	3%+1.00		.02
Barrett, Coolbaugh, Pardise and Price Townships, and that portion of Tobyhanna Townships east of State Highway 115.					
Zone A- From 20 to 30 miles from Zero milestone mAa marker	12.00	.85	3%+.50	1.00	.10
Zone B- All distance beyond 30 miles	12.50	.85	3%+.50	1.00	.10

MODIFICATION PAGE 15

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DECISION NO. PA79-3020
MOD. NO. 2 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Pike County: Porter, Delaware and Lehman Townships in their entirety:	$13.50	7%	3%+1.00		.02
Remainder of County:					
Zone A- From 20 to 30 miles from Zero milesstone marker	12.00	.85	3%+.50	1.00	.10
Zone B- All distances beyond 30 miles from Zero marker	12.50	.85	3%+.50	1.00	.10
Glaziers					
Zone 2	11.00	.65	.85		
Ironworkers:					
Zone 1	13.45	1.34	1.36		
Zone 2					
Structural	13.35	e			.10
Reinforcing	13.25	e			.10
Marble Setters					
Zone 3	10.88	1.15	.50		
Laborers:					
Zone 1					
Class 1	9.70	.67	1.00		
Class 2	9.85	.67	1.00		
Class 3	10.10	.67	1.00		
Zone 2					
Class 1	8.69	.62	.59		
Class 2	8.94	.62	.59		
Class 3	9.19	.62	.59		
Class 4	9.71	.62	.59		
Class 5	9.44	.62	.59		
Millwrights	13.52	.60	.70		.05
Painters:					
Zone 1					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
Zone 2					
Brush & Roller	10.00		1.20		
Structural Steel	11.00		1.20		
Spray	11.50		1.20		

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MOD. NO. 2 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Zone 3					
Brush	$11.45	1.28	.80		.05
Spray	12.45	1.28	.80		.05
Steel	12.65	1.28	.80		.05
Piledrivermen	11.97	2.63	1.40	g	.13
Plasterers					
Zone 5	11.60	1.15	.50		
Plumbers					
Zone 1	12.54	.80	1.25		.05
Zone 2	13.23	.85	1.40		.14
Roofers:					
Zone 1					
Composition & Slate	12.28		1.55		
Slab & Concrete Plank	12.78		1.55		
Zone 3					
Composition & Kettleman	11.82		1.13		
Sheet metal workers	11.95	.75	.81		.02
Sprinkler Fitters	14.53	.85	1.20		.08
Tile Setters					
Zone 3	10.93	1.15	.50		
POWER EQUIPMENT OPERATORS:					
ZONE I					
Group 1	13.14	7.9%	10.3%	a	1.8%
Group 2	12.85	7.9%	10.3%	a	1.8%
Group 3	11.97	7.9%	10.3%	a	1.8%
Group 4	11.20	7.9%	10.3%	a	1.8%
Group 5	10.72	7.9%	10.3%	a	1.8%
Group 6	9.80	7.9%	10.3%	a	1.8%
Group 7	13.39	7.9%	10.3%	a	1.8%
Group 7-A	13.64	7.9%	10.3%	a	1.8%
Group 7-B	13.89	7.9%	10.3%	a	1.8%
ZONE II					
Group 1	13.19	7.9%	10.3%	a	1.8%
Group 2	12.90	7.9%	10.3%	a	1.8%
Group 3	12.03	7.9%	10.3%	a	1.8%
Group 4	11.26	7.9%	10.3%	a	1.8%
Group 5	10.79	7.9%	10.3%	a	1.8%
Group 6	9.88	7.9%	10.3%	a	1.8%
Group 7	13.44	7.9%	10.3%	a	1.8%
Group 7-A	13.69	7.9%	10.3%	a	1.8%
Group 7-B	13.93	7.9%	10.3%	a	1.8%

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MOD. NO. 2
CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Soft Floor Layers					
Zone 1	$10.35	.60	.70		.05
Zone 2	12.12	.70	.50		.05
Truck Drivers					
Class 1	10.32				
Class 2	10.39				
Class 3	10.88				

FOOTNOTE:

e. Employer contributes $2.70 to a combined Health & Welfare and Pension Fund.

OMIT:
FOOTNOTE:
b. .12 per day per employee.

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DECISION NO. PA80-3027
MOD. NO. 3
(45 FR 26654 - April 18, 1980)
Schuylkill County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Carpenters	11.86	.60	.70		.05
Electricians:					
North Union, East Union, Union, West Mahanoy, (excluding Frackville Borough), Mahanoy), Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker, Rahn, East Brunswick, and West Penn. Twps.	12.52	.65	3%+.50	a	.05

DECISION NO. PA80-3037
MOD. NO. 3
(45 FR 29522 - May 2, 1980)
Sullivan County, Pennsylvania

	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	15.57	1.275	1.00		.02
Carpenters:					
Remainder of County	11.86	.60	.70		.05
Sprinkler Fitters	14.53	.85	1.20		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3030 MOD. NO. 3 (45 FR 36764 - May 30, 1980) Luzerne County, Pennsylvania					
CHANGE:					
Boilermakers	$15.57	1.275	1.00		.02
Carpenters:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	11.86	.60	.70		.05
Electricians:					
Hazleton, Nescopeck, Hollenbach, Black Creek, Sugar Loaf, Hazle, Butler, Foster Twps., and the Borough of White Haven in their entirety and that portion of Dennison Twp., south and west of the Central Railroad of New Jersey Line between Wright Township and White Haven	12.52	.65	3%+.50	a	.05
Truck Drivers:					
Pittston:					
Class I	10.32				
Class II	10.39				
Class III	10.88				
OMIT:					
Footnote:					
b. Employer shall contribute $0.12 per day per employee.					
DECISION NO. PA80-3044 MOD. NO. 1 (45 FR 49839 - July 25, 1980) Northumberland County, Pennsylvania					
CHANGE:					
Boilermakers	$15.57	1.275	1.00		.02
Carpenters	11.86	.60	.70		.05

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Polk
DECISION NO.: IA80-4048 DATE: Date of Publication
Supersedes Decision No.: IA78-4107, dated November 24, 1978 in 43 FR 55171
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	1.04	1.125		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	12.03	.90	1.00		.02
CARPENTERS:					
Carpenters	11.75	.80	.88		.13
Millwrights; Piledrivermen	12.10	.80	.88		.13
CEMENT MASONS	10.56		.80		.04
ELECTRICIANS	14.30	.45	3%+1.30		3/4%
ELEVATOR CONSTRUCTORS	13.195	1.195	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.82	a	.035
GLAZIERS	9.67	.70	.55	4.35%+c	.005
IRONWORKERS	12.27	.87	1.12		.05
LABORERS:					
GROUP 1 - General laborers	10.975	.40	.80		.05
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete; power tool operators (air tools, concrete vibrator, gunnite nozzlemen, electric drills & hammers)	11.075	.40	.80		.05
GROUP 3 - Plasterers' tenders	11.10	.40	.80		.05
GROUP 4 - Powdermen	11.125	.40	.80		.05
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	11.175	.40	.80		.05
GROUP 6 - Paving breakers weighing 50 lbs. and over	11.275	.40	.80		.05
LATHERS	13.33				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	1/2%

DECISION NO. IA80-4048

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (cont'd)					
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	$ 7.77	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	7.89	.45	7%	b	1/2%
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	9.57	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	6.58	.45	7%	b	1/2%
MARBLE SETTERS	11.69				
PAINTERS:					
GROUP 1 - Brush, roller, drywall finisher	12.57		.80		.05
GROUP 2 - Spray; Structural steel; Sandblasting; Swing stage	13.07		.80		.05
GROUP 3 - Paperhangers	12.82		.80		.05
GROUP 4 - Stack; Tower work over 100 ft.	13.67		.80		.05
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	14.30	.60	1.05		.15
ROOFERS	9.62	.80	.45		
SHEET METAL WORKERS	12.12	1.00	.99		.14
SOFT FLOOR LAYERS	11.50	.80	.88		.13
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS	11.69				
TILE SETTERS	11.69				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. IA80-4048

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

FOOTNOTES

a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G

b - Seven Paid Holidays A thru G

c - Six Paid Holidays A thru F

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

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BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: McCracken
DECISION NO.: KY80-1101 DATE: Date of Publication
Supersedes Decision Number: KY79-1031, dated February 9, 1979, in 44 FR 8497
DESCRIPTION OF WORK: Building Construction (does not include single family homes up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.61	.65	1.00		.03
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	10.99	.45	.40		
CARPENTERS	11.50	.45	.25		.07
CEMENT MASONS	10.35	.90	.40		.05
ELECTRICIANS:					
Wiremen	12.65	.50	13%		¼ of 1%
Cable Splicers	12.90	.50	13%		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.41	.745	.56	a + b	.025
Helpers	7.99	.745	.56	a + b	.025
Probationary Helpers	5.705				
GLAZIERS	10.905	.48	.50	.25	
IRONWORKERS - Structural, Ornamental, & Reinforcing	12.45	.55	.95		.05
LATHERS	10.06		.20	.75	.01
LINE CONSTRUCTION:					
Linemen & equipment operators	12.55	.70	13%		½ of 1%
Cable splicers	12.80	.70	13%		½ of 1%
Groundmen truck drivers	9.41	.70	13%		½ of 1%
Groundmen	9.16	.70	13%		½ of 1%
PAINTERS:					
Brush & roller	11.05	.60			
Sandblast & power tools	11.60	.60			
Drywall finishers & Paperhangers	11.55	.60			
Steeple jack work	12.20	.60			
Free Fall Premium Rate:					
40' to 80' + 50¢ over base rate of work classification					
80' to 120' + 75¢ over base rate of work classification					
Over 120' + $1.00 over base rate of work classification					
PILEDRIVERMEN & MILLWRIGHTS	12.00	.45	.25		.07

DECISION NO. KY80-1101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$10.01			.95	.01
PLUMBERS & PIPEFITTERS	14.35	.75	1.00		.08
ROOFERS	10.50		.10		
SHEET METAL WORKERS	12.88	1.333	1.26		.15
SOFT FLOOR LAYERS	9.80	.45	.25		.02
SPRINKLER FITTERS	14.30	.85	1.20		.08
TRUCK DRIVERS:					
Trucks up to but not including 5 tons, such as station wagons, autos, pick-up trucks, dump trucks, flat beds and stake bodies	7.25		.55		
Trucks 5 tons and over, including special equipment such as Euclids, winch trucks, Dempster dumpsters, crawler-type trucks, tandem dump trucks, mechanics, all ready-mix trucks, tractor trailers, low boys, distributor trucks, water tank trucks, fork lifts;	7.90		.55		
Greasers, tire changers, materials checkers	7.85		.55		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP 1	$8.30	.40	.70		
GROUP 2	8.50	.40	.70		
GROUP 3	8.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pudlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.42	.50	.80		.08
CLASS B	8.77	.50	.80		.08
CLASS C	8.02	.50	.80		.08
CLASS D	11.67	.50	.80		.08

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

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POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (Cont'd)

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

Class D - Operators on cranes with booms one hundred feet and over (including jib).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Maryland
DECISION NO.: MD 80-3047
SUPERSEDEAS DECISION NO.:
MD78-3002, dated March 3, 1978, in 43 FR 9076
DESCRIPTION OF WORK:
Heavy and Highway Construction

COUNTIES: Allegany and Garrett
DATE: Date of Publication

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.34	.80	1.00		
Carpenters	11.37	.75	1.00		.03
Cement Masons	12.51	.75			
Electricians - Allegany County	11.40	.80	3%+.70		1%
Electricians - Garrett County	11.80	.80	3%+.70		1%
Ironworkers:					
Structural & Reinforcing	11.72	.60	1.10		
Laborers:					
Unskilled, landscape workers, tool checkers, dumpmen, handymen, & truck spotters	8.78	.80	1.10		
Power tool operators, masons & plasterers tenders, mortar mixer by hand, scaffold builders, hod carriers, concrete puddlers, pipe layers, chainmen-rodmen, rammers & grade checkers	8.90	.80	1.10		
Mortar mixer by machine	8.97	.80	1.10		
Barco tampers	9.04	.80	1.10		
Blaster/dynamite & wagon drill operator (air track)	9.08	.80	1.10		
Tunnel workers:					
Caisson, driller & mucker	9.60	.80	1.10		
Laborer - unskilled	9.24	.80	1.10		
Piledrivermen	11.68	.75	1.00		.03

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Heavy Construction: Power Equipment Operators	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$11.41	.95	1.00		.13
GROUP 2	11.01	.95	1.00		.13
Hourly additional pay for long boom cranes (incl. jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' plus .60					
210' to 249' plus .80					
250' to 299' plus 1.00					
300' and over 1.[illegible]5					
GROUP 3	10.59	.95	1.00		.13
GROUP 4	10.25	.95	1.00		.13
GROUP 5	10.25	.95	1.00		.13
GROUP 6	9.93	.95	1.00		.13
GROUP 7	9.54	.95	1.00		.13

CLASSIFICATIONS

GROUP 1 - Operators handling or setting steel, prestressed concrete or machinery, Tower Crane

GROUP 2 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 1-3/4 yds.), over 4 welders top scale (more than 6, another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader

GROUP 3 - Tractor with attachments (2 or more), Bulldozer, front end loader (up to and including 1-3/4 yds.)

GROUP 4 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, excavating scoop

GROUP 5 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader

GROUP 6 - Fireman, truck crane oiler, wheel tractor, grease truck operator

GROUP 7 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)

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Highway Construction: Power Equipment Operators	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.23	.95	1.00		.13
GROUP 2	10.83	.95	1.00		.13
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads					
130' to 169' plus $ .40					
170' to 209' plus .60					
210' to 249' plus .80					
250' to 299' plus 1.00					
300' and over 1.25					
GROUP 3	10.37	.95	1.00		.13
GROUP 4	10.07	.95	1.00		.13
GROUP 5	10.07	.95	1.00		.13
GROUP 6	9.72	.95	1.00		.13
GROUP 7	9.37	.95	1.00		.13

CLASSIFICATIONS

GROUP 1 - Operators handling or setting steel, prestressed concrete or machinery, Tower Crane
GROUP 2 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 1-3/4 yds.), over 4 welders top scale (more than 6, another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
GROUP 3 - Tractor with attachments (2 or more), Bulldozer, front end loader (up to and including 1-3/4 yds.)
GROUP 4 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, excavating scoop
GROUP 5 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader
GROUP 6 - Fireman, truck crane oiler, wheel tractor, grease truck operator
GROUP 7 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
GROUP 1	$9.28	1.00	1.25		
GROUP 2	9.44	1.00	1.25		
GROUP 3	9.65	1.00	1.25		
GROUP 4	9.87	1.00	1.25		
GROUP 5	10.12	1.00	1.25		

CLASSIFICATIONS

GROUP 1 - Dumpmen and Flagmen
GROUP 2 - Pick-ups, dumps (under 5 yds., capacity), straight trucks
GROUP 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds. capacity), Transit mix, dumps (5 to 9 yds. capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
GROUP 4 - Dump trucks (10 to 15 yd. capacity)
GROUP 5 - Dump trucks (over 15 yd. capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, Off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

SUPERSEDEAS DECISION

STATE: Maryland County: Cecil
DECISION NO.: MD80-3042 DATE: Date of Publication
Supersedeas Decision No. MD79-3026, dated August 3, 1979, in 44 FR 51479
DESCRIPTION OF WORK: Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.95	.85	.95		.02
Boilermakers	13.475	1.275	1.00		.04
Bricklayers	12.13	.90	.75		.07
Carpenters	11.70	.75	.69		.07
Cement Masons	10.00	.60	.55		.04
Electricians	13.00	1.07	1.17		¼%
Ironworkers - Structural Ornamental, and Reinforcing	12.95	1.34	1.136		.05
Laborers:					
Laborers	7.05	.35	.55		.075
Power Tool Operators	7.15	.35	.55		.075
Pipelayers, Wagon Drill Operators, Air Track Drillers, Burners (demolition)	7.55	.35	.55		.075
Jackhammer Operators	7.30	.35	.55		.075
Painters: (Elkton):					
Base	10.77	1.00	.85		
Bridges	13.25	1.00	.85		
Tanks	11.32	1.00	.85		
Painters (Remainder of County)					
Brush and Roller	9.90	1.10	.65		.09
Spackling, Taping, and Wallcovering	10.05	1.10	.65		.09
Steel Painting, all epoxies, and sand and water blasting	10.40	1.10	.65		.09
Spray painting, except steel	10.15	1.10	.65		.09
Plumbers	12.12	.87	.99		.16
Roofers:					
Roofers, damp & waterproof workers	9.00	.60	.45		
Slate, Tile, Asphalt & Asbestos Shingle	9.45	.60	.45		
Woodblock layer & Precast Slab	10.00	.60	.45		

DECISION NO. MD 80-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steamfitters	$12.62	.87	1.54		.16
Sheet Metal Workers	10.12	.75	.70		.07
Truck Drivers:					
Goose neck & drop frame trailers	9.40	1.05	.75	a+b	
All "A" frames, winch truck, fork lifts and trailers	9.20	1.05	.75	a+b	
Flat beds & Pickups	8.20	1.05	.75	a+b	
Dump Trucks	7.94	1.05	.75	a+b	
Truck Drivers (Excavation):					
Dump trucks	8.64	1.05	.80	a+b	
Euclid wagon and dumpsters	8.95	1.05	.80	a+b	
Drop frame, goose necks, and trailers	8.84	1.05	.80	a+b	
Pickup	8.43	1.05	.80	a+b	

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Welders - receive rates prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 weeks paid vacation; 10 years of service - 3 weeks paid vacation, provided the employee has worked 125 days in the previous contract year.

b. Holidays: A through F plus the employee's birthday; the day after Thanksgiving Day and Christmas Eve (provided the employee has worked one day and has been available for work during holiday week).

DECISION NO. MD 80-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Group 1	11.34	.95	1.00	i	.13
Group 2	10.87	.95	1.00	i	.13
Group 3	10.32	.95	1.00	i	.13
Group 4	9.78	.95	1.00	i	.13
Group 5	8.71	.95	1.00	i	.13
Group 6					
A	11.74	.95	1.00	i	.13
B	11.94	.95	1.00	i	.13
C	12.14	.95	1.00	i	.13
D	12.34	.95	1.00	i	.13
E	12.59	.95	1.00	i	.13

FOOTNOTE:

i. Paid Holidays - New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

GROUP 1: Operators handling or setting steel, stone, prestressed concrete or machinery. Tower Cranes.

GROUP 2: Backfiller, Backhoe, Batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1¼ yds.), concrete mixing plants, concrete paver, derrick boat, double concrete pump, dragline, Eimco type overhead loader, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, hoist (2 active drums or more), multiple conveyor, pile driving machine, power shovel, repair mechanic, shield, standard gauge locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whitley rig.

GROUP 3: Asphalt spreader, bulldozer, bull float, crane type backhoe (with a front end bucket 1¼ yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), Hi-lift fork lift, longitudinal float, narrow gauge locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used).

DECISION NO. MD 80-3042

POWER EQUIPMENT OPERATORS
(BUILDING AND HEAVY CONSTRUCTION)

GROUP4: Caterpillar type tractor, compressors, elevator operator, firemen, fuel truck, grease truck, grout pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, well point system.

GROUP 5: Deck hands, oilers (all types)

GROUP 6: Long boom cranes, including jibs and on piledriver machines with leads: when working with piledrivermen or ironworker

GROUP 6A: 130' to 169'

GROUP 6B: 170' to 209'

GROUP 6C: 210' to 249'

GROUP 6D: 250' to 299'

GROUP 6E: 300' and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTIES: See Below *
DECISION NUMBER: MA80-2070 DATE: Date of Publication
Supersedes Decision No. MA79-2006, dated February 23, 1979 in 44 FR 10944
DESCRIPTION OF WORK: Building, Heavy, Highway and Residential Construction

*BERKSHIRE, FRANKLIN, HAMPDEN, AND HAMPSHIRE COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.95	1.04	1.40		.01
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS: Cement Mason, Plasterers, Stone Mason, Marble-Tile-Terrazzo Workers, Pointers, Cleaners, Caulkers:					
HAMPDEN, HAMPSHIRE, FRANKLIN COUNTIES; BERKSHIRE CO. (Twps. of Becket, Otis and Sandisfield only)	11.40	.98	1.15		.06
BERKSHIRE (Twps. of Adams North Adams, Cheshire, Florida, Savoy, Clarksbury and Williamstown)	11.85				
BERKSHIRE (Remainder of County)	12.88	.70	.55		
CARPENTERS: Soft Floor Layers, Drywall Carpenters:					
BERKSHIRE CO; FRANKLIN (Twps. of Monroe and Monroe Bridge (only)	12.48	.60	1.00		.04
FRANKLIN COUNTY (Erving, Warwick, Orange and N. Orange)	12.20	.75	1.00		.07
FRANKLIN COUNTY (Remainder of County); HAMPDEN County (Holyoke only); and HAMPSHIRE COUNTY (all)	10.95	.45	1.00		.02
HAMPDEN COUNTY (Remainder of County)	10.80	.60	1.00		.02

DECISION NO. MA80-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
BERKSHIRE CO., FRANKLIN CO. (Hawley, Monroe, and Rowe); HAMPSHIRE CO. (Middlefield, Cummington & Plainfield)	11.99	.55	3%+.94		.02
FRANKLIN COUNTY (Remainder of County); HAMPSHIRE CO. (Remainder of Co.); HAMPDEN CO. (Chester, Holyoke and North portion of Chicopee)					
Electricial Contracts under $75,000.00	10.40	.85	3%+.40		.02
Electrical Contracts over $75,000.00	12.56	.85	3%+.40		.02
HAMPDEN CO. (Remainder of County); HAMPSHIRE CO. (Belchertown, Ware)	12.28	.85	3%+.40		.03
ELEVATOR CONSTRUCTORS	11.33	1.045	.82	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	7.93	1.045	.82	a+b	.035
GLAZIERS	11.30	.47	.45		.005
IRONWORKERS:					
HAMPSHIRE; HAMPDEN; FRANKLIN COS.; BERKSHIRE CO. (Becket, Washington, Lee, Sandisfield, New Marlboro, Hinsdale, Peru, Savoy, Monterey, Sheffield, Windsor, Otis, N. & E. Otis)	11.35	1.15	1.35		.09
BERKSHIRE CO. (Remainder of County)	11.65	.75	1.04		.04
LATHERS	10.85		.25		.01
Drywall Lathers	9.00		.25		.01
LINE CONSTRUCTION:					
Linemen	12.50	.70	3%+.75	d	3/4of1%
Equipment Operator	10.69	.70	3%+.75	d	3/4of1%
Groundman	8.59	.70	3%+.75	d	3/4of1%
Driver Groundman	9.58	.70	3%+.75	d	3/4of1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	12.90	1.00	1.00		.10
MARBLE, TILE & TERRAZZO FINISHERS:					
BERKSHIRE AND HAMPDEN COUNTIES	8.95				
PAINTERS:					
Brush and Taper	10.02	1.02	.65		.06
Spray - epoxy & Interior Dry Fogs & Minerals Thinned with anything other than Water &/or Mineral Spirits	13.36	1.36	.8667		.08
Spray - Materials thinned with water &/or Mineral Spirits, excluding Epoxys & Interior Dry Fogs	13.89	1.02	.65		.06
Swing Stage under 40' Steel	10.207	1.02	.65		.06
Swing Stage over 40' Steel	10.5[illegible]	1.02	.65		.06
SIGN PAINTERS:					
BERKSHIRE AND HAMPSHIRE COUNTIES	10.25	.84	.50	.83	.04
PILEDRIVERMEN	12.80	1.00	1.00		
PLUMBERS:					
HAMPDEN COUNTY; BERKSHIRE CO. (Otis, Becket, Sandifield); HAMPSHIRE CO. (Belchertown, Granby, Huntington, Middlefield, South Hadley and Ware)	11.75	1.01	1.70		.10
BERKSHIRE CO. (Remainder of County); FRANKLIN CO. (Monroe, Towe and Western part of Charlemont)	13.05	1.06	.75		.05
FRANKLIN COUNTY (Orange Only)	11.33	.80	.65	.42	.05
FRANKLIN COUNTY (Remainder of County); HAMPSHIRE CO. (Remainder of County)	11.45	.85	.85		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition, Damp Water-proof	9.815	1.10	2.03		
Slate, Tile, Precast Concrete	10.315	1.10	2.03		
SHEET METAL WORKERS	13.86	1.09	1.46		.08
SPRINKLER FITTERS	12.15	.75	1.05		.08
STEAMFITTERS:					
HAMPDEN COUNTY; BERKSHIRE COUNTY (Otis, Becket, New Boston, Sandisfield) HAMPSHIRE COUNTY (Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware)	12.05	.57	1.45		.03
BERKSHIRE COUNTY (Remainder of County) FRANKLIN COUNTY (Monroe, Towe, and Western part of Charlemont)	13.05	1.06	.75		.05
FRANKLIN CO. (Orange Only)	11.33	.80	.65	.42	.05
FRANKLIN COUNTY (Remainder of County) HAMPSHIRE CO. (Remainder of County)	11.45	.85	.85		.02

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F, and the day after Thanksgiving

d. Holidays: A through F, provided the employee has been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus on floating holidays, Washington's Birthday and Patriots Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (BUILDING)					
CLASS I: Laborers, Wrecking Laborers, Carpenter Tenders	9.55	.75	1.10		.10
CLASS II: Jackhammer Op., Pavement Breakers, Wagon Drills, Asphalt Rakers, Carbide Core Drilling Machine, Chain Saw Operator, Pipelayers, Barco Type Jumping Tampers, Laser Beam Operators, Mason Tenders, Mortar Mixers, Ride-on Motorized Buggy and Plasterers Tenders	9.80	.75	1.10		.10
CLASS III: Air Track Operator, Block Pavers, Rammers, and Curb Setters	10.30	.75	1.10		.10
CLASS IV: Powdermen, Blasters	10.55	.75	1.10		.10
CLASS V: Precast Floor and Roof Plank Erectors	10.05	.75	1.10		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
POWER EQUIPMENT OPERATORS:					
CLASS I	11.28	.95	1.00	a	.07
CLASS II	11.08	.95	1.00	a	.07
CLASS III	10.88	.95	1.00	a	.07
CLASS III	10.88	.95	1.00	a	.07
CLASS IV	10.51	.95	1.00	a	.07
CLASS V	9.54	.95	1.00	a	.07
CLASS VI	9.02	.95	1.00	a	.07
CLASS VII	8.14	.95	1.00	a	.07

CLASS I - Shovels, Cranes, Hydraulic Cranes 10 Ton Capacity or over, Draglines, Derricks, Elevator with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three Drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5¼ yds. or over, Dual Drum Paver, Automatic Grader (i,e. C. M. I.) Combination Back Hoe-Loader-3/4 yd. hoe or over

CLASS II - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), Rock and Earth Boring machines (excluding McCarthy and similar drills), Graders, Front End Loaders - 4 yds. to 5¼ yds., two Drum Hoists, High Fork Lifts with Capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

CLASS III - Combination Backhoe - Loader - up to 3/4 Hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - self-propelled or Tractor Drawn, Tireman, Front End Loaders - up to 4 yds., asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanic, Welders, Pumpcrete Machines, Concrete Pumps and similar type Pumps, Engineer or Fireman on High Pressure Boiler (on-job), Self-Loader Batch plant, Well Point, Electric pumps used in Well Point System, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (manually or remote control) Grout Pumps, Boom Truck, Hydraulic Cranes - under 10 Ton

CLASS IV - Asphalt Roller - under 10 ton

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS (CONT'D)

CLASS V - Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Finishing Machines, Two Bag Mixers with skip, McCarthy and similar Drills, Batch Plants (not self-loading) Bulk Cement Plants, self-Propelled Material, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI - Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches Power Pavement Breakers, Concrete Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar Drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A-Fram Trucks, Fork Lifts up to 15 Feet

CLASS VII - Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Truck with Hand Greasing Equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;D-Labor Day; E-Thanksgiving Day; F-Christmas day

FOOTNOTES:

a. Holidays: A through F, Veterans' Day and Columbus Day

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HEAVY AND HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.28	.95	1.00	a	.07
CLASS II	11.08	.95	1.00	a	.07
CLASS III	10.88	.95	1.00	a	.07
CLASS IV	10.51	.95	1.00	a	.07
CLASS V	9.54	.95	1.00	a	.07
CLASS VI	9.02	.95	1.00	a	.07
CLASS VII	8.14	.95	1.00	a	.07
CLASS VIII	11.78	.95	1.00	a	.07

CLASS I - Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on Site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader - 5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes- 10 Tons and over, Dual Paver, Automatic Graders-Excavator(C.M.I. or equal), Scrapers Towing Pan or Wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi Automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II - Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, scraper-21 yards and over (struck load), forklifts-7 ft. lift and over or 3 ton capacity & over; Sonic Hammer Console

CLASS III - Bulldozer, Push Cats, scrapers-up to 21 yards (struck load) Self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front end Loaders up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on Highway Pressure Boiler (on job), self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point System, Tiremen, Pumps-16 inches or over total Discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-propelled Hydraulic Cranes up to 10 Tons

CLASS IV - Asphalt Roller-up to 10 tons

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HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OEPRATORS CONT'D

CLASS V - Hoists, Conveyors, self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with Skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI - Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total Discharge, Tractor without Blade Drawing Sheepsfoot Roller, Rubber tired Roller or other type of Compactors including Machines for pulverizing and aerating Soil

CLASS VII - Compactor (up to 315 cu. ft.), Small Mixers with Skip, Oiler, Pumps up to 4", Grease Truck, Helper on Powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Sefety Boat

CLASS VIII - Operator of Cranes with 200 ft of boom or more

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day: Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY AND HIGHWAY CONSTRUCTION					
CONSTRUCTION					
LABORERS:					
CLASS I	9.55	.75	1.10		.10
CLASS II	9.80	.75	1.10		.10
CLASS III	10.30	.75	1.10		.10
CLASS IV	10.55	.75	1.10		.10

CLASS I - Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers
CLASS II - Asphalt Rakers, Fence and Guard Rail Erectors, Laser Beam Op., Mason Tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.
CLASS III - Air Track Op., Block Pavers, Rammers, Curb Setters
CLASS IV - Blasterers, Powdermen

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	9.565	1.00	1.10	a+b	
CLASS II	9.735	1.00	1.10	a+b	
CLASS III	9.805	1.00	1.10	a+b	
CLASS IV	9.925	1.00	1.10	a+b	
CLASS V	10.025	1.00	1.10	a+b	
CLASS VI	10.315	1.00	1.10	a+b	
CLASS VII	10.605	1.00	1.10	a+b	

CLASS I - Station Wagons, Panel Trucks and Pickup Truck

CLASS II - Two Axle Equipment; Helpers on Low Bed when assigned at the discretion of the employer, Warehousemen, Forklift Operators

CLASS III - Three Axle Equipment and Tiremen

CLASS IV - Four and Five Axle Equipment

CLASS V - Specialized Earth Moving Equipment under 35 tons other than convential type Trucks, Low Bed, Vachual, Mechanics, Paving Restoration Equipment, Mechanics

CLASS VI - Specialized Earth Moving Equipment over 35 tons

CLASS VII - Trailers for Earth Moving Equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, Patriots' Day provided an employee works two days of the calendar week in which the holiday falls

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: New York COUNTY: Ulster
DECISION NO. NY80-3049 DATE: Date of Publication
Supersedes Decision no. NY79-3038 dated December 21, 1979 in 44 FR 75873
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.67	.95	.41		.02
Boilermakers	16.34	5%	5%		
Bricklayers, Caulkers, Cleaners, Cement Masons, Plasterers, Pointers, Marble Masons, Stone Masons, Tile & Terrazzo Workers					
Building	9.85	2.55	2.15	a	.06
Where General Contract does not exceed $300,000 & Masonry Contract including labor & Material does not exceed $500,000	8.60	1.80	1.55	a	
Carpenters, Millwrights, Piledrivers, Dockbuilders, & Soft Floor Layers	11.20	.80	1.15	.55	.05
Cement Masons, Heavy & Highway	10.35	2.25	2.15	b	.06
Electricians					
Hardenburg, Denning, Rochester, Wawarsong Twps. & that portion of Gardiner & Shawangunk Twps. West of a line following the Shwangunk Kill from the Orange County Line North to the Walkill River & continuing North along the Wallkill River & Lloyd, New Paltz, Esopus, Rosendale, Marbletown, Ulster, Hurley, Olive Kingston, Saugerites, Woodstock & Shandaken Twps.	11.55	.75	3%+1.05	.50	½%
Remainder of County	12.50	7.4%	3%+1.00	.60	½%
Glaziers	13.75	.66	1.91	.67	.01
Ironworkers	11.10	1.86	3.60	1.60	.01
Lathers	9.57	1.05	.15	1.00	.01
Painters					
Brush, Roller & Tapers	9.41	.80	.75		.01
Steel, Structural Steel, Towers, Smokestacks, Fire Escapes, Flagpoles & Bridges	10.16	.80	.75		.01
Sandblasting & Spray	10.46	.80	.75		.01
Paper & Vinyl Hangers, Tapers	9.41	.80	.75		.01
Plumbers & Steamfitters					
Twps. of Wawarsing, Plattekill, Marlboro & Shawangunk	11.75	1.10	1.90		.15
Remainder of County	11.35	1.90	1.00	1.30	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers					
Cold Tar Pitch, Mopping & Dipping Application or Ripping Off	12.25	1.10	1.95		.35
Asphalt Builtup, Asbestos Tile, Tile, Ceramic Tile, Slate, Tectum, Spray Insulation	11.75	1.10	1.95		.35
Cold Process & Resaturation, Asphalt Shingle	9.25	1.10	1.95		.35
Pitch	9.75	1.10	1.95		.35
Sheet Metal Workers	14.56	2.24	2.20		.13
Sprinkler Fitters	14.52	.85	1.20		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).					

FOOTNOTES:

a. Two hours off with pay on Election Day.

b. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, November Election Day and Veteran's Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, BUILDING:					
Common Laborers, Flagmen, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete Men, Signalman, Vivrator Men, Poured gypsum roof work, wrecking Walking Power Buggy, Landscaper, Chipping Hammer (air or electric 1" or under), Operation and tending of all power driven hand fed mortar or concrete mixers,pumpcrete Machines, Plastering, Fireproofing, and Accoustic Pumps and Mixers	10.00	1.15	1.15		
Asphaltmen, Pipelayers, Air or Electric Jackhammer, Air Track, Wagon, Joy and Jib Drills, Powdermen, Gunite or Sandblasting, Barmen, Chain Saw Operator, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar type Tamper (air or gas), Walk Behind Roller, Granite Curbing, All Fork Lifts and Laser Operations	10.25	1.15	1.15		
Blasters, Form Setters, Burner Acetylene Torch, Ingersoll Rand, Heavy Duty Crawler-Master type HCMZ, Drill Machine or equivalent. All wrecking work 50' or more above the ground	10.65	1.15	1.15		
Small construction, alteration, and repair where the general construction contract price does not exceed $250,000 (all Classifications)	7.20	1.15	1.15		

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.95	1.15	1.15	a	
GROUP II	10.20	1.15	1.15	a	
GROUP III	10.60	1.15	1.15	a	

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborer, pitman, flagman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control.

GROUP II
Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and sharing coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man.

GROUP III
Concrete finisher on highways, form setter, granite stone layer, Ingersoll rand heavy duty crawler-master type HCMZ or equivalent or any drill using a 4" or larger bit.

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Good Friday; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundmen - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

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LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations					
Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	16.91	12%+.40	10%	a	3%
GROUP 2	15.09	12%+.40	10%	a	3%
GROUP 3	14.21	12%+.40	10%	a	3%
GROUP 4	14.10	12%+.40	10%	a	3%
GROUP 5	13.87	12%+.40	10%	a	3%
GROUP 6	13.38	12%+.40	10%	a	3%
GROUP 7	13.09	12%+.40	10%	a	3%
GROUP 8	12.92	12%+.40	10%	a	3%
GROUP 9	12.87	12%+.40	10%	a	3%
GROUP 10	12.75	12%+.40	10%	a	3%
GROUP 11	12.70	12%+.40	10%	a	3%
GROUP 12	12.46	12%+.40	10%	a	3%
GROUP 13	12.06	12%+.40	10%	a	3%
GROUP 14	11.89	12%+.40	10%	a	3%
GROUP 15	11.55	12%+.40	10%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1

Helicopters pilot/engineer

GROUP 2

Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); backhoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only), drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1675 HP) and staging pump; front end loaders (5 yds. & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines.

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY,
HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; conveyors, 125' & over; economobiles (hilo, lull, hyster similar type equipment); forklifts; front end loaders (2yds. but less than 5 yds.); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete-unit type; pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, DW's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting).

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop.

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd. & over but less than 2 yds.) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds.) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only;

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD,
STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 7 (Contd.)
laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers-small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic.

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building and heavy construction rate only.

GROUP 9
Brooms & Sweepers; bulldozer, D5 and over; fireman; sprinkler & water pump trucks (used on job site or in conjunction with job site); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site).

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11
Front end loaders (under 1 yd.) - highway,road, street & sewer construction rate only.

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel engineer & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type -

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 13 (Cont'd.)
single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street & sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street & sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street & sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street & sewer construction rate only).

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance.

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
STEEL ERECTION					
GROUP 1	18.72	12%+.40	10%	a	3%
GROUP 2	16.91	12%+.40	10%	a	3%
GROUP 3	16.00	12%+.40	10%	a	3%
GROUP 4	15.26	12%+.40	10%	a	3%
GROUP 5	13.48	12%+.40	10%	a	3%
GROUP 6	13.09	12%+.40	10%	a	3%
GROUP 7	12.94	12%+.40	10%	a	3%
GROUP 8	12.57	12%+.40	10%	a	3%
GROUP 9	12.01	12%+.40	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS: STEEL ERECTION

GROUP 1
Helicopters pilot/engineer.

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer.

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground).

GROUP 4
Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms.

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas or electric converters of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type).

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single).

GROUP 9
Assistant engineer/oiler; straddle carrier.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon & similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors tire trucks tractors and trailers with 5 axle and over	11.50	1.00	1.05		a
Equipment 25 yds. & over up to and including 30 yd. bodies cable dump trailers powder and dynamite trucks	11.40	1.00	1.05		a
Equipment up to and including 24 yds. bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	11.20	1.00	1.05		a
Ten wheelers, grease trucks and tiller men	11.60	1.00	1.05		a
Straight trucks	11.00	1.00	1.05		a
Pick-up trucks used for hauling material parts escort man over the road	11.00	1.00	1.05		a

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F;

SUPERSEDEAS DECISION

STATE: New York COUNTIES: Albany, Rensselaer, Saratoga & Schenectady

DECISION NO. NY80-3050 DATE: Date of Publication

Supersedes Decision No. NY79-3040 dated November 23, 1979 in 44 FR 67311

DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.67	.95	.41		.02
Boilermakers	13.50	1.175	10%		.03
Bricklayers, Cement Masons, Marble Masons, Plasterers, Pointers, Caulkers and Cleaners					
Building	11.30	.70	1.00		.03
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	8.04	.70	1.00		.03
Carpenters:					
Saratoga County (twps. of Day Hadley, Edinburg, Corinth and Moreau):					
Carpenters & Soft Floor Layers	10.70	.55	.90	a	.005
Millwrights	10.95	.55	.90	a	.005
Piledrivers	10.85	.55	.90	a	.005
Heavy & Highway	11.23	.55	.90		.025
Albany, Rensselaer, Saratoga (Remainder of County), & Schenectady Counties:					
Carpenters, Drywall Installers, & Soft Floor Layers	11.98	.70	1.00		.02
Millwrights	12.48	.70	1.00		.02
Piledrivermen	12.94	1.85	1.78	1.01	.05
Heavy & Highway	11.13	.70	.85	b	.025
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	8.56	.70	1.00		.02
Cement Masons, Heavy & Highway	10.80	.70	1.00		
Divers	15.38	1.875	1.78	1.03	.05
Diver Tenders	11.99	1.875	1.78	1.03	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Albany County (Cohoes and Watervliet), Rensselaer County (Remainder of County), Saratoga County (Ganseveen, Mt. Mcgregor, Schuylerville, Victory Mills, Wayville, Stillwater, Mechanicville and Waterford)	13.80	.80	3%+.80	a	.05
Albany County (Remainder of County), Rensselaer County (Schodack, Rensselaer, East Greenbush, Nassau and Stephentown)	13.75	.90	3%+.60	c	.05
Saratoga County (Remainder of County), Schenectady County					
Electricians	12.10	.70	3%+1.35	a	.03
Cable Splicers	12.60	.70	3%+1.35	a	.03
Elevator Constructors	11.17	.745	.56	d+e	.025
Elevator Constructors Helpers	7.82	.745	.56	d+e	.025
Ironworkers:					
Structural, Ornamental, Reinforcing, Machinery Mover, Fence Erector, Rigger, Rodman and Stone Derrickman	12.00	.75	1.46		.08
Sheeters	12.25	.75	1.46		.08
Sheeters, Bucker-up	12.125	.75	1.46		.08
Lathers	10.46	.70	.30		.01
Lathers, Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	7.59	.70	.30		.01
Marble, Tile and Terrazzo Workers	11.60	.70	1.00		
Painters:					
Saratoga County (Twps. of Day, Hadley, Corinth, Moreau, Gansevoort, & Mt. Mcgregor)					
Brush	9.55	.50	.40		
Window Jack, Structural Steel, Swing Scaffold, Bosun Chair and Bridge	9.95	.50	.40		
Spray, Sandblasting and Waterblasting	10.10	.50	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Cont'd)					
Albany County, Rensselaer County, Saratoga County (Remainder of County), Schenectady County					
Brush	11.23		.60		
Structural Steel & Bridge	11.98		.60		
Swing Scaffold, Bosun Chair, Water Towers, Window Jacks, Flagpoles	11.73		.60		
Spray Gun Application & Sandblasting	13.08		.60		
Plumbers & Steamfitters					
Saratoga County (Twps. of Clifton Park, Galway, Milton, Malta, West Milton), Schenectady County, Saratoga County (Twps. of Halfmoon and Stillwater), Albany County, Rensselaer County					
Building	12.10	1.00	1.02	f	.05
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	8.87	1.00	1.02		.05
Saratoga County (Remainder of County)	11.15	.75	1.00		.05
Roofers:					
Roofers	12.00	1.37	.40		.04
Pitch and Asbestos	12.50	1.37	.40		.04
Sheet Metal Workers	12.57	1.00	1.34	g	.07
Sprinkler Fitters	14.52	.85	1.20		.08
Truck Drivers, Building:					
Straight, Winch, Transit Mix on job site, Road Oilers, Dump panel, Pick-up, Water and Fuel Trucks on site (including nozzle)	9.37	1.00	.81	h	.12
Euclid or similar equipment	9.56	1.00	.81	h	.12
Lowboy or lowboy trailers	9.70	1.00	.81	h	.12
Welders-receive rate prescribed for craft performing operation to which welding is incidental					

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Holidays: E, provided employee reports for work the day after the holiday.

b. Holidays: D & C

c. Holiday: E, provided the employee works the day after the holiday, 3 hrs. before Christmas and New Year's Eve.

d. Holidays: A thru F, and the day after Thanksgiving.

e. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

f. Employer contributes $4.00 per day to a Vacation Fund.

g. Two hours off with pay on the first Tuesday after the first Monday of November provided they are working on a job beyond 50 miles from the shop.

h. One week vacation after one year of work; 2 weeks vacation after 5 years of work

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

Albany County (Remainder of County), Rensselaer County (Twps. of North Greenbush, East Greenbush, Schodack, Nassau, Stephentown and Rensselaer City.

Albany County (The West side of the Hudson River, extending Westerly along the North side of 1st Street in Watervliet, to one-half mile of Route 9, to Shaker Rd. to Route 9 Northerly to the North line of Albany County), Rensselaer County (Twps.

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Albany County (Remainder of County), Rensselaer County (Twps. of North Greenbush, East Greenbush, Schodack, Nassau, Stephentown and Rensselaer City.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building construction					
GROUP I	9.47	.90	1.10		.12
GROUP II	9.62	.90	1.10		.12
GROUP III	9.645	.90	1.10		.12
GROUP IV	9.695	.90	1.10		.12
GROUP V	9.745	.90	1.10		.12
GROUP VI	9.725	.90	1.10		.12
GROUP VII	9.945	.90	1.10		.12
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use					
GROUP I	6.57	.90	1.10		.12
GROUP II	6.695	.90	1.10		.12
GROUP III	6.71	.90	1.10		.12
GROUP IV	6.75	.90	1.10		.12
GROUP V	6.785	.90	1.10		.12
GROUP VI	6.77	.90	1.10		.12
GROUP VII	6.95	.90	1.10		.12

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Albany County (The West side of the Hudson River, extending Westerly along the North side of 1st Street in Watervilet, to one-half mile of Route 9, to Shaker Rd. to Route 9 Northerly to the North line of Albany County), Rensselaer County (Twps. of Berlin, Sand Lake, Postenkill, Schodack, Pittstown, Hoosick, Brunswick, Grafton and Petersburg), and Saratoga County (Remainder of County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building Construction					
GROUP I	10.21	1.00	1.20		.12
GROUP II	10.36	1.00	1.20		.12
GROUP III	10.385	1.00	1.20		.12
GROUP IV	10.435	1.00	1.20		.12
GROUP V	10.485	1.00	1.20		.12
GROUP VI	10.465	1.00	1.20		.12
GROUP VII	10.685	1.00	1.20		.12
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	7.08	1.00	1.20		.12

Saratoga County (Twps. of Day, Hadley, Edinburg, Corinth, Moreau, South Glen Falls, Providence, Greenfield, Wilton, Northumberland, Calway, Milton, Saratogo Springs, Charlton, Ballston, Malta and Clifton Park) and Schenetady County

	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building Construction					
GROUP I	9.72	.80	1.00		.07
GROUP II	9.87	.80	1.00		.07
GROUP III	9.895	.80	1.00		.07
GROUP IV	9.945	.80	1.00		.07
GROUP V	9.995	.80	1.00		.07
GROUP VI	9.97	.80	1.00		.07
GROUP VII	10.195	.80	1.00		.07
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use					
GROUP I	6.82	.80	1.00		.07
GROUP II	6.945	.80	1.00		.07
GROUP III	6.96	.80	1.00		.07
GROUP IV	7.00	.80	1.00		.07
GROUP V	7.035	.80	1.00		.07
GROUP VI	7.12	.80	1.00		.07
GROUP VII	7.20	.80	1.00		.07

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LABORERS DEFINITIONS (BUILDING CONSTRUCTION) ALL AREAS

GROUP I
Laborers

GROUP II
Pipelayers (w man team), mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, power driven buggies

GROUP III
Form setter (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

LABORERS DEFINITIONS (RESIDENTIAL REHABILITATION) ALL AREAS

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, all air or gas driven tools, hod carriers, power driven buggies

GROUP III
Form setter (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

DECISION NO. NY80-3050

Saratoga County (Twps. of Day, Hadley, Edinburg, Corinth, Moreau, Wilton, Providence, Greenfield, Northumberland, Galway, Milton, Charlton, Saratoga Springs, Malta, Ballston and Clifton Park) Schenectady County

LABORERS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.39	.80	1.00	a	.05
CLASS B	9.59	.80	1.00	a	.05
CLASS C	9.79	.80	1.00	a	.05
CLASS D	9.99	.80	1.00	a	.05
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATIONS

CLASS A
Laborers, Drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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Albany County (Cities of Cohoes and Watervliet), Saratoga County (Twps. of Halfmoon and Stillwater), Rensselaer County (Twps. of Berlin, Sand Lake, Poestenkill, Brunswick, Petersburg, Schagticoke, Pittstown, Hoosick and Grafton)

LABORERS: HEAVY & HIGHEAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.94	1.00	1.20	a	.10
CLASS B	9.14	1.00	1.20	a	.10
CLASS C	9.34	1.00	1.20	a	.10
CLASS D	9.54	1.00	1.20	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION CLASSIFICATIONS

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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Albany County (except Cities of Cohoes and Watervliet), Rensselaer County (Twps. of North Greenbush, East Greenbush, Schodack, Nassau and Stephentown)

LABORERS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.04	.90	1.20	a	.10
CLASS B	9.24	.90	1.20	a	.10
CLASS C	9.44	.90	1.20	a	.10
CLASS D	9.64	.90	1.20	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATIONS

CLASS A
Laborers, Drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rack splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equ8pment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechinic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

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POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.03	1.05	.85	a	.15
GROUP II	11.10	1.05	.85	a	.15
GROUP III	11.24	1.05	.85	a	.15
GROUP IV	11.46	1.05	.85	a	.15
GROUP V	11.84	1.05	.85	a	.15
GROUP VI	12.02	1.05	.85	a	.15
GROUP VII	12.15	1.05	.85	a	.15
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use					
GROUP I	7.40	.95	1.05	a	.15
GROUP II	7.45	.95	1.05	a	.15
GROUP III	7.55	.95	1.05	a	.15
GROUP IV	7.71	.95	1.05	a	.15
GROUP V	7.98	.95	1.05	a	.15
GROUP VI	8.10	.95	1.05	a	.15
GROUP VII	8.26	.95	1.05	a	.15

DECISION NO. NY80-3050

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION CLASSIFICATIONS

GROUP I
Oilers

GROUP II
Firemen and heavy duty greasers, all boilers and steam generators.

GROUP III
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over.

GROUP IV
Dinky locomotives, Baber Greene loaders, loaders and conveyors, tractor, scoopmobiles, buildozers, road roller, form fine graders, power brooms and sweeper.

GROUP V
Black top spreaders, black top roller, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well driller (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP VI
LeTourneau graders or scrapers, trenching machines, push cart.

GROUP VII
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine.

FOOTNOTE:
a. Paid Holidays: New Year"s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day

DECISION NO. NY80-3050

POWER EQUIPMENT OPERATORS
HEAVY & HIGHWAY
CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	12.35	1.05	.85	a	.15
GROUP II	11.94	1.05	.85	a	.15
GROUP III	10.78	1.05	.85	a	.15
GROUP IV	9.75	1.05	.85	a	.15

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee has worked the day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CLASSIFICATIONS

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plany (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. & over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shover. sideboom, slip form paver, tractor drawn belt type laoder, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted, boring machine, cagehoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure boiler (15 lbs. and aver), hoist (one drum) Kolman plant loader and similar type loaders, locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - Asphalt curb & gutter machines, blower for burning brush, chipping machine & chip spreader, compressors 4 not over 2.000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressor, dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete curing machines, conveyor drill core, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories, fine grade machine hammers-hydraulic0self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler, C.M.I. and similar type concrete spreaders, cement bin operator, compressors 3 or less not over 1.200 c.f.m. combined capacity, compressors, dust collectors, generators, pumps, welding machines (3 or less of any type of combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power boom, power heaterman, revinius widener, steam cleaner, tractor.

DECISION NO. NY80-3050

TRUCK DRIVERS
HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.69	1.05	1.00	a	
CLASS 2	9.74	1.05	1.00	a	
CLASS 3	9.79	1.05	1.00	a	
CLASS 4	9.94	1.05	1.00	a	
CLASS 5	10.09	1.05	1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day; provided the employee has worked the working day before and after the holiday.

TRUCK DRIVER: HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATIONS

CLASS 1
Pick-ups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters and receivers, greasers, truck tiremen.

CLASS 2
Tandems, batch trucks mechanics.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: See Below*
DECISION NUMBER: NC80-1099 DATE: Date of Publication
Supersedes Decision No. NC79-1027 dated March 16, 1979 in 44 FR 16318.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

*Counties: Alamance, Guilford, Randolph, and Rockingham

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$5.46				
BRICKLAYERS	6.85				
CARPENTERS	5.35				
CARPET LAYERS	5.43				
CEMENT MASONS	4.89				
DRYWALL FINISHERS	6.38				
DRYWALL HANGERS	6.02				
ELECTRICIANS	5.89				
ELEVATOR CONSTRUCTORS:					
Mechanic	8.27				
GLAZIERS	6.71				
INSULATION INSTALLERS	4.32				
IRONWORKERS:					
Structural & Ornamental	5.00				
Reinforcing	4.50				
LABORERS:					
Laborers	3.78				
Mason tenders	3.90				
PAINTERS:					
Brush	5.04				
Spray	5.00				
PLUMBERS & PIPEFITTERS	6.50				
ROOFERS	5.25				
SHEET METAL WORKERS	5.39				
SOFT FLOOR LAYERS	4.94				
TILE SETTERS	5.80				
TRUCK DRIVERS	4.02				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt Raker	5.68				
Backhoe	5.85				
Bulldozer	4.96				
Forklift	3.50				
Grader	5.52				
Loader	4.76				
Paver	5.24				
Roller	4.59				
Tractor	5.06				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(iii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Bradford, Tioga and Union
DECISION NO.: PA80-3031 DATE: Date of Publication
Supersedes Decision No.: PA78-3099, dated December 15, 1978, in 43 FR 58729.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes or apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.875	.80	.60		.01
Boilermakers	15.57	1.275	1.00		.02
Bricklayers & Stonemasons	10.80	1.05	.75		.015
Carpenters	11.86	.60	.70		.05
Cement masons	10.60				
Electricians					
Zone I	10.58	.65	3%+.95	.75	.02
Zone II	12.80	.55	3%+.30		.05
Zone III	11.75	.85	3%+.50	1.00	.10

AREA COVERED BY ELECTRICIANS ZONES

ZONE - I Tioga; Remainder of Union and Bradford Counties

ZONE - II- E. Buffalo, Union & Lewisburg in Union County

ZONE III - Bradford County, town of Towanda, that portion of the County West of the Susquehanna River South of Towanda and West of U. S. Highway 309, North of Towanda

Elevator Constructors	11.23	.745	.56	a+b	.025
Elevator Constructors Helpers	70%JR	.745	.56	a+b	.025
Elevator Constructors Helpers (Prob.)	50%JR				
Glaziers					
Zone I	11.00	.65	.85		
Zone II	10.81	.60	.60		.01

AREA COVERED BY GLAZIERS ZONES

ZONE I - Bradford & Tioga Counties

ZONE II- Union County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Structural, Ornamental & Reinforcing					
Zone 1	12.905	1.34	1.36		.03
Zone 2	10.98	.75	1.05		.05

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Union County

ZONE II - Bradford & Tioga Counties

Laborers:					
Class I	7.95	.65	.55		
Class II	8.10	.65	.55		

LABORER CLASSIFICATION DEFINITION

CLASS I - General Laborers

CLASS II - Operator of jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operator, cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders, mason tenders, scaffold builders and removal of power buggies

Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Lineman, dynamite man, heavy equipment operator	12.37	.55	3%		3/8%
Winch truck drivers	8.68	.55	3%		3/8%
Groundman	8.30	.55	3%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Millwrights	$13.52	.60	.70		.05
Painters:					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
Piledrivermen	11.97	2.63	1.40	d	.13
Plasterers					
ZONE I	12.63				
ZONE II	10.69				

AREA COVERED BY PLASTERERS ZONES

ZONE I - East of Susquehanna River in Bradford County

ZONE II - Tioga, Union and Remainder of Bradford County

Plumbers & Steamfitters					
ZONE I	12.01	.84	.60	1.00	.05
ZONE II	12.54	.80	1.25		.05

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE I - Tioga & Union Counties and Eastern half of Bradford County

ZONE II - Western half of Bradford County

Power Equipment Operators					
GROUP 1	13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%

DECISION NO. PA80-3031

CLASSIFICATION DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above.

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft lift, machines similar to the above.

GROUP 4: Welding machines, well joints, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seamen pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core driller helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7A: 150 ft. and over

GROUP 7B: 200 ft. and over

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, THanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc. 80-26228 Filed 8-28-80; 8:45 am]

BILLING CODE 4510-27-C

DECISION NO. PA80-3031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers					
Composition & Kettleman	$11.15	.90	.85		
Sheet Metal Workers	11.95	.75	.81		.02
Soft Floor Layers	10.35	.60	.70		.05
Sprinkler Fitters	14.53	.85	1.20		.08
Truck Drivers (Union County)	7.95				

Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six Paid Holidays: A through F, plus the Friday after Thanksgiving.

c. Nine Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day, Veterans' Day and Thanksgiving Day.

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PARTS IV THROUGH VIII PETROLEUM AND NATURAL GAS CONSERVATION: FEDERAL ASSISTANCE PROGRAMS

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Part V—Federal Community/Economic Development Programs

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Part VI—Federal Housing Assistance Programs

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Part VII—Federal Public Facilities Assistance Programs

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Part IV

Interagency Coordinating Council

Petroleum and Natural Gas Conservation: Federal Assistance Programs; Introduction

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INTERAGENCY COORDINATING COUNCIL

THE WHITE HOUSE
WASHINGTON

August 29, 1980

TO RECIPIENTS OF FEDERAL ASSISTANCE AND OTHER INTERESTED PARTIES:

Reducing our dangerous dependence on foreign oil is one of the most critical challenges America faces during the 1980's. Energy conservation provides the quickest and cheapest way of accomplishing this objective and is a cornerstone of President Carter's National Energy Policy. Executive Order 12185, which was signed by the President on December 17, 1979 in accordance with Section 403(b) of the Power Plant and Fuel Use Act of 1978, extends existing efforts to promote energy conservation through federal aid programs. The President's directive requires that energy efficiency standards be incorporated into all federal assistance programs which offer opportunities for significant conservation of petroleum and natural gas.

Because it is government-wide in scope, Executive Order 12185 is being implemented through the President's Interagency Coordinating Council (IACC). The IACC, which was established by President Carter in 1978 under Executive Order 12075, is composed of key major program managers from each of the domestic agencies of the Executive branch.

In this effort, the IACC has facilitated communication among agencies so that the requirements adopted in accordance with the Executive Order are as uniform as possible. It has also guided and coordinated the drafting of such requirements to ensure timely implementation of the Presidential directive. The federal agency officials participating on the IACC are responsible, of course, for the substance of the energy conservation standards, and for their application to the federal aid programs involved.

The first step in implementing Executive Order 12185 was completed on February 7, 1980. On that date, a consolidated, government-wide list of federal assistance programs which appeared to have significant energy saving potential was published in the Federal Register. The public was given 60 days to review and comment on this list of programs and to suggest rules which would effectuate the purposes of the Executive Order.

After the list of programs was published in the Federal Register, the second implementation step was undertaken. It involved a series of analyses to determine the applicability of Executive Order 12185 to various programs, and to assess basic energy conservation standards that could be incorporated into the affected programs without in any way impairing their statutory purposes.

Initially, these analyses were conducted by interagency working groups which were established around the seven broad functional areas that were used in organizing the February 7 publication. These areas were:

1) Planning and Technical Assistance
2) Community/Economic Development
3) Housing
4) Transportation
5) Public Facilities
6) Energy
7) Labor/Education/Human Resources.

Completion of the interagency reviews resulted in several major decisions. For example, the programs which had been listed separately under the Planning and Technical Assistance section in the earlier publication were incorporated into each relevant program area. It was also determined that since conservation of petroleum and natural gas was already the underlying objective of the federal programs published under the energy section on February 7, further requirements in those programs were unnecessary.

Upon completion of the interagency working groups' analyses, the third step in implementing Executive Order 12185 was undertaken. Each agency developed and refined a variety of proposals specific to its programs to comply with the purposes of Executive Order 12185. These preliminary proposals were published in the Federal Register on May 7, 1980. The public was given 60 days to review and comment on the proposed actions.

Final rules to implement Executive Order 12185, reflecting the public comments received, are being published in today's Federal Register, which is the fourth step in the implementation of the Presidential directive. This publication is the product of extensive consultation among agencies, and careful interagency coordination and analysis. Consistent with the May 7 publication, the requirements published herein have been divided into four broad functional areas:

1) Community/Economic Development
2) Housing
3) Public Facilities
4) Transportation

An energy secure America is contingent upon more efficient use of our energy resources. Because of this fact, the agencies that are publishing energy conservation rules for their major federal assistance programs in today's Federal Register will work diligently to ensure that these rules are applied effectively and efficiently. The Office of Management and Budget, and the Department of Energy, will, of course, assist in this important effort.

Eugene Eidenberg

Eugene Eidenberg
Assistant to the President,
Chairman, Interagency Coordinating Council

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Part V

Federal Community/ Economic Development Programs

Economic Development Administration, Commerce Department

Housing and Urban Development Department

Farmers Home Administration, Agriculture Department

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Part V—Section A

Department of Commerce

Economic Development Administration

Petroleum and Natural Gas Conservation: Federal Community/Economic Development Assistance Programs

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DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 304, 305, 306, 307, 308, 315

Miscellaneous Amendments to Financial Assistance Programs Regarding Energy Conservation

AGENCY: Economic Development Administration, Department of Commerce (EDA).

ACTION: Final rule.

SUMMARY: This rule amends several of EDA's program regulations to encourage conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance. EDA published these regulations in proposed form on May 7, 1980, to implement the President's Order which directed Federal agencies to revise their regulations to encourage recipients of Federal financial assistance to conserve energy. This rule publishes these regulations in final with several changes designed to improve their clarity.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Alan S. Gregerman, Policy Development Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-5103.

SUPPLEMENTARY INFORMATION: In Executive Order 12185, the President instructed Federal agencies to review financial assistance programs and to identify those programs which are most likely to provide opportunities for significant conservation of petroleum and natural gas. A list of EDA's programs affected by the Order was published by the Department of Energy on February 7, 1980 (45 FR 8534), as part of a preliminary government-wide list. Section 1-104 of the Order required Federal agencies to publish proposed rules designed to achieve conservation of petroleum and natural gas in connection with the extension of financial assistance. EDA published its proposed rules in the **Federal Register** on May 7, 1980 (45 FR 30320-30323). During the ensuing sixty-day comment period, the Agency received a number of comments on the proposals from public and private interest groups, as well as individuals. In addition, in order to provide the public with a greater opportunity to participate in rulemaking, EDA held a series of consultations with interest groups representing a broad spectrum of energy, environmental, and economic development concerns. EDA considered the significant recommendations that were received in developing the final regulations and administrative actions presented here. A summary and discussion of these comments is provided below. This rule publishes, in final, amendments to several of EDA's program regulations to accomplish the purposes of the Executive Order.

Energy is closely related to EDA's basic economic development mission in three ways:

1. EDA facilitates economic adjustment which may be needed in part because of the high cost or unavailability of energy;
2. EDA investments, both public and private, can be strengthened by the sound use of energy conserving techniques and practices; and,
3. EDA can assist distressed communities to take advantage of development opportunities in the energy field through both policy and private sector aid.

EDA has already accomplished a wide range of successful energy-related projects within its basic programs. These include: research on energy problems and impacts, technical assistance studies of energy alternatives, energy planning/management assistance to Economic Development Districts, business development assistance to firms in the energy field, and public works grants for energy conservation and development. To implement Executive Order 12185, EDA will integrate energy conservation measures into its basic programs. The regulatory and administrative actions being taken are intended to encourage energy conservation consistent with program purposes and sound economic development objections. While a number of steps are being taken, the most important crosscutting actions will:

1. Make energy conservation features of otherwise acceptable projects eligible costs for EDA aid.
2. Require energy efficiency and life cycle cost analyses of proposed public works projects and certain development finance projects.
3. Require that the most energy conserving alternative developed by the energy efficiency analysis be incorporated into the project, if it is determined to be economically feasible.
4. Require energy conservation considerations to be made an integral part of the economic development planning process.

EDA defines "energy conservation" as the conserving of natural resources through both (1) the more efficient use of non-renewable energy sources, and (2) the use of renewable sources of energy.

Summary of Regulatory Changes

Public Investments

Public works applicants will be required to submit an energy efficiency analysis and, where appropriate, a life cycle cost analysis of the proposed facility. Applicants will be expected to incorporate those cost-effective energy conservation features identified in the energy efficiency analysis—which will be eligible project costs—unless funds are not available from EDA and/or the applicant to cover the costs of such measures, or there are other overriding economic development considerations. In addition, applicant will be asked to provide information on the energy needs of users of the facility.

Development Finance Program

Energy conservation actions will be incorporated into the Development Finance Program (regulations currently set forth at 13 CFR Part 306, Business Development Program) as a means for enhancing the quality of EDA investments. Certain energy conservation measures will be eligible project costs. In addition, applications for assistance to construct new facilities or to expand or rehabilitate existing facilities will be required to contain an analysis of energy alternatives if such facilities will use either petroleum or natural gas for new heating, cooling or production processes. Such applications must also contain a certification that the proposed alternative is feasible, cost-effective and the most energy-conserving available. The Development Finance Program will continue to consider proposals for assistance from firms producing energy conservation and renewable energy equipment.

EDA plans to take additional energy conservation steps after Congress enacts amendments to EDA's basic authorizing legislation. Depending upon this congressional action, EDA plans to establish a special initiative in the Development Finance Program to assist innovative new technology firms. A focus of this initiative will be on energy-related businesses.

Planning Programs

Within EDA's planning programs, regulations will require that energy conservation considerations be made an integral part of the economic development planning process and reflect this in resultant plans and programs. The intent of this provision is to maintain or promote patterns or types of growth and development that are consistent with optimizing energy conservation goals and minimizing energy costs.

Technical Assistance Program

EDA will continue to use its Technical Assistance (TA) Program to address the energy-related problems of economic growth and development. Within the context of limited resources, the agency will expressly allow as eligible for assistance energy-related projects which study a specific problem but have broad applicability to distressed communities and regions.

Title IX

EDA will require applicants for assistance under Title IX, where appropriate, to perform an energy efficiency analysis and a life cycle cost analysis to ensure that facilities will be designed, constructed, and operated in an energy efficient manner.

Trade Adjustment Assistance Program

EDA will expressly allow costs associated with energy conservation measures as eligible costs under the agency's Trade Adjustment Assistance Program.

In addition to these changes to EDA's program regulations, EDA is taking the following administrative actions to further the purposes of the Order:

Administrative Actions

Overall Agency Action:

- Training will be provided to appropriate EDA staff to assist them in reviewing the energy features of proposed projects.

Public Works Program:

- EDA will encourage energy conservation measures to be incorporated into the design of buildings assisted with public works funds and participate in funding resultant costs within reasonable limits.
- EDA will encourage the use of renewable energy sources for the heating and production processes of assisted facilities and participate in funding resultant costs within reasonable limits.

Revolving Loan Funds:

- When appropriate, EDA will encourage Revolving Loan Fund (RLF) applicants to incorporate energy conservation measures in their plans for the RLF through the inclusion of energy conservation as a loan selection criterion. Inclusion of energy conservation as a loan selection criterion will help to ensure that borrowers will consider the energy efficiency of their facilities.
- EDA will encourage RLF recipients to seek out and fund firms in the energy conservation field.
- EDA will seek, on a limited basis, the development of RLFs to make loans in the energy conservation field. Under this initiative, project loans from the RLFs will be available to either businesses providing energy conservation products and services or for energy conserving facility and process modifications as an "energy adjustment". Such projects must be consistent with local economic development efforts.

Technical Assistance Program:

- EDA will utilize TA-supported University Centers, Trade Adjustment Assistance Centers and other national programs as depositories of information on energy conservation.

Summary of the Comments Received in Response to the Publication of the Proposed Rule

EDA received a number of comments on the proposed rule, including some recommended revisions. These comments are summarized and discussed below.

Several individuals and organizations felt that the proposals would be strengthened by the inclusion of a clear definition of "energy conservation". In response to this concern, EDA will define energy conservation as both the more efficient use of existing non-renewable energy sources and the use of renewable sources of energy. This definition is supportive of the mandate of the Executive Order, EDA's mission and individual program purposes, and the need to provide a degree of flexibility to the agency's clients in their compliance with the energy conservation requirements.

Underlying this definition is the realization that the cost and availability of different forms of energy vary across communities and regions. Thus, while EDA believes that the use of renewable sources of energy and the reduction of consumption of non-renewable sources are the bases of the Executive Order, the efficient use of non-renewable energy sources (e.g., natural gas) may make the most sense in certain circumstances. In addition, different sources of energy do not have identical sets of applications. For example, at the present time renewable sources cannot deliver the heat required by many production processes. EDA is requiring applicants to assess an array of practical energy alternatives and to select the most energy efficient and conserving alternative that is also economically feasible.

Closely related to this discussion, representatives of the natural gas industry recommended that EDA require applicants to submit a "source energy analysis" which evaluates the total energy cycle rather than the amount of energy consumed at the utility meter. Their concern is that by requiring a site energy analysis, EDA would be favoring the use of electricity over natural gas in situations in which its total energy cycle efficiency is lower. EDA appreciates this concern and recognizes the importance of looking at total energy efficiency and price in choosing among alternatives. As stated above, EDA realizes that there are situations in which the efficient use of natural gas may be the best energy option. The Agency believes that its requirements will account for this. The major drawbacks to requiring a source energy analysis are technical feasibility and added cost to both the applicant and the Agency. For these reasons EDA decided not to alter its position. By combining an energy efficiency analysis with a life cycle cost analysis, applicants will address this concern by ruling out those options which are too costly. EDA will give the matter further consideration in light of future experience.

Concern over defining energy conservation was also raised with respect to § 306.12(g)(4) of the proposed rule which identifies allowable costs for energy activities for fixed asset loans in otherwise eligible business development projects. For the most part, respondents felt that the Agency should not provide a listing of the types of activities that were eligible, but instead state the premise on which assistance would be available and provide flexibility for applicants to determine and justify those energy conserving expenses which serve to strengthen the project. EDA agrees and has revised this paragraph accordingly.

Some organizations asked EDA to adopt the Building Energy Performance Standards (BEPS) as the means for determining the energy efficiency of proposed projects. EDA has followed the development of BEPS closely, and expects to incorporate these standards into the agency's requirements once they become effective. At present, however, EDA does not believe it appropriate or desirable to mandate a uniform standard and will allow applicants to employ energy evaluation techniques which are broad enough to permit the use of any recognized and accepted methodology that is most appropriate to project needs.

A number of respondents felt that the Agency should give priority in project selection to proposals which include certain energy conservation features. The Agency does not believe that this is

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an appropriate approach to take to induce energy conservation given EDA's mission and specific program purposes. EDA's primary concern is with the economic development of distressed communities. Thus, the Agency's intention is to take strong economic development projects and make them better by the incorporation of energy conservation measures. EDA will, however, withhold assistance from projects which fail to adequately examine and incorporate proven, financially feasible energy conservation features.

A few groups felt that the agency should apply a "life cycle cost" methodology to its planning programs. EDA's planning assistance is not, however, used for undertaking site or project-specific planning. Thus, approaches such as life cycle costing are not readily applicable to these programs. The Agency's primary concern in developing energy conservation requirements within its planning guidelines is to ensure that economic development strategies reflect a strong awareness of energy conservation concerns at an early stage in the planning process.

Several individuals and organizations stressed the need to provide the economic development community with guidance on how to incorporate effectively energy conservation considerations into their activities. EDA understands this concern and is currently developing guidance documents for project applicants and planning grant recipients. These materials are being designed to provide the best available information on meeting the Agency's requirements in enhancing the viability of projects and plans. EDA is also developing training for its own personnel to enable them to make the necessary energy conservation determinations and to prepare them to respond to the needs of the individuals and communities with which EDA works.

A few groups commented that EDA needed to clarify what was meant by the term "substantial rehabilitation" in § 306.12(j) of the proposed rule. This section identifies those cases in which applicants for business development assistance must submit an energy efficiency analysis of the proposed facility. Based on these comments, the language of this section has been revised to require those applicants "* * * proposing expansion or rehabilitation of existing facilities and planning to use petroleum or natural gas for new heating, cooling or production processes * * *" to analyze alternatives. EDA is not imposing this requirement on firms that may be using a fixed asset loan to buy a new machine that will be placed next to existing equipment. This subsection applies to those projects involving expansion or rehabilitation which may provide a significant opportunity for the conservation of energy.

Some individuals and organizations stated that the new requirements would place additional burdens on project applicants with respect to time and cost. EDA does not believe that the burden of complying with these regulations will be unreasonable, especially given the anticipated energy conservation and economic development benefits. EDA does not anticipate that the additional costs will be excessive insafar as projects already require an architect/engineer evaluation. Provided that such additional costs otherwise meet EDA's requirements, these costs will be eligible for EDA assistance.

Executive Order 12044 Determinations

Because these changes broadly affect EDA programs, EDA has determined that this rule is a "significant regulation" under the criteria of Executive Order 12044, on "improving Government Regulations". While this rulemaking is "significant", EDA has determined that this rule does not have major economic consequences under the criteria of that Order and does not require preparation of a "Regulatory Analysis".

Accordingly, EDA amends the following regulations:

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

1. 13 CFR 304.4 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 304.4 Initial OEDP.

* * * * *

(e) The initial OEDP will be developed with a specific regard for energy conservation concerns and principles, and shall reflect this regard in any developed or proposed plans, programs, or projects.

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

2. 13 CFR 305.59 is amended by revising it to read as follows:

§ 305.59 Energy conservation and other requirements.

(a) *Energy conservation.* In order to encourage conservation of energy in connection with public works facilities assisted under this part, applicants will comply with the following requirements:

(1) Applicants will submit as part of the application:

(i) An energy efficiency analysis of the facilities for which EDA assistance is requested. Such analysis will include the following:

(A) The overall design of the facilities;

(B) Special conservation measures to be utilized;

(C) Fuel requirements for heating, cooling and production processes of the facilities;

(D) Consideration given to the use of cost-effective alternative and renewable energy sources for heating, cooling and production processes of the facilities; and

(E) BTU savings resulting from the design of the facilities compared to standard design criteria.

(ii) Where appropriate, the following information concerning energy considerations of the firms which will use the facilities for which EDA assistance is requested:

(A) Fuel needs;

(B) Fuel sources;

(C) Transportation needs;

(D) Provisions being made for renewable fuel sources; and

(E) Energy conservation decisions made in order to determine the site and users of the facilities.

(2) Applicants will base the energy efficiency analysis on energy evaluation techniques which are broad enough to permit the use of any recognized and accepted methodology that is most appropriate to project needs.

(3) Each design change evolving from the basic design which results in higher initial costs and lower energy consumption must be justified by a life cycle cost analysis. The life cycle cost methodology employed should be consistent generally with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436.

(4) Applicants will incorporate into the project those energy conservation features identified in the energy efficiency analysis unless funds are not available from EDA and/or the applicant to cover the costs of such measures, or unless there are other overriding economic development considerations.

(b) *Other requirements.* The requirements of Part 309 of this chapter apply to this part, as appropriate.

PART 306—BUSINESS DEVELOPMENT PROGRAM

3. 13 CFR 306.12 is amended by adding a new subparagraph (4) to paragraph (g)

and by adding a new paragraph (j) to read as follows:

§ 306.12 Allowable costs for projects involving fixed assets.

* * * * *

(g) * * *

(4) In otherwise eligible projects, costs associated with incorporating energy conserving features into facilities and production processes. Applicants must demonstrate that incorporation of the proposed features for which assistance is being requested will result in the more efficient and cost-effective use of non-renewable energy sources and/or renewable sources of energy.

* * * * *

(j) Applicants constructing new facilities or proposing expansion or rehabilitation of existing facilities and planning to use petroleum or natural gas for new heating, cooling or production processes are required to analyze alternatives for long-run cost savings. Applications for such projects must contain an architect/engineer's or operating engineer's certification that the proposed alternative is the most feasible and energy conserving available based on a life cycle cost analysis. The life cycle cost methodology employed should be consistent generally with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436.

PART 307—TECHNICAL ASSISTANCE, RESEARCH AND INFORMATION

4. 13 CFR 307.3 is amended by revising paragraphs (a)(1)(iii) and (a)(1)(iv) and by adding a new paragraph (a)(1)(v) to read as follows:

§ 307.3 Projects.

(a) * * *

(1) * * *

(iii) Management and operational assistance,

(iv) Preliminary design planning and feasibility studies of development facilities, and

(v) Studies regarding energy conservation if such studies will examine specific energy problems which have broad applicability to economically distressed regions and communities.

* * * * *

5. 13 CFR 307.22 is amended to read as follows:

§ 307.22 Planning grant objectives.

(a) Planning grants for administrative expenses are given to enable eligible applicants to establish and carry out effective economic development programs at local and multijurisdictional levels, and to provide a basis for improved coordination and continuity of Federal, State, and local economic development activities. Planning grants should contribute to the establishment of a permanent economic development process, capable of meeting the planning, coordinating and implementation requirements of the area, district, or reservation.

(b) In order to further the objectives of Executive Order 12185 to conserve petroleum and natural gas, recipients shall ensure that economic development planning processes assisted under this subpart shall provide a means for addressing energy conservation concerns and principles.

6. 13 CFR 307.28 is revised by renumbering existing paragraph (c)(6) as (c)(7) and adding a new (c)(6) to read as follows:

§ 307.28 Continuation planning grants.

* * * * *

(c) The appraisals will consider the following:

* * * * *

(6) Incorporation by the grantee of energy conservation concerns and principles into the economic development planning process.

(7) Implementation by the grantee of recommendations of the preceding appraisal.

7. 13 CFR 307.52(a)(1)(i) is amended by adding a new paragraph (F) and by revising paragraphs (D) and (E), to read as follows:

§ 307.52 Types of grants.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(D) Provide public services;

(E) Balance physical and human resources through the management and control of physical development; and

(F) Enhance and support energy conservation principles, measures and activities.

* * * * *

8. 13 CFR 307.55 is amended by adding a new paragraph (a)(5) and a new paragraph (c)(5), and by redesignating existing paragraph (c)(5) as (c)(6), to read as follows:

§ 307.55 Application requirements.

* * * * *

(a) * * *

(5) That the planning process will be coordinated with energy conservation planning efforts to ensure that energy conservation principles, activities and measures are reflected in State economic development plans, programs and projects.

* * * * *

(c) * * *

(5) That, in undertaking the activities described in paragraphs (c)(3) and (c)(4) of this section, attention will be given to incorporating energy conservation concerns and principles into any economic development plans, programs, and projects. The economic development planning process shall be coordinated with existing State and local energy conservation planning efforts.

(6) That, if a city or county is located in a larger economic development planning unit, activities funded with a planning grant shall be coordinated with the larger unit.

9. 13 CFR 307.56 is amended by adding a new paragraph (h) to read as follows:

§ 307.56 Limitations.

* * * * *

(h) Grants may cover costs incurred for ensuring that energy conservation concerns are incorporated into the economic development planning process and resultant plans and programs as required by this subpart. Such costs will not be allowed if the grantee is receiving other Federal assistance to perform the above activity.

10. 13 CFR 307.57 is amended by adding a new paragraph (a)(6):

§ 307.57 Annual reports.

* * * * *

(a) *States.* * * *

(6) For grants approved after October 1, 1980, certification regarding the manner in which the State incorporated energy conservation concerns into the activities of its planning process.

* * * * *

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

11. 13 CFR 308.5(a) is amended by changing the reference in the first sentence of that subsection from "section 308(a)" to "§ 308.6(a)" to read as follows:

§ 308.5 Use of adjustment grants.

* * * * *

(a) Adjustment grants received by eligible recipients to develop plans shall be used to develop plans that meet the requirements of § 308.6(a). The purpose of these grants is to assist eligible recipients to qualify for title IX grants to carry out their plans. The awarding of a grant to develop a plan, however, does not obligate the Assistant Secretary to

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make a subsequent grant to carry out the plan.

* * * * *

12. 13 CFR 308.6(a) is amended by adding the following new subparagraph (8) at the end thereof:

§ 308.6 Planning requirements.

(a) * * *

(8) Where appropriate, a completed energy efficiency analysis and life cycle cost analysis of the facilities for which EDA assistance is requested. The life cycle cost analysis shall be generally consistent with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436. The energy efficiency and analysis will include the following:

(i) The overall design of the facilities;

(ii) Special conservation measures to be utilized;

(iii) Fuel requirements for heating, cooling and production processes of the facilities;

(iv) Consideration given to the use of alternative and renewable energy sources for heating, cooling and production processes of the facilities; and

(v) BTU savings resulting from the design of the facilities compared to standard design criteria.

* * * * *

PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES

13. 13 CFR 315.54(b) is revised to read as follows:

§ 315.54 Technical assistance.

* * * * *

(b)(1) Technical assistance may be provided under this subpart in order to assist a firm in—

(i) Developing a proposal for its economic adjustment;

(ii) Implementing such a proposal; or

(iii) Both.

(2) Technical assistance extended under paragraph (b)(1) of this section may include assistance to study a specific energy related problem in the context of the adjustment needs of the applicant.

* * * * *

14. 13 CFR 315.55(b)(1) is amended to read as follows:

§ 315.55 Financial assistance.

* * * * *

(b) * * *

(1) For acquisition, construction, installation, modernization, development, conversion or expansion of land, plants, buildings, equipment, facilities or machinery and, in otherwise eligible projects, for costs associated with incorporating energy conserving features into facilities and production processes. Applicants must demonstrate that the incorporation of the proposed features for which assistance is being requested will result in the more efficient use of non-renewable energy sources and/or the use of renewable sources of energy.

* * * * *

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); sec. 1–105, Executive Order 12185; Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: August 22, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-26495 Filed 8-28-80; 8:45 am]

BILLING CODE 3510-24-M

federal register

Friday
August 29, 1980

Part V—Section B

Department of Housing and Urban Development

Petroleum and Natural Gas Conservation: Federal Community/Economic Development Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 600

[Docket No. R-80-800]

Comprehensive Planning Assistance, Energy Conservation Provisions; Final Rule

AGENCY: Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule revises the Comprehensive Planning Assistance Program regulations to incorporate energy conservation measures as established in Executive Order 12185 and to provide examples of energy conservation activities that would be eligible for Comprehensive Planning Assistance funding.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara S. Dorf, Office of Planning and Program Coordination, Room 7254, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410 (202) 755–5649. (This is not a toll-free number).

SUPPLEMENTAL INFORMATION: In accordance with National Policy and the provisions of Executive Order 12185, which addresses energy conservation, HUD has reviewed its programs to determine how they can contribute to furthering energy conservation and management. The Comprehensive Planning Assistance Program focuses on achieving national policy objectives related to the conservation and improvement of existing communities, the increase of housing and employment opportunities, and the promotion of orderly and efficient growth and development. HUD has determined that the Comprehensive Planning Assistance Program can be an even more effective means of addressing energy conservation objectives and is revising its regulations to require that energy conservation considerations be incorporated into the comprehensive planning process.

Background

On May 7, 1980, the Assistant Secretary for Community Planning and Development published a proposed rule (45 FR 30330) to amend the regulations governing the Comprehensive Planning Assistance Program (24 CFR Part 600) to include energy conservation provisions. Comments were invited until July 7, 1980. A total of 9 comments were received. Each comment was carefully considered. The following is a summary of the comments and the changes made to the proposed rule.

Discussion of Comments

§ 600.68 Energy Conservation Requirements.

Several comments were received which suggested that this section be expanded. After comments were carefully reviewed and considered the Department took the following actions:

Suggestion to impose sanctions. The Department felt that the imposition of sanctions for failure to comply with all program requirements was already clearly delineated in § 600.10(d) of the 701 program regulations. To specify sanctions for failure to comply with the requirements for consideration of energy conservation in the planning process would be redundant and unnecessary.

Actions needed to be undertaken. In an effort to provide a better understanding of the requirements of § 600.68, which establishes the energy conservation requirements for the 701 program, the section was revised to ensure clarity.

Suggestion to require assessment of energy impacts of regional development plans. The Department felt that a separate impact assessment related strictly to energy was unwarranted and not in keeping with the intent and purpose of existing environmental requirements or the proposed energy requirements. It was the intent of the Department to have all program grantees incorporate energy conservation considerations in their planning process to ensure that all resulting plans, programs, and policies, funded in whole or in part by the 701 program, would have adequately addressed relevant energy impacts, issues and concerns as they were identified during the planning phase.

Suggestion to require areawide planning organizations to adopt the goal of a reduction in vehicle miles traveled. It has been the Department's policy to permit local governments to establish their own goals, priorities and programs to address the 701 program requirements. It was felt that the imposition of such a requirement was not an appropriate action on the part of HUD.

Suggestion that the review of energy impacts be expanded to encompass all types of energy resources, not just petroleum and natural gas. The inclusion of the phase "particularly petroleum and natural gas" was not intended to be exclusive nor infer that the Department is advocating the conservation of petroleum and natural gas by switching to other forms of energy. The intent of the requirement was to ensure that proposed plans, programs and policies be examined in light of their effect on the consumption of energy. Therefore, no changes have been made to this requirement.

Suggestion that the consideration of Federal, State, and local energy conservation plans be mandatory. It is the intent of the Department that where a State, areawide planning organization or local government has developed and adopted or endorsed specific energy conservation plans, programs, policies, standards or other similar measures, that grant recipients acknowledge such policies as part of their comprehensive planning process.

Similarly, where standards have been developed or adopted by State or local government which provide for energy conservation measures, 701 grantees are encouraged to utilize such standards whenever practicable. Examples of energy conservation standards are ASHRAE Standard 90–75, Energy Conservation in New Building Construction; U.S. Department of Energy regulations, BEPS, Building Energy Performance Standards when they become effective in the future; and/or HUD's Cost Effective Energy Conservation Standards, 24 CFR Part 39. Therefore, this requirement has not been changed.

§ 600.160 OMB Circular A–95 coordination procedures.

One comment was received which questioned the timing of the A–95 clearinghouse notification procedures. All applicants must notify the appropriate A–95 clearinghouses of their intent to submit an application to HUD at least 60 days prior to submittal of the actual application to HUD. Applications must be submitted to A–95 clearinghouses at least 30 days prior to submittal of the application to HUD. These timing requirements do not change or modify the standard A–95 procedures that have been in existence. The Department did not feel that it was necessary to clarify this section further.

Appendix I

Several comments were received which provided additional examples of types of activities that could be undertaken with 701 funds which further the National Policy Objectives and which are in keeping with energy conservation objectives. Where these additional examples provided a unique or appropriate example of eligible activities related to energy conservation, such examples were incorporated into the Appendix. It is the intent of the Department that the Appendix serve as a simple guideline to the types of activities that could be funded under the 701 program. The Appendix should not be considered finite or exclusionary. Applicants are encouraged to undertake planning activities which best enable them to achieve the National Policy Objectives within the context of local goals and priorities. Any changes incorporated into the Appendix are in italics.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding is available for public inspection during the regular business hours in the Office of the Rules Docket Clerk at the aforementioned address.

This rule is not listed in the Department's semiannual agenda of significant regulations published on February 5, 1980 pursuant to Executive Order 12044.

Accordingly, the Department has amended 24 CFR 600 as follows:

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

1. By adding a new § 600.68 to read as follows:

§ 600.68 Energy conservation requirements.

(a) *Requirements.* This section applies to planning and management activities funded in whole or in part by a Comprehensive Planning Assistance grant. As specified in § 600.55, all 701 funded planning activities must clearly further the National Policy Objectives for the conservation and improvement of existing communities, the increase of housing and employment opportunities, and the promotion of orderly and efficient growth and development. As part of these activities, applicants must include in their comprehensive planning process consideration of energy conservation measures, as appropriate. To assure that energy conservation is addressed as part of the comprehensive planning process, applicants should include consideration of:

(1) Energy problems and issues, including applicable Federal, State and local energy policies and standards which the applicant determines to be of major significance in its efforts to conserve and improve existing communities, increase housing and employment opportunities for the poor, disadvantaged and minorities; and to promote orderly growth and development.

(2) The impact of proposed development policies and programs to determine effects on energy consumption, particularly petroleum and natural gas.

(3) Federal, State and local energy conservation plans and programs in the development of plans, programs and policies which achieve the National Policy objectives.

2. By revising paragraph (c) of § 600.160 to read as follows:

§ 600.160 OMB circular A-95 coordination procedures.

* * * * *

(c) *Clearinghouse notification.* Applicants must notify the appropriate State and areawide clearinghouses at least 60 days prior to the submittal of the application to HUD. The notification should indicate any known energy impacts of the proposed activities and any planning related to the conservation of energy that would be undertaken. A copy of the application must be submitted to the clearinghouses at least 30 days prior to the submittal of the application to HUD. In no instance will applications be approved without having fulfilled the A-95 requirements.

* * * * *

3. By revising Appendix I to Part 600 to read as follows:

Appendix I.—Comprehensive Planning Assistance, Department of Housing and Urban Development

This list contains examples of the types of comprehensive planning and management activities that States, areawide planning organizations and localities may undertake, beginning in FY 1979, which would be clearly supportive of National Policy Objectives. The listing is meant to be illustrative only and should not be construed as being mandatory, exclusionary or finite.

I. States

A. To conserve and revitalize communities:

Reform State income, sales, business and property tax systems and laws, including tax revenue sharing formulas, to provide more cost efficient public services and facilities; assure that distressed population groups are equitably treated; and the needs of distressed communities and populations are adequately addressed.

- Identify disparities among communities in State services, facilities and assistance, and reprogram State aid to alleviate such disparities.
- Conduct "fair share" analyses of State aid and State administered Federal aid to communities.
- Develop program(s) for targeting the development, rehabilitation or modernization of State facilities to distressed communities.
- Seek State legislative endorsement for priorities and programs designed to carry out community conservation, *energy conservation,* and revitalization objectives.
- Increase State role to finance and deliver aid to communities for such local functions as education, public transit and economic development.
- Enhance communities borrowing capacity.
- Establish a State Development Cabinet, or equivalent mechanism, to enable Governors to coordinate State and local strategy actions.
- *Create a program of tax incentives for homeowners and corporations to encourage weatherization and energy retrofit conservation measures at the local level.*
- Establish an urban impact review capacity.
- To expand housing choice:
- Develop State and regional policies to guide major public and private decisions on priority areas where growth should occur, *with due consideration of the need to conserve energy,* where conventional housing should be located and HUD and FmHA should provide insured housing.
- Develop a three year State housing allocation plan and coordinate the provision of State assisted housing with HUD and FmHA assisted housing.
- Establish or increase State funding for State programs of housing loans, grants and guarantee programs.
- Establish a system for constructing State facilities or allocating State expenditures which gives priority based on a community's provision of low and moderate income housing.
- Provide new authority for State, regional, or local housing authorities to develop a wide variety of housing and rehabilitation programs and assistance.
- Develop model housing and rehabilitation standards and/or process to assist in a revitalization program.
- Establish a State Housing Finance Agency.
- Reform tax policies to encourage rehabilitation and ensure equity in property taxes for the elderly and low income homeowners.
- Reform tax policies to ensure equity in property taxes for renters and reform landlord-tenant, consumer protection and fair housing laws, including the strengthening of administration and enforcement actions.

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- Reform model and existing building codes by eliminating unjustified cost-increasing requirements, and encouraging the use of new technology in construction materials and methods for conventional and factory built housing.
- Establish laws and regulations for financial institution that prevent redlining.
- Reform State laws relating to lending and land title practices which tend to increase housing costs.
- Establish uniform State building and housing maintenance codes *and adopt standards for energy conservation in construction and rehabilitation projects.*
- Reform local zoning, subdivision, and other land-use ordinances to facilitate the construction of assisted and unassisted, modest cost, multifamily and single family housing, including approaches such as metropolitan or State zoning appeals boards, State established maximums for house and lot size, garage, density, site development requirements, and fees and charges.
- Develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project).
- Establish State standards for accessibility to the handicapped and adopt or revise building and housing codes as necessary.
- *Develop model single family and multifamily rehabilitation codes which foster revitalization efforts and also promote energy conservation by including weatherization and other appropriate standards in the code revisions, and encouraging their adoption by local governments.*
- *Modify codes to encourage use of energy recovery methods, solid waste processing and solar systems to achieve maximum energy efficiencies in new construction and through retrofit of established structures. Revise codes to permit use of equally energy efficient, but less expensive materials in construction.*

C. To expand employment opportunities:

- Establish State financed economic development programs for distressed communities and allocate State resources on a preferential basis to such communities.
- Establish State programs to encourage the restoration, rehabilitation and more efficient utilization of existing public and private commercial and industrial structures and facilities in distressed and declining communities.

D. To promote orderly growth:

- Develop policies which coordinate State resources and State administrated Federal community and housing development resources for transportation and access, major utility sites, and air and water quality management actions.
- Develop State policies and guidelines for land use and development which will assure that adequate amounts of reasonably priced developable land will be available for the development of modest-cost housing.
- Streamline regulatory mechanisms to reduce the cost of procedural delay in the administration of State and local regulations governing housing development and renovation.
- Provide assistance to develop data to fulfill Community Development Block Grant, Urban Development Action Grant, Housing Opportunity Plan and other HUD program application or regulatory requirements.
- Assess extent to which HUD approved land use and housing elements address the Program Objectives and modify the elements, as necessary, to formulate a State strategy for community conservation and orderly growth.
- Promote legislative initiatives and actions and address the needs of distressed communities and population, including handicapped populations.
- *Consider major patterns of existing and future State land use and relate to energy conservation, emphasizing factors such as transportation, industrial needs and development, water availability and population mobility which are the most efficient.*

II. Areawide Planning Organizations (Metropolitan and Nonmetropolitan)

A. To conserve and revitalize communities:

- Prepare a multi-year strategy to include a regional development guide for major public and private investments coordinated with air quality and transportation control strategies, *energy efficiency and conservation measures* and regional housing strategies.
- Implement HUD approved areawide land use and housing elements that are consistent with the Program Objectives.
- Prepare a regional economic development program(s) to identify job requirements and preferred major development sites *in keeping with Federal, State and local energy conservation objectives.*
- Strengthen APOs by moving to establish proportional representation voting systems during the 1971–81 period.

B. To expand housing choice:

- Develop three year regional housing guide and implementation programs for conventional housing to promote investment and reduce sprawl.
- Develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Program).
- Develop a three year assisted housing allocation plan and implementation program, it includes guidelines for coordinating the programs of State, HUD and FmHA assistance, or establish or refine a Housing Opportunity Plan pursuant to 24 CFR Part 891.
- Establish multijurisdictional housing authority which operates program to expand opportunities for low income households outside areas of concentration.
- Establish procedures to ensure consistency of areawide housing opportunity plan (HOP) goals with housing assistance plans (HAP) goals of CDBG applicants.
- Promote fair and equal housing and facilitate interjurisdictional mobility, by such means as an Areawide Affirmative Marketing Plan, counseling programs, relocation information and assistance, advertising or promotional campaigns, establishing fair housing groups or agencies, adoption of fair housing ordinances and recommendation for new legislation.
- Operate programs to expand housing choice directed at assisting local governments to modify their practices which affect housing cost or restrict housing choice particularly in the area of inclusionary and exclusionary land use and zoning ordinances.
- Propose and encourage programs to eliminate redlining or other public or private practices which contribute to the problems of distressed areas.
- Propose programs to reduce involuntary relocation of low income households in areas undergoing redevelopment and reinvestment.
- Use A–95 or other review authorities established by State law or voluntary agreements to implement State and regional housing plans.
- Establish standards for local regulations that are consistent with illustrated State activities, so as to facilitate the construction of assisted and unassisted modest-cost housing, and monitor compliance with such standards which may cover house and lot size requirements, allowable densities, site development requirements, fees and charges, and procedures governing changes in zoning, *and energy conservation.*
- Develop and implement procedures for monitoring land prices so as to determine that development policies and

controls are not unreasonably driving up land prices.

C. To expand employment opportunities:

- Designate preferential locations for new employment through development of regional public facilities within communities to be conserved.
- Identify sites for major new private economic development and otherwise assist private developers to provide new employment to serve areas and persons of greatest need.
- Promote improved transportation services to job centers from areas of high unemployment.
- Establish priorities to promote the redevelopment or modernization of commercial and industrial areas in older, highly urbanized areas.
- Use A-95 or other authorities to divert new employment opportunities into areas of highest unemployment and poverty.

D. To promote orderly growth:

- Develop regional public investment programs and schedules for regional public facilities which include timing and staging of facilities coordinated with orderly urban development in existing communities or neighborhoods, and promoting revitalization of distressed areas.
- *Formulate an energy conservation strategy to serve as a guide in formulating housing, transportation, economic development and other land use related plans, programs and policies which achieve the Program Objectives, and encourage its adoption by local governments.*
- Delineate priority areas where private sector growth should occur, in order to minimize the cost of additional government services and maximize the use of existing services.
- Establish and operate an urban impact review system.
- Implement HUD approved land use and housing elements that are consistent with the Program Objective.
- Establish or strengthen programs to assist localities to apply for and manage CDBG Small City funds, including analysis of local needs and problems, and establishment or improvement of local CDBG program management systems.
- Consider major patterns of existing and future regional land use and relate to energy conservation measures, emphasizing factors such as transportation, industrial needs and development, water availability and population mobility.
- *Develop model building codes and zoning ordinances which ensure access to sunlight to enable single family and multiple family units to utilize solar energy.*

III. Localities (Municipalities Under 50,000 Population and Counties Other Than Urban Counties as Defined in Title I, HUD Act of 1974, as Amended)

A. To conserve and revitalize communities:

- Develop and carry out a comprehensive plan, or strategy, and action programs to identify, conserve, and rehabilitate neighborhoods and business areas within the locality.
- Prepare community development plans, annual programs, and plans for neighborhood strategy areas, and develop applications to qualify for assistance under the CDBG Small Cities program.
- Develop programs for land clearance and site aggregation for private or public developments within distressed areas.
- Promote infilling of vacant land within the locality.
- Survey sites, structures, and districts, and develop programs for historic preservation.
- Develop energy conservation measures and facility siting plans.

B. To expand housing choice:

- Develop plans and develop implementation programs to conserve and rehabilitate the existing housing stock.
- Formulate the production of new housing to reduce the isolation of income groups and families and handicapped persons within the locality and to foster interjurisdictional mobility.
- Develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project).
- Develop, promulgate and adopt single and multi-family *energy-efficient* rehabilitation codes which encourage revitalization efforts.
- Develop programs to promote assisted housing, such as land write-downs, establishment of a housing authority or joining a multijurisdictional housing authority, and identification and improvement of sites for assisted housing.
- Develop outreach programs and informational services to promote interjurisdictional mobility and expand housing opportunities for non-residents.
- Update, modernize, and adopt land development and structural codes and ordinances, to remove exclusionary barriers and create inclusionary opportunities consistent with 701 Program Objectives.
- Streamline local administrative procedures pertaining to the regulation of land development and building construction so as to reduce the costs of delay and increase the degree of predictability of the governmental review and approval process.

C. To expand employment opportunity:

- Develop and carry out plans and programs to attract or retain business and industry, to retain or upgrade the local labor force, or to create new job opportunities for the unemployed, underemployed or handicapped in the locality.
- Revise local tax and business regulation structures to remove barriers and encourage new economic development consistent with Program Objectives.
- Prepare applications and development plans necessary to qualify for assistance under the Urban Development Action Grant program.

D. To promote orderly growth:

- Develop and carry out a comprehensive plan (including the statutorily prescribed land use and housing elements) as a guide for public and private development, redevelopment, or resource conservation, as appropriate within the locality, to include priority areas for Federal community development and housing assistance (insured and subsidized). Such comprehensive plan to consider the needs of all population groups, the availability of land, the public sector costs and benefits of additional growth, and the incidence of their impact on the population, energy consumption, and the environment.
- Assess and revise functional plans and investment programs, such as transportation, parks and recreation, and social services to alleviate any disparities and to provide services to meet the special needs of distressed areas and population groups within the locality.
- Plan local facilities consistent with a regional or State public investment program.
- Carry out programs to detail and implement a regional development guide at the local level.
- Conduct flood control studies and develop programs for flood plain management.
- *Formulate, and revise as appropriate, local zoning codes and ordinances to ensure that buildings are constructed in a manner which meet energy conservation objectives and encourages the utilization of solar energy and other renewable energy resources.*

(Sec. 7(d), Department of HUD (42 U.S.C. 3535(d)), sec. 701 of the Housing Act of 1954, as amended (40 U.S.C. 461, et seq.))

V45 AG 29 80 UMI

Issued at Washington, D.C., August 22, 1980.

Walter G. Farr,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 80-26496 Filed 8-28-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 570

[Docket No. R-80-798]

Community Development Block Grants; Energy Conservation Provisions

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule provides that where units rehabilitated with block grant funds are proposed to be included as goals in a Housing Assistance plan (HAP), they must comply with HUD's Cost-Effective Energy Conservation Standards. It also provides that where block grant funds are provided to private entities to acquire properties for the purpose of rehabilitation, the structures to be acquired must meet the Cost-Effective Energy Conservation Standards after rehabilitation.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: James Broughman, Entitlement Cities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-9267. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1980 HUD published proposed rules to extend the Department's Cost-Effective Energy Conservation Standards to certain housing rehabilitation carried out with block grant funds. Those standards now apply to five HUD programs, namely, the Section 312 Rehabilitation Loan Program, the Section 8 Moderate Rehabilitation Program, the Section 8 Substantial Rehabilitation Program, Section 203(k) Rehabilitation Loans, and Operating Assistance for Troubled Multifamily Housing Projects. The proposal to extend the coverage of these standards to the Community Development Block Grant Program was part of a Department-wide effort, consistent with Executive Order 12185, to take appropriate steps to foster energy conservation in all HUD programs.

A total of nine comments was received and evaluated. They fell into three categories:

(1) Three commenters expressed concern about the increased cost of rehabilitation that would result from adoption of these standards and the likelihood that this would reduce the total number of housing units rehabilitated with block grant funds. Some of these commenters therefore suggested that the HAP requirements be modified to take this into account.

We are sensitive to this issue and have considered it carefully both in drafting the proposed rule and in reviewing the comments. We have concluded that energy conservation measures have overriding importance, both because of the national objective of conserving scarce fuels, and because of the particular burden that high energy costs impose on low- and moderate-income persons. The installation of energy conserving improvements will generally pay for themselves in reduced costs within a relatively short term and will help ensure that housing rehabilitated with block grant funds can be preserved for use as housing for lower income persons.

We also doubt that the adoption of these standards will cause a substantial reduction in the volume of rehabilitation. It is noted that some 75% of all units rehabilitated with block grant funds to meet Housing Assistance Plan (HAP) goals now include energy conserving improvements. Moreover, the Cost-Effective Energy Conservation Standards themselves are moderate and flexible in approach. They require the installation of insulation only where particular housing elements are to be exposed or made accessible as part of the rehabilitation to be performed, and not otherwise. The extent of insulation to be installed is based on cost savings that would result given the climate, the type of fuel used, and the financing terms. We therefore, do not feel that adoption of these standards would unduly burden the block grant funded rehabilitation effort, but rather, it would enhance it by including improvements that are essential in this period of high energy costs and scarcity.

If adoption of these standards does reduce the level of rehabilitation in some cities, and those cities are otherwise taking all reasonable steps available to them to meet their housing assistance goals, HUD will take that into account in evaluating housing performance, and will not unfairly penalize such cities. No change will be made in the regulation in light of these comments.

(2) Other commenters were concerned about the administrative implications of adopting these standards, and how they would be coordinated with other energy conservation requirements of HUD and other Federal Departments. We note that the standards being adopted are identical to the standards that apply to five other HUD rehabilitation programs, and that HUD will continue to work toward uniform requirements wherever feasible. With regard to coordination with the Department of Energy's Weatherization Program, HUD strongly supports local efforts to work out suitable arrangements to coordinate this program with the block grant program, and is exploring ways that the Department can further coordination between these programs on a national basis.

(3) Two commenters questioned the provisions of the Cost-Effective Energy Conservation Standards as they applied to consumption of natural gas. Both opposed individual metering of multifamily apartment units, and one stated that the calculation of natural gas consumption in the standards was faulty.

While we understand these commenters' concerns, we do not feel that concern about the impact on consumption of one fuel type warrants delay in extending a current, Department-wide standard to the block grant program, and that if any inaccuracy exists it would be dealt with when the standards are reviewed and updated. With regard to individual metering, the standards do not so require. Rather, the standards require that individual metering be evaluated as part of any energy audit performed on mulifamily structures.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address. This rule was not included on the Department's semi-annual agenda of significant regulations.

Accordingly, the Department hereby amends 24 CFR Part 570 to read as follows:

1. Section 570.202(c)(1) is revised as follows:

§ 570.202 Eligible rehabilitation and preservation activities.

* * * * *

(c) Rehabilitation of private properties. * * *

(1) Acquisition for the purpose of rehabilitation. Block grant funds may be

used to assist private entities, including profit making and non profit organizations, to acquire properties, for use or resale for residential purposes. Such properties may include:

(i) Permanent housing units, both single family and multifamily, for rental or sale; and

(ii) Residential facilities such as group homes, halfway houses, and emergency shelters.

Properties acquired and rehabilitated under this provision must meet the Section 8 Existing Housing Quality Standards at 24 CFR 882.109 and the Cost-Effective Energy Conservation Standards at 24 CFR Part 39.

2. Section 570.306(c)(1)(vi) is revised as follows:

§ 570.306 Housing assistance plan.

* * * * *

(c) * * *

(1) * * *

(vi) *Adequacy of rehabilitation.* In order to be included as goals in a HAP, any units proposed to be rehabilitated for either owners or renters must be units which are determined by the applicant to be substandard, and upon completion will meet, at minimum, the Section 8 Existing Housing Quality Standards at 24 CFR 882.109 and the Cost-Effective Energy Conservation Standards at 24 CFR Part 39, and be occupied by lower-income households. Any units proposed for rehabilitation using Federal assistance shall upon completion meet the standards of the applicable Federal program where they exceed Section 8 Existing Housing Quality Standards.

* * * * *

(Sec. 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 22, 1980

Walter G. Farr,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 80-26497 Filed 8-28-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 570

[Docket No. R-80-782]

Community Development Block Grants; Subpart F—Small Cities Program

Cross Reference: In the **Federal Register** of Thursday, August 21, 1980 (45 FR 55968), the Department of Housing and Urban Development published a final rule which revises Subpart F of Part 570, the Small Cities Program regulations of the Community Development Block Grant Program.

BILLING CODE 4210-01-M

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24 CFR Part 570

[Docket No. R-80-797]

Community Development Block Grants: Energy Conservation Changes to Urban Development Action Grant Rules

AGENCY: Office of Urban Development Action Grants, HUD.

ACTION: Final rule.

SUMMARY: This rule finalizes the Urban Development Action Grant regulations to include additional energy conservation measures developed in accordance with Executive Order 12185. It applies to private participating parties in an Action Grant project.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Regions 1 & 4-Catherine Hare, (202/755–7362), Region 2-Stanley Newman, (202/755–6193), Regions 3 & 10-Harvey Zeiger, (202/755–0268), Region 5-(Illinois, Indiana, and Minnesota)-Bill Hammer, (202/755–6035) and (Michigan, Ohio, and Wisconsin)-David Sowell, (202/755–6284), Regions 6 & 8-Charles Kendrick (202/755–5620), Regions 7 & 9-Wally May, (202/755–5620), Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th St. SW., Washington, D.C. 20410. (These are not toll free numbers)

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1980 the Department published in the **Federal Register** (45 FR 30328) proposed rules amending the Urban Development Action Grant regulations to include additional energy conservation measures applicable to private participating parties in Action Grant projects. The rule implements Executive Order 12185 that requires inclusion of energy efficiency standards in all federal aid programs.

Interested parties were given until July 7, 1980 to comment. All comments with respect to the proposed rule were given careful consideration, and as a result of the 8 responses filed, the following changes are being made:

Full Applications

Three respondents thought the wording was either vague or could be strengthened. One respondent suggested adding the requirement that life-cycle cost analysis be performed as the best method of ensuring cost effective energy efficient measures. As a result of these comments, HUD suggests that applicants use life-cycle cost analysis where appropriate to determine the most cost-effective energy efficient method. HUD also suggests that applicants use ASHRAE standards for the selection of building materials.

A number of respondents were concerned that an energy certification would be too expensive and would discourage potential participants. One additional commentor suggested delaying the certification until after preliminary approval so that applicants not funded will not incur the expense of the certification. HUD believes the certification will not require extensive analysis or cost to participants. By requiring that the certification be included in the application, HUD will have a means to ensure that all projects reviewed are energy efficient.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The changes embodied in the regulation have been evaluated and have been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the findings are available for inspection and copy in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 570 is amended by adding § 570.458–1 to read as follows:

§ 570.458–1 Full applications.

Each private participating party constructing a recipient or non-recipient activity must submit a certification providing assurance that it has evaluated and it will implement the most cost-effective energy efficient measures feasible directly affecting the construction or rehabilitation of buildings and the production processes to be performed therein. Each private participating party will be expected to cite the energy efficient measures that it is including in its building or production processes. HUD encourages participants to use life-cycle cost analysis to determine the most cost-effective energy efficient method in appropriate instances. For example, life-cycle cost analysis would be appropriate in choosing between the purchase of a gas, electric, or solar water heating system. HUD also encourages the use of ASHRAE in selecting construction materials. Institutions which are participating parties exclusively for the purpose of lending funds are excluded from this requirement.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq): Title I Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 22, 1980.

Walter G. Farr,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 80-26511 Filed 8-28-80; 8:45 am]

BILLING CODE 4210-01-M

V 45 AG 29 80 UMI

federal register

Friday
August 29, 1980

Part V—Section C

Department of Agriculture

Farmers Home Administration

Petroleum and Natural Gas Conservation: Federal Community/Economic Development Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1804, 1924, 1930, and 1944

[FCDA No. 10.415, Rural Rental Housing Loans, 10.410, Low to Moderate Income Housing Loans, 10.411, Rural Housing Site Loans]

Conservation of Petroleum and Natural Gas Through Changes in USDA Financial Assistance Programs; Executive Order 12185

AGENCY: Farmers Home Administration, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This notice outlines changes in rules in certain programs of the Department of Agriculture, Farmers Home Administration, to increase the incentives for conserving petroleum and natural gas. This final rule is being published as required by Section 1–104 of Executive Order 12185, and constitutes the FmHA response to that requirement. It is intended that this action will not only encourage conservation of petroleum and natural gas, but provide additional management information to those receiving financial assistance from FmHA.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: James E. Thornton, Associate Administrator, Farmers Home Administration, Room 5014 South Building, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–5614. The Final Impact Statements describing the options considered in developing this final rule and the impact of implementing each option is available on request from Joseph H. Linsley, Directives Management Branch, Room 6346, South Agriculture Building, Washington, D.C. 20250, (202) 447–4057.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

The FmHA programs and projects which are affected by these actions are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

On page 30364 of the **Federal Register** for May 7, 1980 the Farmers Home Administration published a notice of proposed rulemaking and administrative actions to increase the incentives for conserving petroleum and natural gas. This action is taken to implement Executive Order 12185, Conservation of Petroleum and Natural Gas, signed by the President December 17, 1979 and published December 19, 1979 at 44 FR 75093. Public comments have been accepted and analyzed and are discussed below. These actions were presented to representatives of public interest groups at informational meetings conducted by the White House Staff.

This action has been affected by other rulemaking that was proceeding concurrently. Therefore, the format of the final rules and some of the references therein have been changed to be consistent with other rulemaking. The proposed amendments to proposed Subpart C of Part 1930 and Subpart E of Part 1944 will be incorporated and published as a part of those regulations.

The major concerns expressed within the coments received and changes made were:

Part 1804 Subpart D

(1) Using energy as a factor to select project sites and designs could detract from the agency's effort to target projects to the areas of greatest need.

FmHA is seriously committed to serving the needs of rural residents regardless of how remote their location. It is intended that energy demand not be the dominate factor used to evaluate project sites and designs, but that it should be included as one of many factors used to evaluate projects such as: market demand, environmental impact, etc. In an effort to clarify this point we have added the following sentence to § 1804.63 (c):

> This factor should be used primarily to assist in the site selection process within a given community, and not necessarily as a basis for moving projects to larger communities.

Part 1924 Subpart A

Due to number and complexity of the comments received concerning these changes, this part is still under agency review. The final rule is scheduled for publishing within 60 days.

Therefore Chapter XVIII is amended as follows:

SUBCHAPTER A—GENERAL REGULATIONS

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Subpart D—Planning and Performing Site Development Work

1. A new § 1804.63 (c) is added to read as follows:

§ 1804.63 Purpose and general policy.

* * * * *

(c) The energy required to develop the site and to provide support services and to be used for transportation by residents after the site is occupied must be a factor used to select the site and final project design. This factor should be used primarily to assist in the site selection process within a given community, and not necessarily as a basis for moving projects to larger communities.

* * * * *

2. § 1804.63 existing paragraph (c) is renumbered (d) without change.

3. § 1804.74 (a)(6) is added to read as follows:

§ 1804.74 Planning and submission of documents.

(a) * * *

(6) *Energy Considerations.* A discussion of the energy efficiency of the proposed site relative to the alternative sites. This discussion should include energy required for site preparation, installing utilities, providing services, and vehicular transportation of the occupants, as applicable to the proposed development. Demonstrate how energy considerations influenced selection of the site and development of concepts for the project design.

* * * * *

4. § 1804.74, existing paragraph (a)(6) is renumbered (7) without change.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Dated: August 26, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-26607 Filed 8-28-80; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Conservation of Petroleum and Natural Gas Through Proposed Changes in USDA Financial Assistance Programs; Executive Order 12185

AGENCY: U.S. Department of Agriculture, Farmers Home Administration.

ACTION: Administrative notice.

FOR FURTHER INFORMATION CONTACT: James E. Thornton, Associate Administrator, Farmers Home Administration, Room 5014 South Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5614.

Dated: August 26, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

Farmers Home Administration (FmHA) has determined that the following actions are covered by existing rules and can be accomplished by the issuance of an Administrative Notice (AN) to all FmHA field offices.

U.S. Department of Agriculture; Farmers Home Administration

Washington, D.C. 20250

FmHA AN ——— (1900)

Subject: Energy Conservation Initiatives, Executive Order 12185.

To: All State Directors, All District Directors, All County Supervisors.

Pursuant to Executive Order 12185 Farmers Home Administration has taken a number of steps to promote the conservation of petroleum and natural gas. The May 7 **Federal Register** contained several notices of proposed rule making and also descriptions of actions which would be implemented by administrative action. This administrative notice will provide guidance for proper consideration of energy conservation measures in FmHA financial assistance programs.

In administering our loan and grant programs we must be sensitive to the major impact which our assistance has on the energy usage in rural areas. Most projects funded by FmHA have direct energy impacts as a result of the amount of energy which the project will consume over its expected life. All projects (including planning activities) which are FmHA assisted have impacts of an indirect nature. Patterns of community development, location of public facilities with respect to housing and employment centers will affect transportation energy use and energy demands for public services. Farmers must spend increasingly larger portions of their budgets for energy and the rising costs of fuel are threatening the economic viability of some farming operations.

On a more positive note many of our energy related problems have solutions which are economically, environmentally and socially acceptable. Energy conscious community planning can significantly reduce average resident energy use. Buildings financed by FmHA can be designed to use half the energy required for similar buildings constructed only a few years ago. Water and sewer systems can be designed which will demand less energy for construction and long term operation. And finally, with our tradition of supervised credit we can help borrowers be aware of the significant reduction in energy consumption they can effect by proper energy management.

The energy guidelines on the pages which follow are intended to integrate energy awareness and analysis into our process of application review. All existing and potential applicants should be made aware of these guidelines and the agency's solid commitment to energy conservation. We should also encourage our applicants to go beyond the guidelines stated here in developing projects which conserve our non-renewable resources.

Due to the numerous programs this notice will affect, this notice has been prepared in a unique format. After initial review the notice should be separated into nine parts (general parts and eight numbered parts) and filed in accordance with the instructions contained thereon.

Gordon Cavanaugh,

Administrator.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 1900-A

Part 1 of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900-A.

Business and Industry Loan Program

Applicants will be encouraged to include in technical and economic feasibility studies consideration of direct and indirect energy usages and costs.

Energy costs have become a major factor in the economic well being of many businesses. We should encourage the use of efficient plant machinery and equipment, co-generation systems and waste heat recovery equipment which better utilize the fuels used and the use of alternate energy sources. However, we should not encourage a shift away from the direct use of petroleum or natural gas to electricity in an area where generation of that electric power relies upon petroleum and natural gas unless there is an overall improvement in energy efficiency.

The following factors are involved in direct and indirect energy usage:

A. Direct Energy Demand

1. Fuel required for heating and cooling.

2. Operation and process fuel required.

3. Conservation measures to be utilized.

4. Use of alternative or renewable energy sources.

B. Indirect Energy Demand

1. Transportation of workers, raw-materials and finished products.

2. Energy demand to supply utility services.

3. Conservation measures to be utilized.

It should be recognized investment in certain systems will qualify for a special tax consideration. A useful guide for making determinations regarding the feasibility and cost effectiveness of energy related investments is the Department of Energy's "Methodology and Procedures for Life Cycle Cost Analysis" (published in the January 23, 1980 **Federal Register**), with three modifications. 1) A discount rate of seven (7) percent will be used to calculate present values. 2) The external benefit used in the DOE procedure should be ten percent (10 percent) of the net present value of the energy savings rather than the additional investment cost. This feature will place emphasis on the investments that save the most energy and not those with the highest cost. 3) A maximum system life of twenty-five (25) years.

Based on the information provided it may be appropriate to recommend the applicant consider an alternate site or process to improve the feasibility of the proposed project.

Expiration Date: September 30, 1981.

Filing Instruction: Preceding FmHA Instruction 1980-A.

Part *2* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900-A.

V 45 AG 29 80 UMI

Water and Waste Disposal Loans and Grants, Community Facility Loans, Industrial Development Grants

Applicants will be encouraged to include in preliminary architectural/engineering reports a consideration of direct and indirect energy usage resulting from construction and operation of the proposed project. Applicants should be made aware of ASHRAE Standards.

Energy costs have become a major factor in the economic well being of most projects. We should encourage the use of efficient plant machinery and equipment, alternate treatment processes, waste heat recovery and the use of alternate energy sources. Projects incorporating one or more of these concepts have already been financed by FmHA. The applicants should be encouraged to include cost effective, energy saving systems in their proposed projects.

The following factors are involved in direct and indirect energy usage:

A. Direct Energy Demand

1. Fuel for heating and cooling.

2. Operation and process fuel required.

3. Use of alternate or renewable energy sources.

4. Conservation measures to be utilized.

A. Indirect Energy Demand

1. Transportation of staff and/or clients.

2. Transportation of raw materials, finished products, and by-products.

3. Conservation measures to be utilized.

A useful guide for making determinations regarding the feasibility and cost effectiveness of energy related investments, except on wastewater projects jointly financed with EPA, is the Department of Energy "Methodology and Procedures for Life Cycle Cost Analysis" (published in the January 23, 1980 **Federal Register**), with three modifications. 1) A discount rate of seven (7) percent will be used to calculate present values. 2) The external benefit used in the DOE procedure should be ten percent (10%) of the net present value of the energy savings rather than the additional investment cost. This feature will place emphasis on the investments that save the most energy and not those with the highest cost. 3) A maximum system life of twenty-five (25) years.

Based on the information submitted and the subsequent evaluations it may be appropriate to recommend the applicant consider project modifications to reduce energy demand and improve the feasibility of the proposed project.

Expiration Date: September 30, 1981 or when revised guides 6, 7, 8, 9, 10, are distributed, whichever occurs first.

Filing Instruction: Preceding FmHA Instruction 1942–A.

Part *3* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Rural Planning Grants

Grantees will be encouraged to include energy conservation as an integral part of the planning process and as a significant component of the planning documents, where applicable.

As the cost and availability of energy have changed rapidly in the recent past and all predictions indicate these changes will continue, traditional rural area development patterns may no longer be acceptable. It is important to consider energy demands associated with initial construction; but the long term impact to the community will be in providing services such as fire and police protection, solid waste disposal, street lighting, waste and sewage systems and schools. Individual residents will feel the impact of the cost of community services and transportation to employment, shopping, churches, health care, etc.

A useful guide for making determinations regarding the feasibility and cost effectiveness of energy related investments is the Department of Energy's "Methodology and Procedures for Life Cycle Cost Analysis" (published in the January 23, 1980 **Federal Register**), with three modifications. 1) A discount rate of seven (7) percent will be used to calculate present values. 2) The external benefit used in the DOE procedure should be ten percent (10%) of the net present value of the energy savings rather than the additional investment cost. This feature will place emphasis in the investments that saves the most energy and not those with the highest cost. 3) A maximum system life of twenty-five (25) years.

Proper comprehensive planning, energy considerations included, and implementation can improve the viability and the economic stability of the community.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 1946–A.

Part *4* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Farmer Program

On-farm energy use has expanded in recent years as farmers, dairymen and ranchers have resorted to more and more mechanized and automated practices to increase production and improve profitability. The rising cost and at times curtailed supplies of necessary fuel now threatens to destroy the gains for which the agriculture community has worked so hard to attain.

In order to assist FmHA applicants cope with the rising cost of energy and its limited supplies, portions of the various loan program allocations were set aside in Fiscal Year 1980 to fund energy saving devices and alternative energy sources. With implementation of the Energy Security Act the requests for funding of alternative energy sources in Farmer Programs may diminish, however we will continue to encourage all applicants to consider all feasible energy conservation measures.

The State Director will ensure that County Offices continue to encourage their borrowers to utilize the most cost effective, energy efficient equipment and processes in the agricultural operation. Field personnel are to provide energy management counseling to applicants or to refer those persons to other organizations who can provide additional assistance. In many areas such assistance is available from the State Cooperative Extension Service, Rural Electric Co-ops, public utilities and the Soil Conservation Service.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 1943–A.

Part *5* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Home Repair Loans and Grants

In the interest of reducing the energy demand associated with existing housing structures, a goal is established that, on a national average, sixty (60) percent of the funds allocated for the Section 504 Home Repair Program will be used for weatherization and conservation purposes.

Efforts to meet this goal will take two forms:

1. The State Director will attempt to work with other organizations which have weatherization programs. Weatherization assistance is also available through the DOE weatherization program. In that program per house expenditure is limited in amount and in the types of

improvements, generally to the more obvious energy conserving techniques such as storm windows, insulation, and caulking. For the very low income, these items may be ineffective unless or until items such as defects in the walls and roof are corrected. There is almost no other federal money available for repair of low income housing. Use of 504 funds for weatherization related home repair can be a critical step to better align the federal resources available to assist the poor whose circumstances often dictate that they are energy wasters. 504 funds will also be used for direct weatherization activities.

2. The State Director shall instruct the field offices to conduct an outreach program to make low income rural residents aware of the home repair assistance which is available.

When applicable, determinations regarding the feasibility and cost effectiveness of energy related investments will be made in accordance with the procedures set forth in FmHA Instruction 1924–A, Appendix D.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 1904–G.

Part *6* of the referenced AN issued in accordance with Presidetial Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Home Ownership Loans

With energy costs becoming an ever increasing share of household expenses energy management counseling is an important part of the supervised credit counseling. All field personnel who work with applicants are to provide energy management counseling to applicants or to refer those persons to other organizations who can provide additional assistnce. In many areas such assistance is available from the State Cooperative Extension Service, Rural Electric Co-ops and Public utilities. FmHA will also provide basic literature on house maintenance, repair and management which is prepared by the U.S. Department of Agriculture and other Federal agencies.

As a part of servicing deliquent accounts FmHA field personnel will take particular care to identify energy costs which may contribute to the borrower's inability to fulfill loan repayment obligations. Where possible, weatherization and home energy management recommendations will be offered to the borrower.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 444.1.

Part *7* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Rural Housing Supervisory Assistance Grants

Most persons assisted under this program are first-time homeowners with little or no experience in home management. In order for these persons to be successful in managing their new homes they need training in home energy management.

All recipients of Rural Housing Supervisory Assistance Grants will be encouraged to incorporate home energy management in their educational programs. Operation of equipment, repair and maintenance activities and general lifestyle conservation techniques would be an important part of the educational program. Printed reference material available from Federal agencies may be used if appropriate.

Expiration Date: July 31, 1981.

Filing Instructions: Preceding FmHA Instruction 1944–K.

Part *8* of the referenced AN issued in accordance with Presidential Executive Order 12185, Conservation of Petroleum and Natural Gas. The general portion of the AN is filed prior to FmHA Instruction 1900–A.

Mutual and Self-Help Housing Grants

Homeowners participating in this program can substantially reduce fuel consumption in their new homes by using energy conscious construction techniques and by understanding good home energy management practices. Grantees providing technical assistance to self help groups should be encouraged to incorporate training on energy conscious construction techniques and home energy management into their programs. Home energy management training should include equipment operation, maintenance and repair and general lifestyle conservation techniques. Use of printed reference material available from Federal agencies is encouraged. Construction supervisors should pay particular attention to construction details such as proper jointing of materials, caulking, weatherstripping, proper installation of heating/cooling equipment and insulation.

Expiration Date: September 30, 1981.

Filing Instructions: Preceding FmHA Instruction 1933–I.

[FR Doc. 80–26608 Filed 8–28–80; 8:45 am]

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Friday
August 29, 1980

Part VI

Federal Housing Assistance Programs

Housing and Urban Development Department
Veterans Administration

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federal register

Friday
August 29, 1980

Part VI—Section A

Department of Housing and Urban Development

Petroleum and Natural Gas Conservation: Federal Housing Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing

Federal Housing Commissioner

24 CFR Part 241

[Docket No. R-80-801]

Petroleum and Natural Gas Conservation; Supplementary Financing for Insured Project Mortgages

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule amends Part 241 to make it clear that supplemental loans may be insured under Section 241 for the purpose of purchasing and installing energy-related improvements for projects having mortgages which are presently insured under another section of the National Housing Act, or which are presently held by the Secretary. This rule also adds two new subparts to allow Section 241 loans in connection with projects which are not insured under the National Housing Act or held by the Secretary, where such loans are to be used for the purchase and installation of energy conserving improvements, solar energy systems, and/or individual utility meters.

EFFECTIVE DATE: September 29, 1980.

SUPPLEMENTARY INFORMATION: On May 7, 1980, the Department published in the **Federal Register** (45 FR 30352), a proposed rule to amend 24 CFR Part 241 to make it clear that supplemental loans may be insured under Section 241 for the purpose of purchasing and installing energy-related improvements for projects having mortgages which are presently insured under another section of the National Housing Act or which are presently held by the Secretary. The rule would also add two new subparts to allow supplemental loans to be insured under Section 241 in connection with projects which are not insured under the National Housing Act or held by the Secretary where such loans are to be used for the purchase and installation of energy conserving improvements, solar energy systems, and/or individual utility meters.

Comments from three parties were received in response to this publication. The most extensive comments were received from the State of New York Division of Housing and Community Renewal and several of those comments have been accepted. The most significant changes to the regulation as well as significant comments not accepted are described below.

(1) Section 241.500(a) is being amended to make it clear that State Agencies are eligible approved lenders.

(2) Since bond resolutions often contain a provision prohibiting the creation of further liens against the project, most bond-financed projects would not be eligible for insured supplemental loans under Section 241. Therefore, § 241.555 has been amended to provide that other security may be offered and accepted by the Secretary in bond-financed projects where the bond resolution contains a prohibition against the creation of additional liens.

(3) It was suggested that § 241.565(a) be amended to permit the modification of existing debt service requirements. The suggestion was not accepted because it could result in the Department's insuring unsound loans, e.g., the mortgagee could defer principal payments in order to support a higher mortgage amount.

(4) It was suggested that this rule be expanded to cover all programs, e.g., Community Development Block Grant Program, Urban Development Action Grant Program, 312 Loan Program, etc. The Department has evaluated all of its programs and published in the **Federal Register** (45 FR 27784) a Notice of proposed actions in all of its programs to implement energy initiatives. Therefore, the applicability of this regulation need not be expanded.

Additionally, a suggestion was made that these regulations be further amended to identify and clearly articulate sanctions and penalties that will be imposed upon recipients of Federal assistance for failure to comply with the new energy related requirements. In response to this suggestion, we point out that such an amendment is not necessary. Under these regulations mortgagors (recipients of Federal assistance) do not receive payment for the energy concerning improvements until the work is completed. Insurance is made available either through insurance of advances or insurance upon completion. In the former case, HUD approves the advance of mortgage proceeds in stages after the work is completed. That is, HUD permits the mortgagor to request payments generally monthly for work completed. HUD will inspect the work to determine that it has been acceptably completed prior to approving any payment. In the latter case, the mortgagor completes all of the improvements and authorizes payment. In this case, no payment is made as work progresses.

This rule is listed as item number H-23-79 in the Department's semiannual agenda of signficant rules, published pursuant to Executive Order 12044.

Accordingly, Part 241, is amended as follows:

1. Section 241.1 is amended by adding paragraphs (k) and (l)

§ 241.1 Definition.

* * * * *

(k) "Energy conserving improvements" means the purchase and installation of weatherization materials as defined in Section 6862(9) of Title 42. Specifically, the term "weatherization materials" means:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications limited to—

(i) Replacement burners designed to substantially increase the energy efficiency of the heating system,

(ii) Devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Clock thermostats;

(4) Ceiling, attic, wall, floor, and duct insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective windows;

(7) Such other insulating or energy conserving devices or technologies as the Secretary of Energy may determine, by rule, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.

For the purposes of this Subpart, "energy conserving improvements" shall also include the purchase and installation of solar energy systems and/or individual utility meters if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary.

(l) "Solar energy system" means any addition, alteration, or improvement to an existing or new multifamily structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or the passive type based on the convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the

Secretary in consultation with the Secretary of Energy.

2. Section 241.125 is amended to read as follows:

§ 241.125 Use of loan proceeds.

The proceeds of the loan shall be used only to finance improvements or additions including energy conserving improvements, solar energy systems and individual utility meters that are in conformity with standards prescribed by the Secretary, for a multifamily project, nursing home, intermediate care facility, group practice facility or hospital which is subject to a mortgage insured under any Section or Title of the Act or covered by a mortgage held by the Secretary. Use of loan proceeds for purchase and installation of individual utility meters is subject to the purchase and installation of energy conserving improvements as defined in § 241.1(k). The proceeds of a loan involving a nursing home, intermediate care facility, group practice facility or hospital may also be used to purchase equipment to be used in the operation of such nursing home, intermediate care facility, group practice facility or hospital.

3. New Subparts C and D are added after § 241.275, as follows:

Subpart C—Eligibility Requirements—Supplemental Loans to Finance Purchase and Installation of Energy Conserving Improvements, Solar Energy Systems, and Individual Utility Meters in Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

Sec.
241.500 Definitions.

Fees and Charges

241.505 Application and commitment fees.
241.510 Commitments.
241.515 Inspection fee.
241.520 Fees on increases.
241.525 Refund of fees.
241.530 Maximum fees and charges by lender.

Eligible Security Instruments

241.535 Loan multiples-minimum principal.
241.540 Method of loan payment and amortization period.
241.545 Covenant against liens.
241.550 Accumulation of next premium.
241.555 Security instrument and lien.
241.560 Maximum interest rate.
241.565 Maximum loan amount.
241.570 Insurance endorsement.
241.580 Application of payments.
241.585 Prepayment privileges and prepayment charge.

Property Requirements

241.590 Eligibility of property.

Title

241.595 Eligibility of title.
241.600 Title evidence.

Form of Contract

241.605 Contract requirements.
241.610 Assurance of completion.
241.615 Certificate of cost requirements.

Eligible Borrowers

241.625 Eligible borrowers.

Special Requirements

241.630 Maximum insurance against loss.
241.635 Discrimination prohibited.
241.645 Labor standards and prevailing wage requirements.

Subpart D—Contract Rights and Obligations—Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

241.800 Definitions.

Premiums

241.805 Insurance premiums.
241.805a Mortgagee's late charge.
241.815 Termination of insurance.
241.825 Pro rata refund of insurance premium.

Rights and Duties of Lender Under the Contract of Insurance

241.830 Definition of default.
241.840 Date of default.
241.850 Notice of default.
241.860 Commissioner's right to require acceleration.
241.865 Election by the lender.
241.875 Maximum claim period.
241.880 Items to be delivered on submitting claim.
241.885 Insurance benefits.
241.890 Characteristics of debentures.
241.893 Cash adjustment.

Assignments

241.895 Assignment of insured loans.

Extension of Time

241.897 Actions to be taken by lender.

Rights in Housing Fund

241.900 No vested right in fund.
241.905 Effect of amendments.

Authority: Sec. 311(b), Pub. L. 95–557; Sec. 247, Pub. L. 95–619; sec. 211, National Housing Act, as amended (12 U.S.C. 1715b).

Subpart C—Eligibility Requirements—Supplemental Loans to Finance Purchase and Installation of Energy Conserving Improvements, Solar Energy Systems, and Individual Utility Meters in Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

§ 241.500 Definitions.

In addition to the definitions contained in Subpart A of this part, incorporated herein by reference, except § 241.1(f), (h) and (i), the following terms, as used in § 241.500 et. seq., shall have the meaning indicated:

(a) "Approved lender" means a financial institution or other mortgagee approved by the Commissioner as eligible for insurance under section 2 of the National Housing Act, or a mortgagee approved under section 203(b)(1) of the National Housing Act, or a state housing agency approved pursuant to 24 CFR 883.102.

(b) "Borrower" means the owner of a project held in fee simple or of a leasehold interest which is not now covered by a mortgage insured or held by the Secretary.

(c) "Energy saving loan" means any form of secured obligation used in connection with the purchase and installation of energy conserving improvements.

(d) "Multifamily project" means a project which consists of not less than five dwelling units on one site, each such unit providing complete living facilities including provisions for cooking, eating, and sanitation within the unit and which is not now covered by a mortgage insured or held by the Secretary.

Fees and Charges

§ 241.505 Application and commitment fees.

(a) *Application.* An application for the insurance of either a conditional or firm commitment for insurance of an energy saving loan on a project shall be submitted by an approved lender and by the sponsors of such project through the local HUD office on an approved FHA form.

(b) *Application and commitment fees*—(1) *Application for conditional commitment.* An application fee of $1.50 per thousand dollars of the amount of the loan applied for shall accompany the application for a conditional commitment.

(2) *Application for firm commitment.* An application for a firm commitment shall be accompanied by the payment of an application fee of $1.50 per thousand dollars of the amount of the loan applied for, if such fee has not been previously submitted. A commitment fee, in an amount which, when added to the application fee, will aggregate $3 per thousand dollars of the loan applied for, shall also be submitted with the application for a firm commitment.

§ 241.510 Commitments.

(a) *Conditional commitment.* The issuance of a conditional commitment indicates completion of the Commissioner's preliminary analysis of the proposed energy conserving improvements and constitutes an agreement by the Commissioner, subject to specified terms and conditions, to accept an application for a firm commitment.

(b) *Firm commitment.* The issuance of a firm commitment indicates the Commissioner's approval of the application for insurance and sets forth

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the terms and conditions upon which the loan will be insured.

(c) *Types of firm commitment.* (1) Where the amount of the loan is $250,000 or more, the firm commitment may provide for the insurance of advances of loan money made during construction or may provide for the insurance of the loan after completion of the improvements.

(2) Where the amount of the loan is less than $250,000, the firm commitment shall provide for insurance of the loan after completion of the improvements.

(d) *Term of commitment.* (1) A conditional commitment shall be effective for whatever term is specified in the text of the commitment, normally 60 days.

(2) A firm commitment to insure advances shall be effective for a period of not more than 90 days from the day of issuance.

(3) A firm commitment to insure upon completion shall be effective for a designated term within which the borrower is required to begin construction, and if construction is begun as required, the commitment shall be effective for such additional period, estimated by the Commissioner, as will allow for completion of construction.

(4) The term of either a conditional or firm commitment may be extended in such a manner as the Commissioner may prescribe.

(e) *Reopening of expired commitments.* An expired conditional or firm commitment may be reopened if a request for reopening is received by the Commissioner within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 90 day period, a new application, accompanied by the required application and commitment fee, must be submitted.

§ 241.515 Inspection fee.

The firm commitment may provide for the payment of an inspection fee in an amount not to exceed $5 per thousand dollars of the commitment. If an inspection fee is required, it shall be paid as follows:

(a) If the case involves the insurance of advances, it shall be paid at the time of initial endorsement.

(b) If the case involves insurance upon completion, it shall be paid prior to the date construction is begun.

§ 241.520 Fees on increases.

(a) *Increase in firm commitment prior to endorsement.* An application filed prior to initial endorsement (or prior to endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding firm commitment shall be accompanied by a combined additional application and commitment fee. This combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the requested increase. if an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the ispection fee required in the original commitment. When insurance of advances is involved, the additional inspection fee shall be paid at time of initial endorsement. When insurance upon completion is involved, the additional inspection fee shall be paid prior to the date construction is begun or if construction has begun, it shall be paid with the application for increase.

(b) *Increase in loan between initial and final endorsement.* Upon an application, filed between initial and final endorsement, for an increase in the amount of the loan, either by amendment or by substitution of a new loan, a combined additional application and commitment fee shall accompany the application. This combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the increase requested. If an inspection fee was required in the original commitment, an additional inspection fee shall accompany the application in an amount not to exceed $5 per thousand dollars of the amount of the increase requested.

§ 241.525 Refund of fees.

If the amount of the commitment issued or an increase in loan prior to endorsement is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fees or any portion thereof may be returned to the applicant. Commitment, inspection, and reopening fees may be refunded, in whole or in part if it is determined by the Commissioner that the installation of energy conserving improvements for the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or public agency, or in such other instances as the Commissioner may determine.

§ 241.530 Maximum fees and charges by lender.

The lender may collect from the borrower the amount of the fees provided for in this subpart. The lender may also collect from the borrower an initial service charge in an amount not to exceed 2 percent of the original principal amount of the loan to reimburse the lender for the cost of originating and closing the transaction. Any additional charges shall be subject to the prior approval of the Commissioner.

Eligible Security Instruments

§ 241.530 Note and security form.

The lender shall present for insurance a note and security instrument, on forms approved by the Commissioner for use in the jurisdiction in which the property to be improved is located.

§ 241.535 Loan multiples—minimum principal.

The loan shall involve a principal obligation in multiples of $100, and the minimum principal obligation shall be $10,000.

§ 241.540 Method of loan payment and amortization period.

(a) *Monthly payments.* The loan shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payment in accordance with the amortization plan as agreed upon by the borrower, the lender and the Commissioner.

(b) *Amortization period.* (1) The loan shall have an amortization of either 5, 10, or 15 years by providing for either 60, 120, or 180 monthly amortization payments. No energy saving loan shall have an amortization period in excess of 15 years unless the amount of the loan exceeds $50,000.00, in which event the amortization period may be increased to 20 years, with a provision for 240 monthly amortization payments.

(2) In any event, the loan shall have a maturity satisfactory to the Commissioner of not less than 2 or more than 20 years from the date of the beginning of amortization, or the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

(3) The Commissioner shall establish the date of the first payment to principal, which shall be no later than the first day of the second month following the date of final endorsement (for projects involving insurance of advances) or endorsement (for projects involving insurance upon completion) of the loan for insurance.

§ 241.545 Covenant against liens.

The security instrument shall contain a covenant against the creation by the borrower of additional liens against the property superior or inferior to the lien of such instrument, except with the prior approval of the Commissioner.

§ 241.550 Accumulation of next premium.

The security instrument shall provide for payments by the borrower to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date, the next annual insurance premium payable by the lender to the Commissioner.

§ 241.555 Security instrument and lien.

(a) The security instrument shall cover the entire property included in the project, shall be a lien on the real property of the project under the laws of the jurisdiction in which the project is located, and may be junior to such prior liens or mortgage indebtedness as the Commissioner may approve. The security instrument shall contain a provision that a default under the first mortgage is a default under the supplementary loan security instrument.

(b) For bond-financed projects where the bond resolution contains a provision prohibiting the creation of additional liens, the Commissioner may accept at his/her option:

(1) A first lien on another property whose fair market value as determined by the Commissioner equals or exceeds the amount of the loan insured under this part;

(2) A Collateral Account in an amount not less than the amount of the loan insured under this part funded with cash or negotiable bonds or securities backed by the full faith and credit of the United States Government; or

(3) Other security acceptable to the Commissioner.

§ 241.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed the maximum interest rate established by the Secretary for multifamily mortgages and in effect at the time the mortgage is endorsed for insurance.

(b) Interest shall be payable in monthly installments on the principal amount of the loan outstanding on the due date of each installment.

§ 241.565 Maximum loan amount.

The principal amount of the loan shall in no event exceed the cost of the energy conserving improvements including the purchase thereof, cost of installation, architect's fees, interest during construction and such other miscellaneous fees and charges incident to construction as determined by the Commissioner. Nor shall the principal amount of the loan exceed the lesser of the following:

(a) An amount which can be supported by residual income, which is the amount of net income remaining after payment of all existing debt service requirements and deduction of proprietary earnings, as determined by the Commissioner. The computation of net income shall take into account the amount which will be saved in operating costs over the period of repayment of the loan as a result of the installation of the energy conserving improvements.

(b) An amount which, when added to the existing outstanding indebtedness, does not exceed the Commissioner's estimate of the value of the project after the energy conserving improvements are installed.

§ 241.570 Insurance endorsement.

(a) *Initial endorsement.* The Commissioner shall indicate his/her insurance of the mortgage by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the mortgage is insured and the date of insurance.

(b) *Final endorsement.* When all advances of mortgage proceeds have been made and all the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he/she shall indicate on the original credit instrument the total approved for insurance and again endorse such instrument.

(c) *Effect of endorsement.* From the date of initial endorsement, the Commissioner and the mortgagee or lender shall be bound by the provisions of this subpart to the same extent as if they had executed a contract including the provisions of this subpart and the applicable sections of the Act.

(d) *Insurance upon completion.* When all advances of mortgage proceeds have been made and all the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he/she shall indicate the total approved for insurance and endorse the credit instrument, identifying the date of insurance.

§ 241.580 Application of payments.

(a) The security instrument shall provide that all monthly payments to be made by the borrower shall be added together and this aggregate amount shall be paid by the borrower upon each monthly payment date in a single payment. The lender shall apply the payment to the following items in the order set forth:

(1) Premium charges under the contract of insurance;

(2) Interest on the loan;

(3) Amortization of the principal of the loan.

(b) Any deficiency in the amount of any monthly payments required under paragraph (a) of this section shall constitute an event of default and the loan shall further provide for a grace period of 30 days within which time the default must be cured.

§ 241.585 Prepayment privilage and prepayment charge.

The security instrument shall contain a provision permitting prepayment of the loan in whole or in part upon any interest payment date after giving to the lender 30 days advance written notice and it may contain a provision, with the approval of the Commissioner, for a reasonable charge in the event of prepayment. The borrower shall be permitted to prepay up to 15 percent of the original principal amount of the loan in any one calendar year without an additional charge. A provision for a charge in the event of prepayment may not be included in a loan of $200,000 or less.

Property Requirements

§ 241.590 Eligibility of property.

(a) A loan to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) On the interest of the lessee under a lease for not less than seventy-five years which is renewable; or

(3) Under a lease having a period of not less than twenty-five years to run from the date the loan is executed.

(b) The property constituting security for the loan transaction must be held by an eligible borrower as herein defined and must at the time the loan is insured be free and clear of all liens other than those specifically approved by the Commissioner.

Title

§ 241.595 Eligibility of title.

In order for the property which is to be the security for a loan to be insured under this subpart to be eligible for insurance, the Commissioner shall determine that the title to the property is vested in the borrower as of the date the security instrument is filed for record. The title evidence will be examined by the Commissioner and the endorsement of the credit instrument for insurance shall be evidence of its acceptability.

§ 241.600 Title evidence.

(a) Upon insurance of the loan, the lender shall furnish to the Commissioner a survey, satisfactory to the Commissioner, and a policy of title insurance as provided in paragraph (a)(1) of this section. If the lender is unable to furnish such policy for reasons satisfactory to the Commissioner, the lender shall furnish such evidence of title as provided in paragraph (a)(2), (3), or (4) of this section as the Commissioner may require. Any survey, policy of title insurance, or evidence of title required under this section shall be furnished without expense to the Commissioner. The acceptable types of title evidence are:

(1) A policy of title insurance issued by a company and in a form satisfactory to the Commissioner. Such policy shall name the lender and the Secretary of Housing and Urban Development, as their respective interests may appear, as the insured; and shall become an owner's policy running to the lender as owner upon its acquisition of the property in extinguishment of the debt, and to the Secretary as owner upon his/her acquisition of the property pursuant to the loan insurance contract.

(2) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(3) A Torrens or similar title certificate.

(4) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

(b) The survey required by paragraph (a) of this section need not be furnished in connection with a project where the loan does not exceed $200,000.

Form of Contract

§ 241.605 Contract requirements.

(a) When the principal amount of the loan is $100,000 or less, the form of contract between the borrower and the contractor shall be in accordance with the following:

(1) The contract between the borrower and the general contractor may be in the form of either a lump sum contract or a cost plus contract. Either form of contract shall include the cost of the energy conserving improvements, their installation, and such other work to be performed by the contractor as necessary to meet the requirements of the Secretary. A lump sum contract shall provide for the payment of a specified amount. A cost plus contract shall provide for the payment of the contractor's actual cost of compliance with the requirements of the contract, plus such allowances for overhead and profit as may be approved by the Commissioner and shall provide that the total cost under the contract shall not exceed the upset price as approved by the Commissioner.

(2) If agreed to by the general contractor and borrower, a lump sum form of contract between the borrower and the general contractor may be used unless the Commissioner determines that a cost plus contract with a maximum upset price is necessary to protect the interest of the borrower or the Commissioner.

(b) When the principal amount of the loan is over $100,000, the form of contract between the borrower and the contractor shall be in accordance with the following:

(1) *Lump sum contract.* If the Commissioner determines that there is no identity of interest between the borrower or any of the officers, directors or stockholders of the borrower and the contractor, there may be used a lump sum contract providing for payment of the specified amount.

(2) *Cost plus fixed fee contract.* (i) If the Commissioner determines that there is any identity of interest (financial or otherwise) between the borrower, its officers, directors or stockholders and the contractor, the form of contract shall provide for payment of the actual cost of construction not to exceed an upset price and may provide for payment of a fixed fee not exceeding a reasonable allowance as established by the Commissioner in accordance with customary practices in the area.

(ii) In any case where the borrower is a nonprofit entity, a cost plus fixed fee contract shall be used unless it is established to the Commissioner's satisfaction that such form of contract is not required to protect his/her interests and the interests of the borrower, in which case, a lump sum form of contract may be used.

§ 241.610 Assurance of completion.

(a) The borrower shall furnish assurance of completion of the project in the following minimum forms and amounts:

(1) Where the estimated cost of construction of the improvements is $500,000 or less, the borrower shall furnish assurance of completion of the project in the form of a personal indemnity agreement executed by the principal officers, directors, stockholders, or partners of the entity acting as general contractor.

(2) Where the estimated cost of construction of the improvements is more than $500,000 or where such cost is less than $500,000 and a personal indemnity agreement is not executed, the assurance shall be in the form of corporate surety bonds for payment and performance, each in the minimum amount of 25 percent of the construction contract, or a completion assurance agreement secured by a cash deposit in the minimum amount of 15 percent of the amount of the construction contract.

(3) All types of assurance of completion shall be on forms approved by the Commissioner. Any surety company executing a bond and any party executing a personal indemnity agreement must be satisfactory to the Commissioner.

(4) A mortgagee may prescribe more stringent requirements for assurance of completion than the minimum requirements of this section.

(b) The lender may accept, in lieu of a cash deposit required by paragraph (a) of this section, an unconditional irrevocable letter of credit issued to the lender by a banking institution. In the event a demand under the letter of credit is not immediately met, the lender shall forthwith provide cash equivalent to the undrawn balance thereunder.

§ 241.615 Certification of cost requirements.

(a) *Certification agreement.* The lender shall submit with the application an agreement on a form prescribed by the Commissioner and executed by the borrower and the lender.

(b) *Certificate and adjustment.* No loan shall be insured unless:

(1) A certification of actual cost is made by the contractor in cases in which a cost plus form of contract is used; and

(2) The amount of the loan is adjusted to reflect the actual cost to the borrower of the improvements when either a cost plus or lump sum form or contract is used.

(c) *Cost computation.* The term "actual cost of the improvements" shall mean the cost to the borrower of the improvements, after deducting the amount of any kickbacks, rebates or trade discount received in connection with the improvements, and including the amounts paid under any contract for the improvements, labor, materials, and for any other items of expenses approved by the Commissioner.

(d) *Statement of facts.* Any agreement, undertaking, statement or certification required in connection with cost certification shall specifically state that it has been made, presented and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon as a true statement of the facts contained therein.

(e) *Incontestability.* Upon the Commissioner's approval of the cost certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the borrower.

(f) *Records.* The borrower shall keep and maintain adequate records of all costs of any construction improvements or other cost items not representing work under the general contract and shall require the contractor to keep similar records and, upon request by the Commissioner, both shall make available for examination such records, including any collateral agreements.

(g) *Certificate of public accountant.* Where required by the Commissioner, each certificate of actual cost shall be supported by a certificate as to accuracy by an independent Certified Public Accountant or independent public accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or prior to December 31, 1970, which shall include a statement that the accounts, records and supporting documents have been examined in accordance with generally accepted auditing standards to the extent deemed necessary to verify the actual costs.

Eligible Borrowers

§ 241.625 Eligible borrowers.

In order to be eligible as a borrower under this subpart, the applicant shall be a profit, limited distribution, nonprofit, or cooperative owner of a multifamily housing project which is not covered by a mortgage insured or held by the Secretary and which the Commissioner has determined to be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss of the Federal Government.

Special Requirements

§ 241.630 Maximum insurance against loss.

A loan insured under this subpart shall be insured for 90 percent of any loss incurred by the person holding the note for the loan.

§ 241.635 Regulatory agreement.

Any borrower obligated on the note for any loan insured under this subpart shall be regulated or restricted in a manner and on a form prescribed by the Secretary as to rents or sales, charges, capital structure, rate of return and methods of operation of the multifamily project to such an extent and in such manner as to provide reasonable rental to tenants and a reasonable return on the investment until the termination of all obligations of the Secretary under the contract of insurance.

§ 241.640 Discrimination prohibited.

Any contract or subcontract executed for the installation of equipment, or construction of improvements to the project shall provide that there shall be no discrimination against any employee or applicant for employment because of sex, religion, race, color, creed or national origin.

§ 241.645 Labor standards and prevailing wage requirements.

(a) Any contract, subcontract, or building loan agreement executed for the performance of construction of the project shall comply with all applicable labor standards and provisions of the regulations of the Secretary of Labor set forth in §§ 5.1–5.12 of Title 29.

(b) No construction contract shall be entered into with a general contractor or any subcontractor if such contractor or any such subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest is included on the ineligible list of contractors or subcontractors established and maintained by the Comptroller General, pursuant to § 5.6(b) of Title 29.

(c) No advance under the mortgage shall be eligible for insurance after notification from the Commissioner that the general contractor or any subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest, was on the date the contract or subcontract was executed, on the ineligible list established by the Comptroller General, pursuant to the provision of the Secretary of Labor set forth in §§ 5.1–5.12 of Title 29.

(d) No advance under any mortgage shall be eligible for insurance unless there is filed with the application of such advance a certificate or certificates in the form required by the Commissioner, supported by such other information as the Commissioner may prescribe, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings, or housing project involved, have been paid not less than the wage prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to beginning of construction and after the date of filing of the application for insurance.

(e) Compliance with the provisions of this subsection shall be evidenced at such time and in such manner as the Commissioner may prescribe.

Subpart D—Contract Rights and Obligations—Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

§ 241.800 Definitions.

All of the definitions contained in § 241.500 shall apply to this subpart. In addition, as used in this subpart, the following terms shall have the meaning indicated:

(a) "Contract of insurance" means the agreement evidenced by the endorsement of the Commissioner upon the note given in connection with an insured loan and includes the provisions of this subpart and the applicable provisions of the Act.

(b) "Maturity" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the loan.

Premiums

§ 241.805 Insurance premiums.

(a) *First premium.* The lender, upon the endorsement of the loan for insurance, shall pay to the Commissioner a first loan insurance premium equal to one percent of the original face amount of the note.

(b) *Second premium.* The lender, on the date of the first principal payment, shall pay a second premium equal to one percent of the average outstanding principal obligation of the loan for the year following such first principal payment date which shall be adjusted as of that date so that the aggregate of the first and second premiums shall equal the sum of one percent per annum of the average outstanding principal obligation of the loan for the period from the date of the insurance endorsement to one year following the date of the first principal payment.

(c) *Annual insurance premium.* Until the note is paid in full, or until the loan is assigned to the Commissioner, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the lender, on each anniversary of the date of the first principal payment shall pay an annual loan insurance premium equal to one percent of the average outstanding principal obligation of the loan for the year following the date on which such premium becomes payable.

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(d) *Method of premium payment.* Premiums shall be payable in cash or in debentures of the General Insurance Fund at par plus accrued interest. All premiums are payable in advance and no refund can be made of any portion thereof except as provided in this part.

(e) *Calculation of premiums.* The premiums payable on and after the date of the first principal payment shall be calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

§ 241.805a Mortgage's late charge.

Mortgage insurance premiums which are paid to the Commissioner more than 15 days after the billing date or due date, whichever is later, shall include a late charge of 4 percent of the amount of the payment due, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

§ 241.815 Termination of insurance.

(a) *Prepayment in full.* The contract of insurance shall be terminated if the loan is paid in full prior to its maturity. Notice of the prepayment shall be given to the Commissioner, on a form prescribed by the Commissioner, within 30 days from the date of the prepayment. The insurance termination shall become effective as of the date of the prepayment, or 30 days prior to the Commissioner's receipt of the prepayment notice, whichever is later.

(b) *Voluntary termination.* The contract of insurance shall be voluntarily terminated upon receipt by the Commissioner of a written request, on a form prescribed by the Commissioner, by the borrower and the lender for such termination, accompanied by a submission of the original credit instrument for cancellation of the insurance endorsement and the remittance of all sums to which the Commissioner is entitled. The termination shall become effective as of the date these requirements are met.

§ 241.825 Pro rata refund of insurance premium.

Upon termination of a loan insurance contract by a payment in full or by a voluntary termination, the Commissioner shall refund to the lender for the account of the borrower an amount equal to the pro rata portion of the current annual loan insurance premium theretofore paid which is applicable to the portion of the year subsequent to the effective date of the termination.

Rights and Duties of Lender Under the Contract of Insurance

§ 241.830 Definition of default.

(a) If the borrower fails to make any payments due under or provided to be paid by the terms of the note or security instrument, the note shall be considered in default for the purposes of this subpart.

(b) The failure to perform any other covenant under the note or security instrument shall be considered a default: *Provided,* The lender, because of such default, has exercised its rights under the note or security instrument and accelerated the debt.

(c) The failure to make any payment or to perform any covenant under the first conventional note and mortgage by reason of which the holder thereof declares a default as evidenced by formal written declaration of said default to the Commissioner and the lender by the holder of the first note and mortgage, shall be considered a default under the insured loan.

(d) If such defaults as defined in paragraphs (a), (b), and (c) of this section continue for a period of 30 days, the lender shall be entitled to receive the benefits of insurance hereinafter provided.

§ 241.840 Date of default.

In computing loan insurance benefits, the date of default shall be considered as:

(a) The date of the lender's acceleration of the debt because of the borrower's uncorrected failure to perform a covenant or obligation under the note or security instrument; or

(b) The date of the first failure to make a monthly payment which subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payments in the order in which they become due.

(c) The date of the lender's acceleration of the debt because of the borrower's default under the first conventional note and mortgage.

§ 241.850 Notice of default.

(a) If the default is not cured within the 30 day grace period, as defined in § 241.530(d), the lender shall, within 30 days thereafter, notify the Commissioner in writing of such default.

(b) The lender shall give notice in writing to the Commissioner of the failure of the borrower to comply with any covenant or obligation under the security instrument or note regardless of the fact that the lender may not have elected to accelerate the debt.

§ 241.860 Commissioner's right to require acceleration.

Upon receipt of notice of the failure of the borrower to comply with any covenant or obligation under the security instrument or note, or under the conventional note and mortgage, the Commissioner may require the lender to accelerate payment of the outstanding principal balance due.

§ 241.865 Election by the lender.

Where a real estate mortgage, or other security instrument has been used to secure the payment of a loan made under the provisions of this subpart and Subpart C of this part, the lender may either elect to assign the loan to the Commissioner in exchange for the payment of insurance benefits or may exercise its rights under the note and security instrument in lieu of making a claim for insurance benefits. If the lender elects the latter course, the Commissioner shall be so notified and the contract of insurance shall be deemed terminated upon the date of receipt of such notification.

§ 241.875 Maximum claim period.

Notice of intention to file claim on a form prescribed by the Commissioner shall be filed within 45 days after the lender becomes eligible for the benefits of the loan insurance, or within such later time as may be agreed upon by the Commissioner in writing.

§ 241.880 Items to be delivered on submitting claim.

Within 30 days after the filing of the notice of intention to assign the loan to the Commissioner, or within such further period as may be agreed upon by the Commissioner in writing, the lender shall deliver to the Commissioner:

(a) The fiscal data pertaining to the loan transactions;

(b) Receipts covering all disbursements as required by the fiscal data form;

(c) The original note and any security instrument or instruments which shall be assigned to the Commissioner without recourse or warranty, except that the lender must warrant that no act or omission of the lender has impaired the validity and priority of such security instrument or instruments that the security instrument or instruments are prior to all mechanics' and materialmen's liens filed of record subsequent to the recording of such security instrument or instruments regardless of whether such liens attached prior to such recording date, and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such security instrument or instruments, except such liens or other matters as may be approved by the Commissioner, that the amount stated in the instrument of assignment is actually due and owing under the security instrument or instruments, that there are no offsets or counterclaims thereto, and that the lender has a good right to assign such note and security instrument or instruments;

(d) The assignment to the Commissioner of all rights and interests arising under the note and security instrument or instruments so in default and all claims of the lender against the borrower or others arising out of the loan transaction;

(e) All policies of title or other insurance or surety bonds, or other guarantees and any and all claims thereunder; including evidence satisfactory to the Commissioner that the original title coverage has been extended to include the assignment of the note and security instrument or instruments to the Commissioner;

(f) All records, ledger cards, documents, books, papers and accounts relating to the loan transaction;

(g) Any additional information or data which the Commissioner may require;

(h) The following cash items, held in connection with the loan insured under this subpart, shall either be retained by the lender or delivered to the Commissioner at the time the insurance claim is filed.

(1) Any cash held by the lender or its agents or to which it is entitled including deposits made for the account of the borrower and which have not been applied in reduction of the principal the loan indebtedness.

(2) All funds held by the lender for the account of the borrower received pursuant to any other agreement.

(i) On the date the assignment of the note and security instrument or instruments are filed for record, the lender shall notify the Commissioner and the Office of Finance and Accounting by telegram of such recordation.

§ 241.885 Insurance benefits.

(a) *Method of payment.* Payment of claims shall be made in the following manner:

(1) *Payment in cash.* Unless a written request for payment in debentures is filed with the application, payment shall be made in cash.

(2) *Optional payment in debentures.* Payment shall be made in debentures upon the filing of a written request for same with the application.

(b) *Amount of payment.* Upon acceptable assignment of the note and security instrument to the Commissioner, the insurance benefits shall be paid in an amount equal to 90 percent of the amount determined as follows:

(1) By adding to the unpaid principal amount of the loan, computed as of the date of default, the following items:

(i) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner.

(ii) Any advances approved by the Commissioner made previously by the lender under the provisions of the note or security instrument or instruments.

(iii) Reimbursements for such reasonable collection costs, court costs, and attorney's fees as may be approved by the Commissioner.

(iv) Any loan insurance premiums paid after default.

(v) If payment is made in cash, an amount equivalent to the debenture interest which would have been earned thereon, as of the date such cash payment is made, except when the lender fails to meet any one of the applicable requirements of §§241.850, 241.875, and 241.880, within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(2) By deducting from the total of the items computed under paragraph (b)(1) of this section the following items:

(i) Any amount received by the lender on account of the loan after the date of default.

(ii) Any net income received by the lender from the property covered by the note or security instrument and not applied to prior debts held by the lender.

(iii) The sum of the cash items retained by the lender pursuant to §§ 241.880(h) (1) and (2).

§ 241.890 Characteristics of debentures.

Debentures issued in settlement of insurance claims under this subpart shall have the same characteristics and the same requirements for registration and redemption as those issued pursuant to Subpart B of this part except that debentures shall bear interest at the rate in effect as of the date the commitment was issued, or as of the date the loan was first endorsed for insurance, whichever rate is higher, and shall mature 10 years from the date of issue which date shall be the date of execution of the assignment of the loan to the Commissioner.

§ 241.893 Cash adjustment.

Any difference of less than $50 between the amount of debentures to be issued to the lender and the total amount of the lender's claim, as approved by the Commissioner, shall be adjusted by the issuance of a check in payment thereof.

Assignments

§ 241.895 Assignment of insured loans.

(a) An insured loan may be transferred only to a transferee who is a lender approved by the Commissioner. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate with respect to loans described in paragraph (a) of this section upon the happening of either of the following events:

(1) The transfer or pledge of the insured loan to any person, firm or corporation, public or private, other than an approved lender.

(2) The disposal by a lender of any partial interest in the insured loan to other than an approved lender.

Extension of Time

§ 241.897 Actions to be taken by lender.

With respect to any action required of the lender within a period of time prescribed by this subpart, the Commissioner may extend such period.

Rights in Housing Fund

§ 241.900 No vested right in fund.

Neither the lender nor the borrower shall have any vested or other right in the General Insurance Fund.

§ 241.905 Effect of amendments.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time in whole or in part, but such amendment shall not adversely affect the interests of a lender under the contract of insurance on any loan already insured and shall not adversely affect the interests of a lender on any loan to be insured on which the Commissioner has made a commitment to insure.

(Sec. 311(b), Pub. L. 95–557; sec. 247, Pub. L. 95–619; sec. 211, National Housing Act, as amended, (12 U.S.C. 1715b))

Issued at Washington, D.C. August 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80–26498 Filed 8–28–80; 8:45 am]

BILLING CODE 4210–01–M

V 45 AG 29 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-998]

Housing Programs—Administrative Actions Implementing Executive Order 12185

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: General Notice—listings of administrative measures implementing Executive Order 12185.

SUMMARY: by publishing this Notice, HUD is renotifying the public of the significant non-regulatory administrative measures that it will take for housing programs administered by the undersigned, in order to implement Executive Order 12185. HUD is also explaining why certain regulations and guidelines implementing this Executive Order that were published in the **Federal Register** on May 7, 1980, do not appear as final rules today.

FOR FURTHER INFORMATION CONTACT: Michael Wells, Office of Policy and Budget, Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C., 20410, (202) 755-6454 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Section 102(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) and Executive Order 12185, the Assistant Secretary for Housing is about to issue the following administrative notices and memoranda to the HUD Field Offices and to the recipients under the housing programs of the Office of Housing.

1. HUD will revise and supplement the underwriting criteria for new multifamily developments so they include: (a) An engineering analysis which will function to encourage the latest cost-effective energy conserving features; (b) analysis of site location with regards to transportation energy use; (c) consideration of solar orientation of structures; and (d) consideration of whether the site and structure(s) are planned to encourage the greatest amount of energy conservation.
2. HUD will request energy audits of: (a) Subsidized insured housing projects; (b) unsubsidized insured housing projects; and (c) HUD-owned or mortgage held projects.
3. HUD appraisal and valuation procedures will place greater emphasis on the trade-off between energy conserving capital costs and subsequent operating expenses in underwriting single and multifamily housing.
4. HUD will develop procedures and materials to encourage and finance the addition of energy conserving features to existing single family homes upon transfer.
5. HUD will reemphasize and clarify its requirement for an energy audit on each subsidized insured housing project applying for flexible subsidy.

In accordance with the same legislation and Executive Order, the Assistant Secretary for Housing recently issued the following administrative notices to the HUD field offices and to the recipients under the housing programs of the Office of Housing.

1. HUD is encouraging single family developers to include passive and active solar energy and energy conservation measures when planning sites and buildings.
2. HUD is encouraging the development of projects (Section 8, HUD-insured) which use solar energy systems and provide the maximum permissible mortgage amounts and financial assistance to accommodate such systems.

On May 7, 1980 HUD had published in the **Federal Register** (45 FR 30346), a rule entitled "PHA-Owned Projects—Project Management—Utilities." This regulation is not being republished because it was published as a final rule on May 7.

In accordance with the same legislation and Executive Order, HUD on the same date had published in the **Federal Register** (45 FR 30349), an interim rule entitled "Modernization Program—PHA-Owned Projects; Comprehensive Modernization; Interim Rule", HUD does not intend to publish this regulation in final rule form until next year. Since HUD has not received any substantive comments on the interim rule, it is not necessary to make substantive changes in it. Because HUD is working on substantial changes in the Comprehensive Modernization effort of the Public Housing Modernization Program that will take effect in Fiscal Year 1981, preparing a final rule as a formality at this time would be difficult and would little benefit the public and the program recipients.

In accordance with the same legislation and Executive Order, HUD on the same date had published in the **Federal Register** (45 FR 30360) guidelines entitled "Modernization Program—PHA-Owned Projects; Announcement of Proposal To Set Aside Fiscal Year 1980 Modernization Funds for Testing Energy Conservation Measures." These guidelines are not being republished because they were published as a notice.

Some of the above notices, memoranda and rules also apply to the Office of Housing's public facilities programs.

This general notice was also published originally in the **Federal Register** (45 FR 30360) on May 7. We are republishing it now it order to give an update on the above regulations and guidelines of the Office of Housing at the same time that the regulation described above is published as a final rule.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., on August 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-26499 Filed 8-28-80; 8:45 am]

BILLING CODE 4210-01-M

federal register

Friday
August 29, 1980

Part VI—Section B

Veterans Administration

Petroleum and Natural Gas Conservation: Conservation: Federal Housing Assistance Programs

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Housing Programs Compliance With E.O. 12185

AGENCY: Veterans Administration.

ACTION: Final notice as required by Executive Order 12185.

SUMMARY: This final notice is published to describe VA (Veterans Administration) compliance with Executive Order 12185. The VA has two housing programs, the guaranteed and insured home loan program and the direct home loan program, which fall within the purview of E.O. 12185. It is our belief that the VA is in full compliance with E.O. 12185.

DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, DC 20420 (202-389-2691).

SUPPLEMENTARY INFORMATION: The VA has two programs within the Department of Veterans Benefits, Loan Guaranty Service which fall within the scope of Executive Order 12185. These two programs are the guaranteed and insured (hereafter guaranteed) home loan program and the direct home loan program.

Both the guaranteed and direct home loan programs depend upon the voluntary participation of veteran purchasers, home sellers, builders, developers, and real estate agents and brokers. Lenders and investors must also be willing to participate in the guaranteed loan program for that program to be effective. This need to attract participants to the two programs requires that both programs be structured in a manner which effectively encourages each necessary group's involvement while protecting the interests of veterans and of the Government.

On May 7, 1980, the VA published a Notice of Loan Guaranty compliance with Executive Order 12185, (45 FR 30370). This Notice requested public comments concerning VA's present and proposed procedures necessary to comply with E.O. 12185. For background purposes, homes proposed to be constructed with VA guaranteed financing must be constructed to comply with the thermal requirements contained in the Minimum Property Standards for One and Two Family Dwellings, HUD (Department of Housing and Urban Development) 4900.1, as identified in § 200.929(a) and (b)(1) of Title 24 of the Code of Federal Regulations. Homes proposed to be constructed in eligible rural and credit shortage areas with the assistance of VA direct loans must comply with VA's Minimum Property Requirements for proposed construction in areas designated as housing credit shortage areas. Existing homes acquired with the assistance of either a VA guaranteed or direct home loan must comply with VA's voluntary program for including energy conservation measures in the home.

One comment was received in response to the Notice of May 7, 1980. The commentator suggested that the thermal requirements mandated for proposed construction in the guaranteed home loan program be extended to existing homes purchased with VA direct or guaranteed loan assistance. It is our belief that enforcement of mandatory thermal standards for existing housing would not be acceptable to the vast majority of home sellers and purchasers.

If mandatory standards were adopted for existing housing, many home sellers who did not wish to bring their homes up to the thermal standards would simply choose not to sell their homes to veterans with the assistance of VA financing. Home purchasers also might find the home they wished to purchase with the assistance of a VA loan and become too expensive, if several thousand dollars of energy-saving improvements were required to be installed. A third problem with mandatory thermal requirements for existing housing is the problem of drafting comprehensible requirements which could be applied fairly to the infinite variety and condition of existing housing. For these reasons, we believe that mandatory thermal requirements for existing housing would prove ineffective and possibly counter-productive to the energy related upgrading of the nation's existing housing.

We believe that the VA's voluntary program for improving existing housing stock will be effective in assisting veterans to purchase and improve the energy efficiency of existing homes. Each existing home appraised by VA appraisers will be reviewed for energy conservation improvements. The appraiser will complete a checklist of his or her suggestions for needed improvements. A home energy checklist of suggested energy conservation improvements will then be furnished the prospective veteran purchaser.

The home enegy checklist will also inform the veteran of the VA's simultaneous acquisition and improvement loan program. Veterans may obtain Va loans which simultaneously allow for the purchase of existing housing and for energy conservation improvements. These loans may be processed on either the VA prior approval or automatic (no VA prior credit underwriting approval necessary) basis as announced by the August 13, 1980 **Federal Register** (45 FR 53807). These loans should be attractive to veterans, sellers, lenders and investors. Veterans may acquire an existing home and make energy conservation improvements, while financing both the home and improvements at the home loan interest rate with a maximum loan term of up to 30 years. The veteran may pay the loan discount chargeable on the improvements portion of the loan, since the home seller would probably be unwilling to pay the fee on this portion of the loan. The loan may be closed with improvement funds escrowed or earmarked; thereby, allowing the home seller to quickly obtain his or her home equity. The lender in addition may obtain the Loan Guaranty Certificate prior to completion of the improvements to market the loan to a secondary market investor to recoup loanable funds. The lender need only certify to the VA, within 6 months of loan closing, the completion of the energy improvements and release of the escrowed (earmarked) funds or apply the funds to the loan principal in the event the improvements are not completed. It is our belief that the VA energy conservation checklist combined with VA's acquisition and improvement home loan program affords veterans a significant opportunity to obtain existing housing and improve its energy efficiency.

The VA guaranteed and insured home loan program and the VA direct loan program are in full compliance with E.O. 12185.

Approved: August 21, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-26500 Filed 8-28-80; 8:45 am]

BILLING CODE 8320-01-M

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federal register

Friday
August 29, 1980

Part VII

Federal Public Facilites Assistance Programs

Environmental Protection Agency
Heritage Conservation and Recreation Service, Interior Department
Surface Mining Office, Interior Department
Housing and Urban Development Department
Education Department
Health and Human Services Department
Veterans Administration

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federal register

Friday
August 29, 1980

Part VII—Section A

Environmental Protection Agency

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

V 45 AG 29 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

Compliance With Executive Order 12185—Petroleum and Natural Gas Conservation

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice confirms a number of administrative changes proposed by the Environmental Protection Agency (EPA) which were intended to conserve petroleum and natural gas within EPA programs that provide financial assistance either for the construction of public facilities or for planning and technical assistance. In addition, notice of a pending regulatory change to further conservation is restated. Public comment was solicited on these changes in our Notice of Proposed Rulemaking of May 7, 1980 and today's notice has been evaluated in light of comments received. Administrative changes as identified for particular programs are now being implemented.

FOR FURTHER INFORMATION CONTACT: Thad Huetteman, Policy Planning Division, Environmental Protection Agency, Telephone: (202) 755–4803.

SUPPLEMENTARY INFORMATION:

1. Background

Executive Order 12185, Conservation of Petroleum and Natural Gas, signed by the President on December 17, 1979, and published December 19, 1979, at 44 FR 75093 mandates that each Federal agency identify its financial assistance programs most likely to offer opportunities for significant conservation of petroleum and natural gas. It further directs that a list of these programs be published for public comment so that the public may provide suggestions for rules that would encourage energy conservation. This list was published in the **Federal Register** on February 7, 1980, at 45 FR 8534. It included the following EPA programs:

Clean Water Act

Grants for Construction of Treatment Works (Title II)
Water Quality Management Planning Grants (Section 208)
State Pollution Control Grants
Best Management Practices Implementation Grants

Clean Air Act

Urban Air Quality Planning Grant (Section 175)
Control Agency Grants (Section 105)

Resource Conservation and Recovery Act

Local Resource Recovery Grants
State/Regional Solid Waste Plans
Hazardous Waste Management

Safe Drinking Water Act

Public Water Supply Systems Supervision Grants
Underground Water Service Protection

Federal Insecticide, Fungicide, and Rodenticide Act

State Cooperation Aid and Training

Toxic Substances Control Act

Toxic Substances and Enforcement Grants

EPA revised this preliminary list of programs to select only those programs *most* likely to offer opportunities for *significant* conservation of petroleum and natural gas. EPA concluded that only the following programs offer such significant conservation opportunities. The Urban Air Quality Planning Grant Program was deleted from consideration because it is a one-time program and most grants have already been awarded. There is little opportunity to change already approved work programs to include significant additional energy related activities. Furthermore, the Clean Air Act and EPA guidelines already require an evaluation of energy impacts of air quality plans.

Construction Grant Program (Title II of the Clean Water Act of 1977)

Program Purpose: Provides financial assistance to municipalities for the construction of publicly owned treatment works (POTWs) that abate water pollution or eliminate health hazards.

Water Quality Management Planning Grants (Section 208 of the Clean Water Act)

Program Purpose: Designated agencies and/or States receive grants to conduct water quality assessments, identify problems and priorities, and determine effective controls to be implemented by State, areawide and local agencies. From FY '80, 208 grants are directed solely to nonpoint source problems.

Control Agency Grants (Section 105 of the Clean Air Act)

Program Purpose: Provides support to State and local air pollution control agencies for establishing and maintaining control programs. The focus of Federal support has been on the development, implementation, and enforcement of State air quality plans and on associated national priorities (e.g., air quality monitoring network establishment and operation). The amount of grant funds available annually is slightly over $80 million.

After examining the pertinent grant regulations of the programs on the revised list, EPA determined that energy conservation can be achieved through revised and supplementary guidance (i.e., administrative changes) to grantees for all programs. For the Construction Grants Program, regulatory changes are also necessary to implement E.O. 12185.

The proposed changes in regulation require: (1) Escalation of energy (petroleum, natural gas, and electricity) prices in the cost-effectiveness analysis of alternative wastewater management systems, and (2) coordination with State Energy Plans during facility planning. Energy cost escalation rates will be based on the schedule of future energy prices published by the Department of Energy.

At this time, therefore, in paragraph 2 below, we are presenting the proposed *administrative* changes and other information for the affected programs in this supplement. Paragraph 3 covers the advance notice of proposed *regulatory* changes for the Construction Grants Program.

2. Proposed Administrative Actions That Do Not Require Regulatory Changes

Three of the programs that offer significant conservation opportunities proposed *administrative* program changes that could conserve petroleum and natural gas. Those changes are:

Grants for Construction of Treatment Works (Title II of the Clean Water Act of 1977)

Expedited I/A Technology Program: The Agency is investigating procedures for identifying candidate projects and for expediting the issuance of construction grants for I/A technologies selected for their significant energy conservation, recovery or production attributes. These technologies include low energy consumption processes, processes that recover or produce significant amounts of usable energy, and processes that use alternative energy sources. One proposal being considered is contracting with experienced architect-engineering firms to plan and design selected energy-conserving innovative and alternative wastewater treatment projects for target communities. These projects will serve as models for other communities and will be greatly expedited through the grants process.

Another proposal, which is currently being initiated, involves the assignment of EPA staff to work with State and local governments and project consultants to assist in the development of I/A technology projects. Full-time staff from the EPA Office of Research and Development have already been assigned to match selected energy conserving technologies with suitable communities in line for construction grants. Follow-up efforts include providing necessary technical information and assisting with grant procedures on selected projects. Full-time staff members at the EPA regional levels are currently being assigned for these purposes.

Memorandum of Understanding with the Department of Energy (DOE): EPA and DOE will establish a Memorandum of Understanding to promote greater use of energy conservation and recovery in the development and operation of municipal wastewater treatment projects. The agreement will address jointly funded demonstration projects, technical assistance on evaluating construction grants projects, and the sharing of personnel and research facilities.

Energy Audit Manual: EPA will prepare and publish an energy audit manual and background information for use in addressing energy considerations when developing municipal wastewater treatment projects. Energy audit methodologies as well as energy information on raw materials, construction techniques, and unit process will be covered.

Contact (for Construction Grants Program Administration Actions): Alan Hais WH-547; 202/426-8976. Municipal Technology Branch; Municipal Construction Division.

Water Quality Management (WQM) Planning Grants (Section 208 of the Clean Water Act)

Central to the WQM process is the development of Best Management Practices (BMPs) by State and areawide planning agencies. BMPs are methods, measures, or practices to prevent or reduce nonpoint source water pollution and include structural and nonstructural controls and operations and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the discharge of pollutants into receiving waters. Economic, institutional and technical factors shall be considered in developing BMPs.

Feasible BMPs that reduce nonpoint source pollution and achieve the water quality goals of the Clean Water Act must be developed and implemented for all categories of nonpoint sources. The BMPs are developed in a continuing process of identifying problems, devising control measures, assessing BMP adequacy, and modifying BMPs when necessary to attain water quality goals. State priorities for developing nonpoint source codntrol programs are established in accordance with general EPA guidance and are contained in the State/EPA Agreement.

EPA considers the development of BMPs to be the most logical step in the WQM process in which to introduce the concept of petroleum and natural gas conservation. Consequently EPA has included consideration of conservation as a criterion for 208 funding in the policy memorandum titled "FY '81 WQM Funding Policy and Funding Criteria," which has been distributed. The language is the following:

"Conservation of petroleum and natural gas must be considered, where appropriate, during the development of BMPs, consistent with Executive Order 12185."

Contact: David Ziegler, WH-554; 202/426-2474. Policy and Evaluation Branch; Water Planning Division.

Control Agency Grants (Section 105 of the Clean Air Act)

Grant applications are processed in accordance with EPA general regulations for State and local assistance (40 CFR Part 35.001—35.425) and regulations specifically for air pollution control program grants (40 CFR Part 35.501—35.538). Processing is carried out by EPA regional offices. Grant programs are based on the State air quality plans required by the Clean Air Act and on annual EPA guidance identifying national objectives and priorities.

Annual EPA guidance specifying national priorities and goals was published in February 1980. Requirements for future State air quality plan revisions are currently being prepared. Energy related activities now covered in the annual guidance include:

—Vehicle inspection and maintenance programs

—Fuel conversions

—Permitting of energy facilities

EPA will evaluate the portion of the Agency guidance setting priorities for section 105 grants to determine whether any revised or supplementary guidance is necessary to implement Executive Order 12185. Energy conservation considerations, such as the effects on petroleum and natural gas use of alternative control measures, fuel conversions, industrial process changes, and so on, will be incorporated in the requirements for future State air quality plan revisions. These requirements will not be finalized until early fall of 1980.

The primary focus of the requirements will be the development of guidance for implementing section 172(b)(9) of the Clean Air Act. This section requires that States identify and analyze the energy and other effects of air quality plan provisions and alternatives considered by the States. Development of the transportation portion of State air quality plans will generally be funded under the Urban Air Quality Planning program.

Contact: Jerry Kurtzweg, ANR-445; 202/755-0570. Chief, Land Use Policy Branch, Office of Transportation and Land Use Policy.

3. Notice of Proposed Actions Which Require Regulatory Changes

The grants program for construction of municipal wastewater treatment works is proposing the following *regulatory* changes to cost-effectiveness analysis guidelines:

Escalation of Energy Cost: The Cost-Effectiveness Analysis Guidelines represent EPA's policies and procedures for determining the most cost-effective wastewater treatment system or component part. The Guidelines apply to the planning of all municipal wastewater treatment projects for which Federal grant assistance is being sought. The Guidelines are published as Appendix E of the Construction Grants Regulations (40 CFR Part 35, Subpart E).

The Agency's cost-effectiveness analysis procedures presently call for use of constant value dollars to represent the worth of goods and services required for a project over time. As exceptions, however, certain cost escalation allowances are provided for land and natural gas. The constant dollar approach assumes that the cost of all resources involved in treatment works construction and operation increase at about the same rate on a long-term basis.

The Department of Energy's (DOE) Energy Information Administration projects future price increases for certain energy inputs relative to the projected general inflation rate. EPA proposes, therefore, to revise the cost-effectiveness analysis guidelines to require escalation of those energy prices over the 20 year planning period for wastewater treatment works. This would encourage selection of facilities requiring less energy.

The Agency recently received DOE's fuel price escalation rates, and will shortly be publishing the proposed regional escalation rates for the cost-

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effectiveness analysis in the **Federal Register** and will accept comments on those rates. In addition, we expect to publish the revised cost-effectiveness guidelines within eight weeks.

Coordination with State Energy Plans: Facility planning should take into account applicable provisions of State energy plans. Accordingly, the Agency proposes to revise the cost-effectiveness guidelines to require that grantees consider such State energy plans in future facility planning.

Contact: Myron Tiemens, WH-547; 202/426-9404. Facility Requirements Division.

Dated: August 22, 1980.

Barbara Blum,

Acting Administrator.

[FR Doc. 80-26502 Filed 8-28-80; 8:45 am]

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federal register

Friday
August 29, 1980

Part VII—Section B

Department of the Interior

Heritage Conservation and Recreation Service

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1207

Energy Conservation by Recipients of Federal Assistance

AGENCY: Heritage Conservation and Recreation Service (HCRS), Interior.

ACTION: Final rule.

SUMMARY: The Heritage Conservation and Recreation Service is amending and establishing policy pursuant to the Power Plant and Fuel Use Act of 1978 and Executive Order 12185, Conservation of Petroleum and Natural Gas. These measures are designed to save petroleum or natural gas through Historic Preservation Fund grants awarded under the National Historic Preservation Act, 80 Stat. 915, 16 U.S.C. 470 *et seq.* (1976) and implementing regulations. Specifically, 36 CFR Part 1207, "General Standards for Historic Preservation Projects," is amended to add "energy conservation needs" to the general standards which apply to all historic preservation grant-in-aid projects and administrative action is taken to give funding priority to energy efficient projects. Penalty for non-compliance (Historic Preservation Fund Grants Management Manual Chapter 20, Grant Close-out Suspension and Termination) is termination of project grant in whole or in part.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Carrolena Key, Program Liaison Specialist, Division of Environmental and Compliance Review, Heritage Conservation and Recreation Service, Washington, D.C. 20243, phone (202) 343-5711.

SUPPLEMENTARY INFORMATION:

A. Introduction

In the **Federal Register** of Thursday, February 7, 1980, the Department of Energy (DOE) published a list of financial assistance programs administered by agencies of the Executive Branch which are most likely to offer opportunities for significant conservation of petroleum and natural gas by the recipients of such assistance. The list responds to Executive Order 12185, Conservation of Petroleum and Natural Gas (December 17, 1979), which implements Section 403(b) of the Power Plant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620; 92 Stat. 3318). The Act and the Order require Federal agencies which administer programs of financial assistance to take actions which maximize the efficient use of energy and conserve natural gas and petroleum in programs funded by those agencies. Included among those actions are identification of those financial assistance programs which offer opportunities for significant conservation of petroleum and natural gas by recipients of the assistance and issuance of regulations imposing conservation requirements as a condition of continuing to receive the assistance.

The **Federal Register** notice of February 7, 1980, listed the Federal financial assistance programs being considered under Executive Order 12185 in the following groups: Planning and Technical Assistance; Community/Economic Development; Housing; Transportation; Public Facilities; Energy; and Labor/Human Resources/Education. On May 7, 1980, the Department of Interior (DOI) published proposed administrative policy changes to be made by HCRS to implement Executive Order 12185 in existing manuals and operational guidelines for the Heritage Preservation Fund Program.

HCRS received nine comments. All are generally favorable to the proposed energy conservation requirements and represent the opinion of both governmental (Federal and State) and the private sector. The final policy reflects HCRS's consideration of the comments and information from other sources.

With this issuance, HCRS action is taken to give funding priority to engery efficient projects and establish a standard for historic preservation project thermal insulation. 36 CFR Part 1207, General Standards for Historic Preservation Projects, § 1207.3, is amended to encourage energy efficient design, construction, restoration, stabilization, rehabilitation, preservation, protection and maintenance of properties or facilities eligible for or receiving Historic Preservation Fund financial assistance.

B. Summary of Comments on the Proposed Rule and HCRS Responses

Public comments regarding the proposed amendment to 36 CFR Part 1207 policy, published in the **Federal Register** Wednesday, May 7, 1980, were positive and supportive. One comment received questioned the definition of the term "projects", citing potential confusion between grant-assisted project "activities" and the grant-assisted project "property" which could possibly result in the misinterpretation that all grant-assisted "properties" would have to conform to the energy regulations. The term "projects" is clearly defined in the Historic Preservation Grants Management Manual (page A-11) as "* * * an activity or set or activities supported by Federal funds * * *." and is, we believe, satisfactorily differentiated from "properties." Another comment involved the potential for jeopardizing the historic/architectural integrity of historic structures by unsympathetic alterations to achieve standard ASHRAE insulation values. However, § 1207.3 of the rule states that "* * * the treatment must be consistent with the historic character of the structure. * * *" Therefore, the Service feels that properties will be successfully protected from such unsympathetic alterations. When project work cannot follow the insulation requirements without jeopardizing the historic/architectural integrity of the structure, the Service will advise the grantee as to approprate alternatives.

C. Miscellaneous

In reviewing the proposed amendments HCRS discovered some clerical errors which have been corrected. In no instance did these changes lead to major revisions. Comments of a technical or editorial nature have also been considered and changes made as appropriate. These amendments were determined to be not significant and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Notice of determination was published previously in the **Federal Register** on May 7, 1980, (45 FR 30378). It is determined that these amendments do not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act, as amended 42 U.S.C. 4321, et seq. These amendments constitute changes in administrative policy and actions to implement will be reviewed on a specific project-by-project basis to determine the need for further environmental review.

(Catalog of Federal Domestic Assistance 15.411)

Statement of Applicability

This amendment does not affect the existing A-95 review procedures for the Historic Preservation Program as outlined in OMB Circular No. A-95, Part I.

Authorship Statement

This document was prepared by Carrolena Key, (202) 343-5711, Division of Environmental and Compliance Review, Gary Hume, (202) 343-7217, Technical Preservation Services, Heritage Conservation and Recreation Service, Department of the Interior.

Heritage Conservation and Recreation Service Compliance With Executive Order 12185 (Conservation of Petroleum and Natural Gas)

Historic Preservation Grants-in-Aid Program

The Heritage Conservation and Recreation Service has examined its procedures, regulations and policies as required by Executive Order 12185. The following policies are to assure that all HCRS actions relative to the administration of the Historic Preservation Fund are in compliance with the Order.

The Historic Preservation Grants-in-Aid Program provides acquisition and development grants to acquire, protect, stabilize, preserve, rehabilitate, restore, or reconstruct structures and other properties listed in the National Register of Historic Places. Preservation of a historic structure can be in itself an energy conserving action when it makes unnecessary the construction of a new similar replacement building. Thus, the cost and energy for construction of the similar replacement building can be avoided.

a. As of fiscal year 1981, funding priority will be given to cost effective energy efficient projects, and to the degree possible and appropriate, all projects shall meet the thermal insulation standards of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc. Standard 90–75, Energy Conservation in New Building Design or the "Cost Effective Energy Conservation Standards" of HUD or other equivalent standards for existing buildings.

b. HCRS hereby amends 36 CFR Part 1207, "General Standards for Historic Preservation Projects" § 1207.3 by adding the following sentence to the introductory paragraph of the section. The revised introductory text of § 1207.3 reads as follows:

§ 1207.3 General standards for historic preservation projects.

The general standards listed below shall apply to all historic preservation grant-in-aid projects; additional standards in § 1207.4 for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction apply to specific grant-in-aid projects as appropriate. The Standards shall be applied taking into consideration the energy conservation needs and the economic and technical feasibility of each project; in the final analysis, however, the treatment must be consistent with the historic character of the structure and, where appropriate, with the district in which it is located.

* * * * *

Dated: August 20, 1980.

David Hales,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80-26503 Filed 8-28-80; 8:45 am]

BILLING CODE 4310-03-M

V45 AG 29 80 UMI

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

Energy Conservation by Recipients of Federal Assistance

AGENCY: Heritage Conservation and Recreation Service (HCRS), Interior.

ACTION: Notice of final amendments to Land and Water Conservation Fund Grants-in-Aid Manual.

SUMMARY: The Heritage Conservation and Recreation Service is issuing amendments pursuant to the Power Plant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620; 92 Stat. 318) and Executive Order 12185, Conservation of Petroleum and Natural Gas. These amendments are designed to effectively save petroleum and natural gas through the actions proposed for the Land and Water Conservation Fund. The amendments will be part of the Land and Water Conservation Fund Grants-in-Aid Manual, Chapter 640.3 (Criteria for Development Projects) and Chapter 660.2 (Project Evaulation). Penalties for non-compliance (Part 675.1.12, Land and Water Conservation Fund Grants-in-Aid Manual), include withholding approval or funds for a specific project or other projects sponsored by the State involved.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Carrolena Key, Program Liaison Specialist, Division of Environmental and Compliance Review, Heritage Conservation and Recreation Service, Washington, D.C. 20243, phone (202) 343–5711.

SUPPLEMENTARY INFORMATION:

A. Introduction

In the **Federal Register** of Thursday, February 7, 1980, the Department of Energy (DOE) published a list of financial assistance programs administered by agencies of the Executive Branch which are most likely to offer opportunities for significant conservation of petroleum and natural gas by the recipients of such assistance. The list responds to Executive Order 12185, Conservation of Petroleum and Natural Gas (December 17, 1979), which implements Section 403(b) of the Power Plant and Industrial Fuel Use Act of 1979 (Pub. L. 95–620; 92 Stat. 3318). The Act and the Order require Federal agencies which administer programs of financial assistance to take actions which maximize the efficient use of energy and conserve natural gas by recipients of the assistance and issuance of regulations imposing conservation requirements as a condition of continuing to receive the assistance.

The **Federal Register** notice of February 7, 1980, listed the Federal financial assistance programs being considered under Executive Order 12185 in the following groups: Planning and Technical Assistance; Community/Economic Development; Housing; Transportation; Public Facilities; Energy; and Labor/Human Resources/Education. On May 7, 1980, the Department of the Interior (DOI) published proposed administrative policy changes to be made in existing manuals and operational guidelines by the Heritage Conservation and Recreation Service for the Land and Water Conservation Fund Program to implement Executive Order 12185.

The HCRS received a total of 60 comments from individuals representing both the governmental (Federal, State, and local) and private sectors.

The final amendments incorporate a number of changes which reflect HCRS's consideration of the comments, as well as information from other sources. With the issuance of these final amendments HCRS adds Subpart J, (Energy Conservation Elements) to Chapter 640.3, Section 7 and adds Subpart M (Energy Conservation) to Chapter 660.2, Section 3 of the Land and Water Conservation Fund Grants-in-Aid Manual. Specifically, these Amendments will:

a. Clarify the eligibility of energy conservation elements of public outdoor recreation facilities for L&WCF assistance.

b. Encourage State L&WCF project selection systems to give priority to energy efficient projects.

c. Encourage energy efficient design, construction, operation and maintenance of properties or facilities eligible for or receiving L&WCF financial assistance.

B. Summary of Comments on the Proposed Amendments and HCRS Responses

1. Nonmotorized Outdoor Recreation Activities Priority

The proposed amendments listed energy efficient projects to be given priority in State project selection systems. This list included "facilities for non-motorized outdoor recreation activities." It was assumed that non-motorized outdoor recreation activities consume less energy than motorized activities. Fifty-two respondents disagreed and recommended non-motorized outdoor recreation activities be excluded from the list of priorities for the following reasons:

- Motorized outdoor recreation activities do not use any more or as much energy as many other activities funded under the Land and Water Conservation Fund (L&WCF). Examples of other comparatively high energy users were given, i.e., heated swimming pools, golf courses, and lighted sports facilities.
- Motorized outdoor recreation vehicles use a very small percentage of the total energy consumed in the United States.
- There is potential for greater energy use due to alternate travel to distant motorized recreation sites if motorized recreation activities are not provided close to users.
- Motorized recreation activities are very popular, even more so than other HCRS funded activities i.e., horseback riding, hunting, downhill skiing, and golf.
- The impact on the recreation vehicle industry would be adverse.

A majority of the comments received reflected the opinions above and were opposed to the priority given to "non-motorized outdoor recreation activities." In view of the uncertainly based on the limited information now available as to the difference between energy usage for motorized versus non-motorized outdoor recreation activities, we believe it would be inappropriate to restrict the use of motorized activities at this time. We have therefore removed "non-motorized outdoor recreation activities" from project types to be given priority in State project selection systems.

2. Limited Resources

Several respondents suggested that State and local governments do not have the resources at this time to assume the burden of complying with the proposed energy conservation regulations and that it is unrealistic to require all projects to meet the requirements of design, construction, operation, and maintenance in an energy efficient manner. HCRS in cooperation with the Department of Energy, is developing an Energy Conservation Technical Assistance Program for States and municipalities. The program will improve the capability of State and local park and recreation managers to implement and conduct energy conservation programs within manpower and budgetary restraints. HCRS is coordinating the Energy Conservation Technical Assistance Program with public interest groups, the Presidents' Clearinghouse for Community Energy Efficiency, and other Federal agencies. Those State and local governments which have difficulty in complying with energy conservation regulations will be given appropriate assistance.

The comments also stated that encouraging energy efficiency will discourage the development of recreational opportunities and contend that the cost of alternative power sources may outweigh the benefits. The belief that the costs of compliance outweigh the benefits is only an assumption. The position of HCRS is that projects should be handled on a project by project basis and in an energy efficient manner, taking into consideration the cost of compliance. Also, the assumption does not take into consideration "external benefits." Such benefits are not directly reflected in the marketplace but benefit the society at large and include the positive impacts on the national balance of payments in terms of importing less oil and the moderating influence on inflation by using less energy at escalated prices.

3. Enforcement

Several comments suggested that enforcement of the thermal insulation standards may be difficult for some States. HCRS has considered the problems associated with implementation and enforcement and finds that they are unavoidable. The standards are reasonable when applied on a project by project basis and with the help of the previously mentioned Energy Conservation Technical Assistance Program problems will be kept to a minimum.

4. State Project Selection

A comment stated that States and local agencies have more of an opportunity to evaluate "priorities" and "needs" and should have been allowed to determine the energy conservation criteria needed to implement Executive Order 12185. We agree that the major responsibility for project selection, administration and development lies with the States and their local municipalities. However, as the Federal granting agency, HCRS has overall responsibility for compliance with the objectives of the L&WCF program and must provide initial guidance and instructions to recipients of the Fund.

5. Priority Project Location

It was suggested that priority should be given to projects located "close to" population centers so as to include regional facilities. We agree and the amendment which stated that priority should be given to projects "in" populated areas has been changed to state "in or close to" populated areas. We believe the change to "in or close to" will maximize the number and types of outdoor recreation experiences provided and minimize the travel required to obtain those experiences.

It was also suggested that policy giving priority to projects located in urban areas discriminates against rural communities. Generally the potential for energy savings is greater for facilities in or near cities due to the reduced need for transportation by a greater number of people. However, State projects selection systems use several criteria, and it is anticipated that rural outdoor recreation projects will be considered on their merits, including energy conservation elements which may be an integral part of the projects design.

6. Miscellaneous

In reviewing the proposed amendments HCRS discovered some clerical errors which have been corrected. In some instances these changes led to minor changes in the provisions of the amendment. Comments of a technical or editorial nature which were received have also been considered and changes made as appropriate. These amendments were determined to be not significant and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Notice of determination was published previously in the **Federal Register** on May 7, 1980 (45 FR 30379). It is determined that these amendments do not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act, as amended 42 U.S.C. 4321, *et seq.* These amendments constitute changes in administrative policy and actions to implement will be reviewed on a specific project-by-project basis to determine the need for further environmental review.

(Catalog of Federal Domestic Assistance 15.400)

Statement of Applicability

This amendment does not affect the existing A–95 review procedures for the Land and Water Conservation Program as outlined in OMB Circular No. A–95.

Authorship Statement

This document was prepared by Carrolena Key (202) 343–5711, Division of Environmental and Compliance Review and Cathy-Martin Urbanek (202) 343–7801, Division of State Programs, Heritage Conservation and Recreation Service, Department of the Interior.

In consideration of the foregoing HCRS hereby amends the Land and Water Conservation Fund Grants-in-Aid Manual, Part 640, Chapter 3, Criteria for Development Projects, Section 7, Guidelines for Eligible Support Facilities, by adding Subpart J, Energy Conservation Elements, and Part 660, Chapter 2, Project Evaluation, Section 3, Criteria for Project Evaluation, by adding Subpart M, Energy Conservation, as set forth below.

Heritage Conservation and Recreation Service Compliance With Executive Order 12185 (Conservation of Petroleum and Natural Gas)

Land and Water Conservation Fund Program

The Heritage Conservation and Recreation Service has examined its procedures, regulations and policies as required by Executive Order 12185. The following policies are to assure that all HCRS actions relative to the administration of the Land and Water Conservation Fund are in compliance with the Order.

L&WCF provides acquisition and development grants for a wide range of public outdoor recreation areas and facilities, such as picnic areas, inner city parks, campgrounds, tennis courts, boat launch ramps, bike trails, swimming pools and support facilities.

a. The following shall be added to the Land and Water Conservation Fund Grants-in-Aid Manual, Part 640, Chapter 3, Criteria for Development Projects, Section 7, Guidelines for Eligible Support Facilities.

J. Energy Conservation Elements

The energy conservation elements of an eligible outdoor recreation facility and its support facilities are eligible for L&WCF assistance. This includes but is not limited to solar energy systems, earth berms, window shading devices, energy lock doors, sodium vapor lights, insulation and other energy efficient design methods and materials. In addition, power systems which minimize or eliminate a facility's use of petroleum and natural gas are eligible including, but not limited to, windmills, on-site water power systems, bioconversion systems, and facilities required for the conversion of existing power systems to coal, wood, or other energy efficient fuels.

b. The following policy shall be added to the Land and Water Conservation Fund Grants-in-Aid Manual, Part 660, Chapter 2, Project Evaluation, Section 3, Criteria for Project Evaluation.

M. Energy Conservation

All projects approved beginning in fiscal year 1981 shall be designed, constructed, operated and maintained in an energy efficient manner.

1. Power systems for heating, cooling, lighting and operation shall minimize or eliminate the facility's use of petroleum and natural gas through solar, wind, wood, coal or other power systems, to the extent possible and life cycle cost-effective.

2. All projects shall meet the thermal insulation standards of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc. Standard 90–75 Energy Conservation in New Building Design, or the "Cost Effective Energy Conservation Standards" of HUD, or other equivalent standards with a commitment to abide by the Department of Energy's "Building Energy Performance Standards" when they become effective.

3. State project selection systems shall give priority to the most cost effective energy efficient projects, including but not limited to projects using energy efficient design methods and materials for site and buildings; the use of alternative power systems to minimize the use of petroleum and natural gas; the adaptive reuse of existing structures over new construction where appropriate; projects that are located close to populated areas and are accessible by foot, bicycle or public transportation; the retrofitting to improve the energy efficiency of existing recreation facilities; projects resulting from an energy audit or energy efficiency plan; or projects which help minimize energy development impacts.

Dated: August 20, 1980

David Hales,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80–26504 Filed 8–28–80; 8:45 am]

BILLING CODE 4310–03–M

V 45 AG 29 80 UMI

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Friday
August 29, 1980

Part VII—Section C

Department of the Interior

Office of Surface Mining

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 886

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: The final rule amends § 886.12 of OSM's Abandoned Mine Land Reclamation Program Regulations, and implements the President's Executive Order, E.O. 12185, on conservation of petroleum and natural gas that was published in the **Federal Register** on December 19, 1979 (44 FR 75093). The action encourages States receiving financial assistance for public facilities constructed with funds from the Abandoned Mine Reclamation Fund to use energy sources other than petroleum or natural gas. The intent is to conserve petroleum and natural gas, not prohibit their use. Project proposals for public facilities will be evalauted by using the reclamation project evaluation factors in 30 CFR 874.14. These factors should be sufficent to insure that energy efficiency and cost effectiveness are included in the project design.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Charles A. Beasley, Assistant Director, Abandoned Mine Lands, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, 202-343-4012.

SUPPLEMENTAL INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, (30 U.S.C. 1201 et seq.), establishes an Abandoned Mine Reclamation Fund and provides the authority to use monies from this fund to reclaim and restore land and water resources adversely affected by past mining. Lands and water eligible for reclamation under this authority are those which were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or other Federal laws. OSM published final rules on October 25, 1978 (43 FR 49932) which established the abandoned mine land reclamation program and procedures for administering Title IV of SMCRA.

Part 886 sets forth procedures for grants to States having an approved State reclamation plan for the reclamation of eligible land and water and for other activities, which include the construction of public facilities, necessary to carry out the plan as approved. This part also contains provisions for the reduction or termination of grants under certain circumstances and requirements for the administration of the grants.

Executive Order 12185 requires Federal agencies to review their financial assistance programs and make appropriate regulatory changes to those provisions that could conserve petroleum or natural gas. OSM has determined that petroleum and natural gas could be conserved by encouraging States to use on-site energy sources other than petroleum or natural gas for public facilities.

On May 7, 1980, the Department of the Interior proposed a rule to implement E.O. 12185 and invited public comment on it (45 FR 30382). The rule adopted today is based on that proposed rule. This rule encourages States requesting financial assistance for public facilities projects under their reclamation programs of Title IV of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, to seriously consider the use of on-site energy sources other than petroleum or natural gas.

Under State reclamation programs of Title IV, public facilities affected by past coal mining practices that occurred before August 3, 1977, may be eligible for Federal assistance.

For example, schools or public utilties affected by past coal mining could be considered. Facilities necessary to control the adverse effects of past coal mining may also be considered. An example would be a plant for control and treatment of water pollution resulting from mine drainage.

Funding under certain conditions can be provided for public facilities in communities impacted by coal development under Section 402(g)(2) of SMCRA. However, funding is prohibited until conditions related to past coal and noncoal mining are corrected, or until funds are obligated to cover the costs of this reclamation.

On-site energy sources refer to primary energy that is actually consumed or used by the facility. Only those facilities that are designed to use petroleum or natural gas on-site for major heating systems, cooling systems, or power generation during the operational phase of the facility will be affected by the rule. When the costs for petroleum and natural gas are considered along with the shortages of these energy sources, prudent design of such facilities, regardless of this rule, should restrain their use.

Comments

OSM received comments from one commenter on the proposal. The comments were very carefully considered by OSM and are discussed below.

1. The commenter stated that the President's Executive Order 12185 authority is derived from Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620. OSM does not accept this statement. While this is one authority, Section 301 of Title III of the United States Code provides the President with ample authority to direct Federal agencies to use the statutory provisions establishing their assistance programs to implement measures to conserve petroleum and natural gas. OSM's proposal does not conflict with the statutory provisions that established Federal assistance for the State reclamation programs, nor does it conflict with the Pub. L. 95-620.

2. The commenter pointed out that Section 403(b) of Pub. L. 95-620 mandates Federal agencies to promote the conservation of petroleum and natural gas through their assistance programs, but does not prohibit the use of these fuels. OSM agrees with this statement.

3. The commenter stated that even the mandatory fuel switching provisions of Pub. L. 95-620 do not apply to stationary electric generating units with input design capacity of less than 100 million Btu's per hour or to fuel burning installations of the same Btu's per hour capacity, and that Congress did not intend that facilities with fuel input design capacity less than 100 million Btu's be subject to fuel switching orders. OSM agrees. The proposal does not prohibit the use of petroleum or natural gas in these smaller facilities. It merely encourages States to consider other forms of on-site energy.

4. The commenter felt that from a practical application the proposal would limit the designer's on-site fuel choices. OSM disagrees. If it is not technologically or economically feasible to use other on-site energy, OSM would surely provide the necessary Federal assistance. However, approval of Federal assistance for the construction phase of the facility does not guarantee Federal assistance for energy costs. Federal assistance is requested on a Federal fiscal year basis after the State's reclamation plan is approved. The approval for requested assistance is dependent on availability of funds and their intended use. Since the monies to support these requests are derived from reclamation fees that are imposed on coal production, and since the authority

to collect these fees ends 15 years after the enactment date (August 3, 1977) of the Surface Mining Control and Reclamation Act of 1977, the States will need to consider alternate methods to pay for future energy costs. Therefore, long range planning is necessary for any public facilities that use energy.

5. The commenter urged that the proposal be modified by: (1) Deleting the phrase "To the extent technologically and economically feasible," and (2) adding a new paragraph that would totally exempt facilities with individual input design capacity below 100 million Btu's per hour or aggregate input design capacities less than 250 million Btu's per hour from the proposed rule. These modifications have not been accepted. The technological and economical considerations are of primary importance in any activity under the Title IV program. Since Federal assistance may not be available for public facility energy costs in the future, these considerations are of utmost importance. The second modification attempts to intertwine the mandatory conversion definition language of Pub. L. 95–620 with the proposed rule. OSM fully intends to comply with Pub. L. 95–620 when applicable. However, the proposal does not prohibit the use of petroleum and natural gas for on-site energy. It does encourage the States to conserve petroleum and natural gas by prudent design and long term planning.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, et seq. (December 13, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Statement of Authorship

The primary authors of this document are George L. Williams, Abandoned Mined Lands, Office of Surface Mining and Chris Warner, Office of the Solicitor, Division of Surface Mining, Department of the Interior. Under authority of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, and Executive Order 12185, a revised § 886.12 is set out below.

Dated: August 12, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Amendment

30 CFR 886.12(b) is revised to read in its entirety as follows:

§ 886.12 Coverage and amount of grants.

* * * * *

(b) Grants shall be approved for 100 percent of the total agreed upon costs for reclamation of eligible lands and water, construction of public facilities, program administration as specified in § 886.21 and the incremental cost of filling voids and sealing tunnels with waste from mine waste piles reworked for conservation purposes. To the extent technologically and economically feasible, public facilities that are planned, constructed, or modified in whole or in part with abandoned mine land grant funds should utilize fuel other than petroleum or natural gas.

* * * * *

[FR Doc. 80–26502 Filed 8–28–80; 8:45 am]

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Friday
August 29, 1980

Part VII—Section D

Department of Housing and Urban Development

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-999]

Public Facilities Programs—Administrative Actions Implementing Executive Order 12185

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: General notice—administrative measures implementing Executive Order 12185.

SUMMARY: By publishing this Notice, HUD is notifying the public of the significant non-regulatory administrative measures it will take for public facilities programs administered by the undersigned, in order to implement Executive Order 12185.

FOR FURTHER INFORMATION CONTACT: Michael Wells, Office of Policy and Budget, Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, D.C., 20410, (202) 755-6454. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with Section 102(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) and Executive Order 12185, the Assistant Secretary for Housing is about to issue a memorandum to the HUD Field Offices so that Federal Housing Administration appraisal and valuation procedures will place greater emphasis on the trade-off between energy conserving capital costs and subsequent project operating expenses. In accordance with the same legislation and Executive Order, the Assistant Secretary for Housing recent issued to the HUD Field Offices and administrative notice by which HUD both encourages the development of projects which use solar energy systems and provides the maximum permissable mortgage amounts and financial assistance to accommodate such systems.

The above notice and memorandum also apply to the Office of Housing's housing programs.

The Final Rule that is published in the part of this issue of the **Federal Register** which concerns the housing programs of the Office of Housing, also affects Housing's public facilities programs. This rule provides Section 241 Mortgage Insurance for Supplemental Project Loans for energy conserving improvements in conventionally-financed multifamily projects.

The public facilities programs are part of the National Housing Act and are the Section 232 Nursing Homes and Intermediate Care Facilities Program, the Section 242 Hospitals Program and the Title XI Group Practice Medical Facilities Program. This general notice was published originally in the **Federal Register** on May 7, 1980 (45 FR 30384). We are publishing it now in order to give an update on the above guidelines of the Office of Housing at the same time the regulation described above is published as a final rule.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C. on August 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-26506 Filed 8-28-80; 8:45 am]

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federal register

Friday
August 29, 1980

Part VII—Section E

Department of Education

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

V 45 AG 29 80 UMI

DEPARTMENT OF EDUCATION

45 CFR Parts 100a and 100b

Petroleum and Natural Gas Conservation; Regulations To Implement Executive Order 12185

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations to implement Executive Order 12185. These regulations are designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Wilton Anderson, Director, Energy and Education Action Center, U.S. Department of Education, 400 Maryland Avenue SW. (Room 514, Reporters Building), Washington, D.C. 20202. Telephone: (202) 472–7777.

SUPPLEMENTARY INFORMATION:

A. Background

On December 17, 1979, the President issued Executive Order 12185 under the authority granted to the President in section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620). Under this Executive Order, each Federal agency is required to issue regulations designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance.

On February 7, 1980, a preliminary, Government-wide list of Federal programs was published in the **Federal Register** (45 FR 8534) as a first step in implementing Executive Order 12185. The listed programs were identified by the various Federal agencies as being programs that offered significant opportunities for the conservation of petroleum and natural gas. A number of Federal education programs were listed under the Public Facilities and Labor/Human Resources/Education sections of the **Federal Register** notice. The public was given 60 days to comment on the list of programs and to submit suggestions for regulations that would achieve the conservation of petroleum and natural gas in these and other Federal financial assistance programs.

The Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 7, 1980 (45 FR 30386) to implement Executive Order 12185. The proposed regulations added a new section to 45 CFR Part 100a and 45 CFR Part 100b, the Education Division General Administrative Regulations (EDGAR). A new § 100a.616 of EDGAR was proposed to require certain energy conservation measures in the construction of facilities under Federal education programs, and new §§ 100a.690 and 100b.690 were proposed to require consideration of energy conservation awareness as a program component in Federal education programs.

In the "Supplementary Information" section of the preamble to the NPRM, the Secretary invited comments on whether the Department should establish, adopt, or suggest specific energy performance standards for buildings constructed with Federal education funds. The Secretary also expressed interest in receiving comments and suggestions for other regulations on energy conservation that could be included in EDGAR or in specific program regulations.

The public had sixty days to comment on the proposed regulations. Twenty-six persons submitted written comments during this time.

B. Summary of Comments and Responses

The following is a summary of the comments received from the public and the Department's responses. The comments and responses appear in the same order as the final regulations.

§ 100a.616 Energy conservation.

(1) *Comment.* A few commenters opposed the issuance of any final regulations to implement Executive Order 12185. One commenter questioned the appropriateness of the Executive Order.

Response. No change has been made. Under Executive Order 12185, the Department of Education is required to issue regulations designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance. The Executive Order was appropriately issued by the President under the authority granted in section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620).

(2) *Comment.* Some of the commenters favored the adoption of energy conservation measures in the construction of facilities under Federal education programs that are more specific than the requirements in the proposed regulations. These commenters favored the adoption of either State and local building standards, or the standards published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). Some commenters stated that the Department of Energy's Building Energy Performance Standards should be used when they are promulgated as final regulations.

Response. A change has been made. In addition to the requirements now contained in § 100a.616(a) of the final regulations, these regulations require in a new § 100a.616(c) that grantees comply with the ASHRAE Standard 90–75. The adoption of ASHRAE 90–75 will ensure that facilities constructed with Federal education funds will be energy efficient. Since many State and local building codes already require compliance with ASHRAE Standard 90–75, its adoption will not impose any additional burdens in those areas. When the Department of Energy's Building Energy Performance Standards are promulgated as final regulations, the Department of Education will consider adopting them in place of ASHRAE 90–75.

§§ 100a.690 and 100b.690 Energy conservation awareness.

(1) *Comment.* The majority of commenters supported the proposed emphasis on energy conservation awareness. A number of the commenters suggested that the language in these sections be more specific and that a component on energy conservation awareness be required in all programs.

Response. No change has been made. The Secretary believes that it is appropriate to have a flexible requirement on the incorporation of energy conservation awareness as a program component in Federal education programs. The utility and feasibility of incorporating this type of component varies among the great number of programs that will be subject to the requirements in EDGAR.

(2) *Comment.* Several persons commented on the need for the development of programs on energy conservation awareness and the dissemination of information on these programs. One commenter suggested that the regulations require a public information component, while several other commenters stated that the Federal Government should develop and disseminate the elements of programs

on energy conservation awareness to participating grantees.

Response. No change has been made. Designation of the Energy and Education Action Center as the Department of Education's lead component for coordinating all activities relating to energy conservation, energy conservation awareness, and Executive Order 12185 has already been made. The Secretary concludes that the present functions and activities of the Energy and Education Action Center are fully responsive to the suggestions made by commenters.

C. Citation of Legal Authority

The reader will find a citation of legal authority in parenthesis on the line following each substantive provision of these final regulations.

Dated: August 22, 1980.

Shirley M. Hufstedler,
Secretary of Education.

The Secretary amends Parts 100a and 100b of Title 45 of the Code of Federal Regulations to read as follows:

PART 100A—DIRECT GRANT PROGRAMS

(1) The following sections are added to the table of contents under Subpart E of Part 100a:

Sec.
100a.616 Energy conservation.

* * * * *

100a.690 Energy conservation awareness.

* * * * *

Authority: Sec. 403(b) of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (42 U.S.C. 8373(b); 92 Stat. 3289-3349) and Executive Order 12185.

(2) The following two sections are added to Part 100a:

§ 100a.616 Energy conservation.

(a) To the extent feasible, the grantee shall design and construct facilities to maximize the efficient use of energy and to minimize the use of petroleum and natural gas as energy sources.

(b) Standard 90-75 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) is incorporated by reference in this section.

Note.—Incorporation by reference provisions approved by the Director of the Federal Register on August 25, 1980. Incorporated document is on file at the **Federal Register.**

Copies of ASHRAE 90-75 may be obtained from the Publication Sales Department, American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 345 East 47th Street, New York, New York 10017.

(c) A grantee shall comply with ASHRAE Standard 90-75 in designing and constructing facilities built with project funds.

(42 U.S.C. 8373(b); E.O. No. 12185)

§ 100a.690 Energy conservation awareness.

To the extent that it is consistent with the statute and regulations for any program, the grantee shall consider incorporating into its program a component on energy awareness. This component may include study of the problems, solutions, and alternatives relating to the Nation's energy crisis.

(42 U.S.C. 8373(b); E.O. No. 12185)

PART 100B—STATE-ADMINISTERED PROGRAMS

(3) The following section is added to the table of contents under Subpart E of Part 100b:

Sec.
100b.690 Energy conservation awareness.

* * * * *

(4) The following section is added to Part 100b: funds.

§ 100b.690 Energy conservation awareness.

To the extent that it is consistent with the statute and regulations for any program, the subgrantee shall consider incorporating into its program a component on energy awareness. This component may include a study of the problems, solutions, and alternatives relating to the Nation's energy crisis.

(42 U.S.C. 8373(b); E.O. No. 12185)

[FR Doc. 26507 Filed 8-28-80; 8:45 am]
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Friday
August 29, 1980

Part VII—Section F

Department of Health and Human Services

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Petroleum and Natural Gas Conservation; Final Notice

SUMMARY: The final notice published below implements Executive Order 12185 by requiring measures which will conserve petroleum and natural gas in buildings constructed with financial support from programs administered by this Department.

These measures were proposed in the May 7, 1980 **Federal Register** (45 FR 30388) and public comments were requested. Five comments were received and their views considered in preparing this final notice.

DATE: This notice is effective August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Milton A. Lewis, Director, Office of Engineering and Plant Operations, Division of Plant Operations, 330 Independence Avenue, SW., Room 4617, Washington, D.C. 20201. Telephone: (202) 245-1907.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12185 and Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978, Federal agencies were required to review their financial assistance programs, identify those which are most likely to offer opportunities for significant conservation of petroleum and natural gas, and institute measures designed to achieve such conservation in those programs.

A preliminary listing of candidate programs was published in the **Federal Register** on February 7, 1980, and public comments invited. No comments were received. Subsequently, the list was refined and republished in the May 7, 1980 **Federal Register** together with proposed measures which are now contained in this final notice. Public comments were requested and comments were received from the Alliance to Save Energy; the American Gas Association; Milwaukee County, Wisconsin; the Philadelphia (PA) Electric Company; and the Southern Union Company. Their comments are appreciated.

The comments of the Alliance to Save Energy were forwarded to the Social Security Administration for action, as they addressed the Low Income Assistance Program, which is not within the scope of public facilities construction, which this notice covers.

The other commenters supported the proposed use of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90–75 pending adoption of Buildings Energy Performance Standards (BEPS) developed by the Department of Energy, when those standards become effective.

Two commenters also recommended adoption of an updated version of ASHRAE 90–75 which was approved in June 1980 by the ASHRAE board of directors. However, this new standard, ASHRAE 90A–1980, is not yet published and will not be widely known and available within the building community for a few months. Therefore, it was decided to continue at present with ASHRAE 90–75.

One commenter recommended that ASHRAE 90–75 rather than BEPS should be the standard for the energy conserving program. However, once BEPS becomes effective, the provisions of Section 305 of the Energy Conservation Standards for New Buildings Act of 1976 require each State to certify that BEPS or an equivalent performance standard that meets or exceeds BEPS is adopted and is being implemented (with minor exceptions) in each local government jurisdiction of such State. If this certification is not made, then no Federal financial assistance may be made available or approved in such jurisdiction.

To assure that this Department does not impose energy conservation requirements different from those generally required by the Department of Energy, it is planned that BEPS will be adopted when they become effective.

This commenter also expressed concern with the higher costs which may result from BEPS, or from requirements to use coal or other energy source alternatives to petroleum and natural gas, and indicated that the Federal share of such added costs should be increased. In this regard, except where limited by legislative and regulatory constraints, the programs administered by this Department will generally participate in funding of energy conservation measures which are shown to be life cycle cost effective and which are an integral part of the overall project being constructed to meet a program objective.

Since the public comments received are supportive of the measures the Department is taking to conserve petroleum and natural gas in public facilities construction, these measures are published as a final notice below:

Final Notice Implementing Executive Order 12185

This notice is to advise the public of the measures the Department is taking to conserve petroleum and natural gas in federally assisted construction which it funds or participates in funding.

These measures are required by Executive Order 12185 to implement Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978.

The Department intends to adopt the Buildings Energy Performance Standards (BEPS) now being developed by the Department of Energy after they become effective, and will at that time propose necessary rules. During the interim period, the requirements outlined below will apply:

To obtain design approval, all applicable construction funded by programs administered by the Department of Health and Human Services must meet the mandatory requirements of the Technical Handbook for Facilities Engineering and Construction Manual for Federally Assisted Construction No. 2.1—Information for Project Applicants and State Agencies on Design and Construction Related Activities. Also, under provisions of Titles VI and XVI of the Public Health Service Act, health care facilities must comply with the requirements set forth in "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (Department publication number HRA 79–14500).

Both of these publications require the use of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standing 90–75 as a minimum standard for energy conserving design in federally assisted construction projects, except that energy conservation measures in health care facilities shall not conflict with the minimum requirements of HRA 79–14500.

These publications also require that life cycle cost analysis procedures be used in determining the feasibility and cost effectiveness of energy related investments in both new and existing buildings. It is recommended that the life cycle cost analysis methodology and precedures used be those published by the Department of Energy under 10 CFR Part 436 Subpart A, or other methodology and procedures which yield an equivalent result. The most current methodology may be obtained by contacting Mr. Jack Vitullo, Federal Programs Division, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone: (202) 252–9471.

To be approved, projects must incorporate all energy conservation measures determined to be cost effective by an analysis using the ASHRAE 90–75 standard and acceptable life cycle costing procedures.

The Federal programs listed below authorize financial assistance to public and private institutions for the construction of facilities. They are administered by the Department of Health and Human Services and construction which they fund is subject to the provisions of this notice.

Categorical Grant Programs:

Cancer Cause and Prevention Research
Cancer Construction
Clinical Research (NIH)
Community Health Centers
Developmental Disabilities—Basic Support and Advocacy
Hospital Affiliated Primary Care Centers
Medical Facilities Construction—Project Grants
Migrant Health Centers
Native American Programs
Residency Training in the General Practice of Dentistry
Special Programs for Aging—Grants for States and Community Programs for the Aging

Dated: August 22, 1980.

Wilford J. Forbush,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 80-26508 Filed 8-28-80; 8:45 am]

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Part VII—Section G

Veterans Administration

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

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VETERANS ADMINISTRATION

38 CFR Part 17

Public Facilities Grants Programs Compliance with E.O. 12185

AGENCY: Veterans Administration.

ACTION: Final notice of compliance with E.O. 12185.

SUMMARY: The Veterans Administration (VA) is issuing a final notice of compliance with E.O. 12185 which will apply to the following programs in the Public Facilities Grants Section, State Home Facility Grants, Grants to New Medical Schools, and Grants for Construction of State Veterans Cemeteries, which fall within the purview of E.O. 12185. The intent of this final notice is to promote the use of energy efficient designs for buildings to be built with the assistance of funds from the VA Public Facilities Grants Program.

DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Sisty, Energy Specialist (10A4A1), Engineering Service, Department of Medicine and Surgey, Veterans Administration, 810 Vermont Ave., NW, Washington, DC 20420 (202-389-2893).

SUPPLEMENTARY INFORMATION:

Introduction

On May 7, 1980, VA published proposed rules to establish a set of energy conservation standards and design targets for all building retrofit, renovation or new construction, supported by the Public Facilities Grants Programs.

The VA received two written comments concerning the proposed rules. Both comments were complimentary of the VA overall Energy Conservation Program and concurred with our intention to use BEPS standards. One comment recommended that we use the revised ASHRAE standards. This will be done. The VA uses the latest, most up to date standards, routinely.

Pending approval of the DOE BEPS standards, all requests for funds in the Public Facilities Grants Programs for the purposes of building retrofit, renovation or new construction of (1) State Home Facilities, (2) New Medical Schools and (3) State Veterans Cemeteries will be reviewed for compliance with existing rules. All projects must be life cycle cost effective with a savings to investment ratio of one or better in accordance with the DOE life cycle cost procedures and all building expansion or new building projects must be designed in accordance with the most recent version of the ASHRAE 90-75 standards for energy conservation. In addition, *we are requesting* that all new buildings be designed to meet or exceed the BTU/square foot/year targets listed in the BEPS standards for the local community.

After the BEPS standards have been approved, we will require that all new buildings be designed to meet or exceed the BEPS standards.

Since a clearly drawn up contract, with plans and specifications is required before the recipient is awarded any funding, and each building must be inspected before payments are made, all provisions of the contract must be met before the recipient effectively receives his money. If the contractor fails to live up to his contract, proceedings will be initiated to force compliance in accordance with the terms of the contract. If the contractor fails to comply, he may be barred from bidding on or receiving future government contracts.

Approved: August 21, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-26509 Filed 8-28-80; 8:45 am]

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August 29, 1980

Part VIII

Department of Transportation

Office of the Secretary

Petroleum and Natural Gas Conservation: Federal Transportation Assistance Programs

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 152 and 199

23 CFR Parts 420, 450, 630, and 1204

49 CFR Parts 258, 260, 266, and 622

[OST Docket No. 66]

Energy Conservation by Recipients of Federal Financial Assistance

AGENCY: Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In compliance with a recent Executive Order, DOT issues regulations requiring conservation of petroleum and natural gas in programs receiving Federal financial assistance administered by DOT.

DATE: These regulations take effect on October 1, 1980, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: On the general DOT approach in this program—Angus Duncan, Director, Office of Energy Policy, P-6, Department of Transportation, Washington, D.C. 20590 (202) 426-4524. For further information on the proposed implementation of that approach by any of the involved DOT agencies, contact the person identified with that agency in the discussion below.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, May 7, 1980 (45 FR 30398), DOT published a notice of proposed rulemaking (NPRM) in which it invited public comment upon proposed rules for those of its financial assistance programs which are most likely to offer opportunities for significant conservation of petroleum and natural gas by the recipients of such assistance. The proposal responded to Executive Order 12185, Conservation of Petroleum and Natural Gas (December 17, 1979), which implements section 403(b) of the Powerplant and Industrial Fuel Use Act of 1979 (Pub. L. 95-620; 92 Stat. 3318). The Act and the Order require Federal agencies which administer programs of financial assistance to take actions which maximize the efficient use of energy and conserve natural gas and petroleum in programs funded by those agencies. Included among those actions are identification of those financial assistance programs which offer opportunities for significant conservation of petroleum and natural gas by recipients of the assistance and issuance of regulations imposing conservation requirements as a condition of continuing to receive the assistance. Included in the NPRM were programs of the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), and Urban Mass Transportation Administration (UMTA).

General Discussion of Comments

DOT received more than 80 comments from agencies and individuals on the May 7 NPRM. The greatest number of comments concerned the need for more assistance—both technical and financial—to implement the rules, particularly financial assistance for transit and high-occupancy vehicle facilities. DOT recognizes the need to assist State and local agencies in their efforts to ensure that transportation programs contribute to the national goal of significantly reducing petroleum consumption.

With regard to providing technical assistance, the DOT agencies whose programs are covered by this rulemaking plan to expand training and information sharing activities to ensure that the latest state-of-the-art in energy conservation planning, practices, standards, and technology is made available to program constituents. These activities are further discussed in the subsequent sections of this notice, which cover individual agency actions.

On the question of financial assistance, DOT policies, budget requests, and legislative proposals in recent years have increasingly emphasized programs that will reduce the energy requirements of the transportation sector. DOT has requested $24.5 billion in authorizations for public transportation grant programs for FY 81-85; this is well over double the funding levels for the past five-year period. As many comments acknowledged, these regulations focus on the planning process required by modal agencies as the best means of incorporating energy conservation concerns into the nation's transportation system. Recognizing the need for additional funding for energy-related planning, DOT has requested an additional $15 million in FY 81 appropriations for UMTA-supported energy conservation and contingency planning. Given the number of State and local agencies which report transportation-energy planning activities already underway at the current funding level, DOT believes this increase should be sufficient to support implementation of the new planning requirements in FY 81. DOT also has proposed a new incentive program to make more efficient use of the private automobile. The auto-use-management program, if enacted, would encourage States to use federal-aid highway funds for more energy efficient projects, such as ridesharing activities, public transportation, fuel-efficient driver education, and bicycle and pedestrian facilities. While these requests have not yet been approved by Congress, DOT expects that a substantial part, if not all, of these additional resources will be available for FY 1981. As with other actions being taken to implement Executive Order 12185, DOT will continue to review the adequacy of resources to meet program requirements during the coming year.

DOT also received a number of comments concerning a potential increase in the amount of paperwork required of grantees. In implementing Executive Order 12185, DOT has chosen, wherever possible, to use its existing processes and to strengthen current regulations rather than developing separate processes and monitoring requirements for energy assessments. The regulations being adopted with this publication will be the responsibility of those State and local agencies which currently comply with program regulations. In many DOT programs, consideration of energy conservation has been a stated goal or explicit requirement for the past several years. These regulations give more specific direction on the types of activities that will achieve the energy conservation goal and at what point in the planning or project development process these activities should take place. For some programs DOT also has clarified the actions to be taken if energy conservation is not adequately considered in transportation planning or project development. By amending existing regulations, DOT believes that the need for separate documentation and additional staff will be very limited.

In light of the comments received, however, DOT carefully reviewed the proposed regulations and made several revisions to further eliminate the possibility of requiring nonessential or redundant paperwork. In the case of FAA's loan guarantee program, the comments made a strong case against the proposed rule and this rule is being dropped in favor of technical assistance for loan applicants. These and other changes are discussed in the subsequent sections of this notice.

Several comments questioned the need for DOT-required assessments of buildings to be constructed with DOT financial assistance when the Department of Energy (DOE) is promulgating Building Energy Performance Standards (BEPS) that would require energy efficient building design. DOT does not intend that its required energy assessments duplicate DOE regulatory standards. However, BEPS is still under development within the Federal government. The final rulemaking is not expected to be issued for about a year, with implementation taking up to an additional year. Should BEPS be adopted in the future, DOT will review its energy assessment requirements to consider whether these requirements should be maintained, vacated, or considered satisfied by compliance with a BEPS-certified State building code.

Pursuant to the rules promulgated in this document, energy assessments, where required for building constructed or remodeled using DOT funding assistance, should consider the following:

1. Overall design of facility or modification and alternative designs;
2. Materials and techniques used in construction or rehabilitation;
3. Special or innovative conservation features that may be used.
4. Fuel requirements for heating, cooling, and operations essential to the function of the structure, projected over the life of the facility and including projected costs of this fuel; and
5. Kind of energy to be used, including:
   (a) Consideration of opportunities for using fuels other than petroleum and natural gas; and
   (b) Consideration of using alternative, renewable energy sources.

These energy assessments may use any accepted and recognized methodology appropriate to project needs. DOT recommends that applicants consider the DOE's Methodology and Procedures for Life Cycle Cost Analyses as set out in 10 CFR Part 436. The most recent methodology can be obtained by contacting Jack Vitullo, department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. (202–252–9467).

A large number of comments also were received expressing concern about the relationship between DOE State gasoline consumption targets and the regulations proposed by DOT. There was some misunderstanding about how DOT intended to link the two, particularly given the generally long-term nature of much transportation planning and the short (three-month) life span of the DOE targets. DOT encourages the adoption of energy conservation goals by State and local governments to support the broad national goal of significantly reducing the consumption of petroleum and natural gas. These conservation goals may be based on projections of the DOE-established State fuel consumption targets, or other targets adopted by States, by local governments, or by metropolitan-wide jurisdictions on their own initiative. This would allow State and local governments, including transportation agencies, to adopt goals that project greater savings of oil (and consequent savings to their citizens) than the DOE voluntary targets, and that address conservation of fuels other than petroleum, such as natural gas. DOT believes that such goals should encompass both long-term transportation energy savings, and savings that can contribute to achieving the three-month DOE-set targets.

Use of DOE quarterly State targets as one basis for establishing local goals or longer-term State goals helps provide State-to-State consistency, and links national energy conservation goals to national transportation concerns. For these reasons, the use of these targets to support conservation efforts is encouraged, but not required.

DOE is required under the Energy Security Act of 1980 to establish, by February 1, 1981, national end-use energy consumption targets for 1985, 1990, 1995, and 2000. These targets, where they can be disaggregated by fuel, mode, and State, can provide a necessary longer-term national framework for transportation energy use targets and conservation programs. DOT will provide all available information, including disaggregations, to agencies receiving assistance from DOT.

Specific reference to "established energy conservation targets" has been modified in several places to reflect a more encompassing reference to energy conservation targets. DOT assumes that DOE's and other targets will be a basic element of State and local energy conservation goals and objectives, and the reference to targets in the regulation should be viewed within this broader context.

Finally, several comments questioned how DOT intended recipients to consider the use of renewable energy sources in their energy conservation efforts. Executive Order 12185 is directed explicitly at conservation of petroleum and natural gas (nonrenewable sources). In accordance with the Executive Order, DOT defines "energy conservation" as the conserving of natural energy resources through both (1) more efficient use of nonrenewable energy sources, and (2) use of renewable sources of energy.

Comments on specific programs of rules proposed by specific DOT agencies are discussed in the following sections; however, one final general point needs to be addressed. This rulemaking is significant, as that term is used in Executive Order 12044, Improving Government Regulations, as amended. Section 2(d)(8) of E.O. 12044 requires that a plan be developed for evaluating a significant regulation after its issuance. Executive Order 12185 meets this need very well. Section 1–105 of E.O. 12185 requires that the process which has resulted in these final rules be repeated annually. Consequently, the public should expect DOT to publish in the **Federal Register,** approximately one year after these rules take effect, an invitation for public comment on how well these rules have worked, what changes may be required, and what programs should be added or deleted. This does not mean that we do not want to be kept apprised during implementation of any problems that arise. It means simply that a structured review will take place next year.

Federal Aviation Administration

(For both FAA programs listed, contact Charles Hoch, 202–755–9717.)

Public Comments on Proposed Rule for Airport Development Aid Program

Background. The proposed change to Part 152 would have required that sponsors in the Airport Development Aid Program (ADAP) accomplish an energy assessment and a certification to comply with findings for each building construction or modification which exceeds $50,000 in cost. It also would have required a sponsor to utilize fuel and energy conservation practices in the operation and maintenance of the airport and to encourage airport tenants to use these practices. The proposed change to Part 152 had originally been printed as Subpart F (§§ 152.501–152.509) in the May 7, 1980, **Federal Register.** These changes are now incorporated in Subpart G (§§ 152.601–152.609), because a new Subpart F has been added since the NPRM was published on May 7, 1980.

Some wording in Subpart G of Part 152 has been changed to clarify the rule. As defined in § 152.605, "Building Construction" and "Major Building Modification" will include only buildings which receive Federal assistance instead of buildings which are eligible for Federal assistance. In § 152.607, the requirement to furnish a certification to comply with energy assessment findings to the FAA has

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been deleted, because the provision for certification is already incorporated in § 152.7 of the regulation. In § 152.605 the definition of an energy assessment has been modified slightly to conform with the DOT-wide definition.

The $50,000 cost figure for building construction and modification has been revised upward to $200,000. This change was the result of further study and consideration by FAA. It was found that an insignificant number of buildings fall within the $50,000–$200,000 cost range. Additionally, it is not desirable to create a situation where the cost of an energy assessment represents a significant proportion of the cost of the building construction or modification itself. This could occur if the $50,000 figure had prevailed. Thus, raising the cost minimum will result in an improved application of the rule. The change will be reflected in § 152.605 of Subpart G.

Guidelines to aid airport sponsors in making an energy assessment will be issued by January 1981. The criteria for judging the acceptability of an energy assessment will be based on its scope, content, and comprehensiveness. The energy assessment will include an analysis of alternatives for achieving the desired objectives and recommendations for selection of appropriate alternatives. The energy assessment will be submitted for FAA approval along with the plans and specifications.

Comments. The requirements for sponsors participating in ADAP were the subject of varied comments and suggestions. The comments indicated widespread public support for the concept of energy conservation. The commenters expressed differing views on how this concept should be applied through Federal regulation.

Assessment Requirement. One commenter pointed out that the wording of §§ 152.505 and 152.507 would have required an energy assessment on all buildings eligible for Federal assistance. It was suggested the wording be changed so that only buildings which actually received Federal assistance would be affected by the rule. Since the rule is intended to apply only to those buildings which receive funds from ADAP, the wording of those sections has been changed as suggested.

Equipment Eligibility. One commenter recommended that FAA establish a policy that clearly includes the eligibility of energy-saving equipment as part of terminal building utility systems. Under current regulations, such equipment is generally eligible if it is determined to be a reasonable and necessary part of an ADAP project. The regulation does not need further elaboration.

State v. Federal Regulations. Many commenters stated that the proposed rules would merely duplicate existing State regulations. This would cause redundancies, unnecessary delays, and extra costs. One commenter suggested that FAA waive requirements in States which have enacted their own energy legislation. The situation in which both State and Federal regulations apply to a project is not unique to the energy area. Sponsors are urged to comply with both State and Federal regulations simultaneously, whenever possible. As States become more proficient in writing this sort of regulation and the FAA gains more experience in administering the rule, the acceptance of State requirements in lieu of Federal requirements may be considered.

Limiting Federal Aid. One commenter suggested that ADAP funds be limited to airports serving commercial or commuter customers. Airports used mostly for pleasure or recreation should be excluded. The legislation which authorizes ADAP provides grant assistance for both general aviation and air carrier airports, therefore, no distinction is made in this rule.

Conservation Practices. One commenter stated that sponsors should be required to consider and, whenever feasible, abide by energy conservation practices and techniques. Section 152.609 of the regulation will accomplish this.

Simplicity. Several commenters felt that the rule and compliance procedures should be kept simple. For example, one commenter suggested replacing the required energy assessment for each project costing over $50,000 with a letter from the airport manager. The letter would state that the airport manager has or will develop a total energy conservation program for his airport within a reasonable time. FAA agrees that rules and compliance procedures should be as simple as possible. We believe that this rule modification implements Executive Order 12185 in a simple, effective manner.

Airport Systems Planning. One commenter recommended that airport systems planning include an element which would assess the energy impact of growth alternatives. Consideration of energy factors during the planning process is already allowed under the existing regulation. An element of a systems plan covering energy impacts would be eligible for Federal assistance when it is found to be a reasonable and necessary part of a system plan. Such planning is not required under this regulation but is encouraged by FAA.

Airport Master Planning. An element of a master plan covering energy impacts would also be eligible for Federal assistance when it is determined to be a reasonable and necessary part of a master plan or update of a master plan. Such planning is not required under the regulation, but is encouraged by FAA.

Airport Energy Plan. DOE recommended that each airport be required to submit a plan to FAA and DOE specifying fuel and energy conservation practices. An airport energy plan may become a requirement at a later date; however, the present level of experience and information now available in FAA indicates that such a requirement for all airports would probably not produce benefits commensurate with the cost and administrative burden to sponsors. Some airports, however, may benefit from an overall energy plan and FAA encourages these airport operators to develop such a plan. Such plans would be eligible for Federal assistance if accomplished within the scope and intent of an airport master plan project.

FAA is developing an energy-efficient ground operating plan for Washington National and Dulles International Airports. This plan may serve as a model for other airports in the future. It should be noted that this ground operating plan was described as a "policy" in the May 7, 1980, NPRM which was misleading. The distinction is that the language used in the NPRM is overly broad and could be construed to incorporate such activities as operations scheduling, and approach and departure procedures. This was not the intent of the plan.

Noncompliance. One commenter recommended that funds not be withheld if there is noncompliance with Part 152. Withholding project funds is an appropriate sanction for violation of any of the requirements in Part 152, and is the sanction called for in E.O. 12185.

Runways and Terminals. One commenter suggested that energy considerations should be utilized in the design and construction of runways and terminal facilities. Currently, the rule is limited to the design and construction of terminal buildings. FAA is not imposing energy conservation requirements on runways because a positive relationship among the costs, benefits, and consequences of such regulation does not exist at this time. The rule may be expanded to include runways and other facilities at a later date, if it is shown to be feasible.

Building Cost Level. Some commenters stated that the $50,000 minimum building construction cost was too low. A $500,000 minimum cost was recommended by one commenter since this is the criterion used in the DOT Minority Business Enterprise (MBE) Program. Another commenter suggested a $250,000 cost level. Energy requirements are completely unrelated to MBE requirements, so it does not follow that MBE cost levels should be used to justify energy conservation cost levels. However, after review and consideration of those comments, the cutoff is being raised to $200,000. This level will not exclude those projects which would have a significant impact on energy, but will avoid unnecessary burdens on the recipients of small building grants.

Relevancy of Projects. One commenter recommended that energy assessments not be required for construction projects which have no bearing on energy consumption. FAA believes that any building construction or modification in excess of $200,000 (using Federal assistance) would have an impact on energy consumption and thus should have an energy assessment. If a building has no impact on energy consumption, the assessment can simply show that fact.

Energy-Saving Suggestions. Many commenters sent in various suggestions on ways to conserve energy at airports. All of the feasible suggestions will be considered in the development of a related Advisory Circular concerning energy assessments at airports.

Cost of Assessments. Some commenters stated that the rule would only add cost and administrative burden upon sponsors seeking ADAP funds. It was suggested that the burden has become so great for small airport operators that some sponsors are inhibited from seeking funds.

It is true that the rule may add some cost for additional analysis and design. However, these costs should be recoverable over time through the reduced energy costs of operating buildings designed to be energy efficient. Also, FAA has raised the minimum cost level to $200,000, which should lessen the proportion of added costs.

Review Procedures. One commenter stated that Subpart F, (now Subpart G) contained no provisions for review of administrative decisions concerning acceptance of the energy assessment by FAA. Subpart G is subject to the general compliance procedures which apply to all requirements of Part 152. The procedure is described in the new Subpart F.

Public Comments on Proposed Rule for Aircraft Loan Guarantee Program

Numerous comments were filed with respect to the proposed amendment of 14 CFR Part 199. The amendment provided that no loan which violated national policy with respect to energy conservation would be guaranteed; and required each applicant for a loan guarantee to submit an energy conservation plan "formulated by the carrier to whom the loan will be made." The amendment further provided that failure to submit an acceptable energy plan could be grounds for rejection of an application.

Several commenters have taken issue generally with the need for additional energy conservation regulations. One commenter has suggested that existing rules and regulations with respect to energy are more than sufficient, while another commented that new rules should be adopted only after present practices are determined to be insufficient.

FAA acknowledges that any regulation which imposes new requirements necessarily adds an additional burden on a regulated industry. The issue is whether the social benefit to be derived from the regulation, or its administrative necessity, offsets the burdens imposed. In analyzing this issue, the effect of existing Federal and State regulation must certainly be taken into account.

In the case of aircraft purchase loans, FAA recognizes that such loans are essentially commercial in nature, and that air carriers are subject to the discipline of the market place when selecting aircraft for use in their operations. One commenter has suggested that additional regulation of air carriers with respect to energy conservation is unnecessary, because the escalation in price of aviation fuels leads carriers to conserve as a matter of good business judgment. FAA agrees that such economic considerations are a powerful spur to conservation. The amendments to Part 199 proposed on May 7, 1980, were intended to assist rather than impede the operation of these natural market factors.

The bulk of the comments received dealt with the adequacy of specific provisions of the proposed amendment. Three general exceptions were taken to the amendatory language: that the proposed rule was not sufficiently specific to give fair notice of FAA's requirements; that the paperwork burden created by the proposed rule far outweighed any possible benefit from it; and that the proposed rule was potentially, if not actually, inflexible, and should be amended to allow implementation of projects which are not inherently conservative of energy.

Several commenters offered specific provisions which, they felt, ought to be added to the rule to make it more definite. One suggested that the rule should provide minimum standards which must be met, including minimum requirements for fuel efficiency, and suggested the use of "on board RNAV" equipment. The same commenter also suggested that FAA should exempt aircraft engines from pollution standards which "degrade fuel efficiency." Another suggested that FAA should develop a procedure for monitoring a carrier's compliance with its plan.

(a) It is not clear that energy conservation would be significantly enhanced through the specification of minimum standards of fuel efficiency for those air carriers which participate in the FAA loan guarantee program. Due to the high cost of aviation fuel, such carriers are now under a strong incentive to select equipment of high fuel efficiency, and to deploy these aircraft in a fuel efficient manner in day-to-day operations. Additionally, it is not clear that meaningful general standards of efficiency could be developed. Many variables are involved in the fuel efficiency of an aircraft. These include aircraft weight, speed, and altitude of operations. These variables are a function of the type of market being served (i.e., vary with route, distance, cargo or passenger operations, and load factor). In this, the benchmark of "fuel efficiency" becomes a very difficult parameter to quantify. For example, one aircraft may be more efficient (in terms of pounds of fuel burned per nautical mile) than another at high altitude; while their order of efficiency may well be reversed at a lower altitude. Other variables which affect fuel use include seating capacity, cargo carrying space, and anticipated load factors in specific markets. Because load factors may change over time, the carrier must also be free to redeploy its fleet to optimize its efficiency. For these reasons adoption of general, quantified fuel use standards for the loan guarantee program would be premature at best.

(b) While RNAV navigation systems promise potential fuel savings as a result of more direct flight paths, mandatory installation of this equipment in guaranteed aircraft at this time would be premature. RNAV is useful on flights transiting medium and large hubs where present traffic flow patterns have resulted in substantial airway development and some circuitous flight paths to separate traffic. Before RNAV can be considered useful in this environment, FAA needs to establish acceptable RNAV routes that do not infringe on existing airways. While such routes are presently being considered, a sufficient number of routes has not yet been found acceptable to merit mandatory installation of RNAV. Further, flights between small communities have always been accomplished in a direct route without RNAV equipment.

(c) It is not clear at this time whether, and to what extent, aircraft engine pollution standards within FAA's jurisdiction significantly impact energy use. The Environmental Protection Agency (EPA) is responsible under the Clean Air Act for assessing and, if necessary, for establishing aircraft engine emission standards. With regard to aircraft noise pollution, which is within FAA jurisdiction, the FAA recognizes that potential tradeoffs may exist between energy conservation and noise control objectives. This matter was considered in the development of existing standards and will be considered in all new noise standards or changes to existing standards.

(d) Under the proposed amendment to Part 199, FAA did not propose to monitor a carrier's day-to-day compliance with its energy conservation plan, or otherwise to supervise the detailed operation of the carrier. Rather, the intent was to evaluate the feasibility of the plan submitted; to execute the loan guarantee only if the plan met FAA standards; and to exercise general oversight of the carrier as a part of administration of the loan guarantee. No new procedure was deemed necessary for this purpose.

Many commenters have argued that the proposed rule, with its required energy conservation plan, will impose a large, albeit vague, paperwork and reporting requirement on air carriers, but will lead to no significant, documentable energy savings beyond those which result from existing economic incentives.

The amendments to Part 199 were proposed to facilitate air carrier planning for energy conservation in the 1980's. A plan was required in order to focus the attention of a carrier's management on the need for energy conservation, and planning guidelines were added to facilitate consideration of the major planning issues. Appendix B contemplated submission of a detailed plan, but the sole purpose of requiring a plan was educational—i.e., to assist a carrier's management in developing a methodology for achieving energy conservation in its daily operations.

After consideration of all comments, it has become apparent that this purpose may well be achieved without imposition at this time of a formal planning requirement. Due to the escalation in price of aviation fuels, carriers are under strong economic incentive to plan for energy conservation. Executive Order 12044, Improving Government Regulations, dated March 23, 1978, directs agencies to consider alternative approaches to proposed regulations in order to choose the "least burdensome of the acceptable alternatives," and to consider the "direct and indirect effects" of such regulation. Many commenters view the proposed regulation as creating a burdensome reporting requirement, which would not increase energy savings beyond those which would otherwise be achieved. FAA does not intend to add significantly to the documentation now required under the FAA Loan Guarantee program, if effective planning can be achieved without the imposition of a formal reporting requirement. On balance, it appears that the goal of effective energy planning may be achieved without the imposition of a formal reporting requirement, if FAA were to substitute instead a program of assistance to carriers in energy planning. This program will be educational in nature, and will offer to applicant carriers the most current information available for energy planning. For example, FAA is developing a compendium of fuel burn curves based on information provided by aircraft and engine manufacturers that depict the fuel efficiencies of various aircraft at specific speed, altitude, and weight configurations. This information, which will show the most energy efficient set of operating curves by aircraft type, will be updated and expanded to include additional aircraft types as such information becomes available. These data will be made available to loan applicants to assist them in their energy planning and selection of aircraft. Information and guidance of this type will be available to eligible carriers beginning no later than October 1, 1980.

Accordingly, the amendments to Part 199 proposed on May 7, 1980 (45 FR 30398), are withdrawn; and, in lieu thereof, FAA will implement an active test progam of assistance in planning for energy conservation. The question of imposing a formal planning requirement will be reconsidered at a later date, after experience is gained with FAA's educational program. Further information with respect to the FAA program will be available to interested air carriers on an "on call" basis from the Chief of the Energy Division, AEE-200, 202/755-9717.

Federal Highway Administration

(For all FHWA Programs Listed, Contact Bruce Cannon, 202-426-1045; for the UMTA Program Listed, Contact Douglas Kerr, 202-472-5140).

FHWA has specifically identified four existing regulations for amendment: (1) The joint FHWA/UMTA Planning Assistance and Standards—Urban Transportation Planning regulations (23 CFR Part 450, Subpart A and 49 CFR Part 613, Subpart A); (2) FHWA's and Research and Development—Program Approval and Authorization regulations (23 CFR Part 420, Subpart A); (3) FHWA's Preconstruction Procedures Federal-Aid Programs Approval and Authorization regulations (23 CFR Part 630, Subpart A); and (4) the joint FHWA/NHTSA Uniform Standards for State Highway Safety Progams regulations (23 CFR Part 1204). The Proposal regarding the joint FHWA/UMTA Urban Transportation Planning regulations was, and continues to be, handled jointly by the two agencies but is published under the FHWA section of this rule. The joint FHWA/NHTSA Uniform Standard for State Highway Safety Programs was, and continues to be, handled jointly by the two agencies but is published under the NHTSA section of this overall DOT rule.

In addition to the proposed amendments referred to above, FHWA listed a number of further areas in which it is active in administratively promoting energy conservation and also solicited comments on these further actions.

Comments Received

FHWA has reviewed the comments received in response to DOT's May 7 request for public comment and found that over 80 interested groups and individuals commented on the FHWA proposal, the joint FHWA/UMTA proposal and the joint FHWA/NHTSA proposal. Commenters include State departments of transportation and highway agencies, cities, counties, Metropolitan Planning Organizations, transit operators, Federal agencies, individuals, and public interest groups. All comments were given full consideration, including those received after the July 7 closing date for comments. Some of the comments on the proposed amendments and administrative actions identified a number of areas that needed rethinking and revisions to the rules have been made accordingly.

In developing these rules and in keeping with FHWA's policy to reduce redtape, every effort has been made to eliminate any proposed requirements that are not essential to the main objective of conserving petroleum in the

Federal-aid highway program. At the same time, efforts have been made to provide as much flexibility as possible in responding to the requirements established by E.O. 12185 while remaining consistent with the overall objectives of the order.

In an attempt to address the comments in a clear and concise manner, they have been divided into three broad categories: (1) Comments that apply to FHWA's overall proposed rulemaking; (2) comments that apply to the individual amendments to the existing regulations proposed; and (3) comments concerned with the administrative actions FHWA is taking or intends to take in support of the Executive Order.

1. *Overall Rulemaking.*

A. *Need for the Rule.* Comments on the overall rulemaking were mixed. They range from unqualified support total disagreement that any regulatory requirements are necessary. Many commenters supported the concept of actions to conserve petroleum followed by a qualifying "but" or "however" that addressed various parts of the proposed rules. Many commenters believed that the requirements being proposed were already being achieved in their programs and feared a proliferation of paperwork exercises that would severely affect their limited resources and not add to the energy conservation effort. The majority of commenters continued to stress simplicity and flexibility.

FHWA recognizes these concerns and has revised the proposed rules to provide as much flexibility as possible. The final rule builds on existing regulations and, to the extent possible, administrative actions. Agencies that are already achieving the requirements established here should not be significantly affected and those that are currently making progress in that direction should not be adversely affected. Further information on simplicity and flexibility is provided under the administrative actions section of this preamble.

B. *Funding.* A related concern expressed by many commenters was the limited resources and funds available to carry out the requirements of these rules. Since additional funding is not provided for energy analysis and evaluation within the Federal-Aid Highway Program, many believe the priorities would have to be established for transportation agencies to embark on expanded energy activities within existing budgets. This leads to the question of how energy relates to other well-established national, State, and local goals and objectives. The Question of funding was addressed earlier, under General Discussion of Comments. We would, however, add that transportation energy planning and analysis activities and energy-related highway projects are eligible items for Federal-aid highway funding. In addition, DOT has requested in an additional $15 million in FY 81 appropriations for UMTA-supported energy conservation and contingency planning activities which would be available to those agencies now responsible for urban transportation planning.

C. *Targets.* Many of the comments received addressed the issue of energy conservation targets. Commenters asked what targets were being referred to and by whom they were to be developed. Numerous comments advised against using DOE's voluntary State gasoline consumption targets. These issues are addressed in a previous section, General Discussion of Comments. FHWA has revised the amendments to Parts 420 and 450 proposed in the NPRM in concert with the clarification provided. The sections of this preamble dealing with the specific amendments to Parts 420 and 450 contain additional information on the targets issue.

D. *Authority.* One commenter, in raising the issue of FHWA's basic authority to issue these rules, cautioned that care must be taken to not infringe upon "the sovereign rights of the States to determine which projects shall be federally financed," as assured under section 145 of title 23, United States Code. Section 145 makes clear that the mere availability of Federal funds does not infringe upon the States' rights to select the projects for which they will seek Federal funding. Section 145 does not make available Federal funding for any and all projects for which States may seek Federal funding. It is well established that Federal agencies may condition funding upon compliance with requirements that are reasonably related to the program being administered. These rules establish such requirements. The rules themselves in no way dictate to the States the projects for which Federal funding may be sought.

E. *Roles.* A few commenters asked which of the various State and local transportation agencies would be responsible for implementing energy requirements. In an effort to incorporate energy consideration throughout the highway program, FHWA (FHWA and UMTA with respect to Part 450) energy rules were developed through amendments to existing regulations, with responsibility for compliance vested in those agencies having responsibility for compliance with the regulation being amended. The final rules do not change existing roles. Flexibility for trask assignments that previously existed continues under these rules. In general, it is important that agencies with overlapping responsibilities reach an understanding as to the sharing and coordination of roles and activities. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and projects apply to this program.

F. *Safety.* Several commenters addressed the joint FHWA/NHTSA proposed rule, (23 CFR Part 1204) included under the NHTSA section. These comments are addressed in the NHTSA section below.

G. *Timing.* Many comments were received concerning the timing of the implementation date of the requirements and the effectiveness of requiring energy conservation activities or reviews at specific points. Some commenters were concerned that the authorization stage was too late in the process to require an energy analysis as the project had already passed through the environmental review process, public involvement process, and negotiations with many jurisdictions. They argued that reprioritizing projects on the basis of energy at this point in the process would cause serious political difficulty. Some commenters believed systems planning was too early in the process. Several commenters stated that the FY 1981 implementation time frame was too short since work programs were in the late stages of development.

FHWA believes that the several different stages in the planning and project development and approval process are appropriate for different levels of energy assessment. For example, the no-build alternative and modal choice considerations are best analyzed at the systems planning stage. The consideration of build alternatives on the other hand may best be handled in corridor studies. Finally, the consideration of different design and construction methods are most suited to the project planning stage. Since the projects reaching the authorization stage will have passed through these phases it is reasonable to expect that over time, projects will begin increasingly to reflect energy conservation considerations. The amended regulations add a requirement that FHWA approval of the State's 105 program submission be based on satisfactory progress being made in incorporating energy conservation into the entire planning and project development process. Such decisions

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will not be made on project by project review but rather on the overall impact of the program being considered.

2. *Comments Received on Specific Rules.*

A. *Part 420—Program Management and Coordination.* The NPRM included proposed amendments to 23 CFR Part 420, Subpart A, to incorporate energy conservation planning activities as a required element of Statewide transportation planning programs funded with Highway Planning and Research (HP & R) funds. Specifically, a basic policy statement for consideration of energy conservation in Statewide planning programs was proposed under § 420.105(d) and three areas of required program coverage were proposed under new § 420.111. The proposed areas of program coverage were intended to provide considerable flexibility to the State Transportation (Highway) agencies in structuring a program to meet specific State energy conservation goals within the broader context of the national energy conservation goals reflected by E.O. 12185.

Very few comments were received on the specific activities proposed under § 420.111. Most comments on the proposed amendments to Part 420 focused on three areas: (1) Questions and concerns about energy conservation targets; (2) concerns about funding for the additional planning activities; and (3) requests for simple and flexible procedures.

Earlier sections of this preamble (General Discussion of the Rules, and Overall Rulemaking (FHWA)) address the areas of conservation targets and funding. The reference to energy conservation targets in § 420.111(b) has been eliminated in favor of a single policy statement concerning energy conservation targets in § 420.105(d).

In response to the funding concerns, FHWA expects that energy conservation planning activities under Part 420 can be adequately funded through the existing HP & R program. Although some new planning activities are expected as a result of the energy conservation planning requirements, FHWA believes that some activities covered in the final rules are presently being undertaken to some degree by most State transportation agencies. Therefore, the requirements are not expected to significantly add to existing State planning programs. The level of effort and funding reflected in the State planning program in response to the energy conservation planning requirements will be carefully monitored and evaluated at the national level for consideration in formulating national funding policies and programs.

Changes have been made to the final rule to improve clarity and permit maximum flexibility in responding to the spirit and intent of E.O. 12185. Specific changes are:

(a) Section 420.111(a) has been revised to emphasize that the State planning program activity should support the development of the transportation component of State energy conservation and energy contingency plans and policies rather than merely being consistent with such plans and policies. The language in the final rule reflects the need for an active role by the State transportation agency in the development and the implementation of energy conservation policies, plans, and programs. FHWA recognizes that the combined efforts of DOT, DOE, and state counterparts are necessary to ensure early participation of the State transportation agencies in the development of state energy conservation and energy contingency plans and policies.

(b) Section 420.111(b) has also been revised to clarify FHWA's intent that States examine policy, program, and project options that offer the greatest opportunities for improved energy conservation. This is to ensure that planning information concerning energy conservation is available to assist in addressing specific transportation needs.

(c) Section 420.111(c) in the NPRM has been redesignated as § 420.111(d), in the final rule with minor revisions to improve clarity. A new § 420.111(c) has been added to ensure that State programs include monitoring and surveillance of energy consumption indicators. The data produced will assist the States in analyzing the travel-related impacts of fuel price changes, changes in the availability of fuel, and serve as a basis for projections of future travel and fuel consumption.

(d) Section 420.111(d), "Estimate current and future transportation demands on energy consumption," reflects a key output or "end product" of a continuous monitoring and surveillance program of energy consumption and travel indicators. These estimates can provide a measure of response to energy conservation goals and objectives and permit a comparison of anticipated future demands with longer-term energy conservation goals and estimates of fuel availability.

The planning program under Part 420 should consist of activities that will also provide meaningful input to the environmental assessment and the program of projects submitted by State transportation agencies under 23 U.S.C. 105.

Effective date. October 1, 1980, has been established as the effective date for implementation of the energy conservation planning requirements of Part 420. All Statewide HP & R planning work programs approved after the effective date must include activities responsive to the provisions of § 420.111. States with approved HP & R work programs are encouraged to review exsisting planning activities for consistency with the provision of § 420.111 and, where appropriate, amend existing work programs to incorporate the energy conservation planning requirements at the earliest possible opportunity.

B. *Part 450 Planning Assistance and Standards.* FHWA and UMTA believe that energy conservation in urban transportation planning should be integrated throughout the planning process. The final rules are designed to reflect the emphasis that must be placed on energy conservation and to be consistent with the ability to address energy conservation in the planning process. The enhanced consideration of energy conservation should ensure that decisions made are sensitive to the need for energy conservation. Comments received on this part were primarily concerned with energy conservation targets and the technical activities proposed.

Section 450.116(d) of the existing regulation requires that each urban transportation plan be consistent with the area's overall energy conservation goals and objectives. The NPRM had proposed to amend § 450.116(d) to require that plans also "reflect energy conservation targets." This proposed amendment has been deleted from the final rule. FHWA and UMTA still believe it is important that transportation planners take any established targets into consideration in formulating a transportation plan; however, they recognized that this objective could be more effectively accomplished by including a requirement that an element of the transportation planning process provide for consideration of any established energy conservation goals, objectives, and targets. Section 450.120(a)(6) has been so amended in this final rulemaking.

FHWA and UMTA believe that any relevant targets will be reflected in the plan because of the broader mandate of § 450.116(d) (unamended) that each urban transportation plan be consistent with the area's overall energy conservation goals and objectives. The General Discussion of Comments section should be consulted for a discussion of the link between DOE State gasoline consumption targets and these rules.

Section 450.120(a)(8)—FHWA proposed to amend this section to add technical planning activities that would ensure that pertinent energy-related information is available to transportation decisionmakers. FHWA and UMTA continue to believe that the enhanced consideration of energy conservation should ensure that decisions made are sensitive to energy conservation and have retained the proposed amendments with some minor revisions.

Many State and local transportation agencies commented that they have already undertaken most of these activities. The commenters expressed the view that requiring specific energy-related activities would decrease flexibility and simplicity and further burden already stretched resources. Other commenters pointed out the futility of performing the required analyses based upon rudimentary state-of-the-art. The response to the comments on the need for funding and technical information is included in the general comments section of FHWA's portion of this preamble while a section-by-section response is provided here.

Section 450.120(a)(8)(i)—In the NPRM FHWA and UMTA proposed to amend § 450.120(a)(8)(ii) to require an analysis of vehicle fuel consumption. As part of (a)(8)(ii) such analysis would have required basing estimates of fuel consumption on land development and vehicle ownership. Commenters agreed that it was important to generate estimates of vehicle consumption, but pointed out that it is important not to limit unduly the methods by which to accomplish this task. Accordingly, FHWA and UMTA have decided not to require such analysis to be based upon land development and vehicle ownership, but to impose a general requirement that an analysis of vehicle consumption be conducted in § 450.120(a)(8)(i) of the final rule. The remaining sections in this final rulemaking now reflect the same numbering system as the existing regulations.

Section 450.120(a)(8)(ii)—FHWA and UMTA proposed to amend this section and in this final rule have revised the proposed amendment for clarity. FHWA and UMTA are currently revising Appendix A of Part 450, which provides guidance on the intent and scope of the Transportation System Management (TSM) element. Changes will be published separately in the **Federal Register** and are not part of this rulemaking.

Section 450.120(a)(8)(iii)—The proposed amendment to this section would have required estimating fuel consumption based solely on travel demand without any corresponding estimate of system supply. Several commenters pointed out that this process would not provide useful information unless possible future transportation investments or strategies are also analyzed. FHWA and UMTA agree and have therefore deleted the phrase "as well as an estimate of total vehicle fuel consumption required to satisfy the projected transportation demand" proposed in the NPRM.

Section 450.120(a)(8)(iv)—This section requires that fuel consumption projections be made during the analysis of alternative investments or strategies phase of the planning process. The majority of commenters on this section agreed with this approach. It is important to note that the phrase "or strategies" has been added in this rule to emphasize that transportation alternatives need not be confined to only high capital expenditures. Alternatives are expected to include such strategies as TSM-type improvements. The section remains unchanged from the NPRM.

Section 450.120(a)(8)(v)—This section was proposed to be amended to emphasize the need to investigate the energy impacts of transportation investments or strategies during the plan refinement stage of the planning process. This section remains unchanged from the NPRM.

Section 450.120(a)(8)(vi)—This section was proposed to be amended to emphasize the continuing nature of energy conservation technical activities. FHWA and UMTA anticipate that collection of energy information will be a continuing activity. This section remains unchanged from the NPRM.

Section 450.120(a)(8)(vii)—This section was not proposed to be amended in the NPRM and is not amended here. It is only included in this final rulemaking to complete the list of activities under § 450.120(a)(8).

Accountability. Several commenters were concerned about which agencies will be held accountable for the energy activities required. As indicated in § 450.112, FHWA and UMTA anticipate that these activities will be the responsibility of the Metropolitan Planning Organization (MPO) in cooperation with the State and operators of publicly owned mass transportation services.

Effective Date. In considering the administration of the amendments proposed in the NPRM, FHWA and UMTA determined that existing certification reviews and approvals conducted under § 450.122 would represent the most logical mechanism to ensure compliance with the increased focus on energy in the urban transportation planning regulations. This would be consistent with the concept of an integrated approach to transportation and energy conservation planning and with the overall continuing, cooperative, and comprehensive (3C) planning concept. As part of the normal certification review, FHWA and UMTA would review all aspects of the process and evaluate the attention given to the activities called for by these amendments. FHWA and UMTA continue to believe this is the best approach. Beginning in fiscal year (FY) 1981, the FHWA/UMTA certification of urban transportation planning programs will require an explicit review of energy conservation planning activities.

Several commenters indicated that the effective date of this requirement would preclude any substantial modification to planning activities in FY 1981 to accomplish the activities described in § 450.120(a)(8). FHWA and UMTA encourage local and State agencies to review existing unified planning work programs (UPWP) and, where appropriate, amend existing UPWP's to incorporate energy conservation planning activities at the earliest possible opportunity. The comments on the NPRM indicated that many State and local transportation agencies have already undertaken these activities. Energy conservation activities will be phased in through FY 1982 in all areas. The certification actions taken in FY 1981 will reflect this transition period.

Level of Effort. FHWA and UMTA recognize that different size urbanized areas will require different levels of effort. Larger areas in general will have more complex transportation-related energy concerns and, therefore, will be expected to include specific energy conservation activities such as those listed in § 450.120(a)(8) in their UPWP's. An urbanized area population of 200,000 should be considered the threshold for this greater level of effort. This size is consistent with air quality planning efforts and FHWA and UMTA efforts to simplify the planning process in smaller urbanized areas. The level of effort appropriate for different size urban areas will be addressed in the technical guidance prepared to assist in implementing the requirements established in this rulemaking.

C. *Part 630—Preconstruction Procedures.* In the NPRM, FHWA proposed to include in § 630.106, a statement of policy on energy

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conservation similar to that contained in FHWA's Notice N5520.4, March 21, 1980, (45 FR 26207). The proposed amendment elaborated on that policy by requiring specifically that energy conservation be considered throughout the process by which highway projects are developed.

The comments received on this section of the NPRM were almost unanimously opposed to the issuance of more regulations to implement policy which has been an FHWA program emphasis area for some time and which has been given high priority already. Several commenters objected to the specificity of the proposed rule and recommended that it be issued in the form of guidelines rather than regulations. Several commenters stated that there are sufficient regulations in existence to ensure adequate consideration of energy conservation in project development. Other commenters argued for the flexibility and generality offered by guidelines because energy factors and goals are still in the formulation stage. These comments are further discussed below.

In the NPRM, FHWA proposed to establish a requirement under a new section § 630.110(b), that State highway agencies give consideration to energy-conserving projects in the development of the State's annual program of highway projects. Further, in the program submission, States would be required to discuss the priority given to such projects and to address the consistency of those projects with efforts to achieve energy conservation goals or targets.

Comments on this section focused on the types of projects identified as energy conserving and the specific phrase "in lieu of major reconstruction." This section was, in part, intended to list examples of the types of projects to be considered as energy efficient. However, commenters noted that inclusion of the phrase "in lieu of major reconstruction" implied that all projects were to compete for program approval solely on the basis of energy considerations. This was not FHWA's intent. FHWA recognizes that highway projects are proposed to satisfy a number of objectives. FHWA intends that this section emphasize that energy conservation is now a very important national goal to be balanced against other priority objectives. The phrase "in lieu of major reconstruction" also implies that such energy-conserving projects are the only means of conserving energy in the Federal aid highway program. To eliminate this confusion, FHWA has decided to delete this phrase.

An additional change from the NPRM for clarification purposes was to eliminate the reference to "parking management techniques" under the list of energy conserving projects, and replace that term with "ridesharing activities and facilities, and bicycling and pedestrian facilities." FHWA believes that such a broad term as "techniques" would not adequately define projects eligible for Federal-aid highway funds as part of the highway construction program.

Section 630.112, as published in the NPRM, proposed a new requirement that FHWA Division Administrators review program submissions to assure that there has been an aggressive effort toward energy conservation in program development and that such an effort be reflected in the number and types of energy conserving projects included in the program. It also related such actions to State and national goals or targets. FHWA believes this is a fundamental component of its program to implement E.O. 12185 and this section is included in the final rule.

Finally, in the NPRM, FHWA proposed a new § 630.114 that required the Division Administrator to assure that the projects identified as energy-conserving were implemented at a rate consistent with other type projects identified in the State's program of projects. Further, it required the Division Administrator to assure that all projects (whether an energy-conserving type or other) are designed, planned, and constructed in an energy efficient manner.

Most of the comments on Part 630 focused on § 630.114 and contended that project authorization is an inappropriate point in the project development process for the Division Administrator to assure that each project is being designed, planned, and constructed in an energy efficient manner, because projects at this point are too far developed to incorporate energy concerns. In the NPRM, FHWA proposed under administrative actions to use the PS&E approval (a checkpoint in the project development process where FHWA ensures that requirements relative to planning, environment, and design have been met) to review the extent of energy conservation considerations in project development. Many comments noted that projects developed under certification acceptance procedures are authorized without a PS&E review and approval, and, hence, without sufficient detail to assess the energy conservation aspects of the projects. As a result of the comments received, FHWA has determined that the requirement for review of energy conservation consideration is incorporated in § 630.114 and is not a separate administrative action.

While FHWA realizes that a decision at the project authorization stage is very late in the project development process, the information on which such decisions will be made can be generated much earlier in the process. The new planning requirements discussed previously are designed to make energy conservation an important consideration at the initial systems and project development stages. The Division Administrator will provide periodic review and comment on efforts aimed at energy conservation in the various phases of project development. The results of such reviews will be made available to the States in a timely manner long before projects are submitted for authorization. Reviews at the time of authorization then become a routine formality for those States that have incorporated consideration of energy conservation into the normal project development process. Under this approach, specific detailed documentation is not needed at the time of project authorization and should not adversely affect the certification acceptance program under which many State highway agencies (SHA's) are operating.

FHWA's intention in this final rule is explicitly to establish the Division Administrator's authority to require that energy conserving projects advance at a rate consistent with other projects and to utilize a formal decision/control point to assure that all projects proposed for Federal-aid highway funding are developed with consideration given to energy conservation regardless of whether projects are developed through PS&E stages or via the certification process.

Effective Date: Many of the comments on Part 630 arose from the concern that programs and projects currently under development would be rejected because of the new requirements. Projects being developed should include energy considerations to the extent practicable depending on the stage of their development. The FHWA Division Administrator will have to make some judgments on the extent the project has incorporated energy considerations versus the extent the project could accommodate energy conserving features. Similarly, programs for FY 1981, some of which have been approved, would not be expected to measure up to those developed in the future; however, SHAs are encouraged to implement Part 630 to the extent practicable as soon as possible.

Programs approved for FY 1982 could be expected to reflect the requirements of Part 630 as amended.

3. *Administrative Actions.* In the NPRM, FHWA identified a series of nonregulatory activities that would be taken to support energy-conservation in the Federal-aid highway program. Nearly all of the commenters on this section supported the nonregulatory approach but most commenters requested clarification of the proposed actions and requested more specific information about training and guidance FHWA is developing. In response to these comments, FHWA has decided to reiterate, clarify, and elaborate on the administrative actions it believes to be a vital component to the overall energy-conservation program.

A. *Environmental Impact Statement (EIS).* As noted in the NPRM, one of the primary ways in which FHWA attempts to ensure that full consideration is given to energy conserving alternatives and measures is in the context of the NEPA (National Environmental Policy Act of 1969) process. The need to conserve energy is well recognized in the environmental review process for highway projects. The Council on Environmental Quality (CEQ) has issued regulations implementing NEPA (40 CFR Parts 1500 to 1508) which specifically require the consideration of the direct and indirect energy requirements of various alternatives and mitigation measures to conserve energy (40 CFR 1502.16(e)). FHWA is already subject to these CEQ requirements and is in the final stages of revising its procedures for the preparation of environmental impact statements. This will ensure that energy considerations are incorporated into the existing Federal-aid highway program and receive proper attention during project development.

FHWA will be supplementing the CEQ regulations by the issuance of specific guidance on the consideration of energy and other potential impacts in the EIS process. This guidance will call for consideration of a broad range of alternatives including the alternative of no action, a limited construction alternative designed to maximize use of the present system, and proposed major construction alternatives. The guidance will outline the principal elements to be examined in an energy assessment, such as significant direct and indirect energy impacts resulting from construction, facility operations, and induced changes in land use and travel habits. Also, the guidance will call for a discussion of any energy conservation measures proposed as part of the project. Comments received concerning the technical aspects of the EIS requirements will be considered in developing the needed guidance.

B. *Guidance.* Many commenters were concerned with the technical issues associated with the analysis, assessments, and evaluations called for by the proposed rule changes. Many commenters were uncertain about the use of terms such as net energy analysis, direct and indirect energy consumption, and life-cycle energy analysis. Most commenters expressed concern that the state-of-the-art was not consistent with the requirements imposed, while others stated that they look forward to reviewing technical guidance. Comments were also received that advocated additional energy research as well as comments that identified energy conservation activities. DOT has attempted to provide some guidance in this area as part of its overall preamble. Finally, many commenters requested that thresholds be established for the level of energy analysis required for different types of projects, including exemptions for certain types of projects (*e.g.,* TSM, transit, rural projects, projects not requiring EIS, etc.).

FHWA and UMTA recognize the difficulties indentified in these comments and found them consistent with comments received on the ANPRM. FHWA and UMTA have been developing technical guidance and evaluating the state-of-the-art to assure that requirements in the rule are consistent with the state-of-the-art in energy assessment. On July 7 and 8, 1980, FHWA, with UMTA support, convened an energy panel with representatives of State and local transportation agencies to evaluate preliminary proposals on technical guidance. The meeting was announced in the **Federal Register** (45 FR 44438, July 1, 1980) and the public was invited to attend. The meeting provided constructive information on the current state-of-the-art of energy analysis, which is being used to develop technical guidance for energy assessments. A summary report of that meeting has been prepared and filed in the public docket for this rulemaking (Docket No. 66).

FHWA and UMTA intends to have the technical guidance available within 60 days of publication of these rules. This guidance will be distributed through field offices to State and local agencies.

C. *Enhanced Coordination.* FHWA has been and will continue to work closely with DOE to strengthen channels of communication between transportation and energy staffs. In order for State and local transportation planning agencies successfully to incorporate energy conservation in their planning, they must become more closely involved with energy conservation planning activities being conducted at the State level, usually by the State transportation agency working with the State energy office. Efforts in this area at the FHWA headquarters are further discussed below.

D. *Energy Council.* FHWA has established an agency-wide Energy Council to specifically coordinate energy activities and to foster increased emphasis on energy conservation within the agency. A major effort now underway is an evaluation of organization and training needs to enhance energy conservation in the Federal-aid highway program. A continuing function of the energy Council is the development of Energy Policy and Program recommendations.

E. *Policy Statement and Emphasis Areas.* The FHWA policy statement on energy conservation, FHWA Notice N 5520.4 (March 21, 1980; 45 FR 26207) defines the broad FHWA policy on energy conservation and supports the efforts being undertaken here in response to E.O. 12185. FHWA Notice N 5520.4 states that it is FHWA policy that the planning, design, construction, management, and operation of the Federal-aid highway systems are to be conducted in a manner that conserves fuel, maintains the greatest degree of personal and economic mobility consistent with the availability of fuel, and maintains a state of emergency preparedness in the event of an abrupt fuel curtailment. This policy statement provides overall direction to the FHWA energy conservation and contingency planning efforts and affects areas of the program beyond those specifically identified in this rulemaking.

FHWA designated energy conservation as a program emphasis area in FY 80 (FHWA Order 1000.1E dated November 2, 1979) and it continues to be an emphasis area in FY 81 (FHWA Order 1000.1F, dated August 1, 1980). The FY 81 energy emphasis area statement references E.O. 12185 and identifies specific objectives related to energy conservation.

F. *Promotional Activities.* FHWA noted in the NPRM that it (in conjunction with UMTA for the urban transportation planning process) would give increased attention to promotional activities for a wide range of energy-conserving transportation actions including a variety of transportation system management actions. These TSM actions include ridesharing programs, high-occupancy vehicle (HOV) lanes, public transit, bicycle and pedestrian facilities, fringe parking lots, freeway ramp metering, and traffic signalization improvements, as well as data collection and analysis to measure the effects of the conservation efforts. One commenter suggested that the promotion effort be expanded to consider promoting the DOE Driver Energy Conservation Awareness Training (DECAT) Program. The program is aimed at vehicle fleet drivers (those drivers who work in company motor pools or who do routine business driving for government agencies or private industry). Using techniques learned through driver awareness training, a vehicle fleet driver can achieve fuel economy improvements of from 10 to 20 percent in both city and highway driving. FHWA recognizes that this program has a very high potential for energy conservation. FHWA has met with representatives of DOE responsible for this program and is currently evaluating an appropriate method of supporting DOE's effort.

G. *Value Engineering.* Comments that addressed the FHWA's intention to encourage consideration of energy aspects through value engineering-type approaches, including the use of energy efficient materials such as sulfur-extended asphalt, asphaltic emulsions, and high pressure sodium liminairs, expressed concern that specific approaches would be mandated. Similar comments were received on the proposal to encourage the use of alternate construction methods, materials, and designs (e.g., pavement recycling, solar heating, and photovoltaic power generation) which are more energy efficient than those normally proposed. Here the concern was that specific construction methods or materials would be mandated. FHWA does not intend to mandate specific approaches, methods, or materials to be used, but rather that such alternatives be considered and encouraged where appropriate as part of FHWA's ongoing program of working closely with SHA's throughout project development.

H. *Maintenance.* Comments on the proposal to use maintenance certification as an administrative tool to encourage energy conservation reflect an apparent misunderstanding of FHWA's intentions in this area. Commenters were concerned that FHWA was establishing requirements in an area where there is no Federal financial involvement. FHWA is not establishing any regulatory requirements in this area.

FHWA believes that highway maintenance activities offer opportunities for energy conservation and intends to establish an internal program that will foster more attention to energy considerations in the area of highway maintenance. Such a program will focus on using energy-related information derived from the reviews of current State annual maintenance reports to encourage changes in the project development process to minimize the need for energy-inefficient maintenance requirements. The program will also be used to develop a compendium of energy-conserving maintenance practices for distribution to States as part of the information/technology transfer program.

FHWA intends to use the FHWA Division Administrator's annual maintenance report as a vehicle for establishing this program. While FHWA will conduct a management review of State maintenance practices, including a detailed review of selected maintenance activities and detailed physical inspections of selected Federal-aid projects, it will be up to the States to take advantage of the information generated.

I. *Relocation Assistance.* An additional area in which FHWA is fostering energy conservation, not noted in the NPRM, is relocation assistance. FHWA provides assistance to individuals and businesses that are relocated as a result of construction of a Federal-aid highway project. FHWA's program, developed under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, mandates that decent, safe, and sanitary (DSS) dwellings be made available to displaced persons. While FHWA regulations on relocation assistance do not incorporate explicit energy conservation requirements in the definition of DSS housing, FHWA allows expenditure of funds for energy conservation measures that are required by State or local law.

The current FHWA standards provide maximum flexibility for the application of energy conservation measures without modifying Federal regulations and creating an area where the Uniform Relocation Act is not implemented uniformly. A uniform definition of the term "decent, safe and sanitary" is provided in government-wide guidelines for implementing the Uniform Act at 41 CFR 101.6–102.3. If an energy conservation requirement is part of a State or local code, its use is mandatory, and it is eligible for Federal participation. FHWA has and will continue to encourage State and local governments to incorporate energy conservation requirements in their housing codes.

Urban Mass Transportation Administration

(For All UMTA Programs Listed Contact Douglas Kerr, 202/472–5140).

UMTA is adopting two regulatory changes to further energy conservation by recipients of Federal financial assistance for public transportation capital or operating costs:

1. Changes to existing Joint UMTA/FHWA rules pertaining to the planning process for such projects, which are discussed in the FHWA section of this document; and
2. A rule requiring energy assessments of building construction or reconstruction projects proposed for UMTA assistance, which is described below.

System Planning and Major Transit Project Design

The Joint UMTA/FHWA planning and programming regulations (23 CFR Part 450) prescribe the planning process and programming requirements that are conditions for Federal assistance in urbanized areas under all UMTA and FHWA programs. These planning requirements are being amended to ensure local identification and consideration of energy impacts in transportation system planning and the programming of Federal financial assistance available to local areas. UMTA's response to the various comments received on the NPRM and discussion of the specific changes being adopted are contained in the FHWA portion of this preamble.

As potential major transit project proposals emerge during the systems planning process they become subject to UMTA's requirement to conduct an "alternatives analysis" precedent to UMTA's considering a major investment proposal (*i.e.,* for a new fixed-guideway transit system or major extension to an existing system). This analysis subjects the corridors and alternatives identified in system planning to rigorous assessment of costs and impacts, including both energy and other environmental impacts as required under guidelines and regulations providing for Environmental Impact Assessments and Statements. UMTA's Final Regulation governing the environmental review process will be issued shortly and will reflect new CEQ regulations for environmental impact statements, including required identification and consideration of the direct and indirect energy requirements of various alternatives and mitigation measures to conserve energy. Energy impacts may be subject to further refinement and consideration during preliminary engineering on major investment proposals and will be a significant consideration in final project design and selection of construction methods.

These planning and environmental analysis requirements will ensure that the energy impacts of major transit projects and their alternatives will be identified and considered in local system planning and that this information will be available for consideration in both the local and the Federal project decisionmaking process.

Project Selection-Major Investment Projects

Applicants for Federal assistance for major mass transit projects are advised that their comparative assessment of the energy-saving potential of a proposed project and of each alternative (developed in the alternatives analysis/draft environmental impact statement) is given strong weight in Federal consideration of the merits of the alternatives and in determining the relative priority of the proposed project for funding by UMTA. Particular attention is given to the relative balance of construction energy consumption versus direct energy savings over the life of the project, including energy savings during operations due to diversion from other modes, increased densities, changed travel patterns, and other factors. Recognition is also given to energy consumption from different energy sources (*e.g.*, oil vs. coal).

In its reviews of preliminary engineering and final design specifications UMTA will pay particular attention to factors that would affect energy efficiency of the project, including vertical alignment, vehicle specifications, station design, modal interfaces, and construction methods. UMTA does not believe that it is feasible or appropriate to express these considerations as rules and no public comments were received suggesting this.

Project Selection—Building or Facility Construction

The NPRM stated that UMTA was considering a rule requiring an energy assessment for any UMTA-assisted building, similar to the FAA proposed rule. This statement drew a number of comments—some supporting this as a reasonable requirement and others opposing it as unnecessary because such an assessment is a normal part of good project design and engineering. UMTA agrees that such analysis is a part of good project design and will normally be documented as part of the environmental analysis requirements. However, some UMTA-assisted construction or reconstruction of buildings are exempt from the requirement for completion of an environmental assessment or EIS, and a new regulation is being adopted requiring applicants for such projects to submit an energy assessment of the proposed project with their application for construction funding. This will assure that adequate energy assessments will be made for all UMTA-assisted facilities.

Energy Conservation in Internal Operations of Grantees

Comments received from transit operators and State transportation agencies confirmed UMTA's belief that there is a variety of opportunities for energy conservation in the internal operations of UMTA grantees—in their selection, deployment, operation, and maintenance of public transportation equipment and services—and that expanded mass transit programs are increasingly being planned and implemented as part of explicit strategies to conserve energy and preserve mobility options. UMTA's position, which was strongly supported by public comments, is that financial constraints tend to assure that local decisions involving existing or expanded services are made with due consideration of both cost effectiveness and energy efficiency. UMTA believes that explicit administrative or regulatory action is not necessary at this time to assure that such energy conservation opportunities in internal operations are being met. UMTA grant recipients are expected to implement programs to assure that every aspect of their operations is fuel-efficient, consistent with other objectives. Such programs should include, but not be limited to, such factors as vehicle specifications, selection of vehicle types for various services, intermodal coordination, maintenance standards and practices, weatherization standards, heat and power sources and fuels, cogeneration or other energy recapture techniques, operations scheduling, trade-offs between deadheading and vehicle storage locations, vehicle operating practices, driver training, employee information and incentives for ridesharing, flexitime, and any other factors or actions which could affect the fuel efficiency of transit operations or facilities.

Technical Assistance

Activities are underway to accelerate the development and dissemination of supplementary guidance to assist State and local agencies and the public in complying with the energy assessment requirements discussed in this document. Instructions to UMTA's field staff concerning implementation of the new planning and project requirements and guidance for applicants on methodology for the assessment of energy impacts and on the scope and content of building energy assessments are to be issued at the same time as this Notice. Guidance on the planning process is being developed jointly with FHWA and is described in more detail in the FHWA portion of this preamble. UMTA will participate in on-going research or methodology development to refine or advance the ability to predict and evaluate energy impacts of projects, transportation system plans, or urban development patterns and the relationship of energy impacts to other impacts of local or national interest.

In addition, UMTA is participating in the development of a revised Appendix to the joint planning regulations concerning Transportation System Management (TSM) and a program for more active stimulation of local TSM program planning and implementation action. A joint program of local seminars to increase knowledge of TSM projects and strategies is already underway, and further mechanisms will be developed to provide additional technical assistance for local officials, planning authorities, and transit operating professionals.

The American Public Transit Association submitted a list of recommended local actions to assure energy efficient transit operations. We consider this list an example of the type of information which we would expect to gather and disseminate to assist local areas in assuring the energy efficiency of their internal operations.

National Highway Traffic Safety Administration

(For All NHTSA Programs Listed, Contact John Tartaglino, 202-426-0837)

NHTSA proposed three areas in which energy savings could be achieved: the Innovative Grant Program, 55 mph speed limit enforcement, and the Highway Safety Grant Program. Since the Innovative Grant Program in contingent on appropriations approval and implementation of the 55-mph speed limit is already well under way, NHTSA's short-term energy saving proposals focused on the Highway Safety Grant Program. NHTSA proposed requiring each State to certify in its Highway Safety Plan for that program that energy conservation was considered in development of the Plan. Under the proposal the NHTSA Regional Administrator and the FHWA

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Division Administrator would not approve a plan unless satisfied that due consideration had been given to energy conservation measures.

Comments from several State agencies indicated approval of NHTSA's Highway Safety Grant Program approach. These agencies stated their commitment to energy conservation and noted programs already in operation which combine the objectives of safety and fuel economy. Among these are Colorado's Driver Energy Conservation Awareness Training program and the Safe and Fuel Efficient driving program established by the Maryland State Police.

However, comments from the States suggested that new initiatives by NHTSA are unnecessary in view of the State energy saving programs already in operation. Other State agencies expressed concern that NHTSA's proposal will create a new regulatory burden on the States, which will divert scarce manpower and financial resources away from the pursuit of safety goals, or will interfere with normal law enforcement operations. One commenter stated that energy savings are not attainable in most highway safety programs.

NHTSA believes that the experience of States that have achieved energy savings in their highway safety programs indicates that fuel conservation can be practiced without jeopardizing safety or law enforcement objectives. For those States which have already undertaken energy conservation programs, no significant new burdens would be created by NHTSA's proposal. These States are already considering energy savings in their planning processes and would need only to provide a succinct description of their conservation measures in their Highway Safety Plans.

In the case of States which have yet to consider energy savings measures, NHTSA considers the national interest in fuel conservation to be of sufficient importance that it is not unreasonble to require these States to take some action in this area. Although some State transportation agencies have contended that they lack the technical expertise to deal with energy questions, NHTSA feels that a common sense approach will in most cases be all that is necessary. In those instances where technical support is needed, other State and Federal agencies can be consulted. In order to minimize paperwork work, the proposal has been modified to require discussion of energy conservation measures only in the summary section of the Highway Safety Plan, rather than in individual program module descriptions.

Certain commenters suggested that State energy agencies should be assigned primary responsibility for conservation initiatives in view of their greater expertise and overall planning functions. One commenter recommended NHTSA rely on a general grant stipulation concerning energy conservation, which could be implemented as the State saw fit.

Apart from the fact that many States may not have energy agencies, NHTSA considers agencies assigned specific transportation related functions such as motor vehicle regulation to be in the best position to identify areas where energy savings are possible and to implement programs to achieve these savings. State energy agencies and bodies with overall planning responsibility could function in a coordination role with respect to these programs. Given the overriding national interest in energy conservation, the Federal government must retain a supervisory function to assure the consideration of energy conservation in Federally financed programs.

Among the specific comments regarding NHTSA's proposed regulatory action, two State agencies criticized the plan as being too vague and assigning too much discretion to NHTSA and FHWA regional personnel in the review of State energy saving plans. While NHTSA believes that regional administrators are in the best position to evaluated State programs within their areas of responsibility, the agency agrees that additional guidance is in order. Thus, the language of the amendment has been modified to require NHTSA Regional Administrators and FHWA Division Administrators to find that each State Highway Safety Plan contains a description of specific program areas in which energy conservation has been considered and evaluates the prospects for energy conservation in those areas.

One State law enforcement agency expressed concern that the use of fuel efficient vehicles in local law enforcement would be required under the proposal and could interfere with legitimate law enforcement activities. Another State agency requested examples of fuel saving methods which could be applied to 55-mph speed limit enforcement programs.

The use of fuel efficient vehicles is only one available option for States wishing to conserve fuel in their speed limit enforcement programs. NHTSA does not plan to require that States implement particular energy saving techniques. If a State concludes that use of fuel-efficient vehicles would be inconsistent with the needs of its law enforcement program, there are numerous other options by which savings may be attained. Among these are fuel saving maintenance practices, such as periodic tune-ups and tire pressure checks; and the elimination of unnecessary cruising and idling.

Finally, one commenter noted that the August 1, 1980, deadline for submission of fiscal year 1981 Highway Safety Plans precludes implementation of any new requirements in this year's Highway Safety Plans. NHTSA recognizes that the timing of this amendment makes implementation for fiscal year 1981 impractical. The amendment is, therefore, made effective with regard to State Highway Safety Plans submitted after January 1, 1981. Except as noted above, the amendment to Part 1204 (23 CFR Part 1204) is adopted as proposed.

Federal Railroad Administration

(For All FRA Programs Listed, Contact Marilyn Klein, 202–426–2608.)

FRA has reviewed the public comments received, most of which were favorable. The only change made from the NPRM was to clarify language in 49 CFR 266.15(c)(11); in addition, an unrelated revision of Part 266 is being prepared which will require renumbering of provision. In the revision, it will appear as subparagraph (c)(12); in this final rule, it is being designated (c)(11A).

Comments and FRA Responses

The State of Alabama Highway Department recommended that energy workshops that were offered in 1979 should be continued and expanded. Several commenters suggested that FRA provide technical assistance with respect to energy analyses. FRA, with the cooperation and support of DOE, has scheduled a second annual Energy Management Workshop for the fall of 1980. This workshop will provide a forum for FRA and the rail industry to exchange information and discuss technical assistance. As a result of the first workshop, FRA and an eastern railroad company have initiated a cooperative research project to determine the company's total energy use and the conservation measures it could undertake. In addition, the FRA Office of Research and Development is developing performance-related criteria for rolling stock to enable the industry to incorporate energy-efficient designs into its equipment-purchasing plans. Cooperative Government and industry testing is also underway to conserve energy in operating practices. The Office of Federal Assistance will publish a revised State Rail Planning Manual early in 1981. The manual will include a chapter on energy conservation, which will provide technical assistance to States.

Several commenters suggested that DOT and FRA should increase intermodal planning and analysis. FRA notes that a freight intermodal transfer facility may be eligible for FRA financial assistance, in accordance with the various program regulations (49 CFR Parts 258, 260, and 266, respectively). FRA funded a demonstration project that began in 1978 to develop improvements in trailer-on-flatcar service on the Milwaukee Road between Chicago and St. Paul. Under a loss-sharing arrangement during the startup period, a group of dedicated, fast intermodal trains operate on eight daily schedules. Traffic on these trains has climbed to as much as 1,700 trailers per week, reducing fuel consumption by approximately 50 percent compared with their movement on the highway. This successful service should encourage other efforts in intermodal transfer facilities and services. With regard to passenger service, the FRA Northeast Corridor Improvement Project includes plans to rehabilitate 15 passenger stations between Washington, D.C., and Boston to make them efficient and attractive intermodal passenger transfer facilities.

Several cities and States suggested that alternatives to petroleum-based energy should be further explored through DOT's Research and Development program. In 1979, FRA's Office of Research and Development issued an interim report on its research into alternative fuels for diesel locomotives. The research, jointly sponsored with DOE and the Association of American Railroads, is an attempt to determine whether less expensive distillate fuels, residual fuels or nondiesel fuel such as alcohol or coal-derived products, can be used in place of conventional diesel fuel for locomotives. The next phase will test various alternative fuels in test engines.

DOE suggested that DOT encourage its grant recipients to invite State energy offices to participate in the transportation planning, programming, and design processes. FRA's State Rail Planning Manual stresses coordination of planning with local, State, and Federal agencies. The Wisconsin DOT and North Carolina DOT commented that the only proposed energy requirement for the Local Rail Service Assistance program is that the State Rail Plan describe how the State planning process considers energy conservation. The Wisconsin DOT believes that an energy assessment should be required as part of a project application. FRA believes that the appropriate place for consideration of energy impacts and potential benefits and costs of various alternatives is in the planning process. Determinations made by the State as part of the planning process can subsequently be used to determine which projects to fund. FRA has revised language in the energy-related regulation for the Local Rail Service Assistance program, as noted above.

The Northeast Indiana Coordinating Council stated that freight planning should be incorporated into the transportation planning process at the local level. With respect to rail freight planning, the FRA regulations governing development of State Rail Plans already require that the State permit local and regional governmental bodies to review and comment on appropriate elements in the State Rail Plan. Further, the Secretary has recently directed FHWA and UMTA to revise the joint UMTA-FHWA urban planning regulations to, among other things, give more direction and emphasis to planning for urban goods movement.

Actions Taken Since Publication of the NPRM

FRA has requested Amtrak to describe what action Amtrak has taken or plans to take to conserve petroleum and natural gas and the savings that are expected to result. Controls in operations, as opposed to the energy efficiencies that might normally be expected to result from the acquisition of new vehicles, are of particular interest.

A reference to Executive Order 12185 has been added to FRA's final Procedures for Considering Environmental Impacts (45 FR 40854, June 16, 1980). Environmental assessments for FRA projects are required to consider the use of energy resources resulting from the proposed action and from reasonable alternatives. If an environmental impact statement is required, it must include detailed assessments of energy resources likely to result from each alternative, as well as any potential energy conservation opportunities, especially those alternatives likely to reduce the use of petroleum and natural gas. Mitigation measures, including those intended to conserve energy, are also to be described. Where appropriate, the FRA program office will include appropriate mitigation measures as a condition to financial assistance and as a provision of contracts.

Final Rules for Each Program

In consideration of the foregoing, the Code of Federal Regulations is amended as follows:

A. Title 14—Aeronautics and Space

FEDERAL AVIATION ADMINISTRATION

PART 152—AIRPORT AID PROGRAM

Part 152 is amended by adding a new table of contents for Subpart G, amending the authority citation for Part 152, and adding a new Subpart G, to read as follows:

PART 152—AIRPORT AID PROGRAM

* * * * *

Subpart G—Energy Conservation in Airport Aid Program

Sec.
152.601 Purpose.
152.603 Applicability.
152.605 Definitions.
152.607 Building design requirements.
152.609 Energy conservation practices.

Authority: Secs. 1–27, 84 Stat. 220–233 (49 U.S.C. 1711–1727). Sec. 1.47(g), Regulations of the Office of the Secretary of Transportation; 35 FR 17044. Sec. 403(b), 92 Stat. 3318; E.O. 12185, unless otherwise noted.

* * * * *

Subpart G—Energy Conservation in Airport Aid Program

§ 152.601 Purpose.

This subpart implements Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3318; Pub. L. 95–620) in order to encourage conservation of petroleum and natural gas by recipients of Federal financial assistance.

§ 152.603 Applicability.

This subpart applies to each recipient of Federal financial assistance from the Federal Aviation Administration through the Airport Development Aid Program (ADAP) unless otherwise excluded by definition.

§ 152.605 Definitions.

As used in this subpart—

"Building construction" means construction of any building which receives Federal assistance under the program, which will exceed $200,000 in construction cost.

"Energy Assessment" means an analysis of total energy requirements of a building, which, within the scope of the proposed construction activity, and at a level of detail appropriate to that scope, considers the following:

(a) Overall design of the facility or modification, and alternative designs;

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(b) Materials and techniques used in construction or rehabilitation;

(c) Special or innovative conservation features that may be used;

(d) Fuel requirements for heating, cooling, and operations essential to the function of the structure, projected over the life of the facility and including projected costs of this fuel; and

(e) Kind of energy to be used, including—

(1) Consideration of opportunities for using fuels other than petroleum and natural gas, and

(2) Consideration of using alternative, renewable energy sources.

"Major Building Modification" means modification of any building which receives Federal assistance under the program, which will exceed $200,000 in construction cost.

§ 152.607 Building design requirements.

Each sponsor shall perform an energy assessment for each Federally-assisted building construction or major building modification project proposed at the airport. The building design, construction, and operation shall incorporate, to the extent consistent with good engineering practice, the most cost-effective energy conservation features identified in the energy assessment.

§ 152.609 Energy conservation practices.

Each sponsor shall require fuel and energy conservation practices in the operation and maintenance of the airport and shall encourage airport tenants to use these practices.

B. Title 23—Highways

FEDERAL HIGHWAY ADMINISTRATION

PART 420—PROGRAM MANAGEMENT AND COORDINATION

1. Part 420 is amended by adding a new paragraph (d) to § 420.105 and adding a new § 420.111, to read as follows:

§ 420.105 Policy.

* * * * *

(d) Highway planning activities shall be consistent with State energy conservation goals and objectives and, where established, reflect energy conservation targets.

* * * * *

§ 420.111 Planning program coverage.

In support of the planning of future highway programs and local public transporation systems under 23 U.S.C. 307(c), State planning work programs shall include activities to:

(a) Support the development of the transportation component of State energy conservation and energy contingency plans and policies,

(b) Identify and evaluate policy, program, and project options that offer the greatest opportunities for energy conservation in addressing transportation needs,

(c) Monitor transportation-related energy consumption indicators, and

(d) Estimate current and future transportation demands on energy consumption.

FEDERAL HIGHWAY ADMINISTRATION AND URBAN MASS TRANSPORTATION ADMINISTRATION

PART 450—PLANNING AND ASSISTANCE STANDARDS

2. Part 450 is amended by revising § 450.120(a)(6) and § 450.120(a)(8), to read as follows:

§ 450.120 Urban transportation planning process: Elements.

(a) * * *

(6) Provide for the consideration of energy conservation goals, objectives, and, where established, energy conservation targets.

* * * * *

(8) Include the following technical activities to the degree appropriate for the size of the metropolitan area and the complexity of its transportation problems:

(i) An analysis of existing conditions of travel, transportation facilities, vehicle fuel consumption, and systems management;

(ii) An evaluation of alternative transportation systems management (TSM) improvements and the development of the TSM element of the transportation plan to:

(A) Make more efficient use of existing transportation resources;

(B) Reduce energy consumption for transportation overall; and

(C) Respond to short-term disruptions in the energy supply;

(iii) Projections of urban area economic, demographic, and land use activities consistent with urban development goals, and projections of potential transportation demands based on these levels of activity;

(iv) Analysis of alternative transportation investments or strategies to meet area-wide needs for transportation facilities and to aid in the development of the long-range element of the transportation plan, such analysis to include estimates of the energy consumption of each alternative;

(v) Refinement of the transportation plan through the conduct of corridor, transit technology, and staging studies; and sub-area, feasibility, location, legislative, fiscal, functional classification, institutional, and energy impact studies;

(vi) Monitoring and reporting of urban development, transportation, and energy consumption indicators and a regular program of reappraisal of the transportation plan; and

(vii) Implementation programming which merges the results of plan refinement of the long-range element and the improvements recommended in the transportation systems management element of the transportation plan to produce a transportation improvement program (TIP) as specified in Subpart C of this part.

FEDERAL HIGHWAY ADMINISTRATION

PART 630—PRECONSTRUCTION PROCEDURES

3. Part 630 is amended by—

i. In § 630.106, redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b), to read as follows:

§ 630.106 Policy.

* * * * *

(b) In recognition of the national concern that this country practice rigorous energy conservation, and in further recognition that highway transportation is a major consumer of petroleum-based fuels, the planning, design, construction, management, and operation of the Federal-aid highway system shall be conducted in a manner that conserves fuel, maintains the greatest degree of personal and economic mobility consistent with the availability of fuel, and maintains a state of emergency preparedness in the event of an abrupt fuel curtailment. Energy conservation is a national goal of utmost importance which must be supported by, and incorporated into, the processes for the programming and authorization of Federal-aid projects.

* * * * *

(ii) In § 630.110, redesignating paragraphs (b) through (g) as paragraphs (c) through (h), respectively, and adding a new paragraph (b), to read as follows:

§ 630.110 General requirements.

* * * * *

(b) In preparing the program the SHA shall give consideration to projects identified as energy conserving, such as, but not limited to, public transportation, ridesharing activities and facilities, bicycle and pedestrian facilities, traffic signalization and control, HOV facilities, and resurfacing, restoration, and rehabilitation (3-R) work. The program shall include a discussion of the priority to be given to such projects, consistent with energy conservation aspects of Statewide and urban comprehensive transportation planning, and the contribution toward achieving energy conservation goals or targets.

* * * * *

iii. In § 630.112, redesignating paragraphs (a) through (f) as paragraphs (b) through (g), respectively, and adding a new paragraph (a), to read as follows:

§ 630.112 Approval of programs.

(a) The FHWA Division Administrator will first review the program to assure that it provides adequate consideration of and represents an aggressive effort toward energy conservation in the number and types of projects which offer high potential for conserving energy in accordance with State and national goals or targets.

* * * * *

iv. In § 630.114, redesignating paragraphs (a) through (g) as paragraphs (b) through (h), respectively, and inserting a new paragraph (a), to read as follows:

§ 630.114 Authorization to proceed.

(a) With each authorization, the FHWA Division Administrator shall review the level of program implementation to assure that the energy conservation projects are proceeding at a rate consistent with implementation of other categories of projects. The FHWA Division Administrator shall also assure that energy efficiency is a basic objective in the design and construction of projects.

* * * * *

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION

PART 1204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

4. Supplement B to § 1204.4 of Part 1204 is amended by—

i. In Chapter I, adding a new paragraph at the end of Section 3; substituting ", 92 Stat. 3318 section 403(b), and E.O. 12185 impose" for "imposes" in Section 5; and adding a new paragraph c. to Section 6, all to read as follows:

Chapter I—Introduction

* * * * *

3. *Authority.* * * *

Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3318; Pub. L. 95-620) and Executive Order 12185 direct each Federal agency to take such actions as lie within its authority to maximize the efficient use of energy and the conservation of petroleum and natural gas in programs funded by the agency.

* * * * *

5. *General Requirements.* 23 U.S.C. 402(b)(1), 92 Stat. 3318 section 403(b), and E.O. 12185 impose certain requirements which must be met as a prerequisite to program approval.

* * * * *

6. *Policy.* * * *

c. With reference to the energy conservation requirements of section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 and E.O. 12185, each State receiving funds under 23 U.S.C. 402 shall consider, in the formulation of a Highway Safety Plan, measures by which the efficient use of energy and conservation of energy resources can be maximized in the implementation of the State's highway safety program.

* * * * *

b. In Chapter II, Section 3, paragraph a, adding the words "Energy Conservation Measures Considered;" following "Statewide Program Goals," to read as follows:

Chapter II—Content of HSP

* * * * *

3. *Preparation of the Highway Safety Plan.*

* * * * *

c. *Highway Safety Plan Summary (Part I).*

* * * * *

This part should consist of the Certificate of Compliance (Appendix B), a HSP Cost Summary and an Executive Summary which provides a brief multi-year overview of the State's program status, planned activities and anticipated accomplishments, to include: Accident Trends; Significant Statewide Problems Identified; Program Emphasis and Priorities; Statewide Program Goals; Energy Conservation Measures Considered; Key Legislative Needs and Planned Actions; Planned Administrative Actions.

* * * * *

c. In Chapter III, a new sentence is added at the end of paragraph a(1) in Section 4, to read as follows:

Chapter III—Submission and Approval

* * * * *

4. *Approval of the Highway Safety Plan.*

a. *Program Approval.*

* * * * *

The HSP shall not be approved unless it contains a statement, signed by an authorized State official, certifying that the efficient use of energy and the conservation of energy resources were considered in planning the State's highway safety program and the FHWA Division Administrator and the NHTSA Regional Administrator determine that the HSP describes specific program areas in which energy conservation has been considered and evaluates the prospects for energy conservation in those areas through implementation of the plan.

d. In Appendix B to Supplement B, "23 U.S.C. 402(b)(1), 92 STAT. 3318, AND EXECUTIVE ORDER 12185" is inserted in the title after "23 U.S.C. 402(b)(1)" and a new paragraph (g) is added at the end, to read as follows:

Appendix B—State of ———

Certificate of compliance with 23 U.S.C. 402(b)(1), 92 Stat. 3318, and Executive Order 12185.

I hereby certify that:

* * * * *

(g) The efficient use of energy and the conservation of energy resources have been considered in planning the State's highway safety program.

C. Title 49—Transportation

FEDERAL RAILROAD ADMINISTRATION

PART 258—REGULATIONS GOVERNING SECTION 505 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

1. Part 258 is amended by adding a new subdivision (vii) to § 258.7(a)(4) and by revising paragraphs (b) and (c) of § 258.29, all to read as follows:

§ 258.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information:

* * * * *

(4) Detailed description of the amount and timing or purposes, including—

* * * * *

(vii) A description of the project's effect on national energy consumption (over the life of the project) by the applicant and other parties (as applicable) with particular emphasis on increases and decreases in the national use of petroleum, natural gas, and coal.

* * * * *

§ 258.29 Order of funding.

* * * * *

(b) Where appropriated funds are adequate to finance some but not all projects which are eligible for Federal assistance within any one of the categories described in paragraph (a) of this section, priority for funding will be given first to projects that provide safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur and then to projects which significantly reduce national energy consumption.

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(c) As between two projects within the same category, as described in paragraph (a) of this section, which both either provide or do not provide safety improvements and signals or which significantly reduce national energy consumption, priority for funding will be given to the project which was first proposed in a completed application.

PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

2. In Part 260, a new subdivision (iv), is added to § 260.7(a)(7), to read as follows:

§ 260.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information:

* * * * *

(7) Statement, together with supporting evidence, that the facilities or equipment being acquired, rehabilitated, or improved will be efficiently and economically utilized, including:

* * * * *

(iv) A description of the project's effect on national energy consumption (over the life of the project and in light of the information provided in response to § 260.6) by the applicant and other parties (as applicable) with particular emphasis on increases and decreases in national use of petroleum, natural gas, and coal.

PART 266—ASSISTANCE TO STATES FOR LOCAL RAIL SERVICE UNDER SECTION 5 OF THE DEPARTMENT OF TRANSPORTATION ACT

3. In Part 266, a new subdivision (11A) is added to § 266.15(c) to read as follows:

§ 266.15 Requirements for State Rail Plan.

* * * * *

(c) *Contents of the State Rail Plan.* Each State Rail Plan shall:

* * * * *

(11A) Indicate how the overall planning process in the State addresses the need to improve national energy efficiency, reduce the national use of petroleum and natural gas, and increase the national use of coal.

Urban Mass Transportation Administration

4. Title 49 is further amended by adding a new Part 622 consisting of Subparts A and B—Reserved and Subpart C to read as follows:

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Subpart A—Reserved

Subpart B—Reserved

Subpart C—Requirements for Energy Assessments

§ 622.301 Buildings.

(a) UMTA assistance for the construction, reconstruction, or modification of buildings for which applications are submitted to UMTA after October 1, 1980, will be approved only after the completion of an energy assessment. An energy assessment shall consist of an analysis of the total energy requirements of a building, within the scope of the proposed construction activity and at a level of detail appropriate to that scope, which considers:

(1) Overall design of the facility or modification, and alternative designs;

(2) Materials and techniques used in construction or rehabilitation;

(3) Special or innovative conservation features that may be used;

(4) Fuel requirements for heating, cooling, and operations essential to the function of the structure, projected over the life of the facility and including projected costs of this fuel; and

(5) Kind of energy to be used, including—

(i) Consideration of opportunities for using fuels other than petroleum and natural gas, and

(ii) Consideration of using alternative, renewable energy sources.

(b) Compliance with the requirements of paragraph (a) of this section shall be documented as part of the Environmental Assessment or Environmental Impact Statement for projects which are subject to a requirement for one. Projects for which there is no environmental assessment or EIS shall document compliance by submission of appropriate material with the application for UMTA assistance for actual construction.

(c) The cost of undertaking and documenting an energy assessment may be eligible for UMTA participation if the requirements of Federal Management Circular 74-4 (A-87) are met.

(d) This requirement shall not apply to projects for which the final project application or environmental assessment have been submitted to UMTA prior to October 1, 1980.

(Sec. 403(b), Pub. L. 95-620; E.O. 12185)

Issued in Washington, D.C., on August 21, 1980.

William J. Beckham, Jr.,
Acting Secretary of Transportation.

[FR Doc. 80-26510 Filed 8-28-80; 8:45 am]

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federal register

Friday
August 29, 1980

Part IX

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Projects; Fair Market Rents for New Construction and Substantial Rehabilitation for All Market Areas

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-80-838]

Section 8 Projects; Fair Market Rents for New Construction and Substantial Rehabilitation for all Market Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: This Rule amends the section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for all market areas, in compliance with the requirements of section 8(c)(1) of the U.S. Housing Act of 1937. Revised section 8 Fair Market Rents are published annually in the **Federal Register.** HUD published the last Annual Revision of the Fair Market Rents applicable to New Construction and Substantial Rehabilitation on January 11, 1980, retroactive to October 1, 1979.

The amended Fair Market Rents reflect the changes which have occurred in the general levels of market rents for recently completed or newly constructed dwelling units of modest design within each market area since their Annual or Special (Interim) Revision.

COMMENT DUE DATE: Comments are due on or before September 29, 1980.

EFFECTIVE DATE: October 1, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451–7th Street SW., Washington, D.C. 20410, (202) 755-7603. This is not a toll-free number. Each person submitting a comment should include his/her name and address and refer to the document by the docket number indicated by the heading and date of publication, and give reasons for any recommentation. Copies of all written comments will be available for examination by interested persons in the Office of the Rules Docket Clerk. In order to expedite consideration of comments, a copy of your comment should be sent to the Field Office having jurisdiction for the market area involved.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451–7th Street SW., Washington, D.C. 20410, (202) 755-5743. This is not a toll-free number.

The last Annual Revision of all Fair Market Rents was published at 45 FR 2534 on January 11, 1980, effective October 1, 1979.

Fair Market Rents are based primarily on the level of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. They are estimates of the rentals that prospective tenants who are not receiving federal rental subsidies would be willing to pay for recently completed or newly constructed dwelling units of modest design.

The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing. The published Fair Market Rents will reflect a trended rent in order to allow for the period of construction as stated in the publication. If the scheduled construction time for a project is less, an appropriate reduction will be made in detemining the approvable contract rent.

This Interim Rule includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structural categories (detached, semi-detached/row, walkup, elevator 2–4 story, and elevator 5+ story). Construction of elevator projects for families with children is legally prohibited unless there is no practical alternative. Fair Market Rents for family units in elevator structures in these schedules have been determined necessary for the affected market areas.

Proposals involving combinations of structural types and unit sizes for which Fair Market Rents have not been published may not be approved until publication of the applicable Fair Market Rents for comment and effect takes place.

Interested parties may submit information with adequate documentation on Fair Market Rents at any time. This data will be considered in initiating interim revisions to Fair Market Rent Schedules. In order to expedite consideration of comments, please send a copy of your comment to the HUD Field Office having jurisdiction for the market area involved.

In previous years, publication of the Fair Market Rents as a Final Rule, pursuant to the rule making process, resulted in the final rent schedules being published 90 to 120 days after the effective date of the rents. The delayed publication of the Final Rule adversely affected the interests of program participants and had a significant negative effect on the production of housing pursuant to the section 8 Housing Assistance Payment Program. Accordingly, it has been determined that such action did not favorably serve the public interest.

This year, in order to rectify the difficulties experienced in previous years attributable to the delayed publication of the Fair Market Rent Schedules as a Final Rule, HUD proposes to publish the revised Fair Market Rent Schedules as an Interim Rule and provide for a 30 day comment period. Unless, after considering comments received, the Secretary publishes notification to the contrary to justify changing the published rent schedules, these Fair Market Rent schedules will, without further publication, become a Final Rule having an effective date of October 1, 1980.

HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the address set forth above.

This Rule is not listed in the Department's semiannual agenda of significant rules published pursuant to Executive Order 12044.

Accordingly, Schedule A of Part 888 is proposed to be amended as set forth below.

Authority: Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., July 17, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

These Fair Market Rents have been trended ahead to October 1, 1982, to update the current Fair Market Rent Schedules which these revised rent schedules will replace.

Note.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05 rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units, and (3) single room occupancy dwelling units are those for zero bedroom units of the same type.

BILLING CODE 4210-01-M

AREA OFFICE HARTFORD, CONN. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HARTFORD/* NEW HAVEN	DETACHED			570	635	684
	SEMI-DETACHED/ROW		466	541	615	664
	WALKUP	386	448	510	597	640
	ELEVATOR-2-4 Sty	397	461	535		
	5 + Sty	411	504	596		
BRIDGEPORT/* DANBURY	DETACHED			622	696	748
	SEMI-DETACHED/ROW		513	594	671	722
	WALKUP	435	504	590	658	709
	ELEVATOR-2-4 Sty	445	553	641		
	5 + Sty	461	566	653		
NEW MILFORD	DETACHED			560	621	670
	SEMI-DETACHED/ROW		446	531	590	638
	WALKUP	382	441	525	583	631
	ELEVATOR-2-4 Sty	400	458	547		
	5 + Sty	413	476	560		
NORWICH/* NEW LONDON	DETACHED			544	608	655
	SEMI-DETACHED/ROW		446	517	577	623
	WALKUP	374	436	509	572	618
	ELEVATOR-2-4 Sty	390	451	529		
	5 + Sty	404	468	544		
RIDGEFIELD/* STAMFORD	DETACHED			676	749	799
	SEMI-DETACHED/ROW		571	638	712	761
	WALKUP	467	541	633	705	761
	ELEVATOR-2-4 Sty	489	564	654		
	5 + Sty	503	575	666		
WINDHAM	DETACHED			522	591	639
	SEMI-DETACHED/ROW		422	498	561	606
	WALKUP	366	417	489	555	601
	ELEVATOR-2-4 Sty	366	429	504		
	5 + Sty	381	448	522		

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE MANCHESTER, N.H. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MAINE (STATEWIDE)	DETACHED		463	522	596	691
	SEMI-DETACHED/ROW	377	428	489	561	650
	WALKUP	339	398	466	528	595
	ELEVATOR-2-4 Sty	365	438	550		
	5 + Sty	406	487	611		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MANCHESTER, N.H. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW HAMPSHIRE (STATEWIDE)	DETACHED		461	516	595	691
	SEMI-DETACHED/ROW	393	438	492	563	653
	WALKUP	346	389	446	508	577
	ELEVATOR-2-4 Sty	365	411	510		
	5 + Sty	406	457	566		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MANCHESTER, N.H. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
VERMONT (STATEWIDE)	DETACHED		516	561	638	735
	SEMI-DETACHED/ROW	440	494	534	605	691
	WALKUP	397	453	498	561	623
	ELEVATOR-2-4 Sty	406	463	549		
	5 + Sty	451	515	610		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BOSTON, MASSACHUSETTS REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOSTON	DETACHED					
	SEMI-DETACHED/ROW		536	629	742	821
	WALKUP	462	522	626	690	782
	ELEVATOR-2-4 Sty	480	582	672	943	1035
	5 + Sty	480	582	672	943	1035
FALL RIVER	DETACHED					
	SEMI-DETACHED/ROW		473	598	724	733
	WALKUP	456	457	576	646	677
	ELEVATOR-2-4 Sty	456	473	576		
	5 + Sty	458	498	602		
WORCHESTER	DETACHED					
	SEMI-DETACHED/ROW		476	584	681	781
	WALKUP	434	453	578	642	738
	ELEVATOR-2-4 Sty	434	498	596		
	5 + Sty	455	524	627		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE PROVIDENCE, R.I. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PROVIDENCE (STATEWIDE)	DETACHED			576	660	738
	SEMI-DETACHED/ROW		419	493	553	593
	WALKUP	315	407	481	542	582
	ELEVATOR-2-4 Sty	320	436	560		
	5 + Sty	324	436	560		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

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AREA OFFICE NEWARK, N.J. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEWARK	DETACHED			904	1009	1073
	SEMI-DETACHED/ROW	513	570	721	836	909
	WALKUP	451	503	645	748	820
	ELEVATOR-2-4 Sty	520	578	736	857	925
	5 + Sty	584	655	835	977	1054
ATLANTIC CITY	DETACHED			763	863	914
	SEMI-DETACHED/ROW	459	514	583	696	764
	WALKUP	408	457	516	618	683
	ELEVATOR-2-4 Sty	491	546	616	732	798
	5 + Sty	556	624	715	852	927
ASBURY PARK	DETACHED			798	903	967
	SEMI-DETACHED/ROW	461	518	617	730	803
	WALKUP	399	451	539	642	714
	ELEVATOR-2-4 Sty	468	526	630	751	819
	5 + Sty	532	608	729	871	948
CAMDEN/* BURLINGTON GLOUCESTER	DETACHED			793	893	954
	SEMI-DETACHED/ROW	435	490	613	726	794
	WALKUP	384	433	546	648	713
	ELEVATOR-2-4 Sty	467	522	646	762	828
	5 + Sty	532	600	745	882	957
FREEHOLD	DETACHED			831	936	1000
	SEMI-DETACHED/ROW	504	561	652	763	836
	WALKUP	442	494	577	675	747
	ELEVATOR-2-4 Sty	511	569	663	784	852
	5 + Sty	575	646	762	904	981
NORTH BERGEN	DETACHED			898	1003	1067
	SEMI-DETACHED/ROW	561	618	717	830	903
	WALKUP	499	551	639	742	814
	ELEVATOR-2-4 Sty	568	626	730	851	919
	5 + Sty	632	703	829	971	1048

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE NEWARK, N.J. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TRENTON	DETACHED			809	909	970
	SEMI-DETACHED/ROW	502	557	629	742	810
	WALKUP	451	500	562	664	729
	ELEVATOR-2-4 Sty	534	589	662	778	844
	5 + Sty	599	667	761	898	973
VINELAND	DETACHED			696	796	857
	SEMI-DETACHED/ROW	404	459	516	629	697
	WALKUP	353	402	449	551	616
	ELEVATOR-2-4 Sty	436	491	549	665	731
	5 + Sty	501	569	648	785	860
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE NEW YORK, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW YORK CITY	DETACHED					
	SEMI-DETACHED/ROW		621	741	879	1073
	WALKUP	484	582	687	822	994
	ELEVATOR-2-4 Sty	521	664	716	901	1059
	5 + Sty	680	820	918	1164	1331
NASSAU	DETACHED			816	930	1021
	SEMI-DETACHED/ROW		580	745	845	937
	WALKUP	430	558	675	775	860
	ELEVATOR-2-4 Sty	442	615	683		
	5 + Sty	448	683	725		
ORANGE	DETACHED			606	688	749
	SEMI-DETACHED/ROW		461	547	650	710
	WALKUP	323	457	519	608	671
	ELEVATOR-2-4 Sty	479	595	699		
	5 + Sty	519	635	726		
PUTNAM	DETACHED			709	815	886
	SEMI-DETACHED/ROW		496	608	729	796
	WALKUP	373	469	521	652	758
	ELEVATOR-2-4 Sty	523	603	689		
	5 + Sty	560	644	721		
ROCKLAND	DETACHED			744	807	867
	SEMI-DETACHED/ROW		534	664	773	839
	WALKUP	406	502	618	718	794
	ELEVATOR-2-4 Sty	441	532	660		
	5 + Sty	483	575	695		
SUFFOLK	DETACHED			660	800	890
	SEMI-DETACHED/ROW	496	524	625	654	779
	WALKUP	398	462	561	611	675
	ELEVATOR-2-4 Sty	511	608	730		
	5 + Sty	551	614	766		

AREA OFFICE NEW YORK, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
POUGHKEEPSIE	DETACHED			604	705	805
	SEMI-DETACHED/ROW		417	525	604	663
	WALKUP	333	397	523	561	623
	ELEVATOR-2-4 Sty	504	589	709		
	5 + Sty	528	612	732		
WESTCHESTER	DETACHED			742	866	948
	SEMI-DETACHED/ROW		531	621	764	832
	WALKUP	426	496	592	715	785
	ELEVATOR-2-4 Sty	515	596	724	847	
	5 + Sty	556	660	767		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BUFFALO, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BUFFALO	DETACHED			498	560	631
	SEMI-DETACHED/ROW		395	435	510	590
	WALKUP	313	347	403	473	503
	ELEVATOR-2-4 Sty	419	447	596		
	5 + Sty	454	480	631		
ELMIRA	DETACHED			480	556	616
	SEMI-DETACHED/ROW		417	453	518	577
	WALKUP	326	338	424	490	556
	ELEVATOR-2-4 Sty	382	428	515		
	5 + Sty	417	463	536		
JAMESTOWN	DETACHED			489	549	616
	SEMI-DETACHED/ROW		409	445	510	583
	WALKUP	335	364	413	474	546
	ELEVATOR-2-4 Sty	390	433	526		
	5 + Sty	425	468	561		
ROCHESTER	DETACHED			478	535	593
	SEMI-DETACHED/ROW		387	440	510	577
	WALKUP	299	329	390	460	518
	ELEVATOR-2-4 Sty	392	432	525		
	5 + Sty	427	467	561		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BUFFALO, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ALBANY/* GLEN FALLS/ MASSENA*	DETACHED			470	568	629
	SEMI-DETACHED/ROW		347	415	504	558
	WALKUP	296	338	396	465	527
	ELEVATOR-2-4 Sty	296	363	460		
	5 + Sty	321	398	495		
BINGHAMPTON* ITHACA/ SCHNECTADY/* WATERTOWN	DETACHED			467	563	622
	SEMI-DETACHED/ROW		344	415	496	551
	WALKUP	294	336	394	462	522
	ELEVATOR-2-4 Sty	294	365	463		
	5 + Sty	326	388	498		
PLATTSBURGH	DETACHED			478	563	621
	SEMI-DETACHED/ROW		403	440	508	566
	WALKUP	318	348	403	470	536
	ELEVATOR-2-4 Sty	381	419	508		
	5 + Sty	416	454	543		
SYRACUSE	DETACHED			484	584	646
	SEMI-DETACHED/ROW		359	425	518	574
	WALKUP	296	349	408	479	536
	ELEVATOR-2-4 Sty	297	372	471		
	5 + Sty	332	405	506		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE CARIBBEAN REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN JUAN	DETACHED			456	510	574
	SEMI-DETACHED/ROW		400	447	502	573
	WALKUP	284	369	414	464	511
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	333	409	448	505	566
PONCE	DETACHED			401	472	512
	SEMI-DETACHED/ROW		377	401	472	512
	WALKUP	302	377	401	472	512
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	350	428	455	528	637
ARECIBO/* MAYAGUEZ	DETACHED			417	489	547
	SEMI-DETACHED/ROW		369	408	481	546
	WALKUP	294	369	392	462	504
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	344	421	502	592	683
ST. CROIX, V.I.	DETACHED			574	637	710
	SEMI-DETACHED/ROW		482	532	599	679
	WALKUP	331	422	472	528	583
	ELEVATOR-2-4 Sty					
	5 + Sty					
ST. THOMAS, V.I.	DETACHED			574	637	710
	SEMI-DETACHED/ROW		482	532	599	679
	WALKUP	338	429	481	538	596
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	353	445	510		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE PHILADELPHIA, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DOVER, DEL.	DETACHED			505	633	684
	SEMI-DETACHED/ROW		354	425	523	571
	WALKUP	312	337	382	456	492
	ELEVATOR-2-4 Sty	318	389	460		
	5 + Sty	337	429	511		
WILMINGTON, DEL.	DETACHED			528	663	693
	SEMI-DETACHED/ROW		385	471	566	620
	WALKUP	320	369	436	506	542
	ELEVATOR-2-4 Sty	352	411	517		
	5 + Sty	374	477	528		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE WASHINGTON, D.C. REGION III-PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WASHINGTON, D.C.	DETACHED			666	726	822
	SEMI-DETACHED/ROW		444	527	591	669
	WALKUP	326	433	488	570	631
	ELEVATOR-2-4 Sty	360	481	569	648	
	5 + Sty	371	491	654	744	
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BALTIMORE, MD REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BALTIMORE*/ WALDORF/ FREDERICK	DETACHED			588	663	779
	SEMI-DETACHED/ROW		409	477	566	729
	WALKUP	333	409	471	560	637
	ELEVATOR-2-4 Sty	344	448	512		
	5 + Sty	381	470	599		
HAGERSTOWN	DETACHED			556	636	747
	SEMI-DETACHED/ROW		393	451	543	699
	WALKUP	320	393	445	537	611
	ELEVATOR-2-4 Sty	331	430	484		
	5 + Sty	366	452	566		
SALISBURY	DETACHED			540	595	698
	SEMI-DETACHED/ROW		377	439	508	653
	WALKUP	291	377	433	502	571
	ELEVATOR-2-4 Sty	301	413	471		
	5 + Sty	333	433	551		
BALTIMORE	MOBILE HOMES			549	577	
HAGERSTOWN	MOBILE HOMES			484	512	
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE PHILADELPHIA, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHILADELPHIA	DETACHED					
	SEMI-DETACHED/ROW		425	550	624	670
	WALKUP	354	415	519	586	628
	ELEVATOR-2-4 Sty	378	438	550		
	5 + Sty	424	460	560		
ALLENTOWN/* BETHLEHEM	DETACHED					
	SEMI-DETACHED/ROW		410	510	596	658
	WALKUP	350	385	480	560	625
	ELEVATOR-2-4 Sty	413	436	511		
	5 + Sty	424	466	572		
BELLEFONTE/* WELLSBORO	DETACHED					
	SEMI-DETACHED/ROW		415	507	585	640
	WALKUP	330	403	472	558	600
	ELEVATOR-2-4 Sty	360	420	520		
	5 + Sty	400	450	555		
HARRISBURG	DETACHED					
	SEMI-DETACHED/ROW		419	460	586	640
	WALKUP	330	385	445	549	598
	ELEVATOR-2-4 Sty	375	435	480		
	5 + Sty	405	470	520		
LANCASTER*/ YORK*	DETACHED					
	SEMI-DETACHED/ROW		389	478	588	610
	WALKUP	322	376	468	563	587
	ELEVATOR-2-4 Sty	390	451	585		
	5 + Sty	410	471	605		
READING/* POTTSTOWN	DETACHED					
	SEMI-DETACHED/ROW		410	490	589	655
	WALKUP	326	394	471	556	610
	ELEVATOR-2-4 Sty	373	440	510		
	5 + Sty	403	482	565		

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE PHILADELPHIA, PA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SCRANTON	DETACHED					
	SEMI-DETACHED/ROW		435	504	573	627
	WALKUP	361	400	480	550	610
	ELEVATOR-2-4 Sty	409	475	535		
	5 + Sty	435	505	570		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE PITTSBURGH, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PITTSBURGH	DETACHED		465	517	604	700
	SEMI-DETACHED/ROW		443	492	575	673
	WALKUP	347	414	478	545	638
	ELEVATOR-2-4 Sty	360	426	486		
	5 + Sty	370	441	517		
ALTOONA/ JOHNSTOWN*	DETACHED		438	491	561	650
	SEMI-DETACHED/ROW		421	463	534	625
	WALKUP	302	373	445	512	584
	ELEVATOR-2-4 Sty	344	402	458		
	5 + Sty	353	416	486		
ERIE	DETACHED		450	501	582	693
	SEMI-DETACHED/ROW		429	477	549	654
	WALKUP	307	370	430	495	564
	ELEVATOR-2-4 Sty	362	423	483		
	5 + Sty	372	438	513		
NEW CASTLE/ SHARON*	DETACHED		438	491	561	650
	SEMI-DETACHED/ROW		417	463	529	625
	WALKUP	299	373	441	507	584
	ELEVATOR-2-4 Sty	348	405	463		
	5 + Sty	357	420	492		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for above market areas.

AREA OFFICE RICHMOND, VA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RICHMOND	DETACHED			434	503	595
	SEMI-DETACHED/ROW		324	374	436	485
	WALKUP	277	320	369	434	484
	ELEVATOR-2-4 Sty	277	329	428		
	5 + Sty	277	364	451		
NEWPORT NEWS*/ HAMPTON*	DETACHED			417	507	555
	SEMI-DETACHED/ROW		313	354	440	490
	WALKUP	248	278	334	401	448
	ELEVATOR-2-4 Sty	278	290	384		
	5 + Sty	293	343	467		
FREDERICKBURG*/ CHARLOTTEVILLE*	DETACHED			449	519	593
	SEMI-DETACHED/ROW		363	392	508	541
	WALKUP	296	328	377	444	478
	ELEVATOR-2-4 Sty	296	348	451		
	5 + Sty	296	385	472		
ROANOKE/* LYNCHBURG/ DANVILLE*	DETACHED			408	480	540
	SEMI-DETACHED/ROW		317	360	438	473
	WALKUP	247	280	342	404	448
	ELEVATOR-2-4 Sty	251	318	416		
	5 + Sty	266	355	440		
HARRISONBURG*/ WARRENTON* WINCHESTER*	DETACHED			387	433	527
	SEMI-DETACHED/ROW		302	355	403	454
	WALKUP	231	274	347	403	452
	ELEVATOR-2-4 Sty	241	305	396		
	5 + Sty	255	339	415		
CHESAPEAKE/* NORFOLK/ PORTSMOUTH/ SUFFOLK/ VIRGINIA BEACH*	DETACHED			432	511	576
	SEMI-DETACHED/ROW		305	362	443	485
	WALKUP	277	305	357	440	484
	ELEVATOR-2-4 Sty	291	334	487		
	5 + Sty	305	334	519		

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE RICHMOND, VA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BRISTOL	DETACHED			425	469	510
	SEMI-DETACHED/ROW		288	357	413	443
	WALKUP	246	278	357	413	443
	ELEVATOR-2-4 Sty	258	318	416		
	5 + Sty	266	355	440		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE CHARLESTON, WEST VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHARLESTON	DETACHED			441	485	540
	SEMI-DETACHED/ROW		408	420	526	589
	WALKUP	291	357	406	416	469
	ELEVATOR-2-4 Sty	353	408	460		
	5 + Sty	358	414	465		
BECKLEY/ * BLUEFIELD	DETACHED			397	436	487
	SEMI-DETACHED/ROW		294	374	408	460
	WALKUP	257	294	332	370	407
	ELEVATOR-2-4 Sty	312	370	415		
	5 + Sty	317	376	420		
FAIRMONT	DETACHED			411	455	509
	SEMI-DETACHED/ROW		342	387	436	488
	WALKUP	262	321	376	413	463
	ELEVATOR-2-4 Sty	349	383	426		
	5 + Sty	355	388	432		
HUNTINGTON	DETACHED			400	481	523
	SEMI-DETACHED/ROW		320	391	455	501
	WALKUP	206	320	391	434	475
	ELEVATOR-2-4 Sty	312	370	443		
	5 + Sty	317	376	448		
MARTINSBURG	DETACHED			411	455	509
	SEMI-DETACHED/ROW		342	387	436	488
	WALKUP	262	319	374	411	463
	ELEVATOR-2-4 Sty	349	383	426		
	5 + Sty	355	388	432		
PARKERSBURG	DETACHED			354	408	448
	SEMI-DETACHED/ROW		294	333	385	424
	WALKUP	240	323	325	365	403
	ELEVATOR-2-4 Sty	304	365	443		
	5 + Sty	310	370	448		

*Market areas are not combined. FMRs are identical for these market areas.

AREA. OFFICE CHARLESTON, WEST VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
POINT PLEASANT	DETACHED			353	406	444
	SEMI-DETACHED/ROW		282	332	383	421
	WALKUP	239	273	324	361	40[illegible]
	ELEVATOR-2-4 Sty	302	361	404		
	5 + Sty	307	367	410		
WHEELING	DETACHED			411	455	509
	SEMI-DETACHED/ROW		342	387	442	488
	WALKUP	272	321	374	411	447
	ELEVATOR-2-4 Sty	308	368	446		
	5 + Sty	313	374	451		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BIRMINGHAM, ALA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BIRMINGHAM*/ TUSCALOOSA	DETACHED			559	677	721
	SEMI-DETACHED/ROW		333	383	449	483
	WALKUP	288	322	377	438	477
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		
DOTHAN	DETACHED			493	578	618
	SEMI-DETACHED/ROW		316	372	488	488
	WALKUP	277	311	355	488	488
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		
FLORENCE	DETACHED			547	648	691
	SEMI-DETACHED/ROW		316	377	444	483
	WALKUP	288	316	372	438	477
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		
HUNTSVILLE	DETACHED			560	671	714
	SEMI-DETACHED/ROW		316	377	444	483
	WALKUP	264	311	372	433	477
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		
MOBILE	DETACHED			559	658	701
	SEMI-DETACHED/ROW		311	377	449	483
	WALKUP	261	311	361	438	477
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		
MONTGOMERY	DETACHED			504	582	635
	SEMI-DETACHED/ROW		335	372	438	483
	WALKUP	283	322	372	433	477
	ELEVATOR-2-4 Sty	344	383	444		
	5 + Sty	361	394	460		

*Market areas are not combined. FMRs are identical for these market areas.

AREA. OFFICE JACKSONVILLE, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSONVILLE	DETACHED			592	641	695
	SEMI-DETACHED/ROW	341	383	462	544	586
	WALKUP	320	361	435	512	564
	ELEVATOR-2-4 Sty	381	423	512		
	5 + Sty	431	473	568		
COCOA	DETACHED			450	503	564
	SEMI-DETACHED/ROW	333	392	444	496	557
	WALKUP	312	356	430	490	540
	ELEVATOR-2-4 Sty	381	430	513		
	5 + Sty	434	483	567		
FT. LAUDERDALE	DETACHED			601	667	743
	SEMI-DETACHED/ROW	488	535	594	652	721
	WALKUP	402	445	551	598	645
	ELEVATOR-2-4 Sty	482	535	630		
	5 + Sty	563	623	723		
FT. MYERS	DETACHED			543	607	680
	SEMI-DETACHED/ROW	447	495	536	594	662
	WALKUP	390	425	477	535	584
	ELEVATOR-2-4 Sty	479	531	625		
	5 + Sty	559	611	689		
WEST PALM BEACH	DETACHED			591	657	733
	SEMI-DETACHED/ROW	483	530	579	637	696
	WALKUP	398	436	521	575	635
	ELEVATOR-2-4 Sty	483	538	634		
	5 + Sty	569	619	714		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE JACKSONVILLE, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MIAMI/* KEY WEST	DETACHED			589	650	716
	SEMI-DETACHED/ROW	467	533	587	641	705
	WALKUP	425	468	544	591	655
	ELEVATOR-2-4 Sty	505	560	657		
	5 + Sty	590	645	740		
DAYTONA BEACH* FT. PIERCE	DETACHED			602	657	719
	SEMI-DETACHED/ROW	382	421	466	530	596
	WALKUP	348	392	446	496	550
	ELEVATOR-2-4 Sty	414	463	547		
	5 + Sty	470	519	603		
FT. WALTON BEACH* PANAMA CITY/ PENSACOLA	DETACHED			487	570	610
	SEMI-DETACHED/ROW	354	395	475	554	586
	WALKUP	323	364	444	522	557
	ELEVATOR-2-4 Sty	369	416	499		
	5 + Sty	414	457	544		
SARASOTA	DETACHED			488	546	615
	SEMI-DETACHED/ROW	388	428	481	533	598
	WALKUP	336	378	447	495	544
	ELEVATOR-2-4 Sty	398	452	540		
	5 + Sty	457	511	599		
TAMPA	DETACHED			602	657	719
	SEMI-DETACHED/ROW	341	390	476	529	591
	WALKUP	319	371	437	492	547
	ELEVATOR-2-4 Sty	392	445	536		
	5 + Sty	450	503	594		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA. OFFICE ATLANTA, GA. REGION IV-ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ATLANTA	DETACHED			463	551	586
	SEMI-DETACHED/ROW		388	440	530	563
	WALKUP	355	376	429	519	552
	ELEVATOR-2-4 Sty	378	399	452		
	5 + Sty	425	449	521		
ALBANY	DETACHED			430	497	530
	SEMI-DETACHED/ROW		323	399	480	525
	WALKUP	280	311	388	468	513
	ELEVATOR-2-4 Sty	305	336	424		
	5 + Sty	349	383	490		
AUGUSTA	DETACHED			361	423	459
	SEMI-DETACHED/ROW		304	341	406	437
	WALKUP	267	292	329	394	426
	ELEVATOR-2-4 Sty	290	315	352		
	5 + Sty	324	350	403		
BRUNSWICK	DETACHED			392	471	513
	SEMI-DETACHED/ROW		317	373	448	488
	WALKUP	275	306	356	437	477
	ELEVATOR-2-4 Sty	299	330	380		
	5 + Sty	353	389	461		
COLUMBUS	DETACHED			344	405	441
	SEMI-DETACHED/ROW		286	331	392	435
	WALKUP	246	268	318	381	418
	ELEVATOR-2-4 Sty	271	292	343		
	5 + Sty	318	344	412		
MACON	DETACHED			376	406	452
	SEMI-DETACHED/ROW		313	355	387	435
	WALKUP	282	299	343	375	418
	ELEVATOR-2-4 Sty	306	323	367		
	5 + Sty	354	375	439		

AREA. OFFICE JACKSONVILLE, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GAINESVILLE	DETACHED			488	557	636
	SEMI-DETACHED/ROW	364	413	466	525	582
	WALKUP	357	398	455	514	576
	ELEVATOR-2-4 Sty	406	456	546		
	5 + Sty	448	505	595		
LAKELAND	DETACHED			434	497	557
	SEMI-DETACHED/ROW	322	366	423	480	546
	WALKUP	309	361	420	475	537
	ELEVATOR-2-4 Sty	382	435	526		
	5 + Sty	440	493	584		
ORLANDO	DETACHED			590	640	705
	SEMI-DETACHED/ROW	331	380	466	520	580
	WALKUP	309	360	423	480	540
	ELEVATOR-2-4 Sty	380	435	525		
	5 + Sty	440	490	580		
ST. PETERSBURG	DETACHED			507	680	741
	SEMI-DETACHED/ROW	339	385	462	557	606
	WALKUP	322	361	435	529	585
	ELEVATOR-2-4 Sty	395	442	533		
	5 + Sty	457	504	609		
TALLAHASSEE	DETACHED			468	535	609
	SEMI-DETACHED/ROW	359	428	462	521	583
	WALKUP	315	364	393	474	523
	ELEVATOR-2-4 Sty	377	419	506		
	5 + Sty	416	444	544		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE ATLANTA, GA. REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ROME	DETACHED			363	409	457
	SEMI-DETACHED/ROW		283	339	396	432
	WALKUP	247	272	328	375	421
	ELEVATOR-2-4 Sty	271	296	352		
	5 + Sty	321	351	425		
SAVANNAH	DETACHED			400	498	534
	SEMI-DETACHED/ROW		320	379	474	510
	WALKUP	283	309	363	463	498
	ELEVATOR-2-4 Sty	306	332	386		
	5 + Sty	361	392	468		
VALDOSTA	DETACHED			331	391	433
	SEMI-DETACHED/ROW		261	312	373	424
	WALKUP	229	248	305	362	405
	ELEVATOR-2-4 Sty	252	273	329		
	5 + Sty	299	323	398		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE LOUISVILLE, KY REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ASHLAND	DETACHED			432	491	551
	SEMI-DETACHED/ROW		358	412	467	526
	WALKUP	320	349	400	454	507
	ELEVATOR-2-4 Sty	347	376	427		
	5 + Sty	418	459	540		
BOWLING GREEN	DETACHED			456	513	571
	SEMI-DETACHED/ROW		386	437	490	547
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	370	428		
	5 + Sty	410	439	536		
CORBIN	DETACHED			480	551	624
	SEMI-DETACHED/ROW		404	455	519	574
	WALKUP	326	354	430	515	567
	ELEVATOR-2-4 Sty	359	381	457		
	5 + Sty	427	466	565		
COVINGTON	DETACHED			434	518	596
	SEMI-DETACHED/ROW		358	412	475	545
	WALKUP	320	349	400	454	507
	ELEVATOR-2-4 Sty	347	376	427		
	5 + Sty	422	464	545		
FRANKFORT	DETACHED			480	551	624
	SEMI-DETACHED/ROW		404	455	519	574
	WALKUP	326	354	430	515	567
	ELEVATOR-2-4 Sty	359	387	457		
	5 + Sty	427	466	565		
HOPKINSVILLE	DETACHED			456	513	571
	SEMI-DETACHED/ROW		387	437	490	547
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	370	428		
	5 + Sty	401	440	524		

AREA OFFICE LOUISVILLE, KY REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOUISVILLE	DETACHED			456	516	579
	SEMI-DETACHED/ROW		386	437	490	547
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	370	428		
	5 + Sty	410	449	536		
LEXINGTON	DETACHED			480	551	624
	SEMI-DETACHED/ROW		404	455	519	574
	WALKUP	326	354	430	515	567
	ELEVATOR-2-4 Sty	359	387	457		
	5 + Sty	427	466	565		
MIDDLESBORO	DETACHED			478	560	636
	SEMI-DETACHED/ROW		373	455	530	600
	WALKUP	323	354	430	515	572
	ELEVATOR-2-4 Sty	356	381	457		
	5 + Sty	410	449	544		
MURRAY	DETACHED			456	514	573
	SEMI-DETACHED/ROW		386	437	491	549
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	370	428		
	5 + Sty	399	438	521		
NEWPORT	DETACHED			445	523	592
	SEMI-DETACHED/ROW		359	416	478	540
	WALKUP	320	349	400	454	507
	ELEVATOR-2-4 Sty	347	376	427		
	5 + Sty	414	454	535		
OWENSBORO	DETACHED			456	513	571
	SEMI-DETACHED/ROW		386	437	490	547
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	360	428		
	5 + Sty	410	439	536		

AREA OFFICE LOUISVILLE, KY REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PADUCAH	DETACHED			456	514	573
	SEMI-DETACHED/ROW		386	437	491	549
	WALKUP	315	343	401	477	529
	ELEVATOR-2-4 Sty	342	370	428		
	5 + Sty	399	438	521		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE JACKSON, MISSISSIPPI REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSON	DETACHED			444	515	580
	SEMI-DETACHED/ROW	337	378	439	508	571
	WALKUP	316	361	428	493	543
	ELEVATOR-2-4 Sty	445	498	599		
	5 + Sty	458	513	617		
CORINTH	DETACHED			340	429	496
	SEMI-DETACHED/ROW	238	278	330	415	480
	WALKUP	226	269	325	409	463
	ELEVATOR-2-4 Sty	354	407	495		
	5 + Sty	366	421	514		
GREENVILLE	DETACHED			413	435	499
	SEMI-DETACHED/ROW	326	336	407	427	490
	WALKUP	305	319	396	412	462
	ELEVATOR-2-4 Sty	431	455	566		
	5 + Sty	444	470	584		
GREENWOOD	DETACHED			406	425	485
	SEMI-DETACHED/ROW	309	347	394	412	485
	WALKUP	293	338	391	405	457
	ELEVATOR-2-4 Sty	417	468	555		
	5 + Sty	430	483	573		
GULFPORT	DETACHED			385	452	516
	SEMI-DETACHED/ROW	318	339	381	445	473
	WALKUP	295	320	363	423	473
	ELEVATOR-2-4 Sty	428	464	543		
	5 + Sty	440	478	561		
HATTIESBURG	DETACHED			389	459	524
	SEMI-DETACHED/ROW	305	328	383	452	515
	WALKUP	284	310	372	437	487
	ELEVATOR-2-4 Sty	413	447	543		
	5 + Sty	426	462	562		

AREA. OFFICE JACKSON, MISSISSIPPI REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SOUTHAVEN	DETACHED			404	468	533
	SEMI-DETACHED/ROW	274	355	398	462	524
	WALKUP	264	350	400	462	516
	ELEVATOR-2-4 Sty	379	475	555		
	5 + Sty	395	489	573		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GREENSBORO	DETACHED			421	493	556
	SEMI-DETACHED/ROW		319	381	445	508
	WALKUP	298	319	381	445	508
	ELEVATOR-2-4 Sty	325	346	408		
	5 + Sty	414	444	538		
ASHEVILLE	DETACHED			377	476	549
	SEMI-DETACHED/ROW		304	350	441	503
	WALKUP	260	304	350	441	503
	ELEVATOR-2-4 Sty	289	333	379		
	5 + Sty	377	423	500		
CHARLOTTE	DETACHED			430	497	557
	SEMI-DETACHED/ROW		337	400	461	534
	WALKUP	312	337	400	461	534
	ELEVATOR-2-4 Sty	341	364	427		
	5 + Sty	416	445	534		
DURHAM	DETACHED			422	537	603
	SEMI-DETACHED/ROW		317	391	499	559
	WALKUP	298	317	391	499	559
	ELEVATOR-2-4 Sty	325	344	418		
	5 + Sty	413	449	545		
FAYETTEVILLE	DETACHED			364	426	488
	SEMI-DETACHED/ROW		288	339	394	453
	WALKUP	252	288	339	394	453
	ELEVATOR-2-4 Sty	277	315	366		
	5 + Sty	347	390	462		
GREENVILLE	DETACHED			391	435	504
	SEMI-DETACHED/ROW		295	356	399	460
	WALKUP	257	295	356	399	460
	ELEVATOR-2-4 Sty	283	322	383		
	5 + Sty	355	412	493		

AREA OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RALEIGH	DETACHED			480	546	613
	SEMI-DETACHED/ROW		380	445	505	565
	WALKUP	332	380	445	505	565
	ELEVATOR-2-4 Sty	359	407	472		
	5 + Sty	450	505	602		
WILMINGTON	DETACHED			381	445	506
	SEMI-DETACHED/ROW		298	359	407	466
	WALKUP	257	298	359	407	466
	ELEVATOR-2-4 Sty	282	315	386		
	5 + Sty	369	410	492		
WINSTON-SALEM	DETACHED			390	473	543
	SEMI-DETACHED/ROW		310	359	445	501
	WALKUP	267	310	359	441	498
	ELEVATOR-2-4 Sty	292	335	386		
	5 + Sty	396	423	507		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE COLUMBIA, S.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COLUMBIA/* ANDERSON GREENVILLE SPARTANBURG	DETACHED	390	430	470	555	610
	SEMI-DETACHED/ROW	375	415	455	540	590
	WALKUP	355	395	435	520	570
	ELEVATOR-2-4 Sty	380	435	510		
	5 + Sty	400	455	530		
AIKEN*/FLORENCE GREENWOOD, NORTH AUGUSTA ORANGEBURG ROCK HILL	DETACHED	380	415	455	550	600
	SEMI-DETACHED/ROW	365	400	440	535	585
	WALKUP	345	380	430	515	565
	ELEVATOR-2-4 Sty	370	420	505		
	5 + Sty	390	440	525		
BEAUFORT*/ CHARLESTON MYRTLE BEACH	DETACHED	400	430	495	565	615
	SEMI-DETACHED/ROW	385	415	480	550	600
	WALKUP	365	405	460	530	580
	ELEVATOR-2-4 Sty	390	445	535		
	5 + Sty	410	465	555		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE NASHVILLE, TENN. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NASHVILLE	DETACHED			400	465	500
	SEMI-DETACHED/ROW		340	385	455	490
	WALKUP	290	330	380	450	485
	ELEVATOR-2-4 Sty	295	345	385		
	5 + Sty	300	355	400		
CLARKSVILLE	DETACHED			366	430	465
	SEMI-DETACHED/ROW		300	350	420	455
	WALKUP	255	290	345	415	450
	ELEVATOR-2-4 Sty	260	305	350		
	5 + Sty	265	315	365		
COLUMBIA	DETACHED			366	419	458
	SEMI-DETACHED/ROW		270	320	412	440
	WALKUP	225	265	310	400	435
	ELEVATOR-2-4 Sty	230	280	317		
	5 + Sty	240	300	345		
JACKSON	DETACHED			343	400	471
	SEMI-DETACHED/ROW		274	322	371	431
	WALKUP	226	260	313	362	412
	ELEVATOR-2-4 Sty	276	328	416		
	5 + Sty	309	364	453		
MEMPHIS	DETACHED			360	411	480
	SEMI-DETACHED/ROW		321	360	404	438
	WALKUP	232	260	303	363	392
	ELEVATOR-2-4 Sty	289	338	409		
	5 + Sty	321	375	454		
UNION CITY	DETACHED			343	400	471
	SEMI-DETACHED/ROW		274	322	371	431
	WALKUP	226	260	313	362	412
	ELEVATOR-2-4 Sty	276	328	416		
	5 + Sty	309	364	453		

AREA OFFICE KNOXVILLE, TENNESSEE REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHATTANOOGA	DETACHED			425	485	510
	SEMI-DETACHED/ROW		385	420	480	505
	WALKUP	355	375	405	465	490
	ELEVATOR-2-4 Sty	380	400	445		
	5 + Sty	405	425	465		
KNOXVILLE/* OAK RIDGE	DETACHED			400	490	520
	SEMI-DETACHED/ROW		340	395	480	510
	WALKUP	310	325	380	460	485
	ELEVATOR-2-4 Sty	330	350	405		
	5 + Sty	355	375	430		
JOHNSON CITY/* KINGSPORT	DETACHED			395	465	480
	SEMI-DETACHED/ROW		315	385	460	475
	WALKUP	285	300	375	450	460
	ELEVATOR-2-4 Sty	310	325	400		
	5 + Sty	330	350	425		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical in above market areas.

AREA OFFICE CHICAGO, ILLINOIS REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHICAGO	DETACHED			740	799	864
	SEMI-DETACHED/ROW		575	644	700	783
	WALKUP	370	434	511	610	645
	ELEVATOR-2-4 Sty	402	463	546	650	686
	5 + Sty	438	534	642	695	735
BELLEVILLE	DETACHED			539	610	679
	SEMI-DETACHED/ROW		423	475	535	618
	WALKUP	339	375	433	488	540
	ELEVATOR-2-4 Sty	346	398	462		
	5 + Sty	397	436	505		
E. ST. LOUIS	DETACHED			466	536	603
	SEMI-DETACHED/ROW		374	443	498	568
	WALKUP	292	337	404	455	505
	ELEVATOR-2-4 Sty	310	360	433		
	5 + Sty	375	424	514		
MOLINE	DETACHED			572	681	753
	SEMI-DETACHED/ROW		464	524	621	688
	WALKUP	374	416	474	567	595
	ELEVATOR-2-4 Sty	393	439	503		
	5 + Sty	418	455	545		
SPRINGFIELD	DETACHED			589	659	729
	SEMI-DETACHED/ROW		431	490	547	619
	WALKUP	330	377	437	494	547
	ELEVATOR-2-4 Sty	348	401	466		
	5 + Sty	389	437	511		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE INDIANAPOLIS, INDIANA REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BLOOMINGTON	DETACHED			482	530	588
	SEMI-DETACHED/ROW		331	398	447	505
	WALKUP	276	315	376	422	468
	ELEVATOR-2-4 Sty	332	340	404		
	5 + Sty	396	444	541		
INDIANAPOLIS	DETACHED			492	583	641
	SEMI-DETACHED/ROW		349	422	487	542
	WALKUP	293	332	391	460	500
	ELEVATOR-2-4 Sty	350	359	449		
	5 + Sty	414	463	555		
EVANSVILLE	DETACHED			478	527	586
	SEMI-DETACHED/ROW		354	420	470	535
	WALKUP	287	325	386	432	476
	ELEVATOR-2-4 Sty	347	355	417		
	5 + Sty	395	444	537		
FORT WAYNE	DETACHED			493	541	601
	SEMI-DETACHED/ROW		344	405	452	506
	WALKUP	302	327	387	427	471
	ELEVATOR-2-4 Sty	344	352	412		
	5 + Sty	410	455	548		
GARY	DETACHED			504	552	608
	SEMI-DETACHED/ROW		382	451	508	577
	WALKUP	320	364	427	481	513
	ELEVATOR-2-4 Sty	381	389	452		
	5 + Sty	406	455	542		
HAMMOND	DETACHED			504	562	610
	SEMI-DETACHED/ROW		385	454	510	580
	WALKUP	321	364	427	476	528
	ELEVATOR-2-4 Sty	379	389	452		
	5 + Sty	435	482	577		

AREA OFFICE INDIANAPOLIS, INDIANA REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAFAYETTE	DETACHED			507	556	615
	SEMI-DETACHED/ROW		344	413	464	522
	WALKUP	288	327	391	436	480
	ELEVATOR-2-4 Sty	344	352	416		
	5 + Sty	419	461	558		
SOUTH BEND	DETACHED			531	582	645
	SEMI-DETACHED/ROW		376	457	511	576
	WALKUP	307	342	417	457	500
	ELEVATOR-2-4 Sty	347	370	462		
	5 + Sty	412	473	582		
TERRE HAUTE	DETACHED			491	544	606
	SEMI-DETACHED/ROW		343	413	464	522
	WALKUP	284	326	384	432	483
	ELEVATOR-2-4 Sty	347	365	410		
	5 + Sty	400	453	541		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE DETROIT, MICHIGAN REGION V- CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DETROIT-ANN ARBOR-YPSILANTI*	DETACHED			567	624	673
	SEMI-DETACHED/ROW		475	514	568	617
	WALKUP	348	399	458	510	570
	ELEVATOR-2-4 Sty	366	437	487		
	5 + Sty	413	468	554		
BAY CITY/ FLINT/ SAGINAW*	DETACHED			528	580	627
	SEMI-DETACHED/ROW		439	449	531	570
	WALKUP	313	371	432	487	545
	ELEVATOR-2-4 Sty	348	415	463		
	5 + Sty	392	445	526		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA. OFFICE GRAND RAPIDS, MICHIGAN REGION V- CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KALAMAZOO/* BATTLE CREEK	DETACHED			497	584	615
	SEMI-DETACHED/ROW		393	456	543	582
	WALKUP	284	339	420	481	500
	ELEVATOR-2-4 Sty	320	379	440		
	5 + Sty	358	414	463		
BENTON HARBOR	DETACHED			509	597	629
	SEMI-DETACHED/ROW		393	463	552	591
	WALKUP	288	330	418	479	500
	ELEVATOR-2-4 Sty	320	379	438		
	5 + Sty	365	421	472		
GRAND RAPIDS	DETACHED			491	575	606
	SEMI-DETACHED/ROW		383	450	542	575
	WALKUP	291	330	400	459	493
	ELEVATOR-2-4 Sty	314	371	420		
	5 + Sty	348	405	450		
JACKSON	DETACHED			512	607	641
	SEMI-DETACHED/ROW		401	472	563	605
	WALKUP	290	348	436	499	518
	ELEVATOR-2-4 Sty	328	382	456		
	5 + Sty	371	427	479		
LANSING	DETACHED			494	586	621
	SEMI-DETACHED/ROW		401	456	539	578
	WALKUP	309	358	438	508	538
	ELEVATOR-2-4 Sty	328	382	448		
	5 + Sty	355	422	459		
MARQUETTE	DETACHED			553	653	682
	SEMI-DETACHED/ROW		425	505	600	641
	WALKUP	286	339	415	487	519
	ELEVATOR-2-4 Sty	341	404	482		
	5 + Sty	405	467	522		

* Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE GRAND RAPIDS, MICHIGAN REGION V- CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MUSKEGON	DETACHED			498	584	615
	SEMI-DETACHED/ROW		393	453	539	578
	WALKUP	287	345	418	500	508
	ELEVATOR-2-4 Sty	320	379	438		
	5 + Sty	355	414	459		
MT. PLEASANT*	DETACHED			530	621	654
	SEMI-DETACHED/ROW		404	483	574	615
	WALKUP	305	367	442	529	538
	ELEVATOR-2-4 Sty	325	387	462		
	5 + Sty	384	442	496		
TRAVERSE CITY	DETACHED			539	634	667
	SEMI-DETACHED/ROW		412	492	586	627
	WALKUP	309	372	449	530	548
	ELEVATOR-2-4 Sty	336	397	469		
	5 + Sty	392	453	508		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

* Newly established Market Area.

AREA OFFICE MINNEAPOLIS, MINN. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MINNEAPOLIS ST. PAUL	DETACHED			584	655	683
	SEMI-DETACHED/ROW		417	484	534	596
	WALKUP	284	330	388	496	514
	ELEVATOR-2-4 Sty	319	373	470	520	
	5 + Sty	361	458	557		
DULUTH	DETACHED			534	641	680
	SEMI-DETACHED/ROW		438	517	588	661
	WALKUP	317	355	450	520	548
	ELEVATOR-2-4 Sty	347	385	484		
	5 + Sty	364	419	529		
MANKATO	DETACHED			522	590	617
	SEMI-DETACHED/ROW		392	457	505	565
	WALKUP	279	311	389	446	472
	ELEVATOR-2-4 Sty	318	363	467		
	5 + Sty	361	447	549		
ROCHESTER	DETACHED			537	606	636
	SEMI-DETACHED/ROW		403	470	520	580
	WALKUP	285	318	391	450	477
	ELEVATOR-2-4 Sty	320	371	452		
	5 + Sty	363	458	534		
ST. CLOUD	DETACHED			513	574	603
	SEMI-DETACHED/ROW		393	457	505	565
	WALKUP	267	299	366	446	469
	ELEVATOR-2-4 Sty	312	362	465		
	5 + Sty	354	445	546		
WORTHINGTON	DETACHED			490	555	582
	SEMI-DETACHED/ROW		381	438	486	546
	WALKUP	261	282	345	430	453
	ELEVATOR-2-4 Sty	319	358	445		
	5 + Sty	362	441	564		

AREA OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CLEVELAND	DETACHED			638	691	745
	SEMI-DETACHED/ROW		447	485	548	589
	WALKUP	368	397	425	494	535
	ELEVATOR-2-4 Sty	383	418	525	598	645
	5 + Sty	404	440	552		
AKRON	DETACHED			624	683	731
	SEMI-DETACHED/ROW		435	482	551	580
	WALKUP	344	371	421	494	532
	ELEVATOR-2-4 Sty	364	396	520		
	5 + Sty	385	418	547		
FINDLAY	DETACHED			578	620	665
	SEMI-DETACHED/ROW		421	467	528	559
	WALKUP	339	363	411	478	511
	ELEVATOR-2-4 Sty	354	382	510		
	5 + Sty	373	402	534		
LORAIN	DETACHED			598	653	699
	SEMI-DETACHED/ROW		424	467	530	562
	WALKUP	337	363	408	477	513
	ELEVATOR-2-4 Sty	353	381	505		
	5 + Sty	372	402	530		
MANSFIELD	DETACHED			562	617	657
	SEMI-DETACHED/ROW		370	451	514	545
	WALKUP	287	317	395	464	499
	ELEVATOR-2-4 Sty	297	325	488		
	5 + Sty	316	346	513		
TOLEDO	DETACHED			612	670	714
	SEMI-DETACHED/ROW		437	480	547	581
	WALKUP	349	375	420	493	530
	ELEVATOR-2-4 Sty	363	394	518		
	5 + Sty	384	416	545		

AREA OFFICE COLUMBUS, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COLUMBUS	DETACHED			580	654	682
	SEMI-DETACHED/ROW		348	417	489	524
	WALKUP	302	348	388	455	494
	ELEVATOR-2-4 Sty	349	389	460		
	5 + Sty	430	493	589		
CINCINNATI	DETACHED			636	700	728
	SEMI-DETACHED/ROW		415	497	565	603
	WALKUP	330	376	438	519	547
	ELEVATOR-2-4 Sty	379	420	493		
	5 + Sty	472	537	660		
DAYTON	DETACHED			623	686	714
	SEMI-DETACHED/ROW		383	465	526	564
	WALKUP	336	382	445	466	504
	ELEVATOR-2-4 Sty	395	426	500		
	5 + Sty	478	538	662		
TROY ATHENS LIMA MARIETTA NEWARK SPRINGFIELD ZANESVILLE	DETACHED			564	627	650
	SEMI-DETACHED/ROW		355	425	486	521
	WALKUP	309	355	403	485	514
	ELEVATOR-2-4 Sty	346	396	457		
	5 + Sty	437	500	604		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
YOUNGSTOWN	DETACHED			559	616	658
	SEMI-DETACHED/ROW		409	437	502	534
	WALKUP	324	350	380	451	487
	ELEVATOR-2-4 Sty	337	367	468		
	5 + Sty	357	388	494		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MILWAUKEE, WISC. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MILWAUKEE	DETACHED			617	694	742
	SEMI-DETACHED/ROW		462	536	639	678
	WALKUP	337	383	465	564	595
	ELEVATOR-2-4 Sty	354	400	482	581	
	5 + Sty	461	518	631		
EAU CLAIRE	DETACHED			482	607	644
	SEMI-DETACHED/ROW		398	455	552	583
	WALKUP	303	344	401	492	
	ELEVATOR-2-4 Sty	320	361	418	509	
	5 + Sty	411	461	548		
GREEN BAY	DETACHED			488	588	628
	SEMI-DETACHED/ROW		364	436	532	572
	WALKUP	278	316	388	478	
	ELEVATOR-2-4 Sty	295	333	405	495	
	5 + Sty	391	425	538		
MADISON	DETACHED			596	674	715
	SEMI-DETACHED/ROW		431	510	614	656
	WALKUP	327	372	452	550	
	ELEVATOR-2-4 Sty	344	389	469	567	
	5 + Sty	438	494	604		
REEDSVILLE	DETACHED			555	630	670
	SEMI-DETACHED/ROW		406	473	566	605
	WALKUP	314	357	424	520	
	ELEVATOR-2-4 Sty	331	374	441	537	
	5 + Sty	425	480	575		
SUPERIOR	DETACHED			573	643	685
	SEMI-DETACHED/ROW		413	481	588	630
	WALKUP	313	360	428	530	
	ELEVATOR-2-4 Sty	330	377	445	547	
	5 + Sty	433	492	592		

AREA OFFICE MILWAUKEE, WIS. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WAUSAU	DETACHED			520	593	625
	SEMI-DETACHED/ROW		383	444	534	574
	WALKUP	293	335	396	487	
	ELEVATOR-2-4 Sty	310	352	413	504	
	5 + Sty	406	454	544		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE LITTLE ROCK, ARK REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LITTLE ROCK	DETACHED			403	479	576
	SEMI-DETACHED/ROW	242	294	361	431	518
	WALKUP	242	289	349	426	481
	ELEVATOR-2-4 Sty	286	341	412		
	5 + Sty	367	416	480		
FAYETTEVILLE	DETACHED			399	473	572
	SEMI-DETACHED/ROW	242	294	360	430	517
	WALKUP	231	290	350	422	482
	ELEVATOR-2-4 Sty	273	342	413		
	5 + Sty	364	413	472		
FORT SMITH	DETACHED			368	456	549
	SEMI-DETACHED/ROW	231	280	348	412	496
	WALKUP	208	270	326	406	446
	ELEVATOR-2-4 Sty	245	318	384		
	5 + Sty	370	423	484		
JONESBORO	DETACHED			366	433	522
	SEMI-DETACHED/ROW	231	279	349	411	495
	WALKUP	227	279	335	399	458
	ELEVATOR-2-4 Sty	268	332	395		
	5 + Sty	359	408	468		
TEXARKANA	DETACHED			390	464	558
	SEMI-DETACHED/ROW	239	292	359	426	514
	WALKUP	222	277	343	416	471
	ELEVATOR-2-4 Sty	262	327	405		
	5 + Sty	363	414	472		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE NEW ORLEANS, LA. REGION VI-DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW ORLEANS	DETACHED			497	589	714
	SEMI-DETACHED/ROW		357	429	524	628
	WALKUP	268	334	404	497	576
	ELEVATOR-2-4 Sty	279	350	432		
	5 + Sty	392	519	568		
BATON ROUGE	DETACHED			465	583	654
	SEMI-DETACHED/ROW		374	455	571	636
	WALKUP	279	331	404	511	569
	ELEVATOR-2-4 Sty	295	351	439		
	5 + Sty	459	532	677		
LAFAYETTE	DETACHED			459	598	673
	SEMI-DETACHED/ROW		358	449	587	648
	WALKUP	260	335	423	556	603
	ELEVATOR-2-4 Sty	276	351	439		
	5 + Sty	419	485	619		
LAKE CHARLES	DETACHED			522	617	710
	SEMI-DETACHED/ROW		410	514	605	670
	WALKUP	334	377	475	570	661
	ELEVATOR-2-4 Sty	350	393	491		
	5 + Sty	456	504	634		
HOUMA	DETACHED			459	551	656
	SEMI-DETACHED/ROW		362	450	540	601
	WALKUP	295	338	422	507	570
	ELEVATOR-2-4 Sty	311	354	438		
	5 + Sty	418	466	588		
SHREVEPORT	DETACHED			402	479	556
	SEMI-DETACHED/ROW		299	383	469	532
	WALKUP	233	273	357	438	482
	ELEVATOR-2-4 Sty	304	328	373		
	5 + Sty	353	401	515		

AREA OFFICE NEW ORLEANS, LA. REGION VI DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ALEXANDRIA	DETACHED			360	426	487
	SEMI-DETACHED/ROW		285	354	417	472
	WALKUP	231	270	342	402	445
	ELEVATOR-2-4 Sty	282	308	358		
	5 + Sty	347	394	493		
MONROE	DETACHED			367	464	528
	SEMI-DETACHED/ROW		284	343	458	513
	WALKUP	234	273	337	449	493
	ELEVATOR-2-4 Sty	300	327	353		
	5 + Sty	352	398	494		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ALBUQUERQUE/* DULCE, N.M.	DETACHED			439	571	627
	SEMI-DETACHED/ROW		303	383	451	526
	WALKUP	239	284	362	420	488
	ELEVATOR-2-4 Sty	250	313	393		
	5 + Sty	350	420	558		
ALAMOGORDO. N.M.	DETACHED			408	530	584
	SEMI-DETACHED/ROW		281	355	419	488
	WALKUP	221	264	337	389	453
	ELEVATOR-2-4 Sty	231	290	365		
	5 + Sty	325	389	518		
ARTESIA/ * CARLSBAD, N.M.	DETACHED			374	485	533
	SEMI-DETACHED/ROW		288	327	384	449
	WALKUP	210	255	308	356	415
	ELEVATOR-2-4 Sty	228	266	335		
	5 + Sty	298	356	474		
CLOVIS, N.M.	DETACHED			349	453	498
	SEMI-DETACHED/ROW		278	316	371	442
	WALKUP	207	251	288	339	388
	ELEVATOR-2-4 Sty	224	260	327		
	5 + Sty	278	334	444		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FARMINGTON, N.M.	DETACHED			472	614	674
	SEMI-DETACHED/ROW		326	411	485	566
	WALKUP	256	306	390	451	525
	ELEVATOR-2-4 Sty	268	337	423		
	5 + Sty	376	451	600		
FT. SUMNER, N.M.	DETACHED			349	453	498
	SEMI-DETACHED/ROW		299	334	399	473
	WALKUP	218	272	316	334	430
	ELEVATOR-2-4 Sty	242	279	352		
	5 + Sty	278	334	444		
HOBBS, N.M.	DETACHED			448	582	639
	SEMI-DETACHED/ROW		305	390	460	536
	WALKUP	243	290	370	427	498
	ELEVATOR-2-4 Sty	254	318	401		
	5 + Sty	356	427	569		
* JEMEZ/ ISLETA, N.M.	DETACHED			439	571	627
	SEMI-DETACHED/ROW		303	383	451	526
	WALKUP	239	284	362	420	488
	ELEVATOR-2-4 Sty	250	313	393		
	5 + Sty	350	420	558		
GALLUP	DETACHED			439	571	627
	SEMI-DETACHED/ROW		308	383	451	526
	WALKUP	239	284	362	420	488
	ELEVATOR-2-4 Sty	250	313	393		
	5 + Sty	350	420	558		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAGUNA. N.M.	DETACHED			439	571	627
	SEMI-DETACHED/ROW		308	383	451	526
	WALKUP	239	284	362	420	488
	ELEVATOR-2-4 Sty	250	313	393		
	5 + Sty	350	420	558		
LAS CRUCES, N.M.	DETACHED			408	530	584
	SEMI-DETACHED/ROW		281	355	419	488
	WALKUP	221	264	337	389	453
	ELEVATOR-2-4 Sty	231	290	365		
	5 + Sty	325	389	518		
LAS VEGAS/ * LOS ALAMOS/ POJOAQUE ~~RATON~~/ PENASCO, N.M.	DETACHED			433	562	617
	SEMI-DETACHED/ROW		299	376	444	518
	WALKUP	234	280	358	413	481
	ELEVATOR-2-4 Sty	245	307	387		
	5 + Sty	344	413	549		
MESCALERO, N.M.	DETACHED			408	530	584
	SEMI-DETACHED/ROW		299	355	419	488
	WALKUP	221	272	337	389	453
	ELEVATOR-2-4 Sty	242	290	365		
	5 + Sty	325	389	518		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RUIDOSO/ * SILVER CITY, N.M.	DETACHED			408	530	584
	SEMI-DETACHED/ROW		299	355	419	488
	WALKUP	221	272	337	389	453
	ELEVATOR-2-4 Sty	242	290	365		
	5 + Sty	325	389	518		
SANTA FE/ * TAOS, N.M.	DETACHED			433	562	617
	SEMI-DETACHED/ROW		299	376	444	518
	WALKUP	234	280	358	413	481
	ELEVATOR-2-4 Sty	245	307	387		
	5 + Sty	344	413	549		
TIERRA AMARILLA/* SOCORRO, N.M	DETACHED			439	571	627
	SEMI-DETACHED/ROW		303	383	451	526
	WALKUP	239	284	362	420	488
	ELEVATOR-2-4 Sty	250	313	393		
	5 + Sty	350	420	558		
TRUTH OR CONSEQUENCES	DETACHED			408	530	584
	SEMI-DETACHED/ROW		281	355	419	488
	WALKUP	221	264	337	389	453
	ELEVATOR-2-4 Sty	231	290	365		
	5 + Sty	325	389	518		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE OKLAHOMA CITY, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
OKLAHOMA CITY	DETACHED			405	494	552
	SEMI-DETACHED/ROW		332	393	482	541
	WALKUP	263	284	339	424	469
	ELEVATOR-2-4 Sty	273	303	359		
	5 + Sty	279	328	388		
ADA	DETACHED			428	505	551
	SEMI-DETACHED/ROW		327	417	493	539
	WALKUP	257	280	361	434	466
	ELEVATOR-2-4 Sty	286	314	384		
	5 + Sty	297	327	422		
ARDMORE	DETACHED			426	502	548
	SEMI-DETACHED/ROW		322	414	490	536
	WALKUP	249	275	361	434	466
	ELEVATOR-2-4 Sty	272	298	381		
	5 + Sty	297	327	422		
BARTLESVILLE	DETACHED			378	443	492
	SEMI-DETACHED/ROW		302	366	431	480
	WALKUP	249	272	316	379	413
	ELEVATOR-2-4 Sty	258	278	324		
	5 + Sty	265	292	366		
ENID	DETACHED			450	495	551
	SEMI-DETACHED/ROW		355	437	483	539
	WALKUP	224	301	377	416	451
	ELEVATOR-2-4 Sty	251	329	416		
	5 + Sty	272	353	438		
GUYMON	DETACHED			391	466	523
	SEMI-DETACHED/ROW		309	379	453	509
	WALKUP	233	259	322	388	428
	ELEVATOR-2-4 Sty	243	273	356		
	5 + Sty	281	311	383		

AREA OFFICE OKLAHOMA CITY, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAWTON	DETACHED			468	492	563
	SEMI-DETACHED/ROW		379	457	481	552
	WALKUP	295	331	404	418	473
	ELEVATOR-2-4 Sty	324	364	443		
	5 + Sty	343	383	465		
MCALESTER	DETACHED			375	435	479
	SEMI-DETACHED/ROW		274	363	423	467
	WALKUP	193	218	303	363	390
	ELEVATOR-2-4 Sty	203	232	318		
	5 + Sty	241	270	359		
MUSKOGEE	DETACHED			341	394	445
	SEMI-DETACHED/ROW		303	329	382	433
	WALKUP	222	247	274	340	367
	ELEVATOR-2-4 Sty	232	261	285		
	5 + Sty	270	299	325		
SHAWNEE	DETACHED			376	413	455
	SEMI-DETACHED/ROW		306	365	401	441
	WALKUP	230	256	309	337	368
	ELEVATOR-2-4 Sty	240	270	342		
	5 + Sty	278	308	370		
STILLWATER	DETACHED			388	447	503
	SEMI-DETACHED/ROW		321	377	436	487
	WALKUP	229	273	321	373	412
	ELEVATOR-2-4 Sty	250	287	352		
	5 + Sty	277	325	382		
TULSA	DETACHED			434	495	561
	SEMI-DETACHED/ROW		340	422	483	549
	WALKUP	265	308	368	426	476
	ELEVATOR-2-4 Sty	272	322	388		
	5 + Sty	283	366	487		

AREA OFFICE OKLAHOMA CITY, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WOODWARD	DETACHED			416	500	544
	SEMI-DETACHED/ROW		323	405	481	533
	WALKUP	250	275	349	416	452
	ELEVATOR-2-4 Sty	261	289	384		
	5 + Sty	298	327	410		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DALLAS	DETACHED			514	668	733
	SEMI-DETACHED/ROW		355	448	528	616
	WALKUP	280	333	425	491	572
	ELEVATOR-2-4 Sty	292	366	461		
	5 + Sty	409	491	653		
SHERMAN	DETACHED			460	598	656
	SEMI-DETACHED/ROW		318	401	473	551
	WALKUP	240	298	378	439	512
	ELEVATOR-2-4 Sty	261	328	414		
	5 + Sty	366	439	584		
TYLER/MARSHALL*	DETACHED			465	604	662
	SEMI-DETACHED/ROW		321	405	478	557
	WALKUP	243	301	382	443	517
	ELEVATOR-2-4 Sty	264	331	418		
	5 + Sty	369	443	590		
WACO	DETACHED			465	604	662
	SEMI-DETACHED/ROW		321	405	478	557
	WALKUP	243	301	378	443	517
	ELEVATOR-2-4 Sty	264	331	418		
	5 + Sty	369	443	590		
FORT WORTH	DETACHED			494	642	705
	SEMI-DETACHED/ROW		341	430	508	592
	WALKUP	269	320	409	472	550
	ELEVATOR-2-4 Sty	280	352	443		
	5 + Sty	393	472	627		
ABILENE	DETACHED			462	600	659
	SEMI-DETACHED/ROW		319	402	475	553
	WALKUP	251	299	385	441	514
	ELEVATOR-2-4 Sty	262	329	414		
	5 + Sty	367	441	583		

*Market areas are not combined. FMRS are identical for these market areas.

AREA. OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN ANGELO/ WICHITA FALLS*	DETACHED			454	591	649
	SEMI-DETACHED/ROW		314	396	467	545
	WALKUP	247	294	376	434	506
	ELEVATOR-2-4 Sty	258	324	408		
	5 + Sty	362	434	577		
AMARILLO	DETACHED			465	604	662
	SEMI-DETACHED/ROW		321	405	477	557
	WALKUP	253	301	359	444	517
	ELEVATOR-2-4 Sty	277	331	417		
	5 + Sty	369	444	590		
EL PASO	DETACHED			443	576	632
	SEMI-DETACHED/ROW		306	387	455	531
	WALKUP	241	287	359	423	493
	ELEVATOR-2-4 Sty	277	315	397		
	5 + Sty	352	423	563		
LUBBOCK	DETACHED			477	620	680
	SEMI-DETACHED/ROW		329	415	490	571
	WALKUP	259	309	369	456	531
	ELEVATOR-2-4 Sty	277	339	428		
	5 + Sty	380	456	606		
MIDLAND/ ODESSA*	DETACHED			494	642	705
	SEMI-DETACHED/ROW		342	431	508	593
	WALKUP	270	317	390	472	550
	ELEVATOR-2-4 Sty	306	352	443		
	5 + Sty	393	472	628		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA. OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HOUSTON	DETACHED			540	667	772
	SEMI-DETACHED/ROW	315	364	474	594	677
	WALKUP	292	349	441	544	603
	ELEVATOR-2-4 Sty	351	503	529		
	5 + Sty	444	518	600		
BEAUMONT	DETACHED			491	606	731
	SEMI-DETACHED/ROW	327	349	413	518	688
	WALKUP	279	322	396	490	596
	ELEVATOR-2-4 Sty	374	386	475		
	5 + Sty	440	467	567		
BRYAN	DETACHED			641	747	850
	SEMI-DETACHED/ROW	373	430	553	642	792
	WALKUP	275	326	423	498	591
	ELEVATOR-2-4 Sty	389	433	558		
	5 + Sty	458	509	658		
ELCAMPO	DETACHED			505	604	727
	SEMI-DETACHED/ROW	290	309	413	503	625
	WALKUP	266	302	390	473	566
	ELEVATOR-2-4 Sty	308	362	469		
	5 + Sty	376	442	546		
LUFKIN	DETACHED			494	580	709
	SEMI-DETACHED/ROW	326	368	450	521	638
	WALKUP	260	304	375	439	516
	ELEVATOR-2-4 Sty	345	375	461		
	5 + Sty	406	441	542		
TEXAS CITY	DETACHED			520	631	745
	SEMI-DETACHED/ROW	311	357	445	567	678
	WALKUP	280	350	445	535	616
	ELEVATOR-2-4 Sty	354	420	534		
	5 + Sty	444	518	600		

AREA OFFICE SAN ANTONIO, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
AUSTIN	DETACHED			553	662	736
	SEMI-DETACHED/ROW	409	468	533	600	704
	WALKUP	386	437	503	566	646
	ELEVATOR-2-4 Sty	564	599	694		
	5 + Sty	652	686	800		
CORPUS CHRISTIE/* VICTORIA	DETACHED			533	661	769
	SEMI-DETACHED/ROW	360	447	509	594	700
	WALKUP	340	422	480	566	642
	ELEVATOR-2-4 Sty	507	578	672		
	5 + Sty	585	663	768		
DEL RIO/* EAGLE PASS/ LAREDO	DETACHED			518	680	694
	SEMI-DETACHED/ROW	347	428	504	608	664
	WALKUP	324	386	454	553	593
	ELEVATOR-2-4 Sty	512	552	658		
	5 + Sty	586	637	758		
HARLINGEN	DETACHED			562	637	743
	SEMI-DETACHED/ROW	351	439	530	621	701
	WALKUP	331	392	461	549	599
	ELEVATOR-2-4 Sty	371	525	659		
	5 + Sty	599	604	761		
SAN ANTONIO	DETACHED			530	641	728
	SEMI-DETACHED/ROW	341	370	482	583	645
	WALKUP	322	352	464	555	597
	ELEVATOR-2-4 Sty	480	496	668		
	5 + Sty	551	570	770		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE OMAHA, NEBRASKA REGION VII-KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DES MOINES, IOWA	DETACHED			525	606	700
	SEMI-DETACHED/ROW		380	455	511	585
	WALKUP	291	335	388	437	483
	ELEVATOR-2-4 Sty	365	418	478		
	5 + Sty	398	458	539		
BETTENDORF/* DAVENPORT, IOWA	DETACHED			534	615	710
	SEMI-DETACHED/ROW		394	463	[illegible]	595
	WALKUP	298	341	398	446	496
	ELEVATOR-2-4 Sty	363	415	475		
	5 + Sty	395	455	535		
CEDAR RAPIDS, IOWA	DETACHED			534	615	711
	SEMI-DETACHED/ROW		377	446	509	586
	WALKUP	291	333	387	444	506
	ELEVATOR-2-4 Sty	365	418	478		
	5 + Sty	398	457	516		
COUNCIL BLUFFS IOWA	DETACHED			480	556	642
	SEMI-DETACHED/ROW		362	433	487	554
	WALKUP	272	313	368	411	455
	ELEVATOR-2-4 Sty	344	390	448		
	5 + Sty	374	429	503		
DUBUQUE, IOWA	DETACHED			534	615	711
	SEMI-DETACHED/ROW		386	463	519	595
	WALKUP	297	340	397	455	505
	ELEVATOR-2-4 Sty	367	421	481		
	5 + Sty	400	461	543		
MASON CITY, IOWA	DETACHED			513	592	686
	SEMI-DETACHED/ROW		386	463	520	595
	WALKUP	275	317	371	427	487
	ELEVATOR-2-4 Sty	365	419	480		
	5 + Sty	400	461	543		

* Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE OMAHA, NEBRASKA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SIOUX CITY IOWA	DETACHED			520	592	685
	SEMI-DETACHED/ROW		384	461	518	593
	WALKUP	276	317	373	428	497
	ELEVATOR-2-4 Sty	354	403	462		
	5 + Sty	400	461	543		
WATERLOO IOWA	DETACHED			535	615	711
	SEMI-DETACHED/ROW		386	463	519	595
	WALKUP	297	340	397	455	505
	ELEVATOR-2-4 Sty	365	418	478		
	5 + Sty	398	458	539		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE KANSAS CITY, MO. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TOPEKA, KAN.	DETACHED			425	534	576
	SEMI-DETACHED/ROW		323	381	472	520
	WALKUP	268	285	353	447	493
	ELEVATOR-2-4 Sty	289	334	421		
	5 + Sty	345	389	508		
GARDEN CITY, KAN.	DETACHED			416	519	561
	SEMI-DETACHED/ROW		307	367	460	507
	WALKUP	247	289	367	418	462
	ELEVATOR-2-4 Sty	282	330	421		
	5 + Sty	336	379	495		
PITTSBURG, KAN.	DETACHED			407	511	552
	SEMI-DETACHED/ROW		302	357	452	498
	WALKUP	242	267	315	396	435
	ELEVATOR-2-4 Sty	277	330	421		
	5 + Sty	330	372	486		
SALINA, KAN.	DETACHED			413	519	561
	SEMI-DETACHED/ROW		307	363	460	507
	WALKUP	261	286	345	441	481
	ELEVATOR-2-4 Sty	282	330	421		
	5 + Sty	336	379	495		
WICHITA, KAN.	DETACHED			455	543	568
	SEMI-DETACHED/ROW		346	405	484	521
	WALKUP	266	321	380	448	490
	ELEVATOR-2-4 Sty	328	332	421		
	5 + Sty	342	385	503		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE KANSAS CITY, MO. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KANSAS CITY	DETACHED			489	610	652
	SEMI-DETACHED/ROW		377	410	543	590
	WALKUP	297	347	392	449	477
	ELEVATOR-2-4 Sty	314	363	449		
	5 + Sty	374	422	551		
JOPLIN	DETACHED			463	547	583
	SEMI-DETACHED/ROW		315	408	484	525
	WALKUP	224	270	350	417	453
	ELEVATOR-2-4 Sty	290	335	414		
	5 + Sty	345	389	508		
ST. JOSEPH	DETACHED			480	585	625
	SEMI-DETACHED/ROW		358	420	516	561
	WALKUP	293	337	395	449	477
	ELEVATOR-2-4 Sty	299	345	427		
	5 + Sty	356	401	524		
SEDALIA	DETACHED			472	590	629
	SEMI-DETACHED/ROW		364	416	524	569
	WALKUP	287	335	378	433	460
	ELEVATOR-2-4 Sty	303	350	433		
	5 + Sty	361	407	532		
SPRINGFIELD	DETACHED			383	477	543
	SEMI-DETACHED/ROW		283	379	458	500
	WALKUP	219	264	328	408	450
	ELEVATOR-2-4 Sty	259	299	370		
	5 + Sty	308	348	454		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE ST. LOUIS, MO. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ST. LOUIS	DETACHED					
	SEMI-DETACHED/ROW		425	503	586	642
	WALKUP	306	385	472	528	583
	ELEVATOR-2-4 Sty	339	418	505		
	5 + Sty	379	491	666		
COLUMBIA	DETACHED					
	SEMI-DETACHED/ROW		320	409	501	562
	WALKUP	249	306	395	483	535
	ELEVATOR-2-4 Sty	282	339	428		
	5 + Sty					
KIRKSVILLE	DETACHED					
	SEMI-DETACHED/ROW		307	392	494	543
	WALKUP	235	294	371	461	508
	ELEVATOR-2-4 Sty	268	327	404		
	5 + Sty					
ROLLA	DETACHED					
	SEMI-DETACHED/ROW		287	366	466	533
	WALKUP	214	271	352	432	470
	ELEVATOR-2-4 Sty	247	304	385		
	5 + Sty					
CAPE GIRARDEAU	DETACHED					
	SEMI-DETACHED/ROW		294	376	481	538
	WALKUP	224	284	358	440	494
	ELEVATOR-2-4 Sty	257	317	391		
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE OMAHA, NEBRASKA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
OMAHA	DETACHED			517	612	666
	SEMI-DETACHED/ROW		350	423	493	522
	WALKUP	271	305	375	443	469
	ELEVATOR-2-4 Sty	314	363	464		
	5 + Sty	366	430	564		
GRAND ISLAND	DETACHED			517	629	686
	SEMI-DETACHED/ROW		351	426	499	528
	WALKUP	278	316	396	473	504
	ELEVATOR-2-4 Sty	298	342	435		
	5 + Sty	355	422	561		
LINCOLN	DETACHED			520	628	683
	SEMI-DETACHED/ROW		359	436	510	540
	WALKUP	277	312	386	457	485
	ELEVATOR-2-4 Sty	314	365	472		
	5 + Sty	359	427	567		
NORFOLK	DETACHED			512	623	679
	SEMI-DETACHED/ROW		348	422	493	522
	WALKUP	275	313	392	467	497
	ELEVATOR-2-4 Sty	295	338	428		
	5 + Sty	349	415	552		
NORTH PLATTE*/ SCOTTSBLUFF	DETACHED			517	629	686
	SEMI-DETACHED/ROW		351	426	499	528
	WALKUP	278	316	396	473	504
	ELEVATOR-2-4 Sty	298	342	435		
	5 + Sty	355	422	561		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DENVER	DETACHED			525	568	620
	SEMI-DETACHED/ROW		392	470	531	560
	WALKUP	294	354	419	515	551
	ELEVATOR-2-4 Sty	294	354	451		
	5 + Sty	303	368	465		
COLO SPRINGS	DETACHED			400	500	575
	SEMI-DETACHED/ROW		335	360	450	525
	WALKUP	285	298	339	413	490
	ELEVATOR-2-4 Sty	290	325	350		
	5 + Sty	300	355	380		
DURANGO	DETACHED			504	576	610
	SEMI-DETACHED/ROW		405	444	529	569
	WALKUP	344	391	422	492	535
	ELEVATOR-2-4 Sty	354	399	433		
	5 + Sty	368	407	441		
GRAND JUNCTION	DETACHED			489	532	567
	SEMI-DETACHED/ROW		378	451	497	542
	WALKUP	304	350	419	478	513
	ELEVATOR-2-4 Sty	320	362	425		
	5 + Sty	332	374	432		
GREELEY	DETACHED			475	540	575
	SEMI-DETACHED/ROW		375	415	515	540
	WALKUP	311	350	368	483	525
	ELEVATOR-2-4 Sty	325	360	410		
	5 + Sty	340	370	425		
PUEBLO	DETACHED			430	515	550
	SEMI-DETACHED/ROW		300	400	480	510
	WALKUP	255	277	365	450	490
	ELEVATOR-2-4 Sty	265	300	375		
	5 + Sty	275	320	400		

AREA OFFICE DENVER, COLORADO REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HELENA, MONTANA	DETACHED			455	506	551
	SEMI-DETACHED/ROW		336	437	497	541
	WALKUP	264	326	424	487	531
	ELEVATOR-2-4 Sty	280	346	437		
	5 + Sty	291	356	450		
BILLINGS, MONT.	DETACHED			447	508	540
	SEMI-DETACHED/ROW		334	437	499	532
	WALKUP	277	324	425	488	523
	ELEVATOR-2-4 Sty	290	342	441		
	5 + Sty	301	354	454		
BOZEMAN, MONT.	DETACHED			441	512	545
	SEMI-DETACHED/ROW		365	432	502	535
	WALKUP	308	355	424	493	527
	ELEVATOR-2-4 Sty	313	367	445		
	5 + Sty	325	380	458		
BUTTE, MONT.	DETACHED			393	463	498
	SEMI-DETACHED/ROW		328	383	455	489
	WALKUP	262	319	375	455	481
	ELEVATOR-2-4 Sty	279	338	395		
	5 + Sty	290	350	406		
GREAT FALLS, MONT.	DETACHED			390	449	482
	SEMI-DETACHED/ROW		308	382	440	475
	WALKUP	249	300	374	432	466
	ELEVATOR-2-4 Sty	268	312	392		
	5 + Sty	280	324	403		
HAVRE*/ MILES CITY MONT.	DETACHED			407	465	504
	SEMI-DETACHED/ROW		304	395	451	494
	WALKUP	256	298	387	442	484
	ELEVATOR-2-4 Sty	279	319	406		
	5 + Sty	287	329	418		

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KALISPELL, MONT.	DETACHED			428	464	504
	SEMI-DETACHED/ROW		328	416	455	494
	WALKUP	271	318	404	455	494
	ELEVATOR-2-4 Sty	293	337	424		
	5 + Sty	305	350	437		
MISSOULA, MONT.	DETACHED			403	475	511
	SEMI-DETACHED/ROW		346	395	467	503
	WALKUP	288	339	378	447	482
	ELEVATOR-2-4 Sty	306	355	435		
	5 + Sty	318	366	444		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FARGO, N.D.	DETACHED			490	590	640
	SEMI-DETACHED/ROW		360	455	545	600
	WALKUP	305	340	420	530	580
	ELEVATOR-2-4 Sty	320	375	475		
	5 + Sty	360	410	530		
BISMARCK, N.D.	DETACHED			520	585	635
	SEMI-DETACHED/ROW		390	490	530	585
	WALKUP	335	380	455	515	570
	ELEVATOR-2-4 Sty	350	405	495		
	5 + Sty	385	440	545		
DICKERSON, N.D.	DETACHED			460	550	580
	SEMI-DETACHED/ROW		365	430	510	550
	WALKUP	285	350	405	495	530
	ELEVATOR-2-4 Sty	310	365	430		
	5 + Sty	335	395	475		
GRAND FORKS, N.D.	DETACHED			475	550	575
	SEMI-DETACHED/ROW		375	455	505	550
	WALKUP	290	355	415	480	520
	ELEVATOR-2-4 Sty	330	370	445		
	5 + Sty	350	410	475		
MINOT, N.D.	DETACHED			455	535	575
	SEMI-DETACHED/ROW		345	410	490	530
	WALKUP	280	330	370	480	505
	ELEVATOR-2-4 Sty	305	350	410		
	5 + Sty	325	380	445		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SIOUX FALLS, S.D.	DETACHED			430	470	515
	SEMI-DETACHED/ROW		344	402	440	485
	WALKUP	260	318	373	425	465
	ELEVATOR-2-4 Sty	291	355	392		
	5 + Sty	296	341	397		
ABERDEEN, S.D.	DETACHED			401	435	474
	SEMI-DETACHED/ROW		338	383	417	451
	WALKUP	263	316	361	401	435
	ELEVATOR-2-4 Sty	275	327	372		
	5 + Sty	285	338	378		
FT. THOMPSON, S.D.	DETACHED			412	449	492
	SEMI-DETACHED/ROW		351	394	428	475
	WALKUP	284	333	372	409	451
	ELEVATOR-2-4 Sty	293	341	381		
	5 + Sty	297	346	385		
MCLAUGHLIN, S.D.	DETACHED			412	449	492
	SEMI-DETACHED/ROW		351	393	428	475
	WALKUP	284	333	372	413	451
	ELEVATOR-2-4 Sty	293	341	381		
	5 + Sty	297	346	385		
MISSION, S.D.	DETACHED			412	448	492
	SEMI-DETACHED/ROW		351	394	428	475
	WALKUP	284	333	372	413	451
	ELEVATOR-2-4 Sty	293	341	381		
	5 + Sty	297	346	385		
PIERRE, S.D.	DETACHED			440	477	519
	SEMI-DETACHED/ROW		375	425	458	500
	WALKUP	281	330	415	434	483
	ELEVATOR-2-4 Sty	308	356	398		
	5 + Sty	305	362	404		

AREA. OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RAPID CITY, S.D.	DETACHED			461	570	610
	SEMI-DETACHED/ROW		365	442	540	590
	WALKUP	282	335	420	525	560
	ELEVATOR-2-4 Sty	295	350	429		
	5 + Sty	300	357	435		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SALT LAKE CITY, UTAH	DETACHED			481	588	667
	SEMI-DETACHED/ROW		326	392	502	550
	WALKUP	226	316	371	471	520
	ELEVATOR-2-4 Sty	281	371	428		
	5 + Sty	310	396	476		
CEDAR CITY, UTAH	DETACHED			395	433	471
	SEMI-DETACHED/ROW		301	354	396	424
	WALKUP	218	295	347	392	409
	ELEVATOR-2-4 Sty	276	332	392		
	5 + Sty	290	368	422		
PROVO, UTAH	DETACHED			415	474	548
	SEMI-DETACHED/ROW		329	367	412	471
	WALKUP	257	321	354	404	464
	ELEVATOR-2-4 Sty	290	374	405		
	5 + Sty	319	392	431		
LOGAN, UTAH	DETACHED			450	481	552
	SEMI-DETACHED/ROW		332	360	401	439
	WALKUP	237	323	353	394	428
	ELEVATOR-2-4 Sty	282	337	399		
	5 + Sty	313	392	438		
VERNAL, UTAH	DETACHED			476	555	610
	SEMI-DETACHED/ROW		388	464	549	607
	WALKUP	238	325	378	447	504
	ELEVATOR-2-4 Sty	290	380	411		
	5 + Sty	325	405	453		
MOAB, UTAH	DETACHED			395	437	471
	SEMI-DETACHED/ROW		306	354	396	420
	WALKUP	221	295	347	388	409
	ELEVATOR-2-4 Sty	276	333	392		
	5 + Sty	288	372	422		

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CASPER, WYO.	DETACHED			574	664	705
	SEMI-DETACHED/ROW		441	530	651	702
	WALKUP	382	427	530	641	692
	ELEVATOR-2-4 Sty	417	458	561		
	5 + Sty	469	530	604		
CHEYENNE, WYO.	DETACHED			506	586	635
	SEMI-DETACHED/ROW		388	456	573	623
	WALKUP	321	337	445	570	620
	ELEVATOR-2-4 Sty	356	404	490		
	5 + Sty	390	461	520		
CODY, WYO.	DETACHED			495	556	615
	SEMI-DETACHED/ROW		340	460	525	585
	WALKUP	272	330	442	510	560
	ELEVATOR-2-4 Sty	308	358	470		
	5 + Sty	345	404	495		
GILLETTE, WYO.	DETACHED			600	696	761
	SEMI-DETACHED/ROW		482	581	688	747
	WALKUP	423	468	570	680	724
	ELEVATOR-2-4 Sty	456	506	594		
	5 + Sty	498	564	635		
JACKSON, WYO.	DETACHED			582	677	736
	SEMI-DETACHED/ROW		457	545	641	698
	WALKUP	397	442	530	633	662
	ELEVATOR-2-4 Sty	430	472	559		
	5 + Sty	470	524	596		
LARAMIE, WYO.	DETACHED			467	568	613
	SEMI-DETACHED/ROW		339	449	548	592
	WALKUP	271	330	442	542	582
	ELEVATOR-2-4 Sty	301	362	472		
	5 + Sty	330	404	495		

AREA OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RIVERTON, WYO.	DETACHED			495	536	594
	SEMI-DETACHED/ROW		338	460	521	584
	WALKUP	271	330	442	510	560
	ELEVATOR-2-4 Sty	306	358	470		
	5 + Sty	338	404	495		
ROCK SPRINGS, WYO.	DETACHED			609	708	749
	SEMI-DETACHED/ROW		470	573	688	734
	WALKUP	419	462	558	676	720
	ELEVATOR-2-4 Sty	450	494	590		
	5 + Sty	506	566	625		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHOENIX, ARIZ.	DETACHED			531	586	657
	SEMI-DETACHED/ROW		462	510	564	625
	WALKUP	341	393	472	531	574
	ELEVATOR-2-4 Sty	359	411	490		
	5 + Sty	437	498	609		
CASA GRANDE, ARIZ.	DETACHED			448	510	583
	SEMI-DETACHED/ROW		371	426	486	554
	WALKUP	296	334	386	433	480
	ELEVATOR-2-4 Sty	314	352	404		
	5 + Sty	-	-	-		
FLAGSTAFF, ARIZ.	DETACHED			525	612	671
	SEMI-DETACHED/ROW		455	513	599	658
	WALKUP	387	426	486	561	605
	ELEVATOR-2-4 Sty	405	444	504		
	5 + Sty	-	-	-		
KEAMS CANYON, ARIZ.	DETACHED			482	545	622
	SEMI-DETACHED/ROW		407	459	520	588
	WALKUP	351	391	437	492	542
	ELEVATOR-2-4 Sty	369	409	455		
	5 + Sty	-	-	-		
TUSCON, ARIZ.	DETACHED			502	584	648
	SEMI-DETACHED/ROW		399	480	556	616
	WALKUP	311	366	452	528	572
	ELEVATOR-2-4 Sty	329	384	470		
	5 + Sty	441	509	637		
YUMA, ARIZ.	DETACHED			538	586	644
	SEMI-DETACHED/ROW		480	529	574	629
	WALKUP	411	458	492	532	571
	ELEVATOR-2-4 Sty	429	463	510		
	5 + Sty					

AREA. OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOS ANGELES	DETACHED			724	791	870
	SEMI-DETACHED/ROW		572	623	753	819
	WALKUP	431	488	587	707	753
	ELEVATOR-2-4 Sty	452	514	626	707	753
	5 + Sty	563	643	844		
BAKERSFIELD	DETACHED			522	634	702
	SEMI-DETACHED/ROW		374	493	592	651
	WALKUP	287	353	472	577	610
	ELEVATOR-2-4 Sty	302	368	488	584	625
	5 + Sty	430	504	660		
LANCASTER	DETACHED			567	634	715
	SEMI-DETACHED/ROW		436	522	591	669
	WALKUP	358	406	485	543	603
	ELEVATOR-2-4 Sty	373	422	503		
	5 + Sty	490	551	673		
OXNARD/VENTURA*	DETACHED			670	713	785
	SEMI-DETACHED/ROW		459	511	622	678
	WALKUP	395	432	484	592	633
	ELEVATOR-2-4 Sty	413	450	502	610	651
	5 + Sty	537	583	672		
PASO ROBLES	DETACHED			629	671	729
	SEMI-DETACHED/ROW		405	503	605	672
	WALKUP	338	381	469	558	603
	ELEVATOR-2-4 Sty	354	398	487	581	636
	5 + Sty	480	535	662		
SANTA ANA	DETACHED			655	792	861
	SEMI-DETACHED/ROW		555	643	778	844
	WALKUP	444	521	600	719	761
	ELEVATOR-2-4 Sty	446	537	618		
	5 + Sty	569	669	786		

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SANTA BARBARA	DETACHED			831	881	901
	SEMI-DETACHED/ROW		758	810	858	875
	WALKUP	369	412	531	601	652
	ELEVATOR-2-4 Sty	383	430	549	619	669
	5 + Sty	499	556	711		
SAN DIEGO/* EL CAJON	DETACHED			547	650	718
	SEMI-DETACHED/ROW		441	536	636	702
	WALKUP	356	407	492	577	619
	ELEVATOR-2-4 Sty	385	444	558		
	5 + Sty	461	538	658		
SANTA MARIA	DETACHED			599	650	742
	SEMI-DETACHED/ROW		524	577	627	715
	WALKUP	330	373	432	480	528
	ELEVATOR-2-4 Sty	348	391	450	498	546
	5 + Sty	467	521	617		
RIVERSIDE/* SAN BERNARDINO	DETACHED			499	612	676
	SEMI-DETACHED/ROW		411	489	601	662
	WALKUP	362	394	461	566	607
	ELEVATOR-2-4 Sty	377	410	479		
	5 + Sty	502	543	649		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE SACRAMENTO, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SACRAMENTO	DETACHED			490	535	600
	SEMI-DETACHED/ROW		410	470	530	590
	WALKUP	310	365	420	500	580
	ELEVATOR-2-4 Sty	400	450	505		
	5 + Sty	485	550	630		
PLACERVILLE	DETACHED			500	550	615
	SEMI-DETACHED/ROW		420	480	545	605
	WALKUP	320	375	430	515	595
	ELEVATOR-2-4 Sty	410	460	520		
	5 + Sty	-	-	-		
REDDING	DETACHED			495	540	605
	SEMI-DETACHED/ROW		420	475	535	595
	WALKUP	275	350	410	475	540
	ELEVATOR-2-4 Sty	405	455	510		
	5 + Sty	-	-	-		
SO. LAKE TAHOE	DETACHED			575	630	710
	SEMI-DETACHED/ROW		495	550	625	700
	WALKUP	355	420	495	605	690
	ELEVATOR-2-4 Sty	460	530	610		
	5 + Sty	-	-	-		
YREKA	DETACHED			540	595	670
	SEMI-DETACHED/ROW		445	520	590	660
	WALKUP	335	400	470	560	650
	ELEVATOR-2-4 Sty	430	485	555		
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SAN FRANCISCO, CA REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN FRANCISCO	DETACHED			1217	1358	1438
	SEMI-DETACHED/ROW		819	978	1130	1216
	WALKUP	461	534	697	849	933
	ELEVATOR-2-4 Sty	512	612	782	961	1104
	5 + Sty	645	748	946	1112	1283
FRESNO	DETACHED			541	688	763
	SEMI-DETACHED/ROW		327	421	553	623
	WALKUP	276	327	397	506	578
	ELEVATOR-2-4 Sty	345	411	512		
	5 + Sty	534	619	758		
MODESTO	DETACHED			578	686	738
	SEMI-DETACHED/ROW		356	422	516	560
	WALKUP	314	327	403	493	537
	ELEVATOR-2-4 Sty	383	411	518		
	5 + Sty	572	619	764		
SAN JOSE	DETACHED			775	902	954
	SEMI-DETACHED/ROW		455	554	671	739
	WALKUP	376	451	535	638	696
	ELEVATOR-2-4 Sty	401	467	541		
	5 + Sty	570	651	754		
OAKLAND/ MARIN*	DETACHED			953	984	1049
	SEMI-DETACHED/ROW		623	739	757	835
	WALKUP	427	501	644	697	772
	ELEVATOR-2-4 Sty	459	502	677		
	5 + Sty	627	685	890		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

*Market areas are not combined. FMRs are identical for these market areas.

AREA OFFICE HONOLULU, HAWAII REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HONOLULU	DETACHED			556	893	948
	SEMI-DETACHED/ROW		433	519	575	630
	WALKUP	352	413	457	569	621
	ELEVATOR-2-4 Sty	380	441	485		
	5 + Sty	393	538	714		
HILO	DETACHED			479	545	593
	SEMI-DETACHED/ROW		376	469	535	583
	WALKUP	279	327	394	509	563
	ELEVATOR-2-4 Sty	307	355	422		
	5 + Sty	-	-	-		
KAUAI	DETACHED			572	610	667
	SEMI-DETACHED/ROW		463	562	600	657
	WALKUP	305	354	462	578	633
	ELEVATOR-2-4 Sty	333	382	490		
	5 + Sty	-	-	-		
KONA	DETACHED			579	684	740
	SEMI-DETACHED/ROW		476	569	674	730
	WALKUP	352	401	462	577	631
	ELEVATOR-2-4 Sty	380	429	490		
	5 + Sty	-	-	-		
MAUI	DETACHED			622	725	779
	SEMI-DETACHED/ROW		517	612	715	769
	WALKUP	317	412	516	629	681
	ELEVATOR-2-4 Sty	345	440	544		
	5 + Sty	-	-	-		
GUAM, NORTHERN MARIANAS, TRUST TERRITORIES	DETACHED			532	612	665
	SEMI-DETACHED/ROW		437	489	569	622
	WALKUP	255	315	392	483	-
	ELEVATOR-2-4 Sty					
	5 + Sty					

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AREA OFFICE SAN FRANCISCO, CA REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RENO, NEVADA	DETACHED			715	806	865
	SEMI-DETACHED/ROW		475	586	672	752
	WALKUP	396	437	549	628	703
	ELEVATOR-2-4 Sty	439	532	676		
	5 + Sty	653	721	894		
LAS VEGAS. NEVADA	DETACHED			679	772	830
	SEMI-DETACHED/ROW		448	536	622	678
	WALKUP	379	430	510	601	649
	ELEVATOR-2-4 Sty	461	524	636		
	5 + Sty	636	714	855		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE ANCHORAGE, ALASKA REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ANCHORAGE	DETACHED			643	711	735
	SEMI-DETACHED/ROW		553	616	671	694
	WALKUP	384	453	531	628	650
	ELEVATOR-2-4 Sty	503	592	662		
	5 + Sty	512	602	673		
FAIRBANKS	DETACHED			633	690	751
	SEMI-DETACHED/ROW		542	608	683	737
	WALKUP	476	517	584	657	723
	ELEVATOR-2-4 Sty	583	670	746		
	5 + Sty	595	684	760		
JUNEAU	DETACHED			670	763	794
	SEMI-DETACHED/ROW		538	650	727	763
	WALKUP	431	481	599	693	735
	ELEVATOR-2-4 Sty	483	545	625		
	5 + Sty	507	572	650		
KETCHIKAN	DETACHED			589	670	745
	SEMI-DETACHED/ROW		478	561	639	710
	WALKUP	385	435	510	581	645
	ELEVATOR-2-4 Sty	442	505	592		
	5 + Sty	464	515	609		
COSTAL AREA, * N. OF ALEUTIANS, N. COASTAL AREA, BARTER ISLAND	DETACHED		861	947	1042	1146
	SEMI-DETACHED/ROW		836	920	1012	1113
	WALKUP	738	812	894	983	1081
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

FMRs are identical for these market areas.

Market areas are not combined.

AREA, OFFICE PORTLAND, OREGON REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOISE	DETACHED			419	478	507
	SEMI-DETACHED/ROW		311	372	425	462
	WALKUP	243	285	338	397	432
	ELEVATOR-2-4 Sty	297	364	425		
	5 + Sty	312	382	463		
COEUR D ALENE	DETACHED			395	440	489
	SEMI-DETACHED/ROW		280	365	418	446
	WALKUP	220	261	321	380	420
	ELEVATOR-2-4 Sty	281	344	402		
	5 + Sty	295	361	438		
IDAHO FALLS	DETACHED			415	467	511
	SEMI-DETACHED/ROW		320	364	437	461
	WALKUP	259	283	349	422	457
	ELEVATOR-2-4 Sty	303	371	433		
	5 + Sty	318	389	472		
LEWISTON	DETACHED			429	472	514
	SEMI-DETACHED/ROW		286	365	423	460
	WALKUP	247	273	329	395	432
	ELEVATOR-2-4 Sty	295	361	422		
	5 + Sty	309	379	459		
MCCALL	DETACHED			306	345	384
	SEMI-DETACHED/ROW		234	273	319	358
	WALKUP	176	215	254	306	345
	ELEVATOR-2-4 Sty	-	-	-		
	5 + Sty	222	273	326		
POCATELLO	DETACHED			428	474	505
	SEMI-DETACHED/ROW		316	371	431	461
	WALKUP	246	289	356	428	451
	ELEVATOR-2-4 Sty	300	367	429		
	5 + Sty	315	386	467		

AREA, OFFICE PORTLAND, OREGON REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TWIN FALLS	DETACHED			395	448	479
	SEMI-DETACHED/ROW		300	370	410	450
	WALKUP	235	259	329	374	401
	ELEVATOR-2-4 Sty	283	347	405		
	5 + Sty	297	364	441		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE PORTLAND, ORE. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4 or more
PORTLAND	DETACHED			441	517	555
	SEMI-DETACHED/ROW	267	302	369	434	480
	WALKUP	263	290	357	418	460
	ELEVATOR-2-4 Sty	323	397	453		
	5 + Sty	355	436	500		
BEND	DETACHED			379	462	508
	SEMI-DETACHED/ROW		320	372	448	484
	WALKUP	265	310	362	438	474
	ELEVATOR-2-4 Sty	316	376	436		
	5 + Sty	347	414	480		
COOS BAY	DETACHED			360	399	440
	SEMI-DETACHED/ROW		309	348	389	427
	WALKUP	250	289	329	369	409
	ELEVATOR-2-4 Sty	299	355	404		
	5 + Sty	330	393	447		
EUGENE	DETACHED			385	463	499
	SEMI-DETACHED/ROW		310	349	413	452
	WALKUP	277	290	342	406	444
	ELEVATOR-2-4 Sty	321	351	412		
	5 + Sty	354	389	456		
MEDFORD	DETACHED			372	424	470
	SEMI-DETACHED/ROW		315	357	402	448
	WALKUP	251	299	347	388	425
	ELEVATOR-2-4 Sty	297	352	418		
	5 + Sty	328	389	461		
ONTARIO	DETACHED			356	404	452
	SEMI-DETACHED/ROW		283	331	387	438
	WALKUP	219	266	315	380	429
	ELEVATOR-2-4 Sty	249	306	365		
	5 + Sty	278	340	406		

AREA OFFICE PORTLAND, ORE. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4 or more
PENDLETON	DETACHED			383	435	480
	SEMI-DETACHED/ROW		304	376	421	458
	WALKUP	252	292	356	408	445
	ELEVATOR-2-4 Sty	301	35[illegible]	426		
	5 + Sty	330	392	469		
WEST SALEM	DETACHED			364	439	476
	SEMI-DETACHED/ROW		303	346	421	457
	WALKUP	253	293	336	405	452
	ELEVATOR-2-4 Sty	306	364	415		
	5 + Sty	340	404	462		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA. OFFICE SEATTLE, WASHINGTON REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SEATTLE	DETACHED			520	679	748
	SEMI-DETACHED/ROW		461	510	613	702
	WALKUP	348	407	478	570	656
	ELEVATOR-2-4 Sty	365	434	565		
	5 + Sty	378	556	630		
ABERDEEN	DETACHED			456	598	656
	SEMI-DETACHED/ROW		356	420	557	610
	WALKUP	274	337	411	488	529
	ELEVATOR-2-4 Sty	311	367	536		
	5 + Sty	342	411	600		
BELLINGHAM	DETACHED			448	586	644
	SEMI-DETACHED/ROW		364	431	567	621
	WALKUP	266	345	411	536	587
	ELEVATOR-2-4 Sty	328	410	472		
	5 + Sty	361	459	529		
LONGVIEW	DETACHED			448	591	644
	SEMI-DETACHED/ROW		299	369	484	530
	WALKUP	243	292	363	473	518
	ELEVATOR-2-4 Sty	293	366	440		
	5 + Sty	322	410	478		
OLYMPIA	DETACHED			440	576	633
	SEMI-DETACHED/ROW		345	403	529	579
	WALKUP	278	330	396	520	569
	ELEVATOR-2-4 Sty	319	432	487		
	5 + Sty	351	484	546		
PORT ANGELES	DETACHED			432	572	621
	SEMI-DETACHED/ROW		313	395	562	604
	WALKUP	228	298	375	536	587
	ELEVATOR-2-4 Sty	270	346	432		
	5 + Sty	297	388	484		

AREA. OFFICE SEATTLE, WASHINGTON REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SPOKANE/ CHENEY*	DETACHED			440	574	633
	SEMI-DETACHED/ROW		341	410	513	575
	WALKUP	296	324	401	500	552
	ELEVATOR-2-4 Sty	365	432	544		
	5 + Sty	384	475	598		
KENNEWICK	DETACHED			520	682	748
	SEMI-DETACHED/ROW		378	475	620	679
	WALKUP	286	375	458	551	633
	ELEVATOR-2-4 Sty	346	454	499		
	5 + Sty	380	499	550		
PULLMAN	DETACHED			480	649	692
	SEMI-DETACHED/ROW		354	453	590	647
	WALKUP	282	324	427	557	610
	ELEVATOR-2-4 Sty	341	418	534		
	5 + Sty	375	460	587		
YAKIMA	DETACHED			447	588	643
	SEMI-DETACHED/ROW		315	410	539	590
	WALKUP	264	312	373	490	536
	ELEVATOR-2-4 Sty	313	362	451		
	5 + Sty	346	406	507		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

* Market areas are not combined. FMRs are identical for these market areas.

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Friday
August 29, 1980

Part X

Department of Health and Human Services

Health Care Financing Administration

Research and Demonstration Grants; Special Solicitation

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Health Financing Research and Demonstration Grants; Special Solicitation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: HCFA is soliciting applications from State Medicaid agencies for demonstration projects to improve the efficiency of services and management in financially troubled hospitals in medically underserved rural and inner city areas, so that they can better serve the Medicare, Medicaid, uninsured and inadequately insured populations.

The problem of financially troubled hospitals has been the focus of Congressional hearings, legislative proposals and public debate. We are concerned that a combination of factors—the provision of care to many uninsured individuals, reimbursement incentives that encourage inpatient care instead of appropriate and less expensive outpatient care, ineffective organization and management of services, and others—threaten the financial security of institutions that provide care to Medicare and Medicaid beneficiaries and the uninsured or inadequately insured. Often these hospitals represent the sole source of care in their communities.

Although expanded public health insurance coverage would provide long term relief for financially distressed institutions, this solicitation will enable HCFA to address these issues now on an individual basis through Medicare and Medicaid projects and waivers.

This special solicitation provides funds for projects that ensure access to services for Federal beneficiaries and that address the financially troubled hospital problem through system reforms. We are interested especially in projects that test the way in which changes in health care delivery and reimbursement, and changes in Medicaid eligibility rules, will affect the ability of financially distressed hospitals to provide health care for Federal beneficiaries and the uninsured and inadequately insured while achieving fiscal viability. This solicitation contains information about demonstration requirements, application procedures, and amount and duration of grant awards.

CLOSING DATE FOR APPLICATIONS: The closing date for grant applications is 4:30 p.m., September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Steven A. Pelovitz, Health Care Financing Administration, Office of Research, Demonstrations and Statistics, Office of Demonstrations and Evaluations, Area 1–E–6, Oak Meadows Building, 6340 Security Boulevard, Baltimore, Maryland 21207, (301) 597–1821.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with HCFA's **Federal Register** notice of February 25, 1980 (45 FR 12362), which stated that special solicitations would be announced periodically.

Availability of Grants

A. General

This special solicitation announces the HHS initiative to fund projects that attempt to address the problems facing financially troubled hospitals in rural and inner city areas. HCFA's Office of Research, Demonstrations and Statistics (ORDS) is seeking projects to further our key objectives for these hospitals (see General Policy Considerations below). Only the single State agency which administers the Medicaid program may apply, and the applications must be made under section 1115(a) of the Social Security Act, which authorizes the Secretary to waive statutory Medicaid State plan requirements (section 1115(a)(1) and/or to reimburse costs not otherwise Federally matchable (section 1115(a)(2)) in order to enable State Medicaid agencies to carry out significant demonstration projects. Under section 1115, the States must share in the costs of the projects on the basis of their medical assistance matching rate.

If the Medicare program is to be involved in the project, waivers may be requested under section 402 of the Social Security Amendments of 1967 (as amended by section 222(b) of the Social Security Amendments of 1972) and section 222(a) of the 1972 Amendments. Waivers under these authorities allow demonstration projects for the testing of alternative reimbursement principles. However, all projects must be primarily section 1115(a) applications.

B. Authorities

The authorities for these grants are:

Section 1115(a) of the Social Security Act.

Section 222(a) of the Social Security Amendments of 1972.

Section 402(a) of Social Security Amendments of 1967 as amended by section 222(b) of the Social Security Amendments of 1972.

If a Medicaid agency believes that funding under relevant sections of the Public Health Service Act (Service Delivery and Resource Development Programs) would be consistent with the overall proposed program, and application may be submitted to the Public Health Service and referenced in the HCFA application. The PHS application will be reviewed separately from this solicitation and in accordance with the criteria established by the appropriate authorities.

General Policy Considerations

The problem of financially troubled hospitals in medically underserved areas is a major concern of HHS, which is responsible for assuring both access to care and achieving system reforms. We are interested in funding projects that focus both on financially troubled institutions and the people served by them. The deteriorating financial situation faced by some hospitals may jeopardize access to care for the people in their communities. In particular, we are concerned about situations in which these hospitals represent the only source of medical care for a community. In many cases, the shortage of office-based physicians and other organized primary care systems in underserved areas often forces hospitals to act as the primary care physicians in their communities. They are also major sources of employment and upward mobility for community residents. Our interest in this solicitation is focused on those financially troubled hospitals whose failure would result in severe hardship on the people in the surrounding area.

While we expect the demonstration projects to preserve and even expand access to necessary care, we also have a responsibility to pursue efficient, cost effective health care systems. Therefore, any project that is to be funded should provide information that will enable HCFA to: (1) determine the cost of removing the Medicaid categorical restrictions; (2) determine the cost effectiveness of alternate payment methodologies; and (3) compare the effectiveness of alternative configurations of services or facilities while testing the validity of some of the following hypotheses:

(a) Access to and quality of health care can be improved through restructuring of the health care delivery system.

(b) The effectiveness of current programs and facilities can be maximized.

(c) Excess capacity and duplication of services can be eliminated without adversely affecting access to needed health care, and their elimination will reduce overall per capital health costs.

(d) Reimbursement can be designed to provide incentives that induce more efficient hospital services and management.

(e) Investing in a system to establish Medicaid eligibility determinations for all potential eligibles and engaging in reasonable efforts to ensure maximum collections from self-pay patients can be cost-effective.

(f) Providing Medicaid eligibility to the non-categorically related poor is less costly per case than care to families with dependent children (AFDC).

(g) The hospital or network of facilities assuming the role of family physician can attract patients with third-party coverage and alternative available sources of care.

At the core of this strategy is the need to improve the way we provide needed care to our beneficiaries and to other low-income persons with insufficient health care coverage, a disproportionate number of whom represent ethnic minorities, disadvantaged and disabled populations. At a minimum, we expect State and local governments to maintain current efforts in these areas.

Eligibility of Hospitals To Participate in Projects

We will consider these factors in determining whether hospitals involved in a proposed project are appropriately qualified to participate in demonstration grants.

(a) *Financial Distress.* The hospital must demonstrate its financial distress. The following items can be used for documentation:

- The sources of the hospital's financial troubles, including uncompensated inpatient and outpatient services provided, slow payment by third parties, new services, etc.
- The consequences of the distress for the institution, such as the cutbacks in service, layoffs of employees, deteriorating physical plant, imminent closure, etc.
- The hospital's best estimate of the short run future impact of the financial distress if it is not relieved.
- Whether the hospital's financial position has recently deteriorated and the sources of the change.
- How this hospital's financial position compares with nearby institutions in the same community and reasons for any differences.

The following specific information would also help indicate the hospital's financial situation:

1. Utilization by payor which could be detailed in the following table:

Utilization by Payor

Payor	Patient days		Outpatient dept. visits		Emergency room visits	
	Number	Percent	Number	Percent	Number	Percent
A. Compensated care:						
Medicaid						
Medicare						
Blue Cross						
Commercial insurance						
Self pay						
Other (specify)						
B. Uncompensated care:						
Free care (e.g., Hill-Burton obligation)						
Other uncompensated care						

2. Revenue and contractual allowances by payor which could be detailed in the following table:

Revenue by Payor

Payor	Inpatient		Outpatient	
	Gross revenue	Contractual allowance or bad debt	Gross revenue	Contractual allowance or bad debt
A. Compensated care:				
Medicaid				
Medicare				
Blue Cross				
Commercial insurance				
Self pay				
Other (specify)				
B. Other revenue sources:				
Municipal, State, or local contribution				
Philanthropic income				
C. Uncompensated care:				
Free care (e.g., Hill-Burton obligation)				
Other uncompensated care				

3. A copy of the institution's most recent annual financial report (audited if available). If such a report is unavailable, hospital should submit, at a minimum, an itemized description of the institution's long-term (more than one year) and short-term (less than one year) debt, including current payments, outstanding principal, and remaining term.

4. An analysis, by payor, of accounts receivable, indicating the days required for conversion to cash.

5. A weekly cash flow analysis for the past six months.

6. In addition to supplying Items 1–5, public hospitals should submit: (a) per capital municipal or county taxation for 1970 and the most recent year available and (b) the percent of total hospital expenditures provided by the operating government and cost reports for 1970, 1975, and the most recent year available.

If financial data is not available in sufficient detail to respond to the above requests, the hospital should supply whatever information is available concerning utilization, revenue, contractual allowances, bad debts, and collections *by payor.* Applicants should include any other information they feel will describe more fully and represent more accurately the fiscal situation of a financially distressed hospital.

If a network or consortium of facilities is to be included in a project, it is not necessary that all of the facilities exhibit financial distress as described above, but financial data concerning each of the facilities must be included. At least one of the participating facilities in the network *must* meet the financial distress criteria.

(b) *Need for Services.* There must be a demonstrated public need for continuance in whole or in part of existing hospital services at the current site(s). The need must be demonstrated through existing mechanisms, such as—(1) a Health System Agency (HSA) area plan; (2) a Public Health Service determination that the facility is located in either a Medically Underserved Area

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(MUA) or a Health Manpower Shortage Area (HMSA); (3) a State Health Plan; or (4) some other method that the applicant believes may best present the facts of the individual case. Documented support from the Health Systems Agency will strengthen applications.

(c) *Adequacy of Care.* The application must include documentation that the facility will be providing adequate quality health care services if the project is implemented and that the physical plant is adequate or can be rehabilitated. This can be demonstrated by JCAH accreditation, compliance with State and Federal health and safety codes, certification by local planning agencies or other documentation.

(d) The application must include documentation of a long-standing and historical commitment to treating patients in need of health services without regard to ability to pay.

Application Requirements

(1) The project goals and objectives must be clearly stated and be measurable.

(2) The relevance of the findings to HCFA program operations and policy concerns should be discussed.

(3) The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA.

(4) The application must assure that all of the medical facilities agree to collect, maintain and make available to HCFA or HCFA's contractor(s) all data necessary to perform an independent evaluation. The applying Medicaid agency must ensure the confidentiality of any personally identifiable information.

(5) The application must show the qualifications and experience of the project management personnel and demonstrate how their qualifications make them capable of performing the project tasks. The application should also show how the personnel will be organized in the project, to whom they will report and how they will be used to accomplish specific objectives or portions of the project.

(6) The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs should be reasonable considering the anticipated results.

(7) Section 1115, 222 and 402 projects must define the services to be provided, list the waivers requested, discuss the implications if those waivers are granted, and state the effect on Federal, State and local laws as well as the effect on beneficiaries and recipients.

In addition, applicants must estimate the amount of program and administrative expenditures that will occur under the waivers and compare these expenditures to current ones. A broad viewpoint may be used so that even though a new service may be added through the waiver, the overall impact on the programs could produce lower per capita costs.

(8) Plans for utilization of the project's results should be discussed.

(9) Documentation of the commitment of all parties, e.g., facilities, governmental bodies, etc., to the proposed methodology.

(10) The application must assure the applicant's willingness to comply with the Department's human subjects regulations (45 CFR Part 46) by including a completed form HEW–596 (Rev. 1975) "Protection of Human Subjects." Applicants should be aware that this requirement may require substantial effort.

General Criteria for Reviewing Applications

We will use the following general criteria to review and evaluate applications:

(1) The adequacy and creativity of the research or demonstration design and hypotheses;

(2) Whether there is a realistic expectation that the project can be carried out within the times specified;

(3) If the project requires the cooperation of multiple parties, documentation of a commitment of the parties necessary to the success of the planned project.

(4) The extent to which the project can be replicated.

(5) The extent of the financial need of the facility.

(6) The extent to which the need for the facility is demonstrated.

(7) The cost of the project.

Review of Applications

HCFA will designate a panel to review applications submitted under this special solicitation.

Number and Size of Awards

Although there is no specific limit on either the number or size of the awards, the cost of the project will be taken into consideration during the selection process. The number of applications which receive awards will depend on the quality of the applications and their relevance to HHS and HCFA priorities, including the number of persons to be served and the scope of services to be provided.

Duration of Funding

Funding for grants is awarded for a period of 1 year. For a multiple-year project, funding may be continued on a noncompeting basis. However, continuation funding is contingent upon the availability of future year funds, the applicant's ability to meet prior year project objectives, and the continued relevance of the project to HCFA programs.

Waivers may be granted for multiple-year periods. Generally we expect these projects to be 3 years in duration. Methodologies that require longer project periods will also be considered if the applicant can justify the need for the longer period. Applicants are advised, however, that even though waivers may be granted for multiple-year periods, they can be withdrawn if the project is terminated or funding not extended.

Section 1115 Projects

Under section 1115(a)(1) of the Social Security Act, compliance with statutory State Medicaid plan requirements may be waived to enable a State Medicaid agency to carry out a significant demonstration project which will further the general objectives of the Medicaid progam.

All requirements of the Social Security Act, the Code of the Federal Regulations and other issuances that pertain to the Title XIX categorical program are applicable to a project approved under section 1115, except as specifically waived.

A State Medicaid agency should give special attention to the preparation of the budget. These budget are substantially more extensive than the budget for other grant application (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application Form HCFA–PG–11).

Application Procedures

(1) *Application Forms and Kits.* Standard application forms, special application kits, and guidance for both are available from: Health Care Financing Administration, Project Grants Branch, Area E–1, Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301) 594–3332.

The applicant must include in the project title block a statement that the State Medicaid agency is responding to the special solicitation for financially troubled hospitals. This designation must also be marked clearly on the outside of the package/envelope.

(2) *Multiple Applications.* The applicant must indicate if the same or a similar application is submitted to

another HHS agency; e.g., the Social Security Administration, the Office of Human Development Services or the Public Health Service.

(3) *Grant Policies.* Grants are made through a competitive process involving applications submitted in response to this notice.

Since these applications will be submitted only by State Medicaid agencies and may receive the majority of funding through Section 1115 waiver authority, States will be required to maintain normal State match.

Other policies, including grantee responsibilities, awarding and payment procedures, special provisions and assurances, are described in the following documents that are included in the application kit: HCFA Grants Policy Handbook, DHEW Publication No. (HCFA) 79-04001 (Rev. 6/79) 45 CFR Part 74, Administration of Grants.

(4) *Closing Date and Time.* The closing date for grant applications under the special solicitation is September 30, 1980. The closing time is 4:30 p.m. Eastern Daylight Savings Time. Applications should be addressed to the Projects Grants Branch at the address shown in (1) above.

Applications received after the closing time will be considered only if they were sent by registered, certified or express mail before September 24, 1980. The postmark on the package will establish the date mailed.

(5) *Awards.* HCFA is aware of the stringency of the application timetable and the impact it may have on potential applicants. Some hospitals may have already developed proposals for their own purposes that would be appropriate to fund under this demonstration program, while others will be starting afresh. Therefore, HCFA may award some grants to State Medicaid agencies, on or about October 31, for fully developed proposals. We will also identify from the initial applications promising candidates whose proposals need further development or clarification. These will be the subject of negotiation between HCFA and the State Medicaid agency with funding possible at a later date.

General Guidance

This section provides project design guidance by examining problems faced by financially troubled hospitals and providing a guide to possible solutions.

I. Problems Facing Financially Troubled Hospitals

The problems faced by financially troubled hospitals can be categorized into three broad areas: (a) problems related to nonpayment by patients; (b) problems related to management of public and nonprofit hospitals; and (c) problems related to the appropriate mix and delivery of services.

A. *Problems Related to Nonpayment by Patients.* Historically, funding for hospitals originated from many sources including insurance, government, patients and philanthropy. During the last two decades, the most significant change in health care funding has been the introduction of increased Federal funding through the Medicare and Medicaid programs. Both programs have become crucial to the viability of hospitals, particularly those in poor neighborhoods.

In the past few years, there has been rapid inflation in health care costs. One result of rising costs has been that the medically indigent, those ineligible for Medicaid but unable to afford private insurance, have been unable to pay for the health services they receive. This is a problem for both the individuals involved and the health facilities servicing the uninsured. The effort of some States to contain rapidly rising expenditures for hospital care has aggravated some hospitals' fiscal problems, particularly those hospitals located in poor communities serving the medically indigent population.

There are a variety of other factors that have contributed to the fiscal concerns of urban and rural hospitals. These include increasingly sophisticated and expensive equipment, changing population patterns, difficulties in staff recruitment, and the decrease in philanthropic support.

Hospitals in poor neighborhoods with high concentrations of medically indigent persons have been most seriously affected by these factors. In general, inner city and rural hospitals face not only communities with significant health needs, but also communities too poor to support extensive services.

Further, some reimbursement methodologies across the nation may be unrealistically stringent and may be subject to State budgetary constraints that result in low levels of reimbursement.

As noted above, not all low-income individuals are eligible for the Medicaid program. The Medicaid eligibility requirements leading to the exclusion of many poor people include—

1. Categorical restrictions;
2. Income limits too low to include all persons in need of medical assistance;
3. Restrictive "spend-down" requirements; and
4. Difficult documentation and verification requirements.

Categorical Restrictions. By law, Medicaid is available only to certain categories of poor people—the aged, the blind, the disabled, and in general, single-parent families. However, States may, at their option, include all poor children (regardless of family structure), and two-parent families when one parent has worked in the recent past but is now unemployed. Single individuals and childless couples aged 21–64 cannot be covered, no matter how poor, unless blind or disabled. Similarly, working two-parent families are not eligible, even if their earnings are small (although the children in those families may be eligible in some States). Clearly, these restrictions exclude some of the poorest residents of these areas—the 25-year-old unemployed youth, the family struggling on one parent's minimum wage job, the 55-year-old whose place of employment closed and who has not found other work.

Income Limits Too Low To Include All Persons in Need. Families that fit the eligible categories may not be poor enough to qualify for Medicaid, even though they cannot afford to purchase health insurance. Few minimum wage jobs include employer-paid health insurance, but a parent, employed full time at such a job, will find that he or she has too much income to qualify for Medicaid in most States. Medicaid income standards are below the Federal poverty level in all but one or two States; in many States the standards are less than 75 percent of the poverty level.

Restrictive "Spend-down" Requirements. At State option, people in the covered categories can be eligible for Medicaid even when their incomes exceed Medicaid standards, if their medical expenses are large enough. Medical expenses incurred by the applicant are subtracted from excess income until the remaining income equals the eligibility standard. Any additional medical expenses are then paid by Medicaid.

(The process is called "spend-down.") This procedure works well for nursing home care and for expensive hospitalizations, but people who cannot afford primary outpatient care still may not qualify for Medicaid because their medical expenses are not high enough to offset excess income.

Documentation and Verification Requirements. In order to reduce eligibility errors and control program costs, many Medicaid agencies have implemented applications procedures that require extensive documentation and verification of the various factors of eligibility. These procedures may exceed minimum Federal requirements and may require an applicant to produce such items as—

- A birth certificate to verify identity, age and citizenship;
- A rent receipt or letter from a landlord to verify local residence;
- A complete description of how money previously held in a savings account was used, etc.

In addition, applicants who claim to have no income or assets might be asked to explain how they are managing to support themselves. Applicants who cannot produce required documents or acceptable alternatives may be denied Medicaid.

Therefore, many poor people in need of medical care, especially primary care, may not qualify for Medicaid coverage.

B. *Problems Related to Management of Public and other Non-profit Hospitals.* While unemployment, inflation and various demographic changes are placing increasing demands on the services of the non-Federal public and non-profit institutions, inflation, rising health care costs, diminishing tax bases in inner cities and small tax bases of rural communites are reducing the ability of some State and local governments to finance such services. This has placed these intitutions under increasing strain during recent years. As a result, physical plants are often in disrepair; management is focused on day-to-day survival; and quality of care may be compromised.

There are many factors preventing the optimum management of these hospitals. The lack of sufficient revenue from third-party payors, coupled with the hospital's ability in the past to obtain funds through philanthropy and supplemental payments from State or local governments, has often resulted in little incentive for financial accountability in these hospitals. This has led to inefficient management, unnecessary duplication of services, and a failure to aggressively pursue collection from some of those patients who are insured or able to pay.

This solicitation seeks demonstration projects which attempt to reduce barriers to efficient management through management reform, including greater facility autonomy and acountability, and better data and information systems.

C. *Problems Related to the Appropriate Mix and Delivery of Services.* The health programs for the poor in many communities contain biases toward hospitalization when less expensive outpatient care would be appropriate. From the perspective of the practicing physician, Medicaid offers little incentive to serve the poor. Medicaid fee schedules establihsed by States are typically below the customary charges of physicians and the levels established for Medicare and Blue Shield payments. The Medicaid programs frequently reimburse physicians at such low rates that some physicians elect not to participate in the Medicaid program. In addition, due to stringent Medicaid eligibility determinations and categorical restrictions, areas with large numbers of poor persons often have a high percentage of persons ineligible for Medicaid, who will find it difficult to pay for physician services.

For these and other reasons, some communities suffer from severe physician shortages with, at times, only one primary care physician for every 15,000 persons. (The national ratio is 1 to 1,500.) This situation is further exacerbated by some State Medicaid programs which utilize extremely limited definitions in determining recognized clinic use and may not cover costs of services performed by non-physicians, e.g., nurse-practitioners and physician extenders.

On the other hand, payments to hospitals for emergency room and clinic services are at a much higher level than corresponding payments to physicians for the identical type of services. Even though the amount reimbursed to hospitals for outpatient services is typically on a cost basis, the cost may be as high as $60 or $70 per visit compared to an $8 payment limit under Medicaid for an office visit to a physician. Although many States limit the amount paid for hospital outpatient department visits, these limits are always higher than the payments rates for physician office services.

The non-Medicaid poor receive much of their primary and acute medical care at hospitals, most often public or other non-profit hospitals. If that care is outpatient care, there is usually no insurance coverage; however, if that care is delivered to a hospital inpatient, the poor person often is able to qualify for Medicaid or State health care programs, after "spending-down" excess resources.

As a result, inner city residents use the hospital outpatient or inpatient facilities on an episodic basis. Each time the patient returns to the outpatient department, he or she is likely to be seen by a different doctor who may have no background on the patient's medical situation. This results in the ordering of more tests than would be necessary if the doctor were acquainted with the patient and his or her complete medical history. In short, because of the lack of continuity in outpatient care and the lack of a personal relationship between the physician and the patient, resource use per episode of illness is likely to be high. Care normally is not sought until well after a health problem has begun because preventive and educational services are virtually nonexistent.

II. Potential Solutions

HCFA is interested in testing a variety of approaches to improving access to and quality of care through assistance to financially troubled hospitals. This initiative recongizes that there are numerous alternatives to test as we attempt to develop programs that would change provider, patient, and third party payor behavior to enable financially distressed hospitals to continue providing health care to their communities. The alternatives included in this section by no means exhaust the range of possible solutions. We are willing to consider a broad range of ideas and approaches.

One approach is to test the ability of the hospital or network of facilities to assume the role of family physician and case manager. In essence, the hospital or network of facilities would be "responsible" for the health care of the demonstration participants, that is, the patients to be served. Alternative delivery configurations such as clinic networks, single service delivery sites, utilization of private providers, etc., are also encouraged.

Participants can include Medicare and Medicaid beneficiaries, hospitals employees, other third-party insured individuals and currently uninsured individuals living in the surrounding area. Medicaid eligibility could be guaranteed for a specific time period and could be extended, at a minimum, to noncategorically eligible persons who meet the Medicaid income criteria, live in the surrounding area, and elect to participate in the demonstration.

As indicated above, applicants may elect to address a variety of solutions. These may include management improvements, reconfiguration of services or facilities, liberalization of Medicaid eligibility criteria, alternate payment methodologies expanded definition of clinic services, expanded use of nonphysicians, or any combination of these issues. Alternte payment methodologies must be structed to encourage appropriate care, promote efficient management and use of the facility, and cover the reasonable costs of the care provided.

A. *Medicaid Eligibility.* Those applicants addressing a liberalization of Medicaid eligibility criteria should note that we are interested in demonstration proposals which contain material that focuses on at least the first change, and some or all of the remaining changes, in the criteria detailed below:

- removal of categorical restrictions, i.e., basing Medicaid eligibility solely on financial needs;
- applying earned income exclusions used in the AFDC program to families applying for Medicaid;
- simplifying administraiton of the "spend-down" procedure;
- guaranteeing eligibility for a specified time period;
- relaxing income standards and asset standards.

The specific eligibility liberalizations chosen will depend on the circumstances of each rural or urban area and the rules currently in use in each State. We will consider other suggested changes.

B. *Mix and delivery of services.* In order to encourage the appropriate mix and delivery of services applicants may propose reconfiguration of delivery systems. One possibility includes a case management system.

Case management is a system of health care under which each patient selects a specific primary care practitioner or team (known as case manager) who provides primary care to that patient, and arranges, coordinates and monitors all other medical care for that patient on a continuous basis. Services under the case manager's purview that have not been explicitly approved by the case manager will not be approved for payment.

The case manager must be a hospital outpatient department with an organized primary care program, a medicaid participating community health center affiliated with a hospital, or a medical group practice (either multi-specialty or family practice) affiliated with a participating hospital.

A case management program could include the following minimum components:

(a) An individual practitioner (or team, including at least a physician and a nurse practitioner or physician's assistant) who functions as the primary care provider for the patient.

(b) An initial intake visit with the primary care provider, which includes health assessment, facilities orientation, explanation of the case management concept and establishment of a personal relationship between patient and provider.

(c) A primary care practitioner responsible for delivering primary care services on site, including but not limited to pediatrics, adult medicine, obstetrics and gynecology or those services encompassed by family practice. In delivering primary care, the provider must perform the appropriate screens, examinations and diagnostic tests and treatments to ensure that the patient's health status is assessed and maintained.

(d) A plan that provides that, when the patient requires diagnostic testing, treatment or other care beyond that provded by the primary care provider on site, the primary care provider will refer that patient and monitor the care provided the patient in the referral setting.

To do this, there must be an established referral plan between the case manager and the referral setting that ensures the prompt exchange of relevant medical information and the continued assignment of responsibility for the total care of the patient to the primary care practitioner.

(e) Delivery of health education and medical social services to patients as needed. Health education means preparing patients for their participation in and reaction to specific medical procedures, instructing patients in self-management of medical problems, and presenting techniques to patients for disease prevention. Medical social services means assisting patients in their adjustments to and management of the social problems resulting from medical treatment, specific disease episodes or chronic illness. These services may be provided by the primary care practitioner or team, or by other staff in the case management organization judged to have the necessary qualifications or training.

(f) A complete medical record for each enrolled patient that documents and integrates all types of care delivered. The medical record must include data that forms the basis of the diagnostic impression or statement of the patient's problem sufficient to justify any further diagnostic procedures, treatments and recommendations for return visits and referrals.

(g) A program of internal quality assessment that includes: review of a representative sample of aspects of provider performance, incuding but not limited to quality of patient care and identification of deficient areas of performance; recommendtions for action to be taken to correct the deficiencies identified in the review; and periodic review of the corrective action previously recommended.

(h) A system for coordinating services not delivered on site and approving claims for these services. The case management program must be able to affect care not given on site (length of hospital stay, delivery of ancillary services, etc.) through written agreements with referral sources, which ensure exchange of patient information and acknowledge the primary provider as responsible for ongoing care of the patient.

In order to implement a case management system, it will be necessary for a facility to so organize its staff as to assure that appropriate personnel assume the role of a primary care "family physician". We recognize that, in this case, as in other alternatives, the participating facility or facilities will have to restructure services. Areas which might be explored include reduction of acute care beds and emergency room capacity, consolidation of services, elimination of duplication, and expansion of capacity for delivering primary care. The reconfiguration can range from a single facility providing most of the services to a network of facilities providing quality care in different sites.

In one option, the hospital could locate its clinics in a building separate from its inpatient facilities, but all ambulatory services might be provided at the single clinic site. In another option, multiple facilities could form a network and operate a series of interconnected health centers. The facilities might keep track of the demonstration participants, set up appointments, monitor care, etc., but provide only inpatient services.

A third option could involve formal contracts with a series of health providers—clinics, home health agencies, private tertiary facilities, social service agencies, etc. The participating hospital would maintain all records and would be financially responsible for each enrollee's care.

Each participating institution must determine its appropriate role and configuration, based on existing services and the needs of the population. Unneccessary duplication of services in an area must be avoided and plans of area planning offices adhered to whenever available.

The anticipated structure and the plans for its achievement should be determined before the initiation of the demonstration.

C. *Management.* Applicants may encourage improved hospital management. Many hospitals suffer from management deficiencies such as a lack of incentives for tight fiscal management and an inability to recruit and support effective managers. These hospitals often have antiquated and cumbersome accounting systems that are unable to respond to the needs of effective management and administration. Often the relationship that exists between these hospitals and the municipal governments—including

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shared accounting, procurement, and personnel practices—makes management changes in these hospitals difficult.

We expect that any demonstration submitted under this situation will address existing management deficiencies. At a minimum, each hospital will be expected to maintain an independent system of accounts for both expenses and revenues; rigorously pursue Medicaid eligibility determinations; and establish and monitor a method to ensure maximum collections. A complete plan for management changes must be included for each participating facility, depending on its specific needs.

(Sections 1102, 1110, 1115, 1871, and 1875 of the Social Security Act (42 U.S.C. 1302, 1310, 1315, 1395hh, 1395ll); Section 222(a) of the Social Security Amendments of 1972 and Section 402(a) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1) as amended by Section 222(b) of the Social Security Amendments of 1972; and Sections 1521, 1526 and 1533 of the Public Health Service Act (42 U.S.C. 300m, 300m-5 and 300n)

(Catalog of Federal Domestic Assistance Program No. 13.766 Health Financing Research, Demonstrations and Experiments)

Dated: August 26 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

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[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

REMINDERS

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Energy Office—

50549 7–30–80 / Amendment of regulations certifying essential agricultural uses (metal, shipping barrels, drums, keg and pails (food related only)) under the Natural Gas Policy Act

Rules Going Into Effect Sunday, August 31, 1980

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

41586 6–19–80 / Operations review program

Rules Going Into Effect Monday, September 1, 1980

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

50701 7–31–80 / Milk marketing orders; Georgia

Food and Nutrition Service—

46036 7–8–80 / 1980 Food Stamp eligibility limits; interim rule

[Corrected at 45 FR 48099, 7–18–80]

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51197 8–1–80 / Cost of living adjustment for compulsory royalty rates paid by non-commercial broadcasting

ENERGY DEPARTMENT

Economic Regulatory Administration—

52112 8–5–80 / Crude oil reseller regulations

Federal Energy Regulatory Commission—

53116 8–11–80 / Bona fide offers; provisions for right of refusal

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

40603 6–16–80 / Delegation of authority to grant or deny Freedom of Information Act requests to the Associate General Counsel, Legal Counsel Division and the Regional Attorney in each District Office

FEDERAL LABOR RELATIONS AUTHORITY

48575 7–21–80 / Negotiability issues, expedited review; issuance of orders and compliance actions

FEDERAL RESERVE SYSTEM

54009 8–14–80 / Extension of credit by Federal Reserve Banks

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service—

48478 7–18–80 / Grants for Community Mental Health Centers

INTERIOR DEPARTMENT

Fish and Wildlife Service—

37847 6–5–80 / Final regulations describing nontoxic shot zones for waterfowl hunting seasons occurring in 1980 or in January and February 1981

Indian Affairs Bureau—

54331 8–15–80 / Colorado River Irrigation Project, Ariz., Revision of rates and procedures

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

70721 12–10–79 / Step, handhold, and deck requirements on commercial motor vehicles; extension of effective date

[Originally published at 44 FR 43730, 7–26–79]

National Highway Traffic Safety Administration—

27541 6–26–78 / Controls and displays, Federal motor vehicle safety standards

55579 9–27–79 / Federal motor vehicle safety standards; controls and displays

52246 11–9–78 / Federal motor vehicle safety standards, vehicle identification number

23229 4–19–79 / Seating positions

40585 6–16–80 / Speedometers and odometers; marking and tampering requirements and maximum speed standard

36448 8–17–78 / Vehicle identification numbers; Extension of applicability for vehicles other than passenger cars

17489 3–22–79 / Vehicle identification number; fixed forma

Research and Special Programs Administration—

13087 2–28–80 / Shipment of hazardous materials by air

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Last Listing August 14, 1980

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 7102 / Pub. L. 96-330 Veterans' Administration Health-Care Amendments of 1980. (Passed over veto—Aug. 26, 1980; 94 Stat. 1030.)

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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890.108 Redesignated as 890.107 23637
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890.701—890.702 (Subpart G)
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891.106 Revised 23637
891.107 Removed 23637
891.401 Revised 30611
900.204 (h)(2) and (3) nomenclature change correction 3565

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1201 Appendix II amended 6537, 34861
1251 Authority citation correctly added 2837
1252 Authority citation correctly added 2837
1253 Authority citation correctly added 2837
1254 Authority citation correctly added 2837
1255 Authority citation correctly added 2837
1260 Authority citation correctly added 2837

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1261 Authority citation corrected 2837, 10305

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel

Chapter XIV Revised 3486
2400 (Subchapter A and Part) Revised 3487
2411—2415 (Subchapter B) Revised 3488
2411 Revised 3488
2412 Revised 3491
2413 Revised 3494
2414 Revised 3495
2415 Revised 3496
2420—2429 (Subchapter C) Revised 3497
2420 Revised 3497
2421 Revised 3497
2422 Revised 3497
2423 Revised 3506
2424 Revised 3511
2424.6 (b) corrected 8933
2424.7 (c) corrected 8933
2424.10 Revised 48576
(c) corrected 49905
2425 Revised 3513
2426 Revised 3513
2427 Revised 3516
2428 Revised 3516
2429 Revised 3516
2429.1 (a) corrected 8933
2470—2471 (Subchapter D) Revised 3520
2470 Revised 3520
2471 Revised 3520
Chapter XIV Appendix A amended; interim 761
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Appendix A amended 36349, 51541, 57699

Chapter XV—Office of Administration, Executive Office of the President

Chapter established 20453
2500 Redesignated from 32 CFR Part 2500 20453
Designation corrected 22873

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2502 Added	47112
2504 Added	41121

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705 Form PAY-1 (Actual) added	966
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705.4 (a)(1) amended	3216
705.10—705.22 (Subpart B) Revised; interim	17126
705.12 (b) revised	42589
705.43 (d) revised	21260
705.44 Revised	3216
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705.48 Added; interim	1816
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705.49 Added; interim	1817
(a)(4)(i) amended	3217
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705.50 Added; interim	1817
(a)(2)(i) and (c)(4)(ii) corrected	7535
Added; final	14839
705.51 Revised	38335
705.64 (b) revised	6537
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705 Appendix amended; interim	4339
706 Form PAY-1 (Actual) added	966
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706.22 (a) revised; interim	18366
706.24 Added; interim	14840
706.25 Added; interim	14840
706.26 Correctly added; interim	17128, 21609
706.31 (a) and (c) revised; interim	14940
(a) revised; interim	18366
(c) corrected	21609
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706.32 Revised; interim	17128
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707 Form PAY-1 (Actual) added	966
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707.11 Added; interim	14841
(c) corrected	21609
707.33 Revised; interim	17128
707.39 Added; interim	14841
707.40 Added; interim	17128
(c) corrected	21609
707.50 (Subpart E) Added; interim	17129

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701—707 (Ch. VII)	30445
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TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

Page
1.1—1.16 (Subpart A) Appendix A amended 27435
1.160—1.175 (Subpart I) Added 6587
2.4 Revised 10751
2.5 (b) amended 10751
2.13—2.29 (Subpart C) Heading
2.17 (b)(20) added 43366
revised 10751
(a)(2) added 57363
(f) redesignated as (g); new (f) added 62783
2.23 (g) added 52355
2.25 (e)(9)(xiv) revised; (e)(9)(xv) and (xix) removed 21610
(c)(2) and (d)(1) revised; (e)(11) added 31697
2.27 (a)(11) and (12) added 12211
(h) added 52355
(b) heading, (2), (13), and (14) revised; (b)(1) removed 62783
2.28 (b) heading revised 62784
2.29 Heading and introductory text revised 10751
2.33 Revised 31697
2.34 Revised 31698
2.35 Revised 62784
2.37 Removed 52355
2.39 (a)(62) added 33589
(a)(17) revised 57363
2.41 (a) amended 62784
2.43 Added 48576
2.50 (a)(2) added 57363
(a)(10) added 62784
2.51 (a)(20) added 43366
2.54 Added 62784
2.58 (a)(6) corrected 1411
2.63 Revised 25039, 30417
2.70 (a)(29) added 52355
2.75 (a)(19) added 21610
(a)(4)(ii) and (15)(ii) revised 31698
2.77 (a)(2) revised 31698
2.78 (a)(9)(xiv) and (a)(13) revised; (a)(9)(xv) and (xix) removed 21610
(a)(15) added 31698
2.84 (a)(11) and (12) added 12211
(a) introductory text revised; (a)(13) through (18) added 52356
2.85 Heading and (a)(2) and (14) revised; (a)(1) removed; (a)(16) added 62784

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2.96 (Subpart M) Added 10751
6.21 (t) amended 54302
6.25 (d)(4) corrected 33589
(b)(2)(i)(C) amended 58333
6.26 (a)(3) and (6) corrected 33589
(b)(5) added 54302
(c)(1) amended 58333
6.40—6.44 (Subpart) Added 9883
6 Appendix 2 corrected 33589
10 Revised 37175
12 Added 6023
14 Added 58507
16.1—16.5 (Subpart A) Removed 7999
20.2 Revised 8562
20.3 Revised 8562
20.4 (a) revised 8562
(h) amended 24104
20.6 (a) introductory text and (e) amended; (d) introductory text revised 8562
(a) and (g) amended; (c)(5), (6), and (7), (e), (i), (j), and (k) revised 24104
(b) and (k)(2) amended 24439
20.7 Amended 8562, 2440
20.10 Revised 8562
20.11 (a) amended 8562
20 Appendix I amended 24440
25.17 (a) revised 23401
25.18 Revised 30417

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26 Removed; Subpart B regulations transferred in part to Part 810 15873
27.93 Amended 762
27.94 (a) amended 762
28.25 (c) revised 46783
28.482 Added 46783
28.525 (a) table amended 46783
28.908 (b) revised 46783
29.2259 Correctly revised 44293, 47115
29.2409 Correctly revised 44293, 47115
29.2410 Correctly revised 44293, 47115
29.2440 Table revised 44293
Text correctly revised 47115
29.2461 Revised 44293
29.2481 Revised 44293
29.3050 Revised 62973
47.26—47.43 Removed 59298
Correctly removed 62973

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68.42c	Revised	45858
68.301	Revised; footnote 1 added	46333
101.89	Revised	6775
102.2	(u) revised	5661
102.18	(d) revised	5661
102.44	Revised	5661
102.65	(a) (9) revised	5662
102.77	Revised	5662
102.78	Revised	5662
102.80—102.85	Revised	5662
102.86—102.95	Removed	5662
102.99	Revised	6775
103.78	Revised	6775
104.72	Revised	6775
106.80	Revised	6776
107.81	Revised	6776
108.73	Revised	6776
111.84	Revised	6776

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210.2	(u) added	998
	(h–1) through (h–7) redesigned as (h–2) through (h–8); (c–3), (c–4), and new (h–1) added	6770
	Technical correction	14005
	(h–6) through (h–8) redesignated as (h–7) through (h–9); (b), (b–1), (b–2), (b–3), (b–4), and (q–2) added; new (h–6) added; interim	64083
210.4a	(b) (7) revised; interim	64084
210.5	(a) amended; interim	64084
210.7	(b) revised	51176
210.8	(e) (18) added; interim	64084
210.10	Revised	32514
210.13	(b) amended	7228
	(b) revised; interim	64084
210.14	(a) (2), (3), (4), and (g) (2) revised; (g) (5) added; interim	64084
210.15b	Revised	6771
210.16	(a), (b), and (e) revised, interim	64086
210.17	(f) added; interim	64086
210.19	(a) revised; interim	64086
210.19b	Removed	32514
210.20	Redesignated as 210.21; new 210.20 added	999
	Technical correction	14005
210.21	Redesignated from 210.20	999
220.2	(c–1), (c–2), and (i–1) added	6771
220.11	(a) amended	7228
220.12	Revised	6771
220	Appendix B added	6772
225.1	Amended	1846
225.2	(n) amended; (s) and (x) revised	1846
225.4	(h) amended; (k) added	1846
225.5	(q) (6) removed; (b) (11) and (aa) added; (c), (k) (2), and (q) (2) amended	1846
	(aa) corrected	8562
225.6	(a) (1), (10), (12), and (19) revised	1847
225.7	(e) and (g) revised	1847
225.9	(a) (1) and (7) revised; (k) amended	1848
225.10	(a) (1) (iii), (2) (iv), and (3) (iv) revised	1848
225.13	(f) amended	1848
	(a) amended	7228
226	Revised	4970
	Appendix added	10752
226.29	(j) corrected	17129
227.30	(b–1) added; interim	14842
227.37	(c) added; interim	14842
230	Nomenclature changes	33593
230.2	(e) and (v) removed; (n–1), (n–2), (cc–1), and (cc–2) added; (h), (i), (u), (x), (dd), and (ee) revised	33593
230.4	Revised	33594
230.7	(a) revised	33594
230.8	Existing text designated as (a) and amended; (b) through (e) added	33594
230.9	(d) added	33595
230.12	(i) added	33595
230.13	(b) revised	33595
230.16	(a), (b) (3) (iii) introductory text, and (c) revised; (b) (2), (3) heading and introductory text amended; (b) (3) (i) and (4) removed; (b) (5) redesignated as new (b) (4)	33595
235.4	(b–1) comment time extended	1041
	(b) introductory text and (c) revised; (b–1) and (b) (3) redesignated as (b) (3) and new (4); (b) (2) and new (3) amended; new (b) (4) revised; interim	3566
	(b) (3) revised; interim	64087
235.6	(a–1) comment time extended	1041

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(a–1) revised	64087
235.7 (c) added	8563
235.11 (b) revised; (e) added; interim	64087
245.4 Revised	52771
245.12 Added; final	1000
246 Determination	20458
247 Revised; interim	15067
271.2 Amended	15897, 23291
271.7 Revised	22005
Republished	22880
272.1 (g)(4) added	2609
(g)(8), (9) and (12) added	7215
(g)(8), (9), and (12) republished	7237
(g)(14) added	12767
(g)(11) added	15898
(g)(3) revised	22006
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(g)(17) added	27431
(g)(16) added; interim	46040
(g)(14) and effective date corrected	53448
272.5 Added	2610
272.6 (b)(8) revised	7216
(b)(8) republished	7237
273.1 (e)(3) added; (f)(2) revised	23291
(b)(6) revised; (b)(7) amended; interim	46040
273.2 (f)(1)(v) added; (f)(9)(i) and (i)(4)(i) revised	7216
(f)(1)(v), (9)(i), and (i)(4)(i) republished	7238
(i)(3)(ii) revised	23292
(f)(5)(ii) amended; (f)(8) and (k) added	27432
(f)(2)(iii) removed; (f)(2)(iv) redesignated as (f)(2)(iii); interim	46040
273.3 Amended	2613
273.5 Revised; interim	46040
273.6 Redesignated as 273.20; new 273.6 added	7217
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273.7 (l) added	27434
(b)(9) revised; interim	46040
(f)(2) and (i)(3)(vi) removed; (f)(1) redesignated as (f) and amended; (h) introductory text and (1) amended; interim	46041
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273.8 (e)(11)(viii), (ix), and (x) added	12767
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273.9 (b)(3) revised	7218
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(a)(1), (d)(7) and (8), and Appendix A revised; (a)(2) amended; emergency	40094
(c)(10)(v) revised; (c)(10)(ix) and (x) removed; interim	46041
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273.10 (e)(1)(ii) and (2)(ii) revised; (f)(3)(iv) added	7218
(e)(1)(ii), (2)(ii), and (f)(3)(iv) republished	7239
(e)(2)(ii) amended; (e)(2)(iii) revised	22006
(e)(2)(ii) amended and (e)(2)(iii) republished	22882
(e)(4)(ii) revised; emergency	40094
273.11 (c) introductory text revised; (c)(5)(iii) added	7218
(c) introductory text and (5)(iii) republished	7240
(e)(1) amended; (e)(2), (5), and (7) revised; (f) redesignated as (g); new (f) added	23292
(c) introductory text amended; (c)(5) revised; interim	46041
273.12 (e)(3) revised	7218
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(a)(1)(v) amended; interim	46042
273.13 (b)(11) added	7219
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273.16 (a), (d) introductory text and (9)(ii), and (e)(3) revised; (e)(4) added	7219
(a), (d) introductory text, (9)(ii), (e)(3) and (4) republished	7240
273.18 (c)(2), (d), (e), and (f) revised; (c)(3) and (4) removed	7220

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(c)(2), (d), (e), (f)(1) and (2) republished	7241
273.20 Redesignated from 273.6	7217
274.2 (e)(2) and (f)(6) amended	22007
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274.3 (f)(6) amended	22007
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274.10 (d) amended	23293
275.1—275.4 (Subpart A) Added	15898
275.5—275.9 (Subpart B) Added	15900
275.6 (b)(1)(ii) designation correctly added	23637
275.7 (b)(1)(i) corrected	23638
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275.9 (d)(2) corrected	25375
275.11 (b)(2) amended	15898
275.13 (b)(2)(ii) amended	15898
275.15 (Subpart D) Added	15909
275.16—275.19 (Subpart E) Added	15909
275.20—275.23 (Subpart F) Added	15911
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275.25 (Subpart G) Added	15912
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278.2 (g) revised	23294
282.10 Effectiveness extended	40094
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301.45-2a (a) corrected	24856
301.45-2c Revised	43367, 46785, 51177
301.45—301.45-10 (Subpart) Appendix corrected	24856–24858
301.52-2a Revised	43368
301.80-2a Amended	38025, 38033
318.13-1 (i) revised; (o) added	42242
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319.37—319.37-14 (Subpart) Revised	31585
319.37 (a) corrected	35305
319.37-2 (a) table corrected	35305
319.37-5 (d) and (e) corrected	35305
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319.37-6 (c) corrected	35305
(e) amended	49504
319.37-7 (a) table corrected	35305
331.1—331.1-9 (Subpart) Added	50321
331.1 Footnote 2 correctly added	51755
331.1-1 (j) corrected	53450
331.1-2 (c) amended	54304
(c) amended	60402
331.1-3 (b)(1) amended	54304
331.1-7 Correctly designated	53450
331.1-9 (a) and (b) amended	54304
354.2 Table amended	18367, 47686
371 Added	8564
371.2 (c)(2) revised	48099

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401.156 Removed	54711
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411.1—411.7 (Subpart) Revised	62020
414 Revised	49511
415 Revised	49516
417 Appendix B corrected	9887
418 Appendix B corrected	9887, 29001
Appendix B revised; interim	54718
419 Appendix B corrected	29001
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421.7 (d) corrected	29002
422 Added	49505
427.7 (d) amended	54722
428 Appendix B corrected	9887
430 Appendix B revised; interim	54724
432 Appendix B corrected	9888
433 Appendix B corrected	9888
434 Appendix B corrected	9889
435 Appendix B corrected	9889
437 Added	54712

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700 Added	14009
701 Revised	49522

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706.1–706.32 (Subpart G) Removed	62785
711.3 (f) revised	37398
713.1 (c) and (d) redesignated as (d) and (e); new (c) added	62786
713.3 (a)(2), (h), and (j) revised	62786
713.3a (b)(2) and (c) revised	62786
713.5 (a)(2)(iii) added	62786
713.8 (b)(1), introductory text of (b)(2), and (c)(1) revised	62786
713.9 Revised	62786
713.10 Revised	62786
713.11 Revised	62786
713.16 Introductory text and (a)(2)(iii) revised	62786
713.17 Revised	62786
713.18 (a) and (b) revised; (c) added	62787
713.19 (a) heading, (b)(2)(i) and (ii) revised; (a-1) and (b-1) added	62787
722.73 (c) revised	51756
722.558—722.564 (Subpart) Heading revised	2310
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723.1—723.2 Undesignated center heading revised	8571
723.1 Revised	8571
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723.11—723.12 Undesignated center heading revised	8571
723.11 Revised	8571
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724.12—724.17 Undesignated center heading revised	8575
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(c) through (k) removed; new (c) added	62415
725.3 Revised	40097
725.51 (oo), (pp), and (qq) revised; (rr) added	56005
725.72 (c)(4)(i) revised	13431
725.92 (b) revised	40097
725.100 (a), (c)(4) introductory text, and (5) revised; (c)(6) and (g) added	56006
725.101 (a) and (b) revised; (c) added	56006
726.1 Undesignated center heading and section revised	8579
726.11—726.21 Undesignated center heading revised	8579
726.11 Revised	8579
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726.86 (c) revised	42242
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729.30 (b), (d), (g)(1), and (j) revised	34862
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729.47 (a)(1) revised	6082
729.53 Added	34863
729.99 (g)(17) added	56006
730.1502—730.1504 (Subpart) Revised	18369
760.101 (b) revised	59299
760.119 Revised	56007
781.4 Revised	7776
781.5 Added	7776
795.8 (c) revised	10311
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Chapter established	15810
800 Added	15810
800.0 (b) introductory text, (4), (22), (33), and (34) corrected	55118
800.8 (b) corrected	55118
800.19 (a)(1) corrected	55118
800.40 Corrected	55118
800.45 (b) introductory text and (2) corrected	55118
800.46 (c)(5) corrected	55119
800.70 (f)(2) corrected	55119

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800.72	(a)(2) correctly redesignated in part as (a)(3); (a)(3) correctly redesignated as (4)	55119
800.80	(a)(4) and (c) corrected	55119
800.81	(a)(1)(iii), (3), and (d) corrected	55119
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800.146	(a) corrected	55119
800.161	(d)(1) table corrected	55119
800.185	(h)(2) corrected	55119
800.187	(e)(3) corrected	55119
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800.207	(e)(1) corrected	55119
800.208	(d) corrected; (1) correctly designated as (l)	55119
800.216	(f) introductory text corrected	55119
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3.1 (a)(1) revised	9893
100.4 (c)(2) amended	13434
101.3 Nomenclature change	32657
103.1 (o)(1) amended	32657
103.2 (b)(1) amended	32657
103.7 (b)(1) amended	33950
204.1 (a) amended	19545
204.2 (b) amended	32657
(c)(3) and (5) amended	41392
(d)(1) amended; (d)(2) revised	44252
207 Added; interim	37393
208 Added; interim	37394
209 Added; interim	37395
211.1 (b)(1) revised; (b)(2) amended	30062
(b)(3) amended	30063
(c) amended	32657
211.3 Nomenclature change	32657
211.5 (a), (b), and (d) amended	32657
212.1 (a) amended	19215
(e)(1) amended	24849
212.6 (d) revised	11114
(a) amended	19545
212.9 Added	63836
214.1 (c) amended	26015, 44918
(c) revised	48867
214.2 (j)(1), (2), and (3) amended	23641
(h)(11) amended	24859
(h)(2)(iv) revised	25793
223.1 Nomenclature change	32657
223a.4 Nomenclature change	32657
231.2 (a) amended	32657
235.1 (f)(1)(iii), (iv), and (g) amended	19545
(f)(iv)(1a) removed	63482
235.10 (c) revised	16462
238.3 (b) amended	20461, 40965, 54310, 58099
238.4 Amended	10313, 20462, 38340, 40965, 45575, 58511
239.2 (a) amended	29243
242.5 (a)(2) amended	27917
242.17 (a) and (c) amended	41393
242.22 Amended	30063
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244.1 Amended	27917
245.1 (d) amended	26015
(d)(2) revised	26947
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245.2 (c) and (e) amended	32657
245.4 Revised	37396
246.9 Nomenclature change	32657
247.14 Amended	32657
248.2 Amended	26015
248.3 (b) amended	23641
249.2 Amended	32657
251.1 (c) and (d) amended	32658
264.1 (a) and (b) amended; (c) revised	32658
(f) and (g) amended	52143
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292a.1 Revised	43681
292a.2 Amended	43681
299.1 Amended	6777, 32658
299.2 (c) added	6777
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299.3 Revised	6777
299.4 Revised	6777
334.13 Amended	45576
334.16 (a) revised	10313
336.16 Amended	10313
341.1 (a) and (b) revised	10313
343b.11 (a) amended	38340
499.1 Amended	6778

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3.12 (a)(4) introductory text amended; (a)(4)(i), (ii), and (iii) added	37618
3.104 (b)(3)(iii) and (f)(3) amended	63261
50.1 (q) added	32287
50.3 Revised	32287

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50.6 Heading and introductory text revised; (c) added	32287
50.7 Heading revised; (a) heading added	32287
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50.8 Revised	32288
50.9 Revised	32288
50.14 (b) revised	32288
51.1 (cc), (dd), and (ee) and footnote 3 added	43678
51.3 (a) and footnotes 4 through 6 revised	43679
51.5 (b) amended	24860
51.6 (c) revised	40966
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75.7 (a)(1)(iv)(Q) and (R) added	1002
(a)(1)(iv)(E) revised	2837
(a)(1)(x)(C) revised	8580
(b)(1)(i)(A) revised; (b)(1)(iii) added	26316
78.20 (b) amended	7246
(a) and (b) amended	14843
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78.21 (b) amended	7246
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78.22 (b) amended	29267, 38036, 59832
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(b) amended	52773
79.2 Revised	6083
82.3 (a)(2) removed	2311
(a) introductory text amended; (a)(1) added	26317
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(a) introductory text revised; (a)(2) added	30613
(a)(1) removed	48103
(a) introductory text amended; (a)(1) added	61595
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(a) introductory text amended; (a)(2)(ii), (3), (4), and (5) added	64550
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83.2 Introductory text and (d) revised	40099
(a) introductory text amended; (a)(2)(iii), (6), (7), and (8) added	64551
91.3 (a)(1) revised	12376
92.1 (j)(2)(vi) and (v) added	2839
(r) revised; (v) and (w) added	36358
92.2 (i)(2)(iii)(C) and (iv) rerevised	1004
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(i)(1) revised	45889
92.3 (e) and (f) redesignated as (f) and (g); (a), (b) and (c) revised; new (e) added	11796
(a) amended; (g) redesignated as (h); new (g) and footnote 4a added	52775
92.4 (a)(5), (6), and (7) added	1005
(a)(5)(ii) amended	10314
(a)(4) amended	10754
(a)(5)(ii) amended	24860, 57701, 62026
92.11 (d) redesignated as (d)(1); new (d)(2) and (3) added	52775
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92.17 Amended	1005
92.20 (c)(1) amended; (c)(2) through (6) redesignated as (c)(3) through (7) and amended; new (c)(2) added	36358
92.24 (a) amended	8581
92.25 (b) revised	8581
92.31 (a) revised	14018
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92.34 Removed; (a) and (c) redesignated as 92.35 (a) and 92.39 (b) and revised	14018
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92.35 (a), (b), and (c) redesignated as (b), (c), and (d); new (a) redesignated from 92.34 (a) and revised; new (b) amended	14018
92.39 Revised; (b) redesignated from 92.34 (c)	14018
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92.41 (a)(2) and (c) amended; footnote 15 added	7779
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(b)(7) revised; (c) amended	29269
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94.6 (b)(5) and (d)(4) added	29270
113.86 Heading and (c)(1), (2), and (3) revised	40100
113.87 Heading and (c)(1), (2), and (3) revised	40100

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113.88 Heading and (c)(1), (2), and (3) revised	40100
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113.92 (c)(1) and (2) revised	40100
113.93 Heading and (c)(1) and (2) revised	40101
113.94 Heading and (c) introductory text, (1), and (2) revised	40101
145.10 (i) added	10315
145.14 (b)(4) added	10315
145.23 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised	10315
145.33 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised	10316
145.44 (c) added	10316
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204.2 (e)(2) revised	14532
204.3 (d)(1) and (2) revised; (d)(4) removed; (d)(5) redesignated as (d)(4)	14532

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309.16 (a) amended; (c) added; interim	26949
317.8 (b)(25) revised	58819
318.4 Heading revised; (b) amended; (c) through (g) added	54322
318.7 (c)(4) table amended	10318, 58819
319.140 Amended	10318
319.180 (e) amended	10318
319.181 Amended	10318
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381.10 (d)(2)(iii) revised	27922
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381.76 Comment response	27917
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2 Nomenclature change	14200
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2.4 (d) revised	14200
2.202 (a) introductory text and (f) revised	3250
2.700a Added	45254
2.708 (d) revised	49537
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2.786 (a) and (b)(5) revised	45890
4 Authority citation revised	14535
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4.11—4.93 (Subpart A) Heading added; nomenclature change	14535
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4 Appendix amended	14539
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20 Nomenclature change	14200
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20 Appendix D amended	18905
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50 Nomenclature changes	14200
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50.70—50.71 Undesignated center heading revised	13435
50.71 (e) added	30615
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50.78 Center heading and section added	50711
50 Appendix F amended	14201
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71.5 (a) revised	20462
71.7 (b) introductory text revised	20463
73 Nomenclature changes	14201
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95 Added	14483
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206 Correctly removed	63262
210.62 (a) revised	36361
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212.182 Amended; interim	52117
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456.810 Added; interim	63793
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490.35 Heading, (a), (b) introductory text and (d) revised; (b)(5) and (c) amended; (b)(6) redesignated as (b)(7); new (b)(6) added	13050
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21.35 (b)(2) amended	60170
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61.23 (b)(1) amended 18911

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61.77 Added 5671

61.157 (e) added 44183

63.23 Added 5672

63.42 Heading revised 5673

65.15a Removed 46737

65.31 Heading revised; (a) and (b) amended; (c) added 18911

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65.33 (d) revised 18911

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65.81 (a) amended 46737

65.93 Revised 46738

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71 Republished 301

71.103 6357

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TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

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0.72 Revised	*13078
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0.93—0.102 Removed	*16192
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0.121 (c) revised	77167
(a) amended	*19558
0.131 Introductory text revised	*25399
0.152 (d) amended	*39850
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0.557 (a) amended	*39850
0.602 (c) and (d) added; eff. 10–27–80	*63491
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1.45 Note revised	*64190
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1.106 (b), (c), (d), and (k) revised	60294
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1.415 (d) revised	*45591
1.773 Revised	*64190
1.922 Amended	*55201
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1.924 (b)(2)(iv) revised	69302
(b)(2)(iv) removed	*55201

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1.925 (g) added; eff. 1-1-81 *59883
1.926 (b)(5) revised 69302
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1.951 (d) removed 69302
1.1103 (b) suspension lifted *62073
1.1201 (a), (c), (e), (f), and (g) revised; (h) and (i) added *45591
1.1207 (d) added *45591
1.1209 Undesignated text added *45591
1.1211 Added *45591
1.1213 Added *45591
1.1229 Added *45592
1.1231 Added *45592
1.1241 (f) added *45592
1.1243 (f) added *45592
1.1245 Revised *45592
1.1251 (d) added *45592
1.1404 (g)(6) revised; (g)(13) removed *17014
2.106 Table amended 58717
Footnote revised *63279
2.302 Table amended; eff. 1-1-81 *59884
2.303 (c) added 62284
2.601 Revised *33629
2.602 Revised *33629
2.603 Revised *33629
2.805 Existing text designated as (a); (b) added 59542
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2.806 Added *24164
5.67 (d) added 77167
13.2 (b)(2)(ii) added (effective date to be announced) *52155
13.3 (a) revised (effective date to be announced) *52155
13.5 (c)(2) revised (effective date to be announced) *52155
13.11 (e) revised (effective date to be announced) *52155
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13.27 Revised (effective date to be announced) *52156
13.28 Revised (effective date to be announced) *52156
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(c) revised *52157
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15.66 (d) added 66822
15.801—15.838 (Subpart J) Added 59543
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15.812 Revised *24165
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15.816 Revised *24165
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18.277 Added 70474
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19.735-104 (b) introductory text, (2), (5), (6), and (c) amended *39850
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19.735-105 (a) and (e) amended *39850
19.735-201 Amended *39851
19.735-203 (e) amended *39851
19.735-301 Amended *39851
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19.735-410 Amended *39851
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21.113 (c) added 77167
21.703 (g) table corrected *61305
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22.2 Designation corrected 63105
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22.13 (a)(2) and (c) introductory text revised *63492
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22.113 (c) added	77167
22.207 (a), (b) and (c) revised; (d) removed	*25804
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22.405 (a) revised	*63493
22.500 Revised	*25805, 63493
22.501 (l)(8) introductory text, (iii) and (iv), (l)(9)(i) and (ii), and (l)(10)(i) and (iii) revised; (l)(9)(iii) through (vii) added	*29031
22.514 Revised	*25805
22.521 (b) table amended	*46404
22.600 Revised	*63493
22.1000 Revised	*63493
23.20 (e) added	77167
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25.203 (h) added	77167
31.100:3 (a) revised	65763
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61.32 Revised	66824
61.33 (c) added	66825
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61.38 (b)(1) revised	*64190
61.58 (e) revised	*64190
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63.01 (h)(3) revised	*3051
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63.54—63.57 Undesignated center heading added	75163
63.54 Heading revised	75163
63.55 Revised	75163
63.60 (a)(1), (2), and (c) revised; (a)(3) and (d) through (h) removed	*3051
(a)(1) and (2) and (c) corrected; (a)(3) and (d) through (h) correctly removed	*6585
63.62 (c) correctly removed; (f) corrected	*6585
63.63 (a) introductory text corrected	*6585
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68.106 Revised	*20853
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68.310 (j) corrected	*54343
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68.312 (c)(1) and (d) corrected	*61632
68.500 (i)(4) figure corrected	*52151
73 Index revised	58725
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73.14 (v) added	66820
73.21 (a)(2)(ii) revised	*43186

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73.31 Revised	69934
73.35 (b) revised	*26061
73.36 Revised	58731
73.37 (e)(2)(iii) amended; (e)(2)(iv) and (v) added	*43186
73.40 Heading revised; note removed	65764
73.45 (c) amended; (d) removed	*28141
73.50 Heading revised	65764
(a) revised	*26062
73.52 Revised	58731
73.53 (a)(2) revised	65764
73.54 Heading and (e)(6) revised	*26062
73.55 Revised	58731
73.57 (g) revised	58731
73.59 Revised	58731
73.62 Added	58731
73.67 (a)(3) revised	58731
(c)(1) revised	65764
73.68 (a) introductory text (c) revised; (f) added	58731
73.69 (a) revised	*26062
73.93 (e)(3) amended	58731
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(c), (e)(3), and (h)(3) revised; (j) note removed; (k) added	*26062
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73.99 Revised	*26062
73.122 Revised	65764
73.124 Revised	65764
73.126 Revised	65764
73.139 Revised	58720
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73.182 (f) revised	*26063
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(v) table corrected	*47149
73.189 (b)(9) revised	*26064
73.202 (b) table amended	57098, 58719, 58724, 60097, 60741, 62285, 62286, 64409, 67664, 67665, 67667–67669, 70474, 74837, 74838, 77164
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(b) table corrected	*38057
(b) table amended; eff. 10–3–80	*58540
(b) table amended; eff. 10–9–80	*59887
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73.207 Heading revised	65764
73.210 Revised	69934
73.231 Redesignated from 73.241	65764
73.240 (a)(3) added	*26064
73.241 Revised	58720
Redesignated as 73.231	65764
73.242 Revised	*26064
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73.265 (c), (d) introductory text, (1), and (4) revised; (d)(2) removed; (i) added	*26064
73.266 Added	58731
73.267 Revised	58731
(c)(3)(i) and (iii) revised	*28141
73.268 Revised	58732
73.269 Revised	58732
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73.278 Revised	58732
73.288 Redesignated from 73.299 and revised	65764
73.291 Redesignated from 73.300	65764
73.292 Revised	65764
73.295 (d) revised	*26064
73.296 Revised	65764
73.299 Redesignated as 73.288 and revised; new 73.299 redesignated from 73.301 and revised	65764
73.300 Redesignated as 73.291	65764
73.301 Redesignated as 73.299 and revised	65764
73.313 (d)(1) amended	65764
73.317 Heading revised	65764
73.332 (d)(6) note removed	65764
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73.333 Heading revised	*28141
73.340 (c)(2) removed	*28141
73.501 (b) amended	*28141

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73.507	Heading revised	65764
73.508	(b) amended	*28141
73.531	Added	*26064
73.540	(c)(2) removed	*28141
73.561	(b)(1) and (d) amended	65764
73.565	(c), (d) introductory text, (1), and (4) revised; (d)(2) removed; (j) added	*26064
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73.566	Added	58732
73.567	Revised	58732
73.568	Revised	58732
73.569	Revised	58732
73.572	Redesignated as 73.574	65764
73.573	Redesignated as 73.575	65764
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73.574	Redesignated as 73.576; new 73.574 redesignated from 73.572	65764
73.575	Redesignated from 73.573	65764
73.576	Redesignated from 73.574	65764
73.578	Added	58732
73.591	Redesignated from 73.598	65764
73.592	Redesignated as 73.596; new 73.592 added	65764
73.595	(d) revised	*26065
73.596	Redesignated as 73.597; new 73.596 redesignated from 73.592	65764
73.597	Redesignated as 73.598; new 73.597 redesignated from 73.596	65764
73.598	Redesignated as 73.591; new 73.598 redesignated from 73.597	65764
73.606	(b) table amended	58723, 58913, 67665, 67666, 67668
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73.610	Heading revised	65765
73.613	Revised	69934
73.627	Revised	58732
73.633	Revised	65765
73.636	(a)(3) added	*26065
73.641	Heading revised	65765
73.642	(a)(3) revised	60096
	Heading revised	65765
73.643	Heading revised	65765
73.644	Heading revised	65765
73.653	(a) and (b) amended; (b)(1), (2), (3), and (c) added; eff. 10-27-80	*63859
73.656	Revised	65765
73.659	Revised	58720
73.661	Revised	66820
	(b)(3) revised; (f) added	*26065
73.663	Added	58732
73.664	Revised	65765
73.668	Revised	58733
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73.682	(a)(5) revised	*28141
73.685	(a), (f)(3), and (h)(1) amended	*26065
73.687	(b)(7) revised	58733
	Heading revised	65765
	(b)(4) revised; (f) removed	*28141
73.689	Revised	58732
73.691	(a) revised	*26065
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73.694	Heading and (a) revised	*26065
73.710	Revised	58733
73.711	Revised	58733
73.751	Heading revised	65765
73.753	Heading revised	65765
73.756	Heading revised	65765
73.759	Heading revised	65765
73.762	Revised	58733
73.763	Revised	58733
73.765	Heading revised	65765
73.767	Revised	58733
73.768	Revised	58733
73.769	Revised	58734
73.783	Revised	*26065
73.784	Revised	*26065
73.785	Revised	*26065
73.790	Revised	65765
73.961	(c) revised	*26065
73.1020	(a)(16) revised	*28141
73.1030	(c) added	77167
73.1120	Added	69934
73.1125	Added	69935
73.1130	Added	69935
73.1150	Added	58720
73.1201	(b)(2) revised	*41151
73.1207	(a)(3) added; (b) and (c) revised	*26065
73.1211	(c) and (d) revised; note removed	*6401
73.1213	(a) amended	*28141
73.1226	(a)(1) added	*41151
73.1515	Added	58734
73.1520	(c) revised	*6401
73.1545	Added	58734
73.1545	(b)(1) corrected	64408
73.1550	(d)(2) revised	58734

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73.1615 Added	*6401
73.1620 (a), (b), (e), and (f) revised	*6401
73.1635 Added	*6402
73.1668 Added	*26066
73.1675 (a) revised	*26066
73.1810 (b)(4)(iii) and (f)(4)(iii) revised	*6402
73.1820 (a)(2)(ii) revised	58735
73.1840 Revised	*41151
73.1850 (b)(7) added	*41152
73.1940 (d) revised	*26066
(d) amended	*28141
73.3500 Amended	58720
73.3517 Introductory text revised	*41152
73.3526 (f) revised	*6402
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73.3527 (h) revised	*6402
(c)(1)(v) revised	*23435
(a) introductory text and (g) introductory text revised; (a)(8) added	*26066
(a) introductory text and (g) introductory text revised; (a)(9) added	*41152
Introductory texts of (a) and (g) corrected; (a)(9) correctly added	*47429
73.3538 (a)(5), (6), and (7) revised	69935
73.3542 (b), (d), and (e) revised	*6402
73.3544 (b)(1) removed; (c) added	*20483
73.3547 Revised	66821
73.3569 Removed	*43187
73.3580 (g) amended	65765
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73.3615 (d)(2) revised	*6403
73.4021 Added	58720
73.4060 Revised	58720
73.4070 (a) amended	*28141
73.4090 Amended	*28142
73.4093 Added	*6403
73.4094 Added	*6403
73.4097 Added	*6403
73.4101 Added	*6403
73.4102 Added	*6403
73.4126 Added	*6403
73.4135 Amended	*28142
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73.4270 Revised	*6403
73.4280 Added	58720
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74.12 Revised	58735
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74.21 Heading revised	65765
74.401 (a)(6) amended	*28142
74.402 (e) note removed	65765
74.451 (a) revised	*28142
74.462 (e) note removed	65765
74.464 Note removed	65765
74.482 (d) revised	*26067
74.531 (c) revised	*51564
74.533 (b)(1) and (5) removed; (b)(4) revised	*26067
74.581 Revised	*26067
74.582 (a) introductory text revised	*26067
74.681 Revised	*26067
74.731 (f) revised	*37842
74.751 Heading, (b)(1), and (c) revised	*26067
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74.951 Revised	*26068
74.966 (a) revised	66822
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74.970 (b) revised	*26068
74.1201 (a) revised	*37842
74.1231 (f) and (g) revised	*37842
74.1251 Heading and (b)(1) revised; (c) removed	*26068
76.5 (p) through (t), (ii), (jj) and (kk) removed; eff. 10–14–80	*60299
76.7 (h) revised; eff. 10–14–80	*60299
76.12 (e) revised	*52154
76.57 (c) and (d) removed; eff. 10–14–80	*60299
76.59 (b) and (c) revised; (d) and (e) removed; eff. 10–14–80	*60299
76.61 Heading, introductory text and (b) revised; (c) through (f) removed; eff. 10–14–80	*60299
76.63 Removed; eff. 10–14–80	*60299
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76.65 Heading revised; (a) and (b) removed; (c) redesignated as (a); eff. 10–14–80	*60299

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76.153 Removed; eff. 10–14–80	*60299
76.155 Removed; eff. 10–14–80	*60299
76.157 Removed; eff. 10–14–80	*60299
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76.305 (a)(5) removed; eff. 10–14–80	*60299
76.311 (g) amended	*6403
76.403 Amended	*6404
78 FCC Form 327 instructions amended	*13084
78.18 (e), (f), and (i) corrected; (j) correctly removed	*41959
78.19 (f) added	77167
81.31 (c) added	77167
81.132 (a)(2)(iii) added	*41637
81.133 (a) table amended	*27766
81.139 Revised	*46411
81.151 Heading and (a) revised	*52157
81.152 (d) revised	*52157
81.154 (a) introductory text revised	*52157
81.191 (c)(3) revised; eff. 10–27–80	*63282
81.304 (a) table amended; (b)(7) added	*41637
83.24 Heading and (b) introductory text revised; (c) added	58717
Heading corrected	61600
83.38 (d) revised; footnote 1 removed	62284
83.132 (a)(5)(iii) and (iv) revised	58717
83.133 (a) table amended	58717
83.134 (k) added	58717
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83.156 (b)(3) revised	*52158
83.157 (a) revised	*52158
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(a)(10) and notes 1, 2, and 3 removed	*59891
(a)(1), (a)(8) introductory text, (a)(11), and (a)(19) revised; (a)(7) and notes 1–5, (a)(8) and (11) footnotes removed	*62082
173.265 (b)(1) removed	*59891
173.266 (f)(2) revised	*32697
(b)(4) removed	*59891
(b)(1) and (c)(4) revised	*62082
173.267 (a)(7) amended	60101
(c)(3) revised	*62082
173.268 (b)(3) amended	60101
(f)(4) revised	*32697
(c)(1) revised	*59891
(h) and (i)(3) revised	*62082
173.269 (b) revised	*32697
(e) introductory text revised	*62083
173.270 Revised	*59892
173.271 (a)(1) removed	*59892
(a)(19) added	*62083
173.272 (i)(21), (25), and (28) amended	60101
(i)(18) revised	*32697
(c), (d), (e), (f), (g), and (i)(11) revised; (i)(29) added	*46422
(c) revised; (i)(23) removed	*59892
173.273 (a)(5) amended	60102
173.274 (a)(1) amended	*62083
173.275 (a)(2) revised	*59892
173.276 (a)(6) amended	60102
(a)(8) revised	*59892
173.277 (a)(5) revised	*46422
173.280 (a)(8) amended	60102
(a)(4) removed	*59892
173.287 (b)(4) revised	*62083
173.288 (b) removed	*59892
173.289 (a)(4) amended	60102
173.292 (a)(2) amended	60102
173.294 (a)(3) amended	60102
173.295 (a)(9) and (10) amended	60102
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173.296 (a)(2) amended	60102
173.297 (a)(1) amended	60102
173.300 (b)(1) revised	*32697
173.302 (a)(1) revised	*59892
173.304 (a)(1) and (d)(3)(i) revised	*59892
173.305 (c)(1) revised	*32697
173.306 (d)(1) revised	*32697
173.307 (a)(2) revised	*13090
173.315 (i)(12) revised	*32697
173.328 (a)(1) revised	*59892

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173.329 (b)(1) and (c)(1) revised; footnote added	*59892
173.332 (d) revised	*32697
(a)(2) revised; footnote 1 added	*59893
173.333 (a)(2) revised	*32698
173.336 (a)(3) and (4) revised	*32698
173.346 (a)(20) revised	60102
(a)(24) revised	*46422
(a)(16) revised; (a)(17) and (23) removed	*59893
173.352 Heading and (a) introductory text revised; eff. 11–20–80	*34703
173.353 (a)(3) revised	*46422
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173.354 (a)(1) revised	*59893
173.357 (b)(1) revised	*46423
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173.360 (a)(3) removed	*59893
173.361 (a)(2) revised	*59893
173.362 (a)(4) revised	*59893
173.364 (a) introductory text revised; eff. 11–20–80	*34704
173.365 (a)(1) revised	*59893
173.366 (a)(3) revised	*32698
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173.370 (a)(13) revised	*32698
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173.377 (a)(3) and (b)(3) revised	*59893
173.382 (a)(2) revised	*59893
173.385 (b) and (c) revised	*32698
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173.389 (e) revised; eff. 11–20–80	*34704
173.393 (q) and (r) added	*20101
173.500 (a) and note revised; (a)(1) through (4) redesignated as (b)(1) through (4); (b) introductory text and (5) added; eff. 11–20–80	*34704
173.505 (a) introductory text revised; eff. 11–20–80	*34704
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173.510 (a)(1) revised; (a)(5) added; eff. 11–20–80	*34704
173.615 (a) revised	*13090
173.906 Revised	*13090
173.1300 (Subpart O) Added; eff. 11–20–80	*34704
174 Compliance date amended and hearing	*43761
174.24 (b) revised; eff. 11–20–80	*34704
174.25 (b)(6) added; (c) amended; eff. 11–20–80	*34704
174.45 Revised; eff. 11–20–80	*34704
174.48 (b) revised	60102
174.61 (b) revised	*32698
174.81 (a) table amended; (a) table footnotes a and e revised	70732
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174.101 (h) amended; (m) removed	70732
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174.106 (a) and (b) revised	70732
174.115 (a) revised	70732
175.1 Revised	*35332
175.5 Revised	*35332
175.10 (a)(2)(x) revised; (a)(13) and (14) added	*13090
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175.25 Added	*13091
175.30 Heading, (a) introductory text and (1), (b) and (c) revised; (d) added	*13091
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175.33 Introductory text and (a) through (c) redesignated as (a) introductory text and (a)(1) through (3); new (a) introductory text revised	*13091
175.45 (a) introductory text revised	*32691
175.75 (a)(3) revised	*20101
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(b) revised; (c) redesignated as (g); new (c) added	*35332
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175.305 (a)(4) revised	*13091
175.310 (c)(4)(iii) removed; (e) revised	*13091
175.320 (a) table amended	70732
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176 Compliance date amended and hearing	*43761
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176.105 (d) amended	70732
176.177 (c) and (e) revised	70732
177 Compliance date amended and hearing	*43761
177.807 Revised; eff. 11-20-80	*34705
177.821 (f) revised	*32698
177.835 (g) introductory text, (2) (i) and (m) revised	70733
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177.848 (a) table amended; (a) table footnotes a and e revised	70733
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177.854 (c)(2) revised	60102
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178.0-3 Added	*62083
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178.1-10 Heading, (a) introductory text and (2) revised; (a) (3), (4), and (5) removed	66197
178.4-8 (a), (d) introductory text, and (g) revised	66198
178.5-9 (a) and (d) introductory text revised	66198
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178.6-10 (a) and (d) introductory text	66198
178.13-3 (a) amended	66198
178.13-4 (a)(1) revised	66198
178.14-8 (a) and (d) introductory text revised	66198
178.16-13 (a)(3) amended	60102
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178.21-3 (a) note 1 revised	66198
178.24-2 (a) note 1 revised	66198
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178.27-1 (a) note 1 revised	66198
178.37-5 (a) introductory text and first table revised; (b) added	*46423
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178.82-9 (c) revised; (d) amended	66199
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178.115-8 (c) revised; (d) amended	66201
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178.118-8 (b) amended; (c)(1) revised	66202
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178.172-18 (a) revised	*62083
178.182-2 (b) removed	66202
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178.205-37 (d) revised	66202
178.211 Heading revised	*46423
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178.239-2 (e) introductory text revised	66203
178.252-1 (b) revised	60102
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178.318 Heading amended	70733
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193 Added; eff. in part 3-15-80	*9203
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193.2051—193.2073 (Subpart B) Heading revised	*57419
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193.2057 (a)(1) revised; (d) table amended	*57418
193.2059 (d)(1)(i) revised	*57418
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193.2067 (a)(3) and (b)(2) revised	*57419
193.2109 (c) amended	*57419
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195.218 Removed	*59161
195.300 Revised; eff. 10-8-80	*59166
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195.401 (c) revised	70166
195.402 (c)(4), (5), (8), and (9), and (d)(2) revised; (c)(14) removed; eff. in part 7-15-81	70166
195.406 (a)(5) added; eff. 10-8-80	*59166

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215 Revised	77340
215.5 (e) revised	*26710
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215.11 Revised	*26710
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215.115 (b)(1)(B) and (2)(B) revised	*26711
215.121 (d) revised	*26711
215.305 (b) revised	*26711
215 Appendix D added	*26711
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229.23 (c) revised	*39852
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231.1 Note revised	73102
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258.29 (b) and (c) revised	*58037
260.7 (a)(7)(iv) added	*58038
266 Incorporation by reference approvals	*64816
266.15 (c)(11A) added	*58038
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391.11 (b)(6) revised	*46424
391.51 (b)(2) revised	*46424
392.10 (a)(3) and (b)(5) revised	*46424
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393.45 (a)(5) revised	*46424
393.67 (f) introductory text revised	*46424
395.2 (a)(9) redesignated as 395.3 (f)	*46424
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396.11 (b) amended	*46425
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531.5 (b)(7) revised	*5739
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533.5 (a) table revised	*20878
554 Added	*10797
567.7 (a) introductory text amended	*18929
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571.121 Corrected	57100
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571.214 Amended *17018
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572 Incorporation by reference approvals *64816
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572.4 (c) added 76530
572.5 Amended; incorporation by reference *40596
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572.15—572.21 (Subpart C) Added 76530
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601.20 (Subpart C) Revised 65766
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801 Appendix revised 56341
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830 Revised *59895
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1011.6 (j) added 58514
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1013 Added 59909

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[1] NOTE: Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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federal register

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September 2, 1980

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BIWEEKLY PUBLICATION SCHEDULE

For a change in the schedules of "Agency Publication on Assigned Days of the Week" see the note appearing in the Reader Aids Section of this issue.

58208 **Grant Programs—Health** HHS/PHS announces acceptance of applications for FY 1981 Health Careers Opportunity Program; apply by 10-2-80

58125 **Aid to Families With Dependent Children** HHS/SSA rules on what is considered deprivation of parental support or care by reason of continued absence of a parent; effective 9-2-80

58123 **Medicare** HHS/HCFA extends time periods for End Stage Renal Disease (ESRD) facilities to achieve conditional and unconditional status; effective 1-1-80 and comments by 11-3-80

58284 **New Communities** VA publishes notice of final policies on processing of planned-unit development; effective 8-25-80

58122 **Government Property** GSA requires agencies to submit information on purchases of furniture, furnishings and certain other items; effective 10-1-80 to 9-30-81; comments by 1-30-81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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58122 **Government Property Management** GSA authorizes use of Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property; effective 4-1-80

58117 **Armed Forces** DOD/AF issues document to reflect changes to basic rule on enlistment in the U.S. Air Force; effective 3-7-80

58131 **Aliens** Justice/INS proposes regulations which no longer require written notice of parole termination; comments by 10-31-80

58099 **Banks, Banking** FRS releases final rule imposing requirements on all depository institutions that maintain transaction accounts or nonpersonal time deposits; effective 11-13-80

58101 **Banks, Banking** NCUA prints statement of interpretation and policy regarding property used to secure loans; effective 9-2-80

58211 **Continental Shelf** Interior/BLM issues notice of availability of certain OCS Official Protraction Diagrams

58275 **Investigations** MSPB curtails certain activities due to cut back of funds; effective 8-27 to 10-1-80

58175 **Fishermen's Contingency Fund** Commerce/NOAA prints claims received under Title IV of Outer Continental Shelf Lands Act Amendments of 1978; comments by 10-2-80

58312 **Employee Benefit Plans** Labor/Sec'y releases final regulations concerning the Redwood Employee Protection Program; effective 10-2-80 (Part II of this issue)

58284 **Instruments of International Traffic** Treasury/Customs releases notice concerning certain steel wires used for transportation of razor blade cartridge spacers

58259 **Railroads** ICC publishes order granting railroads flexibility in setting per diem rates; comments by 10-2-80

58108 **Freedom of Information** State revises its regulations regarding the Freedom of Information and Privacy Acts; effective 7-15-80

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 267]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 31–September 6, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 26, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains easy.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.567 Lemon Regulation 267.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 31, 1980, through September 6, 1980, is established at 150,078 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 27, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26793 Filed 8–28–80; 2:17 pm]
BILLING CODE 3410–02–M

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7 CFR Part 932

Olives Grown in California; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and the rate of assessment for the 1980–81 fiscal year, to be collected from handlers to support activities of the Olive Administrative Committee which locally administers the Federal marketing order covering olives grown in California.

DATES: Effective September 1, 1980, through August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under marketing Order No. 932 (7 CFR Part 932), regulating the handling of olives grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Olive Administrative Committee, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that the rate of assessment for a particular fiscal year shall apply to all assessable olives handled from the beginning of such year which begins September 1, 1980. To enable the Committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make

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this provision effective as specified, and handlers have been apprised of such provision and of the effective time.

Therefore, a new § 932.215 is added to read as follows (this section is effective through August 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 932.215 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during fiscal year September 1, 1980, through August 31, 1981, will amount to $1,490,625.

(b) The rate of assessment for said year payable by each handler in accordance with § 932.39 is fixed at $16.73 per ton of olives.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 26, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26772 Filed 8–29–80; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 946

Irish Potatoes Grown in Washington; Approval of Amendment No. 2 Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment reduces the minimum size for all long varieties of potatoes except Norgolds shipped from 2⅛ inches to 2 inches in diameter or 4 ounces in minimum weight. It will permit handlers to ship a greater quantity of potatoes of acceptable quality to retail outlets than would normally be shipped during this season of shorter supplies.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–2615.

The final impact statement relating to this final rule is available from Mr. Porter.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Market Agreement No. 113 and Order No. 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. This program is effective under the Agricultural Market Agreement Act of 1937, as amended (7 U.S.C. 601–674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

In a telephone poll completed on August 25, 1980, the committee unanimously voted to request the minimum size requirements for long variety potatoes be reduced from 2⅛ inches to 2 inches in diameter or 4 ounces in minimum weight. The fall crop is down significantly this season due to reduced plantings. The committee believes that reducing the minimum size requirements by ⅛ inch may increase the quantity of potatoes available for fresh market sales with no reduction in overall quality level. This should help to maintain adequate supplies at reasonable prices to consumers while maintaining an acceptable quality level at retail outlets.

Findings. After consideration of all relevant matters, it is found that the following amendment will tend to effectuate the declared policy of the act.

(b) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) to maximize benefits to producers, this amendment should apply to as many shipments as possible during the effective period, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area potatoes shipped to the fresh market.

Paragraph (a)(2)(ii) of § 946.335 Handling Regulation (45 FR 42590, 47653) is hereby changed to read as follows:

§ 946.335 Handling regulation.

* * * * *

(a)(1) * * *

(2) * * *

(i) * * *

(ii) *Long varieties.* Norgold variety grown in Districts 1 through 4 must be at least 2⅛ inches (54.0 mm) in diameter or 5 ounces in weight. Norgolds grown in District 5 must be at least 2⅛ inches (54.0 mm) or 5 ounces through September 30 and at least 2 inches (50.8 mm) or 4 ounces for the remainder of the season. All other long varieties, in all districts, 2 inches (50.8 mm) minimum size or 4 ounces minimum weight. Shipments of commingled long varieties containing Norgolds shall meet the Norgold size requirements.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated August 27, 1980 to become effective September 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–26832 Filed 8–29–80; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Deletion of Trans International Airlines, Corp.; Addition of Transamerica Airlines

AGENCY: Immigration and Naturalization.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to delete a carrier under its old name and to add the carrier under its new name to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: August 6, 1980

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order deletes a transportation line under its old name and adds the transportation line under its new name to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into a new agreement effective on August 6, 1980, with Transamerica Airlines after it changed its name from "Trans International Airlines Corporation", to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR 238.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by deleting "Trans International Airlines Corporation" and adding in alphabetical sequence "Transamerica Airlines".

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d))

This amendment is effective August 6, 1980 as to Transamerica Airlines.

Dated: August 27, 1980

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-26785 Filed 8-29-80; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0309]

Reserve Requirements of Depository Institutions; Required Reserve Balance Pass-Through Rules

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) imposes Federal reserve requirements on all depository institutions that maintain transaction accounts or nonpersonal time deposits. A depository institution can satisfy its reserve requirements with a combination of vault cash and balances held at a Federal Reserve Bank. The Act authorizes a depository institution that is not a member of the Federal Reserve System to hold its required reserve balance at the Federal Reserve in one of two ways. It may deposit its required reserve balance directly with the Federal Reserve Bank of its District. Alternatively, in accordance with procedures adopted by the Board, it may elect to pass through its required reserve balance to the Federal Reserve through a correspondent. In order to implement the pass-through provisions of the Monetary Control Act, the Board is amending Regulation D to establish rules under which pass-through arrangements may be maintained.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Benjamin Wolkowitz, Section Chief (202/452-2686), Paul P. Burik, Economist (202/452-2556), Gilbert T. Schwartz, Assistant General Counsel (202/452-3625), Lee S. Adams, Senior Attorney (202/452-3623) or Paul S. Pilecki, Attorney (202/452-3281), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under the provisions of the Monetary Control Act of 1980 (Title I of Pub. L. 96-221), Federal reserves are required for all depository institutions with transaction accounts or nonpersonal time deposits, as those terms are defined in Section 103 of the Act. If these reserve requirements are not met in full by holdings of vault cash, a depository institution that is a member of the Federal Reserve System *must* satisfy its remaining requirements by directly maintaining a balance at its local Federal Reserve Bank. A depository institution that is *not* a member of the Federal Reserve System and does not completely satisfy its reserve requirement with vault cash must satisfy its remaining requirement by maintaining a balance with the Federal Reserve. Such a required balance can be held in one of two ways at the nonmember institution's discretion. It may deposit its required reserve balance directly with the Federal Reserve Bank of its District, just as member banks do. Alternatively, a nonmember depository institution may elect to pass its required reserve balance through a correspondent. The correspondent will pass through this required reserve balance dollar-for-dollar to the Federal Reserve Bank in the District in which the main office of the respondent institution is located. A correspondent may be (i) a Federal Home Loan Bank, (ii) the National Credit Union Administration Central Liquidity Facility, or (iii) a depository institution that maintains a required reserve balance directly at a Federal Reserve Bank. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents.

The Federal Reserve Board is amending its Regulation D to provide rules for the holding of nonmember depository institution (respondent) reserve balances. The rules as adopted by the Board are very similar to the guidelines published for comment on June 26, 1980 (45 FR 44962). The Board determined to adopt these provisions as part of Regulation D rather than as guidelines in order to clarify the relationships between, and responsibilities of, the parties involved in pass-through arrangements. Included in the rules are requirements for reporting and maintaining pass-through reserve accounts and the responsibilities of the various parties in a pass-through arrangement. The rules also provide the conditions for using a pass-through account to post entries arising from transactions involving the use of Federal Reserve services.

Two modifications to the proposed guidelines were adopted by the Board. First, the Board determined that a Reserve Bank, at its discretion, may require a pass-through correspondent to consolidate in a single account the reserve balances of its respondents whose head offices are located in that Federal Reserve District rather than maintain separate accounts at each office within that Federal Reserve District. Secondly, the Board decided to reserve the right to permit institutions other than the Federal Home Loan Banks, the Central Liquidity Facility, and institutions holding Federal reserves, on a case-by-case basis, to serve as pass-through correspondents.

In response to the comments that were received, the Board clarified the rules to indicate that U.S. branches and agencies of foreign banks and Edge and Agreement Corporations could serve as pass-through correspondents or respondents. The Board also decided that a pass-through correspondent would have the option either to commingle its own reserve balance with the reserve balances of its respondents located in the same Federal Reserve territory as the correspondent in a single account or to maintain two accounts—one for its own reserve balance and a second commingled account for the reserve balances of its respondents located in the same territory as the correspondent. The rules also contain more specific procedures that a correspondent is expected to follow in managing its pass-through accounts. For example, for purposes of determining required reserve deficiencies and imposing or waiving penalties for deficiencies in required reserves, Reserve Banks will compare the total reserve balance required to be maintained in each reserve account with the total actual reserve balance held in such reserve account by the correspondent.

Effective November 13, 1980, pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), Regulation D (12 CFR Part 204) is revised to read as follows:

1. Section 204.3 (i) is added to read as follows:

§ 204.3 Computation and maintenance.

* * * * *

(i) *Pass-through rules*—(1) *Procedure.* (i) A nonmember depository institution required to maintain reserve balances ("respondent") may select only one institution to pass through its required reserves. Eligible institutions through which respondent required reserve balances may be passed ("correspondents") are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to the appropriate Federal Reserve office. The correspondent placing funds with the Federal Reserve on behalf of respondents will be responsible for reserve account maintenance as described in subparagraphs (3) and (4) of this paragraph.

(ii) Respondent depository institutions or pass-through correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement and/or termination of the existing arrangement to the Federal Reserve Bank in whose territory the respondent is located. The time period required for such a change to be effected shall be specified by each Reserve Bank in its operating circular.

(iii) U.S. branches and agencies of foreign banks and Edge and Agreement Corporations may (*a*) act as pass-through correspondents for any nonmember institution required to maintain reserves or (*b*) pass their own required reserve balances through correspondents. In accordance with the provision set forth in subparagraph (3) of this paragraph, the U.S. branches and agencies of a foreign bank or offices of an Edge and Agreement Corporation filing a single aggregated report of deposits may designate any one of the other U.S. offices of the same institution to serve as a pass-through correspondent for all of the offices filing such a single aggregated report of deposits.

(2) *Reports.* (i) Every depository institution that maintains transaction accounts or nonpersonal time deposits is required to file its report of deposits (or any other required form or statement) directly with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances.

(ii) The Federal Reserve Bank receiving such reports shall notify the reporting depository institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the correspondent passing respondent reserve balances through to the Federal Reserve of its respondent's required reserve balances.

(iii) The Federal Reserve will not hold a correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents to their local Federal Reserve Banks.

(3) *Account maintenance.* (i) A correspondent that passes through required reserve balances of respondents whose main offices are located in the same Federal Reserve territory in which the main office of the correspondent is located shall have the option of maintaining such required reserve balances in one of two ways: (*a*) A correspondent may maintain such balances, along with the correspondent's own required reserve balances, in a single commingled account at the Federal Reserve Bank office in whose territory the correspondent's main office is located, or (*b*) A correspondent may maintain its own required reserve balance in an account with the Federal Reserve Bank office in whose territory its main office is located. The correspondent, in addition, would maintain in a separate commingled account the required reserve balances passed through for respondents whose main offices are located in the same Federal Reserve territory as that of the main office of the correspondent.

(ii) A correspondent that passes through required reserve balances of respondents whose main offices are located outside the Federal Reserve territory in which the main office of the correspondent is located shall maintain such required reserve balances in a separate commingled account at each Federal Reserve office in whose territory the main offices of such respondents are located.

(iii) A Reserve Bank may, at its discretion, require a pass-through correspondent to consolidate in a single account the reserve balances of all of its respondents whose main offices are located in any territory of that Federal Reserve District.

(4) *Responsibilities of Parties.* (i) Each individual depository institution is responsible for maintaining its required reserve balance with the Federal Reserve Bank either directly or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Reserve Bank will compare the total reserve balance required to be maintained in each reserve account with the total actual reserve balance held in such reserve account for purposes of determining required reserve deficiencies, imposing or waiving penalties for deficiencies in required reserves, and for other reserve maintenance purposes. A penalty for a deficiency in the aggregate level of the required reserve balance will be imposed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Federal Reserve System requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Federal Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under section 204.6 of this Part) held by respondent(s) will be credited to the commingled reserve account(s) maintained by the correspondent.

(5) *Services.* (i) A depository institution maintaining its reserve balances on a pass-through basis may

obtain available Federal Reserve System services directly from its local Federal Reserve office. For this purpose, the pass-through account in which a respondent's required reserve balance is maintained may be used by the respondent for the posting of entries arising from transactions involving the use of such Federal Reserve services, if the posting of these types of transactions has been authorized by the correspondent and the Federal Reserve. For example, access to the wire transfer, securities transfer, and settlement services that involve charges to the commingled reserve account at the Reserve Bank will require authorization from the correspondent and the Reserve Bank for the type of transaction that is occurring.

(ii) In addition, in obtaining Federal Reserve services, respondents maintaining their required reserves on a pass-through basis may choose to have entries arising from the use of Federal Reserve services posted to: (*a*) With the prior authorization of all parties concerned, the reserve account maintained by any institution at a Federal Reserve Bank, or (*b*) an account maintained for clearing purposes at a Federal Reserve Bank by the respondent.

(iii) Accounts at Federal Reserve Banks consisting only of respondents' reserve balances that are passed through by a correspondent to a Federal Reserve Bank may be used only for transactions of respondents. A correspondent will not be permitted to use such pass-through accounts for purposes other than serving its respondents' needs.

(iv) A correspondent may not apply for Federal Reserve credit on behalf of a respondent. Rather, a respondent should apply directly to its Federal Reserve Bank for credit. Any Federal Reserve credit obtained by a respondent may be credited, at the respondent's option and with the approval of the parties concerned, to the reserve account in which its required reserves are maintained by a correespondent, to a clearing account maintained by the respondent, or to any account to which the respondent is authorized to post entries arising from the use of Federal Reserve services.

By order of the Board of Governors of the Federal Reserve System, August 27, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-26782 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 760

[IRPS 80-9]

Statement of Interpretation and Policy; Flood Insurance—Use of Map Information Facility

AGENCY: National Credit Union Administration.

ACTION: Statement of interpretation and policy.

SUMMARY: The Flood Disaster Protection Act of 1973, as amended, and the Flood Insurance regulations of the National Credit Union Administration (NCUA) require a federally insured credit union making a loan secured by improved real property or a mobile home to determine if the property securing the loan is located in a special flood hazard area. If it is, the credit union must also determine if the property is located in a community participating in the National Flood Insurance Program. Depending on the location of the property, certain notices may have to be given and flood insurance in an appropriate amount may have to be obtained before the loan is granted. To date, these determinations could only be made by examining Flood Hazard Boundary Maps and Flood Insurance Rate Maps distributed by the Office of Federal Insurance Administration of the Federal Emergency Management Agency (FEMA).

However, the maps are often difficult to use and some credit unions have on occasion experienced delays in obtaining copies of specific maps.

The Federal Insurance Administration (FIA) is now developing a Map Information Facility (MIF) to replace the current system of map distribution. When completely operational a federally insured credit union will be able to call a toll free telephone number to use the MIF.

The information provided through the MIF will be sufficient to comply with the NCUA regulations.

EFFECTIVE DATE: September 2, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: For additional information about this document or NCUA's regulations contact: John L. Culhane, Jr., Attorney Advisor, Office of General Counsel, or Ben Henson, Director, Division of Enforcement, Office of Consumer Affairs. Telephone numbers: (202) 357-1030 (Mr. Culhane), (202) 357-1080 (Mr. Henson). For additional information about the Map Information Facility contact: Mr. James M. Rose, Jr., Deputy Assistant Administrator for Insurance Operations, Office of Federal Insurance Administration, Federal Emergency Management Agency, Room 5126, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone number: (202) 755-5294.

SUPPLEMENTARY INFORMATION: Sections 102 and 202 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. §§ 4012a, 4106) and the Flood Insurance regulations of the National Credit Union Administration (12 CFR Part 760) require a federally insured credit union making a loan secured by improved real property or a mobile home to determine if the property securing the loan is located in a special flood hazard area. If it is, the credit union must also determine if the property is in a community participating in the National Flood Insurance Program. Depending on the location of the property, flood insurance in an appropriate amount may have to be obtained and certain notices may have to be given before the loans are granted.

The Office of Federal Insurance Administration of the Federal Emergency Management Agency currently distributes Flood Hazard Boundary Maps and Flood Insurance Rate Maps to federally insured credit unions on request. These maps are used to determine if improved real property or a mobile home is located within an identified special flood hazard area. However, the maps are often difficult to use and some credit unions have on occasion experienced delays in obtaining copies of specific maps. Therefore, the National Credit Union Administration has cooperated with and supported the Federal Emergency Management Agency in its development of a Map Information Facility (MIF).

When the Map Information Facility is fully operational, any federally insured credit union will be able to phone the MIF, at a toll-free number to use its services. The toll free telephone numbers for the MIF are: 800-638-3100 (Continental United States, except Maryland), 800-492-2701 (Maryland, except for the Washington, D.C. metropolitan area), and 800-638-2151 (Puerto Rico, Hawaii, Virgin Islands, and Alaska). The credit union will merely provide the operator with the location of the property, and will then receive a determination as to whether the property or mobile home is in a special flood hazard area and whether the community is participating in the National Flood Insurance Program. A document confirming the oral determination, called a Certificate of Determination, will be mailed within three days. Based on that determination, the credit union will be able to decide what notices it must provide a member and to decide whether flood insurance in an appropriate amount must be obtained before the loan is granted.

The Map Information Facility may now be used by federally insured credit unions making loans secured by property located in either Arizona, Nevada, New Mexico, Oklahoma, or Louisiana. Texas will be added in the near future. All other states will be phased in over the next two years. FIA/FEMA will publish, in advance, notices of states and communities as they are incorporated into the Map Information Facility.

Since the MIF provides a means whereby a lender may determine whether improved real property is located in a special flood hazard area and whether it is located in a participating community, the Federal Insurance Administrator of the Federal Emergency Management Agency has determined that, as an alternative to the use of Flood Hazard Boundary Maps and Flood Insurance Rate Maps, a lender's decision made in the exercise of due diligence and good faith in accordance with information received from the MIF will be final and sufficient to comply with the Flood Disaster Protection Act of 1973, as amended, as well as the National Flood Insurance Act of 1968, as amended. 45 FR 48711 (1980).

Federally insured credit unions should note that the MIF determination is necessarily based upon the property description furnished by them. The MIF determination will be accurate only to the extent that the credit union has with due diligence furnished an accurate description of the location of the property.

During the phase-in of the MIF, credit unions can use the current FIA/FEMA maps for determining the property's location. Even after the MIF becomes fully operational, credit unions may, at their option, continue to use the maps as the basis for making their own determinations, to the extent that their maps are still current. NCUA strongly recommends that federally insured credit unions use the Map Information Facility, however, rather than making their own determinations, especially as FIA will be discontinuing its distribution of maps (except for those maps which will continue to be sent to the various communities).

To emphasize its support of the Map Information Facility, NCUA is publishing this document to clarify that a federally insured credit union using the Map Information Facility can comply with Section 760.2(c) of NUCA's regulations by placing in the appropriate files a record of the credit union's efforts in ascertaining the address of the property, a record of the determination provided during the telephone conversation with representatives of the Map Information Facility, and a copy of the Certificate of Determination.

Text of Statement of Interpretation and Policy (IRPS 80-9)

Section 760.2(c) of NCUA's regulations requires that each Federal credit union and each federally-insured State chartered credit union maintain in connection with all loans secured by improved real estate, or a mobile home, sufficient records to indicate the method used by the credit union to determine whether or not the property is located in a special flood hazard area and whether or not the property is located in a community participating in the National Flood Insurance Program. This requirement will be satisfied if the credit union uses the Map Information Facility of the Office of Federal Insurance Administration of the Federal Emergency Management Agency and keeps a record of its efforts in ascertaining the address of the property, a record of the telephone conversation with representatives of the Map Information Facility, and a copy of the Certificate of Determination in the appropriate files.

Joan O'Neill,

Acting Secretary, National Credit Union Administration Board.

August 25, 1980.

[FR Doc. 80-26771 Filed 8-29-80; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-EA-68; Amdt. 39-3904]

Fairchild F-27 and FH-227; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Fairchild F-27 and FH-227 type airplanes. It incorporates the substance of ADs 66-27-05 and 66-28-03 which are being deleted (superseded). This rule requires repetitive inspections for cracks of the front spar web, upper and lower spar caps, skins, stringers and rib caps on the upper and lower surface of the left and right horizontal stabilizer. There had been reports of cracks in the subject areas. The cracks could, if undetected, propagate and lead to horizontal tail failure.

EFFECTIVE DATE: September 4, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Company, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been a report, resulting from an accident, of a fatigue crack in the inboard upper skin of a right horizontal stabilizer on an FH-227B airplane. This area was evaluated in 1966 and resulted in publication of ADs 66-27-05 and 66-28-03. These ADs would be duplicated in the inspections conducted by the present rule, and so they are being molded into this rule and deleted as independent rules. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, (1) by deleting (superseding) AD 66-67-05 and 66-28-03, and (2) by adding the following new airworthiness directive:

Fairchild: Applies to all Model F27 and FH227 series airplanes certificated in all categories.

Compliance required as indicated:

To detect cracks in the front spar web, the upper and lower spar caps, skins, stringers and rib caps on the upper and lower surface of the left and right horizontal stabilizer, accomplish the following:

(a) For F27A, F27F and F27G airplanes, within the next 50 hours in service after the effective date of this AD, unless accomplished within the last 250 hours in service, and at intervals not to exceed 300 hours in service from the last inspection, inspect the horizontal stabilizer for cracks in accordance with Fairchild Service Bulletin F27-55-6, Revision No. 1, dated March 24, 1980, or an approved equivalent. The 300 hour repetitive inspection may be increased to 1,200 hours in service after incorporation of Fairchild Service Bulletin F27–55–7, dated July 20, 1965, or an approved equivalent.

(b) For F27J and F27M airplanes, within the next 50 hours in service after the effective date of this AD, unless accomplished within the last 10 hours in service, and at intervals not to exceed 60 hours in service from the last inspection, inspect the horizontal stabilizer for cracks in accordance with the above Service Bulletin or an approved equivalent. The 60 hour repetitive inspection may be increased to 150 hours in service after incorporation of Fairchild Service Bulletin F27–55–7, dated July 20, 1965, or an approved equivalent. It may be increased to 350 hours in service after incorporation of Fairchild Service Bulletins F27–55–11, dated November 5, 1979, and F27–55–12, dated December 6, 1966, or an approved equivalent.

(c) For FH227 type airplanes and for F27A, F27G, F27J, F27F, and F27M airplanes having the FH227 horizontal stabilizer installed, comply with Paragraph (d) within the next 150 hours in service after the effective date of this AD, unless accomplished within the last 1050 hours in service, and at intervals not to exceed 1200 hours in service from the last inspection.

(d) Inspect the horizontal stabilizer for cracks in accordance with the accomplishment instructions (except Note 1) of Fairchild Service Bulletin FH227–55–13, Revision No. 1, dated March 24, 1980, or an approved equivalent, using X-Ray or dye penetrant in conjunction with a glass of at least 10-power or an approved equivalent.

(e) Repair cracked parts or replace them, before further flight, with an unused part of the same part number or an approved equivalent, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair may be performed.

(f) Equivalent inspections, repairs or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(g) Upon submission of substantiating data by an owner or operator, through an FAA maintenance inspector, the Chief, Engineering and manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD.

This AD supersedes AD's 66–27–05 and 66–28–03.

Effective Date: This amendment is effective September 4, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York on August 21, 1980.

Lonnie D. Parrish,
Acting Director, Eastern Region.

[FR Doc. 80–26513 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–SO–51; Amdt. No. 39–3901]

Piper PA–31, PA–31–300, PA–31–325, and PA–31–350; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires a repetitive inspection, reinforcement and, if necessary, repair of the fuselage bulkhead flange at the attachment point for the vertical tail forward spar on certain Piper PA–31, PA–31–300, PA–31–325 and PA–31–350 series airplanes. This AD is prompted by reports of cracks developing in the bulkhead flange area which could result in the loss of the structural integrity of the vertical tail forward attachment.

DATES: Effective September 12, 1980. Compliance as prescribed in body of AD.

ADDRESSES: The applicable Service Bulletin may be obtained from Piper Aircraft Corporation, Lockhaven Division, Lockhaven, Pennsylvania 17745, telephone (707) 748–6771.

A copy of the Service Bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Tom Rice, ASO–212, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7407.

SUPPLEMENTARY INFORMATION: There have been reports of cracks developing in the fuselage at the attachment point for the vertical tail forward spar on certain Piper PA–31, PA–31–300, PA–31–325 and PA–31–350 series airplanes, which could result in the loss of the structural integrity of the vertical tail forward attachment. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires the inspection, reinforcement and, if necessary, repair of the Fuselage Station 317.75 Bulkhead on certain Piper PA–31, PA–31–300, PA–31–325 and PA–31–350 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation: Applies to the following Piper models certificated in all categories PA–31, PA–31–300 and PA–31–325, S/N 31–2 through 31–7912039; and PA–31–350, S/N 31–5001 through 31–7952071.

Compliance is required within the next 50 hours time in service after the effective date of this AD unless already accomplished.

To assure the sructural integrity of the Fuselage Station 317.75 Bulkhead, accomplish the following:

(a) Using 10 power magnification, inspect the upper section of the Fuselage Station 317.75 Bulkhead for cracks in accordance with Piper Aircraft Corporation Service Bulletin 636, dated June 30, 1980.

(b) If any cracks are found, prior to further flight, install Piper Kit P/N 764028.

(c) If no cracks are found, accomplish the following:

(1) For airplanes with 2000 or more hours time in service, prior to further flight, install Piper Kit P/N 763917.

(2) For airplanes with less than 2000 hours time in service, repeat the inspection in paragraph (a) at intervals not to exceed 100 hours time in service until Piper Kit P/N 763917 is installed. If no cracks are found during these inspections, Piper Kit P/N 763917 must be installed prior to the accumulation of 2000 hours total time in service. If any cracks are found during these inspections, prior to further flight, install Piper Kit P/N 764028.

(d) Make appropriate maintenance record entry.

Upon submission of substantiating data through an FAA Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, may adjust the inspection intervals.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment becomes effective September 12, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for

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this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in East Point, Georgia, on August 19, 1980.

George R. Lacaille,

Acting Director, Southern Region.

[FR Doc. 80-26512 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-30]

Alteration of Transition Area, Brookhaven, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates an extension in the Brookhaven, Mississippi, transition area. This action provides controlled airspace required to protect instrument flight operations at the Brookhaven-Lincoln County Airport.

EFFECTIVE DATE: 0901G.m.t., September 25, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, July 3, 1980 (45 FR 45307), which proposed the alteration of the Brookhaven, Mississippi, transition area. No objections were received from this notice. This action provides controlled airspace protection for aircraft executing a new standard instrument approach procedure (NDB Runway 22) at the Brookhaven-Lincoln County Airport. The Brookhaven (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with the alteration of the Transition Area.

Adoption of the Amendment

Accordingly, Supart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., September 25, 1980, as follows:

Brookhaven, Miss.

The present description is deleted and "* * * That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brookhaven-Lincoln County Airport (Lat. 31°36'20" N. Long. 90°24'00" W.); within 3 miles each side of the 056° bearing from Brookhaven RBN (Lat. 31°36'28" N., Long 90°24'36" W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 22, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-26690 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ARM-07]

Establishment of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes 700' and 1,200' transition areas at Nucla, Colorado to provide controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Hopkins-Montrose County Airport, Nucla, Colorado.

EFFECTIVE DATE: 0901 G.m.t., October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Thursday, July 3, the FAA published for comment (45 FR 45305) a proposal to establish 700' and 1,200' transition areas at Nucla, Colorado. The only comments received as a result of this circular expressed no objection.

Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FAR's) establishes 700' and 1,200' transition areas at Nucla, Colorado to provide controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) approach procedure developed for the Hopkins-Montrose County Airport, Nucla, Colorado.

Drafting Information

The principal authors of this document are Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., October 30, 1980, as follows:

By amending Subpart G, § 71.181 (45 FR 445) so as to establish the following transition areas to read:

Nucla, Colo.

That airspace extending upward from 700' above the surface within a 9.5 mile radius of the Hopkins-Montrose County Airport (latitude 38°14'20" N., longitude 108°33'44" W.) within 4.5 miles east and 9.5 miles west of the 328° bearing from the Nucla NDB (latitude 38°14'33" N., longitude 108°33'57" W.) extending from the 9.5 mile radius to 18.5 miles northwest; and that airspace extending upward from 1,200' above the surace within the area bounded by a line beginning at latitude 38°34'00" N., longitude 108°19'30" W.; to latitude 37°34'00" N., longitude 108°15'00" W.; to latitude 37°32'30" N., longitude 108°25'00" W.; to latitude 37°57'30" N., longitude 109°00'00" W.; to latitude 38°34'00" N., longitude 109°07'45" W.; thence to point of the beginning.

(Sec 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necesary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colo., on August 20, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80-26688 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ARM-06]

Establishment of 700′ and 1,200′ Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes 700′ and 1,200′ transition areas at Meeker, Colorado to provide controlled airspace for aircraft executing the new RNAV runway 3 and VOR-A standard instrument approach procedures developed for the Meeker Municipal Airport, Meeker, Colorado.

EFFECTIVE DATE: 0901 G.m.t., October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Thursday, July 10, 1980, the FAA published for comment (45 FR 46435) a proposal to establish 700′ and 1,200′ transition areas at Meeker, Colorado. The only comments received as a result of this circular expressed no objections.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FAR's) establishes 700′ and 1,200′ transition areas at Meeker, Colorado to provide controlled airspace for aircraft executing the new RNAV runway 3, and VOR-A standard instrument approach procedures developed for the Meeker Municipal Airport, Meeker, Colorado.

Drafting Information

The principal authors of this document are Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., October 30, 1980, as follows:

By amending Subpart G, § 71.181 (45 FR 445) so as to establish the following transition areas to read:

Meeker, Colo.

That airspace extending upward from 700′ above the surface within an area bounded by a point beginning at latitude 40°16′20″ N., longitude 108°13′00″ W.; to latitude 40°09′50″ N., longitude 107°36′00″ W.; to latitude 39°40′00″ N., longitude 108°09′00″ W., to latitude 39°49′50″ N., longitude 108°22′30″ W., thence to point of beginning; and that airspace extending upward from 1,200′ above the surface bounded on the north by the south edge of V-101; on the west by the east edge of V-187; on the east by the west edge of V-26, excluding the Hayden and Grand Junction, Colorado transition areas.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colo., on August 20, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80-26687 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ANW-9]

Revocation of V-27E Between Newport, Oreg., and Astoria, Oreg.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes V-27E between Newport, Oreg., and Astoria, Oreg. Flight check data on the Newport, Oreg., VORTAC indicates excessive alignment error and signal bends along V-27E. This action revokes the affected portion of this airway.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke V-27E between Newport, Oreg., and Astoria, Oreg. Flight check data on the Newport, Oreg., VORTAC indicates V-27E requires cancellation due to excessive alignment error and excessive signal bend. Accordingly, I find good cause that notice and public procedure thereon are impracticable and unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 G.m.t., October 30, 1980, by amending V-27 by deleting the words "including an east alternate via INT of Newport 016° and Astoria 157° radials;"

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 25, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-26683 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-15]

Alternation of Transition Area; Holland, Mich.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Holland, Michigan, in order to accommodate two new instrument approach procedures into the Park Township Airport, (NDS Rwy 5 and Rwy 23) which were established on the basis of a request from the local Airport officials to provide that airport with additional instrument approach procedures.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and

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Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above surface to 700 feet for a distance of approximately two miles NE and SW beyond that now depicted. The development of the proposed procedures requires that the FAA alter the designated airspace to insure that these procedures will be contained within controlled airspace. The minimum descent altitudes for these procedures may be established below the floor of 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedures which will enable other aircraft to circumnavigate the area in order to comply will applicable visual flight rule requirements.

Discussion of Comments

On page 20904 of the **Federal Register** dated March 31, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Holland, Michigan. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 30, 1980, as follows:

In § 71.181 (45 FR 445), the following transition area is amended to read:

Holland, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (latitude 42°47′45″W, longitude 86°09′45″W); within a 6 mile radius of Tulip City Airport (latitude 42°44′45″N, longitude 86°06′30″W); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radius area to 8 miles south of the airport; and with 3 miles each side of the 237° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles southwest of the airport; and within 3 miles each side of the 040° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles northeast of the airport; and within 2 miles each side of the Pullman, Michigan, VORTAC 359° radial, extending from the 6-mile radius area to 12 miles north of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL–7), Docket No. 80–GL–15, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on August 19, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80–26692 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 80–AWE–13]

Amendment to Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action extends the time of designation of temporary Restricted Area R–2311, Army Proving Grounds, Yuma, Ariz. Circumstances beyond the control of the using agency have caused a need to add the period of October 1, 1980, through March 31, 1981, to the existing time of designation.

DATES: Effective date—October 1, 1980. Comments must be received by September 30, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80–AWE–13, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

Send comments on environmental aspects to: Mr. Willard C. Robinson, Chief, Facility Engineering Directorate, U.S. Army Proving Ground, Yuma, Ariz. 85364. Telephone: (602) 328–2167.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Request for Comments

On November 29, 1979, the FAA established temporary Restricted Area R–2311, Army Proving Grounds, Yuma, Ariz., to contain developmental testing of military drones which travel at speeds in excess of 400 miles per hour. Utilization of the area is minimal and the using agency issues NOTAM information on the flights at least 24 hours in advance along with contacting other airspace users to explain the testing procedure. The frequency and duration of these flights are so minimal that nonparticipating aircraft realize negligible adverse impact as a result of the restricted airspace. Circumstances beyond the control of the using agency have resulted in an extension of production and testing milestones which preclude the originally planned dormant period of the testing program.

Based on the fact that this restricted area's establishment and subsequent limited use have generated no objections from the public, an extension of its time of designation is expected to impose no measurable burden on the public. Nonavailability of restricted airspace for the flight test program combined with existing unavoidable production delays could cause high cost overruns which would be significantly reduced as a result of this action. For these reasons, I find that notice and public procedure are unnecessary and not in the best interest of the public; however, comments are invited on the rule. When the comment period ends, the FAA will use the comments and any other available information to review the regulation. After the review, if the FAA finds that changes are appropriate, it will adopt amendments to the regulation. Chief, Facility Engineering Directorate, Army Proving Grounds, Yuma, Ariz., has certified that the requirements of the National Environmental Policy Act (NEPA) have been met.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations extends the time of designation for Restricted Area R–2311 to include the existing dormant period of October 1, 1980, through March 31, 1981. The total period covered by the amended time of designation will be October 1, 1980, through March 31, 1982, as a result of this amendment. Section 73.23 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was republished in the **Federal Register** on January 2, 1980 (45 FR 681).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.23 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 681) is amended, effective 0901 G.M.T., October 1, 1980, as follows:

In § 73.23, R–2311 Army Proving Grounds, Yuma, Ariz., under time of designation:

"Continuous 0600–1200 local time, December 1, 1979, through September 30, 1980; and from April 1, 1981, through March 31, 1982. Other times by NOTAM 24 hours in advance." is deleted and "By NOTAM at least 24 hours in advance, October 1, 1980, through March 31, 1982." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 25, 1980.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–26685 Filed 8–29–80; 8:45 am]

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14 CFR Parts 152, 154, and 155

[Docket No. 20580; Amdt. No. 152–11, 154–2, and 155–1]

Airport Aid Program, Acquisition of U.S. Land for Public Airports, Release of Airport Property From Surplus Property Disposal Restrictions; FAA Environmental Orders

Correction

In FR Doc. 80–25669, appearing at page 56620 in the issue for Monday, August 25, 1980, make the following corrections on page 56622, in § 152.111(c)(7):

(1) In the third line, the word "to" should be "of".

(2) In the eighth line, "45 FR —; August 24, 1980" should read " 45 FR 56624; August 25, 1980".

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Deductions, Reductions, and Nonpayment of Benefits; the Retirement Test

Correction

In FR Doc. 80–21691, appearing at page 48114 in the issue of Friday, July 18, 1980, make the following changes:

1. On page 48117, the twelfth line of Example 3. in § 404.430(a)(3) should read, "(($5,750–4,500) ÷ 2)."

2. Also on page 48117 in the second column, the second and third lines of § 404.430 (d)(1)(iii) should read,

"* * * taxable year ending in 1980;

(iv) 458.33⅓ for each month of any taxable * * *."

BILLING CODE 1505–01–M

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

Correction

In FR Doc. 80–20127 appearing on page 45906 in the issue of Tuesday, July 8, 1980, in the third column, second complete paragraph, in the fifth line, ". . . § 514(e)(2)(ii) . . ." should have read ". . . § 514.11(e)(2)(ii) . . .".

BILLING CODE 1505–01–M

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21 CFR Part 558

Lasalocid Sodium; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc., providing for safe and effective use of 19 lasalocid sodium premixes containing 3 to 12½ percent lasalocid sodium. The firm holds approval for 15, 20, and 50 percent lasalocid premixes used in making complete chicken feeds.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, filed a supplemental NADA (96–298) providing for use of 19 premixes containing 3 to 12½ percent lasalocid sodium in addition to the currently approved 15, 20, and 50 percent premixes. In accordance with the current animal drug regulations, these premixes are used to make complete chicken feeds containing 68 to 113 grams per ton of lasalocid for the prevention of certain forms of coccidiosis.

Approval of this supplemental NADA poses no increased human risk from exposure to residues of the new animal drug, loaslocid sodium, because the additional premixes will be used as currently regulated in complete chicken feeds (see 21 CFR 5583.311). Accordingly, under BVM's supplemental approval policy (see **Federal Register** of December 23, 1977; 42 FR 64367), this approval did not require reevaluation of the safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.311 by revising paragraph (b) to read as follows:

§ 558.311 Lasalocid sodium.

* * * * *

(b) *Approvals.* Premix levels of 3.0, 3.3, 3.8, 4.0, 4.3, 4.4, 5.0, 5.1, 5.5, 5.7, 6.0, 6.3, 6.7, 7.2, 7.5, 8.0, 8.3, 10.0, 12.5, 15, 20, and 50 percent lasalocid sodium activity

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granted to 000004 in § 510.600(c) of this chapter.

* * * * *

Effective date. September 2, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 26, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-26708 Filed 8-29-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

22 CFR Parts 6, 6a, and 171

[Dept. Reg. 108.794]

Regulations Concerning the Freedom of Information and Privacy Acts

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State has revised its regulations on the Freedom of Information Act (as amended), and the Privacy Act, and add new regulations covering the access provisions of the Ethics in Government Act, Pub. L. 95-521, and Executive Order 12065. The revisions and amendments incorporate the substance of the regulations on the Freedom of Information Act (22 CFR Part 6) and the Privacy Act (22 CFR Part 6a). The regulations serve as a single unified source for the Department's policies and procedures regarding public access to official information and records.

EFFECTIVE DATE: July 15, 1980.

ADDRESS: Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Frank M. Machak (202) 632-3411.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** (45 FR 37456, June 3, 1980) inviting interested persons to submit comments concerning the proposed regulations by July 14, 1980. After consideration of the comments received, regulations concerning the Freedom of Information and Privacy Acts are adopted with nonsubstantive changes as set forth below.

Dated: August 13, 1980.

Ben H. Read,

Under Secretary for Management.

The amendments to 22 CFR are as follows:

PARTS 6 AND 6a—[REVOKED]

1. Part 6, Freedom of Information Policy and Procedures (§§ 6.1-6.16) is revoked.

2. Part 6a, Privacy Act Policies and Procedures (§§ 6a.1-6a.11) is revoked.

3. A new Part 171 is added to read as set forth below.

SUBCHAPTER R—ACCESS TO INFORMATION

PART 171—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

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Subpart H—Other Agency Material

171.70 Referral.
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Authority: Section 3 of the Administrative Procedure Act, as amended (Pub. L. 89-478, 80 Stat. 250); the Freedom of Information Act, as amended (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); Executive Order 12065; and the Ethics in Government Act of 1978 (Pub. L. 95-521).

Subpart A—General Policy and Procedures

§ 171.1 Availability of information.

(a) Unclassified information, documents, and forms which have previously been provided to the public as part of the normal services of the Department of State will continue to be made available on the same basis as before. Any Departmental officer who receives a request for records through normal channels of contact with the public, media, or the Congress which would not normally be made available shall advise the requester that the request will be referred to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, for processing under the appropriate statute or executive order as provided in these regulations.

(b) All identifiable records of the Department of State shall be made available to the public upon compliance with the procedures established in this Subchapter, except to the extent that a determination is made to withhold a record in accordance with an appropriate exemption as provided herein.

§ 171.2 Requests for information.

(a) Requests for identifiable records in accordance with this subchapter may be made by the public in person during regular business hours from the Department of State, 2201 C Street, N.W., Washington, D.C. where the receptionist will refer the requester to the proper office for service and the necessary forms for making a request.

(b) Requests by mail and referrals from other agencies should be addressed to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, Washington, D.C. 20520, who will coordinate action as specified in this request. In addition, requests may be directed to the Department's field offices and overseas posts; routine, unclassified, administrative records may be released to the individual if it is determined that such release is authorized. Any unfilled request shall be submitted to the Information and Privacy Coordinator. Individuals are urged to clearly indicate on their requests the statute under which they are requesting access to information; this notation will facilitate the processing of the request by the Department.

(c) While every effort is made to guarantee the greatest possible access to all requesters, regardless of the specific statute under which the information is requested, the following guidance is provided for individuals in requesting records:

(1) Freedom of Information Act. Requests for documents concerning the general activities of government and of the Department of State in particular (see Subpart B).

(2) E. O. 12065. Requests for mandatory review and declassification of Department records and requests for access by former Presidential appointees (see Subpart C).

(3) Privacy Act. Requests from U.S. citizens or resident aliens for records pertaining to themselves and maintained by the Department under the individual's name (see Subpart D).

(4) Ethics in Government Act. Requests for the financial Disclosure Statements of Department Employees covered by this Act (see Subpart E).

(d) The burden of adequately identifying the record so requested lies with the requester. Individuals may seek assistance regarding any facet of their requests from the Information and Privacy Coordinator.

§ 171.3 Public reading room.

A public reading room or area where records may be made available is located in the Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The receptionist will refer the applicant to the proper room. All those statutes, regulations, and guidelines pertaining to access to information required to be made available to the public shall be located in the reading room. Fees will not be charged for access by the public to this room or the indexes and regulations contained therein, but fees, in accordance with § 171.6, will be charged for furnishing copies thereof. Persons desiring to utilize their own portable copying equipment should request approval in advance from the Information and Privacy Coordinator. Any arrangements for the use of such equipment must be consistent with security regulations of the Department of State and are subject to the availability of personnel to monitor such copying.

§ 171.4 Extension of time limits.

While every effort is made to meet the time limits cited in each section of this Subchapter, unusual circumstances may arise which would necessitate the extension of these time limits. Extensions shall be granted in those instances where it is necessary, in order to guarantee proper processing of the request, to:

(a) Search for and collect the requested records from overseas posts or other establishments that are separate from the office processing the request;

(b) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) Consult with another agency having a substantial interest in the determination of the request or among two or more components of the Department of State having substantial subject matter interest therein. Such consultation shall be conducted with all practicable speed. In such instances the requester shall be given written notification by the Information and Privacy Coordinator of the extension of the time limit and the reason for such extension.

§ 171.5 Archival records.

The Department ordinarily transfers custody of records as soon as practicable after they become twenty (20) years old to the National Archives and Records Service. These records are generally transferred in large blocks defined by years and/or major subject categories. Correspondence regarding access to these records should be addressed to the Chief, Diplomatic Branch, Civil Records Divisions, National Archives and Record Service, Washington, D.C. 20400.

§ 171.6 Fees-general.

(a) The Department will charge a fee of $.10 per page for copies of documents which are identified by an individual and reproduced at the individual's request for retention, except that there will be no charge for requests involving costs of $1.00 or less.

(b) Remittances shall be in the form of either a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittance shall be made payable to the order of the Treasurer of the United States and delivered or mailed to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The Department will assume no responsibility for cash sent by mail.

(c) A receipt for fees paid will be given only upon request.

(d) See section 171.13 for additional fees chargeable for Freedom of Information requests.

Subpart B—Freedom of Information Provisions

§ 171.10 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "identifiable" means, in the context of a request for a record, a description which enables a professional employee of the Department who is familiar with the subject area of the request to locate the record with a reasonable amount of effort. Such a description, if possible, should include date, format, subject matter, country concerned, office of mission originating or receiving the record, and the name of any person to whom the record is known to relate.

(b) The term "record" includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physical form or characteristics, made in or receiving by the Department of State (including Foreign Service posts abroad) and preserved as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Department or the Foreign Service. It does not include copies of the records of other Government agencies (except those which have been expressly placed under the control of the Department of State upon termination of another agency), foreign government, international organizations, or non-governmental entities unless they evidence organization, functions, policies, decisions, procedures, operations, or activities of the Department of State. It does not include records not already in existence which would need to be created specifically to meet a request. It does not include records in the Berlin Document Center.

(c) The term "agency" includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

§ 171.11 Exemptions.

(a) The following categories of records maintained by the Department of State may be exempted from disclosure:

(1) Records specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such executive order.

(2) Records related solely to the internal personnel rules and practices of an agency.

(3) Records specifically exempted from disclosure by statute. Included in this category are records relating to the officers and employees of the Foreign Service, including efficiency records (Sec. 612 of the Foreign Service Act of

1946, as amended, 22 U.S.C. 986), the records of the Department of State or of diplomatic and consular officers of the United States pertaining to the issuance or refusal of visas or permits to enter the United States (Sec. 222(f), of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1202(f)). "Restricted Data" under section 224 of the Atomic Energy Act (42 U.S.C. 2274), records of expenditures certified under 22 U.S.C. 2671 and 31 U.S.C. 107, and records subject to section 102(d) of the National Security Act of 1947 (61 Stat. 498).

(4) Records of trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Records which are inter-agency or intra-agency memorandums, letters, telegrams, or airgrams which would not be available by law to a party other than an agency in litigation with the agency.

(6) Records such as personnel and medical files and similar files the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (i) Interfere with enforcement proceedings; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (v) disclose investigative techniques and procedures; or (vi) endanger the life or physical safety of law enforcement personnel.

(8) Records contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under paragraph (a) of this section. Normally a portion of a record shall be considered reasonably segregable when segregation can produce an intelligible record which is not distorted out of context and does not contradict the record being withheld.

§ 171.12 Time limits.

Whenever possible, the Department will furnish the requested records within 10 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request by the Information and Privacy Coordinator, except as cited in § 171.4 of this subchapter.

§ 171.13 Fees.

(a) In addition to fees cited in § 171.6, the following specific fees shall be applicable with respect to services rendered to members of the public under this Subpart:

(1) Search for records, per hour or fraction thereof after the first hour: (i) Professional, $12.00; (ii) Clerical, $7.00.

(2) Certification of each record as a true copy, $1.00.

(3) Certification of each record as a true copy under official seal, $3.00.

(4) Duplication of architectural photographs and drawings, $2.00.

(5) Computerized records:

(i) When there is an existing print-out from the computer which permits copying the print-out, the material will be made available at 10¢ per page.

(ii) When there is not an existing print-out of information disclosable under the Freedom of Information Act, a print-out shall be made provided the applicant pays the costs to the Department as hereinafter stated.

(iii) When the record is maintained in the computerized Central Foreign Policy Records, fees, including research personnel and computer service time, shall be $13.50 per half hour.

(iv) Where another system is involved, the computer service charge shall be based upon the particular types of computer and associated equipment and the amounts of time such pieces of equipment are actually utilized. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present or make available the output of computers based upon the prevailing levels of costs to Government organizations and upon the type and amount of such supplies and materials that are used.

(v) When there is not an existing computer program to generate the information requested, fees shall include the cost of such programming in addition to those outlined in paragraph (a) (5) (iii) and (iv) of this section. It should be noted that the Freedom of Information Act does not require the creation of records and in view of the heavy workloads of the computers used by the Department, such a service cannot ordinarily be offered to the public.

(6) If records requested under this Subpart are stored elsewhere than the headquarters of the Department of State at 2201 C Street, NW, Washington, D.C., the special costs of returning such records to the headquarters shall be included in the search costs. These costs will be computed at the actual cost of transportation of either a person or the requested record between the place where the record is stored and Department headquarters when, for time or other reasons, it is not feasible to rely on Government mail service or diplomatic pouch.

(7) When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or size or type thereof, the Information and Privacy Coordinator is authorized to establish an appropriate fee, pursuant to the criteria established in Office of Management and Budget Circular No. A–25, entitled "User Charges."

(b) Fees must be paid in full prior to release of requested documents.

(c) Where it is anticipated that the fees chargeable under this Subpart will amount to more than $50 and the requester has not indicated in advance her/his willingness to pay fees as high as anticipated, the requester shall be promptly notified of the amount of the anticipated fees or such portion thereof as can readily be estimated. In appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Departmental personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Department until a reply is received from the requester.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Department determines that a record which has been requested, but which is exempt from disclosure under this Subpart, is to be withheld.

(e) Waiver or reduction of any fee provided for in this Subpart may be made upon a determination by the Chief of the Information Access Branch. The Department may waive or reduce fees in the following instances:

(1) When the search and copying fees total less than $25.

(2) When the records are requested by a State or local government, an intergovernmental agency, a foreign

government, a public international organization, or an agency thereof, and the records are for purposes that are in the public interest and will promote the objectives of the act and of the Department.

(3) When it is determined, upon petition submitted by the requester, that waiver or reduction of the fee is in the public interest because furnishing the information in the records requested can be considered as primarily benefiting the general public. Any such petition shall specify the intended purpose to which the requested records will be put, and any other relevant factors in order to show how the information can be expected to benefit a large section of society, and not primarily, one special interest group, however prominent. A fee waiver will not be granted if the requester is to benefit financially, directly or indirectly, from the disclosure of the record.

(4) When it is determined, based upon a petition therefor, that the requester is indigent, that the request for records has a strong public interest justification, and that agency resources permit a waiver of fee. A person is deemed to be indigent if she/he does not have income or resources sufficient to pay the fees involved.

(5) When the release of records is necessary to the requester to obtain financial benefits to which she/he is entitled by law.

(6) When the record is requested for compelling circumstances affecting the health or safety of an individual.

(7) When the requested records are ordered to be produced in a court of competent jurisdiction.

The Department will not generally waive the cost for reproduction of those documents which the requester wishes to retain, except as provided under paragraph (1) of this section.

The Department will not waive fees for requesters (persons or organizations) from whom unpaid fees remain due to the Department for another information access request.

(f)(1) The Department's decision to refuse to waive or reduce fees as requested under paragraph (e) of this section may be appealed to the Information and Privacy Coordinator, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520. Appeals should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

(2) Appeals will be reviewed by the Information and Privacy Coordinator who may consult with other officials of the Department, as appropriate. The requester will be notified within thirty working days from the date on which the Department received the appeal.

Subpart C—Executive Order 12065 Provisions

§ 171.20 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "agency" means federal agency including department, agency, commission, etc., as defined in 5 U.S.C. 552(e).

(b) The term "classification" refers to the determination that certain information requires protection against unauthorized disclosure in the interest of national security, coupled with the designation of the level of classification: Top Secret, Secret or Confidential.

(c) The term "classification authority" means the authority vested in an official of an agency to orginally classify information or material which is determined by that official to require protection against unauthorized disclosure in the interest of national security. It is also the authority to prolong classification.

(d) The term "classified information" means information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of the United States Government, and that has been determined pursuant to Executive Order 12065, prior orders, or other orders or statutes, to require protection against unauthorized disclosure, coupled with the designation of the level of classification.

(e) The term "declassification" refers to the determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national security. Such determination shall be by specific action or automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

(f) The term "document" has the meaning of "record" as set forth in § 171.10(b).

(g) The term "foreign government information" is: (1) Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence, or (2) Information, requiring confidentiality, produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments. A written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record of the joint arrrangement.

(h) The term "Presidential appointees" includes former officials of the Department of State or other U.S. Government agencies who held policy positions and were appointed by the President, by and with the advice and consent of the Senate, at the level of Ambassador, Assistant Secretary of State, or above. It does not include Foreign Service Officers as a class or persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers and employees.

§ 171.21 Identifying information.

For the request to be processed, it must describe the material sufficiently to enable a professional employee of the Department who is familiar with the subject area of the request to locate the record with a reasonable amount of effort. Whenever a request does not reasonably describe the information, the requester shall be notified that unless additional information is provided, or the scope of the request is narrowed, no further action will be taken.

§ 171.22 Access to records.

All classified information except as noted in § 171.23, shall be subject to review for declassification upon request of a member of the public, a government employee, or an agency.

(a) A request for declassification under the Order shall be acted upon within 60 days from the date on which the request reaches the appropriate receiving office.

(b) Subject to paragraph (f) of this section, when it receives a request, the Department, if it is the originating agency, shall determine whether the information or any reasonably segregable portion of it no longer requires protection. If so, the Department shall promptly make such information available to the requester, unless withholding it is otherwise warranted under applicable law.

(c) When the Department receives a request for information in a document which is in its custody, but which was classified by another agency, it shall refer the request to the appropriate agency for review. The Department shall also notify the requester of the referral unless the association of the reviewing agency with the information requires protection in the interest of national security. The reviewing agency shall respond directly to the requester and

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shall notify the Department of its determination.

(d) During the transition period allowed by Executive Order 12065 from declassification at 30 years to declassification at 20 years, all requests for classified United States Government originated information over 30 years old not previously declassified and transferred to the Archives will be processed according to paragraphs (b) and (c) of this section.

(e) In response to a request for a classified document in its possession, the Department may not refuse to confirm the existence or non-existence of the document unless the fact of its existence or non-existence would itself be classifiable.

(f) In the case of requests for documents containing foreign government information, the Department, if it is also the agency which initially received the foreign government information, shall determine whether the foreign government information in the document may be declassified and released in accordance with policies or guidelines, consulting with other interested agencies as necessary. If the Department is not the agency which received the foreign government information, it shall refer the request to the original receiving agency, which shall take action on the request.

(g) In considering requests for mandatory review, the Department may decline to review again any request for material which has been reviewed within one year and denied, except as the request constitutes an appeal under Subpart G of this Subchapter.

§ 171.23 Determination in disputed cases.

(a) Information that continues to meet the legal requirements for classification under Section 1–3 of the Order at the time of review for declassification is presumed to require continued protection and may be withheld from disclosure under the Order and Section (b)(1) of the Freedom of Information Act. However, as stated in Section 3–303 of the Order, it is government policy to consider the public interest in disclosure when information is reviewed for declassification. In some cases, the need to protect information that continues to meet the requirements of classification may be outweighed by the public interest in disclosure of information. When such a question arises, the authority reviewing the information shall refer the question to the relevant Top Secret authority in the Department of State to make a policy determination whether the public interest in disclosure outweighs the damage to the national security that might reasonably be expected from the disclosure. In making such determination, that authority shall respect the intent of the Order to protect foreign government information and confidential foreign sources. That authority shall also consult with other officials in the agency as the circumstances warrant.

(b) In the Department of State, if such a case is appealed by the requester of the information after receiving a notice of denial, the case shall be referred to the Appeals Review Panels in accordance with the Department's appeal procedures. If the Panel should decide that the case raises a question as to whether the need to protect information that continues to meet the requirements of classification is outweighed by the public interest in disclosure, the question shall be referred to a principal officer for determination.

§ 171.24 Challenges to classification.

(a) A government employee, who has reasonable cause to believe that a document is classified unnecessarily, improperly, or for an inappropriate period of time, is encouraged to and shall have the right to challenge such classification.

(b) The challenger shall prepare a statement giving the reasons to support such a challenge, and may submit a request to the office or bureau of origin for a review of the document under the mandatory declassification procedures of the agency, expect that the agency shall reach a determination in 30 days instead of 60 days. If the reviewing office or bureau agrees with the challenger, rectifying changes shall be made on the face of the document. The office of the record holder and other holders should be notified of the changes to the extent practicable. If the reviewing office disagrees with the challenger, the challenger may appeal within 60 days to the Chairman of the Appeals Review Panels, who shall obtain a decision from one of the Panels, within 30 days of receipt of the appeal.

(c) If the challenger wishes to remain anonymous, an officer designated by the chairman of the Appeals Review Panels shall act as the challenger's agent.

§ 171.25 Former Presidential appointees.

(a) Former Presidential appointees may have access to those documents (classified and unclassified) they originated, reviewed, or signed only while serving as Presidential appointees. Requests should be submitted in writing to the Information and Privacy Coordinator and should include a general description of the records and the time period covered by the request. Access shall be granted under the following conditions:

(1) The Department must first determine that granting access to the requested material is consistent with the interests of national security;

(2) The former Presidential appointee must agree in writing to safeguard the information from unauthorized disclosure;

(3) The former Presidential appointee must submit a statement authorizing the Department to review any notes and manuscripts to determine that they contain no classified information;

(4) The information may not be further disseminated without the express permission of the Department;

(5) If the former Presidential appointee uses a research assistant, this person must also meet all of the above conditions. Such a personal assistant must be working for the former Presidential appointee and not gathering information for publication on her or his own.

(b) If the access requested by former Presidential appointees requires services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requester shall be so notified and the fees may be charged pursuant to that Act; the requester shall be so notified and the fees may be imposed.

§ 171.26 Exemptions.

(a) Information less than 10 years old which was originated by the President, by the White House staff, or by committees or commissions appointed by the President, or by other action on behalf of the President, is exempted from mandatory review for declassification. Requests for mandatory review of information more than 10 years old of the origin described shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures will provide for consultation with agencies having primary subject matter interest, who will provide the Archivist their recommendations as to the disposition of the request. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest will be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever comes first.

(b) The Freedom of Information and Privacy Acts exemptions and any other exemptions under applicable law may be invoked by the Department to deny material on grounds other than classification.

Subpart D—Privacy Provisions

§ 171.30 Definitions.

As used in this Subpart, the following definitions shall apply:

(a) The term "Department" means the Department of State, its offices, bureaus, divisions, field offices, and its overseas posts.

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) The term "maintain" includes maintain, collect, use or disseminate.

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by the Department, including, but not limited to education, financial transactions, medical history, and criminal or employment history that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

(e) The term "system of records" means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in 13 U.S.C. 8.

(g) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) The term "amend" means to make any correction to any portion of the record which the individual believes is not accurate, relevant, timely, or complete.

(i) The term "personnel record" means any personal information maintained in a system of records as defined in paragraph (e) of this section that is needed for personnel management programs or processes such as staffing, employee development, retirement, grievances, and appeals.

Rules and procedures promulgated by the Office of Personnel Management under the Privacy Act for personal records for which it has responsibility will be followed by the Department with regard to such records except when inconsistent with provisions of the Foreign Service Act.

§ 171.31 Identifying information.

All requests for access to a record or records must reasonably describe the system of records and the individual's record within the system in sufficient detail to permit identification of the requested record(s). System names, descriptions, and the identifying information required for each system are published in the Department's public notice of systems of records appearing in the **Federal Register.** As a minimum, requests should include the individual's full name (maiden name, if appropriate), present mailing address (including zip code), date and place of birth, and other information helpful in identifying the record. Helpful data includes circumstances which give the individual reason to believe that the Department of State maintains records under her/his name, as well as the approximate time period of the records. This information will facilitate the timely search of record systems and assist the Department in locating those records which actually pertain to the individual requester. In certain instances, it may be necessary for the Department to request additional information from the requester, either to ensure a full search or to ensure that a record retrieved does in fact pertain to the individual.

§ 171.32 Exemptions.

Portions of systems of records maintained by the Department are authorized to be exempted from a limited number of provisions of the Privacy Act. In utilizing these exemptions, however, the Department contemplates exempting only those portions of systems necessary for the proper functioning of the Department and which are consistent with the Privacy Act and these regulations. The following exemptions are authorized under 5 U.S.C. 552a(j) and (k):

(a) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and in fact, properly classified pursuant to such Executive Order (k)(1);

(b) Investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2): Provided, however, that if any individual is denied any right, privilege, or benefit for which she or he would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the regulations, under an implied promise that the identity of the source would be held in confidence (k)(4);

(c) Records maintained in connection with providing protective services to the President of the United States or other individuals, pursuant to 18 U.S.C. 3056 and 22 U.S.C. 2666 (k)(3);

(d) Records required by statute to be maintained and used solely as statistical records (k)(3);

(e) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, nominations or referrals to international organizations, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of these regulations, under an implied promise that the identity of the source would be held in confidence (k)(5);

(f) Testing or examination material used solely to determine individual qualification for appointment or promotion to the Federal service which would compromise the objectivity or fairness of the testing or examinations process if disclosed (k)(6); or

(g) Evaluation material used to determine potential of an individual for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of these regulations, under an implied promise that the identity of the source would be held in confidence (k)(7); or

(h) Records originated by another agency when that agency has determined that the record is exempt under 5 U.S.C. 52a (j). Also, pursuant to Section (j)(2) of the Act, records compiled by the Special Assignment Staff, the Command Center, and the Passport and Visa Fraud Branch of the Office of Security may be exempted from the requirements of any part of the Act except subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9),

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(10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes.

(i) Portions of the following systems of records are exempted under 5 U.S.C 552a(j) to the extent authorized and determined by the agency originating the records. The names of the systems correspond to those published in the **Federal Register** by the Department.

System Name: STATE DEPT.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
External Research Records. STATE–10.
Extradition Records. STATE–11.
Intelligence and Research Records. STATE–15.
International Organizations Records. STATE–17.
Law of the Sea Records. STATE–19.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.
Munitions Control Records. STATE–42.

(j) Portions of the following systems of records are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (3) and (4), (G), (H), and (I), and (f). The names of the systems correspond to those published in the **Federal Register** by the Department.

(1) Exempt under 5 U.S.C. 552a(k)(1). The reason for invoking the exemption is to protect the material required to be kept secret in the interest of national defense and foreign policy.

Board of Appellate Review Records. STATE–2.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
External Research Records. STATE–10.
Extradition Records. STATE–11.
Foreign Assistance Inspection Records. STATE–48.
Intelligence and Research Records. STATE–15.
International Organizations Records. STATE–17.
Law of the Sea Records. STATE–19.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.
Berlin Document Center. STATE–41.
Munitions Control Records. STATE–42.

(2) Exempt under 5 U.S.C. 552(a)(k)(2). The reasons for invoking the exemptions are to prevent individuals the subject of investigation from frustrating the investigatory process, to insure the integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided; and to protect the confidentiality of sources of information.

Board of Appellate Review Records. STATE–2.
Consular Service and Assistance Records. STATE–5.
Coordinator for Combatting Terrorism Records. STATE–6.
Extradition Records. STATE–11.
Foreign Assistance Inspection Records. STATE–48.
Intelligence and Research Records. STATE–15.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–39.
Visa Records. STATE–39.
Munitions Control Records. STATE–42.

(3) Exempt under 5 U.S.C. 552(a)(k)(3). The reason for invoking this exemption is to preclude impairment of the Department's effective performance in carrying out its lawful protective responsibilities under 18 U.S.C. 3056 and 22 U.S.C. 1666.

Consular Service and Assistance Records. STATE–5.
Extradition Records. STATE–11.
Intelligence and Research Records. STATE–15.
Overseas Records. STATE–25.
Passport Records. STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Security Records. STATE–36.
Visa Records. STATE–39.

(4) Exempt under 5 U.S.C. 552a(k)(4). The reason for invoking this exemption is to avoid needless consideration of records which are used solely for statistical purposes and from which no individual determinations are made.

Foreign Service Institute Records. STATE–14.
Personnel Payroll Records. STATE–30.
Personnel Records. STATE–31.

(5) Exempt under 5 U.S.C. 552a(k)(5). The reasons for invoking this exemption are to insure the proper functioning of the investigatory process, to insure effective determination of stability, eligibility and qualification for employment and to protect the confidentiality of sources of information.

Board of the Foreign Service Records. STATE–3.
Equal Employment Opportunity Records. STATE–9.
Foreign Assistance Inspection Records. STATE–48.
Foreign Service Grievance Board Records. STATE–13.
Legal Adviser Personnel Records. STATE–20.
Overseas Records. STATE–25.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personnel Records. STATE–31.
Security Records. STATE–36.
Senior Personnel Appointment Records. STATE–47.

(6) Exempt under 5 U.S.C. 552(k)(6). The reasons for invoking this exemption are to prevent the compromise of testing or evaluation material used solely to determine individual qualifications for employment or promotion, and to avoid giving unfair advantage to individuals by virtue of their having access to such material.

Foreign Service Institute Records. STATE–14.
Personnel Records. STATE–31.

(7) Exempt under 5 U.S.C. 552a(k)(7). The reason for invoking this exemption is to prevent access to such material maintained from time to time by the Department in connection with various military personnel exchange programs.

Overseas Records. STATE–25.
Personality Cross Reference Index to the Secretariat Automated Data Index. STATE–28.
Personality Index to the Central Foreign Policy Records. STATE–29.
Personnel Records. STATE–31.

(k) Portions of certain documents in the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a (j) and (k) from subsections (c) (3) and (4); (d); (e)(4), (G), (H), and (f) of 5 U.S.C. 552a.

Public Affairs Records. STATE–35.
Privacy Act Requests Records. STATE–40.

§ 171.33 Time limits.

Whenever possible, the Department will acknowledge the request within 10 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request and furnish the requester information as soon as possible thereafter.

§ 171.34 Access to records.

(a) *Verification of personal identity.* The Department will require reasonable identification of individuals to assure that records are disclosed only to the proper person(s).

(1) *Access in person.* When access to a record is granted in person, the Department will require a verification of identity by the individual; employee identification card, driver's license, medicare card, annuitant identification, or passport are examples of acceptable identification.

(2) *Access by mail.* For individuals who seek access by mail, the Department will require verification of identity; comparison of signature of the requester and those in the record, if any, will be used to determine identity.

(3) *Statement verifying identity.* If an individual can provide no suitable documents for identification or a signature is not on record, the Department will require a signed statement from the individual asserting her or his identity and stipulating that the individual understands that knowingly or willingly seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000.

(b) *Sensitive records.* In certain cases where the Department determines that the requested record is of sufficient sensitivity, it may require the individual to furnish a signed notarized statement verifying the requester's identity. The Department will inform the individual at the time the record is retrieved whether or not such a statement is necessary.

(c) *Accompanying individual.* If, when exercising physical access to a record, the requester is accompanied by any other person, the Department will require the requester to sign a statement authorizing disclosure of the contents of record in the presence of the accompanying individual.

(d) *Authorized representatives or designees.* When an individual wishes to authorize another person or persons access to her or his records other than as provided in paragraph (e) of this section, the individual shall submit a signed, notarized statement authorizing and consenting to access by a designated person or persons.

(e) *Guardians.* The parent(s) of any minor, or the legal guardian of an individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act for and on behalf of said individual upon presentation of appropriate documentation of such relationship.

(f) *Medical records.* If, in the judgment of the Deputy Assistant Secretary of State for Medical Services or her/his designee, the release of medical information directly to the requester could have an adverse effect on the requester, the aforementioned officer will attempt to arrange an acceptable alternative in granting access to such record(s). This will normally involve the release of such information to a doctor named by the requester.

(g) *Records relating to civil actions or proceedings.* The requirements of this section do not entitle an individual to the right of access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 171.35 Requests for amending records.

(a) An individual has the right to request that the Department amend a record pertaining to her or him which the individual believes is not accurate, relevant, timely, or complete. At the time the Department grants access to a record it will also furnish guidelines for requesting amendments to the record. These guidelines will also be available in the public reading room in the Department of State, Washington, D.C. between 10 a.m. and 4 p.m. Monday through Friday, except for legal public holidays, or may be obtained by writing the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Department of State, Room 1239, Washington, D.C. 20520.

(b) Requests for amending records must be in writing and mailed or delivered to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Department of State, Room 1239, Washington, D.C. 20520, who will coordinate the review of the request to amend a record with the appropriate office(s). The Department will require verification of personal identity as provided § 154.5(c)(3) of these regulations before it will initiate action to amend a record to ensure that the requester is not deliberately or inadvertently seeking to change records about other persons. Such requests should contain, as a minimum, identifying information needed to locate the record, a brief description of the items of information to be amended, and the nature of the requested amendment. The requester should submit as much documentation, arguments or other data as seems warranted to support her/his request for amendment.

(c) All requests for amendments to records will be acknowledged within 10 days (excluding Saturdays, Sundays, and legal public holidays). Whenever possible all requests for amendments to records will be reviewed within 10 days (exluding Saturdays, Sundays, and legal public holidays) of their receipt by the Office responsible for the record, and the requester will be advised of the results of the review. In those cases where the review cannot be completed within 10 days, the requester will be so advised and informed when the review will be completed. Except in unusual circumstances, this review will be completed no later than 30 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the request to amend a record.

(d) In reviewing a record in response to a request to amend, the Department shall determine whether the record is relevant and necessary to accomplish a purpose of the agency and shall incorporate the criteria of accuracy, relevance, timeliness, and completeness of the record in that review.

(e) If the office responsible for the record agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing;

(2) Amend the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record of the amendment and its substance.

(f) If the office responsible for the record, after an initial review of a request to amend a record disagrees with all or any portion of the requested amendment, an officer at the Deputy Assistant Secretary level or equivalent, shall:

(1) Advise the individual of its refusal and the reasons for it; and

(2) Inform the individual that she or he may request a further review in accordance with Subpart G.

Subpart E—Ethics in Government Provisions

§ 171.40 Covered employees.

(a) Officers and employees, including special government employees, whose positions are classified at grades GS–16 and above or at any equivalent rate under another pay schedule;

(b) Officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16;

(c) Employees in the excepted service in positions which are of a confidential or policy-making nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics;

(d) The designated agency official who acts as the Department's Ethics Officer; and

(e) Individuals who are nominated for positions requiring Senate confirmation by the President but who are *not* subsequently confirmed by the Senate.

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§ 171.41 Identifying information.

(a) The name and/or position title of the Department of State official who is subject of the request,

(b) The time period covered by the report requested, and

(c) Completion of an Ethics Request Form.

§ 171.42 Time limits.

(a) Reports shall be made available to the public within fifteen (15) days after receipt by the Department.

(b) Reports shall be retained by the Department and made available to the public for a period of six (6) years. The exceptions are those reports which are filed by individuals who are nominated for office by the President and are not confirmed by the Senate; those reports will be retained and made available for a one-year period.

§ 171.43 Access to, and use of, reports.

The Attorney General is authorized to bring a civil action against any person who obtains or uses a financial disclosure report:

(a) for any unlawful purpose;

(b) for any commercial purpose, other than for news or community dissemination to the general public;

(c) for determining or establishing the credit rating of any individual; or

(d) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The court may assess a civil penalty not to exceed $5,000 against any person who obtains or uses the reports for these prohibited purposes; an additional remedy as available under statutory or common law may also be assessed at the discretion of the court.

Subpart F—Denial Procedures

§ 171.50 Denials of access or of amendment.

The decision to deny an individual access to records, or to deny an amendment request under Privacy Act provisions shall be made by: (a) the Department official of a rank not below the Deputy Assistant Secretary or equivalent level who is responsible for the system of records involved, (b) the Deputy Assistant Secretary for the Classification/Declassification Center, or her/his designees, (c) the Director/Deputy Director of Mandatory Review and the Director of Systematic Review in A/CDC, and (d) officials designated by the Under Secretary for Management/Chairman of the Oversight Committee for E.O. 12065. When an authorized official denies access to a record or portion thereof, the official will advise the individual in writing of the denial and the specific reasons therefor. The denial letter will also advise the individual of her/his right to seek administrative review of the Department's decision.

Subpart G—Appeals Procedures

§ 171.60 Appeal of denial of access to records.

(a) Review of an initial denial of access to a record under the Freedom of Information Act (5 USC 552), the Privacy Act of 1974 (5 USC 552a), or Executive Order 12065 may be requested by the individual who submitted the initial request for access. The request for review (hereinafter referred to as the appeal) must be in writing and should be sent by certified mail to the Assistant Secretary for Public Affairs, Chairman, Appeals Review Panels, Department of State, 2201 C street, N.W., Washington, D.C. 20520. The appeal should be received within 60 days of the date of receipt by the appellant of the Department's refusal to grant access to a record in whole or in part.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Appeals Review Panels. The appeal of a denial of access to records shall include any documentation, information and statements to support the individual's request for access and to refute the use of the exemption(s) cited in the Department's justification concerning the denial of access.

(c) The Chairman of the Appeals Panels or her/his designee and at least two other members chosen by her/him from a list of senior officers designated for this purpose by the various bureaus of the Department shall constitute a panel to consider and decide the appeal. There shall be a written record of the reasons for the final determination. The final determination will be made within 30 working days for Executive Order and Privacy Act appeals, and within 20 working days (excluding Saturdays, Sundays, and holidays) for FOIA appeals. For good cause shown, the Chairman of the Appeals Review Panels may extend such determination beyond the 30-day period in Privacy Act cases.

(d) The Chairman shall then notify the requester in writing of the panel's decision to grant access and of the Department's regulations concerning access.

(e) When the final decision of the Panel is to refuse to grant an individual access to a record, the Chairman of the Panel shall advise the individual in writing:

(1) of the refusal to grant the appeal and the reasons therefor including the exemptions of the Freedom of Information Act, the Privacy Act of 1974, and/or Executive Order 12065 under which access is denied;

(2) of her/his right to seek judicial review of the Department's decision, where applicable.

§ 171.61 Appeal of refusal to amend records.

(a) Review of an initial refusal to amend a record under the Privacy Act of 1974 may be requested by the individual who submitted the initial request for amendment. The review (hereinafter referred to as the appeal) should be requested in writing within 60 days of the date the individual is informed of the Department's refusal to amend a record in whole or in part. The appeal must be in writing and should be sent by certified mail to the Assistant Secretary for Public Affairs, Chairman, Appeals Review Panels, Department of State, 2201 C Street, N.W. Washington, D.C. 20520.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Appeals Review Panels. The appeal should include any documentation, information or statements advanced for the amendment of the record.

(c) The Chairman of the Appeals Review Panels and two other members of the Panels designated by him shall constitute a panel to consider and decide the appeal; there shall be a written record of the reasons for the final determination. The final determination will be made within 30 days (excluding Saturdays, Sundays, and legal public holidays), unless for good cause shown, the Chairman of the Appeals Review Panels extends such determination beyond the 30-day period.

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Chairman of the Appeals Review Panels shall direct the office responsible for the record to comply. A responsible official of the Department shall then:

(1) Amend the records as directed;

(2) If any accounting of the disclosure has been made, advise all previous recipients of the record of the amendment and its substance;

(3) So advise the individual in writing.

(e) When the final decision is that the request of the individual to amend the record is refused, the Chairman of the Panels shall advise the individual:

(1) Of the refusal and the reasons for it;

(2) Of her and his right to file a concise statement of the reasons for

disagreeing with the decision of the Department;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Department, a brief statement by the Department summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) Of her/his right to seek judicial review of the Department's refusal to amend the record.

(f) When the final determination is to refuse to amend a record and the individual has filed a statement under paragraph (e) of this section, the Department will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use, or disclose it. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, the Department will note that the information is disputed and provide a copy of the individual's statement. The Department may also include a brief summary of the reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons given to the individual for not amending the record. Copies of the Department's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual under these regulations.

Subpart H—Other Agency Material

§ 171.70 Referral.

While processing a request for access, the Department may locate in its files documents originated by other Federal agencies. The Department shall refer the documents to the originating agency for review and possible declassification and release to the requester. The originating agency is then responsible for contacting the requester directly concerning the release of the material and for notifying the Department of its determination. The Department of State will notify the requester of the referral unless the association of the reviewing agency with the information requires protection in the interest of national security.

§ 171.71 Concurrence.

While processing a request for access, the Department may locate Department of State documents containing information originated by or of substantive interest to other Federal agencies. The Department shall refer these documents or portions thereof to the originating or interested agency for review, possible declassification and concurrence regarding the documents' release. The other agency will then return the documents to the Department so that it may contact the requester regarding the material.

[FR Doc. 80-26755 Filed 8-29-80; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 888

Enlistment in the U.S. Air Force; Miscellaneous Amendments

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force amendments to 32 CFR, Subchapter I, Part 888, reflect changes to the basic rule on Enlistment in the U.S. Air Force. The amendments update the tables on "Age Requirements for Enlistment (USAF)" and "Grade Determination for NPS Enlistees;" adds new information on enlistment and assignment procedures for USAF Academy Preparatory School eliminees; enlistment of prior service personnel for recruiting duty; and on AF Form 3008, Supplement to USAF Enlistment Agreement (Nonprior Service). Enlistment criteria for applicants enlisting in the Delayed Enlistment Program (DEP) has been changed.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: TSgt Charles Landers, telephone (512) 652-2102.

SUPPLEMENTARY INFORMATION: The provisions of this part are issued under authority of 10 U.S.C. 8012 and 10 U.S.C. 511(a). The amendments will read as follows:

1. Section 888.2 is amended as follows:

§ 888.2 Qualifications for enlistment in the regular Air Force. [Amended]

A. Paragraph (c) is amended by revising the following table at the end of the paragraph:

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AGE REQUIREMENTS FOR ENLISTMENT (USAF)

RULE	A	B	C
	If applicant is	then the minimum age is attainment of the (see note 1)	and the maximum age limit is less than
1	NPS	18th birthday	the 35th birthday
2	PS		35 (see note 2)

NOTES: 1. Minimum age for enlistments is 17 when Parental/Guardian Consent for Enlistment of a Minor in the U.S. Armed Forces has been properly executed by parents or legal guardians in Section VI, DD Form 1966. Parental consent is not required for a married 17-year-old applicant.

2. Active duty time in Regular Component when reduced from present age must equal less than 35.

* * * * *

B. Paragraphs (f)(2)(v) and (f)(2)(vi) are deleted.

* * * * *

C. Paragraph (f)(5)(i) is revised to read as follows:

* * * * *

(f) * * *

(5) * * *

(i) Enlistment and Officer Training or Commissioning and Appointment Programs. An applicant is ineligible for enlistment, appointment, or enlistment for an officer training program if he or she has:

* * * * *

D. Paragraph (f)(5)(i)(A) is revised to read as follows:

* * * * *

(f) * * *

(5) * * *

(i) * * *

(A) Ever been arrested by the police for marijuana usage, possession, or

* * * * *

E. Paragraph (f)(5)(ii) is deleted and reserved.

2. Section 888.3 is amended as follows:

§ 888.3 Regular Air Force nonprior service (NPS) programs. [Amended]

A. Paragraph (d)(5) is amended by revising the last sentence to read as follows:

* * * * *

(d) * * *

(5) * * * In return, the enlistees are promoted to the grade of E–3 upon completion of basic training unless, through misconduct, they render themselves ineligible for promotion.

* * * * *

B. Paragraph (d)(9) is added to read as follows:

* * * * *

(d) * * *

(9) USAF Academy Preparatory School eliminees must qualify as prescribed in § 888.2 and be recommended by the preparatory school commander.

* * * * *

3. Section 888.4 is amended as follows:

§ 888.4 Regular Air Force prior service (PS) and special category enlistment programs. [Amended]

A. Paragraph (e)(5)(i) is revised to read as follows:

* * * * *

(e) * * *

(5) * * *

(i) *Enlistment Grade.* See § 888.11. Exception: Those individuals who enlist for 6 years in a guaranteed AFSC (see § 888.10) will be enlisted in grade Airman First Class (E–3).

* * * * *

B. Paragraph (e)(5)(iii) is revised to read as follows:

* * * * *

(e) * * *

(5) * * *

(iii) *Term of Enlistment.* All applicants are enlisted for 4 or 6 years.

* * * * *

C. Paragraph (g)(2) is revised to read as follows:

* * * * *

(g) * * *

(2) Non-Regular officers on AD submit applications for enlistment to HQ AFMPC/MPCMA no later than 30 calendar days before projected date of separation. Applications from officers separated from AD are sent directly to HQ AFMPC/MPCMA, Randolph AFB TX 78148. Letters of authorization will include grade entitlement.

* * * * *

D. Paragraph (h)(1) is revised to read as follows:

* * * * *

(h) * * *

(1) A former airman may enlist as prescribed by § 888.12(a)(8) unless barred by § 888.12(a)(2). (Exceptions: Rules 20, 21, 25, and 29 do not apply.)

* * * * *

E. Paragraph (h)(5) is amended by changing "HQ AFMPC/MPCMAE" to "HQ AFMPC/MPCMS."

F. Paragraph (h)(5)(i) is amended by changing "HQ AFMPC/MPCDRR" to "HQ AFMPC/MPCDOXI."

G. Paragraph (h)(5)(ii) is amended by changing "HQ AFMPC/MPCMAE" to "HQ AFMPC/MPCMS."

* * * * *

H. Paragraphs (l) and (m) are added to read as follows:

* * * * *

(l) *Enlistment and Assignment Procedures for USAF Academy Preparatory School Eliminees.* The following are enlistment and assignment procedures for processing eliminees who desire to enter the Regular Air Force.

(1) Enlistment Grade (see § 888.11).

(2) Date of Rank (see § 888.3(c)(2).

(3) Term of Enlistment. Applicants are enlisted for 4 or 6 years. (See § 888.3(d) for enlistment options.)

(4) Provide by message to AFMPC/MPCMAE with information copy to HQ ATC/RSOPA and AFMPC/MPCRAC3:

(i) Applicants name and SSAN.

(ii) ACT or AQE scores.

(iii) Physical profile and color vision.

(iv) Three AFSC choices.

(v) End assignment preferences (three bases or states).

(vi) Action officer's name, grade and telephone number.

(5) Classification and enlistment authorization will be furnished by AFMPC/MPCMAE.

(6) CBPO Processing:

(i) Prior to enlistment, assist the applicant in completing the following forms:

(*a*) DD Form 1966 (see § 888.12(1)(28)).

(*b*) AF Form 2030 (see § 888.2(f)(5)).

(*c*) AF Form 3007 (see § 888.7(d)).

(*d*) AF Form 3008, if appropriate (see § 888.7(da)).

(*e*) DD Form 93.

(*f*) DD Form 2057.

(ii) Input Transaction Identification Code (TIC) 478 and update service component.

(iii) Enlistment is recorded on DD Form 4. Send enlistment documents as indicated in § 888.12(a)(13) and § 888.12(a)(14), on date of enlistment. Send one copy of DD Form 4 to ARPC/DPAA, 7300 East First Avenue, Denver CO 80280.

(iv) CBPO will issue appropriate special order.

(v) Date of Enlistment. Applicants enlisting for Direct Duty Assignment (DDA) are enlisted as soon as possible after receipt of authorization to enlist. Ensure allowance for advance leave and travel time to initial duty assignment. Applicants enlisting for Technical Training are enlisted to allow for advance leave and travel time in order to arrive at Technical Training Center 5 work days prior to class start date.

(m) *Enlistment of Prior Service Personnel for Recruiting Duty.*—(1)

General. Applicants must meet the basic eligibility criteria in AFR 39-11, figure 8-1, item 13. In addition, applicant must:

(i) Be otherwise qualified for the prior service program.

(ii) Have been separated from the Regular Air Force less than 2 years.

(iii) Have prior service in the Regular Air Force with TAFMS between 4 and 12 years.

(iv) Be entitled to enlist in grade E-4, E-5, or E-6 (see § 888.12(a)(7)).

(v) Have personal interview with and be recommended by Recruiting Squadron Commander in the area of enlistment. (All expenses for preenlistment interviews are paid by the applicant.)

(2) Selection and Assignment. Applicant's acceptability for recruiting duty is determined by the Recruiter Selection Committee. Applicants selected will be considered for assignment to positions not filled by volunteers currently on active duty.

(3) For selectees for recruiting duty, the AF Liaison NCO will type the following in the Remarks section of the AF Form 3006.

> "If I am removed from recruiting duty, by the Air Force or at my request, before completion of this enlistment, I may be returned to duty in my PAFSC or required to retrain into a needed skill depending on Air Force requirements at the time of my removal."

4. Section 888.5 is amended as follows:

§ 888.5 Enlistment in the delayed enlistment program (DEP). [Amended]

A. Paragraph (a) is amended by revising the last sentence to read as follows:

(a) * * * Those who enlist in the Guaranteed Training Enlistment Program (GTEP) or selected OTS applicants must be on EAD within 365 days.

* * * * *

B. Paragraphs (b)(1)(i) and (b)(1)(ii) are revised to read as follows:

* * * * *

(b) * * *

(1) * * *

(i) NPS applicants qualified for enlistment. If applicant is a high school student, they must be within 270 calendar days of their graduation date.

(ii) OTS applicants who are college graduates or college seniors within 365 days of graduation.

* * * * *

C. Paragraph (i)(2) is amended by revising the last sentence to read as follows:

* * * * *

(i) * * *

(2) * * * (If a reservist is disqualified for enlistment in the Regular Air Force, entry on EAD, or has approved request for discharge, send originals of DD Forms 1966 and 4, and copies of SFs 88 and 93 to ARPC, Denver CO 80280.)

* * * * *

D. Paragraph (j) is revised to read as follows:

* * * * *

(j) *Processing at Armed Forces Examining and Entrance Stations (AFEES) or by Overseas Recruiting Personnel.* The AFEES or overseas recruiter processes each applicant according to this part. AFEES or overseas CBPOs publish enlistment and EAD orders only on applicants processed by Air Force recruiters.

E. Paragraph (k)(1) is deleted and reserved.

* * * * *

F. Paragraph (k)(4)(ii) is revised to read as follows:

(k) * * *

(4) * * *

(ii) Sends applicable records listed in § 888.12(a)(14), to AFMTC/DPPR, Lackland AFB TX 78236, or servicing CBPO by nonregistered first-class mail.

5. Section 888.6 is amended as follows:

§ 888.6 Processing actions for enlistment in the regular Air Force. [Amended]

A. Paragraph (b)(4)(i) is revised to read as follows:

* * * * *

(b) * * *

(4) * * *

(i) In the United States, its territories, or possessions, the document verifying age (paragraph (b)(6) of this section) is acceptable proof of citizenship.

* * * * *

B. Paragraph (b)(5) is amended by adding the following at the end of the subparagraph:

* * * * *

(b) * * *

(5) * * *

Note.—Applicants enlisting in an overseas area who do not have an SSAN should be instructed to prepare an SSA Form 5 at the nearest American Consulate. The Form 5 should be forwarded to the Division for International Operations (DIO) at the Baltimore Social Security Office for immediate action. The DIO unit is designed to expedite overseas processing request.

* * * * *

C. Paragraph (b)(6)(v) is revised to read as follows:

* * * * *

(b) * * *

(6) * * *

(v) Form I-151 or I-551.

* * * * *

D. Paragraph (b)(8) is amended by changing "HQ AFMPC/MPCDRR" to "HQ AFMPC/MPCDOXI."

* * * * *

E. Paragraph (c)(3)(iii) is deleted and reserved.

F. Paragraphs (c)(3)(iv) and (c)(3)(v) are revised to read as follows:

* * * * *

(c) * * *

(3) * * *

(iv) If an applicant cannot initial the first certification block on AF Form 2030 because he or she has been arrested for possession or use of marijuana, line out the word "never" and have the applicant initial the appropriate blocks and sign the modified form.

(v) Recruiting personnel must make sure that the applicant fully understands the content and meaning of the modified statement.

* * * * *

G. Paragraph (d)(2) is revised to read as follows:

* * * * *

(d) * * *

(2) AFEES initiates ENTNAC or NAC request on all NPS or OTS applicants when requested to do so by the Air Force liaison NCO.

* * * * *

H. Paragraph (d)(6) is added to read as follows:

* * * * *

(d) * * *

(6) ENTNAC or NAC requests will be submitted for applicants for other programs as requested by the Air force liaison NCO.

* * * * *

I. Paragraph (e)(2)(i) is amended by deleting the second item which reads "DD Form 4c, Enlistment or Reenlistment Agreement—(Continuation Sheet)—Atch 7."

J. Paragraphs (e)(2)(v)(B) and (e)(2)(v)(C) are revised to read as follows:

* * * * *

(e) * * *

(2) * * *

(v) * * *

(B) Make sure that the enlistee signs DD Form 4, items 16a or 16b as appropriate. Item 15b is normally signed by AFEES liaison NCO.

(C) Sign DD Form 4, item 16e, 18e, or 19d as appropriate.

K. Paragraph (e)(2)(v)(D) is deleted and reserved.

L. Paragraph (f)(1) is amended by changing "HQ AFMPC/DPMDRR" to "HQ AFMPC/MPCDOX."

M. Paragraph (g)(1)(i) is revised to read as follows:

* * * * *

(g) * * *

(1) * * *

(i) The Reserve unit shown in DD Form 1966, item 24I.

* * * * *

N. Paragraph (h)(1)(iii) is revised to read as follows:

* * * * *

(h) * * *

(1) * * *

(iii) Do not enlist applicant who fails or refuses (after instructions) to complete DD Form 1966, item 33g. If document provides reason for belief that this enlistment may not be clearly consistent with the interest of national security, hold the enlistment in abeyance. Return the entire case to the Air Force recruiting detachment commander who forwards DD Form 1966 and any other pertinent data to the Office of Special Investigations (OSI) district servicing the detachment for investigation and development of all information having a bearing on the questionable entry. HQ AFMPC/MPCRPP determines if the enlistment is in the interest of national security and advises the detachment. If reply is favorable, the recruiting detachment attaches pertinent document(s) to the DD Form 1966 and sends applicant to AFEES for enlistment.

6. Section 888.7 is amended as follows:

§ 888.7 Preparation of application for enlistment and USAF enlistment agreement documents. [Amended]

A. Paragraph (a)(1)(vii) is added to read as follows:

* * * * *

(a) * * *

(1) * * *

(vii) AF Form 3008, Supplement to USAF Enlistment Agreement (Nonprior Service).

* * * * *

B. Paragraph (d)(8)(i) is amended by adding the following sentence at the end of the subparagraph:

* * * * *

(d) * * *

(8) * * *

(i) * * * If I elect to remain on active duty in enlisted status, I will be entitled to the grade of ————."

* * * * *

C. Paragraph (d)(9)(iii) is revised to read as follows:

* * * * *

(d) * * *

(9) * * *

(iii) Make appropriate entries in block 17 of DD Form 4 indicating the supersedure. The new form then becomes an additional annex to the DD Form 4. Both AF Form 3007 are permanent annexes and must accompany the DD Form 4 on enlistment.

* * * * *

D. Paragraph (da) is added to read as follows:

* * * * *

(da) *AF Form 3008, Supplement to USAF Enlistment Agreement (Nonprior Service).* This document will be completed and becomes an attachment to the applicant's enlistment agreement. It is completed in the same manner as the AF Form 3007.

7. Section 888.11 is amended by revising the following table:

§ 888.11 Grade determination for NPS enlistees.

RULE	A	B
	If applicant	**then grade authorized is**
1	possesses the Billy Mitchell Award, or a letter from CAP-USAF/TTHE, Maxwell AFB AL, certifying successful completion of requirements for the award	E-3 (see note 1).
2	has satisfactorily completed the entire HS Junior ROTC Program (3 years or more), is a high school graduate, and presents official certificate of completion issued by the Armed Forces conducting the program	
3	was credited with over 90 days' active duty service and last separated from any component in pay grade E-2 or higher (see note 2)	E-2 (see note 1).
4	has completed 2 or more years of college ROTC at an accredited college of the United States and posesses a letter of recommendation from the professor of the appropriate US Army, US Navy, or US Air Force ROTC Unit	
5	is a Service Academy ex-cadet with over 90 days' service (see note 3)	
6	Is enlisting for OTS	E-5 (see note 4).
7	is none of the above	E-1.

NOTES: 1. Documents presented after completion of basic training may not be used as a basis for changing the authorized enlistment grade except through application to the Air Force Board for Correction of Military Records.

2. Documentation must be provided in the form of DD Form 214/215 or DD Form 368.

3. Forward copy of DD Form 214 and statement from individual regarding reason for disenrollment to HQ AFMPC/MPCMAI, Randolph AFB TX 78148, for enlistment authorization.

4. Individual will be reduced to grade AB (E-1) if eliminated from OTS and elects to remain in the RegAF in enlisted status provided he or she is not entitled to a higher grade IAW this table or 888.12(a)(7).

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-26698 Filed 8-29-80; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F2254/R269; FRL 1593-6]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on peanuts and potatoes at 0.02 part per million (ppm) and peanut hulls at 0.10 ppm. The regulation was requested by Shell Chemical Co. This rule establishes maximum permissible levels for residues of cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate on peanuts, peanut hulls, and potatoes.

EFFECTIVE DATE: Effective on September 2, 1980.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (202-426-9417).

SUPPLEMENTARY INFORMATION: On May 9, 1980, notice was given in the **Federal Register** (40 FR 4285) that Shell Chemical Co., 1025 Connecticut Avenue, NW, Suite 200, Washington, D.C. 20036 had filed a pesticide petition (pp 9F2254) with EPA. This petition proposed that 40 CFR Part 180 be amended to establish tolerances for residues of the pesticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities soybeans at 0.05 ppm, peanuts and potatoes at 0.02 ppm, and peanut hulls at 0.10 ppm. A food additive tolerance of 0.1 ppm on soybean hulls was also proposed. No comments were received in response to this notice of filing.

The request for the establishment of tolerances for residues of the subject insecticide on soybeans, peanuts, peanut hulls, and potatoes was denied because the Agency did not consider the residue data for soybean hulls adequate to determine an appropriate tolerance level because no use-reflective data were submitted.

Shell Oil Co., submitted an amendment withdrawing the proposed tolerance of 0.05 ppm on soybeans and the proposed food additive tolerance of 0.1 ppm on soybean hulls.

A new Section F was submitted proposing tolerances for cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on peanuts and potatoes 0.02 ppm, and peanut hulls at 0.10 ppm. With the withdrawal of soybeans and soybean hulls from the petition, no other deficiencies remain.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rat acute oral LD$_{50}$ toxicity study with a median lethal dose of 1-3 grams (g)/kilogram (kg) of body weight (bw) when the compound was administered in a water vehicle and an acute oral LD$_{50}$ of 450 mg/kg of bw when the chemical was administered in 50 DMSO as the vehicle; a 90-day dog feeding with a no-observable effect level (NOEL) of 500 ppm; an 18-month mouse feeding study with a NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm), a 24-month rat feeding study with a NOEL of 250 ppm (the highest level fed) with no oncogenic effects, and a three-generation rat reproduction study with a NOEL of 250 ppm (the highest level fed); teratology studies in mice and rabbits (both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed), AMES test (*in vitro*) (negative), and a bone marrow cytogenic study in the Chinese hamster, (negative at 25 mg/kg of bw); the following studies assessing neurological effects: a hen study negative at 1 g/kg of bw for [illegible] days, repeated again at 21 days; a rat acute 8-day study with a NOEL of 200 mg/kg of bw; a rat 15-month subchronic feeding study with a systematic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

Based on the rat feeding study with NOEL of 12.5 mg/k with a safety factor of 100, the acceptable Daily intake (ADI) for this chemical is 0.1250 mg/kg/day with a maximum permissible intake MPI of 7.5 mg/day/60 kg. The ADI will not be exceeded by the establishment of these tolerances.

Data considered desirable but currently lacking are: (a) Further research on granulomas observed in an 18-month mouse study; (b) a six-month non-rodent (preferably dog) oral feeding study. Actions being taken to obtain the lacking information or other additionally needed information are as follows: (a) the petitioner has submitted a protocol to further study the granulomas in the mouse strain used; (b) The petitioner has been requested to give written assurance to the Agency that the six-month non-rodent (preferably dog) oral feeding study will be initiated within one year from the date of notification by the Agency to conduct this study.

There are currently no regulatory actions pending against the registration of this pesticide. There are no other relevant considerations in setting these tolerances for peanuts and potatoes at 0.02 ppm; peanut hulls at 0.10 ppm.

There are established tolerances for residues in eggs, milk, meat, and poultry which are adequate to cover secondary residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which tolerances are sought and it is concluded that the tolerances of 0.02 ppm and 0.10 ppm established by amending 40 CFR 180.379 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before October 2, 1980, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirement of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: September 2, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346(a)(e))

Dated: August 26, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by adding the following raw agricultural commodities under § 180.379 to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Peanuts	0.02
Peanut hulls	0.10
Potatoes	0.02
* * * * *	

[FR Doc. 80–26742 Filed 8–29–80; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. G-44]

Use of New Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property

AGENCY: Transportation and Public Utilities Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation authorizes the use of Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, when shipping privately owned personal property, unaccompanied baggage, and mobile homes for the account of the United States. Its use is mandatory for the Department of Defense and optional on the part of other agencies. Standard Form 1203 was designed to provide uniformity in the placement of unique personal property shipment information for the purpose of simplifying the verification of carrier services furnished.

DATES: Effective date: April 1, 1980. Expiration date: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Wolf, Assistant Commissioner for Transportation Audits (202–275–5468).

SUPPLEMENTARY INFORMATION: Agencies may obtain supplies of SF 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

[Federal Property Management Reg.; Temporary Reg. G-44]

Addition of Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, to Federal Property Management Regulations Part 101-41

1. *Purpose.* This regulation prescribes the use of a new Government bill of lading when shipping privately owned personal property, unaccompanied baggage, and mobile homes for the account of the United States.

2. *Effective date.* This regulation became effective April 1, 1980.

3. *Expiration date.* This regulation expires on April 1, 1982.

4. *Applicability.* This regulation applies to Department of Defense activities procuring transportation services for the aforementioned commodities by Government bills of lading for the account of the United States. The new form prescribed herein may be used by other Federal agencies.

5. *Background.* The General Services Administration is authorized to prescribe Standard forms and procedures pertaining to payments for transportation services furnished for the account of the United States (4 CFR 51.2). Standard Form 1103, U.S. Government Bill of Lading, is used in most instances to document the transportation of property for the account of the United States, and is the supporting document for billing, paying, and auditing the resulting charges. Use of SF 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, when shipping privately owned personal property, unaccompanied baggage, and mobile homes, will reduce the use of SF 1103.

6. Description and distribution of SF 1203. Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, is a nine-part form and will be available in either snap-out or computer pin-feed formats. Distribution of the individual parts of SF 1203 will be the same as that for SF 1103 except for the memorandum copy-consignee (property owner), SF 1203B, which shall be furnished to the consignee (property owner) by the orgin carrier or its agent at the time of pickup of the shipment.

7. *Availability of forms.* Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, prescribed by this regulation, will be listed in the GSA Supply Catalog. Government agencies may obtain these forms by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

8. *Billing for household goods shipments.* Standard Form 1203 and SF 1103, Government Bill of Lading, shall not be billed on the same SF 1113, Public Voucher for Transportation Charges.

9. *Effect on other directives.* When the provisions of this regulation conflict with policies and procedures in § 101-41.302-2, § 101-41.310-3, and § 101-41.313, or other GSA regulations and related directives, the provisions of this regulation will govern.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–26769 Filed 8–29–80; 8:45 am]

BILLING CODE 6820–AM–M

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41 CFR Ch. 101

[FPMR Temp. Reg. E-72]

Information System for Furniture, Furnishings, and Certain Other Items

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation requires agencies to submit information to GSA on purchases of furniture, furnishings, and certain other items. The data available now on purchases of these items are not sufficient to develop an effective requirements-oriented supply system. However, the data obtained from the information required by this regulation will be used by GSA to develop a supply system that is responsive to the needs of Federal agencies.

DATES: Effective date: October 1, 1980. Expiration date: September 30, 1981. Comments due on or before: January 30, 1981.

ADDRESS: Comments should be addressed to the General Services Administration (FFY), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Renner, Director, Regulations Management Division (703–557–5026).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

August 22, 1980.

Federal Property Management Regulations Temporary Regulation E–72

To: Heads of Federal agencies.
Subject: Information system for furniture, furnishings, and certain other items.

1. *Purpose.* This regulation requires agencies to submit information on the procurement of furniture, furnishings, and certain other items.

2. *Effective date.* This regulation is effective on October 1, 1980.

3. *Expiration date.* This regulation expires on September 30, 1981.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* There is a need for the General Services Administration (GSA) to obtain specific data on furniture, furnishings, and certain other items acquired by agencies through Federal Supply Schedule contracts and through purchases on the open market. Without these data, GSA can neither evaluate and assess what agencies are buying nor develop an effective requirements-oriented supply system. By this regulation, GSA is promulgating a program to obtain these essential data from agencies for use in developing a data base for these items. The program will be used to develop a supply system for these items. At a later date the program may be expanded to include other items.

6. *Submission of information.* Each executive agency shall submit one legible information copy to GSA of each purchase order and any amendments thereto issued for Federal Supply Schedule FSC Group 71 commodities or for items purchased on the open market that are identical or which serve the same functional end-use purpose as those items covered by FSC Group 71. The information copies shall be submitted at the time of issuance. When the affected items are purchased against a blanket purchase agreement (BPA) and a purchase order document is not issued, the agency shall submit an information copy of the delivery ticket or invoice that indicates the items purchased, price, ordering agency, and destination. The copies of the purchase orders and/or delivery tickets or invoices shall be sent to: General Services Administration, Purchase Order Database, P.O. Box 2300, Arlington, VA 22202. The purchase orders, delivery tickets, or invoices should include the name, address, and telephone number of the person or organization to be contacted regarding the purchases.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (FFY), Washington, DC 20406, no later than January 30, 1981, for consideration and possible incorporation into a permanent regulation.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 80–26699 Filed 8–29–80; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare; Extension of Time Periods for End Stage Renal Disease (ESRD) Facilities To Achieve Conditional and Unconditional Status

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This amendment to the regulations provides for extensions of one and two years respectively of the time periods required for end stage renal disease (ESRD) facilities to reach the minimum utilization rates (MURs) required for conditional and unconditional status. Current regulations require ESRD facilities participating in the Medicare program to achieve the rates required for conditional status by the end of the first year of operation, and the rates for unconditional status during the third year of operation. The purpose of the extension is to provide a period of time to evaluate whether the minimum utilization rates that ESRD facilities must currently meet are appropriate to ensure quality of care and cost control.

DATE: This regulation is effective on January 1, 1980. However, consideration will be given to written comment or suggestions received on or before November 3, 1980, with a view to revision of the regulation, if necessary.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, P.O. Box 17082, Baltimore, MD 21235. In commenting, please refer to HSQ–68–FC. Comments will be available for public inspection beginning approximately 2 weeks after publication, at Room 309G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone (202) 245–0950).

FOR FURTHER INFORMATION CONTACT: Janet Harryman, Director, Division of Hospital Services, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, 301–594–9736.

SUPPLEMENTARY INFORMATION: The Social Security Amendments of 1972 (Pub. 92–603) extended Medicare protection to individuals with end-stage renal disease (ESRD) who require dialysis or transplantation, and required the establishment of minimum utilization rates (MURs) for ESRD facilities participating in the Medicare program. In other words, facilities performing kidney transplants had to perform a minimum number each year, and facilities performing dialyses had to perform a minimum number each week.

The intent of the MUR requirements was to ensure that facilities have sufficient experience in the treatment of ESRD to maintain professional expertise, to prevent unnecessary proliferation of facilities, and to ensure the most economical use of ESRD resources.

We published final regulations implementing the amendments in the **Federal Register** on June 3, 1976, (41 FR 22502) which included MURs. Those MURs were based on information and recommendations contributed by persons knowledgeable in treatment of ESRD patients, and comments received from the public following publication of a Notice of Proposed Rulemaking in the **Federal Register**, July 1, 1975 (40 FR 27782).

The current regulations provide for two types of approval. A facility which meets full MUR requirements is granted unconditional status. An ESRD facility with utilization slightly below that required for unconditional status is granted conditional status. A facility that enters the program is granted conditional status if it submits written plan detailing how it will achieve, by the end of the first calendar year of operation, the rates required for conditional status, and during the third calendar year of operation, the rates required for unconditional status. 42 CFR 405.2122(a).

We established conditional status because we estimated that the numbers of kidney patients eligible for Medicare benefits would increase fourfold during the first decade of the program. We

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expected ESRD facilities with utilization slightly below the rates for unconditional status to increase utilization during the anticipated expansion of ESRD patient population. We therefore permitted a facility to remain in conditional status only for a period of 2 calendar years with no provision for renewal if the facility did not meet the rates for unconditional status at the end of the period. We limited conditional classification for 2 years to allow for accumulation and analysis of MUR data so that we could determine effectiveness with respect to quality and costs. We are now analyzing available MUR data, and have concluded that we need additional data and studies in order to decide whether we should make any changes in the present rate. We are now obtaining the additional necessary information, and expect to make any changes suggested by our analysis during the extension periods.

From past survey figures, we estimate that at least 20 of the 150 transplant facilities and 50 of the 810 dialysis facilities have exhausted the period for conditional status, and will not have achieved the rates required for unconditional status. (Utilization data for calendar year 1979 will be gathered during annual surveys of facilities during 1980.) Under current regulations, these facilities may not be re-approved. Furthermore, we estimate that a number of new facilities will not have achieved the rates for conditional status in the year required under existing regulations.

Since we are presently analyzing utilization data to determine whether any change in the MURs is appropriate, we believe that denying re-approval for failure to meet MUR requirements for facilities that are already in the program would be premature and cause unnecessary disruption of ESRD services to patients who are dependent on regular care. Accordingly, we are extending the time periods in which facilities will have to meet conditional and unconditional rates. The effect of this extension will be to continue in the ESRD program participating facilities which would be denied re-approval because of inadequate utilization rates. We are extending the time period instead of exercising the exception authority under section 405.2122(b) because that authority must be exercised on a facility by facility basis, can only be used in unusual circumstances and does not apply to general transplant facilities.

We recognize that we are extending substantially the period in which a facility may remain in conditional status. We considered providing a shorter extension, but concluded that a shorter extension might not be realistic, since we are still collecting data, will need to analyze the data, and complete any rulemaking during the extension period.

Summary of Change

The special procedure for approving ESRD facilities in 42 CFR 405.1912(c) is amended by extending the time periods for a facility to achieve the rates required for conditional status from one to two years, and for unconditional status from two to four years. Corresponding amendments are made in 42 CFR 405.2122.

Waiver of Proposed Rulemaking

Present regulations do not permit us to re-approve an ESRD facility which has failed to meet the rates required for unconditional status during its third year of operation. The current classification of facilities has been based on MUR data for calendar years 1977 and 1978. We expect the utilization data for 1979 to indicate that a number of ESRD facilities cannot be re-approved. As a result, treatment of patients may be disrupted by the need to shift them to other approved facilities. We are not certain that the facilities remaining in the program would be accessible to the displaced patients or capable of absorbing the additional patient load. The extension will permit time for study of MUR data for possible revision of regulations.

We believe that it is essential to put the extensions in place immediately without publication of the usual Notice of Proposed Rulemaking to prevent disruption of services to ESRD patients that would result if we were unable to re-approve facilities that do not meet the required MUR. Accordingly, we find that there is good cause to waive the Notice of Proposed Rulemaking. We plan to publish a more comprehensive NPRM in the future covering all aspects of the ESRD facility requirements, including policy issues that do not need to be resolved under the time constraints for this regulation. We welcome comments on this regulation and suggestions with respect to MURs for ESRD facilities.

This regulation is effective on January 1, 1980. We are not providing for a 30-day delayed effective date because the regulation relieves a restriction that would otherwise be required.

42 CFR Part 405 is amended as follows:

1. Section 405.1912 is amended by revising paragraph (b) and (c) to read as follows:

§ 405.1912 Special procedures for approving end-stage renal disease facilities and the expansion of services in approved facilities.

* * * * *

(b) *Determining compliance with minimal utilization rates: Time limitations*—(1) *Unconditional status.* A facility which meets minimal utilization requirements will be assigned this status as long as it continues to meet these requirements.

(2) *Conditional status.* A conditional status may be granted to a facility for not more than four consecutive calendar years and will not be renewable (see § 405.2122(b)). Its status may be examined each calendar year to ascertain its compliance with Subpart U.

(3) *Exception status.* Under unusual circumstances (see § 405.2122(b)) the Secretary may grant a time-limited exception to a facility which is not in compliance with the minimal utilization rate(s) for either unconditional status or conditional status. This exception status may be granted, and may be renewed on an annual basis, under circumstances where rigid application of minimal utilization rate requirements would adversely affect the achievement of ESRD program objectives.

(c) *New applicant.* A facility which has not previously participated in the ESRD program must submit a plan detailing how it expects to meet the conditional minimal utilization rate status by the end of the second calendar year of its operation under the program and meet the unconditional minimal utilization rate status by the end of the fourth calendar year of its operation under the program.

2. Section 405.2122 is amended by revising paragraph (a) to read as follows:

§ 405.2122 Types and duration of classification according to utilization rates.

An ESRD facility that meets all the other conditions for coverage of ESRD services will be classified according to its utilization rate(s) as follows: unconditional status, conditional status, exception status, or not eligible for reimbursement for that ESRD service. Such classification will be based on previously reported utilization data (see § 405.2124, except as specified in paragraph (a) of this section), and will be effective until notification of subsequent classification occurs. (See § 405.2123 for reporting requirements; § 405.2124 for method of calculating rates: § 405.2130 for specific standards.)

(a) *Initial classification.* (1) An ESRD facility that has not previously participated in the ESRD program will be granted conditional status if it submits a written plan, detailing how it will achieve the utilization rates for conditional status by the end of the second calendar year of its operation under the ESRD program, and the rates required for unconditional status by the end of its fourth calendar year of operation.

(Secs. 1102, 1871, 1881 of the Social Security Act (42 U.S.C. 1302, 1395hh, 1395rr))

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.773, Medicare-Supplementary Medical Insurance)

Dated: July 3, 1980.

Earl M. Collier, Jr.,
Acting Administrator, Health Care Financing Administration.

Approved: August 25, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-26807 Filed 8-29-80; 8:45 am]

BILLING CODE 4110-35-M

Social Security Administration

45 CFR Part 233

Coverage and Conditions of Eligibility in Financial Assistance Programs Factors Specific to AFDC; Continued Absence of the Parent From the Home

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This rule, which will be mandatory for the States, provides that for purposes of eligibility for Aid to Families with Dependent Children a child is considered deprived of parental support or care by reason of continued absence of a parent from the home when: (1) a parent has been convicted of an offense and is under sentence of a court; (2) the sentence requires—and the parent is performing—unpaid public work or unpaid community service during working hours; and (3) the parent is permitted by the court to live at home while serving the sentence because of crowded jail conditions or for other reasons in the public interest.

The final rule broadens the current interpretation of the statutory provision, "continued absence from the home," to include situations in which the parent is a convicted offender serving a sentence in the circumstances described. The child is deprived because the parent is unable to provide support through paid employment. This broadened interpretation corrects an inequity: the child of an incarcerated prisoner can receive AFDC; but the child of a convicted offender who performs unpaid public work or community service during the workday and is permitted to live at home while serving the sentence, and who is equally unable to support the family, cannot receive AFDC.

EFFECTIVE DATE: This regulation shall be effective September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Fernandez, Office of Family Assistance, Social Security Administration, 2100 Second St., S.W., Washington, D.C. 20024; telephone (202) 245-2020.

SUPPLEMENTARY INFORMATION: On July 2, 1979, this rule was published in the **Federal Register** (44 FR 38606) as a Notice of Proposed Rule Making with a 60-day comment period. The comments are discussed under the subheading Discussion of Comments.

Background

Section 406(a) of the Social Security Act defines a "dependent child" as a needy child who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. (Other factors not relevant to this discussion are also involved.)

We have until now interpreted "continued absence from the home," where a convicted offender is involved, to mean that the parent must be physically removed from the home. This policy, combined with modern sentencing trends in a number of States, has resulted in an inequity. It is inequitable to grant AFDC to families with a parent in prison, but to deny AFDC to families with a parent who, although permitted to live at home, must serve a court-imposed sentence at unpaid work which deprives the children of economic support. In both situations children are deprived of parental support because a court-imposed sentence prevents the parent from working at a paid job.

Some States permit an offender who is serving a sentence to live at home because the jails and prisons are crowded, or for other reasons in the public interest. In Mississippi, for example, the court may require a convicted offender to do unpaid public work (in a hospital, on a street crew, on a machine maintenance crew, or the like) during a full workweek, but permit the offender to live at home. In California, eight courts in the Oakland-Piedmont area sentence selected offenders to serve their time as volunteers of community organizations; other California sentences may require unpaid public work or unpaid community service, all with permission to live at home. Nebraska permits intermittent imprisonment (with the offender's consent). Wisconsin has a statute allowing those imprisoned for contempt to serve their sentences intermittently.

In all of these cases, although the convicted offender lives at home, the child is deprived of support because the parent cannot seek or accept a job while serving a sentence at unpaid work.

Convicted Offender May Be an Essential Person

In States which provide assistance to "essential persons," as permitted under 45 CFR 233.20(a)(2)(vi), the parent living at home but serving a court-imposed sentence may be considered an essential person and the parent's needs may be recognized in determining the amount of the assistance payment.

Discussion of Comments

Twenty three comments were received on the Notice of Proposed Rule Making. Fifteen were supportive of the regulation change; eight were not supportive or suggested some additional change. These negative comments are discussed below.

1. *Comment:* Several commenters suggested revising 45 CFR 233.100, Dependent Children of Unemployed Parents, to accommodate the parent prisoner situation rather than changing 45 CFR 233.90. These commenters believe that considering a convicted offender living at home to be absent from the home complicates an already confused interpretation of 45 CFR 233.90(c)(1)(iii).

Response: Revising 45 CFR 233.100 is not a feasible alternative to accommodate the parent prisoner situation. The unemployed parent program is optional with States and would not provide coverage in all States. Moreover, there are specific statutory requirements of that program that would preclude eligibility for some families such as the requirement that an individual must have 6 quarters of work in any 13 calendar quarter period ending within 1 year prior to application.

The intent of this regulation is not to *change* the basic interpretation of "continued absence of the parent from the home" in the current regulation. Rather, it is to expand the meaning of the term so as to include parents who are prisoners under the circumstances described. As noted in the NPRM, 45 CFR 233.90 is scheduled for recodification some months from now and will be clarified under HHS's Operation Common Sense.

2. *Comment:* One commenter suggested that the expanded definition of absence should be optional with States. The commenter's State does not

V45/171 SE2 80 UMI

now provide assistance to essential persons (an optional provision for the State). To avoid the consequence of the family being forced to provide for the prisoner's needs from their assistance payment, the commenter points out that the effect of the regulation would be to force the State to provide for essential persons.

Response: The law does not permit a State to have a narrower definition of absence than that permitted under Federal regulations. The Supreme Court decisions in *Townsend* v. *Swank* (404 U.S. 282 (1971)) and *Carleson* v. *Remillard* (406 U.S. 598 (1972)) made clear that States may not exclude persons eligible for assistance under this Federal definition.

This comment fails to recognize that without this amendment to the regulations, a family in the circumstances described would not be eligible for an AFDC payment. Since, in fact, the parent prisoner will be sharing the family's cash assistance, whether or not the State chooses to include him or her in the grant as an essential person, the family is still better off than being ineligible for AFDC as under current regulations.

3. *Comment:* Several commenters felt that the effect of the regulation is to subsidize correctional programs with public assistance funds. These comments reflect the view that children of prisoners should be taken care of by the Justice Department's programs and budget resources, and not through the AFDC program; and that the responsibility for the care and maintenance of prisoners belong with the prison system.

Response: Given the current trends under which prisoners are released into the community without adequate resources to care for their families, it is appropriate under the purposes of the AFDC program, i.e., to strengthen family life, to care for dependent children in their own homes, and to provide assistance to such needy families. This provision, therefore, corrects an inequity in the current program which makes AFDC available to families with a parent in prison, but not if a parent is home and otherwise precluded from gainful employment because of his or her prisoner status.

4. *Comment:* Two commenters requested clarification of the relationship between this regulation change and the requirement that all AFDC applicants and recipients register with and participate in the WIN program unless they meet specific exemption criteria.

Response: The parent prisoner, as described in this regulation, although permitted to be in the home in the evenings is under court sentence and required to perform uncompensated public service work during the day. Since the parent prisoner is not an applicant or recipient of AFDC, and furthermore is precluded from seeking gainful employment, making WIN requirements applicable to this individual serves no useful purpose. Accordingly, such individuals are not required to register for WIN.

5. *Comment:* Several commenters suggested a need to clarify the relationship between this regulation and the child support enforcement program requirements for assignment of support rights and cooperation in obtaining support (45 CFR 232.11 and 232.12); one commenter asked about the relationship of this regulation to 45 CFR 235.70.

Response: The parent prisoner in the situation which this regulation addresses is, in fact, in the home on a daily basis. Therefore, he or she would not be treated as an absent parent in relation to the child support program requirements; the family is considered an intact family. Similarly, 45 CFR 235.70 is not applicable to these situations where the prisoner is in the home on a daily basis.

6. *Comment:* Several commenters suggested the regulation might create inequities almost identical to the one which we are attempting to correct, i.e., the parent who is under sentence, living at home, working at a paid job which does not pay enough to support his family would not be included within the broadened interpretation contained in this regulation. The commenter suggested that a better approach would be to mandate the Unemployed Parent program or develop an assistance program based on need regardless of the family circumstances.

Response: While we recognize that there are other prison work release programs, this regulation addresses only one specific situation. In this situation the parent prisoner is totally precluded from being a wage earner because he or she is required to perform uncompensated public work. Since the parent prisoner is required to do uncompensated public work during the day, his or her ability to support his or her family is not any greater than if he or she were in prison. In view of this fact, we believe it is appropriate for the family of the parent prisoner to receive AFDC for which it would otherwise qualify, if the parent prisoner were incarcerated.

The other approaches suggested by the commenter are ones that are under consideration under Welfare Reform (HR 4904).

After consideration of all comments and suggestions, this regulation is adopted without change as set forth below.

(Secs. 406 and 1102 of the Social Security Act, as amended, 49 Stat. 629 as amended, 49 Stat. 647 as amended; 42 U.S.C. 606 and 1302)

(Catalog of Federal Domestic Assistance Program No. 13.808, Assistance Payments—Maintenance Assistanc;e (State Aid))

Dated: June 5, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 25, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

In part 233, Chapter II, Title 45 of the Code of Federal Regulations, § 233.90(c)(1)(iii) is amended to read as follows:

§ 233.90 Factors specific to AFDC.

* * * * *

(c) *Federal financial participation.*

(1) * * *

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or some time previously. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

* * * * *

[FR Doc. 80–26740 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–07–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1380, Amdt. 3]

Chesapeake and Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 to Service Order No. 1380.

SUMMARY: Service Order No. 1380 authorizes the Chesapeake and Ohio Railway Company to operate over tracks of Consolidated Rail Corporation in and near Buffalo, New York. This order amends Service Order No. 1380 by extending its expiration date to 11:59 p.m. October 31, 1980. This extension allows the Commission to consider the application for permanent authority as filed by the Chesapeake and Ohio Railway Company, without interruption of temporary authority.

EFFECTIVE: 11:59 p.m. August 31, 1980, and continuing in effect until 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided August 26, 1980.

Upon further consideration of Service Order No. 1380 (42 FR 38379, 43 FR 2725, 36639, 44 FR 29894, 45 FR 29054, 38059), and good cause appearing therefor:

It is ordered, that *§ 1033.1380 Service Order No. 1380* (The Chesapeake and Ohio Railway Company authorized to operate over tracks of Consolidated Rail Corporation) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26723 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. No. 1242; Amdt. 11]

Kansas City Southern Railway Co. Authorized To Operate Over Certain Tracks of Southern Pacific Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 11 to Service Order No. 1242.

SUMMARY: Service Order No. 1242 authorizes The Kansas City Southern Railway Company to operate over certain tracks of the Southern Pacific Transportation Company at Lake Charles, Louisiana. This order amends Service Order No. 1242 by extending its expiration date until 11:59 p.m., September 30, 1980, and is conditional upon timely filing of an application for permanent authority.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., September 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided August 26, 1980.

Upon further consideration of Service Order No. 1242, (41 FR 18053, 31824, 48344; 42 FR 6584, 39221; 43 FR 4432, 34147, 39795; 44 FR 6731, 39406; and 45 FR 45912), and conditioned upon timely filing of an application for permanent authority, and good cause appearing therefor:

It is ordered, that § 1033.1242 Service Order No. 1242 (The Kansas City Southern Railway Company authorized to operate over certain tracks of Southern Pacific Transportation Company) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until 11:59 p.m., September 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. Member Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26722 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. No. 1351, Amdt. 4]

Massachusetts Central Railroad Corp. Authorized To Operate Over Tracks Formerly Operated by Boston & Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 4 to Service Order No. 1351.

SUMMARY: Service Order No. 1351 authorizes the Massachusetts Central Railroad Corporation to operate over tracks of the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, between milepost 28 and milepost 30, at Ware, Massachusetts. This order amends Service Order No. 1351 by extending its expiration date until 11:59 p.m., October 31, 1980. This is done to provide interim service during negotiations pending before the B&M Reorganization Court.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr. (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: August 26, 1980.

Upon further consideration of Service Order No. 1351, (44 FR 879 and 39407, 45 FR 26965 and 51813), and good cause appearing therefor:

It is ordered, That *§ 1033.1351 Service Order No. 1351 (Massachusetts Central Railroad Corporation authorized to operate over tracks formerly operated by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees)* is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date. The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. Member Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26725 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. No. 1424, Amdt. 2]

Massachusetts Central Railroad Corp., Authorized To Operate Over Tracks Formerly Operated by Boston & Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1424.

SUMMARY: Service Order No. 1424 authorizes the Massachusetts Central Railroad Corporation to operate over tracks of the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, between Forest Lake Junction and Bondsville, Massachusetts. This order amends Service Order No. 1424 by extending its expiration date until 11:59 p.m., October 31, 1980. This is done to provide continued interim operations pending negotiations before the B&M Reorganization Court.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr. (202) 275–7840.

Decided: August 26, 1980.

Upon further consideration of Service Order No. 1424, (45 FR 8304 and 51812), and good cause appearing therefor:

It is ordered, § *1033.1424 Service Order No. 1424 (Massachusetts Central Railroad Corporation authorized to operate over tracks formerly operated by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees)* is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(f) *Effective date.* This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the **Federal Register.**

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. Member Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26724 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1051, 1104, 1307

[Ex Parte No. MC–98[1]]

New Proceedings in Motor Carrier Restructuring Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: This proceeding was started to determine the types of regulatory action which would assist in providing better price and service alternatives for small shipments. The Commission has decided not to proceed with the rules promulgated in this proceeding. This decision was prompted by the recent passage of the Motor Carrier Act of 1980, Pub. L. 96–296, which contains increased incentives for or specific authorization for the actions contained in the proposed rules.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder—(202) 275–7693.

SUPPLEMENTARY INFORMATION: This proceeding was started to determine the types of regulatory action which would assist in providing better price and service alternatives for small shipments. The first decision in this proceeding[2] made a series of findings which encouraged or required a variety of actions. The Sub-No. 2 proceeding was one of those actions.

Petitions for administrative review of the decision in this proceeding were filed and its requirements were stayed on May 31, 1978. Not long after the stay was issued, it became clear that the Congress was going to consider legislation to change the direction of motor carrier regulation. Action on the proposed rules and requirements was withheld pending the outcome of Congress' deliberations. A final decision in MC–98 (Sub-No. 2) was reached earlier this year, 362 I.C.C. 614 (1980), but it was stayed pending the final decision in the lead proceeding.

On July 1, 1980, the President signed the Motor Carrier Act of 1980, Pub. L. 96–296. The new law makes the rules and requirements adopted in this proceeding either unnecessary or inappropriate.

The letter and spirit of the new law call for a more competitive and efficient motor carrier industry. These goals are to be accomplished primarily through changed entry standards and new pricing freedom. Under these circumstances, it would be inappropriate to prescribe rules for small shipments tariffs and released rates for those shipments. Instead, we intend to rely on the competitive environment fostered by the new bill to achieve the same results.

In the first decision in this proceeding (43 FR 14670, April 7, 1980) we planned to require the submission of a large quantity of information from the major motor carrier rate bureaus on a one time basis. We also decided to amend 49 CFR Part 1104 to require information on carrier actions designed to decrease costs and increase operational efficiency on small shipments traffic. After further consideration, we do not believe the gathering of this information is necessary. The one time requirement duplicates information which we receive in support of general rate increases. It is simply too burdensome to ask for this information in a different format. The second requirement is likely to produce self-serving statements which will languish in file cabinets. We prefer creating a regulatory environment in which we watch what carriers do rather than read what they say they will do.

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[1] This proceeding is related to Ex Parte No. MC–98 (Sub-No. 2), *Released Rates in Conjunction with a Small Shipments Tariff.*

[2] This decision was printed at 359 I.C.C. 397.

A number of the findings in our initial decision relate to a model small shipments tariff or encouraging various price and service options. We believe that these issues can best be resolved by independent carrier decisions on how to price and market their services. We continue to encourage innovative pricing but see no reason to require it to take any particular form. The format adopted in 49 CFR 1307.51 and 1310.34 will be eliminated.

A number of other findings in our initial decision are specifically addressed in the statute. Our encouragement of specialized small shipments carriers meshes well with the limited exemption for small shipments in new Section 10922(b)(4)(D). Our proposed released rates survey and the MC-98 (Sub-No. 2) (43 FR 15168, April 11, 1978) rules are no longer required under new Section 10730(b) which permits the filing of released rates subject to certain standards. In addition, Section 11342 concerning pooling has been amended as we recommended.

The only other item of real importance which deserves mention here is the proceeding to examine the system for classifying motor carrier freight, MC-98 (Sub-No. 1). That proceeding will continue and a decision will be issued before the year is over.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered: The rules at 49 CFR 1051.1, 1104.10 and 1307.51 are removed.

The proceeding is discontinued.

Decided: August 4, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26716 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1310

[Ex Parte No. MC 98 (Sub-2) [1]]

Released Rates in Conjunction With a Small Shipments Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rule.

SUMMARY: This proceeding was started to determine the types of regulatory action which would assist in providing better price and service alternatives for small shipments. The Commission has decided not to proceed with the rules promulgated in this proceeding. This decision was prompted by the recent passage of the Motor Carrier Act of 1980, Pub. L. 96–296, which contains increased incentives for or specific authorization for the actions contained in the proposed rules.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 275–7693.

SUPPLEMENTARY INFORMATION: This proceeding was started to determine the types of regulatory action which would assist in providing better price and service alternatives for small shipments. The first decision in the lead proceeding[2] made a series of findings which encouraged or required a variety of actions. This proceeding was one of those actions.

Petitions for administrative review of the decision in MC–98 were filed and its requirements were stayed on May 31, 1978. Not long after the stay was issued, it became clear that the Congress was going to consider legislation to change the direction of motor carrier regulation. Action on the proposed rules and requirements was withheld pending the outcome of Congress' deliberations. A final decision in this proceeding was reached earlier this year, 362 ICC 614 (1980), but it was stayed pending the final decision in the lead proceeding.

On July 1, 1980, the President signed the Motor Carrier Act of 1980, Pub. L. 96–296. The new law makes the rules and requirements adopted in this proceeding either unnecessary or inappropriate.

The letter and spirit of the new law call for a more competitive and efficient motor carrier industry. These goals are to be accomplished primarily through changed entry standards and new pricing freedom. Under these circumstances, it would be inappropriate to prescribe rules for small shipments tariffs and released rates for those shipments. Instead, we intend to rely on the competitive environment fostered by the new bill to achieve the same results.

In the first decision in MC–98 (43 FR 14670, April 7, 1978) we planned to require the submission of a large quantity of information from the major motor carrier rate bureaus on a one time basis. We also decided to amend 49 CFR Part 1104 to require information on carrier actions designed to decrease costs and increase operational efficiency on small shipments traffic. After further consideration, we do not believe the gathering of this information is necessary. The one time requirement duplicates information which we receive in support of general rate increases. It is simply too burdensome to ask for this information in a different format. The second requirement is likely to produce self-serving statements which will languish in file cabinets. We prefer creating a regulatory environment in which we watch what carriers do rather than read what they say they will do.

A number of the findings in our initial decision relate to a model small shipments tariff or encouraging various price and service options. We believe that these issues can best be resolved by independent carrier decisions on how to price and market their services. We continue to encourage innovative pricing but see no reason to require it to take any particular form. The format adopted in 49 CFR 1307.51 and 1310.34 will be eliminated.

A number of other findings in our initial decision are specifically addressed in the statute. Our encouragement of specialized small shipments carriers meshes well with the limited exemption for small shipments in new Section 10922(b)(4)(D). Our proposed released rates survey and the rules (43 FR 15168, April 11, 1978) are no longer required under new Section 10730(b) which permits the filing of released rates subject to certain standards. In addition, Section 11342 concerning pooling has been amended as we recommended.

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[1] This proceeding is related to the lead decision, Ex Parte No. MC-98, *New Proceedings in Motor Carrier Restructuring Proceedings.*

[2] This decision was printed at 359 ICC 397.

The only other item of real importance which deserves mention here is the proceeding to examine the system for classifying motor carrier freight, MC–98 (Sub-No. 1). That proceeding will continue and a decision will be issued before the year is over.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

§ 1310.34 [Removed]

49 CFR 1310.34 is removed.

The proceeding is discontinued.

Decided: August 4, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26737 Filed 8–29–80; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register

Vol. 45, No. 171

Tuesday, September 2, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

Milk in Iowa Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Iowa order be decreased temporarily for the months of September, October and November, 1980. This action was requested by a pool supply plant handler who ships milk to several distributing plants regulated under the order.

DATE: Comments are due on or before September 9, 1980.

ADDRESSES: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D. C. 20250, 202–447–5661.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provsions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September, October and November 1980.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D. C. 20250 not later than September 9, 1980. Please submit two copies of the documents filed. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during September. Further, the proposed change provides some reduction of pooling standards and will not require extensive preparation or substantial alteration in method of operation for handlers.

All written submissions made pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1079.7(b) that are applicable during the months of September, October and November. It has been requested that they be temporarily reduced 10 percentage points for 1980 from the present 35 percent to 25 percent during each respective month.

Pursuant to the provisions of § 1079.7(b)(1) the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to remove the need for milk shipments to such plants merely to qualify a supply plant.

The handler requesting the temporary revision indicated that with the increase in milk production for the market, there will be more than an adequate supply of milk for Class I uses. In the handler's view, if the shipping percentage is not reduced, he will be forced to haul milk to pool distributing plants, unload it and then reload the milk to haul back to his supply plant. The proposed reduction in shipping percentages may prevent uneconomic movements of milk merely for purposes of pool plant qualification.

Producer milk receipts in the Iowa market during January through July 1980 were about 13 percent over such receipts a year ago, while Class I sales were down about one percent. With increased milk supplies for the market that are not matched by greater Class I sales, a lesser percentage of supply plant milk may be needed to meet the fluid requirements of distributing plants. Accordingly, it may be appropriate to reduce the pool supply plant shipping percentages for the months of September, October and November 1980.

Signed at Washington, D. C., on August 27, 1980.

H. L. Forest,

Director, Dairy Division.

[FR Doc. 80–26773 Filed 8–29–80; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 235, 299

Requirements for Written Notice of Parole Termination; Reference to Form I–122

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: These proposed amendments to the regulations would express Service policy that the Service is no longer required, in certain instances, to serve an alien written notice of the termination of his/her parole and that the required written notice would be served on Form I–122 as revised for this purpose.

DATE: Comments must be received on or before October 31, 1980.

ADDRESS: Please submit comments, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information—Stanley J. Kieszkiel, Acting Instructions Officer, Room 7311–B, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633–3048.

For Specific Information—Alvin Braunstein, Immigration Inspector, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633–2725.

SUPPLEMENTARY INFORMATION: The present 8 CFR 212.5(b) requires that an alien be served written notice that his/her parole is terminated when the authorized parole period expires, when the purpose of the parole has been accomplished, or when the district director in the area where the alien resides decides that neither emergency nor public interest warrants the alien's continued presence in the United States.

V45/171 SE2 80 UMI

The section also provides for further inspection of the alien for an exclusion hearing before an immigration judge, or execution of a previous exclusion or deportation order, or for a new parole, after the initial parole period has been terminated.

It is new Service policy that parole terminates without service of a written notice either when the alien departs from the United States or, if he has not departed, when the authorized parole period expires. Accordingly, it is proposed to divide 8 CFR 212.5(b) into two subparagraphs, "(1) *Automatic*" and "(2) *On Notice*." Form I–122, formerly "Notice to Applicant for Admission Detained for Hearing Before Immigration Judge," has been revised as "Notice to Applicant for Admission Detained and/or Paroled for Hearing Before Immigration Judge" to give notice of parole termination and/or of a subsequent hearing before an immigration judge upon termination of parole.

The new 8 CFR 212.5(b)(1) would provide that parole automatically terminates without written notice if the alien departs from the United States or, if he has not departed, when the authorized parole period expires.

The new 8 CFR 212.5(b)(2) would provide that written notice on Form I–122 would be required to terminate parole when its purpose has been accomplished or when the district director in charge of the area where the alien resides determines that neither emergency nor public interest warrants the alien's continued presence in the United States. This section would also provide for further inspection of the alien, for an exclusion hearing before an immigration judge or execution of a previous exclusion or deportation order, or for a new parole, after the initial parole period has been terminated.

The present 8 CFR 235.9(g) would be amended by deleting the following words from the first sentence, "Notice to Alien Detained for Hearing Before Immigration Judge".

The present 8 CFR 235.6(a) would be amended by deleting the last twelve words from the first sentence, "Notice to Alien Detained for Hearing by an Immigration Judge (Form I–122)" and substituting "Form I–122".

The present 8 CFR 299.1 would be amended by changing the reference to Form I–122 to read, "Notice to Applicant for Admission Detained and/or Paroled for Hearing Before Immigration Judge".

It is proposed to amend Chapter I, Title 8 of the Code of Federal Regulations as follows:

PART 212—PAROLE

§ 212.5 [Amended]

It is proposed to revise § 212.5(b) to read as follows:

* * * * *

(b) *Termination of parole*—(1) *Automatic.* Parole shall be automatically terminated (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized and in either case the alien shall be processed in accordance with § 212.5(b)(2) except that no written notice shall be required.

(2) *On notice.* Upon accomplishment of the purpose for which parole was authorized or when in the opinion of the district director in charge of the area in which the alien is located that neither emergency nor public interest warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien on Form I–122 and he shall be restored to the status which he had at the time of parole, and further inspection or hearing shall be conducted under section 235 or 236 of the Act and this chapter, or any order of exclusion and deportation previously entered shall be executed. If the exclusion order cannot be executed by deportation within a reasonable time, the alien shall again be released on parole unless in the opinion of the district director the public interest requires that the alien be continued in custody.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

§ 235.6 [Amended]

Please amend 8 CFR 235.6(a), by deleting the last tweleve words from the first sentence: "Notice to Alien Detained for Hearing by an Immigration Judge (Form I–122)." In lieu thereof insert the following: "Form I–122."

§ 235.9 [Amended]

Please amend 8 CFR 235.9(g), by deleting from the first sentence the following words: "Notice to Alien Detained for Hearing Before Immigration Judge."

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

Please amend 8 CFR 299.1, by changing the title and description of Form I–122 to read as follows: "Notice to Applicant for Admission Detained and/or Paroled for Hearing before Immigration Judge."

(Sec. 103, 212(d)(5), 235, 236; (8 U.S.C. 1103, 1182(d)(5), 1225, 1226))

Public Comments Invited

In accordance with 5 U.S.C. 553, the Service invites comments of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before October 31, 1980, will be considered. Comments should be submitted in writing, in duplicate, to the Commissioner of the Immigration and Naturalization Service at the address shown at the beginning of this notice.

Dated: August 27, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-26786 Filed 8-29-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Public Meeting to Discuss the Potential Role of Industry Trade Association Certification Programs in the Department of Energy's Energy Efficiency Standards Program for Consumer Products

AGENCY: Department of Energy.

ACTION: Notice of Public Meeting.

SUMMARY: The Department of Energy (DOE) is inviting the public to submit further comments on the potential role of industry trade association certification programs in DOE's energy efficiency standards program for consumer products. DOE will accept written comments until September 15, 1980. A public meeting will be held beginning at 11:00 a.m., September 9, 1980, in Washington, D.C.

DATE: Written comments must be received by September 15, 1980. A public meeting will be held in Washington, D.C. beginning 11:00 a.m., local time, continuing until all comments are heard, or until 5:00 p.m.

ADDRESSES: Written comments should be addressed to Carol A. Snipes (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Office of Hearings and Dockets, Energy Efficiency Standards for Consumer Products, Docket No. CASA–RM–78–110, Mail Station 6B–025, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

The public meeting is to be held at: Room 3000A, Federal Building, 12th and Pennsylvania Ave., Washington, D.C., on September 9, 1980 at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Consumer Products Efficiency Branch, Mail Stop GH-068, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-9127.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163) as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for the types of consumer products listed in EPCA as amended by NECPA.

Standards for nine of these products were proposed by notice issued June 19, 1980 (45 FR 43976, June 30, 1980). The proposed rule included DOE's proposed certification/enforcement provisions by which it intends to ensure compliance with the efficiency standards. To date over 1,000 written comments have been received on the proposed rule. The majority of these comments pertain to the proposed certification/enforcement program. A number of commenters advocate that existing industry-sponsored trade association consumer product certification programs serve to monitor compliance with DOE energy efficiency standards.

Because of the high level of interest in the utilization of existing industry-sponsored trade association consumer product certification programs for monitoring compliance with DOE energy efficiency standards, DOE wishes to convene a public meeting to afford interested parties an opportunity to present views on how existing industry-sponsored trade association certification programs may play a role in the DOE certification/enforcement program for energy efficiency standards for consumer products. Specifically, DOE is interested in receiving input from interested parties on the following issues:

1. Specifically, how would trade associations contribute to certification and enforcement of industry compliance with the standards? What changes would the trade associations be prepared to make to their current certification programs to accomplish the objectives of DOE as set forth in the notice of proposed rulemaking for energy efficiency standards?

2. What should constitute the criteria for establishing the acceptability of a trade association certification program for monitoring compliance with DOE energy standards?

3. If a trade association certification program were to be used to monitor compliance, what procedures should be used by DOE to monitor the performance of the trade associations?

4. Under what conditions would the trade associations make available to DOE data submitted by manufacturers of a confidential or proprietary nature?

5. What role would the trade associations propose to serve in taking corrective action if and when a violation is detected? How would the trade associations propose to coordinate with DOE when corrective action is to be taken?

6. How do trade associations propose to solve potential conflict of interest problems that may arise from their participation in this program?

Written Comments Procedure: Persons who have specific information concerning the questions to be discussed at this public meeting, but who will not be in attendance, are invited to submit comments in writing in addition to any which they may have already submitted to the docket on the proposed rule to prescribe energy efficiency standards for consumer products. Such written comments must be received by DOE by September 15, 1980. Comments should be labeled both on the envelope and the documents, "Energy Efficiency Standards for Consumer Products (Docket No. CAS-RM-78-110)." Fifteen copies are requested to be submitted, but this is not a requirement for submitting comments.

Any person, submitting information or data which is believed to be confidential and exempt by law from public disclosure, should submit it in accordance with the procedures established at 10 CFR 1004.11. Any comments received before the close of the comment period as specified at the beginning of this notice will be considered by DOE in developing final energy efficiency standards for nine types of consumer products.

Public Meeting Procedure: Because of the importance of the Energy Conservation Program for Consumer Products, DOE wishes to receive the maximum level of public participation possible. DOE encourages attendance and participation by individuals and representatives of organizations, consumer groups, manufacturers and industry, and other government agencies at the meeting.

DOE will make a presentation at the outset of the reasons for convening the public meeting. DOE will then accept oral comments limited to a time which will be set in light of the number of persons who request to speak. Persons wishing to speak will be asked to so indicate upon registration and after the DOE presentation. The official conducting the meeting will accept comments or questions from those attending.

Tentative program: September 9, 1980:

Welcoming Remarks
Background
Presentations and comments by interested persons

Issued in Washington, D.C., August 28, 1980.

Kelly C. Sandy III,
Executive Director, Office of Assistant Secretary Conservation and Solar Energy.

[FR Doc. 80-26924 Filed 8-29-80; 10:38 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-21-AD]

Boeing Model 707/720/727/737/747 Series Airplanes With Certain Hydraulic Components Repaired or Parts Produced by Fortner Engineering & Manufacturing, Inc.; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM and notice of public meeting.

SUMMARY: A Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** (45 FR 26075) on April 17, 1980, proposing an amendment which would require the removal of certain hydraulic components that have been repaired or of parts produced by Fortner Engineering and Manufacturing, Inc., of Glendale, California, hereinafter referred to as Fortner, and installed in Boeing 707/720/727/737/747 aircraft.

Investigation to date reveals that these components were repaired under questionable quality control practices and that none were repaired in accordance with FAA-approved data. They, therefore, are of undetermined airworthiness status. Comments on the NPRM were to be received by the FAA on or before June 15, 1980.

A request has been made by an industry association to extend the comment period and to hold a meeting to provide public input to the proposed NPRM. The FAA concurs with this request, and accordingly, the comment period is being extended and notice of public meeting is given herein.

DATES: The new deadline for comments is extended to October 8, 1980, and a public meeting is scheduled to be held on September 18, 1980.

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ADDRESS: Send comment on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT: Mr. Mark I. Quam, Systems and Equipment Section, ANW–213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2500.

SUPPLEMENTARY INFORMATION: By letter dated June 11, 1980, the Air Transport Association of America (ATA) has formally requested that the comment period for this NPRM be further extended and that a meeting be convened of interested parties for discussion of all the issues regarding the proposed NPRM. The FAA believes that due to the nature of this NPRM, it would be in the public interest and beneficial to the FAA to receive verbal comment on the NPRM by the public. Safety will not be compromised by this extension since the extension is relatively short.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Extension of Comment Period and Notice of Public Meeting

Accordingly, the deadline for comments on the NPRM in Docket No. 80–NW–21–AD (45 FR 26075) is hereby extended to October 8, 1980. In addition, the public is invited to meet and present views on the NPRM on September 18, 1980, at 8:30 a.m. in the Main Conference Room of the FAA Building at 9010 East Marginal Way South, Boeing Field, Seattle, Washington.

(Secs. 313(1), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a proposal which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 21, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80–26515 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–NW–33–AD]

Boeing Model 707/720/727/737 Series Airplanes; Extension of Comment Period and Notice of Public Meeting; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM and notice of public meeting.

SUMMARY: A Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** (45 FR 49944) on July 28, 1980, proposing an amendment which would require the testing and ultimate replacement of all Wood Electric Corporation, Series 107, 108 and 2100 circuit breakers installed in Boeing Models 707/720/727/737 aircraft. Comments on the NPRM were to be received by the FAA on or Before August 25, 1980.

A request has been made by an industry association to extend the comment period to October 8, 1980, and to hold a meeting to provide public input to the proposed NPRM. The FAA concurs with this request, and accordingly, the comment period is being extended an notice of public meeting is given herein.

DATES: The new deadline for comments is extended to October 8, 1980, and a public meeting is scheduled to be held on September 18, 1980.

ADDRESS: Send comment on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80–NW–33–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Ted T. Ebina, Systems and Equipment Section, ANW–213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2500.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80–NW–33–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Extension of Comment Period and Notice of Public Meeting

Accordingly, the deadline for comments on the NPRM in Docket No. 80–NW–33–AD (45 FR 49944) is hereby extended to October 8, 1980. In addition, the public is invited to meet and present views on the NPRM on September 18, 1980, at 1:30 p.m. in the Main Conference Room of the FAA Building at 9010 East Marginal Way South, Boeing Field, Seattle, Washington.

(Secs. 313(1), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a proposal which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures, (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 21, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80–26514 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–GL–14AD]

Airworthiness Directives; Dowty Rotol Root 30 and 40 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require inspection of the pitch lock cylinder for cracks and a dimensional check in specified areas of the pitch lock cylinder and the lock support sleeve of Dowty Rotol Root 30 and 40 propellers, replacement of the pitch lock cylinder if cracks are found, and rework of the pitch lock cylinder and lock support sleeve if incorrect dimensions are found. The proposed AD is needed to prevent fatigue failures of the propeller pitch lock which could result in loss of control of the propeller.

DATES: Comments must be received on or before October 22, 1980.

ADDRESSES: Send written comments in duplicate to the Office of Regional Counsel, Federal Aviation Administration, Attn: Rules Docket (AGL–7), Docket No. 80–GL–14–AD, 2300

East Devon Avenue, Des Plaines, Illinois 60018.

The applicable service bulletin may be obtained from: Dowty Rotol, Inc., Staverton West, Sully Road, Box 5000, Sterling, VA 22170 or Dowty Rotol, Ltd., Cheltenham Road, Gloucester, England GL29QH.

A copy of the service bulletin is contained in the Rules Docket, Room 405, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Engineering and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 308.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracks occurring in the pitch lock cylinder on Dowty Rotol Root 30 and 40 propellers which have Dowty Rotol Service Bulletin 61–838 (Mod. No. (c) VP 2833) or SB 61–889 (Mod. No. (c) VP 2866) incorporated, which could cause the pitch lock cylinder to fail and result in loss of adequate control of the propeller in certain regimes of airplane operation.

Since this condition is likely to exist or develop on other propellers of the same type design, the proposed AD would require: (a) an inspection of the pitch lock cylinder to detect cracks; (b) replacement of cracked pitch lock cylinders; (c) a dimensional check and rework as needed of the pitch lock cylinder chamfer; and (d) a dimensional check and rework as needed of the lock support sleeve internal chamfer, as installed on certain Dowty Rotol Root 30 and 40 type propellers and all pitch lock cylinders and lock support sleeves held as spares.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Dowty Rotol Ltd.: Applies to the 7 Dowty Rotol propeller types listed which have Mod. No. (c) VP 2833 (Service Bulletin 61–838) or Mod. No. (c) VP 2866 (Service Bulletin 61–889) incorporated, as installed on, but not limited to the airplane models shown, and all pitch lock cylinders and lock support sleeves P/N 601027277 held as spares.

Propeller type	Installed airplane model
R184/4–30–4/50	Grumman G–159.
R193/4–30–4/50 & 61	Fairchild F–27A, F, G, & J.
	Fokker F–27 mks 200, 400, 500 & 600.
	Fairchild Hiller FH–227 Series.
R 257/4–30–4/60	Fairchild F–27M.
	Fairchild Hiller FH–227 B, C, D & E.
R 209/4–40–4.5/2	YS 11 & 11A.
R 245/4–40–4.5/13	GD/Convair 240 with STC #SA105WE installed.
	GD/Convair 340/440 with STC #SA1096WE installed.
R 259/4–40–4.5/17	GD/Convair 340/440 with STC #SA1096WE installed.
R 179/4–30–4/33	Viscount 810 series.

Compliance is required as indicated, unless already accomplished.

To prevent cracks in the propeller pitch lock cylinder, accomplish the following:

(a) Within the next 1,000 hours time in service after the effective date of this AD, or at the next propeller overhaul, whichever occurs first, inspect the propeller pitch lock cylinder for cracks in accordance with paragraph 2.A., "Accomplishment Instructions," of Dowty Rotol Service Bulletin 61–906, Revision 1, dated September 14, 1978 (hereinafter referred to as service bulletin), or an FAA-approved equivalent, and—

(1) If any cracks are found, before further flight, remove the pitch lock cylinder from service and replace it with a crack-free pitch lock cylinder of the same part number, which has been inspected and, if necessary, reworked and reprotected in accordance with paragraphs (b) and (c) of this AD.

(2) If no cracks are found, before flight, comply with paragraphs (b) and (c) of this AD.

(b) Inspect the chamfer around the snout adjacent to the radius at the base of the bore at the forward end of the pitch lock cylinder in accordance with paragraph 2.A.(5) of the service bulletin, or an FAA-approved equivalent, and—

(1) If the chamfer is found to be within the dimensions shown in Figure 2 of the service bulletin, or an FAA-approved equivalent, the pitch lock cylinder may be returned to service.

(2) If the chamfer is found to be outside the dimensions shown in Figure 2 of the service bulletin, or an FAA-approved equivalent, before returning the pitch lock cylinder to service, rework and reprotect it in accordance with paragraph 2.A.(5) of the service bulletin, or an FAA-approved equivalent.

(c) Inspect the large internal chamfer at the rear end of the lock support sleeve, P/N 601027277 in accordance with paragraph 2.A.(6) of the service bulletin, or an FAA-approved equivalent, and—

(1) If the dimensions are found to be within the dimensions shown in Figure 3 of the service bulletin, or an FAA-approved equivalent, the lock support sleeve may be returned to service.

(2) If the dimensions are found to be outside the dimensions shown in Figure 3 of the service bulletin, or an FAA-approved equivalent, before returning the lock support sleeve to service, rework and reprotect the lock support sleeve, P/N 601027277, in accordance with paragraph 2.A.(6) of the service bulletin, or an FAA-approved equivalent.

(d) Before releasing to service any pitch lock cylinders irrespective of part number, held as spares, inspect them and remove from spares or rework and reprotect, as required, in accordance with paragraphs (a) and (b) of this AD.

(e) Before releasing to service any support sleeves, P/N 601027277, held as spares, inspect them and remove from spares or rework and reprotect, as required, in accordance with paragraph (c) of this AD.

(f) Upon request of an operator, the Chief, Engineering and Manufacturing Branch, AGL–210, Federal Aviation Administration, Great Lakes Region, may adjust the compliance time specified in paragraph (a) of this AD provided such requests are made through an FAA Maintenance Inspector and the request contains substantiating data to justify the request for that operator.

(g) For purposes of this AD, an FAA-approved equivalent must be approved by the Chief, Engineering and Manufacturing Branch, AGL–210, Federal Aviation Administration, Great Lakes Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing Bob Alpiser, Engineering and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

V45/171 SE2 80 UMI

Issued in Des Plaines, Illinois, on August 22, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-26693 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-EA-27]

Boeing Vertol Model 107-II; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to issue a new airworthiness directive which will establish a retirement life of 27,800 hours on the main rotor blade tension-torsion straps of the Boeing Vertol type 107-II helicopter. The new life limit is based upon a re-evaluation of fatigue by the manufacturer. A fatigue failure in the strap could result in substantial damage to the helicopter.

DATES: Comments must be received on or before October 9, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: J. E. Chrastil, Airframe Section, AEA-212, Flight Standards Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. (212) 995-2875.

SUPPLEMENTARY INFORMATION: Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before October 9, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substances of the proposed AD will be filed in the docket.

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-2842.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 39.13 of Part 13 of the Federal Aviation Regulations (14 CFR Part 39) as follows:

Boeing Vertol (Vertol): Applies to Vertol Model 107-II helicopters certificated in all categories.

Compliance required as indicated.

To prevent fatigue failure of the main rotor tension-torsion strap assemblies, remove from service tension-torsion strap assemblies Part No. 107R2003-1 upon the accumulation of 27,800 hours in service and replace with an airworthy part that meets the requirement of this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on August 20, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-26516 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 18605/80-AWA-6]

Alteration of Group II Terminal Control Area; Kansas City, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reconfigure the Group II terminal control area (TCA) at Kansas City, Mo., which first became effective on August 1, 1975. This action would reduce the amount of airspace contained in the TCA and thus, the area in which the requirements for operating in a Group II TCA apply.

DATE: Comments must be received on or before October 17,1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 18605/80-AWA-6, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The docket for this action may be examined at the office of the Regional Air Traffic Division, 601 E. 12th Street, Kansas City, Mo. 64106, or at the FAA, Office of the Chief Counsel, Rules Docket (AGC-204) Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: James King, Airspace and Procedures Branch, Air Traffic Division, Central Region (ACE-500), Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106; (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 17, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Headquarters rules dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/80-AWA-6." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800

Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

History

As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety in the National Airspace System, Kansas City was a candidate for Group I designation and possible expansion of the designated TCA airspace. Consequently, the Kansas city TCA was reviewed in depth. The goal was to provide the most safe and efficient configuration for all airspace users. Aspects that were considered included noise abatement, costs to users, safety for passengers and aircraft, and the safe and efficient use of airspace.

The review disclosed that Group I designation would not be necessary. The analysis also disclosed that a high level of safety can be maintained in that area while at the same time reducing the amount of airspace in the TCA by reconfiguring parts of the TCA. The "floor" would be raised in those areas where IFR and turbine powered aircraft operations are at high enough altitudes to permit reductions in TCA airspace. That reduction would provide greater accessibility to aircraft using satellite airports or wishing to avoid the TCA. Turbine powered aircraft and instrument operations would continue to be contained within TCA airspace and the high level of safety provided by the TCA would not be reduced.

After experience is gained with the revised TCA configuration, consideration will be given to proposing any modifications that appear necessary. Any future modifications that may be proposed would be thoroughly coordinated with airspace users.

The proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. An extensive publicity effort was made to invite all interested persons to participate in a meeting held on June 18, 1979. Invitations were extended to all fixed-base operators and pilots in the local area. Notice of the meeting was also given through radio, telephone, mail, and posting announcements. As a result of the meeting, adjustments to the TCA configuration were developed and are reflected in this notice. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at every stage of the rulemaking process.

Local Benefits

The modifications of the Group II TCA, as proposed in this notice, would increase the capability of aircraft electing not to operate within the TCA to circumnavigate the TCA and would provide additional airspace beneath the floor of the TCA. Two private, uncontrolled airports, Elton Airport and Platte Valley Airport, would be removed from the TCA allowing greater access to those satellite airports. All turbojet arrival and departure profiles would continue to be contained within TCA airspace for air safety purposes, with the TCA having a minimum adverse impact on aircraft not required to be under ATC control due to this proposed action.

Economic Impacts

The costs of modifying the Kansas City TCA are being considered as part of the regulatory decisions being made. Since all turbine powered and IFR aircraft will continue to be contained in the TCA as reconfigured, there will be no change in economic effect for those flights. Uncontrolled aircraft will have a larger amount of airspace in which to conduct their activities and therefore will have an increased degree of flexibility to plan their flights to use more economic routes or altitudes. Any adverse economic impact that may now exist will be the same or reduced as available airspace is increased for traffic not operating within the TCA.

Environmental Impacts

An environmental assessment has been prepared which addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the proposed altered TCA. It concludes that those impacts would not significantly affect the quality of the human environment. That assessment is in both the Regional and Washington dockets for public comments.

The Proposed TCA

The FAA is proposing an amendment to Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter certain lateral and vertical dimensions of the Kansas City, Mo., TCA. The original Kansas City TCA became effective on August 1, 1975.

The FAA considered raising the ceiling of the Kansas City TCA to 12,500 feet. That action would have made the TCA abut airspace where regulations require an operable transponder and altitude encoding equipment for operations above 12,500 feet.

Analysis of Kansas City airspace showed no operational problems that justified an expansion of the TCA above 8,000 feet MSL at this time. In fact, the review indicated that the size of the TCA could be reduced.

Accordingly, the airspace description for the proposed TCA action in this notice was developed by the FAA, Central Region, in consultation with affected users to minimize the potential adverse impacts of the proposal. On March 10, 1980, a final planning meeting, open to the public, was held in Kansas City to obtain public participation in the development of an airspace description responsive to the needs of both transient and local users who might be affected. Approximately 100 persons attended the meeting and the majority of attendees supported the proposal.

The alterations proposed to the Kansas City TCA would not change existing flight procedures, including those used for noise abatement purposes, or affect established minimum flight altitudes.

The elimination from the TCA of airspace for uncontrolled use would provide better access to Kansas City Downtown Airport and Kansas City, Kans. (Fairfax) Airport. Additionally, two small private airports northwest of Kansas City International Airport would be removed from the TCA inner core area that now extends down to the surface. The FAA has found through operational experience that the proposed small portion of airspace required for access to those airports without entering the TCA can be removed from the TCA since it is not used for departures or arrivals to Kansas City International Airport. By establishing a TCA base altitude of 2,400 feet in that area, safety will not be jeopardized. However, this change will allow for a less restricted flow of VFR traffic.

The Proposed Amendment

Accordingly, the Federl Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) by amending the Kansas City, Mo., TCA to read as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

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(b) Group II, Terminal Control Areas:

* * * * *

Kansas City, Mo., Terminal Control Area

Primary Airport

Kansas City International Airport (lat. 39°18′18″N., 94°42′40″W.). Kansas City VORTAC (lat. 39°16′46″N., long. 94°35′28″W.).

Boundaries—Based on arcs/radius of Kansas City International Airport and radials of Kansas City VORTAC.

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius arc of the Kansas City International Airport, excluding that airspace within a 1-mile radius of Noah's Ark Airport (lat. 39°13′50″N., long. 94°48′15″W.;), and that area between the 5-mile radius arc and 6-mile radius arc of Kansas City International Airport, bounded on the sourth by a line parallel to, and 2 miles north of, the Kansas City International Airport Runway 9 ILS localizer course and on the north by a line parallel to, and 2 miles west of, the Runway 19 ILS localizer.

Area B. That airspace extending upward from 2,400 feet MSL to and including 8,000 feet MSL within a 10-mile radius arc of the Kansas City International Airport, excluding that airspace within Area A, that airspace within a 1½-mile radius arc of Sherman Army Airfield (lat. 39°22′10″N., long. 94°54′45″W.;) and that airspace in Area D.

Area C. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL within the following subareas—(1) The area between the 10-mile radius arc and 15-mile radius arc of Kansas City International Airport, bounded on the sourtheast by a line between lat. 39°08′15″N., long. 94°40′58″W.; and lat. 39°03′05″N., long. 94°41′02″W.; and bounded on the north by a line between lat. 39°20′35″N., long. 94°55′05″W.; and lat. 39°25′10″N., long. 98°00′00″W.; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°27′35″N., long. 94°47′18″W.; and lat. 39°32′57″N., long. 94°47′10″W.; and on the east by the 010°T radial of Kansas City VORTAC; and (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the north by a line between lat. 39°22′00″N., long. 94°30′35″W.; and lat. 39°22′05″N., long. 94°23′57″W.; and on the south by a line between lat. 39°12′12″N., long. 94°32′01″W.; and lat. 39°13′02″N., long. 94°24′12″W.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within the following subareas—(1) The area bounded by the 15-mile radius arc of the Kansas City International Airport and lines between the points defined by the following coordinates: lat. 39°03′05″N., long. 94°41′02″W.; to lat. 39°08′15″N., long. 94°40′58″W.; to lat. 39°11′30″N., long. 94°37′00″W.; to lat. 39°12′12″N., long. 94°32′30″W.; to lat. 39°13′02″N., long. 94°24′30″W.; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport and including airspace within 1½ miles of Sherman Army Airfield which was excluded from Area B, bounded on the southwest by a line between lat. 39°20′35″N., long. 94°55′05″W.; and lat. 39°25′10″N., long. 95°00′00″W.; and on the northeast by a line between lat. 39°27′35″N., long. 94°47′18″W.; and lat. 39°32′57″N., long. 94°47′10″W.; (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by the 010°T radial of Kansas City VORTAC and bounded on the south by a line beween lat. 39°22′00″N., long. 94°30′35″W.; and lat. 39°22′05″N., long. 94°23′57″W.; (4) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the east by a line between lat. 39°03′05″N., long. 94°41′02″W.; and lat. 38°58′02″N., long. 94°43′32″W.; and bounded on the northwest by the 231°T radial of Kansas City VORTAC; (5) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the south by the Kansas City VORTAC 259°T radial and on the north by a line between lat. 39°25′10″N., long. 95°00′00″W.; and lat. 39°29′30″N., long. 95°04′10″W.; and (6) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°32′57″N., long. 94°47′10″W.; and lat. 39°37′00″N., long. 94°47′00″W.; and on the east by the Kansas City VORTAC 010°T radial.

Area E. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL within the following subareas—(1) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the northwest by the 010°T radial of Kansas City VORTAC and on the soutwest by a line between lat. 39°03′05″N., long. 94°41′02″W.; and lat. 38°58′02″N., long. 94°43′32″W.; (2) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southeast by the 231°T radial of Kansas City VORTAC and on the north by the 259°T radial of Kansas City VORTAC; and (3) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southwest by a line between lat. 39°25′10″N., long. 95°00′00″W.; and lat. 39°29′30″N., long. 95°04′10″W.; and bounded on the northeast by a line between lat. 39°32′57″N., long. 94°47′10″W.; and lat. 39°38′10″N., long. 94°47′00″W.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the Washington and Regional dockets. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *."

Issued in Washington, D.C., on August 26, 1980.

R. J. Van Vuren,

Director, Air Traffic Service.

BILLING CODE 4910-13-M

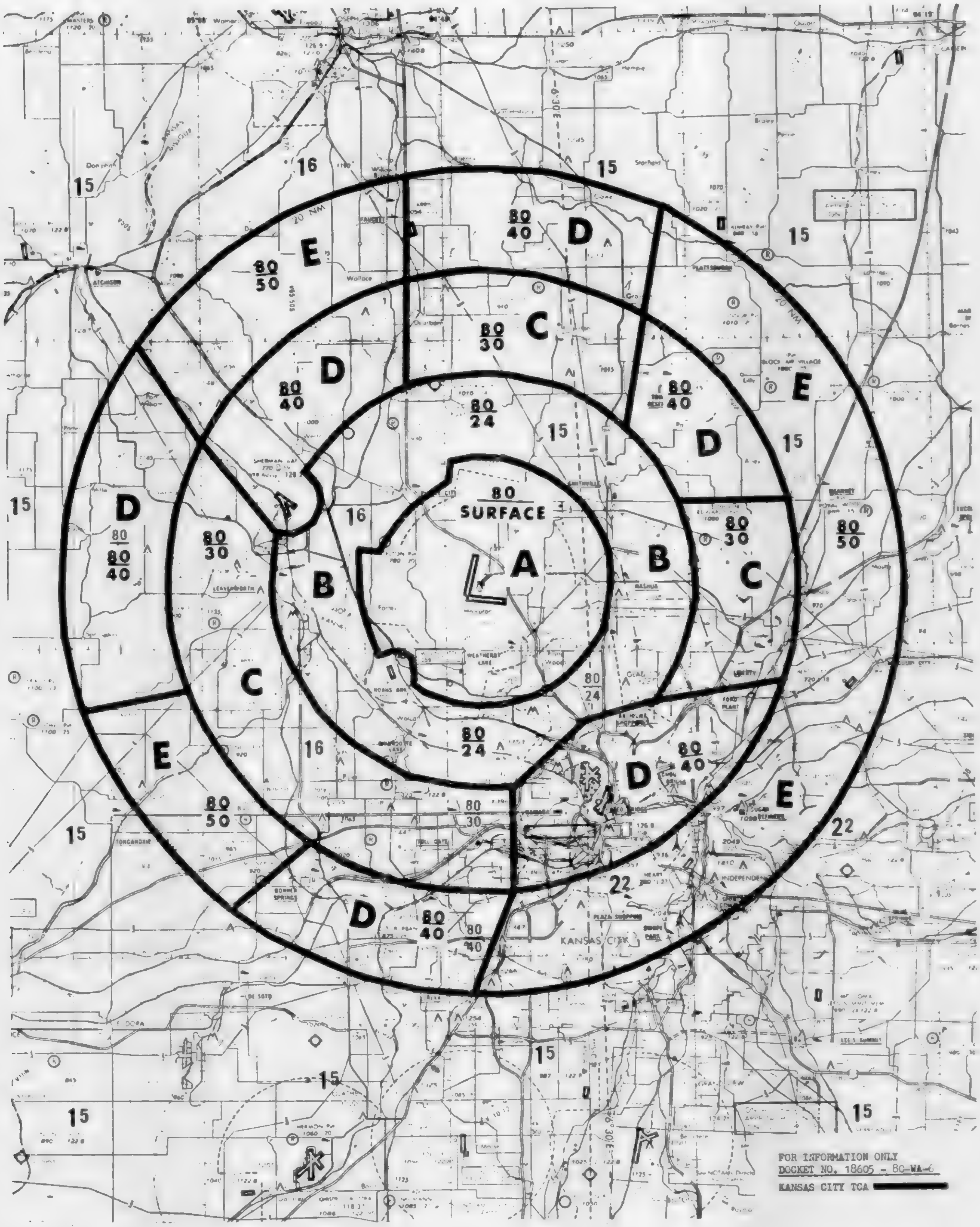
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[FR Doc. 80-26709 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-C

V45/171 SE2 80 UMI

14 CFR Part 71

[Airspace Docket No. 80-GL-21]

Proposed Alteration of Transition Area; Coshocton, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to alter controlled airspace near Coshocton, Ohio. The alteration is required to delete airspace which was previously designated to encompass an instrument approach procedure into the Tri-City Airport, West Lafayette, Ohio. The procedure has been cancelled. The intended effect of this action is to return this controlled airspace to a non-instrument status, for the use of aircraft operating under visual conditions.

DATES: Comments must be received on or before October 3, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be raised from 700 feet above ground to 1200 feet above ground for a distance of five statute miles northeast through southwest of the Tri-City Airport. In addition, aeronautical maps and charts will be corrected to remove the 700 foot transition area airspace now described, to accommodate instrument operations into Tri-City Airport, at West Lafayette, Ohio.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-21, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 3, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part G of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Coshocton, Ohio. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows: In § 71.181 (45 FR 445) the following transition area is amended to read:

Coshocton, Ohio

That airspace extending upward from 700 feet aboe the surface within an 8.5-mile radius of the Richard Downing Airport (latitude 40°18′37″N, longitude 81°51′17″W).

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-Gl-21, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on August 19, 1980.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 80-26691 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-47]

Proposed Designation of Transition Area, Wadesboro, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Wadesboro, North Carolina, transition area and will lower the base of controlled airspace in the vicinity of the Anson County Airport from 1200 to 700 feet AGL. A standard instrument approach procedure has been developed to the airport, and additional controlled airspace is required to protect Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: October 16, 1980.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O Box 20636, Atlanta, Georgia 30320. All communications received on or before October 16, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with

FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Wadesboro, North Carolina, 700-foot transition area. This action will provide controlled airspace protection for IFR operations at the Anson County Airport. A standard instrument approach procedure, VOR/DME–A, to the airport, utilizing the Sandhills VORTAC, is proposed in conjunction with the designation of the transition area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Wadesboro, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Anson County Airport (l at. 35°01′15″N., long. 80°04′45″W.); within 2.5 miles each side of the Sandhills, North Carolina, VORTAC 245° radial, extending from the 6.5-mile radius area to 20 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 22, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80–26689 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–ARM–16]

Alteration of Transition Area; Helena, Mont.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the 700′ transition area at Helena, Montana. This proposal is necessary to provide additional controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Helena Airport, Helena, Montana. This proposal will also allow lower altitudes to be established on portions of the initial and intermediate segments (13 DME and 15 DME arcs) on the instrument landing system (ILS) runway 26, localizer distance measuring equipment back course (LOC/DME BC) and VHF omnidirectional range distance measuring equipment (VOR/DME) standard instrument approach procedures at Helena, Montana. There will be no alteration to the Helena, Montana 1,200′ transition area.

DATE: Comments must be received on or before October 6, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which described the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Helena, Montana 700′ transition area. This proposal is necessary to provide additional controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Helena Airport, Helena, Montana. This additional controlled airspace will allow lower altitudes to be established on portions of the initial and intermediate segments (13 DME and 15 DME arcs) on the instrument lnding system (ILS) runway 26, the localizer distance measuring equipment back course (LOC/DME BC) and the VHF omnidirectional range distance measuring equipment (VOR/DME) standard instrument approach procedures at Helena, Montana. Accordingly, the FAA proposes to

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amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending Subpart G, § 71.181 so as to alter the following transition area to read:

Helena, Mont.

"That airspace extending upward from 700′ above the surface within a 22-mile radius of the Helena VORTAC (latitude 46°36′25″ N., longitude 111°57′09″ W.), * * *"

Drafting Information

The principal authors of this document are Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colo., on August 20, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80-26686 Filed 8-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 80-SO-11]

Proposed Restricted Area, Townsend, Ga.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This action corrects a notice of proposed rulemaking (NPRM) that proposed the establishment of Restricted Area R–3007A—E, Townsend, Ga., as published in **Federal Register** Doc. 80–23321 appearing at page 51591 in the **Federal Register** of August 4, 1980. The correction is required because the time of designation for all subareas was incorrectly stated and the narrative descriptions of the boundaries for subareas C, D, and E were technically incorrect.

DATES: Comments must be received on or before October 6, 1980.

ADDRESSES: Send comment on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80–SO–11, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

Send comments on environmental and land use aspects to: Savannah Air National Guard Training Site, P.O. Box 7299, Garden City, Ga. 31408. Attention: Major Mark L. Berg, telephone: (912) 964–7396.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before October 6, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

Correction to the Proposal

In **Federal Register** Doc. 80–23321 appearing at page 51591 in the **Federal Register** of Monday, August 4, 1980, (45 FR 51591), the time of designation for proposed Restricted Area R–3007A–E, Townsend, Ga., was incorrectly stated as: "daily, 0800–1700 local time. Other times by NOTAM at least 24 hours in advance." The corrected time of designation is: "Monday–Friday, 0800–1700 local time. Other times by NOTAM at least 24 hours in advance." as requested by the proponent. Also, the subarea boundaries of C, D, and E for this proposed restricted area were technically incorrect in that insufficient geographic coordinates were used to adequately describe the subarea boundaries.

Correction to the Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Federal Aviation Administration, **Federal Register** Doc. No. 80–23321 appearing at page 51591 in the **Federal Register** of Monday, August 4, 1980 is corrected as follows:

1. On pages 51591 and 51592, the amendatory language to § 73.30 for R–3007A, R–3007B, R–3007C, R–3007D, and R–3007E, Townsend, Ga., time of designation is corrected to read as follows:

"Time of designation. Monday–Friday, 0800–1700 local time. Other times by NOTAM at least 24 hours in advance."

2. On page 51592, the amendatory language to § 73.30 for R–3007C Townsend, Ga., "Boundaries" is corrected to read as follows:

Boundaries. Beginning at Lat. 31°33′15″N., Long. 81°42′00″W.; to Lat. 31°42′30″N., Long. 81°34′00″W.; to Lat. 31°38′00″N., Long. 81°29′00″W.; to Lat. 31°33′15″N., Long. 81°31′15″W.; thence along a 1 NM radius arc counterclockwise of a point centered at Lat. 31°32′25″N., Long. 81°31′50″W.; to Lat. 31°31′15″N., Long. 81°32′00″W.; to Lat. 31°27′25″N., Long. 81°33′40″W.; to Lat. 31°25′30″N., Long. 81°36′00″W.; thence west along the Altamaha River to point of beginning excluding R–3007E.

3. On page 51592, the amendatory language to § 73.30 for R–3007D Townsend, Ga., "Boundaries" is corrected to read as follows:

"Boundaries. Beginning at Lat. 31°38′00″N., Long. 81°29′00″W.; to Lat. 31°37′30″N., Long. 81°28′15″W.; to Lat. 31°32′30″N., Long. 81°27′30″W.; to Lat. 31°26′15″N., Long. 81°31′30″W.; to Lat. 31°25′30″N., Long. 81°36′00″W.; to Lat. 31°27′25″N., Long. 81°33′40″W.; to Lat. 31°31′15″N., Long. 81°32′00″W.; thence along a 1 NM radius arc clockwise of a point centered at

Lat. 31°32'25"N., Long. 81°31'50"W.; to Lat. 31°33'15"N., Long. 81°31'15"W.; to point of beginning.

4. On page 51592, the amendatory language to § 73.30 for R–3007E Townsend, Ga., "Boundaries" is corrected to read as follows:

Boundaries. A circular area with a 1½ statute mile radius centered at Lat. 31°31'15"N., Long. 81°34'45"W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Copies of the draft regulatory evaluation are in the Washington, D.C., and Southern Region dockets and may be obtained by application in writing to the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *."

Issued in Washington, D.C., on August 25, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–26684 Filed 8–29–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1030

[Docket No. 75N–0007]

Microwave Diathermy Products; Performance Standard

Correction

In FR Doc. 80–22557 appearing at page 50359 in the issue for Tuesday, July 29, 1980, make the following corrections:

1. On page 50362, in the first column, the second paragraph, the tenth line "Bureau's 2,0 MHz experimentally" should be corrected to read "Bureau's 2,450 MHz experimentally".

2. On page 50364, in the third column, the first paragraph, the third line from the bottom "71752) may be seen in the office of the" should be corrected to read "71742) may be seen in the office of the".

3. On page 50365, in § 1030.20(b)(13), in the third column, the second complete paragraph, the eighth line "a thickness of 3 centimeters ±0.2" should be corrected to read "a thickness of 2 centimeters ±0.2".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–153–78]

Voluntary Employee's Beneficiary Associations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to voluntary employee's beneficiary associations.

DATES: The hearing will be held on October 14, 1980, beginning at 10:00 a.m. Outlines or oral comments must be delivered or mailed by September 30, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–153–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 501(c)(9) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, July 17, 1980 (45 FR 47871).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking, September 15, 1980, and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by September 30, 1980.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 80–26787 Filed 8–29–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Part 29

Labor Standards for the Registration of Apprenticeship Programs: List of Occupations Meeting the Criteria for Apprenticeability; Extension of Comment Period

AGENCY: Department of Labor.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for filing comments on proposed rulemaking published March 11, 1980 (45 FR 15571) which would amend Title 29 CFR 29.4 (Criteria for Apprenticeable Occupations) by adding Appendix A, which is an initial listing of those occupations that appear to possess all of the required characteristics that denote an apprenticeable occupation.

DATE: Comments by February 11, 1981.

ADDRESSES: Send comments, communications, and inquiries to Paul H. Vandiver, Director, Office of National Industry Promotion, Employment and Training Administration, U.S. Department of Labor, Bureau of Apprenticeship and Training, Washington, D.C. 20213. Comments shall be in writing and submitted in duplicate.

FOR FURTHER INFORMATION CONTACT: Paul H. Vandiver, (202) 376–6214.

SUPPLEMENTARY INFORMATION: On March 11, 1980, a document was published in the **Federal Register** (45 FR 15571) proposing to amend Title 29 CFR Part 29, by adding Appendix A—List of Occupations Meeting the Criteria for

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Apprenticeability. That proposal allowed a comment period of 60 days or until May 12, 1980.

On April 15, 1980, the Department of Labor published in the **Federal Register** (25 FR 25410) a document extending the comment period until July 11, 1980. This extension was provided in response to requests for an additional period of time in which to submit comments.

Since the publication of the initial extension of time, various requests for a further extension of the comment period have been received. Also, the document was an agenda topic at the June 5–6, 1980, meeting of the Federal Committee on Apprenticeship (FCA), an advisory body to the Secretary of Labor. Due to the questions relating to this proposed rulemaking which emerged at the June meeting of the FCA, the Committee recommended to the Secretary of Labor that an additional six-month extension of the comment period be granted in order to provide sufficient time for all interested parties to prepare and submit comments. The Department has decided to accept this recommendation. Therefore, an additional six-month period is provided and comments will be received on this proposal until February 11, 1981.

Dated: August 27, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80–26781 Filed 8–29–80; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

29 CFR Part 1960

[Docket No. F–002]

Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Corrections

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rulemaking—corrections.

SUMMARY: On Friday, August 15, 1980, OSHA published in the **Federal Register** a proposed revision of 29 CFR Part 1960 on basic program elements for Federal employee occupational safety and health programs. (45 FR 54355) Several provisions of that proposal were inadvertently omitted. The purpose of this document is to correct the proposal by adding the omitted provisions.

DATE: Comments should be submitted on or before September 15, 1980.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. F–002, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Broderick, OSHA, U.S. Department of Labor, Washington, D.C. 20210. Telephone [202] 376–3005.

The proposal published at 45 FR 54355 is hereby corrected as follows:

§ 1960.35 [Amended]

1. Page 54355, column 3, 1960.35 should be changed by deleting "[Reserved]" and inserting the following: "National Institute for Occupational Safety and Health."

§ 1960.76 [Amended]

2. Page 54356, column 1, 1960.76 should be changed by deleting "Agency annual reports" and inserting the following:

"Accident, injury and illness investigation."

§ 1960.77 [Amended]

3. Page 54356, column 1, 1960.77 should be changed by deleting "[Reserved]" and inserting the following: "Agency annual reports."

§ 1960.34 [Amended]

4. Page 54363, column 2, 1960.34 should be changed by adding a new paragraph (e) following § 1960.34(d) and by adding a new § 1960.35 as follows:

* * * * *

(e) *Safety and health services.* GSA will operate and maintain for user agencies the following services:

(1) listings in the "Federal Supply Schedule" of safety and health services which are approved for use by agencies when needed. Examples of such services are: workplace inspections, training, industrial hygiene surveys, asbestos bulk sampling, and mobile health testing;

(2) rules for assistance in the preparation of agency "Occupant Emergency Plans" (formally called "Facility Self-Protection Plans"). GSA shall publish these rules in 41 CFR 101, and

(3) an effective maintenance program in the Interagency Motorpool System which will ensure the safety and health of Federal employees utilizing the vehicles. Critical items to be included are: exhaust systems, brakes, tires, lights, and steering.

§ 1960.35 National Institute for Occupational Safety and Health Services.

(a) The Director of the National Institute for Occupational Safety and Health (NIOSH) shall, upon request by the Secretary, assist in the evaluation of Federal Agency Safety and Health Programs; and, reports of unsafe or unhealthful conditions received by the Secretary.

(b) The Director of NIOSH shall provide a Hazard Evaluation (HE) program for Federal agencies. This program shall be designed to respond to significant safety and health hazards that are identified in the Federal sector. Requests for such HEs may be submitted to the Director by:

(1) The Secretary of Labor;

(2) The Head of a Federal Agency;

(3) An agency safety and health committee if half the committee requests such service, and

(4) An employee who is not covered by a certified safety and health committee.

(c) The Director of NIOSH may assist agencies by providing technical services, training materials and conducting training programs upon request by an Agency and with reimbursement.

§ 1960.71 [Amended]

5. Page 54367, column 1, § 1960.71 should be changed by adding a new paragraph (c) following § 1960.71(b), as follows:

* * * * *

(c) Agencies shall construe the term "occupational incident" in a liberal manner for the purposes of this section, and shall report them even where there is some doubt as to the relationship between the accident and the "course" or "scope" of employment activities.

The reporting of an incident pursuant to this section therefore does not preclude an agency from making separate determinations regarding the circumstances of the incident as they may relate to administrative or legal proceedings to establish liability for compensation.

6. Page 54367, column 3, "§ 1960.76" should be changed to read "§ 1960.77" and a new § 1960.76 inserted to read as follows:

§ 1960.76 Accident, injury and illness investigation.

Each Federal agency head shall ensure that all accidents, injuries and illnesses are investigated to determine causes, factors and preventive measures. The extent of such investigations shall be reflective of the seriousness of the incident.

Signed at Washington, D.C. this 27th day of August, 1980.

Eula Brigham,

Assistant Secretary of Labor.

[FR Doc. 80-26790 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF EDUCATION

34 CFR Part 100

Hearings on Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964

AGENCY: Department of Education.

ACTION: Notice of additional hearing dates, change of place of public hearing and extension of comment period on the proposed regulations.

SUMMARY: This notice extends the public comment period on the proposed language minority discrimination regulations to October 20, 1980. The notice also provides for additional hearing dates and announces a change of the hearing site in New Orleans, Louisiana. The proposed regulations were published in the **Federal Register** on August 5, 1980 (45 FR 52052).

All written comments now received on or before October 20, 1980, will be considered in the final development of the regulation. Public hearings originally scheduled for one day will be expanded to two days in San Antonio, Texas; New York, New York; Denver, Colorado; San Franciso, California; and Chicago, Illinois. The public hearing scheduled for New Orleans, Louisiana, will remain scheduled for one day, only. Dates, times, and locations for the first day of all other hearings, originally published in the **Federal Register** on August 13, 1980 (45 FR 53841), remain unchanged. A complete list of the dates, times period and locations for both the first and second days of each hearing is included below.

These proposed rules implement provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, *et seq.*). They prohibit recipients of Federal financial assistance from denying an equal educational opportunity to students whose primary language is not English and who have limited proficiency in English.

The expansion of the time for public comment and of the times for public hearings is due to the high level of public interest in these proposed rules.

DATES: Public hearings will be held as follows:

City, Time and Date

San Antonio, Texas:
  8:30 a.m., Monday, September 8, 1980.
  8:30 a.m., Tuesday, September 9, 1980.
New York, New York:
  8:30 a.m., Tuesday, September 9, 1980.
  8:30 a.m., Wednesday, September 10, 1980.
Denver, Colorado:
  8:30 a.m., Wednesday, September 10, 1980.
  8:30 a.m., Thursday, September 11, 1980.
New Orleans, Louisiana:
  8:30 a.m., Monday, September 15, 1980.
San Francisco, California
  8:30 a.m., Tuesday, September 16, 1980.
  8:30 a.m., Wednesday, September 17, 1980.
Chicago, Illinois:
  8:30 a.m., Wednesday, September 17, 1980.
  8:30 a.m., Thursday, September 18, 1980.

ADDRESSES: The places where the public hearings will be held are:

San Antonio, Texas:
  Institute of Texan Cultures, 801 South Bowie Street, San Antonio, TX. September 8-9, 1980.
New York, New York:
  Tisch Hall, Schimmel Auditorium, New York University, 40 West 4th Street, New York, New York, September 9, 1980.

  New York University School of Medicine, Alumni Hall B, 550 First Avenue, New York, New York, September 10, 1980.
Denver, Colorado:
  St. Cajetan Center, Auraria College Campus, 9th and Lawrence Streets, Denver, Colorado, September 10-11, 1980.
New Orleans, Louisiana:
  New Orleans Hilton, 2 Poydras Street, New Orleans, Louisiana, September 15, 1980.
San Francisco, California:
  Trustees Auditorium, Asian Art Museum, Tea Garden Drive, Golden Gate Park, San Francisco, California, September 16, 1980.
  Room 209, 50 United Nations Plaza, San Francisco, California, September 17, 1980.
Chicago, Illinois:
  Illinois Room, Chicago Circle Campus, University of Illinois, 750 South Halstead Street, Chicago, Illinois, September 17-18, 1980.

FOR FURTHER INFORMATION CONTACT:

Region I
  Thomas J. Burns, Secretary's Regional Representative, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203; telephone No. 617/223-7500.
Region II
  Josue Diaz, Secretary's Regional Representative, Department of Education, Federal Building, 26 Federal Plaza, New York, NY 10007; telephone No. 212/264-4045 (registration for New York hearing).
Region III
  Robert Smallwood, Secretary's Regional Representative, Department of Education, Gateway Building, 3535 Market Street, Philadelphia, PA 19104; telephone No. 215/596-1018.
Region IV
  Steve Cornett, Secretary's Regional Representative, Department of Education, 101 Marietta Tower Building, Atlanta, GA 30323; telephone No. 404/221-2063.
Region V
  Ralph Church, Secretary's Regional Representative, Department of Education, Federal Building, 300 South Wacker Drive, Chicago, IL 60606; telephone No. 312/353-5463 (registration for Chicago hearing).
Region VI
  Edward Baca, Secretary's Regional Representative, Department of Education, 1200 Main Tower Building, Dallas, TX 75202; telephone No. 214/767-3626 (registration for San Antonio and New Orleans hearings).
Region VII
  Harold Blackburn, Secretary's Regional Representative, Department of Education, Eleven Oak Building, 324 East Eleventh Street, Kansas City, MO 64106; telephone No. 816/374-2276.
Region VIII
  James Ballantyne, Secretary's Regional Representative, Department of Education, U.S. Customs House, 721 19th Street Room 195, Denver, CO 80294; telephone No. 303/837-2442 (registration for Denver hearing).
Region IX
  Caroline Gillin, Secretary's Regional Representative, Department of Education, Federal Building, 50 United Nations Plaza, San Francisco, CA 94102; telephone No. 415/556-4920 (registration for San Francisco hearing).
Region X
  Allen Apodaca, Secretary's Regional Representative, Department of Education, Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101; telephone No. 206/442-0460.

FOR OTHER INFORMATION: Mr. David Leeman, Office for Civil Rights, United States Department of Education, Washington, D.C. Telephone (202) 472-4422.

SUPPLEMENTARY INFORMATION: The schedule for the *first day* of each hearing remains the same as that already announced. It is:

8:30 a.m. Registration (including pre-registrants).
10:00 a.m. to 10:30 a.m. Orientation.
10:30 a.m. to 1:30 p.m. Public Comment.
1:30 p.m. to 3:00 p.m. Break.
3:00 p.m. to 5:00 p.m. Public Comment.
5:00 p.m. to 7:00 p.m. Break.
6:00 p.m. to 7:00 p.m. Registration (evening session).
7:00 p.m. to 7:30 p.m. Orientation.
7:30 p.m. to 9:00 p.m. Public Comment.

The first day schedule may be expanded after 9:00 p.m. to accommodate additional witnesses. Time set aside for breaks in testimony may also be used to accommodate additional witnesses.

The second day schedule for each extended hearing is:

8:30 a.m. Registration (including pre-registrants, if applicable).
9:00 a.m. to 9:30 a.m. Orientation.
9:30 p.m. to 1:30 p.m. Public Comment.
1:30 p.m. to 2:00 p.m. Break.
2:00 p.m. to 4:00 p.m. Public Comment.

The schedule for the second day may be extended into the evening if appropriate.

Those wishing to testify should submit a written or oral request to the appropriate Secretary's Regional Representative (SRR) at the appropriate regional office. Those who submit requests which are received at least 72 hours prior to the first day of the scheduled hearing will be pre-registered and given priority consideration for testimony, time permitting. Those who register to testify on the day of a hearing will be permitted to testify following presentations of those who pre-register, time permitting. Morning registrants may be scheduled to testify during either the morning or afternoon sessions. Those who wish to testify at the evening session may register during the evening registration period (6:00–7:00 p.m.). There will be no pre-registration for the evening session.

The opportunity to testify will be determined on a first-come, first-served basis. Since hearing time is limited, testimony in all sessions will be limited to no longer than 15 minutes per person.

People who have already pre-registered in response to the earlier hearing notice need not pre-register again. Sign language interpreters will be present at each hearing. All oral and written testimony will become part of the written record of each hearing. Written comments should be mailed to: Antonio J. Califa, Acting Deputy Assistant Secretary, Office of Legal Standards, Program Support and Litigation, Office for Civil Rights, U.S. Department of Education, Post Office Box 8240, Washington, D.C. 20024.

Dated: August 28, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-26823 Filed 8-29-80; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1591-7]

Approval and Promulgation of Implementation Plan Revisions: Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On April 30, 1980, the State of Illinois submitted to the U.S. Environmental Protection Agency (USEPA) revisions to the Illinois State Implementation Plan (SIP). These revisions to the transportation control plans for the northeast Illinois area were submitted to meet the requirements set forth in the conditional approval published on February 21, 1980 (45 FR 11472, 11486). This notice solicits public comment on those revisions and USEPA proposed rulemaking action.

DATE: Comments must be received on or before October 2, 1980.

ADDRESS: Written comments should be sent to the following address: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the materials submitted by the State and by the public during the comment period announced in this notice of proposed rulemaking may be examined during normal business hours at the following USEPA offices:

Offices:

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street, Washington, D.C. 20460.

U.S. Environmental Protection Agency, Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 886-6038.

SUPPLEMENTARY INFORMATION: On February 21, 1980 (45 FR 11472), USEPA announced final rulemaking on revisions to the Illinois SIP. The State submitted these revisions to satisfy the requirements of Part D of the Clean Air Act, as amended in 1977. In the final rulemaking, USEPA conditionally approved the transportation control plans for the northeast Illinois area. A discussion of conditional approval was published in the July 2, 1979 **Federal Register** (44 FR 38583) and the November 23, 1979 **Federal Register** (44 FR 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. The conditional approval status of the SIP continues until final action is taken and published in the **Federal Register.** Although USEPA has not yet completed its rulemaking action on all aspects of the conditional approval, the State remains bound by its commitments to the deadlines unless the schedules are disapproved by USEPA in its Final Rulemaking action.

On April 30, 1980, the State submitted additional information on the transportation control plans for the northeast Illinois area in response to the requirements set forth in the conditional approval published February 21, 1980, (45 FR 11472, 11486). USEPA announced receipt and availability for public review of these revisions in the July 2, 1980 **Federal Register** (45 FR 44970). At that time, USEPA stated that upon completion of the review of the revisions USEPA's rulemaking action would be published in the **Federal Register.**

USEPA has completed its review of the submittal and finds that the State has satisfied all of the requirements set forth in the conditional approval published in the February 21, 1980 **Federal Register** (45 FR 11472, 11486) for the transportation control plans for the northeast Illinois area except those calling for implementor commitments and the carbon monoxide hotspot elimination schedule. As discussed in the February 21, 1980 **Federal Register** (45 FR 11472, 11486), the State will submit implementor commitments upon completion of the alternatives analysis, and the carbon monoxide hotspot analysis and elimination schedule must be submitted to USEPA by August 21, 1980.

This section of the notice discusses the deficiencies identified by USEPA in the February 21, 1980 rulemaking (45 FR 11472, 11486), the State's response of April 30, 1980 and USEPA's proposed rulemaking action.

1. USEPA requested a schedule identifying when transportation study areas will be defined. The State committed itself to complete this process within six months of the effective date of the final rulemaking (February 21, 1980).

State Response: On April 30, 1980, the Chicago Area Transportation Study (CATS) Air Quality Advisory Committee submitted a narrative describing the transportation study areas (regional, subregional, local) and the types of control measures associated with each.

USEPA Response: The classification of transportation control measures submitted by the State on April 30, 1980 satisfies the requirement for identification of transportation study areas.

2. USEPA requested additional information on the objectives of the Chicago Area Transportation Study (CATS) Air Quality Advisory Committee. The State committed itself to submit to USEPA the resolution creating this committee and identifying the objectives of the Committee.

State Response: On April 30, 1980 the State submitted to USEPA a copy of the requested resolution.

USEPA Response: The resolution satisfies the requirement.

3. USEPA required the State to submit evidence, that the twelve representative strategies, as published in the February 21, 1980, **Federal Register** (45 FR 11472, 11486) have been adopted by the CATS Policy Committee. In addition, USEPA requested a description of how air quality planning is integrated into the transportation programming/funding cycle.

State Response: The April 30, 1980 submittal included a copy of the signed resolution of the CATS Policy Committee, by which the twelve strategies were officially adopted. The submittal also included a narrative from CATS which describes how projects are selected for implementation.

USEPA Response: The resolution satisfies USEPA's requirement that the representative strategies be officially adopted by CATS. Further, the narrative submitted by the State demonstrates that air quality planning is an integral part of the transportation programming funding cycle.

4. In the February 21, 1980 **Federal Register** (45 FR 11472, 11487), USEPA requested CATS to submit information documenting current activities on the dissemination of information to locally elected officials on transportation control measures (TCMs). At that time, USEPA also requested a detailed schedule for various public education and information activities and local official consultation activities.

State Response: On April 30, 1980, CATS submitted an updated public participation schedule, and committed itself to keep USEPA informed of public consultation activities associated with the TCM evaluation process.

USEPA Response: USEPA finds the public participation schedule and CATS commitment to keep USEPA informed of public consultation activities acceptable.

5. USEPA requested that CATS identify the costs of transportation strategies, and the sources of funding necessary to implement those strategies that will attain the ambient air quality standards.

State Response: On April 30, 1980 CATS submitted the five year financial availability forecast for Fiscal Years 1980 through 1984.

USEPA Response: The five year financial availability forecast for Fiscal Years 1980 through 1984 adequately identifies the costs of strategies and sources of funding.

6. USEPA requested an explanation of the approach used in evaluating emission reductions from transportation projects.

State Response: CATS submitted an explanation of the methodology used in calculating emission reductions from transportation projects on April 30, 1980.

USEPA Response: USEPA has one comment on the calculation of the emission reductions. CATS assumes that a one percent increase in vehicle speed will yield a two percent decrease in vehicle emissions. Based on speed correction factors contained in Appendix A of "Mobile Source Emission Factors" (EPA-400/9-78-006) calculations indicate that at 21 mph (speed assumed by CATS) a one percent speed increase yields only a 0.75 percent decrease in VOC emissions per vehicle mile. Therefore, CATS has overestimated the emission reductions to be gained from vehicle speed increases.

USEPA has determined that the calculation has only a minor impact on the total expected emission reductions. Further, CATS has indicated that the calculation procedures will be refined in the final alternatives analysis. Therefore, USEPA finds this approach and the methodology, which will be refined in the final alternatives analysis, to be acceptable.

7. USEPA required the State to provide documentation of speific mobile source emission decreases within six months of the final rulemaking (February 21, 1980).

State Response: CATS has submitted a report entitled "Impact Analysis of the Transportation Improvement Program for Fiscal Years 1979 through 1983." The report includes emission decreases associated with specific transportation projects.

USEPA Response: The report satisfies the requirement that the State provide documentation of specific mobile source emission decreases.

8. USEPA requested that the State identify procedures for annually determining the consistency and conformity of the transportation control plan with the SIP. The Chicago Area Transportation Study (CATS) committed itself to review the plan, make a determination and submit a resolution from the CATS Policy Committee reflecting its determination. The Illinois EPA committed itself to review the determination and resolution.

State Response: CATS submitted a copy of the resolution on April 30, 1980. The resolution states that CATS, as the Metropolitan Planning Organization (MPO) is responsible for assuring that the existing air quality and long range transportation plan are mutually consistent.

USEPA Response: USEPA has reviewed the CATS resolution and finds their approach to be in conformance with Section 176(c) of the Act.

9. USEPA requested additional information on reasonable further progress in eliminating carbon monoxide hotspot intersections and links.

State Response: The State has committed itself to address this issue within the six month time frame outlined in the February 21, 1980 **Federal Register** (45 FR 11472, 11486). The State will submit an inventory identifying the location of carbon monoxide hotspots and a schedule for hotspot elimination.

USEPA Response: As described in the February 21, 1980 **Federal Register** (45 FR 11472, 11486) USEPA anticipates receipt of this analysis by late August, 1980. Upon completion of USEPA review of that submittal a **Federal Register** notice will be published announcing USEPA's determination of the adequacy of that submittal.

USEPA Final Determination: USEPA has reviewed the State's April 30, 1980 submittal. The State has satisfactorily addressed all of the requirements set forth in the conditional approval in the February 21, 1980 **Federal Register** (45 FR 11472, 11486) for the northeast Illinois area transportation control plan with the exception of those conditions calling for implementor commitments and the carbon monoxide hotspot elimination schedule. Therefore, USEPA proposes to approve the northeast Illinois area TCP with the exception of the implementor commitments and the carbon monoxide hotspot elimination schedule. As described in the February 21, 1980 **Federal Register** (45 FR 11472, 11486), the State of Illinois will submit the implementor commitments to USEPA upon completion of the alternatives analysis, and the carbon monoxide hotspot inventory and schedule for the elimination of hotspots will be submitted to USEPA by August 21, 1980. USEPA will publish in the **Federal Register** its determination of the adequacy of the items upon the completion of USEPA's review of same.

All interested persons are invited to comment on these revisions to the Illinois SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before October 2, 1980, will be considered in USEPA's final rulemaking. All comments received will be available for inspection at the Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

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Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act, as amended (42 U.S.C. Section 7410(a), 7502).

Dated: July 21, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-26741 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5889]

National Flood Insurance Program; Proposed Special Flood Hazard Area Determinations for the City of Northglenn, Adams County, Colo.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed Special Flood Hazard Area as described below.

The proposed Special Flood Hazard Area is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed Special Flood Hazard Area are available for review at the Office of Planning and Zoning, 10701 Melody Drive, Suite 618, Northglenn, Colorado.

Send comments to: The Honorable Odell Barry, Mayor, City of Northglenn, 10701 Melody Drive, Suite 305, Northglenn, Colorado 80234.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Insurance Administrator gives notice of the proposed Special Flood Hazard Area for the City of Northglenn, Colorado, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

This Special Flood Hazard Area, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed Special Flood Hazard Area will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed Special Flood Hazard Area is located along the Niver Canal between the Croke Reservoir and the western corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26622 Filed 8-29-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5890]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Kennewick, Benton County, Wash.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zones and base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at the Department of Planning and Community Development, City Hall, 210 West Sixth Avenue, Kennewick, Washington.

Send comments to: The Honorable Donald E. Kuhns, Mayor, City of Kennewick, 210 West Sixth Avenue, P.O. Box 6108, Kennewick, Washington 99336.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Kennewick, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zones and base flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding and location	Elevation, national geodetic vertical datum
Zintel Canyon:	
West 10th Avenue	472
Just downstream of South Conway Street	492
Just upstream of the Highlift Canal	512
Just upstream of South Ely Street	542
Just upstream of West 27th Avenue	551
Sheet Flow:	
At the Columbia Canal	389
South Washington Street	378

The proposed Special Flood Hazard Areas, identified as Zone A, are located along Zintel Canyon, south of West 27th Avenue and west of South Ely Street, and along an unnamed tributary, south of West 4th Avenue and west of South Ely Street.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 14, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–26621 Filed 8–29–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–5888]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Yorba Linda, Orange County, Calif.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zones and base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at the Office of the City Engineer, City Hall, 4845 Main Street, Yorba Linda, California.

Send comments to: The Honorable Irwin M. Fried, Mayor, City of Yorba Linda, 4845 Main Street, P.O. Box 487, Yorba Linda, California 92686.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Yorba Linda, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zones and base flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding and location	Elevation, national geodetic vertical datum
Santa Ana River:	
Just upstream of the confluence with Box Canyon	346
Confluence with Bee Canyon	364
Just upstream of the confluence with Brush Canyon	395
East Richfield Channel:	
Just upstream of Route 90	321
Just upstream of Hill Drive	344
Just upstream of Brookmont Drive	351

The proposed Special Flood Hazard Areas, identified as Zone A, are located along Richfield Channel, Channel E04S01, Atwood Channel, East Richfield Channel, Esperanza Canyon, Bee Canyon, and Brush Canyon.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80–26623 Filed 8–29–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–5891]

National Flood Insurance Program; Proposed Zone Designations for Chippewa County, Unincorporated Areas, Wisconsin

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 711 North Bridge Street, Chippewa Falls, Wisconsin.

Send comments to: Mr. Wallace J. Bowe, Chairman, Chippewa County

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Board, P.O. Box 550, Chippewa Falls, Wisconsin 54729.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755-6570 or toll free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designations for Chippewa County, Wisconsin, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designations are:

Zone C along Beaver Creek, O'Neil Creek, Rock Lake, O'Neil Creek Flowage No. 1, O'Neil Creek Flowage No. 2, Twin Lakes, Silver Lake, Pine Lake, Little Pine Lake, Axhandle Lake, Loon Lake, Chain Lake, Granger Lake, Calkins Lake, Round Lake, Larrabee Lake, Cedar Creek, Long Lake, Herde Lake, Lost Lake, Henneman Lake, Foster Lake, Foster Creek, Mud Creek, Spence Lake, Willow Creek, Tealy Creek, Taylor Creek, Cranberry Creek, the Chippewa River, Wesley Lake, the Holcombe Flowage, the Jump River, the Fisher River, Duncan Creek, McCann Creek, Pike Lake, Salisbury Lake, Plummer Lake, Buck Creek, the unnamed tributary flowing from Pike Lake to Hay Creek, Lake Wissota, Paint Creek, Cornell Lake, the unnamed tributary of O'Neil Creek in and about Section 22 of range 8 west and tier 31 north, O'Neil Creek, and the Yellow River.

Zone B along Lake Hallie.

Zone A along Drywood Creek, Cranberry Creek, the Chippewa River, and the Holcombe Flowage.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 8, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26820 Filed 8-29-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-164; RM-3312; RM-3683]

9 kHz Channel Spacing for AM Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Interim report and further notice of inquiry.

SUMMARY: The Commission announces its tentative views on 12 issues on which it had obtained comments concerning a proposal for 9 kHz AM channel spacing, and invites further comments.

DATES: Comments on issue III (Threshold requirements and future demands) are due on October 1, 1980. Comments on the remaining issues will be due on November 3, 1980. Reply comments will be due twenty (20) days after the filing of comments to which they are addressed.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Louis Stephens, Broadcast Bureau, (202) 632-7792 or Gary L. Stanford, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Interim Report and Further notice of Inquiry

Adopted: July 31, 1980.

Released: August 8, 1980.

By the Commission: Chairman Ferris issuing a separate statement in which Commissioner Lee joins; Commissioner Quello approving in part and dissenting in part and issuing a statement; Commissioner Washburn issuing a separate statement.

1. The March, 1980 First Session of the Region 2 (Western Hemisphere) Administrative Conference on MF Broadcasting (Conference), contemplating the possible adoption by the 1981 Second Session of a Plan for conversion to 9 kHz-spaced AM channels throughout Region 2, requested the International Frequency Registration Board of the International Telecommunications Union to make a study comparing 10 and 9 kHz spacing. The Commission and parties commenting further in this proceeding should take due cognizance of this possibility for 9 kHz spacing of all AM stations in the Western Hemisphere, conforming with AM channel spacing now observed throughout the rest of the world.

2. The Notice of Inquiry, adopted June 21, 1979, FCC 79-395, 44 FR 39550, by which we inaugurated this proceeding, invited comment on twelve separate aspects of 9 kHz spacing. A special Task Force was appointed to advise the Commission on 9 kHz. It's report, excluding internal matters such as an FCC administrative resource impact statement and staff comment on international negotiations and relationships, is appended, together with a staff summary of the comments received in response to our Notice of Inquiry in this proceeding. In a Public Notice dated December 12, 1979, Report No. 15384, the Commission announced that it had decided to recommend that the United States propose the adoption of 9 kHz spacing for purposes of the hemispheric AM broadcast agreement to be negotiated by the Region 2 Conference. In our *Second Report*, adopted December 19, 1979, in BC Docket No. 79-166, 45 FR 8351, we set out the key findings of the Task Force on 9 kHz spacing, expressed our view that the potential benefits of 9 kHz spacing outweigh potential costs by a satisfactory margin, recommended that a proposal favoring 9 kHz spacing be presented to the Conference, and stated that a complete report would be released after the March, 1980 First Session of the Conference. After receiving approval by the Department of State, that recommendation was presented on behalf of the United States.

3. We herewith publish the report of the Task Force (excluding limited internal matters, as already noted), announce our preliminary views as to the twelve issues enumerated in the *Notice of Inquiry*, and invite further comment in which parties may take into account developments since initial comments were filed last year. The preliminary views we now announce on the twelve issues are subject to further evaluation in the light of further comment by interested parties, the report of a contract study on costs which has not yet been received, and any other pertinent developments.

I. What Channel Spacing Plan Should Be Used in the United States?

4. There are actually two parts to this question: What are the frequencies assigned to the channels of the 9 kHz plan? and What rearrangement scheme

is to be used to shift stations from the present 10 kHz channels to the new 9 kHz channels? The First Session of the Conference favored a 9 kHz channel plan which conforms with the carrier frequencies used in Regions 1 and 3. If the Second Session of the Conference adopts 9 kHz channel separation, a method for rearrangement of present stations must also be considered and implemented. The Commission's staff, with advice from participants in the Region 2 advisory Committee, is preparing a statement describing the various methods by which the changeover could be accomplished. That statement will be available for comment by the Committee.

II. What Classifications Should be Assigned to New Channels Resulting From a New Channel Spacing Plan?

5. The First Session of the Region 2 Conference adopted a proposal that all AM stations in Region 2 be placed within one of three classifications for Region 2 purposes:

Class A: Stations intended to serve extensive primary and secondary service areas. They are to be protected against interference accordingly. With some exceptions in the case of stations included in initial notifications, their maximum power would be 50 kW.

Class B: Stations intended to provide protected primary service to one or more propulation centers and contiguous rural areas. They would operate with a maximum power of 50 kW.

Class C: Stations intended to provide protected primary service to a city or town and contiguous areas. They would have a maximum power of 1 kW.

The Report of the First Session does not indicate an intention to establish a Region 2 classification for AM *channels* or *frequencies* (as distinguished from AM *stations)*, as is done within the United States and in agreements now in existence between the United States and neighboring North American and Caribbean countries. Rather, it appears likely that each country would be permitted to place stations of the three regionally recognized classes on any AM broadcast channel, subject to regional, subregional and domestic protection requirements.

6. Whatever develops in this regard, the basic question now before us is the same: what facilities—and in particular, what power and what degree of protection against interference from other U.S. Stations—should be provided for stations operating on the twelve prospective new channels which 9 kHz spacing would make available, subject, of course, to regional and subregional restrictions on interference to stations in other countries. We noted in our *Report and Order* in the recently terminated Clear Channel proceeding, Docket 20642, 45 FR 43172, the demands for many hundreds of additional aural broadcast stations for numbers of purposes including the following:

—permitting full time operation by daytime-only AM stations, of which there are over two thousand;

—providing for more noncommercial radio stations. The Corporation for Public Broadcasting foresaw an eventual need for as many as one thousand additional noncommercial stations.

—increasing the numbers of minority-owned stations to remedy the extreme under-representation of minorities in broadcasting;

—providing the first and second full-time locally assigned radio stations to the many communities now lacking them;

—providing for other recognized aims of the broadcast service.

It is apparent that it would require thousands of additional full-time radio stations to satisfy the foregoing needs fully. In these circumstances, and in view of the extensive provisions for wide area service on the clear channels, we think it desirable to provide, for possible new AM channels, stations generally limited to 1 kW, protected from interference to the .5 mV/m groundwave contour daytime and to their 4 mV/m groundwave at night by other U.S. stations. This would generally make possible service areas with sufficient radius (on the order of 20 miles, more or less) to serve substantial cities and suburban areas, or smaller towns and adjacent rural areas. Power higher than 1 kW would reduce the numbers of possible new unlimited time stations without offering sufficiently compensating advantage. Apart from the question of maximum power, we note that the kinds of conditions now applied to Class IV stations have created unsatisfactory results, and it appears undesirable to apply Class IV allocation methods to the new channels.

7. In these circumstances we favor consideration of a general maximum power of 1 kW and the indicated degree of protection for unlimited-time stations which could be assigned to the 12 newly created channels if 9 kHz spacing is adopted. This corresponds with standards now applicable to U.S. Class III–B Regional Stations. Parties may wish to comment on the possible desirability of setting lower maximum power for lower frequencies.

III. What Threshold Requirements Should Be Established To Determine Acceptability of Applications?

8. Until recently amended in the Clear Channel proceeding, § 73.37(e)(2) of the Commission's Rules set out the requirement that in order to be eligible for acceptance applications for AM stations would have to make one of three showings, essentially that:

—a required minimum of first nighttime primary service would be provided, or

—the station would provide a first or second locally assigned unlimited time aural broadcast stations, with no FM channel assigned locally which would be available for such purpose, or

—a first or second satisfactory signal would be provided to at least 80% of the population of the principal city to be served.

In the Clear Channel proceeding we amended these rules with respect to the Class I–A Clear Channels (the only frequencies within the scope of that proceeding) to provide two additional alternative preconditions to the acceptance of an AM application for an unlimited-time station on one of the 25 Class I–A clear channels:

—ownership of more than half of the interest in the proposed station by minorities;

—a noncommercial broadcast service.

9. We believe that it is now appropriate, given the possibility of additional AM channels, through 9 kHz spacing, to consider several alternative possibilities with respect to the foregoing requirements. One alternative would be to apply to all AM frequencies the alternative preconditions already applicable to the Class I–A clear channels. Another possibility would be to eliminate all such threshold requirements. Given the prospects for a possible twelve additional AM frequencies as a result of 9 kHz spacing, and the future prospects for an additional 100 kHz above 1605, it may now be possible to eliminate or modify the threshold requirements of Section 73.37(e), and open the way to the further development of radio broadcasting in response to unrestricted (or less restricted) demand by applicants able to meet protection requirements.[1] Interested parties are invited to

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[1] In considering this question, we will take into account comments directed to the petition (RM–3683, Public Notice Report No. 11263, June 20, 1980), which National Radio Broadcasters Association (NRBA) filed May 28, 1980, proposing elimination of AM acceptance criteria in § 73.37(e). We will also take into account all comments filed in this Docket No. 79–164 pertinent to § 73.37(e) in deciding upon NRBA's request for the inauguration of rulemaking to eliminate it.

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comment and to provide the Commission with their views as to whether, if they consider the discontinuance of the threshold requirements desirable, discontinuance should or should not be made contingent upon and coincident with the availability of new AM channels, either through 9 kHz separations or the expansion of the AM band.

10. In examining the pros and cons of all alternative approaches to defining allocation requirements for the use of such additional AM channels as may become available through Region 2 action on channel spacing (and, later through expansion of the AM band), we will bear in mind the possibilities for increased numbers of radio stations which could result from steps taken or contemplated in other proceedings, such as, for example, the changes in the Clear Channel rules adopted in Docket No. 20642, FM allocations changes such as those being considered in BC Docket 80-90, as well as the potential for improved service through increase of the nighttime power of Class IV AM stations under inquiry in BC Docket No. 79-265. We think it is neither necessary nor desirable to attempt to combine the issues being examined in the several pending AM and FM inquiries and rule makings into a consolidated proceeding, as some parties have urged us to do. We recognize that each of the several AM and FM matters under review has some bearing on the numbers and kinds of radio which may become available to meet radio needs. But their consolidation into an omnibus proceeding would not facilitate our consideration of the separate questions peculiar to such disparate matters as FM spacings, AM Class IV nighttime service, and such clear channel issues as the point at which it is desirable to balance the need for more stations against the need for protection to wide-area secondary, skywave service, among other questions which—in the first instance, at least—must be focused upon in their separate, differing contexts.

11. As we proceed with our examination of and decision upon the separate radio matters under review, we remain aware of their respective bearing on questions at issue in other proceedings. As one example, in considering the merits of claims of need for 9-kHz-spaced AM channels for additional noncommercial stations, we are aided, rather than impeded, by the fact that we have previously, in Docket No. 20642, considered and decided against the reservation of clear channels for future noncommercial use, and that, in earlier proceedings, we opened the way for full service noncommercial stations on reserved FM channels now occupied by Class D FM stations. Similarly, parties commenting in this proceeding on proposals affecting 9 kHz spacing may refer to or invoke, by cross reference or otherwise, any facts, analyses or proposals under other AM or FM radio proceedings which they believe should be considered in resolving the issues under this proceeding. This can be done as readily as if the other proceedings were assembled under the umbrella of a single, omnibus docket number.

12. The orderly consideration of alternative approaches to spectrum allocation requires the establishment of existing and future demand for aural service and the adoption of threshold requirements in light of that demand.[2] The demand for additonal spectrum has been impressed upon the Commission by the parties in various proceedings, including Clear Channel and Class IV Nighttime Power Increases. While persuasive, those general expressions of demand do not provide all the concrete information needed in this proceeding, as well as for the purpose of preparing to act upon schedules adopted by the First Session of the Region 2 Conference calling for the submission, by each Western Hemisphere country, on May 31, 1981, of its projected station needs during the period 1983 through 1987. We therefore invite interested parties to submit estimates of the demand for additional aural facilities through 1987. Both statements of the intention to file for facilities as they become available and comprehensive studies of needs will be welcomed. Parties submitting station requirements should indicate the principal community to be served, and whether the assignments would be: [3]

(a) The first or second locally assigned unlimited-time station serving (i) An identified community for which an unused commercial FM channel is neither presently assigned nor proposed to be assigned in a docketed rule making proceeding, or

(ii) An identified community to which a commercial FM channel is assigned or is proposed in a docketed rule making;

(b) A noncommercial station;

(c) A station that would be more than 50% owned by minority persons;

(d) A full-time upgrade of a daytime-only station;

(e) A station that would provide a first nighttime primary radio service to more than 25% of their interference-free service area or population;

(f) A station which would meet the requirements of Section 73.37(e)(2)(iii) of our Rules concerning provision of a satisfactory signal to at least 80% of the population of the principal city; or

(g) A station which would come under none of the foregoing categories, and which, accordingly, would be permissible only if the present Section 73.37(e)(2) restrictions were removed.

Responses to this inquiry as to long-term demand (through 1987) will be welcomed from persons interested in individual stations in specific places, as well as from organizations or other parties able to project and support showings of nationwide needs, expressed in terms of numbers of stations and the principal communities to which they would be assigned. Once this demand information has been accumulated, it is our intention, if warranted, to institute a rule making, at an appropriate time, looking towards the amendment of § 73.37(e). Because of the above-mentioned time constraint created by the Region 2 Conference, we are establishing an October 1, 1981 deadline for submission of information on the long-term demand for radio stations, one month earlier than the deadline for comments on other matters.

IV. How Much Does Adjacent Channel Interference Increase With a Change From 10 to 9 kHz Channel Spacing?

13. The record indicates that adjacent channel interference would increase, and that, in order to provide protection equivalent to that now afforded, it would be necessary to increase protection requirements by about 3 to 5 dB for 9 kHz first adjacencies. The First Session of the Region 2 Conference concluded that 5 dB is the appropriate figure. It appears from the record that no change would be called for in protection standards for adjacent channel stations 2 and 3 channels removed, and the First Session so concluded.

V. What Changes Can Be Made in Transmission Standards To Reduce Adjacent Channel Interference?

14. The record so far indicates that, should such changes be deemed necessary, RF bandpass filters would be preferable to audio low pass filters. It also indicates that improved signal processing which is possible at the present state of the art would help to reduce adjacent channel interference significantly.

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[2] Such requirements are presently reflected in § 73.37(e) of our Rules.

[3] The sequence is not intended to indicate the relative importance of the several listed categories.

VI. What Are the Effects on the Performance of Existing Receivers and What Changes in Receiver Design Can Be Implemented To Compensate for the Reduction in Channel Spacing?

15. For all but the estimated one million frequency-synthesis (FS) tuned receivers, the record indicates that the 9 kHz carrier beat, which would replace the present 10 kHz carrier beat, would either not be noticeable enough to be annoying or—where it was perceptible on quality receivers which filter the 10 kHz tone—could be corrected by adding a 9 kHz notch filter. At some claimed cost to high fidelity reception, increased receiver selectivity could compensate for increased adjacent channel interference.

VII. In View of the Changes That Can Be Made Both in the Transmitted Signal and in the Design of Receivers, What Is the Best Compromise To Obtain the Best Quality (Fidelity) Reception While Reducing the Possibility of Adjacent Channel Interference?

16. As noted in the appended staff report, it appears feasible, at the present state of this art, to improve the design and performance of both receivers and transmitters sufficiently to overcome resultant adjacent channel interference, while maintaining a reasonable standard of fidelity in reception. The marketplace will have an opportunity to influence choices of the most acceptable compromises.

VIII. Taking Into Account the Answers to All the Above Questions, What Protection Standards Should Be Adopted for First, Second, and Third Adjacent Channels?

17. In the circumstances noted under Question No. 4 and other pertinent issues, it appears appropriate to give further consideration to the question of whether there is need to increase domestic protection by 5 dB on first adjacent channels if Region 2 adopts 9 kHz spacing. Under present proposals, stations in other countries would be entitled to similar protection.

IX. What Would Be the Economic Impact Expected in Converting to 9 kHz Channel Spacing?

18. In view of the cost ranges which the record indicates for conversion to 9 kHz, as set out in the appended report, we do not find cost to be a barrier to realizing the benefits of the added stations which 9 kHz would make possible to meet the above-noted service needs. The Commission is prepared to consider such steps, in the form of modifying measurements and proof-of-performance requirements applicable to directional antennas, as may reduce conversion costs without undue sacrifice of or hazard to existing interference protection. A contract study of costs is being made. When the study report is completed and provided to the Commission, it will be publicly released.

X. What Would Be the Impact of Several Hundred Additional Full-Time Operations on the Radio Marketplace?

19. Upon review of the comments filed in response to this question, the Commission believes that it would be unproductive to attempt to pursue further the question of the extent to which markets of various sizes may or may not be in a position to furnish requisite financial support for additional AM broadcast stations. Congress established the framework for regulation of broadcasting as a competitive industry, and it has so operated for over half a century. The question of possible adverse effects of adding stations has been put at issue only with respect to individual applications and then only under the familiar *Carroll* limitations. Particularly at the present stage when legislative, executive and regulatory policy favors reducing regulatory restrictions on the conduct of broadcast operations, it becomes even more appropriate that the marketplace govern the question of how many radio stations are called for to render needed service in communities of all sizes. In short, the Commission believes no attainable or practicable purpose could be served by seeking to establish ways and means of evaluating the capacities of different communities to support additional stations. We propose to leave that for determination by the market itself. Any parties who nevertheless believe that the Commission should attempt to provide economic protection against competition from more stations are free to submit, under this issue, any data, analyses and arguments which support their position, and any such submissions will be duly considered.

XI. Is AM Stereo Compatible With 9 kHz Channel Spacing?

20. The Commission believes it has been sufficiently established that AM stereo would be compatible with nine kHz channel spacing.

XII. How Could the Change From 10 kHz to 9 kHz Channel Spacing Be Effectuated in a Timely Manner With the Known Limited Number of Professional Radio Engineers Available To Do the Job?

21. Upon review of the comments the Commission is persuaded that some progressive staging of transition from 10 kHz to 9 kHz would be necessary in order to make it possible for the stations requiring consulting engineering services to find consultants available to perform the necessary work. Stretching the transition period out over a sufficient number of months should make this possible. Further views of interested parties are invited.

22. Because of the continuing nature of the problems involved in this inquiry, the Commission believes it appropriate to set early dates for the filing of further comment. Because of the need to continue on a pressed schedule with preparations for the May 31, 1981 IFRB submission and the 1981 Second Session of the Region 2 Administrative Conference on MF Broadcasting, comments on issue III (Threshold requirements and future demands) are due on October 1, 1980. Comments on the remaining issues will be due on November 3, 1980. Reply comments will be due twenty (20) days after the filing of the comments to which they are addressed. Extensions of time will be considered, for good cause, on an issue by issue basis. In this manner, orderly preparation under internationally prescribed schedules can be maintained.

23. This inquiry is continued pursuant to authority under Sections 4(i), 303(a), (b), (c), (d), (e), (f), (g), (h), and (r), 307(b) and 403 of the Communications Act of 1934, as amended.

24. Inquiries relating to this proceeding may be addressed to Gary L. Stanford, (202) 632-9660.

Federal Communications Commission[1]

William J. Tricarico,

Secretary.

Report to the Commission by Special Task Force on 9 kHz Spacing

December 12, 1980.

(Page 1 containing brief internal material on administrative impact and other prefatory matter omitted)

Summary

The Commission initiated an inquiry into the advisibility of reducing channel spacing in the AM broadcast service from 10 kHz to 9 kHz. This change was proposed by NTIA as a means to create new channels which could be used for public radio, increased minority ownership, expanded fulltime local service, greater diversity and other goals approved by the Commission. A task force was assembled to evaluate the material submitted by the public, conduct independent studies, and assist the Commission in developing a recommended U.S. proposal for the Region 2 conference in March, 1980. The key findings and recommendation of this task force are summarized in the following paragraphs.

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[1] See attached Statements of Chairman Charles D. Ferris, in which Commissioner Robert E. Lee joins; Commissioners James H. Quello and Abbott Washburn.

Feasibility: A satisfactory broadcast service can be provided with a channel spacing of 9 kHz. Existing transmitters and antennas can be adjusted to operate on the proposed new frequencies without major redesign, the replacement of expensive components or disruption of operations. The 440,000,000 conventional receivers now in use are compatible with a 9 kHz channel spacing plan. However, the 1,000,000 synthesized receivers will not function properly on the new frequencies.

Service: Listeners in remote areas may notice an increase in adjacent-channel interference that could lead to a loss of service. That is, certain areas may both lose the use of an existing signal and not be served by any of the new stations. Although detailed calculations were not made, we estimate that less than 5% of the area served now will detect any change in adjacent-channel interference. Overall, there will be a significant gain in service as a result of more fulltime stations.

Fidelity: A reduction in channel spacing will have no effect on fidelity and quality other than that resulting from the adjacent-channel interference noted above. It is also compatible with AM stereo. However, should it be necessary to control interference by restricting the bandwidths of the transmitted signals, this action will preclude AM broadcasting from becoming a higher fidelity service. This last point may not be particularly significant in view of the reports which show the limited capabilities of most current AM receivers.

Costs: The largest cost associated with a change in channel spacing will be incurred by those who manufacture, sell or own synthesized receivers designed to operate at 10 kHz intervals. Such a cost could exceed $100,000 million if the changeover were made abruptly. However, a lead time of 5 years—which is likely—would reduce this figure considerably. The broadcaster costs of retuning transmitters and antennas can vary greatly, depending on individual circumstances and requirements imposed by the Commission. We estimate that the cost of retuning the average directional antenna should not exceed $10,000 and the total cost to the broadcast industry would not exceed $15 million.

Benefits/gains: The expected gain in the potential for new stations is a function of how the new channels are classified. We do not expect it to be less than 200 nor more than 1400 fulltime stations. This is substantial when compared to the number of fulltime stations we have now—approximately 2250.

International Aspects: At the Region 2 Conference in March, 1980, we expect that many countries will be seeking ways to improve existing services, either by adding new stations or reducing the interference to existing stations. That new service may only be possible on those clear channels on which the U.S. has priority. A reduction in channel spacing would give the conferees the flexibility needed to deal with these problems without disturbing existing arrangements.

Recommendations: We recommend that the Commission propose 9 kHz spacing with the proviso that the U.S. delegation to the Region 2 Conference have the flexibility and authority to propose retention of 10 kHz spacing if the international bargaining scenario should develop along lines that make 9 kHz spacing distinctly unfavorable to our interests.

Introduction

1. The AM broadcast service, as administered by the Commission, is close to saturation. Opportunities for new facilities tend to be technically or economically unattractive and are inadequate to satisfy current demands. Basically there are four ways this condition can be ameliorated: a. allocate more spectrum to AM broadcasting;

b. admit more stations on existing channels by technical rules changes;

c. introduce international rules changes; and

d. increase the number of channels by reducing the existing channel spacing.

The last solution is the subject of this report.

2. Although further study and discussion would be helpful, there is a pressing need to decide this matter now. Any deferral on the decision would be tantamount to electing the retention of 10 kHz spacing. The reason is international: The countries in Region 2 (Western Hemisphere) are going to consider AM broadcasting at a conference in March, 1980. That conference will define the basic structure of AM broadcasting for, possibly, the next 10 years or more. Channel spacing involves technical considerations that cannot be decided unilaterally by any country within the Region without unacceptable interference. A value for channel spacing will be chosen and, unless the United States strongly advocates a change, spacing will likely remain 10 kHz.

Background

3. AM sound broadcasting is heterogenous. Stations have varying powers, radiation patterns and hours of operation. The United States has approximately 460 AM broadcast stations on 107 channels. The channels are spaced regularly from 540 kHz to 1600 kHz such that the center frequency of one channel is 10 kHz from the center frequency of either adjacent channel. Channel width is not specified, but each station is permitted up to 30 kHz of bandwidth. This arrangement is illustrated in the following figure.

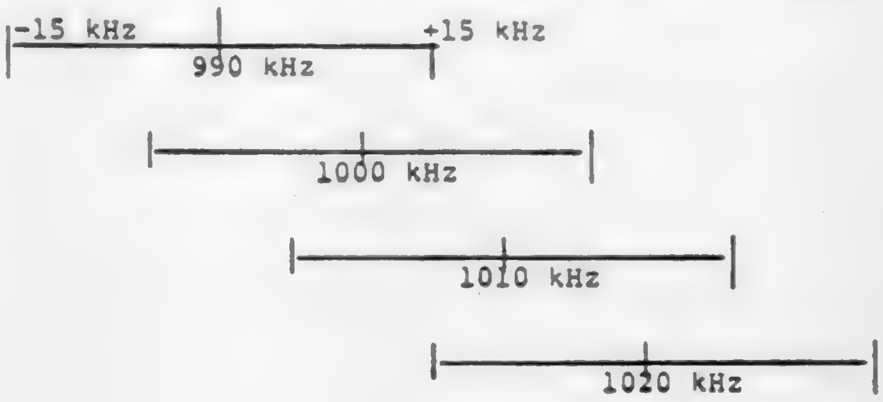

4. Channels are classfied by size of the service area. Channels on which the dominant station renders service over very wide areas are called "clear" channels. Class I and II stations are assigned to clear channels. Class III stations are assigned to "regional" channels and render service to major population centers and adjoining rural areas. Class IV stations are assigned to "local" channels; each is expected to render service to a community.

5. Stations are categorized in several ways as shown in these two tables:

Channel description	Number of channels	Class of station	Number of stations	Permissible power
Clear	60	I	58	10 kW-50 kW
		II	1,346	250W-50 kW
Regional	41	III	2,134	500W-5 kW
Local	6	IV	1,008	250W-1 kW

Class of station	Daytime only	Fulltime	Total stations	Stations using directional antennas
I	0	58	58	31
II	1,082	264	1,346	434
III	1,217	917	2,134	1,008
IV	0	1,008	1,008	9
Total	2,299	2,247	4,546	1,482

6. If it is to provide a given quality of service in a specified area, a desired signal must overcome background noise, receiver noise and unwanted signals. This can be achieved by either increasing the strength of the desired signal to some necessary level or by reducing the noise and unwanted signals. All are controllable by the Commission either by specifying absolute values or ratios. An important ratio is that of a desired signal to the unwanted signals. The minimum value needed for good service is called a protection ratio because a station's listeners are "protected" from interference by unwanted signals within that station's service area.

7. The simplest situation would be a station at the geographic center of the country whose signal could be received everywhere. A second assigned on that same channel would reduce both service area and total coverage. That is, the original station's service area would be smaller than it would have been in the absence of the second station, and there would be portions of the country that could receive neither signal because of interference by the other. The combined service area would be less than that of the single station. If this process were continued until there were a large number of stations on that one channel, each station would serve only a small area, and total coverage would be reduced to some minor amount. This illustrates a basic trade-off: in an efficient system, the number of stations on a channel varies inversely with service area and coverage. (The addition of stations on adjacent channels produces similar results, although in a more complicated way).

8. Radiocommunication is practical only within a framework of international cooperation. This cooperation is needed especially in the AM band because signals there can propagate thousands of miles and cause significant interference.

9. Spectrum allocation is agreed upon world-wide through the International Telecommunications Union (ITU). World conferences such as the ongoing World Administrative Radio Conference (WARC) decide which frequencies are to be used for various service categories. In some cases these world conferences develop detailed instructions concerning particular frequencies, including the exact nature of emissions and conditions under which they can be used. In the case of AM broadcasting in the medium frequency band, these conferences do little more than specify the limits of the band.

10. Much more detailed regulation is developed regionally through bilateral and multilateral agreements. For example, next March's Region 2 Conference will consider emission standards, power, *channel spacing,* classification of channels, interference and a host of administrative procedures.

11. The most important reason for the United States to consider closer AM channel spacing (and a reason that in a very real sense includes consideration of diversity, local service, educational needs and competition) is that the radio spectrum is a scarce resource. The goal of spectrum efficiency is reflected in the language of Section 1 of the Communications Act of 1934, as amended: "For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service . . ."

12. Society as a whole tends to benefit when such a scarce resource is used more efficiently. Channel spacing is an important parameter of spectrum management that should be used to encourage economical use of the spectrum.[1] In determining allocations, decisions must be reached concerning quality as well as quantity. Providing too much protection results in inefficiency; providing too little protection, however, results in an unacceptable quality of service. The choice of channel spacing determines the number of channels available for planning, but existing stations may limit the extent to which full advantage can be taken of additional channels due to adjacent channel protection considerations.

13. The most practical reason for considering 9 kHz is simply that it would allow more broadcasting stations.[2] New station licenses could be issued to (1) minority owners; (2) nonprofit institutions for educational broadcasting; and (3) conventional, commercial operators. 9 kHz would permit some present daytime-only stations to switch to fulltime operation. The new channels could also be reserved for future use. We will discuss the actual possibilities later in the report. A greater number of stations, however allocated, would be fully consistent with and would strongly reinforce the Commission's policies of seeking greater diversity and competition in AM radio.

14. While spectrum efficiency and market factors are the main reasons for

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[1] While the Task Force has not considered uses of other than AM broadcasting for this portion of the spectrum, the Commission may wish to consider such alternatives.

[2] Section 73.37(e) restricts the location of new stations. Generally, an application for a new station is acceptable only if it is demonstrated that a first or second local aural service would be provided.

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examing a change in AM channel spacing, there are other factors that must be considered. In July, 1979 the Commission released a Notice of Inquiry (NOI), BC Docket 79-164, 44 Fed. Reg. 39550, to examine the feasibility of amending the Commission's regulations to require that AM radio stations in the United States be assigned frequencies at 9 kHz intervals instead of the 10 kHz intervals the Rules now specify. In issuing the NOI, the Commission acted in response to a petition for rule-making submitted by the National Telecommuncations and Information Administration (NTIA). The Commission solicited comments on a wide range of technical and economic issues related to the 9 kHz question, but clearly indicated that any eventual change from 10 kHz 9 kHz spacing in the United States would require the concurrence of the other countries in the ITU Region 2.

15. To assist in the development of a position on the AM channel spacing question, the Commission authorized the creation of an interdisciplinary AM Radio Channel Spacing Task Force to investigate a number of specific interrelated issues. For several months the Task Force independently studied the 9 kHz question from a number of perspectives. Further, the Task Force analyzed the comments and reply comments received in BC Docket 79-164. A detailed analysis of the pleadings is provided as an Appendix to this report.

Related Commission Proceedings

16. Several major changes in AM and FM broadcasting presently under consideration are closely related to the 9 kHz proceeding. These changes include the Clear Channel proceeding, BC Docket No. 20642; the AM Stereo proceeding, BC Docket No. 21313; the Class IV proceeding, BC Docket No. 79-265; the U.S. proposal for WARC to expand the AM broadcast band; and a pending petition for rule-making to change the channel spacing for FM broadcast stations. Each of these, except for the AM Stereo and Class IV proceedings, seek to provide spectrum space for additional broadcast stations.

17. The Clear Channel proceeding will decide whether the protection afforded to Class I-A stations should be reduced to provide for the assignment of additional fulltime stations (possibly amounting to 125 stations).

18. Preliminary reports indicate that WARC would provide for expansion of the broadcast band by 100 kHz even though the U.S. had proposed an expansion of 245 kHz. These additional frequencies would be primarily for broadcast use, but they would be shared with other services. More definitive information, if available, will be presented orally.

19. The Commission has adopted an inquiry looking into the matter of Class IV maximum nighttime power and antenna height. This inquiry is relevant to the subject proceeding because DBA proposes that all newly created channels should be used for assigning Class IV type stations with nighttime power of 250 watts to daytime broadcasters. On the other hand, existing Class IV licensees contend that 250 watts is not sufficient to provide satisfactory local service. Some of these licensees contend that use of taller towers would provide for a more efficient nighttime use of the spectrum. The use of taller towers with existing power, however, would reduce the number of stations that could be assigned per channel due to daytime restrictions.

20. The response to the question of AM stereo compatibility with 9 kHz channel spacing generally indicates that the two are compatible.

21. Briefly stated, none of the related pleadings are mutually exclusive of 9 kHz spacing. The FM channel spacing would, in addition to providing for more broadcast stations, have an impact on receiver design. Receiver manufacturers are concerned that the Commission might approve a reduction of AM channel spacing on one date, then subsequently approve a reduction in FM channel spacing at a later date. This would, in effect, cause obsolescence of some AM/FM combination receivers on two separate occasions.

Task Force Investigation and Studies

22. The Task Force studied numerous aspects of 9 kHz channel spacing independently of the Notice.[3] In its examination of the 9 kHz channel spacing proposal, the Task Force considered the following areas of concern: (1) channel spacing in Regions 1 and 3; (2) interregional heterodyne interference; (3) tests on existing stations; (4) impact on consumers; (5) impact on manufacturers; (6) technical problems; (7) alternative plans; and (8) channel spacing in Region 2.

Channel Spacing in Regions 1 and 3

23. In 1974/75 there was a LF/MF Broadcasting Conference for Regions 1 and 3. That conference established a regional plan for AM broadcasting for the Eastern Hemisphere, using a common channel spacing of 9 kHz.

24. The Task Force's study of the 1974/75 Conference had two parts. The first part was a review of all available documentation on the Conference. After the review, there was an international fact finding investigation to develop further understanding of the Conference and its implementation. Informal interviews were held with key persons in Regions 1 and 3 representing a cross-section of government officials (FCC equivalents), government broadcasters, private broadcasters and technical experts. Several overseas sources of information were also visited. The results were provided in an October report.[4]

25. The findings can be summarized as follows: Region 3 (Asia and Oceania) converted to 9 kHz spacing (from 10 kHz spacing) with relative ease and little cost. The problems were made manageable by the time allowed for the change, three years. Such an experience may not be directly relevant to the United States, since Region 3 had very few directional antennas, but it could be useful in predicting difficulties other Region 2 countries might expect. The cost for converting a typical non-directional AM station in Region 3 was around $150 for materials. In most cases, the work was done by the station's chief engineer, resulting in little additional labor cost.

26. The trip gave a better understanding of trade-offs involved in a reduction of channel spacing. Discussions with Indian and Thai officials, in particular, offered insights about reception quality and the potential losses of service, due to increased adjacent channel interference. The maintenance of high quality reception needed to be demonstrated by the advocates of a reduced channel

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[3] The Commission recently considered 9 kHz channel spacing in its preparation for WARC-79. Since it was determined that the channel spacing was not an appropriate subject for WARC-79, no detailed evaluation of the issue was undertaken at that time.

[4] Footnote concerning staff comment on international considerations omitted.

spacing, before Region 3 (Asia and Oceania) were willing to accept such a change. When this point was established, the path was cleared for the acceptance of 9 kHz by the 1974 session of the Conference.

27. Western European countries approached the Conference from a technical orientation that related strictly to European needs. They proposed 8 kHz channel spacing. We found their failure to consider the needs of lesser developed nations from either a technical or political perspective resulted in an inability to achieve the necessary consensus for the proposed channel spacing.

Interregional Heterodyne Interference

28. Almost every AM broadcast system experiences heterodyne interference. Such interference results when two or more stations broadcast on different frequencies. Regardless of the channel spacing, there can be a note or "carrier beat" resulting from the presence of a station on an adjacent channel. At the present time, adjacent channel stations in the United States cause a 10 kHz carrier beat which is barely detectable in most receivers.

29. 9 kHz spacing produces a 9 kHz carrier beat, which is not expected to cause significant interference. However, when there are other broadcast systems operating at closer channel spacings, heterodyne beats of lower frequency are generated. Beats of 5 kHz or less, which can be easily heard, significantly increase the impact of adjacent channel interference on the reception of a desired signal.

30. The broadcast system employed in the Eastern Hemisphere is theoretically capable of causing carrier beats on 95 of the 107 channels in use in the United States, varying between 1 and 5 kHz. The significance of those beats depends entirely upon their strength, since a very weak audio tone has very little annoyance potential to the listener. The Task Force has concluded that the strength of the carrier beats resulting from the different channel spacing of Regions 1 and 3 is insufficient to affect performance of U.S. broadcast stations.[5] The limited impact may primarily affect reception of clear channel stations at the edges of their extensive secondary service areas.

Tests on Existing Stations

31. NTIA and three stations licensees made a joint effort to demonstrate the effects of the proposed frequency change on broadcast stations using directional antennas. NTAI contended that the change can be accomplished quickly and easily.

32. Authority was first requested by and granted to the licensee of WLBH, Mattoon, Illinois, to shift the station's frequency both plus and minus 4 kHz from its assigned frequency of 1170 kHz. This test permitted field strength measurements to ascertain changes in the radiation pattern of the station's directional antenna.

33. Similar tests were conducted at KLAK, Denver, Colorado and WELO, Tupelo, Mississippi. The FCC provided field engineers to observe the second and third station tests. (The FCC gave only limited guidance.) The stations performed the tests largely by and under the supervision of a radio station consulting engineer and an engineer from NTIA.

34. An FCC required "partial" antenna proof of performance must include at least ten measurements on each radial and the measurements are required to be made at the same locations as previously used for the "complete" antenna proof of performance submitted for the station's license application. The subject tests, however, consisted of three (or in some cases fewer) measurements on each of 12 or 13 radials (directions).

35. The WLBH tests appeared to indicate the station was not operating within its required radiation pattern on all azimuths while on 1170 kHz. Shifting the frequency plus and minus 4 kHz resulted in even greater apparent excursion from the licensed radiation pattern in critical directions.

36. At KLAK, after shifting the frequency and readjusting the antenna currents and phases to the licensed values, the radiation was within required limits. The readjustment of the antenna currents and phases to within licensed parameters at the new frequency, however, did cause some radiation values to go up while other values went down. An engineering study to optimize the parameters would probably correct this problem. Further study would be required to determine if the station could maintain the required limits without the optimization just mentioned.

37. The WELO tests indicated WELO was well within its required pattern on its assigned frequency. Upon shifting frequency, the radiation became excessive in some directions. After readjustment of the antenna currents and phasing, the excessive radiation in certain directions was reduced to tolerable limits, but the radiation in other directions became excessive.

38. The antenna currents and phases were readjusted for the new frequency. It appeared that with the less-than-optimum antenna parameters for the new frequency, the signal strength in a particular direction was brought within required limits but the radiation became excessive in another direction. The effect of shifting the frequency of KLAK, which is operating at the top end of the band, (1600 kHz) did not appear as great as the tests at WELO and KLAK. This is a result of the 4 kHz shift being a smaller percentage (0.25%) of the operating frequency.

39. Theoretical studies indicate a minimal change in radiation values for the changes in frequencies studies. With the limited data, however, the tests results showed that the deviations from the FCC required patterns were much greater than a theoretical analysis indicated. It has been well established that the use of a very limited number of measurement points (with some of those points not at the same location as the most recent proof of performance) does not merit confidence in the results.

Impact on Consumers

40. The new stations and the competitive pressure they would put on existing stations are expected to result in higher levels of diversity and program quality. This quality and diversity are the immediate benefits of 9 kHz spacing to listeners. The costs to consumers might include the obsolescence of FS-tuned receivers, degraded performance of conventional receivers due to higher adjacent channel interference, and loss of potential to receive "hi fi" AM programs. Receiver obsolescence might involve substantial costs for both consumers and manufacturers—potentially the greatest category of costs involved in a switch to 9 kHz spacing. Precise estimates are impossible, but a safe guess puts them in the hundreds of millions of dollars*, based on original purchase prices (as opposed to depreciated values). A sufficiently late date for the implementation of 9 kHz spacing and a program of tax relief for manufacturers that offer consumer rebates could counterbalance much of this cost.

41. An area of concern is the approximately 1,000,000 synthesized receivers now in use, primarily in

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[5] Such interference is not now a significant problem, although it may increase as sunspot numbers decline over the next five years and as African nations increase the numbers and power levels of their stations. The Fiji Islands has experienced a heterodyne problem. (This problem may have arisen as a result of inadequate initial coordination by the islands since no other nation in Region 3 has reported similar interference.)

*This inadvertently overstates the staff's estimate that, without adequate lead time, it could cost $100 million, which is correctly stated in paragraph 86.

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automobiles. Considering the present repair costs and the fact that the receivers will all have been in use for two or more years, most owners will probably find it too expensive to have these receivers modified.

42. Synthesized receivers constitute a very small percentage of the total now in use, but their numbers are growing. A change in channel spacing now will certainly involve significant costs. These costs will be substantially greater if channel spacing is changed in the future.

43. There will be little effect on the owners of the 440,000,000 conventional receivers in use in the U.S. A test conducted by NTIA indicates a relationship between the cost of the receivers and the adverse affect of reduced channel spacing. The owners of less expensive receivers will suffer a greater loss in the capability to receive stations which presently provide fringe coverage. While the consumer will potentially be able to receive more stations with higher levels of diversity and program quality, as a result of reduced channel spacing, in some areas existing stations may no longer be received.

Impact on Manufacturers

In a conventional receiver, tuning is essentially a process of matching the receiver to an external radio signal. The frequency of that signal is unimportant. A change to 9 kHz channel spacing will have no effect on this process. Depending on circumstances some slight increase in adjacent channel interference may be noted but it is doubtful that more than a few conventional receivers will need to be replaced because of reduced frequency separation.

45. In a synthesized receiver, tuning is performed with respect to signals generated internally at fixed intervals. A receiver designed to operate in 10 kHz steps will prove unsatisfactory f the external signals are spaced 9 kHz apart.

46. If a choice is made to reduce the channel spacing, we expect the change within four or five years. The effect of this timetable will be to render the inventory of 10 kHz synthesized receivers almost unmarketable. The concern about overly rapid implementation reflects not only the lengthy design cycle for new model, but also the potentially large costs of obsolete receivers (either those in inventory of those aleady sold). The cost impact upon manufacture would be more manageable if decisive action is taken soon, with adequate lead time time to permit (1) manufacturing redesign/retooling and (2) natural depreciation of obsolete consumer-held channel radios.

47. Production will be interrupted until the design can be changed to accommodate both 9 and 10 kHz spacing. This will adversely affect both the manufacturer's profits and the purchasers' costs; the dealers will be caught in the middle.

Technical Problems

48. The technical issues associated with reduced channel spacing can be greatly simplified by considering them in two parts—the returning problem and the adjacent-channel problem.

49. The first problem concerns returning transmitters and directional antennas to frequencies that may be as much as 4 kHz removed from the original design frequencies. We shall assume all stations on a given frequency move together to a new frequency without any other changes (such as power or pattern). The central questions are: (1) can it be done without major replacement of equipment; (2) who can do it; (3) what will it cost; and (4) how much will the system be affected.

50. Transmitters retuning is not difficult expensive. Normal equipment is designed to operate over broad ranges. The chief operators now employed in the broadcast industry can install new crystals and retune the transmitters at most stations.

51. Retuning directional antennas is more difficult and much more conventional. Computer studies and several tests indicatre that for a change of 4 kHz (worst case), there will be some cases of measurable change in the associated radiation pattern if a system was restored to its licensed values of phase and current ratio. In terms of absolute values the change would not amount to much, although the percentage change in certain directions can be appreciable.

52. Directional antennas must be retuned, for the most part, by consulting engineers. There are not enough of them to retune all antennas simultaneously or even in a few weeks. With adequate time for preparation and a phased implementation plan, however, the job can be done with existing resources and in a reasonable time.

53. For estimates of the cost of retuning antennas we rely on information supplied by respondents. At the low end, some suggested $500 to $1000; at the other extreme, estimates went to $200,000.[6] The actual cost, in part, appears to depend ultimately on the Commission. If stations are merely required to return selected operating parameters to their licensed values, and to perform only a partial proof of performance, the costs will be relatively low. Additional adjustments and measurements could be made as each license was renewed. If the Commission requires each station to comply with the previously established radiation limits and operating parameters and to submit a complete proof of performance, the cost in labor would be considerable, and might require the replacement of phasing and tuning units. The FCC has contracted an engineering firm to study the costs to licensees. Informal preliminary results reveal that the changes required will not be extensive, but definitive cost estimates have not yet been developed.

54. We suggest that, if reduced channel spacing is adopted, the Commission employ a pragmatic approach. Each station should be permitted to operate with existing licensed parameters. Additional effort would be requied only in cases of significant interference, loss of service, or violation of international agreement. Considering that half of the directional systems will only be shifting 1 or 2 kHz from their present carrier frequencies, we suggest that this approach would keep costs to a tolerable level.

55. The "adjacent-channel" problem is concerned with possibly increased interference and resulting loss of service that might be caused by moving stations closer in frequency. A desired signal on one channel and an undesired signal on an adjacent channel will each produce an audio response in a receiver. The level of the undesired response, which consists of carrier beat and crosstalk, is affected (in part) by channel spacing and relative field strength. For every value of channel spacing there is a corresponding ration of desired-to-undersired signal needed to suppress the unwanted audio to some satisfactory degree. This ration is called an adjacent-channel protection ratio. At 10 kHz channel spacing we have established this ratio at 1 to 1 (0 dB).

56. A station's service area extends to a contour having a specified field strength value, say 0.5 mV/m. For satisfactory service, stations on adjacent channels must be constructed so that the adjacent-channel criterion is met at the boundaries of their service

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[6] One respondent, NPR suggests that public stations be reimbuirsed for antenna change costs from 9 kHz spacing. The Commission does not have authority to reimburse licensees for costs made necessary by new regulations. Furthermore, the Communications Act is explicit that licensees do not obtrain vested property rightrs in their assignments (Section 309). The possibility of certain tax advantages that might be available to adversely affected licensees has not been examined.

area. Using the above figure, their 0.5 mV/m contours may touch (1:1 ratio) but not overlap.

57. If the channel spacing is reducing by 1 kHz, it has been estimated (from research by CCIR, NTIA and the Commission's lab) that the adjacent channel protection ratio should increase by approximately 4 dB. That is, the desired signal should be at least 1.6 times as strong as the undesired adjacent channel signal. For adjacent channel stations with tangential service areas, listeners near the point of tangency may experience a noticeable increase in carrier beat and crosstalk if the channel spacing is reduced.

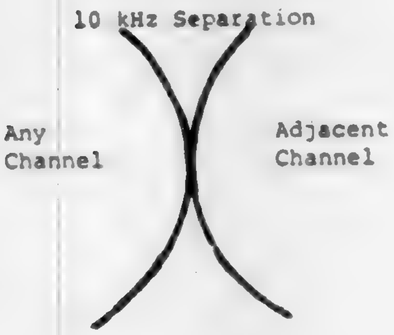

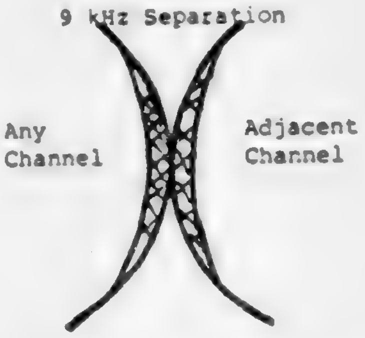

The cross-hatched area shows the loss in service area due to increased carrier beat and crosstalk.

58. Because of the complexities introduced by directional patterns, population distribution and varying ground conductivity, it has not been possible to calculate the amount of service that may be lost by reducing channel spacing to 9 kHz. Estimates range from 3% to 20%, but there is little confidence in the higher figure. It seems almost certain that some service will be lost, but given that many service areas are not contiguous, a figure of 5% appears reasonable. We do not have information as to how many listeners reside in such areas. The percentage of coverage affected will not effect all stations on a given channel.

59. Research performed by NTIA and the Commission's laboratory suggest that, for the typical receiver, both the 0.5 mV/m contour and the 1:1 ratio may be too conservative. Their findings show that the internal receiver noise is higher than expected and requires a signal of about 1.0 mV/m for satisfactory reception. For a given level of quality, the effective service areas may already be smaller than the theoretical pattern predicted. Additionally, the selectivity of most receivers is narrow in comparison to the transmitted signals, with some corresponding protection against adjacent channel interference. These results, taken together, appear to offset partialy the consequences of a shift to 9 kHz. However, further studies must be made before we obtain more definitive conclusions on required protection levels.

60. Shoudl 9 kHz channel spacing be adopted and the adjacent-channel interference prove greater than expected, its effect could be reduced to acceptable levels by restricting the bandwidth of transmitted emissions to 5 kHz or some other suitable value. Either audiofrequency or radiofrequency filters could be used. Obviously, such a step would effectively limit the AM service to moderate fidelity, but this level would be no lower than what it is today. Briefly stated, technical problems do not preclude a chance to 9kHz.

Alternative Plans

61. Based on our independent evaluation and our analysis of the responses to the Notice, there would be (technically speaking) three basic alternatives for assigning stations on the new channels created by a change to 9 kHz channel spacing. We reduced alternatives to three by these assumptions: (1) All existing stations would move to the nearest new frequency, with 12 channels unchanged and 12 new channels created between 540 kHz and 1602 kHz. (2) No provision would be made for new clear channels. (This assumption is recognized to be unlikely internationally. All estimates are optinal.) (3) Existing technical allocation principles apply, including those for allocating Class IV stations. (4) Class IV (local) stations operate with 1 kW-day and 250 wats-night. Service area at night would be limited to about 3–8 mile radius. (5) Class III (regional) stations operate with powers from 500 watts to 5 kW. The numbers of Class III stations estimated herein is based on 1 kW, day and night. Nighttime service would be limited to about a 20 to 30 mile radius of the station.

62. 60 to 170 Class IV stations can be allocated to each channel. Because of the limited service area, most Class IV's are economically weak. They are vulnerable to competition from more powerful stations as well as from FM.

63. Class III stations, particularly if permitted to operate as 5 kW, would have no inherent economic weakness. However, station density per channel is low, and facilities can be very expensive, particularly if elaborate directional arrays are needed.

64. The alternatives, assuming the United States is authorized usage of all 12 new channels, would be: (figures are optimum—not necessarily realizable)

A. All stations assigned would be Class IV facilities. The number of stations that could be assigned on the lower frequencies would be less than on the higher frequencies because of the differences in groundwave propagation characteristics. Therefore, if 60 stations are assigned on 585 kHz, 70 stations on 675 kHz, . . . 170 on 1575 kHz, a total of 1380 new stations could be assigned.

B. All stations assigned would be Class III stations. Assume 25 fulltime stations per channel. This amounts to 300 new fulltime stations.

C. The lowest six channels would be assigned Class III stations with about 25 fulltime stations per channel, and the highest six channels would be assigned Class IV stations with about 170 stations per channel. This amounts to 150 fulltime Class III stations and 1020 Class IV stations.

65. The estimated numbers of stations are subject to correction since they are not based on detailed allocation studies.

The numbers should be representative enough, however, to assist the Commission in forming a position. The alternative plans assume the United States can assign fulltime stations on all the channels created by reduced spacing. This assumption may not be realistic.

66. In general, a distinction must be made between (1) a broad Commission policy decision in favor of 9 kHz spacing, which might be taken in the interests of overall spectrum efficiency and whose economic impact probably could never be predicted in advance; and (2) a specific assignment plan based upon 9 kHz spacing. A decision on the first matter does not necessarily require resolution on the second matter. An assignment plan that might give a large number of allocations to non-commercial public radio (including perhaps some "regional" Class III assignments and even some nighttime Class I clear channels) would obviously have very different economic implications from a plan that give every new 9 kHz channel to Class IV local commercial broadcasters. The Commission may wish to consider the possibility that detailed economic analyses of aural broadcast markets, dealing particularly with the relationship of AM to FM, should be conducted in connection with design of specific alternative assignment plans under a 9 kHz regime, even though a broad (and prior) policy decision on whether to adopt reduced spacing does not call for the same analytical detail.[7]

67. The Commission has presented evidence in its Notice of Inquiry and Notice of Proposed Rulemaking on Radio Deregulation (BC Docket 79–219, FCC 79–518) that competition often has a positive impact on news/public affairs programming and has suggested that "an increase in the number of stations never leads to a decrease in program offerings or listener satisfaction" (44 FR 195, pp. 57654 ff). Neither the proponents nor opponents of 8 kHz spacing addressed these points in the NOI.

Channel Spacing in Region 2

68. In the foregoing discussions, we have been able to analyze data and provide opinions based upon that analysis. However, the center of focus for this issue is in the international arena, and the Task Force does not have available the amount of information concerning other countries that it would have desired. Radio waves acknowledge no national boundaries. If all in the international community are to benefit from radio's use, limitations on each country must be recognized and accommodated. The United States has long recognized this and has been an active participant in every worldwide radio conference held in this century.

69. The ITU has called for a Regional Administrative Radio Conference on AM broadcasting for March, 1980, and November, 1981. We expect that a regional agreement will result from the conference establishing permissable interference levels classification of AM broadcasting channels and the priority of their use, power levels, and technical innovations. The conference will probably influence the future distribution of AM radio services in this country. The first session of the Conference will establish the technical bases for planning and the second session will develop a regional plan. Thus, channel spacing for the Region will be established in the next few months.

70. The benefits of the new channels and the costs of implementation will depend, in large part, on the reaction of the other countries to a United States proposal. The uncertainty surrounding the international reaction makes the decision more difficult. The United States has the most extensive AM broadcasting system in Region 2. It must be realized that other nations are likely to perceive a need to expand their systems at our expense.

71. It is unlikely that another country will propose 9 kHz channel spacing as an initial position. Therefore, only if United States' proposes to reduce the channel spacing will there be an opportunity to fully ascertain the international benefits vs. costs.

72. [Paragraphs 72–75 and footnote 8 concerning staff comment on international considerations omitted.]

76. Therefore, it appears unlikely that country channel priorities will be a feature of the Region 2 Plan.[9] But country channel priorities are likely in a new version of one of the sub-regional treaties.[10]

77. Discussion of the future international use of the new channels should address the following questions: Would the addition of new channels, through reduction of channel spacing, increase the demand for more stations? Would new channels better satisfy the existing national demands for increased service areas? An answer to these questions must take into account the degree of satisfaction with AM broadcasting in Region 2.

78. Throughout Region 2 there is some dissatisfaction with the quality of existing broadcast facilities. This dissatisfaction is due primarily to the interference on some channels, and it was a primary motivation for calling the Region 2 Conference.[11]

79. The interference situation in Latin America may mean that many countries stand to benefit from 9 kHz spacing *even if* they are not seeking new station assignments. The service areas of certain existing stations might be improved, at very low costs, simply by moving to new channels. Certain countries may favor this solution to the more expensive alternative of increasing station powers. This possibility may assist the United States in promoting a 9 kHz plan.

80. The impact of a station on a channel rapidly diminishes with distance. Over a large part of the North American region, the area of greatest concern to the United States, there would be a distribution of stations designed to both improve existing facilities and increase the number of stations.

Recommendation

81. Our ultimate goal in this proceeding is to increase the availability of AM broadcast service to the public through effective spectrum management. A decision on the channel spacing issue should be approached by evaluating the costs and benefits of a reduction to 9 kHz with consideration of both immediate and long term domestic and international effect. The extent of the costs and the nature of the benefits will be determined, in large measure, by the Commission.

82. The capacity of the existing AM broadcast system to accommodate the many demands upon it is highly limited. Nonetheless, the present system is well established and familiar and functioning reasonably well. The Task Force believes the burden of proof rests more on those who advocate change than those who defend the *status quo.*

83. From a technical viewpoint, a reduction in channel spacing appears feasible. Transmitters and antennas can be adjusted to operate on the proposed new frequencies without extraordinary

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[7] The feasibility of assigning a station to a given market may be influenced by the cost of a new station including availability of land for a transmitter site. Such determinations could only be made after local market surveys.

[9] Such a view is shared by the CITEL Conference preparatory group, which proposes station priorities rather than channel priorities.

[10] While a potential loss in clear channel priorities is a distinct possibility if NARBA is abrogated, there are several advantages that could be gained by the United States by negotiating a new regional agreement.

[11] There has been no indication that any Region 2 country other than the United States is seriously considering 9 kHz channel spacing. Canada has taken a position against the proposal.

effort or replacement of expensive components. Conventional receivers, which comprise over 99% of those in use, are compatible with any frequency plan.

84. The most serious technical objection is that 9 kHz spacing will cause an increase in interference and a corresponding loss in service. The percentage of coverage affected should be small—less than 5%, and will not effect all stations on any one channel. However, losses occurring in remote areas are not likely to be replaced by services on the new channels.

85. A reduction in channel spacing is thought to limit the possibility of improving the quality of the AM broadcast service. Improvements can be made—stereo, for example—but changes may not be as effective as with a greater frequency separation.

86. The tangible costs associated with this proposal appear reasonable. Surprisingly, the largest figure comes not from the broadcast industry but from that small segment of the market that has been attracted to synthesized receivers. It is estimated that over 1,000,000 receivers of this type are now in use and their number is growing. Few of them will operate properly with 9 kHz spacing. Without adequate lead time, potential losses in this area could exceed $100,000,000. If the March conference were to adopt 9 kHz, however, it is estimated that implementation would be at least 4–5 years away. Such a lead time would minimize the losses considerably. If a channel spacing issue is delayed, the costs will continue to increase.

87. The cost of the broadcast industry for retuning its transmitters and directional antennas is disputable, and estimates vary with one's position on this issue. We believe the total should not exceed 15 million dollars, which is far less than the value of the system. This estimate may be reduced if the Commission chooses to relax the measurements and performance requirements it imposes on licensees on a selective basis and if certain tax advantages are granted.

88. [Paragraph concerning staff comment on international considerations omitted.]

89. Potential benefits of reduced channel spacing are seen as more fulltime local service, more diverse ownership, more choice in programs, and a nationwide system of non-commercial educational stations. These benefits are realizeable only if the Commission reconsiders its policies underlying Section 73.37(e) of the Rules.

90. We have approximately 2250 fulltime stations in this country. A reduction in channel spacing will permit the authorization of an additional 10 to 50% or more, depending on the class of stations assigned to the new channels. Those potential stations offer a greater opportunity for the Commission to further its stated goals than any other action being contemplated. It is difficult to see how any comparable gains can be made within the next decade if the U.S. remains on 10 kHz.

91. A reduction of the channel spacing to 9 kHz will result in 12 new channels. Although, longterm value of this benefit will be significantly influenced by Commission action, the United States will have to share this benefit with other countries in the Region, particularly those of North and Central America, including the Carribbean. The Task Force concludes that the full domestic benefit cannot be known at this time, although it should be significant.

92. A change to 9 kHz spacing would also create the flexibility needed to resolve those questions of interference and incompatibility that will be raised at the upcoming Region 2 Conference.

93. The international benefit resulting from a reduced channel spacing is that the requirements of all countries can probably be satisfied with a lower level of interference. Access to more channels for planning would have this effect, and would contribute to a successful conference.

94. A successful conference would be directly in the interest of the United States, since the minimization of interference to our stations, which are a significant fraction of all the stations in the Region, would result.

95. It is the opinion of this Task Force that the potential benefits of 9 kHz channel spacing outweight potential costs by a satisfactory margin. We recommend that the United States propose at the Region 2 Conference that the channel spacing in the AM broadcast service be 9 kHz.

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Appendix

1. The Commission stated that the objectives of the Notice of Inquiry were to determine whether the United States should change to 9 kHz channel spacing and to provide information to develop a position on channel spacing for the Region 2 Conference.[1] The numerous comments in the proceeding were substantive, in view of the short filing period.[2] The initial proponent of reduced channel spacing, NTIA, contended the following would result: (1) additional channels would be made available and permit assignment of several hundred new fulltime stations. These stations might promote diversity in program services and local ownership, including minorities; (2) possible heterodyne interference problems with Regions 1 and 3 stations could be avoided; (3) daytime-only stations' problems could be alleviated; (4) AM stereo could still be implemented without degradation; (5) the international trade value of U.S. receivers would be enhanced because of international standards; and (6) most existing receivers could be immediately used with 9 kHz spacing. The other main proponent of reduced AM channel spacing was the Daytime Broadcasters Association (DBA). DBA suggested the proposal would permit daytime-only stations (2300) to achieve fulltime operations and provide the first local AM service to 46,000,000 nighttime listeners.

2. In the Inquiry, the Commission invited comments specifically in reponse to twelve (12) questions and, in general, on all subjects appropriate to resolution of the AM channel spacing inquiry. We have summarized the comments using the questions as points of reference.

I. What Channel Spacing Plan Should Be Used in the United States?

3. Respondents on this question divide into three groups: (1) opposed to 9 kHz spacing, (2) in favor, and (3) without an explicit position for or against. All commenters except one (an individual) agree that if Region 2 should adopt 9 kHz spacing, then the channelization should be the same for frequencies as used in Regions 1 and 3.

4. Proponents of 9 kHz spacing mainly base their case on the increased number of stations that could be assigned and the reduced likelihood of interregional heterodyne interference. Virtually unreserved support for 9 kHz spacing is expressed by NTIA, DBA and the Corporation for Public Broadcasting

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[1] Several parties oppose the consideration of 9 kHz on an *ad hoc* basis and recommended a Joint Government-Industry Advisory Committee study several pending proposals that might alter the structure of the AM broadcast service. Under the aegis of Wilson LaFollette, coordinator for the Commission's Region 2 Conference preparation, a joint advisory committee has formed.

[2] A motion by NTIA for extension of time to file reply comments was denied in view of the need for a timely United States' proposal for the Region 2 Conference.

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(CPB). National Public Radio (NPR) qualifies its support to the extent that "(1) no new evidence is found which would suggest that 9 kHz spacing could threaten protection of most existing licenses at their current power and geographic location; and (2) the financial burden upon licensees who will be required to change frequencies is not prohibitive and sufficient lead time is given to plan for any necessary conversion." The National Association of Black Owned Broadcasters (NABOB) suggests that special care be given to study the potentially harmful economic impacts that new competition could have on existing minority broadcasters.

5. The Clear Channel Broadcasting Service (CCBS) considers 9 kHz spacing preferable to breaking up the clear channels. CCBS says all studies should be concluded before the Region 2 Conference. If the studies cannot be completed, the channel spacing decision should be deferred. Similarly, the Association for Broadcast Engineering Standards (ABES) and the American Broadcasting Companies (ABC) favor retention of 10 kHz spacing until all studies are completed and suggest a comprehensive allocations inquiry.

6. Opponents of 9 kHz spacing cite increased adjacent channel interference with resulting loss of service area, potential loss of audio fidelity, expense for directional antenna stations, lack of evidence on international heterodyne interference, potential adverse impact on programming from new competition, and the possible danger of a loss in U.S. bargaining advantage vis-a-vis other Region 2 countries as reasons for opposing the reduction in channel spacing.

7. The Consumers Electronics Group of the Electronics Industry Association (EIA) states that the change would not assist manufacturers to achieve a greater international marketplace. The U.S. market is sufficiently large to achieve economies of scale for the consumer. There would remain sufficient differences in the foreign marketplace requirements even with similar channel spacing, so that there would not be any effect on the U.S consumer. General Electric (GE) emphasizes the need for a rapid decision and an orderly transition period with an adequate lead time of at least 7 years.

II. What Classifications Should Be Assigned To New Channels Resulting From a New Channel Spacing Plan?

8. Classifications of stations on the new channels will determine, to a large extent, both the number of new stations and the impact of those stations on existing stations on adjacent channels. Since there are several different ways existing stations could be shifted to the channels of a 9 kHz plan, the assignment plan determines which stations will have adjacent channel interference from the new stations. Current co-channel protection standards and power levels for certain classes of stations will result in fewer stations on the new channels than has been achieved with Class IV stations. Thus, this question establishes the basis for estimating the impact on existing stations of 9 kHz spacing.

9. If the Commission should adopt 9 kHz channel spacing, respondents generally support moving existing stations to the nearest new channel. This procedure would create new channels every 90 kHz, with the first vacant channel at 585 kHz. One consequence is that seven of the new channels (of a total of 12) are between existing clear channels that previously were adjacent to each other. One more new channel would have a clear channel on only one side. With this procedure a large part of the adjacent channel impact of the new stations would be on the clear channel stations. (Clears include U.S. and foreign I–A and I–B channels.)

10. Opinion was divided on the classification of new channels; DBA and ABC suggested that the new channels should be primarily Class IV stations. William F. Rust, Jr. (Rust) suggest that they should be either Class III or Class IV, depending on existing adjacent channel stations (without indicating the nature of such a dependence) CCBS suggests that when the adjacent channel is a clear channel (8 out of 12 cases), the class should be III, because they believe that this would lead to the most efficient allocation of stations. Class III rather than Class IV stations newly adjacent to the clear channels would result in less effect on the clear channel stations.

11. NPR believes the classification of the new channels should be mixed, since they should be used to provide maximum diversity of programming and local ownership of facilities. This goal could be achieved by limiting the new channels to Class III and Class IV stations, except where a Class I or II station can be shown to better meet the needs of a wide area. Several respondents recognize the fact that the classification of stations would utilmately depend upon the views of the other countries in Region 2. CCBS expresses the view that if the new channels were proposed to be Class III, the United States might have a stronger bargaining position, since other countries in the Region may favor Class III channels over Class IV channels (to obtain greater coverage with the new stations).

III. What Threshold Requirements Should Be Established To Determine Acceptability of Applications?

12. NTIA supports 9 kHz spacing as a means to increase the number of stations even when the increased competition might put strong competitive pressures on existing broadcasters: "Broadcasting cannot at once be a field of 'free competition' and at the same time a ward of the Commission requiring protection from competition." Others disagree strongly. For example, the Joint Comments of Radio Broadcast Licensees (Jt. Comments) say:

> NTIA seems to assume that any allocation decisions involving trade offs between quantity of stations and quality of service must necessarily be resolved in favor of increased quantity. We must sharply disagree with NTIA's assertions. In fact, concerns about the availability and quality of radio services to the public were the raison d'entre of federal licensing.

ABC makes a similar criticism of NTIA's position: "Increasing the number of radio assignments * * * is not the *sine qua non* of the Commission's allocation responsibilities * * *. The Commission must give primary consideration to the impact of allocation changes upon the quality, availability and costs of services to the public."

13. NTIA also cites the *Carroll* decision (258 R. 2d 440, D.C. Cir. 1958) to argue that the burden of proof about harm resulting from new competition "must be on those who would deny competition entry." NTIA suggests that section 73.37(e) sets an inappropriately high entry threshold and that it should be amended in favor of more competition. ABC argues the opposite:

> NTIA's reliance upon the *Carroll* doctrine is misleading. We are not talking about adding a single station to a specific market as in *Carroll*. Instead, we are talking about a major restructuring of broadcast allocations. The burden of proof necessarily lodges with the proponent of such drastic change.

14. Other respondents (DBA, NPR and CPB) state that section 73.37(e)'s non-technical threshold requirements should be amended or eliminated. CPB notes these restrictions would keep most new stations off the air *even if* new channels should be made available via 9 kHz spacing. CCBS argues section 73.37(e) should be retained in its present form:

> It will assure that any spectrum space made available by 9 kHz spacing will be

used in unserved areas where it is most needed by the public. Where a need is shown for assignment of a minority-owned facility in a major city, there is ample possibility for waiver of section 73.37(e).

15. Many respondents suggest allocation priorities the Commission might adopt, with or without changes in threshold requirements. DBA suggest that daytime stations be afforded a preference or a "right of first refusal" for new nighttime privileges.[3] NABOB suggests that 40 percent of any new assignments be reserved for minority owners. The California Association for the Physically Handicapped asks that some new channels be reserved for the handicapped. The University of South Florida supports a reservation of new channels for educational radio. NPR and the CPB strongly urge a major allocation of new assignments (up to 500) for new public, non-commercial stations. NPR suggest new channels should be made available for Class III and Class IV stations to provide regional and local service. Classification of the new channels as Class III and Class IV channels would enable more minorities to acquire broadcast facilities and would permit the licensing of more public broadcast stations. In assigning new channels, section 73.37(e) and (f)(2) should not be applied. Rather, NPR suggests an AM Table of Assignments to ensure each community has sufficient broadcast facilities and that the new channels are assigned in an orderly and efficient manner. In drawing up an allocations table, the Commission, in pursuance of its policy of encouraging minority broadcast ownership, should reserve some channels for minority enterprises. NPR also emphasizes the need for the Commission to reserve channels for non-commercial AM stations, since there are currently only 23 (most of them daytime-only operations). NPR believes a reservation of channels for non-commercial stations is necessary to achieve universal public radio coverage, an objective mandated in the Public Telecommunications Financing Act of 1978.

IV. How Much Does Adjacent Channel Interference Increase With a Change From 10 to 9 kHz Channel Spacing?

16. The NOI asked respondents to assume existing receivers and present transmission standards. The Commission, in section 73.182 of its Rules, defines objectionable interference as a failure to achieve an established ratio of a desired signal to undesired signals (protection ratio) within the protected contour of an existing station. Whether such interference will actually be perceived by a listener depends, in part, on receiver performance.

17. Several respondents say existing receivers vary widely in performance. This made it difficult to predict accurately what effect a reduction in channel spacing would have on those receivers.

18. Respondents generally agree that reduction of channel spacing from 10 to 9 kHz would require an increase in adjacent channel protection of between 3 and 5 dB to maintain existing standards. Several parties noted that CCIR (technical advisory committee to ITU) results indicate the figure should be 5 dB. NTIA pointed out that only a small number of stations in the band they surveyed, 540–1100 kHz, are so close to the adjacent channel stations as not to meet this requirement without changing power or antenna patterns.

19. CCBS says in reply comments (statement by Harold Kassens) that the major fault in NTIA's study was its failure to consider 1100 kHz to 1600 kHz, where the greatest concentration of stations occur, including all of the 1000 Class IV stations. CCBS gave an example of a possible situation where an area of 3,3 percent interference would occur when two adjacent channel stations presently have tangential protected contours (situation of threshold interference).

20. GE suggested that a 3–5 dB loss in protection could result in adjacent channel interference ranging from no perceptible difference in strong signal areas to a total loss of useable signal in some fringe areas.

V. What Changes Can Be Made in Transmission Standards To Reduce Adjacent Channel Interference?

21. Most respondents agree reduction of transmitted bandwidth could solve adjacent channel interference problems that may result from reduced channel spacing. Two methods were proposed. One was audio bandwidth limiting, by the use of low pass filters in the transmitter audio input circuitry. EIA indicated this practice could lead to a 3 to 5 dB reduction in adjacent channel interference. (Note: This reduction would compensate for the increased adjacent channel interference of a 9 kHz plan). But several respondents felt this approach would adversely affect fidelity of the received signal.

22. The second proposed method was radiofrequency (RF) bandwidth limiting through the insertion of a RF bandpass filter in the transmitter following modulation. NTIA recommended the second method. They found in initial tests that audio bandwidth limiting does not effectively reduce adjacent channel interference, whereas the second method (RF limiting) can permit higher fidelity signals. Rust points out that although adjacent channel interference could be reduced by using low pass (audio) filters, such a step would reduce the audio fidelity and make AM stereo less competitive to FM stereo.

23. Many respondents refer to the effects improper audio processing practices [4] have on adjacent channel interference. Harris says improved signal processing could raise the cost of a new broadcast transmitter by 10 to 20 percent.

VI. What Are the Effects on the Performance of Existing Receivers and What Changes in Receiver Design Can Be Implemented To Compensate for the Reduction in Channel Spacing?[5]

24. Existing receivers are of two basic types, manually tuned and frequency-synthesis (FS) tuned. Most respondents recognize that performance of FS-tuned receivers designed for 10 kHz spacing would be seriously degraded in a 9 kHz environment. Although the present number of such receivers in the U.S. is small in comparison to manually tuned radios, their numbers are growing rapidly, particularly in automobiles and clock-radios. GE's present receiver of this type was designed to operate in 10 kHz steps. Should the channel spacing change to 9 kHz, the receiver would be unable to tune to most of the new channel frequencies. GE states that the cost of reprogramming existing FS-turned radios to operate at 9 kHz spacing would far exceed to cost of an entire new radio designed for 9 kHz spacing. Ford, GM, and Tandy, all manufacturers of such receivers, echo GE's concern that a change in channel spacing will obsolete existing FS-tuned receivers and require development of a second generation receiver. EIA estimates there presently are over one million radios of this type owned by the public, the majority of which are in Cadillac automobiles. They project the manufacture of one million home radios with FS turning by the first half of 1980.

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[3] The DBA estimates 46,000,000 people in 1500 communities lose local service at night. But CCBS says that adjustments for service from adjacent cities and from FM reduces the number of affected communities to 299.

[4] Many stations desire to develop a characteristic sound. To do this they use audio processing equipment to produce radio signals which sound louder throughout their service areas. Audio processing is not covered by the FCC Rules.

[5] The effects discussed in this section ignore the effect of increased interference on receiver performance, which was discussed in question IV. Compensatory efforts will, however, be discussed here.

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25. Several anticipated effects are not functions of tuning. One effect mentioned by EIA applies to all radios that employ a 455 kHz Intermediate Frequency (IF) (generally all radios in this country except those in automobiles). It is the 909 kHz "tweet." When such radios are tuned to a station on 909 kHz (a channel in the 9 kHz plan) a 1 kHz audio tone will be heard along with the program content. (Note. The significance of this problem has not been fully evaluated by the staff.) NTIA says the present 10 kHz carrier beat would be replaced by a 9 kHz carrier beat, should the channel spacing be reduced. Although the annoyance potential of the new carrier beat would be greater (a 9 kHz audio tone is more noticeable than a 10 kHz one), its major effect might be realized only on high quality receivers than can filter the 10 kHz tone.

26. NTIA suggests this problem can be solved by adding a 9 kHz notch filter to the high quality receiver designs that previously had used a 10 kHz filter.

27. The increased adjacent channel interference can be compensated for, according to most respondents, by increasing receiver selectivity. Southern Broadcasting says, however, that such a step would be counterproductive to high fidelity reception.

VII. In View of the Changes That Can Be Made Both in the Transmitted Signal and in the Design of Receivers, What Is the Best Compromise To Obtain the Best Quality (Fidelity) Reception While Reducing the Possibility of Adjacent Channel Interference?

28. Motorola and Pioneer suggest a two position receiver switch to choose between wide and narrow bandwidths. They suggest the wide bandwidth could be used during daytime hours (when skywave interference is negligible) to improve fidelity when greater selectivity is not needed.

29. EIA indicates the need for design compromises in receivers depends on transmitted bandwidth. Harris assumes the opposite view that, while some increased protection from adjacent channel interference could be obtained by transmitter changes, the most severe cases of interference will be noticed in broadband receivers with 10 kHz whistle filters. Motorola, NTIA, and CCBC occupy a middle ground by stating that both (1) tighter controls on the bandwidth and processing of the transmitted signal and (2) changes in receiver selectivity will result in both better fidelity and reduced interference. Rust denies that a new compromise is necessary—with 10 kHz spacing the best compromise has already been determined. CPB redefines the purpose of the compromise. They state that in order to maximize the number of new stations acheivable, an across the board reduction of the transmitted bandwidth to 4.5 kHz is needed. This recasting of the question is done because "AM broadcasting is not typically a high fidelity service," and fidelity considerations should not overly influence design compromises.

30. GM urges that the present receiver bandpass should be maintained, if feasible with 9 kHz spacing. Instead, a reduction in transmitter splatter and overmodulation should aid in easing interference in congested regions.

VIII. Taking Into Account the Answers to All the Above Questions, What Protection Standards Should Be Adopted for First, Second, and Third Adjacent Channels?

31. NTIA, GE and DBA state there is no need to change the existing protection ratios. NTIA base their statement on the assumption that the existing ratios offer adequate protection at 10 kHz. NTIA add that they believe (without tests to confirm) that this approach would result in relatively few problems which should not be a major concern. DBA says consideration should be given to changing the protected contour of Class I–A and I–B stations. Rust states that existing protection standards should be changed, at least for new stations. It would be impractical to change directional patterns and transmitter sites of many existing stations, so increased adjacent channel interference would have to be tolerated for such existing stations. CCBS suggests that the first adjacent channel protection ratios should remain as they are, with different values for domestic and international protection, but only if 4 kHz low pass filters are installed at the transmitter audio input. If this does not occur, then the first adjacent channel ratios should be 5 dB greater (domestic and international). The second adjacent chanel ratio would not be substantially impacted by 9 kHz spacing. CPB suggests that new protection ratios for the adjacent channels can be determined by a straightforward application of a CCIR recommendation (equivalent to CCIR Recommendation 559).

IX. What Would Be the Economic Impact Expected in Converting To 9 kHz Channel Spacing?

32. There is general agreement among respondents that the costs of a switchover would be minimal for non-directional stations. Cost estimates for stations with directional antennas ran from $3,500 to $200,000.

33. NTIA observes that stations take their licenses subject to the understanding that technical changes may be required as the public's needs evolve. Stations know, as a condition of licensing, that they will have to pay for such changes from time to time. NTIA participated in field tests where the frequencies of three AM stations with directional antennas were changed by ± 4 kHz. The purpose was to anticipate problems broadcasters would encounter in a reduced spacing plan. As a result of the tests, NTIA estimates the cost of retuning a "typical" array by ± 4 kHz would be moderate, and considerably less than $10,000. To a large extent, final costs will depend on whether the FCC requires full proofs, something NTIA does not recommend for DAs employing four towers or less. It should be noted, too, that the cost would be lower for those stations that will change frequency less than 4 kHz.

34. Cox Broadcasting and Multimedia say over 1700 modifications to directional antennas would be required, and the costs would be "staggering." For example, compliance with FCC rules may also necessitate changes in transmitter locations. Yet, zoning restrictions, FAA requirements and so on severly limit site availability. On-site modifications to existing DAs could be very costly. They aver that when a DA is modified, there will very likely be a loss in service areas and a fall in station profits. Similarly, if during the time needed to modify a DA a station is not on the air, its cash flow will go down. While Harris notes transmitters and antennas already are designed in most cases to permit frequency changes up to 4 kHz, the costs of possible changes in hardware at a station might run from $100 for a one-tower station to $5000 for a station with a large antenna array. A directional array requiring the services of a consulting engineer would have considerably higher costs.

35. NPR fears the costs of converting may be substantial for some stations. The expenses for stations using DAs and having to shift 3 or 4 kHz might be "exorbitant." NPR surveyed its 8 AM stations using DAs and found costs might be considerable. One NPR station with a five-tower array thought its cost might approach $75,000. Although some stations would obtain benefits (e.g., fulltime operations) high enough to justify the expenses, others would have to make significant expenditures merely to maintain present service levels. Perhaps non-commercial stations could

be subsidized when making frequency changes.

36. CPB provides a detailed discussion of the factors that must be taken into account when changing the frequencies of directional and non-directional stations. The average cost for a non-directional station is estimated to be $1,200. Assuming that the average directional station uses a four-tower array, and that the services of a consulting engineer would be required, the average cost of changing the frequency of a directional station would be about $2,600. Highly critical arrays could cost as much as $5,000. ABC supplied the highest cost estimates. ABC has performed theoretical studies on 16 directional antennas with two to six towers. These studies showed it would be difficult for stations with "critical" patterns to maintain their patterns using existing parameters. However, precise predictions are impossible without knowing the actual antenna parameters of particular stations. In some cases, little retuning would be required. In others, complete readjustment would be necessary. In many cases, changes and adjustments would be very costly and time-consuming. ABC's consultants estimate expenses of about $1,000 for non-directional stations and up to $200,000 for DAs with critical patterns. A recent estimate for an adjustment to KGO's antenna, with a proof of performance filing, was about $20,000. Also, a change in frequency would involve a number of miscellaneous expenses related to promotion, advertising and the like.

37. CCBS believes the cost of a clear channel station's changing to 9 kHz spacing would not be substantial; however, the costs to a Class II or III directional station might exceed $10,000. The total costs of changing to 9 kHz spacing for non-directional stations would be about 2.5 million.

38. The largest cost involved in a switch to 9 kHz spacing will probably result from obsolescence and loss of value of electronically channelized (FS-tuned) receivers owned by the public. These receivers did not exist until recently.

39. GE reports that it began in April 1979 to design a switchable 9/10 kHz receiver, in order to mitigate the cost impact on itself and on consumers should there be a change to 9 kHz spacing. The design cycle for such a new model is typically about three years (i.e., the time from the initial design work until the first units appear at retail outlets). GE notes ordinary depreciation of existing receivers and the increasing availability of switchable receivers will reduce the unfavorable cost implications of a 9 kHz changeover after several years. GE suggests major manufacturers could absorb some of the consumers' costs by offering rebates on the "amortized" value of obsolete receivers.

40. According to EIA, there are currently about 1,000,000 FS-tuned receivers now in the hands of the public. Another million will be built during the first half of 1980. The FCC cannot expect manufacturers to produce radios with switchable 9 kHz and 10 kHz capabilities indefinitely. General Motors estimates that by 1981 at least 1.5 million vehicles will be using digital receivers synthesized at 10 kHz intervals. They would be obsoleted by a 9 kHz plan. Indeed, one GM line (Cadillac) uses digital receivers exclusively. With 10 kHz spacing, owners of these receivers will be able to receive only three out of every ten channels satisfactorily.

X. What Would Be the Impact of Several Hundred Additional Full-Time Operations on the Radio Marketplace?

41. While most respondents do not address this issue directly, those that do are sharply divided on whether the Commission should attempt to determine in advance either the number of economical new stations in a 9 kHz system or the economic impact new stations would have on existing stations. NTIA says this question is better left to the marketplace.

42. DBA supports the NTIA position that the Commission not become involved in the economics of the marketplace. However, several other parties (WRNJ; LPB, Inc.; Dr. Tarbox, et al.; ABES; Rust) express concern that the marketplace cannot support many new AM stations, particularly in view of competition from FM stations, and that further competition will bring poorer service, resulting in less news/public affairs programming. NABOB states that "existing minority broadcasters have the most to lose when it comes to a decrease in revenue due to competition." NABOB "strongly recommends that, before any 9 kHz proposal is adopted, an indepth economic analysis be performed in markets where existing minority owned broadcast facilities are located." Also, the NAB Proposes that an economic study of new 9 kHz stations be conducted.

43. Neither proponents nor opponents of 9 kHz channel spacing present any data either linking economic factors to the new stations or showing negative effects that the new competition might have on existing stations' profitability and overall service levels.

XI. Is AM Stereo Compatible With 9 kHz Channel Spacing?

44. Most respondents believe 9 kHz spacing would not present significant problems for AM stereo, although many point to a (potential) decrease in audio fidelity. CCBS believes that AM stereo and 9 kHz channel spacing are compatible. GE states that none of the stereo systems currently under consideration would be seriously affected by 9 kHz spacing, assuming existing technical regulations of the Commission remain unchanged; however, a 9 kHz stereo system would not be quite as good as a 10 kHz system.

45. ABC, NBC, and other broadcast licensees emphasize the loss of audio fidelity. ABC says this loss will make it even more difficult for AM stations to compete with FM, even though stereo and 9 kHz spacing are not mutually exclusive. NAB says, "There are no known special limitations which would be placed on AM stereo by a move to 9 kHz channel spacing." NAB believes AM stereo is necessary if AM is to compete with FM in terms of signal quality. Rust states the AM stereo systems under consideration would be compatible with 9 kHz spacing. But "why bother with AM stereo if you plan to reduce AM interference-free coverage and decrease audio fidelity?"

46. Harris urges that, in choosing an AM stereo system, the Commission should be careful not to act so as to preclude a reduced channel spacing at a later date. Of the proposed AM stereo systems, Harris said that only its system provides high fidelity using the same bandwidth as monophonic AM signals. Any loss of quality from an increase in adjacent channel interference would be the same for the Harris (linear) system as for monophonic AM. Motorola rebuts the alleged uniqueness that Harris attributes to its system.

XII. How Could the Change From 10 kHz Channel Spacing Be Effectuated in a Timely Manner With the Known Limited Number of Professional Radio Engineers Available To Do the Job?

47. Few respondents address the implementation question directly. Most recognize that a massive simultaneous change involving the retuning or readjustment of thousands of antennas could impose a large burden on consulting broadcast engineering firms and the Commission. It is generally believed that any transition to 9 kHz spacing would require substantial lead time. To minimize the impact of a change on licensees and the Commission, several respondents suggest a phased implementation over a

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period of several months, and a relaxed requirement as to proofs of performance.

48. NTIA suggests a phased implementation of 9 kHz spacing. That is, instead of requiring all stations to change to new frequencies at the same time, have 25 percent of the stations changing every three months. At the end of one year, all stations would have changed, and the demand on the consulting engineering profession would have been spread out over a reasonable period. CPB suggests a four-step plan. Since there are about 220 consulting engineers capable of assisting in making changes of the sort that would be needed, and since most non-directional stations would not require the services of a consulting engineer, CPB said an orderly changeover could be completed in about seven months.

49. Cox Broadcasting and Metromedia say the administrative burden involved in modifying thousands of stations and notifying the Commission would be tremendous. To process the large number of applications might require tens of thousands of person-hours. Southern Broadcasting makes similar comments.

Separate Statement of Chairman Charles D. Ferris in Which Commissioner Robert E. Lee Joins

Re: 9 kHz Channel Spacing for AM Broadcasting

The policy of the United States is to advocate a change in AM channel spacing in the Western Hemisphere from 10 to 9 kHz. This position was advanced at the first session of the Regional Administrative Radio Conference (RARC) in Buenos Aires in March, 1980. 9 kHz spacing will provide the people of the United States with substantial benefits by greatly expanding both outlets for expression and listening options for consumers. It will also bring the Western Hemisphere into conformance with the rest of the world, which already uses 9 kHz spacing.

This *Interim Report and Fourth Notice of Inquiry* provides the public with the report on 9 kHz spacing that was promised when the basic policy was adopted in January, 1980. We have decided that the benefits of 9 kHz far exceed the costs. The views expressed in this document confirm our intial judgment. Public comments on these views will allow us to prepare our case for the next RARC.

I hope the information developed will help convince the delegates to the next Regional meeting of the validity of our position.

Statement of Commissioner James H. Quello Dissenting in Part to the Interim Report and Notice of Further Inquiry into 9 kHz AM Channel Spacing

While I have no objection to the inclusion of certain staff conclusions in this item in order to expose them to public comment, I do not wish to adopt them at this time even as tentative conclusions. As I pointed out in my concurring statement when we considered this matter in December of 1979, there are too many unanswered questions for me to give this proposal my wholehearted support at this time. I'm still not satisfied that we have gained a sufficient understanding of the totality of impact this proposal is likely to have.

Therefore, I dissent to the portion of this document which is characterized as the Commission's tentative conclusions.

Separate Statement of Commissioner Abbott Washburn

Re: 9 kHz Channel Spacing for AM Broadcasting

Today's action announces the Commission's "tentative views" on 12 key questions presented in our intial Notice of Inquiry in this proceeding. Many of these "tentative views," I would like to emphasize, are based upon the scantiest of evidence. The bulk of the evidentiary material is yet to be received. So the view are *very* tentative indeed. They should not be regarded in any sense as *conclusions*.

It will be necessary for the Commission to review very carefully and with an open mind the forthcoming evidentiary material, including the Silliman, Moffet, & Kowalski cost studies. If review of this additional data so indicates, I would not hesitate to modify or depart from the very tentative views expressed today. Accordingly, parties are urged to augment this record in order to insure that our final conclusions will be based on the fullest information possible and accurately reflect the public interest.

[FR Doc. 80-26710 Filed 8-29-80; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1331

[Ex Parte No. 297 (Sub-No. 3]

Modified Terms and Conditions for Approval of Collective Ratemaking Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rules.

SUMMARY: This rulemaking was initiated to determine whether to apply to all other rate bureaus the prohibitions on railroad collective ratemaking activities contained in Section 5b of the Act (recodified in 49 U.S.C. sec. 1076(a)). It was published at 43 FR 1809, January 12, 1978. Issues included in this proceding were whether prohibitions should be placed on rate bureau voting or agreement on single-line rates and on joint-line rates in which the carriers could not "practically participate." These proposed restrictions would not have applied to single- and joint-line rates which were included in a general increase or decrease or as part of a broad adjustment.

Since this proceeding was initiated, Congress has passed the Motor Carrier Reform Act of 1980, which establishes separate standards for review or approval of motor carrier rate bureau agreements.

Accordingly, the Sub-No. 3 proceeding will be terminated. In the new proceeding, Ex Parte No. 297 (Sub-No. 5), Implementation of Pub. L. 96-296—Motor Carrier Rate Bureaus, instituted this date, we will take official notice of the record in Sub-No. 3 to the extent appropriate.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall, (202) 275-7693; (202) 275-7656.

This action does not significantly affect either the quality of the human environment or the conservation of energy resources.

(Sec. 14, Pub. L. No. 96-296 (49 U.S.C. 10321, 10706, 5 U.S.C. 553)

Decided: August 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford dissenting. See his separate expression in Ex Parte No. 297 (Sub-No. 5).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26736 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the 'Ewa Plains 'akoko (Euphorbia skottsbergii var. kalaeloana).

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the 'Ewa Plains 'akoko (*Euphorbia skottsbergii* Sherff var. *kalaeloana* Sherff) to be an Endangered Species. This action is being taken because of extensive past and potential modification of this plant's only known range on the 'Ewa Plains, near Barbers Point, Oahu, Hawaii. The proposal seeks to provide protection to this species under the Endangered Species Act of 1973, as amended.

DATES: Comments from the public must be received by November 3, 1980. Comments from the Governor of Hawaii must be received by December 1, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and material relating to this proposal are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, (703/235–2771).

SUPPLEMENTARY INFORMATION: The 'Ewa Plains 'akoko (*Euphorbia skottsbergii* var. *kalaeloana) is a shrub known only from the 'Ewa Plains of Oahu, Hawaii, in the vicinity of Barbers Point. Another variety of the same species (Euphorbia skottsbergii* var. *skottsbergii*), which formerly was found closer to the shoreline in the same vicinity, was last seen in 1932 and is presumed extinct. The 'Ewa area has been subject to varying levels of disturbance over the past several hundred years and presently supports predominantly non-native vegetation dominated by kiawe *(Prosopis)* and koa haole *(Leucaena)*, with remnant populations of native species. Development of dockside facilities in connection with the construction of a proposed deep-draft harbor poses the principal danger to the existence of this taxon, which is the only known survivor of three plant taxa originally endemic to the 'Ewa Plains.

Background

Section 12 of the Endangered Species Act of 1973 (the Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director of the U.S. Fish and Wildlife Service published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the Smithsonian report as a petition under Section 4(c)(2) of the Act. The plants named in this petition were placed under review for addition to the list of Endangered and Threatened plants, and on June 16, 1976, the Director published a proposed rule (41 FR 24523–24572) that would have listed some 1,700 such taxa as Endangered. This proposal was based on the Smithsonian Institution's petition as well as comments and other information received by the Service. *Euphorbia skottsbergii* var. *kalaeloana* was thought to be extinct at the time of both the petition and the notice of review, and was included in both under that status, but was among the taxa proposed for listing as Endangered in 1976.

The Endangered Species Act Amendments of 1978 subsequently required that any proposal to list a species as Endangered or Threatened be withdrawn unless made final within two years. A period of one year was allowed following passage of the Amendments on November 10, 1978, during which no proposals were to be withdrawn under this provision. On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976 proposal that had not been the subject of final action. The present proposal is based on information available at the time of the 1976 proposal and information gathered between that time and the date of the proposal's withdrawal, as well as new information provided under contract by the Department of Botany of the University of Hawaii (Char and Balakrishnan, 1979).

In the June 2, 1977, **Federal Register** (42 FR 32373–32381) the Service published a final rule detailing regulations to protect Endangered and Threatened plant species. These established prohibitions and a permit procedure to grant exceptions to the prohibitions under certain conditions.

Summary of Factors Affecting the Species

Section 4(a) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (45 FR 13010–13026, to be codified at 50 CFR Part 424) set out the procedures to be followed by the Director in determining whether any species is Endangered or Threatened as defined by the Act. Five general classes of factors are to be considered in making any such determination. These factors as they apply to the status of *Euphorbia skottsbergii* var. *kalaeloana* are:

1. *Present or threatened destruction, modification, or curtailment of habitat or range.*

The precise natural range of this taxon is unknown, but probably did not go beyond the coralline plains of the 'Ewa area. The loss of native habitat within this area began with Polynesian settlement of the islands and has continued down to the present. This has been so thorough that no completely native habitat can be said to be present any longer. Documented loss of the predominantly non-native vegetation in which the *Euphorbia* now occurs, with concomitant loss of a significant number of *Euphorbia* plants has taken place as lately as 1979.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.*

Does not apply to this species.

(3) *Disease or Predation (including grazing).*

None known.

(4) *Inadequacy of existing regulatory mechanisms.*

This taxon is not presently regulated.

(5) *Other natural or manmade factors affecting continued existence.*

Although the principal factor endangering this taxon is past and potential loss of habitat, it is possible that its reproductive success has been affected by decline of native pollinating insects. Competition from aggressive weedy species that now dominate vegetation in the area has also undoubtedly been a factor in its decline.

Critical Habitat

The Act defines Critical Habitat as "(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of [the] Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of [the] Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

Section 4(a)(1) of the Act requires that, to the maximum extent prudent, Critical Habitat be specified for a species at the time it is proposed for listing as Endangered or Threatened.

In the present case, the species proposed for listing as Endangered no longer is found in a native habitat and, although it survives in non-native vegetation, the greatly altered ecosystem in which it occurs cannot reasonably be said to be essential to its conservation. Thus, no Critical Habitat is specified in this proposal.

Effect of this Proposal if Adopted as a Final Rule

The Act and implementing regulations published in the **Federal Register** of June 24, 1977 set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. These regulations are found at 50 CFR 17.61, and are summarized below.

With respect to *Euphorbia skottsbergii* var. *kalaeloana* all

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prohibitions of Section 9(a)(2) of the Act, as implemented by Section 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell this species or offer it for sale in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and Section 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

Because *Euphorbia skottsbergii* var. *kalaeloana* is not presently traded commercially or exported, these prohibitions are not likely to have significant effects. Some imports and exports in the course of scientific research may have to be conducted under permit from the Service.

Section 7(a) of the Act also requires that Federal agencies carry out programs for the conservation of Endangered and Threatened species and that they ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such species. A procedure is also established whereby particular Federal actions may be exempted from compliance with Sec. 7(a). Provisions for interagency cooperation in complying with Section 7(a) of the Act are codified at 50 CFR 402. The present proposal would, if adopted as a final rule, allow the U.S. Army Corps of Engineers and the U.S. Navy's Barbers Point Naval Air Station to consult formally with the U.S. Fish and Wildlife Service concerning their activities in the Barbers Point area insofar as they might affect the 'Ewa Plains 'akoko, so that plans could be developed to ensure its continued existence. Such plans may include the establishment of new populations of this taxon in protected areas within the 'Ewa Plain as well as protection of existing populations on property presently under Federal control or acquired for this purpose.

The Service will also review the status of this species to determine whether it should be proposed to the Secretariat of the Convention of International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendices to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made prior to the promulgation of a final rule as to whether it is a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of *Euphorbia skottsbergii* var. *kalaeloana*. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat;

(3) Additional information concerning the range and Distribution of this species.

Final promulgation of a rule on *Euphorbia skottsbergii* var. *kalaeloana* will take into consideration comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

This proposal is published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884). The primary author of this proposed rule is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Information Sources

U.S. Army Engineer district, Honolulu, Hawaii 1976. Barbers Point Harbor-Design Memorandum No. 1, Plan Formulation.

Char, W. P. and N. Balakrishnan 1979. 'Ewa Plains Botanical Survey. Department of Botany, University of Hawaii at Manoa.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I. Title 50 of the Code of Federal Regulations, as set forth below.

1. It is proposed to amend § 17.12 by adding, in alphabetical order, the following to the list of Endangered and Threatened plants:

§ 1712. Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rules.
Scientific name	Common name					
Euphorbiaceae—spurge family:						
Euphorbia skottsbergii var. *kalaeloana*..	'Ewa Plains 'akoko...	U.S.A (HI)...............	E	....	NA	NA

Dated: August 21, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-26696 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule To Determine That Phacelia formosula Is an Endangered Species

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes the plant, *Phacelia formosula*, to be an Endangered species, under the authority of the Endangered Species Act. Historical and extant populations of this plant occur at only one known location in Colorado. Ownership of the site is shared by Jackson County and a private cattle company. Motorcycle traffic on the county property has altered that

habitat and endangers the existence of the species. The proposed determination that *Phacelia formosula* is an Endangered species, if finalized, would extend to this plant the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks comment on this species.

DATES: Comments from the public must be received by November 3, 1980. Comments from the Governor of Colorado must be received by December 1, 1980.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Fifth Floor, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Department of the Interior, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703-235-2771.

SUPPLEMENTARY INFORMATION: *Phacelia formusula* was discovered in 1918 and described the following year. It is an annual, herbaceous plant in the waterleaf family (Hydrophyllaceae), having a much-branched habit, glandular leaves, and attaining a height of 1.5–2.2 dm. The violet flowers are borne in clusters measuring up to five centimeters in length (Atwood, 1975). *Phacelia formosula* is known from only one population in North Park, Jackson County, Colorado, localized on a semi-arid sandstone bluff open to direct sunlight and winds. The area is sparsely vegetated. The continued existence of this plant and its habitat are being threatened by excessive motorcycle traffic (Wiley, 1979). This rule proposes to determine *Phacelia formosula* to be Endangered, which, if finalized, would implement the protection provided by the Endangered Species Act of 1973, as amended. The following paragraphs further discuss the actions to date involving this plant, the threats to the plant, and the effects of the proposed action.

Background: Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of this report as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant taxa to be Endangered species. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Phacelia formosula* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909–17916.)

The Endangered Species Act Amendments of 1978 (P.L. 95–632) required that all proposals over two-years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of the June 16, 1976, proposal along with other proposals which had expired (44 FR 70796–70797). At this time, the Service has sufficient new information to warrant reproposing *Phacelia formosula.*

The Service has fully evaluated a comprehensive status report on the species. The Service has also consulted a number of biologists with expertise in this plant and knowledge of its habitat and received very recent information on its status. On July 25, 1980, Susan Tabar, a professor of botany at The Colorado College and employed this summer by the Bureau of Land Management, conducted a field survey of the plant's habitat. Despite the fact that conditions were excellent for the plant this growing season, she found only 117 mature specimens and 3 seedlings in four small patches. This information indicates that *Phacelia formosula* is in danger of extinction.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of Factors Affecting the Species: Subsection 4(a) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in that subsection. These factors and their application to *Phacelia formosula* Osterhout are as follows:

1. *Present or threatened destruction, modification, or curtailment of its habitat or range*—*Phacelia formosula* has been known from only one location near Walden in Jackson County, Colorado, since its discovery in 1918. At one time, the species was thought to occur also in Grand County, but that specimen is now considered a misidentification. The location of *Phacelia formosula* is a sandstone bluff above the Michigan River. The population occupies about ¼ mile of the bluff. In 1979 there were about ten adult plants and a few dozen seedlings; in 1980, in response to a particularly wet spring, there were 117 mature plants and three seedlings clustered in about four patches. Botanists have searched for other suitable habitat without success. Ownership of this habitat is shared by Jackson County and the Brownlee Cattle Company. Dr. N. Duane Atwood, a botanist with the U.S. Forest Service, noted that in 1969 there were 30 to 40 mature individuals of *Phacelia formosula* in this area and a possible location of a second population nearby. Plants at this second location are now totally absent. The area at that time also suffered from motorcycle activity.

The limited habitat of this species is being destroyed through heavy use by off-road motorcyclists on the county-owned land. Local motorcycle trails, which are restricted to the bluff, run through the population. This activity is continuing at present. This sparsely vegetated hillside offers no obstacle to motorcyclists. Plants can be dislodged or crushed and the fragile habitat is subject to erosion from continual disturbance. Once disturbed, these fragile plant communities take many years to recover.

2. *Overutilization for commerical, sporting, scientific, or educational purposes.* Not applicable to this species.

3. *Disease or predation* (including grazing)—Grazing has occurred on the species' habitat. This grazing does not appear to threaten the species.

4. *The inadequacy of existing regulatory mechanisms*—There currently exist no State or Federal laws protecting this species or its habitat. The Endangered Species Act offers possibilities for protection of this species.

5. *Other natural or man-made factors affecting its continued existence*—Any human pressure on this species may exaggerate the possibility of small populations going extinct through natural population fluctuations. Reproductive success of the present population is reported as very poor, with low vigor. Vandalism, facilitated by expanding local awareness of the plant and its habitat, could destroy the species.

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Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to Subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation (to determine whether a species is endangered or threatened) is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

In addition, the Section 4 regulations of February 27, 1980 (45 FR 13009–13026) state that:

> If the Director determines that the designation of Critical Habitat is not prudent, he will state the reasons for such determination in the proposed and final rules listing a species.

If the exact locality of the species were published in the **Federal Register** and local newspapers at this time, the extremely rare *Phacelia formosula* might be additionally threatened by taking and vandalism, activities not directly prohibited for plants by the Endangered Species Act of 1973, as amended [see Subsection 9(a)(2), 16 U.S.C. 1538(a)(2)]. Since publication of Critical Habitat maps would make this species more vulnerable, it is not prudent to designate Critical Habitat in this case. After management and recovery plans have been developed for this plant, Critical Habitat may be beneficial and may be proposed in the future.

Effects of This Proposal if Published as a Final Rule

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. Provisions for Interagency Cooperation implementing this subsection are codified at 50 CFR Part 402. New regulations to accomodate amendments to Section 7 are in preparation. This proposed rule requires Federal agencies to confer with the Director on any of their actions which are likely to jeopardize this proposed species, and if published as a final rule Federal agencies would be required to insure that actions they authorize, fund or carry out are not likely to jeopardize the continued existence of this species. No such Federal involvement or impact is forseen at this time.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373–32381) set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The regulations which pertain to Endangered plants are found at Section 17.61 of 50 CFR and are summarized below. With respect to *Phacelia formosula* all prohibitions of Section 9(a)(2) of the Act, as implemented by Section 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR Sections 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species, under certain circumstances. No such trade in *Phacelia formosula* is known. It is anticipated that few permits involving the species would ever be requested.

If this plant is listed as an Endangered species, certain conservation authorities would become available and protective measures may be undertaken for it. These could include increased management of the species and its habitat, the possibility of land acquisition if necessary, the provision of two-thirds Federal (and one-third State) funds for the species should Colorado qualify for and enter into a cooperative agreement under Subsection 6(c)(2) of the Act, and the development of a recovery plan for the species as specified in Subsection 4(g).

No significant impact on State or local governments is expected as a result of this action. Jackson County, Colorado and a private individual share ownership of the sandstone bluff habitat of *Phacelia formosula.* Motorcycle use of the county property endangers this species. Protection of the species by habitat management might require interference with recreational use of the bluff. The county officials and private landowner are favorably disposed toward conservation of this species.

No significant economic impacts are expected. Cattle grazing occurs on the private portion of the *Phacelia formosula* habitat but does not appear to threaten the species. The reduction or elimination of the motorcycle use on the portion of the bluff where this species occurs would entail no permanent economic burden. At this time it appears that the proposed action would not constitute a significant economic impact on landowners, the local economy, the regional economy, or on local governments. This species is not known to be the subject of any commercial activities.

If listed as Endangered under the Act, the Service will review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of the final rule whether this is a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Public Comments Solicited

The Director intends that any rules finally adopted will be as accurate and effective as possible in the conservation of Endangered or Threatened species. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party, concerning any aspect of these proposed rules, are solicited. Comments particularly are sought concerning:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal.
2. The reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by the Act.
3. Additional information concerning the range and distribution of this species.

Final promulgation of the regulations on *Phacelia formosula* will take into consideration any comments and additional information received by the Director, and such communications may lead him to adopt a final rule that differs from this proposal.

The proposal is published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225). The primary authors of the proposed rule are Barry S. Mulder and Bruce MacBryde, Office of Endangered Species, Washington, D.C. (703–235–1975). K. M. Mutz of Meiiji Resource Consultants and J. L. Miller of the U.S. Fish and Wildlife Service prepared provisional documents, and Karen L. Wiley, Bureau of Land Management, Craig, Colorado, prepared the status report on this species.

References Cited

Atwood, N. D., 1975. A revision of the Phacelia Crenulatae group (Hydrophyllaceae) for North America. Great Basin Naturalist, Vol. 35, No. 2, pp. 161–162.

Wiley, K. L., 1979. Status report on *Phacelia formosula* Osterhout. Prepared by the Bureau of Land Management and submitted to U.S. Fish and Wildlife Service. Report dated October 18, 1979.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.12 by adding in alphabetical order, the following to the list of plants:

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Hydrophyllaceae—Waterleaf family:						
Phacelia formosula	None	U.S.A. (CO)	E	NA	NA	NA

Dated: August 20, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-26694 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Withdrawal of Expired Proposals for Listing Eight Arthropod Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of two expired proposed rules.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandates withdrawal of proposed rules to list species which have not been made final within two years of the proposal date. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limit has expired for proposals to list the Kauai cave wolf spider (*Adelocosa anops*), Kauai cave amphipod (*Spelaeorchestia koloana*), blue-black silverspot butterfly (*Speyreria nokomis nigracaerulea*), Dakota skipper butterfly (*Hesperia dacotae*), Great Basin silverspot butterfly (*Speyria nokomis nokomis*), Karner blue butterfly (*Lycaeides melissa samuelis*), Pawnee montane skipper (*Hesperia pawnee montana*), and San Francisco tree lupine moth (*Grapholita edwardsiana*).

The Kauai cave wolf spider and Kauai cave amphipod were proposed for listing as Endangered and Threatened, respectively, on June 16, 1978 (43 FR 26084–87). The butterflies and the moth were proposed for listing as Endangered or Threatened on July 3, 1978 (43 FR 28938–45). Ten Lepidoptera were included in this proposal. Three of the species were made final: the Kern primrose sphinx moth, Threatened without Critical Habitat on April 8, 1980 (45 FR 24088–90), the Oregon silverspot butterfly, Threatened with Critical Habitat on July 2, 1980 (45 FR 44935–390, and the Palos Verdes blue butterfly, Endangered with Critical Habitat (45 FR 44939–42). This notice constitutes the withdrawal of the seven lepidopterans and the two Hawaiian invertebrates for which the two-year time limit has expired.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

> A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the **Federal Register** not later than two years after the date of publication of the notice of the regulation proposing listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the Kauai cave wolf spider and Kauai cave amphipod, proposed on June 16, 1978 (43 FR 26084–87); for the blueblack silverspot, Dakota skipper, Great Basin silverspot, Karner blue, and Pawnee montane skipper butterfflies, and the San Francisco tree lupine moth, all proposed on July 3, 1978 (43 FR 28928–45).

In accord with section 4(f)(5), the Kauai cave wolf spider and amphipod were withdrawn on June 15, 1980. The six lepidopterans were withdrawn on July 2, 1980. This action gives notice of the withdrawal of these species.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543).

The primary author of this notice is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dated: August 19, 1980.

Ronald E. Lambertson,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-26695 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Three Southeastern Fishes

AGENCY: Fish and Wildlife Service, Interior.

V 45/171 SE2 80 UMI

ACTION: Notice of status review.

SUMMARY: The Service will review the status of (1) *Scaphirhynchus* sp. Alabama shovelnose sturgeon; (2) *Noturus munitus* frecklebelly madtom; and (3) *Percina lenticula* freckled darter, to determine whether these species should be proposed for listing as Endangered or Threatened species. Preparatory to a possible listing proposal for these fishes, information is also solicited on areas that may qualify as critical habitat designation. This action is being taken because a review of available literature indicates that the Tombigbee River in Alabama and Mississippi constitutes a significant portion of the ranges of these species and that the species face elimination or decimation due to habitat alterations which are occurring in that area. Information received as a result of this notice will be used to assist the Service in determining the status of these species.

DATE: Information concerning the status of these species should be submitted on or before December 1, 1980.

ADDRESS: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771) or Mr. Dennis B. Jordan, Endangered Species Staff Specialist, Jackson Area Office, U.S. Fish and Wildlife Service, Jackson, Mississippi 39201 (601/969–4900).

SUPPLEMENTARY INFORMATION:

Background

A review of available literature indicates that the Tombigbee River in Alabama and Mississippi constitutes a significant portion of the ranges of the three (3) species of fishes addressed herein. These three fishes generally require the same type of habitat, i.e. sand and/or gravel substrate with moderate to swift current in large free-flowing rivers. *Noturus munitus*, and *Percina lenticula* have been extirpated over a significant portion of their historic range primarily due to habitat alteration. The upper Tombigbee River probably provides one of the last strongholds for these three species. *Scaphirhynchus* sp. is endemic to the Mobile Basin below the Fall Line and is known from approximately twenty-five specimens. On the lower Tombigbee and Alabama Rivers impoundments have blocked spawning runs and destroyed current-swept firm sand and gravel substrate which constitute the primary habitat for this species.

The most obvious threat to the continued existence of these species is the Tennessee-Tombigbee Waterway Project as well as the Tombigbee River and Tributaries Project of the U.S. Army Corps of Engineers. Severe habitat alteration in the form of channel dredging, removal of streamside vegetation, increased turbidity and siltation, and activities associated with reservoir construction will subject these species to an environment unsuitable for their survival.

The Service is seeking the views of the Governors of Alabama, Georgia, Louisiana, Mississippi, and Tennessee, as well as other Federal agencies and interested parties, and is requesting from them any data relative to these species. All data received as a result of this notice, as well as data now on hand, will be analyzed by the Service to determine whether any or all of these species should be proposed for listing as Endangered or Threatened species, and whether critical habitat should be included. Any information received in regard to economic and other impacts associated with potential critical habitat areas will also be taken into consideration.

The following documents were consulted in preparing this notice:

(1) *A Report on the Fishes of the Upper Tombigbee River, Yellow and Indian Creek Systems of Alabama and Tennessee, First Supplemental Environmental Report, Continuing Environmental Studies, Tennessee-Tombigbee Waterway.* Volume VII, Mobile District, Corps of Engineers, 1975.

(2) *Endangered and Threatened Plants and Animals of Alabama. A Preliminary List of Rare and Threatened Vertebrates in Mississippi.* Mississippi Game and Fish Commission, 1975.

(3) *Fishes of North America—Endangered, Threatened, or of Special Concern.* American Fisheries Society, Fisheries, March–April 1979.

(4) *Stream Channelization and Fish Diversity in the Luxapalila River in Alabama and Mississippi.* Masters Thesis by Padgett Kelly, Mississippi State University, 1975.

(5) *Distributional Notes on Fishes From Northern Georgia With Comments on the Status of Rare Species.* Proceedings of Southeastern Fishes Council, April 1979.

(6) Statement of Dr. Royal D. Suttkus presented in Vicksburg, Mississippi at Federal Water Resources Hearings, May 16, 1979.

This notice of review was prepared by Richard G. Rummel, U.S. Fish and Wildlife Service, 200 E. Pascagoula Street, Suite 300, Jackson, Mississippi 39201.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, 92 Stat. 3751).

Dated: August 26, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80–26799 Filed 8–29–80; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 45, No. 171
Tuesday, September 2, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Licenses and Authorizations; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, September 19, 1980 at the office of O'Melveny & Myers, 1800 M Street NW., Suite 500 South, Washington, D.C.

The Committee will meet to discuss Professor Richard Merrill's study of regulation of carcinogens.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker (202–254–7065). Minutes of the meeting will be available on request.

Dated: August 25, 1980.

Richard K. Berg,

Executive Secretary.

[FR Doc. 80–26677 Filed 8–29–80; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

General Conference Committee of the National Poultry Improvement Plan; Renewal of Advisory Committee

Notice is hereby given that the Secretary of Agriculture has renewed the General Conference Committee of the National Poultry Improvement Plan as an Advisory Committee of the Department of Agriculture. The renewal of this Committee will continue to provide a forum where elected poultry industry representatives (Advisory Committee members) can assemble to study problems relating to poultry health and, as the need arises, to make specific recommendations to the Secretary of Agriculture concerning ways in which the Department may assist the industry in solving these problems. In addition, the Committee will assist the Department in planning, organizing and conducting the biennial National Poultry Improvement Plan Conference, and in the interim between Conferences, will offer advice with respect to administrative procedures and interpretation of Plan provisions as contained in 9 CFR, Chapter 1, Subchapter F. The Committee will also assist the Department in evaluating comments received from interested persons concerning proposed amendments to the Plan provisions.

The National Poultry Improvement Plan is administered under the authority of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 428). The General Conference Committee will be chaired by the Assistant Secretary of Marketing and Transporting Services or his designee. The Vice Chairperson will be Administrator, Animal and Plant Health Inspection Service. A staff member, Swine and Poultry Diseases Staff, Veterinary Services APHIS, will be executive secretary.

It has been determined that renewal of this committee is in the public interest in connection with the work of the Department of Agriculture.

Done at Washington, D.C., this 27th day of August 1980.

R. R. "Bobby" Smith,

Assistant Secretary Marketing and Transportation Services.

[FR Doc. 80–26894 Filed 8–29–80; 10:38 am]

BILLING CODE 3410–34–M

DEPARTMENT OF COMMERCE

International Trade Administration

Subcommittee on Export Administration of the President's Export Council; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council (PEC) will be held on Monday, September 15, 1980, at 9:30 a.m., in room 6802 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On April 5, 1979, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1980, of the Subcommittee, pursuant to the provisions of Executive Order 11753, as amended and extended by Executive Orders 11827, 11948, and 12110. Executive Order 12131 of May 4, 1979, which reconstituted the President's Export Council and revoked Executive Order 11753, provides that nothing in Executive Order 12131 shall be deemed to require new charters for subcommittees of the Council which were current immediately prior to the issuance of Executive Order 12131.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979, that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The agenda for the meeting is as follows:

1. Review of past Subcommittee work including discussion on final report of the Subcommittee to be presented to the President's Export Council.
2. Discussion by the Subcommittee on the following issues:

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Proposals for relaxation of export licensing requirements for all COCOM countries, Australia and New Zealand.

Status report from the Department of Defense regarding the Critical Technologies issue.

A limited number of seats at the meeting will be available to the public on a first-come basis. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Jan Grover, Office of Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–4188.

For further information, contact Mrs. Jan Grover, either in writing or by telephone, at the address or number shown above.

Dated: August 26, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80–26681 Filed 8–29–80; 8:45 am]

BILLING CODE 3510–25–M

Maritime Administration

Construction of Two 40,000 Dwt Multi-Purpose Cargo Type Vessels MA Design C6–M–137a; Intent To Compute Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of two 40,000 dwt multi-purpose cargo type vessels, MA Design C6–M–137a.

Any person, firm or corporation having any interest (within the meaning of Section 502(b)) in such computations may file written statements by the close of business on September 15, 1980, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated: August 27, 1980.

By order of the Maritime Subsidy Board, Maritime Administration.

Robert J. Patton, Jr.,

Secretary

[FR Doc. 80–26784 Filed 8–29–80; 8:45 am]

BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

Intent To Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) intends to prepare a Draft Environmental Impact Statement (DEIS) on the proposed approval of the Florida Coastal Management Program (FCMP) under the provisions of Section 306 of the Federal Costal Zone Management Act of 1972 (Pub. L. 92–583), as amended), and distributed it in November, 1980.

Federal approval of the Florida Coastal Management Program would allow program administrative grants to be awarded to the State and require that Federal actions be consistent with the Program.

The Program consists of numerous policies on diverse management issues which will be prescribed by executive orders, joint resolutions and memoranda of understanding and enforced by the laws of the State, and is the culmination of five years of development. The Florida Program will condition, restrict or prohibit some uses in parts of the management area, while encouraging development and other uses in other parts. The Program should improve the decision-making process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The program will possibly result in some short-term economic impacts on coastal users but should lead to increased long-term protection of the State's coastal resources. Federal alternatives will include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. State alternatives include the possibility to modify parts of the Program or withdraw its application for Federal approval.

In order to determine the scope and significance of issues to be addressed in the DEIS, OCZM would like to solicit comments on the proposed action, particularly with respect to the following issues:

(1) The adequacy of the scope and geographic coverage of the program's laws and regulations to manage impacts on wetlands and other vulnerable natural resources;

(2) The adequacy of the mechanisms for administrative review and enforcement of compliance of agency decisions;

(3) The adequacy of the mechanisms for State agency coordination and consultation in order to effectively implement the FCMP;

(4) The extent to which the Program addresses the economic impact of fisheries, tourist/resort related and major facilities development;

(5) The means by which the Program in the future will provide for the continued designation of additional areas of particular concern.

Persons or organizations wishing to submit comments on these or other issues should do so by September 30, 1980. Any comments received after that time will be considered in the response to comments received on the DEIS. Please submit all comments to: Ann Berger-Blundon, Gulf/Islands Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, 202–254–7546.

Dated: August 27, 1980.

Donald W. Fowler,

Deputy Assistant Administrator, Coastal Zone Management.

[FR Doc. 80–26765 Filed 8–29–80; 8:45 am]

BILLING CODE 3510–08–M

Western Pacific Fishery Management Council; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

DATES: September 15–17, 1980.

ADDRESS: The meeting will take place at the Conference Center, Rainmaker Hotel, Pago Pago, American Samoa, and Manua High School, Manua, American Samoa.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Meeting Agendas follow:

Council—(open meeting) September 15, 1980 (2 p.m. to 5 p.m.) September 16, 1980, (9:30 a.m. to 2:30 p.m.) September 17, 1980 (8:30 a.m. to 12 noon).

Agenda: Review final draft of Spiny Lobster Fishery Management Plan; environmental impact statement/regulatory analysis, and draft regulations; review draft of source document for Billfish Fishery Management Plan; environmental impact statement, regulatory analysis; fill vacancy on the Scientific and Statistical Committee, and conduct other fishery management business.

Council—(closed session) September 16, 1980 (8:30 a.m. to 9:30 a.m.)

Agenda: Discuss personnel matters regarding vacancies on the Scientific and Statistical Committee, Advisory Panel and Planning Teams.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on July 8, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(6), and this portion of the closed meeting is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 20, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-26675 Filed 8-29-80; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council's Advisory Panel and Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established an Advisory Panel (AP) and a Scientific and Statistical Committee (SSC) which will meet separately. The AP will meet to review final draft of source document for the Billfish Fishery Management Plan (FMP), environmental impact statement (EIS), and regulatory analysis (RA). The SSC will meet to review final draft of Spiny Lobster FMP, EIS, RA, and draft regulations.

DATES: The AP meeting will convene on Wednesday, September 10, 1980, at approximately 9:30 a.m., and will adjourn at approximately 4 p.m. The SSC meeting will convene on Thursday, September 11, 1980, at approximately 8 a.m., and will adjourn at approximately 5 p.m. The meetings are open to the public.

ADDRESS: Both AP and SSC meetings will take place at the Honolulu Laboratory, National Marine Fisheries Service, Southwest Fisheries Center, 2570 Dole Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, Telephone: (808/523-1368).

Dated: August 20, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-26676 Filed 8-29-80; 8:45 am]

BILLING CODE 3510-22-M

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Notice of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notice 4-80.

SUMMARY: 50 CFR 296.8 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the Title IV Program. Any interested person may, within 30 days of publication of this notice, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before October 2, 1980.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Kathryn Hensley, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202-634-4688).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require the publication in the **Federal Register** of a notice of each claim submitted (see 50 CFR 296.8(a)(1)(iv)). Each **Federal Register** notice published shall contain the following information: (a) a brief statement of the nature and dollar amount of the claim, and the location where the damage or loss occurred; (b) a statement that the Chief, FSD, may seek a proposed settlement agreement under 50 CFR 296.8(c); and (c) a statement that an interested person or any other person may, within thirty (30) days following publication of this notice in the **Federal Register**, submit to the Chief, FSD, any evidence concerning either the claim or a proposed settlement agreement.

50 CFR 296.8(a)(3)(i) provides that any interested person may submit evidence at any hearing concerning a claim in accordance with 50 CFR 296.10(d), or on any proposed settlement under 50 CFR 296.8(c). Any person who intends to submit evidence must notify the Chief, FSD, NMFS, in writing, describing specifically the evidence to be submitted not later than 30 days after publication of this notice in the **Federal Register.**

Any interested person may request to be admitted as a party to any hearing which is conducted concerning the claim. Such request must be filed with the Chief, FSD, in writing, not later than 30 days after publication of the notice of claim in the **Federal Register.** Such request will be ruled on by the Administrative Law Judge (ALJ).

50 CFR 296.8(c) provides that the Chief, FSD, may contact a claimant and negotiate a proposed settlement of the claim. If the claimant agrees to a proposed settlement, the Chief, FSD, will, no sooner than 30 days after publication of the notice of the claim in the **Federal Register** forward the proposed settlement agreement to the General Counsel, NOAA. The Chief, FSD, may also forward to the General Counsel, NOAA, an agency recommendation concerning the claim. Such recommendation may be, among other things, to: (i) approve the claim, (ii) approve a proposed settlement of the claim, or (iii) deny the claim.

If the recommendation is to deny the claim, the General Counsel, NOAA, will promptly refer it to the ALJ for adjudication. If the recommendation is to approve the claim or for a proposed settlement, the General Counsel will publish a notice of the recommendation in the **Federal Register.** Not sooner than 15 days after that notice is published, the General Counsel will send to the ALJ the claim, the Agency recommendation, any request by an interested person to submit evidence or to be admitted as a party to any hearing, and any request that an oral hearing be conducted concerning the claim. The ALJ will then adjudicate the case.

The following claims have been received.

BILLING CODE 3510-22-M

CLAIM #	NATURE OF LOSS AND LOCATION	AMOUNT
FCF-37-79	On 11/9/78 claimant lost one 45 ft. net and roller line and 3 1/2 hours fishing time, while trawling for shrimp at the following coordinates: 28°38.5'N 90°12.5'W	$ 350.00 - Gear Loss $ 350.00 - Economic Loss $ 700.00 - Total
FCF-38-79	On 12/5/78 claimant lost a pair of trawl doors and 5 hours fishing time, while trawling for shrimp at the following coordinates: 28°28.6'N 90°14.8'W	$ 653.00 - Gear Loss $ 500.00 - Economic Loss $1,153.00 - Total
FCF-40-79	On 12/15/78 claimant lost one 45 ft. nylon net and 4 1/2 hours fishing time, while trawling for shrimp at the following coordinates: 28°26.8'N 90°19.9'W	$ 300.00 - Gear Loss $ 450.00 - Economic Loss $ 750.00 - Total
FCF-41-79	On 11/3/78 claimant lost two 45 ft. nets and 10 hours fishing time, while trawling for shrimp at the following coordinates: 28°25.9'N 90°24.4'W	$1,168.00 - Gear Loss $1,100.00 - Economic Loss $2,268.00 - Total
FCF-47-79	On 2/15/79 claimant lost a bridle, ballon, trawl, plastic rope, chain, shark protector and swivel, while trawling for shrimp at the following coordinates: 28°51.4'N 90°14.7'W	$2,001.40 - Gear Loss $ 100.00 - Consequential Loss $2,101.40 - Total
FCF-59-79	On 6/6/79 claimant lost 2 nets and damaged his vessel and 12 hours fishing time, while trawling for shrimp at the following coordinates: 29°00.2'N 92°17.7'W	$5,424.95 - Gear Loss $2,064.50 - Economic Loss $ 45.00 - Consequential Loss $7,534.45 - Total
FCF-85-79	On 12/12/78 claimant damaged his fishing net and lost 3 hours fishing time, while trawling for shrimp at the following coordinates: 29°32.5'N 92°47.8'W	$ 500.00 - Gear Loss $1,200.00 - Economic Loss $1,700.00 - Total
FCF-86-79	On 10/4/78 claimant lost one net, lazy coil line, 125 ft. chain, and 12 hours fishing time, while trawling for shrimp at the following coordinates: 28°03.9'N 93°43.8'W	$1,790.00 - Gear Loss $ 900.00 - Economic Loss $2,690.00 - Total

FCF-87-79	On 10/11/78 claimant damaged a fishing net and lost 3 hours fishing time, while trawling for shrimp at the following coordinates: 29°00.9′N 94°35.5′W	$ 800.00 - Gear Loss $1,050.00 - Economic Loss $1,850.00 - Total
FCF-89-79	On 10/18/78 claimant damaged a fishing net and lost 3 hours fishing time, while trawling for shrimp at the following coordinates: 29°39.0′N 93°06.3′W	$ 900.00 - Gear Loss $3,400.00 - Economic Loss $4,300.00 - Total
FCF-90-79	On 11/4/78 claimant lost nets trawl doors, bagties, lazy lines, and 1 day fishing time, while trawling for shrimp at the following coordinates: 29°37.2′N 93°35.4′W	$7,189.00 - Gear Loss $1,800.00 - Economic Loss $8,989.00 - Total
FCF-91-79	On 11/10/78 claimant lost one fishing net and 6 hours fishing time, while trawling for shrimp at the following coordinates: 29°02.5′N 93°26.9′W	$1,540.00 - Gear Loss $ 700.00 - Economic Loss $2,240.00 - Total
FCF-92-79	On 11/11/78 claimant damaged one fishing net, tickler chain and lost 6 hours fishing time, while trawling for shrimp at the following coordinates: 26°23.5′N 92°56.8′W	$ 950.00 - Gear Loss $ 900.00 - Economic Loss $1,850.00 - Total
FCF-93-79	On 11/20/78 claimant damaged one fishing net and lost 6 hours fishing time, while trawling for shrimp at the following coordinates: 29°27.7′N 92°29.9′W	$ 750.00 - Gear Loss $ 600.00 - Economic Loss $1,350.00 - Total
FCF-94-79	On 12/5/78 claimant lost 2 nets, lazy lines, and 1 day fishing time, while trawling for shrimp at the following coordinates: 29°31.8′N 93°40.0′W	$3,380.00 - Gear Loss $1,500.00 - Economic Loss $4,880.00 - Total
FCF-95-79	On 10/16/78 claimant lost one net, lazy line and hang line and 1 1/2 days fishing time, while trawling for shrimp at the following coordinates: 29°00.0′N 95°12.8′W	$1,665.00 - Gear Loss $ 975.00 - Economic Loss $2,640.00 - Total

FCF-96-79	On 12/10/78 claimant lost one net, hang line, and 3 hours fishing time, while trawling for shrimp at the following coordinates: 29°38.9′N 93°02.9′W	$ 825.00 - Gear Loss $ 600.00 - Economic Loss $1,425.00 - Total
FCF-97-79	On 11/13/78 claimant lost one net, tickler chain, lazy line and 12 hours fishing time, while trawling for shrimp at the following coordinates: 29°05.1′N 93°11.6′W	$1,790.00 - Gear Loss $1,800.00 - Economic Loss $3,590.00 - Total
FCF-98-79	On 11/28/78 claimant lost nets, tickler chains, lazy lines, and 1 day fishing time, while trawling for shrimp at the following coordinates: 29°19.4′N 92°04.5′W	$3,680.00 - Gear Loss $2,400.00 - Economic Loss $6,080.00 - Total
FCF-101-79	On 1/18/79 claimant lost nets, lazy lines, hang lines and 1 day fishing time, while trawling for shrimp at the following coordinates: 28°49.0′N 91°45.7′W	$3,485.00 - Gear Loss $2,400.00 - Economic Loss $5,885.00 - Total
FCF-104-79	On 7/13/79 claimant lost one net, lazy line, and 10 hours fishing time, while trawling for shrimp at the following coordinates: 29°15.2′N 93°00.7′W	$1,690.00 - Gear loss $1,800.00 - Economic Loss $3,490.00 - Total
FCF-105-79	On 7/22/79 claimant lost nets lazy line, hang line, damaged a door, and lost 12 hours fishing time, while trawling for shrimp at the following coordinates: 29°02.6′N 93°31.9′W	$3,555.00 - Gear Loss $2,700.00 - Economic Loss $6,255.00 - Total
FCF-108-79	On 8/2/79 claimant damaged his fishing vessel and lost 15 days fishing time, while trawling for shrimp at the following coordinates: 28°28.4′N 92°03.4′W	$2,565.37 - Gear Loss $3,157.00 - Economic Loss $ 609.00 - Consequential Loss $6,331.37 - Total

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FCF-110-79	On 8/14/79 claimant lost one net, lazy line, tickler chain, shaffing gear, tail rope, while trawling for shrimp at the following coordinates: 29°03.5′N 92°49.0′W	$1,200.00 - Gear Loss $1,200.00 - Total
FCF-112-79	On 9/13/79 claimant lost a net and accessories while trawling for shrimp at the following coordinates: 29°25.6′N 94°49.7′W	$ 855.00 - Gear Loss $ 855.00 - Total
FCF-02-80	On 11/12/79 claimant lost 2 sets of trawl doors, four 52 ft. ballon trawl nets, lazy line, tickler chains and 4 hours fishing time, while trawling for shrimp at the following coordinates: 28°43.0′N 89°43.5′W	$2,600.00 - Gear Loss $1,506.60 - Economic Loss $4,106.60 - Total
FCF-04-80	On 12/6/79 claimant lost doors, cables, chains, shackles, nets rope, and 2 days fishing time, while trawling for shrimp at the following coordinates: 28°02.4′N 95°53.5′W	$ 869.30 - Gear Loss $3,115.68 - Economic Loss $3,984.98 - Total
FCF-05-80	On 12/2/79 claimant damaged his vessel and fishing gear and lost 2 days fishing time, while trawling for shrimp at the following coordinates: 29°06.4′N 91°40.3′W	$ 200.00 - Gear Loss $3,771.80 - Economic Loss $ 350.00 - Consequential Loss $4,321.80 - Total
FCF-10-80	On 1/14/80 claimant lost lead line, tickler chain, easyline, and 1 hour fishing time, while trawling for shrimp at the following coordinates: 29°40.8′N 93°24.7′W	$1,036.34 - Gear Loss $ 150.00 - Economic Loss $1,186.34 - Total
FCF-13-80	On 2/28/80 claimant lost a 74 ft. nylon net and accessories while trawling for shrimp at the following coordinates: 28°48.9′N 92°09.7′W	$1,169.66 - Gear Loss $1,169.66 - Total

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FCF-14-80	On 1/29/80 claimant lost nets, doors, lazy line, sleds, cable, chain, shackles, bag ties and 14 days fishing time, while trawling for shrimp at the following coordinates: 28°33.0′N 91°21.0′W	$3,570.41 - Gear Loss $7,000.00 - Economic Loss $10,570.41 - Total
FCF-15-80	On 3/7/80 claimant lost three nylon nets and 1 hour fishing time, while trawling for shrimp at the following coordinates: 29°41.4′N 93°01.2′W	$ 820.03 - Gear Loss $ 69.00 - Economic Loss $ 889.03 - Total
FCF-16-80	On 12/16/79 claimant lost doors, cable, chains, and schackles, while trawling for shrimp at the following coordinates: 28°45.6′N 91°34.4′W	$1,968.19 - Gear Loss $1,968.19
FCF-17-80	On 2/19/80 claimant lost one net, chain, etc., while trawling for shrimp at the following coordinates: 28°34.9′N 91°29.1′W	$1,844.18 - Gear Loss $1,844.18 - Total
FCF-18-80	On 1/15/80 claimant lost cable, chain, lead line, nylon twine, tickler chain, cork line, while trawling for shrimp at the following coordinates: 28°37.3′N 91°16.7′W	$1,400.00 - Gear Loss $1,400.00 - Total
FCF-22-80	On 2/16/80 claimant lost one net, and damaged boat propeller, while trawling for shrimp at the following coordinates: 29°15.4′N 92°10.8′W	$5,009.43 - Gear Loss $5,009.43 - Total
FCF-29-80	On 4/8/80 claimant lost one net while trawling for shrimp at the following coordinates: 27°20.2′N 97°09.9′W	$3,624.00 - Gear Loss $3,624.00 - Total
FCF-30-80	On 4/26/80 claimant lost nets, doors, sled, cable, etc., while trawling for shrimp at the following coordinates: 28°48.3′N 91°24.1′W	$3,624.00 - Gear Loss $3,624.00 - Total

BILLING CODE 3510-22-C

Anyone wishing to submit evidence concerning any of these claims, or to become a party to any hearing, must contact, in writing, Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, on or before October 2, 1980 (telephone (202) 634-4688).

Dated: August 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-26670 Filed 8-29-80; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on September 19, 1980, in the Aspen Room at the National Telecommunications and Information Administration, 1325 "G" Street, N.W., Washington, D.C. (Public entrance to the building is on "G" Street, between 13th Street and 14th Street, N.W.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 11 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The agenda items for the meeting will be:

(1) Future ITU Conference Preparation—

- Status report on progress and programs of the "Ad Hoc Committee for Expert Representation in Telecommunications" (ASERT)—Mr. R. Gould
- Continued Discussion of Conference Preparation Procedures
- Members response to question posed by Chairman in preparation for Nairobi Plenipotentiary Conference.

(2) US/ITU Relationships—

- Discussion of 1975 FMAC "Staff Study on the Future Relationship of the USA with the ITU".

(3) Any other procedural business of the Council.

(4) Scheduling of the next meeting.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before September 17, 1980. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 15 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 60 days after the meeting.

Inquiries may be addressed to the Council Control Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 268, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone 202-724-3301.

Dated: August 27, 1980.

Cloyd C. Dodson,

Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 80-26767 Filed 8-29-80; 8:45 am]

BILLING CODE 3510-60-Mg

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton and Man-Made Fiber Textile Products From Mexico

August 27, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton underwear in Category 352, at the level of 181,818 dozen, and man-made fiber dressing gowns in Category 650 at a level of 29,412 dozen during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172) as amended on April 23, 1980 (45 FR 27463).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico, the United States Government has decided to control imports of cotton and man-made fiber textile products in Categories 352 and 650, produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated. (See 44 FR 76383)

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-5423.

SUPPLEMENTARY INFORMATION: On December 26, 1979, there was published in the **Federal Register** (44 FR 76383) a letter dated December 18, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton and man-made fiber textile products produced or manufactured in Mexico, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton and man-made fiber textile products in Categories 352 and 650, produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1980. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on September 2, 1980, to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 352 and 650, produced and manufactured in Mexico and exported during the twelve-month period which began on January 1, 1980, in excess of the designated levels of restraint. The levels have not been adjusted to reflect any imports after December 31, 1979. Imports during the January–June 1980 period amounted to 70,777 dozen in Category 352 and 23,443 dozen in Category 650 and will be charged. As the data become available, further charges will be made to account for the period which began on July 1, 1980 and extends to the effective date of this action.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

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August 27, 1980.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 18, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Mexico.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 2, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 352 and 650, produced or manufactured in Mexico and exported on and after January 1, 1980, in excess of the following levels of restraint.

CATEGORY	12-Month Level of Restraint [1]
352	181,818 doz.
650	29,412 doz.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979. Imports during the January-June period of 1980 have amounted to 70,777 dozen in Category 352 and 23,443 dozen in category 650.

Textile products in Categories 352 and 650 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Textile products in Categories 352 and 650 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172) as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton and man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions on the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Committee for the Implementation of Textile Agreements.

[FR Doc. 80-26817 Filed 8-29-80; 8:45 am]

BILLING CODE 3510-25-M

Announcing Additional Import Controls on Certain Wool Textile Products from Thailand

August 27, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling women's, girls' and infants' wool coats in Category 435, at the consultation level of 1,852 dozen during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1980, as amended, between the Governments of the United States and Thailand, the United States Government has decided to control imports of wool textile products in Category 435, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979 there was published in the **Federal Register** (44 FR 76574) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Thailand, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, as amended, the United States Government has decided also to control imports of wool textile products in Category 435, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1980. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on September 2, 1980, to prohibit entry for consumption or withdrawal from warehouse for consumption of wool textile products in Category 435, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1980, in excess of the designated level of restraint. The level has not been adjusted to reflect any imports after December 31, 1979. Imports during the January-June 1980 period amounted to 1,232 dozen and will be charged. As the data become available, further charges will be made to account for imports during the period which began on July 1, 1980 and extended through August 31, 1980.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

August 27, 1980.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1979 by the Chairman, Committee for the Implementatin of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Thailand.

sUnder the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 2, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption, of wool textile products in Category 435, produced or manufactured in Thailand and exported on and after January 1, 1980, in excess of 1,852 dozen.[1]

Wool textile products in Category 435 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

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[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports during the period, January through June 1980, have amounted to 1,232 dozen.

Wool textile products in Category 435 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12,1980 (45 FR 53506).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth.

The actions taken with respect to the Government of Thailand and with respect to imports of wool textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federeal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-26816 Filed 8-29-80; 9:11 am]

BILLING CODE 3510-25-M

COMMUNITY SERVICES ADMINISTRATION

Schedule for Awarding Bonuses to Members of the Senior Executive Board; Submission

AGENCY: Community Services Administration.

ACTION: Agency's schedule for awarding bonuses to its members of the Senior Executive Service as indicated in OPM memorandum of July 21, 1980.

SUMMARY: Based upon careful and deliberate recommendations by this Agency's Performance Review Board and final close review by the Director, CSA, of performance by SES members, the Agency plans to award bonuses to three (3) of its career Senior Executives. These three Senior Executives will receive an additional 10%, 8%, and 8% of their basic salary as a bonus. One of these Senior Executives was rated "Outstanding" in his job, and two were rated highly successful. There are twenty (20) Senior Executives within this Agency of whom sixteen (16) are careerists.

FOR FURTHER INFORMATION CONTACT:

Mary P. Valentino, (202) 254-6170.

Richard J. Rios,

Director.

[FR Doc. 80-26700 Filed 8-29-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Getty Oil Company's Petition for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of petition withdrawal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 19, 1980, Getty Oil Company withdrew its Petition for Permission to Use Multiple Allocation Fractions, which the firm had filed with the ERA on March 21, 1980. Getty reserves its right to refile a Petition at a later date.

FOR FURTHER INFORMATION REGARDING THIS ORDER, PLEASE CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 21104-I, 2000 M Street, NW., Washington, D.C. 20461, Telephone: (202) 653-3701.

Joel M. Yudson, Office of the General Counsel, Room 6A-127, 1000 Independence Avenue, NW., Washington, D.C. 20585, Telephone: (202) 252-6744.

Issued in Washington, D.C., on the 26th day of August 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-26713 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Acorn Pipe Line Co. et al.; Pipelines; Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common coarriers by pipeline listed below:

1979 Reports

August 27, 1980.

Valuation Docket No. PV

1364, Acorn Pipe Line Company, P.O. Box 5008, Houston, TX 77012
1414, Allegheny Pipeline Company, P.O. Box 2521, Houston, TX 77001
1439, Amdel Pipeline, Inc., P.O. Box 2159, Dallas, TX 75221
1440, American Petrofina Pipe Line Company, P.O. Box 2159, Dallas, TX 75221
1302, Amoco Pipeline Company, P.O. 6110-A, Chicago, IL 60680
1378, Arapahoe Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1329, Arco Pipe Line Company, Arco Building, Independence, KS 67301
1291, Ashland Pipe Line Company, 1409 Winchester Avenue, Ashland, KY 41101
1381, Badger Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1430, Belle Fourche Pipeline Company, P.O. Drawer 2360, Casper, WY 82602
1425, Black Lake Pipe Line Company, P.O. Box 308, Independence, KS 67301
1322, Buckeye Pipe Line Company, P.O. Box 368, Emmaus, PA 18049
1382, Butte Pipe Line Company, P.O. Box 2648, Houston, TX 77001
1404, Calnev Pipe Line Company, 1901 Slover Avenue, Bloomington, CA 92316
1416, Chevron Pipe Line Company, 575 Market Street, San Francisco, CA 94105
1368, Cheyenne Pipeline Company, P.O. Box 370, Cody, WY 82414
1427, Chicap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1312, Cities Service Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1433, Collins Pipeline Company, P.O. Box 2511, Houston, TX 77001
1422, Colonial Pipeline Company, Lenox Towers, P.O. Box 18855, Atlanta, GA 30326
1316, Continental Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1426, Cook Inlet Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1341, CRA, Inc., 3315 North Oak Trafficway, Kansas City, MO 64116
1365, Crown-Rancho Pipe Line Corporation, 6750 West Loop South, Suite 300, Bellaire, TX 77401
1349, Diamond Shamrock Corporation, P.O. Box 631, Amarillo, TX 79173
1411, Dixie Pipeline Company, P.O. Box 2220, Houston, TX 77001
1385, Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1338, The Eureka Pipe Line Company, 963 Market Street, Parkersburg, WV 26101
1441, Explorer Pipeline Company, P.O. Box 2650, Tulsa, OK 74101
1394, Exxon Pipeline Company, P.O. Box 2220, Houston, TX 77001
1389, Four Corners Pipe Line Company, 1957 East Del Amo Blvd., Compton, CA 90220
1402, Getty Pipeline, Inc., 1437 South Boulder Avenue, Tulsa, OK 74119
1436, Gulf Central Pipeline Company, 1200 Thompson Building, Tulsa, OK 74103
1333, Gulf Refining Company, P.O. Box 3706, Houston, TX 77001
1409, Hess Pipeline Company, P.O. Box 502, Woodbridge, NJ 07095
1431, Hydrocarbon Transportation, Inc., 2223 Dodge Street, Omaha, NE 68102
1406, Jayhawk Pipeline Corporation, P.O. Box 1030, Wichita, KS 67201
1413, Jet Lines, Inc., 522 Cottage Grove Road, Bloomfield, CT 06002
1375, Kaneb Pipe Line Company, P.O. Box 22029, Houston, TX 77027
1299, Kaw Pipe Line Company, P.O. Box 42130, Houston, TX 77042

1399, Kenai Pipe Line Company, 575 Market Street, San Francisco, CA 94105
1429, Kerr-McGee Pipeline Corporation, Kerr-McGee Center, Oklahoma City, OK 73125
1435, Kiantone Pipeline Corporation, P.O. Box 780, Warren, PA 16365
1419, Lake Charles Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1354, Lakehead Pipe Line Company, Inc., 3025 Tower Avenue, Superior, WI 54880
1403, Laurel Pipe Line Company, P.O. Box 3706, Houston, TX 77001
1392, Marathon Pipe Line Company, 539 South Main Street, Findlay, OH 45840
1357, Michigan-Ohio Pipeline Corporation, 600 West Pickard Street, Mt. Pleasant, MI 48858
1395, Mid-America Pipeline System, 1800 South Baltimore Avenue, Tulsa, OK 74119
1353, Mid-Valley Pipeline Company, P.O. Box 2039, Tulsa, OK 74102
1384, Minnesota Pipe Line Company, 4111 E. 37th Street, North, Wichita, KS 67220
1311, Mobil Pipe Line Company, First International Building, 1201 Elm, Dallas, TX 75270
1332, National Transit Company, 206 Seneca Street, Oil City, PA 16301
1292, Ohio River Pipe Line Company, 1409 Winchester Avenue, Ashland, KY 41101
1417, Olympic Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1420, Paloma Pipe Line Company, 1600 First National Bank Building, Dallas, TX 75202
1320, Phillips Pipe Line Company, 890 Adams Building, Bartlesville, OK 74004
1372, Pioneer Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1343, Plantation Pipe Line Company, P.O. Box 18616, Atlanta, GA 30326
1367, Platte Pipe Line Company, 539 South Main Street, Findlay, OH 45840
1410, Portal Pipe Line Company, 2900 First National Bank Building, Dallas, TX 75202
1347, Portland Pipe Line Corporation, P.O. Box 2590–30, Hill Street, South Portland, ME 04106
1437, Powder River Corporation, 890 Adams Building, Bartlesville, OK 74004
1327, Pure Transportation Company, 1650 East Golf Road, Schaumburg, IL 60196
1428, Santa Fe Pipeline Company, 1200 Thompson Building, Tulsa, OK 74103
1369, The Shamrock Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1326, Shell Pipe Line Corporation, P.O. Box 2648, Houston, TX 77001
1335, Sohio Pipe Line Company, P.O. Box 5774, Cleveland, OH 44101
1424, Southcap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1393, Southern Pacific Pipe Lines, Inc., 610 South Main Street, Los Angeles, CA 90014
1370, Sun Oil Line Company of Michigan, P.O. Box 2039, Tulsa, OK 74102
1315, Sun Pipe Line Company, P.O. Box 2039, Tulsa, OK 74102
1386, Tecumseh Pipe Line Company, P.O. Box 308, Independence, KS 67301
1300, Texaco-Cities Service Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1408, Texas Eastern Transmission Corporation, (Little Big Inch Division), P.O. Box 2521, Houston, TX 77001
1293, Texas-New Mexico Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1330, The Texas Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1449, Texoma Pipe Line Company, 1810 Fourth National Bank Building, Tulsa, OK 74119
1379, Trans Mountain Oil Pipe Line Corporation, 400 East Broadway, Vancouver, British Columbia, Canada V5T1X2
1412, Trans-Ohio Pipeline Company, P.O. Box 2521, Houston, TX 77001
1388, West Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1396, West Shore Pipe Line Company, 200 East Randolph Drive, Chicago, IL 60601
1362, West Texas Gulf Pipe Line Company, P.O. Box 3706, Houston, TX 77001
1421, White Shoal Pipeline Corporation, Kerr-McGee Center, Oklahoma City, OK 73102
1423, Williams Pipe Line Company, P.O. Drawer 3448, Tulsa, OK 74101
1377, Wolverine Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1355, Wyco Pipe Line Company, 200 East Randolph Drive, Chicago, IL 60601
1373, Yellowstone Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601

On or before October 3, 1980, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 72 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.72), an original and three copies of a petition for leave to intervene in this proceeding. Jurisdiction over oil pipelines, as it relates to establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the act, thereby enabling it to file a protest. It is required that a copy of the petition to intervene be served on the individual company at the address shown above and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition: they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 80–26661 Filed 8–29–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–498]

Arkansas Louisiana Gas Co., Application

August 25, 1980.

Take notice that on August 12, 1980, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP80–498 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate an additional 4,000 horsepower compressor unit at its Chandler Compressor Station in Latimer County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that it is necessary to install an additional 4,000 horsepower compressor at its Chandler Compressor Station for backup and standby purposes because of problems with the on-line reliability of the two 8,000 horsepower compressors already in place. It is stated that Applicant would use a reclaimed compressor unit from its abandoned Chambers Compressor Station. This compressor is said to have a current book value of approximately $635,000.. Applicant plans on spending $1,600,000 to recondition and install the compressor and to acquire and install such other facilities as would be necessary to make the station fully operational. The total investment is estimated to be approximately $3,316,000 which would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26653 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-363]

Delmarva Power & Light Co.; Order Clarifying Prior Order and Denying Rehearing

August 22, 1980.

By order issued June 30, 1980, the Commission accepted for filing, and suspended rate increases proposed by Delmarva Power & Light Company (Delmarva or Company). The proposed rates are phased to reflect the addition of two new generating units to Delmarva's system. Delmarva's filing further reflects an annualized treatment of the costs of these units which are scheduled to become operational during the calendar 1980 test year. Phase I of the rate increase was suspended for three months following the in-service date of the 400 MW coal-fired Indian River Unit No. 4, scheduled to begin commercial operation in September, 1980. Phase II was suspended for five months from the commencement of commercial operation of Salem Nuclear Unite No. 2, scheduled for late 1980.

On July 23, 1980, Delmarva filed a request for clarification or, in the alternative, for rehearing of and oral argument with respect to that portion of the order of June 30, 1980, which directs suspension of the proposed rates. Delmarva posits that the Commission's primary objective in designating the suspension periods in this case was to synchronize the increases in demand costs with the decreases in fuel expenses occasioned by the commercial operation of the two new generating units. The Company contends that the specified suspension periods will allow its customers to receive the benefits of reduced fuel costs while delaying its recovery of the costs associated with the plants which will give rise to these fuel cost savings. Delmarva therefore requests that the Commission revise its suspension order to provide for collection of increased demand costs coincident with the incurrence of these lower fuel costs.

Discussion

With respect to Delmarva's request for clarification of our prior order, we initially note that Delmarva mischaracterizes the Commission's rationale and intent in asserting that "the Commission intended the suspension periods to synchronize the increase in demand costs with the decrease in fuel expenses occasioned by the commercial operation of the two new generating units." On the contrary, reference to the June 30 order reveals that our discussion of synchronizing increased demand costs and decreased fuel costs pertained not to the question of an appropriate suspension period, but rather to the acceptability, under appropriate circumstances, of advance rate filings that contain phased increases and that propose effective dates tied to the subsequent in-service dates of newly constructed facilities. Thus, our underlying concern was that the *proposed effective date* for a rate increase predicated primarily on new facilities bear a reasonable relationship to the time at which the utility's customers will begin to realize any benefits (such as fuel cost savings) that might be associated with such facilities. Significantly, the concept of synchronization was advanced in a discussion unrelated to the suspension question.[1] Particularly in an instance such as this where a utility seeks a rate increase based on annualized plant figures, and further requests waiver of our prior notice requirements and an uncertain effective date, the Commission must perceive a legitimate purpose for permitting a departure from our general practice in accepting rate filings. The fact that no benefits will be derived by the ratepayer until the commercial operation date of a new generating unit justifies a deferral of the proposed effective date until the in-service date of the unit.

However, such considerations with respect to the proposed effective date of a rate change are and must remain independent of the questions whether or for how long to suspend the proposed rate. Our decision to suspend a proposed rate increase is based on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. It may be that, in certain cases, suspension beyond the proposed effective date will prevent a precise synchronization of costs and revenues. We note however, that although the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges.

In the instant proceeding, we found that Delmarva's proposed rates had not been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful and we therefore suspended the rate.

As was the Commission's practice at the time the Commission issued the subject suspension order, the advisory technical staff reviewed Delmarva's filing and determined the percentage of the proposed increased revenues that would be found excessive under this preliminary analysis. The Commission then suspended the rates in accordance with guidelines consistently applied, in the absence of extraordinary circumstances, to all suspended electric rate filings. These guidelines relate the length of the suspension to the percentage of a rate increase that would be found excessive under the preliminary analysis described above. In Delmarva's use our preliminary analysis indicated that such revenues constituted approximately 24.9% of the Phase I rate increase, and approximately 93.4% of the Phase II increase. On this basis, three and five month suspensions were ordered for the Phase I and Phase II rates, respectively. This policy of tying the length of a suspension to the amount of revenues preliminary believed to be excessive was designed to encourage less excessive rate filings to the benefit of the utilities' customers, whom the suspension period was designed to protect.

The Commission has recently chosen to modify its suspension policy.[2] Under the new policy, where electric rate schedule filings are suspended and set for hearing, the Commission will impose a five-month suspension, absent a convincing showing of particular circumstances which would warrant a

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[1] The intervenors, seeking rejection of Delmarva's submittal argued that the used of generating unit in-service dates as *proposed effective dates* was inappropriate. In declining to reject the filing on this ground, we referred to the synchronization concept as a basis for demonstrating the relevance of the in-service date as a suitable *proposed effective date.*

[2] *See, e.g., Ohio Edison Company,* Docket No. ER80-454, order issued August 1, 1980; *Kansas City Power & Light Company,* Docket Nos. ER80-315 and ER80-450, order issued August 1, 1980.

V45/171 SE2 80 UMI

shorter suspension period in a particular case. However, we believe that it would be inequitable to apply this policy to Delmarva retroactively so as to extend the previously specified suspension period for the Phase I rates to five months. Because the three month suspension period was adequately supported by our preliminary analysis under the suspension policy then in effect, we shall deny rehearing of this issue.

Delmarva further asserts that by suspending its rate increases from the in-service dates of the new generating units, the Commission exceeded its statutory authority to suspend for a maximum period of five months. We disagree. As Delmarva acknowledges, Section 205(e) of the Federal Power Act authorizes the Commission to suspend a filing for five months "beyond the date when it would otherwise go into effect." It is clear that Delmarva neither contemplated nor expected to begin collecting its revised rates until its new facilities became operational. The rates are premised on the new units and Delmarva acquiesced in advance to deferring the effective dates of Phase I and II until the respective units came on-line. Although Delmarva couched its requests with reference to the term "suspension," we concluded and we continue to believe that Delmarva was in fact, proposing to make its rate increases effective coincident with the in-service dates of the two generating units. Again, the suspension question is divorced from the matter of a proposed effective date. Having suspended the rates for three months and five months, respectively, beyond Delmarva's proposed effective dates, we have not suspended the rates for a period longer than five months "beyond the date when [the rates] would otherwise go into effect."

We do not believe that the facts pertaining to our discretionary suspension decision in this case require further elucidation. Accordingly, we shall deny Delmarva's request for oral argument.

On July 30, 1980, the Cooperative intervenors (Coops)[3] petitioned for rehearing based upon the Commission's allowance of Delmarva's annualized treatment of the new power plants in its period II rate base. Coops contend that annulization of costs rather than use of the commonly accepted average of the 13 monthly balances rate base methodolgy invalidates Delmarva's filing or alternatively requires that its rate base be adjusted as outlined in the Commission's order of June 30, 1980. We have already stated that annualization of plant for rate base treatment is not *per se* invalid. *Detroit Edison Company*, Order on Rehearing, Docket No. ER79-70 issued May 9, 1979. Delmarva will be permitted to present its case in support of its rate base methodology through adjudication. However, as stated in the order of June 30, 1980, the record should reflect recognition of the annualization of the costs as well as recognition of billing demands anticipated during the full first twelve months of the plant's operation. Therefore, Coops petition for rehearing of our rejection of Delmarva's applicaiton will be denied.

The Commission orders:

(A) The applications for rehearing by Delmarva and Coops are hereby denied.

(B) Delmarva's request for oral argument is hereby denied.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26654 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-473]

Equitable Gas Co.; Application

August 25, 1980.

Take notice that on July 31, 1980,[1] Equitable Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP80-473 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to make firm sales of natural gas to New Jersey Natural Gas Company (New Jersey) for resale for its residential and commercial customers and to make optional sales of natural gas to New Jersey for its general system sales, all in Morris, Monmouth, Ocean, and Cape May Counties, New Jersey, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell for resale 4,015,000 Mcf of natural gas per year on a firm basis for New Jersey's residential and commercial customers and 985,000 Mcf per year on an optional basis for New Jersey's general sales system. It is stated that the sales would be for a term of two years commencing on or about November 1, 1980, with an option to extend the agreement for an additional two years for such further volumes of natural gas that Applicant may have available for sale at such time outside of its own distribution area in accordance with a service agreement dated July 22, 1980.

Applicant indicates that no additional facilities would be required because it would make such deliveries by displacement through existing delivery points with Texas Eastern.

Sales would be made pursuant to Rate Schedule GS-2, which would be available to any purchaser outside of Pennsylvania, West Virginia, and Kentucky. Applicant proposes to collect a demand charge of $7.2974 per Mcf of firm contract quantity per month and a commodity charge of $2.125 per Mcf subject to a purchased gas cost adjustment.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinig the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

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[3] Old Dominion Electric Cooperative, A&N Electric Cooperative, Choptank Electric Cooperative, Inc., and Delaware Electric Cooperative, Inc. (Cooperatives).

[1] The application was initially tendered for filing on July 31, 1980, however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 7, 1980; thus the filing was not completed until the latter date.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26858 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. IS80-64]

Mid-America Pipeline System a Division of MAPCO, Inc., Order Accepting for Filing and Suspending Tariff Sheets, Granting Waiver of Statutory Notice, and Instituting Investigation

August 26, 1980.

On July 29, 1980, Mid-America Pipeline System (Mid-America) a division of MAPCO, Inc., filed changes to its FERC Tariff No. 30 (See Appendix). The filing would establish new rates for the transportation of petroleum products from points in Texas and New Mexico to points in Kansas, Texas, and Oklahoma and make minor language changes and corrections on several tariff sheets. The Company asks for an August 27, 1980, effective date.[1]

The proposed new rates will govern movements on the same mainline system which Mid-America uses in providing other, long-standing transportation services. Rates for existing services are subject to investigation and suspension in Docket Nos. IS80-9, *et al.*, (Oil Pipeline Board order issued December 28, 1979).

Based upon a review of Mid-America's filing, the Board finds that the proposed new rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Board shall accept Mid-America's rates for filing and suspend their effectiveness such that they shall become effective, subject to refund and conditions, as indicated further below.

Recently, the Commission has set out a clear policy regarding the length of suspension periods in *Valley Gas Transmission, Inc.*, Docket No. RP80-98, issued on August 22, 1980. The Commission said:

> A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings. (*Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* ——— F.2d ——— (D.C. Cir. May 30, 1980).)
>
> The decision to suspend the proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful." This declaration places on the Commission a general obligation to minimize the incidence of such illegality.
>
> Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended (and) the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.
>
> Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. (footnotes omitted)

Applying these Commission-established criteria to this filing leads the Board to the conclusion that a one-day suspension is appropriate. In this case the company proposes new rates for a new transportation service, and a longer suspension in this proceeding would needlessly delay the implementation of desired new service to the detriment of potential shippers. While the Board does have authority to order interim rates to allow the service to commence pending investigation of the proposed rates, *Trans Alaska Pipeline Rate Cases,* 436 U.S. 631 (1978), this is not such an unusual case warranting resort to that procedure. If the proposed rates are ultimately found unlawful, the condition attached to the new rates is a sufficient remedy for effected shippers under the facts presented.

To the extent that filed tariff sheets propose only langguage corrections and minor changes, and do not change or propose new rates they are accepted for filing to become effective August 27, 1980.

Pursuant to 49 U.S.C. Section 15(7), the Board requires Mid-America to keep accurate accounts of all rates collected subject to refund. Further, Mid-America shall be required to file with the Board an undertaking substantially similar to those required under § 154.67(b) of the Commission's regulations. Further procedures shall be established by order of the Board or Commission as appropriate.

The Board Orders:

(A) Pursuant to the authority of the Interstate Commerce Act, and the Commission's rules and regulations thereunder, the Board accepts for filing to be effective August 27, 1980, the language corrections and minor changes to tariff provisions filed July 29, 1980.

(B) Pursuant to 49 U.S.C. 15(7) an investigation shall be instituted into the lawfulness of the new rates proposed by Mid-America in its July 29, 1980 filing. Pending hearing and decision, the proposed rate increases shall be accepted for filing and suspended for one day until August 28, 1980, when they shall be permitted to become effective subject to refund.

(C) The thirty day notice requirement of 49 U.S.C. § —— is waived to the extent required to permit the above-established effective dates and suspension period.

(D) Mid-America shall keep accurate account of all amounts received by reason of such rate filing, specifying when, by whom, and in whose behalf such amounts are paid. The accounts shall be in sufficient detail so that refunds, with interest as prescribed in 18 CFR 154.67(d), can be ordered of any portion of the rates ultimately found unjustified.

(E) Mid-America shall file within 30 days an original and eight copies of an undertaking with the Board in a form and manner prescribed in 18 CFR 154.67(b).

(F) Further procedures shall be established by the Board or Commission as appropriate.

By the Oil Pipeline Board. Board Member Foerster dissenting.

Francis J. Connor,

Administrative Officer Oil Pipeline Board.

Foerster, Board Member, Dissenting

I dissent. In my view section 15(7) of the Interstate Commerce Act contemplates the suspension and investigation of rates which may be unjust or unreasonable. There is no indication that such is the case here. Instead, it appears that the sole reason an investigation has been ordered is the fact that Mid-America has other tariff rates under investigation. I do not believe this is an appropriate standard for initiating a rate investigation. Moreover, I believe that the Commission's limited resources can be put to better use than to expend them on a new investigation in which we have no basis for concluding that the

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[1] The Board notes that Mid-America's request does not meet the 30 day notice requirement under the Interstate Commerce Act. The Board will expect Mid-America to meet the statutory notice requirement in the future except when good cause is shown which warrants waiver of the full notice period. Because the present filing was made within one day of the date required to achieve the requested effective date and given the company's representation that the filing was mailed on July 25, 1980 to all subscribers of the tariff, waiver of the statutory notice requirement shall be granted for this reason by the Board's own motion.

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proposed rates may be unjust or unreasonable.

Appendix—Mid-America Pipeline System

[Docket No. IS80-64]

To FERC Tariff No. 30

63rd Revised Page 1
60th Revised Page 1–A
25th Revised Page 5–A
10th Revised Page 5–A–1
11th Revised Page 9–B
6th Revised Page 13–A
14th Revised Page 10–A
18th Revised Page 23–A
11th Revised Page 23–A–1
15th Revised Page 23–B–1
3rd Revised Page 23–B–1–A
8th Revised Page 37
8th Revised Page 39

[FR Doc. 80–26660 Filed 8–29–80; 8:45 am]

BILLING CODE 6450–85–M

[Project No. 190]

Moon Lake Electric Association, Inc.; Issuance of Annual License

August 25, 1980.

On June 30, 1977, the Moon Lake Electric Association, Inc., Licensee for the Uintah Hydro Plant, FERC Project No. 190, filed an application for a new license pursuant to the Federal Power Act and the Commission's regulations. The project is located on Pole Creek and the Uintah River in Duchesne County, Utah.

The original license for Project No. 190 was issued with an effective date of July 1, 1930, for a period of 50 years. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Moon Lake Electric Association, Inc.

Take notice that an annual license to the Moon Lake Electric Association, Inc. will be in effect for the period July 1, 1980 to June 30, 1981, or until Federal takeover, or until issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 190, subject to the terms and conditions of the original license. Take futher notice that if Federal takeover, or issuance of a new license, does not take place on or before June 30, 1981, a new annual license will be in effect each year thereafter, effective July 1 of each year, until such time as Federal takeover takes place, or a new license is issued, without further notice being given by the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–26657 Filed 8–29–80; 8:45 am]

BILLING CODE 6450–85–M

[Dockets Nos. RM 79–34 and St80–100, et seq.]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Consolidated Gas Supply Corp., et al.; Self-Implementing Transactions

August 22, 1980.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's regulations. Any interested person may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's regulations.

Kenneth F. Plumb,
Secretary.

Docket No. and transporter/seller		Date filed	Part 284, subpart	Expiration date [1]	Transportation rate (cents per 1,000 ft³)
ST80-100	Consolidated Gas Supply Corp	1/9/80	B		
ST80-101	Texas Gas Transmission Corp	1/10/80	B		
ST80-102	Producer's Gas Co	1/10/80	C	7/10/80	18.54
ST80-103	Panhandle Eastern Pipe Line Co	1/10/80	F		
ST80-104	Cities Service Gas Co	1/11/80	B		
ST80-105	Columbia Gas Transmission Corp	1/16/80	B		
ST80-106	United Texas Transmission Co	1/17/80	C		
ST80-107	United Texas Transmission Co	1/17/80	C		
ST80-108	United Texas Transmission Co	1/17/80	C		
ST80-109	Big Sandy Gas Corp	1/17/80	C	7/10/80	40.00
ST80-110	Michigan Gas Storage Co	1/15/80	B		
ST80-111	Transcontinental Gas Pipe Line Corp	1/7/80	B		
ST80-112	Columbia Gulf Transmission Co	1/17/80	F		
ST80-113	Valero Transmission Co	1/22/80	C		
ST80-115	Arkansas Oklahoma Gas Corp	1/21/80	B		
ST80-118	United Texas Transmission Co	1/24/80	D		
ST80-119	Channel Industries Gas Co	1/22/80	C		
ST80-121	Michigan Wisconsin Pipe Line Co	1/25/80	F		
ST80-122	Northern Natural Gas Co	2/1/80	F		
ST80-123	Northern Natural Gas Co	2/1/80	F		
ST80-124	Panhandle Eastern Pipe Line Co	2/1/80	F		
ST80-125	Transcontinental Gas Pipe Line Corp	2/7/80	F		
ST80-126	Transcontinental Gas Pipe Line Corp	2/8/80	B		
ST80-127	Seagull Pipeline Corp	12/27/79	C		
ST80-128	Texas Eastern Transmission Corp	1/10/80	B		
ST80-129	Colorado Interstate Gas Co	2/1/80	F		
ST80-131	Consolidated Gas Supply Corp	12/17/79	F		
ST80-132	Cities Service Gas Co	1/4/80	B		
ST80-134	Hydrocarbon Transfer, Inc	2/22/80	C		
ST80-135	IMC Pipeline Co	2/29/80	C	7/28/80	25.00
ST80-136	Tennessee Gas Pipeline Co	3/7/80	F		
ST80-137	Montana Power Co	3/5/80	F	8/2/80	11.60
ST80-138	El Paso Natural Gas Co	2/29/80	B		
ST80-139	Sunflower Pipeline Co	1/24/80	C		
ST80-140	United Gas Pipe Line Co	2/29/80	[illegible]		
ST80-141	Natural Gas Pipeline Co. of America	2/27/80	G		
ST80-142	National Fuel Gas Supply Corp	3/3/80	B		
ST80-143	United Texas Transmission Co	1/24/80	D		
ST80-144	Seagull Pipeline Co	2/25/80	C	7/24/80	5.00
ST80-145	Tennessee Gas Pipeline Co	3/9/80	G		
ST80-146	Transcontinental Gas Pipe Line Corp	11/5/79	F		

Docket No. and transporter/seller		Date filed	Part 284, subpart	Expiration date [1]	Transportation rate (cents per 1,000 ft ^{3})
ST80-147	Tuco, Inc	3/20/80	D	8/17/80	29.00
ST80-148	Tennessee Gas Pipeline Co	3/19/80	G		
ST80-149	Great Lakes Gas Transmission Co	3/19/80	B		
ST80-150	Producer's Gas Co	3/18/80	C	8/15/80	28.45
ST80-151	Tennessee Gas Pipeline Co	3/19/80	G		
ST80-152	Tennessee Gas Pipeline Co	3/19/80	B		
ST80-153	Louisiana Resources Co	3/26/80	C	8/23/80	22.50
ST80-154	El Paso Natural Gas Co	3/31/80	F		
ST80-155	Industrial Gas Services, Inc	4/1/80	F	8/29/80	No charge
ST80-156	Mountain Fuel Supply Co	3/28/80	B		
ST80-157	Panhandle Eastern Pipe Line Co	3/31/80	F		
ST80-158	Natural Gas Pipeline Co. of America	3/31/80	F		
ST80-159	Transcontinental Gas Pipe Line Corp	3/28/80	B		
ST80-160	Tennessee Gas Pipeline Co	4/2/80	G		
ST80-161	Louisiana Intrastate Gas Corp	4/3/80	C	8/31/80	No charge
ST80-162	Valero Interstate Transmission Co	4/8/80	G		
ST80-163	United Gas Pipe Line Co	4/8/80	G		
ST80-164	Mountain Fuel Supply Co	4/8/80	[illegible]		
ST80-165	Trunkline Gas Co	4/11/80	[illegible]		
ST80-166	United Gas Pipe Line Co	4/10/80	B		
ST80-167	Oasis Pipe Line Co	4/11/80	C		
ST80-168	Houston Pipe Line Co	4/9/80	C		
ST80-169	Transcontinental Gas Pipe Line Corp	4/11/80	G		
ST80-170	Texas Eastern Transmission Corp	4/14/80	G		
ST80-171	Tennessee Gas Pipeline Co	4/15/80	G		
ST80-172	National Fuel Gas Supply Corp	4/15/80	B		
ST80-173	United Gas Pipe Line Co	4/15/80	G		
ST80-174	United Gas Pipe Line Co	4/14/80	G		
ST80-175	United Gas Pipe Line Co	4/3/80	G		
ST80-176	Tennessee Gas Pipeline Co	1/23/79	B		
ST80-177	Texas Eastern Transmission Corp	4/8/80	F		
ST80-179	Transwestern Pipeline Co	2/1/80	B		
ST80-180	Mountain Fuel Supply Co	4/18/80	G		
ST80-181	Tennessee Gas Pipeline Co	4/18/80	[illegible]		
ST80-182	Tennessee Gas Pipeline Co	4/18/80	G		
ST80-183	United Gas Pipe Line Co	4/1/80	G		
ST80-185	Tennessee Gas Pipeline Co	4/21/80	G		
ST80-186	Transok Pipe Line Co	4/22/80	C	8/29/80	19.50
ST80-188	Transcontinental Gas Pipe Line Corp	3/21/80	B		
ST80-189	Transcontinental Gas Pipe Line Corp	3/7/80	B		
ST80-190	Texas Eastern Transmission Corp	2/28/80	G		
ST80-191	Columbia Gulf Transmission Co	4/29/80	G		
ST80-192	Mid-Louisiana Gas Co	4/21/80	G		
ST80-193	Producer's Gas Co	5/5/80	C	9/29/80	28.45
ST80-194	Mid-Louisiana Gas Co	4/24/80	G		
ST80-195	Texas Gas Transmission Corp	5/5/80	G		
ST80-196	United Texas Transmission Co	5/5/80	C		
ST80-197	Tennessee Gas Pipeline Co	5/6/80	[illegible]		
ST80-198	United Gas Pipe Line Co	5/5/80	[illegible]		
ST80-199	Columbia Gulf Transmission Co	5/5/80	[illegible]		
ST80-200	Valero Transmission Co	5/6/80	C		
ST80-201	Tennessee Gas Pipeline Co	5/7/80	G		
ST80-202	United Gas Pipe Line Co	5/6/80	B		
ST80-203	Columbia Gulf Transmission Co	5/9/80	G		
ST80-204	Texas Eastern Transmission Corp	5/9/80	G		
ST80-205	Columbia Gas Transmission Co	5/9/80	F		
ST80-206	Louisiana Intrastate Gas Corp	5/12/80	C	10/9/80	No charge
ST80-207	Tennessee Gas Pipeline Co	5/13/80	F		
ST80-208	Texas Eastern Transmission Corp	5/23/80	G		
ST80-209	Tennessee Gas Pipeline Co	5/15/80	F		
ST80-210	Columbia Gulf Transmission Co	5/15/80	G		
ST80-211	Texas Eastern Transmission Corp	5/15/80	F		
ST80-212	Transcontinental Gas Pipe Line Corp	5/19/80	F		
ST80-213	Tennessee Gas Pipeline Co	5/23/80	F		
ST80-214	Rael Gas Co	5/22/80	C	10/19/80	24.90
ST80-215	Tennessee Gas Pipeline Co	5/23/80	B		
ST80-216	Tennessee Gas Pipeline Co	5/23/80	B		
ST80-217	Tennessee Gas Pipeline Co	5/23/80	B		
ST80-219	Texas Gas Transmission Corp	5/30/80	B		
ST80-220	United Texas Transmission Co	5/5/80	C		
ST80-221	Lone Star Gas Co	5/28/80	C	10/25/80	12.60
ST80-222	Louisiana Intrastate Gas Corp	5/28/80	C	10/25/80	15.00
ST80-223	Tennessee Gas Pipeline Co	5/6/80	F		
ST80-224	Cities Service Gas Co	6/2/80	B		
ST80-225	Texas Eastern Transmission Corp	6/2/80	B		
ST80-226	Tennessee Gas Pipeline Co	6/4/80	F		
ST80-228	Transcontinental Gas Pipe Line Corp	6/5/80	G		
ST80-229	Tennessee Gas Pipeline Co	6/10/80	F		

Docket No. and transporter/seller		Date filed	Part 284, subpart	Expiration date [1]	Transportation rate (cents per 1,000 ft³)
ST80-231	Columbia Gulf Transmission Co	6/10/80	G		
ST80-233	United Gas Pipe Line Co	6/13/80	G		
ST80-234	United Texas Transmission Co	6/16/80	C		
ST80-235	Tennessee Gas Pipeline Co	6/17/80	G		
ST80-237	Valero Transmission Co	6/12/80	C	11/9/80	2.70
ST80-238	Valero Transmission Co	6/16/80	C	11/13/80	3.10–31.70
ST80-239	Transcontinental Gas Pipe Line Corp	6/19/80	G		
ST80-240	Transcontinental Gas Pipe Line Corp	6/19/80	G		
ST80-241	ONG Western, Inc	6/20/80	C	11/17/80	10.00
ST80-242	Panhandle Eastern Pipe Line Co	2/27/80	G		
ST80-243	Trunkline Gas Co	6/13/80	G		
ST80-244	Trunkline Gas Co	6/27/80	[illegible]		
ST80-245	Northwest Pipeline Corp	6/27/80	B		
ST80-246	United Gas Pipe Line Co	7/2/80	G		
ST80-247	Columbia Gulf Transmission Co	6/30/80	G		
ST80-248	Transcontinental Gas Pipe Line Corp	7/1/80	G		
ST80-249	Natural Gas Pipeline Co. of America	6/5/80	G		
ST80-251	Mid-Louisiana Gas Co	6/25/80	B		
ST80-252	Transcontinental Gas Pipe Line Corp	7/1/80	G		
ST80-253	United Texas Transmission Co	6/30/80	D	11/27/80	19.90

[1] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 80-26665 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-465]

National Fuel Gas Distribution Corp.; Application

August 25, 1980.

Take notice that on July 28, 1980, National Fuel Gas Distribution Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP80-465 an application pursuant to Section 7(f) of the Natural Gas Act for a determination that its distribution subsystem located near Sharon, Ohio, and Sharon, Pennsylvania, (Sharon Area) is a service area within which Applicant may enlarge or extend its facilities for the purpose of supplying increased market demands in such area without further Commission authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by order issued December 27, 1978, and order on rehearing issued May 30, 1980, in Docket No. CP76-448, the Commission declared Applicant exempt from the provisions of the Natural Gas Act under Section 1(c) thereof with the exception of the Sharon Area. Applicant states that with respect to the Sharon area, the Commission required it in the order of May 30, 1980, to apply for either a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act or a service area determination pursuant to Section 7(f) of the Natural Gas Act.

Applicant states that the Sharon Area is one of its subsystems serving local consumers in an approximately 580 square-mile area straddling the Pennsylvania/Ohio border in parts of Mercer and Crawford Counties in Pennsylvania and Ashtabula and Trumbul Counties in Ohio. None of Applicant's facilities within the Sharon Area connect directly with any of its facilities outside of that area, it is said.

Applicant further states that all gas which it receives within or at the boundary of the Sharon Area is distributed and consumed within the Sharon Area, that it makes no sales for resale, and that no retail natural gas service is rendered within the Sharon Area by companies other than Applicant except that Mercer Gas Company serves the Borough of Mercer in Mercer County, Pennsylvania, at the eastern edge of the Sharon Area.

Applicant's rates, service, and facilities are subject to regulation within the Sharon Area by the Pennsylvania Public Utility Commission and the Public Utilities Commission of Ohio, and Applicant is currently attaching residential customers as authorized by said Commissions, it is said.

Applicant states that the Commission should determine the proposed service area (A) in order to permit Applicant without further Commission approval to enlarge or expand its facilities, (B) so that the cost to Applicant of the Commission's regulation would be minimized, and (C) because such determination would minimize any interference with the Pennsylvania and Ohio Commissions' exercise of their jurisdictional responsibilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to interevene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the application is required. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26658 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

V45/171 SE2 80 UMI

[Docket No. CP80-453]

Texas Eastern Transmission Corp.; Application

August 25, 1980.

Take notice that on July 17, 1980, Texas Eastern Transmission Corporation (Applicant), One Houston Center, Houston, Texas 77002, filed in Docket No. CP–80453 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the following:

(1) Construction and operation of a proposed interconnection with Energy Pipeline Corporation (EPC) in Middlesex County, New Jersey;

(2) Revision of its Rate Schedule SS to provide for the tracking of charges to Applicant by Energy Terminal Service Corporation (ETSC) for LNG storage service and by EPC for transportation services associated with the LNG storage service;

(3) Amendment of its sales contracts with Brooklyn Union Gas Company (Brooklyn Union) and Public Service Electric and Gas Company (PSE&G) to provide for sales at the proposed point of interconnection with EPC;

(4) Transportation of up to 267,311 dekatherm (dt) equivalent of natural gas per day for PSE&G from the proposed point of interconnection with EPC to two existing points of delivery to PSE&G;

(5) Construction and operation of approximately 3,200 feet of 30-inch pipeline crossover from the intersection of Applicant's 30-inch Line No. 20 with its 12-inch Line Nos. 1–C and 1–R (northeast of Linden, Union County) to Applicant's Meter and Regulator (M&R) Station No. 128 at Crown Central, New Jersey; expansion of the M&R Station No. 1196 at Franklin, New Jersey, and the M&R Station No. 128 at Crown Central, in order to effect deliveries of gas to PSE&G; and,

(6) Amortization of the unrecovered cost of Applicant's Staten Island LNG facilities.

Applicant's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to store LNG at ETSC's LNG Plant as an alternative to using its own storage facility on Staten Island to provide storage service to its customers under its Rate Schedule SS. It is stated that such service is provided for 6 of its customers and consists of storing a total of approximately 10,780,000 dt equivalent of natural gas and delivering a total maximum daily quantity of approximately 154,000 dt equivalent of natural gas.

Applicant states that the Commission authorized the SS storage service on April 29, 1966, in Docket No. CP66–43 as well as the use of Applicant's Accident Storage Field in Garrett County, Maryland, as an underground storage field and LNG storage facility. Applicant explains that on off-peak days the storage service was to be rendered by means of the Accident Storage Field and unused capacity of Applicant's pipeline system. On peak days, approximately 102,000 dt equivalent of natural gas was to have been supplied by Applicant's LNG facility and the remaining 52,000 dt equivalent was to have been supplied by the Accident Storage Field, it is stated. According to Applicant, its LNG storage tank on Staten Island was accidentally destroyed in February 1973. Applicant states that on April 19, 1974, it filed an application in Docket No. CP66–43 seeking authorization to repair or rebuild the damaged LNG facility which application is pending before the Commission.

Applicant states that it entered into discussions with ETSC for the use of ETSC's LNG storage service in rendering the SS storage service rather than rebuilding its LNG plant in Staten Island. Applicant indicates that those discussions resulted in a precedent agreement by Applicant and ETSC dated February 15, 1980, providing for the storage of 1,231,000 dt equivalent of LNG and the delivery of 102,689 dt equivalent of revaporized LNG per day by means of ETSC's LNG plant on Staten Island.

Applicant states that it needs to replace the LNG service previously used in rendering storage service under its Rate Schedule SS in order to enable it to continue to render the storage service to its customers provided by that rate schedule. According to Applicant, SS storage service is used by its customers as a peaking service during winter periods to help meet their high priority requirements. Applicant asserts that approximately 102,000 dt equivalent of revaporized LNG must be available to it at this eastern-most end of its system to assure its ability to meet those peak requirements. Applicant states that since the destruction of its LNG storage tank in February 1973 it has been able to render SS storage service to its customers because the natural gas supply shortage caused Applicant to curtail deliveries to its customers making pipeline capacity available on peak days for use in delivering peak-day quantities from the Accident Storage Field. It is stated that with recent increases in the availability of gas supplies to interstate pipelines, Applicant cannot continue to depend upon the availability of pipeline capacity due to curtailments to make such peak-day deliveries.

Applicant proposes to construct and operate a tap, valve, and related facilities to interconnect its pipeline system with the pipeline of EPC which would transport natural gas to and from the LNG facilities of ETSC. It is stated that such facilities would be located in Middlesex County, New Jersey. Applicant estimates that the total cost of such facilities would be $89,600.

Applicant proposes to revise its Rate Schedule SS to provide for the tracking of charges to Applicant by EPC for transportation and by ETSC in connection with the LNG storage service. Applicant states that it has contracted with ETSC and EPC in order to continue to be able to provide SS service to its customers without the necessity of reconstructing its Staten Island LNG facilities. The cost of SS service for the first year utilizing the ETSC and EPC facilities is estimated to be $14,562,406.

Applicant states that two of its resale customers, PSE&G and Brooklyn Union, would independently purchase storage service from ETSC. Applicant states that it would deliver natural gas under its various existing sales contracts with PSE&G and Brooklyn Union to EPC for transportation to ETSC. Applicant asserts that it therefore would have to amend such contracts to provide for the addition of the proposed point of interconnection of Applicant's and EPC's facilities as a sales delivery point to PSE&G and Brooklyn Union.

Applicant proposes to transport up to 267,311 dt equivalent per day for PSE&G plus any excess quantities tendered by PSE&G if Applicant, in its sole opinion, determines it is able to transport such excess quantities.

Applicant states that it would receive quantities from EPC for PSE&G's account at the proposed point of interconnection with EPC and would deliver to PSE&G up to 235,311 dt equivalent per day at Applicant's Crown Central M&R Station No. 128 in Union County, New Jersey, and up to 32,000 dt equivalent per day at Applicant's M&R Station No. 1196 at Franklin, Somerset County, New Jersey.

In order to effectuate deliveries to PSE&G, Applicant proposes to expand the capacity of its M&R Station Nos. 1196 and 128 and to construct and operate approximately 3,200 feet of 30-inch pipeline loop from the intersection of its 30-inch Line No. 20 and its 12-inch Line Nos. 1–C and 1–R to Crown Central. Applicant estimates that these facilities would cost a total of $1,675,000.

V45/171 SE2 80 UMI

Applicant proposes to amortize through charges in Applicant's Rate Schedule SS the remaining unrecovered cost of Applicant's Staten Island LNG facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26659 Filed 8-29-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1592-8; OPP-180435A]

California Department of Food and Agriculture; Issuance of Specific Exemption for Pydrin on Apples

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") for the use of Pydrin (fenvalerate) on 4,000 acres of apples in Monterey, San Benito, and Santa Cruz Counties, California, to control the Apple Pandemis. The Applicant initiated a crisis exemption for this use of Pydrin, which contains the active ingredient (a.i.) fenvalerate, March 19, 1980, and so notified the Administrator. Notification of this crisis exemption was published in the **Federal Register** of June 5, 1980 (45 FR 38435). The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 30, 1980.

ADDRESS: Donald J. Rodier, Registration Division (TS-767), Rm. E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald J. Rodier (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, *Pandemis pyrusana* is a new pest in California orchards. This leafroller was first noted in 1978, and by 1979, some orchards reported that 30 percent of the fruit clusters were infested, the Applicant stated. The Applicant estimated that losses from the leafroller in applies, which could reach $5 million without the use of Pydrin, would be cut to $1 million, if Pydrin was used. The Applicant gave the following reasons for not using alternative insecticides:

1. Guthion requires a 14-day re-entry period (this is a California State requirement). At this time of year, thinning of the trees takes place and a 14-day re-entry intervals is too lengthy. In addition, because of the proximity of homes, schools and hospitals to the apple orchards, the Agricultural Commissioner of Santa Cruz County has restricted the use of Guthion. The other two counties are adjacent to Santa Cruz and some of the orchards overlap;

2. Methomyl is not registered in California for use on apples. California's regulations require both a 45-day public comment period and efficacy data to obtain a special local need registration. The Applicant states there is not sufficient time or data to register methomyl for the present purpose; and

3. Phosdrin is extremely toxic to man. The Agricultural Commissioner of Santa Cruz County has indicated he would not issue a permit for use of Phosdrin because of the proximity of homes, schools, and hospitals to the apple orchards.

Since the original request for a specific exemption, California requested several amendments to add a second application, extend the use period, change the dosage rate of the active ingredient to 0.1-0.2 pound per acre, and to change the preharvest interval to 28 days. EPA determined that these changes did not significantly change the original request and has granted them. Because of the toxicity of fenvalerate, EPA has advised the Applicant of the appropriate buffer zones to be observed to minimize any adverse effects from fenvalerate drift.

EPA has determined that the following levels of fenvalerate residues are not likely to be exceeded as a result of the proposed use of Pydrin. These levels have been judged to be adequate to protect the public health.

Apples—0.5 part per million (ppm)
Wet apple pomace—2.0 ppm
Dry apple pomace—5.0 ppm
Milk fat—0.25 ppm
Whole milk—0.05 ppm
Meat, fat, and meat byproducts—0.5 ppm

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Shell product Pydrin 2.4 EC, EPA Reg. No. 201-401, may be applied at a dosage rate of 0.1 pound a.i. per acre;

2. A maximum of 800 pounds a.i. are authorized. Only 1 application of Pydrin is to be made as a cover spray per acre per season;

3. Applications are to be made only by ground equipment using 100-400 gallons of water per acre;

4. All applications are to be made by, or under the supervision of, a State-certified applicator;

5. Commodities with levels of fenvalerate (cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl benzeneacetate)) not exceeding the levels listed below, may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

Apples—0.5 ppm
Wet apple pomace—2.0 ppm
Dry apple pomace—5.0 ppm
Milk fat—0.25 ppm
Whole milk—0.05 ppm
Meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep—0.5 ppm;

6. A preharvest interval of 28 days must be observed;

7. All applicable directions, restrictions, and precautions on the product label must be adhered to;

8. No pesticide applications are to be made when wind speeds exceed 10 miles per hour. It is recommended that pesticide applications be made when wind speeds are between 2 and 5 miles per hour and that the following buffer zones be observed:

Application height/method 35 ft/aerial and mist blower	Application rate—pounds per acre	
	0.1	0.2
Freshwater (feet)	3,300	5,200
Saltwater	(1)	(1)

[1] Marine organism toxicity is low.

9. Fenvalerate is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds or crops in bloom if bees are visiting the treatment area. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption; and

11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this exemption by March 31, 1981.

(Sec. 18, as amended (92 Stat. 819 (7 U.S.C. 136)))

Dated: August 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26662 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1593-4; PF-197]

Certain Pesticide Chemicals; Filing of Pesticides and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals on raw agricultural commodities and animal feeds.

ADDRESS: Written comments and inquiries should be directed to the designated Product Manager (PM), Registration Division, (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF-197]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals on certain raw agricultural commodities and animal feeds in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2362. Mobay Chemical Corp., Agricultural Chemicals Division, PO Box 4913, Kansas City, MO 64120. Proposes that 40 CFR 180.320 be amended by establishing tolerances for the combined residues of the insecticide and bird repellent 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodity and Parts Per Million

Eggs—0.02
Lettuce, whole head—20.0
Poultry, (meat, fat, and meat byproducts)—0.5
Rice (domestic), whole grain—0.3
Rice (domestic) straw—1.0
Rice (wild), green grain—225 with no more than 0.2 in processed grain.

Mobay also proposes amending 40 CFR 180.320 by increasing the established tolerance on corn fodder and forage at 0.03 ppm to corn forage and fodder (green) at 9.0 ppm; and corn forage (hay) at 30.0 ppm; and by increasing the established tolerance on sweet corn (K+CWHR) from 0.03 ppm to .05 ppm.

The proposed method for determining residues is a gas chromatographic procedure using a flame photometric detector operating in the sulfur mode. (PM 16, William Miller, Rm. E-343, 202-426-9458)

FAP OH5264. Mobay Chemical Corp. Proposes to Amend 21 CFR 561.175 by establishing a regulation permitting residues of the insecticide and bird repellent 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate and its cholinesterase-inhibiting metabolites on cannery wastes at 0.5 ppm. [PM-16.]

PP OE2380. BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181, Parsippany, NJ 07054. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on the raw agricultural commodity kiwifruit at 10 parts per million. The proposed analytical method for determining residues is gas chromatography using an electron capture detector. (PM 21 Eugene Wilson, Rm. E-343, 202/755-2562)

PP OF2381. Dawn Corporation 924 Forth Avenue South, P.O. Box 100, Denison, Iowa 51442. Proposes amending 40 CFR 180.1042 by proposing exemptions from the requirement of a tolerance of aqueous extract of seaweed meal derived from *Ascophyllum nodosum* on the raw agricultural commodities: corn (maize), rice, soybeans, and wheat. No analytical method was proposed. (PM 25, Robert J. Taylor, Rm. E-359, 202-755-2196)

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: August 26, 1980.

James A. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26671 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[PF 199]

Certain Pesticide Products; Filing of Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals on raw agricultural commodities and feed commodities.

ADDRESS: Written comments and inquiries should be directed to the: Designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF 199]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

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SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals on certain raw agricultural commodities in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2358. Mobay Chemical Corp., Agricultural Chemicals Div., P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.330 by establishing tolerances for the residues of the insecticide *S*-[2-ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate and its cholinesterase inhibiting metabolites in or on the following raw agricultural commodities:

Commodities and Parts Per Million

Alfalfa—2
Alfalfa chaff—3
Alfalfa hay—7
Clover—2
Clover chaff—3
Clover hay—7

The proposed analytical method for determining residues is a gas chromatographic procedure utilizing a flame ionization detector operated in the sulfur mode. (PM 16, William H. Miller, Rm. E-343, 202–426–9458).

FAP OH5269. Diamond Shamrock, 1100 Superior Ave., Cleveland, OH 44144. Proposes amending 21 CFR 561.91 by establishing a regulation permitting residues of the insecticide 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate as a feed additive for horses at .00015 pound and swine at .00011 pound, per 100 pounds of body weight per day. (PM 15, George LaRocca, Rm. E–329, 202–426–9490)

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: August 26, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–26672 Filed 8–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1593–7; OPTS–51118]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80–193, October 4, 1980.
PMN 80–194, October 4, 1980.
PMN 80–195, October 4, 1980.
PMN 80–198, October 7, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979, (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51118]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 25, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-193.

Close of Review Period. November 3, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—Between $10 million and $99 million. Manufacturing site—West-north central region, U.S. Standard Industrial Identification Code—285.

Specific Chemical Identity. Neopentyl glycol, 1,6-hexanediol, adipic acid, phthalic anhydride, and trimellitic anhydride.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Baking enamels.

Production estimates:

	Pounds per year	
	Minimum	Maximum
1st year	130,000	260,000
2d year	200,000	327,000
3rd year	260,000	520,000

Physical properties:

Boiling range—302° to 307°F.
Evaporation rate—Slower than ether.
Vapor density—Heavier than air.
Weight per gallon—9.18 lb.
Percent volatile (by volume)—27 pct.

Toxicity Data. No data were submitted.

Occupational Exposure.

Activity	Exposure route	Maximum number persons exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Inhalation	2	1	251		1-10
Processing	Inhalation	2	4	251		1-10
Use	Inhalation		8	251		1-10
Disposal	Inhalation	3	8	251		1-10

Environmental Release/Disposal. The manufacture estimates that less than 10 kilograms (kg) per year of the substance may be released into the atmosphere. Water of esterification is disposed through a sanitary sewer. None of the components or resin will be released with this water.

PMN 80-194.

Close to Review Period. November 3, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—Between $10 million and $99 million.

Manufacturing site—West-north central region, U.S.

Standard Industrial Identification Code—285.

Specific Chemical Identity. 2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol phthalic anhydride.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Baking enamel.

Production Estimates.

	Pounds per year	
	Minimum	Maximum
1st year	250,000	375,000
2d year	430,000	555,000
3d year	625,000	750,000

Physical/Chemical Properties.

Evaporation rate—Slower than ether.
Vapor density—Lighter than air.
Volatility—Nonvolatile.
Weight/gal—9.10 lb.

Toxicity Data. No data were submitted.

Occupational Exposure.

Activity	Exposure route	Maximum number persons exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Inhalation	2	1	251		1-10
Processing	Inhalation	2	4	251		1-10
Use	Inhalation		8	251		1-10
Disposal	Inhalation	3	8	251		1-10

Environmental Release/Disposal. The manufacturer estimates that less than 10 kilograms (kg) per year of the substance may be released into the atmosphere. Water of esterification is disposed through a sanitary sewer. None of the components or resin will be released with this water.

PMN 80-195.

Close of Review Period. November 3, 1980.

Manufacturer's Identity. Uniroyal Chemical Co., Div. of Uniroyal Inc., Spencer St., Naugatuck, CT 06770.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted alkyl oxamide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Site-limited chemical intermediate.

Production Estimates. Claimed confidential.

Physical-Chemical Properties:

Melting point—166° to 168° C.
Appearance/odor—White solid/odorless.
Solubility:
  Water—Very soluble.
  Ethanol—Sparingly soluble.
  Hexane and toluene—Insoluble.
Decomposition temperature—Above 200° C.

Toxicity Data:

Oral LD_{50} (rat)—> 5.0 g/kg.
Skin/eye irritation tests—Negative.
Ames *Salmonella* mutagenicity tests—Negative.

Exposure. The manufacturer states that occupational exposure to this substance will be limited to two employes at the packaging station and two employees who will charge a reactor with this chemical for its conversion into the final product. Proper industrial hygiene controls including local exhaust ventilation and personal protective equipment will be utilized as appropriate.

Environmental Release/Disposal. The submitter states that during the production of this material there may be some fugitive alcohol emissions. There may also be some solid waste in the form of still bottoms when the solvent is distilled. Disposal will be by incineration at an EPA-approved solid waste incineration facility.

PMN 80-198.

Close of Review Period. October 23, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Styrene acrylic terpolymer.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Component in organic coating.

Production Estimates:

1980—6,000 gallons (gal).
1981—20,000 gal.

1982—35,000 gal.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. The manufacturer states that there are no known data on adverse health or environmental effects on this polymer.

Exposure. The submitter states that exposure of workers, during manufacture of the polymer and subsequent incorporation into organic coatings, will be negligible since at no time will the polymer be isolated. Exposure of customers and their employees to, the substance will be negligible since the polymer is incorporated into an organic coating prior to shipment to customers.

Environmental Release/Disposal. The manufacturer states that there will be no wastewater effluent from the manufacture of the polymer. Organic solvent will be used to remove traces of polymer from equipment and the organic solvent will be reclaimed through distillation or destroyed by burning. Any residue of distillation will be disposed of in an approved disposal site by a licensed hauler.

[FR Doc. 80-26673 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1592-7; OPP-180477]

Colorado, Kansas, and South Dakota; Issuance of Specific Exemptions for Permethrin on Field Corn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Colorado and South Dakota Departments of Agriculture and to the State of Kansas (hereafter referred to as "Colorado," "South Dakota," and "Kansas," individually or the "Applicants" collectively) for the use of permethrin on field corn to control the European corn borer. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: Colorado's and Kansas's specific exemptions expire on September 15, 1980; South Dakota's specific exemption expires on September 20, 1980.

ADDRESS: Jack E. Housenger, Registration Division (TS-767), Rm. E-107, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger (202-426-0223) at the above address.

SUPPLEMENTARY INFORMATION: The European corn borer is a major pest of field corn in the north central United States. Generally, a large percentage of the borers go through two generations each year. Borers overwinter as full-grown larvae in cornstalks, corn cobs, or weed stems, or spun up in other cornfield debris. They begin to develop in the spring. When moths emerge, they fly into cornfields to lay eggs during the evening. A majority of the larvae from this first generation change to pupae during the summer and the moths which emerge produce second generation which causes the most severe damage. The larvae of this brood tunnel into the corn shank and feed on silks, kernels, and cobs. This ultimately results in yield losses from broken stalks, dropped ears, physiological growth loss and, to some extent, quality reduction.

The Applicants claim that second generation borers are not controlled by the currently registered alternatives, carbaryl, carbofuran, diazinon, EPN, fonofos, parathion, phorate, toxaphene, and others. According to the Applicants, cultural, biological and mechanical control measures, as well as the use of short-season hybrids, have failed to control the European corn borer consistently.

The Applicants proposed to use permethrin to control second brood populations of European corn borers infesting field corn. The number of acres proposed for treatment and number of pounds active ingredient (a.i.) for each State is indicated as follows:

Colorado: 417,500 acres of field corn....	167,000 lbs. permethrin.
Kansas: 391,900 acres of irrigated field corn and field corn for seed production.	156,760 lbs. permethrin.
South Dakota: 867,000 acres of field corn	260,000 lbs. permethrin.

Colorado proposed to treat field corn in the counties of Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma.

Kansas and South Dakota proposed to make their two applications at a rate of 0.1 to 0.2 pound per acre; Colorado will make its two applications at a rate of 0.15 to 0.2 pound per acre. Minimum spray volumes to be used are 3 gallons of aerial equipment and 10 to 15 gallons for ground equipment.

Colorado anticipates that the proposed use would result in an increased yield of 2.3 million bushels of corn in the areas proposed for treatment. This would result in a 5 percent increase in revenues over those obtained from the use of registered alternatives. Colorado maintains that this additional revenue is vital since it will serve to reduce by 32 percent the increase in projected production costs.

Kansas estimates that potential losses without the proposed use could be $30,679,156.

South Dakota estimates yield losses from the European corn borer at 15 percent. This amounts to approximately $20.8 million on the acreage proposed for treatment.

EPA has determined that residues of permethrin from proposed use should not exceed 0.05 part per million (ppm) in or on field corn grain and 2 ppm in or on field corn forage or fodder. Secondary residues generated by this use are not expected to exceed 0.05 ppm in meat and milk. Due to the high toxicity of permethrin to bees and fish and other aquatic organisms, appropriate restrictions have been imposed.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, Colorado and Kansas have been granted specific exemptions to use the pesticide noted above until September 15, 1980 and South Dakota until September 20, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The products Ambush 2E (EPA Reg. No. 10182-18) and Pounce 3.2 EC (EPA Reg. No. 279-3014) may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;
2. Permethrin may be applied at a rate of 0.1 to 0.2 pound per acre by Kansas and South Dakota and at a rate of 0.15 to 0.2 pound per acre by Colorado;
3. A maximum of two applications may be made;
4. Applications may begin when eggs of the second generation of European corn borers begin to hatch. The additional applications may be made as needed;
5. A maximum of 417,500 acres of field corn located in the counties named above may be treated in Colorado. A maximum of 391,900 acres of irrigated field corn and field corn seed production fields may be treated in Kansas. A maximum of 867,000 acres of field corn may be treated in South Dakota;
6. Applications may be made by certified applicators using either aerial or ground equipment. A minimum spray volume of 10 gallons per acre in Colorado and 15 gallons per acre in Kansas and South Dakota, when applied by ground equipment, and 3 gallons per acre, when applied by aerial equipment, in all three States, will be used;

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7. A 30-day pre-harvest interval will be observed;

8. The use of permethrin is not authorized until it has been determined that at least 25 percent of the plants show second generation egg masses or newly hatched larvae;

9. A 60-day crop rotation restriction will be observed;

10. It is recommended that permethrin not be applied any closer to fish-bearing waters than as follows:

Application height per method	Buffer zone (feet) application rate—pounds per acre	
	0.1	0.2
2 feet per ground spray:		
Freshwater	50	80
Saltwater	200	350
8 feet per aerial spray:		
Freshwater	200	340
Saltwater	900	1,400
15 feet per aerial spray:		
Freshwater	200	650
Saltwater	1,700	2,700

Applications closer than these may result in fish and/or other aquatic organism kills. It is recommended that applications be made when wind speeds are between 2 and 5 miles per hour. No applications are to be made when wind speeds exceed 10 miles per hour;

11. Precautions must be taken to avoid or minimize spray drift to non-target areas;

12. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. They may not be applied or allowed to drift to weeds in bloom on which significant numbers of bees are actively foraging;

13. Permethrin is toxic to fish. It may not be applied directly to water, and drift reduction precautions must be observed. It may not be applied where excessive runoff is likely to occur. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides;

14. Residues of permethrin resulting from the above application are not expected to exceed 0.05 ppm in or on field corn grain and 2 ppm in or on field corn forage or fodder. Secondary residues in meat and milk are not expected to exceed 0.05 ppm. Commodities which do not exceed the above levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

15. All applicable directions, restrictions, and precautions on the EPA-registered labels are to be adhered to;

16. The Applicants are each responsible for ensuring that all of the provisions of its specific exemption are met and each must submit a final report summarizing the results of this program by February 28, 1981; and

17. The EPA shall be immediately informed of any adverse effects resulting from use of permethrin in connection with this program.

(Sec. 18, as amended (92 Stat. 819 (7 U.S.C. 136)))

Dated: August 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26663 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1592-6; OPP-180481]

Connecticut, New Jersey, Oregon, and Washington; Issuance of Specific Exemptions To Use Mesurol on Blueberries as a Bird Repellent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Connecticut and New Jersey Departments of Environmental Protection and the Oregon and Washington Departments of Agriculture (hereafter referred to as "Connecticut", "New Jersey," "Oregon," and "Washington," or the "Applicant") to use Mesurol on blueberries as a bird repellent. These specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: Oregon's specific exemption expires on August 31, 1980. The three other specific exemptions expire on September 30, 1980.

ADDRESS: Libby Welch, Office of Pesticide Programs, Registration Division (TS-767), Rm. E-124, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Libby Welch (202-426-0223) at the above address.

SUPPLEMENTARY INFORMATION: Starlings, grackles, robins, cedar waxwings and blackbirds are predominant among the many species responsible for significant losses in blueberry production in Connecticut, New Jersey, Oregon, and Washington. The birds begin feeding on the earliest maturing varieties of blueberries as the fruit ripens and continue through maturity and harvest. The Applicants state that bird damage in the form of predation is ever-present, and current methods of control (distress baits, chemosterilants, noise devices, alarms, and netting) are not effective, or are not economically feasible. There are no pesticides currently registered for repelling birds on blueberries.

If Mesurol is not available, New Jersey estimates a loss of 50 percent of the blueberry crop (a loss valued at $1,050,000); Oregon estimates losses could exceed $500,000; Washington indicates that the use of mesurol could prevent a loss of $360,000 to bluberry growers. Connecticut indicates that replacement of the nettings destroyed in a severe 1979 windstorm would cost $108,000 and that without netting losses could reach $330,000. Connecticut anticipates 95 percent control of birds with use of Mesurol.

The Applicants requested that EPA allow application of Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, which contains the active ingredient (a.i.) 3,5 dimethyl-4-(methylthio)phenyl methylcarbamate. A total of 90 acres will be treated in Connecticut; in New Jersey a total of 700 acres; in Oregon a total of 500 acres; and in Washsington a total of 800 acres will be treated.

EPA has established permanent tolerances for residues of the active ingredient on fruits with similar physiological characteristics, such as cherries at 25 parts per million (ppm) and peaches at 15 ppm. A permanent tolerance of 25 ppm on blueberries is expected to be established soon. This level has been judged adequate to protect the public health. No unreasonable adverse effects to the environment are expected to result from the proposed use.

After reviewing the applications and other available information, EPA has determined that the criteria for specific exemptions have been met.

Accordingly, Connecticut, New Jersey, and Washington have been granted specific exemptions to use the pesticide noted above until September 30 1980 and Oregon until August 31, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Use of the product Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, is authorized. If an unregistered label is used it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum application rate of 2.67 pounds of formulation (2.0 pounds a.i.)

per acre per application in not less than five gallons of water is authorized;

3. A maximum of three applications may be made, not to exceed 8.0 pounds of formulation (6.0 pounds a.i.) per acre per season;

4. A maximum of 540 pounds a.i. may be applied to 90 acres of highbush blueberries in Connecticut. A maximum of 4,200 pounds a.i. may be applied to 700 acres of blueberries in New Jersey; a maximum of 3,000 pounds a.i. may be applied to 500 acres of blueberries in Oregon; and a maximum of 4,800 pounds a.i. may be applied to 800 acres of blueberries in Washington;

5. A seven-day interval between applications must be observed;

6. Applications may be made with ground or aerial equipment;

7. Connecticut will observe a pre-harvest interval of seven days;

8. Applications shall be made by State-certified private applicators or State-licensed commercial applicators in New Jersey and Washington. In Oregon, State-licensed commercial applicators or growers using their own equipment will make applications. In Connecticut, growers will make applications;

9. Blueberries with residue levels not exceeding 25 ppm a.i. may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of these actions;

10. Mesurol is toxic to fish. It must be used with care when applied in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift from treated areas;

11. All applicable precautions, directions, and restrictions on the EPA-registered label must be adhered to;

12. The EPA must be immediately informed of any adverse effects resulting from this use of Mesurol; and

13. The Applicants are each responsible for ensuring that all of the provisions of its specific exemption are followed and each must submit a final report summarizing the results of its program by December 31, 1980.

(Sec. 18, as amended (92 Stat. 819 (7 U.S.C. 136)))

Dated: August 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26664 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1592-5; OPP—180482]

Maryland and New Jersey; Issuance of Specific Exemptions to Use Azinphos Methyl to Control Carrot Weevil on Root Parsley and Moss-Curled Parsley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued specific exemptions to the Maryland Department of Agriculture and the New Jersey Department of Environmental Protection (hereafter referred to as "Maryland," or "New Jersey," or the "Applicants") to use azinphos methyl to control the carrot weevil on ten acres of moss-curled parsley in Maryland and on 340 acres of root and moss-curled parsley in two counties in New Jersey. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemptions expire on August 30, 1980.

ADDRESS: Libby Welch, Registration Division (TS-767), Room E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Libby Welch (202-426-0223) at the address given above.

SUPPLEMENTARY INFORMATION: In the larvel stage, the carrot weevil (*Listronotus oregonensis*) is a fat, white, legless grub whose tunneling in parsley destroys the tap root. According to the Applicants, this pest presents a serious threat to the parsley crop and unless an effective pesticide is made available, parsley growers in New Jersey could lose $1,075,200 and in Maryland growers could lose $15,000. DDT had provided economic control of this pest, but this use of DDT was cancelled in the early 1970's. Currently, no insecticide is registered for control of the carrot weevil on either root parsley or moss-curled parsley.

The Applicants proposed to use the products Guthion 2S (EPA Reg. No. 3125-123) and Guthion 50W (EPA Reg. No. 3125-193), containing the active ingredient (a.i.) azinphos methyl, at a dosage rate of 0.5 pound a.i. per acre. EPA has found azinphos methyl (Guthion) to be effective against carrot weevil on parsley at this rate. Maryland will treat a maximum of ten acres of moss-curled parsley. New Jersey will treat a maximum of 300 acres of moss-curled parsley and 40 acres of root parsley in Atlantic and Cumberland Counties.

EPA has imposed a 21-day pre-harvest interval restriction. Residues of azinphos methyl resulting from the proposed use should not exceed 5 parts per million (ppm) in parsley leaves and 2 ppm in parsley roots at 21 days after treatment. These levels have been deemed adequate to protect the public health. There is no expectation of residues in meat, milk, eggs, or meat byproducts as a result of the proposed use and minimal hazard to the environment is anticipated.

After reviewing the application and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until August 30, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Use of the products Guthion 2S, EPA Reg. No. 3125-123, and Guthion 50W, Reg. No. 3125-193, manufactured by Chemagro Division of Mobay Chemical Corp., is authorized. If unregistered labels are used, they must contain the identical applicable precautions and restrictions which appear on the registered labels;

2. Guthion will be applied at a rate of 0.5 pound a.i. per acre. A maximum of three applications to root parsley and a maximum of five applications to moss-curled parsley may be made;

3. A maximum of 10 acres may be treated in Maryland. A maximum of 340 acres may be treated in the New Jersey counties named above;

4. Applications may be made by ground equipment in a minimum of 40 gallons of water per acre in both States and in a minimum of 2 gallons of water per acre by air equipment in New Jersey;

5. Application may not be made within 21 days of harvest;

6. All applications will be made by qualified private and and commercial applicators;

7. Residue levels of azinphos methyl are not expected to exceed 5 ppm in parsley leaves and 2 ppm in parsley roots. Parsley with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of these actions;

8. All applicable directions, restrictions, and precautions on the product label must be followed;

9. Precautions will be taken to avoid or minimize spray drift to non-target areas;

10. The Applicants shall each be responsible for assuring that all of the provisions of its specific exemption are followed and each must submit a report

summarizing the results of its program by February 1, 1981;

11. Prior to application each State's Cooperative Extension Service shall determine the presence of the carrot weevil in at least 1 percent of seedling plants. Each sample will consist of 5 consecutive seedlings from 20 locations in the field; and

12. The EPA must be immediately informed of any adverse effects resulting from the use of azinphos methyl in connection with these exemptions.

(Sec. 18 as amended (92 Stat. 819; (7 U.S.C. 136)).)

Dated: August 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26665 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1592-3; OPTS-51108]

Polymer of Hydroxyethyl Acrylate, Styrene, 2-Ethylhexyl Acrylate, Alkyl Methacrylate, Substituted Alkyl Acrylate, and Alkyl Mercaptan; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATES: Written comments by September 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 28, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51108]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 25, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-185.

Close of Review Period. October 28, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Manufacturing site—Mid-Atlantic, U.S.

Standard Industrial Classification Code—285, "Paints, Varnishes, Lacquers, Enamels, and Allied Products."

Specific Chemical Identity. Claimed confidential. Generic name provided: Polymer of Hydroxyethyl acrylate, styrene, 2-ethylhexyl acrylate, alkyl

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methacrylate, substituted alkyl acrylate, and alkyl mercaptan.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production Estimates

	(kg/yr)	
	Minimum	Maximum
First year	2,000	4,000
Second year	10,000	20,000
Third year	200,000	400,000

Physical/Chemical Properties.

Acid value—20.6
Hydroxyl value—76.0
Nitrogen—0.0
Percent total solids—63.5
Viscosity—U-V
Color—1
Density—8.26

Toxicity Data. No data were submitted.

Occupational exposure.

Activity and type of exposure	Exposure route	Maximum number persons exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture (3 sites)	Skin, eye inhalation	8	3–4	5–150	0–1	1–10
Processing (2 sites)	Skin, eye inhalation.	12	3	240	0–1	0–1

Environmental Release/Disposal. Manufacturing and processing.

Media—Amount of Chemical Released (kg/yr).
Air—Less than 10.
Water—Less than 10.
Land—10–1,000.

Reactor vapors pass through a receiving tank for further condensation then through a tower containing saddle type packing, a water and permanganate solution spray and finally into a atmosphere via a blower. Solvent used to clean equipment is reclaimed by distillation. Sluge is incinerated.

[FR Doc. 80–20867 Filed 8–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1592–2; OPTS–51121]

Polymer of: Carbomonocyclic Carboxylic Acid, Alkanediol, and 2,5-Furandiol; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a noticed in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from PMN is published herein.

Interested persons may, on or before September 22, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51121]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 25, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–180

Close of Review Period. October 22, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polymer of: Carbomonocyclic carboxylic acid, alkanediol, and 2,5–furandiol.

the following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production estimates:

	Kilogram per year	
	Minimum	Maximum
First year	8,000	12,000
Second year	70,000	90,000
Third year	90,000	125,000

Physical/chemical properties:

Acid value—23–30.

Viscosity-(thinned with 2–ethoxyethanol)—E–F.

Hydroxyl value—28.0

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number persons exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Skin and eyes.	9–12	3	5–20	0–1	0–1
Processing	Skin and eyes.		4	30	0–1	0–1

Environmental Release/Disposal. The submitter states that less than 10 kilograms per year of the PMN substance will be released to the environment.

Reactor vapors pass through a receiving tank for further condensation and then through a tower containing saddle type packing and a water and permanganate solution spray. Finally the vapors pass via a blower in the atmosphere. Solvent is used to clean the equipment as needed and is reclaimed by distillation. Sludge is incinerated.

[FR Doc. 80–26668 Filed 8–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1592–4; OPTS–51117]

Very Short Oil Non-oxidizing Alkyd Resin; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act a (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by October 4, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Larry Newsome, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal** Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend thereview period for up to an additional 90 days. If EPA determines and extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before October 4, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51117]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 25, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-192.

Close of Review Period. November 3, 1980.

Manufacturer's Identity. Spencer Kellog, Division of Textron, Inc., 120 Delaware Ave., Buffalo, NY 14240.

Specific Chemical Identity. Claimed confidential. Generic name provided: Very short oil non-oxidizing alkyd resin. The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Coating for drum and pail manufacture.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Flash point—162°F (Seta C.C.).
Weight/gal.—9.32 lb.
Specific gravity 25/25°C—1.12
Viscosity at 25°C—$Z_1 + \frac{1}{2}$
Acid value (solids)—33.0
Nonvolatile—85.5%
Solvent—Butyl cellosolve/xylene.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that a maximum of two workers may be exposed to the substance during sampling, analyzing, and filling of containers.

Environmental Release/Disposal. The submitter claims that there will be no release of the PMN substance into the environment and that the only waste generated consists of samples for quality control and possible off-specification materials. The waste products will be disposed of in approved facilities by incineration or landfill.

[FR Doc. 80-26666 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-3; OPP-180476]

Kansas; Issuance of Specific Exemption To Use Permethrin on Field Corn To Control Southwestern Corn Borer

Correction

In FR Doc. 80-25605 appearing at p. 56177 in the issue of Friday August 22, 1980, please make the following corrections:

On page 56178, the table in the second column, the second and third entries under "Application rate 0.1 lb, per acre:"

The second and third entries now reading "8 ft. Ground spray" and "15 ft. Ground spray" should read "8 ft Aeriel spray" and "15 ft Aeriel spray".

BILLING CODE 1505-01-M

[FRL 1593-8]

Grants for Construction of Treatment Works; Class Deviation

Under the authority of 40 CFR 30.1000, the Environmental Protection Agency (EPA) has issued a class deviation from 40 CFR 35.910-2(c) of EPA's construction grant regulations.

Section 35.910-2(c) requires that recoveries be treated, for reallotment purposes, like the most recent appropriation. (Recoveries are funds deobligated after the initial period of availability of those funds.) Under this regulation, any funds recovered during FY 79 and prior years which are not obligated by September 30, 1980, would be subject to reallotment. We have determined it would be inappropriate to reallot recoveries from FY 79 and prior fiscal years this year. We will, instead, reallot FY 79 and prior year recoveries with FY 80 recoveries if they remain unobligated after September 30, 1981. Recoveries after enactment of EPA's FY 81 appropriation will be treated like FY 81 funds subject to reallotment after September 30, 1982.

We are printing the deviation with this Notice.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0850.

Dated: August 22, 1980.

Conrad Carter,

Acting Assistant Administrator for Planning and Management (PM-208).

Dated: August 26, 1980.

Eckardt C Beck,

Assistant Administrator for Water and Waste Management (WH-556).

[FR Doc. 80-26674 Filed 8-29-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 14, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3919.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. Box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T-3919, between Administrative Board of the Ponce Municipal Piers (Administrative Board) and Trailer Marine Transport Corporation (Lessee), provides for the lease of a two-story cement building 35' wide and 16' deep located in the southern part of the dock area of Ponce, along with a parking area of 16,000 sq. ft. and an enclosed yard area of 16,000 sq. ft. The Lessee shall pay the Administrative Board a monthly rent of $1,657.88. The lease shall run for one year.

Agreement No. 9973-7.

Filing Party: Wade S. Hooker, Jr., Esquire, Burlingham, Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9973-7 authorizes Johnson ScanStar to utilize overland minibridge service through U.S. Atlantic, Gulf, or Great Lakes ports in the event of any emergency resulting in a general closure of U.S. Pacific Coast Ports.

Agreement No. 10401.

Filing Party: R. Frederic Fisher, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 10401, the Transpacific Westbound Discussion Agreement, is a proposal by the parties to the Pacific Westbound and Far East Conferences to discuss certain issues, including cost, cargo statistics, and general rate levels and rate/service relationships as between the East, Gulf, and West Coasts, relative to various U.S./Far East Westbound trades. The parties may attempt to reach an agreement(s) as to the appropriate, future conference and agreement structure in the involved trades. Membership is open to any vessel operating common carrier by water in the involved trades. The agreement is proposed to remain in effect for 18 months from the date of Commission approval, unless the contemplated, further agreement(s) is filed within the 18-month period, whereupon approval is proposed to run until final action is taken thereon.

Dated: August 27, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-26615 Filed 8-29-80; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Office located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreements including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 22, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10398.

Filing party: Gustav E. Hulander, President, Mayan Line, Inc., P.O. Box 270189, Buena Vista Station, Miami, Florida 33137.

Summary: Agreement No. 10398 establishes a space charter agreement between Mayan Line, Inc. and Consolidadora Del Caribe, S.A. in the trade between Miami, Florida and Puerto Morelos, Mexico. Mayan agrees to let and Consolodadora agrees to hire a minimum of 10 TEU spaces per voyage of four container/general cargo vessels in the trade.

By Order of the Federal Maritime Commission.

Dated: August 27, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-26764 Filed 8-29-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankers Trust New York Corp.; Acquisition of Bank

Bankers Trust New York Corporation, New York, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire through its proposed subsidiary, BT Bancshares, Inc., Albany, New York, 100 per cent of the voting shares of BT National Bank, Albany, New York, the successor by merger to, and acquisition of substantially all of the assets and liabilities of, Bankers Trust Company of Albany, National Association, Albany, New York, and Bankers Trust Company of Binghamton, Binghamton, New York, respectively. The Factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 22,

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1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26744 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

BT Bancshares, Inc.; Formation of Bank Holding Company

BT Bancshares, Inc., Albany, New York, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of BT National Bank, Albany, New York ("BTNB") (an interim bank in the process of organization); Bankers Trust Company of Albany, National Association, Albany, New York ("BT Albany"); and Bankers Trust Company of Binghamton, Binghamton, New York ("BT Binghamton"). Should this application be approved, it is proposed that the following reorganization will occur: BT Binghamton will acquire substantially all of the assets and liabilities of BT Albany. BT Binghamton then will merge into BTNB and assume the name of BTA. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26745 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

DuBank Holding Inc.; Formation of Bank Holding Company

DuBank Holding Inc., Carbondale, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.28 percent of the voting shares of DuQuoin State Bank, DuQuoin, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26746 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

Elmwood Financial Corp.; Formation of Bank Holding Company

Elmwood Financial Corporation, Racine, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of Elmwood, Racine, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26747 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

First Colonial Bankshares Corp.; Acquisition of Bank

First Colonial Bankshares Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 10.67 percent or more of the voting shares of Northwest Commerce Bank, Rosemont, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26748 Filed 8-29-80; 8:45 am]

BILLING CODE 6210-01-M

First Englewood Bank Corp.; Formation of Bank Holding Company

First Englewood Bank Corp., Englewood, Florida, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Englewood Bank and Trust, Englewood, Florida. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 26, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26749 Filed 8—29-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION Q02

[GSA Bulletin FPMR F-124; ADP and Telecommunications]

COBOL Compiler Validation in Support of Federal Information Processing Standands Publication (FIPS PUB) 21-1

August 22, 1980.

To: Heads of Federal agencies.

1. *Purpose.* This bulletin identifies a new official version (Version 4.0) of the 1974 COBOL Compiler Validation System (CCVS) that will be used by the Federal Compiler Testing Center (FCTC) for all validations performed after January 1, 1981.

2. *Effective date.* January 1, 1981.

3. *Expiration date.* This bulletin contains materials of a continuing nature and will remain in effect until canceled.

4. *Background.*

a. Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services is authorized to establish and operate Federal Data Processing Centers (FDPC) to promote the efficient use of ADP resources by Federal agencies. The FCTC is an FDPC established to validate compilers.

b. The Federal Property Management Regulations (see § 101-36.1305-1) require that all COBOL compilers brought into the Federal Government inventory and those used to develop computer programs for the Government when providing programming services be validated annually. The FCTC provides the services of validating compilers on a reimbursable basis. The FCTC also maintains the GSA CCVS (based on X3.23-1974, American National Standard COBOL and the Federal implementation of COBOL 74, a tool used in the validation process).

c. Changes are required to the CCVS in order to correct existing errors, enhance test cases, and reflect recent interpretations that impact the Federal Standard COBOL.

d. A new version of the CCVS will be issued when significant enhancements require it. To provide both currentness and stability, new versions of the CCVS will occur no more than once per year. New versions of the CCVS will be issued on or about July 1 of a given year, but will not be used for official validations until the following calendar year. This gives vendors and users of compilers approximately 6 months to make any required adjustments. The FCTC will determine on a case-by-case basis whether new CCVS versions or releases necessitate revalidation of a compiler if all other factors are unchanged since the last validation.

5. *COBOL Compiler Validation System (CCVS).*

a. Version 4.0 of the 1974 CCVS includes all of the corrections identified for both Versions 3.0 and 3.1. It also includes additional test cases for the Inter-Program Communications Module, Indexed I-O Module, Nucleus Module, Relative I-O Module and Table Handling Module. Test cases for the Communications Module are included in the validation system for the first time. Excluded from Version 4.0 are any tests for arithmetic expressions of the Nucleus Module, the ENTER statement of the Nucleus Module, and the RERUN statement from the I-O modules.

b. The COBOL Compiler Validation System is available from: National Technical Information Service, U.S. Department of Commerce, 5285 Royal Road, Springfield, VA 22161, Telephone: 703-557-4650.

Information on the titles, report ordering numbers, and prices follows:

(1) The 1974 COBOL Compiler Validation System Version 4.0 Implementation Documentation (Users Guide), FCTC/CCVS74UG-80/06—contact National Technical Information Service (NTIS) for price, referencing FCTC/CCVS74UG-80/06; and

(2) The 1974 COBOL Compiler Validation System Version 4.0 (Magnetic tape, includes Users Guide), FCTC/CCVS74-80/07—$840.

(c) Version 4.0 of the CCVS was extensively tested before release to the public. As in all large software systems, problems may be uncovered during testing by users who acquire and implement CCVS before the FCTC implementation date of January 1, 1981. Comments and questions from those users should be submitted before December 1, 1980, so that they can be considered before the implementation date. The address is: Director, Federal Compiler Testing Center, General Services Administration (CFT), Attn: CCVS V4.0, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041.

6. *Obtaining validation services.* The FCTC provides validation services on a cost-reimbursable basis. These services are available to both the producers and users of COBOL compilers. The official validation of a COBOL compiler will be scheduled and conducted annually. An information booklet containing a request for validation services is available from: Federal Compiler Testing Center, General Services Administration (CFT), 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041. Telephone: 703-756-6153.

R. A. Coyer,

Acting Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 80-26697 Filed 8-29-80, 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80F-0282]

Markel, Hill & Byerley for Anheuser-Busch Co.'s, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Markel, Hill & Byerley has filed a petition on behalf of Anheuser-Busch Companies, Inc., proposing that the food additive regulations be amended to provide for the safe use of calcium hypochlorite as a modifying agent for food starch.

FOR FURTHER INFORMATION CONTACT: Richard C. Craska, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8A3402) has been filed by Markel, Hill & Byerley, 1625 K St. NW., Washington, DC 20006 on behalf of Anheuser-Busch Companies, Inc., 721 Pestalozzi St., St. Louis, MO 63118, proposing that § 172.892 *Food Starch-modified* (21 CFR 172.892) be amended to provide for the safe use of calcium hypochlorite as a modifying agent for food starch.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental analysis report and the environmental assessment report may be seen in the office of the Hearing

V 45 / 171 SE 2 80 UMI

Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–26650 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80P–0244/CP]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notices.

SUMMARY: The Food and Drug Administration (FDA) announces that it has issued a temporary permit to Keystone Foods, Inc., to market test tomato juice from concentrate. The purpose of this temporary permit is to permit the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the new food is introduced into or caused to be introduced into interstate commerce, but no later than December 1, 1980. However, the permit may terminate sooner depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after such negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17) concerning temporary permits and to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Keystone Foods, Inc., North East, PA 16428. The permit covers limited interstate marketing tests of tomato juice that deviates from the standard of identity prescribed for tomato juice under 21 CFR 156.145. The product is prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The test product is equivalent to a single-strength tomato juice normally found in the marketplace. The finished product contains not less than 5.5 percent tomato soluble solids. The permit provides for the temporary marketing of 100,000 cases of twelve 46-ounce containers, 25,000 cases of twenty-four 32-ounce containers and 10,000 cases of forty-eight 5½-ounce containers of the product to be distributed in the States of Alabama, Arizona, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and Wisconsin, and the District of Columbia.

The test product is to be packed at the Keystone Foods, Inc., plant located in North East, Pennsylvania.

The principal display panel of the label states the product name as "tomato juice from concentrate." Each of the ingredients used is stated on the label as required by the applicable section of 21 CFR Part 101, except that the tomato ingredient complying with the requirements of § 155.191(a)(1) is declared as "tomato concentrate." This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than December 1, 1980. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–26651 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–03–M

National Institutes of Health

Allergy and Clinical; Immunology Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immonology Research Committee, National Institute of Allergy and Infectious Diseases, November 6 and 7, 1980 at the National Institutes of Health, Westwood Building, 5333 Westbard Avenue, Conference Room 740, Bethesda, Maryland.

The meeting will be open to the public on November 7 from 8:30 a.m. to approximately 10:30 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 52b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meeting of the Committee will be closed to the public on November 6 for approximately eight hours from 8:30 a.m. until adjournment. On November 7 the meeting will be closed to the public from approximately 10:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectous Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. Harley G. Sheffield, Executive Secretary, Allergy and Clinical Immunology Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–26705 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

Animal Resources Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, on

October 27, 1980, in the Seville Room, Sheraton/Emory Inn, 1641 Clifton Road, N.E., Atlanta, Georgia 30329.

The meeting will be open to the public from approximately 1:30 p.m., until adjournment, for a staff presentation on the current status of the Animal Resources Program, and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public for approximately five hours, from 8:00 a.m. to approximately 1:00 p.m., for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences and Primate Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95, because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Dated: August 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–26704 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

Blood Diseases and Resources Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, October 20–21, 1980, National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 am–5:00 pm, October 20, and from 8:30 am–4:30 pm, October 21, 1980, to discuss the status of the Blood diseases and Resources program, needs, and opportunities. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21A, National Institutes of Health, Bethesda, Maryland 20205, phone: (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 514, National Institutes of Health, Bethesda, Maryland 20205, phone: (301) 496–1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 22, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–26701 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

Population Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on November 13–14, 1980 in Conference Room 9, Building 31C, NIH, Bethesda, Maryland.

This meeting will be open to the public on November 13 from 9 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5 U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 13 from 10:30 a.m. to adjournment on November 14 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 7C–09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C–03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will furnish other information.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Reserch, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–26702 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, October 6–7, 1980, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on October 6 from 9:00 a.m. to 5:00 p.m. with current status reports, review of the Human Learning and Behavior Program, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public on October 7 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 7C09,

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National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: August 19, 1980.

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80–26703 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

Transplantation Biology and Immunology Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases, October 31, 1980 at the National Institutes of Health, Westwood Building, Conference Room 740, Bethesda, Maryland.

The meeting will be open to the public on October 31 from 8:30 a.m. to approximately 12:30 p.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meeting of the Committee will be closed to the public on October 31 for approximately three to four hours from 1:30 p.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 19, 1980.

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–26706 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service, Health Resources Administration

Application Announcement, Proposed Funding Preferences and Grant Orientation Conferences for the Health Careers Opportunity Program

The Office of Health Resources Opportunity, Health Resources Administration, announces that applications for fiscal year 1981 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of sections 787 and 798 of the Public Health Service Act.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. Section 798 establishes a parallel program for training in allied health. The assistance authorized by these sections includes identification and recruitment, remedial education, counseling, and advice on financial aid.

Based on projected commitments for currently active projects requiring continued support, an estimated $15.5 million for section 787 and $500,000 for section 798 will be available for competitive awards in fiscal year 1981.

For these programs, an "individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession, or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. 42 CFR 57.1803(b)(3).

The following income figures, as published by the U.S. Bureau of Census, determine what constitutes a low-income family for purposes of these Health Careers Opportunity grants for fiscal year 1981.

Size of parents family [1]	Income level [2]
1	$4,900
2	6,300
33	7,500
4	9,700
5	11,400
6 or more	12,800

[1] Includes only dependents listed on Federal income tax forms.

[2] Rounded to $100 (adjusted gross income for calendar year 1979).

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7418.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in Office of Management and Budget Circular No. A–95.

Proposed Funding Preferences

Under the program authorized by section 787 it is proposed that the following funding preferences be established in determining priority for funding approved applications in fiscal year 1981:

First preference will be given to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health ("health professions schools") whose applications: (a) Show the school has or will have an Educational Assistance Agreement, as described below, with an institution which awards baccalaureate degrees, and (b) proposes to carry out at least both of the following purposes:

(1) To facilitate the entry of individuals from disadvantaged backgrounds into health professions schools by engaging in activities which assist them to compete for admission, such as instruction designed to improve performance on admission tests, and by assisting admissions committees with the evaluation of disadvantaged applicants; and

(2) To provide counseling or other retention services, such as tutorial assistance and assistance in adjusting to the environment of the school, which are designed to help individuals from disadvantaged backgrounds who are enrolled in health professions schools to complete this education.

Second preference will be given to health professions schools which propose to carry out purposes (1) and (2) as stated in the preceding paragraphs;

Third preference will be given to institutions which award baccalaureate degrees and have an Educational Assistance Agreement with a health professions school; and

Fourth preference will be given to other health or educational entities, such as community groups, which have an Educational Assistance Agreement with an institution which awards baccalaureate degrees where this baccalaureate institution also has an Educational Assistance Agreement with a health professions school.

An Educational Assistance Agreement must evidence a formal relationship between the grantee and the other school or entity for the purpose of assuring a continuity of training through the health professions school. This agreement must provide for financial (excluding direct student aid) or other support for this purpose which may include funds from the grant awarded under this program. It may be demonstrated by joint use of faculty, staff and facilities.

Interested persons are invited to submit written comments on these proposed funding preferences to the Associate Administrator, Office of Health Resources Opportunity, at the address given below. All comments received on or before October 2, 1980 will be considered before final funding preferences for fiscal year 1981 are established. Normally this comment period would be 60 days. However, due to the need to implement any changes in funding preferences for the 1981 grant award cycle, this comment period has been reduced to 30 days. After the close of the comment period, the final funding preferences will be published as a notice in the **Federal Register**.

Written comments should be addressed to: Associate Administrator, Office of Health Resources Opportunity, Health Resources Administration, 3700 East-West Highway, Center Building, Room 10–50, Hyattsville, MD 20782.

All comments received will be available for public inspection and copying at the Division of Program Coordination, Office of Health resources Opportunity at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program also will be provided through four program orientation conferences. The conferences, scheduled during October of 1980, are for the benefit of interested potential applicants.

Each of the four conferences will be held for two days and conducted as follows:

October 2–3, 1980—Atlanta, Georgia.
October 6–7, 1980—Denver Colorado.
October 9–10, 1980—San Francisco, California.
October 16–17, 1980—Boston, Massachusetts.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Arthur Testoff, Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7230.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions postmarked no later than December 11, 1980.

Dated: August 27, 1980.

Henry A. Foley,
Administrator.

[FR Doc. 80–26792 Filed 8–29–80; 8:45 am]

BILLING CODE 4110–83–M

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services, Public Health Service.

ACTION: Notification of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new system of records: Nurse Practitioner Traineeships, HHS/HRA/BHPr, 09–35–0045. We are proposing also to include four routine uses with the system.

The system's purpose is to administer the Nurse Practitioner Traineeship Program. Trainees must reside in a health manpower shortage area and sign a commitment with the Secretary to practice full-time as nurse practitioners in areas having shortages of primary medical care personnel.

PHS invites interested persons to submit comments on the proposed routine uses on or before.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on August 22, 1980. PHS has requested that OMB grant a waiver of the usual requirements that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the **Federal Register.**

ADDRESS: Address comments to the HRA Privacy Act Coordinator, Department of Health and Human Services, Center Building, Room 9–22, 3700 East-West Highway, Hyattsville, Maryland, 20782. We will make comments available for public inspection at the above address during normal business hours, 8:30 to 5:00.

FOR FURTHER INFORMATION CONTACT: Dr. Mary S. Hill, Chief, Nursing Education Branch, Division of Nursing, Bureau of Health Professions, Center Building, Room 3–50, 3700 East-West Highway, Hyattsville, Maryland, 20782, telephone (301) 436–6681.

SUPPLEMENTARY INFORMATION: We are proposing to establish this system of records for the purpose of effectively managing the Nurse Practitioner Traineeship Program. The implementing regulation (45 CFR Part 57) requires the Department to verify that trainees (1) are residents of a designated health manpower shortage area, and (2) fulfill their commitment to practice as nurse practitioners in areas having shortages of primary medical care personnel.

Trainees who fail to begin or complete the required practice must repay an amount equal to all support received, plus interest. The agency may suspend or cancel the practice or repayment obligation for specified reasons, such as medical disability.

Records will be indexed and retrieved by name of the trainee. We will maintain the case folders in locked filing

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cabinets and limit access to grants management and program officials. Case files will be closed when the trainee has fulfilled the practice or repayment obligation.

Because of the contractual nature of the trainee's agreement with the Secretary, an account will be established for each trainee found to be in default of his/her practice commitment, with the Accounting and Finance Branch of the Health Service Administration.

Information will be provided by the trainees. They agree to respond to communications from the Department regarding their professional activities for five years after completion of the training program. Any request to suspend or cancel the commitment will be initiated by the trainee, who provides supporting documentation which may include medical records. These medical records will be retained until we make a determination on the request to suspend or cancel the obligation. Medical records will then be returned to the subject individual or authorized representative.

The grantee institution also will provide information about the trainees. The institution is responsible for evaluating applicants and selecting eligible trainees.

The privacy Act of 1974 allows disclosure of information without the consent of the individual for "routine uses," that is, disclosure for purposes which are compatible with the purposes for which the data are collected. Accordingly, we are establishing four routine uses for information in this system. These routine uses provide for disclosure in response to congressional inquiries made at the request of any individual included in the system of records, to the Department of Justice to defend any employee or component of DHHS that may be involved in litigation likely to directly affect the operations of DHHS, to an organization conducting an evaluation of a health professions program(s), and to the appropriate agency to prosecute individuals who do not fulfill their repayment obligation. The Office of the General Counsel has determined that these proposed routine uses are compatible with the purpose of the system.

Since we propose to establish and maintain this system in accordance with the requirements of the Privacy Act, we anticipate no untoward effect on the privacy or other personal rights of individuals.

Dated: August 22, 1980.

Jack Markowitz,

Acting Director, Office of Management.

09-35-0045

SYSTEM NAME:

Nurse Practitioner Traineeships HHS/HRA/BHPr

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Resources Administration, Center Building, Room 3-50 and Room 4-22, 3700 East-West Highway, Hyattsville, Maryland 20782.

Washington National Records Center, 4205 Suitland Road, Washington, D.C. 20405.

Health Services Administration, Accounting and Finance Branch, Parklawn Building, Room 16-23, 5600 Fisher's Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals selected to receive nurse practitioner traineeships by schools participating in the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

A trainee's case file will contain a "Traineeship Award Agreement," "Verification of Address Card", and related correspondence with the individual and school(s) attended. Personal information will include name, current address, home address and address of the primary medical care practice location. Social security number may be included when voluntarily provided.

Medical records or reports may be included when a trainee has requested suspension or cancellation of the payment or practice obligation because of medical disability. After determination of the claim, medical records will be returned to the subject individual or authorized representative.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 822(b) (43 USC 296m), Nurse Practitioner Programs, as amended by the Health Service Extension Act of 1977 (Pub. L. 95-83) and the Nurse Training Amendments of 1979 (Pub. L. 96-76).

PURPOSE OF THE SYSTEM:

The purpose of the system is to carry out the Department's responsibilities for the Nurse Practitioner Traineeship Program. The Health Resources Administration will use the records to: (1) determine eligibility of trainees selected by participating schools, (2) determine that the nature, location and duration of practice meets the service commitment of nurses who completed their training, and (3) recover funds from trainees who do not fulfill their practice commitment.

The records in the system will also be used by the Health Services Administration, Accounting and Finance Branch to monitor the contractual obligations of trainees found to be in default. if the trainee does not fulfill the service commitment, the trainee must repay the traineeship support received, plus interest, to the U.S. Treasury.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

Disclosure may be made to organizations considered qualified by the Secretary to conduct studies to evaluate the program.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders, magnetic tape and disk storage.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Locked file cabinets, personnel screening, locked computer rooms and computer tape vault, 24 hour guard service and password protection of automated files. Access will be restricted to personnel responsible for managing the nurse practitioner traineeship program. (Safeguards will be in accordance with: Chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the Department's General Administration Manual; supplementary Chapter PHS.hf:45-13; and Part 6, ADP Systems Security, of the Department's ADP Systems Manual.)

RETENTION AND DISPOSAL:

Case files will be retired to a Federal Records Center three years after all activity is terminated, usually when the practice or payment obligation has been fulfilled or cancelled. Records will be disposed of in accordance with the Records Control Schedule of the Health Resources Administration. You may obtain a copy of the disposal standard by writing to the System Manager.

SYSTEM MANAGER AND ADDRESS:

Chief, Nursing Education Branch, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Maryland 20782.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact the System Manager and provide the name of the subject individual. An individual who requests notification of a medical/dental record shall, at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Contact the System Manager and provide the name of the subject individual and a reasonable description of the record. An individual who requests access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

CONTESTING RECORD PROCEDURES:

Contact the System Manager, give a reasonable description of the record, specify the information you want to contest, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Individuals in the system and participating institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 80-26614 Filed 8-29-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf Official Protraction Diagrams; Availability

August 25, 1980.

Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, approved on the dates indicated, are on file and available, for information only, in the New York Outer Continental Shelf Office, Bureau of Land Management, New York, New York. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

Outer Continental Shelf Official Protraction Diagrams

Description	Approved date
NJ 19-3	May 21, 1980.
NJ 19-5	June 2, 1980.
NJ 19-6	May 21, 1980.
NJ 19-7	May 21, 1980.
NJ 19-8	May 21, 1980.
NJ 19-10	May 21, 1980.
NK 20-10	May 21, 1980.

Copies of these protraction diagrams may be purchased for $2.00 each from the Manager, New York Outer Continental Shelf Office, Federal Building, 26 Federal Plaza, Suite 32-120, New York, New York, 10278.

Frank Basile,

Manager, New York OCS

August 25, 1980.

[FR Doc. 80-26680 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board, Mid-Atlantic Technical Working Group Committee; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Public Law No. 92-463).

Name: Mid-Atlantic Technical Working Group Committee.

Dates: 29-30 September 1980.

Place: The New Castle Room, Radisson-Wilmington Hotel, 700 King Street, Wilmington, Delaware.

Time: 29th: 1:00 p.m. to 5:00 p.m., 30th: 9:00 a.m. to 4:30 p.m.

Committee membership consists of representatives from Federal agencies, the coastal states from New York through North Carolina, the petroleum industry, and other private interests.

Agenda: (29 September)—Progress report on the Hudson Canyon Transportation Management Plan; discussion of Interagency Agreement between BLM and the New England River Basins Commission on developing a methodology for Transportation Management Plans; description of the Johns Hopkins University pipeline location study.

(30 September)—Overview of social impact assessments; presentation on the impacts of pipelines on biological resources; discussion of the Federal Energy Regulatory Commission's role in pipeline siting; working group discussion of Sale No. 59 lease stipulations.

The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding matters on the agenda should contact Richard Barnett of the New York OCS Office (212-264-1061) by 22 September. Written statements should be submitted by 7 October to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by 24 November 1980 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 80-26678 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Establishment of Bon Secour National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

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ACTION: Notice of establishment of the Bon Secour National Wildlife Refuge, and delineation of project boundaries.

SUMMARY: This Notice designates by map the area of land and water in Baldwin and Mobile Counties, Alabama, which the secretary of the Interior considers appropriate for the Bon Secour National Wildlife Refuge. The Notice also establishes that present and future Fish and Wildlife Service property or interests therein, within the project area shown on the accompanying map, are components of Bon Secour National Wildlife Refuge. These lands are protected and administered in accordance with the Congressional Acts, Treaties and Executive Orders which provide the legal basis for operation of units of the National Wildlife Refuge System.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Black, Regional Director, Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, telephone (404) 221–3588 (commerical) or 242–3588 (FTS).

SUPPLEMENTARY INFORMATION: The Act to establish the Bon Secour National Wildlife Refuge was enacted by Congress on June 9, 1980 (Public Law 96–267). The Act provided that within one year after enactment, the Secretary would designate approximately ten thousand acres of land and water for the refuge and publish in the **Federal Register** a map depicting the boundries for the refuge. The Secretary may make minor revisions in the published boundaries for the refuge in order to carry out the purpose of the Act or to facilitate acquisition of property within the refuge. The Act further directed the Secretary to publish a notice in the Federal Register to establish Bon Secour National Wildlife Refuge whenever sufficient property is acquired that can be effectively managed as a refuge.

Notice is hereby given that, pursuant to the above Act, the project area boundary for the Bon Secour National Wildlife Refuge has been depicted on the accompanying map entitled "Bon Secour National Wildlife Refuge" and dated August 18, 1980, and that sufficient property interests have been acquired to constitute an area that could be effectively managed as a unit of the National Wildlife Refuge System. Therefore, the Bon Secour National Wildlife Refuge is established effective as of the date of this publication.

Maps of the project area are on file and are available for public inspection in the Refuges and Wildlife Resources office, Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, telephone (404) 221–3548 (commercial) or 242–3548 (FTS).

August 20, 1980.

Kenneth E. Black,

Regional Director, U.S. Fish and Wildlife Service.

BILLING CODE 4310–55–M

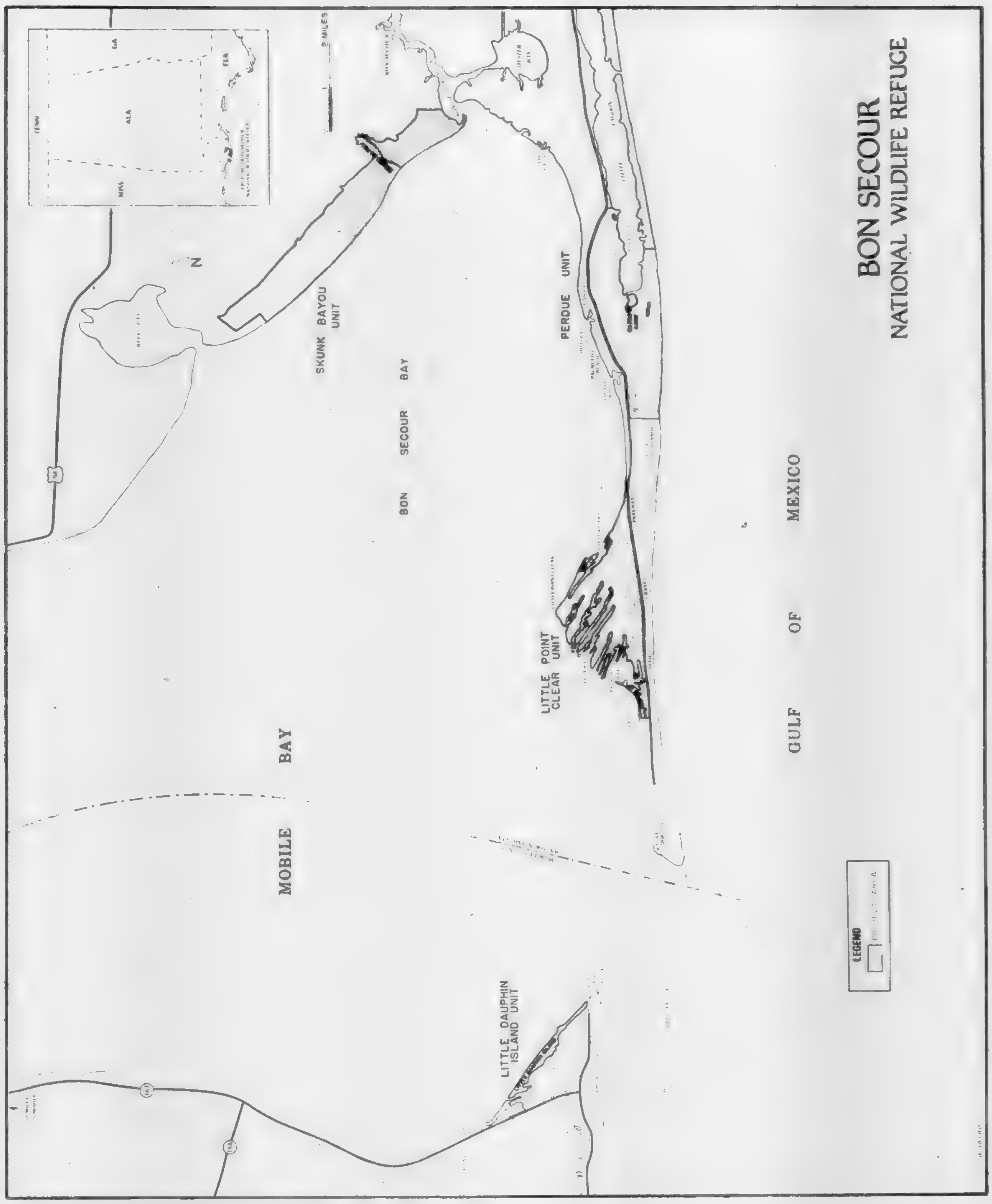
BON SECOUR
NATIONAL WILDLIFE REFUGE
2 MILES
N
SKUNK BAYOU UNIT
PERDUE UNIT
BON SECOUR BAY
LITTLE POINT CLEAR UNIT
MOBILE BAY
GULF OF MEXICO
LITTLE DAUPHIN ISLAND UNIT
LEGEND

[FR Doc. 80-26750 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-C

V 45/171 SE2 80 UMI

Endangered Species Permit; Receipt of Application

Applicant: Gentle Jungle Inc., P.O. Box 1251, Colton, CA 92324.

The applicant requests a permit to purchase a captive born male orangutan *(Pongo pygmaeus)* from the Dallas Zoo, Texas for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours, in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6605. Interested persons may comment on this application on or before October 2, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 21, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-26612 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activitiy with the indicated Endangered Species:

Applicant: San Diego Zoological Gardens, San Diego, CA 92112. PRT 2–6888.

The applicant requests a permit to import four Manchurian cranes (*Grus japonensis*), eight brown-eared pheasants (*Crossoptilon mantchuricum*), and four Elliot's pheasants (*Syrmaticus ellioti*) from the Peking Zoo, Peoples Republic of China for enhancement of propagation and survival.

Applicant: E. Stuart Mitchell, Portland, CT 06480. PRT 2–6927.

The applicant requests a permit to take for banding purposes bald eagles (*Haliaeetus leucocephalus*) in Connecticut for scientific research and enhancement of survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before October 2, 1980, by submitting written data, views, or arguments to the Director at the above address.

Dated: August 26, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 80-26611 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 22, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 17, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Nabers, Morrow and Sinnige Building,* 109 20th St., N.

Morgan County

Trinity vicinity *Forest Home,* E of Trinity.

CALIFORNIA

Alameda County

Alameda, *Alameda City Hall,* Santa Clara Ave.

Los Angeles County

Los Angeles, *Coulter's Department Store,* 5600 Wilshire Blvd.

Long Beach, *Hughes Flying Boat (Hercules)* Port of Long Beach.

Monterey County

Salinas, *Krough House,* 146 Central Ave.

Salinas, *Sargent, B. V., House,* 154 Central Ave.

Orange County

Anaheim, *Backs, Ferdinand, House,* 225 N. Claudina St.

Anaheim, *Old Backs House,* 215 N. Claudina St.

Sacramento County

Sacramento, *Wagner, Anton, Duplex,* 701 E St.

San Joaquin County

Stockton, *Farmer's and Merchant's Bank,* 11 S. San Joaquin St.

DELAWARE

New Castle County

Red Lion Hundred Multiple Resource Area (Partial Inventory). This area includes: Delaware City vicinity, *Chelsea,* DE 9.

Fairview, Cox's Neck Rd.; Kirkwood, *Correll's Farm and Lawn Supply,* DE 71; *Old Post Office,* Kirkwood-St. Georges Rd.; Kirkwood vicinity, *Deputy Farm (J. Vandegrift House) DE 71; Dragon Run Farm, McCoy Rd.; Old Cann Mansion House,* DE 71; *Point Farm (R. T. Cann House)* SR 301; St. Georges.

Vernacular Frame Structure, Delaware St.; St. Georges vicinity, *Bloomfield,* U.S. 13; *Casperson, W., House,* Off DE 71; *Linden Hill,* SR 13; *St. Georges Cemetery Caretaker's House,* Kirkwood-St. Georges Rd.; *Starl House,* DE 71 and U.S. 13.

GEORGIA

Gwinnett County

Norcross vicinity, *Mechanicsville School,* 3rd St. and Florida Ave.

INDIANA

Dubois County

Jasper, *St. Joseph Catholic Church,* 1215 N. Newton St.

KENTUCKY

Fayette County

Lexington, *Chandler Normal School Building and Webster Hall,* 548 Georgetown St.

Lexington, *Grant, George W., House (Lexington House of Mercy; Florence Crittenton Home of Lexington)* 519 W. 4th St.

Lexington, *Woodward Heights Neighborhood Historic District,* Roughly bounded by High, Merino, and Pine Sts.

Hopkins County

Hanson vicinity, *Archeological Site 15 Hk 69*

MARYLAND

Frederick County

Union Bridge vicinity, *Hopewell,* Pearre and Clemensonville Rds. (also in Carroll County)

Montgomery County

Rockville, *Bingham-Brewer House,* 307 Great Falls Rd.

MISSOURI

Marion County

Hannibal, *Federal Building,* 600 Broadway.

St. Louis (independent city).

Brown Shoe Company's Homes-Take Factory, 1201 Russell Blvd.

MONTANA

Beaverhead County

Lima vicinity, *Sheep Creek Wickiup Cave,* SW of Lima.

Golden Valley County

Ryegate vicinity *Grace Luthern Church of Barber,* W of Ryegate.

Lewis and Clark County

Helena vicinity, *State Vocational School for Girls,* NE of Helena on Sierra Rd.

Silver Bow County

Divide vicinity, *Big Hole Pumpstation,* MT 3.

NEBRASKA

Merrick County

Central City, *Morris, Wright, Boyhood, House,* 304 D. St.

Scotts Bluff County

Morrill vicinity, *Horse Creek Treaty Site,* SW of Morrill.

OKLAHOMA

PUBLIC WORK STRUCTURES IN WILBURTON THEMATIC RESOURCES. References—see individual listings under Latimer County.

Comanche County

Indiahoma, *First State Bank of Indiahoma,* Main St.

Kiowa County

Hobart, *Hobart Public Library,* 200 S. Main St.

Latimer County

Wilburton, *Choctaw Hall (Public Work Structures in Wilburton Thematic Resources)* Eastern Oklahoma State College campus.

Wilburton, *Latimer County Courthouse (Public Work Structures in Wilburton Thematic Resources)* 109 N. Central.

Wilburton, *Latimer County Library (Public Work Structures in Wilburton Thematic Resources)* 208 N. Central.

Oklahoma County

Oklahoma City, *Spanish Village,* 2909—3024 Paseo.

Okmulgee County

Okmulgee, *Cook-Pine House,* 420 N. Seminole St.

Payne County

Stillwater vicinity, *Perry Land Office,* NE of Stillwater.

Tillman County

Grandfield, *Grandfield Community Building,* 123 E. 1st St.

Tulsa County

Tulsa, *Gillette Historic District,* Bounded by S. Yorktown and S. Lewis Aves., E. 15th and E. 17th Sts.

Tulsa, *Mission Manor,* 1606 S. Carson Ave.

Tulsa, *Petroleum Building,* 420 S. Boulder St.

OREGON

Multnomah County

Portland, *Buehner, Philip, House,* 5511 SE. Hawthorne Blvd.

Portland, *Dooly, Frank E., House,* 2670 NW. Lovejoy St.

Portland, *Harlow Block,* 720–738 NW. Glisan St.

Portland, *Odd Fellows Building,* 1019 SW. 10th Ave.

TEXAS

Rusk County

Henderson, *Poe-Jones-Richardson House,* 300 Tipps St.

Uvalde County

Uvalde vicinity, *Fort Inge Site,* SE of Uvalde.

UTAH

Sanpete County

Ephraim, *Hansen, Hans A., House,* 75 W. 100 North St.

Manti, *Bessey, Anthony W., House,* Off U.S. 89.

Moroni, *Bradley, George Washington, House,* Off UT 116.

Utah County

Springville, *Springville Presbyterian Church,* 251 S. 200 East St.

WISCONSIN

Shaler Statues Thematic Resources. Reference—see individual listings under Columbia, Dodge, Fond du Lac, and Green Lake Counties.

Columbia County

Arlington vicinity, *He Who Plants Believes in God (Shaler Statues Thematic Resources)* Off U.S. 51.

Portage, *Gale, Zona, House,* 506 W. Edgewater St.

Dodge County

Waupun, *Dawn of Day (Shaler Statues Thematic Resources)* Off WI 49.

Waupun, *Pioneers, The (Shaler Statues Thematic Resources)* Off WI 26.

Fond du Lac County

Ripon, *Genesis (Shaler Statues Thematic Resources)* Ripon College campus.

Ripon, *Lincoln (Shaler Statues Thematic Resources)* Ripon College campus.

Waupun vicinity, *Group of Deer (Shaler Statues Thematic Resources)* Rock River Country Club.

Green Lake County

Markesan vicinity, *Morning of Life (Shaler Statues Thematic Resources)* Mackford Union Cemetery.

Kenosha County

Kenosha, *Boys and Girls Library,* 5810 8th Ave.

Kenosha, *Manor House,* 6536 3rd Ave.

Lafayette County

Argyle, *Star Theatre,* 200 S. North St.

Racine County

Racine, *Badger Building,* 610 Main St.

Racine, *Kaiser's,* 218 6th St.

Waukesha County

Oconomowoc, *Oconomowoc Public Library and Museum,* 212 N. Lake Rd.

[FR Doc. 80-26521 Filed 8-29-80; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connention with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-52

The Following applications were filed in Region I.

Send protests to: Regional Authority Center, Interstate Commerce Commission, 150 Causeway St.—Rm. 501, Boston, MA 02114.

MC 30139 (Sub-1-1TA), filed: August 20, 1980. Applicant: HOLMES TRANSPORTATION, INC., 550 Cochituate Road, Framingham, MA 01701. Representative: Joseph M. Klements, Richardson and Tyler, 84 State Street, Boston, MA 02109. *General commodities, (except those of unusual* *value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving points in VT east of U.S. Hwy 5 as off-route points in connection with its otherwise authorized regular route operations. Permission to tack and interline is sought. Supporting shipper(s): There are 5 statements in support attached to this application which may be examined at the I.C.C Regional Office in Boston, MA.

MC 111729 (Sub-1-8TA), filed August 13, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch, 3333 New Hyde Park Road, New Hyde Park, NY 11042. *Automobile Replacement Parts, weighting 100 lbs or less,* between Knoxville, TN, on the one hand, and, on the other, points in NC and VA. Supporting shipper: I.T.T. Autowize, 6422 Deane Hill Drive, Knoxville, TN 37919.

MC 145108 (Sub-1-9TA), filed August 19, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* irregular routes: *(1) Paint and related products sold in paint and hardware stores; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities in (1) above (except commodities in bulk),* between points in the U.S. (except AK and HI). Supporting shipper(s): The Enterprise Companies, 1191 S. Wheeling Road, Wheeling, IL 60090.

MC 147382 (Sub-1-1TA), filed August 15, 1980. Applicant: E.A.D. ENTERPRISES, INC., d.b.a. GARDEN STATE MOTOR FREIGHT, P.O. Box 709, Bordentown, NJ 08505. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. *Contract carrier,* irregular routes: *Building materials, and non-carbonated fruit drinks and chilled juices, and materials, equipment and supplies used in the manufacture, sale and distribution of same,* under continuing contract(s) with Coca-Cola Co., Foods Division, and Church Brick Company, between points in the U.S. Supporting shipper(s): Coca-Cola Co., Foods Division, 480 Mercer Street, Hightstown, NJ 08520; Church Brick Company, Route 5, Bordentown, NJ 08505.

MC 147242 (Sub-1-2TA), filed August 18, 1980. Applicant: 12-90 PLAZA CORP., T/A PLAZA FREIGHT TRANSPORT, 12-90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Contract carrier,* irregular routes: *Televisions, video tape recorders, television cameras, electronic cash registers, microwave ovens, radios, stereo sets and their component parts, copy machines, tape recorders and calculators and materials, supplies and equipment used in the manufacture and distribution thereof, except commodities in bulk,* between Memphis, TN; Carson, CA; Hodgkins, IL; Piscataway, NJ; Norcross, GA; and Hialeah, FL. Supporting shipper: Sharp Electronics Corporation, 10 Keystone Place, Paramus, NJ.

MC 141932 (Sub-1-9TA), filed August 18, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner, 176 King Street, Hanover, MA 02339. *General commodities (except household goods as defined by the Commission and Class A and B explosives)* between points in the U.S., restricted to the transportation of traffic for United Freight, Inc. Supporting shipper: United Freight, Inc., 1260 Southern Road, Morrow, GA.

MC 143668 (Sub-1-1TA), filed August 15, 1980. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE CORPORATION, 25 Newton Place, Hauppauge, NY 11787. Representative: Eugene M. Malkin, Suite 1832—2 World Trade Center, New York, NY 10048. *Passengers and their baggage, in round-trip charter and special operation,* beginning and ending at points in Nassau and Suffolk Counties, NY and extending to points in Atlantic County, NJ. Supporting shipper: Austin Travel Corporation, 560 South Broadway, Hicksville, NY 11801; Arena World Tours, 75 Haskett Drive, Syosset, NY 11791; Tag A Long Travel, 745 Suffolk Avenue, Brentwood, NY 11717.

MC 151593 (Sub-1-1TA), filed August 19, 1980. Applicant: DON MONTEIRO TRUCKING INC., 122 Park Street, Stoneham, MA 02180. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Building materials,* and materials, supplies, and equipment used in the sale, distribution and handling thereof (except materials in bulk and classes A and B explosives), between all points and places in the U.S. in and east of the States of MN, IA, MS, AR, and TX. Supporting shipper: Consolidated Brick and Building Supplies, Inc., 17 Front St., Weymouth, MA 02188.

MC 143127 (Sub-1-19TA), filed August 19, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). *Household cleaning products, cleaning compounds, bleach, and liquid softeners, and materials, supplies, and equipment* used in the manufacture and distribution of such commodities (except commodities in bulk), between points in AL, DE, FL, GA, IL, LA, MD, MO, NC, OH, PA, SC, TN, TX, VA, and WV. Supporting shipper: Purex Corporation, 6120 N. Detroit, Toledo, OH 43612.

MC 151589 (Sub-1-1TA), filed August 18, 1980. Applicant: PRODUCE TRANSPORT, INC. (P&T), 27 Thorne Avenue, Lewiston, ME 04240. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Paper containers, including dishes, plates and trays,* from points in ME to points in CT, MA, NJ, NY, PA, and RI. Supporting shipper: Keyes Fibre, an Arcata Company, College Avenue, Waterville, ME 04901.

MC 146046 (Sub-1-2TA), filed August 18, 1980. Applicant: INTERCOASTAL LINES, LTD., 200 Foxhunt Crescent, Syosset, NY 11791. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* irregular route; *Paper and paper articles,* from the facilities of Automatic Data Processing, Inc. at or near Clifton, NJ, to points in AZ, CO, and TX, under a continuing contract(s) with Automatic Data Processing, Inc. of Clifton, NJ. Supporting shipper: Automatic Data Processing, Inc., 405 Route 3, Clifton, NJ 07105.

MC 138304 (Sub-1-7TA), filed August 18, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton Street, Hoboken, NJ 07030. Representative: Craig B. Sherman, Attorney at Law, Broad and Cassel, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Island, FL 33154. *Food stuffs,* fresh and frozen, from South Hacksensack and Secaucus, NJ, to all points in the U.S., except points in AK, HI, VA, NC, SC, GA, and FL, restricted to traffic originating at the plant sites and facilities of Buitoni Foods Corp. and destined to the named destination points. Supporting shipper(s): Buitoni Foods Corp., 450 Huyler Street, South Hacksensack, NJ 07606.

MC 118803 (Sub-1-4TA), filed August 18, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes: *Such commodities as are dealt in or used by a manufacturer and distributor of perfume and cosmetics,* (except in bulk), from Piscataway, NJ to Los Angeles, CA.

Supporting shipper(s): Chanel, Inc., 876 Centennial Avenue, Piscataway, NJ 08854.

MC 143044 (Sub-1-1TA), filed August 18, 1980. Applicant: EQUIPMENT EXPRESS LIMITED, 8105 Woodbine Avenue, Markham, Ontario CD L3R 2Pl. Representative: H. M. McNamara, 8105 Woodbine Avenue, Markham, Ontario CD L3R 2Pl. *Architectural Precast Concrete Panels,* from the CD, U.S. boundaries at Lewiston, Niagara Falls, and Buffalo, NY, to New York City, NY. Supporting shipper(s) : Artex Precast Ltd., 523 Bowes Road, Concord, Ontario CD.

MC 3753 (Sub-1-1TA), filed August 12, 1980. Applicant: AAA TRUCKING CORP., 3630 Quaker Road, Trenton, NJ 08619. Representative: Lawrence S. Burstein, Esq., One World Trade Center—Suite 2373, New York, NY 10048. *General commodities except those of unusual value, classes "A" and "B" explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between points in PA on and east of U.S. Highway 11 on the one hand, and on the other, points in MA, CT, RI, New York, NY; points in Nassau, Suffolk, Orange, Rockland and Westchester Counties, NY; NJ; points in that part of DE on and north of a line beginning at the DE-MD State line and extending along U.S. Highway 40 to junction Delaware Highway 273 to the Delaware River, MD and Washington, D.C. Supporting shipper(s): There are 11 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 151540 (Sub-1-2TA), filed August 13, 1980. Applicant: ESTB, INC., 21 Pier Lane, Roseland, NJ 07068. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Building and construction materials and materials, supplies and equipment used in the manufacture of building and construction materials* between points in Bucks and Berks County, PA on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OH, and TX. Supporting shipper: LCM Corp., 21 Pier Lane, Roseland, NJ.

MC 151575 (Sub-1-1TA), filed August 15, 1980. Applicant: WESTWAY TRANSPORT INC., No. 2 Federal Street, St. Albans, Vermont 05478. Representative: William J. Hirsch, Attorney at Law, 1125 Convention Tower, 43 Court Street, Buffalo, New York 14202. *General commodities (with the usual exception; having an immediately prior or subsequent movement by rail;* (1) between the port of entry on the International Boundary line between the U.S. and CD, located at Highgate Springs, VT, on the one hand, and, on the other, St. Albans, VT. (2) Between Palmer, MA, on the one hand, and, on the other, all points in CT, DE, CD, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA and WV. Supporting shipper(s): There are 5 statements in support attached to this application which may be examined at the Interstate Commerce Commission Regional Office in Boston, MA.

MC 151583 (Sub-1-1TA), filed: August 18, 1980. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, Connecticut 06749. Representative: William Q. Keenan, Esq., Arsham & Keenan, 277 Park Avenue, New York, New York 10172. *Contract carrier,* irregular routes: *General commodities* between all points in the United States under continuing contracts with Uniroyal, Inc. and USCO Services, Inc. Supporting shippers: USCO Services, Inc., Benson Road, Middlebury, CT 06749; and Uniroyal, Inc. World Headquarters, Middlebury, CT 06749.

MC 134806 (Sub-1-4TA), filed: August 18, 1980. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. *Contract,* Irregular, *Insulating window shades,* from Windham County, VT to points in CO, UT, AZ, CA, NV, NM, ID, MT, OR, WA, and WY. Supporting shipper: Appropriate Technology Corporation, P.O. Box 975 (Old Ferry Road), Brattleboro, VT 05301.

MC 151408 (Sub-1-1TA), filed August 15, 1980. Applicant: CARGO TRANSPORT, INC., P.O. Box 268, 100 Garfield Avenue, Somerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Contract carrier,* irregular routes: Lumber and lumber products, materials and supplies used in the manufacture, sale and distribution thereof (except in bulk and tank vehicles), between points and places in the U.S. Supporting shipper(s): L. R. McCoy & Co., Inc., 120 Front Street, Worcester, MA 01608, and Shepard and Morse Lumber Co., P.O. Box 600, Riverside Office Park, Weston, MA 02193.

MC 151540 (Sub-1-1TA), filed: August 13, 1980. Applicant: ESTB, INC., 21 Pier Lane, Roseland, NJ 07068. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409 Fairfield, NJ 07006. *Metal, metal by-products and materials, supplies and equipment used in the manufacture, sale and distribution of metal products and metal by-products* between Middlesex County, NJ, and San Patricio County, TX, Du Page County, IL and Franklun County, OH and points in the U.S. Supporting shipper(s): Raritan River Steel Company, 225 Elm Street, Perth Amboy, NJ.

MC 17051 (Sub-1-1TA), filed: August 15, 1980. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Elizabeth NJ 07202. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. *Wearing apparel and materials, equipment and supplies used in the manufacture thereof* between Bucks County, PA (Bristol, PA), on the one hand, and, on the other, Lawrence County, TN (Leoma), and Adair County, KY (Columbia). Supporting shipper: Jones, New York of 220 Rittenhouse Circle, Keystone Park, Bristol, PA 19007.

MC 149309 (Sub-1-1TA), filed August 15, 1980. Applicant: MID-ISLAND MESSENGER SERVICE, INC., 1044 Northern Boulevard, Roslyn, New York 11576. Representative: Arthur J. Piken, Piken & Piken, Esqs., Rego Park, New York 11374. *Books,* between Somerville, NJ, on the one hand, and, on the other, Orange, Rockland, Suffolk and Westchester Counties, NY and points in CT. Supporting shipper: The Baker & Taylor Company, 50 Kirby Avenue, Somerville, NJ 08876.

MC 128343 (Sub-1-12TA), filed August 15, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02888. Representative: Ronald N. Cobert, Esquire, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between the facilities of Benny's Inc., at or near Esmond, RI, on the one hand, and, on the other, points in the United States, under a continuing contract(s) with Benny's, Inc. Supporting shipper: Benny's Inc., 340 Waterman Street, Esmond, RI 02917.

MC 144709 (Sub-1-2TA), filed August 13, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NH 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *(1) Activated Carbon,* in dump trailers, from Neville Island, PA, Catlettsburg, KY, Bayport, TX, to points in AL, GA, FL, LA, MS, SC and TX, and (2) *Spent Carbon,* in dump trailers, from points in AL, GA, FL, LA, MS, SC and TX, to Neville Island, PA, Catlettsburg, KY, and Bayport, TX, under a continuing contract(s) with Calgon Corporation. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230.

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MC 151567 (Sub-1-1TA), filed August 15, 1980. Applicant: VAN ECK & LOSITO TRUCKING, INC., 110 Ridge Place, Wayne, NJ 07470. Representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. *Contract carrier:* irregular routes: *Glass bottles,* from Royersford, PA, to Clifton, NJ, under contract(s) with Black Prince Distillers, Clifton, NJ. Supporting shipper: Black Prince Distillers, 161 Clifton Avenue, Clifton, NJ 07015.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 148785 (Sub-II-2-TA), filed August 15, 1980. Applicant: SUDDEN MOVING & STORAGE, INC., d.b.a. SUDDEN TRUCKING COMPANY, 5154 Kennedy Ave., Cincinnati, OH 43213. Representative: Kevin R. Reichley, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of auto parts, except commodities in bulk,* between Columbus, OH, on the one hand, and, on the other, Martinsburg, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Harper Industries, Inc., 315 Graham St., Columbus, OH 43203.

MC 146892 (Sub-II-3-TA), filed August 18, 1980. Applicant: R & L TRANSFER, INC., 2483 S.R. 3 U.S. 22 W., Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Foodstuffs and materials and supplies used in the manufacture or distribution of foodstuffs, except in bulk,* between Cincinnati, OH, on the one hand, and, on the other, pts. in lower peninsula of MI and Chicago, IL, and its Commercial Zone. RESTRICTED to the transportation of shipments originating at or destined to the facilites of Serv-A-Portion, Inc., a DiGiorigio Company, at or near Cincinnati, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Serv-A-Portion, Inc., a DiGiorigio Co., 6943 Morrison Place, Cincinnati, OH 45243.

MC 151519 (Sub-II-1-TA), filed August 18, 1980. Applicant: S & T TRUCKING CO., 2724 W. Lebanon Rd., Dalton, OH 44618. Representative: John L. Alden, Stiverson and Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Spent or waste material,* for recycling, reprocessing or disposal, (except commodities in bulk), between Zionsville, IN and Crawford and Clermont Counties, OH, on the one hand, and on the other, points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Resource & Residue Management, Inc., 1431 Cedar Lane, Wooster, Ohio 44691.

MC 117883 (Sub-II-8-TA), filed August 15, 1980. Applicant: SUBLER TRANSFER, INC., 1 Vista Dr., P.O. Box 62, Versailles, OH 45380. Representative: Robert Von Aschen (same as applicant). *Foodstuffs* (except in bulk in tank vehicles) between Newark, Delaware and IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, VA, WV, and WI. Supporting shipper(s): Louisville Freezer Center, 2000 South Ninth Street, Louisville, KY 40208.

MC 146807 (Sub-II-4-TA), filed August 15, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Paul Seleski (same as above). *Plastic Sheeting,* from Mountaintop, PA to New Orleans, LA, Houston, TX, St. Louis, MO & Chicago, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Harte & Co., Inc., Crestwood Indus. Pk., Mountaintop, PA 18707.

MC 149077 (Sub-II-1-TA), filed January 28, 1980. Applicant: CHARLIE'S PLACE, INC., d.b.a. SUN TRANSPORTATION CO., 5030 Centre Ave., Pittsburgh, PA 15213. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract carrier: Irregular routes, Scrap metals and materials, equipment and supplies used in the manufacture, production and distribution thereof* between Latrobe, PA., on the one hand, and, on the other, Canton, OH, under a continuing contract or contracts with Latrobe Steel Company of Latrobe, PA for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Latrobe Steel Company, 2626 S. Ligonier St., Latrobe, PA 15650.

MC 117883 (Sub-II-7-TA), filed August 15, 1980. Applicant: SUBLER TRANSFER, INC., 1 Vista Dr., P.O. Box 62, Versailles, OH 45380. Representative: Robert Von Aschen (same as applicant). *PVC Packaging Film* from Howell, MI to CT, DE, IL, IN, KY, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, WI, DC, Minneapolis, MN, St. Paul, MN, St. Louis, MO and Kansas City, MO. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) VCF Packaging Films, Inc., 1100 Sutton Ave., Howell, MI 48843.

MC 150997 (Sub-II-1-TA), filed August 15, 1980. Applicant: WINDERMAN AUTO SALES, INC., 320 Turner Lane, Westchester, PA 19380. Representative: James F. Maher, 1200 Four Penn Center Plaza, Philadelphia, PA 19103. *New and used automobiles, vans and pick-up trucks* between (1) points in AL, FL, IL, IN, NJ, NY, OH, PA, TX and VA: and (2) points in MI and the respective ports and commercial zones of Elizabeth, NJ and Baltimore, MD. Supporting Shippers: Coral Cadillac, Inc., 501 N. Federal Highway, Pompano Beach, FL; Wiese Buick—GMC, Inc., 5050 W. 28th Street, Indianapolis, IN; David McGeorge Car Co., 7705 W. Broad Street, Richmond, VA.

MC 149043 (Sub-II-3TA), filed August 18, 1980. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Dr., Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Suite 400, Fairfax, VA 22030. *Towbars used for moving house trailers and mobile homes,* from Dayton, OH to Southern Pines, NC, Belleview, FL, Haleyville, AL, Americus, GA, and Fort Worth, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Venture Manufacturing Co., 3723 Inpark Circle, Dayton, OH 45414.

MC 150641 (Sub-II-1TA), filed August 18, 1980. Applicant: D & R CARTAGE, INC., 1840 Carter Rd., Cleveland, OH 44113. Representative: David Parks (same as applicant). *General commodities (except commodities in bulk and those requiring special equipment) having a prior or subsequent movement by rail in TOFC and COFC Service;* between Cleveland, OH on the one hand, and points in OH on the other, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Florida Texas Freight, Inc., 1055 Peterson Lane, Secaucus, NJ; Clipper Express Co., 3401 W. Pershing Rd., Chicago, IL 60632.

MC 102616 (Sub-II-16TA), filed August 18, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W.M. Kiefaber (same address as applicant). *Petroleum and Petroleum Products, in bulk,* from Mt. Erie, IL to E. Mt. Carmel, IN for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Orr Petroleum Co., 5350 East 46th St. Ste. 121, Tulsa, OK 74135.

MC 138438 (Sub-II-18TA), filed August 18, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Marine products,* between all points in and east of MI, IL, KY, TN and AL, restricted to the transportation of shipments originating at or destined to the facilities owned, operated or utilized by Teleflex, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Teleflex, Inc., 640 Lewis Run, Limerick, PA 19648.

Note.—Dual operations may be involved.

MC 115413 (Sub-II–6TA), filed August 15, 1980. Applicant: BLISSFIELD TRUCK LINES, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *New furniture, furniture parts and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk),* between Archbold and Stryker, OH, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: The Pilliod Cabinet Co., Woodlawn Avenue, Swanton, OH 43358.

MC 115413 (Sub-II–5TA), filed August 15, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *New furniture, furniture parts and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk),* (1) between Archbold, OH, on the one hand, and, on the other, pts. in the U.S. in and east of MN, IA, MO, AR, and LA (except pts. in GA, IL, IN, KY, MI, PA, TN, and St. Louis, MO and its commercial zone) and (2) between Stryker, OH, on the one hand, and, on the other, pts. in the U.S. in and east of MN, IA, MO, AR and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sauder Woodworking Co., 502 Middle St., Archbold, OH 43502.

MC 115694 (Sub-II–1TA), filed August 15, 1980. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew (same as applicant). *Molasses in bulk in tank vehicles* from Baltimore, MD, and Wilmington, NC, to pts. in PA, MD, VA, NC, SC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: FCX Feed Plant, 801 Gilbert St., Durham, NC 27702; Allied Mills, Inc., P.O. Box 2345, Portsmouth, VA 23702; Augusta Cooperative Farm Bureau, Inc., Staunton, VA.

MC 151585 (Sub-II–1TA), filed August 18, 1980. Applicant: BEST TRUCKING CO., INC., 2913 Halstead Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincenes Rd., Richmond, VA 23229. Contract, irregular: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank vehicles and those requiring special equipment),* between Richmond, VA (and pts. in the commercial zone thereof) and pts. in Hanover and Henrico Counties, VA on the one hand, and, on the other, pts. in MI, OH, and PA for 270 days. Supporting shipper: Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260.

MC 146820 (Sub-II–5TA), filed August 18, 1980. Applicant: B & G TRUCKING, INC., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular (1) paper and paper products (2) scrap or waste paper and (3) plastic articles and (4) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) and (3) above (except commodities in bulk)* between pts. in IL, IN. IA, KS, KY, MI, MO, NY, OH, PA, TN, VA, WV and WI for the account of Stone Container Corporation for 270 days. Restricted to traffic originating at or destined to the facilities of Stone Container Corp. Supporting shipper: Stone Container Corp., 360 N. Michigan Ave., Chicago. IL 60601.

MC 57591 (Sub-II–4TA), filed August 14, 1980. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Albert L. Evans, Jr. (same address as above). *General Commodities (except Household Goods as defined by the Commission and Classes A and B explosives),* between pts. in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV and DC, for 270 days, an underlying ETA seeks 120 day authority. Supporting shippers: There are 30 supporting shippers. Their statements may be examined at the ICC office in Philadelphia, PA.

Note.—Common control may be involved.

MC 140361 (Sub-II–1TA), filed August 15, 1980. Applicant: COLUMBUS PARCEL SERVICE, INC., 1009 Joyce Ave., Columbus, OH 43219. Representative: E. H. van Deusen, 220 W. Bridge St., Dublin, OH 43017. *General commodities* (except Classes A and B explosives), between points in OH, on the one hand, and, on the other, points in Dearborn, Franklin, Randolph, Union and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason and Pendleton Counties, KY, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV, between points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason and Pendleton Counties, KY, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV. Restriction: Said operations are restricted to the transportation of individual articles not exceeding 100 lbs. in weight, moving as shipments not exceeding 500 lbs. in weight, from one consignor to one consignee in a single day. Said operations are further restricted to the transportation of shipments moving on bills of lading issued by freight forwarders. By this application, Columbus Parcel Service, Inc., seeks the restriction deleted which limits aggregate shipments from one consignor to one consignee on one day to 500 lbs. Applicant seeks no enlargement of the commodity or territorial description and does not seek to remove the weight limitation of 100 lbs. on individual articles, for 270 days. Supporting shippers: There are 5 supporting shippers. Their statements may be viewed at the ICC Regional Office, Phila., PA.

MC 110525 (Sub-II–15TA), filed August 15, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Hydrogen peroxide, in shipper owned tank vehicles* from the DuPont plant at or near Memphis, TN to CA, IA, WI, CO, ND, SD, ID, MT, NM, AZ, NV, OR, WA, KS, for 270 days. Supporting shipper: E. I. DuPont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

MC 151539 (Sub-II–1TA), filed August 14, 1980. Applicant: CAPPARELLE TRUCKING CO., 216 W. Beaver St., Bellefonte, PA 16823. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Coal,* from points in Centre County, PA to Johnson City, Dresden, Bainbridge, Binghamton, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johnson & Morgan, Snow Shoe, PA 16874.

MC 140174 (Sub-II–2TA), filed August 14, 1980. Applicant: BROOKS TRUCKING, INC., P.O.B. 187, East North St., Vanlue, OH 45890. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. Contract, irregular: *Steel tubing and materials, equipment and supplies used in the manufacture, sale and distribution of steel tubing,* between the facilities of Copperweld Corp., Steel Tubing Div., at or near Hamlet, IN, and Chicago, IL, on the one hand, and, on the other, points in IN, IL, KY, MI, MO, NY, OH, PA and WI. An underlying ETA seeks 120 days authority. Supporting shipper(s): Copperweld Corp., Steel Tubing Div., Shelby, OH 44875.

MC 94265 (Sub-II–TA), filed August 15, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Rt. 460 W., Windsor, VA. 23487. Representative: Olin C. Cooper, Jr. (same as applicant). *Fabricated metal products (except ordnance) and materials used in their manufacture or distribution:* between

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pts. in the contiguous 48 states. Restricted to traffic from or to Hamilton Beach Div. of Scovill, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hamilton Beach Div., Scovill, Inc., P.O. Box 1158, Washington, N.C. 27889.

MC 107012 (Sub-II-75TA), filed August 18, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Household furniture, bean-bag furniture, cushions* from New Orleans, LA to points in AL, FL, GA, MS, NC, SC, TN, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Valco International Inc., P.O. Box 3908, 6110 Bienvenue, New Orleans, LA 70177.

Note.—Common control may be involved.

MC 151587 (Sub-2-1TA), filed August 18, 1980. Applicant: P&G OIL CO., INC., d.b.a., P&G TRUCKING CO., Lakeview Dr., Madison Heights, VA 24572. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Joiner work for ships, and fixtures and furniture for use on oceangoing vessels,* from the facilities of Hopeman Brothers, Inc., at or near Waynesboro, VA, to San Diego and Chula Vista, CA, and points in their commercial zones. Supporting shipper: Hopeman Brothers, Inc., P.O. Box 550, 435 Essex Ave. Waynesboro, VA 22980.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 2900 (Sub-3-16TA), filed August 11, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr., (same as applicant). *Appliances, air coolers, or air conditioners and parts thereof* between MI, on the one hand, and on the other, points in the United States. Supporting shipper: Greenville Products Corporation, 635 W. Charles, Greenville, MI 48838.

MC 2900 (Sub-3-15TA), filed August 15, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). *Uranium Ore Concentrate* (1) between Houston, TX, on the one hand, and on the other, points in the state of Wyoming and (2) between Norfolk, VA, on the one hand, and on the other, points in the state of Wyoming. Supporting shipper: Edlow International Company, 1100 17th St., N.W., Washington, DC 20036.

MC 138308 (Sub-13TA), filed August 15, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Such merchandise as dealt in or used by discount and department stores* from points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, PA, RI, SC, TN, TX, VT, VA, WV, and WI to points in OH. Supporting shipper: Hart Stores, Inc., 770 Goodale Blvd., Columbus, OH 43212.

MC 107934 (Sub-3-2TA), filed August 15, 1980. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. *Newprint,* between points in GA, LA, TN, SC and AL on the one hand, and, on the other, Davidson County, NC. Supporting shipper: Dispatch Publishing Company, Box 908, Lexington, NC 27292.

MC 143498 (Sub-3-1TA), filed August 6, 1980. Applicant: THOMAS PROCUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th Street, NW., Suite 1000, Washington, D.C. 20036. *Contract carrier,* irregular: *drugs, medicines, toilet preparations, candy cought drops, soap, dental plate cleaning compound, chewing gum, health foods, nutritional products and commodities that are dealt in or used by manufacturers of drugs and medicines* between points in the U.S. under continuing contract(s) with Vicks Health Care Division of Richardson-Merrell, Inc., of Philadelphia, Pennsylvania. Supporting shipper: Vicks Health Care Division of Richardson-Merrell, Inc., P.O. Box 8155, Philadelphia, PA 19101.

MC 140902 (Sub-3-4TA), filed August 14, 1980. Applicant: DPD, INC., 3600 NW. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract:* irregular: *Asphalt* between Atlanta, GA and Jacksonville, FL and their commercial zones, on the one hand, and, on the other, points in the states of AL, FL, GA, NC, SC and TN. Supporting shipper: Trumbull Asphalt, Division of Owens-Corning Fiberglas Corporation, 59th and Archer Road, Summit, IL 60501.

MC 95540 (Sub-3-15TA), filed August 11, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Frozen foodstuffs and canned foodstuffs* from San Antonio, TX to Harahan, LA. Supporting shipper: The Roegelein Company, Box 1698, San Antonio, TX 78296.

MC 111045 (Sub-3-13TA), filed August 11, 1980. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. *Chemicals, Plastics and related articles,* between Santa Rosa County, FL and points in the U.S. in and west of the States of TX, OK, KS, NE, SD and ND. Supporting shipper: Air Products and Chemicals, Inc., P.O. Box 538, Allentown, PA 18105.

MC 67500 (Sub-3-2TA), filed August 13, 1980. Applicant: BLUE RIDGE TRUCKING COMPANY, Sweeten Creek Rd., Asheville, NC 28813. Representative: Allen Ray (same address as applicant). *Scrap polyester film* from points in Transylvania county, NC to points in Carter county, TN. Applicant intends to tack with existing authority. Supporting shipper: E. I. Dupont de Nemours & Co. P.O. Bx. 267, Brevard, NC 28712.

MC 107515 (Sub-3-50TA), filed August 11, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, NE., Fifth Floor-Lenox Towers South, Atlanta, GA 30326. *Petroleum Products and Antifreeze, and Materials, Supplies and Equipment used in the manufacture, sale and distribution thereof* from the St. Paul, MN commercial zone to points in the U.S. Supporting shipper: Metalcote Grease and Oil Company, 516 Randolph Avenue, St. Paul, MN 55102.

MC 146451 (Sub-3-19TA), filed August 11, 1980 Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. *Household and commercial appliances, and parts thereof,* from General Electric Company at or near Norcross, GA, to points in AL, FL, NC, and SC. Supporting shipper: General Electric Company, 6205 Best Friend Road, Norcross, GA 30071.

MC 146699 (Sub-3-1TA), filed August 12, 1980. Applicant: KENNETH E. JONES AND JAMES H. PARRISH, d.b.a. DESOTO TRAIL, 282 E. Main St., Franklin, NC 28734 Representative: Richard M. Tettelbaum, 5th Floor, Lennox Towers S., 3390 Peachtree Rd., NE., Atlanta, GA 30326. *Contract Carrier*—Irregular Routes: *Wire and cable,* from Hayesville, NC, to points in the U.S. in, north and east of IL, KY and VA, under continuing contract(s) with Intercomp Wire & Cable Division, American Components, Inc. Supporting shipper: Intercomp Wire & Cable

Division, American Components, Inc., P.O. Box 206, Hayesville, NC 28904.

MC 114604 (Sub-3–10TA), filed August 12, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market No. 33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3304 Peachtree Road, NE., Atlanta, GA 30326. *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses, as described in Section A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and foodstuffs,* from New Orleans, LA to points in and east of MI, WI, IL, MO, KS, OK and TX (except ME, VT, NH, MA, NY, CT and RI). Supporting shipper: New Orleans Cold Storage and Warehouse Co., LTD., P.O. Box 15749, New Orleans, LA 70175.

MC 138882 (Sub-3–24TA), filed August 12, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (address same as applicant). *Supermarket Continuity Promotional Materials (Except in Bulk)* Between points in the U.S. (Except AK and HI). Supporting shipper: Wallace International, Inc., P.O. Box 26226, Birmingham, AL 35226.

MC 140484 (Sub-3–11TA), filed August 12, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as above). *Clay tile* from the facilities of Sikes Corp. at or near Lawrenceburg, KY, to points in the state of TX. Supporting shipper: Sikes Corp., P.O. Box 81, Lawrenceburg, KY 40342.

MC 138308 (Sub-3–12TA), filed August 13, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. (1) *Such commodities as are dealt in or used by grocery, hardware, or drug stores;* (2) *cleaning and building maintenance materials and supplies;* (3) *swimming pool, spa, and hot tub supplies;* (4) *chemicals;* and (5) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1)–(5) above (except commodities in bulk) between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to facilities used by the Purex Corporation and its subsidiaries. Supporting shipper: Purex Corporation, 6120 North Detroit Avenue, Toledo, OH 43696.

MC 116254 (Sub-3–13TA), filed August 15, 1980. Applicant: CHEM–HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Silicon Metal and Silica Dust,* from points in AL to points in KS, NE, OK, and TX. Supporting shipper: U.S. Reduction Company, 4610 Kennedy Avenue, East Chicago, IN 43612 and Alabama Metallurgical Corporation, P.O. Box 157, Beverly, OH 45715.

MC 133221 (Sub-3–2TA), filed August 12, 1980. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328, *Printed material,* from Fulton County, GA to pts. in the U.S. (except AK and HI). Supporting shipper: Dittler Brothers, Inc. 1375 Seaboard Industrial Blvd., N.W., Atlanta, GA 30318.

MC 140389 (Sub-3–13TA), filed August 12, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* from the facilities of Armstrong Container, Inc., Atlanta, GA, to Memphis, TN. Supporting shipper: Armstrong Container, Inc., 1166 Logan Circle, N.W., Atlanta GA.

MC 107515 (Sub-3–51TA), filed August 12, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *(1) Sodium Bicarbonate, cleaning, scouring or washing compounds, sodium carbonate; and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities in (1) above* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to transportation of traffic originating at or destined to facilities of or utilized by Church & Dwight Co. of Seneca County, OH and Syracuse, NY. Supporting shipper: Church & Dwight Co., Inc., P.O. Box 369, Piscataway, NJ 08854.

MC 99208 (Sub-3–2TA), filed August 20, 1980. Applicant: SKYLINE TRANSPORTATION, INC., P.O. Box 3569, Knoxville, TN 37917. Representative: W. H. Reed, P.O. Box 3569, Knoxville, TN 37917. *Common Carrier. Regular Route,* transporting *General Commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of size and weight,)* (1) Between Williamsburg, KY and London, KY, from Williamsburg via U.S. Highway 25W to its intersection with U.S. Highway 25E, thence via U.S. Highway 25 to London. (2) Between London, KY and Cincinnati, OH, via U.S. Highway 25. (3) From Pineville, KY over U.S. Highway 25 E to its intersection with U.S. Highway 25, at or near Corbin, KY. (4) From Manchester, KY over KY Highway 11 to its intersection with U.S. Highway 25E. (5) Between Manchester, KY and London, KY, over KY Highway 80, and also over the Daniel Boone Parkway. (6) From Manchester, KY over U.S. Highway 421 to its intersection with U.S. Highway 25. (7) From the intersection of U.S. Highway 25 and KY Highway 30 over KY Highway 30 to its intersection with U.S. Highway 421. (8) From Livingston, KY to McKee, KY, over KY Highway 89. (9) Between Knoxville, TN and Maryville, TN, over TN Highway 73 and also over TN Highway 33. Traversing U.S. Interstate Highway 75 between Williamsburg, KY and Cincinnati, OH as an alternate route. Applicant proposes to serve all points on the above routes as well as their commercial zones. Applicant proposes to tack the above authority with all existing authority to provide a through service between all points, and also proposes to interline with other carriers at various locations, including, but not limited to, Cincinnati, OH, Knoxville, TN, and Birmingham, AL. Supporting shippers: There are 144 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 2934 (Sub-3–11TA), filed August 20, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, IN 46032. *Carpet padding and expanded cellular plastic.* From: Moonachie and Edison, N.J. To: AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. Supporting shipper: Crest Foam Corporation, 100 Carol Street, Moonachie, NJ.

MC 99161 (Sub-3–3TA), filed August 20, 1980. Applicant: ALABAMA FREIGHT, INC., P.O. Box 10032, Birmingham, AL 35202. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Metal, metal articles, crane and machine parts (except in dump vehicles),* between the facilities of Richardson Machine-Dixie Crane located in Birmingham, AL, on the one hand, and, on the other, points in GA, FL, TN, MS, LA, and AR. Supporting shipper: Richardson Machine-Dixie

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Crane, 2421 2nd Avenue South, Birmingham, AL 35233.

MC 99161 (Sub-3–2TA), filed August 20, 1980. Applicant: ALABAMA FREIGHT, INC., P.O. Box 10032, Birmingham, AL 35202. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Metal and metal articles (except in dump vehicles),* between the facilities of Schuler Steel located in or near Birmingham, AL, on the one hand, and, on the other, points in GA, FL, TN, MS, LA, and AR. Supporting shipper: Schuler Steel, P.O. Box 5326, Birmingham, AL 35207.

MC 99161 (Sub-3–1TA), filed August 19, 1980. Applicant: ALABAMA FREIGHT, INC., P.O. Box 10032, Birmingham, AL 35207. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Metal and metal articles (except in bulk),* between the facilities of Birmingham Rail and Locomotive located in Birmingham, AL and AL, FL, GA, TN, MS, LA, AR, and TX. Supporting shipper: Birmingham Rail and Locomotive, 3615 28th Way North, Birmingham, AL 35207.

MC 121222 (Sub-3–1TA), filed July 29, 1980. Republication—originally published in **Federal Register** of August 11, 1980, page 53260, volume 45, No. 156. Applicant: KING MOTOR LINE, INC., 1607 North Ripley Street, Montgomery, AL 36104. Representative: R. S. Richard, 57 Adams Avenue, Montgomery, AL 36197. *Common carrier:* regular route: *General commodities (except those of unusual value, Classes A and B explosives, household goods as by the Interstate Commerce Commission, commodities in bulk in tank vehicles, and those requiring special equipment).* I. (1) between Mobile and Greenville, AL, over U.S. Hwy No. 31, serving all intermediate points and serving all points in Mobile and Baldwin Counties, AL, as off-route points; (2) from Greenville, AL, over AL Hwy 10 to Camden, AL, then over AL Hwy 28 to its intersection with AL Hwy 21, then over AL Hwy 21 to its intersection with U.S. Hwy 80, then over Hwy 80 to Montgomery, AL, and return over the same route, serving all intermediate points and the off-route points of Forest Home, Allenton and Letohatchee, AL; (3) from Atmore, AL, over AL Hwys 21 and 41 to Camden, AL; then from Camden, AL, via AL Hwy 41 to Selma, AL; then from Selma, AL, via U.S. Hwy 80 to Montgomery, AL, and return over the same route, serving all intermediate points and serving all points in Dallas, Montgomery and Baldwin Counties, AL, as off-route points; and from Montgomery, AL, via U.S. Hwy 31 to Greenville, AL, and return over the same route, serving all intermediate points. II. (a) between Mobile, AL, and Pensacola, FL: from Mobile over U.S. Hwy 90 to Pensacola, and return over the same route, serving all intermediate points; (b) between Mobile, AL, and Pensacola, FL: from Mobile to Pensacola over Interstate Hwy 10, and return over the same route, serving all intermediate points; (c) between Mobile, AL and Pensacola, FL: from Mobile over U.S. Hwy 31 to Atmore AL, then over AL Hwy 21 to the AL–FL state line, then over FL Hwy 97 to its intersection with U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola, FL and return over the same route, serving all intermediate points; (d) between Mobile, AL, and Pensacola, FL: from Mobile over U.S. Hwy 98 to Pensacola, FL, and return over the same route, serving all intermediate points; (e) between Selma, AL, and Pensacola, FL: from Selma over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 from Flomaton, AL to Pensacola, FL and return over the same route, serving Forest Home, Allenton, and Letohatchee, AL; (f) between Montgomery, AL and Pensacola, FL: from Montgomery over U.S. Hwy 80 to its intersection with AL Hwy 21, then over Hwy 21 to Camden, AL, then over AL Hwys 21 and 47 to Monroeville, AL, then over AL Hwy 41 to its intersection with U.S. Hwy 31 at or near Brewton, AL, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 to Pensacola, FL and return over the same route, serving all intermediate points; (g) between Montgomery, AL and Mobile, AL: from Montgomery over Interstate Hwy 65 to Mobile and return over the same route serving all intermediate points; (h) between Monroeville, AL and Pensacola, FL: from Monroeville over AL Hwy 21 to Atmore, AL, then over AL Hwy 21 to the AL–FL state line, then over FL Hwy 97 to its intersection with U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola and return over the same route, serving all intermediate points; (i) between Selma, AL and Pensacola, FL: from Selma, AL, over AL Hwy 41 to Camden, AL, then over AL Hwy 10 to its intersection with U.S. Hwy 31, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 to Pensacola and return over the same route, serving all intermedite points; (j) In connection with the routes described in (a) through (i) above, authority is sought to serve all points in Dallas, Montgomery, Mobile and Baldwin Counties, AL, and Escambia and Santa Rosa Counties, FL, as off-route points. Supporting shipper: There are 69 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

Note.—Applicant intends to interline at Montgomery, Selma, Monroeville and Mobile, AL, and at Pensacola, FL; and applicant intends to tack with MC 121222 (Subs-1, 2, and 3). Applicant seeks authority to serve the commerical zones of all points on the routes described above.

MC 151407 (Sub-3–1TA), filed July 31, 1980. Republication—Originally Published in **Federal Register** of August 11, 1980, page 53260, volume 45, No. 156. Applicant: T & T TRUCKING, INC., 274, N.W., 37th St., P.O. Box 370762, Miami, FL 33137. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Recreational equipment* from Dade Co., FL to points in the states of AZ, AR, CA, CO, ID, IA, KS, MN, MT, NV, NE, MO, NM, OK, LA, ND, SD, OR, TX, UT, WA, and WY. Supporting shipper(s): Ebonite Corporation, 14000 Northwest 57th Court, Miami Lakes, FL 33014.

MC 151173 (Sub-3–1TA), filed August 19, 1980. Applicant: HAR-BET, INC., 7209 Tara Boulevard, Jonesboro, GA 30236. Representative: Richard M. Tettelbaum, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Foodstuffs* from the facilities of Joan of Arc at or near Hoopeston and Princeville, IL to Atlanta, GA and its commerical zone. Supporting shipper: Joan of Arc Company, 2231 West Altorfer, Peoria, IL.

MC 107934 (Sub-3–3TA), filed August 13, 1980. Applicant: BYRD MOTOR LINE, INC., P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. *Wood stoves and accessories,* from Henderson County, NC to Richmond, Altavista, Collinsville and Roanoke, VA. Supporting shipper: E. A. Holsten, Inc., P.O. Box 26808, 1400 Overbrook Road, Richmond, VA 23261.

MC 62824 (Sub-3–1TA), filed August 19, 1980. Applicant: SPARTAN EXPRESS, INC., Hwy. 101 and I–85, P.O. Box 1089, Greer, SC 29651. Representative: R. F. Chason (address same as applicant). *General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, items of unusual value, and articles which because of size or weight require special equipment),* between points in NC, SC, Augusta, GA and Danville, VA and points in their commercial zones on the one hand, and, on the other hand, points in AL, GA, and Chattanooga, TN and points in its commercial zone. Supporting shippers:

There are fourteen statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack the authority applied for to its existing authority held in Docket No. MC 62824 and to interline with other carriers at Greer, SC, Atlanta, GA, Chattanooga, TN, and Montgomery, AL.

MC 144827 (Sub-3-11TA), filed August 19, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Oven liners* from facilities of Northern Metals Specialty Division, Western Industries, Inc. at or near Osceola, WI, to facilities of Sharp Manufacturing Company of America at Memphis, TN. Supporting shipper: Northern Metals Specialty Division, Western Industries, Inc., P.O. Box 458, Osceola, WI 54020.

MC 142467 (Sub-3-1TA), filed August 13, 1980. Applicant: DIXIE FREIGHT LINE, INC., 3291 Highway 82 East, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., and Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. A. *Common carrier,* regular routes: *(1) Farm implements, farm implement parts and farm supplies; (2) automobile, truck and bus parts and supplies; (3) electrical equipment, machinery, appliances, parts and supplies; and (4) pharmaceuticals, drugs, medical and hospital equipment and supplies, and such commodities as are dealt in or used by retail drug stores and pharmacies (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* (a) between Memphis, TN and Rolling Fork, MS, via Hwy 61, serving all intermediate points including the termini; (b) between Leland and Greenville, MS, via Hwy 82, serving all intermediate points, including the termini; (c) between Rolling Fork, MS and the intersection of U.S. Hwys 49 and 61, serving all intermediate points, including the termini: From Rolling Fork, via MS Hwy 14 to its intersection with MS Hwy 1; then via MS Hwy 1 to its intersection with U.S. Hwy 49 east of the Helena AR bridge; then via U.S. Hwy 49 to its intersection with U.S. Hwy 61, and return over the same route; (d) serving all points in Bolivar, Coahoma, DeSoto, Sharkey, Tunica, and Washington Counties, MS as off-route points in connection with carrier's otherwise authorized regular route service. Restricted against the transportation of any shipment or shipments from any one consignor at one location to any one consignee at one location weighing in the aggregate more than 2,500 pounds in any one day. B. *Common carrier,* irregular routes: *Equipment, materials, and supplies used in the manufacture, repair and servicing of vessels and watercraft (except commodities in bulk and those requiring special equipment,* between points in AL, AR, FL, GA, KS, KY, IA, IL, IN, LA, MN, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV. Restricted against the transportation of any shipment or shipments from any one consignor at one location to any one consignee at one location weighing in the aggregate more than 15,000 pounds in any one day. Supporting shipper(s): There are thirty-nine statements in support which may be examined at the I.C.C. Regional Office at Atlanta, GA.

Note.—Applicant requests authority to tack with existing authority in MC 142467 (lead docket) and to interline with other carriers at Clarksdale, Cleveland and Greenville, MS and Memphis, TN.

MC 107515 (Sub-3-54TA), filed August 20, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Foodstuffs, and ingredients, materials, supplies and equipment used in the production, sale and distribution of foodstuffs* between points in the US, restricted to shipments originating at or destined to facilities of People Pleasing of Minnesota, Inc. Supporting shipper: People Pleasing of Minnesota, Inc., 13884 Industrial Park Blvd., Minneapolis, MN 55441.

MC 151526 (Sub-3-1TA), filed August 12, 1980. Applicant: TRIAD TRANSPORTATION SERVICE, INC., P.O. Box 20714, Greensboro, NC 27420. Representative: Jerald A. Honeycutt (same address as applicant). *New furniture, restricted to shipments consigned for residential delivery* from points in Guilford, Davidson, and Randolph counties, NC to points in VA, MI, OH, PA, NJ, NY, FL, SC, GA, TN, IN. Application is supported by nine shippers. Supporting appendices can be examined at the regional office, Atlanta, GA.

MC 106074 (Sub-3-12TA), filed August 12, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy. 221 S., P.O. Box 727, Forest City, NC 28403. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Textiles and Textile Products* from Bryson City, NC to points in CO, FL, IL, IN, IA, KS, MN, MO, NE, OK, SD, TX and WI. Supporting shipper: Heritage Quilt Company, Inc., Bryson City, NC 28713.

MC 2934 (Sub-3-10TA), filed August 12, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, IN 46032. *Chairs (cartoned)* from: Leeds, AL to points and places in the States of AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: United Chair (U.S. Industries Co.), P.O. Box 96, Leeds, AL.

MC 118831 (Sub-3-6TA), filed August 15, 1980. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III (same address as applicant). *DMT (Dimethyl Terephthalate) in bulk, in tank vehicles* from Old Hickory, TN to Rooseveltown, NY. Supporting shipper: E. I. du Pont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898.

MC 140126 (Sub-3-1TA), filed August 15, 1980. Applicant: MARVIN H. PRITCHETT, 675 SE. 6th Street, P.O. Box 311, Lake Butler, FL 32054. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Tallahassee, FL 32301. *Lumber* between points in the states of GA and FL. Supporting shipper: Owens Illinois, Lake Butler Sawmill, P.O. Box 68, Lake Butler, FL 32054.

MC 151550 (Sub-3-1TA), filed August 14, 1980. Applicant: DERRILL GREENE, individually, Route 1, Box 230, Clio, AL 36017. Representative: Boyd Whigham, Attorney, 104 Court Square, Clayton, AL 36016. *Lumber and lumber articles, wood, shavings, to include treated lumber, post and material, equipment and supplies used in the manufacture, production, or sale of said lumber and lumber articles. Fertilizer and fertilizer material, and seed, in bag and bulk.* Between Barbour and Dale Counties, and MS, GA, SC, FL, LA, NC, TX, VA, TN, KY, IN, OH, IL, and AR. Supporting shipper: 1. Slawson Lumber Co., P.O. Box 97, Louisville, KY 36048; 2. Southeast Wood Treating, Inc., P.O. Box 25, Louisville, KY 36048; and 3. Bernard Andrews, d.b.a. Farmers Warehouse, P.O. Box 146, Louisville, KY 36048.

MC 115654 (Sub-3-19TA), filed August 11, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie L. Hastings (same address as applicant). *Foodstuffs,* from the facilities of New Orleans Cold Storage Co. at New Orleans, LA and its commercial zone to points in AL, AR, KY, GA, MI, MS, IL, OH, MO, TN, IN, and Kansas City, KS. Supporting shipper: New

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Orleans Cold Storage Company, Poland Avenue, New Orleans, LA.

MC 148190 (Sub-3–1TA), filed August 15, 1980. Applicant: RAMSEY TRUCKING, INC., 604 Hudson Road, Chattanooga, TN 37405. Representative: Billy R. Ramsey, 604 Hudson Road, Chattanooga, TN 37405. *Contract carrier, glass and sand* between points in the U.S. (except AK and HI), under a continuing contract with Chattanooga Glass Company. Supporting shipper: Chattanooga Glass Co., 400 W. 45th Street, Chattanooga, TN 37410.

MC 2421 (Sub-3–3TA), filed August 14, 1980. Applicant: NEWTON TRANSPORTATION COMPANY, INC., 510 Greer Circle, SW., P.O. Box 678, Lenoir, NC 28645. Representative: Charles H. Keller (same address as applicant). *New furniture and furniture parts*(1) from the facilities of Drexel Heritage Furnishings, Inc. located in Drexel, Marion, Shelby, Mocksville, Hildebran and High Point, NC to points in NJ; New York, NY and its commercial zone; PA; and St. Louis, MO; (2) from Lenoir, NC to St. Louis, MO and (3) from the facilities of Broyhill Furniture Industries, Inc. located in Catawba and Alexander Counties, NC to St. Louis, MO; NJ; New York, NY and its commercial zone; and (4) from Bernhardt Furniture Company located in Iredell County, NC to NJ; New York, NY and its commercial zone; and St. Louis, MO. Supporting shippers: Bernhardt Furniture Company, P.O. Box 740, Lenoir, NC 28645; Broyhill Furniture Industries, Inc., P.O. Box 700, Lenoir, NC 28633; and Drexel Heritage Furnishings, Inc., Drexel, NC 28619.

MC 150321 (Sub-3–1TA), filed August 14, 1980. Applicant: BRADFORD TRUCK SERVICE, Park Street, Bradford, TN 38316. Representative: Larry W. McCartney (address same as applicant). *Contract carrier;* irregular routes; *office and industrial equipment* from points in or near Dickson, TN to points in AZ, CA, CO, FL, ID, MN, NV, NM, ND, OK, OR, TX, UT,and WA. Supporting shipper: Tennsco Corporation, P.O. Box 606, Dickson, TN 37055.

MC 128555 (Sub-3–4TA), filed August 13, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley, P.O. Box 1058, Palmetto, FL 33561. *Contract carrier,* irregular routes, *foodstuffs, materials, supplies, and equipment used in the manufacture, sale or distribution of foodstuffs,* between points in the U.S. (except AK and HI) for the account of Fearn International, Inc., of Franklin Park, IL, its divisions and subsidiaries, under continuing contract(s) with Fearn International, Inc. of Franklin Park, IL. Supporting shipper: Fearn International, Inc., 9353 Belmont Avenue, Franklin Park, IL 60131.

MC 59150 (Sub-3–5TA), filed August 12, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval Street, Jacksonville, FL 32202. *General Commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between all points in and east of the States of ND, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities of the United States Gypsum Company. Supporting shipper: United States Gypsum Company, 101 S. Wacker Dr., Chicago, IL 60606.

MC 148360 (Sub-3–4TA), filed August 11, 1980. Applicant: PDR TRUCKING, INC., P.O. Box 609, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Contract carrier;* irregular: *department store merchandise,* from Charlotte, NC, and points in its commercial zone, to Pittsburgh, PA, and points in its commercial zone. Supporting shipper: Gimbel Brothers, Inc., 339 6th Avenue, Pittsburgh, PA 15272.

MC 2900 (Sub-3–17TA), filed August 11, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). *Canopies, Awnings, Carports, Boat Covers, and equipment, materials and supplies used in the manufacture thereof* between Kansas City, KS, on the one hand, and on the other, points in the United States. Supporting shipper: Fashion, Inc., 311 Sunshine Road, Kansas City, KS 66115.

MC 151528 (Sub-3–1TA), filed August 15, 1980. Applicant: L. E. TUCKER & SON, INC., 2660 Greenway Drive, Jackson, MS 39204. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. (1) *New furniture* from Madison County, MS to points in States of AZ, CA, CO, ID, NV, TX, UT; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above in the reverse direction (except commodities in bulk, in tank vehicles). Supporting shipper: Madison Furniture Industries, P.O. Box 111, Canton, MS 39046.

MC 108341 (Sub-3–4TA), filed August 15, 1980. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N Tryon Street, P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts, P.O. Box 26125, Charlotte, NC 28213. *Iron and steel articles,* from points in Wake County, NC to points in Coahoma County, MS. Supporting shipper: Peden Steel Company, P.O. Box 26208, Raleigh, NC 27611.

MC 147554 (Sub-3–1TA), filed August 14, 1980. Applicant: ARAB CARTAGE AND EXPRESS CO., INC., P.O. Box 427, Arab, AL 35016. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *General commodities (except commodities in bulk, classes A and B explosives and those commodities which by their size and weight require the use of special equipment),* between Arab, AL, on the one hand, and on the other all points in states east of MN, CO, WY, and MT. Supporting shipper: There are 5 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 151482 (Sub-4–1TA), filed August 21, 1980. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 5058 Larchmont Pl., Rockford, IL 61111. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract, Irregular* (1) *machines, power units, conveyors, electrical systems and machine dyes, and equipment, materials and supplies* used in the manufacture of the above commodities, between points in IL, on the one hand, and on the other, Miami, FL, Port Newark, NJ and Seattle, WA, under a continuing contract or contracts with Feldmann, Inc.; (2) *tanks, valves, piping systems including resins, plastic granuals, crushed rock and related accessories, and equipment, materials and supplies* used in the manufacture of the above described commodities, between points in CO, IL, IN, IA, and from points in CO, IL, IN, IA, MI and NJ to points in IL, under a continuing contract or contracts with Techni Chem, Inc. An underlying ETA seeks 120 days authority. Supporting shippers: Feldman, Inc., 4902 Hydraulic Dr., Rockford, IL. Techni Chem Inc., 6853 Indy Dr., Belvidere, IL.

MC 148200 (Sub-4–3TA), filed August 21, 1980. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: John R. Bagileo, 918 16th Street, N.W., Washington, D.C. 20006. *Contract* irregular *Electrical appliances, equipment, and parts,* from Bloomington, IN, to Syracuse, NY; Roanoke and Richmond, VA; Kearney, NJ; Cincinnati and Cleveland, OH; Philadelphia and Pittsburgh, PA; Denver, CO; and Salt Lake City, UT, under contract with RCA Corporation of Cherry Hill, NJ. Supporting shipper(s): RCA Corporation, Route 38, Cherry Hill, NJ, 08358.

MC 118202 (Sub-4-9TA), filed August 21, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *(1) Toilet preparations and soap products and (2) materials, equipment and supplies used in the manufacture and distribution of (1) above* between facilities of Minnetonka, Inc. at or near Chaska, MN, Momence, IL and Totawa, NJ, on the one hand, and, on the other, points in the U.S. except AK and HI. An underlying ETA seeks 120 days authority. Supporting shipper: Minnetonka, Inc., P.O. Box 1A, Minnetonka, MN 55343.

MC 128652 (Sub-4-6TA), filed August 21, 1980. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st Street, South Sioux City, NE. 68776. *Contract;* Irregular. *Chain saws, snow-throwers and garden, lawn, turf and golf course care equipment* from the facilities of The Toro Company at Mason City, Iowa to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NC, NE, SC, TN and WI. Supporting shipper: The Toro Company, 8111 Lyndale Avenue South, Minneapolis, MN 55420.

MC 141781 (Sub-4-7TA), filed August 21, 1980. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st Street, South Sioux City, NE. 68776. *Equipment and supplies used in the manufacture, installation and sale of ranges and microwave ovens,* between points in (1) WI and (2) Hennepin County, MN and Minnehaha County, SD. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, MN 55441.

MC 149170 (Sub-4-15TA), filed August 21, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Bucket elevators, belt conveyors, fabricated metal products, parts and accessories (Except Household Goods as defined by the Commission and Classes A & B Explosives)* Between Waterloo, IA, on the one hand, and, on the other, Reno & Sparks, NV, and Lubbock, TX. *Supporting shipper:* Universal Industries, Waterloo, IA.

Note.—This application may involve Common Control.

MC 149170 (Sub-4-16TA), filed August 21, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 S. LaSalle Street, Chicago, IL 60603. *Solar panels, heat cells, wind generators, parts and accessories and other energy products and liquid and dry fertilizers (except Household Goods as Defined by the Commission and Classes A & B Explosives)* Between Sioux Falls, SD, on the one hand, and, on the other, all points in the U.S. Supporting shipper: Energy Advisors, Inc., Sioux Falls, SD.

Note. —This application may involve Common Control.

MC 99123 (Sub-4-5TA), filed August 22, 1980. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Common, regular: General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving Plato, MN as an off-route point in connection with applicant's existing operations under Certificate No. MC-99123 and subs thereunder. Applicant requests the right to tack and interline. An underlying ETA seeks 120 days authority. Supporting shipper: Plato Woodwork, Inc., 200 Third Street S.W., Plato, MN 53370.

MC 151616 (Sub-4-1TA), filed August 22, 1980. Applicant: TRUCKERS, INCORPORATED, 625 Dilger Ave., Waukegan, IL 60085. Representative: James O'Grady, 1338 N. Jackson St., Waukegan, IL 60085. *Freight All Kinds; in containers or trailers having a prior or subsequent movement by air, rail, or water, excepting classes A & B explosives, household goods as defined by the commission, and commodities defined or classed as bulk,* between the rail ramps, and yards, and piers and docks of the port of Chicago, and within the area defined as the commerical zone of Chicago, IL, on the one hand, and the states of IN, IL, OH, MI, WI, IA, MO, and TN, on the other hand. Supporting shipper: Nettles & Company, 9801 West Higgins Rd., Rosemont, IL 60018.

MC 126140 (Sub-4-2TA), filed August 21, 1980. Applicant: TRANS-PETRO, INC., Box 124, Wood River, IL 62095. Representative: Douglas G. Brown, P.C., One North Old State Capitol Plaza, Springfield, IL 62701. *Contract* irregular: *Gasoline, fuel oil and diesel fuel,* in bulk, in tank vehicles from the plant site of Marathon Oil Co. at Mt. Vernon, IN, to the counties of Franklin, Jefferson, Hamilton, White, Saline, Gallatin, and Williamson, in IL. Supporting shipper: Bugaieski Oil Co., 107 South State Street, Christopher, IL 62822.

MC 112893 (Sub-4-2TA), filed August 21, 1980. Applicant: BULK TRANSPORT COMPANY, 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 600044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Asphalt and asphalt products, and fuel oil,* in bulk, in tank vehicles, from St. Paul and Pine Bend, MN to points in WI. An underlying ETA seeks 120 days authority. Supporting shipper: Great Lakes Paving & Construction, Inc., P.O. Box 147, Frontage Road, Sumaico, WI 54173.

MC 146643 (Sub-4-26TA), filed August 21, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract;* irregular: *Foodstuffs (except in bulk) and materials, equipment and supplies used in the manufacture and distribution thereof,* between Ripon, WI, on the one hand, and, on the other, points in IL, IN, IA, MO, KS, KY, MI, MN, OH, PA, NJ and NY. Supporting shipper: Ripon Foods, Inc., P.O. Box 348, Ripon, WI 45971.

MC 99123 (Sub-4-4TA), filed August 21, 1980. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Common;* regular: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving Cologne, MN as an off-route point in connection with applicant's existing operations under Certificate No. MC 99123 and subs thereunder. Applicant requests the right to tack and interline. An underlying ETA application seeks 120 days authority. Supporting shippers: Hageners, Inc. and Custom Formulation, Inc., 507 Conrad Avenue South, Cologne, MN 55322.

MC 142548 (Sub-4-4TA), filed August 21, 1980. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Rd., Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same as applicant). *Iron castings and steel forgings and equipment, materials and supplies used in the manufacture of castings and forgings,* between Macon County, IL,

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and points in contiguous 48 states, under continuing contract(s) with Wagner Castings Company. Supporting shipper: Wagner Castings Company, P.O. Box 1319, Decatur, IL 62525.

MC 141178 (Sub-4–1TA), filed August 21, 1980. Applicant: THOMPSON, INC., Highway 44 East, Spring Grove, MN 55974. Representative: Ken Thompson, Highway 44 East, Spring Grove, MN 55974. *General commodities in load lots* from, to, or between Minnesota Counties: Houston, Fillmore, Mower, Olmsted, Winona; Iowa Counties: Allamakee, Winneshiek, Howard, Clayton, Dubuque; to and from points in said Counties, to and from continental U.S. Supporting shipper: Midland Four Square Coop, Claire A. Rice, General Manager, 118 West Main, Spring Grove, MN 55974.

MC 145544 (Sub-4–2TA), filed August 21, 1980. Applicant: W. & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract;* irregular: *Such commodities as are dealt in by machinery dealers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Adams Machinery Co., of Chicago, IL. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adams Machinery Co., 6450 North Hamlin, Chicago, IL 60645.

MC 99565 (Sub-4–7TA), filed August 21, 1980. Applicant: FORE WAY EXPRESS, INC., 204 S. Bellis Street, Wausau, WI 54401. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, P.O. Box 218, Crandon, WI 54520. *Common regular General Commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Wausau, WI and Madison, WI:* From Wausau, WI over WI Hwy 29 to junction with WI Hwy 97, then over WI Hwy 97 to junction with WI Hwy 13, then over WI Hwy 13 to junction WI Hwy 16, then over WI Hwy 16 to junction US Hwy 51, then over US Hwy 51 to Madison and return over the same route serving the intermediate points of Wisconsin Rapids, Port Edwards, Nekoosa, and Marshfield. *Between Madison, WI and Minneapolis-St. Paul, MN:* I–94 from Madison, WI to Minneapolis-St. Paul, MN and return over the same route serving the intermediate point of Eau Claire, WI and the offroute point of Chippewa Falls, WI. *For operating convenience only: Between Chippewa Falls, WI and Eau Claire, WI:* From Chippewa Falls, WI over US Hwy 53 to Eau Claire and return over the same route. An underlying ETA effective for 120 days. Supporting shippers: 21.

Note.—Applicant intends to tack this authority with its regular-route authority and to interline at St. Paul-Minneapolis, MN and its Wisconsin terminal points as identified at Page 2 of OP–MCB 95.

MC 125708 (Sub-4–11TA), filed August 21, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, Lake Station, IN 46405. Representative: J. H. Klostermann, 109 Velma, South Roxana, IL 62087. (1) *Paper products in rolls,* from all points in the U.S. (except AK and HI) to points in the state of IL and (2) *Magazine inserts, printed* from points in IL to all points in the U.S. (except AK and HI). Supporting shipper: Three Z Printing Company, U.S. Route 40 West, Teutopolis, IL 62467.

MC 151598 (Sub-4–1TA), filed August 20, 1980. Applicant: HOW-DEA SERVICE CENTER, INC., Route 1, Belgium, WI 53004. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. *Contract:* Irregular: *Foodstuffs, and equipment, materials and supplies, used or useful in the manufacture or distribution of foodstuffs* (except commodities in bulk and commodities which because of size or weight require the use of special equipment) between Belgium, Random Lake, and Sturgeon Bay, WI, on the one hand, and on the other, points in the U.S. (except AK and HI) under continuing contract(s) with The Krier Preserving Company, Belguim, WI. An underlying ETA seeks 120 days authority. Supporting shipper: The Krier Preserving Company, 705 Main Street, Belgium, WI 53004.

MC 110988 (Sub-4–49TA), filed August 20, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Commodities as are dealt in, or used by, manufacturers or distributors of catalyst* between points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: United Catalysts, Inc., P.O Box 32370, Louisville, KY 40232.

MC 30504 (Sub-4–1TA), filed August 18, 1980. Applicant: TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, IN 46619. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *General commodities* (except articles of unusual value, Classes A and B explosives, household goods, commodities in bulk and those requiring special equipment): (1) between Toledo, OH, and Peru, IN, serving all intermediate points: from Toledo, OH, over U.S. Hwy 24 to Peru, and return over the same route; (2) between Coldwater, MI, and Indianapolis, IN, serving all intermediate points: from Coldwater over Interstate Hwy 69 to Indianapolis, and return over the same rotue; (3) between Elkhart, IN, and Cincinnati, OH, serving all intermediate points: from Elkhart over U.S. Hwy 33 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Cincinnati, and return over the same route; (4) between Gary, IN, and Indianapolis, IN, serving all intermediate points: from Gary over Interstate Hwy 65 to Indianapolis, and return over the same route; (5) between Hammond, IN, and Evansville, IN, serving all intermediate points: from Hammond over U.S. Hwy 41 to Evansville, and return over the same route; (6) between Toledo, OH, and Cincinnati, OH, serving all intermediate points: from Toledo over Interstate Hwy 75 to Cincinnati, and return over the same route; (7) between Dayton, OH, and Veedersburg, IN, serving all intermediate points: from Dayton over Interstate Hwy 70 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Veedersburg, and return over the same route; (8) between junction IN Hwys 29 and 26 and Lafayette, IN, serving all intermediate points: from junction IN Hwys 29 and 26 over IN Hwy 26 to Lafayette, and return over the same route; (9) between Hammond, IN, and Ft. Wayne, IN, serving all intermediate points: from Hammond over U.S. Hwy 30 to Ft. Wayne, and retrun over the same route; (10) between Findley, OH, and Ft. Wayne, IN, serving all intermediate points: from Findley over U.S. Hwy 224 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Ft. Wayne, and return over the same route; the following is applicable to all routes listed above: (1) serving all points in Indiana as off-route points; (2) serving all points in Ohio on and north of U.S. Hwy 50 and on and west of Interstate Hwy 75 as off-route points; and (3) those points in Illinois, Michigan and Kentucky within the commerical zones of points in Indiana whose commercial zones extend into Illinois, Michigan and Kentucky. The application is supported by 144 shippers.

MC 118696 (Sub-4–24TA), filed August 18, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234 Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Materials, equipment and supplies* used in the manufacture and distribution of television picture tubes and television sets (except in bulk), (1) between

Marion, IN, on the one hand, and, on the other, Chicago, IL and its commerical zone; Laredo, TX; and Forrest City, AR; and (2) Between Dunmore, PA, on the one hand, and, on the other, Lebanon and Nashville, TN. Supporting shipper: RCA Corporation, Building 204–2, Cherry Hill, NJ 08358.

MC 148966 (Sub-4–3TA), filed August 18, 1980. Applicant: DROTZMANN, INC., P.O. Box 667, Yankton, SD 57078. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Frozen potato products,* from the facilites of U and I, Incorporated at Boardman, Metrolius, and Hermiston, OR and Walla Walla, WA to points in CA, IA, IL, IN, MD, MI, MN, MO, NJ, NY, OH, PA, W. [illegible]nd DC. Supporting shipper: U and I, Incorporated, P.O. Box 2308, Tri Cities, WA 99302.

MC 119726 (Sub-4–3TA), filed August 18, 1980. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *(1) Housings, recessed, incandescent lightings fixtures, sheet steel, (2) Lighting fixtures, electric, N.O.I. other than cast iron; with or without globes or shades, (3) Glass lenses and stl. lighting fixt. pts., (4) Bus Bar Systems, N.O.I. consisting of housings containing Bus Bar N.M.F.C. 100D Item 61080, (5) Post. Lamp W/O Electric Fixtures I or S N/E 10 ft. in length, and (6) Lighting Fixtures, Flourescent or High Intensity Discharge N.O.I.,* from Elk Grove Village, IL., to Atlanta, GA, Grand Prairie, TX, and Secaucus, NJ. Supporting shipper: Halo Lighting Division, McGraw Edison Company, 400 Busse Road, Elk Grove Village, IL 60007.

MC 118696 (Sub-4–25TA), filed August 18, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *New furniture and materials, equipment and supplies* used in the manufacture and distribution thereof, between Elkhart County, IN, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Home-Crest, Inc., Traffic Manager & Customer Service, 1002 Eisenhower Drive, Goshen, IN 46526.

MC 141958 (Sub-4–2TA), filed August 19, 1980. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Paper, paper products, scrap or waste paper, plastic articles, materials and supplies used in the manufacture and distribution of paper, paper products and plastic articles,* between points in IL, IN, IA, KS, KY, MI, MO, NB, OH, OK, TN and TX. Supporting shipper: Stone Container Corporation, 360 N. Michigan, Chicago, IL 60601.

MC 114457, (Sub-4–12TA), filed August 19, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *Foodstuffs* (except frozen or in bulk) from the facilities of Snack Foods, Inc. at Jeffersonville, IN to CT, IL, and VA. Supporting shipper: Snack Foods, Inc., P.O. Box 399, Jeffersonville, IN 47130.

MC 114457, (Sub-4–13TA), filed August 19, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *Cleaning and polishing compounds, textile softening compounds, lubricants, hypochlorite solution, deodorants, disinfectants, paints, stains, varnish, plastic bags, filters, dishwashing machines, and materials, equipment, and supplies used in the manufacture and distribution of the aforementioned items* (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Economics Laboratory, Inc. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102.

MC 20824 (Sub-4–4TA), filed August 20, 1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 S. High School Rd., Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Common;* regular; *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Danville, IL and Decatur, IL, over I–74 to the juction of I–72, then over I–72 to Decatur, and return over the same route, serving Champaign and Urbana, IL as intermediate points; (2) between Rockville, IN and Decatur, IL, over U.S. Hwy 36, and return over the same route, serving Tuscola, IL as an intermediate point; (3) between Terre Haute, IN and Decatur, IL over U.S. Hwy 150 to the junction of IL Hwy 16, then over IL Hwy 16 to the junction of IL Hwy 121, then over IL Hwy 121 to Decatur, and return over the same route, serving Charleston and Mattoon, IL as intermediate points; (4) between Terre Haute, IN and Effingham, IL, over I–70, and return over the same route, serving no intermediate points except as otherwise authorized; and (5) between Effingham, IL and Champaign, IL, over I–57, and return over the same route, serving the junction of I–57 and IL Hwy 16, and the junction of I–57 and U.S. Hwy 36, for purposes of joinder. There are 16 supporting shippers.

MC 126904 (Sub-44–4TA), filed August 20, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Malt beverages,* from St. Louis, MO and points in its commercial Zone, and Evansville, IN to Canton, OH, and points in its Commercial Zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Le Van's Compagnie De Distribution, 935 McKinely Ave., SW., Canton, OH 44707.

MC 107323 (Sub-4–3TA), filed August 18, 1980. Applicant: GILLILAND TRANSFER CO., 7180 West 48th St., Fremont, MI 49412. Representative: Donald B. Levine, 38 S. LaSalle St., Chicago, IL 60603. *Water soluble lubricants (except in bulk), and materials, equipment and supplies used in the manufacture and distribution thereof,* between Fremont, MI, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, MA, MN, OH, OK, OR, NC, TX, VA and WI, Supporting shipper: Dri Slide, Inc., 1210 Locust St., Fremont, MI 49412.

MC 147259 (Sub-4–6TA), filed August 19, 1980. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same address as applicant). *(1) Automotive parts, and (2) materials, equipment, and supplies,* used in manufacture of motor vehicles, between points in MI on the one hand, and on the other, points in CA. Supporting shipper: Novus Corporation, 28149 Kehrig Drive, Mt. Clemens, MI 48045.

MC 146209 (Sub-4–1), filed August 20, 1980. Applicant: EARL L. HENDERSON TRUCKING COMPANY, R. R. #1—Box 118, Salem, Illinois 62881. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Food, food products, food ingredients, soybean products and materials and supplies used in the sale, distribution and manufacture of such commodities,* between Decatur, IL on the one hand, and on the other, points in the U.S. West of WI, IL, KY, TN and MS. An underlying E/T/A seeks 120 days authority. Supporting shipper: Archer

Daniels Midland, 4666 Farris Parkway. Decatur, IL 62525.

MC 106603 (Sub-4–2TA), filed August 20, 1980. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, S.W., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Foamed plastic articles* from Oelwein, IA to points in the U.S. in and East of ND, SN, NE, KS, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Western Foam Pack, Inc., 951 2nd Avenue, SE., Oelwein, IA 50662.

MC 112223 (Sub-4–5TA), filed August 20, 1980. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Birghton Blvd., Minneapolis, MN 55413. *Fly ash in bulk* from Alma, WI to points in IA and MN. Supporting shipper: Contech, Inc., 5900 West Bloomington Freeway, Bloomington, MN 55431.

MC 145289 (Sub-4–2TA), filed August 18, 1980. Applicant: LARRY SWIFT d.b.a. LARRY SWIFT TRUCKING, P.O. Box 303, Philip, SD 57567. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Contract;* irregular; *iron working machines* from Philip, SD to AL, CA, CO, CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OR, RI, SC, TX, WA and DC under contract with Scotchman Ind. Inc. Supporting shipper: Scotchman Industries, Inc., P.O. Box F, Philip, SD 57567.

MC 142830 (Sub-4–2TA), filed August 19, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Such commodities as are dealt in or used by horticultural suppliers,* and (2) *materials, equipment and supplies* used in the sale, processing, and distribution of commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jiffy Products of America of West Chicago, IL. Supporting shipper: Jiffy-Products of America (JPA), 1400 Harvester Road, West Chicago, IL 60185.

MC 151310 (Sub-4–1TA), filed August 19, 1980. Applicant: HAROLD R. SNYDER, R.R. #1, Converse, IN 46919. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Animal and poultry feeds,* between Kosciusko County, IN, on the one hand, and on the other, points in MI. Supporting shipper: Cargill, Inc., Nutrena Feed Division, Mentone, IN 46539.

MC 144630 (Sub-4–13TA), filed August 19, 1980. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper and paper products, and materials, equipment and supplies used in the manufacture and distribution of paper and paper products,* between points in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Manville Forest Products Corporation. Supporting shipper: Manville Forest Products Corporation, West Monroe, LA 71291.

MC 135410 (Sub-4–9TA), filed August 19, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Foundry supplies (except in bulk),* from the facilities of The Pesses Company at Solon, OH and Pulaski, PA to the facilities of Caterpillar Tractor Company at Peoria, IL. Supporting shipper: The Pesses Company, 29605 Hall Street, Solon, OH 44139.

MC 151572 (Sub-4–1TA), filed August 18, 1980. Applicant: MICHAEL W. KAISER, d.b.a. MIKE KAISER, Box 65, Alexander, IL 62601. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Steel reinforcing rods,* from Alexander, IL to points in MO. An underlying ETA seeks 120 days authority. Supporting shipper: CBM Steel Corporation, 6490 Page, St. Louis, MO 63133.

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MC 144822 (Sub-4–2TA), filed July 31, 1980. Applicant: WINTZ MOTOR FREIGHT, INC., P.O. Box 43098, 656 Pelham Blvd., St. Paul, MN 55164. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Common, regular: General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chicago, IL and points in its Commercial Zone and St. Louis, MO and points in its Commercial Zone, from Chicago over Interstate Hwy 55 to St. Louis and return over the same route; (2) between St. Louis, MO and points in its Commercial Zone and Memphis, TN and points in its Commercial Zone, from St. Louis over Interstate Hwy 55 to Memphis and return over the same route; (3) between Memphis, TN and points in its Commercial Zone and Oklahoma City, OK and points in its Commercial Zone, from Memphis over Interstate Hwy 40 to Oklahoma City and return over the same route serving the intermediate points of Little Rock, Russellville, and Ft. Smith, AR and points in their Commercial Zones; (4) between St. Louis, MO and points in its Commercial Zone and Oklahoma City and points in its Commercial Zone, from St. Louis over Interstate Hwy 44 to Oklahoma City and return over the same route, serving the intermediate point of Tulsa, OK and points in its Commercial Zone; (5) between Little Rock, AR and points in its Commercial Zone and Dallas-Fort Worth, TX and points in their Commercial Zones, from Little Rock over Interstate Hwy 30 to Dallas-Fort Worth and return over the same route serving the off-route point of Texarkana, TX and points in its Commercial Zone; (6) between Dallas-Fort Worth, TX and points in their Commercial Zones and Houston, TX and points in its Commercial Zone, from Dallas-Fort Worth over Interstate Hwy 45 to Houston and return over the same route; (7) between Oklahoma City and points in its Commercial Zone and Dallas-Fort Worth, TX and points in their Commercial Zones, from Oklahoma City over Interstate Hwy 35 to Dallas-Fort Worth, TX and return over the same route; (8) between Oklahoma City, OK and points in its Commercial Zone and Kansas City, MO and points in its Commercial Zone, from Oklahoma city over Interstate Hwy 44 to junction with US Hwy 71, then over US Hwy 71 to Kansas City and return over the same route; (9) between St. Louis, MO and points in its Commercial Zone and Little Rock, AR and points in its Commercial Zone, from St. Louis over US 67 to Little Rock and return over the same route, as an alternate route for operating convenience only.

Note.—Applicant intends to tack sought authority with other presently held authority and to interline.

There are 46 supporting shippers.

MC 149425 (Sub-4–3TA), filed August 18, 1980. Applicant: W. J. HEMENWAY, d.b.a. W. J. HEMENWAY TRUCKING, Box 401, Big Falls, MN 56627. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Treated lumber,* from Chippewa County, WI to points in MN. Supporting shipper: Northern Crossarm Co., Inc., of Chippewa Falls, WI.

MC 125708 (Sub-4–10TA), filed July 17, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, Lake Station, IN 46405. Representative: J. H. Klostermann, 109 Velma, South Roxana, IL 62087. *Iron and steel articles,* between Detroit, MI to High Point and Red Springs, NC and

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Winston-Salem, NC. Supporting Shipper: Burbick Metals, Inc., Detroit, MI.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 5227 (Sub-5–7TA), filed August 19, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swason, Quaintance & Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. *Lumber and lumber mill products,* from points in AR and OK to Algona and Sioux City, IA and points in KS and NE. Supporting shipper: continental Timber Co., Inc., 116 N. Main, Halstead, KS 67056.

MC 9644 (Sub-5–1TA), filed August 19, 1980. Applicant: B.T.L., INCORPORATED, P.O. Box 4060, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Building, Des Monies, IA 50309. *Common,* regular. *General commodities,* between Junction City, KS and Concordia, KS, serving all intermediate points and serving Beloit, KS, as an off route point, from Junction City over U.S. Highway 40 to Salina, thence over I–135 to junction U.S. Highway 81, thence over U.S. Highway 81 to Corcordia, and return over the same route. Supporting shipper: There are 39 supporting shippers.

MC 47583 (Sub-5–13TA), filed August 20, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. *Non-alcoholic beverages* (except in bulk), from Okmulgee County, OK, to points in AR, KS, LA, MO, MS and TX. Supporting shipper: King Cola Southwest, Inc., P.O. Box 1810, Nashville, AR 71852.

MC 117765 (Sub-5–13TA), filed August 20, 1980. Applicant: HAHN TRUCK LINE INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Beverages, non-alcoholic, in containers,* between Okmulgee County, OK and AR, KS, LA, MS, MO and TX. Supporting shipper: King Cola Southwest, Inc., P.O. Box 1810, Nashville, AR 71852.

MC 119399 (Sub-5–24TA), filed August 20, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Corrugated fiberboard partitions KDF,* from North Kansas City, MO to Fort Smith, Jonesboro, and Russelville, AR; Chicago, Centralia, and Lincoln, IL; Terre Huate, IN; Florence, KY; Shakopee, MN; Springdale, OH; Corsicana and Fort Worth, TX. Supporting shipper: Four-M Corporation, 600 E. 16th Avenue, North Kansas City, MO 64116.

MC 124236 (Sub-5–7TA), filed August 20, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as above). *Asphalt in bulk,* from Beaumont or Houston, TX or Westwego, LA to points in FL, SC, MS, GA, AL, AR, OK and TN. Supporting shipper: Gulf States Asphalt Co., Inc., 601 Jefferson, Suite 535, Houston, Texas 77002.

MC 124511 (Sub-5–3TA), filed August 20, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Refractories and refactory products, and materials, equipment, and supplies used in the manufacture, distribution, and installation thereof (except commodities in bulk);* between points in MO on the one hand, and, on the other, points in the US (except AK and HI). Supporting shippers: Kaiser Aluminum & Chemical Corporation, Kaiser Refractories Division, Box 499, Mexico, MO 65265; Chicago Fire Brick, 1419 North Elston Avenue, Chicago, IL 60622; C–E Industrial Products Division, Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482.

MC 135419 (Sub-5–2TA), filed August 20, 1980. Applicant: CONTAINER CARRIER CORPORATION, 301 South Eleventh Street, Fort Smith, AR 72901. Representative: William D. Hendrix (address same as above). *General commodities (except Classes A and B explosives, automobiles, and household goods as defined by the Commission), having a prior or subsequent movement by water or rail,* between Houston, TX, on the one hand, and, on the other, points in TX east of U.S. Hwy 277 and points in LA south of U.S. Hwy 84. Supporting shipper(s): There are 20 statements of support.

MC 135797 (Sub-5–62TA), filed August 20, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (same address as applicant). *Wood handles and materials, equipment and supplies* used in the manufacture, sale and distribution of wood handles, between Madison County, AR and points in the United States (except AK and HI). Supporting shipper: Richland Handle Company, Wesley, AR 72773.

MC 140665 (Sub-5–29TA), filed August 19, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *General commodities, (except articles of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment),* from points in PA (except Pittsburgh and Philadelphia), NY (except New York, NY), and Phillipsburg, NJ to points in the United States (except AK and HI) restricted to traffic originating at the facilities utilized by the Northeastern Pennsylvania Shipper's Co-op Association, Inc., or its members and restricted to shipments moving on bills of ladings of the above shippers association. Supporting shipper: Northeastern Pennsylvania Shipper's Co-op Association, Inc., 1212 O'Neill Highway, Dunmore, PA 18512.

MC 140665 (Sub-5–30TA), filed August 20, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *General commodities, (except articles of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and articles because of their size and weight requiring special equipment),* between points in IN, NY, OH, PA, WV, LA, TX on the one hand, and, on the other, points in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA, and WY, restricted to traffic originating at or destined to the facilities utilized by ITOFCA, Inc., or its members; and restricted to shipments moving on bills of lading of the above shippers association. (Restricted against the transportation of traffic moving between LA and TX, and points within LA, and TX.) Supporting shipper: ITOFCA, Inc., Two Walker Avenue, P.O. Box 188, Clarendon Hills, Illinois 60514.

MC 143701 (Sub-5–4TA), filed August 20, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, Missouri 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita. Kansas 67202. *Foodstuffs* between points in the State of LA, on the one hand, and, on the other points and places in the States east of the line of the States of NM, CO, WY and MT. Supporting shipper(s): New Orleans Cold Storage & Warehouse Co., Ltd., P.O. Box 895, Metairie, LA 70004.

MC 147248 (Sub-5–3TA), filed August 20, 1980. Applicant: CONTAINER SHUTTLE SERVICE CORP., Route 8, Box 139, Beaumont, TX 77705. Representative: Charles Norris Driver,

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Container Shuttle Service Corp., Route 8, Box 139, Beaumont, TX 77705. *General Commodities (except Articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commercial papers, documents and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments and commodities in bulk, in tank vehicles) in ocean going containers or highway trailers, having a prior or subsequent movement by water or rail, to or from points beyond the State of Texas.* Between points in the Beaumont, TX Commercial Zone and points in the Houston and Galveston, TX Commercial Zones. Supporting shippers: Synpol, Inc., P.O. Box 667, Port Neches, TX 77651; Missouri-Kansas-Texas Railroad Co., P.O. Drawer 38385, Dallas, TX 75238; Seatrain Lines, Inc., 2600 South Loop West, Suite 500, Houston, TX 77054.

MC 151504 (Sub-5-3TA), filed August 20, 1980. Applicant: PHELCO, INC., 11842 Missouri Bottom Road, St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, #314-727-0777. *Primary Metal Products and Fabricated Metal Products,* between points in the United States, except HI. Supporting shippers: Church and Clark, 13561 Denton Drive, P.O. Box 35304, Ft. Madison, IA 52627; Excell Steel Corporation, P.O. Box 35304, Dallas, TX 75235.

MC 151600 (Sub-5-1TA), filed August 20, 1980. Applicant: HOT SHOT SERVICE, INC., 2241 South East 40th Street, Oklahoma City, OK. 73129. Representative: Johnny E. Weaver (address same as above). *Oil field equipment, supplies, machinery and materials related there to, not to exceed 30,000 lbs.* Between OK., TX., LA., AR., KS., CO., WY., MT., ND., SD., MO., UT., NV., IL., KY., MI., WV. Supporting shippers: 7.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 115667 (Sub-6-1TA), filed August 18, 1980. Applicant: ARROW TRANSPORTATION SYSTEMS, INC., 320 Seymour Boulevard, North Vancouver, B.C., Canada V7J 2J3. Representative: Clyde H. MacIver, 1900 Peoples National Bank Building, 1415 Fifth Avenue, Seattle, WA 98171. (1) *General Commodities (except household goods as defined by the Commission, commodities of unusual value, and class A and B explosives)* in containers or in trailers having an immediate prior or subsequent movement by water, between Seattle and Tacoma, WA on the one hand, and, on the other, points in OR, WA and CA, and; (2) *empty containers used trailers, and used trailer chassis* between points in OR, WA and CA for 270 days. There are 15 shippers. Their statements may be examined at the Regional Office listed.

MC 133154 (Sub-6-1TA), filed August 14, 1980. Applicant: BELL TRANSPORT COMPANY, 15035 Valley View Ave., Santa Fe Springs, CA 90670. Representative: Jerry L Michael, Traffic Manager (same address as above). *Contract Carrier,* Irregular Routes: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and mattings; duct, air distributing, ventilating or exhaust system, flexible; (except commodities in bulk),* between points in CA on the one hand, and, on the other, points in AZ, NV, OR and UT, for the account of CertainTeed Corporation, for 270 days. Supporting shipper: CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482.

MC 115523 (Sub-6-3TA), filed August 15, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, Utah 84110. Representative: Melvin J. Whitear (same as applicant). *Natural Gas Liquid and Liquid Petroleum Gas,* from Ryckman Creek, Whitney Canyon and Yellow Creek areas Uinta County, WY to rail terminal near Coalville or Wahsatch, Summit County, UT for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Amoco Oil Company, Chicago, Illinois 60601.

MC 151570 (Sub-6-1TA), filed August 15, 1980. Applicant: CLEARWATER TRUCKING, INC., P.O. Box 87, Salt Lake City, UT 84110. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Contract Carrier,* Irregular routes: *General Commodities* (except household goods as defined by the Commission and Classes A and B explosives) between ID, NM, NV, TX, UT, and WY, on the one hand, and, on the other, AL, AR, CA, CO, FL, GA, ID, IL, IN, KY, LA, MA, MI, MO, NV, NJ, NM, NY, NC, OH, PA, SC, TN, TX, UT, VA, WA, WV, and WY, under continuing contract with Grand Central, Inc., of Salt Lake City, UT, for 270 days. Supporting shipper: Grand Central, Inc., of Salt Lake City, UT.

MC 151570 (Sub-6-2TA), filed August 15, 1980. Applicant: CLEARWATER TRUCKING, INC., P.O. Box 87, Salt Lake City, UT 84110. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Contract Carrier,* irregular routes, *General Commodities* (except household goods as defined by the Commission and Classes A and B explosives) between UT, and CO, on the one hand, and, on the other, CA, CO, GA, IL, IN, MA, MI, NV, NJ, NY, NC, PA, SC, UT, WA, and OR, under continuing contract with Mountain America Shippers Association, Inc., for 270 days. Supporting shipper: Mountain America Shippers Association, Inc., of Salt Lake City, Utah.

MC 151569 (Sub-6-1TA), filed August 15, 1980. Applicant: WILLIAM CRANDALL TRUCKING, INC., 4819 N.E. 39th Avenue, Vancouver, WA 98561. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Meer and Wine,* from Sonoma, Napa, Solano and Stanislaus Countries, CA to the facilities of Evergreen Distributing Co. at Vancouver, WA for 270 days. Supporting shipper: Evergreen Distributing Co., 1610 W. Markle Avenue, Vancouver, WA 98660.

MC 136208 (Sub-6-12TA), filed August 18, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, Ca. 96097. Representative: Donald L. Smith (same as applicant). *Paint, stains and coatings,* from Redmond and Seattle, WA to Fresno, Redding and Sacramento, CA, and Reno, NV, restricted to shipments moving for the account of Palmer G. Lewis, Co., Inc., for 270 days. Supporting shipper: Palmer G. Lewis Co., Inc., P.O. Box 28546 Sacramento, CA 95828.

MC 113678 (Sub-6-19TA), filed August 19, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Medical, surgical and hospital supplies,* from the facilities of Becton, Dickinson and Company located at or near Parsippany, NJ, to points in AZ, CA, OR, UT, and WA for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Becton, Dickinson and Company, Stanley Street, Rutherford, NJ 07070.

MC 29948 (Sub-6-1TA), filed August 15, 1980. Applicant: EMPIRE LINES, INC., West 1125 Sprague Ave., Spokane, WA 99210. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, D.C. 20005. *Common carrier,* regular routes; *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between the port of entry on the U.S.-Canada Boundary Line at or near Porthill, ID, and the intersection of U.S. Hwy 95 and ID Hwy 1, over U.S. Hwy 1, serving all intermediate points, for 180 days. An underlying ETA seeks 90 days authority. Tacking and interlining is requested. Supporting shippers: There are 8 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 124679 (Sub-6-24TA), filed August 19, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Representative: Michael L. Bunnell (same as applicant). *Foodstuffs* from Los Angeles, CA and its commercial zone: Oakland, CA and its commercial zone to New York, NY., Jersey City, NJ and Philadelphia, PA and their commercial zones for 270 days. Supporting shipper: Atlanta Corporation, 17 Varick Street, New York, NY 10013.

Note.—Applicant holds motor contract carrier authority in number MC-128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 120 days authority.

MC 110149 (Sub-6-1TA), filed August 15, 1980. Applicant: PAN AMERICAN VAN LINES, INC., 18420 So. Santa Fe Ave., P.O. Box 923, Long Beach, CA 90801. Representative: W. C. Fogle (same as applicant). *New Furniture and Furniture Parts, crated and uncrated,* between Union City, Pa. on the one hand, and, on the other, points in the United States, except AK and HI, for 270 days. Supporting shipper: Union City Chair Company, 18 Market Street, Union City, PA 16438.

MC 144957 (Sub-6-5TA), filed August 15, 1980. Applicant: PETERCLIFFE, LTD., 12623 E. Imperial Hwy., Santa Fe Springs, CA 90670. Representative: Les Peters (same as applicant). *General commodities* (except commodities in bulk, A & B explosives and commodities requiring special equipment) between points in the states of IL, KS, MO, TN, WI on the one hand, and on the other points in the states of CT, DE, DC, IN, KY, ME, MD, MA, NI, NH, NJ, NY, OH, PA, RI, VT, VA and WV restricted to traffic moving on bills of lading of freight forwarders for 270 days. Supporting shipper: Westransco Freight Co., P.O. Box 54810, Los Angeles, CA 90054; Springmeir Shipping Co. Inc., 1123 Hadley St., St. Louis, MO 63101; Universal Carloading and Distributing Co., Inc., 345 Hudson St., New York, NY 10014.

MC 144957 (Sub-6-6TA), filed August 15, 1980. Applicant: PETERCLIFFE, LTD., 12623 E. Imperial Hwy., Santa Fe Springs, CA 90670. Representative: Les Peters (same as applicant). *General Commodities* (except commodities in bulk, A and B explosives and commodities requiring special equipment) between all points in the States of AZ, CA, NV, UT, on the one hand, and on the other, points in the States of AL, AR, MS, VA, WV, and the DC (except for movements between points in CA and points in AL and MS). Restricted to traffic moving on bills of lading of freight forwarders for 270 days. Supporting shipper(s): ABC-TNT/ACME Fast Freight, 2110 Alhambra Ave., Los Angeles, CA 90031; Universal Carloading & Distributing Co., Inc., 345 Hudson St., New York, NY 10014; California Western Freight Assn. d.b.a. Western Freight Assn., 3336 San Fernando Rd., Los Angeles, CA 90065.

MC 151441 (Sub-6-2TA), filed August 18, 1980. Applicant: SHAKER MOUNTAIN TRANSPORT, INC., 2550 Purvis Drive, Burbank, CA 91504. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. *Contract carrier,* Irregular routes: *Cheese, butter, and edible salt; chemicals used in processing dairy commodities; and, dairy packaging supplies,* between Thayne, WY on the one hand, and points in WA, OR, CA, ID, MT, NV, AZ, UT, NM, CO, SD, NE, IA, KS, MO, OK, AR, TX, LA, WI, MN, IL, IN, OH, PA, NY and NJ, on the other hand, for the account of Star Valley Cheese Corportation, for 270 days. Supporting shipper: Star Valley Cheese Corporation, Thayne, WY 83127.

MC 151571 (Sub-6-1TA), filed August 15, 1980. Applicant: STORES DELIVERY SERVICE, d.b.a. SOUND DELIVERY SERVICE, 3601 S. 263rd, Kent, WA 98031. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. (1) *Iron and steel articles,* (2) *building materials,* between points in OR and WA for 270 days. Supporting shipper: There are 11 shippers. Their statements may be examined at the Regional Office listed.

MC 141867 (Sub-6-4TA), filed August 15, 1980. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader (same as applicant). *Silica, silex, colloidal silica and amorphous silica,* from the facilites of Hanna Mining Company, Douglas County, WA, to points in CA and ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Hanna Mining Company, P.O. Box 361, Wenatchee, WA 98801.

MC 146798 (Sub-6-2TA), filed August 15, 1980. Applicant: SULLIVAN TRUCKING, INC., 1340 Umatilla St., Denver, CO 80204. Representative: Dale E. Isley, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. *Non-Exempt Foods and Kindred Products and General Commodities used in the manufacture, sale and distribution of candy,* between Montrose County, CO, on the one hand, and, on the other, points in the State of CA and Dallas County, TX, for 270 days. Supporting shipper: Russell Stover Candies, Inc., 1004 Baltimore, Kansas City, MO 64105.

MC 147155 (Sub-6-1TA), filed August 18, 1980. Applicant: FRANK TAGGART d.b.a. TAGGART TRUCKING, Post Office Box 153, Cody, WY 82414. Representative: E. Paul Wood, 426 South Fifth East, Salt Lake City, UT 84102. *Contract Carrier,* Irregular routes: *rice mixes, tea, stuffing mixes, coffee roasted, coffee instant, rice clean—all packaged,* between Union City, CA and Billings, MT. Restricted to transportation of traffic handled for MJB Company, Inc., for 270 days. Supporting shipper: MJB Company, Inc., 665 Third Street, San Francisco, CA 94107.

MC 151586 (Sub-6-1TA), filed August 18, 1980. Applicant: TRANSPORTATION UNLIMITED OF CALIFORNIA, 2639 South Soto, Los Angeles, CA 90023. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. *Frozen beef feet* from the facilities of The Angel Pride Company at or near Los Angeles, CA to New Orleans, LA; Miami, FL; Newark, NJ; New York and Hartsport, NY; Riverside and Chicago, IL; and Laredo, Corpus Christi and Houston, TX and points in their commercial zones, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Angel Pride Company, 3290 East Vernon Avenue, Los Angeles, CA 90058.

MC 144330 (Sub-6-1TA), filed August 14, 1980. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: D. Michael Jorgensen, 143 South State St., Salina, UT 84654. *Lumber and lumber mill products,* from points in AR to points in MO, IL, OK, TX, NE, IA, ND & SD for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Continental Timber Co., Inc. 116 N. Main, Halstead, KS 67056 and Hixson Lumber Sales, Inc., POB 237, Plumerville, AR 72127.

MC 140313 (Sub-6-2TA), filed August 15, 1980. Applicant: VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Alcoholic beverages* (except in bulk in tank vehicles) from points in CA, NJ, MD, KY, MI, IL, IN, MO to points in WA for the account of K & L, Inc., for 270 days. Supporting shipper: K & L, Inc., 300 120th N.E., Bellevue, WA 98116.

MC 112989 (Sub-6–9TA), filed August 18, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., (same as applicant). *(1) Paint and paint products (except commodities in bulk in tank trailers), and (2) materials, equipment and supplies used in manufacture and distribution of commodities listed in 1) (except commodities in bulk in tank trailers),* between the facilities of Inmont Corporation located at Anaheim, CA, on the one hand, and, on the other, Oklahoma City, OK, for 270 days. Supporting shipper: Inmont Corporation, 1244 North Lemon Street, Anaheim, CA 92801.

MC 141804 (Sub-6–70TA), filed August 14, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Coal and wood burning stoves and parts and accessories for stoves,* between CA, MT, ID, UT, WY, CO, ND, SD, NE, KS, MO, WV, MD, DC, CT, and RI, restricted to traffic originating at or destined to the facilities of Centurary Industries, for 270 days. Supporting shipper: Thomas E. Engle, President, Centurary Industries, 765 Conger Street, Eugene, OR 97402.

MC 141804 (Sub-6–71TA), filed August 18, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Tea, N01; Instant Tea; Preparations, Beverage, N01, Dry,* Between Altanta and Marietta, GA; Aurora, Chicago, Franklin Park, and West Chicago, IL; Wright City, MO; and Bentonville and Searcy, AR, for 270 days. Supporting shipper: Wendall B. Walton, Materials Manager, Southern Tea Company, P.O. Box 7538, Marietta, GA 30066.

MC 148891 (Sub-6–1TA), filed August 18, 1980. Applicant: WESTERN HOT SHOT, INC., 1064 East Northern Hills Drive, Bountiful, UT 84010. Representative: David S. Cook, 85 West 400 North, Bountiful, UT 84010.
1. *Machinery, equipment, tools and supplies used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and petroleum by-products, and*
2. *Machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, excluding transportation of and stringing of main and truck pipe lines* between points in WY, UT, ID, NV, CO, MT, ND, SD, TX, LA and OK for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Oil Field Leed Rental Service Co., P.O. Box 875, Evanston, WY 82930; Schlumberger Oil Service, Inc., P.O. Box "H", Evanston, WY 82930; Grant Oil Tool Co., P.O. Box 355, Evanston, WY 82930; Wilson Industries, Inc., P.O. Box 967, Evanston, WY 82930; N. L. Acme Tool, P.O. Box Drawer "N", Sage Industrial Park, Evanston WY 82930.

MC 89684 (Sub-6–4TA), filed August 18, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). *Common Carrier:* Regular routes. *General commodities,* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Reno, NV and Salt Lake City, UT on the one hand, and on the other, Lovelock, Battle Mountain, Winnemucca, Elko, Ely, Wendover, Carson City, Tonopah, Fallon, Wells, Hawthorne, and Fernley, NV, for 270 days. An underlying ETA seeks 120 days authority. Note: Applicant currently serves this area, with an aggregate shipment restriction not to exceed 500 pounds per shipment, and a piece restriction of 100 pounds per piece, and is requesting these restrictions be removed. Supporting shipper: There are 13 shipper support statements in this application which may be examined at the Regional Office listed.

MC 143775 (Sub-6–26TA), filed August 14, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, (same address as applicant). *General commodities* (except classes A and B explosives, commodities in bulk, commodities requiring the use of special equipment, household goods as defined by the Commission and commodities of unusual value), from the facilities of or used by New England Shipping Association Cooperative at or near New York, NY, to points in the United States (except AK and HI), for 270 days. Supporting shipper: John Seidensticker, President, New England Shipping Association Cooperative, 1029 Pearl Street, Brockton, MA 02401.

MC 138322 (Sub-6–3TA) filed August 19, 1980. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Oilfield machinery, materials, equipment and supplies,* and *pipe and well casing,* between (1) points in CA, on the one hand, and, on the other, points in AR, CO, KS, LA, MT, NM, OK, TX and WY, and (2) between points in TX, on the one hand, and, on the other, points in CO, MT and WY, for 270 days. an underlying ETA seeks 120 days authority. Supporting shippers: There are 10 shippers. Their statements may be examined at the Regional office listed.

MC 115523 (Sub-6–4TA) filed August 20, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, P.O. Box 1895, Salt Lake City, Utah 84110. Representative: Melvin J. Whitear (same as applicant). *Cycle Oil,* from Cody, Park County, WY to North Salt Lake, Davis County, UT. Restricted to backhaul loads loaded at Cody, WY immediately following the delivery of gas oil or refinery cracking stock from Salt Lake City, UT to Cody, WY for 270 days. Supporting shipper: Husky Oil Company, Denver, Colorado 80222.

MC 135989 (Sub-6–3TA) filed August 21, 1980. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Avenue, Chino, California 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, Colorado 80209. *Contract carrier,* irregular routes: *Canned goods;* From Dallas, TX to points in the Los Angeles Commercial Zone, CA, under continuing contract(s) with V.K.I., Inc. for 270 days. Supporting shipper: V.K.I., Inc., 2827 Nagle, Dallas, Texas 75220.

MC 113678 (Sub-6–20TA) filed August 19, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Glass products, chinaware, and plastic products,* from OH, PA, and WV, on the one hand, and on the other, points in CO for 270 days. Supporting shipper: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, Ohio.

MC 147466 (Sub-6–3TA) filed August 19, 1980. Applicant: CUSTOMER TRUCK SERVICE, 1945 Hilfiker Lane, Eureka, CA 95501. Representative: Eugene Q. Carmody, 15523 Sedgeman Street, San Leandro, CA 94579. *Contract Carrier,* irregular routes: (1) *wire retaining walls* from Eureka, CA to construction sites at or near Rifle, CO, and (2) *wire, in bales or rolls,* from Pueblo, CO to Eureka, CA for the account of Hilfiker Pipe Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Hilfiker Pipe Co., 3900 Broadway, Eureka, CA 95501.

MC 148087 (Sub-6–2TA), filed August 21, 1980. Applicant: BIG K

CORPORATION, d.b.a. DIAMOND TRANSPORT, P.O. Box 35, Kanosh, UT 84637. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Petroleum and petroleum products,* between UT, WY, CO & ID, for 270 days. Supporting shipper: Anschutz Corp., P.O. Box AH, Evanston, WY 82930.

MC 263 (Sub-6–1TA), filed August 21, 1980. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green, 2055 Garrett Way, Pocatello, ID 83201. *Such commodities as are ordinarily dealt in by retail stores,* from the facilities of Pay 'N Save Corp. at Auburn, Kent and Tukwila, WA to Rock Springs, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pay 'N Save Corp., 18271 Andover Park W., Tukwila, WA 98188.

MC 134761 (Sub-6–1TA), filed August 20, 1980. Applicant: GRASSICK TRANSPORT, LTD., 220 Esquimalt Road, Victoria, B.C., Canada V9A 3K9. Representative: George La Bissoniere, 15 South Grady Way, Suite 233, Renton, WA 98055. (1) *Maintenance & sanitary supplies,* from points in CA, OR and WA to ports of entry on the International Boundary line between the U.S. and Canada located in WA; (2) commodities as maybe dealt in by *health food distributors* from CA and WA to ports of entry on the U.S.-Canada International boundary line in WA; (3) *chain, anchors* and *mooring supplies* from CA-OR and WA to ports of entry on the U.S.-Canada International Boundary line in WA; (4) *scrap metal* from U.S.-Canadian ports of entry in WA to WA; (5) *automotive cleaners, waxes, compounds and accessories* from Orange County, CA and King County, WA to U.S.-Canadian ports of entry in WA; and (6) *lumber* and *machinery* between the U.S.-Canadian ports of entry in WA and WA, OR and CA for 270 days. There are six shippers. Their statements may be examined at the Regional office listed.

MC 33641 (Sub-6–3TA), filed August 19, 1980. Applicant: IML FREIGHT, INC., 10 Exchange Place—Suite 622, Salt Lake City, UT 84111. Representative: Eldon E. Bresee (same address as applicant). *Common carrier,* Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving all points within the commercial zones of the service points in Routes (1) and (2) below: (1) Between Denver, CO and Minneapolis, MN serving no intermediate points and serving junction Interstate Hwy 35 and Interstate Hwy 35–E for purposes of joinder only; from Denver over US Hwy 6 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Minneapolis and return over the same route, (2) between junction Interstate Hwy 35 and Interstate Hwy 35–E and St. Paul, MN serving no intermediate points; from junction Interstate Hwy 35 and Interstate Hwy 35–E over Interstate Hwy 35–E to St. Paul and return over the same route, for 270 days. An underlying ETA seeks 120 days authority. There are 123 shippers. Applicant intends to tack and interline.

MC 115067 (Sub-6–1TA), filed August 20, 1980. Applicant: INDEPENDENT MOTOR TRANSPORT, INC., 32455 Highway 34, Tangent, OR 97387. Representative: Jerry R. Woods, Suite 1440, 200 SW Market St., Portland, OR 97201. *Such commodities as are dealt in by wholesale grocery houses,* between Beaverton, OR, on the one hand, and, on the other, Seattle and Spokane, WA, for 270 days. Supporting shipper: Glaser Bros., 6605 SW 111th St., Beaverton, OR 97005.

MC 147521 (Sub-6–1TA), filed August 21, 1980. Applicant: J.S.I., 918 East Vermont, Anaheim, CA 92805. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Meat,* from the facilities of Iowa Beef Processors in Pasco, WA to the facilities of Kochos Brothers, Inc. d.b.a. Fleming Foods Co. in Fremont and Oakland, CA., for 270 days. Supporting shipper: Kochos Brothers, Inc., d.b.a. Fleming Foods Co., 5900 Stewart Avenue, P.O. Box 5004, Fremont, CA 94538.

MC 142847 (Sub-6–2TA), filed August 21, 1980. Applicant: LESLIE OAKLEY and BARRY D. OAKLEY, d.b.a. OAKLEY BROTHERS TRUCKING, P.O. Box 338, Fairfield, MT 59436. Representative: Dennis E. Lind, Suite A, Century Plaza, Missoula, MT 59801. *Wrought steel pipe, coated and wrapped wrought steel pipe* from the facilities of Beall Pipe and Tank Corporation at or near Portland, OR to WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Beall Pipe and Tank Corporation, P.O. Box 03310, Portland, OR 97203.

MC 142066 (Sub-6–1TA), filed August 20, 1980. Applicant: THEOPHANE LAWRENCE SCHLEGEL and DIANA GAYLE SCHLEGEL, d.b.a. CENTRAL PACIFIC FREIGHT LINES, P.O. BOX AM, Brookings, OR 97415. Representative: John A. Anderson, Suite 1440, 200 Market Bldg., Portland, OR 97201. *Common carrier,* regular route: *General commodites (except household goods, commodities in bulk, and commodities requiring special equipment),* between Eugene, OR and points within 15 miles thereof: from Eugene, OR to Coos Bay, OR via IH 5, USH 99, OSH 38 and USH 101, and return over the same routes, serving no intermediate points between Cottage Grove, OR and the Douglas-Coos County, OR line on OSH 38, for 270 days. There are 9 shippers. Their statements may be examined at the Regional office listed.

MC 149100 (Sub-6–5TA), filed August 28, 1980. Applicant: JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, Mt 59801. Representative: John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. *Agricultural implements, farm machinery and equipment, industrial machinery and equipment, and related parts and attachments,* from points in IL, IN, KS, MN, TX, WA and WI to the facilities of I. D., Inc. and its dealers located in ID, UT, OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: I. D., INC., 2355 N.W. Quimby, Portland, OR 97210.

MC 146417 (Sub-6–1TA), filed August 19, 1980. Applicant: PISANO FRENCH BREAD BAKING COMPANY, INC., 2497 Grove Way, Castro Valley. CA 94546. Representative: Daniel W. Baker, 100 Pine St., Ste. 2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *Bakery goods (not requiring baking), in trays, in vehicles equipped with mechanical refrigeration;* From the facilities of Safeway Stores, Incorporated, at Denver, CO, to Salt Lake City, UT, under continuing contract with Safeway Stores, Incorporated, for 270 days. Supporting shipper: Safeway Stores, Incorporated, 5725 E. 14th St., Oakland, CA 94660.

MC 151444 (Sub-6–1TA), filed August 20, 1980. Applicant: ROBERT A. and VIVIAN D. CARPENTER, d.b.a. RAC TRANSPORT COMPANY, 747 West White, Grand Junction, CO 81501. Representative: Raymond M. Kelley, Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. *Common carrier,* regular routes: *general commodities* (except Classes A and II explosives, household goods as defined by the Commission, and commodities in bulk), (a) between Grand Junction, CO, and points located within 10 miles thereof, on the one hand, and, on the other, points in the Counties of Adams, Arapahoe, Denver, and Jefferson, State of Colorado: from Grand Junction, CO, over U.S. Hwy 6 and Interstate Hwy 70 to Denver, CO, and return over the same

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route, serving the point of Cameo, CO, and all points in Colorado located more than 10 miles west of Grand Junction, CO, which lie on and within one mile of U.S. Hwy 50, as off-route points in connection with carrier's otherwise authorized operations; (b) between Grand Junction, CO, and points located within 10 miles thereof, on the one hand, and, on the other, Craig, CO, and points within 3 miles thereof: from Grand Junction, CO, over U.S. Hwy 6, Interstate Hwy 70, and Colorado Hwys 789 and 13, to Craig, CO, and return over the same route, serving all points located on and within one mile of said highways as intermediate points, and serving the Occidental Oil Shale Project near Piceance Creek Road in Rio Blanco County, CO, as an off-route point in connection with carrier's otherwise authorized operations; (c) between Grand Junction, CO, and points located within 10 miles thereof, on the one hand, and, on the other, Aspen, CO, and points within one mile thereof: from Grand Junction, CO, over U.S. Hwy 6, Interstate Hwy 70 and Colorado Hwy 82 to Aspen, CO, and return over the same route, serving all points located on and within one mile of said highways, as intermediate points; and (d) between Grand Junction, CO, and points located within 10 miles thereof, on the one hand, and, on the other, Montrose, CO, and points within 5 miles thereof: from Grand Junction, CO, to Montrose, CO, over U.S. Hwy 50 and return over the same route, serving all points lying on and within 2 miles of U.S. Hwy 50 as intermediate points for 270 days. Applicant intends to tack Parts (a), (b), (c) and (d) with one another at Grand Junction, CO, or points within 10 miles thereof, and to interline with other carriers at Aspen, Craig, Denver, Grand Junction and Montrose, CO. An underlying ETA seeks 120 days authority. Supporting shippers: There are approximately 30 shippers. Their statements may be examined at the regional office listed.

MC 52709 (Sub-6–18), filed August 21, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Chemicals or allied products,* between points in Mesa County, CO, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, UT, and WA for 270 days. Supporting shipper: Pabco Insulation Division of Louisiana-Pacific Corporation, 1110–16 Road, Fruita, CO 81521.

MC 151615 (Sub-6–1TA), filed August 21, 1980. Applicant: R–S ENTERPRISES, INC., d.b.a. ROCKET HOT SHOT, 216 North 1st Avenue, Casper, WY 82601. Representative: Sandra R. York (same address as applicant). (1) *Machinery, materials, equipment and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment, and supplies,* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of complete oil drilling rigs; between points in WY, CO, UT, ID, MT, ND, SD, and NE, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Grant Oil Tool, P.O. 369, Mills, WY. Eastman Whipstock, Inc., P.O. Box 1284, Casper, WY. C. E. Natco, P.O. Box 2894, Casper, WY. Land & Marine Rental, P.O. Box 2682, Casper, WY.

MC 151418 (Sub-6–1TA), filed August 19, 1980. Applicant: ROY-L-T TRUCKING, INC., 15006 East Nelson, City of Industry, CA 91744. Representative: Roy Tyra (same address as applicant). *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading issued by Acme Fast Freight, Inc., ABC–TNT, freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV, WI and WY (except movement between WA, OR/ID), for 270 days. ETA filed seeking 120 days authority. Supporting shippers: Acme Fast Freight, Inc., ABC–TNT National Transport, Inc., 2110 Alhambra Avenue, Los Angeles, CA 90031.

MC 142941 (Sub-6–9TA), filed August 18, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as Applicant). *Toilet preparations, and articles used in the manufacture, preparation, packaging, and distribution of toilet preparations,* between points in (1) AZ, CA, FL, IL, IN, MA, MO, NJ, OK, OH, TX, and WI, and (2) from these points in points in AL, CO, ID, KS, KY, LA, MS, MT, NM, NV, OR, UT, WA and WY; restricted to the facilities utilized by Roux Laboratories, Inc. Jacksonville, FL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Roux Laboratories, Inc., 6831 Stuart Avenue, Jacksonville, FL 32205.

MC 126714 (Sub-6–1TA), filed August 20, 1980. Applicant: SOUTHWEST DELIVERY COMPANY, INC., P.O. Box 451, Vancouver, WA 98666. Representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, OR 97201. *Common carrier,* irregular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, (a) Between points in OR in the counties of Benton, Clackamas, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Wasco, Washington, and Yamhill on the one hand, and, on the other hand, points in WA in and west of the counties of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania (excluding Island, Clallam, Jefferson, and Kitsap Counties); and (b) Between points in Cowlitz County, WA on the one hand, and, on the other hand, points in the above-named counties in WA. Supporting shippers: There are 31 shippers. Their statements may be examined at the Regional Office listed.

MC 110325 (Sub-6–36TA), filed August 18, 1980. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, CA 90245. Representative: Wentworth E. Griffin, 1221 Baltimore, Kansas City, MO 64105. *Common carrier,* regular routes: *General Commodities* (except Household goods as defined by the Commission and Class A and B explosives), between Oklahoma City, OK and Los Angeles, CA serving all intermediate points, and off-route points in CA within 30 miles of Los Angeles: From Oklahoma City over U.S. Hwy 66 to El Reno, OK, thence over U.S. Hwy 81 to junction U.S. Hwy 64, thence over U.S. 64 to Guymon, OK (also from El Reno over U.S. Hwy 270 to junction OK Hwy 3, and thence over OK Hwy 3 to Guymon), thence over U.S. Hwy 64 via Boise City, OK, to junction unnumbered OK Hwy east of Wheeles, OK, thence over unnumbered OK and NM Hwys via Wheeless and Mexhoma, OK, to junction NM Hwy 18, thence over NM Hwy 18 to Clayton, NM, thence over NM Hwy 58 to Springer, NM, thence over U.S. Hwy 85 to Las Cruces, NM, thence over U.S. Hwy 80 to Road Forks, NM, thence over NM Hwy 14 via Steins, NM, to the NM–AZ State Line, thence over AZ Hwy 86 to Benson, AZ, thence over U.S. Hwy 80 to Tucson, AZ, thence over AZ Hwy 84 to Picaho, AZ, thence over AZ Hwy 87 to Mesa, AZ, thence over U.S. Hwy 60 to Los Angeles, and return over the same route. Supporting shipper: None.

MC 110325 (Sub-6-37TA), filed August 20, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Common carrier*, regular routes: (1) *general commodities* [except classes A and B explosives, household goods, as defined by the Commission,] (a) between Winchester, VA, and Bristol, VA, from Winchester, VA, over U.S. Hwy 11 to Bristol, VA, and return over the same route; (b) between Arlington, VA, and Danville, VA, from Arlington, VA, over U.S. Hwy 29 to Danville, VA, and return over the same route; from Arlington, VA, over U.S. Hwy 1 to the junction of U.S. Hwy 360, then over U.S. Hwy 360 to the junction of VA Hwy 304, then over VA Hwy 304 to the junction of U.S. Hwy 58, then over U.S. Hwy 58 to Danville, VA, and return over the same route; (c) between Norfolk, VA, and the junction of U.S. Hwy 58 and VA Hwy 304, from Norfolk, VA, over U.S. Hwy 58 to the junction of U.S. Hwy 58 and VA Hwy 304, and return over the same route; (d) between Danville, VA, and Roanoke, VA, from Danville, VA, over U.S. Hwy 58 to the junction of U.S. Hwy 220, then over U.S. Hwy 220 to Roanoke, VA, and return over the same route; (e) between Richmond, VA, and the VA–NC State line, from Richmond, VA, over U.S. Hwy 1 to the VA–NC State Line, and return over the same route; (f) between Petersburg, VA, and Emporia, VA, from Petersburg, VA, over U.S. Hwy 301 to Emporia, VA, and return over the same route; (g) between the Junction of U.S. Hwy 460 and U.S. Hwy 58 and Roanoke, VA, from the Junction of U.S. Hwy 460 and U.S. Hwy 58 over U.S. Hwy 460 to Roanoke, VA, and return over the same route: (h) between Norfolk, VA, and Lexington, VA, from Norfolk, VA, over U.S. Hwy 60 to Lexington, VA, and return over the same route; (i) between Richmond, VA, and Staunton, VA, from Richmond, VA, over U.S. Hwy 250 to Staunton, VA, and return over the same route; (j) between Arlington, VA, and Winchester, VA, from Arlington, VA, over U.S. Hwy 50 to Winchester, VA, and return over the same route; (k) between Martinsville, VA, and the Junction of U.S. Hwy 58 and U.S. Hwy 11, from Martinsville, VA, over U.S. Hwy 58 to the Junction of U.S. Hwy 58 and U.S. Hwy 11, and return over the same route; serving all intermediate points in VA on Routes (a) through (k) listed above and all other points in VA as off-route points; and (2) (a) between Norfolk, VA, and St. Louis, MO, serving the intermediate points in VA and Charleston and Huntington, WV, Lexington and Louisville, KY, and Mt. Vernon, IL, from Norfolk, VA, over Interstate Hwy 64 to St. Louis, MO, and return over the same route; (b) between Winchester, VA, and St. Louis, MO, serving all intermediate points in VA and Cincinnati and Athens, ON, Bedford, Seymour and Vincennes, IN, and Olney, Flora and Salem, IL, from Winchester, VA, over U.S. Hwy 50 to St. Louis, MO, and return over the same route; (c) between Danville, VA, and Reidsville, NC, serving all intermediate points in VA, from Danville, VA, over U.S. Hwy 29 to Reidsville, NC, and return over the same route; (d) between the VA–NC State Line and Raleigh, NC, serving no intermediate points, from the VA–NC State Line over U.S. Hwy 1 to Raleigh, NC, and return over the same route; (e) between the VA–NC State Line and Durham, NC, serving no intermediate points, from the VA–NC State Line over U.S. Hwy 1 to the Junction of Interstate Hwy 85, then over Interstate Hwy 85 to Durham, NC, and return over the same route; (f) between Winchester, VA, and Harrisburg, PA, serving Hagerstown, MD, from Winchester, VA, over Interstate Hwy 81 to Harrisburg, PA, and return over the same route.

Note.—In Part 1 applicants seeks to convert a portion of its irregular route authority in VA to regular routes. In Part 2, applicant seeks to join the proposed regular routes in VA set forth in Part 1 with a series of regular routes to eliminate the present gateway of OH, for 270 days. Applicant intends to tack and interline.

MC 110325 (Sub-6–38TA), filed August 18, 1980. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, CA 90245. Representative: Wentworth E. Griffin, 1221 Baltimore, Kansas City, MO 64105. *Common carrier*, Regular Routes: *General commodities*, (except household goods as defined by the Commission and class A and B explosives), 1. Between Kansas City, MO and Chicago, IL, serving all intermediate points, off-route points in the Kansas City, MO-Kansas City, KS Commercial Zone, as defined by the Commission, off-route points in the Chicago, IL Commercial Zone, as defined by the Commission and the off-route points of Atchison, KS and Coal City, IL, From Kansas City, over Alternate U.S. Hwy 169 and U.S. Hwy 169 to St. Joseph, MO, thence over U.S. Hwy 36 to Cameron, MO, (also from Kansas City over Alternate U.S. Hwy 69 and U.S. Hwy 69 to Cameron), thence over U.S. Hwy 36 to Springfield, IL, thence over U.S. Hwy 66 to Chicago (also from Springfield over U.S. Hwy 66 to Gardner, IL, thence over Alternate U.S. Hwy 66 to junction U.S. Hwy 66, thence over U.S. Hwy 66 to Chicago), and return over the same routes; 2. Between Kansas City, MO and Chicago, IL and Harvey, IL, serving all intermediate points, off-route points in the Kansas City, MO-KS Commercial Zone, as defined by the Commission, off-route points in the Chicago, IL Commercial Zone, as defined by the Commission and the off-route points of Aurora, Rockford and Pekin, IL, From Kansas City over U.S. Hwy 24 via Rushville, IL, to El Paso, IL, thence over U.S. Hwy 51 to Mendota, IL, thence over U.S. Hwy 34 to Chicago, (also from Rushville over U.S. Hwy 67 to Monmouth, IL, thence over U.S. Hwy 34 to junction U.S. Hwy 6, thence over U.S. Hwy 6 to Harvey), and return over the same routes; 3. Between Kingdom City, MO and Chicago, IL, serving all intermediate points and off-route points in the Chicago, IL Commercial Zone as defined by the Commission, From Kingdom City over U.S. Hwy 54 to junction U.S. Hwy 36, thence over U.S. Hwy 26 to Springfield, IL, thence over U.S. Hwy 66 to Chicago, and return over the same route; 4. Between Wenona, IL and Dwight, IL, serving all intermediate points, From Wenona over IL Hwy 17 to Dwight, and return over the same route; 5. Between St. Joseph, MO and Concordia, KS serving all intermediate points and the off-route points of Linn and Sabetha, KS, From St. Joseph over U.S. Hwy 36 to Belleville, KS, thence over U.S. Hwy 81 to Concordia, and return over the same route. For 270 days. There are no supporting shippers.

MC 123329 (Sub-6–5TA), filed August 19, 1980. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Calgary, Alberta CAN T2P 2P9. Representative: D. S. Vincent (same as applicant). *Mineral spirits, Toluene, Xylene, and Rubber Solvent*, in bulk, in tank vehicles from the ports of entry on the US/Canada International Boundary Lines located at WA to Portland, OR, for 270 days. Restricted to traffic in foreign commerce. An underlying ETA seeks 120 days authority. Supporting shippers: Record Chemical, 1745 Kingsway, Port Coquitlam, B.C. and Priestley Oil and Chemical, 2429 N. Borthwick Ave., Portland, OR.

MC 134672 (Sub-6–1TA), filed August 21, 1980. Applicant: VALENCIA SYSTEMS, INC., 25555 Avenue Stanford, Valencia, CA 91355. Representative: William Davidson, 2455 East 27th St., Vernon, CA 90058. *General Commodities*, (except those of unusual value, classes A and B explosives, commodities in bulk, household goods

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as defined by the Commission). Between Los Angeles, CA Commercial Zone and Lancaster and Palmdale, CA Commercial Zones, for 270 days. Supporting shippers: There are 14 shippers, their statements may be examined at the Regional office listed.

MC 26396 (Sub-6-39TA), filed August 18, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same as applicant). *General commodities* (except Class A and B explosives, and household goods as defined by the Commission), between ports of entry on the International Boundary line between the United States and Canada located at or near Noyes, MN; Pembina, St. John, Dunseith, Westhope and Portal, ND; Plentywood, Scobey, Opheim, Morgan, Simpson, Sweetgrass and Eureka, MT; Bonners Ferry, ID; and Metaline Falls, Laurier, Danville and Oroville, WA, on the one hand, and on the other, points in the United States (except CT, RI, MA, VT, NH and ME), restricted to traffic originating at or destined to the provinces of Manitoba, Saskatchewan, Alberta, and British Columbia, for 270 days. No shipper support.

MC 151611 (Sub-6-1TA), filed August 21, 1980. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Way, Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St. #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *Metals, wax, binder and sand,* between all points in the United States (excluding AK and HI) under continuing contract or contracts with Golden State Castings, Inc. and/or its corporate subsidiaries or affiliates for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Golden State Castings, Inc., 725 Industrial Ave., Port Hueneme, CA 93041.

MC 141804 (Sub-6-72TA), filed August 20, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). Plastic pipe, plastic pipe fittings, connectors and valves, between Sun Valley, Bakersfield and Santa Ana, CA on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, ND, NE, NV, OK, OR, SD, UT, WA and WY. Restricted to traffic originating at or destined to the facilities of R & G Sloane Mfg. Co., Inc., for 180 days. Supporting shipper: Roy Whitman, National Traffic Manager, R & G Sloane Manufacturing Co., Inc., 7606 N. Clybourn Avenue, Sun Valley, CA 91352.

MC 89684 (Sub-6-5TA), filed August 21, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). (1) *Such commodities as are dealt in by mail-order houses and retail stores (except commodities in bulk), and (2) equipment, materials and supplies incidental to the conduct of mail-order houses and retail stores,* between Denver, CO on the one hand, and, on the other, points in WY, ID and UT; Restricted to the transportation of shipments originating at or destined to facilities operated by Montgomery Ward & Company, Inc., for 270 days. Supporting shipper: Montgomery Ward & Company, Inc., 555 South Broadway, Denver, CO 80203.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26646 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-1842]

The American Envelope Co. v. A. H. Truck Line, Inc., et al.

AGENCY: Interstate Commerce Commission

ACTION: Notice of reopening of proceeding.

SUMMARY: Since 1963, the upper limit for less than truckload rates on paper envelopes within central territory (Illinois, Indiana, Ohio, and portions of Michigan, Wisconsin, Iowa, Missouri, Kentucky, West Virginia, Pennsylvania and New York) has been governed by a Commission rate order in this proceeding. The rate bureau representing carriers operating in this territory has requested that this rate ceiling be removed. It contends that no reason now exists for this ceiling and that, in fact, the Commission's prescription of this rate lelev now has the opposite effect from that originally intended. The proceeding is being reopened and the prescription will be reconsidered.

DATES: Comments are due on or before October 17, 1980.

ADDRESS: An original and 15 copies of comments should be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7693.

SUPPLEMENTARY INFORMATION: In 1955, a subsidiary of Kimberly-Clark filed a complaint alleging that the class 85 rates on LTL shipments of paper envelopes in central territory were unjust and unreasonable. Rates to central territory border points were higher than rates over the same routes to more distant points outside the territory. Complainant also alleged that central territory shippers were unduly prejudiced because rates from origins in eastern central, central and southern, and middle western rate territories to points in central territory were lower than class 85. A series of decisions were made (68 M.C.C. 429 (1956), 306 I.C.C. 573 (1959), and 316 I.C.C. 563 (1962)). The decisions prescribed rates for these movements in central territory. The rates generally were lower than the rates for comparable distances in the surrounding territories.

Petitioner, Central States Motor Freight Bureau, Inc., argues that the prescription, rather than removing prejudicial treatment now acts to prefer central territory movements as the central territory rate level now is lower that the rate level within and between the surrounding territories. Petitioner argues that the differences in rate treatment cannot be justified by a difference in the product or in the transportation conditions in these territories. Petitioner also states that the section 10726 (4th section) findings which supported the original prescription no longer warrant the prescription.

Kimberly-Clark Corporation and U.S. Envelope Co. filed responses in opposition to the petition. Their arguments as to why this proceeding should not be reopened are not convincing. In response to Kimberly-Clark's arguments, we do not consider it crucial that no shipper sought removal of the prescription. It is equally appropriate for the carriers to do so when, as here, they believe the basis for the prescription no longer exists. U.S. Envelope argues that it will be at a disadvantage in defending the prescription because its files have been lost or destroyed. However, the purpose of this reopening is to determine whether the reasons behind the original prescription continue to require it. Detailed evidence indicating why it may have been necessary 17 years ago is not necessarily relevant. The remainder of replicants' arguments are directed to the continuing appropriateness of the prescription and, thus, will not be further discussed here.

We believe that the relief requested merits further analysis. We, therefore, are reopening this proceeding. Interested persons are invited to file comments directed to whether the basis for the 1962 order exists today and continues to warrant this maximum rate prescription.[1] In addition, this notice will be served on all parties to the original proceeding.

We do not believe that this decision will significantly affect either the quality of the human environment or conservation of energy resources. However, comments on this subject are invited.

(49 USC 10321, 10701, 10741)

Decided August 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, and Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins was absent and did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26733 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided August 26, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, 12, and 19, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision ot the Governor or each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. August 29, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Stafford not participating. Commissioner Trantum absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix Fuel Surcharge

Base date and price per gallon (including tax):

January 1, 1979 .... 63.5¢

Date of current price measurement and price per gallon (including tax)

August 25, 1980 .... 113.9¢

	Transportation performed by—			
	Owner operator (1)	Other (2)	Bus carrier (3)	UPS (4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[1]2.1
Percent surcharge allowed	13.0	2.3	5.0	[2]1.3

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80-26734 Filed 8-29-80, 8:45 am]

BILLING CODE 7035-01-M

[No. MC-1515 (Sub-No. 222)]

Greyhound Lines, Inc., Extension—Special Operations, Atlantic City (Phoenix, AZ)

Decided: July 22, 1980.

Applicant is granted authority to conduct regular-route passenger operations serving Atlantic City, NJ, without the restriction imposed by the Administrative Law Judge. The potential volume of traffic moving to and from Atlantic City by bus, combined with factors which limit the effectiveness of competition from other modes of transportation, should be ample to support competing operations by several intercity bus lines.

Lat J. Celmins and *W. L. McCracken* for applicant.

Frank J. Fitzsimmons, David A. Gayer, Robert E. Goldstein, Jeremy Kahn, Dennis D. Kirk, Eugene T. Liipfert, Eric L. Martin, Lloyd John Osborn, John R. Sims, Jr., Robert H. Stoloff, Edward G. Villalon, and *Robert B. Walker* for protestants and intervenors.

By the Commission:

We have considered the application and the record in this proceeding, including: the initial decision of the Administrative Law Judge; the exceptions filed by applicant and by Safeway Trails, Inc. (Trailways), protestant; the reply of applicant to the exceptions of protestant; and the replies to applicant's exceptions filed by Lincoln Transit Co., Inc., by Trailways, by Transport of New Jersey (TNJ), and by intervenor, New Jersey Department of Transportation.

The Administrative Law Judge recommended that the application, as amended, be granted, subject to a restriction as set forth in Appendix B to this decision.

Greyhound has submitted its exceptions in two "parts". The main part consists of 46 pages, and "Part II" consists of over 90 pages of appendices. The appendices are comprised of various documents and information relating to other proceedings which are assertedly relevant to the matters raised in Greyhound's exceptions. Greyhound has requested that the 30-page limitation on exceptions, as set forth in Rule 97(b)(3) of the Commission's General Rules of Practice, 49 CFR 1100.97(b)(3), be waived in this case, due to the length of the initial decision and the numerous errors of fact and law asserted.

It is abundantly clear that Part II of Greyhound's exceptions is superfluous. Nearly all of the information set forth in these appendices is a matter of public record in various Commission dockets. Official notice could be taken of all of this material if it were deemed to be pertinent to the issues raised. Thus, there is no need for this material to be duplicated in applicant's exceptions, and so Part II of the exceptions will not be accepted for filing.

The main body of the exceptions also exceeds 30 pages in length, however. Applicant's characterization of the issues presented, in essence, as being relatively complex, is reasonably accurate.

The exceptions could likely have been condensed somewhat, but they are not particularly rambling or disorganized. We have not applied the 30-page

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[1] If we determine that the reasons for the original prescription no longer exist, and it is vacated, the carriers would have the flexibility to propose changes to the existing rates. Any rate proposed by the carriers if the prescription is vacated would be subject to protest and possible suspension or investigation. Possible vacation of the prescription would not remove any remedies available to protestants under the Interstate Commerce Act.

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limitation strictly in other complex proceedings, and no reason appears for applying a more stringent standard here.

By letter dated January 7, 1980, applicant has requested that we take administrative notice of the intitial decision of the Administrative Law Judge in No. 37095, "Arthur Goldzweig, et al. v. Transport of New Jersey, et al.", entered November 30, 1979, and served December 13, 1979. Although applicant asserts that similar factual matters are involved, we find no particular relevance in this material at this stage of this case. Accordingly, the request for administrative notice will be denied.

Facts

We find the Administrative Law Judge's initial decision to be fundamentally sound, although we disagree with his decision to impose the restriction limiting service on New York City and Philadelphia traffic. Also, the exceptions raise certain issues which require specific disposition at this time. The summary of the evidence which is presented in the initial decision sets forth the essential facts of the case in an excellent manner, and we adopt that summary of the evidence as our own. We will include here only a brief factual summary as necessary for ease in understanding our further discussion of the merits of the case.

Applicant is a nationwide motor passenger carrier with a route structure serving the 48 contiguous States. This route structure does not, however, now include authority to serve Atlantic City, NJ. Rather, the closest service points on applicant's existing routes are along the major highways passing through New York City and Philadelphia. Greyhound's passengers, therefore, must now move in interline service to and from Atlantic City, interchanging with TNJ at New York City and Philadelphia or with Lincoln Transit at New York City. Greyhound has provided some through-bus service to and from Atlantic City in connection with these carriers. Presently, in connection with protestant TNJ, this involves one daily round trip between Washington, DC (and beyond that to Miami) and Atlantic City via Philadelphia, and one weekend round trip each between Pittsburgh and Atlantic City and between Scranton and Atlantic City via Philadelphia. Another daily schedule operates between Montreal, Quebec, Canada, and Atlantic City via New York City, in connection with protestant Lincoln Transit.

Applicant has actively served Atlantic City as a destination point for service in charter operations and in special operations, in sightseeing or pleasure tours, pursuant to its irregular-route authority. By this application, Greyhound seeks to extend its regular-route authority to Atlantic City to permit through service between that point and its existing service points in the northeastern States. The application is prompted by the approval by the State of New Jersey in November, 1976, of the Casino Gambling Referendum, which legalized casino gambling in Atlantic City. Greyhound has also had 20 years' experience serving casinos in Nevada, which services handle about 1 million passengers a year and amount to about 5 percent of applicant's annual passenger revenue.

Applicant proposes two types of service beyond the sightseeing and pleasure tours which are permitted under its existing authority. One type would be offered on a daily or repetitive basis, designated as "scheduled" service. Greyhound sets forth a proposed schedule which calls for 21 daily round trips and 17 additional round trips on weekends, operating betwen Atlantic City and various points on its existing route network (generally within 300 miles of Atlantic City). This schedule would provide service not only at New York City, Philadelphia, and other major cities, but at several stops in New York City other than the midtown Port Authority Bus Terminal, and such suburban stops as Hempstead, White Plains, and New Rochelle (near New York City), Chester and King of Prussia (near Philadelphia), and Springfield, Alexandria, Tyson's Corner, and Silver Spring (near Washington, DC). The other type of service would be offered on a one-time or infrequent basis, and is designated as "non-scheduled" service. This type of service would be available to travel agents, trip promoters, or groups for which charter service is not preferred.

To serve Atlantic City, Greyhound expects to use the present central bus terminal, which is owned by the city and which applicant asserts can accommodate additional service; loading and unloading platforms at the casinos; private space for parking buses; and a former motel to accommodate drivers. Operations will be in round trips, involving little, if any, deadhead mileage. Applicant operates a fleet of 4,077 modern air-conditioned intercity buses, and it places approximately 400 new buses into service each year. Applicant has adequate financial resources to support the operations it proposes.

The only rail service now available at Atlantic City is a commuter train which feeds to a suburban Philadelphia rapid transit line. At the time of the hearing, the only air service at Atlantic City was provided by commuter planes to and from Philadelphia as well, although many major airlines were reportedly applying to serve Atlantic City directly. Greyhound points out, however, that the relatively short distances between Atlantic City and the homes of most potential visitors will tend to make air service relatively inefficient and, likewise, enhance the comparative attractiveness of bus service. Access highways to the island on which Atlantic City is located already are overcrowded, at least at peak travel hours, and available parking capacity is insufficient to accommodate much of an increase in demand from casino patrons.

Prospective passengers who supported the application generally expressed support for the superiority of Greyhound's service and equipment, as well as dissatisfaction with the service of the protesting carriers. These witnesses indicated that they found applicant's terminals to be clean with pleasant surroundings; the buses to be modern and equipped with air conditioning, reclining seats, and lavatories; and the drivers to be courteous and considerate. Complaints about the protestants' services focused on the bus terminals in New York City and Philadelphia and on the equipment used. The Philadelphia Trailways terminal, used by protestants Safeway and TNJ, is said to be located in an unsafe neighborhood, and the terminal, restrooms, and eating facilities are described as unclean and unsanitary. The witnesses also had many complaints about service at the Port Authority Bus Terminal in New York City, which is used by all the carriers party to this proceeding—applicant and the protestants. The witnesses testified that this terminal is not clean, is a loitering place for undesirable people, and is unsafe and located in a run-down section of the city. Furthermore, since Greyhound's buses load on the lower level of the terminal, while TNJ and Lincoln Transit load on the upper level, transferring buses at this location is inconvenient, particularly for passengers who must handle their own baggage. Residents of Brooklyn and Staten Island, in particular, testified that it was not convenient for them to have to travel to the Port Authority Bus Terminal to catch a bus for Atlantic City, because of the extra traveling time this requires.

Insofar as equipment is concerned, most of the witnesses acknowledged that Safeway's vehicles are similar to those of Greyhound and are subject to rather few complaints. Protestant TNJ's buses, on the other hand, were described as being old and as lacking with reclining seats, lavatories, or air conditioning. Witnesses also complained that baggage was not checked through in interline service to or from Atlantic City and that, on some occasions, passengers had to carry their luggage onto the bus and store it on overhead racks or on seats. Particularly with respect to those buses of protestants Lincoln Transit and TNJ which are now used in through bus service with applicant, the record reflects complaints by public witnesses and reports of complaints by applicant's drivers, concerning the quality of the equipment furnished, both with respect to standards of maintenance and with respect to the cleanliness of the vehicles. The evidence presented by applicant in this regard suggest recurring difficulties in this area, whereas the evidence presented by protestants suggests that problems are infrequent, that the complaints are insignficant in nature, or that a recurring problem with one particular vehicle is predominantly responsible.

In addition to the public witnesses from various points throughout the northeastern United States and eastern Canada, the application is supported by a casino operator at Atlantic City, by various public officials in Atlantic City and New Jersey, and by representatives of business and public organizations in the Atlantic City area. Perhaps the most frequent type of support, however, was from ticket agents and tour operators who testified to the demand of their customers for regular-route service to and from Atlantic City.

Protestant Lincoln Transit has conducted regular-route passenger operations between New York City and Atlantic City, serving intermediate points, for more than 46 years. During this time, Atlantic City has declined from a popular luxurious resort to a neglected area, but protestant continued its service despite the decrease in passengers. Lincoln Transit has made provisions to expand its service to handle increased demand for bus service resulting from the legalization of casino gambling in Atlantic City, but its management does not feel that realistic schedules can be developed until the traffic demands and public interest are evaluated. Protestant's commuter operations between New York City and the intermediate points north of Atlantic City operate at a greater deficit than its express services to and from Atlantic City. Since 1977, Lincoln Transit has received operating subsidies through the New Jersey Department of Transportation (NJDOT), and it leases three buses from NJDOT as well. Since 1976, Lincoln Transit and TNJ have maintained a coordinated service agreement under which conflicting duplicate schedules are eliminated; this agreement was made at the request of NJDOT.

Lincoln Transit asserts that the buses it provides for through service with Greyhound are of the same high quality as applicant's own, and it dismisses the complaints of Greyhound's drivers as minor. The type of equipment which it uses on other services is not equipped with lavatories, but protestant finds that lavatories are not needed for trips over such relatively short distances. Protestant acknowledges that, except during the peak summer season, it does not operate the through service with Greyhound between Atlantic City and Montreal unless there are a sufficient number of passengers. Although Lincoln Transit asserts that it is ready to provide service from points in any of the five New York City boroughs if there is a demand, it has not in the past served any point in New York City other than the Port Authority Bus Terminal.

Protestant TNJ operates express service both between New York City and Atlantic City and between Philadelphia and Atlantic City. In New York City, service is provided not only from the midtown Port Authority Bus Terminal, but also from the Port Authority George Washington Bridge Bus Station and from Brooklyn and Staten Island. Protestant asserts that these services at other points in New York City are actively promoted by its agents, but applicant suggests that there has not been enough advertising of these services to draw out the full potential of patronage. TNJ has also served other similar locations in the past but has not been able to draw enough patronage to support those services. In Philadelphia, service is provided at the downtown Trailways bus terminal, and at suburban stops in Upper Darby and Frankford. The equipment used on express buses between New York City and Atlantic City consists primarily of 46-passenger lavatory-equipped intercity buses; the equipment used for express service between Philadelphia and Atlantic City consists primarily of late model suburban coaches. TNJ is purchasing 10 new intercity coaches to be used exclusively in providing service to and from Atlantic City. Protestant handles a substantial volume of interline traffic with applicant, both in through bus service and otherwise. TNJ's operations also are conducted under operating subsidies from NJDOT; the subsidy contract requires the maintenance of service levels and fare levels prescribed by NJDOT.

Protestant Trails is a wholly-owned subsidiary of Trailways, Inc. Thus, it is also a member of the national Trailways Bus System, whose members collectively operate a nationwide regular-route motor passenger carrier network. It operates that portion of the network extending generally between New York City and Washington, DC, including routes between Atlantic City, on the one hand, and, on the other, New York City, Philadelphia, Washington, DC, and State Road, DE.

The Trailways bus system as a whole occupies a second position to Greyhound in the national bus industry, and protestant's concern is that applicant's extensive route network will give it an overwhelming competitive advantage, enabling it to dominate the Atlantic City market over all competitors if the application be granted. Thus, Trails offers to provide through-bus service with Greyhound, as an alternative to the granting of this application.

Of all the operating companies controlled by Trailways, Inc., Trails has the worst operating ratio in the system. Accordingly, protestant argues that it needs the revenues which are likely to be generated by traffic moving to and from Atlantic City in order to maintain its other services. Furthermore, on the route between Atlantic City and Washington, DC, it provides service at intermediate points in New Jersey; this is the only service at these points which runs in a direction other than to and from Philadelphia.

Trails is proposing to institute Atlantic City services from such New York points as Staten Island, Canal Street, Harlem, Queens, Hempstead, and Nassau County, but it has not furnished this service in the past. It appears that Trailways, Inc., has maintained a policy under which extra sections are not automatically dispatched to handle overflow loads unless there are 14 extra passengers available. Protestant denies applicant's allegation that this is an inflexible policy and asserts that an individual decision is made in each case as to whether an extra section will be dispatched, depending on the circumstances involved.

Discussion and Conclusions

The criteria set forth in *Pan-American Bus Lines Operation*, 1 M.C.C. 190, 203 (1936), are the proper guide for evaluation of this application. As a consequence, whether the present or future public convenience and necessity require the proposed operation depends, in substance, on whether the new

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operation or service will serve a useful public purpose responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest. In essence, the question is whether the advantages to those members of the public that would use the proposed service outweigh the disadvantages, real or potential, to existing services that may result. *All American Bus Lines, Inc., Common Carrier Application,* 18 M.C.C. 755, 776–777 (1939).

The Administrative Law Judge concluded that the application should be granted, but "restricted against the transportation of pasenges and their baggage from New York, NY, and Philadelphia, PA, and destined to Atlantic City, NJ; and from Atlantic City, NJ, and destined to New York, NY, and Philadelphia, PA." We agree with the decision to grant the application, but we disagree with the imposition of the restriction. We also disagree with a few relatively minor points in the Administrative Law Judge's discussion and conclusions, but, otherwise, we find his analysis of the evidence and his conclusions based thereon to be sound. Accordingly, except to the extent that our discussion here modifies the conclusions set forth in the initial decision, we adopt those conclusions as our own.

The Nature of the Public Demand or Need for Service

It is quite clear that the beginning of casino gambling in Atlantic City is creating a demand for more bus service. We have granted authority to numerous carriers in the northeastern States to conduct round-trip special operations to Atlantic City to serve this demand. This application seeks authority to provide additional service on a regular-route basis as well. The evidence also shows that the pace at which new casinos will be opened is quite slow. Accordingly, it is apparent that most of the public demand for service to and from Atlantic City will develop at some indefinite time in the future.

Protestants argue that this future need is too vague and indefinite to sustain a grant of authority, since it is impossible to predict with confidence just how great the demand for bus service in this market is likely to be. We have never required that an applicant relying upon a future need to support an application be able to predict the precise volume of traffic it will handle. Rather, a future need for a proposed service may be established by showing that it is reasonable to find that the traffic will move in the near future.

In *Gibbon Extension—Liquid Petroleum Wax,* 67 M.C.C. 252 (1956), it was concluded that availability of motor carrier service was necessary to develop the market. In the case at hand, of course, the availability of bus service is not liable to affect the speed with which additional casinos are opened, but the cases are nonetheless similar in the sense that it is inappropriate to require the applicant to wait until after the market is, in fact, developed before it may file its application. We have not followed such a course in connection with other applications to serve Atlantic City, and there is no valid reason to do so here.

Protestants argue that support for this application is deficient because relatively few of the supporting witnesses are prospective passengers, while many of the witnesses are travel agents or ticket agents who have a self-serving interest in potential commissions from the sale of tickets for applicant's proposed service. In evaluating the support for any passenger application, we generally give greater weight to the testimony of witnesses who would themselves use the proposed service, but it is well settled that evidence from witnesses who, because of their business or professional capacity, are in a position to reflect the transportation needs of the traveling public, is entitled to be considered. *Holiday Transp., Inc., Com. Car. Applic.,* 125 M.C.C. 720 (1976). Review of all the supporting evidence submitted in this case reflects that it is fully competent to show a public demand or need for the service applicant proposes.

Applicant points out that there have been at least 25 proceedings in which various small and regional carriers in the northeastern States have been granted authority to conduct special operations, usually beginning and ending at points in their present operating territories, and extending to Atlantic City. Particularly, it points out that the decision in No. MC–946 (Sub-No. 7) et al., *Ferdinand Arrigoni, Inc., Extension—Atlantic City, N.J.,* (not printed) decided September 7, 1978, awarded such grants of authority to conduct special operations from points in and near New York City to Atlantic City, in the absence of any public support.

It is apparent, however, that this applicant—Greyhound Lines, Inc.—stands in a very different posture from that of a relatively small carrier. Applicant's size and resources alone mean that it has a much greater potential impact on the competitive structure of any given market than a small carrier could possibly have. In *Highland Tours, Inc., Common Carrier Application,* 128 M.C.C. 595, 601 (1977), it was pointed out that a small appalicant which operates only one bus would be unlikely to divert more than a very small amount of business from large established carriers. The instant case presents the opposite situation. Here a large applicant such as Greyhound has resources in equipment, operating ability, and advertising exposure, for example, which are potentially sufficient to overwhelm competing carriers in the short term and thus endanger the long-term competitive balance in any given market. While these considerations would by no means justify an automatic denial of Greyhound's application, they do establish ample grounds for subjecting this application to closer scrutiny than those of smaller carriers. Therefore, it is appropriate that we analyze carefully the probable impact of applicant's proposed operations upon the competitive standing of all of the protesting carriers.

Protestant Trails argues forcefully that Atlantic City has in the past been—and still today is—provided with too much bus service for the traffic which is available. It argues that there is excess capacity in this market now, and that existing carriers who have faithfully provided continued service to and from Atlantic City during the years of lean traffic should not be faced with additional competition until the traffic has actually developed to the point that additional service is required. Protestant asserts that there are plenty of empty seats available on all existing services and that it alone has the ability to handle a much greater volume of traffic than is now available or will be available in the foreseeable future. It also notes that increases in service that it has already instituted have so far proved to be unneeded. Finally, it points out that many other bus companies in the northeastern States have already been granted authority to conduct special operations to Atlantic City, which only further increased the excess capacity in the market.

In our opinion, the evidence of record in this proceeding does not reflect serious excess capacity in bus service at Atlantic City. In the first place, it is highly unlikely that the market could long sustain such an overcapacity. We note particularly that protestants Lincoln Transit and TNJ describe their Atlantic City services as being their more profitable operations. This tends to suggest that no serious overcapacity exists, because it indicates that these protestants are able to operate this service efficiently and economically at the relatively high frequency of service which they provide.

Further, we reject the notion that additional competition is inappropriate until existing services reach capacity. The benefits of competition are to be weighed with the potential adverse effects of harm to existing carriers. Although the Atlantic City market now has relatively more service than might be expected, it is a market which will grow and which must be developed aggressively.

The Adequacy of Existing Services

The Administrative Law Judge determined that protestants' service to Atlantic City in the past has been adequate and that the various aspects of the present service are adequate as well. We do not fully agree with this assessment, particularly with respect to the adequacy of these services for future traffic demands. If the potential for bus service to Atlantic City is to be fully realized, it is necessary that at least some of the available service be of the highest quality feasible. Given the volume of traffic projected for this market, it is proper that competing operations offer different levels of service so as to attract passengers from different segments of the market. It is not appropriate that all available service "gravitate" toward the "least common denominator" in quality; thus, mere "adequacy" of service is not entirely sufficient to permit this market to develop to its full potential.

There are several aspects of protestants' services which, although concededly adequate for general passenger traffic needs, present obvious deficiencies for some travelers. The evidence reflects that, although all carriers use intercity type buses on express schedules between New York City and Atlantic City, protestant TNJ's service between Philadelphia and Atlanctic City generally uses suburban type buses which often lack lavatories, reclining seats, and luggage compartments. The Adminstrative Law Judge correctly pointed out that these features are not always needed for trips as short as those involved here, but we do not believe that this is a good reason for concluding that they should not be made available in this market by another carrier.

A number of witnesses complained about the inadequacy of terminal faciltities in both New York City and Philadelphia. Despite the testimony of public witnesses sponsored by protestants who found no fault with the Trailways terminal in Philadelphia, we cannot ignore the testimony of those public witnesses sponsored by applicant who expressed serious concerns about the cleanliness and safety of that facility. In New York City, applicant, as well as all of the protestants, uses the Port Authority Bus Terminal; and so evidence tending to establish the inadequacy of that faciltity, as such, is not pertinent here to the extent that applicant's services would still use the same facility

What is pertinent, though, is that applicant's proposed operations would allow many passengers to bypass that facility. We note particularly the situation faced by residents of Staten Island, for example, who face a circuitous, inconvenient, and time-consuming journey if they must use the Port Authority Bus Terminal in midtown Manhattan for traveling to and from Atlantic City. In a city as large (both in land area and in population) as New York City, there are several points in other boroughs where intercity bus service can be offered feasibly and to the public benefit. Protestant TNJ has served some such points with mixed success, but the record shows that Greyhound has both the existing facilities and the experience to offer wide-area service with a relatively high likelihood of success. We believe that it is most appropriate to encourage those carriers who are willing to take the initiative in developing and providing services which avoid the inconvenience of using the Port Authority Bus Terminal, as much as is feasible. Applicant's proposal in this regard will provide to many passengers a service which is a substantial improvement over that which is now available.

We recognize that protestant TNJ has provided some services at points in New York City other than the Port Authority Bus Terminal in the past. Although it has not found that service to be particularly successful, TNJ still maintains some of these services. The poor showing of past traffic volumes at these points cannot, however, be taken as fully indicative of future performance of these services. Moreover, applicant suggests that the advertising and promotion of these services may have left something to be desired. Applicant's resources and experience, accordingly, should be a valuable addition to these markets.

Applicant proposes to provide service to and from Atlantic City not only at the Port Authority Bus Terminal in midtown Manhattan, but also at several other locations in New York City itself, as well as at Hempstead (Nassau County), White Plains (Westchester County), and New Rochelle (Westchester County), NY, in the suburbs. Service between these points and Atlantic City can operate without passing through the Port Authority Bus Terminal. Two prospective passengers from Brooklyn and several travel agency witnesses testified that the availability of direct service would be more convenient for many passengers.

Protestant Lincoln Transit does not now operate any direct service between Atlantic City and points in New York City other than the Port Authority Bus Terminal but plans to institute such services if demand for bus service increases. Protestant TNJ now provides direct service between Atlantic City, , and stops in uptown Manhattan, Brooklyn, and Staten Island; it has operated similar services at other points in the past and proposes to serve more such points as traffic develops. Protestant Trails has recently been granted authority to operate directly between Atlantic City and certain points in New York City and its suburbs, but the record does not reflect whether commencement of such operations is imminent.

Although the degree of public support for this type of service is not great, the record as a whole reflects enough deficiencies in use of the Port Authority Bus Terminal to confirm a great need for service at other points. Our analysis of the competitive situation of the Atlantic City market in other respects applies in large measure here as well. The problems which are identified in the record with respect to use of the Port Authority Bus Terminal demand that alternative services be developed so that passengers will have available meaningful alternatives to the use of that facility. We conclude that the public interest requires the encouragement of all carriers which provide service at the Port Authority Bus Terminal to provide service at other points in New York City as well, to the extent that their traffic will allow.

The evidence of the policies of the Trailways system (including protestant Trails) concerning the dispatching of extra sections to handle overflow loads is inconclusive. We note that our regulations at 49 CFR 1063.6(d) call for carriers to provide seating for all passengers "to the extent reasonably possible," and any carrier policy which artificially limits the dispatching of extra setions violates this regulation. On the other hand, the Administrative Law Judge accurately pointed out that the record does not show that the Trailways

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policy in this regard has had any appreciable effect on passengers traveling to and from Atlantic City.

We disagree, however, with the Administrative Law Judge's similar conclusion with regard to the lack of through baggage checking service for passengers using protestants Lincoln Transit and TNJ in interline service. The need to recheck baggage *en route* is, in our opinion, a significant inconvenience, which is made all the worse when it must be accomplished amid the other inadequacies which have been described in New York City's Port Authority Bus Terminal. Applicant's proposal to eliminate this inconvenience, accordingly, is entitled to significant weight in support of the application.

Further, there is the question of the adequacy of the equipment provided by protestants Lincoln Transit and TNJ for use in through bus service with applicant. There is evidence purporting to demonstrate the inadequacy of this equipment in several respects, most of which are minor. The only substantial questions which arise in this area have to do with the maintenance standards and cleanliness of this equipment. The evidence about the quality of protestants' equipment in this regard is disputed, but it is clear, on balance, that this quality is somewhat less than applicant's standards. In the context of the other matters discussed above, this is a relatively minor matter, due in large measure to the contradictory evidence presented.

Protestant Trails argues that any needed service between Atlantic City and points which are now served only by Greyhound should be provided by a through bus service in an interline arrangement between the two companies. Protestant asserts its willingness to conduct interline operations but assails applicant's unwillingness to consider such an arrangement. Motor common carriers of passengers are required by 49 U.S.C. 10703(a)(3) to establish through routes with other carriers of the same type, but it must be noted that the original language of the Interstate Commerce Act in this respect [section 216(a)] required only that *reasonable* through routes be established. (The recodification and revision of the statute was not intended to work any substantive change in the law, and so this meaning may still be applied.) We do not believe that Greyhound is in violation of the law in this regard.

It should first be recalled that Greyhound does in fact conduct through-bus interline operations now to provide service to and from Atlantic City. These services are provided in connection with protestant Lincoln Transit through interchange at New York City and with protestant TNJ through interchange at Philadelphia. The purpose of this application is, in a very real sense, partly to eliminate these interline operations and substitute single-line service to avoid the inadequacies alleged by applicant to afflict the connecting operations. We do not believe that it is necessarily reasonable to expect a carrier to make through-bus arrangements with its principal competitor to replace a deteriorating service provided by an independent interline carrier. Certainly, there is no basis upon which to read the statute as requiring a carrier to participate in through-bus service with all available connecting carriers in every instance.

In sum, it is the competitive situation which must be considered, in relation to the volume of traffic and the distances involved, in deciding whether through-bus service between applicant and protestant Trails can reasonably be required. In this case, the potential benefits of vigorous competition between these carriers amply warrant a conclusion that through-bus service should not be applicant's only alternative. Were applicant to be dependent upon interline service for its access to the Atlantic City market, it is obvious that it would have much less than a free hand in developing a promotional campaign to promote the service and that this, in turn, would severely limit the competitive potential of its services. Thus, we conclude that it would not be reasonable on this record to expect Greyhound to rely upon through- bus service with Safeway for access to Atlantic City.

The Adverse Effects of a Grant of Authority

Protestant Trails is a member of the National Trailways Bus System and is a commonly controlled affiliate of Trailways, Inc. Its evidence reflects a poor financial position compared to other Trailways operating companies and suggests that, without the support of the Trailways system as a whole, it would be bankrupt. Accordingly, protestant argues that it should be protected from the adverse effects of competition by applicant in the Atlantic City market. We do not believe that it is proper to view protestant in such an isolated framework.

The question to be considered at this point is not merely whether the applicant's proposed operations would have an adverse effect on the protestant, but rather whether an adverse effect would in turn cause a corresponding injury to the public. *Liberty Trucking Co., Ext.—General Commodities,* 131 M.C.C. 573 (1979); *May Trucking Company* v. *United States,* 593 F. 2d 1349, 1356 (1979). In a case involving regular-route bus service, the question often may become one of whether the public is liable to lose more bus service from protestant than it will gain from the applicant. This would not be so in this case.

Trails is an integral part of the national bus network of the Trailways system and operates through bus services with other member carriers of this system; its service must be considered in this frame of reference. Whatever the characteristics of this individual company may be which contribute to its relatively poor financial state, the fact that this company serves routes providing the access for much of the Trailways system to major population centers in the northeast, means that the parent corporation (Trailways, Inc.) is not likely to treat the subsidiary as having to carry all of its own weight. Neither should we. The evidence protestant has presented concerning its adverse financial condition focuses almost exclusively on its own situation without demonstrating that applicant's proposed service would have any likelihood of causing service to be reduced in the Trailways system as a whole.

The grant of authority to Greyhound will still permit protestant to compete for all the traffic it now handles. If it competes effectively, we have no doubt that it can increase its traffic volume over that it now handles, despite the competition. In this event, its own financial standing should be bettered, even if a potentially still greater volume of traffic which could have resulted from a denial of this application would then not be realized.

Protestant Trails also complains that, because applicant does not propose to provide local service at intermediate points between New York City and Philadelphia, on the one hand, and, on the other, Atlantic city, it would be in the unfair position of being able to skim the cream of the relatively profitable through traffic without bearing the burden of serving the less compensatory local traffic as well. The significance of this issue, however, depends upon the question of whether the proposed service would result in a loss of service to the intermediate points great enough to outweigh the benefits to those segments of the public which would use the through service. In this case, much of the local service involved is of the nature of commuter, suburban, or even "exurban" service, exhibiting relatively high service frequencies in comparison with intercity services. To a large extent, the movements would be intrastate. In situations such as this, it cannot automatically be assumed that all bus operators on the same route should provide both local service and through service. The relative demands of the two types of traffic may well be such that the intermediate points would receive more frequent service from a single carrier than from more carriers; that is something which will very according to the circumstances of each particular situation.

Thus, we do not presume that applicant's failure to provide local service to intermediate points along the routes it seeks would necessarily be unfair. The evidence indicates that the two of the protestants which are providing this local service now are receiving subsidies from the State of New Jersey to preserve this local traffic. Although these subsidies flow from tax revenues and, accrodingly, must be recognized as a burden on the public to some extent, we believe that the evidence in this proceeding, taken as a whole, strongly suggests that these protestants are likely to realize greater revenues from their share of increased Atlantic City traffic, even with applicant's competition. The conclusion is warranted, therefore, that the subsidy program will permit the local services to remain stable over any short term competitive adjustments, while the protestants should, if they are capable of mounting effective competition, be able to earn enough revenue to reduce their subsidy requirements in the long term. Nothing in this record is persuasive to the contrary.

Protestants Lincoln Transit and TNJ each receive operating subsidies from the State of New Jersey for the purpose of helping them to continue regular-route operations. Applicant argues that thes tax subsidized carriers should not be favored over private carriers and, thus, that their interests with respect to potential diversion of traffic are not entitiled to enough weight to warrant the restricition imposed by the Administrtive Law Judge. Protestants, on the other hand, argue that the subsidy arrangement is designed precisely to preserve private transportation services. In their view, the earnings from the relatively profitable routes serving Atlantic City are important in reducing the amount of subsidies required, and, in turn, in limiting the burden on tax funds.

It is important to recognize, however, that our principal focus in this area is not whether the protesting carriers should be protected, but rather must be whether public interest would best be served by authorizing new service or by limiting an applicant's entry into a particular market. It was emphasized in *Liberty Trucking Co., Ext.—General Commodities,* 130 M.M.C. 243 (1978) and 131 M.C.C. 573 (1979), that a finding of potential harm to protesting carriers is only one step in the proper analysis of an application. The next step is to determine whether any harm would materially jeopardize their ability to serve the public and whether whatever disadvantage this may be to the public would be outweighed by benefits which would flow from additional competition. Therefore, it should be clear that the question of whether receipt of public subsidies should affect a carrier's worthiness of protection is not particularly relevant. The circumstances of the subsidy are facts to be considered in determining the impact of a grant or denial on the public, but these circumstances may weigh either positively or negatively, depending upon the individual situation.

In this case, we do not believe that it would be proper to ignore that aspect of the public interest which would limit the burden on taxpayers in providing the subsidies. At the same time, we do not presume that subsidy arrangements will provide the most efficient or economical services in all markets. The record with respect to these competing interests is inconclusive; thus, the presence of subsidies is not a major factor in deciding this application.

The Feasibility of the Proposed Operations

Protestant Trails asserts that Greyhound could not provide all the services it proposes, because it has made no arrangements for terminal space in Atlantic City. Protestant states that most or all of the space in the present Atlantic City Municipal Bus Terminal is already leased to existing carriers. Applicant claims that this terminal is not used to capacity, but protestant challenges this claim on the grounds that it is not based on any valid study of the circumstances.

Even if protestant be correct that this existing facility is the only structure in Atlantic City which provides the accommodations needed for a bus terminal, we could not conclude that applicant would be unable to operate an adequate service without using that facility. The only thing the record indicates clearly in this regard is that the use of the existing terminal would be the most economical way for Greyhound to provide service at Atlantic City. We do not accept the assertion, beyond this, that it would be impossible for applicant to make other arrangements. In part, it may be noted that the evidence indicates that those services which are geared primarily toward casino traffic would use principally the off-street loading facilities which are provided by the casinos themselves. For other traffic, we are confident that Greyhound has the resources necessary to arrange for adequate and appropriate facilities to handle the traffic.

Protestant further argues that the proposed levels of service advanced by applicant are far too optimistic and, accordingly, cannot realistically be expected ever actually to be implemented in the immediately foreseeable future. It points out that projected increases in traffic have yet to be realiazed that its own increased service after the opening of the first casino was not feasible. Thus Trails argues that the Atlantic City market will not support the service levels proposed by applicant. Protestant asserts that they were designed solely to foster support for the application and that there is no guarantee they will ever be put into effect.

Our analysis of this case is not based on any assumption that the proposed schedule applicant sets forth would be put into effect at once. We view the proposal in this regard more as a goal than anything else. What is important is not whether these schedules would be operated in any event regardless of the actual demand there will be for the service, but rather that applicant is willing and able to operate this level of service if and when the traffic demand requires. We agree with protestant that traffic levels will increase relatively slowly at first, but we do not conclude from this that applicant's proposal as a whole is so unrealistic as to be infeasible.

The Competitive Balance

The evidence of record reflects that, historically, protestants Lincoln Transit and TNJ have competed for traffic between New York City and Atlantic City, while protestants Trails and TNJ have provided service between Philadelphia and Atlantic City (with TNJ apparently being the dominant carrier in this service). Trails has recently been granted more direct authority between New York City and Atlantic City to eliminate its "Philadelphia gateway," and it may be expected to be an increasingly competitive carrier now in this market as well.

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In the meantime, however, the State subsidy programs have effectively eliminated competition between Lincoln Transit and TNJ. The record shows that these carriers' schedules are now coordinated and displayed in the same public timetable and that the two carriers' rates are the same. Protestants assert that they still compete with one another despite these facts, but they have not identified any meaningful distinctions between their services which would be liable to have any significant impact upon passengers' choice of carrier. Thus, a passenger would be most likely to use whichever carrier operates the trip departing at the most convenient time. The coordination of schedules was intended, in part, to eliminate conflicting duplicate schedules. While some differences between the services provided by these two carriers certainly still exist, none has been identified which would seem to affect a large number of passengers' choices of carrier, and we do not perceive any. Accordingly, in analyzing the competitive situation for traffic moving between New York City and Atlantic City, we must consider the services provided by Lincoln Transit and TNJ as, in effect, a single service.

This conclusion does not imply that any condemnation of Lincoln Transit and TNJ should be made here. The record in this proceeding by no means includes sufficient information to suggest that the coordination of service is improper in the context of the public needs in the territory served. Therefore, we agree with the Administrative Law Judge's conclusion in this respect.

As a result of this analysis of the competitive relationship between Lincoln Transit and TNJ, it follows that the only regular-route bus service now competing with these protestants for traffic moving to and from Atlantic City is that of protestant Trails. We are not willing to conclude that this is necessarily enough competition for these routes. The evidence amply demonstrates that the volume of traffic which can be developed to and from Atlantic City will be among the greatest of any intercity bus services in the Nation. To limit competition to a minimum level (that is, competition between only two services) without further inquiry is inappropriate. The natural benefits of competition are not automatically achieved in their fullest degree just because *some* competition exists. Wherever a market has sufficient traffic to bear even greater competition, there are indeed additional benefits to be gained by fostering competition among three or more services.

The future traffic levels in the Atlantic City market promise to be better able to support competition among three or more motor passenger carriers than most other markets in the Nation. The relatively moderate lengths projected for most journeys to and from Atlantic City, coupled with limited availability of air and rail transportation, place bus service in an unusually preeminent position to capture a large percentage of relevant passenger traffic. The development of the potential to take advantage of this position will be greatly enhanced by the promotion of sufficient competition among regular-route bus lines to encourage the provision of the highest possible quality of service. To do this requires operations by aggressive competitors which have the desire and resources to maintain high standards of service quality.

This attainment will not be assured by a minimum level of competition. Particularly in this market, it is apparent that the usual intermodal competition with air and rail service is practically non-existent, and the evidence strongly suggests that competition with private automobiles will also be limited. A number of factors combine to limit the effectiveness of the private automobile as a primary mode of transportation in this marrket: a relatively high proportion of visitors to the casinos may not engage overnight accommodations and thus may find driving to be overtiring and burdensome; experience with traffic patterns to and from casinos in Nevada shows a high popularity of bus service for casino traffic; and congestion both in traffic on approaching highways and city streets and in parking facilities will particularly emphasize the desirability of efficient and attractive bus service, not only to the traveler, but also in terms of environmental quality and energy conservation. Therefore, we believe that it is apparent that the existing level of competition among regular-route bus services between New York City and Philadelphia, on the one hand, and, on the other, Atlantic city, is merely adequate at best, and that there will be substantial public benefits to be realized from an increase in that level of competition.

In summary, we conclude that ample traffic will develop in the Atlantic City market to support additional service, that the service now provided by protestants in this market suffers from some deficiencies which applicant's service can be expected to avoid, and that the additional competition provided by applicant will not threaten the loss of protestants' other services to the public. These conclusions warrant not only affirming the grant of authority made by the Adminstrative Law Judge, but also deleting the restrictions he imposed on the grant.

Applicant Greyhound is, of course, the largest motor passenger carrier in the Nation. Its resources—in management, advertising, operating ability and experience, and financial strength—put it in a position readily to dominate much of the competition with which it may be faced. The same factors which give it the opportunity to overcome deficiencies which are experienced in present services likewise raise the question whether smaller carriers can meet Greyhound's competition. We do not believe that this is a problem in any market which presents as much traffic potential as is apparent in this case. It is obvious that Greyhound will control most of the traffic it moves beyond Philadelphia or New York City and, thus, that such traffic which might formerly have moved over protestants' lines in interline service will likely no longer be available to them. It also seems clear, however, that protestants Lincoln Transit and TNJ, in particular, depend for most of their business upon people traveling to and from the major metropolitan areas of Philadelphia and New York City. We believe that these protestants have ample resources to be able to dominate at this level if they are presented with the honest spur of legitimate competition. This will of course require an effort in marketing, equipment maintenance, and operating plans that is forceful and dedicated, but we feel that the public is entitled to expect such an effort from any carrier. A carrier which is not able to mount such an effort would not be able to provide the public with the best quality service to which they are entitled.

A major factor which we believe justifies removal of the restriction imposed by the Administrative Law Judge is the need for service which avoids the present congestion and difficulties using the center city and midtown bus terminals in Philadelphia and New York City, respectively. This is particularly so with respect to New York City, where the evidence in this proceeding amply establishes that the facilities of the Port Athority Bus Terminal are inadequate to provide satisfactory service to passengers traveling to and from Atlantic City. This conclusion, in the context of the issue of need for additional service in this particular market, is, of course, independent of the issues involved in the investigations in No. 36745, Petition for Investigation—Bus Terminal of the

Port Authority of New York and New Jersey, and in No. MC–C–8619, Transport of New Jersey, et al., and Port Authority of New York and New Jersey—Investigation of Operations and Practices. The record in those proceedings is not before us here. Likewise, our conclusion that a grant of additional operating authority is warranted because of the deficiencies described on this record does not dispose of the issue of adequacy of the facilities in the context of a formal investigation proceeding. Indeed, the weight to be accorded different aspects of the evidence will vary in each context.

Our conclusion holds both for passengers who begin and end their journeys in New York City and for passengers who are obliged to change buses at this terminal en route from and to other points where direct service is not available. In the former case, we have noted that passengers who live in other boroughs or in suburban communities are faced with lengthy trips just to get to and from the Port Authority Bus Terminal. In addition, the congestion and threatening environment of the terminal itself alone provide ample justification for a carrier to make alternative arrangements for any service having sufficient patronage to make it economically feasible to provide the service at a different location. We find that the public convenience and necessity require operation by applicant between Atlantic City and whatever stops in New York City other than the Port Authority Bus Terminal it can establish and operate in an efficient and economical manner.

In the latter case, we have noted that passengers who are traveling through New York City and who must change buses at the Port Authority Bus Terminal are faced with congestion and confusion. The record indicates that, in some cases, these passengers must make their way through the crowded terminal between the uppermost and lowermost levels of the terminal, traversing long escalators and congested waiting areas, to make their connections. We find this to be ample grounds for sustaining the grant of authority to applicant which will enable it to provide services to and from other points which either bypass New York City completely or involve through bus service without change of bus. In fact, even in those cases where a change of bus will still be necessary, it is apparent that it will be much easier for the passenger to make the connection within the loading area of the same carrier rather than having to go to a different part of the terminal.

CONCLUSIONS

In sum, we believe that vigorous competition among applicant and the existing carriers in all aspects of the Atlantic City market will ultimately generate more bus traffic than it will divert from existing operations. We have already noted that there is very little intermodal competition in this market, since the only other available mode of transportation to and from Atlantic City which could handle any significant volume of traffic is the private automobile. Accordingly, we conclude that approval of this application without restriction is required by the public convenience and necessity, will promote vigorous competition, and will best further the public interest. There is no question that applicant is fit to provide this service.

The application is drafted in terms of operation over regular routes, in special operations. The grant of authority framed by the Administrative Law Judge maintains this description. Usually, special operations are specified in connection with irregular-route grants of authority, to comply with the stricture of 49 CFR 10922(c)(3) that irregular-route grants must specify special or charter transportation. Of course, there are a number of outstanding certificates in which regular-route authority is limited to special operations, but the issue is raised what the effect of such a limitation is.

Historically, the primary purpose of a special operations limitation in a grant of regular-route authority has probably been to prevent incidental charter rights from accruing. Compare *Ricketts Common Carrier Application,* 71 M.C.C. 761 (1957), although the authority granted in that case was over *irregular* routes. For authority pursuant to applications filed after January 1, 1967, however, this purpose is no longer relevant due to the amendment to the Interstate Commerce Act which ended the automatic incidental charter rights; see 49 CFR 10932(c). One protestant, on exceptions, complains that the limitation relieves applicant of the burden of providing daily regular-route service, thus permitting it to serve lucrative peak traffic demands without having the burdens of the usual common-carrier obligations of a regular-route carrier in this market.

The evidence in this case clearly demonstrates that applicant proposes to operate *both* daily "scheduled" service *and* less frequent "non-scheduled" service. This proposal clearly requires a grant of regular-route authority *without* the limitation to "special operations". It is not appropriate to grant authority which is limited to special operations where the applicant proposes to operate over a fixed route and follow a regular daily schedule. *Brown's Bus Service, Inc., Ext.—Intermediate Points,* 83 M.C.C. 261 (1960). On the other hand, regular-route authority inherently includes the right to conduct special operations (such as unscheduled service) over the regular route in addition to the basic scheduled service. *Pacific Greyhound Lines—Extension of Service,* 72 M.C.C. 97, 113 (1957). The evidence supports a finding of need for both types of service. Therefore, the proper form of authority is regular routes without the limitation to special operations. Although we doubt seriously that any legitimate party in interest was unaware of the potential scope of this application and was thus misled by the inclusion of the limitation in the **Federal Register** notice of the application, the removal of the limitation is technically a significant broadening of the scope of the operations authorized. Accordingly, an appropriate republication condition will be imposed on the grant of authority.

We recognize that authority was issued to protestant Trails in No. MC–84728 (Sub-No. 65), in which the limitation to special operations was not deleted. The record in that case is, of course, not before us now, but we do note that the grant of authority in that case involved operation over both regular *and* irregular routes. Thus, it is apparent that a limitation to special operations in that instance would have been necessary for the sake of the irregular-route services in any event. We feel it is unnecessary to distinguish further between these cases, the evidence of record in this proceeding justifies deleting the limitation to special operations, for the reasons set forth above.

Finally, we will redescribe the routes slightly so that each terminates at Atlantic City itself. This will more accurately describe the service actually proposed, and it will avoid both the technical lack of a point of joinder at mid-points of some of the routes and the unintentional authorization of service at those highway intersections which are named as route termini. Since no intermediate points are authorized on these routes, moreover, no duplicating authority results. We will, incidentally, correct a minor typographical deletion in the description of route (3) as well.

We find:

The present and future public convenience and necessity require applicant's performing the service set forth in Appendix A. Applicant is fit, willing, and able properly to perform this service and to conform to statutory and administrative requirements.

This decision does not significantly affect the quality of the human environment.

It is ordered:

"Volume II" of the exceptions of Greyhound Lines, Inc., applicant, is rejected. The main body of applicant's exceptions is accepted for filing.

The request by applicant that official notice be taken of the initial decision of the Administrative Law Judge in No. MC-37095, Arthur Goldzweig, et al v. Transport of New Jersey, et al., entered November 30, 1979, and served December 13, 1979, is denied.

The application is granted to the extent set forth in Appendix A. Subject to the condition regarding publication set forth in Appendix A, a certificate will issued if applicant complies with the appropriate requirements set forth in the Code of Federal Regulations (49 C.F.R. §§ 1043, 1044 and, 1306).

Applicant must comply within 90 days after the service date of this decision, or the grant of authority will be void and the application will stand denied.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioners Stafford and Gilliam dissenting with separate expressions. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Stafford, Dissenting

This application is granted largely on the grounds of speculative future need. Without question, the present and foreseeable need for service to and from Atlantic City can be adequately provided by protestants. Moreover, since the Atlantic City area may face competition from potential casinos all along the eastern seaboard, there is no guarantee that additional bus services to and from Atlantic City will be necessary in the future. To the contrary, the optimistic projections of increased bus patronage should be weighed with utmost care.

Protestants which have provided regular-route commuter and other services to and from Atlantic City in times of adversity are now faced with competition from the largest bus carrier in the Nation. Not only is an exception being made for applicant (it will not have to provide service at intermediate points), but it can be safely stated that the sheer size of applicant will spur, not competition, but destructive competition. Giving the most liberal construction to the evidence of record, the authority recommended by the Administrative Law Judge would, assuredly, be the maximum that could be awarded on this record.

Accordingly, under these circumstances, I would deny the application in its entirety.

Commissioner Gilliam, Dissenting

I agree that our principal focus in this decision is not whether protesting carriers should be protected, but whether the public interest would best be served by authorizing new service or by limiting an applicant's entry into a particular market.

The evidence supports the need for service from outside Philadelphia and from north of New York to Atlantic City. There is no doubt that a grant of an unrestricted authority would provide more service and in some cases a better service from New York City and from Philadelphia to Atlantic City. However, when the benefits of a more competitive service, just from these two adequately served metropolitan areas, are weighed against the potential harm to local service within New Jersey as well as the potential eroding of competition that two smaller state subsidized carriers are now providing from these metropolitan areas, I cannot find that the grant of an unrestricted authority is in the public interest.

It appears that the Atlantic City service is the more profitable operations for both Lincoln Transit and TNJ, and I am unconvinced by the arguments that the entry of Greyhound into this market will provide more service for these two carriers.

I am persuaded that protestants Lincoln Transit and TNJ have met their burden of proof that the potential adverse affect on these two carriers and the services that they provide the public, outweighs the benefits that would be produced by a more competitive service between New York City and Atlantic City and between Philadelphia and Atlantic City.

I would affirm the decision of the Administrative Law Judge.

Appendix A

Authority to conduct the following operations will be issued in an appropriate certificate. This decision does not constitute authority to operate.

To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, in the transportation of *passengers and their baggage,*

(1) Between Interchange Number 11 of the New Jersey Turnpike and Atlantic City, NJ, serving no intermediate points: from Interchange Number 11 of the New Jersey Turnpike over access highway to junction Garden State Parkway, then over the Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and return over the same route;

(2) Between Philadelphia, PA, and Atlantic City, NJ, serving no intermediate points: from Philadelphia over Interstate Highway 76 across the Walt Whitman Bridge to Camden, NJ, then over the New Jersey Highway 42 to junction Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, and return over the same route;

(3) Between the junction of U.S. Highway 130 and U.S. Highway 40 south of Deep Water, NJ, and Atlantic City, NJ, serving no intermediate points: from the junction of U.S. Highway 130 and U.S. Highway 40 over U.S. Highway 40 to junction U.S. Highway 322, then over U.S. Highways 40 and 322 to Atlantic City, and return over the same route;

(4) Between the junction of U.S. Highway 206 and the New Jersey Turnpike at Interchange Number 7 and Atlantic City, NJ, serving no intermediate points: from the junction of U.S. Highway 206 and the New Jersey Turnpike over U.S. Highway 206 to junction Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, and return over the same route; and

(5) Between the junction of U.S. Highway 13 and U.S. Highway 9 at or near Laurel, DE, and Atlantic City, NJ, serving no intermediate points: from the junction of U.S. Highway 13 and U.S. Highway 9 at or near Laurel, DE, over U.S. Highway 9 to Lewes, DE, then by ferry to Cape May, NJ, then over the Garden State Parkway to junction Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, and return over the same route.

Condition for Issuance of a Certificate

Prior publication in the **Federal Register** of the authority granted. Issuance of the certificate authorizing these operations will be withheld for a period of 30 days after the date of publication in the **Federal Register**. During this time period, any proper party in interest not a party to this proceeding may file a petition for leave to intervene in this proceeding, setting forth in detail the precise manner in which it has been prejudiced by *the deletion of the limitation to special operations* from the grant of authority. If the petition does not comply with these requirements, it will be rejected.

Appendix B—Authority Recommended by the Administrative Law Judge

To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, in the transportation of passengers and their baggage, in special operations:

(1) Between Interchange Number 11 of the New Jersey Turnpike and Atlantic City, NJ, serving no intermediate points: from Interchange Number 11 of the New Jersey Turnpike over access highway to junction Garden State Parkway, thence over the Garden State Parkway to junction Atlantic City Expressway, thence over Atlantic City Expressway to Atlantic City, and return over the same route;

(2) Between Philadelphia, PA, and the junction of the Atlantic City Expressway and

the Garden State Parkway at Interchange 7 of the Atlantic City Expressway, serving no intermediate points: from Philadelphia over Interstate Highway 76 across the Walt Whitman Bridge to Camden, NJ, thence over New Jersey State Highway 42 to junction Atlantic City Expressway, thence over the Atlantic City Expressway to junction Garden State Parkway, and return over the same route;

(3) Between the junction of U.S. Highway 130 and U.S. Highway 40 south of Deep Water, NJ, and Atlantic City, NJ, serving no intermediate points: from the junction of U.S. Highway 40 to junction U.S. Highway 322, thence over U.S. Highways 40 and 322 to Atlantic City, NJ, and return over the same route;

(4) Between the junction of U.S. Highway 206 and the New Jersey Turnpike at Interchange Number 7 and the Atlantic City Expressway, serving no intermediate points: from the junction of U.S. highway 206 and the New Jersey Turnpike over U.S. Highway 206 to junction Atlantic City Expressway, and return over the same route; and

(5) Between the junction of U.S. Highway 13 and U.S. Highway 9 at or near Laurel, DE, and the junction of the Garden State Parkway and the Atlantic City Expressway, serving no intermediate points but serving the junction of the Garden State Parkway and U.S. Highways 40 and 322 for the purpose of joinder only: from the junction of U.S. Highways 13 and 9 at or near Laurel, DE, over U.S. Highway 9 to Lewes, DE, thence by ferry to Cape May, NJ, thence over the Garden State Parkway to its junction with the Atlantic City Expressway, and return over the same route.

Restriction: The operations authorized herein are restricted against the transportation of passengers and their baggage from New York, NY, and Philadelphia, PA, and destined to Atlantic City, NJ; and from Atlantic City, NJ, and destined to New York, NY, and Philadelphia, PA.

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BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 113343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the fianance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 22, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Taylor votes to publish MC-76677 (Sub-14F) with an impediment to the effect that applicant has failed to submit any evidence to show that it has interlined any traffic with John B. Schutt, Jr. Inc., through the gateways sought to be eliminated or that it has handled any traffic through said gateways moving between the points sought to be served.) Board Member Taylor votes to publish MC-125777 (Sub-275F) with an impediment to the effect that applicant has failed to submit any evidence of interline between Jack Cray and Free State through the gateway sought to be eliminated or that any traffic actually moved through those gateways between the points sought to be served. Board Member Taylor votes to publish MC-F-14457F with an impediment to the effect that the non-competitive agreement between Jack Gray and William C. Nolte is contrary to the Commission's current policy of encouraging competition in the industry. Contracts not to compete should not be approved unless it has been shown that some public benefit would result therefrom which would overcome the competitive nature of the contract).

MC-F-14455F, filed August 7, 1980. HALLAMORE MOTOR TRANSPORTATION, INC. (Hallamore) (795 Plymouth Street, Holbrook, MA 02343)—Merger—JOHN B. SCHUTT, JR., INC. (Schutt) (665 River Road, North Tonawanda, NY 14120). Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Hallamore seeks authority to merge the interstate operating rights and property of Schutt into Hallamore for ownership, management, and operation. Joseph L. Barry, Jr., and Dennis E. Barry equal stockholders of Hallamore, seek authority to acquire direct control of said rights and property through the transaction. Hallamore is authorized to control Schutt pursuant to Docket No. MC-F-14078. The operating rights of Schutt are contained in Certificates in MC-104123 and sub-numbers thereunder, which authorize the transportation, as a motor common carrier, over irregular routes as follows:

Sub-51: (1) *commodities,* the transportation of which, because of size or weight requires the use of special

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equipment, and *related machinery parts,* when their transportation is incidental to the transportation by said carrier of commodities which, by reason of size or weight, require special equipment, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Orleans, Niagara, and Wyoming Counties, NY, on the one hand, and, on the other, points in DE, MD, the Lower Peninsula of MI, NJ, NY, OH, PA, and WV, restricted against the transportation of steel angles, steel beams, steel channels, steel piling and steel reinforcing rods, moving in pole-trailer equipment, from Lackawanna, NY, to the ports of entry on the United States-Canadian Boundary line at or near Fort Erie and Niagara Falls, Ontario, Canada, and Niagara Falls and Buffalo, NY; (2) *sand, gravel, crushed stone, haydite, and cement,* in dump trucks, between points in Allegany Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Orleans, Niagara, and Wyoming Counties, NY, on the one hand, and, on the other, Lewiston and North Tonawanda, NY, and points in PA and OH;

Sub-62: (3) *cement,* in bulk, in tank vehicles, from Buffalo, NY, to Erie, Warren, and Bradford, PA;

Sub-68: (4) *Self-propelled articles,* each weighing 15,000 lbs. or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, and Wyoming Counties, NY, on the one hand, and, on the other, points in DE, MD, the Lower Peninsula of MI, NJ, OH, PA, and WV, restricted to commodities which are transported on trailers;

Sub-79: (5) *cryogenic tanks* and *parts, accessories, equipment, materials and supplies* used in the installation or assembly of cryogenic tanks, from the facitlities of Linde Division, Union Carbide Corporation, at Theodore, AL, to points in CA, CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, and *parts, materials and supplies* (except commodities in bulk) used in the manufacture of cryogenic tanks and accessories thereto, from the above-named destination states and DC to the facilities of Linde Division, Union Carbide Corporation, at Theodore, AL, restricted to the transportation of shipments originating at or destined to the said facilities at Theodore, AL;

Sub-81: (6)(a) *farm equipment,* and *parts and accessories* for farm equipment, from the ports of entry on the International Boundary line between the United States and Canada located in MI and NY to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of White Farm Equipment, a division of White Motor Corporation of Canada, Ltd., at Brantford and Hagersville, Ontario, Canada; and (b) *farm machinery,* and *equipment, materials, and supplies* used in the manufacture of farm equipment (except commodities in bulk), from points in the United Sttes (except AK and HI) to the ports of entry on the International Boundary line between the United States and Canada located in MI and NY restricted to the transportation of traffic destined to the facilities of White Farm Equipment, a division of White Motor Corporation of Canada, Ltd., at Brantford and Hagersville, Ontario, Canada;

Sub-82: (7) *chloride producing systems* and *parts and accessories* for the chloride producing systems, between the ports of entry in NY and MI on the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of E. S. Fox, Ltd., at Niagara Falls, Ontario, Canada. Hallamore is authorized to operate as a motor common carrier in ME, NH, VT, MA, RI, CT, NY, NJ, PA, and OH, pursuant to certificates issued in MC–76677 and sub-numbers thereunder.

Notes.—(1) A directly related gateway elimination application has been filed in MC–76677 (Sub-No. **14F**), published in this same **Federal Register** issue. (2) This application, MC–F–14455F, was filed in order to comply with a decision in MC–F–14078, served November 29, 1979.

MC–F–14457F, filed August 8, 1980. JACK GRAY TRANSPORT, INC. (Gray) (4600 East 15th Avenue, Gary, IN 46403)—Purchase—FREE STATE TRUCK SERVICE, INC. (Free State) (P.O. Box 760, Glen Burnie, MD 21061). Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603, and Rosser J. Pettit, 36 South Charles Street, Baltimore, MD 21201. Gray seeks authority to purchase the interstate operating rights and property of Free State. John S. Gray, the sole stockholder of Gray, seeks to acquire control of said rights through the transaction. The interstate operating rights sought to be acquired by Gray are all the authority of Free State as authorized in Docket No. MC–123502 and sub-numbers and E-letter notices thereunder, authorizing the transportation, over irregular routes, primarily in dump vehicles, of such commodities as salt, ferrous alloys, ores, scrap metals, gypsum rock, fertilizers, slag, carbon, and coal, between points in the States of MD, ME, VT, NH, NJ, MA, CO, RI, NY, DE, IL, IN, OH, MI, WI, PA, VA, TN, NC, SC, WV. This does not purport to be a complete description of the authority involved. Gray is a motor common carrier pursuant to authority issued in MC–125777 and sub-numbers thereunder.

Note.—A directly related gateway elimination application has been filed in MC–125777 (Sub-No. 275F), published in this same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be ottained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed on or before October 17, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

MC 32655 (Sub-2F), filed August 14, 1980. Applicant: K & R DELIVERY, INC.—GATEWAY ELIMINATION, 255 West Oakton Street, Des Plaines, IL 60018. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by retail department stores and, in connection therewith, equipment, materials and supplies used in the conduct of such business, between points within 100 miles of Chicago, IL, on the one hand, and, on the other, points in IL. (Gateway eliminated: Palatine, IL).

Note.—This application is directly related to a proceeding in MC–F–14403F, published in the **Federal Register** on July 25, 1980, wherein K & R Delivery, Inc., seeks to purchase a portion of the operating rights of Chippewa Motor Freight, Inc.

MC 76677 (Sub-14F), filed August 7, 1980. Applicant: HALLAMORE MOTOR TRANSPORTATION, INC.—GATEWAY ELIMINATION, 795 Plymouth Street, Holbrook, MA 02343. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108 To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commodities*, the transportation of which because of size or weight, require the use of special equipment, (1) between points in MA, RI, CT, NH, VT, and ME, on the one hand, and, on the other, points in DE, MD, the lower peninsula of MI, NJ, NY, PA, and WV, (2) between points in NY, NJ, and PA, on the one hand, and, on the other, the lower peninsula of MI and OH, and (3) between points in NY, on the one hand, and, on the other, points in NY, NJ, DE, MD, and WV.

Note.—This application is directly related to Docket No. MC–F–14455F, wherein applicant seeks approval of the merger into it of its wholly-owned subsidiary, John Schutt, Jr., Inc. This application seeks to eliminate the gateways of: Boston, MA, points within 50 miles of Boston, MA, Syracuse, NY, points in NY within 75 miles of Syracuse, NY, and points in Allegany, Cattaragus, Chautauqua, Erie, Genesee, Monroe, Orleans, Niagara, and Wyoming Counties, NY.

MC 125777 (Sub-275F), filed August 8, 1980. Applicant: JACK GRAY TRANSPORT, INC.—GATEWAY ELIMINATION, 4600 East 15th Avenue, Gary, IN 46403. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting:

(1) *ferro alloys*, in bulk, in dump vehicles, from Baltimore, MD, to points in the United States (except NY, OH, PA, AK, and HI). (Gateways eliminated: Dearborn, MI, and Monaca, PA);

(2) *ferro alloys*, in bulk, in dump vehicles, from Chicago, IL, the facilities of Lakes and Rivers Transfer Corp., at Wouthwind Maritime Center at Mt. Vernon, IN, and Toledo, OH, to Baltimore, MD. (Gateways eliminated: East Liverpool, OH, and Pittsburgh, PA);

(3) *ferro alloys*, in bulk, in dump vehicles, from Graham, VW, to points in ME, VT, NH, MA, CT, RI, NY (except those points in NY on and west of U.S. Hwy II and New York, NY), DE, VA, NC, SC, GA, MD, NJ (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, NJ). (Gateways eliminated: Philadelphia, PA);

(4) *ferro alloys*, in bulk, in dump vehicles, from Keokuk, IA, to points in MA, RI, NY (except points in Chautauqua and Chattaraugus Counties, NY), NC, VA (except points in Bath, Highland, Augusta, Green, Madison, Rappahannock, Fauquier, Rockingham, Shenandoah, Frederick, Clark, Loudoun, Fairfax, Warren, and Page Counties, VA), NJ, CT, MD (except points in Garrett, Allegany, Washington, Frederick, Montgomery, and Carroll Counties, MD), ME, VT, NH, DE, and DC. (Gateway eliminated: East Liverpool, Oh);

(5) *scrap metals*, in dump vehicles, between points in the United States (except AK and HI), on the one hand, and, on the other, Baltimore, MD. (Gateways eliminated: Bergen, Essex, Hudson, Middlesex and Passiac Counties, NJ, New York, NY, and points in VA);

(6) *sand*, in bulk, in dump vehicles, from Bridgeman, MI, to points in PA and WV. (Gateway eliminated: Linthicum, MD); and

(7) *sand*, in bulk, in dump vehicles, from Troy Grove, IL, to points in PA, restricted to the transportation of traffic originating at the facilities of Arrowhead Silica Corp., at Troy Grove, IL, and destined to the indicated destinations. (Gateway eliminated: Linthicum, MD).

Notes.—(1) This application is directly related to a finance proceeding under 49 U.S.C. 11343 in Docket No. MC–F–14457F, published in this same **Federal Register** issue. (2) Applicant also sought to eliminate the gateway of the facilities of H.B. Reed Company at or near Moundsville, WV, in order to provide a through service, transporting crushed slag, in bulk, in dump vehicles, from Sparrows Points, MD, to points in IN, KY, MO, NC, NJ, NY, OH, SC, and DC, and points in Adams and York Counties, PA. This portion of the sought authority has been deleted because a portion of the authority to be tacked is still pending before the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26732 Filed 8–29–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the

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rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before October 2, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 22, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

MC–F–14374F, filed April 16, 1980, and previously published in the **Federal Register** on July 9, 1980. (Corrections) COOK TRANSPORTS, INC.—Purchase (Portion)—TOM HICKS TRANSFER COMPANY, INC. Correction: Line 36 of Vol. 45, No. 133, July 9, 1980, at page 46217 should read "in Alabama, Arkansas, Colorado, Florida". Also, Note (1) should be deleted as applicant had filed a directly related application in MC 136828 (Sub-No. 34F) on April 16, 1980, which is published in this same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application or the following operating rights applications directly related thereto filed on or before October 2, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certian requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 136828 (Sub-34F), filed April 16, 1980. Applicant: COOK TRANSPORTS, INC., P.O. Box 6362–A, Birmingham, AL 35217. Representative: John P. Carlton, 727 Frank Nelson Bldg., Birmingham, AL 35203. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (except cast iron pipe), between points in AL, AR, CO, FL, GA, KS, LA, MS, MO, NM, OK, TN, and TX on the one hand, and, on the other, points in the United States (except AK and HI). (Gateway eliminated: Birmingham, AL)

Note.—This application is directly related to a finance application in MC–F–14374F, *Cook Transports, Inc.—Purchase (Portion)—Tom Hicks Transfer Company, Inc.*, published in the Federal Register on July 9, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26731 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Transfer Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before September 22, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before October 2, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

F.D.–29412. By decision of July 25, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151. Review Board Number 5 approved the transfer to Lynden Air Freight Forwarder, Inc. of Permit No. FF–283 (Sub-No. 3), issued September 26, 1977 to Smyth Worldwide Movers, Inc., of Bellevue, WA (Bank of California, N.A., Successor-in-Interest) authorizing the transportation of (a) used household goods and unaccompanied baggage, and (b) automobiles, between points in the United States, including HI and AK, restricted in (b) above to export-import traffic; the above authority is in freight forwarder service.

Applicant's representatives are: John R. Sims, Jr., 915 Pa. Bldg., 425-13th St., N.W., Washington, DC 20004, Alan F. Wohlstetter, 1700 K St., N.W., Suite 301, Washington, D.C. 20006. Transferee is not a carrier.

MC–FC–78680. By decision of July 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. Review Board Number 5 approved the transfer to J. M. Blassberg Corporation, of Shelburne Falls, MA, of Certificate No. MC–108381 issued March 11, 1976 to J. M. Blassberg, Inc. Shelburne Falls, MA authorizing the transportation of Regular Routes: *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Colrain, Mass., and Buckland, Mass., serving no intermediate points: from Colrain over Massachusetts Highway 112 to Buckland, and return over the same route. Irregular routes: *Household goods* as defined by the Commission, between points in Franklin County, Mass., on the one hand, and, on the other, points in New Hampshire, Vermont, Rhode Island, Connecticut, and New York. *Textile products, soap, acid,* and *chemicals,* between Montague, Colrain, Walpole, and New Bedford, Mass., on the one hand, and, on the other, Providence, West Warwick, and Slatersville, R.I. *Agricultural commodities,* between points in Franklin County, Mass., and Windham County, Vt., on the one hand, and, on the other, Albany, Ballston Spa, and New York, N.Y. Between points in Franklin County, Mass., on the one hand, and, on the other, points in Windham County, Vt. Applicant's representative: Gregory M. Olchowski, 488 Main St., P.O. box 988, Greenfield, MA 01302. TA lease is not sought. Transferee holds no authority.

MC FC–78681. by decision of July 25, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to West-Ark Refrigerated Carries, Inc., of Paris, AR, of Certificate No. MC–140033 (Sub-No. 32), issued October 20, 1978 to Cox Refrigerated Express, Inc., of Dallas, TX, authorizing the transportation of foodstuffs, (except in bulk), from the facilities of Anderson-Clayton Foods, Inc., at or near Sherman, TX, to points in AR and OK. Applicant's representative is: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Transferee is not a carrier. TA lease is not sought.

MC–FC–78685. By decision of July 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Ronald McGraw, of Edison, NJ of Permit No. MC–134535 (Sub-No. 8) issued September 28, 1976 to Casale Contract Carriers, Inc., of Edison, NJ, authorizing the transportation of *such merchandise* as is dealt in by retail sporting goods houses, and *equipment, materials, and supplies* used in the conduct of such business, between Carteret, N.J., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, and Virginia, and the District of Columbia, under a continuing contract, or contracts, with Herman's World of Sporting Goods, Division of W. R. Grace & Co., of Carteret, N.J. Applicant's representative is: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transferee holds no authority. TA lease is not sought.

MC FC–78686. By decision of July 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Sunbelt Express, Inc., of Florence, SC, of certificate No. MC–112205 Sub 1 issued July 22, 1976 to Rabon Transfer, Inc., of Florence, SC, authorizing the transportation of *roofing, roofing materials, asbestos siding,* and *insulation materials,* from Bound Brook,

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Manville, and Newark, N.J., Philadelphia, Pa., and Baltimore, Md., to Whiteville, N.C., *fertilizer,* from Wilmington, N.C., and points within 3 miles of Wilmington, to points in South Carolina within 20 miles of Tabor City, N.C., *roofing,* and *roofing materials,* from Barber, N.J., to points in Columbus County, N.C., *lumber,* from Tabor City, and Evergreen, N.C., to points in New York, *forest products, lumber* (which includes plywood), and *veneer,* from points in Brunswick and Columbus Counties, N.C., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, and the District of Columbia. Applicant's representative is: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. TA lease is not sought. Transferee holds no authority.

MC-FC-78691. By decision of July, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. Review Board Number 5 approved the transfer to Mervine Bros. Moving & Storage, Inc., of Townville, PA, of a portion of Certificate No. MC-1103 (Sub-No. 1) issued May 1, 1978 to Joseph Kofman, Freda K. Gaines, and Benjamin Kofman, dba Kofman's of Bellefonte, PA authorizing the transportation of *household goods* as defined by the Commission, between points in Erie and Crawford Counties, Pa., on the one hand, and, on the other, points in Michigan, Ohio, Indiana, Illinois, Connecticut, New Jersey, West Virginia, Tennessee, New Hampshire, Delaware, Rhode Island, North Carolina, Wisconsin, Massachusetts, Kentucky, New York, Maryland, Virginia, and the District of Columbia, between Chicago, Ill., on the one hand, and, on the other, points in New York, New Jersey, Ohio, Pennsylvania, and Connecticut. Applicant's representatives are: John A. Vuono, 2310 Grant Bldg., Pittsburg, PA. 15219. John Fullerton, 407 N. Front St., Harrisburg, PA 17101. TA lease is not sought. Transferee holds no authority.

MC-FC-78692. By decision of July 29, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Carl C. Pickel, d/b/a Ray A. Pickel Trucking Company, of Brogue, PA, of Certificate No. MC-43992 issued December 22, 1970 to Mabel M. Pickel d/b/a/ Ray A. Pickel Trucking Company, of Brogue, PA, authorizing the transportation of (a) such merchandise as is dealt in by wholesale grocery business houses, from points in MD to York, PA, (b) fertilizer, from Baltimore, MD, to Brogueville, PA, (c) crushed stone, from White Hall, MD, and points within 1 mile of White Hall to Delta, PA, and points within 25 miles of Delta, and (d) acid phosphate, in bulk, from Baltimore, MD, to York, PA. Applicant's representative is: Norman T. Peton, 43 N. Duke St., York, PA 17401. Transferee holds no authority. TA lease not sought.

MC-FC-78693. By decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. Review Board Number 5 approved the transfer to TWA Services, Inc., of Chicago, IL, of Certificates No. MC-127738 (Subs-2, 3, and 7, issued July 22, 1968, July 10, 1972, and February 21, 1979, to Yellowstone Park Lines, Inc., of Yellowstone National Park, WY, authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Bozeman, Mont., and West Yellowstone, Mont., serving all intermediate points: From Bozeman over U.S. Highway 191 to West Yellowstone, and return over the same route; incidental charter operations are also authorized; passengers and their baggage, and newspapers and express in the same vehicle with passengers, between Gallatin Airport near Belgrade, Mont., and Bozeman, Mont., serving no intermediate points: From Gallatin Airport near Belgrade, Mont., over U.S. Highway 10 (also Interstate Highway 90) to Bozeman, and return over the same route, between junction U.S. Highway 191 and unnumbered highway, near West Yellowstone, Mont., and Big Sky Resort, Mont., serving all intermediate points: From junction U.S. Highway 191 and unnumber highway, over unnumbered highway to Big Sky Resort, and return over the same route, passengers and their baggage in the same vehicle with passengers, in special and charter operations, (1) Beginning and ending at points in Booneville County, ID, and extending to points in Park and Teton Counties, WY, and points in that part of Gallatin County, MT, south of the Gallatin Gateway on US Hwy 191. (2) Beginning and ending at Park and Sweet Grass County, MT, and Park and Teton Counties, WY, and extending to points in the United States (except Alaska and Hawaii). Applicant's representative: Van C. Wilgus, P.O. Box 550, Cody, WY 82414. Transferee holds no authority. TA lease not sought.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26730 Filed 8-29-80; 8:45 am]

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Motor Carrier Transfer Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before September 22, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before October 2, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78578. By decision of June 30, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to Webber Transport Co. of Avenue, NJ, of Certificate MC-87928 and MC-87928 (Sub-Nos. 40, 41, 42, 44, 45, 46 and 47), issued August 2, 1967, May 26, 1961, August 4, 1965, September 3, 1965, June 3, 1966, March 19, 1969, February 25, 1976, October 29, 1976, respectively, to Automobile Transport, Inc. (Alexander G. Andrews, Trustee in Bankruptcy), and Certificate MC-872928

(Sub. E–1) published in the Federal Register of February 20, 1975, authorizing the transportation, as a common carrier, of (A) Automobiles, trucks, bodies, chassis, cabs and parts and accessories thereof; and automobile show equipment and paraphernalia, in truckaway and/or driveaway service, over irregular routes, in (1) initial movements generally (a) from points in Wayne County, MI, to points in the United States (except AK and HI); (b) from Cincinnati, OH, to points in IL, IN, KY, MI, NC, OH, PA, SC, TN, VA, and WV; (c) from Edison Township, Middlesex City, NJ, to points in AL, CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PS, RI, SC, TN, VT, VA, WV, and DC; (d) from the plantsite of the Linclon-Mercury Division of the Ford Motor Company at or near the St. Louis-Lambert Municipal Airport, St. Louis City, MO; to points in AL, MS, AR, IL, IN, IA, KS, MO, NE, OK, and TN; (e) from Willow Run, Washtenaw Cty., MI, to Pittsburgh, PA, and points in IL, IN, KY, MI, OH, VA, WV; (f) from Robertson, MO, to points in MI, OH, PA, WI, CO, WY, NM, LA, MS and AL; (g) from Hazelwood, MO, to points in MN, MT, ND, SD, GA, FL, NC and SC; (h) from Dearborn and Detroit, MI, to Quapaw, OK; (i) from Warren Township, Macomb Cty., MI, to Detroit, MI and points in OH, NC, NY, PA, SC, and TN; (j) from certain points in Oakland Cty., MI, to points in the United States (except AK and HI); (k) from Lorain, OH to points in the United States (except AK and HI); (l) from Buffalo, NY to points in NY, PA, VT, NJ, MA, MD, OH, WV, CT, VA, ME, NH, RI, DE, and DC; (m) from Cleveland, OH, to points in Wayne Cty., MI, MD, PA, WV, and OH; (n) from Edgewater, NJ, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VT, VA, and DC; (o) from Mahwah, NJ, to St. Louis, MO and points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, DC, AL, FL, GA, IL, IN, KY, LA, MI, MS, and WI; and (p) from the facilities of Volvo of America Corporation at Chesapeake, VA, to points in the United States (except AK and HI); (2) in secondary movements (a) between points in CT, MD, MA, NJ, NY, PA, VT, VA, IL, IN, KY, MI, OH, WV, NC, DC, SC, TN, DE and RI; (b) from the plantsite of the Special Products Divisions of the Ford Motor Company in Wayne Cty., MI to points in IA, MN, ND, SD, NE, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NE and CA; (c) from Mahwah, NJ, to points in ME and NH; (d) from points in NY and MA to points in ME and NH; and (e) from the facilities of Volvo of America Corporation at Chesapeake, VA, to points in the United States (except AK and HI). (B) Damaged, defective or returned shipments of the commodities named in (A) above from points in the United States (except AK and HI) to Lorain Cty., OH; (2) from points in CT and MA, to Buffalo, NY, (3) from AL, CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and DC to Edison Township, Middlesex Cty., NJ; and (4) from points in AL, MS, AK, IL, IN, IA, KS, KY, MO, NE, OK and TN to the plantsite of the Lincoln-Mercury Division of the Ford Motor Company at or near the St. Louis-Lambert Municipal Airport, St. Louis Cty., MO. (C) Buses and parts and accessories thereof in truckaway or driveaway service, over irregular routes, (1) in initial movements (a) from points in Lorain Cty., OH to points in the United States (except AK and HI); and (2) from the plantsite of the Ford Motor Company in Wayne Cty., MI, to points in IA and MN; and (3) in secondary movements from points in NY and MA to points in ME, and NH. (D) Damaged or returned shipments of the commodities named in (C) above from points in the United States (except AK and HI) to Lorain Cty., OH. (E) Farm tractors and parts and accessories thereof (1) to Highland Park, MI to points in SC, GA, FL, AL, TX and OK; (2) from points in Wayne Cty., MI to points in DC, DE, ME, VT, NH, MA, CT, RI, NY, IA, MN and NJ; (3) from Buffalo, NY to points in ME, VT, NH, MA, CT, RI, NY, NJ, DE, MO and PA; (4) from the plantsite of the Ford Motor Company in Wayne Cty., MI to points in MO and WI; (5) from points in NY and MA to points in ME, NH, VT, MA, CT, RI, NY, NJ and PA. (F) Damaged or defective shipments of the commodities named in (E) above from DE, MD and PA to Buffalo, NY. (G) Motor homes, in secondary movements, in truckaway service, when moving in mixed loads with automobiles and trucks between points in CT, MD, MA, NJ, NY, PA, VT, VA, DC, IL, IN, KY, MI, OH, WV, NC, SC, TN and RI. The foregoing summary is offered as sufficient public notice of the nature and scope of the operating rights to be transferred. It is not intended to be and should not be deemed a complete description of said operating rights, which are contained in Docket No. MC–87928 and Subs thereto. Application has been filed for TA under 49 U.S.C. 11349. Applicant's representative: Eugene C. Ewald, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. The above approval of the Motor Carrier Board is subject to the condition that, prior to or concurrently with consummation, transferee must furnish proof to the Commission that the certificate of its affiliate T–EMP, Inc., in No. MC–129243 has been revoked.

MC–FC–78620. By decision of June 30, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 The Motor Carrier Board approved the transfer to Blue Ribbon Trucking, Inc., of Fairfield, NJ, of Certificates No. MC–44523 and (Sub-Nos. 1 and 2) issued 7/22/76, 12/6/77, and 1/21/77, to Red Arrow Trucking Co., a corporation, of Jersey City, NJ, authorizing the transportation of machinery, from Paterson and Belleville, NJ, to Philadelphia, PA, and Baltimore, MD, window-display material, from Belleville, NJ, to Bridgeport, CT, and Philadelphia, PA, from Paterson, NJ, to Philadelphia, PA, brushes, from Paterson and Belleville, NJ, to Philadelphia, PA, magnesium and insulating material, from Valley Forge, PA, to Newark, NJ, paper and paper products, from New Hope, PA, to Belleville, NJ, textiles, from Wilmington, DE, to Belleville, NJ, general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, between points in Essex, Hudson, and Passaic Counties, NJ, between points in Essex, Hudson, and Passaic Counties, NJ, on the one hand, and, on the other, points in Nassau County, NY, wood cases and leather, between Newark, NJ, Chester, PA, and Wilmington, DE, oil, leather, soap, pigment, coloring matter, paper, shellac, and brushes, between New York, NY, on the one hand, and, on the other, points in the Union, Essex, Hudson, Bergen, and Passaic Counties, NJ, general commodities, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in the New York, NY Commercial Zone, on the one hand, and, on the other, points in Bergen, Essex, Ocean, Hudson, Monmouth, Middlesex, Morris, Passaic, Somerset, Union, and Sussex Counties, NJ, general commodities (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Bergen, Ocean, Monmouth, Middlesex, Morris, Somerset, Union, and Sussex Counties, NJ, on the one hand, and, on the other, points in Nassau County, NY. Applicants' representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. An application

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seeking temporary lease authority has been filed. Transferee holds no authority from the Commission.

MC-FC-78604, filed May 2, 1980, and previously noticed in FR issue of June 24, 1980. By decision of June 2, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, the Motor Carrier Board approved the transfer to Milk Tank Lines, Inc., of Frazer, PA of Certificate MC-59064 issued August 14, 1970, to La Mar Hopewell, of Trout Run, PA, authorizing the transportation of *fertilizer*, between Baltimore, MD, on the one hand, and, on the other, Williamsport, Wellsboro, and Galeton, PA; *canned goods, groceries*, and *fresh vegetables*, between Baltimore, MD, and Williamsport, PA; *sugar*, from Baltimore, MD, to Williamsport, PA; *feed*, between Buffalo, NY, on the one hand, and, on the other, Galeton and Wellsboro, PA; and *lettuce, celery*, and *fresh vegetables*, between Wellsboro, PA, and Baltimore, MD. Applicants' representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Application has been filed for approval of temporary lease.

Note.—This republican corrects the deletion of the destination points of Wellsboro and Galeton, PA, and the deletion of the transportation of canned goods, groceries, and fresh vegetables, between Baltimore, MD, and Williamsport, PA, as well as the deletion of transportation of sugar, from Baltimore, MD, to Williamsport, PA.

Federal Register Summary for Certificate or Permit

MC-FC-78619. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to W.Y.S., Inc., of Kent, WA, of Certificate No. MC-95810, issued March 4, 1949 to Security Transfer & Storage Co., of Seattle, WA, authorizing the transportation of *general commodities*, (except household goods, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, in collection and delivery service, between points and places within three miles of Seattle, WA, including Seattle. Applicant's representative is: Boyd Hartman, Esq 10655 N.E., 4th St. Suite 210, P.O. Box 3641, Bellevue, WA 98009.

MC-FC-78647. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to K & A Leasing Company, Inc., of Billings, MT, of a portion of Certificate No. MC-106887 issued June 17, 1977 to A. D. Day Trucking, Inc., d.b.a. Northwestern Colorado Pipe & Storage Co., at Craig, CO, authorizing the transportaion of *unifined petroleum*, in bulk, in tank vehicles, Between points in CO, UT, and WY, within 100 miles of Rock Springs, WY, including Rock Springs. Applicant's representative is: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transferee is not a carrier. An application seeking temporary lease authority has not been filed.

MC-FC-78648. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Don Lake-Mobil, Inc., of Columbia, MO of Certificate No. MC-124262 issued May 5, 1977 to Simmons and Sons Garage, Inc., of Boonville, MO, authorizing the transportation of *wrecked disabled and inoperative abandoned motor vehicles, replacement motor vehicles* for abandoned, wrecked, disabled. and inoperative motor vehicles, *abandoned, wrecked, disabled and inoperative trailers, semitrailers, boats, boat trailers and house trailers*, and *replacement therefor*, by the use of wrecker equipment, Between points in Callaway, Boone, Howard, and Saline Counties, MO, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Nebraska, and Oklahoma. Applicant's representative is: Richard C. Brownlee III, P.O. Box 1069, Jefferson City, MO 65102. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78649. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to NTL, Inc., of Dallas, TX, of Permits No. MC-135697 and Subs 1 and 10 issued to Dallas Carriers Corp., of Dallas, TX, authorizing the tranportation of *meats and related commodities*, between points in the United States (except AK and HI), under contract with Trinity Valley Foods, Inc., of Dallas, TX. Applicant's representative is: J. Max Harding, Suite 500, the Atrium, P.O. Box 82028, Linclon, NE 68501. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78650. By decision of June 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Reynold L. Miarer, of Kansas, OH, of Permit No. MC-140174 (Sub-No. 3) issued March 20, 1978 to Brooks Trucking, Inc., of Vanlere, OH, authorizing the transportation of *fertilizer and fertilizer compounds* (except liquid commodities in bulk), from Findlay, OH, to points in IN and MI, under contract with W. R. Grace & Co., Agricultural Chemicals Group. Applicant's representative is: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. Transferee holds no authority. An application seeking TA has not been filed.

MC-FC-78650. By decision of June 25, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Edward Martin Kreller, Jr., of Permit No. MC-101689 issued October 22, 1942 to Edward M. Kreller, of Baltimore, MD, authorizing opertions transporting *such commodities* as are dealt in by wholesale, retail, and chain grocery houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between points in a defined portion of PA, WV, MD, DE, VA, and DC, under contract with persons who operate retail stores, the business of which is the selling of food. Applicant's representative is: Robert G. Lembach, 1910 Charles Center South, 36 S. Charles St., Baltimore, MD 21201. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78661. By decision of June 30, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 The Motor Carrier Board approved the transfer to Hicks Corners Trucking, Inc., of Shullsburg, WI, of Certificate No. MC-141215 (Sub-No. 2) issued May 12, 1977 to C & L Farms, Inc., of Highland, WI, authorizing the transportation of pipe and materials, equipment and supplies used in or useful in the manufacture, sale, installation or distribution of pipe when shipped therewith, from Highland, WI to points in the United States (except AK and HI), restricted against the transportation of commodities in bulk, in tank vehicles. Applicant's representative is: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78663. By decision of June 30, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 The Motor Carrier Board approved the transfer to Werner-Burton Construction, Inc., of Benton, PA, of Certificate No. MC-138966 (Sub-No. 2) issued July 21, 1976 to Sutco, Inc., of Taylor, PA, authorizing the transportation of pre-cut buildings, and materials and supplies used in the manufacture of pre-cut buildings, from and to the facilities of

Lindal Cedar Homes at Shereville, IN, Tacoma, WA, Scranton, PA, Atlanta, GA, and points in the United States (with exceptions and restrictions). Applicant's representative is: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Transferee holds no authority. TA lease authority is not sought.

MC–FC–78664. By decision of June 30, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Motor Carrier Board approved the transfer to Roy Ripley and R. F. Campbell, d.b.a. R and C Enterprises, of Johnson City, TN, of Certificate No. MC–139877 (Sub-No. 2) issued March 31, 1977 to Tri-City Rentals, Inc., of Kingsport, TN, authorizing the transportation of general commodites (usual exceptions), between points in Carter, Greene, Hawkins, Johnson, Sullivan, Union, and Washington Counties, TN, and points in Russell, Scott, Washington, and Wise Counties, VA, on the one hand, and, on the other, the Douglas Municipal Airport, at or near Charlotte, NC, restricted to the transportation of traffic having a prior or subsequent movement by air. Applicant's representative is: R. F. Campbell, P.O. Box 2492, Johnson City, TN 37601. No TA lease application has been filed. Transferee holds no authority.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–26729 Filed 8–29–80; 8:45 am]

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Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the Applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 17, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 day after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–022

Decided: August 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 29910 (Sub-283F), filed August 19, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Savannah, GA and San Antonio, TX, from Savannah over Interstate Hwy 16 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 10, then over Interstate Hwy 10 to San Antonio, and return over the same route; (2) between Savannah, GA and Dallas, TX, from Savannah over Interstate Hwy 16 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Dallas, and return over the same route; (3) between Savannah, GA and Atlanta, GA, from Sanannah over Interstate Hwy 16 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, and return over the same route; (4) between Augusta, GA and Birmingham, AL, from Augusta over Interstate Hwy 20 to Birmingham; (5) between Atlanta, GA and San Antonio, TX, from Atlanta over Interstate Hwy 85 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 10, then over Interstate Hwy 10 to San Antonio, and return over the same route; (6) between Pittsburgh, PA and Columbus, OH, from Pittsburgh over U.S. Hwy 22 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Columbus, and return over the same route; (7) between Upper Sandusky, OH and Columbus, OH, from Upper Sandusky over U.S. Hwy 23 to Columbus; (8) between Upper Sandusky, OH and Mansfield, OH, from Upper Sandusky over U.S. Hwy 30 to Mansfield; (9) between Vinita, OK and Amarillo, TX, from Vinita over U.S. Hwy 60 to Amarillo; (10) between Kansas City, MO and Cape Girardeau, MO, from Kansas City over U.S. Hwy 50 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction MO Hwy 68, then over MO Hwy 68 to junction MO Hwy 8, then over MO Hwy 8 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction MO Hwy 72, then over MO Hwy 72 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Cape Girardeau, and return over the same route; (11) between Jackson, MS and Albuquerque, NM, from Jackson over Interstate Hwy 20 to junction U.S. Hwy 285, then over U.S. Hwy 285 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Albuquerque, and return over the same route; (12) between El Paso, TX and San Francisco, CA, from El Paso over Interstate Hwy 10 to junction U.S. Hwy 101, then over U.S. Hwy 101 to San Francisco, and return over the same route; (13) between Pittsburgh, PA and Memphis, TN, from Pittsburgh, over Interstate Hwy 279 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction U.S. Hwy 62, to junction U.S. Hwy 641, then over U.S. Hwy 641 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Memphis, and return over the same route; (14) between Kansas City, MO and Des Moines, IA, from Kansas City over Interstate Hwy 35 to Des Moines, and (15) between Perryton, TX and Amarillo, TX, from Perryton over TX Hwy 207 to junction TX Hwy 136 to Amarillo, and return over the same route, serving no intermediate points in routes (1) through (15) and serving routes (1) through (15)

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as alternate routes for operating convenience only.

MC 119741 (Sub-275F), filed August 20, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Thrid Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *general commodities*, between points in the U.S. Condition: The certificate to be issued here to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring 5 yers from the date of issuance.

MC 121470 (Sub-68F), filed August 21, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a Corporation, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *composition board* and (2) *lumber and wood products*, (a) between Nashville and points in Henry County, TN, on the one hand, and, on the other, points in KY, and (b) between points in ID, CA, OR, WA, AR, MS, LA, GA, AL, VA, FL, and MT, on the one hand, and, on the other, points in TN, KY, and AL.

MC 124621 (Sub-4(M1F)), filed August 11, 1980. Petitioner: CLEMENT RISBERG, d.b.a. RISBERG TRUCK SERVICE, 2339 S.E. Grand, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *generl commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in OR, WA, ID, and MT, under continuing contract(s) with (1) Fred Meyer, Inc., and its subsidiaries, and (2) Montgomery Ward and Company, of Chicago, IL. Condition: The authority granted herein to the extent that it authorized the transportation of classes A and B explosives shall be limited, in point of time, to a period to expire October 17, 1982.

Note.—Petitioner holds the above authority in permit MC–124621 Sub 4, issued April 16, 1979, under contract with Fred Meyer, Inc., and its subsidiaries. The purpose of this petition is to add Montgomery Ward and Company as a contracting shipper. Issuance of a permit in this proceeding will cancel permit MC–124621 Sub 4.

MC 125951 (Sub-65F), filed August 21, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting (1) *beverages* (except in bulk), and (2) *bottled cherries, olives, and onions*, from points in CA, IL, IN, KY, MI, NY, OH, PA, and TN to points in Douglas County, NE.

MC 151570F, filed August 18, 1980. Applicant: CLEARWATER TRUCKING, INC., P.O. Box 87, Salt Lake City, UT 84110 Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Grand Central, Inc., of Salt Lake City, UT.

MC 151570 (Sub-1F), filed August 18, 1980. Applicant: CLEARWATER TRUCKING, INC., P.O. Box 87, Salt Lake City, UT 84110. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Mountain America Shippers Association, Inc., of Salt Lake City, UT.

Volume No. OP2–028

Decided: August 26, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 8973 (Sub-71F), filed August 1, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Amoco Chemicals Corporation, in DE, NJ, OH, IL, MN, MO, CA, TX, MS, GA, and SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124673 (Sub-55F), (correction), filed July 31, 1980, published in the **Federal Register**, issue of August 19, 1980, and republished, as corrected, this issue. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *animal and poultry feed* between points in the U.S.

Note.—The purpose of this republication is to handle this application under regular procedure instead of fitness, as originally filed.

Volume No. OP2–030

Decided: August 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 33902 (Sub-4F), filed August 14, 1980. Applicant: TATUM-DALTON TRANSFER COMPANY, a corporation, P.O. Box 20447, 311 East Washington Street, Greensboro, NC 27420. Representative: Charles A. Schneider, 1819 H Street, NW, Suite 1000, Washington, DC 20006. Transporting *household goods*, between points in the U.S. As defined by the Commission.

MC 105813 (Sub-275F), filed August 20, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th St., P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *foodstuffs*, between points in Vandenburgh County, IN, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, and TN.

MC 108053 (Sub-179F) filed August 20, 1980. Applicant: LITTLE AUDREY'S TRANSPORTATION CO. INC., P.O. Box 129, Fremont, NE 68025. Representative Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *such commodities as are dealt in by retail gift and curio shops and catalogue distribution centers*, between the facilities of (a) Swiss Colony, Inc., and (b) Swiss Colony Stores, Inc., at points in WI, on the one hand, and on the other, points in AZ, CA, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 111812 (Sub-735F), filed August 20, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same address as applicant). *Such commodities* as are dealt in or used by retail stores, between points in the U.S.

MC 124692(Sub-337F), filed August 20, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *wood burning stoves and parts for wood burning stoves*, between St. Louis City, and points in St. Louis County, MO, on the one hand, and, on the other, points in CO, KY, IN, IL, OK, MI, TN, KS, LA, AL, AR, MN, and NV.

MC 125023(Sub-82F), filed August 20, 1980. Applicant: SIGMA–4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Richard C. McGinnis, 711 Washington Building, 15th and New York Avenue, NW, Washington, DC 20005. Transporting (1) *glass containers*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Midland Glass Co., Inc., at points in (a)

Monmouth County, NJ, (b) Vigo County, IN, (c) Houston County, GA, (d) Scott County, MN, and (e) Okmulgee County, OK, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, AR, and LA.

MC 134182 (Sub-40F), filed August 15, 1980. Applicant: ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions In Motor Carrier Certificates,* 61 M.C.C. 209) and 766, (except hides and commodities in bulk), between points in Finney County, KS, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NE, ND, NH, NJ, NY, OH, PA, RI, SD, VA, VT, WI, WV, and DC.

MC 135152 (Sub-43), filed August 19, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, P.O. Box 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH 45202. Transporting *medicine cabinets, medicine cabinet mirrors, and empty steel or plastic containers,* between the facilities of the F. H. Lawson Company, at Cincinnati, OH., on the one hand, and, on the other, points in the U.S.

MC 136342 (Sub-20F), filed August 20, 1980. Applicant: JACKSON AND JOHNSON, INC., Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice park, Webster, NY 14580. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in the U.S., under continuing contract(s) with Duffy Mott Company, Inc., of New York, NY.

MC 136343 (Sub-223F), filed August 14, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, (except commodities in bulk), between the facilities of Miami Paper Corporation, at West Carrollton, OH, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, PA, NJ, DE, MD, VA, WV, KY, NC, TN, and DC.

MC 139843 (Sub-13F), filed August 19, 1980. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203 Transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products, between points in AL, AZ, AR, CA, FL, GA, IL, KS, LA, MS, MO, NM, OK, TN, and TX.

MC 147983 (Sub-3F), filed August 19, 1980. Applicant: MIAMI TRUCKING, INC., 585 East Fifth St., Peru, IN 46970. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. Transporting *dry fertilizer,* from Butler and Peru, IN, to points in the Lower Peninsula of MI.

Agatha L. Mergenovich
Secretary.

[FR Doc. 80-26719 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplyfying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 17, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before November 3, 1980, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted othewise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI-023

Decided: Aug. 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 111981 (Sub-28F), filed August 21, 1980. Applicant: ROBIDEAU'S EXPRESS, INC., Front St. and Oregon Ave., Philadelphia, PA 19148. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities,* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151591F, filed August 15, 1980. Applicant: EGON MASCHER, DBA, ERD REFFER SERVICE, 7375 S. W. Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditions, and agricultural fertilizers,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP2-029

Decided: August 22, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 8022 (Sub-2F), filed August 14, 1980. Applicant: M. KORSON & CO., INC., 91 Washington St., Somerville, MA 02143. Representative: James E. Mahoney, 148 State St., Boston, MA 02109. Transporting *general* *commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 116073 (Sub-381F), filed August 20, 1980. Applicant: BARETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, MN 56560. Representative: Paul D. Borghesani, Suite 300, Communicana Building, 421 South Second Street, Elkhart, IN 46516. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 116133 (Sub-17), filed August 19, 1980. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, D.C. 20001. Representative: Frank Pollard, Washington National Airport, Washington, D.C. 20001. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 130992F, filed August 18, 1980. Applicant: ROBERT P. MILES, 901 Castaic St., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26720 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 297 (Sub-No. 4)]

Reopening of Section 5a Application Proceedings to Take Additional Evidence

AGENCY: Interstate Commerce Commission.

ACTION: Notice of termination of motor-carrier related proceedings.

SUMMARY: Ex Parte 297 (Sub-No. 4) was instituted to require each rate bureau operating pursuant to an agreement approved by the Commission under prior section 5a (recodified as § 10706(b)) of the Interstate Commerce Act to demonstrate that continued approval of its collective ratemaking agreement was warranted. Applicants were required to establish: (1) that the agreement enhanced one or more National Transportation Policy goals, (2) that the agreement did not have anticompetitive effects, and (3) that, if anticompetitive effects were found, the benefits the agreement conferred on the public interest outweighed the harm [43 FR 1666, January 1977]. The proceeding was reopened for additional evidence at 45 FR 19676, March 26, 1980, and the comment due date was extended at 45 FR 43480, June 27, 1980.

Since this proceeding was initiated, Congress has passed The Motor Carrier Reform Act of 1980. While it would be possible to amend these motor carrier rate bureau proceedings to reflect this legislation, we believe a simpler and clearer approach would be to discontinue these motor carrier proceedings and undertake implementation of the legislation in a new proceeding. The Sub-No. 4 proceeding will be terminated to the extent it involves review of motor carrier rate bureaus. The feight forwarder and water carrier rate bureau investigations included in Sub-No. 4 will continue. In the new proceeding, Ex Parte No. 297 (Sub-No. 5), Implementation of Pub. L. No. 96-296—Motor Carrier Rate Bureaus, instituted this date, we will take official notice of the records in Sub-No. 4, to the extent appropriate.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275-7693, or Jane Mackell, (202) 275-7656.

This action does not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: Section 14, Pub. L. No. 96-296, 49 U.S.C. 10321, 10706, 5 U.S.C. 553.

Decided: August 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford dissenting. See his separate expression in Ex Parte No. 297 (Sub-No. 5).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26735 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[ICC Order No. P-31]

Atchison, Topeka & Santa Fe Railway Co.; Passenger Train Operation

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana, and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks between El Paso, Texas, and Deming, New Mexico, are temporarily out of service because of a derailment. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company at El Paso, Texas, and Deming, New Mexico.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 7:20 p.m., August 16, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 18, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 80-26726 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[ICC Order No. 62, S.O. No. 1344; Amdt. 2]

Rerouting Traffic

To: *All Railroads:*

Upon further consideration of I.C.C. Order No. 62, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment will become effective at 11:59 p.m., August 31, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 21, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-26727 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 334 (Sub. No. 4]

Order Granting Railroads Flexibility in Setting Per Diem Levels

AGENCY: Interstate Commerce Commission.

ACTION: Order granting railroads flexibility in setting per diem rates.

SUMMARY: On June 9, 1980 the Commission ordered interested parties to show cause why railroads should not be permitted to reduce per diem on their freight cars below the applicable basic per diem or incentive per diem rates set by the Commission. In the view of the Commission, this flexibility in setting per diem levels would significantly improve car utilization during the present rapidly worsening period of car surplus. The instant order permits any carrier that owns, leases, or otherwise controls a freight car used in transportation by any other rail carrier subject to jurisdiction of the Commission to reduce charges for use of that car below the basic per diem or incentive per diem levels established by the Commission, or raise the charges to a rate not exceeding the applicable basic or incentive per diem rate following a previous reduction, provided: (a) That the changes, if made unilaterally by the owning or controlling carrier, be applicable uniformly to all other carriers, and that such changes be effective only on the first day of any month, with not less than ten days notice to be given through the Railway Equipment Register, the UMLER file, the AAR Car Service Division, and/or other such means as will provide the most rapid and accessible notification possible; (b) that changes in car hire rates not meeting the requirements of paragraph (a) above be made only with the express agreement of those carriers to which they are extended; and (c) that all changes in car hire rates under this order be made only by independent action as provided by Article XIV of Section 5(b) Agreement No. 7.

COMMENTS: An original and 15 copies of comments should be submitted to: Interstate Commerce Commission, Room 5340, Washington, DC 20423.

DATES: This proceeding will be held open for comment until October 2, 1980. If not stayed by further order of the Commission, this order will go into effect 15 days after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275-7693.

SUPPLEMENTARY INFORMATION: On June 9, 1980 (45 FR 41469, June 19, 1980) the Commission ordered interested parties to show cause why any railroad should not be permitted to set car hire charges for any or all of its cars at any level below the currently applicable per diem rates. This order was issued pursuant to our authority under sections 11122 and 11123 in response to the emergency situation created by a rapidly growing freight car surplus.[1] We indicated that we saw flexibility in setting per diem as a means of discouraging cross-hauling of empty cars during the duration of the surplus, and hence as a means of improving car utilization. Comments have been received from a number of interested parties; after consideration of the comments, the Commission is now prepared to issue an order granting downward flexibility in setting per diem rates.

1. *The Commission has authority to issue this order under Section 11122 of the Interstate Commerce Act.*

The Association of American Railroads (AAR) contends that the Commission lacks the statutory authority to permit railroads to reduce per diem charged for their cars below the level set by the Commission. For a number of reasons, we disagree.

Under Section 11222 (a) the Commission has the responsibility to "encourage the purchase, acquisition, and efficient use of freight cars." In our view, as explained in our order of June [illegible] and further explained below, the present order will directly contribute to efficient use of freight cars, and will indirectly encourage the purchase and acquisition of an appropriate number of cars. The same section of the Act provides that the Commission may issue regulations setting compensation to be paid for the use of freight cars, but in this respect, as pointed out by the Department of Tranportation (DOT) in its submission, the Act is permissive, and does not direct the Commission to set an inflexible level of charges.

The AAR and certain other parties (the Pittsburgh and Lake Erie Railroad (P&LE), the Louisville, New Albany and Corydon Railroad Company (LNAC) and the Ferdinand Railroad Company (FRDN) in their joint submission, the FSC Corporation, and the law firm of Armstrong and Frick on behalf of unnamed clients) further maintain that the present order would reduce the incentive for railroads (particularly so-called car supply railroads) to purchase and acquire cars. In that way, it would allegedly violate the Comission's obligation under Section 11122 of the Act to encourage purchase and acquisition. We disagree. The Commission can determine the level of per diem necessary to compensate car owners for all costs of ownership and to provide the necessary incentive to acquire cars; it has done so in previous decisions under Ex Parte 334 and its various subproceedings. Under present condition, the combination of slack demand for rail freight service and fixed per diem levels has caused many cars to be put into storage. Those stored cars earn nothing at all for their owners. To the extent that flexible per diem allows at least some of those cars to be put back into service, even at reduced rates, it increases earnings of at least some car owners. We thus believe that this order will promote, rather than defeat the industry-wide interest in maintaining an adequate car supply. This is amply attested to by the vigorous support given to flexible per diem by ITEL, Inc. and

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[1] Although our initial order did not specifically invoke our authority under Section 11123, it clearly documented an emergency situation requiring immediate action. We hereby invoke our emergency authority under Section 11123.

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the National Railway Utilization Corporation (NRUC), two of the largest suppliers of rail freight cars.

The Commission's authority to issue this order is further supported by Section 11122(b)(1) of the Act, which sets standards according to which the Commission is to set per diem levels, if and when it decides to do so. Specifically, this section directs that "[i]n determining the rate of compensation, the Commission shall consider the transportation use of each type of freight car, the national level of ownership of each type of freightcar, *and other factors that affect the adequacy of the national freight car supply.*" (italtics added). Clearly, over all freight car shortages or surplusses are such a factor. In recent months, conditions in the railroad industry have been changing rapidly, in response to overall economic trends. These trends have affected different parts of the country and different types of freight cars differently, and in a manner that changes from week to week. We thus determine that "other factors that affect the adequacy of the national freight car supply" cannot be adequately taken into account, under present conditions, by a rigidly set per diem level, but that instead, flexibility is required to take them into account.

Finally, the AAR manifestly errs in contending that the law gives the Commission an all-or-nothing power only, under which it must either mandate a fixed per diem system, or leave the determination of per diem levels entirely to the railroads. The power to regulate per diem is not and has never been interpreted to be an all or nothing power. This is amply attested to by the widespread practice of per diem reclaim, alluded to by many parties to this proceeding.[2] Per diem reclaim is precisely a limited form of flexible per diem, which the present order seeks to expand. The Commission has also authorized *Railbox* to set per diem charges at levels below the normal basic per diem level, and to change those charges in response to changing market conditions.[3]

2. *Questions raised concerning the universal effectiveness of this order do not constitute a show of cause not to issue.*

The parties to this proceeding disagree as to the probable effectiveness of the instant order. Several railroads and nonrailroad parties, including Chessie, Conrail, ITEL, NRUC, DOT, the Department of Justice (DOJ), and Procter and Gamble (P&G) express a belief that flexible per diem will make a significant contribution to improved car utilization. The Boston and Maine (B&M) and the Southern Pacific (SP) doubt that flexible per diem will be effective if limited to uniform reductions, but both believe that selective reductions would be effective. However, the AAR, Chicago and North Western (C&NW), the Southern, the PL&E, and the law firm Armstrong and Frick believe, for a variety of reasons, that the order would be ineffective.

We note at the outset that we do not expect flexible per diem alone to accomplish system-wide optimal car utilization. However, not all railroads need participate in order for flexible per diem to make a positive contribution to utilization.

The AAR, alone among the parties to this proceeding, contends that flexible per diem may not only be ineffective, but may actually harm utilization (AAR p. 13).[4] We disagree. According to the reasoning on p. 13 of the AAR submission, an originating road would be less likely to load a foreign car, and more likely to load its own car instead, the cheaper the foreign car. However, this reasoning appears to contradict the AAR's position elsewhere in their submission that allegedly excessive levels of incentive per diem (IPD) have "directly impaired freight-car service by encouraging the excessive movement of empty cars."[5] We submit that the AAR cannot have it both ways; either it is too high a level of per diem that leads to excessive movement of empties as argued on p. 8 or too low a level that does so, as argued on p. 13, but not both.

Although we do not see it as necessary that all railroads participate in flexible per diem, we believe, from our reading of the record, that some parties may have underestimated the effectiveness of the idea. For example, Southern argues that the program may be ineffective because per diem dollars are "hard" dollars highly visible to management while the dollars saved from reduced empty miles are "soft" dollars hidden from sight in the railroad's accounts. Nevertheless, the management systems of certain railroads appear to be attuned to the requirements of flexible per diem. For example, George C. Woodward, in his verified statement submitted on behalf of Conrail, contends that Conrail's costing system allows the profitability of using foreign cars to be evaluated accurately enough to make sound economic judgement. He further offers the opinion that "the opportunity to operate in a deregulated car hire environment would provide and impetus to develop sound managerial decision support systems" (Woodward, p. 4). We too think that a positive demonstration effect could be one of the most valuable outcomes of this order.

Many parties, including the B&M, Conrail, Southern, and the DOJ point to compulsory interchange of cars as a factor limiting the effectiveness of flexible per diem. We agree that this is a problem; to the extent that originating roads can force their own high per diem cars out into the rail system, they must consider forgone per diem as an opportunity cost in deciding whether to load their own or foreign cars. In some cases, depending, among other things, on the fraction of the move that will take place on the line of the foreign as opposed to the originating carrier, this opportunity cost will be sufficient to offset the attraction of a reduced per diem.

However, we would like to call attention to the fact that railroads receiving cars in compulsory interchange are not as wholly without bargaining power as some parties appear to believe. In I&S 9222, *Conrail Surcharge on Pulpboard* (——— ICC ———) decided April 21, 1980 the Commission made it clear that a participating carrier may propose to cancel unattractive joint rates and handle the traffic under combination rates instead. This course of action could be followed by a carrier that found a joint rate in which it participated to be unprofitable because of a high per diem on the cars used by the originating carrier. We believe that this right to cancel joint rate goes a long way towards balancing the bargaining power of connecting carriers. If bridge and terminating carriers were to express a willingness to take this action, we believe that originating carriers might be deterred from indiscriminately pushing high per diem cars out onto their connections.

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[2] Per diem reclaim is authorized by Rule 22 of the AAR's Code of Car Hire Rules and Interpretations. In essence, the rule allows an owning road to permit another road to hold a car for loading for an agreed number of days without paying per diem for that portion of the time the car is on the holding road.

[3] 347 I.C.C. 862 (1974).

[4] The SP contends that the order might worsen car utilization if limited solely to uniformly applicable decreases. We discuss this contention separately below.

[5] The level of IPD is not at issue in this proceeding, but the allegedly excessive level of IPD is nonetheless raised by several parties. They contend that excessively high per diem charges cause railroads to send empty cars rapidly off line rather than hold them for reloading. Elimination of IPD, they maintain, would make it more likely that railroads would hold cars for reloading, and would thus reduce cross-hauling and improve car utilization. We are considering the merit of this contention in a separate proceeding. Ex Parte 252 (Sub. No. 5), so we will not discuss it here other than to point out the obvious analogy with the issues raised in the instant proceeding.

Finally, a number of parties, including C&NW, B&M, Chessie, Conrail, DOT, DOJ, and the Transportation Association of America point out that flexible per diem can be maximally effective only as part of a more comprehensive reform of freight car regulation. We agree, and call attention in this connection to our ongoing proceeding Ex Parte 252 (Sub No. 5), and our recent decision in Ex Parte 241 (Sub No. 1), which removes mandatory car service rules. These two proceedings among others are part of an ongoing review of car service regulation of the kind advocated by the parties.

3. *Collective determination of reduced rate levels will not be permitted under this order.*

Several parties, including NRUC, DOJ, and Conrail, contend that per diem reductions, under this order, and per diem increases to previous levels as also provided under this order, should not be made collectively. We agree. It would be contrary to the notion of flexible adjustment to the circumstances of time and place, on which this proceeding is premised, to encourage collective determination of reduced rates. There is also a possibility that collective determination of reduced per diem levels might permit a group of carriers to pursue a pricing strategy specifically designed to damage the interests of another carrier or group of carriers, as feared by NRUC. We will thus limit applicability of this order to per diem changes made by independent action as provided by Article XIV of section 5b Agreement No. 7. Further, we will not permit collective discussion of or voting on per diem changes made pursuant to this order. In proscribing collective consideration of specific per diem changes under this order, however, we do not intend to prohibit collective discussion by the railroads of general methods and procedures for implementation of this order. We ask that parties comment on this aspect of our order.

4. *Both uniform and bilateral per diem reductions have a place in a system of flexible per diem.*

In our June 9 order, we initially proposed that per diem changes under this order be made uniformly applicable to all carriers, and asked for specific public comment on this issue. Several parties, including NRUC, B&M, Southern, the SP and Chessie objected to this provision.

Insofar as the objections of these parties relate to per diem reclaim under Rule 22, we believe there has been a misunderstanding. We thus offer a clarification. Our proposal has from the beginning been intended to supplement and extend the flexibility already available to the railroads under Rule 22, and will in no way limit or further regulate established per diem reclaim practices.

Upon consideration of the record, we are persuaded that railraods may, under some circumstances, find it useful to enter into bilateral or mutilateral agreements of a somewhat different nature than traditional per diem reclaim. For example, per diem reclaim normally is applied only to the time during which a car is held for loading, whereas under this order, a bilateral agreement might be made that would apply to the entire period that a car was on the foreign carrier's line. The SP, by means of an example and accompanying diagram, further explains the advantages of bilateral agreements as contrasted with uniformly applicable per diem reductions. We do not wish in any way to limit or prejudge the type of agreements into which carriers might wish to enter, and consequently, we will not limit changes under this order to those uniformly applicable to all carriers. We will thus permit both bilateral agreements, and per diem reductions uniformly applicable to all carriers. However, as discussed below, we believe uniform and bilateral changes may call for somewhat different notice requirements.

Certain parties, including LNAC, FRDN, NRUC, and Armstrong and Frick fear that not to insist on uniformity would open the door to potential discriminatory or predatory practices. For example, some parties express the concern that a car supplying carrier might lower per diem to an originating carrier only, and not also to that carrier's connections, so that different carriers participating in the same move might pay different per diem on the same car. We make three comments in this connection. First, we would point out that currently under such practices as temporary leasing and per diem reclaim, bilateral agreements are made without apparent or widespread discriminatory abuses. Second, we note, as above, that the opportunity of connecting carriers to cancel joint rates (under the *Conrail Surcharge* doctrine) gives them a potent bargaining tool to obtain concessions from their connections. And third, we emphasize that we will retain our power to investigate complaints of discrimination and predation in the area of car hire practices as elsewhere, and to curb abuses if they occur. We ask that parties direct their comments to this aspect of our order.

5. *Tariff filing will not be required.*

In our June 9 show cause order, we tentatively announced that carriers taking advantage of flexible per diem should do so by filing appropriate tariffs with the Commission. This suggestion is widely opposed by the parties filing comments is this case, including both those favoring flexibility in general and those opposed to it. Furthermore, NRUC and ITEL argue that freight car charges are not subject to tariff filing requirements under Section 10762 of the Interstate Commerce Act, because they are not charges for the transportation of passengers or property.

Furthermore, we do not believe that Section 10762 of the Act require that such filings be made. Upon consideration of the record, we are persuaded that to require strict adherence to tariff filing procedures when changing car hire rates under this order would raise serious administrative and technical difficulties of such a magnitude as to undermine the purpose of our order. We therefore will not require that car hire changes under this order be filed as tariffs. Where bilateral agreements are concerned, no general notice is necessary, and the parties can settle the technical details of internal accounting as part of the agreement. With regards to car hire charge reduction unilaterally undertaken by a carrier and extended uniformly to all carriers, the comments of the parties to this proceeding convince us that the railroad industry has adequate mechanisms of its own, through the Car Service Division of the AAR, the Railway Equipment Register, and the UMLER file to disseminate the necessary information.

We also proposed in our June 9 show cause order that changes in car hire charges under this order be made on not less than 7 days notice. Several parties have commented on this point. A number of parties express the concern that 7 days is too short a period to permit orderly reprogramming of computerized files of car hire information. A number of parties (Mississippi Export Railroad Company, C&NW, ITEL, and Southern among others) also contend that under current industry practices, it would be disruptive to permit changes to take place on any day other than the first day of each month. In deference to these concerns, we thus establish that those changes in car hire rates under this order that are unilaterally extended to all railroads shall be made effective only on the first day of each month, for not less than one month's duration, and on not less than ten days notice. However, changes in car hire charges that are established by bilateral agreement between carriers will be permitted at any time and on any period of notice to which the parties may agree.

Despite our decision not to require changes in car hire rates under this order to be filed as tariffs, we intend to monitor and evaluate the use made of the flexibility granted by this order. To this end, we ask that all railroads taking advantage of this order informally notify the ICC Bureau of Traffic of their actions, and cooperate fully with the Commission's follow-up studies.

This proceeding does not appear to significantly affect the quality of the human environment. To the extent that actions taken under this order improve car utilization, it may have a positive effect on the conservation of energy resources.

It is ordered:

Any rail carrier that owns, leases, or otherwise controls a freight car used in transportation by any other rail carrier subject to jurisdiction of the Commission may, without approval of the Commission, reduce charges for the use of that car below the basic per diem or incentive per diem levels established by the Commission, or raise the charges to a rate not exceeding the basic per diem or incentive per diem rate following a previous reduction, provided:

(a) That the changes, if made unilaterally by the owning or controlling carrier, be applicable uniformly to all other carriers, and that such changes be effective only on the first day of any month, with not less than ten days notice to be given through the Railway Equipment Register, the UMLER file, the AAR Car Service Division, and/or other such means as will provide the most rapid and accessible notification possible;

(b) That changes in car hire rates not meeting the requirements of paragraph (a) above be made only with the express agreement of those carriers to which they are extended.

(c) That all changes in care hire rates under this order be made only by independent action as provided by article XIV of Section 5(b) Agreement No. 7; collective discussion or voting on car hire reductions will not be permitted.

(d) This proceeding will be held open for comment until October 2, 1980. If not stayed by further order of the Commission, this order will go into effect 15 days after close of the comment period. Parties are invited to direct their comments specifically to our decisions not to allow collective action on rate changes under this order, and not require tariff filing. Parties are also invited to comment on energy and environmental aspects of this proceeding to the extent that any are perceived.

(49 U.S.C. 10321, 11122, and sec. 11123, 5 U.S.C. 553)

Decided: August 12, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26717 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by the Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after September 2, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before October 2, 1980 (or, if the applications later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

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Decided: August 26, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 58923 (Sub-57F), filed May 22, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., Atlanta, GA 30315. Representative: William W. West (same address as applicant). Over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Valdosta, GA, and Ft. Myers, FL, over U.S. Hwy 41, (2) between junction U.S. Hwys 41 and 301 and Ft. Myers, FL: from junction U.S. Hwys 41 and 301 over U.S. Hwy 301 to junction FL Hwy 675, then over FL Hwy 675 to junction FL Hwy 70, then over FL Hwy 70 to junction FL Hwy 31, then over FL Hwy 31 to junction FL Hwy 80, then over FL Hwy 80 to Ft. Myers, and return over the same route, (3) between junction U.S. Hwys 41 and 441 and Ft. Myers, FL: from junction U.S. Hwys 41 and 441 over U.S. Hwy 441 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction FL Hwy 29, then over FL Hwy 29 to junction FL Hwy 80, then over FL Hwy 80 to Ft. Myers and return over the same route. (I) When on southbound movements in connection with routes (1) through (3), serving no intermediate points north of Glades, Hardee, Palm Beach, and Sarasota Counties, FL, except for purposes of joinder, (II) When on northbound movements in connection with routes (1) through (3), serving all intermediate points, and (III) Serving points in Charlotte, Collier, De Soto, Glades, Hardee, Hendry, Lee, Palm Beach, and Sarasota Counties, FL, as off-route points in connection with routes (1) through (3); and, serving also all other points in Florida on and east of U.S. Hwys 19 and 41 as off-route points on northbound movements in connection with routes (1) through (3).

Note.—Applicant intends to tack with its authorized operations.

MC 71593 (Sub-74F), filed June 30, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Miami, FL, to points in OH, PA, IL, GA, NY, NJ, OK, TX, and NC; (2) from Los Angeles, CA, to points in FL, IL, GA, NJ, and NY, and (3) from Chicago, IL, to points in IN, MI, and KY.

MC 109533 (Sub-127F), filed March 12, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA 23224. Representative: Eugene T. Liipfert, Suite 1000, 1660 L St., NW., Washington, DC 20036. (A) Over regular routes. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) between Lynchburg, VA, and Washington, DC, over U.S. Hwy 29, serving all intermediate points; (2) between Lynchburg, VA and Lexington, VA, from Lynchburg over U.S. Hwy 501 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Lexington, and return over the same route, serving all intermediate points; (3) between Norfolk, VA, and Richmond, VA, over U.S. Hwy 60, serving the intermediate points of Lightfoot and Williamsburg, VA, (4) between Richmond, VA and Staunton, VA, over U.S. Hwy 250, serving all intermediate points; (5) between Portsmouth, VA, and Petersburg, VA, over U.S. Hwy 460, serving no intermediate points; (6) between Fredericksburg, VA, and Winchester, VA, over U.S. Hwy 17, serving all intermediate points; (7) between Lexington, VA, and Harrisburg, PA, from Lexington over U.S. Hwy 11 to junction Harrisburg Expressway then over Harrisburg Expressway to junction Interstate Hwy 83, then over Interstate Hwy 83 to Harrisburg, and return over the same route, serving all intermediate points; (8) between junction U.S. Hwys 29 and 50 and junction U.S. Hwys 17 and 50 over U.S. Hwy 50, serving all intermediate points; (9) between Winchester, VA, and Alexandria, VA, over VA Hwy 7, serving all intermediate points; (10) between Frederick, MD, and junction U.S. Hwys 15 and 29 over U.S. Hwy 15, serving all intermediate points; (11) between Winchester, VA, and New Creek, WV, over U.S. Hwy 50, serving all intermediate points; (12) between Staunton, VA, and Huttonsville, WV, over U.S. Hwy 250, serving all intermediate points; (13) serving the following as off-route points in connection with carrier's otherwise authorized regular-route operations: (a) Bedford and Pleasantville (Bedford County), PA, Fairfield (Adams County) and points in Franklin County, PA, and those points in MD both on and east of the Frederick-Washington County line and on and west of a line beginning at the MD–PA State line and extending along U.S. Hwy 15 to junction MD Hwy 140 east of Emmitsburg, then about 2 miles over MD Hwy 140 to junction unnumbered Hwy, then south over unnumbered Hwy to junction MD Hwy 194 near Keymar, then over MD Hwy 194 to Keymar to junction MD Hwy 77, then over MD Hwy 77 to MD Hwy 550 east of Thurmont, then over MD Hwy 550 to junction MD Hwy 194 at Woodsboro, then over MD Hwy 194 to Ceresville, then over MD Hwy 26 to junction MD Hwy 355, then over MD Hwy 355 to Little Seneca Creek (about 3 miles south of Clarksburg), then along Little Seneca Creek and Seneca Creek to the Potomac River and the MD–VA State line, and (b) Smithfield and West Point, VA, and points in Albemarle, Alleghany, Amelia, Amherst, Appomattox, Augusta, Bedford, Botetourt, Buckingham, Campbell, Caroline, Chesterfield, Clarke, Culpeper, Cumberland, Fairfax, Fauquier, Fluvanna, Frederick, Giles, Goochland, Greene, Hanover, Henrico, King George, Loudoun, Louisa, Madison, Montgomery, Nelson, Nottoway, Orange, Page, Powhatan, Prince William, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren Counties, VA; (B) over irregular routes, between Bluefield, Bristol, Lynchburg, Norfolk, Pulaski, Richmond, and Roanoke, VA, and Greensboro and Norlina, NC, on the one hand, and, on the other, those points in VA on and south of a line beginning at Norfolk, VA, and extending along US Hwy 460 to Roanoke, VA, then along U.S. Hwy 11 to the VA-TN State line.

Note.—Applicant indicates intention to tack with existing authority.

MC 128102 (Sub-3F), filed November 23, 1979, published in the **Federal Register** issue of April 3, 1980, and republished, as corrected, this issue. Applicant: STATE MOTOR FREIGHT, INC., 3905 E. A St., Pasco, WA 98300. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98004. Transporting *fertilizer*, between points in ID, OR, and WA. (Hearing site: Pasco or Spokane, WA.) The purpose of this republication is to correct the commodity description.

MC 150093 (Sub-1F), filed May 19, 1980. Applicant: THE TOM DAVIS CORP. d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *steel tanks, steel boxes, and parts* for steel tanks and steel boxes, the transportation of which, because of size or weight, requires the use of special equipment or special handling, from the facilities of Corn States Metal Fabricators, at or near West Des Moines, IA, to points in the U.S. (except AK and HI), under continuing contract(s) with Corn States Metal Fabricators, of West Des Moines, IA.

Volume No. 324

Decided: August 26, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 3062 (Sub-52F), filed June 20, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). Over regular route, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between Nashville, TN and Paducah, KY, and the commercial zones, serving all intermediate points: from Nashville over Interstate Hwy 24 to junction U.S. Hwy 68, then over U.S. Hwy 68 to Paducah; (b) between Evansville, IN and Nashville, TN and their commercial zones, serving all intermediate points; (1) from Evansville over U.S. Hwy 41 to Hopkinsville, than over Alternate U. S. Hwy 41 to Nashville, TN. (2) from Evansville, IN over U.S. Hwy 41 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 431, then over U.S. Hwy 431 to Nashville, TN. (c) between Dyersburg and Nashville, TN and their commerical zones, serving all intermediate points: from Dyersburg over TN Hwy 104 to Milan, then over Alternate U.S. Hwy 70 to Huntington, then over U.S. Hwy 70 to Nashville. Applicant intends to tack with existing regular route authority.

MC 59583 (Sub-177F), filed March 24, 1980, and published June 26, 1980, and republish as corrected this issue. Applicant: THE MASON AND DIXON LINES, INCORPORATED, East Stone Drive, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave. NW, Washington, DC 20014. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Roanoke Rapids, NC, and York, PA: from Roanoke Rapids over Interstate Hwy 95 to Baltimore, MD, then over Interstate Hwy 83 to York, and return over the same route; (2) between Bristol and Norfolk, VA, over U.S. Hwy 58; (3) between Norfolk and Covington, VA, over Interstate Hwy 64; (4) between Roanoke and Richmond, VA: from Roanoke over U.S. Hwy 460 to junction VA Hwy 24, then over VA Hwy 24 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Richmond, and return over the same route; (5) between Danville, VA, and Baltimore, MD: (A) over U.S. Hwy 29, and (B) from Danville over U.S. Hwy 360 to Richmond, VA, then over U.S. Hwy 301 to junction MD Hwy 3, then over MD Hwy 3 to Baltimore, and return over the same route; (6) between Henderson, NC, and Petersburg, VA, over Interstate Hwy 85; (7) between Frederick, MD, and Gettysburg, PA, over U.S. Hwy 15; (8) between Frederick, MD, and Uniontown, PA, over U.S. Hwy 40; and (9) between Baltimore, MD, and Gettysburg, PA, over U.S. Hwy 140; serving in connection with routes (1) through (9) above, all intermediate points and all points in MD and VA on and west of the Chesapeake Bay and the Susquehanna River as off-route points. (Hearing site: Washington, DC or Cincinnati, OH.) The purpose of this republication to completely show the territorial description as requested.

Note.—Applicant intends to tack the routes sought with each other and with applicant's existing regular routes to provide through service to and from points throughtout appliant's regular-route system.

MC 135803 (Sub-11F), filed April 11, 1980. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140, P.O. Box 67, Planada, CA 95365. Representative: Donald M. Fennel (same as applicant). Transporting (1) *seeds, spices and herbs* and *commodities exempt from economic regulation* when moving in mixed loads with commodities in (1) above, between the facilities of Baltimore Spice Company at or near Reno, NV, on the one hand, and, on the other, points in CA and AZ.

MC 150993 (Sub-1F), filed June 5, 1980. Applicant: NATIONWIDE EXPRESS, INC., Cedar King Road, Shelbyville, TN 37160. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402. Transporting (1) (a) *school and office supplies*, and (b) *materials and equipment* used in the manufacture and distribution of the commodities in (1) above, between Shelbyville and Lewisburg, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) (a) *alcoholic beverages*, and (b) *materials and equipment* used in the manufacture and distribution of the commodities in (2) above, between Lynchburg, TN, and points in Coffee County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) (a) *fabrics* and (b) *clothing*, and (c) *materials and equipment* used in the manufacture and distribution of the commodities in 3(b) above, between Shelbyville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26718 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

[Rule 19; Ex Parte. No. 241; Eighty-eighth revised exemption No. 90]

Mandatory Railroad Car Service Rules Exemptions

To all railroads: It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for

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shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC REF 6410–F, issued by W. J. Tezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service rules 1, 2 (a) and 2(b).

Aberdeen and Rockfish Railroad Company Reporting Marks: AR
The Ahnapee & Western Railroad Company Reporting Marks: AHW
Amador Central Railroad Company Reporting Marks: AMC
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator Reporting Marks: AA
Apalachicola Northern Railroad Company Reporting Marks: AN
Arkansas & Louisiana Missouri Railway Company Reporting Marks: ALM
The Arcata and Mad River Railroad Company Reporting Marks: AMR
The Atchison, Topeka and Santa Fe Railway Company Reporting Marks: ATSF
Atlanta & Saint Andrews Bay Railway Company Reporting Marks: ASAB
Bath and Hammondsport Railroad Company Reporting Marks: BH
Berlin Mills Railway, Inc. Reporting Marks: BMS
Boston and Maine Company Reporting Marks: BM
Burlington Northern Inc. Reporting Marks: BN–CBQ–GN–NP–SPS
Cadiz Railroad Company Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company Reporting Marks: CPLT
Central Vermont Railway, Inc. Reporting Marks: CV
Chesapeake Western Railway Reporting Marks: CHW
Chippewa River Railroad Reporting Marks: CFSR
City of Prineville Reporting Marks: COP
The Clarendon and Pittsford Railroad Company Reporting Marks: CLP
Columbia & Cowlitz Railway Company Reporting Marks: CLC
Columbus and Greenville Railway Company Reporting Marks: CAGY
Delaware and Hudson Railway Company Reporting Marks: DH
Delray Connecting Railroad Company Reporting Marks: DC
Delta Valley & Southern Railway Company Reporting Marks: DVS
Denver and Rio Grande Western Railroad Company Reporting Marks: DRGW
Detroit and Mackinac Railway Company Reporting Marks: DM
Detroit, Toledo and Ironton Railroad Company Reporting Marks: DTI
Duluth, Missabe and Iron Range Railway Company Reporting Marks: DMIR
East Camden & Highland Railroad Company Reporting Marks: EACH
East St. Louis Junction Railroad Company Reporting Marks: ESLJ
Ferdinand Railroad Company Reporting Marks: FRDN
Galveston Wharves Reporting Marks: GWF
Genessee and Wyoming Railway Company Reporting Marks: GNWR
Green Bay and Western Railway Company Reporting Marks: GBW
Green Mountain Railroad Corporation Reporting Marks: GMRC
Greenville and Northern Railway Company Reporting Marks: GRN
The Hutchinson and Northern Railway Company Reporting Marks: HN
Helena Southwestern Railroad Company Reporting Marks: HSW
Illinois Terminal Railroad Company Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc., D/B/A The Hosier Connection Reporting Marks: HOSC
Iowa Terminal Railroad Co. Reporting Marks: IAT
Lake Erie, Franklin & Clarion Railroad Company Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company Reporting Marks: LSI
Lamoille Valley Railroad Company Reporting Marks: LVRC
Lancaster and Chester Railway Company Reporting Marks: LC
Lenawee County Railroad Company, Inc. Reporting Marks: LCRC
Longview, Portland & Northern Railway Company Reporting Marks: LPN
Louisiana Midland Railway Company Reporting Marks: LOAM
The Louisiana and North West Railroad Company Reporting Marks: LNW
Louisville and Nashville Railroad Company Reporting Marks: CIL–LN–MON–NC [1]
Louisville and Wadley Railway Company Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company Reporting Marks: LNAC
Manufacturers Railway Company Reporting Marks: MRS
Maryland and Delaware Railroad Company Reporting Marks: MDDE
McCloud River Railroad Company Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc. Reporting Marks: MNJ
Minneapolis, Northfield and Southern Railway Reporting Marks: MNS
Mississippian Railway Reporting Marks: MISS
Missouri-Kansas-Texas Railroad Company Reporting Marks: MKT-BKTY
Missouri Pacific Railroad Company Reporting Marks: MP–CEI–MI–TP
Moscow, Camden & San Augustine Railroad Reporting Marks: MCSA
New Hope and Ivyland Railroad Company Reporting Marks: NHIR
New Jersey, Indiana & Illinois Railroad Company Reporting Marks: NJII
New Orleans Public Belt Railroad Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company Reporting Marks: NYSW
Norfolk and Western Railway Company Reporting Marks: ACY–NW–NKP–WAB
Norfolk, Franklin and Danville Railway Company Reporting Marks: NFD
North Louisiana & Gulf Railroad Company Reporting Marks: NLG
Octararo Railway, Inc. Reporting Marks: OCTR
Ontario Midland Railroad Corp. Reporting Marks: OMID
Oregon & Northwestern Railroad Co. Reporting Marks: ONW
Oregon, California & Eastern Railway Company Reporting Marks: OCE
Oregon, Pacific and Eastern Railway Company Reporting Marks: OPE
Pearl River Valley Railroad Company Reporting Marks: PRV
Peninsula Terminal Company Reporting Marks: PT
Pittsburgh, Allegheny & McKees Rocks Railroad Company Reporting Marks: PAM
The Pittsburgh and Lake Erie Railroad Company Reporting Marks: PLE
Port Huron and Detroit Railroad Company Reporting Marks: PHD
Port of Tillamook Bay Railroad Reporting Marks: POTB
Prairie Trunk Railway Reporting Marks: PARY
Rahway Valley Railroad Company Reporting Marks: RV
Sacramento Northern Railway Reporting Marks: SN
St. Lawrence Railroad Reporting Marks: NSL
St. Louis Southwestern Railway Company Reporting Marks: SSW
St. Marys Railroad Company Reporting Marks: SM
Sandersville Railway Company Reporting Marks: SAN
Savannah State Docks Railroad Company Reporting Marks: SSDK
Seaboard Coast Line Railroad Company Reporting Marks: ACL–SAL–SCL[1]
Seattle and North Coast Railroad Company Reporting Marks: SNCT
Sierra Railroad Company Reporting Marks: SERA
Southern Pacific Transportation Company Reporting Marks: SP
Southern Railway Company Reporting Marks: CG–NS–SA–SOU
Terminal Railway, Alabama State Docks Reporting Marks: TASD
The Texas Mexican Railway Company Reporting Marks: TM
Tidewater Southern Railway Company Reporting Marks: TS
Toledo, Peoria & Western Railroad Company Reporting Marks: TPW
Transkentucky Transportation Railroad, Inc. Reporting Marks: TTIS
Union Railroad of Oregon Reporting Marks: UO
Upper Merion and Plymouth Railroad Company Reporting Marks: UMP
Valley and Siletz Railroad Company Reporting Marks: VS
Vermont Railway, Inc. Reporting Marks: VTR
The Virginia and Maryland Railroad Company Reporting Marks: VAMD
Virginia Central Railway Reporting Marks: VC

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[1] Additions.

[1] Additions.

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Warwick Railway Company Reporting Marks: WRWK
Wabash Valley Railroad Company Reporting Marks: WVRC
WCTU Railway Company Reporting Marks: WCTR
Western Pacific Railway Company Reporting Marks: WP
Winchester and Western Railroad Company Reporting Marks: WW
Youngstown & Southern Railway Company Reporting Marks: YS
Yreka Western Railroad Company Reporting Marks: YW

Effective August 15, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., August 13, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-26728 Filed 8-29-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

AID Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on November 13-14, 1980 at the Pan American Health Organization Building Conference Room "C" to review, appraise and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. research funding in the area of food and nutrition, health and population, and selected development problems.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Miloslav Rechcigl, Jr., Chief of Research and Methodology Division, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235-9011.

Dated: August 6, 1980.

Miloslav Rechcigl,

A.I.D. Representative Research Advisory Committee.

[FR Doc. 80-26679 Filed 8-29-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Attorney General

Certification of the Attorney General; Conecuh County, Ala.

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Conecuh County, Alabama. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

August 28, 1980.

[FR Doc. 80-26961 Filed 8-29-80; 11:57 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Shenango Incorporated,* Civil Action No. 80-1172, has been lodged with the United States District Court for the Western District of Pennsylvania. The proposed consent decree would establish a compliance program for Shenango Incorporated's iron-producing plant at Neville Island, Pennsylvania, to bring this facility into compliance with the Clean Air Act, 42 U.S.C. 7401 *et sec.*

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *United States* v. *Shenango Incorporated,* D.J. Ref. 90-5-2-3-1099.

The proposed consent decree may be examined at the office of the United States Attorney, 633 United States Post Office and Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; at the Region III office of the United States Environmental Protection Agency, Enforcement Division, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2444, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $7.90 (10 cents per page reproduction charges) payable to the Treasurer of the United States.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-26752 Filed 8-29-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Hazardous Waste

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on July 28, 1980, a proposed Consent Decree in *United States* v. *Interstate Transformer, Inc. and H. G. Snyder* was lodged with the United States District Court for the Western District of Pennsylvania. The proposed decree would require Defendants to comply with Environmental Protection Agency regulations regarding polychlorinated biphenyls (PCBs) including requirements concerning storage and disposal, and marking, monitoring, and record keeping.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Interstate Transformer, Inc. and H. G. Snyder,* D.O.J. Docket No. 90-5-1-1-1219.

The proposed consent decree may be examined at the Office of the Clerk, U.S. District Court, 827 United States Post Office Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219, Office of the United States Attorney, 633 United States Post Office and Courthouse, Pittsburgh, Pennsylvania 15219, at the Region III Office of the Environmental Protection Agency, Curtis Building, Second floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 and at the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice (Room 1644), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C., 20530. A Copy of the proposed consent decree may be obtained in person or by mail from the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-26753 Filed 8-29-80; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States v. Greater Syracuse Board of Realtors, Inc., et al.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comment on the proposed judgment filed with the United States District Court for the Northern District of New York in *United States v. Greater Syracuse Board of Realtors, Inc., et al.*, 77 Civ. 159, was received by the Department of Justice and is published herewith, together with Justice's response to the comment.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. Department of Justice, Antitrust Division, *New York Office, 26 Federal Plaza, Room 3630, New York, New York 10007.*

August 11, 1980.

John E. Daniel, Esq., Anderson Russell Kill & Olick, P.C., Rockefeller Center, 630 Fifth Avenue, New York, New York 10020.

Re: United States v. Greater Syracuse Board of Realtors, Inc., et al. 77 Civ. 159 (N.D.N.Y.)

Dear Mr. Daniel: In accordance with the provisions of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), this response is made by the Government to the written comments concerning the proposed consent judgment in the captioned action submitted by your clients, Mary Dolan, The Home Specialist, Inc. and Mary Dolan Little (hereinafter collectively referred to as Mary Dolan Little), on May 2, 1980 to Judge Howard G. Munson.

The proposed judgment and a Competitive Impact Statement were filed with the Court on April 14, 1980 and published in the **Federal Register** on April 25, 1980. The written comments from Mary Dolan Little will also be filed with the Court and published in the **Federal Register** together with this response.

The proposed judgment provides that there has been no admission by any party with respect to any issue of fact or law. It would have no *prima facie* effect in any lawsuits which may be pending or hereafter brought against the defendants.

The proposed judgment enjoins the defendants from, among other things, fixing, establishing or maintaining any rates or amounts of commissions or other fees for the sale, exchange, rental, lease, management or mortgage of real estate.

The proposed judgment directs the defendants to insert in all bylaws, rules, regulations, contracts, the forms requiring a client's signature a provision, in all capital letters, that rates or amounts of commission for the sale, exchange, rental, lease, management or mortgage of real estate shall be negotiable between a broker and his client. It also directs the Greater Syracuse Board of Realtors, Inc. (Board) to publish an advertisement twice in the real estate section of the Sunday Syracuse Herald Journal stating, in part, that "* * * you should be aware that the commission rate or fee that a broker charges for his services is negotiable."

The proposed judgment requires the Board to provide a copy of the judgment to its officers, directors, and members and each of the other defendants to provide a copy of the judgment to its officers, directors, brokers, and sales persons. Each of the defendants is also required to have its attorney explain the provisions of the judgment to its personnel at a meeting called for that purpose.

Mary Dolan Little comments that the proposed judgment should incorporate an admission by the defendants that they violated the antitrust laws and be available as *prima facie* evidence against such defendants in other proceedings.

Mary Dolan Little believes that in order to eliminate anticompetitive behavior by realtors in the Greater Syracuse area it will be necessary to prevent the control allegedly exercised over real estate activities and the Board by a small clique of brokers, including the defendants in this action. She suggests that all individual defendants in the related criminal action, *United States* v. *Greater Syracuse Board of Realtors, Inc. et al.*, 77 Cr. 57 (N.D.N.Y.), and representatives of the corporate defendants in this action be precluded for three years from serving as officers or directors or on any committee of the Board. She also suggests that the Board's executive vice president, John F. Osta, be replaced, that Board officers and directors be barred from serving consecutive terms, that Board meetings be held more frequently and upon adequate written notice, that requirements for member-called special meetings be relaxed, and that procedures for the removal of Board directors and suspension of Board members be modified.

Mary Dolan Little also suggests specific modifications of Sections VI and VII of the proposed judgment. She proposes adding language to Section VI to inform applicants for Board membership that rates or amounts of commissions or other fees shall be decided by each broker and shall not be set by the Board or its Multiple Listing Service. She proposes to clarify Section VII "to properly reflect the respective functions of the Board and real estate brokers."

After careful consideration of Mary Dolan Little's comments, the Government has concluded that the public interest is served by the proposed judgment in its present form and that the additions and modifications suggested by Mary Dolan Little should not be incorporated in the judgment.

The proposed judgment includes substantially all of the relief requested in the complaint and sought by the Government in bringing this action. As noted above, the judgment does not incorporate an admission by the defendants that they have violated the antitrust laws. In negotiating consent decrees in antitrust cases, the Government generally does not require the inclusion of such a provision if the relief contained in the decree is otherwise satisfactory. Moreover, defendants ordinarily are unwilling to consent to such a provision. The Government would have to prevail at trial in this case in order to provide possible victims of the alleged price-fixing conspiracy with *prima facie* evidence of a violation of law. We believe that a protracted trial, involving the allocation of substantial resources, is unwarranted since we have obtained satisfactory relief.

The Government believes that Mary Dolan Little's suggestions concerning the reform and restructuring of the Board are inappropriate in the context of this action in that they involve matters substantially beyond the scope of the violation alleged and the relief necessary to prevent a recurrence of the violation. The complaint in this action charges ten corporate defendants, including the Board, with price-fixing. It does not challenge the structure of the Board or its procedures except insofar as such procedures may endorse or further anticompetitive conduct. Moreover, the Government believes that it would be unable to obtain the proposed relief even should it prevail at trial on the merits.

Mary Dolan Little's proposed addition to Section VI of the judgment is unnecessary since the educational purpose of that addition is fully satisfied by Section X(B) of the judgment which requires the Board to serve a copy of the judgment upon each person becoming an officer, director or member of the Board. Furthermore, Section XI(B) requires each of the other defendants to serve a copy of the judgment upon each person becoming an officer, director, broker or sales person of such defendant.

Finally, we do not believe that Section VII requires any clarification. That Section does not, explicitly or implicitly, misconstrue the respective functions of the Board and real estate brokers. It does not state or imply that the Board can enter into a brokerage relationship with a client. Proper compliance with Section VII by the defendants will in no way be affected by the failure to incorporate Mary Dolan Little's suggestion.

For the reasons discussed above, the Government believes that the entry of the proposed consent judgment, in its present form, is in the public interest.

Sincerely yours,

Melvin Lublinski,

Attorney, Antitrust Division.

Anderson Russell Kill & Olick, P.C.,

New York, N.Y., May 2, 1980.

Re United States vs. Greater Syracuse Board of Realtors, *et al. 77 Civil 159.*

Hon. Howard G. Munson,

U.S. District Judge, U.S. District Courthouse, 100 South Clinton Street, Syracuse, N.Y.

Dear Judge Munson: We are writing on behalf of our clients, Mary Dolan, The Home

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Specialist, Inc. and Mary Dolan Little in connection with the proposed consent decree between the United States government and the defendants in the above-captioned action. We are gratified to see that Mrs. Little, in her determination to help expose anti-trust violations by Syracuse area realtors, has once again been vindicated. However, we believe that such decree, in the public interest, should provide that such defendants have violated the antitrust laws and be available as prima facie evidence against such defendants in other proceedings. The victims of the defendants' wrongful acts should have the benefits of the decree available to them.

We are further gratified to see that the proposed consent decree incorporates certain features we had earlier urged should be included in any agreement reached between the Government and the defendants. The portions of the proposed consent decree which require affirmative action by the Greater Syracuse Board of Realtors to eliminate illegal price fixing and boycotting and to apprise the public of its right to individually negotiated commissions certainly are an important first step in creating a truly competitive environment in the real estate industry in Syracuse.

While we recognize the salutary effects of the proposed consent decree, our clients feel that additional relief should be included in order for the consent decree to be truly effective in eliminating anti-competitive behavior by realtors in the Syracuse area. Our clients believe that the existence of such anti-competitive behavior in Syracuse is in large part attributable to the control of real estate activities and the Board by a small clique of brokers that includes the defendants in the Government's action. Accordingly, the decree should be designed to eliminate and prevent control by this or any other group of brokers, and thereby create a more open, and it is submitted, a more competitive real estate industry.

One important way to promote competition is to preclude the individual defendants from serving as officers or directors or on any committee of the Board for a designated period. We suggest that the decree bar said individual defendants from such service for the next three years. Representatives of the company defendants similarly should be subject to the same prohibition. In addition, in light of day to day involvement of the Board's Executive Vice President in Multiple Listing Service matters, our clients believe a more independent and open atmosphere could be achieved by replacing the present holder of that position, Mr. John F. Osta.

To avoid the possibility of any individual or small group once again perpetuating control, our clients suggest that directors be barred from serving consecutive terms. All officers of the Board who are also realtors should likewise be precluded from serving consecutive terms. Meetings of the Board should be held on a more frequent basis than at present, perhaps every month. Adequate written advance notice of any such meeting and the topics to be discussed should be provided to the membership. In addition, the present requirements for member-called special meetings should be relaxed in order to maximize participation by the rank and file. Voting by proxy should be permitted and a complete and up-to-date membership list should be available for member use. Membership fees should not be unreasonably high.

Removal of directors of the Board should be permitted only after advance notice of the reasons for such proposed removal and upon majority vote of all members. An opportunity for rebuttal and cross-examination should be provided, with a right to appeal any decision to the membership as a whole. In this regard, it should be emphasized that the defendants were able, in part, to carry out their illegal activities by removing a director who objected to and refused to participate in such activities. Members of the Board, similarly, should not be suspended without an opportunity to rebut charges against them and without notice to the membership of the proposed suspension.

With respect to the proposed consent decree as presently drafted, we believe that Section VII should be clarified to properly reflect the respective functions of the Board and real estate brokers. The Board cannot enter into a brokerage relationship with a client; hence there should be no Board "forms requiring a client's signature". Since the language quoted probably is intended to refer to forms which the Board supplies for use by its members in *their* dealings with clients, our clients believe that Section VII should be revised to reflect that fact and thereby avoid the implication that the Board, and not the individual broker, enters into a contract with the homeowner. We would suggest the following revisions:

VII

The Board is ordered and directed within ninety (90) days from the date of entry of this final judgment to insert in all by-laws, rules and regulations and in all forms and contracts requiring a client's signature which the Board supplies to its membership for their convenience and use, a provision prominently situated in all capital letters that rates or amounts of commissions or other fees for the sale, exchange, rental, lease, management or mortgage of real estate shall be negotiable between a broker and his client. The remaining defendants are ordered and directed within ninety (90) days from the date of entry of this final judgment to insert a similar provision in all their by-laws, rules and regulations, contracts and forms requiring a client's signature.

With respect to Section VI of the proposed consent decree, we would suggest the addition of the following language:

"Applications for membership should contain a notice, prominently displayed in capital letters on the first page, that rates or amounts of commissions, or commission splits, or other fees for the sale, exchange, rental, lease, management or mortgage of real estate shall be the decision of each broker and shall not be set by the Board or its Multiple Listing Service or any other member of the Board."

Our clients believe that such a notice would serve to alert future members of the Board that they may conduct their business free from influence or directives of the Board relating to commission rates, splits or any other price-related matter. By adding this provision, the Court helps to ensure that past abuses will not return through a lack of knowledge by new and ill-informed members.

Our clients have been direct victims of the activities the proposed correct decree seeks to prohibit. Our clients believe that incorporation of the above suggestions in the consent decree will help to prevent the occurrence of similar activities in the future and will have a decidedly beneficial effect on the real estate industry in Syracuse. We therefore are hopeful that the Court will give such suggestions its full and serious consideration.

Respectfully yours,

John E. Daniel.

[FR Doc. 80-26567 Filed 8-29-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Alaska State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. In response to Federal standards changes: (a) By letter dated December 15, 1976 from Edmund N. Orbeck, Commissioner of the Alaska Department of Labor, to James W. Lake, Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted assurance with adequate explanation that within its jurisdiction there were no establishments where conditions would warrant application of a standard comparable to the Federal standard 29 CFR 1910.1029, Coke Over Emissions, as published in the **Federal Register** (41 FR 46784), dated October 22, 1976, and subsequent correction thereto as published in the **Federal Register** (42 FR 3304), dated January 18, 1977;

(b) By letter dated August 21, 1978 Edmund N. Orbeck, Commissioner of the Alaska Department of Labor, and incorporated as part of the plan, the State submitted assurance with adequate explanation that within its jurisdiction there were no establishments where conditions would warrant application of a standard comparable to the Federal standard 29 CFR 1910.1043, Exposure to Cotton Dust, as published in **Federal Register** (43 FR 27394), dated June 23, 1978 and subsequent related standards, amendments, or corrections; and

(c) By letter dated August 21, 1978, from Edmund N. Orbeck, Commissioner of the Alaska Department of Labor, and incorporated as part of the plan, the State submitted assurance with adequate explanation that within its jurisdiction there were no establishments where conditions would warrant application of a standard comparable to the Federal standard 29 CFR 1910.1046, Exposure to Cotton Dust in Cotton Gins, in the **Federal Register** (43 FR 27434), dated June 23, 1978 and subsequent related standards, amendments, or corrections; and

(d) The State assured that if conditions within the State change, and it becomes known that workplaces exist in which the standards would apply, the State would then adopt comparable standards.

2. *Decision.* Having reviewed the State submission, it has been determined that there is presently no need for the State of Alaska to incorporate 29 CFR 1910.1046, Occupational Exposure to Cotton Dust in Cotton Gins, as part of its plan and 29 CFR 1910.1029, Coke Oven Emissions. There are currently no worksites in the State where employees are exposed to the hazard covered by these standards. In the event of future activity in the State which would be covered, enforcement of the standard(s) will be the responsibility of Federal OSHA, until such time that the State adopts the standard(s). Alaska's decision not to adopt comparable standards at this time is hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the letters along with the approved plan may be inspected and copied during normal business hours at the following locations: Occupational Safety and Health Administration, Room 6003, 909 First Avenue, Federal Office Building, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Office of State Programs, Occupational Safety and Health Administration, Room N2349R, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternate procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Alaska State plan as proposed changes and making the Regional Administrator's decision effective upon publication.

The decision is effective September 2, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 20th day of June, 1980.

James W. Lake,

Regional Administrator.

[FR Doc. 80-26774 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Gould, Inc., et al.; Investigations Regarding Certifications of Eligibility To apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("The Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapeter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 12 September 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 12 September 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of August 1980.

Harold A Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Gould Inc., Powder Metal Products Division (union) UAW.	Salem, IN	8/14/80	8.11.80	TA-W-10,315	Powered metal parts for auto industry.
Lewiston Forest Products, Inc. (company)	Lewiston, MI	8/14/80	8/4/80	TA-W-10,316	Pallets.
L.O.F. Plastics (union) UAW	Spring Arbor, MI	8/14/80	8.11.80	TA-W-10,317	Dashborads, arm rests, and window panels.
Norwood Engineering Company (workers)	Dayton, OH	8/14/80	8/8/80	TA-W-10,318	Special tools.
Rain Craft Corp. (workers)	Garfield, NJ	8/11/80	8/6/80	TA-W-10,319	Ladies outerwear.
Ring Screw Works Co. (workers)	Warren, MI	8/14/80	8/1/80	TA-W-10,320	Threaded Fasteners.
Shepherd Industries, Inc. (workers)	Lenexa, KS	8/14/80	8/4/80	TA-W-10,321	Quartz crystal.
Spiral Industries (workers)	Milford, MI	8/8/80	8/6/80	TA-W-10,322	Fabricated tubing for agricultural and trucking.
Sunstrand Tubular Products (workers)	Camdenton, MO	8/8/80	7/14/80	TA-W-10,323	Component parts for air conditioning units.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
AMF Harley Davidson Motor Co. (workers)	Milwaukee, WI	8/7/80	8/4/80	TA-W-10,324	Motorcycles.
Anchor Bay Plastics Co. (workers)	Fairhaven, MI	8/7/80	8/4/80	TA-W-10,325	Heater and defroster ducts for cars.
DMR Textile, Inc. (union)	New York, NY	8/7/80	8/4/80	TA-W-10,326	Textiles.
Federal Mogul Piston Plant (workers)	Malden, MO	8/7/80	7/30/80	TA-W-10,327	Pistons.
General Tire and Rubber Co. (workers)	Marion, IN	8/7/80	8/2/80	TA-W-10,328	Car parts.
Jackson Crankshaft Co. (union)	Jackson, MI	8/7/80	8/5/80	TA-W-10,329	Crankshafts.
Schmelzer Corp. (union)	St. Johns, MI	8/11/80	8/6/80	TA-W-10,330	Oil strainers and carburetor parts for autos.
Shannon Branch Mine (union)	McDowell County, WV	8/11/80	8/8/80	TA-W-10,331	Coal.
Southfield Machine Products (workers)	Southfield, MI	8/11/80	8/6/80	TA-W-10,332	Automotive components for American made cars and trucks.
Acco Industries Helicoil and Guage Division (workers).	Bridgeport, CT	8/11/80	8/25/80	TA-W-10,333	Production of gauges.
Ford Motor Co.	Teterboro, NJ	5/20/80	5/15/80	TA-W-10,334	Sales.
North Miami Tool and Die (workers)	North Miami, FL	8/11/80	8/7/80	TA-W-10,335	Automotive dies.
United Manufacturing (workers)	Mount Clemens, MI	8/4/80	7/31/80	TA-W-10,336	Metal stampings for seat belts.
Valiant Industries Inc. (workers)	Warren, MI	8/11/80	7/31/80	TA-W-10,337	Precision machine shop.
Waverly Sportswear (workers)	New York City, NY	8/11/80	8/8/80	TA-W-10,338	Womens sportswear.
W C Du Comb Co.	Detroit, MI	8/11/80	8/1/80	TA-W-10,339	Distributor for ball bearings, roller bearings, and power transmissions.
Wellington Manufacturing Inc. (workers)	Richmond, MI	8/11/80	8/7/80	TA-W-10,340	Automotive trim parts.
White Farm Equipment (union)	Charles City, IA	8/11/80	8/5/80	TA-W-10,341	Manufactures farm tractors.
Almont Manufacturing Co. (workers)	Imlay, MI	8/13/80	8/11/80	TA-W-10,342	Gray iron castings for auto companies
Broadway Chrysler and Plymouth (workers)	Jenkintown, PA	8/11/80	8/04/80	TA-W-10,343	Auto sales.
Buffalo Grinding Service, Inc. (workers)	Buffalo, NY	8/04/80	8/01/80	TA-W-10,344	Makes locks for cars.
Capac Metal Products (company)	Capac, MI	8/01/80	7/30/80	TA-W-10,345	Alum core driers.
Fitzsimons Manufacturing Co.—West Branch Tube Division.	West Branch, MI	8/11/80	7/22/80	TA-W-10,346	Automotive.
Heintz—Division of Kelsey/Hayes Co. (union)	Philadelphia, PA	7/22/80	7/16/80	TA-W-10,347	Automotive wheels, hoods, and fenders
Mohawk Rubber Co (workers)	Knoxville, KY	6/30/80	6/25/80	TA-W-10,348	Tires.
New Jersey Zinc Co. (workers)	Palmerton, PA	8/13/80	8/07/80	TA-W-10,349	Zinc metal, zinc oxide, and carbon dioxide
Saltzs Apparel (company)	Fort Worth, TX	7/23/80	7/18/80	TA-W-10,350	Apparel.
Acme Carbide Die Inc. (workers)	Melvindale, MI	8/13/80	8/07/80	TA-W-10,351	Carbide coal forming dies
Craig Contractors, Inc. (workers)	Bolair, WV	8/07/80	8/01/80	TA-W-10,352	Coal.
International Harvester Co. (union)	Shadyside, OH	8/07/80	8/01/80	TA-W-10,353	Stampings.
International Minerals & Chemical Corp (company).	Orrington, ME	8/13/80	8/11/80	TA-W-10,354	Sodium chlorate
JNT Sportswear (workers)	Brooklyn, NY	8/07/80	8/04/80	TA-W-10,355	Blouses.
Metal Products Co (workers)	Niles, OH	8/13/80	8/08/80	TA-W-10,356	Automotive flanges
Phillips Industries (workers)	Malta, OH	8/13/80	8/06/80	TA-W-10,357	Wood windows.
Sunflower Novelty Bags, Inc. (workers)	Deer Park, NY	8/05/80	7/30/80	TA-W-10,358	Handbags
Timken Company (workers)	Gaffney, SC	8/11/80	8/08/80	TA-W-10,359	Tapered roller bearings
Armada Rubber Manufacturing Company (company).	Armada, MI	8/13/80	8/08/80	TA-W-10,360	Mechanical rubber parts sealing compounds.
Elan Shoe Corp. (workers)	Brooklyn, NY	8/13/80	8/07/80	TA-W-10,361	Contract for manufacturing ladies shoes
Indianapolis Rubber Co. (union)	Indianapolis, IN	8/11/80	7/24/80	TA-W-10,362	Inner tubes, and rim phlaps for autos.
Kidde, Inc. (union)	Belleville, NJ	8/13/80	8/07/80	TA-W-10,363	Aerospace and fire fighting equipment
Leeds-Dixon, Division of Iroqouis Brands, Inc (union).	Moonachie, NJ	8/13/80	8/07/80	TA-W-10,364	Vitamins and food supplements.
Sporting Side, Ltd. (workers)	New York City, NY	8/13/80	8/04/80	TA-W-10,365	Womens apparel.
Strawsine Manufacturing (union)	Corunna, MI	8/15/80	8/12/80	TA-W-10,366	Components for mobile homes
Tenco—Division of Coca Cola (union)	Linden, NJ	8/14/80	8/11/80	TA-W-10,367	Instant coffee.
Thunderline Corp. (workers)	Wayne, MI	8/15/80	8/13/80	TA-W-10,368	Rubber parts and link seals.
Diamond Heat Treat (union)	Detroit, MI	8/15/80	8/11/80	TA-W-10,369	Heat treating for automobiles.
Duffey Boneless Beef Co., Inc. (workers)	Carrollton, GA	8/14/80	8/11/80	TA-W-10,370	Produce boneless beef and related products.
Harrisburg Manufacturing Co. (workers)	Harrisburg, AR	8/11/80	7/28/80	TA-W-10,371	Women's shoes.
Hooker Chemical Durex Division (union)	Kenton, OH	8/11/80	8/06/80	TA-W-10,372	Therosetting phenolic plastics molding material.
Itmann Coal Co. (union)	Itmann, WV	8/11/80	8/08/80	TA-W-10,373	Low-volatile metal-lurgical coal.
Jim Robbins Co., Division of Tecumeh (workers).	Owosso, MI	7/29/80	7/24/80	TA-W-10,374	Car components.
Norris Industries, Inc. (workers)	Pimeola, NC	8/15/80	8/13/80	TA-W-10,375	Wheel covers
Successful Creations, Inc. (workers)	Northvale, NJ	8/13/80	8/1/80	TA-W-10,376	Variety of clothes
Tela Tool Corp. (union)	Romulus, MI	8/15/80	8/11/80	TA-W-10,377	Auto toolings.
Stein Inc. (workers)	Cleveland, OH	8/15/80	8/12/80	TA-W-10,378	Contractor for steel mills
Tube Products (workers)	Troy, OH	8/15/80	8/12/80	TA-W-10,379	Tail pipes.
Wallace Murray Corp. (workers)	Richmond, IN	8/15/80	8/11/80	TA-W-10,380	Cutting gears for cars.
Warrendale Manufacturing Co. (workers)	Dearborn, MI	8/15/80	8/11/80	TA-W-10,381	Car parts for Ford Motor Co.
W. E. Plechaty Co. (workers)	Cleveland, OH	8/15/80	8/13/80	TA-W-10,382	Trucking and hauling steel.
W. F. Meyers Co. (UAW)	Bedford, IN	8/15/80	8/11/80	TA-W-10,383	Diamond and carbide tools.
Winamac Steel Kewanna Plant (Teamsters).	Kewanna, IN	8/15/80	8/12/80	TA-W-10,384	Agricultural, products, railroad plates, etc
Winamac Steel Division of Norris Industries (Teamsters).	Winamac, IN	8/15/80	7/28/80	TA-W-10,385	Agricultural, products, railroad plates, etc
Wolff Shoe Manufacturing (Company)	Union, MO	8/15/80	8/12/80	TA-W-10,386	Ladies cement process shoes.
Buck Horn Mine (workers)	Oklahoma City, OK	8/07/80	8/03/80	TA-W-10,387	Coal mining.
Central Die Sinking Co. (workers)	Holt, MI	8/11/80	8/04/80	TA-W-10,388	Forging dies.
Commonwealth Industries, Inc. (union)	Detroit, MI	8/15/80	8/12/80	TA-W-10,389	heating treatments for autos
Johnson Stamping and Fine Blanking Co (union).	Plymouth, MI	8/15/80	8/11/80	TA-W-10,390	Tool room, press operators
Miracle Coal Co. (workers)	Oklahoma City, OK	8/07/80	8/03/80	TA-W-10,391	Coal mining.
National Semiconductor Large Computer Systems, Inc. (workers).	San Diego, CA	5/28/80	5/19/80	TA-W-10,392	Designs and manufactures main frame computers and add-on memories.
Textile Industries, Inc. (union)	Detroit, MI	8/15/80	8/12/80	TA-W-10,393	Sewing for seats and interiors.
Tomkins and Co. (workers)	Oklahoma City, OK	8/07/80	8/03/80	TA-W-10,394	Coal mining.
Tonawanda Engineering, Inc	Tonawanda, NY	8/08/80	8/03/80	TA-W-10,395	Welders.
Arjay Manufacturing Company (UAW)	Bad Axe, MI	8/20/80	8/19/80	TA-W-10,396	Automotive components
Armca, Incorporated (UAW)	Cass City, MI	8/20/80	8/19/80	TA-W-10,397	Light sheet metal and wire cloth stampings.
Civic Ford, Inc. (workers)	Canton, OH	7/24/80	7/18/80	TA-W-10,398	New and used auto's and trucks, service, parts and leasing departments.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Interlake, Inc. (International Union of Bricklayers & Allied Craftmen).	Newport, KY	8/15/80	8/12/80	TA-W-10,399	Steel production—flat roll steel.
International Harvester Company, Truck Division (UAW).	Fort Wayne, IN	6/27/80	6/24/80	TA-W-10,400	Heavy duty trucks.
I.R.C. Fibers Company (workers)	Painesville, OH	8/15/80	8/13/80	TA-W-10,401	Polyester tire cord for automobiles.
Peerless Gage, Inc. (UAW)	Livonia, MI	8/15/80	8/11/80	TA-W-10,402	Tools and gages.
Robins Production Company (UAW)	Farmington, MI	8/15/80	8/11/80	TA-W-10,403	Custom plastic injection molding for autos.
Stardard Steel Treating Company (UAW)	Detroit, MI	8/15/80	8/11/80	TA-W-10,404	Treat auto parts (restoration, carburizing, etc.).
JJJ, Incorporated (workers)	Fraser, MI	8/11/80	7/31/80	TA-W-10,405	Automotive parts (windows and door parts).
Kinsman Manufacturing Company, Vernon Division (workers).	Kinsman, OH	8/18/80	8/11/80	TA-W-10,406	Automotive related parts.
Levinson Steel Company (workers)	Pittsburgh, PA	8/18/80	8/13/80	TA-W-10,407	Fabricate structural steel.
Michigan Production Machining, Inc. (workers).	Warren, MI	8/18/80	8/5/80	TA-W-10,408	Machined engine and chassies parts.
Rockwell International Power Tool Division (USWA).	Tupelo, MS	8/18/80	8/5/80	TA-W-10,409	Stationary wood power tools.
Solar Machine Products (workers)	Romulus, MI	8/16/80	8/14/80	TA-W-10,410	Crew machine products.
Transue & Williams (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers & Helpers).	Alliance, OH	8/18/80	8/15/80	TA-W-10,411	Steel forgings.
Transue & Williams, Forge Division (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers & Helpers).	Alliance, OH	8/18/80	8/15/80	TA-W-10,412	Steel forgings.
Bridon American Corp. (company)	Exeter, PA	8/15/80	8/12/80	TA-W-10,413	Wire rope.
Clark Equipment Co. (workers)	Buchanon, MI	8/15/80	8/13/80	TA-W-10,414	Axles for machinery.
Cyclops Corp., Detroit Strip Division (workers)	Hamden, CT	8/18/80	8/14/80	TA-W-10,415	Cold roll steel.
Damsel Manufacturing (workers)	New York, NY	8/15/80	8/13/80	TA-W-10,416	Children's T-shirts, blouses, slacks, shorts, and skirts.
The Exylin Company (workers)	Miami Lakes, FL	8/18/80	8/4/80	TA-W-10,417	Rainwear and outerwear (ladies), also nylon garment bags.
Harman International (workers)	Bolivar, TN	8/18/80	8/12/80	TA-W-10,418	Outside rear view mirrors.
Jackson Drop Forge Company (UAW)	Jackson, MI	8/18/80	8/12/80	TA-W-10,419	Axle flanges, pipe flanges.
Lucas Chrysler Plymouth, Inc. (workers)	Maumee, OH	8/15/80	8/1/80	TA-W-10,420	Domestic auto sales and repairs.
Meedco, Inc. (workers)	Galveston, IN	8/15/80	8/12/80	TA-W-10,421	Designs and builds special machines and equipment for auto industry.
Champion Industries, Inc. (workers)	Mount Clemens, MI	6/13/80	6/4/80	TA-W-10,422	Machine castings for auto industry.
Champion Bait (workers)	St. Clair, MI	6/13/80	6/4/80	TA-W-10,423	Machine castings for auto industry.
Deibar Products (workers)	Perkaise, PA	8/14/80	7/21/80	TA-W-10,424	Truck mirrors.
Hayes-Albion Corp., Jackson Division (UAW)	Jackson, MI	8/14/80	8/11/80	TA-W-10,425	Automotive fans, windows and heavy truck fans.
Henry I. Seigel Company (ACTWU)	Fulton, KY	8/11/80	8/7/80	TA-W-10,426	Men's and ladies' slacks.
Leo Paley, Inc. (ILGWU)	New York, NY	8/11/80	8/14/80	TA-W-10,427	Ladies' blouses.
Little Manufacturing Company (workers)	Troy, MI	8/4/80	7/25/80	TA-W-10,428	Capacitors.
Miller Printing Equipment (workers)	Pittsburgh, PA	8/15/80	8/12/80	TA-W-10,429	Sheet-fed printing presses.
Morenci Rubber Plant (workers)	Morenci, MI	8/15/80	8/12/80	TA-W-10,430	Metanical rubber goods.
Victor Business Products (workers)	Sacramento, CA	8/13/80	8/6/80	TA-W-10,431	Calculators and cash registers.
Excello Tool & Abrasive Products (UAW)	Troy, MI	8/15/80	8/11/80	TA-W-10,432	Centered products, inserts.
Joseph Ryerson Company (USWA)	Dayton, OH	8/1/80	7/29/80	TA-W-10,433	Steel processing, appliances, automobiles.
Sterling Steel Treat (UAW)	Detroit, MI	8/15/80	8/11/80	TA-W-10,434	Vapor and sand blasting autos.
Teledine Lincoln Park Industries, Inc. (UAW)	Lincoln Park, MI	8/15/80	8/11/80	TA-W-10,435	Tools and gages.
U.S. Steel Corp., Maple Creek Mine Complex (UMWA).	New Eagle, PA	8/4/80	7/31/80	TA-W-10,436	Coal.
U.S. Steel Corp., Steel Supply Division (USWA).	Buffalo, NY	8/1/80	7/29/80	TA-W-10,437	Fabricated steel products.
U.S. Steel Corp., Western Steel Division Headquarters (workers).	San Francisco, CA	8/1/80	7/23/80	TA-W-10,438	Provide corp. services for the western steel division.
U.S. Steel Corp., Los Angeles, Calif., Sales Office (workers).	Los Angeles, CA	8/1/80	7/23/80	TA-W-10,439	Sale of steel products.
White Material Handling (UAW)	Hopkins, MN	8/13/80	8/7/80	TA-W-10,440	Fork lift trucks.
Commercial Steel Treat, Plant No. 1 (UAW)	Detroit, MI	8/15/80	8/12/80	TA-W-10,441	Heater treatment for autos.
Commercial Steel Treat, Plant No. 2 (UAW)	Madison Heights, MI	8/15/80	8/12/80	TA-W-10,442	Heater treatment for autos.
MSL Industries, Inc., Garrett Division (workers).	Philadelphia, PA	8/18/80	8/14/80	TA-W-10,443	Small parts—metal stampings.
MSL Industries, Inc., Joliet Wrought Washer Division (workers).	Joliet, IL	8/18/80	8/14/80	TA-W-10,444	Flat metal stampings.
Gates Rubber Company (URW)	Denver, CO	8/6/80	8/5/80	TA-W-10,445	Mechanical rubber goods.
Greer Steel Company (Steel Division) (workers).	Dover, OH	8/18/80	8/13/80	TA-W-10,446	Cold rolled strip steel.
Richard Brothers Punch Company (Aluminum Worders International Union).	Philadelphia, PA	8/1/80	7/24/80	TA-W-10,447	Punches die buttons.
Arvin Automotive, Inc. (UAW)	North Vernon IN	8/8/80	8/5/80	TA-W-10,448	Automotive parts.
Borg Warner Ind., Morse Chain Division (IAMAW).	Ithaca, NY	8/1/80	7/28/80	TA-W-10,449	Chain drives for cars.
Airco Welding Products (workers)	Springjield, NJ	7/8/80	7/8/80	TA-W-10,450	Flame cutting machines.
Barnabo Steel Corp. (workers)	Canton, MI	8/19/80	8/14/80	TA-W-10,451	Cold drawn carbon steel bars.
Bliss & Laughlin (USWA)	Seattle, WA	8/19/80	8/14/80	TA-W-10,452	Cold finished steel bars.
Bridgeport Brass (USWA)	Bridgeport, CN	8/18/80	8/14/80	TA-W-10,453	Wire, sheet and rod brass castings
CBL Tool Corp. (UAW)	Detroit, MI	8/18/80	8/13/80	TA-W-10,454	Tools and dies for auto use.
Grow Group, Inc., Pontiac Automotive Division (OCAW).	Troy, MI	8/18/80	8/13/80	TA-W-10,455	Paint and coating seals.
H & S Manufacturing Company (workers)	Antioch, IL	8/19/80	8/8/80	TA-W-10,456	Special fastners.
Michigan Blue Print & Supply Company (workers).	Detroit, MI	8/19/80	8/14/80	TA-W-10,457	Paper for autos.
Tag-A-Long Handbags & Accessories, INc. (company).	East Haven CN	8/21/80	8/13/80	TA-W-10,458	Vinyl handbags

[FR Doc. 80-26776 Filed 8-29-80; 8:45 am]

BILLING CODE 451-28-M

Harbison-Walker Refractory, et al.; To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 11-15, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-7872; Harbison-Walker Refractory, Baltimore, Md.

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of chrome bricks are negligible.

TA-W-8252; McGraw Edison, Albion, Mich.

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of air conditioners, humidifiers, and dehumidifiers did not increase as required for certification.

TA-W-8792; Carigon Polishing & Buff, Saranac, Mich.

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8733; Clarklift of Toledo, Adrian, Mich.

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7969; Louis Dreyfus Canada Ltd., Baltimore, Md.

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7885; North Shore Shake, Hoquiam, Wash.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9171; Marlex Manufacturing Co., Caro, Mich.

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of nuts did not increase as required for certification.

TA-W-8936; Anderson & Anderson Cons, Princeton, W. Va.

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-8395; Grue Clothing Co., Baltimore, Md.

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of men's and women's suits did not increase as required for certification.

TA-W-8643; Harrisburg Children's Dress, Harrisburg, Pa.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8293; Darby Cedar Products, McCleary, Wash.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8571; U.S. Steel Corp., Gary, Ind.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7838; BLH Electronics Division, Waltham, Mass.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7971; J & J Cedar Products, Inc., Elma, Wash.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9119; Somerville Meat Co., Boston, Mass.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of table beef did not increase as required for certification.

TA-W-9597; United Pocahontas Coal Co., Algoma, W. Va.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-8863; Leslie Coal Co., McDowell County, W. Va.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-8920; C & A Coal Co., Inc., W. Va.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-9022; Smith Machine, Inc., Eighty Four, Pa.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7893; Raintree Cedar Prod., Inc., Amanda Park, Wash.

Investigation revealed that criterion has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8372; Detroit Retinning Co., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8189; Metal-Cote, Inc., Mt. Clemens, Mich.

Investigations revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7898; Sutton Chevrolet, Inc., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8763; Mondelli Machine Co., Inc., Paterson, N.J.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9112; Suburban Plumbing & Heating, Inc., Northville, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8071; Weyerhauser Co., Aberdeen, Wash.

Investigation revealed that criterion (3) has not been met. Declines in sales by the subject firm resulted from a general decline in demand for soft wood lumber.

TA-W-7684; Sheep Mates, Inc., New York, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8953; International Harvester Co., Hazelton, Mo.

Investigation revealed that criterion (3) has not been met. Separations from the subject facilities resulted primarily from a strike which occurred at International Harvester production facilities.

TA-W-7717; SMC Corp., Johnstown, Pa.

Investigation revealed that criterion (2) has not been met.

TA-W-8318; Jola Enterprises, Inc., Hazelton, Pa.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9076, 9138; Roll Coater, Inc., Greenfield, Ind., Kingsbury, Ind.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9278; Ohio & Western Penn Dock Co., Cleveland, Ohio.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8305; Creek Chub Bait Co., Garrett, Ind.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. Imports of fishing lures did not increase as required for certification.

TA-W-8357; Reynolds Metals Co., Listerhill, Ala.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of neither silicon nor casting alloys did not increase as required for certifiction.

TA-W-8069; V.P.P. Company, Inc., Beaver, Wash.

Investigation revealed that criterion (3) has not been met. Declines in sales at the subject firm resulted from a general decline in demand for shakes and shingles which occurred in late 1979 and early 1980.

TA-W-8178, 8180; Bethlehem Mines Corp—Cambria Division, Ebensburg, Pa.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-9132; Brunswick Corp., Marion, Va.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of pinball machines did not increase as required for certification.

TA-W-8006; Luck Sports Sewing Co., Inc., New York, N.Y.

Investigations revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8121; Schurig Shoe Clinic, Warren, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9491; Driver Leasing, Inc., Grand Rapids, Mich.

Investigation revealed that criterion (3) has not been met. Workers of the subject firm do not produce as required for certification under Section 223 of the Trade Act of 1974.

TA-W-7838; BLM Electronics, Waltham, Mass.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8116; C.A. Spalding Co., Philadelphia, Pa.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools and dies are negligible.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA-W-7869; Lord Jeff Knitting Co., Norwood, N.J.

A certification was issued covering all workers of the firm separated on or after June 23, 1979.

TA-W-8848; Delta Knitwear, Inc., West Reading, Pa.

Certifications was issued covering all workers of the firm separated on or after June 15, 1979 and before November 30, 1979.

TA-W-8041; Laconner Cedar, Inc., Laconner, Wash.

Certification was issued covering all workers of the firm separated on or after April 29, 1979.

TA-W-7985; Union Shake Co., Darrington, Wash.

Certification was issued covering all workers of the firm separated on or after April 1, 1979.

TA-W-7825; Rapid Die & Molding Inc., Cassville, Mo.

Certification was issued covering all workers of the firm separated on or after April 17, 1979.

TA-W-7317, 7317A; Sunset Sportwear, Inc., Seattle and Moxee City, Wash.

Certification was issued covering all workers of the firm separated on or after August 31, 1979.

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TA-W-8083; Maryanne Sportswear, Ozone Park, N.Y.

Certification was issued covering all workers of the firm separated on or after November 11, 1979.

TA-W-8829; S.G. Taylor Chain Co., Inc., Pittsburgh, Pa.

Certification was issued covering all workers of the firm separated on or after May 31, 1979.

TA-W-8009; Gorsuch Foundry Co., Inc., Jefferson, Ind.

Certification was issued covering all workers of the firm separated on or after April 28, 1979.

TA-W-7999, 7999A Clark Copy International Corp., Morton Grove and Chicago, Ill.

Certification was issued covering all workers of the firm separated on or after May 5, 1979.

I hereby certify that the aforementioned determinations were issued during the period August 11-15, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26775 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9763]

Hayes-Albion Corp., Spencerville Division, Spencerville, Ohio; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 1980 in response to a worker petition received on July 24, 1980 which was filed by the United Auto Workers on behalf of workers and former workers of the Hayes-Albion Corporation, Spencerville Division, Spencerville, Ohio.

The Notice of Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53615-6). No public hearing was requested and none was held.

On July 11, 1980, a petition was filed on behalf of the same group of workers (TA-W-9403).

The Notice of Investigation was published in the **Federal Register** on July 25, 1980 (45 FR 49705-6). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9403 a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26780 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9572]

National Standard Co., Athenia Steel Division; Clifton, N.J.

Notice of Termination of Investigation Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980, in response to a worker petition received on July 14, 1980, which was filed by the United Steelworkers of America on behalf of workers and former workers producing flat strip and spring steel at the National Standard Company, Athenia Steel Division, Clifton, New Jersey.

The Notice of Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53620-1). No public hearing was requested and none was held.

On June 4, 1980, a petition was filed on behalf of the same group of workers (TA-W-8798).

Notice of Investigation was published in the **Federal Register** on June 27, 1980 (45 FR 43496-8). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-8798, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 21st day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26777 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6774]

Obear-Nester Glass Co., East St. Louis, Ill.; Notice of Negative Determination Regarding Application for Reconsideration

In a meeting in Fairview Heights, Illinois, on July 23, 1980, Local 130 of the Glass Bottle Blowers Association of the United States and Canada, with the support of legal counsel, completed its April 9, 1980, application for administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing glass bottles at Obear-Nester's East St. Louis, Illinois, plant. The determination was published in the **Federal Register** on March 11, 1980, (45 FR 15730).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that that determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claimed that the Department had not surveyed any of Obear-Nester's customers to determine whether the "contributed importantly" test of the Trade Act of 1974 had been met. The union provided a list of customers.

The Department's review shows that the workers of Obear-Nester's East St. Louis, Illinois, plant did not meet the "contributed importantly" test of the Trade Act of 1974 since a customer survey conducted by the Department which accounted for over half of Obear-Nester's sales in 1979 showed that none of these customers imported glass bottles in the 1977-1979 period. Further, U.S. imports of glass containers for food products and beverages are negligible. U.S. imports constituted less than one-half of one percent of U.S. shipments during the 1977-1979 period.

The Department does not consider the union's allegation that the sale of Obear-Nester glass-blowing machinery to a foreign firm, three months after the plant closed, as constituting a basis for import injury. Under the provisions of the Trade Act, workers at the East St. Louis plant could be certified as eligible for trade adjustment assistance only if increased imports of food or beverage containers like or directly competitive with the containers they produced contributed importantly to their separations.

The Department surveyed additional customers. None import bottles or containers.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 20th day of August 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-26779 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9219]

Poly Mar Products, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980 in response to a worker petition received on June 17, 1980 which was filed on behalf of workers and former workers producing disposable automobile seat covers at Poly Mar Products, Incorporated, Terre Haute, Indiana.

The petitioner requested withdrawal of the petition in a letter dated August 1, 1980. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 21st day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-26778 Filed 8-29-80; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competititve commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street NW., Washington, D.C. 20013.

Signed at Washington, D.C. this 27th day of August 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending August 30, 1980

Name of Applicant and Location of Enterprise and Principal Product or Activity

South Point Gasohol Facility, South Point, Ohio, ethanol-for-gasohol plant.
Wrape Forest Industries, Inc., Jacksonville, Ark., manufacture of wood bedroom furniture.
The Pearson Bros. Company, Inc., Galva, Ill., manufacture of farm products.
Athens Holiday Inn, Inc., Athens, Tex., motel.
Sylvester R. Edquist, Sequim, Wash., supermarket.

[FR Doc. 80-26885 Filed 8-29-80; 9:40 am]

BILLING CODE 4510-30-M

MERIT SYSTEMS PROTECTION BOARD

Office of the Special Counsel

Temporary Suspension of Certain Investigative Activities

AGENCY: Office of the Special Counsel.

ACTION: Notice of temporary modification of procedures.

SUMMARY: Certain activities of the Special Counsel will be temporarily curtailed for the next few weeks due to cut back of funds. This Notice describes certain policies of the Special Cousel for operations during this interim period until the Office is funded to fully carry out its functions under the Civil Service Reform Act of 1978.

EFFECTIVE DATE: August 27, 1980 to October 1, 1980, or at such earlier date as funding may be provided.

FOR FURTHER INFORMATION CONTACT: Barbara O. Wilkins, Office of the Special Counsel, 1717 H Street, N.W., Washington, D.C. 20419 (202-653-7107).

SUPPLEMENTARY INFORMATION: The Supplemental Appropriations and Rescission Act, 1980, rescinded $2 million of the appropriation to the Special Counsel for the current fiscal year. In order to avoid a deficit resulting from the rescission, 60% of the staff of the Special Counsel have been placed on detail to the Merit Systems Protection Board to work on Board functions until funds are made available to the Special Counsel. In addition to the temporary loss of staff services, there are currently no funds for travel and other costs necessary for conducting

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investigations pursuant to the Civil Service Reform Act of 1978.

Accordingly, the Office of the Special Counsel has temporarily modified its procedures for operating, as follows:

1. The Special Counsel issued regulations pursuant to 5 U.S.C. 1206(k), respecting prohibited personnel practices and activities and the procedures for the receipt and investigation of allegations. (5 CFR Parts 1250–1261; 44 FR 75914 (Dec. 21, 1979)). Section 1251.1 of Title 5, Code of Federal Regulations, sets forth the matters that are subject to investigation by the Special Counsel pursuant to the Civil Service Reform Act of 1978. Investigations will generally be deferred during this period of severe austerity until such time as staff and funds are available to properly conduct investigations. However, to the extent that staff is available to do so, information on cases may continue to be secured either by mail or by telephone.

2. Services by Special Counsel professional staff to Federal employees who telephone for information or visit the Special Counsel's offices for assistance is temporarily suspended, except that information regarding the Hatch Act will continue to be provided. Federal employees requesting information on filing complaints or allegations will be furnished copies of the Special Counsel's employee handbook, "For Merit and Honesty in Government," and advised to submit their complaint in writing.

3. Requests to the Special Counsel for petitions to stay personnel actions will continue to be processed on a priority basis. In view of the lack of funds and staff to investigate allegations to support requests for stays, employees should provide as much documentation and information as possible to support their allegations.

4. Allegations of violations of law, rule or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial or specific danger to public health or safety (whistleblower allegations) will continue to be referred to agencies for investigation or report, as required by the Civil Service Reform Act to the extent staff is available to review the allegations. To the extent that Special Counsel staff is available, agency reports received will continue to be reviewed for compliance with the statute. Allegations and reports which cannot be reviewed due to lack of staff will be reviewed after the Office receives funding and resumes full operations.

5. Where necessary, the Office of the Special Counsel will request extensions on matters pending or filed with the Merit Systems Protection Board.

Dated: August 27,1980.

Mary Eastwood,

Acting Special Counsel.

[FR Doc. 26852 Filed 8–29–80; 8:45 am]

BILLING CODE 6325-20-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel (Jazz Organizations); Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Jazz Organizations) to the National Council on the Arts will be held September 16, 1980 from 9:00 a.m. to 5:30 p.m., September 17, 1980 from 9:00 a.m. to 5:30 p.m., September 18, 1980 from 9:00 a.m. to 5:30 p.m., and September 19, 1980 from 9:00 a.m. to 5:30 p.m. in room 1422, Columbia Plaza Office Complex, 2401 E. Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 21, 1980.

[FR Doc. 80–26743 Filed 8–29–80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Open Meeting

August 27, 1980.

The Nuclear Safety Oversight Committee (NSOC) will meet from 9:00 am to 12:30 pm and 1:45 pm to 5:00 pm on September 16, and from 9:00 am to 12:30 pm and 1:30 pm to 4:30 pm on September 17 in Room 10103 of the New Executive Office Building (NEOB). The NEOB is located on the southeast corner of 17th Street and Pennsylvania Avenue, N.W. in Washington, D.C. The public entrance to the building is on 17th Street between Pennsylvania Avenue and H Street, N.W.

The Committee was established by Executive Order 12202 on March 18, 1980, in response to the recommendations of the President's Commission on the Accident at Three Mile Island (the Kemeny Commission). Generally, the Committee is responsible for monitoring the progress of the utilities and their suppliers, the Nuclear Regulatory Commission, other federal agencies, and state and local authorities in implementing the Kemeny Commission's recommendations and in improving the safety of nuclear power. The Committee will report periodically to the President and the public on its findings.

Thus far the Committee has held three meetings: on May 18, 1980 in Pasadena, California, on July 28 and 29, 1980 in Washington, D.C., and on August 18 and 19, 1980 in Washington, D.C. The Committee has heard testimony and had discussion in a number of areas including: (1) the nature of the Committee's responsibilities as set forth in Executive Order 12202; (2) the Nuclear Regulatory Commission's (NRC) "Action Plan Developed as a Result of the TMI–2 Accident," designated NUREG–0660 and available through the Document Management Branch, Division of Technical Information and Document Control, NRC, Washington, D.C. 20555; (3) the procedure utilized in the federal decision-making process as it relates to nuclear safety, and public and private participation; and (4) procedures for emergency planning, the status of generic safety issues, and the analysis and evaluation of operational data. In addition, the Committee undertook an information-gathering tour on June 30 and July 1, 1980, to the Institute of Nuclear Power Operations (INPO) in Atlanta, Georgia; the Savannah River Nuclear Installation in Aiken, South Carolina; and the Duke Power in Charlotte, North Carolina.

During the next meeting the Committee will receive testimony and, when appropriate, written materials and documents, concerning the following matters: (1) the NRC budget and allocation of its staff resources to implement the "Action Plan" and how that will affect other NRC functions; (2) budgetary allocations for research and training; (3) safety issues relating to nuclear technology and the operations of nuclear power plants; (4) and FEMA's Report to the President (June 1980) on emergency planning and the adequacy of FEMA's mandate to deal with radiological emergencies. Testimony on these matters will be received from a number of individuals specifically invited by the Committee, including the following:

—John Macy, Director, Federal Emergency Management Agency.

—Richard Pollock, Director, Critical Mass.

—William Dirks, Executive Director for Operations, Nuclear Regulatory Commission.

—Hugh Loweth, Thomas Palmieri, and Mark Kerrigan, Energy and Science Division, Office of Management and Budget, Executive Office of the President.

—Eric Van Loon, Henry Kendall, and Robert Pollard, Union of Concerned Scientists.

The meeting will be open to public observation. Written comments or statements may be submitted at anytime before or after the meeting and should be related to the substantive matters identified above. Approximately 50 seats will be available for the public on a first come, first served basis. The Committee meeting will be recorded and the transcript may be examined in the Committee's office at 1133 15th Street, N.W., Suite 307, Washington, D.C.

For further information contact Margo von Kaenel at (202) 653-8468.

Margo W. von Kaenel,

Executive Assistant.

[FR Doc. 80-26714 Filed 8-29-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occassionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Economics, Statistics, and Cooperatives Service
Sugar Processor Costs
Single time
Sugarbeet and sugar cane processors, 52 responses, 208 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Food and Nutrition Service
Nutrition Information Pilot Project—Media Strategies
Other (see SF-83)
Elementary school students and their mothers, 11,168 responses, 26,693 hours
Charles A. Ellett, 395-7340

Revisions

Agricultural Marketing Service
Grain Market News
LPGS-73, 177, 383, 388
Weekly
Producers, processors and dealers of grain and grain products, 7,158 responses, 1,446 hours
Charles A. Ellett, 395-7340

Farmer's Home Administration
7 CFR 1948-A, "Area Development Assistance Planning Grants"
On occasion
Public and private nonprofit planning organization, 2,100 responses, 7,420 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
Questionnarie for New York City Housing Vacancy Survey; Visitation Letter
H-100; H-100I
Single time
Households in New York City, 18,000 responses, 4,500 hours

V45/171 SE2 80 UMI

Off. of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF ENERGY

Agency Clearance Officer—Diane W. Lique—633–8526

New Forms

State Set-Aside Monthly Report
ERA–471
Monthly
State energy offices, 612 responses, 3,672 hours
Jefferson B. Hill, 395–7340

Uniform Reporting System for Federal Assistance
(UCRS, Volume II)
EIA–459
On occasion
Recipients of DOE Federal assistance, 91,850 responses, 351,786 hours
Jefferson B. Hill, 395–7340

Revisions

Annual Report on Electric and Gas Utilities
ERA–166, 166B
Annually
Gas and electric utilities State regulatory agencies, 428 responses, 7,043 hours
Jefferson B. Hill, 395–7340

Extensions

Typical Net Monthly Bills for Residential, Commercial, and Industrial Service
EIA–213
Annually
Electric utilities, 1,250 responses, 10,875 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Trainee Inverview: Beneficiaries of the NIAAA Clincial Training
Single time
Indiv. who received NIAAA clinical tr. grant support, 398 responses, 233 hours
Eisinger, Richard, 395–6880

Center for Disease Control
Preventive Health Practices of U.S. Citizens
Single time
International travelers, 10,000 responses, 1,167 hours
Eisinger, Richard, 395–6880

Health Resources Administration
Evaluation of the Effectiveness of the Placement Mechanism in Physician Assistants Training Program
Single time
PA graduates and schools, 4,200 responses, 1,050 hours
Eisinger, Richard 395–6880

Office of the Secretary
State Refugee Assistance Performance and Financial Status Report
OS–17–80
Annually
State agencies, 50 responses, 2,000 hours
Eisinger, Richard, 395–6880

Office of the Secretary
State Claims for Federal Reimbursement for Refugee Services (A) Cuban Refugees ar before 10–1–78, (B) Cash and Medical Assistance, (C) Social Services
OS–16–80
Monthly
State agencies, 600 responses, 300 hours
Eisinger, Richard, 395–6880

Office of the Secretary
State Recordkeeping Requirements for Refugee Services
OS–18–80
Other (see SF–83)
State agencies
Eisinger, Richard, 395–6880

Public Health Service
Florida Gulf Health Systems Agency Survey Forms
Single time
Hsehlds in 4 counties surrounding St. Petersburg, Fla.
Off. of Federal Statistical Policy and Standard, 673–7974

Revisions

Center for Disease Control
Reye Syndrom Surveillance
CDC 4.571
On occasion
Pediatric hospitals, 288 responses, 96 hours
Eisinger, Richard, 395–6880

Food and Drug Administration
Drug Experience Report
FD 1639 and FD 1639A
On occasion
Physicians and other health professionals, 1 response, 1 hour
Eisinger, Richard, 395–6880

Health Services Administration
BCHS Quarterly Report on Abortions
Quarterly
Grant supported pvt. nonprof. and local govt. agencies, 6,000 responses, 1,500 hours
Eisinger, Richard, 395–6880

Public Health Service
National Hospital Discharge Survey
Annually
National sample of short-stay hospitals, 220,000 responses, 14,667 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Extensions

Food and Drug Administration
Conference of Radiation Control Program Directors Next Survey
FD 2578
On occasion
X-ray equipment operators, 4,900 responses, 2,450 hours
Eisinger, Richard, 395–6880

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

Revisions

Bureau of Labor Statistics
Report on Employment, Payroll, and Hours
BLS 790
Monthly
Industrial establishments, 2,181,960 responses, 358,930 hours
Off. of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Research and Special Programs Administration
Agt Attitude Survey
Single time
Morgantown, Wv., stud. resi., Dallas/Ft. airpt., travelers, 10,950 responses, 1,827 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Extensions

Coast Guard
Application for Marine Event (Regatta or Marine Parade)
CG–4423
On occasion
Organizers of regattas and marine parades—boat clubs, 3,000 responses, 1,500 hours
Hayward, Corinne D., 395–7340

Reinstaements

Coast Guard
Application and Permit To Handle Explosives or Other Dangerous U.S. Cargo
CG–4260
On occasion
Carriers of explosives, 100 responses, 100 hours
Hayward, Corinne D., 395–7340

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0747

New Forms

Identification and Preliminary Assessment
T2070–2
Single time

Hazardous waste sites or State site programs, 3,600 responses, 3,600 hours
Edward H. Clarke, 395–7340

Revisions

National Emissions Data System (NEDS) Input Data Forms
EPA (DUR) 219, 220, 243
Semi-annually
55 State air pollution control agencies, 55 responses, 2,254 hours
Edward H. Clarke, 395–7340

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–9515

Reinstatements

Master Planning Resource Exchange Bulletin
Single time
Fire departments and related agencies, 1,000 responses, 167 hours
Edward C. Springer, 395–4814

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–26768 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel II (The American Economy: Employment, Productivity and Inflation) of The President's Commission for a National Agenda for the Eighties. The meeting will be held from 11:00 a.m.–4:00 p.m. on September 30, 1980 at the General Motors Building, 767 Fifth Avenue, New York, New York.

The purpose of the meeting will be to discuss the panel's draft report.

The meeting is open to the public.

Seats are available on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26631 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the Executive Committee of the President's Commission for a National Agenda for the Eighties. The meeting will be held from 9:00 a.m.–5:00 p.m. on September 11 and 12, 1980 at the Sheraton International Conference Center, Reston, Virginia.

The purpose of the meeting will be to discuss the draft reports for the nine panels that make up the Commission.

The meeting is open to the public.

Seats are available on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26632 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel IX (United States and the World Community) of The President's Commission for a National Agenda for the Eighties. The meeting will be held from 9:00 a.m.–5:00 p.m. on September 3, 1980 in room 10103 New Executive Office Building.

The purpose of the meeting will be to discuss the panel's draft reports.

The meeting is open to the public.

Seats are available on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26633 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting (held July 10, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel II (The American Economy) of the President's Commission for a National Agenda for the Eighties was held on July 10, 1980, in the Federal Home Loan Bank Board Auditorium, Washington, D.C.

The purpose of the meeting was to discuss inflation, unemployment, and other problems that will be facing the U.S. in the eighties.

Minutes will be provided upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26634 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting (Held July 10, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel II (The American Economy) of the President's Commission for a National Agenda for the Eighties was held on July 10, 1980, in Room 10103 of the New Executive Office Building, Washington, D.C.

The purpose of the meeting was to discuss specifically productivity, inflation, and employment.

Minutes will be provided upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26635 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

V45/171 SE2 80 UMI

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 10, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel VI (Government and the Regulation of Individual and Corporate Decisions) of the President's Commission for a National Agenda for the Eighties was held on July 10, 1980, in room 2008 of the New Executive Office Building, Washington, D.C.

General panel business was discussed.

Minutes will be provided upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26636 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 11, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a Full Commission Meeting of the President's Commission for a National Agenda for the Eighties was held on July 11, 1980, at the Federal Home Loan Bank Board Auditorium, Washington, D.C.

The purpose of the meeting was to discuss the progress toward the final report, and other general commission tasks.

Minutes of the meeting are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 2006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26637 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 10, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting Panel VIII (The Quality of American Life) of the President's Commission for a National Agenda for the Eighties was held in Room 10104 of the New Executive Office Building, Washington, D.C., on July 10, 1980.

The purpose of the meeting was to discuss general panel business.

Minutes are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26638 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 11, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel III (Science and Technology) of the President's Commission for a National Agenda for the Eighties was held in Room 9104 of the New Executive Office Building, Washington, D.C., on July 11, 1980.

The meeting was called to discuss the environment, nuclear power, and other general topics of the panel's report.

Minutes will be provided upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26639 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 22, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel IV (Social Justice) of The President's Commission for a National Agenda for the Eighties. The meeting was held July 22, 1980 in Chicago, Illinois.

The purpose of the meeting was to discuss welfare reform.

Minutes of the meeting are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006 (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26640 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel II (The American Economy) of the President's Commission for a National Agenda for the Eighties was held on July 11, 1980, in Room 10103 of the New Executive Office Building, Washington, D.C.

The purpose of the meeting was to discuss employment, productivity, and inflation.

Minutes of the meeting will be provided upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26641 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 11, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel VIII (Quality of American Life) of the President's Commission for a National Agenda for the Eighties was held in Room 9104 of the New Executive Office Building, Washington, D.C., on July 11, 1980.

The meeting was held to discuss general panel business.

Minutes of the meeting are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006. Tel: (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26642 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting (Held July 11, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting was held by Panel I (Energy and the Environment) of the President's Commission for a National Agenda for the Eighties, on July 11, 1980, at the New Executive Office Building, in Room 5104, Washington, D.C.

The purpose of the meeting was to discuss major points to be included in the energy section of the panel's report.

Minutes are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26643 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that on July 11, 1980, Panel VII (The Electoral and Democratic Process) of the President's Commission for a National Agenda for the Eighties held a meeting in Room 6104 of the New Executive Office Building, Washington, D.C.

The meeting was held in order to discuss general panel business.

Minutes of the meeting are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26644 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 26, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting (held July 11, 1980).

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that on July 11, 1980, a meeting was held of Panel IV (Government and the Advancement of Social Justice) of the President's Commission for a National Agenda for the Eighties, in Room 5104 of the New Executive Office Building, Washington, D.C.

The panel discussed topics concerning health, welfare, education, civil rights, and other topics pertinent to our Nation's societal changes in the next decade.

Minutes are available upon request.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place Northwest, Washington, D.C. 20006, (202) 275–0616.

Linda L. Smith,

Acting Budget and Management Officer.

[FR Doc. 80–26645 Filed 8–29–80; 8:45 am]

BILLING CODE 3110–01–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02–0407]

Equities Capital Co., Inc.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Equities Capital Co., Inc., (Applicant), 2175 Lemoine Avenue, Fort Lee, New Jersey 07024, with the Small Business Administration pursuant to 13 CFR 107.102 (1980).

The Officers, Directors and Stockholders are as follows:

Leon Scharf, 800 West End Avenue, New York, New York 10025, President, Director—100%.

Manuel S. Scharf, 1440 50th Street, Brooklyn, New York 11219, Vice President, Treasurer, Director.

Irene Scharf, 800 West End Avenue, New York, New York 10025, Secretary, Director.

The Applicant, a New Jersey corporation, will begin operations with $510,000 Paid-in Capital and Paid-in Surplus. The Applicant will conduct its operations principally in the State of New Jersey.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than September 17, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Fort Lee, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80–26618 Filed 8–29–80; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 02/02–0408]

Interstate Capital Co., Inc.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Interstate Capital Co., Inc. (Applicant), 77 State Highway 5, Edgewater, New Jersey 07020, with the Small Business Administration pursuant to 13 CFR 107.102 (1980).

The Officers, Directors and Stockholders are as follows:

David Scharf, 324 West Penn Street, Long Beach, New York 11561, President, Director—95%—(1).

Asher J. Scharf, 1421 52nd Street, Brooklyn, New York 11219, Vice President, Treasurer, Director—5%.

Ester Scharf, 342 West Penn Street, Long Beach, New York 11561, Secretary, Director—95%—(1).

(1) Ester Scharf owns 45 percent of Applicant's stock and David Scharf owns 50 percent of Applicant's stock. They are husband and wife. For the purposes of this application, they are deemed to beneficially own the shares of Applicant held by record by the other.

The Applicant, a New Jersey corporation, will begin operations with $510,000 Paid-in Capital and Paid-in Surplus. The Applicant will conduct its operations principally within the State of New Jersey.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than September 17, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Edgewater, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrotor for Investment.

[FR Doc. 80-26617 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1908]

Montana; Declaration of Disaster Loan Area

The area of 305 N. Last Chance Gulch and 6th Avenue, in the City of Helena, Lewis and Clark County, Montana, constitutes a disaster area because of damage resulting from a fire which occurred on June 17, 1980. Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on October 22, 1980, and for economic injury until the close of business on May 22, 1981, at: Small Business Administration, District Office, 301 South Park—Room 528, Federal Office Building, Drawer 10054, Helena, Montana, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 22, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26754 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 08/08-0047]

Davis Whittle Co.; Filing of an Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that the Davis Whittle Company (DWC), 950 Seventeenth Street, #1630, Denver, Colorado 80202, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004(1980)) for an exemption from the provisions of the conflict of interest regulation.

This exemption, if granted, will permit DWC to provide financing in the amount of $99,000 to Synergetics International, Inc. (SII).

Mr. Paul Whittle, a founder and director of DWC is a director, salaried officer and approximately 7.1 percent shareholder of SII.

Also Mr. Charles Siefert, director and shareholder of DWC, through a private Research and Development Limited Partnership, invested in a product, the rights to which may, at some future date, be exchanged for an equity interest in SII.

Pursuant to Paragraph (f) of the definition of "Associate of a Licensee" § 107.3 of the Regulations, SII is considered to be an Associate of DWC. As such, the transaction will require an exemption to § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may, on or before September 17, 1980, submit to the Small Business Administration, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-26763 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5263]

Golden Gate Capital, Inc.; Amended Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), has been filed by Golden Gate Capital, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Daniel C. Masters, 1120 Douglas Avenue #2, Burlingame, California 94010; President, Director, General Manager, 4.2 percent Stockholder

Kenneth R. Wanamaker, 1013 Pensacola Street, Foster City, California 94404; Secretary, Treasurer, Director, 95.8 percent Stockholder

Sheila L. Samuelson, 965 South Norfolk, San Mateo, California 94403; Director

The Applicant, a California corporation, with its principal place of business at 1035 East Hillsdale Boulevard, Suite 170, Foster City, California 94404, will begin operations with $500,000 of paid-in capital and paid-in surplus.

The Applicant will conduct its activities primarily in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before September 17, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar notice was published in the **Federal Register** on May 1, 1980; however, because of a change in Applicant's location, officers, directors, stockholders and amount of private capital, it is necessary to publish this notice of amended application.

A copy of this notice shall be published in a newspaper of general circulation in Foster City, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-26762 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Nashville, Tennessee, will hold a public meeting at 9:00 a.m., Wednesday, October 15, 1980, at Paris Landing State Park, Bucahanan, Tennessee, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call W. J. Shaver, District Director, U.S. Small Business Administrtion, Suite 1012, Parkway Towers, 404 James Roberston Parkway, Nashville, Tennessee 37219, (615) 251-5850.

Dated: August 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-26756 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, New Mexico, will hold a public meeting from 10:00 a.m. to 3:00 p.m., Friday, September 26, 1980, at the Chamber of Commerce, 555 East Main, Farmington, New Mexico, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Mr. E. Maine Shafer, District Director, U.S. Small Business Administration, 5000 Marble, NE, Room 320, Albuquerque, New Mexico 87110—(505) 766-3574.

Dated: August 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-26757 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Las Vegas, Nevada, will hold a public meeting from 10:00 a.m. to 12:00 noon, Thursday, October 16, 1980, at the Small Business Administration Conference Room, located at 301 E. Stewart, Las Vegas, Nevada, to discuss such matters as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert S. Garrett, District Director, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89101—(702) 385-6611.

Dated: August 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-26758 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 9:30 a.m., Wednesday, September 24, 1980, at Lockheed Missiles and Space Company, 1111 Lockheed Way, Sunnyvale, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Donald J. Marvin, District Director, U.S. Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105, (415) 556-7490, or call Robert H. Leavitt, Chairman, (408) 742-2556.

Dated: August 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-26759 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting at 2:00 p.m., Thursday, September 11, 1980, at the Valley Bank Center, Phoenix, Arizona, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Mack Kehoe, Advocacy Officer, U.S. Small Business Administration, 3030 N. Central Avenue, Phoenix, Arizona 85012—(602) 221-2206.

Dated: August 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-26760 Filed 8-29-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego, California, will hold a public meeting at 11:30 a.m., Friday, September 19, 1980, at the Kona Kai Club, 1551 Shelter Island

Drive, San Diego, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Riley Y. Johnson, Acting District Director, U.S. Small Business Administration, 880 Front Street, Suite 4–S–29, San Diego, California 92188—(714) 895–5430.

Dated: August 27, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–26761 Filed 8–29–80; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 1843; Amendment No. 2]

Florida; Declaration of Disaster Loan Area

The aboved numbered Declaration (See 45 FR 37319) and amendment thereto (See 45 FR 50033) is hereby amended by extending the filing date for the acceptance of physical disaster loan applications only until the close of business on September 22, 1980, due to civil disorders and unsettling conditions within Dade County beginning on or about May 17, 1980, through July 21, 1980. All other information remains the same.

Dated: August 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80–26770 Filed 8–29–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 723]

State Department Performance Review Board Members

In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95–454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register, and in so doing amends accordingly Department of State Public Notice No. 703 (45 FR 6877–6878, January 30, 1980), effective August 25, 1980:

William T. Lake, Deputy Legal Adviser, Office of the Legal Adviser;

Elizabeth G. Verville, Assistant Legal Adviser, East Asian and Pacific Affairs, Office of the Legal Adviser;

John R. Crook, Assistant Legal Adviser, European Affairs, Office of the Legal Adviser;

Mary Elizabeth Hoinkes, Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs;

William H. Price, Director, Foreign Affairs Information Management Center;

David C. Gompert, Deputy Director, Bureau of Political/Military Affairs;

Pauline G. Johnson, Director, Office of Equal Opportunity Programs, Agency for International Development;

Michael A. Glass, General Counsel, United States International Communication Agency;

Myra Shiplett, Assistant Secretary for National Affairs, Office of Personnel Management;

Bruce Rashkow, Chief Marine Resources Section, Division of Land and Natural Resources, Department of Justice.

The following names as announced in Department of State Public Notice No. 703 (45 FR 6877–6878, January 30, 1980), are removed from the Department of State Performance Review Board Register:

James R. Atwood, Deputy Legal Adviser, Office of the Legal Adviser;

Martin Packman, Deputy Director for Research, Bureau of Intelligence and Research;

William D. Blair, Jr., Deputy Assistant Secretary, Bureau of Public Affairs;

Ruth B. Phillips, Deputy Assistant Secretary, Bureau of Economic and Business Affairs.

Dated: August 27, 1980.

Harry G. Barnes, Jr.,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 80–26766 Filed 8–29–80; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80–217]

Certain Steel Wires Used for the Transportation of Razor Blade Cartridge Spacers Designated as Instruments of International Traffic

It has been established to the satisfaction of the U.S. Customs Service that holders, generally referred to as "steel spacer wires", composed of a 16-gauge U-shaped wire measuring 17¾ inches long at one end and 17⅝ inches long at the other end, with an 11 or 12 gauge wire 1¾ inch long spot-welded to the U, and with a retainer of metal or rubber closing the other end when loaded, used for the transportation of steel spacers to be incorporated into twin blade razor cartridges, are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs Regulations, I hereby designate the above-described steel wires as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322 (a)). These holders may be released under the procedures provided for in § 10.41a, Customs Regulations.

Dated: August 15, 1980.

Alfred G. Scholle,

Director, Carriers, Drawback and Bonds Division.

[FR Doc. 80–26711 Filed 8–29–80; 8:45 am]

BILLING CODE 4810–22–M

VETERANS ADMINISTRATION

Issuance of Policies and Procedures for Processing Planned-Unit Developments

AGENCY: Veterans Administration.

ACTION: Notice of final policies.

SUMMARY: The VA (Veterans Administration) is completing policies on the processing of planned-unit developments.

EFFECTIVE DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administation, 810 Vermont Avenue N.W., Washington, D.C. 20420, (202) 389–3042.

SUPPLEMENTARY INFORMATION: The VA is issuing a statement of policies and procedures governing the processing of planned-unit developments. A planned-unit development is a subdivision of land into lots for use predominantly for owner-occupied homes which contains common land such as usable open space, pool, community building, tennis courts and other recreational facilities to which all homeowners must belong and to which they must pay lien-supported assessments. The processing of a planned-unit development requires that special documents be completed and that special conditions be met prior to the issuance of the first Loan Guaranty Certificate.

The policy statement will be issued as a Department of Benefits Circular. The policy statement will be administered by the 50 VA Regional Offices and Centers with home loan operations.

In order to obtain the views of the public, interested persons are invited to submit written comments, suggestions, data, or arguments to the Administrator

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of Veterans Affairs (264), 810 Vermont Avenue, NW., Washington, D.C. 20420 on or before October 2, 1980. Material thus submitted will be evaluated and considered in any future revision.

Accordingly, DVB Circular 26-80-34, Processing Planned-Unit Developments (Other Than Condominiums) is adopted as set forth below.

Approved: August 25, 1980.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

Department of Veterans Benefits

[DVB Circular 26-80-34]

Processing Planned-Unit Developments (Other Than Condominiums)

1. *Purpose.* The following policies and procedures are provided to assist field stations in processing planned-unit developments other than condominiums. Condominiums are treated separately in DVB Circular 26-79-23. Stations should note that paragraph 15c delegates authority for processing and final action on most planned-unit development submissions to field stations.

2. *Definitions.*

a. *PUD (Planned-Unit Development).* A subdivision of land into lots for use predominantly for owner-occupied homes which containes common land comprising an essential or major element of the development (e.g., usable open space, pool, community building, tennis courts, other recreational facilities, etc.), such common land being owned by a homes association (usually incorporated) to which all homeowners must belong and to which they must pay lien-supported assessments. A PUD is designed and organized to be capable of satisfactory use and operation as a separate entity; or as expanded by annexation of additional land area; or a group of contiguous subdivisions, either operting as separate entities or merged into a single consolidated entity.

b. *HOA (Homeowners Association).* A nonprofit organization operating under recorded land convenants through which (1) each lot owner in a planned-unit development is automatically a member, and (2) each lot is automatically subject to a lien-supported charge for a proportionate share of the expenses for organization activities such as maintaining common area.

c. *Common Area.* A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in the PUD.

3. *Requirements for Special Processing Consideration.*

a. The requester must apply for VA acceptance of the overall project by submitting documents shown in item 1 of exhibit A, as applicable.

b. Before a project may qualify to be processed as a PUD, submitted documents must be reviewed and found to meet the general requirements shown below, except as noted. The use of the VA Form 26-8200 series, Suggested Legal Documents for Planned-Unit Developments, is not mandatory but should be encouraged, as it contains all of the VA requirements and expedites document review. Draftsmen who prefer to utilize different formats and language must be cautioned to have documents comply with requirements of this circular. For convenient reference, many of the requirements are followed by a citation to the comparable provision in the VA suggested legal documents. Sponsors should be aware that deviations from the suggested documents may delay the review, but that the delay will be minimized by an identification of the deviation and an explanation of why it was used.

c. In very large developments it may be necessary to create an association for the larger area (referred to as an "umbrella" PUD) along with several smaller associations for the various clusters or villages which make up the entire project. The large association provides facilities and services used on a broad scale to serve the larger community area. Many of the provisions in the documentation for the umbrella PUB will be in general terms and will lack some of the provisions contained in VA suggested documents. In this type development the initial submission will generally not include documentation for any of the subassociations. However, each association level must be reviewed and approved separately as submitted. Care must be exercised to confirm that homeowners are automatically members of each association and that they have representation in each association.

d. In staged or phased developments where the developer proposes to build the project in separate phases, generally the initial stage is subjected to the covenants with provisions for annexation of future stages as construction and sales progress. In those instances the developer must submit to VA a general plan of the entire proposed development at the time of submission of the first stage. The general plan should contain:

(1) A general indication of size and location of additional developments to be added in subsequent stages and proposed land uses in each;

(2) The approximate size and location of common properties proposed for each stage;

(3) The general nature of proposed common facilities and improvements; and

(4) A statement that the proposed additions, if made, will become subject to assessment for their share of association expenses. The proposed overall general plan must be reviewed and approved prior to approval of the initial development stage (VA Form 26-8200, paragraph 7 and paragraph 5c of this circular).

4. *Title.* The veteran must receive an estate in realty that meets the requirements of VA Regulation 4350 (38 CFR 36.4350). The veteran's estate may not be subject to unreasonable restraints upon alienation which would adversely affect the title to, or the marketability of the unit. Likewise, restrictions on the normal use and occupancy of property that are inherent in fee ownership are not acceptable. Developments in which the following restrictions exist against an individual unit owner's right to alienate or use and enjoy his or her unit will not be acceptable to the VA:

a. Right of first refusal unless such right is in strict conformity with VA Regulation 4350(B)(5) (38 CFR 36.4350(b)(5)).

b. Leasing restrictions which amount to unreasonable restrictions on use and occupancy of a unit.

(1) Right of first refusal applicable to leasing a unit.

(2) Right of prior approval of either a prospective purchaser or tenant.

(3) Prohibition against leasing of a unit for a period in excess of 6 months.

5. *The Properties.*

a. The covenants must contain an adequate legal description of the property, including the common area and the lots, and appropriate language subjecting that property to the covenants (introductory paragraph of VA Form 26-8201, Declaration of Covenants, Conditions and Restrictions). VA prefers that the description of the property be written into the body of the covenants rather than by reference to an attached exhibit. Any exhibit, schedule, or plat referenced or attached as an exhibit must be recorded with the Declaration unless it is already on record. If the development plan contemplates annexation of additional land area, it is not necessary,

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or recommended, that more than the first stage be initially subjected to the covenants.

b. Annexation of additional properties must have the consent of two-thirds of the lot owners (excluding the developer) except when annexed pursuant to a staged development plan in accordance with subparagraph c of this paragraph.

c. In a staged development, the developer may annex additional land without the consent of the lot owners only if the annexation is: (1) limited to a stated, reasonable time; (2) limited to a defined area; (3) in accordance with a general plan filed with VA; and (4) approved by VA (VA Form 26–8200, Appendix Form #5).

d. The first stage of a staged development must be a self-contained unit capable of independent existence in the event the plan does not progess beyond that point. After each stage is annexed, the development, as enlarged, must be capable of existence without dependence on any proposed additional stages. A dilemma is created when a developer seeks to convey the entire development's recreational amenities to an HOA in the first stage, with support anticipated to be spread over future stages. If development goes not further, the HOA could not survive without a severe economic burden being placed upon the few early homeowners. The individual characteristics of each PUD determine the developer's ultimate solution.

(1) One recommendation might be for the developer to phase sections of the recreational area, sized commensurate with the number of lots bound to its support.

(2) Another possible solution might be for the developer to place the amenities in a later stage and forego credit in the CRV (Certificate of Reasonable Value) until such time as there is sufficient HOA membership to support the amenity package. Stations must assure that builders/developers do not advertise facilities to be included in future stages in their current offering. The budget must be examined to determine that the homeowner assessment will not be used to support facilities that have not been completed and conveyed to the HOA. If, after VA approval of the general plan, but before completion and sale of those homes equaling the minimum number required to support the amenities, the builder wishes to convery the amenities to the HOA, VA approval must be secured.

(3) A third possible solution might be for VA to establish a presale requirement upon the whole project. Such a requirement, at least the numerical conclusion, must be based on local market conditions. The station must be satisfied that the HOA will have a sufficient number of members to insure the proper maintenance and operation of the facilities without the developer's assistance.

(4) A number of other alternatives may be acceptable as long as they result in the project, to that point, being feasible.

e. If onsite vehicular parking space is not provided on each lot, provision for offsite parking space must be included. The homeowner should be assured that he or she has sufficient permanent exclusive parking space in the common area and that other owners may not claim a right to its use by virtue of their general easement (VA Form 26–8200, Appendix Form #3b).

f. It is recommended, particularly in townhouse developments, that the HOA provide exterior maintenance of residences (VA Form 26–8200, Appendix Form #2a) If there are exterior features which the HOA would not maintain, such as patios or carports, those features may be itemized. In PUD's where exterior maintenance is not contemplated as a normal function of the HOA, a provision is recommended whereby the HOA could perform maintenance if a homeowner fails to keep his or her residence in a satisfactory manner (VA Form 26–8200, Appendix Form #2b).

g. In no event should the HOA provide interior maintenance of structures it does not own.

h. Common utility lines in planned-unit developments must not pass over, under, or through any of the units, and none of the connecting lines must run under any unit other than the one it services.

i. Customary use restrictions and easements for public utilities may be included in the covenants. A new article should be employed for this purpose.

6. *The Common Area.*

a. To obtain VA PUD land planning and valuation considerations, it is necessary that common areas be owned by the HOA and consist of one or more elements other than open floodplain, street lighting, or unusable open space of a nature which will not enhance the values of properties in the development.

(1) If the use of the common areas has been dedicated to the public, or common areas are privately owned by other than the HOA or the individual owners in common, the planned-unit development must be processed as a standard subdivision.

(2) Upon ascertaining that a subdivision is subject to a lien supported assessment and mandatory membership in an HOA or participation as a beneficiary under a trust arrangement, it becomes necessary to determine if there are more than nominal common amenities. If the amenities are nominal only, PUD processing criteria are not for application. Normally, before a determination can be made that more than nominal amenities exist, it should be found that other than governmental type services are provided. There should also be more than commonly owned minor open green spaces or roadway medican or boundary strips. The existence of active recreational facilities would usually lead to a finding that the subdivision is a PUD, provided there are also lien supported assessments and mandatory membership.

(3) If it is determined that a subdivision is in fact a PUD, complete review of all the required exhibits will be necessary. However, in existing subdivisions, with no developer involvement, the review is to be primarily concerned with items that might violate 38 U.S.C. chapter 37, or the VA regulations. In addition, it should be determined that there is nothing contained therein that would be inoperative under State law. The sufficiency of the budget is to be considered in establishing value and the amount of the monthly assessment in credit underwriting.

(4) In the event the station determines that a particular subdivision subject to lien-supported assessments is not a PUD under the criteria set forth above, a full legal review of the documents will not be required. However, the lender should be advised by appropriate, prominent endorsement to the Certificate of Reasonable Value that there is a lien-supported assessment and that it is the lender's responsibility to assure that such assessment is subordinate to the VA guaranteed mortgage. In the event that there are instances where the assessment would be superior to the proposed guaranteed mortgage, the lender should seek additional advice from the regional office prior to closing the loan.

(5) Title 38, U.S. Code section 1803(d)(3) requires that a VA guaranteed loan must be secured by a first lien on realty. In applying this section, it is important to note that as to any covenant that establishes a lien superior to the guaranteed mortgage recorded after the effective date of this section (June 6, 1969) the Administrator's approval, if appropriate, must have been secured prior to the recording of the covenants in question. Failure to secure the approval of the Administrator prior to recording may preclude the

acceptance of any subdivision when the assessment lien primes the VA mortgage.

(6) In any instance in which the covenants were recorded prior to June 6, 1969, and provide for an assessment superior to the VA mortgage for governmental-type services, the matter should be submitted to Central Office (264) with a complete explanation as to the services provided, amenities if any, and the station's recommendation concerning approval.

b. The covenants must contain a provision granting each lot owner a nonexclusive easement for the use and enjoyment of the common area (except limited or restricted use areas accorded specific units), subject only to temporary suspension from use of *recreational* facilities for either the nonpayment of assessments or the failure to comply with reasonable HOA regulations governing the use of the common areas (VA Form 26–8201, art. II, sec. 1(b)). The right to use the common area must be an easement appurtenant to the residential lots rather than a license held by virtue of association membership.

c. The common area, including all recreation facilities scheduled for the subject stage to be considered in value, must be fully completed and conveyed to the HOA free and clear of all liens and encumbrances prior to the first VA loan guaranty or direct loan in the project. Although VA policy requires a clear title to common areas in the HOA, there may be an occasional extraordinary submission containing a proposal to convey a portion or all of the common area to the HOA subject to existing liens. A developer may also propose to convey the property to the HOA for more than a nominal consideration. In either case the document(s) containing such provisions should be submitted to Central Office (264) along with a full explanation and the station recommendations. Any major facilities to be completed in a later stage may not be reflected in the CRV valuation for subject stage. Title into the HOA must be confirmed by title policy or other locally acceptable evidence of title. Review of title evidence must be done by the District Counsel. Appropriate controls must be maintained and revised documents, if required, reviewed to insure compliance. Exceptions to this requirement that would allow a postponement of completion of common area within subject stage are not generally desirable or permitted. A station may not routinely permit postponement of improvements that will have a significant influence upon value, and for which the homeowner is paying, in the sales price of the property. The granting of permission to postpone completion of common areas and facilities within a stage under consideration should be limited to those instances in which completion is delayed due to circumstances beyond the control of the builder, such as adverse weather conditions and then only for the period of time deemed necessary for completion. Postponement simply for the convenience of the builder is unacceptable. If a cash escrow is accepted care should be taken to see that timely, periodic inspections are made by the Agency making the compliance inspections (VA or HUD (Department of Housing and Urban Development)) to assure that adequate progress toward completion is being made. Extensions of escrow agreements generally will not be granted except for the most cogent reasons. The same principles apply to proposals by builders to submit a letter of credit in lieu of a cash escrow to assure completion of postponed improvements. Such letters of credit to be acceptable must be irrevocable and be a valid and binding obligation of the issuing bank. They must be for a term extending at least 90 days beyond the final date for completion of the improvements specified in the escrow agreements. It should be clearly understood that if the builder fails to perform and it is intended that the issuer of the letter of credit be called upon to pay, the holder of the letter of credit must make demand prior to expiration of the term of the letter of credit. The issuer has no liability after that date. Approval by VA/HUD of any request for an extension of the time for performance specified in the escrow agreement will be conditioned upon receipt of written assurance that the supporting letter of credit is likewise extended for a term ending not less than 90 days after the new date for performance by the builder. The holder of a letter of credit and the party with the fiduciary responsibility to call upon its terms, must be a HUD-approved mortgagee having no identity of interest with the builder in whose behalf the letter of credit is issued in cases in which the builder is seeking dual financing. If HUD financing is not involved, a supervised lender, which is not a HUD-approved mortgagee, may be accepted, provided it has no identity of interest with builder. Since VA and HUD both are ordinarily involved in the same PUD's, it is essential that there be coordination between the two Agencies both as to permitting postponement of completion of the improvements located in the common area of a PUD and as to the acceptability of the type of assurance of completion the builder proposes to furnish. Initial maintenance assessments of the homes association will not be reduced because of postponement of completion of improvements to the common area but rather will be computed and levied as though all improvements have been completed prior to conveyance of the first lot. Any surplus funds generated can be used to create or increase the HOA's reserve for contingencies, and any adjustment in amount of future assessments deemed warranted, subsequent to completion of the improvements and takeover of control of the HOA by the property owners, may be made at a future date. The basis for this position is twofold:

(1) A builder should not be permitted to enjoy a competitive advantage in advertising a lower assessment by reason of postponement of improvements for which it is responsible.

(2) VA deems it important that buyers become accustomed to the necessity of paying the full amount of the assessment necessary to maintain the fully completed common area from the beginning of their ownership rather than a low assessment for the first year or so and then face the necessity for a sharply increased payment.

d. Any provision for action by the association which could affect the lot owners' easement in the common area (i.e., mortgage, conveyance, or dedication of the common areas; or annexation, merger, consolidation, or dissolution of the association) must have the assent of not less than two-thirds of each class of members. (See VA Form 26–8201, art. II, sec. 1(c); art. VI, sec. 4; and VA Form 26–8202, Articles of Incorporation, art. IV, subsecs. (d), (e), and (f); and art. VIII.) (See par. 12.)

e. If ingress and egress to any residence are through the common area, conveyance or encumbrance of such common area must be subject to the lot owners' easement.

f. The developer may not reserve to itself the right to mortgage or otherwise encumber the common area.

g. Absolute liability for acts of family, guests, invitees, or licensees should not be imposed in the covenants, bylaws, or otherwise upon individual owners for damage to the common area or lots (including improvements) of others. Liability should be only that for which homeowners would be legally responsible under State law. Note that under the exterior maintenance clause in VA Form 26–8200, Appendix Form

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#2a, if the damage is to one's own property through the willful or negligent acts of the family, guests, or invitees of the owner, the cost of such repair shall be added to the assessment for that lot.

h. Upon dissolution of the HOA its assets must be conveyed to another HOA or to an appropriate public agency having similar purposes (VA Form 26-8202, art. VIII).

i. When local law does not govern tax assessment procedures, the taxes on the common areas should be assessable against the common areas only and the HOA should be solely responsible for the payment of such taxes, unless the tax base of the individual unit reflects its interest in the common areas without the need for assessment against the HOA.

7. *HOA Assessments.*

a. The covenants must provide for an annual assessment which is (1) lien-supported, (2) applicable to *all* lots (except as may be exempt under subpar. g below), (3) in force before the first VA guaranty or direct loan, (4) adequate to both maintain common areas and replacement reserves, if required, and (5) uniform (VA Form 26-8201, art. IV, secs. 3, 6, and 7). If there are different types of property within a project, each with a different benefit to be derived from the association, the assessment for each type may be different, but within each type the assessment must be uniform. As an example, one PUD may have an area of single family detached homes and an area of townhouses. If only townhouses are to have exterior maintenance by the HOA the townhouse assessment may be greater. As another example, some areas may have private streets or parking areas while others do not. Nevertheless, units within a similar grouping must be assessed the same.

b. The lien of any assessment levied by the HOA must be subordinate to the lien of a first mortgage (VA Form 26-8201, art. IV, sec. 9). Generally, the assessment should not be subordinate to any but the first mortgage. This provides greater assurance of assessment collectibility and increases the HOA's chances of remaining viable. Any attempt to condition the subordination to first liens by certain classes of lending institutions or specific lenders is generally objectionable. Such may have the effect of prohibiting direct loans or financing the sale of acquired properties by the VA.

c. The annual assessment must be fixed at a given maximum rate to enable purchasers to determine their financial obligation, and for VA to determine whether the amount is reasonable and adequate from a project standpoint, and acceptable from an individual's credit underwriting standpoint. Large PUD's have been allowed to tie assessments to local tax valuation rates, although this is not preferred and must be examined on a case basis. It is not acceptable, however, in proposed or developer controlled PUD's for the covenants to simply provide that the homeowner's assessment will be a proportionate share of the HOA annual expenses. Obviously prospective purchasers and VA do not know what this will be and have no way to protect against developer's control of the budget. For projects in which the developer is out of control and there is a project "track record" for assessments, determinable from past budgets, this requirement may be waived.

d. The annual maximum assessment may not be increased without the assent of at least two-thirds of each class of members at a meeting called for that purpose with at least 60 percent of the lot owners or their proxies present after adequate notice. If 60 percent do not attend, a second meeting may be called with the same notice and the quorum may be reduced to 30 percent (VA Form 26-8201, art. IV, secs. 3(b) and 5). The board of directors may be permitted to increase the maximum annual assessment without a vote of the members, but such an adjustment should not exceed 5 percent of the previous year's maximum assessment (VA Form 26-8201, art. IV, sec. 3(a), or an amount to be determined by use of the Consumer Price Index formula). (See par. 13.)

e. The levy of special assessments must require not less than the same notice and approval as the increase of annual assessments, and should be by a vote of two-thirds of each class of members. Local law may provide differently in some jurisdictions that have statutes governing these voting requirements. (See par. 13.)

f. The developer may not be exempt from the payment of assessments. It would not be acceptable in a developer controlled PUD for the covenants to provide that assessments for any lot be delayed until the lot is improved, or that a dwelling thereon be first occupied, or that the lot itself be conveyed. If the HOA is to perform services which will not benefit developer's unoccupied units, such as recreational supervision, a covenant provision may provide for a scaled down assessment for lots without an *occupied dwelling*, provided the financial stability of the association will not be jeopardized. In no event, however, should the scaled down assessment be less than 25 percent of that chargeable to other lots. If such scaled down rate is allowed, a full assessment must immediately and permanently attach to any lot upon the first occupancy of dwelling thereon, although ownership of that lot is retained by developer. An exception to this requirement may be considered in large projects in which a budget has been established and the developer's responsibility to the HOA is to insure that budget by agreeing to make up any deficits. In such cases the station must determine the following:

(1) That the budget is reasonable and will realistically maintain HOA common area;

(2) That the individual owner's assessment share is reasonable and in proportion to the *total* number of lots involved; and

(3) That the developer's obligation creates a lien against land it owns in the PUD. It is most important for the protection of the HOA that the developer's budget responsibility be lien supported.

g. All properties dedicated to, and accepted by, a local public authority and all property owned by a charitable or nonprofit organization exempt from taxation under State law may be exempt from the HOA assessments, except that no land or improvement devoted to dwelling or commercial use may be so exempt (VA Form 26-8200, Appendix Form #1).

h. The interest rate chargeable on delinquent assessments generally must not exceed 6 percent per annum in proposed projects. A larger percentage will be acceptable in existing developments where the covenants so provide and cannot be readily changed.

i. Neither annual nor special assessments may be used for the construction of capital improvements during the development period if value is to be given for such improvements.

j. The HOA assessment may not be used to maintain property in which the HOA does not own an interest, except that the association may perform exterior maintenance upon residences (VA Form 26-8200, Appendix Forms #2a, 2b, and 2c).

k. The policy of the VA and HUD prohibiting mandatory group or blanket hazard insurance on residences in VA/FHA approved planned-unit developments with premiums paid through association assessments has been revised. A covenant providing for group or blanket hazard insurance of individual units with premiums paid through HOA assessments in a PUD, or in a specific section thereof, will be acceptable. Where the documents provide for group hazard insurance on units, the information brochure in proposed projects must explain that the policy covers losses on the structure only and that the group policy does not provide individual liability or personal contents protection.

1. Homeowners shall not be required by the Declaration to rebuild after destruction by fire or other casualty loss unless the units are insured under a group or blanket hazard insurance policy which contains a Replacement Cost Endorsement providing for replacement of a unit from insurance loss proceeds. When a policy with a Replacement Cost Endorsement is to be secured, or there is such a policy already in force, stations should recommend but not require that the sponsor or the HOA seek additional endorsements to assure the continuation of full replacement costs of the required reconstruction. The requirement for a Replacement Cost Endorsement to the blanket hazard policy may be waived in an existing project with a mandatory rebuilding clause when the units are already insured under a group policy which does not contain such endorsement. The HOA shall not be empowered by the Declaration to rebuild a unit and assess the cost to the unit owner. However, the Declaration may provide that any shortfall in funds necessary to rebuild a unit by reason of undercoverage through the blanket policy may be obtained through a special assessment levied against all unit owners. In any event it is permissible for the Declaration to require clearance of the lot within a reasonable time after unit destruction.

m. Mortgagees may not be *required* to collect assessments. Arrangements may be made with mortgagees for the collection of assessments, but such service must be voluntary and may not be a cause for default under the residential mortgage.

8. *The Homeowners Association.*

a. VA strongly recommends that the HOA be incorporated to avoid problems concerning title, officers' and members' individual liability, and taxation. If an unincorporated HOA is present, there must be a full explanation by the sponsor of why such a form was used and how each of the named problems is to be handled.

b. Organization documentation must be in compliance with the law of the jurisdiction in which the property is located.

c. The covenants must contain a provision assuring the lot owner of automatic membership and voting rights in a nonprofit association, or other appropriate organization, empowered to levy lien-supported assessments (VA Form 26–8201, art. III, sec. 1). Developments in which legal title to common areas is vested in a trustee who controls the operation of the project are generally not preferred. Homeowners in trusteeship developments ordinarily do not have voting rights and cannot exercise any control over the operation and management of the association. The HOA is considered superior not only because it provides protection to the individual homeowners against tort liability by reason of its corporate structure, but the homeowners also have a greater voice in the management of an association as opposed to a trust. In some jurisdictions if the beneficiaries of a trust are afforded authority to make binding decisions concerning the rest of the trust, it has been determined that a true trust does not exist. However, the trust format need not preclude approval of existing projects if all of the other factors are acceptable. In proposed projects developers should be encouraged to use the HOA arrangement. Members must be appurtenant to, and inseparable from, unit ownership. The corporate documents may not permit the association to exercise any discretion in admitting unit owners to membership (VA Form 26–8202, art. V). However, nonvoting membership may be granted to tenants and other persons who make use of the recreational facilities. If the membership in the HOA or the resulting assessment is voluntary, the development must be considered as a regular subdivision for land planning purposes, and the common area may not be considered in the CRV valuation other than the effect it may have on the neighborhood.

d. The developer's control of the association must be limited as to time and extent. A weighted vote of more than 3 to 1, or a retained developer veto right beyond 75 percent sellout is generally unacceptable. In addition to the automatic transfer of control to the homeowners upon the sale of 75 percent of the lots, an alternate event for the termination of developer's weighted vote must be provided to preclude unreasonably prolonged developer control in a slow sales market. The most common provision is a delimiting date upon which developer's weighted vote will cease should that date precede the event of a 75 percent sellout. The specific date selected should be no later than the estimated time required to complete and market 75 percent of the dwellings in the development (VA Form 26–8201, art. III, sec. 2; and VA Form 26–8202, art. VI). (See par. 12.) In very large projects different approaches may be necessary to insure sufficient developer control for completion and marketing, with appropriate safeguards in the event of developer project abandonment. Generally, declarant's special voting rights should terminate if construction is abandoned (e.g., no new unit construction has been initiated for a period of 6 months unless there is evidence of continuing construction). Sponsor's request for variance of this requirement, with explanation of why it was needed, should be forwarded to Central Office (264) for approval.

e. While the developer controls the association, any action which may affect the basic organization of the HOA or the common area (i.e., merger, consolidation, or dissolution of the HOA); dedication, conveyance, or mortgage of the common area; annexation of additional properties; or amendment of previously approved documents must be approved by VA (VA Form 26–8201, art. VI, sec. 5; VA Form 26–8202, art. XI; and art. XIII, sec. 1 of VA Form 26–8203, Bylaws). (See par. 13.)

f. Any rights reserved by the developer of a PUD project must be reasonable and consistent with the overall plan for each submission.

The following rights when reserved by the developer, its affiliates, the sponsor of a project, or any other party, usually would be unacceptable:

(1) Leasing of common areas to the HOA (must have Central Office approval);

(2) Accepting leases from the HOA;

(3) Accepting franchises or licenses from the HOA for the provision of central television antennas or like services;

(4) Reserving the right to include in a PUD adjoining land without adequate restriction assuring that its future improvement will be of comparable style, quality, size and cost;

(5) Retaining the right, by virtue of continued association control or otherwise, to veto acts of the HOA or to enter into management agreements or other contracts which extend beyond the date unit owners obtained control of the HOA; and

(6) Reserving an unlimited right to amend the covenants or to replat lots or common area unless limited to changes specifically required by a reviewing agency to meet its requirements.

g. If the development includes multifamily or other rental housing, the total vote of the owner or owners of such housing may not exceed 49 percent of the total vote cast.

h. The bylaws must permit participation by the homeowners during and after the development period.

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Unless local law provides otherwise, membership meetings should be held at least annually, beginning within 1 year after incorporation. Special meetings of the association should be permitted upon written request of a reasonable percentage of the unit owners other than developers. Quorum requirements for regular business should not be so high as to preclude valid meetings. Nomination for candidates for director from the floor should be permitted.

Cumulative voting should not be permitted unless required by State law. Directors and officers should normally serve without compensation. (See VA Form 26–8203, art. III, secs. 1, 2, and 4; art. IV, sec. 4; and art. V, secs. 1 and 2.)

i. The board of directors must be sufficiently large to permit reasonable representation of the lot owners. A board of three directors should be provided only in very small developments or on the initial board. Most associations should have a board of at least seven or nine directors (VA Form 26–8203, art. IV, sec. 1).

j. If the association is authorized to suspend a lot owner's right to use recreational facilities or his or her voting rights for infraction of its rules or regulations, the suspension should not exceed 60 days (VA Form 26–8201, art. II, sec. 1(b); and VA Form 26–8203, art. VII, sec. 1(b)). If the suspension of these rights is for failure to pay assessments, it may extend for the time the assessments are delinquent.

k. Each lot owner, as well as the association, must be empowered to enforce the covenants (VA Form 26–8201, art. VI, sec. 1). The developer should not be specifically authorized to enforce covenants. The developer has such authority while it owns a lot in the development and, after all lots are sold, it has no reason to exercise such authority.

l. The books and records of the association must be available for inspection by the members at reasonable times (VA Form 26–8203, art. X).

m. Amendment of the covenants should be difficult yet not impossible. We recommend a requirement of 90 percent of lot owners to amend the covenants during the first 20 years and 75 percent thereafter (VA Form 26–8201, art. VI, sec. 3). The articles of incorporation (if State law permits) should have the assent of at least 75 percent of the lot owners to amend (VA Form 26–8202, art. X). The bylaws need only a majority vote of the lot owners to amend (VA Form 26–8203, art. XIII, sec. 1). Provisions allowing amendment of the bylaws by the board of directors are generally unacceptable.

n. If any of the foregoing provisions conflict with local ordinances, then the local ordinance will govern.

9. *Supporting Documents.*

a. Plats must either be recorded or in final form ready for recording. Incomplete plats or schematic drawings are unacceptable. They must show the area intended to be subjected to the covenants. The lots and common area locations as well as utility easements should be shown by metes and bounds. There should be a dedication of common areas to homeowners so as to preclude the implication of public use (VA Form 26–8200, Appendix Form #6). Public streets should be so designated. There should be an incorporation of the covenants by reference. If map or plat has been recorded, an amendment will not be necessary if the property and the common area can be identified and pinpointed by the description given in the covenants and acceptable dedication of the common area is contained in that declaration. If the language is unfair, ambiguous or contradictory, the matter should be referred to District Counsel.

b. Many PUD's are small enough and their common areas so minimal that professional management is not necessary. VA does not have a requirement for professional management of PUD's. The powers given to the HOA by the articles of incorporation and bylaws are fundamentally for "use control" and maintenance of the common areas. These powers normally include management which may, if desired, be delegated to a professional manager. *However,* if a developer or developer-controlled board wants professional management, the management agreement must be reviewed by the station and found to be reasonable. The agreement should be terminable for cause or upon reasonable notice, and run for a period of from 1 to 3 years, renewable by consent of the association and management.

c. When a project is submitted by a builder or developer, a written statement in simple terms must be prepared for use in the sales program to inform all home buyers about the HOA and the rights and obligations of lot owners. Specific information to be included in the brochure is set forth on page iii of VA Form 26–8200.

d. Where applicable under local law it is recommended that the deed to the lot owners contain a clause precluding any implication that the grantee takes title to the middle of abutting private streets or common areas (VA Form 26–8200, Appendix Form #7).

e. When submission is by a builder or developer, the form of purchase agreement to be used must avoid unfair contractual features and marketing practices (see M26–1, par. 5.06) and meet the requirements of VA Regulation 4303(j) (38 CFR 36.4303(j)) as to contract purchase price or cost exceeding the VA CRV as well as 38 U.S.C. 1806(a) relating to escrow deposits.

10. *Presale Requirement.* The possible need for a presale requirement must be considered in all cases. The number or percentage of presales require, if any, will vary with the circumstances and may be as high as 80 percent. All bona fide sales agreements; i.e., VA/FHA (Federal Housing Administration), conventional financing, and cash purchases, will be counted in determining whether the presale requirement is fulfilled. When imposed, the presale requirement will be set forth in the initial feasibility letter, in the Special Conditions, and until the requirement has been met, in each MCRV (Master Certificate of Reasonable Value) or CRV. Until the requirement is met, no evidence of guaranty will be issued. The presale requirement will be stated as follows:

"Evidence of guaranty will not be issued until receipt of proof that *(total number or percentage)* of homes have been sold." In those instances in which the local FHA office is currently considering acceptance of the development, coordination with that Agency will include coordination in respect to whether or not to impose a presale requirement and, if so, the number or percentage thereof. While, of course, the VA is not bound to follow FHA's course in this, due weight will be given to its views. If prior to submission of the development to the VA, FHA has already set a presale requirement, the VA will normally specify the same presale requirement. In order to avoid inconvenience to the developer VA field stations may accept the statement of the appropriate official in the local FHA office as to the number or percentage of sales attained and will not require a second submission of proof to the VA.

11. *Processing PUD's With Minimal Common Area.* When, as part of a homeowner's title, there is granted use and enjoyment to common property owned by an association with a mandatory membership, a station must consider the "trade-off" that a homeowner usually must make (common area or lot size) before it decides to vary the MPS (Minimum Property Standards) land use intensity and give value in the CRV for the common property. If a station

determines that the PUD common area is not a major or essential element of the development (e.g., open flood plain or berm strip), the project will not be processed as a PUD, but will be treated as a regular subdivision with a mandatory HOA (see par. 6a (2) and (4)). Loan Guaranty must give careful consideration to these projects with mandatory HOA's with minimal common areas before waiving PUD review. The decision to waive document review must be supported by a written finding that common areas are minimal.

12. *Processing PUD's With More Than Minimal Common Area.* If there is a mandatory HOA and the station finds the common area is more than minimal, then it must be sure that:

a. The mandatory assessment and membership are considered in computing the value for the CRV;

b. the lien of assessments is subordinate to the first mortgage or deed of trust, unless it falls within the exceptions stated in VA Regulation 4352 (§ 36.4352);

c. Title qualifies under VA Regulation 4350 (§ 36.4350); and

d. The organizational documents are not so objectionable as to preclude acceptance. The following, when found in the documents, are usually unacceptable:

(1) Lot owners having no vote or control in the management of the HOA.

(2) Right to vote delayed for an unreasonably long time;

(3) No limitation or control by the lot owners over increases in assessments;

(4) No protection against arbitrary or capricious actions by the developer or its successors, including retention of rights by the developer after its ownership interest in the land has ceased; and

(5) Lot owners compelled to pay assessments for the use of public facilities and services which are normally paid through taxes.

Note.—This list is not intended to be all inclusive, nor does it imply that the existence of one item will cause disapproval of a project, especially an existing project. A station must examine the remainder of the document clauses to determine if, considered as a whole, they are fair, reasonable, and protect the interests of the lot owners.

13. *Review Approach.* Each project must be evaluated on its own merits. Proposed construction and the documentation associated with it should be held to a high degree of compliance. In existing subdivisions the possibility of complying with VA requirements is more limited and is often determined by the project's state of development with difficulties encountered in correcting or amending the documents. Flexibility and sound judgment are required to prevent an overly protective or too rigid approach. Practices harmful to the veteran should be discouraged, but the building of homes to meet the needs of veterans should be encouraged. The largest area of abuse found in PUD documents is developer overcontrol with homeowners not being able to fully direct the destiny of their association. Stations must be aware of the fact that when a developer loses voting control, many variances with VA's requirements are determined to be moot. A document change, of course, need not be made if an issue is moot. Once the developer is out of control various requirements having to do with protecting homeowners, such as the percentages that are required to accomplish certain actions, or the need for prior VA approval, are not as important and may be waived. Flexibility must be exercised in determining the reasonableness of a submitted provision. When it is difficult to amend and defects are limited to the unreasonably retained controls of the developer, stations may consider seeking a separate recordable agreement from the developer to relinquish the objectionable controls, thereby curing the defects without having to amend the documents.

14. *Supplemental Sources.* For general background and philosophy of the PUD concept see Urban Land Institute Technical Bulletin 50, The Homes Association Handbook, revised edition.

15. *Implementation Instructions.*

a. *Loan Guaranty Division—Initial Review.*

(1) Organizational documents will be reviewed by the Loan Guaranty Construction and Valuation Section for a determination that (a) all necessary documents have been submitted, and (b) that documents conform to VA policy as stated herein. If a submission is found to be incomplete, the sponsor shall be requested to supply the specific documents that are missing or incomplete and considered necessary for a full review.

(2) The feasibility analysis and environmental review for PUD's shall follow the procedures as outlined in M26-2, chapter 4, and DVB Circular 26-75-37.

(3) The completed review by Loan Guaranty will result in written recommendations and requirements for project approval. Upon completion of Loan Guaranty's initial review each new PUD submission shall be referred as soon as possible to the District Counsel for review.

b. *Office of District Counsel.*

(1) Review of organizational documents will be to determine that:

(a) The declaration of covenants, articles of incorporation, bylaws, plats, and other related exhibits comply with local statutory and common law. If additional information is required to conform to local law, it should be detailed.

(b) The project scheme for land development is legally enforceable.

1. The uniform scheme must be clearly set forth by the plat and covenants, and must run with the land.

2. The scheme must apply uniformly to all of the lots subject to the covenants. If it is not uniform it may be unenforceable under local law (see par. 22.3, TB 50, ULI, The Homes Association Handbook, revised edition).

3. Any retained rights in the declarant to modify the covenants may make them unenforceable.

(c) The common area is clearly defined or can be defined by metes and bounds. If recorded plats (or plats to be recorded) are referred to they should be unmistakably identified (i.e., complete title, date, name of the draftsman, place where recorded, and book and page). The common area may be defined as all of the described property less the lots and streets as shown on the plat, if the perimeter of the property is shown by metes and bounds, and the lots and streets are described by metes and bounds on the plat.

(d) Common area for which PUD consideration is based and value given is not dedicated to the public either by an express or implied provision. Conflicting dedicatory provisions of plats and covenants must be interpreted under local law.

(e) Easements granted in plats, covenants and deeds clearly identify encumbered realty. It is acceptable to describe them in the covenants as those public utility easements as originally programed, described and/or platted, and existing at time common area is conveyed to the HOA. If the easements are too vague, then action must be recommended for necessary clarification.

(f) All organizational document amendments and PUD annexations have been properly made in accordance with the procedures spelled out in the documents.

(g) Nothing in the documents preclude unit mortgages from establishing valid first liens.

(h) Nothing in the documents preclude veteran purchasers from acquiring title as specified in paragraph 4.

(2) The procedure outlined above may not be necessary after the closing of the first case in a project unless there were amendments. District Counsel will advise station management in writing as

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to review findings and will indicate whether dockets for subsequent loans in the same project should be referred to District Counsel.

c. *Final Actions—Field Stations.*

(1) Stations are now authorized to take final action on planned-unit developments and will issue notices of approval or disapproval following receipt of review findings from District Counsel, for all submissions except those listed in subparagraph d below. (Problems on a specific submission which are not covered by present standards or precedents should be referred to Central Office (262) or (264) for guidance and assistance.)

(2) *Submissions to Central Office.* After issuance of notice of final action, stations will forward the following to Central Office (264) for review of any submissions involving mandatory homeowners associations, without regard to the size of common area involved:

(a) Loan Guaranty's review or determination that a review was not required;

(b) District Counsel's review;

(c) Station's final determinations for development handling; and

(d) One set of all documents considered by the station.

d. *Central Office Approval Required.*

(1) All stations will continue to forward to Central Office for concurrence, organizational documents, reviews, and determinations for the following:

(a) PUD's that consist of, or include, mobile home sites; and

(b) "New towns." For the purposes of this requirement "new towns" are not limited to those projects developed under the National Urban Policy and New Community Development Act of 1970, Title VII of the Housing and Urban Development Act of 1970, Public Law 91–609, but include any development involving 2,000 acres or more under one sponsorship and significant portions of land designated for other than residential and recreational uses.

(2) Central Office (262) and (264) will review these submissions and concur in or modify station determinations for final development handling.

e. *Loan Guaranty Division—Followup.*

(1) *Notice to Sponsor.* When a station's final determination has been completed (as concurred in or modified by Central Office when required), it will notify the sponsor of the status of the submission by dispatch of the ASP (accelerated subdivision processing) form(s) and/or a letter, as appropriate.

(2) *Draft Documents.* When the initial review of organizational documents is conducted on the basis of unrecorded draft documents, stations shall establish controls to insure that the organizational documents, as approved by VA, are recorded without change.

f. *Loan Processing.*

(1) A listing of all approved planned-unit developments shall be maintained by the station for use by the Loan Processing Section. The listing must show which projects have been approved and the monthly assessment at time of approval, or if the fee appraiser has indicated a different assessment figure, the amount so indicated. For credit analysis purposes Loan Processing shall use the fee appraiser's assessment figure whenever it varies from that reported on VA Form 26–1802a, Application for Home Loan Guaranty.

(2) Purchase contracts for individual loans involving builder or developer sales shall comply with M26–1, paragraphs 5.05 through 5.07. Contracts submitted with individual loans by the original developer/sponsor must be the same as those reviewed initially for each project. Contracts submitted by other builder/sellers must be reviewed for compliance with the regulations.

(3) It is necessary to establish a positive control to prevent guaranteeing a loan in a particular PUD prior to compliance with the legal and special condition requirements. There are several ways to assure compliance with these requirements, such as conditioning CRV's or MCRV's with PUD requirements which are removed after all documents are received and approved by issuance of VA Form 26–6363, Endorsement to Certificate of Reasonable Value, eliminating the requirement. Regardless of the procedure used, controls and coordination betwen the Construction and Valuation and Loan Processing Sections which fit the particular needs must be established to assure that all PUD requirements have been met prior to issuance of guaranty on the first loan.

g. *FHA Coordination.* Stations will forward a copy of their final project reviews to the local FHA insuring office.

16. *Releases.*

a. Central Office will furnish extracts of paragraphs 1 through 14 and exhibit A of this circular for stations to distribute to builders, developers, and lenders. Stations will combine extracts with their own releases rescinding local releases that are no longer applicable. Stations, in their local release may supplement exhibit A as needed to request additional copies or to adjust terminology for conformity with local usage. Copies of these releases need not be sent to Central Office.

b. To facilitate processing by requesters, stations shall periodically issue releases to program participants listing those planned-unit developments for which VA has reviewed and accepted the organizational documents.

17. The Office of the General Counsel concurs.

Dorothy L. Starbuck,

Chief Benefits Director.

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Exhibit A

[DVB Circular 26-80-34]

PLANNED-UNIT DEVELOPMENT SUBMISSIONS

REQUIRED FORMS AND DOCUMENTS

	BUILDER-DEVELOPER	RESALES INDIVIDUAL UNITS
Submit all documents in duplicate unless otherwise indicated. Legend: X - required AA - as applicable Section 1, Documents and Project Data - One time submission only for each project or individual request. Draft organizational documents are acceptable. Section 2, Special Requirements - If applicable, these items must be submitted before guaranty of any loan.		
1. DOCUMENTS AND PROJECT DATA a. Declaration of Covenants, Conditions & Restrictions.	X	X
b. Articles of Incorporation (if applicable).	AA	AA
c. Bylaws.	X	X
d. Documents a and/or b and c above for developments that are subject to more than one set of area use restrictions or require membership in more than one HOA.	AA	AA
e. Declaration of Annexation.	AA	AA
f. Recorded or final form plat or map with all proposed certifications, dedications and other narrative material included or incorporated by reference. Design and size of recreational facilities should be shown.	X	X
g. Developer's general plan and schedule for development if project is staged.	X	
h. Cross-easement.	AA	AA
i. Facilities' Leases.	AA	AA
j. Management Agreement.	AA	AA

	BUILDER-DEVELOPER	RESALES INDIVIDUAL UNITS
k. Service Contracts.	AA	AA
l. Information Brochure.	X	
m. Form of purchase contract for individual living unit.	X	
n. Form of grant, deed or leasehold agreement (in those jurisdictions where leaseholds have been previously authorized by VA) to be used in conveying individual living units.	X	
o. Current association budget (proposed budget if project is a proposed submission).	X	X
p. Statement signed by officer of board of directors of HOA specifying any existing or pending special assessments and any pending litigation affecting the association or unit.	X	X
q. State reviewing agency's report.	AA	AA

	BUILDER-DEVELOPER	RESALES INDIVIDUAL UNITS
r. VA Form 26-1805, Request for Determination of Reasonable Value (one set for each plan type or individual unit on MCRV applications).	X	X
s. VA Form 26-1852, Description of Materials, Plans and Specifications, for proposed projects.	X	
t. VA Form 26-8492, Application for Subdivision Feasibility Analysis (ASP-1) for projects less than 1 year old (if FHA processed then only copy of FHA ASP-9).	X	
2. SPECIAL REQUIREMENTS		
a. Certified copies of recorded organizational documents must be submitted that conform to previously accepted drafts.	X	X
b. Builder's warranty if unit is less than 1 year old.	X	

	BUILDER-DEVELOPER	RESALES INDIVIDUAL UNITS
c. In proposed projects, VA compliance inspection procedures or VA acceptance of FHA compliance inspection procedure applicable to proposed construction or evidence of enrollment in 10-year protection plan and final inspection.	X	
d. Evidence that recreational facilities have been completed and common area conveyed to approved HOA for stage under consideration.	X	X
e. Acceptable evidence that title to common area in HOA is free of encumbrances.	X	AA
f. Lender's certification that presale requirement has been met.	AA	AA
g. Evidence of flood insurance.	AA	AA
h. Termite certification.	AA	X

[FR Doc. 80-26789 Filed 8-29-80; 8:45 am]

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Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, September 2, 1980.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 80-5-FOIA-251, concerning a request by an attorney for subject matter indices of intra-agency memoranda and memoranda which relate to EEOC's decision not to sue.
2. Freedom of Information Act Appeal No. 80-6-FOIA-324, concerning a request by an attorney for access to a closed age file.
3. Several proposed contracts for services needed in connection with court cases.
4. Memorandum of Understanding with The Office of the Federal Inspector of the Alaska Natural Gas Transportation System.
5. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued August 26, 1980.

[S-1626 Filed 8-28-80; 1:59 pm]

BILLING CODE 6750-06-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 4, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6577).

MATTERS TO BE CONSIDERED:

Permission to Organize a New Federal Association—Henry E. Fultz, *et al.*, Bakersfield, California.

Holding Company Acquisition and Merger—Sears, Roebuck and Company, Chicago, Illinois to acquire Guild S&LA, Sacramento, California and merge said association with Allstate S&LA, Los Angeles, California.

Service Corporation Application—California FS&LA, Los Angeles, California.

No. 384, August 28, 1980.

[S-1627-80 Filed 8-28-80; 2:16 pm]

BILLING CODE 6720-01-M

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54517, August 15, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., August 20, 1980.

CHANGES IN THE MEETING: Withdrawal of the following item from the open session:

2. Docket No. 80-5—Dynamic International Freight Forwarders, Inc., Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916—Consideration of the Record.

Addition of the following item to the closed session:

2. Docket No. 80-5—Dynamic International Freight Forwarders, Inc., Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916—Consideration of the Record.

[S-1621-80 Filed 8-27-80; 4:16 pm]

BILLING CODE 6730-01-M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 2:15 p.m., Wednesday, August 27, 1980.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Federal reserve Bank and Branch director appointments.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 27, 1980.

[S-1624-80 Filed 8-28-80; 10:35 am]

BILLING CODE 6210-01-M

5

[USITC SE-80-43]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, September 18, 1980.

PLACE: Room 117, 701 E Street N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Tire changers (Docket No. 673).
5. Inv. 303-TA-14 [Final] (Certain Iron Metal Castings from India)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1630-80 Filed 8-28-80; 2:57 pm]

BILLING CODE 7020-02-M

6

[USITC SE-80-42]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Tuesday, September 9, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.

3. Ratifications.
4. Petitions and complaints, if necessary.
5. Inv. 303–TA–14 [Preliminary] (Animal Identification Tags from New Zealand)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1629–80 Filed 8–28–80; 2:57 pm]

BILLING CODE 7020–02–M

7

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2:30 p.m., Wednesday, August 27, 1980.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570; telephone: (202) 254–9430.

Dated: Washington, D.C., August 27, 1980.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S–1622–80 Filed 8–27–80; 5:09 pm]

BILLING CODE 7545–01–M

8

[NM–80–32]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, September 9, 1980.

PLACE: NTSB Board room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Redcoat Air Cargo, Ltd., Bristol Britannia 253F, G–BRAC, Billerica, Massachusetts, February 16, 1980.
2. *Pipeline Accident Report*—Cordele, Georgia Gas Department, Explosion and Fire, Cordele, Georgia, February 21, 1980, and *Recommendations* to the Research and Special Programs Administration, U.S. Department of Transportation, and to the city of Cordele, Georgia.
3. *Highway Accident Report*—Multiple Vehicle Collision and Fire, U.S. Route 101, Los Angeles, California, March 3, 1980.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

August 1, 1980.

[S–1631–80 Filed 8–28–80; 3:59 pm]

BILLING CODE 4910–58–M

9

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 164, p. 55894, Thursday, August 21, 1980.

TIME AND DATE: 9 a.m., September 4, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

CHANGES IN THE MEETING: Additional items to be considered at the portion of the meeting which will be open to the public:

(4) Appeal on Computation of annuity, Anastasia Mackus.

(5) Appeal of nonwaiver of overpayment—Gary H. Lilja.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920, FTS No. 387–4920.

[S–1625–80 Filed 8–28–80; 10:35 am]

BILLING CODE 7905–1–M

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Wednesday, September 3, 1980, at 10:00 a.m. and 2:30 p.m., and on Thursday, September 4, 1980, at 9:00 a.m. An open meeting will be held on Thursday, September 4, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis and Evans determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 3, 1980, at 10:00 a.m., will be:

Settlement of administrative proceedings of an enforement nature.
Formal orders of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Litigation matter.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Administrative proceeding of an enforcement nature.
Chapter X proceeding.
Freedom of Information Act appeals.
Opinions.

The subject matter of the closed meeting scheduled for Wednesday, September 3, 1980, at 2:30 p.m., will be:

Legislative and regulatory matters bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, September 4, 1980, at 10:00 a.m., will be:

1. Consideration of whether to authorize publication by the Division of Corporation Finance of its Staff Report on Corporate Accountability and to authorize the staff to move forward on the recommendations contained in the Report. For further information, please contact Amy L. Goodman at (202) 272–2587.
2. Consideration of whether to adopt proposed Rule 14e–3 under Regulation 14E of the Securities Exchange Act of 1934, which would establish certain anti-fraud provisions with respect to trading by persons while in possession of material, nonpublic information relating to a tender offer. For further information, please contact John J. Huber or W. Scott Cooper at (202) 272–2589.
3. Consideration of whether to grant the application of General American Investors Company, Inc., an internally-managed, diversified, closed-end investment company registered under the Investment Company Act of 1940 (the "Act"), for an order, pursuant to section 6(c) of the Act, exempting it from the provisions of Section 12(d)(3) of the Act so that it can expand its advisory business by forming a wholly-owned subsidiary which will register under the Investment Advisers Act of 1940. For further information, please contact Alan Porter at (202) 272–3026.
4. Consideration of whether to issue a release announcing a modification of the Division of Investment Management's previous interpretation of Sections 17 (h) and (i) of the Investment Company Act of 1940 regarding indemnification of investment company directors, officers, investment advisers, or principal underwriters. To permit a broader spectrum of conduct than the previous interpretation allowed. For further information, please contact Elizabeth T. Tsai at (202) 272–2028.
5. Consideration of whether to amend Form X–17A–5, the Financial and Operational

Combined Uniform Single ("FOCUS") Report and Rule 17a-5 under the Securities Exchange Act of 1934. For further information, please contact James G. Moody at (202) 272-2370 or William J. Atkinson at (202) 523-5601.

6. Consideration of whether to grant the request of Joel Seligman, Associate Professor of Law at Northeastern University School of Law, who is currently engaged in writing a history of the Securities and Exchange Commission, for access to Commission Minutes for the periods of 1945-1946, 1953-1961, and 1961-1969. For further information, please contact Theodore Bloch at (202) 272-2454.

7. Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272-2454.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272-2091.

August 26, 1980.

[S-1623-80 Filed 8-28-80; 9:29 am]

BILLING CODE 8010-01-M

11

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 9 a.m., September 16, 1980.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Boulevard, Arlington, Va. 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. President's Report.
3. Minutes of the May 14, 1980, Meeting.
4. Fiscal Year 1982 Budget.
5. Financial Report.
6. Project Summaries/Status Reports.
7. Monthly Project Status Report—August 1980.
8. Showing of New IAF Film, "Aqui No Hay Imposibles."

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr. (703) 841-3812.

[S-1626-80 Filed 8-28-80; 2:43 pm]

BILLING CODE 7025-01-M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, September 3, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10:00 a.m.—1. Discussion and Vote on Farley Low Power Operating License (approx. 2 hrs) (public meeting).

2:00 p.m.—1. Briefing by EPA on Draft General Standards (Occupational Exposures, Mill Tailings) (approx. 2 hrs) (public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Automatic telephone answering service for schedule update: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

August 27, 1980.

[S-1632-80 Filed 8-29-80; 11:37 am]

BILLING CODE 7590-01-M

V45/171 SE2 80 UMI

federal register

Tuesday
September 2, 1980

Part II

Department of Labor

Office of the Secretary

Redwood Employee Protection Program

V 45 / 171 SE 2 80 UMI

DEPARTMENT OF LABOR

29 CFR Part 92

Redwood Employee Protection Program

AGENCY: Department of Labor.

ACTION: Final regulations.

SUMMARY: The Department of Labor, through the Labor-Management Services Administration (LMSA), proposed regulations to implement the Redwood Employee Protection Program established by Title II of the Redwood National Park Expansion Act of 1978 (Pub. L. 95–250). The proposed regulations were issued in the **Federal Register** on June 12, 1979, (44 FR 33697). Under the proposed regulations, LMSA has responsibility for all provisions concerning affected employee benefits, including benefit amounts, determining eligibility for benefits, extent of relocation, reemployment and training assistance and job preference for certain employment. The citations included refer the reader to the appropriate statutory provision.These final regulations are similar to the proposed, but are modified in some respects as a result of comments.

EFFECTIVE DATE: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Pothin of the department at (202) 523–6495. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 2, 1968, Congress established a 58,000 acre Redwood National Park in the State of California. Over the ensuing decade a considerable controversy developed over whether the Park's size was adequate to assure that certain key areas of the Park were protected from possible damage by upstream timbering. This debate was resolved on March 27, 1978, with the passage of Pub. L. 95–250, which provided for an addition of 48,000 acres to the Park. Under Title I of the Act, employees whose jobs were lost as a result of this Park expansion were designated to receive preference in hiring for both Federal civilian jobs and jobs with certain private employers. In addition, under Title II of the Act, these employees were provided with a program of income and benefit maintenance, and with retraining, job search, and job relocation allowances.

Discussion of Major Comments and Changes

The proposed regulations were published June 12, 1979, with a 60 day review and comment period. The Department received three separate written responses from regional, Federal, and State government agencies. No comments were received from the General Public or interested parties. Full consideration was given to all the comments received from the agencies. The issues raised by the Commentors were as follows:

§ 92.2 Terms Relating to Administration.

(a) It was requested that certain terms used in the regulations be given specific definition. To that end, the terms Administrative Record, Code, Office of Appeals, and Pension have been defined.

(b) It was requested by the California Employment Development Department that the definition of "ALJ" be broadened to properly reflect the authority of the California Unemployment Insurance Appeals Board to designate any person(s) to act on its behalf at the first appellate level. The definition has been modified accordingly.

§ 92.4(2)(d) Retraining, Job Search and Relocation Allowance.

(a) The period of eligibility for retraining was originally limited in that it commenced automatically with the date of layoff and ended with the expiration of the period of protection or the expiration of the period of creditable service of the claimant. Upon review it was discovered that the retraining benefits were not available for several months after the start of the program. Therefore, we have modified the language of the reguations to insure the period of eligibility will not commence until the benefit sought was available. Additionally, an end date for commencement of training has been established as September 30, 1984, consistent with the provisions of the Act (Section 203 Pub. L. 95–250, 92 Stat. 175).

(b) The proposed regulations provided for a reimbursement for mortgage payment on the original home for 90 days after relocation. This provision has been deleted since it was not authorized by the statute. The deletion is consistent with the recommendations contained in the General Accounting Office report.

§ 92.7(b) Contract Employee.

(a) Section 203 of the Act limits the number of affected employees who can receive benefits to the number that is equal to the percentage of the affected employer's employee hours worked within or directly related to the expansion area during calendar year 1977. Since the proposed regulations left doubt with some agencies about when to count an affected employee against a number limitation, the regulations now provide that an individual shall only be counted once he/she has received a weekly layoff or a severance benefit. Claimants who apply and do not qualify are not counted against this limit.

(b) The definition of contract employee has been modified. The new definition excludes employees of contract employers unless they actually performed work within or directly related to the expansion area. This modified definition is consistent with statutory provision (Section 204, Pub. L. 95–250, 92 Stat. 173). Further, it reflects the recommendation contained in the General Accounting Office report.

§ 92.8(f) Terms Relating to Employers.

(a) Upon review it was determined to delete the original definition of last affected employer. Since an affected employee can continue to accrue creditable service by working for any affected employer subsequent to a first layoff, the last affected employer is thus that affected employer for whom the individual last performs work prior to *September 30, 1980.*

§ 92.9(e) Terms Relating to Employment.

In defining "in the industry", standard industrial classification numbers were used. However, it was pointed out by the California Employment Development Department that some companies engage in a multiplicity of activities. Therefore the definition is modified to recognize the company's primary activity regardless of the classification number assigned.

§ 92.13(a) Certified Lists of Employers.

To insure that all concerned agencies are kept informed of any additions, deletions or changes in these lists, the regional offices of the Employment and Training Administration of the U.S. Department of Labor (ETA) have now been added to the distribution list.

§ 92.27(a) Job Relocation Allowance.

Since the intent of the Act is to assist certain employees who are forced by circumstances beyond their control to relocate to new work outside the area, the relocation allowance is limited to that initial move from the impacted area.

§ 92.32(g)(2)(v) Reimbursement for Loss or Costs Incurred in Sale of House.

Section 212 of the Act provides reimbursement for losses or costs incurred in the sale of a house. In establishing a loss, the fair market value of the property must be determined. This value is subject to change according to local real estate market conditions. Based upon the recommendations of professional realtors, the fair market value shall be determined as of 6 months prior to the sale. This will protect the seller from adverse market conditions brought about by declining area employment.

§ *92.32(h) Challenge in Claims for Loss or Cost in Sale of House.*

In case of a dispute over fair market value the proposed regulations called for a joint conference to resolve the dispute. In these final regulations the authorized participants at such a conference have been changed to include a representative of the Employment Development Department. The participants are now limited to a representative of the individual employee, the California Employment Development Department, and the Department of Labor.

In addition, the California Board of Realtors is now established as the appropriate body to designate a qualified appraiser. In the proposed regulations the Federal Mediation Service had been named as the agency to designate the appraiser.

§ *92.34 Recovery of Overpayment.*

This provision has been modified to delete the waiver of overpayment. Such waiver is not provided for in the statute. This modification reflects the recommendation contained in the General Accounting Office report.

§ *92.50 Appeal Procedure.*

Under the express terms of the Act the U.S. Department of Labor has sole authority to designate employers as "affected".

The Department of Labor is finalizing these regulations to describe (1) the eligibility requirements an individual must meet in order to qualify for benefits; (2) the level of benefits; (3) the procedures an individual must follow to claim benefits; (4) the rights of an individual to appeal a decision of an application for benefits; and (5) certain other basic information concerning individual responsibilities and program requirements.

Accordingly, a new Part 92 is added, as set forth below. (Secretary of Labor Order No. 6–78, May 15, 1978.)

PART 92—REDWOOD EMPLOYEE PROTECTION PROGRAM

Subpart A—General

Sec.
92.1 Purpose and scope.
92.2 Terms relating to administration.
92.3 Terms relating to employees.

Special Classes of Employees

92.4 Short-service employee.
92.5 Seasonal employee.
92.6 Retired employee.
92.7 Contract employee.
92.8 Terms relating to employers.
92.9 Terms relating to employment.

Subpart B—Application for Benefits

92.10 Who may apply.
92.11 When to apply.
92.12 How to apply.
92.13 Certified lists of employers.
92.14 Processing applications.

Subpart C—Types of Benefits

92.20 General.
92.21 Weekly layoff benefits.
92.22 Vacation replacement benefits.
92.23 Health and Welfare benefits; pension rights and credits.
92.24 Severance payment.
92.25 Retraining.
92.26 Job search allowance.
92.27 Job relocation allowance.

Subpart D—Amounts and Calculations of Benefits

92.30 Weekly layoff/vacation replacement benefit, and/or severance payment.
92.31 Job search allowance.
92.32 Job relocation allowance.
92.33 Overpayment—general.
92.34 Recovery of overpayment.
92.35 Final decision.

Subpart E—Preferential Hiring

92.40 Full consideration obligation.
92.41 Employee full consideration obligation.
92.42 EDD full consideration responsibility.
92.43 Violations of full consideration obligations.
92.44 Judicial review.
92.45 Preexisting rights.
92.46 Period of preferential hiring.

Subpart F—Appeal Procedure

92.50 Administration.

Authority Sections 202 and 213(c)(2). PL 95–250, dated March 27, 1978.

Subpart A—General

§ 92.1 Purpose and scope.

(a) *Implementation.* The regulations contained in this chapter are designed to implement Section 103 (d) through (i) of Title I, and Title II of the Redwood National Park Act of 1968, as amended by Pub. L. 95–250 enacted March 27, 1978.

(b) *Application for benefits.* These regulations pertain to applications by individuals for Redwood Employee Protection Program (REPP) benefits such as: weekly layoff benefits, severance payments, vacation replacement benefits, retraining, job search allowances, and job relocation allowances. Applications for such benefits will be administered by the California Employment Development Department (EDD) with the assistance and cooperation of other State employment security agencies (SESAs). Applications by individuals for continuing entitlement to health and welfare benefits and accrual of pension rights and credits will be administered by the Labor-Management Services Administration (LMSA) of the United States Department of Labor.

Special Considerations

(c) *Conclusive presumption.* The total or partial layoff of a covered employee employed by an affected employer during the period beginning May 31, 1977 and ending September 30, 1980, is conclusively presumed to be attributable to the expansion of the Redwood National Park (Section 203, Pub. L. 95–250, 92 Stat. 175). No such presumption exists, however, if such employee has voluntarily quit, been laid off or terminated for a cause that would disqualify him/her for unemployment compensation with certain limited exceptions. The exceptions are listed in § 92.21(b)(7) (i) through (viii) herein.

(d) *Interpretation of Title II.* In implementing and interpreting Title II of the Act, the Secretary shall avoid inequities adverse to employees. In all cases where two or more interpretations of Title II of the Act would be reasonable, the Secretary shall adopt and apply that interpretation which is most favorable to employees (Section 213(f), Pub. L. 95–250, 92 Stat. 182).

§ 92.2 Terms relating to administration.

"Act" means the Redwood National Park Act of 1968 as amended by Pub. L. 95–250.

"Administrative Record" means all evidence, documents, and information, including transcript, relative to an appeal of a claimant.

"ALJ" means an Administrative Law Judge of the California Unemployment Insurance Appeals Board and includes any other designee who is employed to act as the first level appellate authority for the C.U.I.A.B.

"Applicant" means an individual who has made an application for REPP benefits under the Act.

"Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations, unless otherwise indicated.

"Benefits" means weekly layoff benefits, severance payments, vacation replacement payments for seasonal employees, retraining, job search allowances, job relocation allowances, and continuing entitlement to health and welfare benefits and accrual of pension rights and credits.

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"Code" means the California Unemployment Insurance Code or its equivalent in another state.

"CUIAB" means the California Unemployment Insurance Appeals Board.

"Days" means calendar days.

"EDD" means the California Employment Development Department.

"ETA" means the Employment and Training Administration of the U.S. Department of Labor.

"LMSA" means the Labor-Management Services Administration of the U.S. Department of Labor.

"Office of Appeals" means the San Francisco Office of the California Unemployment Insurance Appeals Board or its equivalent in another state.

"Pension" means any payment(s) or annuity received by an employee from his/her employer upon retirement.

"REPP" means the Redwood Employee Protection Program.

"SESA" means a State employment security agency.

"Secretary" means the Secretary of Labor.

"Severance payment" means a lump sum payment in lieu of other benefits to an affected employee or a retired employee (Section 208, Pub. L. 95–250, 92 Stat. 179).

"Vacation replacement benefit" means a payment to a seasonal employee which is equivalent to the payment the seasonal employee would have received for vacation pay had the individual remained employed in his/her seasonal occupation (Section 207(c)(3), Pub. L. 95–250, 92 Stat. 178).

"Weekly layoff benefit" means a weekly payment to an affected employee (other than a short-service employee) which is an amount equivalent to the level of weekly earnings he/she would be receiving if still working for his/her last affected employer (Section 207(a), Pub. L. 95–250, 92 Stat. 178).

§ 92.3 Terms relating to employees.

(a) *Employee.* "Employee" means any person employed by an affected employer with the exception of those persons who are engaged in managerial functions or functions directly auxiliary to management as described in Section 13(a)(1) of the Fair Labor Standards Act (Section 201(3), Pub. L. 95–250, 92 Stat. 172).

(b) *Covered employee* means an employee who:

(1) Had seniority under a collective bargaining agreement with an affected employer as of May 31, 1977, has at least twelve months of creditable service as of March 27, 1978, and has performed work (as defined in Section 201(17) of the Act) for one or more affected employers on or after January 1, 1977, or

(2) Has performed work for one or more affected employers for at least 1,000 hours from January 1, 1977 through March 27, 1978 and had a continuing employment relationship with an affected employer as of March 27, 1978, or if laid off on or after May 31, 1977 but before March 27, 1978 had such a relationship as of the date of layoff (Section 201(10), Pub. L. 95–250, 92 Stat. 173).

(c) *Affected employee* means a covered employee who: (1) has been either totally or partially laid off by an affected employer within a time period beginning on or after May 31, 1977 and ending September 30, 1980, unless extended by the Secretary; or (2) has been determined by the Secretary as an individual adversely affected by the expansion of the Redwood National Park (Section 201(11), Pub. L. 95–250, 92 Stat. 173).

Special Classes of Employees

§ 92.4 Short-service employee.

(a) *Definition.* "Short-service employee" means an affected employee who:

(1) Will not reach age sixty before October 1, 1984; and

(2) As of the date of becoming an affected employee, has less than five full years of service credit under a pension plan contributed to by industry employers or has less than five full years of creditable service (Section 209, Pub. L. 95–250, 92 Stat. 180).

(b) *Weekly layoff and vacation replacement benefit.* A short-service employee shall not be eligible to receive weekly layoff or vacation replacement benefits.

(c) *Severance payment.* A short-service employee shall be eligible to receive a severance payment provided he/she meets the eligiblity requirements set forth in § 92.24 (b) or (c).

(d) *Retraining, job search and relocation allowances.* A short-service employee shall be eligible for retraining, job search allowances, and job relocation allowance, beginning on the date of his/her total layoff or on the date of the availability of approved retraining (whichever is later) and extending through a period equal to the length of his/her creditable service. However, in the case of retraining, the period of eligibility shall not commence until such approved retraining is available. In no instance shall payment of REPP funds be made to any individual engaged in approved retraining for any period of time after September 30, 1984. While in good faith engaged in training a short-service employee shall be paid the same stipends and allowances as are applicable to other individuals engaged in such training programs who are not covered by this Act.

(e) *Health and Welfare and pension benefits.* A short-service employee shall not have continuing entitlement to health and welfare benefits or accrual of pension rights and credits.

§ 92.5 Seasonal employee.

(a) *Definition.* "Seasonal employee" means an affected employee (including a short-service employee) whose highest paid job held, other than by temporary assignment, with one or more affected employers during the period from January 1, 1977 through March 27, 1978, was in an occupation in which the average annual number of weeks during which work was actually performed by the employee in such occupation during the five calendar years preceding March 27, 1978 was forty or less weeks (Section 207(c), Pub. L. 95–250, 92 Stat. 178).

A seasonal employee (other than a short-service employee) shall be eligible to receive weekly layoff and vacation replacement benefits during his/her usual season. A seasonal employee may elect to receive a severance payment in lieu of weekly layoff and vacation replacement benefits. In addition, he/she shall be eligible for retraining, job search allowances, and a job relocation allowance, during his/her period of protection, and for continuing entitlement to health and welfare benefits and to accrual of pension rights and credits.

§ 92.6 Retired employee.

(a) *Definition.* "Retired employee" means an employee who retired from employment with an affected employer, for reasons other than disability, on or after May 31, 1977 but not later than September 30, 1984 (Section 204(b)(1), Pub. L. 95–250, 92 Stat. 176). In order to be eligible for REPP benefits such employee must:

(1) be receiving or have received pension benefits under a plan financed by industry employers; and

(2) be at least 62 but less than 65 at the time of retirement; and

(3) not be eligible for benefits under Title XVIII of the Social Security Act (Medicare).

(b) *Weekly layoff and vacation replacement benefits.* A retired employee shall not be eligible to receive a weekly layoff or vacation benefit.

(c) *Severance payment.* An employee retiring early (between age 62 and age 65) who meets the other criteria set forth in § 92.6(a) shall be eligible to receive a severance payment upon presentation of evidence that he/she is retired on a plan financed by an industry employer (Section 204(b) (1), (2), (3), Pub. L. 95-250, 92 Stat. 176).

(d) *Retraining, job search and relocation allowances.* A retired employee shall not be eligible for retraining, job search allowances, and a job relocation allowance.

(e) *Health and welfare benefits.* A retired employee shall have continuing entitlement to health and welfare benefits (other than group life insurance and additional death, dismemberment and loss of sight benefits) if the employee lost entitlement to such benefits upon retirement.

§ 92.7 Contract employee.

(a) *Definition.* "Contract employee" means an employee:

(1) who performed work pursuant to a contract or agreement for services within or directly related to the expansion area between an affected contract employer and an affected woods employer and,

(2) said employee performed such work within or directly related to the expansion area (Section 201(4), Pub. L. 95-250, 92 stat. 172)

(b) *Limited number.* The number of contract employees who may be eligible for REPP benefits is limited. The determination by LMSA as to how many contract employees may become eligible for REPP benefits is calculated as follows: First determine what percent of the affected contract employer's employee hours were worked within or directly related to the expansion area in 1977. Then apply (multiply) that percent times the total of all employees on the contract employer's 1977 payroll. The product of this calculation becomes the number of that contract employer's employees who may receive REPP benefits. For example, 40% of an employer's employee hours in 1977 were worked in expansion area. The employer had 175 total contract employees on the company's payroll in 1977. 175 multiplied by .40 equals 70; 70 employees would thereby be eligible for benefits. In order to assure benefits will be allocated to employees based upon priority of submission of claim, the date and time of application shall be recorded when such employees make application.

Each employee who receives any type of benefits counts as one employee when calculating the number of eligible employees for that contract employer.

§ 92.8 Terms relating to employers.

(a) *Industry employer.* "Industry employer" means a corporation, partnership, joint venture, person, or other form of business entity (including a predecessor or successor by purchase, merger, or other form of acquisition), of which a working portion or division is an affected employer (Section 201(5), Pub. L. 95-250, 92 Stat. 172).

(b) *Affected employer.* "Affected employer" means a corporation, partnership, joint venture, person, or other form of business entity (including a predecessor or a successor by purchase, merger, or other form of acquisition), or a working portion or division thereof, which is engaged in the harvest of timber or in related sawmill, plywood, or other wood processing operations, and which meets the qualifications set forth in the definition of affected woods employer, affected mill employer, or affected contract employer. For purposes of this Act, the Assistant Secretary shall determine an employer's status and shall provide a list of employers who qualify as affected employers (Section 201(6), Pub. L. 95-250, 92 Stat. 172).

(c) *Affected woods employer.* "Affected woods employer" means an affected employer engaged in the harvest of redwood timber who owns at least 3 per centum of the number of acres authorized to be included within the expansion area on January 1, 1977 and on March 27, 1978; provided, that an affected woods employer shall be only that major portion or division of the industry employer directly responsible for such harvesting operations (Section 201(7), Pub. L. 95-250, 92 Stat. 172).

(d) *Affected mill employer.* "Affected mill employer" means an affected employer engaged in sawmill, plywood, or other wood processing operations in Humboldt or Del Norte Counties in the State of California who has either (1) obtained 15 per centum or more of its raw wood materials directly from affected woods employers during calendar year 1977, or (2) is a wholly owned mill of an affected woods employer; provided, that an affected mill employer shall be only that major portion or division of the industry employer directly responsible for such wood processing operations (Section 201(8), Pub. L. 95-250, 92 Stat. 173).

(e) *Affected contract employer.* "Affected contract employer" means an affected employer providing services pursuant to contract with an affected woods employer, if at least 15 per centum of said employer's employee-hours worked during calendar year 1977 were within or directly related to the expansion area pursuant to such contract or contracts (Section 201(9), Pub. L. 95-250, 92 Stat. 173).

(f) *Performed work.* "Performed work" shall include any time during which an employee worked for an affected employer or with respect to which an employee received pay from such an employer for time not worked, and shall also include any time during which an employee would have been at work for such an employer if not for service in the armed forces, for a leave (approved by the employer) for work with an employee organization, or for a disability for which said employee received workers' compensation, disability compensation benefits provided under California law, or social security disability pension benefits: *Provided,* That contract employees shall be deemed to have performed work during the period of such service or disability only if—

(i) the employee worked within or directly related to the expansion area immediately prior to the occurrence of such service or disability and

(ii) the employee returned or sought to return to work for an affected contract employer immediately after the end of the service or disability if that was prior to the date of enactment.

The term "work performed", when used in relation to a period of time, shall also be deemed to include any period during which an employee is deemed to have performed work (Section 201(17), Pub. L. 95-250, 92 Stat. 174).

§ 92.9 Terms relating to employment.

(a) *Commuting area.* "Commuting area" means an area, for purposes of suitable work, within the commuting distance of an individual's place of residence. It is determined in accordance with policy established under California State law. However, for the purposes of a job relocation allowance, commuting area shall mean a work location which is within 30 or less normal highway miles of an affected employee's place of residence.

(b) *Continuing employment relationship.* "Continuing employment relationship" means that an employee has worked for an affected employer on a regular basis. Authorized absences are not considered a break in a continuing employment relationship. Summer or vacation relief employees or other temporary employee replacements are not considered to have a continuing employment relationship.

(c) *Continuous service.* "Continuous service" with respect to employees not having seniority under a collective-bargaining agreement with an affected employer or an industry employer shall mean a period of time measured in months equal to the sum of all hours during which the employee performed work for said employer plus all hours for which the employee received pay for time not worked divided by one hundred and seventy-three (Section 201(16), Pub. L. 95-250, 92 Stat. 174).

For example, an employee worked 1,367 hours in 1976, 1,824 hours in 1977, and 2,172 hours in 1978. The employee is then laid off. Add: 1,367+1,824+2,172 for a sum of 5,363; divide this sum (5,363) by 173; the result is then 31 months of continuous service.

(d) *Creditable service.* "Creditable service" means an affected employee's total length of service working for affected or industry employers. Creditable service when used to determine an employee's period of protection shall be computed as follows:

(1) A period equal to the length of an employee's seniority (or continuous service), with the employee's last affected employer at the time said employee is eligible to receive a weekly layoff benefit or vacation replacement benefit; plus

(2) a period equal to the sum of all prior periods during which the employee had seniority (or continuous service) with the same affected employer and with other industry employers. However, if such seniority (or continuous service) was broken for more than three consecutive years, any periods of seniority (or continuous service) prior to the break shall be disregarded and shall not be counted as creditable service. Creditable service shall not be considered as broken if the cause for the break in service was one of the following:

(i) Employment with other affected employers or industry employers; or

(ii) Service in the Armed Forces; or

(iii) Disabilities for which the employee received any workers' compensation benefits; unemployment compensation disability benefits; or disability benefits under the Social Security Act.

Creditable service shall include only those periods of employment with his/her last affected employer and other industry employers (Section 206, Pub. L. 95-250, 92 Stat. 177). If necessary EDD will request the appropriate authorization to examine an applicant's social security wage record in order to establish an applicant's creditable service.

(e) *In the industry.* "In the industry" means employment with affected employers or, in general, with any employer which is primarily engaged in activities defined in a Standard Industrial Classification (SIC) number is in the four digit Group No. 2411 (Logging Camps and Logging Contractors), 2421 (Sawmills and Planning Mills, General), 2435 and 2436 (Hardwood and Softwood, Veneer and Plywood), 2492 (Particle Board) or 2611 (Pulp Mills), or with an employer engaged in related types of activities that are "sawmill", "plywood", or other "wood processing operations" within the meaning of Title II.

(f) *Partial layoff.* "Partial layoff" or downgrading means a calendar week for which all pay received by a covered employee from affected employers is at least 10 per centum less than the weekly layoff benefit or vacation replacement benefit that would have been payable for that week had the employee suffered a total layoff (Section 201(12), Pub. L. 95-250, 92 Stat. 173).

(g) *Period of protection.* "Period of protection" means a period of time equal to the length of an affected employee's creditable service during which period an affected employee is entitled to weekly layoff benefits or vacation replacement benefits and to continuation of health and welfare benefits and accrual of pension rights and credits. An employee's period of protection shall start with the beginning of the first week for which the employee is eligible to receive a weekly layoff benefit or vacation replacement benefit and shall continue until the earliest of:

(1) The date the employee accepts a severance payment;

(2) A period equal to the length of the employee's creditable service is exhausted; or

(3) The employee's sixty-fifth birthday.

In no event shall an employee's period of protection extend beyond September 30, 1984, except for an employee who reaches age 60 on or before September 30, 1984, in which case the employee's period of protection shall be extended until his/her 65th birthday (Section 206(a), Pub. L. 95-250, 92 Stat. 177).

(h) *Seniority.* "Seniority" with respect to an employee covered by a collective-bargaining agreement with an affected employer, shall be determined as provided in such agreement and shall be deemed to refer to company seniority, if the agreement provides for such seniority and, otherwise, to plant seniority (Section 201(15), Pub. L. 95-250, 92 Stat. 174).

(i) *Sixty-fifth birthday.* "Sixty-fifth birthday" means the last day of the month in which the sixty-fifth birthday occurs (Section 202, Pub. L. 95-250, 92 Stat. 175).

(j) *State job service.* "State job service" means that agency of the state government which performs the employment service functions.

(k) *Suitable work.* "Suitable work" means:

(1) Work defined as suitable in the California Unemployment Insurance Code; and

(2) With respect to an employee who has completed retraining paid for by the Secretary, a job paying no less than the prevailing wage rate in the area for the occupation for which said employee was retrained; or

(3) A job comparable with that which said employee would be required to accept pursuant to the seniority provisions of the applicable collective-bargaining agreement (or, if not covered by such an agreement, in accordance with the usual practice of the affected employer) (Section 201(14), Pub. L. 95-250, 92 Stat. 173).

(l) *Total layoff.* "Total layoff" means a calendar week during which an affected employer has made no work available to a covered employee and has made no payment to a covered employee for the time not worked (Section 201(12), Pub. L. 95-250, 92 Stat. 173).

(m) *Usual season.* "Usual season" means those weeks commencing in each calendar year during which a seasonal employee is usually employed by an affected employer.

In the event of ambiguity of definition or meaning the express terms of the statute shall prevail.

Subpart B—Application for Benefits

§ 92.10 Who may apply.

(a) *Application.* An application for REPP benefits may be filed by a covered employee or a retired employee.

§ 92.11 When to apply.

(a) *Filing after layoff.* An initial application for REPP benefits by a covered employee may be filed with respect to a total or partial layoff by an affected employer which occurred on or after May 31, 1977 but not later than September 30, 1980, unless this date is extended by the Secretary.

(b) *Filing after retirement.* An initial application for REPP benefits by a retired employee may be filed with respect to the employee's retirement from employment with an affected employer on or after May 31, 1977, but not later than September 30, 1984.

§ 92.12 How to apply.

(a) *Application for unemployment compensation.* An application for unemployment compensation filed by a covered employee with the Employment Development Department or State Employment Security Agency (SESA) on or after April 3, 1978 shall be deemed an application for REPP benefits (Section 205(a), Pub. L. 95–250, 92 Stat. 176).

(b) *Eureka, Crescent City, and Redding field offices.* An initial application for REPP benefits may be filed directly in either the Eureka, Crescent City, or Redding, California field offices of the EDD.

(c) *Other EDD field offices.* An initial application for REPP benefits may also be filed at any other field office of the EDD.

(d) *SESA.* Persons residing outside of California may file an initial application for REPP benefits at their nearest local office of the SESA under special interstate procedures.

§ 92.13 Certified lists of employers.

(a) *Names of employers.* The Assistant Secretary shall publish and make available to the ETA regional offices, the EDD Central Office and SESA offices certified lists containing the names of:

(1) industry employers;

(2) affected employers;

(3) affected contract employers (including the maximum number of contract employees who can become eligible for REPP benefits); and

(4) those local employers who have been determined not to qualify as affected employers.

(b) *Updating.* These lists were established originally based upon early survey information. Since all of the eligible affected employers may not have been identified, these lists are subject to challenge at any time to review the addition or deletion of any given employer.

§ 92.14 Processing applications.

EDD determinations. The EDD shall process all applications to determine whether an applicant is entitled to REPP benefits and the types and amounts of such benefits pursuant to policies, criteria, and standards set forth in these regulations.

Subpart C—Types of Benefits

§ 92.20 General.

This section discusses the types of benefits available under REPP. The amount of such benefits is discussed in Subpart D.

§ 92.21 Weekly layoff benefits.

(a) *EDD determination of entitlement.* The EDD shall determine the applicant's entitlement to weekly layoff benefits based upon the applicant's statement and other pertinent records.

(b) *Applicant eligibility.* To be eligible with respect to any week an applicant must:

(1) Have been determined to be an affected employee other than a short-service employee;

(2) Not be a retired employee;

(3) Not be receiving a Social Security retirement or disability benefit or a pension under a plan contributed to by an affected employer;

(4) Be registered with the State Job Service of the EDD or other SESA (unless the applicant is fully employed);

(5) Not have accepted a severance payment;

(6) Not have exhausted his/her period of protection; and

(7) Be eligible for unemployment compensation benefits under the California Unemployment Insurance Code; provided, however, he/she shall be eligible for weekly layoff benefits if the sole reason for ineligibility under the code is one or more of the following:

(i) Insufficient base period earnings; or

(ii) Exhaustion of benefit rights; or

(iii) Earnings in excess of the amount which would entitle the employee to a partial benefit for the week; or

(iv) The waiting week requirement; or

(v) Unavailability for work because of jury duty, National Guard duty, authorized retraining, or because of similar reason as determined by the Secretary pursuant to Section 201(14) of the Act; or

(vi) Refusal of work which is not "suitable work"; or

(vii) Receipt of workers' compensation or other benefit for partial disability which the employee would be entitled to receive while working; or

(viii) Any other cause of ineligibility with respect to which the Secretary determines that, under the circumstances, it would be unreasonable or otherwise contrary to the purpose of this Act to deny said employee a benefit provided for in the Act.

§ 92.22 Vacation replacement benefits.

(a) *EDD determination of entitlement.* The EDD shall determine the applicant's entitlement to vacation replacement benefits based upon the applicant's statement and other pertinent records.

(b) *Applicant eligibility.* Only seasonal employees will be eligible for a vacation replacement benefit. To be eligible the employee must meet the same eligibility criteria required for weekly layoff benefits.

§ 92.23 Health and welfare benefits; pension rights and credits.

(a) *Continuing entitlement.* Affected employees, other than short-service employees, have continuing entitlement to health and welfare benefits and accrual of pension rights and credits. The Assistant Secretary shall seek to enter into agreements with affected employees, affected employers, plan trustees, labor organizations, and/or others to maintain these benefits and rights.

(b) *Methods of continuation.* Continuation of coverage may be provided by:

(1) An employee's existing plan with his/her last affected employer; or

(2) An arrangement between the Assistant Secretary and others to provide equivalent coverage to the maximum extent feasible.

(c) *Selection of method.* The Assistant Secretary shall have the sole authority to select the appropriate method for benefit plan continuation.

(d) *Exemption from ERISA liability.* No person shall be subject to liability under the Employee Retirement Income Security Act of 1974, Section 302 of the Labor-Management Relations Act of 1947, or any other law, solely by reason of the receipt of payments from the Secretary or the payment of benefits to affected employees in accordance with this Section. Receipt of such payments and the payment of such benefits are deemed to be consistent with any relevant plan documents. None of these actions shall place the Secretary in the position of an employer or a party in interest (including a fiduciary) for purposes of the Employees' Retirement Income Security Act of 1974 (Section 204(d), Pub. L. 95–250, 92 Stat. 176).

(e) *Level of coverage.* If the last affected employer's health and welfare or pension benefit levels change during an employee's period of protection, the employee's benefits shall be changed so as to provide a level of benefit comparable to that which he/she would otherwise have received except for his/her current status as an affected employee.

(f) *Responsibility of affected and retired employees.* Affected and retired employees must retain medical records in order to substantiate claims for reimbursement.

(g) *Retired employee's entitlement.* A retired employee's continuing entitlement is contained in § 92.6(e).

§ 92.24 Severance payment.

(a) *EDD determination of entitlement.* The EDD shall determine the applicant's entitlement to a severance payment based upon the applicant's statement and other pertinent records.

(b) *Applicant eligibility.* To be eligible an applicant must meet the basic eligibility requirements of an affected employee or retired employee and must:

(1)(i) Have been on continuous layoff from employment with the employee's

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last affected employer for a period of at least 20 weeks subsequent to December 31, 1977; provided, that for a short-service seasonal employee the period of continuous layoff will not be considered broken by the employee's off season although off season weeks will not count toward the 20 weeks of layoff; and

(ii) Have no definite recall date for work with the affected employer by whom the employee was laid off and no offer of suitable work by any affected employer; and

(iii) Apply for severance payment during a week with respect to which the employee has not performed work for an affected employer; *or*

(2) If not (b)(1) (i) (ii) and (iii) of this section, then, have been permanently separated from employment with an affected employer during the period beginning May 31, 1977 and ending March 27, 1978, as a result of the closure of the mill or plant in which said employee was employed and, since said separation, have not been employed by an affected employer (Section 208(a) (1) (2) (3) (4), Pub. L. 95–250, 92 Stat. 179).

(c) *Disabled employee's eligibility.* An employee shall not be denied a severance payment for failure to comply with the requirements of paragraph (b)(1)(iii) of this section if the employee is otherwise eligible but is totally and permanently disabled as defined in the Social Security Act (Section 208(a)(3), Pub. L. 95–250, 92 Stat. 179).

(d) *Repayment agreement requirement.* An affected employee (other than a short-service employee) or a retired employee must, as a condition of receiving a severance payment, sign a repayment agreement pledging to return a severance payment if said affected employee or retired employee resumes employment with an affected employer or resumes employment in the industry within Humboldt, Del Norte, Trinity, Mendicino, or Siskiyou Counties in California prior to October 1, 1980, or such later date as established by the Secretary (Section 208(e), Pub. L. 95–250, 92 Stat. 180).

(e) *Repayment agreement liability.* An affected employee or a retired employee who signs a repayment agreement shall be liable for repayment of a severance payment if the individual returns to work in the industry prior to September 30, 1980 (or such later date as the Secretary determines but in no case later than September 30, 1984). All earnings received by an individual who has returned to the industry prior to September 30, 1980 (or as extended) shall be subject to a repayment deduction.

(f) *Arrangements for repayment.* The repayment agreement shall include the employee's agreement to arrange with his/her employer for the withholding of the applicable amounts from the employee's pay and/or shall further include authorization for the Secretary to make such arrangements with the employer.

(g) *Repayment amounts.* Repayment amounts shall be in weekly installments equal to a specified percentage of the employee's earnings in the industry which shall not exceed the amounts specified in the Consumer Credit Protection Act, as amended. Repayment shall continue until the full amount of overpayment is recovered.

§ 92.25 Retraining (Section 210, Public Law 95–250, 92 Stat. 181).

(a) *EDD approval.* The EDD shall approve technical and professional and other types of training for an affected employee (including a short-service employee) until September 30, 1984, provided:

(1) There is no suitable work available within a reasonable commuting area; and

(2) There is substantial reason to believe that successful completion of training will enhance the affected employee's employment prospects; and

(3) The affected employee makes application and can complete the training during the employee's period of protection. However, a short-service employee must make application during the period which begins on the date of his/her total layoff or on the date of the availability of approved retraining (whichever is later) and extends for that period of time which is equal to the length of his/her creditable service. In no instance shall authorized training for any employee extend beyond September 30, 1984.

(b) *Training criteria.* The EDD shall determine the applicant's ability to successfully complete such training, the appropriateness of the length of training, the hours of attendance, and whether the training facility and the trainee are engaged in training in good faith. Training costs as well as the weekly layoff benefits or vacation replacement benefits which the trainee would otherwise be eligible to receive, will be paid for the duration of approved training as long as the training facility determines good faith is being observed. If good faith is not observed, the EDD shall take appropriate corrective action. The criteria for determining good faith are adherence to scheduled hours of attendance and satisfactory progress as normally measured for the type of training being received. The criteria to be used in determining suitable length and hours of training are:

(1) The training is of suitable duration to achieve the desired skill or knowledge level; and

(2) The scheduled hours of attendance are in accordance with the prevailing practices of other like training available in the commuting area.

(c) *No cost training and purchased training.* In determining whether training to be secured for an affected employee shall be no cost training or purchased training, the EDD shall consider, as the primary objective, increasing the affected employee's employability so as to enhance the opportunities for the affected employee to return to full employment.

(1) The EDD shall, as far as possible, refer an affected employee to retraining which is provided at no cost. This training may be provided under the Comprehensive Employment and Training Act of 1973, as amended, as offered by a prime sponsor or under any other Federal or State law.

(2) The EDD may purchase training to assist the affected employee's return to full employment. This training may be institutional training or on-the-job training. If institutional, vocational, or professional training is purchased, the training institution must be approved as meeting applicable standards by the appropriate State educational agency, or by a recognized accreditation association.

§ 92.26 Job search allowance (Section 211, Public Law 95–250, 92 Stat. 181).

(a) *EDD approval.* The EDD shall approve a job search allowance for an eligible affected employee (including a short-service employee) to assist the employee to obtain a job within the United States. To be eligible, an affected employee must:

(1) Be totally laid off from employment with an affected employer;

(2) File an application for a job search allowance within the later of: (i) the employee's period of protection, or (for a short-service employee, an application must be filed during the period which begins on the date of his/her total layoff and extends for that period of time which is equal to the length of his/her creditable service) (ii) within six months of the successful completion of approved retraining.

(3) Be registered with the State Job Service in the area in which the affected employee is residing;

(4) Have no reasonable expectation of obtaining suitable work in the commuting area;

(5) Have received a bona fide referral to suitable work or have been referred by a State Job Service to suitable work outside the commuting area or have a

reasonable expectation of obtaining suitable work of a long term duration in the area where the job search will be conducted; and

(6) Complete the job search within a reasonable period not exceeding 30 calendar days, after the day on which the job search began.

(b) *Job search completion.* A job search shall be deemed complete when the individual has either secured employment or has contacted each employer to whom referred by the State Job Service in connection with a job search.

(c) *Verification of employer contacts.* The Job Service in the State in which the affected employee resides shall verify employer contacts certified by the affected employee.

(d) *Entitlement to reimbursement.* An affected employee who has incurred expenses as a result of any job search undertaken from the period beginning May 31, 1977 and ending October 2, 1980 shall be entitled to reimbursement of authorized expenses, provided the employee furnishes adequate evidence to support his/her claims for expenses and provided further, that the employee furnishes adequate evidence to the EDD that the job search was undertaken as required by paragraphs (a)(4) and (a)(5) of this section and has completed the job search as required by paragraph (a)(6) of this section.

§ 92.27 Job relocation allowance (Section 212, Public Law 95-250, 92 Stat. 181).

(a) *EDD approval.* The EDD shall approve a job relocation allowance for an eligible affected employee (including a short-service employee) who obtains employment outside the commuting area, to meet the reasonable and necessary travel expenses incurred in obtaining a residence and in transporting self, family, household, and personal effects to the new residence in the area of relocation. A job relocation allowance shall not be paid for more than one relocation nor shall it be paid to more than one member of a family in the same household for the same relocation.

A job relocation allowance shall be paid to an eligible affected employee only for said employee's first relocation from the impacted area.

(b) *Relocation on or prior to October 2, 1980.* For an affected employee (including a short-service employee) who relocated on or before June 30, 1979 to be eligible, the employee must:

(1) File an application for a job relocation allowance during the employee's period of protection; provided, that a short-service employee must file an application during the period which begins on the date of his/her total layoff (whichever is later), and extends to the end of that period of time which is equal to the length of his/her creditable service;

(2) Have relocated during the period beginning May 31, 1977 and ending October 2, 1980, to accept employment requiring a change in residence to a location outside the commuting area in which the employee resided immediately prior to becoming an affected employee.

(c) *Relocation after October 2, 1980.* For an affected employee (including a short-service employee) who relocated after October 2, 1980 to be eligible, the employee must:

(1) File an application as described in paragraph (b)(1) above;

(2) Be registered with the State Job Service in the area in which the affected employee is residing;

(3) Have no reasonable expectation of obtaining suitable work in the commuting area;

(4) Have obtained suitable work affording reasonable expectation of long-term duration, or a bona fide offer of such work, in the area in which the affected employee wishes to relocate.

(d) *Reimbursable expenses.* An affected employee shall be eligible to reimbursement for:

(1) Expenses incurred in moving household and personal effects;

(2) Traveling and living expenses in moving self and any family members from the same household, not to exceed 10 working days;

(3) Traveling and living expenses for self and spouse not to exceed 10 days which need not be consecutive days to obtain a residence;

(4) Any loss or cost incurred by the affected employee in the sale of a home for less than the fair market value or any loss or cost in securing the cancellation of an unexpired lease on a dwelling occupied by the affected employee as a home.

Subpart D—Amount and Calculations of Benefits

§ 92.30 Weekly layoff benefit, vacation replacement benefit, and/or severance payment.

The EDD shall determine the amount of an affected employee's weekly layoff benefit, vacation replacement benefit, and/or severance payment in accordance with the methods for calculation set forth in Sections 207, 208, and 209 of the Act and in the procedures and guidelines issued by the Assistant Secretaries for Labor-Management Relations and Employment and Training.

§ 92.31 Job search allowance (19 U.S.C. 2297).

(a) *Travel by commercial carrier.* For travel by commercial carrier, an affected employee shall receive 80% of the cost of transportation by the most economical and practical public transportation from the employee's regular place of residence to the area in which the job search will be conducted and return.

(b) *Travel by privately owned car.* For travel by privately owned automobile, an affected employee shall receive a travel allowance of 9.6 cents per mile, for the mileage of the usually traveled route from and to the affected employee's regular place of residence to the area in which the job search will be conducted, and for the mileage covered during the actual job search activities within the designated area.

(c) *Lodging costs.* In connection with an authorized job search, an affected employee shall receive 80% of the costs of lodging, not exceeding $12.00 per night, and 80% of the costs of meals, not exceeding $5.00 per day. Lodging costs must be verified by receipt.

(d) *Maximum amount.* The maximum amount of job search allowance payable to an affected employee shall not exceed $500.

(e) *Advance payment.* The EDD shall advance upon request by an affected employee within 5 days prior to commencement of a job search, 60% of the estimated job search allowance, but not exceeding $300. Such advance shall be deducted from any payments made under this part.

(f) *Overpayment.* If it is found that an affected employee failed without good cause to complete a job search, any job search allowance paid or advanced to the affected employee under this Section shall constitute an overpayment. Any overpayment shall be recovered from the affected employee by repayment in cash or by deduction from benefits due the affected employee under the Act as provided in § 92.34.

§ 92.32 Job relocation allowance (Public Law 93-236).

(a) *Travel allowance.* Travel expenses, for a period not to exceed 10 days (which need not be consecutive days), for an affected employee and spouse but not dependent children or other family members shall be reimbursed for a round trip to obtain a residence at the new work location. Travel expenses for an affected employee, spouse, and dependent children shall be reimbursed for a one-way trip in connection with moving.

(1) Reimbursement shall be made for travel by commercial carrier, provided that the most economical public

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transportation means available is used in view of the circumstances.

(2) Reimbursement shall be made for travel by each privately owned automobile at the rate of 15 cents per mile for the usually traveled route, for necessary bridge and highway tolls, and for parking fees.

(3) If for good cause a member or members of an affected employee's family must travel separately, the affected employee shall be reimbursed for the travel of such family member(s) in accordance with paragraphs (a) (1) and (2) of this section and lodging and living expenses in accordance with paragraphs (b) (1) and (2) of this section.

(b) *Lodging and living expenses.* An affected employee and family members shall be reimbursed for lodging and living expenses incurred while in transit from the old residence to the new residence, including the day of departure and the day of arrival, not to exceed 10 days, except that if the new residence is not ready for occupancy upon arrival, additional living expenses may be reimbursed up to 10 days. Living expenses for an affected employee and spouse shall be reimbursed, for a period not to exceed 10 days which need not be consecutive days.

(1) Lodging shall be reimbursed at actual cost. Rooms must be occupied when feasible so that double room rates will apply. Moderately priced hotels and motels shall be used.

(2) Meals and related gratuities shall be reimbursed at actual cost to a maximum of $16.00 per person per day for the affected employee, spouse, and children. Gratuities for meals must be included in the cost of the meals.

(c) *Moving allowance.* The cost of transporting household effects and other personal effects of the affected employee and family members shall be reimbursed when transported by licensed commercial carrier and/or by use of rental truck or trailer.

(1) Reimbursement shall be made for packing, insuring, shipping, and unpacking of standard household items and personal effects. Insurance shall be provided for a valuation of $1.50 per pound; additional insurance for exceptionally valuable items may be obtained by the employee; however, the cost of such additional insurance shall not be reimbursed. Reasonable expenses for storage of household effects and personal property at the new location shall be paid when necessary because the residence at the new location is not ready for occupancy upon arrival.

(2) For each affected employee, reimbursement shall be made for transporting as many as two automobiles, by commercial carrier, provided that the low blue book value of each automobile exceeds the cost of shipment. Automobiles eligible to be shipped must be owned by the employee, the employee's spouse, or a dependent child of the employee. Insurance up to the low blue book value of the automobile shipped shall be reimbursed.

(3) Expenses for the shipment, including insurance, of other personal non-business property such as boats, trailers, camping equipment, and mobile homes shall be reimbursed provided that the property shipped was owned by the employee or the employee's spouse prior to the offer of employment at the new location and provided further that shipping costs, including insurance, do not exceed the fair market value of the property shipped. Storage charges for such property shall not be reimbursed.

(4) Reasonable expenses for disconnecting at the former residence and reconnecting at the new residence shall be reimbursed for the following items, provided they are owned by the affected employee or spouse prior to the offer of employment at the new location: mobile home and major appliances (such as ranges, washers, dryers, dishwashers, refrigerators, freezers, television sets, and television antennae). Expenses for installation of a 220 volt power line at the new location shall not be reimbursed.

(5) Reasonable service charges by utility companies, including installation charges for telephone service, shall be reimbursed. Refundable deposits or advance billing for telephone service shall not be reimbursed.

(6) Reasonable expenses for the common carrier transportation of pets, including feeding, shall be reimbursed when such transportation is necessary.

(7) Reimbursement shall be made for actual rental fee, mileage charges, and gas for rental truck or trailer used to move the household and personal effects subject to following conditions:

(i) the time limit allowable for rental fees for a truck or trailer may not exceed 10 days; and

(ii) expenses detailed in paragraph (c)(1), (c)(3); (c)(4), and (c)(5) of this section shall be reimbursed, where applicable.

(d) *Advance payment.* Advances shall be granted for moving expenses, living expenses, and travel expenses based on estimates the affected employee obtains from common carriers or from a truck leasing agency. The amount advanced may not exceed 80% of the estimated total cost.

(e) *Relocation on or prior to October 2, 1980.* An affected employee who relocated during the period beginning May 31, 1977 and ending on October 2, 1980, shall furnish to the EDD within 90 days following October 2, 1980 the appropriate documentation supporting a claim for a job relocation allowance and a notarized affidavit that the listed expenses and amounts claimed are correct to the best of his/her knowledge.

(f) *Relocation after October 2, 1980.* An affected employee who relocates after October 2, 1980 the effective date of these regulations must submit receipts or invoices and mileage costs to the EDD within 90 days after completion of the relocation.

(g) *Reimbursement for losses or cost.* In connection with a job relocation, if an affected employee relocates after June 30, 1979, and incurs costs or a loss in the sale of a home or the cancellation of an unexpired lease, a statement describing same and requesting reimbursement shall be submitted to the EDD field office where the request for the job relocation was originally filed within 90 days after October 2, 1980. If an affected employee relocated during the period beginning May 31, 1977 and ending on October 2, 1980 the effective date of these regulations, the statement must be submitted to the appropriate EDD field office within 90 days following October 2, 1980. To obtain reimbursement for a loss on the sale of a home, an affected employee must:

(1) Offer the home for sale in the customary manner, at or near the fair market value for a reasonable period of time, and

(2) Furnish EDD with the following information and documents on the residence sold:

(i) Location, including street address, city or town, county, and state;

(ii) Name of the buyer or buyers;

(iii) Date of sale;

(iv) Copy of the closing statement, verifying the selling price;

(v) Fair market value of the house six months before the date of sale based on the average of two appraisals by licensed residential real estate appraisers (three if the appraisals vary by more than five percent);

(vi) Copies of appraisals and receipts or cancelled checks in payment; and

(vii) Amount to be reimbursed (loss on the sale plus the cost of the appraisals).

(3) A protected employee may elect to waive the reimbursement of loss on sale of home and to receive, in lieu thereof, an amount equal to his closing costs which are ordinarily paid for and assumed by a seller of real estate in the jurisdiction in which the residence is located. Such costs shall include a real estate commission paid to a licensed realtor (not to exceed $3,000 or 6 per

centum of sale price, whichever is less), and any prepayment penalty required by the institution holding the mortgage; such costs shall not include the payment of any "points" by the seller.

(4) To obtain reimbursement for costs incurred in cancelling a lease of an apartment or a principal residence, an affected employee must submit the following information and documents:

(i) Location, including street address, city or town, and state;

(ii) Date leased premises were vacated;

(iii) Name, address, and telephone number of the party who was advised that the leased premises would be vacated and whether the party advised was the owner or the leasing agent;

(iv) The cancelled check or receipt for payment of a cancellation charge;

(v) The landlord's statement discharging the affected employee from the obligations of a tenant under the lease; and

(vi) The affected employee's lease.

(h) *Challenge on claims for loss or costs.* Should the EDD challenge the value of the home, the costs or loss sustained in its sale, the costs or loss under a contract for purchase, loss or cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee or his representative; a representative of the EDD, and a representative of the U.S. Department of Labor. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected in the following manner: One to be selected by the employee or his representative and one by the U.S. Department of Labor and these two, if unable to agree upon a valuation within 30 days, shall endeavor by agreement within 10 days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the California Board of Realtors to designate within 10 days a third qualified real estate appraiser whose designation will be binding upon the parties. A decision of the majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(1) The EDD will be guided in its decision to challenge a loss by the following considerations:

(i) Length of time the home was offered for sale at or near the fair market value;

(ii) Length of time homes of reasonably comparable value and type were on the market prior to sale; and

(iii) The total amount of the loss claimed relative to other claims for loss submitted to the EDD.

(iv) *Overpayment.* If it is found that an affected employee failed without good cause to complete a job relocation, any amount of relocation allowance paid or advanced to the affected employee under this section shall constitute an overpayment. Any overpayment recovered from the affected employee shall be by repayment in cash or by deduction from benefits due the affected employee under the Act or by any other authorized legal action.

§ 92.33 Overpayment—general.

If the EDD, a referee, the Assistant Secretary, or a court of competent jurisdiction finds that an individual has received benefits to which the individual was not entitled under the Act then the individual shall be liable to repay the total sum to which the individual was not entitled.

§ 92.34 Recovery of overpayments.

(a) The EDD shall take all reasonable measures under State or Federal law to recover for the account of the United States the sum of the payment to which the individual was not entitled in accordance with the provisions of § 92.33.

(b) When recovery is undertaken the EDD shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by: deductions from any benefits or allowances payable to the individual under the Act; from any compensation payable to the individual under any Federal unemployment compensation law administered by the EDD; or under any other federal law administered by the SESA of any other state, or, by the EDD which provides for the payment of any assistance or allowance with respect to any week of unemployment. The amount of this deduction shall not exceed the amount which might be withheld if the Consumer Credit Protection Act were applicable.

§ 92.35 Final decision.

Recovery of any overpayment of benefits shall not be required or enforced until the determination establishing the overpayment has been approved by the Assistant Secretary.

Subpart E—Preferential Hiring

(Section 103, Pub. L. 95–250, 92 Stat. 167)

§ 92.40 Full consideration obligation.

(a) *Types of jobs.* Any employer specified in § 92.40(b) who is filling a job vacancy located primarily in Humboldt, Del Norte or an adjoining California county must give full consideration for employment in that job vacancy to affected employees if:

(1) The job involves skills and training that could reasonably be expected to have been gained by individuals who have been employed as logging and related woods employees or sawmill, plywood, and wood processing employees, or office employees, or that can reasonably be expected to be gained while so employed; or

(2) The applicant has the ability, or can reasonably be expected to have the ability after appropriate training of reasonable duration to perform the duties of the job.

(b) *Types of employers.* It shall be an obligation of any employer designated in this section to give full consideration to affected employee applicants for a job vacancy as described in (a) above if the employer is:

(1) A federal agency;

(2) A private employer designated by a federal agency as receiving federal funding assistance in any form or receiving the right after March 27, 1978 to use federal property in the conduct of harvesting and related activities, or replanting and land rehabilitation, or the conduct of wood processing and related activities or the conduct of highway construction and related activities;

(3) An affected or industry employer who has entered into an agreement with the EDD or other State Job Services to give full consideration to affected employees; or

(4) The State of California government, or a county and local government within Humboldt and Del Norte Counties in California which has agreed to cooperate with the EDD in giving full consideration to affected employees when filling government job vacancies.

(c) *Selection.* An employer specified in § 92.40(b) shall have met the obligation to provide full consideration to affected employee applicants if the employer has used its normal employment standards to evaluate the applicant's qualifications for the position to be filled, and

(1) Selected a qualified affected employee applicant over non-affected employee applicants,

(2) Selected from among qualified affected employee applicants the

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applicant with the greatest creditable service where the qualifications of the applicants are approximately equal, or

(3) Held the full consideration job vacancy open for a non-qualified affected employee applicant who can be expected to qualify for the job after undergoing training approved by EDD.

(d) *Listing.* Any employer specified in § 92.40(b) who is filling a job described in § 92.40(a) shall provide notice of such job vacancy and the job requirements through the offices of the EDD in Humboldt and Del Norte Counties, California.

§ 92.41 Employee full consideration obligation.

(a) *Employee application requirements.* Any affected employee desiring to apply for a full consideration job vacancy must:

(1) Advise an EDD office of the full consideration position for which he/she wishes to be considered, and

(2) Demonstrate that the full consideration job vacancy involves skills and training which he/she could reasonably be expected to have gained in his/her affected employment, or

(3) If not already in possession of the requisite skill, demonstrate that he/she can reasonably be expected to have the ability to perform the job after appropriate training of reasonable duration.

§ 92.42 EDD full consideration responsibility.

(a) *Lists.* The EDD shall maintain lists of full consideration job vacancies as reported by Federal agencies; affected industry and other private employers; and the State of California, and its county and local governments in Humboldt, Del Norte and adjacent California counties.

(b) *Training.* An applicant for a full consideration job vacancy shall, if appropriate, be provided with training if the period of work following training is commensurate with the time and funds required to provide the necessary training. Full consideration of an applicant shall not be required when the EDD has determined that the period of work following training is not commensurate with the training time and funds.

(c) *Referral.* Where two or more affected employee applicants for a full consideration job vacancy have approximately equal qualifications the EDD shall give preference in referral and listing to the applicant with the greatest creditable service.

§ 92.43 Violations of full consideration obligations.

(a) *Right of appeal.* Any affected employee who alleges that his/her rights to full consideration have been disregarded may file a complaint with any office of the EDD which shall forward the complaint to the national office of the LMSA for processing. Where noncompliance with the full consideration obligation is determined, the U.S. Department of Labor shall take appropriate corrective action.

§ 92.44 Judicial review.

Determinations under this section shall be subject to Judicial Review under the same conditions as provided in § 92.50(t).

§ 92.45 Preexisting rights.

Nothing in this Subpart shall be construed to affect any additional or alternative rights under law, contract or regulation in effect as of March 27, 1978.

§ 92.46 Period of preferential hiring.

The requirement for full consideration as contained in this Subpart, shall remain in effect from March 27, 1978 through September 30, 1984.

Subpart F—Appeal Procedure

(Section 213(d)(2), Public Law 95–250, 92 Stat. 182)

§ 92.50 Administration.

(a) *Parties.* The parties to a proceeding on an application for benefits are:

(1) The applicant;

(2) The EDD;

(3) Other SESA's if involved; and, in addition;

(4) Any other individual or organization who is or may be adversely affected by grant or denial of an application for benefits may request leave to participate as an intervening party with respect to the application for REPP benefits in proceedings before an administrative law judge, or before the Assistant Secretary. Leave to intervene shall be granted on such terms and conditions as are deemed appropriate by the administrative law judge or the assistant secretary.

(b) *Parties may appeal.* Any party to a proceeding on an application for benefits may appeal the determination or redetermination.

(c) *Reconsideration of determination.* The EDD may reconsider a determination on an application for benefits under the same conditions and subject to the same time limits as apply to reconsideration or determinations of entitlement to unemployment insurance under the California Unemployment Insurance Code and California Unemployment Insurance Appeals Board regulations under Title 22 of the California Administrative Code.

(d) *Notice of determination.* Each party to a proceeding on an application for benefits shall be given written notice of the determination or reconsidered determination by EDD.

(e) *Notice of appeal rights.* All parties shall receive notice of each determination, reconsidered determination, or decision on an application for benefits. The notice shall advise each applicant of his/her right to appeal or to request reconsideration of the determination or decision. Such notice shall include the manner in which the appeal or request for reconsideration should be made, and the time period for making such appeal or request for reconsideration.

(f) *Appeal from determination.* A party aggrieved by or dissatisfied with a determination or reconsidered determination on an application for REPP benefits may appeal to an Administrative Law Judge (ALJ) of the California Unemployment Insurance Appeals Board.

(g) *Contents of appeal to ALJ.* An appeal to an ALJ under paragraph (f) of this Section must:

(1) Be mailed to or filed at the EDD field office where the application was initially filed within 20 days after notice of such determination or reconsidered determination was mailed or personally served on the party;

(2) Be in writing;

(3) Identify or include a copy of the determination or reconsidered determination;

(4) State that the party desires to appeal to an administrative law judge;

(5) Contain a statement of the reason(s) why the appealing party believes that an error has occurred; and

(6) Be signed by the appealing party or an authorized representative.

Notwithstanding the requirements in (g)(5) of this section, any written document indicating that a party is aggrieved by or dissatisfied with a determination or reconsidered determination on an application for REPP benefits which is received by the EDD field office where the application was initially filed within 20 days after notice of such determination was personally served or mailed to the party shall be accepted as a valid notice of appeal; provided, that the ALJ may require the appealing party, prior to the hearing on his/her appeal, to submit a written statement of the reason(s) why the appealing party believes that an error has occurred.

(h) *Notice of hearing before ALJ.* Upon the filing of an appeal, a hearing shall be promptly scheduled and a notice of the hearing shall be mailed to each party.

(i) *Rules of evidence.* (1) The technical rules of evidence shall not apply. Any evidence may be received at any stage of the appeal; an ALJ or the Assistant Secretary may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged.

(2) A party shall have the right to present its case by oral and documentary evidence and to submit rebuttal evidence.

(j) *Hearing before an ALJ.* The ALJ shall have jurisdiction to decide all relevant issues with respect to an applicant's entitlement to REPP benefits without regard to whether such issues were set out in the appeal. The ALJ may issue subpoenas to obtain the appearance of witnesses or the presentation of documents and exhibits on the same terms and conditions as apply with respect to the issuance of subpoenas in unemployment insurance benefit appeal hearings under the California Unemployment Insurance Code.

(k) *Notice of an ALJ's decision.* Notice of an ALJ's decision on an appeal of an application for REPP benefits shall be sent to each party. In addition, a copy shall be sent to the LMSA national office. Each party shall be notified of his/her right of appeal and shall be notified within 30 days whether the Assistant Secretary has determined to review the case on his/her own motion.

(l) *Appeal from an ALJ's decision.* A party aggrieved by or dissatisfied with an ALJ's decision on an application for REPP benefits may appeal such decision to the Assistant Secretary.

(m) *Appeal to Assistant Secretary.* An appeal to the Assistant Secretary must:

(1) Be addressed to the Assistant Secretary of Labor for Labor-Management Relations, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20216; and delivered or mailed to the Assistant Secretary within 20 days after the day on which notice of the ALJ's decision was handed or mailed to such party;

(2) Be in writing;

(3) Identify or include a copy of the Administrative Law Judge's decision appealed from;

(4) State that the party desires to appeal from the decision;

(5) Contain a statement of the reason(s) why the appealing party believes that an error has occurred; and

(6) Be signed by the appealing party or an authorized representative.

Notwithstanding the requirement in (m)(5) of this section, the Assistant Secretary shall accept as a valid appeal any written document indicating that a party is aggrieved by or dissatisfied with a decision of an Administrative Law Judge on an application for REPP benefits if such document is received by the Assistant Secretary within 20 days after notice of such decision was handed or mailed to such party; provided, that the Assistant Secretary may require the appealing party to submit a written statement of the reason(s) why the appealing party believes that an error has occurred.

(n) *Briefs.* Briefs are not required unless specifically requested by the Assistant Secretary. However, they are welcome and will be considered carefully. Any party may file a brief or written argument in response to a brief or other written argument filed by another party not later than 30 days after such brief or written argument is filed. Briefs or written arguments can not exceed 25 pages unless permission to file a lengthier document is obtained from the Assistant Secretary.

(o) *Service.* A party filing a brief is required to furnish each party with a copy. For purposes of service to the EDD, a copy of the brief must be sent to:

Legal Office, MIC 53, California Employment Development Department, 800 Capital Mall, Sacramento, California 95814.

(p) *Delegation of authority.* The Assistant Secretary may delegate to any employee of the United States Department of Labor the function of reviewing an appeal and preparing a recommended decision with respect thereto, but no employee of the United States Department of Labor who personally participated in any way in any proceedings with respect to an application for benefits will be assigned to prepare a recommended decision on such application for benefits.

(q) *Transmittal of record and transcript.* On receipt of a notice from the Assistant Secretary or his/her designee that an appeal from an Administrative Law Judge's decision with respect to an application for REPP benefits has been filed, or the Assistant Secretary has decided to review the decision, the Office of Appeals of the ALJ hearing the matter shall promptly transmit to the Assistant Secretary or his/her designee a complete record of the proceedings before the ALJ, including all exhibits and documents received or tendered in such proceedings, and a complete copy of the administrative file as to the application for benefits. Upon request from the Assistant Secretary, the CUIAB shall promptly transmit an official transcript of the proceedings to the Assistant Secretary.

(r) *Processing of appeal.* The Assistant Secretary shall review the file with respect to the application for REPP benefits in issue to ascertain whether substantial error adversely affecting the rights of a party has occurred, regardless of whether such error is alleged by an appealing party.

(s) *Decision of Assistant Secretary.* The Assistant Secretary may affirm, reverse, or modify in whole or in part the decision of an ALJ as to an application for REPP benefits, or may remand the case to an ALJ for further proceedings. Notice of an Assistant Secretary's decision shall be forwarded to all parties.

(t) *Judicial review.* A party aggrieved by or dissatisfied with a decision of the Assistant Secretary has 60 days after notice of such decision to file for judicial review in the same manner and under the same conditions as provided by Section 250 of the Trade Act of 1974 which provides:

(1) A worker, group of workers, certified or recognized union, or an authorized representative of such worker or group aggrieved by a final determination by the Secretary may, within 60 days after notice of such determination, file a petition for review of such determination with the United States court of appeals for the circuit in which such worker or group is located or in the United States Court of Appeals for the District of Columbia Circuit. The clerk of such court shall send a copy of such petition to the Secretary. Upon receiving such petition, the Secretary shall promptly certify and file in such court the record on which he based such determination.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Section 1254 of Title 28, United States Code.

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(u) *Late appeals.* An appeal to an ALJ under paragraph (f) of this Section or an appeal to the Assistant Secretary under paragraph (1) of this Section which is not filed within the time for appeal stated in those paragraphs will be dismissed as untimely unless the ALJ or the Assistant Secretary finds that the appealing party has shown good cause for failure to file the appeal within the proper time. The party who fails to appear at a hearing on an appeal may apply to the ALJ within 20 days of said hearing (or longer if the ALJ determines this delay in applying is for good cause) to have the hearing reopened. Such application will be granted if the ALJ finds that the party had good cause for failure to appear.

(w) *Payment of benefits in case of appeal.* (1) Weekly layoff benefits and vacation replacement benefits awarded by a determination, reconsidered determination, or ALJ's decision shall be promptly paid for each week of total or partial unemployment occurring after the date on which the applicant's initial application for benefits was filed, notwithstanding the non-expiration of the period for appeal, or the pendency of an appeal, from such determination, reconsidered determination, or a decision. Weekly layoff benefits and vacation replacement benefits, or other benefits awarded by a determination, reconsidered determination, or decision for a week or weeks of total or partial unemployment occurring prior to the date on which the applicant's initial application for benefits was filed, shall not be paid until the determination, reconsidered determination, or decision awarding them becomes final.

(2) In all cases, a severance payment awarded by a decision of an ALJ or the Assistant Secretary shall not be paid until the decision awarding such payment becomes final.

William P. Hobgood,

Assistant Secretary of Labor.

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Reader Aids

Federal Register
Vol. 45, No. 171
Tuesday, September 2, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
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Code of Federal Regulations (CFR):

523-3419	
523-3517	
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523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 **-5282**	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
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523-3408	Automation
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523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
September 2	September 17	October 2	October 17	November 3	December 1
September 3	September 18	October 3	October 20	November 3	December 2
September 4	September 19	October 6	October 20	November 3	December 3
September 5	September 22	October 6	October 20	November 4	December 4
September 8	September 23	October 8	October 23	November 7	December 8
September 9	September 24	October 9	October 24	November 10	December 8
September 10	September 25	October 10	October 27	November 10	December 9
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September 12	September 29	October 14	October 27	November 12	December 11
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September 16	October 1	October 16	October 31	November 17	December 15
September 17	October 2	October 17	November 3	November 17	December 16
September 18	October 3	October 20	November 3	November 17	December 17
September 19	October 6	October 20	November 3	November 18	December 18
September 22	October 7	October 22	November 6	November 21	December 22
September 23	October 8	October 23	November 7	November 24	December 22
September 24	October 9	October 24	November 10	November 24	December 23
September 25	October 10	October 27	November 10	November 24	December 24
September 26	October 14	October 27	November 10	November 25	December 26
September 29	October 14	October 29	November 13	November 28	December 29
September 30	October 15	October 30	November 14	December 1	December 29

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

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1	$4.50
2 [Reserved]	
4	6.50
5	8.00
6	3.75
7 Parts:	
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AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department
CROED Civil Rights Office, Education Department
MSI Museum Services Institute
NIE National Institute of Education

DOE Energy Department
APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS—Health and Human Services Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department
DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office

LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
VA Veterans Administration
WRC Water Resources Council

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REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

51162 7–31–80 / Fuel economy labeling requirements for 1981 and later model year passenger automobiles; gas guzzler tax statement

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51811 8–5–80 / Replacement of low-pass audio filtering requirements with a revised emission limitation standard.

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12682 2–26–80 / Classification of obstetrical and gynecological devices

[Corrected at 45 FR 51186, 8–1–80]

51185 8–1–80 / Classification of scented or scented deodorized menstrual pads and tampons

Social Security Administration—

29831 5–6–80 / State Plan and Federal Matching Funds for State and Local Training

INTERSTATE COMMERCE COMMISSION

48149 7–18–80 / New procedures in motor carrier revenue proceedings

NUCLEAR REGULATORY COMMISSION

41393 6–19–80 / Testing of radioisotope generators

List of Public Laws

Last Listing August 29, 1980

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.1863 / Pub. L. 96–331 To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the state of South Carolina. (Aug. 28, 1980; 94 Stat. 1055) Price $1.

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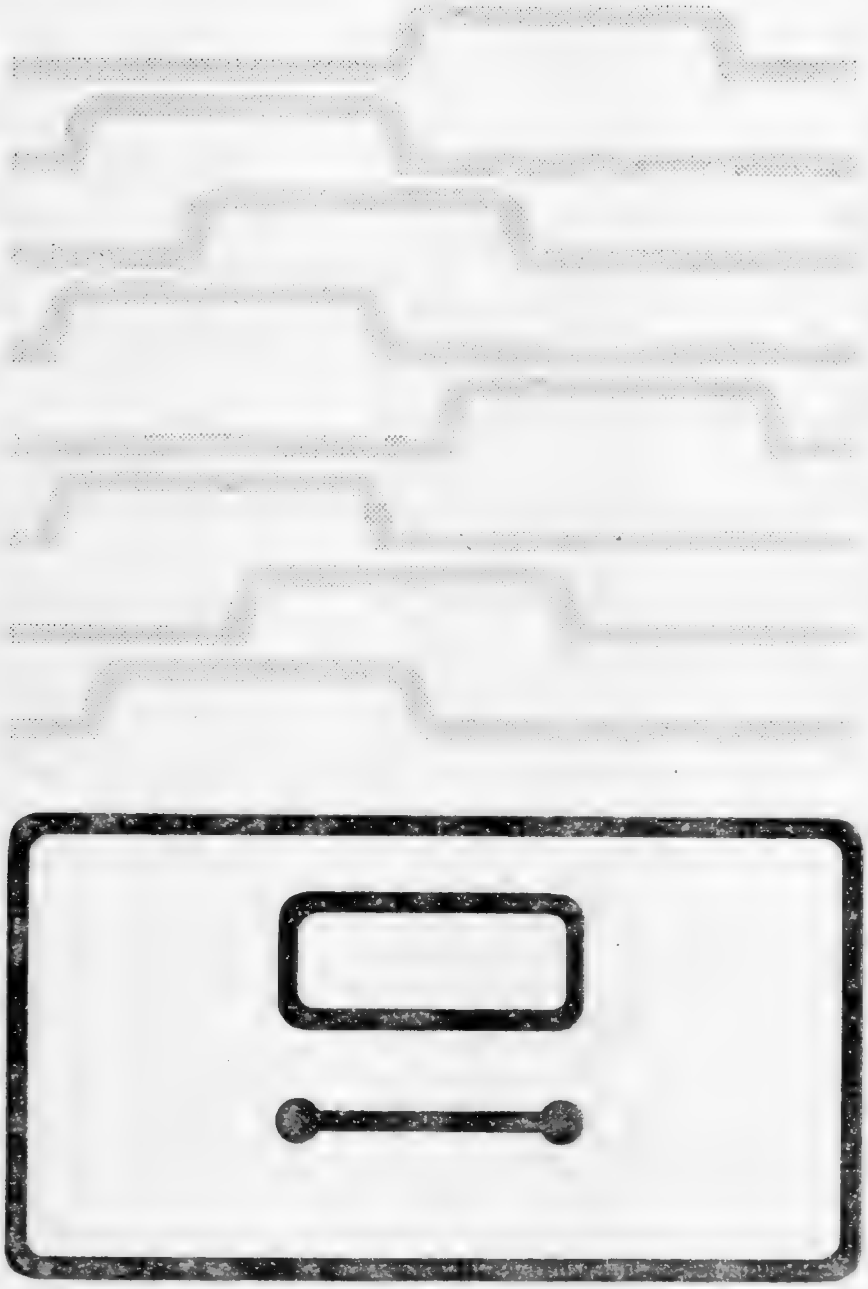

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federal register

Wednesday
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58325	**Working Mothers' Day** Presidential proclamation
58327	**General Pulaski's Memorial Day** Presidential proclamation
58329	**Columbus Day** Presidential proclamation
58331	**United Nations Day** Presidential proclamation
58393	**Grant Program—Energy** DOE solicits grant applications by 9-9-80 from States located in Region I for funding of projects in support of the Energy Extension Service Program
58494-58500	**Pesticides** EPA proposes tolerances for certain chemicals used on agricultural commodities; comments by 9-18 and 10-3-80 (6 documents) (Part III of this issue)
58450	**National Capital Region—Citizen Participation** National Capital Planning Commission revises procedures for citizen participation in development plans and programs
58334	**Exports** Commerce/ITA revises and updates regulations to reflect procedures used for expediting the processing of applications in emergency situations; effective 9-3-80

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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58392 **Grant Programs—Education** ED announces 10–21–80, as closing date for transmittal of grant applications to improve the interstate and intrastate coordination of migrant education activities

58362 **Grant Programs—Education** ED amends regulations that govern use of funds made available for instructional materials and school library resources

58339 **Pensions** PBGC amends regulation to provide for plan years beginning on or after 1–1–80, the Annual Report may be filed on the New Form 5500–R, when appropriate

58484 **Reader Aids** OFR publishes list of libraries that have announced availability of the **Federal Register** and Code of Federal Regulations

58339 **Grant Programs—Urban Park and Recreation Recovery** Interior/HCRS publishes interim rule changing the requirement for costs incurred prior to final approval of grant offers; effective 9–3–80; comments by 10–3–80

58409 **Drugs** HHS/HCFA publishes notice regarding maximum allowable cost limits for certain drugs

58383 **Inorganic Chemicals** EPA extends comment period in a proposal to limit effluent discharges to U.S. waters and introduction of pollutants into publicly owned treatment works from manufacturing facilities; comments by 10–22–80

58333 **Certain Dairy Products** USDA amends Import Regulation 1 which governs administration of import licensing system; effective 10–3–80

58459 **Tuna and Tuna Products from Canada** Treasury/Customs removes prohibition on importation

58368 **Electric Power** DOE/FERC proposes to exempt small hydroelectric power projects with a proposed installed capacity of 5 megawatts or less; comments by 9–29–80; hearing on 9–23–80

58441 **Antitrust** Justice issues proposed final judgment and competitive impact statement concerning American Broadcasting Companies, Inc. and prime time entertainment programming

58461 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4786 of August 29, 1980

Working Mothers' Day, 1980

By the President of the United States of America

A Proclamation

In greater numbers than ever before, American mothers are taking on important job responsibilities outside the home. In workplaces across our Nation and in every occupation, more than 16 million employed mothers are contributing their valuable skills to the labor force. In fact, more than half of all the mothers in this country have taken on jobs outside the home, and it is estimated that by 1990, 75% of all two-parent families will have both parents in the work force.

On the job and in the home, working mothers are making a vital contribution to the national economy and to the strength of the American family. Working mothers do not shed homemaking and parental responsibilities; they merely add the demands of a job to those of wife and mother. As we recognize the hard work and dedication of these women, we also acknowledge the many special problems they confront in meeting their dual responsibilities. We have an obligation to reinforce and support them in their endeavors.

To give special recognition to working mothers for fulfilling their exceptional responsibilities in the home and in the world of commerce, the House of Representatives (House Joint Resolution 379) has requested that I designate August 31, 1980, as Working Mothers' Day. I fully support this Resolution.

NOW THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate August 31, 1980, as Working Mothers' Day and call upon families, individual citizens, labor and civic organizations, and the business community to recognize publicly the unique contributions of mothers currently in the work force, and to honor former generations of working mothers for their important role in building American society.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-27053
Filed 8-29-80; 4:15 pm]
Billing code 3195-01-M

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[FR Doc. 80-
Filed 8-29-80
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Presidential Documents

Proclamation 4787 of August 29, 1980

General Pulaski's Memorial Day, 1980

By the President of the United States of America

A Proclamation

Each year on the eleventh of October, the American people pay tribute to the memory of General Casimir Pulaski. In doing so they not only honor this great Polish champion of American freedom but also give recognition to the ties between our two nations, to the contributions of millions of other Polish-Americans to the birth and development of this country, and to the indivisibility of freedom everywhere.

By giving his life on the battlefield of our revolution, General Pulaski has provided inspiration to generations of his countrymen—in the United States and in Poland.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Saturday, October 11, 1980, as General Pulaski's Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-27054
Filed 8-29-80; 4:16 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4788 of August 29, 1980

Columbus Day, 1980

By the President of the United States of America

A Proclamation

On October 12, 1492, an Italian sea captain and his crew, having sailed into the western void in three fragile craft, touched land and revealed a New World to the astonished eyes of the old.

The Genoese Christopher Columbus, sailing for his royal Spanish patrons in search of fortune, glory and the validation of his dream, found these and more.

Today, almost five centuries later, we still honor Columbus for the stout heart and tenacity of purpose that sustained his exploits. He inspired an age of exploration and a continuing era of victory over the forces of complacency and ignorance.

As we prepare to commemorate the four hundred eighty-eighth anniversary of Columbus's historic landfall, we of the New World can pay no greater tribute to his memory than to keep alive that spark of hope and nerve that never failed him and has never failed us.

In tribute to the achievement of Columbus, the Congress of the United States of America, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Monday, October 13, 1980, as Columbus Day; and I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in his honor.

I also direct that the flag of the United States of America be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-27055
Filed 8-29-80; 4:17 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4789 of August 29, 1980

United Nations Day, 1980

By the President of the United States of America

A Proclamation

This year marks the 35th Anniversary of the founding of the United Nations, an organization dedicated to maintaining international peace and security, developing friendly relations among nations, and achieving international cooperation in solving global problems. Today 153 nations work within the United Nations framework to resolve some of the most crucial problems of our time.

Never has the United Nations been more important to the United States and to the world than it is today. The past year has seen momentous international events. Many have not yet run their full course but have already changed the way we see the world around us. We have become more conscious of the risks of war and more aware of the urgent tasks of peace.

Today, peace is threatened in many ways. There are the visible threats like the invasion by a super power of an innocent, defenseless land. And, there are the more subtle threats of hunger, spiraling inflation, inadequate health care, and depleted natural and monetary resources. These threats have filled the United Nations with a strong sense of the urgency of creating an international system based on active and equitable, social and economic cooperation among the countries of the North and South.

The United Nations, through the work of its specialized agencies and programs, its regional organizations and international conferences, has become an indispensable frontline defense against the events and forces that threaten world stability. It has played a central role in setting the pace and direction for international cooperation in an interdependent world.

The United States has always been an active and dedicated supporter of the United Nations. As President, I have been proud to carry on and expand this tradition. My Administration continues to be firmly committed to a strong United Nations system.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Friday, October 24, 1980, as United Nations Day. I urge all Americans to use this day as an opportunity to better acquaint themselves with the activities and accomplishments of the United Nations.

I have appointed Mr. Charles L. Brown to serve as 1980 United States National Chairman for United Nations Day, and the United Nations Association of the United States of America to work with him in celebrating this special day. I invite all the American people, and people everywhere, to join me in expressing sincere and steadfast support for the United Nations on its thirty-fifth anniversary. It is only through multilateral institutions like the United Nations that the solutions to our ever more urgent global problems will be found.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80–27056
Filed 8–29–80; 4:18 pm]
Billing code 3195–01–M

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Rules and Regulations

Federal Register
Vol. 45, No. 172
Wednesday, September 3, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Import Quotas; Certain Dairy Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Import Regulation 1 which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The amendments in this final rule are designed to more fully effectuate the original intent of the Department with respect to those persons who should be precluded from obtaining a license as a result of a close relationship to another person eligible for a license, as well as those persons who should be entitled to receive certain matching supplementary license shares notwithstanding actual affiliation or association with another person eligible for a license.

EFFECTIVE DATE: October 3, 1980.

FOR FURTHER INFORMATION CONTACT: Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, FAS, Room 6624, South Building, Department of Agriculture, Washington, D.C. 20250 (202) 447-5270. Actions of this kind were anticipated under the provision of 7 CFR Part 6—Subpart Section 22 Import Quotas, and were specifically considered in the Final Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Carol M. Harvey.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". The proposed rule amending Import Regulation I was published in the **Federal Register**, on May 20, 1980. A 60-day public comment period ended on July 21, 1980. A written comment was received from one entity.

Discussion of Comment

The comment received was supportive of the proposed amendments. The commentator agreed with our recognition and interpretation of managerial relationships and our correction of the rule to reflect its original intent with regard to affiliated or associated new historical licensees being permitted to apply for a matching supplementary share of the same article.

Accordingly 7 CFR, Part 6—Subpart Section 22 Import Quotas, § 6.25 and § 6.26 are amended as follows:

§ 6.25 [Amended]

1. Section 6.25(b)(2)(i)(C) is amended by deleting the words "officer, member, partner," and ", or employee".

§ 6.26 [Amended]

2. Section 6.26(c)(1) is amended by inserting at the beginning of the first sentence the words "Except in cases involving persons with historical eligibility who are seeking matching supplementary shares authorized under paragraph (c)(1)(ii) of § 6.25".

(Sec. 3, Pub. L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96-39, 93 Stat. 268, 272 (19 U.S.C. 1202 note); Part 3 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202))

Signed this 12th of August, 1980.

Thomas R. Saylor,

Acting Administrator, Foreign Agricultural Service..

[FR Doc. 80-26818 Filed 9-2-80; 8:45 am]

BILLING CODE 3410-10-M

Commodity Credit Corporation

[CCC Grain Price Support Regulations, 1979 Crop Barley Supplement, Amdt. 1]

7 CFR Part 1421

1979 Crop Barley Loan and Purchase Program

Correction

In FR Doc. 80-25144, appearing on page 55141, in the issue of Tuesday, August 19, 1980, make the following correction.

On page 55143, first column, the thirteenth entry from the bottom now reading "cass" should have been "Cass". In the second column, the seventh entry from the top reading "McClean" should have read "McLean".

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Corn Supplement, Amdt. 1]

1979 Crop Corn Loan and Purchase Program

Correction

In FR Doc. 80-25141, appearing on page 55144, in the issue of Tuesday, August 19, 1980, make the following correction:

On page 55149, in the second column, the seventh entry reading "Trempealeu" should have read "Trempealeau".

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Sorghum Supplement, Amdt. 1]

1979 Crop Sorghum Loan and Purchase Program

Correction

In FR Doc. 80-25148, appearing on page 55149, make the following corrections: On page 55152, second column, the nineteenth entry reading "Pottawatmie" should have read

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"Pottawatomie". In the third column, the twenty-eighth entry reading "Culbertson" should have read "Culberson".

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Oats Supplement, Amdt. 1]

1979 Crop Oats Loan and Purchase Program

Correction

In FR Doc. 80-25146 appearing on page 55153, in the issue of Tuesday, August 19, 1980 make the following corrections:

1. On page 55155, third column, under "Minnesota", the "Rate per bushel" for "Dodge" County should have read "1.04", and for "Douglas" County should have read "1.02".

2. On page 55156, second column, the fifth entry should have been spelled, "Lewis and Clark". In the third column, the eighteenth entry from the botton reading "Cavlier", should have read "Cavalier".

3. On page 55157, second column, the twenty-fifth entry reading "Dougla" should have read "Douglas".

4. On page 55158, first column, the thirteenth entry reading "Shawno", should have read "Shawano."

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Wheat Supplement, Amdt. 1]

1979 Crop Wheat Loan and Purchase Program

Correction

In FR Doc. 80-25147, appearing on page 55159, in the issue of Tuesday, August 19, 1980 make the following corrections:

1. On Page 55163, first column, the twenty-first entry from the bottom reading "Jeffeson" should have read "Jefferson".

2. On page 55164, third column, the first entry under "South Dakota" reading "Auroa" should have read "Aurora".

3. On page 55165, third column, the twenty-first entry from the bottom reading "Clallan" should have read "Clallam".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR PARTS 370, 372 and 377

Special Processing of License Applications, Amendments, and Reexport Requests

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: There are times when an exporter will have an emergency situation that will necessitate expedited processing of an export license application. This rule revises and updates the *Export Administration Regulations* to reflect the procedures used for expediting the processing of applications in emergency situations.

DATES: This rule becomes effective on September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377-5247 or 377-4811

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

Section 13(a) of the Act exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has also been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form. Although there is no formal comment period, public comments on these regulations are welcome on a continuing basis.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are amended as follows:

§§ 370.11, 370.13 [Amended]

1. Sections 370.11(a) and 370.13 are amended by adding a footnote to the headings of those sections. The footnote reads as follows:

[1] See § 372.4(h) for procedures to expedite processing of an export license application in an emergency situation.

2. Section 372.4(h) is revised to read as follows:

§ 372.4 How to apply for a validated license.

* * * * *

(h) *Emergency clearance.*[1]

(1) When an exporter believes that an emergency situation necessitates expedited processing of an application he should contact the Exporters' Service Staff of the Office of Export Administration (Telephone: 202-377-4811; telex: 892536; telecopier: 202-377-4515) or a Department of Commerce District Office. Since a signed application must be submitted to the Office of Export Administration or to a District Office before any action can be taken, the following are the procedures for handling emergency requests:

(i) Submit the signed application directly to the Exporters' Service Staff, Office of Export Administration (Room 1623), U.S. Department of Commerce, Washington, D.C. 20230. Private courier services guarantee ovenight receipted delivery directly to the person designated. U.S. Postal Express Mail Service guarantees next day delivery by 10:00 a.m. to a Post Office in the receiving city and delivery by 3:00 p.m. to a designated mail drop, which in Commerce is the Central Mail Room. This delivery does not assure next day delivery directly to the Exporters' Service Staff.

(ii) Alternatively, submit the signed application to a Commerce Department District Office, which will telegraph the details of the application to the Office of Export Administration at the applicant's expense. The District Office may in its discretion authorize the applicant to send the wire directly after depositing the signed application with the District Office.

(2) If an application already has been submitted to the Office of Export Administration when an emergency arises, the applicant should contact the Exporters' Service Staff directly.

(3) The Exporters' Service Staff or the District Office, as appropriate, will evaluate the exporter's reasons and determine whether emergency handling is warranted. In certain cases the

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[1] See § 377.1(c)(3) for Emergency Clearance of Short Supply Commodities

exporter may be required to submit copies of orders, communications, letters of credit, or other documentation that may be necessary to establish the existence of a valid emergency. Frequent emergency requests will be given particularly close scrutiny, since OEA will not permit this emergency procedure to become a substitute for timely filing of license applications by the exporter.

(4) When a license is approved on an emergency basis by the Office of Export Administration, the applicant will be notified of the license number by phone, wire or in person, in order that shipment can be made without waiting for the arrival of the license by mail. The validity period of a license issued under this emergency procedure will end no later than the last day of the calendar month following the month in which the license is issued unless a longer validity period can be justified.

2. § 377.1(c)(3) is redesignated paragraph (c)(4).

3. § 377.1 is amended to add a new paragraph (c)(3) to read as follows:

§ 377.1 General provisions: short supply controls.

* * * * *

(c) *Applications for Validated Licenses to Export Commodities Subject to Short Supply Controls.*

* * * * *

(3) *Emergency clearance.* Exporters seeking emergency clearance for export or reexport of commodities subject to short supply export limitations should contact the Short Supply Division of the Office of Export Administration (Room 1617A), U.S. Department of Commerce, 14th and E Sts. N.W., Washington, D.C. 20230 (Telephone: 202–377–3795) for instructions. Since many commodities under short supply control are subject to quantitative limitations, central control over their export is held by the Short Supply Division and neither the District Office nor the Exporters' Services Staff can provide detailed guidance in emergency situations.

(Secs. 7, 13, 15 and 21, Pub. L. 96–72, to be codified at 50 U.S.C. App. § 2401 *et seq.*; E.O. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); and International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980))

Date: August 26, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–26835 Filed 9–2–80; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79–64; Order 91–A]

Filing of Rate Schedules; Revised Requirements for Filing Changes in Electric Rate Schedules and for the Preparation and Submission of Supporting Data

Issued August 27, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying application for rehearing of Order No. 91.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying an application for rehearing filed by certain municipal electric systems with respect to a recently revised regulation governing the filing of changes in the electric rate schedules of public utilities under the Federal Power Act. The application raises no issues of fact or law that the Commission has not considered previously.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. (202) 357–9342.

On June 27, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 91 [1] which revised the regulation governing the filing of changes in the electric rate schedules of public utilities under the Federal Power Act. The revised § 35.13 of the Commission's regulations require that rate schedule changes designed to implement major increases in rate levels be supported by cost data in 37 cost-of-service statements, much of which is supplied for both a historical (Period I) and an estimated (Period II) test year. Period I and Period II were redefined in Order No. 91 to provide utilities with greater flexibility in using calendar year data and to reduce the concentration of rate change filings at certain times of the year.

On July 28, 1980, the Commission received application for rehearing of Order No. 91 filed on behalf of several municipal wholesale electric customers and associations of electric customers identified as municipal electric systems (Systems). The application contends that the final rule in Order No. 91 errs by: (1) establishing too wide a gap between Period I and Period II; and (2) failing to adopt several proposals made by Systems or to explain the omissions.

Systems' applications states that the revised § 35.13 permits data for calendar year quarters of Period I to be as many as three years older than the data for corresponding calendar quarters included in Period II, thereby undermining the reliability of Period I as a check on Period II data. It is argued that the great flexibility to select among test periods that utilities are afforded by the rule will discourage use of calendar year data and allow utilities to use any test years that serve their own purposes.

Systems raise no new arguments with respect to Period I and Period II that were not considered by the Commission at the time it issued Order No. 91. Systems overestimate the significance of the possible gap between Period I and Period II data. Conceding that the gap between the periods may be as much as 22 months, the Commission believes that the redefined test periods permit meaningful comparison of the total annual data from each period. The benefits to be obtained by the new definitions of Period I and Period II, discussed at length in Order No. 91, outweigh any of the possible difficulties raised by Systems or other commenters.

Systems claim that there are five additional infirmities in Order No. 91 and propose changes in the rule. First, Systems contend that the rule does not specifically require updated information concerning actual or expected delays or advances in the commercial operation date of power supply facility operations included as plant-in-service for Period II. Section 35.13(d)(6)(i) lists examples of changes in the utility's financial condition that must be reported quarterly. These examples do not encompass a utility's entire obligation to report updated information. The rule requires information concerning changes in operations and this includes actual or expected delays or advances in in-service dates.

Secondly, Systems state that amortization of capitalized leases should be reported separately in each operation and maintenance account. The Commission believes that sufficient information is already required among the financial and cost of capital data in § 35.13(h)(22).

Third, Systems requests that Statement AJ, Depreciation and Amortization Expenses, be amended to

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[1] 45 FR 46352, July 10, 1980.

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require the plant amounts to which each depreciation rate is applied. The Commission points to the requirement in Statement AJ, § 35.13(h)(10)(i) which requests depreciation expenses and depreciable plant balances by major functional classification. Statement AJ therefore contains sufficient information from which to determine depreciation expenses in terms of the depreciable bases of such expenses.

Fourth, Systems state that Statement AH, Operation and Maintenance Expenses, should provide for estimated spent nuclear fuel disposal and storage costs. As Systems point out, the rate treatment to be afforded these expenses is yet unsettled. The spent nuclear fuel data that have been determined by the Commission to be necessary at this time are provided for in Statement AH. That statement requires that, if a utility's claimed nuclear fuel expense reflects a change in the estimated net salvage value of nuclear fuel, the utility must show the amounts involved and explain the relevant circumstances. Such changes in net salvage value will include changes in storage of disposal costs. Further nuclear fuel data are not presently needed.

Finally, Systems contend that a statement of interest coverage for debt capital for Period II is as necessary and desirable as that provided for Period I in Statement AV, Rate of Return. The Commission believes it is useful for the applicant to calculate explicitly its Period I interest coverage based on its indenture requirements. The Commission wishes to see how this calculation is performed and how the indenture requirements have historically affected the interest coverage. If a participant wants to know the interest coverage information for Period II, it may be computed for the cost of capital in that period by use of the illustrative computations for Period I.

In summary, Systems' objections to Order No. 91 do not require revision of the final rule. The Commission has previously considered and rejected most of the arguments raised and otherwise finds Systems' proposals unnecessary.

The Commission Orders:

For the reasons given above, the application for rehearing of Order No. 91 filed by Systems is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26994 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

24 CFR Part 700

[Docket No. R-80-865]

New Community Development Corporation; Bylaws

AGENCY: Department of Housing and Urban Development—New Community Development Corporation.

ACTION: Amendments to bylaws.

SUMMARY: Two amendments to the Bylaws of the New Community Development Corporation have been adopted. The first amendment changes the monthly meeting requirement to meetings every three months. The second provides for indemnification of Directors under certain circumstances when they are sued personally for activities performed in their capacity as Directors of the Corporation.

EFFECTIVE DATE: The amendment requiring one meeting every three months was effective October 19, 1977. The amendment providing for indemnification of Directors was effective March 17, 1980.

ADDRESS: Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel, New Communities Branch, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-5470. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Although these amendments to the Corporation bylaws will be codified at 24 CFR Part 700, they are not rules or regulations. Therefore, they are not subject to deferred effective date requirements of section 7(o)(3) of the Department of HUD Act with respect to legislative review. The amendments were effective when adopted by the Corporation: October 19, 1977 for the amendment requiring one meeting every three months and March 17, 1980 for the amendment providing for indemnification of Directors. Therefore, this publication is only for information to the public.

These amendments are not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Chapter VII is hereby amended as follows:

1. The table of contents for 24 CFR Part 700, Subchapter A, is revised to read as follows:

PART 700—BYLAWS

Subchapter A—General

Sec.
700.1 Bylaws of the Corporation.

Appendix

Authority: Secs. 726, 729 of the Housing and Urban Development Act of 1970, as amended; 42 U.S.C. 4527, 4532.

2. Section 700.1 is revised to read as follows:

§ 700.1 Bylaws of the Corporation.

The bylaws of the New Community Development Corporation, duly adopted March 3, 1971, and amended on May 7, 1971, February 6, 1975, October 19, 1977, and March 17, 1980, and hereby certified to, are set forth in the following appendix.

3. The Appendix is amended to read as follows:

Appendix

* * * * *

Article 3—The Board of Directors

* * * * *

Section 3.03 *Regular Meetings.* A Meeting of the Board will be held upon notice at least every three months at a time and place to be specified in the notice.

* * * * *

Article 7—Indemnification of Directors

Section 7.01. *General.* The Corporation shall indemnify any Director who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a Director of the Corporation, against expenses (not including attorneys' fees, unless specifically authorized in advance by the Department of Justice), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if: (1) indemnificatio is required under Section 7.03, or (2) it is determined by the procedure described in Section 7.02 that he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Corporation or, with respect to any criminal action or proceeding, that the person had reasonable cause to believe that his conduct was unlawful.

Section 7.02 *Specific Authorization.* Unless required by Section 7.03, any indemnification under Section 7.01 shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 7.01.

Such determination shall be made: (1) by the Board by a majority vote of a quorum consisting of Directors eligible to vote who were not parties to such action, suit, or proceeding, or (2) if such quorum is not obtainable or, even if obtainable, a quorum of disinterested Directors so directs, by the General Counsel.

Section 7.03 *Mandatory Indemnification.* To the extent that a Director who may be indemnified under Section 7.01 has been successful on the merits or otherwise in the defense of any action, suit, or proceeding referred to in Section 7.01 or in the defense of any claim, issue, or matter therein, he shall be indemnified against expenses (not including attorney's fees, unless specifically authorized in advance by the Department of Justice) actually and reasonably incurred by him in connection therewith.

Section 7.04 *Advances.* Expenses incurred in defending any action, suit, or proceeding referred to in Section 7.01 may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any case upon receipt of an undertaking by or on behalf of the Director to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.

Section 7.05 *Other Rights Preserved.* The indemnification provided by this Article shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any agreement, or vote of disinterested Directors or otherwise, and shall continue as to a person who has ceased to be a Director and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Issued at Washington, D.C., August 21, 1980.

Moon Landrieu,

Chairman of the Board, New Community Development Corporation.

[FR Doc. 80-26820 Filed 9-2-80; 8:45 am]

BILLING CODE 4210-10-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-80-843]

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation, Philadelphia, Pa.

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule for effect.

SUMMARY: This rule amends the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for rental projects for the Philadelphia, Pennsylvania market area, in compliance with the requirements of Section 8(c)(1) of the U.S. Housing Act of 1937. Expeditious publication of this final rule is necessary to permit urgently needed rent increases for certain projects in this market area.

DATES:

Effective date: October 23, 1980.

Comments due: October 3, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 5218, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address and refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. In order to expedite consideration of comments, an information copy of your comment should be forwarded to the Field Office having jurisdiction for the market area involved.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-5743. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Recent comments and data have been received from the Philadelphia Area Office indicating an immediate need to amend the Fair Market Rents for Section 8 Newly-Constructed and Substantially Rehabilitated Rental Projects. This amendment to the rent schedule relates to one through four bedroom units in semi-detached structures, zero through four bedroom units in walkup structures, and zero through two bedroom units in elevator structural categories.

The last Annual Revision of all Fair Market Rents was published at 45 FR 2534 of the January 11, 1980 publication of Title 24, Part 888.

Accordingly, it has been determined that publication of a proposed rule providing the usual 60 days for public comment will not serve the public interest. The Secretary therefore proposes to publish the revised Fair Market Rent Schedules as an Interim Rule and provide for a thirty (30) day comment period. Unless the comments received justify changing the published rent schedules, twenty (20) days following the close of the comment period the published rent schedules will, without further publication, become effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR, Part 888, Subpart A, Schedule A is being amended as set forth below.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C. July 24, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

These Fair Market Rents have been trended ahead to October 1, 1981, for consistency with the current FMR schedule of which these rents will become a part.

Note.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05 rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units, and (3) single room occupancy dwelling units are those for zero bedroom units of the same type.

BILLING CODE 4210-01-M

AREA OFFICE PHILADELPHIA, PA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHILADELPHIA	DETACHED			-	-	-
	SEMI-DETACHED/ROW		389	510	585	631
	WALKUP	316	370	463	523	565
	ELEVATOR-2-4 Sty	338	391	491		
	5 + Sty	378	423	500		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[FR Doc. 80-26814 Filed 9-2-80; 8:45 am]

BILLING CODE 4210-01-C

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2606

Annual Report

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document amends the Pension Benefit Guaranty Corporation's Annual Report regulation to provide that the Annual Report may be filed on the new Form 5500–R, when appropriate. This amendment is necessitated by the recent adoption by the PBGC, Department of Labor, and Internal Revenue Service of the new Form 5500–R. The effect of this amendment is to provide that for plan years beginning on or after January 1, 1980, the Annual Report may be filed on Form 5500–R, as well as on Form 5500, 5500–C or 5500–K, whichever is appropriate.

EFFECTIVE DATE: This amendment applies to plan years beginning on or after January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Roger Lerner, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; 202–254–3010.

SUPPLEMENTARY INFORMATION: After notice and public comment thereon (including a public hearing), on August 1, 1980, the Pension Benefit Guaranty Corporation ("PBGC"), the Department of Labor and the Internal Revenue Service published in the **Federal Register** (45 FR 51448) forms adopted by the three agencies to implement triennial filing of the annual return/report for certain plans under the Employee Retirement Income Security Act of 1974 (the "Act"). These forms include revised Forms 5500–C and 5500–K, replacing the current 5500–C and 5500–K, and a new Form 5500–R, and they are effective for plan years beginning on or after January 1, 1980.

The PBGC's Annual Report regulation currently provides that the report, required under § 4065 of the Act, may be filed on Forms 5500, 5500–C or 5500–K, as appropriate. The purpose of this amendment is to include Form 5500–R as one of the forms plans may use to meet their reporting requirements under § 4065 of the Act. (For a discussion of when each of these forms should be filed, see the August 1, 1980 notice (45 FR 51448) and the instructions to the forms.)

The PBGC has determined that this amendment is not "significant" under the criteria contained in PBGC's Statement of Policy and Procedures implementing Executive Order 12044 (43 FR 58237, December 13, 1978), because it is not likely to create substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Because the effect of this amendment is merely to reflect in the Annual Report regulation the adoption of the new Form 5500–R, which form was adopted after notice and opportunity for public comment, the PBGC finds that notice and opportunity for public comment on this amendment is unnecessary. Because the Annual Report is normally due seven months after the close of the plan year, this amendment, which applies to all plan years beginning on or after January 1, 1980, will first be effective with respect to Annual Reports due in late-1981 or early-1982.

In consideration of the foregoing, Section 2606.3 of Part 2606, Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by revising paragraph (b) and adding a new paragraph (c) as follows:

§ 2606.3 Filing requirement.

* * * * *

(b) For plan years beginning on or after January 1, 1977 but before January 1, 1980, plan administrators shall file the Annual Report on IRS/DOL/PBGC Forms 5500, 5500–C, or 5500–K, as appropriate, in accordance with the instructions therein.

(c) For plan years beginning on or after January 1, 1980, plan administrators shall file the Annual Report on IRS/DOL/PBGC Forms 5500, 5500–C, 5500–K or 5500–R, as appropriate, in accordance with the instructions therein.

Effective date. This amendment applies to plan years beginning on or after January 1, 1980.

(Secs. 4002(b)(3), 4065, Pub. L. 93–406, 88 Stat. 1004, 1032; 29 U.S.C. 1302, 1365)

Issued in Washington, D.C. this 28th day of August, 1980.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 80–26931 Filed 9–2–80: 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1228

Urban Park and Recreation Recovery Program

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Interim rule.

SUMMARY: This document is an amendment to the interim rule and is published to change the requirements for costs incurred prior to final approval of grant offers under the Urban Park and Recreation Recovery (UPARR) Program (Title X of the National Parks and Recreation Act of 1978, Pub. L. 95–625). The interim rule was originally published in the **Federal Register** August 9, 1979 (44 FR 47018).

EFFECTIVE DATE: This interim rule amendment is effective September 3, 1980. Comments on this amendment will be accepted and considered. Comments must be received in writing on or before October 3, 1980.

ADDRESS: Written comments should be addressed to the Chief, Division of Urban Programs, Heritage Conservation and Recreation Service, Box G, 440 G Street NW., Washington, D.C. 20243, (202) 343–5971.

FOR FURTHER INFORMATION CONTACT: Powell Allen, Division of Urban Programs, Heritage Conservation and Recreation Service, 440 G Street NW, Room 310, Washington, D.C. 20243, (202) 343–5971.

SUPPLEMENTARY INFORMATION: The proposed rescission of funds from the UPARR Program FY 1980 budget and uncertainty about funding in FY 1981, caused a great amount of confusion and delay on the part of communities participating in the FY 1980 second grant round competition. The proposed rescission had the effect of stopping implementation of the UPARR Program for a period of three months. The grant issuing process was suspended during the period of time that the rescission was under consideration. The decision of July 8, 1980 (Pub. L. 96–304), which resolved the rescission questions, allowed for continuation of the program.

When established, both Congress and the Administration expressed a commitment to rapid implementation of this program, recognizing the urgent need for the rehabilitation of urban parks and recreation areas and

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facilities. Now that the decision has been made to proceed with this program, it is crucial, whenever reasonable, that barriers to rapid implementation of the program be removed.

Currently, the provisions of § 1228.53(c)(7) prohibit the incurring of costs by applicant jurisdictions before final approval of the project and signing of the grant contract by HCRS officials. This means that even after tentative grant offers are made by HCRS, any project costs incurred by the applicant during the final grant application process may not be reimbursed later with program funds. Therefore, applicant jurisdictions are unlikely to proceed with the tentatively approved project until the signing of the grant contract. This may, in some instances, mean a delay in the project of up to 120 days after the offer is tentatively approved.

Accordingly, because of the three month interruption in the UPARR Program discussed above, and because the construction season in many parts of the country will soon be over, it has been determined that a revision in the grant procedure regulations is required, to authorize the Director of HCRS to allow, in writing, an applicant jurisdiction to incur certain project costs following the tentative grant offer, but prior to signing the grant contract. No reimbursements will be made, however, prior to signing the contract, and such reimbursement for costs incurred prior to signing of the grant contract is predicated on signing of that contract. It has been determined that because of this emergency situation, it is impracticable and contrary to the public interest to publish this revision as a notice of proposed rulemaking, or to delay the effective date for this provision beyond the date of this publication.

Therefore, in accordance with the exception provided for in the Administrative Procedure Act in 5, U.S.C. § 553(b)(B) and d(3) and the Departmental regulations on rulemaking in 43 CFR 14.3(f), this amendment is published as an interim rule effective immediately. It has been determined that it is in the public interest to allow interested persons to submit written comments pertaining to this amendment. All revelant materials received on or before October 3, 1980 will be considered. Following the close of the comment period, the amendment will be revised as warranted by public comments received. It is intended that any revision of the amendment arising from these comments will be published again as a final rule within 30 days after the close of the comment period.

Authorship Statement: The primary authors of these regulations were Mr. Powell Allen and Mrs. Carol Jacobson of the Heritage Conservation and Recreation Service 202/343–5971.

Statement of Applicability: This amendment does not affect the existing A–95 review procedures for the UPARR Program as outlined in OMB Circular No. A–95, Administrative Note No. 10

Statement of Significance: This document has been determined to be significant under Executive Order 12044 and 43 CFR Part 14 as an amendment to Interim Rules (44 FR 47018, August 9, 1979) previously determined to be significant. A Regulatory Analysis is being prepared on the final rules pertaining to the Urban Park and Recreation Recovery Program (36 CFR Part 1228). The draft Regulatory Analysis is now available for review. A final Regulatory Analysis will be prepared after the comment period on this amendment to the interim rule and will be available for review upon publication of the final Grant Procedure Regulations. A Grant Manual detailing program guidelines and policies for the administration of the Urban Park and Recreation Recovery Program will be available at a later date.

Dated: August 27, 1980.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

(1) Effective immediately, in consideration of the foregoing, § 1228.44(b)(1) is amended as follows:

§ 1228.44 Fundable elements.

* * * * *

(b) * * *

(1) *Common fundable and matching elements.* An Applicant * * * under the UPARR program, *except as provided for in § 1228.53(c)(7).*

* * * * *

(2) Section 1228.53(c)(7) is amended as follows:

§ 1228.53 Preapplication process for rehabilitation and innovation grants.

* * * * *

(c) * * *

(7) Following review * * * contract by HCRS officials, *unless in the opinion of the Director an emergency exists and the applicant jurisdiction is authorized in writing by the Director to begin the project and incur costs following the tentative grant offer. Such incurred costs will only be reimbursed if the grant is approved by HCRS.*

(Catalog of Federal Domestic Assistance 15.417)

(Title X, National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 2501–2514)

[FR Doc. 80–26930 Filed 9–2–80; 8:45 am]

BILLING CODE 4310–03–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[FRL 1562–6]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision of the Maryland State Implementation Plan (SIP) for Chalk Point Unit #3 of the Potomac Electric Power Company of Prince George's County, Maryland. The amendment relaxes the allowable particulate emissions to 0.05 gr./s.c.f.d. Visible emissions are relaxed to allow a maximum visible emission of 20% opacity. The particulate control equipment requirement is waived.

EFFECTIVE DATE: September 3, 1980.

ADDRESSES: Copies of the revision and accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Air Quality Programs, State of Maryland, O'Connor Office Building, 201 West Preston St., Baltimore, MD 21201, ATTN: George Ferreri, Administrator.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Miss Patricia Sheridan, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

On August 13, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III a proposed revision of the Maryland State Implementation Plan. The proposed revision consisted of a Secretarial Order for Chalk Point Unit #3 Generating Station of the Potomac Electric Power Company (PEPCO), Prince George's

County, Maryland. In the letter, the State of Maryland certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR, Part 51.4, and all relevant State procedural requirements and asked that EPA consider the Secretarial Order as a revision of the State Implementation Plan.

The Order relaxes the allowable particulate emissions to 0.05 gr./s.c.f.d. (0.10 lbs./10^6 Btu heat input), (COMAR 10.18.05.03B2). The present no visible emission limitation is relaxed to allow a maximum visible emission limitation of 20% opacity. (COMAR 10.18.05.02A). No particulate control equipment shall be required, thereby waiving COMAR 10.18.05.03B(1)(a).

II. Control Strategy Demonstration

Diffusion modeling indicates that air quality standards for both sulfur dioxide and particulate matter will not be violated nor will there be a significant impact on a non-attainment area, as a result of approving this revision.

Furthermore, the applicable PSD increments will not be exceeded.

III. Approvability of the Proposed Revision

Based upon an evaluation of the material submitted by the State of Maryland, the Agency believes that the proposed revision satisfies the applicable requirements of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. The revision will not exceed the PSD increments. Therefore, the Administrator approves the revisions to the Maryland State Implementation Plan, as represented by the Secretarial Order for Unit #3 Chalk Point Generating Station signed July 19, 1979.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070 *Identification of plans*, paragraph (c) is amended as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(34) Amendment to Maryland regulations 10.18.05.03(B)(2), 10.18.05.02(A), and 10.18.05.03(B)(1)(a) relating to relaxation of particulate emissions, visible emissions and waiving of particulate control equipment requirement for the Chalk Point Generating Station Unit #3. The amendment, a Secretarial Order, was submitted on August 13, 1979 by the State of Maryland.

[FR Doc. 80-26836 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 5A-1

[APD 2800.3 CHGE 9]

General

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Chapter 5A, General Services Administration Procurement Regulations, is amended by deleting § 5A-1.206. This action is taken because the section is now obsolete, having been superseded by a new instruction in 41 CFR 5-1.206.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

PART 5A-1—GENERAL

The table of contents for Part 5A-1 is amended to delete § 5A-1.206 as follows:

5A-1.206 [Deleted]

Subpart 5A-1.2—Definition of Terms

§ 5A-1.206 [Deleted]

Section 5A-1.206 is deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 20, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-26944 Filed 9-2-80; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5892]

Identification and Mapping of Special Flood Hazard Areas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified based (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it adminstratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood

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Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 65.4 (Presently appearing at its former section 24 CFR Part 1915)).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former section 24 CFR Part 1915.4):

State, county, and location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Illinois, Kankakee, village of Aroma Park	*The Daily Journal,* July 18 and July 25, 1980.	Honorable Louis Chluspa, Village of Aroma Park, Box 117, 108 West Front St., Aroma Park, Ill. 60910.	July 25, 1980	170740, 0001B
New Jersey, Union, township of Scotch Plains	*The Scotch Plains Times,* July 17 and July 24, 1980.	Mrs. Shirley Capone, Township Manager, Township of Scotch Plains, 430 Park Ave., Scotch Plains, N.J. 07076.	July 18, 1980	340474, 0005B
New York, Monroe, town of Wheatland	*The Scottsvile News,* July 17 and July 24, 1980.	Mr. Ronald J. Kenville, Supervisor, Town of Wheatland, 22 Main St., Scottsville, N.Y. 14546.	July 25, 1980	360438, 0005B, 0010C
Vermont, Addison, town of Shoreham	*The Addison Independent,* July 17 and July 24, 1980.	Mr. Donald Treadway, Chairman of the Selectmen, Town of Shoreham, Whiting, Vt. 05778.	July 25, 1980	500171, 0005B, 0010B, 0015A, 0020A
Florida, Volusia, city of Port Orange	*News Journal,* Aug. 8 and Aug. 15, 1980.	Honorable James R. Fisher, Mayor, City of Port Orange, P.O. Drawer 5, Port Orange, Fla. 32019.	July 30, 1980	66B

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued August 20, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–26629 Filed 9–2–80; 8:45 am]

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program; (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Amherst, Town, Hampshire County (Docket No. FI–4792).	Hop Brook	Boston & Maine Railroad	*159
			Station Road (Upstream)	*163
		Muddy Brook	Pomeroy Lane	*143
			West Street (Upstream)	*149
		Plum Brook	West Street	*143
			Pomeroy Court	*147
			Pomeroy Lane (Upstream)	*149
			Potwine Lane (Upstream)	*160

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Fort River	Downstream Corporate Limits	*140
			West Street (Upstream)	*150
			Southeast Street (Upstream)	*159
			Route 9 (Upstream)	*168
			Pelham Road (Upstream)	*174
		Mill River	Downstream Corporate Limits	*148
			Meadow Street (Upstream)	*155
			Sunderland Road (Upstream)	*171
			Montague Road (Upstream)	*174
			Mill Street (Upstream)	*204
Maps available at the Office of the Town Clerk, Town Hall, Amherst, Massachusetts.				
Virginia	Henrico County (Docket No. FI-4136)	James River	Upstream County Boundary	*145
			Pittaway Creek at Richmond City Limits	*138
			Boshers Dam	*135
			Hugenot Bridge (Upstream)	*126
			County Boundary	*120
		Gillies Creek	South Laburnum Avenue	*105
			Interstate 64 (Upstream)	*88
			East Richmond Road (Upstream)	*62
			Downstream County Boundary	*46
		Stony Run	U.S. Route 33	*97
			Interstate 64—Upstream	*94
			Henrico County Boundary—Downstream	*77
		Upham Brook	U.S. Route 33	*175
			Bird Hill Road	*169
			U.S. Route 1	*118
			Interstate I-95	*113
			U.S. Route I-301	*109
			Wilkinson Road (Upstream)	*103
		North Run	Mountain Road	*185
			Confluence of Hungary Creek	*175
			Parham Road	*161
			Confluence of Rocky Branch	*151
			Confluence of Thorpe Branch	*143
			Lakeside Boulevard	*136
			Confluence with Upham Brook	*118
		Hungary Creek	Dam (Approximately 2,550 feet upstream from Staples Mill Road)	*225
			Staples Mill Road	*215
			Richmond, Fredericksburg and Potomac Railroad (Upstream side)	*208
			Purcell Road (Upstream side)	*199
			Woodman Road	*188
		Rocky Branch	U.S. Route 33	*201
			Hermitage Road (Upstream side)	*182
			Rocky Branch Lane	*152
			Confluence with North Run	*151
		Thorpe Branch	Pershing Avenue (Downstream side)	*189
			Norman Avenue (Upstream side)	*173
			Confluence with North Run	*143
		Tuckahoe Creek	Confluence of Little Tuckahoe Creek	*150
			Patterson Avenue	*145
			Chessie System Bridge	*144
		Deep Run	Interstate 64	*176
			Three Chopt Road	*172
			Confluence of Stoney Run	*155
			Pump Road (Upstream side)	*146
			Confluence of Tuckahoe Creek	*145
		Stoney Run	Church Road (Upstream side)	*202
			Falcon Bridge Drive	*155
			Confluence with Deep Run	*155
Maps available at the County Administration Building, Parham and Hungary Spring Road, Henrico County, Virginia.				
Washington	Chelan County, Unincorporated Areas (Docket No. FEMA-5734)	Wenatchee River	Burlington Northern Railroad (Rivermile 0.94) 100 feet downstream from centerline.	*629 *630
			Irrigation Siphon (Rivermile 1.3) 210 feet upstream from centerline	
			Sleepy Hollow Road (Rivermile 3.28) 200 feet upstream from centerline.	*657
			Main Street (Rivermile 5.88) 25 feet downstream from centerline	*697
			Old Monitor Road (Rivermile 7.12) 75 feet downstream from centerline.	*717
			Cottage Avenue (Rivermile 9.65) 150 feet downstream from centerline	*758
			Cottage Avenue (Rivermile 9.65) 50 feet upstream from centerline	*761
			Division Street (Rivermile 10.43) at centerline	*771
			Goodwin Road (Rivermile 11.57) 100 feet upstream from centerline	*806
			Burlington Northern Railroad (Rivermile 13.96) 200 feet downstream from centerline.	*855
			Burlington Northern Railroad (Rivermile 13.96) 100 feet upstream from centerline.	*856
			Burlington Northern Railroad (Rivermile 13.96) 400 feet upstream from centerline.	*859
			U.S. Routes 2 and 97 (Rivermile 15.1) 180 feet downstream from centerline.	*880

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			U.S. Routes 2 and 97 (Rivermile 15.1) 400 feet upstream from centerline.	*885
			Main Street (Rivermile 16.68) 125 feet upstream from centerline	*924
			U.S. Routes 2 and 97 (Rivermile 16.84) 50 feet downstream from centerline.	*927
			U.S. Routes 2 and 97 (Rivermile 16.84) 80 feet upstream from centerline.	*930
			U.S. Routes 2 and 97 (Rivermile 17.44) 125 feet upstream from centerline.	*946
			Irrigation Diversion Dam (Centered at Rivermile 18.09) 490 feet downstream from centerline.	*968
			Irrigation Diversion Dam (Centered at Rivermile 18.09) 750 feet upstream from centerline.	*980
			Main Street (Rivermile 20.5) 75 feet downstream from centerline	*1,027
			Irrigation Siphon (Rivermile 23.49) at centerline	*1,064
			U.S. Routes 2 (Rivermile 24.71) 80 feet downstream from centerline	*1,097
			Icicle Road (Rivermile 27.27) 50 feet upstream from centerline	*1,117
			Burlington Northern Railroad (Rivermile 41.89) 150 feet upstream from centerline.	*1,763
			River Road (Rivermile 46.2) 50 feet downstream from centerline	*1,818
			River Road (Rivermile 46.2) 50 feet upstream from centerline	*1,820
			State Route 209 (Rivermile 46.42) 200 feet upstream from centerline	*1,823
			State Route 207 (Rivermile 54.06) at centerline	*1,877
		Mission Creek	Burlington Northern Railroad (Rivermile 0.151) 100 feet downstream from centerline.	*786
			Senset Avenue (Rivermile 0.20) at centerline	*787
			Mission Creek Road (Rivermile 0.92) 80 feet downstream from centerline.	*830
			Mission Creek Road (Rivermile 0.92) 60 feet upstream from centerline	*833
			Mission Creek Road (Rivermile 1.02) 50 feet downstream from centerline.	*839
			Mission Creek Road (Rivermile 1.02) 90 feet upstream from centerline	*843
			Mission Creek Road (Rivermile 1.21) 25 feet downstream from centerline.	*853
			Mission Creek Road (Rivermile 1.65) 50 feet downstream from centerline.	*882
			Mission Creek Road (Rivermile 1.65) 50 feet upstream from centerline	*889
			Private Drive (Rivermile 2.275) 25 feet upstream from centerline	*932
			Private Drive (Rivermile 2.404) 25 feet upstream from centerline	*942
			Private Drive (Rivermile 2.598) 25 feet downstream from centerline	*954
			Private Drive (Rivermile 3.005) 25 feet downstream from centerline	*983
			Private Drive (Rivermile 3.355) 20 feet upstream from centerline	*1,010
			Private Drive (Rivermile 3.583) 10 feet downstream from centerline	*1,029
			Private Drive (Rivermile 3.745) 10 feet upstream from centerline	*1,046
			Private Drive (Rivermile 3.862) at centerline	*1,055
			Mission Creek Road (Rivermile 4.38) 80 feet downstream from centerline.	*1,100
			Mission Creek Road (Rivermile 4.38) 80 feet upstream from centerline	*1,103
			Private Drive (Rivermile 4.708) 25 feet downstream from centerline	*1,123
			Private Drive (Rivermile 4.813) 20 feet downstream from centerline	*1,130
		Peshastin Creek	Saunders Road (Rivermile 0.39) at centerline	*1,011
			U.S. Routes 2 and 97 (Rivermile 0.66) 10 feet downstream from centerline.	*1,034
			Private Drive (Rivermile 1.52) 50 feet downstream from centerline	*1,095
			County Road 2997 (Rivermile 2.03) 75 feet upstream from centerline	*1,132
			Driveway (Rivermile 4.05) 25 feet downstream from centerline	*1,288
			U.S. Route 97 (Rivermile 5.19) 50 feet downstream from centerline	*1,379
			U.S. Route 97 (Rivermile 5.19) 50 feet upstream from centerline	*1,384
		Icicle Creek	East Leavenworth Road (Rivermile 2.485) 100 feet downstream from centerline.	*1,120
			East Leavenworth Road (Rivermile 2.485) 300 feet upstream from centerline.	*1,122
		Chumstick Creek	Burlington Northern Railroad (Rivermile 0.14) at centerline	*1,108
			North Road (Rivermile 0.30) 100 feet upstream from centerline	*1,122
			North Road (Rivermile 0.30) 160 feet upstream from centerline	*1,124
			Mottler Road (Rivermile 0.49) 50 feet downstream from centerline	*1,130
			Mottler Road (Rivermile 0.49) 100 feet upstream from centerline	*1,135
			Mottler Road (Rivermile 0.59) at centerline	*1,138
			Mottler Road (Rivermile 0.59) 100 feet upstream from centerline	*1,141
			Driveway (Rivermile 0.82) 90 feet downstream from centerline	*1,148
			Driveway (Rivermile 0.82) 300 feet upstream from centerline	*1,152
			Driveway (Rivermile 1.22) at centerline	*1,171
			Burlington Northern Railroad (Rivermile 1.85) 25 feet downstream from centerline.	*1,208
			Burlington Northern Railroad (Rivermile 1.85) 100 feet upstream from centerline.	*1,209
			Eagle Creek Road (Rivermile 2.225) 50 feet downstream from centerline.	*1,227
			Eagle Creek Road (Rivermile 2.225) 75 feet upstream from centerline.	*1,229
			Driveway (Rivermile 2.57) at centerline	*1,246
			Driveway (Rivermile 2.69) 25 feet upstream from centerline	*1,254
			Driveway (Rivermile 2.90) 100 feet downstream from centerline	*1,262
			Driveway (Rivermile 2.90) 40 feet upstream from centerline	*1,266
			Driveway (Rivermile 3.05) 30 feet downstream from centerline	*1,270
			Driveway (Rivermile 3.05) 50 feet upstream from centerline	*1,274
			State Route 209 (Rivermile 4.45) 120 feet downstream from centerline.	*1,340
			State Route 209 (Rivermile 4.45) 300 feet upstream from centerline	*1,343
			State Route 209 (Rivermile 4.97) 140 feet downstream from centerline.	*1,364

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			State Route 209 (Rivermile 4.97) 50 feet upstream from centerline	*1,368
			Driveway (Rivermile 5.72) at centerline	*1,404
			State Route 209 (Rivermile 5.78) at centerline	*1,410
			Driveway (Rivermile 6.01) 50 feet upstream from centerline	*1,418
			Driveway (Rivermile 6.05) 100 feet upstream from centerline	*1,419
			Driveway (Rivermile 6.2) 75 feet upstream from centerline	*1,427
			Sunitsch Canyon Road (Rivermile 6.58) 50 feet downstream from centerline.	*1,447
			Sunitsch Canyon Road (Rivermile 6.58) 50 feet upstream from centerline.	*1,452
			Driveway (Rivermile 6.82) 130 feet downstream from centerline	*1,461
			Driveway (Rivermile 6.82) 75 feet upstream from centerline	*1,465
			Irrigation Diversion (Rivermile 6.9) 40 feet downstream from centerline	*1,471
			Irrigation Diversion (Rivermile 6.9) 45 feet upstream from centerline	*1,473
			Burlington Northern Railroad (Rivermile 7.56) at centerline	*1,521
			State Highway 209 (Rivermile 8.02) 25 feet downstream from centerline.	*1,545
			Driveway (Rivermile 8.34) 110 feet downstream from centerline	*1,561
			Driveway (Rivermile 8.34) 25 feet upstream from centerline	*1,565
			State Route 209 (Rivermile 8.99) 25 feet downstream from centerline	*1,600
		Chiwawa River	County Road 22 (Rivermile 2.11) 115 feet upstream from centerline	*1,927
		Entiat River	U.S. Route 97 (Rivermile 0.02) at centerline	*712
			Private Road (Rivermile 1.25) 30 feet upstream from centerline	*745
			Entiat River Road (Rivermile 2.88) 10 feet downstream from centerline.	*820
			Entiat River Road (Rivermile 4.07) 50 feet upstream from centerline	*888
			Private Road (Rivermile 5.38) 25 feet upstream from centerline	*957
			Fish Hatchery Road (Rivermile 5.92) 75 feet upstream from centerline	*992
			Hatchery Dam (Rivermile 6.77) at centerline	*1,046
			Private Road (Rivermile 7.88) 50 feet upstream from centerline	*1,104
			Private Road (Rivermile 8.75) 20 feet upstream from centerline	*1,159
			Footbridge (Rivermile 9.64) 50 feet upstream from centerline	*1,204
			Private Road (Rivermile 10.0) 25 feet downstream from centerline	*1,220
			Mad River Road (Rivermile 10.67) at centerline	*1,248
			Private Road (Rivermile 11.84) 50 feet upstream from centerline	*1,303
			Private Road (Rivermile 12.08) at centerline	*1,313
			Private Road (Rivermile 13.08) 50 feet downstream from centerline	*1,356
			Private Road (Rivermile 13.68) at centerline	*1,396
			Private Road (Rivermile 14.08) 30 feet downstream from centerline	*1,417
			Private Road (Rivermile 18.65) 75 feet upstream from centerline	*1,572
		Mad River	Lumber Mill Road (Rivermile 0.28) 10 feet upstream from centerline	*1,265
			Private Road (Rivermile 0.57) 10 feet upstream from centerline	*1,288
		Stehekin River	Bridge (Rivermile 3.62) 175 feet upstream from centerline	*1,187
		Squilchuck Creek	Burlington Northern Railroad Yard (Rivermile 0.140) 30 feet downstream from centerline.	*637
			Burlington Northern Railroad (Rivermile 0.21) at centerline	*650
			Malaga Road (Rivermile 0.25) 10 feet upstream from centerline	*662
			Wenatchee Avenue (Rivermile 0.30) 110 feet upstream from centerline.	*682
			Squichuck Road (Rivermile 3.825) 20 feet upstream from centerline	*1,539
		Dry Gulch	Intersection of South Miller Street and Gehr Street	#1
			Intersection of South Miller Street and Circle Street	#2
			Intersection of Fuller Street and Gehr Street	#1
			Intersection of Okanogan Avenue and Crawford Street	#1
			Intersection of Mission Street and Crawford Street	#1
		Canyon Number One	Intersection of Surrey Road and Lester Road	#1
			Intersection of 5th Street and Woodward Drive	#1
			Intersection of South Western Avenue and 5th Street	#1
			Intersection of Springwater Street and Poplar Row	*1
			Intersection of Pershing Street and Maple Street	*1
		Canyon Number Two	Intersection of Wellington Place and Grandview Avenue	*2
			Intersection of South Western Avenue and Cherry Street	*2
			Intersection of Number Two Canyon Road and Grandview Avenue	*2
			Intersection of Castlerock Road and South Western Avenue	*1

Maps available for inspection at Planning Office, Courthouse Annex, 415 Washington Street, Wenatchee, Washington.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Washington	Wenatchee (City), Chelan County (Docket No. FEMA-5728).	Alluvial Fan Flooding from Dry Gulch, No. 1 and No. 2 Canyons.	Intersection of Red Apple Road and Okanogan Avenue	*1
			Intersection of Crawford Avenue and Methow Street	*1
			Intersection of Peachey Street and Okanogan Avenue	*1
			Intersection of Cherry Street and Miller Street	*1
			Intersection of Washington Street and Miller Street	*1
			Intersection of Washington Street and King Street	*1
			Intersection of Washington Street and Dana Avenue	*1
			Intersection of 5th Street and Elliott Avenue	*1
			Intersection of 5th Street and Sunset Avenue	*1
			Intersection of Springwater Street and Amherst Street	*1

Maps available for inspection at Community Development Office, 2 South Chelan Street, Wenatchee, Washington.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Janaury 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26624 Filed 9-2-80; 8:45 am]

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska or Hawaii, call Toll Free (800) 424–9080), Federal Emergency, Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City Hoover, Jefferson County (FEMA 5817).	Patton Creek	Just downstream of Kestwick Road	*491
			Just upstream of Southland Drive	*512
		Cahaba River	Intersection of Loch Ridge Trail, and East Heather Line	*433
Maps available for inspection at City Hall, 1631 Montgomery Highway, Hoover, Alabama 35120.				
Alabama	City of Irondale, Jefferson County (FEMA 5817).	Shades Creek	Just downstream of U.S. Highway 78	*709
			Just upstream of Hass McDavid Avenue	*715
			Just downstream of Commerce Blvd	*719
Maps available at City Hall, 101 South 20th Street, Irondale, Alabama 35210.				
Alabama	Unincorporated areas of Lauderdale County (FEMA 5818).	Wilson Creek	Just upstream of Old Jackson Highway (County Highway 47)	*570
		Huddon Creek	Just upstream of County Road 16	*557
		Anderson Creek	Just downstream of the Southern Corporate Limits of the Town of Anderson.	*652
			Just upstream ofthe Town of Anderson Northern Corporate Limits	*675
		East Fork Anderson Creek	Just upstream of Private Drive	*686
		Cypress Creek	Just upstream of Jackson Road	*486
			Just upstream of Rasch Road	*496
		Little Cypress Creek	Just upstream of Rasch Road	*497
		Shoal Creek	Confluence of Shoal Creek and Indiancamp Creek	*518
		Indiancamp Creek	Just downstream of County Road	*525
			Just upstream of County Road	*527
Maps available at Lauderdale County Courthouse, 200 Court Street, Florence, Alabama 35630.				
Alabama	City of Prichard, Mobile County (FEMA 5817).	Chickasaw Creek	Just upstream of Shelton Beach Road	*21
			Crystal Spring Road (Extended)	*25
		Branch "A"	Just upstream of St. Stephens Road (US Highway 45)	*47
		Crystal Spring Branch	Just downstream of Crystal Springs Road	*36
		Gum Tree Branch	Just downstream of North Wasson Avenue	*19
			Just upstream of Interstate Highway 65	*22
		Branch "G"	Just upstream of Warren Street	*20
			Just downstream of Illinois Central Gulf Railroad	*28
		Eight Mile Creek	Just upstream of Whistler Street	*23
			Just upstream of St. Stephens Road (US Highway 45)	*33
		Branch "C"	Just upstream of Shelton Beach Road	*30
			Just upstream of Love Avenue	*41
		Branch "D"	Just downstream of Myers Road	*54
		Branch "L"	Just upstream of Craft Highway	*25
			Just upstream of Smith Street	*27
		Branch "M"	Just upstream of Haig Street	*25
			Just upstream of Diaz Street	*25
		Toulmins Spring Branch	Just upstream of Craft Highway	*15
			Just upstream of West Prichard Avenue	*25
			Just upstream of South Thomas Avenue	*37
		Toulmins Spring Branch Tributary.	Just upstream of West Prichard Avenue	*22
			Just downstream of Max Street	*28
Maps available for inspection at City Hall, 216 E. Prichard Avenue, Prichard Alabama 36610.				
Alaska	Juneau, City/Borough (FEMA-5799).	Eagle River	1,400 feet downstream of Glacier Highway	*22
			Upstream of Glacier Highway	*27
			Downstream of confluence of Eagle River By-pass	*44
			Downstream of Inlet to Eagle River By-pass	*62

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			1,100 feet upstream of confluence of Eagle River By-pass	*66
		Eagle River By-pass	Upstream of confluence with Eagle River	*45
			3,400 feet upstream of confluence with Eagle River	*52
			Downstream of Inlet from Eagle River	*62
		Herbert River	1,300 feet downstream of Glacier Highway	*22
			Upstream of Glacier Highway	*26
			Downstream of confluence with Herbert River By-pass	*58
			Upstream of confluence with Herbert River By-pass	*60
			4,260 feet upstream of confluence with Herbert River By-pass	*66
			Inlet to Herbert River By-pass	*78
			Upstream of Inlet to Herbert River By-pass	*79
		Herbert River By-pass	Upstream of conflence with Herbert River	*60
			3,400 feet upstream of confluence with Herbert River	*72
		Tributary to Favorite Channel	Upstream of Access Road	*24
			3,925 feet upstream of Access Road	*28
			Downstream of Glacier Highway	*29
		Tributary to Favorite Channel By-pass.	Downstream of Dirt Road	*22
			Upstream of Dirt Road	*23
			1,800 feet upstream of Dirt Road	*26
			Inlet from Tributary to Favorite Channel	*28
		Peterson Creek	2,950 feet downstream of Glacier Highway	*20
			Upstream of Glacier Highway	*24
			1,430 feet upstream of Glacier Highway	*29
		Mendenhall River	3,975 feet downstream of Glacier Highway	*20
			Downstream of Glacier Highway	*21
			100 feet upstream of confluence of Montana Creek	*28
			Long Run Drive Extended	*33
			Lupine Lane Extended	*36
			Downstream of Mendenhall Loop Road	*51
			300 feet upstream of Mendenhall Loop Road	*54
			150 feet upstream of Private Road extended to Access Road	*63
		Montana Creek	Upstream of confluence with Mendenhall River	*28
			4,250 feet downstream of Mendenhall Loop Road	*36
			Upstream of Mendenhall Loop Road	*47
			1,250 feet upstream of Mendenhall Loop Road	*50
		Montana Creek Overbank Flow	Upstream of end of overbank flow from Montana Creek	*36
			At beginning of overbank flow from Montana Creek	*46
		Duck Creek	Downstream of Robertson Street	*20
			Upstream of Private Road to Shell Simmons Drive	*25
			Upstream of Berners Avenue	*26
			Upstream of Egan Drive	*30
			Upstream of Trail located between Trinity and Stephen Richards Memorial Drive.	*38
			Upstream of Aspen Avenue	*42
			300 feet upstream of Taku Boulevard	*48
		East Fork Duck Creek	Upstream of confluence with Duck Creek at Private Road to Mendenhall Loop Road.	*31
			Downstream of Trinity Drive	*38
			Upstream of Nugget Drive	*47
		Jordan Creek	400 feet downstream of Alpine Avenue	*20
			Cascade Street	*26
			Upstream of Egan Drive	*29
			Tongass Boulevard extended	*35
			Jennifer Drive extended	*44
			1,100 feet upstream of Amalga Street extended	*51
		Lemon Creek	1,355 feet downstream of Glacier Highway	*20
			Mountain Avenue extended	*30
			1,250 feet upstream of Mountain Avenue extended	*40
			4,500 feet upstream of Mountain Avenue extended	*83
		Salmon Creek	Upstream of Glacier Highway	*20
			1,345 feet usptream of Glacier Highway	*34
		Gastineau Channel	Juneau Bridge to Douglas Harbor	*23
			Douglas Harbor to Bullion Creek	*26
			Mendenhall River to Juneau Airport extended	*23
			Juneau Airport extended to Sunny Point	*24
		Auke Bay	Auke Cape to Spuhn Island	*22
		Stephens Passage	Point Lena to Auke Lake	*25
		Favorite Channel	Point Lena to Lena Cove	*31
			Lena Cove to Tee Harbor	*27
			Huffman Harbor to Eagle Harbor	*25
Maps available at the City and Borough Office.				
Arkansas	City of Searcy, White County, (FEMA 5817).	Little Red River	Just upstream of Arkansas Highway 367	*219
		Deener Creek	Just downstream of Maple Street	*221
			Just downstream of Ella Street	*232
		Gin Creek	Just upstream of Race Avenue (U.S. Highway 67)	*222
			Just upstream of Park Avenue	*225
			Just upstream of Main Street (U.S. Highway 67)	*238
			Just downstream of Ella Street	*260
		Iorio Creek	Just upstream of Arkansas Highway 267	*235
Maps available at City Hall, 300 West Arch Avenue, Searcy, Arkansas 72143.				
Arkansas	City of Tuckerman, Jackson County (FEMA 5817).	Tuckerman Ditch	Just downstream of Missouri-Pacific Railroad	*239
			At Estelle Street	*242
		Watson Ditch	At County Highway 145	*242
Maps available at City Hall, Courtroom, Main Street, Tuckerman, Arkansas 72473.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Menlo Park (City), San Mateo County (FEMA 5817).	San Francisco Bay	Intersection of Hamilton Avenue and Chilco Street	*7
			Intersection of Jefferson Drive and Chrysler Drive	*7
			Intersection of Haven Court and Haven Avenue	*7
			Intersection of Constitution Drive and Independence Drive	*7
			Intersection of Willow Road and Southern Pacific Railroad	*7
			Intersection of Ivy Drive and Madera Avenue	*7
			Intersection of Willow Road and bay shoreline	*7
Maps available for inspection at City Hall, Civic Center, Ravenswood & Laural Streets, Menlo Park, California.				
California	Pacifica (City), San Mateo County (FEMA 5817).	Calera Creek	At upstream of the culvert under San Marlo Way	*18
			Intersection of Creek and quarry access road	*30
			At downstream opening of the culvert under State Highway 1	*66
		San Pedro Creek	Intersection of De Solo Drive and Arguello Boulvevard	*11
Maps available for inspection at Department of Development and Community Services, 1800 Francisco Avenue, Pacifica, California.				
California	Ross (Town), Marin County (FEMA 5817).	Corte Madera Creek	Approximately 190 feet west of the intersection of Sir Francis Drake Boulevard and Aikens Lane.	*14
			Northwestern side of Lagunitas Road between Shady Lane and Sylvan Drive.	*26
			Approximately 150 feet west of the intersection of Winship Avenue and Wellington Avenue.	*36
			Intersection of Shady Lane and Fernhill Avenue	#2
			Intersection of Redwood Drive and Brookwood Lane	#3
			Ross Common	#3
		Kittle Creek	Confluence with Corte Madera Creek	*16
			Upstream side of Marin Art and Garden Center Drive over the channel.	*31
			Approximately 90 feet south of the intersection of Monte Allegre Road and Laurel Grove Avenue.	*48
		Sheetflow	Approximately 300 feet northwest along Sir Francis Drake Boulevard from its intersection with Aikens Lane.	#2
Maps available for inspection at town Hall, Ross, California.				
Connecticut	Waterford, Town, New London County (FEMA 5780).	Jordan Brook	Confluence w/Jordan Cove	*11
			Upstream side of Rope Ferry Road, State Route 156	*16
			Upstream side of footbridge downstream of U.S. Route 1	*26
			Upstream side of U.S. Route 1	*29
			Upstream side of footbridge downstream of Fog Plain Road	*30
			At collapsed bridge downstream of Breached Dam	*34
			2,310 feet upstream of collapsed bridge	*36
			4,170 feet upstream of collapsed bridge	*46
			Upstream side of driveway downstream of Waterford Parkway	*56
			Upstream side of Waterford Parkway southbound	*62
			2,980 feet upstream of Breached Dam upstream of Waterford Parkway.	*73
			4,160 feet upstream of Breached Dam upstream of Waterford Parkway.	*82
			1,960 feet downstream of downstream end of Cross Road	*92
			Upstream end of Cross Road	*109
			Downstream side of Douglas Lane	*119
			1,580 feet upstream of Douglas Lane	*123
		Nevins Brook	Confluence with Jordan Brook	*16
			Upstream side of U.S. Route 1 (Boston Post Road)	*22
			Downstream end of Fog Plain Road	*32
			Upstream end of gravel road, 2,740 feet upstream of Fog Plain Road	*41
			4,940 feet upstream of Fog Plain Road	*46
		Thames River	From downstream Corporate Limits to a point approximately 7,400 feet upstream.	*11
			From a point approximately 7,400 feet upstream from the downstream Corporate Limits to the upstream Corporate Limits.	*12
		Long Island Sound	Entire Shoreline	*11
Maps available at the Office of the Town Clerk and at the Department of Public Works, Waterford, Connecticut.				
Florida	City of Moore Haven, Glade County (FEMA 5817).	Caloosahatchee River	Just downstream of U.S. 27	*13
		Rainfall	All flooded areas west of Riverside Drive and First Street	*14
Maps available at City Hall, City Clerk's Office, 99 Riverside Drive, Moore Haven, Florida, 33471.				
Florida	Mulberry (City), Polk County (FEMA 5778).	North Prong Alafia River	100 feet west of the intersection of State Route 37 (North Church Avenue) and the City's southern corporate limit.	*100
		Ellis Branch	50 feet downstream from center of Southeast Third Street	*100
			200 feet upstream from center of Northeast Fifth Street	*107
		Pond 1	200 feet northwest of the intersection of Northwest 5th Avenue and Northwest 3rd Street.	*110
		Pond 2 Shallow Flooding	200 feet west of Northwest Northwest 6th Avenue	*107
Maps available at City Hall, P.O. Box 707, Mulberry, Florida 33860.				
Florida	Unincorporated Areas of Okeechobee County (FEMA 5817).	Popash Slough	Just downstream of Florida Highway 70	*28
		Tributaries Flowing to Pumping Station 133.	Northwest and Northeast of the intersection of Florida Highway 78 and U.S. Highway 441.	*17
		Tributaries Flowing to Pumpting Station 135.	East of Nubbin Slough between U.S. Highway 441 and Lake Okeechobee.	*18
Maps available for inspection at County Clerk's Office, Okeechobee County Courthouse, 304 N.W. Second Street, Okeechobee, Florida 33472.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V), Bensenville Du Page and Cook Counties (FI 5207).	Bensenville Ditch	At the downstream corporate limits	*662
			About 400 feet downstream of the Chicago and North Western Railroad.	*662
			Just upstream of the Chicago and North Western Railroad	*665
			Just downstream of Irving Park Road	*667
		Addison Creek	About 700 feet downstream of Diana Court	*656
			Just downstream of George Street	*656
		Addison Creek Tributary No. 1	Mouth at George Street Reservoir	*655
			Just downstream of Evergreen Street	*658
			Just downstream of Marion Street	*663
		Addison Creek Tributary No. 2	Mouth at George Street Reservoir	*657
			About 800 feet upstream of mouth	*663
			Just downstream of York Road	*663
			Just Upstream of Church Road	*679
		Addison Creek Tributary No. 3	At the confluence with Addison Creek Tributary No. 2	*663
			About 450 feet upstream of George Street	*663
			At the upstream corporate limits	*684
		Addison Creek Tributary No. 4	At the confluence with Addison Creek Tributary No. 2	*677
			About 800 feet upstream of Church Road	*678
		George Street Reservoir	Shoreline	*652
Maps available for inspection at Village Hall, Engineering Department, 700 West Irving Park Road, Bensenville, Illinois 60106.				
Illinois	(V), Bridgeview, Cook County (FEMA 5818).	Lucas Ditch Cutoff	Just upstream of 103rd Street	*594
			About 2,800 feet upstream of 103rd Street	*595
Maps available for inspection at the Village Clerk's Office, Village Hall, 7500 South Oketo Avenue, Bridgeview, Illinois 60455.				
Illinois	(V), Brussels, Calhoun County (FEMA 5817).	Pohlman Creek	Just downstream of Main Street	*455
			Just downstream of southern corporate limit	*462
Maps available for inspection at Village Hall, Fire House, Brussels, Illinois 62013.				
Illinois	(V), Dupo, St. Clair County (FEMA 5817).	Shallow flooding (local ponding)	Approximately 1,000 feet west of Missouri Pacific Railroad and east of the corporate limits.	*403
			About 1,000 feet southeast along Stone Street from the intersection of Second Street and Stone Street.	*404
			At the intersection of Columbia Rock Road and Columbia Dupo Road.	*404
			Approximately 800 feet west of Sugar Loaf Hill Drive and 500 feet east of Wheatly Road.	*404
			At south Dupo Station Building from Missouri Pacific Railroad to eastern corporate limit.	*404
			Area surrounded by corporate limits to the east of Fifth Street, approximately 400 feet northeast of the intersection of Fourth Street and E. Carondelet Road.	*404
			Area surrounded by Missouri Pacific Railroad, Waterloo Avenue and Wheatly Road.	*404
			At the intersection of Pattee Avenue and Hofstetter Street	*406
Maps available for inspection at the Village President's Office, Village Hall, 100 N. 2nd Street, Dupo, Illinois 62239.				
Illinois	(C), Elmhurst, Du Page County (FEMA 5817).	Salt Creek	Just upstream Frontage Road	*663
			About 500 feet downstream Chicago and North Western Railroad (downstream of Saint Charles Road).	*667
			Just downstream Saint Charles Road	*669
			About 400 feet downstream Illinois Central Gulf Railroad	*672
			About 2,800 feet upstream of North Avenue	*675
		Sugar Creek	Mouth at Salt Creek	*664
			Upstream corporate limits	*665
Maps available for inspection at the City Clerk's Office, Municipal Building, 119 Chiller Street, Elmhurst, illinois 60126.				
Illinois	(V), Hardin, Calhoun County (FEMA 5817).	Illinois River	Within corporate limits	*442
Maps available for inspection at Village Hall, Main and Water Streets Hardin, Illinois 62047.				
Illinois	Joliet, City, Will County (FEMA 5800)	Des Plaines River	Downstream Corporate Limits	*541
			Downstream Cass Street	*542
			Downstream Ruby Street	*543
			Upstream Corporate Limits	*544
		Hickory Creek	Upstream McKinley Street	*522
			Upstream Chicago Street	*529
			Downstream Interstate Route 80	*533
			Upstream New Richards Street	*537
			Upstream Fourth Avenue	*539
			Upstream Second Avenue	*543
			Upstream Washington Street	*548
			Downstream Court Street (Extended)	*663
			Upstream Corporate Limits	*565
		Illinois and Michigan Canal	Downstream Corporate Limits	*530
			Upstream Corporate Limits	*531
		Rock Run North	Upstream Mound Road	*547
			Upstream Interstate Route 80	*549
			Upstream Rock Run Road	*570
			Jefferson Street	*575
			Upstream Black Road	*576
			Upstream Theodore Street	*581
			Upstream Corporate Limits	*582

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Rock Run South	Downstream Corporate Limits	*513
			Upstream Channahon Road	*516
			Upstream Corporate Limits	*521
		Rock Run Slough	Downstream Corporate Limits	*562
			Downstream Troy Road	*574
		Rock Run Tributary No. 2	Downstream Corporate Limits	*601
			Upstream Dam	*607
			Downstream Essington Road	*612
		Rock Run Tributary No. 3	Jefferson Street	*575
			Downstream Private Road	*598
			Upstream Essington Road	*601
			Upstream Rebecca Road	*612
			Downstream Fairlane Drive	*620
			Upstream Barney Drive	*627
			Downstream Elgin, Joliet and Eastern Railroad	*632
		Spring Creek	Confluence with Hickory Creek	*543
			Upstream Benton Avenue	*546
			Upstream Jackson Street	*547
			Upstream Clay Street	*548
			Upstream Ohio Street	*550
			Upstream Irving Street	*551
			Upstream Landman Street	*552
			Upstream Hugh Street	*555
			Downstream Access Road	*562
			Upstream Corporate Limits	*565
		Sunnyland Drain	Downstream Corporate Limits	*594
			Upstream Essington Road	*599
			Downstream U.S. Route 30	*604
		Sunnyland Drain Tributary	Confluence with Sunnyland Drain	*602
			Downstream U.S. Route 30	*604
		Thorne Creek	Downstream Corporate Limits	*578
			Upstream Interstate Route 80	*585
			Upstream West Park Front	*588
			Downstream Midland Avenue	*602
			Upstream Midland Avenue	*605
			Upstream Private Bridge (approximately 1,300 feet upstream of Midland Avenue).	*618
			Upstream Woodbridge Road	*634
Maps available at the Planning Department, Joliet, Illinois.				
Illinois	(V), Kampsville, Calhoun County (FEMA 5818).	Illinois River	At northern corporate limits	*443
			About 1.1 miles downstream of State Route 108 ferry crossing	*443
Maps available for inspection at Village Hall, Kampsville, Illinois 62053.				
Illinois	(V), Orland Park, Cook County (FEMA 5818).	Mill Creek	Just upstream of downstream corporate limits	*668
			Just downstream of Norfolk and Western Railway	*672
			Just upstream of 88th Avenue	*682
		Marley Creek	Just downstream of 108th Avenue	*688
			Just downstream of Norfolk and Western Railway	*690
			Just upstream of Norfolk and Western Railway	*692
			About 200 feet upstream 159th Avenue	*692
		South Fork Marley Creek	Mouth at Marley Creek	*688
			About 670 feet upstream of Norfolk and Western Railway	*691
			About 1,800 feet upstream of Norfolk and Western Railway	*692
		Tinley Creek	Just upstream of downstream corporate limits (at 82nd Avenue)	*665
			About 400 feet upstream of Silver Lake Country Club Road	*667
			About 800 feet upstream of Dam	*673
			About 150 feet downstream of 159th Street	*687
			About 300 feet upstream of 88th Avenue	*700
Maps available for inspection at Village Hall, Administrator's Office, 14415 Beacon Avenue, Orland Park, Illinois 60462.				
Illinois	(V), Villa Park, Du Page County, (FEMA 5818).	Salt Creek	Downstream corporate limits (abou 800 feet upstream of confluence of Sugar Creek).	*665
			About 400 feet downstream of State Route 83	*668
			Just upstream Illinois Central Gulf Railroad	*673
			Upstream corporate limits (Lorraine Avenue extended)	*675
		Sugar Creek	Just downstream of State Route 83	*665
			Just downstream of Cross Street	*666
			Just upstream of Summit Avenue	*668
			Just upstream of Riordan Road	*687
			Upstream corporate limits	*691
		Sugar Creek Tributary A	At confluence with Sugar Creek	*688
			About 300 feet upstream Roosevelt Road	*705
Maps available for inspection at the Village Engineer's Office, Village Hall, 20 South Ardmore, Villa Park, Illinois 60181.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V), Wadsworth, Lake County (FEMA 5818).	Des Plaines River	Downstream corporate limits	*666
			Upstream corporate limits	*668
		Mill Creek	About 260 feet downstream U.S. Highway 41	*667
			Upstream corporate limits	*670
Maps available for inspection at Village Hall, 38310 Chicago Avenue, Wadsworth, Illinois 60083.				
Iowa	(C), Des Moines, Polk County (FEMA 5818).	Des Moines River	Just upstream of Second Avenue	*803
			Just upstream of Euclid Avenue	805
			Upstream corporate limits	*806
		Raccoon River	Just upstream of Fleur Drive	*801
			Just downstream of Chicago and North Western Railroad	*809
			Just downstream of Southwest 63rd Street	*813
		Fourmile Creek	Downstream corporate limits	*791
			Just upstream of Chicago, Rock Island and Pacific Railroad	*800
			Just downstream of Easton Boulevard	*814
			Just downstream of Hubbell Avenue	*821
			Upstream corporate limits	*828
		Frink Creek	Mouth at Raccoon River	*807
			Just upstream of Park Avenue	*813
			About 1,200 feet upstream of Park Avenue	*816
		Walnut Creek	Just upstream of Chicago, Rock Island and Pacific Railroad	*812
			About 900 feet downstream of Southwest 63rd Street	*820
			Upstream corporate limits (about 2,600 feet upstream of Southwest 63rd Street).	*824
		Shallow flooding	About 300 feet east of intersection of Dixon Street and East Sheridan Avenue.	#1
			About 800 feet east of intersection of East Euclid Avenue and East 14th Street.	#2
			About 300 feet southeast of intersection of Aurora Street and East 14th Street.	#2
			Intersection of Douglas Avenue and East 9th Street	#2
			Intersection of Shawnee Avenue and East 10th Street	#3
			Intersection of Dixon Street and East Hull Avenue	#3
			About 300 feet southeast of intersection of Aurora Street and East 16th Street.	#3
Maps available for inspection at City Hall, East 1st and Locust Street, Des Moines, Iowa 50307.				
Kentucky	City of Georgetown, Scott County (FEMA 5817).	North Elkhorn Creek	Just upstream of U.S. Highway 25 (North Broadway)	*799
			Just upstream of Paris Road (U.S. Highway 460)	*808
			Just downstream of Interstate Highway 75	*811
Maps available at City Hall, 141 South Broadway, Georgetown, Kentucky 40324.				
Louisiana	Village of Estherwood, Acadia Parish (FEMA 5817).	Estherwood Lateral	Entire area within The Village of Estherwood	*17
Maps available at City Hall, 124 North Le Blanc, Estherwood, Louisiana 70534.				
Maine	Auburn, City, Androscoggin County (FEMA 5688).	Androscoggin River	Downstream Corporate Limits	*127
			Maine Turnpike (Upstream)	*133
			North Bridge	*137
			Maine Central Railroad Bridge (Upstream)	*176
			Vietnam Veterans' Memorial Bridge	*179
			Deer Rips Dam (Downstream)	*187
			Deer Rips Dam (Upstream)	*213
			Gulf Island Dam (Downstream)	*215
			Gulf Island Dam (Upstream)	*263
			Upstream Corporate Limits (approximately 7,000 feet above Gulf Island Dam).	*263
		Little Androscoggin River	Barker Mills Dam (approximately 450 feet Downstream)	*136
			Barker Mills Dam (Upstream)	*174
			Breached Dam (Downstream side) located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*190
			Breached Dam (Upstream side) located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*195
			Maine Central Railroad Bridge	*200
			U.S. Route 202 Northbound	*205
			Breached Dam (Downstream) located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*207
			Breached Dam (Upstream) located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*212
			Old Hotel Road (Upstream)	*222
			Upstream Corporate Limits	*231
		Taylor Brook	Dead End Road and Dam (Downstream)	*240
			Approximately 400 feet upstream of Old Hotel Road	*247
		Lapham Brook	Approximately 2,850 feet downstream of Young's Corner Road	*247
			Approximately 3,150 feet upstream of Young's Corner Road	*256
Maps available at the Auburn Community Development Office, Auburn, Maine.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.), Flushing, Genesee County (FEMA 5815).	Flint River	Just upstream Mount Morris Road	*646
			Approximately 2 miles upstream Mount Morris Road	*656
			Downstream City of Flushing corporate limits	*668
			Upstream City of Flushing corporate limits	*683
			Just downstream Elms Road	*687
		Bowman Drain	At mouth	*701
			Just upstream Stanley Road	*705
			Just upstream Johnson Road	*712
			Just upstream Carpenter Road	*721
		Armstrong Creek	About 550 feet upstream Frances Road	*680
			Just upstream Mount Morris Road	*692
			Just upstream Stanley Road	*702
			At confluence of Cattail Swamp Drain	*705
		Cattail Swamp Drain	At confluence with Armstrong Creek	*705
			Upstream corporate limit (Just downstream of Elms Road)	*708
		Cole Creek	At City of Flushing corporate limit	*703
			Just upstream McKinley Road	*713
			Just downstream Potter Road	*715
		Mud Creek	Just downstream River Road	*683
			About 100 feet upstream River Road	*687
			At downstream City of Flushing corporate limit	*688
			At upstream City of Flushing corporate limit	*696
			Just upstream Morrish Road	*709
			Just downstream Potter Road	*721
Maps available for inspection at Township Hall, 6524 North Seymour Road, Flushing, Michigan 48423.				
Michigan	(Twp.), Lansing, Ingham County (FEMA 5817).	Grand River	Just upstream of Waverly Road (north of Interstate 496)	*818
			About 1 mile upstream of Waverly Road (north of Interstate 496)	*821
			About 1.4 miles downstream of Waverly Road (south of Interstate 496).	*836
			Just downstream of Waverly Road (south of Interstate 496)	*838
		Red Cedar River	About 700 feet downstream of eastbound Interstate 496	*836
			About 900 feet upstream of northbound U.S. Highway 127	*837
Maps available for inspection at Lansing Township Hall, 3209 W. Michigan Avenue, Lansing, Michigan 48917.				
Michigan	(Twp.), Macomb, Macomb County (FEMA 5817).	Middle Branch, Clinton River	Just upstream Hall Road	*594
			Just upstream Twenty Two Mile Road	*600
			Just upstream of Twenty Four Mile Road	*611
			Just downstream Hayes Road	*627
		North Branch, Clinton River	Just upstream Hall Road	*597
			About 2.2 miles upstream of Twenty One Mile Road	*601
		Miller Drain	Just upstream Hall Road	*594
			Just upstream Twenty One Mile Road	*599
			Just downstream of Twenty Two Mile Road	*602
		Crittenden Drain	Just upstream Hall Road	*593
			Just upstream Twenty One Mile Road	*596
			Just downstream Twenty Two Mile Road	*603
		Gloede Ditch	Just upstream Hall Road	*595
			Just upstream Twenty One Mile Road	*599
			Just downstream Twenty Two Mile Road	*606
		Lewis Drain	At confluence with Gloede Ditch	*598
			Just upstream Twenty One Mile Road	*599
			Just downstream of Hayes Road	*603
		Dunn Drain	At confluence with Lewis Drain	*599
			Just downstream of Hayes Road	*601
		Banister Drain	At confluence with Dunn Drain	*599
			Just downstream of Hayes Road	*601
Maps available for inspection at Macomb City Hall, 19925 23 Mile Road, Mt. Clemens, Michigan 48004.				
Michigan	(Twp), Mt. Morris, Genesee County (FEMA 5817).	Hartshorn Drain	Just upstream of Pasadena Avenue	*711
			Just upstream from Pierson Road	*726
			Just upstream from Linden Road	*737
			Just upstream from Jennings Road	*754
			Approximately 3,150 feet upstream from Jennings Road	*760
		Lake Drain	Downstream corporate limit	*719
			Just upstream from Mount Morris Road	*730
			Just upstream from Clio Road	*743
			Just upstream from Coldwater Road	*750
			Upstream corporate limit	*754
		Cattail Swamp Drain	Just upstream of Elms Road	*708
			Just upstream from Webster Road	*725
			Just downstream of Linden Road	*748
		Hughes Drain	At confluence with Lake Drain	*744
			Approximately 550 feet upstream from Detroit Street	*750
		Flint River	Northern corporate limit	*687
			Southern corporate limit	*690
		Mason Drain	From Frances Road to eastern corporate limit	#1
Maps available for inspection at Mt. Morris Township Office, G 3026 W. Coldwater Road, Mt. Morris, Michigan 48450.				
Minnesota	(C), Golden Valley, Hennepin County (FEMA 5817).	Bassett Creek, Sweeney Lake Branch.	Just upstream of Chicago and North Western Railroad	*838
			Just upstream of Minneapolis, Northfield and Southern Railway	*842
			Just upstream of Lilac Drive	*857
			Just upstream of Minneapolis, Northfield and Southern Railway (Upstream from Glenwood Avenue).	*869
		Bassett Creek	Just upstream of Golden Valley Road	*831

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 500 feet upstream of Bassett Creek Drive	*835
			About 300 feet downstream Noble Avenue	*840
			About 1,800 feet downstream West Brook Road	*850
			Just downstream West Brook Road	*859
			Just upstream West Brook Road	*863
			Just downstream of Minneapolis, Northfield and Southern Railway	*868
			Just upstream of Hampshire Avenue North	*873
			About 1,200 feet downstream of Pennsylvania Avenue North	*876
			About 200 feet downstream Pennsylvania Avenue North	*880
			Just upstream of Pennsylvania Avenue North	*884
			Just upstream of Winnetka Avenue	*887
			Downstream of Mendelsson Drive	*887
Maps available for inspection at City Hall, 7800 Golden Valley Road, Golden Valley, Minnesota 55427.				
Minnesota	(Uninc.), Kittson County (FEMA 5817).	Red River of the North	At Canada-United States International boundary	*792
			At downstream St. Vincent corporate limits	*793
			At upstream St. Vincent corporate limits	*794
			About 6.5 miles upstream Canada-United States International boundary.	*795
			About 10.5 miles downstream of State Highway 11	*797
			About 5.9 miles upstream of State Highway 11	*800
		Two Rivers	Just upstream of Township Road about 5 miles downstream from U.S. Highway 75.	*802
			Just downstream of Burlington Northern Railroad	*807
			Just upstream of U.S. Highway 75	*809
			At the City of Hallock northern corporate limits	*811
		South Branch Two Rivers	At the City of Hallock southern corporate limits	*815
			Just downstream of Township Road about 2.25 miles downstream from County Highway 22.	*818
			Just downstream of County Highway 22	*821
		Middle Branch Two Rivers	At confluence with Two Rivers	*813
			Just downstream of Township Road about 4.9 miles upstream from confluence with Two Rivers.	*817
			Just upstream of Township Road about 4.9 miles upstream from confluence with Two Rivers.	*823
			About 1.3 miles downstream of State Highway 175 (downstream crossing).	*824
			Just upstream of State Highway 175 (downstream crossing)	*832
			Just upstream of State Highway 175 (upstream crossing)	*840
			Just downstream of Township Road about 4.0 miles downstream from County Highway 5.	*861
			Just upstream of Township Road about 4.0 miles downstream from County Highway 5.	*864
			Just downstream of Township Road about 1.9 miles downstream from County Highway 5.	*869
			Just upstream of Township Road about 1.9 miles downstream from County Highway 5.	*872
			Just downstream of County Highway 5	*886
Maps available for inspection at Kittson County Courthouse, P.O. Box 558, Hallock, Minnesota 56728.				
Minnesota	(Uninc.), McLeod County (FEMA 5818).	Campbell Lake	Shoreline	*1,045
		Otter Lake	Shoreline	*1,045
		Lake Addie	Shoreline	*1,018
		South Fork Crow River	Downstream county boundary	*966
			Just downstream County Road 9	*967
		Buffalo Creek	About 0.3 mile downstream County Road 1	*985
			At eastern Glencoe corporate limits	*989
			About 4,200 feet downstream Chicago, Milwaukee, St. Paul, and Pacific Railroad.	*1,016
			At County Road 25	*1,018
			About 9,050 feet upstream County Road 25	*1,018
Maps available for inspection at McLeod County Courthouse, Glencoe, Minnesota 53336.				
Minnesota	(Uninc.), Rice County, (FEMA 5818).	Cannon River	From County Road 13 to northern Faribault corporate limit	*982
		Cannon Lake	Shoreline, south of County Road 13	*982
		Wells Lake	Shoreline	*982
		Roberds Lake	Shoreline	*1,021
		French Lake	Shoreline	*1,053
		Mazaska Lake	Shoreline	*1,068
Maps available for inspection at County Planning and Zoning Administrator's Office, Rice County Highway Building, 610 N.W. 20th Street, Faribault, Minnesota 55021.				
Minnesota	(C), Rochester, Olmsted County (FEMA 5818).	South Fork Zumbro River	At the downstream corporate limits	*968
			Just upstream Elton Hills Drive	*979
			Just upstream Silver Lake Dam	*986
			Just upstream of East Center Street	*992
			About 100 feet upstream of the Chicago and North Western railroad	*996
			About 100 feet downstream of South Broadway	*1,001
			Just upstream of 16th Street SW	*1,010
			At the upstream corporate limits near Bamber Valley Road	*1,016
		Cascade Creek	At the confluence with South Fork Zumbro River	*983
			About 300 feet upstream of 14th Street NW	*988
			About 100 feet downstream of 11th Avenue NW	*998
			Just upstream of U.S. Highway 52	*1,006

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 400 feet upstream of confluence of North Run North Fork Cascade Creek.	*1,007
			About 3,000 feet downstream of County Highway 34	*1,012
			Just downstream of County Highway 34	*1,018
			About 200 feet upstream of County Highway 34	*1,023
			About 800 feet upstream of County Highway 34	*1,024
		North Run, North Fork Cascade Creek	About 50 feet downstream of Chicago and North Western railroad	*1,007
			Just downstream of 7th Street NW	*1,013
			Just downstream of 19th Street NW	*1,024
			Just upstream of 19th Street NW	*1,027
			About 1,100 feet upstream of 19th Street NW	*1,029
		South Run, North Fork Cascade Creek	Just upstream of 7th Street NW	*1,015
			About 100 feet upstream of U.S. Highway 14	*1,019
			About 100 feet upstream of the Chicago and North Western railroad	*1,023
			Just downstream of Field Road	*1,029
			Just upstream of Field Run	*1,034
		Silver Creek	At the confluence with South Fork Zumbro River	*988
			Just upstream of 11th Avenue NE	*990
			About 2,650 feet upstream of 11th Avenue NE	*995
			About 4,900 feet upstream of 11th Avenue NE	*1,011
			At the upstream (eastern) corporate limit	*1,016
		Bear Creek	At the confluence with South Fork Zumbro River	*993
			Just upstream of 6th Street SE	*999
			About 200 feet downstream of 12th Street SE	*1,008
			At the confluence of Willow Creek	*1,013
			About 1,600 feet upstream of the confluence of Willow Creek	*1,015
		Willow Creek	Just upstream of 11th Avenue SE	*1,015
			About 250 feet upstream of 11th Avenue SE	*1,019
			About 1.0 mile upstream of the confluence of the West Tributary to Willow Creek.	*1,022
			About 2100 feet downstream U.S. Highway 52	*1,032
			About 3,560 feet upstream U.S. Highway 52	*1,040
		West Tributary Willow Creek	At confluence with Willow Creek	*1,019
			About 600 feet downstream of Chicago and North Western railroad	*1,022
			About 2,200 feet upstream of the Chicago and North Western railroad	*1,042
		Shallow Flooding (Overflow from South Run North Fork Cascade Creek).	Area east of creek, north of U.S. Highway 14, south of Chicago and North Western Railroad and northwest of 7th Street NW.	#1
		Shallow Flooding (Overflow from North Run North Fork Cascade Creek).	Area west of creek at 7th Street NW bounded by northern corporate limit and Chicago and North Western railroad.	#2
		Shallow Flooding (Overflow from North Run North Fork Cascade Creek).	An area east of creek, south of 7th Street NW and north of corporate limits.	#2
			An area west of creek, south of Chicago and North Western railroad and north of U.S. Highway 14.	#3
		Shallow Flooding (Overflow from Cascade Creek).	Area north of 5th Street NW at 11th Avenue NW	#2
		Shallow Flooding (Overflow from Willow Creek).	Area at southern corporate limits between Willow Creek and West Tributary to Willow Creek.	#3
Maps available for inspection at the City Hall, Minnesota 55901.				
Missouri	(C), Florissant, St. Louis County (FEMA 5813).	Coldwater Creek	Downstream corporate limits	*504
			Just upstream of Charbonier Road	*514
			Upstream corporate limits	*516
		Fountain Creek	Just upstream St. Denis Street	*513
			Just upstream Graham Road	*515
			About 400 feet downstream of New Florissant Road	*520
			Just upstream New Florissant Road	*525
			Just downstream Dunn Road	*542
		Paddock Creek	About 660 feet downstream of corporate limits	*506
			Just downstream Paddock Drive	*513
			Upstream corporate limits	*527
		Daniel Boone Creek	Just upstream Patterson Road	*511
			Just downstream Loveland Drive	*520
			Just upstream Loveland Drive	*525
			Upstream corporate limits	*539
		Anthony Creek	Mouth at Fountain Creek	*525
			Just upstream St. Malachy Lane	*534
			Just upstream St. Anthony Lane	*536
			Just downstream Derhake Street	*544
		Missouri River	Entire length of community along Missouri River	*445
Maps available for inspection at the Office of City Planner, City Hall, 955 Rue Ste. Francois, Florissant, Missouri 63031.				
Missouri	(C), Kirksville, Adair County (FEMA 5813).	Bear Creek	About 490 feet downstream of Shepherd Avenue connection	*909
			Approximately 120 feet upstream of Shepherd Avenue connection	*913
			Just downstream of Halliburton Street	*916
			Just upstream of Halliburton Street	*918
			Just downstream of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*925
			Just upstream of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*927
			Just downstream of Grim Drive	*933
			Just upstream of Grim Drive	*936
			Just downstream of second crossing of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*936

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of second crossing of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*939
			Just downstream of Patterson Street	*939
		Ownbey Lake Tributary	At confluence with Bear Creek	*918
			About 1,400 feet upstream of confluence with Bear Creek	*919
			Just downstream of First Street	*925
		Steer Creek	At east central corporate limits	*911
			Just downstream of Baltimore Street	*921
			Just upsteam of Baltimore Street	*922
			Just upstream of New Street	*925
			Just upstream of Green Street	*935
			Just downstream of Elson Street	*935
			About 150 feet upstream of Elson Street	*940
			Just downstream of Osteopathy Street	*946
		Big Creek	Just upstream west central corporate limit	*861
			About 1,550 feet upstream of west central corporate limit	*880
			About 3,000 feet upstream of western corporate limit	*898
Maps available for inspection at City Hall, Kirksville, Missouri 63501.				
Missouri	(C), Mt. Vernon, Lawrence County (FEMA 5818).	Williams Creek	Downstream corporate limits	*1,156
			Just downstream Saint Louis-San Francisco Railway	*1,162
			Just upstream Saint Louis-San Francisco Railway	*1,165
			Approximately 1,150 feet upstream County Highway Y	*1,170
		Unnamed Tributary	Downstream corporate limits	*1,211
			Just downstream State Highway 39	*1,219
			Approximately 75 feet upstream Landrum Street	*1,228
			Approximately 50 feet downstream State Highway 39	*1,232
			Approximately 50 feet upstream State Highway 39	*1,237
Maps available for inspection at City Hall, Mount Vernon, Missouri 65712.				
Missouri	(C), Poplar Bluff, Butler County (FEMA 5818).	Black River	Downstream corporate limits	*336
			About 0.6 mile upstream of corporate limits	*342
		Hill Creek	Just upstream of Missouri Pacific Railroad	*340
			Just upstream of West Center Street	*340
		Hogg Creek	Confluence with Pike Creek	*339
			Just downstream Davis Street	*359
			Just upstream of Gray Street	*393
			Just upstream North 14th Street	*424
		Hogg Creek Tributary	Confluence with Hogg Creek	*349
			Just downstream of Highland Road	*360
		Park Creek	Just downstream 5th Street	*338
			Just upstream 8th Street	*340
			Just upstream Oakwood Drive	*346
		Pike Creek	Downstream corporate limits (near intersection of Cardinal Lane and Orchid Lane).	*330
			Just downstream Fair Street	*332
			Just upstream Missouri Pacific Railroad	*335
			Just downstream Roxie Road	*340
			About 350 feet upstream confluence of North Branch Pike Creek	*348
		Sunset Creek	Just downstream of Maud Street	*342
			About 2,000 feet upstream County Highway PP	*361
			About 350 feet downstream U.S. Highways 60 and 67	*385
		North Branch Pike Creek	Confluence with Pike Creek	*348
			Just upstream Crestwood Drive	*395
			Just upstream Oakgrove Road	*427
Maps available for inspection at the Building Inspector's Office, City Hall, 309 S. Broadway, Poplar Bluff, Missouri 63901.				
Nebraska	(Uninc.), Washington County (FEMA 5817.	Missouri River	Southeast county boundary	*996
			About 2,000 feet upstream of the divergence with Boyer Chute	*998
			About 3.6 miles downstream of the City of Blair Extraterritorial Limits	*1.001
			About 2.0 miles downstream of the City of Blair Extraterritorial Limits	*1,003
			At the downstream City of Blair Extraterritorial Limits	*1,006
			Just upstream of the upstream City of Blair Extraterritorial Limits	*1,011
			About 2.1 miles upstream City of Blair Extraterritorial Limits	*1,013
			About 4.15 miles upstream City of Blair Extraterritorial Limits	*1,015
			Northeast county boundary	*1.018
		Elkhorn River	Downstream county boundary	*1,146
			About 3.20 miles downstream U.S. Highway 30	*1,155
			About 7,900 feet upstream U.S. Highway 30	*1,167
			About 2.20 miles upstream U.S. Highway 30	*1,168
			About 4.9 miles downstream State Highway 91	*1,180
			About 3.9 miles downstream State Highway 91	*1,181
			About 3.4 miles downstream State Highway 91	*1,185
			Just downstream State Highway 91	*1,193
Maps available for inspection at the County Clerk's Office, Washington County Courthouse, Blair, Nebraska 68008.				
New Jersey	Milltown, Borough, Middlesex County (FEMA 5798).	Lawrence Brook	Confluence of Sawmill Brook	*27
			Upstream of Main Street	*29
			Confluence of Bog Brook	*30
			Confluence of Riva Avenue	*35
		Bog Brook	Confluence with Lawrence Brook	*30
			Culvert entrance 500 feet upstream of Kuhlthau Avenue	*37

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sawmill Brook	Confluence with Lawrence Brook	*27
			Ryders Lane Culvert	*27
		Sucker Brook	Bridget Ruins	*39
			Upstream of Utility Road Culvert	*48
			Retaining wall at Corporate Limits	*57
Maps available at the Clerk's Office, Municipal Building, Milltown, New Jersey 08850				
New Jersey	Westwood (Borough), Bergen County (FEMA 5813)	Pascack Brook	150 feet upstream from center of Emerson Road	*32
			150 feet upstream from center of Demarest Avenue	*43
			50 feet upstream from center of Fairview Avenue	*54
		Musquapsink Brook	50 feet upstream from center of Old Hook Road	*41
			Intersection of Musquapsink Brook and center of Lafayette Avenue	*54
Maps available for inspection at Borough Hall, 51 Jefferson Avenue, Westwood, New Jersey				
New Mexico	City of Artesia, Eddy County (FEMA 5813)	North Eagle Creek	Just upstream of 1st Street	*3,371
			Washington Avenue extended and Atchison, Topeka and Santa Fe Railroad.	*3,379
			Approximately 120 feet upstream of 7th Street	*3,385
			Just upstream of Main Street	*3,415
Maps available for inspection at City Hall, 511 West Texas, Artesia, New Mexico 88210				
New Mexico	City of Clovis, Curry County (FEMA 5824)	Thomas Street Ditch	Approximately 90 feet downstream of West Seventh Street	*4,288
		West Second Street Drain	Just downstream of Tennessee Street	*4,235
			Just upstream of Maple Street	*4,247
			Just upstream of Mitchell Street	*4,263
			Approximately 30 feet upstream of Hull Street	*4,269
		Northeast Drainage	Just upstream of U.S. Hwy 60	*4,216
			At Fourteenth Street	*4,252
			Just downstream of Twenty-First Street	*4,269
		Northwest Drainage Channel	Approximately 50 feet upstream of Prince Street	*4,262
			Just upstream of Williams Avenue	*4,298
Maps available at City Hall, 321 Connolly Street, Clovis, New Mexico 88101				
New Mexico	City of Fort Sumner, DeBaca County (FEMA 5824)	Pecos River	Just downstream of Highway 84 and 60	*4,018
		Las Truchas Creek	Approximately 100 feet upstream of Highways 84 and 60	*4,024
		Hitson Draw	Just downstream of Atchison Topeka and Santa Fe Railway	*4,052
Maps available for inspection at City Hall, 500 East Sumner Avenue, Fort Sumner, New Mexico 88119.				
New York	Dunkirk, City, Chautauqua County (FEMA 5813)	Lake Erie	Entire City Shoreline	*578
		Crooked Brook	At Lake Erie	*578
			Upstream side of Park Drive West	*580
			Downstream side of Lake Shore Drive	*583
			Upstream side of Lake Shore Drive	*586
			Confluence of Tributary of Crooked Brook	*587
			Downstream side of Conrail	*590
			Upstream side of Conrail	*593
			Downstream of culvert outlet beneath Brigham Road	*594
			Area of shallow flooding along culvert beneath West Sixth Street	#1
			Upstream of culvert inlet beneath Woodrow Avenue	*607
			Upstream side of Arch culvert approximately 1,300' downstream of West Sixth Street.	*619
			Downstream side of Lucas Avenue	*620
			Upstream side of Lucas Avenue	*627
			Upstream side of Norfolk and Western Railroad	*629
			Upstream side of Howard Avenue	*631
			Upstream side of Central Avenue	*633
		Tributary of Crooked Brook	Confluence with Crooked Brook	*587
			Downstream side of Conrail	*590
			Upstream side of Conrail	*594
			Upstream side of Norfolk and Western Railroad	*603
			Downstream side of Willow Road	*611
			Upstream side of Willow Road	*616
			Downstream of culvert outlet beneath Brigham Road	*616
			Upstream of culvert inlet beneath Brigham Road	*628
			Corporate Limits, approximately 250' upstream of Willowbrook Avenue	*632
			Corporate Limits approximately 2,450' upstream of Willowbrook Avenue.	*641
			Downstream of culvert outlet beneath Central Avenue	*652
			Upstream of culvert inlet beneath Central Avenue	*665
			Downstream of culvert outlet beneath New York State Thruway	*667
			Upstream of culvert inlet beneath New York State Thruway	*685
			Upstream Corporate Limits	*685
Maps available at the City Clerk's Office, Dunkirk City Hall, Dunkirk, New York 04048				
New York	Liverpool, Village, Onondaga County (FEMA 5727).	Onondaga Lake	Intersection of Lake Parkway and Tulip Street	*372
		Bloody Brook	Intersection of Oswego Street and Salina Street	*374
			Intersection of Conrail and Corporate Limit	*372
Maps available at the Liverpool Village Hall, Second Street, Liverpool, New York 13088				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Lockport, City, Niagara County (FEMA 5824).	Eighteenmile Creek	40′ upstream of Corporate Limits	*362
			1,130′ downstream of Broken Dam	*372
			670′ downstream of Broken Dam	*383
			470′ downstream of Broken Dam	*392
			270′ downstream of Broken Dam	*402
			Downstream side of Broken Dam	*415
			Upstream side of Broken Dam	*421
			320′ upstream of Broken Dam	*430
			Upstream side of Downstream Conrail Bridge	*432
			Downstream side of Gooding Street	*439
			Upstream side of Gooding Street	*452
			70′ downstream of William Street	*461
			40′ upstream side of William Street	*466
			Downstream side of Dam	*475
			Upstream side of Dam	*485
			Downstream side of outlet end of Eighteenmile Creek Culvert	*486
			Inlet end of Eighteenmile Creek Culvert	*617
			Upstream Corporate Limits	*622
		Gulf Branch	Confluence with Eighteenmile Creek	*363
			50′ downstream of Jackson Street	*373
			270′ upstream of Jackson street	*383
			570′ upstream of Jackson Street	*393
			850′ upstream of Jackson Street	*403
			1,130′ upstream of Jackson Street	*413
			1,610′ upstream of Jackson Street	*423
			2,170′ upstream of Jackson Street	*433
			2,810′ downstream of Niagara Street	*453
			590′ downstream of Niagara Street	*463
			Niagara Street	*469
			110′ upstream of Niagara Street	*472
		Lincoln Avenue Branch	Downstream Corporate Limits	*631
			980′ upstream of Corporate Limits	*633
Maps available at the Building Inspectors Office in the Municipal Building, Lockport, New York.				
Ohio	(V), Batavia, Clermont County (FEMA 5813).	East Fork, Little Miami River	At confluence of Unnamed Tributary (about 1.3 miles downstream of State Route 32).	*561
			Just downstream State Route 32	*567
			About 1,800 feet upstream State Route 32	*572
			Just downstream Main Street	*574
			Upstream corporate limit	*583
Maps available for inspection at Village Hall, 389 Main Street, Batavia, Ohio 45103.				
Ohio	(Uninc.), Lorain County (FEMA 5815).	West Branch, Black River	City of Elyria corporate limits (Just upstream of Chessie System)	*722
			Just upstream U.S. Route 20	*729
			Just upstream State Route 10	*739
			About 1,800 feet upstream of confluence of Plum Creek	*745
		East Branch, Black River	City of Elyria corporate limits (about 2,600 feet downstream of Fuller Road).	*719
			Just upstream of dam (dam is located about 3,000 feet upstream of Fuller Road).	*731
			About 2,900 feet upstream of Medina-Elyria Road	*747
			About 1,350 feet downstream of Village of Grafton corporate limits	*778
			Village of Grafton corporate limits	*781
			About 4,900 feet downstream State Route 303	*795
			Just upstream Vermont Street	*805
			Centerline of Webster Road extended	*814
		Willow Creek	Confluence with East Branch Black River	*742
			Just upstream of Durkee Road (about 350 feet south of intersection of Durkee Road and Giles Road).	*761
			Just upstream State Route 83	*785
			Just downstream Island Road	*792
		Plum Creek	Just downstream U.S. Route 20	*744
			Just upstream Wastewater Treatment Plant Service Road	*768
			Just downstream South Crosby Street	*781
		Vermilion River	Downstream county boundary	*585
			Just upstream State Route 2	*593
			About 930 feet upstream of City of Vermilion corporate limits	*600
		Beaver Creek	At City of Amherst corporate limit	*646
			Just upstream Middle Ridge Road	*670
			Just downstream Interstate 80	*679
		East Branch Beaver Creek	Just upstream North Ridge Road	*646
			City of Amherst corporate limits (about 1,100 feet downstream Park Avenue).	*669
		Tributary No. 1	City of Amherst corporate limits (about 2,400 feet downstream Middle Ridge Road).	*700
			About 1,200 feet upstream Middle Ridge Road	*731
		Shallow flooding (ponding on Plum Creek, Columbia Township).	Plum Creek at Jaquay Road	*790
			Plum Creek at Osborne Road	*790
		Shallow flooding (overflow from Plum Creek, Columbia Township).	Plum Creek at upstream county boundary	#1
			Plum Creek at Elyria Twinsburg Road	#1
			Plum Creek at downstream county boundary	#1
Maps available for inspection at Lorain County Administration Building, Elyria, Ohio 44035.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(C), Macedonia, Summit County (FEMA 5824).	Brandywine Creek	Downstream corporate limits	*965
			Upstream corporate limits	*967
		Indian Creek	Mouth at Brandywine Creek	*966
			Just upstream State Route 8	*972
			Just downstream Conrail	*986
			Just upstream Conrail	*992
			Just downstream Berkshire Drive	*992
			Just upstream Berkshire Drive	*1,001
			Just upstream Ledge Road	*1,014
			About 750 feet upstream of private drive (near Interstate 80)	*1,032
		Tributary No. 3	Mouth at Indian Creek	*1,011
			Just upstream Ledge Road	*1,013
			About 1,550 feet upstream of Ledge Road	*1,020
		Tributary No. 4	Mouth at Indian Creek	*978
			About 550 feet upstream of Bedford Road	*983
		Tributary No. 5	Mouth of Brandywine Creek	*967
			About 2,300 feet upstream of mouth at Brandywine Creek	*969
Maps available for inspection at Office of the Finance Director, 9699 Valley View road, Macedonia, Ohio 44056.				
Ohio	(V), Millville, Butler County (FEMA 5824).	Indian Creek	About 5,700 feet downstream of U.S. Route 27, at southern corporate limits.	*609
			About 500 feet downstream of U.S. Route 27	*621
			Just upstream of U.S. Route 27	*626
			About 3,200 feet upstream of U.S. Route 27	*631
		Beals Run	About 410 feet downstream of Ross Hanover Road	*620
			About 90 feet downstream of State Route 129	*626
			About 620 feet upstream of State Route 129	*627
		Beals Run Tributary	Mouth at Beals Run	*620
			About 600 feet upstream of State Route 129	*624
Maps available for inspection at Village Hall, Millvile, Ohio 45013.				
Ohio	(C), Solon, Cuyahoga County (FEMA 5824).	Hawthorne Creek	Just downstream of Aurora Road	*997
			Just downstream Conrail	*1,008
			Just downstream Cannon Road	*1,019
			About 550 feet upstream Cannon Road	*1,020
		Tributary 1	3,100 feet downstream Carter Road	*1,005
			175 feet upstream Carter Road	*1,030
			Just downstream Solon Road	*1,036
			125 feet upstream Kroger Rail	*1,040
			Just upstream Aurora Road	*1,048
			Just downstream Old Harper road	*1,051
			Just downstream Conrail	*1,054
			Just upstream Conrail	*1,059
			Just downstream Cannon Road	*1,063
Maps available for inspection at City Hall, 6315 S.O.M. Center Road, Solon, Ohio 44139.				
Ohio	(V) Springboro, Warren County (FEMA 5824).	Clear Creek	Western corporate limits	*743
			Just upstream State Route 741	*747
			Eastern corporate limits	*750
		Twin Creek No. 2	At mouth	*743
			Just upstream Mill Street	*748
			Just upstream Factory Road	*763
			Just upstream State Route 73	*775
			Just upstream Pennyroyal Road	*876
			Northern corporate limits	*882
		Twin Creek No. 2 Tributary 2	At mouth	*743
			Just upstream Mill Street	*750
			Just upstream Factory Road	*764
			Just downstream Market Street	*774
			Just upstream Market Street	*781
			Just downstream State Route 73	*784
			Just upstream State Route 73	*790
			About 650 feet upstream State Route 73	*793
		Richards Run	At mouth	*748
			Just upstream Lower Springboro Road	*759
			Just upstream Concrete Plant Road	*766
			Just upstream State Route 73	*779
			About 750 feet upstream of confluence of Rapid Run	*798
Maps available for inspection at the Village Hall, 280 West Central Avenue, Springboro, Ohio 45066.				
Ohio	(C) Twinsburg, Summit County (FEMA 5824).	Tinkers Creek	Downstream county boundary	*951
			Just downstream Glenwood Drive	*954
			Approximately 5,300 feet upstream Glenwood Drive	*959
			Approximately 5,000 feet downstream Darrow Road	*964
			Just downstream Darrow Road	*971
			Just downstream Cannon Road	*973
			Approximately 2.7 miles upstream of Cannon Road	*978
Maps available for inspection at the Office of the City Clerk, 10075 Ravenna Road, Twinsburg, Ohio 44087.				
Ohio	(V), Williamsburg, Clermont County (FEMA 5824).	East Fork, Little Miami River	About 580 feet downstream Main Street	*804
			About 870 feet upstream 4th Street	*810
Maps available for inspection at the Village Hall, Williamsburg, Ohio 45176.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	City of Okmulgee, Okmulgee County (FEMA 5813).	Cussetah Creek	Just Upstream of U.S. Highway 62	*640
		Stream "B"	Just Upstream of 36th Street	*642
			Just Upstream of Mission Road	*649
Maps available at City Hall, 114 E. Seventh Street, Okmulgee, Oklahoma 74447.				
Oklahoma	City of Tonkawa, Kay County (FEMA 5813).	Salt Fork, Arkansas River	Just downstream of extension of Main Street	*959
Maps available at City Hall, 117 South Seventh Street, Tonkawa, Oklahoma 74653.				
Pennsylvania	Antis, Township, Blair County (FEMA 5813).	Riggles Gap Run	Upstream First Conrail Bridge	*1,064
			Upstream Second Conrail Bridge	*1,073
			Upstream Second Private Road	*1,080
			Approximately 1,200' downstream of Legislative Route 07026	*1.105
			Upstream Legislative Route 07026	*1,120
			Upstream Third Private Road	*1,156
			Upstream Fourth Private Road	*1,172
			Upstream Asbury Road	*1,208
			Approximately 1,200' upstream of Asbury Road	*1,230
			Upstream of Fifth Private Road	*1,262
			Upstream of Sixth Private Road	*1,275
			Upstream of Seventh Private Road	*1,294
			Approximately 525' upstream of Private Road	*1,302
		Sugar Run	Upstream Conrail Bridge	*1,055
			Downstream Township Route 490	*1,068
			Downstream Becker Road	*1,109
			Approximately 1,500' upstream of Becker Road	*1,135
			Legislative Route 07026	*1,176
			Upstream Private Road approximately 1,250' upstream of Legislative Route 07026.	*1,214
			Approximately 1,300' upstream of Private Road	*1,251
			Upstream Private Road	*1,302
			Approximately 1,500' upstream of Private Road	*1,367
		Bells Gap Run	Downstream Township Route 490	*1,045
			Downstream Conrail	*1,049
			Upstream Conrail	*1,059
			Approximately 1,800' upstream of Conrail	*1,070
			Downstream Dam	*1,102
			Upstream Hunter Road	*1,146
			Downstream Legislative Route 07026	*1,186
			Approximately 800' downstream of First Private Road	*1,209
			Approximately 800' upstream of First Private Road	*1,234
		Tipton Run	Upstream River Road	*959
			Upstream Township Route 510	*979
			Upstream Conrail	*999
			Approximately 2,400' upstream of Legislative Route 07028	*1,029
			Approximately 4,000' upstream of Legislative Route 07028	*1,049
			Upstream Cedar Lane	*1,074
			Upstream Private Road	*1,108
			Approximately 2,800' upstream of Private Road	*1,150
			Approximately 350' downstream of confluence of Mulligan Hollow Run	*1,181
		Little Juniata River	Downstream Corporate Limits	*927
			Downstream Private Walkway	*934
			Approximately 3,600' downstream of U.S. Route 220	*950
			Upstream U.S. Route 220	*958
			Approximately 3,600' downstream of Private Road	*971
			Upstream Private Road	*983
			Downstream U.S. Route 220	*1,002
			Downstream next crossing of U.S. Route 220	*1,026
			Upstream Legislative Route 07027	*1,044
			Confluence of Sugar Run	*1,054
			Confluence of Riggles Gap Run	*1,062
			Upstream Corporate Limits	*1,081
Maps available at the Antis Township Building, 909 North 2nd Street, Bellwood, Pennsylvania.				
Pennsylvania	Bald Eagle, Township, Clinton County (FEMA 5824).	Bald Eagle Creek	Downstream Corporate Limits	*564
			Upstream of Conrail Bridge	*566
			Confluence of Fishing Creek	*567
			Upstream of Upstream crossing of U.S. Route 220	*569
			Upstream Corporate Limits	*571
		West Branch Susquehanna River	Upstream of Conrail Bridge	*577
			Downstream Corporate Limits of Colebrood Township	*585
			Upstream Corporate Limits of Bald Eagle Township	*587
		Sugar Run	Downstream Corporate Limits	*622
			Upstream of first Private Drive crossing Sugar Run, 7,300' upstream of Corporate Limits.	*793
			Upstream of fourth Private Drive crossing Sugar Run, 8,750' above Corporate Limits.	*846
			2,250' upstream of fourth Private Drive crossing Sugar Run	*928
		Fishing Creek	Confluence with Bald Eagle Creek	*567
			Upstream of Country Club Bridge	*567
			Downstream of U.S. Route 220	*568
Maps available at the Bald Eagle Township Building, R.D. 2, Mill Hall, Pennsylvania.				
Pennsylvania	Irwin, Borough, Westmoreland County (FEMA 5813).	Brush Creek	Downstream Corporate Limits	*879
			Conrail Upstream	*885

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Corporate Limits	*889
		Tributary No. 1 to Tinkers Run	Fairwood Drive	*948
			Caruthers Lane Upstream	*966
			Upstream Corporate Limits	*973
Maps available at the Borough Hall, Irwin, Pennsylvania.				
Pennsylvania	North East, Borough, Erie County (FEMA 5824).	Sixteenmile Creek	Downstream Corporate Limits	*758
			South Lake Street Upstream	*792
			Upstream Corporate Limits	*810
		Baker Creek	Downstream Corporate Limits	*739
			North Mill Street Upstream	*772
			South Pearl Street Upstream	*790
			Vine Street Downstream	*798
			Upstream Corporate Limits	*817
Maps available at the Borough Office, 58 E. Main Street, North East, Pennsylvania.				
Pennsylvania	Penn, Borough, Westmoreland County (FEMA 5813).	Brush Creek	Downstream Corporate Limits	*958
			Abandoned Railroad Bridge (Upstream side)	*964
			Upstream Corporate Limits	*969
Maps available at the Penn Borough Hall, Penn, Pennsylvania.				
Pennsylvania	Strasburg, Township, Lancaster County (FEMA 5813).	Pequea Creek	Penn Grant Road Upstream	*311
			Edisonville Road (Extended)	*318
			State Route 741 Upstream	*319
			Upstream of Tributary B	*322
			Upstream of Strasburg Pike	*326
			Approximately 1.5 miles upstream of Strasburg Pike	*330
			Upstream of Hartman Bridge Road	*333
			Approximately 0.54 mile upstream of Hartman Bridge Road	*334
		Big Beaver Creek	Approximately 700′ downstream of Private Lane	*353
			Private Lane Upstream	*355
			Approximately 2,000′ upstream of Private Lane	*363
			Upstream of Main Street	*374
			White Oak Road (Extended) Upstream	*377
			Approximately 1,800′ downstream of U.S. Route 222	*389
Maps available at the residence of Mr. Robert Weaver, Township Secretary, by appointment, Strasburg, Pennsylvania.				
Texas	City of Huntsville, Walker County (FEMA 5824).	Town Branch	Just upstream of Farm to Market Road 2821	*297
			Just upstream of Seventh Street	*324
			Just downstream of Avenue I	*359
		Tributary A	Just upstream of Tenth Street	*329
			Just upstream of U.S. Highway 30	*338
		Horse Branch	Approximately 100 feet upstream of Farm to Market Route 2821	*295
			Just upstream of Roan Ferry Road	*337
		Tributary B	Just downstream of Roan Ferry Road	*328
Maps available at City Hall, City Engineers Office, 1212 Avenue M, Huntsville, Texas 77340.				
Texas	City of Snyder, Scurry County (FEMA 5824).	Deep Creek	Just Upstream of 30th Street	*2,314
			Just Upstream of 25th Street (U.S. Highway 180)	*2,320
			Just downstream of 21st Street	*2,321
		Stream SN-2	Just Upstream of College Avenue (State Highway 350)	*2,316
		Dry Run	Just downstream of 25th Street (U.S. Highways 180 and 84)	*2,318
			Just Upstream of 13th Street	*2,331
		South Fork	Just Upstream of Avenue 2	*2,322
			Just Upstream of 25th Street (U.S. Highway 180)	*2,335
		Stream SN-1	Just Upstream of Dam	*2,313
			Just Upstream of College Avenue (State Highway 350)	*2,321
		Stream SN-4	Just Upstream of 37th Street	*2,321
			Just downstream of Panhandle and Santa Fe Railroad	*2,323
Maps available at City Hall, 1925 24th Street, Snyder, Texas 79549.				
Vermont	(T), Mt. Tabor, Rutland County (FEMA 5813).	Mill Brook	Just Upstream of Vermont Railway	*674
			Just Upstream of U.S. Route 7	*679
			About 530 feet upstream of U.S. Route 7	*687
		Otter Creek	About 2,850 feet downstream of downstream corporate limits	*644
			About 700 feet downstream of Vermont Railway (crossing north of National Forest Highway 10).	*655
Maps available for inspection at Town Clerk's Office, Mt. Tabor, Vermont 05739.				
Wisconsin	(C), Black River Falls, Jackson County (FEMA 5813).	Black River	At the downstream corporate limit	*756
			Just downstream of dam	*761
			Just Upstream of dam	*770
			At the upstream corporate limit	*771
Maps available for inspection at Office of the City Clerk, City Hall, Second and Filmore, Black River Falls, Wisconsin 54615.				
Wisconsin	(V), Chaseburg, Vernon County (FEMA 5813).	Coon Creek	Northern corporate limits	*678
			Just Upstream of convergence of divided channel	*682
			At Mill Street	*683
			Eastern corporate limits	*685
Maps available for inspection at Office of the Village Clerk, 212 Swain Street, Chaseburg, Wisconsin 54621.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Wisconsin	(V), Coon Valley, Vernon County (FEMA 5813).	Coon Creek	Just upstream Central Avenue	*727
			Approximately 100 feet upstream of western corporate limit	*728
			Approximately 900 feet downstream of gravel road	*735
			Approximately 260 feet downstream of corporate limit, near gravel road bridge.	*738
Maps available for inspection at Office of the Village Clerk, Village Hall, Coon Valley, Wisconsin 54623.				
Wisconsin	Douglas County, Unincorporated Areas (FI 5081).	Lake Superior	Confluence of Pearson Creek and shoreline	*605
			Confluence of Smith Creek and shoreline	*605
			Confluence of Amnicon River and shoreline	*605
			Confluence of Bardon Creek and shoreline	*605
		Minnesueing Creek	Intersection of the corporate limits of the Village of Lake Nebagamon and the channel.	*1,111
			Intersection of Trunk Highway P and channel	*1,116
		Lake Minnesueing	The Lake shoreline upstream of Trunk Highway P	*1,117
		St. Croix River	Intersection of the Soo Line Railroad and the channel	*1,020
			Intersection of Cranberry Bog Road and Chicago and Northwestern Railroad.	*1,020
			Intersection of Cut-A-Way Dam Road and the channel	*1,020
		Upper St. Croix Lake	Intersection of Zachau Road and the shoreline	*1,020
		Eau Claire Flowage	Upstream of Eau Claire River Dam to the Brule River State Forest Annex.	*1,047
Maps available for inspection at Douglas County Courthouse, 1313 Belknap Street, Superior, Wisconsin.				
Wisconsin	(Uninc.), Jackson County (FEMA 5813).	Black River	At western county boundary	*695
			About 4.0 miles upstream of County Highway V	*702
			About 4.5 miles downstream of State Highway 71	*708
			About 500 feet downstream of State Highway 71	*719
			Just upstream of State Highway 71	*721
			About 4.5 miles upstream of State Highway 71	*728
			About 9.0 miles upstream of State Highway 71	*736
			About 9.5 miles downstream of City of Black River Falls southern corporate limits.	*744
			At City of Black River Falls southern corporate limits	*756
			At City of Black River Falls southeastern corporate limits	*760
			At City of Black River Falls northeastern corporate limits	*771
			Just upstream of Chicago and North Western Railroad	*776
			At southern Black River State Forest boundary	*781
			At northwestern Black River State Forest boundary	*795
			About 2.3 miles downstream of Hatfield Dam	*818
			About 2.1 miles downstream of Hatfield Dam	*827
			Just downstream of County Highway K	*834
			About 1,000 feet downstream Hatfield Dam	*854
			Just upstream of Hatfield Dam	*885
			At northern county boundary	*885
		Trempealeau River	At western county boundary	*866
			Just upstream of County Highway P	*880
			Just upstream of Green Bay and Western Railroad (downstream crossing).	*890
			Just upstream of Green Bay and Western Railroad (upstream crossing).	*903
			At Village of Hixton western corporate limits	*916
			Just upstream of Interstate 94	*925
			About 250 feet upstream of North Branch Road	*933
			About 300 feet upstream of State Highway 95	*941
		North Fork, Buffalo River	At western county boundary	*990
			Just upstream of County Highway G	*1,010
			Just upstream of County Highway M	*1,026
			Just downstream of Moe Road	*1,044
			About 0.5 mile upstream of Moe Road	*1,051
Maps available for inspection at the Office of the Zoning Administrator, Jackson County Courthouse, Black River Falls, Wisconsin 54615.				
Wisconsin	(Uninc.), Winnebago County (FEMA 5824).	Arrowhead River	Approximately 1,000 feet upstream of County Highway M	*750
			Approximately 600 feet downstream of State Highway 110	*755
		Eight Mile Creek	Just downstream of Elo Road	*822
			Approximately 1,400 feet downstream of Burr Oaks Road	*824
			Just upstream of Chicago, Milwaukee, Saint Paul and Pacific Railroad.	*836
			Just upstream of Knott Road	*842
			About 1.0 mile upstream of Knott Road	*845
		Fox River	Just downstream of City of Omro eastern corporate limit	*751
			Just upstream of the City of Omro western corporate limit	*753
			Just downstream of the western county boundary	*756
		Mud Creek	Mouth at Little Lake Butte Des Morts	*743
			Just downstream of County Highway BB	*743
		Mud Creek Tributary	Just downstream of northern county boundary	*743
		Rat River	Mouth at Wolf River	*750
			Just downstream of County Highway MM	*753
		Rush Creek	Mouth at Fox River	*753
			Just upstream County Highway E	*755
			Approximately 2,800 feet upstream of Senn Road	*762
			Just downstream of State Highway 116	*776
		Sawyer Creek	Just upstream of State Highway 41	*758
			Approximately 1,500 feet upstream of State Highway 41	*759
			Just upstream of County Highway E	*767
			Just upstream 9th Street	*773
			Just upstream of Oakwood Road	*779
			Just upstream County Highway K	*800
			Approximately 6,300 feet upstream of County Highway K	*812

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Wolf River	Mouth at Lake Poygan	*750
			Just downstream of northern county boundary	*754
		Vandyne Creek	Mouth at Lake Winnebago	*749
			Just upstream Howlett Road	*757
			At upstream county boundary	*776
		Unnamed Tributary at Willow Harbor.	At mouth of Lake Winnebago	*749
			Just upstream of Koelpine Road	*750
			Just upstream of East Black Wolf Point Road	*761
		Unnamed Tributary on Little Lake Butte Des Morts.	Just downstream of U.S. Highway 41	*743
			Approximately 1,800 feet upstream of U.S. Highway 41	*747
			Just downstream of Cold Spring Road	*763
		Lake Winnebago	At the southern county boundary	*749
			At the eastern county boundary	*750
		Lake Winne Conne	Shoreline in Winnebago County	*750
		Lake Poygan	Shoreline in Winnebago County	*750
		Lake Butte Des Morts	Shoreline in Winnebago County	*750
		Battle Lake Butte Des Morts	Shoreline in Winnebago County	*743
		Neenah Slough	About 0.6 mile downstream of County Highway G	*745
			About 1.8 miles upstream of County Highway G	*746

Maps available for inspection at Winnebago County Courthouse, P.O. Box 2808, Oshkosh, Wisconsin 54901.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Janaury 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–26625 Filed 9–2–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF EDUCATION

45 CFR Part 134

Grants to State Educational Agencies for Educational Improvement, Resources, and Support

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations that govern the use of funds made available for instructional materials and school library resources under Part B of Title IV of the Elementary and Secondary Education Act (ESEA) to prohibit local educational agencies (LEAs) from using these funds to acquire physical education equipment.

EFFECTIVE DATE: These final regulations are expected to take affect forty-five days after they are transmitted to the Congress. Regulations are usually transmitted to the Congress several days before they are published in the **Federal Register**. The effective date is changed if the Congress takes certain adjournments. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Louise V. Sutherland, School Media Resources Branch, 400 Maryland Avenue, S.W. (Room 3125–B, ROB–3) Washington, D.C. 20202, telephone: (202) 245–2488.

SUPPLEMENTARY INFORMATION: Under Part B of Title IV, ESEA, as authorized by the Education Amendments of 1978 (Pub. L. 95–561), the Department of Education awards grants to State educational agencies (SEAs). SEAs award subgrants to LEAs. An LEA may receive a subgrant of Part B funds from its SEA to acquire *"instructional equipment* * * * suitable for use in providing education *in academic subjects* for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only." (Section 421(2), Title IV, ESEA; 20 U.S.C. 3102(2); emphasis added). The Title IV statute does not define the term "instructional equipment." Therefore, the regulations that implement the Title IV, Part B program (published in the **Federal Register** on April 7, 1980, 45 FR 23602) provided the following definition in 45 CFR 134.4:

> "Instructional equipment" means equipment that is appropriate for use in providing education in academic subjects in elementary and secondary schools and that is used to teach or learn an academic subject. The eligibility of instructional equipment is determined by its intended use and its direct relationship to instruction in an academic subject * * *.
>
> The term does not include general purpose classroom or library furniture, shelving, stoves, refrigerators, bleacher seats, equipment for staff offices, or other equipment not directly related to instruction in academic subjects. The term, however, does include musical instruments and physical educational equipment if used for instructional purposes in music or physical education classes in the school's regular instructional program.

The treatment of physical education equipment and musical instruments was a matter of some controversy. The original notice of proposed rulemaking would have forbidden expenditures on these items (44 FR 28238, May 14, 1979). Public comment on the proposed regulations persuaded the Office of Education that a more liberal rule was appropriate. The result was a provision allowing the purchase of musical instruments and physical education equipment if used for instructional purposes in regular classes.

Since publication of the final rule, much criticism has been directed at this resolution of the issue. See, e.g., S. Con. Res. No. 91, (May 20, 1980). The Secretary has been persuaded that the final rule may not appropriately enforce the statutory intent to support only purchases for academic purposes. Unlike the arts, the academic nature of physical education is a subject of continuing controversy. See, for example, Cong. Rec. S4411–4412, (Daily ed. April 30, 1980). Moreover, physical education equipment may easily be diverted to noninstructional purposes.

Accordingly, the Secretary has decided to restore the treatment of physical education equipment presented in the notice of proposed rulemaking. Because full public comment on this treatment has already been received, further comment is unnecessary.

In addition, the existing confusion that surrounds the acquisition of physical education equipment makes it essential that this rule take effect as soon as possible. Therefore, the Secretary has concluded that it would not be practical or in the public interest to delay this rule for further public comment.

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: August 28, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers 13.570, Instructional Materials and School Library Resources; 13.571, Improvement in Local Educational Practice Program; 13.571, Guidance, Counseling, and Testing Program. Part I of OMB Circular A–95 does not apply to this program.)

Accordingly, the Secretary amends 45 CFR Part 134 as follows:

Section 134.4 is amended by revising the final paragraph of the definition of "Instructional equipment" to read as follows:

§ 134.4 Definitions as used in this part.

* * * * *

"Instructional equipment" * * *

The term does not include general purpose classroom or library furniture, shelving, stoves, refrigerators, teacher seats, equipment for staff offices, physical education equipment, or other equipment not directly related to instruction in academic subjects. The term, however, does include musical instruments if used for instructional purposes in music classes in the school's regular instructional program.

(Sec. 421 of the Act; 20 U.S.C. 3101)

* * * * *

[FR Doc. 80–26923 Filed 9–2–80; 8:45 am]

BILLING CODE 4000–01–M

LEGAL SERVICES CORPORATION

45 CFR Part 1601

Bylaws of the Legal Services Corporation

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: On June 20, 1980, the Board of Directors of the Legal Services Corporation approved for final publication a series of previously adopted amendments to Part 1601—By-laws of the Legal Services Corporation as well as several non-substantive technical amendments to that same part. These amendments shall become effective immediately upon publication.

EFFECTIVE DATE: September 3, 1980.

ADDRESS: Legal Services Corporation, 733 Fifteenth Street, NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Linda E. Perle, 202–272–4010.

SUPPLEMENTARY INFORMATION: Part 1601 of the Legal Services Corporation regulations is hereby amended as follows:

1. In § 1601.3, paragraph (a) is amended to read as follows:

§ 1601.3 Definitions.

As used in these By-laws, except where the context otherwise requires—

(a) "Act" means the Legal Services Corporation Act, 42 U.S.C. § 2996–2996*l*, which was added to the Economic Opportunity Act of 1964 as Title X thereof by an Act of Congress cited as the Legal Services Corporation Act of 1974, Pub. L. 93–355, approved July 25, 1974, 88 Stat. 378, as amended.

2. Section 1601.14 is amended to read as follows:

§ 1601.14 Compensation.

Directors shall be entitled to received compensation at appropriate rates prescribed by the Board, not in excess of the per diem equivalent of the rate of level V of the Executive Schedule specified from time to time in Section 5316 of Title 5, United States Code, for their services as members of the Board or of any Committee thereof and reimbursement for travel, subsistence, and other expenses necessarily incurred in connection therewith. A Director shall not serve the Corporation in any other capacity or receive compensation for such services, except as authorized by the Board. In no event shall a Director receive compensation in more than one capacity.

3. Section 1601.15 paragraph (a) is amended to read as follows:

§ 1601.15 Regular meetings.

(a) Regular meetings of the Board shall be held at least four times a year, on the first Friday of March, June, October, and December, if not a legal holiday or, if a legal holiday then on the next business day following, at 10 a.m. or at such other date and time as shall be determined by a majority of the members of the Board. Such regular meetings shall held in the District of Columbia unless a majority of the members of the Board otherwise determine. Notice of the place of a regular meeting shall be mailed to each Director at least seven days before the date of the meeting unless a majority of the members determines that Corporation business requires a meeting

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on fewer than seven days notice. In that event, notice shall be mailed at the earliest practicable time.

* * * * *

4. Section 1601.16 is amended to read as follows:

§ 1601.16 Special meetings.

Special meetings of the Board may be called by the Chairman of the Board or shall be called upon receipt by him of a written request from five or more members of the Board or from the President of the Corporation and four or more members of the Board. Notice of any such meeting shall be mailed to each Director at least seven days before the date on which the meeting is to be held, unless a majority of the members determines that Corporation business requires a meeting on fewer than seven days notice. In that event, notice shall be mailed at the earliest practicable time. Every such notice shall specify the place, day, and hour of the meeting.

5. Section 1601.18 is amended to read as follows:

§ 1601.18 Agenda.

For each regular and special meeting, the Chairman of the Board or the President of the Corporation shall cause to be prepared an agenda of matters to be discussed at the meeting, and shall mail the agenda which the Chairman of the Board or the President believes should be discussed in an executive session in accordance with § 1601.22 shall be so noted.

6. Section 1601.19 is revised to read as follows:

§ 1601.19 General notice.

(a) General notice of any meeting of the Board shall be given at least seven days before the meeting, unless a majority of the Directors determines by a recorded vote that Corporation business requires a meeting on fewer than seven days notice. In that event, general notice shall be given at the earliest practicable time.

(b) General notice shall include: (1) The time, place, and subject matter of the meeting; (2) whether the meeting or a portion thereof will be closed to public observation; and (3), the name and telephone number of a person designated to respond to requests for information about the meeting. Changes in the information contained in a general notice may be made pursuant to the Corporation's Regulations implementing 5 U.S.C. § 552b. Notice of such change shall be given in the manner prescribed by this Section and at the earliest practicable time.

(c) General notice shall be posted at the offices of the Corporation in an area to which the public has access and filed for publication in the **Federal Register**. Reasonable effort shall be made to send the notice to the Chairman of each State Advisory Council appointed pursuant to Section 1004(f) of the Act and to every recipient.

7. Section 1601.22 is revised to read as follows:

§ 1601.22 Public meetings; executive sessions.

All meetings of the Board shall be open to the public unless a majority of the members determines by a recorded vote that consideration of a specific matter should be closed to public observation pursuant to the Corporation's regulations implementing 5 U.S.C. § 552b. That part of the meeting closed to the public shall be known as an executive session. The Chairman of the meeting shall announce the subject of the executive session prior thereto.

8. Section 1601.23 is amended to read as follows:

§ 1601.23 Public participation.

The Board welcomes written and other communication from members of the public. Members of the public may address a meeting of the Board upon invitation of the Chairman of the meeting unless the Board otherwise directs.

9. Section 1601.26 is amended to read as follows:

§ 1601.26 Establishment and appointment of committees.

The Board may by resolution of a majority of the Directors in office establish (and thereafter dissolve) such executive, regular, standing, or temporary Committees as the Board may deem appropriate to perform such functions as it may from time to time designate. The authority of any such Committee shall expire at the time specified in such resolution, which shall be no later than two years after its establishment. The Board may appoint Directors to serve on such Committees including one to serve as the chairman, or may delegate to the Chairman of the Board the authority to make such appointments. A person appointed as a member of a Committee shall serve as such only at the pleasure of the Board. The Chairman of the Board shall be an ex officio non-voting member of each Committee.

10. Section 1601.27 is revised to read as follows:

§ 1601.27 Committee procedures.

(a) Except as otherwise provided in these By-laws or in the resolution establishing the Committee, a majority of the voting members thereof, or one-half of such members if their number is even, shall constitute a quorum; Provided, That if the Chairman of the Board is present, he may be counted in lieu of any absent voting members for quorum purposes. The vote of a majority of the voting members present at the time of a vote, if a quorum is present at such time, shall be the act of the Committee. Meetings of each Committee shall be called by the chairman of the Committee or any two members of the Committee with notice thereof provided to each Committee member including the Chairman of the Board.

(b) Notice of a Committee meeting shall be provided to members of the Committee in the manner required for notice of special meetings of the Board by §§ 1601.16 and 1601.17(a). Notice may be waived in the manner described in § 1601.17(b). The agenda for the meeting shall be prepared in accordance with § 1601.18, and general notice of the meeting shall be given in accordance with § 1601.19.

(c) All meetings of a Committee shall be open to the public unless a majority of the members of the Committee, determines by a recorded vote that consideration of specific matter shall be closed to the public pursuant to the Corporation's regulations implementing 5 U.S.C. 552b.

(d) Minutes shall be kept of each Committee meeting in the manner described in § 1601.24. The minutes shall be available for inspection by the public.

(e) Any Director and the President of the Corporation shall have access to the records of any Committee irrespective of whether he is a member of the Committee.

11. Section 1601.28 is amended to read as follows:

§ 1601.28 Officers.

The officers of the Corporation shall be a President, a Secretary, a Treasurer, a Comptroller, and such other officers as the Board determines to be necessary. The President of the Corporation shall be appointed by a majority of the Directors in office. Other officers shall be appointed by the President after consultation with the Board. The officers shall have such authority and perform such duties, consistent with the Act and these By-laws, as may from time to time be determined by the Board or, with respect to the other officers, by the President of the Corporation consistently with any such determination of the Board. The President of the Corporation shall provide supervision and direction to the other officers in the performance of their duties. Any officer may delegate whatever duties he deems appropriate for delegation, consistent with determinations by the Board or, with respect to the other officers, by the President.

12. Section 1601.29 is amended to read as follows:

§ 1601.29 Election, term of office, and qualifications.

The President of the Corporation shall be appointed whenever a vacancy arises. The officers of the Corporation other than the President shall be appointed annually in September for the next ensuing fiscal year or whenever a vacancy arises. Each officer shall hold his office until his successor shall have been duly appointed or until he shall resign or shall have been removed in the manner provided in § 1601.30. Any two offices may be held by the same person, except the offices of the President of the Corporation and Secretary.

13. Section 1601.30 is amended to read as follows:

§ 1601.30 Removal.

The President of the Corporation may be removed by a majority of the Directors in office, and any other officer may be removed by the President after consultation with the Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

14. Section 1601.37 is revised to read as follows:

§ 1601.37 Compensation.

The compensation of the President shall be fixed from time to time by the Board, and the compensation of officers other than the President shall be fixed by the President after consultation with the Board. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation except as authorized by the Board.

Mario Lewis,

General Counsel, Legal Services Corporation.

[FR Doc. 80-26934 Filed 9-2-80; 8:45 am]

BILLING CODE 6820-35-M

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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[Docket No. AO-374-A6]

Milk in the Lake Mead Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rules.

SUMMARY: The hearing is being held at the request of a cooperative association to consider proposals to amend certain provisions of the Lake Mead milk marketing order. The major proposals would change the classification of milk used in ice cream and other frozen desserts and revise the basis of determining a partially regulated distributing plant's payment obligation under the order. Also, a proposal to use a single butterfat differential for adjusting the value of producer milk in all uses to the butterfat content of the milk will be considered, as well as a proposal that relates to a delivery requirement that a dairy farmer must meet during certain months in order to maintain continued producer status at a pool supply plant. Proponent contends that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: September 23, 1980.

ADDRESS: Showboat Hotel, 2800 East Fremont Street, Las Vegas, Nevada 89104.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, 202—447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Showboat Hotel, 2800 East Fremont Street, Las Vegas, Nevada, beginning at 9:30 a.m., on September 23, 1980, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Lake Mead marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposal (Proposal No.10) relative to revising the basis for determining a partially regulated distributing plant's payment obligation brings under consideration the broader issue of the appropriate treatment to be accorded unregulated milk distributed in the Lake Mead Marketing area. Since consideration of this issue may result in the need for amending provisions other than those specified in Proposal No. 10, all provisions of the order that have a bearing on the issue are open for consideration at the hearing.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Lake Mead Cooperative Association:

Proposal No. 1

Delete paragraph (b)(5) from § 1139.12.

Proposal No. 2

Delete paragraph (c) from § 1139.31.

Proposal No. 3

Revise paragraphs (b)(3) and (4) and paragraphs (c)(iv) through (viii) of § 1139.40 as follows:

§ 1139.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese; and

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes.

(c) Class III milk. class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(iii) Any milk product in any dry form;

(iv) Custards, puddings, and pancake mixes;

(v) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(vi) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(vii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(viii) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c)(1)(i) through (vii) of this section;

* * * * *

Proposal No. 4

Revise § 1139.53 to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the 5th day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

Proposal No. 5

Delete § 1139.55.

Proposal No. 6

Revise paragraphs (a), (b), and (c) of § 1139.60 to read as follows:

§ 1139.60 Handler's value of milk for computing uniform price.

* * * * *

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to § 1139.52) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1139.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat substracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section.

* * * * *

Proposal No. 7

Revise § 1139.61 to read as follows:

§ 1139.61 Computation of uniform price.

* * * * *

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

Proposal No. 8

Revise § 1139.62 to read as follows:

§ 1139.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Proposal No. 9

Revise § 1139.74 to read as follows:

§ 1139.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

Proposal No. 10

Amend § 1139.76 to read as follows:

§ 1139.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount resulting from the following computations:

(a) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(b) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(1) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(2) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(c) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(d) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(e) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in (c) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 11

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, Earl C. Born, 7 Parker Place, Suite 271, 2600 South Parker Road, Aurora, Colorado 80014, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.

Office of the Administrator, Agricultural Marketing Service.

Office of the General Counsel.

Dairy Division, Agricultural Marketing Service (Washington office only).

Office of the Market Administrator, Lake Mead marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: August 27, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-26945 Filed 9-2-80; 8:45 am]

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DEPARTMENT OF JUSTICE

Civil Rights Division

Immigration and Naturalization Service

Parole Commission

8 CFR Ch. I

28 CFR Ch. I

Semiannual Regulatory Agenda; Deferral of Publication Date

AGENCY: Department of Justice.

ACTION: Deferral of publication date for Semiannual Regulatory Agenda.

SUMMARY: The Department of Justice is deferring publication of the semiannual Regulatory Agenda of three operating units of the Department.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 ((202) 633-3452).

The Department of Justice announced at 44 FR 56520, October 1, 1979, that organizational units of the Department would publish their respective Semiannual Regulatory Agendas on July 31, 1980. The Agendas of the Land and Natural Resources Division and the Bureau of Prisons appeared in the **Federal Register** on July 31, 1980, and that of the Office of Justice Assistance, Research and Statistics on Aug. 1, 1980. The Department announced in the **Federal Register** at 45 FR 51832, August 5, 1980, the deferral of publication of the Agendas of the Civil Rights Division (CRD), the Drug Enforcement Administration (DEA), the Immigration and Naturalization Service (INS), and the United States Parole Commission (USPC) until on or before August 29, 1980. Subsequently, DEA published its Agenda at 45 FR 52397, August 7, 1980. However, the Department has not completed review of the Agendas of CRD, INS and USPC and, therefore, the final three Agendas for the Department will not be published until on or before September 30, 1980.

Dated: August 28, 1980.

Linda A. Donaghy,

Acting Administrative Counsel, Justice Management Division.

[FR Doc. 80-26791 Filed 9-2-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 375

[Docket No. RM80-65]

Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With a Proposed Installed Capacity of 5 Megawatts or Less; Proposed Rulemaking and Public Hearing

Issued: August 28, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to adopt a rule that would implement, in part, section 408 of the Energy Security Act of 1980. In section 408, the Congress provided the Commission with discretion to exempt certain small hydroelectric power projects from applicable provisions of the Federal Power Act (Act), either by means of case-by-case determinations or according to classes or categories of such projects. The proposed rule establishes procedures for case-by-case exemptions.

The Commission requests any interested party to comment on the proposed rule or to participate in a public hearing to be held on September 23, 1980. Hearing participants must notify the Secretary by September 19, 1980.

DATES: Written comments by September 29, 1980. Public Hearing at 10:00 a.m. on September 23, 1980.

ADDRESS: Location of Hearing: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Room to be posted.

FOR FURTHER INFORMATION CONTACT:

Ronald Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulation, Federal Energy Regulatory Commission. (202) 357-5321.

Howard Jack, Assistant General Counsel for Hydroelectric Licensing, Office of the General Counsel, Federal Energy Regulatory Commission. (202) 357-8448.

James Hoecker, Division of Regulatory Development, Office of the General Counsel, Federal Energy Regulatory Commission. (202) 357-9342.

The Federal Energy Regulatory Commission (Commission) proposes to establish procedures for exempting from all or part of Part I of the Federal Power Act (Act) certain small hydroelectric power projects (projects) having a proposed installed generating capacity of 5 megawatts or less. The rule would implement in part section 408 of the Energy Security Act of 1980 (ESA).[1] Under the rule as proposed, the Commission would provide such exemptions based on case-by-case determinations. The Commission will consider further rulemakings to exempt classes or categories of projects, as permitted by section 408(b) of the ESA.

I. Background

Title IV of the ESA, also known as the Renewable Energy Resource Act of 1980, contains a provision that amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects, on a case-by-case basis or by class or category of such projects, from all or part of Part I of the Act, including any licensing requirement.

Section 408 grants the Commission discretion to provide exemption under the following specified conditions. The proposed installed capacity of an exemptible project may not exceed 5 megawatts. To be exemptible, a project must utilize the water power potential of an existing dam, unless it is a project that will utilize a so-called "natural water feature" that does not require the creation of a dam or man-made impoundment. Such a natural water feature will commonly be an elevated lake or a waterway the topographical features of which permit diversion of some water for purposes of power generation. Finally, section 408 provides that certain environmental requirements apply to those projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act and the consultation provisions in section 30 of the Federal Power Act that apply to exemption of small conduit hydroelectric facilities.

Prior to issuing this proposed rule, the Commission issued a Notice of the availability of a Draft rule and of Informal Conferences.[2] Pursuant to that notice, the Commission's staff took informal comments on the draft rule and related inquiries and held informal conferences on them in Washington,

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[1] Pub. L. 96-294, 94 Stat. 611. Section 408 of the ESA amends *inter alia,* sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2708).

[2] 45 FR 49591, July 25, 1980.

D.C. on August 1, 1980 and August 12, 1980. In formulating this Notice, the Commission has considered the various comments received. Those comments, including transcripts of the two conferences, are available for inspection in the public files of the Commission. The proposed rule utilizes case-by-case determinations based on information provided by individual applicants to provide exemptions for small hydroelectric power projects.[3] The Commission proposes to exempt small hydroelectric power projects in much the same way it now exempts small conduit hydroelectric facilities.[4]

II. Summary of the Rule, With Questions for Comment

The proposed rule applies to applications for exemptions of small hydroelectric power projects having a proposed installed generating capacity of 5 megawatts or less. A small hydroelectric power project is defined as a project located on non-Federal lands [5] that uses the water power potential of an existing dam or a natural water feature without need for a dam or man-made impoundment.

The applicability provision specifically states that a small hydroelectric power project that is part of any licensed multidevelopment hydroelectric power project does not qualify for exemption. The Commission requests comment on the implications of so limiting the applicability of the rule. Under what circumstances would exemption of integral portions of licensed projects be appropriate? If exemption from licensing were prohibited for such projects, from which other provisions of the Federal Power Act might exemption be reasonable and feasible?

The proposed rule defines the term "project" more narrowly than does section (3)(11) of the Act. Neither the ESA nor PURPA defines "project." However, both statutes state that a small hydroelectric power project relate to *an* existing dam, thereby implying that such a project involves a single impoundment. Under the proposed rule, a project would include only those facilities directly associated with a single man-made impoundment or a natural lake. Under section (3)(11) of the Act, a "complete unit of development" might include more than one impoundment and a series of hydraulically coordinated dams. As stated above, a project, as defined by this rule, is not exemptible if it comprises part of such a multi-development licensed project, as the term "project" used in section (3)(11) of the act. Because the proposed definition of "project" is more circumscribed and therefore may include fewer generating units, eligibility for exemption will be greater than if "project" were construed to include all dams, impoundments, and powerhouses in a large coordinated unit of development. If there is no lake or impoundment, "project" is defined in the proposed rule to include the diversion structure and the facilities associated with it. The commission expects that the definitions in this rule will further the purposes of section 408 of the ESA to encourage small hydropower development.

The scope of the proposed definition of "project" is sufficiently broad to exclude from exemption any in a series of separately developed generation facilities that have an aggregate capacity in excess of 5 megawatts and that depend on the same impoundments. The National Alliance for Hydroelectric Energy has proposed [6] that such individual units be made exemptible. These developable sites could be distinguished from one another on the basis of separate ownership or historical use, the Alliance argues generally. The proposed rule does not accommodate this proposal because of the difficulties of establishing criteria for what constitutes such a separate "project" under separate ownership. The Commission acknowledges the Alliance's concern and asks for specific suggestions for resolving these difficulties. However, the Commission believes it is important that the rule not provide a means for subverting the 5 megawatt limitation on exemptible projects imposed by the Congress.

The statutory term "proposed installed capacity" is interpreted in the proposed rule to mean that an applicant must proposed to add some new generating capacity at a project in order for the project to qualify for an exemption. This would include proposals to install capacity where none existed previously, to replace or rehabilitate abandoned or inoperable existing capacity at a project, and to add capacity where there is existing operable capacity. This interpretation reflects the purpose of section 408 of the ESA to encourage development of hydropower. The proposed installed capacity will be computed as the sum of both newly developed capacity and existing capacity and may not exceed 5 megawatts in the aggregate.

Section 4.103 describes who may apply for an exemption and how such application will be treated in relation to other applications, permits, or licenses. Under the proposed rule only a person who has a property interest such as ownership in fee, a leasehold, easement, right-of-way, or an option to obtain such interest, sufficient to permit development of the project may apply for an exemption. This prevents a person who lacks the requisite property interest to develop the project from obtaining an exemption for another person's project.[7] The rule does not require that a person have such ownership interests in the entire project to be considered a "project owner." A person need only possess sufficient interest in the project to develop hydroelectric power at the site.

Section 4.103(b) of the proposed rule is designed to protect a person other than the project owner who has already applied for a permit or license, or who holds a permit, from being defeated by a project owner's untimely application for exemption from licensing. The Commission will accept an exemption application or a notice of intent to file such application only if it is filed during the protest and intervention period prescribed in the public notice for the permit or license application. With this exception, the Commission will not accept any applications for exemption from licensing if, on the date such application is submitted, a person other than the project owner has an unexpired preliminary permit or license, or the Commission has accepted a preliminary permit or license application from a person other than the project owner.

On the other hand, a project owner who has filed for or obtained an exemption from licensing would be protected from permit or license applicants that would seek to take and develop the project. The Commission will not accept an application for a preliminary permit or license from a person other than the project owner if, on the date the application is submitted, the project is exempt from licensing or

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[3] The Commission will consider further rulemakings that implement the provision in section 408(b) allowing the Commission to exempt "classes or categories" of projects, thereby obviating any application procedure.

[4] *See,* Order No. 76, 45 FR 28085, April 19, 1980.

[5] This rule does not extend to projects located at United States dams or which are located wholly or in part on lands which the United States owns in fee. The Commission is still considering the legal and policy implications of exemptions for those kinds of projects before proposing any rules covering them.

[6] Transcript, In the Matter of Section 408 of the Energy Security Act of 1980, August 12, 1980, Central Files (Docket No. RM80-65), Federal Energy Regulatory commission, at 47–50.

[7] Under Part I of the Federal Power Act and Part 4 of the Commission's regulations, a person need not have sufficient property interest to develop power at a site in order to obtain a preliminary permit or a license.

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the Commission has accepted an application for exemption submitted by the project owner.

A project owner may convert an application for license to an application for exemption at any time during the period for filing protests and petitions for intervention prescribed in the public notice for the license application. A project owner may also apply for a license even if the project has been exempted. However, such a license application would then be open to competition.

Paragraph (b)(1)(v) of proposed § 4.103 contains noteworthy provisions about Commission treatment of applications that propose to develop the same project. An exemption application submitted in competition with, and during the public notice period for, an application for a preliminary permit will be preferred to the permit application. Likewise, the Commission will favor an exemption application that competes with an accepted license application, unless the license applicant would significantly better develop the water power potential at the project.

Municipalities or other public entities that are not project owners and that apply for preliminary permits or licenses that compete with exemption applications will be governed by the same rules as other applicants that are not project owners and will not receive the preferential treatment provided in § 4.33.

The protections for project owners in the proposed rule are greater than the alternative protections in the draft rule and also greater than alternatives proposed by the American Public Power Association (APPA) in its comments on the draft rule. Under the provisions of the draft rule, the project owner could not file an exemption application if a preliminary permit or license application by a non-owner had previously been accepted. The project owner could, however, file a competing permit or license application. But the draft rule contained no preference for the project owner who later filed for a permit or license. Both the proposed rule and the draft rule would preclude permit or license applications by non-owners if an exemption application has been accepted. Under APPA's alternative,[8] any application for exemption from licensing filed by a project owner that is neither a State nor a municipality would be subject to the State/municipal preference in section 7(a) of the Federal Power Act, if the plans of a competing State or municipality that is not a project owner were at least as well adapted to conserve and utilize in the public interest the water resources of the region. APPA also proposed that the Commission accept competing preliminary permit or license applications by a non-owner at any time during the 120 days following notice that a project owner's application for exemption from licensing is accepted for filing. The Commission specfically requests comments on the comparative merits of the three basic alternatives presented in the proposed rule, the draft rule, and in APPA's proposals.

Section 4.104 of the proposed rule contains the procedures and timing provisions for Commission action on an application. Once an application is submitted, the Commission will allow only 45 days for correcting deficiencies. The Commission may on its own motion, or on the motion of any party in interest, order a hearing on an application for exemption. Interested agencies will have 60 days to comment on an application. if an agency does not comment within the 60 days, the agency will be presumed to have no objection to the exemption requested. If the Commission does not act within 120 days of the notice that an application is accepted, it is automatically granted on certain standard conditions.

The proposed rule specifies, in § 4.105, four standard conditions of every exemption. The installation of new capacity at the exempted project must begin within one year of the date of issuance of the exemption. Failure to begin development of the project on a timely basis may lead to revocation of the exemption. The Commission may also revoke an exemption for a project if construction or development of the exempted facilities is not completed within 4 years from the date of issuance of an exemption. These provisions are designed to prevent tying up the project site for an unreasonable time without development. The Commission believes that the periods allowed are reasonable to develop a project. Other standard conditions relate to the Commission's enforcement powers, compliance with conditions imposed by fish and wildlife agencies, and the navigation servitude of the United States to which all exempted projects on navigable waters remain subject.

The Commission may provide further (non-standard) conditons in each exemption based on the circumstances of the exemptible project, under § 4.104(f). For example, the Commission will be concerned about the safety of project works. If a project contains a dam that is 10 or more meters in height above streambed, impounds 2.5 million or more cubic feet of water, or is determined to have a high hazard potential, the Commission may require periodic inspection of the project by an independent consultant.[9]

The proposed rule describes the required format and contents of the application for exemption in § 4.106. The application includes an introductory statement, which identifies the applicant and the project, as well as Exhibits A, B, E, and G.

Exhibit A must include a description of the facility and the proposed mode of operation. Exhibit B is a general location map.

Exhibit E is an environmental report submitted to facilitate compliance with the National Environmental Policy Act. It also contains information to facilitate compliance with the National Historic Preservation Act, the Endangered Species Act, and the Fish and Wildlife Coordination Act. In granting exemptions, the Commission must comply with these statutes.

Exhibit G is a set of drawings showing structures and equipment. These drawings will permit the Commission to review the project structures, existing and proposed, in order to understand their environmental and dam safety implications.

Any applicant for exemption from selected parts of the Act other than the licensing requirements could request a waiver under § 1.7 of the Commission's regulations for those informational requirements in § 4.106 that were not relevant to the limited exemption sought.

This notice also proposes to delegate to the Director of the Office of Electric Power Regulation the limited authority to approve applications for exemptions from all or part of Part I of the Act, provided an environmental impact statement is not required, for small hydroelectric power projects or small conduit hydroelectric power projects.

III. Comment Procedure

Interested persons are invited to submit written views, comments, or suggestions in writing concerning all or part of the regulations proposed in this notice.

An original and 14 copies of all comments should be filed with the Secretary not later than September 29, 1980, at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal may be addressed. Comments should reference Docket No. RM80–65 on the outside of the envelope and on all documents submitted to the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington D.C. 20426 during regular business hours.

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[8] Transcript, *supra*, August 12, 1980, at 4.

[9] These criteria are in Subpart D of the Commission's proposed Regulations Governing the Safety of Water Power Projects and Project Works, issued June 16, 1980, 45 FR 41608, June 19, 1980 (docket No. RM80-31).

A public hearing concerning this proposed rule will be held at 825 North Capitol Street, N.E., Washington D.C. 20426 on September 23, 1980, beginning at 10 a.m. The room number will be posted on that day. Any person interested in this proceeding or representing a group with such an interest may make a presentation at the hearing, provided a written request to participate is submitted to the Secretary of the Commission by September 19, 1980. Requests to participate should refer to Docket No. RM80–65. Participants are asked to supply the panel and the reporter with written copies of their comments. The hearing will not be a judicial evidentiary-type hearing. There will be no cross-examination of participants but the panel may ask questions of those presenting their views. The hearing will be open to the public. A transcript of the proceeding will be made available to the public through the Commission's Division of Public Information.

(Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611; Federal Power Act, as amended, 16 U.S.C. 792–828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; and the Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978))

By direction of the Commission.

Keneth F. Plumb,

Secretary.

1. Part 4 is amended in the Table of Contents by adding subpart K to read as follows:

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

Sec.

4.101 Purpose and applicability.
4.102 Definitions.
4.103 Filing exemption applications.
4.104 Action on exemption applications.
4.105 Standard terms and conditions of exemption.
4.106 Contents of application.

2. Part 4 is amended by adding Subpart K to read as follows:

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

§ 4.101 Purpose and applicability.

(a) This subpart implements the amendments to sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (PURPA) contained in Title IV of the Energy Security Act of 1980. The purpose of that title is to encourage development of renewable energy resources, including development of water resources for electric power generation. This subpart provides a procedure for obtaining exemption from all or part of Part I of the Federal Power Act (Act) for certain small hydroelectric power projects on a case-by-case basis, pending development of exemptions for classes or categories of such projects.

(b) This subpart applies to any small hydroelectric power project, as defined in this subpart, except any single impoundment and any associated dam and other facility that are part of a licensed project that contains two or more impoundments and associated dams and facilities.

§ 4.102 Definitions.

For the purposes of this subpart—

(a) "Dam" means any structure for impounding water.

(b) "Existing dam" has the meaning set forth in section 408(a)(6) of PURPA.

(c) "Fish and wildlife agencies" means the U.S. Fish and Wildlife Service, the National Marine Fisheries Service if anadromous or estuarine fish may be affected, and any state agency with administrative authority over fish and wildlife resources of the state or states in which the small hydroelectric power project is or will be located.

(d) "Non-Federal lands" means any lands except lands to which the United States holds fee title.

(e) "Project means:

(1) the impoundment and any associated dam, intake, water conveyance facility, power plant, primary transmission line, and other appurtenant facility, if a lake or similar natural impoundment or a man-made impoundment is used for power generation; or

(2) any diversion structure and any associated water conveyance facility, power plant, primary transmission line, and other appurtenant facility, if a natural water feature other than a lake or similar natural impoundment is used for power generation.

(f) "Project owner" means any citizen or association of citizens of the United States, state, municipality, or corporation incorporated under the laws of the United States or a state, that has real property interests, such as ownership in fee, easement, right-of-way, or leasehold, sufficient to permit development of the small hydroelectric power project, or an option to obtain such property interests.

(g) "Small hydroelectric power project" means any water prower project located on non-Federal lands in which capacity will be installed or increased after the date of application under this subpart and which will have a total installed capacity of not more than 5 megawatts and that:

(1) utilizes for electric power generation the water power potential of an existing dam that is not owned by the United Stats or operated by any instrumentality of the Federal Government, including the Tennessee Valley Authority; or

(2) utilizes or proposes to utilize a natural water feature for the generation of electricity, without the need for any dam or man-made impoundment.

§ 4.103 Filing exemption applications.

(a) *Who may apply.* Any project owner of a small hydroelectric power project may apply for exemption of that project from all or part of Part I of the Act, including licensing.

(b) *Relationship to other applications, permits, and licenses.* For purposes of this subpart, the Commission will treat preliminary permit and license applications, preliminary permits, licenses, and applications for exemption from licensing that are related to a small hydroelectric power project as follows:

(1) *Pending permit or license application or outstanding preliminary permit or license.* (i) Except as provided in clause (ii), the Commission will not accept for filing any application for exemption from licensing if there is on the date that application is submitted:

(A) an unexpired preliminary permit or license for the small hydroelectric power project held by a permittee or licensee other than the project owner; or

(B) an accepted preliminary permit or license application for the small hydroelectric power project submitted by an applicant other than the project owner.

(ii) (A) If an applicant other than the project owner has filed, and the Commission has accepted, an application for a preliminary permit or license for a small hydroelectric power project, the project owner may submit an application for exemption from licensing, or a notice of intent to file such an application, as described in this paragraph. Such application or notice

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must be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued under § 4.31(c)(3) for the preliminary permit or license application.

(B) Any project owner that files a conforming notice of intent under this paragraph must submit the application for exemption not later than 120 days after the last date for filing protests or petitions to intervene prescribed in the public notice of the preliminary permit or license application.

(C) Any notice of intent to submit an application for exemption from licensing must conform to the requirements of § 4.33(b) and contain a sworn statement that the prospective applicant is the project owner, as defined in § 4.102(f). The notice of intent and the subsequent application for exemption from licensing must be accompanied by proof of service of a copy of the notice or application on the person specified in § 4.33(d)(3).

(iii) If the project owner has filed, and the Commission has accepted, an application for license for a small hydroelectric power project, the project owner may convert that application to an application for exemption from licensing by so notifying the Commission in writing and submitting documentary evidence showing that the applicant is the project owner. Such notice and documentation must be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice of the license application issued under § 4.31(c)(2) of this chapter.

(iv) Any accepted license or preliminary permit application submitted by a project owner that later applies for exemption of the small hydroelectric power project from licensing will retain its validity and priority under Subpart D of this part until the project owner withdraws the license or preliminary permit application or the small hydroelectric power project is exempted from licensing under this subpart.

(v) (A) If an accepted application for a preliminary permit and an accepted application for exemption from licensing propose to develop mutually exclusive small hydroelectric power projects, the Commission will favor the applicant for exemption.

(B) If an accepted application for a license and an accepted application for exemption from licensing propose to develop mutually exclusive small hydroelectric power projects, the Commission will favor the applicant for exemption unless the plans for the license applicant would significantly better develop the water power potential of the water resources at the project.

(2) *Pending exemption application or outstanding exemption.* (i) Except as permitted under clause (iii), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project that is submitted by any applicant other than the project owner if, on the date of the application is submitted:

(A) such project is exempt from licensing, under this subpart; or

(B) the Commission has accepted an application submitted by the project owner for exemption of that project from licensing.

(ii) A project owner may at any time submit a preliminary permit or license application for its small hydroelectric power project, even if the project is exempt from licensing under this subpart or the project owner has submitted an application for exemption of that project from licensing. Any pending application for exemption from licensing of the small hydroelectric power project will be considered withdrawn as of the date that the Commission accepts for filing a preliminary permit or license application submitted by the project owner.

(iii) If the project owner submits a preliminary permit or license application for a small hydroelectric power project, competing preliminary permit or license applications may be submitted under § 4.33 of this part by applicants other than the project owner.

§ 4.104 Action on exemption applications.

(a) An application for exemption for a small hydroelectric power project will be processed in accordance with paragraphs (c) through (g) of § 4.31 of this part, except that notice will be published only once in a daily or weekly newspaper of general circulation in each county in which the project is or will be located. The additional time that may be allowed under § 4.31(d) of this part for correcting deficiencies in an application for exemption may not exceed 45 days.

(b) The Commission may order a hearing on an application for exemption either on its own motion or on the motion of any party in interest. Any hearing shall be limited to the issues prescribed by the order of the Commission.

(c) the Commission will circulate a notice of application for exemption to interested agencies at the time the applicant is notified that the application is accepted for filing. Fish and wildlife agencies will also receive copies of the application. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the exemption requested. A fish and wildlife agency that does not comment within that time will also be presumed to have determined that no terms or conditions of exemption are necessary to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the application of exemption.

(d) If the Commission has not taken one of the actions set forth in paragraph (e) of this section within 120 days after notifying the applicant that its application for exemption is accepted for filing, the requested exemption will be deemed to be found consistent with the public interest and the application will be considered granted as requested, on the standard terms and conditions set forth in § 4.105.

(e) Within 120 days after notifying an applicant that its application for exemption is accepted for filing, the Commission may take any of these affirmative actions:

(1) grant the exemption as requested;

(2) grant an exemption from provisions of Part I of the Federal Power Act (and the regulations issued under those provisions) other than those for which exemption was requested, upon finding that modification of the exemption requested is in the public interest;

(3) deny exemption if the granting of the exemption would be inconsistent with the public interest; or

(4) suspend the 120-day period for action under this paragraph, upon finding that additional time is necessary for gathering additional information, conducting additional proceedings, or deliberating on the issues raised by the application.

(f) In granting an exemption the Commission may prescribe terms or conditions in addition to those set forth in § 4.105 in order to:

(1) protect the quality or quantity of the related water supply;

(2) otherwise protect life, health, or property;

(3) avoid or mitigate adverse environmental impact; or

(4) better conserve, develop, or utilize in the public interest the water power resources of the region.

§ 4.105 Standard terms and conditions of exemption.

Any exemption granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalities under Part III of the Federal Power Act.

(b) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that any Federal or state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act.

(c) *Article 3.* The Commission may revoke this exemption if the project owner has not begun actual construction or development of any proposed generating facilities within one year, or completed construction or development of such proposed facilities within four years, from the date on which the exemption was granted.

(d) *Article 4.* This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

§ 4.106 Contents of application.

(a) *General requirements.* (1) An application for exemption under this subpart must contain the introductory statement and exhibits described in this section and an appendix containing documentary evidence showing that the applicant is the project owner. An application for exemption of a small hydroelectric power project must conform to the requirements set forth in §§ 1.5 and 1.14 through 1.17 of this chapter.

(2) An original and fourteen copies of the exemption application must be submitted to the Secretary of the Commission, and a copy must be served at the same time on the Commission's regional engineer for the region in which the project is located. Full-sized prints of all required maps and drawings must be filed with the application. Maps and drawings need not conform to the requirements of § 4.32 of this part, but must be of sufficient size, scale, and quality to permit easy reading and understanding. The Commission will request original drawings (microfilm) when it notifies the applicant that the application is accepted.

(b) *Introductory Statement.* The applicant must submit an introductory statement that conforms to the following format:

Before the Federal Energy Regulatory Commission

Application for Exemption of Small Hydroelectric Power Project

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for [name of project], a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from certain provisions of the Federal Power Act. [If applicable: The project is currently licensed as FERC Project No. ———.]

(2) The location of the project is:

[State or territory] ————————
[County] ————————
[Township or nearby town] ————————
[Stream or body of water] ————————

(3) The exact name and business address of each applicant are:

————————
————————
————————

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are:

————————
————————
————————

(5) [Name of applicant] is [specify, as appropriate: a citizen of the United States; an association of citizens of the United States; a municipality; a state; or a corporation incorporated under the laws of (specify the United States or the state of incorporation, as appropriate)] and is the project owner.

(6) The provisions of Part I of the Federal Power Act for which exemption is requested are:

[List here all sections or subsections for which exemption is requested; or, if all, state "All".]

(c) *Exhibit A.* Exhibit A must describe the small hydroelectric power project and its proposed mode of operation. To the extent feasible, the information in this exhibit may be submitted in tabular form. The applicant must submit the following information:

(1) A brief description of any existing dam and impoundment proposed to be utilized by the small hydroelectric power project and any other existing or proposed project works and appurtenant facilities, including intake facilities, diversion structures, powerhouses, primary transmission lines, penstocks, pipelines, spillways, and other structures, and the sizes, capacities, and construction materials of such structures.

(2) The number of existing and proposed generating units at the project, including auxiliary units, the capacity of each unit, any provisions for future units, and a brief description of any plans for retirement or rehabilitation of existing generating units.

(3) The type of each hydraulic turbine.

(4) A description of how the power plant is to be operated, that is, run-of-river or peaking.

(5) A graph showing a flow duration curve for the project or, if flow data are not available from United States Geological Survey records, the estimated average annual stream flow in cubic feet per second.

(6) Estimations of:

(i) the average annual generation in kilowatt hours;

(ii) the average and design head of the power plant;

(iii) the hydraulic capacity of each turbine of the power plant (flow through the plant) in cubic feet per second;

(iv) the number of surface acres of the man-made or natural impoundment used, if any, at its normal maximum surface elevation and its net and gross storage capacities in acre-feet.

(7) The planned date for beginning and completing the proposed construction or development of generating facilities.

(8) A description of the nature and extent of any repair, reconstruction, or other modification of a dam that would occur in association with construction or development of the proposed small hydroelectric power project, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after construction.

(d) *Exhibit B.* Exhibit B is a general location map that must show the following information:

(1) The location of the existing and proposed physical structures of the small hydroelectric power project, including any dam or diversion structure, reservoir or impoundment, penstocks, pipelines, power plants, access roads, transmission lines, and other important features.

(2) The relationship of the project structures to the stream or other body of water on which the project is located and to the nearest town or any permanent monuments or objects, such as roads, transmission lines, or other structures, that can be readily recognized in the field.

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(3) A description of who owns or has other property interests in any tract of land occupied by the project.

(e) *Exhibit E.* This exhibit is an environmental report that must include the following information, commensurate with the scope and environmental impact of the construction and operation of the small hydroelectric power project:

(1) A description of the environmental setting in the vicinity of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, socio-economic conditions, historical and archeological resources, and visual resources.

The report must give special attention to endangered or threatened plant and animal species, critical habitats, and sites eligible for or included on the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts resulting from any proposed construction or development and any changes in the operation of small hydroelectric power project with existing installed capacity, or from the proposed construction and operation of a small hydroelectric power project without any existing installed capacity, including a discussion of the specific measures proposed by the applicant, the agencies, and others to protect and enhance environmental resources and to mitigate adverse impacts of the project on them.

(3) Letters or other documentation showing that the applicant consulted or attempted to consult with fish and wildlife agencies before filing the application, including any terms or conditions of exemption that those agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act. If any fish or wildlife agency fails to provide the applicant with documentation of the consultation process within a reasonable time, in no case less than 30 days, after such documentation is requested, the applicant may submit a summary of the consultation and any determinations of the agency. Any exemption application that does not contain the information required in this subparagraph will be considered patently deficient and rejected pursuant to § 4.31(d) of this part.

(4) Any additional information the applicant considers important.

(f) *Exhibit G.* Exhibit G is a set of drawings showing the structures and equipment, that is, the proposed and existing project works, of the small hydroelectric power project. The drawings must include plan, elevation, profile, and section views of the power plant and any other principal structure and of any existing dam.

PART 375—THE COMMISSION

3. Section 375.308 is amended by adding a new paragraph (ll) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulations.

The Commission authorizes the Director of the Office of Electric Power Regulation, or in the Director's absence, the Director's designee to:

* * * * *

(ll) Grant or grant with modifications, but not to suspend the time for action on or to deny, any uncontested application submitted under Subparts J or K of Part 4 of this Chapter for exemption from all or part of Part I of the Federal Power Act, if an environmental impact statement is not required.

[FR Doc. 80-26946 Filed 9-2-80: 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 272

[Docket No. RM79-44]

Petition for Proposed Rulemaking Involving High-Cost Natural Gas; Extension of Time for Comments

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Extension of Time for Comments.

SUMMARY: On June 30, 1980, the Commission issued a Notice of Petition for Proposed Rulemaking involving high-cost natural gas described in Section 107 (b) and (c) of the Natural Gas Policy act (NGPA) in Docket No. RM79-44 (45 FR 45597, July 7, 1980). The Commission's notice prescribed a comment period ending August 15, 1980. This document extends the comment period.

DATE: The comment period is hereby extended to September 14, 1980.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. (202) 357-8400.

August 25, 1980.

On August 18, 1980, Kerr-McGee Corporation filed a request for an extension of time to file comments on the Commission's Notice of Petition for Rulemaking issued June 30, 1980, in the above-docketed proceeding. The motion states that additional time is required because of the company's current involvement in other Commission proceedings.

Upon consideration, notice is hereby given that an extension of time for the filing of comments is granted to and including September 14, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26963 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-845]

Proposed Revision of Use of Materials Bulletin No. 78 for Polyethylene (PE), Acrylonitrile-Butadiene-Styrene (ABS), Poly (Vinyl Chloride) (PVC) and Polybutylene (PB) Plastic Piping for Domestic Cold Water Service

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed Rule.

SUMMARY: This Proposed Rule revises HUD Use of Materials Bulletin No. 78 (UM 78) dated April 25, 1978. At the request of industry, the proposed revision incorporates into UM 78 the following two existing American Society of Testing and Materials (ASTM) national standards:

American Society for Testing and Materials Standard No. D 2662—78 Standard Specification for Polybutylene (PB) Plastic Pipe (SDR-PR)

American Society for Testing and Materials Standard No. D 2666—75 Standard Specification for Polybutylene (PB) Plastic Tubing.

DATE: Comment due date: November 3, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Lynford K. Snell, Materials Acceptance Division, Office of Architecture and Engineering Standards, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone: (202) 755–5929. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: HUD Use of Materials Bulletin No. 78 (UM 78) was published on April 25, 1978 as an update and consolidation of earlier HUD Use of Materials Bulletins No. 31e, 41a and 43, covering plastic materials for domestic cold water service. UM 78 sets forth the requirements and conditions for HUD Field Office acceptance of a number of plastic piping materials used in domestic cold water service. Included were references for the acceptance, design and installation of Polybutylene (PB) piping.

After publication of UM 78, two manufacturers of PB pipe and tubing noted that two appropriate national standards of the American Society for Testing and Materials (ASTM) had been omitted and should be included. They requested HUD to revise UM 78 to include the two references identified above. After a review by a nationally known HUD consultant, Use of Materials Bulletin No. 78 was revised and is herewith proposed for promulgation as HUD Use of Materials Bulletin No. 78a.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

A copy each of UM 78 and of proposed revised UM 78a are available for review during regular business hours in the Office of Architecture and Engineering Standards, Room 6178, or in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(Sec. 7(d), Department of Housing and Urban Development Act of 1965, 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 211, 52 stat. 23; 12 U.S.C. 1715b and 81 Stat. 54; 5 U.S.C. 552(a))

Issued at Washington, D.C. on July 24, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80–26815 Filed 9–2–80; 8:45 am]

BILLING CODE 4210–01–M

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24 CFR Part 888

[Docket No. R–80–851]

Fair Market Rents for New Construction and Substantial Rehabilitation Section 8 Projects; Battle Creek, Mich.

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This Proposed Rule will amend the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for the Battle Creek, Michigan Market Area by adding a new structural classification. This classification relates to two, three, and four bedroom units in detached structures that are either new or substantially rehabilitated.

DATE: Comment Due Date: Comments are due on or before September 18, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451—7th Street, S.W., Washington, D.C. 20410, (202) 755–7603. This is not a toll-free number. Each person submitting a comment should include his/her name and address and refer to the document by the docket number indicated by the heading, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. In order to expedite consideration of comments, an information copy of your comment should be forwarded to the Field Office having jurisdiction for the market area involved.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451—7th Street, S.W., Washington, D.C. 20410, (202) 755–5743. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Recent comments and data have been received from the Grand Rapids Service Office indicating an immediate need to amend the Fair Market Rents for Section 8 Newly-Constructed and Substantially Rehabilitated Projects in order to include a new structural classification. This classification relates to two, three, and four bedroom units in detached structures for Battle Creek, Michigan. The last Annual Revision of all Fair Market Rents (see 24 CFR, Part 888, Schedule A) was published at 45 FR 2534 on January 11, 1980 in the **Federal Register.**

It has been determined that because of the immediate need to provide amended Fair Market Rents, a 15-day comment period is reasonable and in the public interest.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the address set forth above.

This Special Revision is not included in the Agenda of Significant Rules published in accordance with Executive Order 12044.

It is therefore proposed that Schedule A of Subpart A Part 888 be amended as set forth below.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C. on July 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

These Fair Market Rents have been trended ahead to October 1, 1981 to allow time for processing new construction and substantial rehabilitation rental projects.

Note.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05 rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units, and (3) single room occupancy dwelling units are those for zero bedroom units of the same type.

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AREA OFFICE GRAND RAPIDS, MICH. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BATTLE CREEK	DETACHED			445	510	560
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[FR Doc. 80-26829 Filed 9-2-80; 8:45 am]

BILLING CODE 4210-01-C

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program State-Federal Cooperative Agreements; Montana

AGENCY: Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of Intent to Propose Rulemaking.

SUMMARY: The Office of Surface Mining and Reclamation and Enforcement (OSM) intends to commence rulemaking to enter into a cooperative agreement between the Department of the Interior and the State of Montana for the regulation of surface coal mining and reclamation operations on Federal lands in Montana under the permanent regulatory program.

This agreement will replace the copperative agreement between the Department and the State of Montana found at 30 CFR 211.77(e) and 44 FR 33640–47, June 11, 1979. The cooperative agreement was promulgated pursuant to the Surface Mining Control and Reclamation Act of 1977, and relates to State regulation of Federal lands under OSM's interim regulatory program. This notice announces OSM's intent to enter into a cooperative agreement for the purpose of establishing Montana's role in the administration of the permanent regulatory program on Federal lands.

DATES: Comments must be received on or before November 3, 1980, at the Office listed below under "Address" by no later than 5 p.m.

Representatives of OSM will be available to meet with interested persons upon request between September 3, 1980 and November 3, 1980. A supplemental notice will announce the date and location for a public hearing.

ADDRESS: Written comments must be mailed or hand delivered to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202. Comments received will also be available for inspection at this address.

Copies of the proposed agreement and of the related information required under 30 CFR 745 are available for inspection at Montana Department of State Lands, 1625 11th Avenue, Helena, Montana, 59601; Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Region V, Office of Surface Mining, U.S. Department of the Interior, Brooks Tower, 15th Street, Denver, Colorado 80202, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Donald Crane, Regional Director, Region V, Office of Surface Mining, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colorado 80202, (303) 837–5421.

SUPPLEMENTARY INFORMATION: Rulemaking Under 30 CFR 745 and 43 CFR 14. The regulations for the development, approval, administration and enforcement of permanent program cooperative agreements appear at 30 CFR 745. On June 4, 1980, the State of Montana submitted a proposed permanent program cooperative agreement and the related information required by 30 CFR 745.11(b). On August 11, 1980, representatives of the State of Montana and the Office of Surface Mining agreed to certain revisions of the proposed cooperative agreement submitted on June 4. The revised proposal is the basis for this Notice. The information submitted by the State of Montana on June 4, 1980, is available for inspection at the locations listed above under the heading "Address."

This notice of itent to proposed rulemaking is issued pursuant to 30 CFR 745.11(c) and 43 CFR 14.5(b)(2). (The latter regulations are the Department of the Interior's rulemaking procedures.)

Pursuant to 30 CFR 745.11(c)(3), this notice specifies that the public comment period within which representatives of the public may submit written comments on the proposed permanent program cooperative agreement with the State of Montana will be 60 days. OSM intends to publish a Notice of Proposed Rulemaking and Notice of Public Hearing in the near future. See 30 CFR 745.11(c) and (d) and 43 CFR 14.5(b)(3).

Background

Consistent with congress' intent that implementation of the Surface Mining Act be accomplished in two phases, Section 523(c) of that Act provides for two kinds of State-Federal cooperative agreements. The second sentence of Section 523(c) provides that "[S]tates with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in Section 502 of this Act." 30 U.S.C. 1273(c). Six States had cooperative agreements with the Department of the Interior prior to August 3, 1977. (Wyoming, Utah, New Mexico, North Dakota, Montana and Colorado.) On June 11, 1979, Montana's pre-August 3, 1977, cooperative agreement was modified to fully comply with the initial program regulations promulgated pursuant to Section 502 of the Surface Mining Act. 44 FR 33640–47, June 11, 1979. 30 CFR 211.77(e).

The first sentence of Section 523(c) of the Surface Mining Act provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act." 30 U.S.C. 1273(c) (emphasis added). For purposes of this notice, such agreements are called "permanent program cooperative agreements." The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR 745.

By letter of June 4, 1980, the Governor of the State of Montana submitted a request for a cooperative agreement between the State of Montana and the Department of the Interior pursuant to 30 CFR 745.11. This request for a permanent program cooperative agreement follows the conditional approval by the Secretary of the Interior of the Montana State program, pursuant to Section 503 of the Surface Mining Act and 30 CFR 732. 45 FR 21560–80, April 1, 1980. The request for a permanent program cooperative agreement was accompanied by the proposed text of the agreement and all other information required by 30 CFR 745.11(b).

On August 11, 1980, representatives of the State of Montana, Department of State Lands, and of the Office of Surface Mining and Office of the Solicitor met in Helena, Montana, to review the proposed permanent program cooperative agreement. During this meeting, numerous changes to the June 4, 1980, proposal were accepted and it was further agreed that the August 11 revision would serve as a basis for this Notice of Intent and for the Notice of Proposed Rules which is anticipated in the near future. The Office of Surface Mining emphasizes that the proposed coopertive agreement published with

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this Notice is subject to further change because of public comments which are now requested or as a result of further discussions with the State of Montana.

Persons interested in the changes accepted on August 11 may review the record of the meeting at the locations listed under the heading "Address." In general, changes were made throughout the proposed cooperative agreement for clarity and to shorten the text by cross-referencing appropriate Sections of 30 CFR Chapter VII. Substantive changes were made in the following Articles:

ARTICLE V: Revisions were made to reflect proposed new procedures for substantive review of all or major portions of mine plan and permit applications by the Department of State Lands on behalf of OSM. These procedures include (1) early agreement between the Department of State Lands and OSM on any areas requiring special attention during the review by the State or OSM and on the work plan for the review; (2) designation of an application manager by OSM to maintain cognizance over the review process and assure that unnecessay duplication of analysis does not occur; (3) joint conduct of environmental analyses by the State and OSM as authorized by 40 CFR 1506.2; and (4) preparation of decision documents by the State which, after careful review by OSM, may be used as a basis for decision on the mine plan permit application by the Department of the Interior.

ARTICLE VI and ARTICLE VII: Revisions were made to clarify the intent of having the Department of State Lands perform primary inspection and enforcement activities on Federal lands with respect to matters covered by the cooperative agreement. The Secretary will reserve his right to conduct inspections and take enforcement actions under the Surface Mining Act for purposes of monitoring the State Program and enforcement and administration of the cooperative agreement, and in response to citizen complaints. The Secretary may also inspect and take enforcement actions, as necessary, to carry out his responsibilities under other Federal laws.

ARTICLE IX: Revisions were made to clarify the intent of the State and the Secretary to coordinate during the review of petitions for designation of lands as unsuitable for mining while preserving the independence of the Secretary's decision on petitions to designate Federal lands as required by Section 522 of the Surface Mining Act.

The Department intends to follow the "Guidelines for Contracts With Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444–45, September 19, 1979, during this rulemaking. The guidelines will apply from the date of this notice until the signing of the agreement by the Governor and the Secretary of the Interior.

This notice begins the process of review and comment of the proposed Montana permanent program coopertive agreement. The full text of the permanent program cooperative agreement, as proposed by Montana, appears at the end of this notice.

REQUEST FOR COMMENTS: The public is invited to comment on the following issues as they relate to Montana's proposed permanent program cooperative agreement, as well as those issues discussed above with respect to the August 11, 1980, meeting:

1. Does the proposal meet the requirements of 30 CFR 745.12 relating to the content of a permanent program cooperative agreement?
2. Does the State have the legal authority to administer the proposed permanent program cooperative agreement? See 30 CFR 745.11(f)(3).
3. Does the State have sufficient budget, equipment and personnel as required by 30 CFR 745.11(f)(2)?
4. Should the proposal include terms for compliance with a variety of Federal statutes and executive orders which are not reserved to the Secretary under 30 CFR 745.13 (e.g., National Historic Preservation Act, 16 U.S.C. 470 *et seq.;* Floodplain Management, Executive Order 11988 (May 24, 1977); Protection of Wetlands, Executive Order 11990 (May 24, 1977))?

Additional information relating to the above questions may be found in Montana's State program submission and in the June 4, 1980, request for a cooperative agreement by the Governor of the State of Montana. These documents are available at the locations listed under the heading "Address."

As this list is not intended to be an exhaustive summary of issues or considerations, the public is further invited to comment on any articles of the proposed permanent program cooperative agreement and any other issues or areas pertaining to the proposed permanent program cooperative agreement.

PRINCIPAL AUTHORS: Paul L. Reeves, Deputy Director, and Donald T. Maurer, Chief Division of Federal Programs, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–5335.

STATEMENT OF SIGNIFICANCE AND OF ENVIRONMENTAL IMPACT: In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals on January 7, 1980, the Office of Surface Mining determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 USC 1273 for State regulation of surface coal mining and reclamation operations on Federal lands is not a significant action and will not require a regulatory analysis."

Pursuant to Executive Order 12044 (March 23, 1978) and 43 CFR Part 14, OSM has reexamined the "Determination of Significance" as it applies to the specific proposal from Montana and concluded that the Montana proposal includes no issues or factors not covered by the blanket determination and that it is therefore not a significant rule. The rulemaking involved in promulgating the permanent program cooperative agreement between the State of Montana and the Department does not incorporate any changes or revisions which would impose a major social, economic, or recordkeeping burden on any level of Federal, State, or local government or industry.

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to Section 523 of the Surface Mining Act. Such proceedings are therefore exempted under Section 702(d) of the Surface Mining Act from the requirement to prepare a detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

Dated: August 25, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

Cooperative Agreement

The State of Montana and the Department of the Interior enter into a State/Federal Cooperative Agreement to read as follows:

This is a Cooperative Agreement between the State of Montana, acting by and through the Governor (referred to as the "Governor") and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the "Secrtary").

Article I. Introduction and Purpose

A. This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), Pub. L. 95–87, 30 U.S.C. § 1273, which allows a State with a permanent regulatory program approved under 30 U.S.C. § 1253 to elect to enter into an agreement for the regulation and control of surface coal mining on Federal lands, and by the Montana Strip and Underground Mine Reclamation Act, Part 2, Chapter 4, Title 82, Montana Code Annotated (hereinafter "State Act"). This agreement provides for State Regulation of surface coal mining and reclamation operations on Federal lands consistent with the State and Federal acts and the Federal lands program.

B. The purpose of the Agreement is to (1) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State and Federal lands programs in Montana.

Article II. Effective Date

This Cooperative Agreement is effective following signing by the Secretary and the Governor, and upon final publication as rulemaking in the **Federal Register.** This Agreement shall remain in effect until terminated as provided in Article XI.

Article III. Scope

This Agreement makes the laws, regulations, terms, and conditions of Montana's permanent State program conditionally approved effective April 1, 1980, as amended, 30 CFR 926 (State program) for the administration of the Federal Act, applicable to Federal lands within Montana except as otherwise stated in this Agreement, the Federal Act, 30 CFR 745.13, or other applicable laws.

Article IV. Requirements for Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency.* The Montana Department of State lands (State lands) is, and shall continue to be, the sole agency responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Office of Surface Mining Reclamation and Enforcement (OSM) shall administer this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency.* State Lands has and shall continue to have authority under State law to carry out this Agreement.

C. *Funds.* The State will devote adequate funds to the administration and enforcement on Federal lands in Montana of the requirements contained in the State program. If the State complies with terms of this Agreement, and if necessary funds have been appropriated, OSM shall reimburse the State as provided in Section 705(c) of the Federal Act and 30 CFR 735.16 for costs associated with carrying out responsibilities under this Agreement.

D. *Reports and Records.* State Lands shall make reports to the OSM Regional Director, Region V (Regional Director), containing information respecting its compliance with the terms of this Agreement as the Regional Director shall from time to time require pursuant to 30 CFR § 745.12(c). State Lands and the Secretary shall exchange, upon request, information developed under this Agreement. The Secretary shall provide State Lands with a copy of any approved evaluation report prepared concerning State administration and enforcement of this Agreement.

E. *Personnel.* State Lands shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

F. *Equipment and Laboratories.* State Lands shall have access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

Article V. Policies and Procedures: Mine Plan Review

A. *Contents of Mining Plans and Permits.* The Governor and the Secretary agree and hereby require that an operator on Federal lands shall submit an identical mining and reclamation plan and permit application in an appropriate number of copies to State Lands and the Regional Director. The plan and permit application shall be in the form required by State Land and include any supplemental forms required by the Secretary. The plan and application shall include the information required by, or necessary for, State Lands and the Secretary to make a determination of compliance with:

(1) Section 82-4-222 MCA;
(2) Title 26, Chapter 4, Subchapter 3, Administrative Rules of Montana;
(3) Applicable terms and conditions of the Federal coal lease; and
(4) Applicable requirements of other Federal laws and the State Program.
(5) A permit applicant on Federal lands in Montana shall satisfy the requirement of 30 CFR 741.12(b)(1), and 30 CFR 741.13(c) by submitting the information required by Montana.

B. *Mine Plan Review Procedures.*

1. State Lands shall assume primary responsibility for the analysis and review of applications required by 30 CFR 741.13 for surface coal mining reclamation permits on Federal lands in Montana. The Secretary shall, as requested, assist the State through the Regional Director in this analysis and review. The Secretary shall, in addition, evaluate the State's analysis and conclusions as necessary to independently determine whether the Secretary concurs in the State's decision.

2. State Lands will be the primary point of contact for operators regarding the approval of the permit application. State Lands will be responsible for informing the applicant of all joint State-Federal determinations. State Lands shall send all correspondence with the applicant which may have a bearing on decisions regarding the mine plan to the Regional Director. OSM will not independently initiate contacts with applicants regarding completeness or deficiencies of plans and applications with respect to matters which are properly within the jurisdiction of State Lands. The Secretary reserves the right to act independently of the State to carry out his responsibilities under laws other than the Federal Act and in instances of disagreement under the Federal Act. A copy of all independent correspondence with the applicant shall be sent to the State.

3. The Regional Director is responsible to ensure that any information OSM receives from an applicant is sent to State Lands. The Regional Director and State Lands shall regularly coordinate with each other during the permit review process as needed.

4. The Regional Director shall be responsible for obtaining timely the views of all agencies in the Interior Department with jurisdiction or responsibility over a mine plan and permit application on Federal lands in Montana and for making these views known to State Lands. State Lands shall keep the Regional Director informed of findings during the review which bear on the responsibilities of other Federal agencies. The Regional Director shall take appropriate steps to facilitate discussions between State Lands and the concerned agencies wherever desirable to resolve issues or problems identified in the review.

5. Upon receipt of a permit application, the Regional Director shall begin a review of apparent completeness of the application. The Regional Director shall identify a person

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as the OSM application manager. The OSM application manager shall serve as the primary point of contact between OSM and State Lands throughout the review process and shall be responsible for assuring that avoidable duplication of review and analysis is eliminated. Not later than 90 days after an application has been received, the Regional Director and State Lands shall meet to discuss the application and agree upon a work plan and schedule for the review of the application. The Regional Director shall also inform State Lands of any specific or general areas of concern which require special handling or analysis. State Lands shall inform the Regional Director where OSM assistance will be needed to perform any specific or general analysis or prepare any studies or similar work.

6. Compliance with Montana ARM 26.4 .401 through .411 replaces the requirements of 30 CFR 741 .18 and .21 except that all public meetings and hearings during the period prior to the initial permit decision shall be announced and conducted jointly.

7. Except as otherwise agreed for a specific mine plan and permit application, all environmental assessments and analyses to comply with NEPA and MEPA shall be conducted as authorized by 40 CFR 1506.2. To the extent allowed by Federal law and regulation, State Lands and OSM will cooperate to the fullest extent possible so that one Environmental Impact Statement and/or Environmental Assessment will be produced to comply with MEPA and NEPA for a proposed mining and reclamation plan. Such document will be prepared by State Lands if the Secretary provides the State with any necessary funding to complete the statement. The Secretary shall independently evaluate and approve the final document.

8. Unless the work plan provides otherwise, State Lands shall prepare a technical analysis, environmental analysis, and proposed written decision on the permit. Copies of drafts of these documents shall be sent to the Regional Director for his review and comment. The Regional Director shall independently evaluate the and documents and inform State Lands within 30 days of any changes that should be made. State Lands shall consider the comments of the Regional Director and send a final technical analysis, environmental analysis, and proposed decision to the Regional Director for his written concurrence. If no further changes are required, the Regional Director shall proceed in accordance with 30 CFR 741.21, and inform State Lands of his action. If the Regional Director fails to act within 30 days or if the requested changes are not agreeable to State Lands, the areas of disagreement or delay may be referred to the Governor and Secretary for resolution. This duty may not be redelegated except by mutual agreement.

9. Nothing in this agreement shall be construed to limit the Secretary's authority in 30 CFR 741.16, .17 and .21.

Article VI. Inspections

A. State Lands shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the approved State Program.

B. State Lands shall, within 15 days of conducting any inspection on Federal lands, file with the Regional Director, an inspection report describing (1) the general conditions of the lands under the lease, permit, or license; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

C. State Lands will be the point of contact and sole inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulation. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

D. The Department may conduct any inspections necessary to comply with 30 CFR Parts 743 and 842 and its obligation under laws other than the Act.

E. The Regional Director shall give the State Regulatory Authority reasonable notice of this intent to conduct an inspection in order to provide State inspectors with an opportunity to join in the inspection. When Interior is responding to a citizen complaint of an imminent environmental danger or a threat to human health, pursuant to 30 CFR 842.11(b)(ii)(c), it will contact the State no less than 24 hours if practicable, prior to the Federal inspection to facilitate a joint Federal/State inspection. The Secretary reserves the right to conduct inspections without prior notice to State Lands if necessary to carry out his responsibilities under the Federal Act.

F. Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII. Enforcement

A. State Lands shall take enforcement action on Federal lands in accordance with the State Program and this Agreement.

B. During any joint inspection by Interior and State Lands, State Lands shall take enforcement action, including issuance of orders of cessation and notices of violation. Interior and State Lands shall consult prior to issuance of any decision to suspend or revoke a permit.

C. State Lands and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

D. This Agreement does not limit the Secretary's authority to enforce violations of Federal law or condition of a permit except as specifically stated.

Article VIII. Bonds

A. State Lands and the Regional Director shall require all operators on Federal lands to submit a single bond to cover the operator's responsibilities under the Federal Act and the State Program, payable to both the United States and State Lands. The bond shall be of sufficient amount of comply with the requirements of both State and Federal law and release of the bond shall be conditioned upon compliance with all applicable requirements.

B. Prior to releasing the operator from an obligation required under the State Program under the bond for any Federal lands, State Lands shall obtain the consent of Regional Director. State Lands shall also advise Regional Director of adjustments to the bond.

Article IX. Designation of Lands as Unsuitable

A. State Lands and the Regional Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition which could impact adjacent Federal or non-Federal lands, respectively, the agency shall (1) notify the other of its receipt and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

B. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative. Petitions for designation shall be filed with the Regional Director and processed in accordance with 30 CFR 769 and the Administrative Procedures Act, 5 U.S.C. 500 et seq.

Article X. Termination of Cooperative Agreement

A. This Agreement may be terminated by the State or the Secretary under the provisions of 30 CFR 745.15.

Article XI. Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XII. Amendments of Cooperative Agreement

This Agreement may be amended by mutual agreement of Governor and Secretary in accordance with 30 CFR 745.14.

Article XIII. Changes in State or Federal Standards

A. Interior or the State may from time to time revise and promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Interior and the State shall immediately inform each other of any proposed or final changes in their respective laws or regulations as provided in 30 CFR 732.17. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes, unless mutually extended. For changes which require legislative authorization, the State shall have until the close of its next regular legislative session in which to make the changes.

B. The State and Interior shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and adminstration of this Agreement.

Article Article XIV. Changes in Personnel and Organization

The State and Interior shall, consistent with 30 CFR 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the heads of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. The State and Interior shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location, and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV. Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement, that the State or the Secretary may have under the Mineral Leasing Act, as amended, the Mineral Leasing Act for Acquired Lands, the Stockraising Homestead Act, the Surface Mining Control and Reclamation Act of 1977, the Federal Land Policy and Management Act, the Constitution of the United States, the Constitution of the State, or State laws.

Article XVI. Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700 and 701 shall be given the meanings set forth in said definitions.

Thomas L. Judge,
Governor of Montana.

Cecil D. Andrus,
Secretary of the Interior.

[FR Doc. 80-26898 Filed 9-2-80; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL 1581-1; Docket No. DCO-78-6]

State Implementation Plan Requirements; Proposed Amendment to Delayed Compliance Order for Florida Power Corp.—Crystal River Plant Near Red Level, Fla.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to grant an Amendment to the Delayed Compliance Order (DCO) issued on November 21, 1978, for Unit No. 2 at Florida Power Corporations's (FPC) Crystal River Plant, near Red Level, Florida. FPC received a Federal Energy Administration (now Department of Energy) Prohibition Order on June 30, 1975, prohibiting the further utilization of natural gas or petroleum products as its primary fuel at the Crystal River Plant. FPC converted Crystal River Boiler Unit No. 2 to burn coal as its primary fuel. The DCO issued by EPA on November 21, 1978, requires Florida Power Corporation to complete construction of particulate emission control equipment by July 30, 1980, and to bring Unit No. 2 into compliance with certain regulations contained in the Federally-approved Florida State Implementation Plan (SIP) by September 30, 1980. FPC has requested a three (3) month extension in the completion of construction and final compliance dates. The proposed Amendment would establish an expeditious schedule requiring final compliance by December 30, 1980. During this three (3) month period extension, FPC will be required to operate Unit 2 at a reduced load in compliance with the SIP regulations. If issued by EPA, the Amendment to the DCO would alter the rights of persons to bring judicial actions against the source as long as FPC complied with the requirements of the amended DCO during the three (3) month period extension.

DATE: Written comments and requests for a public hearing must be received on or before October 3, 1980. All requests for a public hearing should be accompanied by a statement as to why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If necessary, a hearing will be held and the public will be notified thirty days in advance.

ADDRESSES: Comments and requests for a public hearing should be submitted to the Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, Atlanta, Georgia 30365. Material supporting the Delayed Compliance Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Wayne J. Aronson, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365. Telephone number 404/881-4253.

SUPPLEMENTARY INFORMATION: On November 21, 1978, the Administrator of EPA issued Delayed Compliance Order (DCO) Docket No. DCO-78-6, pursuant to Section 113(d)(5) of the Clean Air Act (the Act), as amended, 432 U.S.C. 7413(d)(5) of the Clean Air act (the Act), as amended, 42 U.S.C. 7413(d)(5), to Florida Power Corporation for the abatement of particulate emissions at the corporation's Crystal River Plant Unit 2, near Red Level, Florida. The DCO was published in the November 21, 1978, **Federal Register** beginning at page 54248 (43 FR 54248).

By letter dated June 24, 1980, Florida Power Corporation requested a 3 month extension of time for the completion of Milestones 4 and 5 of Appendix A contained in DCO–78–6, dealing with the installation of particulate emission control equipment, shakedown operations, performance tests, and certification of final compliance. The reasons for the request were presented to EPA by representatives of Florida Power Corporation at an informal meeting held on June 12, 1980, in Atlanta, Georgia and are described herein.

In order for Florida Power Corporation to meet the July 30, 1980, completion of construction milestone, Unit 2 would have to be taken off line on July 13, 1980, and this would remove approximately 303 megawatts (MW) of capacity from the system for about three weeks. The summer peak in power demand extends from June to September, and this three week outage would occur at a critical time during the peak demand season.

Based upon projected load demand forecasts provided by Florida Power Corporation, if Unit 2 were taken off line for the three week period to tie in a rehabilitated existing electrostatic precipitator, there would be a shortfall in generation capacity of approximately 441 MW during July. If the outage of Unit 2 is delayed for three months until the summer peak has passed, the projected shortfall in generation capacity for July would be only 138 MW.

July is the only month when Florida Power Corporation projects a shortfall in power generation capability. However, the company wants to postpone the Unit 2 outage until October, 1980, not only because of the projected shortfall during July, but also because of other factors described in the following paragraphs.

On February 26, 1980, Unit 3 at the Crystal River Plant was taken off line due to electrical and mechanical problems. Unit 3 is a nuclear unit which has the capability to generate 704 MW. The originally projected date for bringing Unit 3 back on line was May 18, 1980. However, this projection has been extended because of additional problems with Unit 3 which had to be corrected during this outage. The current projected date for bringing Unit 3 back on line is July 20, 1980. The projected load demand forecasts which were supplied by Florida Power Corporation to EPA assume that Unit 3 will be operating at 704 MW by August 1, 1980, but the company is not confident about this assumption because of the two month slippage in the Unit 3 restart which has already occurred. In addition, the projected load demand forecasts assume that there will be no new, unanticipated outages on the other Florida Power Corporation units during the summer peak period.

The projected shortfall during July would have to be made up by the purchase of power from other utilities and/or the use of gas turbines. Both of these alternatives, according to Florida Power Corporation, would cost more for power generation than the generation of power by Unit 2 while burning coal. Therefore, the greater the July shortfall is the greater will be the cost to the power consumers. According to Florida Power Corporation, if the entire shortfall could not be made up, there could be the possibility of power brownouts.

Unit 2 is currently operating at a derated level of approximately 303 MW with a new electrostatic precipitator. When the rehabilitated existing precipitator is tied into the unit, an additional 152 MW will be generated by Unit 2. During May of this year, a particulate emission test was conducted on Unit 2 while operating at the derated level on the new precipitator. The measured emission rate was 0.02 pounds per million BTU's of heat input which is well below the allowable emission limit in the Florida SIP of 0.10 pound per million BTU's. Therefore, Unit 2 is currently operating at emission levels in compliance with the allowable SIP limit and the proposed Amendment to the DCO will require Florida Power Corporation to maintain compliance with an interim limit of 0.10 pound per million BTU's during the three (3) month extension.

The proposed Amendment to the Delayed Compliance Order satisfies the applicable requirement of Section 113(d)(5) of the Act. If the Amendment to the Federal Delayed Compliance Order is issued, source compliance with the terms of the amended Order would preclude further EPA enforcement action under Section 113 of the Act against this source during the period the amended Delayed Compliance Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would also be barred. In the event of an emergency air pollution episode, the source would have to comply with all of the provisions of Section 303 of the Act. Comments received by the date specified above will be considered in determining whether EPA should issue the Amendment to the Delayed Compliance Order. Testimony given at any public hearing concerning the Amendment to the Delayed Compliance Order will also be considered. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Amendment to the Delayed Compliance Order in 40 CFR Part 55.

(42 U.S.C. 7413(d) *et. seq)*

Dated: July 21, 1980.

Rebecca W. Hanmer,

Regional Administrator, Region IV.

In consideration of the foregoing, it is proposed to amend 40 CFR Part 55 of Chapter I, Title 40, Code of Federal Regulations as follows:

In § 55.230, paragraphs (f)(1)–(3) and (k) (4) and (5) are revised to read as follows:

Subpart K—Florida

§ 55.230 Federal delayed compliance orders issued under section 113(d)(5) of the Act.

* * * * *

(f) * * *

(1) Particulate emissions from Crystal River Unit 2 shall not exceed 0.10 pound per million BTU heat input, maximum 2-hour average.

(2)[Reserved.]

(3) FPC as part of the control strategy shall operate, calibrate, and maintain an instrument to continuously monitor and record visible emissions from Crystal River Unit 2. Visible emissions from Crystal River Unit 2 shall be limited to 20% opacity averaged over a six-minute period recorded by the continuous opacity monitor. In the event of a malfunction of the continuous opacity monitor, opacity shall be determined in accordance with EPA Reference Method 9 averaged over a six-minute period. The continuous opacity monitor strip charts shall be maintained by the Company and be subject to EPA review when requested.

* * * * *

(k) * * *

(4) October 30, 1980—Complete on-site construction or installation of particulate emission control equipment.

(5) December 30, 1980—Complete shakedown operations and performance tests for particulate emissions in accordance with EPA reference methods as contained in 40 CFR Part 60, Appendix A on the emission control equipment; also, achieve compliance with the Florida Air Pollution Rules, Chapter 17–2 and certify such compliance to the Director of the Enforcement Division, Region IV.

As amended, Delayed Compliance Order Docket No. DCO–78–6 issued on November 21, 1978, shall remain in full force and effect until termination by EPA.

[FR Doc. 80-26806 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 415

[FRL 1594-6]

Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period; notice of availability of treatability study; and corrections to the proposed regulations.

SUMMARY: On July 24, 1980 the EPA proposed regulations under the Clean Water Act to limit the discharge of effluents to waters of the United States and the introduction of pollutants into publicy owned treatment works from inorganic chemicals manufacturing facilities (45 FR 49450).

EPA is extending the period for comments on the proposed regulations from September 22, 1980 to October 22, 1980.

The document "Treatability Studies for the Inorganic Chemicals Manufacturing Point source Category" is available from EPA on request.

Corrections to the proposed regulation are enumerated below.

DATE: Comments on the proposed regulation for the inorganic chemicals manufacturing industry must be submitted to EPA by October 22, 1980.

ADDRESS: Send comments to Mr. Elwood E. Martin, Effluent Guidelines Division (WH-552), Environmental Agency, 401 M St. S.W., Washington, D.C. 20460, Attention: Inorganic Chemicals Manufacturing Rules. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Elwood E. Martin, at the address listed above, or call (202)426-2582. The economic analysis may be obtained from Ms. Renee Rico, Water Economics Branch (WH-586), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, or call (202)426-2617.

Corrections

1. Page 49451, column 3, line 41, "AZ" is corrected to read "AX".
2. Page 49458, column 3, line 26, "retailed" is corrected to read "retained".
3. Page 49458, column 3, last line, "changes" is corrected to read "changed".
4. Page 49463, column 2, line 39, "required" is corrected to read "requiring".
5. Page 49471, column 1, line 13, the "Note" is corrected to read, "The items marked with an asterisk contain technical amendments which do not change the substance or applicability of the regulations and EPA is not inviting comment on the substantive provisons of these items."
6. Page 49479, column 1, Section 415.67, the table is corrected to read as follows:

Subpart F—Chlor-Alkali Diaphragm Cells BCT Effluent Limitations

[kg/kkg (or 1b/1,000 1b) of product]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Tss	0.20	0.10
Ph	[1]	[1]

[1] Within the range 6.0 to 9.0.

7. Page 49484, column 3, § 415.203 is changed and §§ 415.204, 415.205 and 415.206 are added to read as follows:

§ 415.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.204 [Reserved]

§ 415.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.206 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS). The limitations are the same as the new source performance standards specified in § 415.205.

Dated August 28, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-26998 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 415

[FRL 1594-7]

Inorganic Chemicals Manufacturing Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Public hearing.

SUMMARY: Notice is hereby given of a hearing open to the public to discuss and receive comments on pretreatment regulations proposed in the **Federal Register** (July 24, 1980, (45 FR 49450) Inorganic Chemicals Manufacturing).

DATES: A public hearing has been scheduled for the following date and place: October 15, 1980—Washington, D.C.

ADDRESS: The public hearing will be held at the following address: Hall of States, Skyline Inn, South Capital and I Streets, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone 202-426-2560.

Anyone wishing to make an oral statement and submit written testimony at the hearing should indicate so in writing to the above address.

SUPPLEMENTARY INFORMATION: Registration for the Hearing will be held from 8:30 to 9:00 a.m. Oral testimony will be presented as follows: 9:30 to 11:30 a.m.; 1:00 to 3:00 p.m. Following the registration period there will be a brief presentation by an EPA official covering the development of effluent limitations and standards under the Clean Water Act of 1977. Also, opportunity will be given through the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during a thirty minute question and answer session which will following the presentation of oral testimony.

A court recorder will be present at the public hearing. Official transcripts will be available upon request.

Dated: August 28, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-26999 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 717

[FRL 1595-4; OPTS-00016]

Allegations of Significant Adverse Reactions; Public Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of Meetings Related to Proposed Rule.

SUMMARY: EPA will sponsor two public meetings on the proposed rule implementing section 8(c) of the Toxic Substances Control Act, 45 FR 47008 (July 11, 1980). Section 8(c) requires that "any person who manufactures, processes, or distributes in commerce any chemical substance or mixture" must keep "records of significant adverse reactions to health or the environment alleged to have been caused by the substance or mixture." Section 8(c) requires that allegations relating to employees be kept for 30 years, and that all other allegations be kept for five years.

DATES: The first public meeting will be held in Newark, New Jersey on Monday, September 15, 1980 and will consist of two sessions, 10:30 a.m. to 5 p.m. and 7 p.m. to 11 p.m.

The second public meeting will be held in Houston, Texas on Thursday, September 18, 1980 and Friday, September 19, 1980, and will be in three sessions: September 18 from 1 p.m. to 5 p.m., and 7 p.m. to 11 p.m.; and September 19 from 9 a.m. to 1 p.m.

ADDRESSES: The first public meeting will be held in the Essex Room at the Downtowner-Hilton Gateway in Newark, New Jersey, 07102. The hotel is on Raymond Boulevard and McCarter Highway directly across from the Pennsylvania train station. The telephone number is 201/622-5000.

The second public meeting will be in the Mariner Conference Center, 6th floor of the Holiday Inn, 801 Calhoun Street, Houston, Texas 77001. The telephone number is 713/659-2222.

These meetings are in addition to request meetings being held in Washington, D.C. as discussed in the notice of proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Toll-free: (800-424-9065) in Washington, D.C.: (554-1404).

Arrangements for presentation of prepared statements should be made with:

Newark, New Jersey meeting:
Ms. Jacqueline Kalanski, Public Participation Assistant, EPA Region II, Program and Toxic Integration Board, 26 Federal Plaza, Rm. 930, New York, N.Y. 10007 (212-264-1925).

Houston, Texas meeting:
Dr. Norman Dyer, Chief, Pesticides and Hazardous Materials, EPA Region VI, 1201 Elm St., Dallas, Texas 75207 (214-767-2734).

SUPPLEMENTARY INFORMATION: The purpose of each meeting is to inform the public about the section 8(c) proposed rule, to provide an opportunity for clarification, and to solicit opinions, suggestions and information from members of the public: labor, environmental groups, industry, consumers, and residents located near chemical plants.

In each city, EPA will conduct daytime and evening sessions. Part of each session will be devoted to an explanation of the rule by EPA staff, with an opportunity for questions and answers. The latter part of each session will be devoted to listening to prepared statements and additional comments. Those persons offering comments will be limited to 10 minutes, although longer prepared texts will be accepted for the record. All comments will be placed in the public record and will be considered in developing the final rule.

Copies of the proposed rule are available from the OPTS Industry Assistance Office by calling toll free, 800-424-9065. The following is a brief explanation of the rule:

Allegations of Significant Adverse Reactions

1. *Description.* The proposal requires manufacturers, processors, and distributors of chemical substances and mixtures to maintain records of significant adverse reactions alleged to have been caused by the substance or mixture. Allegations relating to employees are to be kept for 30 years; all others for five years.

2. *Purpose.* a. the records will establish an historical record of adverse reactions and related information which will be available for examination whenever a substance is assessed for risks.

b. Records of allegations, filed according to the implicated cause and separately from medical records, will provide a means to reveal patterns of adverse effect which might otherwise go unnoticed or undetected for long periods of time.

c. Automatic reporting of specified records to EPA would provide a means to identify previously unknown chemical hazards.

3. *Coverage.* a. Manufacturers of chemical substances or mixtures.

b. Processors of chemical substances or mixtures. the TSCA definition of processor covers anyone who prepares a chemical substance (including a natural substance) or mixture, after its manufacture, for distribution in commerce. for example, TSCA processors may include manufacturers of automobiles, paper products, or electronic components. Analysis indicates that approximately 600,000 establishments employing about 20 million employees could be subject to this rule.

c. Distributors, except for retail distributors, may send allegations they receive to the appropriate manufacturer, processors, or supplier, if a separate log is kept which describes the allegations.

d. No small bsinesses, other than retail distributors, are excluded from any provision of the rule.

4. *Key provisions*—a. *"Allegation"* is defined as a statement made without formal proof or regard for evidence. An allegation is different from a section 8(e) Substantial Risk Notification, which is accompanied by information which reasonably supports the seriousness of the effect or the probability of its occurrence.

b. *"Significant adverse reaction"* is

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defined as a reaction that may indicate the possibility of long-lasting or irreversible damage. Significant health effects are those that occur repeatedly upon exposure, persist beyond the period of exposure, or occur after cessation of exposure. Environmental effects are defined as gradual or sudden changes in the composition of plant and animal life in an area.

c. *Recordkeeping.* Companies must keep at both the plant site and at company headquarters, a written or oral allegation (not anonymous) that implicates a substance. Companies will file the allegation according to the most specific of the following:

(1) A chemical substance identify;

(2) A mixture identify, if the implicated substance cannot be identified; or

(3) Identity of the article, company process or operation, or site discharge (including waste disposal sites), if the implicated substance cannot be identified.

d. *EPA form 7710-29.* This one-page, optional recordkeeping form must be completed when an allegation is reported to EPA. Submission may be required by a letter signed by the Assistant Administrator of OPTS or his designee.

e. *Automatic reporting and pilot test.* The proposal states that the final rule will include a means for EPA to learn of allegations and describes several alternatives. We are concerned that the automatic reporting be designed to result in reporting of allegations than can be reasonably analyzed. It is likely that EPA will conduct a pilot test before finalizing any automatic reporting provision. The following approaches are being considered.

(1) Three allegations about the same cause are received in a 12-month period. The "Reports Impact Analysis", available from the EPA Industry Assistance Office, examines this option. Companies would have 15 days to submit the reports on the EPA standard form. The time-frame for the threshold could be extended to a period a long as five years and the appropriate trigger number is up for comment.

(2) Immediate reporting of one, or a combination of the following.

(i) Any allegations of carcinogenic, mutagenic, teratogenic or reproductive effects.

(ii) Any allegation involving a new chemical substance under TSCA section 5, an Inventory Testing Committee recommended substance, or a substance subject to a proposed or final rule under TSCA section 4, 5 or 6.

(iii) Any allegation that involves a substance which had been the subject of a previous section 8(c) report.

(3) An annual statistical report to summarize the kinds and numbers of allegations received by the company.

f. *Alternative compliance and other Federal laws.* Any reporting requirement will be waived if the allegation has been reported to EPA under section 8(e) as a substantial risk notification or to CPSC under section 15(b) as a substantial hazard notification.

(1) *Occupational Safety and Health Administration (OSHA).* OSHA requires that employers record illnesses and injuries in a log if the employer determines that the case is the result of a work accident or from an exposure in the work environment. Companies with ten or fewer employees are exempted from recordkeeping. Conversely, under section 8(c), the employer must record *allegations.*

(2) *Consumer Product Safety Commission (CPSC).* CPSC has twice proposed a recordkeeping requirement under section 16(b) of the Consumer Product Safety Act, to require industry to keep consumer complaints. This proposal states that such consumer complaints be filed according to the chemical or article identity, and retained for the same length of time as section 8(c) records. There is no CPSC schedule for promulgating the rule.

All written comments, a transcript of the public meetings and copies of all documents presented at the meetings will be available for public inspection in the OPTS Reading Room, Room 447 East Tower, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except holidays.

The Agency invites specific comments and any information on the following topics and other topics of concern.

1. Who should be subject to the rule?
2. What should be the definition of "significant adverse reaction"?
3. What constitutes a recordable allegation?
4. How many and what types of allegations are currently made or received?
5. How should allegations be reported to EPA and under what conditions?

Dated: August 28, 1980.

Walter W. Kovalick, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80-26941 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 80-56]

Temporary Tariff Filing Regulations Applicable to Carriers and Conferences of Such Carriers in the Foreign Commerce of the United States; Consideration of Petitions by Several Conferences

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to promulgate rules which would clarify and amend its regulations contained in its General Order 13, 46 CFR 536.10(c), governing the privilege of filing temporary tariff amendments by common carriers and conferences of such carriers operating in the foreign commerce of the United States. The Commission also proposes to cancel its present regulations contained in 46 CFR 536.10(c) as to carriers subject to the filing requirements of section 18(c), Shipping Act, 1916, (46 U.S.C. 817(c)), thereby discontinuing the privilege of permitting tariff amendments by the temporary filing method for such carriers. Alternatively, the Commission proposes to discontinue the privilege of permitting tariff amendments by the temporary filing method for all carriers and conferences subject to either section (18(b) S.A. 1916 (46 U.S.C. 817 (b) or (c)) (46 U.S.C. 817(c)).

DATE: Comments due on or before November 3, 1980.

ADDRESSES: Comments (Original and 15 copies) to: Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573. (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission has, since 1965, allowed common carriers and conferences of such carriers the privilege of facilitating rate changes in their tariffs by the use of temporary tariff filing methods such as telegrams, cable, or mail (in the form of letters, rate circulars). These regulations were promulgated pursuant to a rulemaking proceeding in Docket No. 964, General Order 13. Minor modifications were implemented on January 1, 1979, pursuant to the rulemaking proceeding in Docket No. 72-19, General Order 13—Revised.

On March 27, 1979, the Commission received a petition for a rulemaking

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proceeding filed by the Trans-Pacific Freight Conference of Japan/Korea and the Japan/Korea-Atlantic and Gulf Freight Conference [1] requesting that the present Commission regulations 46 CFR 536.10(c) be expanded to allow carriers and conferences located outside the continental United States to file any type of amendment to an existing tariff via international telex or cable.

Additionally on May 3, 1979, the Commission received a petition for a rulemaking proceeding filed by the Iberian/U.S. North Atlantic Westbound Freight Conference, et al.,[2] requesting that the Commission's present temporary tariff filing regulations be amended to permit the filing of surcharges by a temporary method.

Petitioners have alleged that the present regulations are not extensive enought to allow for certain amending tariff provisions which seem to require immediate notice and that the present restrictions are harsh and burdensome.

Although petitioners acknowledge the Commission's established procedures for the consideration of a waiver of any of the tariff filing requirements, including statutory notice provisions of the Shipping Act, 1916, they allege that the Commission's procedures are not stream-lined enough to permit immediate implemention of certain tariff material. The Commission, however, is of the opinion that the petitioners have not demonstrated that the special permission procedure is inadequate to facilitate a tariff amendment which is critical to the operations or economics of either carrier(s) or shippers(s).

The Commission does not at this stage endorse or support the position advanced by the petitioning tariff filing entities who request the expansion of the temporary tariff filing privilege. Rather the Commission believes that the rationale, purpose and justification for temporary tariff filings does not appear to support the filing of any temporary tariff amendments, except possibly those amendments which will reduce the level of a specific commodity rate or the level of a class rate when filed under section 18(b), (46 U.S.C. 817(b)).

In the instance of rate amendments filed by carriers subject to section 18(c), (46 U.S.C. 817(c)), however no temporary tariff amendments should be permitted. This proposed exclusion is necessary to ensure the proper administration of the Commission's function to analyze the level of proposed rates and where necessary issue suspension orders on such rates which appear to violate section 18(c). The temporary tariff filing method is a form of tariff filing which does not facilitate the rapid and explicit comparison of rates which comparison is necessary for the shipping industry and the Commission's staff in order to react properly within the time constraint of 30 days.

It appears that consideration of possible alternative methods of transmitting tariff material is long overdue and should appropriately be considered in this rulemaking. The Commission's long-term objectives are expeditious tariff filing systems utilizing the latest technology to facilitate the needs of carriers, shippers and the Government, and produce a high quality product.

Currently, the Commisison is reviewing the applications of electronic data processing (EDP) and will soon have the opportunity to evaluate the utilization of state-of-the-art technology to electronically transmit permanent tariff filings.

In consideration of the above, it is the opinion of the Commission, that the concept of permitting the continued use of the temporary tariff filing method now requires a thorough and comprehensive review in order to determine whether the present regulations should be allowed to remain in effect at or whether the present regulations should be modified as proposed herewith.

The petitions of the several conferences, except to the extent that the proposed rule reflects the promulgation of certain temporary tariff filing privileges, are in all other respects denied.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 533), and sections 18(b), 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b)), 821 and 841(a)), the Commission proposes to consider the amendment of its present regulations (46 CFR 536.10(c)) concerning temporary tariff filings wherein it will seek to adopt the following rule:

§ 536.10 Amendments to tariffs.

* * * * *

(c) Temporary Tariff Amendment. In order to facilitate the filing of reductions in established commodity or class rate levels as quickly as possible without the delay incurred by the preparation and filing of permanent revised pages as otherwise required, temporary filings received by hand, delivered telegram, or received over the Commission's telegraphic equipment will be permitted subject to the following conditions:

(1) The information received is clear, legible and contains an explanation of all abbreviations and reference marks used in the temporary filing; and additionally contains the following information:

(i) The operating name of the carrier or conference as it appears on the tariff being amended;

(ii) The FMC number of the tariff being amended;

(iii) The number of the previously issued page where the effective rate(s) is located;

(iv) An exact description of the commodities upon which rates are being reduced, or the commodity or class rate item number if the rate reduction applies to all commodities contained in a tariff using item numbers;

(v) the rate reduction which is being implemented;

(vi) The effective date of the rate reduction.

(2) If the temporary filing is submitted pursuant to special permission authority already granted, reference must be made to the permission number.

(3) Temporary amendments accepted for filing cannot be amended by another temporary tariff filing, nor can they be withdrawn or rescinded in any manner.

(4) Temporary filings must be simultaneously transmitted to all tariff

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[1] The petition of the Trans-Pacific Freight Conference of Japan/Korea—Japan/Korea-Atlantic and Gulf Freight Conference is now joined in support by a petition filed collectively by Japan/Korea-Atlantic and Gulf Freight Conference, Japan-Puerto Rico and Virgin Islands Freight Conference, Deli/Pacific Rate Agreement, Deli/New York Rate Agreement, Java/Pacific Rate Agreement, Java/New York Rate Agreement, Trans-Pacific Freight Conference of Japan/Korea, New York Freight Bureau, Trans Pacific Freight Conference (Hong Kong), Straits/New York Conference, Philippines North America Conference, Thailand/Pacific Freight Conference, Thailand/U.S. Atlantic and Gulf Conference, and Agreement Nos. 10107 and 10108. Also, the South Atlantic-North Europe Rate Agreement, North Atlantic United Kingdom Freight Conference, North Atlantic French Atlantic Freight Conference, North Atlantic Continental Freight Conference, North Atlantic Baltic Freight Conference, Gulf/United Kingdom Conference, Continental-U.S. Gulf Freight Association, U.K./U.S.A. Gulf Westbound Rate Agreement, North Atlantic Westbound Freight Association, Continental North Atlantic Westbound Freight Conference. "Trans-Atlantic Conferences" have filed a joint petition supporting the petition of the Trans-Pacific Freight Conference of Japan/Korea and the Japan/Korea-Atlantic and Gulf Freight Conference. The Trans-Atlantic Conferences further support that the conferences domiciled in the United States be afforded the relief sought by foreign based conferences. Further, on April 28, 1980, the Commission received a petition filed by North Europe—U.S. Pacific Freight Conference in support of the Trans-Pacific Freight Conference of Japan/Korea, et. al. petition.

[2] Petition filed collectively with: Marseilles North Atlantic U.S.A. Freight Conference, the Med-Gulf Conference, the New Zealand Rate Agreement, the North Atlantic Mediterranean Freight Conference, the Spanish Eastbound Freight Conference, the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement and the West Coast of Italy/Sicilian and Adriatic Ports North Atlantic Range Conference and the U.S. Atlantic & Gulf/Australia-New Zealand Conference, except insofar as Seatrain International, S.A., is a member of petitioning conferences.

subscribers via class mail, postage prepaid at the same time that they are transmitted to the Commission.

(5) Temporary tariff filings may not be utilized to file:

(i) Increases of any nature;

(ii) Rule changes;

(iii) Surcharges, arbitraries or amendments thereto;

(iv) Amendments to tariffs of controlled carriers;

(v) Changes in commodity descriptions or new commodity descriptions;

(vi) Changes in the basis of assessing freight charges, e.g., Measurement to Weight;

(vii) Temporary tariff filings may not contain an expiration date.

(6) All temporary filings shall be followed by the filing of a permanent revised page covering the same tariff changes which fully complies with § 536.10(b). Such permanent filing shall state the method by which the temporary filing was submitted and the date it was submitted. Such permanent amendments must be filed within 15 days after receipt of the temporary filing.

(7) A permanent filing is unnecessary where a temporary filing is rejected; however, all tariff subscribers must be notified that the temporary filing has been rejected.

(8) Temporary tariff is a privilege which shall be used only when commercial emergency exists and not for routine amendments. The privilege of filing temporary amendments may be withdrawn or suspended by the Commission upon a demonstration of any infractions of these rule requirements. Thereafter, said carrier or conference shall amend its tariff only by filing permanent amendments until further notice by the Commission. Notification of abuse of the temporary tariff filing privilege will be transmitted in writing to the tariff filing entity by a designated Commission official. Only such notification will be made. Appeals of any action of withdrawal or suspension of the temporary tariff filing privilege are to be made in accordance with 46 CFR Part 502.

Alternatively, the Commission also request comments for the purpose of considering the deletion of the present tariff filing privilege and the relative conditions thereto. Therefore, it is herewith proposed that 46 CFR 536.10(c) is to be considered withdrawn.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-26800 Filed 9-2-80; 8:45 am]

BILLING CODE 6730-03-M

Notices

Federal Register
Vol. 45, No. 172
Wednesday, September 3, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Emergency Meeting

An emergency meeting of the Flue-Cured Tobacco Advisory Committee is scheduled to be held on Friday, September 5, 1980, at 1 p.m., in the Tobacco Division, Agricultural Marketing Service, laboratory, Room 223, Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27605.

The purpose of the meeting is to discuss policies relating to penalties for warehouses which violate sales schedules and other matters relating to orderly marketing of flue-cured tobacco. Items for consideration are contained in grower designation regulations as specified in 7 CFR Part 29.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. T. A. VonGarlem, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300 12th Street, SW., Washington, D.C. 20250 (202) 447-2567. Written statements shuld be submitted prior to or at the meeting.

Dated: August 29, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-26956 Filed 9-2-80; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

South Kaibab Grazing Advisory Board; Meeting

The South Kaibab Grazing Advisory Board will meet at 1:00 P.M., Wednesday, October 8, 1980, at the Ramada Inn Conference Room, Williams, Arizona.

The purpose of this meeting is:

1. Election of officers.
2. Adoption of bylaws.
3. Development of Allotment Management Plans.
4. Utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify:

Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046, Telephone: (602) 635-2681.

Those attending may express their views when recognized by the chairman.

Leonard A. Lindquist,

Forest Supervisor.

August 25, 1980.

[FR Doc. 80-26887 Filed 9-2-80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

NAME: Executive Committee of the Joint Council on Food and Agricultural Sciences.

DATE: September 9-10, 1980.

TIME AND PLACE: Sept. 9—1:00-4:00 p.m.; Sept. 10—8:30 a.m.-4:00 p.m. Rm. 3109, South Building, USDA, Washington, D.C.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before or after the meeting with the contact person below.

PURPOSE: Hear updates on the 1980 Annual Report of the Joint Council and the Research Facilities Study; review a draft of the report, "New Initiatives in Home Economics."

CONTACT PERSON: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C. this 15th day of August 1980.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-26873 filed 9-2-80; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 162]

Approval for Expansion of Foreign-Trade Zone No. 35, Philadelphia, Pa.

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Philadelphia Port Corporation, Grantee of Foreign-Trade Zone No. 35, located in Philadelphia, Pennsylvania, has applied to the Board for authority to expand its zone to include an 82-acre parcel within the Eastwick Industrial Park portion of the Philadelphia Interport Business Complex near the Philadelphia International Airport;

Whereas, the application was accepted for filing on May 27, 1980, and notice inviting public comment was given in the **Federal Register** on June 2, 1980 (45 FR 37249);

Whereas, the additional site is requested in order to provide zone facilities for light industrial users and distributors;

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that the approval of the application is in the public interest;

Now, Therefore, the Board hereby orders that the Grantee is authorized to expand Foreign-Trade Zone No. 35, in conformity with the application filed on May 27, 1980. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the new zone site. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 21st day of August 1980.

Philip W. Klutznick,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

[FR Doc. 80-26933 Filed 9-2-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take Marine Mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name: The Marineland of New Zealand.

b. Address: Marine Parade, Napier, New Zealand.

2. Type of Permit: Public display.

3. Name and Number of animals: California sea lions, *Zalophus Californianus.*

4. Type of Take: Transfer of captive sea lions.

5. Location of Activity: Sea Life Park, Waimanalo, Hawaii.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 3, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statments and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Government of New Zealand have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 S. Ferry Street, Terminal Island, California 90731.

Dated: August 27, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-26899 Filed 9-2-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Levels for Certain Cotton Textile Products From Taiwan

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing to 539,567 dozen the import level established for cotton knit shirts and blouses in Category 338/339, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1980, and reducing the levels for man-made fiber knit shirts and blouses in Category 638 to 1,499,589 dozen and for Category 639, to 5,003,879 dozen during the same twelve-month period.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: The bilateral agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan provides for administrative arrangements or adjustments to resolve minor problems arising in the implementation of the agreement. Pursuant to the terms of the bilateral agreement, the import levels for Categories 338/339, 638 and 639 are being adjusted for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76839) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 338/339, 638 and 639, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint established for cotton textile products in Category 338/339 and reduce the levels

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for Categories 638 and 639 during that period.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 28, 1980.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 21, 1979, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specific categories, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1980, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on September 3, 1980, the levels of restraint established in the directive of December 21, 1979, for Categories 338/339, 638 and 639 to the following:

Category	Amended 12-mo. level of restraint [2] (dozen)
338/339	539,567
638	1,499,589
639	5,003,879

[2] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to Taiwan, and with respect to imports of cotton and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-26907 Filed 9-2-80; 8:45 am]

BILLING CODE 3510-25-M

Adjusting Import Restraint Levels for Certain Cotton Textile Products From Pakistan

August 28, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Adjusting the level of restraint established for women's, girls' and infants' cotton knit shirts and blouses in Category 339 pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671), deducting prior overshipments and carryforward used in 1979 in the combined total amount of 12,107 dozen; and (2) adjusting the level for women's, girls' and infants' woven cotton blouses in Category 341 by deducting carryforward used last year in the amount of 947 dozen; and (3) adjusting the level for women's, girls' and infants' cotton trousers in Category 348 by deducting prior overshipments of 3,622 dozen. All of the aforementioned adjustments are applicable to the agreement period which began on January 1, 1980. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: The Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan provides for the borrowing of yardage in certain categories from the levels of the following year (carryforward) and for the deduction in the following year of the amounts used. Under the terms of the amended bilateral agreement, the U.S. Government is adjusting the levels of restraint for Categories 339 pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671) and 341 for carryforward used last year and is also deducting overshipments in Categories 339 pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671) and 348, all during the agreement period that began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76572) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, including Categories 341 and 348, produced or manufactured in Pakistan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the 12-month period which began on January 1, 1980 and extends through December 31, 1980. On May 6, 1980, a further letter dated April 30, 1980 was published in the **Federal Register** (45 FR 29877) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established a level of restraint for Category 339, including a sublimit for T.S.U.S.A. numbers 382.0669 and 382.0671 within the overall category limit. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the previously established levels of restraint for cotton textile products in Categories 339 pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671), 341 and 348.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 28, 1980.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 20, 1979, the Chairman, Committee for the Implementation of Textile Agreements directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, of cotton textile products in certain specified categories, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 3, 1980 and for the the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 339pt., 341 and 348, produced or manufactured in Pakistan, in excess of the following adjusted levels of restraint:

Category	Adjusted 12-mo level of restraint (dozen) [1]
339 pt.[2]	127,666
341	146,639
348	35,704

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

[2] In Category 339, only T.S.U.S.A. numbers 382.0669 and 382.0671.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-26906 Filed 9-2-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session October 9–10, 1980 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for October 9–10, 1980 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 27, 1980.

[FR Doc. 80-26917 Filed 9-2-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: September 24–26, 1980

ADDRESS: Howard Johnson's North, 4800 Merle Hay Road, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, D.C. (Tel: 202-376-8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Council is open to the public, and the proposed agenda includes:

An Overview of the Status and Issues Relating to Vocational Education in a Rural State
Visit to Schools
Joint Meeting of National and Central States SACVEs: The future of Vocational Education; Forum on Vocational Education in Rural America; National Institute of Education Study of Education in Rural America; Final Comments on Vocational Education in Rural America
NACVE Business Meeting: Executive Director's Report; Committee Reports: Executive, Special Populations, Legislative
Report of the National Coordinating Committee of Student Volunteer Organizations on Reauthorization of the VEA
Status Report on Council's FY '81–'82 Priorities and Work Plan
Report on Open Forum on Vocational Education in Rural America and Implementation for Council Action.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education, 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C., on August 27, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80-26830 Filed 9-2-80; 8:45 am]

BILLING CODE 4000-01-M

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, which provide that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward with the amount of carryforward used deducted from the level of the following year; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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Office of Elementary and Secondary Education

Grants To State Educational Agencies To Improve the Interstate and Intrastate Coordination of Migrant Education Program Activities; Closing Date for Transmittal of Applications for Fiscal Year 1981

Applications are invited for grants to improve the interstate and intrastate coordination of migrant education activities under the Title I, Elementary and Secondary Education Act (ESEA), Migrant Education Program.

The authority for these grants is contained in section 143 of Title I, ESEA, as amended by Pub. L. 95-561. Funds are appropriated through a set-aside from the total Title I Migrant Education Program appropriation.

(20 U.S.C. 2761, 2762, 2763)

Eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide grants to SEAs (that may apply individually or cooperatively) to plan and implement special projects designed to improve the interstate and intrastate coordination of migrant education activities.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a grant must be mailed or hand delivered to the Department of Education by October 21, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to: Department of Education, Application Control Center, Attention: 13.429, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(a) A legibly-dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(a) A private metered postmark.

(b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or, at least, first class mail. A late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand delivered application between 9:00 a.m., and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Grants under section 143 of Title I, ESEA, are made to SEAs to explore, design, and develop special projects to improve the interstate and intrastate coordination of migrant education activities.

The Secretary has identified nine broad areas of project activities as priorities for funding in fiscal year 1981. Six of these areas were developed as a result of a meeting, in September 1978, of representatives of the Department of Education and participating SEAs. These areas are now listed (as a suggested and non-exhaustive list) in 45 CFR 116d.24 of the Migrant Education Program final regulations. These six areas are as follows:

(a) *Parental involvement.* This type of project might include activities such as—

(1) Designing and establishing interstate (i.e., regional) parent advisory councils;

(2) Conducting research and development activities with respect to effective designs of parental involvement and the training of parent advisory council members; and

(3) Providing technical assistance to SEAs and LEAs in working with and training parent advisory council members.

(b) *Resource center.* This type of project might include activites such as—

(1) Evaluating the effectiveness and applicability of materials (such as instruments and procedures for needs assessment surveys, student assessment instruments, curricular materials, and evaluation methods and materials) developed for the Migrant Education Program;

(2) Disseminating the most appropriate of these materials; and

(3) Disseminating information about the availability of experts and other resources in the field of migrant education.

(c) *Identification and recruitment of children.* This type of project might include activities such as—

(1) Evaluating State identification and recruitment strategies;

(2) Developing a coordinated national program for the identification and recruitment of migratory children, including the design of model strategies and instruments; and

(3) Providing technical assistance to SEAs in the design and implementation of effective child identification and recruitment strategies.

(d) *Secondary school services.* This type of project might include activities such as—

(1) Assessing the needs of secondary school-level migratory children and the degree to which these needs are currently being met;

(2) Evaluating project designs and materials from Migrant Education Program secondary school projects, such as career education, vocational instruction, and dropout prevention projects, and the transfer of school credits; and

(3) Providing technical assistance to SEAs and LEAs in the design and implementation of secondary school projects for migratory children.

(e) *Information and dissemination center.* This type of project might include activities such as—

(1) Conducting a national awareness project for the Migrant Education Program—directed to the parents of eligible children, other parents and adults, the general education and educational research communities, and other family and child service agencies; and

(2) Developing and disseminating national Migrant Education Program informational materials.

(f) *Staff development services.* This type of project might include activities such as designing, developing, and implementing interstate training strategies for Migrant Education Program staff members.

In addition to these six areas of activity, three additional areas were developed as a result of a formal meeting, held in March 1980, with all SEAs. These three areas are as follows:

(a) *Interagency coordination.* This type of project might include activities such as—

(1) Designing and implementing model interstate (i.e., regional) strategies of interagency coordination of services to migratory children; and

(2) Providing technical assistance to SEAs in implementing these strategies.

(b) *Record transfer system uses.* This type of project might include activities such as exploring and designing strategies of additional uses for the existing migrant student record transfer system (e.g., program management information, instructional information refinements, skills information transmittal.)

(c) *Project evaluation.* This type of project might include activities such as exploring and designing special evaluation strategies for local migrant education projects (e.g., strategies for short-term projects; strategies for use in the migrant student record transfer system in evaluation and assessment).

These nine areas of project activities (six developed from the September 1978 meeting and now listed in 45 CFR 116d.24 of the Migrant Education Program final regulations; three developed from the March 1980 meeting) are the Secretary's priorities for fiscal year 1981 funding under section 143 of Title I, ESEA. Although both the statute and program regulations authorize other types of interstate and intrastate coordination project activities to be funded, project proposals that address one of the nine identified areas and that receive the highest evaluation—according to the project selection criteria—will receive priority consideration. If sufficient funds are available, project proposals that address other areas of interstate and intrastate coordination and that also receive the highest evaluation—according to the project selection criteria—may be funded. However, it is quite possible that no projects that do not address the priorities will be funded.

Grant applications will be evaluated according to the selection criteria listed in 45 CFR 100a.202 through 100a.206 of the Education Division General Administrative Regulations (EDGAR). However, in deciding which project proposals to select for funding, the Secretary will also take into consideration the extent to which the proposed project includes activities in the priority areas of consideration listed and described in this notice. The selection criteria for the evaluation of project proposals are as follows:

(a) Plan of operation.
(b) Quality of key personnel.
(c) Budget and cost effectiveness.
(d) Evaluation plan.
(e) Adequacy of resources.

Each criterion will be weighted equally.

Available Funds: The Secretary expects that $2.6 million will be available for fiscal year 1981. The Secretary estimates that these funds will support 30–40 projects. These estimates, however, do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and instructions will be mailed to all eligible SEAs. Additional forms and instructions may be obtained by writing to the Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3608), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the grant application package.

Applicable Regulations: The regulations that apply to this program include the following:

(a) The Migrant Education Program Regulations (45 CFR Part 116d) published in the **Federal Register** on April 3, 1980 (45 FR 22660).

(b) The Title I General Provisions Regulations (45 CFR Part 116).

(c) The Education Division General Administrative Regulations (45 CFR Parts 100a and 100c).

Waiver of Proposed Rulemaking Procedures for Establishing Funding Priorities: In accordance with section 431(b)(2)(A) of the General Education Provisions Act (GEPA) (20 U.S.C. 1332(b)(2)(A)), it is the procedure of the Department of Education to offer interested persons the opportunity to comment on proposed regulations, including the funding priorities to be used in discretionary grant programs such as "Grants to State Educational Agencies to Improve the Interstate and Intrastate Coordination of Migrant Education Activities." However, based upon the documents that the Department of Health, Education, and Welfare submitted to the Congress during the budget deliberations, we believe that when the Congress appropriated funds for fiscal year 1981 discretionary grants under this program, it was expected that the grants would be made for roughly the same period as the Title I, ESEA, Migrant Education Program formula grants to SEA's—that is, for the 1980–81 school year. Therefore, these discretionary grants must be awarded as close to the beginning of the 1980–81 school year as possible.

Under section 431 of GEPA (20 U.S.C. 1332), no proposed regulations for the administration of such programs may take effect until after a period for public comment and a subsequent 45 day period following transmittal to the Congress. Clearly, it would be impossible to now follow that public rulemaking procedure with respect to the funding priorities for these discretionary grants if they are to be awarded close to the beginning of the 1980–81 school year.

For the reasons discussed above, the Department has determined that it would be impracticable and contrary to the public interest, under 5 U.S.C. 553(b), to delay the awarding of these fiscal year 1981 grants until after the Department has followed the public rulemaking procedures to establish funding priorities. Consequently, this application notice describes the funding priorities for fiscal year 1981 grants. However, specific program regulations for "Grants to State Educational Agencies to Improve the Interstate and Intrastate Coordination of Migrant Education Activities" are being developed and will soon be published in the **Federal Register** for public comment. Those regulations will fully describe the funding priorities and will be published in final form prior to the submission of applications for fiscal year 1982 grants.

Further Information: For further information, contact Dr. Walter E. Steidle, Office of Migrant Education, Office of Elementary and Secondary Education, Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3608), Washington, D.C. 20202. Telephone (202) 245–2222.

(20 U.S.C. 2761, 2762, 2763).

(Catalog of Federal Domestic Assistance No. 13.429; Educationally Deprived Children-Migrants)

Dated: August 26, 1980.

Steven A. Minter,

Acting Secretary of Education.

[FR Doc. 80–26915 Filed 9–2–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Extension Service: Availability of Funding

AGENCY: Department of Energy, Region I.

ACTION: Notice of the Availability of Funding.

SUMMARY: This document announces the issuance of a Program Solicitation by the Department of Energy, Region I. The Solicitation invites grant applications from States located in Region I for funding of projects in support of the Energy Extension Service Program.

DATE: Grant applications must be received no later than 4:00 p.m., September 9, 1980 to: Department of Energy, Region I, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: C. G. McGowan, Office of Program Operations, (617) 223–5207 Louise S. Urgo, Office of Management and Support, (617) 223–5207.

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SUPPLEMENTARY INFORMATION:

I. Backgound

The Department of Energy, Region I is making financial assistance available to the States located in the Region to support the ongoing Energy Extension Service (EES) program. Grants are to be issued to fund certain eligible projects that will enhance the capability of the States to implement the EES program.

II. Eligible Grantees

Eligible grantees are the States located in the Department of Energy, Region I.

III. Eligible Activities

Grants issued pursuant to this notice are limited to the following projects:

a. Production of public service television and/or radio announcements for energy-related consumer information.
b. Preparation of an energy resource directory.
c. Assistance in improving State Energy Office library facilities.
d. Preparation of consumer guidebook for evaluation of energy conservation and alternate energy products.

IV. Application Procedures

The Program Solicitation and Grant Applications have been provided to each State in Region I. Application content and evaluation criteria are set forth in the Program Solicitation. Grant awards will be issued prior to September 30, 1980.

Dated: August 27, 1980.

Joseph P. Capello,

Director, Procurement Operations Office.

[FR Doc. 80-26905 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of special nuclear material of United States origin from Norway to the United Kingdom. The nuclear material consists of 12 irradiated fuel rods containing 3.923 kilograms of uranium, enriched to 10.117% in U-235, and 7.8 grams of produced plutonium. This material was originally shipped from the United States to Norway for irradiation, and is to be retransferred to the United Kingdom for post-irradiation examination. After examination and storage, the material is to be returned to the United States for ultimate disposition.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/EU (NO)-31 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 18, 1980.

Dated: August 28, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-26826 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 20 milligrams of plutonium enriched to 88.62% in Pu-244 to the Federal Republic of Germany to be used for basic research in nuclear physics concerning cross section studies of Pu-244.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract S-EU-657 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: August 28, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Nuclear and Technical Programs.

[FR Doc. 80-26827 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Record of Decision To Construct Electrical Transimission Facilities, Okanogan Area of Northeastern Washington

Decision

The decision has been made to construct transmission facilities required to satisfy electrical power and reliability needs in the Okanogan area of northeastern Washington. A 55-mile 230-kV transmission line will be constructed between Bonneville Power Administration's (Bonneville's) Chief Joseph and Tonasket Substations. The route of this transmission line is identified as Alternative B within the supplement to Bonneville's Final Proposed Fiscal Year 1976 Program Environmental Impact Statement (DOE/EIS-0048-FS-1, January 1980). A new substation referred to as East Omak Substation (Coleman Butte Substation in the EIS) will also be constructed. The site selected is located north and east of Omak, Washington, in section 24, T. 34N, R. 26E, and is identified as Bonneville's proposal within the EIS supplement.

Background

The Bonneville Power Administration (Bonneville), operating in accordance with legislated authorities, has conducted power marketing and power flow studies of the Okanogan area. Bonneville customers in the area are the Okanogan County Public Utility District (PUD), the Douglas County PUD, and the Okanogan Electric Cooperative. Electrical service to the area is presently provided by Bonneville over two 115-kV lines. Studies conducted jointly by Bonneville and its customers in 1973 indicated that additions to the power transmission system were required by 1975, in order to serve growing loads and to improve system reliability. Bonneville's Final Fiscal Year 1976 Program EIS described transmission system additions which would satisfy these requirements. The proposed transmission line required a right-of-way across Colville Tribal lands. However, Bonneville was not able to reach an agreement with the Tribal Council regarding an easement.

Since 1975, the project has been held in abeyance pending resolution of issues with the Colville Tribal Council. During this period, Bonneville was forced to deviate from its reliability criteria while electrical loads have continued to increase. Bonneville could no longer defer the transmission project so a new transmission proposal was developed. This new proposal involved 230-kV construction on a line route which avoided the Colville Tribal lands. In June 1979, this proposal was described in a draft supplement to Bonneville's Final 1976 Program EIS.

Since issuance of the draft EIS supplement, Bonneville successfully negotiated a settlement with the Confederated Colville Tribes which allows the transmission line to cross the reservation. Bonneville has, therefore, reverted to the original proposal which has less environmental impact, is less expensive, and is more desirable from an engineering standpoint. A Final Facility Location Supplement—which identifies this change in circumstances—was filed in March 1980 (DOE/EIS-0048-FS-1).

Description of Action

The action involves construction of a 55-mile (88 km) double-circuit 230-kV transmission line, construction of an East Omak Substation, and modifications to Bonneville's Chief Joseph and Tonasket Substations.

The route to be utilized by the transmission line is identified in the EIS as Alternative B. It begins at the Chief Joseph Substation, crosses the Columbia River just upstream from Chief Joseph Dam, and proceed north across the Colville Indian Reservation, past Soap Lake. The route bypasses the town of Okanogan en route to the East Omak Substation located north and east of Omak. Initially, one side of this 230-kV line will be operated at 115-kV with a connection to Grand Coulee-Foster Creek 115kV line. From East Omak Substation, the new line would generally follow the existing Okanogan-Tonasket 115-kV line into Tonasket Substation. The existing 20 miles of 115-kV single-circuit line between Omak and Tonasket would be removed after the new circuits are energized. The proposal will utilize some new rights-of-way in order to mitigate impacts to visual, residential, and agricultural (orchard) resources.

The new East Omak Substation will serve the function of distributing power to the Omak and Okanogan areas and serve as a connection to the northern Okanogan Valley and Tonasket, Washington. Four acres (2 ha) of land will be initially developed. Approximately 15 acres (6 ha) would eventually be required for ultimate substation development.

Description of Alternatives

The alternatives considered by Bonneville in reaching its decision were:

1. Nonconstructive Alternatives
   a. No action
   b. Limiting consumption of electricity
2. Construction alternatives
   a. Provide transmission support from Grand Coulee Dam
   b. Transmission line route alternatives
   c. Underground transmission
   d. Local generation

Basis of Decision

Bonneville presently provides services to the Okanogan County PUD, the Douglas County PUD, the Okanogan Electric Cooperative, and the Nespelem Valley Electric Cooperative. The present transmission system by which these Bonneville customers are served is not capable of providing reliable service. This system will also not be capable of serving forecasted loads beginning in 1982. Additional transmission systems are required to rectify this situation.

The nonconstruction alternatives will not correct these problems. In a sense, the no-action alternative has been in effect since 1975, pending resolution of transmission routing issues with the Colville Tribal Council. Electrical service problems have become more serious during this period and Bonneville has departed from its normal service standards. Bonneville's customers have requested that action be taken to provide a standard of service comparable with that routinely afforded other customers. Comparable service standards may only be achieved through construction of transmission system improvements.

From among the various construction alternatives considered, the action decided upon is the most favorable. On the basis of capital cost, the selected alternative is approximately two million dollars less expensive than the next lowest cost alternative. On the basis of engineering suitability, the action decided upon presents fewer engineering obstacles than any of the other options.

With respect to environmental suitability, the alternatives were comparatively evaluated, and the alternative selected is environmentally preferred. The EIS for the project (DOE/EIS-0048-FS-1) provided data on public opinion regarding the various alternatives. Public comments on this EIS revealed support for the alternative selected. Comments indicating concern over environmental impacts were largely directed at other alternatives.

The concerns of the Confederated Colville Tribes, which previously delayed implementation of the project in 1975, have also been satisfactorily resolved.

Considering these factors, Bonneville believes that it has made a decision which best meets engineering, economic, social, and environmental restraints.

Discussion of Environmentally Preferred Alternatives

As indicated in the basis for the decision, the action to be taken is the environmentally preferred alternative. It has few land use and natural resource conflicts. Impacts to soils, due primarily to 20 miles of access road construction on moderate slopes, are less then one-half of Alternative A (the ranking alternative), which would require 45 miles of road construction, much on steep slopes. Most of the access road construction will not be visible to the traveling public as it is remote from view. Effects upon water resources from siltation and increased turbidity are expected to be temporary, very minor, and probably not measurable.

Clearing will be necessary through about 3 miles of light pine forest as opposed to 8 miles on Alternative A. The impacts to nesting and drumming grounds for grouse and upland birds are expected to be minor, with construction being restricted in drumming areas during critical periods as per consultation with local wildlife experts.

The impact to deer wintering grounds is expected to be minor as browse will be disturbed only at tower sites and for some access road construction. Construction activities will not take place during the winter season. The propsal (Route B) avoids heavily used waterfowl flyways and the bald eagle flyways along Route A. Route B also avoids the Chilowist Wildlife Recreation Area. Location of Route B was closely coordinated with local wildlife experts to minimize impacts to all types of wildlife.

The proposal has been located to avoid orchards where possible. A total of approximately 3,000 feet of orchard is crossed, most of which is spanned with two towers within the orchard. One tower will be located in dryland wheatfields.

The proposed centerline has been located east of Okanogan Airfield and will not be visible from the city of Okanogan. It will be visible from some rural residences. The line will occasionally intrude on scenic vistas in the Okanogan Valley north of East Omak Substation. The centerline was located to cause minimal interference with future land development through coordination with land-owners and county planners.

Considerations in Implementation of the Decision

All practicable means to avoid or minimize environmental harm from the alternative selected have been adopted. As described in the final EIS, these mitigation measures have been adopted: (1) Slash burning will be coordinated with the Columbia Basin Air Pollution Control District and will be restricted near population centers during periods of poor dispersion; (2) access roads will avoid steep slopes as much as possible and when not possible water bars will be installed and exposed areas will be seeded; (3) structures located within floodplains will be designed to withstand any flooding which might occur; (4) water bars and sediment traps will be built whenever stream sedimentation may be a problem; (5) herbicides will not be applied near water bodies; (6) seeding programs on rangeland will be carried out in coordination with local agencies; (7) BPA will cooperate with local weed control districts and landowners to prevent the spread of noxious weeds and poisonous plants; (8) BPA will work in conjunction with the Washington State Department of Fish and Game and the Nature Conservancy to avoid adverse impacts to the bitterbrush/Idaho fescue shrub-steppe ecosystem near Davis Canyon and the bitterbrush/needle and thread grass ecosystem near Riverside; (9) orchards will be avoided whenever possible but when crossed tower heights will be sufficient not to interfere with tree growth and no access roads will be built in the orchards; (10) farmlands will be avoided whenever possible through selective tower placement; (11) brush and low-growing shrubs in the rights-of-way will not be cleared except at tower sites and along access roads and will provide a diversity of habitat for wildlife; (12) if residents suspect television and/or AM radio interference, mitigation in accordance with BPA policy will be undertaken to restore reception; (13) visual impacts will be minimized by placing towers in screened areas and minimizing clearing the land; and (14) should any archaeological resources suitable for nomination to the National Register of Historic Places be identified during project development, excavation will not be undertaken without first following established Bonneville rules on protection of these resources. There are no practicable means to avoid or minimize environmental harm described in the final EIS for which mitigation measures have not been adopted.

No monitoring and enforcement program is applicable for the mitigation measures. The mitigation measures which have been adopted are self-executing through standard operation procedures, construction contract specifications, and existing environmental protection procedures instituted through the BPA Manual.

Dated at Portland, Oregon, this 25th day of August 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-26903 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. IE-80-1, ERA Docket No. IE-77-6]

Niagara Mohawk Power Corp. and New York Power Pool; Supplemental Order Authorizing Transmission of Electric Energy to Canada and Accepting for Filing Export Rate Schedule

August 26, 1980.

Niagara Mohawk Power Corporation (Niagara Mohawk), a member of the New York Power Pool (NYPP), filed an application with the Economic Regulatory Administration (ERA) on January 25, 1980, for a supplemental order amending its authorization to export electric energy to Ontario Hydro in the Province of Ontario, Canada. Specifically, Niagara Mohawk requested that ERA include in the export authorization the remaining members of the New York Power Pool (Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Company; New York State Electric & Gas Corporation; Orange & Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation). As is explained below, the amendment of the export authorization by substituting the New York Power Pool for Niagara Mohawk will not result in an increased amount of electric energy being exported to Canada.

In 1955, the Federal Power Commission authorized Niagara Mohawk, pursuant to section 202(e) of the Federal Power Act, to transmit electric energy to Ontario Hydro (Docket No. IT-5637). In 1966, Niagara Mohawk's authorization was supplemented to authorize an increased level of interchange activity (Docket No. E-6797).

On October 3, 1977, the New York Power Pool/Ontario Hydro Interconnection Agreement was filed with the Federal Energy Regulatory Commission. That application sought approval of an agreement establishing a rate schedule for exports from the NYPP to Ontario Hydro and requested a waiver of the Commission's notice requirements pursuant to 18 CFR 35.11 to allow for an effective date of April 4, 1977. The application later was transferred to the Department of Energy pursuant to section 402(f) of the Department of Energy Organization Act. Upon review, ERA noted that the NYPP did not have authority under section 202(e) of the Federal Power Act to export electricity. Accordingly, ERA notified the NYPP that Niagara Mohawk would have to file an application to amend its export authority by substituting the NYPP as the exporter of electric energy. After issuance of such an amendment, ERA would consider the application by the NYPP for approval of the agreement establishing the new rate schedule. It is that application which is being considered now in connection with the application to amend the export authorization.

The authorization requested will not impair the sufficiency of the electric supply within the United States, or within New York State in particular, and will not impede or tend to impede the coordination in the public interest of facilities subject of the jurisdiction of ERA because no additional exports, over the amounts which Niagara Mohawk itself is authorized to export, have been requested. Furthermore, the fundamental premise of the proposed Interconnection Agreement between NYPP and Ontario Hydro, which will govern the contractual arrangement between the parties, is that each participating utility is responsible for first supplying the needs of its own system; therefore, the transmission of energy to Ontario Hydro will be made only when consistent with the safe and proper operation of each participant's system, and with its ability to furnish economical and dependable service to its own customers and to meet its obligations to other U.S. customers with whom it is interconnected.

The Interconnection Agreement permits the purchase of substantial amounts of less expensive energy from Ontario Hydro for the benefit of the NYPP members. In order to acquire this benefit, the Interconnection Agreement provides that each of the various types of services contemplated will be rendered on a reciprocal basis. The electric energy to be exported will be produced in generating stations owned and operated by members of the NYPP.

Notice of the application to amend the export authorization was given by publication in the **Federal Register** on March 24, 1980 (45 FR 19023), stating that any person desiring to be heard or to make any protest with reference to the application should on or before April 30, 1980, file with the Economic Regulatory Administration, Washington, D.C. 20461, petitions to intervene or protests in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10). Notice of the October 3, 1977, application by the New York Power Pool was given on October 20, 1977 (42 FR 55919). No petition or protest or request to be heard in opposition to the granting of the applications was received by ERA.

ERA Finds

(1) The proposed transmission of electric energy from the United States to Canada as limited herein and as hereinafter authorized will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of ERA, since the NYPP will be exporting energy which is surplus to each member of the NYPP, after having served its own customer needs.

(2) The periods of public notice given in this matter are reasonable.

(3) The request by the NYPP for a waiver of the 30-day notice period, pursuant to 18 CFR 35.11, to allow the Interconnection Agreement to become effective as of April 4, 1977, should be granted. Niagara Mohawk and Ontario Hydro have conducted all billing arrangements between the two parties pursuant to this Agreement since that date, and to deny the waiver would cause a significant economic disruption.

ERA Orders

(A) NYPP is hereby authorized to transmit electric energy from the United States to Canada in accordance with the terms and conditions set forth in the application to amend the export authorization issued to Niagara Mohawk and in the application dated October 3, 1977, filing the New York Power Pool/Ontario Hydro Interconnection Agreement, and subject to the provisions of this order.

(B) The New York Power Pool/Ontario Hydro Interconnection Agreement dated October 3, 1977, is accepted for filing as the agreement governing any exports from the New York Power Pool to Ontario Hydro. Such agreement shall be effective as of April 4, 1977, pursuant to 18 CFR 35.11.

(C) The electric energy which NYPP is hereby authorized to transmit from the United States to Canada shall be transmitted over facilities authorized by the Administrator of ERA or the Federal Power Commission and owned and operated by Niagara Mohawk, pursuant to Executive Order 10485, as amended.

(D) The authorization herein granted may be modified from time to time or terminated by further order of ERA, but in no event shall such authorization extend beyond the date of termination or expiration of any necessary Presidential Permits issued to Niagara Mohawk or to NYPP by the Administrator of ERA or the Federal Power Commission.

(E) NYPP shall conduct all operations pursuant to the authorization herein granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations or orders adopted or issued by ERA.

(F) NYPP shall provide for the installations and maintenance of adequate metering equipment to measure the flow of all electric energy transmitted over its interconnections with Ontario Hydro; and shall make, keep and preserve full and complete records with respect to the movement of such energy.

(G) This authorization to transmit electric energy from the United States to Canada shall not be transferable or assignable except in the event of an involuntary transfer by operation of law. In such a situation, this authorization shall continue in effect provided a new application for export authority is received by the ERA within 30 days of the transfer. This temporary authorization, unless officially rescinded, will remain effective pending a decision on the new application.

Issued in Washington, D.C., August 26, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-26828 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-01-M

Shenandoah Oil Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: August 20, 1980.

COMMENTS BY: October 3, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 20, 1980, the Office of Enforcement of the ERA executed a Consent Order with Shenandoah Oil Corporation of Fort Worth, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Shenandoah Oil Corporation wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Shenandoah Oil Corporation effective as of the date of its execution by the DOE and Shenandoah Oil Corporation.

I. Consent Order

Shenandoah Oil Corporation with its home office in Fort Worth, Texas is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, part 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Shenandoah Oil Corporation entered into a Consent Order to resolve certain civil actions which could be brought be ERA as a result of its audit of the crude oil sales by Shenandoah Oil Corporation. This Consent Order settles those matters relative to Shenandoah Oil Corporation's production and sale of crude during the period September 1, 1973 through November 1966.

The significant terms of the Consent Order with Shenandoah Oil Corporation are as follows:

1. Shenandoah Oil Corporation (Shenandoah) misapplied the provisions of 10 CFR 212.73 and its predecessor, 6 CFR 150.354 when determining the prices to be charged for certain domestic crude oil.
2. Shenandoah understands and agrees to refund $115,500.00 to the DOE

by certified check. This amount is in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the specified transactions for the following properties:

Bel Estate No. 1, 2 and 5
Stribling, Jr. A No. 1, 2, 3 and 4

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in 2. above will be made in one payment of $115,500.00. Delivery of such payment shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, in the form of a certified check made payable to the United States Department of Energy.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "person" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected person, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

Potential Claimants: Interested persons who believe that they ahve a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214-767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Shenandoah Oil Corporation's Consent Order." We will consider all comments we receive by 4:30 p.m., local time, October 3, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 20th day of August 1980.

Herbert F. Buchanan,
Deputy District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 80-26825 Filed 9-2-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-685]

Central Kansas Power Co.; Filing

August 27, 1980.

The filing Company submits the following:

Take notice that the Central Kansas Power Company (CKP), on August 21, 1980, tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 1. The proposed changes would reduce the number of points at which metering is conducted.

The changes are being filed to reflect an agreement reached between the company and Sunflower Electric Cooperative, the customer under CKP's Rate Schedule.

The company also request a waiver of the notice requirement, pursuant to Section 35.11, to allow for an effective date of June 1, 1980 for the tariff change.

Copies of the filing were served upon the Sunflower Electric Cooperative and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26837 Filed 9-2-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-487]

Chattanooga Gas Co., a Division of Jupiter Industries, Inc.; Application

August 27, 1980.

Take notice that on August 7, 1980, Chattanooga Gas Company, a Division of Jupiter Industries, Inc. (Applicant), 811 Broad Street, Chattanooga, Tennessee 37402, filed in Docket No. CP80-487 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the provision of a liquefaction of natural gas service for Austell Natural Gas System of Austell, Georgia (Austell), and United Cites Gas Company (United Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to liquefy up to 750 Mcf of natural gas per day, less fuel consumed in liquefaction, for Austell and a like amount for United Cities. It is stated that Southern Natural Gas Company (Southern) would deliver gas for the account of Austell to Applicant's LNG facility and East Tennessee Natural Gas Company (East Tennessee) would deliver the gas to be liquefied for United Cities. Applicant states that after liquefying the gas, it would transport it to its LNG plant liquid load-out delivery point. It is stated that Austell and United Cities would then arrange for the transportation by an appropriate carrier of the LNG to their respective LNG storage facilities for storage until it is needed for meeting their high priority requirements during the heating season.

Southern, Austell and Applicant have entered into a transportation agreement dated June 17, 1980, it is stated. Applicant indicated that under this agreement, Southern would perform the transportation service for Austell pursuant to the terms of Section 311(a) of the Natural Gas Policy Act of 1978. The agreement, it is stated, would become effective on the date of initial delivery and would continue in effect for two consecutive years subject to extensions of two-year terms by written agreement of all the parties thereto. It is stated that the transportation agreement among East Tennessee, United Cities and Applicant would be similar and that a contract for the arrangement is currently being negotiated.

Applicant's liquefaction service would be on a best-efforts basis. Applicant proposes to charge $1.00 per Mcf of gas for this service.

Any persons desiring to be heard or to make any protest with reference to said application should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26844 Filed 9-2-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-605]

Cincinnati Gas & Electric Co.; Filing

August 26, 1980.

Take notice that on August 13, 1980, Cincinnati Gas & Electric Company (CGE) tendered for filing Modification No. 5 to the Interconnection Agreement between itself and Louisville Gas & Electric Company (FERC Tariff Schedule No. 33) and the Sixth Supplement Agreement to the Interconnection Agreement between itself and Public Service Company of Indiana, Inc. (Tariff Schedule No. 34).

CGE indicates that this filing is in response to Commission Order No. 84, issued May 7, 1980, in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26853 Filed 9-2-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. TA80-3-32]

Colorado Interstate Gas Co.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

August 26, 1980.

Take notice that Colorado Interstate Gas Company (CIG) on August 15, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1980. The increased jurisdictional cost to CIG of purchased gas proposed to be recovered by the filing amounts to approximately $271.4 million. Such amount reflects the increased jurisdictional cost of gas in this application over the amount contained in CIG's previously effective rates and is offset by a $.9 million annual reduction in CIG's Base Tariff Rates as required by Subsection 7.5(b) of the "Stipulation and Agreement of Settlement" approved by the Commission in CIG's Docket No. RP79-59 on March 5, 1980. The net annual jurisdictional rate increase proposed is $270.5 million. Due to the absence of any projected maximum surcharge absorption capability on CIG's system, no reduction in CIG's Estimated Actual Cost of Purchased Gas for incremental pricing purposes is reflected in the filing.

CIG also requests in the filing waiver of the provisions of Section 23 of its FERC Gas Tariff, Original Volume No. 1 in order that it might make cash refunds of certain Supplier Refunds Subject to Flow-Through received by it instead of crediting the same to its unrecovered cost of purchased gas account.

Copies of CIG's filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-26854 Filed 9-2-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. RP74-82, et al.; RP74-20 and RP74-83; RP74-20, et al. (Interest Reimbursement)]

Columbia Gas Transmission Corp., et al.; Order Denying Application for Rehearing and Clarifying Prior Order

Issued: August 27, 1980.

On July 28, 1980, United Gas Pipe Line Company (United), applied for rehearing of the Commission's order in *Columbia Gas Transmission Corp., et al.*, Docket Nos. RP74-82, *et al.*, issued June 26, 1980. United also requests clarification of the effect of the order on United's pending rate cases.

United requests a rehearing of the Commission's determination that United's interest reimbursement proceeding is subject to the jurisdiction of the D.C. Court of Appeals and the guidelines of *Tennessee Gas Pipelines*

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Co. v. *FERC,* 606 F. 2d 1094 (D.C. Cir. 1979). No facts or arguments have been presented by United which would justify rehearing. Accordingly the application for rehearing is denied.

United also seeks clarification of the effect of the order on United's pending rate proceedings. In Ordering Paragraph (E) of the June 26 order, the Commission terminated United's refund liability with respect to the Order No. 465 advance payments in Docket Nos. RP74–20 and RP74–83. United requests that the Commission modify that paragraph to make it clear that United's refund liability with respect to those advances has also been terminated for rate periods subsequent to those dockets. United States that the advances in the subsequent dockets are the same advances which the court, in *United Gas Pipe Line Co.* v. *FERC,* 597 F. 2d 581 (5th Cir. 1979), ruled must be included in United's rate base.

The requested modification is in line with the determination of our order that "judgement for the Order No. 465 advances will * * * be entered for United * * *." Accordingly, United's request for clarification is granted and the June 26 order shall be modified accordingly.

Finally, United requests clarification of the Commission's statement that United's remanded Order No. 499 advances will be governed by its respective court order, but with *Tennessee* looked to for guidance as appropriate. United argues that insofar as the Commission's understanding or interpretation of the guidelines provided for by *Tennessee* are inconsistent with the approach used by the Fifth Circuit in *United,* the *United case must control. This argument states a proposition which we believe is self-evident and requires no clarification.*

The Commission orders: (A) United Gas Pipe Line Company's application for rehearing is denied.

(B) Ordering Paragraph (E) of the Commission's order of June 26, 1980, is modified to read as follows:

(E) United Gas Pipe Line Company's refund liability with respect to Order No. 465 advances in Docket Nos. RP74–20 and RP74–83, and subsequent dockets involving those advances, is terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26843 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80–658]

Commonwealth Edison Co.; Filing

August 26, 1980.

Take notice that on August 13, 1980, Commonwealth Edison Company (Commonwealth) tendered for filing a Supplement to FERC Rate Schedules 2, 7, 9, 10, 14, 15, 16, 17 and 18. Commonwealth states that this Supplement is being filed unilaterally and applies to all of Commonwealth's Interconnection Agreements with its interconnected neighbors except that with Illinois Power Company.

Commonwealth indicates that this filing is in response to Commission Order No. 84, issued May 7, 1980, in Docket No. RM79–29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26855 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80–67]

Consumers Power Co.; Application

August 26, 1980.

Take notice that Consumers Power Company (Applicant) on August 6, 1980, filed an application for authorization, pursuant to Section 204 of the Federal Power Act, to enter into certain installment sales contracts with the Charter Township of Hampton, Bay County, Michigan ($4 million) and the City of Muskegon, Muskegon County Michigan ($7 million) in connection with the issuance of aggregate of $11 million of Pollution Control Revenue Bonds for certain pollution control facilities.

In general, the Installment Sales Contracts will provide for the conveyance of the Pollution Control Equipment from the Applicant to the Municipalities, with an immediate transfer of the Pollution Control Equipment back to the Applicant, wherein the Municipalities retain a security interest in the Pollution Control Equipment. The Installment Sales Contracts will also require the Applicant to make payments to the trustees in amounts sufficient to pay principal, premium (if any) and interest on the Pollution Control Revenue Bonds as may be due in accordance with the terms of the Trust Indentures. In addition, the Installment Sales Contracts will contain, among other things, a number of convenants relative to the operation and maintenance of the project, insurance and remedies upon default.

Any person desiring to be heard or to make any protest with reference to the application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with Section 1.8 or 1.10 of the Commission's Rules of Practice and Procedure. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26838 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80–679]

Consumers Power Co., Proposed Tariff Change

August 26, 1980.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers Power) on August 20, 1980, tendered for filing Amendment No. 1 to the Operating Agreement dated May 1, 1979 among Consumers Power Company, The Detroit Edison Company and Northern Indiana Public Service Company. The May 1, 1979 Operating Agreement has previously been designated Consumers Power Company Rate Schedule FERC No. 45.

Consumers Power states that Amendment No. 1 modifies Service Schedule B (Short-Term Capacity and Energy) of the May 1, 1979 Operating Agreement as follows:

	Former rates	New rates
Short-Term Demand Charge (Weekly basis)	$0.70 per kW per week	$0.85 per kW per week.
Short-Term Energy Charge (When purchased from 3rd party—transmission service).	Energy charge paid to 3rd party, plus 10%.	Energy charge paid to 3rd party, plus 1 mill per kwh.
Short-Term Capacity Charge (When purchased from 3rd party—transmission service).	$0.175 per kW per week	$0.24 per kW per week.
Short-Term Demand Charge (Hourly or daily basis).	$0.01 per kW per hour not to exceed a maximum of $.12 times greatest kW demand of the day.	$0.01 per kW per hour not to exceed a maximum of $0.14 times greatest kW demand of the day.

Consumers Power states that copies of the filing were served on Detroit Edison, Northern Indiana Public Service Company and the Public Service Commissions of Michigan and Indiana.

Any person desiring to be heard or to protest said amendment should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. And person wishing to become a party must file a petition to intervene. Copies of Amendment No. 1 are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26856 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-687]

Duke Power Co.; Supplement to Electric Power Contract

August 27, 1980.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on August 21, 1980 a supplement to the Company's Electric Power Contract with Crescent Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 248.

Duke Power further states that the Company's contract supplement, make at the request of the customer and with agreement obtained from the customer, provides for a new point of delivery as follows: Delivery Point No. 17 with 5,000 KW designated demand.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of October 20, 1980.

According to Duke Power copies of this filing were mailed to Crescent Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants a party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26840 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-686]

Duke Power Co.; Supplement to Electric Power Contract

August 27, 1980.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on August 21, 1980 a supplement to the Company's Electric Power Contract with Blue Ridge Electric Cooperative. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 142.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for a new point of delivery as follows: Delivery Point No. 16 with 1,500 KW designated demand.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of October 20, 1980.

According to Duke Power copies of this filing were mailed to Blue Ridge Electric Cooperative and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26839 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-683]

Florida Power Corp.; Filing

August 26, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980 Florida Power Corporation (Florida Power) tendered for filing an executed transmission service agreement with the Fort Pierce Utilities Authority. Florida Power states that the form of service agreement was provided in its transmission tariff on file with the Federal Energy Regulatory Commission. Florida Power requests that the sixty (60) day notice requirement be waived so that the agreement may be permitted to become effective on July 15, 1980, the day on which it was executed by the Fort Pierce Utilities Authority. Florida Power states that copies of the filing have been served on the Fort Pierce Utilities Authority, and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26857 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-73]

Gulf States Utilities Co.; Application

August 26, 1980.

Take notice that on August 25, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to Section 204 of the Federal Power Act, disclaiming jurisdiction or in the alternative, ascertaining jurisdiction over and approving the entry into a Leasing Agreement for the lease of certain new and used vehicles, computers, construction and related equipment, communication equipment, and new and used aircraft. The aggregate amortized value of equipment to be leased by the Company shall not exceed $30 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26841 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-681]

Kansas Power & Light Co.; Filing

August 26, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, Kansas Power and Light Company (KPL) tendered for filing Amendment No. 1 to Service Schedule D, System Participation Power Service, to rate schedule FPC No. 83 between KPL and the Kansas City Power and Light Company (KCPL). The proposed effective date is August 10, 1980, and KPL requests that the Commission waive the notice requirements as allowed in Section 35.11 of its Regulations. In addition, KPL states that copies of the Amendment have been mailed to KCPL and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26858 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-93]

State of Louisiana Department of Natural Resources; Final Finding on Well Category Determination

Issued: August 26, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

In the matter of State of Louisiana, Section 103 NGPA Determination, Conoco, Inc., T. Ortego A SU, L. L. Welch A No. 17 Well, Louisiana Docket NGPA No. 79-3006, F.E.R.C. JD No. 80-10659.

On December 28, 1979, the State of Louisiana, Department of Natural Resources, Office of Conservation (Louisiana) submitted to the Commission a notice of determination that the T. Ortego A SU; L. L. Welch A No. 17 Well (Ortego *et al.* No. 17 well), operated by Conoco, Inc., is a new, onshore production well pursuant to section 103 of the Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.* The Commission published a notice of Louisiana's determination in the **Federal Register** on January 22, 1980.

On May 1, 1980, the Commission issued a "Notice of Preliminary Finding" that the determination by Louisiana did not appear to be supported by substantial evidence in the record on which the determination was based.[1]

To qualify as a new, onshore production well under section 103 of the NGPA, a well, among other requirements, generally must not be a second well located within an existing proration unit. However, under § 271.305 of the Commission's regulations, a well may be a second well in an existing "State law proration unit" and still qualify as a new, onshore production well, if the jurisdictional agency finds, based on appropriate geological and engineering data, that "the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit." State law proration unit is defined in § 271.305(a)(2) as "a proration unit, drilling unit or similar unit expressly designated in accordance with State law or Federal law (other than the NGPA)."

On review of the record supporting Louisiana's determination, the Commission, on May 1, 1980, preliminarily found that the subject well was a second well on a State law proration unit, and that Louisiana had not made the requisite effective and efficient drainage finding required under § 271.305.

The subject well is one of several wells within a so-called reservoir-wide unit established by Louisiana Order No. 127-R (issued October 31, 1968). Under that order, the Ortego "A" sand reservoir is operated as a single unit—any number of wells can be drilled within the unit, and the wells are not subject to Louisiana's well spacing requirements under Order No. 29-E (issued July 15, 1967), which would otherwise be applicable. Under Order No. 29-E, wells drilled in search of oil, like the subject well, must be spaced at least 900 feet from all other oil wells producing in the same reservoir. The subject well is within 900 feet of another oil well completed in the same reservoir.

In the May 1, 1980 Notice (*mimeo.*, p. 2), the Commission preliminarily determined that because the numberr of wells drilled in a reservoir-wide unit is not limited by an spacing requirement, it appeared that in creating the subject reservoir-wide unit, Louisiana did not redesignate the proration unit established by Order No. 29-E on the basis that the reservoir-wide unit can be effectively and efficiently drained by a single new well. Thus, the Commission found that the effective and efficient drainage finding under § 271.305 would be required for any second well drilled within the boundaries created by the spacing requirements of Louisiana Order No. 29–E. In so ruling, the Commission followed its finding in *Laterre Co., Inc.*, Docket No. GP79–5, "Final Order on Well Category Determination," issued September 7, 1979. In that docket, the Commission found that circular areas designated by Louisiana Order No. 29–E constituted defacto proration units, in the absence of other applicable spacing requirements. Thus, if Louisiana permits a second well to be drilled within such an area, the second well may qualify as a new, onshore production well, only if Louisiana makes the effective and efficient drainage finding required under § 271.305.

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[1] Pursuant to 18 CFR 275.202(b), the 45 day review period was extended on February 11, 1980, by a letter from the Commission Staff to Louisiana. The 45-day review period thus commenced on March 17, 1980, the date Louisiana responded to the February 11, 1980, letter.

Pursuant to § 275.202(f), the Commission Staff on July 23, 1980, conducted an informal conference with respresentatives from Louisiana and Conoco, Inc. At the conference, Louisiana agreed to make a formal effective and efficient drainage finding for the subject well. On August 4, 1980, Louisiana formally submitted to the Commission such a finding with respect to the Ortego *et al.* No. 17 well.

The Commission maintains its view expressed in the May 1, 1980 notice. A second well in a Louisiana reservoir-wide unit my qualify as a new, onshore production well only if it complies with the spacing requirements of Louisiana Order No. 29–E, or Louisiana explicitly makes the effective and efficient drainage finding required under §271.305.

As for the instant case, based on the review of the record of Louisiana's determination, the Commission finds that substantial geological evidence exists in the record to support Louisiana's finding that the Ortego *et al.* No. 17 well is necessary for the effective and efficient drainage of the reservoir-wide unit. Thus, since the well was spudded after February 18, 1977, substantial evidence exists in the record of this case to support Louisiana's determination that the well qualifies as a new, onshore production well under section 103 of the NGPA. Accordingly, Louisiana's determination is affirmed.

The Commission Finds: Pursuant to § 275.202(g) of our regulations, the Commission finds that the State of Louisiana Department of Natural Resources, Office of Conservation Determination, that the T. Ortego A SU L. L. Welch No. 17 well qualifies as a new onshore production well under section 103 of the NGPA, is supported by substantial evidence in the record. Accordingly, under section 502(b) of the NGPA, the determination by Louisiana is affirmed.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26849 Filed 9–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ST80–273]

Louisiana Intrastate Gas Corp.; Application for Approval of Rates

August 27, 1980.

Take notice that on July 31, 1980, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST80–273 an application pursuant to Section 284.123 of the Commission's Regulations for approval of rates for gathering, treating, processing, transporting, and delivering natural gas to Texas Eastern Transmission Corporation (TETCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement with TETCO dated January 8, 1980, to sell TETCO up to 75,000 Mcf of natural gas per day. According to Applicant, this sales agreement was amended on July 3, 1980, to provide for a 20-cent per million Btu fee for gathering, treating, processing, transporting, and delivering the natural gas sold by Applicant to TETCO. The term of the sale would be for two years from the date of initial deliveries, it is stated.

Applicant asserts that the Commissioner of the Office of Conservation of the State of Louisiana has approved the transportation of natural gas by Applicant for TETCO and the construction of an interconnection to perform such service.

Applicant states that it has previously filed and supported with the Commission a rate of 20 cents per million Btu for performing comparable services. These rates, it is stated, were approved by the Commission under Docket Nos. ST79–22 through ST79–25.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–26845 Filed 9–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ES80–69]

Missouri Edison Co.; Application

August 26, 1980.

Take notice that on August 15, 1980, Missouri Edison Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $15 million of short-term unsecured promissory notes, with final maturities not later than December 31, 1982. The Applicant is a Missouri Corporation with its principal business office at Louisiana, Missouri and is engaged in the electric utility business in Missouri.

The proceeds will be used to finance, in part, Applicant's contruction program, which calls for expenditures of approximately $16,815,000 for 1980, 1981 and 1982.

Any person desiring to be heard or to make any protest with reference to the application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Ke[illegible] F. Plumb,

Se[illegible]tary.

[FR Doc. 80–26859 Filed 9–2–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RP80–131]

Natural Gas Pipeline Co. of America; Proposed Change in FERC Gas Tariff

August 27, 1980.

Take notice that Natural Gas Pipeline Company of America (Natural) tendered for filing on August 18, 1980, proposed change in its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 8, proposed to become effective on December 1, 1980.

The purpose of this revised sheet is to change the minimum bill provision in

Natural's tariff. Presently, the other major pipeline companies who serve Natural's large volume customers have minimum bill provisions which consist of a monthly demand charge plus a minimum commodity charge based on 75% use of contract demand. Natural's current minimum bill, however, is simply the demand charge for the month.

Because of the difference in the minimum bill provisions, Natural is losing and will continue to lose substantial sales to competing pipelines. Natural's customers are forced to purchase gas from their other pipeline suppliers' minimum commodity charge provisions. Inasmuch as Natural does not have a volumetric minimum bill, Natural's customers have and may continue to cut back purchases from Natural. By further reducing demand, the loss of sales seriously aggravates Natural's current excess deliverability.

Copies of the filing were served upon the company's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26846 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-482]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

August 27, 1980.

Take notice that on August 4, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-482 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three new delivery points and the modification of two existing delivery points to accommodate natural gas deliveries to certain of its utility customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new or modified points of delivery for its utility customers:

(1) Peoples Natural Gas Company, Division of InterNorth, Inc., 1 tap for commercial service, 2 modifications of existing delivery points, 1 for industrial service, 1 for commercial service; Estimated annual usage of 84,640 Mcf.

(2) Iowa Electric Light and Power Company, 1 tap for industrial service; Estimated annual usage of 11,200 Mcf.

(3) Iowa Public Service Company, 1 tap for industrial service; Estimated annual usage of 26,000 Mcf.

Applicant states it has proposed the new or expanded facilities in response to requests from its above referenced utility customers for expansion of service to their customers. It is stated that additional volumes to be delivered to the utilities are within the present entitlements of the utilities.

Applicant estimates the cost of the proposed facilities to be $274,935 for which it would be reimbursed by the appropriate utilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26847 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA 81-1-37 (DCA 81-1)]

Northwest Pipeline Corp.; Change in Rates Pursuant to Demand Charge Credit Adjustment

August 26, 1980.

Take notice that Northwest Pipeline Corporation ("Northwest"), on August 15, 1980 tendered for filing proposed changes in its FERC Gas Tariff, first Revised Volume No. 1, filed pursuant to the Commission's Order issued March 29, 1974, at Docket No. RP74-72 and Article 13.7 of Northwest's FERC Gas Tariff, First Revised Volume No. 1. The change in rates will result in .000¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1. As more fully explained in the instant filing, the demand charge credit adjustment reflected on Northwest's Statement of Rates is zero.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision contained in its First Revised Volume No. 1 Tariff and change in rates pursuant to the advance payments tracking provision contained in Article VIII (Advance Payments) of the Stipulation and Agreement in Settlement of Rate Proceeding at Docket No. RP79-57. All three rate adjustments are reflected on the tendered First Revised Sheet No. 10 which is proposed to become effective October 1, 1980.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 19, 1980. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26860 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-484]

Panhandle Eastern Pipe Line Co.; Application

August 27, 1980.

Take notice that on August 5, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-484 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline, compression, and related facilities in Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchases from Phillips Petroleum Company (Phillips) gas which is delivered to Applicant's Alva-Kingfisher system at the tailgate of Phillips' natural gas processing plant in Kingfisher County, Oklahoma. An amendment to the original gas purchase and sales agreement has provided for additional dedication of gas from Phillips to Applicant, it is stated. Applicant also states that it plans to purchase increased volumes behind or at the tailgate of four other processing plants presently connected to the Alva-Kingfisher system in Major County, Kingfisher County, and Alfalfa County, Oklahoma. It is stated that Applicant expects to obtain 278,900,000 Mcf from these five plants and without the proposed additions to the Alva-Kingfisher system there would be insufficient capacity to enable Applicant to purchase and transport these reserves. Moreover, Applicant asserts that it may also secure other sources of natural gas situated in Kingfisher and other nearby counties.

Specifically, Applicant requests authorization to construct and operate the following pipeline, compressors and related facilities:

(1) The addition of approximately 8,000 horsepower of compression at the Cashion Compressor Station located in Kingfisher County, Oklahoma.

(2) The addition of approximately 12,000 horsepower of compression at the Alva Compressor Station in Woods County, Oklahoma.

(3) 66.3 miles of 20-inch pipeline and related facilities to be constructed in Woods, Alfalfa, Major, Garfield, and Kingfisher Counties, Oklahoma.

Applicant states that the proposed facilities were designed to meet peak day operation because all the gas purchased is casinghead gas for which Applicant has no control over the volumes delivered.

Applicant estimates the cost of the proposed facilities to be $41,444,000 which would be financed from internally generated funds and short-term bank borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26846 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-671]

Public Service Co. of Oklahoma; Filing

August 26, 1980.

Take notice that on August 13, 1980, Public Service Company of Oklahoma (PSCo) tendered for filing a letter requesting approval of the basic data for adder applicable to PSCo's sale of resale energy by the Company.

PSCo states that this filing is made in response to Order No. 84, issued by the Commission on May 7, 1980, in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26861 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-684]

South Carolina Electric & Gas Co.; Filing

August 27, 1980.

The filing Company submits the following:

Take notice that South Carolina Electric & Gas Company on August 20, 1980, tendered for filing a proposed change in its 1973 service contract with rural electric cooperatives. Under the proposed change, all rights held under the contract by Berkeley Electric Cooperative, Inc., are assigned to Central Electric Cooperatives, Inc. (Central)

The proposed change arises from an agreement between Berkeley and Central assigning the above contract rights. The agreement has been approved by the Administrator of the Rural Electrification Administration. The proposed effective date is January 21, 1980, and South Carolina Electric & Gas Company requests a waiver, under

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Section 35.11 of the Commission's notice requirements. South Carolina Electric & Gas Company notes that neither rates nor terms and conditions of service will be affected by the proposed change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26842 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-495]

The Superior Oil Co.; Petition for Declaratory Order

August 27, 1980.

Take notice that on August 8, 1980, The Superior Oil Company (Petitioner), P.O. Box 1521, Houston, Texas 77001, filed in Docket No. CP80-495 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order disclaiming jurisdiction over the construction and operation of certain facilities linking offshore drilling platforms, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it is the operator of and owns a 75 percent working interest in a Federal oil and gas lease covering Outer Continental Shelf (OCS) Block 9, Sabine Pass Area, offshore Louisiana, and that it is planning to initiate a development program for OCS Block 9 in which several wells would be drilled from four platforms that would be constructed. Gas from these wells would be sold to Natural Gas Pipeline Company of America (NGPL) at Petitioner's existing platform No. 2 in the adjacent State Pooled Unit Block 14L, located in the Sabine Pass Area, Jefferson County, Texas. In order to transport OCS Block 9 gas to platform 14L-2, Petitioner states, it intends to construct and operate four wet-gas transfer lines connecting the four drilling platforms in OCS Block 9 to separation and dehydration facilities located on platform 14L-2. Following treatment on platform 14L-2, the gas sold to NGPL would be transported onshore to a point on NGPL's line through an existing 14-inch interstate pipeline facility owned and operated by Texas Sea Rim Pipeline, Inc., a wholly-owned subsidiary of Petitioner.

Petitioner states that the proposed inter-platform facilities would in each case consist of three lines, a 2-inch, a 4-inch, and a 6-inch line. The 2-inch lines would be opposite-direction-flow lines for fuel and instrument supply use, the 4-inch lines would be used to test the liquid content of each well, and the 6-inch lines would be the primary transmission lines. Each 6-inch line would have a capacity of 80,000 Mcf per day, it is said.

It is contemplated by Petitioner that NGPL would take delivery of Petitioner's OCS Block 9 production at the outlet side of the separation and dehydration facilities located on platform 14L-2. Assuming the facilities are held to be non-jurisdictional, Petitioner states, it would apply for authority to collect a gathering fee consistent with the Commission's Regulations implementing Section 110 of the Natural Gas Policy Act of 1978. Petitioner further states that in addition to gathering its own gas from OCS Blcok 9, its gathering lines would transport the gas owned by Texoma Production Company which gas would also be sold to NGPL at platform 14L-2. Petitioner asserts that it would likewise seek authority to collect a gathering charge for this service.

Petitioner believes that its proposed activities in connection with the aforementioned proposal constitute the gathering of natural gas rather than the transportation of natural gas in interstate commerce within the meaning of Section 1(b) of the Natural Gas Act. Petitioner, therefore, requests a declaratory order disclaiming jurisdiction over the construction and operation of the proposed facilities.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26850 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-17]

Transwestern Pipeline Co.; Petition To Amend

August 27, 1980.

Take notice that on August 12, 1980, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP75-17 a petition to amend the order of October 17, 1974,[1] as amended, issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of one additional tap to be used for the direct sale of natural gas to the successor in interest of one of Petitioner's right-of-way grantors, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order of October 17, 1974, as amended, it was authorized to construct and operate facilities for the direct-sale of natural gas to nineteen right-of-way grantors of Petitioner. The natural gas is delivered to such right-of-way grantors for agricultural and domestic use, it is said.

Applicant now seeks authorization to construct and operate a one-inch tap, meter and related equipment in Roberts County, Texas, for the delivery of natural gas to Mr. Eldon Flowers.

Petitioner states that the annual quantity limitation for said service would be 2,000 Mcf. Petitioner further states that the total estimated cost of the proposed facility would be approximately $4,990. It is asserted that Petitioner would own the tap and related equipment on its line and would be partially reimbursed by the customer for the cost of the tap and all connections.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26852 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-496]

Town of Winstonville, Miss., Applicant; Texas Gas Transmission Corp., Respondent Application

August 27, 1980.

Take notice that on August 12, 1980, the Town of Winstonville, Mississippi (Applicant), Town Hall, Winstonville, Mississippi 28781, filed in Docket No. CP80-496 an application pursuant to section 7(a) of the Natural Gas Act for an order directing Texas Gas Transmission Corporation (Respondent) to establish physical connection of its transportation facilities with the proposed facilities of and sell natural gas to Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Respondent has two 18-inch pipelines at the northwest corner of Applicant's corporate limits and requests connection to either of these lines. This connection, together with the proposed distribution system, would consist of approximately 3 miles of pipeline, it is stated.

Applicant asserts that this connection is necessary to provide its citizens and businesses with natural gas. The peak day and residential annual natural gas requirements for the first three years of operation are estimated to be as follows:

	Total peak day (Mcf) 1,000 ft³	Residential amount
1981	152.5	12,819
1982	175.0	14,865
1983	181.5	15,200

Applicant estimates that the proposed gas system would cost $150,000 which would be financed through bonds sold to the Farmers Home Administration.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26851 Filed 9-2-80; 8:45 am]

BILLING CODE 6450-85-M

Western Area Power Administration

Colorado River Storage Project; Extension of Time To Submit Written Comments on the Proposed Rate Order

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of an extension of time to submit written comments—Colorado River Storage Project.

SUMMARY: The notice of a proposed rate and opportunity for public comment on the proposed power rate increase for the Colorado River Storage Project issued by the Assistant Secretary for Resource Applications on August 1, 1980, and published at 45 FR 52900 on August 8, 1980, stated interested persons will be given until September 8, 1980, to submit comments in writing to the Assistant Secretary for Resource Applications. This notice extends the time that written comments can be submitted until September 19, 1980.

DATE: Written comments from interested persons must be submitted to the Assistant Secretary for Resource Applications by September 19, 1980.

ADDRESSES: All written comments (three copies required) should be submitted to:

Dr. Ruth M. Davis, Assistant Secretary for Resource Applications, U.S. Department of Energy, Mail Station 3344, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Three copies of the written comments should also be sent to:

Mr. Robert L. McPhail, Administrator, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401.

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, U.S. Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147.

FOR FURTHER INFORMATION CONTACT:

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, U.S. Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147. (801) 524-5493.

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401. (303) 231-1535.

Ms. Marlene A. Moody, Office of Power Marketing Coordination, U.S. Department of Energy, Mail Station 3344, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. (202) 633-8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis.

Rate adjustments on the Colorado River Storage Project are being conducted consistent with procedural rules applicable to Western Area Power Administration. Final procedures for public participation in general adjustments were published in the **Federal Register** on March 23, 1978 (43 FR 12076), April 5, 1978 (43 FR 14359), and February 7, 1979 (44 FR 7796).

The procedures provide an opportunity for interested parties to submit comments in writing. The Notice of a Proposed Rate Order and Opportunity for Public Comment published on August 8, 1980, stated interested persons will be given until September 8, 1980, to submit comments in writing to the Assistant Secretary for Resource Applications. This notice extends the time that written comments can be submitted until September 19, 1980.

Issued in Washington, D.C. August 27, 1980.

Ruth M. Davis,

Assistant Secretary for Resource Applications.

[FR Doc. 80–26824 Filed 9–2–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1594–8]

Assessment of Civil Penalty for Violation of Fuels and Fuel Additives Regulations: Region VII

AGENCY: Environmental Protection Agency, Region VII.

ACTION: Notice of final agency action.

SUMMARY: On June 4, 1980, the Regional Administrator for Region VII issued a final order assessing a civil penalty against Derby Refining Company for a violation of 40 CFR 80.22(a) and 80.21. Said sections prohibit the selling or offering for sale of unleaded gasoline containing more than .05 gram of lead per gallon.

ADDRESS: Copies of the order are available for public inspection, upon request, at the following location: Environmental Protection Agency, Region VII, Office of Regional Counsel, 16th Floor, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: John H. Morse, Office of Regional Counsel, Environmental Protection Agency, Room 1616, 324 East 11th Street, Kansas City, Missouri 64106. (816–374–2069).

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of September 3, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: August 25, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80–26932 Filed 9–2–80; 8:45 am]

BILLING CODE [illegible]–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1608]

Donarc Foreign Freight Forwarding, Arthur Robert Clark, Jr., d.b.a.; Order of Revocation

On August 21, 1980, Donarc Foreign Freight Forwarding, Arthur Robert Clark, Jr., d.b.a., P.O. Box 245, Dumfries, VA, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1608 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1608 issued to Donarc Foreign Freight Forwarding, Arthur Robert Clark, Jr., d.b.a., be and is hereby revoked effective August 21, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Donarc Foreign Freight Forwarding, Arthur Robert Clark, Jr., d.b.a.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 80–26883 Filed 9–2–80; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Empress Shipping Co., (Marcos H. Eddi, d.b.a.), 1765 E. 7th St., Brooklyn, NY 11223.

Jose E. Smith, d.b.a. Jars International, 1440 Palancia Avenue, Coral Gables, FL 33146.

Miami Freight & Shipping Company, 7300 Biscayne Blvd., #344, Miami, FL 33138, Officers: Charles Johnston, President, Grace Foster, Secretary/Treasurer, Reggie Kirkconnell, Director.

Kanical Aero-Marine Services, Inc., 171 Connemara Way, Sunnyvale, CA 94087, Officers: Michael Kahn, Director/Chairman, Paul Kahn, Director/President, James Liang, Vice President, Caroline Liang, Director/Secretary, Jane Kahn, Treasurer/Assistant Secretary.

Jorge Mateo Espinosa, 2503 SW, 89th Avenue, Miami, FL 33165.

Samuel S. Gambino, 3400 Kent Avenue, #D–302, Metairie, LA 70002.

Express Forwarding Far East Ltd., 19 Rector Street, New York, NY 10006, Officers: Leonard Tarloff, President/Director, Murray Kadin, Secretary/Treasurer/Director.

Century Moving & Storage Inc., d.b.a. Century International, 18420 So. Santa Fe Avenue, P.O. Box 923, Long Beach, CA 90801, Officers: John H. Tillotson, President/Treasurer/Director, Marshall Lundgren, Vice President/Director, Haydee Tillotson, Vice President/Secretary/Director, Duncan S. Kimball, Executive Vice President.

By the Federal Maritime Commission.

Dated: August 28, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–26882 Filed 9–2–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Chicago International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act Establishment of U.S. Branch of a Corporation to Be Organized Under Section 25(a)

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as First Chicago International, Chicago, Illinois. First Chicago International would operate as a subsidiary of The First National Bank of Chicago, Chicago, Illinois. The proposed corporation has also applied for the Board's approval under § 211.4(c)(1) of Regulation K (12 CFR 211.4(c)(1)) to establish branches in Los Angeles and San Francisco, California; Boston, Massachusetts; Houston, Texas; and Miami, Florida. The factors that are considered in acting on the application are set forth in section 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of

Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26891 Filed 9-2-80; 8:45 am]

BILLING CODE 6210-01-M

First International Bancshares, Inc.; Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Temple Bank, National Association, Temple, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-26892 Filed 9-2-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Maximum Allowable Cost Program; Intent to Set MAC Limits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: The Pharmaceutical Reimbursement Board is considering setting maximum allowable cost (MAC) limits for the drug products specified in this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1-C-5 East Low Rise, 6401 Security Boulevard, Baltimore, MD 21235.

SUPPLEMENTARY INFORMATION: In accordance with 45 CFR 19.4, the Pharmaceutical Reimbursement Board has identified the following multiple-source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices:

Allopurinol, 100 and 300 mg oral tablets
Butabarbital Sodium, 30 mg oral tablets
Caffeine & Ergotamine Tartrate, 100 mg/1 mg oral tablets
Chlorothiazide, 250 and 500 mg oral tablets
Cyproheptadine HCl, 4 mg oral tablets
Dicyclomine HCl w/Phenobarbital, 10 mg/5 mg oral capsules and 20 mg/15 mg oral tablets
Lithium Carbonate, 300 mg oral capsules and 300 mg oral tablets
Methanamine Mandelate, 0.05 and 1 Gm oral tablets
Methylphenidate HCl, 10 mg oral tablets
Nystatin, 100,000 units/ml oral powder for reconstitution; 100,000 units vaginal tablets; 500,000 units oral tablets and 100,000 units/Gm topical cream
Potassium Gluconate, 20 mEq/15 ml and 4.68 Gm/15 ml oral liquid (Elixir)
Promethazine HCl, 25 and 50 mg oral tablets
Pseudoephedrine HCl, 60 mg oral tablets and 30 mg/5 cc oral syrup
Sulfamethoxazole, 500 mg and 1 Gm oral tablets
Thyroid, 500 mg, 1 Gm and 2 Gm oral tablets
Warfarin Sodium, 2, 2.5, 5 and 7.5 mg oral tablets

The Board has submitted these drugs to FDA for review.

The Board may also reconsider the MAC limits which have already been set for:

Acetaminophen w/Codeine, 300 mg/30 mg oral tablets and 300 mg/60 mg oral tablets
Ampicillin, 250 mg oral capsules and 125 mg/5 ml oral suspension
Methocarbamol, 500 mg and 750 mg oral tablets
Penicillin VK, 125 mg/5 ml and 250 mg/5 ml oral suspension and 250 mg and 500 mg oral tablets
Tetracycline HCl, 500 mg oral capsules.

We are publishing this Notice in order that all interested parties will be advised of the Board's action at the same time and will have ample opportunity to make their views known to the Board. Proposed MAC limits and the dates of any public hearing will be published at a later date.

Dated: August 27, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 80-26904 Filed 9-2-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-80-614]

Director, Office of Regional Fair Housing and Equal Opportunity, Boston Regional Office; Redelegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of Authority with Respect to Fair Housing.

SUMMARY: This document redelegates the authority to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1968 (42 U.S.C. 3601-3619).

SUPPLEMENTAL INFORMATION: Section A. *Authority with respect to fair housing.* The Director, Office of Regional Fair Housing and Equal Opportunity for Region I is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1963 (42 U.S.C. 3601-3609) except the authority to:

1. Make studies and publish reports under section 808(e) of the Act (42 U.S.C. 3608(d)).

2. Issue rules and regulations.

Section B. *Authority to redelegate.* The Director, Office of Regional Fair Housing and Equal Opportunity is further authorized to redelegate any of the authority redelegated under section A to subordinate employees except the authority to issue a subpoena or interrogatories under section 811 of the Act. (42 U.S.C. 3611).

Authority: Redelegation of Authority by Assistant Secretary for Fair Housing and Equal Opportunity effective April 2, 1976, 41 F.R. 14208, April 2, 1976 and redelegation of authority by Acting Secretary of Housing and Urban Development effective April 2, 1976, 41 F.R. 14209, April 2, 1976.

Section C. *Supersedure.* This redelegation of authority supersedes the redelegation published at 41 F.R. 27861, July 7, 1976.

EFFECTIVE DATE: This redelegation of authority is effective September 3, 1980.

V45/172 SE3 80 UMI

Issued at Boston, Massachusetts, July 14, 1980.

Shelly Friedman,

Regional Administrator, Region I (Boston).

[FR Doc. 80-26819 Filed 9-2-80; 8:45 am]

BILLING CODE 4210-01-M

Government National Mortgage Association

[Docket No. N-80-1017]

Guaranty of Mortgage-Backed Securities; Forms of Letters of Credit To Be Used in Mortgage-Backed Securities Program

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The Government National Mortgage Association, "GNMA," has established forms of letters of credit to be used in its Mortgage-Backed Securities Program. Only letters of credit in the prescribed forms are acceptable to GNMA as (1) collateral in GNMA's mark to market requirements and (2) collateral in GNMA's Construction Loan Securities Program.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-8772. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On June 13, 1980, The Government National Mortgage Association issued a Final Rule, published in the **Federal Register** at 45 Fed. Reg. 40556, amending regulations relating to the Mortgage-Backed Securities Program (24 CFR Part 390). The amendment, intended to reduce opportunities for abuses that have occurred in the trading of mortgage-backed securities, established rules governing the securities marketing and trading practices of issuers of securities guaranteed by GNMA.

One requirement of the Final Rule is that issuers of GNMA-guaranteed securities, with respect to certain forward market transactions, enter only into contracts which provide for at least weekly mark to market deposits of collateral with an independent financial institution. The marking to market of delayed delivery contracts involves the deposit of collateral by the party suffering an unrealized loss, when the current market price is measured against the contract price, in the amount of the unrealized loss. In response to comments received, GNMA expanded the list of eligible collateral to include irrevocable, unconditional letters of credit in a form acceptable to GNMA, and issued by a banking institution supervised by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Reserve Board.

By this publication, notice is given as to the forms of letters of credit acceptable to GNMA as collateral in its mark to market requirements, and in the Construction Loan Securities Program.

The prescribed forms, and instructions for their completion, will appear as Appendix 56 to the *GNMA Mortgage-Backed Securities Guide*, GNMA Handbook 5500.1. The Mortgage-Backed Securities Guide is available through GNMA's office in Washington, D.C.

The prescribed letters of credit are irrevocable, unconditional and, in the mark to market case, nontransferable. Letters of credit which do not follow the prescribed forms precisely are not acceptable to GNMA and use of a nonconforming letter of credit will constitute a failure to comply with GNMA requirements.

Incorporation by reference of the Uniform Customs and Practices for Documentary Credits will not be acceptable.

The forms of letters of credit and instructions for their completion follow:

Forms of Letters of Credit To Be Used in Mortgage-Backed Securities Program

This appendix provides the forms of letter of credit that must be used in the two situations in which letters of credit are permissible. The two situations are:

A. Use of letter of credit as collateral in mark to market requirements.

B. Use of letter of credit as collateral in the Construction Loan Securities Program.

The two forms are provided, respectively, in the following pages.

Parties using the letters of credit in connection with the GNMA Mortgage-Backed Securities Program must follow the prescribed form without deviation. Nonconforming letters of credit are not acceptable. GNMA will not accept any letter of credit that departs in any manner from the prescribed form and use of such a letter of credit would constitute a failure to comply with GNMA requirements. In using a letter of credit the parties agree that the Uniform Customs and Practices for Documentary Credits (UCP) shall not apply thereto.

Instructions for Completing Forms

These instructions relate to the entry to be made in the corresponding numbered space in the form.

1. Identifies the Beneficiary, i.e., the party entitled to draw on the letter of credit. The letter of credit in the mark to market case is nontransferable in that the Beneficiary's right to draw on the letter cannot be assigned to a third party. In the Construction Loan Securities Program, the Beneficiary always is GNMA.

2. A letter of credit number is assigned by the issuing bank. In order to draw on the letter of credit, the Beneficiary must identify the letter by its assigned number.

3. An issuance date is assigned by the issuing bank. This is the date on which the letter of credit becomes effective.

4. Identified the party in whose name the account is established. In the mark to market situation, the Account Party is that party obligated to make a deposit of collateral by virtue of having suffered an unrealized loss (when the market price is measured against the contract's price). In the Construction Loan Securities Program situation, the Account Party always is the GNMA issuer.

5. Shows the amount of the letter of credit, as specified by the Account Party, in accordance with applicable GNMA regulations and Guide requirements.

6. Expiration date of the letter of credit. The Account Party is responsible for renewing the letter credit (or, in the mark to market situation, arranging other eligible collateral) if it has obligations to the Beneficiary to maintain collateral still outstanding as of the expiration date of the letter of credit.

7. The office at which drafts drawn under the letter of credit may be presented and will be honored.

Note: In the mark to market collateral situation, the terms and conditions under which draws may be made on the letter of credit are to be negotiated by the parties and stated in their trading contract. Presentation of a draft under the letter of credit shall constitute a representation by the Beneficiary of its compliance with the contract's terms.

8. Type in the name of the issuing bank.

9. Signature of the authorized agent and/or officer of the issuing bank.

10. Typed name of the authorized agent and/or officer who signs the letter of credit.

11. Title of the authorized agent and/or officer who signs the letter of credit.

12. Construction Loan Securities Program only: enter the case number assigned by FHA to the project being financed by the securities issuance.

13. Construction Loan Securities Program only: enter the GNMA pool number associated with the subject securities issuance.

BILLING CODE 4210-01-M

A. Form of Letter of Credit For Use as Collateral in Mark to Market Requirements

(Issuing Bank's Letterhead)

IRREVOCABLE UNCONDITIONAL LETTER OF CREDIT

Beneficiary: ____(1)____ Letter of Credit No. : __(2)__

Date : __(3)__

Gentlemen:

For the account of ________(4)________, we hereby authorize you to draw on us at sight up to an aggregate amount of ___(5)___ dollars ($ ______).

This letter of credit is irrevocable, unconditional, and nontransferable.

Drafts drawn under this letter of credit must specify the letter of credit number and be presented at the office identified below not later than ______(6)______.

This letter of credit sets forth in full the terms of our obligations to you, and such undertaking shall not in any way be modified or amplified by any agreement in which this letter is referred to or to which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any agreement.

We engage with you that sight drafts drawn under, and in compliance with, the terms of this letter of credit will be duly honored at ______(7)______.

Yours very truly,

(8) [Issuing Bank]

By ______(9)______
[(10)]

[(11)]

B. Form of Letter of Credit
For Use As Collateral in the
Construction Loan Securities Program

(Issuing Bank's Letterhead)

IRREVOCABLE UNCONDITIONAL LETTER OF CREDIT

(1) To: Government National
Mortgage Association
451 Seventh St., S.W.
Washington, D.C. 20410

Letter of Credit No. ______ (2) ______
Date ______ (3) ______
FHA Project No. ______ (12) ______
GNMA Pool No. ______ (13) ______

Gentlemen:

For the account of ______ (4) ______, we hereby authorize you to draw on us at sight up to an aggregate amount of ______ (5) ______ dollars ($ ______).

This letter of credit is irrevocable and unconditional.

Drafts drawn under this letter of credit must specify the letter of credit number and be presented at the office identified below not later than ______ (6) ______.

This letter of credit sets forth in full the terms of our obligations to you, and such undertaking shall not in any way be modified or amplified by any agreement in which this letter is referred to or to which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any agreement.

We engage with you that sight drafts drawn under, and in compliance with, the terms of this letter of credit will be duly honored at ______ (7) ______.

Yours very truly,

(8) [Issuing Bank]

By ______ (9) ______
[(10)]

[(11)]

BILLING CODE 4210-01-C

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Ronald P. Laurent,

President, Government National Mortgage Association.

[FR Doc. 80-26821 Filed 9-2-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Assistant Secretary, Land and Water Resources

Oil Shale Environmental Advisory Panel; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held September 18, 1980, at the Denver Marina Hotel, 303 West Colfax Avenue in Denver, Colorado. The meeting will begin at 8:30 a.m. on Thursday, September 18, in the Big Horn Room and conclude at 4:30 p.m.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The purpose of this meeting is for the Panel to be briefed on the progress and status of the Interior Department's new oil shale initiatives announced by the Under secretary on May 27, 1980, to reviw the status of the three Federal Oil Shale Lease Projects and proposed Development Plan changes, to receive reports from Interior officials, and consider any other matters that have come before the Panel. The Panel will be briefed on the new oil shale activities during the morning session.

This Panel meeting has been scheduled to precede a Public Meeting on the Colorado Joint Review Process which will be held in the same room during the morning of September 19. The Colorado Joint Review Process is to be employed in the permitting of two facilities in the oil shale region of Colorado. The Panel meeting is scheduled in conjunction with the State meeting to facilitate coordination and information transfer between all concerned agencies and individuals.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the Panel members. Interested persons may make brief presentations to the Panel on Thursday afternoon, September 18, or file written statements with the Chairman. Requests to speak to the Panel should be made to Mr. Henry O. Ash, Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234-3275.

Further information concerning this meeting may be obtained from the Panel office. Minutes of the Oil Shale Panel sessions will be available for public inspection 30 days after the meeting at the Panel office.

Daniel P. Beard,

Acting Assistant Secretary, Land and Water Resources.

August 29, 1980.

[FR Doc. 80-26993 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[Serial Nos. 1-1639 and 1-2834]

Idaho; Partial Termination of Classification For Multiple Use Management

Correction

In FR Doc. 80-22931 appearing at page 50940 in the issue of Thursday, July 31, 1980, second column, the legal description for Sec. 18, "W¼SE¼SE¼" should be corrected to read "W½SE¼SE¼".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes a notice of proposed negotiating positions with regard to certain provisional agenda items for the third regular meeting of the Conference of the Parties and announces a public meeting to receive information and comments on such items.

ADDRESSES: Information and comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Appointments to speak at the public meeting may be made with the Federal Wildlife Permit Office (703/235-2418). Information and comments are open to public inspection during normal working hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

DATES: The Service will consider information and comments concerning the three proposed negotiating positions received by September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-2418.

SUPPLEMENTARY INFORMATION: This is the third in a series of Federal Register notices designed to solicit public participation in the development of a United States position for the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention), and international agreement designed to control international trade in certain animal and plant species which are or may become threatened with extinction.

The first notice set forth the time, place and provisional agenda for the third regular meeting and solicited information and comments thereon both in writing and at a public meeting (45 FR 31000).

The second notice announced the acceptance of some suggestions for the addition of several items to the provisional agenda and the nonacceptance of certain others (45 FR 53238).

This notice is the first of several notices of proposed negotiating positions which the Service will publish as it establishes its proposed positions on the various items of the provisional agenda. It was originally the intention of the Service to publish the first notice of proposed negotiating positions on or about November 26, 1980. However, the CITES Secretariat, in its announcement of the third regular meeting, set a September 5, 1980 deadline as a guideline for submission of papers dealing with provisional agenda items in order to provide sufficient time for circulation to the parties prior to the third regular meeting in February 1981.

On May 20, 1980, the Service published a proposed amendment (Subpart D) to 50 CFR Part 23 that would set out procedures for public participation in the development of negotiating positions for meetings of the Conference of the Parties (45 FR 33842). Although it has not yet published a final rule, the Service has indicated that it would follow its proposed procedures for public participation in the development of negotiating positions for CITES meetings. Accordingly, the

Service seeks public consultation and advice on the matters outlined below it goes forward to comply with the request of the CITES Secretariat.

The Service has determined in consultation with its Management Authority Contacts that papers on the following provisional agenda items should be submitted to the Secretariat for circulation to the Parties:

X. Financing of the Secretariat and of the meetings of the Conference of the Parties—1. Budget.
XIV. Study and project reports—1. Guidelines for transportation of live specimens.
XV. Interpretation and Implementation of the Convention—4. Parts and derivatives of animal species listed on Appendix III and of plant species listed on Appendix II or III.

Summary of Proposed Negotiating Positions

Financing the Secretariat and the meetings of the Conference of the Parties—Budget.

The Service wishes to make the following propositions in its paper on financing the Secretariat:

1. The treaty, as originally negotiated and signed, provided for funding of the CITES Secretariat and of meetings of the Parties by the United Nations Environment Programme (UNEP). At the second meeting of the Conference of the Parties, the Parties adopted interim financial Terms of Reference, pending the entry into force of a financial amendment to the treaty which would substitute Party funding for UNEP funding. It is unlikely that enough countries will have ratified the financial amendment to CITES to permit it to come into force by the time of the Third Conference. Consequently, it will be necessary for the Parties at New Delhi to extend the current Terms of Reference for a further period—probably for two more years until the fourth meeting of the Conference of the Parties.

2. Because Party financing is crucial to the effective operation of the CITES, and because the Parties' contributions under the current Terms of Reference are coming in very slowly, Parties should be urged to make their contributions as soon as possible.

3. The Secretary-General of CITES should seek additional sources of income for the administration of the treaty. For example, he should seek contributions from non-government organizations.

4. The Parties should approve a carry-over provision which would enable funds unexpended in the 1980–1981 financial period to be expended in the 1982–1983 period. Some flexibility should exist to transfer money between items in the budget.

5. The Secretary-General should be asked to provide the Parties with detailed budget information on Secretariat programs as well as expenses. The Secretary-General's budget plan should be projected forward for four years—to enable sound planning.

6. Financial reports should be submitted quarterly to the CITES Standing Committee, just as they are now submitted to the UNEP. The Standing Committee should provide fiscal guidance to the Secretariat on a quarterly basis.

7. To reflect the increasing share of Party funding (and the decreasing role of UNEP), the revised Terms of Reference should clarify and strengthen the Secretary-General's authority over the budget (under the guidance of the Standing Committee).

Study and Project Reports—Guidelines for Transportation of Live Specimens

The second regular meeting of the Conference of the Parties adopted a set of guidelines for the shipment of live specimens. Feedback is essential to the effective implementation and evaluation of these guidelines. On importation, inspection of live specimens may be made under various laws (conservation, duties, public health, agricultural and environmental protection). Where inspection would disclose that any such shipment was unduly stressed, the inspector could fill out and mail a short report form associated with the shipment or its documents, addressed to the Management Authority of the last country of export or re-export issuing CITES documents. Upon receipt of such form the Management Authority could seek information and explanations from the shipper, carrier, handler and consignee. Based on its investigation the Management Authority would be better informed to judge future applications for export or re-export documents and through time could judge the overall effectiveness of the guidelines.

nterpretation and Implementation of the Convention—Parts and Derivatives of Animal Species Listed on Appendix III and of Plants Listed on Appendix II or III

The second regular meeting recommended that when proposing amendments to Appendix III for animal species and when proposing amendments to Appendix II or III for plant species, it be accepted that all readily recognizable parts and derivatives are to be regulated unless particular parts or derivatives are specified as being exempt. The third regular meeting will decide whether this approach should be applied to such species listed as of the second regular meeting.

In preparing a recent list, the Secretariat found that the decision of the second regular meeting was difficult to implement in practical terms. It has therefore proposed an alternative scheme for Appendix II listings of plants. A criticism of the Secretariat's approach is that it does not adequately protect species for which specific parts and derivatives have been identified. The Service proposes to support the approach recommended by the second regular meeting, but in recognition of the complexities of this issue and the possible pitfalls with this so called "reverse listing" approach, proposes to send an option paper to the Secretariat for circulation to the Parties in the interests of a full and fair discussion.

Request for Information and Comments

The Service invites information and comments on the proposed negotiating positions summarized above which should contain sufficient detail where appropriate to enable proper evaluation. See headings "Addresses" and "Dates" for place to submit information and comments and for time limitation on such submissions.

Announcement of Public Meeting Concerning Three Proposed Negotiating Positions

The Service announces that it will hold a public meeting on Monday, September 15, 1980 from 1:00–4:00 p.m. in rooms 7000–A and 7000–B of the main building of the Department of the Interior, 18th and C Streets, NW, Washington, D.C. for the purpose of receiving information and comments on three proposed negotiating positions (see Summary of Proposed Negotiating Positions, above). Other items on the provisional agenda may be discussed. Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235–2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

Observers

The Service requests that all organizations intending to be represented at the third regular meeting of the Conference of the Parties consider limiting, on a voluntary basis, the number of observers attending the meeting so that the U.S. presence may be numerically considerably more limited than it has been in the past.

For procedures concerning acquisition of observer status, see the first notice of this series in the May 9, 1980 **Federal Register** (45 FR 31004).

This notice was prepared by Arthur Lazarowitz and Joan Anthony, Federal Wildlife Permit Office.

Dated: August 28, 1980.

Joan C. Anthony,

Chief, Management Operations Branch, Federal Wildlife Permit Office.

[FR Doc. 80-26810 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

National Mapping Division; New Organization

Notice is hereby given of the establishment of a new organization in the Geological Survey—the National Mapping Division. The new organization reflects a consolidation into one division of the responsibilities and functions formerly carried out by three separate components: the Topographic Division, the Publications Division, and the Geography Program of the Land Information and Analysis Office.

The new National Mapping Division is composed of a headquarters structure located at the Geological Survey National Center at Reston, Virginia, and a field structure consisting of four mapping centers and one printing and distribution center. The mapping centers are located at Reston, Virginia; Rolla, Missouri; Denver, Colorado; and Menlo Park, California; and the printing and distribution center is located at Reston, Virginia.

In support of the Geological Survey's mandate to provide information about the Earth and its natural resources, the new Division has the following major responsibilities:

(a) To collect, compile, analyze, and document information about natural and manmade features on the Earth's surface.

(b) To produce and maintain several series of accurate and up-to-date general purpose base maps and thematic maps such as land use and land cover maps.

(c) To develop and maintain a digital geographic-cartographic data base for multi-purpose needs and to assist other Federal and State agencies in developing and applying spatial data.

(d) To conduct geographic, cartographic, and reproduction research utilizing modern technology and equipment.

(e) To provide thematic mapping support to other Federal agencies.

(f) To print topographic, geologic, hydrologic, land use, and other thematic maps.

(g) To operate information and technical assistance centers which gather, index, analyze, and catalog geographic and cartographic information.

(h) To coordinate Federal mapping activities.

The new, consolidated National Division employs approximately 2,260 people or about 18 percent of the total work force of the Geological Survey, and administers a $90 million budget or about 14.5 percent of the total budget of the Geological Survey.

Dated: August 25, 1980.

R. B. Southard,

Chief, National Mapping Division, Geological Survey.

[FR Doc. 80-26889 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Floyd Bennett Field Development Concept Plan, Environmental Assessment, Gateway National Recreation Area; Public Meetings to Discuss Development Concepts and Environmental Impacts

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior is preparing an Environmental Assessment on alternative concepts for the development of Floyd Bennett Field, Gateway National Recreation Area. The Environmental Assessment will consider development alternatives in light of the physical, aesthetic, and socio-economic impacts. This Environmental Assessment follows the approved General Management Plan and Final Environmental Impact Statement for all of Gateway completed in 1979. Later on a Development Concept Plan will be derived from the alternatives analyzed in the Environmental Assessment and public review commentaries on the assessment. Public meetings are to be held now for the presentation and discussion of preliminary alternatives. Environmental Impacts of these alternatives will be discussed so that all public concerns can be known and considered in the completion of the Environmental Assessment document which will be distributed at a later date for formal comment.

The dates and places for the rediscussion meetings are: Tuesday, September 16th, at 5:00 p.m., at City University of New York, Room 207, 33 West 42nd Street, New York, New York; Wednesday, September 17th, 7:30 p.m., at Brooklyn Borough Hall, 2nd floor; 209 Joralemon Street, Brooklyn, New York; Thursday, September 18th; 7:30 p.m.; conference room, Building #272, Floyd Bennett Field, Brooklyn, New York.

A special supplement of the Gateway Outlook, containing a summary of the information to be presented at the meetings, is available by writing to Superintendent Herbert S. Cables, Jr., Gateway National Recreation Area, Headquarters, Building #69, Floyd Bennett Field, Brooklyn, New York 11234.

Dated: August 20, 1980.

James Shelton,

Acting Regional Director, North Atlantic Region.

[FR Doc. 80-26890 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Leases Nos. D-044240 and C-076713]

Northern Coal Co.—Rienau No. 2 Mine, Rio Blanco and Moffat Counties, Colo., Pending Decision To Approve Major Modification to Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve major modification to underground coal mining and reclamation plan for operation of loadout facility.

SUMMARY: Pursuant to § 1506.6 of Title 40 and § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Northern Coal Company's Wilson Loadout operation and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of Northern Coal Company's application was published in the **Federal Register** on April 9, 1980, 45 FR No. 70, p. 24256.

Location of lands to be affected by mining

Applicant: Northern Coal Company

Mine name: Rienau No. 2

State: Colorado

Counties: Rio Blanco and Moffat

Township, range, section: T. 6 N., R. 91 W., sections 29 and 30.

V 45/172 SE 3 80 UMI

Office of Surface Mining Reference No. CO–0008b

The Rienau No. 2 Mine is located about 40 miles south of Craig, Colorado. Production at the mine is about 150,000 tons per year and mining is by room and pillar methods.

The proposed modification involves operation of an existing loadout facility, the Wilson Loudy Loadout, for a period of 1–3 years. Northern Coal Company is leasing the 27.3 acre facility from Colowyo Coal Company and will be responsible for reclaiming the area. Additional facilities and equipment which will be added to the existing facility include a portable office and tool shed, a fuel tank, a portable loading conveyor, and a portable crushing and screening plant. Most of the permitting area (15.2 acres) has been disturbed; one additional acre would be disturbed during reclamation. The loadout could accommodate over 500,000 tons of coal per year with a stockpile capacity of about 100,000 tons.

The loadout is located about 7 miles southwest of Craig and 37 miles northeast of the Rienau No. 2 Mine, adjacent to State Highway 13/789. Coal would be trucked from the mine to the loadout over this highway. Use of this facility eliminates truck haulage through the town of Craig which is where the previously used loadout and rail yard are located.

The Bureau of Land Management evaluated impacts of the Wilson Loadout facility (Part of W. R. Grace and Company's mining and reclamation plan) in the final regional and site-specific environmental impact statement (EIS), *Northwest Colorado Coal* (January 1977).

Based on the modification to the mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and environmental assessment. From its analysis, OSM has determined that no significant impacts would occur to the human environment. In addition, the stipulations identified in the technical analysis and environmental assessment would mitigate the impacts to surface water which are the principle impacts from the continued operation of the loadout.

The purpose of this notice is to inform the public that, based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM is recommending approval with stipulations of the major modification to Northern Coal Company's mining and reclamation plan for the Rienau No. 2 Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the permanent regulatory program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (see 44 FR 77440–47, December 31, 1979). Departmental action on Northern Coal Company's modification to its mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application no later than two months after the effective date of the Colorado State program approval or an equivalent Federal Program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Assistant Secretary for Energy and Mineral's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, the Colorado Mined Lands Reclamation Division and any public comments received on or before September 23, 1980.

DATES: All requests for a public meeting must be made on or before September 23, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Vern Maldanado or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837–4072 or FTS 327–4072.

Walter N. Heine,
Director.

[FR Doc. 80-26895 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

[Federal Lease No. C-27931]

Pending Decision To Approve Coal Mining and Reclamation Plan for a Surface Coal Mine Proposed by Wyoming Fuel Co., for the Canadian Strip Mine, Jackson County, Colo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of Pending Decision to Approve Surface Coal Mining and Reclamation Plan with Stipulations.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement announces the Regional Director's recommended decision on Wyoming Fuel Company's Canadian Strip Mine in Jackson County, Colorado.

FOR FURTHER INFORMATION CONTACT: Dana Bickley or John Hardaway, Office of Surface Mining Reclamation and Enforcement, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. Phone (303) 837–4072.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical analysis and environmental review of Wyoming Fuel Company's Canadian Strip mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of Wyoming Fuel Company's application was published in the **Federal Register** on June 2, 1980, 45 FR No. 107, p. 37306.

The location of the lands to be affected by mining is as follows:

Applicant: Wyoming Fuel Company
Mine Name: Canadian
State: Colorado
County: Jackson
Township, Range, Section: T.8n., R. 78 W., 6th P.M., Section 2: SW ¼, 10: NE ¼, 11: W ½, NW ¼

Office of Surface Mining Reference No. CO 0017.

The proposed mine is a reopening and extension of an existing operation located about 12 miles east of the town of Walden, Colorado. The operation involves mining and associated disturbance to 13.4 acres of federal land and the reclamation of approximately 62 acres currently disturbed by previous mining. The proposed operation will extract 150,000 tons of coal over 1 and ½ years from the Suddeth coal seam. The coal will be transported via county roads to a loading facility in Walden, Colorado.

The U.S. Bureau of Land Management evaluated the impacts that could occur from the proposed Canadian Mine in its environmental assessment for an emergency Federal lease (No. CO–010–9–183). Based on the mining and reclamation plan submitted to OSM to fulfill the requirements of the Surface Mining Control and Reclamation Act of 1977, OSM has prepared a technical analysis and an environmental assessment. From these analyses, OSM has determined that no significant impacts would occur from the proposed Federal action.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of Wyoming Fuel Company's mining and reclamation plan for the Canadian Mine. Any persons having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on Wyoming Fuel Company's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application not later than 2 months after the effective date of the Colorado State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Secretary's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before September 23, 1980.

DATES: All requests for a public meeting must be made within 20 days following the date of this notice. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval and requests for public meetings should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Walter N. Heine,
Director.

[FR Doc. 80–26789 Filed 9–2–80; 8:45 am]
BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

Long- and Short-Haul Application for Relief; Formerly Fourth Section Application

August 28, 1980.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 18, 1980.

No. 43857, Southwestern Freight Bureau, Agent (No. B–90), reduced rates on ethylene glycol, in tank carloads, from stations in Louisiana and Texas, to Celriver, SC, as published in Supplement 56 to its Tariff ICC SWFB 4615, to become effective September 24, 1980. Grounds for relief—market competition.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–26802 Filed 9–2–80; 8:45 am]
BILLING CODE 7035–01–M

[Permanent Authority Decisions Volume No. OP4[023]

Permanent Authority Decision-Notice

Decided: August 21, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Application may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate status and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdicational questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirments of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 547 (Sub-5F), filed August 18, 1980. Applicant: WALL TRUCK LINE, INC., 105 N. Olive, Holden, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 21866 (Sub-177F), filed August 15, 1980. Applicant; WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used

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household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 34027 (Sub-16F), filed August 15, 1980. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 59617 (Sub-6F), filed August 14, 1980. Applicant: WARES' VAN & STORAGE, INC., 1344 Northwest Blvd., Vinland, NJ 08360. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 103066 (Sub-78F), filed August 11, 1980. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, OK 74101. Representative: Van D. Stone (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 123407 (Sub-647F), filed August 15, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 143776 (Sub-3F), filed August 8, 1960. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 145557 (Sub-11F), filed August 18, 1980. Applicant: LIBERTY TRANSPORT, INC., P.O. Box 9182, Kansas City, MO 64168. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151546F, filed August 13, 1980. Applicant: CASCADE TRANSPORT, INC., P.O. Box 1128, Bend, OR 97701. Representative: David C. White, 2400 SW 4th Ave., Portland, OR 97201. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151547F, filed August 13, 1980. Applicant: NEIL WOLFF, d.b.a. WOLFF TRUCKING, Haynes, ND 58637. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 151556F, filed August 13, 1980. Applicant: ALLSTATE TRANSPORTATION CORPORATION, 10700 Lyndale Ave., South, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., South Sioux City, NE 68776. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S. and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 80-26605 Filed 9-2-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions Vol. No. OP4-022

Permanent Authority Decision-Notice

Decided: August 21, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.— All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 5227 (Sub-72F), filed August 15, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, 226 N.

Phillips Ave., Sioux Falls, SD 57101. Transporting *beverages*, and *such commodities* as are used in the manufacture and distributing of beverages, between points in Rock County, WI, on the one hand, and, on the other, points in MN, ND, and SD.

MC 13547 (Sub-12F), filed August 15, 1980. Applicant: LEONARD BROTHERS TRANSPORT COMPANY, INC., 1528 West 9th St., Kansas City, MO 64101. Representative: Joe M. Lock, (same address as applicant). Transporting *paper, paper products, and wallboard,* between Kansas City, MO, on the one hand, and, on the other, points in KS, AR, MO, and OK, restricted to traffic having a prior movement by rail.

MC 42487 (Sub-999F), filed August 14, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 99737 (Sub-2F), filed August 15, 1980. Applicant: SUPERLINE TRANSPORTATION CO., INC., 111 Braley Rd., East Freetown, MA 02717. Representative: John DeGrazia (same address as applicant). Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), between points in CT, MA, and RI.

MC 105566 (Sub-227F), filed August 12, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *wearing apparel,* and *materials, equipment and supplies* used in the manufacture, distribution, and sale of wearing apparel, between points in Boone County, KY, and Ventura County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107576 (Sub-31F), filed August 15, 1980. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 SE., Water Ave., Portland, OR 97214. Representative: Ronald D. Browning (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Boise, ID, and Denver, CO: From Boise over Interstate Hwy 84 to junction Interstate Hwy 15 near Tremonton, UT, then over Interstate Hwy 15 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Cheyenne, WY, and then over Interstate Hwy 25 to Denver, and return over the same route, serving intermediate and off-route points on or within 10 miles of Interstate Hwy 15 between Ogden and Salt Lake City, UT, restricted against traffic both originating at and destined to points in CO and UT, and (2) Between Ogden, UT, and Denver, CO: From Ogden over Interstate Hwy 80N to Echo, UT, then over Interstate Hwy 80 to Laramie, WY, and then over U.S. Hwy 287 to Denver, and return over the same route, as an alternate route for operating convenience only.

Note.—Applicant proposes to tack this authority with its existing regular route authority.

MC 112627 (Sub-35F), filed August 18, 1980. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. Transporting (1) *alcoholic beverages,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of alcoholic beverages, between the facilities of Hiram Walker, Inc., at (a) Louisville and Bardstown, KY, (b) Plainfield, IL, (c) Detroit, MI, and (d) Scobeyville, NY, on the one hand, and, on the other, points in CT, DE, IL, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, and DC.

MC 116947 (Sub-87F), filed August 18, 1980. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., SW., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Jos. Schlitz Brewing Company, of Milwaukee, WI.

MC 123476 (Sub-56F), filed August 14, 1980. Applicant: CURTIS TRANSPORT, INC. #23 Grandview Industrial Ct., Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). Transporting (1) *charcoal briquets and paper bags,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of charcoal briquets, between the facilities of Cupples Company, Manufacturers, in the U.S., on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 136277 (Sub-5F), filed August 18, 1980. Applicant: PRIORITY FREIGHT SYSTEMS, INC., P.O. Box 7098, Akron OH 44306. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in SC and NC, and Chatham and Richmond Counties, GA, on the one hand, and, on the other, points in OH, Kanawha and Wood Counties, WV, and those in WV on, north, and west of a line beginning at the OH-WV State line and extending along U.S. Hwy 35 to junction WV Hwy 2, then along WV Hwy 2 to junction U.S. Hwy 33, then along U.S. Hwy 33 to Buckhannon, WV, and then along U.S. Hwy 119 to the WV-PA State line and those in PA on and west of a line beginning at the WV-PA State line and extending along U.S. Hwy 119 to Greensburg, PA, then along PA Hwy 66 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction Interstate Hwy 76 (Pennsylvania Turnpike), then along Interstate Hwy 76 to junction PA Hwy 8, then along PA Hwy 8 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction Interstate Hwy 79, and then along Interstate Hwy 79 to Erie, PA.

MC 143436 (Sub-43F), filed August 18, 1980. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 8328 Hill Gail Rd., P.O. Box 41228, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Hamilton County, OH, on the one hand, and, on the other, points in IN and KY.

MC 144616 (Sub-11F), filed August 14, 1980. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from points in Dallas County, TX, to points in LA, AR, OK, and NM.

MC 146187 (Sub-19F), filed August 13, 1980. Applicant: THE TEN WHEELERS, INC., Rt. 2, Gregory Rd., Greenback, TN 37742. Representative: Edward C. Blank II, P.O. Box 1004, 805 So. Garden St. Columbia, TN 38401. Transporting *canned foodstuffs* from the facilities of Joan of Arc Company, at Hoopeston, Peoria, and Princeville, IL, to points in

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AR, AL, FL, GA, LA, MS, NC, SC, TN, and TX.

MC 146187 (Sub-20F), filed August 13, 1980. Applicant: THE TEN WHEELERS, INC., Rt. 2, Gregory Rd., Greenback, TN 37742. Representative: Edward C. Blank II, P.O. Box 1004, 805 So. Garden St., Columbia, TN 38401. Transporting *liquors and alcoholic beverages,* from points in KY, IN, and OH, to the facilities of Jordano's Wholesale Wine & Liquors, Inc., at Santa Barbara, CA, restricted to traffic originating at the named origins and destined to the named destination.

MC 146927 (Sub-13F), filed August 13, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cans, between Bartow, FL, Spartanburg and Cheraw, SC, and Abilene, Fort Worth, and Houston, TX, on the one hand, and, on the other, points in TX, OK, AR, LA, TN, MS, AL, FL, GA, NC, and SC.

MC 146927 (Sub-14F), filed August 14, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *sugar,* (1) from points in St. James and St. John the Baptist Parishes, LA, to points in MO, OK, TX, KY, NC, SC, GA, and AR, and (2) from points in Jefferson Parish, LA, to points in MS, TN, AL, MO, OK, TX, KY, NC, SC, GA, and AR.

MC 148127 (Sub-12F), filed August 14, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). Transporting (1) *footwear,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of footwear, from points in NH and VT, to points in the U.S. restricted to traffic originating at the indicated origins.

MC 148576 (Sub-3F), filed August 15, 1980. Applicant: DOTSON TRUCKING CO., INC., 1220 Murphy Ave. S.W., Atlanta, GA 30310. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. Transporting (1) *paper and paper products, plastic and plastic products,* and *woodpulp,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of International Paper Co.

MC 149227 (Sub-1F), filed August 14, 1980. Applicant: LONG TRANSPORTATION, INC., 212 Depo St., Goodlettsville, TN 37072. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *general commodities* (except articles of unusual value, household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with King Metals Company, of Nashville, TN.

MC 149507F, filed August 14, 1980. Applicant: STEVE'S GAS SUPPLY, INC., 46 River Rd., Essex Junction, VT 05452. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting (1) *brick,* and *clay products,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, from points in Albany County, NY, Hartford County, CT, Plymouth County, MA, Stark County, OH, and Grafton County, NH, to points in VT and NH.

MC 150776 (Sub-1F), filed August 12, 1980. Applicant: ALFRED DANIELS, INC., Rt. 1, P.O. Box 272-I, Jackson, OH 45640. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *steel shelving and bins, unassembled pallet racks, storage racks, screws, and storage cabinets,* and (2) *accessories* for the commodities in (1) above, between points in the U.S. under continuing contract(s) with Frick & Gallagher Manufacturing Company, of Wellston, OH.

MC 150786 (Sub-1F), filed August 11, 1980. Applicant: BOBBY BARNES & CHARLES FITZPATRICK, d.b.a. B & F TRUCKING COMPANY, 3240 Sangamon St., Steger, IL 60475. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. Transporting *pasta products,* between points in the U.S., under continuing contract(s) with D'Amico Foods Company, of Steger, IL.

MC 150797 (Sub-1F), filed August 14, 1980. Applicant: CARPENTER'S MOTOR TRANSPORT, INC., 35 King St., Box 817, Burlington, VT 05402. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting *such commodities* as are dealt in or used by hardware and appliance stores and service stations, and *petroleum products,* (except commodities in bulk), between points in the U.S. under continuing contract(s) with Vermont Hardware Co., Inc., of Burlington, VT.

MC 150887 (Sub-1F), filed August 18, 1980. Applicant: CLOVER LANE TRANSPORTATION, INC., 1544 Irving St., Rahway, NJ 07065. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Hoffmann La-Roche, Inc., of Nutley, NJ.

MC 151256 (Sub-1F), filed August 13, 1980. Applicant: ODYSSEY TRANSPORTATION, INC., 3826 Depot Rd., Hayward, CA 94544. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *chemicals or allied products* as described in item 28 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Rohm and Haas Company, of Philadelphia, PA.

MC 151486 (Sub-1F), filed August 11, 1980. Applicant: RICH-HIL TRANSPORTATION, INC., R.D. 5, Box 64, Flemington, NJ 08822. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *fuel,* in bulk, between points in the U.S., under continuing contract(s) with Tenneco Chemicals, Inc., of Paramus, NJ.

MC 151506 (Sub-1F), filed August 13, 1980. Applicant: LEE-ANN CORP., 420 W. Ryan St., Brillion, WI 54110. Representative: Linda Heller Kamm, 1775 Pennsylvania Ave., NW., Washington, DC 20006. Transporting *sand and sand additives,* between points in the U.S., under continuing contract(s) with Brillion Iron Works Division Beatrice Foods Co., of Brillion, WI.

MC 151557F, filed August 13, 1980. Applicant: BLAZER TRUCK LINES, INC., 23845 Ecorse Rd., Taylor, MI 48180. Representative: Robert E. McFarland, 2855 Coolidge, Troy, MI 48084. Transporting *automobile parts,* and *materials, equipment, and supplies* used in the manufacture of motor vehicles, between points in MI, OH, IN, and IL, restricted to traffic originating at or destined to the facilities of the Chrysler Corporation.

[FR Doc. 80-26804 Filed 9-2-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's

Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the peitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which peitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after September 3, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before October 3, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

[Volume No. 322]

Decided August 2, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 124714 (Sub-174F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting *iron and steel articles,* from points in IN, MI, and WI, to Hastings and Omaha, NE, Joplin, MO, and Searcy, AR.

MC 124714 (Sub-175F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting (1)(a) *casings and collagen,* and (b) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1)(a); between Eagle Pass and San Antonio, TX, Odebolt, IA, Chicago, IL, and Portalles, NM, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *containers,* between Omaha, Ne, and Council Bluffs, IA, on the one hand, and, on the other, points in MN, SD, IA, and NE; and (3) *antimony and antimony oxide,* from Laredo, TX, to points in the U.S. (except AK and HI.)

MC 124714 (Sub-176F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting (1) *hides and chromes,* and (2) *tannery byproducts, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, between points in the U.S. (except HI.)

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MC 124714 (Sub-177F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting *iron and steel articles,* from New York, NY, and points in PA and NJ, to points in AR, CO, KS, IA, MO, MN, ND, OK, SD, TX, WI, UT, WY and NE.

MC 124714 (Sub-178F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting *fabricated metal products,* from the facilities of U.S. Gypsum Co., at Pinckneyville, IL and Boyles Galvanizer at St. Louis, MO, to points in AR, AZ, CO, IA, KS, LA, MN, MO, MT, NE, NM, ND, OK, SD, TX, WI, and WY.

MC 124174 (Sub-179F), filed June 27, 1980. Applicant: MOMSEN TRUCKING CO., a Corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same as address as applicant). Transporting (1) *iron and steel articles,* from Newport and Wilder, KY, to points in AR, CO, IA, KS, MN, MO, MT, NE NM, NE, OK, SD, TX, WI, and WY; and (2) *iron and steel pipe,* (a) from Eagle Pass, Laredo, Roma, Uvalde, and Hidalgo, TX, to points in AZ, CA, ID, MT, NV, OR, UT, and WA, and (b) from Uvalde and Roma, TX, to those points in the U.S. in and east of ND, SD, NE, CO, and NM (except TX).

MC 128484 (Sub-3F), filed June 20, 1980, previously noticed in the **Federal Register** issue of August 7, 1980. Applicant: BOWEIL STORAGE & TRANSIT CO., a Corporation, 5850 Center Hill, Cincinnati, OH 45232. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW., Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in Dayton, KY, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IN, IA, KS, MD, MA, MI, MN, MO, NJ, NY, NC, PA, RI, SC, VA, WI, and DC: (2) between points in Hamilton County, OH, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC; and (3) between points in KY (except Dayton), points in OH (except Hamilton County), and points in IN, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC.

Note.—This republication modifies the territorial description.

MC 148355 (Sub-1F), filed June 20, 1980. Applicant: A-1 DISPOSAL CORPORATION, P.O. Box 301, 400 Broad St., Plainwell, MI 49080. Representative: George A. Pendleton, P.O. Box 51, 5116 Brookgate, NW., Comstock Park, MI 49321. Transporting *toxic and hazardous materials* (except nuclear wastes or classes A and B explosives), between points in MI, IN, IL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MI, MS, MO, NY, NC, OH, PA, SC, TN, and WI.

Condition.—The authority granted here is limited in point of time to a period of five (5) years from the date of issuance.

MC 149034 (Sub-2F), filed June 23, 1980. Applicant: VERNON R. HODGE, d.b.a. DIXIE TRANSPORTATION AIDES, 11501 Allecingle Parkway, Richmond, VA 23235. Representative: Richard Lee, 3122 700 Bldg—700 E. Main St., Richmond, VA 23219. *Contract carrier,* transporting (1) *chimney assemblies, doors, wall sections,* and *insulation,* and (2) *materials, supplies, and equipment* used in the manufacture, distribution, and installation of the commodities in (1) between the facilities of General Products Company, Inc., at Fredericksburg, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with General Products Company, Inc., of Fredericksburg, VA.

MC 150464 (Sub-2F), filed June 9, 1980. Applicant: C. E. MELTON TRANSPORT, Route 4, Highway 280 East, Americus, GA 31709. Representative: Carl E. Melton (same address as applicant). Transporting (1) *electrical lighting fixtures and equipment,* and (2) *parts and accessories* for the commodities in (1) above, (a) from the facilities of Gibson-Metalux Corporation, at or near Americus, GA, to points in AL, FL, SC, TN, VA, KY, MS, LA, NC, and AR, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (a) from Americus, GA, to Cordele, Columbus, and Macon, GA, and (b) from points in AL, FL, SC, TN, VA, KY, MS, LA, NC, and AR, to Americus, GA, restricted to traffic having a prior or subsequent movement by rail.

MC 150464 (Sub-3F), filed June 9, 1980. Applicant: C. E. MELTON TRANSPORT, Route 4. Highway 280 East, Americus, GA 31709. Representative: Carl E. Melton (same address as appliant). Transporting (1) *artificial trees and florist supplies,* (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from Americus, GA, to points in AL, AR, FL, GA, KY, LA, NC, SC, TN, MS, and VA, and (3) *materials and supplies* used in the manufacture of the commodities in (1) above, (a) from Americus, GA, to Cordele, Columbus, and Macon, GA, and (b) from points in AL, AR, FL, GA, KY, LA, NC, SC, TN, MS, and VA, to Americus, GA.

MC 138304 (Sub-21F), filed April 9, 1980, previously published in the FR issue of July 10, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton Street, Hoboken, NJ 07030. Representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. Transporting *wire, wire rod, fasteners, nuts, bolts, and screws,* between points in GA, MA, FL, OH, NC, SC, TN, MI, MN, IL, CT, PA, NJ, and NY, restricted to the transportation of traffic originating at or destined to facilities used by Brighton Best Socket Screw Mfg. Co., of Teterboro, NJ. (Hearing site: New York, NY, Washington, DC, or Chicago, IL.)

Note.—This republication correctly states the territorial description.

[Volume No. 325]

Decided: August 26, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 13134 (Sub-87F), filed February 14, 1980, previously published in the FR issue of May 8, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *refractories, refractory products, and insulating materials,* and (2) *materials* used in the manufacture and distribution of refractory products, between the facilities of A. P. Green Refractories Co., Inc., at or near (a) Fulton and Mexico, MO, (b) Pryor, OK, (c) Thermo, TX, (d) Pueblo, CO, (e) Kimberly, Bessemer, and White Oak, AL, (f) Macon, GA, (g) Troy, ID, (h) Berger, AR, (i) Goose Lake, IL, (j) East Greenville, Jackson, and Oak Hill, OH, (k) Philadelphia, Climax, and Tarentum, PA, and (1) Woodbridge, NJ, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

Note.—This republication correctly states the commodity and territorial description.

MC 133655 (Sub-220F), filed May 22, 1980, previously noticed in the FR issue of July 17, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Warren L. Troupe, P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities as are dealt in, or used by, manufacturers and distributors of paper and paper* *products,* between Dallas, TX, on the one hand, and, on the other, points in AL, FL, GA, NC, OK, SC, and LA. (Hearing site: Atlanta, GA.)

Note.—This republication modifies the territory.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26801 Filed 9-2-80; 8:45 am]
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[Vol. No. 27]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 921 (Subs 7 and 21) (M1F) (Notice of filing of petition to modify certificates) filed June 26, 1980. Petitioner: DEAN TRUCK LINE, INC., P.O. Drawer 631, Fulton Drive, Corinth, MS 38834. Representative: Warren A. Goff, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Petitioner holds motor *common carrier* certificates in MC-921 Subs 7 and 21, issued April 28, 1965 and May 15, 1975, respectively. MC-921 Sub 7 authorizes transportation, over regular routes, of *general commodities,* (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between Selmer, and Nashville, TN, serving no intermediate points, and serving Selmer for purposes of joinder only, from Selmer over U.S. Hwy 45 to Henderon, Henderson, TN, then over TN Hwy 100 to Nashville, and return over the same route, restricted against the transportation of freight between Nashville, TN, on the one hand, and, on the other, any points in TN. MC-921 Sub 21 authorizes transportation, over regular routes, of *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined in 17 M.C.C. 467, livestock, commodities in bulk, and articles which because of size or weight require special handling, between Tupelo, MS, and Pensacola, FL, serving Columbus, MS, for joinder only, serving all intermediate points in AL (except Tuscaloosa) and FL, and serving the off-route points in Escambia and Santa Rose Counties, FL, from Tupelo over Alternate US Hwy 45 to junction US Hwy 82 near Mayhew, MS, then over US Hwy 82 to Tuscaloosa, AL, then over US Hwy 43 to Demopolis, AL, then over US Hwy 80 to Montgomery, AL, then over US Hwy 31 (and also over Interstate Hwy 65) to Evergreen, AL, then over US Hwy 31 to Brewton, AL, then over US Hwy 29 to Pensacola, and return over the same route, alternate routes for operating convenience only: *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined in 17 M.C.C. 467, livestock, commodities in bulk, and articles which because of size or weight require special handling, (1) between Columbus, MS, and Eutaw, AL, serving no intermediate points, but serving Columbus for joinder only, from Columbus over MS Hwy 69 to the MS-AL State line, then over AL Hwy 14 to Eutaw, and return over the same route, (2) between Demopolis, AL, and Meridian, MS, serving no intermediate points, but serving Meridian for joinder only, from Demopolis over US Hwy 80 to Kewanee, MS, then over Interstate Hwy 20-59 to Meridian; and return over the same route, (3) between Pensacola, FL, and Hattiesburg, MS, serving Hattiesburg and the intermediate points of New Augusta, MS, and Mobile, AL, for joinder only, from Pensacola over US Hwy 90 to Mobile, then over US Hwy 98 to Hattiesburg, and return over the same route, (4) between Evergreen, AL and Laurel, MS, serving Laurel for joinder only, and to Alternate route (6) herein, over U.S. Hwy 84, (5) between Pensacola, FL, and Meridian, MS, serving Meridian and the intermediate point of Mobile, AL, for joinder only, from Pensacola over US Hwy 29 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Mobile, and then over US Hwy 45 to Meridian, and return over the same route, (6) between Grove Hill, and Demopolis, AL, serving no intermediate points, but serving Grove Hill for joinder to alternate route (4) above only, over US Hwy 43, and (7) between New Augusta and Ellisville, MS, serving no intermediate points, but serving New Augusta for joinder to alternate route (3) above only, over MS Hwy 29. Restriction: All operating rights in this certificate are restricted against the transportation of traffic moving by the carrier between points in AL, on the one hand, and, on the other, Meridian, MS, points in Escambia and Santa Rose Counties, FL, and points in AL.

By the instant petition, petitioner seeks to modify the above authorities by (1) deleting the restriction in Sub 7, and (2) deleting the exception of Tuscaloosa in the first portion of Sub 21, and (3) delete the final restriction in Sub 21.

MC 8973 (Sub-52) (M2F) and (Sub-44) (M1F) (Correction), (Notice of filing of petition to modify certificates), filed August 8, 1979, published in the **Federal Register**, issue of April 15, 1980, and republished in part as corrected, this issue. Petitioner: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. (1) *plastic articles and materials, equipment, and supplies* used in the manufacture or distribution of plastic articles (except commodities in bulk), between points in CT, NJ, and those in NY, located on or east of U.S. Hwy 11 and on or south of U.S. Hwy 20, on the one hand, and, on the other, points in the U.S. (except AK and HI)

Note.—The purpose of this partial republication is to correct NY to NJ in first line of territorial description. The remainder of this petition remains as previously published.

MC 17051 (Sub-19F) (M1F) (Notice of filing of the petition to modify the certificate) filed April 21, 1980. Petitioner: BARNET'S EXPRESS, INC., 758 lidgerwood Avenue, Elizabeth, NJ 07202. Representative: IRVING KLEIN, 371 Seventh Avenue, New York, NY 10001. Petitioner holds *common carrier* authority in MC 17051-Sub. 19F vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *equipment, materials, and supplies* used in the manufacture and distribution of wearing apparel, (except commodities in bulk) (a) from the facilities of Ideal Outerwear, Inc. and Almax Sportswear, at (i) East Newark, NJ, and (ii) New York, NY, to points in Tennessee, (b) from the facilities of Cooper Sportswear Manufacturing Company, Inc. at (i) Carteret, Newark, Perth Amboy, and Trenton, NJ, and (ii) Johnstown, NY, to points in GA, MS, and TN. (2) *wearing apparel on hangers,* (a) from points in TN to the facilities of Ideal Outerwear, Inc., and Almax Sportswear, at (i) East Newark, NJ, and (ii) New York, NY, and (b) from points in GA, MS and TN to the facilities of Cooper Sportswear Manufacturing Company, Inc., at (i) Carteret, Newark, Perth Amboy, and Trenton, NJ, and (ii) Johnstown, NY. By the instant petition, petitioner seeks to modify the above authority to read: To operate as a common carrier in interstate or foreign commerce over irregular routes transporting: 1. *Equipment, materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk) from New York, NY, Newark, and Trenton, NJ and Johnstown, NY to points in GA, MS, and TN, and 2. *Wearing apparel* from points in GA, MS, and TN to New York, NY, Newark and Trenton, NJ and Johnstown, NY.

MC 20841 (Subs-1, 2, 3, 4, 7, and 10) (M1F) (Notice of filing of petition to modify certificates) filed November 29, 1979. Petitioner: MARATHON FREIGHT LINES, INC., 340 South Styles St., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds motor *common carrier* certificates in MC 20841 (Subs-1, 2, 3, 4, 7, and 10), issued March 31, 1964, August 29, 1967, December 16, 1968, June 18, 1969, March 31, 1964, March 16, 1973, and November 27, 1974, respectively. MC 20841 (Sub-1) authorizes transportation, in summary, as pertinent, of I. *regular routes, general commodities,* with exceptions, between Carteret, NJ, and New York, NY, serving the intermediate points of Newark, and Jersey City, NJ, and the off-route point of Liberty, NY, over specified routes, II. *Over irregular routes,* (A) *general commodities* with exceptions, between points in New York, NY Commercial Zone as defined by the Commission in 1 M.C.C. 665 on the one hand, and, on the other, points in specified NJ Counties, and Westchester County, NY, (B) *general commodities,* with exceptions, from New York, NY, to points on Long Island, NY. MC 209841 (Sub-2) authorizes foodstuffs (except in bulk), from the facilities of the General Warehouse Corporation at North Bergen, NJ, to points in CT. MC 20841 (Sub-3) authorizes in summary, *such commodities* as are used by or sold in grocery or department stores (with exceptions) covering the same territory as Sub 2 above. MC 20841 (Sub-4) authorizes in summary, *same commodities* as (Sub-3) above, with different exceptions, from the same origin as (Sub-2 and 3), to points in Rockland and Orange Counties, NY. MC 20841 (Sub-7) authorizes (A) *such commodities* as are dealt in by grocery or department stores, with exceptions, from the facilities of Summit Warehouse Corporation at Edgewater, NJ, to destination (Sub-4), and (B) *returned shipments* of (A) above, from points in Rockland, Orange, Nassau, and Suffolk Counties, NY, and points in CT, to origins in (Subs-2 and (7)A) above. MC 20841 (Sub-10) authorizes transportation of *such commodities* as are used or sold by (a) grocery, discount, department, or drug stores, and (b) candy or tobacco distributors, with exceptions, between the facilities of Atlantic Distribution Center, Inc. aat or near Jersey City, NJ on the one hand, and, on the other, New York, NY, specified NY Counties, points in CT, and NJ, with facility restriction. By the instant petition, petitioner seeks to modify the above authorities as follows: (Sub-1)—Add Wallkill, NY as an off-route point in I above; Modify the radial portion in II(A) above to include all points in NJ; Modify the territorial description in II(B) to read between New York, NY, on the one hand, and, on the other, points on Long Island, NY. (Subs-2, 3, 4, and 10)—add Linden, NJ to the origin portion of the territorial description, and in (Sub-7) part (B) add Linden, NJ as a destination point.

MC 38921 (M1F) (Notice of filing of petition to modify certificate), filed March 4, 1980. Petitioner: KMA LEASING, INC., 1342 North Howard St., Philadelphia, PA 19122. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* authority certificated in MC–38921, issued October 31, 1979, authorizing transportation, as summarized, and as pertinent, over regular routes, of (A) *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Camden, NJ and Atlantic City, NJ over specified routes; (2) between Camden, NJ and junction NJ Secondary Hwy 561 and US Hwy 322, over specified routes; (3) between Camden, NJ and junction US Hwy 130 and NJ Secondary Hwy 545, over specified routes; (4) between Bordentown, NJ and junction US Hwys 206 and 30, over specified routes; (5) between junction NJ Hwy 73 and US Hwy 130 and junction NJ Hwy 73 and US Hwy 30, over specified routes; (6) between Camden, NJ and Tuckahoe, NJ, over specified routes; (7) between junction NJ Hwys 42 and 41 and junction NJ Hwys 42 and 41 and junction NJ Hwy 47 and NJ Secondary Hwy 585, at or near Wildwood, NJ, over specified routes; (8) between junction NJ Hwy 50 and US Hwy 30 and Seaville, NJ, over specified routes; (9) between Cape May, NJ and junction US Hwys 9 and 30, over specified routes; (10) between junction NJ Secondary Hwy 585 and US Hwy 9 and Pleasantville, NJ, over specified routes; (11) between Pittsgrove, NJ and Mckee City, NJ, over specified routes; (12) between Bridgeton, NJ and Richland, NJ, over specified routes; (13) between junction NJ Secondary Hwy 552 and US Hwy 40 and junction NJ Secondary Hwy 522 Spur and NJ Hwy 47, over specified routes; (14) between junction NJ Hwy 54 and US Hwy 30, and junction NJ Secondary Hwys 555 and 552 Spur, over specified routes. Serving points in that part of NJ bounded by a line beginning at Bordentown, NJ and extending along the DE river to Camden, NJ, then south along NJ Hwy 45 to junction NJ Hwy 77, then along NJ Hwy 77 to Bridgeton, NJ, then along Cohansey river to the DE Bay, then along the NJ shores of DE Bay and the Atlantic Ocean to Atlantic City, NJ, then along US Highway 30 to junction US Hwy 206 to Bordentown and point of beginning, as intermediate or off-route poins in connection with the above described routes. Serving points on US Highway 30 between Philadelphia, PA, and Atlantic City, NJ and points described in the paragraph immediately above, as intermediate or off-route points in connection with carrier's authorized regular-route authority between Philadelphia, PA, and Atlantic City, NJ (except those points carrier is authorized to serve in section (b) hereinbelow). Restriction: The regular-route authority granted in section (A) hereinabove should be restricted to traffic moving from, to, and through Philadelphia, PA.; and (C) *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Baltimore, MD and New York, NY, serving all imtermediate points, over specified routes; (2) between Baltimore, MD and Allentown, PA, serving all intermediate points, over specified routes; between Elkton, MD and junction PA Hwys 113 and 100, serving all intermediate points, over specified routes; (3) between Baltimore, MD and Philadelphia, PA, serving all intermediate points, over specified routes. Service is authorized to and from all off-route points in that part of MD on and bounded by a line extending from Baltimore along MD Hwy 45 to Towson, MD, then MD Hwy 146 to Jacksonville, MD, then along MD Hwy 145 to junction MD Hwy 165, then along MD Hwy 165 to the MD–PA state line, then along the MD–PA state line to junction MD–DE state line, then along the MD–DE state line to junction US Hwy 40, then along US Hwy 40 to Elkton; then south to the Elk River, then along the western branch of the Elk River to the shore of Chesapeake Bay, then along the shore of Chesapeake Bay to Baltimore, points in those portions of PA, NJ and DE bounded by a line beginning at the MD–PA state line and extending along PA Hwy 10 to Reading, PA, then along PA Hwy 10 to Hamburg, PA, then along US Hwy 22 to Newark, NJ, then along US Hwy 1 to junction US Hwy 130, then along US Highway 130 to junction US Hwy 40, then along US Hwy 40 to the MD–DE state line to MD–PA state line to the point of beginning. Restriction: The following authorized in (C) above is subject to the following conditions: **The authority granted in (C) above is limited to the transportation of shipments moving from, to, or through a terminal, intermediate, or off-route points in MD. The operation authorized in (C) above are restricted against the rendition of service between any pair of points in MD, except in connection with traffic moving from, to, or through Baltimore. The authority granted in (C) above shall not be severable by sale or otherwise from the irregular-route authority contained in (C) below to transport milk products, canned goods and general commodities. (4) Between Baltimore, MD and Washington, DC, serving all intermediate points and the off-route points of Fort George G. Meade, Gambrills, Millersville, and Odenton, MD, and points in the Washington, DC Commercial Zone, as defined by the Commission in 3 M.C.C. 243: (a) from Baltimore over US Hwy 1 to Washington; and (b) return over US Hwy 1 to junction MD Hwy 450 near Bladensburg, MD, then over MD Hwy 450 to Annapolis, MD, then over MD Hwy 178 to junction MD Hwy 3, then over MD Hwy 3 to junction Business MD Hwy 3, then over Business MD Hwy 3 via Glen Burnie, MD, to Baltimore (also from Annapolis over MD Hwy 2 to junction MD Hwy 648, then over MD Hwy 648 to Glen Burnie, MD, then over Business MD Hwy 3 to junction MD Hwy 2, near Furnace Branch, MD, then over MD Hwy 2 to Baltimore). By the instant petition, petitioner seeks to modify the authority by (1) deleting the restriction to "traffic moving from, to, and through Philadelphia, PA" in section (A) above, (2) deleting the restriction in (C) above limiting "traffic moving from, to or through a terminal, intermediate, or off-route points in MD, and (3) modifying the territorial description in section (C), routes 4 (a) and (b) to read as follows: (a) from Baltimore over US Hwy 1 to Washington, and return over the same route, and (b) from Baltimore over MD Hwy 3 via Glen Burnie to junction MD Hwy 178, then over MD Hwy 178 to junction MD Hwy 450, then over MD Hwy 450 to Annapolis, MD, then over MD Hwy 450 to Bladensburg, MD, then over US Hwy 1 to Washington, and return over the same route (also from Baltimore over MD Hwy 2 to Annapolis, MD, then to Washington as described above), and return over the same route.

MC 59264 (MIF) (notice of petition to modify certificate), filed June 13, 1980. Petitioner: SMITH & SOLOMON TRUCKING COMPANY, a corporation, How Lane, New Brunswick, NJ. Representative: Lawrence S. Burstein, Suite 2373, One World Trade Center, New York, NY 10048. Petitioner holds motor *common carrier* authority Certificate in MC 59264 issued October 21, 1939, authorizing transportation of ordinance, quartermaster supplies and ammunition between Raritan Arsenal, Nixon, N.J., and points in Philadelphia County, Pa., on the one hand and, on the other, all military posts, forts, and reservations, naval bases and port of embarkation in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maine, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, traversing New Hampshire and Vermont for operating conveniences only. It is further ordered, that the authority to transport ordinance and quartermaster supplies, as specified in the certificate, shall be construed to include authority to transport, among other articles, ammunition and Class A, B, and C explosives. By the instant petition, petitioner seeks to delete the restriction which requires the movement be between Raritan Arsenal, Nixon, N.J. and points in Philadelphia County, Pa. on the one hand.

MC 60580 (Subs-26, 27, 29, 30, 32, 35, 36, 37) (MIF) (notice of filing of petition to modify certificates), filed May 30, 1980. Petitioner: MAISLIN TRANSPORT OF DELAWARE, INC., 7401 Newman Blvd., LaSalle, Quebec, Canada H8N 1X4. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificates in MC 60580 (Subs-26, 27, 29, 30, 32, 35, 36, and 37), issued February 17, 1958, April 11, 1969, October 25, 1972, April 21, 1975, December 19, 1975, October 29, 1976, June 13, 1978, September 1, 1978, and June 25, 1979, respectively. The above certificates authorizes, in summary, transportation, over regular routes, irregular routes, and alternate routes for operating convenience only, of *general commodities* with exceptions, as well as *various specific commodities,* serving various points in VA, PA, DE, NJ, NY, MD, CT, RI, MA, NH, VT, ME, and DC. By the instant petition, petitioner seeks to modify the regular route portions of the above certificates to read as follows: Modify the regular route portions of MC 60580 as follows: (I) *General Commodities,* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (a) Between Ocean View, VA, and Philadelphia, PA: From Ocean View over U.S. Hwy 60 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Suffolk, VA, then over U.S. Highway 460 to Petersburg, VA, then over U.S. Hwy 1 to Philadelphia, and return over the same route, (b) Between Ocean View, VA, and Baltimore, MD, and junction Interstate Hwys 70 and 76: From Ocean View over Interstate Hwy 64 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 495 then over Interstate Hwy 495 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 76 (also from Baltimore over Interstate Hwy 70N to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 76), and return over the same routes. (c) Between Philadelphia and Chambersburg, PA, over U.S. Hwy 30. (d) Between Philadelphia and Scranton, PA: From Philadelphia over PA Hwy 611 to junction Interstate Hwy 380, then over Interstate Hwy 380 to Scranton (also from Easton over PA Hwy 115 to Saylorsburg, PA, then over unnumbered highway to Stroudsburg) and return over the same route. (e) Between Philadelphia and Pittsburgh, PA: over Interstate Hwy 76. (f) Between Philadelphia and Berwick, PA: From Philadelphia over U.S. Hwy 309 to Allentown, PA, then over PA Hwy 93 via Hazleton, PA, to Berwick, and return over the same route. (g) Between Center Valley, PA, and junction PA Hwys 248 and 873 near Palmerton, PA: From Center Valley over PA Hwy 378 to Bethlehem, PA, then over city streets to Allentown, PA, then over unnumbered highway via Catasauqua and Northampton, PA, to Cherryville, PA, then over unnumbered highway to junction PA Hwy 145, then over PA Hwy 145 to junction PA Hwys 248 and 873 and return over the same route. (h) Between Northumberland and Forest City, PA: From Northumberland over U.S. Hwy 11 via Pittston, PA, to Scranton, PA (also from Pittston over unnumbered highway via Old Forge and Taylor, PA to Scranton), then over U.S. Hwy 6 to Carbondale, PA, then over PA Hwy 171 to Forest City, and return over the same route. (i) Between Pottsville and Lock Haven, PA: From Pottsville over PA Hwy 61 to Sunbury, PA, then over PA Hwy 147 to Halls, PA, then over U.S. Hwy 220 via Williamsport, PA, to Lock Haven (also from Sunbury across the Susquehanna River Bridge, then over U.S. Hwy 15 to Williamsport), and return over the same routes. (j) Between Ashland and Tamaqua, PA: From Ashland over PA Hwy 54 to Shenandoah, PA then over PA Hwy 924 to Hazleton, PA, then over U.S. Hwy 309 via Hometown, PA, to Tamaqua, also from Shenandoah over PA Hwy 54 to Hometown, and return over the same routes.

(k) Between junction U.S. Hwy 209 and PA Hwy 93 near Nesquehoning, PA, and Millersburg, PA: From junction U.S. Hwy 209 and PA Hwy 93, over U.S. Hwy 209 to Millersburg, and return over the same route. (l) Between Philadelphia and Harrisburg, PA: From Philadelphia over U.S. Hwy 422 via Reading, PA, to junction U.S. Hwy 322, then over U.S. Hwy 322 to Harrisburg (also from Reading over U.S. Hwy 222 to Lancaster, PA then over U.S. Hwy 230 to Harrisburg), and return over the same route. (m) Between State Road, DE, and Pennsville, NJ: From State Road over U.S. Hwy 40 to junction DE Hwy 273, then over DE Hwy 273 to New Castle, DE, then north over unnumbered highway to junction U.S. Hwy 40, then over the Delaware Memorial Bridge to junction NJ Hwy 49, then over NJ Hwy 49 to Pennsville and return over the same route. (h) Between Wilmington, DE, and Penns Grove, NJ: From Wilmington south over unnumbered highway to junction U.S. Hwy 40, then over the Delaware Memorial Bridge to junction U.S. Hwy 130, then over U.S. Hwy 130 to Penns Grove, and return over the same route. (o) Between Chester, PA, and Bridgeport, NJ: From Chester across the Delaware River via ferry to junction U.S. Hwy 322, then over U.S. Hwy 322 to Bridgeport, and return over the same route. (p) Between Philadelphia, PA, and Bridgeton, NJ: 1. From Philadelphia, across the Delaware River to Camden, NJ, then over NJ Hwy 45 to Salem, NJ, then over NJ Hwy 49 to Bridgeton, and return over the same route. 2. From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 45 to Mullica Hill, NJ, then over NJ Hwy 77 to Bridgeton, and return over the same route. (q) Between Philadelphia, PA, and Millville, NJ: (1) From Philadelphia across the Delaware River to Camden, NJ, then over U.S. Hwy 130 to junction Interstate Hwy 295, then over Interstate Hwy 295 junction NJ Hwy 49, then over NJ Hwy 49 via Salem, NJ, to Millville, and return over the same route. (2) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 551 to Westville, NJ, then over NJ Hwy 47 to Millville, and return over the same route. (r) Between Philadelphia, PA, and Malaga, NJ: (1) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 45 to Woodbury, NJ, then over NJ Hwy 551 via Swedesboro and Auburn, NJ, to Deepwater, NJ, then over U.S. Hwy 130 to Penns Grove, NJ, then over NJ Hwy 48 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Malaga, and return over the same route. (2) From Philadelphia across the Delaware River to Camden, NJ, then over U.S. Hwy 130 to Bridgeport, NJ, then over U.S. Hwy 322 to junction NJ Hwy 551, then over NJ Hwy 551 to Swedesboro, NJ, then over NJ Hwy 538 to Franklinville, NJ, then over NJ Hwy 47 to Malaga, and return over the same route. (3) From Philadelphia to Bridgeport as specified above, then over U.S. Hwy 322 to junction NJ Hwy 47, then over NJ Hwy 47 to Malaga, and return over the same route. (s) Between Philadelphia, PA, and Ocean City, NJ: (1) From Philadelphia across the Delaware River to Camden, NJ, then over U.S. Hwy 30 to Atlantic City, NJ, then over unnumbered highway to Ocean City, and return over the same route. (2) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 42 to Williamstown, NJ, then over U.S. Hwy 322 to Atlantic City, NJ, then over unnumbered highway to Ocean City, and return over the same route. (t) Between Philadelphia, PA, and junction U.S. Hwy 22 and PA Turnpike Extension: From Philadelphia over U.S. Hwy 422 to junction PA Turnpike Extension then over PA Turnpike Extension (PA Hwy 9) to junction U.S. Hwy 22, and return over the same route. (u) Between Philadelphia, PA, and Mount Holly, NJ: (1) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 70 to Medford, NJ, then over NJ Hwy 541 to Mount Holly, and return over the same route. (2) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 537 to Mount Holly, and return over the same route. (3) From Philadelphia across the Delaware River to Camden, NJ, then over U.S. Hwy 130 to Burlington, NJ, then over NY Hwy 541 to Mount Holly, and return over the same route. (v) Between Harrisburg and Pittsburgh, PA: (1) From Harrisburg over U.S. Hwy 22 to Pittsburgh, and return over the same route. (2) From Harrisburg over U.S. Hwy 22 to Cresson, PA, then over PA Hwy 53 to Johnstown, PA, then over U.S. Hwy 56 to Armagh, PA, then over U.S. Hwy 22 to Pittsburgh, and return over the same route. (w) Between Philadelphia, PA, and Cape May, NJ: (1) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 45 to Salem, NJ, then over NJ Hwy 49 to Millville, NJ, then over NJ Hwy 47 to Goshen, NJ, then over unnumbered highway via Cape May Court House, NJ, to junction U.S. Hwy 9, then over U.S. Hwy 9 to Cape May, and return over the same route. (2) From Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 45 to Woodbury, NJ, then over NJ Hwy 553 to junction NJ Hwy 47, then over NJ Hwy 47 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Cape May, and return over the same route. (x) Between New York, NY, and State Road, DE: (1) From New York over U.S. Hwy 1 to Philadelphia, then over U.S. Hwy 13 to State Road, and return over the same route. (2) From New York over U.S. Hwy 1 to junction U.S. Hwy 130, then over U.S. Hwy 130 to junction INT Hwy 295 near Thorofare, NJ, then over INT Hwy 295 to junction U.S. Hwy 40, then over U.S. Hwy 40 to State Road, and return the same route. (y) Between Easton, PA, and New York, NY: (1) From Easton over U.S. Hwy 22 to junction U.S. Hwy 1, then over U.S. Hwy 1 to New York, and return over the same route. (2) From Easton over U.S. Hwy 22 to Somerville, NJ, then over NJ Hwy 29 to junction U.S. Hwy 1, then over U.S. Hwy 1 to New York, and return over the same route. (2) Between Easton, PA, and junction INT Hwy 81 and the Pennsylvania Turnpike Extension: From Easton over U.S. Hwy 22 to junction Pennsylvania Turnpike Extension, then over PA Turnpike Extension (PA Hwy 9) to junction INT Hwy 81, and return over the same route. Serving in connection with the above-described routes all intermediate points and all off-route points in DC, DE, MD, NJ, PA and VA. Modify the regular route portions of Sub-26 as follows: (I) *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, (a) Between New York, NY, and points in New York: (1) From New York over U.S. Hwy 9W (also over U.S. Hwy 9) to Albany, NY, then over NY Hwy 5 via Utica and Syracuse, NY, to Buffalo, NY, then over NY Hwy 18 to Lewiston, NY, and return over the same route. (2) From New York to Utica as described above, then over New York Hwy 49 to Rome, NY, and return over the same route. (3) From New York to Syracuse as specified above, then over U.S. Hwy 11 to Watertown, NY, and return over the same route. (4) From New York to Syracuse as described above, then over New York Hwy 57 to junction New York Hwy 31, and thence over New York Hwy 31 to Niagara Falls, NY, and return over the same route. (5) From New York across the Hudson River to Jersey City, NJ, then over New Jersey Hwy 17 to the New Jersey-New York State line, then over NY Hwy 17 via Binghamton, NY, to Horseheads, NY, (also from Binghamton over U.S. Hwy 11 to Cortland, NY, then over NY Hwy 13 to Horseheads) and then over NY Hwy 17 to Jamestown, NY, and return over the same route. (6) From New York to Binghamton as described above, then over New York Hwy 12 to Utica, and return over the same route. Serving in connection with the above described routes all intermediate points and all off-route points NY. (II) *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (a) Between Buffalo, NY, and Brockport, NY, as follows:

(1) From Buffalo over NY Hwy 384 (also over unnumbered highway) to Tonawanda, NY then over NY Hwy 384 to Niagara Falls, NY, then over NY Hwy 31 to Brockport, and return over the same routes. (2) From Buffalo over U.S. Hwy 62 to junction NY Hwy 182, then over NY Hwy 182 (also from Buffalo over U.S. Hwy 62) to Niagara Falls, NY, then over NY Hwy 31 to Brockport, and return over the same route. (b) Between Buffalo, NY, and the U.S.-Canada Boundary line near Niagara Falls, NY: From Buffalo to Niagara Falls as specified above, then over the International Bridge (also over the Lower Arch Bridge) to the U.S.-Canada Boundary line, and return over the same route. (c) Between Buffalo, NY, and the U.S.-Canada Boundary line near Buffalo, NY: From Buffalo over city streets (also over Peace Bridge) to the U.S.-Canada Boundary line, and return over the same route. (d) Between Niagara Falls, NY, and Erie, PA: (1) From Niagara Falls over NY Hwy 182 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Erie, and return over the same route. (2) From Niagara Falls over NY Hwy 384 to Buffalo, NY then over NY Hwy 5 to the NY–PA State line, then over PA Hwy 5 to Erie, and return over the same route. (e) Between Jamestown, NY, and Westfield, NY: From Jamestown over NY Hwy 394 to junction NY Hwy 17, then over NY Hwy 17 to Westfield, and return over the same route. Serving in connection with the above described routes all intermediate points and all off-route points in NY. (III) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (a) Between Olean, NY, and Buffalo, NY: From Olean over NY Hwy 16 to Buffalo, and return over the same route. (b) Between Buffalo, NY, and junction NY Hwy 17 and U.S. Hwy 62 (near Kennedy, NY): From Buffalo over U.S. Hwy 62 to junction NY Hwy 17, and return over the same route. (c) Between Owego, NY, and Waterloo, NY: From Owego over NY Hwy 96 to Waterloo, and return over the same route. Serving in connection with the above-described regular routes all intermediate points and all off-route points in NY. Modify Sub-27 (the regular route portion) as follows: (I) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (a) Between Fulton, NY, and New York, NY, as follows: From Fulton over NY Hwy 57 to Syracuse, NY, then over NY Hwy 5 to Albany, NY, then over U.S. Hwy 9W to Catskill, NY, then over U.S. Hwy 9W to Newburgh, NY, then over NY Hwy 32 to junction NY Hwy 17 near Harriman, NY, then over NY Hwy 17 to the NY–NJ State line, then over NJ Hwy 17 to junction U.S. Hwy 1, then over U.S. Hwy 1 to New York (also via NJ Hwy 3 to Weehawken, NJ, then across the Hudson River to New York) and return over the same route. (b) Between Palatine Bridge, NY, and Catskill, NY: From Palatine Bridge over NY Hwy 10 to Canajoharie, NY, then over NY Hwy 55 to Sprakers, NY, then over NY Hwy 162 to Sloansville, NY, then over NY Hwy 30A via Central Bridge, NY to junction NY Hwy 7, then over NY Hwy 7 to junction NY Hwy 30, then over NY Hwy 30 to Middleburg, NY, then over NY Hwy 145 to Catskill, and return over the same route. (c) Between Utica, NY, and Herkimer, NY: From Utica over NY Hwy 5S to Mohawk, NY, then over NY Hwy 28 to Herkimer, and return over the same route. (d) Between Schenectady, NY and Albany, NY: From Schenectady over NY Hwy 7 to Troy, NY, then over U.S. Hwy 4 to junction NY Hwy 43, then over NY Hwy 43 to Albany, and return over the same route. (e) Between Utica, NY, and junction NY Hwys 365 and 5: From Utica over NY Hwy 69 to Rome, NY, then over NY Hwy 365 to junction NY Hwy 5, and return over the same route. (f) Between Rochester, NY, and Fulton, NY, as follows: (1) From Rochester over U.S. Hwy 104 to Oswego, NY, then over NY Hwy 57 to Fulton, and return over the same route. (2) From Rochester over U.S. Hwy 104 to Red Creek, NY, then over NY Hwy 104A to junction U.S. Hwy 104, then over U.S. Hwy 104 to Oswego, NY, then over NY Hwy 48 to Fulton, and return over the same route. From Rochester over U.S. Hwy 104 to junction NY Hwy 3, then over NY Hwy 3 to Fulton, and return over the same route. (g) Between Buffalo, NY, and Rochester, NY: From Buffalo over NY Hwy 33 to Rochester, and return over the same route. (h) Between Batavia, NY, and Rochester, NY: (1) From Batavia over NY Hwy 33 to junction NY Hwy 33A, then over NY Hwy 33A to Rochester, and return over the same route. (2) From Batavia over NY Hwy 5 to East Avon, NY, then over NY Hwy 15 to Rochester, and return over the same route. (i) Between Buffalo, NY, and Albion, NY: From Buffalo over NY Hwy 263 to

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junction NY Hwy 78, then over NY Hwy 78 to Lockport, NY, then over NY Hwy 31 to Medina, NY (also from Lockport over NY Hwy 78 to Olcott, NY, then over NY Hwy 18 to Somerset, NY, then over NY Hwy 148 to junction NY Hwy 104, then over NY Hwy 104 to Hartland, NY, then over unnumbered Highway to Gasport, NY, then over NY Hwy 31 to Medina, NY), then over NY Hwy 63 to Lyndonville, NY, then over unnumbered highway to junction NY Hwy 279, then over NY Hwy 279 to junction NY Hwy 98, then over NY Hwy 98 to Albion, and return over the same route. (j) Between Williamsport, PA, and Cortland, NY: From Williamsport over U.S. Hwy 15 to junction NY Hwy 17, then over NY Hwy 17 to junction NY Hwy 13, then over NY Hwy 13 to Cortland, and return over the same route. (k) Between junction U.S. Hwy 22 and U.S. Hwy 11 and Sunbury, PA: From junction U.S. Hwy 22 and U.S. Hwy 11 over U.S. Hwy 11 to Sunbury, and return over the same route. (l) Between Lock Haven, PA, and junction U.S. Hwy 22 and U.S. Hwy 220: From Lock Haven over U.S. Hwy 220 to junction U.S. Hwy 22, and return over the same route. Serving in connection with the above described routes all intermediate points and all off-route points in NY and PA. Modify the regular route portion of Sub-29 as follows: (I) *General commodities* (except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) Between New York, NY, and Watertown, NY: From New York over U.S. Hwy 1 to junction NJ Hwy 17 (also from New York across the Hudson River to Weehawken, NJ, then over NJ Hwy 3 to junction NJ Hwy 17), then over NJ Hwy 17 to the NJ–NY State line, then over NY Hwy 17 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Watertown, and return over the same route. (b) Between junction NJ Hwy 17 and U.S. Hwy 46, and Binghamton, NY: From junction NJ Hwy 17 and U.S. Hwy 46 over U.S. Hwy 46 to junction INT Hwy 80, the over INT Hwy 80 to junction INT Hwy 380, then over INT Hwy 380 to junction INT Hwy 81, then over INT Hwy 81 to Binghamton, and return over the same route. (c) Between Watertown, NY, and Rouses Point, NY: From Watertown over U.S. Hwy 11 to Rouses Point, and return over the same route. (d) Between Syracuse, NY, and Rochester, NY: From Syracuse over NY Hwy 5 to junction NY Hwy 31B, then over NY Hwy 31B to junction NY Hwy 31, then over NY Hwy 31 to Rochester, NY, and return over the same route. (e) Between Buffalo, NY, and Rochester, NY: From Buffalo over NY Hwy 5 to Batavia, NY, then over NY Hwy 33 to Rochester, and return over the same route. (f) Between Baltimore, MD, and Syracuse, NY: From Baltimore over INT Hwy 83 to junction INT Hwy 81, then over INT Hwy 81 to Syracuse, and return over the same route. Serving in connection with the above-described routes all intermediate points and all off-route points in NJ, NY and PA.

Modify the regular-route portion of Sub-30 as follows: (I) *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) Between Marcus Hook, PA, and Poughkeepsie, NY: From Marcus Hook over U.S. Hwy 13 to Philadelphia, then over U.S. Hwy 1 to junction U.S. Hwy 9–W, then over U.S. Hwy 9–W to Highland, then across the Hudson River to Poughkeepsie, and return over the same route. (b) Between Keene, NH, and Burlington, VT. (1) From Keene over NH Hwy 12 to North Walpole, NH, then across the Connecticut River to Bellows Falls, VT, then over VT Hwy 103 to junction U.S. Hwy 7, and then over U.S. Hwy 7 to Burlington, and return over the same route. (2) From Keene to Bellows Falls as specified above, then over U.S. Hwy 5 to White River Junction, VT, then over VT Hwy 14 to Barre, VT, then over U.S. Hwy 302 to Montpelier, VT, and then over U.S. Hwy 2 to Burlington, and return over the same route. (c) Between Keene, NH, and Brattleboro, VT: From Keene over NH Hwy 9 to junction U.S. Hwy 5, then over U.S. Hwy 5 to Brattleboro, and return over the same route. From Keene over NH Hwy 10 to Winchester, NH, then over NH Hwy 119 to the Connecticut River, then across the Connecticut River to Brattleboro, and return over the same route. (d) Between White River Junction, VT, and Fair Haven, VT: From White River Junction over U.S. Hwy 4 to Fair Haven, and return over the same route. (e) Between Rutland, VT, and Montpelier, VT: From Rutland over U.S. Hwy 4 to junction VT Hwy 100, then over VT Hwy 100 to Stockbridge, VT, then over VT Hwy 107 to Bethel, VT, and then over VT Hwy 12 to Montpelier, and return over the same route. (f) Between Royalton, VT, and Bethel, VT: From Royalton over VT Hwy 107 to Bethel, and return over the same route. (g) Between Burlington, VT, and St. Albans, VT: From Burlington over U.S. Hwy 7 to St. Albans, and return over the same route. (h) Between Burlington, VT, and Essex, VT: From Burlington over VT Hwy 15 to Essex, and return over the same route. (i) Between Winchester, NH, and New York, NY: (1) From Winchester over NH Hwy 10 to the NH–MA State line, then over MA Hwy 10 to junction U.S. Hwy 5, then over U.S. Hwy 5 via Greenfield, Northampton and Springfield, MA, to Hartford, CT (also from Springfield over U.S. Hwy 5A to Hartford), then over U.S. Hwy 6 to Thomaston, CT, then over CT Hwy 8 to Stratford, CT, then over U.S. Hwy 1 to New York, and return over the same route. (2) From Winchester as specified above, to Hartford, CT, then over U.S. Hwy 5 or (5A) to New Haven, CT (also from Hartford over CT Hwy 15 to New Haven), and then over U.S. Highway 1 to New York, and return over the same route. (j) Between Worcester and Boston, MA, and Keene, NH: (1) From Worcester over MA Hwy 122 to junction MA Hwy 32, then over MA Hwy 32 to junction MA Hwy 2, then over MA Hwy 2 to junction MA Hwy 78, then over MA Hwy 78 to the MA–NH State line, then over NH Hwy 78 to Winchester, NH, and then over NH Hwy 10 to Keene, and return over the same route. (2) From Boston over MA Hwy 2 to Fitchburg, MA, then over MA Hwy 12 to the MA–NH State line, and then over NH Hwy 12 to Keene, and return over the same route. (k) Between Keene, NH, and Manchester, NH: (1) From Keene over NH Hwy 101A to Manchester, and return over same route. (2) From Keene over NH Hwy 9 to Henniker, NH, then over U.S. Hwy 202 to Concord, NH, then over U.S. Hwy 3 to Manchester, and return over the same route (l) Between Milford, NH, and Nashua, NH: From Milford over NH Hwy 101A to Nashua, and return over the same route (m) Between Plymouth, NH, and Montpelier, VT: From Plymouth over NH Hwy 25 to the NH–VT State line, then over VT Hwy 25 to Montpelier, and return over the same route. (n) Between Albany, NY, and Brattleboro, VT: From Albany over NY Hwy 7 to the NY–VT State line, then over VT Hwy 9 to Brattleboro, and return over the same route. (o) Between New York, NY, and Rutland, VT: From New York over INT Hwy 95 to junction INT Hwy 684, then over INT Hwy 684 to junction INT Hwy 84, then over INT Hwy 84 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Rutland, and return over the same route. (p) Between St. Albans, VT, and ports of entry on the United States-Canada boundary line at or near Rouses Point and Champlain, NY: From St. Albans over U.S. Hwy 7 to junction VT Hwy 104, then over VT Hwy 104 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction NY Hwy 9B, then over NY Hwy 9B to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction U.S. Hwy 9, and then over U.S. Hwy 9 to the United States-Canada boundary line; also from junction NY Hwys 9A and 9B, south of Rouses Point, over NY Hwy 9A to the United States-Canada boundary line; also from junction U.S. Hwy 2 and NY Hwy 9B, north of Rouses Point, over NY Hwy 9B to the United States-Canada boundary line, and return over the same routes. Serving in connection with the above-described routes all intermediate points and all off-route points in CT, MA, NH, NY and VT. (II) *General Commodities,* except those of unusual value, classes A and B explosives, liquid petroleum products in bulk, in tank trucks. (a) Between Boston, MA, and Concord, NH: (1) From Boston over U.S. Hwy 3 to Concord, and return over the same route. (2) From Boston over MA Hwy 28 to the MA–NH State line, then over NH Hwy 28 to Manchester, and then over NH Hwy 3A to Concord, and return over the same route. (3) From Boston over MA Hwy 38 to Lowell, MA, and then over U.S. Hwy 3 to Concord, and return over the same route. (4) From Boston over MA Hwy 2A, to junction MA Hwy 25, then over MA Hwy 25 to Bedford, MA, then over MA Hwy 4 to North Chelmsford, MA, then over U.S Hwy 3 to Manchester, NH, and then over NH Hwy 3A to Concord, and return over the same route. (b) Between Concord. NH, and Plymouth, NH: (1) From Concord over U.S. Hwy 3 to Plymouth, and return over the same route. (2) From Concord over U.S. Hwy 3 to junction NH Hwy 3A, and then over NH Hwy 3A to Plymouth, and return over the same route. (c) Between Lawrence, MA, and Lowell, MA: From Lawrence over MA Hwy 110 to Lowell, and return over the same route. (d) Between Concord, NH, and White River Junction, VT: (1) From Concord over NH Hwy 103 to junction U.S. Hwy 5, and then over U.S. Hwy 5 to White River Junction, and return over the same route. (2) From Concord over NH Hwy 103 to Hopkinton, NH, then over U.S. Hwy 202 to Henniker, NH, then over NH Hwy 114 to Bradford, NH, then over NH Hwy 103 to junction U.S. Hwy 5, and then over U.S. Hwy 5 to White River Junction, and return over the same route. (3) From Concord over U.S. Hwy 3 to Boscawen, NH, and then over U.S Hwy 4 to White River Junction, and return over the same route. (e) Between Manchester, NH, and White River Junction, VT: From Manchester over NH Hwy 114 to Bradford, NH, then over NH Hwy 103 to junction U.S. Hwy 5, then over U.S. Hwy 5 to White River Junction, and return over the same route. (f) Between Potter Place, NH, and junction NH Hwys 11 and 103 near Wendall, NH: From Potter Place over NH Hwy 11 to junction NH Hwy 103, and return over the same route. (g) Between Fair Haven, VT, and New York, NY: From Fair Haven over U.S. Hwy 4 to Hudson Falls, NY, then over NY Hwy 32–B to Glens Falls, NY, then over U.S. Hwy 9 to Albany, NY, then over U.S. Hwy 9–W to Newburgh, NY, then over NY Hwy 32 to junction NY Hwy 17, then over NY Hwy 17 to the NY–NJ State line, then over NJ Hwy 17 to junction NJ Hwy 3, then over NJ Hwy 3 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY and return over the same route. (h) Between junction INT Hwy 87 and NY Hwy 7 and the U.S.-Canada Boundary line: From junction INT Hwy 87 and NY Hwy 7 over INT Hwy 87 to the U.S.-Canada Boundary line, and return over the same route. (i) Between New Haven, CT, and Boston, MA: From New Haven over INT Hwy 95 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Boston, and return over the same route. (j) Between Hartford, CT, and junction U.S. Hwy 6 and INT Hwy 95: From Hartford over U.S. Hwy 6 to junction INT Hwy 95, and return over the same route. (k) Between Newburgh, NY, and Waterbury, CT: From Newburgh over INT Hwy 84 to Waterbury, and return over the same route. Serving in connection with the above-described routes all intermediate points and all off-route points in CT, MA, RI, NY, NJ, VT and NH.

Modify the regular route portion of Sub 32 as follows: (i) *General Commodities* (except those of unusual value classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) Between Lowell, MA, and Worcester, MA: From Lowell over INT Hwy 495 to junction INT Hwy 290, then over INT Hwy 290 to Worcester, and return over the same route. (b) Between Worcester, MA, and Springfield, MA: From Worcester over INT Hwy 90 to Springfield, and return over the same route. (c) Between junction MA Hwy 15 and INT Hwy 90 and Hartford, CT; From junction MA Hwy 15 and INT Hwy 90 over MA Hwy 15 to junction INT Hwy 86, then over INT Hwy 86 to Hartford, and return over the same route. Serving all intermediate points and all off-route points in MA and CT. Restriction: The authority granted herein shall not be severable by sale or otherwise from the irregular-route rights set forth in Section C of Certificate NO MC 60580 SUB 30, relative to the first two commodity descriptions thereunder. Modify the regular route portion of Sub-35 as follows: (I) *General Commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (a) Between Pittsburgh, PA and Buffalo, NY: (1) From Pittsburgh over INT Hwy 79 to junction INT Hwy 90, then over INT Hwy 90 to Buffalo, and return over the same route. (2) From Pittsburgh over INT Hwy 279 to junction INT Hwy 79, then over INT Hwy 79 to junction INT Hwy 90, then over INT Hwy 90 to Buffalo, and return over the same route. (3) From Pittsburgh over PA Hwy 8 to Franklin, PA, then over U.S. Hwy 62 to Buffalo, and return over the same route. (4) From Pittsburgh over U.S. Hwy 19 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 62, then over U.S. Hwy 62 to Buffalo, and return over the same route. Serving all intermediate points and all off-route points in PA and NY. Modify the regular-route portion of Sub-36 as follows: (I) *General Commodities,* except those of unsual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (a) Between Springfield, MA, and Schenectady, NY: From Springfield over U.S. Hwy 20 to Albany, NY, then over NY Hwy 5 to Schenectady, and return over the same route. Serving all intermediate points and all off-route points in MA and NY. Modify the regular route portion of Sub-37 as follows: (I) *General Commodities,* except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (a) Between Pittsburgh, PA and Erie, PA: From Pittsburgh over U.S. Hwy 19 to Erie, and return over the same route. Serving all intermediate points and all off-route points in PA and NY.

MC 70832 (M2F) and MC 70832 (Sub-11) (M1F) (notice of petition for modification of certificates), filed June 16, 1980. Petitioner: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, DC 20005. Petitioner holds motor common carrier Certificates in MC 70832, issued August 8, 1957, and MC 70832 (Sub-11), issued September 26, 1967, which authorize, in part, regular route transportation in interstate or foreign commerce as follows: MC 70832: *General Commodities,* except those of unsual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between

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Harrisburg, Pa., and New York, N.Y., serving all intermediate points (except Fredericksburg and Hamburg, Pa.): From Harrisburg over U.S. Highway 422 to Reading, Pa., then over U.S. Highway 222 to Allentown, Pa., thence over U.S. Highway 22 to Somerville, N.J. thence over New Jersey Highway 28 to junction U.S. Highway 1 (also from Somerville over U.S. Highway 22 (formerly New Jersey Highway 29) to junction U.S. Highway 1), then over U.S. Highway 1 to New York, and return over the same route. From Harrisburg over U.S. Highway 230 to Lancaster, Pa., thence over U.S. Highway 222 to Reading, Pa., thence to New York as specified above, and return over the same routes. From Harrisburg over U.S. Highway 22 to Allentown, Pa., thence to New York as specified above, and return over the same routes. Between Pine Grove, Pa., and New York, N.Y., serving all intermediate points: From Pine Grove over Pennsylvania Highway 443 to junction, Pennsylvania Highway 72, thence over Pennsylvania Highway 72 to Lancaster, Pa., thence over U.S. Highway 222 to Reading, Pa., thence to New York as specified above, and return over the same routes. Between Lebanon, Pa., and New York, N.Y., serving all intermediate points: From Lebanon over Pennsylvania Highway 897 to junction Pennsylvania Highway 501, thence over Pennsylvania Highway 501 to Lancaster, thence to New York as specified above, and return over the same routes. Between Myerstown, Pa., and New York, N.Y., serving all intermediate points: From Myerstown over Pennsylvania Highway 501 to Lancaster, Pa., thence to New York as specified above, and return over the same routes. Between Mt. Joy, Pa., and New York, N.Y., serving all intermediate points: From Mt. Joy over unnumbered highway to Manheim, Pa., thence over Pennsylvania Highway 72 to Lebanon, Pa., thence to New York as specified above, and return over the same routes. Serving the off-route points of Trenton, New Brunswick, and Perth Amboy, N.J., Cambelltown and Indiantown Gap, Pa., those in the New York, N.Y., Commercial Zone, as defined by the Commission, and those in New Jersey south and east of a line beginning at the Hudson River and extending in a northwesterly direction through Coytesville and Hackensack, N.J., to Paterson, N.J., thence in a southerly direction through Orange, Irvington, and Chrome, N.J., to Authur Kill, without restriction; York, Pa., and those on U.S. Highway 30 between New York and Lancaster, Pa., for delivery only; Columbia, Pa., for pick-up of *Castings;* and New Cumberland and Lemoyne, Pa., for delivery of *Cocoanut* only.

MC 70832 Sub 11: *General commodities,* except those of unsual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Milton, Pa., and points in the New York, N.Y., Commercial zone as defined by the Commission, serving no intermediate points and serving as off-route points those points in Pennsylvania, on, south, and east of the line beginning at the intersection of Interstate Highway 80 and the Pennsylvania-New Jersey State Line, then west along Interstate Highway 80 to its intersection with U.S. Highway 15 near Milton, Pennsylvania, then south along U.S. Highway 15 to its intersection with the Pennsylvania-Maryland State Line. From Milton over Pennsylvania Highway 254 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 46 near Columbia, N.J., thence over U.S. Highway 46 to junction Interstate Highway 80 near Netcong, N.J., thence over Interstate Highway 80 to junction U.S. Highway 46 near Denville, N.J., thence over U.S. Highway 46 to junction New Jersey Highway 23, thence over New Jersey Highway 23 to junction Interstate Highway 80, thence over Interstate Highway 80 to Paterson, N.J., thence over city streets in Paterson, N.J., to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to the George Washington Bridge at or near Fort Lee, N.J., thence over the George Washington Bridge to New York City, and return over the same route. From Milton to Paterson as specified above, thence over U.S. Highway 46 to junction New Jersey Highway 3, thence over New Jersey Highway 3 to the Lincoln Tunnel at or near Weehawken, N.J., thence through the Lincoln Tunnel to New York City, and return over the same route. Restrictions: The operations authorized are subject to the restriction that service at the points specified herein shall be limited to the transportation of traffic moving to, from or through points in the New York, N.Y., Commercial Zone as defined by the Commission. By the instant petition, petitioner seeks to modify the certificates as follows: "Those points in PA, on, south, and east of a line beginning at the PA-NJ State line, and extending along Interstate Highway 80, then along Interstate Highway 80 to junction U.S. Highway 15, near Milton, PA, then south along U.S. Highway 15 to the PA-MD State line.

MC 71593 (Subs-14 and 15), (M1F) (notice of filing of petition to modify certificates), filed April 29, 1980. Petitioner: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson (same as applicant). Petitioner holds motor *common carrier* certificates in (1) MC 71593 (Sub-14), issued March 25, 1980, and in (2) MC 71593 (Sub-15), issued March 25, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, (1) *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Boston, MA, Chicago, IL, and New York, NY, on the one hand, and, on the other, New Orleans, LA, and Dallas, Houston, and San Antonio, TX, restricted to the transportation of traffic moving on freight forwarder bills of lading. (2) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, Boston and Springfield, MA, New Haven, CT, and Philadelphia, PA, restricted to traffic moving on freight forwarder bills of lading. By the instant petition, petitioner seeks to modify the authority as follows: (1) Between points in MA, IL, NY, and NJ, on the one hand, and, on the other, points in LA and TX. (2) Between points in TN, on the one hand, and, on the other, points in MA, CT, and PA.

MC 77721 (M1F) (notice of filing of petition to modify certificate), filed May 27, 1980. Petitioner: JERRY M. BARNER & SONS, 1211 Spruce Street, Roselle, NJ 07203. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 77721, issued October 10, 1962 to transport in interstate or foreign commerce over irregular routes *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, and Union Counties, NJ. By the instant Petition, petitioner seeks to modify its certificate by adding to the origin point Suffolk County, NY.

MC 80430 (M1F) (notice of filing of petition to modify certificate), filed June

5, 1980. Petitioner: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Petitioner holds a motor *common carrier* certificate in MC 80430, issued August 31, 1962, authorizing transportation, over regular routes, in summary, of *general commodities*, with exceptions, between points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, MA, MI, MN, MS, MO, NJ, NY, OH, PA, RI, TN, and WI. By the instant petition, petitioner seeks to modify the above certificate to authorize operations to and from ports of entry on the International Boundary line between the US and Canada, at points in MN and MI as off-route points in connection with carrier's regular-route operations.

MC 85970 (Sub-19F) (M1F) (notice of filing of petition to modify certificate), filed July 1, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Warren Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Petitioner holds authority in MC 85970 (Sub-19F) to transport *lighting fixtures and parts, attachments, and accessories* for lighting fixtures as are manufactured, processed or dealt in by manufacturers of lighting fixtures and lighting fixture products, except commodities in bulk between the facilities of the Miller Company at or near Martin, TN, on the one hand, and, on the other, points in the continental U.S. By instant petition, Petitioner seeks to modify this authority to read: Lighting fixtures and parts, attachments, and accessories for lighting fixtures as are manufactured, processed or dealt in by manufacturers of lighting fixtures and lighting fixture products between points in the U.S. (except AK and HI).

MC 85970 (Sub-29) (M1F) (notice of filing of petition to modify certificate), filed July 1, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Warren Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Petitoner holds authority in MC 85970 (Sub-29F) to transport *such commodities* as are dealt in and used by manufacturers of plastic products, (except commodities in bulk), between the facilities of the Ethyl Corporation at or near Tiptonville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). By instant petition, Petitioner seeks to modify this authority to read: Such commodities as are dealt in and used by manufacturers of plastic and plastic products between points in the U.S. (except AK and HI).

MC 94393 (Sub-3) (M1F) (notice of filing of petition to modify certificates), filed February 22, 1980. Petitioner: W. J. CASEY TRUCKING & RIGGING CO., INC., 1200 Springfield Rd., Union, NJ 07083. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* certificate in MC 94393, issued May 17, 1977, authorizing the transportation, over irregular routes, of *commodities* which because of size or weight require the use of special equipment, and *tanks, masts, boats, art exhibits, cranes, electric devices, tools, wire, poles, and store refrigerators*, between points in the New York, NY Commercial Zone, as defined in 1 M.C.C. 665, on the one hand, and, on the other, points in CT, NY, NJ, and those in PA on and east of U.S. Hwy 15; and in MC 94393 (Sub-3), issued May 17, 1977, authorizing the transportation, over irregular routes, of *commodities* which because of size or weight require the use of special equipment, and *factory equipment*, between points in NJ and NY within 75 miles of Montclair, NJ, including Montclair; and *cigar boxes and lumber* used in the manufacture of cigar boxes, between points in Essex County, NJ, on the one hand, and, on the other, Philadelphia, PA. By the instant petition, petitioner seeks to modify the description to read as follows: *commodities* which because of size or weight require the use of special equipment, and *tanks, masts, boats, art exhibits, cranes, electric devices, tools, wire, poles, store refrigerators, and factory equipment*, between points in CT, NY, NJ, and PA; and *cigar boxes and lumber* used in the manufacture of cigar boxes, between points in Essex County, NJ, on the one hand, and, on the other, Philadelphia, PA.

Note.—At applicant's request, the certificate in MC 94393 shall supersede certificate MC 94393 (Sub-3), and (Sub-3) shall be cancelled upon the reissuance of MC 94393.

MC 120181 (Sub-4) (M1F) (notice of filing of petition to modify certificate), filed June 6, 1980. Petitioner: MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, MO 63077. Representative: William H. Shawn, Suite 501, 1730 M Street, N.W., Washington, D.C. 20036. Petitioner holds a motor *common carrier* certificate in MC 120181 (Sub-4), issued July 17, 1972, authorizing the transportation of *general commodities* (except those of unusual value), on regular routes, between St. Clair, MO, and Memphis, TN; by the instant petition, Petitioner seeks to remove a restriction against the transportation of traffic moving between points in the Memphis, TN, commercial zone as defined by the Commission, on the one hand, and, on the other, points in St. Louis County, MO, and those in the St. Louis, MO—East St. Louis, IL, commercial zone as defined by the Commission. Petitioner now holds direct, regular-route authority between Memphis, TN and St. Louis, MO, over Interstate 55 under its certificate in MC 120181 (Sub-6).

MC 123233 (Sub-13) (M3F) (notice of petition for modification of certificate), filed June 27, 1980. Petitioner: PROVOST CARTAGE, INC., 7887 rue Grenache, Ville d'Anjou, Quebec H1J 1C4, Canada. Representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, DC 20036. Petitioner holds a *motor common carrier* certificate in MC 123233 (Sub-13), issued January 4, 1966, authorizing the transportation of *chemicals, lactose, soybean oil, whiskey, explosives, tong oil, and caster oil*, in bulk, in tank or hopper type vehicles between specified ports-of-entry on the United States-Canada Boundary line, on the one hand, and points in ME, VT, NH, MA, CT, RI, NY, NJ, DE, MD, PA (except petrochemical products from points in PA), and OH (except liquid chemical wax from Cleveland, OH). By the instant petition, Petitioner seeks to remove the restrictions against petrochemicals and chemical wax and to modify the commodity description to allow the transportation of commodities in bulk.

MC 126900 (Subs-30 and 32) (M1F) (notice of filing of petition to modify permits), filed September 20, 1979. Petitioner: POLAR TRANSPORT, Inc., P.O. Box 44, 176 King St., Hanover, MA 02339. Representative: A. C. Gardner (same address as petitioner). Petitioner holds motor *contract carrier* permits in MC 126900 (Subs-30 and 32), issued February 2, 1978, and August 24, 1979, respectively. MC 126900 (Sub-30) authorizes transportation, over irregular routes, of *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from the facilities of the Schrafft Candy Company in Middlesex and Suffolk Counties, MA, to points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC, (2) from the facilities of Deran Confectionery Division of Borden, Inc., in Middlesex and Suffolk Counties, MA, and North Grosvenordale, CT, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, and DC, and (3) from the facilities of Nabisco Confections, Inc., subsidiary of Nabisco, Inc., in Bristol, Middlesex, and Norfolk Counties, MA, and Ashton, RI, to points

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in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, SC, SD, TN, TX, VT, VA, WV, WI, and DC, under continuing contract(s) with (a) Schrafft Candy Company, (b) Deran Confectionery Div. of Borden, Inc., and (c) Nabisco Confections, Inc., subsidiary of Nabisco, Inc. MC–126900 Sub-32 authorizes transportation, over irregular routes, of confectionery (except commodities), in vehicles equipped with mechancial refrigeration, (a) from (a) North Grosvenordale, CT, and (b) the facilities of Deran Confectionery, Division of Borden, Inc., in Middlesex and suffolk Counties, MA, to points in AZ, CA, CO, NM, NV, OR, UT, and WA, and (2) from the facilities of Schrafft Candy Company in Middlesex and Suffolk Counties, MA, to points in the destination states named in (1) above, and (3) from (a) Ashton, RI, and (b) the facilities of Nabisco Confections, Inc., subsidiary of Nabisco, Inc., in Bristol, Middlesex, and Norfolk counties, MA, to points in CA, CO, OR, UT, and WA, under continuing contract(s) in (1) with Deran Confectionery, Division of Borden, Inc., of Cambridge, MA, in (2) with Schrafft Candy Company, of Boston, MA, and in (3) with Nabisco Confections, Inc., subsidiary of Nabisco, Inc., of Cambridge, MA. By the instant petition, petitioner seeks to modify the above permits by adding: from the facilities of Superior Nut Co., Inc., at Cambridge, MA, to points in AL, AZ, AR CA, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI and DC, and returned and rejected shipments on return, under continuing contract(s) with Superior Nut Co., Inc., of Cambridge, MA.

MC 128087 (Sub-11F), filed June 20, 1980. Applicant: JOHN N. JOHN III, INC., P.O. Drawer 921, 1000 West 2nd St., Crowley, LA 70526. Representative: Homer Ed Barousse, Jr., 125 East Hutchinson Ave. P.O. Drawer 730, Crowley, LA 70526. Authority sought to operate as a motor common carrier, by motor vehicle, in interstate of foreign commerce over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), (1) between points in Orange, TX, and AR and LA, on the one hand, and, on the other, points in Acadia, Cameron, Calcasieu, and Jefferson Davis Parishes, LA, and (2) between points in AR, the facilities of Olinkraft, in West Monroe, LA; the facilities of Martin-Norwich, at Weeks Island, LA, and points in Vermilion, Acadia, and Jefferson Davis Parishes, LA, on the one hand, and, on the other, points in Orleans, St. Bernard, Jefferson, St. Charles, and Plaquemines Parishes, LA, restricted in (1) and (2) above to traffic having an immediately prior or subsequent movement by water.

MC 130433 (M1F) (notice of petition for modification of license), filed June 30, 1980. Petitioner: CREATIVE BUS TOURS, INC., Suite 217, 1426 H St., NW., Washington DC 20005. Representative: Walter T. Evans, 7961 Eastern Avenue, Silver Spring, MD 20910. Petitioner holds a *License*, issued December 15, 1977, to engage in operations as a Broker, in arranging for the transporation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, in round-trip tours, in special and charter operations, beginning and ending at Washington, DC, and points in its commercial zone, and extending to points in the United States, including Alaska and Hawaii. By the instant petition, petition requests that his place of business as a Broker be moved to Arlington, VA.

MC 146552 (Sub-2) (M1F) (Notice of petition for modification of permit), filed October 25, 1979. Petitioner: KENNETH LEE UTKE, P.O. Box 78, Palos Heights, IL 60463. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle St., Chicago, IL 60603. Petitioner holds a motor *contract carrier* Permit in MC 146552 (Sub-2), issued July 28, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, transporting (1) *Such commodities* as are dealt in or used by manufacturers of appliances (except commodities in bulk), and (2) *commercial paper, documents, and written instruments*, between Chicago, Peoria, and Rockford, IL, on the one hand, and, on the other, those points in WI, on, south, and east of a line beginning at the WI–IL State line, and extending along WI Hwy 78 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction WI Hwy 54, then along WI Hwy 54 to Algoma, WI, those points in IA on, south, and east of a line beginning at the Mississippi River and extending along U.S. Hwy 18 to junction IA Hwy 14, then along IA Hwy 14 to junction IA Hwy 175, then along IA Hwy 175 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the IA–MO State line, those points in IN, on, north, and west of a line beginning at the IN–IL State line and extending along U.S. Hwy 24, to junction IN Hwy 9 then along IN Hwy 9 to the MI–IN State line, and those points in MI, on, west, and south of a line beginning at the MI–IN State line and extending along MI Hwy 66 to junction MI Hwy 96, then along MI Hwy 96 to junction MI Hwy 43, then along MI Hwy 43 to Lake Michigan at or near South Haven, MI, under continuing contract(s) in (1) and (2) above with General Electric Company, of Fairfield, CT. By the instant petition, petitioner seeks to modify the authority as follows: *general commodities* (except household goods as defined by the Commission and classes A and B explosives).

MC 147904 (M1F) (notice of filing of petition to modify the commodity description), filed May 20, 1980. Petitioner: BALLY CASE & COOLER, INC., Bally, PA 19503. Representative: I. Cyrus Gutman, 1824 Turner St., Allentown, PA 18104. Petitioner holds *contract carrier* authority in MC 147904, served August 7, 1980. MC 147904 authorizes over irregular routes, the transportation of *glass refrigerator* and *freezer doors*, from San Fernando, CA, to those points in the U.S. in and east of MN, WI, IL, KY, TN, MS, and LA, under a continuing contract with Anthony's Manufacturing Co., Inc. of San Fernando, CA. By this instant petition, petitioner seeks to modify the commodity description to read "cooling and freezing box parts (except household)."

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 103213F, filed April 7, 1980. Applicant: TRAVELLERS INTERNATIONAL TOUR OPERATORS, INC., 530 Fifth Ave., New York, NY 10036. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017. To engage in operations, in interstate or foreign commerce, as a *broker* at New York, NY, San Francisco and Los Angeles, CA, and Miami, FL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S. (including AK and HI).

MC 130822F, filed December 10, 1979. Applicant: STEPHEN F. McKENNA, 3337 Breton Circle, N.E., Atlanta, GA 30319. The name under which operations will be performed is HIGHWAY TRANSPORT SERVICES, INC. Applicant is represented by itself in this proceeding whose address is 3337 Breton Circle, NE., Atlanta, GA 30319. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Stephen F. McKenna, President, principal stockholder; Margaret O. McKenna, Secretary; address of above is 3337 Breton Circle, NE., Atlanta, GA 30319. The daily operations will be managed by Stephen F. McKenna whose business address is 3337 Breton Circle, NE., Atlanta, GA 30319. Applicant is affiliated with the following shipper or warehouse: None.

Permanent Authority Decisions Volume Decision-Notice

Decided: August 20, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularly the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after September 3, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed on or before October 3, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members: Carleton, Joyce, and Jones.

MC 130629F, filed October 15, 1979. Applicant: 7/24 FREIGHT SALES, INC., 5048 Pirrone Rd., Salida, CA 95368. The name under which operations will be performed is 7/24 FREIGHT SALES, INC. Representative: Edward S. Heyman, 601 Andover Lane, Modesto, CA 95350. Following are the names and business address for all persons who are officers and directors, partner (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Edward S. Heyman, President and shareholder, 601 Andover Lane, Modesto, CA 95350; Adele Heyman, Secretary-Treasurer and shareholder, 601 Andover Lane, Modesto, CA 95350; and Stanley Herzstein, Director and shareholder, 1170 Sacramento St., PH–B, San Francisco, CA 94108. The daily operations will be managed by Edward S. Heyman and 7/24 Freight Sales whose business address is 5048 Pirrone Rd., Salida, CA 95368. Applicant is affiliated with the following shipper or warehouse. None.

MC 13094F, filed June 16, 1980. Applicant: U.S.A. TOURS, 707 Cooper St., Utica, NY 13502. Representative: David G. Mishlanie (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Utica, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Onedia County, NY, and extending to points in the U.S. (except AK and HI).

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating

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convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before October 3, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 2202 (Deviation No. 170), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309; filed August 15, 1930. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Jonesboro, AR over AR Hwy 18 to Blytheville, AR, (2) From Marked Tree, AR over AR Hwy 140 to Osceola, AR, and (3) From Jonesboro, AR over AR Hwy 18 to Black Oak, AR, then over AR Hwy 135 to Lepanto, AR, then over AR Hwy 140 to Osceola, AR, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Jonesboro, AR over U.S. Hwy 63 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Blytheville, AR and return over the same route.

MC 2229 (Deviation No. 36) RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247, filed August 14, 1980. Carrier proposes to operate as a *common carrier* by motor vehicle in interstate or foreign commerce, transporting *general commodities*, with certain exceptions, over a deviation route as follows: From: Sherman, TX over U.S. Hwy 75 to Durant, OK and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From: Sherman, TX over U.S. Hwy 82 to the junction of U.S. Hwy 271, then over U.S. Hwy 271 to the junction of U.S. Hwy 70, then over U.S. Hwy 70 to Durant, OK and return over the same route.

MC 30605 (Deviation No. 34), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 E. Waterman, P.O. Box 56, Wichita, KS 67201, filed August 13, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Alva, OK, over OK Hwy 11 to Blackwell, OK, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Alva, OK over U.S. Hwy 281 to junction KS Hwy 2, then over KS Hwy 2 to Wichita, KS, then over U.S. Hwy 81 to S. Haven, KS, then over U.S. Hwy 177 to Blackwell, OK and return over the same route.

MC 110325 (Deviation Route No. 43), filed August 18, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz, (same address as above). Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Dallas, TX over U. S. Hwy 75 to junction combined U. S. Hwys 75 and 69, then over combined U. S. Hwys 75 and 69 to junction U. S. Hwy 69, then over U. S. Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction Alternate U. S. Hwy 71, then over Alternate U. S. Hwy 71 to junction U. S. Hwy 71, then over U. S. Hwy 71 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route, as follows: from Dallas, TX over U. S. Hwy 77 to Oklahoma City, then over U. S. Hwy 66 to Tulsa, OK, then over U. S. Hwy 75 to junction KS Hwy 47, then over KS Hwy 47 to junction U. S. Hwy 169, then over U. S. Hwy 169 to junction U. S. Hwy 59, then over U. S. Hwy 59 to junction KS Hwy 68, then over KS Hwy 68 to junction KS Hwy 33, then over KS Hwy 33 to junction U. S. Hwy 50, then over U. S. Hwy 50 to junction KS Hwy 10, then over KS Hwy 10 to Kansas City, MO, and return over the same route.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the appliation is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A59854, filed August 1, 1980. Applicant: CALIFORNIA FREIGHTWAYS, 746 North Sixth Street, San Jose, CA 95109. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities as follows: 1. Between all points in San Francisco Territory (as described in Note A hereof). 2. Between all points in San Francisco Territory (see Note A hereof) on the one hand, and points in the Los Angeles Basin Territory (as described in Note B hereof) and San Diego Territory (as described in Note C hereof) on the other hand. 3. Between all points and places on and within 20 miles laterally of Routes A through Z hereof. 4. Between all points in San Francisco Territory (see Note A), Los Angeles Basin Territory (see Note B), and San Diego Territory (see Note C) on the one hand, and all intermediate points on and within 20 miles laterally of the highways described in Routes A through Z hereof, on the other hand. A. Interstate Highway 80 between Oakland and Sacramento, inclusive. B. State Highway 4 between its junction with Interstate Highway 80 near Pinole and Stockton, inclusive. C. U. S. Highway 101 between San Jose and Los Angeles, inclusive, thence on Interstate Highway 5 to San Diego, inclusive. D. State Highway 1 between its junction with U. S. Highway 101 near Montalvo and Interstate Highway 5 at San Juan Capistrano. E. State Highway 118 between Chatsworth and its junction with State Highway 126 at Saticoy, thence on State Highway 126 to its junction with U. S. Highway 101 at Ventura. F. State Highway 99 between Sacramento and Wheeler Ridge and Interstate Highway 5 between Wheeler Ridge and San Fernando, inclusive, except that the carrier, pursuant to this authority, shall not serve any point more than five miles easterly of this route between Bakersfield and San Fernando. G. San Joaquin County Road J4 (Grant Line Road and Kasson Road) from Banta to its junction with Interstate Highway 5; thence on Interstate Highway 5 to its junction with State Highway 33; thence on State Highway 33 to its junction with State Highway 166 at Maricopa; thence on State Highway 166 to its junction with Highway 99 at Mettler. H. Interstate Highway 15 between Temecula and San Diego, inclusive. I. State Highway 33 and State Highway 119 between Ventura and Greenfield, inclusive, including the off-route points of Santa Paula and Fillmore. J. U. S. Highway 101 between San Francisco and Santa Rosa. K. State Highway 37 between its intersection of U. S. Highway 101 near Ignacio and Vallejo. L. State Highway 29 between Vallejo and Calistoga. M. Interstate Highway 580 between its intersection with Interstate Highway 5 near Manteca and Oakland. N. State Highway 128 between Davis and Winters. O. Interstate Highway 505 between Vacaville and Madison; thence via State Highway 16 to Sacramento. P. Interstate Highway 5 between Sacramento and Orland. Q. State Highway 32 between Orland and Chico. R. State Highway 99 between Sacramento and Chico. S. Interstate Highway 80 between Sacramento and Auburn. T. State Highway 65 between Yuba City and Roseville. U. State Highway 193 between Lincoln and Newcastle. V. State Highway 17 between San Jose and Santa Cruz. W. Interstate Highway 5 from Sacramento to Wheeler Ridge. X. Interstate Highway 10 between Redlands and the junction of Interstate Highway 10 and State Highway 60.

Y. State Highway 1 between Santa Cruz and Carmel. Z. State Highway 152 between Watsonville and the intersection of State Highway 152 and State Highway 99. AA. State Highway 60 between its intersection with Interstate Highway 10 and Beaumont. AB. State Highway 79 between Beaumont and Hemet. In performing the service herein authorized, carrier may make use of any and all streets, roads, highway and bridges necessary or convenient for the performance of said service. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle. 8. Logs. 9. Articles of extraordinary value. 10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. 11. Commodities requiring the use of special refrigeration or temperature control in specially designed and contructed refrigerator equipment. 12. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.

Note A.—San Francisco Territory: San Francisco Territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; Thence easterly along said county line to a point one mile west of state highway 82; southerly along an imaginary line one mile west of and paralleling state highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; Easterly along W. Parr Avenue to Capri Drive; Southerly along Capri Drive to Division Street; Easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Right-of-way to the Cambell-Los Gatos City limits; easterly along said limits and the prolongation thereof to south Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along south Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; Southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along state Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; Southwesterly along Mckee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and Macarthur Blvd. to Seminary Avenue; Easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd to Warren Blvd. (State Highway 13); northerly along Warren Blvd. To Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight way to the Berkeley-Oakland boundary line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the city of Richmond to point Richmond; southerly along an imaginary line from point Richmond to the San Francisco waterfront at the Foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

Note B.—Los Angeles Basin Territory: Los Angeles Basin Territory includes that area embraced by the following boundary: beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said County line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; north-easterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary of the city of San Fernando to MaClay Avenue; northeasterly along MaClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the Atchison, Topeka & Santa Fe right-of-

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way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

Note.—San Diego Territory: The San Diego territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico boundary line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

Missouri Docket T-7543 (Sub-1), filed July 30, 1980. Applicant: JOHN DRENNON AND SONS COMPANY, INC., 353 North Nettleton, Springfield, MO 65802. Representative: James C. Swearenger, P.O. Box 456, Jefferson City, MO 65102. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Telephone equipment and supplies used in the construction and maintenance of telephone systems, except size or weight commodities or household goods, in specialized service, between Springfield, MO, and its commercial zone, on the one hand, and all points and places in the State of Missouri, on the other hand, irrespective of the location of any such points on the route of a regular route common carrier or between points on the routes of two or more regular route common carriers where through or joint service has been authorized or established between such regular route common carriers. Intrastate, interstate and foreign commerce authority sought. Hearing: Wednesday, November 12, 1980, 9:00 a.m., Hearing Room of the Missouri Public Service Commission, Jefferson Bldg., Jefferson City, MO 65101. Requests for procedural information should be addressed to Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, and should not be directed to the Interstate Commerce Commission.

New York Docket T-2620, filed April 21, 1980. Applicant: GOWANDA-BUFFALO TRANSPORTATION CO., 133 Johnson Street, Gowanda, NY 14070. Representative: William J. Hirsch, 43 Court, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Cattaraugus, Erie and Niagara Counties. Note: This is to correct publication showing Chautauqua instead of Cattaraugus County. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg., No. 4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket T-3844, filed July 21, 1980. Applicant: FRANK ANICETO, d.b.a. COLONIAL HIGHWAY EXPRESS, 100 Elmhurst Place, Buffalo, NY 14216. Representative: William J. Hirsch, 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Iron and steel articles, between all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg., No. 4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Decisions Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: August 19, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before October 3, 1980.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after September 3, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975. In those proceedings containing a statement or note that dual operations are or may be invovled we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before October 3, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 29 (Sub-18F), filed March 18, 1980. Applicant: CONTINENTAL VAN LINES, INC., P.O. Box 2169, Monterey, CA 93940. Representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *household goods as defined by the Commission*, between (1) points in AZ, on the one hand, and, on the other, points in FL, GA, KS, LA, MA, MI, MS, NE, NM, NC, OK, PA, SC, TX and WI, (2) points in CA, on the one hand, and, on the other, points in LA, MN, NM, OK, TN, TX and DC, (3) points in CO, on the one hand, and, on the other, points in DE, LA, MD, MN, NM, SC, TX and WI, (4) points in ID, on the one hand, and, on the other, points in MN and TX, (5) points in MT, on the one hand, and, on the other, points in DE, FL, IL, MI, MN, NM and NC, (6) points in NV, on the one hand, and, on the other, points in FL, MO, NE, NJ, NY and TX, (7) points in OR, on the one hand, and, on the other, points in MD, MN, NJ, NM, SC and TX, (8) points in UT, on the one hand, and, on the other, points in MA, MN, NM and TX, (9) points in WA, on the one hand, and, on the other, points in GA, LA, MD, MN, MO and PA, (10) points in KS, on the one hand, and, on the other, points in IA, MN and NE, (11) points in MI, on the one hand, and, on the other, points in AR, NY, NC and PA, (12) points in MN, on the one hand, and, on the other, points in GA, IL, MO, NC, TN, TX and WI, (13) points in NE, on the one hand, and, on the other, points in AR, IL, LA, MS, NJ, NY and VA, (14) points in IA, on the one hand, and, on the other, points in DE and VA, (15) points in WI, on the one hand, and, on the other, points in AL, KS, NE, NJ, NY, TX and VA, (16) points in TX, on the one hand, and, on the other, points in AR, IN and LA, (17) points in OK, on the one hand, and, on the other, points in MO, and (18) points in NM, on the one hand, and, on the other, points in DE, GA, MA, MN, MS, MO, NH, NY, NC, OK, PA, SC, TX, VA and WI. The sole purpose of this application is to substitute single-line for joint-line operations.

MC 57393 (Sub-10F), filed May 21, 1980. Applicant: WINTERS TRUCK LINE, INC., 2620 McCormick, Wichita, KS 67213. Representative: Charles J. Kimball, KIMBALL, WILLIAMS & WOLFE, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, in interstate or foreign commerce, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and Wichita, KS serving no intermediate points, (1) From Kansas City, over U.S. Highways 24, 40 and I-70 to Topeka, KS, then over U.S. Highway I-35 to Wichita, and return over the same route (2) From Kansas City, over U.S. Highways 24, 40 and I-70 to junction U.S. Highway 77 then over U.S. Highway 77 to junction U.S. Highway I-35, then over U.S. Highway I-35 to Wichita, and return over the same route (3) From Kansas City, over U.S. Highways 24, 40 and I-70 to Salina, KS then over U.S. Highways 81 and I-135 to Wichita and return over the same route (4) From Kansas City over U.S. Highway I-35 to Wichita, and return over the same route, for operating convenience only. The sole purpose of this application is to substitute single-line service for joint-line operations.

Note.—Applicant intends to tack the authority sought with the existing authority.

MC 57778 (Sub-36F), filed March 28, 1980. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Ave., Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, between points in MI, on the one hand, and, on the other, those points in IL on and north of U.S. Hwy 136 and those points in IN on and north of U.S. Hwy 40.

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 76449 (Sub-29F), filed May 16, 1980. Applicant: NELSON'S EXPRESS, INC., 675 Market Street, Millersburg, PA 17061. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in PA, on the one hand, and, on the other, points in CT, MA, NJ, RI, and that part of NY on and south of a line beginning at the PA-NY State line and extending over U.S. Hwy. 209 to junction U.S. Hwy 44, then over U.S. Hwy 44 to the NY-CT State line.

Note.—The sole purpose of this application to substitute single line for joint line operations.

MC 109397 (Sub-494F), filed January 11, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle in interstate or foreign commerce, over irregular routes transporting: (1) *commodities*, which because of their size or weight, requires the use of special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, between points in NE, on the one hand, and, on the other, points in the United States (except AK and HI).

Note.—The purpose of this application is to substitute single-line for joint-line service.

MC 109397 (Sub-514F), filed June 23, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*

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by motor vehicle in interstate or foreign commerce, over irregular routes transporting: (1) *commodities,* which because of size or weight, requires the use of special equipment; and (2) *self-propelled articles,* each weighing 15,000 pounds or more, (a) between points in AL, FL, GA, MS, SC, and TN; and (b) between points in AL, FL, GA, MS, SC, and TN, on the one hand, and, on the other, points in ME, VT, NH, MT, ID, NV, and AZ.

Note.—The purpose of this application is to substitute single-line for joint-line service.

MC 109397 (Sub-515F), filed June 23, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle in interstate or foreign commerce, over irregular routes transporting: (1) *commodities,* which because of size or weight, requires the use of special equipment; and (2) *self-propelled articles,* each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, between points in TN, MS, AL, GA, SC, and FL, on the one hand, and, on the other, points in WA, OR, CA, UT, WY, CO, NM, ND, SD, KS, OK, TX, MN, IA, MO, AR, LA, WI, and KY.

Note.—The purpose of this application is to substitute single-line for joint-line service.

MC 115092 (Sub-109F), filed July 1, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products and wood products,* from points in ID, OR, and WA, to points in IL, MI, NM, OK, and TX.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 120257 (Sub-51), filed April 1, 1980. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Rd, Ft. Worth, TX 76116. Authority sought to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) machinery, equipment and supplies used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, (2) earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in CO, LA, NM, OK, TX, UT and WY.

Note.—Applicant intends to tack the authorities described above with its existing authority.

Note.–The sole purpose of this application is to substitute single line service for its existing joint-line operations.

MC 120736 (Sub-7F), filed May 9, 1980. Applicant: STROTHMAN EXPRESS, INC., 2735 Spring Grove Ave., Cincinnati, OH 45445. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and commodities in bulk), between points in KY within the Cincinnati, OH commercial zone, as defined by the Commission, on the one hand, and, on the other, points in OH.

Note.—The sole purpose of this application is to substitute single line for joint line operations. (Hearing site: Columbus, OH.)

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 15, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

Docket No. MC 106407 (Sub-No. E8), filed June 4, 1974. Applicant: T. E. MERCER TRUCKING CO., INC., P.O. Box 1809, Fort Worth, Texas 76101. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, D.C. 20006. *Pipe, pipeline material, machinery, and equipment,* incidental to, used in connection with the construction, repairing, or dismantling of gas, gasoline, or oil pipelines, restricted to traffic moving to or from pipeline rights-of-way; (A) (1) between points in WY, on the one hand, and, on the other, points in TN, NC, SC, KY, WV (A)(2) between points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy. 430 to junction U.S. Hwy. 187, then along U.S. Hwy. 187 to junction U.S. Hwy. 89 then along U.S. Hwy. 89 to the WY-MT State line, on the one hand, and, on the other, points in NH, VT, points in PA on and south of a line beginning at the PA-MD State line extending along I Hwy. 70 to junction I Hwy. 76, then along I Hwy. 76 to junction I Hwy. 81, then along I Hwy. 81 to the NY-PA State line, and points in NY on and east of a line beginning at the NY-PA State line extending along I Hwy. 81 to junction NY Hwy 7, then along NY Hwy. 7 to junction NY Hwy. 8, then along NY Hwy. 8 to junction NY Hwy. 9 to U.S.-Canada International boundary; (A)(3) between points in WY, on the one hand, and, on the other, points in IL on and south of IL Hwy. 13, points in IN on and south of U.S. Hwy 50, and points in OH on and south of U.S. Hwy. 50. The purpose of this petition is to eliminate the gateways of West Memphis, AR and South Haven, MS. (B)(1) between points in WY, on the one hand, and, on the other, points in AL, GA and FL. The purpose of this petition is to eliminate any gateway in the State of AR. (C)(1) between points in WY, on the one hand, and, on the other, points in MS. The purpose of this petition is to eliminate any gateway in the State of AR. (D)(1) between points in MO, on the one hand, and, on the other, points in NC, SC, and VA; (D)(2) between points in MO on and south of a line beginning at the KY-MO State line extending along U.S. Hwy. 66 to junction U.S. Hwy. 65 then along U.S. Hwy. 65 to the junction U.S. Hwy. 60 then along U.S. Hwy. 60 to the MO-IL State line, on the one hand, and on the other, points in CT, DC, DE, MD, NH, NJ, NY, RI, VT; (D)(3) between points in MO on, east, south and west of a line beginning at the AR-MO State line extending along U.S. Hwy. 63 to junction U.S. Hwy. 60 then along U.S. Hwy. 60 to the junction U.S. Hwy. 67 then along U.S. Hwy. 67 to the AR-MO State line, on the one hand, and, on the other, points in MI on and east of a line beginning at the OH–MI State line extending along I Hwy. 75 to U.S.-Canada International boundary, and points in OH. (D)(4) between points in MO on, west and south of a line beginning at the IA–MO State line extending along U.S. Hwy. 65 to the junction U.S Hwy. 40 then along U.S. Hwy. 40 to the junction U.S. Hwy. 63 then along U.S. Hwy. 63 to the MO–AR State line, on the one hand, and on the other, points in TN. (D)(5) between points in MO on, east, north and west of a line beginning at the IA–MO State line extending along U.S. Hwy. 65 to the junction U.S. Hwy. 40 then along U.S. Hwy. 40 to the junction U.S. Hwy. 63 then along U.S. Hwy. 63 to the MO–IA State line, on the one hand, and, on the other, points in TN on and south of a line beginning at the AR–TN State line extending along U.S. Hwy. 70 to the NC–TN State line. (D)(6) between points in MO on, east and south of a line beginning at the AR–MO State line extending along U.S. Hwy. 63 to the junction of U.S. Hwy. 60 to the MO–IL State line, on the one hand, and, on the other, points in PA, points in ND on, west and south of a line beginning at the U.S.-Canada International boundary line extending along U.S. Hwy. 83 to the junction U.S. Hwy. 10 then along U.S. Hwy. 10 to the junction ND Hwy. 3 then along ND Hwy. 3 to the ND–SD State line, and points in SD on the west of a line beginning at the ND–SD State line extending along U.S. Hwy. 85 to the junction U.S. Hwy. 385 then along U.S. Hwy. 385 to the SD–NE State line; (D)(7) between points in MO on, south and west of a line beginning at the KS–MO State line extending along U.S. Hwy. 40 to the junction U.S. Hwy. 65 then along U.S. Hwy. 65 to the junction U.S. Hwy. 60 then along U.S. Hwy. 60 to the MO–IL State line, on the one hand, and, on the other, points in MA and ME; (D)(8) between points in MO on, south and west of a line beginning at the KS–MO State line extending along U.S. Hwy. 66 to the junction U.S. Hwy. 65 then along U.S. Hwy. 65 to the junction U.S. Hwy. 60 then along U.S. Hwy. 60 to the junction U.S. Hwy. 63 then along U.S. Hwy. 63 to the MO–AR State line on the one hand, and, on the other, points in KY on the east of a line beginning at the TN–KY State line extending along U.S. Hwy. 31E to the KY–IN State line, points in OH on east and south of a line beginning at the KY–OH State line extending along U.S. Hwy. 23 to the junction of U.S. Hwy. 50 then along U.S. Hwy. 60 to the OH–WV State line, and points in WV. The purpose of this petition is to eliminate the gateways of West Memphis, AR and South Haven, MS. (E)(1) between points in MO, on the one hand, and, on the other, points in GA, AL and FL. The purpose of this petition is to eliminate any gateway in the State of AR. (F)(1) between points in NE, on the one hand, and, on the other, points in TN, NC, SC, and VA; and (F)(2) between points in NE on and west of a line beginning at the SD–NE State line extending along U.S. Hwy. 83 to the NE–KS State line on the one hand, and, on the other, points in CT, DC, DE, MA, MD, ME, NJ, RI, and points in IL on the south of a line beginning at the MO–IL state line extending along IL Hwy. 13 to the IL–IN State line, points in KY on, west and south of a line beginning at the MO–KY State line extending along U.S. Hwy. 62 to the junction U.S. Hwy. 231 then along U.S. Hwy. 231 to the KY–TN State line, and points in WV on the south of a line beginning at the OH–WV State line extending along U.S. Hwy. 60 to the WV–VA State line. The purpose of this petition is to eliminate the gateways of West Memphis, AR and South Haven, MS. (G)(1) between points in NE, on the one hand, and, on the other, points in AL, GA and FL. The purpose of this petition is to eliminate any gateway in the States of KS or AR. (H)(1) between points in NE, on the one hand, and, on the other, points in MS. The purpose of this petition is to eliminate any gateway in the State of AR. (I)(1) between points in KS, on the one hand, and, on the other, points in TN, VA, NC, and SC; (I)(2) between points in KS on, west and south of a line beginning at the CO–KS State line extending along U.S. Hwy. 50 to the junction U.S. Hwy. 83 then along U.S. Hwy. 83 to the KS–OK State line on the one hand, and, on the other, points in OH; (I)(3) between points in KS on the south of a line beginning at the CO–KS border extending along U.S. Hwy. 160 to the KS–MO State line, on the one hand, and, on the other, points in OH on, east and south of a line beginning at the KY–OH State line extending along U.S. Hwy. 23 to the junction U.S. Hwy. 50 then along U.S. Hwy. 50 to the OH–WV State line, and points in PA; (I)(4) between points in KS on, west and south of a line beginning at the OK–KS State line extending along U.S. Hwy. 81 to the junction U.S. Hwy. 54 then along U.S. Hwy. 54 to the KS–OK State line, on the one hand, and, on the other, points in CT, DC, KY, MD, NJ, NY, RI, NH, VT, MA and WV. The purpose of this petition is to eliminate any gateway in the State in MS; (J)(1) between points in TX, on the one hand, and, on the other, points in TN, SC, NC, KY, OH, WV, VA, MD, DE, DC, PA, NJ, NY, CT, RI, MA, VT, NH, and ME; (J)(2) between points in TX on, east and south of a line beginning at the TX–LA State line and extending over U.S. Hwy. 84 to the junction U.S. Hwy. 259 then over U.S. Hwy. 59 to the junction U.S. Hwy. 75 to the State line at the Gulf of Mexico on the one hand, and, on the other, points in ND; (J)(3) between points in TX on, west, south and east of a line beginning at the Gulf of Mexico extending along U.S. Hwy. 75 to the junction U.S. Hwy. 90 then over U.S. Hwy. 90 to the junction U.S. Hwy. 281 then along U.S. Hwy. 281 to the U.S.-Mexico International boundary on the one hand, and, on the other, points in ND on and east of a line beginning at the U.S.-Canada International boundary extending along ND Hwy. 1 to the ND–SD State line; (J)(4) between points in TX on, north and west of a line beginning at the NM–TX State line extending along U.S. Hwy. 70 to the junction U.S. Hwy. 283 then along U.S. Hwy. 283 to the TX–OK State line on the one hand, and, on the other, points in IL on, east and south of a line beginning at the KY–IL State line then over U.S. Hwy. 51 to the junction U.S. Hwy. 50 then over U.S. Hwy. 50 to the IL–IN State line and points in IN on, east and north of a line beginning at the MI–IN State line extending along U.S. Hwy. 31 to the junction U.S. Hwy. 40 then along U.S. Hwy. 40 to the IN–OH State line; (J)(5) between points in TX on, south and east of a line beginning at the NM–TX State line extending along U.S. Hwy. 70 to the junction U.S. Hwy. 283 then along U.S. Hwy. 283 to the TX–OK State line on the one hand, and, on the other, points in IL and IN;

(J)(6) between points in TX on, east and south of a line beginning at the U.S.-Mexico International boundary extending along U.S. Hwy. 77 to the junction U.S. Hwy. 90 then along U.S. Hwy. 90 to the junction U.S. Hwy. 59 then along U.S. Hwy. 59 to the junction U.S. Hwy. 259 then along U.S. Hwy. to the junction U.S. Hwy. 84 then along U.S. Hwy. 84 to the TX–LA State line on the one hand, and, on the other, points in MN; (J)(7) between points in TX on, south and east of a line beginning at the TX–LA State line extending over U.S. Hwy. 80 to the junction U.S. Hwy. 79 then along U.S. Hwy. 79 to the junction U.S. Hwy. 81 then along U.S. Hwy. 81 to the junction U.S. Hwy. 90 then along U.S. Hwy. 90 to Del Rio, TX and then along an unnumbered highway to the U.S.–Mexico International boundary at or near Del Rio and on, west and north of a line beginning at the U.S.–Mexico International boundary extending along U.S. Hwy. 77 to the junction U.S. Hwy. 90 then along U.S. Hwy. 90 to the junction U.S. Hwy. 59 then along U.S. Hwy. 59 to the junction U.S. Hwy. 259 then along U.S. Hwy. 259 to the junction U.S. Hwy. 84 then along U.S. Hwy. 84 to the TX–LA State line on the one hand, and, on the other, points in MN on and east of a line beginning at the U.S.-Canada International boundary line extending alone MN Hwy. 65 to the junction U.S. Hwy. 65 then along U.S. Hwy. 65 to the MN–IA State line; (J)(8) between points in TX on, south and west of a line beginning at the NM–TX State line and extending over U.S. Hwy. 180 to the junction U.S. Hwy. 84 then along U.S. Hwy. 84 to the junction U.S. Hwy. 80 then along U.S. Hwy. 80 to the junction U.S. Hwy. 75 then along U.S. Hwy. 75 to the TX State line at the Gulf of Mexico on the one hand, and, on the other, points in WI; (J)(9) between points in TX on, west, north and east of a line beginning at the OK–TX State line extending along U.S. Hwy. 75 to the junction U.S. Hwy. 80 then along U.S. Hwy. 80 to the junction U.S. Hwy. 281 then along U.S. Hwy. 281 to the TX–OK State line on the one hand, and, on the other, points in WI on and east of a line beginning at the MI–WI State line extending along U.S. Hwy. 51 to the WI–IL State line. The purpose of this petition is to eliminate any gateway in the State of MS. (K)(1) between points in OK, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and DC; (K)(2) between points in OK on, south and west of a line beginning at the TX–OK State line extending over U.S. Hwy. 66 to the junction U.S. Hwy. 281 then along U.S. Hwy. 281 to the OK–TX State line on the one hand, and, on the other, points in IL on and east of a line beginning at the WI–IL State line extending over U.S. Hwy. 51 to the IL–KY State line. (K)(3) between points in OK on, east, south and west of a line beginning at the TX–OK State line extending over U.S. Hwy. 281 to the junction Ok Hwy. 33 then along OK Hwy. 33 to the junction U.S. Hwy. 177 then along U.S. Hwy. 177 to the junction OK Hwy. 77 then along OK Hwy. 77 to the Ok–TX State line, on the one hand, and, on the other, points in IL on, east and south of a line beginning at the KY–IL State line extending over U.S. Hwy. 51 to the junction U.S. Hwy. 150 then along U.S. Hwy. 150 to the IL–IN State line. (K)(4) between points in OK on, east and south of a line beginning at the TX–OK State line extending over OK Hwy. 77 to the junction U.S. Hwy. 77 then along U.S. Hwy. 77 to the junction OK Hwy. 19 then along OK Hwy. 19 to the juntion OK Hwy. 1 then along OK Hwy. 1 to the junction U.S. Hwy. 270 then along U.S. Hwy. 270 to the OK–AR State line on the one hand, and, on the other, points in IL; (K)(5) between points in OK on, noorth, and east of a line beginning at the TX–OK State line extending over U.S. Hwy. 66 to the junction U.S. Hwy. 281 then over U.S. Hwy. 81 to the juntion OK Hwy. 33 then alone OK Hwy. 33 to the junction U.S. Hwy. 177 then along U.S. Hwy. 177 to the junction OK Hwy. 19 then along OK Hwy. 19 to the junction OK Hwy. 1 then along OK Hwy. 1 to the junction U.S. Hwy. 270 on the one hand, and on the other, points in IL on and south of a line beginning at the MO–IL State line extending over IL Hwy. 13 to the IL–KY State line; (K)(6) between points in OK on and south of a line beginning at the TX–OK State line extending over I Hwy. 40 to the OK–AR State line on the one hand, and, on the other, points in IN; (K)(7) between points in OK on the north of a line beginning at the TX–OK State line extending over I Hwy. 40 to the OK–AR State line (except points on, east, north and west of a line beginning at the KS–OK State line extending over U.S. Hwy. 183 to the junction U.S. Hwy. 64 then along U.S. Hwy. 64 to the junction U.S. Hwy. 81 then along U.S. Hwy. 81 to the OK–KS State line) on the one hand, and, on the other, points in IN on, east and south of the line beginning at the KY–IN State line extending over U.S. Hwy. 31 to the junction U.S. Hwy. 40 then over U.S. Hwy. 40 to the IN–OH State line. (K)(8) between points in OK on, south and west of a line beginning at the TX–OK State line extending oer U.S. Hwy. 60 to the junction U.S. Hwy. 77 then along U.S. Hwy. 77 to the OK–TX State line on the one hand, and, on the other, points in MI; (K)(9) between points in OK on, east and south of a line beginning at the TK–OK State line extending over U.S. Hwy. 69 to the junction U.S. Hwy. 270 then over U.S. Hwy. 270 to the OK–AR State line on the one hand, and, on the other, points in WI. The purpose of this petition is to eliminate the gateway of South Haven, MS. (L)(1) between points in AR on the one hand, and, on the other, points in TN, SC, NC, VA, WV, OH, MD, PA, DE, DC, NJ, NY, CT, RI, MA, VT, NH, and ME; (L)(2) between points in AR on and south of a line beginning at the OK–AR State Line extending over U.S. Hwy. 70 to the AR–TN State line on the one hand, and, on the other, points in IL, IN and SD. (L)(3) between points in AR beginning on and north of a line beginning at the AR–OK State line extending over U.S. Hwy. 70 to the TN–AR State line on the one hand, and, on the other, points in IN on, south and east of a line beginning at the OH–IN State line extending over U.S. Hwy. 50 to the junction IN Hwy. 3 then over IN Hwy. 3 to the IN–KY State line; (L)(4) between points in AR on, south and west of a line beginning at the OK–AR State line extending over U.S. Hwy. 70 to the junction U.S. Hwy. 167 then over U.S. Hwy. 167 to the junction U.S. Hwy. 63 then over U.S. Hwy. 63 to the AR–TN State line on the one hand, and, on the other, points in KY. (L)(5) between points in AR beginning at a line on the TN–AR State line extending over U.S. Hwy. 70 to the junction U.S. Hwy. 167 then over U.S. Hwy. 167 to the junction U.S. Hwy. 63 then over U.S. Hwy. 63 to the AR–MO State line on the one hand, and, on the other, points in KY on and east of a line beginning at the KY–TN State line extending over I Hwy. 75 to the KY–OH State line. (L)(6) between points in AR on and east of a line beginning at the TX–AR State line extending over U.S. Hwy. 67 to the AR–MO State line on the one hand, and, on the other, points in ND and MN. The purpose of this petition is to eliminate any gateway in the State of MS. (M)(1) between points in IA, on the one hand, and, on the other, points in SC; (M)(2) between points in IA on and east of a line beginning at the MN–IA State line extending over U.S. Hwy. 63 to the IA–MO State line on the one hand, and, on the other, points in TN on and west of a line beginning at the MS–TN State line extending over U.S. Hwy. 45–E. (M)(3) between points in IA on, east and west of a line beginning at the MN–IA State line then over U.S. Hwy. 71 to the MO–IA State line then along the MO–IA State line to the junction of U.S. Hwy. 63 then along U.S. Hwy. 63 to the MN–IA State line on the one hand, and on the other, points in TN on, west and south of a line beginning at the MS–TN State line extending over U.S. Hwy. 43 to the junction U.S. Hwy. 64 then over U.S. Hwy. 64 to the TN–AR State line. (M)(4) between points in IA on and west of a line beginning at the MN–IA State line and extending over U.S. Hwy. 71 to the

IA–MO State line on the one hand, and, on the other, points in TN, NC and VA. (M)(5) between points in IA beginning at a point on the MO–IA State line extending over U.S. Hwy. 71 to the junction U.S. Hwy. 20 then over U.S. Hwy. 20 to the junction U.S. Hwy. 69 then over U.S. Hwy. 69 to the IA–MO State line on the one hand, and, on the other, points in NC on, east and south of a line beginning at the SC–NC State line extending over U.S. Hwy. 21 to the junction U.S. Hwy. 70 then over U.S. Hwy. 70 to the Atlantic Ocean. The purpose of this petition is to eliminate the gateways of West Memphis, AR and South Haven, MS. (N)(1) between points in IA, on the hand, and, on the other, points in AL, GA and FL. The purpose of this petition is to eliminate any gateway in the State of AR. (O)(1) between points in IA, on the one hand, and, on the other, points in MS. The purpose of this filing is to eliminate any gateway in the State of AR.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26806 Filed 9–2–80; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–69]

Certain Airtight Cast-Iron Stoves; Extension of Time for Filing Written Comments

I. Background

On August 15, 1980 the Commission issued a notice setting the times when comments would be due concerning relief, bonding, and the public interest with regard to several respondents found to be in default by the Administrative Law Judge. See 45 FR 55547, August 20, 1980. The time for filing comments by the complainants was August 29, 1980. On August 21, 1980, the complainants filed a Motion for Extension of Time to file their comments (Motion 69–32) asking that their deadline be extended until September 19, 1980. No objections to the motion have been received from any parties.

I. Action

Having considered the above motion, the Commission on August 27, 1980, granted Motion 69–32 and ordered the times for filing written comments extended by three (3) weeks.

III. Order

Accordingly, the Commission orders that—

(1) Motion No. 69–32 is granted;

(2) The deadline for filing written comments by complainants is extended until September 19, 1980;

(3) The deadline for filing written comments is extended until September 26, 1980, for the Commission investigative attorney, other parties, and interested persons;

(4) Requests for oral arguments or oral presentations must be made by October 3, 1980;

(5) The Secretary shall serve this notice upon all parties of record, upon the interested federal agencies, and shall have this notice published in the **Federal Register.**

Issued: August 28, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–26803 Filed 9–2–80; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. American Broadcasting Cos., Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h) that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Central District of California in *United States* v. *American Broadcasting Companies, Inc.*, Civil No. 74–3600–RJK. ABC has consented to the Proposed Judgment. The complaint in this action alleged that in violation of the Sherman Act, defendant had entered into restrictive contracts and had combined with its affiliated television stations to use its control over access to the ABC Television Network to restrain and monopolize prime time entertaining programming exhibited on that network. The Judgment would: limit for a period of 10 years, the amount of television entertainment programming that ABC may produce for use on its network; prohibit ABC from conditioning access to its television network upon an independent program supplier's grant of any other right or interest to ABC; limit for periods of 10 or 15 years the contractual rights which ABC may obtain in connection with network exhibition of a program including limitations on ABC's right to exclusive use of a program; enjoin ABC from obtaining any right or interest in television entertainment programs produced by others, except for the right to network exhibition; enjoin ABC from engaging in domestic syndication of any television entertainment programs, from engaging in foreign distribution of programs other than those produced abroad or by ABC; limit ABC's ability to enforce rights in any agreements with talent so as to prevent such talent from being able to provide services in connection with program series switching to other networks or television stations; limit ABC's ability to enforce rights in any agreements with talent so as to prevent such talent from being able to provide services in connection with program series based on ABC-rejected pilots which are picked up by other networks or television stations; and prohibit for a period of 10 years reciprocal program arrangements between ABC and either CBS Inc. or National Broadcasting Company, Inc. Certain of the provisions in consent judgments entered in the companion cases against CBS and NBC, which were conditioned upon the Department's obtaining similar relief against ABC, will take effect upon the entry of the ABC consent judgment by the court. A Final Judgment was entered in the CBS case on July 31, 1980, and in the NBC case on November 28, 1977. The Competitive Impact Statement describes the anticipated effects of the proposed Judgment on competition, and evaluates the alternative relief proposals actually considered by the United States. Public comment is invited within the statutory 60-day time period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Bernard M. Hollander, Chief, Judgment Enforcement Section, Antitrust Division, Department of Justice, Room 3706, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations.

Bernard M. Hollander, Barry J. Kaplan, Bernard J. O'Reilly, George W. Selby, Jr., Richard L. Irvine, Ruth Dicker, James R. Kahn, John A. Kolar, Sandra L. Willis, *Antitrust Division, Department of Justice, 3101 Federal Building, 300 N. Los Angeles, California 90012, Telephone: (213) 688–2508.*

Daniel H. Margolis, James R. Loftis, III, Frank Rothman, *Bergson, Borkland, Margolis & Adler, Wyman, Bautzer, Rothman, Kuchel & Silbert, Two Century Plaza, 2049 Century Park East, Los Angeles, California 90067, Telephone: (213) 556–8000, Attorneys for Defendant American Broadcasting Companies, Inc.*

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U.S. District Court, Central District of California

United States of America, Plaintiff, V. *American Broadcasting Companies, Inc.*, Defendant.

Civil No. 74-3600-RJK.

Filed: August 22, 1980.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys and subject to the approval of the Court, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do an any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation and Order, this Stipulation and Order and the proposed Final Judgment shall be of no effect whatever, and the making of this Stipulation and Order, and the proposed Final Judgment shall be without prejudice to the plaintiff or defendant in this or any other proceeding.

3. This Stipulation and Order shall not estop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact of law as to the subject matter of Section VI(E)(iii)(e), originally included in the proposed Final Judgment in *United States* v. *National Broadcasting Company, Inc.*, Civil Action No. 74-3601-RJK (C.D. Cal.), lodged November 17, 1976, nor shall it constitute any evidence or admission as to any such issue.

Dated: August 22, 1980.

For the Plaintiff. Sanford M. Litvack, *Assistant Attorney General;* Joseph H. Widmar, *Director of Operations;* Bernard M. Hollander, Barry J. Kaplan, Bernard J. O'Reilly, Ruth Dicker, James R. Kahn, John A. Kolar, Sandra L. Willis, *Attorneys for the United States.*

For the Defendant: Daniel H. Margolis, James R. Lofits, III, *Attorneys for Defendant American Broadcasting Companies, Inc.*

Order

It is so ordered, this —— day of ————, 1980.

————————————————,

U.S. District Judge.

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *American Broadcasting Companies, Inc.*, Defendant.

Civil Action No. 74-3600-RJK.

Lodged: August 22, 1980.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and defendant, American Broadcasting Companies, Inc., having filed its answer herein on December 30, 1974, by their respective attorneys, each having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding;

Now, therefore, before any testimony has been taken, the Court being advised and having considered the matter, it is hereby:

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under the provisions of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U.S.C. 1, 2, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means an individual, partnership, corporation or any other form of legal or business entity.

(B) "ABC" means American Broadcasting Companies, Inc. and its subsidiaries.

(C) A "person controlling ABC" means any person owning at least ten percent (10%) of, or a controlling share of, the outstanding voting stock of ABC.

(D) "ABC Television Network" means an ABC owned or operated business which provides television programs and related advertising messages to affiliated television broadcast stations.

(E) "Entertainment Program" means any program, including a feature film, exhibited or intended to be exhibited on television other than the following programs: news, public affairs, agricultural, religious, instructional, and sports (as those terms are defined in Appendix A to this Final Judgment). The inclusion of incidental or occasional entertainment or non-entertainment elements in a program or program series shall not be deemed to change the classification of the program or program series.

(F) "Independent Program Supplier" means a person who produces or offers one or more entertainment programs for network exhibition, other than ABC, a person controlling ABC, or a person in which ABC or a person controlling ABC has an ownership interest.

(G) "Network Exhibition" means the initial and repeat exhibitions of a television program on the ABC television network during the term of any agreement between ABC and an independent program supplier for such exhibition of such program.

(H) "Prime Time Hours" means the hours from 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 5:00 p.m. to 10:00 p.m. in the Central and Mountain Time Zones of the United States.

(I) "Daytime Hours" means the hours from 9:00 a.m. to 6:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 9:00 a.m. to 5:00 p.m. in the Central and Mountain Time Zones of the United States.

(J) "Fringe Hours" means the hours from 11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 10:00 p.m. to 1:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central and Mountain Time Zones of the United States.

(K) "Television Broadcast Station" means a station licensed as a television broadcast station by the Federal Communications Commission.

(L) "ABC Production Facilities" means studio facilities, including but not limited to, scenery, props and other production equipment, which are used for the production of entertainment programs exhibited or intended to be exhibited on television, and which are owned or leased by ABC, by any person controlling ABC, or by any person in which ABC or any person controlling ABC has any ownership interest.

(M) "Stripping" means the broadcasting of more than one (1) episode per week of a television program series.

(N) "Broadcast Year" means the television broadcast year customarily commencing in September of one year and continuing until September of the following year.

III

The provisions of this Final Judgment are applicable to ABC, to any person controlling ABC and to each of ABC's directors, officers, agents, employees, subsidiaries, successors, and assigns, and to all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise.

IV

ABC is enjoined and restrained from:

(A) Acquiring any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by an independent program supplier, other than the right to the Network Exhibition of the program, except as provided in Sections VII(A)-(D) of this Final Judgment: *Provided*, That an agreement granting ABC the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs, of which the following are examples: Geographic scope and manner of transmission and delivery of network broadcasts; approval of creative elements and program content; technical quality and delivery requirements; union and Equal Employment Opportunity Act compliance; act of God; force majeure; preemptions; obligation to pay for, rather than play, programs; number of episodes or programs ordered; assignability; warranties; indemnification; completion bonds; security agreements and financing statements; insurance; public morals; advertising conflicts; advertising, promotion and publicity of programs; audience testing and screening; cancellation; exclusivity for talent and creative personnel (except as limited by Sections VI(I) and VI(J) herein; see also Section VII(E) herein); exclusive exhibition rights (except as limited by Sections VI(E)(ii)–(iii) herein); pilots (except as limited by Section VI(F) herein); options (except as limited by Sections VI(E)(i), VI(F) and VI(G) herein); first negotiation and first refusal rights (except as limited by Sections VI(E)(i) and VI(G) herein); spinoffs (except as limited by Section VI(G) herein); repeats (except as limited by Section VI(H) herein); same day protection against once weekly syndication programs and theatrical feature films; title protection for the length of the applicable contract or contracts; format and continuing character protection; breach; and remedies, so long as any such provision does not violate the antitrust laws.

(B) Selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business commonly known as "syndication"), or to foreign television stations or networks, except as provided in Section VII(D) of this Final Judgment.

V

(A) ABC is enjoined and restrained for a period of ten (10) years from the effective date of this Section from offering for ABC network broadcast during Prime Time Hours, Daytime Hours or Fringe Hours: in Prime Time Hours, more than two and one-half (2½) hours per week in each of the first five (5) years, three and one-half (3½) hours per week in each of the sixth and seventh years, four (4) hours per week in the eighth year, and five (5) hours per week in each of the ninth and tenth years; in Daytime Hours, more than eight (8) hours per week; and in Fringe Hours, more than eleven (11) hours per week, determined on the average per compliance period, of entertainment programs obtained from sources other than independent program suppliers: *Provided,* That during each compliance period ABC may add to the total number of allowable hours of entertainment programming from sources other than independent program suppliers, two (2) non-regularly scheduled special programs: *And provided further,* That in any compliance period, ABC may, during Fringe Hours, increase the number of allowable hours of entertainment programming from sources other than independent program suppliers by reducing to the same extent the number of allowable hours of such programming in Prime Time Hours and/or Daytime Hours, and during Daytime Hours, increase the number of allowable hours of entertainment programming from such sources by reducing to the same extent the number of allowable hours of such programmming in Prime Time Hours and/or Fringe Hours, so long as the number of allowable Daytime Hours may only be increased to the extent necessary to permit offering for broadcast by ABC of those programs from sources other than independent program suppliers being offered by ABC as of the effective date of this decree.

(B) For purposes of this Section V, compliance periods shall be consecutive semi-annual periods commencing at the start of each broadcast year. Compliance reports in the form set forth in Appendix B to this Final Judgment shall be submitted by ABC to plaintiff within thirty (30) days following the conclusion of each compliance period.

VI

ABC is enjoined and refrained:

(A) From purchasing or offering to purchase from an independent program supplier the right to Network Exhibition of one or more entertainment programs upon the condition, expressed or implied, that ABC, or any person controlling ABC, will obtain any other right or interest from said supplier, except as to contractual provisions concerning subject matters incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(B) For a period of fifteen (15) years from the effective date of this Section, from purchasing or offering to purchase from an independent program supplier any right to exhibition of a program, other than a live program, as an ABC television network entertainment program upon the condition, express or implied, that said supplier produce the program, in whole or in part, utilizing ABC production facilities.

(C) For a period of fifteen (15) years from the effective date of this Section from agreeing with an independent program supplier that said supplier use ABC production facilities to produce a program, other than a live program, as an ABC television network entertainment program for a period in excess of the time required to produce episodes for one (1) broadcast year: *Provided,* That ABC and said supplier are not precluded each year from negotiating and contracting for additional periods not to exceed one (1) year each.

(D) for a period of ten (10) years from the effective date of this Section from purchasing or offering to purchase from CBS Inc. ("CBS") or National Broadcasting Company, Inc. ("NBC") any right to Network Exhibition of any entertainment program upon the condition, express or implied, that CBS or NBC agrees to purchase or offers to purchase a right to network exhibition of any entertainment program produced or controlled by ABC.

(e) For a period of fifteen (15) years from the effective date of this Section from:

(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of an ABC prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends: *Provided,* That: (a) With respect to any such program series which commences at the start of a broadcast year, nothing herein shall prevent ABC, at any time[s] in or after the Spring of the first broadcast year, from negotiating new provisions which may include the purchase of an extension of the option period, so long as the maximum term at no time exceeds four (4) years from the date such new provisions are entered into, except that where such new provisions are entered into at or after the time when ABC exercises its option for the following broadcast year the maximum term shall be four (4) years from the start of such following broadcast year; and (b) with respect to any such program series which commences at a time other than the beginning of a broadcast year, nothing herein shall prevent ABC, at any time[s] after twelve months subsequent to the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of the option period, so long as the maximum term at no time exceeds four (4) years, and the balance of any broadcast year in which such four (4) year period ends: *And provided further,* That nothing herein shall prevent ABC from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to ABC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than ABC on terms less favorable to said supplier than said supplier's last offer to ABC without giving ABC the first opportunity to meet such terms: *And provided further,* That nothing herein shall prevent ABC from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which ABC has a contractual right to Network Exhibition, in excess of the following:

(a) For prime time use, the duration of any contract term or terms by which ABC acquires the right to Network Exhibition;

(b) For non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

(c) For all other broadcast uses, three (3) years from the first prime time episode broadcast: *Provided,* That nothing herein shall prevent ABC from negotiating for and acquiring rights, including exclusive rights, for stripping and once weekly exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after ABC has agreed to order episodes of such program for the first year of broadcast as an ABC prime time television network entertainment program series: *And provided further,* That nothing herein shall prevent ABC from acquiring exclusive exhibition rights to series episodes for the broadcast year for which such episodes are ordered.

(iii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for theatrical feature films for which ABC has a contractual right to Network Exhibition, against:

(a) Theatrical and non-theatrical direct projection;

(b) Closed circuit TV in non-residential hotels, motels, bars, restaurants, hospitals and similar non-residential institutions;

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(c) Passenger-carrying vehicles;

(d) Video discs, cartridges or cassettes or other such equipment.

(F) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier a first year pick-up option for exhibition of a prime time network entertainment program series based on a program designated by ABC and said supplier as a "pilot program" ("pilot") which is exercisable after the following times:

(i) Where ABC has not advanced said supplier any part of the costs of pilot development, subsequent to the earliest date that the agreement contemplates that broadcast of the series may commence; and

(ii) Where ABC has advanced said supplier any part of the costs of pilot development, more than one (1) year after delivery to ABC of the completed pilot: *Provided,* That as to those series which ABC does not include in the network schedule at the earliest date that the agreement contemplates that broadcast of the series may commence:

(a) For those pilots which have been delivered to ABC between October 2 of one year and April 1 of the following year, ABC must designate by June 1 of the latter year sixty-five percent (65%) of such pilots as to which ABC will release its option for series exhibition upon payment to ABC of all of ABC's unrecouped costs for the development of such pilots; and

(b) For those pilots which have been delivered to ABC between April 2 and October 1 of the same year, ABC must designate by January 1 of the following year sixty-five percent (65%) of such pilots as to which ABC will release its option for series exhibition upon payment to ABC of all of ABC's unrecouped costs for the development of such pilots;

And provided further, That ABC may purchase additional first year pick-up options for series which ABC has not designated for release and for series which ABC has designated for option release but which ABC wishes ot retain, so long as such additional options are acquired, for pilots described in Section VI(F)(ii)(a), after June 1, or after the announcement of the ABC television network schedule for the next broadcast year, whichever, is later, and, for pilots described in Section VI(F)(ii)(b), after December 1, and so long as such additional options do not exceed increments of six (6) months.

For purposes of this Section VI(F):

A pilot shall be deemed to have been delivered to ABC when ABC has received, in the case of a film pilot, an answer print, and, in the case of a tape pilot, a program complying with customary tape requirements.

In computing the number of pilots to be released under Sections VI(F)(ii)(a) and (b), any fraction of a pilot shall be rounded off to the next lower whole number.

Unrecouped costs shall be deemed to be the amount of money advanced by ABC to an independent program supplier for the development of a pilot, except that if the ABC television network broadcasts a pilot once, two-thirds (⅔) of ABC's costs shall be deemed to have been recouped, and if ABC broadcasts a pilot more than once, all of ABC's costs shall be deemed to have been recouped.

(G) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier rights in excess of first negotiation and first refusal rights for a spinoff involving a non-continuing character.

For purposes of this Section VI(G):

First refusal rights shall be more favorable to ABC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than ABC on terms less favorable to said supplier than said supplier's last offer to ABC without giving ABC the first opportunity to meet such terms.

A non-continuing character shall be deemed to mean one who appeared in no more than twenty-five percent (25%) of the original episodes of the program upon which such spinoff is based during the twelve (12) months prior to the time exhibition rights to such spinoff are offered for licensing by said supplier.

(H) For a period of ten (10) years from the effective date of this Section, from purchasing from an independent program supplier a right to first run Network Exhibition of any television entertainment program series which includes th right to exhibit repeats of episodes in years subsequent to the broadcast year of inital exhibition of such episodes: *Provided,* That repeat rights to three (3) initial episodes per broadcast year of each such program series may be purchased for exhibition in subsequent broadcast years as part of the right to Network Exhibition: *And provided further,* That additional rights to repeats may be purchased for exhibition in subsequent broadcast years, so long as negotiation for and acquisition of such additional repeat rights takes place after ABC has agreed to order episodes of such program series for the first year of broadcast as an ABC television network entertainment program series: *And provided further,* That the limitation as ot the use of repeats contained in this Section VI(H) shall not apply to (i) made-for-television and theatrical feature films, (ii) specials, and (iii) cartoons or other children's programs.

(I) For a period of ten (10) years from the effective date of this Section, from asserting or exercising any right under any agreement for the services of any continuing performing or essential creative talent providing services in connection with a particular prime time entertainment program series licensed to ABC so as to preclude such talent from being able to continue to provide services in conncection with that program series if licensed to any other licensee up to and including ninety (90) days after the expiration of ABC's option[s] for that series.

(J) For a period of ten (10) years from the effective date of this Section, from asserting or exercising any right under any agreement for the services of any essential performing or essential creative talent who has provided services in connection with a prime time entertainment program series pilot delivered to ABC so as to preclude such talent from being able to provide services in connection with a program series based on that pilot, if licensed to any other licensee up to and including ninety (90) days after the expiration of ABC's option[s] for that series. This provision shall not be applicable to those 20 ABC agreements for the exclusive services of creative talent which were entered into on or before July 16, 1980: *Provided,* That this exception shall not extend beyond December 31, 1982.

VII

Nothing contained in this Final Judgment shall be construed:

(A) To prohibit ABC from acquiring rights for non-network broadcast of programs by ABC owned and operated television broadcast stations where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights including renewal rights, for the exhibition, distribution or use of any program as an ABC television network program.

(B) To prohibit ABC from seeking repayment, in whole or in part, of money or other consideration loaned, advanced or furnished by ABC in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

(C) To prohibit ABC from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an ABC television network program.

(D) To prohibit ABC from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in ABC's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an ABC television network program, or (ii) produced by ABC, by any person controlling ABC, or by any person in which ABC or any person controlling ABC has any ownership interest.

(E) To preclude plaintiff, upon a showing that ABC has used exclusive rights to performing or creative talent to circumvent Section VI(F) of this Final Judgment, from applying to the Court for additional relief under this Judgment against such conduct, provided that such additional relief would not place ABC at a competitive disadvantage with respect to CBS or NBC.

VIII

If a Final Order, Judgment or Decree or modification thereof is entered with respect to CBS in *United States v. CBS Inc.,* Civil Action No., 74–3599–RJK (C.D. Cal.), or with respect to NBC in *United States v. National Broadcasting Company, Inc.,* Civil Action No. 74–3601–RJK (C.D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either CBS or NBC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of either or both of such actions, ABC may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent ABC from being placed at a competitive disadvantage with respect to CBS or NBC.

IX

(A) Within thirty (30) after the entry of this Final Judgment, ABC shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter ABC shall furnish a copy to all new officers, directors and appropriate employees and agents. ABC shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, ABC shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to ABC for inclusion in its schedule of ABC television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to ABC made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of ABC to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of ABC relating to any matter contained in this Final Judgment; and

(2) Subject to the reasonable convenience of ABC and without restraint or interference by it, the right to interview officers or employees of ABC, who may have counsel present, regarding any such matter.

(B) ABC, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

Jurisdiction is retained by this court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XII

Entry of this Final Judgment is in the public interest.

Dated:

U. S. District Judge.

Appendix A*

(a) "Agricultural programs" include market reports, farming, or other information specifically addressed, or primarily of interest, to the agricultural population.

(b) "News programs" include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis, and sports news.

(c) "Public affairs programs" include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(d) "Religious programs" include sermons or devotionals; religious news; and music, drama, and other types of programs designed primarily for religious purposes.

(e) "Instructional programs" include programs (other than those classified under Agricultural, News, Public Affairs, Religious or Sports) involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences; and programs devoted to occupational and vocational instruction, instruction with respect to hobbies, and similar programs intended primarily to instruct.

(f) "Sports programs" include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instructions, etc.).

Appendix B.—Compliance Report

ABC Produced Programs

Compliance Period ——————————

No. weeks ——————————

Program name	Number minutes per week	Number weeks offered for network broadcast
Prime Time Hours		
Entertainment:		
Non-Entertainment:		
Daytime Hours		
Entertainment.		
Non-Entertainment:		
Fringe Hours		
Entertainment:		
Non-Entertainment:		

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *American Broadcasting Companies, Inc.,* Defendant.

Civil No. 74–3600–RJK.

Filed: August 22, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)–(h) Pub. L. 93–528 (December 21, 1974)), the United States of America hereby files this competitive impact statement relating to a proposed consent judgment in the above-entitled action to be entered against the defendant, American Broadcasting Companies, Inc. ("ABC"). Entry of the proposed judgment should not, of course, bar the Government from bringing another action involving any aspect of ABC's operations should the facts warrant such an action in the future. This proposed judgment is based in large part on the Final Judgment entered on July 31, 1980, in *United States* v. *CBS Inc.,* 74–3599–RJK (C.D. Cal.) and the Final Judgment entered on November 28, 1977, in *United States* v. *National Broadcasting Company, Inc.,* 74–3601–RJK (C.D. Cal.).

(1) Nature and Purpose of the Proceeding

This action is one of three filed on December 10, 1974, against each of the nationwide commercial television networks,[1] charging that each had combined with its affiliated stations to use its control over access to network air time to restrain and monopolize prime time television entertainment programming in violation of Sections 1 and 2 of the Sherman Act (15 U.S.C. 1 and 2). This suit is similar to an earlier suit against ABC, filed on April 14, 1972, which, with suits against the other two networks (CBS and NBC), was dismissed without prejudice to new filings by the Court on November 13, 1974. ABC's news, public affairs and sports programming are not involved in either this or the previous suit.

The complaint alleges that ABC used its control over access to the broadcasting time of the ABC Television Network during prime evening hours for the folowing purposes: to exclude from network broadcast those

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*Taken from 47 CFR 73.670, n. 1 (1975).

[1] In addition to ABC, complaints were filed against CBS Inc. ("CBS") and National Broadcasting Company, Inc. ("NBC").

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entertainment programs in which ABC had no financial interest; to compel independent program suppliers to grant to ABC financial interests in television programs which it accepted for broadcast; to refuse to sell air time to advertisers and other independent program suppliers seeking to have their own programs shown on the ABC network, to control the prices paid by ABC for television exhibition rights to motion picture feature films; and to obtain competitive advantages over other producers and distributors of television entertainment programs and of motion picture feature films. In the complaint, the Government sought to have ABC enjoined from the following practices: obtaining any interest, except for the right of network exhibition, in independently produced programs; engaging in syndication of any television entertainment programs; producing entertainment programs itself; and using its control over access to the ABC Television Network to foreclose competition or obtain an unfair competitive advantage in any other field. The proposed judgment provides relief similar and substantially equivalent to that requested in the complaint.

(2) Practices and Events Giving Rise To the Alleged Violation of the Antitrust Laws

ABC is a substantial purchaser, exhibitor and producer of commercial television programs. There are approximately 700 television stations in the United States which are licensed by the Government to broadcast commercial television programs. ABC operates a national television network which provides television programs and related advertising messages to approximately 200 affiliated television stations located throughout the United States and to the five television stations which are owned and operated by ABC (in New York City, Los Angeles, Chicago, Detroit, and San Francisco).

Commercial television programs are created and produced by television networks, television stations, and independent program suppliers, including motion picture studios. In 1973, the three nationwide commercial television networks (ABC, CBS, and NBC) spent more than $1,000,000,000 for television programs, of which ABC spent more than $330,000,000. In 1973, total television broadcasting revenues for the aforementioned three networks were in excess of $1,400,000,000, of which ABC received more than $430,000,000.

The value of any television program to its producer, and to an advertiser whose message is broadcast in conjunction with it, depends in large part on the number of television viewers who see the program and observe the commercial messages. ABC, through its affiliated television stations, has control over access to approximately 98 percent of all United States television households for programs which it offers for broadcast. This is because during prime evening hours,[2] when television viewing is at its peak, most of the 200 ABC affiliated stations and all the ABC owned and operated stations depend upon ABC for virtually all of their television entertainment programming. In early 1976, for example, ABC's primary affiliates[3] and its owned and operated stations broadcast over 90 percent of the programs regularly offered by the ABC Television Network during prime evening hours.

The commercial value of a television entertainment program is not exhausted by its first network showing. It may also be stripped (broadcast a number of times per week) by a network. Frequently, usually after its network run is completed, a program is distributed to individual television stations in the United States for non-network broadcast (this is generally referred to as syndication). In addition, a program may be distributed to foreign television stations while it is appearing over a domestic television network. Merchandising, literary and music rights in a television program could also provide substantial revenue to the producer.

There is a substantial economic incentive for ABC to gain control of programming on its network, and ABC has exercised its control over access to the viewing public so as to exclude from the ABC Television Network programs controlled by others. One effect of this is to reduce the number of program purchasers with a resultant lessening of competition for television programs. For example, in the 1950's and early 1960's, advertisers were able to purchase television entertainment programs acceptable to ABC from independent program suppliers for broadcast on air time purchased from the ABC Television Network. In November of 1957, approximately 41 percent of all entertainment program series offered by the ABC Television Network during prime evening hours were advertiser-supplied; thus, advertisers constituted a substantial market for independent program suppliers. However, by November, 1967, only 4 percent of all entertainment program series offered by the ABC Television Network during prime evening hours were advertiser-supplied. At the present time, no such series is advertiser-supplied.

ABC embarked upon a policy of replacing advertiser-supplied programming with programs which it controlled through internal production, exclusive long-term network licenses, or talent exclusivity. Often ABC obtained rights or interests in excess of network exhibition. While, in November, 1957, only approximately 31 percent of all prime time entertainment program series offered by the ABC Television Network were programs which ABC produced or in which it had subsidiary rights or interests, such programs constituted 86 percent of all prime time entertainment program series offered by the ABC Television Network in November 1967.

As a result of this situation, which obtained on all three networks, the Federal Communications Commission ("FCC") promulgated rules which forbade ABC, CBS, and NBC from exacting certain financial interests or syndication rights in television programs from independent producers. 47 CFR 73.658(j).[4] However, despite the FCC financial interest and syndication rules, ABC and the other networks continued to exact from producers such rights as: (1) Long-term yearly renewal options for exclusive ABC network exhibition of the program with pre-set license fee escalation rates; (2) exclusive use of the program by ABC as against other communications markets; (3) exclusive rights in ABC with respect to program spinoffs; (4) creative program controls in ABC; (5) ABC's right to all profits from network exhibition of the producer's program; and (6) and ABC right of first refusal at the end of the option period.[5]

Were this case to go to trial, the Government would contend that ABC had used and continues to use its dominance and control over access to the broadcasting time of the ABC Television Network, to condition independent program suppliers' access to said network upon the suppliers' relinquishing valuable rights and interests in their programs, and that this course of conduct violates Sections 1 and 2 of the Sherman Act. The Government would also contend that ABC has favored programs in which it obtained such rights and interests over other programs, with the result that trade and commerce in ABC's prime time television entertainment programing has been illegally restrained and monopolized. Finally, the Government would contend that ABC's unrestricted ability to produce prime time television entertainment programing, together with its control over access to its television network and its past and present restrictive course of conduct, constitutes an unreasonable and unlawful restraing of independent program suppliers' ability to produce and negotiate for distribution and exhibition of their progaming.

(3) The Proposed Consent Judgment and its Anticipated Effect on Competition

The proposed judgment is directed at minimizing the substantial advantage ABC has acquired in television programing because of its market power as one of the three nationwide commercial networks, which not only purchase and exhibit but also produce television programs. The structure of the market is such that each of the three networks controls program producers' and advertisers' access to the nation's commercial television audiences, and each network has abused its power by refusing access to programs which it did not produce or in which it had no financial interest. Consequently, the only meaningful relief that can be obtained short of restructuring the networks is to limit network program production and restrict the program rights that each network may obtain from outside suppliers to the rights essential to networking, which are those incident to the right to exhibit the program. This the proposed ABC judgment seeks to do. It would establish specific outer limits on ABC's own program production and on the type of rights and interests which ABC may acquire from independent program suppliers in addition to the right of network exhibition. This should minimize ABC's incentive to select a program on the basis of financial interests in it. The judgment does not, of course, require independent program producers to grant to ABC particular rights and interests, even to the extent permitted. However, it is anticipated that because of the proposed judgment, the forces of competition would be able to operate more freely on ABC's program procurement practices.

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[2] 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific time zones. 5:00 p.m. to 10:00 p.m. in the Central and Mountain time zones.

[3] An ABC primary affiliate is a television station to which ABC generally offers first call on television programs which it offers for broadcast.

[4] Such rights and interests included distribution rights and profit shares for domestic and foreign syndication of the program, and for merchandising, music and literary rights.

[5] At the same time, similar practices have been followed by CBS and NBC with respect to programing on their networks. The existence of uniform terms and conditions of purchase among the three major networks acts to deprive independent program suppliers of the benefits of network competition for their programs. Moreover, the network practice of obtaining exclusive exhibition rights often occurs at a time when the program is in the idea or script stage and the program supplier has little or no bargaining power.

The following is a discussion of the key provisions of the judgment:

Section IV

The proposed judgment would enjoin ABC from acquiring syndication and other distribution rights or profit shares in the non-network exploitation of television entertainment programs produced by others, and would thereby permamently preserve the prohibitions in the FCC's financial interest and syndication rules. To prevent ABC from utilizing its inherent competitive advantage over other domestic syndicators, the proposed judgment would prohibit domestic syndication of programs by ABC, but, consistent with the FCC's rules, would allow ABC-produced programs and certain foreign programs to be distributed by ABC in foreign markets.

Section V

The judgment would enhance competition in television entertainment program production and exhibition by eliminating the possibility that ABC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers. For a period of 10 years, it would limit the amount of television entertainment programming which may be produced and exhibited by ABC to the following:

In Prime Time Hours [6]

No more than two and one-half hours per week in each of the first five years, no more than three and one-half hours per week in each of the sixth and seventh years, no more than four hours per week in the eighth year, and no more than five hours per week in each of the ninth and tenth years;

In Daytime Hours:

No more than eight hours per week;

In Fringe Hours:

No more than eleven hours per week.

Section V also provides that ABC may, during fringe hours, increase the amount of programming it produces and exhibits by reducing to the same extent the amount in prime time or daytime hours, and that ABC may, during daytime hours, maintain the amount of programing which is being produced and exhibited by ABC at the effective date of this judgment by reducing to the same extent the amount in prime time of fringe hours.[7]

Section VI

The complaint alleges that ABC uses its control over access to its national television network to gain an unfair competitive advantage in other fields. Section VI contains prohibitions designed to prevent this from occurring and to give those competing in such other fields an opportunity to compete free of the artificial leverage which ABC, and the other networks, have exercised in the past. Because of the regulatory nature of many of the injunctions in Section VI, and the possibility of changes in the industry, the Department has determined that the prohibitions should contain the time limitations spelled out in this section [15 years for subsections (B), (C) and (E) and 10 years in subsections (D), (F), (G), (H), (I) and (J)].

VI(A)

The judgment would prohibit ABC from purchasing or offering to purchase exhibition rights to an independent program supplier's television entertainment program on condition that the supplier would grant ABC any right or interest other than those incident to network licensing and use of the program. This continuing injunction is based on the assumption that ABC, and the other two existing commercial television networks, will continue to have substantial market power for the foreseeable future.

V(IB)

To specifically clarify the scope of Section VI(A), this provision would assure that ABC would not, in connection with its acquisition of network exhibition rights, require that the supplier use ABC production facilities. It would expire in fifteen years.

VI(C)

For a period of fifteen years, any facilities contract between ABC and such a program supplier would be limited to the period required to produce one year's episodes, with a right to renew the contract at the end of each year.

VI(D)

To guard against ABC's possible avoidance of its program production limitation through reciprocal dealing with other networks, for a period of ten years, ABC would be prohibited from purchasing network exhibition rights to any CBS or NBC entertainment program on condition that CBS or NBC purchase similar rights from ABC.

VI(E)

For a period of fifteen years, the proposed judgment would place the following outer limits on the exclusive rights that ABC may acquire from an independent program supplier in obtaining network exhibition rights for a prime time entertainment program (the supplier can, of course, grant ABC fewer and lesser rights than these):

For Program Series (VI(E)(i))

ABC's initial contracts with program suppliers for the production and network exhibition of a prime time entertainment program series could not include exclusive yearly options for more than four years and the balance of any broadcast year in which such four year period ends. However, ABC could, pursuant to the limitations set fourth in this provision, renegotiate the contract with the supplier to provide for additional options as follows:

(a) *In the case of a program series which commences at the start of a broadcast year:* ABC could begin negotiating in or after the Spring of the first broadcast year for an additional one-year option, but only upon ABC's exercising its existing option for the second broadcast year could it enter into an agreement for the additional one-year option. At no time after ABC exercises its option to go to series could ABC hold more than three years of additional options to programs in this category. ABC and the supplier can negotiate a contract for an additional option at any time in or after the Spring of the first broadcast year, so long as the maximum of four years of options is not exceeded. To illustrate, if they wait until the Spring of the second broadcast year, ABC may negotiate for at most two years of additional options; if they wait until the Spring of the third year, ABC may negotiate for at most three additional options. (VI(E)(i)(a)); [8]

(b) *In the case of a program series which commences after the start of a broadcast year:* ABC could negotiate, after twelve months subsequent to the date of first broadcast, for an additional one-year option, but ABC need not wait until it exercises its option for the following broadcast year before entering into an agreement for the additional one-year option. In subsequent broadcast years, ABC may negotiate for and obtain additional options so long as it at no time holds options for more than four years and the balance of any broadcast year in which the four-year period ends. (VI(E)(i)(b)).

In either situation, ABC and the supplier are free to negotiate for additional options at any time after ABC obtains, if it does, an additional option year, so long as the maximum limits are observed. They are, of course, also free to abstain from any additional negotiations or to negotiate for less than the limits set forth in the proposed judgment. When the contract approaches the end of its term, the supplier would be free to offer the program to others, subject only to ABC's first negotiation/first refusal rights by ABC.[9]

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[6] For definitions, see n. 2, *supra* at p. 4.

[7] ABC would also be allowed to produce two additional special programs for broadcast every six months. ABC will report to the Department of Justice, semi-annually, its program production and scheduling during the preceding period.

[8] If negotiations are conducted in any Summer, Fall, or Winter after the Spring of the first broadcast year, ABC is limited to that which it was permitted to acquire in the Spring which preceded such negotiations. If the initial contract term were three years, rather than four, ABC could negotiate for at most two years of additional options during the first Spring following initial broadcast.

[9] ABC's permissible first refusal rights for new contracts, exercisable at the end of any contract term, could not prohibit the program supplier from entering into a new contract with someone else at

Footnotes continued on next page

VI(E)(ii)

ABC could not prohibit the use of any prime time television program in other domestic communications markets for more than three years,[10] except that ABC may obtain four years of exclusivity as against non-prime time stripping (the broadcast of program series episodes more than once a week after their network exhibition),[11] and may have exclusivity for prime time use of the program during the life of ABC's right to network exhibition. This provision should free a substantial number of entertainment program series for syndication and other uses much earlier than is currently possible.*

For Theatrical Feature Films (VI(E)(iii))

(1) ABC cannot acquire exclusivity as against exhibition of feature films by theatrical and nontheatrical direct projection, on closed circuit TV in non-residential hotels, motels, bars, restaurants, and hospitals, or on passenger-carrying vehicles.

(2) ABC cannot acquire exclusivity as against use of feature films in discs, cartridges or cassettes.*

VI(F)

Program selections for each network's new fall season are generally made in the preceding spring, and for "second season" replacement, in the preceding fall. For a period of ten years, this provision would prevent ABC from retaining its exclusive options to more than 35 percent of the program pilots not selected by it, after ABC's program selection for the next broadcast season has been made. This provision would permit increased competition between the networks by freeing the producers of as many as 65 percent of the program pilots not selected by ABC to offer their pilots to other networks or television stations.

VI(G)

To protect independent program suppliers' rights to additional program ideas developed from program series on ABC for a period of ten years this provision would limit ABC's ability to obtain exclusive rights to spinoffs[12] from such series to situations involving continuing characters. Where the spinoff involves a non-continuing character,[13] ABC may obtain no contractual option beyond first negotiation and a limited first refusal right.[14]

VI(H)

This provision would limit ABC's use of repeats acquired as part of Network Exhibition, to the same year as that in which the initial episodes of the program series are broadcast. However, as to three episodes of each series per year, there would be no limitation on rerunning them in subsequent years. Also, once it had ordered program series episodes for the first year of broadcast, ABC could purchase additional repeats for subsequent years. Finally, ABC would not be limited in purchasing repeat rights of made-for-television and theatrical feature films, specials, or cartoons or other children's programs.

VI(I)

This provision would prevent ABC from asserting or exercising any right in any agreement with continuing[15] performing or essential[16] creative talent which is providing services in connection with a particular prime time series licensed to ABC so as to preclude such talent from being able to continue to provide services in connection with that series if it were licensed to any other licensee. This prohibition lasts for ninety days after ABC's options for that series have expired. This provision would permit the program supplier to take a series which has run out its term, or which has been cancelled by ABC, to another network or television station, with the essential talent still in the series even though ABC may have the essential talent under contract.

The ninety day period is designed to provide a reasonable time during which the program supplier could attempt to license the series, but not so much as would prevent the talent and ABC from being able to proceed with assurance on some alternative project if the series remained unlicensed.[17]

This provision would in no way limit the talent's freedom of choice. The talent would be free to stay with ABC, or to continue with the series, a choice which might otherwise be foreclosed by an exclusive agreement with ABC. While this provision does not limit ABC's ability to offer the talent projects which are alternatives to continuing with the series, it prohibits use by ABC of an existing agreement to prevent the talent from being able to continue with the series.

After the expiration of ninety days, ABC would be free to attempt to enter into a new agreement with the talent for the exclusive use of such talent's services, whether or not the series has been licensed to another licensee. Further, this provision would not affect the contracts between the talent and other suppliers or licensees. Nor would this provision prevent the talent from providing services to the series, if contractually free to do so, if the series were licensed to another licensee after the ninety-day period.

VI(J)

This provision is similar in purpose, effect, and interpretation to Section VI(I), discussed above. It would prevent ABC from asserting or exercising any right in any agreement with essential performing or essential creative talent who has provided services in connection with a prime time entertainment series pilot delivered to ABC so as to preclude such talent from being able to provide services with any program series based on that pilot if it were licensed to any other licensee. This prohibition lasts for ninety days after ABC's options to go to series have expired.

This provision would not apply to the 20 ABC agreements for the exclusive services of creative talent which ABC represented to be all such agreements in effect on July 16, 1980, except that to the extent the exclusivity in any of those agreements presently extends beyond December 31, 1982, Section VI(J) will become effective as of January 1, 1983, and to the extent that the exclusivity provided in any such agreements does not presently extend beyond December 31, 1982, Section VI(J) will become effective when the present exclusivity terminates. There is no similar exemption with respect to ABC agreements for the exclusive services of performing talent.

Section VII

This provision describes certain areas of ABC activity with which the judgment would not interfere. They are: (1) ABC's ability to acquire rights for non-network broadcast by its owned and operated television stations and rights for non-broadcasting uses, and ABC's ability to sell, license or distribute foreign or ABC produced programs abroad, provided that none of the above rights are acquired in connection with ABC's acquisition of rights for the exhibition, distribution or use of an ABC television network program; and (2) ABC's ability to recover money advanced in connection with the development or production of a television network program.

Section VII(E) imposes no specific limitation on ABC's use of an exclusive agreement with performing or creative talent when it decides not to take a pilot to series. However, if ABC should circumvent Section VI(F) by using exclusive talent agreements to inhibit program suppliers' ability to license ABC rejected program concepts elsewhere, this provision permits the Government to obtain appropriate relief against such conduct, in addition to that provided in Section VI(J), without having to justify a modification of the judgment.[19]

Footnotes continued from last page

the end of any contract term, if the terms were equal to or better than the supplier's last offer to ABC.

[10] ABC presently has exclusive rights for the duration of its network exhibition contract.

[11] The judgment would not permit ABC to obtain further stripping rights from the supplier until after it has ordered its first year's episodes for network exhibition.

* To permit contract adjustments, this provision would take effect thirty days after entry of the final judgment.

[12] A spinoff is a new series evolving from an episode or character of a series currently being offered for broadcast.

[13] A non-continuing character is one who appears in no more than 25 percent of the original episodes during the twelve months prior to the time exhibition rights for the licensing of such spinoff are offered by the independent supplier.

[14] The first refusal right would be limited as discussed in n. 9, supra at p. 15.

[15] In this context, a continuing talent is one who appeared in more than twenty-five percent of the original episodes of the program series during the twelve months prior to cancellation or expiration of ABC's options for that series. (See section VI (G)).

[16] The term "essential" is not limited to those persons who are "of the essence" in a license agreement; rather, it describes those persons whose services are reasonably necessary to the successful continuation of the series in the manner it or the pilot has been produced for ABC.

[17] The ninety-day period was suggested by section 24(c) of the 1977 Screen Actors Guild Television Agreement.

[19] Similar provisions appear in the CBS Judgment and in a Stipulation between NBC and the Government. See Final Judgment entered on July 31, 1980, in *United States v. CBS Inc.*, 74–3599–RJK (C.D. Cal); Stipulation and Order, dated Mey 4, 1977. *United States v. National Broadcasting Company, Inc.*, 74–3601–RJK (C.D. Cal.).

Section VIII

If the Final Judgments entered in the CBS action on July 31, 1980, or in the NBC action on November 28, 1977, were modified decreeing injunctions in those actions which were different from those in this proposed judgment, ABC would be permitted to seek and obtain whatever relief, if any, were necessary to prevent it from being placed at a competitive disadvantage with respect to CBS or NBC. While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of companion actions.

Section IX

This provision would require ABC to furnish copies of this judgment to all its officers, directors, and appropriate employees and agents within thirty days after its entry, and for ten years thereafter to furnish copies to all new ABC officers, directors or appropriate employees, to each independent program supplier known to have offered any entertainment program to ABC within the preceding five years, and to all known providers of television production facilities.

The consent judgment would afford ways of determining compliance by permitting the government, upon proper notice, to interview ABC employees, secure reports from ABC and inspect ABC documents and records.

The District Court would retain jurisdiction of the case to permit any necessary construction or modification of the judgment, to enforce compliance and to punish any judgment violation.

Stipulation and Order

The proposed consent judgment is subject to a stipulation between the United States and ABC that, when ordered by the Court, the Stipulation and Order providing for the entry of the ABC consent judgment shall not estop the parties or any person in this or any other action from asserting any issue of fact or law concerning ABC's acquisition of exclusivity for the exhibition of theatrical feature films as against pay television.[20]

(4) Remedies Available to Potential Private Plaintiffs

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages, and any other legal or equitable relief to which they would have been entitled were the proposed judgment not entered. However, this judgment may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

(5) Procedures Available for Modification of the Proposed Consent Judgment

The proposed consent judgment is subject to a stipulation between the United States and the defendant which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. By its terms, jurisdiction of this action is retained by the Court in order, among other things, to permit either of the parties to apply for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, during the sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Bernard M. Hollander, Chief, Judgment Enforcement Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the **Federal Register** such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) Alternatives to the Proposed Judgment Considered by the United States

A full trial on the merits was considered as an alternative to settlement. However, because the agreed to relief would be substantially equivalent to that sought in the complaint, because significant relief would become effective against all three networks upon entry of the judgment, and finally because appeals following a trial could delay the obtaining of effective relief for a period of years, the alternative of a trial on the merits was rejected.

In addition to considering provisions substantially similar to those contained in the proposed judgment, proposals considered by the Government and then rejected included the following:

(a) Section V(A) was the subject of intense negotiations between the parties. The corresponding section of the CBS and NBC Final Judgments limits for ten years their respective internal production and exhibition of prime time entertainment programs to two and one-half hours per week. ABC initially sought to shorten the term of the prime time internal production limitation to five years, to increase permissible internal production to a maximum of five hours per week, to permit borrowing from fringe to daytime hours, and to "grandfather" existing daytime programs. ABC sought such changes because it foresees significant changes in the industry in the next ten years which would alter the market for television entertainment programs and the structure of the industry. Specifically discussed were perceived changes due to technological developments and federal legislation, changes in the regulatory policy, availability of network quality television programming, methods and patterns of distributing television programs to affiliates and to viewers, and supply and demand for television entertainment programs. For these reasons, ABC asserted that it needed greater flexibility to produce and exhibit prime time television entertainment programs than is provided by the CBS and NBC judgments.

While the Department anticipates that changes in the industry will occur, it is not convinced that they are likely to occur as rapidly and to the degree that ABC anticipates. As discussed in the Competitive Impact Statement filed in *United States v. National Broadcasting Company, Inc.*, Civil No. 74-3601-RJK (C.D. Cal.) on November 17, 1976, a ten-year production prohibition was considered appropriate at that time "because of uncertainty as to the structure, practices and technology of the industry ten years hence." (p. 17). Consequently, the Department proposed to ABC that the ten year term for the two and one-half hour prime time entertainment program production and exhibition limitation be retained in the judgment, but that after five years a Court hearing be held to determine whether it should be modified. Because of the difficulty in establishing which party would have what burden and what standard the Court should apply in such a hearing, the parties decided on the production limitation set forth in Section V(A), which was intended to give ABC additional flexibility in the later years of the term, in light of the presently anticipated but uncertain market changes. Of course, this change in the prime time entertainment program production and exhibition limitation from the CBS and NBC judgments is not intended to foreclose either party hereto from applying for a modification of this or any other provision under Section XI of this judgment, if appropriate.

(b) As to Sections VI(I) and VI(J), the Government intitially sought to include as "in-house" produced programs which are limited by Section V, any program in which a performing or creative talent exclusive to ABC provided essential services. This provision was sought to prevent ABC from designating as a non-"in-house" program, one over which it maintained a large degree of control through an exclusive talent agreement. A more direct solution was reached by prohibiting ABC from exercising any exclusive talent agreement so as to prevent the talent from staying with a program series which its supplier was able to license to another network or station within ninety days after the expiration of ABC's options for that series, and by prohibiting ABC from exercising any exclusive talent agreement after the pilot had been delivered to ABC, so as to prevent the talent from staying with a program series concept which its supplier was able to license to another network or station within ninety days after the expiration of ABC's option to go to series with that program concept.

While the Government initially sought to have Section VI(J) apply to all existing agreements as well as to agreements which may be subsequently entered into, it was decided that the possible severe effects of this alteration of existing contracts could be minimized while basically accomplishing the same purpose by "grandfathering" the existing ABC exclusive agreements with creative talent. This compromise was reached because of the limited number of such agreements (it only applies to 20), and because of their limited duration. This exemption was further limited by providing that it would terminate on December 31, 1982, as to any contract which may presently extend beyond that date, and that it would terminate earlier as to the remaining contracts.

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[20] Similar agreements were entered into by CBS and the Government and NBC and the Government. Stipulation and Order, dated May 8, 1980, *United States v. CBS Inc.*, 74-3599-RJK (C.D. Cal.); Stipulation and Order, dated May 4, 1977, *United States v. National Broadcasting Company, Inc.*, 74-3601-RJK (C.D. Cal.).

(c) With respect to ABC's exclusive rights to the exhibition of theatrical feature films as against pay television, plaintiffs was convinced during pre-trial discovery that such rights should be curtailed.[21] However, the relief initially obtained in the proposed NBC judgment was almost uniformly criticized by the commentors as establishing a detrimental industry standard. Unable to reach an agreement with ABC on a more limited period of exclusivity, the parties determined to include no provision as to exclusivity for theatrical feature films as against pay television in the proposed judgment. As in the NBC and CBS cases, however, the parties have stipulated that this non-inclusion does not estop any possible future action in this area by any person, and does not constitute any evidence or admission respecting any related issue of fact or law.

Finally, had the Government prevailed at a trial on the merits, it would have considered seeking a Court order voiding ABC's existing contracts with independent program suppliers and providing an opportunity for all such suppliers to negotiate new contracts in light of the then-existing circumstances.

(7) Determinative Documents

There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement.

Dated: August 22, 1980.

Bernard M. Hollander, Barry J. Kaplan, Bernard J. O'Reilly, Richard L. Irvine, Ruth Dicker, James R. Kahn, John A. Kolar, *Attorneys for the United States.*

[FR Doc. 80-26751 Filed 9-2-80; 8:45 am]

BILLING CODE 4410-01-M

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees

In accordance with Pub. L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held on October 2, 1980, in the Regents Room in the original Smithsonian Building, 1000 Jefferson Drive S.W. from 10:00 a.m. to 5:00 p.m. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carryout its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 80-26884 Filed 9-2-80; 8:45 am]

BILLING CODE 1410-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Revised Procedures for Citizen Participation

ACTION: Final Procedures.

SUMMARY: These Revised Procedures for Citizen Participation simplify and clarify the former procedures in accord with Executive Order 12044, Improving Government Regulations. The National Capital Planning Commission adopted these procedures at its meeting on July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Samuel K. Frazier, Jr., Chief, Office of Public Affairs, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576. Telephone: 724-0174.

The following procedures are designed to help members of the public make their views known to the National Capital Planning Commission on planning and related matters which come before it. Information concerning these procedures can be obtained from the Commission's Office of Public Affairs, 10th Floor, 1325 G Street NW., Washington, D.C. 20576 (Telephone: 202/724-0174).

With what matters does the Commission deal?

The Commission is the central planning agency for the Federal Government in the National Capital Region.[1] It reviews and acts upon development plans and programs submitted by Federal agencies, the District of Columbia Government and, in some cases, regional agencies and local governments in the Washington suburbs. It also acts on plans and programs prepared by its staff. For the sake of simplicity, these procedures use the word "plan" to cover all matters reviewed and acted upon by the Commission.

How would you know when the Commission will consider a plan in which you are interested?

The Office of the Secretary to the Commission (Telephone: 202-724-0206) provides scheduling information regarding items on the Commission's agenda. That office can tell you when a particular plan will be considered by the Commission and, upon request, will provide an annual schedule of Commission meeting dates. Each month, approximately three weeks before a Commission meeting, the Secretary to the Commission issues a notice called "Tentative Agenda Items" (TAI). It lists items the Commission is tentatively scheduled to act upon at one of its next several meetings. There is no charge for the TAI. Those wishing to be placed on the mailing list should contact the Commission's Office of Public Affairs (Telephone: 202/724-0174).

How do you express your views to the Commission?

Approximately two weeks after the TAI is published, the Executive Director's Recommendation (EDR) is prepared for each item scheduled for action at the next Commission meeting. All written comments received in a timely fashion will be considered by the Executive Director in the preparation of the EDR.

Anyone who wishes to speak at a Commission meeting must notify the Office of Public Affairs prior to the date specified in the TAI. Agenda items on which no member of the public has asked to speak and the Executive Director has recommended Commission approval may be placed on the "Consent Calendar" and acted upon without presentation or discussion at the Commission meeting. Registering to speak prior to the deadline in the TAI ensures that the Commission will hear oral presentations and that registrants will be notified if an item has been removed from the agenda for a particular meeting.

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[21] The corresponding CBS situation is discussed in the Competitive Impact Statement filed in *United States* v. *CBS Inc.*, 74-3599-RJK (C.D. Cal.) on May 8, 1980. The corresponding NBC situation is discussed in the Competitive Impact Statement filed in *United States* v. *National Broadcasting Company, Inc.*, 74-3601-RJK (C.D. Cal.) on November 17, 1976.

[1] The "National Capital Region" includes the District of Columbia; Montgomery and Prince George's Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia and all cities within the geographic area bounded by such counties.

What if you wish to express your views on an item but cannot attend the meeting at which it will be discussed?

Submission of written views on any item is welcomed up to the time of its consideration by the Commission. However, the Secretary to the Commission can insure that copies of written statements will be reproduced and distributed to each member of the Commission only if such statements are received by noon of the day preceding the day of the meeting.

What should your statement contain?

A wide variety of plans comes before the Commission. Citizens can most effectively make their views known to the Commission if they know the scope of the Commission's authority and direct their comments accordingly. Therefore, the following is a brief description of the Commission's major functions and, for each function, the type of review the Commission will give the item.

A. Comprehensive Plan for the National Capital

The Comprehensive Plan for the National Capital consists of (1) "Federal elements" prepared and adopted by the Commission, and (2) "District elements" prepared by the Mayor, adopted by the Council of the District of Columbia, and reviewed by the Commission.

1. Federal Elements and Amendments Thereto

Federal elements deal with the Federal Establishment and other Federal interests in the development of the National Capital. The process of preparing a Federal element, or an amendment to an adopted Federal element, begins with preliminary staff reports and background studies. Written comments and citizen attendance are welcome at sessions of the Commission at which such reports and studies are presented.

When the preliminary studies are completed and a draft element or amendment is prepared, the Commission authorizes its circulation to Federal, District, regional, and local agencies and interested organizations and citizens for review and comment. Citizen comments, written and oral, are welcome at this stage. The Commission TAI will indicate the meeting or meetings at which the draft element or amendment will be considered for circulation and subsequently for adoption.

2. District Elements and Amendments Thereto

District elements deal with land use, transportation, public works, and other issues related to the development of the District of Columbia. District elements, and amendments thereto, are prepared by the Mayor, adopted by the Council of the District of Columbia, and reviewed by the Commission to determine their effect on the Federal Establishment or other Federal interests in the National Capital.

The Commission will receive citizen comments only on the impact a District element or amendment would have on Federal interests or functions. Comments on other aspects of such elements or amendments should be presented to the Mayor and/or the Council during the District's preparation and adoption of such elements or amendments.

B. Federal, District of Columbia and other local plans

1. Federal Plans

Federal agencies are urged to develop a process for citizen participation where there is a potential for community impacts. Where appropriate and as requested by the sponsoring agency, Commission staff may be involved in such a process. In addition, citizens may express their views before the Commission when it reviews the agency submission.

2. District Plans

Various plans are submitted by the District to the Commission for recommendation or approval. Consistent with the objectives of the District of Columbia Self-Government and Governmental Reorganization Act (the "Home rule" Act), the Commission limits its review of most District plans to a "Federal interest" review. Accordingly, citizen comments on such plans should be correspondingly limited. There is, however, no such limitation on plans for District public buildings in the central area of the District of Columbia as concurrently defined by the Commission and the Council of the District of Columbia for which approval by the Commission is required.

The Commission may participate in zoning cases either at the Zoning Commission's public hearing stage or after the hearing when proposed zoning Commission action has been referred to the Commission as required by law. The Commission may also participate in cases before the Board of Zoning Adjustment. Commission review of zoning matters is limited to (1) the effect of the proposed zoning on the Federal Establishment or on other Federal interests in the National Capital and (2) the consistency of the proposed zoning with the Comprehensive Plan for the National Capital. Written or oral comments within these limits are welcome.

3. Other Local Plans in the Maryland and Virginia Portions of the Region

On occasion the Commission reviews plans prepared by local jurisdictions in the Region. Its role is to make recommendations, except for plans for certain parklands purchased with Federal grant-in-aid funds for which the Commission has approval powers. If the plan is before the Commission for review only, citizen comments should be limited to the effect of the plan on the Federal Establishment or other Federal interests in the National Capital Region. If the plan is before the Commission for approval, citizen comments are not so limited.

C. Federal Capital Improvements Program

Each year the Commission prepares and adopts a Federal Capital Improvements Program which contains the Commission's recommended capital program for the National Capital Region for the next five years. Citizens are urged to make planning-related comments, either orally or in writing, during the preparation and adoption stages.

Helpful Documents

Many plans are accompanied by supporting documents, including environmental information in the form of an assessment or impact statement. An environmental assessment contains a brief discussion of the plan, of alternatives, and of the environmental impacts of the proposed plan and alternatives. An environmental impact statement covers in more detail the items specified for an environmental assessment. The public may review these documents at the Commission's offices and may obtain copies in accordance with its Freedom of Information Act regulations.

Each agenda item before the Commission for action is accompanied by a written recommendation by the Commission's Executive Director. The document, called an Executive Director's Recommendation or EDR, includes the rationale for the recommendation, a description of the plan, and a summary of environmental information. The EDR is ordinarily available from the Office of Public Affairs on the Monday before each Commission meeting.

Other helpful documents are located in the Commission's Central Files. They may be obtained from the Office of the Secretary to the Commission by

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requesting materials by file number as shown on the TAI.

Edward H. Rickels,

Secretary.

August 21, 1980.

[FR Doc. 80-26831 Filed 9-2-80; 8:45 am]

BILLING CODE 7520-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 86, 86, and 83 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Station's Common Technical Specifications by incorporating the test frequency requirements of 10 CFR Part 50, Appendix J, into the containment leak test program.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 7, 1980, (2) Amendments Nos. 86, 86, and 83 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 20th day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-26893 Filed 9-2-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric & Gas Co., et al.; Issuance of Amendment to License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment permits Public Service Electric and Gas Company to conduct the special low power test program as described in our related Safety Evaluation concerning a Special Low Power Test Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. The activity authorized by the amendment is encompassed by the overall action involving the proposed issuance of an operating license for which prior public notice was issued in the **Federal Register** on October 20, 1972 (37 FR 22637).

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 7, 1980, (2) Amendment No. 2 to License No. DPR-75, and (3) the Commission's related Safety Evaluation concerning a Special Low Power Test Program. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 22nd day of August 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-26910 Filed 9-2-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to incorporate the limiting conditions for operation expressing MAPLHGR limits for fuel associated with the latter part of cycle 7 operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 1, 1980, (2) Amendment No. 57 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 22nd day of August, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-26909 Filed 9-2-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Change

The agenda for the Thursday and Friday, September 4 and 5 sessions of the September 4–6, 1980 meeting of the Advisory Committee on Reactor Safeguards, announced in the **Federal Register** on August 22 (45 FR 56217), has been changed as follows:

1) *Thursday, September 4, 1980—8:30 a.m. to 9:30 a.m.—Opening Session*

2) *Friday, September 5, 1980—1:30 p.m. to 2:30 p.m.—Meeting With NRC Chairman and Other NRC Commissioners*

It may be necessary to close portions of these sessions to public attendance to discuss budgetary information (Sunshine Act Exemption 9). To the extent practicable, these closed portions will be held so as to minimize inconvenience to members of the public in attendance.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of these sessions to protect information, the premature disclosure of which might significantly frustrate implementation of proposed Agency action. The authority for such closure is Exemption (9)(B) to the Sunshine Act, 5 U.S.C. 552b(c)(9)(B).

Dated: August 27, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-26901 Filed 9-2-80; 8:45 am]

BILLING CODE 7590-01-M

Appointment to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the appointment of Thomas E. Murley, Acting Director, Office of Nuclear Regulatory Research to serve on the NRC Performance Review Board, to replace Robert J. Budnitz, formerly Director, Office of Nuclear Regulatory Research. The functions of the Board and the names of other members of the board, were published in the **Federal Register** Volume 45, No 99, Tuesday, May 20, 1980. This appointment to the Board is made pursuant to Section 4134 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel J. Donoghue, Chairman, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–7335.

Dated at Bethesda, Maryland this 26th day of August, 1980.

For the Nuclear Regulatory Commission.

E. Kevin Cornell,

Deputy Executive Director for Operations.

[FR Doc. 80-26902 Filed 9-2-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21693; 70-6486]

American Electric Power Co. and Columbus & Southern Ohio Electric Co., Proposal of Subsidiary Financing Program and Order Authorizing Distribution of Information Statement in Connection Therewith

August 28, 1980.

In the matter of American Electric Power Company, 2 Broadway, New York, New York 10004, Columbus and Southern Ohio Electric Company, 215 North Front Street, Columbus, Ohio 43215.

Notice is hereby given that American Electric Power Company ("AEP"), a registered holding company, and Columbus and Southern Ohio Electric Company ("CSOE"), an electric utility subsidiary company thereof, have filed with this Commission an application-declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 12(c) and 12(f) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

CSOE proposes to issue and sell, through competitive bidding, up to $80,000,000 aggregate principal amount of its First Mortgage Bonds ("Bonds") of a new series, having a maturity of not less than 5 years and not more than 30 years. The interest rate on the principal amount of the Bonds (which will be expressed in a multiple of ⅛ of 1 percent) and the price to be paid to CSOE for the Bonds (which shall not be less than 100 percent of the principal amount, unless CSOE shall authorize a lower percentage not less than 99 percent, and shall not be more than 102¾ percent) will be determined at the time of sale. It is expected that the terms of the Bonds will preclude CSOE from redeeming such Bond prior to a date five years subsequent to the first day of the month in which the Bonds are first authenticated and delivered, if such redemption is for the purpose of refunding such Bond through the use, directly or indirectly, of borrowed funds at a cost less than the effective interest cost to CSOE of such Bonds. It is stated that the substantive terms of the Bonds will conform to those standards in the Commission's Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935, as modified (HCAR Nos. 13105 and 16369). It is difficult to determine, under present market conditions, whether it would be more advantageous to CSOE to sell Bonds with a 30 year or some shorter maturity. It is proposed, therefore, that CSOE determine the maturity of the Bonds at a subsequent date and notify prospective bidders of its decision not less than 72 hours prior to the bidding date.

CSOE proposes to issue and sell, through competitive bidding, up to $50,000,000 par value of a new series of its Cumulative Preferred Shares ("Cumulative Preferred Shares"). It has not been determined whether it will be more advantageous to CSOE to issue Cumulative Preferred Shares with a par value of $100 per share or with a par value of $25 per share. CSOE proposes therefore to determine the per share par value of such shares at a subsequent date and will notify prospective bidders of its decision not less than 72 hours prior to the bidding date.

Each proposal shall specify (a) the dividend rate (which will be expressed

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in a multiple of $.01 or its equivalent), (b) that the price to be paid to CSOE for the stock shall be the par value per share, and (c) the amount per share to be paid by CSOE to the bidders as compensation for their commitments. It is expected that the terms of the Cumulative Preferred Shares will preclude CSOE from redeeming any such Cumulative Preferred Shares prior to a date five years subsequent to the first day of the month in which the Cumulative Preferred Shares are issued, if such redemption is for the purpose of refunding such shares, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the Cumulative Preferred Shares as to dividends or assets, if such debt has an effective interest cost, or such stock has an effective dividend cost, less than the effective dividend cost to CSOE of the Cumulative Preferred Shares to be redeemed.

The terms of the Cumulative Preferred Shares may also provide for a cumulative sinking fund pursuant to which CSOE would retire at par value, commencing no earlier than five years subsequent to the first day of the month in which the Cumulative Preferred Shares are issued, not more than 5 percent annually of the number of shares initially issued, with the non-cumulative option on any sinking fund date, commencing no earlier than five years subsequent to the first day of the month in which the Cumulative Preferred Shares are issued, of redeeming at par value an additional like number of shares and with the option to credit against any sinking fund requirement Cumulative Preferred Shares theretofore purchased or otherwise acquired by CSOE. It is proposed that CSOE will decide on the necessity for a sinking fund provision at a subsequent date and that it will notify prospective bidders of its decision not less than 72 hours prior to the bidding date.

CSOE currently has outstanding two series of Cumulative Preferred Shares and one series of Cumulative Preference Shares with sinking fund provisions, i.e., 17,804 Cumulative Preferred Shares, 10.52 percent Series ("10.52 percent Preferred Shares"), and 400,000 Cumulative Preferred Shares 9.50 percent Series ("9.50 percent Preferred Shares"), both with a par value of $100 per share, and 548,342 Cumulative Preference Shares, $15.25 Series ("$15.25 Preference Shares"), without par value. Pursuant to the requirements of the respective sinking funds provided by the Amended Articles of Incorporation of CSOE, as amended, CSOE is required to redeem annually, on the respective sinking fund dates and at the respective sinking fund prices, the respective number of shares of the 10.52 percent Preferred Shares, the 9.50 percent Preferred Shares and the $15.25 Preference Shares set forth in such Amended Articles of Incorporation. CSOE requests authority to acquire by redemption or purchase, from time to time, shares of the 10.52 percent Preferred Shares, the 9.50 percent Preferred Shares, the $15.25 Preference Shares and the new Cumulative Preferred Shares, in each case, on or in anticipation of any respective sinking fund date, for sinking fund purposes.

CSOE proposes, prior to the issue and sale of the Cumulative Preferred Shares, to amend its Amended Articles of Incorporation and in connection therewith to call a special meeting of its shareholders to be held on or about September 19, 1980 to consider and take action with respect to such amendments. Such amendments relate to compliance by CSOE with the Statement of Policy Regarding Preferred Stock Subject to the Public Utility Holding Company Act of 1935 (HCAR Nos. 13106 and 16758) and require the affirmative vote of at least two thirds (⅔) of all shareholders of record. Also, such amendments must comply with the Supplemental Memorandum and Order Approving Acquisition of Common Stock of CSOE by AEP dated February 13, 1980 (HCAR No. 21433) whereby the computation of earning coverages for the issuances of additional preferred stock by CSOE must include dividends on the outstanding $15.25 Preference Shares. CSOE proposes to distribute an information statement to all shareholders of record on the books of CSOE as of September 18, 1980.

No condition is to be contained in the Bond Purchase Contract requiring the issue and sale of the Cumulative Preferred Shares, nor is any condition to be contained in the Cumulative Preferred Share Purchase Contract requiring the issue and sale of the Bonds.

CSOE contemplates that it will receive one or more cash capital contributions from AEP in an aggregate amount of $30,000,000. It is therefore proposed that AEP be authorized to make, on or before December 31, 1980, one or more cash capital contributions to CSOE in an aggregate amount not exceeding $30,000,000.

The proceeds from the sale of the Cumulative Preferred Shares will be used to repay a portion of the $65,300,000 principal amount of notes issued by CSOE for the purpose of retiring Cumulative Preferred Shares pursuant to CSOE's tender offer dated March 31, 1980 to the holders of such shares, which offer was made in connection with the acquisition by AEP of common shares of CSOE.

The proceeds from the sale of the Bonds together with the cash capital contributions to be made by AEP and any other funds which may become available to CSOE will be used to repay unsecured short-term indebtedness of CSOE incurred for construction and other corporate purposes. Construction costs for the year 1980 are currently estimated at $116,130,000. As of June 30, 1980, CSOE had approximately $171,597,000 aggregate principal amount of short-term debt outstanding and it is anticipated that not more than $168,000,000 of short-term debt will be outstanding as of September 30, 1980.

Fees and expenses to be incurred in connection with the proposed transactions are estimated at $371,560. The Public Utilities Commission of Ohio has jurisdiction over the proposed transactions. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given any interested person may, not later than September 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the application-declaration, insofar as it seeks authorization to distribute information statements to CSOE's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the application-declaration regarding the proposed distribution of information statements to CSOE stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26811 Filed 9-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11321; 811-1623]

Galaxy Fund, Inc.; Proposal to Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

August 28, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that The Galaxy Fund, Inc. ("Fund"), 7600 Jericho Turnpike, Woodbury, New York 11797, registered under the Act as an open-end, diversified, management investment company has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of New York on January 19, 1968, as Advanced Technology Fund, and that the name was changed to The Galaxy Fund, Inc., shortly after March 19, 1968, the date on which the Fund registered under the Act. The Fund filed a registration statement (File No. 2-28469) under the Securities Act of 1933 in connection with a proposed public offering of shares of its capital stock. This registration statement was declared effective by the Commission on March 21, 1969, and the Fund commenced a public offering of shares of its capital stock on that date. The Fund's Board of Directors ordered that the sale of shares be suspended on February 9, 1972. The Fund continued to redeem its outstanding shares, and as of March 31, 1974, its total net assets had been reduced to $4,012.95. Since 1974, the Fund has not filed any of the periodic reports required to be filed with the Commission pursuant to the Act. On January 24, 1980, the United States District Court for the Eastern District of New York issued an order approving a Stipulation and Settlement dated January 31, 1979, settling a shareholders derivative action, entitled *Elson et al.* v. *The Galaxy Fund, Inc.* (72 Civil No. 1217), brought on behalf of the Fund and its shareholders seeking to recover damages from the Fund's investment adviser and various officers and directors of the Fund resulting from their alleged violations of various provisions of the Act.

On May 15, 1973, the Fund's investment adviser and manager, Galaxy Management Corporation, resigned, effective June 15, 1973. Unable to secure a new investment adviser and manager, the Fund's Board of Directors on May 30, 1973, voted to liquidate the Fund and to seek shareholder approval of a plan of voluntary dissolution of the Fund. The proposal to liquidate and dissolve the Fund was to be considered by the Fund's shareholders at the Fund's annual meeting of shareholders scheduled for September 20, 1973; however, lacking a quorum, the shareholders meeting was adjourned and the proposal to liquidate and dissolve was never considered or approved by the Fund's shareholders. Subsequently, on January 28, 1974, the Fund's Board of Directors voted to seek judicial liquidation of the Fund and a petition seeking such liquidation was filed in the Supreme Court of New York, but the petition was not pursued and that Court never issued a final order on the matter. The Commission has been advised that the Fund currently has no assets, and has virtually ceased operations. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than September 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified, if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request, or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26812 Filed 9-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11320; 811-456]

International Power Securities Corp.; Proposal To Teminate Registration

August 28, 1980.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that International Power Securities Corporation ("International Power"), c/o Mr. William A. Stockel, Ass't Vice President, National Bank of North America, 80 Pine Street, New York, New York 10005, registered under the Act as a closed-end, non-diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that International Power was organized under the laws of the State of Delaware on April 30, 1923. On February 24, 1941, International Power filed a petition under Chapter X of the United States Bankruptcy Act in the United States District Court, District of New Jersey ("bankruptcy court") proposing that a plan for its reorganization be effected. Subsequently, on September 13, 1941, it registered under the Act by filing Form N-8A.

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After International Power registered under the Act it filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting it from all of the provisions of the Act during the time that it was subject to the jurisdiction of the bankruptcy court in the Chapter X proceedings. The Commission granted the application by an order dated November 17, 1941 (Investment Company Act Release No. 258), subject to the condition, among others, that International Power remain subject to section 8(a) of the Act. International Power did not file a registration statement pursuant to the Securities Act of 1933 to make a public offering of shares of its capital stock.

International Power's petition for reorganization was approved on February 24, 1941, and the bankruptcy court appointed a disinterested trustee and a trustee to operate the business and manage the properties. On October 26, 1951, the bankruptcy court approved an Amended Plan of Reorganization, effective November, 1951, which provided, among other things, for International Power's assets to be acquired by a successor company, Italian Power Realization Trust ("Italian"), and the exchange of new securities and/or cash to International Power's preferred shareholders and the holders of other outstanding debt securities of International Power. Italian did not become a registered investment company. International Power's securityholders were notified of their rights under the Amended Plan of Reorganization in a notice mailed to them dated December 6, 1962, by the Indenture Trustee, The Meadow Brook National Bank of New York, which was later acquired by the National Bank of North America. The bankruptcy court's decree provided that unless the securityholders presented their securities for cash and/or new securities before January 1, 1967, they would no longer have the right to exchange their securities for such assets. Thus, it appears that International Power is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon International Power at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request, or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–26813 Filed 9–2–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21691; 70–6490]

Consolidated Natural Gas Co.; Proposed Issuance and Sale of $100,000,000 Principal Amount of Debentures at Competitive Bidding

August 27, 1980.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10112 (70–6490).

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $100,000,000 principal amount of —% Debentures due October 1, 2000. The interest rate (which will be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest (which will be not less than 99% or more than 102% of the principal amount thereof), will be determined by competitive bidding. The debentures will be issued as a new series under an Eighth Supplemental Indenture, to be dated as of October 1, 1980, to the Indenture between Consolidated and Manufacturers Hanover Trust Company, New York, New York, as Trustee, dated as of May 1, 1971. The Indenture includes a prohibition until October 1, 1985, against redeeming the issue with or in anticipation of funds borrowed at a lower effective interest cost. The debentures will be subject to an annual sinking fund of $6,250,000 commencing October 1, 1985, which will leave the issue fully paid out at maturity. In addition to meeting its sinking fund obligations, Consolidated intends that as long as any of the debentures are outstanding, it shall have the noncumulative option to redeem, on any sinking fund date, at the then current sinking fund redemption price, up to an additional $9,375,000 principal amount of such debentures. Redemptions made pursuant to such option may be used by the company to reduce future mandatory sinking fund obligations. The proceeds of the sale of the debentures will be used to finance, in part, the 1980 capital expenditures of Consolidated's subsidiary companies, estimated at $224,000,000.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $216,400, including $30,000 service charges of the system service company at cost and accountants' fees and expenses of $22,000. The fees and expenses of counsel for the underwriters are to be paid by the successful bidders, and the amount thereof will be supplied by amendment.

It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–26914 Filed 9–3–80; 8:45 am]

BILLING CODE 8010–01–M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 26, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Data General Corporation Common Stock, $.01 Par Value (File No. 7–5729)
Dorchester Gas Corporation Common Stock, $.10 Par Value (File No. 7–5730
Foster Wheeler Corporation Common Stock, $3.33⅓ Par Value (File No. 7–5731)
Hospital Corporation of America Common Stock, $1 Par Value (File No. 7–5732)
Mohawk Data Sciences Corporation Common Stock, $.10 Par Value (File No. 7–5734)

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 17, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–26913 Filed 9–2–80; 8:45 am]

BILLING CODE 8010–01–M

[Files Nos. 2–63974 (22–9903) and 2–67192 (22–10321)]

Trailer Train Co.; Application and Opportunity for Hearing

August 27, 1980.

Notice is hereby given that Trailer Train Company (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Continental Illinois National Bank and Trust Company of Chicago ("Continental Bank") under two existing indentures, one new indenture of the Applicant and one new indenture of Railbox Company, a wholly-owned subsidiary of the Applicant, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as Trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

(1) Continental Bank presently is acting as trustee under the Equipment Trust Agreements for Trailer Train Company Equipment Trust Certificates Series 41 and Series 42. The outstanding principal amount of Series 41 Certificates is $22.4 million and all the $24 million principal amount of Series 42 Certificates issued remain outstanding, with the first maturity thereof, $1.6 million, being due May 15, 1981. The Series 41 Equipment Trust Agreement was filed with the Commission on April 3, 1979 (No. 2–63974) and the Series 42 Equipment Trust Agreement was filed with the Commission on April 3, 1980 (No. 2–67192).

(2) The new Equipment Trust Certificates, each of which will be guaranteed by the issuing company, will be pledged as collateral under an Indenture and Pledge Agreement for an issue of Bonds in the Eurodollar market. Approximately $40 million principal amount of such Equipment Trust Certificates are expected to be issued pursuant to the Equipment Trust Agreements.

(3) The terms of the new Equipment Trust Agreements are virtually identical except for differences as to parties, amounts, dates, interest rates and certain other figures. Applicant's Series 41 and 42 Equipment Trust Certificates are, and the new certificates will be, secured by separate lots of specifically identified railroad cars. The railroad equipment to be subject to the trusts will have a cost of not less than 125% of the principal amount of the Certificates.

(4) Although the new Equipment Trust Agreements will not be qualified under the Act pursuant to Section 304(a)(4)(A) both Agreements will contain the provisions required by the Act if they were to be qualified.

(5) The Applicant is not in default under any existing equipment trusts.

(6) Such differences as exist among the two existing indentures under the trusteeship of Continental Bank and the two proposed indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of

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investors to disqualify Continental Bank from acting as Trustee under either of said proposed indentures.

Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than September 16, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-26912 Filed 9-2-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1896; Amdt. No. 1]

Kentucky; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 56488) is amended by adding Bath County and adjacent counties within the State of Kentucky, as a result of a earthquake which occurred on July 27, 1980.

The termination date for filing applications remains the same, i.e., for physical damage until the close of business on October 9, 1980, and for economic injury until the close of business on May 8, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 14, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26875 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1899; Amdt. No. 1]

Michigan; Declaration of Disaster Loan Area

The above numbered declaration (see 45 FR 56490) is amended by adding Allegan, St. Joseph and Van Buren Counties and adjacent counties within the State of Michigan, and by expanding the incidence period to include July 15 and July 20, 1980. All other information remains the same; i.e., the termination date for filing loan applications for physical damage is until the close of business on October 14, 1980, and for economic injury until May 13, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-26874 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1906]

Minnesota; Declaration of Disaster Loan Area

Dakota and Scott Counties, and adjacent counties within the State of Minnesota, constitute a disaster area as a result of physical damage caused by a severe thunderstorm and windstorm that occurred on July 15, 1960. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 20, 1980, and for economic injury until the close of business on May 19, 1981, at: Small Business Administration, District Office, 12 South 6th Street, Minneapolis, Minnesota 55402, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 19, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-26879 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1902]

Oklahoma; Declaration of Disaster Loan Area

Tulsa and Waggoner Counties and adjacent counties within the State of Oklahoma constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on June 16, 1980 through June 19, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 20, 1980, and for economic injury until the close of business on May 20, 1981, at: Small Business Administration, District Office, 200 N.W., 5th Street, Suite 670, Federal Building, Oklahoma City, Oklahoma 73102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 20, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-26880 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1907]

Pennsylvania; Declaration of Disaster Loan Area

York County and adjacent counties within the State of Pennsylvania constitute a disaster area as a result of damage caused by thunderstorms which occurred on June 28–29, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 20, 1980, and for economic injury until the close of business on May 21, 1981, at: Small Business Administration, District Office, East Lobby, Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 21, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-26876 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1909]

Pennsylvania; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that

Armstrong, Butler and Clarion Counties and adjacent counties within the State of Pennsylvania constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about August 14, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 20, 1980, and for economic injury until close of business on May 19, 1981, at: Small Business Administration, District Office, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 22, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26878 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1904]

West Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Harrison County and adjacent counties within the State of West Virginia constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about August 4, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 16, 1980, and for economic injury until the close of business on May 15, 1981, at: Small Business Administration, District Office, 109 North Third Street, Clarksburg, West Virginia 26301, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 22, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-26877 Filed 9-2-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 4]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $754,000 has been established for the company.

Name of Company: Union Indemnity Insurance Company of New York; Business Address: 591 West Putnam Avenue, Greenwich, Connecticut 06830; State of Incorporation: New York.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued July 1 so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference of Treasury Circular 570, 1980 Revision, at page 44513 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 26, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-26783 Filed 9-2-80; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Station Committee on Education Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing rules, Station Committee on Educational Allowances, that on September 25, 1980, at 1:00 p.m., the Veterans Administration Medical and Regional Office Center, Cheyenne, Wyoming Station Committee on Educational Allowances shall at the hearing room, Building 4, Veterans Administration Medical and Regional Office Center, Cheyenne, Wyoming conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the on-job training program for the position of Port of Entry Clerk, Revenue Motor Vehicle License/Permit Field Officer, Wyoming Department of Revenue and Taxation, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provison of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: August 25, 1980.

John D. Graveley,

Acting Director, Veterans Administration Medical and Regional Office Center, 2360 East Pershing Boulevard, Cheyenne, WY 82001.

[FR Doc. 80-26886 Filed 9-2-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Removal of Prohibition on the Importation of Tuna and Tuna Products From Canada

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 (the "Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Canada no longer prevail.

EFFECTIVE DATE: The prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Canada is removed effective September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Office of Commerical Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, *et seq.*), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On September 12, 1979, a notice was published in the **Federal Register** (44 FR 53118) advising that under section 205(a)(4)(C) of the Act, on August 31, 1979, the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that eight United States fishing vessels, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, were seized by Canada as a consequence of a claim of jurisdiction which is not recognized by the United States. Under the authority of sections 205 (b) and (c) of the Act, on August 31, 1979, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Canada was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohibition no longer prevailed.

On August 22, 1980, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products no longer prevail. Acccordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Canada is removed.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

William T. Archey,
Commissioner of Customs.

Approved: August 29, 1980.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 80-27118 Filed 9-2-80; 10:43 am]

BILLING CODE 4810-22-M

58461-58481

Sunshine Act Meetings

Federal Register
Vol. 45, No. 172
Wednesday, September 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

Items
Federal Home Loan Bank Board 1
Federal Mine Safety and Health Review Commission 2
Nuclear Regulatory Commission 3
Postal Service (Board of Governors) 4

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 4, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Application for Bank Membership—Franklin Savings Bank of New York, New York, New York.

No. 386, August 29, 1980.

[S-1634-80 Filed 8-29-80; 2:52 pm]

BILLING CODE 6720-01-M

2

FEDERAL MINE SAFETYAND HEALTH REVIEW COMMISSION.

August 27, 1980.

TIME AND DATE: 10 a.m., Wednesday, September 3, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Old Ben Coal Company, Docket No. LAKE 79-238, etc. Petition for Discretionary Review (Issues include present enforceability of the respirable dust standard, 30 CFR § 70.100(b)).

2. Jim Walter Resources and Cowin and Company, Docket No. BARB 76X465-P, etc. Petition for Discretionary Review (Issues include whether 30 CFR § 77.1903(b) is a mandatory safety standard).

3. Consolidation Coal Company, Docket No. WEVA 80-26, etc. Petition for Interlocutory Review (Issues include whether the administrative law judge abused his discretion in denying motion to approve proposed penalty settlement).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1635-80 Filed 8-29-80; 2:53 pm]

BILLING CODE 6820-12-M

3

NUCLEAR REGULATORY COMMISSION.

DATE: September 4 and 5, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, September 4:

10 a.m.

1. Discussion and Vote on Enforcement Policy (approximately 1½ hours, public meeting).

2 p.m.

1. Discussion of Proposed Interim Amendments to Part 50 Related to Hydrogen Control and Certain Degraded Core Considerations (approximately 1½ hours, public meeting).

2. Affirmation Session (approximately 10 minutes, public meeting).

a. Fees for Withdrawn License Applications.

b. Degraded Cooling Rulemaking.

c. Licensing Requirements for Uranium Mills.

d. NRC Jurisdiction in Waters Beyond Agreement State Territorial Waters.

Friday, September 5:

2:30 p.m.

1. Discussion and Vote on Sequoyah Full Power Operating License (approximately 1½ hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,
Office of the Secretary.

August 28, 1980.

[S-1633-80 Filed 8-29-80; 2:15 pm]

BILLING CODE 7590-01-M

4

POSTAL SERVICE

(Board of Governors).

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 10:30 A.M. on Monday, September 8, 1980, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Agenda

1. Minutes of the meetings of August 4 and 5 and August 15, 1980.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Postal Rate Commission Budget for fiscal year 1981.
   (Under the Postal Reorganizastion Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)
4. Postal Service Budget Program.
   (Mr. Finch will discuss the Postal Service's Budget program with the Governors.)
5. Review of Legislative Matters.
   (Mr. Horgan, Assistant Postmaster General, Government Relations, will report on current legislative activities involving the Postal Service.)

Louis A. Cox,
Secretary.

[S-1636-80 Filed 8-29-80; 4:21 pm]

BILLING CODE 7710-12-M

V45/172 SE3 80 UMI

federal register

Wednesday
September 3, 1980

Part II

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LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

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The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Service, GSA, Washington, DC 20408, or phone (202) 523-5227 giving the name and address of the library. (*FR only. †CFR only.)

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Birmingham Public Library
2020 Park Place
Birmingham, AL 35203
(205) 254-2551

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Gadsden Public Library
254 College Street
Gadsden, AL 35901
(205) 547-1611

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Alabama Public Library Service
6030 Monticello Drive
Montgomery, AL 36130
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ALASKA

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Alaska Resources Library
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701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Bureau of Land Management Library
Fairbanks District Office
P.O. Box 1150
North Post of Ft. Waynewright
Fairbanks, AK 99707

Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

ARIZONA

Glendale:
Velma Teague Library
7010 N. 58th Avenue
Glendale, AZ 85301
(602) 931-5576

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Phoenix Public Library
Business, Science & Technology—Documents
12 E. McDowell Road
Phoenix, AZ 85004
(602) 262-6451

Tempe:
Arizona State University
College of Law Library
Government Documents
Tempe, AZ 85281

Government Documents Department
Arizona State University Library
Tempe, AZ 85281

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

ARKANSAS

Searcy:
Beaumont Memorial Library
Harding University
P.O. Box 928
Searcy, AR 72143
(501) 268-6161

CALIFORNIA

Arcata:
Documents Department
The Library
Humboldt State University
Arcata, CA 95521

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342-2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

La Jolla:
Government Documents, Maps, Microforms Department
Central University Library C-075-P
University of California, San Diego
La Jolla, CA 92093
(714) 452-3338

Long Beach:
Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
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Orange, CA 92666

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Redwood City Public Library
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Redwood City, CA 94063
(415) 369-6251, ext. 288

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Educational Resources Center
333 Main Street
Redwood City, CA 94063
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Richmond:
Richmond Public Library
Civic Center Plaza
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Riverside:
Field Solicitor, Law Library
U.S. Department of the Interior
3610 Center Avenue, Suite 104
Riverside, CA 92506

Sacramento:
Regional Solicitor, Law Library
U.S. Department of the Interior
Room E-2753
2800 Cottage Way
Sacramento, CA 95825

San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102

University of California
Hastings College of the Law Library
198 McAllister Street
San Francisco, CA 94102

Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644-5601

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclaimation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

Colorado State Library
1362 Lincoln Street
Denver, CO 80203

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U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

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National Park Service
655 Parfect Street
P.O. Box 25287
Denver, CO 80225
Fort Collins:
Documents Department
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Lakewood:
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Quinebaug Valley Community College
P.O. Box 59
Danielson, CT 06239
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Hagaman Memorial Library*
227 Main Street
East Haven, CT 06512
(203) 468-3223
Hartford:
The Stanley Osborne Library*
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566-2198
Middletown:
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Middletown, CT 06457
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Waterbury:
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267 Grand Street
Waterbury, CT 06702
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Wethersfield Public Library
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Wethersfield, CT 06109

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1200 - 19th Street, N.W.
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Washington, DC 20506

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Washington, DC 20240

Office of the Federal Register
1100 L Street, N.W.
Room 8301
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Sarasota, FL 33577
(813) 955-4228
Tampa:
Tampa-Hillsborough County Public Library
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Tamba, FL 33602
(813) 223-8969

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Office of the Regional Solicitor, Law Library
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Atlanta, GA 30303
Elberton:
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U.S. Department of the Interior
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Elberton, GA 30635

Office of the General Counsel
Law Library
Southeastern Power Administration
U.S. Department of Energy
Samuel Elbert Building
Elberton, GA 30635

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Box 20
Boise, ID 83724
Pocatello:
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Idaho State University
Pocatello, ID 83209

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Illinois Wesleyan University Library
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Chicago:
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Chicago Public Library
425 N. Michigan Avenue
Chicago, IL 60611
(312) 269-3002

University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois at Chicago Circle
The Library, P.O. Box 8198
Chicago, IL 60680
(312) 996-2716/996-2738
Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838-0500
Niles:
Niles Public Library District
6960 Oakton Street
Niles, IL 60648
(312) 967-8554
Normal:
Milner Library
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Oak Park, IL 60301
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Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
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Energy Information Library*
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

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Fort Wayne and Allen County
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Ames:
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Historical Building
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Des Moines, IA 50319
Dubuque:
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Loras College
1450 Alta Vista
Dubuque, IA 52001

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Pittsburg State University
Pittsburg, KS 66762
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School of Law Library
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(913) 295-6660

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Helm-Cravens Library
Bowling Green, KY 42101
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Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564-2480
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Lexington, KY 40506
Louisville:
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Louisville, KY 40208
Pikeville:
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Armington Science Center
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5790 Florida Boulevard
Baton Rouge, LA 70806

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760 N. Riverside Mall
Baton Rouge, LA 70821
(504) 389-6651
Lafayette:
University of Southwestern Louisiana
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Lafayette, LA 70501
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U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
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246 Deering Avenue
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(207) 780-4350

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U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E-2100
Aberdeen Proving Ground, MD 21010
Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401
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400 Cathedral Street
Baltimore, MD 21201
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P.O. Box 1695
Cumberland, MD 21502
(301) 724-7700, ext. 36
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323 East Oak Street
Oakland, MD 21550
(301) 334-4200
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Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

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Springfield, MA 01103
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Fourth Eastern Middlesex Division
Woburn, MA 01801
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4800 East Huron River Drive
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(313) 973-3300
Detroit:
Downtown Library*
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Detroit Public Library
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East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824
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Flint Public Library
General Reference Department
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Flint, MI 48502
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Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469-5300
Mt. Pleasant:
Library - Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
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Pontiac, MI 48053

Oakland Schools Library*
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Pontiac, MI 48054

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Rochester:
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Oakland University
Squirrel/Walton
Rochester, MI 48063
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Traverse City:
Mark Osterlin Library
Documents Department
Northwestern Michigan College
1701 East Front Street
Traverse City, MI 49684
(616) 946-5650, ext. 540
University Center:
Learning Resources Center
Delta College
University Center, MI 48710

MINNESOTA

Blaine:
Anoka County Library
707 Highway 10
Blaine, MN 55434
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7001 York Avenue South
Edina, MN 55435
(612) 830-4900
Minneapolis:
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Minneapolis, MN 55414
(612) 331-5571

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409 Wilson Library
University of Minnesota
Minneapolis, MN 55455
(612) 373-7813
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90 West Fourth Street
St. Paul, MN 55102
292-6178
Twin Cities:
Field Solicitor, Law Library
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686 Federal Building, Fort Snelling
Twin Cities, MN 55111

MISSISSIPPI

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Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864-5161 ext. 336

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Federal Documents Department
Missouri State Library
P.O. Box 387
303 E. High Street
Jefferson City, MO 65102
St. Louis:
Missouri Botanical Garden*
(back issues held 1 year)
2345 Tower Grove Avenue
St. Louis, MO 63110
(314) 772-7600

Thomas Jefferson Library
University of Missouri-St. Louis
8001 Natural Bridge Road
St. Louis, MO 63144
(314) 453-5954
Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301
Springfield:
Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831-1561

MONTANA

Billings:
Bureau of Land Management Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

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Calvin T. Ryan Library
Kearney State College
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Lincoln:
Nebraska Library Commission
1420 P Street
Lincoln, NE 68508
(402) 471-2045

University of Nebraska-Lincoln Libraries
Lincoln, NE 68588

NEVADA

Boulder City:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 427, Park Street
Boulder City, NV 89005
Reno:
Government Publications Department
University of Nevada Library
Reno, NV 89557
(702) 784-6579

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271-3777
New London:
Fernald Library
Colby-Sawyer College
New London, NH 03257

NEW JERSEY

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Bloomfield Public Library
90 Broad Street
Bloomfield, NJ 07003
(201) 429-9292
Elmer:
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Elmer-Centerton Road
R.D. 1
Elmer, NJ 08318
Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601
Jersey City:
Hudson Health Systems Agency Library
871 Berger Avenue
Jersey City, NJ 07306
Lawrenceville:
Franklin F. Moore Library
Rider College
Lawrenceville, NJ 08648
(609) 896-5115
Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430
Pomona:
Stockton State College
Pomona, NJ 08240
(609) 652-1776, ext. 266
Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255-4000 ext. 385
Trenton:
New Jersey State Law Library
185 West State Street
P.O. Box 1898
Trenton, NJ 08625
(609) 292-6230
Voorhees:
Camden County Library
Echelon Urban Center
Laurel Road
Voorhees, NJ 08043
(609) 772-1636

NEW MEXICO

Albuquerque:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1696
Albuquerque, NM 87103

The University of New Mexico
General Library
Albuquerque, NM 87131
(505) 277-4241 and 277-5441
Portales:
Golden Library
Documents Department
Eastern New Mexico University
Portales, NM 88130

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Santa Fe:
Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

NEW YORK

Albany:
The New York State Library
The State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230

Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294-8700 ext. 7345

Greenvale:
C. W. Post Center—Long Island University
B. Davis Schwartz Memorial Library
Greenvale, NY 11548

Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278-8113

Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305

Syracuse:
Reference Department
Onondaga County Public Library
335 Montgomery Street
Syracuse, NY 13202
475-8458

Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292-8920

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629-3329

Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607

Charlotte:
Public Libarty of Charlotte and Mecklenburg County
310 N. Tryon Street
Charlotte, NC 28202
(704) 374-2540

Durham:
William Perkins Library
Public Documents Department
Duke University
Durham, NC 27706
(919) 684-2380

Gastonia:
Gaston County Public Library*
Headquarters: Gaston-Lincoln Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865-3418

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501

North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224-2490

Office of Program Planning*
All Nations Circle - Bldg. 35
United Tribes Educational Technical Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Athens:
Government Documents Department
Ohio University Library
Athens, OH 45701
(614) 594-5604

Cincinnati:
Municipal Reference Library
224 City Hall
Cincinnati, OH 45202

National Institute for Occupational Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226

Ohio River Basin Commission Library
Suite 208-20, 36 East 4th Street
Cincinnati, OH 45206
(513) 684-3831

Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District* Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781-6600 ext. 219

Cleveland Heights:
Cleveland Heights—University Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932-3600

Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466-2694

Dayton:
University Library
Wright State University
Dayton, OH 45435

Findlay:
Marathon Oil Company
Law Library, Room 854-M
539 South Main Street
Findlay, OH 45840
(419) 422-2121 ext. 3376

Shafer Library
Findlay College
1000 N. Main Street
Findlay, OH 45840
(419) 422-8313

Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387-0992

Toledo:
Toledo-Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 242-7361 ext. 241

Wooster:
Andrews Library
The College of Wooster
Wooster, OH 44691

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005

Muskogee:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1508
Muskogee, OK 74401

Oklahoma City:
Oklahoma Department of Libraries
U.S. Documents Regional Depository
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521-2502

Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056

Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624-6546

Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

OREGON

Salem:
Oregon State Library
State Library Building
Salem, OR 97310
(503) 378-4276

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375-7174
Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104
Dallas:
Library
College Misericordia
Dallas, PA 18612
Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037
Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787-7343
Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454-2961/454-0244
Lancaster:
Fackenthal Library
Franklin and Marshall College
P.O. Box 3003
Lancaster, PA 17604
(717) 291-4210
Loretto:
Pius XII Memorial Library
Saint Francis College
Loretto, PA 15940
Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872-5411 ext. 552, 542
Newtown:
The Library
Bucks County Community College
Newtown, PA 18940
Philadelphia:
Government Publications Department
Free Library of Philadelphia
Logan Square
Philadelphia, PA 19103
Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213
Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257
Somerset:
Somerset State Hospital Library
Box 631
Somerset, PA 15501
(814) 445-6501, ext. 216
Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19081
(215) KI 4-7900
Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228-6747
West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436-2869
Wilkes-Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes-Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island Library
Kingston, RI 02881
(401) 792-2602
Providence:
Brown University Library
Documents Department
Providence, RI 02912
(401) 863-2522
Providence Public Library
150 Empire Street
Providence, RI 02903
(401) 521-7722
Rhode Island College
James P. Adams Library
Documents Department
600 Mt. Pleasant Avenue
Providence, RI 02908
(401) 274-4900 ext. 331
Warwick:
Warwick Public Library
600 Sandy Lane
Warwick, RI 02886
(401) 739-5440

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411
Charleston County Library
404 King Street
Charleston, SC 29403
Citadel
Charleston, SC 29409
College of Charleston
66 George Street
Charleston, SC 29401
Clemson:
Clemson University
Clemson, SC 29631
Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208
Conway:
Coastal Carolina (of University of SC)
Route 0
Conway, SC 29526
Due West:
Erskine College*
Due West, SC 29639
Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501
Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601
Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646
Orangeburg:
South Carolina State College
College Avenue
Orangeburg, SC 29117
Rock Hill:
Winthrop College
Rock Hill, SC 29733
Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

SOUTH DAKOTA

Aberdeen:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 549
Aberdeen, SD 57401

TENNESSEE

Chattanooga:
Hamilton County Bicentennial Library
Business, Science and Technology Department
1001 Broad Street
Chattanooga, TN 37402
(615) 757-5312

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TENNESSEE—Continued

Clarksville:
Woodward Library
Austin Peay State University
Clarksville, TN 37040
(615) 648-7346
Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

Tennessee State Library
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, TN 37219
(615) 741-2451

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

Field Solicitor
U.S. Department of the Interior
P.O. Box H-4393, Herring Plaza
Amarillo, TX 79101
College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843
Dallas:
U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270
El Paso:
El Paso Public Library
Documents Section
501 North Oregon Street
El Paso, TX 79901
(915) 543-3808
Victoria:
University of Houston†
Victoria Campus
2302-C Red River
Victoria, TX 77901
(512) 575-7436

UTAH

Cedar City:
Southern Utah State College Library
Cedar City, UT 84720
Ephraim:
Lucy A. Phillips Library
Snow College
Ephraim, UT 84627
Logan:
Documents Department
Merrill Library, UMC 30
Utah State University
Logan, UT 84322
Ogden:
Weber State College Library
Ogden, UT 84403
Provo:
Harold B. Lee Library
Documents and Maps Section
Brigham Young University
Provo, UT 84602

Law Library
Brigham Young University
Provo, UT 84602
Salt Lake City:
Regional Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building
125 South State Street
Salt Lake City, UT 84138

Supreme Court Library
State Capitol
Salt Lake City, UT 84114

College of Law Library
University of Utah
Salt Lake City, UT 84112

Government Documents
Eccles Health Sciences Library
University of Utah, Bldg. 89
Salt Lake City, UT 84112

Government Documents Division
Marriott Library
University of Utah
Salt Lake City, UT 84112

Utah State Library Commission
2150 South 300 West, Suite 16
Salt Lake City, UT 84115

VIRGINIA

Alexandria:
Alexandria Library*
717 Queen Street
Alexandria, Va. 22314
(703) 750-6351
Arlington:
Office of Hearings and Appeals Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203
Danville:
Danville Community College Library
1009 Bonner Avenue
Danville, VA 24541
(804) 797-3553
Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691-2741
Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501
Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510
Reston:
U.S. Geological Survey Library
National Center, Mail Stop 950
Reston, VA 22092
Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community College
P.O. Box 12084
Richmond, VA 23241
(804) 264-3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219

Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456

Williamsburg:
Documents Department
Earl Gregg Swem Library
College of William and Mary
Williamsburg, VA 23185

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676-3075

Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359-2475

Everett:
Everett Public Library
2702 Hoyt Avenue
Everett, WA 98201
(206) 259-8857

Snohomish County Law Library
County Courthouse
Everett, WA 98201
(206) 259-5326

Olympia:
Washington State Law Library
Temple of Justice
Olympia, WA 98504

Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442-5554

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

WEST VIRGINIA

Beckley:
National Mine Health and Safety Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

Weirton:
Mary H. Weir Public Library
3442 Main Street
Weirton, WV 26062
(304) 748-7070

WISCONSIN

Appleton:
Appleton Public Library
121 South Oneida Street
Appleton, WI 54911
734-7171

Green Bay:
University of Wisconsin—Green Bay
Library Learning Center
Government Publications
Green Bay, WI 54302

Kenosha:
Library/Learning Center
University of Wisconsin–Parkside
Wood Road
Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

WYOMING

Laramie:
Coe Library—Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766-2174

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federal register

Wednesday
September 3, 1980

Part III

Environmental Protection Agency

Glyphosate and Oxyfluorfen; Proposed Tolerances

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1596-1; FAP 9H5196/P19]

Glyphosate; Proposed Food Additive Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a food additive tolerances be established for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid resulting the application of glyphosate isopropylsponic salt for herbicidal purposes and or the sodium sesqui salt for plant growth regulator purposes in sugarcane molasses at 30.0 part per million (ppm) when present therein as a result of the application to growing sugarcane. This proposal was submitted by Monsanto Co. This proposal would establish the maximum permissible level for the combined residues of glyphosate in or on the food item sugarcane molasses at 30.0 ppm.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Written comments to: Robert J. Taylor, Product Manager (PM) 25, Rm. E-359, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor (202-755-2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 9, 1979 (44 FR 46928) that Monsanto Co., 800 N. Lindberg Blvd., St. Louis, MO 63166, had filed a feed additive peition (9H5196) with the EPA. This petition proposed the establishment of tolerances for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid resulting the application of sodium sesqui salt of glyphosate in or growing sugarcane on raw sugar at 2.0 ppm and sugarcane molasses at 20.0 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F, withdrawing the proposal for raw sugar and proposing the tolerance for sugarcane molasses at 30.0 ppm. Because of the potential risk to humans, the tolerance is being proposed at this time to allow for public comment.

A related document (PP 8E2122) proposing tolerances for residues of glyphosate in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in this issue of the **Federal Register**.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with no-observed effect-level (NOEL) of 2,000 ppm; a 90-day dog feeding study with a NOEL of 2,000 ppm; two rabbit teratology studies, negative at 30mg/kg of bw/day (highest dose); a 2-year dog feeding study with a NOEL of 300 ppm; a 2-year rat feeding study with a NOEL of 100 ppm; a 3-generation rat reproduction study with a NOEL of 100 ppm; a neurotoxicity (hen) study, negative at 7.5 mg/kg; and a host-mediated assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, additional mutagencity testing, and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse studies suggest glyphosate to have a relatively low oncogenic potential. Two additonal oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet is relatively low. The petitoner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg of bw/day based on the NOEL of 100 ppm (5 mg/kg of bw/day) in the 2-year rat feeing study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.212 mg/day for a 60 kg human or 7.07 percent of the ADI, tolerances ranging from 0.1 ppm to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural and processed food commodities. An approved but unpublished tolerance utilizes the ADI to 7.22 percent. The current action utilizes 3.73 percent of the ADI. All tolerances utilize 10.94 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved since no residues of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no RPAR criteria have been exceeded.

There is no reasonable expectation of secondary residues occurring in eggs, milk, and the meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use; therefore, § 180.6(a)(3) applies. There is a reasonable expectation of residues occurring in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use, but the proposed tolerance of 0.2 ppm will cover them (§ 180.6(a)(2) applies). The metabolism of glyphosate is adequately understood and an adequate analytical method (gas chromatography using a phosphorous specific flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such a use in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 80 Stat. 751; 7 U.S.C. 136(a) *et seq.*). Therefore, it is proposed that 21 CFR Part 561 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 3, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments period is being limited to 15 days since this compound is registered for use on sugarcane. The comments must bear a notation indicating both the subject and the petition of and document control number "FAP 9H5196/P19". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Robert J. Taylor from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 348))

Dated: August 27, 1980.

James W. Akerman,

Acting Director, Registration Division Office of Pesitide Programs.

Therefore, it is proposed that 21 CFR 193 be amended by revising § 193.235(b), (c), (d) (e) to read as follows:

§ 193.235 Glyphosate.

* * * * *

(b) Tolerances are established for combined residues of glyphosate (N-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid resulting from the application of glyphosate isopropylamine salt for herbicidal purposes and or the sodium sesqui salt for plant growth regulator purposes in sugarcane molasses at 30.0 ppm when present therein as a result of the application to growing sugarcane.

(c) Residues in potable water not in excess of 0.1 ppm, resulting from the use describe in paragraph (a) of this section remaining after expiration of the experimental program will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and food additive tolerances.

(d) Monsanto Co. shall immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records of available to any authorized officer of employee of the EPA or the Food and Drug Administration.

(e) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in the following processed foods when present therein as a result of herbicide application of the isopropylamine salt of glyphosate in palm tree culture at 0.1 ppm in palm oil.

[FR Doc. 80-26939 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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21 CFR Part 193

[FRL 1595-6; FAP 9H5230/P16]

Oxyfluorfen; Proposed Food Additive Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in refined soybean oil at 0.25 part per million (ppm) resulting from application to the growing crop.

DATE: Comments muts be received on or before October 3, 1980.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Rm. E-351, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (202-755-1397).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of August 15, 1979, (44 FR 47807), that Rohm & Haas Company, Independence Mall West, Philadelphia, Pennsylvania 19105, had filed a food additive petition (FAP 9H5230) with the EPA. This petition proposed the establishment of a food additive tolerance permitting residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in refined soybean oil at 0.25 part per million (ppm) resulting from application to the growing crop. No comments were received in response to this notice of filing.

Because of the presence of the contaminant perchloroethylene, an oncogen, in technical oxyfluorfen (at less than 0.1%), the tolerances are being reproposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data included a rat oral LD_{50} with an LD_{50} greater than 5.0 grams(gm)/kilogram(kg), a rat cytogenetic study (negative), host mediated assay (negative), Ames test (negative), rat teratology study with no terata at 1,000 mg/kg of bw (highest dose) and a no-observed-effect level (NOEL) of 100 mg/kg body weight (bw), a three-generation rat reproduction study with a NOEL of 10 ppm, 26-week progress report of a 2-year dog feeding study, a 90-day rat feeding study with a NOEL of 1,000 ppm, a 24-month ratfeeding study (chronic toxicity/oncogenicity) with a NOEL of 40 ppm and a 20-month mouse feeding study (chronic toxicity/oncogenicity) with a NOEL of 2 ppm.

Based on the mouse chronic feeding study with a NOEL of 2 ppm and a 100-fold safety factor the acceptable daily intake (ADI) for humans is 0.003 mg/kg of bw/day. The maximum permissible intake (MPI) is 0.1800 mg/day for a 60 kg person. Concurrent proposals for tolerances in corn grain, soybeans, meat, milk, almonds, almond hulls, stone fruits, and grapes (PP8F2058/P141 and PP9F2197/P142) appear elsewhere in this issue of the **Federal Register**. No permanent tolerances have been previously established for the pesticide. The proposed tolerances have a theoretical maximal residue contribution (TMRC) of 0.0370 mg/day in a 1.5 kg diet, or 20.55 percent of the MPI.

To reinforce the present findings, the petitioner has agreed to submit the final report on the 2-year dog feeding study no later than September 22, 1980 and to conduct a second teratology study with a non-rodent species.

The nature of the residue of the pesticide is adequately delineated, and an adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes.

One of the solvents used in the production of technical oxyfluorfen, perchloroethylene <0.1 percent, has been shown to produce liver tumors in mice. The Agency is presently assembling available information pertaining to perchloroethylene, which has wide usage outside of pesticide applications. This review will assess the health significance of perchloroethylene and is not complete at this time. The evidence on tumor production, however, does initiate a presumption against registration pursuant to 40 CFR 162.11(a)(3)(ii) for the proposed uses of oxyfluorfen. After intensive review, the Agency has made a preliminary finding that potential benefits associated with the use of oxyfluorfen outweigh risks from perchloroethylene. The benefits of oxyfluorfen will be discussed in a document to be available at a later date. The Agency is taking this opportunity to invite public comment on these proposed decisions.

An applicator risk analysis was performed to determine the risk associated with perchloroethylene resulting from applications of oxyfluorfen for all uses proposed. The maximum worst-case risk of tumor development from exposure to perchloroethylene via these uses is calculated to be one incident of tumor development in 10,000,000 applicators. The actual risk may be lower than this theoretical calculation since the actural levels of perchloroethylene in air may be lower than theoretical estimates due to air movement or other climatic factors.

In addition to the applicator risk study, analyses were performed on the raw commodity soybean samples to detect residues of perchloroethylene. No

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residues were detected at the limit of sensitivity for the method (0.05 ppm). Due to the volatile nature of perchloroethylene and the nature of the proposed use patterns for oxyfluorfen (i.e., pre-emergence or postemergence directed sprays), residues of perchloroethylene in these commodities may be lower than 0.05 ppm.

The Agency has calculated a risk through ingestion using 0.05 ppm (method sensitivity) as a base. For soybeans, the maximum risk through ingestion is calculated to be one incident in 10,000,000.

The petitioner produces technical oxyfluorfen containing less than 200 ppm perchloroethylene. Based on the toxicology testing (all tested oxyfluorfen involved included perchloroethylene at less than 0.1 percent), the small risk cited above, and benefit analyses discussed in the position document, the Agency has made a preliminary conclusion that the proposed registration of oxyfluorfen containing less than 200 ppm of perchloroethylene will not cause an unreasonable adverse effect on the environment.

The pesticide is considered useful for the purpose for which tolerance is sought, and it is tentatively concluded that the tolerance for oxyfluorfen residues in refined soybean oil at 0.25 ppm established by amending 21 CFR Part 193 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 3, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and the document control number, "FAP 9H5230/P16". All written comments filed in response to this proposal will be available for public inspection in the office of Richard F. Mountfort from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) 68 Stat. 514, (21 U.S.C. 345(e)))

Dated: August 28, 1980.

James W. Akerman,

Acting Director, Registration Division Office of Pesticide Programs.

Therefore, it is proposed that Subpart A of 21 CFR Part 193 be amended by adding a new § 193.326 to read as follows:

§ 193.326 Oxyfluorfen.

Tolerances are proposed for the combined residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in refined soybean oil at 0.25 part per million, when present therein as a result of its application to the growing crop.

[FR Doc. 80-26936 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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21 CFR Part 561

[FRL 1596-2; FAP 9H5196/P18]

Glyphosate; Proposed Feed Additive Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a feed additive tolerance be established for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid resulting from the application of glyphosate isopropylamine salt for herbicidal purposes and or the sodium sesqui salt for plant growth regulator purposes on the processed feed sugarcane molasses at 30.0 part per million (ppm). This proposal was submitted by Monsanto Co. This proposal would establish the maximum permissible level for the combined residues of glyphosate in or on the feed item sugarcane molasses at 30 ppm.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Written comments to: Robert J. Taylor, Product Manager (PM) 25, Rm. E-359, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor (202-755-2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 9, 1979 (44 FR 46928) that Monsanto Co., 800 N. Lindberg Blvd., St. Louis, MO 63166, had filed a feed additive petition (9H5196) with the EPA. This petition proposed the establishment of tolerances for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid resulting from the application of sodium sesqui salt of glyphosate in or on growing sugarcane on raw sugar at 2.0 ppm and sugarcane molasses at 20 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F, withdrawing the proposal for raw sugar and proposing the tolerance for sugarcane molasses at 30.0 ppm. Because of the potential risk to humans, the tolerance is being proposed at this time to allow for public comment.

A related document (PP 8E2122) proposing tolerances for residues of glyphosate in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in this issue of the **Federal Register**.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with no-observed effect-level (NOEL) of 2,000 ppm; a 90-day dog feeding study with a NOEL of 2,000 ppm; two rabbit teratology studies, negative at 30 mg/kg of bw/day (highest dose); a 2-year dog feeding study with a NOEL of 300 ppm; a 2-year rat feeding study with a NOEL of 100 ppm; a 3-generation rat reproduction study with a NOEL of 100 ppm; a neurotoxicity (hen) study, negative at 7.5 mg/kg; and a host-mediated assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, additional mutagencity testing, and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse studies suggest glyphosate to have a relatively low oncogenic potential. Two additional oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet is relatively low. The petitioner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg of bw/day based on the

NOEL of 100 ppm (5 mg/kg of bw/day) in the 2-year rat feeding study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.212 mg/day for a 60 kg human or 7.07 percent of the ADI, tolerances ranging from 0.1 ppm to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural and processed food commodities. An approved but unpublished tolerance utilizes the ADI to 7.22 percent. The current action utilizes 3.73 percent of the ADI. All tolerances utilize 10.94 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved since no residues of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no RPAR criteria have been exceeded.

There is no reasonable expectation of secondary residues occurring in eggs, milk, and the meat byproducts (except liver and kidney) of cattle, goats, hogs, horese, poultry, and sheep as a result of the proposed use; therefore, § 180.6(a)(3) applies. There is a reasonable expectation of residues occurring in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use, but the proposed tolerance of 0.2 ppm will cover them (§ 180.6(a)(2) applies). The metabolism of glyphosate is adequately understood and an adequate analytical method (gas chromatography using a phosphorous detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such a use in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 80 Stat. 751; 7 U.S.C. 136(a) *et seq.*). Therefore, it is proposed that 21 CFR Part 561 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 3, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. This comment period is being limited to 15 days since this compound is registered for sugarcane. The comments must bear a notation indicating both the subject and the petition and document control number "FAP 9H5196/P18". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection at the office of Robert J. Taylor from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 348))

Dated: August 27, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 21 CFR Part 561, be amended by reviewing § 561.253 to read as follows.

§ 561.253 Glyphosate.

(a) Tolerances are established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in the following processed feeds when present therein as a result of application of this herbicide to growing crops:

Feed	Parts per million
Citrus pulp, dried	0.4
Soybean hulls	20

(b) [Reserved]

(c) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the following processed feeds when present therein as in result of herbicide application of the isopropylamine salt of glyphosate to growing crops:

Feed	Parts per million
Citrus pulp, dried	0.4
Soybean hulls	20

(d) Tolerances are established for combined residues of glyphosate (*N*-phosphonmethylglycine) and its metabolite aminomethylphosphonic acid resulting from the application of glyphosate isopropylamine salt for herbicidal purposes and or the sodium sesqui salt for plant growth regulator purposes on the processed feed sugarcane molasses at 30.0 ppm when present therein as a result of the application to growing sugarcane.

[FR Doc. 80–26940 Filed 9–2–80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1595–8; PP 8F2058/P141]

Oxyfluorfen; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on soybeans; corn grain; the meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; eggs; and milk at 0.05 part per million (ppm). This proposed regulation was submitted by Rohm & Haas Co., Inc. This amendment would establish maximum permissible levels for residues for oxyfluorfen in or on the above raw agricultural commodities.

DATE: Comments must be received by October 3, 1980.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–351, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (202–755–1397).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of April 28, 1978, (43 FR 18246), that Rohm & Haas Co. Inc., Independence Mall West Philadelphia, 19105, had filed a petition (PP 8F20588) with the EPA. This petition proposed to amend 40 CFR 180 by establishing tolerances for combined residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl

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ether linkage in or on the raw agricultural commodities soybeans and corn at 0.05 ppm. No comments were received in response to this notice of filing.

Subsequently, the petitioner amended the petition by adding tolerances for combined residues of oxyfluorfen and its metabolites containing the diphenyl ether linkage in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; eggs; and milk at 0.05 ppm. Because of the potential increases in the exposure of humans to residues as a result of the additional tolerances and the presence of the contaminant perchloroethylene, an oncogen, in technical oxyfluorfen [at less than 0.1%] the tolerances are being reproposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerances included a rat oral lethal dose (LD_{50} with and LD_{50} greater than 5.0 grams (gm) per kilogram (kg) of body weight (bw), a rat cytogenetic test (negative), a host mediated assay (negative), the Ames test (negative), a rat teratology study with no terata at 1,000 mg/kg of bw (highest dose) and a no-observed-effect level (NOEL) of 100 mg/kg of bw, a three-generation rat reproduction study with a NOEL of 10 ppm, a 26-week progress report of a 2-year dog feeding study, a 90-day rat feeding study with a NOEL of 1,000 ppm, a 24-month rat feeding study (chronic toxicity/oncogenicity) with NOEL of 40 ppm and a 20-month mouse feeding study (chronic toxicity/oncogenicity) with NOEL of 2 ppm.

Based on the mouse chronic feeding study with a NOEL of 2 ppm and a 100-fold safety factor the acceptable daily intake (ADI) for humans is 0.003 mg/kg of bw/day. The maximum permissible intake (MPI) is 0.1800 mg/day for a 60 kg person. A related document proposing a food additive tolerance (FAP 9H5230/P16) of 0.25 ppm of oxyfluorfen and the metabolites in refined soybean oil, and a current proposal for tolerances in fruits and nuts (PP9F2197/P142) appear elsewhere in this issue of the **Federal Register.** No permanent tolerances have been previously established for the pesticide. The proposed tolerances have a theoretical maximal residue contribution (TMRC) of 0.0370 mg/day in a 1.5 kg diet, or 20.55 percent of the MPI.

To reinforce the present findings, the petitioner has agreed to submit the final report on the 2-year dog feeding study no later than September 22, 1980 and to conduct a second teratology study with a non-rodent species.

The nature of the residue of the pesticide is adequately delineated, and an adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes.

The use for the chemical oxyfluorfen in corn is to be limited to the U.S. Department of Agriculture's witchweed program on field corn in North and South Carolina. The soybean use pattern prohibits using treated plants for feed or forage.

One of the solvents used in the production of technical oxyfluorfen, perchloroethylene >0.1 percent, has been shown to produce liver tumors in mice. The Agency is presently assembling available information pertaining to perchloroethylene, which has wide usage outside of pesticide applications. This review will assess the health significance of perchloroethylene and is not complete at this time. The evidence on tumor production, however, does initiate a presumption against registration pursuant to 40 CFR 162.11(a)(3)(ii) for the proposed uses of oxyfluorfen. After intensive review, the Agency has made a preliminary finding that potential benefits associated with the use of oxyfluorfen outweigh risks from perchloroethylene. The benefits of oxyfluorfen will be discussed in a document to be available at a later date. The Agency is taking this opportunity to invite public comment on these proposed decisions.

An applicator risk analysis was performed to determine the risk associated with perchloroethylene resulting from applications of oxyfluorfen for all uses proposed. The maximum worst-case risk of tumor development from exposure to perchloroethylene via these uses is calculated to be one incident of tumor development in 10,000,000 applicators. The actual risk may be lower than this theoretical calculation since the actual levels of perchloroethylene in air may be lower than theoretical estimates due to air movement or other climatic factors.

In addition to the applicator risk study, analyses were performed on the raw agricultural commodities soybeans and corn grain to detect residue of perchloroethylene. No residues were detected at the limit of sensitivity for the method (0.05 ppm). Due to the volatile nature of perchloroethylene and the nature of the proposed use patterns for oxyfluorfen (i.e., pre-emergence or postemergence directed sprays), residues of perchloroethylene in or on these commodities may be lower than 0.05 ppm.

The Agency has calculated a risk through ingestion using 0.05 ppm (method sensitivity) as a base. For corn grain, the maximum risk is calculated to be one incident tumor production in 1,000,000 individuals. For soybeans, the maximum risk through ingestion is calculated to be one incident in 10,000,000.

The petitioner produces technical oxyfluorfen containing less than 200 ppm perchloroethylene. Based on the toxicology testing (all tested oxyfluorfen involved included perchloroethylene at less than 0.1 percent), the small risk cited above, and benefit analyses discussed in the position document, the Agency has made a preliminary conclusion that the proposed registration of oxyfluorfen containing less than 200 ppm of perchloroethylene will not cause an unreasonable adverse effect on the environment.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is tentatively concluded that the tolerances for oxyfluorfen residues in or on corn grain; soybeans; meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; eggs; and milk at 0.05 ppm established by amending 40 CFR Part 180 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication of this proposal in the **Federal Register** that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and the document control number, "PP 8F2058/P141". All written comments filed in response to this proposal will be available for public inspection in the office of Richard Mountfort from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order of whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: August 28, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore it is proposed that Subpart C of 40 CFR Part 180 be amended by adding a new § 180.381 to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

Tolerances are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in or on the following raw agricultural commodities:

	Part per million
Commodity:	
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Corn, grain	0.05
Eggs	0.05
Goat, fat	0.05
Goat, mbyp	0.05
Goat, meat	0.05
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Milk	0.05
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05
Soybeans	0.05

[FR Doc. 80-28938 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1595-7; PP 8E2122/P157]

Glyphosate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the plant growth regulator glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid resulting from the application of glyphosate isopropylamine salt for hebical purposes and or the sodium sesqui salt for plant growth regulator purposes in or on the raw agricultural commodities sugarcane at 2.0 parts per million (ppm) and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm. This proposal was submitted by Monsanto Co. This proposal would establish the maximum permissible level for residues of glyphosate in or on the above raw agricultural commodities.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Written comments to: Robert J. Taylor, Product Manager (PM) 25, Rm. E-359, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor (202-755-2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 9, 1979 (44 FR 46928) that Monsanto Co., 800 N. Linabergh Blvd., St. Louis, MO 63166, had filed a pesticide petition (PP 8F2122) with the EPA. This petition proposed the establishment of tolerances for residues of the plant growth regulator glyphosate (*N*-phophonomethylglycine) and its metabolite aminomethylphosphonic acid resulting from the application of the sodium sesqui salt of gylphosate to growing sugarcane in or on the raw agricultural commodity sugarcane at 2.0 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F, proposing a tolerance of 0.2 ppm of liver and kidney of cattle, goats, hogs, horses, poultry and sheep. This increases the previously established tolerance of 0.1 ppm. Because of the potential risk to humans, the tolerance is being proposed at this time to allow for public comment.

Two accompanying documents (FAP 9H5196/P18&P19) apearing elsewhere in this issue of **Federal Register** address the proposal of feed/food additive tolerance for sugarcane molasses.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with no-observed effect-level (NOEL) of 2,000 ppm; a 90-day dog feeding study with a NOEL of 2,000 ppm; two rabbit teratology studies, negative at 30 mg/kg of bw/day (highest dose); a 2-year dog feeding study with a NOEL of 300 ppm; a 2-year rat feeding study with a NOEL of 100 ppm; a 3-generation rat reproduction study with a NOEL of 100 ppm; a neurotoxicity (hen) study, negative at 7.5 mg/kg; and a host-mediated assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, additional mutagenicity testing, and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse studies suggest glyphosate to have a relatively low oncogenic potential. Two additional oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet is relatively low. The petitioner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg of bw/day based on the NOEL of 100 ppm (5 mg/kg of bw/day) in the 2-year rat feeding study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.212 mg/day for a 60 kg human or 7.07 percent of the ADI, tolerances ranging from 0.1 ppm to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural and processed food commodities. An approved but unpublished tolerance utilizes the ADI to 7.22 percent. The current action utilizes 3.73 percent of the ADI. All tolerances utilize 10.94 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved since no residues of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no RPAR criteria have been exceeded.

There is no reasonable expectation of secondary residues occurring in eggs, milk, and the meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use; therefore, § 18.6(a)(3) applies. There is a reasonable expectation of residues occurring in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use, but the proposed tolerance of 0.2 ppm will cover them (§ 180.6(a)(2) applies). The metabolism of glyphosate is adequately understood and an adequate analytical method (gas chromatography using a phosphorous

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specific flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought and the tolerance will protect the public health. Therefore, it is proposed that 40 CFR Part 180 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 3, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comment period is being limited to 15 days since this compound is registered for use in sugarcane. The comments must bear a notation indicating subject and the document control number "PP8E2212/P157." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Robert J. Taylor from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 348))

Dated: August 27, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart C or 40 CFR Part 180 be amended by revising § 180.364 to read as follows.

§ 180.364 Glyphosate; tolerance for residues.

(a) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethyl phosphonic acid resulting from herbicide application of the isopropylamine salt of glyphosate in or on the following raw agricultural commodities:

	Part per million
Commodity:	
Alfalfa, fresh and hay	0.2
Almonds, hulls	1
Asparagus	0.2
Avocados	0.2
Citrus fruits	0.2
Coffee beans	1
Cottonseed	6
Grain crops	0.1(N)
Grapes	0.2
Grasses, forage	0.2(N)
Leafy vegetables	0.2(N)
Nuts	0.2
Pistachio nuts	0.2
Pome fruits	0.2
Root crop vegetables	0.2(N)
Seed and pod vegetables	0.2(N)
Seed and pod vegetables, forage	0.2(N)
Seed and pod vegetables, hay	0.2(N)
Soybeans	6
Soybeans, forage	15
Soybeans, hay	15

(b) Tolerances are established for combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosponic acid resulting from the application of glyphosate isopropylamine salt for herbicidal purposes and/or the sodium sesqui salt for plant growth regulator purposes in or on the following raw agricultural commodities:

	Part per million
Commodity:	
Cattle, kidney	0.2
Cattle, liver	0.2
Goats, kidney	0.2
Goats, liver	0.2
Hogs, kidney	0.2
Hogs, liver	0.2
Horses, kidney	0.2
Horses, liver	0.2
Poultry, kidney	0.2
Poultry, liver	0.2
Sheep, kidney	0.2
Sheep, liver	0.2
Sugarcane	0.2

[FR Doc. 80-26937 Filed 9-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1595-5; PP 9F2197/P142]

Oxyfluorfen; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the raw agricultural commodities almonds and almond hulls, stone fruits [apricots, nectarines, peaches, plums (fresh prunes)], and grapes at 0.05 part per million (ppm). This amendment would establish maximum permissible levels for residues of oxyfluorfen in or on the above raw agricultural commodities.

DATE: Comments must be received by October 3, 1980.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager 23, Rm. E-351, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (202/755-1397).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of June 1, 1979 (44 FR 32737) that Rohm and Haas Co. Inc., Independence Mall West, Philadelphia, PA 19105, had filed a petition (PP 9F2197) with the EPA. This petition proposed to amend 40 CFR Part 180 by establishing tolerances for combined residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities almonds, stone fruits [apricots, nectarines, peaches, plums, (fresh prunes)] and grapes at 0.05 ppm and almond hulls at 0.10 ppm. Subsequently, the petition was amended to repropose the tolerance level for almond hulls at 0.05 ppm. No comments were received in response to this notice of filing.

Because of the presence of the contaminant perchloroethylene, an oncogen, in technical oxyfluorfen (at less than 0.1%), the tolerances are being reproposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerances included a rat oral lethal dose (LD_{50}) with an LD_{50} greater than 5.0 grams (gm) per kilogram (kg) of body weight (bw); a rat cytogenetic test (negative); a host mediated assay (negative); the Ames test (negative); a rat teratology study with no terata at 1,000 mg/kg of bw (highest dose) and a no-observed-effect level (NOEL) of 100 mg/kg of bw; a three-generation rat reproduction study with a NOEL of 10 ppm; 26-week progress report of a 2-year dog feeding study; a 90-day rat feeding study with a NOEL of 1,000 ppm; a 24-month rat feeding study (chronic toxicity/oncogenicity) with a NOEL of 40 ppm; and a 20-month mouse feeding study (chronic toxicity/oncogenicity with a NOEL of 2 ppm.

Based on the mouse chronic feeding study with a NOEL of 2 ppm and a 100-fold safety factor the acceptable daily intake (ADI) for humans is 0.003 mg/kg of bw/day. The maximum permissible intake (MPI) is 0.1800 mg/day for a 60 kg person. A concurrent proposal for tolerances in corn grain, soybeans, meat, and meat byproducts of cattle goats, hogs, horses, poultry and sheep; eggs; and milk, (PP8F2058/P141) and a food additive tolerance in refined soybean oil (FAP 9H5230/P16) appear elsewhere in this issue of the **Federal Register**. No permanent tolerances have been previously established for the pesticide. The proposed tolerances have a theoretical maximal residue contribution (TMRC) of 0.0370 mg/day in a 1.5 kg diet, or 20.55 percent of the MPI.

To reinforce the present findings, the petitioner has agreed to submit the final report on the 2-year dog feeding study no later than September 22, 1980 and to conduct a second teratology study with a non-rodent species. The nature of the residue of the pesticide is adequately delineated, and an adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes.

The use of the chemical oxyfluorfen in fruit and nut orchards and vineyards is limited to directed sprays to the base of the tree or vine. Grazing or foraging of treated areas is prohibited.

One of the solvents used in the production of technical oxyfluorfen, perchloroethylene <0.1 percent, has been shown to produce liver tumors in mice. The Agency is presently assembling available information pertaining to perchloroethylene, which has wide usage outside of pesticide applications. This review will assess the health significance of perchloroethylene and is not complete at this time. The evidence on tumor production, however, does initiate a presumption against registration pursuant to 40 CFR 162.11(a)(3)(ii) for the proposed uses of oxyfluorfen. After intensive reivew, the Agency has made a preliminary finding that potential benefits associated with the use of oxyfluorfen outweigh risks from perchloroethylene. The benefits of oxyfluorfen will be discussed in a document to be available at a later date. The Agency is taking this opportunity to invite public comment on these proposed decisions.

An applicator risk analysis was performed to determine the risk associated with perchloroethylene resulting from applications of oxyfluorfen for all uses proposed. The maximum worst-case risk of tumor development from exposure to perchloroethylene via these uses is calculated to be one incident of tumor development in 10,000,000 applicators. The actual risk may be lower than this theoretical calculation since the actual levels of perchloroethylene in air may be lower than theoretical estimates due to air movement or other climatic factors.

In addition to the applicator exposure study, analyses were performed on several fruit and nut samples to detect residues of perchloroethylene. No residues were detected at the limit of sensitivity for the method (0.05 ppm). Due to the volatile nature of perchloroethylene and the nature of the proposed use patterns for oxyfluorfen (i.e., pre-emergence or postemergence (weed) directed sprays to dormant crops), actual residues of perchloroethylene in these commodities may be lower than 0.05 ppm.

The Agency has calculated a risk through ingestion using 0.05 ppm (method sensitivity) as a base. For all of the fruit and nut crops proposed, and grapes the maximum risk to individuals through dietary exposure is calculated to be one incident tumor production in 1,000,000 individuals.

The petitioner produces technical oxyfluorfen containing less than 200 ppm perchloroethylene. Based on the toxicology testing (all tested oxyfluorfen involved included perchloroethylene at less than 0.1 percent), and small risk cited above, and benefit analyses discussed in the position document, the Agency has made a preliminary conclusion that the proposed registration of oxyfluorfen containing less than 200 ppm of perchloroethylene will not cause an unreasonable adverse effect on the environment.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is tentatively concluded that the tolerances for oxyfluorfen residues in or on almonds, almond hulls, stone fruit [apricots, nectarines, peaches, plums (fresh prunes)] and grapes at 0.05 ppm established by amending 40 CFR Part 180 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 3, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "PP 9F2197/P142." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Richard F. Mountfort, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 28, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart C of 40 CFR Part 180, be amended by adding § 180.381 establishing a tolerance for oxyfluorfen to read as follows:

§ 180.381 Oxyfluorfen; tolerance for residues.

Tolerances are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benezene] and its metabolites containing the diphenyl ether linkage in or on the following raw agricultural commodities:

	Parts per million
Commodities:	
Almonds	0.05
Almonds, hulls	0.05
Grapes	0.05
Stone Fruits [apricots, nectarines, peaches, plums, (fresh prunes)]	0.05

[FR Doc. 80-26935 Filed 9-2-80; 8:45 am]

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Federal Register
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Wednesday, September 3, 1980

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

Rules Going Into Effect Today

COMMUNITY SERVICES ADMINISTATION

51561 8–4–80 / Revision of CSA income poverty guidelines

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

53091 8–11–80 / Pricing of pipeline production under the Natural Gas Act

INTERIOR DEPARTMENT

Land Management Bureau—

51740 8–4–80 / Prohibited acts in wild and scenic river areas

Deadlines for Comments On Proposed Rules For The Week of September 7 through September 13, 1980

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

46784 7–11–80 / Gypsy moth and browntail moth; list of hazardous recreational vehicle sites; comments by 9–9–80

52818 8–8–80 / Importation of carcasses of quail of free flying origin; comments by 9–8–80

45888 7–8–80 / Restrictions on importation of horses from Japan; comments by 9–8–80

Food and Nutrition Service—

46809 7–11–80 / Food Stamp and Food distribution programs on Indian reservations; comments by 9–9–80

46036 7–8–80 / 1980 Food Stamp eligibility limits; comments by 9–8–80

Food Safety and Quality Service—

45915 7–8–80 / Chilling poultry parts; comments by 9–8–80

Rural Electrification Administration—

46811 7–11–80 / REA Bulletin 103–2; Use and approval of general funds for additions to plant, revision of existing bulletin; comments by 9–9–80

CIVIL AERONAUTICS BOARD

46812 7–11–80 / Charter Flight limitations; Carrier's obligations in case of interruptions of its service; reply comments by 9–9–80

COMMERCE DEPARTMENT

Economic Development Administration—

46065 7–9–80 / Financial assistance, public works and development facilities program, etc.; technical amendments; comments by 9–8–80

International Trade Administration—

45898 7–8–80 / Licensing procedures for exports of wheat and corn to the U.S.S.R. (October 1, 1980 to September 30, 1981); comments by 9–8–80

National Oceanic and Atmospheric Administration—

47690 7–16–80 / Alaskan Salmon troll fishery; emergency regulations; comments by 9–12–80

Office of the Secretary—

46437 7–10–80 / Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance; comments by 9–8–80

CONSUMER PRODUCT SAFETY COMMISSION

53056 8–8–80 / Exportation of noncomplying products; Notification requirements and procedures; comments by 9–8–80

EDUCATION DEPARTMENT

54000 8–13–80 / Precollege Teacher Development in Science Program; comments by 9–12–80

ENERGY DEPARTMENT

46742 7–10–80 / Bidding system for coal leasing; comments by 9–10–80

53422 8–11–80 / Residential conservation service program provisions; corrections; comments by 9–10–80

[*See also* 44 FR 64602, Nov. 7, 1979]

Conservation and Solar Energy Office—

54264 8–14–80 / Alcohol fuels, biomass energy and municipal waste energy projects; loan guarantees; comments by 9–12–80

46762 7–10–80 / Energy conservation program for consumer products; test procedures for clothes dryers; comments by 9–8–80

47396 7–14–80 / Test procedures for refrigerators, refrigerator-freezers and freezers; comments by 9–12–80

Federal Energy Regulatory Commission—

54085 8–14–80 / High-cost natural gas produced from wells drilled in deep water; comment period extended to 9–10–80

[*See also* 45 FR 47863, 7–17–80]

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47705 7–16–80 / Revision to Annual Report for Electric Utilities, Licensees and Others (Class A and Class B); Form No. 1; comments by 9–8–80

ENVIRONMENTAL PROTECTION AGENCY

46826 7–11–80 / Approval and promulgation of the Missouri State implementation plans; comments by 9–9–80

46097 7–9–80 / Determination of reportable quantities for hazardous substances; comments by 9–8–80

46094 7–9–80 / Designation of hazardous substances with carcinogenic effects on man; comments by 9–8–80

53490 8–12–80 / Proposed schedules and conditions to correct deficiencies in Maryland's nonattainment area plan revision; comments by 9–11–80

46103 7–9–80 / Proposed removal of dichlorodifluoromethane and trichlorofluoromethane from toxic pollutant list; comments by 9–8–80

52835 8–8–80 / State implementation plan revisions for Idaho; comments by 9–8–80

52411 8–7–80 / Water pollution; canned and preserved seafood processing point source category; comments by 9–8–80

FARM CREDIT ADMINISTRATION

45595 7–7–80 / Powers, duties and responsibilities of District Farm Credit Boards; comments by 9–8–80

45917 7–8–80 / Personnel administration; comments by 9–8–80

FEDERAL COMMUNICATIONS COMMISSION

46457 7–10–80 / FM broadcast station in Bemidji, Minn.; channel assignment; reply comments by 9–11–80

46453 7–10–80 / FM broadcast station in Fruita, Colo.; channel assignment; reply comments by 9–11–80

45601 7–7–80 / FM broadcast station in Seneca, Kans.; changes in table of assignments; reply comments by 9–8–80

49625 7–25–80 / FM broadcast stations in Rhinelander, Tomahawk, Washburn, and Wausau, Wis.; proposed changes in table of assignments; comments by 9–11–80

49626 7–25–80 / FM broadcast station in Laurel Hill, N.C.; proposed changes in table of assignments; comments by 9–11–80

46454 7–10–80 / FM broadcast stations in West Tulsa, Sand Springs, and Pawhuska, Okla.; changes in table of assignments; reply comments by 9–11–80

51251 8–1–80 / Regulatory policies concerning resale and shared use of common carrier international communications services; reply comments by 9–12–80

FEDERAL REGISTER, ADMINISTRATIVE COMMITTEE

46328 7–9–80 / Identification of subjects in agency regulations; comments by 9–8–80

[Corrected at 45 FR 49085, 7–23–80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration—

47368 7–14–80 / Conditions of participation for skilled nursing and intermediate care facilities in certain Medicare and Medicaid Programs; comments by 9–12–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

46012 7–8–80 / Debarments, suspensions, temporary denials of participation, and voluntary exclusions; comments by 9–8–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

52849 8–8–80 / American alligator, special rule revision; comments by 9–8–80

Geological Survey—

53840 8–13–80 / Oil, gas, and sulfur operations in the Outer Continental Shelf; lease royalty requirements; comments by 9–12–80

52408 8–7–80 / Oil and gas and sulphur operations in the Outer Continental Shelf; western Gulf of Mexico; submission of operations plan instead of development and production plan; comments by 9–8–80

Surface Mining Reclamation and Enforcement Office—

45927 7–8–80 / Operations on Federal lands under the permanent program; State-Federal Cooperative Agreements; Wyoming; comments by 9–8–80

53183 8–11–80 / Surface and underground mining performance standards; comments by 9–10–80

INTERSTATE COMMERCE COMMISSION

53190 8–11–80 / Modification of provisions to allow filing of contract rates between freight forwarders and rail and water carriers; comments by 9–10–80

46461 7–10–80 / Railroad consolidation proceedings; traffic protective conditions; comments by 9–8–80

MANAGEMENT AND BUDGET OFFICE

48667 7–21–80 / Waiver of Government Surveillance requirements; Draft Federal acquisition regulation; comments by 9–10–80

NUCLEAR REGULATORY COMMISSION

45916 7–8–80 / Domestic licensing of production and utilization facilities; technical specifications for nuclear power reactor; comments by 9–8–80

40101 6–13–80 / Nuclear power plant accident consideration under National Environmental Policy Act of 1969; comments by 9–11–80

SMALL BUSINESS ADMINISTRATION

53835 8–13–80 / Regulations implementing Section 503 Development Company Program; comments by 9–11–80

TENNESSEE VALLEY AUTHORITY

51614 8–4–80 / Increase in fees for search and duplication of records; comments by 9–8–80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

40062 6–12–80 / National standards for traffic control devices; Manual or uniform traffic control devices; Railroad-highway projects; comments by 9–10–80

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

52407 8–7–80 / Electronic fund transfer for certain alcohol and tobacco products' excise tax payments and other provisions; comment period extended to 9–8–80

[*See also* 45 FR 38258 and 38271, June 6, 1980]

Customs Service—

46442 7–10–80 / Fees for processing applications for bonded warehouses and container stations; comments by 9–8–80

Internal Revenue Service—

46444 7–10–80 / FIFO and other ordering rules for investment credit; comments by 9–8–80

[Corrected at 45 FR 50818; 7–31–80]

46082 7–9–80 / Income tax; exclusion of certain disability payments; comments by 9–8–80

49524 7–8–80 / Income tax; withholding of tax with respect to Virgin Islands inhabitants; comments by 9–8–80

45926 7–8–80 / Periodic report of actuary; comments by 9–8–80

46815 7–11–80 / Reserve for certain guaranteed debt obligations; comments by 9–9–80

WAGE AND PRICE STABILITY COUNCIL

52769 8–8–80 / Anti-inflationary pay and price standards; Questions and answers on procedures; comments by 9–8–80

Deadlines for Comments On Proposed Rules For The Week of September 14 through September 20, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

55213 8–19–80 / Handling of milk in Nebraska-Western Iowa marketing area; exceptions to revised recommended decision; comment by 9–15–80

Agricultural Stabilization and Conservation Service—

48151 7–18–80 / Feed grain, upland cotton, wheat and rice programs for crop years 1978–1981; charging interest on refunds of overpayments; comments by 9–16–80

Farmers Home Administration—

47654 7–16–80 / Farm Labor Housing (LH) loan and grant policies, procedures, and authorities; comments by 9–15–80

CIVIL AERONAUTICS BOARD

47698 7–16–80 / Information submitted in section 408 merger applications; comments by 9–15–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

51254 8–1–80 / Atlantic squid fishing; fishery conservation and management; comments by 9–14–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

53488 8–12–80 / Energy efficiency standards for nine types of consumer products; comments by 9–15–80

Economic Regulatory Administration—

54662 8–15–80 / Obtaining crude oil for the Strategic Petroleum Reserve by exchange of Naval Petroleum Reserves crude oil and other means; comments by 9–15–80

48646 7–21–80 / Synthetic natural gas (SNG) feedstock allocation; price-controlled naphta exemption and removal of restrictive criteria on propane; comments by 9–19–80

ENVIRONMENTAL PROTECTION AGENCY

54772 8–18–80 / Additional revisions to Washington State Implementation Plan; comments by 9–17–80

55198 8–19–80 / Certain inert ingredients in pesticide formations; comments by 9–18–80

55480 8–20–80 / Delaware state implementation plan; comments by 9–19–80

5523 8–19–80 / Designation of areas for air quality planning purposes; attainment status designation—California; comments by 9–18–80

47832 7–16–80 / Identification and listing of hazardous waste; additions; comments by 9–15–80

47835 7–16–80 / Identification and listing of hazardous waste; additions; comments by 9–15–80

48812 7–21–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act, as amended; comments by 9–19–80

54773 8–18–80 / Proposed approval of revisions to Delaware's State Implementation Plan; comments by 9–17–80

54773 8–18–80 / Proposed approval of revisions to District of Columbia's Implementation Plan; comments by 9–17–80

54773 8–18–80 / Proposed approval of revisions to Maryland's State Implementation Plan; comments by 9–17–80

55199 8–10–80 / Tolerances for pesticide chemicals in or on raw agricultural commodities; Oxalic acid; comments by 9–19–80

55228 8–19–80 / Virginia; approval and promulgation of implementation plans; comments by 9–18–80

54088, 54089 8–14–80 / West Virginia Air Quality Implementation Plan; comments by 9–15–80 (2 documents)

55230 8–19–80 / Wisconsin; Approval and promulgation of implementation plan; comments by 9–18–80

FEDERAL COMMUNICATIONS COMMISSION

43441 6–27–80 / Authorizing the Communications Satellite Corporation to provide international satellite communications services directly to the public; order extending time for filing comments and reply comments; reply comments by 9–19–80

53844 8–13–80 / Biomedical telementry operations; amendments; comments by 9–15–80

35370 5–27–80 / FCC Form 324 Annual Financial Report of Broadcast Stations; comments by 9–15–80–

51624 8–4–80 / FM broadcast stations in Naples, Fla., changes in table of assignments; comments by 9–19–80

46452 7–10–80 / FM broadcast station in Jacksonville, Fla.; channel assignment; reply comments by 9–15–80

50373 7–29–80 / FM Broadcast Stations in Uvalde, Crystal City and Pearsall, Tex.; changes in Table of assignments; comments by 9–15–80

46455 7–10–80 / FM broadcast stations in Wichita and Winfield, Kans.; table of assignments; reply by 9–15–80

42753 6–25–80 / TV broadcast stations in Santa Barbara, Calif.; table of assignments; comments by 9–15–80

[*See* 45 FR 28770, 4–30–80]

51251 8–1–80 / Verification and methods of measurement of computing devices; reply comments extended to 9–19–80

[*See also* 45 FR 42347, 6–24–80]

FEDERAL RESERVE SYSTEM

54070 8–14–80 / Electronic fund transfers; proposed official staff interpretation; comments by 9–15–80

FEDERAL TRADE COMMISSION

55223 8–19–80 / Deceptive advertising and labeling of previously used lubricating oil; comments by 9–18–80

44322 7–1–80 / Tingley Rubber Corp.; consent agreement with analysis to aid public comments; comments by 9–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

48160 7–18–80 / Probenecid proposed bioequivalence requirement; comments by 9–16–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

48654 7–21–80 / Privacy Act of 1974; revision of regulations; comments by 9–19–80

INTERIOR DEPARTMENT

Geological Survey—

56081 8–22–80 / Coal mining operating rules on Federal lands; comments accepted from 9–15 through 9–29–80

[*See also* 45 FR 32715, 5–19–80]

Land Management Bureau—

48054 7–17–80 / Wildfire prevention procedures; comments by 9–15–80

National Park Service—

54771 8–18–80 / National Park System rights-of-way provisions; comments by 9–17–80

Surface Mining Reclamation and Enforcement Office—

57149 8–27–80 / Mining and mineral resources, institutes and mineral research projects; grants; comments by 9–15–80

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INTERNATIONAL TRADE COMMISSION

54086 8–14–80 / Investigations to review outstanding antidumping and countervailing duty determinations and suspension agreement; comments by 9–15–80

INTERSTATE COMMERCE COMMISSION

54385 8–15–80 / Change of policy, railroad contract rates; comments extended to 9–15–80

53846 8–13–80 / Cost Standards for railroad rates; revised interpretation; comment period extended to 9–19–80

[*See also* 45 FR 48676, 7–21–80]

55465 8–20–80 / Household goods transportation; storage-in-transit charges; comments by 9–18–80

JUSTICE DEPARTMENT

54770 8–18–80 / Federal financial assistance; nondiscrimination on basis of sex in education programs; comment period extended to 9–19–80

[*See also* 45 FR 41001, 6–17–80]

Attorney General—

52183 8–6–80 / Open judicial proceedings policy; comments by 9–15–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

54355 8–15–80 / Basic program elements for Federal employee occupational safety and health programs; comments by 9–15–80

41012 8–6–17–80–80 / Standard for locking out and tagging machines, equipment, systems and processes; comments by 9–15–80

LIBRARY OF CONGRESS

Copyright Office—

50823 7–31–80 / Unauthorized use of certain works transmitted "live" and simultaneously being fixed in tangible form; reply comments by 9–15–80

NATIONAL CREDIT UNION ADMINISTRATION

55214 8–19–80 / Month-end financial statements for credit unions; comments by 9–15–80

TRANSPORTATION DEPARTMENT

Coast Guard—

56376 8–25–80 / Provisions for command barges carrying certain bulk dangerous cargoes; comment period extended to 9–19–80

[*See also* 45 FR 45327, 7–3–80]

Federal Aviation Administration—

41596 6–19–80 / Operations review program; reply comments by 9–17–80

Materials Transportation Bureau—

48671 7–21–80 / Shippers; specifications for tank cars; comments by 9–18–80

[Corrected at 45 FR 7–31–80]

National Highway Traffic Safety Administration—

51626 8–4–80 / Amendment of seat belt assemblies safety standards; comments by 9–18–80

TREASURY DEPARTMENT

Customs Service—

48617 7–21–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act; comments by 9–19–80

54085 8–14–80 / Ornamental wearing apparel classification; comments by 9–15–80

Internal Revenue Service—

47871 7–17–80 / Voluntary employee's beneficiary associations; comments by 9–15–80

VETERANS ADMINISTRATION

55716 8–21–80 / Medical benefits; community-based treatment facilities for alcohol and drug dependence; comments by 9–19–80

WATER RESOURCES COUNCIL

47866 7–17–80 / Floodplain management and wetlands protection; comments by 9–15–80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Office of the Secretary—

55249 8–19–80 / Citizens' Advisory Committee on Equal Opportunity, Washington, D.C. (open), 9–7 through 9–9–80

Science and Education Administration—

53503 8–12–80 / Committee of Nine, Wooster, Ohio (open), 9–9 and 9–10–80

ARMS CONTROL AND DISARMAMENT AGENCY

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S. 1140 / Pub. L. 96-332 To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes. (Aug. 29, 1980; 94 Stat. 1057) Price $1.

S. 1730 / Pub. L. 96-333 To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe. (Aug. 29, 1980; 94 Stat. 1060) Price $1.

H.J. Res. 589 / Pub. L. 96-334 Providing additional program for the Export-Import Bank. (Aug. 29, 1980; 94 Stat. 1061) Price $1.

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58699	**Medicare** HHS/HCFA gives notice regarding schedule of limits on skilled nursing facility inpatient routine service costs; effective 10–1–80
58505	**Taxes** USDA/Sec'y establishes criteria determining primary purpose of certain payments for Federal tax purposes; effective 9–4–80
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58520	**Care Facilities** Treasury/IRS publish regulations relating to treatment of private foundations that maintain certain elderly care facilities; effective beginning taxable year 12–31–69

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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58669 **Consumer Protection** EPA gives notice of study being undertaken to determine advisability of automating consumer complaint handling; comments by 10–15–80

58645 **Grant Programs—Generic** Commerce/Sec'y announces proposed availability of fiscal year 1981 funds for establishment of Cooperative Generic Technology Centers; deadline 10–4–80

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Title 3—

The President

Executive Order 12233 of September 1, 1980

Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)

By the authority vested in me as President of the United States of America by Chapter 47 of Title 10 of the United States Code (the Uniform Code of Military Justice), and in order to make some clarifying and technical amendments to the Manual for Courts-Martial, United States, 1969 (Revised edition), prescribed by Executive Order No. 11476, as amended by Executive Order No. 11835, Executive Order No. 12018, and Executive Order No. 12198, it is hereby ordered that Executive Order No. 12198 is amended as follows:

1–101. Rule 506(j) in the Table of Contents to the Military Rules of Evidence is amended by deleting "claim or privilege" and substituting therefor "claim of privilege" in the first line.

1–102. Rule 302 of the Military Rules of Evidence is amended by changing paragraph (b)(2) to read as follows:

"An expert witness for the prosecution may testify as to the reasons for the expert's conclusions and the reasons therefor as to the mental state of the accused if expert testimony offered by the defense as to the mental condition of the accused has been received in evidence, but such testimony may not extend to statements of the accused except as provided in (1).".

1–103. Rule 304(b) of the Military Rules of Evidence is amended by deleting the reference "under rule 305(d)–(e)" and substituting therefor the reference "under rules 305(d), 305(e), and 305(g)".

1–104. Rule 305 of the Military Rules of Evidence is amended by changing the last sentence of paragraph (h)(2) to read as follows:

"An interrogation is not "participated in" by military personnel or their agents or by the officials or agents listed in subdivision (h)(1) merely because such a person was present at an interrogation conducted in a foreign nation by officials of a foreign government or their agents, or because such a person acted as an interpreter or took steps to mitigate damage to property or physical harm during the foreign interrogation.".

1–105. Rule 317(b) of the Military Rules of Evidence is amended by deleting at the end thereof "for purposes of enforcing the Uniform Code of Military Justice" and substituting therefor "for purposes of obtaining evidence concerning the offenses enumerated in section 2516(1) of title 18, United States Code, to the extent such offenses are punishable under the Uniform Code of Military Justice".

1–106. Rule 317(c) of the Military Rules of Evidence is amended to read as follows:

"(c) *Regulations.* Notwithstanding any other provision of these rules, members of the armed forces or their agents may not intercept wire or oral communications for law enforcement purposes unless such interception:

"(1) takes place in the United States and is authorized under subdivision (b);

"(2) takes place outside the United States and is authorized under regulations issued by the Secretary of Defense or the Secretary concerned; or

"(3) is authorized under regulations issued by the Secretary of Defense or the Secretary concerned and is not unlawful under section 2511 of title 18, United States Code.".

1–107. Rule 321(b)(2)(B) of the Military Rules of Evidence is amended by deleting the reference "(1)" and substituting therefor the reference "(A)".

1–108. Rule 403 of the Military Rules of Evidence is amended by correcting "exluded" to read "excluded" in the first clause of that rule.

1–109. Rule 408 of the Military Rules of Evidence is amended by correcting "purposes" to read "purpose" in the last sentence of that rule.

1–110. Rule 506(f) of the Military Rules of Evidence is amended by deleting "classified information" and substituting therefor "government information" in the last sentence of that rule.

1–111. Rule 507(a) of the Military Rules of Evidence is amended by deleting "information resulting in an investigation" and substituting therefor "information relating to or assisting in an investigation" in the second sentence of that rule.

1–112. Rule 1101(b) of the Military Rules of Evidence is amended by deleting the reference "Section V" and substituting therefor the reference "Sections III and V".

1–113. Section 12 of Part B, which provided for amendments to paragraph 127*c*(1) of Chapter XXV of the Manual, is amended by adding thereto the following:

"Paragraph 127*c*(1) is also amended by deleting "or the Code of the District of Columbia, whichever prescribed punishment is the lesser,". Further, paragraph 127*c*(1) is amended by deleting "or the Code of the District of Columbia and the respective Code" and substituting therefor "and the United States Code.".

Jimmy Carter

THE WHITE HOUSE,
September 1, 1980.

[FR Doc. 80–27404
Filed 9–3–80; 10:59 am]
Billing code 3195–01–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

PRESIDENTIAL COMMISSION ON WORLD HUNGER

1 CFR Part 475

Privacy Act of 1974 Regulations

AGENCY: Presidential Commission on World Hunger.

ACTION: Final rule.

SUMMARY: The Presidential Commission on World Hunger has terminated by compliance with E. O. 12078, as amended, which created the Commission.

EFFECTIVE DATE: August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel E. Shaughnessy, (202) 447–5095.

SUPPLEMENTARY INFORMATION: Commission hereby removes Part 475 from 1 CFR.

Dated: August 29, 1980.

Daniel E. Shaughnessy,
Executive Director.

[FR Doc. 80–27005 Filed 9–3–80; 8:45 am]
BILLING CODE 6820–97–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 14

Determining the Primary Purpose of Certain Payments for Federal Tax Purposes

AGENCY: U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes criteria to be used in determining the primary purpose for which payments are made under certain Federal and non-Federal programs as authorized by section 543 of the Revenue Act of 1978 as amended. A determination that the primary purpose of a payment is to conserve soil or water resources, protect or restore the environment, improve forests, or provide wildlife habitat will allow recipients to exclude all or part of the payment from their gross income for Federal tax purposes provided that the payment does not increase substantially the annual income derived from the property benefited by the payment.

EFFECTIVE DATE: This rule is effective September 4, 1980. It applies to payments made after September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Arnold Miller, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 117–A Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, phone (202) 447–3255. The final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Arnold Miller.

SUPPLEMENTARY INFORMATION: (1) *General.* This final action has been reviewed under USDA procedures established in Secretary' Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

Section 543 of the Revenue Act of 1978 (Pub. L. 95–600), hereafter referred to as the "Act" amended the Internal Revenue Code of 1954 to provide that certain payments, or portions thereof, received through Federal and non-Federal programs can be excluded from gross income for Federal income tax purposes. The exclusions apply to the extent that the Secretary of Agriculture determines that the payments, or portions thereof, are make primarily for the purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat, and to the extent that the Secretary of the Treasury determines that the payments do not increase substantially the annual income derived from the property associated with the payments.

A deduction, depreciation, amortization, or investment credit may not be claimed with respect to amounts excluded from gross income under Section 543 of the Act. If associated property or improvements are disposed of within 20 years after the payment is made, some or all of any capital gain may be treated as ordinary income for tax purposes. Section 543 applies to payments made after September 30, 1979, and is incorporated into the Internal Revenue Code of 1954 as Section 126 (exclusion) and as Section 1255 (recapture).

The Department of Agriculture is working with the Department of the Treasury to implement Section 543 of the Act. This rule, however, applies only to the determinations to be made by the Secretary of Agriculture as prescribed in Section 543.

(2) *Form of determinations.* The criteria and definitions set forth in this rule will be applied to applicable programs to determine the primary purpose for which payments are made. The determinations may be made on the basis of entire programs, categories of practices or measures within programs, or on the basis of individual payments. Determinations made under this rule will be published in the **Federal Register.**

(3) *Non-Federal payments.* In addition to Federal payments, payments received by persons under programs administered by units of non-Federal governments may qualify for exclusion from gross income under Section 543 of the Act. Non-Federal public entities that seek an exclusion from gross income for payments made under their programs should notify the Secretary of Agriculture following the procedure specified in § 14.6 of this rule. Those that have submitted materials in response to: (1) the May 24, 1979, letter sent to all governors on this subject; (2) the advance notice of proposed rulemaking that appeared in the June 29, 1979, **Federal Register** (44 FR 37953); or (3) the proposed rule that appeared in the August 22, 1979, **Federal Register** (44 FR 49271) need not resubmit materials in response to this rule.

(4) *Recent legislation.* The Technical Corrections Act of 1979 (Pub. L. 96–222) was signed by the President on April 1, 1980. The Technical Corrections Act makes certain technical and clerical changes to the provisions of the Revenue Act of 1978. Sections 105(a)(7) and 105(b)(1) of the Technical Corrections Act contain five changes that apply to the provisions of Section 543 and thus to this rule. Two of these changes are significant.

First, there are circumstances under which a taxpayer would have been worse off under the provisions of

Section 543 as it appeared unamended in Pub. L. 95–600 than under previous tax law. Generally, this would have occurred in those situations in which payments would have been received as reimbursement for costs for which a deduction or credit was allowed under prior tax law. Under previous tax law a taxpayer could have received the payment nearly tax-free, but under the unamended section 543 a taxpayer would have had to treat the payment as income if he or she were to dispose of the property associated with the payment within 20 years after receiving the payment.

The Technical Corrections Act addresses this problem. It permits a taxpayer to elect not to use the exclusion and recapture provisions of section 543 if the taxpayer would have received more favorable tax treatment under previously existing tax law. However, the Technical Corrections Act also guards against the realization of double benefits.

Second, under the 1978 Act it was not clear whether the unamended Section 543 could be applied to payments made under programs operated by non-Federal public entities other than States. The Technical Corrections Act makes it clear that Section 543 is intended to apply to payments received under any program of a State, a possession of the United States, a political subdivision of either of the foregoing, or the District of Columbia.

The amendments made by the Technical Corrections Act with respect to Section 543 apply to payments made after September 30, 1979, the effective date of the Revenue Act of 1978.

As stated in the proposed rule, this final rule incorporates the amendments to the Revenue Act of 1978 made by the Technical Corrections Act of 1979.

(5) *Public comment.* Comments on the proposed rule were received from State agencies, conservation organizations, and individuals. Four comments simply supported the rule as proposed. Several comments opposed the provisions of the Act. The remaining comments suggested changes or raised questions concerning the intent of the proposed rule. All comments were considered in developing the final rule. The full text of all comments is on file and available for public inspection in Room 117–A, Administration Building, USDA, 14th and Independence Avenue S.W., Washington, D.C. 20250.

The substance of the public comments and the Department's response to them follow:

(a) One comment suggested that the regulations should clarify whether payments made for more than one purpose or that yield multiple benefits are eligible for exclusion from gross income. The comment further indicated that water supply development should not be considered a component of water conservation but suggested that practices yielding incidental water supply benefits should not be excluded from eligibility purely on that basis.

Response. The rules have been modified to make it clear that applicable payments may be excluded from gross income to the extent that they are determined to be made primarily for one or a combination of the purposes listed in the rule and if they are also determined not to increase substantially the annual income derived from property associated with the payment.

The incidental benefits of practices installed with payments received under eligible programs are considered to be separate from the primary purpose of those payments. Incidental benefits, however, may affect the excludable portion of payments if they result in an increase in the annual income derived from property associated with the payments. Procedures for determining the portions of applicable payments that should be either excluded from or reported as gross income will be published by the Secretary of the Treasury.

(b) Ten comments suggested that the definition of State programs should be expanded to include substate political entities such as counties, special purpose districts, and interstate compact programs.

Response: As one of the alternatives to the proposed rule, we considered a definition of "State" that would have interpreted Section 543 as extending to payments received through programs of substate political entities. This definition is in accord with the recently enacted Technical Corrections Act, and has been incorporated into the final rule.

(c) One comment suggested that the language referring to "existing stands" of timber in § 14.5(e)(2) limits the situations under which payments for improving forests would be eligible for exclusion from gross income.

Response: The limitation was not intended. The reference to "existing stands" has been deleted from the rule.

(d) One comment suggested that the rule require States to report payments made to individuals to the Internal Revenue Service (IRS).

Response: IRS, not USDA, is authorized to promulgate rules concerning income reporting. This comment has been brought to their attention.

(e) One comment cautioned against extending the definition of wildlife habitat to favor conditions under which wildlife resources are expropriated for private use to the exclusion of their beneficial use by the general public. Moreover, limiting the definition of wildlife habitat to that of threatened or endangered species would tend to reduce the effectiveness of incentive payments intended to encourage private action to enhance wildlife resources for general public benefit.

Response: The definition of wildlife habitat in the final rule does not include habitat provided for species husbanded or otherwise cultivated for profit. It includes the establishment of physical and biological conditions that can reasonably be expected to support noncultivated and nondomesticated forms of animal and plant life of value to the public apart from the value that is captured as private economic gain. The definition includes, but is not limited to, the habitat of endangered or threatened species.

(f) One comment suggested that conservation cost-share payments should not be considered as income and thus should not be taxed.

Response: The Internal Revenue Code and previous tax rulings indicate that, in general, conservation cost-sharing payments should be included in gross income. The intent of Section 543 of the Revenue Act of 1978 is to allow cost-share payments to be excluded from gross income for tax purposes to the extent that they yield benefits to the public apart from those that accrue to the recipients of the payments. This rule provides a basis for carrying out the Secretary of Agriculture's responsibilities under that Act.

(g) Two comments questioned why the Secretary of the Treasury has to make a separate determination that payments do not increase substantially the income even though the Secretary of Agriculture has determined that the payments are made for one or more of the purposes listed in the Act. Another comment suggested that the primary purpose of soil and water conservation practices is to protect land from deterioration for public benefit. Therefore, increases in land values or productivity are incidental and should not be taxed.

Response: These comments go to the Act itself. The Act specifies that all or part of a payment can be excluded from gross income (1) if the Secretary of Agriculture determines that it is made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat and (2) if the Secretary of the Treasury determines that the payment does not increase substantially the annual income derived from the property.

(h) Once comment expressed concern that the provision of the Act that calls for a determination that payments do not increase substantially annual income may work against small farmers. Because small farmers tend to have small farm incomes, and increase in income may be significant to them but insignificant to a farmer with a larger operation.

Response: Because the Act states that the Secretary of the Treasury is to determine whether payments increase substantially annual income, this comment has been referred to the Treasury Department. The Department will work with Treasury to help make sure that the implementation of Section 543 does not work against small farmers.

(i) One comment recommended redefining forestry improvement to include all aspects of timber production.

Response: The definition of forestry improvement has been expanded to include actions, measures, or practices undertaken for the direct or indirect conservation or enhancement of timber resources. However, not all aspects of timber production, as for example harvesting, are considered bo be consistent with the Act. Consequently, the definition has been tailored to include only those silvicultural actions associated with establishing, maintaining, and enhancing timber resources.

(j) One comment questioned whether the definition of environmental protection should be broad enough to include payments made to correct natural conditions that aggravate man-caused or man-induced reductions or degradations in the external or extrinsic conditions directly or indirectly affecting people.

Response: The definition of environmental protection and restoration is intended to encompass all activities necessary to correct man-caused or man-induced problems in the natural environment. This includes actions to overcome natural conditions that aggravate man-caused or man-induced degradations as necessary to reestablish the natural conditions that existed before the man-caused degradations.

(k) One comment questioned whether public payments made for animal waste pollution abatement measures would be considered eligible for exclusion from gross income under the Act.

Response: A determination of the eligibility of payments for animal waste control measures for exclusion from gross income would be premature without first reviewing the circumstances under which the payments are made. The payments, however, will qualify for exclusion to the extent that they are determined to be made for one of the purposes listed in the Act and as not increasing substantially the annual income derived from the property.

Title 7, Subtitle A of the Code of Federal Regulations, is amended by adding Part 14 to read as follows:

PART 14—DETERMINING THE PRIMARY PURPOSE OF CERTAIN PAYMENTS FOR FEDERAL TAX PURPOSES

Sec.

14.1 Purpose.
14.2 Applicability.
14.3 Objective.
14.4 Policy.
14.5 Procedure.
14.6 Criteria for determining the primary purpose of payments with respect to potential exclusion from gross income.
14.7 Non-Federal programs and payments.

Authority: Sec. 543, Pub. L. 95–600; as amended by Sec. 105, Pub. L. 96–222; and 5 U.S.C. 301.

§ 14.1 Purpose.

(a) Part 14 sets forth criteria to be used by the Secretary of Agriculture in determining the primary purpose of certain payments received by persons under applicable programs. Determining the primary purpose for which applicable payments are made is one step toward the exclusion of all or part of the payments from gross income for Federal income tax purposes.

(b) The criteria set forth in Part 14 apply only to the determinations to be made by the Secretary of Agriculture.

§ 14.2 Applicability.

(a) Part 14 applies only to payments received under the programs listed in paragraphs (1) through (10). Payments received under programs not listed in paragraphs (1) through (10) are not considered eligible for exclusion from gross income under this part.

(1) The rural clean water program authorized by Section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

(2) The rural abandoned mine program authorized by Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 *et seq.*).

(4) The emergency conservation measures program authorized by Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*).

(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

(6) The Great Plains conservation program authorized by Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a *et seq.).*

(8) The forestry incentives program authorized by Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(9) Any small watershed program administered by the Secretary of Agriculture that is determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in paragraphs (1) through (8).

(10) Any program of a State, a possession of the United States, a political subdivision of a State or a possession of the United States, the District of Columbia, or a combination of any of the foregoing under which payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

(b) The criteria set forth in § 14.5 for determining the primary purpose of payments with respect to their eligibility for exclusion from gross income shall also be used to determine the applicability of this part to payments received under non-Federal programs as provided in § 14.2(a)(10).

§ 14.3 Objective.

The objective of the determinations made under Part 14 is to provide maximum conservation, environmental, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs.

§ 14.4. Policy.

Federal tax, conservation, natural resource, and environmental policies should complement rather than conflict with one another. Therefore, the Federal income tax liability on applicable payments should be reduced or eliminated to the extent that the payments yield conservation, environmental, forestry improvement, or wildlife benefits to the general public beyond the benefits that accrue to those who receive the payments.

V 45/173 SE 4 80 UMI

§ 14.5 Procedure.

(a) The portion of an applicable payment that may be excluded from gross income under Part 14 shall be that portion or all, as appropriate, that—

(1) Is determined to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat; and

(2) Is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property associated with the payment.

(b) *Primary purpose* means the principal, fundamental, predominant, or independent objective for which a payment is made. The following shall be considered in determining the primary purpose of a payment:

(1) *Single-purpose* payments shall be considered as having that purpose as their primary purpose.

(2) *Multiple-Purpose Payments.* If a payment is made for several purposes, it may be considered as having soil and water conservation, environmental protection or restoration, forestry improvement, or providing wildlife habitat as its primary purpose to the extent of the portion of the payment that is made for one or more of such purposes.

(3) Where a purpose of a payment, or portion thereof, is in doubt, the following sources should be considered—

(i) Authorizing legislation, legislative history, administrative regulation, administrative history, interpretive case law, and the administrative policies and procedures under which the applicable program operates and the payment is made; and

(ii) Agreements or other documentation accompanying the transfer of the payment;

(iii) Use made of the payment by the recipient.

§ 14.6 Criteria for determining the primary purpose of payments with respect to potential exclusion from gross income.

(a) *Soil conservation.* (1) Payments shall be considered to be made primarily for the purpose of soil conservation if they are intended to finance activities, measures, or practices to reduce soil deterioration.

(2) Soil deterioration refers to impairments of the physical or chemical properties of soil that are largely irreversible and that can be expected to result in a long-term or permanent reduction in the productive capacity of the resource regardless of the level of technology available or applied. Erosion by water and wind and the associated changes that result in permanent or long-term reductions in the productive capacity of the soil are forms of soil deterioration.

(b) *Water conservation.* (1) Water conservation includes actions that, for a given level of water supply, reduce the demand for or use of water by—

(i) Improving efficiency in use;

(ii) Reducing loss and waste;

(iii) Increasing the recycling or reuse of water, thereby making existing supplies available for other current or future uses; or

(iv) Improving land management practices for the purpose of reducing water use, loss, waste, increasing the efficiency of water use, or increasing the recycling or reuse of water.

(2) Payments shall be considered to be made primarily for the purpose of water conservation if they are intended to finance actions, measures, or practices that can be expected to result in water conservation as defined in paragraph b(1) of this Section.

(c) *Protecting the environment.* (1) Payments shall be considered to be made primarily for the purpose of protecting the environment if they are intended to finance actions, measures, or practices undertaken to prevent man-caused or man-induced reductions or degradations in the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people.

(2) External or extrinsic conditions refer to the complex of natural conditions or circumstances, including but not limited to those affecting public health and safety, in which people reside or otherwise carry out their lives.

(d) *Restoring the environment.* (1) Payments shall be considered to be made primarily for the purpose of restoring the environment if they are intended to finance actions, measures, or practices undertaken to reestablish, return, or enhance the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people that existed before the man-caused or man-induced degradation.

(2) External or extrinsic conditions have the same meaning with respect to restoring the environment as they do for protecting the environment.

(e) *Improving forests.* (1) Payments shall be considered to be made primarily for the purpose of improving forests if they are intended to finance actions, measures, or practices undertaken for the direct or indirect conservation or enhancement of the quantity or quality of timber resources.

(2) Improving forests includes the generation and regeneration of timber stands as well as the silvicultural improvement of such timber stands but excludes harvest cuttings not undertaken primarily for silvicultural improvement.

(f) *Providing habitat for wildlife.* (1) Payments shall be considered to be made primarily for the purpose of providing habitat for wildlife if they are intended to finance actions, measures, or practices leading directly to the establishment of those physical and biological conditions or resources that can be expected to support primarily noncultivated and nondomesticated animal and plant life. The animal and plant life must be of value to the public in their natural state apart from any value that may be realized from them as private economic gain.

(2) Wildlife includes but is not limited to species of terrestrial or aquatic animals and plants.

(3) Habitat includes, but is not limited to, the food supply, water supply, and nesting and escape cover necessary to support populations of wildlife species. Included in the definition of wildlife habitat are domestic crops raised for the primary purpose of providing food supply or cover for specific wildlife species.

§ 14.7 Non-Federal programs and payments.

(a) *Definition of non-Federal programs.* Non-Federal program means any program of a State, a possession of the United States, a political subdivision of any State or possession of the United States, the District of Columbia, or a combination of any of the foregoing.

(b) *Applicability.* Payments received through non-federal programs under which payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife may be considered for exclusion from gross income under Part 14.

(c) *Determining the primary purpose of non-federal payments.* The determination of the primary purpose for which non-Federal payments are made with respect to their potential for exclusion from gross income shall be made by using the criteria set forth in Part 14 for determining the primary purpose of Federal payments.

(d) *Procedure for determining the primary purpose of payments made under non-Federal programs.* (1) To initiate the process of determining the applicability of this part to payments received through non-Federal programs and the primary purpose of the payments for potential exclusion from gross income, the non-Federal official responsible for the program through which the payments are made should provide six copies of the following materials relating to the program to the Secretary of Agriculture—

(i) Authorizing legislation;

(ii) Rules or regulations;

(iii) Current policies and procedures under which payments are made and used;

(iv) A description of all practices or measures for which payments are made and used; and

(v) Any other information that may be helpful in determining the purpose for which payments, or portions thereof, are made and used.

(2) Any changes in the supporting documentation listed in paragraphs (d)(1)(i) through (d)(1)(iv) should be reported to the Secretary within 30 days of the date they become final.

Signed at Washington, D.C., August 27, 1980.

Bob Bergland,

Secretary.

[FR Doc. 80-27073 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 662; Valencia Orange Reg. 661, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 5–September 11, 1980, and increases the quantity of such oranges that may be so shipped during the period August 29–September 4, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective September 5, 1980, and the amendment is effective for the period August 29–September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-477-5975.

The committee met again publicly on September 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to be good.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrent a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

Section 908.962 is added as follows:

§ 908.962 Valencia Orange Regulation 662.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 5, 1980, through September 11, 1980, are established as follows:

(1) District 1: 374,000 cartons;

(2) District 2: 476,000 cartons;

(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

§ 908.961 [Amended]

2. Paragraph (a) in § 908.961 Valencia Orange Regulation 661 (45 F.R. 57363), is hereby amended to read:

(a) * * *

(1) District 1: 418,000 cartons;

(2) District 2: 532,000 cartons;

(3) District 3: Open Movement.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 3, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-27423 Filed 9-3-80; 12:23 pm]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

1980 Crop Grade Loan Rates—Burley Tobacco

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This rule sets forth the schedule of loan rates applicable to the various grades of 1980-crop burley tobacco so as to provide the level of support required by the Agricultural Act of 1949, as amended. Eligible burley tobacco can be delivered for price support at the specified rates.

EFFECTIVE DATE: September 4, 1980.

ADDRESS: U.S. Department of Agriculture, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Betty A. Lucas, ASCS, (202) 447-6733. The Final Impact Statement considered in developing this final rule is available on request from Robert L. Tarczy, Price Support and Loan Division (ASCS), Room 3754-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6733.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of these regulations contained in CFR 1464.21 for need, currency, clarity, and effectiveness is planned for the period May–July 1984.

The title and number of the Federal Assistance Program that the Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051. This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

On April 25, notice was published in the **Federal Register** (45 FR 27944) inviting written comments, not later than May 27, on the proposed national average loan level for 1980 burley tobacco.

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula requires that the 1980 crop of burley tobacco be supported at the level of 145.9 cents per pound.

Price support will be provided through loans to producer associations which will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which will average the required level of support when weighted by estimated grade percentages, in accordance with Section 403 of the Act. The price support advances for burley tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the associations are authorized to deduct and to apply against overhead costs.

Discussion of Comments

A total of three comments were received with respect to the burley tobacco program. Two recommended that the program be adopted as proposed, and one stated that the increase in support of 9.4 percent is unacceptably low.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.21 to read as set forth below, effective for the 1980 crop of burley tobacco. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

§ 1464.21 1980 Crop Burley Tobacco, Type 31, loan schedule.

[Dollars per 100 lb, farm sales weight]

Grade	Loan rate[1]
B1F	163
B2F	161
B3F	159
B4F	156
B5F	152
B1FR	162
B2FR	160
B3FR	158
B4FR	155
B5FR	151
B1R	159
B2R	157
B3R	155
B4R	152
B5R	146
B4D	133
B5D	128
B3K	145
B4K	143
B5K	137
B3M	153
B4M	144
B5M	135
B3VF	152
B4VF	144
B5VF	141
B3VR	147
B4VR	140
B5VR	134
B3GF	136
B4GF	134
B5GF	130
M1F	133
M2F	132
M3F	131
M4F	129
M5F	127
B3GR	133
B4GR	131
B5GR	127
T3F	152
T4F	146
T5F	138
T3FR	152
T4FR	146
T5FR	136
T3R	144
T4R	140
T5R	134
T4D	127
T5D	123
T4K	128
T5K	122
T4VF	134
T5VF	126
T4VR	128
T5VR	123
T4GF	123
T5GF	117
T4GR	123
T5GR	118
C1L	163
C2L	161
C3L	159
C4L	156
C5L	152
M3FR	129
M4FR	127
M5FR	123
N1L	117
N2L	110
C1F	163
C2F	161
C3F	159
C4F	156
C5F	152
C3K	142
C4K	136
C5K	130
C3M	154
C4M	152
C5M	141
C3V	146
C4V	141
C5V	135
C4G	130
C5G	122
X1L	162
X2L	160
X3L	158
X4L	153
X5L	148
X1F	162
X2F	160
X3F	158
X4F	153
X5F	147
X4M	142
X5M	132
X4G	126
X5G	120
N1F	114
N1R	113
N2R	107
N1G	104
N2G	96

[1] The loan rates listed are applicable to burley tobacco which is tied in hands or packed in bales and which is eligible tobacco as defined by the regulations. Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no-grade), or scrap will not be accepted. Cooperatives are authorized to deduct $1 per hundred pounds to apply against overhead costs.

(Secs. 4, 5, 62 Stat. 1020, as amended, (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1425, 1421, 1423).)

Signed at Washington, D.C. on August 26, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80–26897 Filed 9–3–80; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Republic Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat.

1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into an agreement with the following named carrier on the date indicated to guarantee the preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Republic Airlines, Inc. Effective date: August 6, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

§ 238.4 *Preinspection outside the United States*, the listing of transportation lines preinspected at Montreal is amended by adding in alphabetical sequence "Republic Airlines, Inc.".

(Secs. 103, 238(d); (8 U.S.C. 1103, 1228(b)))

Dated: August 28, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-27106 Filed 9-3-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-48]

Crude Oil Reseller Regulations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Technical amendment.

SUBJECT: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a technical amendment to the final rule issued by the ERA on July 29, 1980, which established a permissible average markup of twenty cents per barrel for crude oil resellers first doing business on or after December 1, 1977 ("post-November 1977 resellers"). Today's amendment will correct both the regulatory language of the self-correcting refund provisions set forth in the July 1980 final rule and the inadvertent omission from the final rule of the provisions of § 212.185(c) pertaining to the recertification of incorrectly certified crude oil.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearings Management), Economic Regulatory Administration, Room B-210, 2000 M Street, NW, Washington, D.C. 20461, (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.

Daniel J. Thomas (Office of Regulatory Policy), Economic Regulatory Administration, Room 7302, 2000 M Street, NW, Washington, D.C. 20461, (202) 653-3202.

William Funk or Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-6736 or 252-6739.

SUPPLEMENTARY INFORMATION: On July 29, 1980, we issued a final rule, to be effective September 1, 1980, establishing a twenty-cent permissible average markup for crude oil resellers that came into business after November 1977 (44 FR 52112, August 5, 1980). As part of that final rule we adopted a self-correcting refund mechanism, whereby resellers that had not had a permissible average markup since December 1977 would have a one-time opportunity to refund overcharges since that time and thereby cure any violations of our price regulations.

Due to a technical error, the regulatory language set forth in the July 1980 final rule failed to state correctly the new self-correcting refund provisions to be followed by post-November 1977 resellers. We are today adopting a corrective amendment to that final rule. Thus, when the self-correcting refund provisions become effective on September 1, 1980, they will provide, as explained in the preamble to the final rule, that if in any month between December 1977 and September 1980 (1) a post-November 1977 reseller's average markup exceeded the twenty-cent permissible average markup and (2) the prices charged by that reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil exceeded the prices at which such crude oil was priced in transactions of the reseller's nearest comparable reseller in the month, the reseller must refund to each purchaser which bought crude oil from the reseller during a given month an amount determined by multiplying the number of barrels of crude oil bought by that purchaser in the given month by the amount by which the reseller's average markup for that month exceeded the twenty-cent permissible average markup.

Paragraph (c) of § 212. 185 (*"Improper certifications"*) was inadvertently omitted from the July 1980 final rule. In order to correct this error, we are amending the final rule to reflect the retention of paragraph (c), *"Improper certifications"*, and to renumber the new self-correcting refund mechanism for post-November 1977 resellers (which the final rule set forth as § 212.185(c)) as a new paragraph (d) to § 212.185.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the ERA amends 10 CFR 212.185 as set forth below, effective September 1, 1980.

Issued in Washington, D.C., August 27, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

The amendment to 10 CFR 212.185 published in the **Federal Register** on August 5, 1980 is corrected to read as follows:

* * * * *

3. 10 CFR 212.185 is amended by the addition of a new paragraph (d) to read, effective September 1, 1980, as follows:

§ 212.185 Corrections for overcharges.

* * * * *

(a) *Overcharges in a month.* * * *

(b) *Successive overcharges.* * * *

(c) *Improper certifications.* * * *

(d) *Exception.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, if in any month between December 1977 and September 1980, (1) the average markup of a reseller which did not sell crude oil prior to December 1, 1977 exceeds the reseller's twenty-cent permissible average markup and (2) the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil exceeded the prices at which such crude oil was priced in transactions of the nearest comparable reseller in the month, the reseller must refund to each purchaser which purchased crude oil from the reseller during the month an amount determined in accordance with the following formula:

$R=(M_t-M_o)B_t$

Where,

t=the month of measurement;

R=the amount of the refund required;

M_t=the average markup for the month t;

M_o=the twenty-cent permissible average markup and;

B_t=the number of barrels of crude oil sold to each purchaser in the month t;

The refunds required by this section shall be made prior to or on November 30, 1980.

* * * * *

[FR Doc. 80-27110 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-5-AD; Amdt. 39-3906]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts an Airworthiness Directive (AD) that requires operators of Boeing 747 series airplanes to modify the leading edge flap primary and alternate drive unit control circuits in accordance with Boeing 747 Service Bulletin No. 27-2204 dated April 25, 1980.

These modifications are necessary because certain electrical power shorts could cause inadvertent extension of the Group A or B leading edge flaps. On certain 747 airplanes, inadvertent retraction as well as extension of these devices could also occur. Inadvertent extension at high cruise speeds may be hazardous due to possible structural damage. Inadvertent retraction at low speeds could be hazardous due to reduced aerodynamic lift.

DATE: Effective date October 9, 1980. Compliance time as described in the body of this AD.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION:

History

A boeing review of the failure analysis of the 747 leading edge flap drive system has disclosed that a single electrical fault could result in unscheduled operation of some of the leading edge flaps. To date, there have been no in-flight failures. A Notice of Proposed Rule Making (NPRM) was issued on March 31, 1980 (45 FR 20901), proposing a rule which would require all operators of 747 series airplanes to modify the leading edge flap primary and alternate drive unit control circuits in accordance with Boeing Service Bulletin No. 747-27-2204, dated April 25, 1980.

Public Participation and Discussion of Comments

All interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented.

Twelve parties commented on the proposed rule. Seven commenters concurred with the proposed rule, but requested up to three years for accomplishment. In view of the lack of adverse service history, the FAA has determined to extend the compliance time from 12 months to 24 months following the effective date of this AD. This time period will not compromise safety, nor will it be unduly burdensome to operators of the affected airplanes.

Four commenters questioned the necessity for the proposed rule, in view of the absence of reports of inadvertent leading edge device operation. The position of the FAA is that the failure analysis which demonstrated the possibility of inadvertent leading edge device operation constitutes sufficient justification for corrective action.

One commenter requested that the rule be limited to those aircraft which are susceptible to the failure resulting in inadvertent retraction of the leading edge flaps (those aircraft modified in production by PRR-79527). This commenter felt that the aircraft structure could withstand inadvertent extension of the leading edge flaps through the normal cruise speed range. One additional commenter maintained that unscheduled operation of the leading edge flaps would not result in a controllability problem. The position of the FAA is that inadvertent flap retraction at low speeds could be hazardous due to reduced aerodynamic lift. With respect to the inadvertent extension possibility, the FAA has no data establishing structural and operating mechanisms strength margins for the leading edge flaps at high cruise speeds.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 747 series airplanes, unless already accomplished:

Within the next 24 months from the effective date of this AD, modify the leading edge flap systems in accordance with Boeing Service Bulletin No. 747-27-2204, dated April 25, 1980, or a later FAA-approved service bulletin, or in a manner approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 3154(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The incorporation by reference provisions in this document were approved by the Director of the **Federal Register** on June 19, 1967.

Issued in Seattle, Washington, on August 25, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-26834 Filed 9-3-80; 8:45 am]

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14 CFR Part 39

[Docket No. 80-SO-45; Amdt. No. 39-3903]

Airworthiness Directives; Piper Models PA-23 and PA-31 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing Airworthiness Directive (AD), applicable to Piper Model PA-23 and PA-31 series airplanes, which requires inspection of the fuel control valves, fuel valve control cables and cable wires. This amendment continues the inspections but adds a preflight fuel selector valve check and requires installation and periodic replacement of lubricated O-rings in the Scott fuel selector valve. These changes are necessary based on additional adverse service experience.

DATES: September 8, 1980. Compliance schedule as prescribed in body of AD.

ADDRESSES: The applicable service bulletins and service letters may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lockhaven, Pennsylvania 17745.

A copy of the service information is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344, and in the docket in the Office of Regional Counsel, FAA Eastern Region, Jamaica, New York.

FOR FURTHER INFORMATION CONTACT: Gil Carter, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435, or Frank Covelli, Engineering and Manufacturing Branch, Eastern Region, Federal Building, JFK Airport, Jamaica, New York 11430, telephone (212) 995-2894.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3102 (43 FR 6411, AD 77-26-02, Docket No. 77-EA-73) which currently requires inspection of the fuel control cable wires, fuel valves, and fuel valve control cables. After issuing Amendment 39-3102, the FAA has determined, based on service experience, that in addition to the required inspections, it is necessary to conduct a preflight fuel selector valve check, and to replace the fuel selector valve O-rings at 1,000 hour intervals. Therefore, the FAA is superseding Amendment 39-3102 by continuing the inspection requirements for the fuel control cable wire, fuel valves and fuel valve control cables, by requiring an interim preflight fuel selector valve check, and by requiring periodic replacement of the fuel selector valve lubricated O-rings on certain PA-23 and PA-31 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation. Applies to all Models PA-23, PA-23-160, PA-23-235, PA-23-250, PA-E23-250, PA-31 PA-31-300, PA-31-325, PA-31-350, and PA-31P airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished. To prevent possible engine power loss due to malfunction of the fuel valves or fuel valve cable assemblies, accomplish the following:

(a) On Models PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-505 through 27-1999 and 27-2223 through 27-7305126; PA-31, PA-31-300 and PA-31-325, serial numbers 31-2 through 31-7300951; PA-31-350, serial numbers 31-5001 through 31-7305052; and PA-31P, serial numbers 31P-3 through 31P-7300147, equipped with Scott fuel selector valves, perform the following.

Note.—The requirements of paragraph (a) do not apply to those aircraft equipped with a Dukes valve.

(1) Prior to the next flight, and at intervals not to exceed 10 hours time in service until compliance with paragraph (c), check both right and left fuel selector valves for smooth and easy operation before starting engines. If either fuel selector valve exhibits binding, sticking or is otherwise difficult to operate, accomplish paragraph (c)(1) or (c)(2), as applicable, before further flight.

(b) On Models PA-23, PA-23-160; PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-1 through 27-7954089; PA-31, PA-31-300, PA-31-325, serial numbers 31-2 through 31-7612065; and PA-31P, serial numbers 31P-1 through 31P-7730004, which have accumulated 300 or more hours in service, accomplish the following within 100 hours' time in service after the effective date of this AD unless already accomplished within the last 100 hours, and thereafter at intervals not to exceed 100 hours' time in service.

(1) Visually inspect, using 10x power magnification, all fuel valve control cable wires at each swivel fitting and at idler control arm and actuating lever connections. Inspect for cracks, sharp radius bends and kinks in the control wires. Refer to Piper Service Bulletin No. 507 for inspection locations. Replace any cable inner wire that exhibits an adverse condition as described above with a like serviceable part.

(2) In accordance with Piper Service Bulletin No. 507 and the appropriate Piper Service Manual, inspect all fuel valves and control cables through all detent positions by having someone operate the fuel controls in the cockpit while inspecting for the following:

(i) Rigging and adjustment.

(ii) Unrestricted motion of cable wires, swivel fitting and valve actuating levers.

(iii) Proper lubrication of fuel valve attachments and controls. Correct any unsatisfactory conditions in accordance with the appropriate aforementioned Piper Service documents.

(c) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 900 hours, and thereafter at intervals not to exceed 1,000 hours time in service, accomplish the following:

Note.—The requirements of paragraph (c) do not apply to aircraft equipped with a Dukes valve.

(1) On Models PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-505 through 27-1999 and 27-2223 through 27-7305126; PA-31, PA-31-300, PA-31-325, serial numbers 31-2 through 31-7300951; and PA-31-P, serial numbers 31P-3 through 31P-7300147, equipped with Scott fuel selector valves:

(i) Gain access to the fuel selector valves in accordance with the appropriate Maintenance Manual.

(ii) Visually inspect the cable wires at the fuel selector valve swivel fittings by having someone operate the fuel controls in the cockpit while inspecting the swivel fittings and control wires.

(iii) If any evidence exists of the cable binding, bending, or kinking, replace the cable and carefully check the system rigging in accordance with the appropriate Maintenance Manual.

(iv) Remove and disassemble the Scott fuel selector valves in accordance with the Maintenance Manual, under the section entitled "Fuel System."

(v) Remove the existing valve spool "O" rings and install new ones contained in Piper Kit No. 760-504.

(vi) Reassemble the fuel selector valves and inspect for leaks in accordance with the Maintenance Manual.

(vii) Install the fuel selector valves in the aircraft and inspect for proper rigging and tank selection. Lubricate the external parts at the selector valve sprocket and control cable swivel fittings with an appropriate grease as specified in the Maintenance Manual.

(viii) Inspect for fuel leaks from the fuel selector valves and fittings.

(ix) Prepare the airplane for return to service in accordance with the Maintenance Manual.

(x) Make an appropriate maintenance record entry.

(2) For Model PA-31-350, serial numbers 31-5001 through 31-7305052, equipped with Scott fuel selector valves:

(i) Remove the access plates located forward of the main spar on the underside of the wings, between the wing and the fuselage.

(ii) Remove and disassemble the Scott fuel selector valves in accordance with the Maintenance Manual, under the section entitled "Fuel System."

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(iii) Remove the existing valve spool "O" rings and install new ones contained in Piper Kit No. 760–504.

(iv) Reassemble the fuel selector valves and inspect for leaks in accordance with the Maintenance Manual.

(v) Install the fuel selector valves in the aircraft and inspect for proper rigging and tank selection.

(vi) Inspect for fuel leaks from the fuel selector valves and fittings.

(vii) Install the access plates.

(viii) Make an appropriate maintenance record entry.

Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch may adjust the inspection intervals.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region or Eastern Region.

The checks in paragraph (a) of this AD may be accomplished by the pilot as provided in FAR 43.3h and appropriate maintenance record entries made in accordance with FAR 91.173. Inspections and component replacements must be accomplished by a person authorized by FAR 43.3.

Note.—Piper Service Letter 580 and Service Bulletin Nos. 277, 507, and 648 pertain to this subject.

This supersedes Amendment 39–3102, 43 FR 6411, AD 77–26–02.

This amendment becomes effective September 8, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on August 20, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80–26833 Filed 9–3–80; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Delegation of Authority To Disclose Confidential Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission is codifying the delegation to certain members of its staff of its authority to disclose to contract market officials the facts concerning any transaction or market operation, including the names of parties thereto, which disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers or consumers.

EFFECTIVE DATE: October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Joan L. Loizeaux, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–5543.

SUPPLEMENTARY INFORMATION: Under Section 8(a) of the Commodity Exchange Act, as amended ("Act"), the Commission generally may not publish information in its possession "* * * that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers * * *."[1] In enacting this provision, Congress sought to protect the legitimate interests of market participants, by according confidential treatment to information regarding their business activities.[2]

However, Congress has also determined that the general need for confidentiality is outweighed by the need for disclosure to the appropriate committee or officer of a contract market in certain circumstances. Section 8a(6) of the Act specifically authorizes the Commission:

> "* * * to communicate to the proper committee or officer of any contract market, notwithstanding the provisions of section 8 of the Act, the full facts regarding any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers * * *."[3]

Both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry expressly recognized the importance of communication between Commission and contract markets under Section 8a(6) in their reports on the 1978 amendments to the Act.[4]

In a **Federal Register** notice published on April 10, 1979, the Commission proposed to codify its existing practices delegating authority to certain members of its staff to make disclosures under Section 8a(6) and to specify certain additional conditions under which disclosure could be made. 44 FR 21295. The Commission received five comments on the proposed rule.

The Commission had proposed that no contract market official would be permitted to receive information pursuant to Section 8a(6) unless that official had signed a statement that the official would not permit the information to be further disclosed, except to accomplish the purpose for which the information was furnished, or to be used for the official's own direct or indirect benefit. The Commission had proposed this requirement to emphasize the responsibility of contract market officials to guarantee the confidentiality of the information which they receive. The Commission also noted that Section 9(e) of the Act makes it a felony punishable by a fine of up to $100,000 or imprisonment for five years, or both, for any person to acquire from any Commissioner or from any Commission employee non-public information that may affect or tend to affect the price of any commodity or commodity future and use the information in any commodity future, cash or option transactions.[5]

Four commentators objected to the proposed signed statement requirement. The commentators generally suggested that the requirement was burdensome, indicated a lack of trust in exchange personnel, and in view of Section 9(e), was unnecessary. Two commentators proposed instead that the chief executive officer of each contract market submit a list of the names, addresses, and phone numbers of the officials who are authorized to make requests or receive information. One commentator also expressed concern that, if the information could be disclosed only for the "purpose" for which it was furnished, a related contract market surveillance program or investigation might be hampered.

The Commission believes that the proposed alternative will satisfactorily insure that confidential information will be provided only to the appropriate persons. Under the rule 140.72 as adopted, the chief executive officer will be required to provide the original list to the Secretary of the Commission and the appropriate Regional Coordinator by October 15, 1980. The chief executive officer will also be required to notify the Commission of additions or deletions from the list of officials authorized to receive confidential information. The

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[1] Section 8(a) of the Commodity Exchange Act, as amended, Pub. L. 95–405, Sec. 16, 92 Stat. 873 (1978).

[2] See, e.g., 61 Cong. Rec. 1321 (1921) (remarks of Congressman Kincheloe).

[3] Section 8a(6), 7 U.S.C. 12a(6) (1976), as amended, Pub. L. 95–405, Sec. 17, 92 Stat. 874 (1978).

[4] H. R. Rep No. 95–1181, 95th Cong., 2d Sess. 18–19 (1978); S. Rep. No. 95–850, 95th Cong., 2d Sess. 29–30 (1978).

[5] Section 9(e) of the Act, 7 U.S.C. 13(e) (1976), as amended, Pub. L. 95–405, Sec. 19, 92 Stat. 875 (1978).

Commission is further of the view that neither Section 8a(6) or 9(e) of the Act would prevent a contract market official from disclosing confidential information to the official of another contract market in connection with their mutual self-regulatory responsibilities.

The Commission had also proposed that "contract market officials" authorized to receive information would include the chairman of the contract market's business conduct or control committee, or of any committee having similar responsibilities, any member of the committee designated by the chairman, the chief executive officer of the contract market, and any officer of the contract market who is specifically charged with the supervision of the general business conduct of the members of the contract market or of the contract market's audit and investigative staff. Two commentators objected that the Commission's proposed definition was too narrow. One commentator suggested that the definition be expanded to include "all Board Members and Officers of the Exchange and exchange counsel."

Section 8a(6) limits the Commission's ability to communicate confidential information "to the proper committee or officer of any contract market." The Commission sought in its proposed definition of "contract market official" to include all persons who might be expected to have a need for confidential information. However, the Commission recognizes a particular contract market may have various officials responsible for market surveillance activities. In order to permit contract markets maximum flexibility, therefore, the Commission has amended its proposal to provide that confidential information may be furnished to any contract market officer or committee member who is specifically charged with market surveillance or audit or investigative responsibilities and who is named on the list submitted by the contract market's chief executive officer.[6]

Two commentators objected to the proposed requirement that disclosure would not be made to a contract market official unless the delegated Commission employee determined that the contract market could not otherwise obtain the information without unreasonable delay. Commentators pointed out that such a requirement might impede the timely flow of information between the Commission and the contract market. The Commission concurs with these comments and has deleted this requirement.

One commentator noted that information that does not separately disclose business transactions or market positions of any person and trade secrets or names of customers may be disclosed under the Commodity Exchange Act without the Commission or its delegatee making the findings required by Section 8a(6). The Commission by its delegation is seeking only to insure a prompt exchange of confidential information with the contract markets. The Commission will continue to provide and solicit information which does not separately disclose information required to be kept confidential by Section 8 of the Act.

One commentator suggested that the Commission delete proposed rule 140.72(c) which provides that a Commission employee delegated Section 8a(6) authority may submit to the Commission the question of whether disclosure should be made. The commentator suggested that this was merely internal procedure and might tend to impede the release of information.

The Commission has determined to retain this paragraph. The members of the staff to whom the Commission has delegated this authority are highly expert and are competent to make the judgment whether confidential information should be disclosed. Indeed it is precisely because of their expertise, that these employees will also recognize those circumstances in which a Commission determination might be appropriate before confidential information may be released.

The Commission has determined expressly to delegate the authority to disclose confidential information to several additional staff employees to reflect recent reorganizations within the Commission.

In consideration of the foregoing, the Commission pursuant to its authority contained in Section 2(a)(11), 8a(5) and 8a(6) of the Commodity Exchange Act, 7 U.S.C. 4a(j), 12a(5), and 12a(6) (1976), as amended, Pub. L. 95–405, Sec. 17, 92 Stat. 874 (1978), hereby amends Part 140 of Chapter I of Title 17 of the Code of Federal Regulations by adopting a new § 140.72 to read as follows:

§ 140.72 Delegation of authority to disclose confidential information.

(a) Pursuant to the authority granted under Sections 2(a)(11), 8a(5), and 8a(6) of the Commodity Exchange Act, the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, the Director of the Division of Trading and Markets, the Deputy Directors of the Division of Trading and Markets, the Chief Accountant, the Director of the Division of Economics and Education, the Deputy Directors of the Division of Economics and Education, the Director of the Market Surveillance Section, the Director of the Division of Enforcement, the Deputy Directors of the Division of Enforcement, each of the Regional Coordinators, and each of the Directors of the Market Surveillance Branches, the authority to disclose to a contract market official the full facts concerning any transaction or market operation, including the names of the parties thereto, which in the judgment of the Commission employee, disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers. A Commission employee delegated authority under this section may exercise that authority on his or her own initiative or in response to a request by a contract market official.

(b) Disclosure under this section shall only be made to a contract market official who is named in a list filed by the chief executive officer of the contract market, which sets forth the contract market official's name, business address and telephone number. The chief executive officer shall thereafter notify the Commission of any deletions or additions to the list of contract market officials authorized to receive disclosure under this section. The original list and any supplemental list required by this paragraph shall be filed with the Secretary of the Commission, and a copy thereof shall also be filed with the Regional Coordinator for the region in which the contract market is located. The original list required by this paragraph shall be filed on or before October 15, 1980.

(c) Nothwithstanding the provisions of paragraph (a), in any case in which a Commission employee delegated authority under this section believes it appropriate, he or she may submit to the Commission for its consideration the question of whether disclosure of information should be made.

(d) For purposes of this section, the term "contract market official" shall mean any officer or member of a committee of a contract market who is specifically charged with market

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[6] The Commission does not believe that counsel who is not a contract market officer or committee member is a "proper committee or officer" within the scope of Section 8a(6). The Commission will not object, however, if, when confidential information is transmitted to an appropriate contract market official, the attorney is present or subsequently receives the information in the performance of his or her duties.

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surveillance or audit or investigative responsibilities and who is named on the list filed pursuant to paragraph (b) of this section or any supplement thereto.

(Secs. 2(a), 8a, 49 Stat. 1500, as amended, 88 Stat. 1392, 92 Stat. 874; 88 Stat. 1391 (7 U.S.C. 4a, 12a))

Issued in Washington, D.C., on August 27, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-27111 Filed 9-3-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Fresh Cut Roses From Israel; Final Countervailing Duty Determination and Countervailing Duty Order

AGENCY: International Trade Administration, United States Department of Commerce.

ACTION: Final Countervailing Duty Determination and Countervailing Duty Order.

SUMMARY: The Department of Commerce has determined that the Government of Israel confers benefits upon the production or export of fresh cut roses which constitute bounties or grants within the meaning of the countervailing duty law. Future imports of this merchandise will be subject to the payment of countervailing duties. The table in section 355, Annex III of the Commerce Regulations is being amended.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, DC 20230 (202-377-3003).

SUPPLEMENTARY INFORMATION:

Procedural Background

On November 16, 1979, the Department of the Treasury received a petition in satisfactory form on behalf of domestic rose growers alleging that the Government of Israel confers certain benefits upon production or export of fresh cut roses which are bounties or grants (subsidies) within the meaning of section 303, Tariff Act of 1930, as amended [19 U.S.C. 1303] (the Act). Treasury did not initiate an investigation before January 2, 1980, when authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce. The Department of Commerce published a Notice of Initiation of Investigation in the **Federal Register** on February 1, 1980 (45 FR 7273).

The Department published a Notice of Postponement of Preliminary Determination in the **Federal Register** on March 14, 1980 (45 FR 16522), because this case was determined to be "extraordinarily complicated." On June 10, 1980, the Department published a notice of "Preliminary Countervailing Duty Determination" in the **Federal Register** (45 FR 39325). That determination stated that the rose industry received subsidies estimated to be 3.8 percent of the f.o.b. value of the merchandise.

Israel is not a "country under the Agreement" within the meaning of section 701(b) of the Act [19 U.S.C. 1671(b)]. Accordingly, section 303 of the Act applies to this investigation, and, because rose imports are dutiable, there will be no injury determination by the International Trade Commission.

Imports covered by this investigation are cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

Nature of Israeli Cut Flower Industry

There are approximately 1,200 commercial flower growers. They are, for the most part, family enterprises working small plots of land. Growers in close proximity to one another often join together to form "moshavs", or grower cooperatives.

The growers produce primarily for export. Roses accounted for approximately 33.5 percent of total fresh cut flower exports by value and most roses were exported. Only those flowers which do not meet export standards and a small number of flowers grown in the summer for the local markets are sold domestically, and there are no verifiable figures for these sales. Accordingly, although we allocated benefits conferred under certain programs over total rose production for the purpose of the preliminary determination, we have concluded that benefits in this case should properly be allocated over exports only. In addition, various calculations in the preliminary determination were based on the assumption that roses accounted for 13.5 percent of total flower production. On verification, we discovered that this figure was based on acreage devoted to rose production and is not related to value.

The growers have formed an Ornamental Plants Production and Marketing Board (the Board) to aid in developing flower, bulb, and ornamental plant products, to oversee the marketing of flowers (both domestically and for export), and to support agricultural research, among other functions. The Board is a nonprofit organization funded by the growers with representation from both the government and the private sector.

The Board oversees the export of over 120 floral products, including roses. It collects the flowers from the growers and delivers them to central packing houses, where they are sorted and graded according to international standards. There are twelve packing houses, eight of which process roses. After the roses are sorted and packed, they are transported to an air freight facility at Ben Gurion International Airport owned by AGREXCO, Agricultural Export Company Limited. AGREXCO assumes responsibility for exporting flowers at the airport facility and for marketing the flowers abroad. Approximately 90% of all fresh cut rose exports are exported by AGREXCO.

AGREXCO exports all types of agricultural products. Fresh cut roses are, accordingly, only a part of its overall business. AGREXCO is a "mixed" company as defined by sections 1(a) and 58(a) of the Government Companies Law. Eight of the shares in AGREXCO are held by the Government of Israel; the remaining nine are held by various agricultural cooperatives and marketing boards (one of which is the Board).

AGREXCO and the packing houses operate in a manner similar to cooperatives, i.e., as agents for the growers. They deduct from gross sales receipts an amount for commissions, which covers operating expenses, and pass all other income on to the growers.

The agricultural and tax year for flower growers is October 1 through September 30. The actual production and exportation period for flowers runs from October through May. During the hot summer months the plants are cut back in order to prepare them for the production of blooms during the winter. Only a small number of growers produce blooms during the summer for local markets. The October 1978 through September 1979 growing year is the period investigated in this case.

Programs Investigated

The petitioner has alleged that fresh cut roses from Israel benefit from a variety of subsidies.

Where we received sufficient evidence to support the allegations, or discovered evidence of subsidies in the course of our investigation, we have included the programs involved within the scope of the investigation. However, for certain programs which petitioner has claimed are subsidies, we have neither received, nor discovered ourselves, adequate evidence to support the allegations made. This has been the case, for example, with allegations concerning the provision of infrastructure services (e.g. water via aquaduct). Absent evidence of clearly special treatment to a particular enterprise or industry, which might make such services a domestic subsidy as defined in section 771(5)(B) of the Act, we consider these services to be a normal function of government and not a subsidy.

Programs Found to Be Subsidies

Of the programs investigated, we have determined that the following are subsidies within the meaning of the countervailing duty law.

1. Certain benefits conferred under the Law for the Encouragement of Capital Investment (ECIL).—The ECIL was enacted in 1959 and has been amended from time to time. The stated purpose of this law is to encourage capital investment through the use of various financial and fiscal incentives in order to promote economic development, improve the balance of payments, and aid in the absorption of immigrants. Various ECIL benefits at issue in this case are export subsidies under the Act (i.e. are designed to promote exports or are tied to export performance); others involve domestic subsidies, as defined in section 771 of the Act.

Individual industries or enterprises must apply for Government approval of their projects to become eligible for ECIL benefits. AGREXCO and five packing houses have been approved. Growers, however, have not been approved. Under the ECIL, AGREXCO was approved on December 21, 1971. The five packing houses were approved on the various dates: Azata on March 11, 1977; Maboim and Pirchei Haemek on April 4, 1978; Kochav on May 28, 1979; and Yael on November 1, 1979.

The following benefits are provided under the ECIL:

A. Five-year exemption from payment of ⅔ of the property tax on buildings for approved enterprises; and

B. Ten-year exemption from payment of ⅙ of the property tax on equipment used by an approved enterprise.

These two programs were repealed with the publication of Amendment 17 to the ECIL on August 1, 1978. However, AGREXCO and three packing houses approved prior to the repeal are still eligible to receive benefits under the programs. Both programs involve clearly preferential tax treatment available only to selected enterprises under a law expressly intended to stimulate investment in projects which promote the objectives of the law. Moreover, the eligibility of the packing houses was made contingent on export performance.

The actual value to AGREXCO and the packing houses of a reduction in property taxes on buildings depends, first, on whether they are liable for such taxes and, if they are, on the amount of the tax due according to the normal rate. Neither AGREXCO nor the packing houses paid property taxes on buildings for the 1978/79 tax year. There is a question of Israeli law, as yet unresolved, as to AGREXCO's liability. The packing houses appear to be clearly liable, but because their buildings have not yet been assessed, their tax liability can, at this time, only be estimated.

Pending resolution of the legal issues concerning AGREXCO's liability for property taxes on buildings, we have found a zero subsidy rate. When the question of tax liability is settled, we will, if necessary, adjust this rate.

We have estimated the benefit to the packing houses by taking the difference between the preferential rate under ECIL and the normal tax rate on buildings and applying that to the current value of their buildings (as determined from information developed during the investigation). We then allocated 33.5 percent (the proportion of total flower exports accounted for by roses) of this estimated tax savings over rose exports during the 1978/79 growing year. On this basis we have found a subsidy of 0.03 percent. When assessed values of the buildings become available, recalculation may be necessary.

Both the packing houses and AGREXCO benefit from the reduction in property taxes on equipment. This tax is computed on the basis of the actual cost of equipment, rather than its assessed value.

For AGREXCO, we calculated the tax saving by multiplying the difference between the ordinary rate and the preferential rate by the value of the equipment eligible for exemptions under ECIL, as shown on AGREXCO's tax return. Because this equipment is used for all of AGREXCO's exports at the Ben Gurion facility, we multiplied the amount of tax saving by 24 percent, the portion of AGREXCO's shipments through this facility attributable by value to roses.

For the packing houses, we calculated the savings to Azata according to figures contained in its tax return; the savings for the other two packing houses were based on equipment values provided by the Board. Of the total savings for packing houses, 33.5 percent (the proportion of total flower exports accounted for by roses) was allocated to roses. We allocated this percentage of the sum of tax savings on equipment for AGREXCO and the packing houses for the 78/79 year over rose exports for that growing year. This calculation resulted in an amount for the subsidy equal to .006 percent of the f.o.b. value of roses.

C. Cash payments related to the cost of the property of an approved enterprise;

D. Cash payments related to the price of machinery and equipment of an approved enterprise.

Payments under these programs are direct subsidies contingent upon export performance. Two of the packing houses received payments since 1977 which provided benefits during the investigatory period. In computing the amount of the subsidy, we have allocated the payments on an annual basis over the first half of the useful life (as represented by engineers and technical advisors to the Board) of the assets purchased. We then took 33.5 percent of the 1978/79 figure to account for that portion of total flower exports attributable to roses and divided this by 1978/79 rose exports. On this basis, we have found a subsidy of 0.09 percent of the f.o.b. value of rose exports.

For these programs and certain others discussed below, the methodology—allocation of the benefit on a straight line basis over half of the useful life of the assets—is the same as that used in the preliminary determination. This is the traditional method of allocation for a nonrecurring grant which confers an immediate competitive benefit. We have determined that such a benefit is conferred here because these cash payments enabled the recipients to purchase capital assets essential to the operation of the flower industry. In considering whether or not this method reasonably allocates the benefits received, we compared the results of allocation on a straight line basis over half the useful life of the assets purchased with calculations based on "sum of the years digits"—a standard accounting method for determining asset depreciation for tax purposes. The results were substantially similar for 1978/79.

E. Accelerated depreciation for machinery, equipment and buildings

F. Direct tax reduction and/or exemptions

Under the first program, machinery and equipment of enterprises eligible for ECIL benefits may be depreciated at a rate equal to 200 percent of the normal rate of depreciation under Israeli income tax rules, and buildings may be

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depreciated at a rate equal to 400 percent of the normal depreciation rate. Under the second program, a maximum company tax rate is placed on the taxable income of approved enterprises.

As with other instances of preferential tax treatment, the benefit involved depends on the tax burden of the beneficiary in any given year. AGREXCO is eligible for both the accelerated depreciation and the tax reduction/exemptions. However, because of loss carry forward, AGREXCO paid no income taxes for the 1978/79 growing year. We have recalculated AGREXCO's tax liability discounting the effect of accelerated depreciation and still found no tax liability. Thus, while there was no benefit to AGREXCO from either program in 1978/79, the situation may change in subsequent years. Accordingly, we have determined that while AGREXCO's eligibility for these tax benefits is a subsidy, the amount of the subsidy is zero for the investigatory period.

Four of the packing houses were approved under ECIL prior to September 30, 1979, and thus were eligible for benefits under both programs. Only one, Azata, has filed a tax return for 1978/79. The return and attached documents show that Azata took accelerated depreciation on buildings both in order to determine depreciation charges to be passed on to the growers and for income tax purposes.

The benefit received by Azata was (1) the savings attributable to the lower tax rate (i.e. 40 percent preferential rate as opposed to 61 percent ordinary rate) and (2) the savings attributable to accelerated depreciation. To calculate the benefits to Azata of accelerated depreciation, we took the difference between the taxable profit computed using accelerated depreciation and the taxable profit which would result had Azata used ordinary depreciation. We then applied the ordinary tax rate of 61 percent to the difference. Azata also was able to apply a preferential tax rate, 40 percent, to its taxable profit. The benefit accruing to Azata under this program is equal to the difference in taxes which would be due under the two rates. We added the benefits under the two programs and multiplied that sum by 33.5 percent, the amount of flower exports accounted for by roses.

There are no tax returns available for the other three packing houses. It is impossible to determine how depreciation is handled by these enterprises without access to tax returns and supporting documents. In the absence of tax returns, we have assumed that the packing houses could benefit from accelerated depreciation. We have used the best information available, that supplied by the Board and the other packing houses, to determine the value of the assets. In calculating the benefit accruing to the three packing houses, we assumed that accelerated depreciation was taken on the entire range of the assets. We based our calculations on ordinary rates of 4.0 percent for buildings and 7.0 percent for equipment (since we have no breakdown of equipment, we used the percentage for general equipment as shown in Israeli tax tables). The benefit conferred through accelerated depreciation is the amount of income tax saved because of reduced taxable income resulting from the use of such accelerated depreciation. We calculated this amount by applying the normal industrial tax rate in Israel, 61 percent, to the estimated amount represented by the accelerated depreciation, which we assumed would be profit. We multiplied this result by 33.5 percent to account for that proportion of flower exports accounted for by roses. This figure, plus that calculated for Azata, equals that net benefit realized under these two programs. We allocated it over total rose exports, resulting in a net *ad valorem* benefit of 0.71 percent.

Without tax returns for three of the eligible packing houses, we cannot determine whether they would have any additional taxable income which might benefit from direct tax reduction/exemption. Azata's tax return indicates that its net benefit from this program is .0014 percent of the value of rose exports. The low figure for Azata, along with the statements from the packing houses that their objective is to break even, suggests that the benefit from direct tax reduction/exemption is insignificant to the three packing houses for which we have no tax returns. Based on this information, we determine that although the packing houses' eligibility for this program is a potential subsidy, the amount of the subsidy is zero for the investigatory period.

2. Cash Payments from the Export Promotion Financing Fund.—Under this program the government of Israel compensates exporters for export expenses, such as advertising, merchandising and public relations. These payments are direct export subsidies. We were unable to verify amounts paid on total exports of flowers. However, we have verified the sales promotion budget (supplied by the Israeli Ministry of Agriculture) for flower exports to the United States for 1978/79. We have calculated the *ad valorem* benefit of this program by multiplying the budget amount by 33.5 percent (the proportion of flower exports represented by roses) and dividing the result by the dollar value of rose exports to the United States. On this basis, we have found a subsidy of 0.67 percent of the f.o.b. value of the merchandise.

3. Government Funding of AGREXCO.—AGREXCO received a government development grant in 1969 for an export facility at Ben Gurion Airport. This grant involves government assumption of distribution costs for rose exports and therefore is a subsidy under U.S. countervailing duty law. However, the amount of the subsidy is insignificant (the net benefit is 0.0004 percent of the f.o.b. value of rose exports during 1978/79). To calculate the benefit, we amortized the grant on a straight line basis over 25 years (half of the life of the facility). We then allocated 24 percent of the result for the 1978/79 growing year (that portion of total AGREXCO exports attributable to roses) to rose exports.

4. Cash Payments to Growers for Greenhouses.—Growers of fresh cut flowers are entitled to receive direct cash payments to build greenhouses. Approximately 90 percent of a total of 1105 grants were actually disbursed between 1975 and 1979. These payments involve a clear assumption by the government of costs of production of roses and, accordingly, are a subsidy within the meaning of our countervailing duty law.

We calculated the amount of the benefit by taking 33.5 percent of the total payments and allocating the result on a straight line basis over 10 years (half of the useful life of the greenhouses, as stated by a Ministry of Agriculture engineer who specializes in the design and construction of greenhouses). We then allocated the benefit attributable to the 1978/1979 growing season over 1978/1979 rose exports. The amount of the subsidy is equal to 0.364 percent of the f.o.b. value of the merchandise.

5. Cash Payments to Packing Houses.—The packing houses receive cash payments from the Ministry of Agriculture for buildings and equipment. Through these payments the government assumes distribution costs for flower exports. Four packing houses received grants during the period of investigation. We allocated the payments on a straight line basis over twelve and one-half years (half the useful life of the assets purchased) and then took 33.5 percent of the benefit attributed to growing year 78/79 and allocated that over 78/79 rose exports. On this basis, we have found a subsidy in the amount of 0.15 percent of the f.o.b. value of the merchandise.

Programs Found Not in Effect or Not Used

1. Payment of grants equal to a percentage of export value added. According to the Israeli Government, this program was abolished in 1978.

2. Refund for governmental participation in marketing. These refunds were abolished in 1977, as shown in the October 28, 1977, minutes of the session of the Israeli Government.

3. Cash rebates to exporters for every dollar of export sales. These rebates were abolished in 1977, as shown in the October 28, 1977, minutes of the session of the Israeli Government.

4. Regional relocation programs. These programs are part of the ECIL, which is discussed above. Growers are not "approved enterprises" under ECIL and therefore are not eligible for such benefits.

5. Government backed minimum price program. We compared records of export prices for 78/79 to minimum export prices established by the Ministry of Agriculture and found the market prices to be higher than the support prices. Therefore, no benefit was conferred during the investigatory period.

6. Refund of a portion of export insurance premiums. AGREXCO self-insures its rose shipments.

Programs Found Not to be Subsidies

The following government programs affecting the cut flower industry are not subsidies within the meaning of the countervailing duty law;

1. Rebate of the Value Added tax and other indirect taxes incurred in producing roses—Non-excessive rebate of indirect taxes is not a subsidy. We examined applications for tax refunds which showed that the refunds did not exceed the taxes collected.

2. Government participation in research and development—Research and Development concerning flowers is conducted at Hebrew University of Jerusalem, Rehevot, and the Volcani Institute of Agricultural Research. Information available to the Department indicates that this research and development concerns a broad range of topics, from developing new strains of flowers to devising new shipping techniques. A main topic of research is energy conservation, a subject of universal applicability.

Furthermore, dissemination of the results of this research and development is not restricted to growers, packers and shippers in Israel, but is available to the general public. The results of the research are useful to growers abroad and, in fact, have been provided to members of Roses Inc., the petitioner in this investigation. In view of these facts, we have determined that this program is not a subsidy within the meaning of the countervailing duty law.

3. Government funded extension services—The Government of Israel, through the Ministry of Agriculture, provides extension services to the agricultural sector. These services consist of various programs designed to assist farmers in such areas as production economics, water and soil use, farm mechanization, plant protection and applied research. In addition, training courses are provided for new farmers. These services are available to all sectors of agriculture and are not directed exclusively to rose growers or any other sector of agriculture. Further, similar agricultural services are provided in many other countries and are considered a normal function of government. We determine that these extension services are not subsidies within the meaning of the countervailing duty law.

4. Government support of the Ornamental Plant Production and Marketing Board—The board is funded by growers with no budget contribution by the Government.

5. Preferential financing of working capital and of accounts receivable for AGREXCO—AGREXCO, acting as agent for growers, receives financing for working capital and export accounts. However, this financing is provided on terms that are efffectively non-preferential. These government-sponsored loans, though offered at low nominal rates, are linked to inflation rates. The average effective rate was higher than commercial rates for comparable loans.

Verification

We verified the information used in reaching this determination through examination of Government laws, documents and correspondence; corporate and bank books and records; tax returns; legal, accounting, and engineering opinions; meetings with Israeli Government, corporate and university officials; and consultation with United States Government officials of other agencies who are familiar with specific programs at issue in this case.

Determination

I hereby determine that the Government of Israel provides bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act and that the aggregate net amount of these benefits equals 2.02 percent of the f.o.b. value of the exported merchandise.

Three programs, reduction in property taxes on buildings for AGREXCO, accelerated depreciation for AGREXCO and direct tax reduction or exemption for AGREXCO and three packing houses, are subsidies with a current value of zero percent.

The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). A hearing was held on July 15, 1980. In addition, we received written views in accordance with § 355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 FR 4946).

Customs officers are hereby directed to continue the suspension of liquidation ordered in the preliminary determination. They are further directed, pending the receipt of advice from the Secretary of Commerce, to assess within six (6) months after the date on which the Secretary receives satisfactory information on which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period within which the merchandise is entered or withdrawn from warehouse for consumption, countervailing duties on entries of fresh cut roses from Israel on which liquidation has been suspended, equal to the amount of the net subsidy determined to exist.

Effective September 4, 1980 and until further notice, deposit of estimated countervailing duties shall be required at the time of entry, or withdrawal from warehouse, for consumption. The amount to be deposited is 2.02 percent of the f.o.b. value of the merchandise. Annex III Part 355 of the Department of Commerce Regulations (19 CFR Part 355) is amended by inserting an entry for Israel in the "country" column and the words "fresh cut roses" in the column headed "commodity", the **Federal Register** citation of this notice in the column headed "Treasury Decision" and the words "Net Subsidy Declared—Rate" in the column headed "Action".

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e), and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

Robert E. Herzstein,

Under Secretary for International Trade.

August 28, 1980.

[FR Doc. 80-27155 Filed 9-3-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, and 301

[T.D. 7718]

Treatment of Certain Elderly Care Facilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of private foundations that maintain certain elderly care facilities. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations provide private foundations with the guidance needed to comply with that Act and affect private foundations that provide long-term care facilities for disabled persons, elderly persons, needy widows, and children.

DATES: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT: Charles Kerby of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:EE-2-79 (202-566-3422) (not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 24, 1980, the **Federal Register** published proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(j)(6) of the Internal Revenue Code of 1954 (45 FR 18973). The amendments were proposed to conform existing regulations to section 522 of the Revenue Act of 1978 (92 Stat. 2885). In the same document, deletions were proposed to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to reflect the repeal of section 6050 of the Code by section 5 of the Act of December 29, 1979 (Pub. L. No. 96-167; 93 Stat. 1275). The only comment received from the public on the proposed regulations supported the issuance of the regulations in final form.

Drafting Information

The principal author of this regulation is Charles Kerby of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942 (j)(6), and the proposed deletions to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 53), as published in the **Federal Register** on March 24, 1980 (45 FR 18973), are adopted without change. The regulations are adopted under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 25, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.6050-1 [Deleted]

Par. 1. Section 1.6050-1 is deleted.

PART 53—FOUNDATION EXCISE TAXES

Par. 2. Section 53.4942(b)-(1) is revised to read as follows:

§ 53.4942(b)-1 Operating foundations.

(a) *Operating foundation defined*—(1) *In general.* For purposes of section 4942 and the regulations thereunder, the term "operating foundation" means any private foundation which makes qualifying distributions (within the meaning of § 53.4942(a)-3(a)(2)) directly for the active conduct of activities constituting its charitable, educational, or other similar exempt purpose equal in value to substantially all of its adjusted net income (as defined in § 53.4942(a)-2(d)) and which, in addition, satisfies the assets test, the endowment test or the support test set forth in § 53.4942(b)-2(a), (b) and (c).

(2) *Certain elderly care facilities described in section 4942(j)(6)*—(i) *In general.* For purposes of the distribution requirements of section 4942 (but no other provision of the Internal Revenue Code) and for taxable years beginning after December 31, 1969, the term "operating foundation" includes a private foundation which—

(A) On or before May 26, 1969, and continuously thereafter to the close of the taxable year, operates and maintains, as its principal functional purpose, residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, and

(B) Satisfies the endowment test set forth in § 53.4942(b)-2 (b).

(ii) *Principal functional purpose.* For purposes of section 4942(j)(6) and this subparagraph (2), an organization's "principal functional purpose" is operating and maintaining residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, if it is organized for the principal purpose of operating and maintaining such residential facilities and is primarily engaged directly in the operation and maintenance of those facilities. An organization will be treated as being primarily engaged directly in the operation and maintenance of the described residential facilities if at least 50% of the qualifying distributions (as defined in § 53.4942(a)-3(a)(2)) normally made by the organization are expended for the operation and maintenance of the facilities.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

§ 301.6050-1 [Deleted]

Par. 3. Section 301.6050-1 is deleted.

[Fr Doc. 80-27080 Filed 9-3-80; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

Approval of the Permanent Regulatory Program Submission From the State of Mississippi Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule: Approval of Mississippi's Proposed Permanent Regulatory Program.

SUMMARY: On May 27, 1980, the State of Mississippi resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), following an earlier decision by the Secretary of the Interior to approve in part and

disapprove in part Mississippi's initial submission. The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program resubmission, the Secretary of the Interior has determined that the Mississippi program meets all requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved the Mississippi program.

A new Part 924 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This approval is effective September 4, 1980.

ADDRESSES: Copies of the Mississippi program and the administrative record on the Mississippi program are available for public inspection and copying during business hours at:

Mississippi Department of Natural Resources, Bureau of Geology and Energy Resources, 2525 N. West Street, Jackson, Mississippi 39216, Telephone (601) 354-6228.

Office of Surface Mining, Region II, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902. Telephone (615) 637-8060.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240. Telephone (202) 343-4728.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240. Telephone (202) 343-4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710-725, 42 FR 62639 *et seq.*

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA.

The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312-15463). ERRATA notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673-49687), September 14, 1979, (44 FR 53507-53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424). Amendments to the rules were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302-75303), December 31, 1979 (44 FR 77440-77447), January 11, 1980 (45 FR 2626-2629), April 6, 1980 (45 FR 25998-26001), May 20, 1980 (45 FR 33926-33927), June 10, 1980 (45 FR 39446-39447), and August 6, 1980 (45 FR 52306-52324). Portions of these rules have been suspended, pending further rulemaking. *See* November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447-77454), January 30, 1980 (45 FR 6913), and August 4, 1980 (45 FR 51547-51550).

General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730-732. After review of the submission by OSM and other agencies, an opportunity for the State to make additions or modifications to the program and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon correction of minor deficiencies in accordance with a specified timetable, or disapprove the program in whole or in part. If the program is disapproved, the State may submit a revision of the program to correct the items that need to be changed to meet the requirements of SMCRA and the applicable Federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Federal program has been implemented.

The Secretary, in reviewing State programs, is complying with the provisions of Section 503 of SMCRA, 30 USC 1253, and 30 CFR 732.15. With respect to the Mississippi program, the Secretary has followed the Federal rules as cited above under "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.* That litigation is the consolidation of several lawsuits challenging the Secretary's permanent regulatory program. Because of that complex litigation, the Court issued its initial decision in two "rounds," the Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The Court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the Court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended Federal provisions in the three circumstances described in paragraph 1, below. Therefore, the Secretary is applying the following standards to the review of state program submissions.

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court

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decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation.

4. Nonetheless, a State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based the regulations which have been remanded or suspended.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the Court's order. The remaining provisions will be unconditionally approved, conditionally approved or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those which have been suspended or remanded, the Secretary will afford States which have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604).

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Mississippi will be found in 30 CFR Part 924.

Background on the Mississippi Program Submission

Mississippi's surface mining legislation was enacted in April, 1979. The original Mississippi permanent program submission was submitted to the OSM Region II Office on August 2, 1979. Appropriate distribution was made within OSM and to other governmental agencies. Announcement of receipt of the original submission was made in newspapers of general circulation in the State of Mississippi and published in the **Federal Register** on August 10, 1979 (44 FR 47173–47174). An appropriately announced public review meeting regarding completeness of the original submission was held in Granada, Mississippi, on September 18, 1979. Comments from the reviewers regarding completeness were coordinated and the original submission was deemed incomplete. The State was so notified on October 2, 1979, and a determination that the State program was incomplete was published in the **Federal Register** on October 9, 1979 (44 FR 58000–58001). On November 14, 1979, additional material including information describing program systems was received from the Mississippi Department of Natural Resources (DNR) which completed the original submission and corrected other deficiencies.

On November 20, 1979, the Regional Director published notice in the **Federal Register** (44 FR 66760–66761) and in newspapers of general circulation within the State that the amended Mississippi original submission was complete. The notice set forth a summary of the amended State program, the times and locations for public review of the program, and procedures for the public hearing and comment period on the substance of the Mississippi program.

Comments from reviewers regarding content of the Mississippi program were coordinated by the Region II Office and a list of deficiencies and suggestions for corrections was forwarded to the Mississippi DNR on November 28, 1979.

The public hearing regarding the Mississippi original permanent program submission was held in Meridian, Mississippi, on December 20, 1979.

The Regional Director completed his program review on January 4, 1980, and forwarded the public hearing transcript, written presentations, exhibits and copies of all comments to the Director together with a recommendation that the program be conditionally approved.

On January 30, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on those portions of the Mississippi program which the Secretary approved on March 25, 1980.

On February 19, 1980, the Director recommended to the Secretary that the program be approved in part and disapproved in part.

On March 3, 1980, the Secretary publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies (45 FR 13780–13781).

The Secretary approved in part/disapproved in part the Mississippi program on March 25, 1980 (45 FR 19268–19277).

On April 10, 1980, final regulations were enacted by the Mississippi Commission on Natural Resources. These regulations incorporated all previously identified corrections.

The Mississippi permanent program was resubmitted to the OSM Region II Office on May 27, 1980. Appropriate distribution was made within OSM and to other governmental agencies. Announcement of receipt of the resubmission was made in newspapers of general circulation in the State of Mississippi and published in the **Federal Register** on June 2, 1980 (45 FR 37223–37224).

An appropriately announced public hearing was held in Meridian, Mississippi, on June 17, 1980, and the public comment period was closed on June 20, 1980.

The public comment period was reopened on July 10, 1980 (45 FR 46449–46451) to accept comments on the Secretary's tentative determination identifying provisions in the Mississippi permanent program which incorporates suspended or remanded regulations. The comment period closed on July 25, 1980.

Public disclosure of comments by Federal Agencies was made on July 3, 1980 (45 FR 45313).

On July 29, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Mississippi program.

The Regional Director completed his program review on July 3, 1980, and forwarded the public hearing transcripts, written presentations, exhibits, and copies of all comments to the Director together with a recommendation that the program be approved.

On August 6, 1980, the Director recommended to the Secretary that the Mississippi program be approved.

On August 21, 1980, the Director cabled the State informing Mississippi of the August 15, 1980 stay of the District Court's order and asking the State if there were any provisions which were based on suspended or remanded Federal rules and which the State did *not* want the Secretary to affirmatively disapprove. The State has not replied.

Throughout the remainder of this notice, the terms "Mississippi program" or "Mississippi submission" are used to mean the resubmission together with those parts of the original submission approved on March 25, 1980.

Secretary's Findings

In reaching his decision to approve the Mississippi program submission, the Secretary makes the following findings pursuant to Section 503 of SMCRA and 30 CFR 732.15. The Secretary finds that Mississippi has the capability to carry out the applicable provisions of SMCRA and 30 CFR Chapter VII, as interpreted and limited by applicable court decisions. (The sequence and numbering of the findings correspond to Section 503 of SMCRA and 30 CFR 732.15.)

Section 503 of SMCRA Findings

(a) The Secretary makes the following findings for the provision of Section 503(a) of SMCRA:

(1) The Mississippi Surface Coal Mining and Reclamation Act (Mississippi SCMRA), and the Mississippi Administrative Procedures Law provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Mississippi in accordance with the requirements of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(2) The Mississippi SCMRA provides sanctions for violations of Mississippi laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and issuance of cease-and-desist orders by the Mississippi DNR or its inspectors (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(3) The State program submission provides for the Mississippi DNR to have sufficient administrative and technical personnel and sufficient funding to enable Mississippi to regulate surface coal mining and reclamation operations in according with the requirements of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(4) Mississippi law provides for the effective implementation, maintenance and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Mississippi (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(5) Mississippi has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA;

(6) Mississippi has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations; and,

(7) Mississippi has fully enacted regulations consistent with regulations issued pursuant to SMCRA.

(b) As required by Section 503(b) of SMCRA, 30 U.S.C. 1253 and 30 CFR 732.11–13, the Secretary, through OSM, has:

(1) Solicited and obtained the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Mississippi program;

(2) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Mississippi program which relate to air or water quality standards promulgated under the authority of the Clean Water Act, 33 U.S.C. 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.;*

(3) Held a public review meeting to discuss the Mississippi program submission and its completeness in Granada, Mississippi, on September 18, 1979, held a public hearing on the Mississippi program submission in Meridian, Mississippi, on December 20, 1979, and held a public hearing on the Mississippi program resubmission in Meridian, Mississippi, on June 17, 1980; and

(4) Found that the State of Mississippi has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

30 CFR 732.15 Findings

In accordance with 30 CFR 732.15, the Secretary further finds, on the basis of information in the Mississippi program submission, public comments and testimony and written presentations at the public hearings, and other relevant information, that:

(a) The Mississippi permanent program submission provides authority for the Mississippi DNR to assume responsibility for regulation of coal exploration and surface mining and reclamation operations as required by SMCRA and the Secretary's regulations. Findings regarding alternative provisions are unnecessary as Mississippi has not chosen to propose alternative approaches pursuant to 30 CFR 731.13.

(b) The Mississippi DNR has the authority under Mississippi laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and the Mississippi program includes provisions to:

(1) Implement, administer and enforce all applicable requirements consistent with Subchapter K of 30 CFR Chapter VII;

(2) Implement, administer and enforce a permit system consistent with the regulations of Subchapter G of 30 CFR Chapter VII and prohibit surface coal mining and reclamation operations without a permit issued by the Mississippi DNR;

(3) Regulate coal exploration consistent with 30 CFR 776 and 815 and prohibit coal exploration that does not comply with 30 CFR 776 and 815;

(4) Require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR 707. Section 731.14(g)(4) of the systems section adequately describes enforcement procedures;

(5) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Mississippi consistent with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII;

(6) Implement, administer and enforce a system of performance bonds and liability insurance or other equivalent guarantees consistent with the

requirements of Subchapter J of 30 CFR Chapter VII;

(7) Provide for civil and criminal sanctions for violations of the Mississippi SCMRA pursuant to regulations and conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845, including the same or similar procedural requirements;

(8) Issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and consistent with the requirements of Subchapter L of 30 CFR Chapter VII, including the same or similar procedural requirements.

One deficiency was noted in Systems Section 731.14(g)(5) in that the state appeared to have reserved solely to the administrator of the state regulatory authority the power to impose affirmative obligations. 30 CFR Chapter VII requires that field inspectors have the authority to impose such obligations. On August 21, 1980, the OSM regional office in Knoxville, Tennessee contacted the state concerning the deficiency (Administrative Record Control Number MS–299). The state replied verbally, and confirmed in writing on August 22, 1980 (Administrative Record Control Number MS–300), that the use of the word "administrator" had been inadvertent. The state also submitted with the August 22, 1980 letter a corrected copy of Systems Section 731.14(g)(5) in which the intended word "inspector" has been substituted for "administrator." The correction makes the Systems Section consistent with Mississippi law and regulations which do provide that inspectors have authority to impose affirmative obligations and which are consistent with SMCRA and 30 CFR Chapter VII;

(9) Designate areas as unsuitable for surface coal mining consistent with Subchapter F of 30 CFR Chapter VII;

(10) Provide for public participation in the development, revision and enforcement of Mississippi regulations and the Mississippi program, consistent with public participation requirements of SMCRA and 30 CFR Chapter VII;

(11) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Mississippi DNR, consistent with 30 CFR 705;

(12) Require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives consistent with regulations issued by the Secretary. The Mississippi DNR is not required to implement this provision under the Mississippi program until six months after Federal regulations for this provision have been promulgated. Mississippi has made provisions under Section 731.14(g)(13) of the systems section to adopt blasting regulations and procedures in accordance with forthcoming Federal regulations;

(13) Provide for small operator assistance consistent with Part 795 of 30 CFR Chapter VII. Section 12(4) of Mississippi SCMRA provides authority for development of a Small Operator Assistance Program and Part 195 of the Mississippi Regulations provides for implementation consistent with Part 795 of 30 CFR Chapter VII. Since coal mining is not expected to begin in Mississippi for at least five years and no small operators are expected at that itme, detailed procedures have not been effected. However, Section 731.16(g)(16) provides for immediate structuring of ■ Mississippi SOAP upon indication of forthcoming small operator activity;

(14) Provide for the protection of Mississippi State employees of the DNR in accordance with the protection afforded Federal employees under Section 704 of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(15) Provide for administrative and judicial review of State program actions, in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII; and

(16) Cooperate and coordinate with and provide documents and other information to OSM under the provision of 30 CFR Chapter VII.

(c) The Mississippi Surface Coal Mining and Reclamation Act, the law creating the Mississipi DNR, the Mississippi DNR's regulations and the Mississippi program do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII. Accordingly there are no Mississippi laws or regulations inconsistent with SMCRA which must be set aside. However, there are provisions in Mississippi's laws and regulations which are being "affirmatively disapproved" in compliance with the District Court's order. These provisions are listed in 30 CFR 924.10(b) below.

(d) At present there is no coal mining in Mississippi and none is expected until about 1985. The Regulatory Authority is the Mississippi Department of Natural Resources. There are adequate legal, administrative and technical personnel available and committed to program development and eventual implementation to regulate the single large coal mining operation that is anticipated. Expansion plans will go into effect some time prior to submission of the first permit application and further expansion will continue through the beginning of the first actual coal (lignite) mining operation. These expansion plans include adequate legal, technical and administrative personnel, and the present and anticipated funding level is adequate to implement, administer and enforce the provisions of the program, the requirements of the regulations and other applicable State and Federal laws (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes which alter this decision.).

Disposition of Comments

There were no comments from the public on Mississippi's resubmission. Of those Federal agencies contacted, comments were received only from the Tennessee Valley Authority. These comments related to blasting and suggested that additions and alterations were needed in the wording of State Regulations Section 180.13, 216.64, and 216.68 in the interest of clarity or stringency. However, in all of the instances in question the wording of the Mississippi regulations is identical to that of the Federal regulations and different wording will not be required by the Secretary under 30 CFR Chapter VII.

Approval

The Mississippi program is in compliance with and has fulfilled all the requirements of SMCRA and in all other respects meets the criteria for approval. Accordingly, the Secretary is approving the Mississippi program.

As stated above, in its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a State program which incorporates a suspended or remanded regulation. In 30 CFR 924.10(b)(2), being adopted today, there is a list of provisions contained in the Mississippi submission which are based on suspended or remanded Federal regulations. The list indicates the extent to which an affected regulation is disapproved if other than its entirety. The Secretary is today affirmatively disapproving these regulations/provisions to the extent indicated or, if no limitation is indicated, in their entirety.

This approval is effective September 4, 1980. Beginning on that date, the Mississippi Department of Natural

Resources shall be deemed the regulatory authority in Mississippi and all Mississippi surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Mississippi shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Mississippi the permanent regulatory program consists of the State program approved by the Secretary.

The Secretary's approval of the Mississippi program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mined lands reclamation program. In accordance with 30 CFR Part 884, Mississippi may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA 30 USC 1292(d), no environmental impact statement need be prepared on this approval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14 and no regulatory analysis is being prepared on this approval.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

A new Part, 30 CFR Part 924, is adopted to read as follows:

PART 924—MISSISSIPPI

Sec.

924.1 Scope.

924.10 State program approval.

Authority.—Pub. L. 95–87, 30 U.S.C. 503.

§ 924.1 Scope.

This Part contains all rules applicable only within the State of Mississippi which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 924.10 State program approval.

(a) The Mississippi State program, as submitted on August 2, 1979, and resubmitted on May 27, 1980, is approved, effective September 4, 1980. Copies of the approved program are available at:

(1) Mississippi Department of Natural Resources, Bureau of Geology and Energy Resources, 2525 N. West Street, Jackson, Mississippi 39216. Telephone (601) 354–6228.

(2) Office of Surface Mining Reclamation and Enforcement, Region II, Suite 500, 530 Gay Street, SW., Knoxville, Tennessee 37902. Telephone (615) 637–8060.

(3) Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4728.

(b) In its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a State program which incorporates a suspended or remanded regulation. A list follows of provisions contained in the Mississippi submission which are based on suspended or remanded Federal regulations. These regulations are affirmatively disapproved to the extent indicated or, if no limitation is indicated, in their entirety.

(1) The definition of "Mine Plan Area" in Section 101 and its use in Sections 179, 180, 183 and 184 to the extent the definition includes areas outside the permit area.

(2) Sections 100.11 (a), (b), and (c) insofar as they may be read to retain discretion in the Mississippi DNR to grant an exemption from reconstruction of existing structures after making the findings in Sections 180.12 or 184.12.

(3) In Section 161.5(2)(i), the "all permits test" used in defining valid existing rights to the extent it does not include persons who had made good faith applications for all necessary permits, but not yet received them.

(4) In Section 161.5, the definition of "public road."

(5) Under Sections 161.11(c) and .12(f)(1) the limitation on surface mining operations which will affect places eligible for listing on the National Register of Historical Places.

(6) Sections 161.11(c) and .12(f)(1) insofar as they would apply to privately-owned places listed on the National Register of Historic Places in addition to publicly-owned places.

(7) Sections 176.11(b) (3) and (5) to the extent that they require the notice of exploration to include a map rather than a description only.

(8) Sections 179.20 and 180.16.

(9) Sections 179.21 and 183.21, to the extent they apply to land not qualifying as prime farmland.

(10) Section 183.14(a)(1) insofar as it requires a geologic description of the strata down to and immediately below any coal seam for areas to be affected only by "surface operations and facilities" where removal of overburden down to level of coal seam will not occur.

(11) Sections 183.25 (c), (h) and (i).

(12) Section 185.17(a) insofar as it exempts permits approved prior to August 3, 1977, from prime farmland reconstruction standards.

(13) Sections 185.17(b)(3) and 223.14(c).

(14) Section 185.17(b)(8).

(15) In Section 186.5 the words "or has not been" from the definition of "irreparable harm to the environment."

(16) Sections 206.12(e)(6)(iii) and (g)(7)(iii).

(17) Section 207.11(e) insofar as it does not allow citizen access to the mine site for performance bond release.

(18) Section 208.14(b).

(19) Sections 216.42(a) (1) and (7) insofar as they require that runoff from reclaimed lands meet the same effluent limitations as that for actively mined lands.

(20) Sections 216.42(b) and 217.42(b).

(21) Sections 216.46(b) and 217.46(b).

(22) Sections 216.46(c) and 217.46(c).

(23) In Sections 216.46(d) and 217.46(d), the words "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

(24) Sections 216.46(h) and 217.46(h).

(25) Section 216.65(f) and 217.65(f).

(26) Sections 216.83(a) and 217.83(a) to the extent that they would preclude an exemption from the underdrain requirement for coal processing waste banks where an operator can demonstrate that an alternative to the required subdrainage systems would ensure structural integrity of the waste bank and protection of ground or surface water quality.

(27) Sections 216.95 and 217.95.

(28) Sections 216.103(a)(1) and 217.103(a)(1).

(29) Sections 216.115, 217.115, 223.11(c) 223.15(b) and 223.15(c), to the extent that they exceed the statutory authority which requires only that restored land be "capable" of supporting the designated use.

(30) Sections 216.116(b) and 217.116(b) to the extent that they delay triggering an operator's five year period of responsibility for revegetation until the operator meets the standard for vegetative cover.

(31) Sections 216.133(b)(1) and 217.133(b)(1), to the extent that an operator is not allowed to choose between restoring the land to condition capable of supporting prior-to-mining use or to higher use.

(32) Sections 216.133(c)(4) and (9) and 217.133(c)(4) and (9) concerning

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information needed to support alternative land uses to the extent that the operator need only demonstrate a "reasonable likelihood" of attaining a post mining use that is higher or better than previous use.

(33) Sections 216.150–176 and 217.150–176 concerning roads to the extent that notice and opportunity to comment must be provided to the public on the road classification system.

(34) Section 217.52(a), the language "on the recharge capacity of reclaimed land and * * *", concerning groundwater monitoring to the extent that special precautionary measures for underground mining operations are not necessary to protect the recharge capacity of water bearing formations.

(35) Section 217.54 concerning hydrologic balance to the extent that water replacement is only required for surface coal mining operations.

(36) Sections 217.101(b)(1) and 217.102 concerning backfilling and grading to the extent that Appropriate Original Contour (AOC) regulations do not provide flexibility for settled fills that have become stabilized and revegetated.

(37) Part 223 concerning performance standards for operations on prime farmlands to the extent that it prevents an exemption for surface facilities actively used over extended periods but which affect a minimal amount of land.

[FR Doc. 80–27100 Filed 9–2–80; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1559–8]

Approval and Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of the revision of the Maryland State Implementation Plan (SIP) consisting of a Consent Order for the Firestone Plastics Company, Inc., in Perryville, Maryland. This order grants an exception to Firestone from portions of Maryland Regulation COMAR 10.18.07 that permits the company to construct and operate a new boiler with relaxed requirements. The ambient air quality standards are presently being met in the Perryville, Maryland area and this exception is not expected to cause any violations of the standards or the Prevention of Significant Deterioration (PSD) increments.

EFFECTIVE DATE: October 6, 1980.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building—10th floor, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: Patricia Sheridan.

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston Street, Baltimore, MD 21201, ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Curtis Building—10th floor, Philadelphia, PA 19106. Phone: (215) 597–8990.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1978, the State of Maryland submitted to EPA, Region III, a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Firestone Plastics Company, Inc., of Perryville, Maryland. The submittal contained a certification that the order was adopted in accordance with the public hearing and the notice requirement of 40 CFR Part 51.4 and all relevant State procedural requirements. The public hearing was held on August 25, 1978. The State of Maryland requests that EPA consider the Consent Order as a revision of the State Implementation Plan. The order exempts the construction and operation of a new boiler at the Perryville facility from the provisions of COMAR 10.18.07.03B(2)(1) which requires the installation of dust collection equipment on residual oil-fired boilers. Concurrently the order modifies COMAR 10.18.07.02B (which permits no visible emissions) to allow the boiler to have visible emissions not exceeding 20% opacity; and modifies COMAR 10.18.07.03B(2)a (which limits particulate emissions to 0.03 gr/SCFD) thereby allowing the new boiler to emit particulate matter at 0.06 gr/SCFD, corrected to 50% excess air.

The boiler was subject to PSD review for sulfur dioxide emissions, and a permit was issued to the source on July 3, 1979. The Best Available Control Technology (BACT) requirements of the permit will limit the sulfur-in fuel which is directly related to the formation of particulate matter and therefore affects the amount of particulate matter emissions from a residual oil-fired boiler. The permit conditions will limit the particulate emissions such that they will have an insignificant impact. This is supported by modeling submitted by the State of Maryland on June 1, 1979, which shows no violations of the ambient air quality standards or the PSD increments.

Therefore, it is the Administrator's decision to approve the order as a revision of the Maryland State Implementation Plan.

A 30-day comment period was provided for the public to submit comments on approving the Firestone Plastics Consent Order as a revision of the Maryland State Implementation Plan, during which time no public comments were received.

Final Action

In view of the above evaluation, the Administrator approves the above mentioned amendments to COMAR 10.18.07 as represented in the consent order for the Firestone Plastics Company, Inc., Perryville, Maryland as a revision to the Maryland SIP effective (on publication of notice). Concurrently 40 CFR Section 52.1070 (Identification of Plan) is amended to incorporate these amendments into the Federally approved Maryland SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–7642)

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.1070 paragraph (c)(33) is added as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(33) a consent order amending regulation 10.18.07, 10.18.07.02B, 10.18.07.03B(2)a, for the Firestone Plastics Co., Inc., Perryville, Maryland, submitted on December 1, 1978, by the

Maryland Environmental Health Administration.

[FR Doc. 80-26978 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1594-5]

Approval and Promulgation of Michigan State Implementation

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 6, 1980 (45 FR 29790), the United States Environmental Protection Agency (USEPA) announced final rulemaking to conditionally approve certain revisions to the Michigan State Implementation Plan (SIP). A notice of proposed rulemaking (45 FR 29864), also published on May 6, 1980, solicited public comment on the deadlines by which the State of Michigan has committed itself to remedy conditionally approved portions of its SIP. This notice takes final action to approve those deadlines.

EFFECTIVE DATE: This final rulemaking becomes effective on October 6, 1980.

ADDRESSES: Copies of the SIP revision, public comments on the Notice of Proposed Rulemaking (45 FR 29864), and USEPA's evaluation and response to comments are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 FR 29790). The United States Environmental Protection Agency (USEPA) announced final rulemaking on revisions to the Michigan State Implementation Plan (SIP). Michigan submitted these revisions to satisfy the requirements of Part D of the Clean Air Act, as amended in 1977. In the final rulemaking, USEPA conditionally approved certain revisions to the Michigan SIP. A discussion of conditional approval and its practical effect appears in the July 2, 1979, **Federal Register** (45 FR 38583 and the November 23, 1979 **Federal Register** (45 FR 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. A notice of proposed rulemaking (45 FR 29864), also published on May 6, 1980, solicited public comment on the deadlines by which the State of Michigan has committed itself to remedy conditionally approved portions of its SIP. No comments were received. This notice announces USEPA final rulemaking action to approve those deadlines.

In some instances, the State has made a commitment to submit regulations to the Michigan Air Pollution Control Commission by a specified date. Because the State cannot legally prejudge the outcome of the Commission's statutorily mandated proceedings, it cannot assure USEPA that the regulations will be promulgated. Therefore, the State has not made commitments either to promulgate the regulations or to a specific date for promulgation. In these cases, USEPA proposed a date by which the State must promulgate and submit the regulations to USEPA. USEPA believes that this is necessary in order to guarantee that the deficiencies are adequately addressed and that the plan is adequate to satisfy the requirements of the Act. In establishing the date by which any necessary regulations must be promulgated, USEPA has taken into consideration the lengthy Michigan Air Pollution Control Commission rulemaking procedures which require review of regulations by several State offices and committees and approval by the Michigan State Legislature.

USEPA takes final action today to approve the following schedules for the State's correction of deficiencies in the Michigan SIP:

Schedules

Total Suspended Particulates

1. The State has committed itself to the schedule below for the adoption of industrial fugitive regulations that represent RACT for traditional sources. This commitment does not extend to sources in the iron and steel category.

a. Conduct public hearings throughout the State—January, 1980.
b. Prepare a summary of the public comments and revise rules if appropriate—February 1980.
c. Formal rule adoption by the Commission—April, 1980.
d. Obtain approval from the Legislative Service Bureau, Attorney General's Office and Joint Legislative Rules Committee—August, 1980.
e. File rules with Secretary of State and submit to USEPA for approval—January, 1981.

2. The State has committed itself to the following schedule for additional particulate studies in the Detroit area:

Item and Completion Date

a. Particulate size distribution report—February, 1980.
b. Refinement of the emission inventory—June, 1980.
c. Assessments of meteorological variables—June, 1980.
d. Analysis of the microscopy report—June, 1980.
e. Submit to USEPA—September, 1980.

Ozone

1. The State has committed itself to either promulgate a rule with 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submit it to USEPA or demonstrate that allowable emissions resulting from the application of its existing rule with 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of the CTG presumptive norm. The State has committed itself to comply with this condition by May 6, 1981. USEPA has prescribed an additional condition that any necessary regulation be finally promulgated by the State and submitted to USEPA by September 30, 1981.

If the State fails to submit the required materials according to the negotiated schedule, USEPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(f) restrictions on growth are in effect.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued under authority of Sections 110, 172 and 301(a) of the Clean Air Act, as amended, (U.S.C. 7410, 7502, 7601(a)).

Dated: August 27, 1980.

Barbara Blum,
Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1173 is revised to read as follows:

§ 52.1173 Control Strategy: particulates.

(a) Part D—Conditional Approval—The Michigan plan for primary and secondary nonattainment areas which do not include iron and steel sources is approved provided that the following conditions are satisfied:

(1) The State officially adopts final industrial fugitive regulations that represent RACT for traditional sources and submits these finally effective regulations to USEPA according to the following schedule:

Item and Completion Date

Conduct public hearings throughout the State—January, 1980.
Prepare a summary of the public comments and revise rules if appropriate—February, 1980.
Formal rule adoption by the Commission—April, 1980.
Obtain approval from the Legislative Service Bureau, Attorney General's Office and Joint Legislative Rules Committee—August, 1980.
Final rules with Secretary of State and submit to USEPA for approval—January, 1980.

(2) The State conducts additional particulate studies in the Detroit area according to the following schedule:

Item and Completion Date

Particulate size distribution report—February, 1981.
Refinement of the emission inventory—June, 1980.
Assessments of meteorological variables—June, 1980.
Analysis of the microscopy report—June, 1980.
Submit to USEPA—September, 1980.

(b) Part D—No Action—USEPA takes no action on the adequacy of rules submitted by Michigan to control particulate emissions from the iron and steel making industries. Therefore, USEPA takes no action on the control strategy for particulates in those areas which are designated nonattainment for particulate and which contain iron and steel sources.

2. Section 52.1174 is revised to read as follows:

§ 52.1174 Control Strategy: ozone.

(a) Part D—Conditional Approval—Michigan Rules 336.1603 and 336.1606 are approved provided that the following conditions are satisfied:

(1) Rule 336.1603—The State submits detailed compliance schedules containing increments of progress by March 31, 1981 for sources with final compliance dates prior to December 31, 1982 and by September 30, 1981 for sources with final compliance dates beyond December 31, 1982.

(2) Rule 336.1606—The State either promulgates a rule with a 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submits it to USEPA or demonstrates that allowable emissions resulting from the application of its existing rule with 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of the CTG presumptive norm. The State must comply with this condition by May 6, 1981, and any necessary regulations must be finally promulgated by the State and submitted to USEPA by September 30, 1981.

[FR Doc. 80-27150 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1562-5]

South Dakota; Approval and Promulgation of State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this action is to approve the revisions to the South Dakota State Implementation Plan (SIP) submitted by the Governor of South Dakota on January 21, 1980. The revisions are concerned with Section 127 of the Clean Air Act (CAA) regarding public notification, and Part 58 of Title 40, Code of Federal Regulations regarding monitoring requirements. On May 5, 1980 (45 FR 29596), EPA published a notice of proposed rulemaking which described the nature of the SIP revisions and requested public comment. No comments were received.

Through publication of this notice, EPA acknowledges that effective on July 1, 1980, the regulations contained in South Dakota's SIP will "sunset" and no longer be in effect under State law. A period of some weeks is anticipated before South Dakota repromulgates its SIP regulations. Because of the agency's concerns with the State's enforcement authority during this period, the agency will assume lead enforcement responsibility for the South Dakota SIP until such time as South Dakota repromulgates its regulations.

DATES: Effective September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

SUPPLEMENTARY INFORMATION: EPA finds good cause exists for making the action taken in this notice immediately effective because South Dakota's Implementation Plan revisions are already in effect under regulation and EPA approval poses no additional regulatory burden on January 21, 1980.

Pursuant to Part 51.285 and Part 58 of Title 40, *Code of Federal Regulations*, the State of South Dakota submitted proposed State Implementation Plan revisions for public notification and certain monitoring requirements respectively. The following is a discussion of these provisions and the issues involved.

Public Notification

Since the State of South Dakota has no cities larger than 200,000 people only it is required to present an annual report. South Dakota plans to announce violations once each calendar quarter to the appropriate news media, concerned interest groups, and the Regional Administrator of the Environmental Protection Agency. The notices will include the date, location, and pollutant standard violated, as well as with the possible health effects and measures the public can take to help prevent future exceedances.

Monitoring Requirements

This SIP revision establishes the state and local air monitoring stations (SLAMS), special purpose monitoring stations (SPMS), the maintenance of monitoring stations, and the method of data reporting and annual reviews which pertain to the above stations. The SLAMS stations will monitor ambient levels of "criteria pollutants;" i.e., pollutants which have an established national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining compliance with the NAAQS, determining if a source which emits

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criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. The process of network design was carried out as required by Appendix D of 40 CFR Part 58. A network description will be available for review at the Joe Foss Building in Pierre, South Dakota, which will include the following: a) Saroad site identification form for existing stations, b) analyzer description, c) sample of analysis procedure, d) operating schedule, e) monitoring objective, and f) spatial scale of representativeness. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58 and will be sited according to Appendix E to 40 CFR Part 58. Reference or equivalent monitors will be used as defined in 40 CFR 50.1 and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

South Dakota will operate SPMS monitoring stations in order to determine the effect of point sources, to conduct research studies, and to judge the anticipated growth patterns. Episode monitoring will also be conducted when it appears the conditions are right for an episode.

All SLAMS data for a calendar year will be summarized and submitted to EPA by July 1 of the following year. The information reported will be those values required by Appendix F to CFR Part 58.

Beginning January 1, 1980, the State will review annually their SLAMS network to insure that the monitors are located where needed. A report shall be submitted to EPA Region VIII by April 1 of each year, which will include a schedule to add, relocate or eliminate stations. These needs will be determined based on the requirements in Appendix D to 40 CFR Part 58 or references therein.

The State of South Dakota will establish and operate a network of National Air Monitoring Stations (NAMS) as required in Subpart D of 40 CFR Part 58. The NAMS stations also will be SLAMS stations and the design procedure for NAMS will be identical to that for SLAMS.

On May 5, 1980 (45 FR 29596), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received and no new issues were raised. Therefore, EPA approves the SIP revision concerning public notification and SLAMS and SPMS sites.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final rule is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication in the **Federal Register**). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart QQ—South Dakota

1. Section 52.2170(c)(7) is added as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(7) On January 21, 1980, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, subpart C, Paragraph 58.20, and Public Notification required under Section 127 of the Clean Air Act.

[FR Doc. 80-26977 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5887]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed/in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood-prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
California	San Bernardino	Colton, city of	060273A	Jan. 15, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 7, 1974	Sept. 17, 1980.
Do	Tehama	Tehama, city of	060400A	Feb. 10, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec 24, 1974	Do
Colorado	Eagle	Minturn, town of	080053B	Sept. 26, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 16, 1974 Apr. 4, 1976	Do
Connecticut	New London	Noank fire district	090129A	Sept. 25, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 21, 1975	Do
Florida	Seminole	Sanford, city of	120294B	Jan. 21, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 16, 1974	Do.
Do	Osceola	St. Cloud, city of	120191B	Apr. 23, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 28, 1974 Feb. 20, 1976	Do
Illinois	Cook	Alsip, village of	170055C	Jan. 13, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 Mar. 26, 1976 June 2, 1978	Do.
Do	Henry	Colona, village of	170749A	July 7, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Oct. 29, 1976	Do.
Do	do	Lisle, village of	170211B	July 6, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	July 6, 1973 Nov. 8, 1974	Do
Iowa	Clinton	Clinton, city of	190088B	June 11, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 28, 1974 Sept. 17, 1976	Do
Kentucky	Kenton	Independence, city of	210240B	Oct. 10, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 8, 1974 July 16, 1976	Do
Michigan	St. Clair	Cottrellville, township of	260196B	Apr. 12, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Apr. 12, 1974 Dec. 31, 1976	Do.
Montana	Flathead	Kalispell, city of	300025B	July 27, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 15, 1974 May 21, 1976	Do.
New Jersey	Passaic	Hawthorne, borough of	340400B	June 28, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Nov. 30, 1973 July 16, 1976	Do
Do	Camden	Lindenwold, borough of	340137B	Jan. 12, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Nov. 22, 1974 June 18, 1976	Do
Do	do	Stratford, borough of	340146B	Mar. 21, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 July 16, 1976	Do.
New York	Steuben	Campbell, town of	360768B	Apr. 19, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 31, 1974 Mar. 26, 1976	Do
Ohio	Cuyahoga	Bedford Heights, city of	390096B	June 11, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 Apr. 30, 1976	Do.
Do	do	Maple Heights, city of	390114B	July 22, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 8, 1974 Apr. 9, 1976	Do
Oregon	Jackson	Gold Hill, city of	410094B	Aug. 5, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 9, 1974 Jan. 2. 1976	Do
Pennsylvania	Delaware	Aldan, borough of	420401B	Aug. 26, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 26, 1974 June 11, 1976	Do.
Do	Lycoming	Cummings, township of	420638B	June 6, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 30, 1974 July 2, 1976	Do.
Do	do	Eldred, township of	421839A	June 20, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec 8, 1974	Do
Do	Luzerne	Hollenback, township of	421831A	Sept. 30, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec 13, 1974	Do
Do	do	Jackson, township of	420610B	Mar. 16, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 10, 1977	Do
Do	Lycoming	Lycoming, township of	420644C	May 4, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 17, 1974 Aug. 20, 1976 Nov. 19, 1976	Do
Do	Delaware	Newtown, township of	420991B	Sept. 15, 1972, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 23, 1974 June 11, 1976	Do.
Do	Mifflin	Oliver, township of	421882A	Aug. 29, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 14, 1975	Do.

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State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Lycoming	Upper Fairfield, township of	420660B	May 15, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 13, 1978	Do
Texas	Tarrant	Saginaw, city of	480610B	Apr. 16, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 8, 1974 Sept. 24, 1976	Do
Do	Dallas	Wilmer, city of	480190B	June 2, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 1, 1974 June 11, 1976	Do
Virginia	Wise	Appalachia, town of	510319B	Mar. 27, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 10, 1974 June 25, 1976	Do
Illinois	Du Page	Clarendon Hills, village of	170203B	Aug. 29, 1973, emergency, Sept. 27, 1980, regular, Sept. 27, 1980, suspended.	Mar. 8, 1974 Dec. 16, 1975	Sept. 27, 1980.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued August 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26627 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 5885]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

The Catalog of domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Sumter	York, city of	010196A	Aug. 1, 1980, suspension withdrawn.	June 11, 1975.
California	Santa Cruz	Unincorporated areas	060353B	do	Aug. 16, 1974 and May 29, 1979
Do	Santa Clara	Gilroy, city of	060340B	do	May 31, 1974 and June 4, 1976.
Colorado	Boulder	Lyons, town of	080029B	do	Dec. 28, 1973.
Connecticut	Hartford	Rocky Hill, town of	090142B	do	June 7, 1974 and June 17, 1977.
Georgia	Chatham	Unincorporated areas	130030A	do	Mar. 5, 1976.
Do	Cobb	Powder Springs, city of	130056B	do	Apr. 12, 1974 and Aug. 27, 1976.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Lake	Old Mill Creek, village of	170385B	do	Aug. 30, 1974 and May 14, 1976.
Do	do	Round Lake, village of	170388B	do	Mar. 29, 1974 and June 25, 1976.
Do	do	Round Lake Beach, village of	170389B	do	Apr. 5, 1974 and Mar. 26, 1976.
Do	Cook	South Holland, village of	170163B	do	Mar. 15, 1974, July 1, 1977, and July 14, 1978.
Do	do	Thornton, village of	170168C	do	Apr. 5, 1974, June 4, 1976, and Apr. 21, 1978.
Do	Lake	Vernon Hills, village of	170394C	do	Feb. 4, 1977.
Indiana	do	Schneider, town of	180143B	do	Dec. 17, 1973 and June 11, 1976.
Do	Clark	Sellersburg, town of	180028B	do	Nov. 23, 1973 and July 16, 1976.
Kentucky	Warren	Bowling Green, city of	210219A	do	May 31, 1974 and Dec. 10, 1976.
Do	Fulton	Fulton, city of	210076B	do	Feb. 15, 1974 and Nov. 15, 1974.
Do	Davies	Owensboro, city of	210063B	do	May 24, 1974 and Feb. 20, 1976.
Do	Warren	Unincorporated areas	210312B	do	July 15, 1977 and Apr. 7, 1978.
Maine	Aroostook	Caribou, city of	230014B	do	Apr. 12, 1974 and Aug. 27, 1976.
Michigan	Genesee	Burton, city of	260287B	do	Dec. 3, 1976.
Do	Ingham	East Lansing, city of	260089B	do	May 24, 1974 and July 30, 1976.
Do	Genesee	Grand Blanc, township of	260079B	do	Aug. 19, 1977.
Do	Wayne	Grosse Ile, township of	260227B	do	June 7, 1974 and July 11, 1975.
Minnesota	Dakota	Inver Grove Heights, city of	270106B	do	May 24, 1974 and July 16, 1976.
Missouri	Howell	Mountain view, city of	290165B	do	May 10, 1974 and June 18, 1976.
Montana	Lincoln	Unincorporated areas	300157B	do	Jan. 10, 1978.
Nebraska	Hall	do	310100B	do	Dec. 20, 1974 and June 21, 1977.
New Jersey	Middlesex	South Plainfield, borough of	340279B	do	Feb. 22, 1974 and Mar. 5, 1976.
New York	Steuben	Lindley, town of	360778B	do	June 21, 1974 and June 18, 1976.
North Dakota	Pembina	Drayton, city of	380150C	do	May 24, 1974, Apr. 16, 1976, and Feb. 4, 1977.
Ohio	Hamilton	Amberley, village of	390206A	do	
Do	Lorain	Amherst, city of	390347B	do	Mar. 15, 1974 and Apr. 23, 1976.
Do	Washington	Belpre, city of	390567B	do	Apr. 5, 1974 and June 27, 1975.
Do	Cuyahoga	Bentleyville, village of	390682A	do	Feb. 7, 1975.
Do	Hamilton	Blue Ash, city of	390208A	do	Feb. 21, 1975.
Do	Greene	Spring Valley, village of	390196B	do	Nov. 16, 1973 and Apr. 9, 1976.
Do	Warren	Waynesville, village of	390565B	do	Nov. 9, 1973 and June 4, 1976.
Oklahoma	Rogers	Catoosa, city of	400185C	do	Sept. 6, 1974, Feb. 27, 1976, and Jan. 14, 1977.
Pennsylvania	Blair	Catharine, township of	420962B	do	Jan. 23, 1974 and May 28, 1976.
Texas	Dallas and Denton	Coppell, city of	480170B	do	Mar. 8, 1974 and June 4, 1976.
Do	Limestone	Mexia, city of	480442B	do	Mar. 15, 1974 and Apr. 2, 1976.
Do	Smith	Tyler, city of	480571A	do	Jan. 10, 1975.
Washington	Clallam	Port Angeles, city of	530023B	do	May 31, 1974 and Jan. 16, 1976.
Do	Spokane	Spokane, city of	530183A	do	May 24, 1974.
Do	Thurston	Tumwater, city of	530192B	do	Jan. 23, 1974 and Aug. 13, 1976.
Wisconsin	Winnebago	Omro, city of	550533A	do	Nov. 15, 1974.
Pennsylvania	Perry	Liverpool, township of	421953	Feb. 5, 1975, emergency, June 18, 1980, regular, June 18, 1980, suspended, Aug. 4, 1980, reinstated.	Apr. 4, 1975.
New York	Cattaraugus	Machias, town of	360084A	Aug. 5, 1980, emergency	Oct. 18, 1974 and Aug. 27, 1976.
Pennsylvania	Potter	Keating, township of	421981	do	Nov. 22, 1974.
Illinois	Cook	Country Club Hills, city of	170078	Dec. 10, 1974, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Apr. 5, 1974, Feb. 14, 1975, and Apr. 9, 1976.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Do	do	Palos Heights, city of	170142C	July 27, 1973, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Mar. 22, 1974, Mar. 19, 1976, and July 7, 1978.
Do	do	Stone Park, village of	170165	Apr. 28, 1975, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Mar. 22, 1974 and Sept. 12, 1975.
Minnesota	McLeod	Glencoe, city of	270263B	June 18, 1974, emergency, July 2, 1980, regular, July 2, 1980, suspended, Aug. 6, 1980, reinstated.	June 7, 1974 and Aug. 13, 1976.
Do	Dakota	South St. Paul, city of	270114	May 30, 1974, emergency, June 18, 1980, regular, June 18, 1980, suspended, Aug. 8, 1980, reinstated.	May 10, 1974 and July 30, 1976.
Iowa	Bremer	Unincorporated areas	190847A	Aug. 12, 1980, emergency.	May 10, 1977.
Michigan	Genesee	Clio, city of	260667A	Aug. 14, 1980, emergency.	Aug. 5, 1977.
Illinois	Cook	Olympia Fields, village of	170139B	Aug. 7, 1974, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Aug. 15, 1980, reinstated.	May 3, 1974 and Apr. 25, 1975.
Texas	Kinney	Unincorporated areas	481176A	Aug. 13, 1980, emergency.	Jan. 10, 1978.
Alabama	Sumter	Livingston, city of	010195B	Aug. 15, 1980, suspension withdrawal.	May 31, 1974 and July 2, 1976.
Arkansas	Jefferson	Altheimer, city of	050107B	do	May 10, 1974 and June 4, 1976.
Arizona	Maricopa	Tempe, city of	040054B	do	June 28, 1974 and Sept. 5, 1975.
California	Stanislaus	Modesto, city of	060387B	do	July 19, 1974 and Aug 15, 1975.
Do	Santa Clara	Mountain View, city of	060347B	do	June 14, 1975 and Sept 19, 1975.
Do	Contra Costa	Pinole, city of	060032B	do	May 24, 1974 and Oct. 10, 1975.
Do	do	Pittsburgh, city of	060033B	do	June 21, 1974 and Nov. 28, 1975.
Illinois	Cook	Elmwood Park, village of	170089A	do	Nov. 1, 1974.
Do	Lake	Riverwoods, village of	170387B	do	Mar. 1, 1974 and Jan. 30, 1976.
Iowa	Wapello	Ottumwa, city of	190272B	do	Mar. 15, 1974 and July 2, 1976.
Kansas	Butler	Augusta, city of	200038B	do	Feb. 1, 1974 and Apr. 23, 1976.
Do	Sedgwick	Clearwater, city of	200482A	do	Sept. 5, 1975.
Do	Johnson	Unincorporated areas	200159B	do	Sept. 6, 1977.
Do	Sedgwick	Kechi, city of	200429A	do	Apr. 23, 1976.
Do	Leavenworth	Lansing, city of	200189B	do	Aug. 23, 1974 and Nov. 28, 1975.
Kentucky	Campbell	Dayton, city of	210037B	do	Feb. 1, 1974 and Mar 5. 1976.
Louisiana	Lafourche	Lockport, town of	220254B	do	Jan. 10, 1975 and Dec. 19, 1975.
Michigan	Wayne	Wayne, city of	260245B	do	May 31, 1974 and Oct. 31, 1975.
Mississippi	Rankin	Florence, town of	280144B	do	Aug. 23, 1974 and Jan. 30, 1976.
Do	Simpson	Magee, city of	280158A	do	Aug. 1, 1975.
Nebraska	Cumming	West Point, city of	310048B	do	Jan. 9, 1974 and Aug 29, 1975.
New Hampshire	Belknap	Laconia, city of	330005B	do	June 28, 1974 and Nov. 19, 1976.
New York	Westchester	Greenburgh, town of	360911B	do	June 21, 1974 and July 30, 1976.
Do	Steuben	Savona, village of	361049B	do	May 17, 1974 and June 4, 1976.
Do	Westchester	Yonkers, city of	360936B	do	Jan. 9, 1974 and Oct. 6, 1976.
Ohio	Franklin	Grandview Heights, city of	390172B	do	May 17, 1974 and Aug 20, 1976.
Do	Washington	Macksburg, village of	390571B	do	Aug. 23, 1974 and May 21, 1976.

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State	County	Location	Community No	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania	Perry	Buffalo, township of	421948	do	Jan. 31, 1975
Do	Luzerne	Dorrance, township of	421826A	do	Jan. 24, 1975.
Do	Allegheny	East Deer, township of	421061B	do	Sept. 20, 1974 and May 14, 1976.
Do	Tioga	Lawrenceville, borough of	420821C	do	Sept. 14, 1973, Sept. 24, 1976, and Dec. 31, 1976.
Do	Lycoming	McKenry, township of	420975A	do	Oct. 15, 1976.
Do	York	Monaghan, township of	422225B	do	Nov. 8, 1974 and Apr. 16, 1976
Do	Lackawanna	Scranton, city of	420538B	do	Jan. 23, 1974 and May 28, 1976.
Do	Allegheny	Tarentum, borough of	420076B	do	Feb. 15, 1974 and May 14, 1976.
Do	Lackawanna	Taylor, borough of	420539B	do	Feb. 1, 1974 and May 7, 1976.
Do	Tioga	Tioga, township of	420828B	do	Feb. 8, 1974 and Jan. 7, 1977.
Do	Allegheny	West Homestead, borough of	420084B	do	Dec. 28, 1973 and June 18, 1976
Vermont	Orange	Chelsea, town of	500070B	do	June 28, 1974 and Dec 3, 1976.
Do	Grand Isle	North Hero, town of	500225A	do	Jan. 10, 1975.
Virginia	Montgomery	Christianburg, town of	510101B	do	May 31, 1974 and Apr 25, 1975.
Do	Independent City	Franklin, city of	510060C	do	Feb. 22, 1974, Dec. 27, 1974, and Apr. 2, 1976.
Wisconsin	Marathon	Athens, village of	550246B	do	May 31, 1974 and May 14, 1976.
Do	Dodge	Horicon, city of	550098B	do	Nov. 30, 1973 and Mar 26, 1976.
Do	do	Hustisford, village of	550557B	do	Nov. 30, 1973 and Sept. 12, 1975.
Do	Marathon	Marathon City, village of	550252B	do	Nov. 30, 1973 and May 21, 1976.
Do	Fond du Lac	Ripon, city of	550140B	do	May 24, 1974 and May 28, 1976

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 19, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-26628 Filed 9-3-80; 8:45 am]

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COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Funding Requirements for Fiscal Year 1981 Crisis Intervention Program

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule on the FY'81 Crisis Intervention Program. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements. This rule implements Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act of 1980 which provides funding for this energy-related crisis assistance program.

DATES: Effective Date: This rule becomes effective October 6, 1980. Comment Date: CSA will consider comments on this rule received by September 29, 1980 and will amend the rule to reflect comments if warranted.

ADDRESS: Comments should be sent to the contact persons and address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Crawford, Mr. Wallace W. Lumpkin, Community Services Administration, Crisis Intervention Program, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 254–9833.

SUPPLEMENTARY INFORMATION: CSA is waiving the formal 60 day minimum comment period for this significant rule as required by Executive Order 12044, Improving Government regulations. CSA finds that a 60 day comment period for this rule is contrary to the public interest and impracticable since complying with this requirement would make it impossible to publish a final rule prior to the onset of winter.

Title III of the Crude Oil Windfall Profit Tax Act of 1980 (PL 96–223), known as the "Home Energy Assistance Act of 1980", authorizes grants to the states to "provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income". Responsibility for federal administration of the Low-Income Energy Assistance Program (LIEAP) funds which will go to the States is assigned to the Department of Health and Human Services (HHS). Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act also directs the Secretary of HHS to "transfer to the Director of the Community Services Administration $100,000,000 . . . for carrying out energy crisis related activities under Section 222(a)(5) of the Economic Opportunity Act of 1964".

Based upon the legislative history for the Act, the CSA program was to be designed to complement rather than supplement the HHS funded LIEAP. Inasmuch as the provisions of the LIEAP are directed primarily towards the payment of utility/fuel bills, CSA has designed its program to fill this vacuum in assistance.

The goals of the CSA Crisis Intervention Program (CIP) are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving community resources to deal with both short and long range energy issues affecting the poor in the specific community.

Prior to the design of this program, CSA and representatives of Community Action Agencies participated with HHS in the development of the regulations governing the funding of LIEAP. This participation provided us with the necessary knowledge to design a program which would truly complement LIEAP by responding to the energy needs of the poor at the local level.

CSA expects to operate this program through its network of Community Action Agencies and other existing CSA grantees which will provide national coverage. In addition, Indians will be served by tribal governments or non-profit organizations. Migrants and Seasonal Farmworkers will be served by CSA's Migrant Conduit system.

By the provisions of the Crude Oil Windfall Profit Tax Act, CSA is required to allocate funds among the States according to a legislatively prescribed formula. Funds then will be distributed within States on a formula basis to be determined by CSA once Congress appropriates funds for this program. At that time, applicants requesting funds under this program will be informed of the total amount of funds available for a particular community by the appropriate CSA Regional Director.

The program will serve the needy poor with total household incomes at or below 125% of the CSA poverty guidelines. Although CSA has not established any participant priorities, grantees are encouraged to continue to give priority to the elderly and the handicapped.

CSA has reserved the procedures to be followed in submitting applications to the State Clearinghouses for future publication. We have requested a modification of the clearinghouse procedures from the Office of Management and Budget. The published procedures will reflect their response. In the interim applicants are advised to submit their Notice of Intent to apply for funds under this program to the appropriate clearinghouse(s).

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Michael T. Blouin,

Acting Director.

45 CFR Part 1061 is amended to add the following new Subpart 1061-51

Subpart 1061-51—Funding Requirements for Fiscal Year 1981 Crisis Intervention Program

Sec.

1061.51-1 Applicability.
1061.51-2 References.
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1061.51-12 Project requirements.
1061.51-13 Post funding requirements.
1061.51-14 Termination of program.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

§ 1061.51-1 Applicability.

This subpart is applicable to grants made under section 222(a)(5) of the Economic Opportunity Act 1964 as amended, for energy Crisis Intervention activities if the assistance is administered by the Community Services Administration.

§ 1061.51-2 References.

(a) Section 222(a)(5) of the Economic Opportunity Act of 1964, as amended.

(b) 45 CFR 1067.40, Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the Economic Opportunity Act.

(c) 45 CFR 1050.50, Cost Sharing and Matching.

(d) 45 CFR 1068.20, Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs.

(e) 45 CFR 1067.4, Standards for Evaluating the Effectiveness of CSA Adminstered Programs and Projects.

(f) 45 CFR 1067.7, Due Process Rights For Applicants Denied Benefits Under CSA Funded Programs.

(g) 45 CFR 1050.80, Monitoring and Reporting Performance.

(h) 45 CFR 1050.70, Financial Reporting Requirement.

(i) 45 CFR 1050.160, Procurement Standards.

§ 1061.51-3 Definitions.

(a) "Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

(b) "Head of Household" means the household designate and major income earner of the household.

(c) "Elderly" means persons who are sixty years of age or older.

(d) "Seasonal Farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal Farmworker" includes both migratory and nonmigratory individuals, but does not include nonmigratory individuals who are full-time students or supervisors or other farmworkers.

(e) "Migrant Farmworker" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day.

(f) "Indian" means any individual who is a member or a descendent of a member of a North American tribe, band, or other organized group of native people who are indigenous to the continental United States or who otherwise have a special relationship with the United States through treaty, agreement, or some other form of recognition. This includes any individual who claims to be an Indian and who is regarded as such by the Indian community of which he or she claims to be a part. This definition also includes Alaskan Natives.

(g) "Tribe" or "Indian Tribe" means a distinct community of Indians that exercises powers of self-government and are so recognized by Federal and/or State statute.

(h) "Handicapped" means those individuals who meet the definition of "handicapped" individuals as defined in section 7(6) of the Rehabilitation Act of 1973, as amended, that is "any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment"

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or who are under a disability as defined in section 1614(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Act of 1970, as amended, or who are receiving benefits under Chapter 11 or 15 of Title 38, United States Code.

(i) "SSI Benefits" means Supplemental Security Income benefits under Title XVI of the Social Security Act, including mandatory and optional payments that the Department of Health and Human Services administers for a State under subpart T of 20 CFR Part 416 to supplement Federal benefits, but excluding benefits:

(1) Paid under 20 CFR 416.231 because the beneficiary is living in a Medicaid institution and Medicaid is paying more than 50 percent of the cost of care;

(2) Reduced by one-third under 20 CFR 216.1125(b) because the beneficiary is living in another person's household and is receiving both support and maintenance (food and shelter) from that person and is not paying his pro rata share of food and shelter expenses; or

(3) Paid to a beneficiary who is:

(i) A child for SSI purposes under 20 CFR 416.1050; and

(ii) Living with a parent or with the spouse of a parent.

§ 1061.51.4 Background.

(a) Title III of the Crude Oil Windfall Profit Tax Act of 1980 (PL 96–223), known as the "Home Energy Assistance Act of 1980", authorizes grants to the states to "provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income." Responsibility for Federal Administration of the Low-Income Energy Assistance Program (LIEAP) funds which will go to the States is assigned to the Department of Health and Human Services (HHS). Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act also directs the Secretary of HHS to "transfer to the Director of the Community Services Administration $100,000,000 . . . for carrying out energy crisis related activities under Section 222(a)(5) of the Economic Opportunity Act of 1964".

(b) Eighty percent of the funds received by CSA will be allocated among the States according to a formula to be included in the Crude Oil Windfall Profit Tax Act of 1980. These funds will then be distributed within States by CSA's ten regional offices to eligible applicants as defined in this rule.

(c) The remaining 20% shall be used by CSA to respond to weather-related emergencies during the operation of the CIP, to establish set-asides to serve Indians and Migrant and Seasonal Farmworkers, to provide training and technical assistance to grantees, to evaluate the program, and to support its administration of the program.

§ 1061.51.5 Purpose.

This rule details the procedures CSA will utilize to implement the FY'81 Crisis Intervention Program, and outlines the policies and funding criteria which will govern the expenditure of funds allocated under this program.

§ 1061.51-6 Policy.

(a) In keeping with Congressional Intent, the CSA Crisis Intervention Program (CIP) is designed to *complement* and not supplement HHS's Low-Income Energy Assistance Program (LIEAP). The goals of the CIP are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving commmunity resources to deal with both short and long range energy issues affecting the poor in the specific community. This program is not an income transfer program. This program does not entitle any person or household to a certain amount or form of assistance. This program is not to be considered as an alternative to those households which have access to direct assistance through other networks. This program should not duplicate assistance available to an eligible household by any public or private entity. The only exception is the payment of utility/fuel bills for an eligible household on a one-time crisis intervention basis (i.e. to prevent hardship or danger to health) and only as a last resort after negotiations with utility/fuel vendors and with existing energy assistance program operators have failed.

§ 1061.51-7 Who can apply for funds.

(a) All Community Action Agencies (CAA's) are eligible to apply for CIP funds to undertake crisis intervention activities in their service areas.

(b) CSA Regional Directors will identify existing CSA grantees to serve those areas of a state not covered by an existing CAA.

(c) Indian Tribes are also eligible to apply for funds to undertake crisis intervention activities for their service areas. If a CSA Regional Director identifies a significant population of Indians that is not self-governed but which would not be able to receive services outlined in this rule due to geographical isolation or other significant factors, he/she may request a waiver from Headquarters to fund this Indian group directly. Waivers will be reviewed on a case by case basis.

(d) The Migrant and Seasonal Farmworker organizations designated as CSA conduits (see Appendix A for names and addresses of organizations) are eligible to apply for funds to undertake crisis intervention activities for Migrant and Seasonal Farmworkers.

§ 1061.51-8 What can these funds be used for.

(a) All work programs proposing to undertake crisis intervention activities must include, at a minimum, activities outlined in paragraphs (a)(1)–(4) of this section:

(1) *Access*—Grantees must undertake activities to insure that all poor and near poor households are provided equal access to federal, state or other energy crisis assistance programs. Such activities might include but are not limited to the representation of the interests of the poor with utility/fuel vendors, at energy policy and rate structure hearings, with the program operators of the Low Income Energy Assistance Program (LIEAP), and with the program operators of the Department of Energy's weatherization program.

(2) *Community Mobilization Activites*—Mobilization and organization of community resources to respond to crisis needs within the community.

(i) *Mobilization of Organizations*—Such activities might include but are not limited to coordination of religious, social service and other community based organizations to become aware and involved in the energy issues affecting the poor and soliciting their help in ameliorating their effects.

(ii) *Mobilization of Goods and Services*—Such activities might include but are not limited to securing goods, services, and temporary relocation centers from community based merchants, religious, social service and other organizations to respond to the energy needs of the poor during individual emergencies and periods of crises.

(3) *Direct Services*—The provision of direct services in the form of goods or services are to be provided only when

these direct services are not available from other sources. These services might include but are not limited to providing blankets, warm clothing, temporary shelter, energy-related repairs to housing such as patching a roof or replacing a broken window, furnace repairs and space heaters. Grantees are also permitted to make payments of utility/fuel bills as a one-time form of crisis assistance to a household and only as a last resort after negotiations with utility/fuel vendors and other energy crisis assistance operators (e.g. LIEAP local program operator) have failed to resolve the household's crisis. In undertaking this activity, grantees must assure that reconnection of utility service or delivery of fuel actually occurs. Funds under this program shall not be used to weatherize houses.

(4) *Community Planning and Education*—such as but not limited to comprehensive energy-related planning to benefit the low-income populace of the area, the dissemination of energy conservation information, the conduct of energy conservation education programs and the provision of information on existing energy programs in the community (e.g., information and referral to the LIEAP).

(5) *Alternate Energy Sources*—such as but not limited to the installation of a woodburning stove, solar hot water heater, or a solar collector. This activity is being allowed since grantees may find, in some instances, that the best means of solving an individual household's energy problem is to utilize an alternate energy source.

§ 1061.51-9 Who can be served by this program.

(a) *Income Eligibility.* Households whose incomes total no more than 125 percent of the CSA Income Poverty Guidelines or whose heads receive SSI or AFDC payments are eligible for assistance. (See definition for SSI. 1061.51-3 [1].) No grantee may change these income eligibility guidelines. (See Appendix "B" for CSA Income Poverty Guidelines.)

(b) *Program Eligibility.* No assistance under this program is to be provided to households having access to direct assistance of the same type through other supportive networks. such as the Low-Income Energy Assistance Program, welfare, or other federally funded energy assistance programs, except in cases where the grantee can document that the other network cannot respond in an effective and timely manner to prevent a life threatening or health-related emergency situation.

(c) *Certification of Income Eligibility Required of Grantees.* Proof of income eligibility shall be required of each applicant. The period for determining eligibility will not be more than 12 months nor less than 90 days preceding the request for assistance. The determination of what constitutes income shall be based on the CSA Income Poverty Guidelines. In limited instances when proof of income is unavailable, an applicant must sign a declaration of income eligibility in order to receive assistance. In such cases, the local program operator must make a reasonable number of spot checks (no less than 10 percent) to verify income eligibility

(d) *Income Disregard.* Benefits made available under this program shall not be considered as income or resources of such household (of any member thereof) for any purposes under any federal or state law, including any law relating to taxation, public assistance or welfare program.

§ 1061.51-10 Level of assistance.

(a) The sum of all forms of assistance under this program made to and/or on behalf of any eligible household under this program may not exceed $400.

(1) The provision of direct services may not exceed a total of $150 for any eligible household.

(2) No alternate energy source can exceed a total sum of $400.

§ 1061.51-11 How to obtain funds.

(a) Applications for funds under this program, except for applications submitted by Migrant & Seasonal Farmworkers Conduits, must be submitted to the appropriate CSA Regional Office. (See Appendix "C".) Applications by the Migrant & Seasonal Farmworker Conduits must be submitted to the National Farmworker Desk. (See Appendix "D".)

(b) Applications must be received by CSA no later than close of business Friday, October 31, 1980.

(c) *Contents of Applications.*

(1) The following forms are required as part of the application package:

(i) CSA Form 419. Summary of Work Programs and Budget. This form must address all of the activities outlined under Section 1061.51-8 which the applicant is going to undertake. Each activity should be addressed separately with a breakdown for the level of funding to support each activity.

(ii) CAP Form 25. Program Account Budget.

(iii) CAP Form 25a, Program Account Budget Support Sheet.

(iv) SF 424, Federal Assistance.

(2) When delegating part or all of the work program, the applicant must also submit the following:

(i) CAP Form 85, Administering Funding Estimate.

(ii) CAP Form 87, Delegate Agency Basic Information.

(iii) CAP Form 11, Assistance of Compliance with Local Rights.

(d) *Clearinghouse Review Procedures.* [Reserved]

§1061-51-12 Project requirements.

(a) *Project Advisory Committee.*

(1) Each applicant shall establish a Project Advisory Committee (PAC). However, if the applicant has an existing PAC that is properly constituted, this PAC will satisfy this requirement.

(2) The role of the PAC should include but not be limited to the following activities:

(i) participate in the development of the proposed work program;

(ii) review and recommend for approval or disapproval of each request for the installation of an alternate energy source. The criteria to be used in the review should include the determination that the alternate energy source will:

(A) Lessen the impact of the high cost of energy on the household;

(B) Have a significant impact on the household's energy usage pattern; and

(C) Lessen the potential for future energy assistance subsidies.

(iii) Address the energy issues affecting the community as a whole and how they impact upon the poor:

(iv) make recommendations on the routine operation of the grantee's crisis intervention program; and

(v) participate in the development of applications for any future crisis intervention activities.

(3) Membership on the PAC should include at least 51% poor persons as well as representatives of the local governments and other resource agencies within the community served, a representative or representatives of the local public utility and local fuel dealers.

(b) *Crisis Intervention Program Coordinator.* A grantee must have at least one full-time energy crisis intervention program coordinator who will be responsible for assuring the implementation of the approved work program. Program funds may be used to support this position.

(c) *Non-Federal Share Requirements.* Since this is a program with crisis intervention activities, a matching share is not required. However, grantees are encouraged to mobilize additional resources to supplement and support this program.

(d) *Maintenance of Effort.* Assistance provided with funds made available under this program shall be in addition

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to, and not in substitution for, services previously provided without federal assistance.

(e) *Procedures on Denial of Assistance.* The grantee is reminded that under the provisions of 45 CFR 1067.7 they are required to have procedures for the review of the partial or complete denial of assistance to any household or individual.

§1061.51-13 Post funding requirements.

(a) *Financial Reporting.* Grantees shall follow normal procedures for submission of the SF-269 and SF-272 outlined in 45 CFR 1050 Subpart H.

(b) *Project Progress Review Reports.* Grantees shall also follow normal procedures for the submission of the Project Progress Review Report (CSA Form 440) outlined in 45 CFR 1050 Subpart I.

(c) *Audit Requirement.* The program including its contracted-out components will be audited at the time of the grantee's regularly scheduled CSA audit.

(d) *Procurement.* The procurement standards outlined in 45 CFR 1050.160 are applicable to this program.

(e) *Administrative Costs.* The grantee may expend up to 10% of the total grant for administrative costs. Where the grantee has contracted out performance of part or all of the work program, the grantee must provide a reasonable portion of these administrative funds to the program operator(s) to enable them to administer the program.

§ 1061.51-14 Termination of program.

No funds under this program may be obligated after September 30, 1981. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

Appendix A—Migrant Conduits

New England Farmworkers Council (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont) 6 Frost Street, Springfield, Massachusetts 01105, ECIP Coordinator: Jane Malone, phone: (413) 781-2145.

Rural New York (Serving: New Jersey, New York) 339 East Avenue, Suite 305, Rochester, New York 14604, ECIP Coordinator: Mary Hanson, phone: (716) 546-7180.

Farmworkers Corporation of New Jersey (Serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia) 1400 West Landes Avenue, Vineland, New Jersey 08360, ECIP Coordinator: Bernard Powell, phone (609) 691-7001.

Mississippi Delta Housing Corporation (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Louisiana) 432 Highway 82 East, P.O. Box 847, Indianola, Mississippi 28751, ECIP Coordinator: Clanton Beamon, phone: (601) 887-4852.

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, South Dakota) P.O. Box 1231, St. Cloud, Minnesota, 56301 ECIP Coordinator: Rich Echola, phone: (612) 254-7010.

Coloneas Del Valle (Serving: Arkansas, New Mexico, Oklahoma, Texas) P.O. Box 907, San Juan, Texas 78759, ECIP Coordinator: Hector DeLeon, phone: (512) 781-9795.

ORO Development Corporation (Serving: Iowa, Kansas, Missouri, Nebraska) 1208 Kansas Avenue, Kansas City, Kansas 66105, ECIP Coordinator: Mark Marcano, phone: (913) 342-2121.

North Dakota Migrant Council (Serving: Colorado, Montana, North Dakota, Utah, Wyoming) P.O. Box Drawer X, Grand Forks, North Dakota 58201, ECIP Coordinator: Jerry Nagel, phone: (701) 775-5135.

Campesinos Unidos (Serving: Arizona, California, Nevada) P.O. Box 203, Brawley, California 92227, ECIP Coordinator: Jose Lopez, phone (714) 344-4500.

Idaho Migrant Council (Serving: Idaho, Oregon, Washington) 7155 Capitol Boulevard, Suite 406, Boise, Idaho 83706, ECIP Coordinator: Sam Byrd, phone: (208) 345-9761.

Appendix B—CSA Income Poverty Guidelines

§ *1060.2-1 Applicability.*

This subpart applies to all grants financially assisted under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended, if such assist is administered by the Community Services Administration.

§ *1060.2-2 Policy.*

(a) The attached income guidelines are to be used for all those CSA funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede alternative standards of eligibility approved by CSA.

(b) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

(c) The attached guidelines are based upon Table 17 of the U.S. Bureau of the Census, *Current Population Reports,* Series P-60, No. 120, "Money Income and Poverty Status of Families and Persons in the United States: 1978" (Advance Report), U.S. Government Printing Office, Washington, D.C., November 1979; and Department of Labor Press Release USDL-80-46 of December 1979.

(d) The following definitions, from *"Current Population Reports,"* P-60, No. 91, Bureau of the Census, December 1973 have been adopted by CSA for use with the attached poverty guidelines.

(1) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workman's compensation, strike benefits from union funds, veteran's benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

(2) *A Farm Residence.* Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

Attachment.—*1980 Community Services Administration Poverty Income Guidelines for all States Except Alaska and Hawaii*

Size of family unit	Nonfarm family	Farm family
1	$3,790	$3,250
2	5,010	4,280
3	6,230	5,310
4	7,450	6,340
5	8,670	7,370
6	9,890	8,400

For family units with more than 6 members, add $1,220 for each additional member in a nonfarm family and $1,030 for each additional member in a farm family.

Poverty Guidelines for Alaska

Size of family unit	Nonfarm family	Farm family
1	$4,760	$4,090
2	6,280	5,370
3	7,800	6,650
4	9,320	7,930
5	10,840	9,210
[illegible]	12,360	10,490

For family units with more than 6 members, add $1,520 for each additional member in a nonfarm family and $1,280 for each additional member in a farm family.

Poverty Guidelines for Hawaii

Size of family unit	Nonfarm family	Farm family
1	$4,370	$3,760
2	5,770	4,940
3	7,170	6,120
4	8,570	7,300
5	9,970	8,480
6	11,370	9,660

For family units with more than 6 members, add $1,400 for each additional member in a nonfarm family and $1,180 for each additional member in a farm family.

1980 Community Services Administration Poverty Income Guidelines for all States Except Alaska and Hawaii

[125 percent of the poverty guidelines]

Size of family unit	Nonfarm family	Farm family
1	$4,738	$4,063
2	6,263	5,350
3	7,788	6,638
4	9,313	7,925
5	10,838	9,213
6	12,363	10,500

For family units with more than 6 members, add $1,525 for each additional member in a nonfarm family and $1,288 for each additional member in a farm family.

[125 percent of the poverty guidelines for Alaska]

Size of family unit	Nonfarm family	Farm family
1	$5,950	$5,113
2	7,850	6,713
3	9,750	8,313
4	11,650	9,913
5	13,550	11,513
6	15,450	13,113

For family units with more than 6 members, add $1,900 for each additional member in a nonfarm family and $1,600 for each additional member in a farm family.

[125 percent of the poverty guidelines for Hawaii]

Size of family unit	Nonfarm family	Farm family
1	$5,463	$4,700
2	7,213	6,175
3	8,963	7,650
4	10,713	9,125
5	12,463	10,600
6	14,213	12,075

For family units with more than 6 members, add $1,750 for each additional member in a nonfarm family and $1,475 for each additional member in a farm family.

Appendix C—CSA Regional Office Addresses

Mr. Ivan Ashley, Regional Director, CSA, Region I, E-400, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (617) 223-4080/FTS-8-223-4080, Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Ms. Josephine P. Nieves, Regional Director, CSA, Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: (212) 264-1900/FTS-8-264-1900 New York: New Jersey, New York, Puerto Rico, Virgin Island.

Dr. W. Astor Kirk, Regional Director, CSA, Region III, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: (215) 597-1139/FTS-8-597-1139, Philadelphia: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA, Region IV, 101 Marietta Street NW, Atlanta, Georgia 30303, Phone: (404) 221-2717/FTS-8-242-2717, Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA, Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, Phone: (312) 252-5562/FTS-8-353-5562, Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA, Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767-6126/FTS-8-729-6126, Dallas: Arkansas, Louisana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA, Region VII, 911 Walmut Street, Kansas City, Missouri 64106, Phone: (816) 374-3761/FTS-8-758-3761, Kansas City: Iowa, Kansas, Missouri, Nebraska,

Mr. David Vanderburgh, Regional Director, CSA, Region VIII, 1961 Stout Street, Federal Building, Denver, Colorado 80294 Phone: (303) 837-4767/FTS-8-327-4767, Denver: Colorado, Montana, North Dakota, South Dakota, Utah Wyoming.

Mr. Alphonse Rodriquez, Regional Director, CSA, Region IX, 450 Golden Gate Avenue, Box 36008 San Francisco, California 94102, Phone: (415) 556-5400/FTS-8-556-5400 San Francisco: Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA, Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442-4910/FTS-8-399-4910 Seattle: Alaska, Idaho, Oregon, Washington.

Appendix D—CSA National Farmworkers Desk Address

Office of Farmworkers Programs, Attn: Mr. Eduardo Gutierrez, 1200 19th Street, N.W., Washington, D.C. 20506, Phone: (202) 254-5400.

[FR Doc. 80-27156 Filed 9-3-80; 8:45 am]

BILLING CODE 6315-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-38; RM-3191]

FM Broadcast Station in Big Rapids, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: This action assigns Channel 272A to Big Rapids, Michigan, as its second FM channel assignment in response to a petition filed by David C. Schaberg.

DATE: Effective October 2, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Big Rapids, Michigan), BC Docket No. 80-38, RM-3191.

Report and Order—Proceeding Terminated

Adopted: August 15, 1980.

Released: August 26, 1980.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted January 29, 1980, 45 FR 8673 (published February 8, 1980), proposing the assignment of FM Channel 272A to Big Rapids, Michigan, issued in response to a petition filed by David C. Schaberg ("petitioner") who restated his interest in the proposal. WBRN, Inc. ("WBRN"), licensee of Stations WBRN(AM) and WBRN-FM, Big Rapids, filed a reply in opposition to the proposal.

2. Big Rapids (pop. 11,995),[1] in Mecosta County (pop. 27,992) is approximately 245 kilometers (153 miles) northwest of Detroit, Michigan. Big Rapids is served locally by Stations WBRN(AM) (daytime-only), and WBRN-FM (Channel 265A).

3. In its opposition, WBRN alleges that petitioner failed to provide an alternate channel for assignments to Shelby, Michigan, a precluded community, as the *Notice* requested. Petitioner suggested three possible available channels. WBRN notes that site restrictions limit desirable assignment to Shelby, and the overall preclusion impact of the proposal would result in inequitable distribution of available frequencies.

4. We have carefully considered the proposal herein and we have determined that the assignment of Channel 272A to Big Rapids, Michigan, is warranted. While preclusion would result, there has been no interest shown at the affected communities. Without demand elsewhere we are constrained from reserving the channel for future use where, as here, the assignment could provide an opportunity for a competitive local aural broadcast service for Big Rapids.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that

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[1] Population figures are taken from the 1970 U.S. Census.

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effective October 2, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended, for the city listed below, to read as follows:

City	Channel No.
Big Rapids, Michigan	265A, 272A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–27083 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–26; RM–3332]

FM Broadcast Station in Ravenswood, W. Va.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns a Class A channel to Ravenswood, West Virginia, in response to a petition filed by Rex Osborne. The channel could be used to provide a first full-time local broadcast service to Ravenswood.

EFFECTIVE DATE: October 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Ravenswood, West Virginia), BC Docket No. 80–26, RM–3332.

Report and Order—Proceeding Terminated

Adopted: August 19, 1980.

Released: August 28, 1980.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* adopted January 22, 1980, 45 FR 6973, proposing the assignment of Channel 272A as a first FM assignment to Ravenswood, West Virginia. The *Notice* was issued in response to a petition filed by Rex Osborne ("petitioner"). Petitioner filed supporting comments reaffirming his intention to file for the channel, if assigned. No oppositions to the proposal have been received.

2. Ravenswood (pop. 2,240),[1] in Jackson County (pop. 20,903), is located approximately 39 kilometers (24 miles) southwest of Parkersburg, West Virginia. It is served locally by daytime-only AM Station WMOV.

3. Petitioner has submitted sufficient information which is persuasive as to Ravenswood's need for a first FM assignment.

4. The Canadian Government has given its concurrence to the proposed assignment of Channel 272A to Ravenswood, West Virginia.

5. The Commission believes it would be in the public interest to assign Channel 272A to Ravenswood, West Virginia. The channel could provide a first full-time local aural and FM broadcast service to the community. The assignment can be made in compliance with the minimum distance separation requirements.

5. Accordingly, it is ordered, that effective October 3, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Revenswood, West Virginia	272A.

6. Authority for the action taken herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066,1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–27084 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 601

Line of Succession

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this document is to revise the sequence in which UMTA officials assume and perform the duties of the Administrator when he or she is absent or disable (line of succession). Under this revision, when the Administrator and Deputy Administrator are absent or disabled, the duties of the Administrator will be performed by the Executive Director (a recently created position). The remainder of the line of succession remains unchanged.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Pamela M. Hollar, Office of the Administrator, (202) 426–4038.

SUPPLEMENTARY INFORMATION: Since this is a matter relating to agency management, under 5 U.S.C. 553, notice and comment are not required, and the rule may be made effective less than 30 days after publication.

Accordingly, Part 601 of Title 49 of the Code of Federal Regulations is amended by adding to § 601.4 a new paragraph (a–1) to read as follows:

§ 601.4 Responsibilities of the Administrator.

(a) * * *

(a–1) Executive Director.

* * * * *

(49 CFR 1.51)

Dated: August 21, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80–26896 Filed 9–3–80; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the outer limits for dates and times when shooting may begin and end, hunting areas,

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[1] Population figures are taken from the 1970 U.S. Census.

season lengths, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations for the 1980–81 season. These seasons commence on or after October 1, 1980, and include most of those for waterfowl. The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1980–81 season.

In general, the frameworks for ducks are similar to those in effect last year. The Service is stabilizing these regulations as part of a cooperative program with Canada aimed at improving its understanding of factors other than annual hunting regulations on duck harvests and population dynamics. Other changes include removal of hunting area closures for redheads, separating limits for canvasbacks and redheads under conventional regulations, zoning changes or additions in several Atlantic and Mississippi Flyway States, including mergansers in the regular duck bag limit in the Pacific Flyway, and local or regional changes for some goose hunting areas, limits and seasons.

EFFECTIVE DATE: September 4, 1980.

ADDRESSES: Comments received on the proposed late season frameworks are available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C. Copies of the environmental assessment on proposed stabilization of hunting regulations are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. The Service's biological opinion resulting from its consultation under Section 7, Endangered Species Act, is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior to determine when, to what extent and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the annual process of developing migratory game bird hunting regulations, a distinction is made between "early" and "late" season frameworks. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, an early duck season in Iowa, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a **Federal Register** document in late February, and open to public comment. As additional information becomes available, and comments are received and considered for the initial proposals, one or more supplemental proposed rules are announced in the **Federal Register**. At the termination of comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, hunting areas, daily bag and possession limits, and other regulatory measures or options. Following another public comment period and after consideration of additional comments, the Service publishes in the **Federal Register** the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the **Federal Register**, taking effect upon publication.

The regulations schedule for this year was as follows. On February 29, 1980, the Service published for public comment in the **Federal Register** (45 FR 13630) proposals to amend 50 CFR 20, with a comment period ending May 16, 1980. All comments received were considered. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 20, 1980, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting was announced in the **Federal Register** on February 29, 1980 (45 FR 13630). Proposed hunting season frameworks for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; an early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 27, 1980, the Service published in the **Federal Register** (45 FR 43419) a second document in the series of proposed and final rulemaking documents dealing specifically with final frameworks for the 1980–81 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1980–81 season.

On July 1, 1980, the Service published for public comment in the **Federal Register** (45 FR 44540) a third document in the series consisting of proposed frameworks for early season migratory bird hunting regulations and supplemental proposals for late season regulations arising from comments received or from new information. The comment period for proposed early season frameworks ended on July 12, 1980, and for late season proposals ended on August 23, 1980.

On July 22, 1980, the Service published in the **Federal Register** (45 FR 49061) a fourth document in the series dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife agency officials selected season dates and daily bag and possession limits for the 1980–81 season.

On August 5, 1980, a public hearing was held in Washington, D.C., as announced in the **Federal Register** on February 29, 1980 (45 FR 13630) and July 1, 1980 (45 FR 44540) to review the status of waterfowl. Proposed population and harvest objectives and regulations frameworks were discussed, and

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statements and comments were solicited and received from the public.

On August 13, 1980, the Service published for public comment in the **Federal Register** (45 FR 53982) a fifth document in the series consisting of proposed frameworks for late season migratory bird hunting regulations. The comment period for proposed late season frameworks ended August 23, 1980.

On August 21, 1980, the Service published in the **Federal Register** (45 FR 55960) a sixth document in the series dealing specifically with amending Subpart K of 50 CFR 20 to set hunting seasons and areas, shooting and hawking hours, and bag and possession limits for species subject to early hunting regulations. These regulations took effect immediately upon publication.

This final rulemaking document is the seventh in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1980–81 late hunting seasons on certain migratory game birds.

Review of Public Comments and the Service's Response

Thirty-four public comments were received between publication of the comments summary in the **Federal Register** dated August 13, 1980 (45 FR 53982) and through August 25, 1980. Included are 20 comments from individuals singly and in groups of two or more, 10 from State conservation agencies, 2 from waterfowl flyway councils, and 2 from one organization. In some instances, the communications do not specifically mention the open comment period or regulatory process. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments.

Twenty letters from individuals writing singly or in groups of two or more favored implementation of the Low Plains proposal in the eastern tier of the Central Flyway.

Response. The Low Plains proposal was briefly described in the **Federal Register** dated February 29, 1980 (at 45 FR 13642). The Service noted in the **Federal Register** dated July 1, 1980 (at 45 FR 44545) that the proposal was aimed primarily at increasing the harvest of mallards in the mid-continent area of the United States, an action felt to be inconsistent with present mallard population goals and harvest guidelines. It was further observed that a balanced program of reasonable mallard hunting opportunity among the four flyways, as developed over the past few years, existed and that further changes in hunting opportunity should be based on changes in the status of the populations involved. In the **Federal Register** dated August 13, 1980 (at 45 FR 53984), the Service noted that recently completed surveys of major production areas indicated that the numbers of breeding mallards had declined from 1979, and that deteriorating habitat conditions severely curtailed production to the extent that a reduced 1980 fall flight was anticipated. For these reasons, the Service recommended against adoption of the Low Plains proposal.

Four States commented on zoning, including those which had completed 3 years of experimental zoning studies and had submitted final evaluation reports. New York requested a change in the boundary separating its North and South Zones. West Virginia corrected the zone boundary description accompanying its request to initiate an experimental zoning study. Indiana had earlier requested a change in its zone boundary but subsequently requested that the boundary used during 1979–80 remain in effect this year. Michigan similarly requested a change in the boundary separating its North and South Zones.

Response. The Service concurs with these requests as they are consistent with criteria published in the **Federal Register** dated February 29, 1980 (at 45 FR 13637). Similarly, the final frameworks reflect corrections in zone boundaries which have been brought to the Service's attention. Earlier zoning comments and requests from other States were addressed in the **Federal Register** dated July 1, 1980 (45 FR 44540) and August 13, 1980 (45 FR 53982).

Three States commented on the proposed canvasback frameworks. Virginia reiterated its interest in a special season for canvasbacks during the last two weeks of the regular 1980–81 duck season, in which a daily bag limit of 4 drake canvasbacks would be allowed. Michigan and Wisconsin indicated their interests in removing certain canvasback closure areas which have been in effect for several years. They proposed that recent year canvasback use data be considered in determining which closures should be abolished or retained.

Response. The Service, in the **Federal Register** dated August 13, 1980 (at 45 FR 53983) indicated that it supports, in principle, a limited canvasback hunting season directed primarily at the harvest of drakes, to be conducted on a trial basis in designated areas of the Atlantic Flyway. However, the hunt should be initiated in a year when population levels and production are favorable. Recently completed surveys show that although the number of canvasbacks observed on the breeding grounds increased somewhat this spring, habitat conditions were such that little production occurred and a reduced fall flight is expected. With regard to the Michigan and Wisconsin requests, the Service believes that at this date there is insufficient time to review data on specific canvasback closure areas, and propose and implement changes for those where closures may no longer be necessary.

Wisconsin recommended modifications in certain Canada goose frameworks applicable to that State. In the Central and Horicon Zones, only one Canada goose was proposed in the daily and season bag, and in possession. A 50-day season was requested for 16 east-central counties, and if fewer than 100,000 geese are inventoried in the 16-county area by October 20, the season length in a described area approximating the eastern half of Wisconsin would be reduced to 50 days.

Response. The Service concurs in these recommendations which are consistent with the management plan for Mississippi Valley Population Canada geese. The changes are reflected in the final frameworks.

Comments were received from Defenders of Wildlife (Defenders) about hunter ability to distinguish between canvasbacks and redheads, especially during the pre-dawn shooting period; whether special scaup hunting regulations meet legal obligations of the Migratory Bird Treaty Act and the migratory bird treaty with Japan which includes a provision for "optimum numbers" of migratory birds; and an alleged conflict between zoning experiments and the proposed experimental stabilization of hunting regulations. Defenders opposed any liberalization of canvasback and redhead regulations because the species are still below their long-term population objectives. Defenders urged that the three species of mergansers be included in the regular duck bag in the Pacific Flyway, as proposed by the Pacific Flyway Council, but opposed removal of the 1-bird daily bag limit for hooded mergansers also proposed by the Pacific Flyway Council.

Defenders object to proposed hunting regulations for black ducks which include no change from 1979 on the grounds that the regulations do not adequately protect black ducks, and that data on which the proposed regulations appear to be based were not available for public inspection.

Response. The Service has previously responded to many of Defenders' concerns. The matter of shooting hours was discussed in the FES issued in 1975, in the environmental assessment on shooting hours issued in 1976, and in numerous **Federal Registers**, including the following published this year: February 29 (at 45 FR 13634); July 1 (at 45 FR 44542); and August 13 (at 45 FR 53983). Concern about the status of scaups was discussed in the **Federal Register** dated July 1, 1980 (at 45 FR 44543). The final environmental assessment on stabilized regulations describes the relationship of this program to other hunting regulations. Experience has shown that zoning has resulted in no marked changes in duck harvests, and there is no evidence that it will affect the evaluation of stabilized regulations. Regarding separate regulations for canvasbacks and redheads, the Service notes that this was a management objective stated in the environmental assessment prepared on the two species in 1976. The status of the canvasback population has not changed significantly in recent years, and the Service plans to retain the closed areas which have been in effect. The redhead population has increased and the changes proposed for this species are deemed to be entirely appropriate and consistent with its status. The Service believes that removal of the hooded merganser restriction in the Pacific Flyway will have no effect on hunting pressure or harvest of this species. No such increases occurred in the Pacific Flyway when restrictive limits for wood ducks were removed.

The Service has previously responded in the **Federal Register** and in an environmental assessment to Defenders' concerns regarding black ducks. Earlier this year (at 45 FR 13635), the Service described the ongoing research program for black ducks, which would provide baseline data from banding before making regulatory changes. A black duck management plan is being developed by the Service and the Atlantic Flyway Council in cooperation with the Canadian Wildlife Service, the Mississippi Flyway Council, and States and Provinces in the range of the species to establish goals and objectives for the species, and to identify research and management needs.

Contrary to the assertion that data supporting the Service's black duck population estimates and status are unavailable for public review, the Service states that these technical data are indeed available to the public. These voluminous technical data and files are located at the nearby Patuxent Wildlife Research Center, Laurel, Maryland, where the Office of Migratory Bird Management's Branch of Surveys is located. Defenders' representatives have on several occasions visited the facility to review and discuss various migratory bird management and research programs and related data. Such an arrangement could have been made for the black duck information in question had such a request been made in a timely fashion.

Defenders expressed concern about the size of the black duck harvest in relation to hunter numbers. At least two important factors have affected harvest opportunity on black ducks in the United States. First, the number of hunters in Canada has doubled over the past 12 years. The result is that Canadian hunters now take more than half the annual black duck harvest. Moreover, in eastern Canada the success rate per hunter day has shown a steady increase over the past decade, suggesting an abundance of black ducks available to be harvested. Conversely, the U.S. harvest has declined proportionately and the success rate per hunter day for black ducks has declined. Basically, the total harvest has remained stable, but the distribution of that harvest has shifted northward. A second important factor affecting the harvest of black ducks, particularly in the United States, is the greatly increased numbers of wood ducks and mallards. Both are prized game birds, and they have replaced the black duck as more important ducks in the harvest, particularly in the Atlantic Flyway. Their abundance reduces the probabilities of black ducks being taken in the daily bag.

The Service notes that no changes in black duck hunting regulations frameworks are included in this final frameworks document, despite expectation of increased production and a slightly larger fall flight. Thus, it does not believe that the 1980–81 hunting regulations will be detrimental to the black duck population.

Comments from two flyway councils concern matters previously addressed in the **Federal Register** (August 13, 1980 at 45 FR 53982), or previously in this document and do not require additional responses here. Maine indicated its general agreement with the proposed late season frameworks. One individual erroneously concluded that the Service was planning to double the bag limit for ducks in the Mississippi Flyway, and expressed his opposition to such action.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. In the **Federal Register** dated August 13, 1980 (at FR 53983) the Service announced that a draft environmental assessment on stabilized regulations for ducks was available for public review and comment. The final assessment is now available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202–254–3207.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service reviewed all regulations frameworks being contemplated this year for outside dates, season lengths, hours, areas, and limits within which States may select regulations subject to early seasons. As a result of intra-Service section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species [Aleutian Canada goose, Everglade kite, bald eagle, American peregrine falcon, Arctic peregrine falcon, and whooping crane] and is not likely to result in the destruction or adverse modification of any designated Critical Habitat."

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with section 7 of the Endangered Species Act. Special attention was again given the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite

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(*Rostrhamus sociabilis plumbeus*), bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrinus anatum*), Arctic peregrine falcon (*Falco peregrinus tundrius*), and whooping crane (*Grus americanus*) and designated Critical Habitat for the Everglade kite, American peregrine falcon, and whooping crane. As a result of intra-Service section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species and is not likely to result in the destruction or adverse modification of any Critical Habitat."

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, areas in Alaska and California are closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from consultation under section 7 are considered public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the **Federal Register** (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the **Federal Register** on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations to be published late this summer.

In 1980, shotshells loaded with toxic shot will not be permitted for waterfowl hunting in designated nontoxic shot zones (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all gauges of shotshells after August 31, 1980.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 29, July 1, and August 13, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours, and bag limits; to communicate those selections to the Service, and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication (September 4, 1980).

Accordingly, the Service under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes the final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing dates, and hunting areas, from which State conservation agency officials may select open season dates and other options. Upon receipt of these selections from State officials, the Service will publish in the **Federal Register** final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect late seasons, limits and shooting hours for the contiguous United States for the 1980–81 season.

Exemption from Executive Order 12044 and 43 CFR Part 14

As discussed in the **Federal Register** dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemaking. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR Part 14 which is provided for in § 14.3(f).

Final Regulations Frameworks for 1980–81 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes inparts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

General

States in the Pacific, Central and Mississippi Flyways may split their season for ducks or geese into two segments of equal or unequal lengths. States in the Atlantic Flyway may, in lieu of zoning, split their season for ducks or geese into two or three segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset.

States in the Mississippi and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic Flyway not selecting the point system may select an extra teal limit for 9 consecutive days during the regular duck season of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1980, and January 31, 1981, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1980.

4. These areas must be described and delineated in State hunting regulations.

OR

As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Maine, Massachusetts, Connecticut, Pennsylvania, West Virginia and North Carolina may not select the point system pending completion of zoning studies.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

Between October 1, 1980, and January 20, 1981, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 50 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 50 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Except in closed areas, the limit on canvasbacks is 1 canvasback daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit on redheads is twice the daily bag limit under conventional regulations. The canvasback possession limit is equal to the daily bag limit. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1980 shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a 2-segment split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton,

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then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Maine may implement its current zoned season program on an operational basis. Massachusetts, Connecticut, West Virginia, and North Carolina each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Pennsylvania and New Jersey each may be divided into three zones for the same purpose. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected in Maine, Massachusetts, Connecticut, West Virginia and North Carolina. New Jersey must select the point system. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular reason for the Flyway also apply. Teal and scaup bonus bird options, and the 16 day special scaup season shall be allowed.

The zones are defined as follows:

Maine

North Zone—Game Management Zones 1, 2 and 3.

South Zone—Game Management Zones 4 through 8.

Massachusetts

Coastal Zone—Beginning at the New Hampshire-Massachusetts border, that portion of the State east and south of ■ boundary formed by Interstate 95, south to U.S. Route 1, south to Interstate 93, south to Route 3, south to U.S. Route 6, southwest to Route 28, northwest to Interstate 195, and west to the Rhode Island line.

Inland Zone—That portion of the State west and north of the above boundary.

Connecticut

Nort Zone—That portion of the State north of Interstate 95.

South Zone—That portion of the State south of Interstate 95.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147, the north on State Route 147 to the junction of Route 220, the west and/or south on Route 220 to the juncition of I–80, then west on I–80 to its junction with the Allegheny River, and then north along the Allegheny River to the New York border. The Allegheny River is included in the North Zone.

South Zone—The remaining portion of the State.

New Jersey

North Zone—That portion of New Jersey west of the Garden State Parkway and north of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38, then west along Route 38 and Route 30.

South Zone—That portion of New Jersey west of the Garden State Parkway and south of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38 then west along Route 38 and Route 30.

Coastal Zone—That portion of New Jersey lying east of the Garden State Parkway from the New York State line to the Cape May Canal.

West Virginia

Allegheny Mountain Upland Zone (contained with the circumscribed boundaries below).

The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I–79, and follows I–79 north to the Pennsylvania State line.

Remainder of the State—That portion outside the above boundaries.

North Carolina

East Zone—That portion of the State east of U.S. Highway 1.

West Zone—That portion of the State west of U.S. Highway 1.

As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framwork dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead and hooded merganser count 70 points each; the blue-winged teal, greenwinged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1980, and January 20, 1981, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New Jersey, Delaware, the Delmarva Peninsula portions of

Maryland and Viginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1981. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1980, and January 31, 1981, States in the Atlantic Flyway may select 70-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

The season is closed on Atlantic brant.

Mississippi Flyway

Between October 4, 1980 and January 20, 1981, States in this Flyway may select concurrent 50-day seasons on ducks, coots, and mergansers, except that in Iowa the framework opening date is September 20 and in Mississippi the framework closing date is January 31. The daily bag limit for ducks is 5, and may include no more than 3 mallards, no more than 2 of which may be female mallards, 1 black duck, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards, no more than 4 of which may be female mallards, 2 black ducks, and 4 wood ducks (except as noted below).

Except in closed areas, the conventional limit on canvasbacks and redheads is 1 daily and 2 in possession for each species. Under the point system, canvasbacks count 100 points each (except in closed areas) and redheads count 70 points each. Areas closed to canvasback hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead, female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and merganser (except hooded merganser) count 10 points each; the male mallard and all other species of ducks cout 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 4 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens no later than November 1, 1980. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those slected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

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Michigan, Illinois, Indiana, Ohio, Missouri, Alabama and Tennessee may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan:

North Zone—That portion of the State north of State Highway 55.

South Zone—That portion of the State south of State Highway 55.

Michigan may split its season in the South Zone into two segments.

Illinois:

North Zone—That portion of the State north of a line running east from the Iowa border along U.S. Highway 34 to I–74, north along I–74 to I–80, then east along I–80 to the Indiana border.

Central Zone—That portion of the State between the North and South Zone boundaries.

South Zone—That portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I–57, north along I–57 to I–70, then east along I–70 to the Indiana border.

Indiana:

North Zone—That portion of Indiana north of State Highway 18.

South Zone—The remainder of Indiana.

Ohio:

North Zone—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernesy, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highay 13.

South Zone—The remainder of Ohio.

Ohio may split its season in each zone into two segments.

Missouri:

North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border.

South Zone—The remainder of Missouri.

Missouri may split its season in each zone into two segments.

Alabama:

South Zone—Mobile and Baldwin Counties.

North Zone—The remainder of Alabama.

Tennessee:

Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area.

State Zone—The remainder of Tennessee.

Within each State: (1) the same bag limit option must be selected for both zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

The waterfowl seasons, limits, and shooting hours in the lower St. Francis River area of Arkansas and Missouri shall be the same as those selected by Missouri. The area is defined as that part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

Between October 4, 1980, and January 20, 1981, States in this Flyway, except Louisiana, may select 70-day seasons on geese (except as noted below for Michigan), with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 4, 1980, and February 14, 1981, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described in the above paragraph.

The season on Canada geese is closed in Arkansas and Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone (described in State Regulations)—the season on Canada geese closes after 50 days or when 5,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Iowa, the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Missouri, in the:

(a) Swan Lake Zone (described in State regulations)—the season on Canada geese closes after 70 days or when 20,000 birds have been harvested, whichever occurs first! Through November 23, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. After November 23, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 50-day season on Canada geese between December 1, 1980, and January 20, 1981, with a daily bag limit of 2 Canada geese and a possession limit of 4 Canada geese.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 2 Canada geese, and the possession limit is 4 Canada geese.

In Wisconsin, the goose season is 70 days Statewide, except: (a) 50 days in Adams, Brown, Calumet, Columbia, Dodge, Fond du Lac, Green Lake, Jefferson, Juneau, Manitowoc, Marquette, Sheboygan, Washington, Waushara, Winnebago, and Wood Counties opening concurrently with duck season; and (b) if the peak number of Canada geese in these 16 counties is determined to be less than 100.000 birds by October 20, 1980, the season will be 50 days east of a line from Ashland south on Highway 13 to Unity; then south along the western border of Marathon, Wood and Juneau Counties to Highway I–90; then southeasterly along Highway I–90 to the Illinois State line.

The harvest of Canada geese is limited to 30,000. In the Horicon and Central Zones, the daily bag and possession limits are 1 Canada goose. Elsewhere in Wisconsin, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the Horicon Zone and the Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State.

The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of State Highway 175 and State Highway 23 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to its intersection with County Highway E, then northerly on County Highway E to its intersection with State Highway 23, then easterly on State Highway 23 to the point of beginning.

The Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then southerly on State Highway 175 to its intersection with State Highway 23, then westerly on State Highway 23 to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, 70-day seasons on geese may be selected by zones established for duck hunting season, except that in the South Zone the season will close December 31. The harvest of Canada geese is limited to 33,000, with 27,000 birds allocated to the Southern Illinois Zone (described in State regulations). The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese. The season on Canada geese in the Southern Illinois Zone will open November 3 and extend through December 31, 1980, or until the Zone's quota of 27,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Canada Goose Management Area (described in State regulations)—the Canada goose season may extend for 107 days within the flyway framework dates. Through November 14, the daily bag limit will be 1 Canada goose and the possession limit will be 2 Canada geese. From November 15 through November 30, the daily bag limit will be 2 Canada geese and the possession limit will be 4 Canada geese. For the remainder of the season, the daily bag limit will be 3 Canada geese and the possession limit will be [illegible] Canada geese.

(c) Remainder of the State—the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Ohio, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Indiana, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Kentucky, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese. The season on Canada geese is closed in that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the season on Canada geese will be November 15 through December 14, 1980. The daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canda geese is closed.

In Alabama, the season is closed on all geese in the counties of Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone and the Swan Lake Zone of Missouri will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between October 4, 1980, and January 18, 1981, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 60 days. Conventional limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 canvasback (note areas closed to canvasback hunting), 1 redhead, 1 female mallard, 1 hooded merganser, and 2 wood ducks. The possession limit may include no more than 1 canvasback (note areas closed to canvasback hunting), 2 redheads, 2 female mallards, 2 hooded mergansers, and 4 wood ducks. The daily bag and possession limits on coots are 15 and 30, respectively.

The areas closed to canvasback hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days provided that the last 23 days of such season must begin on or after December 13, 1980. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 60 days.

The point values for species and sexes taken in the Central Flyway are: canvasbacks count 100 points each (note areas closed to canvasback hunting); female mallards, Mexican-like ducks, wood ducks, redheads and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the coventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

States in the Central Flyway may select goose seasons between October 4, 1980, and January 18, 1981, inclusive.

Montana, Wyoming and Colorado may select, for the Central Flyway portions, seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

New Mexico (for the Central Flyway portion) and Texas (for that portion west of U.S. Highway 81) may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 10 geese which may include no more than 4 dark geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons (which need not be concurrent) for light (Ross' and snow, including blue) geese of 86 days with limits of 5 daily, and dark (Canada and white-fronted) geese of 72 days with daily bag limits as follows (possession limits are described later):

In North Dakota, 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese.

In South Dakota, 1 Canada goose and 1 white-fronted goose.

In Nebraska, 1 Canada goose and 1 white-fronted goose, except in that portion of the State west of U.S. Highway 183, prior to November 24, the daily bag limit may include 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

In Kansas, 1 Canada and 1 white-fronted goose.

In the Oklahoma counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with daily limits of 1 Canada goose and 1 white-fronted goose.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In the remainder of Oklahoma, the limits are 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In that portion of Texas east of U.S. Highway 81, the bag limit is 1 Canada goose or 1 white-fronted goose daily.

In all East Tier Central Flyway States, goose possession limits are twice the daily bag limits.

Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming may select a sandhill crane season with daily bag and possession limits of 3 and 6, respectively, within an October 4, 1980–January 31, 1981, framework as follows:

(a) 37 consecutive days during the period of October 4 through November 23, 1980, in the Central Flyway portion of Colorado except the San Luis Valley area, and in the Wyoming counties of Crook, Goshen, Laramie, Niobrara, Platte, and Weston.

(b) 93 consecutive days between October 20, 1980, and January 31, 1981, in the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 22, 1980, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days, to open with the goose season, in all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Rocky Mountain or Wood Buffalo-Aransas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

Pacific Flyway

Between October 4, 1980, and January 18, 1981, concurrent 93-day seasons on ducks (including mergansers), coots, and gallinules may be selected in Pacific Flyway States and portions of States, *except* as subsequently noted. Basic daily bag and possession limits on ducks (including mergansers) are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Waterfowl season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Northeastern Zone of California must coincide with season dates selected by Oregon for waterfowl, except that the season on geese may differ according to prescribed options described later. For the Southern Zone of California (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

For Nevada, county of Clark, the State may designate season dates for waterfowl differing from those in the remainder of the State.

In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County (all formerly identified as the Columbia Basin Area for ducks), between October 4, 1980, and January 18, 1981, the season lengths for ducks (including mergansers), coots, and gallinules may be 100 days with all seasons to run concurrently.

Between October 4, 1980, and January 18, 1981, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except as subsequently noted. The basic daily bag and possession limits are 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (Canada and white-fronted geese); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted in the hunting of dark geese (all subspecies of Canada and white-fronted geese) in order to protect the Aleutian Canada goose for which no hunting is allowed and to temporarily reduce harvests on white-fronted geese and cackling Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season on dark geese during the 1980–81 waterfowl hunting season.

In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking dark geese will not open until December 15, 1980, and will then continue to the end of the 1980–81 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking dark geese will close on November 23, 1980.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season; and the bag limits for geese are to be the same as in the general goose season in their respective States.

Oregon, for Lake and Klamath Counties, must select frameworks for season and limits from among the following listed Options 1, 2, 3 and 7; California, for the Northeastern Zone must select frameworks from among Options 1, 2, 3, 8 and 9; and California, for the Balance-of-the-State Zone, must select frameworks from among Options 4, 5, 6 and 8. The selected season for geese must occur within that selected for ducks.

Option 1. A season of not more than 79 days between November 1, 1980, and January 18, 1981, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 2. A season of not more than 86 days between October 25, 1980, and January 18, 1981, with a basic goose limit of 4 per day and 4 in possession, of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 3. A season of 93 days between October 4, 1980, and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 4. A season of not more than 83 days between October 4 and December 25, 1980, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 5. A season of not more than 90 days between October 4, 1980, and January 1, 1981, with a basic goose limit of 4 per day and 4 in possession of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 6. A season of not more than 93 days between October 4, 1980, and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 7. A season of not more than 93 days having daily bag limits of 1 dark and 1 white geese with possession limits twice the daily limit through October 31, 1980. Thereafter, limits may be increased to 3 dark and 3 white geese in the daily bag with any 6 geese in possession.

Option 8. A season of not more than 79 days opening not less than 2 weeks after the opening of the duck season, with limits of 2 dark geese and 2 white geese daily and 4 of any geese in possession.

Option 9. A season of not more than 93 days with a limit of 1 goose (either dark or white) in daily bag and possession for the first 14 days of the season. Thereafter, limits may be increased to 3 geese in daily bag and possession of which not more than 2 may be dark geese and not more than 2 may be white geese.

In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond December 28, 1980.

In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be no more than 72 days and may not extend beyond December 21, 1980.

For Nevada, the State may experimentally designate season dates on geese in Clark County and on geese in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from

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those in the remainder of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

In Arizona, except in the counties of Mohave and Yuma; in that portion of New Mexico in the Pacific Flyway; in Clark County, Nevada; in Washington County, Utah; and in the Southern Zone, except that portion in California Department of Fish and Game District 22, of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 18, 1981.

In California, the balance of California Fish and Game District 22 in the Southern Zone (that portion of District 22 lying outside the Colorado River Zone), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981.

In the Arizona counties of Mohave and Yuma and in the Colorado River Zone of California, the seasons on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981. The daily bag and possession limits on Canada geese are 2 and 2, respectively, in these areas. The season on geese in the Colorado River Zone of California must be the same as that selected by Arizona.

In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 1, 1981; and the daily bag and possession limits on snow geese are 3 and 6, respectively.

Between October 25, 1980, and February 22, 1981, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common snipe must coincide with the duck season. For other States partially within the Pacific Flyway seasons between September 1, 1980, and February 28, 1981, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State.

Any State listed in 50 CFR 21.29(k) as meeting Federal Falconry Standards may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.
2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.
3. Hunting hours shall not exceed ½ hour before sunrise to sunset.
4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.
5. Each State selecting extending seasons shall report to the Service the results of the special falconry season by March 15, 1981.
6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Notice.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in any geographical area.

Dated: August 28, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-26979 Filed 9-3-80; 8:45 am]

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50 CFR Part 32

Opening of Swan Lake National Wildlife Refuge, Mo. to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to deer hunting of Swan Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 11–13, 1980.

FOR FURTHER INFORMATION CONTACT:

Alfred O. Manke, Refuge Manager,
Swan Lake National Wildlife Refuge,
P.O. Box 68, Sumner, Missouri 64681.
Telephone 816–856–3323.

SUPPLEMENTARY INFORMATION:

General

Deer hunting is permitted on the Swan Lake National Wildlife Refuge, Missouri only in the areas designated by signs as being open to hunting. These areas comprising 3,550 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, United States Department of the Interior, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which this refuge was established. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting with longbows, compound, crossbows and muzzleloading firearms firing a single projectile no smaller than .40 caliber are the only legal weapons for this hunt. Hunters are not limited to one type of weapon. Revolvers or rifles capable of being fired more than once without reloading are not permitted. Single shot pistols may be used if .40 caliber or larger.
2. A total of 150 special permits will be issued for the hunt by the Missouri Department of Conservation. Only those persons possessing a valid permit will be allowed to enter the open area.
3. Appropriate State hunting permits are required. Permits cannot be purchased at Swan Lake Wildlife Area.
4. All hunters must check in at the area check station and present both the Managed Deer Hunt Permit and the Missouri Deer Hunting Permit (firearms or archery).
5. Each hunter will be issued an arm band which must be worn on an outer garment while hunting on the area. This requirement is for identification and safety while hunting.
6. Deer of any sex and age may be taken during legal shooting hours which are one-half hour before sunrise until sunset. No other wildlife is to be molested. Only one deer per person may be taken in this hunt.
7. Deer taken in the Swan Lake National Wildlife Refuge must be submitted to the check station on the day killed.
8. Primitive-type camping will be permitted in a designated location near the area headquarters. No special facilities are available. Fires are prohibited except in designated areas.
9. Travel within the Swan Lake National Wildlife Refuge by motor vehicle, including motor bikes, Hondas, etc., is restricted to established roads and trails. Parking is permitted only in designated parking areas.
10. Portable tree stands are permitted but must be removed each day. Tree stands nailed or permanently attached to trees are prohibited. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge areas and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 29, 1980.

Donald G. Young,

Assistant Area Manager, Refuges and Wildlife.

[FR Doc. 80-27015 Filed 9-2-80; 8:45 am]

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50 CFR Part 32

National Wildlife Refuges in Montana; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to upland game bird hunting of Benton Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of Benton Lake National Wildlife Refuge in Montana.

DATES: September 4, 1980 to November 30, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager, or appropriate Refuge Manager, at the address or telephone number listed below:

Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101. Telephone: (406) 657-6115.

Robert Pearson, Refuge Manager, Benton Lake National Wildlife Refuge, P.O. Box 450, Black Eagle, Montana 59414. Telephone: (406) 727-7400.

SUPPLEMENTAL INFORMATION:

General: Hunting on portions of the following refuge shall be in accordance with applicable State and Federal seasons and regulations, subject to additional special regulations and conditions as indicated. Portions of the refuge which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to the refuge and maps are available at refuge headquarters or from the office of the Area Manager (addresses listed above).

The Refuge Receation Act of 1962 (16 U.S.C 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the following National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special Regulations: Hunting of upland game birds for individual wildlife refuge areas.

Montana

Benton Lake National Wildlife Refuge

Hunting of Gray (Hungarian) Partridge is permitted on approximately 4,100 acres of the Benton Lake National Wildlife Refuge, Black Eagle, Montana.

The following special regulations apply:

1. The Hungarian partridge hunting season opening and closing dates on the refuge are the same as the waterfowl hunting season.
2. The daily shooting hours for Hungarian partridge are the same as for waterfowl hunting.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 43 CFR part 14.

Dated: August 29, 1980.

Robert M. Ballou,

Acting Area Manager.

[FR Doc. 80-27016 Filed 9-3-80; 8:45 am]

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50 CFR Part 32

Pee Dee National Wildlife Refuge, N.C.; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

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SUMMARY: The Director has determined that the opening of the Pee Dee National Wildlife Refuge, North Carolina, to resident game hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: The archery season will be September 12–October 8, 1980, in Richmond County; and October 17–November 12, 1980, in Anson County. The gun season will be November 24–29, 1980, in Richmond and Anson Counties.

FOR FURTHER INFORMATION CONTACT: William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704–258–2850, Ext. 321 or Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, N.C. 28170. Telephone: 704–694–4424.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of Subsection 102(2)(C) of the National Environmental Policy Act of 1969, an environmental assessment was prepared. It was determined that the opening of the deer hunt at the Pee Dee National Wildlife Refuge was not a major federal action which would significantly affect the quality of the human environment. Thus, a Finding of No Significant Impact was signed on June 2, 1980. Pursuant to Section 7 of the Endangered Species Act of 1973, an Intra-Service Consultation was requested. It was determined that the opening of the deer hunt is not likely to jeopardize the continued existence of the red-cockaded woodpecker. On September 4, 1980, the Final Rule was published, adding the Pee Dee National Wildlife Refuge to the list of areas open to big game hunting.

General

Hunting on the Pee Dee National Wildlife Refuge shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. The portion of the Pee Dee Refuge which will be open to hunting will be designated by signs and/or delineated on maps.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Pee Dee National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976, and the Environmental Assessment on Public Big Game (Deer) Hunting on Pee Dee National Wildlife Refuge and Finding of No Significant Impact signed on June 2, 1980. Funds are available for the administration of the recreational activities permitted by these regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

§ 32.12 Special regulations; big game; for individual refuge areas.

North Carolina

Pee Dee National Wildlife Refuge

Public hunting of white-tailed deer on the Pee Dee National Wildlife Refuge will be permitted on 6,000 acres in Anson and Richmond Counties. The hunt area will include all refuge lands east of Secondary Road 1627. The bag limit will be one deer either sex during the archery hunt; and one antlered deer during the gun hunt. Permits for the gun hunt will be issued on the basis of a public drawing to be held at Refuge Headquarters at 10:00 a.m. on October 31, 1980. One hundred twenty-five permits will be drawn for each of the two three-day gun hunts, November 24–26, and November 27–29, 1980. No permits will be required for the archery hunt. All hunters must wear outer garments consisting of at least 500 square inches of a daylight fluorescent orange material above the waist. The use of dogs and man-driving are prohibited. Only portable stands are permitted. The driving of nails, spikes, or other metal objects into any tree or the hunting from such tree is prohibited.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: August 29, 1980.

William C. Hickling,

Area Manager.

[FR Doc. 80-27017 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Parts 32 and 33

Opening of Certain National Wildlife Refuges to Hunting and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Las Vegas National Wildlife Refuge, New Mexico; Anahuac National Wildlife Refuge, Texas; and McFaddin National Wildlife Refuge, Texas, to the list of refuge areas open for migratory game bird hunting. Benton Lake National Wildlife Refuge, Montana, is added to the areas open for upland game hunting. Harris Neck National Wildlife Refuge, Georgia; Okefenokee National Wildlife Refuge, Georgia; Swan Lake National Wildlife Refuge, Missouri; and Pee Dee National Wildlife Refuge, North Carolina, are added to the list of refuge areas open to big game hunting. Maxwell National Wildlife Refuge, New Mexico, is added to the refuge areas open for sport fishing. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the areas, would be compatible with principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for each refuge. Hunting and sport fishing, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this final rule. As a general rule, most National Wildlife Refuges are closed to hunting or sport fishing until officially opened by regulation. On July 16, 1980, there was published (45 FR 47716) a notice of proposed rulemaking adding the above cited refuges to the designated list of open areas. The public was provided a 30-day comment period and was advised that pursuant to the requirements of section 102(2)(C) of the

National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment had been prepared on each of these proposals. These assessments are available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of these assessments, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

Comments Received

A letter from the People Organized for Equal Rights raised several issues regarding the proposed hunt at Harris Neck National Wildlife Refuge. They, the children of previous owners, requested that we withdraw our intentions to allow hunting on their former homeland. Concerns were also expressed about a waterfowl hunt.

Response: A lawsuit concerning the ownership rights to the Harris Neck National Wildlife Refuge affirmed the authority of the Service to manage the lands as a unit of the National Wildlife Refuge System. The Harris Neck National Wildlife Refuge is neither open to waterfowl hunting nor is such hunting proposed. The purposes of this proposal are to maintain the deer herd at a level compatible with the refuge land management program for a broad spectrum of wildlife, to avoid the potential loss and damage of habitat within the refuge environment, to avoid the potential loss of the deer herd due to disease or starvation as a result of overpopulation, and to provide outdoor recreation for the public. The deer herd has begun to exceed the carrying capacity of the habitat, and browse lines have begun to develop. The hunt would reduce the population consistent with refuge objectives and habitat conditions. The hunt will be organized in a manner that will insure a quality experience to the participants. In an effort to be sensitive to the expressed concerns, the area around the existing cemetery will be closed to hunting.

A letter from an individual raised several issues regarding the proposed big game hunt at Swan Lake National Wildlife Refuge. It was stated that the term "refuge" means a place of safety; shelter; safe retreat; and suggested that there should be no hunting whatsoever. The issue was also raised as to why the hunt is limited to primitive weapons.

Response: To most people the word "refuge" includes the idea of providing a haven of safety for wildlife—a place of protection. As such, hunting might seem to be an inconsistent use of the refuge system. However, refuges were established primarily to safeguard species and populations and their habitats, not just individual animals. As provided for in the National Wildlife Refuge System Administration Act of 1966 and other applicable laws, and under carefully designed regulations, hunting is consistent with the concept of providing habitat in refuges for healthy populations of wildlife and is compatible with sound wildlife management principles and practices. General observations throughout the past eight years have shown a decline in fawn plurality, an indication of poor nutrition. Harvesting surplus animals would decrease competition for food. The loss of wildlife habitat off-refuge is considered to be one variable influencing the increase of deer on the refuge. This habitat loss is continuing and may increase the refuge population beyond the carrying capacity. A managed deer hunt will help prevent overcrowded conditions. In the environmental assessment, Alternative A provides for no restrictions on the number of hunters or kinds of weapons and a three day hunt. Unlimited numbers of hunters without restrictions on the type of legal weapon would cause an overharvest of the deer and have an unfavorable impact on the resource. In addition to being inconsistent with sound wildlife management practices, this would ultimately lower visits to the refuge and decrease public use outputs. The decision to limit the hunt to primitive weapons is a conscious effort by the Service to provide additional recreational opportunity consistent with the available harvestable surplus.

Several comments were received concerning the proposal at Pee Dee National Wildlife Refuge. The North Carolina Wildlife Resources Commission, Division of Game, supported the proposed hunt. They stated ". . . deer herds in this area have either exceeded the carrying capacity or is approaching the critical level and annual harvest is necessary to provide a healthy sustained population." A letter was received from an individual supporting the hunt but also expressing concerns about running deer with dogs and making various references to unethical behavior by local hunters. Several landowners requested that the refuge lands in Richmond County be excluded from the hunt because the pattern of land ownership might encourage trespassing on private lands. These landowners also stated that they would expect the Fish and Wildlife Service to assume full responsibility for any property damage caused by negligent hunters.

Response: Special regulations will prohibit the use of dogs. The Federal and State regulations will be enforced during the hunts. Practices to minimize the disturbance to other wildlife species will include care in the locating of access points and parking areas, careful scheduling of scouting periods and hunts, and careful delineation of areas closed to hunting. The refuge staff have doubled their efforts in posting the refuge boundary so there will be no question about the location of the refuge boundary. This should eliminate any inducement for trespass. In addition, the refuge manager will make concerted efforts through the news media to promote understanding of the hunt regulations and to highlight that there are numerous in-holdings in and around the refuge and to caution the hunter to stay off private property. The refuge is also providing a map as part of the hunt regulations brochure which delineates the entire geographical refuge boundary that is open to public hunting. The Service cannot assume responsibilities for the negligent acts of hunters; however, we will make every effort to insure that refuge regulations are complied with and that the hunt is conducted in an orderly fashion.

No other comments were received regarding this proposed rulemaking.

The Director has determined that the proposed uses are compatible with the major purposes for which the areas were established and that funds are available for the development, operation, and maintenance of the permitted forms of recreation. This action will be in accordance with the provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management, and will otherwise be in the public interest.

Because of the time limitation involved to coordinate the State and Federal hunting regulations and the rapid approach of the hunting season, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), of the Administrative Procedure Act to expedite the implementation of this rulemaking. Therefore, the effective date of this final rule is September 4, 1980.

Note.—The Department of the Interior determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, after consideration of all interests and concerns, 50 CFR Parts 32 and 33 are amended by additions in

§§ 32.11, 32.21, 32.31, and 33.4 as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

New Mexico

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Las Vegas National Wildlife Refuge

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Texas

Anahuac National Wildlife Refuge

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McFaddin National Wildlife Refuge

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§ 32.21 List of open areas; upland game.

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Montana

Benton Lake National Wildlife Refuge

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§ 32.31 List of open areas; big game.

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Georgia

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Harris Neck National Wildlife Refuge

Okefenokee National Wildlife Refuge

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Missouri

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Swan Lake National Wildlife Refuge

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North Carolina

Pee Dee National Wildlife Refuge

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§ 33.4 List of open areas; sport fishing.

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New Mexico

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Maxwell National Wildlife Refuge

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(16 U.S.C. 460k, 16 U.S.C. 668dd)

Dated: August 29, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-27000 Filed 9-3-80; 8:45 am]

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Proposed Rules

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1940, 1942 and 1980

[CFDA No. 10.418 Water and Waste Disposal Systems for Rural Communities]

[CFDA No. 10.422 Business and Industrial Loans]

[CFDA No. 10.423 Community Facilities Loan]

[CFDA No. 10.424 Industrial Development Grants]

Implementation of Interagency Agreement Regarding Employment of Comprehensive Employment and Training Act (CETA) Eligible Persons in Jobs Created by Certain FmHA Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to include an Interagency Agreement involving program assistance to persons eligible for assistance under, or currently participating in, the Comprehensive Employment and Training Act (CETA) program and to include provisions implementing this Agreement in certain program regulations. This action is taken as a result of an administrative decision resulting in an agreement between various Federal agencies. The intended effect of this action is to increase rural employment opportunities through FmHA program assistance.

DATES: Written comments must be received on or before November 3, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above. These comments may be for, against and/or suggest an alternative to the proposal.

FOR FURTHER INFORMATION CONTACT: Thomas D. Campbell, Loan Specialist, Business Management and Development Division, Room 5438, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone 202–447–5428. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Mr. Joseph Linsley, Chief, Directives Management Branch, USDA Washington, DC 20250, (202) 447–4057.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Applications are subject to State and Areawide clearinghouse review pursuant to procedures in Part I, attachment A of OMB Circular No. A–95 (Revised).

FmHA proposes to amend § 1942.17 of Subpart A of Part 1942, and § 1980.451 of Subpart E of Part 1980 and establish a new Subpart O, Part 1940, Chapter XVIII, Title 7, Code of Federal Regulations. Therefore, as proposed Chapter XVIII of Title 7 is amended as follows:

PART 1940—GENERAL

1. As proposed, Subpart O of Part 1940 is added and reads as follows:

Subpart O—Linking Job Opportunities in the Business and Industry and Community Programs of FmHA With the Long-term Unemployed

Sec.
1940.701 General.
1940.702 Purpose.
1940.703 Background.
1940.704 Policy.
1940.705 Definitions.
1940.706–1940.715 [Reserved]
1940.716 Implementation.
1940.717 Content of employment plans.
1940.718 Applicable programs and projects.
1940.719 Reporting the job linkage.
1940.720 State supplement.
1940.721–1940.750 [Reserved]
Exhibit A—Interagency Agreement Between the Farmers Home Administration of the Department of Agriculture and the Employment and Training Administration of the Department of Labor
Exhibit B—Employment and Training Administration Regional Coordinators for Employment Initiatives
Exhibit C—Employment Plan for Making Permanent Jobs Available to the Long-term Unemployed. Information To Accompany FmHA Applications.

Authority: 7 U.S.C. 1989; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart O—Linking Job Opportunities in the Business and Industry and Community Programs of FmHA With the Long-Term Unemployed

§ 1940.701 General.

A joint Interagency Agreement has been entered into between Farmers Home Administration (FmHA) and the Employment and Training Administration (ETA) of the U.S. Department of Labor (DOL) (see Exhibit A attached). The Agreement provides for specific employment goals ot be established for FmHA Business and Industry (B&I), Community Facilities (CF), Water and Waste Disposal (WWD), and Industrial Development (ID) loan and/or grant programs with respect to persons eligible under the Comprehensive Employment and Training Act (CETA). However, FmHA has chosen not to implement the employment goals for the Industrial Development Grant program at this time but desires the program be considered in the prior rule process. The Agreement will necessitate coordination and cooperation between FmHA State and District Offices and ETA Regional Coordinators to implement this initative. Exhibit B provides a listing of ETA Regional Coordinators. Exihibit C discusses employment plans and provides a suggested format for an employment plan.

§ 1940.702 Purpose.

This Subpart establishes the policy and procedures for filling the permanent jobs created by FmHA Business and Industry and Community Programs with CETA-eligible employees.

§ 1940.703 Background.

FmHA funded projects should benefit the long-term unemployed and low income persons. Targeting the jobs created to those who need them most supports FmHA's primary goals of reducing umemployment and underemployment, and increasing the

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income of residents of rural areas. This policy gives emphasis to the use of employment and training programs as an economic development tool. The availability of a skilled labor force is recognized as an incentive in business location and expansion decisions. The ability to provide this skilled work force is a tool which should be used along with other economic development tools, such as public works and business loans.

§ 1940.704 Policy.

To assure that the permanent jobs created by its programs benefit the long-term unemployed, FmHA will work with applicants to establish appropriate employment plans. Such plans will be developed in cooperation with the local employment and training provider(s) and will be designed to create permanent jobs through direct FmHA investments. (Note: To facilitate the re-employment of dislocated workers, the procedures for developing an employment plan will also apply to requests for assistance in areas suffering from Sudden and Severe Economic Dislocation. See Section 1940.705(e) of this subpart). An important part of this policy is to encourage a labor pool at the local level; therefore, FmHA will work with States, economic development districts, and communities to encourage the development of continuing procedures to coordinate job training with development activity.

§ 1940.705 Definitions.

(a) *Comprehensive Employment and Training Act (CETA).* The U.S. Department of Labor's Employment and Training Administration sponsors and supports many programs to help people get jobs and services such as counseling and training to prepare them for jobs. All States and cities, counties, and combinations of local units with populations of 100,000 or more receive direct Federal grants under CETA to design and administer comprehensive employment and training programs that serve the needs of their areas. These State and local units, called "prime sponsors," operate the projects themselves or contract with other groups to provide services. Generally, States are responsible for programs in areas that do not meet the population criterion to receive Federal funds directly. Under the act as amended, economically disadvantaged persons who are unemployed or underemployed can get training, upgrading, retraining, education, and other services designed to qualify them for jobs.

(b) *Dislocated Worker* is defined as a person affected by structural changes in the area economy, and upon whose unemployment, community eligibility for Sudden and Severe Economic Dislocation Program assistance has been based (see SSED below).

(c) *Employment and Training Providers* are agencies and organizations which offer services or programs to assist individuals in preparing for or finding jobs. Normally, these providers will be public or private nonprofit agencies which do not charge a fee for services. They include:

(1) The State or local government, acting as CETA prime sponsor;

(2) The State Employment Security Agency (Job Service);

(3) The Welfare Incentive (Win) program, generally operated by the Job Service;

(4) Job Corps Centers;

(5) Young Adult Conservation Centers (operated by the Departments of Agriculture and Interior);

(6) Apprenticeship programs (operated by an employer and/or relevant unions) and preapprenticeship training programs (operated by a variety of local institutions);

(7) Community based organizations such as Opportunities Industrialization Center (OIC), the Urban League, Service Employment and Redevelopment (SER), Jobs for Progress, Inc. (Often CETA subgrantees);

(8) Skill Centers and State vocational and technical education schools;

(9) Community and junior colleges; and

(10) Other agencies or organizations in the local area.

(d) *Long-term unemployed* is defined as persons who are eligible for programs under CETA. Eligibility criteria for CETA are generally characterized by a period of unemployment and a low family income (see U.S. Department of Labor, Employment and Training Administration 20 CFR Parts 675–680 CETA Regulations). In filling created jobs through FmHA financial assistance with this population, FmHAS does not intend to burden applicants with extensive procedures for certifying the unemployment and income status of persons referred to the jobs. Rather, FmHA strongly encourages applicants to develop employment plans in cooperation with the CETA prime sponsor to assure that referrals are CETA eligible. If a CETA prime sponsor is unable to provide training or referrals for a particular project, FmHA applicants should approach other employment and training providers if any are available in the area. Most of these are familiar with eligibility criteria for CETA. In fact, many are CETA subgrantees and serve the CETA-eligible—or similar—population.

(e) *Sudden and severe economic dislocation (SSED)* assistance is provided through the Economic Development Administration (EDA) of the Department of Commerce. It is designed for areas impacted, or anticipating impact, by economic dislocations involving structural changes in their economy. These structural changes may result from a variety of circumstances, such as the closing or threatened closing of a major employer, or from the impact of rapid rises in population associated with the establishment of new, major job centers. The goal of SSED assistance is to help an area adjust to changes and lay the foundation for orderly economic growth and permanent jobs. In order to qualify for EDA, SSED program assistance, eligible dislocations must have occurred within the preceding 12 months or be expected to occur within 2 years, and must meet the test of impact severity:

(1) If the unemployment rate of the applicable labor market area or Standard Metropolitan Statistical Area (SMSA) exceeds the National average, dislocation in areas not in the SMSA must amount to 2 percent of the employed population or 500 direct jobs.

(2) If the unemployment rate of the applicable Labor Market area or SMSA is equal to or less than the National average, dislocation in areas not in the SMSA must amount to 4 percent of the unemployed population or 1,000 direct jobs.

§ 1940.706–1940.715 [Reserved]

§ 1940.716 Implementation.

To implement FmHA's policy on job linkage:

(a) The time for developing an employment plan is at the beginning of the FmHA project development process. FmHA will require an employment plan in all applications for direct job creating projects except as provided in § 1940.718 (b) and (c). The quality of the employment plan will be a significant, but not necessarily overriding, factor in funding decisions. All applicants will develop employment plans in their projects regardless of size.

(b) FmHA has established an initial Agency National goal that 20 percent of the jobs created as a direct result of FmHA financial assistance will be filled by the long-term unemployed, as defined in Section 1940.705(d). In order to meet or exceed this national goal, each State Office should strive to have at least 20 percent of the employment opportunities resulting from appropriate State FmHA investments filled by the longterm unemployed. However, the State Director may encourage a different percentage for individual projects depending upon the industry or project being assisted, the skill levels of the jobs, the capacity and effectiveness of the local employment and training provider(s), and the nature of the FmHA applicant.

§ 1940.717 Content of employment plans.

An employment plant will have numerical goals for employing the long-term unemployed and rational procedure for achieving these goals. The plan should identify the number and title of jobs which will be created, the appropriate local employment and training provider(s) which will assist in implementing the plan, and the procedures to be followed for recruiting, training and placing the long-term unemployed. The focus of the employment plan is on the permanent jobs created by the FmHA investments. Exhibit C gives more details on the content of an employment plan.

§ 1040.718 Applicable programs and projects.

All applications of FmHA assistance under B&I and Community Programs should be accompanied by one of the following, according to the particular situation. Those projects funded by FmHA will be coordinated with employment and training programs.

(a) *For projects with readily identifiable permanent jobs.* A completed employment plan or a progress report on the efforts made to date on the development of a plan, including timetable and for establishing the plan and an explanation of why it has not been completed.

(b) *For projects which will create permanent jobs in the future that are not yet identified.* An explanation by the applicant of the planned arrangements in hiring the long-term unemployed for jobs which will be established in the future. (This approach should be used for such projects as industrial parks when the specific tenants have not been identified.)

(c) *For projects which are not designed to create direct permanent jobs, projects which are designed to create jobs requiring specialized skills which local training programs cannot provide, or projects which will create so few jobs that an employment plan is not practical.* If it is determined that an employment plan is not applicable to an FmHA project (e.g., one which is not designed to create direct permanent jobs), this inapplicability must be explained in writing by the applicant.

§ 1940.719 Reporting the job linkage.

The State Director or designee will ensure that information necessary for accurate and timely reporting is entered into the Rural Community Facilities Tracking system (RCFTS), (FmHA Instruction 2033-F, "Records"). Form FmHA 2033-38, "Rural Community Facility and Facility's Funding Data," will be used to record the number of CETA eligible persons projected to be employed and/or employed in accordance with the employment plan. Periodically but no later than March 1 and September 1 of each year, such information will be updated and verified through information obtained from site visits and/or borrower submissions. The State Office is responsible for maintaining such information and must be informed of any actions which have to be reported on the RCFTS.

§ 1940.720 State supplement.

The FmHA State Director may issue a State supplement, consistent with these regulations, to properly implement the policies of the Agreement.

§ 1940.721-1940.750 [Reserved]

Exhibit A.—Interagency Agreement Between the Farmers Home Administration of the Department of Agriculture and the Employment and Training Administration of the Department of Labor

I. Purpose

In an effort to effectively implement the Interagency Coordinating Council's Employment Initiatives, this Agreement specifies the process by which the Employment and Training Administration (ETA) of the Department of Labor (DOL) and the Farmers Home Administration (FmHA) of the Department of Agriculture will coordinate their programs to ensure that the maximum feasible number of jobs created by FmHA's Business and Industrial Loan (B&I), Community Facilities Loan (CFL), Water and Waste Disposal Loans and Grants (WWD), and Industrial Development Grant (IDG) programs[*] go to persons eligible for assistance under the Comprehensive Employment and Training Act, as amended, or persons who are currently CETA participants (hereafter referred to as CETA eligible persons).

II. Scope

In order to accomplish the purpose of this Agreement, the provisions set forth herein relate to (1) specific employment goals to be established by FmHA with respect to CETA eligible persons; (2) operational procedures to be used by FmHA and ETA in achieving these employment goals; (3) reporting and monitoring; and (4) provision for technical assistance and training to facilitate placing CETA eligible persons in permanent jobs created by Federal economic development activities.

III. Employment Goals

Consistent with its legislative mandate to stimulate commercial and industrial development in rural areas as well as to increase employment opportunities for the long-term unemployed, FmHA agrees to the following provisions:

1. As a fisal 1980 goal, 20 percent of the permanent jobs created by its developmental programs will be filled by CETA eligible persons;
2. As a minimum, require that employment goals equivalent to the Agency's overall goal be established for projects having an employment impact; and
3. By no later than September 1 of each year, in conjunction with the ETA, FmHA will review the current annual employment goal and experience and set the goal for the next fiscal year by September 20.

IV. Operational Procedures

A. FmHA

To achieve the employment goal that has been establsihed for fiscal year 1980 as well as those of succeeding years, FmHA will institute the following operational procedures:

1. *Provide ETA with list of Employment Initiatives Coordinators*—FmHA will provide each ETA Regional Administrator with the names, addresses, and telephone numbers of the State FmHA Employment Initiatives Coordinators in their respective region.

2. *Initiate Consultation*—When an FmHA-funded project will result in the creation of new, permanent jobs, an employment plan will be developed by the FmHA applicant, working in conjunction with appropriate FmHA staff, initiating formal consultation with a CETA prime sponsor or other employment/training provider as early as possible during project development (preapplication, application stages). FmHA's staff will advise the applicant to consult first with the CETA prime sponsor in order to target a portion of the jobs created to CETA eligible persons. Continuing consultation is expected throughout the preapplication, application, project funding, and project implementation stages.

3. *Employment Plan*—Applicants seeking assistance under FmHA's developmental programs will be expected to complete an employment plan as part of their application for assistance when new, permanent jobs will result from such support. The determination as to whether new, permanent jobs will be created will be made by FmHA staff and the applicant as early as possible during project development (preapplication, application stages). If an employment plan is not appropriate, an explanation of why it is not must be submitted with the application. The employment plan shall include the following elements:

a. The total number and titles of jobs to be created by the project;

b. The toal number, specific titles and timing of jobs to be made available to CETA eligible persons;

c. The skill requirements for the jobs that are being made available to CETA eligible persons;

d. The Linkage Process:

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[*] These programs are subsequently referred to as FmHA's developmental programs.

1. Name of employment and training provider (e.g., CETA prime sponsor or CETA subgrantee) that is assisting the applicant in developing and implementing the employment plan. (Include name of responsible person, address, and telephone number.)

2. Identification of employment and training programs to be applied in preparing and/or referring qualified persons to available jobs. Indication of how they will be used and any special conditions required by the employer (e.g., number of referrals per vancancy to be filled, timing of referrals).

3. Identification of the roles and responsibilities of the participants in the employment plan (i.e., FmHA applicant; FmHA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider).

4. Indication or procedure and schedule for implementing the employment plan.

e. Provide the signature of persons or agency representatives party to the employment plan (i.e., FmHA applicant; FmHA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider).

4. *Notification*—Upon approval of a project which includes or will include an employment plan, FmHA's staff will notify the CETA prime sponsor or other employment/training provider signatory to the employment plan, as well as the ETA Regional Employment Initiatives Coordinator in order to activate the employment/training system to prepare CETA eligible persons for the jobs.

5. *Certification of Eligibility*—FmHA and its fund recipients will work with CETA prime sponsors and the ETA delivery system[*] in certifying the eligibility of persons who may be eligible for CETA assistance, but are not CETA participants when such persons are to fill jobs resulting from EDA's projects.

6. *Identifying Alternate Employment/Training Provider*—When the local prime sponsor is unable to assist FmHA's staff and applicant in developing and implementing an employment plan, FmHA's staff may call upon the ETA Employment Initiatives Coordinator to discuss an alternate employment/training provider who might provide the necessary services.

B. ETA

The employment and Training Administration recognizes that linking its employment and training programs with FmHA's development programs can result in increased permanent employment opportunities for CETA eligible persons, and agrees to facilitate this linkage by undertaking several activities:

1. *Provide FmHA with List of Prime Sponsors*—The Employment and Training Administration will provide each FmHA State Director with an updated list of CETA prime sponsor directors and regional ETA Employment Initiatives Coordinators, along with their telephone numbers and addresses.

2. *Staff*—ETA will require each Regional Administrator and prime sponsor to identify an Employment Initiatives Coordinator to assume responsibility for coordinating activities related to the Employment Initiatives. To the extent possible, personnel assigned these functions at the Federal and local levels and should be the same staff that has been assigned to the Private Initiatives Program.

3. *Responsibilities of Employment Initiatives Coordinators*—The designated Employment Initiatives Coordinators assigned to coordinate activities related to the Employment Initiatives in each of the regions by ETA and at the local level by prime sponsors will assist FmHA's staff and applicant in developing and implementing the employment plan delineated above. The Employment Initiatives Coordinators also will be responsible, at their respective levels, for monitoring the progress of the FmHA funded projects in order to undertake the necessary CETA activities (e.g., employment, training, recruiting, screening, referral, and counseling services) at the appropriate time to place CETA eligible persons in permanent jobs created by FmHA's programs.

4. *Identifying Alternate Employment/Training Provider*—When the local prime sponsor is unable to assist FmHA's staff and applicant in developing and implementing an employment plan, the FmHA's staff may call upon the ETA Employment Initiatives Coordinator to discuss an alternate employment/training provider who might provide the necessary services.

5. *Assist FmHA in Describing CETA Programs and Participants*—Consistent with available funds, ETA will assist FmHA in involving its applicants in employment/training programs by developing and publishing information packets geared to the private sector, focusing on the availability and benefits of employment/training resources, including various tax credits.

6. *Certification of Eligibility*—Prime sponsors and the ETA delivery system, working with FmHA and its fund recipients, will certify the eligibility of all persons who fill jobs resulting from FmHA's projects.

V. Reporting/Monitoring

In order to keep the Interagency Coordinating Council (IACC), the Office of Management and Budget (OMB), and each of the participating agencies informed of the progress being made in filling permanent jobs which result from FmHA's investments with CETA eligible persons, FmHA and ETA agree to the following reporting/monitoring provisions:

A. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), FmHA will submit reports to OMB. These reports shall include the total number of projects funded for the six month and annual periods, the Federal dollars committed by program type, the number of permanent jobs anticipated, the total number of actual jobs created, and the number/percent of jobs to be filled by CETA eligible persons.

B. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), ETA will submit reports to OMB. These reports shall include the total number of employment plans that prime sponsors and other ETA instrumentalities have entered into with FmHA and its grantees, the total number of jobs projected for CETA eligible persons, and the total number of CETA eligible persons actually placed in jobs created by FmHA's developmental programs.

VI. Technical Assistance

To facilitate and promote the placement of CETA eligible persons in permanent jobs resulting from FmHA assistance, both ETA and FmHA agree to provide the following technical assistance:

1. Whenever necessary, the agencies will brief each other's staff on programmatic and/or procedural changes affecting the implementation of the Employment Initiatives.

2. Jointly develop and publish promotional information on the placement of CETA eligible persons in permanent jobs created by FmHA investments.

3. As necessary, jointly conduct interagency workshops/seminars related to the Employment Initiatives, assessing experiences and focusing on techniques and strategies to be used to implement the Employment Initiatives more effectively.

VII. Duration

This agreement shall remain in effect through November 1, 1982. ETA and FmHA will, however, jointly review the provisions herein on an annual basis (prior to September 30) in order to make any necessary modifications. The operational procedures that are being utilized by FmHA and ETA to achieve FmHA's employment goal will be given particular attention during each annual review.

For the Department of Labor.

Ernest G. Green,

Assistant Secretary for Employment and Training.

November 26, 1979.

For the Department of Agriculture.

Alex P. Mercure,

Assistant Secretary for Rural Development.

November 16, 1979.

Exhibit B—Employment and Training Administration

Regional Coordinators for Employment Initiatives

Region I—Boston; Francis Currie, 617–223–6443, Executive Assistant.

Region II—New York; Charlotte Williams, 212–944–3228, Special Assistant for the FRC.

Region III—Philadelphia; Edwin Strong, 215–596–6405, PSIP Coordinator.

Region IV—Atlanta; Jim Watts, 404–881–4806, PSIP Coordinator.

Region V—Chicago; Jane Mellon, 312–353–4683, PSIP Coordinator.

Region VI—Dallas; Jack Nelson, 214–767–4977, Deputy Associate, Regional Administrator.

Region VII—Kansas; Bob Hanson, 816–374–3796, Executive Assistant to the Regional Administrator.

Region VIII—Denver; Wayne Thompson, 303–837–3181, Associate Regional Administrator.

Region IX—San Francisco; Phillip Cranford, 415–556–5279, Executive Assistant to the Regional Administrator.

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[*] ETA delivery system to the Job Service, Work Incentive, (WIN) Program, Bureau of Apprenticeship and Training, and Job Corps.

Region X—Seattle; Carolyn Graves, 206–442–7700, Special Assistant to the Regional Administrator.

Exhibit C—Employment Plan for Making Permanent Jobs Available to the Long-Term Unemployed

Information to Accompany FmHA Applications

From the beginning of this Administration the Farmers Home Administration (FmHA) had a mandate to make some of its financial assistance available so that the long-term unemployed could find and keep jobs. In order to ensure this linkage between the jobs and the long-term unemployed, FmHA requires an employment plan to be developed and submitted by all FmHA Business and Industry (B&I) and Community Program applicants who create new long-term jobs which can be filled by persons trained or referred by local employment and training providers.

The employment plan is not intented to be a burden. When properly developed and implemented, it can bring a wide range of employment and training resources as well as tax credit benefits to bear on the needs of individual private employers. In addition, the employment plan will enable cities, counties or districts to enlist additional resources to carry out their economic development programs.

An employment plan should embody an agreement between or among the FmHA public or private sector applicant, the project beneficiary (ies), (if not the FmHA applicant), and the local employment and training provider. These organizations should be the key actors in the developement and implementation of an employment plan. A significant role could be played by the local economic development agency when it is not the applicant organization.

If circumstances beyond the control of the FmHA applicant do not permit the completion of the employment plan before submission of the project application to FmHA, the submission should not be delayed. An employment plan should be submitted, however, that indicates the barriers to completing the plan and what steps will be taken and in what time frame to develop the plan fully.

If the permanent jobs that will be created by the FmHA project cannot be identified at the time of application, the applicant should indicate the institutional arrangments and procedures that will be pursued to ensure that the appropriate employment plan will be developed in a timely fashion.

The employment plan should always be brief (usually not more then 2 to 3 pages), realistic, and responsive to the key question: How will the long-term unemployed be assured of being considered for the jobs produced by this project?

The following is a suggested format for an employment plan. Any particular project may have needs or benefits that would suggest a different format. Any format is acceptable as long as the basic information is provided.

Suggested Employment Plan Format

1. Identify total number and titles of jobs to be created or saved by this project.

2. Identify the goals for the total number, titles and timing of jobs to be made available to long-term unemployed.

3. Identify the skill requirements for the jobs that are being made available.

4. The Job Program

a. Name of employment and training provider (e.g., CETA prime sponsor or subgrantee) that is assisting applicant in developing and implementing this employment plan. (Include name of responsible person, address, and telephone number).

b. Identify employment and training programs and resources and tax benefits to be applied in preparing and/or referring qualified persons to available jobs. Indicate how they will be used and any special conditions required by the employer (e.g., number of referrals per vacancy to be filled, timing of referrals).

c. Identify the roles and responsibilities of the participants in the employment plan (i.e, FmHA applicants, beneficiary, if different from applicant, employment and training provider and local economic development agency, if not the applicant).

d. Indicate steps to be taken and schedule for implementing plan.

5. Provide the signatures of persons or agency representatives party to the employment plan (i.e., FmHA applicant, beneficiary, if different from applicant; employment and training provider; and economic development agency, if not the applicant).

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

2. As proposed, § 1942.17(j)(9) is added and reads as follows:

§ 1942.17 Appendix A—Community facilities.

* * * * *

(j) *General requirements.*

* * * * *

(9) *Employment Plan.* All applicants for assistance to fund projects which will create new, permanent employment opportunities will be required to develop an employment plan as required by Subpart O of Part 1940 of this Chapter and the following:

(i) The plan must be approved by FmHA before loan closing or starting construction, whichever is first. The requirements and benefits of the plan should be discussed with the applicant at the preapplication conference and a copy of Exhibit C of Subpart O of Part 1940 of this Chapter should be provided as a suggested format.

(ii) Normally the applicant will be required to contact the appropriate Comprehensive Employment and Training Act (CETA) Prime Sponsor for assistance in developing the plan. The plan should include an agreement between the applicant and the CETA Prime Sponsor that the CETA Prime Sponsor will provide training and/or referrals for future employment needs of the applicant.

(iii) FmHA staff will provide assistance as necessary to insure that formal consultation between the applicant and a CETA Prime Sponsor is initiated as early as possible during project development and continues as needed throughout the preapplication, application, project funding, and project implementation stages.

(iv) When a local CETA Prime Sponsor is unable to assist the FmHA applicant in developing and implementing an employment plan, FmHA staff should contact the ETA Regional Coordinator for Employment Initiatives and determine an alternate employment/training provider to provide the necessary services. An exception may be made to the employment plan requirements for a particular project, if the State Director determines that:

(A) Diligent efforts to meet the requirements have been made; and

(B) No suitable employment/training provider is available or no suitable CETA eligible persons are available for employment.

* * * * *

PART 1980—GENERAL

Subpart E—Business and Industrial Loan Programs

3. As proposed a new paragraph (i)(19) is added to § 1980.451 and § 1980.451, paragraph B.4 under the heading Administrative is amended to read as follows:

§ 1980.451 Filing and processing.

* * * * *

(i) * * *.

(19) an employment plan as specified in 7 CFR 1940–O.

* * * * *

Administrative

* * * * *

B. *The State Director:*

* * * * *

4. *par (f)* Preapplications are not to be accepted or processed unless a lender has agreed in writing to finance the proposal. The preapplication letter is a joint letter prepared by the applicant and lender.

To assure that employment opportunities created by the proposal are directly linked to the unemployment rate, the State Director will work with applicants to establish an employment plan. Such plan will be developed in cooperation with the local employment and training provider(s) and will specificially address the permanent jobs

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being directly created by the proposed loan. Exhibits A and C to FmHA Instruction 1940–O provide further detail on employment plans. Exhibits B and C should be provided to the applicant for information and a suggested format at time of application.

* * * * *

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment an in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, en Environmental Impact Statement is not required.

(7 U.S.C. 1989; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: August 20, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80–27104 Filed 9–3–80; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Ch. III

Request for Comments on Effects of Foreign Policy Export Controls

AGENCY: U.S. Department of Commerce, International Trade Administration, Office of Export Administration.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: Section 6 of the Export Administration Act of 1979 provides that export controls imposed for foreign policy reasons expire one year after imposition unless extended. In preparation for revision or extension of controls on January 1, 1981, the Department is seeking comments on how controls imposed or extended effective January 1, 1980, and subsequently, have affected exporters and the general public.

DATE: Comments should be received by November 3, 1980 to assure full consideration in formulation of control policies.

ADDRESS: Written comments (six copies when possible) should be sent to: Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Daniel E. Cook, Assistant to the Director, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–4159.

SUPPLEMENTARY INFORMATION: The Export Administration Act of 1979, for the first time, provided legislative criteria for the imposition, extension, or expansion of foreign policy export controls. Subsection 6(a)(2) of the Act provides that:

> Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended * * * Any such extension and any subsequent extension shall not be for a period of more than one year.

Foreign policy controls were imposed or extended effective January 1, 1980, covering international terrorism, regional stability, South Africa and Namibia, human rights, embargoes communist countries and the oil and gas equipment for the Soviet Union. At the same time, the Department announced that nuclear nonproliferation controls continued in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978. For details on these controls, see 45 FR 1595 January 8, 1980, or Export Administration Bulletin (EAB) No. 201 of January 25, 1980. Subsequently, foreign policy controls have been imposed on agricultural products to the USSR (45 FR 1883, January 9, 1980, and 45 FR 8289, February 7, 1980, or EAB No. 201, January 25, 1980 and EAB No. 203, February 15, 1980); phosphates to the USSR (45 FR 8293, February 7, 1980, and 45 FR 24458, April 10, 1980 or EAB No. 203, February 15, 1980 and EAB No. 205, June 9, 1980); transactions related to the 1980 Summer Olympics (45 FR 21612, April 2, 1980, or EAB No. 204, April 18, 1980); and truck engine assembly lines for the Soviet Kama River Truck Complex (45 FR 30617, May 9, 1980, or EAB No. 205, June 9, 1980). Controls to combat international terriorism have been expanded (45 FR 33955, May 21 1980, or EAB No. 205, June 9, 1980), and controls on shipments to the USSR of agricultural products, phosphates, and oil and gas equipment were expanded to encompass Afghanistan (45 FR 37415, June 3, 1980, or EAB No. 205, June 9, 1980).

Although certain of these controls would not normally expire on December 31, 1980, the Department is considering extending or revising them effective January 1, 1981. A uniform renewal date for all foreign policy controls could increase consistency and assure maximum public interest and participation in the review process.

The Act requires the following criteria to be considered when imposing, expanding, or extending foreign policy export controls:

(1) The probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such control;

(2) The compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) The reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) The likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) The ability of the United States to enforce the proposed controls effectively; and

(6) The foreign policy consequences of not imposing controls.

The Department is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. Comments previously submitted will be considered automatically and need not be repeated, but the submission of further information based on subsequent experience is encouraged.

Parties submitting comments are asked to be as specific as possible. However, respondents are reminded that the Department is soliciting only information that may be quoted publicly. No "confidential business information" will be accepted. Any information so designated will be returned to the commenter.

All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured.

All public comments will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not routinely be made available for public inspection.

The public record concerning these comments will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Those comments previously submitted are already in this facility. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377-3031.

(Secs. 6, and 13, Pub. L. 96-72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401 *et seq.;* Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980))

Dated: August 27, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-26794 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Amount of Benefits; Residence and Citizenship

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We plan to revise and reorganize our general rules on eligibility (Subpart B) under the Supplemental Security Income (SSI) program. These rules describe who may get SSI benefits, how long a person's eligibility for benefits lasts, and the reasons why a person who would otherwise be eligible for SSI benefits might not get them. In addition, we have created a new Subpart P in which we have put our rules on residence and citizenship.

DATES: Your comments will be considered if we receive them no later than November 3, 1980.

ADDRESSES: Send your written comments to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Department of Health and Human Services, North Building, Room 1169, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7112.

SUPPLEMENTARY INFORMATION: We have retitled, rearranged, and rewritten the rules in Subpart B as part of Operation Common Sense, which is a Department-wide effort to review, simplify, and reduce the rules which are currently in effect. We added subtitles to highlight important rules and make them easier to locate. In addition, we put into other subparts rules that are currently in Subpart B but do not belong there.

Definitions: We added a new section (§ 416.201) to define terms that are used throughout Subpart B. We are defining the phrase "resident of a public institution" in place of the phrase "inmate of a public institution." The latter term is used in the Social Security Act, but is not defined and is also used in current regulations. We do not intend by this to change the kinds of individuals covered by the current regulations but rather to remove the negative connotation of involuntary confinement which is attached to the word "inmate." Our policy has always been that a person need not be involuntarily confined in order to be an inmate.

In this connection we note that the Federal Court of Appeals in *Levings* v. *Califano* interpreted the phrase "inmate of a public institution" in section 1611(e)(1)(A) of the Social Security Act to refer to "persons confined in institutions under some form of restraint, not to persons who reside at facilities on a purely voluntary basis." We do not concur with this interpretation and will be publishing a ruling on this case indicating non-acquiescense with the court's opinion.

We are further revising the substance of the definition of "resident of a public institution" to more clearly express our longstanding policy that a person need not receive the treatment or services provided by an institution in order to be a resident of the institution. Current regulations can be incorrectly interpreted to require that a person actually receive whatever treatment or services he or she needs in order to be considered a resident of a public institution. The revised definition of "resident of a public institution" also states that the person is a resident regardless of whether the institution requires payment.

We have also added definitions to sections of these regulations where they apply.

Who May Get SSI Benefits: This rule (§ 416.202) states that a person is eligible for SSI benefits if he or she is aged, blind, or disabled; a resident of the United States; a citizen or national of the United States or an alien who meets certain requirements; has income and resources within prescribed limits; and files an application for SSI benefits. Subpart B of the existing regulations does not include the filing of an application as a requirement for eligibility. We have added it in this NPRM to make sure that individuals understand that they cannot receive SSI benefits until they submit an application to the Social Security Administration.

Initial Determination and Redetermination of SSI Eligibility: Section 416.203 explains what happens when a person applies for SSI benefits and when eligibility begins. Section 416.204 explains how and when we conduct redeterminations to make sure that a person is still eligible for benefits. This section includes the changes made by the interim rules published November 7, 1979 (44 FR 64402).

Reasons Why Persons May Not Get SSI Benefits for Which They Are Otherwise Eligible: Sections 416.210 through 416.214 explain that persons may not receive SSI benefits if: (1) they do not apply for all other benefits for which they may be eligible, (2) they are residents of a public institution, (3) they do not accept vocational rehabilitation services, (4) they are medically determined drug addicts or alcoholics and do not accept or follow treatment, or (5) they leave the United States. All of these rules are consistent with the purpose of the Supplemental Security Income program—to establish a national

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program to provide income to aged, blind, or disabled residents of the United States who have limited income and resources. Persons having a right to another kind of income are expected to do whatever is necessary to get it. Beneficiaries are also expected to do what they can to overcome the handicaps of disability, alcoholism, or drug addiction.

Individuals who are residents of public institutions throughout a month are not eligible for SSI benefits because of a specific provision in the statute. In defining "throughout a month" existing regulations provide that a resident must remain in an institution continuously for 24 hours a day. We are omitting the "24 hours a day" in this NPRM to make the rule conform to the current practice of encouraging residents to engage in recreational and therapeutic activities outside the institution.

Qualified Individuals and Essential Persons: The rules in §§ 416.220 through 416.224 apply only to persons who received State assistance payments for the aged, blind, or disabled for December 1973. Some of these persons had received an increased amount of State assistance to provide for someone to live with them and give them needed care and attention. These persons may continue to receive an additional amount along with their SSI benefits. We call a person to whom we are paying SSI benefits under these circumstances a "qualified individual" and we call the one providing the necessary care an "essential person". The rules describe how both are affected under the SSI program and what happens if a person no longer has an essential person.

Residence and Citizenship: We made a new Subpart P for the rules relating to residence and citizenship for SSI purposes. We have relocated these rules to give them equal emphasis with other eligibility requirements. We have retitled, rearranged, and rewritten them for greater clarity. We have also expanded the rules to include information that has been part of operating instructions. First, we list (§ 416.1602) the kinds of evidence that prove that a person is a resident of the United States. Second, we list (§ 416.1603) the kinds of evidence that prove a person who lives in the Northern Mariana Islands is a citizen of the United States on an interim basis. Third, we have added (§ 416.1604) an alien registration card issued by the government of the Northern Mariana Islands to the list of kinds of evidence that prove lawful admission to the United States for permanent residence.

Lastly, we have added to the list of the kinds of evidence that prove permanent residence in the United States under color of law. Two of these, (an Arrival-Departure Record (INS Form I-94) endorsed "Voluntary Departure Granted-Employment Authorized", and an Order of Supervision (INS Form I-220B) indicating an indefinite stay of deportation) are documents issued by the Immigration and Naturalization Service. The last is proof of an individual's presence in the United States both before and continuously after June 30, 1948. The addition of these items puts into regulations guidelines that personnel in social security offices apply to determine whether individuals are eligible for benefits.

Subpart B is a general statement of eligibility and refers to other subparts for specific details and listings of acceptable evidence. All requirements other than "Residence and Citizenship" are already described in other, separate subparts. We recognize that Subpart P is out of sequence in Part 416 for an eligibility requirement, but "P" was the first unassigned subpart available. When all the subparts of Part 416 have been rewritten they will be rearranged in proper order.

Rate of SSI Benefit Payment for Certain Eligible Persons in Medical Care Facilities: Persons in medical care facilities (hospitals, skilled nursing facilities, intermediate care facilities) where Medicaid pays over 50 percent of their costs may be eligible for SSI benefits at a reduced rate. The rules in Subpart B are currently the only source of information on the benefit rate payable to these people. We are moving the benefit rate rule to a new section (§ 416.414) in Subpart D, "Amount of Benefits" so that all information on benefit rates is in a single location.

(Catalogue of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: March 10, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 27, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart B of Part 416 is revised to read as follows:

Subpart B—Eligibility

General

Sec.
416.200 Introduction.
416.201 General definitions and terms used in this subpart.
416.202 Who may get SSI benefits.
416.203 Initial determinations of SSI eligibility.
416.204 Redeterminations of SSI eligibility.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

416.210 You do not apply for other benefits.
416.211 You are a resident of a public institution.
416.212 You do not accept vocational rehabilitation services.
416.213 You are a medically determined drug addict or alcoholic and you do not accept or follow treatment.
416.214 You leave the United States.

Eligibility for Inceased Benefits Because of Essential Persons

416.220 General.
416.221 Who is a qualified individual.
416.222 Who is an essential person.
416.223 What happens if you are a qualified individual.

Authority.—Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383.

Subpart B—Eligibility

General

§ 416.200 Introduction.

You are eligible for SSI benefits if you meet all the basic requirements listed in § 416.202. You must give us any information we request and give us necessary documents or other evidence to prove that you meet these requirements. We determine your eligibility and benefit amount for each calendar quarter on the basis of the income you receive and your resources available within that quarter. You continue to be eligible and receive benefits unless you lose your eligibility because you no longer meet the basic requirements or because of one of the reasons given in §§ 416.210 through 416.214.

§ 416.201 General definitions and terms used in this subpart.

"Calendar quarter" means a period of three full calendar months beginning with January, April, July, or October.

"Institution" means an establishment that makes available some treatment or services in addition to food and shelter to four or more persons who are not related to the proprietor.

"Medical care facility" means a hospital (defined in section 1861(e) of the Act), a skilled nursing facility (defined in section 1861(j) of the Act), or an intermediate care facility (defined in section 1905(c) of the Act).

"Public institution" means an institution that is operated by or controlled by the Federal government, a

State, or a political subdivision of a State such as a city or county. The term "public institution" does not include a publicly operated community residence which serves 16 residents or less.

"Resident of a public institution" means a person who receives substantially all of his or her food and shelter in a public institution. The person need not be receiving treatment and services available in the institution and is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution. A person is not a resident of a public institution if he or she is living in a public educational institution (as defined in § 404.320(c)(5)) and is enrolled in or registered for the education or vocational training provided by the institution. A "resident" of a public institution means the same thing as an "inmate" of a public institution as used in section 1611(e)(1)(A) of the Social Security Act.

"SSI" means supplemental security income.

"State assistance" means payments made by a State to an aged, blind, or disabled person under a State plan approved under title I, X, XIV, or XVI (AABD) of the Social Security Act which was in effect before the SSI Program.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.202 Who may get SSI benefits.

You are eligible for SSI benefits if you meet all of the following requirements:

(a) You are—

(1) Aged 65 or older (Subpart H);

(2) Blind (Subpart I); or

(3) Disabled (Subpart I).

(b) You are a resident of the United States (§ 416.1602), and—

(1) A citizen or a national of the United States (§ 416.1603);

(2) An alien lawfully admitted for permanent residence in the United States (§ 416.1604); or

(3) An alien permanently residing in the United States under color of law (§ 416.1605).

(c) You do not have more income than is permitted (Subparts K and D).

(d) You do not have more resources than are permitted (Subpart L).

(e) You file an application for SSI benefits (Subpart C).

§ 416.203 Initial determinations of SSI eligibility.

(a) *What happens when you apply for SSI benefits.* When you apply for SSI benefits we will ask you for documents and any other information we need to make sure you meet all the requirements. We will ask for information about your income and resources and about other eligibility requirements and you must answer completely. We will help you get any documents you need but do not have.

(b) *How we determine your eligibility for SSI benefits.* If you apply for SSI benefits in the first month of a calendar quarter, we determine your eligibility for the whole calendar quarter. If you apply for benefits in the second or third month of the calendar quarter, we determine your eligibility for SSI benefits separately for each month in that calendar quarter beginning with the month in which you apply.

§ 416.204 Redeterminations of SSI eligibility.

(a) *Redeterminations defined.* A redetermination is a review of your eligibility to make sure that you are still eligible and that you are receiving the right amount of SSI benefits.

(b) *When we make redeterminations.* (1) We redetermine your eligibility on a scheduled basis at periodic intervals. The length of time between scheduled redeterminations varies depending on the likelihood that your benefit payment may be in error.

(2) We may also redetermine your eligibility when you tell us (or we otherwise learn) of a change in your situation which affects your eligibility or the amount of your benefit.

(c) *The period for which a redetermination applies.* (1) The first redetermination applies to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters after the calendar quarter of first eligibility; and

(iii) Future calendar quarters until the second redetermination.

(2) All other redeterminations apply to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters that came after the last time we made a redetermination; and

(iii) Future calendar quarters until the next redetermination.

(3) If we make two redeterminations which cover the same calendar quarter, the later redetermination is the one we apply to that quarter.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

§ 416.210 You do not apply for other benefits.

(a) *General rule.* You are not eligible for SSI benefits if you do not apply for all other benefits for which you may be eligible.

(b) *What "other benefits" includes.* "Other benefits" includes annuities, pensions, retirement benefits, and disability benefits. For example, veterans' compensation and pensions; worker's compensation payments; retirement, survivors, and disability insurance benefits; and unemployment insurance benefits are all "other benefits".

(c) *Our notice to you.* We will give you a dated, written notice that will tell you about any other benefits that we think you are likely to be eligible for. In addition, the notice will explain how your eligibility for SSI benefits will be affected if you do not apply for those other benefits.

(d) *What you must do to apply for other benefits.* In order to apply for other benefits, you must file any required applications and do whatever else is needed so that your eligibility for the other benefits can be determined. For example, if any documents (such as a copy of a birth certificate) are required in addition to the application, you must submit them.

(e) *What happens if you do not apply for the other benefits.* (1) If you do not apply for the other benefits within 30 days from the day that you receive our written notice, you are not eligible for SSI benefits. This means that if you are applying for SSI benefits, you cannot receive them. If you are currently receiving SSI benefits, your SSI benefits will stop. In addition, you will have to repay us for any SSI benefits that you received beginning with the month that you received our written notice. We assume (unless you prove otherwise) that you received our written notice 5 days after the date shown on the notice. We will also find that you are not eligible for SSI benefits if you file the required application for other benefits but do not take other necessary steps to obtain them.

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. You may have a good reason if, for example—

(i) You are incapacitated (because of illness you were not able to apply); or

(ii) It would be useless for you to apply (you once applied for the benefits and the reasons why you were turned down have not changed).

§ 416.211 You are a resident of a public institution.

(a) *General rule.* You are not eligible for SSI benefits for any month

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throughout which you are a resident of a public institution (defined in § 416.201). By "throughout" a month we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of an institution, you remain a resident if you are transferred from one public institution to another of if you are temporarily absent for a period of not more than 14 consecutive days. A person also resides in an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or dies in the institution during the month.

(b) *Exception for medical care facilities.* You may be eligible for SSI benefits at the reduced rate described in § 416.414 if—

(1) The public institution in which you reside throughout a month—

(i) Is a medical care facility; and

(ii) Medicaid (title XIX of the Act) pays a substantial part (more than 50 percent) of the cost of your care; or

(2) You reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of your care.

(c) *Exception for publicly operated community residences which serve no more than 16 residents.* (1) *General rule.* If you are a resident of a publicly operated community residence which serves no more than 16 residents, you may be eligible for SSI benefits.

(2) *Services that a facility must provide in order to be a community residence.* To be a community residence, a facility must provide food and shelter. In addition, it must make available some other services. For example, the other services could be—

(i) Social services;

(ii) Help with personal living activities;

(iii) Training in socialization and life skills; or

(iv) Providing occasional or incidental medical or remedial care (see 45 CFR § 228.1 for an explanation of what we mean).

(3) *"Serving no more than 16 residents".* A community residence serves no more than 16 residents if—

(i) It is designed and planned to serve no more than 16 residents, or the design and plan were changed to serve no more than 16 residents; and

(ii) It is in fact serving 16 or fewer residents.

(4) *"Publicly operated".* A community residence is publicly operated if it is operated or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county.

(5) *Facilities which are not a "publicly operated community residence".* If you live in any of the following facilities, you are not a resident of a publicly operated community residence:

(i) A residential facility which is on the grounds of or next to a large institution or multipurpose complex;

(ii) An educational or vocational training institution whose main function is to provide an approved, accredited, or recognized program to some or all of those who live there;

(iii) A jail or other facility in which your personal freedom is restricted because you are a prisoner, are being held under court order, or are being held until charges against your are disposed of; or

(iv) A medical care facility (defined in § 416.201).

§ 416.212 You do not accept vocational rehabilitation services.

If you are disabiled or blind, you must accept any appropriate vocational rehabilitation services offered to you by the State agency to which we refer you. If you refuse these services, you are not eligible for benefits unless you have a good reason for not accepting them. The rules on vocational rehabilitation services are in Subpart Q.

§ 416.213 You are a medically determined drug addict or alcoholic and you do not accept or follow treatment.

If you are a medically determined drug addict or alcoholic, you must accept any appropriate treatment for your drug addition or alcoholism that we make available to you. So long as you refuse the treatment, you are eligible to receive SSI benefits. The rules regarding treatment for drug addiction and alcoholism are in Subpart I.

§ 416.214 You leave the United States.

You lose your eligibility for SSI benefits for any month during all of which you are outside of the United States. If you are outside of the United States for 30 days or more in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days end.

Eligibility for Increased Benefits Because of Essential Persons

§ 416.220 General.

If you are a "qualified" individual and have an essential person you may be eligible for increased benefits. You may be a qualified individual and have an essential person only if you received benefits under a State assistance plan approved under title I, X, XIV, or XVI (AABD) of the Act. Definitions and rules that apply to qualified individuals and essential persons are discussed in §§ 416.221 through 416.223.

§ 416.221 Who is a qualified individual.

You are a qualified individual if—

(a) You received aid or assistance for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI (AABD) of the Act;

(b) The State took into account the needs of another person in deciding your need for the State assistance for December 1973;

(c) That other person was living in your home in December 1973; and

(d) That other person was not eligible for State assistance for December 1973.

§ 416.222 Who is an essential person.

(a) *General rule.* A person is an essential person if—

(1) That person has continuously lived in the home of the same qualified individual since December 1973;

(2) That person was not eligible for State assistance for December 1973;

(3) That person was never eligible for SSI benefits in his or her own right or as an eligible spouse; and

(4) There are State records which show that under a State plan in effect for June 1973, the State took that person's needs into account in determining your, the qualified individual's, need for State assistance for December 1973.

Any person who meets these requirements is an essential person. This means that you, the qualified individual, can have more than one essential person.

(b) *Absence of an essential person from the home of a qualified individual.* An essential person may be temporarily absent from the home of a qualified individual and still be an essential person. For example, the essential person could be hospitalized. We consider an absence to be temporary if—

(1) The essential person intends to return;

(2) The facts support this intention;

(3) It is likely that he or she will return; and

(4) The absence is not longer than 90 days.

(c) *Absence of a qualified individual from his or her home.* You, the qualified individual, may be temporarily absent from your home and still have an essential person. For example, you could be hospitalized. We consider an absence to be temporary if—

(1) You intend to return;

(2) The facts support your intention;

(3) It is likely that you will return; and

(4) Your absence does not exceed six months.

(d) *Essential person becomes eligible for SSI benefits.* If an essential person becomes eligible for SSI benefits, he or she will no longer be an essential person beginning with the month that he or she becomes eligible for the SSI benefits.

§ 416.223 What happens if you are a qualified individual.

(a) *Increased SSI benefits.* We may increase the amount of your SSI benefits if—

(1) You are a qualified individual; and

(2) You have one or more essential persons in your home.

In Subpart D, we explain how these increased benefits are calculated.

(b) *Income and resource limits.* If you are a qualified individual, we consider the income and resources of an essential person in your home to be yours. You are eligible for increased SSI benefits if—

(1) Your resources which are counted do not exceed the limit for SSI eligibility purposes (see Subpart L); and

(2) Your income which is counted for SSI eligibility purposes (see Subpart K) does not exceed the sum of—

(i) The SSI Federal benefit rate (see Subpart D); and

(ii) The proper number of essential person increments (for the value of an essential person increment see Subpart D). One essential person increment is added to the SSI Federal benefit rate for each essential person in your home.

(c) *Excluding the income and resources of an essential person.* (1) While an essential person increment increases your SSI Federal benefit rate, that person's income which we consider to be yours may actually result in a lower monthly payment to you. We will discuss this with you and explain how an essential person affects your benefit. If you choose to do so, you may ask us in writing to determine your eligibility without your essential person or, if you have more than one essential person, without one or more of your essential persons. We will then figure the amount of your SSI benefits without counting as your own the income and resources of the essential persons that you specify and we will end the essential person increment for those essential persons. You should consider this carefully because once you make the request, you cannot withdraw it. We will make the change beginning with the month following the month that you make the request.

(2) We will not include the income and resources of the essential person if the person's income or resources would cause you to lose your eligibility. The loss of the essential person increment will be permanent.

2. In Subpart D a new § 416.414 is added to read as follows:

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* There is a reduced SSI benefit rate for persons who are in medical care facilities where more than 50 percent of the cost of their care is paid by a State plan approved under title XIX of the Social Security Act (Medicaid). Persons who can receive this benefit rate are—

(1) Those who are otherwise eligible and who are in the medical care facility throughout a month (By "throughout a month" we mean that you are in the medical care facility as of the beginning of the month and stay the entire month. If you are in a medical care facility you will be considered to have continuously been staying there if you are transferred from one medical care facility to another or if you are temporarily absent for a period of not more than 14 consecutive days.); and

(2) Those who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of their care.

(b) *The benefit rates are*—

(1) *Eligible individual.* The benefit rate for an eligible individual with no eligible spouse is $300 per year. The benefit payment is figured by substracting the eligible individual's countable income (see Subpart K) from the benefit rate.

(2) *Eligible couple both in medical care facilities.* The benefit rate for a couple is $600 a year. The benefit payment is figured by subtracting the couple's countable income (see Subpart K) from the benefit rate.

(3) *Eligible couple with one spouse in a medical care facility.* The couple's benefit rate equals:

(i) $300 per year for the spouse in the medical care facility; plus

(ii) The benefit rate for an eligible individual (see § 416.410) for the spouse who is not in the medical care facility. The benefit payment for each spouse is figured by subtracting each individual's own countable income from his or her portion of the benefit rate shown in subparagraphs (i) and (ii) of paragraph (b)(3).

(c) *Definition.* For purposes of this section a "medical care facility" means a hospital (see section 1861(e) of the Act), a skilled nursing facility (see section 1861(j) of the Act), or an intermediate care facility (see section 1905(c) of the Act.)

(Secs. 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 as amended, 86 Stat. 1475, 42 U.S.C. 1302, 1382, and 1383)

3. A new Subpart P is added to Part 416 to read as follows:

Subpart P—Residence and Citizenship

Sec.

416.1600 Introduction.
416.1601 Definitions and terms used in this subpart.
416.1602 How to prove you are a resident of the United States.
416.1603 How to prove you are a citizen or a national of the United States.
416.1604 How to prove you are lawfully admitted for permanent residence in the United States.
416.1605 How to prove you are permanently residing in the United States under color of law.

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act as amended, 49 Stat. 647 as amended, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1382c, and 1383.

Subpart P—Residence and Citizenship

§ 416.1600 Introduction.

You are eligible for supplemental security income (SSI) benefits if you meet the requirements in Subpart B. Among these are requirements that you must be a resident of the United States and either a citizen, a national, or an alien with a lawful right to reside permanently in the United States. In this subpart, we tell you what kinds of evidence show that you are a resident of the United States (see § 416.1602) and—

(a) A citizen or a national of the United States (see § 416.1603);

(b) An alien lawfully admitted for permanent residence in the United States (see § 416.1604); or

(c) An alien permanently residing in the United States under color of law (see § 416.1605).

§ 416.1601 Definitions and terms used in this subpart.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.1602 How to prove you are a resident of the United States.

(a) *What you should give us.* You can prove you are a resident of the United States by giving us papers or documents showing that you live in the United States such as—

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(1) Property, income, or other tax forms or receipts;

(2) Utility bills, leases, or rent payment records;

(3) Documents that show you participate in a social services program in the United States; or

(4) Other records or documents that show you live in the United States.

(b) *What "resident of the United States" means.* We use the term "resident of the United States" to mean a person who is living within the geographical limits of the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1603 How to prove you are a citizen or a national of the United States.

(a) *What you should give us.* You can prove that you are a citizen or a national of the United States by giving us—

(1) A certified copy of your birth certificate which shows that you were born in the United States;

(2) A certified copy of a religious record of your birth or baptism which shows you were born in the United States;

(3) Your naturalization certificate;

(4) Your United States passport;

(5) Your certificate of citizenship;

(6) An identification card for use of resident citizens in the United States (Immigration and Naturalization Service Form I-197); or

(7) An identification card for use of resident citizens of the United States by birth or naturalization of parents (INS Form I-179).

(b) *How to prove you are an interim citizen of the United States if you live in the Northern Mariana Islands.* As a resident of the Northern Mariana Islands you must meet certain conditions to prove you are an interim citizen of the United States. You must prove that you were domiciled in the Northern Mariana Islands as required by section 8 of the Schedule of Transitional Matters of the Constitution of the Northern Mariana Islands, or that you were born there after March 6, 1977. By "domiciled" we mean that you maintained a residence with the intention of continuing that residence for an unlimited or indefinite period, and that you intended to return to that residence whenever absent, even for an extended period. You must also give us proof of your citizenship if you are a citizen of the Trust Territory of the Pacific Islands of which the Marianas are a part.

(1) You can prove you were domiciled in the Northern Mariana Islands by giving us—

(i) Statements of civil authorities; or

(ii) Receipts or other evidence that show you were domiciled there.

(2) You can prove that you are a citizen of the Trust Territory of the Pacific Islands by giving us—

(i) Your identification card issued by the trust Territory of the Pacific Islands and a public or religious record of age which shows you were born in this territory;

(ii) Your voter's registration card;

(iii) A Chammoro Family Record showing your birth in the Trust Territory of the Pacific Islands; or

(iv) Your naturalization certificate.

(c) *What to do if you cannot give us the information listed in paragraph (a) or (b).* If you cannot give us any of the documents listed in paragraph (a) or (b), we may find you to be a citizen or a national of the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are a citizen or a national of the United States. The kind of information we are most concerned about shows—

(i) The date and place of your birth in the United States;

(ii) That you have voted or are otherwise known to be a citizen or national of the United States; or

(iii) The relationship to you and the citizenship of any person through whom you obtain citizenship.

(d) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, Swain's Island, and the Northern Mariana Islands.

§ 416.1604 How to prove you are lawfully admitted for permanent residence in the United States.

(a) *What you should give us.* You can prove that you are lawfully admitted for permanent residence in the United States by giving us—

(1) An Alien Registration Receipt Card (Immigration and Naturalization Service (INS) Form I-151 or I-551);

(2) A reentry permit; or

(3) An alien identification card issued by the government of the Northern Mariana Islands showing that you are admitted to the Northern Mariana Islands for permanent residence.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be lawfuly admitted for permanent residence in the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are lawfully admitted for permanent residence in the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1605 How to prove you are permanently residing in the United States under color of law.

(a) *What you should give us.* You can prove you are permanently residing in the United States under color of law by giving us—

(1) An Arrival-Departure Record (Immigration and Naturalization Service (INS) Form I-94) endorsed "Refugee-Conditional Entry" and showing the section of the Immigration and Nationality Act under which you were admitted;

(2) An Arrival-Departure Record (INS Form I-94) endorsed to show that you are paroled for an indefinite period under section 212(d)(5) of the Immigration and Nationality Act;

(3) An Arrival-Departure Record (INS Form I-94) endorsed "Voluntary Departure Granted—Employment Authorized" (this form and an INS letter are given to persons affected by a United States District Court order issued March 10, 1977);

(4) An Order of Supervision (INS Form I-220B) which shows you have been granted an indefinite stay of deportation;

(5) Any other letter or document from the Immigration and Naturalization Service showing that you have been granted either an indefinite voluntary departure or an indefinite stay of deportation; or

(6) Proof of your presence in the United States before June 30, 1948, and proof of your continuous residence thereafter.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be permanently residing in the United States under color of law if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are permanently residing in the United States under color of law. We will contact the Immigration and

Naturalization Service to help establish that you meet this color of law rule.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Kansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule.

SUMMARY: On February 26, 1980, the State of Kansas submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Kansas program partially meets the minimum requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Kansas program. Kansas will not assume primary jurisdiction for implementing SMCRA until its entire program receives approval.

DATE: Kansas has until November 3, 1980, to submit revisions of the disapproved portions of the program for the Secretary's consideration.

ADDRESSES: Copies of the Kansas program and the administrative record on the Kansas program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Kansas Mined Land Office, 107 W. 11th Street, Pittsburg, Kansas 66762.

Kansas Corporation Commission, Legal Office, State Office Bldg., 5th Floor, 915 Harrison, Topeka, Kansas 66612.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710-725 and 795, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312-15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673-49687), September 14, 1979 (44 FR 53507-53509), November 19, 1979 (44 FR 66195) April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302-75303), December 31, 1979 (44 FR 77440-77447), January 11, 1980 (45 FR 2626-2629), April 16, 1980 (45 FR 25998-26001), May 20, 1980 (45 FR 33926-33927), June 10, 1980 (45 FR 39446-39447) and August 6, 1980 (45 FR 52306-52324). Portions of these regulations have been suspended, pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447-77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547-51550 (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730-732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally; approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable; or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Louisiana program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent

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decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulations Litigation*. That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) the Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as a result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604).

This list was made available for public review during a hearing in Pittsburg, Kansas on July 14, 1980, together with copies of the court's Round I and Round II opinions. A statement was also made available at the hearing explaining that since Kansas withdrew its regulations from its program submission on May 28, 1980, OSM is unable to provide a list of regulations in the Kansas program affected by the court's order.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Kansas will be found in 300 CFR Part 916.

Background on the Kansas Program Submission

On February 26, 1980, OSM received a proposed regulatory program from the State of Kansas. The program was submitted by the Kansas Mined Land Conservation and Reclamation Board, the agency designated as the primary regulatory authority under the proposed Kansas permanent program. Notice of receipt of the submission initiating the program review was published in the March 4, 1980, **Federal Register** (45 FR 14152–14153) and in newspapers of general circulation in Kansas. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On April 10, 1980, the Regional Director held a public review meeting in Topeka, Kans., on the program submission and its completeness. The public comment period on completeness began on March 4, 1980, and closed April 10, 1980.

On April 18, 1980, the Regional Director published a notice announcing that he had determined the program to be incomplete (45 FR 26368). The notice specified that the program submission did not fulfill the content requirements for program submissions under 30 CFR 731.14. In accordance with 30 CFR 731.11(c), the Regional Director determined that a section-by-section comparison of the Kansas laws and regulations as required by 30 CFR 731.14(c) was missing from the proposed Kansas regulatory program. The program submission did set out the respective laws and regulations in a side-by-side format, but did not include a complete explanation of the differences between the State and Federal provisions or a discussion of the legal effect of the differences as required by 30 CFR 731.14(c).

After several discussions between Kansas and OSM during the review of the Kansas program, Kansas decided to make extensive revisions to its proposed regulations. Accordingly, on April 28, 1980, Kansas withdrew the regulations and the section-by-section analysis of those regulations from its program submission. Kansas has not, as of this date, submitted any new proposed or fully enacted regulations to OSM. As of June 9, 1980 (the 104th day after program submission), the Kansas proposed program contained the Mined-Land Conservation and Reclamation Act and other State laws in Volume I and the narrative description of the proposed program in Volume III.

On June 16, 1980, the Regional Director published notice in the **Federal Register** (45 FR 40619–40621) and in newspapers of general circulation within the State that Kansas elected not to submit revised regulations and that the Kansas program submission was available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Kansas program.

On July 11, 1980, OSM invited public comment on whether there were any provisions in the Kansas submission which incorporated suspended and remanded Federal rules and which would have to be affirmatively disapproved to comply with the May 16, 1980, order of the court in *In Re: Permanent Surface Mining Regulation Litigation*. (45 FR 46820–46826)

On July 14, 1980, the Regional Director held a public hearing on the Kansas submission in Pittsburg, Kansas. The public comment period on the Kansas permanent regulatory program ended on July 21, 1980.

On July 23, 1980 the Regional Director submitted to the Director of OSM, his recommendation that the Kansas program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On August 7, 1980, OSM published a notice formally disclosing the results of the solicitation of views of the Kansas submission from other federal agencies 45 FR 52408.

On August 22, 1980, the Director of OSM recommended to the Secretary that the Kansas program be approved in part and disapproved in part.

Elements Upon Which the Secretary Evaluates the Kansas Program For This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process", the Secretary hereby sets forth the elements of the proposed Kansas program upon which the findings and decisions are being made.

(a) The Kansas Mined-Land Conservation and Reclamation Act;

(b) The balance of the program submission received on February 26, 1980, except the proposed regulations and the section-by-section analysis.

In reaching his decision to approve in part and disapprove in part the Kansas program submission, the Secretary makes the following findings pursuant to Section 503 of SMCRA and 30 CFR 732.15.

1. The Secretary makes the following findings under the provisions of Section 503(a) of SMCRA:

(a) The Kansas Mined-Land Conservation and Reclamation Act (MLCRA) provides for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Kansas in accordance with SMCRA with the exceptions noted below in findings 4(b), 4(g), 4(h), 4(i), and 4(p);

(b) The MLCRA provides sanctions for violations of Kansas laws, regulations or conditions or permits concerning surface coal mining and reclamation operations with the exception noted below in finding 4(h). These sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Kansas Mined-Land Conservation and Reclamation Board or its inspectors;

(c) The Kansas program submission describes a staffing and budget plan that would be sufficient; however, the Secretary has been informed by the Executive Director of the Mined Land Conservation and Reclamation Board that the Kansas Legislature has not authorized the proposed staff and budget. Accordingly, the Secretary is unable to find that the Mined Land Office has sufficient administrative and technical personnel or sufficient funding to enable Kansas to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. (*See* Kansas Administrative Record Document KS–51);

(d) The MLCRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Kansas;

(e) The MLCRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272, except that the MLCRA does not contain provisions comparable to Section 522(e)(1) and (3), which prohibit mining on certain protected lands, such as parks, wilderness areas and historic sites. The Secretary finds that the Kansas program must include, and cannot be approved without, provisions comparable to 522(e)(1) and (3) of SMCRA;

(f) The MLCRA has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Kansas does not have fully enacted reglations consistent with regulations issued pursuant to SMCRA. The Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII.

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposal Kansas program;

(b) Solicited the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Kansas program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*). The EPA responded that it could not concur on the Kansas program because the State does not have fully enacted regulations necessary to carry out its responsibilities under the statutes cited above in this paragraph;

(c) Held a public review meeting in Topeka, Kansas, on April 10, 1980, to discuss the completeness of the Kansas program submission and subsequently held a public hearing in Pittsburg, Kansas, on July 14, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Kansas does not have the legal authority and does not have qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII because necessary regulations have not been enacted and because the proposed staff does not accurately reflect the staff expected to be needed to implement and administer the permanent program. See Finding 1(c) above.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Kansas program submission, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, that:

(a) The proposed Kansas permanent program does not provide for Kansas to meet the purposes of SMCRA and 30 CFR Chapter VII within its borders, because it does not include enacted regulations and for the additional reasons set forth in Findings 1(c), 1(e), 3, and 4(b)–4(s). Kansas has not proposed any alternative approaches in accordance with 30 CFR 731.13. This finding is made under 30 CFR 732.15(a).

(b) The Kansas Mined Land Conservation and Reclamation Board has the authority under the MLCRA (except as specifically set forth below in this paragraph) but does not have the authority under State regulatons, to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. This finding is based on the fact that the necessary regulations have not been fully enacted. The Secretary further finds that Sections 49–411 and 49–412 of the MLCRA, which allow for deferred planting and delayed reclamation, are inconsistent with Section 515(b) (16) and (20) of SMCRA which require reclamation contemporaneously with mining. In accordance with 30 CFR 732.15(b)(1) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter K. The Secretary disapproves Sections 49–411 and 49–412 of the MLCRA;

(c) The Kansas Mined Land Conservation and Reclamation Board has the authority under the MLCRA, but does not have the authority under State regulations, to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G and prohibit surface coal mining and reclamation operations without a permit issued by the Kansas Mined Land Conservation and Reclamation Board. In accordance with 30 CFR 732.15(b)(2) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter G;

(d) The Secretary find that the Kansas Mined Land Conservation and Reclamation Board does not have the authority to regulate coal exploration, nor to prohibit coal exploration that does not comply 30 CFR Parts 776 and 815. In accordance with 30 CFR 732.15(b)(3), the Secretary finds that the program must include, and cannot be approved without, regulations consistent with 30 CFR Parts 776 and 815;

(e) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49–405 of the MLCRA but does not have authority under state regulations to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707. In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Part 707;

(f) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49–405 and 49–405c of the MLCRA but does not have the authority under state regulations to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Kansas consistent with the requirements of Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L. In accordance with 30 CFR 732.15(b)(5), the Secretary further finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter L;

(g) The Kansas Mined Land Conservation and Reclamation Board has the authority in Sections 49–406, 49–407, and 49–415 of the MLCRA (with the exceptions noted specifically below in this paragraph), but does not have the authority under state regulations, to implement, administer and enforce a system of performance bonds and liability insurance or other equivalent guarantees in accordance with Sections 507(f), 509, 510 and 519 of SMCRA, and consistent with 30 CFR Chapter VII, Subchapter J. In accordance with 732.15(b)(6), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter J. The Secretary further finds that Sections 49–413 and 49–414 of the MLCRA, which allow for bond release once the Mined Land Conservation and Reclamation Board has determined that a satisfactory vegetative cover has been established, are inconsistent with Section 515(b) (20) of SMCRA, which provides for a 5 or 10 year minimum period. The Secretary disapproves Section 49–413 and 49–414 of the MLCRA;

(h) The Kansas Mined Land Conservation and Reclamation Board has the authority under Sections 49–405c of the MLCRA but does not have the authority under State regulations to provide for civil and criminal sanctions, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, The Secretary finds that Section 49–421 of MLCRA, relating to penalties, is inconsistent with SMCRA insasmuch as it does not authorize mandatory penalties for cessation orders as high as the $5,000 maximum contained in Section 518(a) of SMCRA. The Kansas statute limits such penalty to $250. In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions in accordance with section 518 of SMCRA and consistent with 30 CFR Part 845 except to the extent remanded. The Secretary disapproves Section 49–421 of the MLCRA;

(i) The Kansas Mined Land Conservation and Reclamation Board has the authority (except as specifically set forth below in this paragraph) under Section 49–405 of the MLCRA but does not have the authority under state regulations, to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271), and consistent with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements. Section 49–416 of the MLCRA is inconsistent in part with Section 521 of SMCRA (and Section 49–405 of the MLCRA) because it allows for discretionary permit revocation as distinguished from mandatory cessation orders under Section 521, and is therefore not as stringent. In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter L. The Secretary disapproves Section 49–416 to the extent that it is inconsistent with Section 521 of SMCRA;

(j) The Kansas Mined Land Conservation and Reclamation Board has authority under Section 49–405b of the MLCRA (except as specifically set forth in this paragraph) but does not have the authority under state regulations, for the designation of areas as unsuitable for surface coal mining, consistent with 30 CFR Chapter VII, Subchapter F. Also, the Secretary finds that the MLCRA does not contain provisions comparable to Section 522(e)(1) and (3) of SMCRA. *See* Finding 1(e) above. In accordance with 30 CFR 732.15(b)(9), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter F, and Section 522(e)(1) and (3) of SMCRA;

(k) The Kansas Mined Land Conservation and Reclamation Board has authority under the MLCRA but does not have authority under state regulations to provide for public participation in the development, revision and enforcement of Kansas regulations and the Kansas program consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. The Kansas program does not provide for public participation in administrative proceedings as required by 30 CFR 840.15 and 43 CFR Part 4. The program fails to provide for award of costs and expenses including attorneys' fees relating to such proceedings. In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations and program provisions consistent with 30 CFR Chapter VII and the public participation aspects of 43 CFR Part 4;

(l) The Kansas Mined Land Conservation and Reclamation Board has the authority under Sections 49-404, 49-405 and 49-406 of the MLCRA but does not have authority under state regulations to monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Kansas Mined Land Conservation and Reclamation Board consistent with 30 CFR Part 705. In accordance with 30 CFR 732.15(b)(11) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Part 705;

(m) The Secretary finds, in accordance with 30 CFR 732.15(b)(12), that the Kansas Mined Land Conservation and Reclamation Board has authority under Section 49-405a of the MLCRA to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Kansas has no regulations on the training, examination, and certification of persons engaged in blasting. However, 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated as of this time;

(n) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49-405 and 49-406 of the MLCRA but does not have authority under state regulations to provide for small operator assistance consistent with 30 CFR Part 795. The Secretary finds, in accordance with 30 CFR 732.15(b)(13), that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Part 795;

(o) The Kansas program does not provide for protection of employees of the Kansas Mined Land Conservation and Reclamation Board in accordance with the protection afforded federal employees under Section 704 of SMCRA. In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Kansas program must include a statutory or regulatory provision comparable to Section 704 of SMCRA;

(p) The Kansas Mined Land Conservation and Reclamation Board has authority under Sections 49-416a and 49-422a of the MLCRA (except as specifically set forth in this paragraph) but does not have authority under state regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and with 30 FR Chapter VII, Subchapter L. Sections 49-422 and 49-422a of the MLCRA are inconsistent with each other (the retention of Section 49-422 may have been inadvertent) and neither Section 49-422 nor 49-422a of the MLCRA states whether judicial review of an administrative action will be *de novo* or on the record made before the Board. The Secretary has represented to the United States District Court for the District of Columbia that he will examine a state's proposal for *de novo* review to determine if the proposal contains safeguards adequate to prevent interference with an enforcement program consistent with SMCRA. The court has endorsed this flexible approach. Accordingly, to the extent that the Kansas program provides for trial *de novo* review of an administrative action such review must (1) insure preservation of the administrative record, (2) guarantee that any party to the *de novo* proceeding has the right to use the evidence contained in the administrative record whenever such evidence cannot otherwise be practicably obtained, (3) insure that any money paid into escrow is held until there is a final resolution of the controversy, (4) demonstrate that *de novo* review will not result in undue delay so as to interfere with the effectiveness of the enforcement program, (5) make *de novo* review available to any party to the administrative proceeding, (6) insure that *de novo* review is not available to any person who has failed to appear at or waived his right to an administative hearing, and (7) provide that the regulatory authority be represented by a licensed attorney at every stage of the judicial review proceedings. In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L. The Secretary disapproves Section 49-422 and also disapproves Section 49-422a to the extent that it provides for a *de novo* judicial review but does not incorporate procedures adequately addressing the seven criteria enumerated above.

(q) Based on information in the Kansas program and other relevant information the Secretary is unable to find that the Kansas Mined Land Conservation and Reclamation Board has the authority to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII;

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the MLCRA contains provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, as noted in findings 4 (b), (g), (h), (i), (j), and (p) above;

(s) In accordance with 30 CFR 732.15(d) and based on information in the Kansas program and other relevant information the Secretary is unable to find that the Kansas Mined Land Conservation and Reclamation Board and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws as noted in findings 1(c) and 3 above.

Disposition of Comments

The following discussion concerns significant issues received by OSM and the Secretary regarding the Kansas Mined-Land Conservation and Reclamation Act (MLCRA). Comments were received on the Kansas regulations; however, because all the regulations were withdrawn, those comments are not relevant to this decision and will not be considered in the Secretary's initial decision. Accordingly, the Secretary is not discussing those comments in this **Federal Register** notice, but has forwarded them to Kansas for its consideration in promulgating revised regulations. If any regulations are included in Kansas' resubmission, they

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will be available for public comment pursuant to 30 CFR 732.13.

1. Several commenters objected to the provision in Section 49–406 of the MLCRA that omits professional geologists from preparing or certifying cross-section maps or plans of affected lands. Section 507(b)(14) of SMCRA provides that cross-section maps or plans of affected lands be prepared by either a professional engineer or professional geologist. The omission of a professional geologist does not make the MLCRA inconsistent with SMCRA. No change is required; however, the State has indicated that it is preparing draft language for a statutory amendment to allow geologists to prepare maps and plans. (See Administrative Record No. KS–138.)

2. The Bureau of Mines (BOM) noted that MLCRA Section 49–422 conflicts with Section 49–422(a) and suggested that one or the other of the sections be repealed. Both sections appear to govern judicial review of administrative actions. The Secretary concurs and is disapproving Section 49–422 of the MLCRA.

3. The BOM commented that Section 49–408 of MLCRA contains provisions that may be different from the provisions in Section 515 of SMCRA. Section 49–408 declares that all waters in existence on mined land after reclamation is completed shall become public waters to the extent they may be stocked by and shall come under the law enforcement jurisdiction of the Kansas Fish and Game Commission. The Secretary finds that this is not inconsistent with the provisions of Section 515 of SMCRA.

4. The BOM noted that MLCRA Section 49–411 is in conflict with SMCRA in that it has a provision that would allow an operator not to reclaim an area being mined if he planted a different area. The Secretary concurs and is disapproving Section 49–411 of the MLCRA.

5. The BOM commented that Section 49–413 of the MLCRA is less stringent that SMCRA in that it provides for bond release once the Mined Land Board (Board) has determined that a satisfactory vegetative cover has been established rather than the 5–10 year minimum specified in Section 515(b)(20) of SMCRA. The Secretary concurs and is disapproving Section 49–413 of the MLCRA.

6. The BOM noted that Section 49–421 of the MLCRA regarding assessing penalties not to exceed $250 a day conflicts with 49–405(c) of the MLCRA. The Secretary agrees and is disapproving Section 49–421 of the MLCRA.

7. The BOM questioned the inclusion of a provision in Section 49–414 of the MLCRA that provides that the Board may authorize an operator to defer planting of vegetative cover for an affected area of land. The Secretary agrees that this provision is inconsistent with Section 519(a) of SMCRA and is disapproving Section 49–414 of the MLCRA.

8. The BOM noted that the MLCRA did not have a provision comparable to Section 521(a)(1) of SMCRA. Section 521(a) of SMCRA relates to federal inspections only. The Secretary has determined that Kansas need not have a comparable provision.

9. The BOM submitted the following additional comments on the MLCRA:

(a) That Section 49–406 does not include a provision comparable to SMCRA Section 506(c), which requires permits to be terminated three years after issuance if the permittee has not commenced the surface coal mining operations;

(b) That the provisions in Section 49–406(j) concerning maintaining bonds in successor operations are not as specific as Section 506(b) of SMCRA;

(c) That the statutory requirements for permit applications are not as complete as the requirements of SMCRA in the area of mining equipment, methods of mining, ownership information, and starting dates;

(d) That the MLCRA does not contain prime farmland provisions comparable to Sections 507(b) and 515(b)(7) of SMCRA, relating to contents of permit applications and performance standards;

(e) That the MLCRA does not include a requirement for: (1) filing a copy of a permit application with a county recorder, and (2) the filing of a blasting plan;

(f) That the MLCRA does not have provisions comparable to SMCRA Section 515(h), concerning informal review of inspections; and

(g) That the MLCRA does not have a provision comparable to Section 519(d) and (e) of SMCRA, which contain notification procedures for specific bond release activities.

The Secretary agrees with all of these comments. Rather than include specific provisions equivalent to all of the required provisions of SMCRA, the MLCRA grants broad statutory authority to the Board to promulgate regulations required to conform to the requirements of SMCRA and the Secretary's regulations. These BOM comments describe deficiencies in the MLCRA that may be corrected by regulations. If the resubmitted regulations from Kansas are consistent with the federal regulations relating to the issues identified above, no statutory changes will be required.

10. The U.S. Fish and Wildlife Service (FWS), issued a non-jeopardy biological opinion on the Secretary's approval of the proposed Kansas program. This biological opinion was provided in accordance with the Section 7 Interagency Cooperation Regulations (50 CFR 402, 43 FR 870) and the Endangered Species Act (ESA), as amended.

The biological opinion stated that the FWS had determined there were five endangered species known to occur in Kansas (bald eagle, peregrine falcon, whooping crane, black-footed ferret, and gray bat); however, the Kansas proposed program is not likely to jeopardize their continued existence.

11. The FWS also suggested the adoption of the following seven recommendations to prevent adverse impacts on the identified species that might result from implementation of the Kansas program:

a. The Mined Land Conservation and Reclamation Board (MLCRB), in consultation with the Kansas Fish and Game Commission (KFGC), should use its authority to further the purposes of the ESA by ensuring that programs for the conservation of the species are carried out.

b. If there is any disagreement between MLCRB and KFGC on the required content for the permit application, the permit application should be forwarded to the Office of Surface Mining (OSM) which should then request formal consultation under Section 7.

c. Funds should be authorized by OSM to be used by both MLCRB and KFGC.

d. The State program should include sections which correspond with the OSM rules and regulations that are applicable to federally listed endangered and threatened species.

The FWS further stated that if any new species are listed or proposed to be listed, the above stipulations should also be followed. In addition, the FWS indicated that the following stipulations should be included.

e. MLCRB, in consultation with KFGC, should ensure that any action carried out by the MLCRB is not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of critical habitat.

f. MLCRB shall confer with KFGC on any action which is likely to jeopardize the continued existence of any proposed to be listed endangered or threatened species, or result in the destruction or adverse modification of critical habitat.

g. Promptly, after the conclusion of consultation, KFGC should provide MLCRB a written statement setting forth KFGC's opinion, and a summary of the information on which the opinion is based, detailing how the MLCRB action affects the species or its critical habitat.

In response, OSM has forwarded a copy of the July 17, 1980, non-jeopardy opinion to the Kansas Mined Land Conservation and Reclamation Board and the State has been encouraged to consider the recommendations of the FWS. For purposes of state program approval, it is beyond the authority of the Secretary to require the Kansas Mined Land Conservation and Reclamation Board to implement Recommendations a, e, f, and g. Recommendation b requires the development of a procedure beyond the scope of the Act, the federal rules, and the June 10, 1980 Memorandum of Understanding (MOU) between FWS and OSM.

OSM will, however, during its monitoring phase evaluate the State's administration of its program and will consult with FWS regarding any necessary corrective actions.

Recommendation c is also beyond the scope of the MOU between OSM and FWS. Furthermore, OSM has no special funds available for this specific purpose. OSM concurs with Recommendation d. Kansas' revised regulations must be found to be consistent with 30 CFR Chapter VII.

12. The Environmental Policy Institute (EPI) suggested that sections of the Kansas Statute should be cross-referenced to the sections of SMCRA to which they pertain. This would impose an unwarranted burden on the State and is not a substantive requirement of SMCRA or the federal regulations. The Secretary therefore will not require a change in the Kansas program based upon this comment.

13. EPI commented that the Kansas program omits provisions comparable to Sections 507(b)(5) and 507(e) of SMCRA, concerning permit applications. The Secretary agrees as discussed in connection with comment no. 9 above. No change in the Kansas statute is required if Kansas regulations implement these provisions of SMCRA.

14. EPI commented that Sections 14-406 and 49-405(d) of MLCRA do not provide for adequate availability of documents for public inspection, and are not in accordance with Sections 507(e) and 517(f) of SMCRA. The Board's Field Office is located near the center of the coal-mining region and the location of documents there for public inspection meets the requirements of SMCRA.

15. EPI commented that the last sentence of Setion 49-405c(f) of MLCRA, concerning corporate violations, should refer to subsections (a) and (e) of that Section, rather than Subsections (a) and (c), as it presently reads. This appears to be a typographical error, and the Secretary expects, and Kansas has agreed, that it will be remedied (See Kansas Administrative Record No. KS-138.).

16. EPI commented that the MLCRA does not contain provisions comparable to Section 522(e)(3) of SMCRA, which prohibits mining on certain protected lands. The Secetary agrees that such a provision must be included in the Kansas program, and has so stated in finding 4(e).

17. EPI commented that Section 49-416a of MLCRA concerning review by the Board, should include language subjecting hearings under that Section to Section 554 of Title 5 of the U.S. Code. The federal Administative Procedures Act is not binding on the State of Kansas. The Secretary expects Kansas to submit its administrative procedures for Secretarial review as part of its resubmission.

18. EPI commented that the Kansas program omits a provision comparable to Section 526(e) of SMCRA, concerning judicial review of actions taken by the Board. The Secretary believes that this requirement is met by Section 49-422a of MLCRA, except for those deficiencies identified in finding 4(p).

19. EPI commented that Section 49-403(28) of MLCRA, which defines the term "surface coal mining operations", omitted the limitation of such operations to those where coal comprises more than 16⅔ percent, of the tonnage of minerals removed, when coal is extracted incidental to the extraction of other minerals. Since the omission of this limitation results in a broader definition of "surface coal mining operations", the Secretary considers it acceptable as a more stringent standard than the comparable definition contained in Section 701(28) of SMCRA.

20. EPI commented that the Kansas program omits any provision for the protection of employees of the Kansas Mined Land Conservation and Reclamation Board comparable to the protection afforded federal employees under Section 704 of SMCRA. The Secretary agrees that such protection is required in the Kansas program, and has so stated in finding 4(o).

21. EPI commented that Section 49-423 of MLCRA, concerning severability, should include the phrase "shall not be affected thereby", as found in Section 707 of SMCRA. The Secretary has concluded that Section 49-423 of MLCRA is identical in meaning to Section 707 of SMCRA, and no change is required.

Approval in Part/Disapproval in Part

The Kansas program is approved in part and disapproved in part. As indicated above, under the "Secretary's Findings," certain parts of the program meet the criteria for State program approval in 30 CFR 732.15 and certain parts of the program parts do not meet the criteria. Partial approval means that Kansas may revise and resubmit the disapproved portions of the program within 60 days of the effective date of the decision. The resubmission will then be reviewed and approved or disapproved under procedures in 30 CFR Part 732. The State will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA until the entire program is approved.

The following program parts are approved:

The Kansas Mined-Land Conservation and Reclamation Act except for those nine sections set forth below: The Kansas program cannot be fully and unconditionally approved until these nine provisions are made consistent with SMCRA, or the inconsistency is otherwise solved in a manner which results in a program which fully implements the requirements of SMCRA and 30 CFR Chapter VII.

(1) Section 49-405c(f), relating to corporate violations.

(2) Section 49-411. Commencement of Reclamation, when; authorization for deferred or alternate planting; release of bonds, when.

(3) Section 49-412. Preplanning of reclamation for contiguous areas; plan for delayed reclamation.

(4) Section 49-413. Planting report; inspection and evaluation of vegetative cover; release of bond, when.

(5) Section 49-414. Deferred planting; release of bond, when.

(6) Section 49-416. Noncompliance with act or orders of board; notice of non-compliance; revocation of permit; forfeiture of bond; effect upon future permits. (Section 49-416 is disapproved to the extent it is inconsistent with Section 521 of SMCRA.)

(7) Section 49-421. Penalties.

(8) Section 49-422. Right of Appeal.

(9) Section 49-422a. Appeal of final order of board to district court. (Section 49-422a is disapproved if, and to the extent that, it provides for "de novo" judicial review of an administrative action.

The following program parts are disapproved:

(a) Those sections of the Kansas Mined-Land Conservation and Reclamation Act enumerated above.

(b) The non-statutory program provisions to:

(1) Implement, administer and enforce all applicable performance standards. (*See* Finding 4(b).)

(2) Implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority. (*See* Finding 4(c).)

(3) Regulate coal exploration and prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. (*See* Finding 4(d).)

(4) Require that persons extracting coal incidental to government-financed construction maintain information on-site. (*See* Finding 4(e).)

(5) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations. (*See* Finding 4(f).)

(6) Implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees. (*See* Finding 4(g).)

(7) Provide for civil and criminal sanctions for violations of state law, regulations and conditions of permits and exploration approvals including civil and criminal penalties. (*See* Finding 4(h).)

(8) Issue, modify, terminate and enforce notices of violations, cessation orders and show cause orders. (*See* Finding 4(i).)

(9) Designate areas as unsuitable for surface coal mining. (*See* Finding 4(j).)

(10) Provide for public participation in the development, revision and enforcement of state regulations and the state program. (*See* Finding 4(k).)

(11) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations, by employees of the state regulatory authority. (*See* Finding 4(l).)

(12) Provide for small operator assistance. (*See* Finding 4(n).)

(13) Provide for the protection of state employees of the regulatory authority in accordance with the protection afforded federal employees. (*See* Finding 4(o).)

(14) Provide for administrative and judicial review of state program actions. (*See* Finding 4(p).)

(15) Cooperate and coordinate with and provide documents and other information to OSM. (*See* Finding 4(q).)

(c) The portion of the program describing the proposed staff and budget. (*See* Findings 1(c), 3, and 4(s).)

Effect of this Action

Kansas is not now eligible to assume primary jurisdiction to implement the permanent program. Kansas may submit additions or revisions to its proposed program to correct those parts of the program being disapproved within 60 days of this decision.

If no revised submission is made within 60 days, the Secretary will take appropriate steps to promulgate and implement a federal program for the State of Kansas. If the disapproved portions of the state regulatory program are revised and resubmitted within the 60-day time limit, the Secretary will have an additional 60 days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the secretary of Agriculture and the heads of other federal agencies and to approve, disapprove, or condtionally approve the final Kansas program submission.

This approval in part and disapproval in part relates at this time only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of title IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Kansas may submit a state AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

No coal development is anticipated on federal lands in the State. In the event that surface mining and reclamation operations on federal lands are proposed, however, the initial federal lands program will be governed by regulations in 30 CFR Part 211. When a state regulatory program is approved, the federal lands program, if one is necessary, will be governed by 30 CFR Part 740, or by 30 CFR Part 745 if Kansas chooses to enter into a cooperative agreement with the Secretary.

The Secretary intends not to promulgate rules in 30 CFR Part 916 until the Kansas program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

[FR Doc. 80-27101 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 918

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Louisiana Under the Surface Mining Control and Reclamation Act of 1977 and Announcement of Public Comment Period on Program Resubmittal

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed Rule. Partial approval/partial disapproval of Louisiana permanent regulatory program announcement of public comment period on program resubmittal.

SUMMARY: On January 3, 1980, the State of Louisiana submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and conducting a thorough review of the program submission, the Secretary of the Interior has determined that the Louisiana program only partially meets the minimum requirements of SMCRA and the federal permanent program regulations.

Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Louisiana program. Louisiana will not assume primary jurisdiction for implementing SMCRA unitil its entire program receives approval. Louisiana has requested that the Secretary consider immediately all presently enacted amendments and revisions upon publication of the Secretary's initial disapproval in this notice. The Secretary hereby opens the post-resubmission public comment period for fifteen days, ending September 17, 1980. Comments will be received only on those parts of the Louisiana program being disapproved as listed under the "Approval In Part/Disapproval In Part" section of this notice.

DATE: A public hearing on Louisiana's resubmission will be held on September

16, 1980. All comments must be received by 5:00 PM on September 17, 1980, at the Office of Surface Mining, Region IV address listed below under "Addresses."

ADDRESSES: Copies of the Louisiana program and the administrative record on the Louisiana program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4728.

Office of Conservation, 625 N. 4th Street, Baton Rouge, Louisiana 70804.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement.

U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639).

The other permanent program regulations were published March 13, 1979 (44 FR 15321–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447) and August 6, 1980 (45 FR 52306–52324). Portions of these regulations have been suspended, pending further rulemaking. See November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and 45 FR 51547–51550, (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally; approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

Section 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in § 732.13 (45 FR 33927, May 20, 1980).

The Louisiana program was submitted to OSM on January 3, 1980. The 104th Day after January 3 was April 16, 1980.

In a February 27, 1980, notice announcing that the original Louisiana submission was incomplete, the Regional Director informed the public that this rule would apply in Louisiana. See 45 FR 12918, Col. 2

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the State bases its program, must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will

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provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Louisiana program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.* That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of state program submissions:

Therefore, the Secretary is applying the following standards to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provision of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604). That notice also included a proposed list of Louisiana provisions incorporating the suspended or remanded federal regulations and an announcement of an additional comment period.

To codify decisions on State programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Louisiana will be found in 30 CFR Part 918.

Background on the Louisiana Program Submission

On January 3, 1980, OSM received a proposed regulatory program from the State of Louisiana. The program was submitted by the Louisiana Office of Conservation, the agency designated as the primary regulatory authority under the proposed Louisiana permanent program. Notice of receipt of the submission initiating the program review was published in the January 9, 1980, **Federal Register** (44 FR 1949–1950) and in newspapers of general circulation in Louisiana. The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On February 14, 1980, the regional director held a public review meeting in Shreveport, Louisiana, on the program submission and its completeness began on January 9, 1980, and closed February 14, 1980.

On February 27, 1980, the regional director published notice in the **Federal Register** announcing that the program submission had been determined to be incomplete (45 FR 12917). The notice specified that the submission was missing the following required elements:

1. A copy of Act No. 553, enacted in 1978, amending the Louisiana Surface Mining Act of 1978, as required by 30 CFR 731.14(b).

2. A copy of the Louisiana Code of Civil Procedure, as required by 30 CFR 731.14(b).

On March 10, 1980, OSM Region IV received copies of items 1 and 2, plus a page that had been inadvertently omitted from the section-by-section comparison in the program submission. On receipt of those materials the regional director determined that the Louisiana program submission was complete as required by 30 CFR 732.11(b).

Amendments to the Louisiana Program

The State submitted amendments to its program submission on April 15 and 16, 1980. These amendments, which were in the form of proposed revisions to statutes and regulations, and which were not fully enacted, included:

(a) *Amendments to the LSMRA*

(1) An amendment to Paragraph (2) of Subsection B of Section 905 concerning judicial powers;

(2) Subsection B of Section 906, concerning mining permits;

(3) Paragraph (2) of Subsection A of Section 911 concerning application requirements;

(4) Subsections B and D of Section 18, concerning civil penalties;

(5) Paragraph (5) of Subsection D of Section 922, designating areas unsuitable for surface coal mining;

(6) Paragraph (2) of Subsection A of Section 911, concerning revision of permits;

(7) Subsection D of Section 925, Review by the Commissioner; and

(8) Section 929 concerning experimental practices.

(b) *Amendments to the Regulations Promulgated Under the LSMRA*

Amendments were proposed concerning:

(1) The definitions of 48 words and phrases used in the Louisiana regulations (Section 100.5);

(2) Applicability of the regulations (Section 100.11);

(3) Restriction of financial interests of employees (Sections 105.4, 105.17, and 105.19);

(4) Areas where mining is prohibited or limited (Sections 161.4, 161.11, 161.12, 164.11, 164.13, 164.23, and 164.25);

(5) Coal exploration and development (Sections 171.13, 171.23, 176.3, 176.5, 176.6, 176.11, and 176.13);

(6) Surface mining permit applications (Sections 178.15, 180.25, 180.31, and 180.33);

(7) Requirements for permits for special categories of mining (Sections 185.13 and 185.22);

(8) Regulations concerning public participation in the approval of permit applications and permit terms and conditions (Sections 186.17, 186.19, 186.21, 186.23, and 186.25);

(9) Administrative and judicial review of decisions by the Office of Conservation on permit applications (section 187.11);

(10) Permit reviews and renewals-transfer, sale and assignment of rights granted under permits (Sections 188.12, 188.13, 188.14, and 188.16);

(11) Small operator assistance program (Part 195);

(12) Amount and duration of performance bond—period of liability, bonding and insurance, and procedures, criteria and schedule for release of performance bond (Sections 205.13, 206.11, 206.14, 207.11, 207.12, and 208.12);

(13) Permanent performance standards for coal exploration and development operations, prohibiting water diversion into underground mines, criteria for valley fills and protection of underground mining (Sections 210.3, 210.4, 215.11, 215.15, 216.11, 216.14, 216.25, 216.42, 216.43, 216.55, 216.72, 216.79, 216.88, 216.116, 216.153, 216.181, 228.11, and 228.12);

(14) Inspection and enforcement relating to notices of violations, time for abatement of violations and suspension or revocation of permits (Sections 243.12 and 243.13);

(15) Costs and attorneys' fees, 30 CFR Chapter VII (Sections 246.1, 246.2, 246.3, 246.4, 246.5, 246.6, and 246.7);

(16) Special rules applicable to surface coal mining review hearings and appeals (Part 244).

(17) Performance standards for in situ processing activities (Part 228).

On May 3, 1980, OSM received additional program amendments in the form of proposed modifications to the LSMRA and the regulations promulgated thereunder. The proposed modifications addressed the following subjects:

(a) *Amendments to the LSMRA*

An amendment was proposed to Section 906D(3) that would authorize regulations to assist an operator in the correction of problems that might prevent permit renewals before expiration of the permit terms.

(b) *Amendments to the Relations*

Amendments were proposed concerning:

(1) Definitions of seven words or phrases used in the regulations;

(2) Changes to the rule for existing structures to be used in coal exploration, development or surface coal mining and reclamation operations;

(3) Permitting requirements for permits for special categories of mining pursuant to Subchapter G of 30 CFR Chapter VII;

(4) Deletion of Section 205.13(d) of the Louisiana regulations that would have granted an exception to the period of liability for a performance bond;

(5) Amount and duration of performance bond—public access to the reclaimed area regarding release of a performance bond (Section 207.11(e)(5)).

The proposed amendments or revisions listed above were subsequently fully enacted. The amendments to regulations were enacted May 20, 1980 (6.L.R. 188), with certain errors that were corrected June 20, 1980 (6 L.R. 296), except that new Section 185.22(b), concerning permit applications for in-situ mining, was enacted as an emergency rule on June 20, 1980 (6 L.R. 252). The amendments to the LSMRA (House Bill 1277) were passed June 24, 1980, by the Louisiana Legislature and signed into law June 27, 1980, by Governor Treen (Act 121 of 1980).

On April 25, 1980, the regional director published notice in the **Federal Register** (45 FR 27955—27957) and in newspapers of general circulation within the State that the amended Louisiana submission was complete. The notice set forth procedures for the public hearing and comment period on the substance of the Louisiana program.

On May 28, 1980, a public hearing on the Louisiana submission was held in Baton Rouge, Louisiana, by the regional director. The public comment period on the Louisiana permanent regulatory program ended on June 4, 1980.

On July 7, 1980, the Director reopened the public comment period to afford interested persons an opportunity to review and comment on a proposed list of Louisiana provisions to be disapproved in accordance with the district court opinion discussed above under "General Background on the State Program Approval Process" and to provide a further opportunity for public comment on amendments to Louisiana's program submitted to OSM as of May 3, 1980 (45 FR 45604). The comments received as a result of that notice are discussed under "Disposition of Comments On List of Regulations that Must be Disapproved," below.

On June 4, 1980, the regional director submitted his recommendation to the Director of OSM that the Louisiana program be conditionally approved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record.

On August 26, 1980, the Director of OSM submitted his recommendation to the Secretary that the Louisiana program be approved in part and disapproved in part. The regional director also recommended that, in light of Louisiana's good faith efforts and corrections to all the deficiencies in its program before the date of this decision-making, the Secretary allow Louisiana to resubmit its revised permanent program by letter, making reference to this notice and its newly enacted laws and regulations. This would allow prompt reconsideration under 30 CFR 732.13(f).

Resubmittal of Material Intended to Satisfy Basis of Disapproval for those Parts of Programs Being Disapproved

Even though the proposed rules and legislative provisions listed above under "Amendments To The Louisiana Program" have been enacted, thay must be resubmitted as required by 30 CFR 732.13(f).

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Louisiana, by telegram dated August 26, 1980, has requested that if the Secretary initially disapproves its permanent program submission, all persently enacted amendments and revisions be immediately considered resubmitted upon publication of the Secretary's initial decision. *See* administrative record document number LA-1T. The Secretary grants this request and hereby considers those portions of the revised Louisiana program which became fully enacted after April 16, 1980 to be resubmitted pursuant to 30 CFR 732.13(f). The Secretary opens the post-resubmission public comment period for 15 days, ending September 17, 1980.

Public Hearing

The OSM will hold a public hearing pursuant to 30 CFR 732.13(f) and 732.12 on September 16, 1980. The hearing will begin at 6:00 p.m. and continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be head at the end of scheduled speakers. The hearings will end after all people in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. All comments on Louisiana's resubmittal should be delivered to:

Office of Surface Mining Reclamation
and Enforcement, Region IV, 4th floor,
Scaritt Building, 818 Grand Avenue,
Kansas City, Missouri 64106.

Comments received after 5:00 P.M. on September 17, 1980, will not be considered in the Secretary's evaluation of Louisiana's resubmittal.

Copies of the resubmitted Louisiana program and the administrative record on the Louisiana program, and copies of public comments on the resubmittal are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation
and Enforcement, Region IV, 4th
Floor, Scarritt Building, 818 Grant
Avenue, Kansas City, Missouri 64106.

The public hearing will be held in Baton Rouge, Louisiana at the:

Mineral Board Auditorium, First floor,
State Land and Natural Resources
Building, 625 N. 4th Street, Baton
Rouge, Louisiana 70804.

Elements Upon Which the Secretary Evaluates the Louisiana Program For This Decision

In consideration of the matters discussed above under "General Backgound on State Program Approval Process," the Secretary sets forth the elements of the proposed Louisiana program upon which the findings and decisions below are being made.

(a)(1) Because of the 104 day rule promulgated May 20, 1980 (30 CFR 732.11(d), 45 FR 33927), only those statutory provisions and regulations that were fully enacted on or before April 16, 1980, are being considered as a basis for this decision.

(a)(2) All statutes and regulations not fully enacted on the 104th day including the presently enacted amendments and revisions listed under *Amendments To The Louisiana Program* above, are being discussed and considered in this notice, but cannot be approved now by the Secretary.

(b) The program narrative received January 3, 1980, as amended April 15 and 16 and May 3, 1980, has been reviewed and will be considered as a basis for this decision.

(c) The statutes and regulations that the Secretary is reviewing under (a) and (b) above include provisions that must be disapproved in accordance with the district court's order. However, the Secretary's decision is being made without regard to the effect of the disapproval of those regulations on the other parts of the program.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Louisiana has, subject to the exceptions listed in findings 1(a), 4(b) to (d), 4(g) to (l), 4(n) and 4(r), the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Louisiana Surface Mining and Reclamation Act (LSMRA) and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Louisiana in accordance with SMCRA except that, prior to the 104th day after the program was submitted, Louisiana laws were inconsistent with SMCRA in the following ways:

(1) Section 922D(5) of the LSMRA adds the phrase, "unless waived by the proper authority or person," to the language of Section 522(e)(5) of SMCRA. This provision would allow a waiver of the restrictions on mining within 300 feet of certain buildings and parks, or within 100 feet of cemeteries. The Secretary determined that such waivers are inconsistent with SMCRA (44 FR 14994, March 13, 1979).

(2) The Louisiana Administrative Procedures Act, 49 LS 951–968, is controlling over the procedural provisions of the LSMRA due to 49 L.S. 966B, and conflicts with SMCRA in the following Section:

(i) Section 956(8) conflicts with the restrictions on confidentiality of information required by Sections 507(b)(16), 508(a)(12), 508(b), and 517(f) of SMCRA.

(ii) Sections 957 and 959 conflict with the required decision-making timeframes of Section 525 of SMCRA.

(iii) Section 964B conflicts with Section 526(a)(2) of SMCRA by allowing judicial review only in the "parish in which the agency is located" rather than also allowing review in the parish where the mine is located.

(iv) Section 964C conflicts with Sections 525(c) and 526(c) of SMCRA by allowing stays of agency actions without the required findings for temporary relief.

The above exceptions were the subject of recent Louisiana legislation: Act 121, H.B. 1277, June 27, 1980. Louisiana appears to have properly corrected these exceptions, but the Secretary must disapprove these portions of the Louisiana program pending resubmission under 30 CFR 732.13(f).

(b) The LSMRA provides sanctions for violations of Louisiana laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cease-and desist orders by the Louisiana Office of Conservation or its inspectors;

(c) The Louisiana Office of Conservation has sufficient administrative and technical personnel and sufficient funds to enable Louisiana to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Louisiana law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana;

(e) The LSMRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA. 30 U.S.C. 1272;

(f) Louisiana has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Louisiana has fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below in these findings.

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Louisiana program (45 FR 41981, June 23, 1980).

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Louisiana program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.)*, and;

(c) Held a public review meeting in Shreveport, Louisiana on February 14, 1980, to discuss the completeness of the Louisiana program submission and subsequently held a public hearing in Baton Rouge, Louisiana on May 28, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Louisiana has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Louisiana program submission, including the section-by-section comparison of the Louisiana law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public meeting and hearing and other relevant information, subject to the exceptions discussed in finding 1(a), 4(b) to (d), 4(g) to (l), 4(n) to (r) that:

(a) The Louisiana program provides for Louisiana to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII within its borders and that Louisiana has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13;

(b) In accordance with 30 CFR 732.15(b)(1), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. The Louisiana law and regulations on performance standards are consistent with SMCRA and those sections of 30 CFR Chapter VII, Subchapter K that have not been suspended by the Secretary or remanded by the District Court of the District of Columbia, except as discussed below:

(1) The following definitions in those Louisiana regulations, as enacted by the 104th day, are inconsistent with the Secretary's definitions of the same terms for use in the Subchapter K performance standards:

(i) Section 100.5(9). The definition of "approximate original contour" is inconsistent with 30 CFR 701.5 because it omits the phrase "and coal refuse piles."

(ii) Section 100.5(15). The definition of "coal mining operation" should not be made applicable to Subchapter K. It is proper for use only in Part 105 of the Louisiana program, but its position in Section 100.5 implies that it applies to all parts of the regulations.

(iii) Section 100.5(37). The definition of "fugitive dust" is improperly qualified by the phrase "and is carried beyond the boundaries of the area of mining or related activities," making it inconsistent with 30 CFR 701.5.

(iv) Section 100.5(58). The definition "land use" is inconsistent with 30 CFR 701.5 because it omits the specific subcategories the Secretary has recognized for use in Subchapters G and K.

(v) Section 100.5(78). The definition of "prime farmland" is inconsistent with 30 CFR 701.5 because it fails to incorporate the concept of "historically used for cropland".

(vi) Section 100.5(93). The definition of "roads" is inconsistent with 30 CFR 701.5 because it omits the specific subcategories of the Secretary's definition. However, the Secretary's definition was remanded by the district court on May 16, 1980, and pursuant to the court's order, the Louisiana definition, based in part on the Secretary's must be disapproved.

(vii) Section 100.5(116). The definition of "temporary diversion" is inconsistent with 30 CFR 701.5 because it omits the phrase "or surface coal mining and reclamation operations."

(2) Sections 101.11(c)(1) (ii), (iii) and (iv) are not consistent with 30 CFR 701.11(d)(1) (ii), (iii) and (iv) concerning the applicability of Subchapter K to existing structures More particularly;

(i) Section 101.11(c)(1)(ii) is not consistent with 30 CFR 701.11(d)(1)(ii) because it omits the proviso that the performance standards of 30 CFR Chapter VII, Subchapter B, be "at least as stringent" as the comparable standard of 30 CFR Chapter VII, Subchapter K, before an exemption can be considered under Section 101.11(c)(1)(ii). Additionally, the reference to "Subchapter B" in this section is incorrect because there is no Subchapter B in the Louisiana regulations.

(ii) Section 101.11(c)(1)(iii) should be made consistent with 30 CFR 701.11(d)(1)(iii). This inconsistency could be cured by changing the first reference to "Subchapter K" to "Subchapter B of 30 CFR Chapter VII" and by including the clause "which is less stringent than the comparable performance standards of Subchapter K of 30 CFR Chapter VII" immediately after this new reference to Subchapter B.

(iii) Section 101.11(c)(1)(iv) is not consistent with 30 CFR 701.11(d)(1)(iv). This inconsistency could be cured by changing "Subchapter B" to "Subchapter B of 30 CFR Chapter VII" because Louisiana has no "Subchapter B".

(3) Section 216.43. The regulations do not include the provision of 30 CFR 816.43(g) prohibiting water diversion into underground mines except in accordance with 30 CFR 816.55. These provisions apply to all underground mines, not just coal mines.

(4) Section 216.72(b). The regulations do not include provisions comparable to 30 CFR 816.72(b)(4), (c), (d), (e), (f), and (g) concerning criteria for valley fills.

(5) The regulations do not have provisions comparable to 30 CFR 816.79 which applies to both coal and other underground mines.

(6) The regulations are inconsistent with 30 CFR 816.88 concerning the return of coal processing waste to underground works, because they have no comparable provision.

(7) Section 216.105(b). The regulations do not contain a provision comparable to § 816.105(b)(2), concerning the disposal of excess spoil.

(8) Section 216.116. The regulations do not have a provision comparable to 30 CFR 816.116(b)(1)(i), pertaining to the evaluationn of revegetation responsibility.

(9) To be consistent with other parts of the regulations, the words "and development operations" should be added in Section 210.4(b) after "coal exploration" so that it is clear that these operations, as well as exploration operations and surface coal mining operations, are to comply with the performance standards.

(10) In addition to paragraphs (1)–(9), above, the Secretary makes the following findings with respect to performance standards:

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Special performance standards on concurrent surface and underground coal mining, auger mining, operations in alluvial valley floors, mountaintop removal, and multiple seam mining on steep slopes are not included in the Louisiana program. The Secretary finds that these performance standards are not presently necessary in Louisiana. The LSMRA, Section 906E, prohibits underground mining and auger mining. That section requires persons wishing to start an underground or auger mine to submit an application 36 months prior to the time operations are planned to begin so that legislation can be considered by the Louisiana legislature and regulations promulgated as necessary to comply with SMCRA. Section 906E eliminates the need for rules on underground mining, auger mining, and concurrent underground and surface mining, since no such mining can occur until Louisiana adopts, and the Secretary approves, provisions relating to these three mining categories. The special performance standards for alluvial valley floors are not applicable in Louisiana because the State is east of the 100th meridian (See 30 CFR 785.19(a)). SMCRA does not require the State program to have an equivalent to 30 CFR 826.16, concerning multiple seam mining on steep slopes, because that Section allows a variance to the requirement to restore slopes to approximate original contour. The Secretary finds that the absence of such a section makes the Louisiana program "more stringent" than 30 CFR Chapter VII and therefore consistent with the federal regulatory program under Section 505 of SMCRA and 30 CFR 730.11(b). Mountaintop removal regulations, consistent with 30 CFR Part 824, are also not necessary in the Louisiana program. The absence of these regulations makes all operations subject to the general requirement of 30 CFR 816.101(b) that land be restored to its approximate original contour.

(c) In accordance with 30 CFR 732.15(b)(2), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and regulations, as enacted by the 104th day after program submittal, and the Louisiana program includes provisions to implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority consistent with those sections of 30 CFR Chapter VII, Subchapter G, that are not affected by the district court decision except as follows:

(1) The definition of "land use" in Section 100.5(58) is inconsistent with the 30 CFR 701.5 definition of that term for use in Subchapter G. *See* exception (1)(iv) to finding 4(b) above.

(2) The definition of "permittee" in Section 100.5(75), for use in Subchapters G and L, is inconsistent with the Secretary's definition in 30 CFR 701.5 because it fails to include un-permitted operators who are required to have a permit in addition to those operators who do have a permit.

(3) The regulations do not define the following terms for use in Subchapter G:

(i) Existing structures

(ii) Complete application

(4) The regulations do not have provisions consistent with 30 CFR 785.22 addressing in situ coal processing permit applications and lack performance standards comparable to 30 CFR Part 828. Louisiana stated in its program submission, page (c)–339 and (c)–587, that in situ processing is not contemplated for Louisiana at this time. However, the Secretary finds that in situ coal processing activities presently exist in the neighboring Texas lignite fields and are possible in the nearby Louisiana lignite fields. Furthermore, the LSMRA does not prohibit in situ coal extraction as it does underground coal mining. Therefore in situ extraction must be regulated consistent with 30 CFR Chapter VII because it is a type of "surface coal mining operation" as that term is defined in Section 701(28) of SMCRA and Section 904V(A) of the LSMRA.

(5) Section 186.17(c) does not require the applicant's underground coal mines to be considered in determining compliance with requirements at other mines, as is required by 30 CFR 786.17(c).

(6) Section 186.19(d) concerning consideration of areas under study for designation of areas unsuitable for surface coal mining does not include a provision consistent with 30 CFR 786.19(d)(2).

(7) Section 186.19(d)(2) references Section 161.11(e) or (f) rather than Section 161.11(a), (b), (f), or (g). To be consistent with and as stringent as the federal counterpart, the Louisiana program must make such references.

(8) Section 186.19(d)(3) references Section 161.12(c) rather than Section 161.12(d).

(9) Section 186.19(d)(4), which references Sections 161.11(d) and 161.12(d), should be changed to reference Sections 161.11(e) and 161.12(e).

(10) Section 186.19(e) referecnes Section 161.11(b) rather than Section 161.11(c).

(11) Section 186.19 omits a provision comparable to 30 CFR 786.19(f), concerning severed mineral estates, as the federal counterpart requires.

(12) The Louisiana regulations omit provisions consistent with 30 CFR 786.21 because exploration and development operations may leave "existing structures."

(13) Section 187.11(a)(4) should be modified to change the 60-day time frame to 30 days to be consistent with 30 CFR 787.11(b)(4), which assures a timely decision for both the applicant and the public.

(14) Section 188.12(a)(1) does not specify the parameters of those changes that constitute significant departures, as required by 30 CFR 788.12(a)(1).

(15) The proposed regulations also omit the following provisions not necessary in Louisiana.

(i) The regulations have no provision comparable to 30 CFR 701.11, to provide for continued operations for eight months after the date of approval of the program. The Secretary finds that this provision is not applicable in Louisiana because there are no existing surface coal mining operations in that State.

(ii) The Louisiana program includes no detailed permit requirements for concurrent surface and underground mining, auger mining, operations in alluvial valley floors, mountaintop removal, and multiple seam mining on steep slopes. The Secretary finds that these pemit requirements are not applicable in Louisiana. See Finding 4(b)(10) above.

(d) In accordance with 30 CFR 732.15(b)(3), the Secretary finds that Section 905 of the LSMRA and Sections 176 and 215 of the Louisiana Regulations provide Louisiana with the authority to regulate coal exploration comprable to 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. Part 176 does differ from 30 CFR Part 776 in that it divides the federal concept of coal exploration into two categories: (1) Exploration operations and (2) development operations. Several commenters suggested that the second category violates Section 512 of SMCRA by allowing test pits as large as ten acres from which up to 25,000 tons of coal can be removed for testing purposes. The Secretary finds that aspect of Part 176 of the Louisiana regulations consistent with Section 512 of SMCRA and 30 CFR Part 776. For further discussion see the disposition of comment number five under. "Disposition of Comments," below. However, the Secretary finds that as of the 104th day, the enacted regulations under Parts 176 and 215 were not consistent with 30 CFR Parts 776 and 815 and must disapprove the Louisiana regulations to the following extent:

(1) The concepts of "coal exploration" and "exploration operations", in Section 100.5(14), do not cover the entire concept of "coal exploration" defined by the Secretary in 30 CFR 701.5. In particular, mapping and environmental data gathering activities are not included. Nor are they included in the concept of "development operations", Section 100.5(22). Therefore these activities are not regulated in Part 176 consistent with 30 CFR Part 776. The Secretary notes, however, that on May 20, 1980, Louisiana enacted a new Section 100.5(149) defining "Data Gathering Activities", and new Sections 176.5 and 176.6 to regulate such activities. Because these amendments were not enacted before the 104th day after program submission the Secretary cannot pass final judgment on them, but they preliminarily appear to accomodate the Secretary's requirements.

(2) The regulations did not contain a definition of "substantially disturb" consistent with 30 CFR 701.5.

(3) In Section 176.3, the phrase "primarily in order" qualifies the concept that coal development operations are only for exploration and testing purposes. The Secretary's approval of the development operations concept in this finding is based, in part, on the understanding that if regular commercial use is made of the excavated coal, the operation must be treated as a full "surface coal mining operation". Therefore the qualifying phrase must be dropped.

(4) In Section 176.11(b), the phrase "reclaim the affected areas in accordance" qualifies the duty to fully "comply" with Section 915 of LSMRA and the Louisiana regulations. 30 CFR 776.11(c) and 776.15(a) require full compliance with 30 CFR Part 815, which includes performance standards in addition to final reclamation. Section 176.11(b) if not amended, could be interpreted to require only after-the-fact reclamation rather than compliance with Part 215 during development operations.

(5) The time period for decisions in Section 176.13(a) allows a decision on an application for development operations prior to the close of the comment period prescribed by Section 176.12(b). This section should provide that the Commissioner will act upon a completed application within some reasonable period *after* the close of the comment period.

(6) Section 215.11(a) does not accurately reflect that Louisiana requires a permit for coal exploration and development operations.

(e) In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. These provisions are incorporated in Part 107 of the Louisiana regulations.

(f) In accordance with 30 CFR 732.15(b)(5), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 917 of the LSMRA and the Louisiana program includes in Part 242 of the regulations, provisions for entry, inspection and monitoring of all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana consistent with the requirements of Section 517 of SMCRA ad Subchapter L of 30 CFR Chapter VII.

(g) The Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program, prior to the 104th day, included enacted provisions for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J except as follows:

(1) The Louisiana regulations do not define the following terms that are used in Subchapter J and deemed necessary by the Secretary: "collateral bond," "common-size comparative balance sheet," "working capital," "common-size comparative income statement," "national earnings," "working capital," "current assets," "current liabilities," "current ratios," "acid-test ratio," "quick assets," "cash," "liquidity ratio," "asset ratio," "return on investment," "net worth," "net profit," and "capital assets."

(2) Section 205.13(d) of the regulations repeats the exception from revegetation requirements for a long term intensive agricultural land use found in 30 CFR 805.13. That rule was suspended by OSM because the exception conflicts with SMCRA. *See* 44 FR 67946, Nov. 27, 1979. Because of the district court's May 16, 1980 ruling, Section 205.13(d) must be disapproved to the extent of the exception. That section, however, was deleted in the rule amendments enacted May 20, 1980 (6 L.R. 185) as corrected June 20, 1980 (6.L.R. 296).

(3) Section 206.11, concerning the form of performance bonds, is disapproved as it was originally enacted and submitted. The section differed substantially from 30 CFR 806.11 and did not provide an adequate explanation of the many differences in terminology. In addition, there were more particular problems within Section 206.11, as follows:

(i) Section 206.11(b)(5) did not require an applicant seeking the right to self-bond to show a history of financial solvency and continuous operation for at least ten years, thereby being inconsistent with 30 CFR 806.11(b)(5).

(ii) Section 206.11(b)(5)(v) did not include provisions consistent with 30 CFR 806.11(b)(5)(v)(A) and (B) regarding the minimum content requirements of a financial statement.

(iii) Section 206.11(c) states that the Commissioner of the Office of Conservation can approve an alternative bonding system. However, only the Secretary of the Interior can approve an alternative bonding system and it must be submitted as part of the proposed program.

The Secretary notes that Louisiana has apparently corrected deficiencies in paragraphs (3)(i), (3)(ii) and (3)(iii) by the amendments to Section 206.11 enacted May 20 and June 20, 1980. However, the Secretary cannot officially consider the amendments until they are resubmitted pursuant to 30 CFR 732.13(f).

(4) Section 206.14(d) is inconsistent with the Federal rules because no alternative self-insurance requirements were included in the proposed program for review by the Secretary. Only the Secretary can approve an alternative system to 30 CFR 806.14.

(5) Section 207.11(e) must be disapproved to the extent that it does not provide for citizen access to mining areas during informal conferences on bond release because of the district court's Round I (Feb. 26, 1980) and Round II (May 16, 1980) decisions.

(6) Section 208.12(c). The phrase "with respect to protection of the hydrologic balance" must be disapproved because it was suspended on the grounds that it is inconsistent with SMCRA (See 44 FR 67943, Nov. 27, 1979) and because of the district court's May 16, 1980 decision.

Louisiana enacted amendments to Parts 205–209 of its regulations on May 20, 1980 (6 L.R. 185–87) and June 20, 1980 (6 L.R. 296) to address the exceptions listed above. The Secretary has preliminarily determined that these corrections, enacted after the 104th day following program submission, appear to give Louisiana provisions consistent with 30 CFR Chapter VII, Subchapter J. However, the Secretary may only approve these provisions after resubmission under 30 CFR 732.13(f).

(h) In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the

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Louisiana Office of Conservation has the authority under Section 918 of the LSMRA, and Part 245 of the Louisiana regulations provides for civil and criminal sanctions for violations of Louisiana law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, including the same or similar procedural requirements. Section 918 of the LSMRA requires that interest paid by the state on civil penalty escrow money be returned to operators at the rate of six percent per year. Section 518(c) of SMCRA requires that such interest be calculated at the prevailing U.S. Department of Treasury rate or six percent, whichever is greater. The Secretary accepts this difference and its counterpart in Section 245.20 of the Louisiana regulations because the Secretary believes the State provision is more stringent than the federal requirement.

The Louisiana regulations do not contain the procedural requirement of 30 CFR 845.19(a) to disallow the facts of the violation from being contested during an appeal if they have been previously decided in a formal review. The Secretary finds the Louisiana procedure is inconsistent with the federal regulations because it does not provide that the fact of a violation may not be further contested in an administrative proceeding once it has been upheld in a formal administrative review proceeding. However, Louisiana enacted an emergency rule amending its procedure to be consistent with 30 CFR 845.19(a). (*See* 6 L.R. ——, August 20, 1980). The Secretary cannot consider this amendment until it is considered as part of Louisiana's resubmission under 30 CFR 732.13(f). For further discussion see paragraph 42 under "Disposition of Comments."

(i) In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 921 of the LSMRA and Parts 242 through 245 of the Louisiana regulations contain provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements, except as follows:

(1) The definition of "permittee" in Section 100.5(75) does not include persons who are required to have a permit, but do not, and is therefore inconsistent with 30 CFR 701.5 and Subchapter L. Louisiana must be able to take enforcement actions against "wildcat" operators.

(2) Section 243.12(a) is inadequate because it does not make certain that violations of the conditions of a development operations permit will be subject to notices of violations or cessation orders. Since development operations are part of the concept of "exploration" as used in 30 CFR 843.12(a)(1), they must be subject to enforcement actions.

(3) Section 243.12 is inconsistent with 30 CFR 843.12(b)(3) because it has no provisions requiring a statement of a reasonable time for abatement in notices of violations.

(4) Section 243.13(d) is inconsistent with 30 CFR 843.13(d) to the extent that the operator's opportunity for a hearing is not mandatory when timely requested.

(j) In accordance with 30 CFR 732.15(b)(9), the Secretary finds that the Louisiana Office of Conservation has authority under Section 922 of the LSMRA and Subchapter F of the Louisiana regulations, as in effect the 104th day after program submittal, and the Louisiana program contains provisions for the designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F except as follows:

(1) The Louisiana regulations do not define "valid rights existing prior to August 3, 1977," from Section 922D of LSMRA, to be consistent with 30 CFR 761.5, as affected by the district court's opinion of February 26, 1980, p. 20.

(2) Section 161.12(g) uses the word "suitable" rather than "unsuitable" preceding the cross reference to Parts 162 and 164.

(3) The regulations have no provision consistent with 30 CFR 761.12(h), providing administrative and judicial review of decisions concerning valid existing rights and the existence of mines on August 3, 1977. However, the Secretary finds that no surface coal mining operations existed in Louisiana on August 3, 1977. Therefore, only the part of 30 CFR 761.12(h) concerning valid existing rights needs changing to meet the federal counterpart.

In its amendments enacted May 20 and June 20, 1980 (6 L.R. 177–198; 6 L.R. 296–297) Louisiana preliminarily appears to have corrected these problems, but the Secretary cannot consider the amendments in this decision because they were not enacted by the 104th day after program submission.

(k) In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the Louisiana Office of Conservation has authority under the Louisiana Administrative Procedures Act, LSMRA, and the Louisiana program to provide for public participation in the development, revision and enforcement of Louisiana regulations and program, and that authority has been implemented consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII except as follows:

(1) The regulations do not provide a mechanism for the public to petition to initiate rulemaking as required by 30 CFR 700.12.

(2) The regulations do not specify that public records, under the program provisions, will be retained at the Office of Conservation office closest to the area involved, as required by 30 CFR 700.14(a).

(3) The regulations do not contain provisions for the award of costs and attorneys' fees, consistent with 43 CFR 4.1290—4.1296, as required by 30 CFR 840.15.

(4) The regulations do not contain rules of practice necessary to allow the public to exercise meaningfully the various procedural rights provided in the program. Louisiana should enact rules, comparable to 43 CFR Part 4, that inform the public how to initiate or intervene in administrative proceedings, how discovery and hearings will take place, and what posthearing and appeals procedures Louisiana will follow.

(5) The Secretary is unable to determine whether the public had a meaningful opportunity to participate in the development of the program submitted to OSM based on the information in the administrative record, including the narrative to the program submitted in response to 30 CFR 731.14(g)(14).

(l) In accordance with 30 CFR 732.15(b)(11), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Louisiana Office of Conservation consistent with 30 CFR Part 705 except as follows:

(1) The regulations as enacted by the 104th day after program submittal do not include a definition of "direct financial interest", consistent with the definition in 30 CFR 705.5, for use in Part 105 of the Louisiana regulations.

(2) Section 105.4(a)(2) omitted consideration of employees' interests in underground coal mines as required by 30 CFR 705.4(a)(2).

(3) Section 105.17(a)(2) does not require employees to report financial interests in underground coal mining activities as required by 30 CFR 705.17(a)(2).

In the May 20, 1980, amendments to the Louisiana regulations, Louisiana added a new Section 100.5(129) defined "direct financial interest" and revised Section 105.4(a)(2). The secretary has preliminarily determined that these amendments resolve exceptions 1–3 above, but he cannot officially consider the amendments until they are considered as part of Louisiana's resubmission under 30 CFR 732.13(f).

(m) In accordance with 30 CFR 732.15(b)(12), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 915B(15)(d) of the LSMRA to require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Louisiana has no regulations on the training, examination and certification of persons engaged in blasting because 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated at this time.

(n) In accordance with 30 CFR 732.15(b)(13), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 907C of the LSMRA to provide for a small operator assistance program (SOAP) but the Louisiana program, as of the 104th day, had no regulations consistent with 30 CFR Part 795 to provide for small operator assistance. Louisiana must correct this deficiency to comply with Section 507(b)(11) of SMCRA. The May 20, 1980, amendments to the Louisiana regulations include a new Part 195 on small operator assistance that preliminarily appears consistent with 30 CFR 795, but the Secretary cannot consider the new regulations in this decision.

(o) In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program contains provisions to provide for protection of employees of the Louisiana Office of Conservation in accordance with the protection afforded federal employees under Section 704 of SMCRA. Section 921 of the LSMRA contains the provisions for protection of employees of the Louisiana Office of Conservation.

(p) In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Louisiana Office of Conservation has the authority under Sections 925 and 926 of the LSMRA and Parts 240–245 of the Louisiana regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Louisiana Office of Conservation has authority under Louisiana laws and the Louisiana program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the LSMRA and regulations adopted thereunder and the other laws and regulations of Louisiana do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, except that the Louisiana Administrative Procedures Act (APA) contains several provisions inconsistent with certain procedural provisions of the LSMRA enacted to be consistent with SMCRA. The provisions of the APA that interfere with the procedures required by SMCRA are described in finding 1(a)(2) above, and are disapproved.

(s) In accordance with 30 CFR 732.15(d), the Secretary finds that the Louisiana Office of Conservation and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funding to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws.

Disposition of Comments

A discussion follows of all significant issues raised in comments which OSM and the Secretary received concerning the Louisiana program submission.

1. The Mine Safety and Health Administration (MSHA) and the Environmental Protection Agency (EPA) commented on the narrative for 30 CFR 731.14(g)(13), pertaining to the content of the proposed training criteria for use in training, examining, and certifying blasters. These comments pertain to a part of the Louisiana program that is not required until the Secretary promulgates the federal regulations on training, examining and certifying blasters, which has not yet happened (*See* 30 CFR 732.15(b)(12)). The narrative provided by the Office of Conservation is used only as a guideline for inspectors, and does not impose training or safety requirements on operators. Upon adoption of the federal regulations, the Secretary will require Louisiana to adopt consistent regulations.

2. MSHA suggested changes in the outline of the proposed training criteria, but did not find any conflicting requirements in the proposed Louisiana state program that might present hazards to miners (*See* document LA-45). The Secretary may not review at this time the training outline, except to the extent it conflicts with SMCRA, which it does not, because no regulations on this subject have been published to date. Training criteria will need developing after the Secretary promulgates regulations on blaster training and certification.

3. The Bureau of Mines (BOM) questioned the Louisiana requirement that prospective underground mine operations give 36 months advance notice to the Office of Conservation prior to beginning an underground mining operation. Section 906E of the LSMRA prohibits underground coal mining operations. Louisiana requires 36-month notice to give time to promulgate and secure Secretarial approval of a program to regulate underground mining. The Secretary finds that the state has the authority to prohibit underground mining and to require advance notice of possible underground operations. No changes are required as a result of this comment.

4. The BOM also commented that on numerous occasions the scope and objective sections of federal regulations were deleted from the proposed Louisiana program. The scope section provides a brief summary of each part of the federal regulations. The objective section sets forth a simple statement of the objectives of the regulations of each part. SMCRA does not require and the Secretary finds that state regulations need not include scope and objective sections.

5. The BOM, the Bureau of Land Management (BLM), and the EPA commented that the "development operation" classification for mining operations that remove more than 250 but less than 25,000 tons of coal (Section 176.12) has no parallel provision in the Federal regulations, and that 25,000 tons appears high for a development operation. BLM stated that Louisiana's coal development operations classification is complex and belongs under the permitting regulations. The Secretary finds that Louisiana's concept of "development operations" falls within the concept of "exploration operations" in Section 512 of SMCRA, which envisions "excavations, roads, drill holes, and * * * facilities and

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equipment." As to the 25,000 ton ceiling, the Secretary finds that this is consistent with Section 512 of the Act which places performance standards only on explorations "which substantially disturb the natural land surface" but which has no tonnage limit. The Secretary's regulations do not place a tonnage ceiling on the size of a bona fide exploration operation. Louisiana Section 215.17 provides that if coal is sold for purposes other than testing, the operation becomes subject to the permit requirements of Subchapter G and, thereby, to the full performance standards of Subchapter K. Under Section 176.15(a), all coal development operations must comply with Section 912 of LSMRA and the Louisiana regulations, including Section 215.15, the performance standards the Secretary has found consistent with 30 CFR 815.15. Therefore, the Louisiana program has provisions as stringent as the federal conunterpart.

6. The Heritage Conservation and Recreation Service (HCRS) suggested that Section 164.23 of the Louisiana rules be revised to include a provision for withholding from the public disclosure locations of known archaeological sites and that the State Historic Preservation Officer be consulted on the advisability of public disclosure on a case-by-case basis. The Secretary will not require the states to do this because Section 164.23 and Section 176.16, to which it refers, are consistent with 30 CFR 764.23 and 776.17, respectively. The criteria against which state programs are being evaluated are SMCRA and 30 CFR Chapter VII, and states are not ordinarily being required to meet other standards as a condition of program approval.

7. HCRS recommended that the state regulations contain a provision that the Commission, Office of Conservation, consult with recretion planners in the Louisiana Office of Forestry and the Department of Culture, Recreation and Tourism (expecially the Office of Program Development and Division of Outdoor Recreation) before considering a surface coal mining permit on state forest lands. The parts of the program submission that are intended to satisfy the provisions of Section 731.14(f) include supporting agreements between the Commission and the agencies mentioned above. Accordingly, it is not necessary for the Louisiana regulations to make special reference to these agencies.

8. A commenter asked what revegetation requirements are applicable in the Louisiana program when less than 250 tons of coal are to be removed during exploration. The Louisiana regulations, Section 176.2 and 176.11, require that any substantial disturbances to the surface of the land during exploration operations or development operations that will remove 250 tons or less must be reclaimed in accordance with the standards of Section 915 of the LSMRA and the state regulatory program. Section 915 of LSMRA requires revegetation consistent with Section 515 of SMCRA. Section 215.15(f) of the Louisiana regulations requires revegetation consistent with 30 CFR 815.15(f). The Secretary has asked Louisiana to amend Section 176.11(b) to make clear that all the performance standards of Part 815 must be complied with by persons conducting development operations when the natural land surface will be substantially disturbed.

9. One commenter questioned the requirement of seeding or planting to the same seasonal variety previously existing and suggested allowing seeding of improved varieties upon mutual agreement with landowners. The Louisiana program, under Section 915 of the LSMRA, allows for the use of introduced species under certain conditions, except that use of any vine of the Kudzu family is prohibited. This accommodates the commenter's concern.

10. A comment on Section 215.15(f) of the Louisiana regulations concerned how soon after exploration and development operations restoration is to take place and for how long the mining company is responsible for satisfactory restoration. This section requires prompt reclamation and revegetation of the disturbed areas, as does the corresponding federal regulation, 30 CFR 815.15. Section 176.2(c) states specific requirements that must be met before the Commission will release an exploration or operation bond. The mining company is held responsible for satisfactory restoration until the Commission determines that those specific requirements have been met.

11. A commenter suggested there should be an on-site overseer to assure compliance with the many detailed requirements of the program. The Louisiana program includes the minimum federal requirements of this function in its program through the inspection and enforcement requirements of LSMRA and the Louisiana regulations. Therefore, the Secretary requires no change in the Louisiana program.

12. One commenter suggested deletion of "historically used as cropland" from Louisiana Section 179.27. The commenter thought that identification of prime farmland should be based on an evaluation by the Soil and Conservation Service (SCS), U.S. Department of Agriculture (USDA), not on historical use. Section 701.209 of SMCRA requires the Secretary to consider historic use in determining whether land is prime farmland. This reflected in CFR 779.21(b). The Louisiana regulation is consistent with the Secretary's regulation and he will nor require the suggested deletion.

13. A commenter wanted to know the authority of the USDA over prime farmland. The role of the Secretary of the USDA is of consultation and review of mining and reclamation plans through the State Conservationist located in located in each state. *See* 30 CFR 785.17(c) and Section 185.17(b) and (c) of the Louisiana regulations. No change in the Louisiana program is required.

14. The U.S. Forest Service (USFS) asked that it be involved throughout any surface mining activity on National Forest land, including determination of lands unsuitable for surface coal mining, permit applications, exploration and development activities, review and approval of operations plans, release of performance bonds and protection of research projects. The State hasd the authority to enter into a cooperative agreement with the Secretary of the Interior to regulate surface coal mining and reclamation activities on federal lands within the State under Section 923 of the LSMRA. Until a cooperative agreement is established, all applications for a permit to surface mine coal on U.S. Forest Service land within the State would be administered by the OSM under Section 523 of SMCRA and 30 CFR Chapter VII, Subchapter D. Upon receipt of an application for operations on National Forest System lands, the Regional Director of OSM will follow the procedure established in 30 CFR 741.20 and transmit a copy of the complete application to the Chief, U.S. Forest Service, for review, consent, and approval by the Secretary of Agriculture. This procedure ensures the involvement the U.S. Forest Service has requested.

15. The USFS commented that survival rates alone are not a true measure of whether reforested land is as productive following reclamation as it was before mining activities began. It suggested that quality control measures be used, but did not specify what measures would accomplish this job. 30 CFR 816.117(b) uses stocking, in terms of number of trees per acre, as the performance standard for determining reforestation success. Louisiana

regulation 216.117(b) uses the same standard for determining success of reforestation on forest land. The Secretary finds no changes are needed for this Section.

16. The USFS suggested that the Office of State Clearinghouse be added to the list of agencies for coordination and consultation. The Forest Service is presently receiving information from the Clearinghouse concerning planned activities that could have a significant effect on National Forest System lands, Forest Service research, and cooperative Forest Service programs. The Office of State Clearinghouse is an established office presently being used in Louisiana. The Secretary has suggested informally that Louisiana add this Office to the list of agencies for coordination and consultation. The Secretary will not require that this be done for Louisiana to have an approvable program. Under the federal rules, Louisiana only must contact and consult appropriate agencies when required under the Federal rules to do so, and the Louisiana program has provisions to do so.

17. The U.S. Soil Conservation Service (SCS) suggested that the assignment, in Louisiana Section 216.133(c)(5), of professional engineers to prepare plans and ensure conformance to accepted standards for vegetative cover and aesthetic design should instead be placed with registered agronomists and landscape architects. While the Secretary finds that both Section 515(c) of the Act and 30 CFR 816.133(b)(5) would allow other appropriate professionals to prepare plans and ensure conformance to acceptable standards, the Louisiana rule is consistent with the Secretary's and, therefore, no change is necessary. The Secretary will informally recommend that Louisiana consider the suggested change.

18. The BLM suggested in a comment on Louisiana Section 176.2(a) (2) and (3) that coal exploration plans be restricted to a logical or reasonable size based on potential coal development of the area. Section 512 of SMCRA and the federal regulations do not require a limit on the size of exploration areas. Louisiana regulation 176.2 places a maximum geographic limit (a township) on each exploration operation, and thus establishes a more stringent provision than the federal counterpart. Likewise, Section 176.12 concerning coal development operations, places an upper limit of "ten surface acres of overburden" on those operations. The Secretary concludes that these provisions restrict exploration to logical units consistent with the federal requirements and with the potential large scale lignite development projected for Louisiana. No changes are necessary.

19. The BLM commented that Louisiana Section 178 requires an excessive amount of financial and corporate compliance information for activities nationwide, much of which may not have direct bearing on environmental concerns for coal exploration or mining in Louisiana. However, the Secretary notes that Louisiana's law and regulations are consistent with SMCRA and 30 CFR Part 778 on these matters. The information required by Part 778 will aid the Louisiana Office of Conservation in determining the past compliance history of the person actually doing the work. When the actual operator is a different person from the applicant, the information in Section 178.13 and 178.14 of the Louisiana regulations will be necessary. Section 510(c) of SMCRA requires this determination.

20. The BLM recommended that Louisiana implement the procedures for designating lands unsuitable for surface coal mining (Subchapter F of the Louisiana regulations) before leasing is allowed. The comment did not specify whether state and private lands or only federal lands were being considered. As to federal lands, the Secretary, through BLM, is conducting a review under Section 522(b) of SMCRA to determine what lands should be declared unsuitable. As to state and private lands, the Secretary has no authority to require that tracts be considered for designation before leasing is allowed unless a petition is filed by a citizen or the Louisiana Office of Conservation for designation before leasing.

21. The U.S. Army Corps of Engineers (COE) requested that Louisiana Section 180.25(a)(1)(i) be revised to be similar to paragraph (a)(2)(i), and that paragraph (a)(3)(i) be revised to state that each detailed design plan should be reviewed and certified only by a qualified professional engineer, rather than having an option for review by a land surveyor. The wording in the Louisiana sections is identical to the comparable federal regulations; therefore, no changes are necessary.

22. The U.S. National Park Service (NPS) commented that it should be added to the list of coordinating agencies for coal development near an NPS jurisdictional unit. The EPA also commended that it be added to the list of coordinating agencies. In addition, the EPA suggested that information about hydrological impacts of proposed mining activities, including surface mining permit applications, be sent to the following groups to avoid conflicts on nonpoint source pollution control efforts under Section 208 of The Clean Water Act (33 U.S.C. 1251) and to assure coordination with the Louisiana 208 Water Quality Management Plan:

(1) The 208 coordinator for the appropriate Regional Planning Commission;

(2) The Technical Advisory Committee for Regional 208 Committee; and

(3) The appropriate Soil and Water Conservation District.

The Secretary, however, is satisfied that under Sections 171.23, 186.11 (b) and (c) of the State regulations, Louisiana will coordinate and consult with the NPS, EPA and other agencies as explained in the Louisiana program narrative (as amended April 16, 1980) submitted to comply with 30 CFR 731.14(g)(9)(10). No greater specificity for coordination can be required for the Louisiana program. Although such coordination and consultation is critical to the success of the state program, neither SMCRA nor the federal regulations require the states to specify this in their program proposals.

23. The NPS asked whether public agencies are to be notified for coal exploration and development permits as well as operating permits. The commenter has interpreted Section 186.11 as a requirement for the coal exploration program requirements. Sections 176.2–176.16 govern coal exploration and development. Public notice is not required for coal exploration operations (176.2) but is required for development operations that will cause removal of 250 tons of coal or more (176.12(b)). Information submitted to the State under Part 176, with certain exceptions authorized by SMCRA, is available for public review under Sections 176.11(c) and 176.16. These provisions are consistent with 30 CFR Part 776 and Section 512 of SMCRA. Although the Secretary has suggested to the State that it solicit broader agency comment on proposed exploration and development operations, the Secretary's rules do not require it. Therefore, no changes are needed.

24. The NPS sought clarification of the statement "interest in the area" in Section 186.11(c) as it relates to coal exploration permits. Public agencies "having an interest" are to be notified of pending permit applications in accordance with Section 186.11(c). "Having an interest" refers to situations where state and federal agencies which are responsible for the protection of environmental resources in the vicinity of the proposed operation (e.g.,

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endangered species, wetlands, wilderness preservation) but do not have legal jurisdiction over the mine permitting process, have reason to believe that the proposed surface coal mining operation may affect the resources they are required to protect. That phrase is not repeated in 30 CFR Part 776 concerning coal exploration. 30 CFR 776.12(b)(1) requires public notice of all proposed coal exploration involving removal of more than 250 tons and 30 CFR 776.12(b)(3) allows "any person with an interest which is or may be affected" to file written comments. The Louisiana notice requirements in Section 176.12(b) are consistent with the Secretary's regulations. The NPS and other government agencies fall under the concept of a "person with an interest which is or may be affected" and therefore may comment on proposed exploration or development operations that might remove more than 250 tons of coal.

25. The NPS commented that a statewide inventory for lands unsuitable for coal mining would be more effective instead of relying on interested persons to petition for unsuitability designations. NPS suggests that the petition process is not sufficient. Part 164 of the Louisiana regulations tracks 30 CFR Part 764, establishing a process for such designations in accordance with Section 522 of SMCRA (30 U.S.C. 1272). Section 522(a)(4)(B) of SMCRA only requires a data base and inventory system to permit proper evaluation of lands proposed as unsuitable for mining, but does not require that all lands in the state be evaluated before there can be any mining. Rather, Section 522(c) establishes a petition process to determine whether particular state lands may be unsuitable for mining. The Secretary will not require the states to go beyond the requirements of Section 522 of SCMRA.

26. The NPS suggested that air quality standards for air pollutants, in addition to fugitive dust, be included in the state rules. NPS contended that coal processing plants support facilities will have other pollutant emissions in addition to fugitive dust. The commenter suggested that language be inserted in Sections 185.21 and 227.12 to require compliance with National Prevention of Significant Deterioration of Air Quality standards and other applicable controls for regulated air pollutants. The Secretary has no performance standards controlling pollutant emissions other than fugitive dust and will not require states to have any such regulations in their programs under SMCRA. Furthermore, the U.S. District Court for the District of Columbia has held that the Secretary's authority regarding air pollution regulation extends only to air pollution attendant to erosion. *In Re: Permanent Surface Mining Regulation Litigation* —— F.Supp.—— (D.D.C.) Mem. Opinion, May 16, 1980, P. 27–29. The court remanded 30 CFR 816.95 to the Secretary and ordered him to disapprove any state regulation bases on a remanded regulation. Accordingly, Section 216.95 of the Louisiana regulation must be disapproved to the extent it extends to air pollution not caused by erosion and Louisiana does not request retention of this regulation in its program.

27. The NPS stated that it should be consulted regarding the adequacy of the bond amount when issuance of a permit may affect any NPS jurisdicational unit. Louisiana regulations 180.18(b)(2), 200.13 and 205.11 are consistent with 30 CFR 780.18(b)(2), 800.13 and 805.11 concerning the determination of the performance bond amount. The Secretary believes that the information required of the applicant for a permit under the Louisiana regulations and the procedures in Part 186 for public review and comment on permit applications are adequate to afford federal agencies an opportunity to comment on the proposed bond amount prior to the issuance of a permit.

28. The U.S. Fish and Wildlife Service (FWS) suggested that the Louisiana Office of Conservation change in language of Section 731.14(g)(10) to add certain federal agencies to the list of agencies being consulted regarding proposed fish and wildlife protection plans. This is unnecessary since Louisiana Section 186.17(a)(2) specifies that the Louisiana Office of Conservation shall determine the adequacy of proposed plans after consulting with the appropriate state and federal fish and wildlife agencies. This would include the FWS. This comment may no longer be relevant, however, as a result of the district court's February 26, 1980, decision. In that opinion at p. 38–39, the district court ruled that the Secretary has no authority under SMCRA to compel the states to require operators to have a fish and wildlife protection plan and remanded 30 CFR 779.20 and 780.16 Furthermore unless Louisiana requests otherwise, under the court's May 16, 1980, decision, Sections 179.20 and 180.16 of the Louisiana regulations must be disapproved.

29. The FWS suggested that Louisiana change the title of Section 731.14(f) from "Supporting Agreements Between State Agencies" to "Supporting Agreements Between State and Federal Agencies." 30 CFR 731.14(f) only concerns agreements between agencies that will have duties in the state program. Therefore, no change is required.

30. The FWS commented that the form entitled "Application to Engage in Exploration Operations" does not contain adequate space for the applicant to provide information needed to comply with the requirements of Sections 776.13(b)(2) and 815.15(a), (b). The Secretary is not basing his decision to approve or disapprove a state program on forms submitted with program materials. Any problems with forms will be discussed with the state as part of the Secretary's monitoring function during the permanent program. As to this comment, the Secretary assumes that if more space is needed, addendum sheets would be appropriate and acceptable.

31. The FWS suggested that an environmental coordinator be added to the staff of the Louisiana Office of Conservation. The discussion of consultation and coordination among agencies is adequately addressed in the narrative parts of the Louisiana program submitted to comply with 30 CFR 731.14(g)(9) and (10). Additionally, the narrative for Section 731.14(i) of the Louisiana submission shows that an adequate staff is proposed to administer the program in Louisiana, including environmental protection coordination. Accordingly, no change will be required in response to this comment.

32. The FWS requested to be the list of professional and technical resources available to assist the Louisiana Office Conservation. The Louisiana Office of Conservation has chosen to enter into a supporting agreement with the State Department of Wildlife and Fisheries for assistance in fish and wildlife matters. However, the concern of the U.S. Fish and Wildlife Service is addressed in the narrative for 30 CFR 731.14(k) in the Louisiana program, which states that other agencies not included in the list could be called upon to provide assistance if needed. The Secretary assumes that this includes the FWS.

33. The FWS commented on the Louisiana program provisions relating to the application for coal development operations permits. The FWS desires Louisiana to specify that, in those cases where minimum data requirements are required or suggested, and sampling and monitoring procedures have not been specified, Louisiana will continue to work closely with OSM and other appropriate federal and state agencies to develop and disseminate technical information. Although such cooperation is desirable and the Secretary

encourages it, neither SMCRA nor the Secretary's regulations require the states to specify this in their program proposals.

34. The FWS noted that Louisiana provided an explanation as to why analogues to the federal rules for underground mining performance standards (30 CFR Part 817) were not provided in the Louisiana regulations. The FWS suggested that the explanation in the section-by-section analysis (p. C–563) be included in other parts of the analysis where analogues to other federal rules for underground mining were omitted. The Secretary notes that underground mining is prohibited by Section 906E of the LSMRA and believes that this provision has been adequately addressed in the section-by-section analysis. No change is necessary for program approval.

35. The FWS requested that OSM notify states, including Louisiana, of the Memorandum of Understanding between OSM and FWS, particularly that part which prohibits the delegation to any state authority responsibility for compliance with the consultation requirements contained in the Endangered Species Act and amendments thereto. The Secretary agrees and OSM has provided a copy of the MOU to Louisiana.

36. The FWS asserts that the regulations contained in Part 162 of the Louisiana rules—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations—are incomplete because two sections have been reserved. The scope provision (30 CFR 762.1) is a feature of federal rulemaking, but is not required in the State's regulations. The definitions of 30 CFR 762.5 have been included with other definitions in Section 100.5 of the Louisiana regulations. Therefore, Part 162 is consistent with 30 CFR Part 762. FWS also stated that it recognizes a need to work with Louisiana in developing fish and wildlife related criteria for designating lands unsuitable for mining. The FWS contends that the specifics of such criteria and any exceptions that might apply do not appear in Part 162. Although this is correct, Part 162 of the Louisiana regulations is identical to 30 CFR Part 762 (with the two exceptions noted above) and therefore consistent with the Secretary's requirements. Accordingly, no changes are necessary.

37. The Advisory Council on Historic Preservation (ACHP) suggested additional language for Louisiana to include in its program to comply with the intent of Section 106 of the National Historic Preservation Act (NHPA). The proposed language would (1) provide for a system for consulting with state and federal agencies having responsibility for the protection of management of historic, cultural and archaeological resources; (2) provide for coordination of review of permits with the applicable requirements of NHPA; and (3) provide procedures and criteria for identifying and protecting properties under the provisions of NHPA. The Louisiana regulations provide for coordination and consultation with the State Historic Preservation Office in Sections 161.11(c), 162.11(b)(2), 164.15(b)(1), 164.17(b)(1)(i), and 164.19(a)(2). These provisions appear to the Secretary to assure consideration is given to historic resources to the full extent required under SMCRA. Therefore, no change is required.

38. The ACHP sought additional information to determine the extent that the proposed regulatory program is in compliance with Section 106 of the NHPA. The information requested concerns the requirement of NHPA for written comments from the State Historic Preservation Office (SHPO) and an independent determination by OSM's regional director as to the likelihood that the state program will adversely affect properties included, or eligible for inclusion, in the National Register of Historic Places. The Louisiana regulations provide for the coordination and consultation with the SHPO in Sections 161.11(c), 162.11(b)(1), and 164(b)(1)(i). Even if the State of Louisiana includes language in its regulations suggested by the commenter, the coordination process would only be presented in more detail. The Secretary's regulations require no more and the Louisiana program meets the federal requirements. Accordingly, no change is necessary.

39. The EPA recommends that the Louisiana program include a requirement that all legal notices be accompanied by a press release so that the mass media will inform the public. EPA reported that its experience has shown this to be more effective than newspaper legal notices. SMCRA, however, does not require states to use press releases in addition to the specified legal notices. Therefore, no change is being required in response to the comment.

40. The EPA commented that Section 243.13(d) of Louisiana's regulations provides that "a public hearing may be provided" whereas 30 CFR 843.13(d) provides that a hearing "shall" be provided. The Secretary agreed and requested that the Louisiana regulations be changed from "may" to "shall" to protect the operator's right to a hearing. (*See* Administrative Record No. LA–62.) Louisiana amended its rules to make this change. *See* 6 *Louisiana Register* 296, June 20, 1980. However, the change cannot be approved at this time because it was not enacted on or before the 104th day after the program was submitted.

41. The EPA commented that in developing criteria for designating lands unsuitable for surface mining, consideration be given to the President's Executive Order (EO) 11900 (Wetland Protection) and 11988 (Flood Plain Management). Louisiana Section 162.11(b)(2), analogous to 30 CFR 762.11(b)(2), states that, upon petition, an area may be designated as unsuitable for certain types of surface coal mining operations if the operation will adversely affect fragile lands or result in significant damage to important natural systems. The Secretary does not have authority to obligate the State to comply with EO 11900 and 11988, but encourages Louisiana and other states to consider applying the criteria of those orders when reviewing operations that may affect wetlands or floodplains.

42. The EPA pointed out that by deleting the last sentence of 30 CFR 845.19 from Section 245.19(a) of the Louisiana rules, violators would be allowed to contest the fact of the violation a second time in formal review of the penalty. EPA suggested that this second review on the violation may delay individual enforcement actions and cause a need for greater commitment of state resources. The Secretary agrees, and has determined that the Louisiana procedure is inconsistent with 30 CFR 845.19(a) in that Louisiana does not expressly preclude further administrative review once the fact of a violation has been decided in a formal administrative proceeding. *See* Finding 4(h) above. Louisiana amended its regulations to be consistent with 30 CFR 845.19(a) on August 20, 1980. *See* 6 L.R. —— August 20, 1980.

43. The EPA commented that omission of the phrase "any applicable program" from Louisiana regulations Sections 243.11(a)(1) and 243.13(a)(3), otherwise consistent with 30 CFR 843.11(a)(1) and 843.13(a)(3), meant that violations of a NPDES permit condition would not be a basis for issuance of a cessation order or suspension or revocation of permits. EPA has misinterpreted the meaning of 30 CFR 843.11(a)(1) and 843.13(a)(3). Neither section authorizes OSM to take an enforcement action on the basis of a violation of a NPDES permit condition. The phrase "any applicable program" is not meant to give OSM or the states authority to take enforcement actions

under other environmental protection laws. Nonetheless, OSM may enforce NPDES permit conditions to the extent that they are the same as performance standards in 30 CFR, Chapter VII or in the state regulations. EPA will remain responsible for enforcement of NPDES permits unless that responsibility is delegated to the state. The Secretary notes that EPA and OSM are nearing completion of a Memorandum of Understanding (MOU) which, when finalized, would shift certain NPDES inspection and enforcement responsibilities under NPDES to OSM. However, no change in the Louisiana program is required.

44. The EPA commented that the standard for state court review of Office of Conservation actions, under 30 L.S. 926A(4), is more relaxed than the standard by which U.S. district courts review actions of the Secretary. EPA suggested that the power of state courts to overturn an agency action found to be "unreasonable" will more often frustrate agency decisions than would the "arbitrary and capricious" standard applied to the Secretary's decisions by Section 526(a)(1) of SMCRA and that, therefore, the Louisiana standard should be changed. Section 526(e) of SMCRA requires that state agency actions pursuant to approved state programs "be subject to judicial review by a court of competent jurisdiction in accordance with state law" as long as that review does not interfere with citizen suit provisions under Section 520 of SMCRA. The Louisiana program satisfies this requirement. In addition, the EPA has provided no case law or reasoning to support an assertion that the "unreasonable" standard, as interpreted by the Louisiana courts, is substantively different from the "arbitrary and capricious" standard of Section 526(a)(1) or the "substantial evidence" standard of Section 526(b) of SMCRA. Accordingly, the Secretary is unable to find that the Louisiana test would result in judgments allowing less stringent environmental protection requirements than would SMCRA's test. Therefore, no change is required.

45. The Department of Energy (DOE) asked that 30 CFR Part 824 be included in the Louisiana program to assure protection of the environment from mining in areas of "hilly terrain." 30 CFR Part 824 allows an exemption from the requirement to return land to its approximate original contour. By deleting Part 824, the Louisiana program is more stringent than it would be with Part 824. Therefore, no change is required.

46. The DOE suggested that Louisiana add a rule consistent with 30 CFR 816.116(b)(1)(i) because the State receives more than 26 inches average annual precipitation. The Secretary concurs with this comment. Louisiana has promulgated an analogue to the federal regulation as Section 216.116(b)(1), which became effective on May 20, 1980 (6 L.R. 188). However, because this rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

47. The DOE pointed out the inconsistency that page (c)–320 of the Louisiana program submission states that an analogue to Section 785.13 of 30 CFR (Experimental practices mining) has been deleted, but the section is included as part of the submission on page (a)–144. The commenter requested that this section be included in the submission. The inconsistency has been explained as an error in typing on page (c)–320 of the Louisiana program submission. No change in required.

48. The DOE requested that 30 CFR Part 828, concerning in situ processing, be included in the Louisiana program, because its exclusion could limit the development of lignite coal reserves. OSM concurs with the comment. Louisiana promulgated a comparable provision, Part 228, on May 20, 1980, (6 L.R. 188) which appears to be consistent with the requirements of 30 CFR Part 828. However, because this new rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

49. The DOE commented that the narrative submitted under 30 CFR 731.14(g)(11), concerning designations of lands as unsuitable for mining, needed more detail. The Secretary considers that the program narrative is sufficient to comply with 30 CFR 731.14(g)(11). Therefore, no change is necessary for approval of this part of the program.

50. The DOE suggested that Louisiana be required to include in its regulations provisions comparable to 30 CFR 700.12, petitions to initiate rulemaking. The Secretary concurs. The regulation provides a procedure for initiating rulemaking with enhances the right of the public and the industry to participate in the future development of the Louisiana program. Section 953C of the Louisiana Administrative Procedure Act (49 L.S. 953C) requires such a regulation. Louisiana has added a new Section 100.12, which appears to be consistent with 30 CFR 700.12 and 49 L.S. 953C. It was promulgated May 20, 1980, (6 L.R. 179). However, because this new rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

51. The DOE suggested requiring the Louisiana program to have a rule comparable to 30 CFR 770.12 listing other state and federal laws with which an operator might seek to comply during the process of obtaining a surface coal mining permit. The program narrative for 30 CFR 731.14(g)(9) and (10) and 731.14(f) indicates that the program will include coordination with all other state or federal laws and permit requirements, which will result in the same coordination as would a regulation. Furthermore, a regulation comparable to 30 CFR 770.12 is not required for program approval. Therefore, no change is required.

52. The DOE requested that an analogue to 30 CFR 771.21(a), concerning permit filing deadlines, be included in the Louisiana regulations for the initial implementation of the permanent regulatory program. Such a rule is unnecessary because there are no existing surface mines in Louisiana and the Secretary interprets 30 CFR 771.21(a) to apply only to continuing operations existing at the time of program approval. Louisiana Section 171.21 specifies that permits must be submitted at least 120 days before anticipated startup of operations. This requirement is in compliance with 30 CFR 771.21(b); therefore, no change is necessary.

53. The DOE suggested that the Louisiana program include a comparative assessment of Part 206 of the Louisiana regulations with 30 CFR Part 806 of the federal regulations to determine the differences between these sections and the adequacy of Louisiana's Part 206. Louisiana has made a comparative review. In Vol. II–C of its submission, Louisiana made a side-by-side comparison of federal regulations promulgated pursuant to SMCRA with Louisiana's regulations. On pp. (c)–392 through (c)–406, the side-by-side comparison is made for Parts 806 and 206, with differences both identified and explained by Louisiana. At the beginning of Vol. II are errata sheets, pp. 2 and 3 of which indicate corrections to Part 206. Also, with the amendments to the program submitted April 15 and 16, 1980, the State submitted proposed modification of Parts 206 and 207 with further narrative explanation and supporting case law. The amendments were promulgated May 20, 1980 (6 L.R. 185–187). The differences between Part 206 and 30 CFR 806 arise from the fact that Louisiana historically has a Napoleonic

"code law" tradition rather than a "common law" tradition like the other 49 states and that Louisiana has not adopted the Uniform Commercial Code. There now appears to be no substantive difference between Part 206, as amended, and 30 CFR Part 806. However, because the proposed amendments were received April 15 and 16 (the 104th day after initial program submission) Part 206 must be disapproved to the extent detailed in the findings pending resubmission of the program under 30 CFR 732.13(f).

54. The U.S. Geological Survey (USGS) recommended that Louisiana be made aware of existing coordination responsibilities among the BLM, USGS, and OSM for management of federal coal. The State has been provided a copy of the memorandum of agreement among those agencies.

55. The USGS recommended that Louisiana add a section to its submission on steps to be taken if any future exploration or development occurs on federal lands in the State. Section 923 of the Louisiana Act provides authority for the State to enter into a cooperative agreement with the Secretary for regulation of coal mining on federal lands. If such mining occurs, it will be regulated by OSM in cooperation with the federal land managing agency or by the State to the extent allowed under a cooperative agreement approved by the Secretary after review by other federal agencies. Accordingly, no change in the Louisiana Program will be required.

56. The FWS responded to OSM's request to review and comment on the Louisiana program submission by giving its Biological Opinion that Louisiana's program as proposed is not likely to jeopardize the continued existence of endangered or threatened species pursuant to Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531–1543).

The FWS opinion was based on the Louisiana program requirements comparable to 30 CFR 780.16(a)(1) and (b)(1) requiring a fish and wildlife plan in permit applications; 30 CFR 786.17(a)(2) concerning review of those plans; and 30 CFR 786.19(o), which requires that, for permit approval, the regulatory authority find that the operation will not affect the existence of threatened or endangered species or their habitats. Subsequent to the FWS's Biological Opinion, the U.S. District Court for the District of Columbia remanded 30 CFR 779.20 and 780.16 *In Re: Permanent Surface Mining Regulation Litigation,* F. Supp (D.D.C.), Court Opinion, February 26, 1980, pp. 38–39. As a result of the court's Round II order Id, Mem. Op. May 16, 1980, the Secretary must affirmatively disapprove Louisiana Sections 179.20 and 180.16. These sections require each permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan (*See* 45 FR §45607, July 7, 1980). The Secretary has received a stay of that portion of the court's decision, pending appeal. Even though the Secretary cannot require Louisiana to have regulations that incorporate remanded regulations, Louisiana may retain them in its program.

However, the court did not remand 30 CFR 786.19(o) which is reflected in Louisiana regulation Section 186.19(n). This section requires a finding by the Louisiana Office of Conservation, prior to issuing a permit, that the proposed operation will not affect the continued existence of a threatened or endangered species or critical habitat. Thus, the Office of Conservation must determine whether endangered species or critical habitat would be affected by the proposed mine, but without the benefit of requiring the applicant to provide such information. The Secretary believes that the finding required by 30 CFR 786.19(o), as reflected in Section 186.19(n) of the Louisiana regulations, fulfills the Department of the Interior's responsibilities under the Endangered Species Act to ensure that approval of a state program is not likely to endanger the contimued existence of threatened or endangered species or their critical habitats.

FWS also requested, in its biological opinion, that OSM provide it with the details of OSM's program for monitoring approved state programs for endangered species protection. OSM has not finalized internal procedures for its monitoring responsibilities and has no regulations on the subject. However, OSM is bound by a memorandum of understanding between OSM and FWS dated June 10, 1980, to be the lead agency for monitoring state programs for ESA compliance, and to consult with FWS concerning corrective action whenever it has reason to believe that a state is failing to adequately protect endangered species.

By memorandum of July 11, 1980, the FWS expressed its concern that the district court's order remanding 30 CFR 779.20 and 780.16 effectively precludes the Secretary from carrying out the most logical way to insure proper implementation and monitoring of fish and wildlife protection standards of SMCRA. The Secretary sympathizes with the FWS but must comply with the court's order pending outcome of the stay application or appeal.

Disposition of Comments On List of Regulations that Must be Disapproved

The following comments were received in response to the proposed list of Louisiana rules to be disapproved in accordance with the district court's order. This list was published July 7, 1980 (45 FR 45604).

1. The Louisiana Office of Conservation (LOC), the Central Louisiana Electric Company, Inc. (CLECO), and the Southwestern Electric Power Company (SWEPCO) commented that item 2 of the list of regulations should be changed from 100.5(6) to 100.5(60). The Secretary acknowledges this to be a typographical error, and an appropriate change will be made.

2. The LOC and CLECO/SWEPCO commented that Section 176.5(b)(3) should be added to the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations for the same reason as item 25 was on the list. The Secretary agrees that Section 176.5(b)(3) should be added to the list.

3. The LOC and CLECO/SWEPCO commented that Section 176.5(B)(5) should be added to the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations for the same reason as item 26 of the list. The Secretary agrees that Section 176.5(b)(5) should be added to the list.

4. The LOC and CLECO/SWEPCO commented that Section 100.5(146), the definition of "valid existing rights," should be deleted from the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations because this definition is not applicable to the Louisiana program. The Secretary notes that valid existing rights may be applicable in Louisiana because the State requires permits for exploration and development operations which have occurred for several years. However, the definition of valid existing rights was not fully enacted on or before the 104th day after the program was submitted and thus cannot be considered part of the program submission at this time. For this reason, the Secretary finds that it should be removed from the list of rules that must be disapproved to comply with the district court's order.

5. The LOC and CLECO/SWEPCO commented that Section 207.11(e), concerning bond release conferences, should be deleted from the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations because the Louisiana program has been amended to provide for citizens' access to the minesite.

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Although this appears to be true, the amendment was enacted after the 104th day and therefore cannot be considered. The rule, as it existed before amendment, will remain on the list for the time being.

6. The LOC and CLECO/SWEPCO commented that Section 208.12(c), bond liability limit, should be deleted from the proposed list incorporating suspended and remanded federal regulations. OSM has asked Louisiana to revise Section 208.12(c) to comply with the court's suspension and Louisiana has deleted the suspended language. (See Administrative Record No. LA-147. However, the change cannot be approved at this time because it was not fully enacted on or before the 104th day after the program was submitted. The pre-amendment rule will remain on the list.

7. The LOC and CLECO/SWEPCO commented that Section 205.13(d) should be deleted from the proposed list incorporating suspended and remanded federal regulations. Although Louisiana has deleted Section 205.13(d) from its regulations, it was not deleted before the 104th day after the program was submitted to OSM. Therefore, the Secretary must disapprove this section in accordance with the court's decision and as it existed in the Louisiana program on the 104th day.

8. The LOC and CLECO/SWEPCO commented that Sections 161.11(c) and 161.12(f)(1) have been amended to delete the language regarding eligibility for listing on the National Register of Historic Places. Louisiana has deleted the phrase in Sections 161.11(c) and 161.12(f)(1) "or eligible for listing" but the change was not made on or before the 104th day after the program was submitted. Therefore, the Secretary must disapprove these sections to the extent specified in 45 FR 45608, July 7, 1980, and in accordance with the court's decision.

Approval in Part/Disapproval in Part

The Louisiana program is approved in part and disapproved in part. As indicated above, under the Secretary's Findings, certain parts of the program meet the criteria for state program approval in Section 503 of SMCRA and 30 CFR 732.15, and certain parts of the program do not meet the criteria. Partial approval means that Louisiana may revise and resubmit the disapproved portions of the program within 60 days of the effective date of this decision. However, Louisiana, by telegram of August 26, 1980, has requested the Secretary to consider immediately all program revisions made (and submitted to OSM) after the 104th day as constituting the official resubmission of the Louisiana program, effective upon the date of any disapproval by the Secretary. *See* administrative record document number LA-171. The Secretary grants Louisiana's request and, accordingly, considers the Louisiana program re-submitted. The resubmission will be reviewed and approved or disapproved under procedures in 30 CFR Part 732. The Secretary will afford the public 15 days to review the resubmission. A public hearing will be held on September 16, 1980. Public comment will close on September 17, 1980. The Secretary has 60 days from the date of this notice to approve, approve conditionally or disapprove the Louisiana resubmission. The State will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA until the entire program is approved.

The following program parts are approved:

(a) The Louisiana Surface Mining and Reclamation Act (LSMRA), 30 L.S. 901–932, as amended by Act 553 of the 1979 Louisiana Legislature, with the exceptions that Section 922D(5) is disapproved as inconsistent with Section 522(e)(5) of SMCRA. *See* Finding 1(a)(1).

(b) The Louisiana regulations submitted January 3, 1980, except those sections disapproved under Findings 4(a)–(s), and those regulations disapproved in accordance with the district court's Order (*See* below under paragraph (f) list of elements of Louisiana program being disapproved).

(c) The Louisiana program provisions for administrative, legal and technical personnel and funding for the regulation of surface coal mining and reclamation operations and enforcement of the environmental standards.

(d) The program provisions to:

(1) Coordinate the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit process applicable to the proposed operations.

(2) Require that persons extracting coal incidental to government-financed construction maintain information on site.

(3) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations.

(4) Provide for civil and criminal sanctions for violations of state law, regulations and conditions of permits and exploration approvals including civil and criminal penalties, except for those parts covering protection of DPCE employees.

(5) Provide for protection of Office of Conservation employees in the course of their duties.

(6) Provide for administrative review of state program actions.

(7) Cooperate and coordinate with and provide documents and other information to the Office.

The following program parts are disapproved:

(a) Section 922D(5) of the LSMRA.

(b) Sections 956(8), 957, 959, 964B and 964C of the Louisiana Administrative Procedures Act (LAPA), [49 L.S. 951–968] are disapproved to the extent its provisions supersede provisions of LSMRA *See* finding (1)(a)(2).

(c) All the Louisiana rule amendments submitted as proposed rules on April 15, and 16 and May 3, 1980, and subsequently enacted May 20 or June 20, 1980.

(d) The proposed amendments to the LSMRA received by OSM April 15 and 16 and May 3, 1980, that were subsequently enacted June 27, 1980.

(e) The program provisions to:

(1) Implement, administer and enforce all applicable performance standards *See* finding 4(b).

(2) Implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority. *See* finding 4(c).

(3) Regulate coal exploration and prohibit coal exploration that does not comply with the performance standards required by SMCRA. *See* finding 4(d).

(4) Implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees. *See* finding 4(g).

(5) Issue, modify, terminate and enforce notices of violations, cessation orders and show cause orders. *See* finding 4(i).

(6) Provide for administrative and judicial review of state regulatory actions in accordance with 30 CFR Subchapter L. *See* finding 4(h).

(7) Designate areas as unsuitable for surface coal mining. *See* finding 4(j).

(8) Provide for public participation in the development, revision and enforcement of state regulations and the state program. *See* finding 4(r).

(9) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the state regulatory authority. *See* finding 4(l).

(10) Provide for small operator assistance. *See* finding 4(n).

(11) Require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives. *See* finding 4(m).

(f) The following list of Louisiana rules submitted January 3, 1980, that incorporate the Secretary's rules suspended by OSM or remanded by the U.S. District Court for the District of Columbia:

1. Section 100.5(60), the definition of "mine plan area," and the use of the term in Parts 179 and 180 is disapproved to the extent of the court's order regarding requirements of information outside the permit area.

2. Sections 179.20 and 180.16 requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan are disapproved.

3. Section 179.21 is disapproved to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

4. Section 207.11(e) is disapproved to the extent it fails to provide for citizens' access to the minesite when the informal conference provisions are implemented during bond release.

5. Section 208.14(b) is disapproved to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

6. Section 216.115 is disapproved to the extent it requires an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

7. Sections 223.11(c), 223.15(b), and 223.15(c) are disapproved to the extent they require an operator on prime farmland to actually return the land to crop production.

8. Section 216.116(b) is disapproved to the extent that it states that an operator's responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

9. Section 216.133(c) is disapproved to the extent it requires an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

10. Sections 185.17(a)(3) and 223.14(c), concerning excessive soil compaction, are disapproved, pending OSM's promulgation of a standard for soil compaction.

11. Sections 216.42(a)(1) and (a)(7) are disapproved to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

12. Section 216.42(b), relating to effluent standard exemptions during major storm periods, is disapproved pending OSM's promulgation of new sediment removal regulations.

13. Section 216.46(b), concerning sediment storage volume in sediment ponds, is disapproved, pending OSM's promulgation of new requirements.

14. Section 216.46(c), concerning detention time for water in sediment ponds, is disapproved, pending OSM's promulgation of new requirements.

15. Section 216.46(d) is disapproved to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

16. Section 216.46(h), concerning sediment removal from sediment ponds, is disapproved, pending OSM's repromulgation of rules.

17. Section 216.65(f), requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities and which restricts blasting at distances greater than 300 feet, is disapproved.

18. Section 216.83, concerning coal processing waste banks, is disapproved to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

19. Section 216.95, concerning air resources protection, is disapproved to the extent it applies to aid pollution not caused by erosion.

20. Sections 216.150–176, concerning performance standards for three classes of roads, are disapproved pending OSM's promulgation of new regulations.

21. Section 101.5(93), the definition of "roads" that is used in Sections 216.150–176, is disapproved, pending OSM's promulgation of new regulations.

22. Section 185.17(a)(8) is disapproved to the extent that it requires prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrounding area.

23. Section 101.11(c)(1) (i) and (ii) relating to exemptions for existing structures, are disapproved to the extent that the exemptions are not mandatory after the appropriate findings are made.

24. Sections 176.5(b)(3) and 176.11(a)(3) concerning the requirements for maps of the proposed exploration area, are disapproved.

25. Sections 176.5(b)(5) and 176.11(a)(5), concerning the requirement that operators explain their bases for entering the development area when the surface is owned by a person other than the operator, are disapproved.

26. Section 216.133(b)(1) is disapproved to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

27. Sections 161.11(c) and 161.12(f)(1) are disapproved to the extent that they prohibit or restrict mining near places only eligible for listing on the National Register of Historic Places, and the phrase "or a statutory or regulatory responsibility for" in Section 161.12(f)(1) is disapproved. Further, both rules are disapproved to the extent that they apply to privately-owned places listed on the National Register of Historic Places in addition to publicly-owned places.

28. Section 206.12(e)(6)(iii) is disapproved to the extent it requires cessation of operations upon the insolvency of a surety.

29. Section 208.12(C) is disapproved to the extent that it limits bond liability to protection of the hydrologic balance.

30. Section 216.103(a)(1) is disapproved to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

31. Sections 245.13 and 245.14 are disapproved to the extent they impose a civil penalty point system.

32. Section 205.13(d) concerning exceptions to revegetation requirements, is disapproved to the extent that the exception the regulatory authority may grant might be from all of Part 216.

33. Section 100.11(b), concerning the two-acre exemption, is disapproved insofar as it applies to any operation by the person who affects or intends to affect more than two acres at physically unrelated sites within one year when the area affected at each site does not exceed two acres.

34. Section 100.5(85), the definition of "public road," is disapproved pending repromulgation of Federal rules.

Effect of this Action

Louisiana is not now eligible to assure primary jurisdiction to implement the permanent program. However, Louisiana has resubmitted its proposed program to correct those parts of the program being disapproved.

The Secretary is affording the public 15 days to review the resubmitted program. During this period the Secretary is soliciting comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other federal agencies. A public hearing will be held on September 16, 1980. The Secretary has 60 days from the date of this notice to approve,

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conditionally approve or disapprove the final Louisiana program submission.

This approval in part and disapproval in part applies only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of TItle IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Louisiana may submit a state AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the state has an approved permanent regulatory program.

This decision has no effect on federal or Indian lands in Louisiana.

No rules will be promulgated in 30 CFR Part 918 until the Louisiana program has been either finally approved or disapproved following review of the resubmission.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

This document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

[FR Doc. 80-27103 Filed 9-2-80; 8:45 am]

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30 CFR Part 931

Reopening of Public Comment Period on Portions of the New Mexico Permanent Submission for the Regulation of Surface Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule; reopening of public comment period on portions of the New Mexico permanent program submission for the regulation of surface coal mining.

SUMMARY: OSM is reopening the period for review and comment on portions of the proposed New Mexico regulatory program until September 11, 1980. The new comment period provides opportunity for the public to review and comment on supplemental information submitted by the New Mexico Energy and Minerals Department and the New Mexico Attorney General's Office after the close of the public comment period on July 28, 1980 and on subjects to be discussed with representatives of the State of New Mexico at an executive session on September 5, 1980.

DATES: All comments must be received on or before 5:00 p.m. on September 11, 1980, to be considered in the Secretary's decision on the proposed New Mexico regulatory program.

Supplemental information submitted by the New Mexico Energy and Minerals Department and Office of the Attorney General for New Mexico are available for review during regular business hours at:

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, Colorado 80202, Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

New Mexico Energy and Minerals Department, Division of Mining and Minerals, First Northern Plaza East, Room 200, Santa Fe, New Mexico 87501.

ADDRESSES: Written comments should be delivered by 5:00 p.m. on September 11, 1980, to:

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, Colorado 80202; or

Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240 (202) 343-4225.

SUPPLEMENTARY INFORMATION: On August 7, the New Mexico Department of Mining and Minerals and the Office of the Attorney General for New Mexico provided OSM additional information, by letter, relating to citizens suits, administrative and judicial review, inspection and enforcement, performance standards, water rights and replacements, and blaster certification and training. (New Mexico Administrative Record document Number 99.) The new period for public comment is necessary to allow opportunity for the public to review and comment on this supplemental information. Copies of the letters are contained in the Administrative Record, located in the places identified under "Addresses."

On September 5, 1980, staff members of the New Mexico Department of Mining and Minerals will meet in executive session with staff members of the Office of Surface Mining at the OSM office in Washington, D.C. for the purpose of providing additional information on certain aspects of the New Mexico permanent regulatory program. The following subjects are expected to be discussed: performance standards, permitting requirements, water rights and replacements, inspection and enforcement, bonding, administrative and judicial review, and small operators assistance. Specific topics to be discussed are more fully defined in the New Mexico Administrative Record documents number 108 and 109. The new period for public comment is to allow opportunity for the public to review and comment upon these subjects, including any supplemental information which may be provided by New Mexico officials at the September 5, 1980, meeting. Minutes of this meeting will be available in the Administrative record, located in the places identified under "Addresses."

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: August 29, 1980.

Paul L. Reeves,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 80-27102 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

Tax Shelters; Practice Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Treasury is today releasing for public comment a proposed rule that would amend regulations governing practice before the Internal Revenue Service ("IRS") to set standards for the providing of opinions used in the promotion of tax shelters. The proposed rule would require a practitioner who provides an opinion for a tax shelter to exercise due diligence in representing the facts and Federal tax aspects of the transactions, and in assuring that the opinion is accurately and clearly described in any discussion of tax aspects appearing in the offering materials. The proposed rule would allow a practitioner to provide an opinion for a tax shelter only if the

opinion concluded that it was more likely than not that the bulk of the tax benefits on the basis of which the tax shelter had been promoted are allowable under the tax law.

DATE: Comments must be in writing and must be received on or before November 3, 1980. No hearing is now contemplated but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested by an interested person desiring an opportunity to comment orally and raising an issue that requires oral amplification. The effective date of the regulation will be the date of publication of final regulations in the **Federal Register.**

ADDRESSES: Comments should be sent in triplicate to Director of Practice, Department of the Treasury, Washington, D.C. 20220. All comments received will be available for public inspection and copying in the Treasury Library, 15th and Pennsylvania Avenue, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, (202) 376–0767.

SUPPLEMENTARY INFORMATION: The proposed rule which Treasury is today releasing for public comment sets standards for IRS practitioners in providing opinions used in the promotion of tax shelters.

Abusive tax shelters are one of the Internal Revenue Service's most serious compliance problems. The IRS has identified approximately 25,000 abusive tax shelters promoted in recent years, involving 190,000 returns and $5.1 billion in adjustments.[1] Apart from the loss in revenue, the widespread nature of such schemes undermines the public's confidence in the fairness of the tax system and may affect the level of voluntary compliance.

A critical element in the typical promotion of an abusive tax shelter is the tax opinion generally provided by the promoter's attorney.[2] The theory of the tax shelter promoter appears to be that the tax opinion, even if qualified or simply incorrect, may provided the investor with assurance that penalties will not be assessed even if deductions and credits taken by the taxpayer are subsequently disallowed. Moreover, promoters also appear to hope that investors will view the practitioner's willingness to provide an opinion, even when the opinion is frankly pessimistic about the chances of ultimately obtaining the promised tax benefits or simply does not purport to address key tax aspects, as an endorsement of the tax shelter.

Four categories of opinions have been identified as causing problems: (1) The opinion that is intentionally false, incompetent, or knowingly or recklessly misstates the law or the facts; (2) the opinion that purports to rely upon factual representations of the promoter even where certain critical facts are questionable in light of other facts and circumstances of the transaction; (3) the opinion that never actually comes to a conclusion on the tax aspects raised by the particular offering to which it is attached. Variants on this include the opinion based on hypothetical facts and the opinion addressing some but not all key tax aspects; (4) the opinion which states that there is a "reasonable basis" for a taxpayer's claiming the tax benefits on the basis of which the shelter is promoted, but indicating, explicitly or implicitly, that if challenged, the taxpayer probably would ultimately lose.

The Bar has increasingly worried about the providing of these types of opinions, in part because such opinions put significant and unhealthy pressure on the careful practitioner. Such a practitioner may be faced with the unpleasant task of explaining to a client why tax benefits promised in an abusive tax shelter cannot properly be taken even though an opinion by another attorney appears to indicate that they can be taken. The careful practitioner may be offered a substantial fee for an opinion, even if elaborately qualified, which the practitioner knows another will give if he or she does not. There have been suggestions that Treasury amend Circular 230 to provide clear and effective guidance with respect to the providing of tax shelter opinions. Indeed, at its June 9, 1980 meeting the Commissioner's Advisory Group urged such an amendment.

Under the authority conferred by 31 U.S.C. 1026 and 5 U.S.C. 301 to regulate the professional conduct of those who practice before it, Treasury proposes to adopt a rule that would confront the problem of tax attorney opinions in abusive tax shelters by imposing certain duties upon a practitioner providing a tax shelter opinion.

Scope of the Rule

With one exeption, the proposed rule is drawn to apply only to "tax shelter opinions."[3] These are opinions that the practitioner who provides the opinion knows or should know will be "referred to or included in offering materials distributed to parties who are not then (the practitioner's) clients in connection with the promotion of a tax shelter." The proposed rule is not directed at the advice which a tax practitioner gives his or her client. Nor is it intended to deal with the problem addressed in Formal Opinion 314 of the American Bar Association of whether an attorney who is asked to advise his or her client in the course of the preparation of the client's tax returns may freely urge the statement of positions most favorable to the client as long as there is a reasonable basis for those positions.

"Tax shelter" is defined in the proposed rule in terms of transactions "in which the claimed tax benefits are likely to be perceived by the taxpayer as the principal reason for his or her participation." Consideration was given to defining a "tax shelter" in terms of transactions "in which the claimed tax benefits are set forth in the offering materials or otherwise described as a principal reason for the taxpayer's participation," but limiting coverage of the rule to a subset of tax shelters particularly likely to be abusive. Such shelters might be defined as those in which "it is contemplated that the aggregate deductions, credits, and other allowances that a taxpayer may claim within 24 months of his or here initial cash outlay will equal or exceed the amount of such cash outlay (disregarding any cash to be obtained by borrowings, except full-recourse borrowings from financial institutions unrelated to the taxpayer, promoter, or other participants)." Treasury encourages comment on this alternative approach to the definition of tax shelter.

Due Diligence in the Providing of Tax Shelter Opinions

A. *Due diligence as to factual matters.*—Proposed § 10.33(a)(1)(i) requires the practitioner who provides a tax shelter opinion to exercise "due diligence" to assure that the opinion (or offering material) adequately discloses those facts which bear significantly on each important Federal tax aspect of the shelter. A tax shelter opinion should be based upon the actual facts of the transaction. Thus a tax shelter opinion that relied on hypothetical facts in arriving at its conclusions would not be acceptable. Such an opinion too readily

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[1] Not all tax shelters are abusive. An "abusive" tax shelter may be generally described as a transaction without any significant economic purpose other than the generation of tax benefits that typically employs exaggerated valuations and otherwise mischaracterizes critical aspects of the transaction.

[2] Although the discussion is cast in terms of attorneys' opinions, much of the analysis would apply to opinions rendered by certified public accountants and others entitled to practice before the IRS. The rule covers all such practitioners.

[3] As a clarification of § 10.51, the providing of an intentionally or recklessly false opinion, or a pattern of providing incompetent opinions in Federal tax matters (not just in tax shelters), is specifically identified as an instance of disreputable conduct.

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lends itself to abuse in a tax shelter promotion.

What constitutes "due diligence" in assuring the accuracy of facts depends on the circumstances. Due diligence ordinarily includes the duty to examine any offering materials and to be satisfied that the facts upon wich the opinion is based are accurate and complete. "Due diligence" requires the practitioner to be alert to inconsistencies or implausibilities in the facts as presented to him or her and to resolve any doubts before rendering an opinion.

For example, if the offering materials refer to an appraisal of property to be acquired by an investor, the practitioner should ordinarily review the appraisal and the appraiser's credentials and consider whether the terms and conditions on which the property will be sold are consistent with the purported valuation. If doubts about valuation cannot be resolved to the practitioner's satisfaction, the practitioner should not provide an opinion.

B. *Due diligence as to tax law matters.*—Proposed § 10.33(a)(1)(ii) generally requires the practitioner who provides a tax shelter opinion to use "due diligence" to assure that the opinion adequately describes and sets forth a conclusion with respect to each important Federal tax aspect of the transaction. In the opinion the practitioner must state a conclusion as to likely legal outcomes. An opinion that merely presents opposing views or merely states that there is a "reasonable basis" for a particular view without assessing the likely legal outcome does not meet the standard of the proposed rule.

However, in rare cases, *e.g.*, an inability to predict legal results because of internal inconsistency in a statute or inconsistency between literal statutory language and the overall legislative scheme, and the absence of helpful IRS regulations or case law, good professional practice may dictate that it would be inappropriate to set forth a conclusion as to a particular Federal tax aspect. When a practitioner can demonstrate the existence of such circumstances, a conclusion as to likely legal outcome will not be required as to that tax aspect. The phrase in proposed Paragraph (a)(i)(ii), "unless inappropriate under good professional practice," is intended to accomplish this result. This provision in no way modifies the requirement in proposed Paragraph (a)(2) that a practitioner may provide a tax shelter opinion only if he or she concludes that it is more likely than not that the bulk of the benefits on the basis of which the shelter has been promoted are allowable under the tax law.

Under the definition of "important Federal tax aspect" proposed in Paragraph (c)(4), the practitioner is required to give an opinion on all tax benefits on the basis of which the tax shelter is promoted. Moreover, there may be some Federal tax aspects which are significant in relation to the total tax benefits which may be claimed from the shelter that are not discussed or emphasized in the offering materials. For example, frequently offering materials do not discuss the consequences of recapture of tax benefits obtained, which may result in adverse tax consequences so substantial as to constitute an important Federal tax aspect. The practitioner must address such issues, as "important Federal tax aspects," in the opinion.

In certain circumstances a practitioner may be asked or may request to provide an opinion on some but not all of the important Federal tax aspects. For example, a practitioner with a very specific speciality may not want to opine on a broad range of issues. Paragraph (b)(1) permits a practitioner to provide an opinion in such circumstances if opinions by other practitioners fill in the gaps. The other opinions must be disseminated in the same way as the practitioner's. This includes, for example, discussion in the offering materials if the practitioner's opinion is discussed there. Additionally, the practitioner, upon reviewing the other opinions, and the offering materials, must have no reason to believe that the requirements of adequate factual and legal disclosure have been violated in connection with such other opinions. The required review calls for at least a careful reading, but, in the absence of significant differences with the practitioner's view of the law or discrepancies with the practitioner's knowledge of the facts, does not entail an audit of legal or factual conclusions in the other opinions.

C. *Due diligence as to description in offering materials.*—Proposed § 10.33(a)(1)(iii) requires the practitioner who provides a tax shelter opinion to exercise "due diligence" to assure that the opinion is adequately described in any discussion of tax aspects appearing in any offering materials. A practitioner ordinarily has control over the use to which his or her opinion may be put and thus has the responsibility to take reasonable steps (such as insisting on a review of offering materials) to assure that the opinion is accurately and clearly described.

D. *Due diligence generally.*—"Due diligence is a concept which is defined to a substantial extent by the standards prevalent in good professional practice. Thus Treasury particularly welcomes comment by professional groups, including opinions by ethics committees, as to their views of what constitutes due diligence in a variety of circumstances. Standards of practice agreed on by recognized professional groups will be an important factor in guiding Treasury enforcement activity in this area.

"More Likely Than Not" Standard for Providing Opinions

Proposed § 1033(a)(2) allows the practitioner to provide a tax shelter opinion only if the opinion concludes that it is "more likely than not" that the bulk of the tax benefits on the basis of which the shelter has been promoted are allowable under the tax law. The proposed rule requires only a statement of the opinion of the practitioner as to his or her view of the law. A practitioner is entitled to disagree with the position of the Internal Revenue Service, so long as he or she honestly believes the courts would ultimately sustain the position he or she advises. It should be noted, however, that an opinion which is intentionally or recklessly misleading, or which is part of a pattern of providing incompetent opinions, will be regarded as an instance of disreputable conduct under § 10.51. This is made clear by proposed § 10.51(j). An opinion that reaches a conclusion with which no reasonable practitioner could concur is likely to be either intentionally or recklessly misleading.

The "bulk of the tax benefits" language is not a precise directive, but it means substantially more than 51%. The term also indicates a rejection of a possible alternative of requiring a positive conclusion for each important Federal tax aspect. What constitutes the "bulk of the tax benefits" will frequently become apparent from the substance of a particular transaction and its presentation in offering materials. For example, in a tax shelter promising deductions, credits, and other allowances in a ratio of 5 to 1 of the investor's initial cash outlay, a conclusion that it is more likely than not that a 4 to 1 ratio will be allowable meets the standards of Paragraph (a)(2).

Also, in some circumstances a practitioner who has properly provided an opinion on just some of the important Federal tax aspects may not be able to determine whether the "more likely than not" test can be met for the "bulk of the tax benefits." To avoid needless duplication of work, under Paragraph (b)(2) the practitioner may provide an opinion if another opinion, upon which he or she has properly relied for purposes of Paragraph (b)(1), meets the test of Paragraph (a)(2). The practitioner may also rely on conclusions in such other opinions to provide an opinion complying with Paragraph (a)(2). Thus at least one practitioner must ultimately review all important Federal tax aspects of a tax shelter and conclude that the test of Paragraph (a)(2) has been met.

Special Disclosure Alternative

The rule of Paragraph (a)(2) constitutes a significant step in the regulation of tax practitioners. For example, present professional practice standards indicate that a tax practitioner can properly advise a client to take a deduction with respect to a consummated transaction so long as the practitioner in good faith believes there is a reasonable basis for such a position, even though he or she also believes that the deduction would ultimately be disallowed. ABA Opinion 314.

The theory of Paragraph (a)(2) is that tax practitioners have greater responsibility when their opinions are used to help merchandise an investment proposal to persons who are not their clients.[4] The prohibition of Paragraph (a)(2) also recognizes that, in contrast to the Securities and Exchange Commission's primary concern with investor protection in tax shelter promotions, the Treasury is primarily concerned about the possible defrauding of the Government. In many tax shelter promotions the true victim is the Treasury. Investors seek to evade their fair share of the taxes, and disclaimers as to the weakness of the scheme may not sufficiently deter the successful promotion of these ventures. An effective deterrent may be to forbid participation by tax practitioners because their participation suggests their endorsement of the promotion. A prohibition also eliminates use of the opinion as insurance against fraud or negligence penalties if the benefits are ultimately disallowed.

On the other hand, some thoughtful practitioners have argued that there is nothing unprofessional or disreputable in a tax practitioner permitting the circulation of a competent opinion which sets forth the risks that the proposed tax shelter will not provide the hoped for benefits, especially if adequate disclosure is made of the negative aspects of the opinion. The following language has been suggested as a possible way of meeting this point:

> "(c) *Special Disclosure.* A practitioner may provide a tax shelter opinion that does not comply with Paragraph (a)(2) hereunder if the risks of not obtaining tax benefits are clearly and forcefully explained in the opinion and if he or she exercises due diligence to assure that such explanation appears in any materials used to promote the tax shelter. A clear and forceful explanation normally would include a highlighted statement on the first page of any offering materials, the first page of the practitioner's opinion, and at the head of any other discussion of tax aspects in the offering materials that it is 'unlikely that the bulk of the tax benefits on the basis of this tax shelter transaction is promoted are allowable under the tax law' ".

The proposed rule has not adopted this suggestion because tax shelter opinions not meeting the standards of paragraph (a)(2) are inherently subject to abuse. A promoter who would use a negative opinion as part of the offering materials is expecting investors either not to read the opinion, not to understand the opinion, or to view it as insurance against the imposition of penalties if the claimed tax benefits are ultimately disallowed. The disclosure alternative does not appear adequately to respond to these concerns. Comment is specifically invited on the issues raised by the disclosure alternative.

Other

A proposed amendment to § 10.51 will make clear what is already implied by that section, that the providing of intentionally or recklessly false opinions, or a pattern of providing incompetent opinions in Federal tax matters (not just tax shelter matters) is an instance of disreputable conduct.

A proposed amendment to § 10.52 will allow disbarment or suspension from practice before the Internal Revenue Service for violation of proposed § 10.33 and §§ 10.22 and 10.50. The standard of these sections make the requirement of willfulness in present § 10.52 inappropriate.

Drafting Information

The principal draftsman is Jeffrey N. Gordon, special assistant to the General Counsel of the Treasury.

Authority

These proposed rules are issued under authority of Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 1026; Reorg. Plan No. 26 of 1950, 15 FR 4935, 65 Stat. 1280, 3 CFR, 1949–53 Comp., p. 1017.

Proposed Amendments to the Regulations

In consideration of the foregoing, it is proposed to amend Part 10 of 31 CFR by adding a new § 10.33, by adding a new § 10.51(j), and by revising existing § 10.52 as follows:

Section 10.33 is proposed to be added to read as follows:

§ 10.33 Tax Shelter Opinions.

(a) *General Rule.* A practitioner who provides a tax shelter opinion

(1) Shall exercise due diligence to assure that

(i) The opinion or the offering material fully and fairly discloses those facts which bear significantly on each important Federal tax aspect and

(ii) The opinion fully and fairly describes and, unless inappropriate under good professional practice, states a conclusion as to the likely legal outcome with respect to each important Federal tax aspect, and

(iii) The opinion is accurately clearly described in any discussion of tax aspects appearing in any offering materials and

(2) Shall provide the opinion only if the opinion concludes that it is more likely than not that the bulk of the tax benefits on the basis of which the shelter has been promoted are allowable under the tax law.

(b) *Reliance on Other Opinions.* (1) Notwithstanding Paragraph (a)(1)(ii), a practitioner may provide an opinion on fewer than all of the important Federal tax aspects if

(i) Other practitioners provide opinions on the other important Federal tax aspects which are disseminated in the same manner as the practitioner's opinion, and

(ii) The practitioner, upon reviewing such other opinions and any offering materials, has no reason to believe that the standards set forth in Paragraph (a)(1) have been violated.

(2) In providing an opinion under Paragraph (b)(1), the practitioner is not required to comply with Paragraph (a)(2) at least one other opinion properly relied upon for purposes of Paragraph (b)(1) satisfies the standard of Paragraph (a)(2).

(3) In providing an opinion under

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[4] The proposed rule takes no position on a tax practitioner's responsibility in tax planning for his or her client, where the practitioner may be called on to structure a transaction to obtain certain tax benefits which he or she believes would ultimately be disallowed but as to which there is a reasonable basis.

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Paragraph (b)(1) that also seeks to meet the standard of Paragraph (a)(2), the practitioner may rely on conclusions in opinions properly relied upon for purposes of Paragraph (b)(1).

(c) *Definitions.* For purposes of § 10.33:

(1) "Practitioner" is any person authorized under § 10.3 to practice before the Internal Revenue Service.

(2) "Tax shelter" is a sale, offering, syndication, promotion, investment or other transaction in which the claimed tax benefits are likely to be perceived by the taxpayer as the principal reason for his or her participation.

(3) "Tax shelter opinion" is written advice relating to the Federal tax law which the practitioner providing such advice knows or reasonably should know will be referred to or included in offering materials distributed to parties who are not then his or her clients in connection with the promotion of a tax shelter.

(4) "Important Federal tax aspect" is any Federal tax aspect on the basis of which the tax shelter is promoted in whole or in part or which is significant in relation to the total tax benefits which may be claimed from the tax shelter. Frequently the recapture of tax benefits obtained may result in adverse tax consequences so substantial as to constitute an important Federal tax aspect.

Section 10.51 is proposed to be amended by adding paragraph (j) as set forth.

§ 10.51 Disreputable conduct.

* * * * *

(j) Giving an intentionally or recklessly misleading opinion, or a pattern of providing incompetent opinions, on questions arising under the Federal tax laws.

Section 10.52 is proposed to be revised as follows:

§ 10.52 Violation of regulations.

In addition to the grounds set forth in § 10.51, any attorney, certified public accountant, or enrolled agent or other eligible individual may be disbarred or suspended from practice before the Internal Revenue Service for violation of §§ 10.22, 10.33, or 10.50 or for willful violation of any of the other regulations contained in this part.

Dated: August 29, 1980.

Robert H. Mundheim,

General Counsel, U.S. Department of the Treasury.

[FR Doc. 80-26996 Filed 9-3-80; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1596-4]

Georgia: Approval of 1979 TSP Revisions; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing full approval of the revisions which the State of Georgia submitted pursuant to Part D of Title I of the Clean Air Act for particulate nonattainment areas in Atlanta and Savannah. EPA gave conditional approval to the revisions on September 18, 1979 (44 FR 54047). Under the terms of the conditional approval, the State was required to correct deficiencies in the revisions by February 15, 1980. Specifically, by that date the State was to:

(a) Inspect all sources which may impact the TSP areas in Atlanta and Savannah;

(b) Submit to EPA a report of their inspections describing the existing controls;

(c) Prescribe in the industries' permits, a schedule for implementing RACT.

These conditions have been met by the Georgia Environmental Protection Division. Therefore, Georgia's Part D revisions for TSP are proposed to be fully approved. The correction of the deficiencies is described below in detail in the Supplemental Information.

DATES: To be considered, comments must be submitted on or before October 6, 1980.

ADDRESSES: Written comments should be addressed to Mr. Melvin Russell of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, EPA Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION:

Background

In the May 9, 1979, **Federal Register** (44 FR 27134) EPA proposed approval of the Georgia revisions for the following designated total suspended particulate nonattainment areas:

A. That portion of Fulton County within the northwest section of Atlanta (primary and secondary standards).

B. That portion of Chatham County within the north central section of Savannah (primary and secondary standards).

C. That portion of the northern part of Walker County which includes Rossville (primary and secondary standards).

D. That portion of Washington County within the southern section of Sandersville (secondary standards).

In the September 18, 1979, **Federal Register** (44 FR 54047) EPA conditionally approved Georgia's TSP nonattainment plans for Atlanta (Fulton County) and Savannah (Chatham County). Also, EPA approved the State's TSP plan for Rossville, (Walker County), and stated EPA's policy on redesignation as it would apply to the Sandersville (Washington County) nonattainment area. Therein EPA also granted 18-month extensions (to July 1980) for submittal of the nonattainment plans for attaining the TSP secondary standard in Atlanta, Savannah and Rossville. On December 6, 1979 (44 FR 70143), EPA redesignated Sandersville as attainment for total suspended particulate (TSP), in accordance with Agency policy. Therefore Atlanta and Savannah remained as the only TSP areas with deficient nonattainment plans.

The State has met the conditions stated in the Summary section of this preamble. On December 27, 1979, the State submitted to EPA part of the necessary corrective material. EPA reviewed the material and presented comments at the subsequent public hearing held on January 31, 1980. The remainder of the material necessary to correct the deficiencies was submitted to EPA on April 8, 1980.

The December 27, 1979 submittal included enforceable permit conditions for controlling fugitive emissions at the Martin Marietta Cement Company in Atlanta. The Martin Marietta permit includes a schedule which requires all RACT controls to be fully operational by July 30, 1980. EPA finds the schedule to be as expeditious as practicable.

The April 8, 1980, submittal included inspection reports for the twenty-two sources that EPA had selected as sources that could impact the TSP nonattainment areas in Atlanta and Savannah.

EPA has reviewed both submittals and finds the actions taken and proposed by the State to be adequate. Where necessary the State has described in the sources' permits the necessary reasonably available control technology (RACT) requirements; in other cases the sources were already meeting RACT requirements.

The April 8, 1980, submittal includes permit conditions for all sources that were required to take additional measures to reduce emissions. These permit conditions are not in the form of schedules; however, the Georgia Environmental Protection Division (EPD) had legally enforceable fugitive dust regulations which impowers the Georgia EPD with the authority to require and enforce the permit conditions listed.

All requirements of the conditional approval announced on September 18, 1979 (44 FR 54047), have been met. Therefore, EPA proposes to approve Georgia's Part D revisions for total suspended particulate.

Proposed Action

Based on the foregoing, EPA is proposing to fully approve the State of Georgia Part D SIP revisions since the material submitted by the Georgia Environmental Protection Division meets the conditions of the September 18, 1979, Conditional Approval.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures.

EPA labels these other regulations "specialized." EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: August 1, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-26976 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1591-8]

State of Delaware; Proposed Corrections to Conditionally Approved Portions of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The State of Delaware has submitted amendments to its State implementation Plan to EPA for approval. the amendments consist of changes to the definitions section, the section on control of volatile organic compounds emissions and requirements for preconstruction review. The purpose of these amendments is to corret conditionally approved portions of Delaware's Part D nonattainment plan.

DATE: Comments on these proposed revisions of the Delaware SIP should be submitted on or before October 6, 1980.

ADDRESSES: All comments should be addressed to: Acting Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH301 DE.

Copies of the materials submitted by the State of Delaware are available for pubic inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), Air Programs Branch, U.S. Environmental protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone Number: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, 43 FR 8962, and September 12, 1978, 43 FR 40502, pursuant to Section 107 of the Clean Air Act (the Act), the Administrator designated the New Castle County, Delaware portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) as a nonattainment area for ozone (O_3). As a consequence, the State of Delaware was required to develop, adopt, and submit to EPA revisions to its SIP for this nonattaninment area.

On May 3, 1979, the State of Delaware submitted revisions of its State Implementation Plan in response to the requirements of part D of the Act. The Plan consisted of amendments to Regulations I (Definitions), new Regulations XXIV (Control of Volatile Organic Compounds Emissions), and XXV (Requirements for Preconstruction Review), transportation control measures, a motor vehicle inspection/maintenance (I/M) program, and commitments to implement the necessary transportation control and I/M measures. This Part D nonattainment plan was proposed as a revision of the Delaware SIP on July 25, 1979, 44 FR 43490, and approved in part as a plan revision on March 6, 1980, 45 FR 14551. Portions of Delaware's submission were approved on the condition that certain elements of the plan did not fully meet the criteria for approval be revised by the State, proposed for public comment by the State at a public hearing, and submitted to EPA within a timely fashion. EPA requested public comment on the acceptability of a February 29, 1980 submittal date, 45 FR 14606 (1980), for revisions to the deficient portions of Regulations I, XXIV and XXV.

On March 19, 1980, the State of Delaware formally submitted amendments to Regulations I, XXIV and XXV. The State also provided proof that public hearings were held on December 11, 1979 and December 12, 1979 in accordance with the requirements of 40 CFR 51.4. The amendments consist of the following changes:

Regulation I—Definitions

In response to EPA's conditional approval action, 45 FR 14551, Delaware has revised Regulation I by adding a definition for "emulsified asphalt" and revising the definitions for "lowest achievable emission rate" and "vapor tight".

Regulation XXIV—Control of Volatile Organic Compounds Emissions

1. In respose to EPA's conditional approval action, Delaware has submitted the following amendments:

a. Sections 4.1A, 4.2D, 6.1, 6.2D, 7.1B, 8.4 and 10.4 are amended to specify increments of progress towards achieving compliance with the applicable emission standards. At the same time, Sections 1.6, 1.7, and 1.8 are added to provide for alternative compliance schedules and increments of progress.

b. Sections 5.4, 7.1A and 11.5 are added to provide test procedures for dtermining compliance with regulations covering delivery vessels, bulk gasoline terminals, cold cleaning facilities, open top vapor degreasers, and conveyorized degreasers.

c. Section 12.2 is added to require that the solvent constituents of emulsified asphalt shall not exceed 7.0% by volume as determined by ASTM Distillation Test D-244.

d. Section 9.2 is amended to state that the 40 pounds per day exemption (VOC emissions) for surface coating operations apply to the total emissions rate from all coating lines within a stationary source.

2. Delaware has submitted the following additional amendments:

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a. Section 1.5 is amended to clarify the requirements for submitting a permit application by any person subject to the final compliance dates of the provisions in Regulation XXIV.

b. Section 4.2B5 is amended to control displaced gasoline vapors during loading of any stationary storage vessels (rather than any stationary vessel located above ground).

c. Sections 4.3B, 6.2B6, 7.2F, and 9.4 are amended to make clarifying wording changes.

d. The provision of Sections 4.2B1, 4.2B3, and 4.2B5 are moved to Section 5.3.

e. Additional amendments to Section 5 (delivery vessels) revise the final complaince date, outline the permit application procedures, and prohibit the release of any volatile organic vapors from any vapor tight delivery vessel.

f. Section 9.3 (which refers to the Chart in Table 1) is revised. The 2.8 pounds per gallon emission limitation for surface coatings becomes effective in 1985. An interim emission limitation of 3.0 pounds per gallon becomes effective in 1980. The 4.8 pounds per gallon emission limitations for final repair becomes effective in 1985. An interim emission limitation of 6.5 pounds per gallon becomes effective in 1982.

g. Section 11 is amended by requiring a carbon adsorption system rather than a carbon absorption system. Section 11.1A(3)(iv) is amended to specify a ventilation rate for the carbon adsorption system. In addition, the requirements of Sections 11.2C(5) and 11.3B(5), referring to certain equipment specifications, are deleted. The effective dates of the provisions of Section 11.2, previously specified in Section 11.2B and 11.2C, are now specified in Section 11.4

Regulation XXV—Requirements for Preconstruction Review

Section 2E—The definition of "reconstruction" is expanded to include facilities as well as sources. In addition reconstructed source must apply the lowest achievable emission rate (LAER) in nonattainment areas.

Submittal of Transportation Measures

An additional condition for approval required the State to submit a specific commitment to use available grants and funds to establish, expand, and improve public transportation to meet basic transportation needs. In response to this condition, the Wilmington Metropolitan Area Transportation Coordinating Council (WILMAPCO), which is the certified Section 174 agency for New Castle County, has submitted this "basic transportation needs" commitment as part of its Unified Planning Work Program. EPA's formal approval of WILMAPCO's commitment will remove the aforementioned condition from the Delaware SIP.

Submittal of Public Comments

The public is invited to submit to the address stated above, comments on whether the amendments to Regulations I, XXIV, and XXV submitted by Delware are acceptable. All comments submitted on or before (30 days after publication date of this notice) will be considered.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: July 15, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80–27151 Filed 9–3–80; 8:45 am]

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40 CFR Part 162

[FRL 1598–3, OPP–00127B]

FIFRA Scientific Advisory Panel, Cancellation of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: The two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel scheduled for September 4 and 5, 1980, has been cancelled.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766), Office of Pesticide Programs, Environmental Protection Agency, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 22202 (703–557–7560).

SUPPLEMENTARY INFORMATION: The two-day meeting of the FIFRA Scientific Advisory Panel on September 4 and 5, 1980, as announced in the **Federal Register** of Thursday, August 14, 1980 (45 FR 54094). has been cancelled. The topics on the agenda included a review of the Panel on proposed rulemaking on Subpart M: Data Requirements for Biorational Pesticides and on Subpart N: Chemistry Requirements, Environmental Fate, of the Guidelines for Registering Pesticides in the United States. The agenda for the meeting was later changed to eliminate the review of Subpart M. Notice of this agenda change appeared in the **Federal Register** of Friday, August 29, 1980 (45 FR 57749). The meeting has been cancelled because the agency's position is not ready for review.

(Sec. 25(d), as amended, 92 Stat. 819 (7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: August 29, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–27161 Filed 9–3–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 180

[FRL 1596–6; PP 9E2224/P151]

Trifluralin; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the herbicide and plant regulator trifluralin in or on upland cress at 0.05 part per million (ppm). This proposal was submitted by the Interregional Research Project No. 4 (IR–4). This amendment will establish a maximum permissible level for residues of trifluralin on upland cress.

DATE: Comments must be received on or before October 6, 1980.

ADDRESS: Spend comments to: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–124, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition No. PP 9E2224 to EPA on behalf of the IR–4 Technical Committee and Agricultural Experiment Station of Tennessee.

This petition requested that the Administrator, pursuant to Section 408(e) for the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide and plant regulator trifluralin (a,a,a-trifluoro-2, 6-dinitro-*N*, *N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity upland cress at 0.05 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesiticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance of 0.05 (ppm) in or on upland cress were 2 two-year rat feeding studies with no-observed-effect levels

(NOEL) of 2,000 ppm, 2 two-year and a three-year dog feeding studies with NOEL's of 400 ppm, a dog breeding study with a NOEL of 400 ppm; a four-generation rat reproduction study with a NOEL of 200 ppm; a continuous breeding rat study with a NOEL of 2,000 ppm. Oncogenicity tests conducted by the National Cancer Institute (NCI) with trifluralin technical chemical in rats and mice indicated the chemical is not oncogenic in rats nor in male mice under the terms of the bioassay. Hepatocellular carcinomas and alveolar/bronchiolar adenomas were observed in female mice (including controls), but the incidence appeared to be possibly related to the presence of a dipropylnitrosamine contaminant *N*-nitroso-di-*N*-propylamine (NDPA) was found in the trifluralin used in the test at concentrations of 84–88 ppm.

The acceptable daily intake (ADI) for trifluralin is calculated to be 0.1 mg/kg of body weight (bw)/day based on a NOEL of 400 ppm in the 3 long-term dog feeding studies and using a 100 fold-safety factor. The maximum permitted intake (MPI) for a 60 kg person is caluclated to be 6 mg/day. The theoretical maximum residue contribution (TMRC) for all existing tolerances for trifluralin is calculated to be 0.429 mg/day/1.5 kg daily diet, or 0.72% of the ADI.

The requested action has no significant impact on increasing the TMRC. On August 30, 1979, the Agency published in the **Federal Register** (44 FR 50911) a notice of determination and availability of a position document concerning trifluralin. After extensive review, the Agency determined that benefits outweighed the risks for all uses if the formulated products contained less than 1 ppm of NDPA. The proposed formulations for the accompanying use contains trifluralin with less than 1 ppm of NDPA. Nitrosamines of trifluralin are not expected to cause residue problems.

The metabolism of trifluralin is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. Upland cress is not an animal feed item: therefore there is no expectation of residues in meat, milk, poultry, and eggs resulting from this use. Tolerances have previously been established for residues of trifluralin ranging from 0.05 ppm to 2.0 ppm in a number of raw agricultural commodities.

Thus, based on the above information considered by the Agency and the insignificance of upland cress in the diet, it is concluded that the tolerance of 0.05 ppm in or on upland cress established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 6, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 9E2224/P151". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, from 8:00 a.m. to 4:00 p.m., Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec.408(e), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 26, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

It is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "upland cress" in the table in § 180.207 to read as follows:

§ 180.27 Trifluralin; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Upland cress	0.05
* * * * *	

[FR Doc. 80-26973 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5886]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872, (in Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

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community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Bolton, Town, Tolland County	Blackledge River	Downstream Corporate Limits	*534
			Upstream Footbridge Abutments	*540
			Upstream side of Lyman Road	*549
			Upstream side of Wooden Footbridge	*553
			Downstream side of Deming Road	*560
			Approximately 60' upstream of Deming Road	*565
Maps available at the Town Clerk's Office, Town Hall, 222 Bolton Center Road, Bolton, Connecticut.				
Send comments to Honorable Henry P. Ryba, First Selectman of Bolton, 222 Bolton Center Road, Bolton, Connecticut 06040.				
Florida	Bradenton (City), Manatee County	Wares Creek	100 feet upstream from center of Manatee Avenue West	*8
			Intersection of creek and center of 21st Avenue West	*18
		Gulf of Mexico	Intersection of Manatee River and center of 8th Avenue West	*8
			Intersection of State Highway 64 and Flamingo Road	*11
Maps available for inspection at City Hall, Bradenton, Florida.				
Send comments to Honorable Bill Evers, P.O. Box 730, Bradenton, Florida 33506.				
Florida	Kenneth City (Town), Pinellas County.	Joe Creek	Intersection of 62nd Street North and 43rd Avenue North	*18
			Intersection of Joe Creek Drive and 56th Avenue	*23
Maps available for inspection at 4600 58th Street North, Kenneth City, Florida.				
Send comments to Honorable Clinton R. White, 4600 58th Street North, Kenneth City, Florida.				
Florida	Palmetto (City), Manatee County	Gulf of Mexico (Manatee River)	Intersection of 11th Street West and 20th Avenue West	*8
Maps available for inspection at 516 8th Avenue, Palmetto, Florida.				
Send comments to Honorable Joseph J. Holland, 516 8th Avenue, Palmetto, Florida 33561.				
Florida	Seminole (City), Pinellas County	Boga Ciega Bay	Intersection of State Route 595 and State Route 699	*11
Maps available for inspection at 7464 Ridge Road, Seminole, Florida.				
Send comments to Honorable Juanita Gesling, 7464 Ridge Road, Seminole, Florida.				
Georgia	City of Duluth, Gwinnett County	Chattahoochee River	Just upstream of McClure Bridge Road	*900
			Just upstream of State Highway 120	*903
			Just downstream of Rogers Bridge Road	*906
		Chattahoochee River Tributary	Just downstream of Howell Ferry Road	*920
			Just upstream of Howell Ferry Road	*925
Maps available for inspection at Duluth City Hall, 3508 Lawrenceville Street, Duluth, Georgia.				
Send comments to Mayor Mason or Ms. Helen, City Clerk, City Hall, 3508 Lawrenceville Street, Duluth, Georgia 30136				
Illinois	(V) Burnham, Cook County	Grand Calumet River	At Torrence Avenue	*581
			About 100 feet upstream of Burnham Avenue	*581
Maps available for inspection at the Burnham village Hall, Clerk's Office, 13925 Entre Avenue, Chicago, Illinois.				
Send comments to Honorable Eldreth A. Rundlett, Village President, Village of Burnham, Burnham Village Hall, 13925 Entre Avenue, Chicago, Illinois 60633.				
Illinois	(C) Chicago, Cook County	North Branch Chicago River	At the weir about 200 feet upstream of the confluence with North Shore Channel.	*588
			Just upstream of North Ridgeway Avenue foot bridge	*596
			About 1,000 feet upstream of North Pulaski Road	*599
		Des Plaines River	Just upstream of West Belmont Avenue	*624
			Just downstream of West Higgins Road	*627
		Willow Creek	About 3,200 feet downstream of State Route 72	*633
			Just upstream of Soo Line Railroad	*640
			About 2,900 feet upstream of Wolf Road	*647
Maps available for inspection at the City Hall Library, 10th Floor, City Hall, 121 North La Salle Street, Chicago, Illinois.				
Send comments to Honorable Jane M. Byrne, Mayor, City of Chicago, City Hall, 121 North La Salle Street, Chicago, Illinois 60602.				
Illinois	(V) Fayetteville, St. Clair County	Kaskaskia River	About 1,050 feet downstream of U.S. Route 15	*396
			About 1,450 feet upstream of U.S. Route 15	*397
Maps available for inspection at the Village Clerk's Office, Fayetteville, Illinois and at the Village Hall, Fayetteville, Illinois.				
Send comments to Honorable Dallas Funk, Village President, Village of Fayetteville, Route 2, Box 252, Mascoutah, Illinois 62258.				
Illinois	(V) Lansing, Cook County	Little Calumet River	Torrence Avenue	*599
			Illinois-Indiana State Line	*599
		North Creek	At Oakwood Avenue (downstream corporate limit)	*612
			About 1,100 feet upstream of Wentworth Avenue at corporate limit	*612
		Lansing Ditch	Confluence with North Creek	*612
			Just downstream of Burnham Avenue	*614
			Just upstream of Burnham Avenue	*615
			3,900 feet upstream of Burnham Avenue at upstream corporate limit	*615
Maps available for inspection at the Village President's Office, Village Hall, Ridge Road & Chicago Avenue, Lansing, Illinois.				
Send comments to Honorable Louis L. LaMourie, Village President, Village of Lansing, Village Hall, Ridge Road and Chicago Avenue, Lansing, Illinois 60438.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(V) Lynwood, Cook County	Lansing Ditch	Downstream corporate limit	*615
			Just upstream of 204th Street	*617
			Upstream corporate limits (about 2,800 feet upstream of Glenwood-Dyer Road).	*627
		Shallow Flooding (overflow from Tributary A of North Creek).	Intersection of 202nd Streed and Burnham Avenue	#1
			About 100 feet west of intersection of 201st Street and Park Avenue	#1
			About 100 feet east of intersection of Glenwood-Lancing Road and Torrence Avenue.	#1

Maps available for inspection at the Office of the Village Clerk, Village Hall, 3107 East Lynwood-Dyer Road, Lynwood, Illinois.

Send comments to Honorable Rudolph J. Salehar, Village President, Village of Lynwood, Village Hall, 3107 East Lynwood-Dyer Road, Lynwood, Illinois 60411.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(V) Roselle, Cook and Du Page Counties.	Spring Brook	About 770 feet downstream of Foster Avenue	*723
			Approximately 80 feet downstream of private drive	*726
			Just upstream of private drive	*729
			Approximately 60 feet downstream of Walnut Avenue	*738
			Just upstream of Walnut Avenue	*742
			Just Downstream of Turner Avenue	*744
			Approximately 100 feet downstream of Bryn Mawr Avenue	*745
			Just upstream of Bryn Mawr Avenue	*747
			Approximately 230 feet downstream of Pine Avenue	*753
			Approximately 40' feet upstream of inlet to culvert (long culvert between Pine Avenue and Hill Street).	*762
			Just upstream of Hill Street	*765
			Approximately 40 feet downstream of Central Avenue	*776
			Just upstream of Central Avenue	*781
			Approximately 420 feet upstream of Central Avenue	*781

Maps available for inspection at the Village Clerk's Office, Municipal Building, 31 South Prospect, Roselle, Illinois.

Send comments to Honorable Joseph Devlin, Village President, Village of Roselle, Municipal Building, 31 South Prospect, Roselle, Illinois 60172.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Indiana	Clarksville, Town, Clark County	Ohio River	Downstream Corporate Limits	*448
			Upstream Corporate Limits	*450
		Silver Creek	Confluence with Ohio River	*448
			1,584' upstream of Chessie System at Corporate Limits	*448
			Approximately 2,800' downstream of Interstate Route 265 at Corporate Limits.	*448
			Upstream of Interstate Route 65	*456
			Approximately 600' upstream of State Route 60 at upstream Corporate Limits.	*459

Maps available at the Town Clerk's Office, Clarksville Town Hall, 203 East Montgomery Street, Clarksville, Indiana.

Send comments to Honorable Kenneth Meloy, President of the Clarksville Town Board, 203 East Montgomery Street, Clarksville, Indiana 47130.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Indiana	(Uninc.), Morgan County	White River	Downstream county boundary	*568
			Just downstream of 700 West Road	*576
			Just downstream Conrail (west of Martinsville).	*596
			At northern extraterritorial limit of City of Martinsville	*604
			Just upstream confluence of Sycamore Creek	*608
			Just downstream Conrail (North of Martinsville)	*611
			Just upstream Blue Bluff Road	*617
			Just upstream 390 East Road	*623
			Just upstream Old Waverly Road	*642
			Upstream county boundary	*651
		White Lick Creek East Fork	Mouth at White Lick Creek	*661
			Just upstream State Route 144	*666
			Approximately 2,200 feet upstream Conrail	*677
		White Lick Creek	Mouth at White River	*619
			Approximately 2,600 feet downstream 600 North Road	*619
			Just downstream Brooklyn downstream corporate limits	*637
			Just upstream Mill Street	*640
			About 2,000 feet downstream confluence of White Lick Creek East Fork.	*659
			About 1,100 feet upstream Conrail	*665
			Just downstream Greencastle Road	*670
			Upstream county boundary	*680

Maps available for inspection at the Morgan County Courthouse, Martinsville, Indiana.

Send comments to Honorable Byron Gus Gray, Chairman of the Board of County Commissioners, Morgan County, Morgan County Courthouse, Martinsville, Indiana 46151.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Louisiana	Unincorporated areas of Ascension Parish.	Mississippi River	Just upstream of Ascension/St. James Parish Line	*33
			Just downstream of Ascension/Iberville Parish Line	*36
		Bayou Francois	Just upstream of State Highway 22	*5
			Just upstream of State Highway 431	*6
			Just upstream of U.S. Highway 61	*7
			Just downstream of State Highway 939	*11
		Bayou Conway	Just downstream of State Highway 22	*6
			Just downstream of State Highway 941	*8
			Just upstream of State Highway 932	*10
		New River	Just upstream of State Highway 935	*6
			Just upstream of State Highway 431	*8
			Just downstream of U.S. Highway 61	*10
			Just downstream of State Highway 73	*16
		North Branch of Grand Goudine	Just downstream of State Highway 74	*13

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Middle Branch of Grand Goudine	Just downstream of State Highway 74 (near its intersection with State Highway 73).	*13
		Southern Branch of Grand Goudine.	Just upstream of State Highway 73	*14
		Bayou Narcisse	Just downstream of State Highway 938	*8
			Just downstream of State Highway 44	*9
			Just upstream of U.S. Highway 61	*11
		Black Bayou	Just upstream of State Highway 431	*8
			Just downstream of State Highway 934	*9
		Smith Bayou	Just downstream of State Highway 940	*11
Maps available for inspection at Ascension Parish Courthouse, Donaldsonville, Louisiana 70346.				
Send comments to Honorable Elman Bleman, President of Ascension Parish Police Jury, P.O. Box 351, Donaldsonville, Louisiana 70346.				
Louisiana	City of Eunice, St. Landry and Acadia Parishes.	Richards Gully	Just downstream of West Maple Avenue (State Highway 91)	*43
			Just downstream of North 12th Street	*46
		North Bayou Mallett	Approximately 200 ft. downstream of College Road	*40
			Just downstream of Southern Pacific Railroad Bridge	*45
		South Ditch	Just upstream of Parish Road	*41
			Just downstream of East Maple Avenue (State Highway 91)	*45
Maps available for inspection at City Hall, 300 South 2nd Street, Eunice, Louisiana.				
Send comments to Mayor Wilson Moosa or Ms. Jane S. Duos, City Clerk, City Hall, 300 South 2nd Street, Eunice, Louisiana.				
Massachusetts	Brookfield, Town, Worcester County.	Dunn Brook	Upstream of Quaboag Street	*607
			Upstream of Conrail	*609
			Approximately 1,550′ downstream from Slab City Road	*612
			Upstream Corporate Limits	*616
		Quaboag	Downstream Corporate Limits	*605
			Confluence of Quaboag Pond	*606
		Quaboag Pond	Entire shoreline within community	*606
		Quacumquasit Pond	Entire shoreline within community	*606
Maps available at the Town Clerk's Office, Town Hall, Center Street, Brookfield, Massachusetts.				
Send comments to the Honorable Donald D. Faugno, Chairman of the Board of Selectmen of Brookfield, Town Hall, Center Street, Brookfield, Massachusetts 01506.				
Massachusetts	Monson, Town, Hampden County.	Quaboag River	0.4 mile downstream of Boston and Albany Railroad Bridge	*315
			Downstream of Central Vermont Railroad Bridge	*321
			0.2 mile upstream of Palmer Road	*326
			0.7 mile upstream of Palmer Road	*333
			0.8 mile downstream of U.S. Route 20 Bridge	*340
			0.2 mile downstream of U.S. Route 20 Bridge	*346
			Upstream Corporate Limits	*353
		Chicopee Brook	Quaboag River confluence	*323
			0.3 mile downstream of Tilden Road	*325
			0.1 mile downstream of C.F. Church Company Dam	*332
			Upstream side of C.F. Church Company Dam	*339
			Upstream of Creamery Brook vicinity Dam	*345
			0.15 mile downstream of Chestnut Street Bridge	*352
			0.60 mile upstream of Chestnut Street Bridge	*356
			0.10 mile downstream of Cushman Street Bridge	*361
			0.15 mile upstream of Cushman Street Bridge	*368
			0.05 mile downstream of Hampden Avenue Bridge	*373
			0.10 mile upstream of Hampden Avenue Bridge	*378
			0.05 mile upstream of Main Street Bridge	*384
			0.20 mile upstream of Main Street Bridge	*392
			0.10 mile downstream of Hampden Road Bridge	*400
			0.04 mile downstream of Hampden Road Bridge	*409
			Downstream side of Ellis Company Dam	*417
Maps available at the Planning Department, Town Hall, Main Street, Monson, Massachusetts.				
Send comments to Honorable William H. Daly, Chairman of the Board of Selectmen, Town Hall, Main Street, Monson, Massachusetts 01057.				
Maryland	Somerset County	Chesapeake Bay	Wicomico River from mouth of Monie Bay to confluence of Johnson Creek.	*6
			Monie Bay (Entire Area)	*6
			Tangier Sound between Deal Island and Mouth of the Wicomico River	*6
			Northeastern shoreline of South Marsh Island between Thomas Island Gut and Old Ground Marsh.	*6
			Northwestern shoreline of South Marsh Island between Old Ground Marsh and Pry Cove.	*6
			Manokin River between confluence with Tangier Sound and Top Point	*6
			Kedges Straits between Smith Island and South Marsh Island	*5
			Tangier Sound between confluence with Manokin River and confluence with Cedar Straits.	*5
			Big Annemessex River from confluence with Tangier Sound to River Road.	*5
			Little Annemessex River from Old House Cove to confluence with Daughery Creek.	*5
			Pocomoke Sound between Broad Creek and Fair Island	*5
Maps available at the Somerset County Courthouse, 21 West Prince William Street, Princess Anne, Maryland.				
Send comments to Honorable Charles Massey, County Administrator, County Courthouse, 21 West Prince William Street, Princess Anne, Maryland 21853.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Sauk Centre, Stearns County	Sauk River	At southeastern corporate limits, just upstream of Burlington Northern Railroad Bridge.	*1,225
			Approximately 30 feet downstream of Sauk Lake Dam	*1,226
		Sauk Lake	At Sauk Lake Shoreline	*1,231
		Overflow North of Sauk Lake Dam.	Just upstream of Pine Street North	*1,226
			Approximately 100 feet upstream of Main Street	*1,230
Maps available at the Office of the City Clerk, 405 sinclair-Lewis Avenue, Sauk Centre, Minnesota.				
Send comments to Honorable Robert Weinsmann, Mayor, City of Sauk Centre, 405 Sinclair-Lewis Avenue, Sauk Centre, Minnesota 56378 to the attention of Mr. Fred Borgmann, City Clerk.				
Nebraska	(V) Firth, Lancaster County	Middle Branch Big Nemaha River.	Downstream county boundary	*1,313
			Just upstream State Highway 34 (West of Main Street)	*1,321
			About 1,500 feet upstream confluence of Kraatz Creek	*1,325
Maps available at the City Clerk's Office, City Hall, Firth, Nebraska.				
Send comments to Mr. Richard Mulder, Chairman of the Board of Trustees, Village of Firts, City Hall, Firth, Nebraska 68358 to the attention of Mr. Roland Beach, City Clerk.				
North Carolina	Unincorporated areas of Montgomery County.	Clark's Creek	Just upstream of State Road 1110	*233
			Just downstream of State Highway 73	*274
			Just downstream of State Road 1130	*311
		Clark's Creek Tributary	Just downstream of Highway 731	*290
		Uhwarrie River	Just downstream of State Highway 109	*328
		Little River	Just downstream of State Road 1519	*375
			Just downstream of State Highway 24 and 27	*394
		Suck Branch	Just downstream of State Highway 134	*490
			Just downstream of State Road 1320	*529
		Cotton Creek	Just upstream of State Road 1371	*507
Maps available for inspection at County Commissioners' Office, Montgomery, County Courthouse, Candor, North Carolina 27229.				
Send comments to the Honorable H. Page McAulay, Chairman of the Board of County Commissioners, P.O. Box 243, Candor, North Carolina, 27229, or Mr. Walter H. Bowers, County Extension Chairman, P.O. Box 467, Troy, North Carolina 27371.				
Pennsylvania	Belle Vernon, Borough, Fayette County.	Monongahela River	Downstream County Boundary	*762
			Upstream Corporate Limits	*763
Maps available at the Borough Building, 10 Main Street, Belle Vernon, Pennsylvania.				
Send comments to Honorable Verne Horan, Council President of Belle Vernon, 10 Main Street, Belle Vernon, Pennsylvania 15012.				
Pennsylvania	California, Borough, Washington County	Monongahela River	Downstream Corporate Limits	*766
			Approximately 1.0 mile upstream of downstream Corporate Limits	*767
			Upstream Corporate Limits	*770
Maps available at the Borough Building, 333 Third Street, California, Pennsylvania.				
Send comments to Honorable Virginia Pipik, Council President of California, Box 696, Third Street, California, Pennsylvania 15419.				
Pennsylvania	Centerville, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*771
			Confluence with Two Mile Run	*773
			Upstream side of Maxwell Lock and Dam	*776
			Upstream Corporate Limits	*777
			Approximately 2,006' upstream Corporate Limits	*778
Maps available at the Centerville Borough Building.				
Send comments to Honorable Melvin Ullom, Council President of Centerville, 944 Old National Road, Brownsville, Pennsylvania 15417.				
Pennsylvania	Coal Center, Borough, Washington County	Monongahela River	Downstream Corporate Limits	*767
			Upstream Corporate Limits	*767
Maps available at the Borough Building, Water Street, Coal Center, Pennsylvania.				
Send comments to Honorable Edgar DelBarre, Mayor of Coal Center, Coal Center, Pennsylvania 15423.				
Pennsylvania	East Marlborough, Township, Chester County	West Branch Red Clay Creek	Upstream side of Township Line Road Bridge	*294
			Downstream side of Mill Road Bridge	*302
			Approximately 2,000' upstream of Mill Road Bridge	*311
			Approximately 5,000' upsteam of Mill Road Bridge	*322
			Approximately 80' downstream of State Route 926 Bridge	*328
		East Branch Red Clay Creek	Downstream Corporate Limits	*325
			Approximately 3,000' upstream of downstream Corporate Limits	*336
			Approximately 100' downstream of Country Club Road Bridge	*342
Maps available at the residence of the Township Secretary, Ms. Jane Laslo, Beverly Drive, Kennett Square, Pennsylvania.				
Send comments to Honorable John Hufford, Chairman of the East Marlborough Board of Supervisors, Unionville, Pennsylvania 19375				
Pennsylvania	Economy, Borough, Beaver County.	Ohio River	Downstream Corporate Limits	*706
			Upstream Corporate Limits	*707
		Big Sewickley Creek	Downstream Corporate Limits	*727
			Downstream Merriment Road	*741
			Downstream Big Sewickley Creek Road	*756
			Upstream side 3rd Private Drive	*784
			Downstream side Big Sewickley Creek Road	*789
			Confluence of Tributary A	*804
			Upstream side Private Drive	*821
			Upstream Big Sewickley Creek Road	*832
			Upstream Corporate Limits	*858

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary A	Upstream side of Cooney Hollow Road	*809
			Approximately 0.31 mile upstream of confluence with Big Sewickley Creek.	*853
		Tributary B	Confluence with Big Sewickley Creek	*741
			Upstream side 3rd Private Drive, approximately 6,150′ above confluence with Big Sewickley Creek.	*758
			Upstream side 4th Private Drive, approximately 10,500′ above confluence with Big Sewickley Creek.	*777
			Approximately 0.21 mile upstream of 4th Private Drive	*828
			Approximately 0.33 mile upstream of 4th Private Drive	*878
			Approximately 0.45 mile upstream of 4th Private Drive	*922
		North Fork Big Sewickley Creek	Confluence with Big Sewickley Creek	*790
			Upstream side 1st Private Drive	*819
			Downstream side of 2nd Private Drive	*835
			Confluence of Tributary C	*851
			Upstream of Private Drive	*860
			Approximately 0.74 mile upstream of Private Drive	*883
			Approximately 3.29 miles upstream of confluence with Big Sewickley Creek.	*916
		Tributary C	Confluence with North fork Big Sewickley Creek	*851
			Approximately 140′ downstream of Hoeing Road	*856
			Approximately 760′ upstream of Hoeing Road	*886
		South Branch Legionville Run	Downstream Corporate Limits	*844
			Downstream side Millsdale Ave	*860
			Downstream Private Drive	*883
			Upstream side Hemmerle Road	*952
			Approximately 350′ upstream Hemmerle Road	*957
		Tributary D	Confluence with South Branch Legionville Run	*861
			Approximately 600′ upstream of confluence with South Branoh Legionville Run.	*871

Maps available for inspection at the Economy Borough Hall, Baden, Pennsylvania.

Send comments to Honorable Kenneth Campbell, Mayor of Economy, Conway Wallrose Road, Baden, Pennsylvania 15005.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Falston, Borough, Beaver County	Beaver River	Downstream Corporate Limits	*705
			Station Street (Downstream side)	*706
			Upstream Dam at upstream Corporate Limits	*719
		Brady Run	Confluence with Beaver River	*705
			Approximately 60′ upstream Fallston Street	*713
			Pittsburgh and Lake Erie Railroad (Downstream)	*721
			Approximately 2,050′ upstream of Pittsburgh and Lake Erie Railroad	*738

Maps available at the residence of Ms. Linda Emert, Fallston Borough Secretary, 196 Beaver Street, New Brighton, Pennsylvania.

Send comments to Honorable Robert E. Turner, Mayor of Fallston, 204 Beaver Street, Fallston, New Brighton, Pennsylvania 15066.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Hermitage, Municipality, Mercer County.	Shenango River	Downstream Corporate Limits	*883
			Conrail (upstream of Corporate Limits extended)	*834
		Hogback Run	Sample Road (Upstream)	*1,080
			Approximately 350′ upstream of Private Road	*1,090
			Approximately 1,680′ downstream Plawkey Lane	*1,102
			Plawkey Lane (Upstream)	*1,116
			Sonoff Lane (Upstream)	*1,124
			South Keel Ridge Road (Upstream)	*1,129
			Virginia Road (Downstream)	*1,132
		Bobby Run	Longview Road (Upstream)	*924
			Approximately 1,500′ upstream Longview Road	*946
			Approximately 2,450′ upstream Longview Road	*957
			Approximately 3,600′ upstream Longview Road	*966
			Approximately 1,600′ downstream Rombold Road	*974
			Approximately 450′ downstream Rombold Road	*985
		Golden Run	Private Drive approximately 0.5 mile upstream Cassady Road	*1,096
			Robertson Road (Upstream)	*1,105
			Lamor Road (Upstream)	*1,109
			Approximately 2,550′ upstream Lamor Road	*1,122
			Scott Drive (extended)	*1,132
		Baker Run	Approximately 400′ upstream East State Street	*1,093
			Woodside Drive (Upstream)	*1,102
			Highland Road (Downstream)	*1,113
			Richmond Drive (Upstream)	*1,118
			Cohasset Drive (Upstream)	*1,121
			North Buhl Farm Drive (Downstream)	*1,132
		West Branch Pine Hollow Run	U.S. Route 62 Bypass (Upstream)	*1,072
			Approximately 180′ upstream Sunset Boulevard	*1,087
			Easton Road (Upstream)	*1,094
			Morefield Road (Downstream side)	*1,109

Maps available at the Municipal Building, Hermitage Pennsylvania.

Send comments to Honorable Terry Fedorchak, Manager of Hermitage, 800 North Hermitage Road, Hermitage, Pennsylvania 16148.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Manheim, Borough, Lancaster County.	Chickies Creek	Power Road	*397
			Downstream of State Route 772	*399
			Downstream of East Steigel Street	*401
			Downstream of East High Street	*401

Maps available at the Manheim Borough Hall.

Send comments to Honorable J. Loverne Hiestand, Mayor of Manheim, 21 East High Street, Manheim, Pennsylvania 17545.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Penn, Township, Lancaster County.	Chickies Creek	Power Road	*397
			Downstream of State Route 772	*399
			Downstream of Doe Run Road	*401

Maps available at the Penn Township Building.

Send comments to Honorable Donald LeFever, Chairman of the Penn Board of Supervisors, R.D. 1, Manheim, Pennsylvania 17545.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Stockdale, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*765
			Upstream Corporate Limits	*765

Maps available at the Stockdale Borough Building.

Send comments to Honorable James Georgagis, Council President of Stockdale, Stockdale, Pennsylvania 15483.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Eagle Pass, Maverick County.	Rio Grande River	Just downstream of International Highway	*713
		Main Arroyo	Just upstream of Monroe Street	*722
			Just upstream of Quarry Street	*734
			Just upstream of Medina Street	*740
			Just upstream of Comal Street	*755
		Main Arroyo Tributary 1	Just upstream of Pierce Street	*731
			Just upstream of Travis Street	*739
		Main Arroyo Tributary 2	Just upstream of First Street	*750
			Just upstream of Trinity Street	*758
		Unnamed Tributary	Just downstream of U.S. Highway 277	*769

Maps available for inspection at City Hall, 100 South Monroe Street, Eagle Pass, Texas 78852.

Send comments to Mayor Rodolso Barrera, or Mr. Roberto Gonzales, City Manager, City Hall, 100 S. Monroe Street, Eagle Pass, Texas 78852.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Nolanville, Bell County	Nolan Creek	Just upstream Main Street	*687
			Just downstream Atchison, Topeka and Santa Fe Railway (approximately 1,000 feet upstream from service road of U.S. Highway 190 West Bound).	*705
		Nolanville Tributary	Just upstream U.S. Highway 190 Eastbound	*680
			Just upstream Atchison, Topkea and Santa Fe Railway	*687

Maps available for inspection at City Hall, 100 N. Main Street, Nolanville, Texas 76559.

Send comments to Mayor C. W. Buchanan or Mr. Meade Mitchell, City Manager, City Hall, 100 North Main Street, Nolanville, Texas 76559.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Troy, Bell County	Kings Branch	Approximately 150 feet upstream of Belfalls Street	*667
			Just upstream of Old Highway 81	*705
		Kings Branch Tributary 1	Just upstream of Interstate Highway 35 West Service Road	*650
		Kings Branch Tributary 2	Just upstream of Belton Street	*681
		Kings Branch Tributary 3	Just upstream of Bowers Lane	*677
		Cottonwood Creek	Just upstream of FM 1237	*750

Maps available for inspection at City Hall, Farm Road 935, Troy, Texas 76579.

Send comments to Mayor Robert L. McKee, City Hall, P.O. Box 258, Troy, Texas 76579.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Vermont	Jericho, Town, Chittenden County	Winooski River	Downstream Corporate Limits	*296
			Upstream Corporate Limits	*300
		Lee River	Confluence with Browns River	*497
			Upstream side of Plains Road	*500
			Approximately 3,480′ upstream of Plains Road	*510
			Approximately 8,500′ upstream of Plains Road	*545
			Approximately 10,865′ upstream of Plains Road	*565
			Approximately 895′ downstream of Lee River Road	*580
			Approximately 350 feet upstream of Lee River Road	*595
			Downstream side of Browns Trace Road	*604
		Browns River	Downstream Corporate Limits	*490
			Confluence with Lee River	*497
			Upstream side of Small Dam	*517
			Approximately 220′ upstream of State Route 15	*534
			Approximately 1,185′ upstream of State Route 15	*543
			Approximately 2,140′ upstream of State Route 15	*561
			Approximately 55′ downstream of Ledge Dam Downstream	*600

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Ledge Dam Downstream	*608
			Upstream side of Ledge Dam Upstream	*615
			Downstream side of Cilley Hill Road	*618
			Upstream side of Dam	*628
			Downstream side of Raceway Street	*644
			Confluence of The Creek	*648
			Upstream side of State Route 15	*666
			Upstream side of Private Drive	*671
			Approximately 220' upstream of Private Drive	*674
			Upstream Corporate Limits	*685
		The Creek	Confluence with Browns River	*648
			Approximately 75' downstream of Raceway Street	*660
			Approximately 30' upstream of Raceway Street	*669
			Approximately 50' downstream of Meadow Lane	*677
			Upstream side of Palmer Lane	*687
			Upstream Corporate Limits	*692
Maps available at the Town Hall, Jericho, Vermont.				
Send comments to Honorable Donald B. Fay, Chairman of the Board of Selectment, Town Hall, Jericho, Vermont 05465.				
Washington	Kalama (City), Cowlitz County	Columbia River	Approximately 50 feet east of the intersection of Northwest Oak Street and Burlington Northern Railroad.	*19
			Approximately 1,100 feet west of the intersection of Old Pacific Highway and Cloverdale Road.	*20
Maps available for inspection at City Hall, 385 N. 1st., Kalama, Washington.				
Send comments to Honorable Dale Butts, P.O. Box 1007, Kalama, Washington 98625.				
Wisconsin	(C) Mondovi, Buffalo County	Buffalo River	About 1.5 miles downstream from Eau Claire Street	*777
			About 0.5 mile downstream from Eau Claire Street	*782
			Just upstream from Eau Claire Street	*784
			About 0.2 mile upstream from Eau Claire Street	*786
			About 1.6 miles upstream from Eau Claire Street	*791
		Peeso Creek	Mouth at Buffalo River	*784
			Just downstream from Mill Street Dam	*792
			Just upstream from Mill Street Dam	*814
			Jus upstream of Washington Street (downstream crossing)	*817
			Just downstream of Washington Street (upstream crossing)	*825
		Brownlee Creek	Mouth at Mirror Lake	*814
			Upstream corporate limits	*817
Maps available for inspection at the Office of the City Clerk, City Hall, 156 South Franklin Street, Mondovi, Wisconsin.				
Send comments to Honorable Francis Diller, Mayor, City of Mondovi, City Hall, 156 South Franklin Street, Mondovi, Wisconsin 54755.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26626 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-176]

Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services; Extension of Time Granted in Part

AGENCY: Federal Communications Commission.

ACTION: Proposed rule: Extension of time.

SUMMARY: In response to a motion by Western Union International, Inc., the Common Carrier Bureau granted a seventeen (17) day extension of time for submission of reply comments in CC Docket 80-176, Regulatory Policies concerning Resale and Shared Use of Common Carrier International Communications Services (45 FR 33657, May 20, 1980).

DATE: Reply comments must be received on or before September 29, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Helen Golding, Common Carrier Bureau, (202) 632-6917.

In the matter of Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services, CC Docket No. 80-176. See also 45 FR 51251, August 1, 1980.

Memorandum Opinion and Order

Adopted: August 22, 1980.

Released: August 27, 1980.

1. Before the Bureau is a motion by Western Union International, Inc. (WUI), asking either that the deadline for filing reply comments in the above-captioned proceeding be extended from September 12, 1980 to October 14, 1980, or that we provide for a third round of comments to be due on that date. WUI claims that it needs the additional time in order to address certain

developments which occurred shortly before the deadline for initial comments.

2. Specifically, petitioner asserts that it needs more time to comment on recent correspondence concerning the impact of International Consultative Telegraph and Telephone Committee (CCITT) Recommendations, and the attitudes of foreign administrations generally, on our decision to consider ending resale and shared use restrictions,[1] It also claims that it needs to see the text of the Commission's *Memorandum Opinion and Order* adopted August 1, 1980 in CC Docket No. 79-252,[2] and a second action in that proceeding expected to be taken in September, before finalizing its comments.

3. We will allow an additional 17 days, until September 29, 1980, for the filing of reply comments. We do so because we consider it important that all interested parties be given the oportunity to address the impact of CCITT Study Group III Recommendation D. 1, and any related provisions, on our proposals in this proceeding. In particular, we are interested to learn what parties perceive as the role of CCITT recommendations, and what weight they should properly be given in our overall determination of the best interests of U.S. consumers.

4. On the other hand, we cannot justify allowing this proceeding to be delayed further by tying the submission of comments here to the completion of Docket No. 79-252. As we see it, paragraphs 17-21 of our *Notice* in this proceeding, 77 FCC2d 831 (1980), taken together with the information contained in the Commission's detailed *Notice* in the *Competitive Carrier Rulemaking,* 77 FCC2d 308 (1979), provide ample guidance on the areas where the Commission seeks public comment.

5. Accordingly, it is ordered, pursuant to delegated authority under § 0.291 of the Commission's rules, 47 CFR 0.291, that Western Union International Inc.'s motion for an extension of time IS GRANTED to the extent indicated and is otherwise DENIED.

6. It is further ordered that a copy of this order be published in the **Federal Register.**

Federal Communications Commission.

Thomas J. Casey,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-27082 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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[1] In addition, WUI asks for summaries of various recent meetings between representatives of the Commission and telecommunications entities from Europe and Canada, in which it alleges the subject of resale and sharing of international telecommunications was discussed. We will deny the request for summaries, since it is simply not relevant to the question of whether the time period for filing reply comments should be extended.

[2] *Policy and Rules concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor.*

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47 CFR Part 73

[BC Docket No. 80-519; RM-3642]

TV Broadcast Station in Fort Walton Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to delete UHF television Channel 35 from Fort Walton Beach, Florida, and assign in its place Channel 50, in response to a petition filed by Fort Walton Beach Broadcasting Corporation. The proposal would permit greater site flexibility for construction of a new TV station.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Fort Walton Beach, Florida), BC Docket No. 80-519, RM-3642.

Adopted: August 15, 1980.
Released: August 26, 1980.

1. *Petitioner, Proposal, Comments:*—(a) *Notice of Proposed Rule Making* is given concerning the amendment of the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as it relates to Fort Walton Beach, Florida.

(b) A petition for rule making [1] was filed by Fort Walton Beach Broadcasting Corporation ("petitioner"), proposing to delete UHF Channel 35 at Fort Walton Beach, Florida, and assign in its place Channel 50. Channel 35 is unoccupied and unapplied for.

(c) Petitioner states that it will apply for Channel 50, if the channel change is approved.

2. *Community Data:*—(a) *Location.* Fort Walton Beach, in Okaloosa County, is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Florida.

(b) *Population.* Fort Walton Beach—19,994 [2]; Okaloosa County—88,187.

3. In BC Docket 78-306, it was proposed to assign UHF television Channel 35 to Fort Walton Beach, Florida. A site selected in a fairly large area, generally west and north of Fort Walton Beach could meet all distance separation requirements. On the basis of information submitted in that proceeding, it was determined that it would serve the public interest to assign Channel 35 to Fort Walton Beach.

4. Petitioner now indicates that extremely heavy air traffic in the area (due primarily to the proximity of Eglin Air Force Base) makes it infeasible to locate a television tower in the required area for Channel 35 operation. For this reason, petitioner requests that Channel 50 be substituted for Channel 35 at Fort Walton Beach.

5. The Commission believes that consideration of the proposed channel substitution would be in the public interest. It could provide Fort Walton Beach an opportunity to acquire its first local television station. There would be a much greater site selection flexibility for a Channel 50 assignment than there currently is for the Channel 35 assignment. Channel 50 may be assigned in compliance with all distance separation requirements.

6. Accordingly, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, as it pertains to Fort Walton Beach, Florida, as follows:

City	Channel No.	
	Present	Proposed
Fort Walton Beach, Florida	35	50

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

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[1] Public Notice of the petition was given on April 25, 1980, Report No. 1226.

[2] Population figures are taken from the 1970 U.S. Census.

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However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80–519 RM–3642]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who file comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

[FR Doc. 80–27081 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–521; RM–3585]

FM Broadcast Stations in Tucson and Nogales, Arizona; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 219A to Tucson, Arizona, as its second noncommercial educational FM station in response to a petition filed by The Foundation for Creative Broadcasting, Inc. A change in the assignment of Channel 217 to Channel 217A at Nogales, Arizona, will be necessary.

DATES: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.504(b), *Table of Assignments,* FM Broadcast Stations. (Tucson and Nogales, Arizona), BC Docket No. 80–521, RM–3585.

Adopted: August 18, 1980.

Released: August 26, 1980.

1. The Commission has before it a petition for rule making [1] filed by the Foundation for Creative Broadcasting, Inc. ("petitioner") proposing the assignment of noncommercial educational Channel 219A to Tucsson, Arizona, and to change the assignment of unused Channel 217 in Nogales, Arizona, to 217A.[2] [3] No responses to the petition have been filed.

2. Tucson (pop. 290,661),[4] the second largest city in Arizona, is located in Pima County (pop. 351,667). Tucson is located in northeastern Arizona, about 100 kilometers (60 miles) from the Mexican border. Noncommercial Station KUAT–FM (Channel 213), licensed to the University of Arizona Board of Regents, presently serves Tucson.

3. Petitioner states that the public interest will be served by providing a choice of noncommercial educational programming to meet the needs of the diverse population of Tucson.

4. Petitioner states that KMCR, Channel 218 in Phoenix, Arizona, and Channel 217 in Nogales, Arizona, severely restrict a site for Channel 219A in Tucson, Arizona. He asserts that in order to satisfy the spacing for KMCR and the Nogales assignment, a very undesirable location northeast of the center of Tucson is dictated. It is said to be undesirable because of field intensity requirements, accessibility and zoning problems. The proposed change of the Nogales assignment to Channel 217A would permit the siting of Channel 219A with a more acceptable restriction of 7.5 kilometers (4.6 miles) southeast.

5. Since Tucson and Nogales are located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed assignment requires the concurrence of the Mexican Government.

6. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.504(b) of the Commission's rules, as follows (for the listed cities):

City	Channel No.	
	Present	Proposed
Nogales, Arizona	217	217A
Tucson, Arizona	213	213, 219A

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[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] It should be noted that generally noncommercial educational FM channels are not assigned to communities in a Table of Assignments. Rather, Channels 201 through 220 are reserved for use by noncommercial educational stations and may be applied for on a demand basis. See Note 1(a)(2) to § 1.573 of the Commission's rules. However, within 320 kilometers (199 miles) of the Mexico-United States border, only noncommercial FM channels assigned to communities in the Noncommercial Educational Table of Assignments may be applied for. Moreover, an application for one of these assigned channels will not be granted if it fails to meet minimum distance separations to both Mexican and United States FM assignments or authorizations. See Notes to §§ 1.573, 73.297 and 73.504(g) of the Commission's rules.

[3] The Nogales change is necessary to comply with the mileage separation requirements.

[4] Population figures are taken from the 1970 U.S. Census.

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-521 RM-3585]

1. Purusant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.504(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-27086 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-516; RM-3592]

FM Broadcast Station in Hampton, Ark.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign FM Channel 296A to Hampton, Arkansas as the first assignment in response to a petition filed by Travis Carroll.

DATE: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau Area 202: 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Hampton, Arkansas), BC Docket No. 80-516, RM-3592.

Adopted: August 15, 1980.

Released: August 25, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Travis Carroll ("petitioner"), proposing the assignment of FM Channel 296A to Hampton, Arkansas.

(b) Channel 296A can be assigned to Hampton, Arkansas, provided the site is located about 10 kilometers (6.1 miles) southwest of Hampton in order to comply with the 104 kilometer (65 mile) separation to Channel 296A in Dumas, Arkansas.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Hampton, in Calhoun County, is located in the south central portion of the State.

(b) *Population.* Hampton—1,252 [2]; Calhoun County 5,573.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* No demographic or industrial information regarding employment in Hampton is provided by petitioner. However, petitioner states that Hampton is incorporated as a second class town and is governed by a Mayor and City Council.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Hampton, Arkansas, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules with regard to Hampton, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Hampton, Arkansas		296A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980,

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[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignment. As *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80–516 RM–3592]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended , and § 0.281(b)(6) of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80–27087 Filed 9–03–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–515; RM–3573]

FM Broadcast Station in Oildale, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign Channel 237A to Oildale, California, as its first FM assignment in response to a petition filed by KMAP, Inc.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Oildale, California), BC Docket No. 80–515, RM–3573.

Adopted: August 15, 1980.

Released: August 27, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by KMAP, Inc. ("petitioner"), proposing the assignment of FM Channel 237A to Oildale, California, as the community's first FM channel.

(b) Channel 237A can be assigned to Oildale in complete conformity with all mileage separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Date*—(a) *Location.* Oildale is located in the heart of Kern County roughly 10 kilometers (6 miles) north and west of Bakersfield.

(b) *Population.* Oildale—20,709 [2]; Kern County—341,900.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Kern County, and Oildale in particular, show trends of population increases. The petitioner asserts that Oildale is the home to many types of industry and commerce, including the production of oil and petroleum products.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Oildale, California, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Oildale, California, as follows:

City	Channel No.	
	Present	Proposed
Oildale, Calif.		237A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

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[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-515 RM-3573]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27088 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR—PART 73

[BC Docket No. 80-522; RM-3582]

FM Broadcast Station in South Lake Tahoe,Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and order to show cause.

SUMMARY: This action proposes to consider assigning two Class B channels to South Lake Tahoe and eliminate both current Class A channels, modifying the Class A licenses to specify the Class B channels.

DATES: Comments must be filed on or before October 17, 1980 and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, Area (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments* FM Broadcast Stations. (South Lake Tahoe, CA.), BC Docket No. 80-522, RM-3582.

Adopted: August 18, 1980.

Released: September 3, 1980.

1. The Commission has before it a petition for rule making[1] filed on September 17, 1979, by Emerald Broadcasting Co.("petitioner"), licensee of Stations KTHO (AM) and KTHO (FM) South Lake Tahoe, California. It proposes the assignment of Channel 275, the deletion of Channel 276A and modification of its license to specify Channel 275.

2. South Lake Tahoe (population 12,921),[2] is located in El Dorado County (population 43,833), approximately 248 kilometers (155 miles) northeast of San Francisco, California. It is served by full-time AM Stations KOWL, 1490 kHz, and KTHO, 590 kHz, and by FM Stations KRLT, Channel 261A and KTHO-FM Channel 276A.

3. Petitioner states that there are two major communities of interest in the Lake Tahoe basin, commonly referred to as the "South Shore" and the "North Shore." A third community, Incline Village, is said to exist on the Nevada side of the California/Nevada state line which bisects Lake Tahoe. The South Shore contains the incorporated city of South Lake Tahoe to which KTHO-FM is licensed. Petitioner states that a significant population growth has occurred since the 1970 Census, and reports that local government agencies now estimate the city of South Lake Tahoe population to be approximately 21,000. Using 1970 Census figures, the North Shore had a population of 6,239, and Incline Village an estimated population of 333. Petitioner states that comparable growth likely has occurred in these areas.

4. *Preclusion Studies.* The assignment of Channel 275 to South Lake Tahoe will cause preclusion on Channels 272A, 274, and 275 in all or parts of the following twenty-three *counties:*

California. Mono, Alpine, Amadore, El Dorado, Calaveras, Butte, Lassen, Plumas, Sierra, Modoc, Shasta, and Placer.

Nevada. Douglas, Lyon, Washoe, Pershing, Churchill, Storey, Nye, Mineral, Lander, Humboldt, and Esmeralda.

5. **Roanoke Rapids Study.** Petitioner submitted data which indicate that the assignment would provide a first FM service to 1177 sq. kilometers (460 sq. mi.) for 6,079 persons and a second FM service to 632 sq. kilometers (247 sq. mi.) for 416 persons.[3] An Anamosa/Iowa

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[1] Public Notice was given on February 27, 1980. Report No. 1218.

[2] Population data are taken from 1970 U.S. Census, unless otherwise indicated.

[3] This study did not take into account a proposed change for Station KOZZ in Reno, Nevada, and Channel 243B, recent assignments of Tahoe City, California, and Channel 228A, Incline Village, Nevada.

V45/173 SE4 80 UMI

City study, 46 F.C.C. 2d 520 (1974), taking into account AM services, was not submitted.

6. **Intermixture.** Class A FM Channel 261, licensed to Entertainment Enterprises, is the only other channel presently allocated to South Lake Tahoe. The proposed switch of the petitioner to move KTHO from Channel 276 to Class B Channel 275 would create an intermixture of classes in the same community. Such intermixture would run counter to our established policy,[4] and petitioner has not brought forward facts or arguments to demonstrate that the established policy should not be adhered to in this case. A Commission staff search indicates that another Class B channel (Channel 230) could be assigned to the community with a site restriction of approximately 30 kilometers (19 miles).

7. We wish to consider the possibility of assigning two Class B channels to South Lake Tahoe in view of the first and second FM potential referred to in paragraph 5, and because we are also concerned with the intermixture which would result from assigning just one Class B channel, while leaving the other station operating on a Class A channel. Therefore, in accordance with past decisions [5] we will propose two Class B assignments, and the concurrent elimination of both current Class A assignments in South Lake Tahoe. This can only be possible by modifying the Class A station to one of the available Class B channels. We would under these circumstances need an expression of interest in the proposed channel and power change, and a commitment from the licensee, Entertainment Enterprises, to make that change if this proposal is adopted. We desire comments from Entertainment Enterprises on the possibility of modifying its license in this way since we recognize that it may not have the resources or interest to upgrade its facilities to Class B status and in view of the fact that a change in that station's present site would be necessary. Entertainment Enterprises would be entitled to reimbursement for the change in frequencies only, in accordance with established policy.[6] Should another interest be expressed in either of the Class B channels, the modifications could not be made.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to South Lake Tahoe, California, as follows:

City	Channel No.	
	Present	Proposed
South Lake Tahoe, Calif.	261A, 276A	230, 275

9. It is ordered, that pursuant to § 316(a) of the Communications Act of 1934, as amended, the licensee of Station KRLT(FM), South Lake Tahoe, California, Entertainment Enterprises, SHALL SHOW CAUSE why its license should not be modifed to specify operation on Channel 230 in lieu of Channel 261A, if the Commission determines that the public interest would best be served by adopting the proposed assignments.

10. Pursuant to § 1.87 of the Commission's rules and regulations the licensee of Station KRLT (FM), South Lake Tahoe, California, may, not later than October 17, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Station KRLT (FM) may, not later than October 17, 1980, file a written statement showing with particularity why its license should not me modified as proposed in the "Order to Show Cause." In this case, the Commission may call on Station KRLT (FM) to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date stated above, Station KRLT (FM) will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

11. **Authority.** The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference therein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. **Comments and Replies.** Interested persons and parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

13. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to: Entertainment Enterprises, Box 689, South Lake Tahoe, California 95705.

14. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-522 RM-3582]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. it should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public

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[4] See Fayetteville, North Carolina, 47 F.C.C. 2d 1067, 1071 (1974); Mitchell, South Dakota, Report and Order, F.C.C. 76-1002, 41 FR 49101.

[5] See Mitchell, South Dakota, Report and Order, 62 F.C.C. 2d 70 (1976); Coeur D'Alene, Idaho, Notice of Proposed Rule Making and Orders to Show Cause, BC Docket No. 80-50, 45 FR 12451, published February 26, 1980.

[6] See especially Mitchell, South Dakota, Report and Order, supra, where partial reimbursement by the benefitting party was ordered to defray costs of converting frequency. See also Ogallala, Nebraska (Notice) Docket 80-429, 45 FR 52845, published August 8, 1980.

Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set our in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Streets, NW., Washington, D.C.

[FR Doc. 80-27089 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-526; RM-3599]

FM Broadcast Station in Rifle, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign FM Channel 287 to Rifle, Colorado, as its first FM channel in response to a petition from Garfield County Broadcasters. A more accurate showing of first and second aural services is requested.

DATE: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Rifle, Colorado), BC Docket No. 80-526, RM-3599.

Adopted: August 19, 1980.

Released: September 2, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Garfield County Broadcasters ("petitioner"), proposing the assignment of Class C FM Channel 287 to Rifle, Colorado.

(b) Channel 287 can be assigned to Rifle in conformity with the minimum distance separation requirements.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Rifle is located in Garfield County near the Utah State border, approximately 241 kilometers (150 miles) west of Denver, Colorado.

(b) *Population.* Rifle—2,150; Garfield County—14,821.[2]

(c) *Local Aural Broadcast Service.* Rifle is served by AM Station KWSR (daytime, Class II).

3. *Economic Considerations.* Petitioner states that Rifle, Colorado, and Garfield County are located in the middle of the largest known oil shale deposits in the world. Petitioner further states that according to Dr. Armand Hammer, Chairman of the Board of Occidental Petroleum, Colorado, Wyoming and Utah contain an estimated 1.9 trillion barrels of oil or "an amount equal to more than two and one half times the total known oil reserves of the world." Petitioner notes that oil shale is seen by some experts as a means of satisfying half of President Carter's targeted domestic oil need by 1990. With the development of the oil shale industry in that area likely, petitioner contends that a three shift, twenty-four hour work force would emerge, requiring a larger time period for broadcasting local issues and community information beyond the current daylight hour AM broadcast.

4. *Additional Considerations.* Petitioner attempted to demonstrate that unserved and underserved areas would be provided service by the proposed station. However, the information provided did not conform to guidelines set forth in *Roanoke Rapids/Anamosa* proceedings.[3] Thus, we could not verify the data given.

5. *Preclusion Study.* Preclusion would occur on Channels 285A, 286, 287, 288A, and 290 as a result of the proposed assignment. Communities in the following *counties* may be foreclosed from a possible assignment on one or more of the affected channels by the assignment to Rifle.

Colorado—Moffat, Routt, Jackson, Grand, Rio Blanco, Garfield, Eagle, Lake, Pitkin, Mesa, Delta, Gunnison, Chaffee, Montrose, Ouray, San Miguel, Dolores, San Juan, Hinsdale, Mineral, Saguache, Rio Grande, Alamosa, Conejos, Archuleta, La Plata, and Montezuma.

Utah—Daggett, Uintah, Grand, and San Juan.

Wyoming—Unita, Sweetwater, Carbon, and Albany.

Petitioner states that alternate channels are available but fails to list them. The Commission, therefore, requests that the petitioner provide it with a list of alternate channels that would be available to the precluded areas.

6. Although the usual practice is to assign a Class A channel to a community the size of Rifle, we have assigned the higher powered Class C channel where it is shown that a significant amount of first or second FM service would be provided or when a Class C channel represents the best means of serving a sparsely populated area. We shall give petitioner the opportunity to demonstrate such service in accordance with the guidelines set forth in the *Roanoke Rapids* proceedings.[4]

7. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of Rifle, Colorado.

City	Channel No.	
	Present	Proposed
Rifle, Colo		287

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

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[1] Public Notice was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Roanoke Rapids, North Carolina*, 9 F.C.C. 2d 672 (1967); *Anamosa, Iowa*, 46 F.C.C. 2d 520 (1974).

[4] See para. 4 and fn. 3, *supra*. Reasonable or existing facilities where larger for all FM assignments including unoccupied assignments should be considered in this *Roanoke Rapids* study. The Commission notes the petitioner should include the Colorado assignments of Station KMTS, Glenwood Springs; Station KQIX-FM, Grand Junction; vacant but applied for Channel 273, Craig (showing impact of both applications); and any other FM assignments which may impact the 1 mV/m service area of the Rifle proposal. Since no nighttime AM service would affect this service area, an *Anamosa* showing is not required.

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9. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–526 RM–3599]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–27090 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–518; RM–3445]

FM Broadcast Station in Smith Center, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of FM Channel 231 to Smith Center, Kansas, as that community's first FM assignment, as requested in a petition for rule making filed by Ernest McRae and Jerry T. Venable.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Smith Center, Kansas). BC Docket No. 80–518, RM–3545.

Adopted: August 15, 1980.

Released: August 29, 1980.

1. The Commission herein considers a petition for rule making [1] looking toward the assignment of Channel 268, as a first FM assignment to Smith Center, Kansas (RM–3545), filed by Ernest McRae and Jerry T. Venable ("petitioners"). No responses to the petition have been received. To avoid a conflict with another pending proposal to assign Channel 268 to Hastings, Nebraska (RM–3589), we have substituted Channel 231 for consideration herein.

2. Smith Center (pop. 2,389) [2], seat of Smith County (pop. 6,757), is located in the north central portion of the state approximately 272 kilometers (170 miles) northwest of Topeka, Kansas. It has no local aural service.

3. Petitioner asserts that the main industry in the community is agriculture and agri-business. Petitioners also state that Smith Center is in a pattern of growth. The 1978 estimated population for Smith County was 7,191 as compared to the 1970 Census figure of 6,757. Petitioners have submitted demographic data to demonstrate the need for a first FM assignment to Smith Center.

4. A preclusion study was done for Channel 231 in Smith Center, Kansas, assuming the transmitter was located approximately 11 kilometers (7 miles) south-southwest of the community due to spacing requirements. The assignment of Channel 231 to Smith Center will cause preclusion in all or parts of the following thirty-eight counties; *Kansas:* Jewel, Ellis, Trego, Graham, Rooks, Norton, Phillips, Russell, Rawlins, Cheyenne, Decatur, Osborne, Stafford, Barton and Mitchell; *Nebraska:* Red Willow, Hitchcock, Hayes, Frontier, Gosper, Phelps, Lincoln, Hall, Webster,

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[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

Kearney, Clay, Hamilton, Franklin, Dawson, Custer, Blaine, Loup, Furnas, Harlan, Buffalo, Nuckools, Adams and Fillmore.

5. Petitioners state that the assignment of a class C channel to Smith Center will provide a first FM service to 6,571 square kilometers (2,567 square miles) for 27,464 persons and a second FM service to 4,439 square kilometers (1,734 square miles) for 12,129 persons. Further the assignment will provide a first aural service to 6,300 square kilometers (2,461 square miles) for 25,210 persons and a second aural service to 4,710 square kilometers (1,840 square miles) for 12,205 persons. Petitioners, however, only took into account one of the two FM stations in Kearney, Nebraska, and did not consider the FM station in Superior, Nebraska. The service figures should be reduced to reflect the stations that were omitted.

6. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Smith Center, Kans.		231

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-518 RM-3545]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27091 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-528; RM-3571]

FM Broadcast Station in Owingsville, Ky., Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign Channel 296A to Owingsville, Kentucky, as that community's first FM assignment, in response to a petition filed by Bath Radio Works.

DATES: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Owingsville, Kentucky), BC Docket No. 80-528, RM-3571.

Adopted: August 19, 1980.

Released: August 27, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Bath Radio Works ("petitioner"), proposing the assignment of FM Channel 296A to Owingsville, Kentucky, as that community's first FM assignment.

(b) Channel 296A could be assigned to Owingsville in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Owingsville, seat of Bath County, is located in northern Kentucky, approximately 200 kilometers (125 miles) east of Louisville, Kentucky.

(b) *Population.* Owingsville—1,381; [2] Bath County—9,235.

(c) *Local Aural Broadcast Service.* None.

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[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

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3. *Economic Considerations.* Petitioner states that economic research has concluded that Owingsville can support a radio station operation as a profitable business. No other information regarding Owingsville was provided.

4. In view of the fact that the proposed FM channel asssignment would provide for a first local aural broadcast service to Owingsville, Kentucky, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Owingsville, Kentucky, as follows:

City	Channel No	
	Present	Proposed
Owingsville, Ky.		296A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commssion or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-528 RM-3571]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulatins, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27092 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-517; RM-3572]

FM Broadcast Station in North Mankato, Minn,; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 244A to North Mankato, Minnesota, as its first FM channel assignment in response to a petition filed by Minnesota Valley Broadcasting Company.

DATE: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (North Mankato, Minnesota), BC Docket No. 80-517, RM-3572.*

Adopted: August 15, 1980.
Released: August 29, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Minnesota Valley Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 244A to North Mankato, Minnesota, as that community's first FM assignment.

(b) Channel 244A can be allocated to North Mankato in complete conformity with all mileage separation requirements, provided the transmitter site is located 9 kilometers (5.65 miles) northwest of the center of the city.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Demographic Data.—(a) Location.* North Mankato, in Nicollet County, is located in south central Minnesota, approximately 136 kilometers (85 miles) southwest of Minneapolis/St. Paul. It is situated across the Minnesota River, and in a different county, from Mankato, Minnesota.

(b) *Population.* North Mankato—7,347; Nicollet County—24,795. [2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that there is a wide

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[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

variety of principal economic industries in North Mankato, including a specialized printer, electronic component manufacturer, bottler and distributor of soft drinks and a newly established industrial park (300 acres in size) for new industries. Petitioner has submitted demographic data which demonstrates the need for a first FM channel at North Mankato.

4. In view of the apparent need for a first FM channel at North Mankato, the Commission believes it would be in the public interest to propose the assignment of Channel 244A to that community.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the listed city, as follows:

City	Channel No.	
	Present	Proposed
North Mankato, Minn.		244A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-517 RM-3572]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27093 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-513; RM-3580]

FM Broadcast Station in Olivia, Minn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposed to assign Channel 269A to Olivia, Minnesota, as its first FM assignment in response to a petition filed by Olivia Broadcasting Co.

DATES: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (Olivia, Minnesota), BC Docket No. 80-513, RM-3580.*

Adopted: August 15, 1980.

Released: August 28, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Olivia Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 269A to Olivia, Minnesota, as that community's first FM radio station.

(b) Channel 269A could be assigned to Olivia in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*—(a) *Location.* Olivia, the seat of Renville County, is located approximately 140 kilometers (85 miles) west of Minneapolis.

(b) *Population.* Olivia—2,553; Renville County—21,139.[2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Olivia has its own stores, professional offices, banks, savings and loan associations, churches, clubs, and service organizations. Major employers are canning and seed companies. Petitioner has submitted sufficient demographic data to demonstrate the need for a first FM assignment to Olivia.

4. In view of the fact that the proposed FM channel assignment would provide

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[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken form the 1970 U.S. Census.

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for a first local aural broadcast service to Olivia, the Commission finds it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Olivia, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Olivia, Minn.		269A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80–513 RM–3580]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–27094 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–527; RM–3509]

FM Broadcast Stations in Columbia and Monroe City, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to substitute Channel 292A in Monroe City, Missouri, for presently unused Channel 269A now assigned there, and the reassignment of Channel 269A to Columbia, Missouri. The proposed substitution is expected to have no adverse impact on the establishment of a first local service to Monroe City, Missouri, and would provide a third commercial FM service to Columbia.

DATE: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Kamp, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Columbia and Monroe City, Missouri), BC Docket No. 80–527, RM–3509.

Adopted: August 19, 1980.
Released: August 29, 1980.

1. The Commission has before it a petition for rule making [1] filed on August 27, 1979, by Al Germond ("petitioner") proposing the assignment of Channel 269A to Columbia, Missouri, as its third commercial FM assignment, and the substitution of Channel 292A in Monroe City, Missouri, for Channel 269A now assigned there. No other comments were filed.

2. Columbia (pop. 58,804),[2] seat of Boone County (pop. 80,911), is located in central Missouri, approximately 193 kilometers (120 miles) west of St. Louis and approximately the same distance east of Kansas City, Missouri. According to population estimates provided by petitioner, from 1960 to 1970 the population of Columbia rose 60.5 percent and of Boone County 46.5 percent. Petitioner relies on local Chamber of Commerce figures to estimate the 1978 population of Boone County at 100,000 and of Columbia at 65,500.

3. Petitioner states that the economic base of Columbia is a combination of agriculture, light industry, health care, education, and insurance. The city contains the largest campus of the University of Missouri, Stephens College, and Columbia College. The city also has six hospitals, including the Harry S. Truman Veterans Administration Hospital, the University of Missouri Medical Complex and the Cancer Research Center. Several light industrial firms are also located there.

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[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

4. *Present Service:* (a) Columbia is served by two commercial FM stations (KCMQ, Channel 244A; and KFMZ, Channel 252A), four noncommercial FM stations (KCOU, Channel 201A; KOPN, Channel 208C; KWWC-FM, Channel 213D; and KBIA, Channel 217C), and two AM stations (KFRU, fulltime; and KTGR, daytime). (b) Monroe City presently has no aural broadcast service. Recently, Channel 269A was assigned there[3] pursuant to rule making initiated by Kenneth L. and Myra L. Bass, Rodney L. and Lynette Peterson, and Harold and Henrietta Sprick. Although these parties reaffirmed their intention to apply for the channel during the course of that rule making, no application has yet been filed for the channel.

5. *Preclusion:* Preclusion study for Channel 269A at Columbia by staff indicates no new preclusion area would be created by the proposed assignment, except for the co-channel where there is a small precluded area near Columbia. This precluded area overlaps part of the following three *counties* in Missouri: Boone, Cooper and Cole. Preclusion study done for Channel 292A at Monroe City by staff, assuming the transmitter located in the center of the city, indicates preclusion on Channels 289, 290 and 292A in all or parts of the following eleven *counties:* Macon, Shelby, Lewis, Marion, Randolph, Monroe, Ralls and Pike (in Missouri); and Adams, Brown and Pike (in Illinois).

6. Petitioner states that Channel 269A is the last available allocation to Columbia under the Commission's mileage separation rules. Further, it contends that the substitution of Channel 292A for Channel 269A at Monroe City will provide equivalent service as that community's first broadcast facility.

7. From available information, it appears that the proposed substitution of Channel 292A for the currently unused Channel 269A in Monroe City would have no adverse impact on the establishment of a first local service there. Meanwhile, a third commercial broadcast service to Columbia, Missouri, would comply with current population criteria for the allocation of FM channels and would provide a third commercial FM service there.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments § 73.202(b) of the Commission's Rules and Regulations) with regard to the communities below as follows:

City	Channel No.	
	Present	Proposed
Monroe City, Mo.	269A	292A
Columbia, Mo.	244A, 252A	244A, 252A, 269A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

11. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commssion or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-527 RM-3509]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27095 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-514; RM-3591]

FM Broadcast Station in Irmo, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign Channel 272A to Irmo, South Carolina, as its first FM channel in response to a petition from Santee-Cooper Broadcasting Co.

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[3] *Monroe City, Missouri,* BC Docket No. 79-16, adopted June 22, 1979.

V 45/173 SE 4 80 UMI

DATE: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Irmo, South Carolina), BC Docket No. 80-514, RM-3591.

Adopted: August 15, 1980.

Released: August 29, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Santee-Cooper Broadcasting Company ("petitioner") proposing the assignment of FM Channel 272A to Irmo, South Carolina, as that community's first FM assignment.

(b) Channel 272A could be assigned to Irmo in compliance with the minimum distance separation requirements provided the transmitter site is located 7.7 kilometers (4.8 miles) northeast of the community.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.*—Irmo, South Carolina, is located in both Richland and Lexington counties, approximately 16 kilometers (10 miles) northwest of Columbia, South Carolina, the State Capital.

(b) *Population.* Irmo—517; [2] Lexington County—47,288; Richland County—198,161.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that the population and overall growth of Irmo has skyrocketed considerably since the 1970 Census to more than 9,250 population. The petitioner describes Irmo as a rapidly developing middle to high income residential community.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Irmo, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the listed city, as follows:

City	Channel No.	
	Present	Proposed
Irmo, S.C.		272A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-514 RM-3591]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27096 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-512; RM-3595]

FM Broadcast Station in Tremonton, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel to Tremonton, Utah, in response to a petition filed by Bear River Broadcasting Co., Inc. The proposed channel could provide a first local FM broadcast service to Tremonton.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

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[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments* FM Broadcast Stations (Tremonton, Utah), BC Docket No. 80-512, RM-3595.

Adopted: August 18, 1980.

Released: September 3, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Bear River Broadcasting Co., Inc. ("petitioner"), proposing the assignment of Channel 264 to Tremonton, Utah, as that community's first FM assignment.

(b) The channel can be assigned to Tremonton, in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Tremonton is located in Box Elder County, approximately 104 kilometers (65 miles) north of Salt Lake City, Utah.

(b) *Population.* Tremonton—2,794[2], Box Elder County—28,129.

(c) *Local Aural Broadcast Service.* None. An application for a daytime only AM station on 1470 kHz is pending.

3. *Economic Consideration.* Tremonton's economy is based on agriculture, small industry and tourism to the northwest and Yellowstone Park regions. Petitioner states that the proposed assignment could provide a first FM service for about 3,000 persons in the area and a second FM service for about 600 persons. The proposal would also provide the residents of Tremonton an opportunity to receive coverage of public, social, governmental and sporting events held at night. Petitioner has submitted demographic and economic information with respect to Tremonton, to demonstrate a need for a first FM assignment.

4. *Preclusion Considerations.* Preclusion study was done for Channel 264 in Tremonton, Utah, with the assumption that the transmitter was located in the center of the city. The assignment of Channel 264 to Tremonton will cause preclusion on Channels 261A, 263, 264 and 265A, in all or parts of the following forty-three *counties: Idaho:* Custer, Fremont, Bannock, Jerome, Blaine, Jefferson, Teton, Camas, Clark, Caribou, Cassia, Lincoln, Bingham, Booneville, Gooding, Power, Oneida, Twin Falls, Minidoka, Butte, Madison and Ouyhee; *Nevada:* White Pine and Elko; *Utah:* Box Elder, Millard, Utah, Summit, Emery, Tooele, Sanpete, Wasatch, Daggett, Juab, Carbon, Duchesne, and Uintah; *Wyoming:* Teton, Fremont, Sublette, Lincoln, Sweetwater, and Uinta.

5. Generally, a community as small as Tremonton would be assigned a Class A channel. However, an exception is made where the Class C proposal could provide a significant amount of first or second FM service to surrounding areas and population. Petitioner states that the assignment of Channel 264 to Tremonton will provide a first FM service to 1195 square kilometers (467 square miles) for 2,907 persons and a second FM service to 796 square kilometers (311 square miles) for 591 persons.

6. Accordingly, in view of the foregoing, comments are invited on the following proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the community of Tremonton, Utah.

City	Channel No.	
	Present	Proposed
Tremonton, Utah		264

7. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980 and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-512 RM-3595]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments,

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[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27097 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-245; RM-2762; RM-2785; RM-2787; RM-2886; RM-2901; RM-3033; RM-3255; RM-3480]

FM Broadcast Stations in Blytheville, Jonesboro, Piggot, Paragould, Trumann, Walnut Ridge, and West Memphis, Ark.; Portageville, Mo., and Collierville, Tenn.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding involving the proposed assignment of FM channels to Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge and West Memphis, Arkansas; Portageville, Missouri and Collierville, Tennessee, Wolfe Communications, requests the additional time to prepare and submit reply comments.

DATE: Reply comments must be filed on or before September 4, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Order Extending for Time Filing Reply Comments

Adopted: August 20, 1980.

Released: August 25, 1980.

In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Blytheville, Jonesboro, Piggot, Paragould, Trumann, Walnut Ridge, and West Memphis, Arkansas; Portageville, Missouri, and Collierville, Tennessee).

By the Chief, Policy and Rules Division:

1. On May 29, 1980, the Commission adopted a *Notice of Proposed Rule Making* proposing the changes in the FM Table of Assignments for Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge, and West Memphis, Arkansas; Portageville, Missouri, and Collierville, Tennessee (45 Fed. Reg. 40176, published June 13, 1980). Reply comments are due on August 21, 1980.

2. Counsel for Wolfe Communications filed a request seeking additional time for filing reply comments in the proceeding to and including September 4, 1980. Counsel states that the proposal which involves seven alternate channel assignment plans is complicated, and there was an unavoidable delay in locating copies of comments filed by the petitioners.

3. We believe the public interest would be served by granting the extension so that Wolfe Communications may file information that may be helpful to the Commission in resolving this proceeding.

4. Accordingly, it is ordered, that the above request for an extension of time is granted and the date for filing reply comments is extended to and including September 4, 1980.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast, Bureau.

[FR Doc. 80-27057 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-523; RM-3543]

FM Broadcast Station in Helena, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and order to show cause.

SUMMARY: This action proposes to assign two Class C channels to Helena, Montana, and modify the licenses of the two existing Class A stations to specify the Class C channels in reponse to a petition filed by KCAP Broadcasters. The proposal will provide substantial first and second FM services.

DATES: Comments must be filed on or before October 17, 1980. and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rule Making and Order To Show Cause

Adopted: August 15, 1980.

Released: September 3, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Helena, Montana).

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by KCAP Broadcasters, Inc. ("petitioner"), licensee of FM Station KCAP (Channel 276A), proposing the assignment of Class C FM Channel 266 to Helena, Montana.

(b) The channel can be assigned in compliance with the mileage separation requirements.

2. *Demographic Data:*

(a) *Location:* Helena, the state capital and seat of Lewis and Clark County, is located in the west-central part of the State, It is 800 kilometers (500 miles) southeast of Seattle.

(b) *Population:* Helena—22,730;[2] Lewis and Clark County—33,281.

(c) *Local Aural Service:* FM Station KBLL-FM, 221A; FM Station KCAP, 276A; Fulltime AM Station KBLL, 1240 kHz; Fulltime AM Station KCAP, 1340 kHz; Fulltime AM Station KMTZ, 950 kHz.

3. *Preclusion Considerations:* The assignment of Channel 266 to Helena, Montana, will cause preclusion to twenty-seven communities with populations greater than 1,000.[3]

4. In this case, the assignment of a Class C channel to Helena will create an intermixture with a Class A channel. However, data provided by the petitioner shows that a substantial first and second FM service would be provided. Petitioner states that the assignment of Channel 266 to Helena will provide a first FM service to approximately 3,859 square kilometers (2,412 square miles) for approximately 5,500 persons. No second FM service nor aural service figures were provided,

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[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Of these twenty-seven communities, thirteen have no FM assignments. The thirteen communities with their population and preclusions are: *Montana:* White Sulphur Springs (1,200)—263, 264, 265A, 266, 267, 268, 269A; East Helena (1,651)—263, 264, 265A, 266, 267, 268, 209A; Deer Lodge (4,306)—263, 265A, 266, 267, 268, 269A; Boulder (1,342)—263, 264, 265A, 266, 267, 268, 209A; Townsend (1,371)—263, 264, 265A, 266, 267, 268, 269A; Three Forks (1,188)—263, 264, 265A, 266, 267, 268, 269A; Walkerville (1,097)—263, 264, 265A, 266, 267, 268, 209A; Whitehall (1,035)—263, 264, 265A, 266, 267, 268, 269A; Philipsburg (1,128)—265A, 266, 267, 268, 269A; Choteau (1,586)—265A, 267; Conrad (2,770)—267; Big Timer (1,592)—266; Fort Benton (1,863)—266, 267.

Deer Lodge has an AM Station (KDRG).

although review of the data indicates that a substantial number of persons would receive a second FM service under this proposal.

5. Although petitioner has failed to state it wishes to have its license modified to specify the Class C channel or to apply for the channel, if assigned, we have treated this request as one for modification. The proposal has merit in that substantial first FM service would be provided. In addition, it has been the Commission's policy to avoid intermixture in such cases by also upgrading the other existing Class A station. In doing so, substantial second FM service to the present unserved areas would be provided. A search was conducted for another Class C channel available to Helena. The study indicated that Class C Channels 258, 259, 281, and 283 could be assigned to Helena. Therefore, we shall propose to modify the existing Class A Station KBLL–FM by issuing an *Order to Show Cause* to the licensee, Holter Broadcasting Corp. Station KBLL–FM will be entitled to reimbursement from KCAP Broadcasters (if modified as proposed herein) for the reasonable expenses connected with the change of frequency only. The upgrading of facilities to Class C minimum power and height is not reimbursable. See *Mitchell, South Dakota,* 63 F.C.C. 2d 70 (1976). Finally, should another interest in a Class C channel be expressed in comments, it may not be possible to permit the modification of either of the Class A licensees to specify Class C channels as proposed herein unless a third Class C channel assignment can be justified. See *Cheyenne, Wyoming,* 63 F.C.C. 2d 62 (1976); *Ogallala, Nebraska,* 45 Fed. Reg. 52845 (published August 8, 1980). We have not issued a separate Order to Show Cause for Station KCAP since we imply consent to the modification by virtue of its request.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS PROPOSED to amend Section 73.202(b), the FM Table of Assignments, for the community listed below as follows:

City	Channel No.	
	Present	Proposed
Helena, Montana	221A, 276A	258, 266

7. It is ordered, That, pursuant to Section 316(a) of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it has a license, Station KBLL–FM shall show cause why its license should not be modified to specify operation on Channel 258 as proposed herein instead of the present Channel 221A.

8. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensee of Station KBLL–FM, Helena, Mont., may not later than October 17, 1980, request that a hearing be held on the proposed modification. Pursuant to Section 1.87(f), if the right to request a hearing is waived, KBLL–FM may, not later than October 17, 1980, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause.* In this case, the Commission may call on KBLL–FM to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the *Order to Show Cause.* If the right to request a hearing is waived and no written statement is filed by the date referred to above, KBLL–FM will be deemed to consent to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commisison, if the channel changes mentioned above are found to be in the public interest.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Since Helena, Montana is located within 402 kilometers (250) miles of the United States-Canada border, the proposed assignment requires coordination with the Canadian Government.

11. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

12. It is further ordered, That the Secretary of the Commission shall send a copy of this *Notice* by certified mail return receipt requested to Holter Broadcasting Corporation, 2301 Colonial Drive, Helena, Montana 59601, the licensee affected in this proceeding.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments

to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27059 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-525; RM-3554]

FM Broadcast Station in Orem, Utah; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the substitution of Channel 298 for Channel 296A at Orem, Utah, and modification of the license of the station currently operating on Channel 296A to specify operation on Channel 298. This proposal is made in response to a petition filed by Morris J. Jones, licensee of Station KABE(FM). The Class C channel could provide for coverage to surrounding areas and populations.

DATE: Comments must be filed on or before October 21, 1980 and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202): 632-7792.

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80-525; RM-3554]

Adopted: August 18, 1980.

Released: September 2, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Orem, Utah).

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Morris Jones ("petitioner"), licensee of Station KABE(FM) (Channel 296A), Orem, Utah, proposing the replacement of Channel 296A with Class C FM Channel 298 at Orem, Utah, and modification of its license (for Channel 296A) to specify Channel 298. No responses to the proposal have been filed.

(b) The proposed channel can be assigned to Orem in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Orem, in Utah County, is located approximately 56 kilometers (35 miles) south of Salt Lake City.

(b) *Population: Orem—25,729* [2]; Utah County—137,776.

(c) *Local Aural Broadcast Service:* Orem is served locally by FM Station KABE (Channel 296A).

3. *Economic Considerations:* Petitioner claims that Orem's present estimated population is 52,000 as compared to 25,729 in 1970. It assert that a combination of factors contributed to this population growth, such as operation and expansion of Geneva Steel Mills, several light industrial manufacturing facilities, commercial expansion, and the increasing popularity of Utah Valley as a place of residence.

4. Petitioner states that its station (KABE(FM)) has difficulty in serving Orem due to low signal strength and multipath interference, apparently due to reflection of the signal off the nearby mountains to the east.

Petitioner claims that these factors, in addition to the unavailability of nearby transmitter sites on the mountains to the east, provide the basis for requesting a Class C facility. It asserts that with this increase in facilities better service would be provided to the outlying areas to the north and northwest of Orem and northern Utah County. Petitioner has submitted letters from residents and businessmen in these areas who have expressed their support for the assignment of a Class C channel to Orem.

5. *Preclusion Study:* Assuming that Channel 296A would be deleted from Orem and the proposed transmitter site for the proposed Channel 298 is located in the center of the city, preclusion would be caused on Channel 295 through 300 in all or part of the following *counties:*

Colorado—Moffat, Rio Blanco, Garfield, Mesa

Idaho—Casia, Power, Bannock, Caribou, Bear Lake, Oneida, Franklin

Nevada—Elko, White Pine, Lincoln

Utah—Tooele, Summit, Salt Lake, Duchesne, Wastatch, Utah, Juab, Sanpete, Carbon, Morgan, Uintah, Millard, Beaver, Piute, Wayne, Sevier, Emery, Grand, Daggett, Davis, Weber

Wyoming—Uinta, Sweetwater, Sublette, Lincoln

It should be noted that the pending proposed assignments to Clearfield and Roy, Utah (RM-3617) have not been taken into consideration in this study. Clearfield is 93 kilometers (58 miles) from Orem and the minimum separation requirement is at least 104 kilometers (65 miles) for second adjacent Class C operation. Therefore, depending on the outcome of the Clearfield-Roy proposal, a site restriction will be necessary for one or both of these proposals.

6. In the event an additional interest were expressed in the Class C channel here proposed, petitioner's license could not be modified to specify operation on Channel 298. According to Commission policy, as set forth in *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976), other parties must be afforded an opportunity to state their interest in applying for a newly assigned Class C channel. Only in the absence of such interest could petitioner's license be modified. Since no person has yet expressed an interest in the proposed assignment of Channel 298 at Orem, we are proposing to modify the license of Station KABE(FM). However, should petitioner desire to withdraw its request in the face of a competing interest, we would be amenable to permit termination of this proceeding. See *Statesboro, Ga.,* RM-2566, Mimeo No. 82040, *Memorandum Opinion and Order,* released May 17, 1977, 40 R.R. 2d 1021.

7. An *Order to Show Cause,* requested by the petitioner, is not necessary since consent to a modification of its license is indicated by its request for a Class C channel.

8. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as to the named community, as follows:

City	Channel No.	
	Present	Proposed
Orem, Utah	296A	298

9. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirments are contained in the attached Appendix and are incorporated by reference herein.

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[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

10. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-27060 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-524; RM-3400; RM-3516]

TV Broadcast Stations in Sanger, Clovis, Visalia, and Fresno, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action here sets forth four options for changes in the TV Table of Assignments in the Fresno, California, area in response to petitions filed by Golden-Door Properties and Sanger Telecasters. The communities potentially affected include Fresno, Clovis, Visalia and Sanger, California.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

FOR FURTHER INFORMATION CONTACT: John Kamp, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Sanger, Clovis, Visalia, and Fresno, California).

Adopted: August 15, 1980.

Released: September 5, 1980.

By the Chief, Policy and Rules Division:

Petitions, Comments, and Replies

1. The Commission has before it two petitions for changes in the Table of Assignments related to UHF television for communities within 15 miles of Fresno, California, which are considered together here because of the cities' proximity to one another and to Fresno.

2. Golden-Door Properties, Ltd. ("Golden-Door") requested [1] the deletion of Channel *43 from Visalia, California, and its reassignment as a commercial channel to Clovis, California, as a first TV assignment to Clovis. Golden-Door also suggested Channel *49 as a replacement for Channel *43 at Visalia. Comments in opposition were filed by Pappas Telecasting Incorporated ("Pappas") and Tulare County Board of Education ("Board of Education"). Golden-Door filed a reply to the comments in opposition and reaffirmed its intention to apply for Channel 43 if that channel is assigned to Clovis.

3. Sanger Telecasters ("Sanger") petitioned [2] for the assignment of Channel 59 to Sanger, California, as the first TV assignment to that community. Pappas also filed a comment in opposition to the Sanger petition. Sanger filed a reply and reaffirmed its commitment to apply for Channel 59 if that channel is assigned to Sanger.

Community Data

4. *Clovis:* The city of Clovis is located approximately 320 kilometers (200 miles) north of Los Angeles and 265 kilometers (165 miles) southeast of San Francisco. It is situated in the center of the San Joaquin Valley region, 16 kilometers (10 miles) northeast of Fresno. The population of Clovis according to the 1970 U.S. Census was 13,856. Petitioner Golden-Door relies on State Department

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[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Public Notice of the petition was given on July 11, 1979, Report No. 1183.

of Finance data to support a 1978 population estimate of 27,523. There is no local television broadcast service in Clovis.

5. *Fresno:* Fresno (pop. 165,972) is in Fresno County (pop. 413,329).[3] Demographic data submitted by petitioner Sanger include a county population estimate of 463,700 in 1977. Five television stations are currently licensed to Fresno: Channel *18, KMTF; Channel 24, KMJ–TV; Channel 30, KFSN–TV; Channel 47, KJEO; Channel 53, KAIL. According to Pappas, two additional stations not licensed to Fresno identify themselves as part of the Fresno market: Channel 21, KFTV, licensed to Hanford; and Channel 26, KMPH, Licensed to Visalia (allocated to Tulare).

6. *Sanger, California:* The city of Sanger is situated in the center of the San Joaquin Valley, 21 kilometers (13 miles) east of the city of Fresno. The population of Sanger was 10,088, and petitioner Sanger relies on the Sanger District Chamber of Commerce to support a 1977 population estimate of 10,800. There is no local television service in Sanger.

7. *Clovis Petition:* Channel 43 can be assigned to Clovis in compliance with the minimum distance separation requirements, provided Channel *43 is deleted from Visalia, Calif. Alternately, the Commission's staff has determined that Channel 69 could be assigned to Clovis. Golden-Door has requested the assignment of Channel 43 to Clovis, rather than some other available channel, because it has a share in the ownership of an antenna previously used at Visalia on Channel 43. Golden-Door contends that this part-ownership would facilitate its commencement of service to Clovis.

8. The Board of Education objected to the Golden-Door petition. As the Government entity responsible for public education in Tulare County, California, the Board of Education initiated the rule making proceeding (Docket 20625) which led to the reservation of Channel *43 to Visalia, Calif., for noncommercial educational use. Although the Board of Education admitted considerable delay in its effort to establish a station at Visalia, it reported a continuing effort to create a consortium of county schools to establish the station there, and that one potential member of the consortium is completing a facility for a television studio at Visalia. The Board of Education contended that a change in the assignment at Visalia would further delay its progress, and asked why other available channels could not be assigned to Clovis. Further, it questioned the "share of ownership" and potential usefulness of the old Channel 43 antenna by Golden-Door. In its reply, Golden-Door alleged that the Board of Education took no concrete steps toward establishing a station for the two and one-half years subsequent to the reservation of Channel *43 at Visalia. Further, Golden-Door questioned the Board of Education's suggestion that a different channel assignment at Visalia would further delay the school system's attempt to establish a channel there.

9. Pappas objected to the Clovis assignment based mainly on its contention that Golden-Door intends to become a Fresno station in competition with the six stations listed in paragraph 5 above, including Station KMPH licensed to Pappas at Visalia. Golden-Door replied that it intends to provide local programming for Clovis, and in any case, that competitive considerations are not appropriately entertained in a rule making procedure for change in allocation.

10. *Sanger Petition:* Channel 59 can be assigned to Sanger in compliance with minimum distance separation requirements, and with no site restrictions. Pappas objected to the Sanger petition on essentially the same grounds as it objected to the Golden-Door petition outlined above in paragraph 9. Petitioner Sanger replied that if Channel 59 is assigned to the city of Sanger, and petitioner Sanger's application is granted, it will provide local programming for the city of Sanger.

Comments

11. Pappas in opposition to both petitions considered here cited *Waukegan, Illinois,* 15 R.R. 2d 1509 (1969) wherein a petition for rule making was denied because no assurance was offered that the channel would be activated or, if activated, that it would provide a local service to Waukegan rather than provide another television service to the Chicago market. Here petitioners asserted their intentions to provide local service, but did not directly address the issue of their anticipated service to and economic dependence upon the nearby Fresno market. Although the Commission does not find this failure sufficient to deny institution of rule making here, it considers the issues important enough to require further support.[4] Thus, petitioners Golden-Door and Sanger are invited to further explain their expectations and intentions concerning service to and economic dependence upon the greater Fresno market. Additional information would also be helpful on the extent to which the cities of Clovis and Sanger are effectively served by existing Fresno stations.[5]

12. In this regard, it should be noted that both Channels 43 and 59 can be assigned to Fresno and used at Clovis and Sanger, respectively, under the Commission's 15-mile rule. Section 73.607(b).[6]

13. Regarding the petition by Golden-Door, the Commission desires further information from both Golden-Door and the Board of Education concerning the merits of assigning Channel 43 at Clovis rather than Channel 69. Although both Golden-Door and the Board of Education contend that Channel 43 would better serve their respective needs and thus the public interest, more complete information from both parties could well facilitate the Commission's decision on the matter. Specifically, the Commission seeks a verification of the ownership for the equipment tuned to Channel 43 and its current condition. Further, since the Board of Education stated that it no longer has equipment for Channel 43, the Commission desires further information on how a channel reassignment might further delay its establishment of a station.

14. Much of the opposition by Pappas to both the Golden-Door and Sanger petitions concerned possible increased economic competition in the Fresno television market. Although the Commission theoretically has an interest in such competition when it would adversely affect overall service to the public in the area, the matter becomes relevant not in the allocation stage but rather after an application has been filed for an allocated channel.[7]

15. Accordingly, the Commission presents the following alternatives for amending Section 73.606(b) of the Commission's Rules, the Television Table of Assignments. Note that if either alternative III or IV is adopted, interested parties may apply for a newly assigned channel for use at either at Clovis or Sanger under the "15-mile" rule (Section 73.607(b)).

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[3] All population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[4] See also: *Upper Marlboro, Maryland,* 10 F.C.C. 2d 578 (1967); *Oklahoma City, Oklahoma,* Docket 79–136, 44 Fed. Reg. 67664, published November 27, 1979.

[5] See: *Denton, Texas,* 10 F.C.C. 2d 532 (1967), 11 R.R. 2d 1630.

[6] See: *Orange Park, Florida, Report and Order,* BC Docket No. 79–90.

[7] See: *Carroll Broadcasting Company* v. *Federal Communications Commission,* 258 F. 2d 440 (1958).

City	Channel No	
	Present	Proposed
Option I		
Clovis, Calif.		43
Visalia, Calif.	*43	*49
Sanger, Calif.		59
Option II		
Clovis, Calif.		69
Sanger, Calif.		59
Option III		
Fresno, Calif.	*18+, 24, 30+, 47, 53	*18+, 24, 30+, 43, 47, 53, 59
Visalia, Calif.	*43	*49
Option IV		
Fresno, Calif.	*18+, 24, 30+, 47, 53	*18+, 24, 38+, 47, 53, 59, 69

16. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

17. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

18. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27058 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-520; RM-3358]

FM Broadcast Stations in Aguada, Arecibo, Cidras, Lajas, Manati, Mayaguez, Quebradillas and Utuado, P.R.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Pursuant to a petition for rulemaking filed by Aurio Matos, Arzuaga and Davila Associates, Radio Musical, Inc., and Enrique Leon, the Commission proposes to substitute Class B Channels 281, 248 and 245 for the Class A channels at Aguada, Cidra and Quebradillas, Puerto Rico. To accommodate these changes, the Commission also proposes to modify the licenses of existing Stations WNIK-FM at Arecibo, WMLD at Manati, WIOA at Mayaguez, and WERR at Utuado, Puerto Rico. Channel 249A would be assigned to Lajas, Puerto Rico.

DATES: Comments must be filed on or before October 17 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas and Utuado, Puerto Rico), BC Docket No. 80-520, RM-3358.*

Adopted: August 15, 1980

Released: September 5, 1980.

1. Before the commission is a petition for rule making filed by Aurio Matos, licensee of FM Station WRFE, Aguada, Puerto Rico; Arzuaga and Davila Associates, licensee of FM Station WREI, Quebradillas, Puerto Rico; Radio Musical, Inc., licensee of FM Station WBRQ, Cidra, Puerto Rico; and Enrique Leon (collectively referred to hereafter as "petitioners").[1] Briefly stated, it is the wish of the existing licensees to change their present Class A channels to Class B assignments, creating in the process a

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[1] Public Notice was given on April 16, 1979, Report No. 1172.

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new Class A assignment (Channel 249A) at Lajas, Puerto Rico, for which petitioner Enrique Leon proposes to apply. Petitioners desire the following assignments:

Channel 281 for Aguada (replaces 288A)
Channel 248 for Cidra (replaces 249A)
Channel 245 for Quebradillas (replaces 252A)

To accommodate these new assignments petitioners propose substitution of channels for four existing Puerto Rican FM stations:

Channel 251 for Channel 293 at Arecibo (Station WNIK-FM)
Channel 293 for Channel 245 at Manati (Station WMLD)
Channel 291 for Channel 248 at Mayaguez (Station WIOA)
Channel 279 for Channel 281 at Utuado (Station WERR)[2]

Petitioners have agreed to reimburse all affected stations for the costs of these changes.[3]

2. Oppositions have been filed by the four affected stations, namely, Arecibo Radio Corporation, Inc., licensee of Station WNIK-FM, Arecibo;[4] Arecibo Broadcasting Corporation, licensee of Station WMLD, Manati; Radio Americas Corporation, licensee of Station WIOA, Mayaguez; and Radio Redentor, Inc., licensee of Station WERR, Utuado.[5] In addition, Guayama Broadcasting Company, Inc., licensee of Stations WXRF and WXRF-FM, Guayama, has opposed the petition as conflicting with proposed improvements in its facilities.

3. Opponents argue that petitioners would severely disrupt existing service solely to further their own private ends. Although an adequate public interest basis for the proposals has not been fully established, particularly where so major a reshuffling of operating facilities is contemplated,[6] further discussion (rather than the outright dismissal urged by opponents) seems appropriate in order to afford adequate opportunity to ascertain the public interest factors. Additional information might be added to this record which are sufficient to warrant pursuing the petitioners' request.

4. *Technical Inadequacy.* As petitioners have shown no inability to cover their communities of license or to comply otherwise with our technical requirements, the grounds for their complaints of inadequate signals are unclear. Reference is made by petitioners to their stations' inability to cover their "municipios." If these local governmental units are comparable to mainland counties, as appears to be the case, petitioners are neither obligated nor entitled to serve them. If, on the other hand, "municipios" are more properly considered communities for licensing purposes, petitioners' coverage concerns would have merit. In any event, whatever the status of the "municipio," petitioners should consider whether improved operating facilities or other measures would produce their desired results.

5. *Increased Coverage.* Given the large number of aural services presently licensed in Puerto Rico, we will assume that petitoners propose no first or second FM or aural service. This assumption is, of course, rebuttable.[7]

6. *Competitive Equality.* Petitioners sought or acquired their Class A stations with full knowledge that Puerto Rico's FM assignments are primarily Class B operations.[8] To now raise general complaints as to the unfairness of this allocation scheme is inappropriate. A demonstration that wider coverage stations would further some public interest goals could warrant further consideration, however.

7. *Preclusion.* Petitioners incorrectly omit preclusion studies. While some of their requested channels are presently assigned to existing communities, substitute channels proposed for Arecibo, Mayaguez and Utuado are new assignments for which preclusion studies are necessary.

8. *Programming Confusion.* Radio Redentor, licensee of Station WERR at Utuado, expresses concern at the proposed use of it frequency by Station WRFE, Aguada. Both stations have essentially religious formats, it states, the primary difference being that Station WERR is run by a nonprofit organization while Station WRFE is a commercial operation. We agree that the use of Radio Redentor's existing frequency by a station with the same format may cause confusion, and initially perhaps, loss of audience and support for Station WERR. That the public will suffer, though, *i.e.* that the station will be unable utimately to retain its identity and sustain its operation, is a proposition that we cannot simply assume to be valid. More than an allegation to this effect is called for.

9. *The Lajas Proposal.* Lajas is located in the southern corner of Puerto Rico, approximately 112 kilometers (70 miles) from San Juan. Its population of 3,391 (1970 U.S. Census) represents a 271 percent increase over the 1960 figure, we are told. There are presently no local aural services in the city.

10. *Other Considerations.* In addition to the petition for rule making, we have before us a request for clarification of our *Cheyenne* policy as it applies to this proceeding.[9] We held in *Cheyenne, Wyoming,* 62 F.C.C. 2d 53, 38 R.R. 2d 1665 (1976), that where a licensee operating on a Class A channel seeks a Class B (or C) assignment for its community, we will not modify its license to specify the Class B (or C) channel if any other person expresses a desire to apply for the newly assigned frequency. In *Statesboro, Georgia,* Mimeo No. 82040, 40 R.R. 2d 1021 (1977), we permitted withdrawal of the petition for rule making when interest in the new frequency was actually shown. There is, as petitioners maintain, language in both cases to the effect that modification will be permitted where the Class A channel is deleted for "technical reasons." An exception to the *Cheyenne* policy for "technical reasons" was intended to protect licensees whose assignments are modified not at their request but instead to further general allocation policies of the Commission. Although as petitioners' argue, there are technical reasons to delete the Class A channels here, the *Statesboro* case nevertheless represents the Commission's policy as to how a case of this type is presently being handled. Thus, in cases where an existing licensee seeks to upgrade its facilities, the mere fact that engineering or other "technical" considerations play a role in the request does not make the *Cheyenne* policy inapplicable. To hold otherwise would in our view create so many exemptions—Technical considerations being so frequently a factor in FM allocation cases—as to make the policy meaningless.

11. As for the specific situation here, having sought the Class B assignments themselves, petitioners are not entitled to modification as a matter of right.

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[2] A Channel 281 assignment at Aguada would require a transmitter site approximately 8.5 kilometers (5.3 miles) west of the community. Channel 249A at Lajas would require a site 6.4 kilometers (4 miles) southwest of the city. The Cidra and Quebradillas licensees also propose new transmitter sites although changes are not necessary to meet spacing requirements.

[3] As the proposed changes are mutually dependent, they will be treated as a unit rather than independently.

[4] Good cause has been shown for the slight delay in filing this opposition and it will be accepted.

[5] The populations of the affected communities are as follows: Aguada—4,590; Arecibo—35,484; Cidra—6,306; Lajas—3,391; Manati—13,483; Mayaguez—68,872; Quebradillas—2,840, Utuado—11,573. (All figures from the 1970 U.S. Census.)

[6] Petitioners' private interest in increased service areas is obvious and requires no discussion here.

[7] One of opponents' major criticisms is that only petitioners will benefit from the large service areas, *i.e.,* that the public has no recognizable interest in additional aural services.

[8] The island has thirty-one Class B assignments and five Class A assignments.

[9] Petitioners' request for declaratory ruling on this matter was dismissed earlier on the grounds that the issue was mor appropriately addressed in the context of a *Notice of Proposed Rule Making.* In light of our discussion here, the petition for reconsideration of this dismissal is now moot.

Rather, we will invite expessions of interest in the requested frequencies before making such commitments. We do not wish to discourage petitioners and others like them from seeking improved facilities, however, a result which would be inevitable if petitioners had to risk deletion of their Class A facilities without assurance of new Class B assignments. For just this reason, the applicant in *Statesboro* was permitted to withdraw its petition when interest was expressed. We will permit withdrawal here as well, should similar circumstances develop.

12. An *Order to Show Cause* to each of the petitioners is not necessary since consent to the modification of their licenses is indicated by their request for Class B assignments.

13. In view of the foregoing, we find it in the public interest to explore the following revisions in the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it pertains to the following cities:

City	Channel No.	
	Present	Proposed
Aguada, Puerto Rico	288A	281
Arecibo, Puerto Rico	293, 297	251, 297
Cayey, Puerto Rico [10]	249A	
Cidra, Puerto Rico		248
Lajas, Puerto Rico		249A
Mayaguez, Puerto Rico	231, 248, 256	231, 256, 291
Quebradillas, Puerto Rico	252A	245
Utuado, Puerto Rico	281	279
Manati, Puerto Rico	245	293

[10] Channel 249A is assigned to Cayey but used at Cidra under the Commission's 10-mile rule (§ 73.203(b)).

14. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Arecibo Radio Corp., Inc., licensee of Station WNIK-FM, Arecibo, Puerto Rico, shall show cause why its license for Station WNIK-FM should not be modified to specify operation on Channel 251 in lieu of its present assignment.

15. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Arecibo Broadasting Corp., licensee of Station WMLD, Manati, Puerto Rico, shall show cause why its license for Station WMLD should not be modified to specify operation on Channel 293 in lieu of its present assignment.

16. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Americas Corp., licensee of Station WIOA, Mayaguez, Puerto Rico, shall show cause why its license for Station WIOA should not be modified to specify operation on Channel 291 in lieu of its present assignment.

17. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Redentor, Inc., licensee of Station WERR, Utuado, Puerto Rico, shall show cause why its license for Station WERR should not be modified to specify operation on Channel 279 in lieu of its present assignment.

18. Pursuant to § 1.87 of the Commission's rules and regulations, the licensees of Stations WNIK-FM, WMLD, WIOA and WERR may, not later than 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Aricibo Radio Corp., Arecibo Broadcasting Corp., Radio Americas Corp. and Radio Redentor, Inc. may, not later than October 17, 1980, file a written statement showing with particularity why its licenses should not be modified, or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on the above licensees to furnish additional information, designate the matter for hearing, or issue without further proceeding and Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, the above licensees are deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes referred to in paragraph 12 above are found to be in the public interest.

19. Authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

20. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

21. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

22. It is further ordered, that the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to Arecibo Radio Corp., Inc., P.O. Box 1075, Arecibo, Puerto Rico 00612; Arecibo Broadcasting Corp., Betances & Quinones Sts., Manati, Puerto Rico 00701; Radio Americas Corp., P.O. Box 43, Mayaguez, Puerto Rico 00708; and Radio Redentor, Inc., 5 miles north of La Plata, Utuado, Puerto Rico 00612, the parties to whom the *Orders to Show Cause* are directed.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-520 RM-3358]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial

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comments herein. If they are fired later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27085 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-176; Notice No. 80-7]

Specification and Usage Requirements for New DOT 3AL Seamless, Aluminum Cylinders

Correction

In FR Doc. 80-24646 appearing on page 54097 in the issue of Thursday, August 14, 1980, make the following corrections:

(1) On page 54101, in the table for § 173.304(a)(2), in the first column, the second and third entries now reading:

Carbon dioxide, liquefied (See Notes 4, 7, and *) ....
Carbon dioxide-nitrous oxide mixture (See Notes 7 and *) ....

should have read:

Carbon dioxide, liquefied (See Notes 4, 7, and 8) ....
Carbon dioxide-nitrous oxide mixture (See Notes 7 and 8) ....

(2) In the same table, the entry for monochlorodifluoromethane, "* * * DOT-4B24 ET; * * *" should have read "* * * DOT-4B240 ET; * * *".

(3) On page 54105, in § 178.46-7(b), in the formula, "$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2-d^2]$" should have read "$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2]$".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte No. 282 (Sub.-5)]

Rulemaking Concerning Traffic Protective Conditions in Railroad Consolidation Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to comment on notice of proposed rulemaking. Corrected Notice.

SUMMARY: A Notice of Proposed Rulemaking in this proceeding was published at 45 FR 46461 (July 10, 1980). The notice proposed a rule to treat the imposition of traffic protective conditions in future railroad consolidation proceedings, and to interpret existing traffic protective conditions imposed in past railroad consolidation proceedings. Comments were required to be filed in 60 days.

In response to a petition for extension by the Commission's Office of Special Counsel, a decision was entered extending the comment period 30 days to October 8, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both. From this information a service list shall be prepared and distributed. General comments must be served to all parties on the service list. Comments concerning the retention of the "DT&I conditions" in a specific proceeding need only be served on the applicants in that proceeding. Replies may be permitted at a later date.

In the **Federal Register** of August 26, 1980, 45 FR 56849, it was incorrectly stated that the comment period is extended to October 30, 1980. The comment period is extended only to October 8, 1980. Also, the person to contact for further information is Ellen D. Hanson.

DATES: The comment period is extended to October 8, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27105 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 601

Regional Fishery Mangement Councils; Intercouncil Boundaries

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of proposed rulemaking and reguest for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing regulations to change the boundary between the South Atlantic and Gulf of Mexico Fishery Management Councils. The boundary would be redrawn according to geographic factors only, so that each Council's area of mangement authority corresponds with the locations of the Atlantic Ocean or the Gulf of Mexico.

The Assistant Administrator for Fisheries proposes that the boundary between the Gulf of Mexico and the South Atlantic Fishery Management Councils be redrawn along the line adopted by the U.S. Supreme Court for purposes of the Submerged Lands Act.

DATE: Comments must be received by October 6, 1980.

ADDRESS: Comments should be sent to: Mr. Terry L. Leitzel, Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harold Allen, Acting Regional Director, National Marine Fisheries Service, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893-3141 or FTS 826-3141.

SUPPLEMENTARY INFORMATION: On January 8, 1977, NOAA published interim regulations (50 CFR 601.12(c)(1) and (2)) establishing the inter-Council boundary between the Gulf and South

Atlantic Fishery Management Councils as an eastward extension of the line separating Dade and Monroe Counties in Florida. On April 20, 1979, the interim regulations were republished without change as final regulations (44 FR 23520).

The Assistant Administraotr for Fisheries made his determination on the basis of a NOAA General Council legal opinion that the Fishery Conservation and Management Act of 1976 authorized him to consider fishery management factors as well as geography in establishing a boundary. After publication of the final regulations, NOAA asked the Office of Legal Counsel (OLC) in the Department of Justice to review this opinion. The Department of Justice concluded that "boundaries between Regional Fishery Management Councils are to be established solely on the basis of geographic factors."

Based on the Department of Justice opinion and on the U.S. Supreme Court's 1975 ruling in the case of *United States* v. *Floida* that the Straits of Florida are in the Atlantic Ocean, the Assistant Administrator for Fisheries has determined that the boundary line between the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council should be changed. He proposed to adopt the line established in the case of *United States* v. *Florida*, 420 U.S. 531 (1975). Generally, the line runs from the Florida mainland down the middle of the keys to the Dry Torgugas, then south to the outer boundary of the fishery conservation zone.

Note.—The Assistant Administrator finds that this proposed regulation is an agency management procedure that does not require action under Executive Order 12044 or the National Environmental Policy Act.

Signed at Washington, D.C., this 28th day of August 1980.

Robert K. Crowell,

Deputy Executive Director National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

Sections 601.12(c) is proposed to be amended by striking the paragraph and substituting the following:

§ 601.12 Intercouncil boundaries.

* * * * *

(c) *South Atlantic and Gulf of Mexico Fishery Management Councils*—(1) *Description.* The boundary begins at the intersection of the outer boundary of the FCZ and the 83° W. longitude, proceeds north to 24° 35′N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida keys to the mainland.

(2) *Method of Determination.* The boundary adopts the line determined in *United States* v. *Florida* to separate the Atlantic Ocean from the Gulf of Mexico.

[FR Doc. 80-27108 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Classification, Management, and Development Plan, Boundaries for Northern Fork American Wild and Scenic River

Pursuant to the authority delegated to the Chief, Forest Service by the Secretary of Agriculture in 7 CFR 2.60, the classification, management and development plan, and boundaries for the North Fork American Wild and Scenic River are established as hereinafter set forth. The material which follows is contained within the full text of the management plan and the North Fork American Wild and Scenic River Study Report and Draft Environmental Statement which was submitted to the Environmental Protection Agency on March 14, 1978. Copies were furnished the President of the Senate and the Speaker of the House of Representatives on March 14, 1979, in accordance with the subsection 3(b) of the Wild and Scenic Rivers Act (82 Stat. 908).

Therefore, the summary of the Management and Development Plan, and the boundaries for the North Fork American Wild and Scenic River are as follows:

Dated: August 25, 1980.

Douglas R. Leisz,
Associate Chief.

Management and Development Plan Summary

Management

Section 10(a) of the Act states:

> Each component of the National Wild and Scenic Rivers System shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeologic and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the Area.

The North Fork American River designated as a wild river will be managed to give primary emphasis to protecting the river values which make it outstandingly remarkable. In particular to:

Maintain and protect the free-flowing nature of the river, preserve the natural beauty, historic and archaeological values for this and future generations, and enhance the recreational and ecological values and to provide for the public enjoyment of the area.

Under these principles, the following is a summary of the guidelines which have been established to provide direction for management and administration of the North Fork American River and its adjoining lands (River Management Zone):

The wild river is to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President.

Management of private land within the River Management Zone will be compatible with the wild classification. Scenic easements, trail right-of-ways and right of public to traverse the river shoreline will be acquired from private landowners. Condemnation procedures will be used where necessary.

Recreation facilities or other development will be limited to those necessary to protect the wild river while recreation uses and activities will be directed toward maintaining natural values.

Grazing will be limiting to recreational and pack stock.

Cutting of trees will not be permitted except when needed to protect public health and safety, control of fire, implementation of disease prevention and control and other needs in association with primitive recreation experiences.

Protection of water quality will take precedence when there is a conflict between water quality and other uses, resources, and activities.

Fish and wildlife habitat will be managed in a manner compatible with the wild river environment.

Mineral activities on valid claims existing prior to January 3, 1975, will be monitored to ensure operations are compatible with the objectives of wild river management.

Motorized land and water vehicles and suction dredges will be prohibited within the River Management Zone. Trail bridges will be allowed where needed.

Preference will be given to fire suppression methods which least alter the landscape.

Existing uses on Federal land which are not compatible with management objectives will be terminated as soon as possible.

Development

A modest recreational development program has been prepared which is directed at protecting and preserving the wild river environment while still providing a minimum amount of development. The river will be managed to provide for dispersed type recreation in which outdoor skills are required and solitude prevails.

Camping, trailhead parking and related facilities are planned at the Gold Run Addition area. A picnic (day use) area in the Colfax-Iowa Hill Bridge area will be coordinated with the California State Parks and Recreation Department's Auburn Reservoir Development proposal. Primitive sanitation facilities will be inconspicuously located at selected sites.

Existing trail access is considered to be sufficient except in the general vicinities of Palisades Creek, Pickering Bar-Canyon Creek and Robbers Bar where additional trail access is planned. Trail improvement and right-of-way needs have been inventoried. Trailhead facilities are proposed near the canyon rim, outside the River Management Zone on selected trails.

Development of two scenic overlooks at Lovers Leap and Big Valley Bluff are planned. These will provide those persons who would not otherwise be able, because of age, handicap, etc., with an opportunity to enjoy the natural beauty of the river canyon.

An interpretative program may be developed to provide opportunities for the public to gain an understanding of prior activities of a historic and archaeological nature.

Introduction

Pub. L. 95–625, November 10, 1978, amended Pub. L. 90–542, October 2, 1968, "The Wild and Scenic Rivers Act" hereinafter referred to as "The Act", designating the North Fork American River as a part of the National Wild and Scenic Rivers System.

The portion of the North Fork American River designated as a component of the National Wild and Scenic Rivers System extends from a point 0.3 miles above Heath Springs at the north-south section line between Sections 15 and 16, T.16 N., R.14 E., Mt. Diablo Meridian (M.D.M) downstream to a point approximately 1000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, a total distance of 38.3 miles.

The Forest Service and Bureau of Land Management presently share in the responsibility for administering the North Fork American Wild and Scenic River System. The State of California retains management responsibility for its lands (123 acres) within the designated river boundary; management of these lands will be coordinated through a Memorandum of Agreement. The administration of the North Fork American Wild and Scenic River is to be as agreed upon by the Secretaries of the Department of the Interior and Agriculture or as directedf by the President.

Classification of the river in the "Wild" class as designated in the Act is presented together with supporting management objectives and directives and development plans.

Boundary Description

The principal consideration for determination of the proposed boundary is the area seen from the river. Other considerations, such as special features, location of property lines, potential problem areas, and location of trails also influenced the location. The rationale for establishing a boundary varied depending on: (1) The presence or absence of private land, (2) topography, and (3) location of trail along river.

The lands within the river canyon have been surveyed by General Land Office; therefore, the proposed boundary is located on legal subdivisions or private land lines, with few exceptions. To minimize boundary irregularities, land units of 40 acres were usually considered. Except in cases of mineral surveys, the smallest land units considered were approximately 20 acres. Where private land was involved the proposed boundary was located so it could be surveyed if necessary; random lines were not used.

With the system described, not all of the land seen from this river is included within the boundary; conversely, some land not seen is included. The system led to the establishment of a proposed boundary which: (1) Includes land with the greatest potential for adversely affecting the character of the river, (2) averages less than 320 acres per river mile, (3) can be defined, and (4) is reasonable to survey where private land is involved.

Information concerning the North Fork American River may be obtained by writing or visiting the Office of the Forest Supervisor, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, CA 95959.

Classification

The North Fork American River is one of three forks which make up the American River System. The headwaters of all originate just west of the Sierra Nevada Crest. These rivers are a major tributary to the Sacramento River System. The total drainage area of the designated component is about 241 square miles. All of the designated area is located in Placer County, State of California.

Wild Segment

Class Definition. A wild river area is free of impoundments and generally inaccessible, except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. It represents a vestige of primitive America.

Description. The entire designated section of river from a point 0.3 miles above Heath Springs at the Section line common to Sections 15 and 16, T.16 N., R.14E., M.D.M. downstream 38.3 miles to a point approximately 1000 feet above the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, has been designated by Congress as a Wild River.

Gold Run Addition.—This area is an extension of the river boundary to the north in the Canyon Creek, Indiana, Sheldon and Tommy Cain Ravine drainages. It includes 805 acres, south of Gold Run, which at one time was the southern portion of a California State Park proposal. While the acreage of this area is included in the river boundary, it is excepted from the acreage limitation mentioned above.

On the basis of the above consideration the river boundaries contain a total of 12,986 acres. With the 805-acre Gold Run Addition area excepted there is an average of about 318 acres per river mile.

Refer below for legal description of the boundary.

Wild River Classification—Boundary Description of the "North Fork American River"

The official boundary description is that boundary which is shown on a map titled "River Boundary Location" of the North Fork American Wild River which is on file and available in the offices of the Forest Supervisor, Tahoe National Forest, Nevada City, California and Regional Forester, Pacific Southwest Region, San Francisco, California. Said boundary is located in and through the following described areas:

California—Bureau of Land Management

Wild River Classification consisting of a portion of the lands lying on each side of the North Fork American River through the following townships:

T.15N., R.9E.
T.15N., R.10E.

All referred to the Mt. Diablo Meridian in Placer County, California, and more particularly described as follows:

T.15N., R.9E.
  Section 36, NE¼, N½SE¼,E½SW¼NW¼, SE¼NW¼, E½NW¼SW¼, NE¼SW¼ & N½SE¼SW¼.
T.15N., R.10E.
  Section 32, NW¼NW¼, Lot 2, N½ Lot 1. and N½NE¼NE¼;
  Section 31, Lots 7, 8, 9, 10, 11, 12 and 13;
  Section 30, Lots 1, 2 of S½, 6, 7, 8, 9, 10, 11, 12 and S½ Lot 4 SW¼;
  Section 29, NE¼NE¼, Lots 4, 5, 9, 10, 11, 12 and S½ Lots, 6, 7 and 8;
  Section 28, Lots 5, 7, 8, 9 and W½SW¼;
  Section 22, W½ Lots 4 and 5;
  Section 21, Lots 6, 7, 9, 10, 11, 12, 13, and 14, E½SE¼NW¼, N½SW¼ and that portion of Truro P.M. 3710 which would be included in extension of lots 6, 7, 11 and 12;
  Section 20, E½SE¼;
  Section 16, NE¼, Lots 1, 2, 3, 4 and that portion of M.S. 1215 that lies within Section 16;
  Section 15, NE¼NE¼, Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, M.S. L–4, M.S. 321 and those portions of M.S. 725 and M.S. 1215 which lie within Section 15;
  Section 9, SW¼SE¼, Lots 3, 4, 5, 7, 8 and 9, M.S. 3470 and those portions of M.S. 173 and 1483 which lie within Section 9;
  Section 10, Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, M.S. 1482, and those portions of M.S. 173, M.S. 1483 and M.S. 725 which lie within Section 10;
  Section 11, Lots 1, 2, 3, 4, 5, 7, 8, and 9, SW¼NW¼, and NW¼SE¼;
  Section 12, Lot 3;
  Section 1, Lot 1 of E½, N½SW¼, Lots 10, 11, 12, 13, 14, 15, M.S. 681 and that portion of M.S. C–9 which lies within Section 1;
  Section 2, Losts 9 and 10.

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California—Tahoe National Forest

Wild River Classification consisting of a portion of the lands lying on each side of the North Fork American River through the following townships:

T. 15N., R. 11E.
T. 15N., R. 12E.
T. 16N., R. 11E.
T. 16N., R. 12E.
T. 16N., R. 13E.
T. 16N., R. 14E.

All referred to the Mt. Diablo Meridian in Placer County, California, and more particularly described as follows:

T. 15N., R. 11E.
  Section 6, Lots 6, 7, 8, N½11, 12, S½13, 14 of SW¼, 26, 27, 28, 29, Mineral Lot 37 of M.S. 379, Mineral Lot 38 of M.S. 399, that portion of M.S. 5950A that is located within Lots 27 and 28, and that portion of M.S. C-9 in Lot 14 of SW¼;
  Section 5, Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, and that portion of M.S. 5950A that is located within Section 5;
  Section 4, Lots 1, 3, 23, 29, 30, 31, 32, 33, 34, 35, portion of Mineral Lot 42 of M.S. 1403A adjacent to Lot 3, the Blackhawk location of M.S. 3702 and the northerly portion of the Southern Cross location of M.S. 3700 adjacent to Lot 1;
  Section 3, Lots 1, 25, 26, 27, 30, 31, 32, 33, and 35;
  Section 2, Lots 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 23, 24, Mineral Lot 59 and M.S. 3284 and those portions of Mineral Lots 57 and 58 of M.S. 3284 that lie within Section 2;
  Section 1, Lots 8 and 9.
T. 15N., R. 12E.
  Section 3, Lots 1, 2, 3, and 4.
  Section 4, Lots 1, 2, 3, 4, 5 and 6;
  Section 5, Lots 1, 2, 3, 4, 5, 6, 7 and 8.
T. 16N., R. 11E.
  Section 36, SE¼, E½SE¼ and SW¼SW¼.
T. 16N., R. 12E.
  Section 25, S½S½;
  Section 31, SE¼, E½SW¼ and Lot 3 and 4;
  Section 32, S½S½;
  Section 33, S½S½;
  Section 34, SE¼NE¼, S½SW½ and SE¼;
  Section 35, N½, and N½SW¼;
  Section 36 N½NE¼, SW¼NE¼ and NW¼.
T. 16N., R. 13E.
  Section 25, S½;
  Section 26, S½;
  Section 27, S½;
  Section 28, SW¼NE¼, S½NW¼, SE¼ and N½SW¼:
  Section 29, S½N½ and N½S½;
  Section 30, S½NE¼, SE¼, E½SW¼ and Lots 3 and 4;
  Section 31, NE¼NW¼ and Lot 1.
T. 16N., R. 14E.
  Section 16, S½S½NE¼, SE¼ and S½SW¼;
  Section 17, S½SE¼;
  Section 20, N½NE¼ and W½;
  Section 21, NW¼NE¼ and N½NW¼;
  Section 29, N½NW¼ and SW¼NW¼;
  Section 30, NE¼NE¼, S½NE¼, SE¼NW¼, N½SE¼, E½SW¼ and Lots 2, 3, and 4.

[FR Doc. 80-26881 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-11-M

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00, September 26, 1980, at the Ranger Station at Tulelake, California. The propose of the meeting will be to have an on-the-ground review of some projects that have been completed using range betterment funds.

The meeting will be open to the public. Persons wishing to attend or who would like further information should notify William E. Britton, Modoc National Forest Supervisor's Office, telephone (916) 233-3521. Written statements may be filed with the board before or after the meeting.

G. Lynn Sprague,

Forest Supervisor.

August 25, 1980.

[FR Doc. 80-27001 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-11-M

North Kaibab Grazing Advisory Board; Meeting

The North Kaibab Grazing Advisory Board will meet at 1:00 p.m., Tuesday, October 21, 1980, at the Coconino County Building, Fredonia, Arizona.

The purpose of this meeting is:

1. Election of officers.
2. Adoption of bylaws.
3. Development of Allotment Management Plans.
4. Utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify: Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046, Telephone: (602) 635-2681.

Those attending may express their views when recognized by the chairman.

Leonard A. Lindquist,

Forest Supervisor.

August 25, 1980.

[FR Doc. 80-27012 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: September 15-17, 1980.

Time: 8:00 a.m.-5:00 p.m.

Place: Fox Ridge Inn, Route 16, North Conway, New Hampshire.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: Time will be made for non-member statements on September 16, or the public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be reviewing and discussing information on selected research and extension programs in preparation for developing its October report to the Secretary regarding recommendations as to allocations of funding and responsibilities of agricultural research and extension.

Contact Person for Agenda and More Information: Dr. James M. Meyers, Executive Secretary of the Users Advisory Board; Science and Education Administration; U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-3684.

Done at Washington, D.C., this 21st day of August 1980.

John Stovall,

Acting Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 26872 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Dockets Nos. 33362, 38175, and 38176]

Former Large Irregular Air Service Investigation; Applications of Flight Transportation Corp.; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 17, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 27, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-27061 Filed 9-3-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on September 3, 1980, (45 FR 52854, August 8, 1980) is hereby postponed to September 24, 1980 at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 27, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-27062 Filed 9-3-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 11:30 a.m., on September 22, 1980, at the Federal Building, 709 W. 9th Street, Room 949, Juneau, Alaska. The purpose of this meeting is to release a report on Employment of Women and Minorities in State Government—Changing Commitment into Action.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Richard J. Stitt, Sealaska Plaza, Suite 400, Juneau, Alaska 99801, (907) 586-1512 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27027 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Kansas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 2:00 p.m., on September 27, 1980, at the Travelodge Motel, 2061 W. Hi-Way 50, Emporia, Kansas 66801.

The purpose of this meeting is to discuss program planning for FY 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Benjamin H. Day, 313 Prospect, Leavenworth, Kansas 66048, (913) 296-3469 or the Central States Regional Office, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27028 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee will convene at 10:00 a.m. and will end at 2:00 p.m., on September 27, 1980, at the Howard Johnson Motor Lodge, 330 Loyola Avenue, New Orleans, Louisiana 70112. The purpose of this meeting is discussion of future projects on voting rights.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Jewell L. Prestage, Box 9222, Southern Branch, P. O., Baton Rouge, Louisiana 70813, (504) 771-3210 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27025 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Maine Advisory Committee (SAC) of the Commission originally scheduled for September 9, 1980, at Augusta, Maine, (FR Doc. 80-24954 on page 54788) has been changed.

The meeting now will be held on September 17, 1980, beginning at 6:00 p.m. and will end at 9:00 p.m., at the Maine Teachers Association, Augusta Civic Center, Augusta, Maine.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committtee Management Officer.

[FR Doc. 80-27024 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on September 26, 1980, at the Airport Marina Hotel, 2910 Yale Boulevard, Albuquerque, New Mexico 87119. The purpose of this meeting is to discuss plans for the Energy Impact Hearing in New Mexico.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Hon. Roberto A. Mondragon, Lt. Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico 87503, (505) 827-2513 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27026 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 163]

Resolution and Order Approving the Application of the Lincoln Foreign Trade Zone, Inc., for a Foreign-Trade Zone and a Special-Purpose Subzone in Lincoln, Nebr.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u).

the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Lincoln Foreign Trade Zone, Inc., Lincoln, Nebraska, filed with the Foreign-Trade Zones Board on December 6, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone to be located at the Lincoln Airpark West industrial park and a special-purpose subzone to be established at the manufacturing plant of Kawasaki Motors Corp., U.S.A. (KMC), 5600 NW 27th Street, Lincoln, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes industrial park and open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone or subzone sites other than that which is set out in the application. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone and a Special-Purpose Subzone in Lincoln, Nebr.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), for Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Lincoln Foreign Trade Zone, Inc. (the Grantee) has made application (filed December 6, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone and a special-purpose subzone at the Kawasaki assembly plant, both sites being in Lincoln, Nebraska, and adjacent to the Omaha Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and a special-purpose subzone, designated on the records of the Board as Zone No. 59 and Subzone No. 59A, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth therein and also to the following express conditions and limitations:

Operation of the foreign-trade zone and special-purpose subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the zone and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone or subzone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone or subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 27th day of August 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board

Philip M. Klutznick,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-26949 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia, 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent application 6-133,767: Aircraft Self-Sealingfuel Tank and Method of Fabricating; filed March 25, 1980.

Patent application 6-133,769: All-Flexure Linear Isolation/Suspension System; filed March 25, 1980.

Patent 4,199,175: Ribbed Flange Modified Seal; filed April 28, 1978; patented April 22, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 6-015,675: Fluidic Controlled Diffusers for Turbopumps; filed February 27, 1979.

Patent application 6-095,866: Nitrile Rubber Adhesion; filed November 19, 1979.

Patent application 6-101,292: Teletype Loop Switching Matrix; filed December 7, 1979.

Patent application 6-117,323: Universal Firing Device; filed January 31, 1979.

Patent application 6-117,702: Two Stage Parachute Fuze Recovery System; filed February 1, 1980.

Patent application 6-117,708: An Improved Self-Powered Vehicle Detection System; filed February 1, 1980.

Patent application 6-121,948: Transmissive and Reflective Liquid Crystal Display; filed February 15, 1980.

Patent application 6-122,388: Cooling Apparatus for Electronic Modules; filed February 19, 1980.

Patent application 6-126,269: The Recrystallization of Hexanitrostilbene from Nitric Acid and Water; filed March 3, 1980.

Patent application 6-129,061: Sulfur Dioxide Detector; filed March 10, 1980.

Patent application 6-135,392: Fill Machine; filed March 31, 1980.

Patent application 6–136,858: Blocking Feed through for Coaxial Cable; filed April 3, 1980.

Patent application 6–137,026: Coupling for Quick Attachment to Plate-Lake Structure; filed April 3, 1980.

Patent application 6–137,177: Multi-Mode Microwave Lens Antenna, filed April 4, 1980.

Patent application 6–137,681: Submarine Rescue Cable Reel; filed April 7, 1980.

Patent application 6–138,640: Improved Chirp Filters/Signals; filed April 9, 1980.

Patent application 6–138,950: Fiber Optic Sensors, filed April 9, 1980.

Patent application 6–139,315: Fiber Optic Light Valve, filed April 11, 1980.

Patent 4,169,257: Controlling the Directivity of a Circular Array of Acoustic Sensors; filed April 28, 1978; patented September 25, 1979, not available NTIS.

Patent 4,170,904: Single-Axis Disturbance Compensation System; filed December 12, 1977; patented October 16, 1979; not available NTIS.

Patent 4,183,316: Variable Volume Depth Control; filed December 5, 1977; patented January 15, 1980; not available NTIS.

Patent 4,184,078: Pulsed X-Ray Lithography; filed August 15, 1978; patented January 15, 1980; not available NTIS.

Patent 4,185,552: Mine Firing Control System; filed May 16, 1945; patented January 29, 1980; not available NTIS.

Patent 4,185,556: Mine Firing System; filed June 6, 1945; patented January 29, 1980; not available NTIS.

Patent 4,185,881: Underwater Cable Cutting Device; filed December 6, 1951; patented January 29, 1980; not available NTIS.

Patent 4,187,290: Carrier and Dispersal Mechanism for a Microorganic Larvicide; filed April 18, 1979; patented February 5, 1980; not available NTIS.

Patent 4,187,549: Double Precision Residue Combiners/Coders; filed September 5, 1978; patented February 5, 1980; not available NTIS.

Patent 4,187,779: Marine Mine; filed April 19, 1945; patented February 12, 1980; not available NTIS.

Patent 4,189,999: Vector Acoustic Mine Mechanism; filed March 5, 1956; patented February 26, 1980; not available NTIS.

Patent 4,190,701: V_3Ga Composite Superconductor; filed April 6, 1979; patented February 26, 1980; not available NTIS.

Patent 4,191,028: Dry Ice, Liquid Pulse Pump Cooling System; filed June 22, 1978; patented March 4, 1980; not available NTIS.

Patent 4,192,573: Variable Power Attenuator for Light Beams; filed October 13, 1978; patented March 11, 1980; not available NTIS.

Patent 4,193,072: Combination Infrared Radio Fuze; filed March 13, 1962; patented March 11, 1980; not available NTIS.

Patent 4,193,088: Optical Heterodyne System for Imaging in a Dynamic Diffusive Medium; filed August 2, 1978; patented March 11, 1980; not available NTIS.

Patent 4,193,130: Fiber Optic Hydrophone for Use as an Underwater Electroacoustic Standard; filed September 7, 1978; patented March 11, 1980; not available NTIS.

Patent 4,194,150: Method and Apparatus for Reducing Magnetometer Errors; filed September 26, 1958; patented March 18, 1980; not available NTIS.

Patent 4,194,244: Angle Sensing System; filed August 17, 1978; patented March 18, 1980; not available NTIS.

Patent 4,195,166: Alkanediamide-Linked Polyphthalocyanines Coordinated with $SnCl_2$; filed October 23, 1978; patented March 25, 1980; not available NTIS.

Patent 4,195,280:Tuned Electrolytic Detector; filed May 5, 1955; patented March 25, 1980; not available NTIS.

Patent 4,195,361: Variable Frequency Acoustic Filter; filed April 27, 1956; patented March 25, 1980; not available NTIS.

Patent 4,195,798: Universal Tow Target Adapter; filed September 15, 1978; patented April 1, 1980; not available NTIS.

Patent 4,196,401: Method and apparatus for Injecting Gas into a Laser Cavity; filed April 17, 1978; patented April 1, 1980; not available NTIS.

Patent 4,196,876: Banner Towing Adapter; filed July 18, 1978; patented April 8, 1980; not available NTIS.

Patent 4,197,507: Suppressing Pulse Synthesizer; filed April 7, 1978; patented April 8, 1980; not available NTIS.

Patent 4,197,544: Windowed Dual Ground Plane Microstrip Antennas; filed September 28, 1977; patented April 8, 1980; not available NTIS.

Patent 4,198,703: Submarine Simulating Sonar Beacon; filed May 12, 1960; patented April 15, 1980; not available NTIS.

Patent 4,199,006: Pheumatic Valve; filed February 28, 1978; patented April 22, 1980; not available NTIS.

Patent 4,201,952: Gas Laser Aerodynamic Window; filed April 11, 1978; patented May 6, 1980; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, DC 20546.

Patent application 6–100,611: Mechanical End Joint System for Structural Column Elements; filed December 5, 1979.

Patent application 6–135,039: An Image Readout Device with Electrically Variable Spatial Resolution; filed March 28, 1980.

Patent application 6–135,040: Wind Tunnel Supplementary Mach Number Minimum Section Insert; filed March 28, 1980.

Patent application 6–135,057: Decoupler Pylon: Wing/Store Flutter Suppressor; filed March 28, 1980.

Patent application 6–136,660: Method for Making Patterns for Resin Matrix Composites; filed April 2, 1980.

Patent application 6–138,944: Open Ended Ratchet Type Tubing Cutter; filed April 9, 1980.

Patent 4,192,290: combined Solar Collector and Energy Storage System; filed April 28, 1978; patented March 11, 1980; not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205.

Patent application 6–141,676: Microtome with Refrigerant Container for Cooling Paraffin Blocks During Sectioning; filed April 18, 1980.

Patent application 6–129,982: Steel Wire Pressure Aesthesiometer; filed March 11, 1980.

[FR Doc. 80–27002 Filed 9–3–80; 8:45 am]

BILLING CODE 3510–04–M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council, Its Scientific and Statistical Committee, Its Groundfish Subpanel and Its Pink Shrimp Subpanel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established a Scientific and Statistical Committee, a Groundfish Subpanel and a Pink Shrimp Subpanel to assist the Council in carrying outs its responsibilities.

DATES: October 7–9, 1980.

ADDRESS: The meetings will take place at the Sheraton-Renton Inn, 800 Rainier Avenue South, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(Open meetings; Cedar/Spruce Room) October 7–8, 1980 (1 p.m. to 5 p.m. on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Discuss Groundfish and Shrimp Fishery Management Plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m. on October 7, and conduct other Committee business.

Groundfish Subpanel—(open meeting; Pine/Tamarack Room) October 7–8, 1980 (1 p.m. to 5 p.m on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Consideration of options for adoption in the Groundfish FMP.

Pink Shrimp Subpanel—(open meeting; Oak Room) October 7–8, 1980 (1 p.m. to 5 p.m. on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Consideration of options for adoption in the Pink Shrimp FMP.

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Council—(open meeting: Evergreen Ballroom) October 8–9, 1980 (1 p.m. to 5 p.m. on October 8; 8 a.m. to 5 p.m. on October 9).

Agenda: Open Session—Discuss matters pertaining to the Groundfish, Pink Shrimp and Billfish FMP's, conduct other fishery management business and conduct a public comment period beginning at 4 p.m. on October 8.

Council—(closed meeting) October 8 (9 a.m. to 11 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning reappointments to the Salmon Subpanel and the SSC. Only those Council, SSC members, and related staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on July 21, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy; as information which is properly classified pursuant to Executive Order and (6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: August 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27146 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Public Hearing

AGENCY: Assistant Secretary for Productivity, Technology, and Innovation, Commerce.

ACTION: Notice of public hearing on the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services.

SUMMARY: The Department of Commerce hereby announces that it will hold an informal public hearing on September 25, 1980 to provide interested parties an opportunity to express their views and concerns regarding the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services published by the Department in the **Federal Register** on August 6, 1980 (45 FR 52326–52329).

DATES: The hearing will be held on September 25, 1980. Requests to testify including intended statements should be filed by September 23, 1980.

ADDRESSES: The informal public hearing will be held on Thursday, September 25, 1980, beginning at 1:30 p.m., Eastern Daylight Saving Time (EDST), in the Green Auditorium, Administration Building, National Bureau of Standards, Gaithersburg, MD.

Persons desiring to testify at this hearing should submit to the Deputy Assistant Secretary for Product Standards Policy (Room 3876, U.S. Department of Commerce, Washington, D.C. 20230) four copies of the statement they wish to make at the hearing, not later than Tuesday, 5:00 p.m., EDST, September 23, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3221; or Mr. John W. Locke, Office of Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2054.

SUPPLEMENTARY INFORMATION: On August 6, 1980, the Department of Commerce published in the **Federal Register** a preliminary finding of need to accredit laboratories that provide electromagnetic calibration services (45 FR 52326–52329). That notice established a 60-day comment period and indicated that written comments were due on or before October 6, 1980. That notice also established a 15-day period for making a request for an informal public hearing before August 21, 1980. Such a request was received from Loebe Julie, President of the Julie Research Laboratories, Inc. in a letter dated August 19, 1980. Mr. Julie has advised the Department that he intends to testify at this hearing on the need for a broader laboratory accreditation program to include calibration services in other areas besides the electromagnetic area. The Department, in response to this request, has decided to hold an informal public hearing for the purpose of giving Mr. Julie and any other interested parties an opportunity to comment on the preliminary finding of need.

The following procedures are established for the informal hearing:

1. *Purpose.* The purpose of the informal public hearing is to provide all interested persons with an opportunity to express their views and concerns regarding the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services.

2. *Conduct of Hearing.* (a) This hearing will be an informal non-adversary proceeding at which there will be no formal pleadings, adverse parties or cross examination. Witnesses should submit a written statement of their presentation for the record as indicated above.

(b) The presiding officer shall have the right to schedule the witnesses, to apportion in an equitable manner the time available to each witness for making presentations, and to terminate or shorten the presentation of any witness when, in his opinion, such presentation is repetitive of information previously presented or not relevant to the purpose of the hearing.

(c) The presiding officer shall have the authority to continue the hearing on September 26, 1980 if it appears that the scheduled witnesses cannot complete their testimony on September 25, 1980.

(d) The presiding officer and other members of the Department of Commerce hearing panel shall have the right to question witnesses on their statements and other matters related to the preliminary finding of need.

(e) The presiding officer shall have the right to exercise such authority as may be necessary to insure the equitable and efficient conduct of the hearing and to maintain order.

3. *General Provisions.* (a) This informal hearing shall be open to members of the public whether or not such members wish to testify at the hearing.

(b) A written transcript of the hearing will be made. A copy of the transcript will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230. Copies of the transcript of the hearing will also be available for purchase directly from the commercial reporting service responsible for providing the transcript to the Department. Information concerning the availability of the transcript will be announced at the hearing.

(c) Copies of all written materials and comments on the preliminary finding will be made available for inspection and copying in the Central Reference and Records Inspection Facility identified above.

Dated: August 29, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80-27107 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-13-M

[Dept. Organization Order 35-2B]

Bureau of the Census; Statement of Organization and Function, and Delegations of Authority

This order effective August 4, 1980 supersedes the materials appearing at 44 FR 40659 of July 12, 1979 and 45 FR 12471 of February 26, 1980.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the Bureau of the Census (the "Bureau").

.02 This revision covers the following changes in organization and assignment of functions within the Bureau: rewrites the functions of the Administrative Services Division (paragraph 4.a.); deletes reference that the Assistant Director for Demographic Fields (paragraph 5.02) will head the Decennial Census Division; establishes a Center for Economic Studies (subparagraph 6.01f.); rewrites the functions of the Associate Director for Statistical Standards and Methodology (Section 7.); retitles the Center for Human Factors Research as the Center for Social Science Research (paragraph 7.a.); abolishes the Research Center for Measurement Methods; rewrites the functions of the Statistical Research Division (paragraph 7b.); changes the title of the International Statistical Assistance and Training Center (paragraph 10.b.) to the International Statistical Programs Center; and incorporate the outstanding amendment.

Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director

.01 The *Director* determines policies and directs the programs of the Bureau, taking into account applicable legislative requirements and the needs of users of statistical information. The Director is responsible for the conduct of the activities of the Bureau and for coordinating its statistical programs and activities with those of other Federal statistical agencies with due recognition of the programs developed and regulations issued by the Office of Federal Statistical Policy and Standards of the Department of Commerce and by the Office of Management and Budget.

.02 The *Deputy Director* assists the Director in the direction of the Bureau and performs the functions of the Director in the latter's absence.

.03 *Staff Elements.*

a. The *Data User Services Division,* shall plan, coordinate, and administer a comprehensive data dissemination and user services program to help users identify, acquire, understand, and use Bureau products and services; conduct seminars, workshops, and conferences; prepare user aids and reference materials; promote Bureau products and services; prepare statistical compendia such as the *Statistical Abstract of the United States* and its supplements; design and develop special tabulations and distributable computer programs; serve as the focal point for the coordination of requests for data tapes, published and unpublished data, and maps; research users' needs of statistical products; coordinate the Bureau's regional user services program; and carry out cooperative data dissemination and user services programs with State and local governments and other organizations.

b. The *Program and Policy Development Office* shall assist in the overall planning, review, and evaluation of Bureau programs. The Office shall, in consultation with the Director, develop overall program plans for the Bureau; review and evaluate program accomplishments in relation to plans; and serve as the focal point for determining and assessing goals and long-range policy and resource planning for the Bureau as a whole. It shall advise on all congressional matters related to the Bureau's activities and serve as the primary point of coordination for maintaining liaison on such activities with the Congress in collaboration with the Departmental Office of Congressional Affairs.

c. The *Public Information Office* shall, under the policy guidance of the Director of the Bureau and in liaison with the Departmental Office of Public Affairs (as provided by DOO 15-3), develop public information programs and coordinate and review for clearance the release and distribution of information disseminated by the Bureau.

d. The *1980 Census Promotional Office* shall plan, develop, coordinate, and administer a comprehensive national informational and educational program to encourage and foster support of the 1980 Decennial Census of Population and Housing by the public, private interests, and government entities; prepare and disseminate informational and instructional materials for use by public information and communications media; plan and carry out programs to obtain the support of national and local organizations and associations, especially those representing selected minorities and women; and coordinate a program of promotional support to draw the public's attention to the importance of the census.

Section 4. Office of the Associate Director for Administration

The *Associate Director for Administration* shall provide administrative management services to all components of the Bureau; advise the Director in these fields; and shall have and direct the following units:

a. The *Administrative Services Division* shall provide administrative services to include property, space and facilities management, procurement control, library, communications, records disposition, files, mail, and forms management, and related administrative operations.

b. The *Budget Division* shall perform budget functions, which shall include preparation of official budget estimates and justifications and allocation and control of all funds.

c. The *Finance Division* shall perform financial analyses, maintain financial accounts, coordinate payroll and leave audits, and prepare financial reports.

d. The *Organization and Management Systems Division* shall conduct studies and perform related activities concerned with improving organization structure and management practices; design and develop administrative and management systems; provide technical support for work measurement program; perform directives and reports management functions; carry out the staff responsibility for the Bureau committee management function; prepare special analytical reports on management matters; develop and implement an information system; provide ongoing information systems maintenance and upgrading; provide computer programming services for the processing of administrative and management data; and support management in planning

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and controlling its programs and projects.

e. The *Personnel Division* shall provide personnel management services, which shall include position classification and pay administration, recruitment and employment, employee training, employee relations and services, labor relations, and related personnel operations. The Division shall also provide assurance of equal opportunity in all employment matters in the Bureau.

f. The *Publications Services Division* shall provide publication, printing, and graphic art services, including publications design and distribution planning and control.

g. The *Equal Employment Opportunity Officer*, designated under the provisions of subparagraph 3.02b. of Department Organization Order 10–5 "Assistant Secretary for Administration," shall report and be responsible to the Associate Director; shall provide guidance and assistance to Bureau officials in Equal Employment Opportunity matters, shall perform the duties and activities prescribed by subparagraph 2.01e.3. of Department Administrative Order 202–713 "Equal Employment Opportunity"; and shall participate in the planning and direction of the Equal Employment Opportunity program.

Section 5. Office of the Associate Director for Demographic Fields

.01 The *Associate Director for Demographic Fields* shall plan and direct the social and demographic statistical programs and advise the Director in these fields; and shall have and direct the following units:

a. The *Demographic Surveys Division* shall plan and develop specifications, survey design, and methodology for, and provide technical direction over, the development of statistical data collection in current and special surveys; plan and develop systems and prepare computer programs for the processing of applicable data on electronic data processing equipment; perform nonmechanical processing for specified current and special surveys; and conduct surveys and methodology studies for other agencies.

b. The *Housing Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from censuses and from special and current surveys relating to general housing characteristics; and conduct research for and prepare analytical reports, monographs, and special studies.

c. The *Center for Demographic Studies* shall plan and develop analyses of and publish social and socioeconomic data; prepare articles, position papers, and detailed analytic reports related to current policy issues; develop measures of social well-being and publish social indicator reports; develop and publish a quarterly journal on social, socioeconomic, and demographic trends; conduct research on possible data gaps and develop recommendations to fill these needs; and conduct research on new analytic techniques.

d. The *Population Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses; prepare estimates and projections of the population; plan and develop systems and prepare computer programs for the processing of population data on electronic data processing equipment; conduct special studies and publish analytical reports and monographs.

e. The *Statistical Methods Division* shall develop and coordinate the application of mathematical statistical techniques in the design and conduct of statistical programs in the demographic fields.

.02 The *Assistant Director for Demographic Censuses* shall assist the Associate Director for Demographic Fields; and shall direct and provide planning and coordination for the demographic censuses; and direct the following units:

a. The *Decennial Census Division* shall provide overall direction for program planning of the 1980 Decennial Census; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology, including processing specifications, instructions and controls, and computer programming; and organize and conduct pretest research programs.

b. The *Mid-decade Census Staff* shall provide for research on population and housing data needs of the Federal, State and local governments and other public and private agencies; develop and review methodological alternatives; and develop overall plans required for an effective and efficient mid-decade census including the impact the mid-decade census shall have on demographic data collection activities otherwise planned for the 1980's, and how the demographic census data needs for the decade should be distributed between the decennial and mid-decade censuses.

Section 6. Office of the Associate Director for Economic Fields

.01 The *Associate Director for Economic Fields* shall plan and direct the economic statistical programs and advise the Director in these fields; and shall have and direct the following units:

a. The *Business Division* shall formulate overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to business enterprises engaged primarily in the distribution of goods and services; plan and develop systems and prepare computer programs for the processing of business data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

b. The *Construction Statistics Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from current surveys and studies relating to construction activity and from construction industry censuses and surveys relating to the characteristics and operations of firms in the construction industry; plan and develop systems and prepare computer programs for the processing of construction data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

c. The *Foreign Trade Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data relating to various aspects of the export and import trade of the United States and foreign trade shipping; plan and develop systems and prepare computer programs for the processing of foreign trade data on electronic data processing equipment; perform nonmechanical processing for current Division programs; conduct research on programs of international comparability of trade statistics; and prepare reports, monographs, and special studies.

d. The *Governments Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to State and local governments; plan and develop systems and prepare computer programs for the processing of government data on electronic data processing equipment; conduct research on governmental operations and finances; and prepare analytical reports, monographs, and special studies.

e. The *Industry Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to manufacturing, mining, and related industries; plan and develop systems and prepare computer programs for the processing of industry data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

f. The *Center for Economic Studies* shall plan, develop, and publish analyses of the Bureau's economic surveys directed at improving the usefulness and validity of the data; develop and prepare studies of trends and relationships in the Bureau's economic reports and in series from other sources; prepare special analytical and interpretive reports and monographs of a specialized nature, dealing with the data being published to enable the Bureau to disseminate information that more extensively uses the large body of economic microdata at its disposal.

.02 The *Assistant Director for Economic and Agriculture Censuses* shall assist the Associate Director for Economic Fields; and shall direct and provide planning and coordination for the following units:

a. The *Agriculture Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to agriculture, agricultural activities, and products, equipment and facilities, irrigation and drainage enterprises, and cotton ginning; plan and develop systems and prepare computer programs for the processing of agricultural data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

b. The *Economic Census Staff* shall provide overall direction for program planning of the economic censuses; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology including processing procedures, instructions and controls and computer programming; and organize and conduct pretest research programs.

c. The *Economic Surveys Division* shall plan and develop specifications, survey design, and methodology for, and provide technical direction over, the processing of statistical data collection in assigned current and special surveys relating to firms engaged in a variety of economic activities; develop classification manuals and systems for the coding and identification of industries and commodities for use in the Bureau's statistical programs; conduct research into the application and use of administrative records, including development of a current industrial directory; plan and develop systems and prepare computer programs for the processing of economic data on electronic data processing equipment; and develop overall plans and programs for the collection, processing, and dissemination of statistical data from surveys or censuses relating to the transportation industry.

Section 7. Office of the Associate Director for Statistical Standards and Methodology

The *Associate Director for Statistical Standards and Methodology* shall plan and direct programs relating to the statistical adequacy of proposed collections and the application of appropriate statistical methodology and techniques; carry out long-range studies on the basic problems of measurement of social and economic phenomena; provide research and consulting facilities oriented specifically toward psychological and behavioral science factors, and advise the Director in these fields and shall have and direct the following unit:

a. The *Center for Social Science Research* shall provide the Bureau with research and consulting facility oriented specifically to social science factors which affect respondent cooperation, the quality of data obtained, and the efficiency of Bureau data collection activities.

b. The *Statistical Research Division* shall develop and promote effective use of mathematical, statistical, and psychological methods and techniques in the work of the Bureau; conduct research in these areas; carry out long-range studies on the basic problems of measurement of social and economic phenomena; provide guidance to theoretical and applied statisticians and subject-matter specialists in the Bureau and other organizations on all aspects of mathematical, statistical, and research problems.

Section 8. Office of the Associate Director for Information Technology

.01 The *Associate Director for Information Technology* shall plan and direct programs for communicating and processing information, and advise the Director in these matters. The Associate Director shall have and direct the following units:

a. The *Technical Services Division* shall plan and perform engineering services, including research, development and maintenance, to provide and support electromechanical and electronic equipment required for automated document handling and data capture; and provide for a developmental program for devising solutions to data communications problems.

b. The *Systems Development Division* shall plan for and develop general purpose applications of new technology to the solution of Bureau problems; research new programming languages and techniques; and conduct research and development concerned with requirements for new technology and future systems designs for the various programs of the Bureau.

.02 The *Assistant Director for Computer Services* shall assist the Associate Director for Information Technology; shall direct and provide planning and coordination for the computer services area; and shall have and direct the following units:

a. The *Computer Operations Division* shall operate and manage the electronic digital computers and related ancillary equipment of the Bureau; plan and perform associated coordination for data keying, scheduling of computer processing, staging, and tape library services; and provide user services such as ADP training, documentation, source program optimization, programming, methodologies, and standards to facilitate the use of the Bureau's ADP resources.

b. The *Systems Support Division* shall plan for and provide the activities required to maintain the Bureau's computers, communication facilities, and ancillary hardware at required levels of operating effectiveness; and develop, modify, and maintain operational support software at performance levels necessary to meet mission objectives.

Section 9. Office of the Associate Director for Field Operations

The *Associate Director for Field Operations* shall direct programs of field data collection and precomputer processing operations, and advise the

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Director in these fields; and shall have and direct the following units:

a. The *Data Preparation Division* located in Jeffersonville, Indiana, shall carry out precomputer statistical processing operations for assigned current ans special surveys or censuses; provide related administrative and logistics services for assigned programs; exercise such authority in personnel and other management areas as is specifically delegated; and administer through its Pittsburg, Kansas branch, a personal census service to furnish information about individuals as reflected by census records, as provided by law.

b. The *Decennial Processing Staff* shall plan, organize, coordinate, and direct the decentralized processing of the 1980 Decennial Census of Population and Housing; plan, develop, implement, and coordinate, with the Decennial Census Division, manual and precomputer processing procedures, schedules and control systems; and coordinate with administrative divisions in the development and implementation of procedures/systems to meet administrative requirements.

c. The *Field Division* shall plan, organize, coordinate, and carry out the Bureau's field data collection program; maintain and administer a flexible field organization through the regional offices and temporary district and other branch or area offices; and provide for the effective deployment of field personnel to assure the efficient conduct of data collection at the local level.

d. The *Geography Division* shall plan, coordinate, and administer those geographic services needed to facilitate the Bureau's data collection program; develop computer programs, systems, methods, and procedures for the cartographic and geographic operations; develop and implement a nationwide program to maintain and update geographic base files; conduct research into geographic concepts and methods; develop plans for the establishment of geographic statistical areas of the United States; and prepare density and other specialized maps and geographic reports for publication.

Section 10. Office of the Assistant Director for International Programs

The Assistant Director for International Programs shall plan and direct the international statistical program activities of the Bureau; advise the Deputy Director in these activities; and shall have and direct the following units:

a. The *International Demographic Data Center* shall develop and maintain a comprehensive demographic (and socioeconomic) data base for all countries of the world; provide users with demographic data which have been evaluated and adjusted for inaccuracies and inconsistencies; prepare estimates and projections of population and selected socioeconomic characteristics for countries and regions and the world; and prepare Country Demographic Profiles detailing fertility, mortality, and population changes.

b. The *International Statistical Programs Center* shall train foreign technicians in censuses, surveys, and other statistical methods, especially relating to large-scale data collection; provide onsite statistical assistance of a varied nature to developing countries; provide, at the request of the Agency for International Development and of countries participating in the AID program, short and long-term consultation services; and maintain a capability for developing variety of computing programs and software to assist in processing census and survey data, editing packages, and specialized packages for applying standard, demographic, and statistical techniques.

c. The *Foreign Demographic Analysis Division* shall conduct specialized studies of population, labor force, and statistical reporting systems of foreign countries, involving the collection, compilation, and evaluation of relevant data; prepare estimates and projections and special analytical and interpretative reports and monographs.

Section 11. The Regional Offices

.01 The principal field structure of the Bureau shall consist of twelve regional offices, each headed by a Regional Director who shall report to the Chief of the Field Division in the Office of the Associate Director for Field Operations. The location and geographic area covered by each regional office shall be as shown in Exhibit 2 of this Order. A copy of the Exhibit 2 is on file with the original of this document in the Office of the Federal Register.

.02 Each regional office shall carry out assigned field data collection programs, including recurring and special sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

.03 As may be required for a specific census or special survey, temporary district or other subordinate offices shall be established under the regional offices.

.04 The Seattle Regional Office shall have an area office in San Francisco, California which shall carry out assigned field data collection programs.

Effective date: August 4, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-20968 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 45-1, Amdt. 3]

Economic Development Administration; Statement of Organization and Function and Delegation of Authority

This order effective August 14, 1980 further amends the materials appearing at 44 FR 9414 of February 13, 1979, 44 FR 55026 of September 24, 1979 and 45 FR 19290 of March 25, 1980.

Department Organization Order 45-1, dated January 11, 1979 is hereby further amended as shown below. The purpose of this amendment is to reflect the addition of four new Regional Offices and indicate the areas each Regional Office will serve.

In Section 12. Economic Development Regional Offices, paragraph .01 is revised to read as follows:

".01 The Economic Development Regional Offices, headed by Regional Directors, are as follows:

Standard Federal region	Name/location	Serves
"I	Boston, MA	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
"II	New York, NY	New Jersey, New York, Puerto Rico, and the Virgin Islands.
"III	Philadelphia, PA	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.
"IV	Atlanta, GA	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
"V	Chicago, IL	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
"VI	Austin, TX	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
"VII	Kansas City, MO	Iowa, Kansas, Missouri, and Nebraska.
"VIII	Denver, CO	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
"IX	San Francisco, CA	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Government of the Northern Mariana Islands.

Name/location		Serves
"X	Seattle, WA	Alaska, Idaho, Oregon, and Washington."

Effective date: August 14, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-26989 Filed 9-3-80; 8:45 am]

Billing Code 3510-17-M

Cooperative Generic Technology Program

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Invitation for proposals.

SUMMARY: The Secretary of Commerce announces proposed availability of fiscal year 1981 funds for the establishment of Cooperative Generic Technology Centers, pursuant to 15 CFR 17a.6. Proposals will be considered in the following areas:

—Powder Metal Processing

—Welding and Joining

—Tribology (Friction and Wear)

Projects will be funded through grants. The Department of Commerce has received several unsolicited proposals for the establishment of Centers; the authors of those proposals are invited to resubmit their proposals under this invitation.

EFFECTIVE DATE: The deadline for proposals is October 4, 1980.

ADDRESS AND KEY CONTACT: For further information, contact Mr. Frederick L. Haynes, Department of Commerce, 14th & Constitution Avenue, N.W., Room 3520, Washington, D.C. 20230. Telephone (202) 377-5905.

SUPPLEMENTARY INFORMATION:

A. *Procedures and Proposal Requests:* The Cooperative Generic Technology Program procedures are set forth at 15 CFR Part 17a (45 FR 54028, August 14, 1980). That portion which addresses the requirements for the contents of proposals is set forth at 15 CFR 17a.8 and is reproduced below:

§ *17a.8 Content of proposals.*

Each proposal for the establishment of a Center shall contain the following:

(a) A completed *cover sheet* applying for Federal Assistance, SF-424, as described in OMB Circular A-110, Attachment M.

(b) *Corporate Charter and By-laws,* showing that the organization has been established, or will be established, as a nonprofit corporation, and listing the sponsoring individuals.

(1) Each Center's by-laws shall state that the governing board of the Center will ensure fair representation of the interests of all members. No Federal employees will be eligible to serve on a governing board in any capacity.

(2) The Center's by-laws shall also provide that:

(i) Membership in a Center shall be open to all interested domestic persons.

(ii) Dues will be assessed by a formula which considers such factors as:

(A) Overall size of each member;

(B) Volume of activity relevant to the Center's technology;

(C) The member's directness of interest;

(D) A prorated share of the cost of research previously conducted by the Center.

(iii) Membership in a Center may not be conditioned upon adherence to agreements which unreasonably restrain trade. Prohibited agreements shall include:

(A) Restrictions upon members' operational use of technical information or patents developed by the Center;

(B) Restrictions upon independent research conducted by individual members; and

(C) Restrictions upon the use, by individual members, of technology developed outside the Center.

(iv) A Center will not serve as a means for sharing confidential business data among members. Should research or development require the use of such data, it shall be collected either by employees of the Center, or by some independent entity. In no event will such information be shared with the source's competitors in a form which would allow identification of individual firms.

(v) The Center shall make technical information, resulting from the Center's research activities available to all members at a reasonable cost without discrimination. Terms and conditions of dissemination to nonmembers of the Center shall be at the discretion of the Board; however, the Board shall be governed by the consideration that no significant anticompetitive result ensue for such decisions.

(c) *The Site and Organizational Affiliations* of the proposed Center.

(d) *A Center Organization Plan,* which will describe the Center's activities in these major areas:

(1) In-house R&D;

(2) Technical Services, including:

(i) Consulting and technical services;

(ii) Information system services;

(iii) Training;

(iv) Technology evaluation;

(3) Strategic planning.

(4) The Organizational Plan will include the following for each Center function listed above:

(i) Budget;

(ii) Equipment requirements;

(iii) Personnel requirements;

(iv) Facility requirements;

(v) Major milestones;

(vi) Expected outputs.

(e) *Overall Center Budget and Funding Plan,* covering the first five years of Center operation. This plan should identify the funding sources and indicate how these funds will be spent. Institutional support for the Center operations will be funded by membership dues, sales of technical services, and government supplements that will decline over a number of years.

B. *Criteria for Selection of Proposals:* Criteria for the selection of proposals are set forth at 15 CFR 17a.10:

§ *17a.10 Criteria for selection of center proposals.*

(a) The Secretary may select one or more proposals for funding, which best meet the following criteria:

(1) The breadth and extent of the base of sponsors committed to collaborate in the work of a center, including the lieklihood of operation of the center independent of government support after a reasonable period of time.

(2) The degree of center operation's enhancement of industry structure and competition.

(3) The comprehensiveness of coverage of the requirements in § 17a.8.

(4) Availability of funds, and program priorities.

C. *Proposals for the Establishment of Centers within Existing Nonprofit Organizations:* 15 CFR 17a.9 provides that:

(a) The Secretary may waive the requirements of Section 17a.8(b) that a center be established as an independent nonprofit organization under the following circumstances:

(1) If the organization is an independent entity within an existing nonprofit organization, and

(2) If the management and direction of the Center is controlled by the sponsoring firms.

(b) Organizations qualified under this section must meet all the requirements of Section 17a.8(b) paragraphs (1) and (2).

D. *Limitation:* The Department of Commerce reserves the right to fund none, one or several center proposals under this invitation, depending upon availability of funds and evaluation of proposals. In addition, approval of any proposal for funding is contingent upon review by the Antitrust Division, Department of Justice.

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Issued: September 4, 1980.

Jordan J. Baruch,

Assistant Secretary, Productivity Technology and Innovation.

[FR Doc. 80-26682 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-18-M

DEPARTMENT OF DEFENSE

Department of the Navy

Amendment to Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of amendments to systems of records.

SUMMARY: The U.S. Marine Corps proposes to amend four systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the systems published in its entirely, as amended.

DATES: The systems shall be amended as proposed without further notice on October 4, 1980, unless comments are received on or before October 4, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the records systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202-694-4115.

SUPPLEMENTARY INFORMATION: The Marine Corps' records systems notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc 79-36297 (44 FR 68946) November 30, 1979
FR Doc 79-37052 (44 FR 74495) December 17, 1979
FR Doc 80-4470 (45 FR 9316) February 12, 1980
FR Doc 80-5182 (45 FR 10840) February 19, 1980
FR Doc 80-5420 (45 FR 11523) February 21, 1980
FR Doc 80-6233 (45 FR 13182) February 28, 1980
FR Doc 80-15426 (45 FR 33677) May 20, 1980
FR Doc 80-16549 (45 FR 37254) June 2, 1980

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which require the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 27, 1980.

AMENDMENT

MFD00003

System name:

Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS) (45 FR 11523) 21 Feb 80

Changes:

System location:

Primary System, after the word "Activity," delete "1500 East Bannister Road" and substitute with: "1500 East 95th Street." After the word "Center," delete "1500 East Bannister Road" and substitute with: "1500 East 95th Street."

In the first sentence after the words "Decentralized Segments," change the word "eight" to "nine" and add the following to end of paragraph: "SDPI 16, Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of individuals covered by the system:

Delete the entry and substitute with: "All Marine Corps military personnel on active duty for 31 days or longer."

Categories of records in the system:

Delete the entire entry and substitute the following: "File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, marital status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form information, duty status, population group, sex, ethnic group, duty station/personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/allowance/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Indemnity Compensation Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/information, language proficiency, military/civilian/off-duty education, training information, awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnote, TAD data, power of attorney, moral code, conduct and proficiency marks, years in service."

MFD00004

System name:

Bond and Allotment (B&A) System (44 FR 74501) 17 Dec 1979

Changes:

System location:

Delete the entry and substitute the following: "Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, Kansas City, Missouri 64197.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

In paragraph two, delete the words "The allotment class and dollar value" and substitute "The allotment class, dollar value, and allotee." Delete the subparagraph beginning "The allotment information concerning first, last payment dates * * *"

Record access procedures:

Delete the entire entry and substitute the following: "Information may be obtained from the Marine Corps Finance Center, Centralized Pay Division (Code CPA), 1500 East 95th Street, Kansas City, Missouri 64197. Written requests must contain name and SSN. For personal visits, valid personal identification is required."

MFD00005

System name:

Retired Pay/Personnel System (RPPS) (44 FR 74501) 17 Dec. 1979.

Changes:

System location:

Delete the entire entry and substitute "Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of records in the system;

In line 7, delete the words "Recomputation Code" and substitute "Race Code; Sex Code." At the end of the paragraph, add "Veterans Administration Claim Number; Tower Amendment Code."

MFD00006

System name:

Centralized Automated Reserve Pay System (CAREPAY) (44 FR 74502) 17 Dec. 1979.

Changes:

System location:

Delete the entire entry and substitute the following: "Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of records in the system:

Delete the entire entry and substitute the following: "File contains information to process payment to active reservists which include: Name, SSN, grade, unit information, pay group, administrative duty pay, number of drills performed/authorized, basic pay, aviation crew member drills, number of tax exemptions, tax withheld, taxable pay, Federal Insurance Contributions Act Withheld, taxable and non-taxable credit/checkage, gross and net pay, dates of active duty, Serviceman's Group Life Insurance Premium Selection."

MFD00003

SYSTEM NAME:

Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS)

SYSTEM LOCATION:

Primary System—Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

Decentralized Segments—There are nine Satellite/Command Data Processing Installations (SDPI/CDPI) which maintain files with similar records at the following locations: SDPI 02, Marine Corps Base, Camp Lejeune, NC 28542; SDPI 03, Marine Corps Base, Camp Pendleton, CA 92055; SDPI 06, FMF Pacific, FPO San Francisco, CA 96610; SDPI 09, Headquarters U.S. Marine Corps, Washington, D.C. 20380; SDPI 11, Marine Corps Recruit Depot, Parris Island, SC 29905; SDPI 15, Marine Corps Recruit Depot, San Diego, CA 92140; SDPI 17, Marine Corps Base, Quantico, VA 22134; SDPI 27, Marine Corps Base, Camp S. D. Butler, FPO Seattle, WA 98773; First Marine Brigade, FPO San Francisco, CA 96615; SDPI 16, Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps military personnel on active duty for 31 days or longer.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, maritial status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form information, duty status, population group, sex, ethnic group, duty station/personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/allowances/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Indemnity Compensation Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/information, language proficiency, military/civilian/off-duty education, training information awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnotes, TAD data, power of attorney, moral code, conduct and proficiency marks, years in service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles 10 and 37, U.S. Code Section 5031 and 5201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—By officials and employees of the Marine Corps in the performance of their assigned duties in matters relating to a Marine's automated pesonnel and/or pay record.

Department of Defense and its components—By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement of other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts—By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to the Marine Corps.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the members record required to effectively assist the member.

Federal, state and local government agencies—By officials and employees of federal, state and local government through official request for information with respect to law enforcement investigatory procedures, criminal prosecution, civil court action and regulatory order.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency initiate criminal or civil action against an individual on behalf of the U.S. Marine Corps, The Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U.S. Marine Corps, by the U.S. Marine Corps, the Department of the Navy, or the Department of Defense.

Department of Health and Human Services (DHHS)—Disclosure of the name, rank or grade, and Social Security Account Number of each Marine Corps active duty military member to the Inspector General of DHHS for the specific purpose of comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records and discs, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on

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paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Computerized and conventional indices are required to retrieve individual records from the system. Normally, all types of records are retrieved by Social Security Number and name.

SAFEGUARDS:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours but must sign in and out. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Access to personal information is limited to authorized personnel with a need-to-know. Access is restricted to specific applications programs, records, and files to which personnel have a specific and recorded need-to-know. On line data sets (both tape and disc) pertaining to personal information are password protected, areas are controlled and access lists are used. The files are also protected at a level appropriate to the type of information being processed.

RETENTION AND DISPOSAL:

Magnetic records are maintained on all Marine Corps personnel while they are in service, and for a period of 4 months after they are separated from the service. Paper and film records are maintained for a period of 10 years after the final transaction. End calendar and fiscal year "snapshots" of the MMS data base are maintained indefinitely in magnetic form at Headquarters, U.S. Marine Corps.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps, Codes FD/MP, Headquarters, U.S. Marine Corps Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information concerning pay related matters should be addressed to the Commandant of the Marine Corps (Code FD). Requests from individuals for information concerning personnel matters should be addressed to the Commandant of the Marine Corps (Code MP).

Requesting individual must supply full name and Social Security Number. The requester may visit the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197 to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

RECORD ACCESS PROCEDURES:

Information on JUMPS may be obtained from the member's local disbursing officer. Information on MMS may be obtained from the member's immediate commanding officer. Requests for information from persons no longer in service should be signed by the person requesting the information. Rates of service, Social Security Number, and full name of requester should be printed or typed on the request. It should be sent to the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Recruiting offices, disbursing offices, administrative offices, and the individual Marine are the principal sources of the information contained in the JUMPS/MMS record for that person.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00004

SYSTEM NAME:

Bond and Allotment (B&A) System

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The allotment system contains all active allotments and limited (12 months) stop history for each active duty, retired, and Fleet Marine Corps Reserve (FMCR) member who authorized an allotment from his pay and allowances.

CATEGORIES OF RECORDS IN THE SYSTEM:

The allotment file contains allotments authorized by the Marines concerned, as provided under instructions issued by the Secretary of Defense.

The B&A automated system is made up of records which contain the following: Identification Number (Social Security Number (SSN)); Initials of Name (Last, First, Middle); Grade/Category; Last Name and Suffix; Last Pay Date; First Pay Date; Work Date; Amount; Term (in months); Account/Policy Number; Authority/Date/Remark; Bond Owner Name; Bond Owner SSN; Co-owner Beneficiary SSN; Name of Recipient; Street/Post Office Box; City and State/Country; Geographic Code (City, State/Country); Zip Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37, U.S. Code. The authority for continuing deduction for garnishment of pay is outlined in section 459 of Public Law 93–647.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the system is to provide for the payment of allotments and for the issuance, cancellation of U.S. Treasury checks and savings bonds as authorized by appropriate directives. The data obtained from the system provides for the control and ultimate disposition of all treasury checks and savings bonds prepared. Allows for the collection of appropriate data, to render an accurate accounting of public funds expended or collected as required by the Navy Comptroller Manual. The allotment file is utilized by the Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS) and Retired Pay Systems to calculate the monies due active duty, retired, and FMCR members of the U.S. Marine Corps.

The allotment class, dollar value, and allotee are displayed on the JUMPS Leave and Earnings Statement (LES) as issued. Copies of the LES are distributed as follows:

Original (white)—Disbursing Officer (DO) having custody of the Personal Financial Record,

Duplicate (yellow)—furnished the Marine concerned,

Triplicate (pink)—furnished the Commanding Officer (CO) for retention on the Marine's service record.

For permanent record retention purposes, one copy will be filed at the MCFC in microform.

The total dollar value of active allotments is furnished each retired and FMCR Marine each time a new statement of his account card is prepared.

Verification and/or information concerning a specific allotment may be released (as requested) to the following: Marine concerned, Marine's CO, Marine's DO, Recipient of the allotment, Treasury Department, Federal Reserve Bank, Federal Bureau of Investigation, Naval Audit Service, General Accounting Office, Postal Inspectors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on the cathode-ray tubes, it can be computer printed on paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Normally all types of records are retrieved by SSN and name.

SAFEGUARDS:

The Centralized Pay Division is locked during nonduty hours, as well as the building being under security guard protection. Files within the Division are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Magnetic records are maintained by MCCDPA on all active allotments during the life of the allotment and for a period of 12 months after the allotment has been stopped. Paper and microform files of the Centralized Pay Division are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Individual requests for information should be addressed to the Marine Corps Finance Center, Centralized Pay Division (Code CPA), Kansas City, Missouri 64197.

Requests for information must contain member's SSN, name, military service number (if applicable), and any other pertinent data concerning the information desired.

A person may visit any Marine Corps disbursing office to find out if the system contains records pertaining to him or her.

For personal visits the requester must present a military identification card or copy of an Armed Forces of United States Report of Separation from Active Duty (DD Form 214 (MC)) for separated personnel.

RECORD ACCESS PROCEDURES:

Information may be obtained from the Marine Corps Finance Center, Centralized Pay Division (Code CPA), 1500 East 95th Street, Kansas City, Missouri 64197. Written requests must contain name and SSN. For personal visits, valid personal identification is required.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individual concerned may be obtained from the SYSMANAGER.

Information pertaining to an individual who has active allotments is affected by unit diary input concerning name, or SSN changes, and to ensure allotments are stopped when a Marine is reported to be discharged or in a desertion status. Also, member's status codes are changed by unit diary or Retired Pay input when the Marine is transferred to the FMCR or Retired List.

RECORD SOURCE CATEGORIES:

The input of data from allotment/bond authorizations, other scannable documents, magnetic tapes received from the Satellite Data Processing Installations, and computer interfaces with the JUMPS/MMS and the Retired Pay systems are the principal sources of the information contained in the B&A automated system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00005

SYSTEM NAME:

Retired Pay/Personnel System (RPPS)

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Pay account folders for retired Marine Corps members, Fleet Marine Corps Reservists (FMCR), and survivors of deceased retired and FMCR members, who are entitled to retired pay, retainer pay, and survivor annuities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The RPPS automated system of records contains the following information: Retired/Retainer Date; Retainer Date; Pay Change; Information Status; Social Security Number (SSN) and Last, First, and Middle Initial (Key); Deletion Date; SSN; Retired Category Code; Member's Name; Pay Entry Base Date; Service for Pay; Active Service; Other Military Service Number (MSN); Prior MSN/SSN/Key, Grade Code; Race Code; Sex Code; Disability Percent; Heroism Pay; Pay Table Code; Recomputation Age; Retirement Laws; Functional Account Number; Grades; Birthdates; Pay Delete/Suspense Code; Retired Serviceman's Family Protection Pay; Reserve Retirement Credit Points; Allotment Data: Withholding Tax Data; Wage and Tax Summaries; Gross Pay; Taxable Pay; Withholding Tax; Dependency Indemnity Compensation; Pension Act of 1944 (Veterans Administration (VA) Waiver); Pension Act of 1964 (Dual Compensation GI); Retired Serviceman's Family Protection Plan; Survivor Benefit Plan; Social Security; Scheduled Collections; Net Pay; Special Handling Code (Check Delivery); Accumulated Summaries; Home Mailing Address; Check Mailing Address; Pay Distribution; Last Change Posted; Date Member Eligible to Retire; Date Arrived Continental United States Without Dependents; Primary Military Occupational Specialty; Districts; Highest Grade Held Satisfactorily; Service Prior to 1 July 1949; Service After 1 July 1949; Active Duty After Transfer to Fleet/Retired Rolls; Date Next Fiscal Year and Month; VA Disease Codes; Department of Defense Disease Codes; Nearest Hospital (See Table 9); Personnel Accounting Separation—Designator; Earnings Statement Flag; Disability Pay; Change of Address Flag; Last Time Processed by Update-Extractor; SSN Validation; Remarks Area; One-Time Credit/Checkage; Scheduled Collection; Veterans Administration Claim Number; Tower Amendment Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS OF THE PURPOSES OF SUCH USES:

Computation of retired pay, retainer pay, and survivor annuity accounts, perform audit of accounts, reply to correspondence, etc.

Creation of printed reports, records, checks, microforms, magnetic files, etc., based on information available in the system. This output is used by various departments of the Marine Corps for pay, personnel, audit, and other purposes. Some of this information is made available to authorized local, state and Federal agencies.

Displaying all of or part of any selected record on a cathode-ray tube for research, audit, update, and similar purposes.

Used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by government agencies.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on paper and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Normally all types of records are retrieved by SSN and name.

SAFEGUARDS:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours, but must sign in and out.

RETENTION AND DISPOSAL:

Magnetic records are maintained on all persons who are eligible for retired pay, retainer pay, and survivor annuities while they are alive and for a period of [illegible] months after that person dies or ceases to be eligible. Paper and film records are maintained for a period of 10 year after the final transaction.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information should be referred to the SYSMANAGER.

Requesting individual must supply full name and SSN.

The requester may visit the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197, to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a drivers license, or other suitable proof of identity.

RECORD ACCESS PROCEDURES:

Requests for information relative to the RPPS automated system should be signed by the person requesting the information. Dates of service, SSN, and full name of requester should be printed or typed on the request. It should be sent to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Documents and correspondence received from headquarters, U.S. Marine Corps, the Veterans Administration, the member, changes in laws, etc. are the principal sources of information contained in the RPPS automated system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00006

SYSTEM NAME:

Centralized Automated Reserve Pay System (CAREPAY)

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Organized Marine Corps Reserve Units who are active Reservists (Class II) and perform a maximum of 48 paid drills and 14 days Annual Training Duty per year.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information to process payment to active reservists which includes: Name, SSN, grade, unit information, pay group, administrative duty pay, number of drills performed/authorized, basic pay, aviation crew member drills, number of tax exemptions, tax withheld, taxable pay, Federal Insurance Contributions Act Withheld, taxable and non-taxable credit/checkage, gross and net pay, dates of active duty, Serviceman's Group Life Insurance Premium Selection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 and 37, U.S. Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Central Accounts Division clerks and analysts use these data to process payments and to answer inquiries concerning payments, received from Marine Reservists, Internal Revenue Service, Welfare agencies and the Commandant of the Marine Corps.

Examination Division clerks use these data to verify proper payment and to process old pay inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data are recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be computer printed on paper and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records are retrieved manually. Normally all types of records are retrieved by SSN/name/reporting unit Code.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to personnel working there and are kept in file desks made for that purpose for 6 months and in DIBOLD vertical file for 12 months after which they are transferred to the Examination Division.

RETENTION AND DISPOSAL:

Magnetic records are maintained by MCCDPA on all active Reservists; they are retained for a period of 4 months after the individual Marine ceases to be active.

Paper and microform records are held for 4 years, 6 months at the Center, thereafter they are retired to a Federal Records Center in accordance with Secretary of the Navy Instruction P5212.5.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information should be referred to the SYSMANAGER.

Requesting individual must supply full name and SSN.

The requester may visit the Marine Corps Finance Center, 1500 95th Street, Kansas City, Missouri 64197, to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

RECORD ACCESS PROCEDURE:

Requests for information relative to CAREPAY should be signed by the person requesting the information. Dates of service, SSN, and full name of requester should be printed or typed on the request. It should be sent to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Organized Marine Corps Reserve Units, Internal Revenue Service, individual Marine.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-26959 Filed 9-3-80; 8:45 am]

BILLING CODE 3810-71-M

Amendment and Deletions to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendment and deletion of systems of records.

SUMMARY: The Department of the Navy proposes to amend one system of records and delete three systems of records subject to the Privacy Act of 1974. The specific change to the system being amended is set forth below followed by the system published in its entirety, as amended.

DATES: The system shall be amended as porposed without further notice on October 4, 1980, unless comments are received on or before October 4, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the records systems notices.

FOR FURTHER INFORMATION CONTACT: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a (Pub. L. 93-579) have been published in the Federal Register as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979.
FR Doc 79-36798 (44 FR 68947) November 30, 1979.
FR Doc 79-37052 (44 FR 74553) December 17, 1979.
FR Doc 80-6599 (45 FR 13794) March 3, 1980.
FR Doc 80-14965 (45 FR 32037) May 15, 1980.
FR Doc 80-15427 (45 FR 336679) May 20, 1980.
FR Doc 80-17286 (45 FR 38099) June 6, 1980.
FR Doc 80-19603 (45 FR 43841) June 30, 1980.
FR Doc 80-20317 (45 FR 43938) July 8, 1980.
FR Doc 80-23111 (45 FR 50851) July 31, 1980.
FR Doc 80-24237 (45 FR 53508) August 12, 1980.

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered systems report.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
August 27, 1980.

Deletions

N00037 NAVWUIS

System name:

Navy Work Unit Information System (44 FR 74610) 17 Dec. 79.

Reason:

This system has been discontinued.

N00037 R&D Planning

System name:

Navy Research and Development Planning Summary System (DD 1634) System (44 FR 74611) 17 Dec. 79.

Reason:

This system has been discontinued.

N0037 Tech Reports

System name:

Navy Technical Reports System (44 FR 74611) 17 Dec. 79.

Reason:

This system has been discontinued.

N96021-431

System name:

Employee Relations Including Discipline, Employee Grievances, Complaints, etc. (44 FR 74664) 17 Dec. 79.

Changes:

System location:

Delete the phrase: "Office of Civilian Manpower Management, Regional Offices of Civilian Manpower Management, Capital Area Personnel Services Office . . ." and substitute with: "Chief of Naval Operations (OP-14), Naval Civilian Personnel Command (NCPC), NCPC Field Divisions . . ."

Categories of individuals covered by the system:

Delete the last sentence beginning with the words: "Management Operations Record System consisting . . ."

Categories of records in the system:

Add at the end of the entry, the following sentence: "Management Operations Record System consisting of manual file maintained by immediate supervisiors and high level managers concerning employee performance, capability, informal discipline, attendance, leave and tardiness, work assignments, and similar work related to employee records, including formal and informal supervisor's notes."

Authority for maintenance of the system:

Delete the entire entry and substitute with the following: "Executive Order 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration, Amended by Executive Order 10577 and Executive Order 12106; Executive Order 12107; 5 U.S.C. 1205, 1206, 1207, 1302, 3301, 3302, 7105, 7512, relevant portions of the Civil Service Reform Act, Pub. L. 95-454; 42 U.S.C. Section 2000e-116 et. seq.; Equal Employment Opportunity Act of 1972, Pub. L. 93-259, amendment to the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq.; Age Discrimination and Employment Act, 29 U.S.C. Section 633a; the Rehabilitation Act of 1978 as amended, 29 U.S.C. 791, 794a."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the ninth line, change the phrase ". . . Federal Employees Appeals Authority . . ." to read: ". . . Merit Systems Protection Board and Equal Employment Opportunity Commission . . ."

Add the following sentence at the end of the entire entry: "The records may also be used to disclose information to any source from which additional information is requested in the course of processing a grievance or appeal to the

V 45 / 173 SE 4 80 UMI

extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested. The records may also be used to disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (General Services Administration) in records management inspection conducted under authority of 5 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in the pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions."

System manager(s) and address:

Delete the entire entry and substitute with: "Chief of Naval Operations (OP-14), Department of the Navy, Washington, D.C. 20350."

N96021-431

SYSTEM NAME:

Employee Relations Including Discipline, Employee Grievances, Complaints, etc. (44 FR 74664) 17 Dec. 79.

SYSTEM LOCATION:

Chief of Naval Operations (OP-14), Naval Civilian Personnel Command (NCPC), NCPC Field Divisions, Navy and Navy Staff Headquarters and Field Activities employing civilians. Mailing addresses are provided in the Department of the Navy Directory published in the **Federal Register.**

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy civilian employees, paid from appropriated funds serving under career, career-conditional, temporary and excepted service appointments on whom discipline, grievances, and complaints records exist. Discrimination complaints of Navy civilian employees, paid from appropriated and non-appropriated funds, applicants for employment and former employees in appropriated and non-appropriated positions. Appeals of Navy civilian employees paid from appropriated funds. Filipino employee appeal case files ("Filipinos who are lawfully admitted residents"). Cases reviewed by CINCPAC under Filipino Employment Policy Instructions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual files, maintained in paper folders, contain copies of documents and information pertaining to discipline, grievances, complaints, and appeals. Management Operations Record System consisting of manual file maintained by immediate supervisors and high level managers concerning employee performance, capability, informal discipline, attendance, leave and tardiness, work assignments, and similar work related to employee records, including formal and informal supervisor's notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration, Amended by Executive Order 10577 and Executive Order 12106; Executive Order 12107; 5 U.S.C. 1205, 1206, 1207, 1302, 3301, 3302, 7105, 7512, relevant portions of the Civil Service Reform Act, Pub. L. 95-454; 42 U.S.C. Section 2000e-116 et. seq.; Equal Employment Opportunity Act of 1972, Pub. L. 93-259, amendment to the Fair Labor Standards Act, 29 U.S.C. Section 201, et. seq.; Age Discrimination and Employment Act, 29 U.S.C. Section 633a; the Rehabilitation Act of 1978 as amended, 29 U.S.C. 791, 794a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials of the Department of the Navy in the performance of their official duties related to the management of civilian employees in the processing, administration and adjudication of discipline, grievances, appeals, litigation and program evaluation. Representatives of the United States Office of Personnel Management on matters relating to the inspection, survey, audit or evaluation of a Navy civilian personnel management program or personnel action, or other such matters under the jurisdiction of the Office of Personnel Management. Appeals officers and complaints examiners of the Merit Systems Protection Board and Equal Employment Opportunity Commission for the purpose of conducting hearings in connection with employees appeals from adverse actions and formal discimination complaints. The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Navy's civilian, manpower management programs. The Attorney General of the United States or his authorized representatives in connection with litigation law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. The Senate or the House of Representatives of the United States or any member, committee or subcommittee of joint committees on matters within their jurisdiction relating to the programs. The records may also be used to disclose information to any source from which additional information is requested in the course of processing a grievance or appeal to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested. The records may also be used to disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (General Services Administration) in records management inspection conducted under authority of 5 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in the pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual records are stored in paper folders.

RETRIEVABILITY:

Manual records are filed by last name.

SAFEGUARDS:

All records are stored under strict control, and are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Manual records are destroyed upon separation of the employee from the activity, or in accordance with appropriate record disposal schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Operations (OP-14), Department of the Navy, Washington, D.C. 20350.

NOTIFICATION PROCEDURES:

Requests by correspondence should be addressed to the Chief of Naval Operations (OP-14), Department of the Navy, Washington, D.C. 20350, Commanding Officers or Heads of Navy Staff Headquarters and Field Activities. The letter should contain the full name, social security number, and signature of the requester. The individual may visit the Chief of Naval Operations (OP-14), Department of the Navy, Arlington Annex, Washington, D.C. or the Navy Activity at which he or she is employed. The addresses of these activities are provided in the Department of the Navy Directory, published in the **Federal Register.**

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors or other appointed officials designated for this purpose.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-26960 Filed 9-3-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Per Diem, Travel, and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is pubishing Civilian Personnel Per Diem Bulletin Number 94. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 94 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325-9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishmenmts outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 94

To the Heads of Executive Departments and Establishments

Subject: Table of maximum per diem rates in lieu of subsistance for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the commonwealth of Puerto Rico and possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, Subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority to the President ot Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 93 except in the case identified by an asterisk which rate is effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and filed agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$9.65
Anaktuvuk Pass	140.00
Anchorage	72.00
Barrow	111.00
Bethel	93.00
Cold Bay	74.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Eielson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Ft. Richardson	72.00
Ft. Wainwright	67.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Shemya AFB [1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
All Other Localities	62.00
*American Samoa	65.00
Guam M.I.	60.00
Hawaii:	
Oahu	70.00
All Other Localities	60.00
Johnston Atoll [2]	15.50
Midway Islands [1]	9.65
Puerto Rico:	
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Fajardo:	
12-16—5-15	102.00
5-16—12-5	75.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
*Ponce (Incl. Ft. Allen NCS)	68.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
All Other Localities	63.00
Virgin Islands of U.S.:	
12-1—4-30	89.00
5-1—11-30	65.00
Wake Island [2]	17.00
Other Localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount

necessary to defray the cost of lodging, meal, and incidental expenses.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
August 29, 1980.

[FR Doc. 80-27072 Filed 9-3-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Establishment of Performance Review Board, Names of Board Members, and Schedule for Awarding Senior Executive Service Bonuses

Section 4314(c) of title 5 United States Code (as amended by the Civil Service Reform Act of 1978) requires that the Department of Energy establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review, evaluate and make a final recommendation on performance appraisals assigned to Departmental members of the Senior Executive Service. The Performance Review Board established for the Department of Energy also makes written recommendations to the Executive Personnel Board or Chairman of the Federal Energy Regulatory Commission regarding Senior Executive Service performance bonuses, awards, and performance-related actions.

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Department of Energy intends to award bonuses for the performance rating cycle of October 1, 1979, through August 15, 1980, with payouts scheduled by September 30, 1980.

Section 4314(c)(4) of title 5 United States Code requires that notice of appointment of Performance Review Board members be published in the **Federal Register.** The following persons have been appointed to serve on the performance review board standing register for the Department of Energy:

Deanne C. Siemer
Bernhardt Wruble
Richard L. Wright
Leslie Daly
Frank Pagnotta
Richard J. Stone
Tina Hobson
Harold J. Keohane
Robert A. Low
Obra S. Kernodle III
Louis F. Centofanti
G. Daniel Rambo
Mary T. O'Halloran
Charles F. Metzger
Jack G. Robertson
Charles E. Williams
Alex J. Fremling
Robert H. Bauer
Robert J. Hart
Joe B. Lagrone
James K. Wright
Edward L. Heller
Thomas C. Newkirk
Robert M. Hallman
Stephen E. McGregor
David L. Bodde
Michael J. Gillette
W. David Montgomery
Jimmie L. Petersen
Charles S. Smith
Lillian D. Regelson
Elizabeth C. MacRae
Maxine L. Savitz
Bennett Miller
Melvin Chiogioji
Robert San Martin
John E. Treat
James S. Moose
F. Scott Bush
Robert L. Davies
Doris J. Dewton
Jerry L. Pfeffer
Paul E. Bloom
R. Dobie Langenkamp
Harry A. Jones
S. Sterling Munro, Jr.
Robert J. Cross
Harry F. Wright
James B. Hammett
William H. Clagett IV
Carl W. Guidice
Anthony L. Liccardi
Martin R. Adams
Edward J. Lievens, Jr.
Harry R. Johnson
Andrew W. Decora
Augustine A. Pitrolo
Sun W. Chun
William W. Burr, Jr.
Thomas G. Frangos
Peter W. House
Sheldon Meyers
Robert L. Ferguson
Julio L. Torres
Robert T. Duff
Francis C. Gilbert
George Weisz
Gregory H. Canavan
Herman E. Roser
Robert L. Morgan
Mahlon E. Gates
J. Ronald Young
Antoinette G. Joseph
Richard H. Williamson
James S. Kane
James E. Leiss
Edwin E. Kintner
Marvin K. Moss
J. Merle Schulman
K. Dean Helms
Gene K. Fleming
John W. Polk
Ronald S. Schwartz
Joseph P. Cappello
David J. Ball
Berton J. Roth
Thomas Anderson
Cleo N. Mitchell, Jr.
Bert Greenglass
Clarence E. Mahan
Junius Hayes III
William G. McDonald
Lawrence R. Anderson
Robert Nordhaus
Kenneth A. Williams
William W. Lindsay

Issued in Washington, D.C. on August 28, 1980.

William S. Heffelfinger,
Director of Administration.

[FR Doc. 80-27145 Filed 9-3-80; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council, Subcommittee on Arctic Oil and Gas Resources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Arctic Oil and Gas Resources of the National Petroleum Council.

Date and Time: Friday, October 3, 1980—8:30 a.m.

Place: Madison Hotel, Dolly Madison Room, 15th and M Streets, N.W., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building—Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of Parent Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda

Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for a study of Arctic area oil and gas development.

Discuss an organizational structure for the study.

Discuss a timetable for completion of the study.

Discuss any other matters pertinent to the overall assignment from the Secretary.

Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 28, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-27147 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-022]

Powerplant and Industrial Fuel Use Act; Special Temporary Public Interest Exemptions; Public Hearing on Petitions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice tentatively rescheduling public hearing on petitions for special temporary public interest exemptions.

SUMMARY: On March 21, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy published in the **Federal Register** (45 FR 18423) notice of receipt of petitions filed pursuant to 10 CFR 508 for special temporary public interest exemptions from the prohibitions of Sections 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). On the same date, ERA published (45 FR 18425) a proposed order which would grant the requested exemptions pursuant to the authority of Section 311(e) of FUA and 10 CFR 508.

Publication of the notice of receipt of petitions and the proposed order commenced a 45 day comment period pursuant to Section 701 of FUA. Interested persons were also afforded and opportunity to request a public hearing during that same period, which ended on May 5, 1980. The Process Gas Consumers Group, the American Iron and Steel Institute and the Georgia Industrial Gas Group filed written comments and requested a public hearing on the proposed order.

On August 26, 1980, ERA published (45 FR 56867) a notice that the scope of the first hearing day was limited to the procedures governing the hearing and the scope of issues to be considered at the hearing. The notice also stated that there would be no oral or written presentations or examination of hearing participants. Additionally, the notice scheduled September 3, 1980, as the date the hearing would reconvene in Washington, D.C.

Tentative Rescheduling of Public Hearing

On the first hearing day, certain procedural and legal issues were raised by the hearing participants and the presiding officer set the following schedule:

—All preliminary motions by interested persons must be filed on or before August 29, 1980;

—All legal arguments concerning procedural matters and the scope of issues to be considered at the hearing must be filed on or before September 5, 1980;

—The presiding officer will issue his rulings on the various motions, procedural matters and scope of issues on or about September 10, 1980;

—All hearing participants must file prepared testimony by witnesses with the presiding officer, and serve copies upon persons on the service list on or before September 16, 1980;

—The hearing is tentatively set to reconvene in Washington, D.C., on Monday, September 22, 1980, contingent upon the rulings upon the preliminary motions by the presiding officer.

ADDRESSES: All submissions should be sent to the presiding officer Mr. Lawrence Gollomp, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

Docket Number ERA-FC-80-022 should be printed on the outside of the envelope and on the document contained therein.

If the hearing is reconvened on this matter, a **Federal Register** notice will be published stating the time and location of the hearing.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

August 28, 1980.

[FR Doc. 80-27134 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL80-30]

Alaska Power Authority; Declaration of Intention

August 28, 1980.

Take notice that on May 19, 1980, the Alaska Power Authority filed a declaration of intention to construct and operate a hydroelectric facility on Lake Elva Creek near Dillingham, Alaska. The declaration of intention was filed under § 23(b) of the Federal Power Act 16 U.S.C. § 817(b), and requests the Federal Energy Regulatory Commission (FERC) to commence an investigation to determine if a FERC license will be required for the project. Correspondence with the Alaska Power Authority should be directed to: Mr. Eric P. Yould, Executive Director, Alaska Power Authority, 333 West 4th Avenue, Anchorage, Alaska 99501.

The Project would consist of: (1) a rockfill dam, 137 feet high, near the outlet of the existing Lake Elva; (2) Lake Elva Reservoir with a surface are increased to 720 acres and a storage capacity of 29,000 acre-feet at normal maximum water surface elevation 350 feet (msl); (3) a pipeline, 7,300 feet long and varying in diameter from 48 inches to 36 inches; (4) a powerhouse containing two generating units with a total rated capacity of 1,500 kW; and (5) a 24.9-kV, combination transmission line and cable extending from the powerhouse to Aleknagik.

Project power would be used in the communities of Aleknagik and Dillingham.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any coments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's

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address is: 825 North Capitol Street, NE, Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27048 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-74]

Bennett's Standard, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Bennett's Standard on December 7, 1979 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Captiol Street, N.E. Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40 (e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26868 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2322]

Central Maine Power Co.; Application for New License

August 27, 1980.

Take notice that two applications were filed with the Federal Energy Regulatory Commission on August 11, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r) by Central Maine Power Company (Applicant), for (1) an amendment of its existing license, and (2) a new license for it's Shawmut Project, FERC No. 2322. The project is located on the Kennebec River in Kennebec and Somerset Counties, Maine. Correspondence with the Applicant on this matter should be addressed to: Mr. Charles E. Monty, Senior Vice-President, Engineering and Production, Central Maine Power Company, Edison Drive, Augusta, Maine 04336.

Project Description—The Shawmut Project consists of: (1) a 23-foot high, 1,135-foot long concrete gravity dam; (2) a 1,310-acre reservoir with negiligible storage capacity; (3) a forebay; (4) a powerhouse containing six turbine-generator units with a total rated capacity of 4,250 kW; and (5) appurtenant facilities.

Applicant requests that the license for Project No. 2322 be amended by changing the expiration date of the license from December 31, 1993, to coincide with the date of issuance of a new 50 year license for the redevelopment and continued operation of the Shawmut Project. Applicant also proposes to install, under the new license, two additional turbine-generator units with a total rated capacity of 3,440 kW adjacent to the existing powerhouse and utilizing the existing forebay, dam and reservoir. The redeveloped project would continue to be operated as a run-of-the-river facility and would generate an additional 20 million kWh annually saving the equivalent of 32,840 barrels of oil or 9260 tons of coal. Energy generated at the project would continue to be distributed to the Applicant's customers.

Project No. 2322 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The Applicant has calculated that the estimated net investment in the project would amount to $486,746 as of December 31, 1979. The Applicant's estimated severance damages as of December 31, 1979, would amount to $6,900.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *November 10, 1980,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 10, 1981.* A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended,* 44 *Fed. Reg.* 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended,* 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordane with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed or or before November 10, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27038 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-499]

Cities Service Gas Co.; Application

August 28, 1980.

Take notice that on August 14, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-499 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a sale of natural gas to El Paso Natural Gas Company (El Paso) and the construction and operation of facilities necessary therefor and for permission and approval to abandon certain facilities to be replaced by the proposed facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that because of substantially increased gas supplies and significantly reduced demand, it now has a gas supply surplus while El Paso is projecting a gas supply curtailment in the up-coming heating season. Applicant states that a limited-term gas sales agreement between it and El Paso will be executed soon and will provide for sale of the surplus gas on a best-efforts basis subject to Applicant's market and storage requirements and El Paso's decision as to whether it wishes to purchase the gas. Applicant contends that the proposed sale would reduce the risk that it would incur take-or-pay penalties while allowing it to continue to attach new long-term gas supplies to its system.

Applicant proposes to sell natural gas to El Paso for two years with an average daily quantity of 150 million Btu during the first contract year and an average daily quantity of 100 million Btu during the second contract year.

Applicant would sell the gas to El Paso at a rate equal to the maximum lawful price per million Btu for gas authorized by Section 102 of the Natural Gas Policy Act of 1978, less transportation costs incurred to deliver the gas to El Paso's system.

Applicant would deliver the subject gas to Natural Gas Pipeline Company of America (NGPL) for El Paso's account at points of interconnection between Applicant's and NGPL's systems in Ford County and Barton County, Kansas. NGPL would then transport the gas to El Paso for delivery at an existing interconnection in Lea County, New Mexico.

In order to provide the necessary capacity for the delivery of the contract volumes of gas to NGPL for the account of El Paso, Applicant proposes to construct and operate a tap on its Kansas-Hugoton 26-inch transmission pipeline in Ford County, Kansas. Applicant further proposes to abandon by reclaim approximately 0.6 mile of 8-inch pipeline, measuring, and appurtenant facilities, and replace them by constructing approximately 0.6 mile of 16-inch pipeline, measuring, and appurtenant facilities also in Ford County. Applicant also proposes to construct and operate a tap on its Rawlins-Hesston 18-inch transmission pipeline and to construct and operate 0.1 mile of 12-inch pipeline, measuring, and appurtenant facilities, all in Barton County, Kansas.

Applicant estimates the cost of the proposed facilities to be $349,289 which would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27039 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-497]

El Paso Natural Gas Co.; Application

August 28, 1980.

Take notice that on August 12, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-497 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the use and operation as a storage facility of the Rhodes Reservoir Gas Storage Unit (Rhodes Reservoir) located in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since 1945, with a period of dormancy between 1966 and 1973, Rhodes Reservoir, located in Southeast Lea County, New Mexico, has been used as a natural gas storage field necessary to make up deficiencies when current market demands exceeded flowing gas supply. It is stated that during the 1978-79 winter season significantly increased high priority demand and unanticipated interruptions in gas flow required Applicant to withdraw gas from Rhodes Reservoir for an extended period at essentially maximum daily rates. However, Applicant states, although first day deliverability had been expected to be as high as 123,000 Mcf, actual first day deliverability proved to be only 83,000 Mcf. It is stated that preliminary evaluation of this operational result indicated that the failure to achieve the anticipated daily withdrawal rate was caused by the lessening of pressures over time in the strata at the base of the storage/withdrawal wells. Applicant subsequently commenced the withdrawal of the remaining working gas inventory in Rhodes Reservoir for transportation and delivery for the account of Clay Basin Storage Company and eventual injection into the Clay Basin Storage Field pursuant to Clay Basin Interim Storage Arrangements.

Applicant states that it could bring Rhodes Reservoir to full operational status as a storage project at an additional investment of approximately $21,915,000 and that the earliest the reservoir could be restored would be for the beginning of the 1983-84 winter season.

Applicant states that it has decided to terminate the use of Rhodes Reservoir as a storage facility for the time being while retaining the right to propose later restoration should circumstances so dictate. Specifically Applicant proposes to abandon the purification facility, approximately 24.22 miles of injection/withdrawal field pipeline, 35 injection/withdrawal meters with appurtenances, and 70 standard orifice meter runs with appurtenances.

Applicant contends that the protection of high priority service continues to be a major concern and that viable alternatives to the continued use of Rhodes Reservoir exist that provide the required measure of protection more efficiently and at a lower cost. Moreover, Applicant avers that the existing Rhodes Reservoir facilities would not be physically removed after the storage operation has been abandoned but would instead be

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retained in place for use in the production and gathering of gas from Rhodes Reservoir.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27040 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-72]

Faith Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Faith Oil Company on July 9, 1979 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e) (3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26867 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3093]

Franklin Electric Light & Power Co.; Granting Intervention

August 26, 1980.

On March 20, 1980, the Franklin Electric Light and Power Company (Applicant) filed an application for a short-form minor license for the proposed Franklin Falls Project No. 3093, to be located on the Winnipesaukee River in Merrimac County, New Hampshire. Public notice of the filing of the application was issued on May 14, 1980 with July 23, 1980 as the last date for filing protests or petitions to intervene.

On July 23, 1980, the Franklin Industrial Complex, Inc. (FICI) filed a petition to intervene. In its petition, FICI states that: (1) it is the owner of the dam and the dam site which form part of the proposed project; (2) the Applicant only possesses an easement to the dam and dam site; (3) the easement terms will be violated if the proposed project is implemented; (4) FICI may incur serious liability which the Applicant's plans do not safeguard against; (5) the proposed project would cause FICI to lose 25 percent of its generating capacity at an operating hydro facility located immediately upstream from the dam for Project No. 3093; and (6) FICI has an interest which may be directly affected by the Commission's actions and which is not adequately represented by the existing parties.

No response to the petition has been filed with the Commission.

Intervention by the petitioner appears to be in the public interest.

Pursuant to Section 375.302 of the Commission's Regulations, 45 Fed. Reg. 21216 (1980), *amending* 18 C.F.R. 3.5(a) (1979), the Franklin Electric Light and Power Company is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. Participation of the Intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb.

Secretary.

[FR Doc. 80-27032 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-682]

Hartford Electric Light Co.; Filing

August 26, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, the Hartford Electric Light Company (HELCO) tendered for filing pursuant to Section 205 of the Federal Power Act and the implementing provisions of Section 35.13 of the Commission's Regulations thereunder, an amendent to its currently effective Rate Schedule FERC No. 167.

By the tendered amendatory agreement, HELCO proposes an increase in the capacity and energy charges to be paid by HELCO to Montaup Electric Company (Montaup) for any capacity and the energy associated therewith provided from Montaup's system during any Weekly Cycle (as defined at Section 3 of HELCO's Rate Schedule FERC No. 167).

HELCO requests that the Commission waive its notice requirements pursuant to Section 35.11 of its Regulations in order to allow the tendered amendatory agreement to become effective as proposed on July 1, 1980. HELCO has further requested the Commission to waive certain portions of Section 35.13 of the Commission's Regulations for good cause shown. Montaup has concurred in HELCO's filing as evidenced by a properly executed Certificate of Concurrence.

Copies of this filing have been served by HELCO upon Montaup.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27033 Filed 9-3-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 2961]

Hotel Baker; Application for Short-Form License (Minor)

August 26, 1980.

Take notice that Hotel Baker (Applicant) filed on August 24, 1979, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the rehabilitation of a water power project to be known as Hotel Baker Project No. 2961. The project would be located on the Fox River in the Town of St. Charles, Kane County, Illinois. Correspondence with the Applicant should be directed to: Mr. John Grotberg, General Manager, Hotel Baker, a unit of the Lutheran Social Services of Illinois, 100 W. Main Street, St. Charles, Illinois, 60174.

Project Description—The project would consist of: (1) an existing 293-foot long and 10-foot high masonry dam; (2) a small reservoir, 5.5 miles long; (3) an existing approach channel, located on the right abutment of the dam, terminating at the north wall of the hotel building; (4) an existing intake structure located under the hotel; (5) an existing generating room, 110 feet long and 43 feet wide, located in the basement of the hotel, containing 2 generating units with a total installed capacity of 143 kW; (6) an existing masonry arch conduit tailrace, 175 feet long, terminating into a 42-inch diameter concrete pipe 65 feet long; and (7) appurtenant facilities. The estimated annual generation of the project would be 1200 MWh.

Purpose of Project—Project energy would be used by the hotel to meet its service load.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 24, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR. 4.33(a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission Rules. Any comments, protest, or petition to intervene must be filed on or before October 24, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27034 Filed 9-3-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA80-75]

Huber's, Inc., d.b.a. Budget Rent-a-Car of Louisville; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Huber's, Inc., d.b.a. Budget Rent-a-Car of Louisville on January 16, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room

1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary,

[FR Doc. 80-26868 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2930]

Idaho Power Co.; Application for License (Major)

August 27, 1980.

Take notice that on June 6, 1980, the Idaho Power Company (Applicant) filed an application [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for a major license for the unconstructed North Fork Payette River Project No. 2930. Correspondence with the Applicant should be directed to: Mr. Lee S. Sherline, Leighton & Sherline, Suite 803, 1701 K Street, N.W., Washington, D.C. 20006. The proposed project would be located on the North Fork of the Payette River in Boise, Valley, and Gem Counties Idaho. Lands of the United States that would be affected are lands administered by the Bureau of Land Management and the Boise National Forest.

The proposed North Fork Payette River Project would consist of: (1) the Ferncroft development comprising a diversion weir, to be located about three miles downstream of Smith's Ferry, which would divert up to 2,550 cubic feet per second (cfs) of water into a 38,000-foot long power tunnel terminating at an underground surge tank; a vertical penstock connected to an underground powerhouse containing three generating units with a total installed capacity of 174 MW; and a tailrace tunnel returning the turbine discharge to the river; (2) the Banks development, comprising a diversion weir, to be located must downstream from the tailrace outlet of the Ferncroft development, which would divert up to 2,550 cfs of water into a 22,000-foot long power tunnel terminating at an underground surge tank; a vertical penstock connected to an underground powerhouse containing three generating units with a total installed capacity of 99 MW; and a tailrace tunnel returning the turbine discharge to the river; and (3) a 31-mile long transmission line extending from a switchyard adjacent to the Banks powerhouse, to the proposed Shellrock Canyon Switching Station.

The proposed project would have a total rated capacity of 273 MW and an average annual generation of 1,234,339 MWh at an estimated cost of $261,185,600. Power produced by the project would be utilized in the area served by the Applicant.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 4, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended*, 44 Fed. Reg. 61328 (October 25, 1979). A competing application must confrom with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27041 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-688]

Iowa Public Service Co.; Notice of Filing

August 27, 1980.

Take notice that on August 21, 1980, Iowa Public Service Company (IPS) tendered for filing four Exhibits. They are as follows:

1. *Exhibit A*—Amendment to Service Schedule A, Emergency Service, under the Interconnection Agreement between Omaha Public Power District and Iowa Public Service Company, dated March 18, 1958, as amended and supplemented, designated as Supplement No. 4 to Rate Schedule FPC No. 10.

2. *Exhibit B*—Amendment to Second Revised Schedule B, Seasonal Participation Power Interchange Service; Service Schedule C, Emergency and Scheduled Outage Energy Interchange Service; First Revised Service Schedule H Peaking Power Interchange Service; and First Revised Service Schedule I, Short Term Power Interchange Service, under the Interconnection and Operating Agreement Corn Belt Power Cooperative and Iowa Public Service Company, dated October 28, 1976, as supplemented, designated respectively as Supplement No. 5, Supplement No. 6, Supplement No. 11 and Supplement No. 12 to Rate Schedule FPC No. 59.

3. *Exhibit C*—Service Schedule D, Emergency Energy, under the Electric Interchange Agreement between Iowa Public Service Company and Board of Trustees of the Municipal Electric Utility of Cedar Falls, Iowa, dated January 8, 1971, as supplemented, designated as Supplement No. 4 to Rate Schedule FPC No. 51.

4. *Exhibit D*—Service Schedule B, Seasonal Participation Power Interchange Service; Service Schedule C, Emergency and Schedule Outage Energy Interchange Service; Service Schedule H, Peaking Power Interchange Service; and Service Schedule I, Short Term Power Interchange Service, under the Interconnection Agreement between Iowa Public Service Company and the City of West Bend, Iowa, dated March 24, 1978, as supplemented, designated respectively as Supplement No. 2, Supplement No. 3, Supplement No. 5 and Supplement No. 6 to Rate Schedule FERC No. 61.

IPS indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27042 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-72]

Kansas Power & Light Co.; Notice of Application

August 27, 1980.

Take notice that on August 22, 1980, The Kansas Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $70,000,000 in the aggregate principal amount of short-term, unsecured Promissory Notes in the form of commercial paper, on or before November 30, 1981, with a final maturity date of not later than November 30, 1982.

The proceeds will be used to finance in part Applicant's construction program to November 30, 1981.

Any person desiring to be heard or to make any protest with reference to the application, should, on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27043 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-680]

Kansas Power & Light Co.; Notice of Filing

August 27, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, Kansas Power and Light Company (KP&L) tendered for filing Amendment 1 to Service Schedule B, Emergency Service, to rate schedule FPC No. 3 between KP&L and Omaha Public Power District (OPPD). The proposed effective date is August 10, 1980, and KP&L requests that the Commission waive the notice requirements as allowed in Section 35.11 of its regulations. In addition, KP&L states that copies of the Amendment have been mailed to OPPD and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27044 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1860]

Robert L. Loughhead; Order Granting Authority To Hold Certain Interlocking Positions

Issued August 28, 1980.

On January 15, 1979, Mr. Robert L. Loughhead (Applicant), submitted an application pursuant to section 305(b) of the Federal Power Act, to hold the interlocking positions of Director of Ohio Edison Company (Edison)—a jurisdictional utility—and Group Vice President/Steel of Copperweld Corporation (Copperweld)—a manufacturer of electrical equipment. Mr. Loughhead was elected to the latter position on April 1, 1978; he was elected to the former position on December 19, 1979, pending our authorization.

Mr. Loughhead's application states that as a Director of Edison he would perform the duties that are customarily performed by an individual in that position. As a Vice President of Copperweld, Mr. Loughhead's application acknowledges that Edison purchases electrical wire from Copperweld.

Notice of Mr. Loughhead's application was issued on February 16, 1979,[1] with comments on or before February 20, 1979. On April 22, 1980, Edison submitted a petition to intervene out of time. In its petition, Edison has supplied us with 1978 and 1979 sales data concerning the Edison-Copperweld relationship.

On July 28, 1980, Edison responded to a request for supplemental information concerning the nature of the materials that Copperweld sells to Edison. In its filing, Edison states that it began purchasing a copper alloy wire manufactured by Copperweld in 1971 because of the limited availability and high cost of galvanized steel wire. However, Edison notes that it is currently preparing an updated cost and engineering study to determine whether it should resume purchasing galvanized steel wire rather than the Copperweld wire. Edison also buys steel reinforced wire called "alumoweld" from Copperweld. The utility states that "alumoweld" offers cost advantages that are not offered by other products.

Discussion

We find that Edison's participation in this proceeding may be in the public interest. Accordingly, we shall grant its petition to intervene out of time.

Mr. Loughhead's application does not challenge the fact that the positions that he wishes to hold are within the purview of the Federal Power Act and our regulations. *See* Federal Power Act § 305(b), 16 U.S.C. § 825d(b) (1976); 18 CFR § 45.2. Because Copperweld is an electric equipment supplier of Edison,[2] our approval is required in order for the applicant to hold the positions of Vice-President of Copperweld and Director of Edison.

We have held that where the relationship between a utility and an electrical equipment supplier is of a *de minimis* character, the public interest would best be served by granting the application to hold interlocking positions, while imposing an annual reporting requirement upon the applicant in order to ensure continued consistency with statutory requirements. *E.g., Charles T. Fisher, III,* Docket No. ID-1758 (October 25, 1979). The Commission finds that the existing relationship between Edison and Copperweld is *de minimis* in nature. For example, we note that Edison's purchases from Copperweld in 1978 constituted 0.79% of Edison's non-fuel purchases. In 1979, that figure decreased to 0.43%. Accordingly, we shall grant Mr. Loughhead's application, subject to the reporting requirements identified below.

The Commission orders:

(A) Until further order of the Commission, Applicant is authorized to hold the positions of Vice-President/Steel of Copperweld and Director of Edison, subject to Part 45 of the Commission's regulations (18 CFR § 45 *et seq.*), and further subject to the

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[1] 44 FR 10117 (1979).

[2] There is no question that Edison is a jurisdictional electric utility. *See Ohio Edison Co.*, 4 F.P.C. 720, 722 (1944).

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provisions of ordering paragraphs (B) and (C) below.

(B) On or before April 30, 1981, and on or before April 30 of every year thereafter during which Applicant holds the positions authorized by this order, Applicant shall submit a report disclosing, for the preceding year, the nature and dollar amount of any electrical equipment supplied by Copperweld, or any subsidiary of Copperweld, either directly or indirectly, or through wholesale or retail suppliers, or any other intermediary, to Edison.

(C) The Commission reserves the right to require Applicant to make further showings that neither public nor private interests will be adversely affected by the continued holding of the interlocking positions authorized by this order.

(D) Edison is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of the intervenor shall be limited to matters set forth in its petition to intervene; and *provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27049 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-71]

Montana-Dakota Utilities Co.; Notice of Application

August 27, 1980.

Take notice that on August 22, 1980, Montana-Dakota Utilities Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $40,000,000 of promissory notes that are to be issued in the form of ordinary unsecured promissory notes (hereinafter sometimes referred to as the "Notes"). The Notes will be dated as of the respective dates of their issue and will be due no later than September 30, 1982. The Notes will be issued pursuant to a revolving credit agreement.

The principal use of the proceeds from the issuance of the Notes is to repay short-term borrowings incurred to finance the Applicant's 1980 utility capital requirements.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27045 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-55]

Mountain Fuel Resources, Inc.; Tariff Sheet Filing

August 25, 1980.

Take notice that on August 15, 1980, Mountain Fuel Resources, Inc. (Resources) tendered for filing and acceptance, Second Revised Sheet Nos. 24 through 28 as parts of its FERC Gas Tariff, Original Volume No. 1.

On June 20, 1980, the Commission issued an order conditioning its acceptance of Resources' PGA filing in Docket No. TA80-2-55 upon Resources' filing revised tariff sheets modifying the PGA clause of Resources' Tariff to conform with Order No. 49 issued September 28, 1979, and Order No. 49-A issued December 27, 1979, in Docket No. RM79-14 and Section 154.38 of the Commission's Regulations. The tariff sheets were ordered to be effective December 1, 1979. Second Revised Sheet Nos. 24 through 28 reflect the Commission ordered modifications.

The proposed revisions will not increase Resources' revenues from jurisdictional sales and service.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources' tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26869 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3176]

New Hampshire Water Resources Board; Amended Notice of Application for Preliminary Permit

August 26, 1980.

Take notice that the New Hampshire Water Resources Board (Applicant) filed on June 26, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the proposed Project No. 3176 to be known as the Murphy Dam Project located on the existing State of New Hampshire owned Murphy Dam on the Connecticut River, near the Town of Pittsburg in Coos County, New Hampshire. Correspondence with the Applicant should be addressed to: Mr. George M. McGee, Sr., New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301. This amended notice changes the date by which comments, protests, or petitions to intervene must be filed.

Purpose of Project—Energy from Project No. 3176 would be sold to the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on the sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be approximately $400,000.

Project Description—Project No. 3176 would consist of: (1) the existing earth embankment dam 2,100 feet long and 100 feet high; (2) an existing 300-foot long, concrete spillway discharging through a rock channel into the river; (3) Lake Francis, having an area of 2,020 acres and a storage capacity of 96,000 acre-feet at normal maximum surface elevation of 1,385 feet; (4) an existing 13-foot diameter steel-lined concrete conduit that withdraws water from the reservoir through a gate house; (5) an 8-foot diameter penstock approximately

300 feet long; (6) a 30 by 40-foot powerhouse; (7) a 450-foot long tailrace; (8) a turbine/generator system with an installed capacity of 2,200 kW; and (9) required electrical equipment for connection to existing transmission lines. The Applicant estimates annual generation would average 12,850,000 kW.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the one filed by the Public Service Company of New Hampshire on December 4, 1979, Project No. 3006, under 18 C.F.R. 4.33 (as amended, 44 FR 61328, October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard to or make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriation action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be filed on or before October 10, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27035 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-500]

Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Application

August 28, 1980.

Take notice that on August 14, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-500 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 72 small volume sales measuring stations and the sale and delivery of additional volumes of natural gas in the states of Montana, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide service to right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. It is stated that such service would be made to small volume [1] industrial, commercial, and residential customers.

Applicant proposes to install and operate 68 delivery stations in South Dakota, Minnesota, Iowa, Nebraska, Kansas, and Texas for deliveries of gas to be resold by People's Natural Gas Company, Division of InterNorth, Inc. (Peoples), from People's presently authorized contract demand.

Applicant proposes to install and operate two delivery stations in Oklahoma for deliveries of gas to be resold by Southern Union Gas Company (So. Union). This would result in a 600 Mcf increase in annual sales to So. Union under Applicant's Rate Schedule X-46, it is asserted.

Further, Applicant proposes to install and operate two delivery stations for deliveries of gas for direct sale to two Montana customers pursuant to terms of farm tap service contracts between Applicant and the new customers.

Applicant more fully describes the 72 proposed small volumes sale measuring stations including locations, estimated peak day and annual sales, and use as follows:

Right-of-way grantor	Legal description Sec-Twp-Rge-county-state	Estimate sales-Mcf		Primary end use	Cost of facilities
		Peak day	Annual		
Northern Natural Gas Company (Direct):					
Donoven, Keith J.	20-34-13-Hill-MT	3.2	295	Res. heat	$1,120
Olson, Walter M.	5-26-17-Chouteau-MT	93.0	6,650	Irrigation	1,310
Totals, Northern (Direct)		96.2	6,945		2,430
Peoples Natural Gas Company, Division of InterNorth, Inc.:					
Anderson, David E.	34-118-32-Meeker-MN	108.0	1,791	Crop dryer	1,410
Anderson, G. Dale	6-88-8-Buchanan-IA	25.0	906	Crop dryer	1,860
Anderson, John P.	22-36-23-Isanti-MN	2.0	200	Res. heat	230
Arndorfer, Kenneth	30-103-17-Mower-MN	20.0	1,100	Crop dryer	2,040
Bartz, Daryl G.	20-103-31-Martin-MN	55.0	1,372	Crop dryer	1,880
Bosier, James R.	1-81-26-Dallas-IA	1.6	165	Res. heat	1,630
Bovy, Peter	35-88-13-Black Hawk-IA	2.0	139	Res. heat	900
Bruellman, Don	25-95-31-Palo Alto-IA	20.0	606	Crop dryer	1,830
Cabalka, Charles	21-88-9-Buchanan-IA	1.5	200	Res. heat	910

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[1] As defined in Applicant's Gas Tariff, customers with maximum daily gas requirements under 200 Mcf are considered small volume customers.

Right-of-way grantor	Legal description Sec-Twp-Rge-county-state	Estimate sales-Mcf		Primary end use	Cost of facilities
		Peak day	Annual		
Carlson, Rodney	25-121-28-Wright-MN	2.0	165	Res. heat	940
Carroll, Lester	15-106-18-Dodge-MN	33.0	735	Crop dryer	1,860
Collingsworth, J. P.	1-2-WCRR-Ochiltree-TX	1.2	158	Res. heat	1,910
Curtis, Murel	22-32-37-Stevens-KS	1.5	180	Res. heat	780
Dailey, Kenneth	33-106-47-Moody-SD	30.0	1,132	Crop dryer	2,040
Elbert, Virgil P.	6-95-31-Palo Alto-IA	40.0	1,350	Crop dryer	2,120
Gerber, Robert D.	24-105-14-Olmstead-MN	84.0	2,050	Crop dryer	1,220
Glenapp, Elvin	13-88-6-Delaware-IA	1.5	160	Res. heat	910
Goergen, James P.	3-101-16-Mower-MN	20.0	765	Crop dryer	1,860
Grafenberg, Ronald	30-95-8-Fayette-IA	9.0	517	Crop dryer	1,420
Grocott, Glenn	4-103-52-Minnehaha-SD	30.0	1,132	Crop dryer	1,860
Hackrott, LeRoy	21-100-50-Lincoln-SD	30.0	1,132	Crop dryer	860
Heinemann, Don	1-92-12-Bremer-IA	1.7	175	Crop dryer	1,420
Huffman, Wesley H.	9-93-37-Buena Vista-IA	2.0	190	Res. heat	1,500
Ingvalson, James	15-114-22-Scott-MN	2.0	198	Res. heat	1,250
Jenson, Ronald F.	19-104-21-Freeborn-MN	30.0	1,200	Crop dryer	1,860
Johnson, Ralph W.	3-103-6-Houston-MN	84.0	2,100	Crop dryer	2,040
Jones, Vron A.	31-102-34-Jackson-MN	54.0	1,372	Crop dryer	2,080
Kennen, Donald L.	10-36-21-Chisago-MN	3.0	200	Res. heat	1,350
Klein, Ronald P.	11-104-50-Minnehaha-SD	30.0	1,132	Crop dryer	1,830
Klemenhagen, Harold	6-112-19-Dakota-MN	2.0	187	Res. heat	1,250
Larson, Lester	28-81-38-Shelby-IA	1.7	330	Res. heat	1,390
Laumann, James	20-116-26-Carver-MN	20.0	1,740	Crop dryer	1,440
Lene, Leroy O.	1-32-26-Sherburne-MN	3.0	200	Res. heat	1,350
Lippert, M. J.	2-116-35-Renville-MN	40.0	722	Crop dryer	1,120
Mans, Lawrence	12-40-21-Pine-MN	3.0	200	Res. heat	1,350
McAreavey, John D.	5-103-52-Minnehaha-SD	30.0	1,592	Crop dryer	1,800
McEntee, Dennis	21-14-1-Polk-NE	2.1	185	Res. heat	1,370
Mersman, Roy	35-84-22-Story-IA	1.5	238	Res. heat	1,630
Meyer, D & A Farms	5-112-23-LeSueur-MN	75.0	2,529	Crop dryer	2,320
Miller, Dwight	15-104-22-Freeborn-MN	70.0	1,300	Crop dryer	2,110
Moenck, Harold	29-102-6-Houston-MN	60.0	3,805	Crop dryer	2,040
Montagne, Oliver R.	14-90-49-Union-SD	30.0	1,617	Crop dryer	2,290
Nichols, Harold	34-28-31-Haskell-KS	33.6	3,800	Irrigation	1,690
O'Neal, James E.	11-17-7-Dodge-NE	1.5	162	Res. heat	1,350
Pestorious, Gerald	10-102-22-Freeborn-MN	3.0	200	Res. heat	900
Petersen, Donald M.	30-97-33-Palo Alto-IA	15.0	450	Crop dryer	1,670
Pettit, H. R.	18-96-30-Kossuth-IA	45.0	1,368	Crop dryer	2,120
Pries, Arthur L.	27-107-12-Olmsted-MN	84.0	2,070	Crop dryer	1,220
Rebischke, Dennis J.	21-98-49-Lincoln-SD	2.0	190	Shop heat	1,640
Recker, Carl L.	18-91-8-Fayette-IA	12.0	217	Crop dryer	1,420
Relitz, Harvey	3-26-6-Thurston-NE	1.0	147	Res. heat	1,990
Remold, Harold	33-109-18-Goodhue-MN	30.0	270	Crop dryer	1,860
Rupprecht, David	16-106-9-Winona-MN	60.0	3,811	Crop dryer	1,860
Rysdam, Richard	8-39-22-Pine-MN	3.0	200	Res. heat	1,350
Sakry, Richard	18-36-30-Benton-MN	11.0	640	Crop dryer	1,450
Sandquist, Dellis J.	22-36-23-Isanti-MN	14.0	760	Crop dryer	1,660
Sanford, Douglas C.	20-36-26-Mille Lacs-MN	14.0	760	Crop dryer	1,640
Schleusner, Larry	13-105-14-Olmsted-MN	2.0	200	Res. heat	1,530
Schneider, Thomas W.	33-88-13-Black Hawk-IA	35.0	2,012	Crop dryer	1,780
Schramm, Roger	25-104-18-Mower-MN	35.0	1,020	Crop dryer	1,220
Simonson, Sherman	1-104-16-Mower-MN	2.0	330	Res. heat	1,280
Sunderman, Lucille	6-111-25-LeSueur-MN	3.0	185	Res. heat	1,250
Taylor, James P.	12-18-10-Washington-NE	1.2	138	Res. heat	1,510
Tolmie, Frank	7-106-10-Winona-MN	2.0	200	Res. heat	1,500
Urban, Willard J.	27-117-28-McLeod-MN	1.7	178	Res. heat	860
Wiese, Robert E.	36-97-38-Clay-IA	16.0	1,132	Crop dryer	1,820
Withers, Charles	31-30-33-Haskell-KS	33.6	3,800	Irrigation	1,240
Zumhof, Wayne F.	6-88-2-Dubuque-IA	2.0	145	Res. heat	1,280
Total Peoples Natural		1,524.9	61,552		104,350
Southern Union Gas Company:					
Bailey, LaRoy V.	4-22-23-Ellis-OK	1.5	300	Res. heat	860
Cook, Wade	36-27-22-Harper-OK	1.5	300	Res. heat	860
Total Southern Union		3.0	600		1,720
Totals, all projects		1,624.1	69,097		
Total costs, all projects					108,760

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27046 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA 81-1-37; (PGA 81-1, IPR 81-1)]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

August 26, 1980.

Take notice that Northwest Pipeline Corporation, on August 15, 1980, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective during the period October 1, 1980 through March 31, 1981, applied to volumes purchased for the twelve (12)-month period ending June 30, 1980, (2) its change in unrecovered purchased gas costs since Northwest's prior PGAC filing dated February 15, 1980; and (3) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order 49.

The current PGAC adjustment, for which notice is given herein, aggregates to an decrease of 2.430¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of $10,970,304. Northwest proposes to recover, through a surcharge, the adjusted balance of $16,476,426 in its FERC Account No. 191, as of June 30, 1980. The proposed change in rates from the PGAC and the other changes proposed by Northwest would result in a net decrease in its annual revenues from jurisdictional sales and service of $93,310,813 exclusive of special surcharge credit adjustments.

Northwest is concurrently filing a notice of change in rates applicable to Section 13.7, Changes in Rates to Reflect Curtailment Credits, contained in its First Revised Volume No. 1 Tariff and a notice of change in rates pursuant to the advance payments tracking provision in its Stipulation and Agreement in Settlement at Docket No. RP79-57. In accordance with Article 13.7 contained in the aforementioned tariff, and Article VIII of the Stipulation and Agreement the current rate adjustments under the Demand Charge Credit Adjustment provision and Advance Payment Tracker Provision are to become effective on Northwest's PGAC adjustment date. Accordingly, all three rate adjustments are reflected on the tendered First Revised Sheet No. 10 which is proposed to become effective on October 1, 1980. Northwest also tendered for filing and acceptance First Revised Sheet Nos. 10-A and 10-B. First Revised Sheet No. 10-A sets forth a new form to eliminate adjustments not applicable to Rate Schedule LS-1, and First Revised Sheet No. 10-B sets forth revised projected incremental pricing surcharges to become effective October 1, 1980 as part of the instant filing.

Northwest has also included as part of this instant filing Twenty-seventh Revised Sheet No. 10 and Second Revised Sheet Nos. 10-A and 10-B to its Original Volume No. 1 Tariff. Northwest filed its First Revised Volume No. 1 Tariff August 1, 1980 and requested a September 1, 1980 effective date. Should the Commission not make Northwest's First Revised Volume No. 1 effective prior to October 1, 1980, Northwest requested that Twenty-seventh Revised Sheet No. 10 and Second Revised Sheet Nos. 10-A and 10-B be accepted effective October 1, 1980.

A copy of this filing has been served on all parties on record in Docket No. RP72-154, upon all jurisdictional customers, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27036 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3232]

Boro of Oakland, Pa.; Application for Preliminary Permit

August 26, 1980.

Take notice that the Boro of Oakland, Pennsylvania (Applicant) filed on July 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3232 to be known as the Oakland Project located on the Susquehanna River in Susquehanna County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Thomas C. H. Webster, 2629 McDowell Road, St. Thomas, Pennsylvania 17252.

Project Description—The proposed project would consist of: 1) the existing Oakland dam, 567 feet long, and 9.5-feet high, improved by a concrete crown and apron; 2) a powerhouse, 20 by 55 feet, housing; 3) four 750-kW generating units operating under a 9.5-foot head; 4) an upgraded tailrace 179 feet long; and 5) a 33-kW transmission line 150 feet long.

Applicant estimates annual generation would average 12,220,000 kWh.

Purpose of Project—Applicant proposes to sell all project power to the Pennsylvania Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local

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government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $30,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 5, 1980. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended, 44 Fed. Reg.* 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended, 44 Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27030 Filed 9-3-80, 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-489]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Notice of Application

August 28, 1980.

Take notice that on August 8, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-489 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants herein propose to transport and redeliver to Northern volumes of gas purchased by Northern from Eugene Island Block 39, offshore Louisiana. It is stated that pursuant to a July 10, 1980, transportation and sales agreement between Applicants and Northern, Trunkline would receive the gas from Michigan Wisconsin Pipe Line Company at a point of delivery in St. Mary Parish, Louisiana, and would redeliver the gas for Northern's account at Trunkline's Longville, Louisiana, compressor station in Beauregard Parish, Louisiana. Applicants propose under an earlier authorized transportation arrangement that Trunkline would transport the gas from Longville to Panhandel at an interconnection in Douglas County, Illinois, for further delivery by Panhandle to Northern in Kiowa County, Kansas.

Applicants propose to transport up to 3,000 Mcf of gas per day during the first five years of service. Northern would have an option to reduce said quantity thereafter to no less than fifty percent of the initial volume.

Panhandle would charge Northern a monthly rate of $2,376 subject to adjustment based on firm transportation for Northern of 2,400 Mcf of gas per day for service between the point of receipt and Trunkline's Longville compressor station. An upward or downward adjustment of 3.27 cents per Mcf would be applied to any deficiency or excess in quantities taken. Panhandle would pay Trunkline for its *pro rata* share of the transportation service for the amounts paid by Northern. Northern would reimburse Trunkline one percent of the volumes received for fuel usage and line losses in transportation service between the point of receipt and Longville.

Applicants state that Northern has agreed to sell Panhandle up to 20 percent of the volumes received by Trunkline as partial consideration for the transportation service. Should Panhandle purchase additional gas which becomes available, the purchase price would be the cost of service underlying Northern's then effective jurisdictional sales rate plus associated transportation charges paid to others to effect delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries herein.

In compensating for the transportation by Trunkline of Panhandle's gas purchased from Northern to the point of interconnection in Douglas County, Illinois, Panhandle would pay Trunkline a monthly charge of $3,660 based on firm transportation quantity of 600 Mcf per day during the first five years of service with the option to reduce said quantity thereafter to no less than fifty percent of the initial volume. An upward or downward adjustment of 20.04 cents per Mcf would be applied to any deviation from the 600 Mcf per day in quantities taken, and Trunkline would retain five percent of the volumes received as reimbursement for fuel and line losses.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practive and Procedure (18 CFR 1.8 of 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission of its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 27647 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 67]

Southern California Edison Co.; Intent To Prepare Environmental Impact Statement and Notice of Scoping Meeting

August 28, 1980.

An application has been filed with the Federal Energy Regulatory Commission by the Southern California Edison Company (Licensee) for amendment of its license for the existing Big Creek No. 2A and No. 8 Project, FERC Project No. 67, located on the South Fork San Joaquin River and Big Creek in Fresno County, California. Licensee proposes to add the 200 MW Balsam Meadow development to Project No. 67 by constructing a hydroelectric power plant between the Huntington—Pitman—Shaver conduit (Tunnel No. 7) and Shaver Lake. The water supply will be provided by diversions from Huntington Lake and Pitman Creek through existing Tunnel No. 7 to a new forebay located in Balsam Meadow. The application was mailed out for agency review and comment on July 8, 1980. The Commission's staff has determined that issuance of the proposed amendment of license would be a major Federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impacts expected from the proposed Balsam Meadow development. The scoping meeting will be convened by the Commission's staff at 9:00 a.m. on September 18, 1980 at the Fresno County Public Library, 2420 Mariposa, Fresno, California (93721). The meeting will be recorded by a stenographer.

The primary goal of this meeting is to encourage interested parties to assist the staff in determining the scope of significant issues to be analyzed in depth in the environmental impact statement; and identifying and eliminating from detailed study issues which are not significant or which have been covered by prior environmental review.

The Commission's staff will identify, and requests that interested persons also identify, the significant issues that should be addressed in the environmental impact statement. If you are unable to send a representative to this meeting, you are encouraged to provide detailed comments by mail. If we do not receive your comments by October 1, 1980, we will assume that you have no further comments concerning the issues to be discussed in depth in the environmental impact statement.

Questions concerning the proposed action and the environmental impact statement should be directed to: Mr. James Haimes, Division of Environmental Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at (202) 376-9053.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27050 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-8 (PGA No. 80-2)]

South Georgia Natural Gas Co.; Revision to PGA Rate Adjustment

August 25, 1980.

Take notice that on August 14, 1980, South Georgia Natural Gas Company tendered for filing Substitute Eleventh Revised Sheet No. 4 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective on July 1, 1980.

South Georgia states that the purpose of the revised tariff sheet is to revise its July 1, 1980 PGA rate adjustment to reflect a decrease of 0.677¢ in its supplier's rates being tracked, as required by the Commission's June 30, 1980 letter order in this proceeding.

South Georgia states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 5, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26870 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-132]

Southwest Gas Corp.; Proposed Changes in FERC Gas Tariff

August 26, 1980.

Take notice that on August 18, 1980, Southwest Gas Corporation ("Southwest") tendered for filing First Revised Sheet No. 22; Original Sheets Nos. 22A and 22B; and Second Revised Sheets Nos. 23 and 24 applicable to its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to include in Southwest's General Terms and Conditions new sections providing for (1) an interest penalty charge applicable to delinquent bills of Southwest's customers; (2) interest applied to any overcharge to which a customer may be entitled; and (3) extension of payment time if presentation of bill for service is delayed after the fifteenth of the month.

Southwest has requested that the Commission authorize the tendered tariff sheets to become effective August 25, 1980.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

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North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27037 Filed 9-3-80; 8:45 am]

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[Docket No. CP80-17]

Trans-Anadarko Pipeline System Successor in Interest to United Gas Pipe Line Co., Intent To Prepare an Environmental Impact Statement and Request for Comments on Its Scope

August 28, 1980.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) intends to prepare an environmental impact statement (EIS) evaluating a natural gas pipeline proposed in Docket No. CP80-17. The EIS will address the application by Trans-Anadarko Pipeline System (Trans-Anadarko), a general partnership formed by Southern Natural Gas Company (Southern) and United Gas Pipe Line Company (United), for a certificate of public convenience and necessity, requested pursuant to Section 7(c) of the Natural Gas Act, to authorize construction and operation of pipeline facilities to be known as the "Trans-Anadarko Project." Natural gas obtained from the Deep Anadarko Basin, the Overthrust Belt in the Rocky Mountain area, and sources in Oklahoma would be transported through the proposed system to United's existing pipeline system and to Southern at a point of interconnection between the Trans-Anadarko pipeline and Southern's 14-inch diameter pipeline in Union Parish, Louisiana.

The project would consist of 635 miles of 30-inch diameter pipeline extending in a generally easterly direction from Moore County, Texas, to an interconnection with United's existing pipeline facilities in Ouachita Parish, Louisiana. Three compressor stations totaling 16,800 horsepower of compression and appurtenant facilities would also be associated with the system. The pipeline would traverse northern Texas, Oklahoma, southwestern Arkansas, and northern Louisiana.

To allow sufficient space for construction of the 30-inch diameter pipeline, a right-of-way 75 feet wide would be required. After construction, a 50-foot wide right-of-way would be maintained. Typical natural gas pipeline construction procedures would be followed.

A copy of this notice and additional technical information regarding the proposed project (including a map) have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed project. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. Written comments are requested by October 3, 1980.

Additional information about the proposal is available from Mr. Alan L. Barnett, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9041.

Kenneth F. Plumb,

Secreary.

[FR Doc. 80-27051 Filed 9-3-80; 8:45 am]

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[Docket No. RA80-93]

Wedge Service Station; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Wedge Service Station on August 8, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26871 Filed 9-3-80; 8:45 am]

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[Project No. 3103]

City of Westfield, Mass.; Granting Late Intervention

August 26, 1980.

On March 25, 1980, public notice was given that the City of Westfield, Massachusetts (City) had filed an application for preliminary permit for the proposed Stevens Project, FERC No. 3103. Petitions to intervene were to be filed on or before July 10, 1980.

On July 11, 1980, Richard L. Fowler, Richard L. Fowler, Jr., and Carole Fowler, trustees of the Fowler Farms Realty Trust, and Richard L. Fowler and Richard L. Fowler, Jr., partners of the Fowler Produce Company (Petitioners) jointly petitioned to intervene in the Project No. 3103 proceeding.

The Fowler Produce Company is a Massachusetts partnership whose business is the growing and distributing of vegetables. The Fowler Produce Company rents agricultural lands from the Fowler Farms Realty Trust. Petitioner Fowler Farms Realty Trust is the owner of a 66.5 acre parcel of land known as Wolfpit Meadows located upstream from the lower dam of Project No. 3103. Approximately 35% of these 66.5 acres are rented to petitioner Fowler Produce Company for cultivation. Petitioners state that an alteration of the existing lower dam and reservoir at Project No. 3103 would have the effect of: 1) endangering the agricultural productive land situated in Wolfpit Meadows; 2) reducing the agricultural value of the Wolfpit Meadows land; and/or 3) rendering the Wolfpit Meadows land useless for agricultural purposes. Loss of tillable acrage contend the Petitioners, would cause irreparable and uncompensable loss. Petitioners also state that they rent and own an additional 145 acres downstream from Project No. 3103. Petitioners contend that increasing the capacity of the existing dam will increase the potential for flooding and flood damage downstream and cause a reduction in the agricultural value of downstream property owned and/or cultivated by Petitioners.

No response to the petition has been received.

Although the Petition filed by the petitioners was not timely filed, good cause exists for the late filing. It is appropriate and in the public interest to grant the petition.

Pursuant to § 375.302 of the Commission's regulations (45 FEd. Reg. 21216 (1980), *amending* 18 C.F.R. 3.5(a) (1979), the Petitioners are permitted to intervene in the proceeding subject to the Commission's rules and regulations under the Federal Power Act (16 U.S.C. §§ 791(a)–825(r)). Participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petition to intervene. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27031 Filed 9–3–80; 8:45 am]

BILLING CODE 6450–85–M

Revised Numbering System for Formally Docketed Filings

August 28, 1980.

Take notice that commencing October 1, 1980 the Federal Energy Regulatory Commission will adopt a revised numbering system for all formally docketed filings. Filings will be assigned a three digit subdocket number in addtion to the customary docket number now being employed.

Previously, all filings docketed with the Commission were assigned a number determined by the type of filing, which was reflected in the designating prefix (i.e. an Electric rate filing would be docketed as ER80–100). The incorporation of the subdocket number would change this number to ER80–100 000. The appending of a subdocket to the root docket designation will increase the specificity of the docket number, thereby enhancing its ufefulness to both the Commission staff and to the public.

Subsequent filings under the same docket number will be assigned the root number and a sequential subdocket number. One example of this is that a settlement filed with addresses only some of the issues involved in a particular filing will be assigned the same root number and a sequential docket number (i.e. a partial settlement in ER80–100 000 may be given the designation ER 80–100 001).

The revised docket number, including the three digit subdocket number, will be the basis for official Commission records and should be referenced in its complete form in all communications with Commission staff. Beginning in FY 81 all notices of receipt will transmit both the appropriate docket and subdocket numbers.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27052 Filed 9–3–80; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1571–1]

Consumer Affairs Program in Compliance With Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs"

AGENCY: Environmental Protection Agency.

ACTION: Feasibility study to consider automating complaint handling.

SUMMARY: A study is being undertaken to determine the advisability of automating consumer complaint handling. The study will determine whether and in what manner the several EPA offices that respond to complaints could supply data to a central computer for later review by the Agency's management and the public, for consideration in making policy and setting priorities.

The Administrator's Special Assistant for Consumer Affairs, Joan M. Nicholson, is carrying out the requirement for effective complaint handling that is stated in Executive Order 12160. (See Supplementary Information, below.) On June 9, 1980, the Agency published a **Federal Register** notice of adoption of its Consumers Affairs Program. In that context, EPA announced that new procedures would be proposed for processing complaints. Today's notice is the first step toward developing an appropriate proposal.

An improved system for complaint handling could accomplish the following:

(a) Apply staff and equipment more efficiently in responding to complaints quickly, thoughtfully and in a more systematic way;

(b) Provide the public and EPA's managers access to data previously unavailable about the number and subject matter of complaints addressed to the Agency, and take steps to consider those complaints, not only for policy implications, but also for guidance in heightening public awareness about EPA's activities, and;

(c) Show whether EPA's programs are meeting consumer expectations and, conversely, give early warning of locales or issues in which one program might be encountering less consumer satisfaction than another.

SUPPLEMENTARY INFORMATION: Executive Order 12160 states: "Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy." (Subsection 10401(c)) In order to comply, EPA published in the **Federal Register** of June 9, 1980, a notice that the Administrator's Special Assistant for Consumer Affairs was at that time reviewing the functions of PIC, the Public Inquiries Center (formerly: Public Information Center) with the intention of improving its capacity to handle complaints. That review has led to the decision to study the feasibility of automating the Agency's complaint handling process, so that information concerning complaints could be made available to EPA management and to the public, and could be considered systematically in policy-making. A necessary outcome must be an improvement, wherever warranted, of the quality of responses to complaints and the speediness with which they are provided.

DATE: Comments must be received by October 15, 1980.

ADDRESS: Send comments to Rhea L. Cohen, Consumer Affairs Coordinator, Office of Public Awareness (A–107), Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Officer and address listed immediately above. Telephone: (202) 755–0700.

THE PROPOSAL: The Special Assistant for Consumer Affairs has requested EPA's Management Information and Data Systems Division

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(MIDSD) to study the possibility of using automated data processing for storage and retrieval of complaint data. This study will involve no new expenditures and will be conducted by EPA's MIDSD staff in conjunction with the Office of Public Awareness. MIDSD is currently establishing procedures for linking and coordinating existing agencywide information management equipment with a central computer. Preliminary analysis suggests that complaint data could be integrated with minimal effort and no requirements for new hardware or personnel.

The data classifications could include the number of complaints received during a particular time period, the subject matter and locale of each complaint, and the policy implications of those complaints—excluding information which is privileged for legal or enforcement purposes, or proprietary for commercial reasons. Alternatives under consideration are fullscale data collection or random or systematic sampling, either agencywide or in a pilot program. Once the study is completed, the Special Assistant for Consumer Affairs will issue a report.

As part of the new program, the Public Inquiry Center would provide quarterly reports to the Agency's oversight body, the Consumer Affairs Coordinating Council (CACC), drawing on the comuterized complaint data and staff analyses of policy implications. The Coordinating Council, to prepare the complaint handling section of its annual report, would base its investigations, findings and recommendations on the PIC reports. Both the PIC quarterly reports and the CACC annual reports would be public documents. To ascertain whether consumers were satisfied with the responses they were given, periodic spot checks would be made by the Consumer Affairs staff. Training would be provided to central information operators to route telephone complaints to PIC, while mail room personnel would be instructed to expedite the sorting and delivery of letters addressed to a postal box that would be set aside for complaint mail. To publicize EPA's automated complaint handling system, the Consumer Affairs staff would prepare a pamphlet telling where to address complaints and how to get copies of reports and other related information.

Among the questions to be studied are: (1) whether automation could be done without adding new personnel and without incurring significant costs; (2) whether random or systematic sampling would be sufficiently effective and significantly more economical than fullscale data collection; (3) what data classifications would be necessary to allow Agency management and the public to review the nature of complaints and to see their implications for EPA policy; and, (4) what data collection procedures would be necessary to put automation into effect and to improve the Agency's responsiveness to complaints.

Comments on this proposal are invited, particularly on the questions listed above. They may be mailed to Rhea L. Cohen, Consumer Affairs Coordinator, Office of Public Awareness, U.S. Environmental Protection Agency (A-107), 401 M Street, S.W., Washington, D.C. 20460. Comments must be received by October 15, 1980, in order to give full consideration in the review process.

Douglas M. Costle,

Administrator.

August 29, 1980.

[FR Doc. 80-27154 Filed 9-3-80; 8:45 am]

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[FRL 1597-3]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of February 1, 1980 and February 29, 1980.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the EPA source of review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1980 report; the backlog of reports should be eliminated over the next two months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202/755-2808.

Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 26, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Feb.1, and Feb. 29, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
D-COE—E32027—FL	Improvement for Circulation, Flow and Navigation, Jacksonville Harbor, Mill Cove, Duval County, Florida.	ER2	E
D-COE—E67000-FL	Hookers Prairie Phosphate Mining, Permit, Polk County, Florida	3	E
D-COE—L36067—WA	East Bay Marina, Olympia Harbor, Budd Inlet, Thurston County, Washington	EU2	K
D-COE—L36068—OR	Nehalem Bay, Rehabilitation of the North and South Jetties, Oregon	ER2	K
	Department of Agriculture		
D-AFS—B82007—ME	Cooperative Sprue Budworm Suppression Project, 1980, Maine	LO1	B
D-AFS—K01000—NV	Jerritt Canyon Project, Gold Mine and Mill, Elko County, Nevada	LO2	J
DR-AFS—K65026—CA	Mendocino National Forest Timber Management Plan, California	LO1	J
D-AFS—L61133—OO	Hells Canyon National Recreation Area, Land and Resource Management Plan, Wallowa-Whitman, Nezperce, and Payette National Forest, Baker and Wallowa Counties, Oregon, and Nezperce, Idaho, and Adams Counties, Idaho.	LO1	K
D-APH—A82104—OO	Cooperative Gypsy Moth Suppression and Regulatory Program, 1980 Activities, NJ, NY, PA, IL, MI, NC, SC, OH, WI, WA, VA, MD, WV, and New England States.	LO1	A
D-APH—A82105—OO	Rangeland Grasshopper Cooperative Management Program, Conterminous United States	3	A
DS-REA—J07002—WY	Wheatland Generating Station, Grayrock Dam, Platte County, Wyoming	LO2	I
	Department of Commerce		
DA-NOA-L90010-OO	Commercial Troll and Recreational Salmon Fisheries Off the Coast of Washington, Oregon, and California, Fishery Management Plan.	LO1	K
	Department of Energy		
DS-DOE-A00108-WA	Double-Shell Tanks for Defense High-Level Radioactive Waste Storage, Hanford Site, Richland, Benton County, Washington (DOE/EIS-0063-D).	LO1	A
DS-DOE-A00126-SC	Double-Shell Tanks for Defense High-Level Radioactive Waste Storage, Savannah River Plant, Aiken County, South Carolina (DOE/EIS-0062D).	LO1	A
D-BPA-L08036-OO	Fiscal Year 1981 Construction and Maintenance Program, Bonneville Power Administration	LO1	K
	Department of the Interior		
D-BLM-K65033-AZ	Shivwutz Resource Area Livestock Grazing Management, Mohave County, Arizona	LO1	J
D-NPS-F61010-IN	Lincoln Boyhood National Memorial, Spencer County, Indiana	LO1	F
	Department of Transportation		
RD-CGD-A55007-00	Waterfront Facilities Regulation, U.S. Ports, Harbors, and Navigable Waterways	LO2	A
DS-FAA-B51004-MA	Logan International Airport, Runway 22 Right, Suffolk, Norfolk, Middlesex, and Plymouth Counties, Massachusetts	LO1	B
D-FAA-B51004-MA	Logan International Airport, Runway 22 Right, Departure Procedures, Suffolk, Norfolk, Middlesex, and Plymouth Counties, Massachusetts.	LO1	B
D-FHW-D40083-MD	MD-223, MD-5, to MD-4, Prince Georges County, Maryland	ER2	[illegible]
D-HFW-D40084-MD	U.S. 50, Choptank River Crossing, Cambridge, Maryland	LO2	D
D-FHW-D40085-MD	I-195, Baltimore/Washington Airport to I-95, Anne Arundel, Howard, and Baltimore Counties, Maryland.	LO2	D
D-FHW-E40185-GA	West 14th Street Extension, Redmond Road, North Rome Bypass, Floyd County, Georgia	ER2	E
D-FHW-E40186-GA	I-75, Construction, Northside Drive to I-285, Fulton County, Georgia	LO2	E
D-FHW-E40187-GA	U.S. 27/GA-1 Improvement and Relocation, Walker and Catoosa Counties, Georgia	LO2	E
D-FHW-F40145-MN	Forest Highway, MN-29 in Pennington to TH-6 near Bowstring, Beltrami, and Itasca Counties, Minnesota.	ER2	F
D-FHW-F40146-OO	U.S. 10, Prescott Bridge and Approaches, Pierce County, Wisconsin and Washington County, Minnesota,.	LO2	F
D-FHW-F40148-IN	Whitewater River Bridge and Approaches, IN-1 to IN-1/IN-44 Intersection, Fayette County, Indiana.	LO2	F
D-FHW-G40079-NM	San Mateo Boulevard, Southeast Heights Section, Gibson to Zuni Southeast, Albuquerque, Bernalillo County, New Mexico.	LO1	G
D-FHW-H40092-NB	27th Street Improvement, Potter Street to Arbor Road, Lincoln, Lancaster County, Nebraska (FHWA-NEBR-EIS-79-01-D).	LO2	H
D-FHW-J40051-CO	CO-83, Parker Road, CO-88 to CO-86, Arapahoe County, Colorado	ER2	I
D-FHW-K40074-CA	I-8 and CA-125 Interchange, San Diego County, California	LO2	J
D-FHW-L40087-OR	Willamette River Bridges, OR-22, Willamina to Salem Highway, Marion and Polk Counties, Oregon.	LO2	K
D-FHW-L40088-WA	WA-290, Hamilton Street to I-90, Spokane, Spokane County, Washington	ER2	K
D-NHT-A52147-OO	Average Fuel Economy Standards for Light Trucks, Model Years 1982 through 1985	LO1	A
	Federal Energy Regulatory Commission		
D-FRC-K05007-CA	North Fork Stanislaus River, Project #2409, California	LO2	J
	Great Lakes Basin Commission		
D-GLB-F20001-OO	Great Lakes Basin Hazardous Materials Strategy	3	F
D-GLB-F39010-OO	Great Lakes Basin Water Quality Plan	3	F

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Identifying No	Title	General nature of comments	Source for copies of comments
Department of Housing and Urban Development			
D-HUD-C99006-NY	Staten Island Industrial Park (CDBG), New York City Public Development Corporation, Staten Island, New York.	3	C
D-HUD-E91001-KY	Phoenix Hill Development (CDBG), Louisville, Jefferson County, Kentucky	LO2	E
D-HUD-G85145-TX	Oak Ridge Estates and North Shore Development Project, Portland, San Patricio County, Texas	ER2	G
D-HUD-G85146-TX	Wheatstone Subdivision, Mortgage Insurance, Harris County, Texas	ER2	I
D-HUD-J85028-CO	Country Club West, and Westmoor West Development, Greeley, Weld County, Colorado	LO2	I
D-HUD-K85029-ND	North Hill Acres 2nd and Washington 4th Residential Development, Dickinson, Stark County, North Dakota	LO1	
Interstate Commerce Commission			
D-ICC-A53049-OO	Connection of CSX Corporation With Chessie System Inc. and Seaboard Coast Line Industries, to Create a Single Railroad System (79-1274).	ER2	A

Appendix II.—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reasses these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980.*

Identifying No	Title	General nature of comments	Source For copies of comments
Corps of Engineers			
F-COE-B36014-MA	Leominster Local Protection Project, Monoosoc Brook, Leominster, Worcester County, Massachusetts.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA notes concerns with the effect on Monoosnoc Brook of low dissolved oxygen water from the proposed diversion tunnel. Additional concerns are also expressed with respect to the impact of the proposed project on water supply wells, the aquatic resources of Rockwell Pond and Monoosnoc Brook, and noise. Dissolved oxygen monitoring in Monoosnoc Brook may be necessary to determine the degree of impact of the proposed diversion tunnel's water on Monoosnoc Brook.	B
F-COE-C36028-NY	Dansville and Vicinity, Flood Protection, Livingston County, New York.	EPA's concerns were adequately addressed in the final EIS	C
FS-COE-E32006-GA	Kings Island Turning Basin, Savannah Harbor, Georgia.	EPA's concerns were adequately addressed in the final supplement. EPA emphasized the need to minimize damage to fish and wildlife resources and to ensure water qualtiy standards are not violated.	E
F-COE-E32023-MS	Cadet Bayou Construction, Anchorage Basin and Maintenance, Existing Federal Channel, Hancock County, Mississippi.	EPA's concerns were adequately addressed in the final EIS	E
F-COE-E35043-TN	Mississippi River, Additional Harbor Facilities, Memphis, Shelby County, Tennessee.	EPA has environmental reservations concerning adverse water and air quality impacts which may accure from this facility. The project must be compatible with water quality use clarification. Flushing has been suggested even if it is provided, special precautions must be taken in the Harbor to avoid violating water quality standards.	E
F-COE-F34006-IL	Louisville Lake, Little Wabash River Basin, Louisville, Clay and Effingham Counties, Illinois.	EPA's review of the final EIS indicates the COE had been unresponsive to EPA's concerns raised in the draft EIS and therefore does not remove the reservations expressed with this project. EPA believes the information requested is necessary to determine the significance of the projects' environmental impact and if there are environmentally preferrable alternatives to the proposed action. Therefore, EPA recommends that no action be taken to implement the proposed project..	F
Department of Agriculture			
F-AFS-J65078-WY	Greys-Salt River Planning, Bridger-Teton National Forest, Lincoln County, Wyoming.	EPA's concerns were adequately addressed in the final EIS. EPA strongly urged the Forest Service to Obtain the necessary funding to obtain the stated water objective.	I
F-AFS-L61125-OR	Desolation Planning Unit, Umatilla National Forest, Umatilla, Union and Grant Counties, Oregon (06-14-78-02).	EPA continues to have environmental reservations regarding the proposed plan and does not feal the comments expressed on the draft EIS have been adequately addressed in the final EIS. EPA believes the preferred alternative greately increases comodity production over present levels at the expense of other multiple use values, and that unacceptable water quality and fishery impacts are likely to result.	I

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980.*—Continued

Identifying No.	Title	General nature of comments	Source For copies of comments
Department of Agriculture—Continued			
F-REA-F08008-MN	230 kV Transmission Line, Benton to Milaca, Benton County, Minnesota.	EPA's concerns were adequately addressed in the final EIS	F
Department of Commerce			
F-NOA-K86006-00	Precious Coral Fisheries, Fishery Management Plan (FMP), Western Pacific Region.	EPA's concerns were adequately addressed in the final EIS	J
Department of Energy			
F-DOE-A00140-NM	Los Alamos Scientific Laboratory Site (LASL), Los Alamos, Los Alamos and Santa Fe Counties, New Mexico (DOE/EIS-0018).	EPA's Concerns were adequately addressed in the final EIS	A
F-DOE-A09071-SC	Long-Term Management, Defense High-Level Radioactive Wastes, Savannah River Plant, Aiken, South Carolina.	EPA's concerns were, in general, adequately addressed in the final EIS except for issues to be addressed in a future EIS concerning the proposed solidification plant or a future EIS for the respository of solidified wastes.	A
F-DOE-A09803-NM	Geothermal Demonstration Program, 50 MWe Power Plant, Sandoval and Rio Arriba Counties, New Mexico (DOE/EIS-0049, January 1980).	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA believes the DOE should supplement the FEIS prior to approving any expansion to the plant.	A
Department of Transportation			
F-FHW-J40044-ND	Max North and South, U.S. 83, ND-23 to ND-37, Ward and McLean Counties, North Dakota.	EPA's concerns were adequately addressed in the final EIS. However, EPA encourages further efforts in regards to wetland mitigation prior to your application for a 404 permit.	I
Department of Housing and Urban Development			
F-HUD-C89002-NJ	NJ-23, Urban Renewal Project, Wayne Township, Passaic County, New Jersey.	EPA's concerns were adequately addressed in the final EIS	C
F-HUD-E85043-TN	Stonebridge Subdivision, Memphis, Shelby County, Tennessee.	Generally, EPA's concerns were adequately addressed in the final EIS. EPA reemphasized comments regarding air quality impacts.	E
F-HUD-F69002-MI	Cadillac Center Shopping Mall, Detroit, Wayne County, Michigan (CDBG).	EPA's concerns were adequately addressed in final EIS	F
F-HUD-G85140-TX	Steeplechase Subdivision, Harris County, Texas	EPA's concerns were adequately addressed in the final EIS	G
F-HUD-K80009-CA	Downtown Oakland Convention Center and Hotel, Oakland, California (UDAG).	EPA's concerns were adequately addressed in the final EIS	J
F-HUD-K89029-CA	Downtown Stockton Redevelopment Project (UDAG), San Joaquin, California.	EPA's concerns were adequately addressed in the final EIS	J
Nuclear Regulatory Commission			
F-NRC-C06009-NY	Indian Point No. 3, Closed Cycle Cooling System, Westchester County, New York.	EPA's concerns were adequately addressed in the final EIS	C
Department of the Interior			
F-BLM-A02149-00	Proposed Five-Year OCS Oil and Gas Lease Sale Schedule, March 1980 to February 1985, States: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, AL, and MS.	EPA believes that offshore oil and gas sources can be developed in an environmentally responsible way. To achieve this, EPA believes it is essential that leasing decisions be based on the most comprehensive and complete environmental information possible. EPA is concerned that the sale schedule does not provide for environmental study results to be factored into the EIS process and to be availble for decision-making prior to the lease sale. EPA recommends that the selected schedule omit those areas in the FEIS that have high biological importance and vulnerability to impacts from oil and gas operations. EPA is also concerned that more generic and site specific information is needed on the fate and effects of drilling fluids completion, fracturing and other well treatment fluids and produced formation waters.	A
F-BLM-A02151-00	Proposed 1980 Outer Continental Shelf (OCS) Oil and Gas Lease Sales A62 and 62, Gulf of Mexico.	EPA maintains its reservations regarding the offering of 24 tracts in deep waters on the Continental Slope, insofar as they would require the use of unregulated subsea technology. Platforms in this area would be subject to the platform verification program of U.S. Geological Survey, while subsea systems would not. EPA is also concerned that six tracts are offered in the unconsolidated sediment zone off the Mississippi Delta.	A
F-NPS-K91000-AZ	Grand Canyon National Park, Feral Burro Management and Ecosystem Restoration Plan, Arizona.	EPA's concerns were adequately addressed in the final EIS	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Feb. 1 and Feb. 29, 1980*

Identifying No.	Title	Source of review
Corps of Engineers		
FS-COE-A39032-IA	Iowa Local Protection Project, Evansdale, Cedar River Blackhawk County, Iowa	H
Department of Agriculture		
F-AFS-B65000-NH	White Mountain National Forest, Presidential Unit Plan, Coos and Carroll Counties, New Hampshire (USDA-FS-R9-FES-ADM-79-01)	B
F-AFS-J65088-MT	Bull River-Clark Fork Planning Unit, Kootenai National Forest, Montana	I
F-AFS-L61121-OR	Heppner Planning Unit, Umatilla national Forest, Umatilla, Morrow, Wheeler and Grant Counties, Oregon (USDA-FS-R6-DES-(ADM)-79-06)	K

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Feb. 1 and Feb. 29, 1980*—Continued

Identifying No.	Title	Source of review
Department of Transporation		
F-FHW-B40014-MA	MA-146, Sutton, Northbridge, Douglas, Uxbridge and Millville, Worcester County, Massachusetts (FHWA-MASS-EIS-75-03-F)	B
General Services Administration		
F-GSA-E81017-FL	Disposal of Surplus Federal Military Properties, Harry S. Truman Annex and Trumbo Point Annex of Key West Naval Air Station, Key West, Florida.	E
Department of Housing and Urban Development		
F-HUD-J86025-MT	Royal Village Planned Development, Belgrade, Gallatin County, Montana	I

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers			
A-COE-D30001-VA	Additional Information, Beach Erosion Control, Project, Virginia Beach, Virginia.	EPA expressed concern regarding the potential impacts relating to the proposed Borrow Pit.	D
A-COE-K36038-CA	Assessment, Santa Maria Valley and Channel Improvement Project, Santa Barbara County, California.	EPA has no formal comments to offer at this time	K
A-COE-K36044-CA	Assessment, Flood Control Study, Sesepe Creek at Fillmore, Ventura County, California.	EPA has no formal comments to offer at this time	K
Department of Commerce			
A-NOA-K90010-CA	Environmental Analysis for Potential Marine Terminal Site, MTC/BCDC Port Planning Project Phase II, California.	EPA offered several comments and suggestions relating to the 404 permit, water and air quality.	K
Department of Energy			
R-DOE-A09077-00	10 CFR Part 456, Residential Conservation Service Program, Notice of Proposed Rulemaking and Public Hearing, Docket No. CAS-RM-79-101 (44 FR 75956).	EPA recommended that urea-formaldehyde foam insulation (UFFI) not be included in the RCS program. The comments were based on EPA's belief that the potential health hazard due to continuous exposure to formaldehyde fumes had not been fully evaluated.	A
Department of Transportation			
N-FAA-D51016-WV	Fonsi, Buckhannon-Upshur County Airport, Buckhannon, West Virginia.	EPA has no objections to further development of the project as described	D
A-FAA-K51021-CA	Assessment, Proposed Crosswind Runway Project, Imperial County, California.	EPA provided comments to improve the accuracy of the noise analysis	K
A-FAA-K51022-CA	Joint Study, Land Use Plan, San Francisco International Airport and San Mateo County Airport, California.	EPA believes sufficient mitigation measures should be adopted to ensure the attainment and maintenance of the CO-NAAQS adjacent to the terminal area and surrounding grounds by the statutory attainment date. EPA also offered several comments relating to noise impacts.	K
A-FHW-D40087-MD	Assessment, U.S. 48, East of Cumberland Road to M. V. Smith Road Allegheny County, Maryland.	EPA has no objections to the project from an air quality standpoint	D
A-UMT-D54029-MD	Assessment, New Carrollton Metrobus Facility, Prince Georges County, Maryland.	EPA expressed concern regarding the projects estimated air quality impacts and the placement of the facility in the 100-year floodplain.	D
National Capital Planning Commission			
A-NCP-D89024-DC	Assessment, Georgetown Waterfront Park, Washington, D.C..	EPA offered several suggestions to assist in the preparation of a more detailed environmental analysis in the future.	D
Nuclear Regulatory Commission			
R-NRC-A00147-OO	10 CFR Part 51, Commitment of Economic Resources Necessitated by Nuclear Waste Management Activities, Action, Publication of Petition for Rulemaking from the States of New York, Ohio, and Wisconsin (Docket No. PRM-51-5) (44 FR 65598).	EPA Favors inclusion of economic costs in the entire uranium fuel cycle and suggests the NRC develop the economic valves to be added to table S-3.	A
R-NRC-A55006-OO	10 CFR Part 71, Packing of Radioactive Material for Transportation and Transportation of Radioactive Material Under Certain Conditions, Compatibility with IAEA Regulations (44 FR 13739).	EPA again expressed the suggestion that dose limits be developed according to Federal guidance which requires use of as-low-as-reasonably-achievable (ALARA) methods.	A

Appendix VI.—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 80–26967 Filed 9–3–80; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1597–2]

Intent To Prepare a Supplemental Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare a supplemental environmental impact statement (EIS).

PURPOSE: To fulfill the requirements of 40 CFR 1502.9 of the National Environmental Policy Act regulations, EPA has identified a need to prepare a Supplemental EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton B. Spotts, Regional EIS Coordinator, USEPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: (Commercial) 214–767–2716, (FTS) 729–2716.

SUMMARY:

1. Description of Proposed Action

On June 29, 1974, EPA awarded the city of Albuquerque a Federal grant (C-35–1020–01) pursuant to Section 201 of the Clean Water Act for the preparation of a facilities plan for wastewater treatment facilities in the city.

Based on the facility plan submitted by the city, EPA prepared and distributed a Draft Environmental Impact Statement (EIS) in June 1977 and a Final EIS in August 1977. On September 28, 1978, EPA approved the facility plan. In June 1980, the city indicated to EPA that they would be amending their facility plan. EPA has determined that the portion of the amendment which deals with the treatment, handling and disposal of sludge is a significant change and requires preparation of a supplemental EIS. The draft amendment currently calls for the sludge to be piped 5 miles east to Montessa Park. There, the sludge would be dewatered, irradiated with Cesium–137, and stockpiled for future use as a soil fertilizer/conditioner and animal feed supplement.

The EPA action being considered is the approval of the amendment to the facilities plan and subsequent EPA funding for design and construction of a sludge treatment and disposal system.

2. Public and Private Participation in the EIS Process

EPA invites full participation by individuals, private organizations, and local, State and Federal agencies. EPA will involve and encourage the public to participate in the planning process to the maximum extent possible. Public meetings will be held at key points in the planning process.

3. Scoping

The first public meeting will be conducted by EPA, Region 6, to identify significant environmental issues and determine the scope of the Supplemental Environmental Impact Statement. This scoping meeting is scheduled for 7:30 p.m. on October 7, 1980 in the Council Chambers, First Floor, City Hall, 400 Marquette NW, Albuquerque, New Mexico.

4. Timing

EPA estimates the Draft Supplemental EIS will be available for public review and comment around March 1981.

5. Requests for Copies of Draft EIS

All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the Draft EIS and related public notices.

Dated: August 28, 1980.

William N. Hedeman, Jr.,
Director, Office of Environmental Review (A-104).

[FR Doc. 80–26968 Filed 9–3–80; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1596–8; OPP–66073]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: List of firms who have requested voluntary cancellation of registration of their pesticide products as provided for in Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: October 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

EPA registration No.	Product name	Registrant	Date registered
108–47	Rawleigh Moth Proofer (Cedar Scented)	W. T. Rawleigh Co., 223 East Main St., Freeport, IL 61032	June 24, 1970.
226–221	Tobacco States Brand Buckshot Tobacco Spray	Tobacco States Chemical Co., P.O. Box 12046, Lexington, KY 40580	May 31, 1972.
595–307	Haviland P.M. Spray Insecticide Concentrate	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502	June 11, 1969.
595–308	Haviland Perthane EC Agricultural Insecticide Emulsifiable Concentrat.	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502	June 17, 1969.
802–222	Miller's Perthane 4 E	The Chas. H. Lilly Co., 7737 Northeast Killingsworth, Portland, OR 97218	July 1, 1958.
802–291	Miller's Perthane 10 D	The Chas. H. Lilly Co., 7737 Northeast Killingsworth, Portland, OR 97218	July 12, 1961.
802–462	Miller's Systemic Noxall Grass and Weed Killer	The Chas. H. Lilly Co., 109 Southeast Alder St., Portland, OR 97214	Feb. 17, 1971.
876–218	Vegatrol LV–4D Herbicide	Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611	Nov. 21, 1975.
876–222	Vegatrol A–4D Herbicide	Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611	Nov. 21, 1975.
1435–5	Skram Insect Repellent	Halsey Drug Co. Inc., 1827 Pacific St., Brooklyn, NY 11233.	Apr. 8, 1958.
1435–7	Oil of Citronella	Halsey Drug Co. Inc., 1827 Pacific St., Brooklyn, NY 11233	Feb. 26, 1964.

V45/173 SE4 80 UMI

EPA registration No.	Product name	Registrant	Date registered
1475-99	Enoz Cedar Scented Moth-Proof	Willert Home Products, 4044 Park Ave., St. Louis, MO 63110	June 17, 1972.
1603-14	Galler's Moth Proofer	Reefer-Galler, Inc., 4044 Park Ave., St. Louis, MO 63110	Feb. 11, 1955.
1767-77	Lucky Strike Metacine	The Parrott Chemical Co., 16 Sunnyside Ave., Stamford, CT 06902	Apr. 26, 1980.
3507-12	Vapocide Moth Spray	Chicago Sanitary Products Co., 1280 West Washington Blvd., Chicago, IL 60607	Mar. 13, 1956.
8590-334	Agway Malathion Grain Spray	Agway, Inc., Box 4933, Syracuse, NY 13221	Nov. 30, 1970.
10198-1	Chemo With Perthane	Ladco Chemical Products Co., Inc., 5828 Maelou Drive, Hamburg, NY 14075	July 3, 1968.

The Agency has agreed that such cancellation shall be effective October, 6, 1980, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66073]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. 751, (7 U.S.C. 136))

Dated: August 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26971 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-7; PP OG2301/T257]

2,-4-Dichlorophenoxyacetic Acid; Establishment of Temporary Tolerances; Water and Power Resources Service and Engineers Corps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been established for the residues of the herbicide 2,4-dichlorophenoxyacetic acid, from application as either its dimethylamine salt or its butoxyethanol ester for treatments under the experimental program for Eurasian watermilfoil control in lakes and reservoirs, specified in the program by the Water and Power Resources Service, U.S. Department of the Interior, and the Corps of Engineers, U.S. Army at 1 part per million (ppm) in fish (edible flesh) and in or on the crop groups: citrus; cucurbits; forage grasses; forage legumes; fruiting vegetables; grain crops; leafy vegetables; seed and pod vegetables; small fruits; stone fruits; and the individual raw agricultural commodities: avocados, cottonseed, hops, and strawberries. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D and the butoxyethanol ester of 2,4-D on the above raw agricultural commodities, the higher tolerance also applies to residues from the aquatic uses cited above.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Rm: E-351, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202-755-1397).

SUPPLEMENTARY INFORMATION: Water and Power Resources Service, USDI, Washington, D.C. 20240 submitted a pesticide petition (PP OG2301) to the EPA. The petition requested that temporary tolerances be established for the combined residues of the herbicide 2,-4-dichlorophenoxyacetic acid, applied as either the dimethylamine salt or the butoxyethanol ester formulations, in fish (edible flesh) and in or on the crop groups: citrus, cucurbits; forage grasses; forage legumes, fruiting vegetables; grain crops; leafy vegetables; seed and pod vegetables; small fruits; stone fruits; and the individual raw agricultural commodities: avocados, cottonseed, hops, and strawberries at 1 ppm from treatments under the experimental program for Eurasian Watermilfoil control in lakes and reservoirs, specified in the program by the Water and Power Resources Service, U.S. Department of Interior, and the Corps of Engineers, U.S. Army. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D and the butoxyethanol ester of 2,4-D on the above raw agricultural commodities, the higher also applies to residues from the aquatic uses cited above. These tolerances are to permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80-104, 61 Stat. 163. as amended by Pub. L. 92-516, 86 Stat. 975; Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and the experimental use permit be used with the following provisions:

1. The total amount of the pesticide to be use will not exceed the amount authorized in the experimental use permit.

2. Water and Power Resources, U.S. Department of Interior will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on February 28, 1982. Residues not in excess of the amount remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(1), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: August 26, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-28972 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-5; PF 98A]

Ciba-Geigy Corp.; Filing of Pesticide and Food Additive Petitions; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has requested amendments to pesticide petition (PP 8F2057) and food additive petition (FAP 8H5177) to increase the propose tolerance for the residues of the insecticide *O*-(4-bromo-2-chlorophenyl) *O*-ethyl *S*-propyl phosphorothioate and its metabolites convented to 4-bromo-2-chlorophenyl *O*-ethyl *S*-propyl phoshorothioate on eggs from "0.01 part per million" (ppm) to "0.05 ppm" and to increase the proposed tolerance on soapstock from "9.0 ppm" to "15.0 ppm", respectively.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Office of Pesticide Programs, Rm. E-341, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-426-9417).

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of April 18, 1978 (43 FR 16400) that Ciba-Geigy Corp., P.O. Box 11422, Greenboro, NC 27409 had filed a pesticide petition (PP 8F2057) proposing to amend 40 CFR Part 180 by establishing tolerances for the residues of the insecticide *O*-(4-bromo-2-chloropehnyl) *O*-ethyl *S*-propyl phosphorothioate and its metabolites converted to 4-bromo-2-cholorphenyl) *O*-ethyl *S*-propyl phosphorothioate in or on the raw agricultural commodity cottonseed at 3 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; eggs and milk at 0.01 ppm.

Ciba-Geigy Corp. has submitted an amendment proposing to amend the petition by increasing the proposed tolerance on eggs from "0.01 ppm" to "0.05 ppm".

In the same notice, Ciba-Geigy submitted a food additive petition (FAP 8H5177) proposing to amend 21 CFR 561 by establishing a regulation permitting the use of the above named insecticide in cottonseed hulls at 6.0 ppm and soapstock at 9.0 ppm from application of the insecticide to growing cotton. Ciba-Geigy Corp. has submitted an amendment proposing to amend the petition by increasing the proposed tolerance on soapstock from "9.0 ppm" to "15.0 ppm".

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: August 26, 1980.

James W. Akerman,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-28975 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-3; OPTS-51120]

N-[3 (Dimethylamino) Propyl] Perfluoro C_4–C_8 Alkanesulfonamides, Acid Catalyzed Reaction Product with Alkenyl Carboxylic Acid; Premature Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-8816.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 22, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51120]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 26, 1980.

Douglas Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-183.

Close of Review Period. October 22, 1980.

Manufacturer's Identity. 3M Co., 3M Center, St. Paul, MN 55144.

Specific Chemical Identity. Claimed confidential. Generic name provided: *N*-[3(dimethylamino) propyl] perfluoro C_4–C_8 alkanesulfonamides, acid catalyzed reaction product with alkenyl carboxylic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical used for public safety product.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Physical description—Straw-colored powdery solid.
Boiling point, initial—212° F.
Melting point range—90–132° F.
Evaporation rate (B.A.=1)—>1.
Solubility—Miscible in water.
Density—1.6 g/cc.
Specific gravity (H_2O=1)—~ 1.03.
Percent volatile—92%.
pH—7.5–9.0.

Toxicity Data.

Eye irritation test—Draize 4.3; minimally irritating.
Primary skin irritation test (rabbit)—Draize 4.3; minimally irritating.

Saccharomyces cerevisiae—Nonmutagenic and nonrecombinogenic.

Oral LD_{50} (rat)—>5 g/g.

Theoritical oxygen demand (ThOD)—0.75 g/g.

Average measured chemical oxygen demand—0.41 g/g.

Biochemical oxygen demand (BOD):
5 days—<0.038 g/g.
10 days—<0.038 g/g.
20 days—<0.038 g/g.

LC_{50} (fathead minnow):
96 hr—158 mg/l.
Replicate—166 mg/l.

LD_{50} (daphnids):
48 hr—100 mg/l.
Replicate—111 mg/l.

Exposure.

Site/activity	Exposure route	Max. No. exposed	Max. duration		Concentration (ppm)	
			Man/hr	Da/yr	Average	Peak
Decatur, AL:						
Manufacture	Skin	3	20	10	0-1	
Processing	None				0-1	
Use	Skin (dilute) solution	10	24	100	0-1	
St. Paul, MN:						
Processing	Skin	9	24	14	0-1	0-1

Environmental Release/Disposal.

Media	Amount of chemical release (kg/yr).	
	Decatur, AL	St. Paul, MN
Air	None expected	None expected.
Water	Less than 10	Less than 10.
Land	10 to 100	Less than 10.

Decatur, AL. Incinerator. Pollution control consists of a secondary combustion chamber and an ash settling chamber preceding the stack. Wastewater treatment. Treated discharges drain into the Tennessee River. Waste sludge is land applied.

St. Paul, MN. Incinerator. Pollution control equipment includes a quench, elbow, quench chamber, a venturi scrubber, and mist eliminator followed by a 200-ft. stack. The ash is landfilled. The up to 1,500 gallons per minute (gpm) of water from the pollution control equipment is chemically treated in the Chemolite wastewater treatment facility. Wastewater treatment. Prior to entering the Mississippi River, treated water flows through polishing ponds with a 3-day retention time. Waste sludge is landfilled in Milwaukee, Wisconsin.

[FR Doc. 80-26942 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1597-1; OPTS-50017]

Transfer of TSCA Information and Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, GCA Corp. (Technology Division) of Bedford, Massachusetts, information which will be submitted under Section 8(a) of the Toxic Substances Control Act (TSCA) and which has been submitted under section 8(b) of TSCA for the Initial Inventory of Chemical Substances. Some of the information may be claimed to be confidential. GCA will review this information and use it to analyze and report to EPA on control options to reduce environmental releases.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202/544-1404, or Toll Free 800/424-9065.

SUPPLEMENTARY INFORMATION: Under Section 6(a) of TSCA, EPA must adequately protect the public against an unreasonable risk of injury to health or the environment from the manufacture, processing, distribution in commerce, use or disposal of chemical substances and mixtures and to do so through the least burdensome of seven listed means. The Agency must evaluate the cost and effectiveness of various control measures against the reduction of risk achieved by each. To analyze these control options, EPA will require the assistance of outside experts. EPA has selected GCA Corp. (Technology Division) of Bedford, Massachusetts, to assist it in analyzing the costs and effectiveness associated with the implementation of control options to reduce the environmental releases of chemical substances (Contract No. 68–01–5960).

Pursuant to 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to GCA. Under the terms of the contract, EPA will provide GCA with information concerning production levels, product formulation, manufacturing processes, uses, release rates, and exposure levels of chemical substances obtained from the TSCA Initial Inventory of Chemical Substances (section 8(b)) and submissions under prospective section 8(a) rules. If any of the information is claimed to be confidential, reports prepared by GCA using this confidential business information will be treated as confidential. After evaluating the control options, GCA will return the confidential business information and any reports prepared by GCA to EPA.

Since GCA will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of inventory (section 8(b)) and section 8(a) information that GCA will receive confidential business information from EPA.

GCA is legally required under the terms of its contract to safeguard from any unauthorized disclosure the confidential business information and any other information generated during GCA's analysis. GCA's contract specifically prohibits disclosure of any of this information to any third party in any form without prior written authorization from EPA.

GCA has been authorized under the EPA TSCA Confidential Business Information Security Manual to have access to confidential business information. EPA has approved GCA's security plan. EPA's Office of the Inspector General has conducted the required inspection of the GCA facilities and has found them to be in compliance with the requirements of the Security Manual.

GCA is required to handle in accordance with this Manual all information and any reports prepared by GCA that contain information claimed to be confidential.

(Secs. 6, 8 of TSCA (Pub. L. 94–969, 90 Stat. 2003, (15 U.S.C. 2601 *et. seq.*))

Dated: August 26, 1980.

Walter W. Kovalick, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80–26970 Filed 9–3–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-17]

AM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: September 3, 1980.

Cutoff Date: October 3, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after October 3, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 3, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on October 3, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 3, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP–781221AF (WEGA), Vega Baja, Puerto Rico, Vega Baja Broadcasting Corp., Has: 1350 kHz, 500 W, DA–2, U, Req: 1350 kHz, 2.5 kW, DA–2, U.

BP–790125AC (WYFC), Ypsilanti, Michigan, Word Broadcasters, Inc., Has: 1520 kHz, 250 W, D, Req: 1520 kHz, 500 W, 1 kW–LS, DA–2, U.

BP–790514AA (WENA), Penuelas, Puerto Rico, Penuelas Broadcasters, Has: 1330 kHz, 500 W, D, Req: 1330 kHz, 1 kW, D.

BP–790621AB (WXOX), Essexville, Michigan, Gateway Broadcasting Company, Has: 1250 kHz, 1 kW, D, Req: 1250 kHz, 5 kW, DA–2, U.

BP–790719AG (KBND), Bend, Oregon, DBND, Inc., Has: 1110 kHz, 1 kW, 10 kW–LS, DA–N, U, Req: 1110 kHz, 5 kW, 25 kW–LS, DA–N, U.

BP–790827AI (new), Mt. Juliet, Tennessee, Bryant Radio Co., Req: 1330 kHz, 500 W, DA–D.

BP–790831AJ (new), Clintonville, Wisconsin, Mr. Jeff Smith, Req: 1380 kHz, 2.5 kW, 5 kW–LS, DA–2, U.

BP–790924AB (WOBR), Wanchese, North Carolina, WOBR, Inc., Has: 1530 kHz, 250 W, D, Req: 1530 kHz, 1 kW, DA–D.

BP–791105AI (WQBK), Rensselaer, New York, People Communication Corp., Has: 1300 kHz, 5 kW, DA–D, Req: 1300 kHz, 5 kW, DA–2, U.

BP–791108AC (WAAK), Dallas, North Carolina, WAAK, Inc., Has: 960 kHz, 1 kW, D, Req: 960 kHz, 500 W, 1 kW–LS, DA–N, U.

BP–791119AH (WARV), Warwick, Rhode Island, Blount Communications, Inc., Has: 1590 kHz, 1 kW, D, Req: 1590 kHz, 5 kW, DA–2, U.

BP–791127AB (new), Cave Junction, Oregon, Larry Mike Tardie and Gerald Lywn Grooms, d.b.a. Illinois Valley Radio, Req: 1400 kHz, 250 W, 1 kW–LS, U.

BP–791129AA (KHOT), Madera, California, Madera Wireless Co., Inc., Has: 1250 kHz, 500 W, D, Req: 1250 kHz, 500 W, DA–N, U.

BP–791211BG (new), Manchester, Kentucky, Larry A. & Lynda L. Barker d.b.a. Barker Broadcasting Co., Req: 1290 kHz, 2.5 kW, DA–D.

BP–791221AE (KROI), Sparks, Nevada, Jonsson Communications Corp., Has: 1270 kHz, 1 kW, D, Req: 1270 kHz, 5 kW, DA–2, U.

BP–791228BB (new), Lexington, Alabama, Roger W. Wright, K. Dwayne Wright and John C. Sanders, Jr., Req: 620 kHz, 500 W, D.

BP–800107AT (WRNG), North Atlanta, Georgia, Ring Radio Company, Has: 680 kHz, 10 kW, 25 kW–LS, DA–N, U, Req: 680 kHz, 10 kW, 50 kW–LS, DA–2, U.

BP–800110AF (WCLG), Morgantown, West Virginia, Freed Broadcasting Corporation, Has: 1300 kHz, 1 kW, D, Req: 1300 kHz, 2.5 kW, D.

BP–800114AF (KBSN), Crane, Texas, Albert L. Crain, Has: 810 kHz, 1 kW, D, Req: 810 kHz, 500 W, 1 kW–LS, DA–N, U.

BP–800117AF (KJLA), Kansas City, Missouri, Osborn Communications Corporation, Has: 1190 kHz, 250 W, 1 kW–LS, DA–N, U, Req: 1190 kHz, 250 W, 5 kW–LS, DA–N, U.

BP–800123AJ (new), Morton, Washington, Morton Radio, Inc., Req: 1310 kHz, 1 kW, D.

BP–800201AP (KTXJ), Jasper, Texas, KTXJ, Radio, Inc., Has: 1350 kHz, 1 kW, D, Req: 1350 kHz, 5 kW, D.

BP–800207 (KVEL), Vernal, Utah, KVEL, Inc., Has: 920 kHz, 5 kW, D, Req: 920 kHz, 12 kW, 5 kW–LS, DA–N, U.

BP–800215AN (new), Birch Tree, Missouri, Jack G. Hunt, Req: 1310 kHz, W, D.

BP–800221AM (WLRV), Lebanon, Virginia, J. T. Parker Broadcasting Co., Inc., Has: 1380 kHz, 500 W, D, Req: 1380 kHz, 1 kW, D.

BP–800226AN (KFML), Westminister, Colorado, Radio Denver Corp., Has: 1390 kHz, 5 kW, D (Denver), Req: 1390 kHz, 1 kW–LS, DA–2, U (Westminister).

BP–800320AD (WHIY), Moulton, Alabama, Moulton Broadcasting Co., Inc., Has: 1190 kHz, 1 kW, D, Req: 1190 kHz, 2.5 kW, D.

V 45/173 SE 4 80 UMI

BP-800403AD (new), Silverton, Colorado. Longhorn, Communications, Inc., Req: 1450 kHz, 250 W, 1 kW-LS, U.

BP-800715AE (KLAT), Houston, Texas. Spanish Broadcasting Corporation, Has: 1010 kHz, 5 kW, DA-D, Req: 1010 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-800819AG (WMSO), Collierville, Tennessee, Albert L. Crain, Has: 1590 kHz, 500 W, D, Req: 630 kHz, 500 W, D.

[FR Doc. 80-26952 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-339, et al.]

ITT World Communications, Inc., et al.; Revisions to Tariff

Adopted: August 13, 1980.

Released: August 18, 1980.

By the Chief, Common Carrier Bureau.

In the matter of ITT World Communications, Inc., CC Docket No. 80-339; Transmittal Nos. 2258, 2259, 2260, 2280; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636; TRT Telecommunications Corporation, Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431, 1447; Western Union International Caribbean, Inc., Transmittal No. 224; FTC Communications, Inc., Transmittal No. 69. Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service (45 FR 56440); Memorandum Opion and Order.

1. Presently before the Chief, Common Carrier Bureau, are tariff revisions filed by three of the international record carriers (IRCs).[1] Each carrier proposes to offer international telex customers the option of renting international telex access lines within the Standard Metropolitan Statistical Area (SMSA) for each of its operating areas at the rate of $20 per month as an alternative to customers furnishing their own access lines at their own expense.

2. Each of the carriers states that it filed its tariff revisions for the purpose of matching earlier-filed revisions by TRT Telecommunications Corporation (TRT). TRT's revisions were set for hearing in Docket No. 80-339. *ITT World Communications, Inc.* (*ITT*), FCC 80-386, released August 8, 1980. The Commission was concerned that the $20 TRT rate, which was derived, in part, from an averaging of the cost of traditional customer access line arrangements, failed to properly account for the likelihood that customers would lease local access lines at cost where the charge was less than $20 per month, but would lease access lines from TRT at $20 per month when the charge was greater than $20 per month. This would result in TRT subsidizing many of the customer access lines. The Commission was also concerned that TRT's access line costs were based on traditional access arrangements rather than estimates of the costs of accessing the expanded points of operation, which include SMSAs rather than city boundaries.

3. Since the instant revisions, which are identical to TRT's, raise the same questions of lawfulness found by the Commission with respect to TRT's revisions, we will consolidate the tariff filings under consideration with the investigation already ordered in Docket No. 80-339. These carriers will be required to justify their $20 per month access line charge by providing expense and investment data as outlined in Part II of the Appendix to *ITT*. Because the pleading periods are lengthy, and no new issues are raised, we do not see any need for extending the pleading dates.

4. Accordingly, it is ordered, pursuant to delegated authority contained in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, and pursuant to Sections (4)(i)—(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i)(j), 201-205, and 403, that an investigation is instituted into the following issue:

Whether the local access charges proposed by ITT in its Transmittal No. 2280 as revisions to its Tariff F.C.C. Nos. 7 and 12, by RCA in its Transmittal No. 4636 as revisions to its Tariff F.C.C. Nos. 60, 88, and 90, and by WUI in its Transmittal No. 1447 as revisions to its Tariff F.C.C. Nos. 5 and 12 are just and reasonable and otherwise lawful.

5. It is further ordered, That this investigation shall be consolidated with the investigation ordered in *ITT*, FCC 80-386 and subject to the procedures established in that order.

Sue D. Blumenfeld,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-26957 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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[1] Western Union International, Inc. (WUI) filed Transmittal No. 1447 on July 3, 1980. RCA Global Communications, Inc. (RCA) filed Transmittal No. 4636 on July 15, 1980, and ITT World Communications, Inc. (ITT) filed Transmittal No. 2280 on July 17, 1980.

[BC Docket No. 80-417, File No. BPED-2208; BC Docket No. 80-418, File No. BPED 2245]

Academy Radio Corp. and Christian Broadcasting Corp.; for Construction Permits for a New Noncommercial Educational FM Station; Correction

Released: August 19, 1980.

In the matter of applications of Academy Radio Corporation, Rio Piedras, Puerto Rico, Req: 90.5 MHz, Channel 213, 4.427 kW (H&V), minus 104 feet; and Christian Broadcasting Corporation, Carolina, Puerto Rico, Req: 90.5 MHz, Channel 213, 25 kW (H&V), 1,869 feet.[1]

1. By Hearing Designation Order released August 1, 1980, the above-captioned mutually exclusive applications for new stations were designated for hearing. Inadvertently, however, the contingent comparative issue that was specified did not contain the unique language applicable to noncommercial educational applicants. That error is hereby corrected.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is corrected as follows:

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall cultural and educational operation and objectives of the respective applicants as well as the manner in which such objectives meet the needs of the communities to be served; and/or whether other factors in the record demonstrate that one applicant will provide a superior educational FM broadcast service.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26954 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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[1] See 45 FR 56187.

[PR Docket No. 80-511 File Nos. 016941/a-GB-50** and 018197-YX-50**]

Bay Communications, Inc., and Bay Radio Communications; Designating Application for Hearing on Stated Issues

Adopted: August 15, 1980.

Released: August 21, 1980.

By the Chief, Private Radio Bureau.

In the matter of applications of Bay Communications, Inc., and Bay Radio Communications, 1555 Third Avenue, Walnut Creek, California 94596, for authorization for new conventional and trunked specialized mobile relay facilities in the 806–821 and 851–866 MHz bands.

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned applications of Bay Communications, Inc., and Bay Radio Communications for authorization of new conventional and trunked Specialized Mobile Radio facilities in the 806–821 MHz and 851–866 MHz bands. The applicants have advised the Bureau that Bay Radio Communications is a trade name of Bay Communications, Inc., (Bay Communications), so that the two above-captioned applicants are the same. They will be so treated herein. The applications of Bay Communications, Inc. (File Nos. 016941/2–GB–50**) were filed April 30, 1980, and seek authorization of conventional Specialized Mobile Relay facilities on Mount Tamalpais near Mill Valley and in Mt. Diablo State Park near Walnut Creek, California. The application of Bay Radio Communications (File No. 018197–YX–50**) was filed May 14, 1980, and seeks authorization of five-channel trunked Specialized Mobile Relay facilities on Mount Tamalpais.

2. Also before the Bureau is information concerning an investigation conducted by the San Francisco District Office of the Commission's Field Operations Bureau into unlicensed operation of facilities in the Business Radio Service by Mello's Sheet Metal, Inc., (Mello) of Antioch, California. It appears from the San Francisco office's investigation that Mello's unlicensed operation commenced on September 24, 1979, and continued until it was discovered by the Field Operations Bureau on November 1, 1979.[1] That investigation also indicates that Mello's unlicensed operation was made possible through the provision to Mello of radio facilities by Artex Enterprises, Inc., of Pacheco, California (Artex). Artex also installed and tested the equipment, and permitted Mello to operate control the mobile facilities in conjunction with a mobile relay station owned by Artex. The President of Artex at the time of Mello's unlicensed operation was David P. Herrman. Bay Communications has advised the Bureau, in an amendment to the above-captioned applications, that Herrman is its President as well as a stockholder and director of the applicant.

3. The information before the Bureau concerning Mello's unlicensed operation raises serious questions as to whether Bay Communications or Herrman possess the requisite character qualifications or are sufficiently competent or show sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which are here sought. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-captioned applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for evidentiary hearing.

4. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Bay Communications, Inc., File Nos. 016941/2–GB–50** and 018197–YX–50**, for authorization of new conventional and trunked mobile relay facilities in the 806–821 and 851–866 MHz bands are, pursuant to authority delegated in Sections 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether David P. Herrman or Alex Enterprises, Inc., through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully or negligently participated in or abetted the unlicensed radio operations of Mello's Sheet Metal, Inc.

(b) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Bay Communications, Inc., and David P. Herrman possess the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(c) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether David P. Herrman has exhibited such lack of interest or carelessness concerning the conduct of his affiars with respect to the licensing and implementation of his customer's radio facilities that he and Bay Communications, Inc., should not be entrusted with the radio authorizations which they are here seeking.

(d) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Bay Communications, Inc., will best serve the public interest, convenience and necessity.

5. It is further ordered, that Bay Communications, Inc., and the Chief, Private Radio Bureau are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Bay Communications, Inc., with respect to the issues set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Bay Communications, Inc., at the address furnished in its applications.

Federal Communications Commission.

Arlan K. van Doorn,

Acting Chief, Private Radio Bureau.

[FR Doc. 80-26955 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80–321, File No. BPED 2306; BC Docket No. 80–322; File No. BPED 2428]

Craig Bible Institute and Bangor Christian Schools; Hearing Designation Order; Correction

Released: August 15, 1980.

In re applications of Craig Bible Institute, Bangor, Maine, Req. 88.5 MHz, Channel 203 0.45 kW (H&V),—15 feet (BC Docket No. 80–321, File No. BPED 2306), and Bangor Christian Schools, Bangor, Maine, Req. 88.5 MHz, Channel 203 16 kW (H&V), 785 feet, (BC Docket No. 80–322 File No. BPED 2428), for construction permit for a new FM station; correction (45 FR 56188).

1. By Hearing Designation Order released July 10, 1980, the above-captioned mutually exclusive application for new stations were

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[1] Mello's applications for authorization of the facilities used in its unlicensed operation were designated for evidentiary hearing by the Bureau (PR Docket No. 80–111, Memorandum Opinion and Order, released March 20, 1980). The Presiding Administrative Law Judge subsequently dismissed Mello's applications with prejudice at the applicant's request (Order, FCC 80M–952, released June 11, 1980).

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designated for hearing. Inadvertently, however, the comparative issues applicable to both noncommercial educational and commercial applicants were included.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is deleted.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80–26593 Filed 9–3–80; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 80–431; File No. BPCT–780907KK, et al.]

DuPage College, Ill., etc.; Hearing Designation Order

Adopted: July 31, 1980.

Released: August 7, 1980.

In the matter of: College of DuPage, Glen Ellyn, Illinois, BC Docket No. 80–431 File No. BPCT–78090KK; Metrowest Corporation, Aurora, Illnois, BC Docket No. 80–432 File No. BPCT–78090KL; and Hispanic American Television-Chicago, A Limited Partnership (Marcelino Miyares General Partner) and Aurora Chicago Telecasters Inc. A Joint Venture d/b/a HATCO–60 West Chicago, Illinois, BC Docket No. 80–433 File No. BPCT–780907KM, for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, has before it the above-captioned mutually exclusive applications for authority to construct a new television station on Channel 60, which is presently allocated to Aurora, Illinois.

Preliminary Matters

2. The application of HATCO–60 contemplates operating subscription television (STV) over its proposed station. HATCO–60 has an application for STV authorization pending before the Commission. The STV application will not be consolidated for hearing in this proceeding, however. STV is essentially an entertainment format indistinguishable from other entertainment packages except that is supported directly by viewers' subscriptions rather than by advertising revenues. Accordingly, the Commission's reluctance to compare applicants on the basis of entertainment formats expressed in *George E. Cameron, Jr. Communications,* 71 FCC 2d 460 (1979), provides ample precedent for precluding consideration of STV proposals in otherwise routine hearings on applications for television construction permits.

3. HATCO–60 proposes operation of a UHF television station from a transmitter located within 250 miles of the Canadaia border with maximum visual effective radiated power (ERP) in excess of 1000 kW but not exceeding 5000 kW. While this proposal poses no interference threat to United States television stations, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of American television stations located within 250 miles of Canada to 1000 kW. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). Since the Commission lacks authority to waive international agreements, any construction permit granted HATCO–60 in this proceeding will be conditioned to preclude station operation with maximum visual ERP in excess of 1000 kW absent Canadian consent.

College of DuPage

4. Analysis of College of DuPage's (CDP's) financial showing reveals that applicant requires $1,411,870 to construct its proposed station and an addition $60,200 to operate it for three months. To meet these costs, CDP relies upon the following

State, county, municipal appropriations	$352,968
Federal grants	1,058,902
Schools, colleges or universities	35,000
Project income (from one quarter's tuition)	51,400
Total	1,498,270

5. CDP has not documented the availability of $1,411,870 in governmentally appropriated funds and federal grants as required in Question 2(a), Section III, FCC Form 340, and, therefore, questions exist concerning the availability of these funds. Further, applicant has not submitted a balance sheet establishing the availability of $35,000 of its funds for constructing and operating the proposed station. An issue will be specified inquiring into the availability of these funds.

6. CDP has not conducted an ascertainment of community problems, interests and needs in connection with its application. Ascertainment showings are required of noncommercial educational television applicants. See *Ascertainment of Community Problems,* 58 FCC 2d 526 (1976). An issue will be specified exploring the effect of this omission upon applicant's basic qualifications.

7. CDP's technical proposal indicates that the overall height above ground of applicant's transmitting facilities will be 503 feet. The Federal Aviation Administration's (FAA) aeronautical evaluation of CDP's proposal was apparently based on an overall height above ground of 293 feet. Accordingly, a question exists as to whether CDP's proposal constitutes an air hazard. An appropriate issue will be specified exploring this matter and the FAA will be made a party to this proceeding.

Metrowest Corp.

8. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Metrowest published the required notice. To remedy this deficiency, Metrowest will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

9. Analysis of Metrowest's financial showing reveals that it will require $1,000,000 to construct its proposed station and an additional $218,000 to operate the station for three months. To meet these costs, applicant relies upon a $1,500,000 loan from Heller-Oak Communications Finance Corp. The availability of this loan has not been supported by documentation responsive to the requirements of Question 4(e), Section III, FCC Form 301. Accordingly, an issue will be specified inquiring into applicant's financial qualifications.

10. The aural transmitter power output proposed by Metrowest is in excess of the rated power for which the transmitter applicant intends to use. Accordingly, any construction permit awarded Metrowest in this proceeding will be conditioned to require type acceptance of the aural transmitter prior to commencement of station operation on program test authority.

Section 307(b) Considerations

11. The respective proposals are for different communities. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service. Accordingly, appropriate issues will be specified.

Conclusion and Order

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated

proceeding on the issues specified below.

13. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to College of DuPage:

(a) the source and availability of funds over and above the $51,400 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

2. To determine, with respect to College of DuPage, the efforts made by applicant to ascertain the community needs and problems of the area to be served; the means by which the applicant proposes to meet those needs and problems; and the effect thereof on applicant's basic qualifications.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by College of DuPage would constitute a hazard to air navigation.

4. To determine with respect to Metrowest Corporation:

(a) the source and availability of funds to construct and operate the proposed station; and

(b) whether in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice among the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine on the basis of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, That, the event of a grant of the application of Hatco-60 the construction permit shall contain the following condition:

Operation with maximum visual effective radiated power in excess of 30 dBk (1000 kW) is subject to consent by Canada.

15. It is further ordered, That, in the event of a grant of the application of Metrowest Corporation, the construction permit shall contain the following condition:

Before program tests commence, the transmitter specified herein shall be type-accepted in accordance with Section 73.1660 of the Commission's Rules to permit aural transmitter power output in excess of rated power.

16. It is further ordered, That Metrowest Corporation shall publish local notice of its application and shall file a statement of publication with the presiding Administrative Law Judge.

17. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY to the proceeding.

18. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26948 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-445, File No. BPCT-5173, et al.]

O.T.R.H., Inc., The Old Time Religion Hour, Inc., et al.; Designating Application for Consolidated Hearing on Stated Issues

Adopted: August 1, 1980.

Released: August 12, 1980.

In re Applications of The O.T.R.H., Inc., The Old Time Religion Hour, Inc., Galveston, Texas (BC Docket No. 80-445 File No. BPCT-5173), Alden Communications of Texas, Inc., Galveston, Texas (BC Docket No. 80-446 File No. BPCT-780907KE), and Bluebonnet Broadcasting Company, Galveston, Texas (BC Docket No. 80-447 File No. BPCT-780907KF), for a construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of The Old Time Religion Hour, Inc. (Old Time), Alden Communications of Texas, Inc., and Bluebonnet Broadcasting Company for a new commercial television station to operate on Channel 48, Galveston, Texas.

2. Section 73.613 of the Commission's Rules requires that the main studio of a television station be located within the city of license, but that on a showing of good cause, the main studio may be located outside that community. Old Time proposes to locate its main studio adjacent to its transmitter site within the city limits of Friendswood, Texas; however the applicant has failed to provide the required good cause showing. As a result, a studio location issue will be specified.

3. Section 1.1311 of the Commission's Rules requires that an environmental narrative statement be submitted when an applicant proposes an antenna supporting structure higher than 300 feet above ground level. Old Time proposes an antenna tower 1196 feet above ground; however, the applicant has failed to submit the required narrative. In its application, Old Time states that its proposed site, 0.28 miles from another tower, is part of an official antenna farm; however, the Commission has not so designated that area. Consequently, we will provide that within 30 days of the date of release of this Order, Old Time will file an environmental narrative statement.

4. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of them will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below. In all other respects, the applicants are qualified to construct and operate as proposed.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Old Time's application is in compliance with Section 73.613 of the Commission's Rules with respect to the proposed location of the main studio and, if not, whether good cause exists for the proposed location.

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2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That, within 30 days of the date of release of this Order, Old Time shall file with the Commission an environmental narrative statement as required by Section 1.1311 of the Commission's Rules.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26911 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[FCC 80-470; BC Docket No. 80-436, File No. BPCT-5053; BC Docket No. 80-437, File No. BPCT-5124]

Son Broadcasting, Inc., and New Mexico Media Co.; Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Son Broadcasting, Inc., Santa Fe, New Mexico For Construction Permit for New Television Broadcast Station and New Mexico Media Co., Santa Fe, New Mexico For Construction Permit for New Television Broadcast Station; Memorandum Opinion and Order.

Adopted: July 31, 1980.

Released: August 27, 1980.

By the Commission:

1. The Commission has before it for consideration the above-captioned of Son Broadcasting, Inc. (SON), filed June 1, 1977, for a new television broadcast station on Channel 11, Santa Fe, New Mexico, and the following pleadings related to SON's application: (a) a Request for Waiver of the One-to-a-Market Rule (Section 73.636) filed by SON on June 1, 1977; (b) an informal objection filed by Dr. Robert G. Hillman, Santa Fe, New Mexico, on June 27, 1977;[1] (c) a Petition to Deny filed by KOAT Television, Inc., (KOAT), licensee of television broadcast Station KOAT-TV, Channel 7, Albuquerque, New Mexico, on September 12, 1977; (d) an Objection to Application filed by Eugene D. Adelstein and Edward B. Berger (Southwest TV) on February 13, 1978;[2] (e) a statement filed by Hubbard Broadcasting, Inc. (KOB), licensee of television broadcast Station KOB-TV, Channel 4, Albuquerque, New Mexico, on April 19, 1978; (f) a statement filed by Spanish TV of New Mexico, Inc. (KMXN), licensee of television broadcast station KMXN-TV, Channel 23, Albuquerque, New Mexico, on July 31, 1978; (g) an Extraordinary Request for Oral Argument filed by SON on December 6, 1978; (h) an informal objection ot the above-captioned application filed by Galaxy Broadcasting, Inc. (Galaxy), on January 18, 1979 (i) a Petition for Consolidated Hearing filed by KOAT on February 13, 1979; and (j) related pleadings listed in Appendix A.

2. The Commission also has before it for consideration the above-captioned application of New Mexico Media Co. (NMM), filed September 12, 1977, for a new television broadcast station on Channel 2, Santa Fe, New Mexico[3] and the following pleadings related to NMM's application: (a) a Petition to Deny filed by Hubbard Broadcasting, Inc. (KOB), licensee of television broadcast station KOB-TV, Channel 4, Albuquerque, New Mexico, on April 18, 1978; (b) a Petition to Deny filed by New Mexico Broadcasting Company, Inc. (KKGM), licensee of television broadcast station KGGM-TV, Channel 13, Albuquerque, New Mexico, on May 22, 1978; (c) a Petition to Deny filed by Eugene D. Adelstein and Edward B. Berger (Southwest TV) on May 22, 1978; (d) a statement filed by KMXN on July 31, 1978; (e) an informal objection filed by the United States Secret Service on August 11, 1978;[4] (f) a Statement in Support of Request for Oral Argument filed by NMM on December 8, 1978[5] (g) an informal objection to NMM's application filed by Galaxy on January 18, 1979; (h) a Petition for Consolidated Hearing filed by KOAT on February 13, 1979; and (i) related pleadings listed in Appendix B.

Standing

3. We find that KOB, KGGM and KOAT have standing to file their Petitions to Deny under *F.C.C.* v. *Sanders Brothers Radio Station*, 309 U.S. 470 (1940). Their contours substantially encompass the area to be served by SON's and NMM's proposed stations. KOB, KGGM and KOAT will compete for audience and revenue with SON's and NMM's proposed stations within their common service area.

4. SON claims that Southwest TV's informal objection against SON's application is, instead, an untimely petition to deny filed by two people (Adelstein and Berger) who have no standing to file such a pleading. The only time limitation on filing informal objections is that they be filed before Commission action on the application. Section 73.3587 of our Rules allows "any person" to file an informal objection. Southwest TV has filed a proper informal objection.

City Grade Coverage

5. Both SON and NMM propose to serve Santa Fe, New Mexico, from transmitters located at Sandia Crest, a peak approximately 43 miles southeast of Santa Fe and 14 miles northeast of Albuquerque, New Mexico. It is the transmitter site of most of Albuquerque's television stations.

6. In their applications and pleadings, both SON and NMM assert that their

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[1] Dr. Hillman's objection is based exclusively on the likely subject matter, as he sees it, or much of the proposed station's programming. No issue will be designated relating to Dr. Hillman's objection. Programming is a matter of licensee discretion.

[2] Eugene D. Adelstein and Edward B. Berger were general partners of Southwest Television, Ltd., which had applied for authority to construct a new television station on Channel 14, Albuquerque, New Mexico. Southwest TV's application was mutually exclusive with that of Galaxy Broadcasting, Inc. for Channel 14. Southwest TV and Galaxy have merged into a single partnership called Galaxy-Southwest Televison's application for Channel 14 has been granted.

[3] NMM's original September 12, 1977, application specified Channel 11. By amendment filed November 28, 1977, NMM revised its application to specify operation on Channel 2.

[4] The Secret Service's objection relates to possible proximity interference to one of its radio repeater stations from third order harmonics of Channel 2. Rather than specifying an issue on this matter, we note that Section 73.687(i)(j) of the Commission's Rules permits us to require greater attenuation in the event of interference, including interference due to radio frequency harmonics, at as low a level as the state of the art permits. Interference of this nature should be brought to our attention for possible corrective measures if it occurs.

[5] This statement, filed in the BPCT-5124 application proceeding, is in support of an Extraordinary Request for Oral Argument filed by Son Broadcasting, Inc., (SON), on December 6, 1978, in relation to SON's June 1, 1977, application (BPCT-5053) for authority to construct a new television broadcast station on Channel 11, Santa Fe, New Mexico. NMM's statement supporting oral argument will be treated as a separate request for oral argument regarding NMM's captioned application.

proposed stations will provide city grade service to Santa Fe as required by Section 73.685(a) of the Rules. It appears, however, that neither SON nor NMM has supported this claim with coverage predictions made in accordance with Section 73.684. Instead, they have submitted measurements taken in Santa Fe on the signal strengths of existing television stations located on Sandia Crest and licensed to serve Albuquerque, New Mexico.

7. It appears that both SON and NMM seek to demonstrate city grade service to Santa Fe by using field measurements. In *FM and TV Field Strength Curves*, 53 FCC 2d 855, 34 P & F Radio Reg. 2d 361 (1975), we made it clear that matters of administrative convenience and finality require that no right be given applicants to determine service contour locations by means of field strength measurements. Individual measurements are allowed only "when the location of TV contours, as determined by prediction, are obviously in gross error" and then only "upon request of the Commission." *Id.* In the instant cases there has been no showing that the prediction method of Section 73.684 of the Rules will produce results which are obviously in gross error and we have not requested measurements. Accordingly, an issue will be designated against SON and against NMM to determine whether their coverage predictions were made in accordance with Section 73.684 of our Rules, whether their transmitter locations are consistent with Section 73.685(a) of our Rules and, if not, whether circumstances warrant waivers of these rules.

De Facto Reallocation

8. Petitioners and Objectors allege that applicants' primary concern in applying for their proposed television stations is to serve Albuquerque. Their transmitters will be located at the transmitter site of most of Albuquerque's television stations and Albuquerque will receive a signal in each instance superior to that received by Santa Fe. Petitioners also question whether city grade service will be provided Santa Fe in light of the methodology used in determining their stations' service contours. Petitioners allege that location of SON and NMM transmitters at Sandia Crest would preclude service to a substantial unserved area northeast of Santa Fe—an area which could be expected to receive service from a station with a transmitter located closer to Santa Fe. Additionally, Southwest TV alleges that SON's use of an Albuquerque radio station to conduct fund raising activities for the television station raise an inference that SON is seeking to serve the Albuquerque market.

9. SON contends that a *de facto* reallocation issue is not warranted since it has chosen the "most efficient" site to serve Santa Fe. In an amendment to its application filed December 21, 1977, SON advances the following arguments in support of its transmitter site: (1) a city-grade contour will be provided over Santa Fe from the site; (2) location at any other site will create antenna orientation problems; (3) choice of the site fosters increased competition among television stations; (4) any other site would severely restrict Channel 11's signal in the communities surrounding Santa Fe; (5) alternate transmitter sites are economically impractical; and (6) the best way to serve the mountainous area north of Santa Fe is through television translators. In its pleadings, SON further asserts that its application meets all applicable Commission engineering standards, that its studio will be located in Santa Fe and that its ascertainment efforts demonstrate its intent to serve Santa Fe.

10. NMM contends that choice of Sandia Crest as a transmitter site, coupled with provision of a stronger signal to Albuquerque that to Santa Fe, does not, of itself, constitute *de facto* reallocation. NMM points to its only proposed studio location in Santa Fe as one indication that *de facto* reallocation is not intended.

11. Both applicants in these proceedings maintain that the question of *de facto* reallocation can be resolved by simply determining whether an applicant's proposal meets our spacing requirements, places a city grade contour over its community of license and locates its studio within its community of license. All of these factors bear heavily on, but are not solely determinative of, the *de facto* reallocation question.

12. Moreover, it appears that neither SON nor NMM has shown their applications to be technically sufficient. Neither SON nor NMM has shown that they will provide Santa Fe with city grade service. It does, however, appear that both SON and NMM will provide city grade service to Albuquerque.

In their efforts to demonstrate city grade coverage of Santa Fe based on measurements of Albuquerque stations' signals, both SON and NMM seem to contend that their proposed facilities will roughly duplicate the coverage of the Albuquerque VHF stations.

13. *De facto* reallocation has been designated as an issue where distinctive circumstances evince particular concern. Such circumstances may include expressed Commission concern regarding certain channel assignments. *Brinsfield Broadcasting Co.*, 21 FCC 2d 707 (Rev. Bd. 1970). *See also, Christian Voice of Central Ohio*, 15 FCC 2d 308 (Rev. Bd. 1968). The Commission has expressed just that type of concern—in this instance, relating to the lack of any television service northeast of Santa Fe—in past decisions regarding this geographical area. *Santa Fe Television, Inc.*, 18 FCC 2d 741 (1969). In that case, a Santa Fe applicant specifying a Sandia Crest transmitter location was designated for hearing on the *de facto* reallocation issue. The instant applications will preclude the same area northeast of Santa Fe from receiving *any* regular television service.[6]

14. For the above reasons, a *de facto* reallocation issue will be designated against SON and against NMM.[7]

UHF Impact

15. Petitioners have requested a UHF impact issue against SON and against NMM. The question of whether an issue should be designated against SON regarding possible adverse impact on the development and continued existence of UHF stations in Albuquerque was raised by KOAT in its January 17, 1978, request for expedited consideration; by Southwest TV in the Objection to Application filed by Adelstein and Berger on February 13, 1978; by a letter from KMXN-TV (Channel 23, Albuquerque) received July 31, 1978; and by other related pleadings. KMXN's concerns are mostly related to availability of a transmitter site for KMXN. KOAT and Southwest TV, providing no qualitative or quantitative measurement or analysis of applicant's potential impact on Albuquerque's UHF stations, rely primarily on the designation of a UHF-impact issue in the most recent proceeding involving similar circumstances, *Santa Fe Television, Inc., supra*.

16. KMXN is concerned that if SON's or NMM's application is granted, it might preclude KMXN from obtaining

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[6] Because the location of both applicants' transmitters may control whether people living northeast of Santa Fe receive any television service at all, and because the applicants have not shown by the prediction method that they will provide city-grade coverage to the city of license, allegations of available alternative sites, while not normally considered where an applicant's complies with the Rules, will properly be a subject of inquiry in these proposal proceedings. *See Santa Fe Television, Inc., supra.*

[7] Southwest TV, KOB and KGGM have requested a separate issue under Section 307(b) of the Communications Act of 1934, as amended, with respect to whether SON's or NMM's proposed operation would constitute a fair, efficient and equitable use of their respective frequencies. Such "307(b)" concerns are subsumed within the context of *de facto* reallocation issue. A separate 307(b) issue will not be designated.

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the most desirable transmitting site for an Albuquerque UHF station, i.e., Sandia Crest. Absent allegations of unavailability of other suitable sites, and absent any other allegations of specific adverse consequences, KMXN's letter does not warrant designation of a UHF impact issue in relation to either application.[8]

17. In its Petition to Deny NMM's application, KOB asserts that a showing of near-term activation of Channel 14 (Albuquerque) and a showing of financial hardship of Channel 23 (Albuquerque) warrant designation of a UHF impact issue. KGGM, in its Petition to Deny NMM's application, suggests that the same rationale leading to earlier designation of a UHF impact issue in *Santa Fe Television, Inc., supra,* is still applicable: namely, that with three VHF network stations in Albuquerque, any proposal by a Santa Fe applicant to operate an independent station from Sandia Crest would directly compete with necessarily independent UHF stations in Albuquerque for non-network sources of programming and revenues. Southwest TV urges designation of a UHF impact issue against NMM on the basis of Commission precedent regarding the interrelationship of Santa Fe and Albuquerque allocations.

18. Beginning from about 1969 to 1972 and thereafter, we have consistently moved away from completely protecting UHF stations and allocations. Our change in policy was based on the rationale that "the time has . . . passed" when it was appropriate to "insulate every UHF station or potential station from any possible small wind of VHF impact . . . ." *Television Table of Assignments: Mt. Vernon, Illinois,* 17 RR 2d 1620, 1630 (1969), *affirmed sub nom. Plains Television Corp.* v. *FCC,* 440 F. 2d 276 (D.C. Cir. 1971). In *WFMY Television Corp.,* 59 FCC 2d 1010 (1976), we stated: "to require a designation of an application for hearing, a petition must demonstrate some nexus between the fact of extended VHF service and claimed specific adverse consequences to the public interest." This standard set forth in *WFMY* for designation of a UHF impact issue was later characterized in *Central Alabama Broadcasters, Inc.,* 68 FCC 2d 1339 (1978), as a burden upon the petitioner requesting such an issue "to make a *prima facie* case that grant of the application would be inconsistent with the public interest."

19. Neither KOAT nor Southwest TV claims any *specific* adverse consequences to the public interest, other than the conclusory allegations advanced in their respective pleadings. Their pleadings are not sufficient to warrant designation of a UHF impact issue in relation to SON's application.

Notwithstanding our 1969 designation of a UHF impact issue for a previous Santa Fe VHF applicant seeking to place a transmitter on Sandia Crest, a UHF impact issue will not be designated for SON's application.

20. Petitioners' and Objectors' claim of possible competition for the same non-network sources of programing and revenues in Albuquerque, coupled with mere showing of near-term activation or present hardship of a UHF station, is not sufficient for designation of a UHF impact issue against NMM, unless some nexus between substantial prospective harm to the UHF stations and the NMM application is shown. No such harm, and no such nexus, have been established. Thus, prior Commission designation of a UHF impact issue in similar circumstances notwithstanding, present standards for designation of a UHF impact issue do not admit for one against NMM.

One-to-a-Market Rule

21. Belarmino R. Gonzales is president, one of seven directors, and one of three full-time administrators of SON. He is also president, a director of, and ninety percent stockholder of Pan-American Broadcasting Company, licensee of AM broadcast Station KDAZ, a 1Kw directional daytime station at Albuquerque, New Mexico. SON's proposed Channel 11 Grade A contour will encompass the entire community of license of KDAZ. Thus, grant of SON's application would violate the "one-to-a-market" rule, Section 73.636(a)(1) of the Rules.

22. SON seeks waiver of the one-to-a-market rule. SON points to the small size of the Santa Fe market, the heavy concentration of cable television in the Santa Fe area, and the lack of a Santa Fe television station, relying primarily upon *Combined Communications Corp.,* 42 FCC 2d 450, 21 P & F Radio Reg. 2d 441, 442 (1971), aff'd *sub nom. KBLU Broadcasting Co.,* 28 P & F Radio Reg. 2d 133 (1973). If the waiver is denied, SON has assured that Mr. Belarmino Gonzales will divest himself of such ownership interest or control of KDAZ as the Commission may order to obtain grant of the SON construction permit.

23. SON alleges no inability to construct and operate a Santa Fe VHF facility without Mr. Gonzales' interest in the Albuquerque aural facility. SON sets forth no reasons which, if true, would be sufficient to justify waiver of out one-to-a-market rule. Thus, SON states no valid basis for a hearing on this issue, and its request for waiver will be denied. *U.S.* v. *Storer Broadcasting Co.,* 351 U.S. 192 (1955). In the event SON's application is granted, it will be granted subject to the condition that, prior to commencement of operation Mr. Gonzales must divest himself of that interest in or connection with Pan-American Broadcasting Company which would otherwise cause him to be in violation of the Commission's Rules.

NMM's Financial Qualifications

24. KGGM contests certain cost estimates of NMM, and proposes its own estimates based upon its own experience with full-time operation in the Albuquerque market. Where, as here, NMM will begin operation at a level of thirty-five hours per week, we are of the view that mere comparison of NMM's projected costs to KGGM's actual costs is insufficient to warrant designation of a financial issue. *Jerry J. Collins,* 50 FCC 2d 715 (1975); *Radio Geneva, Inc.,* 42 FCC 2d 254 (Rev. Bd. 1973).

25. KOB challenged the sufficiency of the Subscription Agreement executed by NMM's stock subscribers on the basis that: (1) no obligation arises until the subscription is called by NMM's Board of Directors, and (2) the capital obligations of NMM's subscribers do not arise until a unanimous vote of NMM's Board of Directors. NMM has amended its application with a resolution of its Board of Directors, dated May 20, 1978, formally calling the stock subscription commitments. NMM has submitted a revised Subscription Agreement dated May 20, 1978, requiring a majority, rather than a unanimous, vote of its Board of Directors to give effect to the obligations and commitments assumed thereunder. It appears KOB's challenges to the sufficiency of the Subscription Agreement have been mooted. Questions regarding the sufficiency of the Subscription Agreement do not warrant designation of a financial issue against NMM.

26. Both KOB and KGGM contest the adequacy of the July 29, 1977, letter of commitment from the Bank of Santa Fe. NMM does not rely solely upon this letter. NMM has amended its application to include a letter dated May 8, 1978, from the Executive Vice President of the Bank of Santa Fe, confirming the availability of the funds at issue. NMM's subscribers have jointly and severally agreed to provide an alternate source of funding if we should find the loan unacceptable. Therefore, a financial issue will not be designated against NMM.

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[8] Moreover, KMXN applied for and was granted a major modification (BPCT-781220 L.D.) to move its transmitter to Sandia Crest on September 22, 1979.

Oral Argument

27. NMM, KMXN and SON seek oral argument before the Commission on the above-mentioned issues. Our rules do not provide petitioners, informal objectors, or interested parties with any right to oral argument.[9] Where, as here, those requesting the extraordinary step of oral argument have made no showing that the opportunity afforded them through normal application procedures to submit data and statements to the Commission was inadequate, their petitions for oral argument prior to designation for hearing will be denied. *See Chemical Leaman Tank Lines, Inc.* v. *U.S.*, 368 F. Supp. 925 (D. Del. 1973); *Chip Steak Co.* v. *Hardin*, 332 F. Supp. 1084 (N.D. Cal. 1971), *affd.* 467 F.2d 481, *cert. den.*, 411 U.S. 916, 93 S. Ct. 1546, 36 L. Ed. 2d 308.

Petitions to Consolidate

28. KOB, KMXN and KOAT seek consolidation of certain issues relating to the two captioned applications, particularly the issue of *de facto* reallocation. NMM and SON oppose consolidation of these application proceedings for any purpose. Both applicants seek to serve the same city of license and both applicants propose to transmit from the same location. Two common issues will be designated: (1) whether they provide city-grade service to Santa Fe, and (2) whether grant of each application constitutes *de facto* reallocation. These are applications which involve substantially the same issues. Because consolidation of the hearings on these applications will best conduce to the dispatch of business and to the ends of justice, they will, pursuant to Section 1.227(a)(1) of the Commission's Rules, be consolidated for hearing.

Findings

29. Except as indicated by the issues specified below each applicant is qualified to construct and operate as proposed. However, substantial and material questions of fact regarding the issues specified below are present which makes it impossible to conclude, in the absence of a hearing, that grant of either SON's or NMM's application would be in the public interest.

30. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding, at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

To determine:

(a) whether Son Broadcasting, Inc., will encompass Santa Fe, New Mexico, with a city grade contour predicted in accordance with Sections 73.684 and 73.685(a) of the Commission Rules, and, if not, whether circumstances exist which would warrant waiver of these Rules;

(b) whether a grant of Son Broadcasting Inc.'s application would constitute a *de facto* reallocation of Channel 11 from Santa Fe, New Mexico, to Albuquerque, New Mexico;

(c) in light of the evidence adduced pursuant to issues (a) and (b), whether a grant of Son Broadcasting Inc.'s application would serve the public interest, convenience and necessity.

(d) whether New Mexico Media Co. will encompass Santa Fe, New Mexico, with a city grade contour predicted in accordance with Sections 73.684 and 73.685(a) of the Commission's Rules, and, if not, whether circumstances exist which would warrant waiver of these Rules;

(e) Whether a grant of New Mexico Media Co.'s application would constitute a *de facto* reallocation of Channel 2 from Santa Fe, New Mexico, to Albuquerque, New Mexico;

(f) in light of the evidence adduced pursuant to issues (d) and (e), whether a grant of New Mexico Media Co.'s application would serve the public interest, convenience and necessity.

31. It is further ordered, that, to the extent indicated above, the Petitions to Deny, informal objections and other motions relating to the above-captioned applications are granted, and in all other respects are denied.[10]

32. It is further ordered that Galaxy-Southwest Television, New Mexico Broadcasting, Inc., Hubbard Broadcasting, Inc., and KOAT Television, Inc., are made parties respondent to these proceedings.

33. It is further ordered, That, in the event of a grant of the application of Son Broadcasting, Inc., the construction permit shall contain a condition that program tests will not be authorized until the permittee has shown that Belarmino R. Gonzales has divested himself of all interest in, and severed all connections with, station KDAZ, Albuquerque, New Mexico.

34. It is further ordered that to avail themselves of the opportunity to be heard, the parties herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

35. It is further ordered that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Additional pleadings in relation to File No. BPCT–5053 considered in this Order are:

1. A Petition for Extension of Time filed by SON on September 19, 1977—Granted.
2. An Opposition to Petition to Deny filed by SON on October 18, 1977.
3. An affidavit filed by SON on October 21, 1977, related to SON's previous October 18, 1977, pleading.
4. A Limited Dismissal of Petition to Deny filed by KOAT on November 21, 1977.
5. A Request for Expedited Consideration filed by KOAT on January 17, 1978—Moot.
6. A Statement in Support of KOAT's Request for Expedited Consideration filed by SON on January 30, 1978.
7. The Reply of SON Broadcasting Inc., to the Objection of Adelstein & Berger, filed by SON on March 17, 1978.
8. The Response of Adelstein and Berger filed March 27, 1978.
9. A motion to strike filed by Adelstein and Berger on June 5, 1978—Denied.
10. A statement filed by KOB on June 8, 1978.
11. A statement filed by SON on June 12, 1978, responding to KOB's June 8, 1978, statement.
12. A statement filed by KOB on June 20, 1978, replying to SON's statement of June 12, 1978.
13. A statement in Support of Report for Oral Argument filed by New Mexico Media Co. (NMM), applicant for authority to construct a new television broadcast station on Channel 2, Santa Fe, New Mexico, on December 8, 1978—Stricken for want of standing to file pleading.

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[9] *See* 47 C.F.R. §§ 73.3561 et seq. and 47 C.F.R. §§ 73.3591 et seq. Such rules relating to processing of and action upon applications, particularly where oral advocacy is available in a later stage of the applications process (after designation for hearing), are consistent with 47 U.S.C. § 4(j), which states in pertinent part: "The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."

[10] Certain pleadings considered in this Memorandum Opinion and Order were not timely filed. Because such pleadings contained issues raised in timely filed pleadings or because those pleadings not timely filed raised issues of public concern, we have not rejected any untimely pleadings in these proceedings out of hand.

14. A motion to strike and opposition to SON's extraordinary request for oral argument filed by Southwest TV on December 8, 1978—Motion to strike is denied.

15. An Opposition to Request for Oral Argument filed by KOB on December 11, 1978.

16. An Opposition to Extraordinary Request for Oral argument filed by KOAT on December 13, 1978.

17. An Opposition to Statement in Support of Extraordinary Request for Oral Argument filed by Southwest TV on December 14, 1978.

18. A Supplement to Petition to Deny filed by KOB on January 16, 1979.

19. A Statement in Support of Petition for Consolidated Hearing filed by KOB on February 27, 1979.

20. An Opposition to Petition for Consolidated Hearing filed by SON on February 28, 1979.

21. A Reply to Oppositions to Petitions for Consolidated Hearing filed by KOAT on March 13, 1979.

Appendix B

Additional pleadings in relation to File No. BPCT-5124 considered in this Order are:

1. An editorial correction to the April 17, 1978, Petition to Deny filed by KOB on April 20, 1978.

2. An Opposition to Petitions to Deny filed by NMM on June 21, 1978.

3. A revision to its Opposition to Petitions to Deny filed by NMM on June 28, 1978.

4. A Reply to Opposition to Petitions to Deny filed by KOB on July 10, 1978.

5. A statement filed by NMM on August 7, 1978.

6. An Opposition to Request for Oral Argument filed by KOB on December 11, 1978.

7. An Opposition to Statement in Support of Extraordinary Request for Oral Argument filed by Southwest TV on December 14, 1978.

8. A Supplement to Petition to Deny filed by KOB on January 15, 1979.

9. A request for extension of time in which to file an Opposition to Supplement to Petition to Deny, filed by NMM on January 23, 1979—Granted.

10. An Opposition to Supplement to Petition to Deny filed by NMM on February 12, 1979.

11. A Reply to Opposition to Supplement to Petition to Deny filed by KOB on February 23, 1979.

12. An Opposition to Petition for Consolidated Hearings filed by NMM on February 26, 1979.

13. A Statement in Support of Petition for Consolidated Hearing filed by KOB on February 27, 1979.

14. An Opposition to Petition for Consolidated Hearing filed by SON on February 28, 1979.

15. A Reply to Oppositions to Petitions for Consolidated Hearing filed by KOAT on March 13, 1979.

[FR Doc. 80-26951 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

State Workshop for Review of Proposed "Final Issue of Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (NUREG-0654/FEMA-REP-1)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Announcement.

FEA is cooperating with the Nuclear Regulatory Commission in development of final criteria to be used in the preparation and evaluation of radiological emergency response plans and preparedness in support of nuclear power plants (NUREG-0654/FEMA-REP-1 issued for interim use and comment in January 1980). In conjunction with this, FEMA also has proposed on June 24, 1980, a rule, 44 CFR Part 350 (45 FR 42341) which will govern the FEMA approval of State and local radiological emergency plans and preparedness. These and other actions will provide guidance to govern the acceptability of planning and preparedness around commercial nuclear facilities.

Since being published for comment, the joint FEMA/NRC criteria has been commented upon by States, local governments, and the public. In response to these comments, and to information gained during the interim use period of the criteria, a number of modificiations to the criteria are proposed.

FEMA, in cooperation with NRC, will hold a State workshop to discuss the criteria, after which it will be issued in final form. This workshop is being held to obtain the views of, and provide the opportunity for discussion among State officials; however, all sessions will be open to public attendance and observation on a space available basis. Information will also be provided about FEMA rulemaking.

The meeting will be held at the Sheraton Airport Hotel, Atlanta, Georgia, September 24, 25, and 26, commencing at 1:00 pm September 24, 1980.

Persons who wish further information about this workshop or who wish to observe should write Ms. Karol Bothamley, Southern States Energy Board, One Exchange Place, 2300 Peachford Road, Suite 1230, Atlanta, Georgia 30338, telephone (404) 455-8841.

Dated at Washington, D.C. this twenty-eight day of August, 1980.

For the Federal Emergency Management Agency.

Robert T. Jaske,

Acting Director, Radiological Emergency Preparedness Division.

[FR Doc. 80-26958 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-3915]

Availability of Finding of No Significant Impact; Junta and Carol

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. T-3915, between Junta Administrativa de los Muelles Municipales de Ponce (Junta) and Carol Lines (Carol), provides for Carol's lease of facilities and preferential building privileges at Pier 6, Municipal Piers of Ponce, and adjacent container parking areas. Carol shall have a 36-hour preferential use of Pier 6 on the days indicated on their vessel ETA schedules and Junta will provide one shoreside crane (4)LT). The agreement shall run for 3 years with options for additional 3-year periods. The Office of Environmental Analysis' (OEA) major environmental concern is whether the agreement will significantly affect energy usage and/or the quality of the air, water, noise, and biological environment in the area affected.

The OEA has determined that the Commission's final resolution of Agreement No. T-3915 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment within 20 days following publication of this Notice in the **Federal Register.** Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-27021 Filed 9-3-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 722; Docket No. 80-57]

Cosmos Shipping Co., Inc.; Order of Investigation and Hearing

Cosmos Shipping Co., Inc. (Cosmos), is an independent ocean freight forwarder operating pursuant to FMC License No. 722, issued on August 5, 1963. Information has been developed by the Commission's staff which indicates that Cosmos may have violated sections 15 and 16, Initial Paragraph, Shipping Act, 1916 (46 U.S.C. 814, 815). Cosmos' actions may have rendered it unfit to carry on the business of forwarding pursuant to section 44(b) of the Shipping Act, 1916 (46 U.S.C. 841(b)).

The information indicates Cosmos and/or its officers received sums of money from ocean carriers in excess of the ocean freight forwarder compensation specified in the ocean carrier's tariffs. These payments from one carrier to the president of Cosmos apparently totaled approximately $17,030 for the period from August 27, 1975 through November 5, 1976, for shipments covered by 134 bills of lading whereon Cosmos acted as the ocean freight forwarder. The payments were all in excess of the ocean freight forwarder compensation specified in the carrier's respective tariff.

The receipt of payments from ocean carriers in excess of the ocean freight forwarder compensation by Cosmos and/or its officers raises the possibility that Cosmos vilolated section 15 and section 16, Initial Paragraph, Shipping Act, 1916. Section 15 may have been violated if the payments were made pursuant to an unfiled agreement between Cosmos and the respective carriers. It is likewise believed that Cosmos may have violated section 16, Initial Paragraph, by directly or indirectly passing any part of these payments through to its shipper principals and thereby permitting its principals to obtain ocean transportation at less than the applicable rates or charges. Moreover, even if Cosmos did not pass any or all of the payments on to its shipper clients, if the payments represent a portion of the carrier's ocean freight revenues for Cosmos' shipments, the excess payments may result in such shipments moving at less than the applicable rates and charges.

Now, Therefore, It Is Ordered, That pursuant to sections 15, 16, 22, 32 and 44 (46 U.S.C. 814, 815, 821, 831 and 841(b)) of the Shipping Act, 1916, and section 510.9 of General Order 4 (46 CFR 510.9), a proceeding is hereby instituted to determine:

1. Whether Cosmos violated section 15, Shipping Act, 1916, by entering into and carrying out without Commission approval any agreement subject to the terms of section 15 providing for the receipt of payments from ocean carriers in excess of the amount of ocean freight forwarder compensation specified in the ocean carrier's applicable tariffs;
2. Whether Cosmos violated section 16, Initial Paragraph, by directly or indirectly passing on any portion of monies received by it or its officers from ocean carriers in excess of authorized ocean freight forwarder compensation to its shipper principals thus obtaining ocean transportation—on behalf of its principals—at less than the applicable rates or charges;
3. Whether Cosmos violated section 16, Initial Paragraph—even if it did not pass any or all of monies received by it or its officers from ocean carriers in excess of authorized ocean freight forwarder compensation to its shipper principals—by obtaining transportation by water at less than the applicable rates and charges;
4. Whether civil penalties should be assessed against Cosmos pursuant to section 32(e), Shipping Act, 1916, for violations of the Shipping Act, 1916, and/or the Commission's Rules and Regulations, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;
5. Whether Cosmos' independent ocean freight forwarder license should be suspended or revoked pursuant to section 44(d) of the Shipping Act, 1916 for:

a. willful violations of the Shipping Act, 1916,

b. such conduct as the Commission finds renders Cosmos unfit to carry on the business of forwarding in accordance with section 510.9(e) of General Order 4.

It Is Further Ordered, That Cosmos Shipping Co., Inc. be named Respondent in this proceeding.

It Is Further Ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence within the time limit specified in Rule 61 (46 CFR 502.61) of the Commission's Rules of Practice and Procedure. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It Is Further Ordered, That notice of this Order be published in the Federal Register and a copy thereof and notice of hearing be served upon Respondent, Cosmos Shipping Co., Inc. and the Commission's Bureau of Hearing Counsel.

It Is Further Ordered, That any person other than Respondent and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

It Is Further Ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission

Francis C. Hurney,

Secretary.

[FR Doc. 80-27022 Filed 9-3-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0324]

Federal Reserve Bank Services; Proposed Fee Schedules and Pricing Principles

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed fee schedules and pricing principles.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires the Board to publish for comment a set of pricing principles and a proposed schedule of fees for Federal Reserve Bank services. Accordingly, the Board seeks comment on its proposed pricing principles, the methods employed for determining service fees, and the fee schedules.

DATE: Interested parties are invited to submit relevant data, views and other

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comments. Comments must be received by October 31, 1980.

ADDRESS: Comments, which should refer to Docket No. R-0324, should be addressed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6.(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Assistant Director for Federal Reserve Bank Operations (202/452-2738); Earl G. Hamilton, Senior Operations Analyst (202/452-3878); Benjamin Wolkowitz, Section Chief (202/452-2686); David B. Humphrey, Economist (202/452-2556); Myron L. Kwast, Economist (202/452-2686); Gilbert T. Schwartz, Assistant General Counsel (202/452-3625); Lee S. Adams, Senior Attorney (202/452-3623); Paul S. Pilecki, Attorney (202/452-3281).

SUPPLEMENTARY INFORMATION:

I. Introduction

The purpose of this announcement is to invite public comment on a proposed schedule of fees for Federal Reserve Bank services and the principles that underlie them. The Monetary Control Act of 1980 requires the Board of Governors of the Federal Reserve System to begin putting into effect a schedule of fees for services no later than September 1, 1981 and to make such services covered by the fee schedule available to all depository institutions. Accordingly, the Board seeks comment on its proposed pricing principles, the methods employed for determining service fees, and the proposed fee schedules. In preparing the pricing principles and fee schedules the Board has taken into account the objectives of fostering competition, improving the efficiency of the payments mechanism, and lowering costs of these services to society at large. At the same time, the Board is cognizant of, and concerned with, the continuing Federal Reserve responsibility and necessity for maintaining the integrity and reliability of the payments mechanism.

II. Background

The Monetary Control Act (Title I of Pub. L. 96-221) requires the Board of Governors of the Federal Reserve System to publish for comment a set of pricing principles and a proposed schedule of fees for Federal Reserve Bank services not later than September 1, 1980. Federal Reserve Bank services to be priced are:

(1) Currency and coin transportation and coin wrapping;
(2) Check clearing and collection;
(3) Wire transfer of funds;
(4) Automated clearing house (ACH);
(5) Net settlement;
(6) Securities services;
(7) Noncash collection;
(8) Federal Reserve float; and
(9) Any new services the Federal Reserve System offers.

The legislative history of the Act indicates that Congress had two objectives in establishing a requirement that the Federal Reserve price the services it provides. First, Congress was concerned with the amount of revenue lost to the Treasury as a result of the reduction in the level of aggregate required reserves resulting from the implementation of the reserve requirement provisions of the Act. Pricing for Federal Reserve Bank services will generate revenue that will partially offset the revenue loss associated with reduced required reserves. Second, Congress believed pricing for Federal Reserve Bank services to be a means of encouraging competition in the provision of these services in order to assure that they are provided at the lowest aggregate cost to society as a whole. While intending to stimulate the efficiency of the payments system, Congress did not wish to precipitate the reemergence of undersirable banking practices such as non-par checking or circuitous routing of checks which the Federal Reserve System was designated to eliminate. Therefore, it required the Board to ensure an adequate level of services nationwide. Consequently, Congress charged the Board with adopting pricing principles that "give due regard to competitive factors and the provision of an adequate level of such services nationwide". This objective is clearly established in the pricing principles established by the Act.

III. Pricing Principles

The Monetary Control Act sets forth the following principles upon which it requires the schedule of fees for services to be based:

1. All Federal Reserve Bank services covered by the fee schedule shall be priced explicitly.

2. All Federal Reserve Bank services coverd by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

3. Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

4. Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

The Board believes that the Monetary Control Act and its legislative history recognize the importance of the Federal Reserve maintaining an operational presence in the nation's payments mechanism, providing an adequate level of service nationwide and encouraging competition. In the light of these considerations, the Federal Reserve has developed additional pricing principles that build on those of the Act and provide further guidance as to the pricing policies and strategies the System proposes to follow.

5. The fee schedule shall, over the long run, be set to recover total costs for all priced services.

6. Fees shall be structured so as to avoid undesirable disruptions in service and to facilitate an orderly transition to a pricing environment.

7. The fee schedule, as well as service levels, shall be administered flexibly in response to changing market conditions and user demands.

8. Fee and service level incentives may be established to improve the efficiency and capacity of the present payments system and to induce desirable longer run changes in the payments mechanism.

The Federal Reserve believes that pricing and expanded access will have an impact on the types and the volumes of Federal Reserve Bank services provided. The System recognizes that its proposed fees may bring about a decrease in the volume of certain System services. Furthermore, the System may consider eliminating some services if it is determined that a continued Federal Reserve presence in providing these services is no longer cost effective or otherwise warranted. In determining the type and level of service to be added or discontinued, the Federal

Reserve will be cognizant of its legislative responsibility for insuring that the nation maintains an efficient, sound, and competitive payments mechanism.

IV. Price Determination

The Monetary Control Act of 1980 requires that "over the long run fees shall be established on the basis of all direct and indirect costs actually incurred in providing Federal Reserve services priced". The proposed pricing structure is based on the Federal Reserve's cost accounting system which provides the basis for calculating the total cost of major services (e.g., checks, wire transfer). Reserve Banks have provided the necessary allocations of these total costs to the detailed service categories for services to be priced at the District or office levels.

A. *Private Sector Adjustment.* The Act also requires that a private sector adjustment be added to Federal Reserve cost to account for "taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm". A markup of 12 percent has been adopted and incorporated into the fee schedules presented later in this notice. This markup is discussed in further detail in Appendix I. The private sector adjustment factor will be reviewed annually.

B. *Long run Versus Short run Costs.* The Act provides for the establishment of fees based upon long run costs. If, after the introduction of the schedules of fees there are no substantial changes in the volume of services provided, current costs would approximate long run costs. However, should the volumes of priced services change substantially after the implementation of pricing, current costs would no longer represent long run costs, since Reserve Banks will require time to adjust their direct and overhead costs to the new volume levels. Consequently, until Reserve Banks have had time to adjust their overhead costs, initial prices will not be modified to reflect fully the changes in unit costs associated with large volume changes. This approach minimizes disruptive fluctuations in clearing patterns and is compatible with the requirement that prices be based on long run costs.

C. *National, District, or Office Pricing.* National fees are proposed for services which are uniform across the Federal Reserve System. These services are generally capital intensive services having very similar costs across Federal Reserve Districts. National fees are proposed for wire transfer, ACH, net settlement, and on-line securities transfer services. Separate fees for Federal Reserve Districts or offices are proposed for services where there are significant cost differences across Districts (or across separate offices within the District) and/or where the market for that service is local in scope. District or office pricing for these services should encourage competition and promote efficiency. District fees are proposed for coin wrapping, securities and noncash collection services while office fees are proposed for currency and coin shipping services. The Board proposes that Reserve Banks be given the option to set fees for check services on either a District or office basis.

D. *Federal Reserve Float.* Under the Monetary Control Act, the Federal Reserve is required to charge for any float remaining after the Federal Reserve has implemented actions to reduce the size of float. The Federal Reserve plans to implement the phased approach towards reducing and charging for float described below.

Phase I: Operational Improvements. Federal Reserve float will be reduced through operational improvements where such reduction can be cost justified, particularly in those instances when substantial float reductions can be achieved at moderate costs. The System has targeted a reduction in float on the order of 50% below current levels, and expects the costs for such improvements to increase the unit prices for checks that are shown in this announcement by approximately 10% or less. Improvements in the Interdistrict Transportation System are already under way and further improvements are scheduled. Opportunities to use the Federal Reserve communications system or its automated clearing facilities to speed up the collection of large dollar items will be pursued as part of this effort. Implementation of other float reduction techniques in the Federal Reserve is under way and should continue throughout 1981.

Phase II: Changes in Availability Schedules. In September 1981, the System will implement changes in its availability schedule to achieve further reductions in Federal Reserve float. Fractional availability will be used to vary the availability schedule to reflect more accurately actual collection experience. For example, if experience indicates that 97% of check clearings between two Reserve offices occurs in one day, and 3% in two days, 97% of the funds will be passed on to the depositor on day one and 3% on day two. This method is similar to that used by correspondent commercial banks. On average, fractional availability is expected to result in not more than a 2%–4% change in current availability schedules for local items and 6%–10% for out-of-district items. Obviously the impact on any specific financial institution will depend on the nature of its cash letter deposit.

Phase III: Explicit Pricing. Subsequent to implementation of operational improvements and modifications to availability schedules, there may be a small amount of Federal Reserve float still remaining. Beginning by mid-1982, an explicit charge for this remaining float will be made at the Federal funds rate and incorporated into the price of the function creating the float. Specific details concerning the charging procedure will be announced prior to that date. Because residual float will be small, the impact on prices will also be small.

V. Incentive Pricing

The Federal Reserve plans to use fee inventives to improve the efficiency and capacity of the payments system. To encourage the development of electronic funds transfer, the fee schedule proposed for ACH services reflects System costs in a mature volume environment. In the future, incentive pricing may be used to encourage smoother deposit flows at Federal Reserve offices and to facilitate more efficient utilization of labor and equipment. For example, to smooth check processing workflows, Reserve Banks might offer a discounted fee on checks deposited several hours before the established cut-off hour.

VI. Implementation of Access and Pricing

The Monetary Control Act requires the Federal Reserve to make Federal Reserve Bank services available to nonmember depository institutions as services are priced. The following schedule has been established for the implementation of pricing and access.

Service and Access and Pricing

Wire Transfer of Funds, January 1981.[1]
Net Settlement, January 1981
Check Clearing and Collections, April 1981
Automated Clearing House, April 1981
Currency and Coin transportation and coin wrapping, July 1981
Securities Services (purchase and sale, safekeeping and transfer), October 1981
Noncash Collection, October 1981
Float, (see preceding discussion)

For all services, the charge will be levied against the party originating a transaction or

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[1] In order to allow nonmember depository institutions to adjust their reserve balances, this service will be made available to institutions maintaining required reserve balances at the Federal Reserve on a limited non-priced basis beginning in November 1980.

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requesting a specific service. However, depository institutions will be billed through their respective ACH associations for ACH services, unless alternatively, they make arrangements to have such charges assessed directly.

VII. Description of Services

A. *Check Clearing and Collection Services (all checks except U.S. Treasury Checks and Postal Money Orders).* In the proposed schedule (see Table 1 of Appendix II) there is a single fee for receiving, sorting, reconciling and delivery. These fees do not include charges for special intraoffice deposit arrangements that individual Reserve Banks may establish.

The proposed per item fees include the costs associated with returns and adjustments. However, consideration is being given to the establishment of separate prices for return items. No charges will be made for postal money orders or U.S. Treasury checks deposited separately because such processing is conducted by the Federal Reserve as part of its fiscal agency responsibilities. When such items are not deposited separately they will be assessed the same fee as commercial checks deposited in mixed cash letters.

The following check services are available:

1. *Cash letters*[2] *deposited directly at the processing Federal Reserve Office.* a. *City.* City checks are drawn on depository institutions located in the same city as the processing Federal Reserve office. City check services are available at 43 Federal Reserve offices. When deposited at the collecting Federal Reserve offices credit for city checks is immediate (i.e., funds are available on the same day if the checks are received prior to the established cut-off hour).

b. *Regional Check Processing Center (RCPC).* RCPC checks are drawn on depository institutions located in areas designated as RCPC zones.[3] RCPC checks drawn on depository institutions in RCPC zones are usually transported by courier from the collecting Federal Reserve offices for presentment. There are 44 Federal Reserve offices which offer RCPC check services. When deposited at the collecting Federal Reserve office, credit for RCPC checks is immediate (i.e., same business day) if the items are deposited by 12:01 a.m.

c. *Country.* Country checks are drawn on depository institutions located outside a city in which a Federal Reserve office is located and outside an RCPC zone. Country check services are available at 12 Federal Reserve offices. Credit for country checks is available one day after timely deposit at the processing Federal Reserve office.

d. *Mixed.* Mixed cash letters contain unsorted city, country and RCPC checks. These cash letters may also contain checks drawn on depository institutions in other Federal Reserve territories. Only depository institutions with less than 5,000 items to be collected each day are eligible to deposit mixed cash letters at their local Federal Reserve office. These services are available at 27 Federal Reserve offices. Credit for checks in mixed cash letters is normally available the day after deposit if the deposit is made before the city cut-off hour of the processing Federal Reserve office.

e. *Other Fed.* Other Fed cash letters contain checks drawn on depository institutions located in Federal Reserve territories other than the processing Federal Reserve territory. Prices for collecting these checks reflect the resources required to sort the checks at two Federal Reserve offices and to transport the items between these offices.

f. *Non-Machineable.* Non-machineable cash letters contain checks which were rejected from the reader-sorter equipment of a depositing financial institution, and those checks that are mutilated and cannot be computer processed. Fees for non-machineable checks reflect the additional manual handling required to process these exception items. Credit for non-machineable checks is generally deferred one day beyond normal availability for the same type check (e.g., credit for a city non-machineable check would be available the day after timely deposit at the processing Federal Reserve office).

g. *Package Sort.* Each package sort cash letter contains checks drawn on only one depository institution and is packaged for delivery to that institution. Reflecting the pre-sorting work done by depositing institutions Federal Reserve involvement is limited to presentment, settlement, adjustment and return. As a result, the proposed fee is lower than the fees for other categories of cash letters and later cut-off hours are applicable to package sort cash letters. Credit is passed according to the same availability schedule as for city, country, and RCPC items.

h. *Group Sort.* Each group sort cash letter contains checks of a specific type (city, RCPC or country) drawn on two or more depository institutions. Because the depositing institution has already done some sorting this Federal Reserve service requires less handling than a regular deposit. Therefore, the proposed fee is lower. Later cut-off hours are applicable to group sort cash letters and credit is passed to depositing institutions on the same schedule as for city, RCPC, and country items.

2. *Cash letters sent to other Federal Reserve offices.* a. *Consolidated Shipments.* Consolidated shipment cash letters consist of checks of a particular type (city, RCPC or country) drawn on depository institutions located in another Federal Reserve territory. Since the items are not processed by the local Federal Reserve office of first deposit, the proposed fee for these items reflects only the cost of transporting these checks between Federal Reserve offices and processing them at the collecting Federal Reserve office.

b. *Direct Shipments.* Direct shipment ("direct sends") cash letters are those for which transportation to the processing Federal Reserve office is arranged by the depositing institution. Proposed direct shipment fees are the same as local prices for the respective class of items (city, RCPC, and country) at the processing Federal Reserve office.

B. *Automated Clearing House Services.* ACH services are offered in all Federal Reserve Districts. Proposed fees for automated clearing house (ACH) service (see Table 2, Appendix II) reflect costs based on an expected mature volume and are applicable at all Federal Reserve operated clearing and settlement facilities. These proposed fees include receiving, sorting, reconciling, settling and delivery of both debit and credit ACH transactions. The proposed fee for the Federal Reserve Bank of New York reflects the provision of local ACH processing by the private sector with only settlement and transportation provided by the Federal Reserve.

1. *Intra-ACH transactions.* Intra-ACH transactions are payments received from local originating depositing institutions for delivery to depository institutions located in the same ACH service area.

2. *Inter-ACH transactions.* Inter-ACH transactions are payments received from a private sector ACH facility or from originating depository institutions in one ACH area for delivery to depository institutions in other ACH service areas.

C. *Wire Transfer of Reserve Account Balances Service.* Wire transfer services provide for the immediate movement of funds between any two depository institutions which maintain accounts with the Federal Reserve (see Table 3 in Appendix II for proposed fees).

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[2] A cash letter contains a listing of individual checks and the packaged checks.

[3] RCPC zones are designated areas within the territories of Federal Reserve offices, but outside Federal Reserve cities. In these zones the Federal Reserve is able to present checks for payment and collection on the same day.

Five levels of services are available: (1) On-line origination of a transfer without telephone advice (notification) to the receiver, (2) on-line origination of a transfer with telephone advice to the receiver, (3) off-line origination without telephone advice to the receiver, (4) off-line origination with telephone advice to the receiver and (5) off-line receiver requiring telephone advice of credit where none has been requested by the originator (see Table 3 of Appendix 11 for the proposed fees).

The most common wire transfer transaction is originated from an on-line terminal at a depository institution and processed through the Federal Reserve's automated communication facilities with immediate settlement and transmission of an advice to the receiving depository institution's on-line terminal facilities. Off-line origination of a transfer allows depository institutions without on-line facilities to initiate wire transfer by telephone request to a Federal Reserve office. Except for initiation by telephone, off-line wire transfers are processed in the same manner as on-line transactions. Telephone notification to an off-line receiver provides information concerning funds credited to their accounts earlier than would otherwise occur.

The originator will be charged for the wire transfer services including a fee for telephone advice to an off-line receiver if requested by the originator. If the receiver has instructed the Reserve Bank office to provide telephone advice when none has been requested by the originator, the off-line receiver will be charged for the telephone advice (see Table 3 of Appendix II for proposed fees).

D. *Net Settlement Service.* The net settlement service is the posting of debit and credit advices generated by a third party to accounts held on the books of the Federal Reserve.[4] The third party is typically a provider of financial services to depository institutions (e.g., a private sector check clearing house, automated clearing house association, funds transfer system, etc.) who normally processes a large number of transactions among its member institutions. In addition to sorting, delivering or communicating data, the third-party maintains records of these transactions. At the end of a business day, the third party sums all transactions for each institution and delivers or transmits to the Federal Reserve the entries to effect settlement among the participating institutions. Charges for the net settlement service will be calculated based on the number of entries in each settlement and will be levied against the third party ordering the settlement rather than against each institution participating in the settlement (see Table 4 of Appendix II for proposed fees).

E. *Currency and Coin Transportation and Coin Wrapping Services.* Transportation services for currency and coin are fully priced (see Table 5 and 6 in Appendix II for proposed fees). However, no private sector adjustment has been added since the cost of imputed capital and taxes is already included in the price the System pays private couriers to provide this service. Proposed fees reflect both a volume charge (per bundle of currency and/or bag of coin shipped) and a cost per stop.

Proposed transportation fees for currency and coin are based on existing armored carrier contracts and established usage patterns. The Reserve Banks may impose reasonable limitations on frequency of service, number of offices served and size of orders/deposits. To assure that the public serviced by institutions in more remote locations receive an adequate level of service, the proposed prices for transportation to depository institutions located in more remote areas (over-the-road endpoints) have a ceiling imposed for the per stop portion of the cash transportation charge. The proposed price to mail endpoints has the same ceiling. In the proposed pricing structure, the ceiling is set at $32.

Depository institutions may pick up or deliver currency and coin free of charge at Reserve Bank docks, since the provision of coin and currency itself is a government service. However, Reserve Banks may impose reasonable restrictions on scheduling of pickups and deliveries when depository institutions arrange their own transportation.

Currency and coin processing (paying, receiving and verifying both coin and currency, and issuing, processing, canceling and destroying currency) are governmental functions and are not priced.

1. *Currency and coin shipping service.* The shipping service comprises mail shipments and armored carrier deliveries to and from endpoints within a Federal Reserve city, within suburban areas of the Reserve city, and beyond those areas to locations in more remote areas, referred to as "over-the-road" endpoints.

a. *Mail shipment.* Mail shipment service involves travel to and from the Post Office to pick up and deliver currency and coin. Actual postage, registered mail fees and insurance costs will be added to the proposed Reserve Bank fee for this service.

b. *City endpoint.* City endpoint transportation includes the shipment of currency and coin by armored carrier to and from depository institutions located within the same city as a Federal Reserve office.

c. *Suburban endpoint.* This service is similar to the city endpoint service except that it is available only to depository institutions located close to a Federal Reserve city (i.e., within a geographic area defined by a Federal Reserve office as suburban).

d. *Over-the-road endpoint.* This service is similar to city and suburban endpoint services but is available to depository institutions located beyond suburban endpoints. Over-the-road service areas are subdivided into zones based upon distance from a Federal Reserve office.

2. *Coin Wrapping.* Wrapping involves the packaging of coin into rolls, and boxing of rolls for shipment. Coin wrapping is available in four Reserve Bank Districts (see Table 7 in Appendix II for proposed fee for this service).

F. *Securities Services.* 1. *Safekeeping and securities transfer.* Proposed prices for this service include charges for the establishment, maintenance, and servicing of both definitive and book-entry safekeeping accounts (see Table 8 of Appendix II for proposed prices). Also included are charges to cover deposits, withdrawals, electronic transfers of book-entry securities, and charges to cover account maintenance.[5] The proposed account maintenance fee reflects the costs associated with storing securities, maintaining account instructions, reconciling accounts, notifying the depository of maturing securities, and providing periodic account statements.

a. *Book-entry securities.* This service includes the transfer of book-entry securities and the maintenance of a customer's account. A Federal Reserve office will electronically transfer book-entry securities from the custody

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[4] Gross settlement, that is, the posting of debits and credits associated with the direct use of other Federal Reserve services, is not charged for separately since its cost is of necessity included in the fee for each service.

[5] No fees will be imposed for: (1) Holding, transferring or switching definitive or book-entry securities as collateral for Treasury tax and loan, other Treasury deposits, or borrowings from the Federal Reserve; (2) deposits of book-entry securities on original issues; and (3) payment of principal and interest on Government securities, including the withdrawal of matured book-entry securities. These services are provided by the Federal Reserve in its capacity as fiscal agent for the U.S. Treasury Department and compensation for such services is provided by the Treasury.

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account of one depository institution to the custody account of another depository institution located within the same or another Federal Reserve District. Additionally, a Federal Reserve office will electronically transfer book-entry securities between custody accounts of the same depository institution (account switch). All book-entry transfers may be performed on-line or off-line. This service also includes account maintenance (e.g., the maintenance of records reflecting book-entry holdings, account instructions, and periodic statements).

b. *Definitive securities.* This service includes the receipt or delivery of definitive securities by a Federal Reserve office at the direction of a depository institution and the processing of related payments. Also included are: (1) The transfer of securities between custody accounts at a Federal Reserve office; (2) the withdrawal of maturing securities from safekeeping and collateral accounts and the collection and crediting of principal on such securities; (3) detaching maturing coupons from definitive securities held at a Federal Reserve office and preparing them for delivery to the owner or to the appropriate paying agent; and (4) account maintenance, including storage of securities, maintenance of account instructions, account reconcilement, and periodic statements.

2. *Purchase and sale of government securities.* This service involves the execution of purchase and sale transactions of Treasury and U.S. Government agency securities at the request of a depository institution. It is proposed that fees will be charged for each transaction handled.

G. *Noncash Collection Services.* Noncash collection includes the receipt, collection, and crediting of accounts of depository institutions for deposits of matured municipal and corporate coupons, and called or matured municipal and corporate obligations. (See Table 8 of Appendix II for proposed prices.) The collection of and crediting for maturing coupons detached from definitive securities held in safekeeping on collateral accounts at a Federal Reserve office are also included in this service.

VIII. Clearing Balances

The Monetary Control Act imposes Federal reserve requirements on all depository institutions with transaction accounts or non-personal time deposits. Nevertheless, a number of member and non-member depository institutions will maintain zero or negligible required reserve balances with the Federal Reserve because of the phase in provisions or because of the lower reserve ratios established by the Act. Such institutions will either have low required reserves and/or will be able to satisfy their reserve requirement either in large part or entirely with vault cash. These institutions may want direct access to some or all Federal Reserve services. However, their reserve balances held at Federal Reserve Banks may be considered inadequate for clearing purposes because they could generate an excessive incidence of daylight, and possible overnight, overdrafts. Consequently, the Board will provide two alternative methods whereby depository institutions maintaining zero or negligible required reserve balances with Federal Reserve Banks will still be able to receive Federal Reserve Bank services directly, in accordance with the access provisions of the Act.

The first method is for a depository institution with zero or low reserve balances to arrange with a correspondent institution or with its reserve pass-through correspondent to post all of its Federal Reserve credits and charges arising from its use of System services to the correspondent institution's or pass-through correspondent's Federal Reserve account. Such arrangements must comply with the requirements of the Federal Reserve Bank involved. The second method is for the depository institution with zero or low reserve balances, regardless of whether or not its reserves are held through a pass-through correspondent, to establish a clearing balance with its Reserve Bank to which Federal Reserve credits and charges may be posted. If the depository institution chooses the clearing balance method, it is proposed that the following procedures apply:

A. *Clearing Balance Procedure.* 1. The need for and size of a clearing balance will be set by each Reserve Bank on a case-by-case basis. The size of the clearing balance will be set so as to minimize the expected incidence of daylight and possible overnight overdrafts.

2. In order to ensure that clearing balances do not interfere with the conduct of monetary policy, the size of the required clearing balance will be fixed in advance of the period during which that balance must be maintained. Required clearing balances may be adjusted on the first Thursday of each month to reflect changes in the level of transactions. Notice of such adjustments will be made two weeks prior to the change.

3. In order to minimize the potentially disruptive effects clearing balance requirements could have upon the conduct of monetary policy, the maintenance period for required clearing balances will correspond to the maintenance period for required reserve balances. Each depository institution will have to maintain a required weekly average total balance—required clearing balances plus, if applicable, required reserve balances. At the end of each maintenance period any balances held with the System will first be allocated to the clearing balance requirement and the remainder will apply to the required reserve balance. Thus, if a depository institution holds an average total balance with the System during the maintenance period that is less than the required balance—required clearing balances plus required reserve balances—the depository institution will be considered to be deficient in reserves. If the deficiency in average total balances is greater than the required services, the remaining shortfall will be considered deficient clearing balances. If the maintained total balance exceeds the required balance, the institution will be considered to be holding excess reserves. However, in the case where a depository institution elects to pass-through its required reserves and in addition maintains a required clearing balance directly with the Federal Reserve, the required clearing balance will be administered separately from the required reserve balance.

4. If a depository institution is deficient in required reserves it will be subject to a penalty (12 CFR 204.7). The same penalty will apply to a deficiency in required clearing balances, whether or not that institution must maintain any required reserve balances with the Federal Reserve. However, while reserve carryover provisions will apply to required reserve balances, they will not apply to required clearing balances. In addition, Federal Reserve Banks will meet with depository institutions that demonstrate an inability to maintain required balances or that incur repeated penalties to discuss how to better manage required total balances.

B. *Earnings Credits on Clearing Balances.* 1. The Monetary Control Act provides that Federal Reserve services should be provided on a competitive basis. Since fees for competitive services offered by commercial banks are often in the form of balances maintained by the users of the services the Board believes that, in order to fulfill the objective of providing services on a competitive basis, it is appropriate to permit fees for services to be offset by an earnings credit on required clearing balances just as is the practice of the private sector. Thus, Federal Reserve Banks will provide earnings on the lesser of required clearing balances or the actual clearing balances maintained. These credits can *only* be used to offset charges a depository institution incurs in its use of System services. Explicit interest will *not* be paid to depository institutions maintaining required clearing balances.

2. The earnings credit rate to be used by Reserve Banks is a weekly average of the 91-day Treasury Bill rate. This average will be computed based on U.S. Treasury auction averages and daily closing bid prices.

3. If during a given billing period the earnings credits granted a depository institution exceed the charges it incurs for the use of System services, the depository institution may carryover the excess credits and apply them to its use of System services in subsequent months. A particular billing period's carryover may be maintained for up to 12 months. At the end of 12 months such credits expire. For example, excess credits earned in January that are unused during the following 12 months would expire the next January 31, while excess credits earned in February that are unused during the following 12 months would expire on the last day of the next February.

C. *Implementation Dates for Clearing Balances.* 1. Federal Reserve Banks will implement clearing balances by Janaury 1, 1981 or as soon thereafter as possible.

2. In those Districts in which Reserve Banks are unable to implement clearing balances by January 1, 1981, a depository institution with zero or low required reserve balances that wishes to receive System services directly will be limited to the first method previously discussed. Thus, affected depository institutions will need to arrange with a correspondent institution or other reserve pass-through correspondent to have all its Federal Reserve credits and charges posted to the correspondent institution's or pass-through correspondent's Federal Reserve Bank account. Once clearing balances become available, depository institutions may switch to the clearing balance procedure.

By order of the Board of Governors of the Federal Reserve System, August 28, 1980.

Theodore E. Allison,

Secretary of the Board.

Appendix I—The Private Sector Adjustment Factor

In accordance with the Monetary Control Act of 1980 the Federal Reserve is required to price its services to reflect its actual costs plus the financing and tax costs that a private sector supplier would incur. Since the System's cost accounting information does not include these private sector costs, it is necessary to derive an adjustment factor or markup to apply to the System's cost accounting data.

The first step in deriving the private sector adjustment requires a determination of the value (at historical cost) of the System's assets employed in the production of priced services. The value of assets used by the System to execute its central bank functions, supervisory and regulatory responsibilities, and duties as the Treasury's fiscal agent have been excluded. The asset base for priced services is shown in Table 1 and totals $284.9 million.

The capital structure was assumed to approximate that of a private business firm solely providing payments function services: 53% debt (32% short-term, 21% long-term) and 47% equity. When the average debt, equity, and tax costs of a selected sample of large banks are applied to this capital structure, an average cost of capital of 13.1% is derived. This cost of capital was used to determine the 12% private sector adjustment factor, described in detail in Table 2.

Table 1.—*Assets Employed in the Production of Priced Services*

[In millions of 1979 dollars]

Items	Amount
Bank premises, net	$409.3
Difference and suspense account, net	134.3
Furniture and equipment, net	85.1
Other real estate	27.4
Deferred charges	3.4
Total assets	659.5

Assets of priced services: $659.5 (.432)[1] = $284.9.

[1] Those assets which could be explicitly identified as supporting a nonpriced service are not included in Table 1. Other assets which supported both priced and nonpriced services required different treatment. The cost of priced services (less shipping expenses) represented 43.2% of total System costs (less note issue and shipping expenses). This ratio is applied to the total asset base of $659.5 million (which supports both priced and nonpriced services) to determine the value of assets allocable to the priced services alone. Shipping and note issue expenses represent "passed through" private sector or U.S. Treasury costs and are excluded from the ratio since little or no Federal Reserve assets are involved in their production.

Table 2.—*The Calculation of the Private Sector Adjustment Factor*[1]

[In millions of 1979 dollars; Factor annual data]

Items	Amount
Asset base	284.9
Capital structure:	
Short-term debt (32%)	91.7
Long-term debt (21%)	58.0
Equity (47%)	135.2
Financing cost:	
Short-term debt (@ 6.91%)	6.3
Long-term debt (@ 7.98%)	4.8
Equity (@ 19.5%: before taxes)	26.1
Total assumed financing and tax expenses	37.2
Cost of system services to be marked-up	310.7

Private sector adjustment factor $(37.2 \div 310.7)^2 = 12.0\%$.

[1] The average interest cost of long-term debt at 12 large banks was 7.98% in 1979 while the average interest cost of short-term debt was 6.91%. The average after tax return on equity was 14.4% and, with an effective tax rate of 26%, yields a before tax equity return of 19.5%.

[2] The average cost of capital (before taxes) is 13.1%.

Appendix II—Proposed Fees

The following tables contain the proposed fees for Federal Reserve services.

Table 1.—*Proposed Fee Schedule; Commercial Check Services*

[In cents per item]

Federal Reserve office	Cash letters deposited directly at processing Federal Register office						Cash letter consolidated with shipments sent from other Federal Register offices to processing Federal Register office	
	City	Country RCPC and mixed	Other Fed	Nonmachineable	Package sort	Group sort	City	Country and RCPC
Boston	1.4	1.7	3.8	4.2	.5	1.6	1.8	2.1
Lewiston								
Windsor Locks								
New York	2.5	2.9	5.1	7.0	.2		3.0	3.4
Buffalo	1.5	1.7	3.9	3.9	.6		1.9	2.1
Jericho		2.0		4.8	.6			2.5
Cranford		2.2		4.5	.6			2.7
Utica		2.0		4.6	.6	1.7		2.4
Philadelphia	1.9	2.2	4.6	4.8	.6	1.8	2.3	2.7
Cleveland	.9	1.9	3.4	3.7	.5		1.3	2.3
Cincinnati								
Pittsburgh								
Columbus								

Table 1.—*Proposed Fee Schedule; Commercial Check Services*—**Continued**

[In cents per item]

Federal Reserve office	Cash letters deposited directly at processing Federal Register office						Cash letter consolidated with shipments sent from other Federal Register offices to processing Federal Register office	
	City	Country RCPC and mixed	Other Fed	Nonmachineable	Package sort	Group sort	City	Country and RCPC
Richmond	1.6	1.9	4.0	4.1	.6	....	2.0	2.4
Baltimore	1.6	1.8	4.1	3.8	.6	....	2.0	2.2
Charlotte	1.1	1.3	3.4	3.2	.5	....	1.5	1.7
Columbia	1.4	1.6	3.9	3.6	.6	....	1.8	2.0
Charleston	....	1.8	3.8	3.7	.6	....	....	2.2
Atlanta Birmingham Jacksonville Nashville New Orleans Miami	1.2	1.5	3.3	3.8	.4	....	1.6	1.9
Chicago	1.9	2.5	4.3	4.1	.5	....	2.4	2.9
Detroit	1.2	1.8	4.5	5.5	.4	....	1.6	2.3
Des Moines	1.3	1.7	3.4	4.3	.4	....	1.7	2.1
Indianapolis	1.2	1.2	3.5	3.4	.4	....	1.6	1.6
Milwaukee	1.5	1.3	3.8	5.1	.3	....	1.9	1.7
St. Louis Little Rock Louisville Memphis	1.7	2.1	3.8	4.0	.3	....	2.1	2.6
Minneapolis Helena	1.4	1.9	4.4	4.8	.5	1.4	1.9	2.4
Kansas City	1.7	2.4	3.9	4.0	.5	1.0	2.1	2.8
Denver	1.0	1.3	3.3	3.8	.5	....	1.4	1.8
Oklahoma City	1.5	1.7	3.8	3.9	.5	....	1.9	2.1
Omaha	1.3	1.9	3.7	3.6	.5	....	1.7	2.3
Dallas Houston San Antonio El Paso	1.4	1.9	3.8	4.5	.6	1.5	1.8	2.3
San Francisco Los Angeles Portland Salt Lake City Seattle	1.5	1.6	3.8	5.9	.2	....	2.0	2.1

Table 2.—*Proposed Fee Schedule; Automated Clearing House Services*

[In cents per item]

Federal Reserve district	Intra ACH items	Inter ACH items
Boston	1.0	1.5
New York	.3	1.2
Philadelphia	1.0	1.5
Cleveland	1.0	1.5
Richmond	1.0	1.5
Atlanta	1.0	1.5
Chicago	1.0	1.5
St. Louis	1.0	1.5
Minneapolis	1.0	1.5
Kansas City	1.0	1.5
Dallas	1.0	1.5
San Francisco	1.0	1.5

Table 3.—*Proposed Fee Schedule; Wire Transfer of Reserve Account Balances Service*

	Telephone advice to receiver	
	No	Yes
Originator on-line	$0.70	$2.30
Originator off-line	3.15	4.75
Receiver off-line	....	1.60

Table 4.—*Proposed Fee Schedule Net Settlement Service*

Basic settlement charge per entry	$0.70
Surcharges per entry:	
Settlement originated off-line	2.45
Telephone advice requested	1.60

Table 5.—*Proposed Fee Schedule; Currency and Coin Shipping Service*

Federal Reserve office	Mail shipment [1] [2]	City endpoint			Suburban endpoint		
		Volume shipped		Per stop [3]	Volume shipped		Per stop [3]
		Per bundle of currency	Per bag of coin		Per bundle of currency	Per bag of coin	
Boston	$1.82						
New York	1.82						
Buffalo	2.74	$0.20	$0.26	$20.96			
Philadelphia		.10	.15	6.39			
Cleveland	1.82				$0.40	$0.39	$11.02
Cincinnati	2.74	.10	.14	4.96	.40	.57	11.96
Pittsburgh	1.82	.10	.14	1.00			
Richmond	2.74	.20	.24	13.66			
Baltimore	1.82				.60	.55	18.00
Charlotte	2.74	.10	.23	6.65			
Atlanta	2.52	.20	.31	7.06			
Birmingham	2.74	.20	.33	8.41			
Jacksonville	2.74	.10	.24	13.23			
Nashville	1.90	.10	.15	1.12	.20	.30	2.86
New Orleans	2.74	.20	.16	6.13	.30	.34	5.32
Miami	1.91	.20	.13	6.45	.60	.70	15.85
Chicago	2.74	.10	.13	9.86	.30	.34	6.34
Detroit	2.74	.40	.62	20.80			
St. Louis	1.82	.10	.14	4.97	.60	.75	11.49
Little Rock	2.38	.10	.12	1.05	.10	.12	2.10
Louisville	1.82	.20	.28	6.42			
Memphis	1.82	.20	.14	2.19			
Minneapolis	1.89	.20	.20	10.35	.40	.76	12.84
Helena	1.82	.20	.33	5.45			
Kansas City	1.82	.10	.14	7.11	.20	.26	2.74
Denver	1.82	.10	.14	3.22	.10	.14	4.01
Oklahoma City	2.06	.10	.16	1.95	.20	.33	2.80
Omaha	2.13	.20	.20	5.67			
Dallas	1.82	.20	.12	1.88	.40	.40	10.57
Houston	1.97	.10	.14	6.17			
San Antonio	2.74	.10	.15	6.83	.10	.15	3.48
El Paso	2.74	.10	.19	5.99			
San Francisco	2.74	.05	.14	10.08	.30	.50	2.67
Los Angeles	2.74	.20	.24	10.40	.30	.74	11.50
Portland	1.82	.10	.16	12.56			
Salt Lake City	2.74	.10	.19	6.50	.60	.78	5.37
Seattle	2.74	.20	.19	18.64	.70	.78	22.00

[1] Cost of one-way trip to or from U.S. Post Office. Actual postage and insurance costs will be added.
[2] Delivery to or from post office.
[3] Pickup and/or delivery.

Table 6.—*Proposed Fee Schedule; Currency and Coin Shipping Service*

Federal Reserve office	Over-the-road endpoints						
	Volume shipped		Per stop (pickup and/or delivery zone)				
	Per bundle of currency	Per bag of coin	1	2	3	4	5
Boston	$0.60	$1.51	$7.85	$15.71	$23.54	$31.38	
New York	.60	1.36	14.14	19.13	24.11	29.09	
Buffalo	.60	90	12.00	13.39	14.80	16.19	$17.59
Philadelphia	.60	1.35	13.00	15.00	18.50		
Cleveland	.60	85	12.36	14.06	15.77	17.47	
Cincinnati	.60	81	13.84	18.78	23.72	28.67	
Pittsburgh	.60	83	8.86	13.78	18.70	23.62	
Richmond	1.00	1.35	14.70	21.00	25.20		
Baltimore	.60	1.28	25.30	27.50	29.70		
Charlotte	1.10	1.61	22.02	27.97	32.00		
Atlanta	.60	1.15	8.49	13.81	19.11		
Birmingham	.70	1.02	7.40	13.57	19.75		
Jacksonville	.60	.69	9.35	11.81	14.27	16.73	
Nashville	.60	88	9.24	15.02	20.79		
New Orleans	.60	73	2.14	4.28	6.41	8.55	
Miami							
Chicago	1.30	1.76	27.04	30.69	32.00		
Detroit	.60	1.58	17.39	22.02	26.66		
St. Louis	1.40	1.93	26.52	31.80	32.00		
Little Rock	2.00	2.27	28.60	31.50	32.00		
Louisville	1.90	2.65	27.50	31.80	32.00		
Memphis	1.20	1.63	25.64	31.80	32.00		
Minneapolis	1.50	1.91	27.53	32.00	32.00		
Helena	2.10	2.39	26.61	27.62	32.00	32.00	32.00
Kansas City	1.30	1.74	21.86	25.39	28.92	32.00	
Denver	.70	1.20	15.69	20.59	25.49	30.40	
Oklahoma City	.70	94	10.95	17.03			
Omaha	1.20	1.59	9.09	12.53	14.61		
Dallas	1.20	1.38	22.44	25.70	29.04		
Houston	.60	.82	13.57	17.81	22.06	26.30	
San Antonio	1.30	1.77	15.38	17.71	20.04	22.38	24.70

Table 6.—*Proposed Fee Schedule; Currency and Coin Shipping Service*—Continued

Federal Reserve office	Over-the-road endpoints						
	Volume shipped		Per stop (pickup and/or delivery zone)				
	Per bundle of currency	Per bag of coin	1	2	3	4	5
El Paso	1.70	1.95	27.25	31.50	32.00		
San Francisco	.60	1.00	10.84	19.77			
Los Angeles	.70	1.24	10.16	16.48			
Portland	1.00	1.60	11.68				
Salt Lake City	1.30	1.62	11.22				
Seattle	1.30	1.82	19.91				

Table 7.—*Proposed Fee Schedule; Coin Wrapping Service*

Federal Reserve district	Cents per roll
Boston	2.8
Cleveland	2.8
St. Louis	3.5
Kansas City	2.8

Table 8.—*Proposed Fee Schedule Securities Safekeeping and Noncash Collection Services*

Federal Reserve district	Book-entry securities			Definitive securities				Purchase and sale per market transaction	Coupon or bond collection	
	Securities basic price per transfer	Transfer off-line surcharge per trans. [2]	Account maintenance per account [2]	Deposit withdrawal redemption per trans. [1]	Account switch per trans.	Coupon clipping per issue	Account maintenance per million dollars per amount [3]		Per envelope or bond processed [1]	Per $1,000 coupon value shipped
Boston	$1.80	$7.00	$60.00	$38.00	$13.50	$9.50	$67.00	$15.00	$2.20	$1.00
New York	1.80	6.75	60.00	33.50	12.50	9.25	34.00	22.50	1.40	1.00
Philadelphia	1.80	4.50	60.00	29.00	10.00	4.50	34.00	15.50	2.20	1.00
Cleveland	1.80	5.50	60.00	29.00	12.50	4.50	45.00	21.75	2.20	1.00
Richmond	1.80	7.00	60.00	37.00	12.50	7.25	63.00	22.50	2.00	1.00
Atlanta	1.80	5.50	60.00	35.00	11.25	7.25	63.00	18.50	2.00	1.00
Chicago	1.80	4.50	60.00	33.50	12.50	9.25	34.00	12.25	1.40	1.00
St. Louis	1.80	6.75	60.00	19.00	11.25	5.00	45.00		1.60	1.00
Minneapolis	1.80	4.75	60.00	19.00	11.75	5.25	45.00	9.50	1.80	1.00
Kansas City	1.80	4.00	60.00	19.00	10.00	4.25	34.00	16.75	1.80	1.00
Dallas	1.80	5.25	60.00	19.00	10.00	4.50	34.00	16.75	2.00	1.00
San Francisco	1.80	5.25	60.00						1.70	1.00

[1] For bonds, add out-of-pocket shipping expenses, insurance fees and fees assessed by other Federal Reserve Banks if any.

[2] Assessed for off-line origination and off-line receipt.

[3] Per annum assessed on a quarterly basis.

[FR Doc. 80-26929 Filed 9-3-80; 8:45 am]

BILLING CODE 6210-01

FEDERAL TRADE COMMISSION

Flexi-Van Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Flexi-Van Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Flexi-Van Truck Rental, a division of Flexi-Van Leasing Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Flexi-Van Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26920 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

Municipal Electric Authority of Georgia; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Municipal Electric Authority of Georgia is granted early termination of the waiting period provided by law and the premerger notifiction rules with respect to the proposed acquisition of certain assets of Georgia Power Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26921 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

Petro-Lewis Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Petro-Lewis Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Trans-Delta Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26919 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment of National Commission on Alcoholism and Other Alcohol-Related Problems

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services of the following advisory committee:

Designation: National Commission on Alcoholism and Other Alcohol-Related Problems

Purpose: The Commission is established to conduct a study for the President and the Congress. The study will include: (1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families; (2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention; (3) an assessment of the intergration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities; (4) a study of the relationship of alcohol use to aggressive behavior and crime; (5) a study of the relationship of alcohol use to family violence; (6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics; (7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems; (8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems; (9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; (10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped, and an assessment of the adequacy of existing services to fulfill such needs.

The Commission shall cease to exist sixty (60) days after the final report is submitted.

Dated: August 26, 1980.

Gerald L. Klerman,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-26927 Filed 9-3-80; 8:45 am]

BILLING CODE 4110-88-M

Prevention, Education, and Information Work Group Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of September 1980.

Prevention, Education, and Information Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

September 19; 1:30 p.m.—Open. Conference Room 4033, Ben Franklin Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

Contact: Mr. Edward Sands, Room 14C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6295.

Purpose: The Prevention, Education, and Information Work Group: (1) reviews all Federal efforts in the areas of alcohol abuse and alcoholism prevention, education, and information, including such issues as advertising and labeling of alcoholic beverages, regulation of alcoholic beverages and social policy issues related to the above areas; (2) provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities; (3) seeks to coordinate and enhance alcohol abuse and alcoholism prevention, education, and information efforts among Federal agencies; and (4) prepares such reports and recommendations to the Interagency Committee as are necessary in order to perform the above functions.

Agenda: The meeting will consist of a discussion of work group activities.

Substantive program information may be obtained from the contact person listed above. The NIAAA Committee Management Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Ms. Helen Garrett, NIAAA, Room 16C-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Dated: August 28, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-26926 Filed 9-3-80; 8:45 am]

BILLING CODE 4110-88-M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice sets forth a schedule of limits on skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under

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Medicare for cost reporting periods beginning on or after October 1, 1980. This is an annual update of the schedule, and will replace the current schedule published in the **Federal Register** on August 31, 1979 (44 FR 51542).

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on provider costs reimbursed under Medicare. These limits are based on estimates of the costs necessary in the efficient delivery of needed health services. They may be applied to the direct or indirect overall incurred costs or to the costs incurred for specific items or services furnished by a Medicare provider.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we published a final notice of a schedule of limits on SNF inpatient general routine service costs in the **Federal Register** on August 31, 1979 (44 51542). That schedule, the first applicable to SNF services, went into effect on October 1, 1979 and is still in effect.

On June 18, 1980, we published in the **Federal Register** (45 FR 41292) a proposed new schedule of limits on SNF routine service costs for cost reporting periods beginning on or after October 1, 1980. In that notice, we explained the methodology used for deriving and applying the limits and we described the scope of the limits as well. We also explained how the methodology used in the June 18 notice differed from the methodology used for the August 31, 1979 schedule. This final notice implements the methodology and limits proposed on June 18 with one change that we discuss below. For the convenience of the reader, the major provisions of the new schedule of limits are also summarized below.

Major Provisions

This new schedule of limits provides for:

1. Limits on adjusted SNF inpatient routine service costs. These limits do not apply to capital-related costs or to the costs of approved medical education programs;

(2) A market basked index, developed from the costs of goods and services purchased by SNFs to account for the impact of changing wage and price levels on SNF costs. This index is used to adjust the SNF cost data, from which the limits are developed, from the cost reporting periods represented in the data collection to the cost reporting period to which the limits apply;

3. A wage index, developed from hospital industry wages, to adjust both the labor-related portion of the SNF costs used to develop the limits and the labor-related portion of each group limit. The adjustment reflects variations in labor costs among the areas in which SNFs are located;

4. A classification system based on whether an SNF is located within a Standard Metropolitan Statistical Area (AMSA) or non-SMSA area, and whether SNF is hospital-based or freestanding. In the New England area, New England County Metropolitan Areas (NECMA) are used to determine urban location;

5. A cost of living adjustment for the nonlabor portion of the limits for Alaska and Hawaii SNFs; and

6. Limits set at 112 percent of the average per diem labor-related and nonlabor costs of each comparison group.

Application of the Limits to State Medicaid Rates

Our regulations at 42 CFR 447.315(c), which govern Medicaid payments for SNF and intermediate care facility (ICF) services, have been amended (45 FR 11806, Feburary 22, 1980) to remove the requirement that those payments by subject to the cost limits published under 42 CFR 405.460. Therefore, these limits will not apply to Medicaid reimbursement, except in those two States (Hawaii and Alaska) using the Medicare reimbursement methodology and in those that provide for the application of the cost limits in their approved State plans. At present, ten States incorporate the cost in their approved State plans.

One commenter asked whether our decision not to apply these limits to State Medicaid rates represented our final decision on the issues. We are still in the process of analyzing the comments we received on the February 22, 1980 amendment. We are also analyzing the Medicaid reimbursement methodologies in the few States where application in the amendment, we will publish in the **Federal Register** and give the public the opportunity to comment on any revisions to the State reimbursement methodology that may result from our analysis.

Discussion of Major Comments

Comments and suggestions concerning the proposed notice that was published in the **Federal Register** on June 18, 1980 (45 FR 41292), were received from the American Health Care Association, American Hospital Association of Homes for the Aging and two providers. Our responses to the most significant comments follow.

1. *Use of Separate Limits for Hospital-Based and Freestanding SNF's.*

Comments on this issue were somewhat evenly divided between those favoring and those opposing the continued use of separate limits. Our decision to continue the use of separate limits for another year is based upon two considerations:

(a) As explained in the proposed notice, separate limits for hospital-based SNFs are not intended to jeopardize freestanding SNFs; but rather to assure that the limits will not cause an arbitrary disallowance of costs of existing hospital-based SNFs, solely as a result of a provider's compliance with Medicare rules of cost reporting.

42 CFR 405.453 requires hospital-based SNFs to use a step-down method of cost finding. This methodology results in the allocation of both direct and indirect costs from all general service cost centers of the complex to those revenue-producing cost centers that receive services, including the SNF. Hospital-based SNFs must develop SNF costs in their step-down cost finding procedures and report them as a separate cost center on the hospital/skilled nursing facility cost reporting forms. These accumulated SNF costs, including overhead allocations from the parent institution, become the reimbursable cost of the SNF. As a result, the hospital-based SNF reports a share of the costs from the hospital complex' overhead accounts not directly commensurate with costs incurred by free-standing SNFs. Considering these circumstances, cost limits applied equally to hospital-based and freestanding agencies, because the limits would not recognize the transfer of overhead costs from the complex, would contain an automatic presumption that the hospital-based SNFs are more likely to be inefficient regardless of their performance.

We have done a preliminary analysis of a small sample of cost reports of hospital-based and freestanding SNFs to determine the effect of cost allocation on costs of hospital-based SNFs. From this analysis, we have determined that some of the higher costs of hospital-based SNFs are attributable to the allocation of total hospital complex' overhead costs. This is consistent with the findings of an earlier study of the allocation of overhead costs in hospital-based home health agencies. This study found that 26 percent of the total cost of hospital-based agencies was allocated to the agency from the parent hospital complex. Although the study does support the fact that the higher costs of hospital-based facilities are due to cost allocation rules, the study was not sufficiently definitive to allow development of a percentage figure as was done for home health agencies.

Therefore, we are expanding the study of the contribution made by the Medicare cost allocation methodology to the higher cost of hospital-based SNFs. To accomplish this, we have developed an expanded central data base using this year's SNF cost data. The data base has been expanded by extracting and automating a significantly greater amount of information from the most currently available cost reports. We will complete a more extensive analysis of these data. If the results of this expanded study allow us to quantify more accurately the amount of the cost differential directly attributable to the cost allocation methodology, we will make appropriate changes in future cost limit methodology.

(b) We have made a preliminary analysis of differences in patient case mix as a cause of the higher cost in the hospital-based SNF and concluded that an adequate analysis of the issue requires a separate data collection effort and more comprehensive study. Therefore, we are developing the necessary study methodology. Until this study is completed, and we have evaluated the results, we believe we should retain the current distinction between hospital-based and free-standing facilities.

2. *Definition of a hospital-based SNF.*

We received several inquiries requesting that we define a "hospital-based SNF". For purposes of these cost limits, the following definition applies:

An SNF is determined to be hospital-based when it is an integral and subordinate part of a hospital and is operated with other departments of the hospital under common licensure, governance, and professional supervision; all services of both the hospital and the SNF are fully integrated. The following specific conditions must be met:

The SNF and hospital are subject to the bylaws and operating decisions of a common governing board.

The SNF and hospital are financially integrated as evidenced by the cost report which must reflect the certified or noncertified SNF beds of the hospital, the allocation of hospital overhead to the SNF through the required stepdown methodology, and common billing for all services of both facilities.

In making the determination that an SNF is hospital-based, colocation is not an essential factor; however, the distance between the facilities must be reasonable.

The existence of either (1) a transfer agreement between an SNF and a hospital, which is a condition of participation in the Medicare and Medicaid programs (42 CFR 405.1133 and 442.202) or (2) a shared service arrangement (a common arrangement recognized by both Medicare and Medicaid) does not determine an SNF to be hospital-based and is not considered in determining the status of the facility.

This is the same definition that we used for hospital-based home health agencies in the final notice of home health agency cost limits published in the **Federal Register** on June 5, 1980 (see 45 FR 38014). We welcome any suggestions on how we may further clarify this definition.

We intend to include this definition in instructions to the intermediaries.

3. *Application of the hospital wage index to employee benefits, health service costs, costs of business services, and other miscellaneous expenses.*

Commenters on this issue agreed with the application of the wage index to an expanded category of SNF costs.

The proposed schedule provided for an adjustment that applied to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and other miscellaneous costs. The proportion of cost that would be adjusted by the wage index was 80.15.

For purposes of this adjustment, employee benefits include such items as FICA tax, health insurance, life insurance, facility contributions to employee retirement funds, and all other compensation that the SNF records in the "employee health and welfare" cost center on its Medicare cost report. (The Medicare Provider Reimbursement Manual (HIM-15), Chapter 4, and the instructions to the HCFA cost reporting forms describe the types of costs that are to be recorded in that cost center.)

Health service costs are a category used by the National Nursing Home Survey conducted in 1977 by the Office of Health Research, Statistics and Technology, National Center for Health Statistics of the Public Health Service. They include the costs of routine services that are purchased under arrangement from outside sources.

Business services costs include costs of banking, contract laundry, telephone, and other services SNFs purchase at retail from outside suppliers.

Other miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket.

As discussed in the June 18 notice, a study of the data we used to develop the hospital limits showed a high degree of correlation between variations in routine per diem costs and area variations in prevailing wage levels. We believe this relationship exists because the wage index, which reflects area differences in wage levels that occur for a variety of reasons, acts as a proxy for other variables that we have not been able to identify. Because of the high degree of correlation between area wage levels and overall levels of routine per diem costs in hospitals, and the similarity in the mix of goods and services in the hospital and SNF Market Baskets, we have retained this approach in the final notice. The only change made is a slight adjustment to the percentage of costs to be adjusted, which we have computed to be 80.8 percent. (See discussion in "Use of Revised Inflation Factors" below.)

4. *Accuracy of wage index.*

Several commenters questioned the accuracy of the wage indices for particular areas. We also received comments questioning the overall accuracy of the data we use to compute the wage index.

The data we used to develop the hospital wage index were supplied by the Bureau of Labor Statistics (BLS), and are the most reliable data available. All hospitals are required under State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any errors that result in incorrect wage indices for any of these areas, we will publish corrected wage indices in the **Federal Register** and will direct the Medicare intermediaries to recalculate the limits for SNFs in these areas. However, the BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from some hospitals' failure to report the required wage data.

One commenter suggested that we should develop the wage index based on wage data collected by the American Hospital Association (AHA). We have used the BLS data because they encompass a set of occupational categories that closely parallels those found in a hospital. We are studying this situation to determine whether any refinements in our data base would be appropriate. However, we are not basing the index on AHA data because these data are less complete than those supplied by BLS, since they do not include all of the occupational categories comprised by the BLS data base

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5. *Set limits at higher percentage of the mean.*

We received several comments suggesting that we set the new limits at a higher percentage of the mean cost of each group. The commenters stated that the proposed 112 percent figure would not accommodate their costs, although no specific supporting rationale was supplied.

In deriving these limits, we have used a wage index adjustment that applies to a number of labor-related expenses rather than to wages and salaries only. We have also adjusted the costs with this wage index prior to computing the limit values. We believe these refinements to the methodology we used for the 1979 schedule significantly improve the accuracy of the new limits. Because we have made these refinements, we believe that a 12 percent allowance above mean cost is adequate to take account of any variations in costs that are consistent with efficiency, but caused by factors not provided for in our current methodology.

Before deciding to propose limits set at 112 percent of the mean, we evaluated other levels for the limits. In doing so, we considered the number and types of SNFs that would be affected and the extent of the adverse effect on these SNFs. In our view, this analysis has resulted in an improved methodology that better accounts for the differences in costs between these SNFs. Although we are aware that alternative cost limits will have differing impacts, there was no explicit consideration given to achieving a particular savings objective.

Our decision to continue to apply the limits at 112 percent of the mean represents our best judgement of the level that will avoid payment for costs due to inefficiency without adversely affecting a disproportionate number of SNFs. This decision to adopt the new limits is based on the same considerations, and on review of the comments we received on the proposed limits.

6. *Increased wage costs due to nursing shortages.*

One commenter stated that SNFs located in areas where nurses are in short supply often must pay unusually high nursing salaries to attract an adequate supply of nurses. This commenter suggested that our methodology for deriving and applying the limits is inadequate because it does not explicitly recognize these higher levels of nursing salary cost.

Nursing salaries are an important component of the overall hospital wages that we use to develop the wage indices. To the extent that nursing salaries in an area are unusually high, this higher level of cost should increase the wage index that we use to adjust the labor-related component of cost for SNFs in the area. Because we believe the wage index adjustment adequately accounts for area differences in nursing salary costs, we did not adopt the suggestion that a specific adjustment be developed for these costs.

7. *Energy costs.*

Some commenters stated that the cost of energy is beyond an SNF's control, and suggested that these costs be excluded from the limits.

Because we establish the SNF cost limits by comparing the costs of similar SNFs, we believe that our methodology adequately recognizes the recent increase in energy prices. Under our methodology, an SNF would be adversely affected by increases in its energy costs only if those costs increased more rapidly than the energy costs of other SNFs. We believe SNFs have a variety of energy conservation techniques available to them, and that including energy costs among the costs subject to limitation will encourage them to adopt these techniques. However, our regulations, at 42 CFR 405.460(f)(2), provide an exception to the limits for cost increases due to extraordinary circumstances beyond the control of the SNF. If an SNF can show that the higher costs resulted from extraordinary increases in its energy costs, for which it was not able to take ameliorative action, it may obtain an exception to the limit.

8. *Limits on Charges to Patients.*

One commenter expressed a concern that these limits fail to control adequately the amount an SNF may charge a patient. The concern was that an inefficiently operated SNF would charge its patients for the difference between the SNF's cost limit and its costs.

Both the law (section 1866(a)(2)(B)(ii)) and the regulations (42 CFR 405.461) deal with this situation and provide safeguards to protect the patient. Although there is a provision under which a provider may obtain approval from HCFA to charge a patient for its excess costs, the regulations require considerable documentation and public notice before an approval will be granted. This regulation has been in effect since 1974. To date, we have received no request from any provider to charge its patients for unreimbursed costs in excess of its limit.

9. *Exemption of Puerto Rico from the limits.*

One commenter asked whether the limits would apply to SNFs in Puerto Rico.

Because BLS does not collect wage data from hospitals in Puerto Rico, we are unable to compute the wage indices used to adjust the limits for SNFs in that area. Therefore, we have decided to exempt these SNFs from the limits.

In addition, since these SNFs are not subject to the limits, we have excluded their costs from the data base used to develop the limits. We did this based on a comment we received which suggested that the cost and service characteristics of these providers could differ significantly from those of their peer group and distort the group mean cost that is the basis of the limit.

Change in Final Schedule of Limits From Proposed Limits

Use of Revised Inflation Factors.

In deriving the June 18 proposed limits we used the most recent Medicare cost report data available as of January 7, 1980. We projected these data from the midpoints of the cost reporting periods used in the data collection through March 31, 1981, which is the midpoint of the first cost reporting period to which the new limits apply. The data were projected by the market basket index, using the most current economic information available at that time.

Since the publication of the proposed notice, we have made two refinements to the market basket that provide a more accurate measure of cost trends during the period to which these limits will apply. First, we have revised the weights used in the market basket to reflect the fact that as of July 1, 1979, the cost of malpractice insurance is not included in routine service costs. (See amended Medicare regulations at 42 CFR 405.452(b)(1)(ii) published June 1, 1979, 44 FR 31642.) These new weights are listed in the third column of Appendix I of this notice.

Second, in response to a comment we received suggesting that the final limits should be based on updated market basket indices, we have revised the market basket factors to incorporate the latest available data and forecasts.

These refinements have resulted in changes to both the limit values (Tables IA and IB) and to the Cost Reporting Year Adjustment Factors (Table IV). The inflation factors used in developing the June 18 schedule and the revised factors we used to develop this final schedule are as follows:

Calendar year	June 18, 1980, factor (percent)	Revised factor (percent)
1977	7.1	7.1
1978	9.0	9.0
1979	9.8	9.7
1980	10.4	10.4
1981	10.5	10.7
1982	10.0	10.2

Methodology for Determining Per Diem Routine Service Cost Limit

Development of Published Limits

1. *Basic Data.* The limits have been developed from actual SNF inpatient routine service cost data, obtained from the latest Medicare cost reports available as of January 7, 1980. The data were then adjusted by excluding capital-related costs.

2. *Adjustment of Data for Economic Trends.* We adjusted the data by means of a market basket index to project reported costs from the midpoints of each cost report period in the data base to the midpoint of the first cost reporting period to which the limits will apply.

This market basket is comprised of most commonly used categories of SNF routine service expenses (see Appendix I). These expenses are weighted according to the estimated proportion of adjusted SNF routine service costs attributable to each category. Historical and projected annual rates of increase in costs for each category are then adjusted by that category's weight. The sum of the weighted rates of increase for each category is the annual rate of increase used for this adjustment.

The percentage increases in the market basket over the previous year used for this projection are:

Calendar year	Percent increase
1977	7.1
1978	9.0
1979	9.7
1980	10.4
1981	10.7
1982	10.2

For future periods, the projected rate of increase in the market basket index will be adjusted to the actual rate of increase if the actual rate is more than three-tenths of 1 percentage point (0.3%) above the estimated rate. Should this occur, the actual rate of increase will be published in the **Federal Register** and will be used to adjust a SNF's cost limit at the time of final settlement.

3. *Adjustment of Data for Geographic Wage Variations.* After adjustment by the market basket index, we divide each SNF's adjusted per diem routine service costs into labor-related and non-labor portions. We determined the labor-related portion of cost to be 80.8 percent by using the sum of the weights of the five labor-related categories in the market basket. We then divided this portion of per diem cost by the wage index applicable to the SNF's location to arrive at an adjusted labor-related portion of routine cost.

The wage indices are based upon date supplied by the Bureau of Labor Statistics on wages paid in hospitals in 1978. For each SMSA or NECMA, we divided the average hospital wage by the national average wage for all SMSAs and NECMAs. For non-SMSA areas, we developed the indices by computing the national non-SMSA average hospital wage and dividing this average into the average non-SMSA hospital wage for all non-SMSA counties in each State.

This adjustment eliminates any bias in the limit values that might occur due to geographic wage variations.

4. *Group Means.* We calculated separate means of adjusted routine service labor-related and nonlabor costs for each SNF group established in accordance with the SNF's location and type (hospital-based/freestanding). The development of separate means is necessary since the wage index adjustment discussed above changes the ratio of labor-related to nonlabor costs.

5. *Components of Limit.* For each group we established the limits at 112% of the mean labor-related and mean nonlabor costs (see Tables IA and IB). The addition of a 12% margin factor to each group's average cost accommodates those cost variables not accounted for by the limit methodology.

Adjustment of Published Limits

1. *Adjustment of Labor-Related Component by Wage Index.* To arrive at a labor-adjusted limit for each SNF, the labor-related limit component for the SNF's group is multiplied by the appropriate wage index (see Tables II and III). These indices are developed from the wage levels for hospital workers in the area in which the SNF is located. The adjusted limit that will apply to an SNF is the sum of the nonlabor component, plus the adjusted labor-related component, unless the SNF qualifies for the cost reporting year revision in step 2 below.

Example—Calculation of Adjusted Limit for a Freestanding SNF Located in Miami, Florida.

Nonlabor Component—$10.54 (published in Table IB).

Labor-Related Component—$40.38 (published in Table IB).

SMSA Wage Index—1.1264 (published in Table II).

Computation of Adjusted Limit

Labor-Related ComponentD$40.38
Wage IndexD × 1.1264

Adjusted Labor ComponentD45.48
Non-Labor ComponentD + 10.54

Adjusted LimitD56.02

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Tables II and III.

2. *Revision for Cost Reporting Year.* If an SNF has a cost reporting period beginning on or after November 1, 1980, the adjusted limit will be revised upward by the factor from Table IV that corresponds to the month and year in which the cost reporting period begins. We derived those factors by allowing an additional one/twelfth (1/12) of the appropriate projected rate of annual increase in costs of the goods and services in the market basket for each month between October, 1980 and the month and year in which the SNF's cost reporting year starts.

Example—SNF A's cost reporting period begins January 1, 1981.

The otherwise applicable limit for the SNF is $56.02.

Computation of Revised SNF Limit

Individual SNF Adjusted Limit	$56.02
Adjustment Factor from Table IV	× 1.02675
Revised Limit	57.52

If an SNF uses a cost reporting period that is not 12 months in duration, we calculate a special adjustment factor. This is because the adjustment factors in Table IV are based on an assumed 12-month reporting period. For cost reporting periods of other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The SNF's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits will apply to the adjusted SNF inpatient routine service cost (including the inpatient routine nursing salary differential) for cost reporting periods beginning on or after October 1, 1980. Fiscal intermediaries will compute the adjusted limits (using the wage indices found in Tables II and III), and notify each SNF of its applicable limit.

There is good cause to make this notice effective October 1, 1980 since early implementation will be in the public interest because the limits are based upon more recent and accurate estimates of economic trends in SNF costs. In addition, improvements in the methodology used in developing the limits will result in limits that are more accurate and equitable.

Because of these considerations, HCFA has determined that good cause exists to waive the customary 30-day publication of new limits and their effective date, and to apply the new limits to SNFs with cost reporting periods beginning on or after October 1, 1980.

Location	Labor-related component	Nonlabor[1] component
Table Ia.—Group Limits for Hospital based SNF's		
SMSA	$71 94	$18.86
Non-SMSA	58.88	13.97
Table Ib.—Group Limits for Freestanding SNF's		
SMSA	$40.38	$10.54
Non-SMSA	38.06	8.91

[1] The non-labor portion of the limits for SNF's located in States of Alaska and Hawaii will be inceased by the following cost-of-living adjustments:

	Factor
Alaska	1.25
Hawaii (Island):	
Oahu	1.125
Kauai	1.15
Molokai	1.15
Maui and Lanai	1.10
Hawaii	1.10

Table II.—*Wage Index for Urban Areas*

SMSA area	Wage index
Abilene, TX	.8471
Akron, OH	1.0308
Albany, GA	.7833
Albany-Schenectady-Troy, NY	1.0322
Albuquerque, NM	1.1007
Alexandria, LA	1.0357
Allentown-Bethlehem-Easton, PA-NJ	1.0490
Altoona, PA	1.0878
Amarillo, TX	.9891
Anaheim-Santa Ana-Garden Grove, CA	1 1626
Anchorage, AK	1.5136
Anderson, IN	.9269
Ann Arbor, MI	1.2489
Anniston, AL	.7986
Appleton-Oshkosh, WI	.9052
Asheville, NC	1.1118
Atlanta, GA	.9272
Atlantic City, NJ	1.0018
Augusta, GA-SC	1.0750
Austin, TX	.9079
Bakerfield, CA	1.0743
Baltimore, MD	1.1333
Baton Rouge, LA	.9242
Battle Creek, MI	1.2267
Bay City, MI	1.0438
Beaumont-Port Arthur-Orange, TX	.8613
Billings, MT	.8945
Biloxi-Gulfport, MS	1.0576
Binghamton, NY-PA	.9246
Birmingham, AL	.9969
Bismarck, ND	.9134
Bloomington, IN	.9585
Bloomington-Normal, IL	.8289
Boise City, ID	1.0836
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1337
Bradenton, FL	.8438
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1186
Brownsville-Harlingen-San Benito, TX	.9056
Bryan-College Station, TX	.7822
Buffalo, NY	.9060
Burlington, NC	.8610
Canton, OH	.9141
Cedar Rapids, IA	.8929
Champign-Rubana-Rantoul, IL	1.0856
Charleston-North Charleston, SC	1.0173
Charleston, WV	1.0328
Charlotte-Gastonia, NC	.9259
Chattanooga, TN-GA	.9687
Chicago, IL	1.2146
Cincinnati, OH-KY-IN	1.0896
Clarksville-Hopkinsville, TN-KY	.8262
Cleveland, OH	1.1701
Colorado Springs, CO	.9149
Columbia, MO	1.2097
Columbia, SC	.9927
Columbus, GA-AL	.8531
Columbus, OH	1.0253
Corpus Christi, TX	.9106
Dallas-Fort Worth, TX	.9434
Davenpot-Rock Island-Moline, IA-IL	.9172
Dayton, OH	1.1514
Daytona Beach, FL	.9461
Decatur, IL	.9357
Denver-Boulder, CO	1.1140
Des Moines, IA	1.0621
Detroit, MI	1.1769
Dubuque, IA	.9002
Duluth-Superior, MN-WI	.8073
Eau Claire, WI	.8419
El Paso, TX	.9345
Elkhart, IN	.7965
Elmira, NY	.8010
Enid, OK	.8312
Erie, PA	.9700
Eugene-Springfield, OR	.9591
Evansville, IN-KY	1.0204
Fargo-Moorhead, ND-MN	1.0048
Fayetteville, NC	1.1267
Fayetteville-Springdale, AR	.8734
Flint, MI	1.1314
Florence, AL	.7955
Fort Collins, CO	.8229
Fort Lauderdale-Hollywood, FL	1.1327
Fort Myers, FL	.9611
Fort Smith, AR-OK	.8401
Fort Wayne, IN	.9028
Fresno, CA	1.1454
Gadsden, AL	.8987
Gainesville, FL	1.1171
Galveston-Texas City, TX	.9935
Gary-Hammond-East Chicago, IN	1.1579
Grand Forks, ND-MN	.6739
Grand Rapids, MI	.9088
Great Falls, MT	.8888
Greeley, CO	.8215
Green Bay, WI	.9398
Greensboro-Winston-Salem-High Point, NC	.8974
Greenville-Spartanburg, SC	.8864
Hamilton-Middleton, OH	1.0650
Harrisburg, PA	1.0520
Hartford-New Britain-Bristol, CT	1.0720
Honolulu, HI	1.1668
Houston, TX	1.0308
Huntington-Ashland, WV-KY-OH	.9505
Huntsville, AL	.8280
Indianapolis, IN	1.0486
Iowa City, IA	1.3012
Jackson, MI	.9828
Jackson, MS	.8981
Jacksonville, FL	.9324
Janesville-Beloit, WI	.8371
Jersey City, NJ	1.0712
Johnson City-Kingsport-Bristol, TN-VA	.9512
Johnstown, PA	.9977
Kalamazoo-Portage, MI	1.1351
Kankakee, IL	.9591
Kansas City, MO-KS	.9882
Kenosha, WI	1.0441
Killeen-Temple, TX	1.0588
Knoxville, TN	.8505
Kokomo, IN	.9330
La Crosse, WI	.8532
Lafayette, LA	.8521
Lafayette-West Lafayette, IN	.8907
Lake Charles, LA	.8526
Lakeland-Winter Haven, FL	.8476
Lancaster, PA	1.0410
Lansing-East Lansing, MI	1.0488
Laredo, TX	.8372
Las Cruces, NM	.7806
Las Vegas, NV	1.1837
Lawrence, KS	.8378
Lawton, OK	.8740
Lewiston-Auburn, ME	.8724
Lexington-Fayette, KY	1.0316
Lima, OH	.9421
Lincoln, NE	1.0107
Little Rock-North Little Rock, AR	1.1015
Long Branch-Asbury Park, NJ	1.0585
Longview, TX	.7922
Lorain-Elyria, OH	.9870
Los Angeles-Long Beach, CA	1.2905
Louisville, KY-IN	1.0112
Lubbock, TX	.8434
Lynchburg, VA	.8611
Macon, GA	.9170
Madison, WI	1.0238
Manchester-Nashua, NH	.8699
Mansfield, OH	.8706
McAllen-Pharr-Edinburg, TX	.7825
Melbourne-Titusville-Cocoa, FL	.9051
Memphis, TN-AR-MS	1.0612
Miami, FL	1.1264
Midland, TX	.8816
Milwaukee, WI	1.0154
Minneapolis-St. Paul, MN-WI	.9923
Mobile, AL	.8911
Modesto, CA	.9527
Monroe, LA	.9022
Montgomery, AL	.9923
Muncie, IN	.9149
Muskegon-Norton Shores-Muskegon Heights, MI	.9837
Nashville-Davidson, TN	1.0555
Nassau-Suffolk, NY	1.3079
New Bedford-Fall River, MA	.9665
New Brunswick-Perth Amboy-Sayreville, NJ	1.0678
New Haven-Waterbury-Meriden, CT	1.1519
New London-Norwich, CT	1.0957
New Orleans, LA	.9929
New York, NY-NJ	1.4451
Newark, NJ	1.2785
Newport News-Hampton, VA	1.0425
Norfork-Virginia Beach-Portsmouth, VA-NC	.9660
Northeast Pennsylvania	1.1027
Odessa, TX	.8788
Oklahoma City, OK	.9306
Omaha, NE-IA	.9549
Orlando, FL	.9108
Owensboro, KY	.7235
Oxnard-Simi Valley-Ventura, CA	1.4074
Panama City, FL	.8592
Parkersburg-Marietta, WV-OH	.9577
Pascagoula-Moss Point, MS	1.1379
Paterson-Clifton-Passaic, NJ	1.0851
Pensacola, FL	.9132
Peoria, IL	1.0520
Petersburg-Colonial Heights-Hopewell, VA	.8909
Phildelphia, PA-NJ	1.1616
Phoenix, AZ	1.0806
Pine Bluff, AR	.7245
Pittsburgh, PA	1.1255
Pittsfield, MA	1.0213
Portland, ME	.9540
Portland, OR-WA	1.1194
Poughkeepsie, NY	1.2004
Providence-Warwick-Pawtucket, RI	1.0334
Provo-Orem, UT	.8969
Pueblo, CO	.8612
Racine, WI	.8246
Raleigh-Durham, NC	1.0578
Rapid City, SD	1.1297
Reading, PA	.9918
Reno, NV	1.2465
Richland-Kennewick, WA	.9853
Richmond, VA	.9838
Riverside-San Bernardino-Ontario, CA	1.1690
Roanoke, VA	1.1003
Rochester, MN	.9782
Rochester, NY	1.0818
Rockford, IL	1.0742
Sacramento, CA	1.2012
Saginaw, MI	1.1456
St. Cloud, MN	1.1067
St. Joseph, MO	.9095
St. Louis, MO-IL	.9764

Table II.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Salem, OR	1.0709
Salinas-Seaside-Monterey, CA	1.2103
Salt Lake City-Ogden, UT	.8515
San Angelo, TX	.8074
San Antonio, TX	1.0283
San Diego, CA	1.1255
San Francisco-Oakland, CA	1.3805
San Jose, CA	1.3758
Santa Barbara-Santa Maria-Lompoc, CA	1.0276
Santa Cruz, CA	1.0595
Santa Rosa, CA	1.3212
Sarasota, FL	.8909
Savannah, GA	.9041
Seattle-Everett, WA	1.0056
Sherman-Denison, TX	.7773
Shreveport, LA	1.0296
Sioux City, IA-NE	.9221
Sioux Falls, SD	.8497
South Bend, IN	.8811
Spokane, WA	1.0577
Springfield, IL	1.0559
Springfield, MO	.9462
Springfield, OH	.9646
Springfield-Chicopee-Holyoke, MA	1.0342
Steubenville-Weirton, OH-WV	.9622
Stockton, CA	1.2994
Syracuse, NY	1.2807
Tacoma, WA	1.0397
Tallahassee, FL	.8494
Tampa-St. Petersburg, FL	1.0374
Terre Haute, IN	.8609
Texarkana, TX-Texarkana, AR	1.0364
Toledo, OH-MI	1.0955
Topeka, KS	1.1339
Trenton, NJ	1.1293
Tucson, AZ	1.0725
Tulsa, OK	.9224
Tuscaloosa, AL	1.0304
Tyler, TX	.9142
Utica-Rome, NY	.8669
Vallejo-Fairfield-Napa, CA	1.5362
Vineland-Millville-Bridgeton, NJ	.9370
Waco, TX	1.1763
Washington, DC-MD-VA	1.2749
Waterloo-Cedar Falls, IA	.8478
West Palm Beach-Boca Raton, FL	.9374
Wheeling, WV-OH	.8001
Wichita, KS	1.0373
Wichita Falls, TX	.8064
Williamsport, PA	.9170
Wilmington, DE-NJ-MD	1.1964
Wilmington, NC	.8770
Worcester-Fitchburg-Leominster, MA	.9514
Yakima, WA	.8946
York, PA	.9573
Youngstown-Warren, OH	1.0881

Table III.—*Wage Index for Rural Areas*

Non-SMSA area	Wage Index
Alabama	.9246
Alaska	1.5107
Arizona	1.0963
Arkansas	.8294
California	1.2158
Colorado	1.0599
Connecticut	1.1225
Delaware	1.0306
Florida	.9907
Georgia	.9382
Hawaii	1.3946
Idaho	.9142
Illinois	.8852
Indiana	1.0121
Iowa	.9095
Kansas	.9044
Kentucky	.8944
Louisiana	.8883
Maine	1.0354
Maryland	1.0525
Massachusetts	1.1692
Michigan	1.0998
Minnesota	.8895
Mississippi	.8386
Missouri	.9685
Montana	.9994
Nebraska	.8075
Nevada	1.0487
New Hampshire	1.0673
New Jersey	1.0895
New Mexico	1.0288
New York	.9986
North Carolina	.9805
North Dakota	.8921
Ohio	1.0218
Oklahoma	.9264
Oregon	1.0769
Pennsylvania	1.1394
South Carolina	.8946
South Dakota	.7753
Tennessee	.8387
Texas	.9065
Utah	.8058
Vermont	1.0319
Virginia	.9318
Washington	1.0242
West Virginia	1.1401
Wisconsin	.9048
Wyoming	1.0947

Table IV.—*Cost Reporting Year Adjustment Factors*

If the SNF cost report period begins	The adjustment factor is
November 1980	1.00892
December 1980	1.01783
January 1981	1.02675
February 1981	1.03525
March 1981	1.04375
April 1981	1.05225
May 1981	1.06075
June 1981	1.06925
July 1981	1.07775
August 1981	1.08625
September 1981	1.09475

Appendix I.—*Derivation of "Market Basket" Index for SNF Routine Service Costs*

Cost category	Routine [1] weight 1979	Forecaster 1980–81	"Price" variable used
Payroll Expenses (Wages and Salaries).	62.36	DRI-CFS [2]	Percentage changes in average hourly earnings of employees in nursing and personal care facilities. (SIC 805.) Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," (monthly) Table C-2.
Employee Benefits	7.81	DRI-MM [3]	Supplements to wages and salaries per worker in nonagricultural establishments. Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business.*
Food:			
(1) Wholesale Price Index	4.93	DRI-MM	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 26.
(2) Consumer Price Index	4.89	DRI-MM	Food and beverages component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 22.
Other Business Services	4.62	DRI-MM	Services component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Supplies	3.29	DRI-MM	All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 22.
Fuel Oil and Coal	2.07	DRI-MM	Implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index). Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* (monthly) Table 26 (7.111).
Drugs	1.41	DRI-CFS	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes,* (monthly), Table 6.
Health Services	1.20	DRI-CFS	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.

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Appendix I.—*Derivation of "Market Basket" Index for SNF Routine Service Costs—Continued*

Cost category	Routine [1] weight 1979	Forecaster 1980–81	"Price" variable used
Electricity	1.17	DRI–MM	Implicit price deflator—consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis.
Natural Gas	.96	DRI–MM	Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity, above.
Water and Sanitary Services	.48	DRI–CFS	Water and sewerage maintenance component of Consumer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	4.81	DRI–MM	All Item Consumer Price Index, All Urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

[1] The basic weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for homes certified for participation in the Medicare program. See *Nursing Home Costs 1972, United States: National Nursing Home Survey, August 1973–April 1974, DHEW, NCHA; National Nursing Home Survey: 1977 Summary for the United States, Vital and Health Statistics, Series 13, Number 43.*

A Laspeyres price index was constructed using 1977 weights and "price" variables indicated in this table. In calendar year 1977 each "price" variable has an index value of 100.0. The relative routine service cost weights change each period in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–CFS refers to Data Resources, Inc., Cost Forecasting Service (CFS 802), 1750 K Street, N.W., Washington, D.C. 20006.

[3] DRI–MM refers to Data Resources, Inc., Macro Model (Control 072480), 29 Hartwell Avenue, Lexington, Massachusetts 02173.

Appendix II—*SMSA Constituent Counties*

SMSA/NECMA	State	County
Abilene	TX	Callahan. Jones. Taylor.
Akron	OH	Portage. Summit.
Albany	GA	Dougherty. Lee.
Albany, Schenectady, Troy	NY	Albany. Montgomery. Rensselaer. Saratoga. Schenectady.
Albuquerque	NM	Bernalillo. Sandoval.
Alexandria	LA	Grant. Rapides.
Allentown, Bethlehem, Easton.	PA, NJ	Warren, NJ. Carbon, PA. Lehigh, Pa. Northampton, PA.
Altoona	PA	Blair.
Amarillo	TX	Potter. Randall.
Anaheim, Santa Ana, Garden Grove.	CA	Orange.
Anchorage	AK	Anchorage.
Anderson	IN	Madison.
Ann Arbor	MI	Washtenaw.
Anniston	AL	Calhoun.
Appleton, Oshkosh	WI	Calumet. Outagamie. Winnebago.
Asheville	NC	Buncombe. Madison.
Atlanta	GA	Butts. Clayton. Cherokee. Douglas. Cobb. Fayette. Forsyth. DeKalb. Henry. Nowton. Fulton. Paulding. Gwinnett. Rockdale. Walton.
Atlantic City	NJ	Atlantic.
Augusta	GA, SC	Columbia, GA. Richmond, GA. Aiken, SC.
Austin	TX	Hays. Travis. Williamson.
Bakersfield	CA	Kern.
Baltimore	MD	Anne Arundel. Baltimore. Baltimore City. Carroll. Harford. Howard.
Baton Rouge	LA	Ascension. East Baton Rouge. Livingston. West Baton Rouge.
Battle Creek	MI	Barry. Calhoun.
Bay City	MI	Bay.
Beaumont, Port Arthur, Orange.	TX	Hardin. Jefferson. Orange.
Billings	MT	Yellowstone.
Biloxi, Gulfport	MS	Hancock. Harrison. Stone.
Binghampton	NY, PA	Broome, NY. Tioga, NY. Susquehanna, PA.
Birmingham	AL	Jefferson. St. Clair. Shelby. Walker.
Bismarck	ND	Burleigh. Morton.
Bloomington	IN	Monroe.
Bloomington, Normal	IL	McLeah.
Boise City	ID	Ada.
Boston, Lowell, Brockton, Lawrence, Haverhill.	MA, NH	Essex, MA. Middlesex, MA. Norfolk, MA. Suffolk, MA. Plymouth, MA. Rockingham, NH.
Bradenton	FL	Manatee.
Bridgeport, Stamford, Norwalk, Danbury.	CT	Fairfield.
Brownsville Harlingen, San Benito.	TX	Cameron.
Bryan, College Station	TX	Brazos.
Buffalo	NY	Erie. Niagara.
Burlington	NC	Alamance.
Caguas	PR	Caguas. Gurabo. San Lorenzo.
Canton	OH	Carroll. Stark.
Cedar Rapids	IA	Linn.
Champaign, Urbana, Rantoul.	IL	Champaign.
Charleston, North Charleston.	SC	Berkeley. Charleston. Dorchester.
Charleston	WV	Kanawha. Putnam.
Charlotte, Gastonia	NC	Gaston. Mecklenburg. Union.
Chattanooga	TN, GA	Catoosa, GA. Dade, GA. Walker, GA. Hamilton, TN. Marion, TN. Sequatchie, TN.
Chicago	IL	Cook. DuPage. Kane. Lake. McHenry. Will.
Cincinnati	OH, KY, IN	Dearborn, IN. Boone, KY. Campbell, KY. Kenton, KY. Clermont, OH. Hamilton, OH. Warren, OH.
Clarksville, Hopkinsville	TN, KY	Montgomery, KY. Christian, TN.
Cleveland	OH	Cuyahoga. Geauga. Lake. Medina.
Colorado Springs	CO	El Paso. Teller.
Columbia	MO	Boone.
Columbia	SC	Lexington. Richland.
Columbus	GA, AL	Russell, AL. Chattahoochee, GA. Columbus City, GA.
Columbus	OH	Delaware. Fairfield. Franklin. Madison. Pickaway.
Corpus Christi	TX	Nueces. San Patricio.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Dallas, Fort Worth	TX	Collin. Dallas. Denton. Ellis. Hood. Johnson. Kaufman. Parker. Rockwall. Tarrant. Wise.
Davenport, Rock Island, Moline.	IA, IL	Henry, IL. Rock Island, IL. Scott, IA.
Dayton	OH	Greene. Miami. Montgomery. Preble.
Daytona Beach	FL	Volusia
Decatur	IL	Macon.
Denver, Boulder	CO	Adams. Arapahoe. Boulder. Denver. Douglas. Gilpin. Jefferson.
Des Moines	IA	Polk. Warren.
Detroit	MI	Lapeer. Livingston. Macomb. Oakland. St. Clair. Wayne.
Dubugue	IA	Dubugue.
Duluth, Superior	MN, WI	St. Louis, MN. Douglas, WI.
Eau Claire	WI	Chippewa. Eau Claire.
Elkhart	IN	Elkhart.
Elmira	NY	Chemung.
El Paso	TX	El Paso.
Enid	OK	Garfield.
Erie	PA	Erie.
Eugene, Springfield	OR	Lane.
Evansville	IN, KY	Gibson, IN. Posey, IN. Vanderburgh, IN. Warrick, IN. Henderson, KY.
Fargo, Moorhead	ND, MN	Clay, MN. Cass, ND.
Fayetteville	NC	Clumberland.
Fayetteville, Springdale	AR	Benton. Washington.
Flint	MI	Genesee. Shiawassee.
Florence	AL	Colbert. Lauderdale.
Fort Collins	CO	Larimer.
Fort Lauderdale, Hollywood.	FL	Broward.
Fort Myers, Cape Coral	FL	Lee.
Fort Smith	AR, OK	Crawford, AR. Sebastian, AR. Le Flore, OK. Sequoyah, OK.
Fort Wayne	IN	Adams. Allen. Dekalb. Wells.
Fresno	CA	Fresno.
Gadsden	AL	Etowah.
Gainesville	FL	Alachua.
Galveston, Texas City	TX	Galveston.
Gary, Hammond, East Chicago.	IN	Lake. Porter.
Grand Forks	ND, MN	Grand Forks, ND. Polk, MN.
Grand Rapids	MI	Kent. Ottawa.
Great Falls	MT	Cascade.
Greeley	CO	Weld.
Green Bay	WI	Brown.
Greensboro, Winston-Salem, High Point.	NC	Davidson. Forsyth. Guilford. Randolph. Stokes. Yadkin.
Greenville, Spartanburg	SC	Greenville. Pickens. Spartanburg.
Hamilton, Middletown	OH	Butler.
Harrisburg	PA	Cumberland Dauphin. Perry.
Hartford, New Britain, Bristol.	CT	Hartford. Middlesex. Tolland. Litchfield.
Honolulu	HI	Honolulu.
Houston	TX	Brazoria. Fort Bend. Harris. Liberty. Montgomery. Waller.
Huntington, Ashland	WV, KY, OH	Boyd, KY. Greenup, KY. Lawrence, OH. Cabell, WV. Wayne, WV.
Huntsville	AL	Limestone. Madison. Marshall.
Indianapolis	IN	Boone. Hamilton. Hancock. Hendricks. Johnson. Marion. Morgan. Shelby.
Iowa City	IA	Johnson.
Jackson	MI	Jackson.
Jackson	MS	Hinds. Rankin.
Jacksonville	FL	Baker. Clay. Duval. Nassau. St. James.
Janesville, Beloit	WI	Rock.
Jersey City	NJ	Hudson.
Johnson City, Kingport, Bristol.	TN, VA	Carter, TN. Hawkins, TN. Sullivan, TN. Unicoi, TN. Washington, TN. Bristol City, VA. Scott, VA. Washington, VA.
Johnstown	PA	Cambria. Somerset.
Kalamazoo, Portage	MI	Kalamazoo. Van Buren.
Kankakee	IL	Kankakee.
Kansas City	MO, KS	Johnson, KS. Wyandotte, KS. Cass, MO. Clay, MO. Jackson, MO. Platte, MO. Ray, MO.
Kenosha	WI	Kenosha.
Killeen, Temple	TX	Bell. Coryell.
Knoxville	TN	Anderson. Blount. Knox. Union.
Kokomo	IN	Howard. Tipton.
La Crosse	WI	La Crosse.
Lafayette	LA	Lafayette.
Lafayette, West Lafayette	IN	Tippecanoe.
Lake Charles	LA	Calcasieu.
Lakeland, Winter Haven	FL	Polk.
Lancaster	PA	Lancaster.
Lansing, East Lansing	MI	Clinton. Eaton. Ingham. Ionia.
Laredo	TX	Webb.
Las Cruces	NM	Dona Ana.
Las Vegas	NV	Clark.
Lawrence	KS	Douglas.
Lawton	OK	Comanche.
Lewiston, Auburn	ME	Androscoggin.
Lexington, Fayette	KY	Bourbon. Clark. Fayette. Jessamine. Scott. Woodford.
Lima	OH	Allen. Auglaize. Putnam. Van Wert.
Lincoln	NE	Lancaster.
Little Rock, North Little Rock.	AR	Pulaski. Saline.
Long Branch, Asbury Park	NJ	Monmouth.
Longview, Marshall	TX	Gregg. Harrison.
Lorain, Elyria	OH	Lorain.
Los Angeles, Long Beach	CA	Los Angeles.
Louisville	KY, IN	Clark, IN. Floyd, IN. Bullitt, KY. Jefferson, KY. Oldham, KY.
Lubbock	TX	Lubbock.
Lynchburg	VA	Amherst. Appomattox. Campbell. Lynchburg City.
Macon	GA	Bibb Houston. Jones. Twiggs.
Madison	WI	Dane.
Manchester, Naushua	NH	Hillsboro. Merrimack.
Mansfield	OH	Richland.
Mayaquez	PR	Anasco. Hormiqueros. Mayaquez.
McAllen, Pharr, Edinburg	TX	Hidalgo.
Melbourne, Titusville, Cocoa.	FL	Brevard.
Memphis	TN, AR, MS	Crittendin, AK. DeSoto, MS. Shelby, TN. Tipton, TN.
Miami	FL	Dade.
Midland	TX	Midland.
Milwaukee	WI	Milwaukee. Ozaukee. Washington. Waukesha.
Minneapolis-St. Paul	MN, WI	Anoka, MN. Carver, MN. Dakota, MN. Chisago, MN. Hennepin, MN. Ramsey, MN. Scott, MN. Washington, MN. Wright, MN. St. Croix, WI.
Mobile	AL	Baldwin. Mobile.
Modesto	CA	Stanislaus.
Monroe	LA	Ouachita.
Montgomery	AL	Autuaga. Elmore. Montgomery.
Muncie	IN	Delaware.
Muskegon, Norton Shores, Muskegon Heights.	MI	Muskegon. Oceana.
Nashville, Davidson	TN	Cheatham. Davidson. Dickson. Sumner. Robertson. Rutherford. Wilson. Williamson.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Nassau, Suffolk	NY	Nassau.
		Suffolk.
New Bedford, Fall River	MA	Bristol.
New Brunswick, Perth Amboy, Sayreville.	NJ	Middlesex.
New Haven, West Haven, Waterbury, Meriden.	CT	New Haven.
New London, Norwich	CT	New London.
New Orleans	LA	Jefferson.
		Orleans.
		St. Bernard.
		St. Tammany.
New York	NY, NJ	Bronx, NY.
		Kings, NY.
		New York, NY.
		Putnam, NY.
		Queens, NY.
		Richmond, NY.
		Rockland, NY
		Westchester, NY.
		Bergen, NJ.
Newark	NJ	Essex.
		Morris.
		Somerset.
		Union.
Newport News, Hampton	VA	Hampton City.
		Williamsburg City.
		Newport News City
		Gloucester.
		York.
		James Ctiy.
		Poquoson.
Norfolk, Virginia Beach, Portsmouth.	VA, NC	Chesapeake City, VA.
		Norfolk City, VA.
		Portsmouth City, VA.
		Suffolk City, VA.
		Virginia Beach City, VA.
		Currituck, NC.
Northeast Pennsylvania	PA	Lackawanna.
		Luzerne.
		Monroe.
Odessa	TX	Ector.
Oklahoma City	OK	Canadian.
		Cleveland.
		McClain
		Oklahoma
		Pottowatomie.
Omaha	NE, IA	Pottawattamia, IA.
		Douglas, NE.
		Sarpy, NE.
Orlando	FL	Orange.
		Osceola.
		Seminole.
Owensboro	KY	Daviess.
Oxnard, Simi Valley, Ventura.	CA	Ventura.
Panama City	FL	Bay
Parkersburg, Marietta	WV, OH	Washington, OH.
		Wirt, WV.
		Wood, WV.
Pascagoula, Moss Point	MS	Jackson.
Paterson, Clifton, Passaic	NJ	Passaic.
Pensacola	FL	Escambia.
		Santa Rosa.
Peoria	IL	Peoria.
		Tazewell.
		Woodford.
Petersburg, Colonial Heights, Hopewell.	VA	Colonial Heights City.
		Dinwiddie.
		Hopewell City.
		Petersburg City.
		Prince George.
Philadelphia	PA, NJ	Burlington, NJ.
		Camden, NJ.
		Gloucester, NJ.
		Bucks, PA.
		Chester, PA.
		Delaware, PA.
		Montgomery, PA.
		Philadelphia, PA.
Phoenix	AZ	Maricopa.
Pine Bluff	AR	Jefferson.
Pittsburgh	PA	Allegheny.
		Beaver.
		Washington.
		Westmoreland.
Pittsfield	MA	Berkshire.
Ponce	PR	Juana Diaz.
		Ponce.
		Villalba.
Portland	ME	Cumberland.
		Sagadahoc.
		York.
Portland	OR, WA	Clackamas, OR.
		Multnomah, OR.
		Washington, OR.
		Clark, WA.
Poughkeepsie	NY	Dutchess.
Providence, Warwick, Pawtucket.	RI	Bristol.
		Kent.
		Providence.
		Washington.
		Newport.
Provo, Orem	UT	Utah.
Pueblo	CO	Pueblo.
Racine	WI	Racine.
Raleigh, Durham	NC	Durham.
		Orange.
		Wake.
Rapid City	SD	Pennington.
		Meade.
Reading	PA	Berks.
Reno	NV	Washoe.
Richland, Kennewick, Pasco.	WA	Benton.
		Franklin.
Richmond	VA	Charles City.
		Chesterfield.
		Goochland.
		Hanover.
		Henrico.
		New Kent Co.
		Powhatan.
		Richmond City.
Riverside, San Bernardino, Ontario.	CA	Riverside.
		San Bernardino.
Roanoke	VA	Botetourt.
		Roanoke.
		Craig.
		Roanoke City.
		Salem City.
Rochester	MN	Olmstead.
Rochester	NY	Livingston.
		Monroe.
		Ontario.
		Orleans.
		Wayne.
Rockford	IL	Boone.
		Winnebago.
Sacramento	CA	Placer.
		Sacramento.
		Yolo.
Saginaw	MI	Saginaw.
St. Cloud	MN	Benton.
		Sherburne.
		Stearns.
St. Joseph	MO	Andrew.
		Buchanan.
St. Louis	MO, IL	Clinton, IL.
		Madison, IL.
		Monroe, IL.
		St. Clair, IL.
		Franklin, MO.
		Jefferson, MO.
		St. Charles, MO.
		St. Louis, MO.
		St. Louis City, MO.
Salem	OR	Marion.
		Polk.
Salinas, Seaside, Monterey	CA	Monterey.
Salt Lake City, Ogden	UT	Davis.
		Salt Lake.
		Tooele.
		Weber.
San Angelo	TX	Tom Green.
San Antonio	TX	Bexar.
		Comal.
		Guadalupe.
San Diego	CA	San Diego.
San Francisco, Oakland	CA	Alameda.
		Contra Costa.
		Marin.
		San Francisco.
		San Mateo.
San Jose	CA	Santa Clara.
San Juan	PR	Bayamon.
		Carolina.
		Canovanas.
		Catano.
		Guaynabo.
		Loiza.
		San Juan.
		Toa Baja.
		Trujillo Alto.
Santa Barbara, Santa Maria, Lompoc.	CA	Santa Barbara.
Santa Cruz	CA	Santa Cruz.
Santa Rosa	CA	Sonoma.
Sarasota	FL	Sarasota.
Savannah	GA	Bryan.
		Chatham.
		Effingham.
Seattle, Everett	WA	King.
		Snohomish.
Sherman, Denison	TX	Grayson.
Shreveport	LA	Bossier.
		Caddo.
		Webster.
Sioux City	IA, NE	Woodbury, IA.
		Dakota, NE.
Sioux Falls	SD	Minnehaha.
South Bend	IN	Marshall.
		St. Joseph.
Spokane	WA	Spokane.
Springfield	IL	Menard.
		Sangamon.
Springfield	MO	Christian.
		Greene.
Springfield	OH	Champaign.
		Clark.
Springfield, Chicopee, Holyoke.	MA	Hampden.
		Hampshire.
Steubenville, Weirton	OH, WV	Jefferson, OH.
		Brooke, WV.
		Hancock, WV.
Stockton	CA	San Joaquin.
Syracuse	NY	Madison.
		Onondaga.
		Oswego.
Tacoma	WA	Pierce.
Tallahassee	FL	Leon.
		Wakulla.
Tampa, St. Petersburg	FL	Hillsborough.
		Pasco.
		Pinellas.
Terre Haute	IN	Clay.
		Sullivan.
		Vermilion.
		Virgo.
Texarkana	TX, AR	Little River, AR.
		Miller, AR.
		Bowie, TX.
Toledo	OH, MI	Monroe, MI.
		Fulton, OH.
		Lucas, OH.
		Ottawa, OH.
		Wood, OH.
Topeka	KS	Jefferson.
		Osage.
		Shawnee.
Trenton	NJ	Mercer.
Tucson	AZ	Pima.
Tulsa	OK	Creek.
		Mayes.
		Osage.
		Rogers.
		Tulsa.
		Wagoner.
Tuscaloosa	AL	Tuscaloosa.
Tyler	TX	Smith.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Utica, Rome	NY	Herkimer.
		Oneida.
Vallejo, Fairfield, Napa	CA	Napa.
		Solano.
Vineland, Millville, Bridgeton.	NJ	Cumberland.
Waco	TX	McLennan.
Washington	DC, MD, VA	DC.
		Charles, MD.
		Montgomery, MD.
		Price Georges, MD.
		Alexandria City, VA.
		Arlington, VA.
		Fairfax City, VA.
		Fairfax, VA.
		Falls Church City, VA.
		Loudoun, VA.
		Prince William, VA.
		Manassas City, VA.
		Manassas Park City, VA.
Waterloo, Cedar Falls	IA	Black Hawk.
West Palm Beach, Boca Raton.	FL	Palm Beach.
Wheeling	WV, OH	Belmont, OH.
		Marshall, WV.
		Ohio, WV.
Wichita	KS	Butler.
		Sedgwick.
Wichita Falls	TX	Clay.
		Wichita.
Williamsport	PA	Lycoming.
Wilmington	DE, NJ, MD	New Castle, DE.
		Cecil, MD.
		Salem, NJ.
Wilmington	NC	Brunswick.
		New Hanover.
Worcester, Fitchburg, Leominster.	MA	Worcester.
Yakima	WA	Yakima.
York	PA	Adams.
		York.
Youngstown, Warren	OH	Mahoning.
		Trumbull.

(Sections 1102, 1814(b), 1816(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance)

Dated: August 22, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: August 27, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-26809 Filed 8-29-80; 8:45 am]

BILLING CODE 4110-35-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Tuesday, September 16, 1980, at 6:30 p.m., a public information meeting will be held at the Church of the Immaculate Conception, 74 West Main Street, Waterbury, Connecticut.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed demolition and/or redevelopment of buildings within the Downtown Waterbury Urban Renewal area (Project No. Conn. R-107). The Department of Housing and Urban Development retains approval authority for this project including acquisition, demolition, and disposition within the project boundaries. Disposition may have an adverse effect on the Downtown Historic District, an area eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its possible effects on the properties by the Department of Housing and Urban Development.

III. A statement by the Connecticut State Historic Preservation Officer.

IV. Statements from local officals, private organizations, and the public on the effects of the undertaking on properties proposed for redevelopment and/or demolition in the project area.

V. A general question period.

Speakers should limit their statements to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005; 202-254-3495.

Dated: August 29, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-26966 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-10-M

Meeting

Notice is hereby given that a meeting of the Advisory Council on Historic Preservation will take place on September 24-25, 1980, in New Castle, Pennsylvania. The purpose of the meeting will be to respond to a request from the Secretary of the Interior pursuant to Section 9(a) of the Mining in National Parks Act (16 U.S.C. 1908) for advice as to alternative measures that may be taken by the United States to mitigate or abate the adverse effects of surface coal mining proposed to take place adjacent to McConnell's Mill State Park National Natural Landmark.

The Council was established by the National Historic Preservation Act to advise the President and the Congress on matters relating to historic preservation. Additionally, pursuant to the Mining in National Parks Act, the Council also provides advice to the Secretary of the Interior concerning designated historic or natural national landmarks that may be threatened by surface mining activity.

The Council will be represented by a panel of Council members including representatives of Federal agency members and private citizen members of the Council. The primary purpose of the meeting is to hear the views of interested governmental and private organizations as well as private citizens in order to develop Council recommendations to the Secretary of the Interior. Additionally, the Council will visit the designated natural landmark and the proposed mining site. The panel will meet in New Castle, Pennsylvania in Hearing Room #1, Lawrence County Government Center, Court Street. Times for the meeting have yet to be set and may be obtained from the Executive Director of the Council.

The panel is particularly interested in gathering information regarding the anticipated effects of the proposed mining activity on the designated natural landmark and concerning possible measures to mitigate any potentially adverse effects. Toward this end, the Council encourages oral and written statements from all concerned parties. Written statements should be submitted to the Executive Director by September 17, 1980. Persons wishing to make oral statements should notify the Executive Director by September 22, 1980. Additional information concerning the meeting or the submission of statements to the panel is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, N.W., Washington, D.C. 20005, 202-254-3974.

Dated: September 2. 1980.

Thomas F. King,

Acting Executive Director.

[FR Doc. 80–27153 Filed 9–3–80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-9603]

Public Lands in Cochise County, Ariz.; Exchange

Correction

In FR Doc. 80–21924, appearing on page 48950, in the issue of Tuesday, July 22, 1980, and corrected on page 52934 in the issue of Friday, August 8, 1980, third column, the land description for section 24 should have read:

> Section 24, S½ Lot 4. Lots 5. 8. S½ Lot 10. S½SW¼NE¼, S½SE¼NW¼. E½E½SW¼, W½SE¼.

BILLING CODE 1505-01-M

New Mexico; Proposed Southern Rio Grand Grazing Management Program; Intent To Prepare and Environmental Impact Statement

August 15, 1980.

The Department of Interior, Bureau of Land Management (BLM), Las Cruces District, New Mexico will prepare an Environmental Impact Statement (EIS). The statement will analyze livestock grazing on 2.17 million acres of public land administered by the Bureau of Land Management in the Southern Rio Grande EIS Area. The counties involved are Dona Ana, Sierra, Luna and small portions of Socorro and Otero.

Public meetings on the scope of the Southern Rio Grande Grazing Management Program will be held in Las Cruces, New Mexico on September 24, 1980, at the New Mexico State University Agriculture Building auditorium and in Truth or Consequences, New Mexico on September 25, 1980, at the Convention Center at the corner of Daniel and McAdoo. Both meetings will begin at 7:00 p.m. The purpose of these meetings are threefold:

1. To inform the public of those aspects BLM proposes to analyze in the statement (the proposed action and tentative alternatives based on existing data and knowledge of the area);
2. Gather resource information from the public; and
3. Consider concerns, problems and/or issues important to the public for possible inclusion into the statement.

Comments received at the public meetings will be used to clairfy the proposed action and alternatives.

The contact for the Southern Rio Grande Grazing Management Program Environmental Impact Statement is: Ed Webb, Bureau of Land Management, Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, New Mexico 88001. Telephone: Commercial Number (505) 523–2529; FTS 572–0234.

Michael T. Solan,

Acting State Director.

August 20, 1980.

[FR Doc. 80–27004 Filed 9–3–80; 8:45 am]

BILLING CODE 4310-84-M

Multiple Use Advisory Council; Meeting

August 25, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; meeting.

Notice is hereby given, in accordance with Public Law 94–579 and 43 CFR Part 1780, that a meeting of the Moab District Multiple Use Advisory Council will be held on Thursday and Friday, October 2 and 3, 1980 at the Bureau of Land Management Office, 125 West Second South, Moab, Utah 84532.

The Council's committees will meet on Thursday, October 2, according to the following schedule:

10 a.m. to 12 noon—Wilderness Committee; Nuclear Waste Committee.
1 p.m. to 3 p.m.—Non-Renewable Resources Committee; Recreation and Wildlife Committee.
3 p.m. to 5 p.m.—Land and Water Use Evaluation Committee; Range Environmental Statements Committee.

The Advisory Council will convene as a whole at 8 a.m. on Friday, October 3 to hear reports and recommendations from each of the committees, and to discuss the following:

The Bureau Planning System: Grand Resource Management Plan, Grand Gulch Plan, Moab Canyon Corridor Study.

District Annual Work Plan and outlook for Fiscal Year 1981.

The meeting will be open to the public. Interested persons may attend meetings of the committees and may make oral statements to the entire Council on Friday between 8 and 9 a.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address or by telephone (801–259–6111) by September 25, 1980. Depending upon the number of persons wishing to make an oral statement, a per-person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

S. Gene Day,

District Manager.

[FR Doc. 80–27011 Filed 9–3–80; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Elko District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Elko District Grazing Advisory Board will be held on October 9, 1980.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management office at 2002 Idaho Street, Elko, Nevada.

The agenda for the meeting will include: (1) Election of a Chairman and Vice-Chairman; (2) a discusson of and action on expenditure of Range Betterment funds for range improvements; (3) a review of current policy and programs relating to implementation of allotment management plans; (4) a progress report on Wells Resource Area inventories; (5) a discussion of the resource managment planning system, and a progress report on the Wells Resource Area planning effort; and (6) arrangments for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:30 a.m. and 11:00 a.m. on Thursday, October 9, 1980 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, Nevada 89801 by October 2, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Rodney Harris,

District Manager.

[FR Doc. 27009 Filed 9–3–80; 8:45 am]

BILLING CODE 4310-84-M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63 Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will meet on October 6–10, 1980 from 8:00 a.m. to 5:00 p.m., each day. The meeting will be held in the Yukon Room of the Sheraton Hotel located at 401 East 6th Avenue, Anchorage, Alaska.

The agenda for the meeting will include the following subjects:

- The Research Plan of the Georges Bank Biological Task Force
- Discussion of Options for Peer Review of BLM's OCS Environmental Studies
- BLM Contract Operations
- Review of Specific Components of BLM's OCS Environmental Studies in Alaska

The meeting of this committee is open to the public. Approximately 50 visitors can be accomodated on a first-come/first-served basis. The committee has planned some field trips to various sites during the week of this meeting. Because of logistics limitations these trips are not open to the public. The dates for these trips have not been established. All inquiries concerning this meeting should be addressed to: Piet deWitt, Chief, Branch of Offshore Studies (543), Bureau of Land Management, Washington, D.C. 20240, telephone: (202) 343–7744.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 29, 1980.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

[FR Doc. 80–26991 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Susanville District Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 94–579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held October 2 and 3, 1980.

The meeting will begin at 10:00 a.m. October 2, 1980 in the Conference Room of the Bureau of Land Management Office at 705 Hall Street, Susanville, California.

This will be the first meeting of the newly formed Susanville District Advisory Council. The agenda will be structured to provide an opportunity for the Council members to become better acquainted. Items on the agenda will include organization and structure of the Council, the role of the Council, and briefings to acquaint the members with the many issues facing the District Manager on the Susanville District.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 80–27013 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Winnemucca District Grazing Board will be held on October 10, 1980. The meeting will begin at 10:00 A.M. in the conference room of the Bureau of Land Management Office at 704 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) Paradise-Denio Draft EIS; (2) 8100 fund recent expenditures and plans for next fiscal year; (3) wild horse/burro briefing; (4) consolidation of allotments on Sonoma-Gerlach Resource Area MFP II; (5) discussion on range improvement workshops; (6) arrangements for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 P.M. on October 10, 1980, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by September 22, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: August 26, 1980.

Vaden G. Stickley,

Acting District Manager for State Director, Nevada

[FR Doc. 80–27010 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Oregon, Salem District Office; Closure of Lands to Motorized Vehicles, Grass Mountain Area

Notice is here by given that the use of motorized Vehicles on the following described land is prohibited in accordance with the provisions of 43 CFR Part 8340 and Executive Order 11644 as amended:

Willamette Meridian, Oregon

T. 13 S., R. 8 W.,
  Sec. 20, SE¼SE¼NE¼, SE¼SE¼SW¼, NE¼SE¼, S½SE¼;
  Sec. 21, S½S½NE¼, S½SW¼NW¼, S½;
  Sec. 29, N½N½NE¼, NE¼NE¼NW¼.

The above described land contains 570 acres of the upper slopes, ridges and summit of Grass Mountain in the Oregon Coast Range. It consists of a grass bald complex dissected by noble fir and douglas-fir forests. Environmental consideratons associated with these plant communities deems the area valuable for scientific study. In addition, a federally listed endangered plant species occurs in the area.

Recent use of motorized vehicles in the grass balds and their forested fringes has caused damage to vegetation, soil, and fauna habitat, and rutting and soil compaction have created undesirable visual intrusions. Continued use of motorized vehicles would pose a threat to the existence of the federally listed plant species, and intensify deterioration of other natural values for which the area is noted.

Closure signs have been posted. Maps showing the land affected by the closure are available at the Bureau of Land Management (BLM), Salem District Office, P.O. Box 3227 (3550 Liberty Road S.), Salem, Oregon 97302.

This closure does not apply to emergency, law enforcement, and Federal or other government vehicles, while being used for official or emergency purposes, or vehicles authorized by permit or contract. All authorized vehicular travel will be limited to that portion of BLM Road No. 13–8–9 which is located within the above described land.

The closure is effective immediately and shall remain in effect until further notice.

Violation of this closure could result in a fine of not more than $1,000.00 or imprisonment for not more than 12 months, or both.

Dated: August 26, 1980.

John D. Evans,

Acting District Manager.

[FR Doc. 80–27003 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

V45/173 SE4 80 UMI

Fish and Wildlife Service

Endangered Species Permits; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Jacksonville Zoological Park, PRT 2–6889, Jacksonville, FL 32218.

The applicant requests a permit to export in foreign commerce two captive-bred jaguars (*Panthera onca*) to the Alberta Game Farm, Alberta, Canada for enhancement of propagation and survival.

Applicant: San Diego Zoological Gardens, PRT 2–6900, San Diego, CA 92112.

The applicant requests a permit to import in foreign commerce two gorals (*Naemorhedus goral*) from the Peking Zoo, Peoples Republic of China for enhancement of propagation and survival.

Applicant: Horst W. Schmudde, PRT 2–6936, Colts Neck, NJ 07722.

The applicant requests a permit to purchase in interstate commerce two captive bred Nene or Hawaiian geese (*Branta sandvicensis*) from David Monuszko, Povlsbo, Washington for enhancement of propagation and survival.

Applicant: Hawaii Volcanoes, PRT 2–6937, National Park, HI 96718.

The applicant requests a permit to capture Nene or Hawaiian geese (*Branta sandvicensis*) on the island of Hawaii for banding and radio-telemetry purposes for enhancement of survival. The applicant also plans to photograph and monitor wild nene goose nests.

Applicant: Lincoln Park Zoological Gardens, PRT 2–6858, Chicago, IL 60614.

The applicant requests a permit to import two captive-bred gorillas (*Gorilla gorilla*) from the Howletts Park Zoo, England for enhancement of propagation and survival.

Applicant: Rio Grande Zoological Park, PRT 2–6907, Albuquerque, NM 87102.

The applicant requests a permit to import in foreign commerce two captive born Bactrian camels (*Camelus bactrianus*) from the Bowmanville Zoo, Ontario, Canada, for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before October 6, 1980 by submitting written data, views, or arguments to the Director at the above address.

Dated: August 29, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–27077 File 9–3–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: Philadelphia Zoological Garden, Philadelphia, PA 19104.

The applicant requests a permit to export in foreign commerce one orangutan *(Pongo pygmaeus)* born at the Philadelphia Zoo to the Baby Zoo Wingst, West Germany for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6922. Interested persons may comment on this applicaion on or before October 6, 1980, by submitting written data, views or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 27, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–27078 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: August 29, 1980.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete legal name of cooperative association or federation of cooperative associations: Durango Growers Association.

Principal mailing address (Street No., City, State, and Zip Code): 323 W. San Francisco, Santa Fe, NM 87501.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 3125 E. Monterosa, Phoenix, AZ 85016.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): David Robinson, P.O. Box 33152, Phoenix, AZ 85067.

(2) Complete legal name of cooperative association or federation of cooperative associations: Frontera Enterprises.

Principal mailing address (Street No., City, State, and Zip Code): 3400 Doniphan Drive, El Paso, TX 79922.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 3400 Doniphan Drive, El Paso, TX 79922.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): Arthur R. Janes, 3400 Doniphan Dr., El Paso, TX 79922.

(3) Complete legal name of cooperative association or federation of cooperative associations: Liberty Express, Co-Op, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 82609, Oklahoma City, OK 73148.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 601 N. Protland, Oklahoma City, OK 73147.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): E. L. Fine, P.O. Box 82609, Oklahoma City, OK 73148.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26985 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78607. By decision of August 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5, approved the transfer to Mindemann Trucking, Inc., Sussex, WI, of Certificate No. MC-119343, issued May 2, 1978, to Stone Transport, Inc., Pewaukee (Town of Brookfield), WI, authorizing the transportation of rough stone and cut stone, from Lannon, WI, and points in Menomonee and Lisbon Townships, Waukesha County, WI, to points in IN, IL, IA, MN, and MI, and empty pallets used in the transportation of rough and cut stone, from points in IN, IL, IA, MN, and MI, to Lannon, WI, and points in Minomonee and Lisbon Townships, Waukesha, WI. Transferree holds contract carrier authority from this Commission under MC-145746. Applicant's representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719.

MC-FC-78657. By decision of August 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132 Review Board Number 5 approved the transfer to Package Delivery Co. D/B/A Burns Moving and Storage of Sioux Falls, SD of Certificate No. MC-40610 (Sub-No. 12) issued 11/26/75 to Herb McCormick, D/B/A McCormick Transportation of Rock Rapids, IA authorizing the transportation of household goods as defined by the Commission between Rock Rapids, IA, and points within 25 miles of Rock Rapids, on the one-hand, and, on the other, all points in ILlinois, Montana, Nebraska, North Dakota and Wisconsin. Applicant's representative is: Rich Burns, 4205 N. 4th Ave., Sioux Falls, SD 57104. TA application has not been filed.

MC-FC-78694. By a decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to SIERRA NEVADA STAGE LINES, INC., of Certificate No. MC 2389 issued April 25, 1954, to NEVADA CENTRAL MOTOR LINES, INC., of Reno, NV (Douglas Fletcher, Trustee), authorizing the transportation of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, between Reno, NV, and McGill, NV, serving all intermediate points, over a specified regular route. Applicant's representative is: Richard G. Campbell, One East First St., Reno, NV 89505. Transferee is not a carrier. TA lease not sought.

MC-FC-78701. By decision of July 28, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to HAROLD R. NEELEY and LEONARD D. NEELEY of Jefferson City, MO of Certificate of Registration No. MC-119159 (Sub-No: 2) issued December 31, 1963, to EMMETT SCHMUTZ, doing business as SCHMUTZ TRAILER HEAVEN evidencing a right to engage in transportation in interstate commerce corresponding in scope to state certificate No. T-16,705 dated April 22, 1980 issued by State or Missouri Public Service Commission. Applicant's representative is: Thomas P. Rose, Esq., P.O. Box 205, Jefferson City, MO 65102.

MC-FC-78702. By decision of July 6, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151 Review Board Number 5 approved the transfer to CARAVAN COACH LINES, INC., of Certificate No. MC-138730 (Sub-Nos. 1 and 2) and to be issed to CARAVAN TOURS, INC. authorizing the transportation of passengers and their baggage and related items in regular and charter operations from to and between specified points in New Jersey, New York, Pennsylvania and other points in the United States. Applicant's representative is: L. C. Major, Jr. Rev., Suite 400, Overlook Building, 6121 Linoolnia Road, Alexandria, VA. 22312.

MC-FC-78705. By decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to ARIZONA WESTERN TRANSPORT, INC., of Chandler, AZ of Certificate No. MC-119295 (Sub 2) to RAY E. CAGLE, d.b.a. CAGTE BROS., of Phoenix, AZ, authorizing the transportation of (1) *lumber*, from points in Washington and Oregon to points in Arizona, and between points in Arizona, on the one hand, and, on the other, points in California, (2) *Chemical Fire retardants*, from Phoenix, AZ to points in California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington and Wyoming. Applicant's representative is: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transferee holds authority in MC 136602 and MC 136983. TA lease is sought.

MC-FC-78707. By decision of August 6, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to THAMES VALLEY INDUSTRIES INC., of Chatham, Ontario, Canada, of Certificate MC 139893 (Subs-2 and 5) issued October 20, 1977, and June 6, 1977, to THAMES VALLEY BRICK & BUILDING PRODUCTS LIMITED, of Chatham, Ontario, Canada, authorizing the transportation of *brick* and *stone* (except refractory and vitrified clay products, and commodities in bulk), between ports of entry located on the

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United States-Canada Boundary line at the Niagara, Detroit, and St. Clair Rivers, on the one hand, and, on the other, points in New York, Pennsylvania, Ohio, Indiana, Illinois and Michigan. *Lumber,* from ports of entry on the United States-Canada Boundary line located in Michigan to points in Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Green Forest Lumber, Ltd., at or near Chatham, Ontario, Canada. Applicant's representative is: Jermey Kahn, Suite 733, Investment Bldg., 1511 K Street, NW., Washington, DC 20005. TA lease application has not been filed. Transferee is not a carrier.

MC-FC-78708. By decision of August 15, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to E. W. GRENON AND SON, INC., of Stoughton, MA, of Certificate Nos. MC 11528, issued June 9, 1960, and MC 11528 (Sub-3), issued December 17, 1973, to STATEWIDE TRANS., INC., authorizing the transportation of (1) *New Furniture,* from Boston, MA, to Tiverton, RI, and points in Kent and Providence Counties, RI, that part of ME south of ME Highway 25, and those in NH south and east of a line beginning at the ME-NH State line, and extending along NH Highway 25 to junction NH Highway 3A, thence south along NH Highway 3A to junction U.S. Highway 3, (formerly shown as NH Highway 3), thence along U.S. Highway 3, via Concord and Manchester, NH, to the MA-NH State line, including points on the indicated portion of the highways specified, (2) *Household goods,* between Boston, MA, and points within ten miles of Boston, on the one hand, and, on the other, points in ME, NH, RI, and MA. (3) *Household goods,* as defined by the Commission, between Boston, MA, and points within ten miles of Boston, on the one hand, and, on the other, points in MA, NH, CT, NY, and NJ. (4) *Household goods,* as defined by the Commission, between Winthrop, MA, and points within 15 miles of Winthrop, on the one hand, and, on the other, points in VT. Applicants' representatives are: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036, and Arthur Gersh, Esq., 160 Pleasant Street, Malden, MA 02148.

Note.—This application was previously assigned docket number MC-F-14438F.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-28983 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservaiton Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such condition as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 25, 1980.

By the Commission, Review Board Number 5, Member Krock, Taylor and Williams. (In MC-F-14412F, Member Taylor dissented stating that he would publish with an impediment referring to the duplicate operations under common control.

MC-F-14271F, filed December 19, 1979. GILBERT CARRIER CORP., (Gilbert) (One Gilbert Drive, Secaucus, NJ 07094)—control—CAROLINA CARTAGE CO., INC. (Carolina) (P.O. Box 572 Greer, SC 29651). Representatives: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048 and Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Gilbert seeks to acquire control of Carolina through the purchase of all issued and outstanding capital stock. Flexi-Van Corporation (300 Madison Avenue, New York, NY) which controls Gilbert through sole stock ownership, also seeks to acquire control of Carolina through this transaction. Flexi-Van a non-carrier, is a publicly held corporation. Carolina is authorized to operate as a motor common carrier pursuant to authority issued in MC-133937 and sub-numbers thereunder, as follows: (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in SC, (b) between points in SC, on the one hand, and, on the other, airports at Atlanta, GA, and Charlotte, NC, (c) between points in AL on and bounded by a line commencing at the MS-AL state line and extending along U.S. Hwy 278 to the Alabama-GA state line, then southward along the AL-GA state line, to junction U.S. Hwy 84, then along U.S. Hwy 84 to the AL-MS state line, and then northward along the AL-MS state line to point of beginning, (d) between points in AL as set forth in (c) above, on the one hand, and, on the other, airports at Atlanta, GA, (e) between Atlanta, GA, and Charlotte, NC, (f) between Douglas Municipal Airport, Charlotte, NC, Hartsfield International Airport, Atlanta, GA, and the Greenville-Spartanburg Airport, Greenville, SC, on the one hand, and, on the other, the Dallas-Ft. Worth International Airport, Dallas-Ft. Worth, TX, Houston Intercontinental Airport, Houston, TX, Moisant International Airport, New Orleans, LA, Lambert International Airport, St. Louis, MO, Kansas City International Airport, Kansas City, MO, Metro Airport, Detroit, MI, Los Angeles International Airport, Los Angeles, CA, San Francisco International Airport, San Francisco, CA, and O'Hare International Airport and Midway Airport, Chicago, IL, (g) between points in NC and SC, on the one hand, and, on the other, the Miami International Airport in Dade County, FL, and the ports of Miami and Port Everglades, FL, (2) *motion and sound picture films, film, newspapers, books, and periodicals,* between Atlanta, GA, and Charlotte, NC, and (3) *wearing apparel,* on hangers, in polyethylene bags, packs, flats, and racks, between points in NC, SC, and Atlanta, GA, and (4) *wearing apparel,* on hangers, in polyethlene bags, flats, racks, and packs, between points in AL, FL, GA, MS, and TN, Dallas, Ft. Worth and Houston, TX, New Orleans, LA, St. Louis and Kansas City, MO, Detroit, MI, Los Angeles, San Francisco and San Diego, CA, Chicago, IL, Cleveland and Columbus, OH. Gilbert is authorized to operate as a common carrier pursuant to docket No. MC-52579 and sub-numbers thereunder. Condition: Flexi-Van Corporation, sole stockholder of Gilbert, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, Flexi-Van Corporation will continue to be deemed a carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions to 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and 49 U.S.C. 11302 relating to the issuance of securities. Impediment: Applicant acknowledges duplications that exist between Gilbert and Carolina, and has submitted a plan to eliminate them. Insofar as the plan appears to contemplate sale of the duplication subsequent consummation of the control, which is prohibited by regulations, the plan is unacceptable. (Hearing site: Washington, DC.)

Note.—An application for temporary authority has been filed.

MC F-14412F, filed June 5, 1980. TROJAN FREIGHT LINES LTD. (Trojan) (5280 Maingate Drive, Mississauga, Ontario, Canada L5A 3S3)—Purchase (Portion)—K & T AIR FREIGHT, INC. (K&T) (16525 Eastland Street, Roseville, MI 48066). Representative: Jack Goodman, 39 So. LaSalle Street, Chicago, IL 60603, and Wm. B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Trojan seeks authority to purchase a portion of the interstate operating rights of K&T. TNT Canada, Inc., the sole stockholder of Trojan, and in turn, Alltrans Canada, Inc., the sole stockholder of TNT Canada, Inc., and in turn, Thomas Nationwide Transport Limited, a publicly held corporation and the sole stockholder of Alltrans Canada, Inc., seek authority to acquire control of said rights through the transaction. Trojan is purchasing the interstate operating rights awarded to K&T in MC-FC-77676 and evidenced by Certificate No. MC-31498, which authorizes the transportation, as a motor common carrier, over irregular routes, of *general commodities* (with usual exceptions), between points within eight miles of Detroit, MI, including Detroit, MI. Trojan holds no authority from the Commission. However, Trojan is affiliated with the following carriers: (1) Overland Western Limited (MC-111307) and Alltrans Express Limited (MC-135904) which were merged into TNT Canada, Inc. pursuant to MC-F-14068, decided February 14, 1980; (2) Overland Western International, Inc. (MC-42125); (3) Alltrans Express U.S., Inc. (MC-99388); (4) MMar Transportation, Inc. (MC-143445); (5) Alltrans Alaska Freight, Inc. (FF-461); and (6) Transport Champlain Express, Inc. (formerly E. J. Persons Transport Limited) (MC-116092). Condition: Certain duplications exist between the operating rights of TNT Canada, Inc., and Overland Western International, Inc., and the operating rights sought to be acquired by Trojan Freight Lines Ltd in this proceeding. Because applicant has submitted acceptable and cogent reasons for the justification of duplicate operating rights being held under common control, authorization and approval of this transaction is conditioned to provide that to the extent that the operating rights of Trojan Freight Lines Ltd., TNT Canada Inc., and Overland Western International, Inc., duplicate, they may not thereafter be severed from common ownership by sale or otherwise.

Note.—Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26984 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the

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protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-53]

The Following applications were filed in Region I.

Send protests to: Regional Authority Center, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, MA 02114.

MC 151098 (Sub-1-1TA), filed August 22, 1980. Applicant: JEN CHARTER, INC., 4 Graven Street, Coram, NY 11727. Representative: Deborah Laper, 4 Graven Street, Coram, NY 11727. *Contract carrier,* irregular routes: *Chemical wastes; orgnaic-liquid & powders carried in 55 gallon drums,* from Bay Shore, NY to Emelle, AL. Supporting shipper: Chemical Pollution Control Corp., 120 So. 4th Street, Bay Shore, NY 11706.

MC 119552 (Sub-1-7TA), filed August 21, 1980. Applicant: J. T. L., INC., 49 Rosedale Street, Providence, RI 02903. Representative: Robert L. Cope, Esq., 1730 M Street NW., Suite 501, Washington, DC 20036. *Contract carrier,* irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between Marion County, IN, on the one hand, and, on the other, AL, AR, AZ, CA, CT, DE, FL, GA, IL, LA, MA, MD, ME, MI, MO, MD, NC, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, under a continuing contract with Beverage Paper Co., a subsidiary of Simkins Industries. Supporting shipper: Beverage Paper Co., 717 West Washington Street, Indianapolis, IN 46204.

MC 147186 (Sub-1-1TA), filed August 21, 1980. Applicant: TEUFEL BROTHERS, INC., Inman Avenue, Avenel, NJ 07001. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier,* irregular routes: *Asphalt emulsion in bulk, in tank vehicles* from Whippany, NJ to points in CT west of the Connecticut River, and points in Bradford, Lackawanna, Luzerne, Pike, Susquehanna, Wayne, and Wyoming Counties, PA. Supporting shipper: Dosch-King Emulsions, Inc., 16 Troy Hill Road, Whippany, NJ 07981.

MC 140248 (Sub-1-1TA), filed August 21, 1980. Applicant: IDEAL CONTRACT CARRIERS, INC., 89 Main Street, P.O. Box Z, Medway, MA 02053. Representative: Grove, Jaskiewicz, Gilliam and Cobert, 1730 M Street, Suite 501, Washington, DC 20036. *Contract carrier,* irregular routes: *Hides and related articles* between the facilities of A. C. Lawrence Leather Co., Inc., at or near Ashland, KY; South Paris, ME; Winchester, NH; and Hazelwood, NC on the one hand, and, on the other, points in CA, CO, IA, KY, ME, MI, MN, MO, NE, NH, NC, SD, TN, TX and WA under a continuing contract or contracts with A. C. Lawrence Leather Co. of Winchester, NH. Supporting shipper: A. C. Lawrence Leather Co., Inc., 1 Ridge Street, Winchester, NH 03470.

MC 146440 (Sub-1-18TA), filed August 20, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02149. *General commodities* (with the usual exceptions) from points in Essex and Bristol Counties in MA to points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: Belle Shippers Association, Inc., Box 3494, 1 Newberry Street, Peabody, MA 01960.

MC 150254 (Sub-1-2TA), filed August 20, 1980. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 210 Beacham Street, Everett, MA 02149. Representative: Raymond P. Keigher, Esq., 401 E. Jefferson Street, Suite 102, Rockville, MD 20850. *Lumber and lumber products,* between Hartford, CT; Savannah, GA; Providence and Warwick, RI; Darlington, SC; and points in MA, NC, NH, NJ, NY, PA, TN, VA, and VT. Supporting shippers: Allied International, Inc., P.O. Box 56, Charlestown, MA 02129; Rossco Forest Products, P.O. Box 2068, So. Burlington, VT 05401.

MC 8973 (Sub-1-3TA), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048. *Plastic film and plastic bags, and materials, supplies and equipment used in the manufacture, sale and distribution thereof (except in bulk),* between Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: USI Film Products, USI Chemicals Co., P.O. Box 818, Tyler, TX 75710.

MC 29854 (Sub-1-1TA), filed August 21, 1980. Applicant: THE HUDSON BUS TRANSPORTATION CO., INC., 437 Tonnele Avenue, Jersey City, NJ 07306. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. *Passengers and their baggage, in the same vehicle with passengers, in special operations,* beginning and ending at points in that part of Rockland County, NY, on and east of a line beginning at a point on the southern boundary of Rockland County where it is intersected by Saddle River Road, thence along Saddle River Road to junction South Monsey Road, thence along South Monsey Road to junction College Road, thence along College Road to junction Forshay Road, thence along Forshay Road to junction Wilder Road, thence along Wilder Road to junction U.S. Hwy 202, thence along U.S. Hwy 202 to Junction New York Hwy 306, thence along New York Highway 306 to junction Willow Grove Road, thence along Willow Grove Road to junction Palisades Interstate Parkway, thence along Palisades Interstate Parkway to the Rockland-Orange County boundary, and extending to Atlantic County, NJ. Supporting shippers: There are 15 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 56082 (Sub-1-1TA), filed August 20, 1980. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative: Anthony C. Vance, Esq., 1307 Dolly Madison Blvd., McLean, VA 22101. *Castings and radiator components,* between Dunkirk, NY, and Zanesville, OH. Supporting shipper: Dunkirk Radiator Corp., 85 Middle Road, Dunkirk, NY 14048.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 151597 (Sub-II-1TA), filed August 19, 1980. Applicant: K & K CARTAGE CO., INC., 2725 Boston St., Baltimore, MD 21224. Representative: Eugene J. Daly, Jr., (same address as above). *Waste and scrap metal* between Baltimore County, MD, on the one hand, and, on the other, Allegheny County, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Vulcan Materials Co., Metals Division, P.O.B. 7588, Birmingham, AL 35253.

MC 136528 (Sub-II-1TA), filed August 15, 1980. Applicant: GREAT NORTHEASTERN, INC., P.O. Box 115, Blue Ball, PA 17506. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Farm, dairy, and water treatment equipment, materials and supplies, cleaning products, paint and pesticides* (except commodities in bulk and those which because of size or weight require the use of special equipment), from the facilities of Babson Bros. Co. at or near Osceola, IA to points in the US (except AK and HI), restricted to transportation to be performed under a continuing contract with Babson Bros. Co. of Oak Brook IL. An underlying ETA seeks 120 days authority. Supporting shipper(s): Babson Bros. Co., 2100 S. York Rd., Oak Brook, IL 60521.

MC 149351 (Sub-II-2TA), filed August 15, 1980. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract; irregular: *Plastic articles,* from Winchester, VA, and its commercial zone to points in TN, for 270 days. An underlying ETA sees 120 days authority. Supporting shipper: Rubbermaid Commercial Products, Inc., 3124 Valley Avenue, Winchester, VA 22601.

MC 150939 (Sub-II-5TA), filed August 15, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *General commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the US for 180 days, under continuing contracts with Celanese Fibers Company, Fiber Industries, Inc. and Pama Manufacturing Company, of Charlotte, NC and Celanese Fibers Marketing Company, Amcel Company, and Pan Amcel Company of New York, NY. Supporting shipper(s): Celanese Fibers Company, Celanese Fibers Marketing Company, Fiber Industries, Inc., Amcel Company, Pan Amcel Company, Pama Manufacturing Company, Box 32414, Charlotte, NC 28232.

MC 13134 (Sub-II-12TA), filed August 15, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. *Refractories and materials, equipment and supplies used in the manufacture and shipment thereof,* between points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to shipments originating at and/or destined to the facilities of KEK Refractories, Inc., for 270 days. Supporting shipper: KEK Refractories, Inc., POB 16253, Pittsburgh, PA 15232.

MC 48948 (Sub-II-1TA), filed August 18, 1980. Applicant: THE HOCKING CARTAGE COMPANY, 28424 Chieftain Dr., Logan, OH 43138. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. *Gas vent pipe and fittings and chimney assemblies and fittings and materials, equipment and supplies used in the manufacture, sale and distribution of the named commodities,* between the facilities of Metalbestos Systems, Division of Wallace-Murray Corporation, at or near Logan, OH, on the one hand, and, on the other, points in the US. An underlying ETA seeks 120 days authority. Supporting shipper(s): Metalbestos Systems, Division of Wallace-Murray Corporation, P.O.D. 957, Logan, OH 43138.

MC 59909 (Sub-II-1TA), filed August 18, 1980. Applicant: JACOBS TRANSFER, INC., 2300 Beaver Road, Landover, MD 20785. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *General commodities (except those of unusual value, classes A&B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Arlington, VA, and points in its commercial zone, on the one hand, and, on the other, points in VA, MD, WV, DE, DC, PA and NJ. Supporting shipper: There are six supporting shippers to this application. Their statements may be examined at the Philadelphia office of the ICC upon request.

MC 14111 (Sub-II-2TA), filed August 18, 1980. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 39th St. Pittsburgh, PA 15201. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract Carrier, Irregular Route: Insecticides, Herbicides, Pesticides, Fertilizer, and Agricultural Chemicals* (except in bulk) and applicators thereof, between points in Lebanon County, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, WV, and VA. Supporting shipper: Chevron Chemical Company, 1200 State Street, Perth Amboy, NJ 08861.

MC 151588 (Sub-II-1TA), filed August 18, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: Cleaning compounds, adhesives, caulking compounds, paints, wood fillers, hand tools, store display racks, and materials and supplies used in the manufacture and distribution thereof* (except commodities in bulk), between points in Cuyahoga County, OH; Louisville, KY; City of Industry, CA; and Kansas City, KS, on the one hand, and, on the other, points in the US (except AK and HI) for 270 days under continuing contract(s) with Woodhill Permatex, Inc. An underlying ETA seeks 120 days authority. Restricted to traffic originating at or destined to the facilities of Woodhill Permatex, Inc., a Division of Loctite, Inc. Supporting shipper: Woodhill Permatex, Inc., a Division of Loctite, Inc., 18731 Cranwood Pkwy, Cleveland, OH 44128.

MC 151484 (Sub-II-1TA), filed August 19, 1980. Applicant: KATHRYN L. LEITH, Inc., P.O. Box 132, Coopersburg, PA 18036. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Zinc ore concentrates, in dump vehicles,* from Upper Saucon Township, PA to pts in the Philadelphia Commercial Zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Gulf & Western Industries, Inc., N.J. Zinc Division, 2200 First American Center, Nashville, TN 37238.

MC 151440 (Sub-II-1TA), filed August 18, 1980. Applicant: EDWARD A. FISHER, JR., d.b.a. FISHER COMMUTER EXPRESS, 709 Harvey Rd., Wallingford, PA 19086. Representative: John A. Saling, 15 S. Church St., West Chester, PA 19380. (1) *Passengers and their baggage in the same vehicle with passengers for special and charter operations,* between points in Delaware County, PA and New Castle County, DE, on the one hand, and, on the other, Atlantic City, NJ and (2) *Passengers requiring medical treatment in vehicles equipped with ramps and wheelchair tie-downs for the handicapped,* between Delaware and Chester Counties, PA, on the one hand, and, on the other, New Castle County, DE. An underlying ETA seeks 120 days authority. Supporting shipper(s): Airport Ramada Inn, 76 Industrial Hwy., Essington, PA 19029. Chadds Ford Ramada Inn, Routes 202 & L, Box 140, RD#2, Glen Mills, PA 19342 Social Services Transportation Unit, Delaware County Board of Assistance 7th & Sproul St., Chester, PA 19013.

MC 109533 (Sub-II-9TA), filed August 19, 1980. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes

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Ave., Richmond, VA 23224. Representative: John C. Burton, Jr. (same as applicant). *Common; regular: General comodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Osceola, AR as an off route point, in connection with carrier's authorized regular route operation for 270 days. Applicant intends to tack authority sought herein with authority presently held under MC–109533. Applicant proposes to interline traffic with present connecting carriers at authorized interline points, as provided in tariffs on file with the ICC. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Greeting Corp. 10500 American Rd. Cleveland, OH 44144.

MC 138197 (Sub-II–2TA), filed August 20, 1980. Applicant: L. SURRATT TRUCKING, INC., 7900 Old Rockside Rd., Cleveland, OH 44131. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. Contract carrier: irregular routes: *(1) Prefabricated masonry panels, and (2) equipment, machinery, materials, and supplies used in the manufacturing of the commodities in (1) above,* between Brunswick, OH, on the one hand, and, on the other, points in NJ and MD under continuing contract(s) with Vetovitz Bros., Inc., of Brunswick, OH for 270 days. Supporting shipper: Vetovitz Bros., Inc., 2786 Center Street, Brunswick, OH 44212.

MC 107012 (Sub-II–76TA), filed August 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Water trays and drums for humidifiers,* from the facilities of Lamar Plastics at Sterling Heights, MI to the facilities of Toastmaster, Inc. at Kirksville, MO for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Toastmaster, Inc., 1801 North Stadium Blvd., Columbus, MO 65201.

Note.—Common control may be involved.

MC 150339 (Sub-2–9TA), filed August 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Lawn and garden commodities (except commodities in bulk),* between Columbus and Marysville, OH on the one hand, and, on the other, points in the US (except AK and HI), for 270 days, under a continuing contract with O. M. Scott and Sons Co., 333 N. Maple St., Marysville, OH 43040. An underlying ETA seeks authority for 120 days. Supporting shipper(s): O. M. Scott and Sons Co., 333 N. Maple St., Marysville, OH 43040.

MC 151599 (Sub-II–1TA), filed August 20, 1980. Applicant: J. L. McCOY, INC., P.O. BOX 525, Ravenswood, WV 26164. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract; irregular: General Commodities (except household goods as dinfed by the Commission, and Classes A and B explosives),* between points in the US in and east of MN, IA, MO, AR, and TX, for 270 days, under continuing contract with Kaiser Aluminum & Chemical Corp. Supporting shipper: Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164.

MC 151561 (Sub-II–1TA), filed August 20, 1980. Applicant: PARCEL EXPRESS, INC. P.O. Box 1014, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract; irregular: Such commodities as are dealt in or used by cosmetic manufacturers,* between Newark, DE, and points in Allegany, Garrett and Washington Counties, MD; Bedford, Fulton, Somerset, Blair, Huntingdon, Mifflin, and Juniata Counties, PA; Clarke, Frederick, Page, Shenandoah, and Warren Counties, VA; and Barbour, Berkeley, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Upshur, Wirt, and Wood Counties, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., 2100 Ogletown Rd., Newark, DE 19711.

MC 150339 (Sub-2–8TA), filed August 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular. Plastic articles,* from Reading, PA, and Indianapolis, IN, to points in AL, AR, CT, FL, GA, IL, IN, KY, MA, MD, MI, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI, for 270 days, under a continuing contract with W. R. Grace & Co., P.O. Box 295, Reading, PA 19603. An underlying ETA seeks 120 days authority. Supporting shipper(s): W. R. Grace & Co., P.O. Box 295, Reading, PA 19603.

MC 105886 (Sub-II–2TA), filed August 20, 1980. Applicant: MARTIN TRUCKING, INC., East Poland Ave., Bessemer, PA 16112. Representative: Henry W. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Cement,* from Wampum, Lawrence County, PA to pts. in the lower peninsula of MI for 270 days. Supporting shipper: Medusa Cement Co., P.O. Box 5668, Cleveland Heights, OH 44101.

MC 119632 (Sub-II–13TA), filed August 14, 1980. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). *Such commodities as are dealt in by food business houses* (except frozen or in bulk), between points in the east of MN, IA, MO, AR and LA. Restricted to transportation of commodities originating at or destined to facilities of Pilgrim Farms, Inc. Supporting shipper: Pilgrim Farms, Inc., 1430 Western Ave., Plymouth, IN 46563.

MC 2232 (Sub-II–2TA), filed August 21, 1980. Applicant: CREGER FREIGHT LINES, INC., Old Tyburn Rd. & Corbin Lane, Morrisville, PA 19067. Representative: Bernard J. Kompare, Sullivan & Associates, Ltd., Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers or distributors of foodstuffs (except in bulk),* (1) from the facilities of Nabisco, Inc. located at Fairlawn, NJ; Pittsburgh, PA; Richmond, VA; and Buffalo and Niagara Falls, NY, to the facilities of Nabisco, Inc. located in Chicago, IL and its commercial zone; and (2) from Marseilles, IL and the facilities of Nabisco, Inc. located in Chicago, IL and its commercial zone to the facilities of Nabisco, Inc. located in CT, MD, NJ, NY, OH, PA, RI, VA and WA, restricted in (1) and (2) to traffic originating at the origins above or destined to the destinations above. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 144602 (Sub-II–1TA), filed August 21, 1980. Applicant: VINCENT F. GIBSON, d.b.a. CONTINENTAL LIMOUSINE SERVICES, INC., 1137 N. Highland St., Suite 3, Arlington, VA 22201. Representative: Rotan E. Lee, 1700 K. St., NW., Washington, DC 20006. *Passengers and their baggage in the same vehicles with passengers limited to prospective recruits in the U.S. armed forces and military personnel enroute to the Recruitment Testing Center in possession of tickets issued by the Armed Forces authorizing them to utilize said transportation,* from the Armed Forces Recruiting office in Winchester (Frederick County), VA, and Martinsburg (Berkeley County), WV on the one hand at Armed Forces Testing Center at Linthicum Heights, MD, on the other, for 270 days. Applicant intends to tack. Supporting shipper: U.S. Army Recruiter, Area Hdqs., Frederick Mall, Frederick, MD 21701.

MC 59957 (Sub-II-4TA), filed August 19, 1980. Applicant: MOTOR FREIGHT EXPRESS, P.O. Box 1029, York, PA 17405. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Common: Regular: General commodities, except those of unusual value, and except dangerous explosives, household goods, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.* (1) Between St. Louis, MO and Joliet, IL: From St. Louis over U.S. Hwy 66 to Joliet, and return over the same route, serving all intermediate points, and the off-route point of Petersburg, IL. (2) Between Effingham, IL and Chicago, IL: From Effingham over U.S. Hwy 45 to Chicago, and return over the same route, serving all intermediate points, and the off-route point of Sycamore, IL. (3) Between Springfield, IL and Mattoon, IL: From Springfield over U.S. Hwy 36 to Decatur, IL, then over IL Hwy 121 to Mattoon, and return over the same route, serving all intermediate points. (4) Between Pittsburgh, PA and St. Louis, MO: From Pittsburgh over U.S. Hwy 19 to Washington, PA, then over U.S. Hwy 40 to St. Louis, and return over the same route, serving all intermediate points. (5) Between Columbus, OH and St. Louis, MO: From Columbus over U.S. Hwy 40 to Lafayette, OH, then over U.S. Hwy 42 to Louisville, KY, then over KY Hwy 56 to junction IL Hwy 13, then over IL Hwy 13 to St. Louis, MO, and return over the same route, serving all intermediate points, and the off-route point of Cobden, IL. (6) Between Joliet, IL and Springfield, IL: From Joliet over U.S. Hwy 6 to Peru, IL, then over IL Hwy 29 to Springfield, and return over the same route, serving all intermediate points. (7) Between Fort Wayne, IN and Peoria, IL: From Fort Wayne over U.S. Hwy 24 to Peoria, and return over the same route, serving all intermediate points. (8) Between Chicago, IL and Henderson, KY: From Chicago over U.S. Hwy 41 to Henderson, and return over the same route, serving all intermediate points. (9) Between Chicago, IL and Louisville, KY: From Chicago over U.S. Hwy 41 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Indianapolis, IN, then over U.S. Hwy 31 to Louisville, and return over the same route, serving all intermediate points. (10) Between Indianapolis, IN and Cincinnati, OH: From Indianapolis over U.S. Hwy 52 to Cincinnati, and return over the same route, serving all intermediate points. (11) Between Indianapolis, IN and South Bend, IN: From Indianapolis over U.S. Hwy 31 to South Bend, and return over the same route, serving all intermediate points. (12) Between Peoria, IL and Indianapolis, IN: From Peoria over U.S. Hwy 150 to Danville, IL, then over U.S. Hwy 136 to Indianapolis, and return over the same route, serving all intermediate points. (13) Between Fort Wayne, IN and Richmond, IN: From Fort Wayne over U.S. Hwy 27 to Richmond, and return over the same route, serving all intermediate points, and the off-route points of Butler, Kendallville, Garrett, Auburn, and Bluffton, IN. (14) Between Fort Wayne, IN and Vincennes, IN, serving all intermediate points: a.) From Fort Wayne, IN over IN Hwy 37 to junction IN Hwy 46, then over IN Hwy 46 to Spencer, IN, then over U.S. Hwy 231 to junction IN Hwy 67, then over IN Hwy 67 to Vincennes, and return over the same route; b.) From Fort Wayne, IN over IN Hwy 1 to junction IN Hwy 67, then over IN Hwy 67 to Vincennes, and return over the same route. (15) Between Vincennes, IN and Henderson, KY: From Vincennes over U.S. Hwy 41 to Henderson, and return over the same route, serving all intermediate points for 270 days. Applicant intends to tack the authority sought here with all of its existing authority. Applicant intends to interline at all of its thirty-eight (38) terminal locations. Applicant intends to provide service to and from the Commercial Zones of all authorized points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 65 statements in support attached to the application at MC 59957 (Sub-II-3TA) which may be examined at the I.C.C. Regional Office in Philadelphia, PA.

Note.—Applicant presently holds all of the above authority except the authority to serve the Commercial Zones of all authorized points. The purpose of this application is to supplement the authority held at MC-59957 (Sub-II-3TA) by seeking the right to provide service to and from the Commercial Zones of all authorized points.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5-42TA), filed August 25, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, (same address as applicant). *Containers, container closures, packaging products, container components, scrap material, and materials, equipment, and supplies used in the manufacture, sales, and distribution thereof (Except commodities in bulk)*, between Hunterdon & Monmouth Counties, NJ; Nelson County, KY; Greene County, MO; Richmond County, GA; Riverside County, CA; Lucas County, OH; and Penobscot County, ME, on the one hand, and, on the other, points and places in the United States. Supporting shipper: Lily Division of Owens-Illinois, P.O. Box 1035, Toledo, OH 43666.

MC 61231 (Sub-5-3TA), filed August 25, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *(1) Tires, tire tubes, tire valves, wheels and wheel weights, and (2) materials, equipment and supplies used in the distribution of the commodities in (1)*, (a) between Des Moines IA, on the one hand, and, on the other, points in AR, LA, KY, MS, NM, OH, and WY, and (b) From points in AZ, CO, IL, IN, KS, MI, MN, MO, MT, ND, NE, OK, SD, TN, TX, and WI to Des Moines, IA. Supporting shipper: The Armstrong Rubber Company, 2323 East Market Street, P.O. Box 1616, Des Moines, IA 50317.

MC 61231 (Sub-5-4TA), filed August 25, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Paint, paint products, solvents, cleaning compounds, varnishes and resins*, from Ft. Wayne, IN, to Omaha, NE. Supporting shipper: Valspar Corporation, 1101 South 3rd Street, Minneapolis, MN 55415.

MC 64189 (Sub-5-1TA), filed August 25, 1980. Applicant: TOPLIFF TRUCK LINE, INC., 746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS. 67213. *Beer, cereal malt beverages, empty drums, barrels, and shipping containers* between St. Louis, MO. and Salina, KS. Supporting shipper: Vidricksen Distributing Co. Inc., 2231 Centennial Road, Salina, KS 67401.

MC 97825 (Sub-5-1TA), filed August 25, 1980. Applicant: LOUISIANA MIDLAND TRANSPORT CO., INC., 3679 Florida Boulevard, Baton Rouge, Louisiana 70806. Representative: Carlos G. Spaht, P.O. Box 2997, 500 Laurel Street, Baton Rouge, Louisiana 70821. *Fly ash, in bulk, in tank vehicles*, between points in MS, LA, and TX, restricted to movements for the account of Gifford-Hill & Co., Inc., Dallas, Texas. Supporting shipper: Gifford-Hill & Co., Inc., P.O. Box 225688, Dallas, TX. 75265.

MC 99149 (Sub-5-2TA), filed August 25, 1980. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., P.O. Box 9390, Little Rock, AR 72219. Representative: Charles J. Lincoln, II, 1550 Tower

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Building, Little Rock, AR 72201. *General Commodities (except those of unusual value, Classes A & B Explosives, household goods as described by the Commission, commodities in bulk, and those requiring special equipment).* Between the facilities of Cooper Tire & Rubber Company in Texarkana, AR, on the one hand, and, on the other, points and places in the States of TX, LA and OK. Supporting shipper: Cooper Tire & Rubber Company, P.O. Box 550, Findlay, OH.

MC 105566 (Sub-5-12TA), filed August 25, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Heating and cooling equipment and parts for such equipment;* and *materials, supplies and equipment used in the manufacture thereof* (1) Between Elyria, OH and points in the United States, except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA and WY; and (2) Between Medina, OH and points in the United States, except AK, AZ, CA, HI, ID, MT, NV, ND, OR, SD, WA and WY. Supporting shippers: Luxaire, Inc., Filbert Street, Elyria, OH 44036. SJC Corporation, 206 Woodford Avenue, Elyria, OH 44036.

MC 108207 (Sub-5-31TA), filed August 25, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Non-exempt food and kindred products, in mechanically refrigerated equipment,* from Dallas and El Paso, TX to points in the Continental U.S. Supporting shipper: Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560.

MC 111401 (Sub-5-12TA), filed August 20, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Lubricating oil, in bulk, in tank vehicles,* from Kansas City, KS to points in FL. Supporting shipper: Phillips Petroleum Co., 734 Adams Bldg., Bartlesville, OK, 74004.

MC 111401 (Sub-5-13TA), filed 8-25-80. Applicant: GROENDYKE TRANSPORT, INC. P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Inedible Vegetable Oil, in bulk, in tank vehicles,* from Fort Worth, TX to Brownsville, TX, in foreign commerce only. Supporting shipper: Wommack International, Inc., P.O. Box 4247, Fort Worth, TX, 76106.

MC 111651 (Sub-5-1TA), filed 8-25-80. Applicant: MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott Ave., St. Louis, MO 63147. Representative: Patricia F. Scott, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Common, regular, *General Commodities,* between Kansas City, MO and Hutchinson, KS, serving all intermediate points, from Kansas City over I-70 and the KS Turnpike to junction U.S. Hwy. 50, then over U.S. Hwy. 50 to junction KS Hwy. 150, then over KS Hwy. 150 to U.S. Hwy. 56, then over U.S. Hwy. 56 to junction KS Hwy. 61, then over KS Hwy. 61 to Hutchinson, and return over the same route, between Hutchinson, KS and Wichita, KS, serving all intermediate points, from Hutchinson, over KS Hwy 96 to Whichita, and return over the same route, between Hutchinson, KS and Newton, KS, serving all intermediate points, from Hutchinson over U.S. Hwy. 50 to Newton, and return over the same route, and between Newton, KS and McPherson, KS, serving all intermediate points, from Newton over I-35W to McPherson, and return over the same route. Supporting shippers: 60 shippers are supporting this application.

MC 117119 (Sub-5-27TA), filed August 25, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Meats, meat products, and articles distributed by meat packinghouses (except commodities in bulk and hides)* from Palestine, TX to points in AL, AZ, AR, CA, CO GA, IL IN, IA, KS, KY, MS, MI, MN, MO, NY, NJ, NM, NC, NE, OH, OK, PA, SC, TN, WI, UT and WA. Supporting shipper(s): Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801.

MC 117119 (Sub-5-28TA), filed August 25, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). (1) *wrappings and containers;* (2) *florist articles and florist materials;* (3) *plastic articles and plastic materials;* (4) *adhesives and chemicals;* (5) *aluminum foil and aluminum materials;* (6) *shredded paper and cellophane;* (7) *materials, supplies, and equipment used in the manufacture, sale, and distribution of the commodities in (1) through (6) above* between points in the U.S. (except AK and HI). Supporting shipper(s): Highland Supply Corporation, Highland Manufacturing & Sales Co., 1111—6th Street Highland, IL 62249.

MC 117686 (Sub-5-3TA), filed August 25, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st Street, South Sioux City, NE 68776. Representative: George L. Hirschbach, 920 West 21st Street, South Sioux City, NE 68776. *Floor coverings, and materials, equipment and supplies used in the installation, manufacture, packaging and sale of floor coverings* (1) between Lyerly, GA; Belton, Calhoun Falls, Greenville and Landrum, SC and points in AZ, CA, NV, NM, OR, UT and WA, and (2) Between Sparks, NV, and CA, OR and WA. Supporting shipper: Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29602.

MC 117765 (Sub-5-14TA), filed Aug. 20, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Flour (except in bulk),* From Blaine County, OK to TX. Supporting shipper: Okeene Milling Co., P.O. Drawer D, Okeene, OK 73763.

MC 119493 (Sub-5-40TA), filed Aug. 25, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Metal, metal articals, and materials and supplies used in the manufacture and distribution thereof (except in bulk)* between: points in KS and IL, on the one hand, and: points, in AL, AR, CO, IA, IL, IN,KS, KY, MS, MN, NE, OH, OK, TN, TX, and WI, on the other hand. Supporting shipper: Quentin Robinson, Corporate Traffic Manager, Tower Metal Products, 301 N. Hill Street, P.O. Box 791, Ft. Scott, KS 66701.

MC 119789 (Sub-5-31TA), filed Aug. 25, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Materials, supplies, and equipment used in the production and distribution of Cooking Oil* from points in the U.S. (except AK and HI) to Opelousas, LA. Supporting shipper: Louana Foods, Inc., P.O. Box 591, Opelousas, LA 70570.

MC 119789 (Sub-5-33TA), filed Aug. 25, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Mechanical cooling and heating apparatus (except commodities which because of size and weight require the use of special equipment)* from New Orleans, LA and Mobile, AL to TX, AR, and OK. Supporting shipper: Convoy Servicing Company, 3020 S. Haskell, Dallas, TX 75266.

MC 123584 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: JET TRANSPORT CO., 1400 6th Street S.W., Cedar Rapids, IA 52406. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Denatured alcohol, in bulk,* From the facilities of ADM Co. at or near Decatur, IL, to points in Linn and Iowa Counties, IA. Supporting shipper: Nordstrom Oil Company, P.O. Box 66, Cedar Rapids, IA 52406.

MC 123993 (Sub-5–23TA), filed August 25, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. *Canned foods* between Milton, LA, on the one hand, and on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC and TX. Supporting shipper: Dixie Canning Company, P.O. Box 278, Milton, LA 70558.

MC 124813 (Sub-5–18TA), filed August 25, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel articles,* from points in IL, IN and MO to Muscatine, IA. Supporting shipper: Hon Company, Division of Hon Industries, 200 Oak Street, Muscatine, IA 52761.

MC 125254 (Sub-5–6TA), filed August 25, 1980. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Wood products,* (1) from St. Joseph, MO, to points in IA, IL, IN, MN, WI, NE, KS, MI, OH, and KY; and (2) from Muscatine, IA, to points in MO, IL, IN, MN, WI, NE, KS, MI, OH, and KY. Supporting shipper: 4-Seasons, Inc., R.R. No. 6, Box 159, Muscatine, IA 52761.

MC 126045 (Sub-5–3TA), filed August 25, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Iron and steel articles,* from the St. Louis, MO-East St. Louis, IL Commercial Zone to points in IA, MN and MO. Supporting shipper: Piper Industries Steel Service Div., 9 Fox Industrial Park, Madison, IL.

MC 126118 (Sub-5–25TA), filed August 25, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in and used by wholesale grocery and general merchandise stores (except in bulk),* from points in the United States (except AK and HI) to Norfolk, NE. Supporting shipper: Affiliated Foods Cooperative, Inc., Virgil L. Froehlich, General Manager, South 13th Street, Box 1067, Norfolk, NE 68701.

MC 128273 (Sub-5–23TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Wine, distilled spirits and related products,* from Westfield, NY, to all points in the United States (except AK and HI). Supporting shipper: Mogen David Wine Corp., 35 Bourne Street, P.O. Box I, Westfield, NY 14787.

MC 128273 (Sub-5–24TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Foodstuffs and related products,* between El Paso, TX, Wilson, NC, and all points in the State of Louisiana, on the one hand, and, on the other, points in the United Stats (except AK and HI. Supporting shippers: Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560, B. F. Trappery's Sons, Inc., 900 East Main Street, New Iberia, LA 70560 and A & A Spice & Food Co., Inc., 2801 Arts Street, New Orleans, LA 70122.

MC 128273 (Sub-5–25TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *General commodities (except commodities in bulk, in tank vehicles, and commodities which, because of size or weight require the use of special equipment, and except Class A and B explosives, and household goods as defined by the Commission),* from Los Angeles County, CA, to points in the United States (except AK and HI). Restricted to traffic which originates at the facilities of Plasta-Medic and/or Weider Health and Fitness. Supporting shippers: Plasta-Medic, 1165 E. 230th Street, Carson, CA 90745 and Weider Health and Fitness, 21100 Erwin Street, Woodland Hills, CA 91367.

MC 128273 (Sub-5–26TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Part (1) *Electrical appliances, electrical motors, household stools, kitchen chairs, lawn care products, home care products, personal care products, barbeque equipment, and recreational equipment, and materials, equipment and supplies used in the manufacture and distribution of the above described commodities* between the facilities of Neosho Products Company, Division of Sunbeam Corporation, located at or near Neosho, MO, on the one hand, and, on the other, points in the United States in and west of ND, SD, IA, MO, AR and LA (except AK and HI), and Part (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities listed in (1) above,* from points in the United States in and east of MN, WI, IL, KY, TN and MS, to the facilities of Neosho Products Company, Division of Sunbeam Corporation at or near Neosho, MO. Supporting shipper: Neosho Products Co., P.O. Box 622, Neosho, MO 64850.

MC 140635 (Sub-5–5TA), filed August 25, 1980. Applicant: ADAMS LINES, INC., 2619 N Street, Omaha, NE 68107. Representative: John L. Hornung, 2619 N Street, Omaha, NE 68107. *Boots and shoes, and boot and shoe factory materials, supplies and equipment (except commodities in bulk),* (1) From Brockton, MA to the facilities of Florsheim Shoe Co. at Chicago, IL, and (2) From Westfield, PA and Durbin, WV to the facilities utilized by Florsheim Shoe Co. at Cape Girardeau, MO. Supporting shipper: Florsheim Shoe Co., Div. Interco, Inc., 130 South Canal Street, Chicago, IL 60606.

MC 141108 (Sub-5–4TA), filed August 25, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *(1) Shafting, Bearings, Bushings and Conveyor Belt Pulleys, (2) Materials, Equipment and Supplies used in the manufacture, sale and distribution of Part (1) above,* Between Muscatine, IA, on the one hand, and, on the other, points in CO, IL, IN, KS, MI, MN, MO, NE, OH, PA, WV and WI. Supporting Shipper: R. J. Dick, Inc., 912 E. Fifth St., Muscatine, IA 52761.

MC 141641 (Sub-5–1TA), filed August 25, 1980. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Retail store fixtures, and equipment, materials and supplies used in the manufacture thereof,* between points in Douglas County, NE; Jackson County, AL; Snyder County, PA; and San Bernardino County, CA; on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Lozier Store Fixtures, Inc., 4401 North 21st Street, Omaha, NE 68110.

MC 142508 (Sub-5–37TA), filed August 25, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137.

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Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Abrasive Grain and crude (except in bulk) including aluminum oxide and silicon carbide* between Buffalo and Niagara Falls, NY and points in the contiguous United States. Supporting shipper: General Abrasive, Div. of Dresser Ind., 2000 College Ave., Niagara Falls, NY 14305.

MC 142508 (Sub-5–38), filed August 25, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat and meat products* between Omaha, NE, and points in the contiguous United States. Supporting shipper: Mann's International, 9097 F Street, Omaha, NE 68127.

MC 147552 (Sub-5–3TA), filed August 25, 1980. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. *General commodities, (except household goods as defined by the Commission, and classes A and B explosives),* between St. John Parish and Orleans Parish, LA. Restricted to traffic having a prior or subsequent movement by rail or water. Supporting shipper: Godchaux Sugar Co., Inc., P.O. Drawer AM, Reserve, LA 70084.

MC 148444 (Sub-5–3TA), filed August 25, 1980. Applicant: RAHMEIER TRUCKING, INC., Box 283, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. Contract; Irregular. *Agricultural implements, equipment, and those items, parts or portions thereof; tools, materials, equipment, supplies, and machinery used in the manufacture, assembly, repair, distribution, sale and transport thereof,* from the plant facilities of Great Plains Manufacturing Incorporated at Assaria & Kipp, Kansas, on the one hand; and all points and places in the U.S., except AK and HI, on the other. Supporting shipper: Great Plains Manufacturing Incorporated, Box 218, Assaria, KS 67416.

MC 148919 (Sub-5–3TA), filed August 25, 1980. Applicant: HEARTLAND EXPRESS, INC., P.O. Box 129, St. Clair, MO 63077. Representative: Richard Howard, P.O. Box 129, St. Clair, MO 63077. *Containers, container closures, glassware, packaging products, container components and scrap materials, and materials, equipment and supplies used in the manufacture, sale, and distribution of the foregoing commodities (except commodities in bulk).* Between Henryetta, OK and points in TX. (Restricted to shipments originating at or destined to facilities of Midland Glass Co.). Supporting shipper: Midland Glass Co. Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 149173 (Sub-5–2TA), filed August 25, 1980. Applicant: NATIONAL EXPRESS, INC., 8138 Balson Ave., St. Louis, MO 63130. Representative: Clarence E. Scott, (same address as applicant). *Such commodities as are dealt in and distributed by grocery, hardware, and drug stores; cleaning and building maintenance materials, and supplies; swimming pool, spa, and hot tub products; chemicals, materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named above.* Between points in the United States (except Alaska and Hawaii). Restrictions: Restricted to traffic originating at or destined to the facilities used by Purex Corp. Further restricted against transportation of commodities in bulk. Supporting shipper: Purex Corp., 6901 McKissock, St. Louis, MO 63147.

MC 149199 (Sub-5–2TA), filed August 25, 1980. Applicant: O. R. MILLER, d.b.a., FRONTIER EXPRESS, 932 S.W. Second, Oklahoma City, OK 73102. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Plumbing fixtures and supplies,* between Oklahoma City, OK and Chickasha, OK, From Oklahoma City, OK via H. E. Bailey Turnpike to Chickasha, OK and return over the same route. Supporting shipper: Delta Faucet Co., Div. of Masce Corp. of IN, Hwy 47 West, Greensburg, IN 47240.

Note.—Applicant intends to tack and interline.

MC 150981 (Sub-5–2TA), filed August 25, 1980. Applicant: EDWARD L. PARKER, d.b.a., ED PARKER TRUCKING, Box 388, Monona, IA 52159. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. (1) *Butter,* (2) *cheese and cheese products,* and (3) *packing materials,* (1) from Sparta, WI, to Maquoketa, IA; (2) from Plymouth, WI, to Houston, TX; (3) from New London, WI, to St. Olaf, IA. Supporting shippers: Mississippi Valley Milk Producers Assn., P.O. Box 4493, Davenport, IA 52808, Flemming Foods Co., 2 Townsite Plaza, Topeka, KS 66601.

MC 151024 (Sub-5–3TA), filed Aug. 25, 1980. Applicant: VICO TRUCKING COMPANY, P.O. Box 45, Tickfaw, LA 70466. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459. Contract: Irregular: *Lumber and Lumber Products* between the Louisiana Parishes of Red River, Tangipahoa and Winn, on the one hand, and on the other, the 48 states. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 151637 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., P.O. Box, Fayetteville, AR 72701. *Synthetic Fibre Wastes (in bales), and Nova Bond Pads*—From the facilities of Steiner-Liff Textile Products Company, Inc., at or near Nashville, TN—To points in AR, MO and MS. Supporting shipper: Steiner-Liff Textile Products Co., P.O. Box 1182, Nashville, TN 37202.

MC 151640 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LINDY LOTT WRECKER SERVICE INC., 11310 Plano Rd., Dallas, Texas 75243. Representative: W. Paul Lott (same address as applicant). *Wrecked or disabled vehicles (Tractors, Trailers, or Busses) loaded or empty,* From Dallas, TX, to points in OK, KS, LA, AR, TN, NM, IL, AZ. Supporting shipper: Ryder Truck Rental, Inc., 1231 S. Jupiter Rd., Garland, Texas 75042. Greyhound Bus Lines, 1100 S. Lamar St., Dallas, Texas 75215.

MC 151641 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: WILLIAM E. JOHNSON d.b.a. WILLIAM E. JOHNSON TRUCKING COMPANY, 11211 Sherman Avenue, Dallas, Texas 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. *(1) (a) meat, cheese and bananas, and (b) agricultural commodities, the transportation of which is otherwise exempt from economic regulation under Section 10526(A)(6)(B) of the Interstate Commerce Act, when moving in mixed loads with the commodities named in (1)(a)* from Dallas County, TX to Albuquerque and Hobbs, NM, and Oklahoma City and Tulsa, OK; *(2) meat, meat byproducts, and articles distributed by meat packing houses as described in Sections A and C to Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof)* from Liberal and Arkansas City, KS, to Dallas, TX. Supporting shipper(s): Skaggs Companies, Inc., 1100 Executive, Richardson, TX 75080.

MC 151643 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LO-HI TRANSPORTATION, INC., P.O. Box 661, Fremont, NE 68025. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Contract, irregular *Household furniture and home furnishings* between points in the United States. RESTRICTION: Restricted to a transportation service provided under a continuing contract or contracts with D & D Investment Co., Inc., d.b.a. Craftmatic Distributing. Supporting shipper(s): D & D Investment Co., Inc., d.b.a. Craftmatic Distributing.

MC 151644 (Sub-5-1TA), filed 8-25-80. Applicant: WILDCAT TRUCKING COMPANY, 6810 Dollarway Road, Pine Bluff, AR 71602. Representative: M. Douglas Wood, Attorney at Law, 2500 McCain Blvd., Suite 103, North Little Rock AR 72116. *Steel/iron tubing and metal products* from the facilities of Century Tube, Inc. at Pine Bluff, AR on the one hand and to and between points in the United States (except AK & HI). Supporting shipper: Century Tube, Inc., P.O. Box 7612, Pine Bluff, Arkansas 71611.

MC 151645 (Sub-5-1TA), filed 8-25-80. Applicant: K.S.R., Inc., Highway 25 East, Paragould, AR 72450. Representative: William W. Roswell (same address as applicant). *Fabricated metal products and primary metal products,* between Greene County, AR on the one hand, and on the other all points in the United States. Supporting shipper: Peerless Div., Lear Siegler, Inc., P.O. Box 760, Paragould, AR 72450.

MC 151645 (Sub-5-2TA), filed 8-25-80. Applicant: K.S.R., Inc., Highway 25 East, Paragould, AR 72450. Representative: William W. Roswell (same address as applicant). *Chemicals or allied products,* between Shelby County, TN, and Tunica County, MS on the one hand and on the other all points in the United States. Supporting shipper: Drexel Chemical Co., 2487 Penn St., P.O. Box 9306, Memphis, TN 38109.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27075 Filed 9-3-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4-02T

Decided: August 26, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 119777 (Sub-500F), filed August 21, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L" Madisonville, KY 42431. Transporting *general commodities,* between Wyatt, MO, on the one hand, and, on the other, points in the U.S.

MC 138257 (Sub-4F), filed August 19, 1980. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, Suite 501 1730 M St., NW., Washsington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials and sensitive weapons and munitions) for the United States Government between points in the U.S.

MC 149516 (Sub-1F), filed August 14, 1980. Applicant: OTC TRANSPORT CORPORATION, 2307 Oregon St., Oshkosh, WI 54901. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151516 (Sub-1F), filed August 19, 1980. Applicant: JOSEPH W. HYDE, d.b.a., H. D. DELIVERY SERVICE, 130 24th St., Ogden, UT 84402. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Transporting *shipments weighing 100 pounds or less* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151516 (Sub-2F), filed August 22, 1980. Applicant: JOSEPH W. HYDE, d.b.a., H. D. DELIVERY SERVICE, 130 24th St., Ogden, UT 84402. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151606 (Sub-F), filed August 19, 1980. Applicant: MICHAEL L. TOWNS, d.b.a., HAVE TRUCK WILL TRAVEL, INC., Route 1, Box 38, Gibsland, LA 71028. Representative: Michael L. Towns (same as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons or munitions), for the United States Government.

Volume No. OP4-029

Decided: August 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 119777 (Sub-499F), filed August 18, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY, 42431. Representative:

Carl U. Hurst, P.O. Drawer "L", Madisonville, KY, 42431. Transporting *general commodities,* between Ramseur, NC, on the one hand, and, on the other, points in the U.S.

MC 138426 (Sub-3F), filed August 19, 1980. Applicant: CENTRAL CARRIER CORP., P.O. Box 7, Leominster, MA 01453. Representative: Arthur W. Allen, 313 Central St., Leominster, MA 01453. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4–03

Decided: August 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 119656 (Sub-79F), filed August 25, 1980. Applicant: NORTH EXPRESS, INC., 219 Main St., Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *motor vehicles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of motor vehicles, between ponts in Erie County, NY, Dale County, AL, Cood and McHenry Counties, IL, Fulton and DeKalb Counties, GA, Deviess and White Counties, IN, Geary County, KS, and Cheatham County, TN, on the one hand, and, on the other, points in the U.S.

MC 133566 (Sub-162F), filed August 21, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting (1) *plastic and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Conyers, GA, Lawrence, Somerville, Wilmington, and Woburn, MA, and Manchester, NH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, AR, OK, and TX, restricted to traffic originating at or destined to the facilities of Sweetheart Plastics, Inc.

MC 151376 (Sub-1F), filed August 25, 1980. Applicant: MORELL'S DISTRIBUTION, INC., Hwy 2 East, Minot, ND 58701. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Ramsey County, MN, LaCrosse and Milwaukee Counties, WI, Peoria County, IL, and St. Louis County, MO, on the one hand, and, on the other, points in ND.

MC 151646F, filed August 22, 1980. Applicant: MISS-ALA DISTRIBUTORS, INC., Hwy 45 South, P.O. Box 1728, Columbus, MS. Representative: Peter A. Greene, 900 17th St., N.W., Washington, DC 20006. Transporting (1) *paper and paper products,* (2) *lumber and wood products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Weyerhaeuser Company, Inc., at points in (a) Lamar and Sumter Counties, AL, and (b) Calhoun, Lowndes, Neshoba and Perry Counties, MS, on the one hand, and, on the other, points in the U.S.

MC 151647F, filed August 22, 1980. Applicant: ARC CARTAGE CO., INC., 3806 Woodmont Lane, Nashville, TN 37215. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., restricted to traffic originating at or destined to the facilities of Kuhn's Big K Stores, Inc. Condition: person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4–031

Decided: August 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 127337 (Sub-23F), filed August 25, 1980. Applicant: CHET'S TRANSPORT, INC., Charlotte ME 04666, Representative: Lawrence E. Lindeman, 425, 13th St., N.W., Suite 1032, Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 130996F, filed August 19, 1980. Applicant: CINCINNATI PIGGYBACK INTERNATIONAL, INC., 1400 Gest St., Cincinnati, OH 45203. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 147337 (Sub-2F), filed August 25, 1980. Applicant: RYAN EXPEDITING SERVICE, INC., P.O. Box 6, Farmington, MI 48024. Representative: J. P. Ryan (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 149526 (Sub-1F), filed August 20, 1980. Applicant: GOLDEN ARROW, INC., P.O. Box 726, Clifton, NJ 07015. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149527F, filed August 18, 1980. Applicant: R.J. TAYLOR & G.G. TAYLOR, CO., a corporation, P.O. Box 7631, Warwick, RI 02287. Representative: James F. Flint, Suite 406, 918 16th St., N.W., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149527 (Sub-1F), filed August 18, 1980. Applicant: R.J. TAYLOR & G.G. TAYLOR CO., a corporation, P.O. Box 7631, Warwick, RI 02887. Representative: James F. Flint, Suite 406, 918 16th St., N.W., Washington, DC 20006. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26886 Filed 9–3–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's

Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extend that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–026

Decided August 26, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 60157 (Sub-32F), filed August 21, 1980. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 5327 N. Central Expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting *scrap iron and steel,* from points in AR, CO, LA, NM, and OK, to points in TX.

MC 67646 (Sub-92F), filed August 21, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY, a corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Vesper, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 98327 (Sub-47F), filed August 21, 1980. Applicant: SYSTEM 99, 8201 Edgewater, Oakland, CA 94621. Representative: Ray V. Mitchell (same as applicant). Over regular routes, transporting *general commodities,* (except those of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Las Vegas, NV, and Salt Lake City, UT: from Las Vegas over Interstate Hwy 15 to Salt Lake City, and return over the same route, serving all intermediate points.

Note.—Applicant states that it intends to take with its existing regular route authority.

MC 105566 (Sub-228F), filed August 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting (1) *heating and cooling equipment,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Loraine and Medina Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 117676 (Sub-22F), filed August 21, 1980. Applicant: HERMS TRUCKING INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *lawn and garden supplies and equipment* (except in bulk), between points in CT, DE, KY, MA, MD, NJ, NY, OH, PA, RI, VA, WV, and DC, restricted to traffic originating at or destined to the facilities used by O. M. Scott & Sons Company.

MC 123476 (Sub-57F), filed August 21, 1980. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). Transporting (1) *furniture and fixtures,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Falcon Products, Inc., at (a) St. Louis, MO, (b) Lewisville, AR, (c) Philadelphia, PA, and (d) El Paso, TX, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 128117 (Sub-40F), filed August 20, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. BOX 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting, *new furniture and furniture parts,* (a) from points in Catawba County, NC to points in AR, LA, and CO, and (b) from points in Lincoln County, NC, to points in AR, LA, TX, OK, NM, AZ, NV, and CO, and (c) from points in Sebastin County, AR, to points in LA, MS, TN, AL, GA, NC, SC, and FL, and (d) from points in Poinsett County, AR, to points in AL, FL, GA, LA, and MS.

MC 133136 (Sub-7F), filed August 21, 1980. Applicant: ENGELMANN TRUCKING COMPANY, INC., 240 Broadway, Huntington Station, NY 11746. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Transporting (1) *electron beam accelerator machinery,* (2) *equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (3) *cork and plastic products,* and (4) *medical disposable products,* between points in the U.S., under continuing contract(s) with Radiation Dynamics, Inc., of Melville, NY. Condition: To the extent the certificates to be issued in this proceeding authorizes the transportation of radioactive materials, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 136786 (Sub-233F), filed August 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *fireplace logs,* from Akron, OH, to points in the U.S.

MC 136786 (Sub-234F), filed August 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50308. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *confectionary* (except in

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bulk), from the facilities of Fine Candy Company, at Oklahoma City, OK, to points in the U.S.

MC 138197 (Sub-3F), filed August 21, 1980. Applicant: L. SURRATT TRUCKING, INC., 7900 Old Rockside Rd., Cleveland, OH 44131. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, and clases A and B explosives), between points in the U.S., under continuing contract(s) with Vetovitz Bros., of Brunswick, OH.

MC 138627 (Sub-96F), filed August 22, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Ft. Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *lumber and lumber mill products,* between points in Cass County, IL, on the one hand, and, on the other, points in AR, CO, IA, IN, KS, KY, MI, MN, MO, MT, NE, ND, OH, OK, SD, TN, WI, and WY.

MC 145596 (Sub-6F), filed August 22, 1980. Applicant: A&M EXPRESS, INC., 618 United American Bank Bldg., Nashville, TN 37219. Representative: J. Greg Hardeman (same address as applicant). Transporting (1) *pulp, paper, or allied products,* and *printed matter* as described in Items 26 and 27, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Rutherford County, TN, on the one hand, and, on the other, points in VT, NH, MA, CT, RI, NJ, DE, MD, WV, NY, SC, AR, MS, OK, IA, ND, SD, NE, MT, WY, CO, NM, AZ, UT, ID, NV, WA, OR, and CA.

MC 150496 (Sub-4F), filed August 22, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 151187 (Sub-1F), filed August 21, 1980. Applicant: ROSENDO ZEPEDA AND SONS, INC., 1601 Laredo St., Laredo, TX 78040. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. In foreign commerce only, transporting *general commodities* (except classes A and B explosives), from Laredo, TX, to the port of entry on the international boundary line between the U.S. and Republic of Mexico at Laredo, TX.

MC 151566 (Sub-1F), filed August 15, 1980. Applicant: PERRY TRANSPORT, INC., 202 Security First Bank & Trust Bldg., Grand Haven, MI 49417. Representative: James Roach II (same address as applicant). Transporting *office and laboratory furniture, equipment, and materials,* between points in the U.S., under continuing contract(s) with Herman Miller, Inc., of Zeeland, MI. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 151587 (Sub-1F), filed August 19, 1980. Applicant: P&G OIL COMPANY, INC., d.b.a. P&G TRUCKING COMPANY, Lakeview Drive, Madison Heights, VA 24572. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting *joiner work for ships, and fixtures and furniture for use on oceangoing vessels,* between the facilities of Hopeman Brothers, Inc., at or near Waynesboro, VA, on the one hand, and, on the other, Chula Vista and San Diego, CA.

MC 151607 (Sub-F), filed August 19, 1980. Applicant: TRANS-OVERLAND XPRESS, INC., 297 County Line Road, Midlothian, TX 76065. Representative: B. G. Hignight (same as applicant). *Contract carrier* transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under continuing contract(s) with Sealright Co., Inc. of Kansas City, KS, Western Auto Supply Co. of Kansas City, MO, Standard T Chemical Co. Inc. of Dallas, TX and Sears, Roebuck and Co. of Dallas, TX.

Volume No. DP4-028

Decided: August 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 64806 (Sub-15F), filed August 19, 1980. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *glass and metal containers,* and *closures* for the foregoing commodities, from Muncie, IN, Findlay, OH, Washington, PA, and Carteret and Jersey City, NJ, to points in NC, SC, and VA.

MC 91306 (Sub-30F), filed August 20, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave., N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting (1) *fiberglass,* and (2) *materials and supplies* used in the manufacture of fiberglass, between points in NC, on the one hand, and, on the other, points in VA, MD, DE, PA, NJ, NY, CT, RI, MA, ME, VT, OH, WV, NH, MI, IN, KY, and DC.

MC 99746 (Sub-2F), filed August 20, 1980. Applicant: JEFFERSON TRUCK LINE, INC., 725 Girod St., New Orleans, LA 70130. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in LA, on the one hand, and, on the other, points in MS, OK, and TX.

MC 108207 (Sub-558F), filed August 20, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Maricopa County, AZ, on the one hand, and, on the other, points in CA, NV, NM, UT, and those in CO on and est of the Continental Divide.

MC 111496 (Sub-37F), filed August 20, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williston, ND, and Billings, MT, serving the intermediate points of Glendive and Miles City, MT: from Williston over U.S. Hwy 85 to junction ND Hwy 200, then over ND Hwy 200 to junction MT Hwy 200, then over MT Hwy 200 to junction MT Hwy 16, then over MT Hwy 16 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Billings, and return over the same route.

Note.—Applicant proposes to tack the above authority with its presently authorized operations, and to interline with other carriers.

MC 115067 (Sub-5F), filed August 19, 1980. Applicant: INDEPENDENT MOTOR TRANSPORT, INC., 32455 Hwy 34, Tangent, OR 97389. Representative: Jerry R. Woods, Suite 1440, 200 S.W. Market St., Portland, OR 97201. Transporting *such commodities* as are dealt in by grocery houses, between points in Washington County, OR, on the one hand, and, on the other, points in King and Spokane Counties, WA.

MC 119496 (Sub-18F), filed August 20, 1980. Applicant: THE JAMES GIBBSON COMPANY, a corporation, P.O. Box 253, Annapolis Junction MD 20701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia, Rd., Alexandria, VA 22312. Transporting *petroleum and petroleum products,* between points in DE, MD, NC, NY, NJ, OH, PA, VA, WV, and DC.

MC 135007 (Sub-85F), filed August 20, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 F St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Farmland Foods, Inc., of Denison, IA.

MC 138627 (Sub-95F), filed August 18, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Ft. Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *iron an steel articles,* between Chicago IL, and points in Cowley County, KS.

MC 141317 (Sub-4F), filed August 20, 1980. Applicant: HAAG TRANSPORT, INC., P.O. Box 25, Shelburn, IN 47879. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* carrier, transporting: containers, salt, pepper, and sodiumhydrosulfide, and *materials, equipment, and supplies* used in the manufacture and distribution of all the foregoing commodities, between points in the U.S., under a continuing contract(s) with Ken Hagen Manufacturing Company, of Shelburn, Indiana.

MC 145396 (Sub-6F), filed August 20, 1980. Applicant: BOYCE HOWARD d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St., Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *primary metal products, inc. galvanized,* (except coating or other allied processing), and *fabricated metal products,* (except ordnance), as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, LA, TX, MS, and TN.

MC 146046 (Sub-20F), filed August 20, 1980. Applicant: INTERCOASTAL LINES, LTD., 200 Foxhunt Crescent, Syosset, NY 11791. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *paper and paper articles,* between points in the U.S., under continuing contract(s) with Automatic Data Processing, Inc., of Clifton, NJ.

MC 148927 (Sub-15F), filed August 19, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products, between Naheola, AL, and Meridian, MS, on the one hand, and, on the other, points in NC and SC.

MC 148586 (Sub-2F), filed August 19, 1980. Applicant: PLATTE VALLEY TRUCKING, a Partnership, P.O. Box 594, Fremont, NE 68025. Representative: James C. Yeager, P.O. Box 463, Fremont, NE 68025. Transporting *grain, gravel, sand and earthern matter, and lime and limestone,* between points in NE, and points in IA, MN, MO, and SD.

MC 148947 (Sub-1F), filed August 19, 1980. Applicant: HUNTER TRANSPORT COMPANY, INC., 1603 Long St., Chattanooga, TN 37408. Representative: Ann K. Merriman (same address as applicant). Transporting (1) *carpet,* and (2) *material, equipment, and supplies* used in the manufacture and distribution of carpet, between points in the U.S., under continuing contract(s) with Imperial Carpet Mills, Inc., of Cartersville, GA.

MC 148947 (Sub-2F), filed August 19, 1980. Applicant: HUNTER TRANSPORT COMPANY, INC., 1603 Long St., Chattanooga, TN 37408. Representative: Ann K. Merriman (same address as applicant). Transporting (1) *alcoholic beverages,* and (2) *materials, equipment, and supplies* used in the distribution of alcoholic beverages, between points in the U.S., under continuing contract(s) with Beasley Distribution Company, Inc., of Chattanooga, TN.

MC 150717 (Sub-1F), filed August 18, 1980. Applicant: R. T. JACQUES, R.D. #1, Box 296, Worthington, PA 16262. Representative: R. T. Jacques (same address as applicant). Transporting (1) *brick, cement, mortar, iron and steel articles, and lumber,* and (2) *materials, equipment, and supplies* used in the manufacture, installation, or distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with International Chimney Corporation, of Williamsville, NY, and Continental Clay Products d.b.a. McNees Kittanning Div. of International Chimney Corp., of Kittanning, PA.

MC 150766 (Sub-1F), filed August 20, 1980. Applicant: ALFRED DANIELS, INC., Route 1, P.O. Box 272–I, Jackson, OH 45640. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting *prepared foodstuffs,* (1) between points in Jackson County, OH, on the one hand, and, on the other, points in Orange County, CA, San Antonio, TX, Tampa, FL, and points in NJ, and (2) between points in Orange County, CA, Lockport, NY, Plymouth, IN, and South Brunswick, NJ.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–26987 Filed 9–3–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–19 (Sub-No. 43F)]

Allegheny & Western Railway Co., Buffalo, Rochester & Pittsburgh Railway Co., and The Baltimore & Ohio Railroad Co.—Abandonment—Near Worthington, Pa.; Findings

Notice is herby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 14, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, public convenience and necessity permit the abandonment and discontinuance of service by the Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company, and the Baltimore and Ohio Railroad Company of a line of railroad known as the Craigsville Branch, extending from railroad milepost 1.54 vaulation station 81+45 to railroad milepost 2.01, valuation station 106+26, a distance of 0.47 mile, at or near Worthington, Armstrong County, PA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company, and the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations and publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt of the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-44F)]

Pittsburgh & Western Railroad Co. and Baltimore & Ohio Railroad Co.—Abandonment—and Discontinuance of Service Near Pittsburgh, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 14, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permits the abandonment by Pittsburgh and Western Railroad Company as owner, and discontinuance of service over the line by Baltimore and Ohio Railroad Company, as operator, of a portion of the 9th Street/Three Rivers Branch, between valuation stations 7848162 and 7824175, a distance of 0.36 mile, at or near Pittsburgh, Allegheny County, PA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from August 14, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to Pittsburgh and Western Railroad Company and Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirements of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26981 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-43F)]

Seaboard Coast Line Railroad Co.—Abandonment—In Sarasota County, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C 10903 that by a Certificate and Decision decided August 8, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Belspur Branch, Tampa Division, extending from railroad milepost AZA 933.44 at Belspur, FL, a distance of 3.14 miles in Sarasota County, FL, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of way underlying the track, including all the bridges and culverts for a period of 120 days from August 8, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting was issued to Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26980 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[731-TA-29 (Preliminary)]

Asphalt Roofing Shingles From Canada; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Canada of certain asphalt roofing shingles, provided for in items 256.90 and 523.91 of the Tariff Schedules of the United States (TSUS), allegedly sold or likely to be sold at less than fair value.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Senior Investigator (202-523-0368).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition on August 21, 1980, filed by the Asphalt Roofing

Manufacturers Association, on behalf of domestic producers of asphalt roofing shingles. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price of asphalt roofing shingles imported from Canada.

Authority

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on August 29, 1980, instituted preliminary antidumping investigation No. 731-TA-29. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457) and particularly, subpart B thereof.

Written Submission

Any person may submit to the Commission on or before September 19, 1980, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.d.t., on September 15, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Ms. Vera Libeau (202-523-0368). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of Petition

The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City Office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: August 29, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-27070 Filed 9-3-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-81]

Certain Hollow-Fiber Artificial Kidneys; Granting of Motion To Add Terumo Corp. as a Respondent

Upon consideration of Motion Docket No. 81-5, as certified to the Commission by the Administrative Law Judge (ALJ) on July 14, 1980, and the ALJ's recommendation that the motion be denied, the Commission has ordered that said motion is granted.

Copies of the Commission action and the Commission order are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C., telephone (202) 523-0161.

By order of the Commission:

Issued: August 28, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-27069 Filed 9-3-80; 8:45 am]
BILLING CODE 7020-02-M

[AA1921-159]

Tantalum Electrolytic Fixed Capacitors From Japan

Determination

On the basis of information obtained in investigation No. AA1921-159, as that information is modified by the corrected import statistics for tantalum electrolytic fixed capacitors from Japan for the period January 1975 through June 1976, the Commission determines (Commissioners Moore and Bedell dissenting) that as of October 22, 1976, the date of the Commission's earlier determination regarding tantalum electrolytic fixed capacitors from Japan, an industry in the United States was not being and was not likely to be injured, and was not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Background

In October 1976 the Commission determined that an industry in the United States was not being injured and was not likely to be injured, and was not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value (LTFV). The Commission's determination was appealed to the United States Customs Court on September 14, 1977.[1]

Subsequent to the Commission's determination, it was discovered that certain of the official import statistics relied upon by the Commission in reaching its determination had been underreported. Specifically, a Bureau of the Census/Customs Service investigation revealed that the quantities of tantalum electrolytic fixed capacitors imported from Japan in 1975 and the first six months of 1976 (the most recent period for which official import statistics were available at the time of the Commission's determination) were substantially understated.

On March 27, 1980, the Customs Court issued an order in the *Sprague Electric* appeal directing the Commission to take—

> a new vote on the question of whether, in light of the correct import statistics for tantum electrolytic fixed capacitors from Japan, sales of such merchandise at LTFV were injuring or were likely to injure an industry in the United States within the meaning of the Antidumping Act of 1921 * * *.[2]

On May 23, 1980, the Customs Court modified its earlier directive to the Commission by instructing the Commission to—

> consider in its deliberations on remand the effect of Nippon Electric Company's plans to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum electrolytic fixed capacitors.[3]

In the opinion accompanying its order of May 23, 1980, the Customs Court

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[1] *Sprague Electric Company* v. *United States* (Customs Court No. 77-9-03056).

[2] C.R.D. 80-3 (March 27, 1980).

[3] C.R.D. 80-6 (May 23, 1980).

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expressed agreement with the view that the Department of Treasury's July 1976 final determination of sales at LTFV was binding upon the Commission as a matter of law, and that the Commission had no authority to refine or modify the class or kind of merchandise found to be, or likely to be, sold at LTFV.

In arriving at its determination in this matter, the Commission has given due consideration to written submissions received from interested persons, information obtained during the course of investigation No. AA1921-159, and the corrected official import statistics for tantalum electrolytic fixed capacitors from Japan for the period January 1975 through June 1976 as reported by the Bureau of the Census. With the exception of the corrected import statistics, the Commission has not considered any information obtained subsequent to the date of its earlier determination.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

In accordance with the instructions of the United States Customs Court, we have reviewed the confidential staff report of September 1976 and the statement of reasons in the Commission's report on *Tantalum Electrolytic Fixed Capacitors*, USITC Publication 789, October 1976, as revised to reflect corrected import statistics. In our deliberations we have considered all imports of tantalum electrolytic fixed capacitors from Japan less those from Matsushita Electrical Industrial Co., Ltd., as sales at less than fair value (LTFV) for the purpose of addressing present and future injury.

We are persuaded that any injury suffered by the U.S. industry as of October 22, 1976, was not caused or likely to be caused by LTFV imports of tantalum electrolytic fixed capacitors (tantalum capacitors), but rather by the recessionary forces at work in the electronics industry. Taking into account the corrected import statistics, as well as the modification of the content of LTFV sales, we believe that the penetration of the U.S. market and the underselling of U.S. producers were not of sufficient magnitude to warrant a determination of injury by reason of LTFV sales.

Product and Domestic Industry

Capacitors are devices for storing electrical energy in the form of electrons in an electric circuit. Tantalum capacitors are especially suitable for applications in which high reliability, long service, long shelf life, and high capacity to volume ratios are needed. Of the three types of tantalum electrolytic fixed capacitors, the solid type accounted for 90 percent of the U.S. market and virtually all of the LTFV imports.

We consider the relevant industry in this determination to be those facilities in the United States where tantalum capacitors are produced. There were 14 firms which operated 17 establishments producing tantalum capacitors in the United States in 1975.

No Injury by Reason of LTFV Imports

Japanese LTFV imports fell sharply in 1975 after reaching a high in 1974. Although such LTFV imports increased in the first six months of 1976 over that of 1975, other relevant indices show a concurrent improvement in the health of the U.S. industry.

Data for the January-June 1976 period reveal the degree of recovery in the domestic tantalum capacitor industry. U.S. consumption of tantalum capacitors increased 45 percent during the first 6 months of 1976 from the same period in 1975. During this same period, U.S. production and shipments had so improved over levels in 1975 (37 percent) that the domestic producers were again producing at levels achieved during 1973 and 1974, years showing high capacity utilization, sales, production, shipments, and net profit to net sales ratios of 10 percent.

Capacity utilization by the end of June 1976 showed an industry on its way to recovery with growing utilization rates, substantially above those achieved during the economic downturn. Financially, U.S. producers of tantalum capacitors fared much better during the recession than the electronics industry in general, having a profit to sales ratio in 1975 about twice the level for the broader industry. Further, by January-June 1976, producers accounting for the bulk of domestically produced tantalum capacitors were experiencing increasing profits and high ratios of net operating profits to net sales. Employment in the domestic tantalum capacitor industry increased during the first six months of 1976 after large reductions during 1974 and 1975.

The share of U.S. apparent consumption held by both solid tantalum capacitors (the category where imports would have affected the market most) and tantalum electrolytic fixed capacitors as a whole increased throughout the period 1974–1976. Increases in shipments of domestically produced tantalum capacitors exceeded the market gains achieved by LTFV imports during this same period. Only the major supplier of LTFV capacitors consistently undersold domestic producers. During 1975 and January-June 1976, domestic tantalum capacitors undersold Japanese-made tantalum capacitors in about three out of four instances where they met in the market. Further, in almost two-thirds of those instances where the Japanese-made capacitor was priced lower, the Japanese LTFV import was not purchased. Instances of U.S. firms underselling other U.S. firms were more than double those of Japanese imports underselling a domestic firm. Taking into account the corrected import statistics, as well as the modification of the class or kind of LTFV imports, we believe that the penetration of the U.S. market and the underselling of U.S. producers were not of sufficient magnitude to warrant a determination of injury by reason of LTFV sales.

No Likelihood of Injury by Reason of LTFV Imports

Information obtained during the investigation indicated that Japanese producers were increasing their capacity to produce tantalum capacitors in 1976 and 1977 and that some of the increased production would likely be exported to the United States. The information was obtained from three separate sources and was incomplete in that data from each source could not be correlated with the other sources. Further, the estimated increased capacity was not related to a base capacity such that the magnitude of the capacity increase could be quantified reliably. We believe that the information available to the Commission was not sufficient to impute a likelihood of injury. To the contrary, the domestic industry—growing before the recession—gave every indication that it was again growing in January-June 1976 after the recession abated. During the recession, the industry producing tantalum capacitors fared much better than the electronics industry as a whole.

Consideration of Nippon Electric Company's *plans* to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum capacitors in and of itself does not establish grounds for a determination of likelihood of injury by reason of LTFV sales. We do not believe that an increase in the capacity of Japanese producers to manufacure tantalum electrolytic fixed capacitors portended a threat to a strong and growing industry in the United States. The evidence gathered by the Commission regarding any increased exports from Japan did not show real and imminent threat to the domestic industry.[1]

Findings of Fact

Paragraph 3 of the order of the U.S. Customs Court of March 27, 1980, (CRD 80–3) directed the Commission to submit to the Court its new determination "together with a complete statement of findings and conclusions, and the reasons or bases thereof, on all material issues of fact or law presented, including the materiality of the corrected import statistics on the Commission's new determination." Our findings of fact and conclusions of law are as follows:

A. Volume of Imports

1. The volume of U.S. imports of tantalum capacitors from Japan rose from 7.0 million units in 1972 to 18.3 million units in 1973 to 32.2 million units in 1974 before falling to 22.0 million units in 1975. The volume of LTFV imports (Japanese imports less Matsushita) from Japan experienced "about a one-third" decline from the 1974 level to 1975. Imports during January-June 1976 were approximately twice the level of the corresponding period of 1975. (Report at p. 68, p. 86, tables 2, 19)

2. Although LTFV imports from Japan increased as a share of the U.S. market for tantalum capacitors throughout the period of investigation, at no time did the share of total U.S. consumption held by LTFV imports equal 10 percent. (Report at p. 86, table 19)

3. Japanese producers were increasing their capacity to produce tantalum capacitors in 1976 and 1977, although the magnitude of this projected increase could not be quantified reliably. Some of the increased production would likely be exported to the United States. (Report at pp. 30–31)

B. Effect of Imports on U.S. Price

4. The average weighted prices of all Japanese importers' (except one) of tantalum electrolytic fixed capacitors were lower than the domestic producers' average weighted delivered prices from 1972 to 1976. However, during 1975 and January-June 1976, Japanese-made capacitors were priced below U.S.-made capacitors in only about 25 percent of the instances where they met in the market-place. In nearly two-thirds of those instances, the Japanese-made capacitor was not purchased. In cases where the Japanese-made capacitor was purchased, the quantities purchased were small in comparison with the purchases of U.S.-made capacitors. In most price comparisons involving actual sales transactions, U.S.-produced capacitors sold below the price of Japanese-produced products. Sales lost by U.S. producers compared with the recession-induced drop in demand were minimal (Report at pp. 34–37).

5. Two Japanese firms accounted for a majority of LTFV sales during the period of investigation. The LTFV margins of Matsushita, a major source of Japanese tantalum capacitors, were found by the Treasury Department to be *de minimis*. Only one major supplier of LTFV Japanese-made capacitors consistently undersold the domestic producers. Price suppression and price depression were not likely as a result of LTFV sales. The worldwide recession of 1975 in the electronics industry, rather than LTFV imports, caused most decreases in prices. (Report at pp. 33, 37, 44, 46, and 48)

Impact on an Affected Industry

6. U.S. producers' shipments had decreased from 441 million units in 1974 to 300 million units in 1975, a 32 percent decline during the height of the economic recession. However, domestic producers' shipments of tantalum capacitors jumped 37 percent from 156.7 million units in January-June 1975 to 217.1 million units in January-June 1976. (Report at p. 72, table 6)

7. Domestic consumption of tantalum capacitors decreased from 845 million units in 1974 to 527.5 million units (corrected data) in 1975, a drop of 38 percent during the period of the economic downturn. However, U.S. consumption of tantalum capacitors rose from 228.2 million units (corrected data) in January-June 1975 to 329.5 million units (corrected data) in January-June 1976, a 45 percent increase. (Report at p. 85, table 18)

8. The share of U.S. apparent consumption of tantalum capacitors held by domestic producers (based on quantity) increased from 62.1 percent in 1974 to 70.5 percent in 1975 and continued to increase in January–June 1976. U.S. market share of solid tantalum electrolytic fixed capacitor consumption held by domestic producers (based on quantity) experienced similar increases. These gains in market share exceeded those achieved by Japanese LTFV imports throughout the period of investigation with respect to both the individuals solid tantalum capacitor and the general tantalum capacitor market. (Report at pp. 68–69, pp. 85–86, tables 2, 3, 18, and 19)

9. Sales and profitability of the domestic producers increased during January–June 1976 as compared to the first half of 1975. Only one minor producer provided profit-and-loss information that showed a slight decline in profits and net operating profits to net sales ratio. Domestic producers of tantalum capacitors fared better than the norm for the electronics industry as a whole, having a profit-to-sales ratio approximately twice the level achieved by all makers of electrical and electronic equipment in that year. Net operating profits dropped from 10 percent in years 1973–1974 to 5 percent in 1975, a year in which imports dropped sharply and where market shares held by Japanese produced imports were very low. (Report at pp. 26–29)

10. U.S. producers' year-end inventories of tantalim capacitors experienced a general rise throughout the investigative period although year-end inventories declined by 3 percent from 1974 to 1975. (Report at p. 18 and table 7)

11. Employment in U.S. establishments where tantalum capacitors are produced reached its low point in 1975 and then increased 7 percent during January–June 1976. The large reduction in employment during 1974–1975 was almost entirely attributable to the recession. (Report at pp. 22–23, tables 13–14)

12. Capacity utilization for all major domestic producers of tantalum capacitors recovered to a range of 40 to 78 percent during January–June 1976 after the general industry decline in 1975. With the exception of 1 major firm, the industry had been operating in the 25 to 50 percent capacity utilization range in 1975.

Conclusions of Law

1. As of October 22, 1976, an industry in the United States was not being and was not likely to be injured by reason of the importation of tantalum electrolytic fixed capacitors from Japan that were sold, or were likely to be sold, at LTFV within the meaning of the Antidumping Act, 1921, as amended.

2. Our determination is not materially affected either by consideration of the corrected import statistics or by the change in the class or kind of merchandise covered by the final LTFV sales determination of the Department of the Treasury.

Statement of Reasons for Affirmative Determinations of Commissioners Moore and Bedell

Introduction

When the Commission determined by a 5 to 1 vote in October 1976 that an industry in the United States was not

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[1] Since there is an active domestic industry in the United States producing tantalum electrolytic fixed capacitors, prevention of establishment of an industry is not an issue.

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being injured and was not likely to be injured by imports of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value ("LTFV"), we voted with the majority. Our negative determinations at that time were based in part on official import statistics for tantalum capacitors from Japan subsequently discovered to have been substantially underreported, and in part on our view that the anticipated increase in exports to the United States of "epoxy dipped" tantalum electrolytic fixed capacitors manufactured by Nippon Electric Co. ("NEC") should not be used as a basis for finding likelihood of injury. Our view in the latter regard was based on the fact that the Treasury Department had found no margins on NEC's sales of epoxy dipped capacitors.

The United States Customs Court has now remanded the Japanese capacitors case to the Commission with instructions to take—

> A new vote on the question of whether, in light of the correct import statistics for tantalum electrolytic fixed capacitors from Japan, sales of such merchanside at LTFV were injuring or were likely to injure an industry in the United States within the meaning of the Antidumping Act of 1921 * * *.

The Court has also directed the Commission to consider in its deliberations the effect of NEC's plans to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum electrolytic fixed capacitors.

In reconsidering our earlier determinations in light of the Customs Court's decisions, we find ourselves in substantial agreement with the dissenting views of former Commissioner Parker on the question of likelihood of injury.[1] Thus, we now find that, as of the date of the Commission's earlier determination, an industry in the United States was likely to be injured by reason of the importation from Japan of tantalum electrolytic fixed capacitors which the Treasury Department had determined were likely to be sold at LTFV.

Likelihood of Injury

In accordance with that we believe to be our mandate from the Customs Court, we have considered the class or kind or merchandise sold, or likely to be sold, at LTFV in this case to be all Japanese tantalum electrolytic fixed capacitors except those sold by Matsushita Electrical Industry Co., Ltd. The combined effect of considering (1) all Japanese capacitors except those sold by Matsushita and (2) the revised import statistics, is to almost triple the ratio of LTFV imports to apparent U.S. Consumption for 1976 and the first six months of 1975. Thus, for 1975 the ratio increases from * * * percent to * * * percent; for the first six months of 1976 the ratio increases from * * * percent to * * * percent. The corresponding ratios for 1972, 1973, and 1974 were * * * percent, * * * percent, and * * * percent, respectedly.[2] It is evident from these figures that the portion of U.S. apparent consumption accounted for by LTFV imports increased steadily during the period January 1972 through June 1976. We regard this increasing trend as an important indication that the U.S. tantalum capacitor industry was faced in October 1976 with the likelihood of injury.

During its earlier investigation, the Commission obtained information from several sources indicating that Japanese capacity to produce tantalum capacitors would increase in 1976–77 and that NEC, by far the largest Japanese manufacturer of tantalum capacitors, planned to increase substantially its capacitor exports (primarily epoxy dipped) to the United States in 1977. The projected increase in Japanese productive capacity was believed to be far in excess of home-market demand. NEC's increased exports to the United States were scheduled to come at a time when price competition in the U.S. market for tantalum capacitors was intensifying, and when the domestic industry was still struggling to recover fully from the economic recession of 1975. In our judgment, the prospect of sharply increased exports to the United States of tantalum electrolytic fixed capacitors posed a likelihood of injury to the domestic industry in October 1976.

Other factors supported the view in October 1976 that increased imports of Japanese tantalum capacitors posed a likelihood of injury to the domestic industry. Since 1972, Japanese suppliers had exported an increasing share of their production of tantalum capacitors to the United States. By 1976 those suppliers had been able to establish commercial relationships with several of the largest U.S. users of capacitors, users accustomed to purchasing large quantities of capacitors in a single transaction. Formerly, domestic producers had supplied the bulk of capacitors sold in that market since that was an area where domestic producers had been able to complete successfully with the Japanese.

Issued: August 25, 1980.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–27076 Filed 9–3–80; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

Termination of Countervailing Duty Investigation Concerning Certain Steel Products From Italy

AGENCY: U.S. International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 704(a) of the Tariff Act of 1930 and section 104(b)(1) of the Trade Agreements Act of 1979, with regard to certain steel products from Italy.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Leahy, Office of Investigations, telephone number (202) 523–1369.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order to conduct an investigation to determine whether an industry in the United States would be materially injured, threatened with material injury or that the establishment of such industry, would be materially retarded if the order were to be revoked. On March 27, 1980, the Commission received requests from the Societa Anonima Elettrificazione S.p.A. and from the Delegation of the Commission of the European Communities for the review of outstanding countervailing duty orders on galvanized fabricated structural steel units for the erection of electrical transmission towers (T.D. 67–102) and certain steel products: fabricated structural steel units for the erection of electrical transmission towers, not galvanized (T.D. 69–113).

On June 13, 1980 the Commission was notified by letter that U.S. Steel, the original petitioner in these countervailing duty orders wished to withdraw its petition on certain steel products (T.D. 69–113) as to all of the nine product groups covered by that order pursuant to section 704(a) of the Tariff Act of 1930.

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[1] Statement of reasons for Affirmative Determination of Commissioner Joseph O. Parker, *Tantalum Electrolytic Fixed Capacitors from Japan*, USITC Publication 789 (October 1976).

[2] The official import statistics for tantalum capacitors from Japan for 1972, 1973, and 1974 have not been revised by the Bureau of the Census.

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a). That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the pubblic interest. Since termination is permitted in cases based on newly filed countervailing duty petitions, it should also be permitted as to existing countervailing duty orders.

On July 9, 1980 (45 FR 46262 (July 9, 1980)) the Commission published a notice in the **Federal Register** requesting public comment by August 8, 1980 on the proposed termination of the Commission investigation on certain steel products from Italy (T.D. 69–113). No adverse comments were received in response to the Commission's notice.

Pursuant to section 704(a) of the Tariff Act of 1930 the Commission is therefore terminating its investigation under section 104(b)(1) of the Trade Agreements Act of 1979 on certain steel products from Italy (T.D. 69–113) which includes the following nine product groups:

Commodity

1. Steel pipes for penstocks, even armored, of the type used for hydroelectric installations.
2. Cables, ropes plaits and such in iron or steel wire, with or without core of other materials, excluding those insulated for electricity; except as stated below: Galvanized steel wire rope. Stainless steel aircraft cable.
3. Staples in strip form.
4. Nails of iron or steel.
5. Bolts and nuts of iron or steel except as noted below: Galvanized nuts.
6. Rivets of iron or steel.
7. Forged steel grinding balls.
8. Wheels and axles of vehicles for railroads.
9. Iron and steel constructions and their parts, such as pieces for bridges, steel structural works, gates, frameworks, etc., not galvanized.

In addition to publishing this Federal Register notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

Issued: August 27, 1980.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 80–27068 Filed 9–3–80; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Attorney General Order No. 910–80]

Newspaper Operating Arrangement; Times Printing Co., and the Chattanooga News-Free Press Co.

September 2, 1980.

The applicants have filed for approval of a joint operating arrangement between the *Chattanooga Times* and the *Chattanooga News-Free Press*, pursuant to the Newspaper Preservation Act, 15 U.S.C. 1801–1804. The Act provides a limited antitrust exemption for arrangements which the Attorney General approves after his determination that "not more than one of the newspaper publications involved . . . is a publication other than a failing newspaper" and that "approval of such arrangement would effectuate the policy and purpose of [the Act]." 15 U.S.C. 1803(b). On the basis of the record as constituted in accordance with 28 CFR 48.13, I make the following findings of fact and conclusions of law. 28 CFR 48.14.

(1) *The Chattanooga Times is a Failing Newspaper.* The Newspaper Preservation Act defines a "failing newspaper" as one which, "regardless of its ownership or affiliations, is in probable danger of financial failure." 15 U.S.C. 1802(5). For the reasons set out in detail in the *Supplemental Report of the Assistant Attorney General in Charge of the Antitrust Division*, Pub. File No. 44–03–25–5 (July 1, 1980), the *Chattanooga Times* satisfies that standard regardless of whether its financial condition is considered as of the time of the March 24 application or as of the present.

The *Times* has been profitable in only three of the years since 1966. It has lost $2.7 million in the last four years, with its largest loss, $1.3 million, coming in 1979. It projects losses of $1.8 million for 1980, having already lost approximately $1.3 million this year. The *Times'* daily and Sunday circulation has decreased more than 18 percent in the last five years.

There does not appear to be any reasonable prospect that the *Times'* history of accelerating losses can be reversed. Nor is there a prospect that new ownership or management could take actions likely to improve materially the *Times'* future financial condition. Accordingly, the Antitrust Division's conclusion that the paper is "failing" is sustained, and the Act's first requirement is satisfied: "not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper," 15 U.S.C. 1803(b).

(2) *Approval of the Arrangement Would Effectuate the Policy and Purpose of the Act.* Although the proposed joint operating arrangement would eliminate commercial competition between the newspapers, news and editorial operations would remain separate. The congressional policy animating the Newspaper Preservation Act is a concern for the maintenance of "a newspaper press editorially and reportedly independent and competitive," 15 U.S.C. 1801. Because the *Chattanooga Times* is a failing newspaper, and because the arrangement for which approval is sought would preserve for Chattanooga two separate and independent editorial and reportorial voices, the Act's second requirement is satisfied: "approval of such arrangement would effectuate the policy and purpose of [the Act]," 15 U.S.C. 1803(b).

(3) *Scope of Approval.* The applicants' original application for a joint operating arrangement was filed on March 24, 1980. On May 12, without waiting for approval, the applicants implemented a joint operating arrangement incorporating some, but not all, of the elements included in their March 24 proposal. The question is whether that action bars approval of any part of the March 24 application at this time, regardless of the conclusions set forth in paragraphs 1 and 2 above.

Review of the relevant statute and regulation makes it clear that the antitrust exemption provided for by Congress is only available to arrangements entered into with the *prior* consent of the Attorney General. The Act states:

> "It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the *prior* written consent of the Attorney General of the United States." 28 U.S.C. 1803(b) (emphasis added).

The applicable regulation states:

> "Joint newspaper operating arrangements that are put into effect without the prior written consent of the Attorney General remain fully subject to the antitrust laws." 28 CFR 48.1.

Accordingly, those arrangements already implemented without consent are not eligible for the statutory exemption and cannot be approved.

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On the other hand, despite some unfortunate phrasing the Act does not function to affirmatively disadvantage newspapers that enter into arrangements without the Attorney General's consent—it merely deprives them of the advantage of antitrust immunity. *See Newspaper Guild* v. *Levi,* 539 F. 2d 755 (D.C. Cir. 1976), *cert. denied,* 429 U.S. 1092 (1977). And nothing in the statute or regulations precludes approval of not-yet-instituted joint operating arrangements solely because other arrangements were implemented without authorization. Accordingly, because as discussed in paragraphs 1 and 2, *supra,* the statutory prerequisites for approval are satisfied in this case, approval can be granted for those elements of the applicants' proposal which have not yet been put into operation.

4. *Disposition.* Although the applicants have urged approval of their entire March 24th proposal, they have also submitted, in anticipation of the result reached here, a description of those elements of their original application which they contend have not yet been implemented. *See Response of the Times and New-Free Press to the Supplemental Report of the Antitrust Division,* Pub. File No. 44–03–25–5, at 2–4 (July 11, 1980); *id* (attached letter). Other interested parties have taken issue with that description. *See Response of the International Typographical Union and its Local Affiliates to the Supplemental Report of the Assistant Attorney General,* Pub. File No. 44–03–25–5, at 18–20 (July 31, 1980). Any person may, during the next 10 days, file a further memorandum addressed to this issue.

The Antitrust Division is directed to review the description submitted by the applicants, as well as any additional memoranda which have been or will be filed on this issue, and to conduct any further inquiries necessary to determine which elements of the joint operating arrangement have not yet been instituted. The Division is directed to submit a Report within 21 days stating the results of its investigation and listing such elements. Any person may file a response to that Report within 10 days of its issuance. Following review of the Antitrust Division's Report and all other submissions on the issue, a determination will be made as to which aspects of the proposed joint newspaper operating arrangement should be approved.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80–26690 Filed 9–3–80; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-36]

Special Study, Safety Recommendations and Responses; Availability

Aviation Safety Special Study

Commuter Airline Safety (NTSB–AAS–80–1).—The National Transportation Safety Board has maintained a significant interest in commuter airline safety since the Board's creation in 1967. The Safety Board's involvement with commuter safety is reflected in accident reports, safety recommendations, and special studies which cover the period since 1970. In 1979, the Safety Board designated 14 CFR Part 135 enforcement and surveillance as a fiscal year 1980 safety objective. In October 1979, after a series of commuter accidents, the Board undertook a special study of commuter airline safety, and in January 1980, conducted a 4-day public hearing on the subject.

This study, made public on August 26, includes a review and analysis of the commuter airline industry accident history since 1972, an analysis of the predominant safety issues which affect the commuter airline industry, and a review of the relationship of the Federal regulators to the commuter airlines. The Safety Board developed the basis of the study from its 1972 special study of air taxis, the Board's accident statistics, and accident investigation experience, and from an extensive field survey.

The study discusses the operational, maintenance, training, and regulatory areas of the industry and analyzes safety deficiencies. The Board concludes that the basis to sound commuter airline safety must come from a coordinated program which includes the implementation of the new 14 CFR Part 135, Federal Aviation Administration surveillance and enforcement efforts, and a strong safety-oriented posture by commuter managers. Coupled with this program must be FAA's permanent recognition of the commuter industry as an airline industry rather than as a segment of general aviation. Finally, the Board has made a number of safety recommendations to the FAA designed to enhance the commuter airline industry.

By letter of August 8 the Safety Board reiterated recommendations Nos. A–79–80, A–79–81, A–78–27, A–78–28, and A–78–29. These recommendations called for tightened pilot training and flight and duty time regulations, and for both interim and long-range requirements for recorders in complex commuter aircraft. The recorder recommendations had been made six times before. Also, the Board's August 8 letter issued 12 new recommendations, Nos. A–80–64 through –75. Recommendation A–80–64 called on FAA to create a new classification of specially trained commuter airline inspectors to help raise commuter safety to a level approaching that of large airlines. Goals of the other new recommendations include improved pilot qualification and training, better scheduling of maintenance surveillance, refinements in weight-and-balance procedures, required training of dispatch personnel, and expansion of the airport aid program to support commuter-served airports and improve their navigation-aid equipment—insuring an instrument approach facility at each to the extent possible. (See also 45 FR 55877, August 21, 1930.)

Safety Recommendation Letters

Pipeline

P–80–61 through –65 to the Research and Special Programs Administration, U.S. Department of Transportation, August 20, 1980.—The Safety Board has conducted a study evaluating the management and use by the Department of Transportation of its gas pipeline data system. This study examines the types of data collected, how the data system operates, and how it is being used by DOT in fulfilling its responsibility for promoting public safety regarding gas pipelines. The study also evaluates the changes to the data system that are currently being considered by DOT and whether further changes are required. Copies of the study, "Safety Effectiveness Evaluation of the Materials Transportation Bureau's Pipeline Data System," are being prepared for distribution and will be available in the near future.

The Safety Board's evaluation found that Materials Transportation Bureau staff resources are limited, and that, consequently, use of the pipeline data to direct and focus resources is essential for the effective and efficient administration of the Pipeline Safety Act. The Board concludes, however, that the pipeline data currently collected by MTB are often inaccurate and are not representative of gas pipeline operators and gas pipeline accidents. Furthermore, the present data system is seldom used by MTB pipeline offices in carrying out their regulatory and enforcement functions. There is little cooperation or coordination regarding the data system between the Safety Data Management Branch and the regulation and enforcement offices. Inadequacies in the data system have been pointed out to the MTB in the past, but the agency has responded slowly to such criticisms, and has been developing new reporting forms for over 6 years. To date, no changes have been implemented.

In its study, the Board also found that MTB does not have a pipeline data analysis plan, which the Board believes is necessary to coordinate and direct MTB's pipeline offices in the use of the data system as a management tool. Development of such a plan must precede revision of the data reporting forms and reporting requirements to guide the selection of data collected and to assure that it is requested in a useable form. The Board concludes that the MTB upper management must make a strong commitment to developing an improved data system and coordinating its use.

Accordingly, the Safety Board recommends that the Materials Transportation Bureau of the Research and Special Programs Administration:

Develop and publish for public comment a formal data analysis plan for the pipeline data system. (P-80-61)

Expedite the proposed creation of an Office of Regulatory Planning and Analysis and define responsibilities for development and management of a pipeline data analysis plan. (P-80-62)

Postpone promulgation of proposed, revised pipeline data forms until development of a data analysis plan and coordination of the forms with the plan. (P-80-63)

Develop explicit directions for completion of the present data forms to improve the quality of the information collected on these forms. Assure that terms not universally accepted across the pipeline industry are defined. (P-80-64)

Train existing personnel to more effectively validate incoming leak report forms. (P-80-65)

Each of the above pipeline safety recommendations is designated "Class II, Priority Action."

Railroad

R-80-34 and -35 to Burlington Northern, Inc., August 21, 1980.—About 3:30 a.m. on February 16, 1980, nine westward bound locomotive units of the Burlington Northern (BN) collided with BN standing train Extra 2048 East (No. 178), which consisted of 65 cars and a caboose at Angora, Nebr. The head brakeman of train No. 178 and the engineer of Extra 7814 West were killed, and three crewmembers were injured. Three locomotive units and 12 cars derailed. Damage was estimated at $1,297,000. At the time of the accident, it was dark and light snow was falling. Witnesses indicated that visibility was poor.

Investigation indicated that train No. 178, powered by a three-unit locomotive, had stalled on an ascending grade; the crew was instructed by the train dispatcher to uncouple the locomotive and proceed to Angora. The dispatcher's intention was to make use of a six-unit locomotive from a westbound train (Extra 7814 West) in Angora to pull the train over the hill, but he did not give either train crew specific instructions on how the locomotives were to be handled after the meeting in Angora. As a result, the crews coupled the nine locomotive units—Burlington Northern special instructions prohibit coupling more than seven locomotive units—without connecting the air brakes or power cables between the six locomotive units and the three original units from train No. 178. When the locomotives, which then were operated by an engineer in the third unit from the front end, began moving on the downgrade toward the stalled train, the weight of the six added units whose brakes were not connected quickly caused the speed to increase and overcome the braking force of the three lead units.

The Safety Board notes that neither the conductor of train No. 178 nor the conductor of Extra 7814 West supervised the intended compliance with the train orders, and no other supervision was available for the move. Most of the crewmembers had been trained in BN schools for new employees, but it is almost impossible to substitute this type of training for experience needed by employees to properly handle an operation similar to the one involved in the accident. In these cases, supervision becomes a necessity. Therefore, the Safety Board recommends that the Burlington Northern:

Provide the equipment necessary to make couplings between all units of a locomotive so that the engineer will have complete control of all locomotive units. (Class II, Priority Action) (R-80-34)

Insure that Rule 800, which assigns the responsibility for train operation to conductors, is adhered to strictly and that conductors are adequately trained to make the necessary decisions for the safe handling of the train. (Class II, Priority Action) (R-80-35)

Responses to Aviation Safety Recommendations

A-78-56, from the Federal Aviation Administration, August 22, 1980.—Letter supplements FAA's response of last January 4 (45 FR 3412, January 17, 1980) concerning recommendations issued as a result of investigation into the November 6, 1977, Semco Model T hot air balloon accident near Mosquero, N. Mex. The recommendation asked FAA to issue an Airworthiness Directive to require means for securing the canvas dodger to the deck or require other means for eliminating the existing gap between the dodger and the deck on the Semco Model T and Challenger AX-7 balloons.

FAA reports that Airworthiness Directive AD 80-14-09 was issued on July 1, effective July 7, 1980. This AD is in addition to the General Aviation Airworthiness Alert (AC-43-16) which was published in the August 1979 issue, as stated in FAA's January 4 letter.

A-79-31, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to a recommendation stemming from the Antilles Air Boats, Inc., Gruman G-21A accident on September 2, 1978. The aircraft crashed into the ocean while en route from St. Croix to St. Thomas, V.I. The recommendation asked FAA to strengthen surveillance and enforcement program directed toward Part 135 operators to: (1) Provide adequate staffing for FAA facilities charged with surveillance of Part 135 operators; (2) assure uniform application of surveillance and enforcement procedures; (3) upgrade enforcement procedures and actions in order to provide a viable deterrent to future violations.

Last November 8 the Safety Board acknowledged FAA's response of August 9 (44 FR 50935, August 30, 1979) which reported issuance of FAA's Notice N8000.176, Increased Surveillance for Operators under new Part 135, dated April 25, 1979, and Order 1000.9C, Enforcement Policy, dated April 26, 1979. The Safety Board also noted that the Air Taxi Operations Handbook is being rewritten, that the Air Taxi Maintenance Handbook has been incorporated into the Air Carrier Maintenance Inspector's Handbook, and that the FAA Enforcement Handbooks are being combined into one. The Board noted that these actions, together with FAA's organizational changes placing responsibility of the air taxi program under the Air Division, are responsive to recommendation A-79-31. The Board therefore classified this recommendation and other Part 135

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related recommendations in an "Open-Acceptable Action" status. The Board will be evaluating the effectiveness of these FAA actions to improve the safety of Part 135 operations during fiscal year 1980.

FAA's latest response reports that in addition to the previous actions outlined in the August 9, 1979, letter, Order 8430.1B, Inspection and Surveillance Procedures—Air Taxi Operators/Commuter Air Carriers and Commercial Operations, was transmitted through staff channels on March 18, 1980. FAA also reports completion of the following action: On May 16, Order 2150.3, Compliance and Enforcement Program, was issued. This order consolidates guidance material formerly contained in four separate orders. It is designed as a ready reference for use at all levels of the agency in the investigation, reporting, and legal processing of enforcement cases. FAA notes that all of its employees involved in the compliance and enforcement program are directed to read and become familiar with applicable provisions of this order.

A–79–60, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to a recommendation issued as a result of investigation into the Rocky Mountain Airways, Inc., deHavilland DHC–6 crash near Steamboat Springs, Colo., on December 4, 1978. The recommendation asked FAA to issue an operations bulletin directing all operations inspectors who are responsibile for the surveillance of 14 CFR 135.159 (new 14 CFR 135.165) is complied with uniformly in accordance with the official legal interpretation of this regulation by the FAA.

Safety Board letter of last November 27, commenting on FAA's response of October 12 (44 FR 61478, October 25, 1979), notes that FAA forwarded an interpretation of 14 CFR 135.159(a)(5) on September 14, 1979, to all Regional Flight Standards Division for distribution to FAA field offices. The Board also noted that FAA Order 8430.1A, Operations Inspection and Surveillance Procedures—Air Taxi Operators and Commercial Operators of Small Aircraft, is being rewritten to provide guidance on the revised 14 CFR Part 135 and a discussion on navigation equipment requirements. The Board states, however, that since the handbook will include other subjects related to Part 135 and will very likely take over 6 months to publish, it will not meet the intent and urgency of the recommendation. FAA was requested, in addition to actions already taken and proposed, to issue an operations bulletin as recommended; meanwhile, recommendation A–79–60 would be held in an "Open—Unacceptable Action" status.

FAA's August 20 letter reports that Order 8430.1B, Inspection and Surveillance Procedures—Air Taxi Operators/Commuter Air Carriers and Commercial Operators, was issued January 29, 1980, to revise Order 8430.1A. The revision provides guidance on the revised 14 CFR Part 135 and discusses navigation equipment requirements. A copy of the revised order is attached to FAA's letter.

A–79–68 and –69, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to recommendations also issued in connection with the above-referenced Rocky Mountain Airlines crash. The recommendations asked FAA to amend 14 CFR Parts 135 and 121 to require a survival training program for crewmembers that would include sea, desert, winter, and mountain survival (A–79–68), and to issue an Advisory Circular which outlines acceptable means of compliance with survival training requirements (A–79–69).

In its letter of January 4 commenting on FAA's response of last December 5 (44 FR 75539, December 20, 1979), the Safety Board notes that FAA indicated agreement, in principle, with the need for crewmember survival training. The Board also noted that rather than making a regulatory change, FAA plans to issue an Air Carriers Operations Bulletin (ACOB) within 90 days, which will require inspectors to assure that carriers include survival training, appropriate to route structure, in recurrent crewmember training. The Board held that since the ACOB will also include a suggested outline for a survival training program, FAA's response to recommendations A–79–68 and –69 would be classified as "Open—Acceptable Alternative Action" until the bulletin is issued and reviewed by the Safety Board's staff.

FAA's August 20 response reports issuance of a change to Order 8430.17, Change 15, to Air Carrier Operations Bulletin No. 8–80–2, Crewmember Survival Training; a copy was provided. The bulletin was revised to include Part 135 operators.

A–80–39 and –40, from the Federal Aviation Administration, August 20, 1980.—Response is to recommendations issued May 23 as a result of investigation of the crash of a Bell 47G–3–B–1 helicopter near Rico, Colo., August 17, 1979, in which the pilot and his passenger were killed. Investigation disclosed that tail rotor thrust was lost during flight because the drive gear (P/N 47–620–568–1) failed; the gear is located within the main rotor transmission. (See 45 FR 37917, June 5, 1980).

Recommendation A–80–39 asked FAA to issue an Airworthiness Directive to require replacement of bearing (P/N 47–620–605–1) with the improved bearing (P/N 47–620–929–1) at the next scheduled or unscheduled removal of the main transmission on Bell 47 model helicopters equipped with turbocharged engines. FAA concurs with this recommendation and reports that Airworthiness Directive action will be initiated to require this replacement.

With respect to recommendation A–80–40, which asked FAA to review and evaluate the need to replace the older bearing (P/N 47–620–605–1) with the improved bearing (P/N 47–620–929–1) on all Bell 47 model helicopters, FAA reports that a review of FAA files reveals failures of bearing (P/N 47–620–605–1) on normally aspirated helicopters as well as on turbocharged helicopters. FAA says that the AD action referenced above will include all BHT Model 47 series helicopters equipped with the bearing (P/N 47–620–605–1).

A–80–41 through –43, from the Federal Aviation Administration, August 20, 1980.—Response is to recommendations issued May 27 as a result of investigation of the crash of N68DE, a deHavilland DHC–6–200, at the Knox County Regional Airport, Rockland, Maine, on May 30, 1979. Following its investigation, the Safety Board concluded that the flightcrew deviated from standard instrument approach procedures and allowed the aircraft to descend below the published minimum decision height, without the runway environment in sight. The accident occurred during a night nonprecision instrument approach. (See 45 FR 37917, June 5, 1980.)

Recommendation A–80–41 asked FAA to publish a Maintenance Bulletin to alert FAA maintenance inspectors to the safety hazard associated with installation of mixed-color cockpit instrument lighting. The bulletin should require that the practice of installing mixed-color lighting be discontinued and that, where this practice has been implemented in the past, the lighting be changed to a uniform configuration. FAA concurs with this recommendation and reports that a maintenance bulletin concerning A–80–41 is being prepared.

Recommendation A–80–42 asked FAA to require that 14 CFR Part 135 operators emphasize crew coordination during recurrent training, especially when pilots are qualified for both single-pilot/autopilot and two-pilot operations, the requirements to be outlined in an operator's approved training curriculum. In its response, FAA notes that § 135.329, Crewmember training requirements, does in fact include provisions which, in FAA's opinion, will result in effective crew coordination. Paragraph (e) of that section states:

> (e) In addition to initial, transition, upgrade and recurrent training, *each* training program must provide ground and flight training, instruction, and practice necessary to ensure that *each* crewmember:
>
> (1) Remain adequately trained and currently proficient for *each* aircraft, *crewmember position*, and type of operation in which the crewmember serves; and . . .

FAA believes that this regulatory requirement adequately satisfies recommendation A–80–42.

With respect to recommendation A–80–43, which called for upgrading operations manuals of 14 CFR Part 135 operators to assure standardization by clearly delineating operation duties and responsibilities of all required cockpit crewmembers, FAA states its belief that the vehicle to ensure standardization is the operator's training program. FAA notes that flight manuals currently specify crew duties, but are not considered an appropriate vehicle for imparting the concept of crew coordination. FAA directs the Board's attention to Order 8430.1B, Inspection and Surveillance Procedures Air Taxi Operators/Commuter Air Carriers and Commercial Operators. Paragraph 111 of this order, entitled, "Altitude Awareness and Flightcrew Procedures During Instrument Approaches," speaks specifically to cockpit vigilance during instrument approach operations, FAA states. FAA says its inspectors are required to ensure that these provisions are included in operators' training programs.

A–80–45, from the Federal Aviation Administration, August 20, 1980.—Response is to a recommendation issued May 28 following investigation of a fire aboard a Beech C–18S aircraft, caused by a ruptured aerosol can. The fire occurred while the aircraft was en route to Juneau, Alaska, July 13, 1979. The recommendation asked FAA to publish the circumstances of this incident in the Maintenance Notes Section of the General Aviation Airworthiness Alerts, stressing the fact that pilots and maintenance personnel share a responsibility to insure that there are no uncovered or unprotected electrical terminal studs exposed in the aircraft; also, the Maintenance Note should remind pilots of the danger involved when carrying pressurized aerosol cans in an aircraft. (See 45 FR 37918, June 5, 1980.)

FAA concurs with the Board's recommendation and has taken appropriate steps to include pertinent highlights of this incident in the August 1980 issue of the General Aviation Airworthiness alerts.

Safety Board Comments on FHWA Rulemaking

The Board continues to review and make comments on rulemaking proposals of other Federal agencies in a cooperative effort to promote transportation safety. In this connection, the Board on August 15 wrote to the Administrator of the Federal Highway Administration concerning recent proposals to develop safety standards and effective programs for Federal-State cooperative actions in attaining additional highway safety objectives.

The Board refers to its May 14, 1980, response to FHWA's notice of proposed rulemaking, "Design Standards for Highways," Docket No. 80–2. In that response the Board pointed out that the proposal did not comply with the Department of Transportation's Regulatory Policies and Procedures, Section 9, since the proposal had significant cost, safety, and benefit impact, but no regulatory analysis was performed by FHWA, nor was the basis for finding the proposal not significant set forth in the rulemaking proposal. Also, in the Board's review of FHWA's proposed rulemaking, "Skid Resistant Pavement Surface Design," Docket No. 77–16, Notice 2, the Board found that the rulemaking proposal was determined not to be significant, yet no basis for this determination was published as required by DOT Regulatory Policies and Procedures. The Board's July 17, 1980, response to this rulemaking proposal commented on this deficiency. To assist FHWA's review of this problem, the Board provided copies of its previous comments.

The Board's August 15 letter asks FHWA to evaluate present DOT procedures concerning the need for regulatory analyses and evaluations of rulemaking proposals. Also, the Board expressed the hope that FHWA will make it clear that the basis for determinations about the significance of future proposals should be made a part of notices of proposed rulemaking. The Board notes that positive action is needed to provide the public an opportunity to review the appropriateness of the determination, to remove the burden of making such analyses from persons responding to rulemaking proposals, and to observe the spirit of DOT regulatory policies and Executive Order 12044.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 29, 1980.

[FR Doc. 80–27020 Filed 9–3–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Topical Report on Bibliography of Technical Guidance for Physical Protection Upgrade Rule Requirements for Fixed States; Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG–0509, "Bibliography of Technical Guidance for the Physical Protection Upgrade Rule Requirements for Fixed Sites," containing a listing of documents that support the upgraded requirements of the Commission's physical protection regulations with regard to physical security for fixed sites. Part I of NUREG–0509 defines and lists alphabetically the components or measures that may be used to establish physical security at fixed sites and identifies documents applicable to selection or use of such components or measures. Part II of the report lists all documents screened by the NRC staff in the course of developing the bibliography.

This report is one of a collection of documents included in NUREG–0669, "The Fixed Site Physical Protection Upgrade Rule Guidance Compendium."

NUREG–0509 is available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be purchased for $4.50 directly from NRC by sending check or money order payable to the Superintendent of Documents to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their order by calling (301) 492–9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Virginia 22161.

(5 U.S.C. 552(a))

Dated Rockville, Maryland this 27th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-26900 Filed 9-3-80; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

August 29, 1980

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Areas Task Force (IATF) Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, September 25 and 26, 1980. The meeting will be held in the 10th floor Conference Room (Room 1004) in the Watergate Building, 2600 Virginia Ave., NW., Washington, D.C.

Both sessions will convene at 9:00 a.m. and will adjourn at 4:30 p.m. All sessions will be open to the public.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of commerce has established IATF Subgroups for NACOA. The subgroups will be responsible for the preparation of preliminary recommendations in the areas of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

This third meeting of the Ocean Operations and Services Subgroup will address issues relevant to Ship Operations and federally supported oceanographic ships and supporting facilities.

Briefings from the Office of Technology Assessment, National Science Foundation, Federal Oceanographic Fleet Coordination Council, National Oceanic and Atmospheric Administration and University National Oceanographic Laboratory System are planned.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Ocean Operations and Services Subgroup, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, the Staff Director for the Ocean Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1). Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-27067 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-12-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1910]

Ohio; Declaration of Disaster Loan Area

Ashtabula County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by high winds, severe rainstorms and flooding which occurred on July 28, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 24, 1980, and for economic injury until the close of business on May 25, 1981, at: Small Business Administration, District Office, AJC Federal Building-Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199.
or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 25, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27065 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1913]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration of August 23, 1980, I find that Belmont, Columbiana, Guernsey, Jefferson and Muskingum Counties, and adjacent counties within the State of Ohio, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about August 11, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 23, 1980, and for economic injury until May 25, 1981, at:

Small Business Administration, District
Office, 1240 East 9th Street, Room 317,
Cleveland, Ohio 44199.

Small Business Administration, District
Office, 85 Marconi Boulevard,
Columbus, Ohio 43215.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 27, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-27064 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 5566]

South Dakota; Declaration of Disaster Loan Area

Lawrence County and adjacent counties within the State of South Dakota constitute an area of Economic Injury as a result of the destruction of the Homestake Forest Products sawmill in Spearfish, S.D. on February 19, 1980, and the subsequent decision not to rebuild the mill. Eligible small businesses which have been directly impacted by the destruction and loss of the sawmill may file applications for Economic Injury Disaster Loans until the close of business on May 14, 1981 at: Small Business Administration, Branch Office, 515 9th St., Room 246, Rapid City, South Dakota 57701.
or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59008)

Dated: August 14, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27066 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, California, will hold a public meeting at 9:00 a.m., Friday, September 26, 1980, at the Holiday Inn, 5090 E. Clinton Avenue, Fresno, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Peter J. Bergin, District Director, U.S. Small Business Administration, 1229 N Street, Fresno, California 93712—(209) 487-5791.

Dated: August 27, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27063 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 722]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register**.

Individual vessel applications for fishing in 1980 have been received from Taiwan, and the Governments of Japan, Korea, and Poland, and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: August 22, 1980.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review application for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic billfishes and sharks	New England, mid-Atlantic, south Atlantic, Gulf of Mexico, and Caribbean.
BSA	Bering Sea and Aleutian Islands, trawl, longline and herring gillnet	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England and mid-Atlantic.
SMT	Seamount groundfish (Pacific Ocean)	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California trawl	Pacific.
PBS	Pacific billfish and sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code and fishing operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Japan:			
Yasu Maru NR 28, longliner	JA-80-1277 (Revised)	ABS	1
Masa Maru NR 21, longliner	JA-80-1279 (Revised)	ABS	1
Hoyo Maru NR 8, longliner	JA-80-1397	ABS	1
Shofuku Maru NR 28, longliner	JA-80-1398	ABS	1
Goyo Maru, longliner	JA-80-1399	ABS	1
Tsukasa Maru NR 21, longliner	JA-80-1400	ABS	1
Seiko Maru NR 28, longliner	JA-80-1401	ABS	1
Shinei Maru NR 26, longliner	JA-80-1402	ABS	1
Kuroshio Maru NR 8, longliner	JA-80-1403	ABS	1
Manryo Maru NR 8, longliner	JA-80-1404	ABS	1
Homare Maru NR 22, longliner	JA-80-1405	ABS	1
Azuma Maru NR 36, longliner	JA-80-1406	ABS	1
Azuma Maru NR 38, longliner	JA-80-1407	ABS	1
Azuma Maru NR 58, longliner	JA-80-1408	ABS	1
Shoshin Maru NR 85, longliner	JA-80-1409	ABS	1
Daito Maru NR 38, longliner	JA-80-1410	ABS	1
Goei Maru NR 18, longliner	JA-80-1411	ABS	1
Poland:			
Korwin, stern trawler	PL-80-0026	NWA	1
Admiral Arciszewski, stern trawler	PL-80-0081	NWA	1
Miedwie, stern trawler	PL-80-0069	NWA	1
Amarel, stern trawler	PL-80-0046	WOC, GOA, BSA	1
Rekin, stern trawler	PL-80-0080	WOC, GOA, BSA	1
*Orcyn**, stern trawler	PL-80-0077	WOC, GOA, BSA	*1 and 3
Korea:			
Nam Pyung NR 1, longliner	KS-80-3026	PBS	1
Nam Pyung NR 5, longliner	KS-80-3027	PBS	1
Nam Pyung NR 8, longliner	KS-80-3028	PBS	1
Nam Pyung NR 31, longliner	KS-80-3029	PBS	1
Nam Pyung NR 32, longliner	KS-80-3030	PBS	1
Heung Yang Ho,** factory ship	KS-80-0006	BSA, GOA	**3
Kyung Yang Ho,** factory ship	KS-80-0085	BSA, GOA	**3
Gae Cheog Ho NR 2,** cargo/transport vessel	KS-80-0090	BSA, GOA	**3
Taiwan:			
Sun Fuh, longliner	TW-80-0060	PBS	1
NR 12 Tah Yuan, longliner	TW-80-3000	PBS	1
Der An NR 1, longliner	TW-80-3001	PBS	1
Sun Der NR 1, longliner	TW-80-3002	PBS	1
Fu Yuan NR 3, longliner	TW-80-3003	PBS	1
Yu Kuo NR 11, longliner	TW-80-3004	PBS	1

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Nation/vessel name/vessel type	Application No.	Fishery	Activity
Yen Horng NR 1, longliner	TW-80-3005	PBS	1
Chyau Tai NR 11, longliner	TW-80-3006	PBS	1
Chiau Long NR 22, longliner	TW-80-3007	PBS	1
Chiau Long NR 12, longliner	TW-80-3008	PBS	1
Chyau Tai NR 10, longliner	TW-80-3009	PBS	1
Chiao Ying NR 21, longliner	TW-80-3010	PBS	1
Sheng Yu NR 7, longliner	TW-80-3011	PBS	1
Ying Kuo Shiang NR 7, longliner	TW-80-3012	PBS	1
Ying Ruey Shiang NR 3, longliner	TW-80-3013	PBS	1
Ying Yih Shiang NR 22, longliner	TW-80-3014	PBS	1
Ying Yih Shiang, longliner	TW-80-3015	PBS	1
Ruey Fong NR 3, longliner	TW-80-3016	PBS	1
Chiau Loong NR 11, longliner	TW-80-3017	PBS	1
Ruey Tzeng NR 1, longliner	TW-80-3018	PBS	1
Sur Ton NR 1, longliner	TW-80-3019	PBS	1
Sur Ton NR 3, longliner	TW-80-3020	PBS	1
Fong Ta NR 11, longliner	TW-80-3021	PBS	1
Fong Kuo NR 203, longliner	TW-80-3022	PBS	1
Fong Kuo NR 206, longliner	TW-80-3023	PBS	1
Fwu Chuen NR 1, longliner	TW-80-3024	PBS	1
Ta Chuen NR 1, longliner	TW-80-3025	PBS	1
Shun Chuen NR 1, longliner	TW-80-3026	PBS	1
Hai Hou, longliner	TW-80-3027	PBS	1
Yih Lien NR 3, longliner	TW-80-3028	PBS	1
Hsieh Chin Sheng NR 7, longliner	TW-80-3029	PBS	1
Sheh Chin Hin, longliner	TW-80-3030	PBS	1
Hsieh Chin Jung, longliner	TW-80-3031	PBS	1
Chyan Chih Yih, longliner	TW-80-3032	PBS	1
Chyan Chih Cheng, longliner	TW-80-3033	PBS	1
Chin Long Cheng, longliner	TW-80-3034	PBS	1
Li Shin NR 1, longliner	TW-80-3035	PBS	1
NR 1 Hui Ching, longliner	TW-80-3036	PBS	1
Swe Hoang NR 31, longliner	TW-80-3037	PBS	1
Lien Ho NR 1, longliner	TW-80-3038	PBS	1
Yih Shin, longliner	TW-80-3039	PBS	1
Sheh Ying NR 3, longliner	TW-80-3040	PBS	1
Sheh Fu NR 3, longliner	TW-80-3041	PBS	1
Yung Hsing, longliner	TW-80-3042	PBS	1
Hui Fah, longliner	TW-80-3043	PBS	1
Yih Hsing, longliner	TW-80-3044	PBS	1
Horng Hsing, longliner	TW-80-3045	PBS	1
Yu Hsing, longliner	TW-80-3046	PBS	1
Chin Shing NR 1, longliner	TW-80-3047	PBS	1
NR 3 I Ta Cheng, longliner	TW-80-3048	PBS	1
Yung Lo, longliner	TW-80-3049	PBS	1
Yung Ti, longliner	TW-80-3050	PBS	1
Jiin Tah NR 16, longliner	TW-80-3051	PBS	1
Hai I NR 1, longliner	TW-80-3052	PBS	1
Chung Sha NR 1, longliner	TW-80-3053	PBS	1
Chin Gen Food NR 3, longliner	TW-80-3054	PBS	1
Ta Shen NR 1, longliner	TW-80-3055	PBS	1
Kuo Zong NR 1, longliner	TW-80-3056	PBS	1
Shin Yuen Seng NR 11, longliner	TW-80-3057	PBS	1
Kuo Zong NR 12, longliner	TW-80-3058	PBS	1
Kuo Zong NR 3, longliner	TW-80-3059	PBS	1
Kuo Youn NR 72, longliner	TW-80-3060	PBS	1
Yung Cheng FU NR 31, longliner	TW-80-3061	PBS	1
Tong Sheng, longliner	TW-80-3062	PBS	1
Tong Sheng NR 11, longliner	TW-80-3063	PBS	1
Tong Chou NR 7, longliner	TW-80-3064	PBS	1
Tong Hui NR 32, longliner	TW-80-3065	PBS	1
Shin Yuen Seng NR 21, longliner	TW-80-3066	PBS	1
Shin Yuen Seng NR 22, longliner	TW-80-3067	PBS	1
Yung Cheng Yu NR 11, longliner	TW-80-3068	PBS	1
Ho Tai NR 11, longliner	TW-80-3069	PBS	1
Chin Woei NR 61, longliner	TW-80-3070	PBS	1
Min Hong NR 31, longliner	TW-80-3071	PBS	1
Chin Huey NR 22, longliner	TW-80-3072	PBS	1
Chin Huey NR 21, longliner	TW-80-3073	PBS	1
Chin Min Man, longliner	TW-80-3074	PBS	1
NR 3 Chien Chia, longliner	TW-80-3075	PBS	1
NR 11 Kuo Swang, longliner	TW-80-3076	PBS	1
NR 31 Feng HWA, longliner	TW-80-3077	PBS	1
NR 1 Yu Wang, longliner	TW-80-3078	PBS	1
NR 1 Man Seng, longliner	TW-80-3079	PBS	1
Lien Chi Tsai, longliner	TW-80-3080	PBS	1
NR 12 Chien Chung, longliner	TW-80-3081	PBS	1
NR 1 Ho Ying, longliner	TW-80-3082	PBS	1
NR 1 Ho Mei, longliner	TW-80-3083	PBS	1
NR 2 Ho Tai, longliner	TW-80-3084	PBS	1
NR 16 Chyau Shyang, longliner	TW-80-3085	PBS	1
NR 1 Fu Peng, longliner	TW-80-3086	PBS	1
NR 11 Tah Yuan, longliner	TW-80-3087	PBS	1
NR 1 Ho Tai, longliner	TW-80-3088	PBS	1
Tong Mong NR 61, longliner	TW-80-3089	PBS	1

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*Vessel desires to conduct a directed fishery in GOA and BSA, and a combined joint venture and directed fishery in WOC. This joint venture fishery would involve the Polish company "Rybex", and Fishermen's Marketing Association of Eureka, California.

**Vessels desire to participate in the KMIDC/ Fish Processors Association of Vancouver, Washingtón, joint venture.

[FR Doc. 80-27007 Filed 9-3-80; 8:45 am]

BILLING CODE 4710-09-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Import Restraint Level for Certain Cotton Textile Products From the Republic of Singapore

August 29, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing to the level of restraint established for Category 347/348 (men's and boys', women's, girls' and infants' cotton trousers) produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1980, increasing the overall level to 528,675 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).)

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978 as amended, between the Governments of the United States and the Republic of Singapore; provides that specific ceilings may be increased by designated percentages (swing), at the request of the Government of the Republic of Singapore, the level of restraint is being increased to 528,675 dozen for Category 347/348.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the **Federal Register** (44 FR 75440) a letter dated December 14, 1979, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commisioner of Customs, which established ceilings for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level of restraint previously established for cotton textile products in Category 347/348 to the designated amount.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 29, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 14, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1972, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 29, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 347/348, produced or manufactured in Singapore, in excess of the following adjusted level of restraint:

Category	Adjusted 12-mo level of restraint [1]
347/348	528,675 dozen of which not more than 507,997 dozen shall be in Category 347 and not more than 203,032 dozen shall be in Category 348.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-26962 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Alachua County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for a proposed highway project in Alachua County, Florida.

FOR FURTHER INFORMATION CONTACT: J. W. Caldwell, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32301, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an Environmental Impact Statement (EIS) for a proposal to improve 39th Avenue (S.R. 222, S.R. 232) in Alachua County, Florida. The proposed improvement would involve the reconstruction of existing 39th Avenue in the City of Gainesville from the intersection of I-75 east to the entrance to the Gainesville Municipal Airport for a distance of approximately eleven miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four and six lanes; (3) using alternate travel modes. Incorporated into and studied with the built alternative will be design and alignment variations.

Letters describing the proposed action and soliciting comments have already been sent, or will be sent to the appropriate Federal, State, local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public involvement plan has been developed for the subject study. This plan provides for a public participation

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committee consisting of property owners, local leaders, city and county officials. A series of public participation meetings have been held for the proposed improvement. In addition, a public hearing will be held. Public notice will be given of the time and place of the public hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 25, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Fla.

[FR Doc. 80-27014 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Duval County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jacksonville, Duval County, Florida.

FOR FURTHER INFORMATION CONTACT: J. W. Caldwell, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32301, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an Environmental Impact Statement (EIS) for a proposal to replace the Acosta Bridge over the St. Johns River in Duval County, Florida. The proposed improvement would involve the replacement of the existing structure. In addition, the proposed action would include the approach connectors between I-95 to the south and the downtown street system in the vicinity of Bay Street, for a distance of approximately 1.0 mile. Significant elements of the study will consist of the coordination of the Acosta Bridge corridor with the downtown redevelopment and street system and the evaluation of including a proposed Downtown People Mover (DPM) facility as a part of a joint-use river-crossing structure. The proposed improvements are necessary to relieve congestion, improve safety and satisfy the anticipated growth in transportation in the community.

Alternatives under consideration include (1) taking no action; (2) replacement of the existing structure with the Downtown People Mover facility; (3) replacement of the existing structure without the Downtown People Mover facility; (4) construction of a fixed span structure; and (5) construction of a movable span structure.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies; private organizations; and citizens who have previously expressed interest in this proposal. A Public Involvement Plan will be developed which will include a Public Participation Committee made up of property owners, local leaders, city and county officials. It is expected that FDOT personnel will participate in public involvement activities for the DPM study, while Jacksonville Transportation Authority (JTA) personnel will likewise participate in public involvement activities for the Acosta Bridge Study. A series of public information meetings will be held for the proposed improvement. In addition, a public hearing will be conducted. Public notice will be given of the time and place of the public meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting will be held to ensure that all issues of significance are addressed. All appropriate governmental agencies will be invited to attend this meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 25, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Fla.

[FR Doc. 80-27008 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP80-12; Notice 1]

Budd Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Budd Company of Detroit, Michigan has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, *Air Brake Systems*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgement concerning the merits of the petition.

Paragraph S5.2.1.1 of Standard No. 121 requires that "a reservoir shall be provided that is capable, when pressurized to 90 p.s.i. of releasing the vehicle's parking brake at least once and that is unaffected by a loss of air pressure in the service brake system." Budd manufactured in April 1980 a total of 99 container chassis equipped with a brake valve system manufactured by the Berg Manufacturing Company, known as the SERV system which Budd believes "probably" does not comply with S5.2.1.1.

Specifically, Budd comments that S5.2.1.1 represents the state-of-the-art when Standard No. 121 was formulated. It imposed a requirement that air brake vehicles be equipped with emergency and parking brakes which are not affected by loss of the vehicle air supply. The best available solution was the adoption of spring brake chambers in tandem with air chambers, so designed that loss of air pressure to the air chambers resulted in spring energy being applied to the vehicle brakes. However, there was concern that vehicles could become immobilized as a result of air pressure failure. S5.2.1.1 provided the solution, but is silent as to how its stored energy must be applied. Systems currently in use require an outside source of air pressure in the signal (service) line to utilize the reservoir's pressure to release the spring brakes. The SERV system does not have a protected reservoir on the trailer but releases the spring brakes by pressurizing the supply (emergency) line of the trailer. Comments Budd:

> "This is a distinction without a real difference since *both* systems require a source of outside air pressure to release spring brakes with the variation being the particular line which must be pressurized. There is no significant difference in the time required with either system."

Budd also argues that the SERV system may also represent an improvement in providing shorter full emergency stops, because the air-applied brakes offer a greater application force than spring-applied brakes.

Interested persons are invited to submit written data, views, and arguments on the petition of The Budd Company described above. Comments should refer to the Docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W. Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 6, 1980.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 27, 1980.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80–26964 Filed 9–3–80; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP80–13; Notice 1]

Lafer S.A.; Receipt of Petition for Determination of Inconsequential Noncompliance With Glazing Materials Regulations

Lafer S.A. of Sao Paulo Brazil has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, *Glazing Materials,* on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.4 of Standard No. 205 requires that each manufacturer who cuts a section of glazing material for use in a motor vehice shall mark the material to identify it. Lafter's United States representative, Lafer Auto Sales, imported 50 motor vehicle kits in 1979 and 1980 whose "side wing, passenger and vent windows" did not carry the required AS–2 marking and the manufacturer's assigned identification number. Lafer argues that the noncompliance is inconsequential as the glazing, other than the omitted marking, comply with all requirements of Standard No. 205. A certificate of compliance from the glazing manufacturer accompanied the petition.

Interested persons are invited to submit written data, views and arguments on the petition of Lafer Auto Sales, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Ed Jettner and Taylor Vinson respectively.

Comment closing date: October 6, 1980.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 27, 1980.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80–26965 Filed 9–3–80; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 5]

Indiana Lumbermens Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

The underwriting limitation for Indiana Lumbermens Mutual Insurance Company was listed at 45 FR 44506 [July 1, 1980] as $782,00. That underwriting limitation is hereby corrected to $1,069,000.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44506 to reflect this addition.

Questions concerning this correction notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone [202] 634–5010.

Dated: August 29, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80–27071 Filed 9–3–80; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Privacy Act of 1974; Revisions of Several Systems of Records

AGENCY: Department of the Treasury, Internal Revenue Service.

ACTION: Revised systems of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of the Treasury, Internal Revenue Service, gives notice of the effective date of the proposed revisions to Treasury/IRS 44.003—Appeals Division Case Data, and Treasury/IRS 90.016—Reports and Information Retrieval Activity Computer and Microfilm Records, and the elimination of Treasury/IRS 44.002—Appeals Officer Inventory and Unit Time Report System. The proposed revisions to these systems were last published June 13, 1980 in 45 FR 40272. The comment period expired on July 14, 1980. No comments were received and the 60-day OMB advance notice requirement has been meet.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Bruce Conyne, Chief, Budget and Systems Branch, Office of Director of Appeals, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202) 566–6131.

Mr. Allen E. Kibat, Chief, Planning Analysis and Operations Branch, Office of Director of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202) 566–3455.

Dated: August 22, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 80–26943 Filed 9–3–80; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

[Public Debt Series—No. 27–80]

Treasury Notes; Series F–1985; Interest Rate

August 28, 1980.

The Secretary announced on August 27, 1980, that the interest rate on the notes designated Series F–1985, described in Department Circular—

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Public Debt Series—No. 27–80, dated August 20, 1980, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Supplementary Statement: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80–28950 Filed 9–3–80; 8:45 am]

BILLING CODE 4810–40–M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Privacy Act of 1974; Revocation and Transfer of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93–579, 5 U.S.C. 552a, the Presidential Commission on World Hunger published in the **Federal Register** (43 FR 56344) notices of the existence of the following systems of records subject to Privacy Act: PCWH–1, Payroll Records; PCWH–2, General Financial Records; and PCWH–3, General Informal Personnel Files. The Commission terminated operations on August 31, 1980, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records:

PCWH–1

System name: Payroll Records—Presidential Commission on World Hunger: to be retained by the General Services Administration, National Payroll Center, for use in concluding administrative operations of the Commission as part of GSA system of records, Defunct Agency Records, GSA/OAD–36.

PCWH–2

System name: General Financial Records—Presidential Commission on World Hunger: to be retained by the External Services Branch, National Capital Region, for concluding administrative operations of the Commission as part of the GSA system of records, Defunct Agency Records, GSA/OAD–36.

PCWH–3

System name: General information Personnel Files—Presidential Commission on World Hunger: to be destroyed.

Daniel E. Shaughnessy,

Executive Director.

[FR Doc. 80–27096 Filed 9–3–80; 8:45 am]

BILLING CODE 6820–97–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 12, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1642-80 Filed 9-2-80; 11:38 am]

BILLING CODE 6351-01-M

2

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE.

TIME AND DATE: 2:30 p.m., Tuesday, September 9, 1980.

PLACE: Offices of the Board of Governors of the Federal Reserve System, Board Building, C Street entrance between 20th and 21st Streets, N.W. Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Use of premiums, finders fees, and the payment of interest in merchandise by depository institutions. (Proposal previously issued for public comment, Docket No. D-0004)
2. Ceiling rates on interest-bearing transaction accounts. (Proposal previously issued for public comment, Docket No. D-0011)
3. Deposit rate ceilings on 14-29 day time deposits.
4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board of Governors of the Federal Reserve System's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Public Information Officer (202) 452-3204.

Dated: September 2, 1980.

Norman R. V. Bernard,

Executive Secretary of the Committee.

[S-1644-80 Filed 9-2-80; 4:12 pm]

BILLING CODE 6210-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 12:30 p.m. on Thursday, August 28, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The Board met in closed session to consider the following matters:

Application of Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, for consent to establish a branch on the south side of East Bay Drive, approximately 600 feet west of its intersection with Belcher Road, Unincorporated Pinellas County (P.O. Largo), Florida.

Application of Bank of Guam, Agana, Guam, for consent to purchase the assets of and assume the liability to pay deposits made in the Majuro and Truk Offices, located in the United States Trust Territory of the Pacific Islands, and the Saipan Office, plus two limited-service facilities operated in conjunction with the Saipan Office, located in the Commonwealth of the Northern Mariana Islands, of Bank of America National Trust and Savings Association, San Francisco, California, and for consent to establish these offices as branches of Bank of Guam.

Recommendation regarding the proposed election of an officer of First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

In considering the matters in a closed session, the Board determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting pursuant to subsection (c)(4), (c)(6), and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), and (c)(8).

The Board then met in open session to consider the following matters:

Recommendation regarding the submission of periodic reports by First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

Recommendations regarding the determination of Material Subsidiaries of First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania, and waiver of certain reporting requirements.

The Board further determined, by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: August 28, 1980.

Federal Deposit Insurance Corporation.

Alan. J. Kaplan,

Assistant Executive Secretary.

[S-1638-80 Filed 9-2-80 10:35 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Monday, September 8, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for consent to establish a branch:

Scotiabank de Puerto Rico, San Juan (Hato Rey), Puerto Rico, for consent to establish a branch in the Iturregui Plaza, Km. 5.2 65th Infantry Road, Rio Piedras, Puerto Rico.

Application for consent to merge and establish branches:

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Branch Banking and Trust Company, Wilson, North Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with Edgecombe Bank & Trust Company, Tarboro, North Carolina, and for consent to establish the six offices of Edgecombe Bank & Trust Company as branches of the resultant bank.

Request for exemption pursuant to section 348.4(b)(5) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Houston First American Savings Association, Houston, Texas.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:

Names of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,450-L—Guaranty Bank & Trust Company, Chicago, Illinois.

Case No. 44,456-L—Franklin National Bank, New York, New York.

Memorandum and Resolution re: Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 29, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1639-80 Filed 9-2-80; 10:36 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Monday, September 8, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Memorandum and Resolution re: Conforming Amendments to Part 335 of the Corporation's rules and regulations (Required by Section 12 (i) of the Securities Exchange Act of 1934) and simplification of regulations.

Memorandum and Resolution re: Policy Statement on Legal Fees and Other Organizational Expenses.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will held in Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 29, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1640-80 Filed 9-2-80; 10:37 am]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION:

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, September 3, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

FEDERAL REGISTER NO. 1615.

CHANGE IN MEETING: The following matter has been added to this closed session:

Audit matter.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 4, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

FEDERAL REGISTER NO. 1615.

CHANGE IN MEETING: The following matter has been added to this open session:

Interim audit report—International Ladies Garment Union.

DATE AND TIME: Tuesday, September 9, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Litigation. Audit and Compliance Thresholds. Audits.

DATE AND TIME: Wednesday, September 10, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on September 9, 1980.

DATE AND TIME: Thursday, September 11, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be opened to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.

Correction and approval of minutes.

Certifications.

Advisory opinions: Draft AO 1980-92—William McNally, President, Voter Registration Program; Draft AO 1980-97—T. Timothy Ryan, Jr., Presidential Transition Trust.

Contributions from unregistered committees.

Computer produced schedules of itemized receipts and disbursements.

1980 election and related matters.

Appropriations and budget, Budget Execution Report.

Pending legislation.

Classification actions.

Routine adminsitrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1647-80 Filed 9-2-80; 3:59 pm]

BILLING CODE 6715-01-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, Issue #171, Page 55296, September 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 4, 1980.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Marshall, (202-377-6677).

CHANGES IN THE MEETING:

The following item has been withdrawn from the agenda for the open meeting. It will now be considered at the closed meeting immediately following it.

Permission to Organize a New Federal Association—Henry E. Fultz, *et al.*, Bakersfield, California.

No. 387, September 2, 1980.

[S-1645-80 Filed 9-2-80; 3:29 pm]

BILLING CODE 6720-01-M

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 28, 1980, 45 FR 57646.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: September 3, 1980, 9 a.m.

CHANGE IN THE MEETING: Addition of the following item to the open session:

5. Docket No. 69-57—Agreement No. T-2336—New York Shipping Association Cooperative Working Arrangement—Reopening of Proceeding.

[S-1641-80 Filed 9-2-80; 10:39 am]

BILLING CODE 5730-01-M

9

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, September 8, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 29, 1980.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-1643 Filed 9-2-80; 1:34 pm]

BILLING CODE 6210-01-M

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[F.C.S.C. Meeting Notice No. 8-80]

FOREIGN CLAIMS SETTLEMENT COMMISSION

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified as follows:

Date and Time

Wed., Sept. 3, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 10, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 17, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 24, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Oral hearings on objections to decisions issued under the German Democratic Republic Claims Program.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-3286—Harry H. Livingston.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1360—Waldtraut S. Lavroff.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1483—Axel S. Golde.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1527—Arnold Golde.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1577—Hanna G. Silberberg.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1304—E. Margarete Rabe.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1310—Kurt Sachs.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-1667—Ilse Stenos.

Tue., Sept. 16, 1980 at 10:00 a.m.—G-2095—Eric Sachs.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-2682—Louise Gans, Adele Gruner.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-1764—Emmy Lenore Podietz.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-2571—Dr. Robert H. Cane.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-3838—Ruth Colton.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-3876—Morris Gibbs.

Tue., Sept. 16, 1980 at 2:00 p.m.—G-1576—Willy Sundheimer.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-0810—Reni Seidenwurm.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-1653—Gerhard H. Banse.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-1901, G-2576—Jacob Berger.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-2576).

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-2402—Martina E. Greenwood.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G-1990—Antonina Wenzkowsky-Venckauskiene Luksis.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G-1287—Werner C. Von Clemm.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G-1058—J. Walter Loeb.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G-2147—Bernard Loeb.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G-0476—Edith R. Pinkuss.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G-1139—Hildegard Cooper.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street NW., Washington, D.C. Requests for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579 Telephone (202) 653-6155.

Dated at Washington, D.C. on August 26, 1980.

Francis T. Masterson,
Executive Director.

[S-1648-80 Filed 9-2-80; 4:00 pm]

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [To be published].

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday, August 26, 1980.

CHANGES IN THE MEETING: Deletion:

The following item will not be considered at an open meeting scheduled for Thursday, September 4, 1980, at 10 a.m.:

Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the

Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272–2091.

August 29, 1980.

[S–1637–80 Filed 9–2–80; 10:35 am]

BILLING CODE 8010–01–M

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SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 8, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, September 10, 1980, at 10:00 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans and Friedman determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 10, 1980, at 10:00 a.m., will be:

Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information please contact Harlan W. Penn at (202) 272–2454.

The subject matter of the closed meeting scheduled for Wednesday, September 10, 1980, immediately following the 10 a.m. open meeting, will be:

Formal orders of investigation.
Litigation matter.
Settlement of administrative proceeding of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

September 2, 1980.

[S–1646–80 Filed 9–2–80; 3:50 pm]

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federal register

Thursday
September 4, 1980

Part II

Department of Energy

Economic Regulatory Administration

Voluntary Guideline for the Cost of Service Standard Under the Public Utility Regulatory Policies Act of 1978; Public Hearing

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-80-29]

Voluntary Guideline for the Cost of Service Standard Under the Public Utility Regulatory Policies Act of 1978 Proposed Guideline and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed voluntary guideline.

SUMMARY: Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA or the Act) establishes certain Federal purposes and policy standards for the regulation of electric utilities. It imposes a set of obligations upon State regulatory authorities and certain nonregulated electric utilities relative to their consideration of the Federal standards established by sections 111 and 113.

Under section 131 of PURPA, the Secretary of Energy is authorized to prescribe voluntary guidelines respecting the Federal standards. The Appendix of this Notice is the proposed voluntary guideline respecting the cost of service standard established by section 111 of PURPA. Written comments will be received and two public hearings will be held with respect to the proposed guideline.

DATES: Comments by 4:30 p.m., November 21, 1980. Requests to speak by November 5, 1980, 4:30 p.m. Public hearings dates: San Francisco, California hearing—November 13, 1980, 9:30 a.m.; Washington, D.C. hearing—November 18, 1980, 9:30 a.m.

ADDRESSES: All comments addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-29, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

Requests to speak addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-29, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

Hearing Locations: San Francisco, California hearing: Crocker/Hopkins Room, Ramada Inn/Fisherman's Wharf, 590 Bay Street, San Francisco, California 94133.

Washington, D.C. hearing: Department of Energy, 2000 M Street, N.W., Room 2105, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 4016D, Washington, D.C. 20461, telephone (202) 653-3913.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, telephone (202) 653-4055.

Mary Ann Masterson, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 1E-258, Washington, D.C. 20585, telephone (202) 252-9516.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) as one part of the National Energy Act.

PURPA requires State regulatory authorities and certain nonregulated electric utilities to determine whether implementation of the ratemaking standards established by section 111, and adoption of the policy standards established by section 113, (except with respect to 113(b)(4)) would be appropriate to carry out the purposes set forth in section 101. The three purposes established by section 101 of PURPA are to encourage:

(a) Conservation of energy supplied by electric utilities;

(b) The optimization of the efficiency of use of facilities and resources by electric utilities; and

(c) Equitable rates to electric consumers.

One of the ratemaking standards established by section 111 directly addresses the fundamental concept of cost of service. Section 111(d)(1) establishes, as a Federal standard, that rates charged to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing such service. Further definition and elaboration of this standard is provided by section 115(a) which establishes several special rules for considering the cost of service standard. In considering this standard, the costs of service must be determined on the basis of methods which permit (to the maximum extent practicable) identification of differences in cost-incurrences attributable to time of use and to differences in the customer, demand and energy components of cost. In addition, State regulatory authorities and covered nonregulated electric utilities, in prescribing such methods, must take into account the cost consequences of providing additional kilowatt-hours of energy and adding capacity to meet peak kilowatt demand.

Cost of service is also an integral part of the remaining ratemaking standards established in section 111(d). Sections 111(d)(2)-(6) set forth standards for declining block, time of day, seasonal and interruptible electric rates, and load management techniques; four of these Federal standards incorporate the underlying requirement that rates track the costs of service of the utility, while the load management standard specifies a cost-effectiveness criterion.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines respecting consideration of the PURPA standards. These standards apply to thoses electric utilities whose annual retail sales exceed 500 million kilowatt-hours in any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

II. Guideline on the PURPA Cost of Service Standard

The purpose of this voluntary guideline is to assist State regulatory authorities and covered nonregulated electric utilities in their consideration of the cost of service standard set forth in section 111(d)(1) of PUPRPA, as well as in their consideration of the remaining standards in section 111(d), each of which is tied to the cost of service.

The guideline addresses five major issues that are germane to consideration of the cost of service standard and the decision to implement that standard in terms of the purposes of Title I of the Act. These issues are: (a) Marginal vs. embedded costs; (b) estimation of marginal cost; (c) adjustments to marginal cost-based rates; (d) alternative marginal costing methodologies; and (e) other issues.

The guidance set forth herein is advisory in nature and is not legally binding. It constitutes DOE's opinion on the issues that should be addressed when considering whether it is appropriate to implement the cost of service standard to carry out the purposes of Title I of the Act. the guideline complements and is fully consistent with the other activities undertaken by DOE pursuant to PURPA.

III. Cost of Service and the Purposes of PURPA

The three PURPA Title I purposes provide a necessary set of national policy criteria to guide the decisions made by a State regulatory authority or covered nonregulated electric utility in considering the section 111 and section 113 standards. In this regard, PURPA supplements the legal authority and responsibility of State regulatory authorities and covered nonregulated electric utilities in those jurisdictions where existing State law provides insufficient authority to implement the PURPA standards. The three purposes also provide suplemental criteria for judicial review, in accordance with section 123 of PURPA, of State regulatory decisions regarding the Federal standards.

PURPA requires State regulatory authorities and covered nonregulated electric utilities to consider and determine whether the implementation of the cost of service standard established by section 111 of PURPA is appropriate to carry out the three purposes of Title I—end-use conservation, utility efficiency and equitable rates. In constructing the guideline proposed in the Appendix, DOE has adhered to those working definitions of the three purposes previously used in DOE intervention testimony. Based on the Act, itself, and its legislative history, these definitions are:

A. End-Use Conservation

The conservation purpose focuses on the end-use of electricity. End-use conservation does not necessarily mean minimizing the total use of electric energy or any other form of energy. Rather it is aimed at eliminating "wasteful" consumption or that consumption unjustified because it would involve a commitment of scarce resources valued in excess of the value to end-users of such consumption. Conservation is encouraged when end-users are faced with prices that reflect the actual costs of the resources used in producing electricity. Electricity would then be consumed only to the extent that the value of additional electricity consumption to consumers is equal to or exceeds the cost to society of producing the additional electricity.

This concept of conservation of electricity bears an obviously important relationship to the cost of service and other ratemaking standards set forth under Title I of PUPRA, since all six ratemaking standards are based on the concept the rates should reflect the cost consequences of providing additional kilowatt-hours of electric energy and kilowatts of electric demand. Such rate designs would encourage the societally appropriate degree of consumption and, by implication, conservation.

B. Utility Efficiency

The utility efficiency purpose of PURPA is directed at minimizing the total resource cost associated with the production of electricity in the quantities and at times that consumers wish to purchase it at prices which discourage wasteful (i.e., non-economic) use.

The utility efficiency purpose relates to the conservation of the resources used in the generation, transmission and distribution of electric power, rather than to efficient use of electricity itself, although optimal electricity supply presupposes economically efficient end-use. Utility efficiency specifically includes conservation of primary energy sources, especially scarce imported fossil fuels, through the substitution of more plentiful and domestically available energy resources (e.g., coal and nuclear). In furtherance of these objectives, the concept of utility efficiency would embrace development of alternative generating technologies, consistent with the economic merits of such technologies.

C. Equitable Rates

The equitable rates purpose deals with equity emong consumers rather than with the more traditional regulatory concern of determining equity between consumers and suppliers of electricity. As a general proposition, equity among electricity consumers is best achieved when rates for individual customers and classes of customers are based on the cost consequences of their individual decisions to consume or conserve additional amounts of electricity. Such cost-based rates would avoid wasteful subsidies between users.

Both PURPA and the Conference Report, however, contemplate exceptions to the principle that equitable rates should be based on the cost of service. These exceptions would tend to protect customers from higher rates. Such exceptions may result, however, in some degree of wasteful usage, and should be pursued only when undue economic hardships would otherwise result.

Within the context of equity, finally, it should be stressed that the use of marginal costs in designing electric rates is not intended to raise or lower the rates for any particular class(es) of customers. To the contrary, the goal is to ensure that any given customer is charged a rate reflective of the economic consequences of consumption decisions.

IV. The Appropriateness of Marginal Costs

In an economy where resources are scarce, consumers are best served, i.e., consumer satisfaction is maximized, when the resources needed to produce competing goods and services are allocated among them in a manner that is consistent with the relative value to consumers of the competing products. Thus, additional scarce resources should be used to produce additional units of any product only if consumers are willing to pay a price for those additional units that is at least equal to the value of the resources needed to produce it. If consumers are not willing to pay such a price, the scarce resources should be used to produce additional units of some alternative product (for which consumers are willing to pay a price equal to or greater than the value of the resources used in production).

In a market economy such as ours, the price system plays a major role in the allocation of resources among competing uses and, consequently, in the determination of what and how much is produced and how goods and services are distributed among consumers. Consumers reveal their preferences for goods through the prices they are willing to pay; producers reveal their costs of producing these goods through the prices at which they are willing to sell these goods. To ensure that prices achieve the desired result of steering scarce resources into the production of goods at levels which maximize consumers' satisfaction in the consumption of those goods, it is important that prices accurately reflect the value of scarce resources used in the good's production. This happens when a consumer is faced with prices which reflect marginal cost.

In the case of electricity prices, a competitive market would reflect the costs of providing additional kilowatt-hour usage and kilowatt demand and would permit consumers to make sensible decisions about whether to consume more or less electricity at any given time. Rational consumption decisions made when prices reflect the marginal cost of electricity would affect the use of alternative fuels, including renewable resources, and substitution of conservation measures for electricity consumption.

A competitive market does not exist, however, in the electric utility industry. Instead, electric rates are set by public regulators rather than by consumer and producer decisions in a competitive marketplace. In the past, the focus of public rate regulation was on establishing the revenue requirement of a utility—the general level of revenues necessary for a utility to cover its fixed and operating costs and to earn a "fair" rate of return on its invested capital. Because the primary objective of rate design was to set rates which generated the required revenue, there was little concern about ensuring that consumers understand the cost consequences of their decisions to consume additional

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amounts of electricity. Section 115(a) of PURPA, however, stipulates that State regulatory authorities and covered nonregulated electric utilities shall now take into account the cost consequences of additional kilowatt-hour usage and peak kilowatt demand in considering the cost of service.

Electric utility rates which reflect marginal costs best confront consumers with the cost consequences of their usage decisions. Faced with such price signals, electric consumers will tend to use the amount of electric service that is justified by its resource costs and such consumption behavior will, in turn, serve to carry out the three purposes of Title I of PURPA. Marginal cost-based pricing will encourage the proper amount of end-use conservation in the sense that no electricity will be consumed when its value to the consumer is less than the value of the resources required to produce it. Utility efficiency will also be furthered by basing electricity prices on the marginal costs of service, because such pricing will result in the least cost production of electricity, in the quantities and at the times that consumers decide to purchase it when faced with the consequences of their decisions. Finally, the equitable rates purpose is also furthered because marginal cost-based pricing would result in equal treatment for all customers who impose the same costs on the utility system.

V. The Proposed Guideline

This guideline addresses the five general issues which DOE believes are central to consideration of the cost of service standard and the decision to implement that standard in terms of the purposes of Title I of PURPA:

(a) Marginal costs vs. embedded costs;
(b) Estimation of marginal costs;
(c) Adjustments to marginal costs;
(d) Alternative marginal costing methodologies; and
(e) Other issues.

Following is a summary of each of these issues as proposed in the guideline:

A. Marginal Costs vs. Embedded Costs

Section 115(a) of PURPA, which establishes special rules for the section 111(d)(1) cost of service standard, requires that the approach to determining the cost of service account specifically for the functional breakdown of total costs and the time variation in these costs. Furthermore, in prescribing such approaches, State regulatory authorities and covered nonregulated electric utilities must take into account the increase in total costs that results from providing additional kilowatt-hours of energy and additional capacity to meet peak demand. It is DOE's conclusion that section 115(a) requires, in effect, that marginal costs be taken into account in the course of considering the cost of service standard.

B. Estimation of Marginal Costs

The measurement of the costs associated with providing another kilowatt-hour and another kilowatt (marginal cost) is a function of the specific characteristics of the particular utility system. Among the most significant characteristics that must be considered are the fuel mix and level of capacity in relation to the load. The guideline provides guidance concerning the appropriate estimation of marginal costs for four general utility cases which are representative of electric utility systems. The guideline does not, however, detail any preferred method(s) for calculating and applying marginal costs; public comment on this point is specifically solicited.

C. Adjustments to Marginal Costs

When designing rate structures on the basis of marginal costs, it may be necessary to make certain adjustments to marginal costs. First, adjustments will often be necessary to meet the total revenue requirement determined on the basis of embedded costs. If the amount of excess or deficient revenue is small, the rate adjustment to eliminate these excesses or deficiencies would result in small changes and would have insignificant effects on utility customers' consumption decisions. If the amount of excess or deficient revenue is large, rate adjustments should be made in a way which is consistent with the end-use conservation, utility efficiency and equitable rates purposes of PURPA (and with applicable State laws) and which is practical. With regard to adjustments to account for the existence of non-optimal pricing in significantly related markets, especially gas and oil, DOE does not believe that the existence of a substantial problem has been demonstrated. Lastly, environmental and other social costs associated with the production of electric power at the margin should be included in calculating the marginal cost of electricity to the extent they can be quantified. However, a significant proportion of those external or social costs have already been internalized through regulation.

D. Marginal Costing Methods

The selection of a marginal costing method and its specific application should be baded on a careful analysis of the characteristics of the electric utility and its customers, and the characteristics of each marginal costing methodology. DOE proposes several criteria to be considered by regulatory authorities in the process of selecting a method.

E. Other Issues

The adoption of marginal cost pricing does not necessarily lead to the implementation of any particular rate structure. Selection of any of the section 111 rate structures to further the three purposes of PURPA should depend on the electric utility's marginal costs, the costs of implementation, and the probable consumption responses and resource savings.

Customer classes should be defined in a way which minimizes the differences among customers within a class and maximizes the differences among classes in terms of the following service characteristics: Voltage delivery levels, geographic location, consumption by time of use, the relative diversity of demand vis-a-vis the time of system peak and total usage.

Adjustments between rates and marginal costs should be permitted only to meet the revenue requirement and to avoid exceptional economic hardships. Any such adjustments should be done in a way which does minimal damage to the benefits to be realized from rate structures based on marginal costs.

VI. Written Comments and Public Hearing Procedures

A. Written Comments

The public is invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views or arguments with respect to the proposal set forth in the Appendix to this Notice. Comments should be submitted by 4:30 p.m., November 21, 1980, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside of the envelope and on documents submitted with the designation: "Proposed Voluntary Guideline on the PURPA Cost of Service Standard, Docket No. ERA–R–80–29." Five copies should be submitted. All comments received will be available for public inspeciton in the DOE Reading Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 10005.11, any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy and 15 copies from which information claimed to be confidential has been deleted.In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

(1) *Procedures for Request to Make Oral Presentation.* The times and places for the hearings are indicated on the "DATES" and ADDRESSES" sections of this Notice. Any person who has an interest in this proposed guideline or represents a person, group or class of persons that has an interest, may make a written request for an opportunity to speak at the public hearing. Requests to speak must be sent to the address shown in the "ADDRESSES" section and be received by November 5, 1980. The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified on or before November 10, 1980 for the Washington, D.C. and San Francisco, California hearings. Speakers should submit 100 copies of their hearing testimony for distribution at the Washington, D.C. hearing by 4:30 p.m., on November 10, 1980, to the Office of Public Hearings, Management, U.S. Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, and bring 100 copies of their hearing testimony to the San Francisco, California hearing at 8:30 a.m. on November 13, 1980.

(2) *Conduct of the Hearing.* ERA reserves the right to schedule particpants' presentations and to establish the procedures governing the conduct of the hearing. ERA may limit the length of each presentation based on the number of persons requesting to be heard. ERA encourages groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the group.

ERA will designate an official to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if time permits, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked at the hearing should be submitted in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitation permit it to be presented for answer. The question will be asked of the witness by the presiding officer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

ERA will have a transcript made of the hearings and will retain the entire record of the hearings, including the transcrpit. The record will be available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcript may be purchased from the reporter.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C., on August 27, 1980.

Hazel R. Rollins,

Administrator, Economic regulatory Administration.

Appendix—PURPA Voluntary Guideline Number 4: Cost of Service

A. Introduction

This voluntary guideline addresses consideration of the cost of service standard established by section 111 of the Public Utility Regulatory Policies Act of 1978 (PURPA or the Act). It sets forth the issues that the Department of Energy (DOE) considers to be of major importance in addressing the cost of service standard and is intended to assist State regulatory authorities and covered nonregulated electirc utilities in meeting their legal obligations under PURPA Title I in a consistent and rational manner. This guideline is voluntary and does not in any way modify or condition existing State regulatory authority and nonregulated electric utility practices or applicable State laws.

B. Coverage of the Guideline

This guideline covers the determination of the cost of providing electirc service as that cost of service relates to consideration of the standard established by section 111(d)(1) of PURPA. The voluntary guideline does not in any way modify or condition the rules which have been promulgated by the Federal Energy Regulatory Commission (FERC) under section 133 of PURPA, which require periodic reporting of marginal and embedded cost information, or those which have been promulgated by the FERC under section 210 of PURPA, which require electirc utilities to buy power from small power producers and cogenerators at a rate equal to the utility's avoided cost. This guideline does not apply in situations involving either the sale of electric energy to qualifying cogenerators and small power producers or the purchase of electric energy from such facilities by covered electric utilities, if such sales and purchases are covered by section 210 of PURPA and rules promulgated by the FERC.

C. Definitions

As provided in this guideline, except as otherwise specifically provided—

"Class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

"Electric consumer" means any person, State agency or Federal agency, to which electirc energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency which sells electric energy.

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the Unites States Code).

"Load management technique" means any technique (other than a time of day or seasonal rate) to reduce the maxium kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, organization or entity.

"Rate" means (a) any price, rate, charge or classification made, demanded, observed or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation or practice respecting any such rate, charge or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve or disapprove rates.

"Rate schedule" means the designation of the rates which an electric utility charges for electric energy.

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"Secretary" means the Secretary of Energy.

"State" means a State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

D. Organization and Content

The guideline is organized around five general issues that DOE considers relevant in the consideration of the cost of service standard and the proper use of the costs of service in establishing electric utility rates that carry out the purposes of Title I of PURPA:

1. marginal costs vs. embedded costs;
2. Estimation of marginal costs;
3. Adjustments to marginal costs;
4. Alternative marginal costing methodologies; and
5. Other issues.

E. Marginal Costs vs. Embedded Costs

Section 111(d)(1) of PURPA establishes as Federal standard that "rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the cost of providing electric service to such class * * *." The five other ratemaking standards established in section 111(d) require that the specific rate structures in question (i.e., declining block rates, time of day rates, seasonal rates, interruptible rates) and load management techniques be designed to reflect the cost of service.

Section 115(a) of PURPA establishes special rules for the cost of service standard set forth in section 111(d)(1) of the Act. Specifically, section 115(a) requires that, to the maximum extent practicable, methods used to determine the cost of providing electric service shall permit:

(1) Identification of differences in cost-incurrence for each class of electric consumers attributable to daily and seasonal time of use of service; and

(2) Indentification of differences in cost-incurrence attributable to differences in customer, demand and energy components of cost; Further, in prescribing such methods State regulatory authorities and covered nonregulated electric utilities shall take into account:

(3) The extent to which total costs to an electric utility are likely to change if additional capacity is added to meet peak demand relative to base demand; and

(4) The extent to which total costs to an electric utililty are likely to change if additional kilowatt-hours of electric energy are delivered to electric consumers.

Taken as an integrated set, these four factors require the use of a costing method capable of identifying marginal costs by time of use, basic cost classification, and customer class. State regulatory authorities and covered noregulated electric utilities, however, may select their preferred marginal cost method from among several practical methods, including those identified by the Electric Utililty Rate Design Study and other such studies.

1. *Marginal costs.* In general, marginal cost is the additional cost incurred (or the cost saved) if one more (or one less) kilowatt or kilowatt-hour of electricity is produced. In other words, marginal costs reflect the change in total costs occasioned by a change in consumption.

The Glossary: *Electric Utililty Ratemaking and Load Management Terms,* prepared for the Electric Utility Rate Design Study by the Electric Power Research Institute, includes the following definition: "Marginal cost: The change in total costs associated with a unit change in quantity supplied (i.e., demand or energy)."

This fundamental characteristic does not apply to embedded costs. The costs a utility incurs to respond to changes in customer usage are not measured by either the average accounting costs for the fuels it purchases or the average accounting costs for its fixed facilities (generating plant, transmission system, distribution system). The actual costs a utility incurs are measured by the price or prices it must pay for additional fuel, the expenditures it must make for new fixed facililties, and any other changes in its total costs of service.

Accordingly, rates based on marginal costs, but not rates based on average accounting or embedded costs, indicate to users the cost consequences of changes in their consumption. Because of this quality, marginal cost-based rates further the end-use conservation, utility efficiency, and equitable rates purposes set forth in section 101 of PURPA.

Moreover, only marginal cost accounts for all four of the cost characteristics specified in section 115 (a) of PURPA. As noted earlier, the concept of marginal costs is entirely consistent with the requirements of sections 115(a)(2) (A) and (B). In addition, it is consistent with the three basic cost classifications of electric service (customer, demand and energy) specified in section 115(a)(2). Marginal costing approaches attribute costs to the different characteristics of service (such as demand, energy and voltage levels) used by different customers. Each customer and customer class is then charged for its use of these different characteristics of electric utility service in accord with the costs of these characteristics. Cost responsibility is assigned to each customer class on the basis of its use of electric utility services and in accord with the cost to the utility of providing more or less of each of these services.

Finally, section 115(a) of PURPA requires identification of the differences in cost incurrence by daily and seasonal time of use.

Most of the time variation in the cost of providing electric service occurs in the provision of the bulk power supply—both capacity and energy—and this variation is directly related to the pattern of loads that must be met by the provision of the bulk power supply. Some time variation is costs also results from the provision of subtransmission and distribution services, though this contribution is relatively minor when compared to the time-varying costs of bulk power supply. Customer-related costs, i.e., the costs of connecting customers to the electrical system, have no time variation.

Marginal cost, by its very definition, will vary by season and by time of day, depending on the load that must be met at each point in time. In the case of bulk power supply, for example, the short-run marginal cost is the cost of meeting the last kilowatt of load in each hour by running the least efficient generating unit needed to provide that last kilowatt. Because the system load varies from hour to hour, and because the operating costs of the various generating units may also vary significantly, the short-run marginal cost of providing energy will vary hour by hour and so by time of day and by season. When growth in peak demand creates the need for additional generating and associated bulk power transmission capacity, while maintaining a given level of system reliability, the marginal cost of the needed capacity is the minimum capital cost required to meet that increment of load during the peak period.

2. *Embedded (average) costs.* Embedded costs do not meet three of the four PURPA section 115(a) requirements for considering the cost of service

standard. Specifically, embedded costs, by definition, do not take into account either the change in total costs which results from providing additional capacity to meet peak demand and/or additional kilowatt-hours of energy or the time variation in these costs. Embedded costs do not adequately capture the change in total costs associated with the provision of additional service by time of day or by season.

In addition, while the embedded cost method does permit the total costs of service to be allocated to the major functional components of costs and these functional components to be allocated to the different classes of customers, these costs are based entirely on past decisions rather than on the cost consequences of current decisions to consume additional units of service.

3. *Electric utility cost structure.* This section describes the major characteristics of the production and sale of electric power which affect the costs of the major functional components of electric utility service. These characteristics and their effect on costs must be reflected in the methods selected by State regulatory authorities and covered nonregulated electric utilities in accordance with section 115(a). Electric utility costs can be separated into three major categories, corresponding to the three major components of electric service: (1) Bulk power supply costs; (2) the costs of subtransmission and distribution, exclusive of connection costs; and (3) the costs of connecting customers to the system and of maintaining those connections.

Electric utility costs are fundamentally shaped by two characteristics of the production and sale of electric power. First, electric utilities are obligated to meet maximum loads (except during emergency outages) whenever they occur. Second, as a general proposition, power cannot conveniently be stored. These two factors require that the utility maintain sufficient generation, transmission and distribution capacity to serve the maximum coincident loads placed on each of these three parts of the electrical system.

This requirement, in itself, would pose no special supply problems if loads were relatively constant across all hours of the year. Typically, however, they are not. There is usually a wide range between the maximum and minimum hourly loads imposed upon an electrical system over any given day, month or year. This is largely because loads tend to vary with such environmental conditions as temperature, weather and periods of daylight—all of which vary significantly over the course of a day or a year.

Electric utilities respond to these three characteristics—the obligation to meet maximum demands whenever they occur; the inability to conveniently store electric power; and the wide variation in electric loads—by using different types of capacity for different periods of time. Their use of different types of capacity is directed toward minimizing the total costs of meeting any given system load while maintaining system reliability. As a general proposition, it is most economical to meet loads of short duration by installing generating capacity that will have the lowest possible capital costs. On the other hand, it is most cost-effective to meet loads of relatively long duration by installing generating capacity with the lowest possible running costs.

The marginal costs of bulk power supply depend upon the utility's pattern of loads in three important respects. First, the need to maintin reliability during peak demand periods usually determines the total amount of generating capacity that must be installed, and growth in peak demand is the usual cause for capacity additions.[1] Second, an electric utility must consider the entire pattern of loads, and not merely peak demands, in deciding what mix of generating plants is most appropriate. Finally, the way in which existing generation capacity is dispatched to minimize total costs depends directly on the pattern of loads that must be served, and the resulting dispatch procedure determines the running costs of the utility.

Transmission-related costs (both capital and operation and maintenance costs) as traditionally defined should properly be broken into two categories—bulk power supply transmission and subtransmission. Bulk power supply transmission costs are incurred from central station baseload generating facilities to load center. Subtransmission costs are incurred in the process of moving electric power at much lower voltages from major substations to the distribution system. The factors that are responsible for the incurrence of generation costs (peak demand, pattern of loads and cost-minimization opportunities) are also responsible for the incurrence of bulk power transmission costs.

Subtransmission and distrubution costs (both capital and operation and maintenance costs) are incurred in the process of delivering bulk power supplies to customers at usable voltage levels. There are three aspects of these costs that directly affect the magnitude of subtransmission and distribution costs.

(a) Losses occur in the process of transforming, transmitting and distributing electric power, and the magnitude (and so the costs) of these losses is directly related to the number of kilowatt-hours delivered at each voltage delivery level;

(b) The cost of connecting any given customer to the distribution and transmission network are independent of the amount of electricity consumed by that customer. The total of these costs is related directly to the number, sizes, and voltage levels of customers connected to the system and not to their kilowatt-hour usage or kilowatt demand; and

(c) Certain operating expenses, such as customer accounts, expenses and customer service and information expenses, are directly related to the number and type of customers that take service from the utility.

F. Estimation of Marginal Costs

In any market, the price that leads to the efficient use of resources is a marginal cost price. This is true whether or not the market is competitive. In a competitive unregulated market, market forces themselves act to ensure pricing at marginal cost levels. If prices were above marginal costs, producers would be attracted by the profits obtained from additional sales and would expand their production of the good or service. Production would be expanded until the price consumers are willing to pay for that good or service falls to the level equivalent with marginal costs. Similarly, the price of a good or service could not remain below the marginal cost of production indefinitely. Producers would suffer losses on every sale made at a price which was lower than marginal costs and would contract their production until the price consumers were willing to pay for that good or service rose and became equal to marginal costs.

In a regulated industry, however, a major goal of regulation should be to ensure that, to the maximum extent practicable, the regulated prices reflect marginal costs. In determining the

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[1] Two exceptions to this general rule must be noted. For some utilities, "excess capacity" suitable for peaking purposes will be available during the peak period for the foreseeable future, and capacity additions may be attributable solely to the need to serve, the total kilowatt-hour energy requirement at the least cost. For other utilities, capacity additions may be highly unlikely in the foreseeable future. Both of these situations imply that capacity costs are not relevant on the margin during any rating period and that there should be no capacity charges in the associated rates, because capacity additions are not attributable to kilowatt demand.

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marginal costs for an electric utility system, it is often useful to employ the two closely related concepts of "avoided" costs and "opportunity" costs. Marginal costs are the costs incurred or the costs saved if one more unit of a good or service is produced. Avoided costs, as used by the FERC in its cogeneration rulemaking for section 210 of PURPA (45 FR 12214, February 25, 1980), are the incremental costs to an electric utility of the electric energy or capacity (or both) which, but for the purchase from a cogenerator, the utility would need to obtain from traditional sources. Thus, avoided costs are marginal costs; they are the costs a utility saves or does not incur because it does not itself produce an additional kilowatt or kilowatt-hour.

The opportunity cost associated with any good or service is the market value of the alternatives which are foregone because that good or service is produced or made available in a certain manner. For example, the opportunity cost of a kilowatt-hour might be measured by the market value of the fuel used in generating it. The fuel used to generate electricity can be used for other purposes, such as heating homes. The opportunity cost associated with using it to generate electricity is defined by the inability to use it for these other purposes. Because the value of the fuel in alternative uses is reflected in the price consumer are willing to pay for it (and thus in its market price), the market price of the fuel reflects its opportunity cost.

While a kilowatt-hour of electric energy cannot be created without burning fuel, a kilowatt of capacity can in some cases be made available without any opportunity cost. If an electric utility system has substantial excess capacity at any point in time, the opportunity cost of a kilowatt at that time is zero. Nothing is sacrificed, no resources are used, no alternatives are foregone if kilowatt is made available.

Each of the three concepts of cost suggests that, in the electric utility industry, the measurement of the costs associated with providing both another kilowatt-hour and another kilowatt is affected by the mix and level of capacity in relation to load. The following four general capacity/load cases may be distinguished:

(1) Systems in which capacity is to be added for reliability purposes.

(2) Systems in which capacity is to be added to lower the costs of meeting load.

(3) Systems in which capacity is to be added to provide additional energy.

(4) Systems in which no capacity is to be added. These are discussed in turn.

1. *Capacity additions to improve reliability.* For systems in which additional capacity must be built only for reliability purposes, marginal energy costs may be measured by the operating costs of the most expensive generating unit used in any time period—that is, the marginal running costs, sometimes referred to as "system lambda."

Marginal capacity costs may be measured by calculating the capital costs, net of any associated fuel savings, of the generating unit (peaker, cycling unit or baseload plant) which will meet the increment in demand in the least cost manner. For example, if a combustion turbine will be built to meet the need for additional capacity, the marginal capacity costs is that of this unit. However, in many cases the least cost alternative for adding capacity is through construction of a baseload or cycling unit, because the higher capital costs of such a unit are more than offset by its operating costs. The savings in fuel costs should therefore be credited against the fixed cost of the new unit, i.e., marginal capacity cost will be measured by the capital cost (annual carrying charges) of the plant less the associated fuel savings generated by using the new plant.

2. *Capacity additions to lower total cost.* In the second situation in which additional capacity is built to reduce the total cost of meeting a load, i.e., new additions replace existing capacity, marginal energy costs are measured by the operating costs of the most expensive unit used in any rating period. Marginal capacity costs in this situation are zero because the utility has excess reserves.

The utility does not need to build new capacity to meet an increment in demand. In other words, there is no opportunity costs associated with making one more kilowatt available. The capacity needed to meet an increment in demand is already in place (excess reserves) and must be paid for (carrying cost) whether they are used or not. Only if the capacity can be sold as firm power might there be an opportunity cost associated with its use by utility customers.

3. *Capacity additions to provide additional energy.* For systems in which capacity is added only to provide additional energy, e.g., a system with extensive hydroelectric capacity, marginal capacity cost are also zero. There is no capacity cost to the utility because the utility has excess reserves at peak and is adding the new unit to meet an increase in total energy requirements not an increase in demand. Marginal energy cost may be measured by an opportunity cost concept if sales are made or by assigning the full capital cost of the new capacity to the energy cost account (because it is being used to provide energy) and calculating a per kilowatt-hour charge.

4. *No capacity additions.* Marginal capacity costs are also zero, or defined by opportunity costs, in utility systems which have an excess of technically efficient capacity, and would probably not plan to build new capacity for an extended period of time (a decade or more). However, if all of the excess capacity can be sold to another utility or utilities, there is an opportunity cost associated with an increment in demand and it is this cost which should be used in setting rates. An increment in system demand reduces earnings from sales and thus causes a loss in revenue from such sales. This loss in earnings is an opportunity cost for the system and can be used to define marginal capacity costs.

Marginal energy costs in this situation may be defined either by opportunity costs or system lambda. If sales can be made to a grid or powerpool at a price in excess of the system lambda, it may not be appropriate to use system lambda as a measure of marginal energy cost. In this, situation the sale price determines the opportunity cost of providing an incremental kilowatt-hour. Where such sales cannot be made or can be made only to a limited extent (which does not require use of the entire excess capacity), system lambda is an appropriate measure of opportunity costs or marginal costs.

G. Adjustment to Marginal Costs

When designing rate structures on the basis of marginal costs, to conform with the ratemaking standards set forth in section 111 of PURPA, it may be necessary to make certain adjustments. Considerable attention has been focused on the choice of alternative adjustment procedures and the practical problems necessitating such adjustments. The major adjustments at issue fall into three categories: (1) Adjustments to meet the total revenue requirement determined, in rate of return regulation, on the basis of total embedded costs; (2) adjustments to account for inconsistencies in the application of marginal cost pricing principles between electric and related markets; and (3) adjustments to account for external costs.

When such adjustments are necessary, for whatever reason, the ratemaker should remember that the purpose of marginal cost pricing is to encourage efficient use of energy and capacity by providing rate incentives to consumers. It is not the intent of marginal cost pricing to redistribute the revenue requirement among customers or customer classes. In fact, attempts to redistribute the revenue requirement may have serious negative impacts on efficiency.

1. *Revenue related adjustments.* Total allowed revenues will generally continue to be determined by State regulatory authorities and covered nonregulated electric utilities on the basis of historical embedded costs. Rates based purely on the marginal costs of service will not normally recover exactly the same revenues that are allowed on an embedded cost basis. Over-collection of revenues will occur when marginal costs are determined to exceed the average embedded costs for a utility; conversely, undercollection will occur when marginal costs are less than embedded costs. In most cases it will be necessary to adjust some rate elements up or down to design a rate structure that will recover the established revenue requirement.

This need to make revenue-related adjustments does not, however, preclude the application of marginal costing principles in designing the structure of electric rates. For some utilities, rates based purely on marginal cost should result in only small amounts of excess (or insufficient) revenue. Adjustments to eliminate these excess (or insufficiencies) would result in small changes and would have insignificant effects on consumers' decisions regarding when and how much electricity to consume.

For situations in which the amount of excess (or insufficient) revenue is relatively large, the necessary rate adjustments can be made in a variety of practical ways which are consistent with the end-use conservation, utility efficiency and equitable rates purposes of PURPA, as well as consistent with applicable State law.

Customer charges may be reduced or eliminated to offset any excess revenues that might result from marginal cost-based rates. Alternatively, an inverted rate structure may be used in which the tailblock rate reflects marginal costs and the initial block or blocks are set at a low enough level to meet the revenue requirement. Additionally, a proportionate reduction of rates that preserves the structure of marginal costs by time of day or by season may be appropriate. where undercollection would occur, additional revenues can be generated by increasing customer charges, which would have minimal effects on consumers' decisions of when and how much electric power to consume. Further, the undercollection can be eliminated by a proportionate increase of functional prices that preserves the structure of marginal costs.

The use of rates that reflect marginal costs need not create undue financial harships for any class of utility customers. If rates based on marginal cost would result in an excessive increase in the revenue responsibility of any one customer class (or of an identifiable group of customers within a class), then rate adjustments can be made so as to provide, over a period of years, a gradual transition toward rates fully reflective of the structure of marginal costs. This approach to mitigating excessive economic burdens is fully consistent with the legislative history of PURPA, which identifies certain exceptions (phased implementation, temporary exemptions and lifeline rates) to the concept that equitable rates should be based on the cost of service. Phased implementation of and temporary exemptions from the section 111 ratemaking standards provide a transition period for affected customers to make the necessary adjustments in their electricity consumption to reduce any exceptional burdens resulting from the implementation of rates based on marginal costs.

In selecting a procedure to adjust marginal cost-based rates, State regulatory authorities and covered nonregulated electric utilities should give consideration to the effects of the adjustments on the use of generating capacity, rate stability and the resulting economic impacts on electric consumers. In addition, it is important that these adjustments be made so as to result in rate structures with minimum deviation from the structure of marginal costs.

2. *Inconsistency among related markets.* Another issue concerning the application of marginal cost pricing to the electric utility industry relates to the extent to which the prices of related commodities reflect their marginal costs. Theoretically, the existence of non-optimal pricing (prices that deviate from marginal cost) in related markets can affect the degree to which overall economic efficiency can be attained by basing electric rates on marginal costs.

DOE does not believe that the existence of a substantial problem in this regard has been demonstrated. The benefits to a utility of basing electric rates on marginal costs, in any event, are not likely to be appreciably offset by such a problem.

3. *Adjustments to account for social costs.* The production and consumption of some commodities, including electricity, can result in external costs that are imposed on individuals or groups who are neither the producers nor the consumers of that commodity. The environmental pollution resulting from the production of electricity or the consumption of gasoline in private automobiles are examples of these external or social costs. If these marginal social costs are not paid by the producers of the commodity, they are not included in its price. When there are important social costs that are associated with the production or consumption of a commodity, and the price of the commodity reflects only the marginal private costs that are incurred in its production, that commodity will be overproduced and overconsumed.

Although there are external or social costs associated with the production of electric power, to a large extent these social costs have already been internalized and accounted for in the determination of electric utility rates. As a result of both Federal and State environmental and safety regulations, electric utilities have been required to incur considerable expense to reduce these social costs; and these expenses for pollution abatement and the maintenance of public health and safety are now included by the utilities and their regulators in the prices that consumers must pay for electricity.

Other important social costs associated with the production of electricity at the margin may be found to exist, which have not been imposed on the producers of electricity. In such cases if the magnitude of these social costs can be quantified, these costs should be included in the calculation of marginal costs.

H. Alternative Marginal Costing Methodologies

Several methodologies exist for the calculation of electric utility marginal costs. The prescription of a marginal costing method by a State regulatory authority or covered nonregulated electric utility should be make in light of the characteristics of the electric utility and its customers, and the characteristics of each marginal costing methodology.

DOE does not believe that any single approach to calculating (or applying) marginal costs ought to be universally followed. Substantial flexibility in selecting a method that is appropriate to a given situation was clearly contemplated by the Congress and is strongly endorsed by DOE. In selecting a preferred marginal cost method, State regulators and covered nonregulated electric utilities should bear in mind that the aim of marginal cost pricing is, quite simply, to establish rate incentives that

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reflect the economic benefits of efficient use of energy and capacity. Ratemakers should not allow this straightforward goal to become obscured by excessively theoretical deliberations or unnecessarily complicated methodologies.

1. The method should accommodate a practicable resource planning process for the utililty and should recognize the ability to substitute capital for fuels.

2. The method should yield an appropriate functional breakdown of marginal costs and an assignment of costs to the loads that are responsible for imposing those costs on the system.

3. The method should measure marginal costs over either the short-run or long-run, as deemed appropriate.

4. The method should accommodate consideration of pool-wide marginal costs when the utility is a member of an efficiently dispatched powerpool.

5. The method should permit all parties to the ratemaking proceeding to have access to the estimation procedures employed, thus permitting verification and assessment of the cost estimates.

Finally, and by definition, the method must be forward-looking in that it must estimate the cost consequences of current consumption decisions over the period when the rates under consideration will be in effect.

I. Other Issues

1. *Rates structure standards.* Subsections 111(d) (2) through (6) of PURPA established Federal standards with respect to declining block rates, time-of-day rates, seasonal rates, interruptible rates, and load management techniques. These standards provide that: Declining block rates that are not cost-based shall be eliminated; time-of-day rates shall be established if cost-effective, where costs vary by time-of-day; seasonal rates shall be established where costs vary by season; cost-based interruptible rates shall be offered to commercial and industrial customers; and load managment techniques shall be offered to consumers when such techniques are determined to be practicable, cost-effective, reliable and to provide useful energy or capacity managment advantages to the electric utility.

Adoption of marginal cost pricing does not necessarily lead to the implementation of any particular rate structure. Which of the rate structures specified in section 111 of PURPA will be appropriate for implementation will depend on the functional and time-varying structure of marginal costs that is determined. In addition, specific cost-effectiveness determinations must also be made for time-of-day rates and load management techniques. Similarly, implementation of seasonal rates, while not explicitly requiring a cost-effectiveness test, does imply that the measured seasonal differential in costs should be great enought warrant the implementation of such rates. In short, State regulatory authorities and covered nonregulated electric utilities must analyze the structure of marginal costs, the costs of implementation, and the probable consumption responses and resource cost saving when determining whether implementation of any specific marginal cost-based rate structure will serve to carry out the three purposes of Title I of PURPA.

2. *Definition and us of customer classes.* To realize the end-use conservation, utility efficiency and equitable rates objectives set forth in Title I of PURPA, the differences in the costs of providing service to different classes of electric consumers should be determined on the basis on the basis of marginal costs. Most of the costs of providing electric service to the several classes of electric consumers are incurred in the provision of bulk power supply (i.e.,. the generation and transmission of electricity at high voltage levels), and these cost at the margin will be the same at generation level for all individual customers who take service at the same point in time. Thus, bulk power supply costs should be determined at the system level, and the unit costs of use of this functional component of service should be the same for all customers, save for differential losses due to differences in voltage delivery levels. On the other hand, customer classes should be used in the determination of other functional components of costs and for the purpose of translating the marginal costs of the various functional components of service into a structure of rates that properly reflects the differences in the costs of providing service to different classes of electric customers.

In defining customer classes, care should be taken to yield groupings that are internally homogeneous with respect to the critical cost-causative attributes of loads (e.g., contributions to system peak demand) and the proxies for these attributes (e.g., noncoincident maximum billing demands) that will be used for billing purposes. In determining the proper definition of customer classes for costing and rate design purposes, DOE recommends that State regulatory authorities and covered nonregulated electric utilities analyze the following service characteristics with respect to marginal costs:

(a) Voltage delivery levels;

(b) Geographic location to the extent that it is related to differences in distrubution costs;

(c) Consumption by time of use;

(d) The relative diversity of demand vis-a-vis the time of the system peak to ensure that diversity benefits generated by each class of similar customers are retained by the customers in that class; and

(e) Total usage to permit examination of the relationship between the volume of use and the cost of service.

3. *Deviations from marginal costs.* In its discussion of section 111(c), the Conference Report suggests phasing the implementation of the section 111 standards or granting temporary exemptions from implemented standards to mitigate significant economic hardships that would result from sudden shifts in electric utility rates. In addition, section 114 requires each State regulatory authority and covered non-regulated electric utility to consider the appropriateness of a lifeline rate for essential residential needs that would be lower than a rate based on the cost of service.

If such deviations are deemed appropriate by State regulators or covered nonregulated electric utilities, DOE encourages the use of approaches that minimize the discrepancies between marginal costs and the structure of electric utility rates, particularly for those uses, in any customer class, deemed to be relatively price elastic. DOE believes that any such departures from marginal cost should be designed in a manner to do minimal damage to the benefits of rates based on marginal costs.

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federal register

Thursday
September 4, 1980

Part III

Environmental Protection Agency

Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works; Subject Index List of Regional Administrator Protest Determinations Issued During 1979

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1593-1]

Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works; Subject Index List of Regional Administrator Protest Determinations Issued During 1979

This notice publishes the 1979 subject index list for EPA Regional Administrator Protest Determinations. These determinations have been made under the EPA protest procedure set forth at 40 CFR § 35.939.

This is the third EPA subject index and lists only the bid protest determinations issued during calendar year 1979. The first index, listing Regional Administrator protest determinations issued during the period 1974 through 1977, was published at 43 FR 29086–95 (July 5, 1978). This was supplemented by the index of 1978 protest determinations published at 44 FR 25812–18 (May 2, 1979).

In 1979, 76 determinations were issued by EPA Regional Administrators. Each determination has been cited in this subject index by Grantee and State and includes a notation of the EPA Region in which the protest arose, the date of the determination, and the protester's name.

We consider asterisked determinations to be of special interest. In some instances, an explanatory parenthetical reference has been included.

Copies of the issued protest determinations may be examined or obtained from any EPA Office of Regional Counsel or from the headquarters source identified below.

Interested parties are invited to submit comments concerning any improvement or correction to the subject index list to Gerald H. Yamada, Assistant General Counsel, Grants (A-134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460. Comments should be made within sixty (60) days of this publication.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sorett, Esquire, Grants, Contracts, and General Administration Division (A-134); Office of General Counsel, United States Evironmental Protection Agency, Washington, D.C. 20460, telephone: (202) 755-8108.

Michele Beigel Corash,
General Counsel (A-130).

Ambiguity

*1. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Services, Ltd.)
2. Mt. Pleasant, MI (V, 6–25–79) (Collavino Brothers Construction Co.)

A/E procurement

1. Clarksburg, MA (I, 8–25–79) (Curran Associates, Inc.)
2. Conneaut, OH (V, 7–18–79) (Hoff-Western)
3. Jefferson Parish, LA (VI, 3–28–79) (Moore, Gardner and Associates)
4. Puerto Rico Environmental Quality Board, PR (II, 3–30–79) (Technologists International, Inc.)
5. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)
6. Simpsonville, KY (IV, 4–17–79) (Warner A. Brougham III and Associates)
7. West County Agency, CA (IX, 6–28–79) (R. D. Smith)
8. Muskegon County, MI (V, 7–29–79) (Video Media Corp.)

Award—Prime Contract

*1. Albuquerque, NM (VI, 2–2–79) (Kent Nowlin Construction Co.) (single bidder)

Bid Shopping

1. Caldwell, ID (X, 11–1–79) (Neilson & Co.) (subcontractor listing)
2. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.) (subcontractor listing)
3. Mt. Pleasant, MI (V, 6–25–79) (Collavino Brothers Construction Co.)

Bids

(A) Late

1. Puerto Rico Environmental Quality Board, PR (II, 3–30–79) (Technologists International, Inc.)

(B) Modification:

1. Bardstown, KY (IV, 1–3–79) (E. H. Hughes Co.) (I)
2. Detroit, MI (V, 12–11–79) (Polutech, Inc. and Glenn E. Wash Associates, A Joint Venture)
3. East Bay Dischargers Authority, CA (IX, 11–16–79) (Brantley Instruments) (Contra Costa Electric, Inc.)
*4. Kansas City, MO (VII, 12–20–79) (Garney Companies) (exception to method of tunnelling)

Bonds

*1. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.) (performance bond)
2. Hannibal, MO (VII, 6–7–79) (U. S. Enviro-Con, Inc.) (experience bond)
3. Howard County, MD (III, 2–15–79) (Water Pollution Control Corp.) (performance bond)
4. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd.) (bid bond)
5. Seaford, DE (III, 1–8–79) (National Hydro Systems, Inc.) (experience bond)

Burden of Proof

1. Bend, OR (X, 5–15–79) (Industrial Pump Sales Co.) (burden on grantee)
2. Cleveland Regional Sewer District, OH—clarification (V, 12–28–79) (Water Pollution Control Corp.)
3. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.)
4. Sewer Authority Mid-Coastside, CA (IX, 7–23–79; errata 9–21–79) (Radco Construction, Inc.)
5. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen) (mistake)

Buy American Act Requirements

*1. Concord, NH (I, 4–18–79) (Passavant Corp.) (construction materials)
2. Concord, NH (I, 10–4–79) (Bethlehem Steel Corp.) (6% preference)
3. Miami-Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics)
4. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd.) (protestant must prove jurisdiction)

Choice of Law

A. General

1. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd.)

B. Fundamental Federal Procurement Principles

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.) (inconsistent local ordinance)
2. Gainsville, GA (IV, 6–15–79) (National Hydro Systems, Inc. (II)) (evaluation of equipment)
3. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)

C. State Law

1. Caldwell, ID (X, 11–1–79) (Neilson & Co)
2. Detroit, MI (V, 6–29–79) (C. J. Rogers, et al., A Joint Venture) (availability of local share)
3. Detroit, MI (V, 12–11–79) (Pollutech Inc. and Glenn E. Wash Associates, A Joint Venture) (material deviation from IFB)
4. Detroit, MI (V, 12–11–79) (Dynamic Construction Co.)

5. Jackson, CA (IX, 7–5–79) (Joseph R. Ramos Pipeline Engineering) (inaccuracies/irregularities in bid)
*6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen) (mistake)

Competition

A. General

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
2. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
*3. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)
4. Gainsville, GA (IV, 6–15–79) (National Hydro Systems, Inc. (II)) (supply of equipment)
5. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.) (pipe)

B. DeFacto

*1. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)

C. Free and Open

1. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.)

Conflict of Interest

1. Miama-Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)

Defective IFB

1. Bend, OR (X, 5–15–79) (Industrial Pump Sales Co.) (minimum project requirements)
2. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Services, Ltd.)
3. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.)

Enforcement

1. Glenbard Wastewater Authority, IL (V, 4–6–79) (USEMCO, Inc)
*2. Mt. Pleasant, MI (V, 6–25–79) (Contracts 2 & 3) (Collavino Brothers, Construction Co.)

Engineering Judgment

1. Batesville, AR (VI, 1–12–79) (Hinde Engineering Co.)
2. Cape May County, NJ (II, 8–31–79) (Clow/Envirodisc Corp.)
3. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
4. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.)
5. Concord, NH (I, 4–18–79) (Passavant Corp.) (Buy American)
6. Concord, NH (I, 10–4–79) (Bethlehem Steel Corp.) (Buy American)
7. Gainsville, GA (IV, 6–15–79) (National Hydro Systems, Inc. (II))
8. Kansas City, MO (VII, 12–20–79) (Garney Companies) (alternate method for tunnelling)
*9. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co. et al.) (justification for limiting choice of materials)
11. Meriden, CT (I, 10–10–79) (Standard Engineers and Constructors, Inc.)
12. Miami-Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)
13. Monterey County, CA (IX, 2–26–79) (Moneterey Construction Surveys, Inc.)
14. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)

E.E.O.

1. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)
2. Meriden, CT (I, 10–10–79) (Standard Engineers and Constructors, Inc.)

Evaluation of Bids

1. Cleveland Regional Sewer District, OH (V, 8–14–79) (Water Pollution Control Corp.)
2. Cleveland Regional Sewer District, OH (V, 9–18–79) (Passavant Corp.)
3. Cleveland Regional Sewer District, OH—Reconsideration (V, 10–18–79) (Water Pollution Control Corp.) (*Per* Norton Co.)
4. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.) (O and M Costs)
5. Cochran, GA (IV, 9–14–79) (Municipal & Industrial Pipe Services, Ltd.)
6. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.) (equipment listing)
7. Mt. Pleasant, MI (V, 6–25–79) (Collavino Brothers Construction Co.)
8. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.) (adequate basis for evaluation provided in IFB)
9. Portage, MI (V, 12–31–79) (Tom Robinson & Son, Inc.)
10. West County Agency, CA (IX, 6–28–79) (R. D. Smith)
11. Wood County Parks and Recreation Commission, WV (III, 3–15–79) (GAL Construction, Inc. (tied contracts)

Experience Requirements

1. Barnstable, MA (I, 8–24–79) (Chemcon, Inc.)
2. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.) (RBD equipment)
3. Howard County, MD (III, 2–15–79) (Water Pollution Control Corp.)
4. Seaford, DE (III, 1–8–79) (National Hydro Systems, Inc.)

Formal Advertising

No entries.

Grantee Responsibilities

1. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.)
2. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Service, Ltd.)
3. Conneaut, OH (V, 7–18–79) (Hoff-Weston)
4. Gainesville, GA (IV, 6–15–79) (National Hydro System, Inc. (II)) (review of shop drawings, notification of defects)
5. Glenbard Wastewater Authority, IL (V, 4–6–79) (USEMCO, Inc.)
6. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)

Innovative and Alternative Technology

1. Miami—Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)

Judicially Directed Review

No entries.

Jurisdiction

1. Albuquerque, NM (VI, 2–2–79) (Kent Nowlin Construction Co.)
2. Clarksburg, MA (I, 8–25–79) (Curran Associates, Inc.)
*3. Conneaut, OH (V, 7–18–79) (Hoff-Weston)
4. Detroit, MI (V, 6–29–79) (C. T. Rogers Construction Co., et al., A Joint Venture) (State or local law question)
5. Gainesville, GA (IV, 6–15–79) (National Hydro Systems, Inc., (II)) (by or for the grantee)
6. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.) (lack of direct grantee involvement)
7. Howard County, MO (III, 2–15–79) (Water Pollution Control Corp.) (not by or for grantee)
8. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking, Inc.)
*9. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen) (mistake)
10. Middletown, DE (III, 9–17–79) (Mt. Joy Construction, Co.) (change order is not procurement)
*11. Muskegon County, MI (V, 7–29–79) (Video Media Corp.) (post performance claims)
12. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd. (forfeiture of bond)
13. Frederick County, MD (III, 4–19–79) (Conewago Contractors, Inc.) (retainage not a procurement issue)
14. Sterling, IL (V, 3–9–79) (Neptune CPC Engineering Corp.)
15. Stillwater, OK (VI, 3–1–79) (Robicon Corp.) (subcontracts)
16. Suffolk County, NY (II, 9–15–79) (Spencer, White & Prentis, Inc. and

Seatec International, Ltd., A Joint Venture) (claims)

Minority Business Enterprise

1. Burlingame, CA (IX, 12–20–79) (D. W. Young Construction Co.)
2. Danville, KY (IV, 10–26–79) (Andrews Enterprises Inc.)
*3. Decatur, AL (IV, 7–23–79) (International Electric Co.) (good faith efforts)
*4. Detroit, MI (V, 12–11–79) (Dynamic Construction Co.)
5. Meriden, CT (I, 10–4–79) (Carter Construction Co.)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking, Inc.)
7. Miami—Dade Water and Sewer Authority, FL (IV, 4–30–79) (Cobo Co.)
8. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)
*9. Sewer Authority Mid-Coastside, CA (IX, 7–23–79; errata (9–21–79)) (Radco Construction, Inc.)
10. West County Agency, CA (IX, 6–28–79) (R. D. Smith)

Mistake

1. Jackson, CA (IX, 7–5–79) (Joseph R. Ramos Pipeline Engineering) (mathematical errors)
*2. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudson-Paschen)
*3. Sewer Authority Mid-Coastside, CA (IX, 7–23–79; errata 9–21–79)) (Radco Construction, Inc.)
4. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd.)

Negotiated Procurement

No entries.

Nonrestrictive Specifications

1. Aurora Sanitary District, IL (V, 7–3–79) (Ralph B. Carter Co.) (prequalification of suppliers)
2. Batesville, AR (VI, 1–12–79) (Hinde Engineering Co.)
3. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
4. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Services, Ltd.)
*5. Decatur, AL (IV, 3–2–79) (Johnson Controls, Inc.) (manufacturers only)
6. Gainesville, GA (IV, 11–5–79) (National Hydro Systems, Inc.) (III) (application of specifications)
7. Glenbard Wastewater Authority, IL (V, 4–6–79) (USEMCO, Inc.)
*8. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co. et al.) (pipe)
9. Middletown, DE (III, 9–17–79) (Mt. Joy Construction Co.) (rejection of pre-approved supplier)

Patents

1. Macon-Bibb County Water and Sewage Authority, GA (IV, 3–16–79) (Shirco, Inc.)

Prequalification

*1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
*2. Aurora Sanitary District, IL (V, 7–3–79) (Ralph B. Carter Co.)
3. Decatur, AL (IV, 3–2–79) (Johnson Controls, Inc.)
4. Macon-Bibb County Water and Sewage Authority, GA (IV, 3–16–79) (Shirco, Inc.)

Procedure

1. Aberdeen, MD (III, 9- 7–79) (Chemcon, Inc.) (no proper protest w/o grantee determination)
2. Bardstown, KY (IV, 1–3–79) (E. H. Hughes Co. (I)) (notification of other parties)
3. Decatur, Sanitary District, IL (V, 2–15–79) (Autotrol Corp.) (notice to all interested parties)
5. Gainesville, GA (IV, 11–5–79) (National Hydro Systems, Inc. (III)) (EPA de novo review)
6. Greenville, TX (VI, 5–31–79—Reconsideration) (Ralph B. Carter Co.) (Per Parkson Corp.)
7. Hagerstown, MD (III, 1–4–79) (PCI Ozone Corp.) (telegraphic determination)
8. James Island Public Service District, SC (IV, 5–2–79) (Pyramid Builders, Inc.) (telegraphic determination)
9. Macon-Bibb County Water and Sewage Authority, GA (IV, 3–16–79) (Shirco, Inc.) (telegraphic determination)
10. Meridian, MS (IV, 1–15–79) (Mississippi Pump and Equipment Co.)
11. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking Inc.) (failure to file with grantee)
12.Miami-Dade Water and Sewer Authority, FL (IV, 4–30–79) (Cobo Co.)
13.Middletown, DE (III, 9–17–79) (Mt. Joy Construction Co.) (change order not procurement)
* 14. Mill Hall, PA (III, 1–29–79) (Municipal and Industrial Pipe Services, Ltd.) (failure to prosecute appeal)
15. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)
16. Plainfield, CT (I, 12–11–79) (Greenman's Trucking, Inc.) (letter: full decision to follow)
17. Seaford, DE (III, 1–8–79) (National Hydro Systems, Inc.) (grantee's failure to comply with its harmless error)
18. Simpsonville, KY (IV, 4–17–79) (Warner A. Broughman III and Associates) (failure to file with grantee)

Program Integrity

1. Alburquerque, NM (VI, 2–2–79) (Kent Nowlin Construction Co.)

Rational Basis Test

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
2. Caldwell, ID (X, 11–1–79) (Neilsen Co.)
3. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.)
4. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.)
5. Detroit, MI (V, 6–29–79) (C. J. Rogers Construction Co., et al., A Joint Venture)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen)
7. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)
8. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd.)
9. Portage, MI (V, 12–31–79) (Tom Robinson & Son, Inc.)
10. Greenup County, KY (IV, 11–13–79) (W. Rogers Co.)
11. West County Agency, CA (IX, 6–28–79) (R. D. Smith)

Reconsideration of Administrative Determinations

* 1. Cleveland Regional Sewer District OH-Reconsideration (V, 10–18–79) (Water Pollution Control Corp.) (*Per* Norton Co.)
2. Cleveland Regional Sewer District OH-Clarification (V, 12–28–79) (Water Pollution Control Corp.)
3. Greenville, TX-Reconsideration (VI, 5–31–79) (Ralph B. Carter Co.) (*Per* Parkson Corp.)

Rejection of All Bids

1. Albuquerque, NM (VI, 2–2–79) (Kent Nowlin Construction Co.)
2. Bardstown, KY (IV, 5–24–79) (E. H. Hughes Co. (II))
3. Bend, OR (X, 5–15–79) (Industrial Pump Sales Co.) (RA directed, defective IFB)
4. Detroit, MI (V, 6–29–79) (C. J. Rogers Constructors, et al., A Joint Venture) (local share lacking)
5. Suffolk County, NY (II, 9–15–79) (Spencer, White & Prentis, Inc. and Seatec International, Ltd., A Joint Venture)
6. Wheeling, WV (III, 2–16–79) (Manning Environmental Corp; and Sugmamotor, Inc.) (change in grantee's needs)
7. Greenup County, KY (IV, 11–13–79) (W. Rogers Co.) (cannot fund non-federal share)

Responsibility

1. Bardstown, KY (IV, 1–3–79) (E. H. Hughes Co. (I))

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2. Barnstable, MA (I, 8-24-79) (Chemcon, Inc.)
3. Burlingame, CA (IX, 12-20-79) (D. W. Young Construction Co.) (failure to complete MBE form)
4. Caldwell, ID (X, 11-1-79) (Neilsen & Co.) (licenses)
* 5. Cleveland Regional Sewer District, OH (V, 9-18-79) (Passavant Corp.) (failure to complete local EEO form)
6. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.)
7. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
8. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.)

Responsiveness

1. Alpine Sanitary District, AZ (IX, 9-26-79) (Gus's Trenching and Pipeline Co.)
2. Bardstown, KY (IV, 1-3-79) (E. H. Hughes Co. (I))
3. Caldwell, ID (X, 11-1-79) (Neilsen and Co.)
4. Chattanooga, TN (IV, 3-27-79) (Performance Systems, Inc.)
5. Cleveland Regional Sewer District, OH (V, 8-14-79) (Water Pollution Control Corp.)
* 6. Cleveland Regional Sewer District, OH (V, 9-18-79) (Passavant Corp.) (qualified bid)
7. Cleveland Regional Sewer District, OH-Reconsideration (V, 10-18-79) (Water Pollution Control Corp.) (*Per* Norton Co.)
8. Cochran, GA (IV, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
9. Detroit, MI (V, 12-11-79) (Pollutec, Inc., and Glenn E. Wash Associates, A Joint Venture) (exception to IFB)
10. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.) (bid bond)
11. East Bay Dischargers Authority, CA (IX, 11-16-79) (Brantley Instruments) (Contra Costa Electric, Inc.) (exception to IFB)
12. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con Inc.) (rejection of unapproved equipment)
13. Jackson, CA (IX, 7-5-79) (Joseph R. Ramos Pipeline Engineering) (waiver of mistake; failure to acknowledge addendum)
14. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
* 15. Kansas City, MO (VII, 12-20-79) (Garney Companies) (exception to IFB)
16. Meriden, CT (I, 10-10-79) (Standard Engineers and Constructors, Inc.) (failure to file EEO certificate)
* 17. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.) (subcontractor listing)
18. Portage, MI (V, 12-31-79) (Tom Robinson & Son, Inc.)
19. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.) (EEO certificates)

Salient Requirements

1. East Bay Dischargers Authority, CA (IX, 11-16-79) (Brantley Instruments) (Contra Costa Electric, Inc.)

Small Business

No entries.

Sole Source

1. Cape May County, NJ (II, 8-31-79) (Clow/Envirodisc Corp.) (cost effectiveness analysis procedure)
2. De Kalb Sanitary District, IL (V, 2-15-79) (Autotrol Corp.)
* 3. Miami-Dade Water and Sewer Authority, FL (IV, 10-3-79) (Radiation Dynamics, Inc.) (justification)

Specifications

No entries.

Standing

1. Batesville, AR (VI, 1-12-79) (Hinde Engineering Co.)
2. Clarksburg, MA (I, 8-25-79) (Curran Associates Inc.)
3. Concord, NH (I, 10-4-79) (Bethlehem Steel Corp.)
4. Conneaut, OH (V, 7-18-79) (Hoff-Weston)
*5. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.)
6. Decatur, AL (IV, 7-23-79) (International Electric Co.)
7. De Kalb Sanitary District, IL (V, 2-15-79) (Autotrol Corp.) (equipment supplier)
8. Gainesville, GA (IV, 6-15-79) (National Hydro Systems, (II)).(by or for grantee)
9. Hagerstown, MD (III, 1-4-79) (PCI Ozone Corp.) (suppliers direct financial interest)
10. Laurens County, SC (IV, 7-10-79) (Caroline Concrete Pipe Co., et al.)
11. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco, Inc.) equipment suppliers protesting responsiveness of prime bidder)
12. Meriden, CT (I, 10-4-79) (Carter Construction Co.) (MBE)
13. Seaford, DE (III, 1-8-79) (National Hydro Systems, Inc.)
14. Stillwater, OK (VI, 3-1-79) (Robicon Corp.)
*15.Sterling, IL (V, 3-9-79) (Neptune CPC Engineering Corp.)

Sua Sponte Review

*1. Albuquerque, NM (VI, 2-2-79) (Kent Nowlin Construction Co.) (initial review by RA)
2. Atlanta, GA (IV, 3-21-79) (Fruin-Conlon Corp.) (grantee bidder qualification practices)
3. Cochran, GA (VI, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
4. Glenbard Wastewater Authority, IL (V, 4-6-79) (USEMCO, Inc.)
5. Jefferson Parish, LA (VI, 3-28-79) (Moore, Gardener and Associates) (selection criteria for engineering contract)
6. Kansas City, MO (VII, 12-20-79) (Garney Companies)
7. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.)

Subcontracts—Award

1. Aurora Sanitary District, IL (V, 7-3-79) (Ralph B. Carter Co.)
2. Gainesville, GA (IV, 6-15-79) (National Hydro Systems, Inc. (II)) (substitution of equipment, business judgment)
3. Gainesville, GA (IV, 11-5-79) (National Hydro Systems, Inc. (III))
4. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con, Inc.) (business judgment)
5. Howard County, MD (III, 2-15-79) (Water Pollution Control Corp.) (business judgment).
6. Sterling, IL (V, 3-9-79) (Neptune CPC Engineering Corp.) (substitution, business judgment)
7. Stillwater, OK (VI, 3-1-79) (Robicon Corp.)

Summary Disposition

1. Aberdeen MD (ILL, 9-7-79) (Chemcon, Inc.) (failure to file with grantee)
2. Caldwell, ID (X, 11-1-79) (Neilsen & Co.)
3. Chattanooga, TN (IV, 3-27-79) (Performance Systems, Inc.)
4. Clarksburg, MA (I, 8-25-79) (Curran Associates, Inc.)
5. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.)
6. Decatur, AL (IV, 7-23-79) (International Electric Co.)
7. Hagerstown, MD (III, 1-4-79) (PCI Ozone Corp.)
8. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
9. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco Inc.)
10. Meridian, MS (IV, 1-15-79) (Mississippi Pump and Equipment Co.) (untimely protest)
11. Puerto Rico Environmental Quality Board, PR (II, 3-30-79) (Technologists International, Inc.)
12. Muskegon County, MI (V, 7-29-79) (Video Media Corp.)
13. Metropolitan Sanitary District of Greater Chicago, IL (V, 8-16-79) (Troesch Trucking, Inc.)
14. Meriden, CT (I, 10-4-79) (Carter Construction Co.)
15. Miami-Dade Water and Sewer Authority, FL (IV, 4-30-79) (Cobo Construction Co.)

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16. Mill Hall, PA (III, 1–29–79) (Municipal and Industrial Pipe Services, LTD.)
17. Plainfield, CT (I, 12–11–79) (Greenman's Trucking, Inc.)
18. Frederick County, MD (III, 4–19–79) (Conewago Contractors, Inc.)
19. Greenup County, KY (IV, 11–13–79) (W. Rogers Co.)
20. Rocky Mount, NC (IV, 1–15–79) (Enviro Development Co.)
21. City and County of San Francisco, CA (IX, 12–20–79) (Chemcon, Inc)
22. Simpsonville, KY (IV, 4–17–79) (Warner A. Broughman III and Associates)
23. Stillwater, OK (VI, 3–1–79) (Robicon Corp.)
24. Wood County Parks and Recreation Commission, WV (III, 3–15–79) (GAL Construction, Inc.)
25. Worchester County (Ocean City), MD (III, 3–14–79) (Charles E. Brohawn and Brothers, Inc. (II))

System Design

1. Kansas City, MO (VII, 12–20–79) (Garney Companies) (tunnelling)
2. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking, Inc.)

Time Limitations

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
2. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
3. Concord, NH (I, 10–4–79) (Bethlehem Steel Corp.)
4. Danville, KY (IV, 10–26–79) (Andrew Enterprises, Inc.)

*5. Decatur, AL (IV, 3–2–79) (Johnson Controls, Inc.)

6. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)
7. Detroit, MI (V, 12–11–79) (Pollutech, Inc. and Glenn E. Wash Associates, A Joint Venture)
8. Howard County, MD (III, 2–15–79) (Water Pollution Control Corp.)
9. Kansas City, MO (VII, 12–20–79) (Garney Companies, Inc.) (exception to specifications)
10. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.) (pipe specifications)
11. Meridan, MS (IV, 1–15–79) (Mississippi Pump and Equipment Co., Inc.)
12. Meriden, CT (I, 10–4–79) (Carter Construction Co.)
13. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking Inc.)
14. Miami-Dade Water and Sewer Authority, FL (IV, 4–30–79) (Cobo Co., Inc.)
15. Passaic Valley Sewerage Commissioners, NJ (II, 4–18–79) (Passavant Corp.)
16. Plainfield, CT (I, 12–11–79) (Greenman's Trucking, Inc.)
17. Rocky Mount, NC (IV, 1–15–79) (Enviro Development Co.)
18. City and County of San Francisco, CA (IX, 12–20–79) (Chemcon, Inc.)
19. Simpsonville, KY (IV, 4–17–79) (Warner A. Broughman III and Associates)
20. Stillwater, OK (VI, 3–1–79) (Robicon, Corp.)
21. Worchester County (Ocean City), MD (III, 3–14–79) (Charles E. Brohawn and Brothers, Inc. (II))

Waiver

1. Alpine Sanitary District, AZ (IX, 9–26–79) (Gus's Trenching and Pipeline Co.)
2. Bardstown, KY (IV, 1–3–79) (E. H. Hughes Co.) (I)
3. Detroit, MI (V, 12–11–79) (Dynamic Construction Co., Inc.)
4. Jackson, CA (IX, 7–5–79) (Joseph R. Ramos Pipeline Engineering)
5. James Island Public Service District, SC (IV, 5–2–79) (Pyramid Builders, Inc.)
6. Kansas City, MO (VII, 12–20–79) (Garney Companies)

U.S. Environmental Protection Agency

Date: August 26, 1980.

Subject: Class Deviation from 40 CFR 35.910–2(c), Reallotment of Recoveries

From: Evelyn T. Thornton, for Harvey Pippen, Jr., Director, Grants Administation Division (PM–216)

To: Regional Administrators

Recently one Regional Administrator asked me to approve a deviation from 40 CFR 35.910-2(c) of EPA's construction grant regulations. Section 35.910-2(c) requires that construction grant recoveries be treated like the most recent appropriation for the purposes of reallotment. (Recoveries are funds which EPA deobligates after the initial period of availability of those funds.) For example, this means that funds which EPA deobligated after their initial period of availability (recoveries) and during the time when the fiscal year 1979 appropriation was the most recent—from October 1, 1978 to September 30, 1979—would be subject to reallotment, if not reobligated, after September 30, 1980.

Without the deviation some States would have substantial amounts of fiscal year 1977 and fiscal year 1979 recoveries subject to reallotment this year. By approving a class deviation on May 1, 1980, I extended the reallotment date for fiscal year 1977 recoveries to September 30, 1980. I approved that deviation as an interim measure because of the short time those funds were available for obligation before May 3, 1980 (the fiscal year 1977 reallotment date), after they were distributed to the Regions, and to provide time to consider all implications of the Regional Administrator's request.

Several factors influenced our further consideration of the request including—

- EPA's current accounting system does not accurately track recoveries from year to year;
- EPA has not previously fully implemented § 35.910–2(c); and
- Regional Offices have generally considered recoveries as "no-year" money.

Other Regional Offices have advised me that, because of their past experience in holding recoveries from year to year, they are not prepared to obligate their fiscal year 1979 and prior year recoveries before September 30, 1980. Because of this and our difficulty in identifying recoveries subject to reallotment on September 30, I have concluded it would be inappropriate to reallot fiscal year 1977 and fiscal year 1979 recoveries on September 30, 1980. As a result, I am approving a class deviation to that section for recoveries made through September 30, 1979.

Financial Management Division has developed an accounting system that will track unobligated fiscal year 1979 and prior year recoveries together with recoveries made this fiscal year through September 30, 1980, separately from those made during fiscal year 1981. Recoveries through September 30, 1980, will be subject to reallotment on October 1, 1981, if not obligated by September 30, 1981. Future recoveries will also be tracked to assure they are realloted at the appropriate time.

This deviation does *not* affect the period of availability of fiscal year 1979 funds which will be subject to reallotment on September 30, 1980, if not obligated.

Date: August 22, 1980.

Conrad W. Carter,

Acting Assistant Administrator for Planning and Management (PM–208).

Date: August 26, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management (WH–556).

[FR Doc. 80–26869 Filed 9–3–80; 8:45 am]

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federal register

Thursday
September 4, 1980

Part IV

Department of Agriculture

Federal Grain Inspection Service

Official Agency Geographic Area; Four County Area of Northwestern Iowa

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U.S. DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service Official Agency Geographic Area; Request for Comments on Applicants for Designation in a Portion of a Four County Area of Northwestern Iowa

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties' on the applicants for designation as an official agency in a portion of a four, county area of Northwestern Iowa.

DATE: Comments to be postmarked on or before October 6, 1980.

ADDRESS: Comments should be submitted to USDA, FGIS, Issuance and Coordination Staff, Room 1127, Auditor's Building, 1400 Independence Ave., SW, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The May 16, 1980, issue of the **Federal Register** contained a notice from the Federal Grain Inspection Service requesting applications for designation to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the portion of the four county area previously serviced by A. V. Tischer and Son, Inc. Applications were to be postmarked by July 15, 1980. A total of three applications were received.

The names of the applicants for designation are as follows: Fremont Grain Inspection Department, 603 East Dodge Street, Fremont, Nebraska 68025; Joe P. Jaimes, 9445 Connell Drive, Overland Park, Kansas 66212; and Sioux City Inspection & Weighing Agency, Inc., 310 South Floyd Boulevard, Room 302, Sioux City, Iowa 51101.

In accordance with section 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to the Issuance and Coordination Staff, specified in the address section of this notice and be postmarked not later than October 6, 1980.

A comment period of 30 days is deemed adequate because such a period of time would expedite the designation of an official agency to service the portion of the four county area in Northwestern Iowa. Such a comment period does not impose any undue obligations or requirements on others, and under the circumstances, provides a sufficient period of time for comments.

Consideration will be given to all comments filed and to all other information available to the Administrator of the Federal Grain Inspection Service before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on August 28, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-26992 Filed 9-3-80; 8:45 am]

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federal register

Thursday
September 4, 1980

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Civil Penalties

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 722, 723, 843 and 845

Civil Penalties, Final Rulemaking

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement adopts final rules, pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which would (1) modify the amount of penalties assessed in cases of nonabatement of violations, (2) mandate a review of a permittee's history of violations to determine whether a pattern of violations exists in such nonabatement cases, (3) provide for appropriate enforcement action in such nonabatement cases, and (4) make minor wording changes in Part 723 of the interim regulations so that Part 723 is the same as Part 845 of the permanent regulations.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Enforcement Specialist, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, (202) 343–8061.

SUPPLEMENTARY INFORMATION: In this document the Office adopts final rules to modify the amounts of penalties assessed in cases of nonabatement of violations, mandate a review of a permittee's history of violations to determine whether a pattern of violations exists in such nonabatement cases, provide for appropriate enforcement action in such nonabatement cases, and make minor wording changes in Part 723 of the interim regulations so that Part 723 is exactly the same as Part 845 of the permanent regulations. The Department has determined that these final rules are not significant rules and do not require the preparation of a regulatory analysis. An environmental assessment of these regulations has been prepared, and has been made a part of the administrative record for these rules.

Introduction to Final Rules

Conforming Interim to Permanent Regulations

30 CFR 723.2–723.18 are changed to be exactly the same as (except as indicated in this document) the corresponding permanent regulations (30 CFR 845.2–845.20). The basis and purpose of these permanent regulations are explained in the preamble to Part 845 of the proposed permanent regulations, 43 FR 41796–41797 (September 18, 1978), and of the final permanent regulations, 44 FR 15305–15309 (March 13, 1979).

These changes, are for the most part, merely ones of phraseology. The Office responded only to those comments on portions of these regulations which involved substantive changes. Since the procedural areas are not the subject of this rulemaking, the Office believes it is unnecessary to respond to these comments. For instance, a number of commenters suggested changes to the methods by which civil penalty points are assessed in the interim and permanent programs. In this area, there is no difference between the two programs. Such commenters, thus, went beyond the phraseology changes and commented on the substance of the rule which was not revised. The entire rule was reprinted in the text of this rulemaking only for the convenience of the reader, and not for the purpose of inviting public comment.

Penalties for Failure To Abate

The Office has been confronted with a problem in the assessment and the collection of civil penalties under SMCRA. Under section 723.14(a) of the interim regulations as previously written, in cases where a cessation order was issued for failure to abate, the Office was required to assess a daily penalty equal to the amount assessed for the violation or $750, whichever was greater. section 845.15(b) of the permanent regulations and section 518(h) of SMCRA provide that in such cases the Office must assess a daily penalty of not less than $750.

Under the prior interim regulations, if an operator failed to abate a violation for 30 days and if that violation was assessed at $2,000 (the average penalty per violation), the penalty for nonabatement would have been $60,000. If the operator failed to abate two such violations, the total penalty was $120,000. On certain occasions, computation of failure-to-abate penalties under this scheme resulted in clearly excessive amounts considering the nature and effects of the underlying violations of SMCRA.

The rule modification will reduce the potential for assessment of excessive penalties under the interim regulations by reducing the daily penalty to $750, the statutory minimum, except in those cases where the Director determines that a larger amount is appropriate. Nevertheless, even with this modification, the penalty in a failure-to-abate case could quickly become excessive where there is no limitation upon the number of days for which the penalty may be assessed. Furthermore, failure-to-abate penalties computed over a lengthy time period might drive many operators out of business. Many operators have been operating in States where enforcement efforts have historically been weak and penalties low. Without some limitation on the period during which failure-to-abate penalties run, a small-to-medium sized operator might be put out of business with his first such penalty. Since this would not give such an operator a second chance, the Office believes such action would be unduly harsh. While Congress intended that, in certain instances, recalcitrant operators who persist in defying SMCRA not be allowed to continue in business, the Office believes that, in most cases, the appropriate method of effectuating that intent is through an action to suspend or revoke the operator's permit under section 521(a)(4) of SMCRA or other enforcement action under the Act, rather than through the more cumbersome and indirect method of imposing unrealistically large civil penalty assessments.

The Office has adopted certain management measures to reduce the number of cases of nonabatement, such as: using interim steps for abatement where appropriate; attempting to inspect for compliance as close as possible to the final abatement date; increasing efforts to inform operators of the penalties and sanctions for nonabatement; expediting paperwork in nonabatement cases so that the operator receives notice of the penalty accrual as soon as possible; and seeking injunctive, and criminal relief, initiating procedures under section 518(f) of the Act, and using permit suspension and revocation powers more frequently. However, even with better management and with the modification discussed above, but without limitation on the penalty period, cases of nonabatement over lengthy periods would still occur with the consequent potential for excessive penalties.

At the inception of the interim program, the Office had no occasion to anticipate the potential for exorbitant failure-to-abate penalties generated by applying the $750 daily penalty over months, years, or an indeterminate, lengthier period of time. The Office believed that desire to avoid increasing penalties, together with the other sanctions mentioned above, would universally motivate operators to abate violations of SMCRA. Experience under SMCRA has borne out the Office's beliefs in the vast majority of cases, and the failure-to-abate penalty has proven to be an effective enforcement tool. In some cases, however, the $750 daily penalty has led to alarmingly high totals. Ironically, such high penalties may actually deter effective enforcement by forcing operators out of business and to ultimately abandon unreclaimed sites.

Subsection (h) of section 518 of SMCRA, which provides for the assessment of the $750-per-day penalty for failure-to-abate violations, contains no language limiting the length of time over which the assessment is to be made. Read outside the context of the remainder of section 518, the subsection would seem to require unlimited assessment. However, subsection (c) of section 518 provides as follows:

> (c) Upon the issuance of a notice or order charging that a violation of the Act has occurred, The Secretary shall inform the operator *within thirty days* of the proposed amount of said penalty (emphasis added).

The Office is of the opinion that the language quoted above indicates Congress' intention to terminate at thirty days the time over which failure-to-abate penalties may be assessed.

These penalties are assessed in addition to the penalty under Section 518(a) of SMCRA for the violation itself, which penalty may be as much as $5,000. Thus, guided by SMCRA, the Office now intends to avoid uncertainty and confusion by the changes to the interim and permanent regulations to clearly state that failure-to-abate penalties are subject to a thirty-day maximum assessment period. (See 30 CFR 723.15(b)(2), 845.15(b)(2).)

The Office intends to modify any existing assessments in these failure-to-abate cases in accordance with the changes in these regulations, when they become effective, and will so notify affected operators. The Office intends to grant hearing and conference requests as though such recomputations were new assessments. Also, existing cases may be settled for the amounts that would be proper under these final rules.

In addition, as discussed above, the interim civil penalty regulations have been modified to be exactly the same as the corresponding permanent regulations. This includes changing the requirement that the daily penalty for failure-to-abate run from the date of non-abatement, not the date on which the reinspection occurred and the cessation order for failure to abate was issued. The Office recognizes that unless reinspections are carried out on the date set for abatement, an operator who believes he has abated, but who in fact has not, may be assessed unfairly. For instance, if the inspector inspects 20 days later and finds that the operator still has not completely abated, even though he thought he had, the operator would face an additional $15,000 fine, part of which could have been avoided had the inspector inspected on the abatement date.

Accordingly, these final rules provide that the Office will not assess the daily penalty for failure-to-abate during the period from the abatement date set in the notice of violation or cessation order to the date of the OSM reinspection (30 CFR 723.15(b)). Thus, penalties will begin to accumulate on the date that the Office actually reinspects the minesite and determines that the violation cited in the notice of violation or cessation order has not been abated. Such reinspections will normally occur on the date set for abatement unless something unexpected occurs such as an equipment failure, inclement weather, etc.

The Office recognizes that there is a potential for abuse of this modification, and that if the reinspection does not occur on the abatement date, it may be a *de facto* extension of time to abate. However, the Office is coupling this modification with a policy that the Office reinspect on the date set for abatement or within 3 days thereafter.

Lastly, the Office believes that stronger enforcement action must be taken in most cases against those persons who fail to abate their violations within the periods set for such abatement. As part of its scheme to deal with such persons, described at Comment 6 below, the regulations require the Office to take appropriate action pursuant to sections 518(e), 518(f), 521(c), or 521(a)(4) of SMCRA in all cases where a person has failed to abate a violation within 60 days from the date the failure-to-abate cessation order is issued. This requirement is imposed under new subsections 30 CFR 723.15(b)(2) and 845.15(b)(2).

Background

Proposed modifications to 30 CFR Parts 722, 723, 843 an 845 were published in the **Federal Register** on January 23, 1980 (45 FR 5540). A public hearing was held on February 13, 1980, in Washington, D.C. At the close of the comment period on February 11, 1980, nine commenters had submitted written comments. The transcript of the public hearing and all written comments pertaining to substantive changes in the regulations have been fully and completely considered in the development of these final regulations. Comments pertaining to each section of the regulations have been summarized below to assist the public in understanding the response to each comment and the bases and purposes of the final regulations.

Sections 722.16 and 843.13

1. One commenter suggested that the review for a pattern of violations provided in 30 CFR 722.16(e) and 843.13(f) be limited to violations which are willful or involve an unwarranted failure to comply. The Office rejects this recommendation as unnecessary. The results of such review will be based only on such violations because a permit may be revoked or suspended only if the Director determines that a pattern of violations exists, and that the violations were willfully caused by the permittee or through its unwarranted failure to comply (See 30 CFR 722.16(a) and 843.13(a)).

2. Another commenter suggested that the Office either delete 30 CFR 722.16(e) and 843.13(f), or make its review for a pattern of violations discretionary. Because the rule states that an order to show cause may be issued as appropriate, the Office does not feel that it is necessary to make such review discretionary. Additionally, as mentioned above, the Office believes that such review is especially appropriate in cases of nonabatement of violations. This is true because the failure of operators to correct cited violations in a timely fashion demonstrates an intent to flout the Act. It also creates a gross abuse of the environmental standards of the Act and must be treated accordingly.

The Office believes that if a notice of violation is uncorrected and ripens into a failure-to-abate cessation order, and that such order is in turn uncorrected for at least one month, a serious question arises regarding the permittee's intent to comply with the Act, and it is incumbent upon the Office to examine the permittee's history of violations to determine if a pattern of unwarranted or willful violations exists. While the Office will attempt to review all operations with an eye to enforcement of 521(a)(4) of the Act, it is especially necessary to make such reviews in these cases of chronic non-abatement of violations.

Parts 723 and 845

1. Two commenters recommended that the Office change 30 CFR 723.13(b)(3)(iii), which requires that acts of all persons working on the site be attributed to the person issued the notice or order, unless such acts are those of deliberate sabotage. The commenters suggested that acts of persons not working for the operator

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and acts which are unauthorized or beyond the scope of employment, also not be attributed to the person to whom the notice or order was issued. The Office rejects this comment because it is the responsibility of the permittee to control the site and access thereto, and to prevent such violations from occurring on his/her property.

2. Two commenters objected to the Office's statement in the preamble of these proposed rules that failure-to-abate penalties may force operators into bankruptcy because such penalties are not dischargeable in bankruptcy. The Office agrees with the commenters that such penalties are not dischargeable in bankruptcy. However, such penalties may be a cause of operators going out of business. This clarification has been made in the preamble of these final rules.

3. One commenter recommended that the amount of the failure-to-abate penalty bear a direct correlation to the operator's economic position. The Office rejects this comment because the daily penalty is set at a minimum of $750 per day under section 518(h) of the Act. Congress did not differentiate between operators on the basis of an operator's economic position. Even in the case of penalties other than for failure-to-abate situations, the criteria set by Congress in section 518(a) of the Act do not include an operator's ability to pay.

4. One commenter objected to the Office's policy of beginning to accumulate the failure-to-abate penalty on the date that the Office actually reinspects the minesite and determines that the cited violation has not been abated. The Office rejects this comment because it does not feel it is fair to penalize operators for the failure of the Office, in certain instances, to reinspect for compliance with the notice or order on the date set for abatement.

5. One commenter asked for the right to comment on any agency documents describing the management measures adopted by the Office to reduce the number of cases of non-abatement. This comment is rejected. These documents are internal management procedures and the rules are in no way based upon the information contained in these documents. Any person may, of course, request copies of these documents under the Freedom of Information Act. The Office, however, expresses no opinion as to whether these documents are available to the public under that law.

6. One commenter suggested that the Office agree, in nonabatement cases, to take whatever enforcement action or actions are most likely to abate a violation in the most expeditious manner possible and to deter future violations. The commenter recommended that the Office take such action within 45 days from the date the failure-to-abate cessation order is issued.

The Office accepts this suggestion, except that the regulation provides the Office with 60 days from the date the failure-to-abate cessation order is issued to take such action. 30 CFR 723.15(b)(2) and 845.15(b)(2) are amended accordingly. Specifically the amended regulations require the Office to take appropriate action under sections 518(e), 518(f), 521(a)(4) or 521(c) of SMCRA. The Office will also develop an administrative system to insure that appropriate action is taken within the 30-day period after the maximum penalty has been assessed, and that alternative enforcement action will be pursued at least until such time as the violation has been abated except in cases where no enforcement purpose would be served.

The Office considers this suggestion to be appropriate because of the likelihood that one who refuses to comply with a cessation order for more than 30 days is usually flouting the Act and that other effective enforcement or legal action is required. Operators who fail to cease operations and to correct violations when ordered to do so must be subjected as quickly as possible to other enforcement actions. Longstanding violations often cause serious environmental hazards on minesites and must be dealt with in some effective manner. The Office is doing no more than utilizing other enforcement tools already available in the Act to accomplish this end.

7. Two comments were received regarding the Director's discretion to waive the formula in determining a civil penalty under 30 CFR 723.16. One suggestion was that such waiver be used only to lower the amount of a penalty. The Office rejects this comment because it needs the flexibility for cases where waiver of the formula is appropriate, and where the facts as established at the time of the proposed assessment turn out to be different and less favorable to the permittee.

Another commenter suggested adding, "and such exceptional factors as he may deem appropriate," to the criteria to be considered by the Director in determining the amount of the penalty, and the term "detailed" to describe the written explanation of the basis for the assessment in 30 CFR 723.16(b). The Office rejects these recommendations as unnecessary. The Director is already required under 30 CFR 723.16(a) to take exceptional factors into account in determining whether to waive the formula. The Director is also prohibited from using any factors in determining the amount of the penalty other than the four contained in section 518(a) of SMCRA. Finally, the Office feels that the Director's written explanation of the basis for the assessment will be sufficient without the addition of the term "detailed."

8. One commenter requested that the Office serve copies of all records on which an assessment is based, including the inspector's notes, statements and inspection reports, and the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued. While these documents are not now served on the person to whom the notice or order was issued, all are available upon request from the Assessment Office and the Regional Office except for the inspector's notes which are merely preparatory to the inspector's statement and the inspection report. The Office finds that it would be administratively cumbersome to routinely include these extra documents in the already large package presently being sent to violators and, therefore, rejects this comment.

9. One commenter suggested that the Office modify 30 CFR 723.18(d)(1) to allow the person assessed a penalty to contest the fact of the violation and not the amount of the penalty even though such person has entered into a settlement agreement. The Office rejects this comment because its adoption would undermine the purpose of settlements. If such person wishes to contest the fact of a violation, he may do so in the hearing provided for in Section 525 of SMCRA if no settlement has been entered into.

10. One commenter recommended changing the last sentence of 30 CFR 723.19(a) to allow a person charged with a violation to contest the fact of the violation irrespective of whether it has been decided in a review proceeding commenced under section 525 of SMCRA and 43 CFR Part 4. The Office rejects this comment because it believes that one hearing on the fact of the violation is sufficient, and any further hearings would unduly burden the administrative system. If a decision was rendered previously on the identical violation which is the subject of a civil penalty review action the earlier ruling would be *res judicata* on the fact of the violation.

Regulation Drafters

These rules have been drafted principally by Harriet B. Marple, Chief, Division of Enforcement; Richard Robinson, Enforcement Specialist, Office of Surface Mining, Reclamation and Enforcement; John Williams, Staff Attorney; and Marc McGraw, Assistant Solicitor for Enforcement.

Dated: August 25, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

PART 722—ENFORCEMENT PROCEDURES

1. Section 722.16 is revised by adding paragraph (e) as follows:

§ 722.16 Pattern of violations.

* * * * *

(e) Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue an order to show cause as appropriate pursuant to 30 CFR 723.15(b)(2).

1a. The table of contents for Part 723 is amended by revising the headings for §§ 723.2 and 723.11–723.19, a new § 723.20 is added.

PART 723—CIVIL PENALTIES

Sec.

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723.2 Objective.
723.11 How assessments are made.
723.12 When penalty will be assessed.
723.13 Point system for penalties.
723.14 Determination of amount of penalty.
723.15 Assessment of separate violations for each day.
723.16 Waiver of use of formula to determine civil penalty.
723.17 Procedures for assessment of civil penalties.
723.18 Procedures for assessment conference.
723.19 Request for hearing.
723.20 Final assessment and payment of penalty.

Authority: Surface Mining Control and Reclamation Act of 1977, secs. 201, 501, 518 (30 U.S.C. 1211, 1251, 1268).

2. Part 723 is amended by revising each section, including the headings (all but § 723.1) and by adding § 723.2 to read as follows:

§ 723.2 Objective.

Civil penalties are assessed under section 518 of the Act and this Part to deter violations and to ensure maximum compliance with the terms and purpose of the Act on the part of the coal mining industry.

§ 723.11 How assessments are made.

The Office shall review each notice of violation and cessation order in accordance with the assessment procedures described in 30 CFR 723.12, 723.13, 723.14, 723.15, and 723.16 to determine whether a civil penalty will be assessed, the amount of the penalty, and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

§ 723.12 When penalty will be assessed.

(a) The Office shall assess a penalty for each cessation order.

(b) The Office shall assess a penalty for each notice of violation, if the violation is assigned 31 points or more under the point system described in 30 CFR 723.13.

(c) The Office may assess a penalty for each notice of violation assigned 30 points or less under the point system described in 30 CFR 723.13. In determining whether to assess a penalty, the Office shall consider the factors listed in 30 CFR 723.13(b).

§ 723.13 Point system for penalties.

(a) The Office shall use the point system described in this section to determine the amount of the penalty and, in the case of notices of violation, whether a mandatory penalty should be assessed as provided in 30 CFR 723.12(b).

(b) Points shall be assigned as follows:

(1) *History of previous violations.* The Office shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violations. Five points shall be assigned for each violation (but not a condition or practice) contained in a cessation order. The history of previous violations for the purpose of assigning points, shall be determined and the points assigned with respect to a particular surface coal mining operation. Points shall be assigned as follows:

(i) A violation shall not be counted if the notice or order is the subject of pending administrative or judicial review or if the time to request such review or to appeal any administrative or judicial decision has not expired, and thereafter it shall be counted for only one year.

(ii) No violation for which the notice or order has been vacated shall be counted; and

(iii) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation, as follows:

(i) *Probability of Occurrence.* The Office shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed according to the following schedule:

Probability of Occurrence

	Points
None	0
Insignificant	1–4
Unlikely	5–9
Likely	10–14
Occurred	15

(ii) *Extent of potential or actual damage.* The Office shall assign up to 15 points, based on the extent of the potential or actual damage, in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the permit area, the Office shall assign zero to seven points, depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extend outside the permit area, the Office shall assign eight to fifteen points, depending on the duration and extent of the damage or impact.

(iii) *Alternative.* In the case of a violation of an administrative requirement, such as a requirement to keep records, the Office shall, in lieu of Paragraphs (i) and (ii), assign up to 15 points for seriousness, based upon the extent to which enforcement is obstructed by the violation.

(3) *Negligence.* (i) The Office shall assign up to 25 points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points, depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) "No negligence" means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) "Negligence" means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) "A greater degree of fault than negligence" means reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the acts of all persons working on the surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless than person establishes that they were acts of deliberate sabotage.

(4) *Good faith in attemping to achieve compliance.* (i) The Office shall add points based on the degree of good faith of the person to whom the notice or order was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of Good Faith

	Points
Rapid compliance	−1 to −10
Normal compliance	0

(ii) The following definitions shall apply under Paragraph (b)(4)(i) of this Section:

(A) "Rapid compliance" means that the person to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) "Normal compliance" means the person to whom the notice or order was issued abated the violation within the time given for abatement.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion and may be reassessed after the violation has been abated.

§ 723.14 Determination of amount of penalty.

The Office shall determine the amount of any civil penalty by converting the total number of points assigned under 30 CFR 723.13 to a dollar amount, according to the following schedule:

Points:	Dollars
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260
14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440
23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400
35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500
56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000

§ 723.15 Assessment of separate violations for each day.

(a) The Office may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Office shall consider the factors listed in 30 CFR 723.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which is assigned more than 70 points under 30 CFR 723.13(b), the Office shall assess a civil penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearing and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court.

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for such violation. If the permittee has not abated the violation within the 30-day period, the Office shall take appropriate action pursuant to sections 518(e), 518(f), 521(a)(4) or 521(c) of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

§ 723.16 Waiver of use of formula to determine civil penalty.

(a) The Director, upon his own initiative or upon written request received within 15 days of issuance of a notice of violation or a cessation order, may waive the use of formula contained in 30 CFR 723.13 to set the civil penalty, if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. However, the Director shall not waive the use of the formula or reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act, this Chapter, any applicable program, or any condition of any permit or exploration approval. The basis for every waiver shall be fully explained and documented in the records of the case.

(b) If the Director waives the use of the formula, he or she shall use the criteria set forth in 30 CFR 723.13(b) to determine the appropriate penalty. When the Director has elected to waive the use of the formula, he or she shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

§ 723.17 Procedures for assessment of civil penalties.

(a) Within 15 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Office and to the inspector who issued the notice of violation or cessation order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under 30 CFR 715.12(b) or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

(c) Unless a conference has been requested, the Office shall review and reassess any penalty if necessary to consider facts which were not reasonably available on the date of issuance of the proposed assessment because of the length of the abatement period. The Office shall serve a copy of any such reassessment and of the worksheet showing the computation of the reassessment in the manner provided in paragraph (b) of this section, within 30 days after the date the violation is abated.

§ 723.18 Procedures for assessment conference.

(a) The Office shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom the notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment is mailed.

(b)(1) The Office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later.

(2) The Office shall post notice of the time and place of the conference at the regional, district or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issues, in which case a settlement agreement shall be prepared and signed by the conference officer on behalf of the Office and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary, until approved by the Director or his designee.

(c) The conference officer shall promptly serve the person assessed with a notice of his or her action in the manner provided in 30 CFR 723.17(b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d)(1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the Office within 30 days after the date of signing, the Office may enforce the agreement or rescind it and proceed according to paragraph (b)(3)(ii) of this section within 30 days from the date of the rescission.

(e) The conference officer may terminate the conference when he determines that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

§ 723.19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals to be held in escrow as provided in paragraph (b) of this section within 30 days from receipt of the proposed assessment or reassessment or 15 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested, if it has been decided in a review proceeding commenced under section 525 of the Act and 43 CFR Part 4.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 723.20.

§ 723.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in 30 CFR 723.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to Paragraph (c) of this Section, the escrowed funds shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order or eliminating the proposed penalty assessed under this part, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed account, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

PART 843—FEDERAL ENFORCEMENT

3. Section 843.13 is revised by adding paragraph (f) as follows:

§843.13 Suspension or revocation of permits.

* * * * *

(f) Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or

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order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue an order to show cause as appropriate pursuant to 30 CFR 845.15(b)(2).

PART 845—CIVIL PENALTIES

4. Section 845.15(b) is revised to read as follows:

§845.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in Paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearings and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assesment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for each such violation. If the permittee has not abated the violation within the 30-day period, the Office shall take appropriate action pursuant to sections 518(e), 518(f), 521(a)(4), or 521(c) of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

(Surface Mining Control and Reclamation Act of 1977 (the "Act"), Sections 201, 501, 518, (30 U.S.C. 1211, 1251, 1268)

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Thursday
September 4, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Motor Gasoline Allocation; Adjustments and Downward Certification; Availability of Draft Regulatory Analysis

V45/173 SE4 80 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-23C]

Motor Gasoline Allocation; Adjustments and Downward Certification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of draft regulatory analysis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy has prepared for public comment a draft regulatory analysis of the proposals pending under the motor gasoline allocation program which would establish a downward certification procedure for jobbers and other wholesale purchaser-resellers. The draft analysis is set forth in the Appendix to this notice. Written comments are solicited on all aspects of the draft analysis.

DATE: Written comments by October 31, 1980.

ADDRESS: All written comments to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-23C, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Comment Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-3971.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-4055.

C. Eric Hager (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-3974.

SUPPLEMENTARY INFORMATION: On November 30, 1979, ERA proposed for public comment alternative regulatory changes to establish a downward certification and adjustment procedure for wholesale purchaser-resellers of motor gasoline (44 FR 69962, December 5, 1979). Under the allocation program, a wholesale purchaser-reseller's entitlements are determined with reference to the firm's base period supply obligations. When a reseller's base period allocation obligations are increased by an ERA assignment or adjustment, the firm may adjust upward its allocation entitlements by certifying to its suppliers the corresponding increase in accordance with 10 CFR 211.13(C). However, when a reseller's obligations decrease because a relationship with a base period purchaser is terminated, there is no equivalent mandatory procedure to certify to its suppliers the corresponding decrease except where previous upward adjustments have been granted to the firm.

The downward certification proposals were designed to assure that a reseller's entitlements from suppliers match more closely the firm's actual obligations to purchasers. The changes proposed were intended to restore this balance and to resolve the distortions the absence of a downward adjustment is having on the program's effectiveness as a measure of actual supply conditions.

The November 30 notice of proposed rulemaking set forth several alternative methods of achieving this result, and a substantial number of written comments and extensive public testimony have been received. In general, jobbers and their representatives opposed adoption of any rule that would adjust downward reseller allocation entitlements to reflect reduced supply obligations.

After careful review of the issues raised in the comments, ERA decided not to adopt the principal proposal on the grounds that it might operate to divert supply from markets that have experienced no net reduction in demand (45 FR 28148, April 28, 1980). In order to provide opportunity for a more complete exploration of this and other issues, we stated our intent to prepare a regulatory analysis of the alternative proposals.

This is to give notice that a draft regulatory analysis has been prepared and is set forth in the Appendix to this notice.

In general, the findings of the draft analysis are consistent with the ERA's initial conclusion that the allocation program would operate more effectively if some form of downward certification requirement were adopted. The draft analysis assesses the costs and benefits of the alternative provisions and indicates our tentative conclusions on the merit of each. The analysis has also taken into account related aspects of the pending proposals to revise the motor gasoline allocation program set forth in a notice of proposed rulemaking issued on June 6, 1980 (45 FR 40078, June 12, 1980). In this respect, the interaction of each set of proposals is complex, and comment is invited on all aspects of their operation.

Written comments should be submitted by October 31, 1980, to the address indicated in the "Addresses" section of this notice. Comments should be identified on the outside envelope and on the document with the docket number and the designation: "Downward Certification Regulatory Analysis". Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

No further action will be taken in this proceeding until the comments on the draft regulatory analysis have been received and evaluated.

Issued in Washington, D.C., August 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Appendix—Draft Regulatory Analysis Notice of Proposed Rulemaking Motor Gasoline Downward Certification

I. Introduction

a. *Purpose of Analysis.* The economic Regulatory Administration (ERA) of the Department of Energy (DOE) prepares regulatory analyses of proposed regulations which may either have a major impact on the general economy, individual industries, or geographic regions and levels of government, or may be significant in that they substantially affect public policy.[1] An analysis should present a review of the issues prompting the regulatory proposals and an evaluation of alternative regulatory and non-regulatory solutions.

In the Notice of Proposed Rulemaking issued November 30, 1979 entitled "Motor Gasoline Allocation; Adjustments and Downward Certification", it was determined that adoption of a certification procedure to supplement the existing provisions applicable to gasoline marketers does not require preparation of a regulatory analysis (44 FR 69962, December 5, 1979).

Upon review of the extensive public comment received and its further consideration, the ERA stated that would nonetheless prepare for public review an analysis of the pending alternative proposals (45 FR 28148, April 28, 1980). The analysis will examine the basis for and probable effects of the alternative proposals with particular reference to their applicability to gasoline marketers.

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[1] Executive Order 12044, "Improving Government Regulations" (43 F.R. 12661, March 23, 1978) and the Department of Energy's Implementing DOE Order 2030.1, "Procedures for the Development and Analysis of Regulations, Standards and Guidelines" (44 F.R. 1032, January 3, 1979).

b. *Scope of Analysis.* The gasoline allocation program is designed to alleviate the adverse effects of a supply shortfall at the wholesale level and indirectly thereby upon consumers. During those periods when a supplier has insufficient product to meet its purchasers' base period entitlements, the program recognizes certain priority activities and applies the necessary supply reductions equitably among a supplier's remaining customers. When supply is adequate, purchasers may obtain product from any supplier who has it to sell without risk of losing future allocation entitlements, provided this base period is not changed in the future.

Because the program governs all supplier purchaser relationships at the wholesale level, its operation depends upon firms determining among themselves the applicability of its provisions. As a matter of course, individual relationships may be reviewed by the ERA to consider requests for adjustments and assignments, to resolve disputes among firms, and to determine compliance with its provisions. In most respects, however, the program is self-operating.

The category of marketers to which the pending proposals and this analysis are most directly related include "jobbers" and other firms that fall within the regulatory term "wholesale purchaser-reseller". This term is defined in § 211.51 of the regulations to mean

> any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

The definition is intended to include marketers that purchase and resell or transfer product to their own retail facilities, the facilities of independent dealers, or commercial accounts.

While the DOE collects and has available significant data with respect to many features of the allocation program, little information is routinely collected specifically on the activities of wholesale purchaser-resellers. This analysis relies to a large extent on the limited program data available, the information and views provided in rulemaking and other proceedings, and generally available publications. The analysis is not based upon a specific data collection activity. However, the foregoing provide a reasonably reliable basis upon which indicators of probable qualitative effects can be identified.

II. Background

a. *Legislative Objectives.* The statutory authority for the motor gasoline allocation program is the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159) as amended, which provides that the program to the maximum extent practicable shall provide for a number of broad objectives in § 4(b)(1) thereof, including

> preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;
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> * * * * *
>
> equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;
>
> * * * * *
>
> economic efficiency; and
>
> * * * * *
>
> minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

The statute, which is scheduled to expire on September 30, 1981 directs that the program be designed and implemented in a manner that (i) meets the nation's priority needs, (ii) distributes remaining supplies equitably and (iii) does so in a manner that preserves the competitive viability of the independent sectors of the industry. The pending downward certification proposals are evaluated in light of these primary objectives.

b. *Current Regulatory Program*—1. *Supplier Purchaser Relationships.* In general, the regulatory program allocates product to historic purchasers with reference to purchases made during the base period year, November 1977 through October 1978. In a calendar month when supplies are adequate, a purchaser is entitled to receive from its historic suppliers the same volumes that it received during the corresponding month of the base period. Certain bulk purchaser customers engaged in specified priority uses are always entitled to receive their full base period volumes. Remaining purchasers' entitlements are subject to *pro rata* reductions during months for which supply is inadequate to meet all base period obligations. These reductions are made by application of an "allocation fraction."

Allocation entitlements of wholesale purchaser-resellers are determined with reference to each firm's obligations to its base period customers. When a reseller's base period allocation obligations are increased by an ERA assignment or adjustment, a reseller may adjust upward its allocation entitlements by certifying to its suppliers to corresponding increases in accordance with procedures set forth in the regulations. However, when a reseller's obligations decrease because a relationship with a base period purchaser is terminated, there is no equivalent mandatory procedure to certify to its suppliers the corresponding decrease except where previous upward adjustments have been granted to the firm.

2. *Surplus Product Rule.* In cases where supply for a month is in excess of a supplier's monthly allocation obligations, the supplier is deemed to have "surplus product" which certain large or "prime" suppliers are required to report to ERA. In such cases, the ERA can direct the supplier to distribute the product to specific purchasers, to retain the surplus in inventory, or to take other appropriate action. Firms not qualifying as "prime suppliers" need not report the volumes but are required to distribute them in accordance with the surplus product rules.

Unless otherwise directed by ERA, suppliers are required to offer surplus product to their classes of branded and non-branded independent marketer customers in the same proportion that the base period volumes of those classes bear to the base period volumes of all their purchasers. Having done this, a supplier may then distribute the product at its discretion. Suppliers with an allocation fraction of less than or equal to 1.0 may also have "underlifted" product which is that which remains when a base period purchaser fails to take its full allocation for a month. Underlifted product in such circumstances qualifies as surplus and must also be distributed in accordance with the surplus product rules.

3. *Closed Retail Outlets.* Under the current provisions, the product a marketer would have been required to allocate to a retail outlet that closed is required to be offered to its remaining customers either by increasing its allocation fraction if it is less than 1.0, or by distributing the volumes as surplus product.

With regard to closed retail outlets, § 211.106(d)(2) of the regulations provides

> Whenever an operator of a retail sales outlet goes out of business * * * the supplier of

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> that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor * * *

Thus, when a retail sales outlet is closed, the supplier must increase the volume made available to its remaining base period coustomers or distribute the product as surplus.

If a closed outlet had been operated by the reseller, it may request that ERA adjust upward the allocations to its remaining retail outlets. A supplier which operates two or more retail outlet's may also reassign up to 30 percent of the allocation entitlement of one retail outlet it operates to another which it operates without further notification to the ERA (§ 211.106(b)(3)(ii)).

4. *Existing Downward Certification Provision.* The only current provision that requires a firm to certify to its supplier a downward adjustment to correspond to reduced supply obligations is set forth in § 211.13(f). This section relates to provisions permitting a wholesale purchaser-reseller to certify to its supplier increased supply obligations as a result of ERA assignments and adjustments made pursuant to § 211.13(c). To obtain upward adjustments to reflect ERA assignments, § 211.13(f) requires the applicant to state that the additional volumes

> shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use.

In an interpretation of this provision, the DOE stated that the downward certification requirement applies only to the specific volumes for which a previous adjustment has been made and not to the overall supply obligations of the applicant or to categories of uses. *Nelson Oil Co.,* Interpretation 1978–24. Under this provision, the decreased supply obligations attributable to a closed station must be certified as a downward adjustment by a wholesale purchaser-reseller only if the volumes allocated to the closed outlet had previously been the subject of an upward adjustment.[2]

c. *Problems Under the Current Rules.* Since the inception of the allocation program in 1974, mid-level marketer expansion has been occurring at an apparent rate that may have been exaggerated by effects of the allocation regulations. During the period 1974 to 1978, the 28 largest refiners reported a decrease in the gasoline allocation shares of directly supplied retail outlets and reported significant increases for the jobber/chain retailer class of trade.[3] This trend was especially evident for the top eight refiners. In general, refiners have greatly increased the amount of product distributed through jobbers for supply to independent outlets and large consumers. Throughout 1979 and 1980, approximately 49 percent of all refiners' total supplies to independents were delivered through jobbers, up from 36 percent in 1972.[4] While a combination of influences may produce this phenomenon, dramatic shifts in market position during periods when many suppliers have been applying allocation fractions suggest that incentives created by the regulations may be contributing to this growth.

In this respect, ERA continued to receive anecdotal information that some marketers were engaged in manipulation of the adjustment provisions solely in an effort to expand market share. In one case, a refiner reported that a medium sized jobber with an allocation of approximately 600,000 gallons on January 1, 1975, was able by use of upward adjustment procedures to increase its allocation entitlement to more than 10 million gallons by July 31, 1979. The expansion of the jobber's allocation entitlement over the objection of the supplying refiner eventually resulted in reducing the amount supplied to the refiner's remaining base period purchasers to three percent of the volume supplied by the refiner at the point of delivery.

In general, all indicators available to DOE suggest that the market share of non-refiner wholesale purchaser-resellers has increased substantially during the existence of the allocation program. The ERA has not collected reliable data on the extent to which new assignments and upward adjustments are made to resellers. However, the means to receive increases on a relatively liberal basis are available to this class of firms, significant incentives exist to take advantage of these provisions, and extensive anecdotal accounts all point to a probable correlation between use of the upward adjustment provisions and the increases in market share evident for this group.

In addition, there have been indications that relatively large volumes of gasoline flowed out of the regulated distribution system during the gasoline shortfall that occurred in 1979. Since little reliable data on spot market transactions are available to DOE, conclusions on the extent of spot market activity and particularly the types of firms involved in such activity cannot be determined definitively. During this period, there were indications that large volumes of domestic gasoline were being sold in these unallocated markets. On the basis of this and other information, the ERA initiated a number of special investigations into possible violations of the regulations. In general, these investigative efforts have confirmed that abuses were occurring. In one case, a large marketer of gasoline closed more than 200 retail gasoline outlets, yet continued to receive in excess of 12 million gallons a month for which it effectively had no allocation obligation. In the course of this investigation, it was determined that most of this product was diverted to the spot market and possibly lost to the marketing area to which it had been originally allocated.

The current rules dictate specifically the manner in which product freed from lost business is to be allocated. Section 211.106(d)(2) requires suppliers in such cases to increase the allocable supply to remaining customers or to distribute the remaining product as surplus. Diverting such product to the spot market or otherwise disposing of it is a clear violation of the regulations.

In general, however, opportunities for identifying these violations do not arise on a consistent basis. A supplier's remaining customers usually cannot know whether other supplied outlets have been closed, whether the supplier has accounted for the volumes in calculating an allocation fraction or whether the supplier has complied with the surplus product rules. Furthermore, ERA cannot review each supplier purchaser relationship on a case by case basis to determine whether violations of this sort have occurred. A premise of the downward certification proposals is that with the aid of a mandatory notification requirement, a marketer's supplier is in a better position to monitor closely compliance with these procedures. A supplier, particularly during a shortage, will want to be sure that its reseller customers' allocation entitlements match closely their actual obligations. A supplier would be especially alert to a marketer's taking unusual advantage of provisions enabling it to increase its own entitlements by declaring itself a "willing supplier" for new business. A reluctant supplier would scrutinize carefully the upward adjustment request and have an incentive to insist that a downward certification be made where appropriate. In this respect, a downward certification procedure could provide refiners and other suppliers with a more effective means of assuring that a marketer's supply entitlements reflect actual supply obligations. However, whether such a notification procedure could be enforced in each and every situation remains to be seen.

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[2] In a recent court decision, *Shell Oil Co.* v. *Nelson Oil Co., Inc.,* No. 9–47 (TECA July 21, 1980), the Temporary Emergency Court of Appeals determined that circumstances other than station closings can also trigger the § 211.13(f) downward certification requirement.

[3] DOE, Office of Competition, *The State of Competition in Gasoline Marketing,* Part I, May 1980, p. 102.

[4] DOE, EIA *Petroleum Market Shares* "Report on Sales of Refined Petroleum Products."

The absence of a downward certification procedure can also contribute to distortions in the allocation fraction as a measure of actual supply conditions. Each month a supplier is required to offer to its historic purchasers a volume of gasoline equal to the volume purchased during the same month of the base period. When a supplier's total available supply is less than its total obligations, the firm must reduce on a *pro rata* basis the amount supplied to its non-priority purchaseers by the application of an allocation fraction. The numerator of the allocation fraction represents a supplier's allocable supply less obligations to priority use customers and state set-aside volumes. The denominator represents the supplier's base period obligations. If the allocation fraction is less than 1.0, all purchasers whose allocation level is subject to the fraction are offered only that portion of their base period volumes.

A low allocation fraction can reflect either a decrease in supply or an increase in obligations or both. The allocation program cannot increase the amount of product available to a refiner but does operate actively to effect increases and decreases in obligations. This can occur either as a result of the upward adjustment provisions available to firms through new station and interim assignment procedures or the limited downward certification procedure under § 211.13(f). Continuing increases in obligations from a relatively fixed level of allocable supply results in downward pressure on suppliers' allocation fractions. When decreased supply obligations through station closings or other shifts are not accounted for, the accuracy of the allocation fraction as a measure of actual supply conditions is distorted. This could be resulting in lower refiner allocation fractions and less product being available to independent retail dealers that are supplied directly by refiners.

III. Proposed Amendments

a. *Rulemaking History.* On July 15, 1979, ERA adopted, effective September 1, 1979, amendments to the allocation regulations which included a downward adjustment provision for wholesale purchaser-resellers whose supply obligations to retail sales outlets decreased (44 FR 42529, July 19, 1979).[5]

On August 22, 1979, the effective date of the downward certification procedure was deferred until October 1, 1979, and on September 11, 1979, the effective date was deferred again to the date of completion of the pending rulemaking proceedings (44 FR 54041, September 18, 1979). On November 30, 1979, a notice of proposed rulemaking was issued presenting several alternative downward certification proposals and soliciting further public comment (44 FR 69961, December 5, 1979).

Many refiners and others responding to the downward certification proposals contended that the allocation program was being distorted significantly because of the growing imbalance occurring between mid-level marketers' allocation entitlements and their actual supply obligations. Marketers opposed adoption of a downward certification requirement on the grounds that it would severely restrict their ability to respond to demand shifts occurring within their markets and would tend to move product away from the market area they serve. The mechanism under consideration for correction of this effect would have provided that a wholesale purchaser-reseller must adjust downward its base period use by the amount its supply obligations decrease when a retail sales outlet that it supplies goes out of business or otherwise reduces its allocation obligation. On April 21, 1980, ERA announced that it would not adopt the principal downward certification proposal and that the rulemaking proceeding would be continued pending preparation of this regulatory analysis (45 FR 28148, April 28, 1980).

b. *Alternatives Under Consideration.* The alternatives to the principal downward certification proposal described in the December 5, 1979 notice of proposed rulemaking were presented as follows:

The first would require downward adjustments only as a condition precedent to receiving an upward adjustment. Under this alternative, wholesale purchaser-resellers would not be required to adjust downward their base period uses when their supply obligations decrease except to the extent that they wish to certify upward adjustments to their suppliers.

The second would require downward adjustments when retail outlets close but would not require downward adjustments when a reseller is relieved of its obligation to supply wholesale purchaser-consumers or bulk purchaser customers.

The third would require certification of downward adjustments only when a supplier's base period obligations are assumed by another supplier in accordance with the regulations. To a varying extent, ERA requires applicants to account for the reduced obligation when its Regional Offices approve applications for such reassignments.

The fourth would require downward adjustments only for decreased obligations due to station closings that occurred subsequent to the end of the current base period.

The fifth would apply prospectively only from the date of the adoption of a final rule. Under this alternative, marketers would be required to certify to their suppliers downward adjustments for lost business occurring only in the future.

In connection with these alternatives, ERA stated that none are mutually exclusive, and that features from more than one alternative could be included in a final rule.

c. *Effective Date of Alternatives.* The pending proposals present for consideration several proposed effective dates. The principal proposal would have required resellers to certify downward adjustments for amounts that its supply obligations have decreased since the corresponding base period month of the period November 1977 through October 1978. This provision would have required wholesale purchaser-resellers to certify to their suppliers downward adjustments to correspond to all decreased obligations back to October 1978.

One alternative would apply to decreased obligations from station closings occurring prospectively only from the date of adoption of a final rule, thus requiring downward certification for decreased obligations occurring only in the future.

A significant portion of the comments received argued strongly against adoption of any of the alternative proposals on a retroactive basis. Many of the firms commenting opposed a retroactive application on the grounds that severe disruptions within many

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[5] On July 19, 1979, a corrective amendment was adopted to include wholesale purchaser-consumers and bulk purchasers as categories of customers for which downward adjustments would be applicable and to clarify that the provision would have applied for decreased supply obligations occurring since the corresponding base period month (44 FR 43458, July 25, 1979).

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markets would result, and that the additional administrative burdens imposed on many small firms would outweigh any advantages achieved. In addition, several opposed as inherently unfair, administrative action of any type adopted on a retroactive basis. Because, there is no doubt that a retroactive provision could affect a very large number of base period relationships, the administrative disruptions associated therewith would tend to be out of proportion to possible benefits. On this basis, a potential downward certification procedure is under consideration with respect to prospective application only.

IV Analysis of Alternatives

a. *Downward and Upward Certification Combined.* This alternative would require a marketer to certify to its supplier a downward adjustment only as a condition precedent to receiving an upward adjustment to meet increased supply obligations. This proposed alternative would effectively require a marketer to net out upward and downward adjustments to its allocation obligations. In a case where a marketer is relieved of a base period obligation because an outlet closes, no downward certification would be required except when the firm seeks an increase in its allocation entitlements to supply new business. Under this alternative an upward adjustment would be authorized only for volumes in excess of those no longer obligated to closed stations.

If a firm applied for an ERA assignment for a marketer to supply a new retail outlet at a level of 100,000 gallons per month, and the marketer had experienced a decrease in its supply obligation for a closed outlet of 75,000 gallons, upon receipt of the obligation to supply the new outlet with 100,000 gallons, the marketer would be permitted to certify an upward adjustment of only up to 25.000 gallons per month. If the marketer's lost business equaled 100.000 gallons per month, the new assignment would be made, but no upward adjustment would be granted.

For firms whose upward certification volumes were less than the volumes attributable to decreased supply obligations, no upward adjustment of allocation entitlements would be granted. In this latter example, however, the firm would not be required to certify to its supplier the incremental decrease in obligations to reflect the lost business. The available volumes would only be required to be offered to the firm's other base period purchasers in accordance with existing procedures.

This alternative differs somewhat from the currently effective downward certification provision in § 211.13(f) which requires a reduction in allocation entitlements that had been previously awarded with respect to a specific base period purchaser. The new proposed alternative would require a comparison of firm-wide increases and decreases in obligations without reference to specific purchaser.

1. *Effect on Marketers.* The proposed alternative would not impose upon marketers any affirmative requirement to report to suppliers decreased obligations excxept to the extent upward adjustments for new business are sought. Adoption of this alternative would tend to restrict the present ability of some resellers to increase market share by a combined pattern of applying for upward adjustments and distributing volumes freed from lost business to other purchasers. The alternative would serve to halt this practice with respect to future station closings and would effectively preserve resellers' base period allocation volumes as of the date of its adoption. Reductions in allocation entitlements would be effected only for the purpose of offsetting equivalent upward adjustments sought by a firm. This rule would tend to decrease the ability of jobbers to expand market share solely by manipulation of the allocation regulations.

2. *Effect on Supply.* The alternative would tend to reduce jobbers flexibility to shift volumes within markets and to divert product unlawfully to spot markets. During periods of ample gasoline availability, however, the impact of this provision on supply patterns would tend to be minimal.

Adoption of this proposed procedure would probably result in fewer new station applications because an applicant would be required to account for volumes attributable to closed stations or other lost business. By minimizing the incentive to apply for new station assignments, the rule would tend to reduce the erosion of existing station allocations from which new stations are often supplied and would tend to reduce administrative burdens generally.

If adopted, however, the alternative could also operate as a disincentive to convert outmoded outlets to more efficient operations in those instances where total lost business exceeded new station needs. For example, a firm may be reluctant to consolidate inefficient or unprofitable stations for fear of having to account for volumes it has redistributed from previously closed outlets. This could inhibit improvements in marketing patterns and tend to reduce a marketer's flexibility to respond to actual demand shifts.

The generalized effect the alternative may have upon product movement within markets is difficult to predict. On the one hand, unaccounted for volumes freed prior to the provision's effective date would continue to be effectively available for redustribution across markets. On the other, requiring downward certification when a firm attempts to expand its allocation base would tend to contain product within the firm's current distribution system. In cases where a marketer operates in more than one marketing region, the offering of freed product to all of the firm's base period purchasers could tend to shift some product among markets. However, this is the case presently, and this possible effect would represent no change.

Opponents of a downward certification requirement contend that jobbers would lose flexibility in closing stations for fear of reduced entitlements and that this could encourage maintenance of inefficient stations and lead to higher prices. It could also limit a marketer's ability to direct product to areas experiencing stronger demand, especially during a shortage. On this basis, it has been argued that an active spot market during a shortage is the "grease" that lubricates the allocation mechanism, by directing supply toward areas of most acute demand.

Adoption of a downward certification rule would increase administrative costs to marketers, suppliers, and the ERA. Further, it is argued, the imposition of the increased regulatory burdens in order to curb spot market activity would also contribute to inefficiency, since the level of spot market sales is small as a percentage of national sales. Additional administrative problems could arise under this rule where a firm applies for an upward adjustment and simultaneously certifies its downward adjustments. In such a case, there could be an incentive for a reluctant supplier to effect the downward adjustment immediately and stall the upward adjustment pending administrative approval by ERA. However, the proposed rule would not permit a supplier to act independently to adjust downward a purchaser's entitlements. A downward adjustment would be effected only as a limit on an authorized upward adjustment. In general effect, however, the alternative would to a large extent discourage apparent abuses without disrupting reseller positions within markets.

b. *Downward Certification for Closed Retail Outlets Only.* This alternative would require a firm to certify to its supplier downward adjustments of allocation entitlements to reflect volumes attributable to closed retail outlets, but not for decreased obligations to wholesale purchaser-consumers or bulk purchasers.

Adoption of this alternative proposal would require a downward certification procedure with respect to the major portion of the volumes governed by the allocation program's supplier purchaser provisions. The volumes supplied to wholesale purchaser-consumers and bulk purchasers tend to be a small percentage of most marketers' sales and would have the advantage of reducing administrative burdens for affected firms. Further, several comments were received to the effect that many bulk purchasers and end-user accounts, such as construction site operators or other short term purchsers, can and do change often, and administrative flexibility is desirable to accommodate these activities.

c. *Downward Adjustment for Supply Assumptions Only.* This alternative would require a firm to certify to its supplier a decrease in its supply obligation attributable to supplier substitution agreements approved by ERA under § 211.25 of the regulations. For example, if Jobber A enters into an agreement to assume Jobber B's base period obligation to supply retailer C, the proposal would require Jobber B to certify to its supplier a reduction in its allocation entitlements to reflect the reduced supply obligation to retailer C. This alternative would operate to assure that supply entitlements properly reflect supply obligations and would achieve the objective of reducing the amount of allocated product available to a firm having no corresponding supply obligation. This is currently a condition imposed by many ERA Regional Offices in approving these agreements and, to this extent, would have little new impact. If adopted in conjunction with the first alternative, the provision would assure that the affected volumes are properly accounted for under the program. Minimal impact on supply patterns would be anticipated under this alternative.

d. *Downward Certification and Pending Proposals to Increase Supplier Flexibility.* Under the current allocation regulations, a wholesale purchaser-reseller's actual supply obligations are reduced when one of its base period purchasers goes out of business. For such firms that wish to redistribute to their remaining customers the gasoline no longer supplied to closed outlets, the regulations permit applicants to petition ERA pursuant to § 211.106(c)(2)(i) for an appropriate adjustment. The principal downward certification provision would have modified the effect of this section by requiring that when a supplier reduced its supply obligation, its allocation entitlement would be decreased by an equivalent amount. Thus, unless the firm petitioned the ERA (which it could only do for its directly operated outlets), the wholesale purchaser-reseller would no longer have been able to keep the product within its distribution system for supply to its remaining customers.

The principal proposal no longer under consideration would have required a certification upon the closing of a retail sales outlet or other lost account. The volumes attributable to the lost business would be certified as reductions up the supply chain to the ultimate supplying refiner. The volumes so certified would then be included as an increase to the refiner's allocable supply for a month and effectively distributed on a *pro rata* basis to all the refiner's base period customers. The principal proposal, would have operated to spread the lost volumes attributable to a closed station across the marketing area of the supplying refiner. This is the effect currently in cases where a refiner operated outlet is closed.

This scheme was based upon an assumption that a closed service station is a good measure of decreased demand within a market. On the basis of the many public comments received, and further consideration, it appears that this assumption in many cases is unwarranted. For example, it has been suggested that many factors can contribute to station closings including changing economics of the outlet operator or owner of the real property upon which it is situated, and changes in demand patterns, demographics, competition, and marketing strategies of outlet operators and suppliers. More importantly, it has been pointed out that station closings often result from a firm's effort to consolidate its retail operations to promote increased marketing efficiencies and to enhance the profitability of its units. Employment of this strategy does not necessarily indicate reduced demand and may be appropriate as often in growth environments as not.

In light of the extensive comment received to this effect, ERA included within its general proposed revisions to the gasoline allocation program proposals that would grant suppliers more flexibility to shift volumes from lost accounts to remaining outlets (45 FR 20078, June 12, 1980).

Under the proposal, suppliers, including refiners, would be permitted to distribute the base period volumes of closed outlets among remaining outlets in any way they choose, provided they do not jeopardize the relative volumes allocable to their independently operated outlets. They would not be permitted to increase the total base period uses of company operated outlets, and such shifts could not be certified as increases in supply obligations.

As stated in the preamble to the June 12 gasoline allocation proposals, the supplier flexibility provisions appear to conflict with objectives of the pending downward certification proposals. In some respects, this may be true. To the extent that retail outlet closings were proposed as a measurement of decreased demand within a market, the two proposals conflict. To the extent that the objective of a downward certification procedure is to assure that a reseller's entitlements match as closely as possible the resellers' actual obligations, the two proposals do not conflict. If volumes are transferred from a closed outlet to a remaining outlet supplied by a firm under the proposed supplier flexibility provisions, the volumes would be included in the base period supply entitlements of the remaining outlets. No downward certification procedure would be necessary, because the supply entitlements of the wholesale purchaser-reseller would still be equivalent to its base period supply obligations. If volumes freed from closed accounts were not included in remaining outlets' base period volumes, they would be certified to suppliers as a downward adjustment to base period entitlements. This operation of the two sets of proposed provisions would be consistent and would tend to assure the accuracy of the allocation fraction as a measure of actual supply.

e. *No Action.* In its preparation of regulatory analyses, the ERA normally considers the costs and benefits of the always available alternative of taking no action. In light of the many implications involved in adopting some form of downward certification procedure, this alternative deserves full consideration. Jobbers and their representatives argued strenuously in favor of this course.

1. *Effect on Marketers.* Since its inception in 1974, the regulatory provisions have operated without any generally applicable requirement to provide for mandatory reductions in base period allocation entitlements to reflect lost business. The apparent effect of the absence of such a requirement in conjunction with the relatively

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accessible means such firms have to increase allocations may have contributed to the growth of jobbers as a class. This result is consistent with the program's objective to preserve the independent marketing sector of the industry. An expanding independent marketing segment can operate to assure that competition achieves its goal of improving distribution of supplies and restraining price. This improving position of independent marketers can in part be traced to relatively favorable treatment of this group under the regulations.

However, the objective of the program to minimize interference with market mechanisms may be frustrated by the provisions that contribute to marketer growth beyond that which would be permitted by a free market. The present ability of a jobber to increase the supply it is allocated over the objection of the refiner producing the product would not be available without a regulatory program. In the context of a generally fixed amount of available supply, these increases are often made at the expense of existing retail outlets that have no comparable means of obtaining allocation increases. No action in this proceeding would continue the favorable treatment jobbers receive in this regard, and this could, over the long term, contribute to economic inefficiency. The adverse impacts on the independent retail segment of the market would also continue. By favoring one segment of the independent sector, the viability of another could be jeopardized.

2. *Effect on Supply.* Without a downward certification requirement it can be anticipated that jobbers and other marketers will continue to take advantage of the present liberal upward adjustment procedures to the detriment of competing firms. Failure to adopt a downward certification requirement could result in some illegal spot market activity during times when competing firms have insufficient product to supply base period customers. Further, the disadvantages associated with a distorted allocation fraction would also continue.

The separately proposed revisions to the allocation program could, if adopted, reduce the need for a downward certification procedure. First, the proposed restrictions on new station assignments should result in fewer volumes being diverted to jobbers in this manner. The proposed requirement that all suppliers be "willing" could reduce significantly jobbers' ability to receive increased allocations solely because of the regulations. In addition, the proposed modification that would enable existing retail outlets to obtain increases would encourage more efficient conversions and reduce new station applications, and thereby the increased allocations available to jobbers as a class.

No action taken with respect to a downward certification requirement would serve chiefly to provide a favorable environment for continued jobber expansion at the expense of the retail dealer and continue distortion of the allocation fraction. If the pending proposals (i) to place existing and new stations on the same basis for increases, (ii) to require that all suppliers be "willing" to authorize new assignments and adjustments, and (iii) to increase supplier flexibility are adopted the need for a downward certification provision would appear to be reduced.

V. Conclusion

The unintended regulatory effects that the alternative downward certification proposals are intended to resolve are real and continue today. The regulations have permitted jobbers to draw product away from competing segments of the marketing industry. Further, the continuing distortion of the allocation fraction should be corrected.

While it appears that there is a definite benefit to granting marketers some degree of flexibility to move product within their distribution systems, experience has shown that some abuses can and have occurred during periods of shortfall in gasoline supply. Adoption of a downward certification provision on a prospective basis as a condition to receiving an upward adjustment appears to be the most satisfactory alternative. It could resolve identified problems without the disruptive effects of a retroactive provision.

The downward certification proposal should be considered together with the pending proposed allocation revisions. The adoption of more restrictive standards for new station assignments, the proposed "willing" supplier provisions, and the increased supplier flexibility provisions could diminish the need for a downward certification rule.

[FR Doc. 80-27109 Filed 9-3-80; 8:45 am]
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federal register

Thursday
September 4, 1980

Part VII

Office of Management and Budget

Budget Rescissions and Deferral

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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferral

To the Congress of the United States

In accordance with the Impoundment Control Act of 1974, I herewith report a new Department of Commerce deferral of $15.8 million in funds for the International Energy Exposition in Knoxville, Tennessee. In addition, I am reporting a revision to a previously transmitted deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increasing the amount deferred by $0.5 million.

The details of each deferral are contained in the attached reports.

Jimmy Carter

The White House,
August 27, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Commerce:	
	General Administration	
D80-73	Participation in United States expositions.......	15,814
	National Oceanic and Atmospheric Administration	
D80-49A	Coastal energy impact fund........................	55,422
	Total, deferrals.............................	71,236

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Twelfth special message:		
New items...............................	---	15,814
Change to amounts previously submitted...	---	500
Effect of the twelfth special message..	---	16,314
Previous special messages..................	1,618,061	10,507,246
Total amount proposed in special messages....	1,618,061	10,523,560 a

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a. This amount represents budget authority except for $21,085 thousand involving the deferral of outlays only (D80-23A, D80-51A, D80-52A, and D80-53A).

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Deferral No: D80-73

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce

Bureau: General Administration

Appropriation title & symbol:

Participation in United States
Expositions 130/41805

New budget authority (P.L. 96-304): $ 20,800,000

Other budgetary resources: ---

Total budgetary resources: 20,800,000

Amount to be deferred:
Part of year: $ 15,814,000
Entire year: -0-

OMB identification code:
13-1805-0-1-376

Legal authority *(in addition to sec. 1013)*:
☒ Antideficiency Act
☐ Other ______

Grant program ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☒ Multiple-year September 30, 1984 *(expiration date)*
☐ No-year

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other ______

Justification: The Supplemental Appropriations and Rescission Act, 1980 (P.L. 96-304) provided $20,800,000 in funds for necessary expenses for designing, constructing, and operating a Federal Pavilion at the Knoxville International Energy Exposition. The funds were designated to remain available through fiscal year 1984. Under present program plans $4,986,000 will be obligated in FY 1980. The remaining $15,814,000 is deferred for use in fiscal years 1981 - 1984.

This deferral action is consistent with the congressional intent to provide multi-year funding for the total cost of this program and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect: This deferral has no effect on outlays.

BILLING CODE 3110-01-C

Supplementary Report

Report Pursuant to Section 1014(c) of Pub. L. 93-344

This report revises deferral number D80-49 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96-299.

This revision to a deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increases the amount previously reported as deferred from $54,921,855 to $55,421,855. This increase of $500,000 results from an increase in estimated loan interest receipts for FY 1980.

BILLING CODE 3110-01-M

Deferral No: D80-49A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority $ ______ (P.L. ______) Other budgetary resources 98,189,657 * Total budgetary resources 98,189,657 *
Bureau National Oceanic and Atmospheric Administration	
Appropriation title & symbol Coastal Energy Impact Fund 13X4315 1/	Amount to be deferred: Part of year $ ______ Entire year 55,421,855 *
OMB identification code: 13-4315-0-3-452	Legal authority *(in addition to sec. 1013)*: ☐ Antideficiency Act ☐ Other ______
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ______ *(expiration date)* ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ______

Justification: The Coastal energy impact fund (CEIF) appropriation provides Federal financial assistance, through a program of grants and loans, to meet the needs of coastal States and local communities impacted by Outer Continental Shelf (OCS) and coastal energy development activities.

This deferral was proposed in conjunction with the Administration's effort to reduce the inflationary impact of Federal spending on the general economy.

While it is recognized that the CEIF programs do provide useful benefits to coastal States and communities, it has been determined that this deferral can be made without adversely affecting the economic, social and environmental status of the impacted areas.

Estimated Effects:* This deferral reflects the reservation of $55.4 million in resources of the fund that were previously unapportioned. The deferral -- in conjunction with the related rescission proposal affecting $35.4 million of previously apportioned fund balances -- is being reported to assure that CEIF loan and grant awards will be limited to the level of $42.8 million in FY 1980. This action also will provide the Administration with an opportunity to evalutate the past record of the CEIF and to propose recommendations regarding effective use of the fund. The funds are planned for use in FY 1981.

Outlay Effects:* In conjunction with the rescission associated with this account this deferral merely assures the preservation of previously unapportioned funds intended for use in 1981. Hence, there is no direct outlay effect from this deferral action.

1/ This account is also the subject of a rescission (R80-11).

* Revised from previous report.

[FR Doc. 80-27163 Filed 9-3-80; 8:45 am]

BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 45, No. 173

Thursday, September 4, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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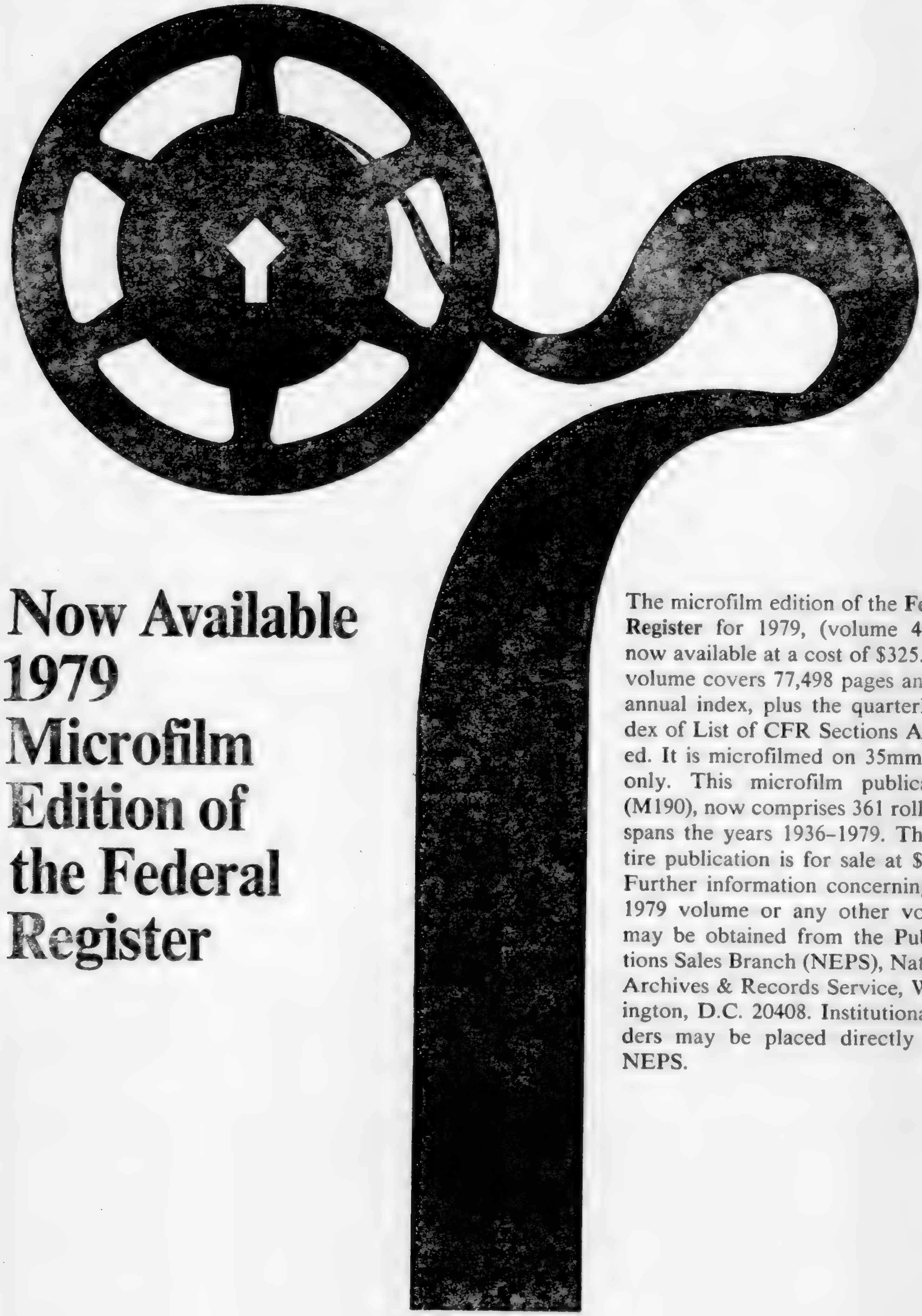

Now Available 1979 Microfilm Edition of the Federal Register

The microfilm edition of the **Federal Register** for 1979, (volume 44), is now available at a cost of $325. This volume covers 77,498 pages and the annual index, plus the quarterly index of List of CFR Sections Affected. It is microfilmed on 35mm rolls only. This microfilm publication, (M190), now comprises 361 rolls and spans the years 1936–1979. The entire publication is for sale at $4693. Further information concerning the 1979 volume or any other volume may be obtained from the Publications Sales Branch (NEPS), National Archives & Records Service, Washington, D.C. 20408. Institutional orders may be placed directly with NEPS.

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federal register

Friday
September 5, 1980

Highlights

TWICE-A-WEEK PUBLICATION SCHEDULE

For a change in the schedules of "Agency Publication on Assigned Days of the Week", see the note appearing under the table in the Reader Aids section of this issue.

58801 **Convention for the Safety of Life at Sea** Executive Order

58803 **Natural Gas Supply Emergencies** Executive Order

58805, 58807 **Executive Schedule** Executive Orders amending levels IV and V

58820 **Campaign Funds** FEC announces effective date of 9-5-80 for final rule relating to public financing of Presidential General Election Campaigns

58935 **Grant Programs—Education** ED announces acceptance of applications for grants in the program of Research Grants on Teaching and Learning; apply by 1-27-81

58970 **Medical Devices** HHS/FDA considers establishing uniform standards for electromedical devices; comments, data and information by 11-4-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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58843	**Cuban Assets Control** Treasury/Foreign Assets Control Office provides general license for transactions incident to satellite telecommunications between the U.S. and Cuba for purposes of transmission of news coverage; effective 9–5–80
58831, 58879	**Banks, Banking** SEC amends and withdraws a proposed amendment to Form MSD, the registration form used by municipal securities dealers; withdrawn proposal effective on 9–5–80 (2 documents)
59132	**Health Systems** HHS/PHS sets forth an interim rule governing the award of additional funds in order to assist health systems agencies in meeting certain extraordinary expenses; comments by 11–4–80; effective 9–5–80 (Part V, of this issue)
58936	**Coal Leasing** DOE announces availability of preliminary coal production goals report for 1985, 1990 and 1995; comments by 10–8–80
58983	**Oil and Gas Exploration** Interior/GS issues notice of receipt of a proposed development and production plan
58871	**Petroleum Price Regulations** DOE/ERA proposes rule to address retroactive amendments to "V" factor of refiner cost allocation formulae; comments by 11–4–80; hearing on 10–16–80
58865	**Motor Carriers** ICC eliminates requirement for motor contract carriers to file a copy of each bilateral contract entered into between carriers and shippers; effective 9–5–80
58809, 58933, 58988	**Privacy Act Documents** Nuclear Safety Oversight Committee and DOD
59062	**Improving Government Regulations** HUD publishes fourth semiannual agenda of significant regulations
58814	**Farm Operating Loans** USDA/FmHA amends regulations pertaining to consolidation or rescheduling of limited resource operating loans; effective 9–5–80
59028	**Sunshine Act Meetings**

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59122	Part IV, USDA/FGIS
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Presidential Documents

Title 3—

The President

Executive Order 12234 of September 3, 1980

Enforcement of the Convention for the Safety of Life at Sea

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to implement the International Convention for the Safety of Life at Sea, 1974, it is hereby ordered as follows:

1–101. The International Convention for the Safety of Life at Sea, 1974, signed at London on November 1, 1974, and proclaimed by the President of the United States on January 28, 1980 (TIAS 9700), entered into force for the United States on May 25, 1980.

1–102. The Secretary of State, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, and the Federal Communications Commission shall (a) perform those functions prescribed in the Convention that are within their respective areas of responsibility, and (b) cooperate and assist each other in carrying out those functions.

1–103. (a) The Secretary of the Department in which the Coast Guard is operating, or the head of any other Executive agency authorized by law, shall be responsible for the issuance of certificates as required by the Convention. (b) If a certificate is to include matter that pertains to functioins vested by law in another Executive agency, the issuing agency shall first ascertain from the other Executive agency the decision regarding that matter. The decision of that agency shall be final and binding on the issuing agency.

1–104. The Secretary of the Department in which the Coast Guard is operating may use the services of the American Bureau of Shipping as long as that Bureau is operated in compliance with Section 25 of the Act of June 5, 1920, as amended (46 U.S.C. 881), to perform the functions under the Convention. The Secretary may also use the services of the National Cargo Bureau to perform functions under Chapter VI (Carriage of Grain) of the Convention.

1–105. The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations necessary to implement the provisions of the Convention.

1–106. To the extent that the International Convention for the Safety of Life at Sea, 1974, replaces and abrogates the International Convention for the Safety of Life at Sea, 1960 (TIAS 5780), this Order supersedes Executive Order No. 11239 of July 31, 1965, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1960."

1–107. Executive Order No. 10402 of October 30, 1952, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1948," is revoked.

Jimmy Carter

THE WHITE HOUSE,
September 3, 1980.

[FR Doc. 80-27463
Filed 9-3-80; 2:45 pm]
Billing code 3195-01-M

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[FR Doc. 80-
Filed 9-3-80
Billing code

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Executive Order 12235 of September 3, 1980

Management of Natural Gas Supply Emergencies

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 304(d) of the Natural Gas Policy Act of 1978 (92 Stat. 3387; 15 U.S.C. 3364(d)) and Section 301 of Title 3 of the United States Code, and in order to assign management responsibility in case of a natural gas supply emergency, it is hereby ordered as follows:

1–101. The functions vested in the President by Sections 301 through 304(c) of the Natural Gas Policy Act of 1978 (92 Stat. 3381–3387; 15 U.S.C. 3361–3364(c)) are delegated to the Secretary of Energy; except for the authority to declare, extend, and terminate a natural gas supply emergency pursuant to Section 301 thereof (15 U.S.C. 3361).

1–102. The functions vested in the President by Section 607 of the Public Utility Regulatory Policies Act of 1978 (92 Stat. 3171; 15 U.S.C. 717z) are delegated to the Secretary of Energy; except for the authority to declare, extend, and terminate a natural gas supply emergency pursuant to Section 607 (a) and (b) thereof (15 U.S.C. 717z (a) and (b)).

1–103. The Secretary shall consult with the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, and the heads of other Executive agencies in exercising the functions delegated to him by this Order.

1–104. All functions delegated to the Secretary by this Order may be redelegated, in whole or in part, to the head of any other agency.

1–105. All Executive agencies shall, to the extent permitted by law, cooperate with and assist the Secretary in carrying out the functions delegated to him by this Order.

Jimmy Carter

THE WHITE HOUSE,
September 3, 1980.

[FR Doc. 80-27464 Filed 9-3-80; 2:46 pm]
Billing code 3195-01-M

V45/174 SE5 80 UMI

[FR Doc. 80
Filed 9-4-8
Billing code

Presidential Documents

Executive Order 12236 of September 3, 1980

Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, in order to delete two positions from and add one position to level IV of the Executive Schedule, Section 1-101 of Executive Order No. 12154, as amended, is hereby further amended as follows:

1-101. In subsection (a) delete "Senior Adviser to the Secretary, Department of State" and substitute therefor "Counselor to the Secretary, Department of the Treasury".

1-102. In subsection (d) delete "Special Assistant to the Special Representative for Trade Negotiations, Office of the Special Representative for Trade Negotiations."

Jimmy Carter

THE WHITE HOUSE,
September 3, 1980.

[FR Doc. 80-27543
Filed 9-4-80; 10:59 am]
Billing code 3195-01-M

V 45/174 SE5 80
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Presidential Documents

Executive Order 12237 of September 3, 1980

Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, in order to place two new Deputy Under Secretary positions in level V of the Executive Schedule, Section 1-102 of Executive Order No. 12154, as amended, is further amended by adding thereto the following new subsections:

"(e) Deputy Under Secretary for Education, Department of Education."

"(f) Deputy Under Secretary for Education, Department of Education.".

Jimmy Carter

THE WHITE HOUSE,
September 3, 1980.

[FR Doc. 80-27544
Filed 9-4-80; 11:00 am]
Billing code 3195-01-M

V45/174 SE5 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 174
Friday, September 5, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NUCLEAR SAFETY OVERSIGHT COMMITTEE

1 CFR Part 476

Privacy Act of 1974; Access Regulations

AGENCY: Nuclear Safety Oversight Committee.

ACTION: Final rule.

SUMMARY: The following final regulations were drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974. The purposes of these regulations are to establish procedures by which an individual can determine if the Committee maintains a system of records which included a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Neil Proto, General Counsel, Nuclear Safety Oversight Committee, 1133 15th Street, NW., Room 307, Washington, D.C. 20005, (202) 653-8468.

SUPPLEMENTARY INFORMATION: The Nuclear Safety Oversight Committee (NSOC) was established by Executive Order 12202 on March 18, 1980 to monitor the progress of the utilities and their suppliers, the Nuclear Regulatory Commission, other federal agencies, and state and local governments in implementing the recommendations of the President's Commission on Three Mile Island (Kemeny Commission) and in improving the safety of nuclear power. The Committee's activities and areas of inquiry were described in a previous public notice, see 45 FR 51678, August 4, 1980.

Since its inception, NSOC has proceeded to properly organize itself consistent with the requirements promulgated by the Office of Personnel Management (OPM) and the General Services Administration (GSA), and in accordance with applicable laws governing advisory committees. The purpose of this notice is to make public the NSOC activities in three areas of organization.

1. *OPM's Approval of NSOC's Regulations Governing Employees.* During its meeting of July 28, 1980, NSOC adopted regulations governing the conduct of its committee members, employees and special government employees, including financial disclosure requirements. Pursuant to the suggested recommendations of OPM and GSA, NSOC modified OPM's employee regulations [see 5 CFR 1001.735-102 (1980)], in order to make them more applicable to the Committee's purpose and activities, and adopted them. OPM approved NSOC's adoption by letter of August 6, 1980. A copy of the NSOC regulations and OPM's letter of approval is available for inspection at NSOC's office.

2. *Rules of Procedure.* During its meeting of July 28, 1980, NSOC reviewed and adopted Rules of Procedure governing its meetings, hearings and other activities. These Rules are based on rules governing the operations of other advisory committees, notions of fairness and sound management, and the importance of assuring the public that NSOC is operating in an orderly fashion. A copy of the NSOC Rules of Procedure are available for inspection at NSOC's office.

3. *Privacy Act: Final Rules.* On July 31, 1980, NSOC published proposed Rules (45 FR 50772, July 31, 1980) generally establishing a system of maintaining records and according access to those records by the persons affected, in accordance with the Privacy Act of 1974, see 45 FR 51011 (July 31, 1980). Interested persons were invited to submit written comments within 30 days. None were received. Consequently, the proposed rules are hereby published in final form.[1]

The following Part 476 will be added to Title 1 of the CFR:

PART 476—PRIVACY ACT IMPLEMENTATION

Sec.

476.1 Purpose and scope.
476.2 Definitions.
476.3 Procedures for requests pertaining to individual records in a records system.
476.4 Times, places, and requirements for the identification of the individual making a request.
476.5 Access to requested information by the individual.
476.6 Request for correction or amendment to the record.
476.7 Agency review of request for correction or amendment of the record.
476.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
476.9 Disclosure of record to a person other than the individual to whom the record pertains.
476.10 Fees.

Authority: 5 U.S.C. 552a; Pub. L. 93-579.

§ 476.1 Purpose and scope.

The purpose of the regulations are to:

(a) Establish a procedure by which an individual can determine if the Nuclear Safety Oversight Committee hereafter known as the Committee maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 476.2 Definitions.

For the purpose of these regulations:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Committee, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under

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[1] For the adoption document relating to the systems of records, see the Notices section of this issue of the Federal Register.

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control of the Committee from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 476.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Administrative Officer to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Committee which states the individual's desire to review his or her record.

§ 476.4 Times, places and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Committee pursuant to Section § 476.3 shall present the request at the Committee offices, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005, on any business day between the hours of 9:00 a.m. and 5:00 p.m. The individual submitting the request should present himself or herself at the Committee offices with a form of identification which will permit the Committee to verify that the individual is the same individual as contained in the record requested.

§ 476.5 Access to requested information by the individual.

Upon verification of identity the Committee shall disclose to the individual the information contained in the record which pertains to that individual.

§ 476.6 Request for correction or amendment to the record.

The individual should submit a request to the Administrative Officer which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 476.4.

§ 476.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Administrative Officer will acknowledge in writing such receipt and promptly either:

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Committee for the individual to request a review of that refusal.

§ 476.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Officer to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, Nuclear Safety Oversight Committee, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Committee a concise statement setting forth the reasons for his or her disagreement with the refusal of the Committee and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552(g)(1)(A).

§ 476.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Committee will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Committee's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 476.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

Neil Proto,
General Counsel.

[FR Doc. 80-26947 Filed 9-4-80; 8:45 am]
BILLING CODE 6820-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Health and Human Services; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: 1. This document changes the headings for the Department of Health, Education, and Welfare to "Department of Health and Human Services" and adds a section for the Department of Education to reflect the establishment of the new department.

2. It also transfers the organizational coverage of an excepted employment authority under Schedule B previously authorized for the Department of Health, Education, and Welfare to the Department of Education because the functions of the program were transferred to the Department of Education. The authority excepts from the competitive service 75 positions to be filled by participants in midcareer programs. This exception is continued because it is impractical to competitively examine for these positions.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Edward C. Cook, Department of Education, 202-245-8366.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, the heading of 5 CFR 213.3116 is revised; the heading of § 213.3216 is revised; § 213.3216(e) is revoked; and § 213.3217 is added, as set out below:

§ 213.3116 Department of Health and Human Services.

* * * * *

§ 213.3216 Department of Health and Human Services.

* * * * *

(e) [Revoked]

* * * * *

§ 213.3217 Department of Education.

(a) Seventy-five positions, not in excess of GS-13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

[FR Doc. 80-27136 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Overseas Private Investment Corporation; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: (1) This document changes the name of the "Department of Health, Education and Welfare" to the "Department of Health and Human Services". (2) This document also redesignates Overseas Private Investment Corporation—this is an editorial change only. (3) This amendment also adds the Department of Education and excepts certain positions in the department from the competitive service under Schedule C because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

On positition authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is amending 5 CFR Part 213 as follows:

(1) The heading of § 213.3316 is revised to read as follows:

§ 213.3316 Department of Health and Human Services.

(2) § 213.3317 is redesignated § 213.3323 to read as follows:

§ 213.3323 Overseas Private Investment Corporation.

* * * * *

(3) A new § 213.3317 is added to read as follows:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* (1) Two Personal Assistants to the Secretary.

(2) One Personal Assistant to the Under Secretary.

(b) *Office of the Inspector General.* (1) One Personal Assistant to the Inspector General.

(c) *Office of the Assistant Secretary for Public Affairs.* (1) One Personal Assistant to the Assistant Secretary.

(d) *Office of the Assistant Secretary for Civil Rights.* (1) One Personal Assistant to the Assistant Secretary.

(e) *Office of the Assistant Secretary for Elementary and Secondary Education.* (1) One Personal Assistant to the Assistant Secretary.

(f) *Office of the Assistant Secretary for Postsecondary Education.* (1) One Personal Assistant to the Assistant Secretary.

(g) *Office of the Assistant Secretary for Educational Research and Improvement.* (1) One Personal Assistant to the Assistant Secretary.

(h) *Office of the Assistant Secretary for Vocational and Adult Education.* (1) One Personal Assistant to the Assistant Secretary.

(i) *Office of the Assistant Secretary for Special Education and Rehabilitative Services.* (1) One Personal Assistant to the Assistant Secretary.

(j) *Office of the Assistant Secretary for Management.* (1) One Personal Assistant to the Assistant Secretary.

(k) *Office of the Assistant Secretary for Planning and Budget.* (1) One Personal Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-27137 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Executive Assistants to the Assistant Secretary for Management, Department of Education, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(j)(2) is added as set out below:

§ 213.3317 Department of Education.

* * * * *

(j) *Office of the Assistant Secretary for Management.* * * *

(2) Two Executive Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-27138 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Personal Assistant to the Secretary and one Private Secretary to the General Counsel, Department of Education because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 15, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(1) is revised and (l) is added as set out below: below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* (1) Three Personal Assistants to the Secretary.

* * * * *

(l) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.

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(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27139 Filed 9–4–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Steward (Personal Aide to the Secretary) and two Attorney-Advisors (Special Assistant to the General Counsel), Department of Education, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 22, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(3) and (l)(2) are added as set out below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* * * *

(3) Steward (Personal Aide to the Secretary).

* * * * *

(l) *Office of the General Counsel.* * * *

(2) Two Attorney-Advisors (Special Assistant to the General Counsel).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27140 Filed 9–4–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Private Secretaries to the Secretary and one Private Secretary to each of the following: Under Secretary; Deputy Under Secretary for Interagency Affairs; Deputy Under Secretary for Intergovernmental Affairs; Assistant Secretary for Legislation; Director, Bilingual Education and Minority Language Affairs; and Assistant Secretary for Non Public Education, Department of Education because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a) (1) and (2) are revised; (a) (4) and (5), (m), (n), and (o) are added as set out below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* (1) Three Personal Assistants and two Private Secretaries to the Secretary.

(2) One Personal Assistant and one Private Secretary to the Under Secretary.

* * * * *

(4) One Private Secretary to the Deputy Under Secretary for Interagency Affairs.

(5) One Private Secretary to the Deputy Under Secretary for Intergovernmental Affairs.

* * * * *

(m) *Office of the Assistant Secretary for Congressional Legislative Affairs.* (1) One Private Secretary to the Assistant Secretary for Legislation.

(n) *Office of Bilingual and Minority Language Affairs.* (1) One Private Secretary to the Director, Bilingual Education and Minority Language Affairs.

(o) *Office of the Assistant Secretary for Non Public Education.* (1) One Private Secretary to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27141 Filed 9–4–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Special Assistants to the Secretary, Department of Education, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(6) is added as set out below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* * * *

(6) Two Special Assistants to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27142 Filed 9–4–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Health and Human Services; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment transfers certain Schedule C positions from the Department of Health and Human Services to the Department of Education, to reflect the establishment of the new agency. This amendment also revokes certain authorities from Department of Health and Human Services because they are no longer needed.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3316 (c), (f)(7), (q) (5) and (9) and (r) are revoked and (q)(1) is revised and 213.3317 (c)(2), (d)(2), (3), and (4), (e)(2), (p), (q), and (r) are added as set out below:

§ 213.3316 Department of Health and Human Services.

* * * * *

(c) [Revoked.]

* * * * *

(f) *Office of the Assistant Secretary for Legislation.* * * *

(7) [Revoked.]

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights. (1) One Special Assistant to the Special Assistant.*

* * * * *

(5) [Revoked.]

* * * * *

(9) [Revoked.]

* * * * *

(r) [Revoked.]

* * * * *

§ 213.3317 Department of Education.

* * * * *

(c) *Office of the Assistant Secretary for Public Affairs.* * * *

(2) One Assistant Commissioner for Public Affairs.

* * * * *

(d) *Office of the Assistant Secretary for Civil Rights.* * * *

(2) One Director, Office of Intergovernmental Affairs.

(3) One Special Assistant for Public Affairs.

(4) One Special Assistant to the Assistant for Public Affairs.

* * * * *

(e) *Office of the Assistant Secretary for Elementary and Secondary Education.* * * *

(2) One Special Assistant to the Deputy Commissioner for Elementary and Secondary Education.

* * * * *

(p) *Office of Legislation.* (1) One Special Assistant to the Deputy Assistant Secretary for Legislation (Education).

* * * * *

(q) *Office of the Commissioner for Education.*

(1) One Staff Director, Federal Interagency Commission on Human Service Delivery Systems.

(2) Executive Commissioner for Executive Operations.

(3) Three Special Assistants, two Confidential Assistants, one Personal Assistant, and one Executive Assistant to the Commissioner.

(4) One Special Assistant to the Executive Deputy Commissioner.

(5) Assistant Commissioner for Educational Community Liaison.

(6) Director, Comprehensive School Health, Bureau of School Improvement.

(7) Confidential Assistant to the Deputy Commissioner, Bureau of School Improvement.

(8) Executive Assistant to the Deputy Commissioner, Bureau of Occupational and Adult Education.

(9) One Special Assistant to the Assistant Commissioner for Policy Studies.

(10) One Confidential Assistant to the Executive Deputy Commissioner for Resources and Operations.

* * * * *

(r) *Office of the Assistant Secretary for Education.* (1) One Confidential Secretary, one Confidential Assistant, two Special Assistants, and one Executive Assistant to the Assistant Secretary.

(2) One Confidential Assistant and one Special Assistant to the Deputy Assistant Secretary.

(3) One Special Assistant to the Deputy Assistant Secretary for Education (Policy Communication).

(4) One Confidential Assistant to the Deputy Assistant Secretary (Policy Development).

(5) One Confidential Assistant to the Director, Institute of Museum Services.

(6) Assistant Director for Programs, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27143 Filed 9–4–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C certain positions at the Department of Education because they are confidential in nature. They are as follows: one Assistant and one Special Assistant to the Secretary, three Assistants to the Executive Secretary, Office of the Secretary; two Special Assistants to the Under Secretary; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Public Affairs; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Legislation; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Civil Rights; one Executive Assistant to the General Counsel; one Executive Assistant to the Inspector General; one Executive Assistant and one Special Assistant to the Assistant Secretary, Office of Planning and Budget; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Special Education and Rehabilitative Services; three Special Assistants to the Assistant Secretary, Office of Elementary and Secondary Education; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of the Assistant Secretary for Vocational and Adult Education; three Special Assistants to the Assistant Secretary, Office of the Assistant Secretary for Postsecondary Education; one Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs; and one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Educational Research and Improvement. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 7, 1980

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Martha Brooks, Department of Education, 202–245–8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(6) is revised and (a)(7) & (8), (b)(2), (c)(3), (d)(5), (e)(3), (f)(2), (g)(2), (h)(2), (i)(2), (k)(2), (l)(3), (n)(2), and (p)(2) are added as set out below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* * * *

(6) Three Special Assistants and one Assistant to the Secretary.

(7) Three Assistants to the Executive Secretary.

(8) Two Special Assistants to the Under Secretary.

* * * * *

(b) *Office of the Inspector General.* * * *

(2) One Executive Assistant to the Inspector General.

* * * * *

(c) *Office of the Assistant Secretary for Public Affairs.* * * *

(3) One Executive Assistant and two Special Assistants to the Assistant Secretary.

* * * * *

(d) *Office of the Assistant Secretary for Civil Rights.* * * *

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(5) One Executive Assistant and two Special Assistants to the Assistant Secretary.

* * * * *

(e) *Office of the Assistant Secretary for Elementary and Secondary Education.* * * *

(3) Three Special Assistants to the Assistant Secretary.

* * * * *

(f) *Office of the Assistant Secretary for Postsecondary Education.* * * *

(2) Three Special Assistants to the Assistant Secretary.

* * * * *

(g) *Office of the Assistant Secretary for Educational Research and Improvement.* * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

* * * * *

(h) *Office of the Assistant Secretary for Vocational and Adult Education.* * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

* * * * *

(i) *Office of the Assistant Secretary for Special Education and Rehabilitative Services.* * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

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(k) *Office of the Assistant Secretary for Planning and Budget.* * * *

(2) One Executive Assistant and one Special Assistant to the Assistant Secretary.

* * * * *

(l) *Office of the General Counsel.* * * *

(3) One Executive Assistant to the General Counsel.

* * * * *

(n) *Office of Bilingual and Minority Language Affairs.* * * *

(2) One Special Assistant to the Assistant.

* * * * *

(p) *Office of Legislation.* * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–27144 Filed 9–4–80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 268]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 7–13, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 7, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on September 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues very slow.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.568 Lemon Regulation 268.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 7, 1980, through September 13, 1980, is established at 150,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 4, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–27589 Filed 9–4–80; 12:51 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

[FCDA No. 10.406 Farm Operating Loans]

Servicing and Collections; Account Servicing Policies

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the consolidation or rescheduling of limited resource operating loans. The intended effect of this action is to require that all consolidation or rescheduling of limited resource operating loans be made at not less than the current limited resource interest rate. This action is taken as a result of an Administrative review.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ron Thelen, Production Loan Officer, Production Loan Division, Room 5313, 14th and Independence Avenue, SW., Washington, DC 20250, telephone 202–447–2288.

The Final Impact Statement describing the options considered in developing this final rule is available on request from the Office of the Chief, Directives Management Branch, Farmers

Home Administration, Room 6346, South Agriculture Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under the USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

On April 23, 1980, FmHA published a proposal in the **Federal Register** (45 FR 27453) to amend § 1951.33(c)(5) of Subpart A of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations. One comment was received from the Small Business Administration which inquired about the effect of proposed changes in small businesses. FmHA does not anticipate any significant adverse impacts on small business as a result of this action. This instruction does not directly affect any FmHA programs or projects which are subject to A-95 clearing house review.

Accordingly, as amended, § 1951.33(c)(5) of Subpart A of Part 1951 reads as follows:

§ 1951.33 Deferral, consolidation and rescheduling of OL, EM and EE loans made for Subtitle B purposes.

* * * * *

(c) *Consolidation and rescheduling OL loans.* * * *

(5) The interest rate for consolidated or rescheduled loans will be the current interest rate for OL loans made to regular or limited resource loan borrowers, as appropriate. Limited resource loan interest rates will be stated in increments of whole numbers and may be increased to the current OL rate or decreased to not less than the current limited resource interest rate set out in Exhibit B of FmHA Instruction 440.1 (available from any FmHA office), in accordance with a borrower's repayment ability.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements. It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: August 11, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-27219 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Quality Service

9 CFR Parts 317, 318 and 381

Use of Certain Proteolytic Enzymes in Certain Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations to permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin, and papain as proteolytic enzymes to tenderize the muscle tissue of all cuts of meat. In addition, this rule amends the Federal poultry products inspection regulations to permit the use of these proteolytic enzymes to tenderize the muscle tissue of mature poultry. Under the current regulations, these proteolytic enzymes are only authorized for use to tenderize the muscle tissue of beef cuts. This rule also limits the weight gain from the application of the solution containing the approved proteolytic enzymes to the untreated meat or mature poultry, to 3 percent above the weight of the untreated meat or mature poultry. This rule also amends the Federal meat and poultry products inspection regulations to provide that meat and poultry muscle tissue that has been tenderized with a proteolytic enzyme shall bear a statement on the label contiguous to the product name indicating the presence of the enzyme. This rule will allow for expanded supplies of meat and poultry products at the retail market.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

Background

Approval of Substances for Use in the Preparation of Meat Products

The present Federal meat inspection regulations (9 CFR 318.7) permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin, and papain as proteolytic enzymes to tenderize the muscle tissue of cuts of beef. These substances currently are considered generally recognized as safe for use in human food by the Food and Drug Administration (FDA). In this connection, FDA has proposed to affirm the generally recognized as safe status of papain as a direct human food ingredient (43 FR 31349, July 21, 1978).

The Department had received requests from the meat industry to permit the use of certain proteolytic enzymes to tenderize pork muscle tissue. In connection with those requests, the Department received data from the industry which showed that meat from larger and older swine is effectively tenderized by the action of these enzymes. The Department also conducted a taste panel which concluded that the enzyme treatment of pork muscle tissue makes the meat from larger and older swine more palatable.

On the basis of the previous findings for beef and the current information available on pork, on June 1, 1979, the Department published a proposal in the **Federal Register** (44 FR 31665-31667) which would permit the use of such proteolytic enzymes for use in pork as well as other meat cuts, subject to inspection under the Federal Meat Inspection Act, such as lamb, mutton, and goat (chevon).

Approval of Substances for Use in Certain Poultry Products

The Department also had been petitioned by Agway, Inc., Syracuse, New York, to amend the Federal poultry products inspection regulations to allow the use of proteolytic enzymes to tenderize mature poultry muscle tissue. Industry proposals claimed that this action would enhance producer marketing prospects for the approximately 250 million mature chickens marketed annually. Approximately 85 percent of these mature chickens are old hens culled from egg-laying flocks because they are no longer economically productive. The remainder are old birds from poultry breeder flocks. The poultry meat from these mature chickens is generally tough, dry, and sinewy. As a result, the market for such poultry meat is limited.

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Industry proponents indicated that if proteolytic enzymes were permitted for such poultry meat, the profitability of commercial egg production would significantly improve.

Poultry technologists, in evaluating this situation on behalf of producers, developed a method for tenderizing the tissue derived from the older birds by using a proteolytic enzyme (papain) in a manner similarly used for treating tissue from cattle. The Department has observed the tests conducted by the industry, examined the treated muscle tissue, conducted its own taste panel, and evaluated other available data. The tests show that the use of papain as a proteolytic enzyme softens and tenderizes poultry muscle tissue from fowl. Because of the similarities between papain and the other proteolytic enzymes, the Department believes that aspergillus oryzae, aspergillus flavus oryzae group, bromelin, and ficin would soften and tenderize poultry muscle tissue in the same manner as papain.

Thus, the Department, in the same **Federal Register** publication of June 1, 1979, discussed above, proposed to permit the use of these tenderizing substances in mature poultry, which is defined in section 381.170 of the poultry products inspection regulations (9 CFR 381.170). The proposal did not apply to immature poultry which comprises the overwhelming proportion of poultry processed under Federal inspection, such as broilers, since these birds are by definition tender-meated.

Restrictions on Use

In proposing to permit the use of certain proteolytic enzymes, as discussed above, the Department also proposed to permit the use of these enzymes only under certain conditions:

Amount Limitations

1. *Cooked Product.* The Department proposed a limitation on the weight gain of the finished product if cooked at the official establishment. Meat cuts or poultry can be cooked after enzyme treatment prior to leaving the official establishment. In the expected cooking process, the normal processing effect is that products lose moisture rather than gain moisture during cooking. The proposal specified a limit for the weight of the finished product if cooked. It was proposed that, if the product is cooked, the weight of the finished product shall not be greater than the weight of meat cuts or poultry prior to application of the solution containing the enzyme treatment.

2. *Uncooked Product.* The Department also proposed extending the present 3 percent weight gain limitation on the amount of proteolytic enzymes permitted to be used in uncooked beef cuts to all uncooked meat cuts and mature poultry. Federal meat inspection regulations (9 CFR 318.7) currently provide that solutions containing approved proteolytic enzymes applied or injected into cuts of beef shall not result in a gain of more than 3 percent above the weight of the untreated products. The Department reviewed the 3 percent limitation on the weight gain of the uncooked product and found that the 3 percent limitation was sufficient for the purpose of softening tissue for all of the uncooked product.

Labeling Requirements

In addition to the limitation on the amount of weight gain permitted for cooked and uncooked meat and poultry products to which enzymes are applied or injected, the Department proposed that the labels for such products include a prominent descriptive statement, such as "Dipped in a Solution of [approved enzyme]," appearing on the label contiguous to the product name. This labeling requirement would apply to all products prepared under Federal inspection and to all products treated with the enzymes at the retail establishments, including those establishments exempt from Federal inspection requirements.

The adulteration and misbranding provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act, other than the requirement of the official inspection legend, apply also to custom operations and other operations exempted from routine inspection under the Acts (see Attorney General's opinion of August 17, 1972, Vol. 42, Op. No. 44; 21 U.S.C. 623(c) and 464(d)). Therefore, it was also proposed that the current labeling requirement contained in § 317.8(b)(25) of the Federal meat inspection regulations (9 CFR 317.8(b)(25)) be deleted. This requirement currently provides that the descriptive statement that a product contains a proteolytic enzyme only appear on the label if a proteolytic enzyme has been used on a product prepared in an official establishment.

Final Action

Based on a review of the comments and the data available to the Department during the development of the proposal, the Department has determined that this proposed rule should become a final regulation. In finalizing this rule, the Department has determined that modifications are necessary in order to avoid misinterpretation and to clarify the rule. The proposal stated that:

"If the product is cooked, the weight of the finished product shall not be greater than the weight of the raw meat (poultry) cuts prior to enzyme treatment."

While considering the comments, departmental officials became concerned that this language in the proposal might be misconstrued. This language could be interpreted to authorize unlimited addition of the solution containing the proteolytic enzyme and water to the raw meat and poultry as long as the cooked product did not exceed the weight of the untreated raw product. This was not the intent of the proposal.

Cooking reduces raw meat and poultry weight as fat and moisture are lost. The current inspection regulations for meat and poultry do not permit moisture to be added to a product to compensate for cooking loss (shrinkage), except as specifically provided, e.g., in cured products. Traditionally, such compensation has been achieved through price mechanisms.

It is the intent of this regulation that the use of the enzyme solution be limited to 3 percent of the raw meat weight. Therefore, both cooked and uncooked meat and poultry products which contain the enzyme solution are treated identically and the weight limitation gain will be based on the untreated product or the raw meat weight. Therefore, the previously discussed language relating to the limitation on use of the enzyme solution in cooked products has been deleted from the final rule.

In addition, the Department in finalizing the rule is requiring a descriptive statement for use on the labels of meat and poultry products to which an enzyme is applied or injected. Numerous comments received by the Department stated that consumers desired specific labeling when a product was tenderized with an enzyme. The Department believes that a statement which would advise of the purpose of the addition of a food additive, such as "Used as a tenderizer," is more descriptive than a statement that advises the process in which the food additive is applied; i.e., dipped or injected. Therefore, the final rule has been modified to require the use of the statement on the label: "Tenderized with [approved enzyme]." For those meat food products which currently have approved labels indicating the usage of phrases other than "tenderized with [approved enzyme]," the Department believes that a reasonable period of time should be granted to processors and packers to exhaust existing supplies of such approved labels. Accordingly, the Department will allow continued use of such currently approved labels for up to 1 year from the effective date of this regulation.

One final point has been clarified in the final rule concerning the labeling of products in which an approved proteolytic enzyme has been applied or injected. As mentioned previously, the proposal limited the amount of solution to be applied or injected into the product. The proposal stated that "Solutions, consisting of water, salt, monosodium glutamate, and approved proteolytic enzyme" would be limited. This statement was intended solely to be an example of the types of solution that could be utilized on the product and not a requirement that the solution contain water, salt, monosodium glutamate and approved enzymes since the solution used for tenderization actually consists of water and approved enzymes. The final rule clearly states that the solution consists of water and the approved proteolytic enzymes. In order to ensure that consumers will be informed if a solution contains substances other than water and proteolytic enzymes, the final rule also requires that "Any other approved substance which may be used in the solution shall also be included in the descriptive statement" used in the labeling of the products.

Options Considered

Three options were considered by the Department during development of this final rule:

1. Deny the request for expansion of proteolytic enzyme use. This option was rejected because it does not provide equal treatment to producers and processors of pork, sheep, and poultry that compete with beef producers and processors that currently are permitted to use proteolytic tenderization. The efficacy of proteolytic tenderization has been demonstrated for these animals.

2. Permit proteolytic enzyme tenderization of all red meat and poultry. This option was rejected because efficacy could not be demonstrated for young poultry, such as broilers. Immature poultry are by definition tender-meated, and, therefore, do not need to be tenderized.

3. Permit proteolytic enzyme tenderization of all red meat and mature poultry. This option was chosen because it meets the marketing needs of farmers and processors, and provides for expanded wholesome meat and poultry food products to consumers.

Comments to Proposal

The June 1, 1979, **Federal Register** notice announcing the proposal included a solicitation for comments and established a comment period from June 1 through August 1, 1979. In response to requests from interested parties, the comment period was reopened from August 10 through September 10, 1979 (44 FR 47098).

A total of 705 comments were received during the two comment periods, most of which were from individuals. The majority of comments involved concerns of the health consequences resulting from the addition of enzymes or salt to meat and poultry. Over 95 percent of the comments were apparently in response to newspaper articles which did not report the complete text of the proposal; therefore, the commenters were unaware of the labeling provisions provided for in the proposal.

The comments raised concerns expressed along the following lines which will be discussed individually:

1. Allergies on the part of some consumers to enzymes, specifically papain.
2. Too many additives already in foods, and these additives may cause cancer.
3. Tenderization would allow extra water to be added to meat and poultry.
4. Federal government favors industry.
5. Tenderization would allow tough or spoiled meat or poultry to be utilized by industry.
6. Tenderized products should bear informative labeling.
7. Tenderizers create an unusual or bad taste in meat and poultry and also result in a mushy texture to meat and poultry.
8. Consumers should have the right to choose between tenderized and untenderized meat and poultry and be free to add their own tenderizers if they so desire.
9. The proposal would have resulted in more salt being added to meat and poultry, which would be a burden to persons on salt-restricted diets.
10. The safety of many substances on the generally recognized as safe (GRAS) list is questionable, and the enzymes may harm various body organs.
11. Tenderization would increase the cost of treated meat and poultry.
12. The need for the use of enzymes on meat and poultry is questionable.

1. *Potential Allergies to Papain.* Possible allergic reactions to papain present a serious problem to many people. Eighty-six commenters reported that they are allergic to papain and suffered allergic reactions to varying degrees after eating meat tenderized with papain. Additionally, five doctors reported that patients under their care had allergies to tenderizers. Two professors from the University of Minnesota Medical School reported that allergies to tenderizers were fairly common among allergic persons. Those individuals, allergic to papain, expressed a fear that they would no longer be able to purchase meat or poultry without tenderizers.

The Department recognizes that allergies to tenderizing enzymes are well documented. These enzymes are proteins and, therefore, some degree of allergy would be expected as with other proteins. According to the U.S. Department of Health and Human Services (HHS) (formerly the Department of Health, Education and Welfare (HEW)), although experts are not certain how many Americans suffer from symptoms of allergic reactions to food, a conservative estimate indicates that approximately 31,000,000 Americans, or 15 out of every 100, suffer from one or more significant allergies. Of these, nearly 9,000,000 may have allergic reactions to foods, drugs, or bee stings. Some of the more common food allergies are fish and seafood, berries, nuts, eggs, cereals, milk, beef, pork, chocolate, legumes such as beans and peanuts, peaches, cherries, almonds, crabs, lobsters, shrimp, apples, pears, oysters, clams, tomatoes, green peppers, rye, wheat, pumpkin, cucumbers, and cantaloupes (HEW Pub. No. (NIH) 74–533).

It is not the policy of the Department to limit or prohibit the distribution and sale of all these foods because of possible allergic reactions to them. The Federal meat and poultry products inspection Acts require all ingredients of a food to be identified on a label in an ingredient list. Therefore, by reading the list of ingredients on the package label, individuals can avoid the food ingredients to which they are sensitive.

In developing this regulation, the Department recognized the importance of informing the consumer of the presence of the approved enzymes in tenderized meat and mature poultry. The use of such meat and poultry tenderizers is optional, but if used, the presence of the enzymes must be shown by a statement on the label contiguous to the product name which is clearly visible to the consumer.

Enzymes have been widely used for quite some time in the cheese, brewing, dairy, and baking industries. The use of these enzymes in these industries has not created a serious health problem for allergic persons. Meat and poultry products containing certain approved

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enzymes will be clearly labeled showing the presence of these enzymes, thereby allowing persons allergic to these substances to avoid them.

2. *Excessive Additives in Foods.* Many individuals stated that meat and poultry already contain too many additives. Several individuals compared enzymes to pesticide residues.

The Department does not authorize the use of substances without a thorough investigation. The FDA requires the proponent of any food additive to furnish data showing the additive is safe. Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, any food additive which is not safe under the Federal Food, Drug, and Cosmetic Act is prohibited as an adulterant in meat and poultry products. The Department also obtains data from the proponent of the use of an additive to determine whether the substance will otherwise adulterate meat or poultry products.

3. *Tenderization Would Allow Extra Water to be Added to Meat and Poultry.* Comments were received from 12 individuals who believe that excessive amounts of water would be added to meat and poultry if the proposal were adopted.

Under the Federal meat inspection regulations, the Department has, for many years, permitted the addition of a solution consisting of water and the approved proteolytic enzymes to beef cuts in the process of tenderizing beef with enzymes, provided it does not result in a gain of more than 3 percent above the weight of the untreated product. Upon review, the Department has retained the 3 percent maximum weight gain level in this final rule.

As it was previously discussed, the proposal also contained a requirement that products cooked after enzymatic treatment shall not be greater than the weight of the meat or poultry product before enzyme treatment. The Department now believes that this statement could be misinterpreted to allow cooked meat or poultry to be treated with enzymes, or to allow excessive amounts of water to be added prior to cooking. For clarity, this reference has been deleted in this final rule. Water limitations for specific cooked products already exist in the meat and poultry inspection regulations. These limitations, in conjunction with the 3 percent weight gain limitation of this rule, will control the amount of water permitted in products.

4. *Federal Government Favors Industry.* Thirty-three comments were received which accused USDA of allowing the industry to recondition products for resale to the public, thereby permitting increased industry profits. These comments were all from private individuals. The Department has required extensive testing to show the effective use of enzymes. Enzyme tests for the use of enzymes on pork products have been in progress for 10 years. The tests on poultry have extended over the last 2 years. Thus, USDA required the proponents to show that they could meet various restrictions before publishing the proposal.

5. *Tenderizers Would Allow Tough or Spoiled Meat or Poultry to be Utilized by Industry.* Several comments stated that spoiled or tough meats would be used. The Federal meat and poultry products inspection Acts prohibit the preparation and distribution of adulterated meat and poultry products. Sections 1(m)(3) and 4(g)(3) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(3)) and the Poultry Products Inspection Act (21 U.S.C. 453(g)(3)) state that meat and poultry products are adulterated if, among other things, they consist in whole or in part of any filthy, putrid, or decomposed substance or are for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food. Therefore, the USDA inspectors may not allow spoiled or adulterated meat or poultry to be used as human food.

The intent of this rule is to allow meat and poultry from mature animals to be used in more ways. The acceptance of the tenderized product is and will continue to be defined by consumer decisions in the marketplace. Under current regulations, since the demand for such products is relatively low, the tougher cuts of meat and poultry which are derived from mature animals are generally used only in products where they are subjected to long periods of moist cooking such as in canned soups or stews. These products may also be mechanically tenderized by grinding or chopping. The use of tenderizing enzymes will allow such meat and poultry to be used, like other meat and poultry cuts, in foods that are ready-to-eat and ready-to-cook. There is no question that the tenderizing enzymes are efficacious, i.e., that they accomplish the intended effect of making the product more tender. The Administrator has reviewed the current use of these enzymes to tenderized beef cuts and the information developed during this rulemaking proceeding. Upon review, he has determined that the use of these proteolytic enzymes as a tenderizer with the labeling required by this rule, would not reduce the quality of the products or make the products appear of greater value or otherwise adulterate the products.

6. *Tenderized Products Should Bear Informative Labeling.* Some commenters opposing the proposal stated many times that tenderized products should be labeled to show the enzyme used. This rule requires all products treated with certain enzymes to show, in a phrase immediately following the product name, the enzyme used. This rule also requires all meat tenderized at the retail level to be labeled to show the presence of the specified enzymes. In addition, the rule has been amended to require the use of the phrase "Tenderized with (approved enzyme)" to more fully advise consumers of the purpose of the enzyme.

7. *Tenderizers Create an Unusual or Bad Taste in Meat and Poultry and Also Result in a Mushy Texture.* Some comments were received objecting to the taste and texture of the tenderized meats. Although some individuals may find products treated with proteolytic enzymes unpalatable, such personal preferences do not provide a basis for the Department to limit the use of these substances. Moreover, a product's taste or texture may be affected by many factors other than the addition of proteolytic enzymes. It would be inappropriate to prohibit the use of these tenderizers which may be one of many factors involved in the development of the product's taste or texture.

8. *Consumers Should Have the Right to Choose Between Tenderized and Untenderized Meat and Poultry and Be Free To Add Their Own Tenderizers If They So Desire.* A great many commenters expressed the wish to be able to tenderize meat at home. This rule does not require that all meat be tenderized, nor will it remove untenderized meat from the market. Consumers will still be able to purchase fresh, untenderized meat and prepare it as they desire at home. The Department believes that tenderized meat and poultry will be used predominantly in preparing convenience foods or ready-to-eat items which could not be made from the tough, untenderized meat or poultry.

9. *This Rule Would Result in More Salt Being Added to Meat and Poultry Which Would Be a Burden to Persons on Salt Restricted Diets.* One hundred and forty-seven comments were received stating that too much salt is being used in foods. Seven of these were in favor of the proposal if salt were not required to be used.

These comments were from persons on salt-restricted diets who believed that salt would be added along with the enzymes. This information was gathered from an analysis of a widely circulated newspaper article reporting on the Department's proposal. The newspaper article quoted an example of the labeling to be required which includes a qualifying phrase such as "tenderized with a solution of water, salt, flavoring and papain." These consumers, therefore, believed that the approval of papain as a tenderizer was also the approval of the use of salt in such products. This rule does not require salt to be added with the enzymes. Salt is already authorized for use in all meat and poultry products and this rule does not affect the use of salt.

10. *The Safety of Many Substances on the GRAS List is Questionable and the Enzymes Would Harm Various Body Organs.* Several commenters stated that they do not believe that GRAS substances are really safe and that the enzymes would harm various parts of the body. Some commenters stated that things declared safe today would not be called safe 5 years from now.

Substances on the GRAS list are currently being studied and reviewed to determine if there is any available evidence to show that they are harmful. Historically, substances on the GRAS list have been permitted in food based on their long history of use. FDA is currently reviewing the GRAS list and reevaluating substances based on available information.

As noted above, FDA has published a proposal to affirm the GRAS status of papain (43 FR 31349). As part of its ongoing review of GRAS substances, FDA has also received and reviewed a report from the American Society of Experimental Biology which concludes that papain is safe for human consumption. Copies of the report of the Society's Select Committee on GRAS Substances are available from the National Technical Information Service, 5285 Post Royal Road, Springfield, Virginia 22161.

These enzymes occur naturally in plants and have been used for centuries by various people to tenderize meat. There is no evidence that enzymes directly harm any part of the body when use as a tenderizer.

11. *Tenderization Would Increase the Cost of Treated Meat and Poultry.* Fifty commenters expressed concern that the tenderizing procedure would increase the production costs of the meat processor who would pass the increased cost on to the consumer.

The meat and poultry from older animals are not generally sold at the retail level. The public demand for better grades of meat and poultry has limited the utilization of breeding animals and egg-laying poultry as food sources. Consequently, the farmer has a very limited market for these mature animals and poultry.

This situation of a large supply and a small demand has resulted in a very low price for mature animals and poultry. The use of tenderizers would expand the uses of these animals and poultry as food. The lower original cost of the animals and poultry would enable the processor to offer the consumers more products at lower costs, whereas without tenderizing, most of this meat and poultry would not enter the retail market.

This action is not expected to have a significant effect on the retail prices of red meat or poultry products. The proportion of meat and poultry affected by this action is relatively small. The proportions of each class affected are estimated as follows: pork, 6 percent; lamb and mutton, 7 percent; chicken, 5 percent; and turkey, 1 percent. Furthermore, the animal supply suitable for such processing may expand as a result of this action. Consumers are unlikely to experience price changes since these animals comprise such a small proportion of the total supply.

This action could increase the farm income of producers of eggs, sheep, and feeder pigs as a result of higher slaughter prices received from the sale of hens, turkeys, sheep, sows, and boars. The effect on egg producers may result in some reduction of retail egg prices since the increased return for spent hens would generally lower egg production costs.

12. *The Need for the Use of Enzymes on Meat and Poultry Is Questionable.* The last objection to the proposal was based on the need for tenderizing. Many people stated that there is no need for it, that consumers could tenderize the meat and poultry at home, and that tough meat may be preferred because it exercises the teeth and gums.

The meat and poultry from older animals is very tough and not suited for roasting, broiling, or frying. There is no demand for this class of meat or poultry in the retail market; therefore, the utillization of breeding stock and egg-laying poultry as food sources is very limited. The application of a tenderizer to this class of meat and poultry makes it possible to prepare a tender product with the meat and poultry from older animals regardless of the method of cooking.

This rule will not affect the beef presently on the market. Not all beef cuts are tenderized even though the current Federal meat inspection regulations authorize the cuts to be tenderized. Therefore, the Department believes that there will still be untenderized meat available for those desiring tougher cuts after this regulation is promulgated.

On January 16, 1980, the National Advisory Committee on Meat and Poultry Inspection was consulted regarding these regulations. Members of the Committee expressed comments both in support of and in opposition to the proposal. The Committee members did not raise issues outside the scope of the written comments as discussed above, but their views were also considered in the preparation of this final rule. FDA was also consulted during the rulemaking proceeding in order to assure consistency in Federal food standards. No inconsistency was identified.

On the basis of the foregoing, the Federal meat and poultry products inspection regulations are amended as set forth below:

1. Section 317.8(b)(25) of the Federal meat inspection regulations (9 CFR 317.8(b)(25)) is amended to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(25) When approved proteolytic enzymes as permitted in Part 318 of this subchapter are used on steaks or other raw meat cuts, there shall appear on the label, in a prominent manner, contiguous to the product name, the statement, "Tenderized with [approved enzyme]," to indicate the use of such enzymes. Any other approved substance which may be used in the solution shall also be included in the statement.

* * * * *

§ 318.7 [Amended]

2. The chart listing the substances approved for use in the preparation of products in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) is amended as follows: In connection with the class of substances listed as "Proteolytic enzymes," in the "Products" column, the term "Beef cuts" is amended to read "Raw meat cuts" and the "Amount" column is amended to read "Solutions consisting of water and approved proteolytic enzymes applied or injected into raw meat cuts shall not result in a gain of more than 3 percent above the weight of the untreated product."

§ 381.120 [Amended]

3. Section 381.120 of the Federal poultry products inspection regulations (9 CFR 381.120) is amended by adding a new sentence at the end of this section

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to read as follows: "When approved proteolytic enzymes as permitted in § 381.147 of this subchapter are used in mature poultry muscle tissue, there shall appear on the label, in a prominent manner, contiguous to the product name, the statement "Tenderized with [approved enzyme]," to indicate the use of such enzymes. Any other approved substance which may be used in the solution shall also be included in the statement."

§ 381.147 [Amended]

4. The chart listing the restrictions on the use of substances in poultry products in § 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) is amended by inserting a new class of substance, "Proteolytic enzymes," immediately before the class of substance listed as "Synergists (used in combination with antioxidant)" and in the correct columns, the following information about those enzymes:

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
Proteolytic enzymes	Aspergillus oryzae	To soften tissue	Raw poultry muscle tissue of hen, cock, mature turkey, mature duck, mature goose, and mature guinea.	Solutions consisting of water and approved proteolytic enzyme applied or injected into raw poultry tissue shall not result in a gain of more than 3 percent above the weight of the untreated product.
	Aspergillus flavus oryzae group	do	do	Do.
	Bromelin	do	do	Do.
	Ficin	do	do	Do.
	Papain	do	do	Do.
*	*	*	*	*

(Sec. 7(c), 34 Stat. 1262, as amended, 21 U.S.C. 607; Sec. 8, 71 Stat. 444, as amended, 21 U.S.C. 457; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on August 28, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-27098 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 110, 140-146, 9001-9007

[Notice 1980-28]

Public Financing of Presidential General Election Campaign; Effective Date Confirmation

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: On Friday, June 27, 1980 (45 FR 43378-43387), the Commission published the text of revised regulations to implement the provisions of the Presidential Election Campaign Fund Act (26 U.S.C. 9001, *et seq.*) relating to the public financing of Presidential General Election Campaigns. The Commission announces those regulations are effective as of September 5, 1980. 11 CFR Subchapter D, Parts 140-146 are deleted.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

SUPPLEMENTARY INFORMATION: 26 U.S.C. 9009(c) requires that any rule or regulation prescribed by the Commission under Chapter 95 of Title 26, United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate for legislative review prior to final promulgation. If neither House of Congress disapproves the regulations within 30 legislative days after transmittal, the Commission may finally prescribe them.

The regulations being made effective by this notice were transmitted to Congress on June 13, 1980. Thirty legislative days passed as of adjournment August 26, 1980.

Announcement of Effective Date

PARTS 140-146 [DELETED]

The amendments to 11 CFR 100.8, 106.3 and 110.7; and the new 11 CFR Subchapter E, Parts 9001 through 9007, as published at 45 FR 43378-43387, are effective as of September 5, 1980. 11 CFR Subchapter D, Parts 140-146 are deleted.

Dated: September 3, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80-27512 Filed 9-4-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0306; Regulation D]

Reserves of Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Effective August 28, 1980, the Board has established a reserve requirement ratio of 12 per cent on savings accounts subject to negotiable order of withdrawal (NOW accounts) maintained by member banks located outside of New England, New York, and New Jersey. This is a technical revision to Regulation D—Reserves of Member Banks to implement the Board's revised Regulation D announced on August 15, 1980 (45 FR 56009). Under that action, NOW accounts maintained by all depository institutions outside of New England, New York and New Jersey will not be subject to the reserve requirement phase-in provisions of revised Regulation D—Reserve Requirements of Depository Institutions, which becomes effective on November 13, 1980. This action will have no effect on the level of reserve requirements member banks currently are required to maintain.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625) or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under the Monetary Control Act of 1980 (Title I of Pub. L. 96–221), the Board is authorized to impose Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Transaction accounts are subject initially to a reserve requirement ratio of 3 per cent on amounts up to $25 million and 12 per cent on amounts in excess of $25 million. Initially, nonpersonal time deposits are subject to 3 per cent reserve ratio. The Act provides a transitional adjustment period for most nonmember depository institutions of eight years during which time such institutions will phase in to the new reserve requirements. Member banks will phase in over a four-year period from existing reserve requirements to the new, generally lower reserve requirements. Under the Act, however, any category of deposit accounts first authorized under Federal law in any State after April 1, 1980, will not be subject to the phase-in provisions. (See S. Rep. No. 96–640, 96th Cong., 2d Sess. 70 (1980).) This requirement most immediately applies to negotiable order of withdrawal (NOW accounts) that may be offered by depository institutions outside of New England,[1] New York, and New Jersey, beginning December 31, 1980, under section 303 of the Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96–221). On August 15, 1980, the Board announced a revised Regulation D—Reserve Requirements of Depository Institutions to implement the Monetary Control Act. Under that action, reserve requirements on negotiable order of withdrawal (NOW accounts) maintained by member banks in the District of Columbia and the 42 States outside of New England, New York and New Jersey will not be subject to the reserve requirement phase-in provisions of the Monetary Control Act in accordance with the intent of the Monetary Control Act. In order to make this action effective, the Board has amended Regulation D, effective August 28, 1980, the beginning of the last reserve computation period prior to the effective date of the Monetary Control Act, to impose a 12 per cent reserve requirement of NOW accounts of member banks located in the District of Columbia and the 42 States outside of New England, New York and New Jersey.

This revision to current Regulation D will not impose any additional reserve requirements on member banks at this time since NOW accounts are not permitted under Federal law outside of New England, New York, and New Jersey until December 31, 1980. NOW accounts maintained at member banks in the eight States where they are currently authorized will continue to be subject to a reserve requirement ratio of 3 per cent until November 13, 1980, when such member banks will commence phasing into the new reserve ratios on transaction accounts of Regulation D (12 CFR Part 204).

This amendment is technical in nature and relates to a regulatory provision that becomes effective November 13, 1980. Public comment on this issue was solicited on this issue on June 4, 1980 (45 FR 38388).

Effective August 28, 1980, pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.* § 204.5 of Regulation D (12 CFR 204.5) is amended as follows:

Section 204.5(a) (1)(ii) and (2)(ii) are revised to read as follows:

§ 204.5 Reserve requirements.

(a) * * *

(1) * * *

(ii) 1 per cent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of four years or more; 2½ per cent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than four years; 3 per cent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 per cent of such deposits in excess of $5 million; for a member bank located outside of the States of Massachusetts, New Hampshire, Connecticut, Maine, New Jersey, New York, Rhode Island, and Vermont, 12 per cent of its savings accounts subject to negotiable orders of withdrawal: *Provided, however,* that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 per cent or more than 10 per cent.

* * * * *

(2) * * *

(ii) 1 per cent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of four years or more; 2½ per cent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than four years; 3 per cent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 per cent of such deposits in excess of $5 million; for a member bank located outside of the States of Massachusetts, New Hampshire, Connecticut, Maine, New Jersey, New York, Rhode Island, and Vermont, 12 per cent of its savings accounts subject to negotiable orders of withdrawal: *Provided, however,* that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 per cent or more than 10 per cent.

* * * * *

By order of the Board of Governors, August 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80–27294 Filed 9–4–80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[Regulation ER-1197; Economic Regulations Amendment No. 10 to Part 223]

Free and Reduced-Rate Transportation; Notice of Approval by the General Accounting Office

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting requirements and the application requirement contained in Part 223 of the Board's Economic Regulations governing free and reduced-rate transportation. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated August 25, 1980.

DATES: Adopted: September 2, 1980. Effective: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6042.

Accordingly, the Civil Aeronautics Board amends Part 223 of its Economic Regulations (14 CFR 223) by revising the note at the end of Part 223 to read:

> **Note.**—The reporting requirements contained in sections 223.2(c), 223.6, 223.7 and the application requirement contained in section 223.8 have been approved by the U.S. General Accounting Office under B–180226 (R0069).

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

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[1] Massachusetts, New Hampshire, Connecticut, Maine, Rhode Island, and Vermont.

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By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-27221 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and 249

[Release Nos. 33-6230; 34-17095]

Amendments Regarding Exhibit Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of amendments to Regulation S–K [17 CFR 229.20] and certain frequently used forms under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.] in order to standardize and improve the Commission's requirements relating to the filing of exhibits. The amendments delete thirteen exhibits formerly required to be filed, revise and make uniform the requirements relating to certain other exhibits, and, with the exception of the exhibit requirements for Form S–18, consolidate all of the amended exhibit requirements of the frequently used forms into a new Regulation S–K item. To facilitate the identification and location of exhibits by the public, the Commission is also adopting amendments to certain rules to require an exhibit index with each form or report filed and a statement on the first page of each such document indicating the page on which the exhibit index can be found.

EFFECTIVE DATE: October 6, 1980. While the amendments will not be effective until such date, in view of the cost and other savings the amendments may provide to registrants, the Commission will accept filings complying with the amendments beginning immediately for those wishing to utilize them.

FOR FURTHER INFORMATION CONTACT: Prior to effectiveness contact Joseph G. Connolly, Jr. at (202) 272–3097. After effectiveness contact William E. Toomey, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2573).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain amendments to the exhibit filing requirements currently set forth in certain registration and reporting forms under the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"), the amendment of certain related rules under these Acts, and the adoption of a new item relating to exhibits in Regulation S–K.

I. Background

As a result of a reexamination by the Division of Corporation Finance of the exhibit filing requirements for the registration and reporting forms promulgated under both the Securities Act and the Exchange Act, the Commission published proposed amendments to Regulation S–K and certain forms and rules under both Acts to standardize and improve the Commission's requirements relating to the filing of exhibits.[1] These changes were proposed for the dual purpose of making the requirements more relevant to investors and of reducing the burdens which they impose on registrants. A significant concommitant effect would also be to lessen the volume of paper filed with the Commission. Generally, the proposing release requested comments on the propriety of: (1) eliminating, modifying and, in limited circumstances, adding certain exhibit requirements in light of existing disclosure obligations; (2) deleting the specific exhibit requirements from certain frequently used forms;[2] (3) adding a new item to Regulation S–K to consolidate all exhibit requirements for such selected frequently used forms[3] and (4) amending certain rules under both the Securities Act and the Exchange Act to require an exhibit index with all registration and reporting forms filed under such Acts, as well as a statement on the first page of each such form indicating the page on which the exhibit index may be found.

Twenty-one commentators addressed various aspects of the proposed amendments. The commentators expressed unanimous support for the proposed elimination of the thirteen exhibits listed in that release, commending the Commission for alleviating certain burdensome and outdated requirements upon registrants. The commentators also expressed in varying degrees their support for the Commission's attempt to achieve uniformity in the exhibit requirements for the forms selected and the relocation of the exhibit requirements for such forms in a single item of Regulation S–K. As a result of the views expressed by the commentators, a number of revisions have been incorporated into the proposals as adopted.

II. Synopsis of Amendments

The following synopsis discusses the exhibits which have been eliminated, modified and added to the filing requirements as well as the new exhibit item in Regulation S–K and the amendments to other rules. Attention is directed to the text of the amendments for a more complete understanding.

A. Elimination, Modification and Addition of Exhibits

1. Elimination of Exhibits

As noted above, there was unanimous support of the commentators for the proposed elimination of the thirteen exhibits set forth below. The Commission believes that these exhibits are of limited interest to both the public and the Commission and may be eliminated without impairing investor information or protection.

The Commission has determined to no longer require the following exhibits, in those forms indicated in parentheses:

(1) Syndication agreements (S–1, S–2, S–7, S–11, S–14, S–16 and S–18);

(2) Selling group agreements (S–1, S–2, S–7, S–11, S–14, S–16 and S–18);

(3) Specimen certificates (S–1, S–2, S–7, S–11, S–14, S–16, S–18, Form 10 and Form 20);

(4) Plans relating to options, warrants and rights to the extent they are not deemed to be material contracts (S–1, S–8, S–11, S–14, S–18, Form 10 and Form 10–K);

(5) Pension, retirement and deferred compensation plans (S–1 and S–18);

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[1] Release No. 33–6149 (November 16, 1979) [44 FR 67143].

[2] As noted in the proposing release, the Commission has determined to confine the amendments to only those forms under the Securities Act and the Exchange Act which are most frequently used. The frequently used forms selected are Forms S–1 [17 CFR 239.11], S–2 [17 CFR 230.12], S-7 [17 CFR 239.26], S–8 [17 CFR 239.16b], S–11 [17 CFR 239.18], S–14 [17 CFR 239.23], S–16 [17 CFR 239.27], and S–18 [17 CFR 239.28] under the Securities Act and Forms 10 [17 CFR 249.210], 8–K [17 CFR 249.308], 10–Q [17 CFR 249.308a], and 10–K [17 CFR 249.310] under the Exchange Act. Although the Form 11–K [17 CFR 249.31] had originally been included in the proposed Regulation S–K item, in view of the limited number and type of exhibits required by the Form 11–K [17 CFR 249.31], the Commission has determined not to include this form in Item 7 of Regulation S–K.

[3] With respect to the Form S–18, the Commission has determined to adopt all the substantive changes to the exhibit requirements outlined in this release but, instead of inserting a reference to Regulation S–K in the Form S–18, the substantive changes are directly incorporated into the "Instructions as to Exhibits" section of that Form. The basis for this distinction is the view that Form S–18 represents a "simplified" registration form and as such the Commission believes that it is appropriate to avoid cross references to other regulations wherever possible.

(6) Indemnification contracts or arrangements (S–1, S–7, S–11 and S–14);

(7) Profit sharing or bonus plans to the extent they are not deemed to be material contracts (S–8, S–11, S–14, S–18 and Form 10);

(8) Agreements relating to registration rights (S–14);

(9) Summaries of the employee benefit plan to which the filing relates and any related written communications (S–8 and S–18);

(10) Waivers or undertakings required by Rule 460 [17 CFR 230.460] (S–8);

(11) List of subsidiaries participating in the plan (S–8);

(12) Form of proxy (S–14); [4] and

(13) Text of any proposal or any published report regarding matters submitted to a vote of security holders (Form 10–K and Form 10–Q).

2. *Modification of Exhibits Requirements*

(a) *Applicability of Requirements to Various Forms.* One of the commentators' general observations on the proposals was that the proposed revisions and codification into Regulation S–K of the exhibit filing requirements did not reflect adequately the distinctions among the various forms, particularly the Form S–16.

The Commission has determined that certain exhibit requirements are unnecessary for Form S–16 and can be eliminated without impairing investor information or protection. This determination is based upon the fact that the Form S–16 incorporates by reference current as well as subsequently filed reports under the Exchange Act where such exhibits may be found.[5] In this manner, information filed as an exhibit pursuant to the continuous disclosure requirements of the Exchange Act will be relied upon in lieu of an exhibit filing. This revision is intended to eliminate unnecessary and duplicative filings without reducing the quality of the information available to investors. As revised, only documents which relate specifically to the securities offering will be required as exhibits to Form S–16, i.e. underwriting agreements, plans of acquisition, reorganization, arrangement, liquidation or succession, instruments defining the rights of holders of the debt or equity securities being registered and opinions of counsel relating to legality and tax matters.

(b) *Modification of Specific Exhibits.* As discussed in Release No. 33–6149, the Commission proposed substantive revisions to two existing exhibit requirements: material contracts and previously unfiled documents. In response to the comments received, these definitions have been revised, as well as the proposed definitions of certain other exhibits, namely (a) instruments defining the rights of security holders, (b) letter with respect to changes in accounting principles, (c) plans of acquisition, reorganization, arrangement, liquidation or succession and (d) articles of incorporation and by-laws.

(i) *Material contracts.*—The material contract definition has been revised from the proposal in two respects. First, in paragraph (b) of the definition relating to contracts not made in the ordinary course of business, the percentage in subpart 3 concerning the acquisition or sale of certain assets has been revised to the 15% threshold currently in the definition of material contracts in Form S–1. After analyzing the commentators' views in this area, the Commission has determined to set the percentage at 15% rather than reduce it to the Form 10 10% standard. This approach is consistent with the purpose of reducing the burdens which the exhibit filing requirements impose upon registrants without materially impairing investor information or protection.

Second, a new subpart has been added to paragraph (c) of the definition which specifically excludes from the exhibit filing requirements any remuneration plan or arrangement in which directors or executive officers of the registrant do not participate. The Commission believes that these types of plans generally are not material to investor information or protection and are not necessary for staff review purposes.

In certain respects, particularly with regard to the current exhibit requirements of Form S–7, the definition of material contract adopted will require the filing or at least the listing of some additional documents not currently required. The Commission does not believe, however, that this item requirement imposes an unreasonable burden upon registrants. It should be noted that Form S–7 allows the integration into the registration statement of the Exchange Act reports. To the extent such contracts have been filed with these reports, the registrant may incorporate them by reference so that the requirement in most instances will be a reference requirement rather than the imposition of a new filing requirement.

The Commission has determined, however, to eliminate this specific exhibit from the filing requirements for the Form S–16. Unlike the other registration and reporting forms, the Form S–16 incorporates by reference into the registration statement current, as well as subsequently filed, Exchange Act periodic reports where such contracts will be filed. As a result, the Commission believes that the elimination of this exhibit requirement will not reduce the quality of information available to investors but rather will eliminate a duplicative filing and reference requirement.

(ii) *Previously unfiled documents.*—Although the substance of this exhibit requirement remains as originally proposed, the definition of this exhibit has been redrafted to remove certain ambiguities perceived by commentators, including eliminating the possible interpretation that the item would require a continual updating of all Securities Act exhibits not otherwise required to be filed with the Forms adopted under the Exchange Act. As adopted, the exhibit requires the filing of all contracts or other documents either originally required to be filed with a registration statement on Form 10 or a report on Forms 10–K or 10–Q, as well as any document which later comes into existence and is of a character originally required to be so filed. Further, all amendments or modifications of previously filed exhibits are also encompassed within the item requirement. As noted in the proposing release, this item is a consolidation of several existing exhibit requirements in Forms 10–Q and 10–K and in the Commission's view does not impose any new filing requirements upon registrants except that the revised requirement would be operative on a quarterly basis, rather than on the annual basis used in the past.

(iii) *Instruments defining the rights of security holders, including indentures.*—The substance, as well as the applicability, of this definition has been revised in a number of respects from the original proposal. Substantively, the definition has been revised by increasing the exclusionary provision in subpart (b), relating to non-registered long-term debt, from 5% to 10%.

Similarly, the applicability of the item to the various forms has been revised by limiting in certain respects the specific filing requirements. As adopted, the definition requires the filing of all instruments defining the rights of holders of the equity or debt securities being registered. Further, the definition requires the filing of all other instruments defining the rights of holders of long-term debt of the registrant, and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, only on Forms S–1, S–2, S–11 and S–14 under the Securities Act and Forms 10 and 10–K under the Exchange Act. The original proposal would have required the filing of all such instruments with each Securities Act and Exchange Act form. In light of the nature of Forms S–7, S–8 and S–16 under the Securities Act, however, the Commission has determined that this requirement is unnecessary. Forms S–7 and S–16 are simplified registration forms which are premised upon Exchange Act filings where such instruments are already filed while the Form S–8 is the registration form relating solely to the registration of securities to be offered to employees of the registrant pursuant to certain employee benefit plans.

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[4] Although the form of proxy will no longer be required to be filed as an exhibit to the S–14 registration statement, the requirement that it be filed with the Commission with both the preliminary and definitive proxy material would be retained.

[5] Material changes in the registrant's affairs not previously disclosed in an incorporated document would be required to be disclosed in the registration statement pursuant to Item 8 of the Form. As a result, a material contract not previously filed as an exhibit to an Exchange Act periodic report would be required to be disclosed in the filing, although not required to be filed as an exhibit to the registration statement.

With regard to Forms 8–K and 10–Q under the Exchange Act, the definition of this item requirement has been revised to call for such exhibits only when the periodic report filed discloses a modification of existing rights, the issuance of any additional securities of a class outstanding or the creation of a new class of securities or indebtedness. Each Form 10–K, however, will require as exhibits all instruments defining the rights of holders of long-term debt. To the extent such instruments have been previously filed with the Commission, the registrant may incorporate them by reference. In this manner an interested investor or the staff of the Commission will be able to obtain a listing of all such instruments by consulting the registrant's latest Form 10–K and any subsequently filed Form 10–Q's.

(iv) *Letter with respect to changes in accounting principles.*—The Commission has revised this definition by adding the qualifying "under the circumstances" phrase currently appearing in the requirement for this exhibit. This language had been inadvertently omitted from the definition when proposed.

(v) *Plan of acquisition, reorganization, arrangement, liquidation or succession.*—This definition has been revised by the addition of a sentence relating to the requirements for filing any schedules (or similar attachments) to these plans. Currently, all such schedules are required to be filed with the disclosure document. It has been the Commission's experience, however, that many of the schedules being received by the staff are not material for investor information or protection and are unnecessary for Commission review purposes. Accordingly, the definition as adopted limits the applicability of the exhibit filing requirements to these schedules which are material to an investment decision and which are not otherwise disclosed in the plan itself or the disclosure document. This provision has been qualified by the requirement that the plan or agreement filed as the exhibit contain a list briefly identifying the contents of all omitted schedules together with the registrant's agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

(vi) *Articles of Incorporation and by-laws.*—The definition of this exhibit has been revised in one respect from the proposal. A provision has been added to the item which requires that, whenever an amendment to the articles or by-laws of the registrant is filed as an exhibit to a reporting form, a complete copy of the registrant's articles or by-laws as amended must also be filed as an exhibit. The Commission believes that this revision will assist interested investors, as well as members of the staff of the Commission, in identifying and locating the registrant's complete charter or by-laws which at present is particularly difficult under the Commission's existing micrographic document storage system. Although the Commission recognizes that this revision may impose some additional burdens upon registrants, it believes that these burdens will be minimal and that significant benefits to the public will result.

3. *Additional Exhibits*

As noted in the proposing release, the Commission became aware during the reexamination of the exhibit filing requirements that the exhibits called for by certain related forms were inconsistent in the sense that certain items are required in some forms but not in others, even though such forms pertain to similar disclosure issues. To cure this inconsistency, the Commission is adopting the requirement that the following documents be filed as exhibits to the forms listed in parentheses: (1) instruments defining the rights of security holders, including indentures, (S–2); (2) opinion with respect to tax matters (S–1, S–2, S–7, S–14, S–16 and S–18); (3) voting trust agreements (S–2); (4) plans of acquisition, reorganization, arrangement, liquidation or succession (S–7 and S–16); and opinions of counsel with respect to liquidation preference and this discount on capital shares (S–2 and S–7).

Certain commentators believed that the additional requirement for an opinion of counsel relating to tax matters may be burdensome, costly and, in some instances, difficult to satisfy. In light of these views, the Commission has modified materially the filing requirement for such opinions. As adopted, an opinion of counsel will be mandated only for filings on Form S–11 or filings in which Guide 60 of the Guides for the Preparation of Registration Statements[6] applies. The Commission notes that tax opinions are currently required in these filings and in light of the type of securities being registered and the business activities of the registrant continues to believe in their importance to investors. For all other filings, including Forms S–2, S–7 and S–16, an opinion of counsel as to tax matters will be required only where the tax consequences are material to an investor and a representation as to the tax consequences is set forth in the filing. This requirement may be satisfied, however, by the inclusion of the full opinion in the registration statement.

A new exhibit requirement relating to the use of SAS No. 24[7] reports in registration statements has also been included in Table I of the exhibit item. Under this exhibit requirement, which is captioned "Letter re unaudited financial information," registrants must file as an exhibit to a registration statement a letter from the independent accountants which acknowledges the accountants' awareness of the use in the registration statement of any of their reports which are not subject to the consent requirement of section 7 of the Securities Act. The intention of the Commission to adopt this exhibit requirement was announced in Securities Act Release No. 6173 (December 28, 1979) [41 FR 43398]. That Release announced the adoption of a rule excluding from the definition of a "report," for the purposes of sections 7 and 11 of the Securities Act, SAS No. 24, reports by independent accountants on reviews of unaudited interim financial information. While this amendment to Rule 436 (17 CFR 230.436) eliminated the requirement of section 7 of the Securities Act that accountants consent to the use of SAS No. 24 reports, the Commission noted in the Release that the independent accountants should acknowledge their awareness that these reports are being included in a registration statement. As adopted, this exhibit will be required for all the Securities Act forms in Table I except Form S–2.

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[6] Securities Act Release No. 5745 [41 FR 43398].

[7] Statement on Auditing Standards No. 24, "Review of Interim Financial Information," AICPA, March 1979.

B. Revision of Forms and Inclusion of Exhibit Item in Regulation S–K

In the interest of clarity, and to establish uniformity between the exhibit requirements for the most frequently used forms under both the Securities Act and the Exchange Act, the Commission has adopted, as proposed, two major changes in the manner in which such requirements are set forth. First, with the exception of the Form S–18, the specific exhibit requirements are no longer contained in the selected frequently used forms. In lieu thereof, a single reference appears to Regulation S–K. Second, the Commission has adopted Item 7 of Regulation S–K which contains all the exhibit requirements for the relevant forms being amended.[8] The Commission believes that these changes will assist registrants in complying with the exhibit requirements by simplifying and consolidating requirements.

New Item 7 consists of two parts: first, two tables (one each for the Securities and the Exchange Acts) list each of the forms being covered by the item and the exhibits required to be filed with each such form; second, a definitional section containing a narrative description of each exhibit listed in the table.

In response to a number of comments, certain revisions have been incorporated into Item 7. In paragraph (a) of the item, the reference to the exhibit index and sequential numbering requirement has been revised to require sequential pagination in only the manually signed original. This reference had been inadvertently omitted from the item when proposed.

Instruction number 2 to Item 7(a) has also been expanded to indicate that an "X" designation in the exhibit table indicates the documents which are required to be filed with each form even if previously filed with an earlier report.[9] Accordingly, the filing of certain previously filed exhibits is required in a number of documents. For example, in Table II, the Form 10–K requires the filing of all exhibits relating to the articles of incorporation and by-laws, instruments defining the rights of holders of long-term debt and material contracts, in addition to any previously unfiled documents. As noted in paragraph (a) of the Item, incorporation by reference is permitted and, if utilized, the Commission believes this requirement will, in many cases, result in a listing of previously filed exhibits, rather than the imposition of a requirement that the exhibits be physically filed each year.

The tables, as adopted, have also been modified in several respects to incorporate a number of the commentators' concerns. A number of footnotes have been added to the various requirements of the Item which limit, in certain respects, the specific exhibit filing requirements. In many respects, these footnotes clarify the Commission's intent in publishing the proposal. The requirement in Form S–16 for filing material contracts has been deleted. The requirements for the filing of opinions regarding liquidation preference and discount on capital shares have been added to Forms S–2 and S–7 while the opinion of counsel relating to tax matters has been added to Forms S–2, S–7 and S–16. Further, in view of the limited number and type of exhibits required by the Form 11–K, this form has been eliminated from the Regulation S–K Item requirements.

C. Amendments to Certain Related Rules

In connection with the amendment to Regulation S–K, the Commission has also adopted amendments to Rule 403 [17 CFR 230.403] under the Securities Act and Rule 0–3 [17 CFR 240.0–3] under the Exchange Act. Both rules set forth requirements relating to the filing of documents with the Commission. Each such rule has been amended to add a new paragraph thereto requiring that the following be included with each registration statement or report being filed: (1) and index listing each exhibit filed with the registration statement or report and, in the manually signed original, the page under the Commission's sequential numbering system where such exhibit can be found and (2) a statement on the cover page of the manually signed filing indicating the page under the sequential numbering system on which the exhibit index is located.

The purpose of the rule changes is to assist readers of the filings in identifying and locating exhibits. Under the current micrographic system used by the Commission to store documents, it is difficult to determine without a complete review of the document which exhibits are filed with a particular registration statement or report.

The Commission believes that these changes will substantially ease the difficulties in identification and location inherent in the present micrographic system and will greatly facilitate the retrieval of such information for the investing public.

D. Text of the Amendments

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. 17 CFR 229.20 is amended by adding a new Item 7 to Regulation S–K.

§ 229.20 Information required in document.

* * * * *

Item 7. Exhibits. (a) Subject to Rule 447 (17 CFR 230.447) under the Securities Act of 1933 and Rule 12b–32 (17 CFR 240.12b–32) under the Securities Exchange Act of 1934 regarding incorporation of exhibits by reference, the following exhibits shall be filed, where applicable, as part of the registration statement or report. For convenient reference, each exhibit should be listed in the exhibit index according to the number assigned to it in the applicable table set forth below. The exhibit index should immediately precede the exhibits filed with such document and should indicate in the manually signed original the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact should be noted in the exhibit index referred to in the preceding sentence. For a description of each of the exhibits included in the following tables, see paragraph (b) of this Item.

This Item applies only to the forms specified below. With regard to forms not listed in the tables, reference should be made to the appropriate form for the specific exhibit filing requirements applicable thereto.

Tables

Instructions

(1) Each table indicates those documents which must be filed as exhibits to the respective forms listed. Only copies, rather than originals, need be filed of each document listed;

(2) The "X" designation indicates the documents which are required to be filed with each form even if previously filed with another document, *Provided, however,* That such previously filed documents may be incorporated by reference to satisfy the filing requirements; and

(3) The number used in the far left column of each table refers to the appropriate

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[8] As originally proposed the exhibit requirement item of Regulation S–K would have been designated Item 8.

[9] Previously filed documents, however, may be incorporated by reference pursuant to Rule 447 under the Securities Act [17 CFR 230.447] and Rule 12b–32 [17 CFR 240.12b–32] under the Exchange Act to satisfy these requirements.

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subsection in paragraph (b) where a description of the exhibit can be found.

Whenever necessary, alphabetical or numerical subparts may be used.

Table I.—*Securities Act of 1933—Frequently Used Forms*

	S–1	S–2	S–7	S–8	S–11	S–14	S–16
(1) Underwriting agreement	X	X	X		X	X	X
(2) Plan of acquisition, reorganization arrangement, liquidation or succession	X		X		X	X	[1]X
(3) Articles of incorporation and by-laws	X	X			X	X	
(4) Instruments defining the rights of security holders, including indentures.	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares	X	X	X		X	X	
(7) Opinion re liquidation preference	X	X	X		X	X	
(8) Opinion re tax matters	X	X	X	X	X	X	X
(9) Voting trust agreement	X	X			X	X	
(10) Material contracts	X	X	X		X	X	
(11) Statement re computation of per share earnings.	X		X		X	X	
(12) Statements re computation of ratios [2]	X		X		X	X	
(13) Annual report to security holders				X			
(14) Material foreign patents	X	X				X	
(15) Instruments defining the rights of participating employees.	[3]X			X			
(16) Letter re unaudited financial information	X	X	X	X	X	X	X

[1] Such plans need not be filed for secondary offerings on this form.

[2] Such statements are necessary only when such ratios are furnished.

[3] This exhibit need be filed only for the registration of securities offered pursuant to an employee benefit plan of the registrant.

Table II.—*Securities Exchange Act of 1934—Frequently Used Forms*

	Form 10	8–K	10–Q	10–K
(2) Plan of acquisition, reorganization arrangement, liquidation or succession	X	X		
(3) Articles of incorporation and by-laws	X			X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X
(6) Opinion re discount on capital shares	X			
(7) Opinion re liquidation preference	X			
(9) Voting trust agreement	X			
(10) Material contracts	X			X
(11) Statement re computation of per share earnings	X		X	X
(12) Statements re computation of ratios [1]	X			X
(13) Annual report to security holders				X
(14) Material foreign patents	X			
(17) Letter re change in certifying accountant		X		
(18) Letter re director resignation		X		
(19) Letter re change in accounting principles			X	X
(20) Previously unfiled documents			X	X
(21) Financial statements furnished to security holders			X	

[1] Such statements are necessary only when such ratios are furnished.

(b) *Description of Exhibits.* Set forth below is a description of each document listed in the foregoing tables for which copies should be filed, where appropriate.

(1) *Underwriting agreement.*—Each underwriting contract or agreement with a principal underwriter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Plan of acquisition, reorganization, arrangement, liquidation, or succession.*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report. Schedules (or similar attachments) to these exhibits shall not be filed unless such schedules contain information which is material to an investment decision and which is not otherwise disclosed in the agreement or the disclosure document. The plan filed shall contain a list briefly identifying the contents of all omitted schedules, together with an agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

(3) *Articles of incorporation and by-laws.*—The articles of incorporation and by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to the articles or by-laws of the registrant are filed, there shall also be filed a complete copy of the articles or by-laws as amended.

(4) *Instruments defining the rights of security holders, including indentures.*—(a) All instruments defining the rights of holders of the equity or debt securities being registered.

(b) Except as set forth in (c) below, for filings on Forms S–1, S–2, S–11 and S–14 under the Securities Act of 1933 and Forms 10 and 10–K under the Securities Exchange Act of 1934 all instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(c) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 10% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(d) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(e) With respect to Forms 8–K and 10–Q under the Securities Exchange Act of 1934 which are filed and which disclose the creation of a new class of securities or indebtedness or the issuance or reissuance of any additional securities or indebtedness of a class outstanding, or the modification of existing rights of security holders, file all instruments defining the rights of holders of these securities or indebtedness.

(5) *Opinion re legality*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-

assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 410 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(6) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(7) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(8) *Opinion re tax matters*—For filings on Form S–11 under the Securities Act of 1933 or those to which Guide 60 of the Guides for the Preparation of Registration Statements (Securities Act Release 5745; 41 FR 43398) applies an opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed. This exhibit otherwise need only be filed with the other applicable registration forms where the tax consequences are material to an investor and a representation as to tax consequences is set forth in the filing. If a tax opinion is set forth in full in the filing, an indication that such is the case may be made in lieu of filing the otherwise required exhibit. Such tax opinions may be conditioned or may be qualified, so long as such conditions and qualifications are adequately described in the filing.

(9) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(10) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will be deemed to have been made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of the assets of the registrant on a consolidated basis; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement, including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement in which directors or executive officers of the registrant do not participate. See Item 4 of Regulation S–K for the definition of the term "executive officer."

(5) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(11) *Statement re computation of per share earnings*—A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. (See Securities Act Release No. 5133 (February 18, 1971) (36 FR 4483)).

(12) *Statement re computation of ratios*—A statement setting forth in reasonable detail the computation of ratios of earnings to fixed charges which appears in the registration statement or report.

(13) *Annual report to security holders*—The registrant's annual report to security holders for its last fiscal year if all or a portion thereof are incorporated by reference in the filing. Such report, except for those portions thereof which are expressly incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed "filed" as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy.

(14) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring,

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developing or exploiting one or more material foreign patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(15) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(16) *Letter re unaudited financial information*—A letter, where applicable, from the independent accountants which acknowledges their awareness of the use in a registration statement of any of their reports which pursuant to Rule 436(c) (17 CFR 230.436(c)) under the Securities Act are not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act.

(17) *Letter re change in certifying accountant*—A letter from the registrant's former independent accountant regarding its concurrence or disagreement with the statements made by the registrant in the current report concerning the resignation or dismissal as the registrant's principal accountant.

(18) *Letter re director resignation*—Any letter from a former director which sets forth a description of a disagreement with the registrant that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(19) *Letter re change in accounting principles*—Unless previously filed, a letter from the registrant's independent accountant indicating whether any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which affected the financial statements being filed with the Commission in the report or which is reasonably certain to affect the financial statements of future fiscal years is to an alternative principle which in his judgment is preferable under circumstances. No such letter need be filed when such change is made in response to a standard adopted by the Financial Accounting Standards Board requiring such a change.

(20) *Previously unfiled documents*—All contracts and other documents of a type required to be filed as an exhibit to an original registration statement on Form 10 or a report on Forms 10–K and 10–Q under the Securities Exchange Act of 1934 which were executed or in effect during the reporting period and not previously filed, as well as all amendments or modifications, not previously filed, to all exhibits previously filed with Forms 10, 10–K and 10–Q.

(21) *Financial statements furnished to security holders*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, the information called for may be incoporated by reference to such published statement provided copies thereof are included as an exhibit to Part I of the report filed.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. 17 CFR 230.403 is amended by adding a new paragraph (e):

§ 230.403 Requirements as to paper, printing and language.

* * * * *

(e) Each registration statement shall contain an exhibit index, which should immediately precede the exhibits filed with such registration statement. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation in the manually signed original, the page number in the sequential numbering system described in paragraph (d) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. 17 CFR 240.0–3 is amended by adding a new paragraph (c):

§ 240.0–3 Filing of material with the Commission.

* * * * *

(c) Each document filed shall contain an exhibit index, which should immediately precede the exhibits filed with such document. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation in the manually signed original, the page number in the sequential numbering system described in paragraph (b) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the manually signed document shall list the page in the filing where the exhibit index is located.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4. 17 CFR Part 239 is amended as follows:

a. *Form S–1.* Item 30 and the Instructions as to Exhibits of Form S–1 are amended as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 30. Financial statements and exhibits.

(a) * * *

(b) Exhibits, as required by Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

b. *Form S–2.* Item 18 and the Instructions as to Exhibits of Form S–2 are amended as follows:

§ 239.12 Form S–2, for shares of certain corporations in the development stage.

* * * * *

Item 18. Exhibits File. Exhibits, as required by Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

c. *Form S–7.* Item 17 and the Intructions as to Exhibits of Form S–7 are amended as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 17. Other Documents Filed as a Part of the Registration Statement.

(a) * * *

(b) Exhibits, as required by Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits, shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

d. *Form S–8.* Instructions as to Exhibits of Form S–8 are amended as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

e. *Form S-11.* Item 32 and the Instructions as to Exhibits of Form S-11 are amended as follows:

§ 239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 32. Financial Statements and Exhibits

(a) * * *

(b) The exhibits, as required by Item 7 of Reguation S-K, 17 CFR 229.30.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

f. *Form S-14.* Item 5 and the Instructions as to Exhibits of Form S-14 are amended as follows:

§ 239.23 Form S-14, for simplified registration of securities issued in certain transactions under Rules 133 and 145 [17 CFR 230.133, 230.145].

* * * * *

Item 5. Exhibits Filed. Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

g. *Form S-16.* Item 13 and the Instructions as to Exhibits of Form S-16 are amended as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

Item 13. List of Exhibits. Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

* * * * *

h. *Form S-18.* Instructions as to Exhibits of Form S-18 are amended as follows:

§ 239.28 Form S-18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

* * * * *

Instructions as to Exhibits

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 20.

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Articles of incorporation and by-laws*—The articles of incorporation and by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto.

(3) *Instruments defining the rights of security holders, including indentures*—(a) All instruments defining the rights of holders of the equity or debt securities being registered as well as all instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 10% of the total assets of the registrant and its subsidiaries on a condolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(4) *Opinion re legality*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter. that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(5) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(6) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(7) *Opinion re tax matters*—An opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service supporting the Tax matters and consequences as to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed. If a tax opinion is set forth in full in the filing, an indication that such is the case may be made in lieu of filing the otherwise required exhibit. Such tax opinion may be conditioned or may be qualified so long as such conditions and qualifications are adequately described in the filing.

(8) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(9) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will

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be deemed to have been made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of all the assets of the registrant on a consolidated basis; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement in which directors or executive officers of the registrant do not participate. See Item 4 of Regulation S–K for the definition of the term "executive officer."

(5) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(10) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent: If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material foreign patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(11) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(12) *Letter re unaudited financial information*—A letter, where applicable, from the independent accountants which acknowledges their awareness of the use in a registration statement of any of their reports which pursuant to Rule 436(c) (17 CFR 230.436(c)) under the Securities Act are not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

5. 17 CFR Part 249 is amended as follows:

a. *Form 10.* Item 16 and the Instructions as to Exhibits of Form 10 are amended as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 16. Financial Statements and Exhibits

(a) * * *

(b) Exhibits, as required by Item 7 of Regulation S–K, 17 CFR 229.20,

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

b. *Form 8–K.* Item 7 of the Form 8–K is amended as follows:

§ 249.308 Form 8–K, for current reports.

* * * * *

Item 7. Financial statements

(a) * * *

(b) Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

c. *Form 10–Q.* Instruction 9 and Item 9 of Form 10–Q are amended as follows:

§ 249.308a Form 10–Q, for quarterly reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Instruction 9. Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Item 9. Exhibits and Reports on Form 8–K. (a) The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

d. *Form 10–K.* Item 12 and the Instructions to Exhibits of Form 10–K are amended as follows:

§ 249.310 Form 10–K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 12. Financial Statements, Exhibits Filed and Reports on Form 8–K.

(a) * * *

(2) Exhibits, as required by Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S–K, 17 CFR 229.20.

* * * * *

Certain Findings

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact which the amendments would have on competition and has concluded that it imposes no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefit of this rule to investors and registrants.

The Commission also finds that any changes in the amended rule and forms adopted from those published in Securities Act Release No. 6149 have already been generally subject to comment so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

Authority

The amendments to Rule 403 and the enumerated forms prescribed under the Securities Act of 1933 are being adopted pursuant to the authority in Sections 6, 7, 8, 10, and 19(a) of that Act. The amendments to Rule 0–3 and the enumerated forms prescribed under the Securities Exchange Act of 1934 are being adopted pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S–K are being adopted pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; Secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; Secs. 205, 209, 48 Stat. 906, 908; Secs. 1, 3, 8, 203(a), 49 Stat. 704, 1375, 1377, 1379; Sec. 2, 52 Stat. 1075; Sec. 301, 54 Stat. 857; Secs. 8, 202, 68 Stat. 685, 686; Secs. 3, 4, 6, 10, 78 Stat. 88(a), 565, 569, 570; Sec. 1, 79 Stat. 1051; Secs. 1, 2, 82 Stat. 454; Secs. 1, 2, 7, 28, 84 Stat. 1435, 1497, 1653; Secs. 10, 11, 18, 89 Stat. 119, 121, 155; Sec. 308, 90 Stat. 57; Sec. 204, 91 Stat. 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,
Secretary.
August 27, 1980.

[FR Doc. 60-27123 Filed 9-4-60; 8:45 am]

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17 CFR Part 249

[Release No. 34-17100]

Registration of Municipal Securities Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final amendments to form.

SUMMARY: The Commission is amending Form MSD, the registration form used by municipal securities dealers which are banks or separately identifiable departments or divisions of banks. The amendments (1) conform a definition in Form MSD to a definition contained in a rule of the Municipal Securities Rulemaking Board, (2) allow, under certain circumstances, bank municipal securities dealers to substitute, for forms currently required to be filed with the Commission, forms containing similar information with respect to supervisory personnel currently filed with the bank regulatory agencies, and (3) make certain technical changes in Form MSD. Banks or separately identifiable departments or divisions of banks whose municipal securities dealer registration is either currently effective or pending will be required to update their registrations or applications on Form MSD if such registrations or applications do not already contain the new information required by the amendments.

EFFECTIVE DATES: With respect to registrants or applicants whose municipal securities dealer registration is either effective or pending on October 6, 1980, the effective date of the amendments is December 28, 1980. With respect to other applicants, the effective date of the adopted amendments is October 6, 1980.

FOR FURTHER INFORMATION CONTACT:
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Office of Self-Regulatory Oversight,
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(202) 272-2411.

SUPPLEMENTARY INFORMATION: On July 17, 1978, the Securities and Exchange Commission published and solicited comments concerning three proposed substantive amendments and two proposed technical amendments to Form MSD. The Commission has determined to adopt certain of the substantive amendments described below and the two technical amendments. The Commission, in a companion release, is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD.[1]

The first proposed substantive amendment would amend Form MSD's definition of the phrase "municipal securities dealer activities" in the instructions to Form MSD to conform to the definition of that term in rule G-1(b) of the Municipal Securities Rulemaking Board (the "MSRB").[2] As originally adopted, MSRB rule G-1 included four types of activities as "municipal securities dealer activities"; this list of activities was incorporated verbatim into Form MSD. After the Commission adopted Form MSD, the MSRB amended rule G-1 to expand the list of "municipal securities dealer activities" to include (1) financial advisory and consultant services in connection with the issuance of municipal securities and (2) activities which involve communication, directly or indirectly with public investors in municipal securities. As a result, the instructions in Form MSD do not conform to the MSRB's current definition of the term "municipal securities dealer activities." The amendment would replace the current list of activities enumerated in Form MSD with language referring to the definition of the term "municipal securities dealer activities," thus conforming the two definitions eliminating the need for future amendments to the same instructions in the event additional amendments to the term, as defined in MSRB rule G-1, become effective.

The second proposed amendment would permit certain persons named in response to item 5 of Form MSD, who are required to complete a separate Schedule A,[3] to substitute for that schedule Form MSD-4.[4] In order to satisfy the requirements in MSRB rule G-7 with respect to information concerning associated persons, the federal bank regulatory agencies have uniformly adopted Form MSD-4, which every bank municipal securities dealer is required to submit to its appropriate regulatory agency on behalf of each municipal securities principal or municipal securities representative associated with such bank dealer. Applicants would still be required, however, to complete a Schedule A for any disciplined personnel named in response to item 7 of Form MSD even if such persons have also completed a Form MSD-4, since Schedule A solicits additional disciplinary information which is not available on Form MSD-4.

The third proposed substantive amendment would amend the instruction to item 6 of Form MSD. Item 6 solicits information concerning any person who "directly or indirectly control(s) any of the applicant's municipal securities dealer activities." The current instruction can be interpreted to exclude members of the board of directors of a bank dealer and of a parent bank holding company (if any) from the category of persons considered to control directly or indirectly an applicant bank's municipal securities dealer activities. The proposed amendment to the instruction to item 6 would explicitly require a bank municipal securities dealer, whether it applies for registration as a whole or as a separately identifiable department or division, to list on Schedule B all the members of the board of directors of the applicant, or of the bank of which it is a part, and of the parent bank holding company, if any.

The first proposed technical amendment to item 1 of Form MSD would facilitate the processing of registration forms filed by applicants which intend to succeed to and continue the business of another registered municipal securities dealer by requiring that such applicants check a box on the form indicating their successor status. The second proposed technical amendment would make a minor correction to item 10(c) of Form MSD to avoid an overlap with item 12(h) of the form. Under the proposed amendment, an applicant which is a department or

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[1] The Commission published and solicited comments concerning the proposed amendments in Securities Exchange Act Release No.14971 (July 17, 1978) (43 FR 32309 (1978)). The Commission, in this release, is adopting two of the substantive amendments and the two technical amendments. In Securities Exchange Act Release No. 17101 (August 28, 1980), the Commission is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD. *See* discussion beginning at fn. 5, *infra.*

[2] MSRB rule G-1 defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act (the "Act") (15 U.S.C. 78c(a)(30).

[3] Each person directly engaged in the management, direction or supervision of any of the applicant's or registrant's municipal securities dealer activities, as enumerated in MSRB rule G-1(b), is required to be listed in response to item 5 and on Schedule A of Form MSD. Such persons include personnel responsible for the clearance and processing activities of the bank with respect to transactions in municipal securities.

[4] Form MSD-4 is an abbreviation for the form entitled "Uniform Application for a Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Dealer." The information required by Form MSD-4 is substantially identical to, or more detailed than, similar information required on Schedule A.

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division of a bank, rather than a whole bank, would not be required to answer item 10(c) in addition to item 12(h), which requests identical information.

As stated above, the Commission has determined to adopt all of the proposed amendments, with the exception of the proposed amendment to the instruction to item 6.[5] The Commission believes that adoption of the proposed amendment to the instruction to item 6 is not necessary at this time in view of the public availability elsewhere of much of the information the proposed amendment is designed to elicit,[6] and the potentially duplicative paperwork burden that the requirement would impose on bank municipal securities dealers.[7] The proposed amendment, if adopted, would have required every member of the board of directors of the applicant or registrant, or of the bank of which it is a part, and of a parent bank holding company to (i) state on Schedule B his or her name, business address, and basis for control, (ii) respond to the list of questions in item 7, and (iii) update such information on a periodic basis.

Information with respect to persons associated with an applicant bank is important for the Commission to evaluate properly whether registration as a municipal securities dealer should be granted or denied in accordance with Section 15B(a)(2) of the Act (15 U.S.C. 78*o*–4(a)(2)). Under that section, the Commission is directed to deny registration to an applicant if it finds that, if the applicant were already registered as a municipal securities dealer, its registration would be subject to revocation or suspension under Section 15B(c) of the Act (15 U.S.C. 78*o*–4(c)).

Information relating to an applicant's associated persons is relevant in determining whether its registration would be subject to suspension or revocation. Section 15B(c)(2) (15 U.S.C. 78*o*–4(c)(2)) empowers the Commission to suspend or revoke the registration of a municipal securities dealer which has committed or omitted any act or omission enumerated in Section 15(b)(4) (15 U.S.C. 78*o*(b)(4)), including a violation of any provision of the Act or rules or regulations thereunder. A municipal securities dealer that permits a person subject to a disciplinary order entered pursuant to Section 15B(c) of the Act to become or remain an associated person violates Section 15B(c)(4) of the Act (15 U.S.C. 78*o*–4(c)(4)), if the dealer knows or should have known of the order. Thus, by violating a provision of the Act, a municipal securities dealer would be subject, if already registered, to revocation or suspension pursuant to Section 15B(c)(2). Accordingly, it is evident that, pursuant to Section 15B(a)(2) of the Act, the Commission could deny an application for registration based on the applicant's relationship with certain persons associated with it, and it is important that information concerning those persons be furnished to the Commission.

Nevertheless, since item 7 of Form MSD currently asks for information with respect to enumerated disciplinary actions taken against any person who meets the definition of the term "person associated with a municipal securities dealer,"[8] the Commission will not at this time specifically require information on Schedule B concerning every member of the board of directors. Instead, applicants and registrants will continue to be required, in response to item 6, to make individual case-by-case decisions as to whether a director is in fact a controlling person.

In the case of those directors who are not viewed by applicants as within the definition of "person associated with a municipal securities dealer" and for whom information accordingly will not be furnished, the Commission notes that the federal bank regulatory agencies, which have primary inspection and enforcement authority with respect to bank municipal securities dealers, are authorized to enforce compliance by those entities and associated persons with applicable provisions of the securities laws.[9] In exercising those responsibilities, the bank regulatory agencies can be expected to examine the control relationship of members of the board of directors of a bank, and of a parent bank holding company, with the bank or the department of the bank which engages in municipal securities dealer activities. Accordingly, the Commission believes that appropriate statutory safeguards exist to ensure that it has access to certain relevant information with respect to associated persons for whom information is not furnished on Form MSD.[10]

In withdrawing the proposed amendment to the instruction to item 6, the Commission, of course, reserves the right to reconsider the matter at a later date if information in Form MSD about all members of the boards of directors of a municipal securities dealer proves necessary to the registration process.

Discussion of Certain Aspects of Commission Authority With Respect to Bank Municipal Securities Dealers

As indicated above, the Commission, in withdrawing the proposed amendment to the instruction to item 6, has considered the commenters' concerns that the information which would be elicited by the proposed amendment is already publicly available to a large degree,[11] and that the proposed amendment would impose a duplicative paperwork burden without a corresponding benefit.[12] The commenters also argued that the proposed amendment was contrary to the legislative history of Section 3(a)(32) of the Act [13] which defines the term

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[5] The Commission received 14 comment letters on the proposed amendments. The commenters generally favored their adoption, with the exception of the proposed amendment to the instruction to item 6.

[6] As indicated in the responses of the staff of the Board of Governors of the Federal Reserve System (the "Federal Reserve") and the Hartford National Bank and Trust Co. ("Hartford"), a publicly-held bank holding company may be subject to Section 12(g) of the Act (15 U.S.C. 78*l*(g)), thereby requiring Form 10–K to be filed with the Commission. Form 10–K requires a listing or diagram of all subsidiaries of the registrant, and the names of all directors of the registrant. A publicly-held bank is subject to substantially similar regulations issued by the appropriate bank regulatory agencies pursuant to Section 12(i) of the Act (15 U.S.C. 78*l*(i)) and accordingly must file similar information with those agencies. In addition, certain professional publications provide listings of the members of the boards of directors of banks. Responses of the American Bankers Association (the "ABA") (Sept. 8, 1978), the Association of Bank Holding Companies (the "Association") (Sept. 15, 1978), the Dealer Bank Association (the "DBA") (Aug. 31, 1978), Federal Reserve (Aug. 31, 1978), Hartford (Aug. 31, 1978), the Irving Trust Co. ("Irving") (Aug. 31, 1978), the Manufacturers Hanover Trust Co. ("Manufacturers") (Aug. 31, 1978), the Pacific National Bank of Washington ("Pacific") (Aug. 24, 1978), the Public Securities Association (Aug. 31, 1978), and Seattle Trust and Savings Bank ("Seattle") (Aug. 31, 1978); Securities and Exchange Commission File No. S7–746 ("File No. S7–746").

[7] Responses of the ABA, the Association, the DBA, Federal Reserve, Hartford, Irving, Manufacturers, Pacific, the Republic National Bank of Dallas ("Republic") (Sept. 14, 1978), and Seattle: File No. S7–746.

[8] The term "person associated with a municipal securities dealer" is defined in Section 3(a)(32) of the Act (15 U.S.C. 78c(a)(32)). The text of that section is set forth in full *infra*, at fn. 13.

[9] Section 15B(c)(5) of the Act (15 U.S.C. 78*o*–4(c)(5)).

[10] For example, the appropriate bank regulatory agency, prior to the commencement of any proceeding against a person associated with a municipal securities dealer for a violation of applicable provisions of the securities laws, is required to notify the Commission of the identity of such person. Section 15B(c)(6)(A) of the Act (15 U.S.C. 78*o*–4(c)(6)(A)). In addition, pursuant to Section 17(c) of the Act (15 U.S.C. 78q(c)) the appropriate bank agency is required to furnish the Commission, upon request, with a copy of any report of an examination of a municipal securities dealer.

[11] *See* fn. 6, *supra* for commenters.

[12] *See* fn. 7, *supra* for commenters.

[13] Section 3(a)(32) of the Act provides: The term "person associated with a municipal securities dealer" when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person directly engaged in the management, direction, supervision,

Footnotes continued on next page

"person associated with a municipal securities dealer," [14] and, as a further amplification on that concern, that the proposed amendment, contrary to case law and previous Commission positions, would establish an irrebuttable presumption concerning the existence of a control relationship, in contrast to a case-by-case approach.[15] The Commission believes, however, that the commenters have misconstrued the legislative history of Section 3(a)(32) in asserting that the Commission should not require information concerning members of the board of directors of a bank unless such persons are directly involved in the management of the municipal securities department. Accordingly, it is appropriate, at this time, to interpret that section, together with the term "separately identifiable department or division" used in Section 3(a)(30) of the Act,[16] in order to clarify the Commission's views concerning certain aspects of the regulatory scheme applicable to municipal securities dealers which are banks or separately identifiable departments or divisions of banks.

Some commenters, relying on the legislative history of the Securities Acts Amendments of 1975 (the "1975 Amendments"),[17] indicated that they believed the term "person associated with a municipal securities dealer," as defined in Section 3(a)(32) of the Act, was intended to be limited to "[p]ersons involved in the management, direction or supervision of a bank's municipal securities activities." [18] Thus, absent personal intervention in the municipal securities activities of the bank's municipal securities department or division, a person would not be considered a "person associated with a municipal securities dealer," [19] and, therefore, information concerning such person need not be supplied on Schedule B of Form MSD. The legislative history cited by the commenters, however, interprets only the specific language in Section 3(a)(32) referring to persons "directly engaged in the management, direction, supervision or performance of any of the municipal securities dealer's activities," and does not address the "directly or indirectly controlling" language which follows. The legislative history, therefore, does no more than clarify the intent behind the "directly engaged in" language of Section 3(a)(32). Accordingly, the commenters' reference to the legislative history of Section 3(a)(32) inappropriately focuses on only one aspect of that section. The Senate Report does not explain the application of the section with respect to persons "directly or indirectly controlling" a municipal securities dealer's activities, and should not be interpreted to limit the definition with respect to such controlling persons.

Furthermore, the Senate Report discussion of the activities of a bank president which would result in the president's being considered a "person associated with a municipal securities dealer" should be read in conjunction with the Commission's comment on draft Section 3(a)(32) in S. 2474, the "Municipal Securities Act of 1973." In order to clarify the application of the proposed section to bank officers, the Commission suggested that the adverb "directly" be substituted for "actively" in the phrase "any person * * * engaged in" certain management-related activities of a bank municipal securities dealer.[20] That drafting suggestion, which was subsequently adopted by the Congress, indicates the section is meant to apply broadly to *all* persons responsible, no matter how infrequently, for the activities of a bank municipal securities dealer.

Some commenters, in connection with a discussion of the scope of Commission regulation intended by the Congress for bank municipal securities dealers and their associated persons, relied on the provisions in the 1975 Amendments permitting a bank to register as a separately identifiable department or division ("SIDD") as evidence of Congressional intent to allow a bank to separate completely its municipal securities dealer activities from its other activities for purposes of registration and subsequent regulation. The term "separately identifiable department or division," as noted above, is defined in MSRB rule G–1 as "that unit of the bank which conducts all of the activities of the bank relating to the conduct of business as a municipal securities dealer * * *." This definition serves to limit the scope of MSRB and Commission regulation so that certain requirements which more appropriately apply to a department or division of a bank are not imposed upon the entire bank.[21] MSRB rule G–1 further provides:

> The fact that directors and senior officers of the bank may from time to time set broad policy guidelines affecting the bank as a whole and which are not directly related to the day-to-day conduct of the bank's municipal securities dealer activities, shall not disqualify the unit hereinbefore described as a separately identifiable department or division of the bank or require that such directors or officers be considered as part of such unit.[22]

Moreover, those directors and senior officers who merely set broad policy guidelines with respect to the activities

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or performance of any of the municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling such activities or controlled by the municipal securities dealer in connection with such activities.

[14] Responses of the ABA, the DBA, the Federal Reserve, the MSRB (Sept. 21, 1978), and Republic; File No. S7–746.

[15] Responses of the Association, the Continental Illinois National Bank and Trust Co. ("Continental Bank") (Aug. 31, 1978), and Irving; File No. S7–746. Commenters should be aware of the distinction between actions of a director undertaken in an individual capacity and of actions undertaken as a member of a board of directors. As indicated in the text of this release *infra*, to the extent an individual director intervenes in the activities of the dealer department, the director would be a "person associated with a municipal securities dealer." In addition, however, as a group, the board of directors of a bank or of a bank holding company, except in a rare instance, at least indirectly controls the activities of the dealer department. Accordingly, the board as a whole would be "a person associated with a municipal securities dealer," as that term is defined in Section 3(a)(32) of the Act. *Cf.* rule 19g2–1 (17 CFR 240.19g2–1), adopted under Section 19(g) of the Act (15 U.S.C. 78s(g)), which establishes a rebuttable presumption that certain persons "control" a securities exchange or securities association member firm. Among the persons persumed to control are the directors of the firm.

[16] Section 3(a)(30) of the Act provides, in pertinent part: The term "municipal securities dealer" means any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise * * *.

[17] Pub. L. 94–29 (June 4, 1975).

[18] *Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 45 (1975). (Hereafter cited as the "Senate Report")

[19] The Senate Report on Section 3(a)(32) of the Act, *id.*, at 93, states:

> [T]he term "person associated with a municipal securities dealer" * * * is intended to be applied broadly to persons assuming any significant role in a dealer's activities. That is to say, in the event a bank president personally intervened in the municipal securities activities of his bank's municipal securities department or division, he would be regarded as a "person associated with a municipal securities dealer" and would be subject to all provisions of the Act governing or affecting persons with that status.

[20] The Commission stated: If the president of a bank is responsible for or has directed improper activities in connection with the operation of his bank's municipal securities department, he should be subject to those sanctions established for persons associated with a municipal securities dealer. Therefore, the Commission would * * * eliminate the adverb "actively" * * * and * * * substitute therefor the word "directly," so that direct intervention in the activities of a bank municipal securities department by a bank officer, even on a single occasion, would provide an adequate basis for deeming such an officer to be a "person associated with" that department. *Hearings on S. 1933 and S. 2474 before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs*, 93rd Cong., 2nd Sess., 82 (1974).

[21] For example, MSRB rule G–8 concerning recordkeeping applies only to transactions in municipal securities effected by the dealer department, if the bank is registered in that capacity.

[22] MSRB rule G–1(c).

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of the municipal securities dealer department are not subject to the qualification requirements for municipal securities principals set forth in MSRB rule G–3.[23]

A bank may, therefore, register as a SIDD in order to limit the application of certain regulatory requirements to a department or division rather than the entire bank. Nevertheless, there is a distinction which should be drawn between persons who are considered a *part* of the dealer unit for purposes of MSRB rule G–1 and persons who are *associated with* that unit under Section 3(a)(32) of the Act.[24] An application for registration as a SIDD does not limit the Commission's statutory authority with respect to persons associated with the SIDD for purposes of determining whether registration should be granted or denied.

Effective Dates of Amendments to Form MSD

The amendments to Form MSD adopted in this release will require registrants, as well as applicants for registration, to make any necessary amendments to Form MSD in order to comply with the new requirements. The Commission recognizes that an appropriate period should be allowed for registrants and applicants to make such amendments. Therefore, with respect to municipal securities dealers whose registration is either effective or pending on October 6, 1980, the effective date of the amendments to Form MSD is December 28, 1980. This delayed effectiveness does not extend, however, to a registrant or applicant that, because the registration or pending application becomes inaccurate for other reasons during the intervening period, is required to amend its registration statement "promptly" in accordance with Securities Exchange Act Rule 15Ba2–1(b) (17 CFR 240.15Ba2–1(b). With respect to new applicants, the effective date of the proposed amendment is, in accordance with 5 U.S.C. 553(d), October 6, 1980.

Accordingly, Part 249 of Title 17 of the Code of Federal Regulations is amended by the Securities and Exchange Commission to revise the instructions to § 249.1100, as well as two items of § 249.1100, as follows:

§ 249.1100 Form MSD, Application for registration as a municipal securities dealer pursuant to rule 15Ba2–1 under the Securities Exchange Act of 1934 or amendment to such application.

* * * * *

G. General Definitions

* * * * *

d. Municipal securities dealer activities—The term "municipal securities dealer activities" has the meaning set forth in Municipal Securities Rulemaking Board rule G–1(b), which defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act of 1934.

* * * * *

L. Instructions to Specific Items

* * * * *

a. *Item 1(a).*—If the applicant is not registered currently with the Commission and is not succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a new application" should be checked. If a registered municipal securities dealer is amending items on a currently effective Form MSD, the box marked "an amendment" should be checked. If the applicant is succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a successor application" should be checked. If a bank registered as a municipal securities dealer determines it would prefer to register as a separately identifiable department or division, or the converse, it is necessary that (i) the applicant file a Form MSD, indicating in item 1 that it is a "successor application" and (ii) the currently registered entity file a Form MSDW to withdraw its registration. Pursuant to Securities Exchange Act Rule 15Ba2–4, 17 CFR 240.15Ba2–4, if a municipal securities dealer succeeds to and continues the business of another registered municipal securities dealer, the registration of the predecessor shall be deemed to remain effective as the registration of the successor for a period of 75 days after such succession: *Provided,* That a Form MSD is filed by such successor within 30 days after such succession.

* * * * *

c. *Item 5.*—This item calls for information concerning persons directly engaged in the supervision of any of the applicant's municipal securities dealer activities. A separate Schedule A or Form MSD–4 must be completed for each person named in response to item 5.

* * * * *

1. (a) This Form is filed with the Securities and Exchange Commission as:

A new application
An amendment
A successor application

* * * * *

10. (c) If applicant is a bank, * * *

By the Commission.

George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80–27291 Filed 9–4–80; 8:45 am]

BILLING CODE 8010–01–M

WATER RESOURCES COUNCIL

18 CFR Part 701

Council Organization; Interagency Liaison Committee Review of Agenda Packages

AGENCY: Water Resources Council.

ACTION: Final rule.

SUMMARY: By Action Memorandum dated July 11, 1980, the Council staff requested that Council regulations be revised to allow additional time for Interagency Liaison Committee review of agenda packages. This change was adopted by the Council by unanimous approval on July 28, 1980.

DATE: Effective July 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gerald D. Seinwill, Acting Director, Water Resources Council, 2120 L Street, NW., Suite 800, Washington, DC 20037 (202) 254–6303.

Accordingly, 18 CFR 701.54 paragraph (e) is revised as follows:

§ 701.54 Interagency Liaison Committee.

* * * * *

(e) Draft agenda items shall be submitted to ILC representatives at least 30 days prior to the Council meeting. The ILC shall meet at least 20 days prior to the Council meeting. Final Council agenda material shall be submitted to the Members at least 7 days prior to the Council meeting.

* * * * *

(Sec. 402, Pub. L. 89–80, 79 Stat. 254 (42 U.S.C. 1962d–1))

Dated: August 24, 1980.

Gerald D. Seinwill,
Acting Director.

[FR Doc. 80–27243 Filed 9–4–80; 8:45 am]

BILLING CODE 8410–01–M

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[23] MSRB rule G–3(a)(i) defines a municipal securities principal, in the case of a bank dealer, as "a natural person associated with such bank dealer which is directly engaged in the management, direction or supervision of one or more municipal securities dealer activities * * *." Unless an officer or director meets this definition he is not required to satisfy the qualification requirements of rule G–3.

[24] As discussed above, the term "person associated with a municipal securities dealer" is broadly defined to include not only persons directly engaged in the municipal securities dealer activities of the dealer department or division (who would be considered a part of such department or division), but also persons who directly or indirectly control such activities. As an example, the board of directors of a bank holding company owning a subsidiary engaged in municipal securities dealer activities would, as a whole, be considered a person associated with a municipal securities dealer.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 80F–0096]

Polysorbate 80; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors. This action is based on a petition filed by General Foods Corp.

DATES: Effective September 5, 1980; objections by October 6, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 18, 1980 (45 FR 26464), the Food and Drug Administration (FDA) announced that a petition (FAP 7A3309) had been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that the food additive regulations (21 CFR Part 172) be amended to provide for the safe use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors, intended for use in barbecue sauce.

FDA has evaluated data in the petition and other relevant material and concludes that the food additive regulation, § 172.840 *Polysorbate 80* (21 CFR 172.840), should be amended as requested in the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.840 by adding a new paragraph (c)(14) to read as follows:

§ 172.840 Polysorbate 80.

* * * * *

(c) * * *

(14) As a surfactant and wetting agent for natural and artificial colors for use in barbecue sauce where the level of the additive does not exceet 0.005 percent by weight of the barbecue sauce.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four coupies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

EFFECTIVE DATE: This regulation shall become effective September 5, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–26796 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 172

[Docket No. 78F–0433]

Bakers Yeast Glycan; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the food additive regulations to provide for the safe use of bakers yeast glycan in certain additional food products. Anheuser-Busch, Inc., petitioned for the amendment.

DATE: Effective September 5, 1980; objections by October 6, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In notice published in the **Federal Register** of February 23, 1979 (44 FR 10789), the Food and Drug Administration (FDA) announced that a food additive petition (FAP 6A3188) had been filed by Anheuser-Busch, Inc., St. Louis, MO 63118, which proposed that the food additive regulations be amended to provide for the safe use of bakers yeast glycan in certain additional food products.

Following the evaluation of data in the petition and other relevant material, the FDA has concluded that § 172.898 *Bakers yeast glycan* (21 CFR 172.898) should be amended to provide for the use of bakers yeast glycan as a stabilizer, thickener and texturizer in frozen dessert analogs, sour cream analogs, cheese spread analogs, and cheese-flavored and sour cream-flavored snack dips.

For the purpose of clarification, the agency further concludes that an editorial change should be made in § 172.898 to indicate specifically that the additive is to be used in the prescribed foods only when standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) do not preclude such use.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic (secs. 201(s) and 409 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.898 by revising paragraph (d) to read as follows:

V 45/174 SE 5 80 UMI

§ 172.898 Bakers yeast glycan.

* * * * *

(d) The additive is used or intended for use in the following foods when standards of identity established under section 401 of the act do not preclude such use:

Use	Limitations
(1) In salad dressings as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Not to exceed a concentration [illegible] 5 percent of the finished salad dressing.
(2) In frozen dessert analogs as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	In an amount not to exceed good manufacturing practice.
(3) In sour cream analogs as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.
(4) In cheese spread analogs as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.
(5) In cheese-flavored and sour cream-flavored snack dips as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective, September 5, 1980.

(Secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348).)

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27169 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 172

[Docket No. 79F-0417]

Polysorbate 60; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food. This action is based on a petition filed by General Foods Corp.

DATES: Effective September 5, 1980; objections by October 6, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 7, 1979 (44 FR 70568), the FDA announced that a food additive petition (FAP 7A3310) had been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food.

Following the evaluation of data in the petition and other relevant material, FDA concludes that § 172.836 *Polysorbate 60* (21 CFR 172.836) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.836 by adding a new paragraph (c)(15) to read as follows:

§ 172.836 Polysorbate 60.

* * * * *

(c) * * *

(15) As a surfactant and wetting agent for natural and artificial colors in food as follows:

(i) In powdered soft drink mixes in an amount not to exceed 4.5 percent by weight of the mix.

(ii) In sugar-based gelatin dessert mixes in an amount not to exceed 0.5 percent by weight of the mix.

(iii) In artificially sweetened gelatin dessert mixes in an amount not to exceed 3.6 percent by weight of the mix.

(iv) In sugar-based pudding mixes in an amount not to exceed 0.5 percent by weight of the mix.

(v) In artificially sweetened pudding mixes in an amount not to exceed 0.5 percent by weight of the mix.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 5, 1980.

(Secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348))

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27167 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 177 and 178

[Docket No. 79F-0393]

Polyoxymethylene Homopolymer; Antioxidants and/or Stabilizers for Polymers; Indirect Food Additives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of 612/6 nylon copolymer as a stabilizer with polyoxymethylene homopolymer to be used in articles intended for food-contact use. This action is based on a food additive petition filed by E. I. du Pont de Nemours & Co.

DATES: Effective September 5, 1980. Objections by October 6, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of November 30, 1979 (44 FR 69010) announced that a food additive petition (FAP 9B3453) had been filed by E. I. du Pont de Nemours & Co., Wilmington, DE 19897, proposing that § 177.2480 (21 CFR 177.2480) and § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of nylon 612/6 copolymer as a stabilizer with polyoxymethylene homopolymer to be used in articles intended for food-contact use.

FDA has evaluated data in the petition and other relevant material and finds that §§ 177.2480 and 178.2010 should be amended as set forth below to include the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 177 and 178 are amended to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. In Part 177 § 177.2480 is amended by revising paragraph (b)(1), redesignating paragraph (b)(1)(iii) as (b)(1)(iv) and adding new paragraph (b)(1)(iii) to read as follows:

§ 177.2480 Polyoxymethylene homopolymer.

* * * * *

(b) * * *

(1) Stabilizers (total amount of stabilizers not to exceed 1.9 percent and amount of any one stabilizer not to exceed 0.5 percent, except that Nylon 66/610/6 terpolymer or Nylon 612/6 copolymer may be used up to 1.5 percent of homopolymer by weight).

* * * * *

(iii) Nylon 612/6 copolymer (CAS Reg. No. 51733-10-9), weight ratio 6/1.

(iv) Tetrakis [methylene (3.5 di-*tert*-butyl-4-hydroxy-hydrocinnamate)] methane.

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. In Part 178 § 178.2010(b) is amended by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
Nylon 612/6 copolymer. (CAS Reg. No. 51733-10-9), weight ratio 6/1.	For use only at levels not to exceed 1.5 percent by weight of polyoxymethylene homopolymer as provided in § 177.2480(b)(1).
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 5, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27168 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 182

[Docket No. 80N-0363]

Substances Generally Recognized as Safe; Reorganization

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reorganizing a portion of 21 CFR Part 182 to facilitate the safety review of substances generally recognized as safe (GRAS). This action revises the heading of Subpart F to read "Dietary Supplements" and establishes new Subpart I, "Nutrients," which sets forth all regulations currently in Subpart F.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Lynn A. Larsen, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of direct and indirect human food ingredients classified as GRAS or subject to a prior sanction. Included in this review is an evaluation of the GRAS status of nutrients currently listed in Subpart F of Part 182. To facilitate the review of these ingredients, FDA is reorganizing a portion of Part 182 to provide separate subparts for food substances used in dietary supplements

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and for those used as nutrients in conventional foods.

When FDA determines, as a result of the safety evaluation, that a substance may be affirmed as GRAS, the agency publishes a proposal to affirm GRAS status in accordance with the provisions of § 170.35 (21 CFR 170.35). Such proposals include deletion of the substance from the GRAS list in Part 182 (21 CFR Part 182) and issuance of a new regulation affirming GRAS status in Part 184 or Part 186 (21 CFR Parts 184 and 186).

Substances used as nutrients or in dietary supplements are currently presented in a combined listing in Subpart F of Part 182 entitled "Nutrients and/or Dietary Supplements." Because there exists the possibility that a substance may be affirmed as GRAS when used as a nutrient in conventional food while not being affirmed as GRAS when used as an ingredient in a dietary supplement, the agency may be faced with issuing two separate regulations. One regulation would affirm the ingredient's GRAS status as a nutrient in conventional food in Part 184 while another regulation would issue maintaining the ingredient's current position as used in a special dietary supplement in Part 182. This situation would unduly complicate the GRAS affirmation procedure. Accordingly, FDA has concluded that the consequences of keeping the current heading of "Nutrients and/or Dietary Supplements" are unacceptable.

Therefore, FDA is reorganizing Part 182. Current Subpart F is retitled "Dietary Supplements," and new Subpart I is entitled "Nutrients." New Subpart I will be an exact duplicate of current Subpart F, but as substances are affirmed as GRAS in Part 184 for use as nutrients in conventional food, they will be deleted from this Subpart. The substance would continue to be listed for use in dietary supplements in Part 182, Subpart F, until it is evaluated for this specific use.

The effect of this reorganization is to facilitate the GRAS review of these substances used as nutrients in conventional foods without in any way affecting the current GRAS status of substances used in dietary supplements.

The changes being made are nonsubstantive, and for this reason notice and public comment procedures are not appropriate or necessary.

The agency has determined under 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 182 of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. By revising the heading of Subpart F to read as follows:

Subpart F—Dietary Supplements

* * * * *

2. By adding new Subpart I to read as follows:

Subpart I—Nutrients

Sec.	
182.8013	Ascorbic acid.
182.8065	Linoleic acid.
182.8159	Biotin.
182.8191	Calcium carbonate.
182.8195	Calcium citrate.
182.8201	Calcium glycerophosphate.
182.8210	Calcium oxide.
182.8212	Calcium pantothenate.
182.8217	Calcium phosphate.
182.8223	Calcium pyrophosphate.
182.8245	Carotene.
182.8250	Choline bitartrate.
182.8252	Choline chloride.
182.8260	Cooper gluconate.
182.8265	Cuprous iodide.
182.8301	Ferric phosphate.
182.8304	Ferric pyrophosphate.
182.8306	Ferric sodium pyrophosphate.
182.8308	Ferrous gluconate.
182.8311	Ferrous lactate.
182.8315	Ferrous sulfate.
182.8370	Inositol.
182.8375	Iron reduced.
182.8431	Magnesium oxide.
182.8434	Magnesium phosphate.
182.8443	Magnesium sulfate.
182.8446	Manganese chloride.
182.8449	Manganese citrate.
182.8452	Manganese gluconate.
182.8455	Manganese glycerophosphate.
182.8458	Manganese hypophosphite.
182.8461	Manganese sulfate.
182.8464	Manganous oxide.
182.8530	Niacin.
182.8535	Niacinamide.
182.8580	D-Pantothenyl alcohol.
182.8622	Potassium chloride.
182.8628	Potassium glycerophosphate.
182.8676	Pyridoxine hydrochloride.
182.8695	Riboflavin.
182.8697	Riboflavin-5-phosphate.
182.8772	Sodium pantothenate.
182.8778	Sodium phosphate.
182.8875	Thiamine hydrochloride.
182.8878	Thiamine mononitrate.
182.8890	Tocopherols.
182.8892	α-Tocopherol acetate.
182.8930	Vitamin A.
182.8933	Vitamin A acetate.
182.8936	Vitamin A palmitate.
182.8945	Vitamine B_{12}.
182.8950	Vitamin D_2.
182.8953	Vitamin D_3.
182.8985	Zinc chloride.
182.8988	Zinc gluconate.
182.8991	Zinc oxide.
182.8994	Zinc stearate.
182.8997	Zinc sulfate.

Subpart I—Nutrients

§ 182.8013 Ascorbic acid.

(a) *Product.* Ascorbic acid.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8065 Linoleic acid.

(a) *Product.* Linoleic acid prepared from edible fats and oils and free from chickedema facto:

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8159 Biotin.

(a) *Product.* Biotin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8191 Calcium carbonate.

(a) *Product.* Calcium carbonate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8195 Calcium citrate

(a) *Product.* Calcium citrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8201 Calcium glycerophosphate.

(a) *Product.* Calcium glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8210 Calcium oxide.

(a) *Product.* Calcium oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8212 Calcium pantothenate.

(a) *Product.* Calcium pantothenate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8217 Calcium phosphate.

(a) *Product.* Calcium phosphate (mono-, di-, and tribasic).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8223 Calcium pyrophosphate.

(a) *Product.* Calcium pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8245 Carotene.

(a) *Product.* Carotene.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8250 Choline bitartrate.

(a) *Product.* Choline bitartrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8252 Choline chloride.

(a) *Product.* Choline chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8260 Copper gluconate.

(a) *Product.* Copper gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe for use at a level not exceeding 0.005 percent in accordance with good manufacturing practice.

§ 182.8265 Cuprous iodide.

(a) *Product.* Cuprous iodide.

(b) *Tolerance.* 0.01 percent.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt as a source of dietary iodine in accordance with good manufacturing practice.

§ 182.8301 Ferric phosphate.

(a) *Product.* Ferric phosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8304 Ferric pyrophosphate.

(a) *Product.* Ferric pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8306 Ferric sodium pyrophosphate.

(a) *Product.* Ferric sodium pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8308 Ferrous gluconate.

(a) *Product.* Ferrous gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8311 Ferrous lactate.

(a) *Product.* Ferrous lactate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8315 Ferrous sulfate.

(a) *Product.* Ferrous sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8370 Inositol.

(a) *Product.* Inositol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8375 Iron reduced.

(a) *Product.* Iron reduced.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8431 Magnesium oxide.

(a) *Product.* Magnesium oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8434 Magnesium phosphate.

(a) *Product.* Magnesium phosphate (di- and tribasic).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8443 Magnesium sulfate.

(a) *Product.* Magnesium sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8446 Manganese chloride.

(a) *Product.* Manganese chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8449 Manganese citrate.

(a) *Product.* Manganese citrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8452 Manganese gluconate.

(a) *Product.* Manganese gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8455 Manganese glycerophosphate.

(a) *Product.* Manganese glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8458 Manganese hypophosphite.

(a) *Product.* Manganese hypophosphite.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8461 Manganese sulfate.

(a) *Product.* Manganese sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8464 Manganous oxide.

(a) *Product.* Manganous oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8530 Niacin.

(a) *Product.* Niacin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8535 Niacinamide.

(a) *Product.* Niacinamide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8580 D-Pantothenyl alcohol.

(a) *Product.* D-Pantothenyl alcohol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8622 Potassium chloride.

(a) *Product.* Potassium chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8628 Potassium glycerophosphate.

(a) *Product.* Potassium glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when

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used in accordance with good manufacturing practice.

§182.8676 Pyridoxine hydrochloride.

(a) *Product.* Pyridoxine hydrochloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8695 Riboflavin.

(a) *Product.* Riboflavin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8697 Riboflavin-5-phosphate.

(a) *Product.* Riboflavin-5-phosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8772 Sodium pantothenate.

(a) *Product.* Sodium pantothenate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8778 Sodium phosphate.

(a) *Product.* Sodium phosphate (mono-, di-, and tribasic).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8875 Thiamine hydrochloride.

(a) *Product.* Thiamine hydrochloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8878 Thiamine mononitrate.

(a) *Product.* Thiamine mononitrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8890 Tocopherols.

(a) *Product.* Tocopherols.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8892 α-Tocopherol acetate.

(a) *Product.* α-Tocopherol acetate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8930 Vitamin A.

(a) *Product.* Vitamin A.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8933 Vitamin A acetate.

(a) *Product.* Vitamin A acetate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8936 Vitamin A palmitate.

(a) *Product.* Vitamin A palmitate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8945 Vitamin B_{12}.

(a) *Product.* Vitamin B_{12}.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8950 Vitamin D_2.

(a) *Product.* Vitamin D_2.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8953 Vitamin D_3.

(a) *Product.* Vitamin D_3.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8985 Zinc chloride.

(a) *Product.* Zinc chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8988 Zinc gluconate.

(a) *Product.* Zinc gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8991 Zinc oxide.

(a) *Product.* Zinc oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8994 Zinc stearate.

(a) *Product.* Zinc stearate prepared from stearic acid free from chickedema factor.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8997 Zinc sulfate.

(a) *Product.* Zinc sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Effective date. This regulation becomes effective September 5, 1980.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this regulation have been carefully analyzed, and it has been determined that the regulation does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27171 Filed 9-4-80; 8:45 am]

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate and Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc., providing for safe and effective use of pyrantel tartrate and tylosin premixes in manufacturing a complete swine feed.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed an NADA (110-047) providing for combining 48-gram-per-pound pyrantel tartrate and 40-gram-per-pound tylosin premixes in manufacturing complete swine feeds. The feeds are indicated as an aid in prevention of migration and establishment of roundworm infections, as an aid in prevention of establishment of nodular worm infections, and either for prevention or treatment and control of swine dysentery.

Approval of this NADA relies in part upon safety and effectiveness data contained in NADA's for Pfizer's pyrantel tartrate and Elanco's tylosin (NADA's 43-290 and 41-275, respectively). Use of those data to support this NADA has been authorized by both firms. This approval does not change the dosage levels or indications for the drugs, but merely provides for combining them in complete swine feeds. Therefore, it poses no increased human risk from exposure to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) approval of this NADA has been treated as would an approval of a category II supplemental and does not require reevaluation of the safety and effectiveness data in NADA's 43–290 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.485 by adding new paragraphs (d)(2)(iii) and (e) (5) and (6) to read as follows:

§ 558.485 Pyrantel tartrate.

* * * * *

(d) * * *

(2) * * *

(iii) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 500 grams per ton tylosin when produced from individual supplements and as provided in paragraphs (e) (5) and (6) of this section.

* * * * *

(e) * * *

(5) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and tylosin, 40 to 100 grams, as tylosin phosphate.

(i) *Indications for use.* For prevention of swine dysentery (vibrionic); aid in the prevention of migration and establishment of large roundworms (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum spp.*) infections.

(ii) *Limitations.* Use 100 grams tylosin per ton for at least 3 weeks followed by 40 grams tylosin per ton until market weight; withdraw 24 hours before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(6) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and tylosin 40 to 100 grams, as tylosin phosphate.

(i) *Indications for use.* Treatment and control of swine dysentery (vibrionic); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum spp.*) infections.

(ii) *Limitations.* Administer tylosin in feed as tylosin phosphate after treatment with tylosin in drinking water as tylosin base; 0.25 grams per gallon in drinking water for 3 to 10 days, 40 to 100 grams tylosin per ton in feed for 2 to 6 weeks; withdraw 24 hours before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

2. In § 558.625 by adding new paragraph (f)(2)(v) to read as follows:

§ 558.625 Tylosin.

* * * * *

(f) * * *

(2) * * *

(v) Pyrantel tartrate in accordance with § 558.485.

Effective date. This regulation is effective September 5, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 28, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80–27166 Filed 9–4–80; 8:45 am]

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21 CFR Part 812

[Docket No. 76N–0327]

Investigational Device Exemptions; OMB Approval and Effective Dates

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Management and Budget has approved the recordkeeping and reporting requirements in the final regulations prescribing procedures for investigational device exemptions. FDA also is extending the effective date of the regulation for certain investigations and is correcting several provisions.

DATES: For investigations begun on or before July 16, 1980 that are to continue after January 19, 1981, FDA is extending to December 4, 1980, the effective date of the regulation. FDA is retaining the July 16, 1980 effective date for investigation begun after July 16, 1980. Comments on the corrections by December 4, 1980; corrections are effective September 5, 1980.

ADDRESS: Written comments on the corrections to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Bureau of Medical Devices (HFK–403), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) published final regulations prescribing procedures for investigational device exemptions (the IDE regulations) in the **Federal Register** of January 18, 1980 (45 FR 3732). The IDE regulations became effective on July 16, 1980.

OMB Approval

The preamble to the IDE regulations, as well as the effective date statement, declared that the recordkeeping and reporting requirements were submitted to the Office of Management and Budget (OMB) for approval in accordance with the Federal Reports Act of 1942, which requires OMB to review and approve records and reports used by Federal agencies in the collection of information from the public. The January 18, 1980 document also stated that the IDE regulations would become effective July 16, 1980, provided that OMB approval was received by that date and that FDA would publish a notice in the **Federal Register** concerning OMB's decision.

On June 24, 1980, OMB approved without change the recordkeeping and reporting requirements of the IDE regulations, under OMB number 57–R0151.

Effective Date of the IDE Regulations

There has been confusion about the effective date of the IDE regulations. FDA has received several inquiries from the public concerning whether the July 16, 1980 effective date was contingent upon FDA's receiving OMB approval.

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and whether the July 16 effective date was operative before FDA published notice of this approval. Some have misunderstood the preamble and thought that the regulation was not to become effective until 6 months after July 16.

Because OMB approved the recordkeeping and reporting requirements before July 16, 1980, the IDE regulation became effective on that date. This effective date was not contingent on publication of notice of OMB's approval. Thus, FDA is retaining the July 16, 1980 effective date for investigations subject to the regulation begun after that date. FDA believes, however, that the confusion about the effective date of the regulation for investigations begun before July 16 justifies a change in the effective date for these investigations. For investigations begun on or before July 16, 1980 that are expected to continue after January 19, 1981, FDA is extending the effective date to December 4, 1980. Under § 812.2(b)(2) of the IDE regulations (21 CFR 812.2(b)(2)), investigations begun on or before July 16, 1980 that are planned to be completed by January 19, 1981 do not require an approved IDE.

To have an approved IDE by December 4, 1980, sponsors of ongoing clinical investigations are required to take the steps necessary to obtain any required approvals from institutional review boards (IRB's) or FDA before that date. The IDE regulations prescribe the circumstances in which these approvals are required.

Corrections in Regulation

1. Section 812.5(a) of the final rule requires that all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions be stated on the label of an investigational device. Inclusion of this information in the labeling, although not necessarily on the label, meets sufficiently the purposes of this requirement. Often this information would not fit on a device's label.

2. FDA is revising § 812.20(a)(3) to correct an inconsistency between this provision and § 812.30(a) with respect to when a sponsor may begin an investigation.

3. FDA is deleting as unnecessary § 812.30(b)(5) which allows FDA to disapprove or withdraw approval of an application if there is reason to believe that the device, as used in the investigation, is ineffective. This ground for disapproval or withdrawal was already covered by § 812.30(b)(4). For clarity, FDA is also splitting present § 812.30(b)(4) into two paragraphs, (b)(4) and (5).

4. FDA is revising § 812.140(b)(4)(v) so that the sponsor of a nonsignificant risk device investigation is required to maintain in the sponsor's records a statement of the extent to which FDA's good manufacturing practice (GMP) regulations in Part 820 (21 CFR Part 820) will be followed in manufacturing the device, but not "a copy of any quality assurance program that is followed with respect to the device." The latter phrase was inadvertently included in the final IDE regulations and imposes an unnecessary requirement. To evaluate manufacturing practices for nonsignificant risk devices, FDA wishes sponsors to maintain, routinely, only a statement of the extent to which the GMP regulations will be followed and not a copy of the quality assurance program, unless required specifically under § 812.140(b)(4)(vi).

5. Section 812.150(b)(5) now requires submission of progress reports to FDA and IRB's for both significant risk and nonsignificant risk device investigations. FDA did not intend for sponsors of nonsignificant risk device investigations, which are regulated principally by IRB's, to make progress reports to FDA.

Accordingly, FDA is correcting §§ 812.5(a), 812.20(a)(3), 812.30(b) (4) and (5), 812.140(b)(4)(v), and 812.150(b)(5), as described above. These changes make minor corrections in a major rule that became effective on July 16, 1980 (for investigations begun after that date) after a long rulemaking proceeding in which there were several opportunities for public comment and participation with respect to the provisions now being changed. Also, sponsors of investigations need to know the requirements with which they must comply. Therefore, the Commissioner determines that good cause exists to find that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, and because some of the changes relieve restrictions, the Commissioner finds good cause for not delaying the effective date of these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801, 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 1056–1058 as amended, 67 Stat. 477 as amended, 90 Stat. 565–574 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 812 as follows:

1. In § 812.5, paragraph (a) is revised to read as follows:

§ 812.5 Labeling of investigational devices.

(a) *Contents.* An investigational device or its immediate package shall bear a label with the following information: the name and place of business of the manufacturer, packer, or distributor (in accordance with § 801.1), the quantity of contents, if appropriate, and the following statement: "CAUTION—Investigational device. Limited by Federal (or United States) law to investigational use." The label or other labeling shall describe all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions.

* * * * *

2. In § 812.20, paragraph (a)(3) is revised to read as follows:

§ 812.20 Application.

(a) * * *

(3) If more than one IRB must approve an investigation, and these approvals occur after submission of an application to FDA, a sponsor shall submit a supplemental application under § 812.35(b) to FDA following each additional IRB approval. A sponsor shall not begin an investigation or part of an investigation until the IRB has approved it and until § 812.30(a) allows the investigation to begin.

* * * * *

3. In § 812.30, paragraph (b)(4) and (5) is revised to read as follows:

§ 812.30 FDA action on applications.

* * * * *

(b) * * *

(4) There is reason to believe that the risks to the subjects are not outweighed by the anticipated benefits to the subjects and the importance of the knowledge to be gained, or informed consent is inadquate, or the investigation is scientifically unsound, or there is reason to believe that the device as used is ineffective.

(5) It is otherwise unreasonable to begin or to continue the investigation owing to the way in which the device is used or the inadequacy of:

(i) The report of prior investigations or the investigational plan;

(ii) The methods, facilities, and controls used for the manufacturing, processing, packaging, storage, and, where appropriate, installation of the device; or

(iii) Monitoring and review of the investigation.

* * * * *

4. In § 812.140, paragraph (b)(4)(v) is revised to read as follows:

§ 812.140 Records.

* * * * *

(b) * * *

(4) * * *

(v) A statement of the extent to which the good manufacturing practice regulation in Part 820 will be followed in manufacturing the device; and

* * * * *

5. In § 812.150, paragraph (b)(5) is revised to read as follows:

§ 812.150 Reports.

* * * * *

(b) * * *

(5) *Progress reports.* At regular intervals, and at least yearly, a sponsor shall submit progress reports to all reviewing IRB's. In the case of a significant risk device, the sponsor shall also submit progress reports to FDA.

* * * * *

Effective date. Corrections to §§ 812.5(a), 812.20(a)(3), 812.30(b)(4) and (5), 812.140(b)(4)(v), and 812.150(b)(5) are effective September 5, 1980.

(Secs. 301, 501, 502, 520, 701(a), 702, 704, 801, 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 1056–1058 as amended, 67 Stat. 477 as amended, 90 Stat. 565–574 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381))

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26969 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; Communications

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Cuban Assets Control Regulations. The purpose of the amendment is to revise § 515.542, to provide a general license for transactions incident to satellite telecommunications between the United States and Cuba for purposes of transmission of news coverage. The amendment also indicates that specific licenses may be issued on a case-by-case basis for transactions incident to other communications activities, such as provision of telephone and telegraph services between the United States and Cuba. The need for the amendment is the growing media interest in transmissions by satellite from Cuba to the United States. The effect of the amendment is that United States media organizations will be permitted to use satellite channels for the transmission of television news and news programs from Cuba.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376–0395.

SUPPLEMENTARY INFORMATION: Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

Prior to its amendment, § 535.542 contained a general license authorizing all transactions of common carriers incidental to the receipt or transmission of mail and telecommunications with Cuba.

Paragraph (a) of the amended section continues the general license for the receipt and transmission of mail.

Paragraph (b) contains the new general license authorizing transactions incident to the use of satellite communications for the transmission of television news and news progams originating in Cuba by United States news organizations.

Paragraph (c) provides that licensing of other transactions incident to communications between the United States and Cuba will be handled by specific license on a case-by-case basis. Such transactions were literally within the provisions of the general license contained in § 515.542 prior to amendment. However, actual Office of Foreign Assets Control practice has been to issue a specific license authorizing appropriate transactions to each of the small number of common carriers providing telephone and telegraph service between the United States and Cuba. Accordingly, new paragraph (c) simply reflects existing Office practice, under which the relevant carriers have been operating for some time. This revision of section 515.542 does not affect outstanding specific licenses already issued to such carriers with respect to the provision of such communications services between the United States and Cuba. However, the revision will clarify the fact that all transactions incident to communications other than those covered by the general license in paragraph (b) require a specific license from the Office.

31 CFR Part 515 is amended by revising section 515.542 to read as follows:

§ 515.542 Communications.

(a) All transactions of common carriers incident to the receipt or transmission of mail between the United States and Cuba are hereby authorized.

(b) All transactions incident to the use of satellite channels for the transmission of television news and news progams originating in Cuba by United States news organizations are hereby authorized.

(c) Specific licenses may be issued on a case-by-case basis for transactions incident to the receipt or transmission of communications between the United States and Cuba, other than communications covered by paragraph (b) of this section. Specific licenses are generally issued for such transactions as entry into traffic agreements to provide telephone and telegraph services, provision of services, and settlement of charges under traffic agreements.

Dated: August 24, 1980.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; sec. 620(a), 75 Stat. 445, (22 U.S.C. 2370(a)); Prov. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp.; E. O. 9193, 7 FR 5205, 3 CFR, Comp. Supp., p. 1174; E. O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp. p. 748)

Susan M. Swinehart,

Acting Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80-27225 Filed 9-4-80; 8:45 am]

BILLING CODE 4810-25-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 1, 2, 3, 7, 12, and 16.

[Procurement Regulation Directive 80-3 (dated March 31, 1980)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-3 concerning the following areas:

1. Prohibition Against Contracts with Organizations Which Provide Quasi-Military Armed Forces for Hire.
2. Late Bids, Modifications of Bids or Withdrawal of Bids Clause.
3. Publicizing Procurement Actions.
4. Small Purchases.

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5. Payment of Interest on Contractors' Claims Clause.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: The major changes are summarized as follows:

1. Part 1.302-5 is added to the NASA Procurement Regulation to reflect the statutory prohibition (5 U.S.C. 3108) against contracts with detective agencies, and reflects the interpretation of the prohibition as the result of a recent Circuit Court case (United States ex rel. Weinberger v. Equifax, 557 F2 456 (5th Cir. 1977)), *cert. denied* January 16, 1978, *rehearing denied* june 7, 1978, and a decision by the Comptroller General of the U.S. (B-139965, June 7, 1978).

2. Part 2.303-2, paragraph (c)(i) of the clause is amended to provide that (a) a "postmark" imprinted by a postage meter machine will not be recognized as an acceptable indication of the time of mailing, and (b) offeror should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.

3. Both sustantive and editorial revisions are made throughout Part 1.10, pertaining to coverage such as advance notices, preparation and transmittal of material, synopsis of contract awards, and requests for information.

4. The title of Part 6.3 is revised to read "Small Purchase and Other Simplified Purchase Procedures." This Part is revised and associated revisions in Parts 7, 12 and 16 are made to update NASA's policy and procedure applicable to small purchases. Note the added clauses that must be considered under Blanket Purchase Agreements (3.605-3(b) and other small purchases (3.608-2(b)(1)). The dollar limitations under the Procurement Request Overlay Method (3.650-3(a)) have been changed to match those authorized for Imprest Fund purchases. The Equal Opportunity clause at 12.804(a) is revised. Editorial changes have been made as appropriate.

5. The Payment of Interest on Contractors' Claims clause (7.104-82) has been deleted.

Authority.—The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

L. E. Hopkins,
Acting Director of Procurement.

PART 1—GENERAL PROVISIONS

1. In Part 1, Table of Contents, 1.302-5 is added to read as follows:

* * * * *

1.302-5 Prohibition Against Contracts With Organizations Which Provide Quasi-Military Armed Forces For Hire........1-3:3

* * * * *

2. In Part 1, Table of Contents, 1.303 and 1.304, the page numbers are amended to read as follows:

* * * * *

1.303 Exchange of Purchase Information........1-3:4
1.304 Restrictions on Data and Other Information........1-3:4

* * * * *

3. In Part 1, Table of Contents, 1.1002-1 through 1.1050-2 are amended to read as follows:

* * * * *

1.1002-1 Availability of Invitations for Bids and Requests for Proposals at the Contracting Office........1-10:1
1.1002-2 Limited Availability of Certain Specifications, Plans, and Drawings........1-10:2
1.1002-3 [Reserved]........1-10:2
1.1002-4 Displaying in Public Place........1-10:2
1.1002-5 Information Releases to Newspapers and Trade Journals........1-10:2
1.1002-6 Paid Advertisements in Newspapers and Trade Journals........1-10:2
1.1003 Synopses of Proposed Procurements........1-10:2
1.1003-1 General........1-10:2
1.1003-2 Time of Publicizing........1-10:3
1.1003-3 Pre-Invitation Notices........1-10:4
1.1003-4 Special Synopsis Situations........1-10:4
1.1003-5 Publication of Procurements Not Exceeding $10,000........1-10:5
1.1003-6 Synopsis of Subcontract Opportunities........1-10:5
1.1003-7 Information Regarding Specifications, Plans, and Drawings........1-10:6
1.1003-8 Responsibility of Small Business Specialists........1-10:6
1.1003-9 Preparation and Transmittal........1-10:6
1.1004 Release of Procurement Information........1-10:11
1.1004-1 General........1-10:11
1.1004-2 General Public........1-10:11
1.1004-3 Members of Congress........1-10:12
1.1005 Publicizing Award Information........1-10:12
1.1005-1 Synopsis of Contract Awards........1-10:12
1.1005-2 Local Announcements of Awards Over $10,000........1-10:13
1.1006 [Reserved]........1-10:13
1.1007 [Reserved]........1-10:13
1.1008 Classification Codes........1-10:13
1.1008-1 Codes for Services........1-10:13
1.1008-2 Codes for Supplies........1-10:14
1.1050 Furnishing Additional Procurement Information to the Public........1-10:16
1.1050-1 Policy........1-10:16
1.1050-2 Procedures........1-10:16

* * * * *

4. In Part 1, 1.302-5 is added to read as follows:

1.302-5 Prohibition Against Contracts With Organizations Which Provide Quasi-Military Armed Forces For Hire. 5 U.S.C. 3108 prohibits contracts with "Pinkerton Dectective Agencies or similar organizations." This prohibition applies only to entering into a contract with an organization or its employees, regardless of the character of the contract to be performed, if such organization offers quasi-military armed forces for hire. An organization which provides guard or protective services does not thereby become a "quasi-military armed force," even if the individual guards are armed, and even though the organization may also be engaged in the business of providing general investigative or "detective" services.

1.321 [Amended]

5. In Part 1, 1.321 is amended to add at the end of the paragraph a new sentence to read as follows: (See 2.201-1, Section C(27) and 3.501, Section C(49))."

6. In Part 1, 1.1002-1 is revised to read as follows:

1.1002-1 Availability of Invitations for Bids and Requests for Proposals at the Contracting Office. A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the *Commerce Business Daily,* including specifications and other pertinent information, shall be maintained at the contracting office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. However, for any contract to be let by any NASA procurement office, it shall provide to any small business concern upon its request; (i) a copy of bid sets and specifications with respect to such contract; (ii) the name and telephone number of any employee of such procurement office to answer questions with respect to such contract; and (iii) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract. When a solicitation for proposals has been limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of an acquisition, requests for proposals shall be mailed or otherwise provided upon request to firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first come-first served" basis, for pick up at the contracting office, to publishers, trade associations, procurement information services, and other members of the public having a legitimate interest therein; otherwise, the procurement office may limit the availability of such information to review at such office. In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the acquisition, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed acquisitions normally do not require voluminous specifications or drawings. With regard to classified acquisitions, the foregoing instructions apply to the extent consistent with NASA security instructions and procedures.

1.1002-2 [Amended]

7. In Part 1, 1.1002-2, the reference in the text "1.1002" is amended to read "1.1002-1."

1.1002-6 [Amended]

8. In Part 1, 1.1002-6, the reference "2.203-3" at the end of the paragraph is amended to read "2.203-3(b)."

9. In Part 1, 1.1003-1(a)(ii) is amended to add at the end of the paragraph the following sentence: "A copy of each synopsis sent to the Department of Commerce shall be furnished to the Director of Small and Disadvantaged Business Utilization, NASA Headquarters (Code K)."

10. In Part 1, 1.1003-1(b) and (c)(vi) are revised to read as follows:

1.1003-1 General.

(a) * * *

(b) Only those classified procurements, where the information necessary to be included in the Synopsis cannot be worded in such a manner so as to preclude the disclosure of classified information, or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see 1.1003-9(f)(3)). The intent of the exception for classified procurement in the synopsis requirements of Public Law 87-305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) * * *

(vi) procurement to be made from or through another Government department or agency, including procurements from the SBA using the authority of section 8(a) of the Small Business Act, or a mandatory source of supply such as an agency for the blind under the blind made products program;

11. In Part 1, 1.1003-4 (a) and (b)(1) are revised to read as follows:

1.1003-4 Special Synopsis Situations.

(a) *Research and Development.* Advance notices of an agency's interest in a given field of research and development shall be published in the *Commerce Business Daily* in accordance with 1.1003-9(e) whenever the contracting officer considers that existing bidders mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of research and development programs and provide these sources with an opportunity to submit information which will permit evaluation of their research and development capabilities. Potential sources which respond to advance notices shall be added to the appropriate bidders mailing list for the subsequent solicitation. Those sources which do not appear on the agency bidders mailing lists established in accordance with 2.205-1 shall be requested to submit Standard Form 129. Bidder's Mailing List Application. In those situations where responding sources are on established lists they may be requested to submit amended applications in order to reflect their current capabilities. Each specific procurement of research and development shall be publicized in the *Commerce Business Daily* unless one of the exceptions in 1.1003-1 is applicable.

(b) *Services.*

(1) *Personal and Professional Services.* Notwithstanding the exception in 1.1003-1(c)(vii), contracting officers shall synopsize personal and professional services when it is feasible and practicable to do so and the best interests of the Government will be served.

12. In Part 1, 1.1003-5 is amended to read as follows:

1.1003-5 Publication of Procurements Not Exceeding $10,000. When recommended by procurement personnel or the small business specialist, and approved by the contracting officer, proposed procurements not exceeding $10,000 may be publicized in the *Commerce Business Daily.*

1.1004 [Amended]

13. In Part 1, the title in 1.1004 is amended to read "Release of Procurement Information" and the text is designated as "1.1004-1 General."

14. In Part 1, 1.1004-2 and 1.1004-3 are added to read as follows:

1.1004 Release of Procurement Information.

* * * * *

1.1004-2 General Public. Requests from the general public for specific information will be processed in accordance with 1.1050.

1.1004-3 Members of Congress. In addition to having access to that information available to members of the public, Members of Congress, upon their request, shall be given detailed information regarding any particular NASA procurement. The information given shall be responsive to the Congressional request; however, where responsiveness would result in disclosure of classified matter, business confidential information, or information which would be prejudicial to competitive procurement, the proposed reply, with full documentation, will be promptly prepared and forwarded by the most expeditious means to the Director of Legislative Affairs, NASA Headquarters, for approval and release. (Also see 3.854.)

1.1005-1 [Amended]

15. In Part 1, 1.1005-1, the phrase starting with "* * * exceeding $50,000 in amount, * * *" is amended to read "* * * exceeding $100,000 in amount, * * *"

16. In Part 1, 1.1005-1(b), subparagraph (3) is amended to read as follows:

(b) * * *

(3) Procurement offices shall forward, by mail, one copy of the synopsis of

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contract award as prepared in 1.1005-1(b) to the Office of Small and Disadvantaged Business Utilization, NASA Headquarters (Code K) and a copy to the Public Affairs Office of the installation.

17. In Part 1, 1.1005-2 is amended to read as follows:

1.1005-2 Local Announcements of Awards Over $10,000. Contract awards may also be the subject of local press release or other public announcements. When such press releases or public announcements are made, for procurements of $10,000 or more, they shall include the following information:

* * * * *

1.1006 [Amended]

18. In Part 1, 1.1006 and 1.1006-1 are amended to delete the text and mark the paragraphs "Reserved."

19. In Part 1, 1.1050-1(iii) is amended to read as follows:

1.1050-1 Policy.

(ii) * * *

(iii) after the date established for receipt of bids or proposals, the names of firms which submitted bids or proposals. (But see 3.805-1(c) regarding requests for information involving offerors participating in negotiations).

* * * * *

20. In Part 1, 1.1050-2(a) is revised to read as follows:

1.1050-2 Procedures.

(a) Contracts requiring approval by the Director of Procurement, in accordance with Part 20, Subpart 50, will not be distributed, or any information given to any source outside of NASA that the contract has been approved, until 24 hours after the Director of Public Affairs and the Director of Legislative Affairs, NASA Headquarters, have been advised that the contract has been consummated.

* * * * *

PART 2—PROCUREMENT BY FORMAL ADVERTISING

21. In Part 2, in the Table of Contents, paragraphs 2.303-4 and 2.303-5 are amended to read as follows:

* * * * *

2.303-4 Disposition of Late Submissions.......2-3:3
2.303-5 Records.......2-3:3

* * * * *

2.303-2 [Amended]

22. In Part 2, 2.303-2, the second sentence of the introduction is amended to read: "(This replaces paragraph 8 of Standard Form 22 and paragraph 7 of Standard Form 33A.)"

23. In Part 2, 2.303-2, the date of the "Late Bids, Modifications of Bids or Withdrawal of Bids" clause is amended to read "(March 1980)" and paragraph (c)(i) of the clause is amended to read as follows:

2.303-2 Late Bids, Modification of Bids or Withdrawal of Bids.

* * * * *

LATE BIDS, MODIFICATIONS OF BIDS OR WITHDRAWAL OF BIDS (MARCH 1980)

* * * * *

(c) The only acceptable evidence to establish:

(i) the date of mailing of a late bid, modification or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. or Canadian Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

24. In part 3, in the Table of Contents, paragraphs 3.600 through 3.650-3 are amended to read as follows:

* * * * *

Subpart 6—Small Purchase and Other Simplified Purchase Procedures

3.600 Scope of Subpart.......3-6:1
3.601 Purpose.......3-6:1
3.602 Definitions.......3-6:1
3.603 Policy.......3-6:1
3.603-1 General.......3-6:1
3.604 Competition and Price Reasonableness.......3-6:2
3.604-1 Purchases Not in Excess of $500.......3-6:2
3.604-2 Purchases in Excess of $500.......3-6:3
3.605 Blanket Purchase Agreement (BPA).......3-6:4
3.605-1 General.......3-6:4
3.605-2 Limitation on Use.......3-6:4
3.605-3 Establishment of Blanket Purchase Agreements.......3-6:4
3.605-4 Competition Under Blanket Purchase Agreement.......3-6:6
3.605-5 Calls Against Blanket Purchase Agreements.......3-6:7
3.605-6 Receipt and Acceptance of Supplies or Services.......3-6:7
3.605-7 Review Procedures.......3-6:7
3.606 Fast Payment Procedure.......3-6:7
3.606-1 General.......3-6:7
3.606-2 Conditions for Use.......3-6:7
3.606-3 Preparation and Execution of Orders.......3-6:7
3.606-4 Responsibility for Collection of Debts.......3-6:9
3.607 Imprest Fund Method.......3-6:9
3.607-1 General.......3-6:9
3.607-2 Establishment of Imprest Funds.......3-6:10
3.607-3 Conditions for Use.......3-6:10
3.607-4 Procedures.......3-6:11
3.608 Purchase Orders.......3-6:14
3.608-1 General.......3-6:14
3.608-2 Order for Supplies or Services (NASA Form 1379 or Standard Form 147; Standard Form 36; NASA Form 1379B and Standard Form 30).......3-6:14
3.608-3 Unpriced Purchase Orders.......3-6:18
3.608-4 Obtaining Contractor Acceptance and Modifying the Purchase Order.......3-6:18
3.608-5 Termination of Purchase Order.......3-6:19
3.608-6 Use of Standard Form 147 of NASA Form 1379 as a Delivery Order.......3-6:20
3.608-7 and 3.608-8 [Reserved].......3-6:20
3.608-9 Order-Invoice-Voucher Method.......3-6:20
3.650 Procurement Request Overlay Method.......3-6:21
3.650-1 General.......3-6:21
3.650-2 Limitations on Use.......3-6:21
3.650-3 Procedure.......3-6:21

3.600 [Amended]

25. In part 3, 3.600 is amended to change the reference at the end of the fourth sentence "(see 3.608-2)." to read "(see 3.608-2(b)(1)(vi))."

3.603 [Amended]

26. In part 3, 3.603(a) is amended to add a second reference to one now in the last sentence of paragraph (a). The reference "(see 2.203-3(b))," is amended to read "(see 1.1002-6 and 2.203-3(b))."

3.603(d) [Amended]

27. In Part 3, 3.603(d) is amended to add the word "purchasing" before the word "installation."

3.603(e) [Amended]

28. In Part 3, 603(e) is amended to change the reference "14.106," at the end of the paragraph, to read "14.207."

3.604-1 [Amended]

29. In Part 3, 304-1 is amended to delete the parenthetical phrase "($300 for emergency procurements using imprest funds)," of the title and in the first and fourth sentences of the text.

3.604-2 [Amended]

30. In Part 3, 3.604-2 is amended by adding the reference "(see 16.813)" at the end of the fifth sentence.

3.605–1 [Amended]

31. In Part 3, 3.605–1 is amended to change the second sentence "(See 12.302; 12.602–1; and 12.1001)" to read "(See 12.302–1, 12.302–2, 12.602–1, and 12.1001)."

3.605–3 [Amended]

32. In Part 3, 3.605–3(b), paragraph (i) is amended by changing the reference "12.303" to read "12.303–1" and paragraph (ii) is amended to add "as amended" following the phrase "* * * Service Contract Act of 1965, * * *"

33. In Part 3, 3.605–3(b), paragraph (iv) is added to read as follows:

3.605–3 Establishment of Blanket Purchase Agreements

* * * * *

(b) * * *

(iv) where the agreement is for the intended purchase of supplies, the applicable equal opportunity clause in 7.103–18 shall be added.

34. In Part 3, 3.605–3(c), is amended to change the reference "Part 50, Subpart 3." to read "Part 20, Subpart 2."

35. In Part 3, 3.605–3(e), is amended to change the phrase in the second sentence "The issuance of individual request * * *" to read "The issuance of individual calls * * *"

3.603–3 [Amended]

36. In Part 3, 3.606–3(a), the clause in paragraph (iv) is amended to change the date to read "(March 1980)" and paragraph (d) of the clause is amended by adding "for payment" following the phrase "* * * submission of an invoice to the Government."

3.607–2 [Amended]

37. In Part 3, 3.607–2, the fourth sentence is amended to add the word "principal." As amended the fourth sentence reads as follows: "Upon resumption of his duties, the principal cashier shall return the cash receipt to the alternate after obtaining paid receipts."

38. In Part 3, 3.608–2(b) is revised to read as follows:

3.608–2 Orders for Supplies or Services (NASA Form 1379 or Standard Form 147; Standard Form 36; NASA Form 1379B and Standard Form 30)

(a) * * *

(b) *Conditions for Use.*

(1) *Use as a Purchase Order of Not More than $10,000 in the United States, its Possessions, and Puerto Rico.* NASA Form 1379 is authorized for negotiated purchases of not more than $10,000 (other than research and development and R&D-related projects such as conferences from educational institutions) within the United States, its possessions, and Puerto Rico, *provided:*

(i) The procurement is unclassified, except that NASA Form 1379 may be used for classified procurements if:

(A) the contracting officer retains responsibility for complete administration of the contract, including compliance with the requirements;

(B) the "Security Requirements" clause in 7.104–12 is inserted in the Schedule;

(C) DD Form 254 (Contract Security Classification Specification) (see 16.811) is incorporated in the purchase order; and

(D) the contractor's acceptance of the purchase order is obtained by use of NASA Form 1379B at the time of issuance of the order.

(ii) No clause altering the subject matter of the provisions contained in NASA Forms 1379 and 1379B shall be used. The use of other special terms, conditions, or provisions should be minimized to the extent that such additional instructions are considered essential and are consistent with small purchase procedures.

(iii) Where the contract specifies the delivery of data, one of the clauses set forth in 9.203 through 9.206 shall be added as appropriate in accordance with the instructions contained in Part 9, Subpart 2.

(iv) When required by Part 6, Subpart 4, the *Communist Areas* clause set forth in 6.404 shall be added.

(v) Where inspection and acceptance are at origin, where contract administration is performed at origin, where delivery at multiple destinations is required, or where otherwise appropriate the "Material Inspection and Receiving Report" clause may be required for use and inserted in the Schedule.

(vi) Where Government property having an acquistion cost in excess of $25,000 is to be furnished (for use in performance of contract or for repair), the "Government Property (Fixed-Price)" clause in 13.702 shall be inserted in the Schedule. Where Government property having an acquisition cost not in excess of $25,000 is to be furnished for use in performance of the contract or for repair, the "Government-Furnished Property (Short Form)" clause in 13.710 shall be inserted in the Schedule; *provided* that use of the clause shall be optional where the acquisition cost of property furnished for repair is not in excess of $2,500. Where a "Government Property" clause is inserted in the Schedule, the contractor's signature shall be obtained on NASA Form 1379B.

(vii) The clauses set forth in 1.1208 may be used in accordance with the provisions of that paragraph.

(viii) When required by Part 12, Subpart 10, the applicable clause set forth in 12.1004 shall be added.

(ix) When a bid guarantee is required in accordance with 10.102, the applicable clause set forth in 10.102–4 shall be added.

(x) When performance and payment bonds are required in accordance with 10.103, pertinent instructions with regard thereto shall be added.

(xi) When required by Part 12, Subpart 3, the clause in 12.303–1 shall be added.

(xii) When required by Part 1, Subpart 7, the notice of Total Small Business Set-Aside clause in 1.706–5(c) shall be added.

(xiii) The changes authorized by 16.402–2 shall be incorporated when construction procurements are negotiated in accordance with 3.600.

(xiv) When required by Part 12, Subpart 13, the *Affirmative Action for Handicapped Workers* clause in 12.1302–1 shall be added.

(xv) If the contract is to involve materials of a hazardous nature, include the clause in 1.351.

(xvi) When the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders, the clause in 7.104–64 shall be added. The clause may also be used, with appropriate modification, in contracts for other supplies under the circumstances specified in 7.104–64.

(xvii) When required by 12.804(a), the Equal Opportunity clause set forth therein shall be added.

39. In Part 3, 3.608–2(c), subparagraph (2) is amended to change the last sentence to read: "Except as provided under the unpriced purchase order method, quotations that are indefinite as to price or based on economic price adjustment or redetermination shall not be considered for award by the purchase order method."

3.608–2 [Amended]

40. In Part 3, 3.608–2(d), the references in the first and second sentences are amended to read "14.207" in place of "14.106" and "14.206–2" in place of "14.105–2."

3.650–3 [Amended]

41. In part 3, 3.650–3(a), the last sentence is amended to read "If the amount of purchase does not exceed $150 (or $300 under emergency conditions) the supplier should be encouraged to deliver C.O.D. (see 3.607–3)."

PART 7—CONTRACT CLAUSES

42. In Part 7, Table of Contents, 7.104–61 through 7.104–6 are amended to read as follows:

* * * * *

7.104–61 Rights in Data for Potentially Hazardous Items.............7–1:21
7.104–62 Potentially Hazardous Items.............7–1:21
7.104–63 Required Source for Jewel Bearings and Related Items.............7–1:21
7.104–64 Contractor-Furnished Returnable Gas Cylinders and Other Containers.............7–1:21
7.104–65 through 7.104–83 [Reserved].............7–1:22
7.104–84 Fast Payment Procedure.............7–1:22
7.104–85 [Reserved].............7–1:22
7.104–86 Notification of Changes.............7–1:22
7.104–87 through 7.104–88 [Reserved].............7–1:22C
7.104–89 Engineering Change Proposals (ECP's).............7–1:22C
7.104–90 Change Order Accounting.............7–1:22D
7.104–91 through 7.104–94 [Reserved].............7–1:22D
7.104–95 Preference for United States Flag Air Carriers.............7–1:22D
7.104–96 Notice of Intent to Disallow or Not Recognize Costs...7–1:22E
7.105 Additional Clauses.............7–1:22E
7.105–1 Alterations in Contract.............7–1:22E
7.105–2 through 7.105–4 [Reserved]...7–1:22E
7.105–5 Liquidated Damages.............7–1:22E
7.105–6 Bill of Materials.............7–1:22F

* * * * *

43. In Part 7, 7.104–64 is added to read as follows:

7.104–64 Contractor-Furnished Returnable Gas Cylinders and Other Containers. Insert the following clause in contracts involving the purchase of gas in contractor-furnished returnable cylinders where the contractor retains title to the cylinders. The clause may be used, with appropriate modification, in contracts for other supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other reusable containers, where the contractor is to retain title to the containers.

Returnable Gas Cylinders (March 1980)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days [1] after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of ——— dollars ($———) per cylinder per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after delivery to the f.o.b. point specified in the contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

(i) oxygen cylinders of 100–110 cubic foot capacity $———;

(ii) oxygen cylinders of 200–220 cubic foot capacity $———;

(iii) acetylene cylinders of 100–150 cubic foot capacity $———; and

(iv) acetylene cylinders of 230–300 cubic foot capacity $———.

(d) Cylinders lost, or damage beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within ——— (insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) days loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

PART 12—LABOR

44. Part 12, 12.804(a) is revised to read as follows:

12.804 Equal Opportunity Clauses.

(a) *Government Contracts.* The following clause shall be included in all contracts (and modifications thereof if the clause was not included in the original contract), unless exempted in accordance with 12.805.

Equal Opportunity (March 1980)

(If, during any twelve (12) month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded Federal contracts and/or subcontracts which have an aggregate value in excess of $10,000, the Contractor shall comply with (1) through (7) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by

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[1] The time period may be modified to comply with the customary commercial practice for the particular type of container being rented.

Executive Order 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided,* however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

* * * * *

PART 16—PROCUREMENT FORMS

45. In Part 16, Table of Contents, paragraph 16.803-4 is amended to delete the sentence following the title and 16.811-2 is added to read as follows:

* * * * *

16.811-2 Contract Security Classification Specification—16-8:2

* * * * *

46. In Part 16, 16.001, in the list in paragraph (a) NASA Forms., (b) U.S. Standard Forms., and (c) Department of Defense Forms., the entries for NASA Form 1018, Standard Forms 18, 33, 33-A, 129, 147 and 1129 and Department of Defense Form 254 are amended to read as follows:

* * * * *

16.001 Index of Procurement Forms for NASA Use.

* * * * *

(a) *NASA Forms.*

* * * * *

1018 (1-79) Report of Government-Owned/Contractor-Held Property

* * * * *

(b) *U.S. Standard Forms.*

* * * * *

18 (3-71) Request for Quotations

* * * * *

33 (3-77) Solicitation, Offer, and Award

33-A (7-77) Solicitation Instructions and Conditions

* * * * *

129 (2-77) Bidder's Mailing List Application

147 (2-77) Order for Supplies or Services

* * * * *

1129 Undated Reimbursement Voucher

* * * * *

(c) *Department of Defense Forms.*

* * * * *

254 (1-78) Contract Security Classification Specification

* * * * *

16.811-2 [Amended]

47. In Part 16, the title in 16.811-2 is amended to read "Contract Security Classification Specification."

[FR Doc. 80-27186 Filed 9-4-80; 8:45 am]

BILLING CODE 7510-01-M

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41 CFR Ch. 18, Parts 1, 2, 3, 15, 20 and Appendix J

[Procurement Regulation Directive 80-1]

Procurement Regulations; Miscellaneous Amendments

January 18, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-1 concerning the following areas:

1. Required Use of the Priorities, Allocations, and Allotments Clause
2. Certificates of Competency
3. Prepaid Transportation Charges
4. Evaluation of Bids
5. Letter Contract
6. Forms for Procurement Plans
7. Adjustment and Allocation of Pension Costs
8. Master Buy Plan Procedure
9. Authority to Sign a Class D&F.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION:

(1) Part 1.307-2 is revised to raise the dollar value of ratable contracts which require the "Priorities, Allocations, and Allotments" clause from $500 to $2,500.

(2) The text of Part 1.705-4(c)(iv) is deleted and the paragraph marked reserved. In accordance with Public Law 98-89, this exception is no longer valid.

(3) The amount of transportation charges which a contracting officer may authorize a contractor to prepay when the f.o.b. point of origin is increased from $25 to $100. See Part 1.1316(b). In paragraph 1.1316(e), the NASA Management Instruction (NMI) governing the use of official Government mailing privileges by NASA contractors is NMI 1450.11B, "NASA Mail Management Program." NMI 1530.1A is deleted.

(4) The "Evaluation of Bids" provision in Part 2.201-1, Section D(13) is revised to show "$100" in lieu of "$50" as the amount to be considered administrative cost to the Government.

(5) Part 3.408 is revised to update NASA policy regarding issuance of letter contracts and to authorize the Procurement Officer to sign and submit requests for authority to issue letter contracts directly to the Director of Procurement.

(6) Part 3.852-3(a) is revised to authorize installations that use automated equipment to prepare procurement plans on a Headquarters approved "Optional Free Form."

(7) This item addresses the adjustment and allocation of pension costs. It provides for the prospective application of a revised 15.205-6(f) dealing with deferred compensation.

The provisions of the cost accounting principle at 15.205–6(f) are hereby revised to incorporate and conform to the provisions of Cost Accounting Standard (CAS) 413. CAS 413 requires that actuarial gains and losses in pension funds be calculated annually and assigned to that cost accounting period and, in certain instances consistent with CAS 413, to subsequent periods. In this regard, it is also important to note that the introductory comments to CAS 412 (see 4 CFR) state that actuarial gains and losses should be accounted for in accordance with pertinent laws and regulations and should be consistently applied. This is particularly significant in connection with the requirements of the Employee Retirement Income Security Act (ERISA).

To avoid undue confusion, note that the revised 15.205–6(f)(2)(ii)(A)*e*. is an additional NASA Procurement Regulation requirement not contained in CAS 413. This requirement will be effective on all new contracts awarded after the effective date of this Procurement Regulation Directive. For CAS-covered contracts, the implementation date of the remainder of this revision is the date prescribed in CAS 413.80. Otherwise, new provisions will apply to contracts awarded after the effective date of this Procurement Regulation Directive.

(8) Parts 20.5102 through 20.5106 are revised substantially; especially with regard to the submission, selection and notification procedure, and Master Buy Plan format. Several editorial changes are made to assure compatibility of terminology and to delete unnecessary words. Review of the entire Part is recommended.

(9) Part J. 205–50(4)(A) is revised to clarify an apparent ambiguity which existed between the provisions of Parts 3.303(b) and J. 205–50(4)(A) regarding the Procurement Officer's authority to sign a Class D&F consisting of two or more contracts, each of which has an estimated value which does not exceed $100,000.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Acting Director of Procurement.

PART 1—GENERAL PROVISIONS

1.307–2 [Amended]

1. In Part 1, 1.307–2, in the first sentence of the introductory text, the phrase "* * * those purchase orders of less than $500 * * *" is amended to read "* * * those purchase orders of less than $2,500. * * *"

1.705–4 [Amended]

2. In Part 1, 1.705–4(c), paragraph (iv) is deleted and marked "Reserved."

3. In Part 1, 1.1316, paragraphs (b) and (e) are revised as follows:

1.1316 Prepaid Transportation Charges

(a) * * *

(b) The contracting officer may authorize the contractor to prepay the transportation charges, provided the cost of such transportation charges does not exceed $100.00. The actual cost of transportation charges, not to exceed $100.00 per shipment, will be added to the contractor's invoice as a separate item. All transportation charges which are added to the contractor's invoice shall be supported by paid freight, express, or parcel post receipts. If paid receipts in support of the invoice are not obtainable, the contractor shall insert the following certificate on his invoice:

* * * * *

(e) The policy governing the use of official Government mailing privileges by NASA contractors is set forth in NASA Management Instruction 1450.11B, "NASA Mail Management Program."

PART 2—PROCUREMENT BY FORMAL ADVERTISING

2.201–1 [Amended]

4. In Part 2, 2.201–1, Part I, Section D, the "Evaluation of Bids" clause date "(July 1965)" in paragraph (13), is amended to read "(January 1980)." In the second sentence of the clause, the phrase "* * * the sum of $50 * * *" is amended to read "* * * the sum of $100 * * *."

PART 3—PROCUREMENT BY NEGOTIATION

5. In Part 3, Table of Contents, paragraphs 3.404–4 and 3.409–1 through 3.409–3 are revised to read as follows:

* * * * *

§ 3.404–4 Fixed-Price Incentive Contracts.

* * * * *

3.409–1 Definite Quantity Contracts.....3–4:20
3.409–2 Requirements Contract............3–4:20
3.409–3 Indefinite Quantity Contracts..........3–4:20A

* * * * *

6. In Part 3, 3.408 is revised to read as follows:

3.408 Letter Contract.

(a) *Definition.* A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of work or services.

(b) *Application.* A letter contract may be entered into only when: (i) the urgency of the requirement necessitates that the contractor be given a binding commitment so that work can commence immediately, (ii) preparation of a definitive contract in sufficient time to meet mission requirements is not possible, and (iii) prior approval of the Director of Procurement has been obtained (see 20.5005(c)).

(c) *Limitations.*

(i) a letter contract shall not be entered into without competition when competition is practicable;

(ii) a letter contract shall be superseded by a definitive contract at the earliest practicable date; and

(iii) the maximum fund liability of the Government stated in the letter contract will be limited to only that amount determined essential to cover the contractor's requirements for funds prior to definitization. In no event shall total funds placed on a letter contract exceed fifty percent (50%) of the estimated total amount of the definitive contract;

(iv) a letter contract will be prepared in accordance with the applicable form set forth in 16.859.

(d) *Information to be Furnished when Requesting Authority to Issue a Letter Contract.* Requests for authority to issue letter contracts shall be signed by the Procurement Officer and submitted to the Director of Procurement (Code HS-1), and shall include the following:

(i) name and address of proposed contractor;

(ii) location where contract is to be performed;

(iii) contract number, including modification number if applicable;

(iv) brief description of the work or services to be performed;

(v) performance period, or delivery schedule;

(vi) amount of letter contract;

(vii) estimated total amount of definitive contract;

(viii) type of definitive contract to be executed (fixed-price, cost-plus-award-fee, etc.);

(ix) statement that the definitive contract will contain all required clauses or that deviations therefrom have been approved; and

(x) statement as to the necessity and advantage to the Government of the use of the proposed letter contract. Promptly upon receipt of a request to issue a letter contract, the Director of Procurement will obtain the concurrence or comments of cognizant Officials-in-Charge of Headquarters Offices. Upon receipt of the foregoing concurrences or comments, the Director of Procurement will advise the Procurement Officer of the disposition of his request.

(e) *Approval for Modifications to Letter Contracts.* Letter contracts shall not be modified to extend the period of performance or to increase the dollar amount without the prior approval of the Director of Procurement. Requests for authority to issue such modifications to letter contracts shall be processed in the same manner as requests for authority to issue letter contracts (see (d) above) and shall include the following:

(i) name and address of the contractor;

(ii) description of the work or services to be performed;

(iii) date originally approved;

(iv) date letter contract was executed; and

(v) complete justification for the requested modification to include the reasons why the definitive contract cannot be executed without such amendment.

7. In Part 3, 3.852–3, the introductory language in (a) is amended to read as follows:

3.852–3 Contents of the Procurement Plan.

(a) *Procurement Plans Requiring Approval by NASA Headquarters.* Each procurement plan prepared for approval by NASA Headquarters shall be prepared on NASA Forms 1451, 1452, 1452A, 1453 and 1454 or on a Headquarters approved Optional Free Form for those installations that use automated equipment to prepare their procurement plans. Use of either the NASA forms or the Optional Free Form is authorized for preparing procurement plans to be approved by the Head of the Installation. Form 1451 shall be completed as follows:

* * * * *

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

8. In Part 15, 15.205–6, subparagraphs (f)(2)(ii)(A)*b.*, (f)(2)(ii)(A)*e.* and (f)(2)(ii)(C) are amended to read as follows:

15.205–6 Compensation for Personal Services.

(f) * * *

(2) * * *

(ii) * * *

(A) * * *

b. the determination of allowable costs shall take into consideration the method of valuing pension fund assets as provided for in CAS 413.50(b). Any significant adjustment resulting from the actuarial valuation falling outside of the market value corridors will be amortized (i) in equal amounts over a 15-year period when the immediate gain actuarial cost method is used, or (ii) over the remaining average lives of the workforce if the spread gain actuarial cost method is used;

* * * * *

e. increased normal and past service cost caused by delay in funding the actuarial liability beyond thirty (30) days after each quarter of the year to which such costs are assignable, are unallowable. If a composite rate is used to allocate pension liability between the segments of a company and if, because of differences in the timing of the funding by segments, an inequity exists, allowable normal cost and past service costs will be limited to that particular segment's calculation of pension costs as provided in CAS 413.50(c)(5). Determination of unallowable costs shall be made in accordance with the actuarial method used in calculating the normal and past service costs;

* * * * *

(B) * * *

(c) It complies with the provisions of Part 412 and Part 413, Appendix O, which are incorporated here in their entirety; and when any of the contractor's contracts are subject to Cost Accounting Standards, these provisions will be applicable commencing with the contractor's fiscal year as prescribed by the terms of Part 412.80 and Part 413.80, Appendix O. The amount of deferred compensation costs which may be allowed shall not, however, exceed the amount determined under the provisions of the standard, subject to the cost limitations and exclusions set forth in subparagraphs (A) and (B) above.

* * * * *

PART 20—ADMINISTRATIVE MATTERS

20.5103–3 [Amended]

9. In Part 20, Table of Contents, the page number for paragraph 20.5103–2 is amended to read "20–51:4," paragraph 20.5103–3 is deleted and paragraph 20.5103–4 is redesignated 20.5103–3.

10. In Part 20, 20.5101 through 20.5106 are revised to read as follows:

20.5101 Policy.

The Master Buy Plan Procedure is designed to enable management to focus its attention on a representative selection of high dollar value and otherwise sensitive procurement actions without compromise of Headquarters visibility or control over essential management functions. This procedure is expected to:

(i) reduce the number of procurement actions requiring Headquarters review and approval;

(ii) permit better visibility of those procurement actions to be submitted to Headquarters;

(iii) permit better planning of workload and better use of personnel resources at both Headquarters and installation levels;

(iv) shorten the procurement review and approval cycle at Headquarters; and

(v) increase the delegation of procurement responsibility and authority to each installation.

20.5102 Applicability.

(a) The Master Buy Plan Procedure is applicable to each negotiated procurement, when the expected dollar value of that procurement, or aggregate amount of follow-on procurements under the same program (see 3.852–2(b)), is expected to equal or exceed the dollar value shown below, for the installation making the award, except that this procedure is applicable to:

(i) procurement of utility services when an area-wide contract is not used and either:

(A) the annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed $100,000; or

(B) when, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed $25,000;

(ii) procurement of architect-engineer services when:

(A) the total dollar value is $250,000 or more, or

(B) the work to be performed under a cost-plus-fixed-fee or fixed-price contract, regardless of the dollar amount, which involves the production and delivery of designs, plans, drawings, and specifications; and the fee inclusive of the architect-engineer's cost, to be paid to the architect-engineer for the performance of such services exceeds 6% of the estimated cost of the related construction project, exclusive of the amount of such fee. (See 4.204–1(b)).

(iii) procurements which provide facilities having a total acquisition value exceeding $500,000, or provide real property regardless of amount (see 13.202–2(d)); and

(iv) leases, and extensions thereto, for the rental of real property by the Government where the annual rental is more than $50,000 or where a Certificate of Necessity under 40 U.S.C. 278b is required.

Information on above listed procurements is required to be submitted to NASA Headquarters in

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accordance with 20.5103 for determination as to which individual procurement actions are to be submitted to NASA Headquarters for review and approval and which ones are to be approved at the installation level. These individual procurement actions may include one or more of the following: procurement plans, requests for proposals, justifications for noncompetitive procurements, source evaluation board appointments and source selections, prenegotiation positions, contracts (including supplemental agreements) and leases (see 20.5006).

Monetary Limitations on Master Buy Plan Procedure

National Space Technology Laboratories $2,500,000
Headquarters Contracts and Grants Division
NASA Resident Office-JPL
Wallops Flight Center
Ames Research Center $5,000,000
Dryden Flight Research Center
Goddard Space Flight Center
Johnson Space Center
Kennedy Space Center
Langley Research Center
Lewis Research Center
Marshall Space Flight Center

(b) The foregoing monetary limitations also apply to the following types of contracts:

(i) a contract which contains an option provision (including those authorized by Part 1, Subpart 15), or an agreement-to-agree provision, when the total dollar value, including the option(s) or agreement(s)-to-agree, equals or exceeds the dollar value set forth in (a) above, for the installation awarding the initial contract.

(ii) a supplemental agreement (except one which provides only for the addition or deletion of funds for incremental funding purposes) which:

(A) definitizes either one or more debit change orders or one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) equals or exceeds the dollar value set forth in (a) above for the installation making the award;

(B) definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) before consolidation equals or exceeds the dollar value set forth in (a) above, for the installation making the award; or

(C) adds new work and definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either (i) the new work and debit change order(s), or (ii) the new work and the credit change order(s) equals or exceeds the dollar value set forth in (a) above, for the installation making the award.

(c) The Master Buy Plan Procedure does not apply to supplemental agreements which extend contract performance pursuant to agreement(s)-to-agree provisions, where the initial contract was approved by the Director of Procurement. However, where the supplemental agreement provides for a substantive change in the contract, e.g., expanded statement of work, substantial increase in contract value, etc., the Master Buy Plan Procedure will apply. Approval of such supplemental agreements may be specifically required by the Director of Procurement.

(d) The Master Buy Plan Procedure is not applicable to termination settlement agreements (see Part 8).

20.5103 Submission, Selection and Notification Procedure.

20.5103–1 Submission of Master Buy Plan.

Prior to July 15th of every year, each installation will submit to the Director of Procurement (Code HS–1) a Master Buy Plan (original and eight copies) for the next fiscal year, listing therein every known procurement that meets the criteria set forth in 20.5102, and that (i) is expected to be initiated in that fiscal year; and (ii) has not been included in a previous Master Buy Plan or amendment to a Master Buy Plan. The plans will be prepared in accordance with the format shown in 20.5106, and, for every procurement listed therein, an identification will be provided as to the individual procurement documents that are involved (20.5104). Procurement documents that require Headquarters approval (see 20.5104) will be held in abeyance until receipt of the notification required by 20.5103–3 (a) or (b). This is not to preclude the planning for or initiation of such actions up to that point where Headquarters approval may be required. The Master Buy Plan shall include a listing of those procurements that were selected for Headquarters review and approval from prior fiscal year(s)' Master Buy Plans and amendments to Master Buy Plans that have not been completed. The procurements should be listed by the appropriate fiscal year Master Buy Plan and should show the current status of the individual procurement documents previously selected for Headquarters review and approval.

20.5103–2 Submission of Amendments to the Master Buy Plan.

Procurements identified by installations after submission of their Master Buy Plan for a fiscal year, which meet one of the criteria in 20.5102, will be submitted to Headquarters in the same manner as the original Master Buy Plan.

20.5103–3 Selection and Notification Procedures.

(a) *Selection of Procurements.* Selection of procurements from the Master Buy Plan and amendments to Master Buy Plans to receive Headquarters review and approval and designation of the Source Selection Officials and the officials to whom the justifications for noncompetitive procurements are to be submitted for approval shall be made by the Director of Procurement with the concurrence of the cognizant officials-in-charge of Headquarters offices.

(b) *Notification When Procurement is Cancelled, Superseded, Deferred, or No Longer Requires Headquarters Approval.* In the event a selected procurement, subsequent to its selection, is cancelled, superseded or deferred, or no longer requires Headquarters approval in accordance with the criteria in paragraph 20.5102, the Director of Procurement will be so advised, together, with the reasons therefor. The Director of Procurement, with the concurrence of the cognizant officials-in-charge of Headquarters offices, will notify the installation in writing of any further action which may be required.

20.5104 Procedures for Procurements Selected for Headquarters Review and Approval.

For those procurements which have been selected for Headquarters review and approval under this procedure, the cognizant installation will ensure that all documents that require Headquarters review and approval are submitted in accordance with established procedures. Such documents may include one or more of the following: procurement plans (3.852–2(a)(iii)); request for proposals (SEB Advisory (75–3)); justifications for noncompetitive procurements (3.802–3(d)(v)); source evaluation board appointments and source selections (NHB 5103.6A); prenegotiation positions; contracts (including supplemental agreements); and leases (20.5006).

20.5105 Procedures for Procurements not Selected for Headquarters Review and Approval.

(a) Procurements which are not selected for Headquarters review and approval shall be processed at the installation level. For such procurements, the following documents, to the extent applicable, shall be approved by the Head of the Installation; procurement plans, justifications for noncompetitive procurements, and prenegotiation positions (incentive contract plans—3.450(c)). If the procurement is to be competitive and subject to the procedures of the Source Evaluation Board Manual, the Head of the Installation shall be the Source Selection Official. Contracts (including supplemental agreements) and leases that are not selected for Headquarters review and approval under the Master Buy Plan Procedure, shall be approved by the Procurement Officer. The signing of the contracts (including supplemental agreements) and leases by the Procurement Officer, as the contracting officer, constitutes such approval. The above approval authorities may not be redelegated, except that the Head of the Installation may redelegate the authority to approve procurement plans and prenegotiation positions (incentive contract plans (3.450(c)) to his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for . . .), without authority for further redelegation.

(b) For those procurements that are authorized to be processed at the installation level, after-the-fact reviews of contracts (including supplemental agreements) and leases will be conducted by Headquarters personnel during normal procurement surveys or as the situation may otherwise indicate, through special reviews.

20.5106 Format of Master Buy Plan.

In accordance with the requirements of 20.5103-1 and 20.5103-2, Master Buy Plans and amendments to Master Buy Plans will be prepared in the format set forth below:

MASTER BUY PLAN (AMENDMENTS)

INSTALLATION: ....

DATE: ....

Cognizant HDO Program Office(1)	Descriptive Title of Procurement(2)	Estimated Dollar Value	Proc Plan	RFP	JNCP(3)	SEB	Pre-Neg	Contract Review	Current Status(4)	Remarks(5)

FY19... Documents Selected for Headquarters Review and Approval Not Yet Completed(6)

(1)Include 3 digit Unique Project Number (UPN) as listed in FMM 9130.
(2)Include N or FO to indicate new or follow-on procurement.
(3)Include name of firm under Remarks.
(4)Indicate current status and scheduled date for next event.
(5)Include data considered pertinent by installation and indicate expected date for placement of contract.
(6)List procurements from prior fiscal year(s) Master Buy Plans and amendments to Master Buy Plans that have not been completed (20.5103.1).

(Form should be prepared on legal size paper. Use separate sheets as necessary.)

Appendix J—Authorization for Negotiation

J.205-50 [Amended]

11. In Appendix J, J.205-50(4)(A), the last sentence is amended to read "This authority is delegated in accordance with 3.303(b) and may not be redelegated." in place of "This authority may not be redelegated."

[FR Doc. 80-27184 Filed 9-4-80; 8:45 am]

BILLING CODE 7510-01-M

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41 CFR Ch. 18, Parts 1, 2, 3, 4, 7, 10, 13, 21, 24, 26, Appendix B, Appendix C, Appendix J, and Appendix O.

[Procurement Regulation Directive 80-4 (dated March 31, 1980)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-4 concerning the following areas:

1. Recovered Material.
2. Personal or Professional Services.
3. Advance Payment D&F's.
4. Scientific and Technical Information Service Clause.
5. Required Clause for Facilities Contracts.
6. Minimum Limits for Liability Insurance.
7. Government Property.
8. Quarterly Contract Closeout Status.
9. Potential for Small or Disadvantaged Business Participation in Individual Procurements.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1, Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: 1. A new Part 1.25, "Recovered Material" is added to implement OFPP Policy Letter No. 77-1 and to closer align the NASA Procurement Regulation with the Defense Acquisition Regulation. Associated solicitation provisions are inserted into Parts 2.201-1 and 3.501(b).

2. Part 3.204-2(b) is revised to update the coverage applicable to NASA's

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authority to contract for personal or professional services.

3. (a) Part 3.303 is revised to provide guidance for preparing D&F's when a contract modification requires an increase in the amount of advance payments.

(b)(i) Appendix J.5000 is revised to authorize the contracting officer to sign advance payment D&F's, when appropriate.

(ii) Instruction No. 1 under Appendix J.5001, is revised to state that such instruction is applicable to requests for advance payment provisions for the basic contract.

4. The clause in Part 7.302–55 is revised to update the title and code of the NASA office to which the contractor must furnish the required information.

5. Parts 7.702–61 and 7–703.52 are added to require the insertion of the "License for Subsequent Use" clause into consolidated facilities contracts and facilities acquisition contracts.

6. Minimum limits for various types of liability insurance in Part 10.5 have been revised to be consistent with the Defense Acquisition Regulation.

7. Several changes are made regarding Government Property as follows:

(a) The definition of centrally reportable equipment and the Equipment Visibility System screening requirement are clarified. The requirement for inventories to be wall-to-wall is deleted. (See the clause in Part 1.5406; and Parts 13.114, 24.101–35, B.102–22, B.501, C.102–24 and B.501.)

(b) The clause in Part 13.311 is revised to change the reference to "property and supply" to read "Supply and Equipment Management Officer."

8. Part 21.202 is revised to require the furnishing of information that will better reflect aging of contracts and separately identify certain specific contracts awaiting actions by another agency before they can be closed out.

9. Appendix J.101–50 is revised to require the inclusion of information in Block 13 of the JAN regarding the potential for participation by small and/or disadvantaged business in certain NASA procurements.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Acting Director of Procurement.

Table of Parts and Subparts

1. In the "Table of Parts and Subparts" to the Code of Federal Regulations for 18 CFR, Volume I (Parts 1–5), "Appendix O" is amended to read "Appendix O—(See PRD 77–16)" and "Supplement 50—Federal Procurement Data System Codes" is added to read as follows:

SUPPLEMENT 50—FEDERAL PROCUREMENT DATA SYSTEM CODES

Subpart 1—Procurement Placement Code Matrix

Subpart 2—Codes for Services and Supplies and Equipment

PART 1—GENERAL PROVISIONS

2. In Part 1, Table of Contents, "Subpart 24" is added and marked "Reserved" and Parts 1.2500 through 1.2500–5 are added to read as follows:

Subpart 24 [Reserved]

Subpart 25—Recovered Material

1.2500 Recovered Material.................... 1–25:1
1.2500–1 Scope.................................. 1–25:1
1.2500–2 Policy................................. 1–25:1
1.2500–3 General................................ 1–25:1
1.2500–4 Definition............................. 1–25:1
1.2500–5 Procedure.............................. 1–25:1

3. In Part 1, 1.2500 through 1.2500–5 are added to read as follows:

1.2500 Recovered Material.

1.2500–1 Scope. This Subpart prescribes policies and procedures regarding the use of recovered materials.

1.2500–2 Policy. The policy of the Government is to obtain items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

1.2500–3 General. Basic policy is provided in the Solid Waste Disposal Act (Public Law 89–272, October 20, 1965; 42 U.S.C. 3251 et seq.) as amended by the Resource Conservation and Recovery Act of 1976 (Public Law 94–580, October 21, 1976; 42 U.S.C. 6901 et seq.), and the Office of Federal Procurement Policy Letter Number 77–1. The legislation requires Executive Agencies responsible for drafting or reviewing specifications to assure that Government specifications and standards (i) do not exclude the use of recovered materials, (ii) do not require the item to be manufactured from virgin materials, and (iii) require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item. It also requires the Administrator, Environmental Protection Agency (EPA), to prepare guidelines setting forth information on the availability, sources, and potential uses of recovered materials and associated items, including solid waste management services and recovered materials to be used as fuel.

1.2500–4 Definition. "Recovered material" means material which has been collected or recovered from solid waste.

1.2500–5 Procedures.

(a) These procedures are applicable to all acquisitions using Government specifications which require incorporation of specified minimum percentages of recovered materials.

(b) Solicitations which incorporate Government specifications requiring utilization of recovered materials shall include the certification in 2.201–1 Sec. B(15) or 3.501, Part I, Sec. B(18).

(c) Requirements in Government specifications for use of recovered materials may be waived by the contracting officer only after a determination that the items:

(1) are not available within a reasonable period of time,

(2) fail to meet performance standards set forth in specifications, or

(3) are available only at unreasonable prices.

1.5406 [Amended]

4. In Part 1, 1.5406, the "Acquisition of Existing Government Equipment" clause date is changed to read "(March 1980)" and by inserting a parenthetical phrase the first sentence of the clause is amended to read as follows:

Prior to the acquisition of any item of centrally reportable equipment under this contract (unless for incorporation into deliverable end items), the Contractor shall provide the Contracting Officer, at the earliest possible date, a detailed listing of his requirements for screening of existing Government inventories.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

5. In Part 2, 2.201–1, Part 1, Section B, paragraph (15) is added to read as follows:

(15) The following certification shall be inserted in solicitations as required by 1.2500–5(b):

RECOVERED MATERIAL (MARCH 1980)

The Contractor certifies by signing this bid/proposal/quotation that recovered materials, as defined in 1.2500–4, will be used as required by the applicable specifications.

PART 3—PROCUREMENT BY NEGOTIATION

6. In Part 3, 3.204–2(b) is amended to read as follows:

3.204–2 Application

(a) * * *

(b) Under Section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)), NASA is authorized:

"to obtain services as authorized by Section 3109 of Title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18."

5 U.S.C. 3109, in turn, provides authority to procure by contract:

"the temporary (not in excess of one year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services."

3.204-3 [Amended]

7. In Part 3, 3.204-3 is amended by changing the reference "Supp. 57." at the end of the paragraph to read "Supp. 118."

3.302 [Amended]

8. In Part 3, 3.302(i), the reference "3.303(a)(iii)" is amended to read "3.303(a)(iv)."

9. In Part 3, 3.303(a) is revised to read as follows:

3.303 Determinations and Findings Below the Administrator Level

(a) Determinations and Findings in support thereof, not required to be made by higher authority including those in (i) through (vi) below may be made with respect to purchases and contracts by the Director of Procurement. The contracting officer may make the determinations and findings in (iii) through (vii) with respect to individual purchases and contracts:

(i) the determination required with respect to waiving the requirements for submission by contractors and subcontractors of cost or pricing data and the certification thereof;

(ii) for the basic contract, the determination required with respect to advance payments as required by 10 U.S.C. 2307(c) and 2310(b);

(iii) for modifications to a contract which require an increase in the amount of advance payments, the determination required by 10 U.S.C. 2307(c) and 2301(b); provided that: (1) the work called for in the modification is within the scope of work set forth in the determination authorizing the advance payment under the basic contract, and (2) such action has been coordinated with the Installation Financial Managment Officer;

(iv) determinations and findings with respect to authority to enter into contracts by negotiation required by 3.202-3, 3.207-3, 2.210-3 and 3.211-3; provided that under 3.211-3 the basic contract or any single modification thereto does not obligate the Government to pay more than $100,000 (in a procurement under 3.211, where it is known in advance that the scope of the contract will be expanded to include additional phases or where it is incrementally funded, the total estimated cost of all increments will be used as the basis for determining whether a determination and findings will be made at the Administrator level or by the contracting officer);

(v) determinations and findings with respect to the use of a cost, cost-plus-award-fee, a cost-plus-a-fixed-fee, or an incentive-type contract required by 3.404-4, 3.405, 3.405-4, 3.405-5, and 3.405-6;

(vi) the determination required by 10 U.S.C. 2306(g) to enter into contracts that do not exceed three (3) years for certain types of services outside of the 48 contiguous states; and

(vii) any other determinations and findings not required to be made by higher authority.

* * * * *

3.404-3 [Amended]

10. In Part 3, 3.404-3, paragraph (c)(3)*b.* is amended by changing "Code HR" at the end of the paragraph to read "Code HS-1."

11. In Part 3, 3,501(b), Part I, Section B, is amended by adding paragraph (18) to read as follows:

3.501 Preparation of Requests for Proposals or Requests for Quotations

(b) * * *

Part I * * *

Section B * * *

(18) the following certification shall be inserted in solicitations as required by 1.2500-5(b):

RECOVERED MATERIAL (MARCH 1980)

The Contractor certifies by signing this bid/proposal/quotation that recovered materials, as defined in 1.2500-4, will be used as required by the applicable specifications.

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4.5200 [Amended]

12. In Part 4, 4.5200, at the end of the paragraph the reference "Supp. 32." is amended to read "Supp. 118."

PART 7—CONTRACT CLAUSES

13. In Part 7, Table of Contents, paragraph 7.104-56 through 7.104-60 were inadvertently deleted and are reinserted to read as follows:

* * * * *

7.104-56 Order of Precedence..............7-1:20F
7.104-57 Liability for Government Property Furnished for Repair or Other Services..............7-1:20F
7.104-58 Safety and Health..............7-1:20F
7.104-59 Non-Use of Foreign-Flag Vessels Engaged in Cuban or North Vietnam Trade..............7-1:20G
7.104-60 Report on NASA Subcontracts..............7-1:20G

14. In Part 7, Table of Contents, 7.702-61 and 7.703-52 are added to read as follows:

* * * * *

7.702-61 License for Subsequent Use..............7-7:21

* * * * *

7.703-52 License for Subsequent Use..............7-7:25

* * * * *

7.302-55 [Amended]

15. In Part 7, 7.302-55, the date of the clause is amended to read "(March 1980)" and in paragraph (a) of the clause the code for Scientific and Technical Information Branch is amended to read:

7.702-59 and 7.703-50 [Amended]

16. In Part 7, 7.702-59 and 7.703-50 are amended by deleting the reference "16.902" and inserting "21.500" therein.

17. In Part 7, 7.702-61 is added to read as follows:

7.702-61 License for Subsequent Use. In accordance with the requirements of 9.114, insert the clause set forth therein.

18. In Part 7, 7.703-46 is amended to read as follows:

7.703-46 General Services Administration Supply Sources. The clause set forth in 5.909 will be included in contracts in accordance with the instructions set forth therein.

19. In Part 7, 7.703-52 is added to read as follows:

7.703-52 License for Subsequent Use. In accordance with the requirements of 9.114, insert the clause set forth therein.

PART 10—BONDS AND INSURANCE

10.501-2 [Amended]

20. In Part 10, 10.501-2(a) is amended by deleting the last sentence and inserting the following language: "Comprehensive general (bodily injury) liability insurance shall be required with minimum limits of $300,000 per occurrence."

21. In Part 10, 10.501-2(c), the first sentence is amended to read as follows:

10.501-2 Automobile Liability Insurance

(b) * * *

(c) Automobile bodily injury liability and property damage liability insurance shall be required with minimum limits of $100,000 per person and $300,000 per occurrence for bodily injury liability and $10,000 per occurrence for property damage liability on the comprehensive policy form covering all owned, non-owned, hired, and Government-furnished motor vehicles which will be used in the contract operations where use will not be limited exclusively to the premises on which the work under such contract is performed.

PART 13—GOVERNMENT PROPERTY

22. In Part 13, 13.114 is revised as follows:

13.114 Centrally reportable equipment means that plant equipment, special test equipment (including components), special tooling and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at $1,000 or more, and (iii) is identifiable by a manufacturer and model number.

23. In Part 13, the date of the "Installation Provided Government Property" clause in 13.311 is amended to read "(March 1980)" and paragraph (b) of clause is amended to read as follows:

13.311 Providing Government Property to On-site Contractors and Local Support Service Contractors. * * *

(a) * * *

(b) The official accountable record keeping and financial control and reporting of the property subject to this clause shall be retained by the Government and accomplished by the installation Supply and Equipment Management and Financial Management Officers. However, the Government will provide the Contractor a record of all items of property including copies of all transaction documents used to describe changes to this record. The Contractor shall maintain this record and transaction documentation in such a condition that at any stage of completion of work under this contract, the status of the property including location, utilization, consumption rate and identification may be readily ascertained. The Contractor shall also adhere to all other procedures (and sanctions related thereto) prescribed by the installation director which have been established for the management of installation property. The records and documentation shall be made available, upon request, to the installation Supply and Equipment Management Officer and other formally designated representative(s) of the Contracting Officer.

* * * * *

PART 21—PROCUREMENT MANAGEMENT REPORTING SYSTEM

24. In Part 21, Table of Contents, 21.200 through 21.202 are added to read as follows:

* * * * *

Subpart 2—Quarterly Contract Administration Summary

21.200 Scope of Subpart 21–2:1
21.201 Definitions 21–2:1
21.202 Content of the Summary 21–2:1

* * * * *

25. In Part 21, 21.202, the introductory text and paragraph (a) are revised to read as follows:

21.202 Content of the Summary. The information required in the summary is as follows:

(a) *Contracts in Closeout* (see 21.201(a))

(1) The number of fixed-price type contracts which are in the closeout process.

(2) Of the number in (1) above, the number of fixed-price type contracts which have been in the closeout process for more than 6 months.

(3) Of the number in (2) above which exceed $500,000 in face value, the number which have been in the closeout process from:

(i) 7–12 months
(ii) 13–18 months
(iii) more than 18

(4) The number of contracts other than fixed-price type which are in the closeout process.

(5) Of the number in (4) above, the number of contracts other than fixed-price type which have been in the closeout process for more than 20 months.

(6) Of the number in (5) above, which exceed $500,000 in face value, the number which have been in the closeout process from:

(i) 21–26 months
(ii) 27–32 months
(iii) more than 32 months

(7) Of the number in (5) above, provide the total number of contracts for which final closeout is solely dependent on audit actions by another agency.

* * * * *

PART 24—DISPOSITION OF PERSONAL PROPERTY

26. In Part 24, 24.101–35 is revised to read as follows:

24.101–35 Centrally Reportable Equipment means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at $1,000 or more, and (iii) is identifiable by a manufacturer and model number.

PART 26—CONTRACT MODIFICATIONS

26.206–7 [Amended]

27. In Part 26, 26.206–7 the reference "3.807–2(c)" is amended to read "3.807–2(b)."

Appendix B—Control of Government Property

28. In Appendix B, B.102–22 is revised to read as follows:

B.102–22 Centrally reportable equipment means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at $1,000 or more, and (iii) is identifiable by a manufacturer and model number.

29. In Appendix B, B.501, the fourth, fifth and sixth sentences of the first paragraph are deleted and the paragraph reads as follows:

B.501 Periodic Inventories. The contractor shall periodically, physically inventory all Government property (except work in process) in his possession or control and shall cause his subcontractors to do likewise. The physical inventory procedures shall be established by the contractor and approved by the property administrator. Inventory, as used here, consists of sighting, tagging or marking, describing, recording and reporting the property concerned and reconciling the property recorded and reported with the property records. The contractor's procedures shall provide that personnel who perform the physical inventory are not the same individuals who maintain the property records or have custody of the property unless the size of the contractor's operation is so small as to make it impracticable to do so.

* * * * *

Appendix C—Property in Possession of R&D Contractors

30. In Appendix C, C.102–24 is revised to read as follows:

C.102–24 Centrally Reportable Equipment means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at $1,000 or more, and (iii) is identifiable by a manufacturer and model number.

31. In Appendix C, C.501, the fourth, fifth and sixth sentences of the first paragraph are deleted and the paragraph reads as follows:

C.501 Periodic Inventories. The contractor shall periodically, physically inventory all Government property (except work in process) in his possession or control and shall cause his subcontractors to do likewise. The physical inventory procedures shall be established by the contractor and approved by the property administrator. Inventory, as used here, consists of sighting, tagging or marking, describing, recording and reporting the property concerned and reconciling the property recorded and reported with the property records. The contractor's procedures shall provide that personnel who perform the physical inventory are not the same individuals who maintain the property records or have custody of the property unless the size of the contractor's operation is so small as to make it impracticable to do so.

* * * * *

Appendix J—Authorization for Negotiation

32. In Appendix J, J.101–50 (iii) is revised to read as follows:

(i) * * *

(ii) * * *

(iii) the following information is to be included in block 13 or in an attachment to the JAN:

(A) if a class determination and findings is proposed, state that a procurement plan and justification for noncompetitive procurement will be prepared prior to the issuance of the requests for proposals, as required.

(B) if a class determination and findings is proposed, include a statement with regard to the potential for a small business set-aside or a Section 8(a) contract on each procurement. If individual procurements are not susceptible to such preferential procedures the reasons therefor should be stated.

(C) if an individual determination and findings is proposed, state why a small business set-aside or Section 8(a) contract is inappropriate. Also, state how many of the firms being solicited are small and/or disadvantaged business firms.

The requirements of (B) and (C) above are not applicable to a noncompetitive procurement. However, if the firm is a small and/or disadvantaged business, so state. Additional information in support of Exception (11) through Exception (16), as required by J.200(a) through (f) may be uncluded in the JAN or attached thereto (see also 3.306–50).

J.5001 [Amended]

33. In Appendix J, J.5001, in the instructions following the Determination and Finding format, Instruction 1 is amended to insert the phrase ". . . for the basic contract . . ." following the sixth word "provisions."

[FR Doc. 80–27187 Filed 9–4–80; 8:45 am]

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41 CFR Ch. 18, Parts 3 and 16

[Procurement Regulation Directive 80–2]

Structured Approach for Determining Profit/Fee Objectives and Administrative Limitations on Fees Applicable to Cost-Type Contracts and Subcontracts

February 28, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80–2 concerning the Structured Approach for Determining Profit/Fee Objectives and the Administrative Limitations on Fees Applicable to Cost-Type Contracts and Subcontracts.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, DC 20546. Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION:

1. Part 3.808 is revised to provide a structured approach for use in determining the Government's profit/fee objectives prior to commencing negotiations with a contractor. The structured approach does not alter the principal procurement objectives to obtain a quality product, delivered on schedule at a reasonable price, or the NASA basic profit policy which recognizes the need to attract the best possible industrial capabilities to space and aeronautical oriented activities by providing industry with profit motivations necessary to stimulate efficient contract performance.

2. Generally, the structured approach is prescribed for use where cost analysis is performed. The structured approach provides a rational, uniform, and equitable method for evaluating the factors which must be considered in determining a profit/fee objective. While the structured approach continues to make use of the factors used heretofore in determining the profit/fee objective, primary emphasis has been placed on evaluating contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. Quantification of these factors in the form of a dollar profit/fee objective should be the derivative of a thorough evaluation of the procurement action.

3. Use of the structured approach to determine the Government's profit/fee objective in accordance with NASA Procurement Regulation, Part 3.808, is required for all applicable contracts negotiated on or after April 15, 1980.

4. Parts 3.405–6(c) and 3.807–9(e) are revised to delete the administrative limitations on fees previously applicable to various types of cost-type contracts and subcontracts. The fee limitations prescribed by 10 U.S.C. 2306(d) are now applicable (see NASA Procurement Regulation Part 3.405–5(d)(3)).

5. Part 3.450 is revised to:

(i) Delete the administrative requirements previously associated with the approval and use of incentive contracts;

(ii) Delete administrative limitations on fees; and

(iii) Create consistency, with respect to fee limitations, between CPFF, CPAF and CPIF contracts.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Acting Director of Procurement.

PART 3—PROCUREMENT BY NEGOTIATION

1. Part 3, Table of Contents, the page numbers for paragraphs 3.405–5, 3.405–6, 3.450 and 3.809 are amended to read as follows:

* * * * *

3.405–5 Cost-Plus-Award-Fee Contract 3–4:12

3.405–6 Cost-Plus-A-Fixed-Fee Contract 3–4:14

* * * * *

3.450 Incentive Contracts 3–4:28

* * * * *

3.809 Contract Audit as a Pricing Aid .... 3–8:38]

* * * * *

2. In Part 3, 3.405–4 is amended by adding a new paragraph (c) to read as follows:

3.405–4 [Amended]

(c) *Limitations.* The maximum fee shall not exceed the limitations stated in 3.405–6(c)(2).

* * * * *

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3.405–5 [Amended]

3. In Part 3, 3.405–5(d), the reference at the end of paragraph (3) "3.450(f)." is amended to read "3.405–6(c)(2)."

4. In Part 3, 3.405–6(c) is amended to read as follows:

3.405–6 Cost-Plus-A-Fixed-Fee Contract.

* * * * *

(c) *Limitations.*

(1) This type of contract normally should not be used in the development of space systems and equipment, once preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined its desired performance objectives and schedule of completion (see 3.405–4).

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed ten percent (10%) of the estimated cost of the contract, exclusive of the fee, as determined by the Administrator at the time of entering into such contract except that a fee not in excess of fifteen percent (15%) of such estimated cost is authorized in any such contract for experimental, development, or research work. 10 U.S.C. 2306(d) also provides that a fee inclusive of the contractor's cost and not in excess of six percent (6%) of the estimated cost, exclusive of fees, as determined by the Administrator at the time of entering into the contract, of the project to which such fee is applicable, is authorized in contracts for architectural or engineering services relating to any public works or utitlity projects. As to fee limitations on subcontracts, see 3.807–9(e).

(3) Pursuant to 10 U.S.C. 2311, authority to make the determinations of the estimated costs of a contract or project on which the allowable fee percentage is measured has been delegated to the contracting officer (see 3.303(a)(vi)).

(4) Other limitations on fees under architect-engineering contracts are set forth in 4.204–1(b).

(d)* * *

5. In Part 3, 3.450 is revised to read as follows:

3.450 Incentive Contracts

(a) *Policy.* It is NASA policy to make judicious and effective use of incentive contracts of both the cost and the performance type. Particular care and judgment are required in choosing procurements appropriate for incentive contracts, and in framing and negotiating the specific incentive terms to:

(i) effectively seek out procurements that lend themselves to the use of contract incentive provisions;

(ii) avoid the use of incentive provisions in situations where they are unsuited and where their use could have adverse results; and

(iii) ensure, in connection with contracts in which incentive provisions are to be included, that the skills necessary to draft and negotiate the appropriate incentive provisions are available to NASA procurement offices.

(b) *Contract Clauses.*

(1) Fixed-price incentive contracts with cost incentives will include either the "Incentive Price Revision (Firm Target)" clause in paragraph 7.108–1, or the "Incentive Price Revision (Successive Targets)" clause in paragraph 7.108–2, as appropriate.

(2) Cost-plus-incentive-fee contracts with cost incentives will include the "Allowable Cost, Incentive Fee, and Payment" clause in paragraph 7.203–4(b). In addition, the "Alteration in Contract" clause in paragraph 7.105–1 will be included, followed by the clause set forth below which may be modified by the contracting officer if necessary to meet the requirements of a particular procurement:

MEANING OF TERMS (DECEMBER 1964)

For the purpose of this cost-plus-incentive-fee contract, certain terms in this contract have the following meanings:

(a) "Estimated Cost" means "target cost" except in the following instances:

(1) Where the term first appears in the second sentence of the clause of this contract entitled "Changes."

(2) Wherever it appears in the clause of this contract entitled "Limitation of Cost."

(3) Wherever it appears in the clause of this contract entitled "Estimated Cost and Fixed-Fee."

(4) If this contract is incrementally funded, wherever the term appears in the clause "Limitation of Government's Obligation."

(5) If the "Government Property" clause is used, wherever the term appears.

(b) "Fixed-Fee" means "Fee."

(c) "Allowable Cost, Fixed-Fee, and Payment" means "Allowable Cost, Incentive-Fee, and Payment."

(End of clause)

Where a contract is not solely of the cost-plus-incentive-fee type (e.g., one which also provides for a fixed-fee), the first sentence of the clause shall be changed to read as follows:

"For the purpose of the cost-plus-incentive-fee portions of this contract, certain terms in this contract have the following meanings":

(3) Cost-plus-award-fee contracts will include the "Allowable Cost, Fixed-Fee and Payment" clause in paragraph 7.203–4(a), modified in accordance with paragraph 7.203–4(c)(6). In addition, the "Alteration in Contract" clause in paragraph 7.105–1 will be included, followed by the sentence set forth below which may be modified by the contracting officer if necessary to meet the requirements of a particular procurement:

"For the purpose of this cost-plus-award-fee contract, the term 'Fixed-Fee' in this contract means 'Fee'."

Where a contract is not solely of the cost-plus-award-fee type (e.g., one which also provides for a fixed-fee), the sentence shall be changed to read as follows:

"For the purpose of the cost-plus-award-fee portions of this contract, the term 'Fixed-Fee' in this contract means 'Fee'."

(c) *Limitations.* The negotiation of a cost-type-incentive contract (CPIF—Cost-Plus-Incentive-Fee, CPAF—Cost-Plus-Award-Fee) will establish the target cost, target fee (basic fee for CPAF contracts), minimum and maximum fee, and the method for computing increases or decreases from target or basic fee, and may provide for a negative fee, if appropriate to the reward and penalty concepts of the incentive arrangements in the contract. The maximum fee shall not exceed the limitations stated in 3.405–6(c)(2).

6. In Part 3, 3.807–9(e) is revised to read as follows:

3.807–9 Subcontract Pricing Considerations.

* * * * *

(e) *Subcontract Fee Considerations.* In considering cost-plus-a-fixed-fee subcontracts, while negotiating prime contracts where cost analysis is performed, the contracting officer will make every effort to ensure, but in consenting to cost-plus-a-fixed-fee subcontracts, the contracting officer shall ensure, that fees under such subcontracts, never exceed the Statutory limitations set forth in 10 U.S.C. 2306(d).

7. In Part 3, paragraphs 3.808 through 3.808–5 are revised, 3.808–6 and 3.808–7 are added to read as follows:

3.808 Structured Approach for Determining Profit/Fee Objectives

3.808–1 Policy.

(a) *General.* Profit generally is the basic motive of business enterprise and it is the policy of NASA to utilize profit to stimulate efficient contract performance. The Government and its contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Negotiations aimed merely at reducing profits, with no realization of the function of profit are not in the Government's best interest. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular procurement, giving due weight to contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. However, nothing in this Regulation requires or suggests the use of a profit objective which is higher than that proposed by the contractor.

(b) *Contracts Priced on the Basis of Cost Analysis.* When cost analysis is performed pursuant to 3.807–2, profit consideration shall be in accordance with the objectives set forth below.

The Government should establish a profit objective for contract negotiations which will:

(i) motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;

(ii) allow the contractor an opportunity to earn profits commensurate with the extent of the cost risk it is willing to assume; and

(iii) encourage contractors to provide their own facilities and financing and establish their competence through development work undertaken at their own risk and reward those who do so.

The structured approach set forth in 3.808–2 below for establishing profit objectives is designed to provide guidance in applying these principles. This approach, properly applied, will tailor profits to the circumstances of each contract and provide a spread of profits which is commensurate with varying circumstances. The structured approach shall be used in all contracts where cost analysis is performed except as set forth in 3.808–2(b) below.

(c) *Contracts Priced Without Cost Analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists and in other situations where cost analysis is not required (see 3.807), fixed-price type contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts should not be made to reduce such profits.

(d) *The Cost of Money for Facilities Capital.* When profit analysis is required, the cost of money for facilities capital (see 3.1300) shall not be included when measuring the contractor's effort. Contract effort for this purpose shall be restricted to normal, booked costs. Further, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with 15.205–50. This policy shall apply to any tier subcontract or modifications thereto.

3.808–2 Structured Approach.

(a) *General.*

(1) The structured approach provides contracting officers with a technique that will insure consideration of the relative value of the appropriate profit factors described in 3.808–4 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him prior to negotiations. Such information is furnished in proposals, audit data, performance reports, pre-award surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value importance, and complexity of the proposed procurement.

(2) The contractor's proposal will include cost information for evaluation and a total proposed profit. Contractors shall not be required to submit the details of their profit objectives but they shall not be prohibited from doing so if they desire. Elaborate and voluminous presentations are neither required nor desired.

(3) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the target cost objective and any proposed sharing arrangement. Since the profit is merely one of several interrelated variables, the Government negotiator shall not complete the profit negotiation without prior agreement on the other variables. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(b) *Exceptions.*

(1) Under the following listed circumstances, other methods for establishing profit objectives may be used. Generally, it is expected that such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective); however, factors within the structured approach considered inapplicable to the procurement will be excluded from the profit objective.

(i) all procurements where cost analysis is not required;

(ii) architect-engineer contracts;

(iii) management contracts for operation and/or maintenance of Government facilities;

(iv) construction contracts;

(v) contracts primarily requiring delivery of material supplied by subcontractors;

(vi) termination settlements; and

(vii) cost-plus-award-fee contracts (however, contracting officers may find it advantageous to perform a structured profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing and authorized by the Procurement Officer in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by Statute or this Regulation, the maximum fee objective shall be the percentage allowed pursuant to such limitations (see 3.405–6(c)(2)).

3.808–3 Profit Objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the

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procurement being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification, where cost analysis is undertaken, the negotiator shall develop a profit objective. The structured approach, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the structured approach will generally result in a profit objective similar to the profit objective in the basic contract, and therefore this basic rate may be applied to the contract change or modification. However, in cases where the change or modification calls for substantially different work, or if the dollar amount of the change or contract modification is significant, a detailed analysis should be made.

(b) Development of a profit objective should not begin until after (i) a thorough review of proposed contract work; (ii) review of all available knowledge regarding the contractor, pursuant to Part 1, Subpart 9, including capability reports, audit data, pre-award survey reports and financial statements, as appropriate; and (iii) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

3.808–4 Profit Factors.

(a) The following factors shall be considered in all cases in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight ranges (percent)
1. Contractor effort:	
Material acquisition	1–4
Direct labor	4–12
Overhead	3–8
Other costs	1–3
General management	4–8
2. Other factors:	
Cost risk	0–7
Investment	−2–+2
Performance	−1–+1
Socioeconomic programs	−.5–+.5
Special situations	

(b) Under the structured approach the contracting officer shall first measure the "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Not to be included for the computation of profit as part of the cost base is the amount calculated for the cost of money for facilities capital. A complete discussion of how this cost is determined and how it will be applied and administered is set forth in 3.1300.

(c) The suggested categories under the Contractor Effort are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for the Contractor Effort, the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, socio-economic programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the Other Factors category. Structured Approach Profit/Fee Objective (NASA Form 634, or Equivalent) should be used, as appropriate, to facilitate the calculation of this profit objective (see 16.203).

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in 3.808–5 and 3.808–6.

(f) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in (2) below, shall be used to establish fee objectives for non-profit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objective for such a contract as calculated under the structured approach.

(1) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where fees are involved, an adjustment of up to 3% will be subtracted from the total profit/fee objective. In developing this adjustment, it will be necessary to consider the following factors:

(i) tax position benefits:

(ii) granting of financing through letters of credit:

(iii) facility requirements of the nonprofit organization; and

(iv) other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

3.808–5 Contractor Effort.

(a) *General.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing equipment or only refinements on existing equipment. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material Acquisition (Subcontracted Items, Purchased Parts, and Other Material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contractor's purchasing program might make a substantial contribution to the performance of the contract. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with 15.205–22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(c) *Direct Labor (Engineering, Service, Manufacturing, and Other Labor).* Analysis of the various labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Such circumstances as whether the calibre or class of engineer involved is that of an "idea-man," or whether the contractor is required by the contract to assign to the work, because of its nature, unusually skilled talent should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspecting, etc.) which do not fall within the definition for engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(d) *Overhead and General Management (G&A).*

(1) Analysis of these overhead items of cost includes the evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(2) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, and follow the appropriate evaluation technique.

(3) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which is on the cutting edge of the state of the art will cause more problems, require more managerial time, and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (3) above are involved.

(e) *Other Costs.* Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include (i) the significance of the cost to contract performance, (ii) nature of the cost, and (iii) how much they contribute to contract performance.

3.808–6 Other Factors.

(a) *Contract Cost Risk.* The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the risk has been shifted to the Government through cost-reimbursement or price redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. In developing the pre-negotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at pre-negotiation profit objectives.

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(1) Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk on the part of the procurement office, such as the risk of not acquiring an effective space vehicle, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk by contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the regard for risk by contract type would usually fall into the following percentages ranges:

Cost Type Contracts	0–3%.
Fixed Price Type Contracts	3–7%.

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar equipment. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(A) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads, etc. In such cases, up to ½% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the above cost range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The range for fixed-price contracts is wide enough to accommodate the many types of fixed-price arrangements. These include fixed-price-incentive, firm fixed-price with economic price adjustment, fixed price with prospective or retroactive price redetermination, and firm fixed-price contracts. Weighing should be indicative of the price risk assumed and the end item required, with only firm fixed-price contracts with requirements for prototypes or hardware reaching the top end of the range.

(B) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk.

(C) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, unpriced change orders, and unpriced orders, under BOA's; consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just be the portion of costs incurred, or percentage of work completed, prior to definitization.

(D) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights, unless otherwise exempt under 3.808–2(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* NASA encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either a positive or negative adjustment, as appropriate, in profit being made. However, where a highly facilitized contractor is to perform a contract which does not benefit from this facilitization or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turn-over-rate on the contract which is less than the contractor's or the industry's normal capital turn-over-rate.

(c) *Contractor's Performance.* The contractor's past and present performance should be evaluated in such areas as quality of product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit or fee. Conversely, a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit or fee.

(d) *Federal Socio-Economic Programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of contractor successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus programs, and energy conservation efforts. The contractor's policies and procedures which energetically support Government socio-economic programs and achieves successful results should be given positive consideration. Conversely, failure or unwillingness on the part of the contractor to support Government socio-economic programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) Special Situations.

(1) *Inventive and Developmental Contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective. The importance of the development in furthering space and aeronautical purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual Pricing Agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract cost or agrees to accept a lower profit or fee for changes or modifications within a prescribed dollar value. In such circumstances, the contractor should receive favorable consideration in developing the profit objective.

(3) This factor need not be limited to situations which only increase profit/fee levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

3.808–7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with 15.205–50. If the contractor does not propose this cost, a provision must be inserted in the contract that facilities capital cost is not an allowable cost.

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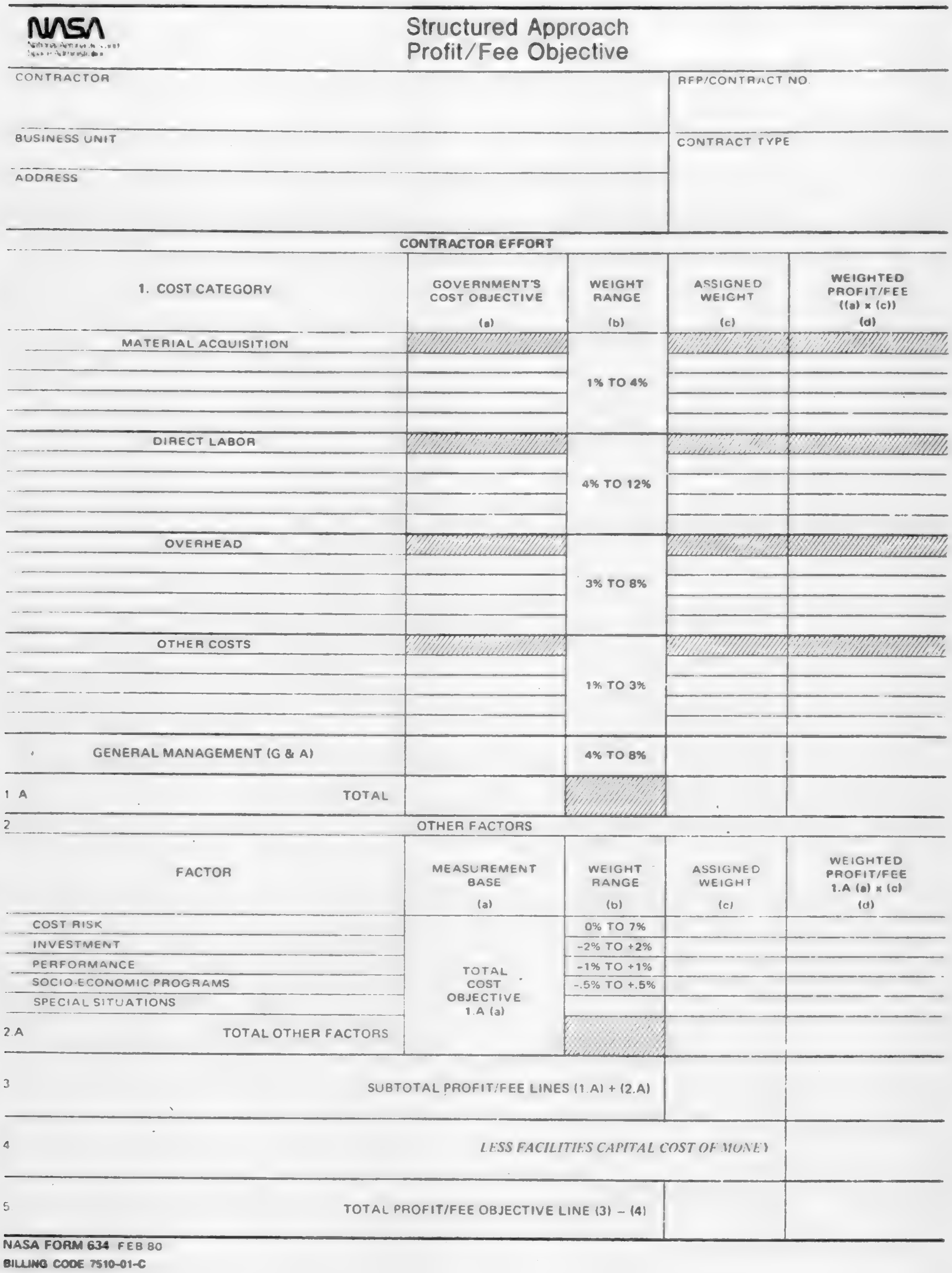

NASA
National Aeronautics and Space Administration

Structured Approach Profit/Fee Objective

CONTRACTOR	RFP/CONTRACT NO.
BUSINESS UNIT	CONTRACT TYPE
ADDRESS	

CONTRACTOR EFFORT

1. COST CATEGORY	GOVERNMENT'S COST OBJECTIVE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE ((a) x (c)) (d)
MATERIAL ACQUISITION	▨		▨	▨
		1% TO 4%		
DIRECT LABOR	▨		▨	▨
		4% TO 12%		
OVERHEAD	▨		▨	▨
		3% TO 8%		
OTHER COSTS	▨		▨	▨
		1% TO 3%		
GENERAL MANAGEMENT (G & A)		4% TO 8%		
1 A TOTAL		▨		

2 OTHER FACTORS

FACTOR	MEASUREMENT BASE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE 1.A (a) x (c) (d)
COST RISK	TOTAL COST OBJECTIVE 1.A (a)	0% TO 7%		
INVESTMENT		-2% TO +2%		
PERFORMANCE		-1% TO +1%		
SOCIO-ECONOMIC PROGRAMS		-.5% TO +.5%		
SPECIAL SITUATIONS				
2 A TOTAL OTHER FACTORS		▨		

3 SUBTOTAL PROFIT/FEE LINES (1.A) + (2.A)		
4 *LESS FACILITIES CAPITAL COST OF MONEY*		
5 TOTAL PROFIT/FEE OBJECTIVE LINE (3) – (4)		

NASA FORM 634 FEB 80

BILLING CODE 7510-01-C

PART 16—PROCUREMENT FORMS

8. In Part 16, Table of Contents, the page numbers for paragraphs 16.202-2 through 16.204 are amended to read as follows:

* * * * *

16.202-2 Contract Pricing Proposal Supporting Schedules.......................... 16-2:3
16.202-3 Contract Facilities Capital and Cost of Money.............................. 16-2:3
16.203 Structured Approach-Profit/Fee Objective.. 16-2:3
16.204 Justification for Authority to Negotiate (NASA Form 543)............. 16-2:3

* * * * *

9. In Part 16, 16.001, in the list of forms in paragraph (a), the entry for form 634 is amended to read as follows:

* * * * *

634 (2/80) Structured Approach-Profit/Fee Objective

* * * * *

10. In Part 16, 16.203 is added to read as follows:

16.203 Structured approach-profit/fee objective.

NASA Form 634 is authorized for use in computing the profit/fee objective. See 3.808-4.

[FR Doc. 80-27185 Filed 9-4-80; 8:45 am]

BILLING CODE 7510-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1483]

New York, Susquehanna & Western Railway Corp. Authorized To Operate Over Tracks of New York, Susquehanna & Western Railroad Co., Debtor (Walter G. Scott, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1483.

SUMMARY: This order authorizes The New York, Susquehanna and Western Railway Corporation (NYS&W), a newly organized rail carrier, to operate over tracks of New York, Susquehanna and Western Railroad Company (Susquehanna) consistent with an order by the United States District Court of the District of New Jersey, requiring cessation of operations and liquidation of the Susquehanna. This order provides for continued essential rail service by NYS&W to shippers which would otherwise be deprived by the Courts' order.

EFFECTIVE DATE: 12:01 a.m., September 2, 1980, and continuing in effect until 11:59, November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: August 29, 1980.

The New York, Susquehanna and Western Railway Corporation (NYS&W), pursuant to Order No. 103 of the United States District Court for the District of New Jersey ("Reorganization Court"), entered June 30, 1980. In the matter of New York, Susquehanna and Western Railroad Company, Debtor, (Susquehanna), has filed with the Commission requesting emergency temporary authority to operate those lines of Susquehanna which have been ordered liquidated and operations terminated, and which the Commission has recommended be abandoned. The NYS&W has filed appropriate applications with the Commission for acquisition and operation of the railroad lines of Susquehanna.

In view of the urgent need for continued service over lines of the Susquehanna pending the Commission's decision on NYS&W's permanent authority applications, this order permits NYS&W to conduct temporary operations and to continue to provide service to shippers which would othewise be deprived of essential rail transportation.

It is the opinion of the Commission that an emergency exists requiring that the NYS&W be authorized to conduct operations using Susquehanna tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1483 Service Order No. 1483.

(a) *The New York, Susquehanna and Western Railway Corporation authorized to operate over tracks of New York, Susquehanna and Western Railroad Company, debtor, (Walter G. Scott, trustee).* The New York, Susquehanna and Western Railway Corporation (NYS&W) is authorized to operate over tracks of the New York, Susquehanna and Western Railroad Company (Susquehanna), named in Order No. 103 of the United States District Court for the District of New Jersey (Reorganization Court), as lines to be liquidated and operations to be terminated.

(b) The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of NYS&W seeking authority to acquire and operate lines of the Susquehanna.

(d) In providing service under this order the NYS&W shall, to the maximum extent practicable, use the employees who normally would have performed the work in connection with the traffic moving over the lines subject to this Order.

(e) *Effective date.* This order shall become effective at 12:01 a.m., September 2, 1980.

(f) *Expiration date.* The provisions of this order shall remain in effect until 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent for the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27193 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1053 and 1307

[Ex Parte No. MC-9 (Sub-1)]

Filing of Contracts by Contract Carriers by Motor Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has revised its general rules and regulations and its tariff/schedule regulations to eliminate the requirement for motor contract carriers to file with the Interstate Commerce Commission a copy of each bilateral contract entered into between the carrier and shippers.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, 202-275-7348.

SUPPLEMENTARY INFORMATION: The Commission has decided to reduce a regulatory requirement by eliminating the need for motor contract carriers to

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file copies of bilateral contracts with the Commission. The filing requirement resulted from Commission decisions in 1937, specifically to protect the interests of motor common carriers.[1] In April 1937, the Commission required that contracts be in writing, contain certain information, and be retained by the carriers.[2] However, it was not until June 1937 that the Commission required that true copies of the contracts be filed with us.[3]

In October 1938, we excluded contract carriers of very valuable articles, such as bullion, currency, and jewels, from executing and filing contracts with us. In 1942, we required that contract carriers of property by motor vehicle, which file with the Commission schedules of minimum rates and charges for services not previously described in schedules on file, shall, at the same time, file true copies of the actual contracts, or an amendment to a contract already on file to match the proposed changes.[4] At the outset, the Commission observed that written contracts are necessary to protect motor common carriers against unfair and destructive competition which Congress sought (in the Interstate Commerce Act) to abate.[5]

While the policy may have been entirely appropriate for a fledgling industry, the policy of protecting the common carrier then has been replaced by a policy which fosters, encourages, and enhances competition between carriers and between modes. Our own actions in regulatory reform over the past few years underscore the point. We have issued a general policy statement concluding that more weight should be given to the benefits of healthy competition and less emphasis on protection. We have adopted summary grant procedures for unopposed motor carrier operating authority cases. We have have adopted protest standards which effectively limit the right to protest against motor carrier operating authority applications to carriers effectively in competition with the applicant's proposed operation. We have allowed applicants for motor carrier operating rights the option of introducing rate proposals as part of the evidence in the case. We have eliminated the restriction of the number of shippers with whom motor contract carriers may contract. We have liberalized entry procedures and are granting well over 90 percent of all motor carrier operating authority applications. The Motor Carrier Act of 1980, which became law on July 1, 1980, codified most of the liberalized entry actions mentioned above and established zones of rate freedom for motor common carriers of property and freight forwarders. Accordingly, we no longer see any basis for continuing the contract filing requirement as a "protection" for motor common carriers.

Of course, the contract carriers are still required to enter into written bilateral contracts and to file with us a schedule of actual rates and charges. The standard remedies against alleged unlawfulness are still available to any interested person by way of protest or complaint. We believe that the tariff publishing requirements imposed upon contract carriers by the Transportation Act of 1940 (49 U.S.C. 318, recodified at 49 U.S.C. 10762(A)(1)(B)) afford an adequate means to achieve the ends which the Commission sought to achieve by establishing its regulations controlling the content and filing of the contracts. The decision in *Contracts of Contract Carriers, Supra* makes it clear that the purpose of the rules was to protect against "cut-throat competition." Tariff publication gives the Commission the means to achieve that purpose to the extent necessary.

Initially, the contracts were open to the public, since there was no requirement that contract carriers publish schedules of rates and charges. The Transportation Act of 1940, however, required publication of schedules of minimum rates and charges. The Commission, therefore, deleted the provision permitting public inspection of contracts, but filing was still required to ensure that the provisions of the contract were consistent with those of the corresponding schedule.[6]

We believe it is no longer necessary to compare the contracts with the schedules. We are aware that most contracts do not even contain rate information, but refer to the published schedule of rates and charges instead. The carrier must charge the rate published in the tariff.[7] If a party to a contract wishes to cite a discrepancy between an agreed upon rate and the published rate as a basis for a complaint under 49 U.S.C. 11701 against the published rate, it would of course have access to the contract and could submit it in that proceeding, pursuant to 49 U.S.C. 10764.

Approximately 4,300 motor contract carriers hold authority from the Commission. In fiscal year 1979, 44,470 bilateral contracts were filed with the Commission by these carriers. Our costs related to receiving and filing them was approximately $23,300. We have no estimate of the filing cost to the carriers.

Contract carriers are admonished to note that they are still required to execute a written bilateral contract with each shipper and that the Commission will retain access to the contracts where necessary. The regulations are not changed in any respect except that we are deleting the requirements for filing copies with the Commission, as shown in the appendix.

Notice to the public and an opportunity to comment are not required in this instance by section 4(a) of the Administrative Procedure Act, 5 U.S.C. 553(b). This rule change is procedural, not substantive. It merely deletes a requirement that certain persons report information to the Commission which the Commission then holds in confidence. The rule change has no substantial impact on any person. The only effect is that contract carriers are relieved of an unnecessary reporting requirement.

This decision does not significantly affect the quality of the human environment nor have any impact on energy consumption.

This action is taken under authority contained in 5 U.S.C. 553, 559 and 49 U.S.C. 10321 and 10764.

Decided: August 11, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

PART 1053—CONTRACTS FOR TRANSPORTATION OF PROPERTY

In Part 1053 Contracts for Transportation of Property, §§ 1053.1, 1053.2 and 1053.3 are revised to read as follows:

Sec.
1053.1 Contracts or agreements to be in writing.
1053.2 Contract carriers of bullion, etc., relieved of requirements.
1053.3 Contract carrier authority-definition of shipper.

§ 1053.1 Contracts or agreements to be in writing.

No contract carrier by motor vehicle, as defined in 49 U.S.C. 10102(12) shall transport property for hire in interstate or foreign commerce except under special and individual contracts or agreements which shall be in writing, shall provide for transportation for a particular shipper or shippers, shall be bilateral and impose specific obligations upon both carrier and shipper or shippers, shall cover a series of shipments during a stated period of time in contrast to contracts of carriage governing individual shipments, and copies of which contracts or agreements shall be preserved by the carriers parties thereto so long as such contracts or agreements are in force and for at least one year thereafter.

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[1] Contracts of Contract Carriers, 1 M.C.C. 628 and Filing of Contracts by Contract Carriers, 2 M.C.C. 55.

[2] Contracts of Contract Carriers, 1 M.C.C. 628.

[3] Filing of Contracts by Contract Carriers, 2 M.C.C. 55.

[4] Filing of Contracts by Contract Carriers, 41 M.C.C. 527.

[5] Contracts of Contract Carriers, Supra at 629.

[6] Filing of Contracts by Contract Carriers, 41 M.C.C. 527.

[7] *Nyad Motor Freight, Inc.* v. *W.T. Grant Co.*, 486 F. 2d 1112 (2nd Cir. 1978); *Bowser and Campbell* v. *Knox Glass, Inc.*, 390 F. 2d 193 (3rd Cir. 1968).

§ 1053.2 Contract carriers of bullion, etc., relieved of requirements.

Contract carriers of bullion, currency, jewels, and other precious and other very valuable articles are relieved of the requirements of executing and preserving contracts in the form and manner prescribed in § 1053.1.

§ 1053.3 Contract carrier authority-definition of shipper.

Contracts of contract carriers, as required by Ex Parte No. MC-12 (1 M.C.C. 628), must be between the contract carrier and a particular shipper or shippers. The term "shipper" means the person who controls the transportation and refers to the actual shipper rather than an intermediary. Such shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation and such person will be presumed to be the shipper. However, this presumption is rebuttable and can be rebutted by evidence demonstrating that a person not paying the transportation charges controls the selection of the carrier and the routing of the shipment. In such an instance, the person selecting the carrier and controlling the routing of the shipment would be presumed to be the shipper. The contract carrier may not transport property for shippers other than the shipper with whom he has a contract.

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

In Part 1307 Freight Rate Tariffs, Schedules and Classifications of Motor Carriers, § 1307.4, paragraphs (c), (d), and (f) are revised to read as follows:

§ 1307.4 Publication, filing and posting of schedules.

* * * * *

(c) *Three copies to be filed.*

Three copies of every schedule must be filed with the Commission at its office in Washington, DC. All three copies shall be included in one package marked "Tariffs" and addressed to Interstate Commerce Commission, Washington, D.C. 20423, and shall be accompanied by a letter of transmittal listing the schedules. All postage or other charges must be prepaid.

(d) *Letters of Transmittal.*

(1) Each letter of transmittal shall be on paper 8 x 10½ inches in size and in form substantially as follows:

(Correct name of carrier)

(Permit or Docket No.)

(Complete address)

(Date)

Transmittal No. —— to Interstate Commerce Commission. Washington, D.C. 20423:

The accompanying contract carrier schedule is sent to you for filing in compliance with the requirements of the Interstate Commerce Act, issued by ————————, and bearing MF—ICC No.: or Supplement No. —— to MF—ICC No. ———— effective ————.

* * * * *

(f) *Schedules must conform with contracts.*

A schedule shall not be published and filed to apply on any commodity or from or to any point or for any service not covered by contract.

[FR Doc. 80-27215 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Migratory Bird Hunting Regulations for Flint Hills and Kirwin National Wildlife Refuges, Kans., and Big Game Hunting Regulations for DeSoto National Wildlife Refuge, Nebr.; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction of special regulations.

SUMMARY: This notice corrects the migratory bird hunting regulations for Flint Hills National Wildlife Refuge and Kirwin National Wildlife Refuge, Kansas. The corrections remove the requirement for use of steel shot which was incorrectly included in regulations published in **Federal Register** 45 FR 54060 (August 14, 1980).

This notice also corrects the big game hunting regulations for DeSoto National Wildlife Refuge. The correction adds one hour to the daily shooting hours which conforms to the State hunting regulations and was incorrectly published in **Federal Register** 45 FR 54060 (August 14, 1980).

DATES: Period covered—September 1, 1980 to January 31, 1981. See State regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116, Telephone: 816/374-6166.

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. No. 1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712/642-4121.

Michael J. Long, Refuge Manager, Flint Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: 316/392-5553.

Keith Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas 67644, Telephone: 913/543-6673.

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these corrected special regulations.

These revised regulations amend the special regulations for migratory bird hunting published in **Federal Register** 45 FR 54060 (August 14, 1980) for Flint Hills and Kirwin National Wildlife Refuges, Kansas. Delete Item No. 4 for Flint Hills National Wildlife Refuge and Item No. 2 for Kirwin National Wildlife Refuge. These restrictions are deleted because non-toxic shot will not be required on these refuges.

These revised regulations also amend the special regulations for big game hunting published in **Federal Register** 45 FR 54060 (August 14, 1980) for DeSoto National Wildlife Refuge, Nebraska. Item No. 4 of the Muzzleloader regulations should read:

"Entry to the open area will be permitted one hour before shooting hours. Shooting hours will be one-half hour before sunrise to one-half hour after sunset. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset."

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Dated: August 28, 1980

Tom A. Saunders,
Area Manager.

[FR Doc. 80-27218 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Iroquois National Wildlife Refuge, N.Y., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objective for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Edwin Chandler, Iroquois National Wildlife Refuge RFD I, Basom, New York, Telephone No. 716-948-5445.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Iroquois National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Iroquois National Wildlife Refuge, New York, is permitted in designated areas. Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

A. Waterfowl:

(1) Waterfowl hunting is by permit only.

(2) Hunting is permitted on Monday, Tuesday, Thursday and Saturday.

(3) Prior registration is required for opening day and the first two Saturdays. On other hunt days permits are issued on the basis of a daily drawing held prior to legal opening time. On prior registration days, hunters will draw for hunting sites on the morning of the hunt. On other hunt days, hunters will have a choice of available hunting sites as their names are drawn.

(4) All hunting ends each day at 12 noon local time, and all hunters must check out and present harvested game at the permit station on Lewiston Road, not later than 1:00 P.M. local time.

(5) No loaded guns are permitted beyond a 50-foot radius of the hunting stand marker and no more than two hunters are permitted to each stand.

(6) Hunters will be limited to 15 steel shotshells not larger than No. 1 including participants in the Young Waterfowlers Program. Possession of lead shotshells is not permitted.

(7) Disorderly conduct, intoxication, "sky busting" or otherwise unsportsmenlike conduct will not be tolerated and the permittee will be ejected from the area.

(8) A hunter who leaves his stand must have permission from official personnel to return.

(9) All hunters must have completed the New York State Waterfowl Hunter Training Course and must present proof of completion before permits will be issued.

(10) No person shall use or hunt from a boat.

(11) Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment and ammunition.

(12) A minimum of six (6) decoys will be used at each stand.

The decoys will be furnished by the hunter(s).

B. Woodcock and Crow:

Hunting of woodcock and crow on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons, except on areas designated by signs as closed. Hunting areas are shown on maps available at refuge headquarters. Hunting shall be in accordance will all applicable State and Federal regulations covering the hunting of woodcock and crow.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Public hunting of upland game birds and small game mammals, including opossums, red squirrels, and wookchucks is permitted during the respective State seasons except on areas designated by signs as closed. Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) A seasonal permit is required for the nighttime hunting of raccoon. Permits may be obtained by applying in person at the refuge office.

§ 32.32 Special regulations: big game; for individual wildlife refuge areas.

Public hunting of deer on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons except on areas designated by signs as closed. Hunting shall be in accordance will all applicable State regulations covering the hunting of deer.

All hunting area maps are available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

David H. Swendsen,
Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-27222 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Missisquoi National Wildlife Refuge, Vt., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 27, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas Mountain, Missisquoi National Wildlife Refuge, Swanton, Vermont 05488, Telephone No. 802-868-4781.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Missisquoi National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The public hunting of migratory game birds on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable Federal and State regulations covering the hunting of migratory game birds. On those areas open to the public hunting of migratory game birds for which a permit is not required, stake blinds may be constructed in accordance with State regulations. Blinds must be removed by May 15, 1981.

That portion of the refuge, known as the Webb Marsh, which includes Long Marsh Bay and channel, Brush Creek, and Metcalfe Island, will be reserved for young waterfowl hunters only. Hunting by youths who have completed a Federal waterfowl hunter training program is permitted on Saturdays and Sundays from the beginning of the State waterfowl hunting season through November 9, 1980. Shooting is permitted from designated blinds from legal shooting time until 11:00 a.m. Youth waterfowl hunters will be limited to the use and possession of 25 shot shells each.

That portion of the refuge known as Patrick Marsh-Charcoal Creek (southwest of Route 78 only) will be a controlled hunting area by special use permit only. Hunting areas will be zoned in Patrick Marsh and Charcoal Creek to Winter's north boundary. The remainder of the creek in public ownership will be closed. Hunting will be on Tuesdays, Thursdays and Saturdays only. Shooting will be from legal shooting time until 11:00 a.m. Two parties will be permitted to hunt Patrick Marsh and four parties to hunt Charcoal Creek. A party consists of not more than two hunters and both must hunt together in one location. A boat is required. Parties will regulate distance between each other with a minimum distance of two hundred (200) yards. A minimum of six decoys per party is required. Hunting must be within fifty (50) feet of the six set decoys. Jump shooting and permanent blinds are not permitted. No person shall use or have in his possession more than 15 shells.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of upland game on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game, subject to the following special conditions: Rifles may not be used on that portion of the refuge lying east of the Missisquoi River.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

The public hunting of deer on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following special condition:

During the regular season, only shotguns may be used on that part of the refuge lying east of the Missisquoi River.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that the Missisquoi Refuge hunting seasons be held concurrent with the Vermont State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 27, 1980.

[FR Doc. 80-27223 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Montezuma National Wildlife Refuge, N.Y., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980 through February 15, 1981.

FOR FURTHER INFORMATION CONTACT: Gene Hocutt, Montezuma National Wildlife Refuge, RD I, Box 1411, Seneca Falls, New York 13148, Telephone No. 315-568-5987.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Montezuma National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory waterfowl on the Montezuma National Wildlife Refuge, New York, is permitted on the areas designated by signs as open to waterfowl hunting. The waterfowl hunting area known as the Tschache Pool comprises 1,340 acres.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.
2. Steel shot shells will be used for all waterfowl hunting. Hunters will be limited to 15 steel shot shells each, with shot size no larger than #1 fine shot. No person shall have lead shot in their possession during the hunt.
3. Applications for hunting reservations must be received no later than two weeks before the opening date of the waterfowl season. Reservations for permits will be selected by random drawing. Hunting will be allowed on the designated days from the opening of the State season to the end of the first part of a split season or until the third Saturday in November—whichever comes first. Successful applicants must appear in person at the refuge waterfowl check station prior to one hour before legal shooting time on the date reserved. Unreserved and forfeited permits will be awarded by a drawing on the morning of the hunt to hunters without reservations.
4. The first Saturday of the season will be reserved for the Young Waterfowler's Training Program hunt. If numbers warrant, a Sunday will also be set aside.
5. A person with reservations may bring no more than one companion.
6. All hunting ends each hunting day at 12 noon local time, and all hunters must check out at the waterfowl check station no later than 1 p.m. local time.
7. Proof of successful completion of the New York State Waterfowl Identification Course is required to hunt on the refuge.
8. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of gray squirrels, cottontail rabbits, raccoons and foxes is permitted from December 13, 1980 through February 15, 1981 on the Montezuma National Wildlife Refuge, New York, except on areas designated by signs as closed.

A permit is required for night hunting of raccoon. The number of permits issued for night hunting of raccoon shall be limited to five (5).

Hunting shall be in accordance with all State regulations governing the hunting of the above mammals.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Montezuma National Wildlife Refuge, New York, is permitted from November 21, 1980 through December 5, 1980, except on the areas designated by signs as closed.

Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following special conditions:

1. Archery deer hunting is permitted Monday through Friday during the firearm season selected by the State.
2. Only longbows and compound bows may be used. No gun hunting will be allowed.
3. A deer of either sex may be taken.
4. Successful hunters must register their kill at refuge headquarters.

All hunting area maps are available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that Montezuma Refuge migratory game bird season be held concurrent with the New York State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 27, 1980.

[FR Doc. 80-27224 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations: Gulf of Alaska; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to groundfish of the Gulf of Alaska published at 44 FR 64410, November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, Fishery Management Specialist, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. Telephone: (202) 634-7432.

SUPPLEMENTARY INFORMATION: On November 7, 1979 (44 FR 64410), the National Marine Fisheries Service published regulations to implement Amendment #7 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery. Regulation 50 CFR 611.92 (b)(2)(i)(E) was identified incorrectly as § 611.92 (b)(2)(i)(D). This notice corrects that error.

The Assistant Administrator for Fisheries, NOAA, determines that this correction is not significant within the meaning of E.O. 12044, and does not require an Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended.

Signed in Washinton, D.C., this 2nd day of September 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

50 CFR 611.92 (b)(2)(i)(D), which begins "A notice of closure * * *" is amended to be § 611.92(b)(2)(i)(E).

[FR Doc. 80-27450 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 174
Friday, September 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-79-51]

Application for Assignment, Adjustment and Other Agency Action; Notice To Aggrieved Persons; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of correction.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a notice of correction in relation to the August 18, 1980 notice that it issued terminating its rulemaking proceeding on a proposed rule to revise the procedures set forth in 10 CFR Part 205 governing notice to aggrieved persons (45 FR 56070, August 22, 1980). Although the original rulemaking indicated that the proposed amendment would affect 10 CFR Part 205 (44 FR 67338, November 23, 1979), the heading of the August 18 termination notice incorrectly indicated that the rulemaking proceeding was in relation to 10 CFR Part 211. ERA is issuing this notice to correct that error and to confirm that 10 CFR Part 205 is the correct citation.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearing Management), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3971;

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4055;

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3256;

William Funk or Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington D.C. 20585 (202) 252-6736 or 252-6754.

Issued at Washington, D.C., on August 29, 1980.

F. Scott Bush,

Assistant Administrator, Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27165 Filed 9-4-80; 8:45 am]
BILLING CODE 6450-01-M

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10 CFR Part 212

[Docket No. ERA-R-80-30]

Mandatory Petroleum Price Regulations; Retroactive Amendments to "V" Factor of Refiner Cost Allocation Formulae

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearing to amend, as of April 30, 1974, a definition in the refiner cost allocation formula contained in its refiner pricing regulations to reinstate that definition in the form and wording as published in the **Federal Register** on May 1, 1974, and to reissue all subsequent amendments to the definition. The proposal, if adopted, would conform the regulations to the original and consistent language and intent of the Department of Energy to require that the definition represents virtually the total volume of refinery output including volumes of petroleum coke, petroleum wax, asphalt, road oil and refinery gas that could no longer be subject to price regulation upon expiration of the Economic Stabilization Act. Including all such volumes in this definition assures that products subject to price controls will bear only their volumetric share of increased costs incurred in the refining process.

DATES: Comments due by 4:30 p.m., November 4, 1980. Requests to speak at Washington, D.C., hearing by October 8, 1980, 4:30 p.m. Hearing Date: October 16, 1980, 9:30 a.m.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-R-80-30, Department of Energy, Room 2313, 2000 "M" Street, NW, Washington, D.C. 20461. Requests to speak at Washington, D.C. hearing to Office of Public Hearing Management, Room 2313, 2000 "M" Street, NW Washington, D.C. 20461. (202) 653-3757.

HEARING LOCATION: 2000 "M" Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Dorothy Hamid (Hearing Procedures), Economics Regulatory Administration, Room 2105, 2000 "M" Street, NW., Washington, D.C. 20461 (202) 653-3961;

William L. Webb (Office of Public Information), Economic Regualtory Administration, Room 110-B, 2000 "M" Street NW., Washington, D.C. 20461 (202) 653-4055;

William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A127, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-6736 or 252-6754.

SUPPLEMENTARY INFORMATION:

I. Background
A. The Prior Rulemaking Requiring the Inclusion of Volumes of Products Other than Covered Products in the "V Factor."
B. The Current Situation
II. Proposed Amendment
III. EPAA Objectives
IV. Proposed Retroactivity
V. Written Comment and Public Hearing Procedures
VI. Procedural Requirements

I. Background

A. The Prior Rulemaking Requiring the Inclusion of Volumes of Products Other Than Covered Products in the "V Factor"

The pricing rules originally promulgated pursuant to Section 203 of the Economic Stabilization Act of 1970, 12 U.S.C. 1904 note, regulated any "covered product". That term was originally defined to include any "product described in the 1972 edition, Standard Industrial Classification Manual, Industry Code 1311 (except natural gas), 1321, or 2911." 6 CFR 150.352 (1974). This definition included virtually all refinery output. The price regulations prohibited any refiner from passing through more than 100 percent of any cost increases incurred in purchases of crude oil after May 15, 1973, and, with one major exception, allowed the refiner to increase the

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prices of any of those covered products as the refiner deemed appropriate in order to recapture the cost increases in crude oil. The single exception was the so-called "special products" rule. Under this rule, no "special product" (which then included gasoline, No. 2–D diesel fuel, and No. 2 heating oil) could bear more than its volumetric proportion of increases in crude oil costs. 6 CFR 150.352, 1560.356 (1974). The regulations contained a formula for determining the increased product costs that could be assigned to special products. This formula, known as the "V factor," was expressed as a fraction. The numerator was the total volume of a particular product sold in a specified time period and the denominator was the total volume of all "covered products" sold in the same period. 6 CFR 150.356 (1974).

The Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.*, enacted on November 27, 1973, directed the President "[n]ot later than fifteen days after November 27, 1973" to issue "a regulation providing for the mandatory allocation of * * * each refined petroleum product * * * and at prices specified in (or determined in a manner prescribed by) such regulation." The regulation was to the effective not later than 15 days after its promulgation. 15 U.S.C. 752(a). The final regulation, issued on January 14, 1974, after the publication of two proposals (38 FR 34414, December 13, 1973 and 39 FR 744, January 2, 1974) and after all interested persons had been given notice and an opportunity to comment, carried forward, consistent with legislative intent (See H.R. Conf. Rep. No. 93–628, 93d Cong., 1st Sess. 26 (1974)), the pricing provisions described above. 39 FR 1924, 1952–1956 (Part 212).

As had been true under the earlier regulations, the petroleum products affected by the new regulation were determined by reference to the term "covered products". The EPAA, however, authorized regulation only of "crude oil, residual fuel oil, and each refined petroleum product." Section 4(a), EPAA. Because all authority to regulate the broader class of petroleum products was to expire with the Economic Stabilization Act on April 30, 1974, the agency amended the January 14 regulation on April 3, 1974, to limit the definition of "covered products" to "crude oil, residual fuel oil and refined petroleum products" and to exempt from the price-control regulations petroleum coke, petroleum wax, asphalt, road oil and refinery gas, which did not fall within the definition of a refined petroleum product under the EPAA. 39 FR 12353–12354.

Shortly thereafter, the agency realized that the April 3 amendment was incomplete because no amendment to the cost-allocation formula, which was keyed to the term "covered product" but which was contained in a different part of the regulations, had been made. As noted above, the "special products" rule had allowed each special product to bear no more than its volumetric proportion of increased crude oil costs. This proportion was determined by dividing the particular special product's volume by the total volume of all "covered products" over a given time period. Under the old regulations, the phrase "covered products" comprehended virtually all of the end products of a refinery. This was the scheme that the agency intended to continue under the EPAA regulations. However, when the term "covered products" was narrowed on April 3 to conform it to the scope of the EPAA, the agency did not immediately realize that, absent a change to the denominator of the "V factor," this revised definition of "covered products" would automatically reduce the denominator of the "V factor" and would thereby permit all increased crude oil costs to be passed through on the reduced number of covered products. This in turn would allow a refiner to recoup all of its crude oil increases in the prices of covered products and, in essentially a double recovery, to recoup the same (or even more) costs in the prices of exempt products. Hence, special products would have borne more than a volumetric share of crude oil cost increases.

In order to correct this unintended result and to conform the regulations to the agency's original intent—i.e., to carry forward the effect of the existing cost-allocation formula, including the "special products" rule—the January 14 regulation was again amended on April 30, 1974. This amendment simply provided that all crude oil end products, whether "covered" or not under the EPAA, would be counted in the denominator of the "V factor," so that each special product would bear only its proportionate share of crude oil cost increases and all covered products as a group would bear no more than their proportionate share of increased crude oil costs. 39 FR 15139 (1974).

The April 30 amendment was promulgated without prior notice and opportunity for comment. The preamble to the amendment explained that the change was necessary to "insure that all of the increased cost of crude oil processed by a refiner is not allocated to covered products" and that "the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum price rules and regulations which apply to (refiners') permissible prices in the month of May." The agency found that it would be "impracticable" to follow the "normal rulemaking procedure" and that "good cause exist[ed] for making these amendments effective in less than 30 days." 39 FR 15139 (1974).

The April 30, 1974 rulemaking went unchallenged for over two years and, to the best of the Department's knowledge, was relied upon by every refiner in forms required to be filed with the Department and in their calculations of maximum allowable prices for particular products.

On July 26, 1976, Mobil Oil Corporation commenced an action in the United States District Court for the Eastern District of Texas challenging as arbitrary and capricious the agency's denial of its requests for exception relief from the operation of the amendment as it applied to Mobil's large volume production of petroleum coke. (Civil Action No. B–76–272–CA) Incidental to its complaint, Mobil also belatedly challenged the validity of the April 30 amendment itself on the grounds that it was arbitrary and capricious and had been promulgated in violation of the procedural requirements of the Administrative Procedure Act. On January 31, 1979, the Eastern District of Texas sustained all of Mobil's challenges. On November 19, 1979, the Temporary Emergency Court of Appeals (TECA) substantially upheld the District Court's determination with regard to Mobil's challenge to the validity of the amendment, without reaching the question of the agency's denial of exception relief. *Mobil Oil Corp.* v. *Department of Energy*, 610 F.2d 796 (1979). TECA, however, remanded the matter to the District Court for further consideration concerning the scope of its original decision. On May 12, 1980, the United States Supreme Court denied the agency's petition for certiorari to review the TECA decision. On July 22, 1980, the District Court amended its judgment to provide that Mobil could at all time since April 1974 allocate the costs of crude oil to regulated products, but cannot allocate more than a direct proportionate distribution (by volume) to Number 2 oils, kerosene or naphtha aviation fuel, or propane produced from crude oil.

B. The Current Situation

As indicated above, the refiners subject to the regulations of the Department of its predecessors, apparently without exception, relied upon the validity of the April 30, 1974 rulemaking. Indeed, Mobil itself relied upon the validity of the rule, as demonstrated in its filings of applicable reporting forms with the Department. Mobil was the only firm to challenge that amendment, and it did so only as part of an independent challenge to an agency order. Not a single firm joined in its suit, nor did any firm seek to do so. Indeed, no firm even offered to file as *amicus curiae*. Nevertheless, refiners are now attempting to refile the refiner costs allocation reports, FEO–96's and in some cases FEA P–110's, on the basis of the *Mobil* decision. The attempted refilings take various views of the scope of the original District Court decision. Although many refiners take the view that the decision only applies to the five products decontrolled on April 3, 1974, others apparently take the view that the decision applies to products decontrolled after February 1976, when the agency comprehensively revised its regulatory scheme and shortly thereafter began a consistent program of decontrol. Moreover, some refiners even seem to take the position that they need not take account in their refilings for recoveries of increased costs actually recouped in sales of the five exempt products. More attempted refilings can be expected in light of the most recent District Court decision.

These refilings, if permitted, could ultimately result, depending upon the method used by each particular refiner, in total refiner claims for retroactive increases in banked costs of over $50 billion. Refiners' current banks are on the order of $8.8 billion. These retroactive increases in banks would result solely from the invalidation of a single amendment to the regulations, enacted more than six years ago, the validity of which was never challenged by the affected firms and which was relied upon by those firms. The result effectively could be the immediate decontrol of gasoline prices.

Pursuant to 10 CFR 212.126(d)(2) cost allocation reports over one year old may not be refiled, for purposes relevant here, unless DOE grants written permission for good cause shown, upon a proper application pursuant to § 212.126(d)(3). Pending completion of this rulemaking, DOE will neither grant nor deny any applications made for refiling refiner cost allocation reports which are based upon the effect of the *Mobil* case. This is intended to preserve the status quo pending a final determination in this rulemaking proceeding.

II. Proposed Amendment

The proposal, if adopted, would retroactively impose to April 30, 1974, the volumetric apportionment requirement adopted on April 30, 1974, which was subsequently ruled invalid. This amendment would reinstate language requiring that volumes of all products refined from crude petroleum be included in the denominator of the "V" factor." This amendment would assure that volumes of the five products enumerated above, which had been included in the denominator under the Economic Stabilization Act, but which absent the revision would no longer be included because of their deletion from the term "covered products", would continue to be included in the denominator. Again, this amendment would assure that from April 30, 1974, to the present crude oil cost increases could not be passed through onto covered products generally, and onto special products individually, in a proportion greater than the volume of such products to the total volume of all refinery output. This would assure that there would be no double recovery of crude oil cost increases; that is, costs incurred with respect to exempt products could not be used in determining the maximum lawful selling prices for covered products.

III. EPAA Objectives

In holding the April 30, 1974 rule invalid, the courts found that the agency had not considered the objectives of the EPAA. Before proposing the repromulgation of the April 30 rule, we have carefully considered each of the EPAA objectives and believe that such repromulgation best furthers those objectives. We have considered those objectives both as if we were acting in April 1974 looking toward the future and in light of the fact that we are acting retroactively. *see infra*.

As described in the background section, the April 3, 1974 rule through oversight allowed crude oil cost increases to be passed through on covered products in accordance with the previously existing volumetric apportionment provided for by the "V factor." The denominator of the "V factor," however, was the volume of "covered products," a defined term. Under the Economic Stabilization Act virtually all refinery output was within the term "covered products". Thus, the volumetric apportionment formula prior to April 3, 1974, assured that there would be no double recovery of increased costs, and that "special products" would bear the increased cost of crude oil only in the same proportion as their volume to total refinery output volume. When the term "covered products" was limited to residual fuel oil and refined petroleum products on April 3, 1974, pursuant to the EPAA's narrower scope, the failure to change the denominator of the "V factor" resulted in a change to the volumetric apportionment formula. That is, because the denominator was determined by reference to the defined term "covered products," which now no longer comprehended the entire refinery output, the denominator was a smaller number, resulting in the "V factor" being a larger number. In short, all the increased costs of crude oil could be passed through on "covered products," even though now "covered products" did not constitute the entire refinery output.

Thus, increased costs of crude oil passed through on asphalt and other exempt products could also be passed through on covered products for a double recovery.

The EPAA contains objectives requiring, to the maximum extent practicable, maintenance of public health, safety, welfare, the national defense, public services, and agricultural operations. These essential services are heavily reliant on refined petroleum products that were subject to price controls in 1974, and on gasoline that is still subject to price controls. To allow costs of crude oil *not* associated with residual fuel oil and refined petroleum products to be passed through on these products would result in higher than necessary prices for these products. The effect of these higher prices on the essential services and operations designated for special protection in the EPAA would likely be to diminish those services and operations unnecessarily. Thus, to allow crude oil costs associated with asphalt and other exempt products to be passed through on covered products frustrates the objectives in section 4(b)(1)(A)–(C) of the EPAA, because it would not maintain those essential services and operations to the maximum extent practicable.

Section 4(b)(1)(F) sets the objective of equitable distribution of residual fuel oil and refined petroleum products "at equitable prices." While the term "equitable prices" includes the concept of equity *between* purchasers, it also includes the concept of a price that is fair and reasonable *per se. See Air Transport Association of America* v. *FEO*, 382 F. Supp. 439 (D.D.C. 1974), *aff'd*, 520 F.2d 1339 (TECA 1975). We do not believe that it is fair and reasonable to allow a second recovery in prices of some products of crude oil costs associated with and recoverable in the prices of other products. In a shortage situation this practice is no more than

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price gouging. Thus, the April 30 amendment, and its proposed repromulgation here, would serve the objective of assuring equitable prices.

Having considered these and the other objectives of the EPAA, we have tentatively concluded that the proposal, if adopted, will achieve those objectives to the maximum extent practicable. This view is reinforced by the action taken by Congress to amend the EPAA in 1975 generally to require the volumetric apportionment of costs. *See* Section 4(b)(2)(D).

IV. Proposed Retroactivity

Retroactive rulemakings are generally sustained if reasonable. The courts consider such factors as whether retroactive application of a rule is consistent with the underlying statute and whether it represents an abrupt departure from prior practice or merely fills in a void in an unsettled area of law. In addition, equitable considerations are routinely evaluated. These include the extent of the reliance upon the rule being retroactively revised and the hardship to the affected firms resulting from the retroactive change. *See, e.g., Retail, Wholesale, and Department Store Union* v. *National Labor Relations Board,* 466 F.2d 380 (D.C. Cir. 1972).

In the instant situation ERA believes that all these factors militate in favor of the proposed retroactive rule. First, as described above, ERA has tentatively concluded that the cost allocation formula adopted on April 30, 1974, and proposed for repromulgation here, furthers the objectives of the EPAA. In addition, ERA believes that the application of this formula for the period April 30, 1974, and as amended thereafter, to the present in *necessary* to maintain the integrity of price controls under the EPAA for the duration of the price control program. This is due to the fact that under present regulations if refiners were able to bank all the increased costs to which they claim they are entitled because of the court decision, then such banks would be so great as to eliminate effectively any controls on future prices of gasoline. Moreover, refiners that violated price controls in the past (with respect to matters totally unrelated to the issues involved in this rulemaking) might assert a right to avoid any real liability by merely offsetting the amounts in violation against their costs associated with uncontrolled products, which costs have probably already been recovered in sales of those uncontrolled products. *Not* to make the proposed regulation retroactive would effectively vitiate all the purposes of the EPAA that the price control system furthers, and, therefore, there is a strong statutory interest in retroactive application of the proposed rule.

Second, the retroactive application of the proposed rule would not represent an abrupt departure from well established practice. Indeed, the retroactive application of the proposed rule would conform to the well established practice taken in reliance upon the April 30, 1974 rule. By repromulgating that rule, ERA is literally filling in a void in an unsettled area of the law that resulted from the judicial action; to wit, what the rule was after April 30, 1974.

Third, as described above, ERA is not aware of any refiner that relied on any contrary rule as to the volumetric apportionment of costs. To the extent there has been reliance, it has been on the rule that was overturned by the court and which is proposed here for retroactive repromulgation. Finally, there would not appear to be any burden imposed on any refiner by the retroactive application of the proposed rule. Again, because refiners have acted in reliance upon the April 30, 1974 rule, there is no need for them to alter any behavior in the future and there is no unforeseen financial penalty or liability for past actions.[1]

Moreover, we believe that the retroactive rulemaking proposed here falls within the terms of the Supreme Court decision in *Addison* v. *Holly Hill Fruit Products,* 322 U.S. 607 (1944). There too the lower court had invalidated a regulation integral to the regulatory scheme some years after its adoption. The Supreme Court, however, recognized the need for and validity of a retroactive rule to reinstitute a provision that would give effect to the statutory purposes.The Court stated: "[t]o be sure this will be a retrospective judgment, and law should avoid retroactivity as much as possible. But other possible dispositions likewise involve retroactivity (here, the effect of the lower court's decision is to apply retroactively the "V factor" as it was before its amendment on April 30, 1974), with the added mischief of producing a result contrary to the statutory design." 322 U.S. at 620. We believe these considerations are particularly apt in this instance.

V. Written Comment and Public Hearing Procedures

A. *Written Comments.* You are invited to participate in this notice of rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the designation "V Factor Amendment" Docket No. ERA–R–80–*30*. Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA–145, James Forrestal Building 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments regarding the proposed amendments should be received within 60 days after this notice appears in the **Federal Register** in order to ensure consideration.

B. *Public Hearing*—1. *Procedure for Requesting Participation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" section of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m., on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The requests should contain a phone number where you may be contracted through the day before the hearing.

We will notify each person selected to be heard at the Washington, D.C. hearing before 4:30 p.m., October 10, 1980. Persons scheduled to speak at the hearing are requested to bring 100 copies of their statement to Room 2105, 2000 "M" Street, NW., Washington, D.C. 20461, by 4:30 p.m., October 15, 1980.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

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[1] Mobil has by court order been granted exception relief from the April 30, 1974 rule. The repromulgation of that rule would not vitiate that exception relief, if upheld on appeal.

You may submit questions to be asked by the presiding officer of any person making a statement at the harings. Such questions should be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the question is appropriate and if the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-145, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VI. Procedural Requirements.

A. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

The EPA suggested that we "ask for comments on an alternative proposal to simultaneously make gasoline tilt retroactive to 1974, while reinstating [our] desired definition of the 'V' factor." EPA believes this would allow appropriate costs to be allocated for gasoline and would provide appropriate incentives for investments in gasoline equipment, including equipment to manufacture unleaded gasoline.

We are not proposing to make the gasoline tilt retroactive to 1974. First, we do not believe that such an action would in fact provide incentives for investments in gasoline equipment because of the limited time left before gasoline price and allocation controls expire. To make the tilt retroactive would merely enable refiners to increase their banks substantially without any necessary investments. If those banks were passed through, the price of gasoline could be increased substantially. Had it been appropriate to adopt the tilt retroactively, the original tilt rule could have done so. The purpose of the rule, however, was to affect *future* conduct by removing a possible disincentive to increased gasoline production. That disincentive has been removed, and the purpose of the tilt rule would not be served by making it retroactive.

Second, we are doubtful that the factors, described above, that govern the appropriateness of retroactive regulation would support retroactive application of the gasoline tilt.

B. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act ("DOE Act" Pub. L. 95-91), this proposed rule has been referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect any function within the Commission's jurisdiction under section 402(c) of the DOE Act. The Commission will have until the scheduled close of the public comment period on the proposal, to make such determination.

C. Regulatory Analysis

A regulatory analysis as required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978) and DOE's implementing procedures, has been prepared by ERA. The proposed regulatory analysis is available at ERA's Office of Public Information, Room B-210, 2000 "M" Street, NW., Washington, D.C. You are invited to comment on the proposed regulatory analysis. A summary of the proposed regulatory analysis is set forth below.

Summary of Regulatory Analysis[2]

1. Statement of Problem

The effect of the TECA decision in *Mobil* v. *DOE*, 610 F. 2d 796 (1979), is to exclude retroactively the volumes of non-covered products from the denominator of the "V factor" of the refiner cost allocation formulae. Refiners are now attempting to refile FEO-96's and in some cases FEA P-110's on the basis of the *Mobil* decision, so as to claim retroactively and bank costs, which they never previously claimed, and which, in many instances have already been recouped in sales of exempt products. These filings, if accepted, would permit the inclusion in current selling prices of covered products of increased product costs volumetrically attributable to exempt products refined and sold up to six years ago at free market prices. It could also permit refiners to offset violations for the prior period with newly and retroactively claimed increased costs. The DOE has two regulatory alternatives as a consequence of the TECA decision: (1) Take no action; or (2) Propose to re-adopt retroactively the voided rule.

2. Description of Alternatives

a. *Alternative* 1: No Action.

Under this alternative, DOE would not retroactively amend its regulations concerning the "V factor" of the refiner cost allocation formulae. Without such retroactive amendment, the denominator of the "V factor" would be retroactively deemed to include only volumes of covered products. Refiners would thereby be permitted to increase retroactively their banks with costs previously allocated to exempt products, and attempt to use these increased banks to offset prior regulatory violations. Market conditions permitting, refiners could also pass through in current prices for current covered products (primarily gasoline) a substantial portion of those newly claimed costs. Some refiners might also attempt to utilize their newly-claimed costs to offset violations of agency regulations which would otherwise have resulted in refunds.

If the DOE were to choose Alternative 1, gasoline prices could be increased substantially with little or no economic justification. As a result, the Department has concluded tentatively to reject this alternative.

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[2] The draft regulatory analysis was prepared prior to the most recent District Court decision and reflects DOE's view of TECA's decision that only crude oil costs associated with the five exempt products prior to 1976 would be able to be passed through on covered products. The most recent District Court decision with respect to Mobil, if given effect as to all refiners, would substantially more than double the impacts described in the draft regulatory analysis and this summary.

b. *Alternative* 2: Promulgation of Retroactive Amendment to "V factor" of Refiner Cost Allocation Formula.

The effect of this alternative would be to conform the regulations to the original and consistent language and intent of the Department of Energy. The Department has determined preliminarily that the retroactive amendment of the "V factor" formula best comports with policy and statutory requirements

3. Economic Impact

The maximum possible economic impact of Alternative 1 on motor gasoline prices would result if all the costs previously apportioned to exempt products were retroactively banked by refiners pursuant to retroactive refilings based upon the *Mobil* decision and subsequently passed through. The impact is assumed to take place between August 1, 1980, and September 30, 1981, the latter being the date when all remaining refined covered products (motor gasoline and propane) are to be deregulated.

Based upon an analysis of available data, it is concluded that the No Action alternative would result in a potential increase in motor gasoline prices of approximately $5.1 billion.[3] Dividing the total average monthly gasoline production of refiners into the total cost allocated to exempt products, yields a potential increase in gasoline prices of 57.9¢ per gallon, if all these increased costs are passed through in a single month.[4] If the amount were passed through evenly in the fourteen month period noted, it would result in a per gallon increase in gasoline prices of just over 4¢ each month for this 14 month period. The potential price increases for the companies analyzed ranged from a minimum of forty-three cents to a high of ninety-five cents per gallon if the total amount allocable for each company was passed through in a single month. The total per gallon increases, assuming the costs are spread out over fourteen months, ranged from approximately 3¢ to 7¢, each month.

Currently, some oil refiners have been unable to pass through all of the recent increases in crude oil costs, with the result that these refiners' banked costs have risen during 1980. The additional costs applicable to the exempt products would be added to their existing banked costs. Accordingly, depending upon future market developments, it is possible that the maximum impact described above may not occur.

Alternative 2 would reimpose the requirement that the denominator of the "V factor" of the refiner cost allocation formulae include the volumes of both covered and exempt products. If the "V factor" is permitted to include only volumes of covered products, then refiners will be able to distribute all of their increased crude oil costs to covered products, even though some of these costs are actually incurred to produce exempt products. Refiners relied on the validity of the requirement that volumes of covered and exempt products be included in their "V factor" computations, and have, indeed, been able generally to increase their profits despite such reliance. Absent this retroactive amendment, costs previously allocated to exempt products by refiners would, upon proper application to refile and DOE acceptance, be retroactively allocated to prior covered product banks. Any refilings retroactively excluding volumes of exempt products from a refiner's "V factor" computations would represent newly claimed increased costs. Some of these newly-claimed costs could then be passed through to the consumer in the form of current gasoline price increases. Since refiners neither previously claimed such costs nor relied on the ability to retroactively claim such costs, the economic impact of Alternative 2, which merely reimposes the rule on which refiners did in fact rely, has been determined to be $0.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II, title 10 of the Code of Federal Regulation, is proposed to be amended as set forth below.

Issued in Wasington, D.C., August 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.83 [Amended]

1. Effective April 30, 1974, 10 CFR 212.83(c)(2), as published in 39 FR 1924 (January 15, 1974), is amended by revising the definition of "Vn" to read as follows:

Vn = The total volume of all covered products and all products refined from crude petroleum other than covered products sold in the period "n" (the consecutive three-month period of the preceding year such that the middle month of the period corresponds to the current month "u").

2. The subsequent amendments to the definition of "Vn," its deletion and the substitution of the definition of "Vu," the subsequent amendments to the definition of "Vu," the definition of "Rt," and subsequent amendment to that definition are hereby repromulgated as published in the following **Federal Register** notices, effective on the dates indicated therein:

39 FR 30838 (August 26, 1974)
39 FR 42368 (December 5, 1974)
40 FR 10444 (March 6, 1975)
41 FR 5111 (February 4, 1976)
41 FR 15330 (April 12, 1976)
42 FR 5023 (January 27, 1977)
42 FR 39195 (August 3, 1977)

[FR Doc. 80–27216 Filed 9–4–80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

Employee Responsibilities and Conduct; Proposed Amendments

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rules.

SUMMARY: The FDIC proposes to adopt amendments to its regulations governing employee responsibilities and conduct, Part 336 of FDIC Rules and Regulations. The proposed amendments to Part 336 would only affect examiners and assistant examiners. They would relax the FDIC's current policy on loans to examiners and assistant examiners.

ADDRESS: Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. All written comments will be made available for public inspection during normal business hours in Room 6108.

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[3] This estimate is derived by dividing the calculated increased costs of companies analyzed ($2,190,545,000) for the period through January 1976 by their fraction of the gasoline market (43 percent). Refiners' possible requests for refilings based upon the most recent District Court decision, if allowed, could increase this figure to an amount well in excess of $50 billion.

[4] There are several regulatory limitations that would restrict the amount of increased costs that could be passed through in a given period. For example, with respect to costs which have been in banks longer than 60 days, refiners may generally pass through only ten percent of these costs in any given month.

DATE: Comments must be received no later than November 4, 1980.

FOR FURTHER INFORMATION CONTACT: B. Shelby Baetz or Joseph A. DiNuzzo, Attorneys, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, telephone (202) 389–4384.

SUPPLEMENTARY INFORMATION: The FDIC regulates or supervises all insured State-chartered banks that are not members of the Federal Reserve System ("insured State nonmember banks"). To accomplish its regulatory function, the FDIC sends bank examiners and assistant examiners ("examiners") to examine banks subject to its regulatory jurisdiction. The examiner reviews records maintained by the bank and interviews bank officers and employees concerning its operations. The examiner is instructed to assess the bank's financial condition, to determine whether it is engaged in unsafe or unsound banking practices, and to determine whether it is in compliance with applicable laws and regulations. The findings of the examiner are then written up in a report of examination. The FDIC takes supervisory actions—such as the issuance of a cease-and-desist order or the termination of deposit insurance—on the basis of the examiner's findings.

Section 212 of title 18, United States Code, prohibits any officer, director, or employee of a bank the deposits of which are insured by the Federal Deposit Insurance Corporation from making a loan to any governmental examiner "who examines or has authority to examine" such bank. Section 213 of title 18, United States Code, in turn, prohibits a governmental bank examiner from accepting a loan from "any bank, corporation, association or organization examined by him or from any person connected therewith." Executive Order 11222 prohibits Federal employees from having direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their official duties and responsibilities. To implement the two aforecited Federal criminal statutes, and to guard against conflicts of interest or the appearance of conflicts of interest as required by Executive Order 11222, the FDIC's current policy on loans to examiners prohibits examiners from becoming obligated on any extension of credit (including credit extended through the use of a credit card) by: (1) An insured State nonmember bank (a bank examined by the FDIC) or (2) a national bank (a bank examined by the Office of the Comptroller of the Currency) or a State bank which is a member of the Federal Reserve System (a bank examined by the Federal Reserve Board) that is an affiliate of an insured State nonmember bank. If a merger, acquisition, or other transaction results in a credit extension to an examiner being from an insured State nonmember bank or its affiliate, the obligation has to be removed unless the FDIC Ethics Counselor determines that removal would be an undue hardship on the employee. When retention is permitted, the obligation must be paid according to its existing terms, without any renegotiation, and the employee is disqualified from examining and participating in decisions having an economic impact on the lender or an affiliate of the lender.

The proposed amendments to Part 336 concerning loans to examiners would still be consistent with 18 U.S.C. 212 and 213, would still further the goals of E.O. 11222, would still promote examiner objectivity, and yet would give greater deference to the legitimate credit needs of examiners. The proposed amendments would liberalize current policy in four major ways:

1. They would permit examiners to obtain credit through the use of a credit card from national banks and State banks which are members of the Federal Reserve System ("member banks") affiliated with an insured State nonmember bank, provided the total extension of credit at no time exceeds $5,000 and is on terms no more favorable than those available to other bank customers. Such extension of credit would be reported to the examiner's Regional Director and to the Ethics Counselor. The examiner would *not* be disqualified from examining or participating in any decision having an impact on an insured State nonmember bank affiliated with the member bank issuer. This would be a marked departure from the current blanket prohibition against taking out a credit card from an affiliate of an insured State nonmember bank.

2. The revision would provide that when a member bank becomes affiliated with an insured State nonmember bank after an extension of credit is made, the examiner would not be precluded from continuing to liquidate the extension of credit pursuant to its terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000 at the time of affiliation, however, the credit card could not be used again until the existing indebtedness on the card was, under the terms agreed to when the card was issued, reduced to below $5,000. The examiner with an extension of credit over $5,000 extended through the use of a credit card or the examiner with any extension of credit not extended through the use of a credit card would be disqualified from examining the insured State nonmember bank affiliated with the lender or from participating in any decision having an impact on it. As it stands now, an examiner has to divest himself/herself of all extensions of credit which, after their making, become extensions of credit from affiliates of insured State nonmember banks *unless* the Ethics Counselor decides this would cause undue hardship. The revision allows, *in all cases*, retention of an extension of credit made by member bank which subsequent to its making becomes affiliated with a State nonmember bank.

3. The revision would provide that when a member bank converts to or merges into a State nonmember bank, any extension of credit made by such bank to an examiner prior to the conversion or merger may be retained and liquidated in accordance with the original terms of the extension of credit. In the case of credit extended through the use of a credit card, however, the credit card would have to be returned to the issuer. The existing indebtedness on the card, though, could be liquidated under the terms agreed to when the card was issued. The examiner would be disqualified from examining the resultant insured State nonmember bank or from participating in any decision having an impact on it. This revision departs from present policy since it allows, *in all cases*, retention of an extension of credit from a member bank which subsequent to the extension of credit's making becomes an insured State nonmember bank. Present policy would only allow retention if the Ethics Counselor determined that divestiture would cause undue hardship to the examiner.

4. Finally, the revision would permit a newly appointed examiner to retain any outstanding extension of credit from an insured State nonmember bank and liquidate it in accordance with its original terms. In the case of credit extended through the use of a credit card, however, the credit card would have to be returned to the issuer. The existing indebtedness on the card, though, could be liquidated under the terms agreed to when the card was issued. Further, a newly appointed examiner would be allowed to retain any outstanding extension of credit from a member bank affiliated with an insured State nonmember bank if it is

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liquidated in accordance with its original terms. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000, however, the credit card could not be used again until the existing indebtedness on the card was, under the terms agreed to when the card was issued, reduced to below $5,000. A loan would be "outstanding" if it was made prior to the date on which the new appointee officially commenced employment by reporting for duty. When the newly appointed examiner remains obligated on an extension of credit (other than credit extended through the use of a credit card, the total extension of which is $5,000 or less and is on terms no more favorable than those available to other bank customers), the examiner would be disqualified from examining or participating in any decision having an impact on the lender or its affiliate. Currently, the FDIC has no written policy in this area. The Ethics Counselor decides, on a case-by-case basis, whether divestiture of existing indebtedness is required. Normally, however, a newly appointed examiner is *not* required to relocate any existing indebtedness.

The proposed amendments have been reviewed and approved by the Department of Justice ("DOJ"). All changes in FDIC regulations concerning loans to examiners must be reviewed and approved by the DOJ in order to insure that the changes do not violate sections 212 and 213 of title 18 of the United States Code (18 U.S.C. 212 and 213), statutes which DOJ is responsible for enforcing. These two sections of the United States Code impose certain limitations on the types of credit an examiner can obtain.

Since the proposed amendments to Part 336 under consideration only affect FDIC examiners, the proposed changes will not affect the recordkeeping or reporting requirements or the competitive status of insured State nonmember banks. Because of this neither a cost-benefit analysis nor a small bank impact statement was prepared.

Interested persons are also invited to comment on the manner in which the FDIC should treat demand loans maintained by examiners and assistant examiners with affiliates of insured State nonmember banks; these comments should be in light of the intent behind the amendments proposed herein.

The proposed revision of Part 336 would amend Part 336 as follows:

§ 336.735-11 [Amended]

1. Paragraph (i) of § 336.735-11(b)(5), which currently reads as:

* * * * *

(b) * * *

(5) * * *

(i) A Corporation examiner or assistant examiner may not accept any gratuity from, or accept or become obligated on any extension of credit (including credit extended through the use of a credit card) by an insured State nonmember bank or its affiliate.

* * * * *

would be amended to read:

* * * * *

(b) * * *

(5) * * *

(i) A Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit, including credit extended through the use of a credit card, from an insured State nonmember bank. Further, a Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank unless the credit is extended through the use of a credit card, does not exceed $5,000 at any time, and is on terms no more favorable than those available to other bank customers. An examiner who has received an extension of credit through the use of a credit card permitted by this subsection shall not be disqualified from participating in any examination of or any decision having an impact on an insured State nonmember bank affiliated with the bank which issued the card.

* * * * *

§ 336.735-13 [Amended]

2. Subparagraph (7) of § 336.735-13(a), which currently reads:

(a) * * *

(7) In the event a merger, acquisition, or other transaction results in the existence of a credit extension prohibited by § 336.735-11(b)(5)(i), (ii), or (iii), the obligation will be removed unless the Ethics Counselor determines that removal would be undue hardship on the employee. In such cases, the obligation will be paid according to its existing terms, without any renegotiation, and the employee will be disqualified under § 336.735-13(a) from participating in decisions having an economic impact on the lender, or any affiliate of the lender. If the employee is an examiner or assistant examiner, he or she will not be permitted to examine the lender or an insured State nonmember bank affiliated with the lender.

* * * * *

would be amended to read:

(a) * * *

(7) If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735-11(b)(5)(i), that extension of credit may be retained if it is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card issued by an insured State nonmember bank, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. In the case of credit extended through the use of a credit card issued by a member bank affiliated with an insured State nonmember bank where the total extension of credit exceeds $5,000, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735-11(b)(5)(i) and that extension of credit is retained in accordance with this subsection, the examiner or assistant examiner is disqualified from examining or participating in any decision having an impact on the insured State nonmember bank lender or its affiliate. If a merger, acquisition, or other transaction results in the existence of a credit extension prohibited by § 336.735-11(b)(5)(ii) or (iii) the obligation will be removed unless the Ethics Counselor determines that removal would be an undue hardship on the employee. When an obligation prohibited by § 336.735-11(b)(5)(ii) or (iii) may be retained, the obligation will be paid according to its existing terms, without any renegotiation, and the employee will be disqualified under § 336.735-13(a) from participating in any examination of, or any decision having an economic impact

on the lender or any affiliate of the lender.

* * * * *

§ 336.735-13 [Amended]

3. Subparagraph (8) of § 336.735-13(a), which currently reads:

(a) * * *

(8) An examiner or assistant examiner may become obligated on any extension of credit (including credit extended through use of a credit card) by a bank other than an insured State nonmember bank if—

(i) The lending bank is not affiliated with an insured State nonmember bank; and

(ii) Full disclosure of the obligation and the date the obligation is fully repaid is made in writing to the Regional Director on an official Corporation form designated for this purpose. The Regional Director shall also be notified of the repayment of the obligation. In the case of a bank credit card, these disclosure requirements are met if the Regional Director is notified in writing of the date of receipt of the card, the name of the bank acting as principal, and the date of the discontinuance if the card is destroyed or returned to the bank. Regional Directors will forward copies of the disclosures by examiners or assistant examiners to the Ethics Counselor.

* * * * *

would be amended to read:

(a) * * *

(8) An examiner or assistant examiner who is newly appointed may remain obligated on any outstanding extension of credit from an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. Further, an examiner or assistant examiner who is newly appointed may remain obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000, however, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. An extension of credit would be "outstanding" if it was made before the date on which the new appointee officially commenced employment by reporting for duty. When the newly appointed examiner or assistant examiner remains obligated on an extension of credit (other than an extension of credit extended by a member bank through the use of a credit card, the total extension of which does not exceed $5,000 and is on terms no more favorable than those available to other customers), he or she is disqualified under § 336.735-13 from participating in any examination of or any decision having an impact on the lender or an affiliate of the lender. An examiner or assistant examiner may not, after his or her appointment, directly or indirectly become obligated on any extension of credit (including credit through the use of a credit card) from an insured State nonmember bank. An examiner or assistant examiner may not, after his or her appointment, become obligated on an extension of credit from an affiliate of an insured State nonmember bank unless the extension of credit is extended through the use of a credit card, does not exceed $5,000 at any time, and is on terms no more favorable than those available to other bank customers. Full disclosure of any obligation to a bank and the date the obligation should be fully repaid must be made in writing to the Regional Director on an official Corporation form designated for the purpose. The Regional Director shall also be notified of the repayment of the obligation. For bank credit cards, these disclosure requirements are met if the Regional Director is notified in writing of the date of receipt of the card, the name of the bank acting as principal and the date of the discontinuance if the card is destroyed or returned to the bank. Regional Directors will immediately forward copies of the disclosures by examiners or assistant examiners to the Ethics Counselor. All disclosure statements received by Regional Directors shall be treated as confidential. The information on the disclosure statements submitted to a Regional Director shall also be reported on annual disclosure statements submitted to the Ethics Counselor. The Ethics Counselor shall treat all disclosure statements as confidential.

* * * * *

By order of the Board of Directors dated August 25, 1980.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-27406 Filed 9-4-80; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-17101]

Registration of Municipal Securities Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed amendment to form.

SUMMARY: The Commission is withdrawing a proposed amendment to Form MSD, the registration form used by municipal securities dealers which are banks or separately identifiable departments or divisions of banks. The amendment would have explicitly required a bank municipal securities dealer to list on the form all members of its board of directors, and the directors of its parent bank holding company, if any.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas G. Lovett, Office of Self Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2411.

SUPPLEMENTARY INFORMATION: In a companion release [1] issued today, the Commission is adopting certain amendments to Form MSD, the form used by municipal securities dealers which are banks or separately identifiable divisions or departments of banks. As part of this action, the Commission is withdrawing a proposed amendment to the instruction to item 6 of Form MSD.

The proposed amendment would have explicitly required a bank municipal securities dealer to list on Form MSD all members of its board of directors, and the directors of its parent holding company, if any, in response to a request for disclosure of persons directly or indirectly controlling the municipal securities dealer. For the reasons stated in the companion release, the Commission is withdrawing the proposed amendment to the instruction to item 6.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 28, 1980.

[FR Doc. 80-27292 Filed 9-4-80; 8:45 am]

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[1] Securities Exchange Act Release No. 17100 (August 28, 1980).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 80N-0322]

Exemptions From Food Labeling Requirements for Food Labeling Experiments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing a procedure under which a firm that undertakes a labeling experiment may be exempted from certain requirements. This action would encourage industry to participate in authorized labeling experiments.

DATE: Comments by November 4, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond E. Newberry, Bureau of Foods (HFF-314), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1428.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 21, 1979 (44 FR 75990), the Food and Drug Administration (FDA), the Department of Agriculture (USDA), and the Federal Trade Commission announced their tentative positions on a variety of food labeling issues. The agencies announced that FDA would conduct a research program, supported by USDA, to help decide what labeling format is the most comprehensible to consumers. The notice further stated that "the agencies encourage industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats" for presenting nutrition and other information on or off the label that is consistent with the current quantitative system (44 FR 76015). Some experiments may require exemptions from the current requirements governing nutrition labeling and other related food labeling regulations. Accordingly, FDA is proposing a procedure under which a firm that undertakes a labeling experiment may be exempted during the duration of the experiment from the requirements in §§ 101.9, 101.25, 105.66, 105.67, and 105.69 (21 CFR 101.9, 101.25, 105.66, 105.67, and 105.69).

In the **Federal Register** of July 8, 1980 (45 FR 45962), FDA announced its intent to undertake, in cooperation with FTC and USDA, a comprehensive research program to develop alternative food label formats. As part of that research program, a series of public meetings will be held starting October 6, 1980 to solicit industry and others' participation in design and testing of new labeling formats. It is anticipated that most labeling experiments sanctioned by FDA under the criteria presently being proposed will take place in the context of this research program. However, this proposal also recognizes that some labeling experiments in advance or outside the context of the upcoming research program might provide useful information to the agencies, and so is not limited to the labeling research plan discussed in the July 8, 1980 notice.

Any firm that intends to undertake a lebeling experiment which requires exemptions from §§ 101.9, 101.25, 105.66, 105.67, and 105.69 should submit to FDA a written proposal containing the following information:

1. A description of the labeling format to be tested;
2. A statement of the criteria to be used in the experiment for assigning foods to categories (e.g. nutrient values defining "low" and "reduced");
3. A draft of the material to be used in the store, e.g., shelf tags, booklets, posters, etc.;
4. The dates on which the experiment will begin and, together with a commitment not to continue the experiment beyond the termination date without FDA approval and to conclude the experiment, if necessary, upon request by FDA following the passage of new food labeling legislation;
5. The geographic local in which the experiment is to be conduced;
6. The mechanism to measure the effectiveness of the experiment;
7. The method for providing consumers with required nutrition and other labeling information that is exempted from the label during the experiment;
8. The method by which the actual nutritional characteristics of foods for which a claim is made will be determined;
9. A commitment to report the results of the experiment to FDA promptly; and
10. A statement of the sections of the regulations for which an exemption is sought.

FDA will review the proposal, consult with USDA if necessary, and comment on it if appropriate. The agency recognizes that the preparation of such experiments is difficult, and it is prepared to meet with firms desiring to undertake experiments in order to provide them with assistance. However, because of the agency's workload, it may take a period of time before a proposed experiment is reviewed and authorized. Firms should take this fact into consideration in planning experiments.

In deciding whether to approve a proposed experiment, the agency may consider whether a similar experiment is being conducted by one or more other firms and if so, whether an essentially repetitive experiment will provide significant additional information regarding nutrition and other food information formats. In those caes when firms propose different approaches for providing consumers with the same type of information, FDA may establish criteria for categories, (e.g., numerical values which define "low" and "reduced") in the interests of uniformity and of relieving consumer confusion.

Authorization to undertake an experiment will be given by FDA in writing. A copy of the proposal, agency comments, correspondence, memoranda of meetings and telephone calls concerning the proposal, and the agency's authorization letter will be place on file in the Haring Clerk's office when an experiment is approved.

The agency had determined under 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively hve a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 101 be amended by adding new § 101.108 to read as follows:

§ 101.108 Temporary exemptions for purposes of conducting authorized labeling experiments.

(a) In the **Federal Register** of December 21, 1979 (44 FR 75990), the Food and Drug Administration, the Department of Agriculture, and the Federal Trade Commission announced their tentative positions on a variety of food labeling issues. The agencies announced that they encouraged industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats for presenting nutrition and other information that is consistent with the current quantitative system in §§ 101.9 and 101.25 and §§ 105.66, 105.67, and 105.69 of this chapter.

(b) Any firm that intends to undertake a labeling experiment that requires exemptions form certain requirements in §§ 101.9 and 101.25 and §§ 105.66, 105.67, and 105.69 of this chapter should submit a written proposal containing the following information:

(1) A description of the labeling format to be tested;

(2) A statement of the criteria to be used in the experiment for assigning foods to categories (e.g., nutrient values defining "low" and "reduced");

(3) A draft of the material to be used in the store, e.g., shelf tags, booklets, posters, etc.;

(4) The dates on which the experiment will begin and end, together with a commitment not to continue the experiment beyond the termintion date without FDA approval and to conclude the experiment, if necessary, upon requst by FDA following the passage of new food labeling legisltion;

(5) The geographic locale in which the experiment is to be conducted;

(6) The mechanism to measure the effectiveness of the experiment;

(7) The method for providing consumers with the required nutrition and other labeling information that is exempted from the label during the experiment;

(8) The method by which the actual nutritional characteristics of foods for which a claim is made will be determined;

(9) A commitment to report the results of the experiment to FDA promptly; and

(10) A statement of the sections of the regulations for which an exemption is sought.

(c) The proposal should be sent to the Associate Director for Nutrition and Consumer Science (HFF-200), Food and Drug Administration, 200 C St., SW., Washington, DC 20204.

(d) Approval of the proposal will be given by FDA in writing. Any experiment that is undertaken without an FDA-approved exemption from existing regulations that would otherwise be violated will be subject to regulatory action.

Interested persons may, on or before November 4, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This action will not result in a significant regulatory impact, as defined by Executive Order 12044, because it imposes no requirements and is entirely voluntary. The selective nature of these exemptions will not result in manufacturing or marketing distortions because of the limited scope, temporary nature, and narrowly defined purpose to be identified for each labeling experiment.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27170 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1928

[Docket H-112B]

Access to Employee Exposure and Medical Records in Agricultural Employments; Extension of the Comment Period

AGENCY: Occupational Safety and Health Administration of the Department of Labor (OSHA).

ACTION: Proposed rule; extension of the deadline for submission of comments and information.

SUMMARY: This notice extends the comment period for written responses on the proposed standard entitled, "Access to Employee Exposure and Medical Records in Agricultural Employments" (45 FR 35298, May 23, 1980).

DATE: Written comments must be submitted by October 31, 1980.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. H-112B, Room S-6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Dr. Flo Ryer, Director, Office of Special Standards Programs, Directorate of Health Standards Programs, Room N-3663, Occupational Safety and Health Administration, 200 Constitutional Avenue, NW., Washington, D.C. 20210, (202) 523-7174.

SUPPLEMENTARY INFORMATION: On May 23, 1980, OSHA published in the **Federal Register** (45 FR 35298) a notice of proposed rulemaking entitled, "Access to Employee Exposure and Medical Records in Agricultural Employments." This proposal would extend the provisions of OSHA's rule, "Access to Employee Exposure and Medical Records" (45 FR 35212; May 23, 1980), to agricultural employments. In the notice of proposed rulemaking, OSHA requested that written comments on the proposal be submitted by August 21, 1980.

OSHA is extending the comment period of the proposed regulation to ensure that all interested parties have sufficient time to compile data and prepare comments. The written comment period is extended to October 31, 1980.

Signed at Washington, D.C., this 28th day of August, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-26928 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1592-1]

Proposed Rulemaking on Approval of Colorado State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA today is proposing to approve portions of the amended Colorado State Implementation Plan, Regulation No. 3 "Regulation Requiring Air Pollutant Emission Notice, Emission Permits and Fees." Regulation No. 3 has been amended to meet the requirements of Sections 172 and 173 of the Clean Air Act.

DATES: Comments due October 6, 1980.

ADDRESSES: Comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

Copies of the materials submitted by the Governor of Colorado and comments received on this proposal may be examined during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Region VIII, Suite 200, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), Mail Code PM-213, 401 M Street, SW., Washington, D.C. 20460.

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FOR FURTHER INFORMATION CONTACT: Eliot Cooper, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION:

Background

In our October 5, 1979 Final Rulemaking (44 FR 57405 and 57406) on the Colorado SIP, EPA noted the following deficiencies in Colorado's requirements for permits to construct for major sources and modifications (Regulation No. 3).

1. The State statutory requirements for the automatic issuance of an emisson permit when statutorily defined time limits have been exceeded is inconsistant with the requirements of Sections 110 and 173 of the Act. EPA stated that all permits issued for this reason will be invalid and disapproved that portion of Regulation No. 3.

2. The exemption for sources increasing emission by less than 10% could exempt major modification for new source review and therefore, it is inconsistent with Sections 171 and 172 of the Act.

3. The exemption from offset requirements in nonattainment areas for sources with "actual" emissions less than the 50 tons per year, 1,000 pounds per day or 100 pounds per hour cutoffs must be revised to be "allowable" emissions.

4. As required by Section 173(1)(A), offsets, in addition to being greater than one-for-one, must represent reasonable further progress, when considered with the revised plan.

5. The definition of "source" and "facility" must be the same as defined by EPA's Emission Offset Interpretative Ruling (44 FR 3274, January 16, 1979).

6. "Significant" as defined in Section (D)(3)(d) must be the same as defined by EPA's Emission Offset Interpretative Ruling, Section (II)(D).

7. It did not provide for a program consistent with Section 172(b)(11)(A) of the Act.

With the exception of the first deficiency EPA conditionally approved Regulation No. 3 with the understanding that these deficiencies would be satisfied by March 1, 1980 (44 FR 57428 and 45 FR 7802).

State Submittal

On June 20, 1980, the Governor of Colorado submitted to EPA the following amended rules:

Repeal and repromulgation of regulation No. 3 "A Regulation Requiring Air Pollutant Emission Notice, Emission Permits and Fees."

Revisions to common provisions regulation as they relate to changes in Regulation No. 3.

Regulation No. 3, in general, requires emission offsets and lowest achievable emission rate technology (LAER) for major new sources and modifications that will significantly affect nonattainment areas. It also provides for banking of offsets and alternative emission reductions ("bubble").

Regulation No. 3 was written from both the Emission Offset Interpretative Ruling and EPA's September 5, 1979, proposed changes (44 FR 51924) to this ruling. In meeting the combination of the old and new requirements, Regulation No. 3 is not less stringent than would be allowed under either the old or new set of requirements. However, on August 7, 1980 (45 FR 52676), EPA promulgated final rules amending the Emission Offset Interpretative Ruling and the new source review regulation. Since the State will have nine months to submit regulations consistent with the recent rules, EPA is not proposing to disapprove any portion of the State's regulation which is consistent with previous guidance, but not consistent with the recent promulgation.

Proposed Action

The automatic issuance of a permit when statutorily defined time limits have been exceeded was disapproved in our October 5, 1979, Final Rulemaking. This provision remained unchanged in the revised Regulation No. 3. A legislative amendment will be needed before this deficiency can be remedied.

EPA finds the amended rules have resolved deficiencies 2 through 7. However, in amending these rules the Colorado Air Quality Control Commission made additional changes to Regulation No. 3 which EPA finds unacceptable. These changes are as follows:

1. Section IV.D.2.b.ii.(G) exempts from the major modification definition, a "change of an existing oil-fired or gas-fired boiler to use of an coal/oil mixture, shale oil, or coal-derived fuels provided that such change would not interfere with reasonable further progress (RFP) towards attainment of any National Ambient Air Quality Standard."

EPA is proposing to disapprove this exemption since it does not include a requirement that the source was capable of accommodating such a change prior to December 21, 1976.

2. Section IV.D.2.b.iii., Major Modification and the definition of major stationary source in the Common Provisions Regulation provide that fugitive emissions of particulate matter from any of the 26 listed source categories will be excluded in determining whether a source is major, even though quantifiable, if the owner or operator of the source demonstrates to the satisfaction of the Colorado Air Pollution Control Division that such emissions are of a size and substance that will not adversely affect public health or welfare.

EPA is proposing to disapprove this exclusion based on size and substance of particulate matter since this demonstration regarding public health impact cannot be made with the health effects data now available. At this time, it is EPA's position that particulate matter, regardless of size and substance, shall be included in the applicability determination, since the existing National Ambient Air Quality Standard (NAAQS) for total suspended particulates (TSP) was extablished to protect public health and does not provide for this type of exemption. The particulate standard is currently being reviewed and the possibility of a new size specific standard exists. However, until the review of the particulate standard is complete, 1981, EPA is proposing to disapprove this exemption. In addition, even if such an exemption were permissible under existing federal standards and regulations, this portion of the regulation provides no criteria for the Division's decision, and thus, is too vague to be acceptable.

3. Under Section IV.H.6., the Division may grant an applicant a period greater than six months to bring a source into compliance. EPA is proposing to disapprove this extension since it would not meet the requirements of Section 110(i) of the Act.

4. Regulation No. 3 also lacked a definition of a "reconstruction." In our Emission Offset Interpretative Ruling, EPA defines "reconstruction" as improvements at an existing source which equal 50% or more of the capital cost for replacing the source.

The Administrator included this approach in accordance with Congressional intent to subject new construction in nonattainment areas to requirements such as LAER even though a replacement of an older unit would result in a net reduction from previous emission levels.

This was premised on the fact that nonattainment areas require very stringent permitting procedures to overcome the inertia of the nonattainment problem. Having a reconstruction provision would promote maximum air quality improvements by requiring more construction projects to meet LAER and bring other sources in the State under common control into compliance with the attainment plan.

If any major source is "reconstructed" in a nonattainment area in Colorado and escapes review under Section IV.D.2., Requirements Applicable To Nonattainment Areas, its State permit will not be deemed valid by EPA and will be subject to enforcement action.

5. Section IV.D.2.(iii)(AA) requires fugitive emissions being regulated under Regulation No. 6, Standards of Performance for New Stationary Sources, and Regulation No. 8, The Control of Hazardous Air Pollutants, to be included in the determination of whether a major modification has occurred. This provision also appears in the definition of Major Stationary Source in the Common Provisions Regulation.

EPA has provision which appears in the definition of "potential to emit" and provides that fugitive emissions shall be included in determining "potential to emit" for any stationary source being regulated under Section 111. New Source Performance Standards (NSPS), and Section 112, National Emission Standards for Hazardous Pollutants (NESHAPS). Colorado's Regulation No. 6 and No. 8 are not up to date with current additions to EPA's NSPS and NESHAPS regulations and therefore, sources could be exempted from review under IV.D.2 until the State updates their regulations.

Therefore, if any source escapes review under Section IV.D.2. because its fugitive emissions were not subject to Regulation No. 6 or No. 8, even though EPA had made revisions to NSPS or NESHAPS, which apply to the source, the State permit will be deemed invalid by EPA, and the source will be subject to enforcement action.

EPA today solicits comments on our proposed disapproval of these additional changes.

Section IV.D.2.b.(ix) provides that with respect to sources locating in nonattainment areas without an approved implementation plan or a plan which is "incomplete," the significant net increase in potential to emit, provided for in Major Modifications, Section IV.D.2.b., shall be determined only with respect to increases and decreases that have occurred at the particular piece of process equipment which has been modified (i.e., the "bubble concept" shall be applied only to the individual piece of process equipment (facility) rather than to the entire stationary source).

In EPA's final new source review regulations published on August 7, 1980, this distinction between complete and incomplete SIPs has been eliminated. Therefore, this provision in the State regulation is no longer necessary, since the dual definition now applies across the entire nonattainment area.

Regulation No. 3 also has provisions for banking of emission offsets and the "bubble" approach. In both provisions, SIP revisions are required. EPA will base our approval of these SIP revisions on the demonstration of RFP for banking, and conformity with the conditions set forth in our Alternative Emission Reduction Options Policy Statement ("Bubble Policy," December 11, 1979, **Federal Register**).

Although EPA has noted these additional deficiencies in Regulation No. 3 and set forth conditions when EPA would take necessary enforcement action should invalid State permits be issued, we do find Regulation No. 3 to be adequate to satisfy the requirements of Sections 172 and 173 of the Act.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Sections 110, 172, and 173 of the Clean Air Act as amended.

Dated: July 29, 1980.

Gene A. Lucero,

Deputy Regional Administrator.

[FR Doc. 80-27152 Filed 9-4-80; 8:45 am]

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40 CFR Part 52

[FRL 1597-4]

California State Implementation Plan Revision: Sacramento Valley Air Basin Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and regulations for the Sacramento Valley Air Basin and constitute the Nonattainment Area Plan (NAP) for ozone (O_3), carbon monoxide (CO) and total suspended particulates (TSP). This air basin includes the following Counties: Butte, Colusa, Glenn, Sacramento, Sutter, Tehama, Yuba, Yolo, and portions of Placer, Solano, and Shasta. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for the Air Basin.

This notice addresses only those portions of the SIP revisions concerning Butte, Placer, Sacramento, Solano, Sutter, Yolo, and Yuba Counties. A separate **Federal Register** notice will address the remaining portions of the revisions concerning Colusa, Glenn, Tehama, and Shasta Counties.

The EPA invites public comments on the SIP revision, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether the overall NAP or certain portions of the NAP should be approved, conditionally approved, or disapproved, especially with resect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch (A-4-2), Regulatory Section, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed SIP revision and EPA's associated evaluation report are contained in Document File NAP-CA-16 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.
Butte County Air Pollution Control District, 316 Nelson Avenue, Oroville, CA 95965.
Butte County Association of Governments, 1859 Bird Street, Oroville, CA 95965.
Placer County Health Department, 11491 "B" Avenue, Auburn, CA 95603.
Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827.
Sacramento Regional Area Planning Commission, 800 "H" Street, Suite 300, Sacramento, CA 95814.
Sutter County Air Pollution Control District, 142 Garden Way, Yuba City, CA 95991.
Yolo-Solano Air Pollution Control District, P.O. Box 1006, Woodland, CA 95659.
Yuba County Air Pollution Control District, 938 14th Street, Marysville, CA 95901.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and

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Hazardous Materials Division,
Environmental Protection Agency,
Region IX, 215 Fremont Street, San
Francisco, CA 94105, (415) 556–2938.

Supplementary Information:

EPA Proposed Actions

The portions of the Sacramento Valley Air Basin (SVAB) NAP for the seven counties addressed in this notice have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for portions of the NAP concerning the seven counties.

EPA's review indicates that the portions of the SVAB NAP concerning these seven counties are consistent with the Part D requirements, with certain exceptions, as noted below. EPA is proposing to approve the consistent portions and incorporate them into the SIP.

Certain portions of the NAP for the seven counties contain minor deficiencies with respect to Part D. EPA is proposing to approve these portions and incorporate them into the SIP, with the condition that each minor deficiency be corrected by a specified deadline. The portions of the NAP containing minor deficiencies for each county/nonattainment pollutant are as follows:

Butte/CO—annual report and permit program; Butte, Sutter, and Yuba/O_3—legally enforceable measures and permit program; Placer, Sacramento, Solano, and Yolo/O_3 and CO—emission inventory, emission reduction estimates, permit program, resources, and extension requirements for volatile organic compounds; Sacramento/TSP—emission inventory, modeling, attainment provision, reasonable further progress, legally enforceable measures, annual report, permit program, and resources.

Portions of the NAP for O_3 in Placer, Sacramento, Solano and Yolo Counties and for CO in Sacramento County constitute major deficiencies with respect to Part D. The major deficiencies are the result of the lack of legal authority from the California State Legislature to implement a vehicle emission control inspection and maintenance program in the Sacramento Metropolitan Area. Therefore, the following portions of the NAP for these four counties are proposed to be disapproved: legally enforceable measures and extension requirements.

EPA is proposing in this notice to conditionally approve the Butte, Sutter, and Yuba County portions of the NAP. In addition, EPA is proposing to conditionally approve the portion of the NAP concerning TSP in Sacramento County. Upon final rulemaking, this additional approval would be sufficient to lift the construction sanction in Butte, Sutter, and Yuba Counties and, with respect to TSP only, in Sacramento County.

However, EPA is also proposing in this notice to disapprove the portions of the NAP concerning O_3 in Sacramento, Yolo, and portions of Placer and Solano Counties and CO in Sacramento County. This disapproval action would result in the continuation of the construction prohibition on certain sources in the parts of these four counties that are within the

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95–95, require States to revise their SIPs for all areas that do not attain the Naitonal Ambient Air Quality Standards (NAAQS).

On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17 and November 23, 1979 (44 FR 38583, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

The entire Sacramento Valley Air Basin is currently designated nonattainment for O_3 and TSP (except Glenn County, which is unclassified for TSP). In addition, Butte and Sacramento Counties are nonattainment for CO.

In a September 24, 1979 letter, the California Air Resources Board (ARB) requested EPA to redesignate (1) Colusa, Glenn and Shasta (SVAB portion) Counties to unclassifiable for O_3; (2) Tehama County to attainment for O_3; and (3) Tehama, Shasta (SVAB portion), Butte, Solano (SVAB portion), Sutter, Yuba and Yolo Counties to unclassifiable for TSP.

On April 10, 1980 EPA published a notice in the **Federal Register** proposing to approve the requested redesignations. As a result, EPA is deferring the review of the portions of the SVAB NAP concerning O_3 and TSP plans in those counties. Action will be taken for those counties after a final rulemaking notice on the redesignation request.

Description of Proposed SIP Revisions

On November 13, 1979, the Governor's designee submitted the SVAB Control Strategy (Chapter 13 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) to EPA. Preparation of the Control Strategy was coordinated by the Sacramento Regional Area Planning Commission, Sutter County Air Pollution Control District (APCD), Yuba County APCD, Butte County Association of Governments and ARB.

The SVAB NAP includes the following documents: "Sacramento Valley Air Basin Control Strategy," (Chapter 13); locally adopted plans for Butte, Colusa, Glenn, Shasta, Sutter and Yuba County APCDs; a plan for the Sacramento Metropolitan Area (which consists of Sacramento County and those portions of Placer, Solano and Yolo Counties within the Sacramento Air Quality Maintenance Area); ARB staff reports on each plan; SIP Revision for TSP in the SVAB; ARB Resolutions concerning county plans and TSP Revision; rules adopted and amended concerning these APCDs; the ARB EKMA/Isopleth Analysis; and Notices of Public Hearings for this SIP revision.

However, as discussed above, EPA is deferring action on that portion of the November 13, 1979 submittal concerning O_3 plans for Colusa, Glenn, Shasta and Tehama County APCDs. A separate **Federal Register** notice will address that portion of the November 13 SIP revision.

Chapter 13 provides a summary of the pollutant control strategy for the SVAB and identifies and discusses which portions of the NAP meet Clean Air Act requirements.

The plans for Butte, Sutter, and Yuba Counties, and the Sacramento Metropolitan Area, addressed in this notice consist of the following major components:

—A basic description of the nonattainment area including topography, air monitoring network and air quality standards;

—A list of the Federal NAP requirements;

—A discussion of the public participation process;

—A discussion of the control measures selected for the purpose of reducing pollutant emissions;

—A list of future requirements and recommendations;

—A discussion of the impacts of pollutants on public health, and on vegetation and materials.

The ARB Staff Reports and Resolutions provide the following information:

—A summary of the attainment or nonattainment status for each pollutant in the air basin;

—A description of the projected emission reductions resulting from implementation of the Control Strategies contained in the plans.

The SIP Revision for TSP summarizes the particulate problem in the air basin and recommends specific actions.

The major strategies of the NAP to attain and maintain the O_3 standard in the Sacramento Metropolitan Area are:

—California's motor vehicle standards on new vehicles;

—An inspection program to reduce pollution from in-use vehicles;

—Increased control of industrial sources;

—Transportation measures to reduce the use of automobiles;

—A program to control new industrial sources.

The controls listed above that affect motor vehicle emissions will also aid in attainment of the CO standard.

Chapter 13 also indicates that attainment of the TSP standard in the Metropolitan Area will require the development of a more extensive plan.

In addition to the November 13, 1979 submittal, this notice considers amendments to APCD rules submitted by the Governor's designee prior to March 1, 1980 which affect the NAP. The rules being considered in this notice are listed below with the submittal dates.

Butte County—*December 17, 1979*

Rule 2.12a—Transfer of Gasoline into Stationary Storage Containers.

Rule 2.12b—Transfer of Gasoline into Tank Trucks, Trailers, and Rail Carts.

Rule 2.12c—Storage of Gasoline Products at Terminals and Bulk Loading Facilities.

Rule 2.12d—Dry Cleaning.

Rule 2.12f—Architectural Coatings (November 13, 1979).

Placer County (Mountain Counties Air Basin portion)—*November 13, 1979*

Rule 212—Storage of Petroleum Products.

Rule 217—Cutback Asphalt.

Rule 218—Architectural Coatings.

Rule 215—(Bulk Plant) Transfer of Gasoline (October 15, 1979).

Rule 219—Organic Solvents (October 15, 1979).

Rule 212—Storage of Petroleum Products (October 13, 1977).

Sacramento County—*November 13, 1979*

Rule 8—Valves and Flanges at Chemical Plants.

Rule 10—Petroleum Solvent Dry Cleaning.

Rule 11—(Amendment) Storage of Petroleum Products.

Rule 12—Organic Liquid Loading.

Rule 13—Gasoline Transfer into Stationary Storage Containers.

Rule 14—Transfer of Gasoline into Vehicle Fuel Tanks.

Rule 16—Architectural Coatings.

Rule 17—Surface Coatings—Manufactured Metal Parts/Products (February 25, 1980).

Rule 19—Cutback Asphalt Paving Materials.

Rule 20—Solvent Degreasing.

Sutter County—*November 13, 1979*

Rule 2.16—Storage and Transfer of Gasoline (February 25, 1980).

Rule 2.21—Architectural Coatings.

Rule 2.22—Solvent Degreasing (February 25, 1980).

Yuba County—*November 13, 1979*

Rule 2.25—Storage and Transfer of Gasoline (February 25, 1980).

Rule 2.29—Organic Solvents (October 15, 1979).

Rule 2.31—Architectural Coatings.

Yolo—Solano County—*February 25, 1980*

Rule 2.14—Architectural Coatings (November 13, 1979).

Rule 2.13(h)(6)—Organic Solvents (December 17, 1979).

Rule 2.21—Vapor Control for Organic Liquid Transfer and Storage.

Rule 2.21.1—Storage of Organic Liquids.

Rule 2.24—Solvent Cleaning Operations (Degreasing).

Rule 2.25—Surface Coating of Manufactured Metal Parts and Products.

Criteria for Approval

The following list summarizes the basic requirements for NAPs. The citations which follow, referring to portions of the Clean Air Act, provide the basis for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in section 171 of the Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emission growth increment (172(b)(5)).
8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).
9. A permit for major new or modified sources (172(b)(6) and 173).
10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).
11. Evidence of public, local government, and State involvement and consultation (172(b)(9)).
12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).
13. For CO and O_3 SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs (172(b)(11)(A)).

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110)(a)(3)(B) and 110(C)(5)(B).

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For O_3 nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines (172(a)(2)). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D NAP requirements discussed in the preceding section, CRITERIA FOR APPROVAL. EPA policy for approval of NAP's submitted as 1979 SIP revisions, as discussed in the General Preamble, differentiates between rural and urban ozone nonattainment areas. Based on the definition of a rural area and the policy, the Butte, Sutter and Yuba Counties' ozone plans have been reviewed against the rural requirements, and the Sacramento Metropolitan Area

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(AQMA) ozone plan has been reviewed against the urban requirements. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural ozone plan do not require that all of the fourteen CRITERIA FOR APPROVAL listed above be fully met. However, the rural/urban distinction does not affect the CRITERIA with respect to the other pollutants, CO and TSP, considered in this notice. Each criterion is discussed in depth below for: the Sacramento Metropolitan Area plan submittal, the Butte, Yuba and Sutter plan submittals and the TSP plan submittal for Sacramento County.

In this section the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s). As noted in the SUMMARY Section, EPA reviewed each of the plans for conformance with the CRITERIA FOR APPROVAL. Also in this Section, EPA identifies the portions of each plan that (1) are approvable, (2) are conditionally approvable, or (3) contain a major deficiency which causes disapproval of that portion of the plan and the overall plan with respect to Part D. Where a plan discrepancy is identified, recommendations for revision of the plan are specified. As a result of this analysis, EPA proposes to disapprove the overall plan for the Sacramento Metropolitan Area for CO and O_3, to conditionally approve the Butte, Sutter and Yuba County plans for O_3 and the Butte County plan for CO, and to conditionally approve the Sacramento County plan for TSP, all with respect to Part D requirements.

With respect to the rules submitted, EPA proposes to approve them (with the exception of Placer County APCD Rule 212, submitted on October 13, 1977) since they strengthen the SIP, and they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51. Placer County APCD Rule 212 (October 13, 1977 submittal) is proposed to be disapproved.

A. Sacramento Metropolitan Nonattainment Area

1. Emission Inventory

Ozone and Carbon Monoxide. The plan includes emission inventories of hydrocarbons (HC) and CO for a portion of the nonattainment areas. These plan inventories were based on emissions data collected on three summer days in 1976.

Due to the failure of the inventories to include the entire nonattainment area and due to the time of year of data collection, certain source categories may not be properly represented. Motorcycle emissions are not included at all. Also, the documentation and calculations used in developing the emission projections are not contained in the SIP submittal.

These deficiencies are considered minor, however, and EPA proposes to approve this portion of the O_3 and CO plans with the condition that the State submit corrected CO and HC emission inventories by October 1, 1980. These corrections must include:

(1) Emissions for the total nonattainment areas, with adequate documentation to represent average daily emissions;

(2) Motorcycle emissions;

(3) A CO emission inventory which takes into account winter conditions;

(4) Supporting documentation for emission factors and projections.

2. Modeling

Ozone. Using a City Specific Empirical Kinetic Modeling Approach (EKMA), the plan estimated that attainment of the NAAQS for O_3 would require approximately a 50% reduction in reactive organic gases. The analysis included a design value of .19 ppm and assumed a transport value of .10 ppm. EPA finds this modeling to be acceptable for the 1979 plan and proposes to approve this portion of the O_3 plan.

Carbon Monoxide. The plan, as modified by the State, uses linear rollback modeling to calculate that emission reductions of approximately 46% are required to meet the NAAQS for CO. Rollback is considered an acceptable modeling technique for the 1979 SIP revision and thus EPA proposes to approve the modeling portion of the CO plan.

3. Emission Reduction Estimates

The plan contains two sets of HC emission reduction estimates for individual control tactics. One is calculated as a percent of the base year emission inventory; another provides the percent of control per tactic from the proposed implementation date. These estimates, however, do not correspond to the projected emission inventories nor to the Reasonable Further Progress (RFP) emission reduction estimates.

Estimated HC emission reductions are also unclear due to the State's deletion and revision of several control tactics contained in the locally adopted plan and by the fact that the emission inventory is not for the total nonattainment area. Further, the 14% reduction in HC emissions credited to the implementation of an NSR rule lacks documentation to substantiate it. Finally, the plan does not contain any emission reduction estimates for CO.

EPA proposes to approve the Emission Reduction Estimates portion of the Sacramento Metropolitan Area plan for O_3 and CO with the condition that the State submit, by October 1, 1980, upgraded estimated reductions for both O_3 and CO and the supporting documentation. These estimates must be for each year through the attainment year and for each tactic (including the new source review rule) in the plan for which implementation is scheduled to begin prior to July 1, 1982.

4. Attainment Provision

Section 172(a) of the Act requires that the plan provide for the attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982. However, Section 172(a) also provides that where the State demonstrates that the standards for O_3 and/or CO cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987.

The plan demonstrates that the O_3 and CO standards cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures, and therefore requests an extension. EPA finds that the requested extension of the attainment date for O_3 and CO is justified and proposes to grant the extension.

The submitted plan does not quantitatively demonstrate attainment of the O_3 and CO standards by December 1987. However, EPA proposes to approve the attainment portion of the CO and O_3 plans for the Sacramento Metropolitan Area, since the plan includes a commitment to prepare a 1982 SIP revision that will provide a quantitative demonstration of attainment of the O_3 and CO standards by December 31, 1987.

5. Reasonable Further Progress (RFP)

Figures 13–1 and 13–2 of Chapter 13 in the plan submittal represent the annual incremental reductions needed for attainment by 1987 of the O_3 and CO standards, respectively. This generalized representation is sufficient for the 1979 SIP revision, as it addresses the requirements of Sections 172(b)(3) and 171(1) of the Act with respect to reasonable further progress. The RFP schedule must additionally be supported by the implementation of a process for monitoring and verification of transportation related emission reductions. EPA proposes to approve this portion of the Sacramento Metropolitan Area O_3 and CO plans.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to contain in legally enforceable form (1) all of the necessary reasonably available control technology (RACT) for volatile organic compound (VOC) sources, and (2) all reasonably available control measures identified in the plan for implementation, including a motor vehicle emission inspection and maintenance program. For all other measures, either adopted control strategies or schedules and commitments for strategy development, adoption and implementation have not been submitted.

The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle emission inspection and maintenance (I/M) program is a reasonably available transportation control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O_3 and CO plans and to disapprove the overall O_3 and CO plans with respect to Part D requirements.

The plan contains 5 transportation control measures that are presently found to be reasonable in the Sacramento Metropolitan nonattainment area. However, there is no evidence in the plan that all of these transportation control measures are currently adopted or committed for implementation in legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed, and where appropriate, have adopted statutes, regulations, ordinances or other legally enforceable documents, to implement and, where appropriate, enforce the necessary transportation control measures, nor have they established implementation schedules with milestones dates for planning, programming, implementing, operating, enforcing and monitoring each transportation control measure, consistent with a demonstration of reasonable further progress. EPA proposes to approve this portion of the O_3 and CO plans with the condition that the State submit the commitments and schedules discussed above by October 1, 1980.

Sections 172(b)(11)(C), 172(b)(2) and 172(b)(10) require the identification and implementation of all other reasonably available control measures (including, but not limited to, those contained in Section 108(f) of the Act) necessary to provide for attainment. The plan does not contain commitments to implement expeditiously all measures found to be reasonably available after analysis performed in accordance with the schedule required in Criterion 13 below. Therefore, EPA proposes to approve this portion of the O_3 and CO plans with the condition that these commitments be submitted by October 1, 1980.

The O_3 plan must also include adopted regulations reflecting RACT for all applicable stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January 1978. As discussed in detail in Criterion 14, adequate legally enforceable regulations for 3 of the 15 CTG categories (degreasing operations, surface coating of cans and coils) have not been submitted by the State for certain counties. EPA has determined that the absence of such rules is a minor deficiency because these categories appear to make up a small portion of the HC emission inventory. This portion of the O_3 plan is therefore proposed to be approved under the same conditions stated in Criterion 14. Specifically, EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by October 1, 1980, adopted rules consistent with the CTG's, for the 3 stationary source categories mentioned above, or provide certification that no sources in these categories exist in the planning areas.

The plan contains (in Table 13-2) stationary source control measures for certain source categories which are not addressed by the CTG documents published by EPA, as of January 1978. These control measures are not adopted in legally enforceable form, although the plan contains a commitment that those measures deemed reasonably available will be adopted as rules by the Sacramento, Placer, and Yolo-Solano APCDs and/or the ARB. EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by October 1, 1980 a schedule providing for the adoption and submittal to EPA of all such control measure rules as expeditiously as practicable and not later than July 1, 1982. Such rules must be adopted and submitted in accordance with the schedule, and each annual report must provide a status of adoption of such rules.

40 CFR Part 52. In addition to the proposed rulemaking actions, the following Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, are proposed to be rescinded or amended because they have been replaced by a revised set of control measures or regulations contained in the plan, and/or they have been invalidated by previous legal action:

Section 52.222—*Extensions.* Paragraph (b): The attainment date for the national standards for carbon monoxide and photochemical oxidants for the Sacramento Valley Intrastate should be changed in accordance with the submitted plan.

Section 52.233—*Review of new sources and modifications.* Paragraph (b) and subparagraphs (d)(6)(iii), (d)(6)(vi), (d)(6)(ix), (f)(1)(i)(*b*), (g)(1)(vi)(*h*), and (g)(1)(vi)(*i*) should be rescinded when the State adopts and officially submits approvable New Source Review regulations; also, paragraphs (h) and (i) should be rescinded because they have been invalidated by the Clean Air Act Amendments of 1977.

Section 52.238—*Attainment dates for national standards.* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

The sections below should be rescinded in their entirety because they have been invalidated by the court action of *Brown* vs. *EPA* 521 F.2d 827 (1975):

Section 52.242—*Inspection and maintenance program.*
Section 52.243—*Motorcycle limitation.*
Section 52.244—*Oxidizing catalyst retrofit.*
Section 52.245—*Control of oxides of nitrogen, hydrocarbon, and carbon monoxide emissions from in-use vehicles.*
Section 52.247—*Definitions for parking management regulations.*
Section 52.251—*Management of parking supply.*
Section 52.257—*Computer carpool matching.*
Section 52.266—*Monitoring transportation mode trends.*

The following section should be rescinded as it is replaced by revised control stragegies for the pollutants:

Section 52.269—*Control strategy and regulations: Photochemical oxidants (hydrocarbons) and carbon monoxide.*

7. *Emissions Growth.* The plan must include either (1) an expressed

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identification and quantification of an emission growth increment for the construction and operation of major new or modified stationary sources, or (2) provisions to offset the emissions from such sources in a new source review rule. The plan does contain an adopted new source review rule which provides for emission offsets. Therefore, EPA proposes to approve this portion of the O_3 and CO plans as satisfying the requirements of section 172(b)(5) of the Act.

8. Annual Reporting

The Sacramento Metropolitan Area plan includes a commitment for submittal of annual reports of reasonable further progress, and thus, EPA proposes to approve this portion of the O_3 and CO plans.

9. Permit Program

The Sacramento Metropolitan Area plan contains an NSR Rule that was adopted by the ARB for the entire SVAB.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for NSR and to the Emission Offset Ruling in September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with EPA criteria. The rules use less stringent source definitions, allow exclusion of modifications from Lowest Achievable Emission Rate and offset requirements in cases which EPA does not allow, have weaknesses in emission offset application and requirements, and do not require full stateside compliance certification. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan does not specifically identify the personnel and financial resources which the implementing agencies must commit, nor does it provide commitments on the part of all implementing agencies to the resources necessary for plan implementation. The plan must provide such identifications and commitments to satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7). EPA proposes to approve this portion of the O_3 and CO plans with the conditions that the State submit by October 1, 1980, the identification and commitments described above.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

EPA proposes to approve this portion to the CO and O_3 plans as meeting the requirements of Section 172(b)(9) of the Act.

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the O_3 and CO plan submittals.

13. Extension Requirements

Since the State has demonstrated that the NAAQS for O_3 and CO cannot be attained by December 1982, despite the application of reasonably available control measures, and the state has requested an extension of the attainment date beyond December 1982, for O_3 and CO, the plan must meet the requirements of Sections 172(b)(11)(A), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that the benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of that Section. Therefore, EPA proposes to approve this portion of the Sacramento Metropolitan Area CO and O_3 plans with the condition that the State submit the relevant portions of CEQA by October 1, 1980.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the California Legislature has filed to authorize the legal authority to implement such a program. Therefore, EPA proposes disapproval of this portion of the CO and O_3 plans and the CO and O_3 overall plans with respect to Part D requirements.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants and State and local funds to implement public transportation programs. The plan does not provide a commitment to develop a plan to meet basic public transportation needs. The plan must document basic policy level commitments to improve public transportation to meet basic transportation needs. The plan must also commit to the use of Federal grants and State and local funds as necessary to meet such needs. EPA proposes to approve the O_3 and CO plans with respect to the requirements of sections 110(a)(3)(D) and 110(c)(5)(B), with the condition that the State submit the commitments specified above by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. The Sacramento Metropolitan Area plan does identify a number of measures, and the State has committed to the development of a work program for transportation control measures which will assign targets for reduction of emissions, motor vehicles trips and vehicle miles traveled for these measures. This work plan can form the basis for a study of alternative *packages* of measures. Schedules and commitments for implementation must be part of the work plan and must be incorporated into the SIP. Additionally, several 108(f) measures have not been fully analyzed; these must be included in the plan for further study. This portion of the O_3 and CO plans is proposed to be approved with the condition that the State submit by October 1, 1980 an expanded list of measures, and a schedule for analysis of the alternative packages of measures.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of RACT for those stationary source categories of VOC which exist within the Sacramento Metropolitan nonattainment area for which EPA had published a CTG document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendations, for any source or groups of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The Sacramento Metropolitan Nonattainment Area is under the jurisdiction of three separate APCDs, the Sacramento County APCD and portions of the Yolo-Solano APCD and the Placer County APCD. Therefore, regulations for each of the 15 source categories addressed by the Group I CTG's must be submitted by each of these Districts, for those geographical portions that are included in the Sacramento Metropolitan Nonattainment Area, or the plan must certify that no sources exist for a category in that District. A review of the RACT regulations for each of these three APCD's follows:

Sacramento County APCD. The plan indicates that 10 of the 15 Group I CTG categories exist in the Sacramento County APCD jurisdiction. The 10 categories include service station Stage I gasoline vapor recovery (GVR), bulk gasoline plants, bulk gasoline terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and the surface coating of cans, coils, large appliances, and metal furniture. (There are no petroleum refineries or surface coating operations for paper, fabric, automobiles, or magnet wire.) The following regulations were submitted on the dates listed for eight of the applicable source categories:

November 13, 1979

Rule 11, "Storage of Petroleum Products"

Rule 12, "Organic Liquid Loading"

Rule 13, "Gasoline Transfer into Stationary Storage Containers"

Rule 19, "Cutback Asphalt Paving Materials", and

Rule 20, "Degreasing Operations"

February 25, 1980

Rule 17, "Surface Coating of Manufactured Metal Parts and Products"

Adopted regulations have not been submitted for can and coil coating operations.

EPA has reviewed the submitted regulations listed above in relation to the respective CTG for each of the eight categories. Based on the information in the CTG's, EPA believes that the regulations are adequate to fulfill the requirements for RACT, except as noted below.

1. Rule 13, "Gasoline Transfer into Stationary Storage Containers," (Stage I GVR) contains an exemption for tanks in existence prior to July 1, 1975, with offset full pipes. This exemption is not supported by information in the CTG.

2. Rule 19, "Cutback Asphalt Paving Material," contains an exemption allowing the use of cutback asphalt from November 1 through March 30. The State must either provide documentation that ambient temperatures during this period do not typically exceed 50°F, or this exemption must be rescinded.

Major sources of can and coil coating operations exist within the APCD jurisdiction and yet regulations have not been submitted for inclusion in the SIP. Therefore the plan does not satisfy the requirements of Section 172 (b)(2) and (3) of the Act. However, this is considered a minor deficiency since emissions from can and coil coating operations make up a small portion of the base year emission inventory.

In response to the minor deficiencies enumerated above, EPA proposes approval of the Sacramento County VOC–RACT portion of the O_3 plan with the condition that the State submit the following by October 1, 1980:

(1) For Rule 13, Stage I GVR, either:

(a) An adequate demonstration that the regulations represent RACT or

(b) An adequate demonstration that the regulations would render emission reductions within 5% of those achievable through the implementation of the CTG recommendations, or

(c) An amended regulation consistent with the CTG.

(2) For Rule 19, Cutback Asphalt, documentation supporting the five month exemption or a revision to the rule eliminating the exemption.

(3) An adopted rule representing RACT for can and coil coating operations. The State has submitted a model rule which contains control requirements sufficient to fulfill the requirement for RACT. Therefore an adopted rule which is similar and equivalent to the model rule would satisfy this condition.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this commitment is adequate provided that the State submit adopted regulations for the following applicable source

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categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 17, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirement for RACT for Miscellaneous Metal Parts, a Group II CTG category. The District's Rule 11, "Storage of Petroleum Products," also contains control requirements sufficient to fulfill the requirement for RACT for Floating-Roof Tanks (another Group II category). Therefore, no additional control requirements are needed for these source categories.

The State has also submitted the following rules for inclusion in the SIP on November 13, 1979. These rules implement other control tactics included in the plan:

Rule 6, "Valves and Flanges at Chemical Plants"

Rule 10, "Petroleum Solvent Dry Cleaners"

Rule 14, "Transfer of Gasoline into Vehicle Fuel Tanks, and

Rule 16, "Architectural Coatings".

These regulations are proposed to be approved for inclusion in the SIP since they will strengthen the SIP.

The submitted regulations for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulation adequately controls those sources covered by the Federal Regulation, and since the District regulation is presently in effect, the Federal Regulation should be rescinded applicable to these sources. Additionally, the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks," should be rescinded, since the District's Rule 14 adequately controls sources subject to the Federal Regulation.

Placer County APCD. The State has submitted regulations for the Mountain Counties Air Basin portion of Placer County. This area includes the part of Placer County which lies in the Sacramento Metropolitan Nonattainment Area.

The plan indicates that only eight of the fifteen Group I CTG categories exist in the Mountain Counties Air Basin portion of the Placer County APCD (there are no petroleum refineries, or surface coating operations for paper, fabric, large appliances, metal funiture, automobiles, or magnet wire.) The source categories that do exist include service station Stage I GVR, bulk gasoline plants, bulk gasoline terminals, fixed-roof tanks, cutback asphalt, degreasing operations, and surface coating operations for can and coils. The following regulations were submitted on the dates indicated for five of the eight categories.

October 13, 1977

Rule 212, "Storage of Petroleum Products"

October 15, 1979

Rule 215, "Transfer of Gasoline into Tank Trucks, Trailers, and Railroad Tank Cars at Loading Facilities",

November 13, 1979

Rule 212, "Storage of Petroleum Products", and

Rule 217, "Cutback Asphalt".

Adopted regulations have not been submitted for degreasing, or the surface coating of cans and coils.

Rule 212, as submitted on October 13, 1977, does not contain control requirements sufficient to fulfill the requirement for RACT for gasoline bulk plants or service station Stage I GVR. The rule is considerably less stringent than the Federal Regulation 40 CFR 52.255, which is currently in effect for this District. EPA proposes to disapprove Rule 212, as submitted on October 13, 1977, and to retain the Federal Regulation for these source categories.

EPA has reviewed the rules submitted on October 15, 1979 and November 13, 1979 in relation to the CTG's for bulk gasoline terminals, fixed-roof tanks and cutback asphalt. Based on the information in the CTG's, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except for the provision contained in Rule 217, "Cutback Asphalt", which allows the use of cutback asphalts between October 1 and May 1. EPA believes that such a provision may be appropriate if the ambient temperature during those months does not typically exceed 50°F.

The State has not submitted regulations for can and coil coating operations, or solvent metal degreasing for the Placer County portion of the nonattainment area. Therefore, the plan does not satisfy the requirements of Sections 172(b)(2) and (3) of the Clean Air Act. However, this is considered a minor deficiency in view of the small emission reductions that are likely to occur with the implementation of such rules in the Placer County portion of the Sacramento Metropolitan Nonattainment Area.

In response to the minor deficiencies enumerated above, EPA proposes approval of the Placer County VOC RACT portion of the O_3 plan on the condition that the State submit the following by October 1, 1980:

(1) Adopted rules representing RACT for the gasoline bulk plants, service station Stage I GVR, can and coil coating operations and solvent metal degreasing source categories. The State has submitted model rules for these categories which contain control requirements sufficient to fulfill the requirement for RACT. Therefore, adopted rules which are similar and equivalent to the model rules would satisfy this condition.

(2) For Rule 217, Cutback Asphalt, documentation supporting the seven month exemption or a revision to the rule eliminating the exemption.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 212, as submitted on November 13, 1979, "Storage of Petroleum Products", contains control requirements sufficient to fulfill the requirement for RACT for Floating-Roof Tanks (a Group II CTG category). EPA proposes to approve Rule 212. Therefore, no additional control requirements are needed for this source category.

The State has also submitted the following regulations on the dates indicated. These regulations implement control tactics included in the plan, or replace Federal regulations currently in effect.

November 13, 1979

Rule 218, "Architectural Coatings".

October 15, 1979

Rule 219, "Organic Solvents".

These regulations should be approved for inclusion in the SIP, since they strengthen the SIP. The Federal

Regulations 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses," 40 CFR 52.252, "Control of Degreasing Operations," 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage" should be rescinded when these regulations become effective.

Yolo-Solano APCD. The plan indicates that eight of the fifteen Group I CTG source categories exist in the Yolo-Solano APCD. These include service station Stage I GVR, gasoline bulk plants, gasoline bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and surface coating of large appliances and metal furniture. (There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire.) The following regulations for each of these source categories were submitted on the following dates:

December 17, 1979

Paragraph (h)(6) of Rule 2.13, "Organic Solvents".

February 25, 1980

Rule 2.21, "Vapor Control for Organic Liquid Transfer and Storage",
Rule 2.21.1, "Storage of Organic Liquids",
Rule 2.24, "Solvent Cleaning Operations (Degreasing)",
Rule 2.25, "Surface Coating of Manufactured Metal Parts and Products".

EPA has reviewed the submitted regulations and the previously approved regulations listed above in relation to the respective CTG for each of the eight categories. Based on the information in the CTG's EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below.

(1) Paragrph (h)(6) of Rule 2.13 for cutback asphalt does not place a limit on the VOC content of emulsified asphalts, and does not specify the length of time stockpiling is to occur in order to qualify for an exemption. Also, the District's regulation is structured such that if a source was not in compliance with the specific requirements for cutback asphalt, the source would be required to meet general solvent limitations. The State has not provided any justification that the general solvent limits represents RACT for cutback asphalt.

(2) Rule 2.24, "Solvent Cleaning Operations (Degreasing)", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 2.13, which requires sources to meet either a 40 lb/day or a 3000 lb/day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 2.13 without using any controls.

In response to the minor deficiencies enumerated above, EPA proposes approval of the O_3 plan with respect to the Yolo-Solano VOC RACT portion of the Sacramento Metropolitan Area O_3 plan with the condition that the State submit the following by October 1, 1980:

(1) Adequate demonstration that Rule 2.13(h)(6) represents RACT or that the Rule requires emission reductions which are within 5% of the controls recommended by the CTG or a revised rule consistent with the CTG.

(2) An adequate demonstration that Rule 2.13 is RACT or a revised rule that extends the control requirements of Rule 2.24 to all degreasers.

The submitted regulation for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulation adequately controls those sources covered by the Federal Regulation, and since the District regulation is presently in effect, the Federal Regulation should be rescinded applicable to these sources.

The submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are regulated by Federal Regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." Since the District's regulation is future-effective, the Federal Regulation should be retained applicable to the sources covered by the District regulation until such sources achieve full compliance with the respective District regulation. The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the District's rule for certain degreasers (primarily those using trichloroethylene). Therefore, it is proposed that the Federal Regulation remain in effect for those sources.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 2.25, "Surface Coating of Manufactured Metals Parts and Products", contains control requirements sufficient to fulfill the requirement for RACT for Miscellaneous Metal Parts, (a Group II CTG category). The District's Rule 2.21.1, "Storage of Petroleum Products", also satisfies the requirement for RACT for Floating-Roof Tanks (another Group II category). EPA proposes to approve Rules 2.25 and 2.21.1. Therefore, no additional control requirements are needed for those source categories.

The State has also submitted Rule 2.14, "Architectural Coatings," on November 13, 1979. This rule implements a control tactic included in the plan, and is proposed to be approved, since it will strengthen the SIP.

B. Yuba and Sutter Counties—Ozone Plans; Butte County Ozone and Carbon Monoxide Plans

1. Emission Inventory

The Yuba, Sutter and Butte County plans include HC emission inventories and the Butte County Plan includes a CO emission inventory. These inventories were found to be reasonably comprehensive, current, and accurate at the time they were developed. Therefore, EPA proposes to approve the inventory portion of the Yuba, Sutter and Butte O_3 plans and the Butte CO plan.

2. Modeling

Ozone. The plans do not contain air quality models that allow calculation of emission reductions needed to project attainment of the 0.12 ppm primary O_3 standard by 1982. However, as referenced in the General Preamble, EPA policy does not require a specific demonstration of attainment by rural O_3 areas in the 1979 SIP revisions. Thus, the absence of such a model is not considered a deficiency, and EPA proposes to approve this portion of the Butte, Yuba, and Sutter O_3 plans.

Carbon Monoxide. The Butte County plan uses linear rollback modeling to calculate that a 22.2% reduction in CO emissions will be required to meet the NAAQS in Butte County. This is an

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acceptable method for estimating required reductions in emissions for the 1979 SIP. Therefore, EPA proposes to approve this portion of the Butte County CO plan.

3. Emission Reduction Estimates

Emission reduction estimates are contained in the plans for each control measure for HC and CO reductions. EPA finds these estimates adequate and proposes to approve this portion of the O_3 and CO plans.

4. Attainment Provision

Ozone. The plans do not quantitatively provide for attainment of the primary O_3 standard by the statutory dates. However, EPA policy for rural O_3 plans does not require a specific demonstration of attainment. Thus, EPA proposes to approve the O_3 attainment portions of the Butte, Sutter and Yuba plans.

Carbon Monoxide. The Butte County plan indicates that the CO standard can be achieved by December 31, 1982, based on reductions from the State motor vehicle emission standards. This provision for attainment is acceptable, and EPA proposes approval of this portion of the Butte County CO plan.

5. Reasonable Further Progress

Ozone. The plans do not contain a demonstration of reasonable further progress for attainment of the O_3 standard. As referenced in the General Preamble, the 1979 O_3 SIP revision for rural areas need not provide for annual incremental reductions in emissions which would demonstrate reasonable further progress. Thus, EPA proposes to approve this portion of the O_3 plans for Butte, Sutter and Yuba Counties.

Carbon Monoxide. Figure 13–3 of the Sacramento Valley SIP Revision represents the annual incremental reductions needed for attainment of the CO standard by 1982 in Butte County. This representation meets the requirements of Section 172(b)(3) and 171(1) of the Act with respect to reasonable further progress, and EPA proposes to approve this portion of the Butte CO plan.

6. Legally Adopted Measures

Carbon Monoxide. The Butte County Plan for CO contains one control tactic, the California Motor Vehicle Emission Standards, which has been adopted by the State and is legally enforceable. Therefore, EPA proposes to approve this portion of the Butte CO plan.

Ozone. The present SIP submittal does not indicate that all required plan elements have been adopted at either the state or local level. Specifically, for Butte and Yuba Counties, a VOC Reasonably Available Control Technology (RACT) rule for cutback asphalt has not been submitted.

The plans must provide for the minimum levels of control technology that are required by the Act. For rural O_3 nonattainment areas such as Butte, Yuba, and Sutter Counties, the plans must include adopted, legally-enforceable regulations which reflect the application of RACT for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA has published a CTG Document by January, 1978, (i.e., Category I CTGs). In addition, the plans must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve the regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material which must be submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular source being regulated), and public comment on the submitted regulation and supporting material.

Yuba County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, only five exist in the nonattainment areas. There are no petroleum refineries, large fixed-roof tanks, or surface coating operations for large appliances, metal furniture, cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment areas include service stations, bulk plants, bulk terminals, degreasing operations, and cutback asphalt. Of of these five categories, there appear to be major sources for only bulk gasoline terminals and cutback asphalt.

Rule 2.25 "Storage and Transfer of Gasoline" was submitted by the State on February 25, 1980 for the bulk terminals source category. EPA has evaluated Rule 2.25 and has determined that this rule would satisfy the requirements for RACT if Section c.2 of the rule were modified to insure that the rule requires at least 90% emission reductions. EPA proposes to approve this portion of the O_3 plan with the condition that the State submit a revised rule correcting the deficiency noted above, by October 1, 1980.

Rule 2.25 also requires controls for service stations and bulk gasoline plants. EPA proposes that these controls be approved and incorporated into the SIP, as they will strengthen the SIP.

A regulation has not been submitted for cutback asphalt, however, and therefore the requirements of Sections 172(a)(2) and (b)(3) are not met. The absence of such a rule is considered a minor deficiency in view of the minimal emission reductions that are likely to occur with the implementation of such rules in Yuba County. Therefore, EPA proposes to approve this portion of the Yuba O_3 plan with the condition that the State submit by October 1, 1980 either (1) a legally adopted adequate rule for cutback asphalt or (2) a certification that cutback asphalt does not constitute a major source in Yuba County. The State has submitted a model rule for this category which contains control requirements sufficient to fulfill the requirement for RACT. Therefore, an adopted rule equivalent to the model rule would satisfy this condition.

The State also submitted the following regulations on the dates indicated.

October 15, 1979

Rule 2.29, "Organic Solvents".

November 13, 1979

Rule 2.31, "Architectural Coatings".

It is proposed that these rules be approved for inclusion in the SIP, since they will strengthen the SIP. The Federal Regulations 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses", 40 CFR 52.252, "Control of Degreasing Operations", 40 CFR 52.253 "Metal Surface Coating Thinner and Reducer", and 40 CFR 52.254, "Organic Solvent usage," are proposed to be rescinded effective immediately.

Sutter County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, only five exist in the nonattainment area. There are no petroleum refineries, large fixed-roof tanks, or surface coating operations for large appliances, metal furniture, cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, degreasing operations, and cutback asphalt. Of these five categories, there are major sources for only bulk gasoline terminals.

Rule 2.16, "Storage and Transfer of Gasoline," was submitted by the State on February 25, 1980 for the bulk terminals source category. EPA has evaluated Rule 2.16 and has determined that this rule would satisfy the requirement for RACT if section c.2 of the rule were modified to insure that the rule requires at least 90% emission reductions. EPA proposes to approve this portion of the O_3 plan with the condition that the State submit a revised rule correcting the deficiency noted above, by October 1, 1980.

Rule 2.16 also requires controls for service stations, large fixed-roof tanks and bulk gasoline plants. EPA proposes that these controls be approved and incorporated into the SIP, as they will strengthen the SIP.

For Sutter County, the State has submitted Rule 2.21, "Architectural Coating," on November 13, 1979, and Rule 2.22, "Solvent Degreasing," on February 25, 1980. It is proposed that these rules be approved for inclusion in the SIP, since they will strengthen the SIP. EPA also proposes that paragraph (m) of the Federal Regulation 40 CFR 52.254, "Organic Solvent Usage," be rescinded for Sutter County when sources achieve compliance with Rule 2.21.

Butte County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, major sources exist in the County in only two source categories: bulk gasoline terminals and cutback asphalt. The following regulations were submitted by the State on December 17, 1979. These reguations control bulk gasoline terminals, as well as bulk gasoline plants, fixed-roof tanks, and service stations (Stage I GVR).

Rule 2–12.a, "Transfer of Gasoline into Stationary Storage Containers,"

Rule 2–12.b, "Transfer of Gasoline into Tank Trucks, Trailers, Railroad Tank Cars at Loading Facilities,"

Rule 2–12.c, "Storage of Gasoline Products at Terminals and Large Bulk Loading Facilities."

These regulations are proposed to be approved for inclusion in the SIP, since they will strengthen the SIP. In addition, EPA has reviewed Rule 2–12–b in relation to the CTG for Bulk Gasoline Terminals. Based on the information in the CTG, EPA believes that Rule 2–12.b is adequate to fulfill the requirement for RACT.

Regulations for cutback asphalt have not been submitted, and therefore the requirements of Sections 172 (a)(2) and (b)(3) are not met. The absence of such a rule is considered a minor deficiency, in view of the minimal emission reduction that are likely to occur with the implementation of such a rule in Butte County.

EPA proposes to approve this portion of the Butte County ozone plan with the condition that the State submit by October 1, 1980 (1) an adopted rule that is equivalent to RACT for cutback asphalt or (2) a certification that cutback asphalt does not constitute a major source for Butte County. The State has submitted a model rule for this category which contains certain control requirements sufficient to fulfill the requirement for RACT. Therefore, an adopted rule which is similar and equivalent to the model rule would satisfy this condition.

It is proposed that the Federal Regulation 40 CFR 52.255 "Gasoline Transfer Vapor Control" be rescinded, since the submitted regulations adequately control sources subject to the Federal Regulation.

The State also submitted the following rules on the dates indicated:

Rule 2–12d, "Dry Cleaning" (December 17, 1979).

Rule 2–12e, "Cold Solvent Degreasing" (February 25, 1980).

Rule 2–12f, "Architectural Coatings" (November 13, 1979).

These rules implement a control tactics included in the plan. It is proposed that these rules be approved for inclusion in the plan, since they will strengthen the SIP. Paragraph (m) of the Federal Regulation 40 CFR 52.254, "Organic Solvent Usage, should be rescinded for Butte County for sources in compliance with Rule 2–12.f.

As stated earlier, the plans must contain a commitment to adopt regulations that are consistent with future CTG documents.

The plans contain resolutions that commit to implement all other reasonably available control measures needed to attain the O_3 standard as expeditiously as possible. This commitment is adequate provided that the State submits adopted regulations by July 1, 1980, for major sources in the following applicable source categories: petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, miscellaneous metal parts and products, graphic arts, pneumatic rubber tire manufacture, flat wood paneling, and floating-roof tanks, (i.e., Category II CTGs). If no major sources exist for a particular category, the State must so certify.

7. Emissions Growth

The plans contain adopted New Source Review rules which use emission offsets for major new or modified stationary sources to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of the Ozone plans for Butte, Sutter and Yuba and this portion of the Butte County CO Plan.

8. Annual Reporting

The plans do not specifically contain provisions for annual reports of reasonable further progress, including an updated emission inventory. EPA policy for rural O_3 plans does not specifically require the 1979 plans to contain all of the above items. Thus, EPA proposes to approve this portion of the O_3 plans.

The Butte County CO plan also does not contain a provision for Annual Reports of reasonable further progress including an updated emission inventory. EPA proposes to approve this portion of the CO plan with the condition that the State submit the first Annual Report for CO for Butte County, by July 1, 1981.

9. Permit Program

The Butte, Yuba and Sutter Plans contain a New Source Review Rule that was adopted by the ARB for the entire Sacramento Valley Air Basin.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with the above criteria. EPA has determined that the deficiencies in the NSR regulations are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulations with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final

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rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise the NSR regulations within nine months to be consistent with that final action.

The rules use less stringent source definitions, allow exclusion of modifications from Lowest Achievable Emission Rate and offset requirements in some cases, and do not require full statewide compliance certification. These and other deficiencies are described in the Evaluation Report.

10. Resources

The plans identify the agencies responsible for implementing the necessary control strategies. This identification is acceptable and EPA proposes to approve this portion of the Butte, Yuba, and Sutter plans.

11. Public and Government Involvement

The plans provide evidence of public, local government, and State involvement and consultation in the planning process, and document the process used in designating responsible entities for preparing and implementing the plans.

The official SIP submittal also identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. In addition, the plans contain a summary of public comments.

Therefore, EPA proposes to approve this portion of the Butte, Sutter and Yuba plans.

12. Public Hearing

The plans meet the requirements of Section 172(b)(10) since they include evidence that the plans were adopted by the local lead agencies and by the State, after reasonable notice and public hearing. EPA proposes approval of this portion of the O_3 plan submittals for Butte, Sutter and Yuba, and the CO plan submittal for Butte.

13. Extension Requirements for O_3, CO

14. Extension Requirements for VOC RACT

Ozone. As referenced in the General Preamble, the 1979 O_3 SIP revision for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to the O_3 portion of the plans.

Carbon Monoxide. The Butte County plan demonstrates attainment of the primary CO standard by 1982. Therefore, the extension requirements with respect to CO do not apply.

C. Sacramento County—Total Suspended Particulates

Based on a request from the State of California, EPA has proposed in an earlier notice, to redesignate all of the SVAB, except for Sacramento County, from nonattainment to unclassifiable for TSP. Thus, the following evaluation pertains only to the Sacramento County nonattainment area. Additionally, the State has submitted a plan which addresses both the primary and secondary TSP standards. The existing TSP designation for Sacramento County is nonattainment with respect to only the secondary standard. EPA's review of the plan reflects this designation.

The TSP Plan for Sacramento County is proposed to be conditionally approved. EPA invites public comment on this proposal, the appropriateness of the present designation, and the specific items that are proposed to be conditionally approved.

1. Emission Inventory

The plan includes an emission inventory of TSP for the total SVAB, using a 1976 base year. However, as stated earlier, the State has requested, and EPA proposes to approve, redesignation of a major portion of the Sacramento Valley from nonattainment to unclassifiable for TSP. Only Sacramento County will remain nonattainment for TSP and only for the secondary standard. As required by section 172(b)(4), the State must submit a revised TSP emission inventory for only the Sacramento County nonattainment area. This inventory must include secondary aerosol emissions as a source category, and also must identify and quantify all subcategories of the nontraditional source category.

EPA proposes to approve the emission inventory portion of the Sacramento County TSP plan with the condition that the State submit an emission inventory for Sacramento County by October 1, 1980.

2. Modeling

The plan does not contain a modeling analysis which would determine the emission reduction estimates needed to attain the NAAQS. A design value must be selected and documented, and a modeling analysis must be submitted. Justification for using either the 24-hour standard or the annual geometric mean standard must also be submitted. EPA proposes to approve this portion of the Sacramento County TSP plan with the condition that the State submit a modeling analysis for Sacramento County for TSP by October 1, 1980.

3. Emission Reduction Estimates

The TSP plan contains a general commitment to the study of fugitive dust and other nontraditional control measures (see ATTAINMENT PROVISION discussion). Therefore, EPA proposes to approve this portion of the plan.

4. Attainment Provision

The plan identifies adopted regulations which reflect an emission limit that requires RACT for existing major source categories. In addition, the plan indicates that fugitive dust emissions appear to comprise a major portion of the TSP inventory, and that reductions in these emissions will be necessary to attain the NAAQS. Due to (1) the unavailability of precise emission factors for the fugitive dust sources and (2) the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reduction.

In such cases where study and implementation of nontraditional control measures is necessary to attain the standards, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for the attainment of the secondary TSP standards as expeditiously as practicable.

The TSP plan contains a commitment by the ARB to attain the secondary TSP standard as expeditiously as practicable. However, the plan does not contain commitments and schedules to perform specific studies, nor does it contain a commitment and schedules to implement those measures found to be reasonable. If the schedule and these commitments are submitted, a demonstration of attainment could be approved based on future implementation of nontraditional source control measures. EPA proposes approval of the TSP plan for Sacramento County with the condition and the State submit the schedules and commitments noted above by October 1, 1980.

5. Reasonable Further Progress

The plan indicates that RFP cannot be quantified due to analytical problems and to a lack of information on measured TSP concentrations. However, if the nontraditional source study tasks, schedule, commitment and milestones were included in the plan, the plan would appear to be consistent with the requirements of Section 172(b)(3) and 171(1), since it would provide for regular incremental reductions needed for expeditious attainment, based on future implementation on nontraditional and secondary particulate source control measures. EPA proposes to approve this portion of the TSP plan on the same condition as outlined in the ATTAINMENT PROVISION discussion: the submittal of adequate schedules and commitments by October 1, 1980.

6. Legally Adopted Measures

The TSP plan, as noted above, identifies adopted regulations which reflect an emission limit that is equivalent to RACT for major source categories. In addition, the State has committed to develop and submit by December 31, 1981, a plan containing further analysis and control measures needed to attain the secondary standard as expeditiously as possible.

As discussed in the ATTAINMENT DEMONSTRATION section of this notice, the TSP plan contains a minor deficiency since it does not contain a commitment and schedule for the development, adoption, and implementation of those control measures necessary for attainment as expeditiously as practicable. The LEGALLY ADOPTED MEASURES section is deficient for the same reason, and is therefore proposed to be approved under the same conditions stated in the ATTAINMENT DEMONSTRATION section.

7. Emissions Growth

To satisfy the requirements of Section 172(b)(5) of the Act, the plan must provide either an emission growth increment or an offset requirement for those emissions resulting from major new stationary source growth.

The plan contains an adopted NSR rule which requires emission offsets from major new or modified stationary sources. Therefore, EPA proposes to approve this portion of the plan.

8. Annual Reporting

The plan must contain a commitment for annual reports of RFP including an updated emission inventory. A commitment to such annual reporting is not included in the plan. EPA proposes to approve this portion of the plan with the condition that the State submit the first Annual Report, including the information noted above, on July 1, 1981 and a commitment to submit annual reports hereafter.

9. Permit Program

As discussed in this Notice's evaluation of the Sacramento Metropolitan Area plan for CO and O_3, a legally adopted preconstruction review permit program has been submitted to fulfill the requirements of Sections 172(b)(6) and 173 of the Act. Deficiencies in the program necessitate conditional approval is described in Criterion 9 of the CO and O_3 discussion. This portion of the TSP plan is deficient for the same reason, and EPA therefore proposes to approve this portion of the TSP plan with the same condition stated in the CO and O_3 discussion.

10. Resources

The plan does not specifically identify and commit to all financial and personnel resources needed for plan implementation, nor does the plan provide commitments to these resources on the part of all implementing agencies to satisfy the requirements of Section 172(b)(7). EPA is proposing to approve this portion of the TSP plan with the condition that the State submit these commitments by October 1, 1980.

11. Public and Government Involvement

Through the State hearing process, the plan provides evidence of public, local government, and State involvement. The plan documents the proces used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

EPA proposes to approve the Public and Government Involvement portion of the Sacramento County TSP plan sumittal as meeting the requirements of Section 172(b)(9) of the Act.

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the plan submittal.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

The Regional Administrator hereby issued this notice setting forth the SIP revision described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

This proposal also includes draft regulations which have been adopted as model rules after public hearing by the State. All of these model rules have not yet been adopted and submitted to EPA by the State as legally enforceable regulations. However, the State has requested EPA to review these model rules and invites public comments on whether these draft regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State submits regulations equivalent to these model rules.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comments on the specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

EPA believes the available period for comment is adequate because:

(1) The Control Strategy has been available for inspection and comment since January 29, 1980.

(2) EPA's notice of receipt and availability of the November 13, 1979 SIP submittal indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revision will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. sections 7410, 7429, 7501 to 7508, and 7601(a))

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Dated: June 23, 1980.

Sheila M. Prindiville,
Acting Regional Administrator.

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40 CFR Part 52

[FRL 1597-7]

Approval and Promulgation of Nonattainment Plan for Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on specified changes in regulations which were submitted by the State of Illinois to satisfy the requirement of Part D of the Clean Air Act (Act). These changes to the Illinois rules for issuance of permits to new or modified air pollution sources affecting nonattainment areas were made after publication of a Notice of Proposed Rulemaking on July 2, 1979 (44 FR 38587). On February 21, 1980, (45 FR 11472), the United States Environmental Protection Agency (USEPA) published final rulemaking on the unchanged portions of the regulations as revisions to the federally approved Illinois State Implementation Plan (SIP).

DATE: Comments on this revision and on the proposed USEPA action must be received by October 6, 1980.

ADDRESSES: Copies of the revisions, supporting material and public comments received in response to this notice may be inspected and copied (for appropriate charges) during the normal business hours at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Illinois Environmental Protection Agency, 2200 Churchill Street, Springfield, Illinois 62706.

Written comments should be sent to:

Mr. Gary Gulezian, Air Programs Branch, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mary Gade, Assistant Regional Counsel, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6073.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, requires each State to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). These SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances no later than December 31, 1987 for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On April 3, 1979, the State of Illinois submitted a draft SIP to USEPA to satisfy the requirements of Part D of the Act. USEPA published a notice of proposed rulemaking on these draft SIP revisions on July 2, 1979 (44 FR 38587) and a correction notice on September 20, 1979 (44 FR 54500). In the July 2, 1979 notice, USEPA indicated that the regulations in the State's submittal were preliminarily adopted by the Illinois Pollution Control Board (IPCB) and would be finally adopted after completion of necessary State administrative procedures. USEPA stated that until all State administrative requirements were satisfied, it would not complete federal rulemaking on the SIP revisions. USEPA also indicated that any substantive changes in the final SIP which were not discussed or anticipated in the Notice of Proposed Rulemaking would be addressed in additional Notices of Proposed Rulemaking. On December 21, 1979, and January 25, 1980, USEPA received letters from the State of Illinois which demonstrated that, with one exception, all regulations were finally adopted by the State on January 16, 1980. USEPA's review of these finally enacted regulations indicated that changes were made in some of the regulations after the publication of the Notice of Proposed Rulemaking on July 2, 1979. Therefore, in the Feburary 21, 1980 **Federal Register** (45 FR 11472), in which USEPA conditionally approved Illinois' New Source Review rules, USEPA took no rulemaking action in regard to those portions of regulations which were significantly changed between the submittal of the draft State Implementation Plan on April 3, 1979 and the submittal of the final State Implementation Plan. In addition, on June 18, 1980, the State submitted to USEPA two sections of the Rules which were previously reserved by the State.

USEPA in this Notice of Proposed Rulemaking is requesting comments on its proposed actions: (1) Approval of the addition to Section 4.7 (Reconstruction), (2) disapproval of the addition to Section 4.11 (Allowable Emissions) (3) approval of the additions to Section 5.1 (Conditions for the Issuance of Permits), and (4) disapproval of Sections 10.1 and 10.2 (Procedure for Determination of Emission Offsets) as discussed below:

Section 4.7—Reconstruction

Section 4.7 of the final rules is a new definition under Section 4 (Section 3 of the April draft submittal) defining reconstruction and listing factors to be considered in determining whether an activity is routine repair or reconstruction or equipment or operation. The definition provides further that "if an item of equipment or an operation undergoes reconstruction, it will be considered new for the purpose of [the new source review] rules."

USEPA proposes to approve *Section 4.7 Reconstruction* of the State's New Source Review rules.

Section 4.11

Section 4.11 (Section 3.10 of the draft submittal) of the final rules included the following new material in the paragraph entitled *Allowable Emissions:* "Allowable emissions shall also include a reasonable estimate of emissions in excess of applicable standards during startup, malfunction, or breakdown as appropriate."

USEPA proposes to disapprove this addition to the definition of allowable emissions. USEPA policy, as reflected in the Federal malfunction regulations promulgated in the April 27, 1977 **Federal Register** (42 FR 21472), recognizes the possibility of malfunctions but defines all periods of excess emissions as violations of the applicable emission standard in order to reduce the frequency of such episodes by encouraging good maintenance procedures. According to this policy, the source then has the burden to demonstrate that the violation was due to an unavoidable malfunction in which case enforcement discretion may be exercised. The Federal malfunction regulations detail the enforcement procedure which will be followed when a period of excess emissions occurs and indicate how this discretion will be exercised. Therefore, USEPA proposes to disapprove this addition to the definition of allowable emissions.

Sections 5.1(a)(2)(ii), 5.1(a)(2)(iii)

Section 5 of the New Source Rules addresses conditions for issuance of permits to new or modified sources. Section 5.1(a)(2) gives a new source permit applicant the option of providing emission offsets or demonstrating an absolute air quality improvement (defined as constant or improved air quality at all modeled receptors) or both. Section 173(1)(A) of the Clean Air Act, in setting forth the requirements for approving construction permits, does not address air quality impact analysis but does require reductions in allowable emissions to accommodate the new sources. It is USEPA's position that the demonstration of an absolute air quality improvement at all modeled receptors will guarantee that sufficient offsetting emissions have been obtained. Therefore, USEPA proposes to approve Section 5.1(a)(2)(ii).

Section 5.1(a)(2)(iii) allows the issuance of a construction permit if the applicant provides an offset ratio of at least 1.25 and demonstrates that no substantial worsening of air quality will occur. Since Section 173 of the Act does not address air quality impact analysis, the State, in setting its requirement with respect to what "substantial worsening of air quality" means, must ensure that the reasonable further progress requirements of Section 10.3 are met. USEPA proposes to approve this Section.

Sections 10.1, 10.2

Sections 10.1 and 10.2 (Sections 9.1 and 9.2 of the April submittal) contain a procedure by which external sources may provide offsets to a new source by the submission of the external source's operating permit to the State agency so that "a new operating permit may be issued for the 'offsetting' source with the reduced rate as a condition of the permit."

USEPA proposes to disapprove this external offset procedure unless the State makes a commitment to USEPA within the thirty day comment period to submit the revised or new operating permits to USEPA as SIP revisions. The submission of the operating permits to USEPA for approval as SIP revisions is necessary to make the operating permits federally enforceable.

The proposed action of USEPA on the above sections of the New Source Review Rules is subject to the conditional approval of the rules which appered in the February 21, 1980 **Federal Register** at 45 FR 11472, 11492 and is codified at page 11495 of the notice as 40 CFR Part 52 § 52.736. The New Source Review Rules were conditionally approved in the February 21, 1980 notice on the condition that "Illinois submit within one hundred eighty days of the notice (February 21, 1980) a determination signed by the Illinois Attorney General that the promulgation of the New Source Review Rules is consistent with Illinois law; or, in the alternative, submit to USEPA for approval another nonattainment area New Source Review plan which is consistent with Illinois law and meets the requirements of Sections 172(b)(6) and 173 of the Clean Air Act."

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations as "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of September 5, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

The proposed rulemaking is issued under the authority of Sections 110, 172 and 301(a) of the Clean Air Act (42 U.S.C. 7410, 7502, and 7602).

Dated: August 6, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-27254 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1597-6]

San Joaquin Valley Air Basin Nonattainment Area Plan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and regulations for the San Joaquin Valley Air Basin (SJVAB) and constitute the Nonattainment Area Plan (NAP) for carbon monoxide, ozone and total suspended particulates. This Air Basin includes the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for this air basin.

This notice addresses only that portion of the SIP revision concerning the Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare County nonattainment areas for ozone and carbon monoxide. A separate **Federal Register** notice will address the remaining portion of the revision, which concerns carbon monoxide, ozone and sulfur dioxide in Kern County and total suspended particulates throughout the Air Basin.

The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether these revisions should be approved, conditionally approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments must be recieved on or before October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed Revision and EPA's associated Evaluation Report are contained in document file NAP-CA-04 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

California Air Resources Board, 1102 Q Street, Sacramento, CA 95812.

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

In addition copies of the applicable Nonattainment Plans are available at the following locations:

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, CA 93721.

Kern County Board of Supervisors, 1700 Flower Street, Bakersfield, CA 93305.

Kings County Air Pollution Control Board, 1221 West Lacey Boulevard, Hanford, CA 93230.

Madera County Air Pollution Control Board, 135 W. Yosemite Avenue, Madera, CA 93637.

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Merced County Board of Supervisors, 210 E. 15th Street, Merced, CA 95340.
San Joaquin County Board of Supervisors, 1810 East Hazelton Avenue, Stockton, CA 95202.
Stanislaus Area Assoc. of Governments (SAAG), 814 14th Street, Modesto, CA 95354.
Tulare County Association of Governments, County Civic Center, Visalia, CA 93277.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

EPA Proposed Actions

The portions of the NAP for the seven counties addressed in this notice have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for the portions of the NAP concerning the seven counties.

The following portions of the NAP for ozone and/or CO in Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare counties have been determined to be consistent with Part D and are proposed to be approved and incorporated into the SIP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources (except Fresno County as noted below), public and intergovernmental consultation, and public hearing.

The following portion of the NAP for each county except Fresno and San Joaquin (as noted below), contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP with the condition that each deficiency be corrected by a specified deadline: legally adopted measures, permit program, and with respect to the San Joaquin County portion of the NAP for CO, the extension requirement.

The following portions of the NAP for carbon monoxide and ozone in Fresno County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP with the condition that each deficiency be corrected by a specified deadline: legally adopted measures, permit program, resources, and extension requirements for volatile organic compounds.

Portions of the NAP for ozone and carbon monoxide in Fresno County constitute major deficiencies with respect to Part D due to the lack of legal authority from the California State legislature to implement a vehicle emission control inspection and maintenance program. Therefore, the following portions of the NAP for Fresno County are proposed to be disapproved: legally adopted measures and extention requirements.

EPA is proposing in this notice to conditionally approve the Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare portions of the NAP. Upon final rulemaking action conditional approval would be sufficient to lift the construction prohibition in these counties.

However, EPA is also proposing in this notice to disapprove the Fresno County portion of the NAP due to the major deficiencies noted above. This disapproval action would result in the continuation of the construction prohibition in Fresno County.

Background

New provisions of the Clean Air Act, amended in August 1977, Public Law No. 95–95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the attainment status for all areas within the state. The Administrator promulgated these lists with certain modifications, on March 3, 1978 (43 FR 8962), and November 16, 1979 (44 FR 65986). State and local governments were required to develop, adopt and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17 and November 23, 1979 (44 FR 38538, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

EPA's evaluation of the transportation portion of the plan is also guided by the EPA Department of Transportation (DOT) Transportation-Air Quality Planning Guidelines and EPA's Office of Transportation and Land Use Policy SIP-Transportation Checklist. EPA–DOT Guidelines describe the acceptable element that satisfy the Clean Air Act requirements for the transportation portion of an approvable SIP.

The entire San Joaquin Valley Air Basin has been designated as nonattainment for ozone and total suspended particulates (TSP). The following counties of the San Joaquin Valley Air Basin are also identified as nonattainment areas for carbon monoxide and sulfur dioxide:

Carbon Monoxide

San Joaquin County
Stanislaus County
Fresno County
Kern County

Sulfur Dioxide

Kern County

In addition, EPA received from the California Air Resources Board (ARB) on September 24, 1979 a request for redesignation of the boundaries for the Kern County Sulfur Dioxide Nonattainment Area and the Fresno County Carbon Monoxide Nonattainment Area. This request will be addressed in a separate Federal Register Notice.

Description of Proposed SIP Revisions

On October 12, 1979 the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the "San Joaquin Valley Air Basin Control Strategy" (covering Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare Counties) to EPA. Preparation of the proposed SIP revision was coordinated by the lead planning agencies as designated by the ARB.

The San Joaquin Valley Air Basin NAP submitted as a SIP revision includes the "San Joaquin Valley Air Basin Control Strategy" (Chapter 16) and those portions of the locally adopted plans, the ARB's TSP Plan, and the ARB Staff Reports and Resolutions concerning these plans which are listed in Tables 16–1a, 16–1b and 16–c of Chapter 16. Nonreferenced portions of these documents have not been submitted by the State for incorporation into the SIP, but for informational purposes only. This notice addresses only that portion of the NAP for Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties. A separate **Federal Register** notice will address the other parts of the October 12, 1979 submittal.

Chapter 16 provides an overview of the pollutant control strategies for the San Joaquin Valley Air Basin and identifies and discusses which portions of the NAP meet Clean Air Act requirements.

Each of the locally adopted plans are attached as appendices to Chapter 16 and include the following information:

—A basic description of the nonattainment area including topography, air quality standards and the local air quality history.

—An examination of air quality trends through the use of growth projections and emission inventories;

—A discussion of alternative air quality control measures that examines feasibility, costs, technical effectiveness, and enforcement aspects;

—An examination of the impact that new, modified, or relocated sources will have on air quality;

—A discussion of the specific strategy for photochemical oxidants (ozone) that describes the implementation mechanisms, schedules for reasonable further progress, and continuing planning requirements, as well as the environmental, social and economic impacts for the strategies;

—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation and intergovernmental consultation.

—A summary of the costs of implementing and enforcing the plan.

The ARB Staff Reports and Resolutions provide the following information:

—The Attainment/Nonattainment designation for each area and pollutant.

—A summary of the locally adopted plans which includes a discussion of the strategies and requirements for an adequate nonattainment area plan, and a summary of findings and recommended Air Resources Board action.

—In addition, staff findings and proposed ARB amendments are included which discuss ozone, carbon monoxide and TSP control strategies, new source review programs, air quality analyses and transportation control measures.

Chapter 16 indicates that ozone is one of the more serious problems in the basin. The main components of the strategy to reach and maintain the ozone standard are:

—California's motor vehicle standards on new vehicles;

—Increased control of industrial sources, including oil production;

—An inspection program to reduce pollution from in-use vehicles;

—A program to ensure that new industrial sources do not make the problem worse;

—Transportation measures to reduce the use of automobiles in urban areas.

Fresno, San Joaquin, and Stanislaus Counties are nonattainment for carbon monoxide. Since the carbon monoxide problem is caused by motor vehicles, the controls listed above for motor vehicles are also projected to attain the carbon monoxide standard.

In addition to those portions of the October 12, 1979 submittal, this notice considers amendments to the Air Pollution Control Districts' rules and regulations submitted to EPA by the Governor's designee on January 2, May 7 and 23, and October 12 and 15, 1979 as SIP revisions. In order to expedite EPA's review of the San Joaquin Valley Air Basin Nonattainment Area Plan, this notice addresses only those District regulations which appear to relate to applicable Part D requirements, and thus support the NAP.

The rules being considered in this notice are listed below.

Fresno County—October 15, 1979 (unless otherwise indicated).

Rule	
409.1	Architectural Coatings—January 2, 1979
210.1	Standards for Authority to Construct
210.2	Standards for Permit to Operate
409.5	Cutback Asphalt
409	Organic Solvents
409.3	Organic Solvent Degreasing Operation
409.4	Surface Coating of Manufactured Metal Parts and Products
411	Gasoline Transfer into Stationary Storage Containers

Kings County—October 15, 1979 (unless otherwise indicated).

Rule	
410.1	Architectural Coatings
410.2	Cutback Asphalt
410.3	Can and Coil Coatings
410.5	Organic Solvent Metal Cleaning
412.1	Transfer of Gasoline into Stationary Storage Containers
412.2	Transfer of Gasoline into Vehicle Fuel Tanks
413	Transfer of Gasoline into Tank Trucks, Trailers and Railroad Tankcars at Loading Facilities
414.1	Valves and Flanges at Petroleum Refineries and Chemical Plants
414.2	Refinery Process Vacuum Producing Devices and Systems
414.4	Manufactured Metal Parts and Products Coatings—October 12, 1979
411	Storage of Organic Liquids—October 12, 1979
414	Wastewater Separators—October 12, 1979
414.3	Refinery Process Unit Turnaround—October 12, 1979
210.1	Standards for Authority to Construct
210.2	Standards for Permit to Operate

Madera County—October 15, 1979 (unless otherwise indicated).

Rule	
210.1	Standards for Authority to Construct—October 12, 1979
210.2	Standards for Permit to Operate
410.4	Surface Coating of Manufactured Metal Parts and Products—October 12, 1979
410.1	Architectural Coatings
410.3	Organic Solvent Degreasing Operations
410.5	Cutback Asphalt Paving Material
411	Storage of Petro. Distillate or Light Crude Oil
412	Gasoline Transfer into Stationary Storage Containers—Phase I
412.1	Transfer Gas into Vehicle Fuel Tanks

Merced County—October 15, 1979 (unless otherwise indicated).

Rule	
409.5	Cutback Asphalt
411	Gasoline Transfer into Stationary Storage Containers
210.1	Standards for Authority to Construct
210.2	Standards for Permits to Operate
409.3	Degreasing—October 12, 1979
409.4	Manufactured Metal Parts and Products Coatings—October 12, 1979
410	Storage of Organic Liquids—October 12, 1979
409.1	Architectural Coatings—May 7, 1979

San Joaquin County—May 23, 1979 (unless otherwise indicated).

Rule	
409.1	Architectural Coatings—May 23, 1979
411.2	Transfer to Gasoline into Vechicle Fuel Tanks—May 23, 1979
209.1	Standards for Authority to Construct
209.2	Standards for Permit to Operate
409.3	Organic Solvent Degreasing Operations
410	Storage of Organic Liquids
411.1	Transfer of Gasoline into Stationary Storage Containers
413	Refinery Oil-Water Separators
413.1	Valves and Flanges at Petroleum Refineries and Chemical Plants
413.2	Refinery Vacuum Producing Devices or Systems
413.3	Refinery Process Unit Turnaround
409.5	Cutback Asphalt
409.4	Manufactured Metal Parts and Products Coatings—October 12, 1979

Stanislaus County—October 15, 1979 (unless otherwise indicated).

Rule	
409.1	Architectural Coatings—May 23, 1979
411.1	Transfer of Gasoline into Vehicle Fuel Tanks—May 23, 1979
209.1	Standards for Authority to Construct
209.2	Standards for Permit to Operate
409.5	Cutback Asphalt
411	Transfer Gasoline into Stationary Storage Containers
409.3	Degreasing—October 12, 1979
409.4	Manufactured Metal Parts and Products Coatings—October 12, 1979

Tulare County—May 23, 1979 (unless otherwise indicated).

Rule	
410.1	Architectural Coatings
412	Transfer of Gasoline into Stationary Storage Containers—October 15, 1979
413	Organic Liquid Loading
210.1	Standards for Authority to Construct
210.2	Standards for Permits to Operate
410.5	Cutback Asphalt Paving Materials—October 15, 1979

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Rule
410.3 Degreasing—October 12, 1979
410.4 Manufactured Metal Parts and Products Coatings—October 12, 1979

Criteria for Approval

The following list summarizes the requirements for nonattainment area plans. The citations which follow referring to portions of the Clean Air Act, provide the bases for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).

2. A modeling analysis indicating the level of control needed to attain by 1982 and, in the case of an extension request, by 1987 (172(a)).

3. Emission reduction estimates for each adopted control measure (172(a)).

4. A provision for expeditious attainment of the standards (172(a)).

5. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act (172(b)(3)).

6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).

7. An identification of an emissions growth increment (172(b)(5)).

8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).

9. A permit program for major new or modified sources (172(b)(6) and 173)).

10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).

11. Evidence of public, local government, and state involvement and consultation (172(b)(9)).

12. Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing (172(b)(1)).

13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of environmental and social costs (172(b)(11)(A)).

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).

c. A commitment to establish, expand, or improve public transportation to meet basic transportation need (110(a)(3)(D) and 110(c)(5)(B)).

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines (172(a)(2)). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements discussed in the preceding section, "Criteria for Approval." EPA policy for approval of ozone (O_3) plans differentiates between rural and urban O_3 nonattainment area plans. EPA's policy, including the definition of a rural area is discussed in the General Preamble. Based upon the population cut-off contained in the General Preamble, Kings, Madera, Merced, Tulare, San Joaquin, and Stanislaus Counties are considered to be rural areas; Fresno County is considered an urban area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural O_3 nonattainment area plan do not require that all of the 14 Criteria for approval be fully met. However, unlike some other rural areas, San Joaquin and Stanislaus Counties' O_3 concentrations have not been demonstrated to be significantly impacted by emissions from a major urban area, and therefore, reliance on EPA's rural O_3 policy is not completely appropriate for San Joaquin and Stanislaus Counties. Thus, EPA is strongly supportive of State and local efforts to develop a sound demonstration of attainment and to insure reasonable further progress. The rural/urban distinction does not affect the CRITERIA with respect to the other pollutant considered in this notice—carbon monoxide (CO).

In this section the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s). As noted in the Summary section, EPA reviewed each of the plans for conformance with these requirements and, in this Section, identifies the portions of each plan that 1) are approvable, 2) are conditionally approvable, or 3) contain a major deficiency which causes disapproval of that portion of the plan and the overall plan with respect to Part D. As a result of this analysis, EPA proposes to disapprove the overall plan for Fresno County for CO and O_3; to conditionally approve the overall plans for San Joaquin and Stanislaus Counties for CO and O_3; and to conditionally approve the overall plans for Kings, Madera, Merced, and Tulare Counties for O_3 with respect to Part D of the Act. Where a plan deficiency is identified, recommendations for revisions of the plan are specified.

Fresno County

1. Emission Inventory

The plan includes an emission inventory for hydrocarbons (HC) and carbon monoxide (CO), identifying emission source categories and their estimated emissions for the base years of 1975 for CO and 1976 for O_3.

These inventories were found to be reasonably comprehensive, current and accurate at the time they were developed, thus, EPA proposes to approve this portion of the CO and O_3 plans for Fresno County.

2. Modeling

Ozone. The plan used a city specific Empirical Kinetic Modeling Approach (EKMA) to determine a 46% reduction in reactive hydrocarbons needed to attain the ozone standard. The analysis included a design value of 0.19 ppm, and reasonable estimates of the transport concentration and the ratio of non-methane hydrocarbons to nitrogen oxides. EPA finds the modeling analysis to be acceptable for the 1979 plan, and proposes to approve this portion of the Fresno County O_3 plan.

Carbon Monoxide. The plan uses county-wide linear rollback modeling to calculate that a 56% emission reduction is required to meet the CO standard. Rollback is an acceptable method for the 1979 plan in estimating required reductions of emissions, and EPA proposes to approve the modeling portion of the CO plan for Fresno County.

3. Emission Reduction Estimates

Ozone. The plan includes adequate emission reduction estimates for stationary source control strategies and certain mobile source strategies. Therefore, EPA proposes to approve this portion of the Fresno County O_3 plan.

Carbon Monoxide. The only new CO control measure contained in the plan is I/M. Adequate emission reduction estimates are given for this control measure, and therefore, EPA proposes to approve this portion of the CO plan.

4. Attainment Provision

Section 172(a) of the Act requires that the plan provide for the attainment of the primary standard for O_3 and CO as expeditiously as practicable but no later than December 31, 1982. Where the State demonstrates that the standards for O_3 and/or CO cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987. The plan demonstrates that the O_3 and CO standards cannot be achieved by December 31, 1982, despite the implementation of all reasonably available control measures and therefore requests an extension. EPA finds that the requested extension of the attainment date is justified and proposes to grant the extension.

Ozone. The plan demonstrates attainment of the O_3 standard by December 31, 1987, and therefore EPA proposes to approve the ATTAINMENT PROVISION portion of the O_3 plan.

Carbon Monoxide. The plan does not quantitatively demonstrate attainment of the CO standard by December 31, 1987, as required by Section 172(a)(2). EPA proposes to approve the ATTAINMENT PROVISION portion of the CO plan since the plan includes a commitment to prepare the 1982 SIP which will provide for a quantitative attainment demonstration of the CO standard by no later than December, 1987.

5. Reasonable Further Progress

The plan provides a schedule for reasonable further progress (RFP) which indicates annual incremental reductions in emissions needed to provide for attainment of the O_3 and CO standards by 1987. This schedule must be supported by the implementation of a process for monitoring and verifying transportation related emission reductions. This representation is sufficient for the 1979 SIP revision as it addresses the requirements of Sections 172(b)(3) and 171(1) with respect to reasonable further progress. Thus EPA proposes to approve this portion of the CO and O_3 plans.

6. Legally Adopted Measures

The SIP submittal does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). The plan fails to contain adoption, in legally enforceable form, of all reasonably available control measures which include a motor vehicle inspection and maintenance program. For all other measures, the plan must contain either adopted control strategies or schedules and commitments for strategy development, adoption, and implementation.

Ozone. The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle inspection and maintenance (I/M) program is a reasonably available control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O_3 plan and to disapprove the overall O_3 plan with respect to Part D.

Carbon Monoxide. As discussed for O_3, the I/M program cannot be considered to be adopted in legally enforceable form. EPA proposes to disapprove this portion of the CO plan and to disapprove the overall CO plan with respect to Part D requirements. All 18 Section 108(f) transportation control measures (TCMs) are identified for further study with the exception of cold-start controls which is not applicable to the Fresno area. However, there are no schedules or commitments to support further study. EPA proposes to approve this portion of the CO plan on the condition that the State submit these commitments and schedules of further study of transportation control measures by October 1, 1980.

The plan contains 5 transportation control measures that are presently found to be reasonable for Fresno County. However, there is no evidence in the plan that any of the 5 transportation control measures are committed for implementation in legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed to implement and (where appropriate) enforce the necessary transportation control measures, nor have they adequately identified the specific measures to be implemented and established implementation schedules with milestone dates for planning, programming, implementing, operating, enforcing and monitoring each transportation control measure. EPA proposes to approve this portion of the NAP with the condition that the State submit these specific measures, commitments, and schedules from the responsible agencies by October 1, 1980.

Supporting regulations. The State has submitted Rule 409.1, Architectural Coatings. EPA believes this regulation should be approved for inclusion in the SIP, since it will strengthen the SIP by implementing a control tactic included in the plan.

The O_3 plan for Fresno County contains commitments (Table 16–3, SIP Chapter 16) to further study certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. EPA proposes to approve and incorporate these commitments into the SIP with the condition that the State submit by October 1, 1980 a detailed schedule for the further study and adoption of these measures.

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the Fresno County nonattainment area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by the revised set of control measures/regulations contained in the plan and/or they have been invalidated by previous legal action:

A. § 52.233 *Review of new sources and modifications:* Subparagraphs (d)(10)(vii), and (g)(1)(viii) are proposed to be rescinded; also, subparagraphs (h), (i), and (j) are proposed to be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977

B. § 52.238 *Attainment dates for national standard:* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

C. The sections below are proposed to be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*. 521 F2d 827 (1975):

§ 52.242 *Inspection and maintenance program;*
§ 52.243 *Motorcycle limitation;*
§ 52.244 *Oxidizing catalyst retrofit;*
§ 52.245 *Control of Oxides of Nitrogen, Hydrocarbon, and CO emissions from In-use vehicles;*
§ 52.247 *Definitions for parking management;*
§ 52.251 *Management of parking supply;*
§ 52.257 *Computer carpool matching;*

§ 52.265 *Mass transit and Transit Priority Planning;*
§ 52.266 *Monitoring transportation mode trends;*

D. The section below is proposed to be rescinded as it is replaced by revised control strategies for the pollutant:
§ 52.269(a) *Control Strategy and Regulations.*

7. Emission Growth

The plan must either include 1) an express identification and quantification of an emissions growth increment for the construction and operation of major new or modified stationary sources, or 2) provisions to offset the emissions from such sources in a New Source Review rule. The plan does contain a New Source Review rule which provides for emissions offsets. Therefore EPA proposes to approve the EMISSIONS GROWTH portion of the Fresno County plan for O_3 and CO.

8. Annual Reporting

A commitment to submit annual reports of reasonable further progress, including an updated emission inventory is included in the plan. Therefore, EPA proposes to approve this portion of the O_3 and CO plans.

9. Permit Program

The Fresno County Plan contains a New Source Review regulation, Rules 210.1 and 210.2, that were adopted at the local level.

EPA's criteria for approval of a new source permitting program are contained in Section 173 of the Act, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The submitted rules contain many substantial exemptions from lowest achievable emission rate and offset requirements. The definition of source is less stringent, and offset requirements are weak. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with the final action.

10. Resources

The plan identifies annualized costs of control tactics as a sum of capital, operation, maintenance, administrative, and regulatory costs. The plan also identifies sources of available funding. However, the plan neither specifically identifies the personnel and financial resources to which the implementing agencies must commit, nor does it provide commitments on the part of all implementing agencies to the resources necessary for plan implementation. The plan must contain such identifications and commitments to satisfy requirements of Sections 110(a)(2)(F) and 172(b)(7). EPA proposes to approve this portion of the O_3 and CO plan on the condition that the State submit these identifications and commitments by October 1, 1980.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. Additionally the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan. EPA proposes to approve this portion of the O_3 and CO plan submittals, as satisfying the requirements of Section 172(b)(9).

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. EPA proposes approval of this portion of the O_3 and CO plan submittals.

13. Extension Requirements

Since the State has demonstrated that the standards for O_3 and CO cannot be attained by December 1982, despite the application of reasonably available control measures, and has requested an extension of the attainment date beyond December 1982 for O_3 and CO, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that the benefits of a major emitting facility outweigh the environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). EPA proposes to approve this portion of the CO and O_3 plans with the condition that the State submit as a SIP revision the relevant portions of CEQA by October 1, 1980.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance (I/M) program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to authorize the legal authority to implement such a program. Therefore, EPA proposes disapproval of the I/M portion of the CO and O_3 plans, and the CO and O_3 overall plans with respect to Part D requirements.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan contains discussions of current and planned public transportation improvements and gives evidence of adoption of transit improvement as a concept at the regional level but does not commit to the use of Federal grants and State and local funds as necessary to meet basic transportation needs. EPA proposes to approve the O_3 and CO plans with respect to the requirements of Sections 110(a)(3)(D) and 110(c)(5)(B), with the condition that the State submit as an SIP revision the commitments specified above, by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the standards by no later than December 31, 1987, must be identified in the plan. Although the plan identifies a number of measures, no schedules are included for the study of alternative packages of measures. This portion of the O_3 and CO plans is proposed to be approved with the condition that the State submit, by October 1, 1980, an expanded list of measures and a schedule for analysis of the alternative packages of measures.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories of volatile organic compounds (VOC) which exist within the Fresno County nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and certain recommendations of what EPA calls the "presumptive norm" or RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed roof tanks, degreasing operations, cutback asphalt, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on October 15, 1979 in response to the requirement for RACT for these 8 source categories:

Rule	
409.3	"Organic Solvent Degreasing Operations"
409.4	"Surface Coating of Manufactured Metal Parts and Products"
409.5	"Cutback Asphalt Paving Materials"
411	"Gasoline Transfer into Stationary Storage Containers"
409	"Organic Solvents"

The following regulations are currently part of the approved SIP for this District. These regulations have also been evaluated, since they contain control requirements for some of the above-noted source categories:

Rule	
410	"Storage of Petroleum Products" (submitted June 30, 1972)
412	"Organic Liquid Loading" (submitted June 30, 1972).

EPA has reviewed the submitted regulations and the previously-approved regulations listed above in relation to the respective CTG for each of the 8 categories. The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 409.5, "Cutback Asphalt Paving Materials", contains an exemption for cold laid surfaces using a graded aggregate or sand, and does not contain a limit on the solvent content of emulsified asphalts prior to January 1, 1985. These provisions are not supported by information in the CTG (or in EPA guidance addressing cutback asphalt usage).

2. Rule 411, "Gasoline Transfer into Stationary Storage Containers" exempts tanks with offset fill pipes from the requirement for a vapor recovery system and submerged loading. This exemption is not supported by information in the CTG.

3. Rule 410, "Storage of Petroleum Products" contains control requirements which are equivalent to the CTG for fixed-roof tanks, but the rule may not apply to as many sources as covered by the CTG. The CTG applies to sources storing petroleum liquids with a true vapor pressure greater than 1.5 psi. The District's rule only applies to the control of gasoline or petroleum distillates with true vapor pressures greater than 1.5 psi. The CTG would therefore also cover crude oil, but the District's rule would not.

EPA proposes to approve the VOC RACT portion of the O_3 plan with the condition that the State submit one of the following to EPA for each of the three rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the District's rule for certain degreasers (primarily those using trichloroethylene). It is proposed that the Federal Regulation remain in effect for those sources.

The submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the District's regulation is future-effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the District regulations until such sources achieve full compliance with the respective District regulation.

As stated above, the plan must contain a commitment to adopt RACT

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regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, floating roof tanks, and surface coating of flatwood paneling.

The District's Rule 409.4, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirements for RACT for miscellaneous Metal Parts (a Group II CTG category). Therefore, no additional control requirements are needed for this source category.

San Joaquin and Stanislaus Counties

1. Emission Inventory

The plans for San Joaquin and Stanislaus Counties include emission inventories for both HC and CO. EPA finds these inventories to be reasonably comprehensive, accurate, and current and proposes to approve this portion of these plans.

2. Modeling

The plans for San Joaquin and Stanislaus Counties both utilized city-specific EKMA analyses to determine the emission reductions needed to attain the standard for O_3 and linear rollback modeling to determine the emission reductions needed to attain the standard for CO. EPA finds these approaches acceptable for the 1979 SIP revision and proposes to approve this portion of these CO and O_3 plans.

3. Emission Reduction Estimates

The San Joaquin and Stanislaus plans contain annual HC emission reduction estimates for the HC control measures and CO emission reduction estimates for a vehicle inspection/maintenance program. EPA finds these estimates acceptable and proposes to approve this portion of these CO and O_3 plans.

4. Attainment Provisions

The State has requested an extension of the statutory 1982 attainment date until December 31, 1987 for O_3 and CO for San Joaquin County, and for O_3 for Stanislaus County. EPA proposes to approve these requests for San Joaquin and Stanislaus Counties.

The O_3 plans for San Joaquin and Stanislaus Counties provide demonstrations of attainment of the O_3 standard prior to 1987. EPA proposes to approve the O_3 attainment portions of both of these plans.

The CO plan for San Joaquin County provides a demonstration of attainment of the standard prior to 1987. The CO plan for Stanislaus County demonstrates attainment of the CO standard by December 31, 1982. EPA proposes to approve the CO attainment portions of both of these plans.

5. Reasonable Further Progress

The CO and O_3 plans for both San Joaquin and Stanislaus Counties contain acceptable schedules for RFP for CO and O_3 and EPA proposes to approve this portion of these plans. These schedules must be supported by the implementation of a process for monitoring and verifying transportation related emission reductions.

6. Legally Adopted Measures

The plans for San Joaquin and Stanislaus Counties do not indicate that all necessary control measures have been adopted in legally enforceable form.

Inspection/Maintenance. The demonstration of attainment in the CO plan for San Joaquin County relies in part upon a vehicle inspection and maintenance I/M program. The State Legislature has failed to provide the necessary legal authority to implement the I/M program and EPa cannot approve the I/M program without such legislative authority. However, because EPA policy has established that I/M is not a mandatory control measure in an urbanized area with a population of less than 200,000, such as San Joaquin County, the San Joaquin CO plan is not required to include I/M. Therefore, EPA is deferring action on this control measure until such time as legal authority is adopted.

In this notice, EPA proposes to approve the legally adopted measures portion of the CO plan absent I/M for San Joaquin County and to approve the CO plan with the condition that the State provide by October 1, 1980, substitute control measures to demonstrate attainment.

Although the Stanislaus plan includes an I/M program, the CO demonstration of attainment does not rely on I/M and the above condition does not apply to the Stanislaus CO plan.

Transportation Control Measures. Of the 18 transportation control measures identified in Section 108(f) of the Act, the San Joaquin County O_3 plan contains 5 measures proposed for implementation. These five measures are: 1) express bus service, 2) passenger shelters at bus stops, 3) improved transit marketing, 4) bicycle facilities, and 5) traffic management strategies. Although adopted at the regional level, these measures are not adopted or committed to by the implementing agencies nor are schedules established for implementation.

The Stanislaus County O_3 plan contains 6 transportation control measures proposed for implementation. These six measures are: 1) improved public transit, 2) employer incentives, 3) long-range transit improvements, 4) bicycles, 5) carpool program, and 6) staggered work hours. While adopted at the regional level, these measures are not adopted or committed to by the implementing agencies nor are schedules established for implementation.

For both O_3 plans, the transportation control measures proposed for implementation must be adopted by those agencies responsible for implementation and submitted with schedules for implementation in order to be approved as part of the SIP.

Reasonably Available Control Technology (RACT). The Clean Air Act requires that minimum levels of control technology be provided for in the plan. For rural ozone nonattainment areas such as San Joaquin and Stanislaus Counties, the plans must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA has published a Control Technique Guideline (CTG) document by January 1978 (i.e., Group I CTGs). In addition, the plans must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques and contain certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

San Joaquin County

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 11 exist in the nonattainment area. There are no surface coating operations for paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refineries, and the surface coating of cans, coils, large appliances and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 12, 1979

Rule

409.4 "Surface Coating of Manufactured Metal Parts and Products".

October 15, 1979:

Rule

409.3 "Organic Solvent Degreasing Operations",

409.5 "Cutback Asphalt Paving Materials",

410 "Storage of Organic Liquids",

411.1 "Transfer of Gasoline into Stationary Storage Containers",

413 "Refinery Oil-Water Separators",

413.2 "Refinery Vacuum Producing Devices or Systems", and

413.3 "Refinery Process Unit Turnaround".

The following regulation is currently part of the approved SIP for San Joaquin County. This regulation has also been evaluated, since it contains control requirements for some of the above noted source categories:

Rule

412 "Organic Liquid Loading", submitted on June 30, 1972.

EPA has reviewed the submitted regulations and the previously-approved regulation listed above in relation to the respective CTG for each of the 11 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirements for RACT, except for Rule 409.5 (cutback asphalt). The lack of a limit on the volatile organic compound (VOC) content for emulsified asphalts prior to January 1, 1985 constitutes a minor deficiency. EPA believes that appropriate limits effective prior to January 1, 1985 must be placed on emulsified asphalts. Therefore, EPA proposes to approve the VOC RACT portion of the San Joaquin County O_3 plan with the condition that the State submit either of the following by October 1, 1980: 1) adequate justification for why limits cannot be set prior to January 1, 1985, or 2) an amended Rule 409.5 that includes a limit effective at an earlier date with an adequate justification of that earlier date.

The State has also submitted the following regulations on the dates indicated which implement control tactics included in the plan:

May 23, 1979

Rule

409.1 "Architectural Coatings", and

411.2 "Transfer of Gasoline into Vehicle Fuel Tanks".

October 15, 1979

Rule

413.1 "Valves and Flanges at Petroleum Refineries and Chemical Plants".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 413.1 for valves and flanges at refineries and chemical plants applies to sources addressed by a Group II CTG document. The regulation does not contain many of the controls recommended in the CTG, and therefore, revised regulations need to be submitted by July 1, 1980.

Rule 411.2 requires vapor recovery systems for the refueling of motor vehicles (Stage II Vapor Recovery). Similar controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes to rescind 40 CFR 52.256 for San Joaquin County.

Stanislaus County

The plan indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 10 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, the surface coating of cans, coils, large appliances and metal furniture, fixed-roof tanks, degreasing operations, and cutback asphalt. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 12, 1979

Rule

409.3 "Organic Solvent Degreasing Operations", and

409.4 "Surface Coating of Manufactured Metal Parts and Products".

October 15, 1979

Rule

409.5 "Cutback Asphalt Paving Materials", and

411 "Gasoline Transfer into Stationary Storage Containers—Phase I".

The following regulations are currently part of the approved SIP for Stanislaus County. These regulations have also been evaluated, since they contain control requirements for some of the above-noted source categories:

June 30, 1972

Rule

410 "Storage of Petroleum Products".

412 "Organic Liquid Loading".

The regulations listed above address each of the 10 applicable source categories, except for the surface coating of cans and coils. EPA has reviewed the submitted regulations and the previously-approved regulations listed above in relation to the respective CTG for each of the remaining categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except for the following:

(1) Rule 409.5, "Cutack Asphalt Paving Materials" does not regulate the solvent content of emulsified asphalts prior to January 1, 1985. EPA believes a limit must be in effect prior to January 1, 1985.

(2) Rule 410, "Storage of Petroleum Products" contains control requirements which are equivalent to those recommended in the CTG for fixed-roof tanks, but the rule may not apply to as many sources as covered in the CTG. The CTG applies to the control of sources storing petroleum liquids with a true vapor pressure greater than 1.5 psi. The District's rule only applies to the control of gasoline or petroleum distillates with true vapor pressures greater than 1.5 psi, and therefore would not apply to all petroleum liquids.

(3) Rule 409.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 409, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily

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emission rates in Rule 409 without using any controls.

EPA proposes to approve this portion of the O_3 plan for Stanislaus County with the condition that the State submit either of the following by October 1, 1980: (1) adequate justification that these rules represent RACT, (2) amended rules eliminating the above noted deficiencies, or (3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted the following regulations on the date indicated which implement control tactics included in the plan:

May 23, 1979

Rule
409.1 "Architectural Coatings", and
411.1 "Transfer of Gasoline into Vehicle Fuel Tanks".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP.

San Joaquin and Stanislaus Counties

The plans for these counties contain (Table 16-3, SIP Chapter 16) commitments to further study certain stationary source control measures and to adopt certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. The State has found that these additional measures are reasonably available control measures. Therefore, EPA proposes to approve and incorporate these commitments into the SIP.

The submitted regulations for service stations and bulk gasoline plants apply to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since the Districts' regulations are presently in effect, EPA proposes to rescind the Federal Regulation applicable to these sources. Similarly, the submitted regulations for the surface coating of miscellaneous metal parts and products apply to sources which are regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the Districts' regulations are future-effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the Districts' regulations until such sources achieve full compliance with the respective Districts' regulations.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the Districts' regulations for certain degreasers (primarily those using trichloroethylene). Therefore, EPA proposes to retain the Federal Regulation for those sources.

Regulations have not been submitted for inclusion in the SIP for can and coil coating operations for San Joaquin and Stanislaus Counties. Therefore, the plans do not fully satisfy the requirements of Sections 172(b) (2) and (3) of the Clean Air Act. However, this is considered a minor deficiency since emissions from can and coil coating operations make up a small portion of the base year emission inventories. Therefore, EPA proposes to approve the VOC RACT portion of the San Joaquin and Stanislaus O_3 plans with the condition that one of the following be submitted by July 1, 1980: (1) adopted regulations for can and coil coatings for Stanislaus and San Joaquin Counties that meet the requirements for RACT, or, (2) a certification that no major sources exist. The State has submitted a model rule for can and coil coating which contains control requirements sufficient to fulfill the requirements for RACT. Therefore, submittal of an adopted rule equivalent to the model rule would satisfy the condition.

The model rule for can and coil coating controls sources which are presently controlled under the following two Federal Regulations: 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." If the State submits an adequate regulation for can and coiling which would control sources subject to the Federal Regulations, EPA proposes that the Federal Regulations applicable to such sources which reamin in effect only until such time as the newly revised regulations become effective, and the source achieves full compliance with its provisions.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The San Joaquin and Stanislaus county plans both contain resolutions committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided the State submits adopted regulations for the following applicable source categories by July 1, 1980 for San Joaquin and Stanislaus Counties: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and surface coating of flatwood paneling; and for Stanislaus County only: floating roof tanks.

The San Joaquin and Stanislaus Rule 409.4, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirements for RACT for miscellaneous Metal Parts (a Group II CTG category). The San Joaquin Rule 410, "Storage of Organic Liquids," contains control requirements sufficient to fulfill the requirement for RACT for floating-roof tanks (a Group II CTG category). No additional control requirement are needed for these source categories.

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concerns (in part) the San Joaquin and Stanislaus County nonattainment areas. The following portions are proposed to be rescinded or amended because they have been invalidated by previous legal action:

A. § 52.233 *Review of new sources and modifications.* Subparagraphs (C)(3) and (d)(10) (i) and (ii), are proposed to be rescinded; also, subparagraphs (g)(viii), (i) and (j) are proposed to be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

B. § 52.238 *Attainment dates for national standards.* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

C. The sections below are proposed to be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA.* 521 F2d 827 (1975):

§ 52.242 *Inspection and maintenance program;*
§ 52.243 *Motorcycle limitation;*
§ 52.244 *Oxidizing catalyst retrofit;*
§ 52.245 *Control of Oxides of Nitrogen Hydrocarbon, and CO emissions from in-use vehicles;*
§ 52.247 *Definitions for parking management;*
§ 52.251 *Management of parking supply;*
§ 52.257 *Computer carpool matching;*
§ 52.265 *Mass transit and Transit Priority Planning;*
§ 52.266 *Monitoring transportation mode trends;*

D. The section below is proposed to be rescinded as it is replaced by revised control strategies for the pollutants:

§ 52.269(a) *Control Strategy and Regulations;*

7. Emissions Growth

The submitted New Source Review rules use emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this porting of both the San Joaquin and Stanislaus plans for O_3 and CO:

8. Annual Reporting

The San Joaquin and Stanislaus County plans provide for an annual report of reasonable further progress. EPA proposes to approve this portion of these plans.

9. Permit Program

The San Joaquin and Stanislaus County plans contain adopted New Source Review (NSR) rules to fulfill the Part D requirements for a new source permitting program.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173; EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR rules are not fully consistent with the above mentioned criteria. The submitted rules contain exemptions from the application of lowest achievable emission rate and offsets which are not consistent with EPA's criteria. The rules use less stringent source definitions, and, have weak offset requirements. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR rules are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP these NSR rules with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR rules within nine months to be consistent with that final action.

10. Resources

The O_3 and CO plans for San Joaquin and Stanislaus Counties commit the financial and personnel resources necessary for plan implementation with respect to stationary sources and EPA proposes to approve this portion of these plans.

11. Public and Government Involvement

The CO and O_3 plans for both San Joaquin and Stanislaus Counties provide evidence of public, local government, and State involvment and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plans. Both plans identify the air quality, health, welfare, economic, energy, and social effects of the plans' provisions. In addition, the plans contain summaries of public comments on the plans and those effects. The requirements of Section 172(b)(9) have been satisfied and EPA proposes to approve this portion of the CO and O_3 plans for both San Joaquin and Stanislaus Counties.

12. Public Hearing

The plans meet the requirements of Section 172(b)(1) of the Act since they include evidence that the plans were adopted by the State after reasonable notice and public hearing. EPA proposes to approve this portion of the CO and O_3 plan submittals for both San Joaquin and Stanislaus Counties

13. Extension Requirements for O_3 and CO

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criteria 13 do not apply to this SIP revision with respect to O_3 for both San Joaquin and Stanislaus Counties.

CO—San Joaquin County

Since the State has demonstrated that the CO standard cannot be attained in the San Joaquin County nonattainment area by December 1982, and has requested an extension of the attainment date beyond December 1982 for CO, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D) and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrates that the benefits of a major emitting facility outweigh the environmental and social costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). EPA proposes to approve this portion of the CO plan for San Joaquin County with the condition that the State submit the relevant portions of CEQA by October 1, 1980.

Section 172(b)(11)(B) of the Act requires that the plan establish a specific schedule for the implementation of a vehicle emission control inspection and maintenace program (I/M). The plan does contain an I/M program although the State Legislature has failed to provide the necessary legal authority to implement such a program. As discussed in the General Preamble, EPA policy provides for acceptance of rural plans without an I/M program or a schedule in the 1979 SIP revision. Since San Joaquin County is a rural nonattainment area, lack of the necessary legal authority and a specific schedule to implement an I/M program is not a deficiency with respect to the 172(b)(11)(B) extension requirement of Part D of the Act. However, it is a deficiency with respect to Criteria 6, Legally Adopted Measures and is discussed above in that section.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public tansportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan does not provide a commitment to develop a plan to meet basic public transportation needs. Nor does the plan commit to the use of Federal grants and state and local funds as necessary to meet basic transportation needs. EPA proposes to approve this portion of the CO plan for San Joaquin County, with the condition that the State submit the needed commitments by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the standards no later than December 31, 1987, must be identified in the plan. Although the plan identifies a number of measures, no schedules are included for the study of alternative packages of measures. Several Section 108(f) measures have been included in the plan for further study. Specifically, measures identified for further study are: transit by employers, reduction in bus fares, downtown shuttle, express bus routes, increased hours of bus system, carpool programs, ride-sharing incentives, incentives for light duty vehicles to use diesel engines, fleet vehicle fuel conversion, vehicle pollution disincentive taxes, gasoline rationing, traffic management studies, and parking programs for Stockton. EPA proposes to approve this portion of the CO plan for San Joaquin County with the condition that the State submit an expanded list of measures, including those specified above, with a schedule for analysis of the alternative packages of measures, by October 1, 1980.

CO—Stanislaus County

The Stanislaus County CO plan demonstrates attainment of the CO standard by 1982. Therefore, the Extension Requirements of Criteria 13 with respect to CO do not apply.

14. Extenion Requirements for VOC/RACT

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criteria 14 do not apply to the SIP revisions for San Joaquin and Stanislaus Counties.

Kings, Madera, Merced, and Tulare Counties

1. Emission Inventory

The plans for Kings, Madera, Merced, and Tulare Counties each includes reasonably comprehensive, accurate, and current emission inventories for hydrocarbons. EPA proposes to approve this portion of the O_3 plans for Kings, Madera, Merced, and Tulare Counties.

2. Modeling

Of the four plans, none contain an air quality model that allows calculation of emission reductions needed to project attainment of the 0.12 parts per million primary O_3 standard by 1982. However, as referenced in the General Preamble, EPA policy does not require a specific demonstration of attainment by rural areas in the 1979 SIP revisions. Thus, the absence of such a model is not considered a deficiency, and EPA proposes approval of the Kings, Madera, Merced, and Tulare Counties' plans with respect to the modeling requirements.

3. Emission Reduction Estimates

Annual emission reduction estimates are contained in each plan for hydrocarbon control measures through 1987. These estimates are acceptable and EPA proposes to approve this portion of these plans.

4. Attainment Provisions

The plans do not quantitatively provide for attainment of the pirmary O_3 standard by the statutory dates. However, as referenced in the general Preamble, EPA policy for rural O_3 plans does not require a specific demonstration of attainment and EPA proposes to approve this portion of these plans.

5. Reasonable Further Progress

The plans do not contain a demonstration of reasonable further progress for attainment of the O_3 standard. However, as referenced in the general Preamble, the 1979 O_3 SIP revision for rural areas does not require a demonstration of reasonable further propgress. Therefore, EPA proposes to approve this portion of these plans.

6. Legally Adopted Measures

The Clean Air Act requires that minimum levels of control technology be provided for in the plan and that these minimum levels of control be adopted in a legally enforceable form. For rural ozone nonattainment areas, the plan must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for volatile organic compound (VOC) major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Group I CTGs). In addition, the plan must contain a commitment to adopt regulations for major stationary sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

A detailed discussion by county of the regulations submitted to meet the RACT requirement follows. EPA proposes to conditionally approve this portion of each of the four plans since certain provisions of certain regulations are not supported by information contained in the CTGs or in supporting material submitted by the State. The conditions of this conditional approval are specified below.

Kings County

The plan for Kings County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 11 exist in the nonattainment area. There are no surface coating operations for paper, fabric, automobiles or magnet wire. The source categories that do exist in Kings County include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refining, and the surface coating of cans, coils, large appliances, and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 15, 1979

Rule
410.2 "Cutback Asphalt Paving Materials",
410.3 "Can and Coil Coating Operations",
410.5 "Organic Solvent Metal Cleaning",
412.1 "Gasoline Transfer into Stationary Storage Containers",
413 "Transfer of Gasoline into Tank Trucks, Trailers, and Railroad Cars at Loading Facilities", and
414.2 "Refinery Vacuum Producing Devices or Systems".

October 12, 1979

Rule
410.4 "Surface Coating of Manufactured Metal Parts and Products",
411 "Storage of Organic Liquids",
414 "Waste-water Separators", and
414.3 "Refinery Process Unit Turnaround".

EPA has reviewed the submitted regulations listed above in relation to the respective CTG for each of the 11 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 410.2, "Cutback Asphalt Paving Materials" allows for the use of cutback asphalts for cold laid surfacing using graded aggregate or sand.

2. Rule 414, "Waste Water Separators" exempts sources which recover less than 200 gallons per day and units handling products with an RVP of less than 0.5 psi.

3. Rule 411, "Storage of Organic Liquids" would not apply to tanks storing crude oil prior to lease custody transfer if the daily throughput is greater than 6300 gallons.

The provisions of rules 410.2, 414, and 411 noted above are not supported by information contained in the respective CTGs. EPA proposes to approve the VOC RACT portion of the Kings County O_3 plan with the condition that the State submit one of the following to EPA for each of the three rules as an SIP revision by October 1, 1980: 1) amended rules eliminating the above noted provisions of these rules, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and Section 172(b) of the Act and believes that the regulations are adequate, except that Rule 410.2 "Cutback Asphalt Paving Materials" allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Act and EPA policy and approved as part of the SIP. An additional condition of approval of the VOC RACT portion of the Kings County plan with respect to the cutback asphalt rule is the State's submittal by October 1, 1980 of a revised rule which does not allow for compliance date extensions without SIP approval.

The State has also submitted on October 15, 1979 the following regulations which implement control tactics included in the plan:

Rule
410.1 "Architectural Coatings",
412.2 "Transfer of Gasoline into Vehicle Fuel Tanks, Phase II", and
414.1 "Valves and Flanges at Petroleum Refineries and Chemical Plants."

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 414.1 for valves and flanges at petroleum refineries and chemical plants applies to sources addressed by a Group II CTG document. The regulation does not contain many of the controls recommended in that CTG, and therefore, revised regulations need to be submitted by July 1, 1980.

Rule 412.2 requires vapor recovery for the refueling of motor vehicles (Stage II vapor recovery). Similar controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes that 40 CFR 52.256 be rescinded for Kings County.

Madera County

The plan for Madera County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area are service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 15, 1979

Rule
410.3 "Organic Solvent Degreasing Operations",
410.5 "Cutback Asphalt Paving Materials",
411 "Storage of Petroleum Distillate or Light Crude Oil", and
412 "Gasoline Transfer into Stationary Storage Containers—Phase I".

October 12, 1979

Rule
410.4 "Surface Coating of Manufactured Metal Parts and Products".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for gasoline bulk terminals:

Rule
412 "Organic Liquid Loading", submitted on October 10, 1975.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the CTGs, EPA believes tht the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 410.5, "Cutback Asphalt Paving Materials" does not contain a limit on the VOC level in emulsified asphalts prior to January 1, 1985. The rule does limit the VOC level to 3% by volume after January 1, 1985. EPA believes that an appropriate limit must be included in the regulation effective prior to January 1, 1985.

2. Rule 411, "Storage of Petroleum Distillates and Light Crude Oil" may not apply to all the sources which are addressed in the CTG for fixed-roof tanks. The rule does not apply to crude oils with true vapor pressures of 1.5 psi or greater if they are in storage containers with an average daily throughput of less than 6300 gallons.

The provisions of Rules 410.5 and 411 noted above are not supported by information contained in the respective CTG document. EPA proposes to approve the VOC RACT portion of the Madera County O_3 with the condition that the State submit one of the following to EPA for each of the two rules as an SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted on October 15, 1979 the following regulations which implement control tactics included in the plan:

Rule
410.1 "Architectural Coatings", and
412.1 "Transfer of Gasoline into Vehicle Fuel Tanks".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 412.1 requires vapor recovery systems for the refueling of motor vehicles (Stage II Vapor Recovery). Similar Controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes to rescind the Federal Regulation 40 CFR 52.256 for Madera County.

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Merced County

The plan for Merced County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The 8 source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalts, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories.

October 15, 1979:

Rule
411 "Gasoline Transfer into Stationary Storage Containers—Phase I", and
409.5 "Cutback Asphalt Paving Materials".

October 12, 1979:

Rules
410 "Storage of Organic Liquids",
409.4 "Surface Coating of Manufactured Metal Parts and Products", and
409.3 "Organic Solvent Degreasing Operations".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for some fo the above noted source categories:

Rule
412 "Organic Liquid Loading" submitted on August 2, 1976.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the GTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 409.5, "Cutback Asphalt Paving Materials" does not contain a limit on the VOC level in emulsified asphalts prior to January 1, 1985. The rule does limit the VOC level to 3% by volume after January 1, 1985. EPA believes that an appropriate limit must be included in the regulation effective prior to January 1, 1985.
2. Rule 409.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 409, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 409 without using any controls.

The provisions of Rules 409.5 and 409.3 noted above are not supported by information contained in each respective CTG document. EPA proposes to approve the VOC RACT portion of the Merced County O_3 plan with the condition that the State submit one of the following to EPA for each of the two rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted on May 7, 1979 the following regulation which implements a control tactic included in the plan:

Rule
409.1 "Architectural Coatings".

EPA proposes to approve this rule for inclusion in the SIP, since the rule will strengthen the SIP.

Tulare County

The plan for Tulare County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

May 23, 1979

Rule
413 "Organic Liquid Loading".

October 15, 1979

Rule
410.5 "Cutback Asphalt Paving Materials", and
412 "Gasoline Transfer into Stationary Storage Containers".

October 12, 1979

Rule
410.4 "Surface Coating of Manufactured Metal Parts and Products", and
410.3 "Organic Solvent Degreasing Operations".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for fixed-roof tanks.

Rule
411 "Storage of Petroleum Products", submitted on October 23, 1974.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. The District's rule for fixed-roof tanks (Rule 411) only applies to gasoline and petroleum distillates, whereas the CTG recommends controls for all petroleum liquids. Thus, the District's rule may not cover as many sources as addressed by the CTG (crude oil storage for example).
2. Rule 410.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 410, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 410 without using any controls.

The provisions of Rules 410.3 and 411 noted above are not supported by information contained in each respective CTG document. EPA proposes to approve the VOC RACT portion of the Tulare County O_3 plan with the condition that the State submit one of the following to EPA for each of the two rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and Section 172(b) of the Act and believes that the regulations are adequate, except that Rule 410.5 "Cutback Asphalt Paving Materials" allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Act and EPA policy and approved as part of the SIP. An additional condition of approval of the VOC RACT portion of the Tulare County plan with respect to the cutback asphalt rule is the State's submittal by October 1, 1980 of a revised rule which does not allow for compliance date extensions without SIP approval.

The State has also submitted on May 23, 1979 the following regulation which implements a control tactic included in the plan:

Rule	
410.1	"Architectural Coatings".

EPA proposes to approve Rule 410.1 for inclusion in the SIP, since the rule will strengthen the SIP.

Kings, Madera, Merced, and Tulare Counties

The plans for these Counties contain (Table 16–3, SIP Chapter 16) commitments to further certain study stationary source control measures and to adopt certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. The State has found that these additional measures are reasonably available control measures. Therefore, EPA proposes to approve and incorporate these commitments into the SIP.

The submitted regulations for service stations and bulk gasoline plants apply to sources also regulated by the Federal Regulation, 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since the Districts' regulations are presently in effect, EPA proposes to rescind the Federal Regulation applicable to these sources. Similarly, the submitted regulations for the surface coating of miscellaneous metal parts and products (and can and coil coating for Kings County only) apply to sources which are also regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the Districts' regulations are future effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the Districts' regulations until such sources achieve full compliance with the Districts' regulations.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the Districts' regulations for certain degreasers (primarily those using trichloroethylene). EPA proposes that the Federal Regulation remain in effect for those sources.

As stated above, the plans must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plans contain resolutions committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided the State submits adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and surface coating of flatwood paneling.

The State has submitted regulations for each of the four Districts for miscellaneous metal parts and products (a Group II CTG category). These regulations are adequate to fulfill the requirement for RACT for this source category. No additional control requirements are needed for this source category. Regulations have also been submitted for each District for floating roof tanks (a Group II CTG category). The floating-roof tank regulation for Merced County (Rule 410) contains control requirements which are sufficient to fulfill the requirement for RACT. No additional control requirements are needed for this source category for Merced County. The floating-roof tank regulations for Kings and Madera Counties do not contain control requirements which are sufficient to fulfill the requirement for RACT, since they contain the same deficiencies noted earlier for fixed-roof tanks. In addition, the floating-roof tank regulation for Tulare County contains the same deficiencies noted earlier for fixed-roof tanks, plus other deficiencies. Therefore, amended regulations for floating-roof tanks must be submitted to EPA.

7. Emission Growth

The submitted New Source Review rule for each County uses emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of each of these plans.

8. Annual Reporting

The plans do not specifically contain provisions for annual reports of reasonable further progress, including an updated emission inventory. EPA policy for rural O_3 plans does not specifically require the 1979 plans to contain all of the above items. Thus, EPA proposes to approve this portion of these plans. However, appropriate items from above for Kings, Madera, Merced, and Tulare Counties are expected to be included in the State's first Annual Report for nonattainment areas due July 1, 1980.

9. Permit Program

The plans provide for a permit program as required by Sections 172(b)(6) and 173 of the Act through the submittal of New Source Review (NSR) rules which have been adopted in a legally enforceable manner as required by Section 172(b)(10). EPA has reviewed the Kings, Madera, Merced, and Tulare NSR rules against EPA's criteria for a new source permitting program.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51294). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with the above criteria. The submitted rules contain substantial exemptions from the application of lowest achievable emission rate and offsets which are not consistent with EPA's criteria. The rules also use less stringent source definitions, and have weak offset

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requirements. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR rules are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR rules for Kings, Madera, Merced, and Tulare Counties with the following condition. The rules must be revised and submitted as a SIP revision by March 1, 1981 and must be consistent with Section 173 and one of the following: (1) the January 16, 1979 Interpretative Ruling, (2) the September 5, 1979 proposal, or (3) EPA's final rulemaking on the September 5, 1979 proposal, if it has been promulgated. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR rules within nine months to be consistent with that final action.

10. Resources

The plans outline the financial and personnel resources to implement the measures of each of the adopted plans. EPA proposes to approve this portion of these plans.

11. Public and Government Involvement

The plans provide evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plans.

The official SIP submittal also identifies air quality, health, welfare, economic, energy and social effect of each plan's provisions. In addition, the plans contain a summary of public comments. Therefore the requirements of Section 172(b)(9) have been satisfied and EPA proposes to approve this portion of these plans.

12. Public Hearing

The plans meet the requirements of Section 172(b)(1) of the Act since they include evidence that the plans were adopted by the State after reasonable notice and public hearing. EPA proposes to approve this portion of these plans.

13. Extension Requirements for O_3

14. Extension Requirements for VOC RACT

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural nonattainment areas need not contain a demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to this SIP revision.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the SIP revision described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

This proposal also includes draft regulations which have been adopted as model rules after public hearings by the State. All of these model rules have not yet been adopted and submitted to EPA by the State as legally enforceable regulations. However, the State has requested EPA to review these model rules and invite public comment on whether these draft regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State submits regulations equivalent to these model rules.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the NAP. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The SJVAB Control Strategy has been available for inspection and comment since December 4, 1979.

(2) EPA's notice published in the December 4, 1979 **Federal Register** (44 FR 69684) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 110, 129, 171, to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508 and 7601(a)).)

Dated: June 19, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-27192 Filed 9-4-80; 8:45 am]

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40 CFR Part 52

[FRL 1597-5]

Nonattainment Area Plan; Approval and Promulgation of Implementation Plans, South Central Coast Air Basin

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and Regulations for the South Central Coast Air Basin and constitute the Non-attainment Area Plan (NAP) for ozone (O_3), carbon monoxide (CO), and total suspended particulates (TSP). This air basin includes the following Counties: Santa Barbara, San Luis Obispo, and Ventura. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for Santa Barbara and Ventura Counties. The portion of these revisions concerning O_3 in San Luis Obispo County will be addressed in a separate **Federal Register** notice.

The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether these revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed Revision and EPA's associated Evaluation Reports are contained in document files NAP–CA–23 (Santa Barbara County) and NAP–CA–30 (Ventura County) and are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Office of Air Quality Planning, Santa Barbara County, 1100 Anacapa St., Santa Barbara, CA 93101.
Santa Barbara Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110.
Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009.
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, 415–556–2938.

SUPPLEMENTARY INFORMATION:

EPA Proposed Actions

The portions of the NAP for O_3, CO and TSP in Santa Barbara and Ventura Counties have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for each portion of the NAP for Santa Barbara and Ventura Counties.

The following portions of the NAP for O_3, CO and TSP in Santa Barbara County have been determined to be consistent with Part D of the Clean Air Act and are proposed to be approved and incorporated into the SIP: Emission inventory (except TSP), modeling, emission reduction estimates, attainment provision (except TSP), reasonable further progress, public and local government involvement, and public hearing requirements.

The following portions of the NAP for O_3, CO, and TSP in Santa Barbara County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP, with the condition that each deficiency be corrected by a specified deadline: Emission inventory for TSP, attainment provision for TSP, legally adopted measures, permit program, and resources.

The following portions of the NAP for O_3 and TSP in Ventura County have been determined to be consistent with Part D of the Clean Air Act and are proposed to be approved and incorporated into the SIP: Emission inventory, attainment provision (except TSP), reasonable further progress (except TSP), emission growth, annual reporting, public and government involvement, and public hearing requirements.

The following portions of the NAP for O_3 and TSP in Ventura County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP, with the condition that each deficiency be corrected by a specified deadline: Modeling, emission reduction estimates, attainment provision (except O_3), reasonable further progress (except O_3), legally adopted measures/schedules (except O_3), permit program, resources, and extension requirements for volatile organic compounds.

The following portions of the NAP for O_3 in Ventura County constitute major deficiencies with respect to Part D: Legally adopted measures and extension requirements. The major deficiencies are the result of the lack of legal authority from the California State Legislature to implement a vehicle emission control inspection and maintenance program.

Approval or conditional approval of all portions of the NAP for these Counties would be sufficient to lift the current prohibition on construction of certain major new or modified sources. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 **Federal Register** notice (44 FR 38471).

EPA is proposing in this notice to conditionally approve the NAP for O_3, CO, and TSP in Santa Barbara County and for TSP in Ventura County. Upon final rulemaking action conditional approval would be sufficient to lift the construction prohibition in those Counties, except as noted below in Ventura County.

However, EPA is also proposing in this notice to disapprove the portions of the NAP concerning O_3. In Ventura County. This disapproval action would result in the continuation of the prohibition on construction of certain major sources in Ventura County which emit hydrocarbons that contribute to the formation of O_3.

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95–95, requre States to revise their SIPS for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

Santa Barbara County is designated nonattainment for O_3. The Air Quality Maintenance Area (AQMA) portion of Santa Barbara County is designated nonattainment for CO and the western portion of the non-AQMA portion of Santa Barbara County is designated nonattainment for TSP. Ventura County is designated nonattainment for O_3 and the primary standard for TSP. San Luis Obispo County is designated nonattainment for O_3 and the secondary TSP standard.

On September 24, 1979, the State requested that EPA redesignate San Luis Obispo County to attainment for O_3. The requested redesignation reflects the revision of the national ambient air quality standard by EPA on February 8, 1979 (44 FR 8202) and that adequate data is available to show that less than 1.0 exceedance per year occurred.

EPA proposed to approve the redesignation in the April 10, 1980 **Federal Register** notice. Thus, this notice does not address the O_3 portion of the San Luis Obispo County plan with respect to the requirements of Part D of the Clean Air Act.

Description of Proposed SIP Revision

On October 18, 1979, the Governor's designee submitted the South Central Coast Air Basin Control Strategy (Chapter 17 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) to EPA. Preparation of the Control Strategy was coordinated by the ARB, Santa Barbara County Board of Supervisors, Ventura County Board of Supervisors, Southern California Association of Governments (SCAG), and San Luis Obispo County Area Council of Governments.

However, only portions of the South Central Coast Air Basin Control Strategy (Chapter 17) have been submitted by ARB as revisions to the SIP. Other portions have been submitted for informational purposes only. Those portions submitted for incorporation into the SIP are: (1) Sections I–IV of Chapter 17 and (2) portions of the locally adopted plans and the ARB Staff Reports and Resolutions which are

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contained in Section V of Chapter 17 and are listed in tables 17-1 and 17-2.

Those portions of the locally adopted plans, Staff Reports, and Resolutions which are not listed in Tables 17-1 or 17-2, have not been submitted by the State for incorporation into the SIP, but for information purposes only. Further, as noted above, this notice does not address the portion of the October 18, 1979 revision concerning O_3 in San Luis Obispo County.

Sections I-IV of Chapter 17 provide an overview of the pollutant control strategies for the South Central Coast Air Basin, identify and discuss which portions of the NAP meet Clean Air Act requirements and include a demonstration that the Basin cannot meet the NAAQS for O_3 by 1982.

The locally adopted plans for the South Central Coast Air Basin addressed in this notice, consist of the following major components:

—A basic description of the nonattainment area including topography, air monitoring network, and air quality standards;
—A list of the Federal nonattainment plan requirements;
—A discussion of the public participation, and intergovernmental consultation and continuing planning processes;
—An examination of air quality trends;
—A listing of potential control measures and an analysis of each measure's technical and economic impacts;
—A discussion of the specific control strategies selected from the listing of potential control measures and incorporated into the plan which includes schedules for reasonable further progress, adopted stationary source control measures, and commitments to adopt additional control measures; and
—A discussion of the new source review provisions.

The ARB Staff Reports and Resolutions provide the following information for the South Central Coast Air Basin:

—The Attainment/Nonattainment designation for each area pollutant and consequent schedule for the review, adoption and approval of the SIP revision.
—A summary of each locally adopted plan which includes a discussion of the control strategy and requirements for an adequate Nonattainment Plan, and a summary of findings and recommended ARB action.

Chapter 17 indicates that attainment by 1982 of the O_3 standard in Santa Barbara and Ventura Counties is not possible despite the implementation of all reasonably available control measures. An extension of the O_3 date until no later than December 31, 1987 has been requested. The control measures described in the Chapter include:

—California's motor vehicle standards for new vehicles;
—A vehicle emission control inspection and maintenance program;
—Stationary source control measures;
—Transportation measures to reduce the use of automobiles by expanding and improving public transit, instituting an areawide carpool program, an employer incentive program, a parking program, implementing on street parking measures, park-and-ride, fringe parking lots, bicycle lanes, and storage facilities, and
—A new source review program.

Chapter 17 also indicates that attainment of the total suspended particulate standards by 1982 will be very difficult to achieve, despite the implementation of all reasonably available control measures. Therefore, the State has requested additional time to study and develop control measures, and submit a revised control strategy.

In addition to those portions of the October 18, 1979 submittal described above, this notice considers certain amendments to the Santa Barbara County Air Pollution Control District (APCD) and Ventura County APCD rules and regulations submitted to EPA as revisions to the SIP by the Governor's designee as of June 2, 1980. These rule revisions were submitted by the ARB on October 18, 1979 as Appendix AA to Chapter 17, and in separate submittals on May 7 and 23, December 17 and 24, 1979 and February 25, May 1, and June 2, 1980. These rules support the Control Strategy and are listed below:

Santa Barbara County

October 18, 1979

Rule 201.C Application Information and Processing Requirements
Rule 205.C New Source Review
Rule 320 Petroleum Solvent Dry Cleaners
Rule 321 Control of Degreasing Operations
Rule 323 Architectural Coatings
Rule 327 Organic Liquid Cargo Vessel Loading
Rule 329 Cutback Asphalt Paving Materials
Rule 330 Surface Coating of Manufactured Metal Parts
Rule 331 Refinery Valves and Flanges
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds

December 24, 1979

Rule 316 Storage and Transfer of Gasoline

May 1, 1980

Rule 325 Storage of Petroleum and Petroleum Products

Ventura County

May 7, 1979

Rule 71 Crude Oil and Organic Liquids
Rule 71.2 Storage of Organic Liquids
Rule 71.3 Transfer of Organic Liquids

October 18, 1979

Rule 26 New Source Review
Rule 74.2 Architectural Coatings
Rule 74.4 Cutback Asphalt
Rule 74.5 Drycleaning
Rule 74.7 Valves and Flanges at Petroleum Refineries and Chemical Plants
Rule 74.8 Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds

December 17, 1979

Rule 74.3 Paper, Fabric and Film Coating Operations

December 24, 1979

Rule 70 Storage and Transfer of Gasoline

February 25, 1980

Rule 71.1 Crude Oil Production and Separation

May 1, 1980

Rule 74.6 Surface Cleaning and Degreasing

June 2, 1980

Rule 2 Definitions

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans. The citations which follow referring to portions of the Clean Air Act, provide the bases for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in Section 171 of the Act (172(b)3).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain

circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).

7. An identification of an emissions growth increment (172(b)(5)).

8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).

9. A permit program for major new or modified sources (172(b)(6) and 173)).

10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).

11. Evidence of public, local government, and State involvement and consultation (172(b)(9)).

12. Evidence that the proposed SIP revisons were adopted by the State after reasonable notice and public hearing (172(b)(1)).

13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs (172(b)(11)(A)).

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110(a)(3)(D) and 110(c)(5)(B)).

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For O_3 nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines 172(a)(2). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements described in the preceding section, Criteria for Approval. EPA policy for approval of nonattainment area plans submitted as 1979 SIP revisions differentiates between rural and urban O_3 nonattainment areas and is discussed in the General Preamble. Based upon the population cut-off contained in the General Preamble, Santa Barbara County is considered to be a rural area and Ventura County is considered to be an urban area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural O_3 nonattainment area plan do not require that all of the 14 Criteria for Approval be fully met. However, unlike some other rural areas, Santa Barbara County's O_3 concentrations have not been demonstrated to be significantly impacted by emissions from a major urban area, and therefore, reliance on EPA's rural O_3 policy is not completely appropriate for Santa Barbara County. Thus, EPA is strongly supportive of State and local efforts to develop a sound demonstration of attainment and to insure reasonable further progress. The rural/urban distinction does not affect the Criteria with respect to the other pollutants considered in this notice (CO and TSP).

In this section, the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s).

As noted in the SUMMARY section, EPA reviewed the plans for conformance with the pertinent requirements and, in this section, identifies portions of the plans which (1) are approvable, (2) are conditionally approvable, or (3) contain major deficiencies which cause disapproval of that portion of the plan and the overall plan with respect to Part D. As a result of this analysis, EPA proposes to conditionally approve the Santa Barbara O_3, CO and TSP plans, as well as the Ventura TSP plan. EPA proposes to disapprove the Ventura O_3 plan. Where a plan deficiency is identified, recommendations for revisions of the plan are specified.

EPA also proposes to grant an extension until July 1, 1980, to San Luis Obispo for submitting a plan which demonstrates attainment of the secondary TSP standard. This extension is granted in accordance with 40 CFR 51.31, in that attainment of the standard would require emission reductions exceeding those which can be achieved through the application of reasonably available control technology.

Santa Barbara County

1. Emission Inventory

The plan includes a countywide emission inventory for hydrocarbons (HC), carbon monoxide (CO), and total suspended particulates (TSP) identifying emission source categories and their estimated emissions for 1977, 1982, and 1987. The HC and CO inventories are reasonably comprehensive, current, and accurate. Therefore, EPA proposes to approve this portion of the O_3 and CO plans.

The TSP countywide inventory is subdivided into three regions. However, source categories are only represented in the countywide inventory. Since only the western portion of the north county is nonattainment for TSP, the source categories which make up the north county TSP inventory should be identified. Additionally, the countywide TSP inventory differs considerably from the Air Resources Board's inventory. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980 a more comprehensive inventory indicating source categories by region and justifying the conflicting TSP inventories.

2. Modeling

Ozone. The plan uses the Empirical Kinetic Modeling Approach (EKMA) with a design value of .19 ppm in the south coast region and a NMHC/NO_x ratio of 11.67 to 1. For the Santa Ynez/Lompoc region a design value of .14 ppm and a NMHC/NO_x ratio of 9.5 to 1 were used. Modeling was not done for the Santa Maria region since the plan states that the Santa Maria region is currently attaining the .12 standard. EKMA is an acceptable method for the 1979 SIP revision. Therefore, EPA proposes to approve this portion of the O_3 plan.

Carbon Monoxide and Total Suspended Particulates. The CO and TSP plans use linear rollback modeling which is an acceptable method for the 1979 SIP revision. Therefore, EPA proposes to approve this portion of the CO and TSP plans.

3. Emission Reduction Estimates

Ozone and Carbon Monoxide. Emission reduction estimates are contained in the plan for the State vehicle emission standards, inspection and maintenance (I/M), and stationary source control measures for 1980, 82, 85, 87, 90, and 95. Therefore, EPA proposes to approve this portion of the O_3 and CO plans.

Total Suspended Particulates. The plan contains a workplan for the study of nontraditional particulate matter sources and development of a control strategy (see Attainment Provision discussion). Therefore, EPA proposes to approve this portion of the TSP plan.

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4. Attainment Provision

Ozone. The plan demonstrates that the O_3 standard cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures. Therefore, EPA finds that the requested extension of the attainment date for O_3 is justified, proposes to grant the extension, and proposes to approve this portion of the O_3 plan.

Carbon Monoxide. The plan indicates that the CO standard can be achieved by December 31, 1982 based on reductions from State vehicle emission standards and I/M. Therefore, EPA proposes to approve this portion of the CO plan.

Total Suspended Particulates. The plan identifies State and locally adopted regulations which reflect an emission limit that requires reasonably available control technology for existing major source categories. In addition, the plan indicates that fugitive dust emissions comprise a major portion of the TSP inventory, and that reductions in these emissions will be necessary to attain the NAAQS. Due to (a) the unavailability of precise emission factors for the fugitive dust sources and (b) the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reductions. In such cases where study and implementation of nontraditional control measures is necessary to attain the NAAQS, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for the attainment of the primary TSP standards by December 31, 1982. The plan includes a schedule to study, develop, adopt, and implement nontraditional source control measures. However, the plan does not include a commitment to adopt and implement measures necessary to achieve the primary TSP standard by December 31, 1982. If the necessary commitment were included in the plan, a demonstration of attainment could be approved based on future implementation of the resulting control measures. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980 a commitment to adopt and implement nontraditional source measures found necessary after study.

With respect to the secondary TSP standard, the State has not submitted a nonattainment plan. Due to the fact that attainment of the secondary standard will require emission reductions greater than those that would result from the expeditious application of reasonably available control technology, EPA proposes to extend the submittal deadline from January 1, 1979 to July 1, 1980.

5. Reasonable Further Progress

Ozone and Carbon Monoxide. Figures 17–2, 17–3, and 17–8 of the plan represent the annual incremental reductions needed for attainment of the ozone standard by 1987 and the carbon monoxide standard by 1982. These generalized representations are sufficient for the 1979 SIP revision. Therefore, EPA proposes to approve these portions of the O_3 and CO plans.

Total Suspended Particulates. EPA proposes to approve this portion of the TSP plan since the plan provides for regular incremental reductions needed for expeditious attainment based on a study of nontraditional source control measures.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted in a legally enforceable form as discussed below.

Inspection and Maintenance. The demonstration of attainment in the CO plan relies in part upon a vehicle inspection and maintenance (I/M) program. The State Legislature has failed to provide the necessary legal authority to implement the I/M program and EPA cannot approve the I/M program without such legislative authority. However, because EPA policy has established that I/M is not a mandatory control measure in an urbanized area with a population of less than 200,000, such as Santa Barbara County, the CO plan is not required to include I/M. Therefore, EPA is deferring action on this control measure until such time as legal authority is adopted.

In this notice EPA proposes to approve the legally adopted measures portion of the CO plan, absent I/M for Santa Barbara County and to approve the CO plan with the condition that the State provide by October 1, 1980, substitute control measures to demonstrate attainment.

Transportation Control Measures. Of the 17 transportation control measures identified in Section 108(f) of the Act, the plan contains 5 measures for Santa Barbara County. Though the plan contains a general commitment by the Board of Supervisors to implement the transportation control measures, the plan does not include written evidence that the agencies identified as responsible for transportation related measures have adopted commitments to implement the necessary transportation control measures nor have they established implementation schedules consistent with a demonstration of reasonable further progress. A detailed schedule and commitment for implementation and (where appropriate) enforcement of each of these adopted transportation control measures must be submitted in order for these measures to be approved as part of the SIP under Section 110 of the Act.

Control of Total Suspended Particulates. As discussed in the Attainment Provision section of this notice, the TSP plan contains a minor deficiency since it does not contain a commitment to implement those nontraditional source control measures found reasonable after study. This portion of the Legally Adopted Measures section is deficient for the same reason, and is therefore proposed to be approved under the same condition stated in the Attainment Provision section.

VOC RACT. Section 172 of the Clean Air Act requires that minimum levels of control technology be provided for in the nonattainment plan. For rural O_3 nonattainment areas such as Santa Barbara County the plan must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those major stationary source categories (i.e., those with over 100 tons per year potential emissions) of volatile organic compounds (VOC) which exist within the Santa Barbara County nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for REACT consists of the applicable CTG document, any material which must be submitted by the State justifying that the regulation satisfies the requirements of the Act for

RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 9 exist in the nonattainment area. There are no surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refineries, and the surface coating of large appliances and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 18, 1979

Rule	
321	"Control of Degreasing Operations",
329	"Cutback Asphalt Paving Materials",
330	"Surface Coating of Manufactured Metal Parts" and
332	"Petroleum Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds".

December 24, 1979

Rule	
316	"Storage and Transfer of Gasoline".

May 1, 1980

Rule	
325	"Storage of Petroleum and Petroleum Products".

EPA has reviewed the submitted regulations in relation to the respective CTG for each of the categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

(1) Rule 329, "Cutback Asphalt Paving Materials" contains an exemption which allows for the use of cutback asphalts if the location of use is 25 miles from the nearest commercial plant for mixed surfacing materials.

(2) Rule 321, "Control of Degreasing Operations", contains an exemption for Department of Defense and NASA missile launch operations.

(3) Rule 332, "Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds" exempts wastewater separators installed prior to May 18, 1979 and located in the North County from any of the control requirements for wastewater separators.

None of these exemptions is supported by information in the CTGs.

Additionally, EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and section 172(b) of the Act and believes that the regulations are adequate, except as noted below:

(1) Rule 329 "Cutback Asphalt Paving Materials" requires final compliance dates. However, it allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Clean Air Act and EPA policy and approved as part of the SIP.

(2) Rule 330, "Surface Coating of Manufactured Metal Parts", does not meet 40 CFR Part 51 compliance schedule requirements since a compliance schedule is not specified. The rule must be amended to include a compliance schedule.

The six deficiencies noted above are minor and EPA proposes to approve the VOC RACT portion of the O_3 plan with the following three conditions:

(1) With respect to the cutback asphalt rule, the degreasing rule, and the refinery wastewater separator rule the State must submit by October 1, 1980 either (a) adequate justification for the noted exemptions, or (b) amended regulations which eliminate the exemptions or (c) documentation that the current regulations' emission reductions are within 5% of the reductions achievable with the controls recommended in the CTG.

(2) With respect to the cutback asphalt rule, the State must submit by October 1, 1980 a revised rule which does not allow for compliance date extensions without SIP approval.

(3) With respect to the surface coating rule, the State must submit by October 1, 1980 a revised rule providing for a compliance schedule.

The submitted regulation for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation, 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since compliance is currently required by the District regulation, effect, EPA proposes to rescind the Federal Regulation applicable to these sources. Similarly, the submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are also regulated by Federal Regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." Since the District's regulation is future effective, EPA proposes to retain the Federal Regulation applicable to the sources covered by the District regulation until such sources achieve full compliance with the District regulation.

The District's Rule 321, "Control of Degreasing Operations", contains control requirements which are as effective as the Federal Regulaton 40 CFR 52.252, "Control of Degreasing Operations." Since compliance is currently required by Rule 321 which is similar to 40 CFR 52.252, EPA proposes to rescind Federal Regulation 52.252.

As stated above, the Plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following eight applicable source categories (Category II CTGs): Refinery fugitive leaks, gasoline tank trucks, perchloroethylene drycleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flat wood paneling.

The District's Rule 330, "Surface Coating of Manufactured Metal Parts", and Rule 325, "Storage of Petroleum and Petroleum Products", contain control requirements sufficient to fulfill the requirements for RACT for Miscellaneous Metal Parts and for Floating Roof Tanks, respectively (Group II CTG categories). Therefore, no additional control requirements are needed for these source categories.

The State submitted the regulations listed below on October 18, 1979. The rules implement other hydrocarbon control tactics included in the plan:

Rule	
320	"Petroleum Solvent Dry Cleaning",
323	"Architectural Coating",
327	"Organic Liquid Cargo Vessel Loading", and
331	"Refinery Valves and Flanges".

These regulations are proposed to be included in the SIP, since they will strengthen the SIP, and they are consistent with 40 CFR Part 51, the Clean Air Act and EPA Policy. Rule 331 contains control requirements for refinery fugitive leaks (a Group II CTG source category). The regulation does not, however, satisfy all of the requirements for RACT for this source category. Appropriate revisions need to be made to the regulation and submitted to EPA by July 1, 1980. Specific comments are included in the evaluation report notes.

The District's Rule 316, "Storage and Transfer of Gasoline" contains control requirements for the refueling of motor vehicles (Phase II Gasoline Vapor Recovery). Since the District's rule adequately controls this source category, and since the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks" is not presently in effect, EPA proposes to rescind the Federal Regulation.

40 CFR Part 52

In addition to the rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52 which concerns (in part) Santa Barbara County. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by a revised set of control measures, regulations contained in this plan, and/or they have been invalidated by previous legal action:

A. § 52.229—Control Strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intrastate Region: Subparagraph (a) should be rescinded due to the revised attainment dates in the nonattainment plan and in accordance with the Clean Air Act Amendments of 1977.

B. § 52.233—Review of new sources and modifications: Subparagraph (c)(1)(i), (2)(i), (f)(1)(i)(a)(2), and (d)(1) can be rescinded when EPA approves new source review regulations. Also, subparagraphs (h), (i), and (j) should be rescinded since they have been invalidated by the Clean Air Act amendments of 1977.

C. § 52.238—Attainment dates for national standards: The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

D. The sections below should be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*, 521 F2d 827 (1975):

§ 52.242—*Inspection and maintenance program;*
§ 52.243—*Motorcycle limitation;*
§ 52.244—*Oxidizing catalyst retrofit;*
§ 52.247—*Definitions for parking management regulations;*
§ 52.251—*Management of parking supply;*
§ 52.257—*Computer carpool matching;*
§ 52.263—*Priority treatment for buses and carpools;*
§ 52.266—*Monitoring transportation mode trends.*

7. Emission Growth

The State's proposed New Source Review rule (see Permit Program discussion) uses emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of the O_3, CO, and TSP plans.

8. Annual Reporting

A commitment to submit annual reports of reasonable further progress is included in the plan. Therefore, EPA proposes to approve this portion of the O_3, CO, and TSP plans.

9. Permit Program

The O_3, CO, and TSP plans contain a New Source Review Rule for the entire county.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The submitted rule contains exemptions from the application of lowest achievable emission rate (LAER) and offsets which are not consistent with EPA criteria. Other deficiencies include an inadequate stationary source definition, allowance of the use of interpollutant offsets, and failure to regulate fugitive dust emissions. These and other deficiencies are described in detail in the Evaluation Report.

EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following condition. The regulation must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA takes final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan commits to general funding and implementation. However, the plan does not specifically identify and commit all financial and personnel resources necessary for plan implementation, nor does the proposed plan provide resource commitments on the part of all implementing agencies. Documentation delineating these essential commitments must be submitted in order to fully meet the provisions of Section 172(b)(7) of the Act. This portion of the O_3, CO, and TSP plans is proposed to be approved with the condition that the State submit documentation delineating such commitments to EPA by October 1, 1980.

11. Public and Government Involvement

The plan provides evidence of public, local government and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. In addition, the plan contains a summary of public comments

Therefore, the requirements of 172(b)(9) have been satisfied and EPA proposes to approve this portion of the O_3, CO, and TSP plans.

12. Public Hearing

The plan contains documentation which indicates that the plan was adopted by the State after reasonable notice and public hearing as required by Section 172(b)(1). Therefore, EPA proposes to approve this portion of the O_3, CO, and TSP plan submittals.

13. Extension Requirement for Ozone and CO

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of Criterion 13 identified above do not apply to this SIP revision with respect to O_3. The plan includes a demonstration of attainment of the CO standard by 1982. Therefore, the extension requirements with respect to CO do not apply.

14. Extension Requirements for VOC/RACT

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criterion 14 identified above do not apply to this SIP revision.

Ventura County

1. Emission Inventory

The plan contains a 1977 base year and projected emissions inventory summary for reactive organic hydrocarbons (RHC) and oxides of nitrogen (NO_x) which are precursors to the formation of ozone (O_3). A 1976 base year emissions inventory for direct sources of particulate matter is included in the plan. The plan also includes an emissions inventory for each regional statistical area (RSA), which is to be used with the emissions allocation system (discussed later).

EPA finds the inventories to be reasonably comprehensive, current, and accurate, and proposes to approve this portion of the O_3 and TSP plans.

2. Modeling

Ozone. The plan used the Empirical Kinetic Modeling Approach (EKMA) to estimate the emission reduction needed to attain the standard. This approach is considered an acceptable modeling technique for the 1979 SIP revision. However, the validity of the design value used could not be determined because information supporting the effect of transport from outside Ventura County was not included in the plan, and because measurements from the Ventura, Port Hueneme, and Point Mugu monitoring stations were not considered in determining the design value. EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by October 1, 1980 documentation for the design value.

Total Suspended Particulates. The plan used the linear rollback modeling technique to determine the percent emission reduction needed to attain the standard. This approach is considered an acceptable modeling technique for the 1979 SIP revision. However, the validity of the design value used is questionable because data from 4 monitoring stations were excluded inappropriately. Although the plan indicates that exclusion of the data was based on the effect of salt from ocean spray, the monitors are also located in close proximity to 2 power plants. Therefore, EPA proposes to approve this portion of the TSP plan with the condition that the State submit by January 1, 1981 a revised air quality analysis.

3. Emission Reduction Estimates

The plan presents, by stationary source category, the amount of emission in 1982 and 1987 remaining after application of control tactics. However, the sum of the reduction estimates calculated by EPA for each tactic does not correspond to the projected inventory. Annual emission reduction estimates per control tactic are necessary to justify a demonstration of attainment and to serve as a basis for a projection and tracking of reasonable further progress in emission reductions.

Therefore, EPA proposes to approve this portion of the O_3 and TSP plans with the condition that the State submit by October 1, 1980 estimated annual reductions per pollutant, free from the uncertainty mentioned above, for each tactic in the plan for which implementation is scheduled to begin prior to July 1, 1982.

4. Attainment Provision

Section 172(a) of the Act requires that the plan shall provide for the attainment of the primary NAAQS for O_3 and TSP as expeditiously as practicable but not later than December 31, 1982. Where the State demonstrates that the standard for O_3 cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987. The plan does not quantitatively demonstrate attainment for either of the two nonattainment pollutants by December 31, 1982, nor does it quantitatively demonstrate attainment for O_3 by December 31, 1987. Rather the plan calls for further study and analysis to provide a more accurate quantitative demonstration of attainment. The approach for each pollutant is discussed in detail below.

Ozone. The plan demonstrates that the O_3 standard cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures, and therefore requests an extension. EPA finds that the request is justified and proposes to grant the extension.

The plan includes a graph representing aggregate emission reductions necessary to attain the O_3 standard by 1987, but does not provide a quantitative demonstration of such emission reductions necessary to attain the standard. However, EPA proposes to approve the attainment portion of the O_3 plan since the plan includes a commitment to prepare the 1982 SIP revision which will provide a quantitative demonstration of attainment of the O_3 standard by no later than December 1987.

Total Suspended Particulates. The plan demonstrates that despite the application of reasonably available control technology (RACT) to all traditional sources the annual geometric mean (AGM) primary TSP standard cannot be attained by December 1982.

The plan indicates that the control of gaseous precursors of secondary particulates and control of fugitive dust, in addition to the control of traditional sources, will be necessary to attain the standards. Due to the unavailability of precise emission factors for these sources, and to the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reductions. In such ases, where study and implementation of nontraditional control measures are necessary to attain the standards, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for attainment of the primary TSP standards by December 31, 1982. The plan provides for improving the air quality analysis and contains a work program and schedule for (1) developing and submitting by June 30, 1980 regulations for the additional control of direct TSP emissions, and (2) determining by June 30, 1980 optimum models for evaluating the impact of controls of both primary and secondary TSP formation on the county's TSP levels. However, the work program does not provide tasks and a schedule to define nontraditional sources, to characterize secondary particulate sources, and to develop, adopt, submit, and implement control meaures, based on improved modeling and air quality analysis including the revised air quality analysis described in item 2 above. If the necessary tasks and schedule were included in the plan, a demonstration of attainment could be approved based on future implementation of the resulting control measures. The absence of such provisions is considered a minor deficiency. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980, the needed tasks and schedule.

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The provisions of 40 CFR 51.31, allowing an extension of up to 18 months (July 1980) for submittal of a plan showing attainment of the secondary TSP standard, are satisfied, since the plan shows that attainment of this standard will require emission reductions greater than those that would result from the expeditious application of RACT. Therefore, EPA proposes to extend the submittal deadline from January 1, 1979 to July 1, 1980, pursuant to Section 110(b).

5. *Reasonable Further Progress*

Ozone. Figures V–1 and V–2 (Appendix E) and Figures 17–4 and 17–5 of the plan represent the annual incremental reductions of nitrogen oxides and reactive hydrocarbons needed for attainment by 1987 of the ozone standard. This generalized representation is sufficient for the 1979 SIP revision, as it addresses the requirements of Sections 172(b)(3) and 171(1) of the Act with respect to reasonable further progress. Therefore, EPA proposes to approve this portion of the O_3 plan.

Total Suspended Particulates. The plan indicates that reasonable further progress cannot be quantified due to analytical problems and to lack of information on measured TSP concentrations. However, as noted in Criterion 4, if the study tasks and schedule were included in the plan, the plan would be consistent with the intent of Sections 172(b)(3) and 171(1), since it would provide for regular incremental reductions needed for expeditious attainment based on future implementation of nontraditional and secondary particulate source control measures. Thus, this Reasonable further progress section is deficient for the same reason as is the Attainment provision section, and is therefore proposed to be approved with the same conditions stated in the Attainment provision section.

6. *Legally Adopted Measures/Schedules*

The plan does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), 172(b)(10). Specifically, the plan fails to contain in legally enforceable form (1) all reasonably available control measures identified in the plan for implementation including a motor vehicle emission inspection and maintenance program, and (2) for all other measures, either adopted control strategies or schedules and commitments for strategy development, adoption, and implementation.

Ozone. The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle emission inspection and maintenance program is a reasonably available transportation control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O_3 plan and to disapprove the overall O_3 plan with respect to Part D.

Section 172(b)(2) and 172(b)(10) require the indentification of all reasonably available transportation control measures (TCM) (including but not limited to those contained in Section 108(f) of the Act) necessary to provide for attainment. These measures must have schedules and commitments for expeditious implementation. The plan does not contain an identification of currently programed TCMs nor the schedules and commitments for their implementation. EPA proposes to approve this portion of the O_3 plan with the condition that (a) currently programed TCMs be submitted by the State from implementation agencies as an SIP revision prior to final rulemaking, and (b) schedules and commitments for these measures by the responsible agencies be submitted no later than January 1, 1981.

Total Suspended Particulates. The TSP plan, as noted above, identifies State and locally adopted regulations which reflect emission limits equivalent to reasonably available control technology for major source categories. As noted in the ATTAINMENT PROVISION section of this notice, the plan contains a minor deficiency since it does not contain tasks and a schedule to develop, adopt, submit and implement nontraditional and secondary particulate source control measures. This LEGALLY ADOPTED MEASURES section is deficient for the same reason, and is therefore proposed to be approved with the same condition stated in the ATTAINMENT PROVISION section.

Supporting Regulations. The State has submitted the rules listed below. EPA believes these rules should be approved for inclusion in the SIP since they will strengthen the SIP.

Rule 74.2, Architectural Coatings

Rule 74.5, Drycleaning

Rule 74.7, Valves and Flanges at Petroleum Refineries and Chemicals Plants

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the Ventura nonattainment area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by the revised set of control measures/regulations contained in this plan and/or they have been invalidated by previous legal action:

A. § 52.229—*Control strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intrastate Region:* Subparagraph (a) should be rescinded due to the revised attainment dates in the nonattainment plan and in accordance with the Clean Air Act Amendments of 1977.

B. § 52.233—*Review of new source and modifications:* Subparagraphs (e), (f)(1)(i)(a)(1) can be rescinded when EPA approves new source review regulations; also, subparagraphs (h), (i), and (j) should be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

C. § 52.238—*Attainment dates for national standards:* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

D. The sections below should be rescinded in their entirety since they have been invalidated by the court of action of *Brown v. EPA.* 521 F2d 827 (1975):

§ 52.242—*Inspection and maintenance program;*

§ 52.243—*Motorcycle limitation;*

§ 52.244—*Oxidizing catalyst retrofit;*

§ 52.247—*Definitions for parking management regulations;*

§ 52.251—*Management of parking supply;*

§ 52.257—*Computer carpool matching;*

§ 52.263—*Priority treatment for buses and carpools;*

§ 52.266—*Monitoring transportation mode trends.*

7. *Emissions Growth*

The plan must include either (1) an express identification and quantification of an emission growth increment for the construction and operation of major new or modified stationary sources, or (2) provisions to offset the emissions from such sources in a new source review (NSR) rule. The plan contains an emission allocation system which identifies and quantifies the emissions which will be allowed to result from the construction and operation of major new or modified stationary sources. The plan also contains an NSR rule providing for offsets for new or modified sources emissions which would exceed the allowable emissions set forth in the emissions allocation system. The NSR rule provides a system for tracking growth and reduction in emissions allowable under the emission allocation system. Therefore, EPA proposes to approve this portion of the O_3 and TSP plans.

8. Annual Reporting

The plan contains a commitment to submit annual reports of reasonable further progress. Therefore, EPA proposes to approve this portion of the O_3 and TSP plans.

9. Permit Program

The Ventura County NAP contains a New Source Review Rule that was adopted by Ventura County for the entire Ventura County nonattainment area. EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The most significant deficiency is that the rule does not specifically require offsets for new or modified major sources of TSP, as required. Other deficiencies include inappropriate offset requirements, substantial exemptions from LAER and offset requirements, and the lack of provision for public comment in certain cases. The deficiencies are described in detail in the Evaluation Report.

EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following two conditions:

(1) The rule must be revised and submitted as an SIP revision by September 1, 1980 to require offsets for new or modified major sources of TSP.

(2) The regulation must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking.

However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan identifies financial or personnel resources for plan implementation in terms of rule development, reasonable further progress reports, and determinations of consistency. In terms of rule enforcement, population-related emissions allocation, and the I/M program, the plan provides neither identification of nor commitment to the resources needed for implementation of the plan or for analysis and adoption of transportation control measures. The plan must provide such identifications and commitments, to satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7). This portion of the O_3 and TSP plans is proposed to be approved with the condition that the State submit by October 1, 1980 documentation delineating such identifications and commitments.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

Thus, all requirements of Section 172(b)(9) appear to be satisfied, and EPA proposes to approve this portion of the O_3 and TSP plans.

12. Public Hearing

Documentation submitted by the State indicates that the plan meets the requirements of Section 172(b)(1) and 40 CFR 51.4 by having been adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the O_3 and TSP plan submittals.

13. Extension Requirements

Since the State has demonstrated that the NAAQS for O_3 cannot be attained by December 1982, despite the application of reasonably available control measures, and has requested an extension of the attainment date beyond December 1982, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). Therefore, EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by October 1, 1980 the relevant portions of CEQA.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to authorize the legal authority to implement such a program. Therefore, EPA proposes to disapprove this portion of the O_3 plan and the overall O_3 plan with respect to Part D requirements. EPA would reconsider this disapproval at such time as the Legislature provides legal authority to implement an I/M program, and at such time as the State submits an SIP revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce the I/M program so authorized, (3) a commitment to achieve 25% reductions in hydrocarbon exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress toward implementation.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan discusses current and planned public transportation

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improvements, and shows adoption of transit improvement as a concept at the regional level. However, there is no reference to a determination of specific needs for public transportation, nor are there explicit commitments to expand or improve planning to meet basic transportation needs and to obtain and apply funds as described above to implement the necessary improvements. Therefore, EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by January 1, 1981 the needed determination and commitments.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. Although the plan identifies all Section 108(f) measures for further study, no detailed schedules are included for the study of alternative packages of measures. The plan does not contain commitments to implement expeditiously all measures found to be reasonably available. Also, as part of the plan, the State requested the local planning agencies to submit a work program which commits to schedules for the development and implementation of additional transportation control measures. The State also directed that consideration should be given to ambitious packages of measures to achieve an emissions reduction target or percent reduction to meet the requirements of the Clean Air Act for reasonable further progress and maintenance of the ozone standard. Therefore, EPA proposes to approve this portion of the O_3 plan with the condition that the State submit by October 1, 1980 the referenced work program and detailed schedules for analysis of the alternative packages of measures and commit to implement expeditiously all measures found to be reasonably available.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories of volatile organic compounds (VOC) which exist within the Ventura nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 9 exist in the nonattainment area. The following regulations contain control requirements for all 9 of the applicable categories (service stations, fixed-roof tanks, bulk gasoline plants, bulk gasoline terminals, cutback asphalt, degreasing, miscellaneous refinery processes, and surface coating of fabric and paper):

Rule 71.2, Storage of Organic Liquids (submitted May 7, 1979);

Rule 71.3, Transfer of Organic Liquids (submitted May 7, 1979);

Rule 71, Crude Oil and Organic Liquids (submitted May 7, 1979);

Rule 74.4, Cutback Asphalt (submitted October 18, 1979);

Rule 74.8, Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds (submitted October 18, 1979);

Rule 74.3, Paper, Fabric and Film Coating Operations (submitted December 17, 1979);

Rule 70, Storage and Transfer of Gasoline (submitted December 24, 1979);

Rule 71.1, Crude Oil Production and Separation (submitted February 25, 1980);

Rule 74.6, Surface Cleaning and Degreasing (submitted May 1, 1980).

These regulations have been submitted to EPA for inclusion in the SIP. Based on information contained in the CTGs and on material submitted by the State, EPA believes that the submitted regulations satisfy the requirement for RACT and are approvable, except as noted below:

(1) Rule 74.4, Cutback Asphalt, places no limit on the solvent content of emulsified asphalts in the northern zone of the District. This exemption is not supported by information in the CTGs, or otherwise available to EPA.

(2) Rule 70, Storage and Transfer of Gasoline, does not require vapor recovery, or equivalent controls, for filing of tanks with offset fill pipes (installed prior to January 1, 1965); filling of tanks of between 250 and 1500 gallon capacity (regardless of the date of installation); loading delivery vessels at bulk plants with an annual throughput of less than 3,000,000 gallons; and in the northern zone of the District, all bulk terminals and the filling of delivery vessels at bulk plants. These exemptions are not supported by information in the CTGs, or otherwise available to EPA.

(3) Rule 74.3, Fabric and Film Coating Operations, specifies that compliance with the emission limit is to be determined on an inventory basis over a seven-day period. The use of a seven-day averaging period is not supported by information in the CTGs, or otherwise available to EPA, and is inappropriate for a regulation designed to protect a one-hour ozone standard.

(4) Rule 74.6, Surface Cleaning and Degreasing, exempts cold solvent cleaners using solvents with a volatility greater than 0.6 psi at 100°F (or solvents which are heated above 50°F) from the requirements for a minimum freeboard ratio or a water cover, if the surface area of the degreaser is less than 0.5 m^2. this exemption is not supported by information contained in the CTG. Additionally, EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and section 172(b) of the Act, and

believes that the regulations are adequate, except as noted below:

(1) Rule 74.4, Cutback Asphalt, requires final compliance dates. However, it allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provision of the Clean Air Act and EPA policy and approved as part of the SIP.

In response to the minor deficiencies enumerated above, EPA proposes to approve the VOC RACT portion of the O_3 plan with the condition that the State submit the following by October 1, 1980:

(1) With respect to Rules 74.4, 70, 74.3, and 74.6, either an adequate demonstration that the rules represent RACT, or amended rules to be consistent with the CTGs, or a demonstration that the rules will result in VOC emission reductions which are insignificantly different (within 5% of controlled emissions) from the reductions which would be achieved through implementation of the CTG recommendations;

(2) With respect to Rule 74.4, an amended rule which does not allow for compliance date extensions without SIP approval.

Until the needed modifications to Rule 70 (noted above) are submitted and approved, the versions of Rule 70 as submitted February 10 and November 10, 1976, and Rule 63, Organic Liquid Petroleum Product Loading, as submitted June 30, 1972 are proposed to be retained in the SIP, applicable to bulk terminals and bulk plants in the northern zone.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution to adopt all other reasonably available control measures needed to attain the standards as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following 9 applicable source categories (Category II CTGs): Refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, floating roof tanks, miscellaneous metal parts and products, and surface coating of flat wood panelling.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

The Regional Administrator hereby issues this notice setting forth the SIP revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comments on the specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since December 14, 1979;

(2) EPA's notice published in the December 14, 1979 **Federal Register** (44 FR 72614) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: June 20, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-27190 Filed 9-4-80; 8:45 am]

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40 CFR Part 52

[FRL 1597-8]

Wisconsin State Implementation Plan; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period on the notice of proposed rulemaking on the Wisconsin nonattainment plan for particulate matter emissions from coke oven batteries published July 3, 1980 (45 FR 45318) has been extended from August 4, 1980, to October 3, 1980.

DATE: Comments are now due on or before October 3, 1980.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Air Enforcement Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2082.

SUPPLEMENTARY INFORMATION: This notice extends the period for submitting comments to the notice published July 3, 1980 (45 FR 45318) proposing rulemaking on the Wisconsin nonattainment plan for particulate matter emissions from coke oven batteries. Public comments were originally due on August 4, 1980.

On July 22, 1980, the Wisconsin Department of Natural Resources and Milwaukee Solvay Coke requested a 30 day extension for filing their comments regarding USEPA's proposed action on the regulations. On August 22, 1980, these parties requested an additional 30 day extension.

The USEPA has decided that the extension of the public comment period is appropriate and hereby extends the comment period to October 3, 1980.

Dated: August 21, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-27191 Filed 9-4-80; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 521

[General Order 17; Docket No. 80-59]

Time for Filing and Commenting on Certain Agreements

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rules amend existing regulations governing the time within which certain modifications of agreements approved pursuant to

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section 15 of the Shipping Act, 1916 should be filed with the Federal Maritime Commission. In the case of an application for extension of an approved agreement due to terminate by its own terms, the proposed rules enlarge the time for filing the application from not less than 60 days to not less than 120 days prior to the date on which the approved agreement would otherwise terminate. Similarly, in the case of a modification of an approved agreement other than an application for extension, the proposed rule enlarges the time for filing the modification from not less than 60 days to not less than 120 days prior to the date it is intended that action will begin, change or cease as a result of the modification.

DATE: Comments due October 6, 1980.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, 1100 L Street NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission; 1100 L Street NW., Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission's rules governing the "time for filing and commenting on certain agreements" (46 CFR Part 521) became effective February 1, 1966.

Subpart A of these rules specifies that:

(a) Applications for extension of an approved agreement due to terminate by its own terms should be filed not less than 60 days prior to the date on which the approved agreement would otherwise terminate;

(b) Modification of an approved agreement, other than an application for extension, should be filed not less than 60 days prior to the date it is intended that action will begin, change or cease as a result of the provision(s) of the modification; and

(c) Notice of cancellation of an approved agreement should be filed not less than 60 days prior to the effective date of cancellation. The rules also provide that the failure to file such an application for extension at least 60 days in advance of the termination date could result in the approved agreement terminating prior to Commission action on the filed amendment.

These rules were promulgated to effectuate the policy set forth in 46 CFR 521.1. Essentially this provision recites the Commission's responsibility to disapprove, cancel or modify, by order, after notice and hearing, any agreement, or modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916, and to approve all other agreements, modifications, or cancellations. In order to discharge these responsibilities, sufficient time must be allowed for the Commission to comprehensively analyze and consider every agreement, modification and cancellation to determine whether or not they are lawful in the light of the above defined standards. Thus, General Order 17 was adopted to effectuate this policy.

Since the promulgation of these rules, the circumstances which gave rise to the 60 day advance notice filing period have changed. Subsequent legislation (Government in the Sunshine Act, 5 U.S.C. 552b, and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.)* and delays in obtaining appropriate data commenting on the approvability of agreements have imposed certain additional time constraints upon the processing of these agreements. To accommodate these demands for extended processing time, it is necessary to enlarge the 60 day advance notice filing period set forth in General Order 17.

The aforementioned legislation and the Commission's respective implementing rules have imposed certain procedural requirements increasing the amount of time needed to process an agreement. For example, the Government in the Sunshine Act and the Commission's relevant rules require that public announcement of each Commission meeting shall be accomplished no later than one week prior to the commencement of the meeting. The provisions of the National Environmental Policy Act impact more significantly on the time required to process an agreement. NEPA and the Commission's relevant rules provide that action on certain agreements will require a time period of at least 90 days before a decision can be made or recorded by the Commission. Although 90 days represents the statutory minimum, proper analysis and consideration of certain agreement modifications may exceed this procedural time period. With these additional procedural requirements, the amount of time needed to process agreements is increased and will, in the case of certain agreement modifications, exceed the 60 day advance notice filing period set forth in General Order 17.

In addition to the aforementioned legislation, delays in the processing of agreements are being caused more frequently by deficient statements commenting on the approvability of agreements. Often, the filing of section 15 agreements is unaccompanied by the data necessary to a Commission decision. In order to remedy that deficiency, the Commission has found it necessary to repeatedly request further information from the parties to the agreement which would identify and explain the circumstances giving rise to the agreement and the purposes for which it is intended. The Commission has also found it necessary to make further requests for information from those who have commented on, protested, or requested a hearing on a particular agreement. These deficiencies result in delaying the disposition of the agreements.

The additional procedural requirements imposed by legislation and the deficiencies attendant to the filing and commenting on the approvability of agreements greatly increase the amount of time necessary to properly analyze and consider certain modifications of section 15 agreements. To accommodate these added demands, it is necessary to enlarge the existing 60 day advance notice filing period set forth in General Order 17. (It is not necessary to revise the time period specified for notice of agreement cancellations, as the aforementioned circumstances have negligible impact on such actions.) A realistic time frame which would permit proper analysis and consideration is 120 days. This time period accommodates the new requirements imposed by legislation enacted subsequent to the promulgation of General Order 17 and permits adequate time to obtain, analyze, and consider appropriate data concerning the approvability of certain agreement modifications.

Therefore, it is ordered, That pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 15 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, and 841a), the Commission proposes to amend 46 CFR Part 521 as follows:

§§ 521.2 and 521.3 [Amended]

Delete the words "sixty (60) days" from §§ 21.2(a),(b), and 521.3 of 46 CFR Part 521 and substitute the words "one-hundred twenty (120) days" therefor.

By the Commission.

Francis C. Hurney,

Secretary

[FR Doc. 80-27290 Filed 9-4-80; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 45, No. 174
Friday, September 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Ex Parte Communications; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Select Committee on Ex Parte Communications of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, September 19, 1980 in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet to discuss Professor Michael Asimow's study of separation of functions in federal agencies.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

August 29, 1980.

[FR Doc. 80–27289 Filed 9–4–80; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Beaverhead National Forest Plan

Beaverhead National Forest, Beaverhead, Madison, Silver Bow, Deer Lodge, and Gallatin Counties, Mont.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Forest Land and Resource Management Plan for the Beaverhead National Forest. The Management Plan will encompass the entire Forest of 2,119,538 acres and 19,697 acres of the Deerlodge National Forest.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and the Secretary's Regulations of September 17, 1979.

The resulting Forest Plan will provide for multiple use and sustained yield of products and services from the Beaverhead National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from a range of alternatives which will include at least:

a. A "no action" alternative which represents the most likely conditions expected to exist in the future, if current management direction would continue unchanged.

b. Alternatives that display possible outputs of resources available to each of several expenditure levels; and

c. Alternatives designed to resolve the identified major public issues and management concerns.

In formulating the Forest Plan, information from other government agencies, industry, and private individuals will be solicited. The plan will be responsive to public issues, and public involvement is critical to the planning and decisionmaking process.

The Forest planning steps include identifying issues and management concerns; development of planning and decisionmaking criteria; collecting and storing needed information; analyzing the existing Forest management situation; formulating alternatives; estimating the effects of each alternative; evaluating and selecting the preferred alternative; and implementing the Plan.

Tom Coston, Regional Forester, is the responsible official for the Forest Plan. A Draft Environmental Impact Statement is scheduled to be issued in late 1981, and the Final Environmental Impact Statement in early 1982. All documents related to the Forest Plan will be kept at the Beaverhead Forest Supervisor's office, 610 North Montana, Dillon, Montana 59725.

Questions or comments on the Notice of Intent or the Forest Plan should be sent to Frank Fowler, Land Management Planner, Beaverhead National Forest, 610 North Montana, Dillon, Montana 59725 (Phone 406–683–2312)

James E. Reid,

Acting Regional Forester.

August 28, 1980.

[FR Doc. 80–27201 Filed 9–4–80; 8:45 am]

BILLING CODE 3410-11-M

Intermountain Region Land and Resource Management Plan; Revised Notice of Intent

A Notice of Intent to Prepare an Environmental Impact Statement for the Intermountain Region Land and Resource Management Plan was published in the **Federal Register**, Volume 45, No. 17, p. 5785, January 24, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft

Environmental Impact Statement is now expected in December 1980, and the Final Environmental Impact Statement is proposed for release in June 1981.

All other conditions of the original notice of intent remain the same.

Dated: August 28, 1980.

Douglas Leisz,

Acting Chief.

[FR Doc. 80-27162 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Bluegrass Tunnel Headgate Farm Irrigation R.C. & D. Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307-265-5550, Ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bluegrass Tunnel Headgate Farm Irrigation RC&D Measure, Albany County, Wyoming.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of controls at the entrance to the Bluegrass Tunnel. The planned works of improvement include a conduit, headgates, trash racks, and other appurtenances. The planned work is a replacement of an existing structure.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27196 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Clear Creek Critical Area Treatment R.C. & D. Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Office Building, Farm Road & Brumley Street, Stillwater, Oklahoma 74074, telephone 405-624-4460.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clear Creek Critical Area Treatment RC&D Measure, McCurtain County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment for erosion control. The planned works of improvement include filling, topsoiling bermuda-grass sod mulching, fertilizing, and concrete channel liners.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resources Projects.

August 25, 1980.

[FR Doc. 80-27197 Filed 9-4-80; 8:45am]

BILLING CODE 3410-16-M

Critical Area Treatment Measures for Coastal Erosion Control and Dune Stabilization in the South Jersey R.C. & D. Area, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201-246-1205.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Critical Area Treatment Measures for Coastal Erosion Control and Dune Stabilization in the South Jersey RC&D Area, principally in the coastal areas of Ocean, Atlantic, and Cape May Counties, New Jersey.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Plater T. Campbell, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment to control dune erosion. The planned works of improvement include reshaping, installation of sand fences, and the introduction and/or nourishment of vegetative cover to stabilize eroding dune areas. Work activity will be mainly limited to the coastal areas of Ocean, Atlantic, and Cape May Counties. Each measure will be individually planned and environmentally evaluated to ensure that its effects are commensurate with the impacts described in the environmental assessment.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Plater T. Campbell. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27195 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Sing Sing Creek Flood Prevention R.C. & D. Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Dodd, State Conservationist, Soil Conservation Service, Federal Building, 100 South Clinton Street, Room 771, Syracuse, New York 13260, telephone 315-423-5521.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Sing Sing Creek Flood Prevention RC&D Measure, Chemung County, New York.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of three dikes along Sing Sing Creek. The dikes will protect residences and commercial establishments from periodic flooding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Paul A. Dodd. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27199 filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Huerfano Hospital Critical Area Treatment R.C. & D. Measure, Colorado; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, P.O. Box 17107, Denver, Colorado 80217, telephone 303-837-4275.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Huerfano Hospital Critical Area Treatment RC&D Measure, Huerfano County, Colorado.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating a critical erosion area (approximately 2 acres) near the county hospital. The planned works of improvement include shaping an eroded slope, constructing a pipeline to convey runoff water from the slope to the city storm sewer system, seeding the area to adapted grasses, and mulching.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are of file and may be reviewed by contacting Mr. Sheldon G. Boone. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27198 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 80-8-181, AP-5844; Docket 38654]

Airport Notice of Texas International of Its Intent To Begin Interstate Service at Love Field and Proceeding To Amend the Certificates of Southwest Airlines and Texas International Airlines in Compliance With Pub. L. 96-192

AGENCY: Civil Aeronautics Board.

ACTION: Order 80-8-181, AP-5844, and order instituting proceeding to amend the certificate of Southwest and Texas International (Order 80-8-181), Docket 38654.

SUMMARY: The Board has decided not to prohibit Texas International from inaugurating interstate service in accordance with the conditions of Section 29 of the International Air Transportation Competition Act. The Board has tentatively concluded that the

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certificates of Southwest and Texas International should be amended as follows: (a) The holder may provide charter air transportation not to exceed ten flights per month; (b) The holder may provide scheduled passenger air transportation between Love Field and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico and Texas, if in connection with this service, (i) the holder does not offer or provide any through service or ticketing with another air carrier or foreign air carrier; and (ii) the holder does not offer for sale transportation to or from and the flight or aircraft does not serve, any point which is outside Texas or the four contiguous states. The complete text of this Order is available as noted below.

DATES: All interested parties having objections to the Board's proposed amendments shall file by September 29, 1980, with the Board and serve upon Texas International and Southwest Airlines a statement of objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38654. This should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Susan E. Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-8-181 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-8-181 to that address.

By the Civil Aeronautics Board: August 29, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-27282 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 38173, and 38174]

Former Large Irregular Air Service Investigation and Applications of Eagle Aviation, Inc.; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 30, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universial North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the aforementioned dockets in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-27284 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 5031, et al.; Order 80-8-174]

Trans-Pacific Certificate Renewal Case; Order To Show Cause

Northwest Airlines, Inc. (Northwest), Pan American World Airways, Inc. (Pan American) and Trans World Airlines, Inc. (TWA) were first awarded temporary certificates to serve various points in China in the *Northwest Airlines, et al., Pacific Case*, 7 C.A.B. 209 (1946).[1] TWA never instituted Service and Northwest and Pan American suspended their service in 1949 because of the revolution in China and the break in diplomatic relations between the United States and the new government of the People's Republic of China (P.R.C.).

Renewal of their authority was considered in the *Trans-Pacific Certificate Renewal Case*, 20 C.A.B. 47 (1955). The Board deferred decision on their request for renewal because of the still unfavorable political situation. It noted that the carriers' authority would be continued by virture of the provisions of Section 9(b) of the Administrative Procedure Act (now 5 U.S.C. § 558[c]), and stated that deferral would leave the Board free to appraise the situation at a later date in the light of the conditions then existing, and on that basis arrive at a long-range decision concerning the treatment that should ultimately be given these points in the overall Pacific route pattern.[2]

The time has finally come to take up the deferred issues in the *Trans-Pacific* case. As we note in Order 80-8-138 (August 22, 1980), talks between the United States and the People's Republic of China on an aviation agreement have progressed far enough to warrant the institution of a proceeding to select an air carrier to provide service between the U.S. and the P.R.C. That case is expedited and we expect to issue a final decision quickly, assuming a bilateral aviation agreement is achieved.

In that connection, we find that it is in the public interest to consider *de novo* the issue of which the carrier should provide U.S.-P.R.C. service. Consequently, we tentatively decide pursuant to section 401(d) of the Act that it would not be consistent with the public convenience and necessity to renew the temporary China authority of Northwest, Pan American, and TWA. We ask interested persons to show cause why we should not make this tentative decision final.

The carriers' authority has lain dormant for over thirty years, and the record in the *Trans-Pacific* case is now over twenty-five years old. There is neither carrier performance in the market nor a record to provide guidance to the Board under current conditions, and no carrier can claim any established stake in the market.[3]

Also, circumstances have changed dramatically since we last considered the renewal of the carriers' authority, not only in U.S. relations with the P.R.C. but also in U.S. aviation policy and the consequent air transportation regime in the transpacific markets. Liberal, pro-competitive bilaterals have been achieved with several countries in the Orient, and we have granted substantial transpacific authority to many carriers new to that area, by both certification and temporary exemption.[4] New policies and competitive factors make it imperative that we take a fresh look at the U.S.-China market vis-a-vis market structure in the Pacific generally, unencumbered by long-stale and purely formal claims of "incumbency."

In light of these factors, we believe that the public interest will be served better if we make our decision in the *U.S.-P.R.C.* case on a clean slate. All interested air carriers—including of course Northwest, Pan American, and TWA—will have an equal opportunity to demonstrate in that proceeding why their selection for China authority might be in the public interest. We see no point in sustaining long-dormant authority any further.

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[1] Northwest's transpacific route consisted of two route segments between Tokyo and Manila—the first via Seoul and Shanghai, and the second via Harbin Mukden, Darein, Peiking, Nanking, and Shanghai. *Id.* at 264. Pan American received Shanghai as an intermediate point between Tokyo and Hong Kong, on its transpacific route. *Id.* at 265. TWA's transatlantic route was extended beyond Ceylon (now Sri Lanka) via Hanoi and Canton to Shanghai. *Id.* at 269.

[2] 20 C.A.B. at 64.

[3] The potential agreement between the U.S. and the P.R.C. will allow us to authorize only one air carrier for the intial U.S.-P.R.C. route, and that route encompasses only 2 points in the P.R.C., Beijing and Shanghai. Thus, most of the temporary authority subject to renewal could not be renewed in any event.

[4] *See, e.g., Seattle/Portland-Japan Service Investigation*, Order 78-10-42, served October 11, 1978; Orders 78-9-33, 79-4-87, 79-5-25, 79-10-13 (Guam/Pacific exemptions); Orders 79-6-117, 79-10-13, 80-3-43 (Korea/Pacific exemptions). *See also Transpacific Route Investigation*, 51 C.A.B. 161 (1969).

We also tentatively conclude that an oral evidentiary hearing in not needed in the circumstances of this case. Our tentative decision that the authority should not be renewed is grounded on policy considerations supported by officially noticeable information or facts that are not in dispute. We perceive no material issues of fact that require exploration through oral hearings.

Accordingly,

1. We direct all interested persons to show cause why the applications of Pan American World Airways, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc., for renewal of their temporary certificates of public convenience and necessity to provide service between points in the United States and points in the People's Republic of China should not be denied, and the *Trans-Pacific Certificate Renewal Case,* Docket 5031 *et al.,* terminated;

2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions shall, no later than September 19, 1980, file with the Board and serve on the persons named in paragraph five, a statement of objections, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which could not be established in written pleadings. If objections are filed, answers may be filed, but no later than September 29, 1980;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: *provided,* that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board shall enter an order which (1) shall make final our tenative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall deny the applications of Pan American World Airways, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc., for renewal of their U.S.-China authority in Dockets 5710, 5168, and 5065, respectively; and

5. We are serving this order upon Pan American World Airways, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and the Departments of State and Transportation.

We shall publish this order in the **Federal Register** and shall transmit a copy of this order to the President of the United States.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[5]

Secretary.

[FR Doc. 80-27280 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38620]

Yukon Air Service, Inc. d.b.a. Air North Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., August 29, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-27283 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous Sodium Metasilicate From France; Antidumping—Preliminary Determination of Sales at Less Than Fair Value and Suspension of Liquidation

AGENCY: U.S. Department of Commerce.

ACTION: Preliminary determination of sales at less than fair value and suspension of liquidation.

SUMMARY: This notice is to advise the public that, as a result of an antidumping investigation, the Department of Commerce has determined preliminarily that anhydrous sodium metasilicate from France is being or is likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930. Sales at less than fair value generally occur when the price of merchandise exported to the United States is less than the price of such or similar merchandise sold in the home market, or to third countries, or less than the constructed value. Liquidation of entries, or withdrawals from warehouse, for consumption is being suspended, and a cash deposit, bond or other security in an amount equal to the estimated margin set forth herein shall be required at the time of each such entry or withdrawal from warehouse. Unless this investigation is extended, the Department will make a final determination not later than November 19, 1980.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Koichi O. Beckwith, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-3174).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 15, 1980, the Department of Commerce received a petition in proper form from counsel on behalf of PQ Corporation, Valley Forge, Pennsylvania, alleging that anhydrous sodium metasilicate from France is being sold at less than fair value within the meaning of section 731, Tariff Act of 1930 (19 U.S.C. 1673 *et seq.*) (the Act). After conducting a summary investigation as required under section 732 of the Act (19 U.S.C. 1673a), we determined that there were sufficient grounds to initiate a full-scale investigation, and published a Notice of Initiation of Antidumping Investigation in the **Federal Register** on June 10, 1980 (45 FR 39324).

On June 30, 1980, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports of anhydrous sodium metasilicate from France allegedly sold at less than fair value. The ITC published notice of that determination in the **Federal Register** on July 9, 1980 (45 FR 46255).

Product Description

Merchandise covered by this investigation is anhydrous sodium metasilicate (ASM) classifiable under item number 421.3400, Sodium compounds: Silicates, Tariff Schedules of the United States Annotated (TSUSA).

Sodium silicates are colloidal solutions, hydrated powders or anhydrous powders and glasses. The ratio of SiO_2 to NA_2O for each type of sodium silicate can vary, and the resulting product will have distinctive characteristics. Sodium metasilicate has a definite crystalline form, a molecular

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[5] All Members concurred.

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SiO_2/NA_2O ratio of 1:1 and a chemical formula of $NA_2\ SiO_3$. It is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations.

Nature of the Industry

Approximately 4,908,000 pounds of sodium silicates were imported from France in 1979, valued at $443,000. There is only one known significant exporter of ASM from France to the United States, Rhone-Poulenc S.A. Rhone-Poulenc S.A. is a large, multi-divisional corporation which operates mainly in the production and sale of chemicals and related products. During the period of investigation, Rhone-Poulenc exported four grades of ASM to the United States: AN (58 percent of sales), AG (5 percent of sales), AS (22 percent of sales) and AST (15 percent of sales). Most of these sales are made through Rhone-Poulenc's wholly-owned U.S. subsidiary, although there are also some sales made directly from France to unrelated purchasers in the U.S. There are sufficient sales in the home market to permit the use of price to price comparison in order to determine whether or not ASM is being or is likely to be sold at LTFV.

United States Price

For transactions in which sales were made to U.S. customers through wholly-owned U.S. subsidiaries of the French producer, we used exporter's sales price (ESP), as defined in section 772(c) of the Act (19 U.S.C. 1677a) to determine the United States Price. We calculated ESP on the basis of the selling price from the subsidiary to the first unrelated purchaser in the United States, with deductions, where applicable, for ocean freight, insurance, U.S. duty, brokerage, wharfage, U.S. inland freight, U.S. warehousing, discount, and general expenses.

For transactions in which sales were made directly from France to unrelated U.S. customers, we used purchase price, as defined in section 772(b) of the Act (19 U.S.C. 1677a) to determine the United States Price. We calculated purchase price on the basis of the CIF U.S. price to unrelated U.S. purchasers with deductions, where applicable, for ocean freight, insurance, French inland freight, FOB charges, and commission.

Foreign Market Value

We calculated the Foreign Market Value (FMV), in accordance with section 773(a)(1)(A) of the Act (19 U.S.C. 1677b). Therefore, for the purposes of this investigation, FMV is the price at which sales were made in France to the first unrelated purchaser. Where appropriate, we adjusted home market sales by deducting rebates and transportation costs. For comparisions to ESP, we deducted as an offset a portion of selling expenses not greater than selling expenses deducted from the U.S. price. Finally, we made an adjustment for differences in packing costs.

We made fair value comparisons on all exports of ASM from France to the U.S. The overall weighted-average margin on all sales of ASM during the period of investigation was 50 percent.

Verification

In accordance with section 733(b)(2) of the Act (19 U.S.C. 1673b), we determined that the information which we received during the first 60 days of this investigation appeared sufficient to provide a reasonable basis for a preliminary determination. Therefore, we disclosed to the respondent the information upon which we could base a preliminary determination, and we disclosed to the petitioner all non-confidential information upon which we could base a preliminary determination. Subsequently, in accordance with section 733(b)(2) of the Act, the petitioner furnished an irrevocable written waiver of verification of information received during the first 60 days of the investigation. Nothwithstanding this waiver of verification, we will verify any information submitted after the 60th day of this investigation if that information is used as a basis for the Final Determination.

Preliminary Determination

Based upon the foregoing, and in accordance with section 733(b) of the Act (19 U.S.C. 1673b), I hereby determine preliminarily that there is a reasonable basis to believe or suspect that anhydrous sodium metasilicate from France is being, or is likely to be, sold at less than fair value within the meaning of the antidumping law. In accordance with section 733(d)(1), (2) of the Act (19 U.S.C. 1673b), Customs officers are being directed to suspend liquidation of all entries, or withdrawals from warehouse, for consumption on or after the effective date of this determination. Importers will be required to post a cash deposit, bond or other security in the amount of 50 percent of the FOB value of each such entry or withdrawal.

In accordance with section 733(d)(3) of the Act (19 U.S.C. 1673b), we are making available to the ITC the information upon which this determination is based.

The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department.

The Department will afford interested parties an opportunity to present oral views in accordance with section 353.47, Commerce Regulations (19 CFR 353.47, 45 Fed. Reg. 8204). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, Room 3708, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, beginning at 10:00 a.m., Friday, October 3, 1980.

Interested parties who desire such a conference should provide a written request for a conference to the Office of the Deputy Assistant Secretary for Import Administration, Room 2800, at the address shown above. The request should contain: (1) the name, address, and telephone number of the party requesting the conference; (2) the number of participants; and (3) a list of the issues to be discussed. All requests must be received by the Deputy Assistant Secretary no later than 10 days after publication of this notice. Any written views filed in accordance with section 353.46(a), Commerce Regulations (19 CFR 353.46(a), 45 FR 8203), should be filed at the address indicated above, in at least 10 copies. Any written views should be filed not later than October 6, 1980.

This determination is published pursuant to section 353.39(a)(2), Commerce Regulations (19 CFR 353.39(a)(2), 45 Fed. Reg. 8200).

Dated: August 29, 1980.

B. Waring Partridge,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-27157 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Change in Membership of Performance Review Board

This notice announces a change in membership of the Performance Review Board (PRB) for the Maritime Administration. The purpose of the PRB, as established by the Assistant Secretary for Maritime Affairs (44 FR 63130, Nov. 2, 1979), is to assure the equitable treatment of Maritime

Administration members of the Senior Executive Service.

The names, titles and terms of the new members of the PRB who have been appointed are set out below:

Rear Admiral Thomas A. King, Superintendent, U.S. Merchant Marine Academy, Maritime Administration, Kings Point, New York 11024. Term—2 years. Admiral King has been a member of the PRB while serving as Eastern Region Director, Maritime Administration, New York, New York.

Mr. Leonard H. Dickstein, General Counsel, Maritime Administration, Washington, D.C. 20230. Term—continuous as long as in current position.

Mr. James G. Gross, Deputy Assistant Administrator for Commerical Development, Maritime Administration, Washington, D.C. 20230. Term—continuous as long as in current position.

The following persons no longer serve on the PRB:

Mr. C. G. Caras, former General Counsel, Maritime Administration, Washington, D.C. 20230.

Mr. Marvin Pitkin, former Assistant Administrator for Commerical Development, Maritime Administration, Washington, D.C. 20230.

Persons desiring any further information about the membership of the PRB may contact Ms. Myra R. Wells, Director, Office of Personnel, Maritime Administration, Washington, D.C. 20230, (202) 377–3616.

Dated: August 29, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80–27112 Filed 9–4–80; 8:45 am]

BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration/ Department of Commerce.

ACTION: Notice of agency recommendation on claim filed under title IV, Outer Continental Shelf Lands Act Amendments of 1978 (title IV).

SUMMARY: Notice is given that the Agency intends to recommend to the NOAA Office of Administrative Law Judges, which will decide the matter, that Title IV Claim No. FCF–42–79 be denied because claimant has not met his burden of proof that the loss to his shrimp trawling rig either occurred in an area affected by oil or gas energy activities on the Outer Continental Shelf (OCS) or was caused by an item associated with such activities. Interested persons have 15 days to request the Administrative Law Judge (ALJ) to conduct an oral hearing concerning the claim or to request to be admitted as parties to any hearing on the claim.

DATES: Requests for oral hearing or to be admitted as a party must be received by September 22, 1980.

ADDRESS: Send requests to: NOAA, Office of General Counsel (GCEL), Room 275, Page One Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or M. Timothy Conner (address above). Telephone: (202) 254–8350.

SUPPLEMENTARY INFORMATION: Title IV, 43 U.S.C. 1841 established the Fishermen's Contingency Fund (Fund) to compensate commercial fishermen for gear damage and lost profits caused by items associated with oil or gas energy activities on the Outer Continental Shelf. On April 23, 1979, Claim No. FCF–42–79 was filed. The claim seeks compensation from the Fund of $4,623.88 for loss of a complete shrimp trawling rig and damage to accessories ($2,148.88), lost profits ($2,370.00), and claim documentation expenses ($105.00) caused by claimant's catching his gear on an obstruction on April 18, 1979, at coordinates 27°53.3′N and 96°57.0′W.

As required by the 50 CFR Part 296 regulations implementing Title IV, notice of the claim was published on April 28, 1980 (45 FR 28179) (the gear loss portion of the claim was incorrectly stated in that notice to be $214.88 and claim documentation expenses were incorrectly given as $500.00). That notice gave interested persons, as defined in 50 CFR 296.2, 30 days to advise the Chief of the National Marine Fisheries Service's Financial Services Division (FSD) that they wished to submit evidence concerning the claim or be admitted as parties at any hearing held in respect to the claim. No response has been received.

That notice also advised that FSD may forward to NOAA General Counsel a proposed agency recommendation concerning the claim. FSD has done so in this case, with the proposal that the Agency recommend to the ALJ that the claim be denied in full.

As provided by 50 CFR 296.8(d)(3), notice is given that NOAA General Counsel has determined that the proposal set out above will be the official agency recommendation in this matter. A claim filed under Title IV is entitled to a presumption of validity if claimant establishes certain facts, one of which is that the loss occurred in "an area affected by Outer Continental Shelf activities." This loss did not occur on the OCS, but in State of Texas waters, and the file does not establish that the area in question was affected by OCS oil or gas energy activities, as that term is defined in 50 CFR 296.2. In the absence of a presumption of validity, a claim may be paid only if claimant meets his burden of proving by a preponderance of the evidence that the item causing the damage was associated with OCS oil or gas activity. Claimant in this case has failed to do so.

Any interested person who objects to this recommendation, or the claimant, may request that the ALJ who will be assigned to the case conduct an oral hearing concerning the claim. Any interested person may also request to be admitted as a party to any hearing concerning the claim. In either event, the request must be in writing and must be filed with General Counsel at the address and by the date set out above. If the request is for an oral hearing, the request must state the reasons why an oral hearing should be held. If the request is to be admitted as a party, the request must state why it was not filed in a timely manner under 50 CFR 296.8(a)(3)(v). The ALJ will rule on all such requests under 50 CFR 296.10(a)(3). Any interested person may obtain a copy of such portions of the claim as are disclosable by law by writing General Counsel at the above address.

At the close of the 15-day period referred to at the beginning of this notice, General Counsel will refer the claim, together with the agency recommendation and any requests received in response to this notice, to the NOAA Office of Administrative Law Judges for adjudication. It is the present intention of General Counsel to request the ALJ to decide this claim without oral hearing.

Final regulations governing the Title IV Program were published on January 24, 1980 (45 FR 6062), and July 2, 1980 (45 FR 44942).

Signed at Washington, D.C., this 2d day of September, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27164 Filed 9–4–80; 8:45 am]

BILLING CODE 3510–22–M

V45/174 SE5 80 UMI

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: This action deletes from Procurement List 1980 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 8, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 11, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 46842) of proposed deletion from Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1980:

Class 7530: Folder Set, File 7530–00–281–5905.

C. W. Fletcher,

Executive Director.

[FR Doc. 80–27159 Filed 9–4–80; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 8, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On May 16, 1980 and June 20, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 32362 and FR 41691) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1980:

Class 7530

Folder, File
  7530–00–926–8982
  7530–00–926–8984
  7530–00–043–1194
Folder Set, File
  7530–00–286–6925
SIC 9199

Administrative Services to include typing, operating copiers, mail sorting, clerical and other similar office functions, and motor pool management.

Environmental Protection Agency, 26 Federal Plaza, New York, New York.

C. W. Fletcher,

Executive Director.

[FR Doc. 80–27160 Filed 9–4–80; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Final Environmental Impact Statement for Expanded North Boundary Containment Operations at Rock Mountain Arsenal, Colo.

AGENCY: Department of the Army.

ACTION: Notice of availability of final Environmental Impact Statement (EIS).

SUMMARY: 1. The proposed action involves construction and operation of an expanded north boundary containment/treatment system for contaminated ground water control at Rocky Mountain Arsenal, Colorado. The scope of this proposed effort calls for extending an existing pilot system. The length and depth of the proposed expanded system have been substantially increased since the circulation of the Draft EIS. This increase is due to guidance by the State of Colorado that the proposed system would be required to intercept ground water containing dibromochloropropane (DBCP) above detection limits. The proposed expanded system is not anticipated to have any significant adverse impact on the environment.

2. A Draft EIS for the proposed action was filed on July 31, 1979 and circulated for comment. The Final EIS incorporates responses to comments from Federal, State, and local agencies.

3. The purposed action will not be implemented until October 6, 1980. Substantive comments on the proposed action will be considered during this 30 day period.

ADDRESS: Requests for copies of the Final EIS as well as questions or comments on the proposed action may be addressed to: Commander, US Army Toxic and Hazardous Materials Agency, ATTN: DRXTH–IS/Don Campbell, Aberdeen Proving Ground, MD 21010, TEL (301) 671–2041.

Dated: August 29, 1980.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 80–27287 Filed 9–4–80; 8:45 am]

BILLING CODE 3710–08–M

Board of Visitors, U.S. Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.
Dates of Meeting: October 2–4, 1980.
Place of Meeting: West Point, New York.
Time: At West Point: 2030–2230, Oct. 2, Organizational Meeting (Hotel Thayer); 0830–1200, Oct. 3, Briefings by Academy Officials (Bldg 600); 1330–1700, Oct. 3, Board Discussions (Eisenhower Hall); 0830–1100, Oct. 4, Board Discussions (Cadet Library).
Proposed Agenda: Inquiry into the curriculum, honor system, studies on cadet time, and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information contact Col. D. P. Tillar, Jr. United States Military Academy, West Point, New York, telephone 914–938–2785/4723.

For the Board of Visitors:

D. P. Tillar, Jr.,

Col, GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 80–27209 Filed 9–4–80; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command, Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on September 25, 1980 at the Quality Inn, Pentagon City, 300 Army Navy Drive, Arlington, VA, and will convene at 0900 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34–R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT–PPM, Washington, DC 20315. Topics to be discussed should be received on or before September 18, 1980.

Dated: August 25, 1980.

John J. Durant,

Colonel, GS, Director of Personal Property.

[FR Doc. 80-27211 Filed 9-4-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Thursday, October 16, 1980, from 8:30 a.m. until 5:00 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703–664–1175) to reserve a seat.

Dated: September 2, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-27265 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Deletion of Systems of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Deletion of 39 systems of records.

SUMMARY: All of the activities of the Defense Civil Preparedness Agency (DCPA) have been transferred to the Federal Emergency Management Agency (FEMA). In conjunction with that and other transfers, FEMA has established new systems of records to support the mission and needs of that agency (see 45 FR 37888, June 5, 1980; 45 FR 40646, June 16, 1980; and 45 FR 51426, August 1, 1980).

In view of this transfer all 39 systems of records formerly maintained by DCPA are deleted. The specific systems to be deleted are listed below.

FOR FURTHER INFORMATION CONTACT: Major William C. Goforth, Staff Executive, Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 N. Lynn Street, Arlington, VA 22207, telephone: (202) 694–3027; or Tom Ainora, Attorney, Office of the General Counsel, 1725 "I" Street, NW, Washington, DC 20472, telephone: (202) 634–1990.

SUPPLEMENTARY INFORMATION: The Defense Civil Preparedness Agency systems of records notices inventory subject to the Privacy Act of 1974 Pub. L. 93–579 (5 U.S.C. 552a) have been published to date in the **Federal Register** as follows:

FR DOC 79–37052 (44 FR 74064), December 17, 1979

These proposed deletions are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

September 2, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer Washington Headquarters Services Department of Defense.

Deletions

CACC 2, 3, 5, 6

Systems name:

CACC 2, 3, 5 and 6, Payroll and Loans Accounting (44 FR 74065), December 17, 1979.

CACC 2, 3, 5, 6A

Systems name:

CACC 2, 3, 5, 6A, Travel and Transportation Accounting (44 FR 74066), December 17, 1979.

CCOM 5

Systems name:

DCPA COM 5, Radio Amateur Civil Emergency (RACE) Plans (44 FR 74066), December 17, 1979.

CEMO 1

Systems name:

DCPA EMO1, Emergency Operating Plan (44 FR 74067), December 17, 1979.

CFEA 3–1

Systems name:

DCPA FEA 3–1, Civil Rights Complaint and Compliance Files (44 FR 74067), December 17, 1979.

CIND 2

System name:

DCPA IND 2, Industrial Group Consultation (44 FR 74068), December 17, 1979.

CINF 2–3

System name:

DCPA INF 2–3, Biographies (44 FR 74068), December 17, 1979.

CINF 7

System name:

DCPA INF 7, Civil Defense Awards (44 FR 74069), December 17, 1979.

CLEG 5

System name:

DCPA LEG 5, Interest-Conflict Review (44 FR 74070), December 17, 1979.

CLEG 7–1

System name:

DCPA LEG 7–1, Claims (Litigation)—Employees (44 FR 74070), December 17, 1979.

CLEG 7–2

System name:

DCPA LEG 7–2, Claims (Litigation)—Other Than Employees (44 FR 74070), December 17, 1979.

CLEG 8–1

System name:

DCPA LEG 8–1, Enforcement, Compliance (DCPA Employees) (44 FR 74071), December 17, 1979.

CLEG 8–2

System name:

DCPA LEG 8–2, Enforcement (Compliance)—Non-DCPA Employees (44 FR 74071), December 17, 1979.

CMGT 2

System name:

DCPA MGT 2, Delegations and Designation Files (44 FR 74072), December 17, 1979.

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CMGT 4

System name:

DCPA MGT 4, Committee Management Files (44 FR 74073), December 17, 1979.

CMGT 7

System name:

DCPA MGT 7, Defense Civil Preparedness Agency (DCPA) Central Files (44 FR 74073), December 17, 1979.

CMGT 10

System name:

DCPA MGT 10, Program Management Information System (44 FR 74074), December 17, 1979.

COSV 5

System name:

DCPA OSV 5, Office Services File System (44 FR 74075), December 17, 1979.

CPER 1

System name:

DCPA PER 1, General Personnel (44 FR 74075), December 17, 1979.

CPER 1–1

System name:

DCPA PER 1–1, Bond, Charitable and Blood Donor Drive Files (44 FR 74076), December 17, 1979.

CPER 4

System name:

DCPA PER 4, Military Reserve Program (44 FR 74076), December 17, 1979.

CPER 5–1

System name:

DCPA CPER 5–1, Executive Reserves (44 FR 74077), December 17, 1979.

CPER 6

System name:

DCPA PER 6, Equal Employment Opportunity Discrimination Complaint Files (44 FR 74077), December 17, 1979.

CRAD 3

System name:

DCPA RAD 3, Maintenance and Calibration (44 FR 74081), December 17, 1979.

CRAD 4

System name:

DCPA RAD 4, Radiation Exposure and Radioactive Materials; Radiation Committee Records (44 FR 74082), December 17, 1979.

CSEC 2

System name:

DCPA SEC 2, Classified Documents Control Files (44 FR 74083), December 17, 1979.

CSEC 3–4

System name:

DCPA PER 3–4, Classified Clearances (44 FR 74083), December 17, 1979.

CSHL 3

System name:

DCPA SHL 3, Summer Hires (44 FR 74083), December 17, 1979.

CPER 7

System name:

DCPA PER 7, Emergency Notification Lists (44 FR 74078), December 17, 1979.

CPER 8

System name:

DCPA PER 8, Handicapped Employees and Handicapped Veterans (44 FR 74078), December 17, 1979.

CPUB 3

System name:

DCPA PUB 3, Publication Distribution Lists—Computer Center (44 FR 74079), December 17, 1979.

CPUB 3–2

System name:

DCPA PUB 3–2, Standard Publication Distribution Lists (44 FR 74080), December 17, 1979.

CRAD 2–3

System name:

DCPA RAD 2–3, Instruments and Equipment, Loaned, Radioactive Materials (44 FR 74081), December 17, 1979.

CTNG 3

System name:

DCPA TNG 3, State and Local Civil Preparedness Instructional Program (SLCPIP) (44 FR 74084), December 17, 1979.

CTNG 8

System name:

DCPA TNG 8, DCPA Form 1353, Appl for Enrollment in Arch & Eng Prof Dev Prog (44 FR 74085), December 17, 1979.

CTNG 8–1

System name:

DCPA TNG 8–1, Qualified Instructor File (44 FR 74085), December 17, 1979.

CTNG 13

System name:

DCPA TNG 13, Student Academic and Course Records, DCPA Staff College (44 FR 74085), December 17, 1979.

CTNG 14

System name:

DCPA TNG 14, Home Study Courses, DCPA Staff College (44 FR 74086), December 17, 1979.

CWNG 2–1

System name:

DCPA WNG 2–1, List of Custodians of Decision Info Sys (DIDS) Radio Receivers (44 FR 74087), December 17, 1979.

[FR Doc. 80-27242 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

Membership of the Inter-Defense Agency Performance Review Board

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of additional membership of the Inter-Defense Agency Performance Review Board.

SUMMARY: The Department of Defense announces additional membership of the Inter-Defense Agency Performance Review Board.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon B. Brown, Chief, Senior Executive Service Division, Directorate for Personnel and Security, WHS, Office of the Secretary of Defense, Department of Defense, The Pentagon, (202) 695–4573 or 695–9313.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4) and DoD Directive 1434.2 (to be published as 32 CFR Part 57), the following are names and titles of the additional persons who have been appointed to the Inter-Defense Agency Performance Review Board.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 29, 1980.

Defense Communications Agency

Helms, Robert W., Comptroller
La Vean, Gilbert E., Chief, Systems Engineering Division
Milgram, Edith, Chief, WWMCCS Information Systems Office
De Nucci, Robert O., Deputy WWMCCS System Engineer (Engineering)

Defense Contract Audit Agency

Brown, James R., Assistant Director, Operations
Della Bernarda, Harvey, Regional Director, Philadelphia Region
Hubbard, Robert B., Reginal Director, Chicago Region
Mirch, Patrick D., Regional Director, Los Angeles Region
Reed, William H., Regional Director, Boston Region
Topf, Bernard, Regional Director, San Francisco Region

Defense Logistics Agency

Maclin, James F., Deputy Executive Director, Supply Operations
Harvey, Mary E., Chief, Logistics Programs Division
Chiesa, Raymond F., Executive Director, Contracting
Fogle, Grover D., Chief, Contracts Division
Moore, Donald E., Deputy Executive Director, Quality Assurance

Defense Mapping Agency

Martin, Dr. Charles F., Chief, Advanced Technology Division

Defense Nuclear Agency

Still, Dr. Edwin T., Assistant to the Director (Biomedical Efforts)

[FR Doc. 80-27178 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Vocational Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: September 17, 1980, 10:00 a.m.–4:00 p.m.

ADDRESS: 425–13th Street, NW, Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425—13th Street NW, Suite 412, Washington, DC (Tel: 202/376–8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Executive Committee is open to the public, and the proposed agenda includes:

Review of Work Plan for FY 1981–1982
Review Budgeting Process
Review Practices and Policies

This notice does not meet the 15-day requirement for publication because of impossibility of finding any other date upon which a quorum could be established for this Committee prior to the next regular meeting of the full Council in Des Moines, Iowa on September 24–26, 1980.

Records are kept of all Committee proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education, 425–13th Street NW, Suite 412, Washington, D.C. 20004.

Signed at Washington, DC on September 2, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80-27266 Filed 9-4-80; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Education

Program of Research Grants on Teaching and Learning; Application Notice

Notice is given that applications are being accepted for grants in the Program of Research Grants on Teaching and Learning according to the authority contained in section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

This announcement covers applications for new awards that are to be considered in Fiscal Year 1981. Awards will be made for research which will contribute to improvement of educational practice and equity in the areas of Language and Literacy, Basic Cognitive Skills, Teaching in School Settings, and Testing and Evaluation.

Any institution of higher education, State, local, or intermediate educational agency, public or private non-profit or for-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Director may prescribe. Research performed outside the United States, or proposed by applicants domiciled outside the United States will be considered only if it is clearly demonstrated that the research will be of significant benefit to U.S. education and that the foreign sites are necessary for the conduct of the studies.

Closing date: January 27, 1981.

A. *Application and Program Information:* Persons who wish to receive a copy of the program announcement may request one by sending a self-addressed mailing label to the Grants Program Staff, Teaching and Learning Program, National Institute of Education, 1200 19th St. NW., Washington, D.C. 20208. (A stamped envelope is not usable.) Those who have requested that their names be placed on the mailing list for the program need not repeat their requests.

The program announcement includes the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility and review criteria, and instructions on how to apply. The following program officers may be contacted for additional information about the FY 1981 competition:

- Language and Literacy—Ramsey Selden or Mae Chu Chang, Tel: (202) 254–5766
- Basic Cognitive Skills—Joseph Psotka, Tel: (202) 254–6572
- Teaching in School Settings—Michael Cohen, Tel: (202) 254–7946
- Testing and Evaluation—Cora Corry, Tel: (202) 254–6271

B. *Estimated Distribution of Program Funds:* It is anticipated that approximately $1.8 million will be available for awards in this competition; however, only projects of the highest technical quality will be funded whether or not the program funds are exhausted. Further, nothing in the announcement will commit the Institute to award any specific amount. Based on prior competitions, it is estimated that 50–60 grants can be awarded, ranging in size from small grants of less than $15,000 total direct and indirect costs, to larger grants with budgets averaging about

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$50,000 annually. Small grant requests ($15,000 or less) are encouraged. Multiyear projects will be approved for a maximum of 36 months. Initial awards will be for 12 months only, with subsequent funding contingent on satisfactory technical performance, quality of the research and the availability of funds. Small grant awards will be limited to 12 months duration.

C. *Applications Delivered by Mail:* An application sent by mail should be securely wrapped and addressed as follows: Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. The lower right hand corner of the package should display the words, Teaching and Learning Grants and indicate the selected area to which the application is directed. Applications will be accepted only if they are mailed on or before the closing date and proof of mailing is provided. An application must show proof of mailing consisting of one of the following:

1. A legible, dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the Director of the National Institute of Education.

If an application is sent through the U.S. Postal Service, the National Institute of Education does not accept either of the following as proof of mailing:

1. A private metered postmark, or
2. A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are urged to use certified or other forms of mail for which receipts can be obtained.

Each applicant whose application does not meet the deadline date shown above will be notified that the late application will not be considered in the review cycle, and the application will be returned.

D. *Applications Delivered by Hand:* A hand-delivered application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 804, 1200 19th Street NW., Washington, D.C. The Proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date indicated above.

E. *Applicable Regulations:* The regulations applicable to this program include: (a) the NIE Basic Skills Research Grants Program Regulations, 45 CFR Part 1451, as amended and published in the **Federal Register** on April 3, 1980, 45 FR 22545; (b) the Education Division General Administrative Regulations (EDGAR), 45 CFR Part 100a (Direct Grant Programs) and Part 100c (Definitions), published in the **Federal Register** on April 3, 1980, 45 FR 22494. The NIE Consolidated Grants Program Regulations are expected to be published as final regulations after the competitive cycle begins and would supersede the NIE Basic Skills Research Grants Program Regulations.

Part I of OMB Circular No. A–95 does not apply to this grants competition.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development; formerly 13.950)

Dated: August 27, 1980.

Michael Timpane,

Director, National Institute of Education.

[FR Doc. 80–27148 Filed 9–4–80; 8:45 am]

BILLING CODE 4000–05–M

DEPARTMENT OF ENERGY

Resource Applications; National Petroleum Council, Subcommittee on Environmental Conservation; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Environmental Conservation of the National Petroleum Council.

Date and time: Tuesday, September 23, 1980—10:00 a.m.

Place: Madison Hotel, Executive Chambers III, 15th and M Streets, N.W., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

- Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on environmental conservation.
- Discuss an organizational structure for the study.
- Discuss a timetable for completion of the study.
- Discuss any other matters pertinent to the overall assignment from the Secretary.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 27, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–27135 Filed 9–4–80; 8:45 am]

BILLING CODE 6450–01–M

Coal Leasing; Availability of Preliminary Coal Production Goals for 1985, 1990, and 1995

AGENCY: Department of Energy, Office of Leasing Policy Development.

ACTION: Notice of availability of preliminary coal production goals for 1985, 1990, and 1995, and request for comments.

SUMMARY: This notice announces the availability of a Department of Energy Preliminary Coal Production Goals Report for 1985, 1990 and 1995 and requests comments on the Report. The goals are intended to guide the Secretary of the Interior in establishing and revising planning schedules for Federal coal leases and in developing leasing targets for individual coal lease sales. The coal production goals are only preliminary and have been established for the nation and each of 30 coal supply regions for the years 1985, 1990 and 1995. Final coal production goals are expected to be issued by November 8, 1980.

DATE: Written comments are due by October 8, 1980.

ADDRESS: Written coments (identify the outside of the envelope and the document with the designation "Preliminary Coal Production Goals") should be addressed to: Dr. Anthony A. Prato, Director, Resource Analysis Division, Office of Leasing Policy Development, Department of Energy, Room 2317, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony A. Prato, Director, Resource Analysis Division, U.S. Department of Energy, Room 2317, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–8244.

SUPPLEMENTARY INFORMATION: The Preliminary Coal Production Goals Report has been prepared by the Department of Energy (DOE) under a Memorandum of Understanding between DOE and the Department of the Interior (DOI) and transmitted to DOI for review and comment. DOE provided DOI with coal production goals in June 1978 that were used in preparing the programmatic environmental impact statement for the Federal Coal Management Program. An interim update of the June 1978 forecast was issued by DOE in April 1979 to assist DOI in developing the initial coal leasing schedule. To ensure that the coal leasing program and the leasing targets for individual lease sales are responsive to changing national and regional coal demand, supply and market conditions, and national energy needs and policies, DOE has once again updated its coal production goals in this Report.

The Report contains DOE's preliminary 1980 national and regional coal production goals for 1985, 1990, and 1995 along with a description of the procedures and assumptions used to determine tha goals. The Report provides a low, medium, and high range of goals in order to provide DOE with the flexibility to adjust the goals based on changing market conditions.

The preliminary national goals (medium) are 962.6 million short tons for 1985, 1.375 billion short tons by 1990, and 1.717 billion short tons by 1995. These goals are based on estimated demand for coal by the electric utility, industrial, synthetic fuel, and export sectors of the economy. The goals compare to actual 1979 production of 776 million tons and an estimated 1980 production of 791 million tons. The percentage distribution of the goals between the eastern and western United States is 60.3 percent and 39.7 percent for 1985, 53.5 percent and 46.5 percent for 1990, and 51.1 percent and 48.9 percent for 1995, respectively.

These national goals envision an overall annual growth rate in coal production of 5.7 percent from 1978 to 1995. Demand growth is greatest for the synthetic fuels sector, although the electric utility sector remains the dominate user of coal. The preliminary goals are below levels established by DOE in 1978 and 1979 because of downward revisions in estimated growth rates in electricity demand. Whereas the 1978 goals were based on an estimated annual electricity growth rate of 4.5 percent from 1977 to 1990 and the 1979 goals utilized a 4.4 percent growth rate, the preliminary 1980 goals anticipate a growth rate of only 3.3 percent.

Copies of the Report describing the prliminary goals and the procedures needed to develop them are available from Dr. Anthony A. Prato listed above. DOE invites, and will consider, written coments regarding this Report. Comments should be submitted by the close of business (4:30 p.m.) on October 8, 1980, at the place indicated in the "ADDRESS" section of this notice. All comments received by this date will be considered by DOE in setting the final coal production goals.

Issued in Washington, D.C., September 2, 1980.

R. D. Langenkamp,

Acting Assistant Secretary, Resource Applications, Department of Energy.

[FR Doc. 80–27246 Filed 9–4–80; 8:45 am]

BILLING CODE 6450–01–M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 10, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Opening remarks.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Disputes Settlement Centre, including preparation of procedures.
5. Legal clearances and other legal issues:
   A. U.S. voluntary agreement.
   B. Legal issues regarding AST–3.
6. Legal issues involving alternate sharing systems and consultations.
7. Role of the IAB in advising IEA, including stock policies.
8. Opening of IAB meetings to the public and making available transcripts of meetings to the public.
9. Future work program.

II. A meeting of Subcommittee A of the IAB to the IEA will be held on September 11, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Quantification of synthetic fuels in gasoline and other fuels for IEA data reporting system and allocation calculation purposes.
2. Relationship of national emergency allocation and international emergency allocation pursuant to IEP.
3. AST–3 preparation and test-guide: report on and discussion of meeting of AST–3 design group in Ottawa, September 4–5, 1980.
4. Company participation in National Emergency Sharing Organizations (NESO's).
5. Reduction of allocation rights after refusal by country to accept oil.
6. Possible revision of Emergency Management Manual (EMM) to provide for product allocation to countries with insufficient refining capacity.
7. Status report on naphtha/bunkers issue.
8. Submission of questionnaires A and B during AST–3.

III. A meeting of the IAB to the IEA will be held on September 12, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communications to and from IEA and Reporting Companies.
3. Matters arising from record note of IAB meeting of June 13, 1980.
4. Report by IEA on, and discussion of, Standing Group on Emergency Questions (SEQ) meeting of July 22, 1980.
5. Report by IEA on, and discussion of, Governing Board meeting of July 23, 1980, and other recent developments.
6. Report by IEA on, and discussion of, worldwide supply situation following July and August Questionnaire "B" submissions and outlook for 1980.
7. Subcommittee "C" report, including:
   A. Legal Clearances.
      (1) U.S. Voluntary Agreement and U.S. Plan of Action.
      (2) European Economic Community (EEC) clearances for AST–3.
   B. Other Legal Issues.
      (1) Alternate sharing systems; consultations.
      (2) Industry representation on NESO's.
      (3) Role of the IAB in advising the IEA, including stock policies.
      (4) Simplified sharing system—less than 7% trigger.

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C. Dispute Settlement Centre, including preparation of procedures for arbitration.

D. Pricing in an emergency.

E. Extraordinary costs.

F. Opening of IAB meetings to the public and making transcripts of meetings available to the public.

G. Future work program.

8. Subcommittee "A" report, including:

A. Quantification of synthetic fuels in gasoline and other fuels, for purposes of IEA data reporting system and allocation calculations.

B. Relationship of national emergency allocation and international emergency allocation pursuant to the IEP.

C. AST-3 preparation and test guide; report on and discussion of meeting of AST-3 design group in Ottawa, September 4-5, 1980.

D. Company participation in NESO's.

E. Reduction of allocation rights after refusal by country to accept oil.

F. Possible revision of EMM to provide for product allocation to countries with insufficient refining capacity.

G. Status report on naphtha/bunkers issue.

H. Submission of questionnaries A and B during AST-3.

I. Future work program.

9. ISAG Manager's Report, including:

A. ISAG staffing.

B. AST-3 per diem expense allowance.

C. Schedule for AST-3.

D. Other matters.

10. Seminars in 1981:

A. The IEA emergency system.

B. ISAG training.

11. Quantification of emergency reserves to provide "90 days at all times".

12. Methods for relaxing logistical constraints that may occur during emergency sharing under the IEP system.

13. Future work program and meeting schedule.

IV. A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency will be held on September 16, 1980 at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 10:00 AM. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a briefing session for NESO's which is being held by the IEA at Paris on that date.

The agenda for the meeting is under the control of the IEA Secretariat. It is expected that the following agenda will be followed:

1. Welcome and introductory remarks.

2. Objective of the briefing session and improvement and changes vs. AST-2.

3. Brief review of the test guide with special emphasis on:

(1) Data base and disruption.

(2) Special rules concerning AST-3.

(3) Timetable of events.

(4) Overall information flow.

4. Technique of product imbalance calculations.

5. National emergency systems and their interface to the IEA system.

6. Question and answer session.

7. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, verbatim transcripts of these meetings will be made; the transcripts, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1-9a.8, will be available in the Reading Room of the Department of Energy, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because the agenda only recently has been determined.

Issued in Washington, D.C., September 2, 1980.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-27256 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Energy Conservation Program Requirements and Guidelines To Accompany Proposed Policy and Formula To Guide Allocation of Firm Electric Energy and System Reserve Energy From the Federal Columbia River Power System

AGENCY: Bonneville Power Administration (BPA or Bonneville), Department of Energy.

ACTION: Notice of proposed energy conservation program requirements and guidelines and opportunity for public review and comment.

SUMMARY: On October 5, 1979, Bonneville published a proposed policy and formula to guide the allocation of firm electric energy and system reserve energy from the Federal Columbia River Power System (FCRPS) (44 FR 57824). In the proposed policy, BPA included a conservation goal, and offered an incentive for individual preference customers and preference applicants to attain their respective energy conservation savings goals by providing additional allocations of firm energy for adequate energy conservation program design and implementation. BPA decided not to require uniform energy conservation programs. Instead, each customer and applicant would be asked to develop and implement a program tailored to its individual system characteristics and needs.

BPA announced in its proposed policy that it would develop and publish energy conservation program standards, including evaluation criteria, annual reporting requirements, and program progress review procedures by the time the final allocation policy is promulgated.

On the basis of analysis to date, BPA has tentatively concluded that, with the exception of the Utility System Loss-Reduction Evaluation to be required of (a) all existing preference customers which sign new contracts, (b) new preference customers, and (c) all preference applicants which are otherwise eligible for service, issuance of prescriptive standards at this time is premature. Accordingly, BPA proposes to defer issuance of such standards and, instead, issue requirements and guidelines applicable to an interim period when all affected parties are gaining experience with the various aspects of a Bonneville allocation policy. This will also permit and encourage preference customers and applicants to exercise the latitude to develop and implement the initial energy conservation programs which BPA proposes to utilize in determining preference customer and applicant eligibility for annual allocations from the prospective conservation reserve. BPA is now publishing these proposed energy conservation program requirements and guidelines for public review and comment.

BPA believes that the proposed guidelines will aid development of preference customer and applicant energy conservation programs. The guidelines specify some programs which should be considered for adoption by all preference customers and applicants. BPA considers that these programs would be effective and, if properly implemented, would result in tangible energy conservation savings contributing to phased accomplishment of the 15 percent conservation goal. If adopted as part of a final BPA allocation

policy, the guidelines would remain in effect until amended in a manner to be provided for in the contracts to be offered to existing preference customers and preference applicants eligible for service.

BPA will meet with all interested persons who may have questions concerning the proposed energy conservation program requirements and guidelines. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality or the Office of the Public Involvement Coordinator.

BPA will announce at a later date the times and locations of Public Comment Forums where interested persons may make oral comments on all aspects of the proposed allocation policy, including the proposed energy conservation program requirements and guidelines. Written comments are also encouraged and may be submitted beginning now and at any time until 15 days after the last Public Comment Forum.

Bonneville will evaluate all comments received for consideration in the development of its final allocation policy, including the proposed energy conservation program requirements and guidelines. The final policy may vary from the proposed policy as a result of the comments received from interested persons.

ADDRESSES: Written comments should be submitted to Ms. Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, Ext. 4261. Toll-free numbers for Oregon Callers 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800-547-6048.

Mr. John H. Jones, Jr., Area Manager, Room 288, Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-234-3361, Ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509-622-4379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Ext. 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION:

I. Proposed Energy Conservation Program Requirements and Guidelines.

On October 5, 1979, BPA published its proposed policy and formula to guide allocation of firm electric energy and system reserve energy from the Federal Columbia River Power System (44 FR 57824). BPA believes that energy conservation should be addressed in the formulation and implementation of an allocation policy, and included conservation as one of the principal features of the proposed allocation policy.

BPA has proposed to reserve 15 percent of the total firm energy available for allocation each operating year as a conservation reserve from which annual allocations would be awarded to eligible preference customers and applicants. To be eligible for such allocations, each preference customer and each preference applicant would be required to establish an energy conservation program and implementation plan designed to (a) achieve a phased reduction of at least 15 percent of what its total load would otherwise have been, absent its program, in the 1989-1990 operating year; or (b) to achieve all feasible energy conservation measures that can be instituted by the customer or applicant (if determined by BPA to be less than 15 percent) by the 1989-1990 operating year.

An existing preference customer would be required to prepare and submit its energy conservation program and implementation plan to BPA by January 1, 1982. Each preference applicant would supplement its application for an allocation of firm energy by submitting an energy conservation program and implementation plan to BPA. Customers' and applicants' programs would be implemented as soon as reasonably practicable, and BPA would review all energy conservation program/implementation plan submissions to determine the potential energy savings that could be achieved.

Allocations from the conservation reserve will be made for operating year 1984 (July 1, 1983-June 30, 1984), assuming good faith efforts to conserve. Allocations from the conservation reserve will be made for operating year 1985, assuming customers and applicants submit energy conservation programs and implementation plans to BPA by the required date. Allocations from the conservation reserve will be made for operating year 1986 and subsequent operating years, assuming customers and applicants are implementing programs which BPA determines are capable of achieving their individual energy conservation savings goals.

Apart from the Utility System Loss-Reduction Evaluation, BPA decided not to apply uniform energy conservation program criteria to all existing preference customers and preference applicants which are eligible for allocations from the conservation reserve. Instead, each preference customer and applicant would be asked to develop and implement a program tailored to its individual system characteristics and needs. BPA recognizes that each customer and applicant confronts a somewhat unique situation and set of problems and opportunities.

BPA announced in its proposed policy that it would develop and publish energy conservation program standards, including evaluation criteria, annual reporting requirements, and program progress review procedures by the time the final allocation policy is promulgated. Analysis to date has led BPA to tentatively conclude that the issuance of prescriptive standards at this time would be premature. Accordingly, BPA proposes to defer issuance of such standards and, instead, issue energy conservation program guidelines applicable for an interim period when affected parties are gaining experience with various aspects of a Bonneville allocation policy. The guidelines will permit and encourage preference customers and applicants to exercise the latitude to develop and implement their initial energy conservation programs, and will furnish a basis which BPA proposes to utilize in determining preference customer and applicant eligibility for annual allocations from the prospective conservation reserve.

BPA believes that the proposed guidelines will aid development of preference customer and applicant energy conservation programs. The guidelines specify some programs which should be considered for adoption by all preference customers and applicants. BPA considers that these programs would be effective and, if properly implemented, would result in tangible energy conservation savings contributing to phased accomplishment

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of the 15 percent conservation goal. If adopted as part of a final BPA allocation policy, the guidelines would remain in effect until amended in a manner to be provided for in the contracts to be offered to existing preference customers and preference applicants.

BPA has developed and is now publishing proposed energy conservation program requirements, program review procedures, reporting requirements, evaluation criteria, program guidelines, and related material.

A. Program Review Procedures

1. *Notification of 15 Percent Energy Conservation Goal.* Initially, each preference customer's 15 percent conservation goal shall be based on the individual customer's most recent BPA-approved load forecast submitted prior to January 1, 1981. Each preference applicant shall supplement its application for an allocation of firm energy by submitting a load forecast to BPA. Following BPA approval of the load forecasts, BPA shall notify each customer and applicant, as appropriate, of its goal, to be achieved by operating year 1990 (July 1, 1989–June 30, 1990).

2. *Plan Preparation.* Each preference customer and applicant shall be responsible for preparation and amendment of its energy conservation program and implementation plan. However, upon request, BPA will assist any preference customer or applicant in preparing its initial energy conservation program and implementation plan and subsequent amendments, if any.

A list of programs which BPA considers appropriate for consideration in a customer's or applicant's conservation plan appears under *E. Energy Conservation Program Guidelines.* Examples of ineligible programs also appear in *C(3)(f) Excluded Programs.* Additional guidance for energy conservation program development shall be issued early in 1981. Such guidance shall thereafter be periodically amended to reflect improvements in conservation technology, new information concerning consumer use patterns, and other appropriate considerations. The guidance shall include:

a. An assessment procedure to assist a preference customer or applicant in reviewing its loads by end-use category in order to determine where the greatest potential for savings exists. This procedure shall include BPA estimates of potential percentage energy savings in various categories of end use.

b. A compilation of specific energy conservation programs that may be useful models.

3. *Filing of Energy Conservation Plans.* To be eligible for an allocation of energy from the conservation reserve, an existing preference customer which signs a new firm power sales contract shall submit an energy conservation program and implementation plan to BPA by January 1, 1982. (See *B. Reporting Requirements* for reporting criteria.) To be eligible for service, including an allocation of energy from the conservation reserve, a preference applicant shall submit a program and plan.

It is not mandatory that all existing preference customers participate in the conservation reserve program, if they elect not to sign new contracts. The decision to seek a share of the conservation reserve is discretionary and shall not affect the determination of an existing preference customer's base allocation.

4. *Notification of Conservation Reserve Allocation.* On July 1, 1982, and annually thereafter, BPA shall notify eligible preference customers and applicants of their respective allocations from the conservation reserve for the operating year beginning 2 years hence. (See *C. Evaluation Criteria.*) This notice shall coincide with publication of annual projections of the aggregate FCRPS firm energy resources available for allocation, by operating year, for the 10-year period ahead. It is possible that some existing preference customers and preference applicants may not qualify for their additional allocations from the conservation reserve as programmed, and additional energy from the conservation reserve may become available for reallocation within the 2-year period. Should the need arise, BPA shall determine how to dispose of any energy remaining in the conservation reserve after all allocations based on conservation have been made. Preference and priority shall be given to public bodies and cooperatives.

It is also possible that, in 1 or more future operating years, preference customers and applicants may be eligible for allocations from the conservation reserve that, in the aggregate, would exceed the 15 percent of BPA total firm energy resources which comprise the conservation reserve. Should the need arise to do so, BPA will adjust the size of the reserve in relation to the aggregate FCRPS firm energy resources available for allocation in the appropriate operating year or years.

5. *Filing of Progress Report.* On Janaury 1, 1983, and every Janaury 1 thereafter, each preference customer shall submit a written progress report quantifying its energy conservation savings. (See *B. Reporting Requirements.*)

6. *Amendments.* A preference customer or applicant may submit an amendment to its energy conservation program and implementation plan at any time. BPA must receive amendments by April 1 of an operating year to insure timely consideration of the amendment in relation to fixing the customer's or applicant's allocation for the operating year beginning 2 years after the following July 1. Amendments submitted to Bonneville within 90 days of the end of the operating year may not be received in time to be evaluated and reflected in the customer's or applicant's allocation announced on July 1 of the subsequent operating year for the operating year 2 years hence. Amendments will be evaluated with the criteria shown in *C. Evaluation Criteria.*

7. *Petitions.* In the event a preference customer or applicant disagrees with Bonneville's evaluation of its energy conservation program and implementation plan, progress report, or amendments, the customer or applicant may seek reconsideration by filing a written petition with Bonneville. Petitions shall be submitted within 60 days of BPA's annual conservation reserve allocation notice, and shall be specific as to disagreements with this notice.

Bonneville shall review all petitions in a timely manner and meet with customers and applicants to attempt to resolve disagreements. The duration of the petition process may result in less than 2 years' notice of allocation from the conservation reserve for a given operating year.

B. Reporting Requirements.

1. *Conservation Implementation Plans.* Conservation implementation plans shall, at a minimum, include the following items:

a. A BPA-approved load forecast for each operating year of the period from the beginning of operating year 1983 to end of operating year 1992.

b. A summary of anticipated energy savings, by conservation program, for each operating year from 1983 to 1992.

(i) A demonstration of phased accomplishment of the 15 percent goal by the end of operating year 1990. (See *C(2) Summary of Implementation Requirements by Operating Year.)*

(ii) If appropriate, identification of the year in which it is anticipated that the 15 percent goal will be exceeded.

c. If appropriate, justification for anticipated energy savings with quantitative supporting data.

d. A description of each program included in the plan:

(i) Details of program to be used;

(ii) Sector or group of consumers participating in the program;

(iii) Conservation measures/techniques included in the program;

(iv) Method of estimating savings.

e. Implementation schedules for programs included in the plan:

(i) Total estimated energy savings to preference customer, by operating year;

(ii) Quantitative data to support estimates of (e)(i), above.

2. *Progress Reports.*

a. *Filing Requirements.* Beginning January 1, 1984, and annually thereafter, a preference customer or applicant which has submitted an approved conservation plan shall submit a progress report quantifying energy conservation accomplishments since inception of its BPA-approved program. Customers shall also file statements of revised projected energy savings, if appropriate. A customer of Applicant shall compare the program progress described in its progress reports against its BPA-approved energy conservation program and implementation plan.

b. *Contents of Progress Reports.* Progress reports shall include the following information:

(i) A summary of actual results (e.g., number of participating consumers, estimated average savings per consumer, etc.) for each program for the preceding operating year compared to the estimates specified in the conservation plan.

(ii) Information specified in the system loss-reduction program required in *D. Utility System Loss-Reduction Evaluation.*

(iii) An explanation of any differences between estimated program results and actual results.

(iv) A description of any new programs, if appropriate, detailing the information requested in B(1)(d), above.

(v) An updated summary of anticipated energy savings, by program, reflecting the information set forth in (i), (ii), and (iii), above, and any new programs, if appropriate.

(vi) Implementation schedules for both existing and new programs included in the plan, detailing the information requested in B(1)(e), above.

C. Evaluation Criteria.

BPA will use the following criteria to determine eligibility for allocations of energy from the conservation reserve for existing preference customers which sign new contracts, new preference customers, and preference applicants.

1. *Fifteen Percent Energy Conservation Goal.* A customer or applicant shall (1) achieve a phased reduction of at least 15 percent of what its total load would otherwise have been, absent an energy conservation program, in operating year 1990; or (2) achieve all feasible conservation measures which it can institute, if the projected savings are determined by BPA to be less than 15 percent. A customer or applicant is expected to achieve this energy conservation goal by operating year 1990, or earlier if reasonably practicable.

Initially, Bonneville will calculate each customer's or applicant's energy conservation savings goal based on the customer's or applicant's most recent BPA-approved load forecast. For existing preference customers, this forecast shall be submitted to BPA by January 1, 1981. Each operating year, BPA will review each customer's and applicant's current approved load forecasts and energy conservation program progress reports to determine whether the programs continue to be capable of achieving the customers' or applicants' energy conservation savings goals.

2. Summary of Implementation Requirements by Operating Year

Conservation reserve allocation by operating year	Prerequisite actions by existing preference customers which sign new contracts, new preference customers and preference applicants which qualify for service
1984	Customers and applicants receiving base allocations of BPA firm energy shall also receive allocations from the conservation reserve based on good faith efforts to conserve.
1985	Customers and applicants shall have submitted energy conservation programs and implementation plans by January 1, 1982.
1986	Energy conservation programs, implementation plans, and amendments shall demonstrate that each customer or applicant can reduce firm energy loads by 15 percent by operating year 1990 or demonstrate by a preponderance of fact why such reduction is not feasible, and implementation shall have already commenced.
1987–1991	Annual progress reports shall demonstrate preference customer or applicant compliance with energy conservation programs and implementation plans submitted to BPA in January 1982 or as subsequently modified by the customer(s) or applicant(s) and approved by Bonneville. These reports shall demonstrate to BPA satisfactory: (1) progress toward the 15 percent goal and (2) compliance with the provisions of the preference customer's or applicant's approved energy conservation programs and implementation plans. A preference customer or applicant shall not receive an allocation from the conservation reserve for one or more operating years if BPA determines that the customer or applicant (1) has failed to comply with the provisions of its energy conservation program and implementation plan and (2) does not revise its plan to describe how and when the 15 percent goal or all feasible conservation measures shall be achieved.
1992–1994	At a minimum, a preference customer or applicant shall maintain an equivalent of its 15 percent goal for the duration of the firm power sales contract. BPA shall publish revised procedures for the period after operating year 1990, at a time and in a manner which facilitates public consideration and comment prior to implementation.

3. Program Evaluation Criteria.

a. *Conservation.* The following measures constitute energy conservation measures eligible for inclusion in a customer's or applicant's energy conservation program and implementation plan:

(i) quantifiable and cost-effective reductions in electric energy consumption which result from specific actions to increase the efficiency of energy consumption at the point of end use;

(ii) quantifiable and cost-effective reductions in percentage of electric energy losses (as a percentage of total energy requirements) which result from specific actions to increase the efficiency of transmission and distribution systems;

(iii) quantifiable and cost-effective net reductions in preference customer or applicant requirements for electric energy produced by "central-station" generation and distributed through the region's transmission system. Such net reductions must result from direct applications of renewable resource conversion or generation equipment installed by residential, commercial, and industrial consumers to reduce their electric energy demand; and

(iv) quantifiable, but not necessarily cost-effective, reductions, as described in (i) and (ii), above.

Renewable resources include solar, wind, small hydro, or geothermal

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energy; forest, crop, or animal wates; other biomass; municipal or industrial wastes; or other renewable resources obtainable in a preference customer's or applicant's service area which can be converted to useful energy. For allocation policy purposes, the use of renewable resources for direct application and generation of electric energy used at site are eligible for credit. The output of renewable resource generation equipment installed by residential, commercial, and industrial consumers that is purchased by a preference customer or applicant to displace other resources is not eligible for credit.

b. *Cost Effectiveness.* An energy conservation measure or a renewable resource shall be considered cost effective when it is forecast to be reliable and available within the time it is needed and if it would meet or reduce the electrical power demand of the consumers of a preference customer or applicant at an estimated incremental system cost no greater than that of the least-cost, similarly available measure or resource. All direct costs over the effective life of a measure or resource shall be estimated.

For allocation policy purposes, the term "direct costs" shall be those costs incurred by a preference customer or applicant and/or its end-use consumers which are the direct result of the installation, operation, maintenance, and disposal of an energy conservation measure or resource over the effective life of the measure or resource.

No later than July 1, 1981, Bonneville shall make available to preference customers and applicants a schedule of the projected costs of power from the least-cost, readily available alternative measure or resource which would be required to meet the region's incremental electrical energy requirements in a given year. The projected costs shall be used to value the projected energy savings of a conservation measure or resource in that particular year. The schedule shall be updated at least annually.

c. *Best Efforts.* If a preference customer or applicant believes that it will not be feasible to achieve its 15 percent energy conservation goal, it may request a determination from Bonneville. The customer or applicant shall detail the reasons for its belief that 15 percent savings is not feasible and present a preponderance of facts to support what it believes would constitute its "best efforts" to achieve energy conservation. Should BPA determine that 15 percent is not feasible, the customer or applicant shall implement the maximum amount of cost-effective conservation which it and its consumers, acting individually or in concert, are capable of accomplishing, in order to receive an allocation of energy from the energy conservation reserve.

d. *Prior Conservation Efforts.* A preference customer or applicant may submit for credit, energy savings attributable to conservation programs which it has initiated prior to operating year 1984, and which it plans to continue. To determine the amount of credit to award, BPA shall treat such conservation programs as if they had been initiated on January 1, 1982, and award an amount of credit relative to BPA's estimate of the amount of energy savings which could be expected to result for specific programs of that type, irrespective of date of initial implementation.

e. *Utility Rates as an Energy Conservation Program.* Preference customers or applicants shall be credited for energy savings resulting from rate structures designed to encourage consumers to implement energy conservation measures. Bonneville shall review the proposed rate structure and customer or applicant progress reports to evaluate whether a rate design for which credit is being sought has been designed and implemented for energy conservation purposes and shall achieve the anticipated energy savings.

f. *Excluded Programs.* BPA shall not consider the following as acceptable elements of a preference customer's or preference applicant's energy conservation plan, except as noted.

(i) *Information Programs.* A preference customer or applicant shall not be credited for programs which consist solely of the distribution of energy conservation information.

(ii) *Fuel Switching.* A preference customer or applicant shall not be credited for programs which involve substitution of appliances or equipment using nonrenewable fuels for appliances or equipment using electricity.

4. *Allocation Determination.*

a. *Allocation from Energy Conservation Reserve.* Initially, each eligible preference customer or applicant shall receive an allocation from the conservation reserve if the customer or applicant submits to BPA an energy conservation program and implementation plan which BPA determines is capable of achieving either a 15 percent savings by operating year 1990 or the customer's or applicant's maximum feasible energy conservation. Progress reports shall be reviewed annually to assure that conservation efforts are being sustained for the term of the new firm power sales contracts to be offered shortly after a final allocation policy is promulgated. Allocations from the energy conservation reserve shall be cancellable if BPA determines that a customer's or applicant's conservation program and implementation plan, or its program implementation, is inadequate.

b. *Bonus Conservation Allocation.* If BPA determines that a program in any operating year will result in energy savings exceeding 15 percent of what a preference customer's or applicant's total load would otherwise have been, the total annual allocation for such customer or applicant shall be increased 1 percent for each full percent by which the savings are expected to exceed 15 percent. The adjustment shall be made for the operating year in which the excess energy savings are expected to be realized. However, no preference customer or applicant shall receive allocations exceeding its net firm energy requirements eligible for allocation, regardless of the amount of energy conservation achieved.

c. *No Allocation from Energy Conservation Reserve.* Commencing with operating year 1986, a preference customer or applicant shall be ineligible to receive a conservation reserve allocation if BPA determines that: (1) the customer's or applicant's energy conservation program and implementation plan are not capable of achieving the customer's or applicant's energy conservation savings goal; or (2) the customer or applicant does not make a good faith effort to implement the energy conservation program elements specified in its BPA-approved energy conservation program in accordance with its BPA-approved implementation plan; or (3) the customer or applicant discontinues its planned energy conservation program elements without BPA approval. Such determinations shall be made annually.

The customer or applicant may submit an amendment (See *A(6) Amendments*) to remedy deficiencies determined by BPA in such customer's or applicant's program or submit a petition (See *A(7) Petitions*) for reconsideration. Amendments and petitions shall not assure that the customer or applicant will receive an allocation from the conservation reserve and may cause the customer or applicant to have less than 2 years' notice of its conservation reserve allocation for a future operating year.

D. Utility System Loss-Reduction Evaluation

A preference customer or applicant shall evaluate various loss-reduction methods for applicability to its system.

This evaluation shall be *mandatory* for all preference customers which sign new contracts, and for all preference applicants. Loss-reduction methods include energy conservation measures each customer or applicant can undertake directly, rather than measures which it must encourage others to undertake. The evaluation of loss-reduction methods shall include the following features:

1. *Analysis.* A customer shall conduct cost-effectiveness analysis of potential loss-reduction measures based on a comparison of the value of losses to be reduced to the direct costs of energy from new resources. (See *C(3)(b) Cost Effectiveness.*)

2. *Progress Reports.* A customer shall include in its progress report required under *B(2) Progress Reports:*

—The amount of actual energy consumed by the utility, if known.

—The amount of actual energy losses on its system.

—Analysis of cost effectiveness of potential loss-reduction measures using the direct costs of energy from new resources. (See *C(3)(b) Cost Effectiveness.*)

—As appropriate, updates of prior cost-effectiveness analysis reflecting significant changes in the direct costs of energy from new resources or direct costs of implementing loss-reduction measures.

—Plans for the implementation of proposed loss-reduction measures.

—Progress made toward the implementation of loss-reduction measures.

E. Energy Conservation Program Guidelines

The program guidelines are intended to aid preference customers and applicants in the development of their energy conservation programs, and will be augmented and updated periodically. The following are suggested programs BPA considers effective and which would contribute to achievement of the customers' and applicants' energy conservation savings goals. As such, they should be considered for adoption by all preference customers and applicants, subject to compliance with Federal, state and local regulations.

1. *Residential Programs.*

a. *Weatherization Audit and Loan Program.* A preference customer or applicant may implement a residential audit and low-cost loan program which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide to all residential consumers upon request:

—Information on suggested energy conservation measures for their area, by type of residential structure, including ceiling, wall, and floor insulation; storm doors and windows; and caulking and weatherstripping.

—Information on average or typical costs and savings of suggested measures.

—Information on availability of energy analysis, installation, and low-cost financing of measures.

(ii) *Energy Conservation Analysis.* A customer or applicant may offer to:

—Perform energy conservation analysis for all residential consumers upon request.

—Prepare written reports to each residential consumer on analysis findings and utility recommendations, and explain energy analysis and recommendations to consumers.

—Keep analyses on file for 5 years and provide energy-use information free of charge to subsequent owners.

(iii) *Assistance to Consumers in Installation and Financing of Major Energy Conservation Measures.* To electric heat consumers only, a customer or applicant may offer to:

—Obtain bids for weatherization improvements.

—Arrange installation of energy conservation measures.

—Provide or arrange low-cost financing of cost-effective weatherization improvements, unless prohibited by State law.

—Provide information on other available weatherization financing.

—Provide information on available tax credits and deductions for energy conservation measures.

—Inspect all work completed for compliance with utility-performed energy conservation analysis.

(iv) *Program Administration, Monitoring, and Evaluation.* A customer or applicant may provide contractor standards, lists of contractors meeting the standards, and specifications for materials and work performed.

(v) *Low-Cost Energy Conservation Measures.* As incentives to encourage consumer participation in its program, a customer or applicant may provide, at no charge to consumers, low-cost measures such as foundation vent covers, showerhead flow restrictors, water-heater insulation and/or electric outlet gaskets.

b. *Water-Heating Energy Conservation Program.* A customer or applicant may implement a domestic water-heating efficiency program, which may include the following features.

(i) *Consumer Information.* A customer or applicant may provide to all residential consumers upon request:

—Information on suggested water-hearing efficiency measures, including high-efficiency conventional water heaters, heat-pump water heaters, solar water heaters, in-line water heaters, and water-heater and pipe insulation.

—Information on average or typical costs, and energy and dollar savings of suggested measures.

—Information on availability of energy analysis, installation, and low-cost financing of measures.

(ii) *Assistance to Consumers in Installation and Financing of Major Energy Conservation Measures.* A customer or applicant may, upon request of consumers with electric water heaters:

—Survey residences to determine feasibility and cost effectiveness of alternative water-heating efficiency measures.

—Provide, where cost effective, financial incentives including low-cost loans for purchase and installation of the appropriate water-heating efficiency measures based on amount of water used, location of water heater, amount of insulation (rate of delivery of all direct solar energy per unit of horizontal surface), house orientation, and other factors.

—Inspect water-hearing efficiency installations to assure proper installation and performance.

(iii) *Program Administration, Monitoring, and Evaluation.* A customer or applicant may provide:

—Water-heating equipment dealer/installer standards.

—Lists of dealers/installers meeting the standards.

—Specifications for equipment, locations of units within residence, and work performed.

—In the case of loans, loan balances on consumers' monthly bills.

2. *Commercial Programs.*

a. *Audit and Loan Program.* A customer or applicant may implement a commercial audit and low-cost loan program which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide to commercial and other nonresidential and nonindustrial consumers:

—Information on potential energy conservation measures by type of user and end use.

—Information on availability of audits, design, installation, and low-cost financing of measures.

—Information on available tax credits and deductions for conservation measures.

—Information on available U.S. Department of Energy programs (e.g., the Schools, Hospitals, and Public Buildings Program).

(ii) *Energy Audits.* A customer or applicant may offer to:

—Assist eligible consumers in obtaining audits under U.S. Department of Energy programs.

—Perform audits for eligible nonresidential consumers upon request, prepare reports on audit findings, and provide explanations of both.

—Keep audit reports on file and periodically review and update.

(iii) *Assistance to Commercial Consumers in Installation and Financing of Conservation Measures.* A customer or applicant may offer to:

—Assist eligible consumers in obtaining financial assistance including low-cost loans under Federal, State, and other applicable nonutility programs.

—Provide lists of qualified and/or participating consulting engineers, vendors, and contractors.

—Arrange design and installation of measures which conserve electric energy.

For commercial consumers with electric HVAC and/or water-heating systems, a customer or applicant may offer to:

—Obtain proposals for cost-effective weatherization or water-heating efficiency improvements to electrical equipment.

—Provide or arrange low-cost financing of cost-effective weatherization or water-heating efficiency improvements to electrical equipment.

—Inspect all work completed.

b. *Lighting Reduction Program.* A customer or applicant may implement a lighting reduction program for commercial consumers which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide:

—Information on ways to increase lighting efficiency.

—Information on average or typical costs and savings of suggested measures.

—Information on availability of lighting surveys or audits, installation, and financing of measures.

(ii) *Lighting Efficiency Analysis.* A customer or applicant may offer to:

—Perform lighting efficiency analysis upon request.

—Provide consumers with reports and explanations of analysis findings and recommendations.

(iii) *Assistant to Consumers.* A customer or applicant may offer to provide:

—Financial incentives including low-cost loans to encourage consumers to replace inefficient lamps and fixtures with energy-efficient lamps and fixtures.

—Inspection of work completed to ensure effective replacement and the installation of energy-efficient lamps and fixtures.

c. *Heating, Ventilation, and Air-Conditioning (HVAC) Program for Small Businesses.* A customer or applicant may offer a HVAC maintenance and thermostat replacement program to small commercial consumers, which may include the following:

(i) *Consumer Information.* A customer or applicant may provide:

—Information regarding costs and benefits of regular HVAC maintenance and automatic set-back thermostats or computer-controlled energy management systems.

—Descriptions of available automatic set-back thermostats and other devices to increase HVAC efficiency (including manufacturers' brochures).

—Information regarding local firms providing maintenance and installation of set-back thermostats and other devices to increase HVAC efficiency.

(ii) *Incentives.* For commercial consumers with electric heating/cooling equipment, a customer or applicant may offer:

—To sell a variety of set-back thermostats and other devices to increase HVAC efficiency at the cost to the utility, less discounts based on the value of the expected savings (See *C(3)(b) Cost Effectiveness*); and/or

—Rate discounts or rebates for purchase of automatic set-back thermostats and other devices to increase HVAC efficiency from nonutility vendors.

(iii) *Regular Maintenance Checkups.* For commercial consumers with electric heating/cooling equipment, a customer or applicant may offer to:

—Install a set-back thermostat.

—Periodically perform regular maintenance checkups.

d. *Programs for Large Commercial Consumers.* Bonneville expects that preference customers and applicants will develop energy conservation programs directed to their large nonresidential and nonindustrial consumers. However, due in part to the wide range in the nature and magnitude of large commercial loads among preference customers and applicants, Bonneville is continuing to analyze prospective programs in order to determine which programs are effective and would contribute to the achievement of customers' and applicants' energy conservation savings goals. Additional energy conservation program guidance shall be issued by Bonneville early in 1981 to assist preference customers and applicants in the development of programs for large commercial consumers.

This guidance shall identify programs preference customers or applicants may implement to encourage large commercial consumers to adopt measures to increase the energy efficiency of their buildings and energy consuming equipment. Examples of such efficiency improvements include, but are not limited to, more efficient HVAC systems, enhanced thermal integrity of building envelopes (includes walls, windows, doors, and ceiling), lighting modifications, waste heat recapture, and improved energy "housekeeping."

3. *Irrigation Pump Testing Program.* A customer or applicant which serves irrigation loads may implement an irrigation pump testing program which may include the following features.

a. *Consumer Information.* A customer or applicant may provide to all irrigation consumers:

—Information on suggested energy conservation measures for their area, by type of crop and irrigation system.

—Information on average or typical costs and saving of suggested measures.

b. *Pump Efficiency Analysis.* A customer or applicant may offer to:

—Perform pump and system efficiency analyses for all irrigation consumers upon request.

—Prepare reports on analysis findings and recommendations, and explain energy analysis and recommendations to consumers.

c. *Assistance to Consumers.* A customer or applicant may offer to provide rate rebates for efficiency improvements which can be verified and quantified by the pump testing program and anaysis using applicable climatological and crop data.

4. *Industrial Programs.* Bonneville expects that preference customers and applicants will develop energy conservation programs directed to their industrial consumers. However, due in part to the wide range in the nature and magnitude of industrial loads among preference customers and applicants, Bonneville is continuing to analyze prospective programs in order to determine which programs are effective and would contribute to the achievement of customers' and applicants' energy conservation savings goals. Additional program guidance shall be issued by Bonneville early in 1981 to assist preference customers and applicants in the development of industrial programs.

This guidance shall identify programs preference customers or applicants may implement to encourage industrial consumers to adopt measures to increase the energy efficiency of their operations and production processes. Examples of such efficiency improvements include, but are not limited to, more efficient use of motors, lighting modifications, waste heat recapture, and improved industrial energy "housekeeping."

II. Legal Authority for Proposed Standards

The Bonneville Power Administrator shall make all arrangements for the sale and disposition of electric energy, consistent with the policy directives of the Bonneville Project Act to (1) encourage the widest possible use of all electric energy that can be generated and marketed, (2) provide reasonable outlets therefor, and (3) prevent monopolization by limited groups. (16 U.S.C. 832a(a)(b).) To this end, the Administrator is authorized to enter into such contracts, agreements, and arrangements as he may deem necessary and to contract with any utility engaged in the sale of electric energy to the general public on such terms and conditions as he deems necessary, desirable, or appropriate to effectuate the purposes of the Act. (16 U.S.C. 832a(f); 16 U.S.C. 832d(a).) The Administrator has preliminarily determined that an allocation of firm electric energy and system reserve energy from the Federal Columbia River Power System incorporating the energy conservation features herein proposed will serve to accomplish the purposes of these and other statutes pursuant to which BPA markets power. By the inclusion of such energy conservation features in the proposed allocation policy the Administrator expresses his belief that (1) there is a reasonable likelihood that the limited resources available to him will be more widely distributed than would otherwise be the case, and (2) such inclusion would contribute to the prevention of monopolization by a limited number of customers.

III. Studies and Analyses

The major studies and analyses which have been used will be available for review at BPA headquarters located at 1002 Northeast Holladay Street, Portland, Oregon. They are:

1. Skidmore, Owing, and Merrill (SOM) Report;
2. Northwest Energy Policy Project (NEPP) Report;
3. NRDC Alternative Scenario;
4. Power Outlook, June 1980;
5. City of Seattle Energy 1990 Study;
6. Energy Conservation Choices for the City of Portland, dated September 1977.

IV. Public Review and Comment

A. *Public Review.* BPA will meet with all interested persons who may have questions concerning the proposed energy conservation program requirements and guidelines. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality or the Office of the Public Involvement Coordinator.

B. *Public Comment Forums.* Public Comment Form to permit the public to submit oral comments on the proposed allocation policy, including the energy conservation program requirements and guidelines, will be scheduled in the fall of 1980 when the draft Environmental Impact Statement is available.

Written comments may be submitted beginning now and at any time until 15 days after the last Public Comment Forum. All comments will become part of the Official Record and will be considered in the final allocation policy that will be developed by BPA. Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

Dated: August 29, 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-27405 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-027]

Atlas Powder Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On October 3, 1979, Atlas Powder Company (Atlas), 12700 Park Central III, Suite 1700, Dallas, Texas 75251, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-083). The certification involved the purchase and transportation of natural gas from Cities Service Gas Company (Cities Service) for use by Atlas at its plant in Joplin, Missouri. The ERA certificate expires on October 2, 1980.

On August 1, 1980, as amended August 19, 1980, Atlas filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Joplin Plant pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Atlas states that the volume of natural gas for which it requests recertification is up to 292,600 Mcf per year. This volume is estimated to displace the use of up to 2,400,000 gallons (57,143 barrels of No. 2 diesel fuel oil (0.34 to 1.0 percent sulfur)) per year at the Joplin Plant. The eligible seller and transporter of the natural gas is the Cities Service Gas Company, Oklahoma City, Oklahoma 73125.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-57, 2000 M Street, N.W., Washington, D.C. 20461 Attention: Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 15, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Atlas and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on August 29, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27248 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Berg, Laney & Brown; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account

V45/174 SE5 80 UMI

established pursuant to the Consent Order.

DATE: August 25, 1980. Comments by October 8, 1980.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816)/374-5932.

SUPPLEMENTARY INFORMATION: On August 25, 1980, the Office of Enforcement of the ERA executed a Consent Order with Berg, Laney & Brown, ("BLB") of Smackover, Arkansas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

BLB, with its home office located in Smackover, Arkansas, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of BLB the Office of Enforcement, ERA, and BLB entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of crude oil by BLB during the period September 1, 1973 through December 31, 1978.
2. The reason for the overcharges was BLB sold crude oil at prices in excess of the applicable ceiling price, as defined at 6 CFR 150.354 and at 10 CFR 212.73.
3. It is understood that BLB does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.
4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, BLB agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $240,000.00, plus interest as specified in Terms and Conditions, paragraph 1, of the Consent Order. The refund shall be made in monthly installments and completed within 37 months from the effective date of the Consent Order. Such refund will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Berg, Laney & Brown Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on October 8, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR 205.9(f).

Issued in Kansas City, Mo. on the 26th day of August 1980.

William D. Miller,

Manager, Central Enforcement District, Economic Regulatory Administration.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 80-27250 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation for the July 1 Through September 30, 1980; Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light and heavy crude oil for the month of September 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly, rather than a quarterly, basis. Consequently, the volumes listed in the allocation notices issued on July 11, 1980 (45 FR 48181, July 18, 1980), and August 11, 1980 (45 FR 55257, August 19, 1980), represented only volumes to be exported in August 1980. This supplemental notice lists only Canadian crude oil volumes which will be exported in the month of September 1980.

Redesignation of Priority Status

On April 17, 1980, the Department of Energy's Office of Hearings and Appeals (OHA) issued a Decision and Order with respect to appeals filed by the Mobil Oil Corporation from four allocation notices issued by ERA under the Canadian Crude Oil Allocation Program. *Mobil Oil Corporation,* Case Nos. DEA-0235, 0387, 0589, and BEA-0035. OHA concluded that ERA erred in not reclassifying Ashland and Koch's Minnesota refineries as second priority refineries for the fourth allocation quarter of 1978 and the second, third, and fourth allocation quarters of 1979.

It is ERA's belief that the legal and factual determinations made by OHA with respect to the Ashland and Koch refineries' access to non-Canadian crude oil in the allocation periods specified above are equally applicable to future allocation periods. Accordingly, on May 16, 1980, Ashland and Koch were formally advised that ERA intended to redesignate the Ashland refinery at St. Paul Park, Minnesota, and the Koch refinery at Pine Blend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice and, with the possible exception of the first allocation quarter in each year, in every subsequent allocation quarter. With respect to the first allocation quarter of each year, ERA intended to make a determination of the refineries' priority status at a later time.

However, in May 1980, the United States District Court for the District of Minnesota enjoined DOE from implementing reclassification of the Koch and Ashland refineries from first priority to second priority status pending a hearing and determination of the motion for a preliminary injunction. On August 18, 1980, the District Court issued a Preliminary Injunction prohibiting DOE from redesignating the Koch and Ashland refineries pending a final determination of the case. Accordingly, Ashland and Koch's Minnesota refineries will retain their first priority status for the September 1980 Allocation Notice.

Allocation of Canadian Light Crude Oil

The Canadian National Energy Board (NEB) has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States for the month of September 1980 and, therefore, subject to allocation under Part 214, will be 50 barrels/day (B/D), all or which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Flying J. Inc. (formerly ICG Vista) Thunderbird refinery (second priority) at Cut Bank, Montana. Pursuant to 10 CFR 214.35, ERA will give effect to the operational constraint regarding the Thunderbird refinery in the issuance of Canadian crude oil rights for the month of September.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level of Canadian heavy crude oil for the month of September 1980 is 136,012 B/D. ERA has applied the procedures set forth in § 214.31(a)(3) in allocating Canadian heavy crude oil exports for September. Some refiners that had submitted heavy crude oil nominations for the July 1 through September 30, 1980, allocation period, have advised ERA that they are unable to accept the full amount of their September 1980 heavy crude oil nominations and have requested that their September heavy crude oil nominations be reduced accordingly.

Since the September 1980 allocable supply of Canadian heavy crude oil is greater than the total nominations (as adjusted) of priority refiners for that crude oil, the ERA has determined, pursuant to 10 CFR 214.31(b), that the volume of Canadian heavy crude oil to be exported in September in excess of the nominations of priority refiners (59,438 B/D) is surplus for the July 1 through September 30 allocation period and is not subject to the allocation provisions of § 214.31(a)(3).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for September 1980 to refiners and other firms nominating for heavy crude oil for the July–September allocation period is as follows:

	Refiner/refinery	Base period volumes [1] Canadian total	Base period volumes [1] Canadian heavy crude	Nomination [2]	Allocation
Priority:					
II	Ashland—Buffalo NY	36,752	4,719	2,800	2,800
II	Ashland—Findley, OH	2,198	2,165	1,300	1,300
I	Ashland—St. Paul Park, MN	44,707	4,803	0	0
I	Koch—Pine Bend, MN	74,383	68,692	54,000	54,000
II	Laketon—Laketon, IN	141	131	0	0
II	Mobil—Buffalo, NY	24,995	0	0	0
II	Mobil—Ferndale, WA	45,444	0	0	0
II	Mobil—Joliet, IL	14,606	12,474	12,474	12,474
I	Murphy—Superior, WI	25,625	5,372	6,000	6,000
II	Union—Lemont, IL	11,711	0	[illegible]	0
Total Priority I					60,000
Total Priority II					16,574
Total I and II					76,574

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

[2] The nominations reflect September 1980 adjustments made by priority refiners. See discussion p. 3.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(c)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills, consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

Please note change of address. All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation and Production Branch, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710–822–9454 (answer back EVFTJ WSH). *Also note that, effective August 15, 1980, the telephone number for the Crude Oil Allocation Branch is changed to 202–653–3420.*

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before October 8, 1980.

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Issued in Washington, D.C., on August 29, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27257 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Champlin Petroleum Co.'s Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application withdrawal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 20, 1980, Champlin Petroleum Company (Champlin) withdrew its Application for Permission to Use Multiple Allocation Fractions, which the firm had filed with the ERA on March 31, 1980. Champlin reserves its rights to refile an application at a later date.

FOR FURTHER INFORMATION REGARDING THIS ORDER CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: (202)653-3701.

Joel M. Yudson, Office of the General Counsel, Room 6A-127, 1000 Independence Avenue, N.W., Washington, D.C. 20585, Telephone: (202)252-6744.

Issued in Washington, D.C., on the 29th day of August 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27253 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-07]

Champlin Petroleum Co.; Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to Champlin Petroleum Company (Champlin) a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78(a) (1) and (2) of the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 205.98, such a Proposed Decision and Order must be published in the **Federal Register**. Interested parties have until October 6, 1980 to submit objections or comments. Upon review of any matters submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notified of the action taken and will be furnished a copy of that action. Objections or comments should cite the docket number and be addressed to: Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Manager: Tertiary Enhanced Recovery Program.

A copy of the text of the Proposed Decision and Order together with a copy of Champlin's application is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and the Department of Energy Reading Room, Room 5B-180, James Forrestal Building, 1000 Independence Avenue, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on August 28, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27246 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Electric System Compliance Plans; Acceptance and Deferral of Acceptance of Certain Petitions

AGENCY: Economic Regulatory Administration.

ACTION: Notice of acceptance of certain petitions and deferral of acceptance of certain other petitions filed for approval of electric system compliance plans.

SUMMARY: The Powerplant and Industrial Fuel Use Act of 1978 (FUA) prohibits existing electric powerplants from using natural gas as a primary energy source on or after January 1, 1990, and from using natural gas as a primary energy source before 1990 unless they burned natural gas in 1977, and then in no greater proportion than the average yearly proportion used by such powerplants in the calendar years 1974 through 1976.

The Economic Regulatory Administration (ERA) on June 12, 1979, issued an interim rule, and on August 1, 1980 the final rule, 10 CFR 504.4, implementing the electric utility system compliance option authorized by Section 501 of FUA. The final rule sets forth the criteria and procedures by which owners and operators of existing powerplants may be considered in compliance with the Title III FUA prohibitions on natural gas use by obtaining ERA approval of a system compliance plan. ERA required a submission of certain elements of a proposed plan by January 1, 1980, and all additional submissions to complete a proposed plan by August 1, 1980.

ERA has received petitions for orders for the approval of system compliance plans from 39 eligible utility systems and has determined, upon preliminary review, that certain of those petitions meet the minimum requirements of 10 CFR 504.4(b) and is therefore accepting those petitions. In accordance with the provisions of Sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 10 CFR 501.33, interested persons are invited to submit written comments in regard to this matter. Because of the complexity of those petitions and the fact that the proposed compliance plans embrace entire utility systems rather than single powerplants, ERA is establishing a public comment period that is longer than the minimum 45 days for individual petitions for exemptions. Any interested person may also submit a written request during this period that ERA convene a public hearing concerning this matter.

DATES: Written comments and requests for a public hearing are due on or before February 1, 1981.

ADDRESSES: Fifteen copies of written comments and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA-FC-80-032 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

James W. Workman, Acting Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128I, Washington, D.C. 20461, (202) 653-4268.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room

6G–087, Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: On June 12, 1979, ERA issued an interim rule and on August 1, 1980 a final rule implementing the authority granted to the Department of Energy (DOE) by Section 501 of FUA.

The final rule (10 CFR 504.4) establishes the procedures that ERA will follow in implementing it authorities under Section 501 of FUA. Section 504.4(b) of the final rule contains a description of the requirements that petitioners must meet in order to obtain approval of their system compliance plans.

Approval of a system compliance plan will allow a utility system to comply with natural gas use prohibitions contained in FUA applicable to existing powerplants on a systemwide basis rather than on an individual powerplant basis. Through utilization of the system compliance option, utilities which are now heavily dependent upon natural gas will be allowed to develop a plan to accomplish an orderly phased reduction in natural gas use.

ERA has received petitions for orders for approval of system compliance plans from 39 eligible utility systems. ERA has performed an initial review of the petitions in order to meet the regulatory requirements specified in 10 CFR 501.3 (c). Upon preliminary review ERA has determined that the owners/operators of the following utility systems have submitted information sufficient to meet the minimum requirements specified in 10 CFR 504.4 (b).

Name of Petitioner and Location

Arizona Public Service Company, Phoenix, Arizona
City of Austin, Austin, Texas
City of Bryan, Texas, Bryan, Texas
Western Power, a division of Central Telephone and Utilities Corporation, Great Bend, Kansas
City of Denton, Texas, Denton, Texas
El Paso Electric Company, El Paso, Texas
Florida Power Corporation, St. Petersburg, Florida
Florida Power and Light Company, Miami, Florida
City of Garland, Garland, Texas
City of Greenville, Greenville, Texas
City of Lafayette, Lafayette, Louisiana
Plains Electric Generation & Transmission Coop., Inc., Albuquerque, New Mexico
City Public Service, San Antonio, Texas

Pursuant to 10 CFR 501.3 (d), ERA hereby accepts the petitions for orders approving system compliance plans from the above listed petitioners and is, with this **Federal Register** notice, announcing the commencement, in accordance with 10 CFR 501.63, of the administrative proceeding for these petitions.

Acceptance of these petitions does not constitute or even suggest an approval of the plans by ERA, nor does it foreclose ERA from requesting further information during the course of the proceedings. Failure to provide additional information as requested could result in ERA withdrawing its acceptance of the petition or ultimately result in the denial of the request for approval of the plan.

ERA is accepting the petitions based upon the petitioners having met the minimum requirements of 10 CFR 504.4(b). In its preliminary review of the petitions ERA has not determined the appropriateness of any recommended terms and conditions set forth in the petitions nor the accuracy of any information, data or calculations provided as a part of the petitions. Such terms and conditions, contingencies, stipulations, etc. will be reviewed and analyzed by ERA during the course of the administrative proceedings and are available for public review during the public comment period.

The owners/operators of the following utility systems also submitted petitions for orders of approval of system compliance plans; however, these submissions did not meet the minimum requirements specified in 10 CFR 504.4(b).

Name of Petitioner and Location

Public Utilities Board, Brownsville, Texas
Southern Colorado Power, a division of Central Telephone and Utilities Corporation, Pueblo, Colorado
City of Clarksdale, Clarksdale, Mississippi
City of Farmington, New Mexico, Farmington, New Mexico
Fort Pierce Utilities Authority, Fort Pierce, Florida
Gainesville Regional Utilities, Gainesville, Florida
City of Grand Island, Nebraska Electric Department, Grand Island, Nebraska
Greenwood Utilities, Greenwood, Mississippi
Gulf States Utilities Company, Beaumont, Texas
City of Lakeland, Lakeland, Florida
Lake Worth Utilities Authority, Lake Worth, Florida
Lea County Electric Cooperative, Inc., Lovington, New Mexico
Mississippi Power & Light Company, Jackson, Mississippi
Montana-Dakota Utilities Company, Bismarck, North Dakota
Nebraska Public Power District, Columbus Nebraska
The Central Nebraska Public Power & Irrigation District, Holdrege, Nebraska
Utilities Commission, City of New Smyrna Beach, New Smyrna Beach, Florida
Oklahoma Gas & Electric Company, Oklahoma City, Oklahoma
Orlando Utilities Commission, Orlando, Florida
Pacific Gas & Electric Company, San Francisco, California
St. Joseph Light & Power Company, St. Joseph, Missouri
Sebring Utilities Commission, Sebring, Florida
Southwestern Public Service Company, Amarillo, Texas
Sunflower Electric Cooperative, Inc., Hays, Kansas
City of Tallahassee, Florida, Tallahassee, Florida
City of Vero Beach Municipal Electric System, Vero Beach, Florida

ERA cannot accept these petitions at this time. Instead ERA has determined, pursuant to 10 CFR 501.3(f), that these petitions are incomplete. Each of the petitioners will be notified by ERA of the appropriate steps that they must take to cure the defects in their petitions. ERA will allow a period of ninety (90) days from the date of such notifications within which these petitioners can cure the defects in the petitions. Petitions cured within that time will be accepted by ERA and a **Federal Register** Notice of Acceptance will be published. Failure to cure any petitions within the allowed time period will result in automatic rejection of those petitions.

Petitions for orders approving system compliance plans, which embrace all of the existing powerplants in a utility system which would be or could be subject to the gas use prohibitions in Title III of FUA, are far more complex than a petition for an exemption for a single powerplant. With this in mind and in view of the number of petitions received, ERA will provide a longer public comment period than would be provided for petitions for individual powerplant exemptions. Accordingly, the public comment period during which interested persons may submit written comments or request a public hearing will remain open until February 1, 1981. During this time ERA will request any necessary additional information or allow the correction of deficiencies in the petitions as originally filed.

The public file, containing all documents relating to accepted petitions is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C., Monday—Friday, 8:00 a.m.—4:30 p.m.

Issued in Washington, D.C. on August 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–27255 Filed 9–4–80; 8:45 am]
BILLING CODE 6450–01–M

V45/174 SE5 80 UMI

Powerplant and Industrial Fuel Use Act of 1978; Rescission, Suspension, or Continued Application of Certain Forms

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Rescission, suspension, or continued application of certain forms for use by new facilities in petitioning for exemptions.

SUMMARY: By notice in the **Federal Register** on December 20, 1979 (44 FR 75451), the Economic Regulatory Administration (ERA) of the Department of Energy announced the issuance and mandatory use of ERA forms for petitioning for exemptions for new facilities from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*). The ERA forms issued by that notice were developed for use in petitioning for exemptions under the provisions of ERA's interim rules implementing the provisions of FUA (44 FR 28530, May 15, 1979, and 44 FR 28950, May 17, 1979).

On May 30, 1980, ERA issued final Fuel Use Act rules (45 FR 38276 and 38302, June 6, 1980) applicable to new facilities, which became effective on August 5, 1980. The final rules contain revised criteria as well as general and specific evidentiary requirements associated with the filing of petitions for exemptions. Adoption of the final rules has necessitated a review of the ERA forms used under the interim rules.

ERA has reviewed the ERA forms which were required in petitioning for exemptions for new facilities and has determined that certain of them will no longer be required under the provisions of the final rules. ERA has also determined that the mandatory use of certain other new facilities forms should be suspended pending their modification to conform to the revised procedural and evidentiary requirements of the final rules. ERA Form 309, Permanent Exemption for Cogeneration, and ERA Forms 317 and 318, General and Special Cost Test, will continue to be used until further notice. Accordingly, as specified below, all ERA forms identified by ERA's **Federal Register** Notice of December 20, 1979, with the exception of forms ERA 309, ERA 317 and ERA 318, are rescinded or their mandatory use is suspended until further notice.

FOR FURTHER INFORMATION CONTACT: John Milanese, Chief, Management and Information Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, Phone: (202) 653-3662.

SUPPLEMENTARY INFORMATION: Provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) were implemented by the Economic Regulatory Administration (ERA) of the Department of Energy on May 8, 1979, with interim rules published on May 15 and 17, 1979 (44 FR 28530 and 28950).

Based on various criteria, as well as general and specific evidentiary requirements for exemptions established by the interim rules, ERA developed a number of forms for use in filing petitions for certain exemptions for new facilities from the prohibitions of Title II of FUA. The notice of the availability of those forms and their mandatory use by petitioners for new facilities was published December 20, 1979 (44 FR 75451).

With the publication on June 6, 1980, of final rules implementing the provisions of Title II of FUA (45 FR 38276 and 38302), certain ERA forms, which were based upon the interim rules, need to be revised. Under the provisions of the final rules the use of these forms will continue to serve a useful purpose, but until they are revised, their mandatory use will be suspended. In other instances, continued use of the form is unnecessary. Therefore, those forms are being rescinded.

Pursuant to the above determinations, and as indicated below, certain ERA forms identified by ERA's notice of December 20, 1979 (44 FR 75451), are rescinded or their use is suspended until further notice.

Form number rescinded	Title
ERA-302	Temporary Exemption for Future Use of Synthetic Fuels for New Powerplants and New Installations.
ERA-304	Exemption Due to a Lack of Alternate Fuel for New Powerplants and New Installations.
ERA-305	Temporary and Permanent Site Limitation Exemption for New Powerplants and New Installations.
ERA-306	Temporary and Permanent Exemption Due to an Inability to Comply with Applicable Environmental Requirements.
ERA-313	Permanent Exemption for Peakload Powerplants.
ERA-314	Permanent Exemption for Intermediate Load Powerplants.
ERA-315	Permanent Exemption for New Installations Necessary to Meet Scheduled Outages.
ERA-319	Schedule C—No Alternative Power Supply.
ERA-320	Schedule D—Use of Mixtures: General Requirement for New Installations and Powerplants.
ERA-321	Schedule E—General Requirement for Alternative Sites (Powerplants).
Mandatory Use Suspended Until Further Notice	
ERA-301A	General Form for New Powerplant Exemption Petition.
ERA-301B	General Form for New Installation Exemption Petition.
ERA-307A	Permanent Exemption for New Powerplants Due to Inability to Obtain Adequate Capital.
ERA-307B	Permanent Exemption for New Installations Due to Inability to Obtain Adequate Capital.
ERA-312	Permanent Exemption for New Powerplants Necessary to Maintain Reliability of Service.

Continued Applications of Certain Forms. ERA has also decided to continue the use of certain other forms in appropriate cases pending the outcome of further rulemaking as follows:

(1) *ERA Form 309 (Permanent Exemption for Cogeneration for New Powerplants and Installations).* As announced in the final rules, ERA did not issue a final rule with respect to the cogeneration exemption, but announced its intention to publish another Notice of Proposed Rulemaking. Pending this new rulemaking, ERA will continue to consider petitions under §§ 503.37 and 505.27 of the interim rules. Accordingly, any petitioners filing for a cogeneration exemption under the interim rules shall use form ERA 309. In completing the form, the preparer may, however, (1) disregard references to a Fuels Decision Report (FDR) or filing fees (the requirements for which were deleted in the final rules) and (2), disregard the requirement for submission of any other ERA forms identified on form ERA 309. The support documentation enumerated in Part 5.0 of form ERA 309 which would have been addressed in a FDR must be included with the petition. After adoption of a final rule on the cogeneration exemption, ERA will make a determination as to the continued need for form ERA 309.

(2) *Forms ERA 317 and 318 (General and Special Cost Test for New Powerplants and New Installations).* As stated in the final rules, ERA did not issue a final rule with respect to the cost calculation used by petitioners in petitioning for an exemption based upon the cost of building and operating a unit to burn an alternate fuel. Sections 503.5 and 505.5 of the interim rules pertaining to those cost calculations were revoked. On June 13, 1980, ERA Issued a Notice of Proposed Rulemaking (45 FR 42190, June 23, 1980) to implement certain cost calculation provisions of FUA. In that notice petitioners for an exemption based on cost were given the option of using the cost calculations in the proposed rule as guidance. Petitioners using the proposed rule as guidance in making cost calculations in connection with the filing of a petition, may use

form ERA 317 or 318, as appropriate. However, the petitioner may disregard the requirement contained on those forms for submission of any other ERA forms, and the following sections of both forms need not be completed.

Section No.	Title
3.0	Summary of Cost Ratios.
8.0	Changes in Capital Outlays.
10.0	Changes to Annual Operations and Maintenance Expenditures.
12.0	Changes to Annual Fuel Expenditures.

Issued in Washington, D.C. on August 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-27249 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Decision and Order Under the Tertiary Incentive and Incremental Programs

To: Champlin Petroleum Company, Wilmington, California.

Subject: Designation of Allowed Additional Expenses and Establishment and Approval of Incremental Production for the Tar Zone Segment II, Fault Block III, Wilmington Field CO_2 Injection Project (Docket Number ERA-TA-80-07).

I. Introduction

On December 19, 1979, the Champlin Petroleum Company (Champlin) submitted an application for an order under 10 CFR 212.78 (e)(1) and (e)(3) which would permit tertiary incremental production from the project to be sold at market prices and designate allowed tertiary incentive expenses in addition to those allowed in the Appendix to 212.78 for immiscible fluid flooding projects, respectively.

The application concerns an immiscible carbon dioxide (CO_2) injection project that Champlin plans to undertake in Segment II of the Fault Block III Unit of the Wilmington Field in Los Angeles County, California (Segment II Project). Champlin, a subsidiary of the Union Pacific Corporation, is the Unit Coordinator and holds the majority working interest in the Fault Block III Unit. Champlin is also the operator of Segment II of the Unit.

II. Background

Since its discovery in 1936, the Wilmington Field has been developed intensively. Even after over forty years of production, large volumes of reserves still remain in the ground. Most of these reserves however, can only be recovered by means of enhanced oil recovery (EOR) techniques. In fact, a number of EOR projects are already underway in different portions of the Field.

The Segment II project will be located on a 95 acre Tar Zone tract in the Fault Block III Unit of the Field in an unconsolidated sand reservoir at a depth of 2,500 feet having a net pay zone of 67 feet in a gross zone of 150 feet. An estimated 2.8 million barrels of 14° API crude oil are in place in the tract where the project is to be conducted. This tract is now in the latter stage of waterflooding. The water cut is currently 98.7 percent, and production has reached the economic limit.

The decline of production from the Fault Block III Unit requires embarking on an EOR project in an attempt to recover the reserves which will otherwise be permanently foregone. Because of the urban character of the project, an environmentally acceptable technique must be chosen, and special costs associated with that choice necessarily will be incurred. Champlin has decided to use an immiscible CO_2 displacement technique, an EOR method not previously implemented in the Wilmington Field—or elsewhere in California.

Champlin proposes a water-alternating-gas (WAG) immiscible CO_2 displacement in Segment II to optimize the areal and vertical sweep of the injected CO_2. This technique offers environmental protection since all the CO_2 will be gathered, compressed and reinjected into the oil reservoir rather than discharged to the atmosphere.

Section 212.78 provides two programs to assist a producer that is undertaking an EOR project. The incremental program provides that a producer may obtain an order from the Economic Regulatory Administration (ERA) permitting the producer to sell its incremental crude oil at market prices. Incremental crude oil is the amount of crude oil which will be produced from a property in excess of the amount of crude oil ("nonincremental crude oil") which would have been produced from the property without the commencement of an EOR project.

The incentive program permits a producer which is engaged in an EOR project to recover a portion of certain allowed expenses associated with that project. These allowed expenses are seventy-five percent of an environmental expense (as defined in § 212.78(c)), seventy-five percent of an engineering and laboratory expenses (as defined in § 212.78(c)) or seventy-five percent of an expense listed in the Appendix to § 212.78. Pursuant to § 212.78(e)(3), a producer may apply for an ERA order designating additional allowed expenses. Champlin has requested to participate in both of these programs.

III. Findings and Analysis

A. The Tertiary Incentive Application

The CO_2 WAG technique proposed by Champlin for its Segment II project falls within the self-certifiable "immiscible gas displacement" technique, as defined in § 212.78(c). Since Champlin has the major interest in the Segment II property on which the project is located and will contribute to the costs of the Segment II project, Champlin is a qualified producer with respect to the Segment II project. As such it is eligible to recover on a self-certified basis the allowed expenses for an immiscible gas displacement project which are listed in the Appendix to § 212.78.

Champlin has requested an order pursuant to 212.78(e)(3) by which it could recover additional allowed expenses under the incentive program. Before issuing such an order, the Guidelines to § 212.78 require that ERA must determine that:

1. The application of the self-certifiable technique in the petitioner's project involves high levels of risk and cost, and
2. The offset of certain cost is required to make the project an attractive investment opportunity.

The technique chosen by Champlin is classified as immiscible rather than miscible gas displacement because of the nature of the crude to be displaced in the reservoir. Tar Zone crude oil is heavy, low gravity crude (14° API). Laboratory tests have demonstrated that Tar Zone crude oil is not miscible with carbon dioxide at the maximum pressure limit at which reservoir parting is expected due to the crude oil's physical characteristics. If it were not for the physical characteristics of this Tar Zone crude oil, miscibility would be likely. In fact, Champlin has indicated that its efforts with respect to the Segment II project will involve higher levels of risks and cost than many projects that achieve miscibility. For example, under the definition of miscible fluid displacement in § 212.78(c) there is a criterion that the injected fluid must be more than 10 percent of the reservoir pore volume being served. Champlin's Segment II Project has a planned initial slug size of 31 percent pore volume and a total slug size (including recycle) of 68 percent pore volume.

The risk of process failure is particularly high in the case of the Segment II Project. Carbon dioxide displacement methods are ordinarily deemed potentially successful in reservoirs of crude with a gravity exceeding 25° API. The Tar Zone's 14° API crude makes the Segment II Project quite experimental. In addition, Fault Block II has been waterflooded since 1959. Authoritative professional opinion (the National Petroleum Council), holds that immiscible displacement is best practiced in reservoirs that have not been waterflooded. Thus, the risks are increased and the likelihood of success is further diminished.

A number of extraordinary high cost elements are associated with the Segment II project. The unusually large CO_2 slug size was noted above. Since the Wilmington Field is an old field, many of the existing wells must be redrilled, replaced, or abandoned. Thus, one new producer and one new injector must be drilled, four injectors and three producers redrilled, two injectors repaired and one well plugged and abandoned.

Operating expenses will be extraordinarily high due to the location of the project and the environmental concerns. The CO_2 salt water mixture being circulated and recovered is highly corrosive—a corrosiveness exacerbated by the already mentioned 98.7 percent watercut. Special chemicals must be continually employed to protect the storage, pressuring, and injection equipment from corrosion. Continuing laboratory work involving core tests, tracer tests, additional oil analysis, gas analysis, water analysis, emulsion treating tests, foaming tests, corrosion tests, and the like, will be required to maintain a delicate process control to meet hazards and risks, all of which cannot be predicted with precision.

In light of these considerations, we believe that Champlin should be allowed to recover the expenses which it could recover under self-certification if miscibility were attainable since its effort resembles that associated with miscible projects. In addition, we believe that Champlin should be allowed to recover some of the operating expenses which arise from the location of the project near the ocean and a highly urban area. Without the recovery of these expenses, the Segment II project would not be an attractive investment opportunity.

Therefore, we are proposing to designate the following as allowed expenses, in addition to those allowed for a self-certifiable immiscible fluid flooding project:

1. Well costs as defined in Section 212.78(c).
2. The costs of field facilities, including compressors, phase separators, surge tanks, a glycol dehydrator, storage tanks, the vapor recovery system, heaters and heat exchangers.
3. The costs of valves, regulators, metering and control equipment necessary to maintain the injection fluid quality of the project.
4. The costs of fuel for operation of the compressors and prime movers.
5. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluid from the project.

B. The Tertiary Incremental Application

Champlin also has requested that it be permitted to sell the incremental oil from the project at uncontrolled prices. Before issuing such an order, ERA must determine:

1. That the project is a bona-fide tertiary enhanced recovery project (as defined in § 212.78(c));
2. That the project would not be economic at the otherwise applicable ceiling prices, and
3. The amount of incremental and non-incremental crude oil to be produced over the life of the project.

As set forth above, Champlin proposes to inaugurate an immiscible CO_2 injection project in the Wilmington Field. Inasmuch as immiscible non-hydrocarbon gas displacement is one of the EOR techniques defined in § 212.78(c), we have determined that the Segment II project meets the first requirement for certification as a Qualified Tertiary Enhanced Recovery Project.

Champlin states that even with its participation in the incentive program, the Segment II project will be uneconomic unless it receives the market price for the incremental production from the project. Our analysis of the information supplied by Champlin indicates that the Segment II project will not be economical if the incremental production does not receive the market price. Specifically, Champlin has indicated that even with the additional revenue from its participation in the incentive program the Segment II Project will sustain a negative rate of return. Thus, we are proposing to permit Champlin to sell the incremental production from the Segment II project at market prices.

Champlin has indicated that the current level of production is twenty-eight barrels per day. Accordingly, we are proposing to designate all production above twenty-eight barrels per day after the initiation of the project to be incremental production.

If Champlin supplies information that shows that without the EOR project the level of production would decline below twenty-eight barrels per day, we will revise the amount of incremental production when we issue a final order. Moreover, if Champlin supplies information that it will abandon production from this zone unless it receives the market price for all production (including the current twenty-eight barrels per day), we will consider classifying all production from the date of this order as incremental. Any information on this subject should take into account the effects of phased deregulation and any exception relief granted for production from this zone.

IV. Comment Procedures

10 CFR 205.98 requires this Proposed Decision and Order to be published in the **Federal Register** and sets forth the procedures for entering objection or comment on this Proposed Decision and Order. Objections or comments must be received by the designated Office in ERA on or before October 8, 1980. All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room 5B-180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

V. Order

1. The Segment II, Fault Block III, Wilmington Field Immiscible Carbon-Dioxide Displacement project undertaken by Champlin Petroleum Company in the Wilmington Field, Los Angeles County, California is declared to be a qualified tertiary enhanced recovery project.

2. Except as otherwise indicated in each subparagraph below, the following expenses in addition to environmental expenses and engineering and laboratory expenses as defined in § 212.78(c) are declared to be allowed expenses for the Segment II, Fault Block III, Wilmington Field Immiscible Carbon-Dioxide Displacement project undertaken by Champlin Petroleum Company in the Wilmington Field, Los Angeles County, California:

a. The costs of injected fluids (excluding hydrocarbons) and additives for use at the project site.

b. Well costs as defined in § 212.78(c).

c. The costs of the following field facilities: compressors, phase separators, surge tanks, glycol dehydrator, storage tanks, and the vapor recovery system.

d. The costs of regulators, valves, metering and control equipment necessary to maintain the injection fluid quality of the project.

e. The costs of fuel for operation of compessors and prime movers.

f. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

In all other respects, Champlin's application for the designation of allowed expenses is hereby denied.

3. Crude oil production in excess of twenty-eight barrels per day from the Tar Zone in the project area in Segment II in the Fault Block III Unit, separately measured from all other crude produced from the Fault Block III Unit, commencing after the initiation of the Segment II project, is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D.

4. This Order is based on the presumed validity of statements, assertions, and documentary materials submitted by Champlin. It is further based on our understanding that all actual and projected costs reported by Champlin represent fair and reasonable market price valuations for the expenditures involved, that all acutal and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost, revenue and production estimates are reasonably accurate. This Order may be revoked or modified upon determination that the factual basis underlying the Order is incorrect.

5. Pursuant to this Order any qualified producer with respect to the Segment II project may recover all allowed costs specified herein which were incurred and paid on or after August 22, 1979, so long as such producer is engaged in the project described in this Order.

Issued in Washington, D.C., on August 28, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27247 Filed 9-4-80; 8:45 am]

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[ERA Docket No. 80-CERT-028]

Public Service Electric & Gas Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Public Service Electric and Gas Company (Public Service), 80 Park Place, Newark, New Jersey 07101, filed on August 8, 1980, an application for certification of an eligible use of natural gas to replace fuel oil at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearney in Kearney; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests certification is approximately one billion cubic feet. This volume is estimated to displace the use of approximately 151,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 4,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (MMCF) [1]	Estimated oil displacement (in thousands of barrels)	
		0.3 pct. sulfur No. 6 oil	0.2 pct. sulfur No. 2 oil, 0.1 pct. sulfur or kerosene
1. Bergen Generating Station, Ridgefield, New Jersey	444	68	
2. Essex Generating Station, Newark, New Jersey	12		2
3. Hudson Generating Station, Jersey City, New Jersey	386	59	
4. Kearney Generating Station, Kearney, New Jersey			
5. Linden Generating Station, Linden, New Jersey			
6. Sewaren Generating Station, Sewaren, New Jersey	146	24	
7. Edison Generating Station, Edison, New Jersey	12		2
8. Mercer Generating Station, Trenton, New Jersey			
Totals	1,000	151	4

[1] MMCF is million cubic feet.

The eligible seller is the Delhi Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001. The gas will be transported by the Transcontinental Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 15, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on August 28, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27252 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

V45/174 SE5 80 UMI

[ERA Docket No. 80-CERT-025]

Gulf States Utilities Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Gulf States Utilities Company (Gulf States), 285 Liberty Street, P.O. Box 2951, Beaumont, Texas 77704, filed on July 2, 1980 an application for certification of an eligible use of natural gas to displace fuel oil at its Roy S. Nelson Generating Station in Westlake, Louisiana, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays. Delay in the issuance of this notice was caused by the applicant's request that his application be held in abeyance due to the possibility of changes in it.

In its application, Gulf States indicates that the volume of natural gas for which it requests certification is up to 100,000 Mcf per day. This volume is estimated to displace the use of approximately 16,129 barrels of No. 6 residual fuel oil (0.7 percent maximum sulfur) per day.

The eligible seller is the Koch Hydrocarbon Company, 1000 Capital National Bank Building, Houston, Texas 77002. The gas will be transported by the Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77002.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 15, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Gulf States and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on August 28, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27251 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579-7]

Public Hearing: Adequacy of Attention to Conservation and the Environment by the Department of Energy

The Environmental Protection Agency (EPA) announces a Public Hearing on the Department of Energy's (DOE's) Conservation and Solar Energy Program. The Hearings will be held at the Office of Personnel Management's Auditorium, 1900 E Street NW., Washington, DC, from 9 a.m. to 5 p.m., on September 24 and 25, 1980. The public is invited.

A pre-hearing document is also available for public review and comment. Requests for copies of this document and for more information on the Hearing should be addressed to the Environmental Protection Agency at the address below.

Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) directs the responsible agency (formerly the Council on Environmental Quality, now EPA) to carry out a continuing analysis of the Federal nonnuclear energy research and development program. The analysis assesses the "adequacy of attention" to energy conservation methods and environmental protection, as well as to the environmental consequences of the application of nonnuclear technologies.

The 1980 hearings will focus on the adequacy of attention to energy conservation and solar energy within the Department of Energy. Aspects of the review include:

(1) *Policy.* Have the potential contributions of conservation and solar programs been considered adequately by the Department in formulating its energy policies and in planning its programs?

(2) *Programs.* Has adequate attention been given to the implementation of DOE Conservation and Solar programs at the Federal, State, and local levels to ensure their maximum effectiveness?

(3) *Evaluation.* Has the Department equipped itself well to allocate resources wisely and to maintain quality control over the management of its programs, by providing adequately for the evaluation of the effectiveness of its programs?

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The September Public Hearing has been preceded by a series of Section 11 regional workshops held during June and July in Raleigh-Durham, NC; San Francisco, CA; St. Paul-Minneapolis, MN; Denver, CO; and Portland, OR. The workshops dealt with Federal conservation and solar energy policy analysis; program evaluation; research, development, and applications; and State and local assistance programs. A half day session during the two day hearing will be focused on each of these four topics.

A Report to the President and Congress, to be available in January 1981, will summarize the 1980 Section 11 program. Specific findings and recommendations will be made relative to EPA's review of DOE's conservation and solar energy program.

Further information about this Hearing and the pre-hearing document, which will summarize the regional workshops and outline the issues for discussion at the Hearing, may be obtained by contacting Gregory Ondich (202) 426-9434.

Individuals or organizations wishing to testify at the Hearing should submit, by September 15, 1980, a brief summary of their intended testimony to: Section 11 Coordinator (RD-681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be available for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the September Hearing will be available to the public.

Dated: August 15, 1980.

Kurt Riegel,

Associate Deputy Assistant Administrator, Office of Environmental Engineering and Technology.

[FR Doc. 80-25415 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1595-2]

Approval of Proprietary Fuel Additive

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of grant of a fuel additive waiver application.

SUMMARY: Pursuant to section 211(f)(4) of the Clean Air Act (Act), as amended, 42 U.S.C. 7454(f)(4)(1977), the Administrator of EPA hereby grants the waiver requested by Texaco, Inc. (Texaco) for a proprietary non-metallic nitrogenous fuel additive, designated as TC–11064, which provides detergent and anti-corrosion performance, to be used at a maximum concentration of 60 pounds per thousand barrels (PTB) of unleaded gasoline (1 barrel equals 42 gallons). This waiver is granted based on the Administrator's determination that the information that Texaco submitted was sufficient to establish that this proprietary additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

PUBLIC DOCKET: Copies of information on this waiver application are available for inspection in public docket EN–80–12 at the Central Docket Section (A–130) of the Environmental Protection Agency, Gallery I—West Tower, 401 M Street, SW., Washington, D.C. 20460, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James J. Kohanek, Attorney-Advisor, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472–9367.

Decision of the Administrator

I. Introduction

Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any fuel or fuel additive manufacturer to first introduce into commerce or increase the concentration in use of any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act provides that the Administrator of EPA may waive the prohibitions of section 211(f)(1) upon application of any fuel or fuel additive manufacturer if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver shall be treated as granted.

Texaco filed an application on March 5, 1980, for a waiver for a fuel additive designated as TC–11064 but stated that the chemical composition of the fuel additive (hereafter proprietary additive) is confidential. The 180-day review period terminates September 1, 1980. A **Federal Register** notice was published on June 9, 1980 (45 FR 38440), acknowledging receipt of Texaco's application. The notice also solicited comments and data from other interested parties on Texaco's proprietary additive.[1] Texaco concluded from the data it submitted that unleaded gasoline containing this proprietary additive, at the maximum concentration specified, (60 PTB of unleaded gasoline), and its emission products do not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

II. Summary of the Decision

I have determined that Texaco has met the burden under section 211(f)(4) necessary to obtain a waiver for the proprietary additive as long as the concentration of the proprietary additive does not exceed 60 PTB of unleaded gasoline.

In determining whether an applicant has established the necessary burden, the Administrator may look at all of the available information and data including that provided by persons other than the applicant. The data submitted in this matter was solely by Texaco. I find that the foregoing information is sufficient to establish that the proprietary additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Texaco for its proprietary additive provided the proprietary additive is used at a concentration which does not exceed 60 PTB of unleaded gasoline.

III. Method of Review

In order to obtain a waiver for a fuel or fuel additive (hereinafter, "fuel or fuel additive" will be collectively referred to as "additive") the applicant must establish that the additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. This burden, which Congress has imposed on the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision, some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, EPA has previously indicated that reliable statistical sampling and fleet testing protocols may be used to demonstrate that an additive under consideration would not cause or contribute to failure of emissions standards by vehicles in the national fleet (see, Waiver Decision on Tertiary Butyl Alcohol (TBA), 44 FR 10530 (1979)).

Emissions data submitted in support of a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that an additive will have on emissions.[2] The statistical tests applied to the emission data provided in support of a waiver request for an additive which is expected to have an instantaneous

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[1] The information relevant to this decision which is proprietary involves the chemical composition of the fuel additive. Texaco made the proprietary additive available to qualified and interested parties for testing purposes provided that such party would execute a confidentiality agreement with Texaco.

[2] The tests which are appropriate to characterize the emission effects of an additive depend on whether the additive is expected to have an instantaneous effect or a long-term deteriorative effect on emissions, or both. If a long-term deteriorative effect is expected, then 50,000 mile durability testing and materials compatibility testing would be necessary. The results would be analyzed using the tests used in the MMT decision (see 43 FR 41424 (1978)). For the reasons set out under section IV(C)(1), *infra*, EPA believes that the proprietary additive at issue in this decision would probably have an instantaneous effect. Thus, the method of review set out in the decision, which is designed to test instantaneous effects, would apply.

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emissions effect are: Paired Difference Test, Sign of Difference Test, and Deteriorated Emissions Test (a test which compares the deteriorated emissions with the emission standards).[3] These statistical tests are described in Appendix 1 to this decision.

An alternative to providing sufficient data necessary to enable conclusive statistical results to be performed is to make judgments based upon a reasonable theory regarding emission effects. These judgments should be supported with confirmatory testing. If there exists a reasonable theory which predicts the emission effects of an additive, an applicant may only need to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory along with confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the additive will cause or contribute to a failure of any emission control device or system to achieve compliance by the vehicle with emission standards. In addition to emissions data, EPA also reviews data on materials compatibility, driveability, fuel composition and specifications. This information is necessary to fully characterize an additive, and to determine whether such additive will cause or contribute to a failure of vehicles to comply with appropriate emission standards. Such failure could result if driveability is impaired. Driveability problems such as lean misfire and repeated starting lead to increased emissions. Materials compatibility problems could lead to failure of fuel systems which are designed to precise tolerances. Deviations beyond these tolerances could result in greater emissions. Volatility specifications could demonstrate a tendency for high evaporative losses.

IV. Analysis

A. Exhaust Emission Data

Exhaust emission data were submitted on fifteen vehicles tested on a base fuel and a base fuel containing 60 PTB of the proprietary additive (hereinafter referred to as "waiver fuel").[4] Summarized in Appendix 2 are the numerical results of the three statistical tests. Tests 1 and 2 are designed to determine whether the proprietary additive contributes to a failure of vehicles to meet emission standards. Test 3 is designed to determine if the proprietary additive will cause the failure of vehicles to meet emission standards.

With regard to the application of the Paired Difference Test (Test 1), the hydrocarbons (HC) and carbon monoxide (CO) emissions decreased and oxides of nitrogen (NOx) emissions were not adversely affected. To be able to utilize the Paired Difference Test to arrive at a conclusion, for each pollutant, the upper bound of the confidence interval must be equal to or less than ten percent of the applicable standard, e.g., with a HC standard of 1.5 grams per mile, the upper bound of the interval must be 0.15 or less, when the interval contains zero. In this instance, the intervals for HC and CO pollutants were below zero while the NOx interval contained zero but maintained an upper bound within 10% of the applicable standard.

The results of test 2 indicate a low confidence level that CO and HC emissions will increase. A somewhat higher confidence (84.9%) of an increase in NO_x was observed. This level is still below the 90% confidence level at which we would conclude that NO_x emissions increase.

The results of the third test indicate that the proprietary additive containing fuel satisfied the criterion for this sample, and would not cause vehicles to exceed emission standards when emissions deterioration for 50,000 miles was included in the analysis.

Because tests 1 and 2 for the proprietary additive containing fuel show no adverse on emissions as a group, and the analysis under test 3 shows that emission standards were not exceeded, I conclude that the proprietary additive does not cause or contribute to the failure of vehicles to meet exhaust emission standards.

B. Materials Compatibility

Texaco addressed the issue of materials compatibility by conducting tests on metallic and non-metallic components of various test vehicles.

The non-metallic fuel system test parts were obtained from the 1979 automobiles with oxidation catalysts, and included parts from the fuel pump, and carburetor as well as the fuel line filter and hose. The parts were soaked for four weeks under ambient conditions in the base fuel and fuel containing 60 PTB of the proprietary additive. The results indicate satisfactory compatibility since no visible differences were observed between those parts exposed to the base fuel and those parts exposed to the fuel containing the proprietary additive.[5]

The effect of the proprietary additive on steel was evaluated under the National Association of Corrosion Engineers (NACE) Test. Corrosion tests on carburetor metal was performed utilizing a fuel/distilled water mixture soak for two weeks at ambient temperature. Brass, copper and solder strips were stored in a fuel/distilled water mixture for one week at 120° F, while aluminum and magnesium strips were stored in the mixture at ambient temperature for two weeks. The data indicate satisfactory results under the particular conditions for all metallic parts tested.[6]

C. Technical Issues

The varying nature of fuels and fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. The following examination reviews the available data and determinations which can be made as to proprietary additive in regard to the testing of durability, evaporative emissions and driveability.

1. *Durability.* A fuel or fuel additive which is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require 50,000 mile durability testing to determine whether such effects exist. On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests on the same vehicle.[7] It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both durability emissions data and instantaneous emissions data may be required.

Upon examination of the available data on materials compatibility and the chemistry of the fuel additive, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision. The purpose of the detergent proprietary additive is to provide deposit control and anti-corrosion performance. The physical properties for the non-metallic proprietary additive indicate that formation of deposits as a reactant product is minimal since the percent ash is less than 0.001%.[8]

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[3] These tests may only be performed when sufficient data are available.

[4] The vehicles are fully described in Table 1 of the Characterization Report. (See, Characterization Report, Analysis of Data to Characterize the Impact of TC–11064 on Tailpipe and Evaporative Emissions, document number II–A, Public Docket EN 80–12 (hereinafter referred to as "Characterization Report")). Also, the physical and chemical properties of the respective fuels are presented in Tables 2 and 3 of the Characterization Report.

[5] See Table 8 in the Characterization Report.

[6] See Table 9 in the Characterization Report.

[7] Back-to-back testing involves measuring sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel additive and then on the base fuel containing the additive.

An examination of the available materials compatibility information and the low concentrations of the proprietary additive in the unleaded fuel (240 parts per million (ppm)) allows me to determine that the emissions effect, if any, of this fuel additive would be of the instantaneous and not of a deteriorative nature.[9] A reasonable estimate of a test vehicle's emission performance on this fuel additive can be obtained using back-to-back emission test data in lieu of requiring 50,000 mile durability testing.

2. *Evaporative Emissions.* The proprietary additive is sufficiently high in molecular weight relative to commercial gasoline to possess a low vapor pressure, and at the low concentration utilized, should have a negligible effect on evaporative emissions. This is verified by comparing the Reid vapor pressures (RVP) of the base fuel and fuel with the proprietary additive.[10] Also, the distillation properties of the waiver fuel are within the ASTM specifications [11] and are similar to the base fuel.[12]

3. *Driveability.* Poor driveability caused by a fuel or fuel additive could impact emissions either through engine malfunction or misadjustment of engine components in an effort to improve driveability. An appreciable increase in the volume of oxygen from an additive could affect the fuel to air ratio and result in lean misfire. As noted, the concentration of the proprietary additive is very small and the oxygen contributed by it in combustion will be minimal compared to the volume of exygen already present during combustion in unleaded gasoline. The fuel to air ratio should not be affected by the low volume of oxygen. It is therefore concluded that driveability is not a significant problem provided resulting fuel is manufactured according to accepted industry practices.

V. Findings and Conclusions

I have determined that Texaco has established that its proprietary additive will not cause or contribute to a failure of any emisssion control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Texaco for its proprietary additive provided the proprietary additive is used at a concentration which does not exceed 60 pounds per thousand barrels (PTB) of unleaded gasoline.

This is a final Agency action. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) of the Act, judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of September 5, 1980. Under section 307(b)(2) today's action may not be challenged later in a separate judicial proceeding brought by the Agency to enforce a statutory or regulatory requirements.

Dated: August 29, 1980.

Barbara Blum,

Acting Administrator.

Appendix 1—Statistical Criteria

The following is a brief description of the statistical tests used to characterize the emission effects of an additive:

(1) *The Paired Difference Test*

For each vehicle tested on a base fuel and on the waiver fuel or fuel additive, the difference between the waiver fuel or fuel additive emissions and the base fuel emissions is calculated. A 90% confidence interval is constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from this waiver fuel or fuel additive. If the entire interval is above zero, it is indicative of an adverse effect from the waiver fuel or fuel additive. If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel or fuel additive with regard to emissions provided the confidence interval is small.

(2) *The Sign of Difference Test*

For each vehicle tested with a base fuel and the waiver fuel or fuel additive, the sign of the emission difference between the waiver fuel or fuel additive emissions and a base fuel emissions is ascertained. This test is designed to determine whether the number of vehicles demonstrating and increase (+) in emissions with the waiver fuel or fuel additive significantly (at a 90% confidence level) exceeded those showing a decrease (−) in emissions with the waiver fuel or fuel additive.

(3) *The Deteriorated Emissions Test*

For each vehicle, the effect the waiver fuel or fuel additive had on emissions is determined. Any change in emissions, either positive or negative, attributable to the waiver fuel or fuel additive is added to the 50,000 mile certification emission value of the certification emission vehicle which the test vehicle represented. This incremented 50,000 mile emission value is compared to emission standards to determine if it did or did not exceed the standards. Either a pass or fail is assigned accordingly. The pass/fail results are analyzed using a one-sided sign test.

The Paired Difference Test and the Sign of Difference Test are designed to determine whether the waiver fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the waiver fuel or fuel additive. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the waiver fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard.

It is useful to perform this analysis even if the first two analyses indicate the waiver fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the waiver fuel or fuel additive, thus causing vehicles to fail to meet emission standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

Appendix 2—Numerical Summary of the Statistical Tests

1. *Paired Difference Test*

Listed below are the 90% confidence intervals around the mean difference between the base fuel and the waiver fuel emission level.

a. Hydrocarbons (HC) −0.102 to −0.014.
b. Carbon Monoxide (CO) −1.81 to −0.22.

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[8] See Table 4 in the Characterization Report.

[9] See Tables 8 and 9 in the Characterization Report.

[10] See Tables 2 and 3 in the Characterization Report.

[11] Annual Book of ASTM Standards, ASTM D–86.

[12] Two different batches of the base fuel were used as indicated by Tables 2 and 3 in the Characterization Report since the two types of catalysts were tested at differing times.

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c. Oxides of Nitrogen (NOx) —0.065 to 0.095.

2. *Sign of Difference Test*

Set out below is the percent confidence with which one could state that the proprietary additive will cause an increase in the emissions over the base fule emissions based on the observed increases in emissions out of the total vehicles tested (in parentheses are the number of observed increases out of the total sample size).[13]

a. HC (3/15) 0.4% confidence of an increase.
b. CO (5/15) 5.9% confidence of an increase.
c. NOx (10/15) 84.9% confidence of an increase.

3. *Deteriorated Emissions Test*

Listed below are the number of vehicles whose incremental 50,000 mile emission values exceed emission standards.[14]

a. HC—None out of fourteen.
b. CO—None out of fourteen.
c. NOx—One out of fourteen.

[FR Doc. 80-27179 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1600-5]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection agency.

PURPOSE: This Notice Lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 25, 1980 to August 29, 1980.

REVIEW PERIODS: The 45-day Review Period for Draft EIS's listed in this notice is calculated from September 5, 1980 and will end on October 20, 1980. The 30-day review period for final EIS's as calculated from September 5, 1980 will end on October 6, 1980.

EIS AVAILABLITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW. Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558-8270.

For further information contact: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 25, 1980 to August 29, 1980 the 30-day review period will be calculated from September 5, 1980. The review period will end on October 6, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 25, 1980 to August 29, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPS's attention.

Dated: September 3, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I

EIS's Filed With EPA During the Week of August 25 Through 29, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250 (202) 447-3965.

Forest Service

DRAFT

Alaska National Lands Withdrawal Request, Alaska, August 28: This EIS describes the decision of the Secretary of Agriculture through the Secretary of the Interior for a proposed withdrawal under section 204(c) of Pub. L. 94-579 Federal Land Policy and Management Act of 1976 for national forest lands in Alaska. It describes a range of three alternatives with various time options considered in identifying the action. The anticipated effects to the region's present programs and the 12 points of analysis as required by section 204(c) are presented. The rationale for the proposed action is described. (EIS Order No. 800642).

The review period for the above EIS will end on October 6, 1980. (See appendix II)

Verde Wild and Scenic River Study, Yavapai and Gila Counties, Ariz., August 26: Proposed is the inclusion of a segment of the Verde River, Yavapai and Gila Counties, Arizona, in the wild and scenic rivers system. The portion of the river to be studied is 78 miles long within the Coconino, Prescott and Tonto National Forests, of which 72.5 is recommended for designation. Of the 72.5 miles of river affected, 33 miles meet the criteria for a recreational river, 22 miles meet scenic river criteria, and the remaining 17.5 miles are suited for a wild river classification. In addition to no action, the alternatives consider designation of certain sections of the river, and designation of all 78 miles. (EIS Order No. 800635).

RURAL ELECTRIFICATION ADMINISTRATION

Final

Bear Creek, Wilson Bend and Hamilton areas, lease, several counties in Alabama, August 29: Proposed is the issuance of financial assistance to provide long-term financing for the purchase of a leasehold interest by the Alabama Electric Corporation from the Kinlock Coal Company. The leaseholds involve three operating mines all located in Alabama. The mines are: (1) Bear Creek located in Marion and Franklin Counties, (2) Wilson Bend located in Winston County, and (3) Hamilton located in Lamar and Marion Counties. Coal reserve estimates reveal approximately 8.5 million tons in the mines to be purchased. The coal will be used for the three unit 495 MW, total net, Tombigee Station near Jackson, Alabama. The coal would be transported by rail and/or barge. (USDA–REA–EIS (ADM)–79–1–F). Comments made by: USDA, DOI, EPA, State agencies. (EIS Order No. 800650.)

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[13] For this test, an increase in emissions exists when the emission level for the waiver fuel is greater than the emission level for the base fuel and is assigned a (+). Similarly, a lower emissions level for the waiver fuel than the base fuel is a decrease in emissions and is assigned a (−).

[14] The vehicle identification information was not available for one of the vehicles tested and was therefore excluded from this procedure.

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272–0121.

Final

Delta Pumping Plant, operation, Contra Costa and Alameda Counties, Calif., August 29: The California Department of Water Resources has applied for permits from the Corps for the existence and operation of the Delta Pumping Station, intake channel, Clifton Court Forebay and Appurtenant facilities. The plant is located at the head of the California Aqueduct Northwest of Tracy, California near the Contra Costa and Alameda County line. The proposed facilities will divert water to service areas in the south San Francisco Bay, San Joaquin Valley and southern California. (Sacramento District.) Comments made by: FERC, DOC, DOI, EPA, State and local agencies groups. (EIS Order No. 800645.)

Caruthersville Harbor, Navigation Channel, Pemiscot County, Mo., August 29: Proposed is the Development of a 4,680-foot navigation channel north of the city of Caruthersville, Pemiscot County, Missouri. The dredged navigation channel would be 150-foot wide, with a 300-foot turning basin in the upstream portion of the chute and a nine-foot depth. The dredged material would be used to create a raised fill area along the west bank of the chute. This fill of some 200 acres would be combined with 30 acres of fill provided by local interests for use as a harbor facility. The alternatives considered no action, alternative harbor sites, and various site harbors. (Memphis district.) Comments made by: DOI, HUD, USDA, EPA, State and local agencies. (EIS Order No. 800647.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310 (202) 694–4269.

Final

RMA expanded north boundary containment operations, Adams County, Colo., August 29: Proposed is the construction and operation of an expanded north boundary containment/treatment system for contaminated groundwater control at Rocky Mountain Arsenal in Adams County, Colorado. The plan involves extending the existing pilot containment system which consists of a groundwater collection subsystem, a water purification sybsystem, and a groundwater recharge subsystem. The alternatives considered are: (1) No further expansion of the pilot system, and (2) Delayed action with initiation of only source control measures. Comments made by: USDA, COE, HEW, DOI, EPA. (EIS Order No. 800651.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Steve Torok, Region III Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadephia, PA 19106 (215) 597–8334.

Final

Bushkill-Lower Lehigh/Nazareth Wastewater Mgmt., Northampton County, Pa., August 29—Proposed is the awarding of funding for the constuction of wastewater management facilities for the following communities in Northampton County, Pennsyalvania: Bushkill Township, Palmer Township, Plainfield Township, Stockertown Borough, Tatany Borought, and Upper Nazareth Township. The recommended action includes: (1) Gravity sewers, pump stations, and force main as means of collection and transport; (2) Treatment of wastewater from Bushkill Watershed at Easton Stp; (3) Treatment of Wastewater from the Schoeneck Creek Watershed at the RBC plant; (4) Decentralized wastewater Management; and (5) Individual Household need areas. Comments made by: TREA, HEW, HUD, USDA, DOI, FEMA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800653.)

Contact: Mr. Bill Geise, Region VIII, Environmental Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837–4831.

Draft

Poplar R. Basin/Canadian Power Plant, agreement, Sheridan, Daniels, and Roosevelt Counties, Mont., August 26—Proposed is an agreement between the U.S. and Canada concerning the natural transboundary flow on the Poplar River, in the counties of Sheridan, Daniels, and Roosevelt, Montana. Need for the agreement results from the construction of a coal-fired power plant currently under construction on the east fork of the Poplar River in Canada, four miles north of the international boundary. The agreement will deal with flow apportionment. The alternatives address: (1) Atmospheric emissions and control, and (2) flow apportionment. (EPA–908/5–80–003). (EIS Order No. 800637.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8228.

Final

Dinkey Creek Project, License, Fresno County, Calif., August 29—Proposed is the issuance of a construction license for the Dinkey Creek project in Fresno County, California. The license would authorize the construction of a conventional hydroelectric facility including: (1) a dam and reservoir on Dinkey Creek, (2) a power tunnel, (3) two powerhouses, (4) three diversion tunnels, (5) access roads, (6) recreational facilities, and (7) appurtenant facilities. The license would also authorize the operation of the facility for the production of electricity. Five alternatives are considered in the areas of rates, design, site location, forms of generating power, and denial of license. (FERC No. 2890). Comments made by: COE, DOI, AHP, USDA, DOC, HEW, State and local agencies, groups, individuals, and businesses. (EIS Order No. 800649.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6300.

Draft

HUD Assisted projects near hazardous operations, Policy, August 27: Proposed are factors for consideration when siting HUD assisted projects near hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature. These factors will formulate a HUD policy for community growth patterns and programs. Implementation procedures would estimate potential intensities of thermal radiation and blast overpressure and recommend appropriate separation distances between HUD assisted projects and hazard sites. (EIS Order No. 800636.)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Pueblo downtown hotel/convention center, UDAG, Pueblo County, Colo., August 28: Proposed is the awarding of a UDAG for the Pueblo Downtown Hotel/Convention Center project in the city and county of Pueblo, Colorado. The complex will be composed of separate but integrated facilities including: (1) a conference center, (2) a hotel, (3) a retail complex, (4) a parking facility, and (5) associated on-site improvements. (EIS Order No. 800643.)

Final

White Center drainage improvement project, King County, Wash., August 29: Proposed is the awarding of a UDAG for drainage improvements within White Center located in King County, Washington. The improvements will include replacement of existing pipes, acquisition of flood-prone lands, and development of acquired lands for stormwater retention/detention and open

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space use. The alternatives considered include: (1) no action, (2) nonstructural, (3) minimum structural improvement with open space, (4) minimum structural improvement with open space and a park and ride facility, (5) medium structural improvement with development, and (6) maximum structural improvement with development. Comments made by: EPA, State and local agencies. (EIS Order No. 800652.)

Final Supplement

Flower Mound New Town, termination, Denton County, Tex., August 26: This statement supplements a final EIS, No. 720664, filed 8-31-71 concerning issuance of HUD home mortgage insurance for the Flower Mound New Town located in Flower Mound, Denton County, Texas. This statement concerns the termination of title VII status and assistance and implementation of a plan to dispose of project land to various parties. Comments made by: COE, DOI, DOT, AHP, EPA, local agencies. (EIS Order No. 800638.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, environmental project review, Room 4256 Interior Bldg., Department of the Interior Washington, D.C. 20240 (202) 343-3891.

BUREAU OF LAND MANAGEMENT

Final

Greenriver/Hams Fork, Coal Lease, Several counties in Colorado and Wyoming, August 29: Proposed is the leasing of 13 tracts for coal mining in the counties of Moffat, Rio Blanc and Routt, Colorado and Albany and Carbon Counties, Wyoming. The preferred alternative would involve the production of 719.5 million tons of coal. Coal production from these tracts is expected to meet a 1987 annual shortfall of new production of 18.5 million tons and to allow existing mines to continue operation. (FES-80-27.) Comments made by: DOI AHP, USDA, DOC, EPA, DOT, DOE, State and local agencies, groups, individuals and businesses. (EIS Order No. 800648.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20423 (202) 275-7658

Draft

Somerset Railroad, construction and operation, Niagara County, N.Y., August 28: Proposed is construction of a 9.9 mile rail line between Gasport and Somerset, in Niagara County, New York. The line would connect with an existing rail line in Gasport and serve an existing steam-electric generating facility in Somerset. The alternatives consider various modes of transporting coal. The cooperating agencies are, the State of New York, FWS, SCS, COE, USCG, and FAA. (Finance Docket No. 29254.) (EIS Order No. 800644.)

DEPARTMENT OF JUSTICE

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 (202) 633-2704.

BUREAU OF PRISONS

Draft

Phoenix Federal Correctional Institutional, Maricopa County, Ariz., August 29: Proposed is the construction of a Federal correctional institution in Phoenix, Maricopa County, Arizona. The facility will contain an area of approximately 170,000 gross square feet of low profile buildings on 160 acres and will house approximately 300 inmates with possible future expansion to house another 200 prisoners. The alternatives consider: (1) use of other sites, (2) care of inmates at State or county institutions, and (3) no action. (BOP-223.) (EIS Order No. 800654.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.

Federal Highway Administration

Final

NB-31 Improvement, Gretna to Louisville, Sarpy County, Nebr., August 26: Proposed is the improvement of NB-1 in the cities of Gretna and Louisville, Sarpy County, Nebraska. The improvement length extends for 11 miles from the Gretna/I-80 Interchange, through the Schramm Park State recreation area, to Louisville at the NB-31/NB-50 interchange. The project has been divided into two portions. The first portion extends from I-80 to the north entrance of the park for 4 miles and will involve reconstruction to two lanes, and construction of a new bridge. The second portion extends from the park entrance to NB-31/NB-50, for 7 miles, and will involve reconstruction to two lanes, and relocation of the roadway through the park. (FHWA-NB-EIS-78-04-F) Comments made by: USDA, COE, DOI, EPA, HUD, State and local agencies businesses. (EIS Order No. 800639.)

OH-2, Huron Bypass, improvement and relocation, Erie County, Ohio, August 29: Proposed is the improvement and relocation of OH-2 to bypass the city of Huron in Erie County, Ohio. The improvement would extend for 6.06 miles and link the existing OH-2 segments east and west of the project completing an 80 mile uninterrupted length of freeway serving Ohio's Lake Erie shoreline area. The facility would be a divided four lane limited access highway. The alternatives consider: (1) other corridors, (2) improvement of existing routes, (3) improvement of alternative routes, and (4) use of other transportation modes. The Cooperating agency is the State of Ohio. Comments made by: DOI, EPA, HUD, AHP, USDA, COE, State and local agencies. (EIS Order No. 800646.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler, Director, Office of Environmental Activities (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420 (202) 389-2526.

Final

National Memorial Cemetery of the Pacific, Honolulu County, Hawaii, August 28: Proposed is a master plan for the national VA memorial cemetery of the Pacific located in the punchbowl crater, Honolulu City and County, Hawaii. Major development elements of the plan include a visitor center/administration building and parking facility, an addition to the maintenance facility, columbaria facilities, and major improvement to the overlook. The plan would expand burial capacity of the cemetery and improve its overall operations and appearance. Comments made by: AHP, USDA, EPA, FEMA, DOT, DOI, HUD, State and local agencies, groups and individuals. (EIS Order No. 800640.)

EIS's Filed During the Week of Aug. 25 Through 29, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Alabama	Several	Final	Bear Creek, Wilson Bend and Hamilton Areas, Lease.	800650	08-29-80	USDA.
Alaska		Draft	Alaska National Lands Withdrawal Request	800642	08-28-80	USDA.
Arizona	Gila	Draft	Verde Wild and Scenic River Study	800635	08-26-80	USDA.
	Maricopa	Draft	Phoenix Federal Correctional Institution	800654	08-29-80	DJUS.
	Yavapai	Draft	Verde Wild and Scenic River Study	800635	08-26-80	USDA.
California	Alameda	Final	Delta Pumping Plant, Operation	800645	08-29-80	COE.
	Contra Costa	Final	Delta Pumping Plant, Operation	800645	08-29-80	COE.
	Fresno	Final	Dinkey Creek Project, License	800649	08-29-80	FERC.
Colorado		Final	Greenriver/Hams Fork, Coal Lease	800648	08-29-80	DOI.
	Adams	Final	RMA Expanded North Boundary Containment Operations.	800651	08-29-80	USA.
	Pueblo	Draft	Pueblo Downtown Hotel/Convention Center, UDAG	800643	08-28-80	HUD.
Hawaii	Honolulu	Final	National Memorial Cemetery of the Pacific (RD)	800640	08-28-80	VA.
Missouri	Pemiscot	Final	Caruthersville Harbor, Navigation Channel	800647	08-29-80	COE.
Montana	Daniels	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA.
	Roosevelt	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA.
	Sheridan	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA.

EIS's Filed During the Week of Aug. 25 Through 29, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No
Nebraska	Sarpy	Final	NB-31 Improvement, Gretna to Louisville	800639	08-26-80	DOT.
New York	Niagara	Draft	Somerset Railroad, Construction and Operation	800644	08-28-80	ICC.
Ohio	Erie	Final	OH-2, Huron Bypass, Improvement and Relocation.	800646	08-29-80	DOT.
Pennsylvania	Northampton	Final	Bushkill-Lower Lehigh/Nazareth Wastewater Mgmt.	800653	08-29-80	EPA.
Policy		Draft	HUD Assisted Projects Near Hazardous Operations	800636	08-27-80	HUD.
Texas	Denton	FSUPP	Flower Mound New Town, Termination	800638	08-26-80	HUD.
Washington	King	Final	White Center Drainage, Improvement Project	800652	08-29-80	HUD.
Wyoming		Final	Greenriver/Hams Fork, Coal Lease	800648	08-29-80	DOI.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Waiver extension	Date review terminates
Department of Agriculture					
Mr. Barry Flamm, Director, Office of Environmental Review, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Bldg., Washington, D.C. 20250, (202) 447-3965.	Verde Wild and Scenic River Study, Yavapai and Gila Counties, Arizona.	Draft 800635	09/05/80 (See Appendix I).	Extension	12/03/80
	Alaska National Lands, Withrawal.	Draft 800642	09/05/80 (See Appendix I).	Waiver	10/06/80
Corps of Engineers					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-2482.	Delta Pumping Plant and Related Facilities, Operation, Permits, California.	Final 800645	09/05/80 (See Appendix I).	Extension	10/13/80
Interstate Commerce Commission					
Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 275-7658.	Somerset Railroad, Construction and operation, Niagara County, New york.	Draft 800644	09/05/80 (See Appendix I).	Extension	11/03/80

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
Corps of Engineers			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Ashtabula Harbor, Operation and Maintenance, Ashtabula County, Ohio.	08/28/80	800641

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Correction
Department of Housing and urban Development				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6300.	White Center Drainage Improvement Project, King County, Washington.	Draft 800634	09/05/80	This EIS was not filed with the EPA at the time of distribution. The EIS should have appeared in the June 6, 1980 Federal Register. The 45 day comment period began on June 6, 1980 and was terminated on July 21, 1980.

[FR Doc. 80-27468 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

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FEDERAL MARITIME COMMISSION

[Agreement No. T-3917]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Enviromental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Proposed Agreement No. T-3917 is a Terminal Operating Contract between Farrell Lines Incorporated (Farrell) and its wholly-owned subsidiary, Howland Hook Marine Terminal Corporation (the Operator). The terms and conditions of the proposed agreement are substantially the same as those of the existing contractual relationship between Farrell and the Operator as was originally set forth in Agreements Nos. T-2903, T-2903-A-1, T-2903-B and T-2903-3. The proposed new agreement is intended to incorporate into a single document the existing contractual relationship between the parent, Farrell, and the Operator, without reference to the other aforementioned agreements.

The Commission's final resolution of Agreement No. T-3917 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the assessment on or before September 25, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-27158 Filed 9-4-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Cumming Bancshares, Inc.; Formation of Bank Holding Company

Cumming Bancshares, Inc., Cumming, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Cumming, Cumming, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27262 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Douglas Bancorporation, Inc.; Formation of Bank Holding Company

Douglas Bancorporation, Inc., Parker, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of the West, Parker, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27259 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Houston American Financial Corp.; Formation of Bank Holding Company

Houston American Financial Corporation, Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of American Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of governors of the Federal Reserve System, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27260 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of Mellon Life Insurance Co.

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mellon Life Insurance Company, Wilmington, Delaware.

Applicant states that the proposed subsidiary would underwrite, as reinsurer, the credit life and credit accident and health insurance sold by Applicant's subsidiaries, Mellon Bank, N.A., Pittsburgh, Pennsylvania, and Freedom Financial Services Corporation, Oak Brook, Illinois, in connection with their consumer lending activities. These activities would be performed from offices of Freedom Financial Services Corporation in California, Colorado, Florida, Illinois, Indiana, Kentucky, Minnesota, Nebraska, New York, Oregon, Washington and Wisconsin, and Mellon Bank, N.A. in Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland counties, Pennsylvania. The geographic areas to be served are California, Colorado, Florida, Illinois, Indiana, Kentucky, Minnesota, Nebraska, New York, Oregon, Washington, Wisconsin and Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland counties, Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views of requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 26, 1980.

Board of Governors of the Federal Reserve System, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27261 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Montwood Bancshares, Inc.; Formation of Bank Holding Company

Montwood Bancshares, Inc., El Paso, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Montwood National Bank, El Paso, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27256 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 28, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB, NRC and OSM requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 23, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of a new standard evidence request to be supplied to CAB with a proposal to provide essential air transportation under Section 419 of the Federal Aviation Act. This information request sets forth the data that are necessary to make a fitness and reliability determination and to substantiate any claim for compensation needed to support essential air service. The CAB will solicit proposals by issuing Board Orders. Although the Orders could state that proposals submitted pursuant to the solicitation must comply with the provisions of § 204.6 of Part 204 of CAB's Economic Regulations, many carriers have stated that their submissions would be easier to prepare if they were provided a standard form for submitting them. Because of this, CAB has developed the evidence request which will be attached to the Orders. The CAB estimates that potential respondents will number 60 and that time to complete the evidence request will average between 30 to 80 hours depending on whether the proposals do or do not request a subsidy.

Nuclear Regulatory Commission

The NRC requests reinstatement of the reporting and recordkeeping requirements contained in 10 CFR Part 21; specifically section 21.21, Notification of Failure to Comply or Existence of a Defect, and section 21.51, Maintenance. GAO approval for this

Part expired May 31, 1980. Section 21.21 requires directors and responsible officers and firms and organizations building, operating or owning NRC licensed facilities, or conducting NRC-licensed activities to report defects in components and failures to comply with regulatory requirements which could create a substantial safety hazard. The recordkeeping requirement in § 21.51 requires each individual or organization subject to Part 21 to prepare records in connection with the design, manufacture, fabrication, placement, erection, installation, modification, inspection or testing of any facility or to be used in any licensed activity sufficient to assure compliance with Part 21. NRC estimates that approximately 25,000 organizations are subject to the requirements in Part 21; and that about 100 will be required to prepare a report under § 21.21 which will require an average of 10 hours per report; and that 12,000 will be required to record 50 entries each as required by § 21.51 at 10 minutes per entry.

Office of Surface Mining

The OSM, Department of Interior, requests clearance of a revision to Form OSM 837-1, Coal Production and Reclamation Fee Report. The Form has been renumbered as Form OSM-1 and 1A. Form OSM-1 must be filed initially by all respondents in order for OSM to obtain identification of the report unit. Thereafter respondents may submit Form OSM-1 for each unit or may submit OSM-1A for multiple report units. The Form OSM-1 and 1A collects information from operators engaged in coal mining who remove or intend to remove more than 250 tons of coal from the earth within twelve consecutive calendar months in any one location and provides the basis for ascertaining that the appropriate reclamation fee is paid. The authority for collecting the data and fee payments is provided in Sections 401 and 402 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). The Act requires a notarized statement concerning the accuracy of the data and the fee submitted. Reports must be submitted within 30 days after the end of each calendar quarter. The OSM estimates that respondents will number approximately 3,000 and that time to prepare each quarterly report will average 15 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-27279 Filed 9-4-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Rape Prevention and Control Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1980.

Rape Prevention and Control Advisory Committee

September 26; 9:00 a.m.—Open. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

Contact: Mary Lystad, Ph. D., Executive Secretary, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. The Advisory Committee will provide input on the public education needs in the area of sexual assault; finalize the Committee recommendations to the Secretary, DHHS; as well as receive an update on legislation related to the National Center for the Prevention and Control of Rape.

Substantive information may be obtained from the contact person listed above. The NIMH Committee Management Office will furnish upon request summaries of the meeting and rosters of the Committee Members. Please address inquiries to the Office of the Associate Director for Extramural Programs, NIMH, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: August 29, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-27125 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Biological In Vitro Diagnostic Devices; Transfer of Responsibility From Bureau of Biologics to Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that biological in vitro diagnostic products used as aids for the detection and management of cancer in humans are now considered medical devices, and the responsibility for regulating them is transferred from the Bureau of Biologics to the Bureau of Medical Devices. This notice states which substances are transferred as transitional devices, subject to the premarket approval provisions of class III.

ADDRESS: Inquiries and applications for premarket approval or investigational device exemptions concerning in vitro diagnostic devices described in this notice to Document Control Center (HFK-20), Bureau of Medical Devices, Food and Drug Administration, Department of Health and Human Services, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 27, 1973 (38 FR 10488), FDA published a notice which required that biologically derived in vitro diagnostic substances represented for use in the diagnosis or management of cancer must be licensed under authority of section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262) prior to marketing and be subject to the controls of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) as well. The principal administrative responsibility for the regulation of these substances was delegated to the Bureau of Biologics.

The Medical Device Amendments of 1976 (the "amendments") (Pub. L. 94-295) broadened the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)) to include certain products that were once regarded as drug products. All in vitro diagnostic products for the detection or management of cancer in humans, including the products described in the April 27, 1973 **Federal Register** notice and other substantially equivalent products, are included in the broadened definition of device.

FDA issued a notice in the **Federal Register** of December 16, 1977 (42 FR 63472), explaining that under section 520(l) of the act (21 U.S.C. 360j(l)), the Bureau of Medical Devices would gradually assume responsibility for regulating, as devices, products that had been previously regulated as drug

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products. The notice further stated that the lists of products were not exhaustive and could be expanded at such time as a determination could be made by the agency that other devices formerly regulated as drug products would be more appropriately regulated as devices. The notice also stated that products regulated under section 351 of the PHS Act were beyond the scope of the December 16, 1977 notice but that the agency could issue future notices on these matters.

The April 27, 1973 notice required that the marketing of biological in vitro diagnostic substances for the detection or management of cancer in humans be subject to the controls of section 505 of the act. Under section 520(l)(1)(C) of the act (21 U.S.C. 360j(l)(1)(C)), a device for which, on the enactment date of the amendments, a notice of claimed investigational exemption for a new drug (IND) was in effect under section 505 of the act, is classified in class III unless reclassified by the agency in class I or class II.

Biologically derived in vitro diagnostic substances, for the identification or analysis of carcino embryonic antigen (CEA), alpha-fetoprotein (AFP), tumor-associated antigen (TAA), and tumor-associated polypeptide antigen (TPA) all had IND's in effect on the date of enactment of the amendments and are classified by statute in class III. At the time of enactment of the amendments, one manufacturer had been licensed under section 351 of the PHS Act for commercial distribution of an anti-CEA serum. The product license for this product, together with portions of the establishment license relevant to the requirements for a new premarket approval application (PMA) will be considered as being an approved PMA. Any of these products for which a license application is pending on the effective date of this notice, if accepted, will be approved as a PMA.

Sponsors who have approved IND's for biological in vitro diagnostic products for the detection or management of cancer in humans should continue to comply with 21 CFR Part 312 until October 14, 1980, which is 90 days after the July 16, 1980 effective date for the investigational device exemption (IDE) regulations (21 CFR Part 812). A sponsor who has an effective IND and wishes to obtain an IDE to continue the investigation beyond the 90-day period should inform the Bureau of Medical Devices by letter, of the IND number, and the phases of the investigation that have been completed (phase I, II, or III). If FDA determines that the protocol and other procedures being followed under Part 312 satisfy the requirements of Part 812, FDA may consider the investigation to have an approved IDE and may allow it to continue without changes.

PMA's should be submitted to the Bureau of Medical Devices at the address above. Decisions relating to the approval or disapproval of such applications will be made by the Director, Bureau of Medical Devices, after consultation with the appropriate device advisory panel.

In vitro diagnostic devices and accessories intended for use in the diagnosis or management of cancer in humans that do not include the biologically derived substances CEA, AFP, TAA, or TPA are not transitional devices subject to section 520(l) of the act. These nontransitional devices are subject to the other requirements of the act, such as premarket notification (21 CFR Part 807) and procedures for investigational device exemptions (21 CFR Part 812).

Effective October 6, 1980, the regulation of biological in vitro diagnostic devices used as adjunctive tools for the detection and management of cancer in humans is the responsibility of the Bureau of Medical Devices. Therefore, the April 27, 1973 notice is superseded and is withdrawn by this notice.

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26795 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Alan L. Hoeting, District Director, Detroit District Office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Tuesday, September 9, 1980.

ADDRESS: The meeting will be held at the George Potter Larrick Bldg., Conference Rm., 1560 E. Jefferson, Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Diane M. Place, Consumer Affaris Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Detroit District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: Aug 28, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26706 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Matthew H. Lewis, District Director, Newark District Office, East Orange, NJ.

DATE: The meeting will be held at 1 p.m., Thursday, September 25, 1980.

ADDRESS: The meeting will be held at the East Orange Public Library, 21 S. Arlington Ave., East Orange, NJ 07018.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-3265.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Newark District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26797 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0381]

Advisory Committee; Supplement to Notice of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document supplements the notice appearing in the August 5, 1980 **Federal Register** (45 FR 51922) and announces the availability of questions and data prepared by the Food and Drug Administration for consideration by the Fertility and Maternal Health Drugs Advisory Committee in its discussion of the safety of Bendectin.

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DATES: September 15 and 16, 1980, beginning at 9 a.m.

ADDRESS: Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: A. T. Gregoire, Bureau of Drugs (HFD–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 301–443–3542.

SUPPLEMENTAL INFORMATION: The questions to be considered by the Committee are:

1. Do the animal and human data presented to and reviewed by the Committee support the conclusion that Bendectin is associated with an increased risk for human birth defects?

a. If so, which birth defects?

b. The human epidemiologic studies were performed with the old triple combination except that some of the more recent studies included some patients on the double combination, and Merrell studies each of the ingredients alone. If the Committee believes that there is an increased risk, is it possible to determine to what component that risk can be attributed?

c. If the Committee believes that the data cannot support a conclusion that Bendectin is associated with an increased risk for human birth defects, are additional animal and/or human studies of risk indicated?

(1) If so, what types might be useful and feasible?

(2) Will studies in nonhuman primates be of value?

2. Are additional statistical and epidemiologic analyses of the human birth defects studies indicated? What kinds of analyses should be made?

3. If the Committee believes that the studies have revealed a risk of human birth defects, do the benefits of Bendectin in the treatment of nausea and vomiting of pregnancy outweigh this risk?

a. If not, please explain your reasons.

b. If so, for what patient population?

4. Taking into consideration your answers to questions 1 through 3, is the risk of Bendectin relative to its benefits such that the drug should be removed from the market?

5. Are additional clinical studies of effectiveness necessary in certain subpopulations, e.g., patients with more severe nausea and vomiting, or patients refractory to nondrug measures?

6 Taking into consideration your answers to the previous questions:

a. Should the labeling for Bendectin be altered with regard to the indications for use?

b. In what pregnancy category should Bendectin be placed with respect to the labeling?

7. Taking into consideration the answers to questions 4 and 6, does the Committee have any recommendations on what approach FDA should take to other marketed drugs containing doxylamine, pyridoxine, or dicyclomine? Doxylamine is marketed over-the-counter (OTC) as an antihistamine and sleep-aid, and dicyclomine is marketed on prescription for gastrointestinal (G.I.) disorders.

The background information prepared by FDA is available for review between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD.

Any individual or group wishing to present information relevant to the agenda item should contact A. T. Gregoire, Ph.D., Executive Secretary (HFD–130), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3542.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–27131 Filed 9–4–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0283]

Bel-Mar Laboratories, et al.; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document provides notice of opportunity for hearing on a proposal to withddraw approval of 52 abbreviated new drug applications on the grounds that the applicants have failed to submit required reports.

DATE: Requests for hearing due by October 6, 1980.

ADDRESSES: Communications in response to this notice should be identified with the docket number appearing in the heading of this notice and directed to the attention of the appropriate office named below:

Request for hearing: Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Periodic reports: Division of Generic Drugs (HFD–530), Food and Drug Administration, Rm. 16–69, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin Seife, Bureau of Drugs (HFD–530), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301–443–4080.

SUPPLEMENTARY INFORMATION: Applicants are required to maintain records on drug products for which an approval is in effect, and to report to FDA periodically concerning these drugs in accordance with 21 CFR 310.300. Although in the past some exemptions from these reporting requirements have been granted, all such exemptions were rescinded as announced in the **Federal Register** of May 12, 1978 (43 FR 20556). Reports have not been submitted for the drug products listed below. Each applicant was advised by certified letter to submit the required reports within 30 days of receipt of the letter, or the agency would proceed to publish a notice of opportunity for hearing on a proposal to withddraw approval of the ANDA's on the grounds of failure to report.

The objective of this action is to close a large number of files on drugs that have been discontinued or were never marketed or whose holders are delinquent in submitting the required periodic reports.

ANDA No.	Drug	Applicant
80-761	Pyridoxine HCl Injection, 100 mg/mL	Bel-Mar Laboratories, 6–10 Nassau Ave., Inwood, Long Island, NY.
80-262	Testosterone Propionate Solution in Oil, 100 mg/mL	Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.
80-192	Hydrocortisone Ophthalmic Ointment, 0.5%.	Day-Baldwin, Inc., 1460 Chestnut Ave., Hillside, NJ 07205.
80-193	Hydrocortisone Ophthalmic Ointment, 1.5%.	Do.
80-494	Hydrocortisone Lotion, 0.25%	Merit Pharmaceuticals, 8243 Telephone Rd., Houston, TX 77017.
80-226	Prednisolone Tablet, 5 mg	Fellows-Testagar, 12741 Capital Ave., Oak Park, MI 48237.
80-595	Diphenhydramine HCl Elixir, 12.5 mg/5 mL	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.

ANDA No.	Drug	Applicant
80-765	Sodium Sulfacetamide Ophthalmic Ointment, 10%.	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11802.
80-125	Aminosalicylic Acid Tablet, 0.5 g	Stanlabs, Pharmaceutical Co., P.O. Box 3108, Portland, OR 97208.
80-275	Succinylcholine Chloride Injection, 20 mg/mL.	Gotham Pharmaceutical Co. 1840 McDonald Ave., Brooklyn, NY 11223.
80-529	Cyanocobalamin Injection, 30, 100, and 1,000 mcg/mL.	Do.
80-527	Thiamine HCl Injection, 50 and 100 mg/mL.	Do.
80-526	Sparteine Sulfate Injection, 150 mg/mL	Do.
80-528	Pyridoxine HCl Injection, 50 mg/mL	Do.
80-202	Potassium Chloride Injection, 20 and 40 mEq.	Do.
80-664	Folic Acid Injection, 1 mg/mL	Do.
80-169	Isoniazid Tablet, 100 mg	Kaser Laboratories, 7313 N. Harlem Ave., Niles, IL 60648.
80-889	Folic Acid Tablet, 5 mg	Do.
80-453	Procaine HCl Injection, 1 and 2%	Medwick Laboratories, Inc., 2137 N. 15th Ave., Melrose Park, IL 60160.
80-405	Lidocaine HCl with and without Epinephrine 1:100,000 Injection, 1 and 2%.	Do.
80-682	Thiamine HCl Injection, 100 mg/mL	Do.
80-739	Pyridoxine HCl Injection, 100 mg/mL	Do.
80-650	Cyanocobalamin Injection, 100 and 1,000 mcg/mL.	Do.
80-771	Vitamin D Capsule, 50,000 I.U	Stayner Pharmaceuticals, 1922 Junction Ave., San Jose, CA 95131.
80-726	Vitamin A Capsules Solubilized, 15 mg	Do.
80-851	Diethylstilbestrol Tablet, 1 mg	Do.
80-346	Prednisone Tablet, 5 mg	Do.
80-348	Prednisone Tablet, 1 mg	Do.
80-347	Prednisolone Tablet, 5 mg	Do.
80-345	Prednisone Tablet, 2.5 mg	Do.
80-579	Diphenhydramine HCl Capsule, 50 mg	Do.
80-849	Diethylstilbestrol Tablet, 5 mg	Do.
80-578	Chlorpheniramine Maleate Tablet, 4 mg	Do.
80-533	Reserpine Tablet, 0.25 mg	Do.
80-532	Reserpine Tablets, 0.1 mg	Do.
80-276	Testosterone Propionate Injection, 25, 50, and 100 mg/mL.	Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 06002.
80-981	Piperazine Citrate Syrup, 500 mg/5 mL	Sperti Drug Products, 7 Sperti Drive, Fort Mitchell, KY 41017.
80-864	Vitamin A Capsule, 15 mg	Robinson Laboratory, Inc., 355 Brannan St., San Francisco, CA 94107.
80-489	Hydrocortisone Ointment, 0.25%, 0.5%	Do.
80-651	Benzyl Benzoate Lotion, 28%	Do.
80-652	Benzyl Benzoate Lotion, 50%	Do.
80-866	Vitamin A (fish liver oil) Capsule, 15 mq	Do.
80-865	Vitamin A Palmitate Capsule, 15 mg	Do.
80-917	Diphenhydramine HCl Elixir, 12.5/5 mL	Do.
80-487	Hydrocortisone Lotion, 0.1%	Do.
80-465	Hydrocortisone Cream and Ointment, 2.5%.	Do.
80-476	Hydrocortisone Cream and Ointment, 0.25%	Do
80-479	Hydrocortisone Lotion, 0.25%	Do.
80-480	Hydrocortisone Cream and Ointment, 0.1%.	Do.
80-477	Hydrocortisone Cream and Ointment, 0.5%.	Do
80-486	Hydrocortisone Lotion, 0.5%	Do
80-488	Hydrocortisone Ointment, 0.1%	Do

Therefore notice is given to the holders of the abbreviated new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the abbreviated new drug applications and all amendments and supplements thereto on the grounds that the applicants have failed to submit the reports required under 21 CFR 310.300.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314) the applicants are hereby given an opportunity for a hearing to show why approval of their abbreviated new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above.

An applicant who decides to seek a hearing shall file (1) on or before October 6, 1980, a written notice of appearance and request for hearing, and (2) on or before November 4, 1980, the data, information, and analyses relied on to justify a hearing as specified in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under

21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed for the product and constitutes a waiver of any contentions about the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will begin appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accord with 21 CFR 310.300. If the submission is not complete or if a request for hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice must be filed in four copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m. Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 8, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80–27129 Filed 9–4–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80F–0312]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Dow Chemical Co. had filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinylidene chloride/methylacrylate copolymers as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3452) has been filed by the Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that Subpart B of Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for the safe use of vinylidene chloride/methylacrylate copolymers as articles or components of articles intended for use in contact with food.

The potential enviornmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental assessment will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.25(b).

Dated: August 27, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–27132 Filed 9–4–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 75P–0014]

General Electric Co.; Approval of Variance Extension for the MMX–II Mammographic X-Ray System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the approval of a variance extension from the performance standard for diagnostic X-ray systems and their major components for the MMX–II Mammographic X-Ray System, manufactured by the General Electric Co. The petition for the 5-year extension of Variance Number 75002 used as a basis for the documentation accompanying the original variance petition. The Bureau of Radiological Health has determined that those arguments and data previously submitted are still valid and therefore grants the extension of variance for the requested time period.

DATES: The variance become effective July 18, 1980, and ends July 17, 1985.

ADDRESS: The application and all correspondence on the application are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4, General Electric Co., P.O. Box 414, Milwaukee, WI 53201, has been granted an extension of Variance Number 75002. This variance was granted from § 1020.30(m)(1) (21 CFR 1020.30(m)(1)) of the performance standards for diagnostic X-ray systems and their major components for the MMX–II Mammographic X-Ray System under the following conditions:

1. In lieu of the provisions of Table I in § 1020.30(m)(1) where a measured potential of 50 kilovolt peak (kVp) requires a minimum half-value layer (HVL) of 1.2 millimeters (mm) of aluminum and a measured potential of 60 kVp requires a minimum HVL of 1.3 mm of aluminum, the MMX–II Mammographic X-Ray System shall provide a beam quality so that, for a measured potential of 50 kVp, the HVL shall be not less than 0.7 mm of aluminum, and for a measured potential of 60 kVp, the HVL shall not be less than 0.8 mm of aluminum.
2. The MMX–II Mammographic X-Ray System shall be provided with positive means to ensure that at least the minimum filtration needed to achieve the beam quality specified in § 1020.30(m)(1), and in paragraph 1 above, is in the useful beam during each exposure.

The variance extension became effective July 18, 1980, and ends July 17, 1985. The product will bear the Variance Number 75002. The application and all correspondence on the application have been placed on public display in the Office of the Hearing Clerk, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–27128 Filed 9–4–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0284]

Invenex Laboratories, Inc., et al.; Abbreviated New Drug Applications and New Drug Application; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document withdraws approval of one new drug application (NDA) and 26 abbreviated new drug applications (ANDA's) based on the written request of the applicants.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Marvin Seife, Bureau of Drugs (HFD-530), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-4080.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's and NDA listed herein have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applicants. The applicants have also, by their request, waived their opportunity for a hearing.

NDA or ANDA No.	Drug	Applicant
9-771	Reserpine Alkaloid Tablet, 0.1, 0.25, and 0.5 mg.	Invenex Laboratories, P.O. Box 122, Grand Island, NY 14072.
80-035	Sodium Aminosalicyclic Tablets, 0.5, 0.69, and 1 g; Powder, 1 lb jar.	Dorsey Laboratories, Box 83288, Lincoln, NB 68501.
80-105	Trisulfazine Tablet, 0.5 g	The Central Pharmacal Co., 110-128 E. Third St., Seymour, IN 47274.
80-130	Aldiazole M Suspension, 0.5 g/5 mL	Beecham Laboratories, 501 Fifth St., Bristol, TN 37620.
80-262	Testosterone Propionate Injection, 25, 50, and 100 mg/mL.	Invenex Laboratories.
80-361	Sodium Sulfacetamide Ophthalmic Solution, 30%.	Cooper Laboratories, Inc., 455 E. Middiefield Rd., Mountain View, CA 94043.
80-373	Meperidine HCl Injection, 50, 75, and 100 mg/mL.	Invenex Laboratories.
80-441	Maintasone Lotion, 0.5%	Owen Laboratories, Division Alcon Laboratories, P.O. Box 1959, Fort Worth, TX 76101.
80-507	Nitrofurantoin Tablet, 50 and 100 mg	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.
80-511	Pyridoxine Hydrochloride Injection, 100 mg/mL.	Invenex Laboratories.
80-569	Cyanocobalamin Injection, 1,000 mcg/mL	The Central Pharmacal Co.
80-574	Diphenhydramine HCl Elixir, 12.5 mg/5mL	Abbott Laboratories, Abbott Park, N. Chicago, IL 60064.
80-597	Cremesone Cream, 0.5%	Biocraft Laboratories, 92 Route 46, Elmwood Park, NJ 07407.
80-681	Piperazine Citrate Tablet, 500 mg	ICN Pharmaceuticals, Inc.
80-726	Vitamin A Capsule, 15 mg	Stayner Pharmaceuticals, 1922 Junction Ave., San Jose, CA 95131.
80-769	Chlorpheniramine Maleate Tablet, 4 mg	The Dow Chemical Co., P.O. Box 68511, Indianapolis, IN 46268.
80-843	Chromic and Plain Collagen Sutures and Braided Silk and Nylon Sutures.	Sherwood Medical Industries, 1831 Olive Street, St. Louis, MO 63103.
80-856	Diethylstilbestrol Tablet, 1.0 mg	ICN Pharmaceuticals, Inc.
80-862	Diethylstilbestrol Enteric Coated Tablet, 1.0 mg.	Do.
80-863	Diethylstilbestrol Enteric Coated Tablet, 5.0 mg.	Do.
80-913	Vitamin A Capsule, 50,000 I.U	Arcum Pharmaceuticals, P.O. Box 38, Vienna, VA 22180.
80-922	Vitamin A Capsule, 15 mg	Bowman Pharmaceutical Co., 119 Schroyer Ave. SW., Canton, OH 44702.
80-934	Isoniazid Tablet, 300 mg	Ciba Pharmaceutical Co., 556 Morris Ave., Summit, NJ 07901.
84-477	Sodium Pentobarbital Capsule, 100 mg	West-Ward Inc., 465 Industrial Way West, Eatontown, NJ 07724.
84-694	Diphenhydramine HCl Injection, 10 mg/mL	Invenex Pharmaceuticals.
85-078	Phenytoin Sodium Injection, 50 mg/mL, 100 mg/2 mL.	Do.
85-679	Ammonium Chloride Injection, 100 mg/mL	Do.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environment assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order becomes effective on September 15, 1980.

Dated: August 8, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-27130 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

Leukapheresis Donor Safety Workshop; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a public workshop will be held during which scientific data will be presented and discussed regarding leukapheresis donor safety.

DATE: Meeting on October 8, 1980.

ADDRESS: The workshop will be held in the Lister Hill Auditorium, Bldg. 38A, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD 20209.

FOR FURTHER INFORMATION CONTACT: Joseph C. Fratantoni, Bureau of Biologics (HFB-200), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2577.

SUPPLEMENTARY INFORMATION: Leukapheresis is a procedure in which blood is removed from the donor, leukocyte concentrate is separated, and the remaining formed elements and residual plasma are returned continuously or intermittently to the donor. Leukapheresis donors are subjected to procedures which expose them to a number of risks, potential and actual.

The Bureau of Biologics of the Food and Drug Administration will hold a public workshop where experts in various fields relating to leukapheresis will present highly technical information regarding leukapheresis donor safety. Based on information provided at this workshop, the Bureau of Biologics will develop donor safety standards for the collection of leukocytes by leukapheresis intended for patient transfusion as well as for further manufacturing.

The workshop will be held from 8:30 a.m. to 5 p.m., October 8, 1980, in the Lister Hill Auditorium, Bldg. 38A, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD 20209. Limited seating will be on a first-come first serve basis. Interested persons wishing to attend are requested to contact T. Rada Proehl, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306, by September 30, 1980.

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Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27126 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0276]

Nitrites; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the availability of a reevaluation of a study on nitrites as a cancer-causing substance.

ADDRESS: Single copies of the reports are available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 3, 1979 (44 FR 19538), the agency announced, among other things, that a contract had been let with the Universities Associated for Research and Education in Pathology, Inc. (UAREP), to perform a complete review of the pathology findings in the animal studies of Technology (MIT).

The agency announces the availability of the UAREP report entitled "Re-evaluation of the Pathology findings of Studies on Nitrite and Cancer" in which it found a "much lower incidence of lymphoma" (cancers of the lymph system) than was originally reported in the MIT studies.

Also available is a Report of the Interagency working Group on Nitrite Research, which has concluded that, based on the MIT study, insufficient evidence exists to support a conclusion that nitrite induced cancer in rats.

Single copies of these reports are available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62 5600 Fishers Lane, Rockville, MD 20857.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27127 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0005]

Safety of Electromedical Devices; Request for Data and Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is considering establishing uniform standards for electromedical devices and requests data, information, and comment on the need for uniform standards, how to achieve the establishment of such standards, and whether certain existing voluntary standards are suitable for use as the basis of a mandatory standard, for endorsement under the agency's proposed voluntary standards policy, or for adaption as a guideline.

DATE: Comments, data and information by November 4, 1980.

ADDRESS: Written comments to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Bureau of Medical Devices (HFK-310), Food and Drug Administration, 81757 Georgia Ave., Silver Spring, MD 20910, 301-427-7061.

SUPPLEMENTARY INFORMATION:

Class II Devices and Electrical Safety

Under section 513 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360c) (the act), FDA's medical device advisory panels have recommended the classification of approximately 1,200 devices into class II (performance standards). A large portion of the 1,200 class II devices are electrically operated devices. During the review of class II devices, the advisory panels identified electrical safety as a concern for virtually every electrically operated device.

FDA believes objective performance standards, including device design and construction, should be established to minimize electrical hazards, especially the hazards associated with "risk current." Risk current, i.e., leakage current and sink current, is inherent in all electromedical devices. Leakage current is the undesirable current available from the chassis or cables of an electrical device. Sink current is the amount of current a device will conduct from an externally applied electric potential through its leads to ground. Risk current can induce cardiac fibrillation or an involuntary reflex reaction in a patient or user of an electrical device, and thereby can result in injury.

Examples of device design and contsruction characteristics that can affect the electrical safety of electromedical devices include:

(1) Length and diameter of ground wires, i.e., current-carrying capacity;

(2) Use of uninsulated wire;

(3) Accessibility of uninsulated current-carrying parts;

(4) Quality of electrical insulation; and,

(5) Durability of the ground connection in the plug. Other general design and construction features that affect safety include:

(1) Temperature of surface areas;

(2) Accessibility to moving parts or gears; and

(3) Physical stability, e.g., tipover or collapse.

Electrical safety also includes user-facility design, such as the power distribution system and user practices, such as periodic safety testing. These factors are generally outside the direct control of the device manufacturer, and therefore FDA does not plan at this time to address these aspects of electrical safety beyond possible labeling requirements in a standard.

Voluntary Standards Activities

Many groups have analyzed the risks associated with electromedical devices and have established standards intended to reduce these risks. These groups include voluntary standards organizations, independent laboratories, hospital shared-services groups, Federal agencies, and State and local governments. Some of the better known voluntary standards for electromedical devices are listed in Table I below. A single copy of each of these documents is on file and available for public review in the office of the Hearing Clerk (address above). Copies of each of these documents may be obtained from the sponsoring organization. The sponsoring organization's address can be obtained from the contact person listed above.

Table I.—*Voluntary Standards Dealing With Electrical Safety*

Standard	Directed at		Hazard addressed	
	Device	Facility	Electrical	Other [1]
ANSI/AAMI SCL—12/78 "Safe Current Limits for Electromedical Apparatus." (American National Standards Institute/Association for the Advancement of Medical Instrumentation.) Approved as an American National Standard, January 19, 1978. Deals with risk currents only.	X		X	
UL 544 "Medical & Dental Equipment." (Underwriters' Laboratory.) Basis for UL listing. Widely referenced in purchasing specifications. Recognized by some State and local codes.	X		X	X
NFPA 76B (Draft) "Safe Use of Electricity in Patient Care Areas of Hospitals." (National Fire Protection Association.) Widely referenced in building costs.	X	X	X	
CSA C22.2-125 "Electro-Medical Equipment." (Canadian Standards Association.) Referenced in Canadian codes. In U.S., compliance with CSA C22.2-125 is frequently accepted in lieu of UL 544.	X		X	X
CSA Z32.2 (Draft) "Use of Electricity in Patient Care Areas." (Canadian Standards Association.) Referenced in Canadian building codes.		X	X	
IEC 601-1 "General Requirements for Safety of Electrical Equipment Used in Medical Practice." (International Electrotechnical Commission.) Widely accepted and referenced internationally. U.S. manufacturers will generally have to comply with IEC standards to export electrical products. U.S. participated in development of IEC 601-1.	X		X	X
MET 501 "Standard for Performance and Safety Certification of Medical Equipment." (MET Electrical Testing Co., Inc.) Certification to MET 501 accepted in many jurisdictions as alternative to UL 544.	X		X	X
"Recommendations for Standardization of Leads and or Specifications for Instruments in Electrocardiography and Vectorcardiography." (American Heart Association.) Not a standard per se; AHA publicly states that all medical devices should comply with the risk current requirements contained in these recommendations.	X		X	

[1] Typical of hazards other than electrical are thermal, chemical, mechanical, and radiological.

Generally, voluntary standards for electromedical devices set forth requirements for device performance, including the design and construction of the device or the design of the user facility and user practices. The voluntary standards FDA is considering are concerned only with establishing uniform requirements for electromedical devices and not design of the user facility or user practices with the possible exception of labeling requirements.

Differences exist between the various electrical safety standards. For example, each of the standards listed in Table I contains different provisions concerning risk current. In most of these standards the risk current limit for isolated patient connections is 10 microamperes (μA) with the ground connections closed, but some standards allow up to 50 μA with the ground open. The risk current limits for nonisolated patient connections vary from 50 μA to 500 μA. Chassis leakage limits vary from 100 μA to 500 μA for cord-connected equipment and from 50 μA to 10,000 μA for permanently connected equipment. Differences exist both for the risk current limits and the tests to measure risk current. For example, there is a difference between the standard loads employed in IEC 601-1 and in ANSI/AAMI SCL–12/78.

State and Local Codes

Relatively few State and local codes establish safety requirements for medical devices, including electromedical devices. Among those jurisdictions that have developed requirements are the cities of Chicago, Cleveland, Los Angeles, and New York, and the States of California, Oregon, and West Virginia.

These codes typically require that medical devices sold within the jurisdiction must be certified to a nationally recognized standard by an independent laboratory or by a laboratory operated by the State or municipal government. In some jurisdictions, such as California, the codes not only require certification, but also specify performance characteristics. The California code, which is imposed on the user rather than the manufacturer, specifies risk current limits for medical devices used in hazardous areas. The requirement is based on the 1974 AAMI Safe Current Limits standard. The State of California held hearings in 1978 to consider amending its code, including the addition of risk current limits for nonhazardous areas. All of the proposed requirements would be consistent with ANSI/AAMI SCL–12/78, except the limits for chassis leakage, which California is considering making less stringent.

User Practices

Purchasers of electromedical devices have the opportunity to specify the safety and performance characteristics of devices. The extent to which various hospitals, clinics, or individual doctors specify these characteristics when purchasing devices varies considerably and depends upon the availability of staff, the availability of standard procurement specifications, and other factors, e.g., requirements prescribed by the Joint Commission on Accreditation of Hospitals (JCAH). To receive its accreditation, JCAH requires hospitals to establish safety programs that include the imposition on vendors of safety standards for electromedical devices. However, JCAH does not make accreditation contingent upon adherence to any specific electrical safety standard.

A procurement specification that includes all of the physical and performance characteristics which affect the safety and effectiveness of a single device is time-consuming and costly to develop. Major users of medical devices such as the Veterans Administration (VA), the Department of Defense (DOD), and hospital shared-service associations have the staff and resources to develop detailed procurement specifications. However, users with limited staff and resources will frequently employ less rigorous procurement practices. They generally use or rely on: (1) specifications developed by other hospitals; (2) Federal, e.g., VA or DOD, procurement specifications; (3) specifications provided in the manufacturers' sales literature; (4) voluntary standards; (5) existing Federal, State, and local codes; (6) the integrity of the manufacturer.

Borrowed procurement specifications may not be adequate for the particular user. Sometimes users will cite several voluntary standards, private standards, and Federal specifications, attempting to ensure the safety and effectiveness of a device without incurring the cost of developing procurement specifications. In such a case, manufacturers must then test and certify products to each standard, a process that results in increased costs to the users.

Need for Uniformity

There are many different voluntary standards for electrical safety employed by manufacturers and users of electromedical devices. This has an adverse effect on both the manufacturers and the users of devices. Manufacturers, for example, may have to comply with State and local codes, as well as hospital or other user procurement specifications. Manufacturers may be unwilling to recertify their product to a standard referred to by users where that standard differs from one to which the device has already been certified. The result is that users may be precluded from purchasing

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certain devices. If manufacturers have to retest and recertify a device to different specifications established by individual users, the result may be increased production costs that ultimately are passed on to the medical user and to the public. Higher device costs may result in fewer purchased devices, which could adversely affect patient care. In States without codes for electrical safety and construction, small hospitals, clinics, and doctors' offices that cannot develop procurement specifications may be left with little or no protection from unsafe electromedical devices.

FDA believes that establishing uniform performance standards, including the design and construction of electromedical devices, will alleviate confusion and inefficiency caused by the existence of a variety of dissimilar standards.

Courses of Action

FDA may be able to reasonably assure the safe and effective performance of electromedical devices through a variety of different activities, such as:

1. Establishing a mandatory standard. Mandatory standards are established under the provisions of section 514 of the act (21 U.S.C. 360d and 21 CFR Part 861). FDA can require compliance with a mandatory standard and can take regulatory action against manufacturers that fail to comply or devices that fail to conform to that standard. Moreover, under section 521(a) of the act (21 U.S.C. 360k(a)), a mandatory standard preempts any State or local requirement with respect to a device to which the standard applies if the requirement is different from or in addition to the mandatory standard and relates to the safety or effectiveness of the device or any other matter included in the standard. However, FDA believes that section 521(a) does not preempt State or local requirements of general applicability where the purpose of the requirement relates to products in addition to devices, that is, where the requirement only incidentally applies to devices (e.g., general fire and electrical codes). See § 808.1(d)(1) of the regulations (21 CFR 808.1(d)(1)). Where preemption under section 521(a) does occur, FDA may, upon the application of a State or locality and after notice and opportunity for oral hearing, grant a State or local government an exemption from preemption with respect to a requirement in accordance with section 521(b) (21 U.S.C. 360k(b)). FDA's regulations implementing section 521 are found in Part 808 of the regulations (21 CFR Part 808). The contents of mandatory standards and the procedures for developing them are set forth in final regulations that were published in the **Federal Register** of February 1, 1980 (45 FR 7474) and are found in Part 861 of the regulations (21 CFR Part 861).

2. Endorsing and promoting an existing voluntary standard or portions of existing voluntary standards. FDA's proposed voluntary standards policy for medical devices, published in the **Federal Register** of February 1, 1980 (45 FR 7490), explains the advantages of endorsement of voluntary standards, details the circumstances under which FDA would endorse voluntary standards, establishes the relationship between mandatory and voluntary standards, and sets forth the criteria for endorsement of voluntary standards. In contrast to mandatory standards, FDA could take regulatory action against manufacturers of devices that fail to meet a voluntary standard only if the device's labeling or advertising claims to meet that standard. Furthermore, where FDA would endorse all or part of a voluntary standard, no preemption of State and local requirements to which the standard applies would occur.

3. Establishing an FDA guideline. FDA guidelines establish procedures or standards of general applicability and do not include decisions or advice limited to particular situations. The procedure or practices stated in guidelines are not legal requirements but are acceptable to FDA for a subject matter which falls within the laws administered by the agency. A guideline represents the formal position of FDA on the matter involved, and except in unusual situations involving an immediate and significant danger to health, obligates the agency to follow it until it is amended or revoked. FDA guidelines are fully explained in § 10.90(b) of the agency's regulations (21 CFR 10.90(b)).

All devices, whether the subject of a mandatory or voluntary standard or a guideline, are subject to the act's misbranding and adulteration provisions.

FDA requests comments and supporting data and information on which of these courses of action would best provide reasonable assurance of the safe performance of electromedical devices. If FDA determines from the submissions received that uniform standards would reasonably assure the safe performance of these devices, the agency would adopt a course of action to achieve the establishment of such standards.

FDA Action

FDA has reviewed and evaluated many of the existing electromedical device safety standards, including those listed in Table I. FDA believes that a standard combining provisions of ANSI/AAMI SCL-12/78 and IEC 601-1 would provide reasonable assurance of the safe performance of electromedical devices.

FDA favors the risk current limits contained in ANSI/AAMI SCL-12/78 because these limits are more stringent than those in IEC 601-1 and the widely recognized UL 544 standards. ANSI/AAMI SCL-12/78 does not, however, set standards for those design and construction features of electromedical devices that are unrelated to risk currents. FDA considers certain design and construction parameters, in addition to risk current limits, to be important to ensure the safe performance of electromedical devices. FDA is considering the applicability of those portions of IEC 601-1 that affect design and construction that do not conflict with ANSI/AAMI SCL-12/78. The review of international standards such as IEC 601-1 is mandated by the General Agreement on Trade and Tariff (GATT), which has been approved by the United States (Trade Agreements Act of 1979 (19 U.S.C. 2531)). The GATT Code encourages the use of international standards, thereby removing trade barriers resulting from national standards. Thus, FDA is interested in receiving comments that identify areas of conflict between IEC 601-1 and present practices and conventions in use in the United States.

FDA requests comments and supporting data and information about the suitability of ANSI/AAMI SCL-12/78 and IEC 601-1 for use as the basis of a mandatory standard, for endorsement under the proposed February 1, 1980 voluntary standards policy, or for adoption as a guideline.

Interested persons may on or before November 4, 1980, submit to the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, written comments, data, and information concerning uniform standards for electromedical devices and the use of ANSI/AAMI SCL-12/78 and IEC 601-1. Such submissions will be considered in determining FDA's course of action regarding uniform standards for electromedical devices. Four copies of any submissions are to be submitted, except that individuals may submit one copy. Submissions are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document and may be seen in the office above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27124 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

Public Health Service

July List of Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, July list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, service area revisions and corrections are reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register**. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. INA Healthplan of Texas, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 6350 LBJ Freeway, Suite 248, Dallas, Texas 75240. Service area: Dallas and Tarrant Counties, Texas and zip codes in the following counties:

Collin

75002
75023-4
75034
75069
75073-5
75080-1
75098

Denton

75006-7
75028
75056
75065
75067
76052
76226-7
76247
76262

Ellis

75125
75141
75165
75172

Kaufman

75126
75142
75160
75182

Rockwall

75087

Date of qualification: July 1, 1980. (Achieved preoperational qualification on July 1, 1980.)

2. The Health Plan of the Upper Ohio Valley, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), Suite 900 Riley Building, 14th and Chapline Streets, Wheeling, West Virginia 26003. Service area: Ohio and Marshall Counties, West Virginia; and Belmont County, Ohio. Date of qualification: July 9, 1980.

3. Intergroup Prepaid Health Services of Indiana, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), CNA Plaza, Chicago, Illinois 60685. Service area: Adams, Allen, Blackford, DeKalb, Delaware, Grant, Huntington, Jay, Lake, Madison, Miami, Noble, Porter, Randolph, Wabash, Wells, and Whitley, Indiana. Date of qualification: July 10, 1980.

4. HMO Illinois, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), 233 North Michigan Avenue, Suite 1323, Chicago, Illinois 60601. Service area: Cook, DuPage, Fulton, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford Counties, Illinois; Lake and Porter Counties, Indiana. Date of qualification: June 15, 1980. (Transitionally qualified on June 15, 1977—inadvertently listed as operationally qualified 42 FR 3869-50 and 45 FR 13896.)

Service Area Revisions and Corrections

1. Health Maintenance Network of Southern California, dba Health Net, P.O. Box 9103, Van Nuys, California 91409. Service area: Add the following to the information contained in the cumulative list of qualified HMOs published on March 3, 1980, in the **Federal Register**, 45 FR 13897:

Santa Barbara County

93001
93003
93010
93015
93021-3
93030
93040-2
93060
93066
93013
93017
93067
93101
93103
93105
93108-11
93114
93252
93254
93427
93436
93440
93460
93463

Riverside County

92252
92256
92258
92268
92274
92277
92284

Effective date: Junly 25, 1980.

2. Intergroup Prepaid Health Services, Inc., CNA Plaza, Chicago, Illinois 60685. Service area: The information contained in the cumulative list of qualified HMOs published on March 3, 1980, in the **Federal Register**, 45 FR 13897 should be revised to read as follows:

Illinois

Counties: Champaign, Cook, DuPage, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will and Woodford.

Indiana

Counties: Lake and Porter.

Effective date: July 10, 1980.

3. CoMed, Inc., Cedar Knolls Plaza, 14 Ridgedale Avenue, Cedar Knolls, New Jersey 07927. Service area: Changes should be made in the zip codes listed in the supplement to the March list published on June 27, 1980, in the **Federal Register**, 45 FR 43476, as follows:

Warren County—Add 07843
Morris County—Add 07961 and 07869
Somerset County—Correct 08376 to read 08876
Passaic County—Delete 07439

Effective date: April 4, 1980.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: August 27, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-27202 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FES 80-27]

Colorado and Wyoming; Availability of Final Green River-Hams Fork Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a final environmental impact statement (EIS) for the proposed development of Federal coal resources in the Green River-Hams Fork Coal Production Region of Colorado and Wyoming. Copies of the final EIS are available to the public at the addresses provided below.

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In addition, in accordance with 43 CFR 3420.6–2, BLM is issuing a call for submission to the BLM of written surface owner consents given by qualified surface owners that would permit mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface. Qualified surface owners also have the opportunity to submit written refusals to consent. The legal descriptions of all the tracts considered for regional lease sale schedule in the final EIS are provided in Appendix A of this notice.

ADDRESSES: Single copies of the final EIS may be obtained from and are available for inspection at the following addresses:

Colorado State Office, Bureau of Land Management, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202.
Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625.
Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.
Rawlins District Office, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301.
Office of Public Affairs, Bureau of Land Management, Room 5623, 18th & C Streets, N.W., Washington, D.C. 20204.

Valid written consents or written refusals to consent are to be filed with the Colorado State Office at the address given above.

DATES: The dates for filing valid surface owner consent agreements, or evidence thereof, are contained below in the "SUPPLEMENTARY INFORMATION" section of this notice.

FOR FURTHER INFORMATION CONTACT: Cecil Roberts, Project Manager, Green River-Hams Fork Regional Coal EIS, Colorado State Office, Bureau of Land Management, 1600 Broadway, Denver, Colorado 80202, Telephone (303) 837–4325.

SUPPLEMENTAL INFORMATION: The Final Green River-Hams Fork Regional Coal EIS, which is part of the leasing process under the Federal coal management program (43 CFR 3400), analyzes the environmental impacts that would result from the development of 16 coal tracts proposed for leasing in Wyoming and Colorado. The EIS analyzes the cumulative regional environmental impacts of five leasing level alternatives, including the no action alternative, as well as other related regional developments in the Green River-Hams Fork Federal Coal Production Region.

Copies of the draft EIS were sent to approximately 800 Federal, State, and local government agencies, non-governmental organizations, and private citizens for their review and comment. Public hearings were held in Denver and Craig, Colorado, and Rawlins and Cheyenne, Wyoming. All substantive comments on the adequacy of the draft EIS received during the public review process have been responded to in Section 5 of the final EIS.

In accordance with 43 CFR 3420.6–2 of the coal management regulations, the BLM is also requesting that written surface owner consent agreements, or evidence thereof, given by qualified surface owners for lands within the region be submitted to the BLM Colorado State Office at the address given above. Valid written consents for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government will be accepted until 30 working days prior to the publication of each lease sale notice for the specific lands involved (identified in Appendix A) in accordance with the announced schedule of regional lease sales established by Secretarial decision. It is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5 (pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the 3 year period the authorized officer shall include periods during which title was owned by a relative or such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, consents entered into after the August 4, 1977, enactment of the Surface Mining Control and Reclamation Act must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

Surface owner consents given by a qualified surface owner prior to August 4, 1977, do not need to be transferable. However, current Departmental policy allows that tracts be offered only through intertract bidding if the consent is not transferable.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Colorado State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(zz)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Colorado State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands. Additional information on written statements of refusal or valid written surface owner consents may be obtained from the Project Manager, Green River-Hams Fork Regional EIS, at the address given above.

For the tracts analyzed in the Final Green River-Hams Fork Regional Coal EIS, the Secretary of the Interior's decision and the announcement of a final lease sale schedule is anticipated in mid-October 1980. As part of that decision, the Secretary may choose to hold a series of sales beginning in January 1981. If the Secretary's decision should be to hold competitive lease sales in January 1981, the publication of sale notices for the specified tracts to be offered would be published approximately December 10, 1980. For those tracts specifically identified in that December notice, valid written consents would be required no later than October 27, 1980. For other tracts (identified in Appendix A) that may be offered later in 1981, valid written consents would be required at a later date, prior to the publication of each sale notice. In accordance with 43 CFR 3422.2(a), publication of each sale notice would be 30 days prior to the announced sale date.

Dated: August 28, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved:

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Appendix A.—Legal Description of Federal Coal in the Hayden Gulch Tract

T. 5 N., R. 88 W., 6th P. M.,
  Sec. 18, Lot 17;
  Sec. 19, Lots 7, 8, 13, 14;
  Sec. 30, Lots 7, 8, 13, 14;
  Sec. 31, Lot 7.
T. 5 N., R. 89 W., 6th P. M.,
  Sec. 10, Lots 7, 8, 9, 14, 15;
  Sec. 11, Lots 3 through 8, 15 through 18;
  Sec. 13, Lots 6, 10 through 17;
  Sec. 14, Lots 1 through 17 and all of Tract 52 lying within Section 14, whether or not contained in such lots (All);
  Sec. 15, Lots 1 through 16;
  Sec. 16, Lots 3, 4, 8, 9, 10;
  Sec. 21, N½, N½Se¼;
  Sec. 22, All;
  Sec. 23, All;
  Sec. 24, All'
  Sec. 25, All;
  Sec. 26, N½, N½S½;
  Sec. 27, N½NE¼.

Containing 6,015.99 acres in Routt County, Colorado.

Legal Description of Federal Coal in Iles Mountain Tract

T. 5 N., R. 92 W., 6th P. M.,
  Sec. 3, Lot 17;
  Sec. 10, Lot 3, NE¼, SE¼NW¼, S½;
  Sec. 11, SW¼NW¼, W½SW¼, SE¼SW¼, W½SW¼SE¼;
  Sec. 13, S½NW¼, SW¼, W½SE¼;
  Sec. 14, W½NW¼NE¼, S½NE¼, NW¼, S½;
  Sec. 15, All;
  Sec. 22, Lot 1, E½NE¼, NE¼NW¼;
  Sec. 23, N½, SE¼;
  Sec. 24, All;
  Sec. 25, N½N½.

Containing 3,782.10 acres, more or less, in Moffat County.

Legal Description of Federal Coal in the Lay Tract

T. 8 N., R 92 W., 6th P. M.,
  Sec. 19, Lot 8, SE¼SW¼, S½SE¼;
  Sec. 30, Lots 5 through 8, E½, E½W½ (All);
  Sec. 31, Lot 5, N½NE¼, NE¼NW¼.
T. 8 N., R. 93 W., 6th P. M.,
  Sec. 20, Lots 1, 2, S½SE¼;
  Sec. 21, Lots 5 through 8, S½SW¼;
  Sec. 22, SW¼SW¼;
  Sec. 24, SE¼SW¼, S½SE¼;
  Sec. 25, All;
  Sec. 26, S½N½, S½;
  Sec. 27, NW¼NW¼, S½N½, S½;
  Sec. 28, Lots 1 through 4, N½NW¼, S½N½, S½, (All);
  Sec. 29, Lots 1, 3 through 10, 12, NE¼, N½SE¼, SE¼SE¼;
  Sec. 30, Lots 3, 4, E½SW¼, SE¼;
  Sec. 31, Lots 1 through 4, E½, E½W½ (All);
  Sec. 32, Lots 1, 2, 4, through 10, 12, 13, 15, NW¼NW¼, NE¼SE¼, S½SE¼;
  Sec. 35, N½NE¼.
T. 7 N., R. 94 W., 6th P. M.,
  Sec. 1, Lots 6, 7, 8, S½N½, S½;
  Sec. 2, Lots 5 through 8, S½N½, S½ (All);
  Sec. 3, Lots 5 through 8, S½N½, S½ (All);
  Sec. 4, Lot 5, S½N½, S½.
T. 8 N., R. 94 W., 6th P. M.,
  Sec. 25, S½;
  Sec. 26, S½;
  Sec. 27, SE¼;
  Sec. 33, All;
  Sec. 34, All;
  Sec. 35, All.

Containing 10,730.45 acres, more or less, in Moffat County.

Legal Description of Federal Coal in the Pinnacle Tract

T. 4 N., R. 86 W., 6th P.M.
  Section 7: Lots 5, 6
T. 5 N., R. 87 W., 6th P.M.
  Section 36: Lots 6 thru 9, 14, 15
  Containing 273.22 Acres in Routt County

Legal Description of Federal Coal in the Grassy Creek Track

T. 5 N., R. 87 W., 6th P.M.
  Section 20: NE¼, E½SW¼, W½SE¼
  Section 29: NE¼NW¼, SW¼NW¼, NW¼SW¼, E½SW¼
  Containing 520.00 Acres, More or Less, in Routt County

Legal Description of Federal Coal in the Williams Fork Mountains Tract

T. 5 N., R. 89 W., 6th P.M.
  Section 4: Lots 1 thru 4, S½N½, S½ (All)
  Section 5: Lots 5 thru 19 (All)
  Section 6: Lots 1, 2, 4, 6, 7, S½NE¼, E½SW¼, SE¼
  Section 7: Lots 1, 2, NE¼, E½NW¼
  Section 8: Lots 1 thru 17 (All)
  Section 9: Lots 1 thru 13
  Section 10: Lots 1 thru 6, 10 thru 13
  Section 16: Lots 1, 2, 5, 6, 7
  Section 17: All
  Section 18: SE¼
  Section 19: N½NE¼
  Section 20: N½N½
  Tract 43 (which lies in what would otherwise be parts of Sections 5 and 8)
T. 5 N., R. 90 W., 6th P.M.
  Section 1: Lots 5 thru 20 (All)
  Section 2: Lots 5 thru 20 (All)

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Section 3: Lots 5 thru 20 (All)
Section 4: Lots 5, 6, 7, 10 thru 15, 18, 19, 20
Section 9: Lots 1, 2, 3, 6, 7, 8
Section 10: Lots 1 thru 10, 15, 16
Section 11: Lots 1 thru 16 (All)
Section 12: Lots 1 thru 16 (All)
Section 13: Lots 1 thru 8
Section 14: Lots 1 thru 8
Containing 10,120.04 Acres, More or Less, in Moffat and Routt Counties

Legal Description of Federal Coal in the Bell Rock Track

T. 6 N., R. 91 W., 6th P.M.
Section 30: Lot 8
T. 6 N., R. 92 W., 6th P.M.
Section 25: Lots 1, 2, N½
Containing 431.40 Acres in Moffat County

Legal Description of Federal Coal in Danforth Hills No. 1 Tract

T. 3 N., R. 93 W., 6th P.M.
Section 11: Lots 3, 5, 6, 8, 13, 14, 16, NW¼, N½SW¼, SW¼SW¼
Section 14: Lots 4, 5
Section 15: Lots 1, 3, 5, 11, 12, 14, NW¼, W½SW¼
Containing 876.20 Acres, More or Less, in Moffat County

Legal Description of Federal Coal in Danforth Hills No. 2 Tract

T. 3 N., R. 93 W., 6th P.M.
Section 5: Lots 1, 2, S½NE¼
Section 7: Lots 4, 5, 6, 9, 10, NE¼NE¼, S½NE¼, SE¼
Section 8: All
Section 17: All
Section 18: Lots 1 thru 6, E½, E½W½ (All)
Containing 2,613.67 Acres, More or Less, in Moffat County

Legal Description of Federal Coal in Danforth Hills No. 3 Tract

T. 3 N., R. 93 W., 6th P.M.
Section 19: Lots 1 thru 4, E½, E½W½ (All)
Section 20: Lot 1, N½, SW¼, N½SE¼, SW¼SE¼
Section 21: Lots 1, 3, 5 thru 8, 10, N½, N½SW¼, NW¼SE¼
Section 28: Lots 4 thru 8, 12, 13, 15
Section 29: Lots 2, 3, 5, 8
Containing 1,960.96 Acres, More or Less, in Rio Blanco County

Legal Description of Federal Coal in the Empire Tract

T. 5 N., R. 91 W., 6th P.M.
Section 5: Lots 5 thru 12
Section 8: Lots 1 thru 8
Containing 681.55 Acres, More or Less, in Moffat County

Legal Description for Federal Coal in the Medicine Bow Tract

T. 23 N., R. 83 W., 6th P.M., Wyoming
Section 4: All
Section 6: All
Section 8: All (Bypass Application)
Section 18: All
Section 20: All (Bypass Application)
Section 30: SW¼, N½NE¼, N½E½NE¼, S½S½SE¼
T. 24 N., R. 83 W., 6th P.M., Wyoming
Section 30: S½, S½N½
Section 32: All
T. 23 N., R. 84 W., 6th P.M., Wyoming
Section 12: All
Section 24: Lots E½NE¼NE¼
T. 24 N., R. 84 W., 6th P.M., Wyoming
Section 36: NE¼, E½NW¼, E½SE¼
4,980 Acres

Legal Description of Federal Coal in the Seminoe II Tract

T. 22 N., R. 81 W., 6th P.M., Wyoming
Section 6: All (Bypass Application)
Section 8: S½NW¼, NW¼NW¼, N½SW¼, SE¼SW¼
T. 23 N., R. 81 W., 6th P.M., Wyoming
Section 20: NW¼, E½SW¼, SW¼SW¼, SE¼NW¼SW¼, W½SE¼, SW¼NE¼, W½NW¼NE¼, W½E½NW¼NE¼
Section 30: All
Section 32: W½
T. 23 N., R. 82 W., 6th P.M., Wyoming
Section 2: SE¼
2,440 Acres

Legal Description of Federal Coal in the Rosebud Tract

T. 23 N., R. 80 W., 6th PM, Wyoming
Section 6: All
T. 23 N., R. 81 W., 6th PM, Wyoming
Section 2: S½
Section 10: NE¼, SW¼SW¼NW¼, SE¼SE¼NW¼, NE¼NE¼NW¼, N½SE¼, SW¼SE¼
Section 12: All
Section 14: All
Section 24: N½
2,870 Acres

Legal Description of Federal Coal in the Red Rim Tract (assumes winter range acceptable)

T. 19 N., R. 90 W., 6th PM, Wyoming
Section 4: W½, NE¼
Section 6: W½SE¼, S½NE¼, NE¼NE¼
Section 8: SW¼SW¼, N½SE¼, SE¼NW¼, S½NE¼, NE¼NE¼
Section 18: All
Section 30: W½, NE¼, NW¼SE¼
T. 19 N., R. 91 W., 6th PM, Wyoming
Section 24: All
Section 26: E½E½
T. 20 N., R. 89 W., 6th PM, Wyoming
Section 4: N½SW¼, W½SW¼SW¼, NE¼SW¼SW¼, lot 3, lot 4
Section 6: All
Section 8: W½, NE¼
Section 18: All
T. 20 N., R. 90 W., 6th PM, Wyoming
Section 12: E½, SW¼, E½NW¼, SW¼NW¼
Section 22: E½, SW¼
Section 24: All
Section 26: All
Section 28: SE¼, E½NE¼, SE¼SW¼
Section 32: E½SE¼, SW¼SE¼
Section 34: All
T. 21 N., R. 89 W., 6th PM, Wyoming
Section 24: SE¼, S½SW¼, S½NE¼SW¼
Section 26: S½NW¼NE¼, NE¼NE¼, S½NE¼, SE¼, S½SW¼, NE¼SW¼, SE¼NW¼, S½NW¼SW¼, NE¼NW¼SW¼
Section 34: SE¼, E½NE¼, E½SW¼, SW¼SW¼
8,295.28 Acres

Legal Description of Federal Coal in the China Butte Tract

T. 19 N., R. 91 W., 6th PM, Wyoming
Section 34: All
T. 18 N., R. 91 W., 6th PM, Wyoming
Section 2: NW¼, S½S½, NW¼SW¼, NW¼SE¼
Section 10: All
Section 12: All
Section 14: All
Section 22: All
Section 28: All
Section 32: All
Section 34: NW¼, S½
T. 17 N., R. 91 W., 6th PM, Wyoming
Section 4: S½NE¼, NW¼NE¼, NW¼
Section 6: N½N½, SE¼NE¼, NE¼SW¼NE¼, NE¼NE¼SE¼, NE¼NE¼SW¼NE¼
5,862 Acres

[FR Doc. 80-26997 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

California Desert Conservation Area, Final Wilderness Inventory; Dismissal of an Appeal

On January 7, 1980, a notice was published in the **Federal Register** (page 1456) that certain of my final wilderness inventory decisions had been appealed to the Interior Board of Land Appeals. This Board issued an order dated August 5, 1980, dismissing the case of one appellant (Docket No. IBLA 80–272) for failing to file a statement of reasons in support of his appeal. Consequently, my final wilderness inventory decisions for the California Desert Conservation Area units 207, 251, and 251A are now in effect. These decisions were announced in the **Federal Register** on March 30, 1979 (page 19044). Minor changes have been made in the boundaries of unit 207 but this has no significant effect on the portion designated as a Wilderness Study Area.

The remaining inventory units listed in my January 7, 1980, **Federal Register** notice referenced above remain under appeal.

Ron Hofman,
Associate State Director.

[FR Doc. 80-26888 Filed 9-4-80; 8:45 am]

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[F-14955-A and F-14955-B]

Alaska Native Claims Selections

On April 4 and October 16, 1974, the Wales Native Corporation, for the Native village of Wales, filed selection applications F-14955-A and F-14955-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Wales.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications F-44298, F-44316, F-44317 and F-44335, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Wales area.

The following described lands have been properly selected by Wales Native Corporation or segregated by applications pursuant to the public land laws. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

State Selection F-44298

T. 1 N., R. 43 W.
Secs. 3, 4, 5 and 6, all;
Sec. 7 (fractional), all;
Secs. 8, 9 and 10, all;
Secs. 15 and 16, all;
Secs. 17, 18, 20 and 21 (fractional), all;
Sec. 22, all.
Containing approximately 8,046 acres.
T. 1 N., R. 44 W.
Sec. 1, all;
Secs. 2, 3 and 4 (fractional), all;
Secs. 11 and 12 (fractional), all.
Containing approximately 1,640 acres.

State Selection F-44316

T. 2 N., R. 43 W.
Secs. 31, 32, 33 and 34, all.
Containing approximately 2,546 acres.

State Selection F-44317

T. 2 N., R. 44 W.
Secs. 5, 6, 7 and 8, all;
Secs. 16 and 17, all;
Sec. 18, including Mineral Survey 2199;
Sec. 19 (fractional), all;
Secs. 20, 21 and 22, all;
Secs. 25, 26 and 27, all;
Secs. 28, 29, 30 and 33 (fractional), all;
Secs. 34, 35 and 36, all.
Containing approximately 12,303 acres.

State Selection F-44335

T. 3 N., R. 43 W.
Secs. 22 to 27, inclusive, all;
Sec. 36, all.
Containing approximately 4,480 acres.
Aggregating approximately 29,015 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, the applications submitted by the Wales Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 84,233 acres, is considered proper for acquisition by the Wales Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Mineral Survey No. 337A, known as Aspen, Sunrise, Arctic and Fairview Lode Claims situate in the Port Clarence Mining District, Alaska.

Containing 52.315 acres.

Mineral Survey No. 2199, known as the Cape Creek Group, consisting of Beach, Valley, Triangle Bench, Outlet Right Limit Bench, Right Limit Bench No. 1, Cape Limit No. 1 fraction and Cape Creek #1 Claim situate in the Port Clarence Mining District, Alaska.

Containing 159.783 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 1 N., R. 43 W.
Secs. 3, 4, 5 and 6, all;
Sec. 7 (fractional), all;
Secs. 8, 9 and 10, all;
Secs. 15 and 16, all;
Secs. 17, 18, 20 and 21 (fractional), all;
Sec. 22, all.
Containing approximately 8,046 acres.
T. 2 N., R. 43 W.
Secs. 31, 32, 33 and 34, all.
Containing approximately 2,546 acres.
T. 3 N., R. 43 W.
Secs. 2 to 11, inclusive, all;
Secs. 13 to 18, inclusive, all;
Secs. 22 to 27, inclusive, all;
Sec. 36, all.
Containing approximately 14,615 acres.
T. 4 N., R. 43 W.
Sec. 1 (fractional), excluding Native allotments F-16754 and F-19287 Parcel B;
Sec. (fractional), excluding Native allotments F-16754, F-18421 and F-18422;
Sec. 11 (fractional), excluding Native allotment F-18422;
Sec. 12 (fractional), all;
Secs. 24, 25, 26 and 27 (fractional), all;
Secs. 31, 32, 33 and 34 (fractional), all;
Secs. 35 and 36, all.
Containing approximately 4,921 acres.
T. 1 N., R. 44 W.
Sec. 1, all;
Secs. 2, 3 and 4 (fractional), all;
Secs. 11 and 12 (fractional), all.
Containing approximately 1,640 acres.
T. 2 N., R. 44 W.
Secs. 5, 6, 7 and 8, all;
Secs. 16 and 17, all;
Sec. 18, excluding Mineral Survey 2199 and Public Land Order (PLO) 1672;
Sec. 19 (fractional), excluding PLO 1672;
Secs. 20, 21 and 22, all;
Secs. 25, 26 and 27, all;
Sec. 28 (fractional), excluding Native allotment F-19027 Parcel B;
Sec. 29 (fractional), all;
Sec. 30 (fractional), excluding PLO 1672;
Sec. 33 (fractional), excluding Native allotment F-19027 Parcel B;
Secs. 34, 35 and 36, all.
Containing approximately 11,853 acres.
T. 3 N., R. 44 W.
Secs. 1 and ?. all;
Sec. 3 (fractional), excluding Native allotment F-16756;
Secs. 4, 8 and 9 (fractional) all;
Secs. 10, 11 and 12, all;
Secs. 14, 15 and 16, all;
Secs. 17 and 18 (fractional), all;
Secs. 19, 20, 21 and 22, all;
Secs. 28 to 32, inclusive, all.
Containing approximately 12,339 acres.
T. 4 N., R. 44 W.
Secs. 1, 2, and 8 (fractional), all;
Sec. 9 (fractional), excluding Native allotment F-19027 Parcel A;
Sec. 10 (fractional), excluding Native allotment F-19287 Parcel A;
Secs. 11 and 12 (fractional), all;
Sec. 16 (fractional), excluding Native allotment F-19027 Parcel A;
Secs. 17, 18, 19 and 20 (fractional), all;
Secs. 27, 29 and 30 (fractional), all;
Secs. 34, 35 and 36 (fractional), all.
Containing approximately 4,465 acres.
T. 2 N., R. 45 W.
Sec. 1, all;
Sec. 2, excluding Mineral Survey 337;
Secs. 3 and 4, all;
Sec. 5 (fractional), excluding U.S. Survey 779, ANCSA Sec. 3(e) Applications F-23135 and F-70028;
Secs. 6 and 8 (fractional), all;
Secs. 9 and 10, excluding Mineral Survey 336;
Sec. 11, excluding Mineral Surveys 336 and 337;
Sec. 12, excluding Mineral Survey 336 and PLO 1876;
Sec. 13, excluding Mineral Survey 2199 and PLO 1672;
Sec. 14, excluding Mineral Survey 336 and PLO 1672;
Sec. 15, excluding Mineral Surveys 336, 409 and PLO 1672;
Sec. 16 (fractional), excluding Mineral Survey 336;
Secs. 17 and 21 (fractional), all;
Sec. 22, excluding PLO 1672;
Sec. 23, excluding Mineral Surveys 336B, 337B, 409B, 2199, ANCSA Sec. 3(e) Application F-64899 and PLO 1672;
Sec. 24, excluding Mineral Survey 2199, ANCSA Sec. 3(e) Application F-64899 and PLO 1672.
Containing approximately 8,724 acres.
T. 3 N., R. 45 W.
Secs. 3 to 7 (fractional), inclusive, all;
Sec. 8, all;
Secs. 9 and 13 (fractional), all;
Secs. 16 to 20 (fractional), inclusive, all;
Secs. 23 and 24 (fractional), all;
Sec. 25, all;
Secs. 26 to 31 (fractional), inclusive, all;
Secs. 32 to 36, inclusive, all.
Containing approximately 10,972 acres.
T. 4 N., R. 45 W.
Sec. 13 (fractional), all;
Secs. 23 to 28 (fractional), inclusive, all;
Secs. 32 to 36 (fractional), inclusive, all.
Containing approximately 3,900 acres.
Aggregating approximately 84,021 acres.
Total aggregated acreage, 84,233 acres.

The conveyance issued for the surface estate of the lands described above

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shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14955–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1C3, C5, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from Sec. 5, T. 1 S., R. 43 W., Kateel River Meridian, northwesterly, following the coast to Wales then northeasterly along the coast to public lands and Shismaref. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 7 C5, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the village of Wales in Sec. 5, T. 2 N., R. 45 W., and Sec. 32, T. 3 N., R. 45 W., Kateel River Meridian, northeasterly to site EIN 7a C4, C5, D1, on the shore of Lopp Lagoon in Sec., 28, T. 3 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 7a C4, C5, D1) A one (1) acre site easement, upland of the mean high-tide line, in Sec. 28, T. 3 N., R. 45 W., Kateel River Meridian, on the south shore of Lopp Lagoon. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 10a C5, D1) An easement for an existing access trail, twenty-five (25) feet in width, from EIN 25 C5, K, in Sec. 13, T. 2 N., R. 45 W., Kateel River Meridian, northerly to trail EIN 10b C5, D1, in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 10b C5, D1) An easement for an existing access trail, twenty-five (25) feet in width, from trail EIN 10a C5, D1, in Sec. 12, T. 2 N., R 45 W.; Kateel River Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 12 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the mean high-tide line on the shore of the Bering Sea and York, in Sec. 18, T. 1 N. R. 43 W., Kateel River Meridian, northeasterly, paralleling the Anikovik River to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 24 C5, K) An easement, twenty (20) feet in width, for an existing communications and powerline from Tin City Air Force Base, easterly to the Air Force airstrip in Sec. 24, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of the communication and powerline facility. The users allowed are limited to the United States Government and its authorized agents and assignees.

h. (EIN 24a C5, K) An easement, sixty (60) feet in width, for an existing road from the Tin City Air Force Base, easterly to the Air Force airstrip in Sec. 24, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States Government and its authorized agents and assignees.

i. (EIN 25 C5, K) An easement, sixty (60) feet in width, for an existing road net from Tin City Air Force Base in Sec. 23, T. 2 N., R. 45 W., Kateel River Meridian, northerly to the communications site in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States Government and its authorized agents and assignees.

j. (EIN 25a C5, K) An easement, fifty (50) feet in width, for an existing access road, power and communications cable from the north boundary of Tract A, PLO No. 1672 in Sec. 23, T. 2 N., R. 45 W., Kateel River Meridian, northeasterly, thence northwesterly to the south boundary of Tract E of PLO No. 1876 in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of the access road, power and communication cable facility. The users allowed are limited to the United States Government and its authorized agents and assignees.

k. (EIN 27 C5, K) An easement, sixty (60) feet in width, for an existing road in Sec. 13, T. 2 N., R. 45 W., Kateel River Meridian, connecting with two points of road EIN 25 C5. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States Government and its authorized agents and assignees.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F–19618, containing approximately 239.68 acres, located within SW¼ Sec. 29, SE¼ Sec. 30, E½ Sec. 31 and W½W½ Sec. 32, T. 3 N., R. 45 W., Kateel River Meridian, issued to the State of Alaska, Department of Public Works, Division of Aviation (now the Department of Transportation and Public Facilities) under the provisions of the Act of May 24, 1928 (45 Stat. 728–729; 43 U.S.C. 211–214);

4. A right-of-way, F–16947, located in W½ Sec. 5, T. 2 N., R. 45 W., Kateel River Meridian, for an electric distribution line, ten (10) feet each side of the centerline, and power plant site issued to Alaska Village Electric Co-operative, Incorporated, under the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961);

5. Grazing Permit, F–698, to Norman Lee Ongtowasruk within Tps. 1, 2, 3 and 4 N., Rs. 43 and 44 W., and Tps. 2, 3 and 4 N., R. 45 W., Kateel River Meridian, under the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k);

6. Free Use Permit, F–22430, located within Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian, issued to the Department of the Air Force under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601–602). (This Free Use Permit is expired and will be closed of record when the required rehabilitation has been completed and the compliance check finalized.); and

7. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Wales Native Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 84,233 acres of this entitlement have been approved for conveyance. The remaining entitlement of 7,927 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Wales Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

Lopp Lagoon is tidally influenced.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the NOME NUGGET. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 6, 1980 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research & Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Wales Native Corporation, Wales, Alaska 99783.

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Barbara A. Yoppke,

Acting Chief, Branch of Adjudication.

[FR Doc. 80-27183 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Northern and Central California Outer Continental Shelf; Availability of Final Environmental Statement Regarding Proposed Northern and Central California OCS Oil and Gas Lease Sale No. 53

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 243 tracts consisting of 532,588 hectares (1.3 million acres) of submerged Federal lands off the coast of northern and central California (OCS Sale No. 53).

Single copies of the final environmental statement can be obtained from the Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 West 6th Street, Los Angeles, California 90017, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for inspection in the following public libraries: Crescent City Public Library, 450 H Street, Crescent City, CA; North Coast Regional Coastal Commission, 1656 Union Street, Eureka, CA; Humboldt State University Library, Documents Department, Arcata, CA; Mendocino County Library, 353 North Main Street, Ft. Bragg, CA; Mendocino Environmental Center, Mendocino, CA; Ukiah Library, 105 N. Main, Ukiah, CA; Coastal Planning Office, 311-G Redwood Avenue, Ft. Bragg, CA; North Bay Cooperative Library System, Third & E Streets, Santa Rosa, CA; Bodega Bay Volunteer Fire Dept., Highway One, Bodega Bay, CA; Sebastopol Public Library, 7140 Bodega Avenue, Sebastopol, CA; Petaluma Free Library, Fourth & 'B' Streets, Petaluma, CA; Healdsburg Library, 221 Matheson Street, Healdsburg, CA; Mill Valley City Library, 26 Corte Madera Avenue, Mill Valley, CA; Fairfax Library, 2097 Sir Francis Drake Boulevard, Fairfax, CA; Novata Library, 1720-11 Boulevard, Novato, CA; Stinson Library, 3470 Shoreline Highway, Stinson Beach, CA; Corte Madera Library, 707 Meadowsweet Drive, Corte Madera, CA; Salinas Library, 110 W. San Luis Street, Salinas, CA; Monterey Public Library, 625 Pacific Street, Monterey, CA; Bruggemeyer Memorial Library, 318 S. Ramona, Monterey Park, CA; Association of Monterey Bay Area Governments, Monterey, CA; Pacific Grove Library, 550 Central Avenue, Pacific Grove, CA; Grover City Library, 101 S. 9th Street, Grover City, CA; Morro Bay Library, 410 Morro Bay Boulevard, Morro Bay, CA; Nipomo Elementary School, County Library, 333 West Taft, Nipomo, CA; California Polytechnic State University Library, San Luis Obispo, CA; San Luis Obispo City-County Library, 1354 Bishop Street, San Luis Obispo, CA; Environmental Center of San Luis Obispo County, 985 Palm, San Luis Obispo, CA; Pismo Beach City Library, 1000 Bellow Avenue, Pismo Beach, CA; Goleta Public Library, 500 N. Fairview Avenue, Goleta, CA; Santa Maria Public Library, 420 S. Broadway, Santa Maria, CA; Santa Barbara Public Library, Santa Barbara Campus, Santa Barbara, CA; South Central Coast Regional Commission, 1224 Coast Village Circle, Suite 36, Santa Barbara, CA; California State Lands Commission, 1807 13th Street, Sacramento, CA; California State Law Library, Sacramento, CA; Point Reyes Library, 4th & A Streets, Point Reyes, CA; Marin County Library, Pacific Center Branch, Civic Center, San Rafael, CA; North Central Coast Regional Commission, Holiday Plaza Office Building, Suite 130, 1050 Northgate Drive, San Rafael, CA; University of San Francisco, Richard A. Gleeson Library, 2130 Fulton, San Francisco, CA; California Coastal Zone Commission, 631 Howard Street, San Francisco, CA; San Francisco Public Library, Civic Center, San Francisco, CA; Oakland Public Library, 125 14th Street, Oakland, CA; University of California, Earl Warren Legal Center Law Library, 232 Boalt Hall, Berkeley, CA; Richmond Public Library, Civic Center Plaza, Richmond, CA; Pacifica Public Library, Hilton at Palmetta, Pacifica, CA; Pescadero Public Library, North Road, Pescadero, CA; San Mateo Public Library, 55 West Third, San Mateo, CA; Redwood City Library, 881 Jefferson Avenue, Redwood City, CA; San Jose State University Library, 250 S. 4th Street, San Jose, CA; McHenry Library, University of California, Santa Cruz, CA; Santa Cruz Public Library, 224 Church Street, Santa Cruz, CA; Central

V45/174 SE5 80 UMI

Coast Regional Commission, 701 Ocean Street, Room 300, Santa Cruz, CA.

George D. Lea,

Deputy Director, Bureau of Land Management.

August 27, 1980.

Approved:

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

September 2, 1980.

[FR Doc. 80-27177 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[CA 1583]

California; Order Providing for Opening of Public Lands

August 27, 1980.

In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 30 N., R. 14 E.,
Sec. 21, SW¼SW¼;
Sec. 28, NW¼NW¼.
The area aggregates 80 acres in Lassen County, California.

The lands shall be open to operation of the public land laws generally at 10 a.m. on October 6, 1980, subject to valid existing rights and the provision of existing withdrawals. They have been and continue to be open to the mining laws (30 U.S.C. Ch. 2) and the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27203 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 1387]

California; Order Providing for Opening of Public Land

August 27, 1980.

Pursuant to authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 21, 1977 (42 F.R. 3901), as amended, and pursuant to Solicitor's Order dated August 26, 1949, concerning public domain allotments which have escheated to the United States, the following described land is hereby opened to application, petition, location, and selection, including location under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Mount Diablo Meridian

T. 32 N., R. 9 W.,
Sec. 2, Lots 5 and 6.
The area described contains 84.99 acres of public land.

The land is located in Trinity County about 2 miles northwest of Lewiston, California. Topography varies from nearly flat to rolling hills. Vegetation consists of grass and scattered oak trees.

All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27204 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 1209]

California; Order Providing for Opening of Public Land

August 27, 1980.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

Mount Diablo Meridian

T. 46 N., R. 1 E.,
Sec. 18, NE¼SW¼;
Sec. 19, E½.
The area agggregates 360 acres in Siskiyou County, California.

2. At 10 a.m. on October 6, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27205 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[LA 095452]

California; Order Providing for Opening of Public Land

August 27, 1980.

In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

San Bernardino Meridian

T. 11 N., R. 16 W.,
Sec. 21, N½, N½SW¼, E½SW¼SW¼, SE¼SW¼, and SE¼;
Sec. 23, All.
The area aggregates 1,280.00 acres in Kern County, California.

At 10 a.m. on October 6, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27212 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 3836]

California; Order Providing for Opening of Public Land

August 27, 1980.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented (43 U.S.C. 315g (1964)), the following land has been reconveyed to the United States.

Mount Diablo Meridian

T. 46 N., R. 1 E.,

Sec. 19, Lots 1 and 2 and E½NW¼.

The area aggregates 157.61 acres in Siskiyou County, California.

2. At 10 a.m. on October 16, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2300 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Mineral Operations.

[FR Doc. 80-27213 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Multiple Use Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Salmon District Advisory Concil will be held on Thursday, October 2, 1980, at 10:00 a.m., at the American Legion Building in Challis, Idaho.

Agenda for the meeting will include:

(1) Reading of the Advisory Council meeting minutes of July 29, 1980.

(2) Review Resource uses observed in the Aerial Tour of Challis Unit.

(3) Discussion of Wild Horse gathering and Adoption program (local vs. Regional or National).

(4) Discussion of Recreation Site needs and planning (particularly along the rivers and water courses).

(5) Discussion of Cyprus Mine construction progress and related Timber harvest.

(6) Discussion of Wilderness Study Areas.

(7) Establishment of committees.

(8) Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by September 25, 1980.

Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: August 25, 1980.

Jerry W. Goodman,

Acting District Manager.

[FR Doc. 80-27206 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Off-Road-Vehicle (ORV) Use Designations for the Pacatello Planning Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a decision regarding off-road vehicle use designations for the Pocatello Planning Unit has been made pursuant to the provisons of 43 CFR 8342.1, 8342.2 and 8342.3. The off-road vehicle use decision applies to 92,000 acres of public land generally scattered around the Pocatello area in southeast Idaho. All public lands within the Pocatello Planning Unit have been designated as either open, limited, or closed as set forth in 43 CFR 8342.1.

The decision is that 320 acres be "closed" to motorcycles and four-wheel drive vehicles and 22,344 acres be closed to snowmachines. "Limited" use of ORVs is allowed on 65,811 acres for motorcycles and four-wheel drive vehicles and 33,010 acres for snowmachines. Areas and trails designated as "open," where ORVs may be operated subject to the operating regulations and vehicle standards set forth in 43 CFR Subparts 8341 and 8343, include 25,869 acres for motorcycles and four-wheel drive vehicles and 36,646 acres for snowmachines.

Designations by specific unit are as follows:

ORV Use Designations on Public Land

ORV designation unit	Decision
1. West Bench (4,215 acres)	West subunit (1790 acres): Motorized vehicles over 40" in width restricted to designated routes (5.7 miles). Open to oversnow vehicles. All other motoreized vehicles restricted to existing roads and trials. Closed to all motorized vehicles during spring runoff period.[1] East subunit (2425 acres): All motorized vehicles restricted to designated routes (ORV routes—5.9 miles, motorcycle routes—4.8 miles) except oversnow vehicles. Open to over snow vehicles. Closed to all motorized vehicles during spring runoff period.[1]
2. Chinks Peak (3,760 acres)	All motorized vehicles restricted to designated routes (9.6 miles). Closed to all motorized vehicles during spring runoff period.[1]
3. Blackrock Canyon (11,287 acres).	Northeast subunit (2355 acres): All motorized vehicles restricted to existing roads and trails except over snow vehicles. Open to oversnow vehicles. Remainder of unit (8932 acres): All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
4. Camelback (1,400 acres)	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Open to oversnow vehicles.
5. North Pocatello (4,720 acres)	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Open to oversnow vehicles.
6. Moonlight Mountain (1,450 acres).	Northeast subunit (832 acres): Closed to oversnow vehicles only Remainder of unit (618 acres): Open to all motorized vehicles.
7. South Pocatello (5,700 acres)	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
8. Crystal (5,320 acres)	Open to all motorized vehicles.
9. Garden Creek (5,848 acres)	Open to all motorized vehicles.
10. Shoestring (2,361 acres)	Oversnow vehicles restricted to designated routes (1.5 miles). Open to all other motorized vehicles.
11. Robbers Roost (800 acres)	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
12. Harkness Canyon (1,600 acres).	All motorized vehicles restricted to designated routes (ORV routes—1.3 miles, motorcycle route—0.7 miles).
13. Toponce-Pebble (5,493 acres).	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Oversnow vehicles restricted to designated routes (6.9 miles).
14. Petticoat Peak (19,334 acres)	All motorized vehicles restricted to designated routes (11.2 miles).
15. Jenkins Canyon (2,740 acres)	Open to all motorized vehicles.
16. Lava North (1,660 acres)	Open to all motorized vehicles.
17. Downey Front (5.760 acres)	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
18. Wiregrass Reservoir (1,280 acres).	Motorized vehicles over 40" in width restricted to designated routes (5.2 miles). Open to oversnow vehicles. All other vehicles restricted to existing roads and trails.
19. Historic Sites (320 acres)	Closed to all motorized vehicles.
20. Parks (462 acres)	All motorized vehicles restricted to designated routes (1.5 miles).
21. Isolated tracts (6,490 acres)	Open to all motorized vehicles.

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[1] The exact dates of the closure will be based upon field examinations of the actual runoff conditions each spring; normally this is the period March 15–May 15.

EFFECTIVE DATE: Decision takes effect September 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Nick Cozakos, BLM Burley District Manager, or Dave Vail, Bannock-Oneida Area Manager, Telephone (208) 678-5514.

SUPPLEMENTARY INFORMATION: Maps and additional information regarding the designation decision can be obtained from the Burley District Office, Bureau of land Management, 200 S. Oakley Highway, Burley, Idaho 83318.

V 45/174 SE 5 80 UMI

Dated: August 26, 1980.

Nick James Cozakos,

Burley District Manager.

[FR Doc. 80-27208 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Advisory Council; Meeting

August 29, 1980.

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Rock Springs District Advisory Council will be held on Wednesday, November 19, 1980.

The meeting will begin at 10:00 a.m. in the District Conference Room of the Bureau of Land Management Office on Highway 187 North, Rock Springs, Wyoming. The agenda for the meeting will include:

1. Introduction of members
2. Review of Council functions
3. Organization of Council
4. Briefing on BLM programs on National and District basis
5. Arrangements for next meeting

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:30-3:30 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by November 14, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 80-27207 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Roseburg District Advisory Council; Meeting

Location: District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470.

When: October 16, 1980; 1:00 p.m.

Agenda:

1. Role of the Advisory Council
2. Brief biographical sketch of each council member
3. Election of chairperson and vice chairperson
4. District programs and emerging issues
5. Discussion of future meetings.

Status: Meeting is open to the public. Minutes of the meeting will be on file at the District Office.

For additional information, contact James Conn, telephone (503) 672-4491.

James E. Hart,

District Manager.

[FR Doc. 80-27288 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Shoshone District Advisory Council will be held on Friday, October 17, 1980, at 9:00 a.m., at the Bureau of Land Management Office, 400 West F Street, Shoshone, Idaho 83352.

Agenda for the meeting will include:

1. Improving Public Service in the Bureau of Land Management
   (a) BLM's current Public Service Action Plan
   (b) District Public Affairs Plan
   (c) Advisory Council Recommendations for Improving District public service.
2. Sun Valley Planning update
3. Pending proposed rule-making and final regulations
4. Council issues
5. Arrangements for the next meeting

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:00 p.m. and 3:00 p.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by October 14, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: August 29, 1980.

Charles J. Haszier,

District Manager.

[FR Doc. 80-27200 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FES 80-28]

Mountain Foothills Grazing Final Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Mountain Foothills grazing FEIS availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy

Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement for the Dillon Resource Area. The proposal involves implementing an improved range management program on public lands within the Dillon Resource Area of the Butte District Office in southwestern Montana. Approximately 955,000 acres of public lands are involved.

SUPPLEMENTARY INFORMATION: The final environmental impact statement is to be used in conjunction with the draft environmental impact statement. The final statement is made up of the comments, our responses to those comments, and modifications and corrections developed in response to the comments received. Pursuant to Section 1506.10(b)(2) of the Council on Environmental Quality Regulations, no decision will be made within 30 days of the release of the final EIS.

Copies of the final environmental impact statement are available upon request to the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59701.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240.
Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59107.
Bureau of Land Management, Butte District Office, P.O. Box 3388, Butte, Montana 59701.
Bureau of Land Management, Dillon Resource Area Office, Highway 41, North of Dillon, Dillon, Montana 59725.

FOR FURTHER INFORMATION CONTACT: Jack McIntosh, District Manager, Bureau of Land Management, Butte District Office, Telephone: (406) 723-6561, ext. 2419.

Dated: August 28, 1980.

Michael J. Penfold,
State Director.

[FR Doc. 80-27296 Filed 9-4-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Using Adjustable Plugs in Shotguns Capable of Holding More Than Three Shells When Hunting Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service gives notice that in its opinion hunters who use adjustable plugs in shotguns capable of holding more than three shells when hunting migratory game birds are in violation of one of the prohibited hunting methods, 50 CFR 20.21(b).

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, N.W., Washington, D.C. 20005, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION: On February 2, 1935, President Roosevelt approved a "gun plug" amendment to the Federal regulations under the Migratory Bird Treaty Act (hereinafter MBTA) as follows (United States Department of Agriculture, Bureau of Biological Survey, Service and Regulatory Announcements—81, Regulation 3):

> [M]igratory game birds * * * shall not be taken with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off, or plugged with a one-piece metal or wooden filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at one loading * * *.

The regulation was adopted as one means to check the annually increasing kill of migratory game birds and reduce losses caused by wounding birds that are irretrievable. Three shots at one loading insured these goals. The three shot limit was enforced by making it somewhat difficult and time-consuming for a hunter to convert a shotgun capable of holding more than three shells from a greater than three shell capacity to a three shell capacity, or vice versa, while hunting.

With slight modification the same regulation now appears at 50 CFR 20.21(b), which makes it illegal to hunt migratory game birds:

> [w]ith a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells.

The conservation aims, which also include reducing the rate of lead accumulation on the bottom of marshes, are still accomplished by allowing only three shots at one loading. But recently questions have been raised about one type of device which may be used to reduce a shotgun's capacity to three shells. That device is an adjustable plug.

An adjustable plug is a two-piece device used on tubular magazine repeating shotguns. One piece replaces the magazine tube cap on the shotgun; the second piece locks into the first and extends into the magazine tube. The capacity of the shotgun in this position is three shells. When the second piece is unlocked it extends outside the magazine tube parallel to the barrel. The capacity of the shotgun in this position is more than three shells.

When the second piece is unlocked (when the shotgun's capacity is more than three shells) the capacity of the shotgun can be instantly reduced to three shells by locking the second piece into the first. No disassembly of the shotgun is required.

As noted above, Federal regulations, 50 CFR 20.21(b), prohibit the taking of migratory game birds with a shotgun of any description capable of holding more than three shells, unless: (1) the shotgun is plugged with a one-piece filler, (2) the total capacity of the shotgun when plugged does not exceed three shells, and (3) the shell capacity cannot be changed without disassembling the shotgun.

The Service bases its opinion that the use of an adjustable plug is a violation of 50 CFR 20.21(b) on two grounds. First, an adjustable plug is a two-piece device. Second, an adjustable plug allows a hunter to load a shotgun with more than three shells, yet rapidly reduce shell capacity to three without disassembling the shotgun.

Dated: September 2, 1980.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 80-27295 Filed 9-4-80; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Forest Oil Corporation, Unit Operator of the Eugene Island Block 292 Federal Unit Agreement No. 14-08-001-8764, submitted on August 27, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the Eugene Island Block 292 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway

Blvd., Room 147, Metaire, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 29, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80–27214 Filed 9–4–80; 8:45 am]

BILLING CODE 4310–31–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 111769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Board for International Food and Agricultural Development (BIFAD) on September 25, 1980.

The purpose of the meeting is to receive and discuss progress reports of the Joint Research Committee (JRC), and the Joint Committee for Agricultural Development (JCAD); receive the progress report on the BIFAD recommendations for more effective involvement of Title XII Universities in AID programs; receive and discuss the status report of the CID-Yemen Title XII Project, and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:00 noon; and will be held in Room 1107 New State Department Building, 22nd and C Streets NW., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m.; and will be held in Room 2248 New State Department Building, 22nd and C Streets NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (A.I.D.), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: August 28, 1980.

Curtis H. Barker,

Acting AID Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 80–27149 Filed 9–4–80; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF JUSTICE

Consent Decree To Enforce Compliance With Terms of Ohio State Implementation Plan

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree to enforce the terms of the Ohio State Implementation Plan in *United States* v. *United States Steel Corporation* has been approved and will be lodged with the United States District Court for the Northern District of Ohio, Eastern Division. The decree imposes on defendant certain emission limitations and compliance dates with respect to the operation of its Lorain Works integrated steel plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *United States Steel Corporation*, D. J. Ref. 90–5–2–3–880.

The proposed order may be examined at the office of the United States Attorney, Northern District of Ohio, Room 400, U.S. Courthouse, 215 Superior Avenue, NE., Cleveland, Ohio 44114 at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed order may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General Land and Natural Resource Division.

[FR Doc. 80–27285 Filed 9–4–80; 8:45 am]

BILLING CODE 4410–01–M

Proposed Consent Decree in Action for Emission of Air Pollutants by Carolina Power & Light Co.

In accordance with Department policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 19, 1980, a proposed consent decree in *United States of America* v. *Carolina Power & Light Co. (CP&L)*, Civil Action No. 80–442–D, was lodged with the United States District Court for the Middle District of North Carolina.

The consent decree requires CP&L to meet certain air pollutant emission limits contained in the North Carolina State Implementation Plan under the Clean Air Act, 42 U.S.C. 7401 *et seq.* The decree concerns CP&L's Roxboro (N.C.) Unit No. 3 power plant, requires CP&L to demonstrate compliance in August, 1980, and requires the payment of civil penalties.

The proposed consent decree may be examined at the Office of the United States Attorney for the Middle District of North Carolina, Greensboro, North Carolina; at the Region IV Office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, N.E. Atlanta, Georgia 30365; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 1734, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of 30 days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Carolina Power & Light*

Co. (M.D. N.C. Civil Action 80–442–D; D.J. 90–5–2–3–1225)

Angus MacBeth,

Deputy Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 80–27286 Filed 9–4–80; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 29th day of August 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending Aug. 30, 1980

Name of applicant and location of enterprise	Principal product or activity
Joint Venturers, Middletown, New York.	Motor hotel.
Uniflite, Inc., Bellingham, Washington.	Manufacture of fiberglass yachts.
Ethanol Motor Fuel Associates, Waterman, Illinois.	Corn wet milling ethanol plant.

[FR Doc. 80–26974 Filed 9–4–80; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

[TA–W–9716]

Bethlehem Steel Corp., Sparrows Point, Md.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 1980 in response to a worker petition received on July 9, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at Bethlehem Steel Corporation, Sparrows Point, Maryland.

The Notice of Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53615–6). No public hearing was requested and none was held.

On June 30, 1980, an investigation was initiated on behalf of the same group of workers (TA–W–9051).

The Notice of Investigation was published in the **Federal Register** on July 15, 1980 (45 FR 48281–2). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the on-going investigation, TA–W–9051, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–27270 Filed 9–4–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–10240]

Douglas & Lomason Co., Cleveland, Miss.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on July 11, 1980 which was filed on behalf of workers and former producing aluminum auto parts at the Cleveland, Mississippi plant of Douglas & Lomason Company.

On July 28, 1980, an investigation (TA–W–9610) was initiated in response to a petition filed on behalf of the same group of workers as filed TA–W–10240

Since the identical group of workers is the subject of the ongoing investigation TA–W–9610, a new investigation would serve no purpose. Consequently, the investigation (TA–W–10240) has been terminated.

Signed at Washington, D.C., this 22nd day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–27271 Filed 9–4–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–10217]

E. I. du Pont de Nemours & Co., Flint, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 4, 1980 which was filed on behalf of workers and former workers producing lacquer paints and auto finishes at E. I.

V45/174 SE5 80 UMI

du Pont de Nemours and Company, Flint Michigan.

On July 7, 1980, a petition was filed on behalf of the same group of workers (TA-W-9429).

Since the identical group of workers is the subject of the ongoing investigation TA-W-9429, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27272 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9342]

Firestone Textiles Co., Bowling Green, Ky.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1980 in response to a worker petition received on June 18, 1980 which was filed on behalf of workers and former workers at Firestone Textiles Company, Bowling Green, Kentucky. The workers produce tire cord fabric.

The investigation revealed that another petition (TA-W-8921) has also been filed on behalf of the same group of workers at Firestone Textiles Company, Bowling Green, Kentucky. Since the identical group of workers is the subject of the ongoing investigation (TA-W-8921), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27273 Filed 9-4-80; 8:45am]

BILLING CODE 4510-28-M

[TA-W-7452]

Firestone Tire & Rubber Co., Des Moines, Iowa; Affirmative Determination Regarding Application for Reconsideration

On August 1, 1980, the United Rubber Workers requested administrative reconsideration of that part of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers producing passenger car tires at Firestone's Des Moines, Iowa plant. The union did not wish reconsideration with respect to tractor tires.

The application for reconsideration claimed that the Des Moines plant produces private brand tires, one of which has been shown by the Department to have been adversely affected by import competition. The union requests a regional survey of customers for the Des Moines plant so as to be consistent with surveys it claims were conducted by the Department for Firestone plants in California whose workers were certified.

Conclusion

After review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore granted.

Signed at Washington, D.C., this 28th day of August, 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-27278 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9268]

Gladney-Chatman Chemicals, Inc., St. Louis, Mo.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1980 in response to a worker petition received on June 30, 1980 which was filed on behalf of workers and former workers producing specialty chemical products for industrial uses at Gladney-Chatman Chemicals, Incorporated, St. Louis, Missouri.

In a letter dated August 11, 1980, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27274 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9714]

Precision Kidd Steel Co., W. Aliquippa, Pa.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 1980 in response to a worker petition received on July 18, 1980 which was filed by the Precision Kidd Employees Union on behalf of workers and former workers at the Precision Kidd Steel Company, W. Aliquippa, Pennsylvania. Workers at the Precision Kidd Steel Company produce various types of steel bars.

Notice of the Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53615-6). No public hearing was requested and none was held.

On July 17, 1980, a petition was filed on behalf of the same group of workers (TA-W-9604).

Notice of Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53620-2). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9604, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 22nd day of August, 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27275 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9004]

Rubinstein Jewelry Manufacturing Co., Inc., New York, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1980 in response to a worker petition received on June 18, 1980 which was filed by the company on behalf of workers and former workers producing 14K and sterling silver chains and bracelets at Rubinstein Jewelry Manufacturing Company, Incorporated, New York, New York.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27276 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8724]

Textile Trim, Inc., Fair Haven, Mich.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In FR Doc. 80-19364 appearing on page 43496 in the **Federal Register** of June 27, 1980, the date received should be corrected to read June 3, 1980 and the date of petition corrected to read May 21, 1980 in the Appendix under petitioner Textile Trim, Inc., Fair Haven, Michigan appearing on page 43497. Signed at Washington, D.C., this 28th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27277 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Wednesday and Thursday, September 10-11, 1980, in the B-100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The Agenda contains the following topics:

September 10, 1980

Plenary Session.

9:00 a.m.-10:00 a.m.—Announcements. Reports on Independent Area Task Subgroups of the Goals and Objectives Panel.

10:00 a.m.-11:00 a.m.—U.S. Coast Guard: Criteria for Developing Ship Characteristics, Speaker: Paul D'Zmura—Office of Operations.

11:00 a.m.-Noon—Guest Speaker: Congressman John B. Breaux, Chairman, Subcommittee on Fisheries, Wildlife Conservation, and the Environment; Committee on Merchant Marine and Fisheries; U.S. House of Representatives.

12:00 Noon-1:15 p.m.—Lunch.

1:15 p.m.-4:00 p.m.—Panel Meeting: Weather and Climate Panel—Louis J. Battan; Support for Atmospheric Research Facilities—Instrumented aircraft. Invited participants: Donald Veal—University of Wyoming; C. B. Emmanuel—National Oceanic and Atmolspheric Administration; Charles Mason—National Aeronautics and Space Administration; Clifford Murino—Desert Research Institute; (to be announced)— Air Force Geophysics Laboratory.

4:00 p.m.-5:00 p.m.—Steering Committee Meeting.

September 11, 1980

8:30 a.m.-9:00 a.m.—Closed Session.

9:00 a.m.-12:00 Noon—Panel Meeting: Waste Management Panel—John Knauss; Review Panel's draft recommendations and peer comments on "Ocean Waste Disposal" report.

12:00 Noon-1:15 p.m.—Lunch.

1:15 p.m.-3:00 a.m.—Plenary Session: Panel Reports.

3:00 p.m.—Adjourn.

The public is welcome at the open sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

With respect to the closed session from 8:30 a.m. to 9:00 a.m. on Thursday, September 11, the Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 22, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, Public Law 94-409, that the matters to be disclosed during this closed session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because it will be considered within the purview of 5 U.S.C. 552b (c)(6), i.e., information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meeting will be open to the public.

A copy of the determination to close a portion of this meeting is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce, Washington, DC 20230, telephone (202) 377-4217.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653-7818.

Dated: August 22, 1980.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-27235 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Meeting of Representatives of the Scientific Community and NSF Director and Staff

The National Science Foundation announces an *ad hoc* meeting of representatives of the scientific community and the NSF Director and staff regarding issues of concern to the National Science Foundation and the National Science Board. The purpose of the meeting is to study and review available information on long-range planning, the Foundation's FY 1981 budget, and the Foundation's organizational structure.

Although this *ad hoc* discussion does not constitute a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-463), the meeting will be open to public attendance and observation.

The meeting will be held in Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550 on Saturday, September 13, 1980 from 9:00 a.m. to 5:00 p.m.

For additional information, please contact Ms. Margaret L. Windus, Special Assistant to the Director, National Science Foundation, Room 518, 1800 G Street, NW., Washington, D.C. 20550. Telephone: (202) 357-9420.

Dated: September 2, 1980.

Margaret L. Windus,

Special Assistant to the Director, National Science Foundation.

[FR Doc. 80-27236 Filed 9-4-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341A]

Detroit Edison Co.; Receipt of Operating License Application Request for Antitrust Information

The Detroit Edison Company, owner of the Enrico Fermi Atomic Power Plant Unit 2, filed the general information portion and antitrust information of an application for operating licenses. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owner's plans to operate one light water reactor in Monroe County, Michigan. The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of November 7, 1980. The results of any reevaluations that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Monroe County Library, 3700 South Curte Road, Monroe, Michigan.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation on or before November 4, 1980.

Dated at Bethesda, Maryland, this 27th day of August 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 80-26906 Filed 9-4-80; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Privacy Act of 1974; Adoption of Systems of Records

AGENCY: Nuclear Safety Oversight Committee.

ACTION: Systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the Nuclear Safety Oversight Committee, hereafter known as the Committee, hereby adopts those systems of records subject to the Privacy Act of 1974 which are maintained by the Committee. (Proposed at 45 FR 51011, July 31, 1980.) The Committee's procedures for access to records in the systems are contained in Part 476 to Title 1 of the Code of Federal Regulations.[1]

For further information on the matters described in this notice contact Margo von Kaenel, Executive Assistant at (202) 653-8468, Nuclear Safety Oversight Committee, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005.

Neil Proto,

General Counsel.

[FR Doc. 80-27241 Filed 9-4-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Uniform Procurement System; Request for Public Review and Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Solicitation of views.

SUMMARY: Pub. L. 96-83, the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.), provides that the Administrator for Federal Procurement Policy shall develop and submit to the Congress, by October 1980, a proposal for a uniform procurement system including uniform policies, regulations, procedures, and forms.

In response to this requirement, the Administrator, among other actions, established three interagency task groups—representing a cross section of procurement professionals—to review current procurement processes and to recommend changes and improvements to be incorporated, as primary building blocks, into a single uniform procurement system proposal. The task groups, which examined three major aspects of the procurement process (i.e., acquisition, supply, and procurement under grants), completed their efforts on July 11 and submitted final reports. As previously announced, those reports are serving as the principal basis for comment at public hearings being conducted during August and September in Boston, Detroit, Houston, Los Angeles and Washington, D.C.

Based on those reports and the public and agency comments already received, a draft proposal for the Uniform Procurement System has been prepared. Notice is hereby given that the views of all interested parties are solicited with regard to this draft proposal, which is available upon written or telephone request. Due to the need to provide the final proposal to the Congress in October, it is likely that this will be the final opportunity for the public to comment on its content prior to submission. Comments provided to this Office by September 30, 1980 will be carefully considered in the development of the final proposal.

AVAILABILITY OF DRAFT PROPOSAL: Requests for copies of the draft proposal should be addressed to the Office of Administration, Document Distribution Center, 726 Jackson Place, N.W., Room G-236 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202/395-4660).

PRESENTATION OF WRITTEN VIEWS: Written comments on the draft proposal may be submitted no later than September 30, 1980. Such comments should be addressed to the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Room 9013 New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Baker, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., 9013 New Executive Office

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[1] See the Rules and Regulations Section of this issue of the **Federal Register** also.

Building, Washington, D.C. 20503 (Telephone: 202/395-7207).

Karen Hastie Williams,

Administrator.

[FR Doc. 80-27473 Filed 9-4-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11318; 812-4294]

Broad Street Investing Corp., et al.; Filing of Application for an Order of the Act Exempting Proposed Transaction

August 28, 1980.

In the matter of Broad Street Investing Corporation, National Investors Corporation, Tri-Continental Corporation, Union Capital Fund, Inc., Union Cash Management Fund, Inc., Second Union Cash Management Fund, Inc., Union Income Fund, Inc., Union Service Corporation, Union Service Distributor, Inc., J. & W. Seligman & Co., J. & W. Seligman & Co.,Incorporated, One Bankers Trust Plaza, New York, New York 10006.

Notice is hereby given that Broad Street Investing Corporation, National Investors Corporation, Union Capital Fund, Inc., Union Cash Management Fund, Inc. ("Union Cash"), Second Union Cash Management Fund, Inc. ("Second Union Cash"), Union Income Fund, Inc. and Tri-Continental Corporation ("Tri-Continental"), diversified, management investment companies (the "Union Service companies") registered under the Investment Company Act of 1940 ("Act"); Union Service Corporation ("Union Service"); Union Service Distributor, Inc. ("Distributor"); J. & W. Seligman & Co. ("Seligman"); and J. & W. Seligman & Co. Incorporated (the "Manager") filed an application on April 19, 1978, and amendments thereto on March 13, 1980, April 10, 1980, and April 18, 1980, requesting an order of the Commission pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder, permitting the externalization of the presently internalized advisory, management and distribution functions of the Union Service companies. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Union Service Complex ("Complex") consists of six registered open-end investment companies (Broad Street Investing Corporation, National Investors Corporation, Union Income Fund, Inc., Union Capital Fund, Inc., Union Cash, and Second Union Cash) and a registered closed-end investment company (Tri-Continental). Investment advisory, management and share distribution functions are performed by three service companies (Union Service, Union Data Service Center, and Distributor) jointly owned by the investment companies in the Complex. Seligman, a broker-dealer registered under the Securities Exchange Act of 1934, originally organized the Complex. Seligman partners have always served as senior officers of the companies in the Complex, and Seligman executes securities transactions for the Complex. Fred E. Brown, Seligman's Managing Partner, currently serves as Chairman of the Board and President of Union Service, Chairman of the Board and President, and Chairman of both the Investment and Executive Committees of each of the seven Union Service companies. During 1978 and 1979 Seligman received brokerage commissions from the Complex amounting to $1,091,000 and $1,052,000, respectively, representing approximately two-thirds of the Complex's agency transactions in listed securities (exclusive of options and option related transactions).

The present operation of the Complex is unusual in that each of the Union Service companies is internally managed by its own directors and officers. Investment decisions for each investment company are made by an Investment Committee consisting of directors and officers of that company. Investment research and advice, as well as certain other administrative services, are provided to the Complex by Union Service, an investment adviser registered under the Investment Advisers Act of 1940 and wholly-owned by the Union Service companies. The cost of the advisory and management services provided by Union Service is shared by the Union Service companies in proportion to the net assets of each company (75% of their assets in the cases of Union Cash, and Second Union Cash). To allow the Union Service companies to obtain advisory and management services through Union Service, the Commission has issued three orders (Investment Company Act Release Nos. 6994, 7117 and 9513) under Section 6(c) of the Act providing limited exemptions from the provisions of Sections 2(a)(19) and 12(d)(3) of the Act.

Distributor, which is also wholly-owned by the Union Service companies, acts as distributor for the capital stock of each Company. The costs and financial requirements of Distributor are shared by the Union Service companies in proportion to the net assets of each company (60% of net assets in the case of Tri-Continental), provided that the maximum amount contributed by any of such companies does not exceed 5/100 of 1% of its average net assets (3/100 of 1% in the case of Tri-Continental). To enable them to bear all of their distribution and promotional expenses through Distributor the Union Service companies have obtained two Commission orders (Investment Company Act Released Nos. 7144 and 9513) under Section 17(d) of the Act and Rule 17d-1 thereunder. Union Data Service Center ("Union Data") is a wholly-owned subsidiary of Union Service, which provides the Union Service companies, Union Service and Distributor with corporate accounting and shareholder account and other data processing and related services on a non-profit basis.

The Applicants have requested an order of the Commission pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder to permit the externalization of the Complex's presently internalized advisory, management and distribution functions. Under the Externalization Proposal each of the Union Service companies will enter into an investment advisory contract with the Manager, an investment adviser which has been organized by personnel of Union Service and Seligman, and the senior officers of the Union Service companies. In the event that the Externalization Proposal is implemented, Seligman will dissolve and the Manager and its subsidiaries will acquire the assets and personnel of the Seligman Partnership. The Manager and its subsidiaries will also offer employment to the staff of Distributor and Union Service (which will also be dissolved), and assume obligations under a retirement plan for employees of Distributor and Union Service and a long-term employment agreement with Mr. Fred Brown (such obligations having a value of $511,329 as determined by the disinterested directors of the Union Service companies). The Manager will utilize substantially the same personnel and facilities as are now employed by Union Service, Distributor and Seligman, and will provide substantially similar services to the Complex.

The Manager will provide to the Union Service companies all of the investment advisory and management services now provided by Union Service. Discount Corporation of New York Advisers, which currently serves as an external investment adviser to Union Cash and Second Union Cash will become an investment adviser to the Manager with respect those two companies, providing essentially the same services as it does now, with its advisory fee being paid by the Manager. In addition, the investment advisory contract will specify that the Manager will have the responsibility for making portfolio security decisions for each of the Union Service companies.

Distribution services now performed by Distributor under the Externalization Proposal will be performed by Seligman Distributor, Inc. ("Seligman Distributor"), an entity formed as a wholly-owned subsidiary of the Manager. Under the Externalization Proposal a second wholly-owned subsidiary of the Manager, Seligman Securities, Inc. ("Seligman Securities"), will perform the order placing services currently provided by the staff of the Union Service companies and Union Service, and will act as broker for the Complex pursuant to the undertaking discussed below. The Manager will also oversee the operation of Union Data, which will continue to be beneficially owned by the Union Service companies and to provide its services to them on an at cost basis.

The fee to be paid by each of the Union Service companies for advisory and management services performed by the Manager will be calculated based on a percentage of the assets of all the Union Service companies (including any investment company which may join the Complex in the future). However, since the assets of Second Union Cash that were subject to the Federal Reserve Board's reserve requirements on assets of money market funds would not need the advisory services of the Manager, but would require the administrative services provided by the Manager, the Applicants proposed that 50 percent of the assets of that new company subject to the reserve requirements be included in the Fee Base for purposes of calculating the Manager's fee. Effective July 28, 1980, money market funds will no longer have to deposit with the Federal Reserve Board 7.5 percent of any increase in their assets over the level of March 14, 1980. The abolition of the FRB's reserve requirements will necessitate that the disinterested directors of the Union Service companies reconsider the basis on which Second Union Cash will participate in the Externalization Proposal. The Applicants have represented that, before the period for requesting a hearing on the application expires, they will file an amendment to the application setting forth the basis upon which the Applicants propose to treat Second Union Cash after 28, 1980.

In addition, the management fee rate for the Complex will be cumulatively reduced in successive steps (from 0.45 percent to 0.20 percent on an annual basis), and so long as the management fee exceeds 0.25 percent, a specified percentage (from 30 percent to 10 percent) of the aggregate total assets of all accounts advised by or under the supervision of the Manager on a fee basis will be included in the Fee Base, provided that the dollar amount of the reduction in the fee resulting from the inclusion of such other assets in the Fee Base does not exceed 15 percent of the fee which would otherwise be payable by the Union Service companies to the Manager. At December 31, 1979, the Fee Base would have been $2,094,139,000, comprised of $1,922,792,000 of investment company assets and $171,347,000 representing 30 percent of the total assets of all accounts which Seligman served as investment adviser for a fee, and would have resulted in a management fee percentage of 0.392 percent.

With respect to the distribution services to be provided by Seligman Distributor, it is represented that the Union Service companies will bear only those expenses relating to issuance, registration and qualification of their shares, the preparation and printing of prospectuses and the provision of date processing and relating services in connection with share distribution activity. Seligman Distributor will receive, as direct compensation, only the sales charge paid by investors, less dealer commissions.

According to information contained in the application, the aggregate cost to the Union Service companies of investment advisory, management and distribution services during 1977, 1978, and 1979 was $4.1 million, $4.4 million, and $5.0 million, respectively. Under the Externalization Proposal the costs for such services for those three years would have been $6.5 million, $6.3 million and $6.8 million, respectively. Under the Externalization Proposal the total operating expenses of the Complex would have increased 32.1 percent, 23.5 percent, and 20.2 percent during 1977, 1978, and 1979. The ratio of operating expenses to total net assets for the Complex is expected to increase from .504 percent to .606 percent if the externalization is implemented.

The following undertakings have been incorporated into the Externalization Proposal: (1) The Manager has undertaken to provide advisory services to the Union Service companies under the proposed investment advisory contract, and not to propose any increase in the management fee for at least three years; (2) The Manager has undertaken to make all of its shares subject to an option by the Manager for a five year period to repurchase such shares at their book value (which would exclude any value attributable to the advisory agreement) at the death or termination of employment of a shareholder, or a proposed voluntary or involuntary transfer of the shareholder's shares; (3) The articles of incorporation of each of the Union Service companies will be amended to provide that at least 75% of the Board of Directors shall be persons who are not interested persons of the Manager, and that such disinterested directors will direct the operations of the Board of Directors, including the major board committees; (4) The leasehold improvements held by Distributor and the furniture, furnishings, equipment and library now used by Union Service and Distributor will be sold to the Manager for cash in an amount equal to the higher of their appraised value or book value at the time of sale (established by an independent appraiser and approved by the Board of Directors of each Union Service company); (5) Seligman Securities has undertaken to be available to act as broker for approximately two-thirds of the Union Service companies' portfolio transactions for three years at rates approximating its incremental costs (determined according to a prescribed formula); (6) The Manager has undertaken to implement a procedure whereby for five years the Union Service companies will be able to recapture a declining portion of the profits from any sale of the Manager's shares (determined according to a prescribed percentage formula), and the shareholders of such companies will have to approve any sale of a control block of the Manager's shares; (7) The Manager has undertaken to attempt to recapture, to the extent it is possible to do so, underwriting commissions or soliciting dealers' fees on behalf of the Union Service companies where the Manager or an affiliated person thereof is a member of an underwriting syndicate in connection with effecting purchases of new issues of securities for such companies; (8) Seligman Distributor has committed to serve under the proposed distribution contract for a three year period; and (9) The Board of Directors of each Union Service company has acknowledged that it will be under a fiduciary duty, if it believes that the quality of services to the company will be impaired by the

Manager taking on new clients of material significance, to take such steps as it deems necessary including a renegotiation of the fee payable to the Manager.

The disinterested directors of the Union Service companies have estimated that such companies in the aggregate will enjoy management fee savings of $1,176,000 initially, and between $3,611,451 and $5,250,238 over a three year period under Undertaking No. 1 above, based on the difference between the management fee that those companies will pay under the proposed rate structure and the fee that would be payable under the prevailing rate structure for the investment company industry. Such disinterested directors have also estimated that under Undertaking No. 5 above all of the Union Service companies will enjoy brokerage commission savings over a three year period of between $2,128,425 and $2,694,607. The Board of Directors of each Union Service company in approving and reviewing the brokerage allocation procedure whereby Seligman Securities will effect brokerage transactions for such company on an incremental cost basis will attempt to ensure compliance with the requirements of Rule 17e-1 under the Act.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Based on the relationships outlined above, Union Service and Distributor are affiliated persons of the Union Service companies, each Union Service company is an affiliated person of the other companies, and the officers and employees of Union Service and Distributor are affiliated persons of affiliated persons of the Union Service companies under Section 2(a)(3) of the Act. Thus, the cooperation and participation of the Union Service companies with Union Service, Distributor and the officers and employees of those companies in the proposed externalization, the proposed liquidation of Union Service with the participation of the Union Service companies, and the proposed transfer of the responsibility for distribution of the shares of the Union Service companies to Seligman Distributor constitute joint transactions within the meaning of Section 17(d) of the Act. Finally, the proposed sale of leasehold improvements held by Distributor and the furniture, furnishings, equipment and library now used by Union Service and Distributor to the Manager is a transaction subject to the provisions of Section 17(a) of the Act.

The applicants state that the proposed externalization of the advisory, management and distribution functions of the Union Service companies has five primary purposes: (1) To encourage expansion of the asset base of the Union Service companies, and consequent reduction of the operating expense ratios of such companies; (2) to provide an opportunity for the employees of Union Service and Distributor to enjoy an equity participation in a profit oriented investment advisory firm and other personnel incentives which the Applicants claim are needed to attract, motivate and retain superior personnel to manage the operations of the Union Service companies; (3) to preserve the relationship of the Union Service companies with the personnel of Union Service, Distributor and Seligman, including the senior management of such companies, who are currently providing a high level of advisory, management and distribution services to such companies; (4) to strengthen and expand the capabilities of the present management of the Union Service companies by combining the new investment advisory staff of Seligman with the present staff of Union Service and Distributor; and (5) to adopt the conventional organizational format for the Complex, and thus decrease the present risks and additional expenses for the Union Service companies resulting from the unique, internalized management and distribution structure of the Complex. The Applicants contend that the changes are excellent that the above five objectives will be accomplished under the terms of the Externalization Proposal, while the chances of accomplishing such objectives under the present internalized structure are minimal. In this regard, the Applicants place great emphasis in their support for the Externalization Proposal on the increased potential for bringing out new investment company products for the Complex, which in their opinion will result because of the availability of an entity (the external investment adviser) to bear the startup expenses involved in offering such new products. The Applicants acknowledge that implementation of the Externalization Proposal will result in an immediate increase in the operating expenses of the Union Service companies; however, they claim that such increase in expenses is justified given the potential contained in the externalization to expand the asset base of the Complex and thereby limit future increases in the operating expenses of such companies, and given the comparatively small size of the expense increase (amounting in the aggregate to approximately 1/10 of 1 percent of company assets). The Applicants also point out that under the Externalization Proposal the expense ratios of the Union Service companies would still be relatively low measured by investment company industry standards. In addition, the Applicants note that the proposed externalization will not be put into effect unless it is

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approved by the shareholders of all the Union Service companies.

Basd on their detailed review of the terms of the Externalization Proposal the disinterested directors of the Union Service companies have determined that the externalization will be fair and reasonable in all respects to each of the Union Service companies, and in the best interests of each company and its shareholders. In this regard, the disinterested directors have determined that the Union Service companies under the terms of the Externalization Proposal will receive economic benefits worth between $6,320,129 and $8,525,098 (management fee savings, brokerage commission savings, plus assumption of liabilities under a retirement plan and long-term employment contract) within the first three years, and could anticipate receiving at least $6,292,795 in benefits thereafter, far in excess of the $6.5 million which the directors estimate to be the value of the right to manage the Union Service companies. Specifically, the directors have determined that, while the Externalization proposal will affect each of the Union Service companies differently, all of the Union Service companies will benefit from it. Moreover, the directors have determined that the Externalizaion Proposal is free of any inherent bias favoring one Union Service company over another; the qualitative benefits of the externalization for the Union Service companies balance against the inevitable quantitative disparities in the allocation of economic benefits among such companies; and the anticiapted benefits flowing to each Union Service company follow within an acceptable range of fairness. On the basis of these determinations of the disinterested directors, later accepted by the Boards of Directors of all the Union Service companies, the Applicants contend that the criteria of Rule 17D-1 for issuance of an order under Section 17(d) of the Act are met by the Externalization Proposal.

In processing the application the Commission gives significant weight to the views of the disinterested directors of the Union Service companies in light of their having retained independent legal counsel to provide them legal advice concerning the Externalization Proposal and an independent financial consultant having experience with investment companies to prepare an analysis of the anticipated costs and benefits of the Externalization Proposal. The Commission regards the fact that the disinterested directors, based on information provided them by such independent legal counsel and financial analyst, have compared, and quantified, on a company by company basis the benefits which they expect will result from the externalization against the increased operating costs which will, at least initially, result from it in order to determine whether such costs and benefits are allocated fairly among all the Union Service companies, or are weighed in favor of the Manager or Seligman, as being crucial to its acceptance of the views of the directors. The Commission also notes that the disinterested directors, with the assistance of their independent legal counsel and financial analyst, have determined what value should be placed on the right to manage the Union Service companies which is being acquired by the Manager in order to determine whether the benefits flowing to those companies under the externalization exceed the value of the right to manage the Union Service companies.

Finally, the Applicants contend that the terms of the proposed sale of the leasehold improvements of Distributor and the furniture, furnishings, equipment and library used by Distributor and Union Service to the Manager for cash in an amount equal to the higher of their appraised value (established by an independent appraiser and approved by the Board of Directors of each Union Service company), or book value at the time of sale meets all the requirements of Section 17(b) of the Act for an order of the Commission exempting such sale from the provisions of Section 17(a).

Notice is further given that any interested person may, not later than September 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27117 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11319; 811-1802]

Impact Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

August 28, 1980.

Notice is hereby given that Impact Fund, Inc. ("Applicant"), 711 Polk Street, Houston, TX 77002, an open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on August 2, 1979, and an amendment thereto on July 28, 1980, for an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a Texas corporation and that it registered under the Act on January 29, 1969. Applicant also states that it filed a registration statement under the Securities Act of 1933 with respect to 2,000,000 shares of its common stock and that such registration statement was declared effective on July 11, 1969.

According to the application, Applicant's board of directors and the board of directors of Commerce Income Shares, Inc. ("Commerce"), an open-end, diversified investment company registered under the Act, voted unanimously, at meetings held on September 29, 1978, to approve a plan and agreement of reorganization providing for the transfer of substantially all of the assets of Applicant to Commerce. Applicant states that requisite approval of such sale was obtained from its shareholders on May 14, 1979, and that on February 15, 1979 the Commission issued an order (Investment Company Act Release No. 10594), pursuant to Sections 6(c) and 17(b) of the Act, permitting the proposed transaction. Applicant states that at the close of business on May 31, 1979 substantially all of its assets were transferred to Commerce. Applicant represents that its shareholders received a final dividend of $.164 per share from net investment income immediately prior to the sale of its assets and that its shareholders received .986 shares of common stock of Commerce in exchange for each share of its stock. Applicant also represents that $25,980 in cash was retained to pay any remaining expenses relating to the winding-up of its affairs. Applicant states that such expenses totaled $24,732 and that the remaining $1,248 was transferred to Commerce.

Applicant represents that, as a result of the sale of substantially all its assets to Commerce, it has no assets and no liabilities, that it is not a party to any litigation or administrative proceeding, and that it currently has no security holders. Applicant also states that it has filed articles of dissolution with the State of Texas and that the Secretary of the State of Texas has issued a certificate of dissolution.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 22, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–27116 Filed 9–4–80; 8:45 am]

BILLING CODE 8010–01–M

[Files Nos. 2–58987, 2–61271 (22–9600)]

Ito-Yokado Co., Ltd. (Kabushiki Kaisha Ito-Yokado); Application and Opportunity for Hearing

August 27, 1980.

Notice is hereby given that Ito-Yokado Co., Ltd. (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The Bank of Tokyo Trust Company under three existing indentures of the Applicant, which are qualified under the Act, and the proposed trusteeship of The Bank of Tokyo Trust Company under an English indenture not so qualified (the "English Trust Deed") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The Bank of Tokyo Trust Company from acting as trustee under the Applicant's English Trust Deed.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant has outstanding, as of July 1, 1980:

(a) $33,760,000 of its 6% Convertible Debentures due August 31, 1992 (the "6% Debentures"), issued in the aggregate principal amount of $50,000,000 under an indenture, dated as of June 15, 1977, between the Applicant and The Bank of Tokyo Trust Company; the 6% Debentures were registered under the Securities Act of 1933 (the "Securities Act"); and

(b) $48,117,000 of its 5¾% Convertible Debentures Due August 31, 1993 (the "5¾% Debentures"), issued in the aggregate principal amount of $50,000,000 under an indenture, dated as of July 1, 1978, between the Applicant and The Bank of Tokyo Trust Company; the 5¾% Debentures were registered under the Securities Act; and

(c) $20,000,000 of its 9⅛% Notes Due August 31, 1983 (the "9⅛% Notes"), issued in such aggregate principal amount under an indenture, dated as of July 1, 1978, between the Applicant and The Bank of Tokyo Trust Company; the 9⅛% Notes were registered under the Securities Act.

2. The Applicant will issue in the United Kingdom of Great Britain 7.3% Convertible Bonds Due 1990 (the "7.3% Bonds"), in the aggregate principal amount of £5,000,000,000, under an English Trust Deed, dated as of July 24, 1980, between the Applicant and The Bank of Tokyo Trust Company; the 7.3% Bonds will not be registered under the Securities Act.

3. The Applicant is not in default under any of the indentures.

4. The Applicant's obligations under the indentures and the English Trust Deed, and the debentures, bonds and notes issued thereunder are wholly unsecured and rank *pari passu inter se.* There are no material differences among the Qualified Indentures and the English Trust Deed except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

5. In the opinion of the Applicant, the provisions of the aforementioned indentures are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the debentures, notes or bonds issued under such indentures to disqualify The Bank of Tokyo Trust Company from acting as trustee under the English Trust Deed.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the

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Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 17, 1980, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27114 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17102; File No. SR-NASD-77-17, Amdt. No. 2]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 18, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

(Item 1 "Text of Proposed Rule Change" deleted in its entirety and replaced with the following.)

The following is the full text of Section B.3.1. of Part II of Schedule D under Article XVI of the By-Laws, including the proposed amendment:

3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension of authorization, if: . . . 1. the number of persons holding the security [of record] shall total less than 300 except in the case of rights, warrants or units [;]. *An account of a member of the Corporation which is beneficially owned by a customer (as defined in Article II, Section 1(f) of the Rules of Fair Practice) shall be included as a holder of such security upon appropriate verification by the member.*

The NASD's Statement of Purpose of Proposed Rule Change

The amendment provides a more precise method for determining the number of persons holding the security by limiting "beneficial shareholders" to customer accounts.[1]

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

(No amendment.)

Comments Received From Members, Participants or Others on Proposed Rule Change

(No amendment.)

The NASD's Statement on Burden on Competition

(No amendment.)

On or before October 10, 1980 or within, such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 28, 1980.

[FR Doc. 80-27113 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17098; File No. SR-NASD-79-5]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

(All references are to sections in the proposed rule. Indicated text in the original filing should be replaced with the language found herein.)

Section 37

Section (a)(1) (first line only):

(1) Advertisement—For purposes of this section and any inter-

* * * * *

Section (a)(2) (entire text):

(2) Sales Literature—For purposes of this section and any interpretation thereof, sales literature means any written communication distributed or made generally available to customers or the public which communication does not meet the foregoing definition of "advertisement". Sales literature includes, but is not limited to, circulars, research reports, market letters, performance reports or summaries, form letters, standard forms of options worksheets, seminar texts, and reprints or excerpts of any other advertisement, sales literature or published article.

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[1] This amendment supersedes an earlier amendment which was filed August 16, 1977, but was not published due to technical deficiencies. The amendment is available in the public files.

Section (b)(1) (forth and fifth lines only):

literature pertaining to options, the approval must be by the Compliance Registered Options Principal (or his designee).

* * * * *

Section (c)(1) (entire text):

(1) *Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts), shall be filed with the Association's Advertising Department within 10 days of first use or publication, by any member who has prepared or distributed such material in connection with the offer or sale of securities issued by companies for which such member is a principal underwriter. Filing in advance of use is optional.*

* * * * *

Section (c)(2) (entire text):

(This paragraph reserved for future use)

* * * * *

Section (c)(3)(A) (fourth line only):

tained in this section) shall file its initial advertisement with

* * * * *

Section (c)(3)(B) (fourth line only):

those contained in this section) for a period of less than one

Section (c)(3)(C) (entire text):

Except for advertisements related to municipal securities, direct participation programs or investment company securities, members subject to the requirements of subparagraphs (c)(3)(A) or (c)(3)(B) of this section may, in lieu of filing with the Association, file advertisements on the same basis, and for the same time periods specified in those subparagraphs, with any registered securities exchange having standards comparable to those contained in this section.

* * * * *

Section (c)(4) (fifth line only):

member will again depart from the standards of this section,

* * * * *

Section (c)(4), (last line only):

of Procedure.

* * * * *

Section (cv)(5) (seventh line only):

submitted pursuant to one of the foregoing requirements and, except for material related to municipal securities or investment company securities, the

* * * * *

Section (c)(6)(E), (last line):

is exempt from such registration, except that an investment company prospectus published pursuant to Rule 434d under the Securities Act of 1933 shall not be considered a prospectus for purposes of this exclusion;

* * * * *

Section (c)(7) (new section, no deletion):

(7) Material which refers to investment company securities or options solely as part of a listing of products and/or services offered by the member, is excluded from the requirements of paragraphs (c)(1) and (c)(2) of this section.

* * * * *

Section (d) (insert between section title and text):

(1) General Standards (designate first three paragraphs as (A), (B) and (C) respectively).

* * * * *

Section (d) (third paragraph, last line only):

nevertheless follow the standards of paragraph (d) of this section.

* * * * *

Section (d) (insert between third and fourth paragraphs):

(2) Specific Standards (redesignate fifth paragraph as (A))

* * * * *

Section (d)(2) (entire text replaced):

(B) Recommendations: In making a recommendation, whether or not labeled as such, a member must have a reasonable basis for the recommendation and must disclose the price at the time the recommendation is made, as well as any of the following situations which are applicable:

(i) that the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, and/or that the member or associated persons will sell to or buy from customers on a principal basis;

(ii) that the member and/or its officers or partners own options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;

(iii) that the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last 3 years.

The members shall also provide, or offer to furnish upon request, available investment information supporting the recommendation.

A member may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by a member within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended, and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which or the price range within which the recommendation was to be acted upon, and indicate the general market condition during the period covered.

Also permitted is material which does not make any specific recommendation but which offers to furnish a list of all recommendations made by a member within the past year or over longer periods of consecutive years, including the most recent year, if this list contains all the information specified in the previous paragraph. Neither the list of recommendations, nor material offering such list shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a follow-up research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.

* * * * *

Section (d)(3) redesignated as Section (d)(2)(c) and the last sentence is deleted.

* * * * *

Sections (d)(4) through (d)(11) redesignated as Sections (d)(2)(D) through (d)(2)(K)

* * * * *

Section (e), first line only:

In addition to the provisions of paragraph (d) of this Section

* * * * *

Section (f) deleted in its entirety

3. The NASD's Statement of Purpose of Proposed Rule Change

The proposed amendments to the definition of "sales literature", in Section (a)(2) of the rule, are designed to conform the Association's definition to those contained in exchange rules. The Association had based the earlier text, in part, on language contaіned in an SEC rule under the Investment Company Act, which language was not considered appropriate for certain purposes, e.g., the prior approval of sales literature by a principal.

The proposed amendment to Section (b)(1) would substitute prior approval of advertising by the Compliance Registered Options Principal for the current requirement of approval by the Senior Registered Options Principal. This change is consistent with rules recently adopted by the options exchanges.

Section (c)(1), as originally filed with the Commission, would continue the existing filing requirement applicable to members' advertising and sales literature concerning investment companies. It is now proposed that the requirement to file advertising and sales literature with the Association within three business days be amended to extend the filing period to ten calendar days. It is also proposed that independent dealers be exempted from this requirement and that a routine spot-check procedure be applied to such dealers in place of the filing requirement. The filing requirement would then apply only to principal underwriters and it would be consistent with current Securities and Exchange Commission requirements under Section 24(b) of the Investment Company Act.

Section (c)(2) is being withdrawn in its entirety and will be the subject of a separate filing related exclusively to options communications. This filing will be made upon approval of proposed amendments by the membership. Balloting is presently underway and is expected to be concluded by the middle of September. Section 24 of Appendix E to Article III, Section 33 of the Rules of Fair Practice will continue to apply in the interim.

Section (c)(3), which would establish a requirement that members file advertising material with the Association in advance for one year, and Section (c)(5), which outlines the procedure to be used by the Association to periodically spot-check members' advertising and sales literature, contain exemptions relating to the optional submission of material to registered securities exchanges having comparable standards. They are being amended to clarify that the exemptive provisions do not relate to municipal securities.

Section (c)(6)(E) is being amended to continue the application of the filing requirements for investment company advertising and sales literature to advertisements published pursuant to Rule 434d under the Securities Act of 1933.

Section (c)(7) is being added to exclude certain advertising concerning investment companies or options from the filing requirements of section (c)(1) (and (c)(2), when ultimately adopted) of Section 37. Often members' advertising constitutes a simple listing of products or services offered. Currently, the inclusion of mutual funds, variable annuities, or options in such listings results in the application of a filing requirement. When such advertisements do not contain descriptions or explanations of these products and are limited to simple listings, it does not seem necessary to impose filing requirements with respect to such advertising. Section (c)(7) will exclude such advertisements from the filing requirements applicable to investment company and options advertising, and the routine spot-check procedure will be applied.

Revisions have been made to section (d)(2)(B) of the rule for two purposes. First, a member will be required to disclose market-making activity in the underlying security when recommending an option. This provision is consistent with a requirement contained in the "Guidelines For Options Communications" published by the options exchanges.

Second, a member will be required to disclose that it will sell to or buy from customers on a principal basis. This language is comparable to that contained in exchange rules. It will replace language in the Association's current Advertising Interpretation relating to a member's obligation to disclose that he intends to buy or sell recommended securities for the firm's own account.

Section (f) is being withdrawn in its entirety and will be the subject of the separate amendment on options communications presently before the membership. Section 24 of Appendix E to Article III, Section 33 of the Rules of Fair Practice will continue to apply in the interim.

Additional revisions have been made for style, clarification and to make the rule more comparable to current exchange rules.

The NASD's Statement of Basis Under the Act for Proposed Rule Change

(no change)

Comments Received From Members, Participants or Others on Proposed Rule Change

(no change)

The NASD's Statement on Burden on Competition

(no change)

On or before October 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 6, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
August 28, 1980.

[FR Doc. 80-27115 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17097; File No. SR-NSCC-80-26]

National Securities Clearing Corp. Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 13, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed change to the Rules of National Securities Clearing Corporation ("NSCC") is as follows:

Transfer Taxes

Rule 14. Sec. 1. The Corporation may accept New York State Stock Transfer Tax reports and remittances from Members and Non-Clearing Members pursuant to the provisions of the New York State Tax Law and the regulations promulgated thereunder. Remittances

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shall be forwarded to the New York State Tax Commission on behalf of the Member or Non-Clearing Member.

Sec. 2. The Corporation shall charge each Member's settlement account the amount of the New York State Stock Transfer Tax indicated on reports filed by the Member on its own behalf and the amount of the New York State Stock Transfer Tax indicated on reports filed by or on behalf of any Non-Clearing Member paying its New York State Stock Transfer Tax through the Member. Reports filed by all other Non-Clearing Members must be accompanied by a check payable to the order of National Securities Clearing Corporation—SCC Division for the amount of the New York State Stock Transfer Tax indicated.

Sec. 3. New York State Stock Transfer Tax credits received by the Corporation shall be returned to the Member or Non-Clearing Member in accordance with the instructions of the New York State Tax Commission.

Sec. 4. Pursuant to the provisions of Section 2 of Rule 3, the Corporation shall maintain a list of Non-Clearing Members who elect to remit the New York State Stock Transfer Tax through the Corporation.

[Rule 14. Sec. 1. With respect to such New York State stock transfer taxes as are or may be payable pursuant to applicable laws and regulations by Members through National Securities Clearing Corporation or the Corporation, each Member shall on each business day, before the time specified by the Corporation, file with the Corporation a report, on such form as may be required under applicable law or regulation or, if not so required, by the Corporation, of the amount of such taxes due on transactions of such Member and of others for whom he may be acting, as well as any credits and rebates available with respect to such transactions and such other information as may be required. If no such taxes are so payable, a report so stating shall be filed at or before the time above provided. In addition, once each calendar quarter at such time as may be prescribed under applicable law or regulation, or, if not so prescribed, by the Corporation, Members shall file with the Corporation a report, as may be required under applicable law or regulation or, if not so required, by the Corporation, of such taxes owing, with respect to the amount of rebates reported on the daily reports filed since the last quarterly report was filed. If no such taxes are so payable, a report so stating shall be filed on or before the time above provided.]

[The Corporation will debit and/or credit the account of such Member as appropriate on the basis of such reports and National Securities Clearing Corporation or the Corporation will in accordance with the applicable laws and regulations, remit or pay such amounts to the New York State tax authorities as may be appropriate. If and when National Securities Clearing Corporation shall receive an amount from New York State representing rebates claimed by such a Member, such amount shall be credited to the account of the Member.]

[Sec. 2. Persons who are entitled under the provisions of New York law to pay New York State stock transfer taxes through the facilities of the Corporation or National Securities Clearing Corporation and who are not Members may make application to the Corporation to have their names placed upon a list maintained by the Corporation, pursuant to Section 2 of Rule 3, of Non-Clearing Members for whom National Securities Clearing Corporation or the Corporation will act in respect of the payment through National Securities Clearing Corporation or the Corporation of New York State stock transfer taxes such application to be accompanied by an agreement, in form prescribed by the Corporation, providing for National Securities Clearing Corporation's or the Corporation's so acting for the applicant in accordance with the provisions of this Rule.]

[Sec. 3. (a) With respect to such New York State transfer taxes as are or may be payable pursuant to applicable laws and regulations by Non-Clearing Members whose names appear on the list provided for by Section 2 of this Rule, each such Non-Clearing Member shall at such times as may be required under applicable law or regulation, or, if not so required, by the Corporation, file with the Corporation a report or reports, on such form or forms as may be required under applicable law or regulation, or, if not so required, by the Corporation, of the amount of such taxes, credits and rebates and such other information as may be required under applicable law or regulation on transactions of such Non-Clearing Member other than transactions the taxes on which are included in the report of a Member as provided in Section 1 of the this Rule.]

[(b) Such a Non-Clearing Member may authorize a Member to sign the Non-Clearing Member's name and to file in his behalf the reports provided for by the foregoing paragraph (a) and such Member may authorize the Corporation to debit and/or credit his account as appropriate on the basis of the reports filed by him on behalf of the Non-Clearing Member.]

[(c) Each report filed by the Non-Clearing Member shall be accompanied by a check to the order of National Securities Clearing Corporation—SCC Division for the amount of such taxes shown on such report, and each report filed by a Member in the name of a Non-Clearing Member shall be accompanied by such a check, unless the Member has authorized such amount to be debited to his account with the Corporation.]

[(d) National Securities Clearing Corporation or the Corporation, upon receipt of such checks or upon making such debits and/or credits to the account of such Member, will, in accordance with applicable laws and regulations, remit or pay the amounts so received or debited to the New York State tax authorities.]

[(e) If and when National Securities Clearing Corporation shall receive an amount from New York State representing rebates claimed by such Non-Clearing Member or by such Member on behalf of such Non-Clearing Member, such amount shall be remitted to such Non-Clearing Member or credited to the account of such Member, as appropriate.]

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

NSCC Rule 14 ("Transfer Taxes") as it is presently written, gives the appearance that NSCC is assuming responsiblity for enforcement of the New York State Stock Transfer Tax payable through NSCC. The intention of the Rule, however, has always been to make NSCC's facilities available, as a "conduit", for the payment of the New York State Stock Transfer Tax, pursuant to the provisions of the New York State Tax Law and the regulations promulgated thereunder. The proposed rule, which is being submitted in order to clarify NSCC's policy, does not change the procedures by which the New York State Stock Transfer Tax is paid to the Tax Commission through NSCC or NSCC's responsibility for forwarding the New York State Stock Transfer Tax remittances to the Tax Commission.

Section 19(h)(1)(C) of the Securities Exchange Act of 1934, as amended, provides that a registered clearing agency must enforce compliance by its participants with its own rules. Inasmuch as NSCC does not (and is not required to) enforce the provisions of the New York State Stock Transfer Tax, the

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proposed rule change clarifies NSCC's stated policy in regard to the absence of an enforcement requirement by NSCC of the New York State Stock Transfer Tax.

Comments on the proposed rule change have been solicited pursuant to the attached Exhibit III. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

On or before October 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 28, 1980.

[FR Doc. 80-27120 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17096; File No. SR-NYSE-80-23]

New York Stock Exchange, Inc. (the "NYSE"); Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on June 9, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

[Brackets indicate deletions; italics indicate new material]

Rule 325

(e) In addition to the net capital requirements prescribed in Rule 15c3-1 promulgated under the Securities Exchange Act of 1934, each member described in *Section 1(a),* Section 1(b) or Section 2 of Article IX of the Constitution who executes orders on the Floor of the Exchange, [and each member permitted to transact business as a member not associated with a member organization as a member pursuant to Rule 301.34,] must present evidence of his financial responsibility *in the amount of $50,000* by one of the following methods:

(1) A written guarantee by a member organization which is a member of a qualified clearing agency and has excess net capital of not less than *$50,000* [$25,000], or

(2) *$50,000* [$25,000], held by an independent agent in escrow, or

(3) a letter of credit issued by a bank or other party acceptable to the Exchange in the amount of *$50,000* [$25,000], or

(4) in the case of a member described in *Section 1(a) or* Section 2 of Article IX of the Constitution, *except any member permitted to transact business as a member not associated with a member organization as a member pursuant to Rule 301.34,* his exchange membership *provided that the current value of such membership equals or exceeds $75,000 where the current value at any time shall be equal to the price of the last sale of a membership consummated through the Exchange's Membership Transfer Facility during the preceding calendar month (or, if no sale of a membership was consummated during the preceding calendar month, then the last sale prior to the preceding calendar month). Where such current value is less than $75,000, the difference, but not to exceed $50,000, shall be provided by any of the methods in subparagraphs (1), (2) or (3) above or by any alternate method approved by the Exchange.*

[provided, however that] [S]uch written guarantee, escrow account, letter of credit or exchange membership [is] *shall be* available solely for sums due the Exchange and such sums as the Board of Directors shall determine are due by such member to other members or member organizations as the result of losses arising directly from the closing out under the Constitution and Rules adopted pursuant thereto of contracts entered into in the ordinary course of business in the market on the floor of the Exchange for the purchase, sale, borrowing or loaning of securities.

The Exchange will consider alternate methods of compliance with the financial responsibility standard.

Statement of the Terms of Substance of the Proposed Rule Change

This proposal would make certain amendments to Rule 325(e). Specifically, it would impose a minimum financial responsibility requirement on all members who execute orders on the Floor of the Exchange and raise the minimum amount of such financial requirement from $25,000 to $50,000.

Statement of Basis and Purpose

The basis and purpose of the proposed amendment to Rule 325(e) are as follows:

Purpose of Proposed Rule Change

Exchange Rule 325(e) imposes a minimum financial responsibility requirement on certain members who execute orders on the Floor of the Exchange. Members who are subject to the rule are, in effect, required to provided a minimum "performance" guarantee on trades which they consummate on the Floor. The purpose of the proposed amendments to Rule 325(e) is threefold:

- To provide a minimum financial responsibility requirement for *all* members who execute orders on the Floor;
- To enable so-called "equity" members to satisfy the requirement with their membership provided that the adjusted value (explained below) of such membership equals or exceeds $75,000; and
- To increase the minimum requirement to $50,000 from $25,000.

At present, there are three types of members which are permitted to consummate, directly, trades on the Floor of the Exchange. These are:

- Equity members, who have a right to share in any distribution of the assets of the Exchange in the event of liquidation, dissolution or winding up of the affairs of the Exchange. There are 1,366 equity members of the Exchange. These members are often referred to as owning a "seat" on the Exchange;
- Lessees, who are non-equity members and who have leased the "seat" of an equity member for a specified period (usually one year). During the period of the lease, the lessee, rather than the lessor, is deemed to be a member for all purposes of the Exchange's Constitution and rules, except purposes of the Gratuity Fund provided for in Article XIV of the

Constitution and the right of claim for assets of the Exchange.

—Annual physical access members, who are also non-equity members and who pay an annual dues to the Exchange. This class if entitled, during the period for which dues have been paid, to enter physically on the trading Floor and conduct business thereon. As of March 1980, there were four physical access members.

Rule 325(e) is written presently in a form that makes it applicable, in general, only to lessees and annual physical access members. With respect to members who own an equity membership, other provisions of the Exchange constitution and Rules provide that the proceeds of the sale of such equity membership shall be available to cover liabilities arising from the closing out of contracts entered into on the Floor of the Exchange. Therefore, a member's equity membership serves as a guarantee for his trades on the Floor. The amount available for this guarantee is dependent upon the value of the membership upon transfer, and is not subject to any maximum or minimum.

The Exchange's Board of Directors concluded that such guarantee provided by a member's equity membership should be specifically included within Rule 325(e). The basis for this conclusion is that Rule 325(e) may be unnecessarily discriminatory in requiring only non-equity members to provide a minimum guarantee for their Floor contracts.

Accordingly, the proposed rule change would make Rule 325(e) applicable to *all* members, regardless of type, who execute trades on the Floor. As explained above, this amendment to Rule 325(e), in a sense, represents codification of existing practice and it is not expected to impose any undue burdens on equity members.

Since the rule change would apply the financial responsibility requirements of Rule 325(e) to equity members, it also allows the use of the value of the membership to guarantee such financial responsibility. Recognizing that, unlike other forms of guarantees under current Rule 325(e), the value of an equity membership will fluctuate, the rule would be further amended to provide an adequate cushion against a decrease in the value of the guarantee.

Specifically, for Rule 325(e) purposes, it is proposed that an Exchange membership be valued, at any given time, at an amount equal to the price of the last sale of a membership consummated during the preceding month. Furthermore, members who use their membership as a guarantee would be required to acquire additional guarantees to comply with Rule 325(e) for any month for which the last sale of the prior month was less than $75,000. This formula would approximate the 30% "haircut" which is applied to assets which are subject to fluctuating market values under SEC and NYSE capital requirements.

Thus, if the last relevant sale was at $50,000, the member would be required to obtain an additional guarantee of $25,000 to comply with Rule 325.

The final proposed changed contained in this filing would increase to $50,000 from $25,000 the financial responsibility requirement for all members. This requirement is in addition to any net capital requirement prescribed by Rule 15c3–1 under the Securities Exchange Act of 1934.

The current requirement was formulated and adopted during 1977. From the end of 1976 through the first nine months of 1979 the average dollar value of a trade on the Exchange has increased by 37.1%, to $22,842 from $16,665 and the average daily number of trades has increased by 5.6% to 40,007 from 37,892. On average over this period, each broker is now executing 5.6% more trades each worth 37.1% more than in 1976. Thus the monetary volume of a broker has increased on average by approximately 45% over a two-year, nine-month period. Based upon the changed trading activity characteristics of members since 1976, a 45% increase in the requirement to approximately $36,000 is obviously and immediately warranted.

Recognizing that this change would merely reflect the amount necessary to "catch up" for changes since 1976, a similar increase should be added to reasonably anticipate continued changes in market activity in the near term future.

An additional 45% increase over $36,000 would suggest a requirement of $52,200, or approximately $50,000.

The Exchange has also considered what the immediate impact of such a change would be on existing members. As of October 31, 1979, there were 94 leasing agreements in effect, 14 of which were guaranteed by the lessor's membership. Other guarantees were as follows:

Guaranteed by 31 different clearing firms	50
Guaranteed by the lessee's firm	28
Other	2
Total	80

Thus, 80 lessees would be required to satisfy the increased financial responsibility requirement as would the current four annual physical access members—one of whom has a letter of credit from a bank and three of whom are guaranteed by their firms. A review of existing guarantees suggests that if the member requiring the guarantee has acceptable collateral, the cost of a letter of credit is as low as $250 a year. In addition, many clearing firms provide the required guarantee as part of the member's agreement to clear through the firm. In short, adequate means of securing a $50,000 financial guarantee exist and the cost of such guarantees are not unreasonable.

If the Commission approves of the increase in the guarantee to $50,000, the Exchange will allow a reasonable time for its non-equity members to comply with the increased requirements.

Basis Under the Act for Proposed Rule Change

The proposed changes are consistent with the purposes of Section 6(b)(5) of the Act in that they promote the protection of investors and the public interest by establishing a uniform "minimum" guarantee level for transactions on the Exchange by all classes of members. In addition the proposed changes would eliminate any existing discrimination between different classes of Exchange members relative to "minimum" guarantee requirements. The proposal is also based on Section 11A(a)(1)(C)(ii) which states that the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

Comments Received from Members, Participants or Others on Proposed Rule Change

Written comments were not solicited and none were received.

Burden on Competition

The proposed rule changes are not expected to impose any burden on competition not necessary or appropriate to further the purposes of the Act.

On or before October 10, 1980, or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

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(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing, with respect to the foregoing, and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 6, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 27, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27119 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7132]

Trafalgar Industries, Inc.; Order of Suspension of Trading

August 20, 1980.

It appearing to the Securities and Exchange Commission that there has been a lack of current adequate and accurate financial information concerning the affairs of Trafalgar Industries, Inc., the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Trafalgar Industries, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that the suspension of trading of such securities will be effective at 3:50 PM on August 21, 1980 and terminate at midnight on August 30, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27121 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17107; SR-CBOE-1980-6]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

August 29, 1980.

On April 21, 1980, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend CBOE Rules 13.1, 13.2, 13.3 and 13.4 in order to incorporate by reference the Net Capital requirements of Rule 15c3-1 (17 CFR 240.15c3-1) and the early warning provisions of Rule 17a-11 (17 CFR 240.17a-11) promulgated under the Securities Exchange Act of 1934 and the business restriction or business reduction rules of other self-regulatory organizations.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-16818, May 20, 1980) and by publication in the **Federal Register** (45 FR 35960, May 28, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and by any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room. No public comments were received with respect to the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to National Securities Exchanges and in particular, the requirements of Section 6(b)(5) and the rules and regulations thereunder.

It is therefor ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27237 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17106; SR-NASD-80-9]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

August 28, 1980.

On May 22, 1980, the National Association of Securities Dealers, Inc. (the "NASD"), 1735 K Street, NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which revises the standards non-NASDAQ securities must meet in order to be included in the National OTC-NASDAQ List. The rule change also adjusts the price requirements which securities must meet in order to be included in the local quotations program. In addition, the rule change revises the NASD provisions which relate to the public dissemination of quotations to the news media.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16874, June 5, 1980) and by publication in the **Federal Register** (45 FR 39606, June 11, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and in particular, the requirements of Section 15A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27238 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17108; File No. SR-NYSE-80-33]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Puruant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 25, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The amendment to Article VII, Section 3 of the Exchange Constitution provides that the Nominating Committee's report of nominees for offices and positions to be filled at the annual election of the Exchange shall be given to the Secretary of the Exchange on the second Monday in March, instead of the second Monday in April.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed changes to the Constitution is to provide the membership with more time to cast their ballots in the annual election of the Exchange.

The Exchange's Statement of Basis Under the Act

The proposed rule changes relate to Section 6(b)(3) of the Securities Exchange Act of 1934 in that they would assure a fair representation of the Exchange's members in the selection of its Directors and administration of its affairs.

Comments Received From Members, Participants or Others

The Exchange has not solicited comments regarding the proposed rule changes and has received none.

Burden on Competition

The Exchange does not believe the proposed rule changes will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

Basis for Rule Change Being Put Into Effect Pursuant to Section 19(b)(3)

The Constitutional amendments are concerned solely with the administration of the New York Stock Exchange, Inc.

At any time within sixty days of the date of filing of these proposed rule changes, the Commission summarily may abrogate the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments covering the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 28, 1980.

[FR Doc. 80-27244 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17109; SR-Phlx-80-16]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 29, 1980.

On July 1, 1980, the Philadelphia Stock Exchange, Inc., 17th Street & Stock Exchange Place, Philadelpha, PA 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would amend Sections 1–1(b), 1–1(c), 12–1(g), 12–10, 14–19, 15–13 of its By-laws and rescind Sections 21–1 through 21–6 of its By-laws to eliminate Phlx's class of Associate Membership which is available to members of the Boston Stock Exchange. The phlx states that the business objectives of its Associate Membership arrangement with the Boston Stock Exchange are now being achieved though the Intermarket Trading System.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16981, 20 SEC Docket 720 (July 29, 1980)) and by publication in the **Federal Register** (45 FR 49416 (July 24, 1980)). No comments were received with respect to the rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27239 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

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[1] The BSE also rescinded its rules regarding associate membership. *See* Securities Exchange Act Release No. 16907 (June 19, 1980), 45 FR 42909 (June 25, 1980).

[Release No. 34-17099; File No. 57-822]

Statement of Commission Policy Concerning Section 30A of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Issuance of a statement of Commission policy.

SUMMARY: On February 21, 1980 the Securities and Exchange Commission issued a release requesting public comments on the impact and operation of Section 30A of the Securities Exchange Act of 1934,[1] who prohibits corporate bribery of foreign officials and certain other persons for the purpose of obtaining, retaining or directing business to any person. However, due to the limited response to the request for comments, the Commission has determined that it cannot fairly assess the questions that were raised by the comment letters. These questions include: (a) The extent to which there may be perceived uncertainties concerning the applicability of the Act; (b) whether such perceptions may be impeding legitimate foreign trade; and (c) whether such concerns could be alleviated consistent with the purposes that the Congress sought to achieve in enacting that provision.

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[1] Securities Exchange Act Release No. 16593 (Feb. 21, 1980); 45 FR 12574 (Feb. 28, 1980); 19 SEC Docket 691 (Mar. 4, 1980).

Although the Commission has determined that it cannot fairly assess these questions on the basis of the comments received, it makes clear its position with respect to enforcement of Section 30A. While the Commission adheres to its decision not to participate in reviewing transactions under the Foreign Corrupt Practices Act ("FCPA") Review Procedure that has been established by the Department of Justice, the Commission states that, as a matter of prosecutorial discretion, it will take no enforcement action alleging violations of Section 30A with respect to a transaction in any case where an issuer has sought and obtained a letter from the Department as part of the Review Procedure, prior to May 31, 1981, which states that the Department will not take enforcement action under Section 30A with respect to the transaction.

The Department of Justice has indicated that it will evaluate the results of the FCPA Review Procedure after it has been in operation for one year. After the Commission has had an opportunity to evaluate the experience of the Justice Department in administering the FCPA Review Procedure, the Commission will revisit the policy set forth above to determine whether the Commission should continue the policy or take other steps.

FOR FURTHER INFORMATION CONTACT: Frederick B. Wade, Office of the General Counsel (202-272-2493), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Origin and Structure of Section 30A of the Securities Exchange Act

Section 30A of the Securities Exchange Act was enacted approximately two and one-half years ago as part of the Foreign Corrupt Practices Act ("FCPA")[2]. It prohibits public companies from using any means or instrumentality of interstate commerce in furtherance of any offer, payment or gift of any money or other item of value to a foreign official, foreign political party or candidate for foreign political office for the "corrupt" purpose of obtaining, retaining or directing business to any person. Section 30A also proscribes the promise or authorization of such payments or gifts by public companies and prohibits any officer, director, employee, or agent of such a company, and any natural person in control of such a company, from authorizing, ordering or carrying out any act or practice constituting a violation of the foregoing prohibitions.

The Congress enacted the FCPA after extensive study of the issues surrounding illegal or improper payments emanating from American corporations in connection with their overseas business.[3] The Senate Committee in which the legislation originated described the Act as a "strong antibribery law" and recommended its passage because of the need "to bring these corrupt practices to a halt and to restore public confidence in the integrity of the American business system."[4]

The legislative history makes clear that the FCPA was enacted because bribery of foreign officials by American companies had caused "severe adverse effects" on the conduct of the nation's foreign policy and threatened the long range interests of American companies that compete in overseas markets.[5] Other concerns included the fact that bribery is unethical and inimical to the principles of open and fair competition.[6]

The House Report concerning the FCPA summarizes the damage to the nation's foreign policy interests as follows:

> (Revelations of corporate bribery) shook the Government of Japan to its political foundations and gave opponents of close ties between the United States and Japan an effective weapon with which to drive a wedge between the two nations. In another instance, Prince Bernhardt of the Netherlands was forced to resign from his official position * * *. In Italy, alleged payments * * * to officials of the Italian Government eroded public support for the Government and jeopardized U.S. foreign policy, not only with respect to Italy and the Mediterranean area, but with respect to the entire NATO alliance as well.[7]

The Senate Report voiced similar concerns and concluded, "The image of American democracy abroad has been tarnished."[8]

With respect to the long-range interests of American companies, the Senate Report states that "[c]orporate bribery of foreign officials * * * affects the very stability of overseas business," has an adverse impact on domestic competition "when domestic firms engage in such practices as a substitute for healthy competition for foreign business" and "is fundamentally destructive" of the basic tenet of our free market system that "the sale of products should take place on the basis of price, quality and service."[9] The House Report adds that the exposure of corporate bribery can damage a company's image, lead to costly lawsuits, cause the cancellation of contracts, and result in the expropriation of valuable overseas assets.[10] With respect to ethical considerations, the House Report stated:

> The payment of bribes to influence the acts or decisions of foreign officials, foreign political parties or candidates for foreign political office is unethical. It is counter to the moral expectations and values of the American public * * *. [I]t rewards corruption instead of efficiency and puts pressure on ethical enterprises to lower their standards or risk losing business.[11]

The FCPA addressed both the issue of specific questionable foreign payments and the broader problem of strengthening corporate accountability mechanisms as a means of preventing off-the-books slush funds, which had often been used to make such payments.[12] For example, the Conference Report concerning the FCPA states that the recordkeeping provision is designed to assure that corporate transactions are recorded "in conformity with accepted methods of recording economic events" and that such recording "should effectively prevent off-the-books slush funds and payments

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[2] Pub. L. 95-213, 91 Stat. 1494 (Dec. 19, 1977).

[3] *See, e.g.*, S. Rep. No. 95-114, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95-640, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95-831, 95th Cong., 1st Sess. (1977); S. Rep. No. 94-1031, 94th Cong., 2d Sess. (1976); *Hearings on Political Contributions to Foreign Governments Before the Subcommittee on Multinational Corporations of the Senate Committee on Foreign Relations*, 94th Cong., 1st Sess., Part. 12 (1975); *Hearings on the Activities of American Multinational Corporations Abroad Before the Subcommittee on International Relations*, 94th Cong., 1st Sess. (1975); Prohibiting Bribes to Foreign Officials, Hearing Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 94th Cong. 2d Sess. (1976); *Foreign Payments Disclosure, Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce*, House of Representatives, 94th Cong., 2d Sess. (1976); *Foreign Corrupt Practices and Domestic and Foreign Investment Disclosure, Hearing Before the Committee on Banking, Housing and Urban Affairs*, U.S. Senate, 95th Cong., 1st Sess. (Mar. 16, 1977); *Unlawful Corporate Payments Act of 1977, Hearings Before the Committee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce*, House of Representatives, 95th Cong., 1st Sess. (1977).

[4] S. Rep. No. 95-114, *supra* note 3, at 4. *Accord*, 13 Weekly Compilation of Presidential Documents 1909 (Dec. 21, 1977).

[5] *See* S. Rep. No. 95-114, *supra* note, at 4-5; H.R. Rep. No. 95-640, *supra* note 3, at 4-5.

[6] *See* S. Rep. No. 95-114, *supra* note, at 4-5; H.R. Rep. No. 95-640, *supra* note 3, at 5.

[7] H.R. Rep. No. 95-640, *supra* note, 3, at 5.

[8] *See* S. Rep. No. 95-114, *supra* note 3, at 3.

[9] *Id.* at 4.

[10] H.R. Rep. No. 95-640, *supra* note 3 , at 4-5.

[11] *Id*

[12] *See generally Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices* (hereinafter the "Commission's Report") submitted to the Committee on Banking, Housing and Urban Affairs, United States Senate (May 12, 1976), *reprinted in* 642 CCH Fed. Sec. L. Rep. Pt. II (May 19, 1976).

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of bribes."[13] The Conference Report also points out that the provision governing systems of internal accounting controls is designed "to provide reasonable assurance, among other things, that transactions are recorded as necessary to maintain accountability for assets."[14]

Accordingly, Section 102 of the FCPA enacted new Section 13(b)(2) of the Securities Exchange Act which requires issuers subject to the registration and reporting provisions of the later Act to: (a) "Make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer"[15]; and (b) "devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances" that certain specified objectives are met, including the recording of transactions "as necessary * * * to maintain accountability for assets" and the execution of transactions "in accordance with management's general or specific authorization."[16]

In addition, the FCPA enacted direct prohibitions against the making of certain payments or gifts to officials of foreign governments and certain other persons.[17] Section 30A of the Securities Exchange Act, enacted by Section 103 of the FCPA, applied these prohibitions to any issuer which has a class of securities registered pursuant to Section 12 of the Securities Exchange Act, or is required to file reports under Section 15(d) of that Act, and to any officer, director, employee, or agent of such issuer, or any shareholder acting on behalf of such issuer. These persons are prohibited from using the mails, or any means or instrumentality of interstate commerce, corruptly, in furtherance of an offer, payment, or promise to give anything of value to any foreign official, any foreign political party or official thereof or any candidate for foreign political office, or to any other person, where the reporting company has reason to know that the payment will accrue to any foreign official, foreign political party or official thereof, or any candidate for foreign political office.[18] The statute provides that a payment or gift is made "corruptly" if it is made for the purpose of influencing any act, decision, or failure to act of a foreign official, foreign political party or official thereof, or candidate for foreign political office, or inducing such a person or party to influence any act or decision of such foreign government or instrumentality in order to assist a reporting company in obtaining, retaining, or directing business to any person.

The FCPA also amended Section 32 of the Securities Exchange Act to create specific penalties applicable to violations of this prohibition. Violations of Section 30A are punishable by a fine of up to $10,000, imprisonment for up to five years, or both, in the case of an individual, and a fine up to $1 million in the case of a corporaton.[19] Amended Section 32 also provides that a fine levied upon any officer, director, stockholder, employee, or agent of an issuer shall not be paid, directly or indirectly, by such issuer.

Section 104 of the FCPA, which is not part of the federal securities laws, enacted parallel prohibition applicable to any "domestic concern," other than an entity covered by Section 30A, or any officer, director, employee, or agent of such domestic concern, or any stockholder thereof acting on its behalf.[20] This provision contains the same prohibitions and penalties that are applicable to reporting companies and their officers, employees, and agents under the Securities Exchange Act.

Section 30A is subject to Commission civil enforcement and regulatory implementation in the same manner as are other prvisions of the Securities Exchange Act. The Department of Justice is responsible, as with other sections of that Act, for any criminal prosecutions. The prohibition in Section 104 of the Foreign Corrupt Practices Act is, on the other hand, enforced exclusively by the Department of Justice, which may bring either civil or criminal proceedings to enforce that provision. Since the enactment of Section 30A two and one half years ago, the Commission has filed one civil injunctive action to enjoin violations of the antibribery prohibitions.[21] The Department has brought two civil actions [22] and one criminal [23] action alleging violations of the bribery prohibitions.[24]

II. The Commission's Request for Comments Concerning the Impact and Operation of the Bribery Prohibitions

On February 21, 1980, the Commission issued Securities Exchange Act Release No. 16593 [25] requesting comments concerning the impact and operation of Section 30A of the Securities Exchange Act. Submissions were requested by the close of business on June 30, 1980.

In large measure, this request responded to published reports that "uncertainty" concerning the applicability of the bribery prohibitions was having a negative effect on the willingness or ability of public companies to engage in foreign commerce.[26] The Commission stated that it was seeking to understand and evaluate "what impact, if any, uncertainty concerning * * * (Section 30A) may be having on competition in foreign markets" so that it could "determine whether there are any steps which the Commission should take, consonant with the public interest and the concerns of registrants, to better administer the elements of the antibribery prohibition which fall within its jurisdiction." The Commission added that it was seeking "to determine whether there is substance to the concerns which have been voiced regarding the impact and construction of Section 30A" and stated that, after analyzing the comments received, "the Commission will consider whether there is further action which it should take to address these matters."

In accordance with normal procedures, Release No. 16953 was summarized in the daily SEC News Digest,[27] and published in the SEC

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[13] H.R. Rep. No. 95–831, *supra* note 3, at 10.

[14] *Id.* As the Commission's Report noted, *supra* note 12, at 23–24, one of the most troublesome and pervasive circumstances associated with the cases that had come to the Commission's attention was "the accumulation of funds outside the normal channels of financial accountability, placed at the discretion of one or a very small number of corporate executives not required to account for expenditures from the fund."

[15] Section 13(b)(2)(A) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2)(A).

[16] Section 13(b)(2)(B) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2)(B). *See* Securities Exchange Act Release No. 16877, (June 9, 1980); 45 FR 40134 (June 13, 1980); 20 SEC Docket 310 (June 24, 1980).

[17] *See* S. Rep. No. 95–114, *supra* note 3; H.R. Rep. No. 95–640, *supra* note 3; and H.R. Rep. No. 95–640, *supra* note 3.

[18] The term "foreign official" is defined as "any officer or employee of a foreign government or any department, agency or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency or instrumentality." The term does not, however, include employees "whose duties are essentially ministerial or clerical." Section 30A(b), 15 U.S.C. 78dd–1(b).

[19] Section 32(c) of the Securities Exchange Act of 1934, 15 U.S.C. 78ff(c).

[20] 15 U.S.C. 78dd–1.

[21] *Securities and Exchange Commission* v. *Katy Industries*, Civil Action No. C78–3476 (N.D. Ill., filed Aug. 30, 1978).

[22] *See United States* v. *Roy J. Carver, et ano.*, Civil Action No. 79–1768 (S.D. Fla., filed April 9, 1979); *United States* v. *Finbar B. Kenney and Kenny International Corp.*, Civil Action No. 79–2038 (D. D.C., filed Aug. 2, 1979).

[23] *See United States* v. *Kenny International Corp.*, Criminal Action No. 79–00372 (D.D.C., filed Aug. 2, 1979).

[24] In addition, the Department has instituted a Foreign Corrupt Practices Act Review Procedure, which is discussed below.

[25] *See* note 1, *supra*.

[26] A number of these reports are cited in the Commission's release requesting comments.

[27] SEC News Digest (Feb. 21, 1980).

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Docket[28] and the **Federal Register.**[29] In addition, the Commission's release set forth the procedure for seeking confidential treatment of any part of a submission[30] and indicated that, because some issuers might be reluctant to identify themselves in a comment letter—even if confidential—the Commission would consider submissions made by counsel that would relate the experiences of clients without identifying the client involved.

The Commission received a total of fourteen comments in response to its request during the four-month comment period.[31] This relatively limited response appears inconsistent with published reports that there is widespread concern and uncertainty on the part of public companies and some individuals as to the applicability of the bribery prohibitions to particular transactions. The Commission recognizes, however, that concerns may exist with respect to the bribery prohibitions, but that affected persons may be unwilling, despite the provision made for confidential submissions, to provide the Commission with the kind of information that is needed to determine what action, if any, might be appropriate in response to those concerns.

The Commission remains sensitive to the need to consider the impact of newly enacted laws on affected persons. Even the most carefully drafted legislation may have unintended consequences or create an undue burden on such persons. However, the response to the request for comments is too sparse to permit a fair and comprehensive analysis to be made at this time with respect to the impact and operation of the bribery prohibitions contained in Section 30A. Moreover, there is presently no other body of empirical data that would support such an analysis. In addition, the available data is insufficient to support a reasoned evaluation of whether problems exist that were not contemplated at the time the FCPA was enacted, what alternatives may be appropriate for dealing with those problems, and the degree to which alternative responses may be consistent with the multiple objectives that the Congress sought to achieve by enacting the FCPA.

III. Other Government Initiatives Concerning the Bribery Prohibitions of the FCPA

Although the Commission cannot fairly assess the issues raised by the comments, or the need for further action in response to the concerns that have been expressed, certain other initiatives are currently underway that may provide useful information and experience.

The Department of Justice established an FCPA Review Procedure on March 20, 1980, which permits companies to obtain guidance concerning the applicability of the FCPA's bribery prohibitions to particular transactions.[32] Under that procedure, companies may submit a request for review setting forth the details of a proposed transaction and request that the Department indicate whether it would take of enforcement action if the transaction is carried out in the manner described. The Department has indicated that it will make every reasonable effort to respond to such requests within 30 days after receiving all of the information it considers relevant to the proposed transaction. In addition, it has stated that it will not disclose any information submitted as part of a review request which is exempt from mandatory public disclosure under the Freedom of Information Act.

Companies that receive Justice Department clearance for a proposed transaction under the FCPA Review Procedure will be assured that the Department will not take enforcement action on the basis of the transactions involved. In addition, the Department has indicated that it will issue public releases with respect to review requests that will describe the nature of reviewed transaction in general terms and set forth the Department's advice with respect to those transactions, thus making guidance available to companies and their counsel with respect to transactions that are not made the subject of a review request. As a result, the FCPA Review Procedure may serve to provide a greater measure of predictability as to how the anti-bribery provisions of the FCPA will be applied by the Department.

The Commission chose not to participate in the Justice Department's FCPA Review Procedure. In making that decision, the Commission considered the fact that determinations with respect to the applicability of Section 30A to particular fact patterns often would turn on judgments concerning motivation and intent. It concluded that many questions of this nature do not easily lend themselves to guidance on the basis of a written description of a proposed transaction and that such questions could, in the first instance, better be resolved by corporate officials and their professional advisors, who have access to all of the relevant facts bearing upon intention.

The Department of Justice has also issued a statement of its enforcement priorities with respect to the bribery prohibitions.[33] This statement identifies a number of factors that increase the likelihood of investigation or prosecution:

(a) The making of prohibited payments or gifts in countries where the only other competitors are American companies;

(b) Situations in which there are no American competitiors, but an American company is the only company engaging in corrupt practices;

(c) The fact that a foreign nation is making an effort to eliminate corrupt practices; and

(d) The making of prohibited payments or gifts to a foreign cabinet officer or other officials of high rank.

Other circumstances identified as affecting the likelihood of prosecution are the size of the payments; the size of the transaction; the past conduct of the persons or entities involved; the passive or active involvement of senior management officials; the involvement of lower level employees where the company has failed to exercise due diligence in monitoring employee activities; and the strength of the available evidence.

In addition, the General Accounting Office ("GAO") is conducting a study of the FCPA, which is attempting to acquire empirical data concerning the impact and operation of the bribery prohibitions. The GAO study will be based on a sample of 250 companies selected from *Fortune* magazine's list of the top 1,000 companies. It will collect data through an extensive questionaire and employ certain audit procedures to validate the responses received.

By this time next year, the initiatives of the Justice Department and the GAO, taken together with the additional experience of the Commission, the Department of Justice and the business community in implementing the bribery prohibitions of the FCPA, may provide the kind of data that will make possible a more satisfactory evaluation of the impact and operation of Section 30A. The Commission believes that that evaluation should consider whether significant uncertainties actually exist with respect to the applicability of the bribery prohibitions to particular transactions and the merits of alternative steps that might provide a greater measure of predictability as to how the law will be applied to particular transactions.

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[28] See note 1, *supra*.

[29] See note 1, *supra*.

[30] In this regard, the Commission stated that those wishing to make application for confidential treatment of any part of their submission should state that fact prominently on the first page or cover sheet of their comments. *See* Section 23(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a)(3); Rule 24b-2, 17 CFR 240.24b-2.

[31] Of these fourteen letters, one transmitted a duplicate copy of a trade association's comments and another took issue with a decision of a different independent regulatory agency, which was unrelated to Section 30A.

[32] *See* 45 FR 20800 (Mar. 31, 1980).

[33] *See Heymann*, "The Justice Department's Proposed Program to Provide Advice to Businesses in Connection with Foreign Payments," and Address Delivered at the Pierre Hotel, New York, New York (Nov. 8, 1979).

IV. Statement of Commission Policies Concerning Section 30A

As noted above, the Commission and the Department of Justice share responsibility for administering and enforcing the bribery prohibitions applicable to public companies, which were added as Section 30A of the Securities Exchange Act. Because the Commission is responsible for civil enforcement proceedings and the Justice Department is authorized to bring criminal enforcement actions, a number of comments suggest that the Commission's decision to decline participation in the Justice Department's FCPA Review Procedure might give rise to differing interpretations or applications of the law with respect to the same transaction or transactions, and thereby reduce the degree of assurance that issuers can obtain by making use of the review procedure. Most of these comments urge that the Commission "coordinate" its interpretation and enforcement of the statute with the Department of Justice.[34]

The Commission wishes to emphasize that, although it has declined to participate directly in the Justice Department's FCPA Review Procedure, it continues to work closely with the Justice Department in administering the bribery prohibitions. The Commission is aware of no difference of substance between the Commission and the Department of Justice with respect to interpretation of the bribery prohibitions.

Although the Commission adheres to its original position concerning participation in the FCPA Review Procedure, the Commission recognizes that the review procedure is an experiment that may serve to provide a greater measure of predictability as to how the bribery prohibitions will be applied by the Department. The Commission also believes—particularly in view of the limited response to its request for comments concerning the impact and operation of Section 30A—that the FCPA Review Procedure may provide a needed source of reliable data concerning the impact and operation of the bribery prohibitions. As a result, the Commission continues to have a strong interest in the experience and results of the Department's FCPA Review Procedure.

The Commission is concerned, however, by the views expressed in the comment letters to the effect that its decision to decline participation in the FCPA Review Procedure will reduce the degree of assurance that issuers can obtain through the FCPA Review Procedure. In addition, it has been suggested that the possibility of Commission enforcement action, despite a favorable review letter from the Department, might deter some public companies from making use of the Department's Procedure. Such a response would diminish the possibility that the FCPA Review Procedure will provide a greater degree of predictability as to the Department's enforcement of the bribery prohibitions and also inhibit the compilation of a credible body of data that might permit a fair and comprehensive assessment to be made with respect to the impact and operation of Section 30A.

As a general rule, the Commission does not anticipate that it would commence a civil enforcement action under Section 30A with respect to a particular transaction, despite the differing considerations that may be applicable to the commencement of civil and criminal enforcement actions, if the Department of Justice has indicated that it will not take criminal action under Section 30A with respect to the transaction based upon the curcumstances set forth in an FCPA review request. Nevertheless, it has reserved the right to make an independent determination as to the need for such action.

However, in the light of the comments received concerning Section 30A, the Commission believes that further clarification of its position is appropriate to assure that its decision to decline participation in the FCPA Review Procedure will not adversely affect the willingness of public companies to make use of the procedure, and thereby reduce the possibility that there will be sufficient experience with the procedure to permit a fair assessment to be made with respect to its effectiveness. Accordingly, the Commision has decided, as a matter of prosecutorial discretion, that it will not commence an enforcement action alleging violations of Section 30A in any case in which a public company seeks clearance for a proposed transaction under the FCPA Review Procedure and receives a letter from the Department of Justice, prior to May 31, 1981, stating that the Department does not intend to take enforcement action based on the facts and circumstances presented.

The Commission understands that the Department of Justice will conduct a review of the effectiveness of the procedure after it has been in operation for a period of one year. Since the review procedure was announced in the **Federal Register** on March 31, 1980, the Department's review should commence on or about March 31, 1981. After the Commission has had an opportunity to evaluate the experience of the Justice Department in administering the FCPA Review Procedure, the Commission will review the policy set forth above and may revisit the question of whether it should participate in the FCPA Review Procedure, continue the policy set forth above, or take other steps.

This policy statement eliminates the possibility that the Commission would commence and enforcement action with respect to transactions that are the subject of a favorable letter, issued prior to May 31, 1981, as part of the Department's FCPA Review Procedure. In addition, it should encourage public companies to make use of the procedure in cases where they may be uncertain as to the possible applicability of Section 30A to particular transactions and should help to assure that the FCPA Review Procedure will result in a sufficiently broad data base to make more adequate evaluations of the impact and operation of Section 30A in the future.

VI. Conclusion

The Commission hopes that the policies set forth above will make clear its position with respect to enforcement of Section 30A in cases where the Department of Justice has issued a letter, prior to May 31, 1981, stating that it will take no enforcement action under that provision with respect to a particular transaction. After the Commission has had an opportunity to evaluate the experience that the Department of Justice gains in administering its FCPA Review Procedure, it may revisit the question of what actions it could take to improve its administration of Section 30A in the light of that experience.

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[34] In this context, one comment incorrectly asserts that "the joint administration of Section 30A * * * has resulted in uncoordinated interpretation and enforcement of the Act." In fact, however, none of the cases filed in the past three years reflect any difference in interpretation between the Commission and the Department of Justice.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 28, 1890.

[FR Doc. 80-27240 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5112]

Invesat Capital Corp.; Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1980)) for the transfer of control of Invesat Capital Corporation (Invesat), a Mississippi corporation, and a Federal Licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended, with its office presently located at 162 East Amite Street, Suite 204, Jackson, Mississippi 39201.

Invesat Corporation (Stockholder), a Mississippi corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended, is presently the owner of all of the outstanding shares (15,000) of the $1 Par Value Common Stock of Invesat. Pursuant to a Stock Transfer Agreement entered into between National Business League (National) a District of Columbia not-for-profit corporation, and Stockholder, National proposes to purchase from Stockholder 15,000 shares of $1 Par Value Common Stock of Invesat for the sum of $150,000 in cash or certified funds.

Upon consummation of this transaction, Invesat will be domesticated in the District of Columbia as NBL Capital Corporation with its offices located at 4320 Georgia Avenue, NW., Washington, D.C. 20011, and will have the following interim directors:

Theodore R. Hagans, Jr., 1645 Myrtle Street, NW., Washington, D.C. 20012.
*Marion R. Harris, 1815 Gola Drive, Fayetteville, N.C. 28301.
Charles T. Williams, 40 Hickory Drive, Roslyn, Long Island, N.Y. 11576.

National consists of a national headquarters located at 4324 Georgia Avenue, NW., Washington, D.C. 20011 and 127 chartered chapters. Each chartered chapter is an autonomous organization in choosing officers and in fiscal matters. The 127 chapters, in concert with National, will provide the aggregate amount of $150,000 to purchase Invesat Capital Corporation. These chapters will also provide an additional $50,000 of private capital after the acquisition of Invesat Capital Corporation to expand the capital of the proposed NBL Capital Corporation to $200,000.

Once the NBL Capital Corporation is a 301(d) Licensee, National will employ a combination of chapter contributions and placement of a private offering with its many supporters over the past 80 years to expand its capital to reach its goal of $1,000,000 of paid-in capital.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed new owner, National Business League, and the probability of a successful operation of National Capital Corporation under its control in accordance with the Act and Regulations promulgated thereunder.

Notice is hereby given that any person may, not later than September 22, 1980, submit written comments on this Application to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the National Business League in a newspaper of general circulation in the District of Columbia and Jackson, Mississippi.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27284 Filed 9-4-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1912]

North Dakota; Declaration of Disaster Loan Area

Ransom and Richland Counties and adjacent counties within the State of North Dakota constitute a disaster area as a result of damage caused by wind and hail storm which occurred on August 6, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 27, 1980, and for economic injury until the close of business on May 27, 1981, at: Small Business Administration, District Office, Federal Office Building, Room 218, P.O. Box 3086, 653 Second Avenue North, Fargo, North Dakota 58102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 27, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-27283 Filed 9-4-80; 8:45 am]

BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Becton, Dickinson & Company, Mack Centre Drive, Paramus, New Jersey 07652.

2. Wholly owned subsidiaries which will particiate in the operations and address of their respective principal offices:

Becton-Dickinson Division, East Rutherford, N.J.
B-D VACUTAINER Systems Division, East Rutherford, N.J.
Bard-Parker Division, Lincoln Park, N.J.
B-D Respiratory Systems, Lincoln Park, N.J.
B-D Medical Systems, Sharon, MA
B-D Drake Willock, Portland, OR
B.B.L. Microbiology Systems, Cockeysville, MD.
Clay Adams Laboratory Systems, Parsippany, N.J.
B-D Immunodiagnostics, Orangebury, N.Y.
B-D Labware Division, Oxnard, CA
Endevco Division, San Juan Capistrano, CA
Edmont Wilson Division, Coshocton, OH
Energetics Science, Inc., Elmsford, N.Y.
Telemed Cardio-Pulmonary Sys, Hoffman Estates, IL
B-D Consumer Products Division, Rochelle Park, N.J.
Ivers-Lee Division, West Caldwell, N.J.
International Sales Division, Paramus, N.J.
Hypak, Inc., Paramus, N.J.

1. Parent corporation and address of principal office:

Benham & Co., Inc., P.O. Box 29, Mineola, Texas 75773.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Mid-West Transport Co., P.O. Box 29, Mineola, TX 75773.
(b)Sabine Trucking Co., Inc., P.O. Box 29, Mineola, TX 75773.

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*Mr. Harris is presently a stockholder and a director of another small business investment company, namely Vanguard Investment Company, Inc., Suite 300 Pepper Building, Fourth and Liberty Streets, Winston-Salem, North Carolina 27101 (License No. 04/04-5092).

(c) Phoenix Industries, Inc., P.O. Box 29, Mineola, TX 75773.

A. Parent corporation and address of principal office:

The Black and Decker Manufacturing Company, 701 E. Joppa Road, Towson, Maryland 21204.

B. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices.

Black & Decker (U.S.) Inc., 701 E. Joppa Road, Towson, Maryland 21204.
The McCulloch Corporation, 5400 Alla Road, Los Angeles, California 90066.
Black & Decker Canada Inc., 100 Central Avenue, Brockville, Ontario Canada, KCV 4N8.

1. Parent corporation.

The Budd Company; 3155 West Big Beaver Road; P.O. Box 2601, Troy, Michigan 48084.

2. Wholly-owned subsidiaries which will participate in the operations.

(a) Woodings-Verona Tool Works, Inc., 400 Jones Street, Verona, PA 15147.
(b) Waupaca Foundry, Inc., 406 North Division Street, Waupaca, WI 54981.
(c) Place Machine Corporation, 1740 E. Maple Road, Troy, MI 48099.
(d) Freeway Truck Parts, 17700 S. Santa Fe Avenue, Carson, CA 90749.
(e) Milford Fabricating Company, 19200 Glendale Avenue, Detroit, MI 48223.
(f) Greening Donald Co. Ltd., 55 Queen Street North, Hamilton, Ontario L8N 3J3.
(g) Mundt Perforations, Inc., 550 Hadley Road, S. Plainfield, NJ 07080.
(h) Budd Financial Corporation, 3155 West Big Beaver Road, Troy, MI 48084.
(i) Budd Leasing Corporation, 3155 West Big Beaver Road, Troy, MI 48084.

1. Parent corporation and address of principal office:

Combustion Engineering Inc., 900 Long Ridge Road, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

American Pole Structures Corporation, 8700 Fairbanks, Houston, TX 77040.
Combusion Engineering Americas, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.
Combustion Engineering Overseas, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.
Combustion Engineering-Superheater, Ltd., 1000 Prospect Hill Road, Windsor, CT 06095.
CESCO International Ltd., 1000 Prospect Hill Road, Windsor, CT 06095.
Optimum Controls of Canada Limited, 1140 de Mainsonneuve Blvd. West, Montreal, 110, Quebec, Canada H3A1N2.
International Power Systems, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.
Upper Canada Manufacturing Limited, 99 Bank Street, Ottowa, Ontario, Canada KIP 6C5
CEI Inc., 1000 Prospect Hill Road, Windsor, CT 06095.
Beaumont Well Works, Inc., 4710 Bellaire Boulevard, Houston, TX 77001.
C–E Natco Oilfield Construction, Inc., 5330 E. 31st St., Tulsa, OK 74135.
Oilfield Construction Company Inc., P.O. Box 1925, Bakersfield, CA 93303.
Electric Lighting Inc., 1000 Prospect Hill Road, Windsor, CT 06095.
The Air Preheater Company, Inc., Wellsville, N.Y. 14895.
The Bauer Bros. Co., 3200 Upper Valley Pike, P.O. Box 968, Springfield, Ohio 45501.
Bauer Bros. Co. of Canada Ltd., 192 Mary Street, P.O. Box 910, Brantford, Ontario.
The Ehrsam Company, 300 N. Cedar, Abilene, Kansas 67410.
Ehrsam Transport, Inc., 2nd and Factory, Enterprise, KS 67441.
Crest Engineering, Inc., P.O. Box 27474, 3000 South Post Oak Road, Houston, TX 77056.
Crest Engineering Ltd., P.O. Box 27475, 3000 South Post Oak Road, Houston, TX 77056.
Lummus Group, Inc., 1515 Broad Street, Bloomfield, N.J. 07003.
The Lummus Company, 1515 Broad Street, Bloomfield, N.J. 07003.
Lummus Construction Equipment International, Inc., C–E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056.
Lummus Construction Company, 300 Broadacres Drive, Bloomfield, N.J. 07003.
Lummus Overseas Corporation, 1515 Broad Street, Bloomfield, N.J. 07003.
Lummus International, Inc., 1515 Broad Street, Bloomfield, N.J. 07003.
Construction Equipment International, Inc., C–E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056.
The Lummus Company Canada Limited, 1515 Broad Street, Bloomfield, N.J. 07003.
The Randall Corporation, 1400 Brittmore Road, Houston, TX 77043.
C–E Morgan, Inc., 1525 N.W. 167th Street, Miami, Florida 33169.
Ken Thelen Co., Inc., 4749 South Whitnall Ave., Cudahy, Wisconsin 53110.
C–E Minerals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.
Combustion Chemicals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.
Narvon Products, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.
Mullite Company of America, 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.
Cermatec Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
C–E Refractories Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
Globe Refractories, Inc., P.O. Box D, Newell, W. Va. 26050.
R&I—Ramtite (Canada) Limited, 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
Thermotect Company, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
Knox Mining Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
The Muller Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
C–E Basic Incorporated, 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
Basic Ceramics, Inc., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.
Basic Chemicals, Inc., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.
B.R.I. Service Co., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.
Industrial Magnesia Corp., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.
W. S. Tyler, Incorporated, 8200 Tyler Boulevard, Mentor, Ohio 44060.
The W. S. Tyler Company of Canada Ltd., P.O. Box 3006, 225 Ontario St., St. Catherines, Ontario, Canada L2R 7B6

1. The parent corporation is Economy Furniture, Inc., 9315 McNeil Road (P.O. Box 9788), Austin, TX 78766.

2. Wholly-owned subsidiaries which will participate in the operations are as follows:

(a) Dormae Products, Inc., 9313 McNeil Road, P.O. Box 9788, Austin, TX 78766.
(b) Hurley Mattress and Awning, Inc., 9315 McNeil Road, P.O. Box 9788, Austin, TX 78766.

1. *Parent Corporation and Address of Principal Office:*

The Federal Company, 1755–D Lynnfield Rd., Suite 149; Memphis, TN 38138.

2. *Wholly-Owned Subsidiaries Which Will Participate in the Operations, and Address of their Respective Principal Offices:*

(a) Holly Farms Poultry Industries, Inc., Post Office Box 88, School Street, Wilkesboro, North Carolina 28697.
(b) Holly Farms of Texas, Inc., Post Office Box 789, Center, Texas 75935
(c) Holly Farms Foods, Inc., Post Office Box 88, School Street, Wilkesboro, North Carolina 28697
(d) HTL Enterprises, Inc., 4601 Hebron Street, Charlotte, North Carolina 28210
(e) National By-Products, Inc., 1020 Locust Street, Des Moines, Iowa 50309
(f) Cosby-Hodges Milling Company, 1904 N. 16th Street, Birmingham, Alabama 35204.
(g) Dixie Portland Flour Mills, Inc., 1755–D Lynnfield Road, Suite 107, Memphis, Tennessee 38138.
(h) Dixie Portland of Georgia, Inc., Post Office Box 610, Barnesville, Georgia 30204
(i) FFF Leasing, Inc., Post Office Box 789, Center, Texas 75935
(j) The White Lily Foods Company, 108 Depot Street, Knoxville, Tennessee 37901
(k) Globe Products Company, Inc., 55 Webro Road, Clifton, New Jersey 07015
(l) Diana Fruit Preserving Company, Inc., 651 Mathew Street, Santa Clara, California 95052
(m) Crescent Food Company, 5403 Santa Fe Avenue, Los Angeles, California 90058
(n) Rustco Products Company, 61st Avenue and Franklin, Denver, Colorado 80216
(o) Adolf J. Mainzer, Inc., 55 Webro Road, Clifton, New Jersey 07015

1. Parent corporation:

Fleetwood Enterprises, Inc., 3125 Myers Street, Riverside, California 92523.

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2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal Offices:

Fleetwood Motor Homes of California, Inc., 5300 Via Ricardo, Riverside, CA 92502.
Fleetwood Motor Homes of Indiana, Inc., 1410 West Patterson Street, Decatur, IN 46733.
Fleetwood Motor Homes of Pennsylvania, Inc., Route 487, R.F.D. #1, Paxinos, PA 17860.
Fleetwood Travel Trailers of Indiana, Inc., 1635 Elmore Street, Crawfordsville, IN 47933.
Fleetwood Travel Trailers of Maryland, Inc., 35 South Street, Hancock, Maryland 21750.
Fleetwood Travel Trailers of Maryland, Inc., Governor Lane Boulevard, Williamsport, Maryland 21795.
Fleetwood Travel Trailers of Texas, Inc., 810 Prowler Drive, Longview, TX 75607.
Fleetwood Travel Trailers of Texas, Inc., 2901 E. Industrial Road, Waco, TX 76703.
Fleetwood Travel Trailers of Nebraska, Inc., 13737 Industrial Road, Omaha, Nebraska 68137.
Fleetwood Travel Trailers of Ohio, Inc., 407 W. Railroad Street, Edgerton, Ohio 43517.
Fleetwood Travel Trailers of Oregon, Inc., 121 N.W. 47th Street, Pendleton, Oregon 97801.
Fleetwood Travel Trailers of Oregon, Inc., Pierce Lane, LaGrande, Oregon 97850.
Fleetwood Travel Trailers of California, Inc., 145 S. Larch Avenue, Rialto, CA 92376.
Fleetwood Travel Trailers of California, Inc., 255 S. Pepper Avenue, San Bernardino, CA 92403.
Fleetwood Travel Trailers of Virginia, Inc., Battaile Drive, Winchester, Virginia 22601.
Avion Coach Corporation, 1300 E. Empire Avenue, Benton Harbor, Michigan 49022.
Prowler Industries of Ontario, Ltd., 70 Mount Hope Street, Lindsay, Ontario, Canada.
Terry Travel Trailers, Ltd., 610 Lisgar Avenue West, Renfrew, Ontario, Canada.
Fleetwood Homes of Idaho, Inc., 112 Industrial Road, Nampa, Idaho 83651.
Fleetwood Homes of Idaho, Inc., 2611 East Comstock Avenue, Nampa, Idaho 83651.
Fleetwood Homes of Washington, Inc., 211 5th Street, Woodland. WA 98674.
Fleetwood Homes of Washington, Inc., 2925 Index Road, Washougal, WA 98671.
Fleetwood Homes of Oregon, Inc., 2555 Progress Way, Woodburn, Oregon 97071.
Fleetwood Homes of Oregon, Inc., 2655 Progress Way Woodburn, Oregon 97071
Fleetwood Homes of California, Inc., 7007 Jurupa Avenue, Riverside, CA 92514.
Fleetwood Homes of California, Inc., 6001 20th Street, Rubidoux, CA 92519.
Fleetwood Homes of California, Inc., 18 North County Road 101, Woodland, CA 95695.
Fleetwood Homes of California, Inc., 1600 Clancy Street, Visalia, CA 93277.
Fleetwood Homes of Texas, Inc., 2801 Cholson Road, Waco, TX 76705.
Fleetwood Homes of Texas, Inc., 2800 East Industrial Road, Waco, TX 76703.
Fleetwood Homes of Texas, Inc., 1101 Foundation Drive, Waco, TX 76710.
Fleetwood Homes of Texas, Inc., Como Street, Sulphur Springs, TX 75482.
Fleetwood Homes of Georgia, Inc., Northside Industrial Park, Douglas, GA 31533.
Fleetwood Homes of Florida, Inc., 2433 AZ Park Road, Lakeland, FL 33803.
Fleetwood Homes of Florida, Inc., 1603 Grove Avenue, Haines City, FL 33844.
Fleetwood Homes of Florida, Inc., 700 S. Bartow Road, Auburndale, FL 33823.
Fleetwood Homes of Florida, Inc., 4848 Sydney Airport Road, Plant City, FL 33566.
Fleetwood Homes of Mississippi, Inc., Fleetwood Circle, Lexington, Mississippi 39095.
Fleetwood Homes of Tennessee, Inc., Fleetwood Drive at Hawkins Street, Westmoreland, Tennessee 37186.
Fleetwood Homes of Virginia, Inc., Highway 40 West RDF 4, Rocky Mount, Virginia 24151.
Fleetwood Homes of Alberta, Ltd., 4050 77th Street, Red Deer, Alberta, Canada T4N 5H2.
Gold Shield Interiors, Inc., Federal Way & Apple, Boise, Idaho 83705.
Gold Shield Fiberglass, Inc., 11751 Industry Avenue, Fontana, CA 92335.

Parent corporation:

The Flintkote Company, 800 Decker Drive, Irving, TX 75062.

Wholly owned subsidiary:

Texas Texture Compounds, Inc., 13317 Elder, P.O. Box 340347, Farmers Branch, TX 75234.

1. Parent corporation and address of principal office:

Fort Howard Paper Company, 1919 South Broadway, Green Bay, WI 54304.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) HAC Holding Corp., 1919 South Broadway, Green Bay, WI 54304.
(b) Harmon Assoc., Corp., 86 Garden Street, Westbury, NY 11590.
(c) Harco Trucking Corp., 86 Garden Street, Westbury, NY 11590.
(d) Harmon Paper Stock Company, Inc., 86 Garden Street, Westbury, NY 11590.
(e) Harmon Paper Export Corp., 86 Garden Street, Westbury, NY 11590.
(f) Harmon International Paper Corp., 86 Garden Street, Westbury, NY 11590.

Parent corporation:

Friday Canning Corporation, 660 North 2nd Street, New Richmond, WI 54017.

2. Wholly owned subsidiaries:

a. Country Gardens, Incorporated, Gillett, WI 54124.
b. Mammoth Spring Canning Corporation, Sussex, WI 53089.
c. Fall River Canning Company, Fall River, WI 53932.
d. Gale Packing Company, Galesville, WI 54630.
e. Baker Canning Company, Theresa, WI 53091.

Parent corporation:
Kaiser Aluminum & Chemical Corporation, 300 Lakeside Drive, Oakland, California 94643.

Wholly owned subsidiary company which will participate in intercorporate compensated hauling:

Kaiser Aluminum International Corporation, 300 Lakeside Drive, Oakland, California 94643.

(1) Parent corporation and address of principal office:

Koppers Company, Inc., 850 Koppers Building, Pittsburgh, Pennsylvania 15219.

(2) Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Environmental Elements Corporation, P.O. Box 1318, Baltimore, Maryland 21203.
(b) Dantzler Lumber & Export Company, P.O. Box 6340, Jacksonville, Florida 32205.
(c) Parr, Inc., 18400 Syracuse Avenue, Cleveland, Ohio 44110.
(d) Thiem Corporation, P.O. Box 6, Oak Creek, Wisconsin 53154.

1. Parent corporation and address of principal office:

Lydall, Inc., One Colonial Road, Manchester, CT 06040.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Lydall Eastern, Inc., One Colonial Road, Manchester, CT 06040.
(b) Lydall Atlantic, Inc., One Colonial Road, Manchester, CT 06040.
(c) Lydall Midwest, Inc., One Colonial Road, Manchester, CT 06040.
(d) Lydall New York, Inc., One Colonial Road, Manchester, CT 06040.
(e) Gross Paper Company, One Colonial Road, Manchester, CT 06040.

1. Parent corporation and address of principal office:

Monogram Industries, Inc., 100 Wilshire Boulevard; Santa Monica, CA 90401.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

Cornell Manufacturing Co., Inc. 21 Saw Mill River Road, Yonkers, NY 10701.
Ring Brothers Investment Co., Inc. 100 Wilshire Boulevard Santa Monica, CA 90401.
Ring Brothers Mangement Corp. 501 Santa Monica Boulevard, Santa Monica, CA 90401.
Spaulding Fibre Company, Inc. One American Drive, Buffalo, NY 14225.
Ring Brothers Corporation, 501 Santa Monica Boulevard, Santa Monica, CA 90401.
American Pneumatic Tool Company, 14710 Maple Avenue, Gardena, CA 90248.
Spaulding Fibre of Canada Limited, 130 The West Mall, Etobicoke, Ontario, Canada M9C–1B9

1. Parent corporation and address of principal office:

The Newark Group, Inc., 57 Freeman Street, Newark, New Jersey 07105.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Newark Boxboard Co., 57 Freeman Street, Newark, New Jersey 07105.
(b) Book Covers, Inc., 17 Blanchard Street, Newark, New Jersey 07105.

1. Parent corporation:

Name: Owatonna Tool Company, Address of principal office: 655 Eisenhower Drive, Owatonna, Minnesota.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Name: Truth Incorporated, Address of principal office: Bridge Street, Owatonna, Minnesota.
(b) Name: Twin Tool, Inc., Address of principal office: 378 East 8th Street, St. Paul, Minnesota.
(c) Name: Tri/Mark Corporation, Address of principal office: New Hampton, Iowa.

1. Parent corporation and address of principal office:

Pullman Incorporated, 200 South Michigan, Chicago, Illinois 60604.

Communications concerning this notice should be sent to the following address:

Pullman Trailmobile Division, attention: Director of Transportation, 200 East Randolph Drive, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Transport Systems, Inc., P.O. Box 1886, Denton, TX 76201.
Pullman Woodex Corporation, 4900 Waters Edge Drive, Raleigh, NC 27606.
Pullman Trailmobile Canada Limited, 100 Shaver Street, Brantford, Ontario, Canada.

1. Parent corporation and address of principal office:

RCA Corporation, 30 Rockefeller Plaza, New York, NY 10020.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

All-Steel, Inc., P.O. Box 871, Aurora, IL 60507.
Cleo Wrap Corp., 4025 Viscount, Memphis, TN 38118.
Coronet Industries, P.O. Box 1248, Dalton, GA 30720.
Gibson Greeting Cards, Inc., 2100 Section Road, Cincinnati, OH 45237.
Picker Corporation, 595 Miner Road, Cleveland, OH 44143.
RACO, Inc., P.O. Box 4002, South Bend, IN 46634.
RCA American Communications, Inc., 201 Centennial Avenue, Piscataway, NJ 08854.
RCA Global Communications, Inc., 60 Broad Street, New York, NY 10004.

1. Parent corporation and address of principal office:

The C. Reiss Coal Company, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Reliance Construction Company, 1011 South 8th Street, Sheboygan, Wisconsin 53081.
(b) Reiss Oil Terminal Corporation, 1011 South 8th Street, Sheboygan, Wisconsin 53081.
(c) Reiss Viking Corporation, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

1. Parent corporation and address of principal office:

G. D. Searle & Company, P.O. Box 1045, Skokie, Illinois 60076.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Searle Medical Products USA, Inc., 4711 Golf Road, Skokie, Illinois 60076.
(b) Searle Pharmaceutical/Consumer Products, Inc., 4930 Oakton Street, Skokie, Illinois 60077.
(c) Searle Optical, Inc., P.O. Box 226139, Dallas, Texas 75266.

1. Parent corporation and address of principal office:

Siecor Optical Cables, Inc., 1928 Main Avenue SE., Hickory, N.C. 28601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Superior Cable Corporation, 1928 Main Avenue SE., Hickory, N.C., 28601.

(A) Parent corporation:

Trinity Industries, Inc., 4001 Irving Blvd., P.O. Box 10587 Dallas, Texas 75207, Dallas, Texas 75274.

(B) Wholly-owned subsidiaries which will participate in the operations.

1. Delta Tank Corporation, Sherrill Street, P.O. Box 3750, Jackson, Georgia 30233.
2. Equitable Shipyards, Inc., 3636 I 10 Service Road, Metairie, Louisiana 70004.
2. Gambles, Inc., 1401 North Decatur, P.O. Box 310, Montgomery, Alabama 36101.
4. Hackney, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.
5. Mosher Steel Company, 3910 Washington Ave., P.O. Box 1579, Houston, Texas 77001.
6. Texas Metal Fabricating Co., 7000 Old Katy Road, P.O. Box 70125, Houston, Texas 77007.
7. Trinity Industries Transportation, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.
8. The Ingalls Iron Works Company, 620 4th Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.
9. Blue Ridge Steel Company, 1000 Ninth Street, N.E., Roanoke, Virginia 24016.
10. New City Steel Corporation, 5415 South Claremont Ave., Chicago, Illinois 60609.
11. City Steel Corporation, 975 High Street, Jackson, Mississipi 39205.
12. Richards Tank Corporation, Pinson Highway, Birmingham, Alabama 35217.
13. Gibson Steel Company, Inc., 816 North 30th Street, Birmingham, Alabama 35203.
14. Steel Supply Company, Inc., 4800 Beverly Road, Knoxville, Tennessee 37918.
15. Tennessee Steel and Supply Company, 710 South Second Street, Nashville, Tennessee 37213.
16. South Central Steel Company, Camp Coleman Road, Trussville, Alabama 35173.
17. Jones and Armstrong Steel Company, 620 4th Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.
18. Jacksonville Steel Company, Edgewood Avenue and 20th Street, Jacksonville, Florida 32205.
19. Charles County Steel Company, St. Charles Industrial Park, P.O. Box 657, Waldorf, Maryland 20601.
20. Ingalls Steel of Pennsylvania, Seldon and Ridge Avenues, Verona, Pennsylvania 15147.
21. McMurray Structural Steel Company, 1015 Herman Street, Nashville, Tennessee 37208.
22. Seminole Steel Company, 2431 Airport Road, Bainbridge, Georgia 31717.

1. Parent corporation and address of principal office:

Tyler Corporation, Southland Center, Dallas, Texas 75201.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Atlas Powder Company, 12700 Park Central Place, Suite 1700, Dallas, Texas 75251.
(1) D & H Explosives Co., Inc., P.O. Box 757, Coeburn, Virginia 24230.
(2) East Kentucky Explosives, Inc., P.O. Box 157, West Prestonsburg, Kentucky 41668.
(3) Explo-Midwest, Inc., P.O. Box 1826, 2803 South Rangeline, Joplin, Missouri 64801.
(4) Hazards Explosive Company, Route 1—Box 227, Hazard, Kentucky 41701.
(5) Atlas Powder International, 16201 S.W. 95th Avenue, Miami, Florida 33157.
(6) Kinepak, Inc., P.O. Box 1155, Louisville, Texas 75067.
(7) Oriard Powder Company, P.O. Box 220, Deer Park, Washington 99006.
(8) Powder River Explosives, 1120—16th Street West, Alpine Village Center—Suite 13, Billings, Montana 59102.
(9) West Kentucky Explosives, Inc., P.O. Box 8, Madisonville, Kentucky 42431.
(10) Star Export Services, Port Bienvelle Industrial Park, P.O. Box 74, Tearlington, Mississippi 39572.
(b) Tyler Pipe Industries, Inc., P.O. Box 2027, Tyler, Texas 75710.
(1) Tyler Plastics, Inc., P.O. Box 2027, Tyler, Texas 75710.

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(2) Wade, Inc., P.O. Box 2027, Tyler, Texas 75710.
(3) Tyler Pipe Industries of Texas, P.O. Box 2027, Tyler, Texas 75710.
(4) Tyler Pipe Industries of Pennsylvania, P.O. Box 2027, Tyler, Texas 75710.
(c) Tyler Fuel Corporation, P.O. Box 270535, Dallas, Texas 75227.
(d) C & H Transportation Co., Inc., 9757 Military Parkway, P.O. Box 270535, Dallas, Texas 75227.
(e) Thurston Motor Lines, Inc., 600 Johnston Road, Charlotte, North Carolina 28206.

A. Parent corporation and address of principal office:

U.S.A. Petroleum Corporation, 1633–26th Street, Santa Monica, CA 90404.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Trans World Oil Corporation, 1633 26th Street, Santa Monica, CA 90404.
(2) USA Gasoline Corporation, 1633 26th Street, Santa Monica, CA 90404.
(3) Supersave Petroleum Corporation, 1633 26th Street, Santa Monica, CA 90404.
(4) Colonial Oil Company, 1903 East Adams, Jacksonville, FL 33231.
(5) Colonial Service Stations, Inc., 1903 East Adams, Jacksonville, FL. 33231.
(6) Houston Oil Company, 1542 Eastern Avenue, Cincinnati, OH 45202.

A. Parent corporation:

United Telecommunications, Inc., 2330 Johnson Drive, Shawnee Mission (Westwood), Kansas 66205.

B. Subsidiary corporations (wholly-owned):

Capital City Telephone Company, 311 Ellis Boulevard, Jefferson City, Missouri 65105.
Midstate Telephone Company, 311 Ellis Boulevard, Jefferson City, Missouri 65101.
Carolina Telephone & Telegraph Company, 122 East St. James Street, Tarboro, North Carolina 27886.
Gulf States, United Telephone Company, 123 South Broadway, Tyler, Texas 75710.
Palo Pinto Telephone Company, 123 South Broadway, Tyler, Texas 75710.
Hillsborough & Montgomery Telephone Company, 160 Center Street, Clinton, New Jersey 08809.
New Jersey Telephone Company, 1710 Harrisburg Pike, Carlisle, Pennsylvania 17013.
Saltillo Telephone Company, 550 Cleveland Avenue, Chambersburg, Pennsylvania 17201.
United Inter-Mountain Telephone Company, 112 Sixth Street, Bristol, Tennessee 37620.
United Telephone Company of Arkansas, 311 Ellis Boulevard, Jefferson City, Missouri 65101.
United Telephone Company of the Carolinas, 112 Sixth Street, Bristol, Tennessee 37620.
United Telephone Company of Florida, 1520 Lee Street, Fort Myers, Florida 33902.
United Telephone Company of Indiana, Inc., U.S. 30 East, Warsaw, Indiana 46580.
United Telephone Company of Iowa, 115 South Second Avenue West, Newton, Iowa 50208.
United Telephone Company of Kansas, Inc., 123 North Eisenhower, Junction City, Kansas 66441.
United Telephone Company of Minnesota, 105 Peavy Road, Chaska, Minnesota 55318.
United Telephone Company of New Jersey, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.
United Telephone Company of Northwest, 601 State Street, Hood River, Oregon 97031.
California-Oregon Telephone Company, 601 State Street, Hood River, Oregon 97031.
United Telephone Company of Ohio, 665 Lexington Avenue, Mansfield, Ohio 44907.
The United Telephone Company of Pennsylvania, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.
United Telephone Company of the West, P.O. Box 1112, Scottsbluff, Nebraska 69361.
West Jersey Telephone Company, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.
North Supply Company, 10951 Lakeview Avenue, Lenexa, Kansas 66219.
North Supply Company of Lenexa, Inc., 10951 Lakeview Avenue, Lenexa, Kansas 66219.
Northstar Transportation, Inc. (the "Carrier"), 10951 Lakeview Avenue, Lenexa, Kansas 66219.
On-Line Systems, Inc., 115 Evergreen Heights, Pittsburg, Pennsylvania 15229
United Computing Systems, Inc., 5454 West 110th Street, Overland Park, Kansas 66211.
Calma Company, 527 Lakeview Drive, Sunnyvale, California 94086.
U. C. S., Inc., 2525 Washington, Kansas City, Missouri 64108.
United Telephone System, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.
United Data Services, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.
United Information Systems, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.
United Communications Systems, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66202.
UniTel International, Inc., 6045 Martway, Shawnee Mission, Kansas 66205.
ULI Leasing, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.

Parent:

Univar Corporation, 1600 Norton Building, Seattle, Washington 98104.

Wholly-owned subsidiaries:

Pacific Resins & Chemicals, Inc., Incorporated under the laws of the State of Washington.
Penick & Ford, Limited, Incorporated under the laws of the State of Delaware. Division: Great Western Malting Co.
Kcinep & Drof, Ltd., Incorporated December 22, 1978 under the laws of the State of Washington. Division: Centennial Mills.
Idaho Malting Company, Incorporated November 15, 1979 under the laws of the State of Washington.
Van Waters & Rogers Ltd., Incorporated under the laws of the British Columbia, Canada. Subsidiary: Vancouver Fumigating Co., Limited. Incorporated under the laws of British Columbia, Canada.
VWR Scientific Inc., Incorporated under the laws of the State of Delaware Subsidiaries: VWR Scientific Export Corporation (a DISC). Incorporated October 31, 1979 under the laws of State of Delaware. VWR Scientific International Limited, Incorporated December 4, 1979 under the companies ordinance of Hong Kong.
Guardsman Insurance Company, Ltd. Incorporated in December, 1978 under the laws of Bermuda.
Van Waters & Rogers. A Division of Univar Corporation.
Inactive corporations: United Pacific Corporation, Van Waters & Rogers, Inc., Scientific Supplies Co.

1. Parent corporation:

Universal Foods Corporation, 433 E. Michigan Street, Milwaukee, Wisconsin 53201.

(2) 100% wholly owned subsidiary by the name of:

(a) Mid-Continent Bottlers, Inc., 1679 NE 51st Avenue, P.O. Box BJ, Des Moines, Iowa 50304.
Shaw Trucking Inc., 2201 Riverside, Norfolk, Nebraska 68701.

Parent corporation and address of principal office:

Weyerhaeuser Company, Tacoma, Washington 98477.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(1) Chehalis Western Railroad Company, Tacoma WA 98477.
(2) Columbia & Cowlitz Railway Company, Tacoma WA 98477.
(3) Combustion Power Company, Inc., 1346 Willow Road, Menlo Park CA 98425.
(4) Curtis Milburn & Eastern Railroad Company, Tacoma WA 98477.
(5) Dairy Craft Supply Corp., 55 Madison Ave., Hempstead NY 11550.
(6) DeQueen & Eastern Railroad Company, P.O. Box 32, DeQueen AR 71832.
(7) Dixieline Lumber Company, 3250 Sports Arena Blvd., San Diego CA 92110.
(8) Eclipse Timber Company, P.O. Box 2087, Port Angeles WA 98362.
(9) Erickson Hardwoods, Inc., P.O. Box 337, Onalaska WI 54650.
(10) Golden Triangle Railroad, 105 Alabama St., Columbus MS 39701.
(11) Miss/Ala Plywood Company, P.O. Box 2288, Columbus MS 39701.
(a) Sumter Plywood Corporation, P.O. Box 1017, Livingston AL 35470.
(12) Mississippi & Skuna Valley Railroad Company, 105 Alabama St., Columbus MS 39701.
(13) Northwest Hardwoods, Inc., 1300 S.W. Fifth Ave., Portland OR 97201.
(14) Oregon Aqua-Foods, Inc., 88700 Marcola Rd., Springfield OR 97477.
(15) Oregon California & Eastern Railway Company, Weyerhaeuser Road, Klamath Falls OR 97601.
(16) Southern Containers, Inc., P.O. Box 1, Franklin KY 42134.
(17) Texas Oklahoma & Eastern Railroad Company, P.O. Box 32, DeQueen AR 71832.

(18) Weyerhaeuser International, Inc., (Domestic Parent), Tacoma WA 98477.
(a) Weyerhaeuser Canada, Ltd., 700 W. Georgia St., Vancouver, B.C., V7Y 1C8.
(19) Weyerhaeuser Construction Company, Tacoma WA 98477.
(20) Weyerhaeuser Townsite Company, 810 Whittington Ave., Hot Springs AR 71901.
(21) Weyerhaeuser Real Estate Company, Tacoma WA 98477.
(a) The Babcock Company, 5915 Ponce de Leon Blvd., Coral Gables FL 33146.
(b) Centennial Homes, Inc., 5024 Royal Lane, Dallas TX 75230.
(c) Par-West Financial, P.O. Box 54089, Los Angeles CA 90025.
(1) Pardee Construction Company, 10960 Wilshire Blvd., Los Angeles CA 90024.
(22) The Quadrant Corporation, 1427 116th N.E., Bellevue WA 98004.
(23) Scarborough Corporation, Inc., P.O. Box 387, Marlton NJ 08053.
(a) Scarborough Construction, Inc., P.O. Box 4399, Clearwater FL 33518.
(b) Quill Corporation, P.O. Box 387, Marlton NJ 08053.
(24) Westminster Company, 405 Parkway Drive, Greensboro NC 27405.
(25) Winchester Homes, Inc., 8375 Jumpers Hole Rd., Millersville MD 21108.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27180 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before September 25, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78695. By decision of August 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to STILES TRUCK LINE, INC., of Certificate MC 63792 (Sub-12, issued December 24, 1969 to TOM HICKS TRANSFER COMPANY, INC., of Houston, TX, authorizing the transportation of iron and steel articles, from Houston, TX, to points in AR, LA, and TX, subject to the following condition: applicants must submit a request to cancel the appropriate operating authority necessary to resolve the duplication problem. The duplicating authority is found in MC 63792 (the first full paragraph on sheet 2), and (Subs-10, 24, and 28). Applicant's representative is J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transferee is not a carrier. TA lease is not sought.

MC-FC-78696. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to VIGEANT FREIGHT SYSTEM, INC., of South Dartmouth, MA of a portion of Certificate MC 135127 issued July 30, 1975 to HI-CUBE TRANSPORT, INC., of Palmer, MA, authorizing the transportation of general commodities (usual exceptions), between points in Middlesex County, MA, on the one hand, and, on the other, points in Connecticut and Rhode Island, subject to applicants' request that any duplicating authority created by this transaction be cancelled. The duplication occurs in transferor's retained rights between Boston, MA, and Newark, NJ, and between Providence, RI, and Boston. Applicants must submit an acceptable plan to resolve the duplication problem. Applicants' representatives are: David M. Marshall, 101 State St., Springfield, MA 01103. Francis F. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Transferee holds no authority. TA lease is not sought.

MC-FC-78698. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to T&T BUS COMPANY, INC. of Corning, NY of Certificate MC 84933 and MC 84933 (Subs-2, 3, and 4), issued September 26, 1942, November 25, 1958, February 22, 1973 and August 14, 1974 to ELMIRA-WATKINS GLEN TRANSIT CORPORATION, authorizing the transportation of (1) passengers and their baggage, (a) over a regular route, between Elmira, NY, and Ithaca, NY, from Elmira over NY highway 14 to Watkins Glen, NY, thence over NY highway 414 to junction NY highway 227, thence over NY highway 227 to Perry City, NY, and thence over NY highway 79 to Ithaca, (b) over a regular route between Watkins Glen, NY, and Geneva, NY, serving all intermediate points, from Watkins Glen over NY highway 14 to junction unnumbered highway (near Lakemont, NY), thence over unnumbered highway via Lakemont and Starkey, NY, to Dundee, NY, then over NY highway 14A to Penn Yan, NY, thence over NY highway 54 to Dresden, NY, thence over NY highway 14 to Geneva, NY, and (c) over irregular routes, beginning and ending at points in Chestung, Yates, Schuyler, and Ontario Counties, NY, and Bradford County, PA, and extending to points in the United States (except Alaska and Hawaii), in special operations; and (2) passengers and their baggage, and express, and newspapers, in the same vehicle with passengers, over a regular route between Elmira, NY, and Canton, PA, serving the intermediate points of Fassett, Gillett, Snedekerville, Columbia Cross Roads, Troy, and Alba, PA; from Elmira over NY highway 17E to junction NY highway 14, thence over NY highway 14 to the NY-PA state line, thence over PA highway 14 to Canton, and return over the same route. Applicant's representative is: Jeremy Kahn, 1511 K St., NW., Washington, DC 20005. TA application has been filed. Transferee holds no authority.

MC-FC-78704. By decision of August 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to JEFFERSON TRUCKING CORPORATION, of Hoboken, NJ, of Certificate MC 50897 (Sub-1), issued July 11, 1974 and MC 50897 (Sub-4), issued

January 23, 1976 to JEFFERSON TERMINAL AND WAREHOUSING, INC., authorizing the transportation of (1) over irregular routes of textiles, unfinished piece goods, and yarn, between Hoboken, NJ, on the one hand, and, on the other, points in Nassau and Suffolk County, NY, and (2) over regular routes, of yarn, piece goods, rags, waste, and rugs, made of natural or artificial fiber, between New York, NY and Paterson, NJ, serving all intermediate points as follows: (a) from Paterson over New Jersey Hwy 46 (formerly New Jersey Hwy 6), to Bendix, NJ, then over unnumbered highway to Little Ferry, NJ, then over Moonachie Road to junction New Jersey Hwy 5-3, then over New Jersey Hwy 5-3 to junction with an unnumbered highway approximately 1 mile southeast of Seacaucus, NJ, then over unnumbered highway via Union City, NJ to Weehawken, NJ, then by Ferry or tunnel to New York, NY and return over the same route, and (b) from Paterson over Main Avenue to Panaic, NJ, then over New Jersey Hwy 5-3 to junction New Jersey Hwy 3, then over New Jersey Hwy 3 via Union City, NJ to Weehawken, NJ, then by Ferry or tunnel to New York, NY and return over the same route. Transferee presently holds no operating authority from the Commission. Transferee's representative is: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022.

MC-FC-78713. By decision of August 13, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to ALLEN KENNINGER, d.b.a. VALLEY TRUCK LINE, of Cooperstown, ND, of Certificate of Registration MC 99050 (Sub-2) issued August 29, 1972, to ALLEN KENNINGER and RONALD OLSON, d.b.a. VALLEY TRUCK LINE, of Cooperstown, ND, evidencing a right to engage in transportation in interstate commerce corresponding in scope to (state certificate No.) Certificates 352, 412, and 385, issued by the North Dakota Public Service Commission, authorizing the service set forth at the conclusion of this notice. The transportation service authorized to be transferred is as follows: "Transportation of General Commodities, excluding therefrom liquids in bulk, in tank vehicles and restricted against the use of lowboy trailers, between Fargo and McHenry, North Dakota, over routes as follows: 1. From Fargo via U.S. Hwy No. 10, Interstate Hwy No. 94, North Dakota Hwys. No. 1, 7, 45 and 65 and unnumbered highway to McHenry and return, serving all intermediate points between Rogers and McHenry, including Rogers and McHenry, and the off-route points of Finley and the Finley Air Force Base, Page, Colgate, Hope, Sharon, Aneta, Kloten, McVille, Pekin, Tolna, McHenry, Glenfield, and Sutton; and 2. (Alternate Route) From Fargo via Interstate Hwy No. 29 to Junction of Cass County Road No. 26, thence west on Cass County Road No. 26 to Page, North Dakota; thence north on ND Hwy No. 38 to Junction of ND Hwy No. 32; thence north on ND Hwy No. 32 to Junction of ND Hwy No. 200; thence via ND Hwy No. 200 to Cooperstown and thence to McHenry, North Dakota, as outlined above and return, serving the same points as described above as intermediate and/or off-route points (Highways of off-route points are: ND Hwys No. 38, 15, 20, 200, 1, 65 and 45);" 1. Livestock, agricultural commodities, commercial livestock feeds, fencing, building material fuel, farm machinery, road machinery, and culverts from Griggs County to other points and places in the State of North Dakota and vice versa; 2. Commodities generally from the City of Coopertown to other points and places in the State and vice versa; 3. Cream, other dairy products, poultry and poultry products from the towns of Aneta, Sharon, Finley, Hope and Page, North Dakota, to Fargo, North Dakota, and return of empty containers, cases and crates to the above points. Restriction: Restricted against the use of lowboy trailers; "Transportation of General Commodities and livestock, to, from and within a territory as follows: "Bound on the east by the Steele-Traill County Line; on the north by the Steele-Grand Forks and the Griggs-Nelson County Line; on the west by the west township line of Townships No. 145, 146, 147 and 148, Range No. 58, which passes Cooperstown directly to the east; and on the south by a county road running from the Griggs-Steele County Line due east to Hope, North Dakota, thence following Hwy. No. 38 to a point about one and one-half miles south of Hope; thence by county road running due east to the Traill County Line. "Restriction: Restricted against the use of lowboy trailers;" Applicant's representative is: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transferee is not a carrier. TA lease is not sought.

MC-FC-78714. By decision of August 11, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board 5 approved the transfer to K AND L TRANSPORT, of Philadelphia, Pa., a partnership, composed of Lumbermen Associates, Inc., A Delaware Corporation, and Richard E. Kelley, Inc., a closed corporation of Pennsylvania, of Permits MC 118745 (Subs-14 and 20), issued July 22, 1977 and October 18, 1978, respectively, to JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518, authorizing the transportation of *Lumber, wooden fencing and pallets* from the facilities of Warner Company* at or near Philadelphia to points in Delaware, Maryland, New Jersey, New York, North Carolina, Virginia and District of Columbia, and from points in North Carolina, Virginia, Delaware and Maryland to points in that part of Pennsylvania on and east of U.S. Highway 219, and to Wilmington, DE, under a continuing contract or contracts with Warner Company of Philadelphia, PA* and *lumber* and *wooden fencing* from Camden, Perth Amboy, Part Elizabeth, and Trenton, NJ, to point in Delaware, Maryland, New Jersey, and Pennsylvania, under continuing contract(s) with Warner Company.* Applicants' representative is Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transferee holds no authority. TA lease is not sought.

MC-FC-78717. By decision of August 15, 1980, issued under 40 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to FLYING L TRUCKING CO., a corporation, of Thousand Oakes CA, of certificate MC 141071 (Subs-2, 3, 4, 7, 8, 9, and 10 issued 29, 1977, January 13, 1977, July 12, 1977, June 29, 1978, February 3, 1978, April 13, 1978, and July 13, 1978, respectively, authorizing the transportation of (1) 1978, respectively, authorizing the transportation of (1) pet food and canned tuna, from Terminal Island, CA, to points in Oregon and Washington, (2) pet food, from Perham, MN, and Muscatine, IA to Terminal Island, CA, (3)(a) material, equipment, and supplies used in the production, packaging, or distribution of frozen foods, from points in California, Oregon, and Washington, to Burley, ID and (b) frozen foods, from Ontario, OR and points in Idaho, to Las Vegas, NV, (4) pet food and canned tuna, from Terminal Island, CA, to points in Idaho and Utah, (5) pet food, from Perham, MN and Muscatine, IA, to San Jose, CA, (6) canned and preserved foodstuffs, from the plantsites and storage facilities of Heinz–U.S.A., Division of H. J. Heinz Company, located at or near Tracy and Stockton, Ca, to points in Idaho, Oregon, Utah, and Washington, and (7) canned and preserved foodstuffs, between the facilities of Heinz–U.S.A., Division of H. J. Heinz Company, at or near Tracy and Stockton, Ca, on the one hand, and, on the other, the facilities of Heinz–U.S.A., Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA. Applicant's representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. An application for temporary authority has been filed.

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* **Note.**—The above facilities of Warner Company were sold to Lumbermen Associates, Inc., Therefore, when the authority is issued the origin authority in Sub-14, paragraph one, will read "the facilities of Lumbermen Associates, Inc., at or near Philadelphia, PA". Likewise, the final paragraph on sheet 2 will reflect that the authority is to be performed under a continuing contract with Lumbermen Associates, Inc., In the Sub-20 authority, the reference to Warner Company will be deleted and "Lumbermen Associates, Inc." will be included in lieu thereof.

MC MC–FC–78724. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 132, Review Board Number 5 approved the transfer to LUCI DELLAPINA and LEA LETTERIS, a partnership, doing business as ASTORIA MOTOR VAN CO., of Long Island City, NY, of Certificates MC 43148 issued April 2, 1958, to Joseph C. Cureio and Richard E. Curcia, a partnership, doing business as Rocco Van & Storage Co., of Long Island City, NY, authorizing the transportation of *household goods*, as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in New Jersey, Pennsylvania, Massachusetts, Rhode Island, Maryland, Connecticut, Delaware, New York, and the District of Columbia, and between New York, NY, on the one hand, and, on the other, points in Virginia, Vermont, New Hampshire, and Maine. Applicant's representative is: Mr. David A. Brown, Attorney 32–02 30th Avenue, Long Island City, NY 11102 (212) 726–1598 TA application has not been filed. Transferee presently holds no authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–27181 Filed 9–4–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 23, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP1–024

Decided: August 27, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-484F), filed August 20, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *classes A and B explosives, ammunition, weapons, and articles designated sensitive by the U.S. Government*, between points in the U.S. Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 52921 (Sub-38F), filed August 21, 1980. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Frank P. Burzio (same address as applicant). Transporting *paper bags and paper bag closures*, from New Orleans, LA, to points in OK, KS, AR, and MO.

MC 78400 (Sub-92F), filed August 22, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *charcoal, charcoal briquettes, hickory chips, vermiculate, lighter fluid, and fireplace logs*, (2) *accessories* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 121081 (Sub-5F), filed August 22, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *containers, container parts*, and (2) *Equipment, materials and supplies*, used in the manufacture and distribution of the commodities in (1) above, (a) between Charlotte, NC, on the one hand, and, on the other, points in AL, FL, KY, and WV, (b) between Mauldin, SC, on the one hand, and, on the other, points in AL, FL, KY, VA, and WV, and (c) between Hollywood and Orlando, FL, on the one hand, and, on the other, points in GA, NC, and SC.

MC 124070 (Sub-35F), filed August 21, 1980. Applicant: CHEMICAL HAULERS, INC., 5723 Kennedy Ave., Hammond, IN 46323. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *chemicals*, in bulk, between points in Cook, Du Page, Grundy, Kane, Lake, McHenry, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in IN, IA, KS, KY, MI, MN, MO, OH, TN, and WI.

MC 133841 (Sub-21F), filed August 22, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *iron and steel articles*, between points in the U.S., restricted to traffic originating at or destined to Perth Amboy, NJ.

MC 138000 (Sub-73F), filed August 25, 1980. Applicant: ARTHUR H. FULTON,

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INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting (1) *malt beverages* and (2) *materials and supplies* used in the manufacture of malt beverages between points in MI and OH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA, and (2) *shrink or stretch wrapping* from Atlanta, GA to Detroit, MI.

MC 139171 (Sub-7F), filed August 21, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 East Railroad Ave., City of Industry, CA 91479. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Nu-Way Shippers Association, Inc., of Chicago, IL.

MC 146140 (Sub-4F), filed August 25, 1980. Applicant: MELVIN SALES COMPANY, 901 North Vermillion St., Streator, IL 61364. Representative: Paul J. Maton, Ten South LaSalle St., Chicago, IL 60603. Transporting (1) *containers, container closures, container components, glassware, packaging products,* (2) *scrap materials,* and (3) *material, equipment and supplies,* (except commodities in bulk in tank vehicles, and those which because of size and weight, require the use of special equipment), used in the manufacture and distrubition of the commodities in (1) above, between points in IL, IN, KY, GA and FL, restricted to traffic originating at or destined to the facilities of Owens-Illinois; (4) *alcoholic liquors,* and (5) *materials, equipment and supplies,* used in the manufacture and distribution of alcoholic liquors, between points in AR, MO, IL, IN, IA, WI, KY, MI, OH, NY, NM, TX, LA, MS, PA, WV, NC, SC, GA, FL and AL, restricted to traffic originating at or destined to the facilities of Hiram Walker & Sons, Inc.

MC 146821 (Sub-3F), filed February 8, 1980, and previously noticed in **Federal Register** issue of April 3, 1980. Applicant: RON BESTEMAN PRODUCE, INC., 2240 Bryon Center Rd., S.W., Wyoming, MI 49509. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49509. Transporting (1) *apple products* (except in bulk), and (2) *glass and paper containers,* in vehicles equipped with mechanical refrigeration, between Belding, MI, and points in IA, IL, MN, and WI.

Note.— This republication shows MN as a destination state.

MC 146890 (Sub-27F), filed August 21, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distrubutors of wearing apparel, between points in Hudson County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147141 (Sub-3F), Filed August 22, 1980. Applicant: LUJO TRUCKING CO., INC., 121 Braley Road, East Freetown, MA 02717. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *printed matter,* and *materials, equipment, and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between points in the U.S., under continuing contract(s) with Rand McNally & Company, of Skokie, IL.

MC 148160 (Sub-1F), Filed August 21, 1980. Applicant: L. S. GEIST, INC., East Mountain Road, P.O. Box 116, Hegins, PA 17938. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting (1) *fruit juices,* in tank vehicles, from points in IL, MD, MO, MA, MI, NJ, NY, OH, NC, VA, and WV, to points in Berks County, PA, and (2) *canned and preserved foodstuffs, and frozen foods,* (a) between points in NC, on the one hand, and, on the other, points in Berks County, PA, and (b) from points in Berks County, PA, to points in CT, DE, FL, GA, KY, MD, MA, NJ, NY, OH, RI, SC, VA, and WV.

MC 148731 (Sub-3F), Filed August 20, 1980. Applicant: MINKEVITCH TRUCKING & HAULING, INC., 1217 Cross St., Ogden, UT 84404. Representative: Fred J. Minkevitch, Jr. (same address as applicant). Transporting (1) *salt and salt products,* and (2) *materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with the commodities in (1) above, between points in the U.S., under continuing contract(s) with Lake Crystal Salt Co., a subsidiary of Processed Minerals Incorporated of Hutchinson, KS.

MC 151080 (Sub-1F), Filed August 21, 1980. Applicant: THE SENATE CARTAGE COMPANY, INC., 1010 Jorie Blvd., Oakbrook, IL 60521. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603. Transporting (1) *such commodities* as are dealt in by manufacturers, wholesalers and retailers of paint and coating materials (except commodities in bulk), and (2) *painters' and decorators' materials, equipment and supplies* (except commodities in bulk), between the facilities of Standard T. Chemical Company, Inc., at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151590F, filed August 15, 1980. Applicant: LAKE TRUCKING COMPANY, a corporation, P.O. Box 142, Leesburgh, FL 32748. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Cagle's Inc., of Atlanta, GA.

[Volume No. OP2-032]

Decided: August 27, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman

MC 8973 (Sub-72F), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *such commodities* as are dealt in or used by a manufacturer or processor of chemicals (except commodities in bulk), and (2) (a) *plastic bags and plastic film,* and (b) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of plastic bags and plastic film, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of (A) USI Film Products, USI Chemicals Co., division of National Distillers & Chemical Corp., and (B) Emery Industries, Inc.

MC 8973 (Sub-73F), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *batteries and accessories* for batteries, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by ESB, Incorporated, a subsidiary of Exide Corp.

MC 14252 (Sub-81F), filed August 21, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives, between points in AL, AR, CT, DE, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, NH, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC.

Note.—Applicant states it intends to tack with its existing authority.

MC 112713 (Sub-310F), filed August 20, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Over regular routes, transporting *general commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Milwaukee and Green Bay, WI, (a) over U.S. Hwy 141, serving Two Rivers, WI as an off-route point, and (b) over U.S. Hwy 41; (2) Between Rockford, IL, and Fond du Lac, WI: From Rockford over U.S. Hwy 51 to Madison, WI, then over U.S. Hwy 151 to Fond du Lac, and return over the same route; (3) Between Madison, WI, and Moorehead, MN: From Madison over U.S. Hwy 12 to St. Paul, MN, then over Interstate Hwy 94 to Moorehead, and return over the same route, serving La Cross and Shippewa Falls, WI, as off-route points; (4) Between Louisville and Lexington, KY: From Louisville over U.S. Hwy 60 to Frankfort, KY, then over U.S. Hwy 421 to Lexington, and return over the same route; (5) Between Lexington and Paducah, KY, over U.S. Hwy 62, Serving Richmond, Danville, and Harrodsburg, KY, as off-route points; (6) Between Memphis, TN, and Paducah, KY: From Memphis over U.S. Hwy 51 to Mayfield, KY, then over U.S. Hwy 45 to Paducah, and return over the same route; (7) Between grand Rapids and Muskegon, MI, over Interstate Hwy 96 Serving Holland and Grand Haven, MI as off-route points; (8) Between Pittsburgh, PA, and Weston, WV, over U.S. Hwy 19, Serving Buckhannon, WV as an off-route point; (9) Between Minneapolis and Duluth, MN, over U.S. Hwy 61; (10) Between Minneapolis and St. Cloud, MN, over U.S. Hwy 10; (11) Between Paducah, KY, and Mt. Vernon, IL: From Paducah over Interstate Hwy 24 to junction IL Hwy 37, then over IL Hwy 37 to Mt. Vernon, and return over the same route, serving Metropolis, Carbondale, Duqioin, Murphysboro, and Harrisburg, IL as off-route points; (12) Between Davenport and Cedar Rapids, IA: From Davenport over U.S. 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Waterloo, IA, then over U.S. Hwy 218 to Cedar Rapids, and return over the same route, serving Cedar Falls, IA as an off-route point; (13) Between Memphis, TN, and St. Louis, MO over U.S. Hwy 61, serving Cape Girardeau, MO as an off-route point; (14) Between Minneapolis, MN and Fargo, ND, over U.S. Hwy 52; (15) Between Kansas City, MO and Junction U.S. Hwys 50 and 66, over U.S. Hwy 50, Serving Union, Washington, Wentzville, and New Haven, MO, as off-route points; (16) Between Nashville, TN, Owensboro, KY, over U.S. Hwy 431, Serving Ashland City, TN as an off-route point; (17) Between Grand Rapids and Battle Creek, MI, over MI Hwy 37; (18) Between Macon and Valdosta, GA: over (a) Interstate Hwy 75, Serving Fitzgerald, GA as an off-route point, and (b) from Macon over GA Hwy 49 to Americus, GA, then over U.S. Hwy 19 to Thomasville, GA, then over U.S. Hwy 84 to Valdosta, and return over the same route; (19) Between Macon, GA, and Tallahassee, FL: From Macon over Interstate Hwy 75 to junction U.S. Hwy 319, then over U.S. Hwy 319 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Tallahassee, and return over the same route; (20) Between Columbus, GA and Dothan, AL, over U.S. Hwy 431; (21) Between Dothan and Mobile, AL: From Dothan over U.S. Hwy 84 to Andalusia, AL then over U.S. Hwy 29 to Brewton, AL, then over U.S. Hwy 31 to Mobile, and return over the same route; (22) Between Mobile, AL, and Panama City, FL: From Mobile over Interstate Hwy 10 to Pensacola, FL, then over U.S. Hwy 98 to Panama City, and return over the same route; (23) Between Jackson, MS, and Mobile, AL: From Jackson over U.S. Hwy 49 to Gulfport, MS, then over U.S. Hwy 90 to Mobile, and return over the same route, serving Laurel, MS, as an off-route point; (24) Between Meridian, MS, and Jackson, TN, over U.S. Hwy 45, Serving Starkville and New Albany, MS, as off-route points; (25) Between Junction U.S. Hwys 45 and 45A, near Brooksville, MS, and junction U.S. Hwys 45 and 45A near Shannon, MS, over U.S. Hwy 45A, serving Starkville and New Albany, MS, as off-route points;

(26) Between Lafayette and New Orleans, LA, over U.S. Hwy 90; (27) Between Manchester, TN and Frankfort, KY: From Manchester over TN Hwy 55 to McMinnville, TN, then over U.S. Hwy 70S to Sparta, TN then over TN Hwy 111 to Cookeville, TN, then over TN Hwy 42 to U.S. Hwy 127, then over U.S. Hwy 127 to Frankfort, and return over the same route; (28) Between Nashville, TN and Louisville, KY, over Interstate Hwy 65, Serving Portland, TN, as an off-route point; (29) Between Nashville, TN, and Lexington, KY: From Nashville over U.S. Hwy 31E to Glasgow, KY, then over KY Hwy 80 to Somerset, KY, then over U.S. Hwy 27 to Lexington, and return over the same route; (30) Between Knoxville, TN and Bristol, VA, (a) over U.S. Hwy 11W, and (b) over U.S. Hwy 11E, Serving Elizabethton, TN, as an off-route point in connection with routes (30) (a) and (b) above; (31) Between Knoxville, TN, and Charlotte, NC: From Knoxville over Interstate Hwy 40 to Statesville, NC, then over Interstate Hwy 77 to Charlotte, and return over the same route, serving Waynesville, NC as an off-route point; (32) Between Wilson and Elizabeth City, NC: From Wilson over U.S. Hwy 264 to Washington, NC, then over U.S. Hwy 17 to Elizabeth City, and return over the same route, serving Ahoskie, NC as an off-route point; (33) Between Asheville, NC, and Spartanburg, SC: From Asheville over U.S. Hwy 25 to junction U.S. Hwy 176, then over U.S. Hwy 176 to Spartanburg, and return over the same route; (34) Between Washington and Wilmington, NC: From Washington over U.S. Hwy 17 to New Bern, NC, then over U.S. Hwy 70 to junction NC Hwy 24, then over NC Hwy 24 to Jacksonville, NC, then over U.S. Hwy 17 to Wilmington, and return over the same route; (35) Between junction U.S. Hwy 70 and NC Hwy 24, and, Beaufort, NC, over U.S. Hwy 70; (36) Between Richmond and Roanoke, VA: From Richmond over U.S. Hwy 250 to Staunton, VA, then over U.S. Hwy 11 to Roanoke, and return over the same route, serving Harrisonburg, VA as an off-route point; (37) Between Knoxville and Nashville, TN, over U.S. Hwy 70, Serving McMinnville and Oak Ridge, TN, as off-route points; (38) Between Knoxville and Athems, TN: From Knoxville over U.S. Hwy 129 to junction U.S. Hwy 411, then over U.S. Hwy 411 to junction of TN Hwy 39, then over TN Hwy 39 to Athens, and return over the same route; (39) Between Waterville and Bangor, ME, over Interstate Hwy 95 Serving Belfast ME, as an off-route point; (40) Between Baltimore, MD, and Harrisburg, PA: From Baltimore over U.S. Hwy 40 to Hagerstown, MD, then over U.S. Hwy 11 to Harrisburg, and return over the same route, serving Waynesboro, Gettysburg, Hanover, and Carlisle, PA and Cumberland, MD as off-route points; (41) Between Amsterdam and Fonda, NY: From Amsterdam over NY Hwy 30 to junction NY Hwy 30A, then over NY30A to Fonda, and return over the same route; (42) Between Dunkirk and Buffalo, NY: From Dunkirk over NY Hwy 60 to Jamestown, then over NY Hwy 394 to junction NY Hwy 17, then over NY Hwy

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17 to junction NY Hwy 16, then over NY Hwy 16 to Buffalo, and return over the same route; (43) Between Syracuse and Massena, NY: From Syracuse over U.S. Hwy 11 to junction NY Hwy 37, then over NY Hwy 37 to Massena, and return over the same route, serving Potsdam and Canton, NY as off-route points; (44) Between Pittsburgh and Washington, PA: (a) from Pittsburgh over U.S. Hwy 30 to Greensburg, PA, then over U.S. Hwy 119 to junction U.S. 40, then over U.S. 40 to Washington, and return over the same route, serving New Stanton, Donora, Monessen, and Johnstown, PA as off-route points, and (b) over U.S. Hwy 19; (45) Between Hagerstown, MD, and Arlington, VA: From Hagerstown over U.S. Hwy 11 to Winchester, VA, then over U.S. Hwy 50 to Arlington, and return over the same route, serving Front Royal, VA, as an off-route point; (46) Between Brunswick and Bangor, ME: From Brunswick over U.S. Hwy 1 to Ellsworth, ME, then over U.S. Hwy 1A to Bangor, and return over the same route; (47) Between Texarkana and Presidio, TX, over U.S. Hwy 67; (48) Between Mineral Wells and El Paso, TX, over U.S. Hwy 180; (49) Between Houston and Carthage, TX, over U.S. Hwy 59; (50) Between Cincinnati, OH, and Knoxville, TN: From Cincinnati over U.S. Hwy 25 to junction U.S. Hwy 25W, then over U.S. Hwy 25W to Knoxville, and return over the same route; (51) Between Washington, PA, and junction Interstate Hwys 70 and 76, over Interstate Hwy 70; Serving points in Westmoreland County, PA, as off-route points; and (52) Serving all intermediate points on routes (1) through (51) above.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 128543 (Sub-26F), filed August 22, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *metallic ores,* and (2) *machinery and supplies* used in the processing of metallic ores, between points in the U.S., under continuing contract(s) with (a) New Jersey Zinc Division and (b) Chemicals Division of Natural Resources Group, a Division of Gulf & Western Industries, Inc., both of Nashville, TN.

MC 141533 (Sub-21F), filed August 22, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Ave., Elmsford, NY 10532. Representative: Bruce J. Robbins, 118–21 Queens Blvd., Forest Hills, NY 11375. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in Brown County, WI, on the one hand, and, on the other, points in CT, DE, NJ, NY (except the New York commercial zone), OH, PA, and WV.

MC 144503 (Sub-29F), filed August 21, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *such commodities* as are dealt in or used by manufacturers of dry goods and sewing accessories, and (2) *books, plastic articles, sheet steel articles,* and *friction fabric,* from the facilities of Coats & Clark Sales Corp, at or near Atlanta, GA, to points in MO, KS, NE, IA, IL, IN, OH, MI, WI, MN, SC, KY, AL, MS, SC, NC, TN, LA, and TX.

MC 148183 (Sub-28F), filed August 14, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425—13th St., NW., Washington, DC 20004. Transporting (1) *meats, meat by-products, and articles distributed by meat-packing houses,* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *food products* (except meats and commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in Hall County, GA, to points in AR, AZ, CA, CO, CT, DE, IA, ID, KS, MA, ME, MT, ND, NE, NH, NJ, NM, NV, OK, OR, RI, SD, TX, UT, VT, WA, WY, and WV.

MC 150712 (Sub-1F), filed August 22, 1980. Applicant: EXPRESS TOURS UNLIMITED, P.O. Box 77267, 2001 Third St., San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at San Francisco, CA, and points in Alameda County, CA, and extending to points in the U.S.

MC 151352 (Sub-2F), filed August 21, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. Transporting (1) *charcoal, charcoal briquettes, wood chips,* and *artificial fireplace logs,* (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with The Kingsford Company, of Louisville, KY.

MC 151622F, filed August 20, 1980. Applicant: SERVICE TRUCKING, INC., P.O. Box 158, Eustis, FL 32726. Representative: Gene Baugh (same address as applicant). Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *machinery and supplies* used in the production and distribution of the commodities in (1) above, between points in the U.S. (except HI), under continuing contract(s) with Winter Garden Citrus Products Cooperative, of Winter Garden, FL.

MC 147242 (Sub-10F), filed August 20, 1980. Applicant: 12–90 PLAZA CORP., trading as PLAZA FREIGHT TRANSPORT, 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Authur Liberstein, P.C., 888 Seventh Avenue, NY, NY 10106. Transporting (1) *televisions, video tape recorders, television cameras, electronic cash registers, microwave ovens, radios, stereo sets and parts for stereo sets, copy machines, tape recorders, and calculators,* and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Sharp Electronics Corporation, of Paramus, NJ.

[Volume No. OP3–009]

Decided: August 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 52704 (Sub-280F), filed August 8, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting *steel drums and steel kegs,* between points in Forsyth and Rockingham Counties, NC, on the one hand, and, on the other, points in Spartanburg County, SC.

MC 52704 (Sub-281F), filed August 11, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *carpet backing and yarn,* and (2) *machinery, materials, equipment, supplies, and parts,* used in the manufacture and distribution of carpet backing and yarn, between points in Randolph County, AL, on the one hand, and, on the other, points in the U.S.

MC 93475 (Sub-4F), filed August 8, 1980. Applicant: ASHBOURNE TRANSPORTATION, INC., 827 E. Glenside Ave., Wyncote, PA 19095.

Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *passengers* and *their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Philadelphia County, PA, and extending to points in MD, VA, WV, NY, VT, NH, MA, OH, CT, RI, and DC.

MC 110325 (Sub-145F), filed August 12, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting, *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Dallas, TX, and Memphis, TN, from Dallas over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, (2) between Houston, TX, and Scranton, PA, from Houston over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Scranton, and return over the same route, (3) between Birmingham, AL, and Lansing, MI, from Birmingham over Interstate Hwy 65 to junction Interstate Hwy 465, then over Interstate Hwy 465 to junction Interstate Hwy 69, then over Interstate Hwy 69 to Lansing, and return over the same route; (4) between Atlanta, GA and Cincinnati, OH, over Interstate Hwy 75, (5) between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, (6) between Nashville, TN, and St. Louis, MO, from Nashville over Interstate Hwy 24, to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, and return over the same route, (7) between the junction of Interstate Hwy 55 and Interstate Hwy 57 and Effingham, IL, over Interstate Hwy 57, (8) between Tupelo, MS, and junction Interstate Hwy 57 and IL Hwy 3, from Tupelo over U.S. Hwy 45 to the junction U.S. Hwy 45E, at or near Fairview, TN, then over U.S. Hwy 45E to junction U.S. Hwy 45 and U.S. Hwy 51, at or near Fulton, KY, then over U.S. Hwy 51 to junction IL Hwy 3, then over IL Hwy 3 to junction Interstate Hwy 57, and return over the same route, (9) between the junction of U.S. Hwys 45E and 51, at or near Fulton, KY, and the junction of U.S. Hwy 45 and Interstate Hwy 24, at or near Paducah, KY, over U.S. Hwy 45, (10) between the junction of Alt. U.S. Hwy 41 and Interstate Hwy 24 and Danville, IL, from the junction of Alt. U.S. Hwy 41 and Interstate Hwy 24 over Alt. U.S. Hwy 41 to junction of U.S. Hwy 41, at or near Hopkinsville, KY, then over U.S. Hwy 41 (also Pennyrile Parkway) to Henderson, KY, then over U.S. Hwy 41 to junction IL Hwy 63, then over IL Hwy 63 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Danville, and return over the same route, (11) between South Bend, and Indianapolis, IN, over U.S. Hwy 31, (12) between Greensboro, NC, and junction Interstate Hwys 40 and 81, over Interstate Hwy 40, (13) between Charlotte, NC, and Canton, OH, over Interstate Hwy 77, (14) between Pittsburgh, PA, and Charleston, WV, from Pittsburgh over Interstate Hwy 279 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Charleston, and return over the same route, (15) between the junction of Interstate Hwy 79 and U.S. Hwy 19, near Sutton, WV, and junction of Interstate Hwy 77 and U.S. Hwy 19, at or near Beckley, WV, over U.S. Hwy 19, (16) between Winston-Salem, NC, and Bristol, TN, over U.S. Hwy 421, (17) between Winston-Salem, NC, and junction Interstate Hwy 77 and NC Hwy 89 at or near Bottom, NC, from Winston-Salem over U.S. Hwy 52 to junction NC Hwy 89, at or near Mount Airy, NC, then over NC Hwy 89 to junction Interstate Hwy 77 at or near Bottom, NC, and return over the same route, (18) between Atlanta, GA, and Baltimore, MD, (a) from Atlanta over Interstate Hwy 85 to junction Interstate Hwy 95, then over Interstate Hwy 95, to Baltimore and return over the same route, (b) from Atlanta over Interstate Hwy 20 to junction Interstate Hwy 77, then over Interstate Hwy 77 (also U.S. Hwy 21) to junction U.S. Hwy 29, then over U.S. Hwy 29 (also Interstate Hwy 85) to Greensboro, NC, then over U.S. Hwy 29 to junction Interstate Hwy 66, then over Interstate Hwy 66 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Baltimore, and return over the same route, and (c) from Atlanta over Interstate Hwy 85 to junction U.S. Hwy 29, at Greensboro, NC, then over U.S. Hwy 29 to junction U.S. Hwy 58, at Danville, VA, then over U.S. Hwy 58 to junction U.S. Hwy 304, at South Boston, VA, then over U.S. Hwy 304 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Baltimore, and return over the same route, (19) between Columbus, OH, and South Bend, IN, from Columbus over U.S. Hwy 33 to junction OH Hwy 31, then over OH Hwy 31 to junction OH Hwy 309, then over OH Hwy 309 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 31, then over U.S. Hwy 31 to South Bend, and return over the same route, (20) between Huntington, WV, and St. Louis, MO, over Interstate Hwy 64, (21) serving as off-route points those points in Gaston, Lincoln, Catawba, Caldwell, Burke, McDowell, Buncombe, Henderson, Polk, Rutherford and Cleveland Counties, NC, those points on U.S. Hwy 70 between Durham and Raleigh, NC, including Durham and Raleigh, those points on U.S. Hwy 220, between Greensboro and Asheboro, NC, including Greensboro and Asheboro, those points on U.S. Hwy 64 between Ashboro and Siler City, NC, including Asheboro and Siler City, those points on U.S. Hwy 421 between Siler City and Greensboro, NC, including Siler City and Greensboro, those points on NC Hwy 24 between Charlotte and Albemarle, NC, including Charlotte and Albemarle, those points on U.S. Hwy 1 between Raleigh and Sanford, NC, including Raleigh and Sanford, those points on U.S. Hwy 23 between Atlanta and Toccoa, GA, including Atlanta and Toccoa, those points on U.S. Hwy 129 between Gainesville and Cleveland, GA, including Gainesville and Cleveland, those points on GA Hwy 60 between Gainesville and Dahlonega, GA, including Gainesville, and Dahlonega, those points on GA Hwy 52 between Dahlonega and Garland, GA, including Dahlonega and Garland, those points on GA Hwy 115 between Garland, GA, and the junction of GA Hwy 115 and U.S. Hwy 23, including Garland, GA, and the junction of GA Hwy 115 and U.S. Hwy 23; those points on GA Hwy 17 between Toccoa, and Lavonia, GA, including Toccoa and Lavonia, those points on GA Hwy 59 between Lavonia and Carnesville, GA, including Lavonia and Carnesville, those points on U.S. Hwy 129 between Gainesville, and Jefferson, GA, including Gainesville and Jefferson, those points on GA Hwy 15 between Jefferson and Commerce GA, including Jefferson and Commerce; those points on GA Hwy 98 between Commerce and Maysville, GA, including Commerce and Maysville, those points on GA Hwy 52 between Maysville, GA, and junction of GA Hwy 52 and U.S. Hwy 23, including Maysville and junction of GA Hwy 52 and U.S. Hwy 23, all points in VA and SC in connection with routes 1 through 20. Serving all intermediate points in routes 1 through 20 above.

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MC 118535 (Sub-154F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *fly ash,* from points in Freestone and Titus Counties, TX, to points in AR, AZ, CO, KS, LA, MO, MS, NM, and OK.

MC 118535 (Sub-155F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *sand,* from points in LeSueur County, MN, and Jackson and Pierce Counties, WI, to points in AR, CO, IA, KS, LA, MO, MS, MT, NE, NM, OK, TX, UT, and WY.

MC 118535 (Sub-156F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr (same address as applicant). Transporting *sand* from points in Jefferson County, MO, and Ogle and LaSalle Counties, IL, to points in AR, CO, IA, KS, LA, MO, MS, MT, NE, NM, OK, TX, UT, and WY.

MC 121664 (Sub-130F), filed August 11, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Ave. South, Birmingham, AL 35222. Transporting *forest products, lumber* and *wood products,* between points in AI., on the one hand, and, on the other, points in IN, OH, MI, and WI.

MC 121805 (Sub-11F), filed August 4, 1980. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Little Rock and Helena, AR, from Little Rock over Intersate 40 to the junction of U.S. Hwy 49, thence over U.S. Hwy 49 to Helena, and return over the same route, serving all intermediate points on U.S. Hwy 49, except Brinkley, AR, and serving no intermediate points on Interstate 40; (2) between the junction of AR Hwy 1 and U.S. Hwy 49 and Marianna, AR, from the junction of AR Hwy 1 and U.S. Hwy 49 over AR Hwy 1 to Marianna, AR, and return over the same route, serving all intermediate points; (3) between Little Rock, AR and the AR–LA State line, from Little Rock over U.S. Hwy 65 to the AR–LA State line, and return over the same route, serving all intermediate points; (4) between Pine Bluff and Warren, AR, from Pine Bluff over AR Hwy 15 to Warren, and return over the same routes, serving all intermediate points; (5) between the junction of U.S. Hwy 65 and AR Hwy 4 and the plant facility of Pot Latch Corporation, north of AR City on AR Hwy 4, from the junction of U.S. Hwy 65 and AR Hwy 4 over AR Hwy 4 to the plant facility of Pot Latch Corporation, and retrun over the same route, serving all intermediate points; (6) between Warren, AR, and junction of AR Hwy 35 and U.S. Hwy 65, from Warren, AR, over AR Hwy 4 to Monticello, AR, thence over AR Hwy 35 to junction of U.S. Hwy 65 and return over the same route, serving all intermediate points; (7) between Pine Bluff, AR, and the AR–LA State line, from Pine Bluff over U.S. Hwy 65 to the intersection of AR Hwy 81, thence over AR Hwy 81 to the AR–LA State one, and return over the same route, serving intermediate points; (8) between Warren, AR, and the AR–LA State line, from Warren over AR Hwy 15 to the intersection of AR Hwy 275, thence over AR Hwy 275 to the AR–LA State line, and return over same route, serving all intermediate points; (9) between the interscetion of U.S. Hwy 65 and U.S. Hwy 165 to the AR–LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR–LA State line, and return over the same route, serving all intermediate points; (10) between Strong, AR, and the Mississippi River, from Strong over U.S. Hwy 82 to the Mississippi River, and return over the same route, serving all intermediate points; (11) between Hamburg, AR, and the Mississippi River, from Hamburg over AR Hwy 8 to the Mississippi River, and return over the same route, serving all intermediate points; (12) between Wilmot and Eudora, AR, from Wilmot over AR Hwy 52, to the intersection of AR Hwy 159, thence over AR Hwy 159 to Eudora and return over the same route, serving all intermediate points; (13) between Eudora, AR, and the AR–LA State line, from Eudora over AR Hwy 159 to the AR–LA State line, and return over the same route, serving all intermediate points; (14) between Monticello and McGehee, AR, from Monticello over AR Hwy 4 to McGehee, and return over the same route, serving all intermediate points; (15) between Jerome, AR, the Mississippi River, from Jerome over AR Hwy 144 to the Mississippi River, and return over the same route, serving all intermediate points; (16) between Little Rock and Gum Springs, AR, from Little Rock over U.S. Hwy 67 to Gum Springs, and return over the same route, serving all intermediate points; (17) between Pine Bluff and Malvern, AR, from Pine Bluff over U.S. Hwy 270 to Malvern, and return over the same route, serving all intermediate points; (18) between Malvern, AR, and the junction of U.S. Hwy 270 and AR Hwy 171 east of Hot Springs, AR, from Malvern over U.S. Hwy 270 to the junction of U.S. Hwy 270 and AR Hwy 51, thence over AR Hwy 51 to its junction with U.S. Hwy 270, then over U.S. Hwy 270 to its junction with AR Hwy 171 east of Hot Springs, and return over the same route, serving all intermediate points; with no service to the City of Hot Springs, AR; (19) between Pine Bluff and West Memphis, AR, from Pine Bluff over U.S. Hwy 79 to its junction with U.S. Hwy 70, then over U.S. Hwy 70 to West Memphis, and return over the same route, serving all intermediate points. Restriction: Service performed shall be restricted against the handling of shipments moving (a) between Memphis, TN, and Little Rock, AR, and its commercial zone, (b) between Memphis, TN, and Pine Bluff, AR, and (c) between Memphis, TN, and Forrest City, AR; (20) between Marianna and Wynne, AR, from Marianna over AR Hwy 1 to Wynne, and return over the same route, serving all intermediate points; (21) between West Helena and Elaine, AR, from West Helena over U.S. Hwy 49 to its junction with AR Hwy 85, then over AR Hwy 85 to its junction with AR Hwy 44, then over AR Hwy 44 to Elaine, and return over the same route, serving all intermediate points; (22) between Little Rock and DeWitt, AR, from Little Rock over AR Hwy 130 to DeWitt, and return over the same route, serving all intermediate points; (23) between DeWitt and Dumas, AR, from DeWitt over AR Hwy 152 to its junction with AR Hwy 1, then over AR Hwy 1 to its junction with AR Hwy 54, then over AR Hwy 54 to Dumas, and return over the same route, serving all intermediate points; (24) between Dumas and Star City, AR, from Dumas over AR Hwy 54 to its junction with AR Hwy 81, then over Hwy 81 to Star City, and return over the same route serving all intermediate points; (25) between Gould and Star City, AR, from Gould over AR Hwy 114 to Star City, and return over the same route, serving all intermediate points; (26) between Grady and Fresno, AR, from Grady over AR Hwy 11 to Fresno, and return over the same route, serving intermediate points; (27) between Harrison and Branson, MO, from Harrison over U.S. Hwy 65 to Branson, and return over the same route, serving all intermediate points, and serving Silver Dollar City, MO, as an off-route point. All routes to be tacked at common points of joinder and with existing authority.

Note.—Applicant presently has the authority requested in Routes (1) through (26) in Certificates of Registration MC–121805, issued April 4, 1978, MC 121805 (Sub-2), issued October 17, 1978, MC–121805 (Sub-3), issued November 26, 1979, and MC 121805 (Sub-5), issued November 26, 1979. The purpose of this application, as to Routes (1) through (26), is to convert the foregoing Certificates of Registration to a Certificate of Public Convenience and Necessity. Issuance of a certificate herein will be conditioned upon coincidental cancellation of Certificates of Registration MC 121805, MC 121805 (Sub-2), MC 121805 (Sub-3), and MC 121805 (Sub-5) at applicant's written request.

MC 124774 (Sub-131F), filed August 11, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave. Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products, meat byproducts and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, VT, VA, WV, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 134755 (Sub-221F), filed August 14, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *rubber or miscellaneous plastics products,* and *printed matter,* as described in Items 30 and 27 respectively of Standard Transportation Commodity Code, between points in TX and MO.

MC 135185 (Sub-50F), filed August 1, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, 52275 U.S. Hwy. 31 North, South Bend, IN 46624. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., Holcomb, KS.

MC 138225 (Sub-10F), filed August 11, 1980. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2, Douglas Rd., Far Hills, NJ 07931. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by a manufacturer of swimming pools, between points in the U.S., under continuing contract(s) with Heldor Associates, Inc., of Hamden, CT.

MC 138635 (Sub-110F), filed August 6, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *plastic articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (exept in bulk), between Monroe, GA, on the one hand, and, on the other, points in NC and SC.

MC 141914 (Sub-86F), filed August 6, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *foodstuffs,* between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S.

MC 142715 (Sub-112F), filed August 11, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: Kenneth O. Petrick (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between those points in the U.S. in and east of ND, SD, WY, CO, and NM.

MC 145955 (Sub-10F), filed August 4, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting (1) *cleaning and polishing compounds, textile softener, lubricants, deodorants, disinfectants, hypochlorite solutions, paints, plastic bags,* and *filters,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Will County, IL, on the one hand, and, on the other, points in CO, IA, KS, MO, and NE.

MC 145955 (Sub-12F), filed August 11, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting (1) *containers,* and (2) *paper and paper products,* between Chicago, IL, on the one hand, and, on the other, points in IA, KS, MO, and NE.

MC 146775 (Sub-3F), filed August 11, 1980. Applicant: J. L. N. DISTRIBUTING, INC., 7305 N. Loop Rd., El Paso, TX 79915. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *fresh and frozen meat,* between points in Moore and Potter Counties, TX, on the one hand, and, on the other, points in El Paso County, TX.

MC 147264 (Sub-7F), filed August 11, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47302. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *meats, meat products, meat byproducts and articles distributed by meat—packing houses* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 147694 (Sub-4F), filed August 11, 1980. Applicant: HEK, INCORPORATED, d.b.a. ELLIOTT BAY SERVICE TRANSFER, P.O. Box 88994, Seattle, WA 98188. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities,* (except classes A and B explosives), between points in OR and WA, restricted to traffic having a prior or subsequent movement by water.

MC 150444 (Sub-1F), filed August 11, 1980. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (same address as applicant). Transporting (1) *plastics, plastic articles, resins, and scrap plastic* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities named in (1) above (except in bulk), between Butler, Newark and Passaic, NJ, Hickory, NC, and Point Pleasant, WV, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Pantasote, Inc., of Passaic, NJ.

MC 150735 (Sub-1F), filed August 11, 1980. Applicant: BESTWAY TRANSPORT CO., a Corporation, Route No. 2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing house,*as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in Erie and Wyandot Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 151054 (Sub-1F), filed August 5, 1980. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES,

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10650 S. W. Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. Transporting *frozen foods* between points in the U.S., under continuing contract(s) with Chef Francisco, of Eugene, OR.

MC 151084 (Sub-1F), filed August 11, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 S. Redwood Rd., Salt Lake City, UT 84104. Transporting *gypsum board* and *construction materials*, between Los Angeles and Contra Costa, CA, and points in Maricopa County, AZ, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Gold Bond Building Products, of Long Beach, CA.

MC 151525F, filed August 11, 1980. Applicant: MAKUCH TRUCKING, a Partnership, Painted Sky Rd., Rt. 3, Reading, PA 19606. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 S. 12th St., Philadelphia, PA 191017. Transporting *wire* from Moonachie, NJ, to points in the U.S.

MC 130984F, filed August 7, 1980. Applicant: RICKY'S ADVENTURERS, INC., 6 Greg Court, Wallingford, CT 06492. Representative: Gerald A. Joseloff, 80 State Street, P.O. Box 3258, Hartford, CT 06103. As a *broker*, transporting *passengers* and *their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Wallingford, Meriden, Middletown, Berlin, Kensington, and Southington, CT, and expanding to points in the U.S.

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Decided: August 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 2304 (Sub-37F), filed August 15, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, a corporation, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuint contract(s) with Woodhill Permatex, Inc., a Loctite Corporation subsidiary, of Solon, OH.

MC 29934 (Sub-25F), filed August 15, 1980. Appliant: LO BIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *Paper* and *paper products*, and (2) *Materials, equipment and supplies* used in the manufacture, sale, and distribution of paper and paper products, between points in VA, on the one hand, and, on the other, points in DE, MD, NY, NJ, CT, MA, RI, PA, and DC.

MC 30844 (Sub-694F), filed August 15, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Transporting *cleaning compounds* (except commodities in bulk), between Gentry, AR, and Tulsa, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52704 (Sub-282F), filed August 14, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *styrofoam articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of styrofoam articles, between points in Dallas, Tarrant, Johnson, and Ellis Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 53965 (Sub-179F), filed August 15, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 838, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA.

MC 62824 (Sub-4F), filed August 21, 1980. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1089, Greer, SC 29651. Representative: Roy F. Chason (same address as applicant). Transporting (1) *textiles and textile products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, GA, MS, NC, SC, TN, and VA.

MC 72495 (Sub-23F), filed August 18, 1980. Applicant: DON SWART TRUCKING, INC., Box 49, Rt. 2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting *rough iron castings*, from points in Belmont County, OH, to points in KY, NY, PA, and WV.

MC 73165 (Sub-521F), filed August 11, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *machinery and supplies for machinery*, between points in AL, FL, GA, MS, NC, SC, and TN, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, MD, OR, SD, UT, WA, WI, and WY. Condition: Issuance of a certificate is subject to the submission by applicant of a request, in writing, for prior or coincidental revocation of MC 73165 (Sub-E-65), published April 24, 1975.

MC 73165 (Sub-522F), filed August 15, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *machinery* and *supplies for machinery, construction equipment*, and *tractors*, between points in AL, AR, FL, GA, MS, NC, SC, and TN.

MC 94265 (Sub-362F), filed August 18, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *fabricated metal products* (except ordnance, and *materials* used in the manufacture and distribution of fabricated metal products, between points in the U.S., restricted to traffic originating at or destined to the facilities of Hamilton Beach Division Scovill, Inc.

MC 89684 (Sub-113F), filed August 15, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). Transporting *such commodities* as are dealt in or used by mail-order and retail stores (except commodities in bulk), between San Leandro, CA, on the one hand, and, on the other, points in NV, restricted to traffic originating at or destined to the facilities of Montgomery Ward & Company, Inc.

MC 106274 (Sub-31F), filed August 18, 1980. Applicant: RAEFORD TRUCKING COMPANY, P.O. Box 219, Sanford, NC 27330. Representative: R. B. Guthrie (same address as applicant). Transporting *petroleum or coal products*, as described in Item 29 of the Standard Transportation Commodity Code Tariff, between Baltimore, MD, and points in Baltimore County, MD, on the one hand, and, on the other, points in NC and VA.

MC 109595 (Sub-24F), filed August 18, 1980. Applicant: REX TRANSPORTATION COMPANY, a corporation, Suite 207 Clausen Bldg., 1520 North Woodward Ave., Bloomfield Hills, MI 48013. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *cement,* between points in Wayne, Oakland, Macomb, Washtenaw, and Monroe Counties, MI, on the one hand, and, on the other, points in WI.

MC 107295 (Sub-990F), filed August 18, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *building materials,* (2) *chemicals,* (3) *cleaning, washing, and scouring compounds,* (4) *photographic and duplicating equipment,* and (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of G.A.F. Corporation.

MC 110325 (Sub-157F), filed August 20, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), (1)(a) between Winchester, VA, and Bristol, VA, over U.S. Hwy 11, (b) between Arlington, VA, and Danville, VA, (i) over U.S. Hwy 29, and (ii) from Arlington over U.S. Hwy 1 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction VA Hwy 304, then over VA Hwy 304 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Danville, and return over the same route, (c) between Norfolk, VA, and junction U.S. Hwy 58 and VA Hwy 304, over U.S. Hwy 58, (d) between Danville, VA, and Roanoke, VA, from Danville over U.S. Hwy 58 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Roanoke, and return over the same route, (e) between Richmond, VA, and the VA-NC State line, over U.S. Hwy 1, (f) between Petersburg, VA, and Emporia, VA, over U.S. Hwy 301, (g) between junction U.S. Hwy 460 and U.S. Hwy 58, and Roanoke, VA, over U.S. Hwy 460, (h) between Norfolk, VA, and Lexington, VA, over U.S. Hwy 60, (i) between Richmond, VA, and Staunton, VA, over U.S. Hwy 250, (j) between Arlington, VA, and Winchester, VA, over U.S. Hwy 50, (k) between Martinsville, VA, and junction U.S. Hwy 58 and U.S. Hwy 11, over U.S. Hwy 58, and (l) serving all intermediate points in VA on routes (a) through (k) above, and serving points in VA as off-route points, and (2)(a) between Norfolk, VA, and St. Louis, MO, from Norfolk, over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, and return over the same route, serving Charleston and Huntington, WV, Lexington and Louisville, KY, Mt. Vernon, IL, and points in VA as intermediate points, (b) between Winchester, VA, and St. Louis, MO, over U.S. Hwy 50, serving Cincinnati and Athens, OH, Bedford, Seymour, and Vincennes, IN, and Olney, Flora, and Salem, IL, and points in VA as intermediate points, (c) between Danville, VA, and Reidsville, NC, over U.S. Hwy 29, serving all intermediate points, (d) between the VA-NC State line and Raleigh, NC, over U.S. Hwy 1, serving no intermediate points, (e) between the VA-NC State line and Durham, NC, from the VA-NC State line over U.S. Hwy 1 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Durham, NC, and return over the same route, serving no intermediate points, and (f) between Winchester, VA, and Harrisburg, PA, over Interstate Hwy 81, serving Hagerstown, MD, as an intermediate point.

Note.—Applicant states that part (1) seeks to convert part of its irregular route authority in VA to regular routes, and part (2) seeks to join the proposed regular routes in VA with its presently existing regular routes to eliminate gateways in OH.

MC 111594 (Sub-100F), filed August 13, 1980. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities,* (except household goods as defined by the Commission, and classes A and B explosives), (1) Between St. Paul, MN, and Davenport, IA: From St. Paul over U.S. Hwy 52 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Davenport, and return over the same route; (2) Between St. Paul, MN, and Iowa City, IA: From St. Paul over U.S. Hwy 52 to Rochester, MN, then over U.S. Hwy 63 to Waterloo, IA, then over U.S. Hwy 218 to Iowa City, and return over the same route; (3) Between St. Paul, MN, and Kansas City, MO: From St. Paul over U.S. Hwy 65 to Albert Lea, MN, then over U.S. Hwy 69 to Kansas City, and return over the same route; (4) Between St. Paul and Albert Lea, MN: From St. Paul over U.S. Hwy 61 to La Crosse, WI, then over U.S. Hwy 16 to Albert Lea, and return over the same route; (5) Between Chicago, IL, and Des Moines, IA: From Chicago over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, and return over the same route; (6) Between Wisconsin Rapids, WI, and Dubuque, IA: From Wisconsin Rapids over WI Hwy 13 to Wisconsin Dells, WI, then over WI Hwy 23 to junction U.S. Hwy 151, then over U.S. Hwy 151 to Dubuque, and return over the same route; (7) Between Minocqua and Merrill, WI, over U.S. Hwy 51; and (8) Between Prentice and Heafford Junction, WI, over U.S. Hwy 8; serving all intermediate points on routes (1) through (8) above, and serving in connection with routes (1) through (8) the following off-route points: (A) Knoxville, Muscatine, Oskaloosa, Ottumwa, and Washington, IA, and those in IA on, north, and east of a line beginning at the Missisippi River and extending along Interstate Hwy 80 to junction U.S. Hwy 69 at or near Des Moines, IA, and then over U.S. Hwy 69 to the IA–MN State line, (B) Trenton, MO, and (C) points in Adams, Columbia, Crawford, Dane, Grant, Green, Iowa, Juneau, Lafayette, Lincoln, Marathon, Marquette, Oneida, Portage, Price, Richland, Rock, Sauk, Vernon, and Wood Counties, WI.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 113475 (Sub-36F), filed August 18, 1980. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., N.W., Washington, DC 20036. Transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in Greensville County, VA, on the one hand, and, on the other, points in MA, CT, RI, NY, PA, KY, TN, NC, SC, GA, FL, OH, WV, NJ, MD, VA, and DE.

MC 117565 (Sub-100F), filed August 15, 1980. Applicant: MOTOR SERVICE COMPANY INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting (1) *metal articles* and *accessories for metal articles,* and (2) *materials, equipment, and supplies* used in the installation, manufacture, distribution, and maintenance of metal articles, between points in Richland County, OH, and points in the U.S. (including AK, but excluding HI).

MC 118805 (Sub-8F), filed August 18, 1980. Applicant: CONTINENTAL VAN LINES, INC., 4501 West Marginal Way, S.W., Seattle, WA 98124.

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Representative: E. W. Hundley (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in AK.

MC 124774 (Sub-132F), filed August 18, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *foodstuffs,* between points in Bucks County, PA, on the one hand, and, on the other, points in the U.S.

MC 125254 (Sub-74F), filed August 20, 1980. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *expanded plastic articles,* from the facilities of Southwest Forest Industries, at or near Elk Grove Villiage, IL, to points in IN and WI, and (2) *fiberboard containers,* from the facilities of Southwest Forest industries, at or near Bloomington and Bridgeview, IL, to points in IN and WI.

MC 125254 (Sub-75F), filed August 21, 1980. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *canned and preserved foodstuffs,* from Kenosha, WI, to the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Iowa City, IA.

MC 128205 (Sub-96F), filed August 18, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *sulfuric acid and sulfur dioxide,* in bulk in tank vehicles, from points in Cook County, IL, to points in IL, IN, IA, OH, MI, and WI, restricted to traffic having a prior movement by rail.

MC 134035 (Sub-43F), filed August 18, 1980. Applicant: DOUGLAS TRUCKING COMPANY, a corporation, P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring specialized equipment), between the facilities of Kmart Corporation, in (a) Wayne County, MI, (b) Harris and Navarro Counties, TX, (c) Worcester County, MA, (d) Allen County, IN, (e) Douglas County, KS, (f) Bucks County, PA, (g) Coweta and Chatham Counties, GA, (h) San Bernadino and San Diego Counties, CA, (i) Scott County, MN, (j) Washoe County, NM, and (k) Trumbull County, OH, on the one hand, and, on the other, points in the U.S.

MC 134755 (Sub-222F), filed August 20, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in TX, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 136315 (Sub-135F), filed August 18, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) *metal products,* from points in Jefferson and Orange Counties, TX, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, OK, SC, and TN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal products (except commodities in bulk, in tank vehicles), in the reverse direction.

MC 138104 (Sub-100F), filed August 18, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *van truck bodies,* from points in De Soto Parish, LA, to points in the U.S. (including AK, but excluding HI), and (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, and *van truck bodies,* between the facilities of Nabors Trailers, Inc., in the U.S. (including AK, but excluding HI).

MC 138304 (Sub-25F), filed August 19, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton St., Hoboken, NJ 07030. Representative: Craig B. Sherman, Barnett Bank Bldg., 1108 Kane Concourse, Bay Harbor Islands, FL 33154. Transporting *foodstuffs,* from South Hackensack and Seacaucus, NJ, to points in the U.S. (except AK, HI, VA, NC, SC, GA, and FL), restricted to traffic originating at the facilities of Buitoni Foods Corp., and destined to the indicated destinations.

MC 138304 (Sub-26F), filed August 19, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton St., Hoboken, NJ 07030. Representative: Craig B. Sherman, Barnett, Bank Bldg., 1108 Kane Concourse, Bay Harbor Islands, FL 33154. Transporting (1) *malt beverages* (except in bulk), and (2) *malt beverage dispensing equipment,* from New York, NY, Hoboken and Newark, NJ, Philadelphia, PA, and Wilmington, DE, to points in WV.

MC 138635 (Sub-111F), filed August 18, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, and DC.

MC 138635 (Sub-112F), filed August 18, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *automobile parts,* and (2) *materials, supplies, and equipment* used in the manufacture of motor vehicles, between points in CA, on the one hand, and, on the other, points in GA, TN, NC, and SC.

MC 140665 (Sub-113F), filed August 19, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Parker Hannifin Corporation and its subsidiaries.

MC 143234 (Sub-1F), filed August 15, 1980. Applicant: PHILLIPS BROTHERS WAREHOUSING AND DISTRIBUTING CORPORATION, 25 Thomas Ave., Baltimore, MD 21225. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Baltimore, MD, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA, WV, and DC, restricted to traffic having a prior or subsequent movement by water or rail.

MC 145955 (Sub-13F), filed August 15, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products and meat by products,* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between Omaha, NE, on the one hand, and, on the other, Sioux City, IA, and Kansas City, MO.

MC 145955 (Sub-14F), filed August 15, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *foodstuffs,* between Chicago, IL, and Milwaukee, WI, on the one hand, and, on the other, points in the U.S.

MC 146974 (Sub-9F), filed August 20, 1980. Applicant: WILLIAM V. THOMAS, P.O. Box 10238, Albuquerque, NM 87184. Representative: Randall R. Sain (same address as applicant). Transporting (1) *primary metal products,* (2) *fabricated metal products,* (3) *clay, concrete, glass and stone products,* (4) *lumber or wood products,* and (5) *petroleum and coal products,* as described in Items 33, 34, 32, 24, and 29, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, AZ, CA, CO, ID, KS, LA, MO, MT, NE, NM, NV, OK, OR, TX, UT, WA, and WY.

MC 149505F, filed August 5, 1980. Applicant: LOUISVILLE, NEW ALBANY & CORYDON RAILROAD COMPANY, d.b.a. LOUISVILLE AND CORYDON TRANSFER, 210 West Walnut, Corydon, IN 47112. Representative: Walter Saulman (same address as applicant). Transporting *kitchen cabinets,* between points in the U.S., under continuing contract(s) with Schmidt Cabinet Co., Inc., of New Salisbury, IN.

MC 150805 (Sub-1F), filed August 18, 1980. Applicant: WHITE TRUCKING, INC., Rural Route No. 1, Washburn, IL 61570. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *varnish, printing ink, and oil resin products,* between points in the U.S., under continuing contract(s) with Acme Printing Ink Company, Inc., of Peoria, IL, and Art Lersch & Sons Varnish and Chemical Corp., of Washburn, IL.

MC 150865 (Sub-1F), filed August 19, 1980. Applicant: ATLANTIC & WESTERN TRANSPORTATION COMPANY, INC., P.O. Box 948, Forest Park, GA 30051. Representative: Robert W. Gerson, 1400 Candler Bldg., Atlanta, GA 30303. Transporting *new furniture,* between points in the U.S., under continuing contract(s) with Fox Manufacturing Company, of Rome, GA.

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 151084 (Sub-2F), filed August 18, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting (1) *clay, concrete, glass or stone products* as described in Item 32 of the Standard Transportation Commodity Code Tariff, (2) *primary metal products, including galvanized,* except coating or other allied processing, as described in Item 33 of the Standard Transportation Commodity Code Tariff, and (3) *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Ameron Steel & Wire Division, of Etiwanda, CA.

MC 151544F, filed August 12, 1980. Applicant: HILL TRANSPORT, INC., P.O. Box 9813, Ruder Rd, Knoxville, TN 37920. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *furniture and furniture parts, electrical bug-killer devices, electrical fences* and *parts* for electrical fences, and *plastic articles,* from points in Knox County, TN, to points in the U.S.; and (2) materials, equipment, and supplies used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction.

[FR Doc. 80-27182 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-025]

Permanent Authority Decision-Notice

Decided: August 27, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 F.R. 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will by set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications

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for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–025

Decided: August 27, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 73081 (Sub-3F), filed August 22, 1980. Applicant: ANYTIME DELIVERY SYSTEMS, INC., 375 Western Hwy., Tappan, NY 10983. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 106001 (Sub-19F), filed August 22, 1980. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 147761 (Sub-1F), filed August 21, 1980. Applicant: STEEL EXPRESS, INC., P.O. Box 5217, 1507 Ripley St., Lake Station, IN 46405. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2–031

Decided: August 27, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 2962 (Sub-73F), filed August 20, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana St., Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 29083 (Sub-1F), filed August 21, 1980. Applicant: BORMANN BROTHERS, INC., 10 Dunham Rd., Billerica, MA 01821. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 69292 (Sub-12F), filed August 21, 1980. Applicant: ATLAS TRANSPORTATION, INC., 8100 Stansbury Rd., Baltimore, MD 21222. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030—15 St., NW., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 130993F, filed August 19, 1980. Applicant: B.L.T. CORPORATION, 405 Third Ave., Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a broker in arranging for the transportation of *general commodities,* (except household goods), between points in the U.S.

MC 149522F, filed August 19, 1980. Applicant: LARRY MUNGER, d.b.a. LARRY MUNGER ENTERPRISES, P.O. Box 25831, Salt Lake City, UT. Representative: Larry Munger (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–27194 Filed 9–4–80; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation:

Acorn Building Components, Inc., 12620 Westwood, Detroit, MI 48223.

2. Wholly owned subsidiaries:

Acorn International Sales, Corp., 12620 Westwood, Detroit, MI 48223.

Acron Distributing Company 12612 Westwood, Detroit, MI 48223.

Acron Building Components of Illinois, Inc. 125 Factory Road, Addison, IL 60101.

Acorn Building Components of Florida, Inc., 5640 Columbia Circle, W. Plam Beach, FL 33407.

Acron Building Components/West, Inc. Building No. 16—Freeport Center, Clearfield, Utah 84016.

South Aluminum Products Company d.b.a. SOALCO 5854 Miami Lakes Drive Miami Lakes, FL 33014.

1. Parent corporation and address of principle office:

American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principle offices:

(a) Cyanamid Canada, Inc., 2255 Sheppard Avenue East, Willowdale, Ont. M2J 4Y5.
(b) Cyanamid International Sales Corporation Berdan Avenue, Wayne, NJ 07470.
(c) Cyanamid Inter-American Corporation Berdan Avenue, Wayne, NJ 07470.
(d) Cyanamid Overseas Corporation Berdan Avenue, Wayne, NJ 07470.
(e) Cyanamid Plastics, Inc. 697 Route 46, Clifton, NJ 07015.
(f) Davis & Geck, Berdan Avenue, Wayne, NJ 07470.
(g) Formica Corporation Berdan Avenue, Wayne, NJ 07470.
(h) Glendale Optical Company, Inc. 130 Cross Way Park Drive, Woodbury, NY 11797.
(i) Jacqueline Cochran, Inc. 630 Fifth Avenue, New York City, NY 10020.
(j) Lederle Parenterals, Inc. Berdan Avenue, Wayne, NJ 07470.
(k) Lederle Piperacillin, Inc. Berdan Avenue, Wayne, NJ 07470.
(l) Shulton, Inc. Berdan Avenue, Wayne, NJ 07470.
(m) Shulton Canada, Inc. 2031 Kennedy Road, Scarborough, Ontario, Canada (Torronto).
(n) Toiletries, Inc. Berdan Avenue, Wayne, NJ 07470.

A. Parent corporation and address of principal office:

Anderson, Clayton & Co., 3800 First International Plaza, 1100 Louisiana, Houston, Texas 77002.

B. Wholly owned subsidiary which will participate in the operations and address of the office:

Avoset Food Corporation, 80 Grand Avenue, Oakland, California 94604.

1. Parent corporation and address of principal office:

Astro Containers, Incorporated, 2795 Sharon Road, Evendale, Ohio 45241.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Allied Drum Service, Inc., 401 Colorado, Louisville, Kentucky 40208.
(b) Astro Containers Company, 2795 Sharon Road, Evendale, Ohio 45241.
(c) Astro Fibre Drum Company, 2785 Sharon Road, Evendale, Ohio 45241.
(d) The Queen City Barrel Company, 1937 South Street, Cincinnati, Ohio 45204.

1. Parent corporation and address of principal office:

Austin Industries, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.

2. Wholly owned subsidiaries which will participate in the operations, and

address of their respective principal offices:

(a) Austin Bridge Company, 2949 Stemmons Fwy., Dallas, Texas 75247.
(b) Austin Commercial, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
(c) Austin Construction Equipment, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
(d) Austin Power, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
(e) Austin Products, Inc., 1000 Singleton Blvd., Dallas, Texas 75221.
(f) Austin Road Company, 1555 Merimac Circle, No. 214, Ft. Worth, Texas 76113.
(g) Coastal Construction Company, 3800 Hwy. 365—Regional Square, Port Arthur, Texas 77640.
(h) Coastal Industrial Constructors, Inc., 3800 Hwy. 365—Regional Square, Port Arthur, Texas 77640.

1. Parent corporation:

Beatrice Foods, Two North La Salle St., Chicago, IL 60602.

2. Wholly owned subsidiaries:

Aunt Nellies's Foods, Inc., P.O. Box 67, Clyman, WI 53016.
Brookside Enterprises, Inc., 9900 Guasti Road, Guasti, CA 91743.
Certified Transportation Co., 2068 Lapham Dr., P.O. Box 845, Modesto, CA 95353.
Community Cereamery P.O. Box 8057, 420 Nora Street, Missoula, Montana 59801.
Culligan International Company, One Culligan Parkway, Northbrook, IL 60062.
Cycle Parts Trading Company, 9362 West Grand Ave., Franklin Park, IL 60131.
Peter Eckrich and Sons, Inc., P.O. Box 388, Ft. Wayne, IN 46801.
Fiberite Corporation, 501 West Third St., Winona, MN 55987.
Fiberite West Coast Corporation, 645 N. Cypress, Orange, California 92669.
James J. Gallery, Inc., 555 Pleasant St., Watertown, MA 02172.
John Hancock Furniture Manufacturing Co., 1645 Tidelands Ave., National City, CA 92050.
Kelley Manufacturing Co., South Industrial Park, P.O. Drawer 1467, Tifton, GA 31794.
E. W. Kneip, Inc., P.O. Box 161, Forest Park, IL 60130.
KSS Transportation Corp., c/o Webcraft, P.O. Box 185, Route 1 and Adams Station, North Brunswick, NJ 68902.
Meadow Gold Products Corp., 40 Franklin Ave., Brooklyn, NY 11205.
Molub-Alloy Export Ltd., 206 N. Va. St., Reno, Nevada 89501.
Northeast Cold Storage Corp., 165 Read St., Portland, Maine 04104.
Nubro Corporation, P.O. Box 3950, 620 Slaton Road, Lubbock, Texas 79404.
Nunn Manufacturing Company, P.O. Box 1856, Amarillo, Texas 79105.
Poultry Foods Industries, Inc., P.O. Box C, Russellville, AR 72801.
Quincy Market Cold Storage and Warehouse Co., 555 Pleasant St., Watertown, MA 02172.
St. John's Inc., 130 Gunn St., Cadillac, MI 49601.
Samsonite Corporation, 11200 East 45th Avenue, Denver, CO 80239.
Louis Sherry Ice Cream Co., 40 Franklin Ave., Brooklyn, NY 11205.
Skyline Dairy, Inc., 1300 Two Mile Drive, Kalispell, MT.
Solar Rest, Inc., 11200 East 45th Avenue, Denver, CO.
Tindle Mills, Inc., M.P.O. Box 733, 701 East Chestnut, Springfield, MO. 65801.
Waterloo Industries, Inc., 300 Ansborough Avenue, Waterloo, Iowa 50701.
Martha White Foods, Inc., P.O. Box 58, Room 900—110 21st Ave. So., Nashville, TN 37202.
Zero Transport, Inc., P.O. Box 22666, Tampa, FL 33622.

Culligan International Company Subsidiaries

CWC, Inc., 2047 U.S. Highway 22 (West), Union, N.J. 07083.
Culligan Dayton, Inc., P.O. Box 2326—Kattering Branch, Dayton, Ohio 45429.
Culligan Desplaines Valley Water Condition, Inc., 1111 East Washington St. Joliet, IL 60433.
Culligan Dutchess-Putman Water Conditioning, Inc., 860 Route 9 South Wappingers Falls, N.Y. 12590.
Culligan Peninsula Industrial Water Conditioning Company, P.O. Box 547 (1785 Russell Ave.) Santa Clara, CA 95052.
Culligan Soft Water Service of Santa Barbara, Inc., 1026 Santa Barbara St., Santa Barbara, CA 93101.
Culligan Soft Water Service of Whittier, Inc., 12221 East Hadley, Whittier, CA 90601.
Culligan Water Conditioning, Inc., 350 W. Sunset Drive, Waukesha, WI. 53186.
Culligan Water Conditioning, Inc., 7801 Menaul Blvd., Albuquerque, New Mexico 87110.
Culligan Water Conditioning of Battle Creek, Inc., 465 Dickman Road, Battle Creek, MI. 49015.
Culligan Water Conditioning of Beaver, Inc., 1021–24th Street, Beaver Falls, Pa. 15010.
Culligan Water Conditioning of Butler, Inc., 300 New Castle St., Butler, Pa. 16001.
Culligan Water Conditioning of Glendale, Inc., P.O. Box 126, Glendale, AZ 85311.
Culligan Water Conditioning of Greater Detroit, Inc., 5510 Cooley Lake Road, Pontiac, MI 48054.
Culligan Water Conditioning of Greater Pittsburgh, Inc., 4941 Campbells Run Road, Pittsburgh, Pa. 15205.
Culligan Water Conditioning of Houstin, Inc., 12235 Robin Blvd., Houstin, TX 77045.
Culligan Water Conditioning of the Inland Empire, P.O. Box 5016, Riverside, CA 92517.
Culligan Water Conditioning of Jacksonville, Inc., 615 Dellwood Ave., Jacksonville, FL 32204.
Culligan Water Conditioning of Los Gatos, 611 University Ave., Los Gatos, CA 95030.
Culligan Water Conditioning of Orange County, 1911 S. Mañchester Ave., Anaheim, CA 92802.
Culligan Water Conditioning of Robbinsdale, Inc., 4012 W. Braodway Robbinsdale, MN 55422.
Culligan Water Conditioning of Sauk Centre, Inc., 315 Pine St., Sauk Centre, MN.
Culligan Water Conditioning of South Bend, Inc., 2218 S. Main St., South Bend, In. 46613.
Culligan Water Conditioning of Tidewater, Inc., P.O. Box 647, Hertford, N.C. 27944.
Culligan Water Conditioning of Tippencanoe County, Inc., 3450 Kossuth St., Lafayette, IN 47905.
Culligan Water Conditioning of Torrance, 20730 Earl St., Torrance, CA 90503.
Culligan Water Conditioning Inc., 524 South Main St., West Bend, WI 53095.
Everpure, Inc., 660 N. Balckhawk Drive, Westmont, IL. 60559.
Greater Chicago Culligan Water Conditioning, Inc., 6619 Lincoln Ave., Lincolnwood, IL. 60645.
Greater Kansas Culligan Water Conditioning, Inc., 2805 W. 47 St., Shawnee Mission, KS 66206.
Indiana Soft Water Service, Inc., 3335 N. Keystone, Indianapolis, IN 46218.
St. Louis Soft Water Service, Inc., 10947 Manchester Road, St. Louis, MO. 63122.
Soft Water Service, Inc., 270 West Palatine Road, Wheeling, IL. 60090.

1. Parent corporation:

Celanese Corporation, 1211 Avenue of the Americas, New York, New York 10036.

2. Wholly owned subsidiaries:

a. Celanese Chemical Company, Inc., Box 47320, 1250 W. Mockingbird Lane, Dallas, Texas 75247.
b. Pama Manufacturing, Inc. Box 1677, 2015 North Chester Street, Gastonia, North Carolina 28052.
c. Celanese Construction Fabrics, Inc., P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.

Does Business As:

Moultrie Products Company, Box 1864, 11th Street, SW., Moultrie, Georgia 31768.
d. Hytrex, Inc. 4300 Cemetary Rd., Hilliard, Ohio 43026.
e. Celanese Polymer Specialties Company, One Riverfront Plaza, Louisville, Kentucky 40202.
f. Celanese Piping Systems, Inc., 2929 West Magazine Street, Louisville, Kentucky 40211.
g. Stein, Hall & Co., Inc., 1211 Avenue of the Americas, New York, New York 10036.

3. Division of Parent Corporation:

a. Celanese Fibers Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.
b. Celanese Fibers Marketing Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.
c. Celanese Plastics and Specialties Company, 26 Main Street, Chatham, New Jersey 07928.
d. Celanese Fibers International Company, 1211 Avenue of the Americas, New York, New York 10036.

1. Parent corporation and address of principal office:

The Coca-Cola Company, P.O. Drawer 1734, Atlanta, GA 30301.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

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(a) Coca-Cola Bottling Company of New England, 9 "B" Street, Needham Heights, MA 02194.
(b) Coca-Cola Bottling Company of California, 1560 Mission Street, San Francisco, CA 94103.
(c) Coca-Cola Bottling Company of Ohio, 3300 South Creyts Road, Lansing, MI 48901.
(d) Pacific Coca-Cola Bottling Company, P.O. Box 789, Bellevue, WA 98009.
(e) Coca-Cola Bottling Company of Wisconsin, 7400 N. Oak Park Avenue, Chicago, IL 60648.
(f) Coca-Cola Bottling Company of Michigan, 3300 South Creyts Road, Lansing, MI 48901.
(g) Coca-Cola Bottling Company of Chicago, 7400 N. Oak Park Avenue, Chicago, IL 60648.
(h) General Bottling Company, P.O. Box 4268, Atlanta, GA 30302.
(i) The Atlanta Coca-Cola Bottling Company, P.O. Box 4268, Atlanta, GA 30302.
(j) Aqua-Chem, Inc., P.O. Box 421, Milwaukee, WI 53201.
(k) General Beverage Company, P.O. Box 1734, Atlanta, GA 30301.
(l) Gonzales & Co., Inc., d.b.a. The Monterey Vineyard, P.O. Box 780, Gonzales, CA 93926.
(m) Sterling Vineyards, P.O. Box 365, Calistoga, CA 94515.
(n) The Taylor Wine Company, Inc., Hammondsport, NY 14840.
(o) Presto Products, Incorporated, Box 2399, Appleton, WI 54913.
(p) Caribbean Refrescos, Inc., P.O. Box CC, Cidra, Puerto Rico 00639.
(q) Coca-Cola Interamerican Corporation, P.O. Drawer 1734, Atlanta, GA 30301.
(r) The Coca-Cola Export Corporation, P.O. Drawer 1734, Atlanta, GA 30301.
(s) Coca-Cola Ltd., 42 Overlea Boulevard, Toronto, Ontario M4H 1B8, Canada.
(t) Coca-Cola Bottling Company of Puerto Rico, Inc., C.P.O. Box 3814, San Juan, Puerto Rico 00936.
(u) The Coca-Cola Trading Company, P.O. Drawer 1734, Atlanta, GA 30301.
(v) Hi-Acres Concentrate, Inc., P.O. Box 247, Auburndale, FL 33823.
(w) C B Boiler Service, Inc., 117 Lively Blvd., Elk Grove, IL 60007.
(x) Belmont Springs Water Co., Inc., Country Club Lane, Belmont, MA 02178.
(y) Lasrevinu, Inc., 601 W. Hawthorne Lane, W. Chicago, IL 60185.
(z) Aqua-Chem Operations, Inc., P.O. Box 421, Milwaukee, WI 53201.
(aa) Industrial Combustion, Inc., 4465 N. Oakland Avenue, Milwaukee, WI 53211.

1. Parent corporation:

Distribution International Corporation, 260 New York Drive, Ft. Washington, PA 19034.

2. Wholly owned subsidiaries which will participate in the operation:

(a) Strick Lease, Inc., 260 New York Drive, Ft. Washington, PA 19034.
(b) Strick Corporation, 260 New York Drive, Ft. Washington, PA 19034.
(c) Strick Finance Co. 260 New York Drive, Ft. Washington, PA 19034.
(d) Flexible Transport, Inc., 4525 South I-85 (P.O. Box 668664), Charlotte, NC 28266.

1. Parent corporation:

Hittman Corporation, 9190 Red Branch Road, Columbia, MD 21045.

2. Wholly owned subsidiaries:

Hittman Transport Services, Inc., MC—144760, 2700 Keslinger Road, Geneva, IL 60134.
Hittman Associates, Inc., 9190 Red Branch Road, Columbia, MD 21045.
Hittman Medical Systems, Inc., 9190 Red Branch Road, Columbia, MD 21045.
Hittman Material & Medical Components, Inc., 9190 Red Branch Road, Columbia, MD 21045.
Hittman Nuclear & Development Corporation, 9251 Rumsey Road, Columbia, MD 21045.

1. Inland Container Corporation, 151 North Delaware Street, Indianapolis, Indiana 46206.

2. The following fully owned subsidiaries of Inland Container Corporation will participate in the intercorporated haulding operations:

a. Anderson Box Company, Inc.
b. Container Systems, Inc.
c. El Morro Corruged Box Corporation (Delaware).
d. El Morro Corruged Box Corporation (de Puerto Rico).
e. Fibre-Pacific Paper Products, Inc.
f. Indianapolis Ink & Chemical Corporation (INKCO).
g. Indisc, Inc.
h. Inland International Services, Inc.
i. Inland Paper Company, Inc.
j. Inland Real Estate Investments, Inc.
k. Pacific Kraft Corporation.
l. Summit Container Corporation.

1.a. Parent corporation:

Inland Steel Company, 30 West Monroe Street, Chicago, Illinois 60603.

b. Operating Divisions:

Inland Steel Container Company, 4300 West 130th Street, Alsip, Illinois 60658.
Inland Lime and Stone Company, Gulliver, Michigan 49840.

2. Participating wholly owned divisions and subsidiaries:

a. Joseph T. Ryerson & Son, Inc., 2621 West 15th Place, Chicago, Illinois 60608.
b. Inryco, Inc., 1550 North 25th Avenue, Melrose Park, Illinois 60161.
c. Burnham Trucking Company, 4101 West Burnham Street, Milwaukee, Wisconsin 53201.
d. Inland Steel Coal Company, Sesser, Illinois 62884.
e. Inland Steel Mining Company, Virginia, Minnesota 55792.
f. Jackson County Iron Company, Black River Falls, Wisconsin 54615.
g. Inland Steel Urban Development Corporation, 30 West Monroe Street, Chicago, Illinois 60603.
h. Inland Steel Development Corporation, 30 West Monroe Street, Chicago, Illinois 60603.
i. Remanco, 6160 North Cicero Avenue, Suite 306, Chicago, Illinois 60646.
j. Scholz Homes, Inc., 3103 Executive Parkway, Toledo, Ohio 43606.
k. Schult Homes Corporation, P.O. Box 151, Middlebury, Indiana 46540.

1. Parent corporation and address of principal office:

Keeney Enterprises, Inc., 182 Oakwood Drive, Glastonbury, CT 06033.

2. Wholly owned subsidiary which will participate in the operations, address of its principal office:

Christie Rigging & Trucking Co., 182 Oakwood Drive, Glastonbury, CT 06033.

1. Parent corporation and address of principal office:

Lane Processing, Inc., P.O. Box 38, Grannis, Arkansas 71944.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Frank Smith & Sons Co., a Division of Lane Processing, Inc., 2407 Gholson Road, Waco, Texas 76705.
J. W. Nichols Company, a Division of Lane Processing, Inc., 899 N. Houston, Fort Worth, Texas 76106.
Lane Farms, Inc., P.O. Box 38, Grannis, Arkansas 71944.
Texas Broilers, a Division of Lane Farms, Inc., 2711 South Street, Nacogdoches, Texas 75961.
Dexter Poultry, a Division of Lane farms, Inc., 1001 East Stoddard, Dexter, Missouri 63841.
Sunnyside Feeds, Inc., Highway 27 South, Nashville, Arkansas 71852.
Lane Poultry Sales, Inc., P.O. Box 38, Grannis, Arkansas 71944.
Frank Smith Foods, Inc., P.O. Box 82365, Oklahoma City, Oklahoma 73148.
Holly Creek Fryers, Inc., P.O. Box 220, Broken Bow, Oklahoma 74728.
Lane Domestic International Sales Corporation P.O. Box 38, Grannis, Arkansas 71944.
Spring Valley Farms, Inc., P.O. Box 3508, Oxford, Alabama 36203.
Spring Valley Foods, Inc., P.O. Box 3508, Oxford, Alabama 36203.
Cheaha International, Inc., Highway 21, South Oxford, Alabama 36203.
Valley Farms, Inc., P.O. Box 337, Vandalia, Ohio 45377.
Modern Feeds of Nacogdoches, Inc., P.O. Box 1836, Nacogdoches, Texas 75961.

A. Parent corporation and address of principal office:

Maryland Cup Corp., 10100 Reisterstown Road, Owings Mills, MD.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Sweetheart Plastics Inc., 1 Burlington Ave., Wilmington, MA.
(2) Sweetheart Paper Products Co., Inc., 191 Williams St. Chelsea, MA.
(3) Sweetheart Cup Corp. (Calif.) 2155 East 7th. St. Los Angeles, CA.
(4) Sweetheart Cup Corp. (Chicago) 7575 S. Kostner, Chicago, IL.
(5) Sweetheart Cup Corp. of Texas, 4444 W. Ledbetter Drive, Dallas, TX.

(6) Maryland–Pacific Cone Co. (Oregon) 123 N.E. 3rd. St. Portland, OR.
(7) Keystone Cone Co. Inc., 60 Mansfield Ave., Pittsburgh, PA.
(8) Lanier Cone Co., 600 Township Ave., Cincinnatti, OH.
(9) Maryland Baking Co. (of the Carolinas) 227 Atando Ave., Charlotte, NC.
(10) Maryland Baking Co., of Georgia Inc., 951 Glennwood Ave., S.E., Atlanta, GA.
(11) Eagle Cone Corp., 45 Clinton Ave., Brooklyn, NY.
(12) Eastern Baking Co., 30 Inner Belt Road, Somerville, MA.

A. Parent corporation and address of principal office:

Oscar Mayer & Co. Inc., 910 Mayer Avenue, Madison, Wisconsin 53704.

B. Wholly owned subsidiaries which will participate in operations and address of their respective principal offices:

1. Chef's Pantry, 1031 Pierce St., Sandusky, OH 44870.
2. Claussen Pickle Co., Inc., 1300 Dane St., Woodstock, IL 60098.
3. OM Food, Inc., 910 Mayer Ave., Madison, WI 53704.
4. OM Holding, Inc., 910 Mayer Ave., Madison, WI 53704.
5. OM Ingredients, 910 Mayer Ave., Madison, WI 53704.
6. Scientific Protien Laboratories, Inc., 700 East Main, Waunakee, WI 53597.
7. Louis Rich, Inc., 207 West 2nd St., West Liberty, IA 52776.
8. Oscar Mayer & Co., Inc. (PA), 3333 S. Front St., Philadelphia, PA 19148.
9. Oscar Mayer Foundation, 910 Mayer Ave., Madison, WI 53704.
10. Powell Valley Foods, Inc., P.O. Box Elkins Rd., Caryville, TN 37711.
11. Italsalumi, Inc., 910 Mayer Ave, Madison, WI 53704.
12. Kohrs Packing Company, 1335 West 2nd St., Davenport, IA 52802.
13. Quality Industrial Plastic Co., Inc., 910 Mayer Ave., Madison, WI 53704.
14. Louis Rich Foods, Inc., 207 West 2nd St., West Liberty, IA 52776.
15. Louis Rich International Ltd., 207 West 2nd St., West Liberty, IA 52776.
16. Rich of Carolina, Inc., Louis Rich Dr., New Berry, SC 29108.
17. Rich of California, Inc., 21 Daly Ave., Modesto, CA 95355.
18. Rich of Ellsworth, Inc., P.O. Box 4, Ellsworth, IA 50075.
19. Carolina Turkeys, Inc., P.O. Box 220, Marshville, NC 28103.
20. California, Turkeys, Inc., P.O. Box 6037, Modesto, CA 95355.
21. Rich Freezers, Inc., 207 West 2nd St., West Liberty, IA 52776.
22. Terminal Freezers, Inc., 4325 3rd Ave., Rock Island, IL 61201.
23. Rich Foods, Inc., 207 West 2nd St., West Liberty, IA 52776.

(1) Parent corporation:

H. O. Penn Machinery Co., Inc., Interstate 684 at Route 22, Armonk, N.Y. 10504.

(2) Wholly owned subsidiary:

William Thom & Company, Inc., a New York Corporation.

(1) Parent corporation and address of principal office:

Phelps Dodge Corporation, 300 Park Avenue, New York, New York 10022.

(2) Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Phelps Dodge Refining Corporation, 300 Park Avenue, New York, New York 10022.
Phelps Dodge Industries, Inc., 300 Park Avenue, New York, New York 10022.
Phelps Dodge Sales Company, 300 Park Avenue, New York, New York 10022.
Western Nuclear, Inc., 134 Union Boulevard, Lakewood, CO 80228.
Phelps Dodge Mercantile Company, Douglas, Arizona 85607.
Pacific Western Land Company, Four Bar Four Ranch, P.O. Box 188, Gila, New Mexico 88038.
Morenci Water and Electric Company, Morenci, Arizona 85540.
Ajo Improvement Company, Ajo, Arizona 85321.
Tuscon Cornelia and Gila Bend Railroad, Douglas, Arizona 85607.

1. Parent corporation and address of principal office:

Philip Morris Incorporated, 100 Park Avenue, New York, New York 10017.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Philip Morris Industrial Incorporated, P.O. Box 294, 422 North Holton Street, Milwaukee, Wisconsin 53201.
(b) Plainwell Paper Co., Inc., 200 Allegan, Plainwell, Michigan 49080.
(c) Wisconsin Tissue Mills Inc., P.O. Box 489, Third Street, Menasha, Wisconsin 54952.
(d) The Seven-Up Company, 121 South Meramec, St. Louis, Missouri 63105.
(e) Seven-Up Bottling Company of Houston, Texas, 3310 Alice Street, Houston, Texas 77021.
(f) Seven-Up Bottling Company of Norfolk, Incorporated, 1012 West 26th Street, Norfolk, Virginia 23517.
(g) Seven-Up Bottling Company of Phoenix, Inc., 3830 East Weir, Phoenix, Arizona 85040.
(h) Seven-Up Bottling Company of Albuquerque, 2101 Claremont Avenue NE., Albuquerque, New Mexico 87107.
(i) The Taylor Group, Inc., 555 Brown Road, Hazelwood, Missouri 63042.
(j) Seven-Up Canada Inc., No. 12 Cranfield Road, Toronto, Ontario, Canada M4B3G8.

1. Parent corporation and address of principal office:

S. S. Pierce Company, Inc., 74 Seneca Street, Dundee, New York 14837.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) S. S. Pierce Company, 10 Wildwood Street, Woburn, Massachusetts 01801.
(b) Seneca Foods Corporation, 74 Seneca Street, Dundee, New York 14837.
(c) Kennett Canning Corp., Box K, Kennett Square, Pennsylvania 19348.
(d) Lehman Bros. Corporation, 115 Martin Luther King Drive, Jersey City, New Jersey 07305.
(e) Tapetex Products, Inc., 240 Commerce Drive, Rochester, New York 14623.

1. Parent corporation and address of principal office:

RayGo Inc., P.O. Box 1362, Minneapolis, Minnesota 55440.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) RayGo Wagner Inc., 4427 Northeast 158th Avenue, P.O. Box 20044, Portland, Oregon 97220.
(b) Barco Manufacturing Company, 1001 Enterprise Avenue. P.O. Box 82841, Oklahoma City, Oklahoma 73148.

1. Parent corporation and address of principal office:

Reynolds Metals Company, 6601 Broad Street Road, Richmond, Virginia 23261.

2. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) El Campo Aluminum Company, 702 Gladys Street, El Campo, Texas 77437.
(b) Reynolds Aluminum Recycling Co., 6601 Broad Street Road, Richmond, Virginia 23261.
(c) Reynolds Aluminum Building Products Co., 347 Longbrook Avenue, Stratford, Connecticut 06497.

1. Parent corporation and address of principal office:

Texon, Inc., Canal St., So. Hadley, MA 01075.

2. Wholly owned subsidiary (ownership 100%) which will participate in the operation and their principal office location is:

E.B. & A.C. Whiting Co., One Howard St., Burlington, VT 05401.

(1) Parent:

White Motor Corporation, 34500 Grand River Avenue, Farmington Hills, MI 48024.

(2) Wholly owned subsidiaries which will participate in the operations:

(a) Gemini Manufacturing Company, 1330 North Main St., Orrville, Ohio 44667.
(b) White Farm Equipment Company, 2625 Butterfield Road, Oak Brook, Illinois 60521.
(c) White Motor Corporation of Canada Ltd., 6205 Airport Road, Mississauga, Ontario, Canada.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27449 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 174
Friday, September 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Items

Equal Employment Opportunity Commission 1
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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, September 9, 1980.

PLACE: Commission Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Freedom of Information Act Appeal No. 80-6-FOIA-365, concerning a company's request for information its employees provided the Commission in connection with an ADEA investigation.

2. Freedom of Information Act Appeal No. 80-6-FOIA-324, concerning a requests by an attorney for access to a closed age file.

3. Office of Special Projects and Programs—Transfer of Functions and Responsibilities.

4. Proposed modifications to the existing interpretative Bulletin on Employee Benefit Plans regarding the treatment of Post-Normal Retirement Age Employees under the Age Discrimination in Employment Act.

5. Proposed Statement on Layoffs and Equal Employment Opportunity.

6. Title VII Coverage of the Board of Governors of the Federal Reserve System.

7. Final Guidelines on Discrimination because of Religion.

8. Report on Commission Operations by the Executive Director.

Closed to the Public

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued September 3, 1980.

[S-1652-80 Filed 9-3-80; 3:31 pm]

BILLING CODE 6750-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 10, 1980.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Power Agenda—461st Meeting—September 10, 1980, Regular Meeting (10 a.m.)

CAP-1. Project No. 2774, Modesto and Turlock Irrigation Districts, City and County of San Francisco.
CAP-2. Docket No. EL78-17, Northern Indiana Public Service Co.
CAP-3. Docket No. ER80-530, Utah Power & Light Co.
CAP-4. Docket No. ER80-526, Public Service Electric & Gas Co.
CAP-5. Docket No. EL80-34, The Detroit Edison Co.
CAP-6. Docket No. ER78-8, Central Illinois Public Service Co.
CAP-7(A). Docket No. ER76-827, Minnesota Power & Light Co.
CAP-7(B). Docket No. ER77-427, Minnesota Power & Light Co.
CAP-8. Docket No. ER77-277 (Phase 1), Pennsylvania Power Co.
CAP-9. Docket No. ER79-182, Commonwealth Edison Co.
CAP-10. Docket No. ES80-73, Gulf States Utilities Co.

Miscellaneous Agenda—461st Meeting—September 10, 1980, Regular Meeting

CAM-1. Docket No. QF80-7, South San Joaquin Irrigation District.
CAM-2. Docket No. QF80-11, Hunt-Wesson Foods.
CAM-3. Docket No. RA80-99, Union Carbide, Inc.

Gas Agenda—461st Meeting, September 10, 1980, Regular Meeting

CAG-1. Docket No. TA80-2-18 (PGA80-3, IFR80-3, DCA80-2, LPUT80-2 and AP80-1), Texas Gas Transmission Corp.
CAG-2. Docket No. TA80-2-23 (PGA80-4, IPR80-3 and DCA80-2), Eastern Shore Natural Gas Co.
CAG-3. Docket No. TA80-1-3 (PGA80-2), Chattanooga Gas Co.
CAG-4. Docket No. RP80-132, Southwest Gas Corp.
CAG-5. Docket No. RP80-125, Columbia Gas Transmission Corp.
CAG-6. Docket No. RP78-88, Transwestern Pipeline Co.
CAG-7. Docket No. RP79-76, Cities Service Gas Co.
CAG-8. Docket No. RP79-57, Northwest Pipeline Corp.
CAG-9. Docket No. CI78-186, Mesa Petroleum Co.
CAG-10. Docket No. CP80-362, Panhandle Eastern Pipe Line Co.
CAG-11. Docket No. CP80-355, Columbia Gas Transmission Corp.
CAG-12. Docket No. CP80-330, Columbia Gulf Transmission Co.; Consolidated Gas Supply Corp. and Texas Gas Transmission Corp. Docket No. CP80-385, Columbia Gulf Transmission Co.; Consolidated Gas Supply Corp. and Texas Gas Transmission Corp.
CAG-13. Docket No. CP80-268, Equitable Gas Co.
CAG-14. Docket No. CP80-232, National Fuel Gas Supply Corp.
CAG-15. Docket Nos. CP78-253 and CP78-254, Northwest Pipeline Corp. Docket No. CI80-33, IGC Production Co.
CAG-16. Docket No. CP80-444, Michigan Wisconsin Pipe Line Co.
CAG-17. Docket No. CP80-371, Cabot Corp.
CAG-18. Docket No. CP80-351, National Fuel Gas Supply Corp. and National Gas Storage Corp.
CAG-19. Docket No. CP77-417, Transcontinental Gas Pipe Line Corp. Docket No. CP79-409, Texas Eastern Transmission Corp. Docket No. CP80-311, Texas Eastern Transmission Corp. and Transcontinental Gas Pipe Line Corp.
CAG-20. Docket No. CP80-338, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.
CAG-21. Docket No. CP80-334, Arkansas Louisiana Gas Co.
CAG-22. Docket No. CP80-222, et al., El Paso Natural Gas Co.; Clay Basin Storage Co.; Northwest Pipeline Corp. and Mountain Fuel Resources Inc.
CAG-23. Docket No. CP78-256, Algonquin Gas Transmission Co. and Algonquin LNG.
CAG-24. Docket No. CP80-357, Colorado Interstate Gas Co.

Power Agenda—461st Meeting, September 10, 1980, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 108, Northern States Power Co.

P-2. Docket No. EL79-17, Swan Lumber Co.

II. Electric Rate Matters

ER-1. Docket No. ER80-520, Montaup Electric Co.

ER-2. Docket No. ER80-238, Public Service Co. of Oklahoma.

ER-3. Docket No. ER80-447, Public Service Co. of Colorado.

ER-4. (A) Docket No. E-9563, Bonneville Power Administration (Wheeling Rates). (B) Docket No. EF80-2011, Bonneville Power Administration (System Rates). Docket No. RM80- , Proposed Rulemaking on Review of Federal Rate Schedules. (C) Docket No. EF79-4011, Southwestern Power Administration (System Rates). (D) Docket No. EP79-4021, Southwestern Power Administration (Sam Rayburn Dam Project).

ER-5. Docket No. E-7704, *The Electric and Water Plant Board of the City of Frankfort, Kentucky* v. *Kentucky Utilities Co.* Docket No. E-7669, Public Service Co. of Indiana. Docket No. E-7937, Indianapolis Power & Light Co. Docket No. E-8053, Kentucky Utilities Co.

ER-6. Docket No. RE80-11, Southern California Edison Co.

ER-7. Docket No. EL80-4, Metropolitan Edison Co.

Miscellaneous Agenda—461st Meeting, September 10, 1980, Regular Meeting

M-1. Docket No. RM79-28, Amendments to Part 32 of the Regulations Under the Federal Power Act; Regulation Governing Interchange Energy Transmission Rates for Section 202(c) Emergencies.

M-2. Reserved.

M-3. Reserved.

M-4. Docket No. RM80-18, Treatment Under the Incremental Pricing Program of Natural Gas Used as Boiler Fuel to Raise Steam Which Forms an Integral Step in the Manufacturing Process for Fertilizer.

M-5. Docket No. RM80-14, Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978.

M-6. Docket No. RM80-21, Regulations Under Section 110 of the Natural Gas Policy Act of 1978.

M-7. Docket No. RM80-11, Statement of Policy on Distributor Access to Outer Continental Shelf Gas.

M-8. Docket No. RM80-33, Final Rules for Part 270, Subpart B, Sections 270.201, 270.202 and 270.204.

M-9. Docket No. RM79-67, Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978.

M-10. Docket No. RM80- , Interpretative Rule and Amendment to 18 CFR Section 282.202(A)(1).

M-11. Docket No. RM80- , Delegation of Authority Under Section 206(d) of the NGPA to OPPR Director.

Gas Agenda—461st Meeting, September 10, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. OR78-5, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.

RP-2. Docket Nos. RP77-107 and RP78-68, United Gas Pipe Line Co.

RP-3. Docket Nos. RP74-86 and RP76-97, Gulf Energy & Development Corp.

II. Producer Matters

CI-1. Docket Nos. CI77-298 and IN79-3, Tenneco Inc., et al. Docket Nos. G-3973, G-7360, G-11936, G-11943 and G-11946, Mobil Oil Corp.

III. Pipeline Certificate Matters

CP-1. Docket No. RP75-79 (Phase II), *Lehigh Portland Cement Co.* v. *Florida Gas Transmission Co.* Docket No. CP77-44, *Abitibi Corp.* v. *Florida Gas Transmission Co.*

CP-2. Docket No. CP74-94 (Phase I and Phase II), *United Gas Pipe Line Co.*, Complainant, v. *Billy J. McCombs*, R. James Stillings, d.b.a. Gastill Co., David A. Onsgard, Basin Petroleum Corp., Louis H. Haring, Jr., National Exploration Co., E.I. Du Pont De Nemours & Co., Bill Forney, Sr., and Bill Forney, Inc., Respondents.

CP-3. Docket No. CP74-314, El Paso Natural Gas Co. Docket No. CP76-327, Northwest Pipeline Corp. Docket No. CI77-526, Sun Oil Co., et al.

CP-4. Docket No. CP80-176, Michigan Wisconsin Pipe Line Co.

CP-5. Docket Nos. CP80-43, CP66-110, CP70-19, CP70-100, CP71-222 and CP71-299, Great Lakes Gas Transmission Co.

CP-6. Docket No. CP78-161, Consolidated Gas Supply Corp.

CP-7. Docket No. SA80-59, Southern Natural Gas Co.

Kenneth F. Plumb,

Secretary.

[S-1650-80 Filed 9-3-80; 1:54 pm]

BILLING CODE 6450-85-M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: September 9, 1980, 9 a.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.

2. Chumet Shipping Co., Inc.—Independent Ocean Freight Forwarder License No. 619—Possible Violations of Shipping Act, 1916 and Commission General Order 4.

3. Far Eastern Shipping Company—Possible Violations of Section 16, Second Paragraph, Section 18(b)(3), and Section 18(c) of the Shipping Act, 1916.

4. Docket No. 80-44: Licensing of Independent Ocean Freight Forwarders—Publication of Applications—Review of comments received in response to notice of proposed rulemaking.

5. Policy Statement for Exemption of Independent Self-Policing Requirements under General Order 7.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1649-80 Filed 9-3-80; 9:13 am]

BILLING CODE 6730-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION:

TIME AND DATE: 9:30 a.m., Wednesday, September 10, 1980.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.

2. Consideration of U.S. Central Agent group for CLF membership.

3. Report on actions taken under delegations of authority.

4. Applications for charters, amendments to charters, bylaws amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).

2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

3. Administrative Actions under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A) and (9)(B).

4. Personnel Actions. Closed pursuant to exemption 6.

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant, telephone (202) 357-1100.

[S-1651-80 Filed 9-3-80; 2:46 pm]

BILLING CODE 7535-01-M

V45/174 SE5 80
UMI

federal register

Friday
September 5, 1980

Part II

Department of Housing and Urban Development

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

V 45/174 SE 5 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Subtitles A and B

[Docket No. N-80-1019]

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of significant regulations under development or review.

SUMMARY: Pursuant to Section 2(a) of Executive Order 12044, "Improving Government Regulations," as extended by Executive Order 12221, the Department is publishing its fourth semiannual agenda of significant regulations. This agenda lists regulations that will be under development or review through January 31, 1981.

ADDRESSES:

Rules Docket Clerk, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-7603.

Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development, Room 10120, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-5005.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations" (43 FR 12661), as extended by Executive Order 12221 (45 FR 44249), directs each Executive Agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is required at least semiannually in order to give the public adequate notice of agency rulemaking activities.

The Department issued its first semiannual agenda on February 1, 1979 (44 FR 6674), its second agenda on August 1, 1979 (44 FR 45342), and its third agenda on February 5, 1980 (45 FR 7978).

In fulfillment of requirements imposed by the Executive Order, this agenda lists significant regulations under development or review by the Department for the period through January 31, 1981. For all listed regulations, the agenda (1) describes the actions being taken; (2) indicates the need for that action; and (3) provides the name and telephone number of an agency official familiar with the regulation. In addition, with respect to regulations under development, the agenda indicates the legal basis for the action and, where known, whether a regulatory analysis is to be prepared.

The agenda also indicates the status of significant regulations which were listed in the February 5, 1980 agenda.

Public comment on the agenda is invited and should be submitted to the Rules Docket Clerk. General purpose State and local governments, and national organizations representing general purpose State and local governments, are invited to notify HUD's Office of Legislation and Intergovernmental Relations of those rules in which they have particular interest. The Office of Legislation and Intergovernmental Relations will acknowledge receipt of any such expression of interest and will bring the matter to the attention of the appropriate drafting office for follow-up attention. Comments should be sent to the appropriate address listed above.

Fourth Semiannual Agenda of Significant Regulations

I. REGULATIONS UNDER DEVELOPMENT

OFFICE OF HOUSING

A. New Regulations

1. H-8-80. Alternate Graduated Payment Mortgage Program

Description. Would provide a graduated mortgage with a lower cash down payment than under the existing program.

Need. To comply with statutory law.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1709, 1715(a).

Regulatory Analysis. Yes.

Contact. Rhennie Cook, 202-426-7212.

Status. Interim rule published May 30, 1980. Final rule in preparation.

2. H-10-80. Single Family Mortgage Insurance—High Ratio Loans for Dwellings With Warranty Plans

Description. Would permit high ratio loans for properties not approved prior to start of construction but which are built under acceptable consumer protection or warranty plans.

Need. To provide more attractive financing terms and to encourage builder use of warranty plans.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1715b.

Regulatory Analysis. Yes.

Contact. Rhennie Cook, 202-426-7212.

Status. Interim rule published July 9, 1980. Final rule in preparation.

3. H-13-80. Rent Supplement Program—Definition of Eligible Tenant

Description. Would change the definitions of tenant eligibility and adjusted income in the Section 101, Rent Supplement Program to that of the Section 8 program.

Need. To implement Section 203 of the Housing and Community Development Amendments of 1979.

Authority. Section 101(g), Housing and Urban Development Act of 1965, Pub. L. 89-117, 79 Stat. 451, 12 U.S.C. 1701s.

Regulatory Analysis. No.

Contact. James T. Tahash, 202-426-8730.

Status. Interim rule in preparation.

4. H-14-80. Flexible Subsidy Program

Description. Would allow the Flexible Subsidy Loan Program to be used for certain limited dividend projects.

Need. To carry out Congressional intent to implement Flexible Subsidy Program as a loan to the project owner wherever possible.

Authority. Section 201(g) of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. James J. Tahash, 202-426-8730.

Status. Interim rule published May 23, 1980. Final rule in preparation.

5. H-15-80. Section 235 Program—Eligibility of Cooperative Housing Units and Existing Condominium Units

Description. Would permit Section 235 assistance payments for eligible families who are likely to be involuntarily displaced without such assistance. Would also permit assistance in acquiring membership in a cooperative association or in purchasing an existing condominium unit.

Need. To define types of dwellings eligible for Section 235 mortgage insurance.

Authority. Section 235, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701.

Regulatory Analysis. No.

Contact. Doris Stokes, 202-426-0070.

Status. Proposed rule in preparation.

6. H-16-80. Section 236 Program—Definition of Eligible Tenant

Description. Would change definitions of eligible tenant and adjusted income in the Section 236 program to that of the Section 8 program.

Need. To implement Section 203 of the Housing and Community Development Amendments of 1979.

Authority. Section 236, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701, as added by Section 201(a) Housing and Urban Development Act of 1968, Pub. L. 90–448, 82 Stat. 476, 498.

Regulatory Analysis. No.

Contact. James J. Tahash, 202–426–8730.

Status. Interim rule in preparation.

7. H–21–80. Public Housing Modernization Program—Comprehensive Improvement Assistance

Description. Would prescribe policies and procedures for upgrading of physical conditions and management performance with regard to existing public housing.

Need. To implement anticipated Housing and Community Development Amendments of 1980.

Authority. Housing and Community Development Amendments of 1980.

Regulatory Analysis. No.

Contact. Thomas Sherman, 202–755–5380.

Status. Interim rule in preparation.

8. H–22–80. Sections 8, 235 and 236 Programs—Applicant Preference

Description. Would require that preference be given to families involuntarily displaced or living in substandard housing.

Need. To implement the requirements of the Housing and Community Development Amendments of 1979.

Authority. Housing and Community Development Amendments of 1979, Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Madeline Hastings, 202–755–5656.

Status. Proposed rule in preparation.

9. H–25–80. Section 8 Housing Assistance Payments Program—Special Allocations

Description. Would permit owners of projects to submit written requests for rent increases on contract units on the basis of need when Automatic Annual Adjustment Factor is not sufficient.

Need. To make projects more viable and to prevent losses to the insurance fund where the Automatic Annual Adjustment Factor is not sufficient based upon the current inflationary rates.

Authority. Section 7(d), Department of HUD Act, Pub. L. 89–174, 79 Stat. 667, 42 U.S.C. 3535(d); Section 5(b) and Section 8, U.S. Housing Act of 1937, Pub. L. 93–383, 88 Stat. 633; 42 U.S.C. 1437(b).

Regulatory Analysis. No.

Contact. James J. Tahash, 202–426–8730.

Status. Interim rule in preparation.

10. H–26–80. Section 8 Housing Assistance Payments Program—Handicapped Families

Description. Would make eligible certain handicapped families with annual incomes exceeding normal program limits.

Need. To make eligible for Section 8 assistance a group that so far has not been eligible..

Authority. Section 7(d)(4), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Joyce Ann Bassett, 202–755–7373.

Status. Proposed rule in preparation.

11. H–41–79. Application Fees for Insurance of Existing Properties

Description. (1) Would eliminate the application fee charged by the Department on both proposed and existing applications for Single Family mortgage insurance and (2) would permit the mortgagee to collect an appraisal fee and inspection fee, if required, and disburse the payments directly to fee personnel.

Need. To eliminate HUD participation in application billing and fee disbursement processess.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1715b.

Regulatory Analysis. No.

Contact. Brian Chappelle, 202–426–7212.

Status. Interim rule published May 8, 1980. Final rule in preparation.

12. H–10–78. Insurance of Mortgages on condominium Projects

Description. Would permit home mortgage insurance on single family units in existing conventionally financed condominiums.

Need. To provide purchasers a means to finance purchase of units in conventionally financed projects heretofore denied by regulations.

Authority. Sections 313, Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Joe Emmi, 202–426–0070.

Status. Proposed rule published January 21, 1980. Final rule in preparation.

13. H–12–78. Part 235 Interest Subsidy for Purchasers of Mobile Home and Lot

Description. Would provide for an interest subsidy for low-income families who wish to purchase a mobile home and lot.

Need. To assist low income families to qualify for home ownership.

Authority. Section 235(i), National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701.

Regulatory Analysis. No.

Contact. James Anderson, 202–755–6880.

Status. Proposed rule in preparation.

14. H–53–78. Section 8 Existing Housing Program—Elimination of Rent Reduction Incentive

Description. Would delete the Rent Reduction Incentive which prohibits Public Housing Agencies from reducing the subsidy toward rent for families who select units renting for less than the HUD approved maximum rent.

Need. To comply with GAO and Senate Appropriations Committee recommendations.

Authority. Section 8, U.S. Housing Act of 1937, 42 U.S.C. 1437 et seq.

Regulatory Analysis. No.

Contact. Madeline Hastings, 202–755–5656.

Status. Proposed rule published September 26, 1979. Final rule in preparation.

15. H–60–78. Public Housing—Occupancy Limits for Single, Non-Elderly Persons

Description. Would implement the provision of the Housing and Community Development Amendments of 1978 which increased the limitation on the percentage of public housing and section 8 units under the jurisdiction of a PHA that may be occupied by single, nonelderly persons from 10 to 15 percent.

Need. To comply with the Housing and Community Development Amendments of 1978.

Authority. Section 206(c) of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Pris Banks, 202–755–7373.

Status. Proposed rule published March 3, 1980. Final rule in preparation.

16. H–64–78. Mortgagee Approval—Eligibility Requirements

Description. Would provide greater definition and more comprehensive guidance to the Department and residential mortgage lenders in the application and administration of HUD's mortgagee approval requirements.

Need. To make present regulations reflect current policies and procedures.

Authority. Section 2, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701 et seq.

Regulatory Analysis. No.

Contact. Andrew Zirneklis, 202–755–7330.

Status. Interim rule published July 30, 1980.

17. H–77–78. Previous Participation Review and Clearance

Description. Would update present regulations and simplify certification requirements and procedures for proposed principals in multifamily housing prorams.

Need. To update the 1966 applicant pre-screening process to accommodate changes in multifamily programs and management requirements.

Authority. Section 7(d), U.S. Department of HUD Act, 79 Stat. 676, 42 U.S.C. 3535(d). National Housing Act, 48 Stat. 1246, 42 U.S.C. 1701 et seq.

Regulatory Analysis. No.

Contact. Jon Will Pitts, 202–755–6533.

Status. Proposed rule published March 6, 1980. Final rule published August 14, 1980.

B. Previously Listed Regulations

1. H–1–79. Public Housing-Development Phase

Description. Would amend 24 CFR Part 841 to make changes in processing of applications/proposals for the development of public housing projects. Changes would reduce the processing time between submission of an application/proposal and start of construction.

Need. To simplify development phase of public housing and reduce processing time.

Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Gerald Benoit, 202–755–5846.

Status. Interim rule published August 9, 1979; effective date deferred indefinitely on November 7, 1979 in response to comments received. Final rule in preparation.

2. H–3–79. Tax Exempt Obligations of Public Housing Agencies—Use of Guaranteed Mortgage-Backed Securities

Description. Would add new subpart to 24 CFR Part 811 to govern use of Federally-guaranteed mortgage-backed securities in connection with tax-exempt obligations for insured section 8 multifamily projects.

Need. To permit greater flexibility in financing of Section 8 multifamily projects.

Authority. Sections 3(b), 5(b), 8, 11(b) of U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202–426–7113.

Status. Proposed rule published June 28, 1979. Final rule published June 18, 1980.

3. H–4–79. Guarantees for Taxable Obligations of State Housing Agencies

Description. Would amend 24 CFR Part 260 to provide for Federal guaranty of taxable obligations issued by state housing agencies for development of low-income housing.

Need. To substitute Federal guaranty for interest subsidy grants to taxable obligations of state housing agencies.

Authority. Section 802(c) of the Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202–426–7113.

Status. Withdrawn.

4. H–6–79. Section 8 Housing Assistance Payments Program—Disposition of HUD-Owned Projects

Description. Would amend 24 CFR Part 886 to provide for disposition of HUD–owned projects with repairs or moderate rehabilitation to be done by the purchaser.

Need. To facilitate sales of HUD-owned projects.

Authority. Section 8, U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Robert P. Kalish, 202–755–5730.

Status. Interim rule published December 6, 1979; final rule in preparation.

5. H–9–79. Prepayment Privilege on Insured Mortgages—One- to Four-Family Residences

Description. Would revise 24 CFR 203.22 to permit a mortgage prepayment in full at any time without notice. Present rule requires notice and permits prepayment only on specified dates.

Need. To conform with VA and FNMA practices.

Authority. Section 203 of the National Housing Act, 12 U.S.C. 1709.

Regulatory Analysis. No.

Contact. Julius M. Williams, 202–755–6700.

Status. Interim rule in preparation.

6. H–26–79. Low-Income Public Housing—Lease and Grievance Procedures

Description. Would revise provisions in 24 CFR Part 888 governing requirements for dwelling leases and grievance procedures in the low-income public housing program.

Need. To clarify portions of present regulations.

Authority. U.S. Housing Act of 1937, as amended by Section 324 of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Edward W. Whipple, 202–755–5840.

Status. Proposed rule in preparation.

7. H–36–79. Revision of Minimum Property Standards for One- and Two-Family Dwellings

Description. Would revise the Minimum Property Standards for One- and Two-Family Dwellings (24 CFR Part 200) to incorporate portions of the Model One- and Two-Family Dwelling Code; to remove requirements not bearing on health, life, safety, legislative requirements and durability; and to provide a means for measuring workmanship levels.

Need. To simplify and reduce the size of the Minimum Property Standards by removing requirements not bearing health, life, safety, legislative requirements and durability; and to place responsibility for marketability decisions in the local field offices.

Authority. Section 211, National Housing Act, as amended; 12 U.S.C. 1715b; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Yes.

Contact. Richard A. Atwell, 202–755–6580.

Status. Proposed rule in preparation.

8. H–39–79. Sales of Acquired Home Properties to Community-Based Organizations

Description. Would add a new provision to 24 CFR Part 203 to provide guidelines for the non-competitive sale of HUD-acquired home properties to community-based organizations.

Need. To develop uniform guidelines to be used on a nationwide basis.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202–755–8680.

Status. ANPR published June 9, 1980. Proposed rule in preparation.

9. H–44–79. Servicing of Single-Family Mortgage Loans

Description. Would revise 24 CFR 203.500 to state that no insured mortgagee may commence foreclosure on a single-family property until the mortgagee has complied with the requirements of the program for assigning mortgages to the HUD Secretary.

Need. To comply with terms of settlement reached in recent litigation.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Richard Burchheit, 202–755–6700.

Status. Final rule published May 5, 1980.

10. H-45-79. Reinstatement of Mortgages on Single-Family Properties

Description. Would revise 24 CFR 203.608 to require reinstatement of a mortgage account regardless of prior foreclosure proceedings.

Need. To reduce the number of claims against the insurance fund.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Julius Williams, 202-755-6700.

Status. Proposed rule published October 31, 1979. Final rule in preparation.

11. H-46-79. Single-Family Mortgage Assignment Procedures

Description. Would revise the procedures set forth in 24 CFR Sections 203.651-203.662 relating to assignment of single-family mortgages to the HUD Secretary.

Need. To eliminate deficiencies in present regulations.

Authority. Sections 211, 230, National Housing Act, as amended; 12 U.S.C. 1715b, 1715u.

Regulatory Analysis. No.

Contact. Julius Williams, 202-755-6700.

Status. Withdrawn.

12. H-54-79. Tenant Participation in Management of Low-Income Public Housing

Description. Would add a new 24 CFR Part 871 to provide for tenant participation in the management of low-income public housing.

Need. To establish policy, standards and procedures for new program.

Authority. Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Janice Rattley, 202-755-6460.

Status. Proposed rule in preparation.

13. H-57-79. Admission Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart B to give displaced families and families living in substandard housing priority for admission to low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 206 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Edward C. Whipple, 202-755-5840.

Status. Proposed rule in preparation.

14. H-58-79. Rent Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart D by revising the maximum rent-to-income ratio for tenants in low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Edward C. Whipple, 202-755-5840.

Status. Proposed rule in preparation.

15. H-60-79. Low-Income Public Housing—Extension of Annual Contributions Contract

Description. Would add a new 24 CFR Part 889 (1) to provide for extension of the annual contributions contract to permit a continued operating subsidy after completion of debt service and (2) to require the approval of the HUD Secretary for disposition of a project within ten years after payment of operating subsidy.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 211 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. William Eilerman, 202-755-5808.

Status. Interim rule published January 31, 1980. Revised Interim rule published August 7, 1980.

17. H-68-79. Section 8 Housing Assistance Payments Program—Tenant Contributions

Description. Would amend 24 CFR Part 889 to revise maximum rent-to-income ratio for tenants receiving Section 8 housing assistance payments.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Madeline Hastings, 202-755-5656.

Status. Interim rule in preparation.

18. H-1-78. Single-Family Mortgage Insurance—Occupancy of Property

Description. Would add new sections to 24 CFR Part 203, Subpart C to prescribe revised criteria for determining when HUD will accept conveyance of one- to four-family properties occupied by tenants or former mortgagors.

Need. To cure deficiencies in the present regulations.

Authority. Sections 203, 211, National Housing Act as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202-755-8680.

Status. Proposed rule published April 20, 1979; final rule in preparation.

19. H-38-78. Coinsurance for Private Mortgage Lenders

Description. Would amend 24 CFR Part 255 to provide coinsurance for private mortgage lenders.

Need. To implement statutory authority for this program.

Authority. Section 244 of the National Housing Act; Pub. L. 93-383, 88 Stat. 633; 12 U.S.C. 1701 et seq.

Regulatory Analysis. No.

Contact. James B. Mitchell, 202-426-4325.

Status. Proposed rule published September 26, 1978; final rule published July 2, 1980.

20. H-42-78. Part 881—Section 8 Substantial Rehabilitation

Description. Would revise the current regulations for the Section 8 Substantial Rehabilitation Program to establish rules and procedures for the advertising, selection, development and administration of housing units to be rehabilitated and assisted.

Need. To incorporate cost containment provisions, make the regulations easier to understand, and simplify processing procedures.

Authority. U.S. Housing Act of 1937, as amended by Housing and Community Development Act of 1974; Pub. L. 93-383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202-755-5720.

Status. Interim rule published January 31, 1980. Final rule in preparation.

21. H-46-78. Loans for Housing for the Elderly or Handicapped

Description. Would amend 24 CFR Part 885 to implement new statutory requirement for significant community representation on Section 202 project governing boards and to reduce from 18 to 12 months the time within which construction must begin.

Need. To provide community representation on projects with significant impact on community and to shorten time needed for completion of housing.

Authority. Section 205 of the Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080 et seq.

Regulatory Analysis. No.

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Contact. George O. Hipps, Jr., 202–755–5720.

Status. Proposed rule published February 13, 1980. Final rule in preparation.

22. H–66–78. Coinsurance for Rental Housing Mortgage Loans by Private Mortgage Lenders

Description. Would amend 24 CFR Part 221 to permit coinsurance for rental housing and mortgage loans insured under Section 221(d)(3) or 221(d)(4) of National Housing Act and made by supervised private financial institutions, such as commercial banks, life insurance companies, mutual savings banks, and savings and loan associations.

Need. To encourage investment in mutifamily rental housing by the private sector.

Authority. Section 244 of the National Housing Act; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Yes.

Contact. Arnold H. Diamson, 202–426–4325.

Status. ANPR in preparation.

23. H–68–78. Section 8 Housing Assistance Payments Program—Housing Finance and Development Agencies

Description. Would set forth the procedures for processing and administration of the Section 8 Housing Assistance Payments Program financed by State Housing Finance and Development Agencies and implement cost containment policies.

Need. To implement cost containment policies.

Authority. Section 8 of the U.S. Housing Act of 1937, Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202–426–7113.

Status. Interim rule published January 30, 1980. Final rule published August 22, 1980.

24. H–69–78. HUD-Owned Multifamily Housing Projects

Description. Would amend 24 CFR Part 290 to make changes in the policy and procedures for the management and disposition of HUD-owned multifamily housing projects.

Need. to implement statutory provision.

Authority. Section 203 of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080, 2088, Section 211, National Housing Act, as amended; 12 U.S.C. 1715b.

Regulatory Analysis. No.

Contact. Robert P. Kalish, 202–755–5730.

Status. Interim rule published October 1, 1979; final rule in preparation.

25. H–70–78. Nondiscrimination Based on Handicap in Federally Assisted Program and Activities

Description. Would set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving HUD financial assistance.

Need. To comply with Section 504 of the Rehabilitation Act of 1937, as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons.

Authority. Executive Order 11914—Nondiscrimination with Respect to the Handicapped in Federally Assisted Program, April 28, 1976; Rehabilitation Act of 1973; Pub. L. 93–112, 87 Stat. 355.

Regulatory Analysis. No.

Contact. Anthony S. Freedman, 202–755–6504.

Status. Proposed rule published April 16, 1978. Final rule in preparation.

26. H–71–78. Accessibility Design Standards

Description. Would amend present regulations to prescribe accessibility design standards which apply to all Federal programs involving publicly-owned residential structures constructed, altered or leased with Federal funds. Amendments would conform the rule to legislative changes, make some routine changes, and add a provision to permit program-by-program supplementing of the accessibility standards with numerical or percentage requirements for specific building features such as parking spaces, dwelling units, or elevators.

Need. To clarify present regulations and conform to recent legislation.

Authority. Architectural Barriers Act of 1968, Pub. L. 90–480, 82 Stat. 718.

Regulatory Analysis. No.

Contact. Robert Wehrli, 202–755–7366.

Status. Proposed rule published February 21, 1979; interim rule in preparation.

27. H–73–78. Flexible Subsidy Regulations

Description. Would implement the flexible subsidy program authorizing legislation as enacted by Congress in the 1978 Housing and Community Development Amendments, define eligible activities, and spell out HUD's program oversight responsibilities.

Need. To implement Section 201 of the Housing and Community Development Amendments of 1978.

Authority. The Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. Yes.

Contact. Conrad Egan, 202–755–5758.

Status. Interim rule published May 21, 1979. Final rule in preparation.

28. H–82–78. Coinsurance Program for State Housing Finance Agencies

Description. Would amend 24 CFR Part 250 to revise the eligibility requirements and contract rights and obligations under the multifamily coinsurance program for State Housing finance agencies.

Need. To correct errors in present regulations, simplify program operations, and increase program participation.

Authority. Sections 211, 244, National Housing Act, as amended; 12 U.S.C. 1715b, 1715z–9.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202–426–7113.

Status. Proposed rule published December 29, 1978. Final rule in preparation.

29. H–95–78. Tenant Allowance for Utilities in Low-Income Public Housing

Description. Would amend 24 CFR Part 865 to require public housing agencies to set uniform procedures for determining the amount of utility allowances, surcharges and energy saving credits to tenants in low-income public housing.

Need. To clarify, update and standardize the method for establishing utility allowances.

Authority. Sections 6(a)(4), U.S. Housing Act of 1937, 42 U.S.C. 1437d.

Regulatory Analysis. No.

Contact. Charles Ashmore, 202–755–6480.

Status. Proposed rule published January 5, 1979. Interim rule in preparation.

30. H–96–78. Individual Utility Metering

Description. Would add a new section to 24 CFR Part 865 to require public housing agencies to conduct energy audits and to take cost-effective energy conservation measures.

Need. To reduce energy consumption in public housing projects.

Authority. U.S. Housing Act of 1937; 42 U.S.C. 1437 et seq.

Regulatory Analysis. No.

Contact. Jack Van Ness, 202–755–6640.

Status. Proposed rule published December 28, 1978. Final rule published May 7, 1980.

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

A. New Regulations

1. CPD–5–80. Minority Business Enterprise Requirements for CDBG Recipients and Localities Administering Section 312 Rehabilitation Loans

Description. Would establish requirements for the use of minority business in carrying out CDBG and Section 312 activities.

Need. To To overcome past discrimination and increase business opportunities for minorities and women.

Authority. Housing and Community Development Act of 1974, as amended, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. To be determined.

Contact. James R. Broughman, 202–755–9267.

Status. Advance Notice of Proposed Rulemaking in preparation.

2. CPD–8–80. Comprehensive Planning Assistance Program

Description. Would revise the Comprehensive Planning Assistance Program regulations to reflect changes in statutory requirements.

Need. To implement amendments now under consideration in Congress to Section 701, Housing Act of 1954.

Authority. Section 701, Housing Act of 1954, 68 Stat. 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202–755–5649.

Status. Proposed rule will be prepared when Conference Committee resolves differences between House and Senate versions of the amendments.

3. CPD–10–80. Urban Development Action Grants—Pockets-of-Poverty

Description. Would implement a statutory change extending UDAG eligibility to communities which have "pockets-of-poverty" but do not meet the existing distress criteria.

Need. To conform to legislative amendments.

Authority. Section 119, Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301; as amended by Section 104a, Housing and Community Development Amendments of 1979, Pub. L. 96–153.

Regulatory Analysis. No.

Contact. Catherine Hare, 202–755–7364; Philip Comeau, 202–755–7364.

Status. Interim rule published February 15, 1980. Final rule in preparation.

B. Previously Listed Regulations

1. CPD–1–79. Areawide Housing Opportunity Plan (AHOP)

Description. Would amend basic regulations governing application requirements for the Areawide Housing Opportunity Program.

Need. To To update and simplify the present regulations which are published at 24 CFR 891.101 et seq.

Authority. Section 7(d), Department of HUD Act; 42 U.S.C. 3535(d)..

Regulatory Analysis. No.

Contact. Gene Hix, 202–755–5649.

Status. ANPR published March 24, 1980. Proposed rule in preparation.

2. CPD–5–79. HUD Procedure for Protection of Floodplains and Wetlands

Description. Would provide (1) policy direction; (2) substantive requirements; and (3) procedural requirements for Departmental Compliance with Executive Orders 11988 and 11990.

Need. To improve the Department's implementation of Federal policy and mandatory provisions of Executive Orders 11988 and 11990.

Authority. Executive Order 11988 (Floodplain Management) 42 FR 26951; Executive Order 11990 (Protection of Wetlands) 42 FR 26961; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Walter Prybyla, 202–755–3409.

Status. Proposed rule published August 9, 1979. Final rule in preparation.

3. CPD–20–79. Location of HUD-Supported Projects Around Airports

Description. Would establish standards to limit the location of HUD-supported projects in high risk areas around airports.

Need. To minimize risk to residents of HUD-supported projects.

Authority. Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Gretchen Van Hyning, 202–755–8909.

Status. ANPR published March 4, 1980. Proposed rule in preparation.

4. CPD–22–79. Comprehensive Planning Assistance; Section 701 Work Study Program

Description. Would set forth requirements and procedures for applying for Section 701 Work Study Program grants.

Need. To change an informal grant application procedure into a formal one.

Authority. Section 701 of Housing Act of 1954, as amended, Pub. L. 83–560, 68 Stat. 590, 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202–755–6290; Howard L. Tutman, Sr., 202–755–6290.

Status. ANPR published April 22, 1980. Proposed rule in preparation.

5. CPD–23–79. Minority Business Enterprise in UDAG Program

Description. Would require a recipient of an Action Grant to set goals for the award of a portion of its construction contracts (for public works and improvements funded by the Action Grant program) to minority businesses.

Need. To carry out an effective affirmative action program in accordance with OMB Circular A–102, the President's Urban Policy, and 24 CFR 570.601(b)(4), which implements Section 109 of the Housing and Community Development Act of 1974.

Authority. Section 109 of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. William Hammer, 202–755–6035.

Status. ANPR rule in preparation.

6. CPD–24–79. CDBG Small Cities Program

Description. Would revise the Small Cities Program regulations to clarify and simplify submission requirements by applicants, and modify rating factors to provide for a more equitable rating system.

Need. To clarify and simplify the regulations and make them more equitable.

Authority. Housing and Community Development Act of 1977, Pub. L. 95–128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. Dick Kennedy, 202–755–6322.

Status. Interim rule for FY 1980 program published June 26, 1979 and corrected July 19, 1979; ANPR for FY 1981 program published December 4, 1979. Proposed rule for FY 1981 published April 8, 1980. Final rule for FY 1981 in preparation.

7. CPD–8–78. CDBG Definition of Low- and Moderate-Income Persons

Description. Would clarify the existing definiton of low- and moderate-income persons because the existing definition has created problems due to limitations on availability of data and inconsistency with the lower-income family definition under the Department's housing program.

Need. To clarify existing rule and achieve consistency with other Departmental programs.

Authority. Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Contact. James R. Broughman, 202–755–9267.

Status. Interim rule published February 1, 1978; final rule in preparation.

8. CPD–24–78. Section 312 Rehabilitation Loan Program

Description. Would implement Section 312 of the Housing Act of 1964 and program changes required by the Housing and Community Development Amendments of 1978.

Need. To implement Section 312 of the Housing Act of 1964 and the Housing and Community Development Amendments of 1978.

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Authority. Section 312 of the Housing Act of 1964, as amended; Pub. L. 88–560, 78 Stat. 769, 790; 42 U.S.C. 1452(b); Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Craig Nickerson, 202–755–5973, Mary Kolesar, 202–755–5970.

Status. Proposed rule published April 10, 1980. Final rule in preparation.

9. CPD–29–78. Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality

Description. Would implement the National Environmental Policy Act of 1969, by incorporating the provisions of HUD Handbook 1390.1, Procedures for Protection and Enhancement of Environmental Quality, and of Section 905 of the Housing and Community Development Amendments of 1978.

Need. To modify the Department's environmental review procedures to reflect program changes and/or amendments that have affected the comprehensiveness of the basic document (1390.1 Handbook). The modification would incorporate all of these changes into a single **Federal Register** document.

Authority. The National Environmental Policy Act of 1969; Pub. L. 91–190, 83 Stat. 852, 42 U.S.C. 4321, et seq.; Housing and Community Development Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Fred D. Regetz, 202–755–6296.

Status. Interim rule published November 27, 1979. Final rule in preparation.

10. CPD–29–78. Hazardous Operations of an Explosive or Flammable Nature

Description. Would establish standards for safety preparation distances or other mitigation measures to provide a healthful and safe living environment to residential or community projects that would be located in close proximity to industrial installations whose activities include hazardous operations with large quantities of fuels or chemicals of an extremely explosive or flammable nature.

Need. To set safety standards for mixed use development in industrial urban areas.

Authority. National Environmental Policy Act of 1969; Pub. L. 91–190, 83 Stat. 852, 42 U.S.C. 4321 et seq.

Regulatory Analysis. Not yet known.

Contact. James Christopulos, 202–755–8909; Michael T. McGee, 202–755–8909.

Status. ANPR published September 10, 1979. Proposed rule published August 19, 1980.

11. CPD–35–78. Indian CDBG Regulations—Housing Assistance Plan

Description. Would amend 24 CFR 571.305(d) and 571.405(e) to make CDBG requirements, pertaining to submittal of Housing Assistance Plans (HAPs), more flexible and responsive to the special needs, cultural traditions, and legal circumstances of eligible Indian tribes and Alaska Natives.

Need. To assist tribes in planning, coordinating and implementing housing with their reservation development.

Authority. Section 107(a)(7) of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301; Housing and Community Development Act of 1977, Pub. L. 95–128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. Marcia Brown, 202–755–6092.

Status. Proposed rule published December 19, 1978. Final rule in preparation.

12. CPD–36–78. Urban Development Action Grants

Description. Would amend existing regulations to reflect changes dictated by needs identified by the Department and participants during the first year of implementation of the UDAG program.

Need. To clarify policy and make technical amendments based on HUD experience to date with this program.

Authority. Section 119 of the Housing and Community Development Act of 1974, as amended, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Catherine Hare, 202–755–7364.

Status. Proposed rule published May 12, 1980. Final rule in preparation.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SOLAR ENERGY AND ENERGY CONSERVATION BANK

A. New Regulations

1. GNMA–1–80. Solar Energy and Energy Conservation Bank: One- to Four-Family Residential Program

Description. Would provide financial assistance through loan subsidies or matching grants to owners and/or tenants of 1–4 family buildings.

Need. To comply with statute within Congressionally mandated time limit.

Authority. Energy Security Act, Public Law 96–294, Title V, Subtitle A, 12 U.S.C. 3601.

Regulatory Analysis. Yes.

Contact. Joseph Sherman, (202) 755–6443.

Status. Interim rule in preparation.

B. Previously Listed Regulations

None.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

A. New Regulations

1. FH&EO–1–80. The Fair Housing Assistance Program—Eligibility Criteria and Funding Standards

Description. Would set forth the eligibility criteria for participants in the Fair Housing Assistance Program (FHAP) and the minimum standards which specific project proposals must meet in order to qualify for consideration under the various components of the program.

Need. To establish criteria for participation in the funding program.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Steven Sacks, 202–755–5518.

Status. Published as interim rule May 14, 1980 at 45 FR 31880; final rule in preparation.

B. Previously Listed Regulations

1. FH&EO–1–79. Age Discrimination Act of 1975

Description. Would prohibit discrimination on the basis of age in programs and activities Federal financial assistance. Would also specify permissible age distinctions and reasonable factors, other than age, for federally-assisted programs and activities.

Need. To implement the provisions of the Age Discrimination Act of 1975, as amended.

Authority. Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.

Regulatory Analysis. None.

Contact. Laurence D. Pearl, 202–755–5504.

Status. Proposed rule in preparation.

2. FH&EO–2–78. Discrimination in the Financing of Housing

Description. Would indicate the Department's view of conduct considered unlawful under Section 805 of the Civil Rights Act of 1968 and would require the collection of data by financial institutions on the race, national origin, and sex of applicants for loans or other assistance relating to dwellings.

Need. To deal with recent experience which indicates that some residential mortgage lenders are discriminating against blacks, other minorities, and women in the making of housing loans.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202–755–6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

3. FH&EO-3-78. Department-Wide Regulations Implementing Executive Order 11063

Description. Would establish compliance review and complaint processing procedures and create a compliance mechanism leading to the imposition of sanctions, including referral of cases to the Attorney General.

Need. Comprehensive regulations are needed to implement Executive Order 11063. The Order requires that all necessary and appropriate action be taken by Federal departments and agencies to prevent discrimination (1) because of race, color, creed, or national origin in residential property and related facilities owned, operated, or provided with Federal financial assistance, and (2) in lending practices with respect to residential property and related facilities of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal government.

Authority. Executive Order 11063—Equal Opportunity in Housing, 27 FR 11527, November 20, 1962.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. Proposed rule published September 26, 1979; final rule in preparation.

4. FH&EO-4-78. Discrimination in Housing Advertising

Description. Would provide HUD's interpretation of the provisions of Title VIII of the Civil Rights Act of 1968 with respect to discrimination in advertising for the sale or rental of dwellings. Also would indicate the nature of HUD's inquiry into advertising practices in complaint investigations which allege discrimination in advertising based on race, color, religion, sex, or national origin.

Need. Regulations are needed to implement Section 804(c) of the Civil Rights Act of 1968 which makes it unlawful to make, print, or publish any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin and to supplement HUD's Fair Housing Advertising Guidelines.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. Proposed rule published September 26, 1979; final rule published August 26, 1980.

5. FH&EO-5-78. Discrimination in Real Estate Practice Under Title VIII

Description. Would inform persons engaged in the marketing of real estate for sale or rental of their responsibilities with respect to fair housing in solicitations sales advertising, marketing, and the provision of services pursuant to application of Title VIII of the Civil Rights Act of 1968. Would also provide information regarding access or membership in multiple listing services and real estate brokers' organizations.

Need. Comprehensive regulations are needed to implement Title VIII which prohibits discrimination in the sale or rental of dwellings, discrimination in financing, blockbusting, and discriminatory advertising and which also makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate brokers' organization based on race, color, religion, sex or national origin.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

6. FH&EO-6-78. Conduct Which Constitutes Steering Under Title VIII

Description. Would describe real estate practices which could be a violation of Title VIII of the Civil Rights Act of 1968 with emphasis on steering based on race, color, religion, sex, or national origin.

Need. By publishing a regulation which generally describes steering, the Department would aid persons in complying with Title VIII, and would advise prospective buyers and renters of practices, often unrecognized, which unlawfully restrict their range of housing choices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

7. FH&EO-7-78. Unlawful Zoning and Land Use Practices Under Title VIII

Description. Would describe the applicability of Title VIII of the Civil Rights Act of 1968 to zoning and land use practices and indicates the tests to be used by HUD in determining whether a violation has occurred.

Need. In dealing with cases where violation of Title VIII through zoning actions was alleged, the courts have provided some indication as to the scope of coverage of Title VIII. Thus, the courts have held that Title VIII prohibits discriminatory land use and zoning actions. However, the courts have not articulated a standard for compliance with the Fair Housing Law. In administering the Law, HUD can provide assistance to the public, and local agencies by indicating the tests it will apply in its analysis of complaints alleging discriminatory zoning or land use practices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

8. FH&EO-8-78. Prohibited Appraisal Practices

Description. Would provide guidance to persons concerning HUD's interpretation of proper standards and policies concerning the appraisal of dwellings; also advises appraisers and the public of HUD's position concerning practices, procedures, and methods of appraisal which can constitute a violation of Title VIII.

Need. HUD complaint experience has shown that appraisals are the subject of many Title VIII complaints. In the investigation of such complaints, we have found that instructional materials recognized as being authoritative on appraisal methods contain directions to appraisers which can result in violations of Title VIII of the Civil Rights Act of 1968. Some efforts have been launched to review these materials; however, this process is cumbersome since the Government and each major association of appraisers have voluminous material relating to appraisal policies. A general statement of appraisal policies and practices which may violate Title VIII will be helpful to appraisers in their work and to the public in understanding fair housing considerations in the appraisal of dwellings.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

9. FH&EO-9-78. Residential Redlining Under Title VIII

Description. Would indicate HUD's interpretation of section 804(a) of the 1968 Civil Rights Act with respect to redlining and sets forth the tests to be applied by the Department in investigating allegations of redlining based on race, color, religion, sex or national origin.

Need. To implement Section 804(a) which makes it unlawful "to refuse to

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sell or rent * * * or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin." HUD's experience in this area indicates that applicants may not be aware of real estate practices which constitute redlining because of the subtle nature of the practice.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202–755–6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

10. FH&EO–10–78. Discriminatory Practices Regarding Property Insurance

Description. Would describe the coverage of Title VIII of the Civil Rights Act of 1968 with respect to denials of property insurance and advises the public as to the tests which HUD will apply in complaint investigations to determine whether violations of Title VIII have occurred.

Need. To implement Title VIII, and to inform prospective owners securing and maintaining property insurance.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202–755–6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

11. FH&EO–11–78. Affirmative Administration of Federal Program Relating to Housing and Urban Development

Description. Would set forth HUD's interpretation of the Title VIII mandate to administer programs relating to housing and urban development in a manner affirmatively to further the purposes of fair housing, and identifies in general, the nature and types of action HUD will take in the administration of its programs to enhance their impact on the provision of fair housing.

Need. Better implementation of Sections 808(a), 808(d), and 808(e)(3) of the Civil Rights Act of 1968.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202–755–6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

12. FH&EO–12–78. Training and Employment Opportunities for Lower Income Residents

Description. Would provide HUD's interpretation of the provisions of Section 3 of the Housing and Urban Development Act of 1968 with respect to opportunities for training and employment for lower-income residents arising in connection with HUD assisted projects, and for contracting opportunities for business concerns located in or owned in substantial part by persons residing in the area of HUD assisted projects.

Need. HUD's existing Section 3 regulation was promulgated prior to the enactment of the Housing and Community Development Act of 1974, which established the Community Development Block Grant (CDBG) Program. The regulation would provide for interpretations in the context of that program.

Authority. Section 3 of the Housing and Urban Development Act of 1968; Pub. L. 90–448, 82 Stat. 476; 12 U.S.C. 1701, et seq; and Section 118 of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. Turner Russell, 202–426–3500.

Status. Proposed rule in preparation.

13. FH&EO–13–78. Implementation of Section 109 of the Housing and Community Development Act of 1974

Description. Would set forth procedures and policies to assure nondiscrimination on grounds of race, color, national origin, or sex in programs and activities receiving assistance under Title I of the Housing and Community Development Act of 1974.

Need. To provide rules governing compliance and enforcement procedures for the nondiscrimination Section 109 of the Housing and Community Development Act of 1974.

Authority. Section 109 of the Housing and Community Development Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Laurence Pearl, 202–755–5504.

Status. Proposed rule in preparation.

OFFICE OF NEIGHBORHOOD, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION

A. New Regulations

None.

B. Previously Listed Regulations

1. NVACP–1–79. Implementation of Building Energy Performance Standards (BEPS)

Description. Would provide guidance and direction to the public and to State and local governments with regard to the implementation of the BEPS issued by the Department of Energy.

Need. To provide rules governing the implementation of BEPS according to the statutory requirements.

Authority. Energy Conservation and Production Act of 1976, Pub. L. 94–385, 90 Stat. 1125.

Regulatory Analysis. Yes.

Contact. Archie Twitchell, 202–376–4572.

Status. Withdrawn. Authority transferred to the Department of Energy.

2. NVACP–2–79. Lead-Based Paint Poisoning Prevention Act Regulations

Description. Would broaden definition of "immediate hazard" and change notification date from properties built prior to 1950 to properties built prior to 1971.

Need. To implement intent of Congress under Title III of the Lead-Based Paint Poisoning Prevention Act.

Authority. Title III, Section 302 of the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, 84 Stat. 2078; 42 U.S.C. 4801, as amended by Pub. L. 93–151, 87 Stat. 565; 42 U.S.C. 4801.

Regulatory Analysis. Yes.

Contact. Otelia K. Hebert, 202–755–5210.

Status. ANPR in preparation.

3. NVACP–5–79. Reimbursement for Expenses for Public Participation

Description. Would establish a program to reimburse members of the public for expenses resulting from participation in HUD decisionmaking.

Need. To implement a Presidential Memorandum dated May 16, 1979 calling for enhanced public participation in agency decisionmaking.

Authority. Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Elena Van Meter, 201–755–5353.

Status. Withdrawn.

4. NVACP–7–79. Interstate Land Sales Full Disclosure Act Regulations

Description. Would implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act by revising exemptions, contract revocation provisions, administrative procedures, and State certification procedures.

Need. To implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act.

Authority. Interstate Land Sales Full Disclosure Act, Pub. L. 90–448, 82 Stat. 476, 590, 15 U.S.C. 1701; Housing and Community Development Amendments of 1979, Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Alan J. Kappeler, 202–755–8182.

Status. Final rule published June 13, 1980.

5. NVACP-1-78. Neighborhood Self-Help Development Program

Description. Would provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects, in low- and moderate-income neighborhoods which are in need of preservation and revitalization. In the process of providing such assistance, would also increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors, and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.

Need. To implement Title VII of the Housing and Community Development Amendments of 1978.

Authority. Title VII, Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Joseph McNeely, 202-755-8227.

Status. Interim rule published October 22, 1979. Final rule in preparation.

6. NVACP-7-78. Recreational Vehicles and Similar Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations to further clarify the applicability of the National Mobile Home Construction and Safety Standards Act of 1974 to recreational vehicles and similar structures.

Need. To clarify definitions of recreational vehicles in establishing their exemption from coverage under the Act.

Authority. The National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Richard A. Mendlen, 202-426-1872.

Status. Final Interpretative Bulletin published April 21, 1980.

II. REGULATIONS UNDER REVIEW

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

1. CPD. 24 CFR Part 511—Neighborhood Development Program Project Selection System

Description. Would revoke regulations governing project selection since NDP has been superceded by the Community Development Block Grant Program—Title I of the Housing and Community Development Act of 1974. (Pub. L. 93-383) as amended, 42 U.S.C. 5301 et seq. (CDBG Program).

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

2. CPD. 24 CFR Part 541—Open Space Land Program Project Selection System

Description. Would revoke regulations governing project selection since Open Space Land Program has been superceded by the CDBG program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

3. CPD. 24 CFR Part 551—Neighborhood Facilities Program Project Selection System

Description. Would revoke regulations governing project selection since NFP has been superceded by the CDBG Program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

4. CPD. 24 CFR Part 556—Evaluation of Preliminary Applications for Basic Water and Sewer Facilities Grants

Description. Would revoke regulations containing application requirements since the Basic Water and Sewer Facilities Grant Program has been superceded by the CDBG Program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

5. CPD. 24 CFR Part 561—Public Facility Loans Project Selection System

Description. Would revoke regulations governing project selection since PFL program has been superceded by the CDBG Program.

Action. Revocation. Program responsibilities transferred to Assistant Secretary for Housing—Federal Housing Commissioner.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977; Richard H. Mapp, Director, Management Analysis and Services Division, 202-755-6623.

Timing. Final rule revocation in preparation.

6. CPD. 24 CFR Part 500—Renewal Assistance

Description. Would delete from publication, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

7. CPD. 24 CFR Part 540—Open Space Land

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

8. CPD. 24 CFR Part 555—Grants for Basic Public Water and Sewer Facilities

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

9. CPD. 24 CFR Part 580—Model Cities Transition Policies

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

10. CPD. 24 CFR Part 58—Environmental Review Procedures for the Community Development Block Grant Program

Description. Would revise and clarify the changes in the environmental review requirements contained in the Interim Rule, 24 CFR Part 58, issued by the Department (44 FR 45568-45585, August 2, 1979). Redrafted rule would reflect and supplement the new NEPA Regulations of the Council on Environmental Quality for the compliance of Title I actions under the CDBG and UDAG programs with the procedural provisions of Section 102(2) of NEPA.

Action. Redrafting.

Contact. Charles Thomsen, Office of Environmental Quality, Community Planning and Development—202-755-6296.

Timing. Final rule in preparation.

11. CPD. 24 CFR Part 570, CDBG—Subparts C & D, Eligible Activities and Entitlement Grants

Description. Would implement certain technical amendments to the CDBG regulations and correct various erroneous references, typographical mistakes and other errors.

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Action. Revision.

Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202-755-9267.

Timing. Final rule in preparation.

12. CPD. 24 CFR Part 570, CDBG—Subpart O—Program Management

Description. Would revise Section 570.906 relating to the submission frequency and content of the Grantee Performance Report.

Action. Revision.

Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202-755-9267.

Timing. Final rule in preparation.

13. CPD. 24 CFR Part 570, CDBG—Subpart E—Secretary's Fund, New Communities

Description. Would revise Section 570.403 governing grants in behalf of new communities from the Secretary's 3% Discretionary Fund; would clarify and make technical changes to the existing regulations, incorporating new provisions reflecting changes in Departmental policy; and would integrate more closely the CDBG and New Communities Programs.

Action. Revision.

Contact. Fred McLaughlin, Office of New Communities Development Corporation, 202-755-6808 or Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Final rule in preparation.

14. CPD. 24 CFR Part 570, CDBG—Technical Assistance Grants and Contracts

Description. Would revise Section 570.402 to focus on more explicit priorities for Technical Assistance Funding; would clarify application and review procedures and provide submission deadlines and funding levels for fiscal year 1980.

Action. Revision.

Contact. Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Proposed rule in preparation.

15. CPD. 24 CFR Part 570, CDBG—Subpart N—Urban Renewal Provisions

Description. Would revise Part 570, Subpart N relating to the submission, frequency and content of the Grantee Performance Report.

Action. Revision.

Contact. Peter Rowan, Office of Block Grant Assistance, Community Planning and Development, 202-755-1871.

Timing. Final rule in preparation.

16. CPD. 24 CFR Part 571—CDBG for Indian Tribes and Alaska Natives

Description. Would clarify provisions of the regulations for the CDBG Program for Indian tribes to conform to 1978 statutory requirements and correct editorial errors and omissions.

Action. Revision.

Contact. Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Final rule in preparation.

NEW COMMUNITIES DEVELOPMENT CORPORATION

1. NCDC. 24 CFR Part 710. Financing Private New Community Development

Description. Would delete from publication regulations governing communities under the New Communities Act of 1968 (42 U.S.C. 3901, et seq.) which has not been superseded by other legislation. The regulations so deleted from publication would continue to apply to certain projects undertaken pursuant to the 1968 Act until those projects have been completed.

Action. Deletion.

Contact. John Clinton, Office of Program Policy and Management, New Community Development Corporation, 202-755-7362, and Augusta Moore, 202-755-6808.

Timing. Final rule deletion.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

1. GNMA. 24 CFR Part 320. Description

Description. Would clarify and simplify existing regulation describing the nature of mortgages eligible for purchase, the basis for fees and charges, the authority for purchasing below-market interest rate mortgages, and the financing of special assistance functions.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

2. GNMA. 24 CFR Part 330. Eligible Sellers of Mortgages

Description. Would clarify and simplify existing regulation describing eligibility qualification requirements for selling mortgages to the Association.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

3. GNMA. 24 CFR Part 340. Purchase Requirements

Description. Would clarify and simplify existing regulation describing procedures governing the purchase of mortgages under the special assistance functions.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

4. GNMA. 24 CFR Part 350. Servicing and Sales of Mortgages

Description. Would clarify and simplify existing regulation describing requirements for servicers of mortgages and providing for their compensation. Revision would also explain availability of Association owned mortgages for sale to qualified investors.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

OFFICE OF ADMINISTRATION

1. Admin. 24 CFR Part 16. Implementation of the Privacy Act of 1974

Description. Would clarify and simplify existing regulations setting forth procedures governing HUD implementation of the Privacy Act and explaining in particular: methods for requesting documents; provisions for disclosure of information; basis for denials of information; procedures for administrative review of those denials; procedures for correcting or amending records and for appealing HUD determinations regarding correction or amendment of records; disclosure of third party information; schedules for fees; exemptions; and officials to whom Privacy Act requests should be addressed.

Action. Revision.

Contact. Harwood Martin, 202-755-6207.

Timing. Proposed rule in preparation. Publication planned in March.

2. Admin. 41 CFR Part 24. HUD Procurement Regulations

Description. Would clarify and simplify existing regulation setting forth procedures for HUD procurement through contracts of goods and services.

Action. Revision.

Contact. Cheryl Yeargin, 202-724-0038.

Timing. Proposed rule in preparation.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

1. FHEO. 24 CFR Part 1—Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of Title VI of the Civil Rights Act of 1964; Part 2—Practice and Procedure for Hearings Under Part 1 of This Subtitle

Description. Would clarify, simplify and reorganize the existing regulation describing policy, requirements and procedures to implement Title VI of the Civil Rights Act of 1964.

Action. Revision.

Contact. Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, 202–755–5904.

Timing. Proposed revised rule in preparation.

OFFICE OF HOUSING

1. Housing. 24 CFR Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans; Subpart A, Eligibility Requirements

Description. Would clarify and simplify existing regulations setting forth requirements for approval of mortgages under the basic mortgage insurance provisions pursuant to the National Housing Act.

Action. Revision.

Contact. John D. McNees, 202–755–6675.

Timing. Proposed rule in preparation.

2. Housing. 24 CFR Part 420—Assistance Payments—Homes for Lower-Income Families

Description. Would revoke existing regulation which is duplicative of 24 CFR Part 235.

Action. Revocation.

Contact. John D. McNees, 202–755–6675.

Timing. Final rule revocation in preparation.

3. Housing. 24 CFR Part 300—Section 23 Housing Assistance Payments Program—New Construction

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease newly constructed housing developed in accordance with Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202–755–5656.

Timing. Proposed rule in preparation.

4. Housing. 24 CFR Part 801—Section 23 Housing Assistance Payments Program—Substantial Rehabilitation

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease substantially rehabilitated housing pursuant to Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202–755–5656.

Timing. Proposed rule in preparation.

5. Housing. 24 CFR Part 802—Section 23 Housing Assistance Payments Program—Existing Housing

Description. Would clarify and simplify existing regulations setting forth policies and procedures for making housing assistance payments on behalf of low income families who lease existing housing pursuant to the provisions of Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202–755–5656.

Timing. Proposed rule in preparation.

(Sec. 2(a) of Executive Order 12044, 43 FR 21661, March 24, 1978)

Issued at Washington, D.C., on August 28, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-26995 Filed 9-4-80; 8:45 am]

BILLING CODE 4210-01-M

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federal register

Friday
September 5, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Employment Standards Administration

Notices

Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions: Ala., Alaska, Calif., Colo., Conn., Ind., Kansas, Ky., Md., Mich., Mo., Miss., N.H., N.Y., Pa., Vt., Va., Wisc. and Wyo.

New General Wage Determination Decision

Vermont.—VT80–2076.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL79-1066	Apr. 13, 1979.
Alaska:	
AK80-5115	Apr. 25, 1980.
California:	
CA78-5122	Aug. 11, 1978.
CA80-5117	May 23, 1980.
Connecticut:	
CT80-2073	Aug 15, 1980.
CT80-2074	Aug. 15, 1980.
Indiana:	
IN80-2058	July 25, 1980.
Kansas.	
KS80-4030	May 16, 1980.
Maryland:	
MD77-3119	Sept. 9, 1977.
MD78-3046	May 19, 1978.
Michigan:	
MI80-2053	July 11, 1980.
Mississippi:	
MS80-1079	June 27, 1980.
MS80-1084	July 25, 1980.
Missouri:	
MO80-4030	May 16, 1980
New Hampshire:	
NH80-2056	Aug. 15, 1980.
NH80-2057	Aug. 1, 1980.
New York:	
NY79-3028	Sept. 7, 1979.
NY80-3022	Apr. 4, 1980.
Pennsylvania:	
PA79-3009	May 4, 1979.
PA80-3010	Apr. 4, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL79-1140(AL80-1091)	Nov. 23, 1979.
Colorado:	
CO80-5101(CO80-5126)	Feb. 1, 1980.
Kentucky:	
KY79-1071(KY80-1102)	Apr. 20, 1979.
New York:	
NY80-3015(NY80-3054)	Feb. 15, 1980.
Virginia:	
VA78-3072(VA80-3051)	Oct. 13, 1978.
VA79-3055(VA80-3053)	Dec. 21, 1979.
Wisconsin:	
WI78-2131(WI80-2077)	Oct. 27, 1978.
WI78-2135(WI80-2079)	Oct. 27, 1978.
WI78-2137(WI80-2081)	Oct. 27, 1978.
Wyoming:	
WY79-5108(WY80-5127)	Mar. 16, 1979.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 29th day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Vermont COUNTY: Chittenden
DECISION NO.: VT80-2076 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 9.98	.65	.70		.03
CEMENT MASONS	8.30	.75	.20		.01
ELECTRICIANS	10.30	.50	3%+.10		½%
IRONWORKERS	7.07				
LABORERS	6.30	.70	1.00		.10
PAINTERS	6.50				
PLUMBERS	10.46	.60	.50		.02
SHEET METAL WORKERS	7.20				
SPRINKLER FITTERS	10.52	.59	.63		
POWER EQUIPMENT OPERATORS:					
Bulldozer	7.35				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL79-1066 - Mod.#6 (44-FR-22307-April 13, 1979) Madison County, Alabama					
Change: Electricians and linemen	$ 12.15	.55	3%+.65		
DECISION NO. AK80-5115 Mod. #2 (45 FR 28053-April 25,1980) STATEWIDE ALASKA					
ADD: Residential Electricians Wiremen	$11.25	1.05	3%		.10

Modification Page 2

DECISION NO. CA78-5122 -,Mod. #10

(43 FR 35835 - August 11, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenter	$13.67	1.63	2.21	1.00	.10
Saw Filers	13.75	1.63	2.21	1.00	.10
Table Saw Operators	13.77	1.63	2.21	1.00	.10
Shinglers; Piledrivermen; Bridge or Dock Carpenter; Derrick Bargemen; Rock Slinger	13.80	1.63	2.21	1.00	.10
Hardwood Floor Layers	13.87	1.63	2.21	1.00	.10
Pnematic Nailer	13.92	1.63	2.21	1.00	.10
Millwrights	14.17	1.63	2.21	1.00	.10

Modification Page 3

DECISION NO. CA80-5117 - Mod. #6

(45 FR 35110 - May 23, 1980) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
DIVERS:					
Diver, Wet*	$32.60	1.63	2.21	1.00	.10
Diver, Stand-by*	16.30	1.63	2.21	1.00	.10
Diver, Tender*	15.30	1.63	2.21	1.00	.10
*Shall receive a minimum of 8 hours pay for any day or part thereof.					
CHANGE:					
CARPENTERS:					
Carpenters	13.67	1.63	2.21	1.00	.10
Saw Filers	13.75	1.63	2.21	1.00	.10
Table Power Saw Operators	13.77	1.63	2.21	1.00	.10
Shinglers; Piledrivermen; Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger	13.80	1.63	2.21	1.00	.10
Hardwood Floor Layer	13.87	1.63	2.21	1.00	.10
Pneumatic Nailer	13.92	1.63	2.21	1.00	.10
Millwrights	14.17	1.63	2.21	1.00	.10

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Modification Page 4

DECISION NO. #CT80-2073 - MOD #1
(45FR 54602 - Aug. 15, 1980)

Fairfield, Litchfield & Windham Cos.,Connecticut	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Windham County					
Carpenters					
Add:					
Millwrights	12.50	.90	.65		.03
Fairfield, Litchfield, and Windham Counties					
Change:					
Elevator Constructors	12.745	1.195	.95	a+b+i	.035
Elevator Constructors Helpers	8.92	1.195	.95	a+b+i	.035
Elevator Constructors Helpers (Probationary)	6.37	1.195	.95	a+b+i	.035
Fairfield, Litchfield & Windham Cos.					
CHANGE:					
LABORERS (Building Construction):					
Laborer	$ 8.65	.65	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast erectors	8.90	.65	.80		.10
Air track operators, block pavers; and curb setters, sandblasters, wagon drill operators	9.15	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10

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DECISION NO. # CT80-2073 MOD. #1 con't.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Heavy and Highway Construction):					
Laborers	8.65	.65	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.65	.80		.10
Air track operators; block paver; curb setters	9.15	.65	.80		.10
Blasters	9.40	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10
Fairfield Co.: Remainder of County; Litchfield & Windham Counties					
Change:					
Marble, Tile, and Terrazzo Helpers	9.55	.50	.50		

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DECISION NO. #CT80-2073 MOD. #1 con't.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Windham County: except Willimantic					
Painters					
Change:					
Brush	12.00	.70	.80		.01
Paperhangers	12.96	.70	.80		.01
Sign	12.96	.70	.80		.01
Taping	12.96	.70	.80		.01
Roller	12.51	.70	.80		.01
Structural Steel	12.81	.70	.80		.01
Spraying Oil Paint	15.16	.70	.80		.01
Spraying Epoxy	17.69	.70	.80		.01
Windham County: Willimantic					
Change:					
Steamfitters	13.07	1.36	1.31		.13

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DECISION NO. CT80-2074 - Mod. #1 (45 FR 54602 - August 15, 1980) Hartford, Middlesex, New Haven, New London, and Tolland Counties, Conn.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
New London County; Tolland County: Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover, Conn.					
Carpenters					
Add:					
Millwrights	12.50	.90	.65		.03
Hartford, Middlesex, New Haven, New London & Tolland Cos. CT.					
Change:					
Elevator Constructors	12.745	1.195	.95	a+b+j	.035
Elevator Constructors Helpers	8.92	1.195	.95	a+b+j	.035
Elevator Constructors Helpers (Probationary)	6.37	1.195	.95	a+b+j	.035
CHANGE:					
LABORERS (Building Construction):					
Laborer	$ 8.65	.65	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast erectors	8.90	.65	.80		.10
Air track operators, block pavers; and curb setters, sandblasters, wagon drill operators	9.15	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10

DECISION NO. CT80-2074 - Mod. #1 (Cont'd)

Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Heavy and Highway Construction):					
Laborers	8.65	.65	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.65	.80		.10
Air track operators; block paver; curb setters	9.15	.65	.80		.10
Blasters	9.40	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10
Hartford, Middlesex, New Haven, New London, & Tolland Cos., CT.					
Change:					
Marble, Tile & Terrazzo Helpers	9.55	.50	.50		
New London County: Colchester, East Lyme, Groton, Montville, New London, Norwich, Stonington, Connecticut					

DECISION NO. CT80-2074 - MOD. #1 (Cont'd):

Hartford, Middlesex, New Haven, New London, & Tolland Cos., Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters					
Brush	12.00	.70	.80		.01
Paperhangers	12.96	.70	.80		.01
Sign	12.96	.70	.80		.01
Taping	12.96	.70	.80		.01
Roller	12.51	.70	.80		.01
Structural Steel	12.81	.70	.80		.01
Spraying Oil Paint	15.16	.70	.80		.01
Spraying Epoxy	17.69	.70	.80		.01
Plumbers Hartford County: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, E. Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks; Middlesex Co.: Chester Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project) Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Strafford, Storrs, Tolland, Union, Vernon & Willington.					
OMIT					
Brush, Tapers	11.00	1.20	1.10		
Paperhangers	11.50	1.20	1.10		
Spray	14.00	1.20	1.10		
Hazardous Work	11.58	1.20	1.10		
ADD					
Plumbers	12.26	1.10	1.39		.15

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DECISION NO. CT80-2074 MOD. #1 con't.

Hartford, Middlesex, New Haven, New London & Tolland Cos., Connecticut

Hartford County: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor & Windsor Locks:
Middlesex County: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas(Atomic River Project) Middlefield, & Portland;
Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Chahge:					
Steamfitters	13.07	1.36	1.31		.13

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DECISION NO. IN80-2058 - MOD. #1
(45 FR 49803 - July 25, 1980)
Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley Cos, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Remaining Counties	$14.70	.55	1.50		
BRICKLAYERS, Caulkers; Cleaners; Pointers; & Stonemasons					
Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos.	12.00	1.00	1.00		.01
CARPENTERS; Millwrights; Piledrivermen & Soft Floor Layers:					
Bartholomew (Rem. of Co.); Johnson (Edinburgh); & Shelby (Rem. of Co.) Counties:					
Carpenters; Soft Floor Layers	12.09	.75	.90		.04
Millwrights	12.59	.75	.90		.04
Piledrivermen; Burners; & Welders	12.34	.75	.90		.04
IRONWORKERS:					
Marion County	13.15	1.00	2.10		.05
MARBLE SETTERS: Terrazzo Workers; & Tile Setters:					
Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos:					
Tile Setters	11.75	1.00	1.00		.01
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, & Morgan Counties:					
Marble Setters; Tile Setters	13.81	.70	.65		.04
Terrazzo Workers	13.25	.70	.65		.04

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DECISION NO. IN80-2058 - MOD. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Benton, Cass, Clinton, Fountain, Montgomery, Tippecanoe, Warren, & White Counties:					
Composition, Damp & Waterproof	13.25	.70	.53		
Slate, Tile, & Asbestos	13.50	.70	.53		

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DECISION #MO80-4030 - Mod. #1 (45 FR 32537 - May 16, 1980) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13.87	1.375	1.10		.05
Bricklayers & stonemasons	12.59	.95	.35	1.50	
Carpenters:					
Zone 1	12.80	.60	.50		.07
Zone 2	12.05	.60	.50		.07
Zone 3	12.425	.60	.50		.07
Cement masons (Heavy & Highway Construction):					
Johnson & Wyandotte Counties, Kansas	13.17	.80	.70		
Line Construction:					
Zone 1					
Linemen	13.07	.45	3%		½%
Cable splicers	13.72	.45	3%		½%
Groundman	8.13	.45	3%		½%
Powderman	10.83	.45	3%		½%
Line truck & equipment operators	10.83	.45	3%		½%
Plasterers					
Zone 1	14.45				
Pipefitters	14.54	.72	1.60		.10
Plumbers	14.52	1.12	1.20		.12
Sprinkler fitters (Remaining Counties)	14.83	.85	1.20		.06
Sprinkler fitters (Henry, Johnson & Lafayette Counties, Mo.)	14.20	.85	1.20		.08
Omit:					
Marble & tile setters' helpers	10.85				
Add:					
Marble & tile setters' finishers	10.85				

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DECISION NO. MD77-3119
Mod. #3
(42 FR 45588 - September 9, 1977)
Anne Arundel, Calvert, Carroll, Charles, Frederick, Howard, Montgomery, Prince George's, St. Mary's and Washington Counties, Maryland

OMIT
Omit from location, Anne Arundel County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

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DECISION NO. MD78-3046 - MOD. #8
(42 FR 21813 - May 19, 1978)
Baltimore City, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BRICKLAYERS	$12.13	.90	.75		.07
IRONWORKERS:					
Structural and Reinforcing	11.71	.90	1.95		.06
Fence Erectors	11.36	.90	1.95		.06
LINE CONSTRUCTION:					
Linemen, Cable Splicers, Digging and Equipment Operators	13.70	.70	3%		
Winch truck and trucks with pole or steel handling	9.18	.70	3%		
Truck without winch	8.56	.70	3%		
Groundmen	8.63	.70	3%		
PAINTERS:					
Brush and Roller	9.90	1.10	.65		.09
Spray painting (except steel)	10.15	1.10	.65		.09
Steel painting, any painting using swinging stages and boatswain chairs, sand and water blasting, steam cleaning and all epoxy	10.40	1.10	.65		.09

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DECISION #MI80-2053-Mod.#1 (45 FR 47045 - July 11, 1980) Kent County, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Sheet Metal Workers	$12.40	.92+c	1.20	1.00	.04

DECISION NO.MS80-1079-MOD.#3 (45 FR 43594 - June 27,1980) Bolivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearl River, Issaquena, Sharkey, Sunflower, Washington, LeFlore, Lowndes, Yalobusha, and Warren Counties, Mississippi	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: Hancock, Harrison, Jackson, and Pearl River Counties					
POWER EQUIPMENT OPERATORS:					
GROUP 7	$11.03	.50	.30		.05
GROUP 7: Operating Engineers servicing Boilermakers, Electricians, Ironworkers, Piledrivers & Pipefitters					

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DECISION NO. MS80-1084-MOD.#2 (45 FR 49815 - July 25, 1980) Hinds County, Mississippi	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers:					
Bricklayers	$10.70	.25	.10		.05
Stone, block, & marble masons	10.70	.25	.10		.05
Caulkers, pointer, & cleaners	10.70	.25	.10		.05
Tile & Terrazzo Setters	10.60	.25	.10		.05

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Decision No. NH80-2056 - Mod. #1
(45 FR 54631 Aug. 15, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Merrimack Co., New Hampshire					
Change:					
Electricians					
Remainder of County-general contracts $500,000 & over	$13.07	1.15	3%+.50		.02
General contracts less than $500,000	8.05	1.15	3%+.50		.02
Hillsborough & Merrimack Cos.					
Change:					
Sprinkler Fitters	12.93	.85	1.20		.08
In heading of decision, change the decision being superceded to:					
Decision NH79-2040 dtd May 11, 1979 in 44 FR 27878					

DECISION NO. NH80-2057, Mod. #2
(45 FR 51411, Aug. 1, 1980)

	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rockingham & Strafford Cos., New Hampshire					
Change:					
Sprinkler Fitters	12.93	.85	1.20		.08

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DECISION NO. NY79-3028 - Mod. #2
(44 FR 52570 - September 7, 1979)
Orange County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	15.6654	.9138	1.8276		
Boilermakers	16.34	5%	5%		
Bricklayers, Cement Masons, Plasterers and Stonemasons					
All that portion bounded on the East by the Hudson River to Woodbury Twp. line South of Bear Mt., thence along this line to a point South of Lake Mombasha, thence due West to the Lehigh-Hudson River R.R. line, thence Northerly along this R.R. line to Maybrook, then Northerly along the Pen Central R.R. line to the Ulster County line and along this line Easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines:					
Building	11.46	1.45	1.85		
Heavy & Highway	11.71	1.45	1.85		
Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, Southeast to the New York New Haven and Hortford R.R. line to a point South of Wisner, thence East to the top of the Bellvale Mt. Range, thence Southerly to the New Jersey State line, including the Towns of Warwick, New Millford & Bellvale					
Building	11.30	1.25	2.20		.02
Heavy & Highway	11.55	1.25	2.20		.02
Electricians					
Twps. of Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfield, Tuxedo Lake and Tuxedo	12.00	8%	19%	10%	1%
Remainder of County	12.50	7.4%	3%+1.20	.70	½%

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DECISION NO. NY79-3028 - Mod. #2

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaiziers	13.75	.66	1.91	.67	.01
Ironworkers, Reinforcing, Ornamental & Structural	11.10	1.86	3.60	1.60	.01
Laborers, Building					
Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator Men, poured gypsun, Roof Work, Wrecking, Walking Power Buggy Men, Landscaper, Chipping Hammer (air or electric 1" and under)	10.00	1.15	1.15		
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts	10.25	1.15	1.15		
Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCMZ, Drill Machines or equivalent, All wrecking work fifty feet or more above grade	10.65	1.15	1.15		
Painters					
Commercial	10.60	1.00	.65		
Spray and Sandblasting, Steel, Smoke Stacks, Bridges, Power Plents, Radio Towers, Epoxy and other toxic materials	11.60	1.00	.65		
Plumbers & Steamfitters:					
Twps., Villages and Hamlets and/or portions thereof: Labeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	12.56	2.00	1.56		.10

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DECISION NO. NY79-3028 - Mod. #2

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers					
Pitch, Pitch build up	12.25	1.10	1.95		.35
Asphalt Shingle	9.25	1.10	1.95		.35
Slab, Asbestos, Slate and Tile, and asphalt built up	11.75	1.10	1.95		.35
Sheet Metal Workers	14.5622	2.2369	2.2015		.13
Sprinkler Fitters	14.52	.85	1.20		.08
Laborers: Heavy & Highway Construction					
GROUP I	10.15	1.15	1.15	a	
GROUP II	10.40	1.15	1.15	a	
GROUP III	10.80	1.15	1.15	a	
Power Equipment Operators: Building, Heavy, Highway Road, Street and Sewer Construction					
GROUP 1	16.91	12%+.40	10%	a	3%
GROUP 2	15.09	12%+.40	10%	a	3%
GROUP 3	14.21	12%+.40	10%	a	3%
GROUP 4	14.10	12%+.40	10%	a	3%
GROUP 5	13.87	12%+.40	10%	a	3%
GROUP 6	13.38	12%+.40	10%	a	3%
GROUP 7	13.09	12%+.40	10%	a	3%
GROUP 8	12.92	12%+.40	10%	a	3%
GROUP 9	12.87	12%+.40	10%	a	3%
GROUP 10	12.75	12%+.40	10%	a	3%
GROUP 11	12.70	12%+.40	10%	a	3%
GROUP 12	12.46	12%+.40	10%	a	3%
GROUP 13	12.06	12%+.40	10%	a	3%
GROUP 14	11.89	12%+.40	10%	a	3%
GROUP 15	11.55	12%+.40	10%	a	3%
Power Equipment Operators: Steel Erection					
GROUP 1	18.72	12%+.40	10%	a	3%
GROUP 2	16.91	12%+.40	10%	a	3%
GROUP 3	16.00	12%+.40	10%	a	3%
GROUP 4	15.26	12%+.40	10%	a	3%
GROUP 5	13.48	12%+.40	10%	a	3%
GROUP 6	13.09	12%+.40	10%	a	3%
GROUP 7	12.94	12%+.40	10%	a	3%
GROUP 8	12.57	12%+.40	10%	a	3%
GROUP 9	12.01	12%+.40	10%	a	3%

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DECISION NO. NY79-3028 - Mod. #2 Page 4

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting and Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operater, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tracter Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

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DECISION NO. NY79-3028 - Mod. #2 Page 5

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

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DECISION NO. NY79-3028 - Mod. #2

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drivers on LeTourneau Tractors, double barrel Euclids, athey wagon and similar equipment (except when hooked to scrapers), Low beds, I-Team, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	11.50	1.00	1.05	a	
Equipment 25 yards and over up to and including 30 yard bodies, cable dump trailers, powder and dynamite trucks	11.40	1.00	1.05	a	
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	11.20	1.00	1.05	a	
Ten wheelers, grease trucks and tiller men	10.60	1.00	1.05	a	
Straight trucks, Pick-up trucks used for hauling material parts, escort man over the road	11.00	1.00	1.05	a	

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DECISION NO. NY80-3022 - MOD. #2
(45 FR 23264 - April 4, 1980
Monroe County, New York

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$13.70	1.275	1.775		.03
Bricklayers, Cement Masons, Plasterers, and Stone Masons	13.67	.75	1.00		
Carpenters, Building	12.40	1.23	1.06		.03
Millwrights & Piledrivers, Building	12.73	1.23	1.15		.03
Elevator Constructors	14.13	1.195	.95	b+c	.035
Glaziers	11.83	1.0[illegible]	.89		.06
Marble, Tile and Terrazzo Workers	14.36	.50			
Plumbers & Steamfitters	14.38	2.485	1.22		.20
Roofers	12.93	.78	.92		
Soft Floor Layers	11.87	.90	.66		
Sprinkler Fitters	14.52	.85	1.20		.08

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DECISION NO. NY80-3022 - MOD. #2 (cont'd)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technicians	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone of CATV Commercial Work, Street Lighting, & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	

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DECISION NO. NY80-3022 - MOD. #2 (cont'd)

LINE CONSTRUCTION (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.275	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

DECISION NO. PA79-3009
MOD. NO. 7
(44 FR 26518 - May 4, 1979)
Bucks, Chester, Delaware,
Montgomery & Philadelphia
Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Zone 1					
Commercial	$13.88	.83	3%+.83		13/4%
Residential up to and including 4 stories					
Philadelphia County	13.17	.76	3%+.76		
Bucks, Montgomery & Delaware Counties,	10.74	.71	3%+.83		.06
Plasterers:					
All other work:					
Zone 1	12.96	.93			.01
Zone 2	10.81		1.65		.01

DECISION NO. PA80-3010
MOD. NO. 2
(45 FR 23270 - April 4, 1980)
Bedford, Cambria, Cameron,
Clarion, Clearfield, Jefferson,
Crawford & Venango Cos., Pa.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers					
Zone 1	$13.88	5%	7%+.95		.02
Bricklayers & Stonemasons					
Zone 1	12.05	.75	1.00		.01
Zone 2	13.20	.75	.95		.05
Zone 5	11.35	.75	1.00		.01
Zone 6	12.971	.90	2.00		.01
Carpenters & Soft Floor Layers					
Zone 1	11.50	6%	8%	10%	1½%
Zone 2	11.25	6%	8%	10%	1/2%
Cement Masons					
Zone 1	13.26	.93	2.13		
Zone 2	11.95	9%	7%		
Electricians					
Zone 1	13.35	.55	3%+.50	.60	.10
Zone 3	14.25	.75	3%+1.00		1/2%
Ironworkers:					
Zone 1	13.11	.975	2.575		.07
Zone 5	12.75	.975	1.665		.04
LABORERS:					
Zone 1					
Class I	10.97	9%	9%		
Class II	11.10	9%	9%		
Class III	11.23	9%	9%		
Class IV	11.48	9%	9%		
Class V	11.65	9%	9%		
Zone II					
Class I	10.51	9%	9%		
Class II	10.585	9%	9%		
Class III	10.61	9%	9%		
Class IV	10.66	9%	9%		
Class V	10.76	9%	9%		
Class VI	11.01	9%	9%		
Class VII	11.06	9%	9%		

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DECISION NO. PA80-3010 -
MOD. NO. 2, CONT'D.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS(CONT'D)					
Zone III					
Class 1	11.00	9%	8%		
Class 2	11.25	9%	8%		
Class 3	11.80	9%	8%		
Zone IV					
Class I	10.97	9%	9%		
Class II	11.06	9%	9%		
Class III	11.36	9%	9%		
Class IV	11.44	9%	9%		
Class V	11.23	9%	9%		
Class VI	11.57	9%	9%		
Class VII	11.23	9%	9%		
Class VIII	11.44	9%	9%		
LANDSCAPING:					
Zone I					
Class I	7.79	12%	10%		
Class II	8.21	12%	10%		
Zone II					
Class I	7.70	12%	10%		
Class II	8.12	12%	10%		
Line Construction:					
Zone I					
Class I	15.40	.45	3%		3/8%
Class II	9.24	.45	3%		3/8%
Class III	10.78	.45	3%		3/8%
Marble Setters					
Zone 4	12.42	.90	1.90		.01
Millwrights	12.14	6.5%	6%	25%	1/2%
Plasterers					
Zone 3	12.19	.85	1.55		
Zone 4	13.10				.01
Piledrivermen	14.05	6%	10%		.5%
Plumbers & Steamfitters:					
Zone I	14.26	.70	1.30		.08
Zone 3					
Contracts under $10,000	8.98	.95	1.30		.15
Contracts over $10,000	13.75	.95	1.30		.15

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DECISION NO. PA80-3010
MOD. NO. 2, CONT'D.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS (CONT'D.					
Zone 4	12.78	.83	1.18	.75	.25
POWER EQUIPMENT OPERATORS:					
Class I	13.875	1.05	1.00		.09
Class I-A	14.125	1.05	1.00		.09
Class I-B	14.375	1.05	1.00		.09
Class I-C	14.625	1.05	1.00		.09
Class II	13.725	1.05	1.00		.09
Class III	11.85	1.05	1.00		.09
Class III-A	12.35	1.05	1.00		.09
Class IV	11.20	1.05	1.00		.09
Class V	10.15	1.05	1.00		.09
Class VI	10.45	1.05	1.00		.09
Class VI-A	10.55	1.05	1.00		.09
Class VI-B	10.70	1.05	1.00		.09
Class VI-C	10.45	1.05	1.00		.09
Roofers					
Zone 2	14.76	.77	1.50		.16
Sprinkler Fitters	14.53	.85	1.20		.08
Sheet metal workers					
Zone 2	11.66	1.44	1.18		.14

V45/174 SE5 80 UMI

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NO.: AL80-1091
COUNTIES: Jefferson, Shelby, & St. Clair
DATE: Date of Publication

Supersedes Decision No.: AL79-1140 dated November 23, 1979 in 44 FR 67303

DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.83	.50	.55		.12
Carpenters	10.93	.70	.40		.09
Cement Masons	8.35				
Electricians	13.05	.55	3%+.40		½ of 1%
Glaziers	10.48	.95	.80	a	.005
Ironworkers	12.51	.60	.82		.06
Painters	11.55		.70		
Plasterers	10.53	.60			.10
Plumbers & Pipefitters	12.20	.73	1.00		.09
Roofers	9.95		.30		.10
Sheet Metal Workers	11.88	.79	1.07		.09
Sprinkler Fitters	12.80	.85	1.20		
Tile Setters	10.70		.60		
Truck Drivers	6.06				

FOOTNOTE:
a. Paid Holidays include New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day.

DECISION NO. AL80-1091 (cont'd) Page 2

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 7.75	.40	.50		.03
GROUP B	7.69	.40	.50		.03
GROUP C	7.63	.40	.50		.03
GROUP D	7.57	.40	.50		.03
GROUP E	8.03	.40	.50		.03
GROUP F	8.55	.40	.50		.03
GROUP G	8.43	.40	.50		.03
GROUP H	8.48	.40	.50		.03
GROUP I	8.38	.40	.50		.03
GROUP J	8.21	.40	.50		.03
GROUP K	9.29	.40	.50		.03

GROUP A
Air or electrical tool operators and asphalt rakers

GROUP B
Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers

GROUP C
Plasterers' tenders and hod carriers

GROUP D
Mason tenders, building laborers

GROUP E
Burners on demolition, wagon drill operators and tunnel laborers

GROUP F
Powderman

GROUP G
Caisson-driller (10' Dia)

GROUP H
Tunnel miner

GROUP I
Pneumatic concrete gun operator and nozzleman

GROUP J
Chuck tender

GROUP K
Oxagon operator

DECISION NO. AL80-1091

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.19	.60	.50		.10
GROUP B	10.58	.60	.50		.10
GROUP C	9.36	.60	.50		.10
GROUP D	12.00	.60	.50		.10
GROUP E	11.18	.60	.50		.10
GROUP F	9.51	.60	.50		.10

GROUP A
Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine, (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
Air compressor (125 & under), oilers-firemen, conveyor (1 tended by oiler), pumps (under 4 inches), welding machines (3 or under)

STEEL ERECTION

GROUP D
Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Statewide
DECISION NUMBER: CO80-5126 DATE: Date of Publication
Supersedes Decision No. CO80-5101 dated February 1, 1980, in 45 FR 7443
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:*					
Carpenters:					
Zone 1	$10.52	$1.00	$1.00	.95	.07
Zone 2	11.02	1.00	1.00	.95	.07
Underground Carpenters:					
Zone 1	10.72	1.00	1.00	.95	.07
Zone 2	11.22	1.00	1.00	.95	.07
Working on creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½HP saw at job site	10.82	1.00	1.00	.95	.07
High work 35' above ground or above permanent floor or deck	10.87	1.00	1.00	.95	.07
CEMENT MASONS:*					
Zone 1	10.76	.59	1.25	.30	.13
Zone 2	11.26	.59	1.25	.30	.13
ELECTRICIANS:*					
Area 1:					
Electricians	14.25	.70	3%+1.25		3/10%
Cable Splicers	14.50	.70	3%+1.25		3/10%
Area 2:					
Electricians	14.00	.75	3%+.25		1%
Cable Splicers	14.25	.75	3%+.25		1%
Area 3:					
Zone 1:					
Electricians	13.64	.72	3%+1.00		1½%
Cable Splicers	15.00	.72	3%+1.00		1½%
Zone 2:					
Electricians	14.47	.72	3%+1.00		1½%
Cable Splicers	15.83	.72	3%+1.00		1½%
Zone 3:					
Electricians	15.02	.72	3%+1.00		1½%
Cable Splicers	16.38	.72	3%+1.00		1½%
Zone 4:					
Electricians	15.71	.72	3%+1.00		1½%
Cable Splicers	17.07	.72	3%+1.00		1½%

*See AREA and ZONE Descriptions - Pages 4, 5, and 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 3: (Cont'd)					
Zone 5:					
Electricians	$16.39	.72	3%+1.00		1½%
Cable Splicers	17.75	.72	3%+1.00		1½%
Electricians on electrical contracts less than $20,000 in Zones 4 and 5	11.00	.72	3%+1.00		1½%
Area 4:					
Electricians	13.90	.75	3%+.65		.015
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LINE CONSTRUCTION:					
Cable Splicers	13.91	.45	3%+.50		3/4%
Journeyman Lineman; Cableman	13.01	.45	3%+.50		3/4%
Journeyman Lineman	12.94	.45	3%+.50		3/4%
Line Equipment Maintenance Man	10.99	.45	3%+.50		3/4%
Line Equipment Operator, Class 1:					
Crawler Equipment, Wire equipment pullers, Tensioners, Cranes, over 8 tons, Heavy Pole Trucks (such as diesel, twin screws), All Bucket Trucks - 75 ft. reach and over and Backhoes	10.99	.45	3%+.50		3/4%
Line Equipment Operators, Class 2:					
Trenchers under 4 ft. depth, Hydro Cranes, under 8 tons, Bobcats, Trucks under 3 tons, C.T.M. classification	9.81	.45	3%+.50		3/4%
Groundman	9.04	.45	3%+.50		3/4%

*See AREA and ZONE Descriptions - Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush	$12.11	.75	$1.15		.07
Spray, Swing Stage	12.71	.75	1.15		.07
Area 2:					
Brush	9.57	.75	.50		.04
Steel	10.07	.75	.50		.04
Spray	10.57	.75	.50		.04
Steel Spray	11.07	.75	.50		.04
Area 3:					
Brush	10.44	.75	.50		.04
Spray	11.19	.75	.50		.04
Steel	10.94	.75	.50		.04
Steel Spray	11.69	.75	.50		.04

*See AREA Descriptions - Page 6

ZONE DESCRIPTIONS

CARPENTERS:

Counties entirely within Zone 1:

Adams
Alamosa
Arapahoe
Archuleta
Bent
Boulder
Chaffee
Clear Creek
Conejos
Costilla
Crowley
Custer
Delta
Denver
Douglas
Eagle
El Paso
Elbert
Fremont
Garfield
Gilpin
Huerfano
Jefferson
La Plata
Lake
Larimer
Las Animas
Logan
Mesa
Montezuma
Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Sedgwick
Teller
Weld

Counties entirely within Zone 2:

Baca
Cheyenne
Dolores
Grand
Gunnison
Hinsdale
Jackson
Kiowa
Kit Carson
Lincoln
Mineral
Moffat
Ouray
Park
Pitkin
Rio Blanco
Routt
San Juan
San Miguel
Summit
Yuma

Legal description of the portions of Montrose, Saguache, and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian and the Eastern portion of Saguache County; from Highway #285 to the Town of Saguache, and Highway #114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description if the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway #285 to town of Saguache and Highway #114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude Base Line.

ZONE DESCRIPTIONS

CEMENT MASONS:

Counties entirely within Zone 1:

Alamosa
Archuleta
Bent
Boulder
Chaffee
Clear Creek
Conejos
Costilla
Crowley
Custer
Delta
Denver
Douglas
El Paso
Fremont
Garfield
Gilpin
Huerfano
Jefferson
La Plata
Larimer
Logan
Mesa
Montezuma
Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Sedgwick
Teller
Weld

Counties entirely within Zone 2:

Baca
Cheyenne
Dolores
Grand
Gunnison
Hinsdale
Jackson
Kiowa
Kit Carson
Lake
Lincoln
Mineral
Moffat
Ouray
Park
Pitkin
Rio Blanco
Routt
Saguache
San Juan
San Miguel
Summit
Yuma

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North Line between R11W and R21W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

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DECISION NO. CO80-5126 Page 6

ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washimgton, Weld, and Yuma Counties

Area 2: Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, and San Miguel Counties

Area 3: Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache Counties:

Zone 1: Within 12 miles from Pueblo Main Post Office
Zone 2: 12 to 20 miles from Pueblo Main Post Office
Zone 3: 20 to 30 miles from Pueblo Main Post Office
Zone 4: 32 to 50 miles from Pueblo Main Post Office
Zone 5: 50 miles and over from Pueblo Main Post Office

Area 4: Cheyenne, Elbert, El Paso, Kit Carmon, Lincoln, Park, and Teller Counties

PAINTERS:

Area 1: Adams, Araphaoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan; Park County (northern half); Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties

Area 2: Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers, and Pueblo Counties

Area 3: Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray; Park County (southern half); Rio Grande, Saguache, San Juan, San Miguel, and Teller Counties

DECISION NO. CO80-5126 Page 7

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:						
	ZONE 1	ZONE 2				
Group 1	$ 8.65	$9.15	.59	.70	.25	.05
Group 2	8.75	9.25	.59	.70	.25	.05
Group 3	9.05	9.55	.59	.70	.25	.05
Group 4	9.20	9.70	.59	.70	.25	.05
Group 5	9.40	9.90	.59	.70	.25	.05
(Tunnels)						
Group 1	8.65	9.15	.59	.70	.25	.05
Group 2	9.55	10.05	.59	.70	.25	.05
Group 3	9.65	10.15	.59	.70	.25	.05
Group 4	9.73	10.23	.59	.70	.25	.05
Group 5	9.80	10.30	.59	.70	.25	.05
Group 6	10.70	11.20	.59	.70	.25	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	9.65	10.15	.59	.70	.25	.05
Group 2	9.80	10.30	.59	.70	.25	.05
Group 3	9.90	10.40	.59	.70	.25	.05
Group 4	10.18	10.68	.59	.70	.25	.05
Group 5	10.28	10.78	.59	.70	.25	.05
Group 6	10.83	11.33	.59	.70	.25	.05

Zone 1: The area encompassed by 15 driving miles from the Main Post Office at Craig, Steamboat Springs, and Meeker. Also, included are all other Counties not outlined in Zone 2.

Zone 2: The Counties of Jackson, Moffat, Rio Blanco and Routt.

LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesn; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattressess; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core, and Diamond Drill Tenders, Powdermen Tenders; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical tool Operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torch on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators or concrete saws on pavement (other than Gang Saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Tender; Sand Blaster, Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frost proofing; Any Laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal Laws); Gunniting and Shotcrete Tenders; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or Stringmen or roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in Trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphones, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; wiping of Joint Concrete Pipe, inside and out; Labor applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon Drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal Laws; Pugs and Galleys in Dams

(TUNNELS)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Tenders on Shotcrete, Gunniting and Sand Blasting; Tenders, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Tender, applying concrete processing materials

Group 6: Collapsible Form Movers and Setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete Placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Tenders in Shotcrete Gunniting and Sand Blasting; Tenders on Core and Diamond Drills; Pot Tenders; Cement Finisher Tenders, applying concrete processing materials

Group 4: Diamond and Core Drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 5: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal Laws

Group 6: Collapsible Form Movers and Setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Men, internal and external

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Zone 1	Zone 2				
Group 1	$ 9.75	$10.50	.93	$1.10	.55	.12
Group 2	10.10	10.85	.93	1.10	.55	.12
Group 3	10.45	11.20	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	10.90	11.65	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.90	10.65	.93	1.10	.55	.12
Group 2	10.25	11.00	.93	1.10	.55	.12
Group 3	10.35	11.10	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	11.15	11.90	.93	1.10	.55	.12

*See Zone Descriptions following Truck Drivers classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator, smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more Light Plants, Welding Machines, Generator, single unit Conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman, Chainman, Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable; Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevator Graders, equipment lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; Single unit portable Crusher, with or without Washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welding; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer, over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without Washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells, and Backhoes, over 5 cu. yds.; Crane, over 50 tons, carrier mounted; Derrick; Electric Rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including Pups, 40 cu. yds. and Tandem Bowls and over

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 6: Cableway; Climbing Tower Crane; Crawler or Truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For Work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

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TRUCK DRIVERS

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

*See Zone Descriptions following Truck Drivers' classifications

TRUCK DRIVERS

Group 1: Pickups; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasermen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem Axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Speciality and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

ZONE DESCRIPTIONS

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS:

Counties entirely within Zone 1:

Alamosa
Archuleta
Bent
Boulder
Chaffee
Clear Creek
Conejos
Costilla
Crowley
Custer
Delta
Denver
Douglas
El Paso
Fremont
Garfield
Gilpin
Huerfano
Jefferson
La Plata
Larimer
Logan
Mesa
Montezuma
Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Sedgwick
Teller
Weld

Counties entirely within Zone 2:

Baca
Cheyenne
Dolores
Grand
Gunnison
Hinsdale
Jackson
Kiowa
Kit Carson
Lake
Lincoln
Mineral
Moffat
Ouray
Park
Pitkin
Rio Blanco
Routt
Saguache
San Juan
San Miguel
Summit
Yuma

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying east of said Township Line of the New Mexico Principal Meridian and all of Washington County lying north of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are including within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying east of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West, and all of Montrose County except that part lying Northerly of the North Line between R11W and R12W, said point being East of said Township Line of the New Meixco Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kentucky
COUNTIES: *See Below
DECISION NO.: KY80-1102
DATE: Date of Publication
Supersedes Decision Number: KY79-1071, dated April 20, 1979 in 44 FR 23736
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and apartments up to and including 4 stories).

* Butler, Henderson, Hopkins, Logan, McLean, Muhlenberg, Todd, Union, & Webster Counties, Kentucky.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$5.28				
BRICKLAYERS	5.97				
CARPENTERS	5.37				
CEMENT MASONS	5.79				
DRYWALL FINISHERS	5.75				
DRYWALL HANGERS	5.64				
ELECTRICIANS	6.23				
INSULATION INSTALLERS	5.21				
LABORERS:					
Unskilled	3.97				
Mason Tenders	4.61				
PAINTERS	5.13				
PLUMBERS & PIPEFITTERS	5.58				
ROOFERS	5.22				
SHEET METAL WORKERS	5.39				
SOFT FLOOR LAYERS	4.94				
TILE SETTERS	5.44				
TRUCK DRIVERS	3.97				
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.60				
Bulldozer	6.05				
Motor Grader	8.02				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: New York
COUNTY: Jefferson
DECISION NO. NY80-3054
DATE: Date of Publication
Supersedes Decision No. NY80-3015 dated February 15, 1980 in 45 FR 10566
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.83	.90	.93		.06
Bricklayers & Cement Masons	12.97	.70	1.00	a	
Carpenters:					
Carpenters	9.60	.87			
Millwrights	11.95	.55	.90	b	.005
Electricians	12.80	.75	3%+.78		
Glaziers	9.55	.50			.01
Ironworkers					
Antwerp, Philadelphia, Leray, Wilna & Champion	12.17	1.11	1.02		.04
Remainder of County	12.38	.77	1.70		.10
Laborers, Unskilled	6.76				
Laborers, Power Tool	7.75	.55	.90		
Painters	7.90	.25	.45		
Plasterers	12.97	.70	1.00	a	
Plumbers, Pipefitters & Steamfitters	10.80	.92	.50		.05
Roofers	5.00				
Sheet Metal Workers	12.55	1.01	.44		.08
Sprinkler Fitters	14.52	.85	1.20		.08
Tile Setters	12.97	.70	1.00	a	
Truck Drivers	5.06				
Power Equipment Operators:					
Backhoe	10.20				
Bulldozer	10.04	.55	.60	.40	
Crane	12.78	1.05	.75	c	.15
Loader	11.78	1.05	.75	c	.15
Fork Lift	9.53	.95	.60		.10

FOOTNOTES:

a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee has been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

b. Paid Holidays: Memorial Day, Labor Day and Thanksgiving Day provided the employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

c. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, provided the employee has worked 5 consecutive working days before and the working day after the holiday.

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HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.83	.90	.93		.06
Boilermakers	13.50	1.175	10%		.03
Bricklayers	12.97	.70	1.00	a	
Carpenters & Piledrivers	11.23	.55	.90		.025
Cement Masons	10.90	.70	.90		
Electricians:					
Electricians	12.80	.75	3%+.78		.8%
Cable Splicers	13.05	.75	3%+.78		.8%
Ironworkers:					
Antwerp, Philadelphia, Leray, Wilna & Champion:					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors & Stone Derrickmen	12.17	1.11	1.02		.04
Sheeters	12.42	1.11	1.02		.04
Sheeters, Bucker-up	12.295	1.11	1.02		.04
Remainder of County:					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors & Stone Derrickmen	12.38	.77	1.70		.10
Sheeters	12.63	.77	1.70		.10
Sheeters, Bucker-up	12.50	.77	1.70		.10
Painters:					
Brush	9.85	.80	.45		
Spray	10.35	.80	.45		

FOOTNOTES:

a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee had been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

DECISION NO. NY80-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY & HIGHWAY CONSTRUCTION					
CLASS A	9.14	.60	1.20	a	
CLASS B	9.34	.60	1.20	a	
CLASS C	9.54	.60	1.20	a	
CLASS D	9.74	.60	1.20	a	

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op., on asphalt paver, water pump op. (½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

DECISION NO. NY80-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION					
MASTER MECHANIC	13.00	1.25	1.25	a	.15
GROUP I	12.25	1.25	1.25	a	.15
GROUP II	11.84	1.25	1.25	a	.15
GROUP III	10.68	1.25	1.25	a	.15
GROUP IV	9.65	1.25	1.25	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, providing the employer works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe, (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes and derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), pile-driver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure-boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION (CONT'D)

GROUP II (Cont'd) - to clean screen or to maintain the equipment, he shall be an oiler), locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunnite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION

CLASS 1 - Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment-euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

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LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.275	1.40	3%+1.00	a	

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LINE CONSTRUCTION CONT'D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince George and the city of Richmond

DECISION NO.: VA80-3051

DATE: Date of Publication

Supersedes Decision No. VA78-3072 dated October 13, 1978, 43 FR 47444.

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 4.55				
CARPENTER, STRUCTURE	5.67				
CARPENTER HELPER, STRUCTURE	4.42				
CONCRETE FINISHER	5.43				
ELECTRICIAN	7.04				
FORM SETTER	4.90				
GUARDRAIL/FENCE ERECTOR	5.50				
IRON WORKER, REINF.	6.16				
IRON WORKER, REINF. HELPER	5.02				
IRON WORKER, STRUCTURAL	6.28				
IRON WORKER, STRUCTURAL, HELPER	5.00				
LABORER, UNSKILLED	3.83				
LANDSCAPE WORKER	5.65				
MECHANIC	5.78				
MECHANIC HELPER	4.96				
PAINTER	5.68				
PAINTER, BRIDGE	7.44				
PILE DRIVER LEADMAN	5.00				
PIPE LAYER	4.30				
ASPHALT DISTRIBUTOR OPERATOR	4.25				
ASPHALT PAVER OPERATOR	4.95				
BACKHOE OPERATOR	5.26				
BULLDOZER OPERATOR	5.47				
BULLDOZER OPERATOR (UTILITY)	5.08				
CONCRETE PAVING MACHINE OPERATOR	6.04				
CRANE, DERRICK, DRAGLINE OPERATOR (1YD. & UNDER)	6.05				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.25				
DRILL OPERATOR	5.62				
LOADER OPERATOR (2 YDS. & UNDER)	4.89				
LOADER OPERATOR (OVER 2 YDS)	5.18				
MOTOR GRADER OPERATOR (FINE GRADE)	5.70				
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.70				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OILER GREASER	4.65				
PILE DRIVER OPERATOR	5.07				
PLANT OPERATOR	4.78				
POWER TOOL OPERATOR	4.21				
ROLLER OPERATOR (ROUGH)	4.10				
ROLLER OPERATOR (FINISH)	4.40				
SCRAPER PAN OPERATOR	4.89				
STONE SPREADER OPERATOR	4.58				
TRACTOR OPERATOR (CRAWLER)	4.75				
TRACTOR OPERATOR (UTILITY)	4.36				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	4.24				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.33				
TRUCK DRIVER (MULTI-REAR AXLE)	4.10				
TRUCK DRIVER (SINGLE-REAR AXLE)	4.10				

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke. The Cities of Bedford, Galax, Martinsville, Radford, Roanoke & Salem

DECISION NO. VA80-3053

DATE: Date of Publication

Supersedes Decision No. VA79-3055 dated December 21, 1979 in 44 FR 75911

DESCRIPTION OF WORK: Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 4.04				
CARPENTER, STRUCTURE	5.48				
CARPENTER HELPER, STRUCTURE	4.00				
CONCRETE FINISHER	5.14				
CONCRETE FINISHER HELPER	4.00				
ELECTRICIAN	6.53				
FORM SETTER	3.50				
GUARDRAIL/FENCE ERECTOR	4.31				
IRON WORKER, REINF.	6.57				
IRON WORKER, REINF. HELPER	4.00				
IRON WORKER, STRUCTURAL	6.57				
IRON WORKER, STRUCTURAL, HEPLER	4.00				
LABORER, UNSKILLED	3.52				
LANDSCAPE WORKER	4.21				
MASON, STRUCTURE	8.75				
MECHANIC	5.90				
MECHANIC HELPER	3.88				
PAINTER	4.25				
PAINTER, BRIDGE	5.00				
PIPE LAYER	4.00				
ASPAHLT DISTRIBUTOR OPERATOR	4.00				
ASPHALT PAVER OPERATOR	4.50				
BACKHOE OPERATOR	5.29				
BULLDOZER OPERATOR	5.20				
BULLDOZER OPERATOR (UTILITY)	5.75				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	5.31				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.00				
DRILL OPERATOR	5.10				
LOADER OPERATOR (2 YDS. & UNDER)	4.69				
LOADER OPERATOR (OVER 2 YDS)	4.90				
MOTOR GRADER OPERATOR (FINE GRADE)	5.46				
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.00				
OILER GREASER	4.64				

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VA80-3053	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROLLER OPERATOR (ROUGH)	3.88				
ROLLER OPERATOR (FINISH)	3.92				
SCRAPER PAN OPERATOR	5.10				
SHOVEL OPERATOR (1 YD. & UNDER)	5.20				
SHOVEL OPERATOR (OVER 1 YD.)	5.33				
STONE SPREADER OPERATOR	4.00				
TRACTOR OPERATOR (UTILITY)	3.81				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	3.25				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.00				
TRUCK DRIVER (MULTI-REAR AXLE)	4.20				
TRUCK DRIVER (SINGLE-REAR AXLE)	4.05				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Green Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NO.: WI80-2077 DATE: Date of Publication

Supersedes Decision No.: WI78-2131 dated Ocotber 27, 1978 in 43 FR 50364

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.36	.95	.50	1.00	.10
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS & STONEMASONS	10.55	.75	.70		.05
CARPENTERS	11.67	.60	.80		.05
CEMENT MASONS	10.05	.75	.70		.05
ELECTRICIANS	11.64	.55	3%	8%	1 1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	12.13	1.045	.69	a+b	.03
Helpers	8.49	1.045	.69	a+b	.03
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Extreme east part of Co. Inc. Lake Winnebago, Menasha, & Neenah	11.36	1.30	1.00	1.21	.15
Remainder of County	12.31	1.25	1.00		.07
LATHERS	9.82	.75	1.40		.03
MILLWRIGHTS	12.07	.60	.80		.05
PAINTERS:					
Brush & Structural Steel	10.25	.85	.25		.03
Spray & Sanblasting	10.75	.85	.25		.03
PILEDRIVERMEN	12.07	.60	.80		.05
PLASTERERS	10.55	.75	.70		.05
PLUMBERS & STEAMFITTERS:					
Waupaca and Townships of Menasha & Neenah	12.70	1.00	1.00		.04
Remainder of Counties	11.33	.80	1.25	1.00	.03
ROOFERS	9.18	.75	.60	.40	
SHEET METAL WORKERS	11.31	.80	.60	1.45	.04
SOFT FLOOR LAYERS	11.67	.60	.80		.05
TERRAZZO WORKERS	10.55	.75	.70		.05
TILE SETTERS	10.55	.75	.70		.05

DECISION NO. WI80-2077

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 6% of regular rate for employee who has worked less than 5 years.

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BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$8.90	.55	.45		.03
CLASS II	9.00	.55	.45		.03
CLASS III	9.15	.55	.45		.03

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pump and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter-helper, core drill operator

CLASS III - Jackhammer operator, drill, gunnite, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo worker, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector, bituminous raker and luteman

DECISION NO. WI80-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	$12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

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POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (Cont'd)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Kenosha
DECISION NO.: WI80-2079 DATE: Date of Publication
Supersedes Decision No.: WI78-2135 dated October 27, 1978 in 43 FR 50368
DESCRIPTION OF WORK: Building Construction (Including Residential)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.30	1.05	1.15	1.50	.14
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS & STONEMASONS	11.55	.70	.80	.60	.07
CARPENTERS	11.40	.55	1.00		.05
CEMENT MASONS (BUILDING)	10.61	.60	.85	.50	.01
ELECTRICIANS	13.62	.51	3%	.45	1 3/4%
ELEVATOR CONSTRUCTORS:					
Constructors	13.24	1.045	.69	a+b	.03
Helpers	9.27	1.045	.69	a+b	.03
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental, & Reinforcing	12.06	1.30	2.50	1.21	.15
MILLWRIGHTS	11.66	.55	1.00		.05
LATHERS	9.63	.60	1.95		
PAINTERS:					
Brush & Roller	10.375	.55	.70		
Structural Steel	10.525	.55	.70		
Spray	11.22	.55	.70		
Swing Stage	10.575	.55	.70		
PILEDRIVERMEN	11.48	.55	1.00		.05
PLASTERERS	11.10	.60	.85		
PLUMBERS & STEAMFITTERS	12.37	.80	.87	.98	.02
ROOFERS	11.1[illegible]	.60	.55		
SOFT FLOOR LAYERS-Resilient floor layers	11.40	.55	1.00	.50	.05
TERRAZZO WORKERS	12.01	1.20	1.20	.50	.17
TILE SETTERS	10.08	.70	.80	.60	.07
SHEET METAL WORKERS	11.74	.60	.99	1.15	.09

WELDERS - receive rate prescribed for operation to which welding is incidental

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POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

DECISION NO. WI80-2079

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday, A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
LABORERS					
Laborers, Mason Tenders	$8.80	.75	.85	1.00	
Plaster Tender	8.95	.75	.85	1.00	
Air, electric & gas tool operator	9.10	.75	.85	1.00	
Jack hammer, fork lift, buggies	9.50	.75	.85	1.00	
POWER EQUIPMENT OPERATORS					
GROUP I	$12.02	1.05	1.10		.05
GROUP II	11.77	1.05	1.10		.05
GROUP III	11.47	1.05	1.10		.05
GROUP IV	11.37	1.05	1.10		.05
GROUP V	10.96	1.05	1.10		.05
GROUP VI	10.62	1.05	1.10		.05

DECISION NO. WI80-2079

POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain tyep having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTIES: Langlade, Lincoln, & Marathon
DECISION NO.: WI80-2081
DATE: Date of Publication
Supersedes Decision No.: WI78-2137 dated October 27, 1978 in 43 FR 50372
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.36	.95	.50	1.00	.10
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS & STONEMASONS	10.55	.75	.70		.05
CARPENTERS:					
Carpenters	11.67	.60	.80		.05
Millwrights & Piledrivermen	12.07	.60	.80		.05
CEMENT MASONS	10.05	.75	.70		.05
ELECTRICIANS	11.54	.55	3%	8%	1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	12.13	1.045	.69	a+b	.03
Helpers	8.49	1.045	.69	a+b	.03
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental, & Reinforcing	12.31	1.25	1.00		.07
LABORERS:					
Laborers	8.90	.55	.45		.03
Air tool op. (jackhammer, vibrator)	9.15	.55	.45		.03
Mason tender, Concrete worker & Mortar mixers	9.00	.55	.45		.03
LATHERS:					
Southeastern corner of County	9.82	.75	1.40		.03
Western ½ of County	12.00				
Remainder of County	10.44	.75	.75	.17	
PAINTERS:					
Brush	10.50		.50		
Spray	11.50		.50		
PLASTERERS	10.55	.75	.70		.05
PLUMBERS	12.01	.65	.65	1.25	
ROOFERS	10.00				
SHEET METAL WORKERS	12.31	.75	.60		.06
SOFT FLOOR LAYERS - Resilient floor layers	11.67	.60	.80		.05
STEAMFITTERS	12.01	.65	.65	1.25	
TERRAZZO WORKERS	10.30	.75	.70		.05
TILE SETTERS	10.30	.75	.70		.05
WELDERS - receive rate prescribed for operation to which welding is incidental					

DECISION NO. WI80-2081

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

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POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 toms), Rotary Drill Operator and Blaster, Trencher (wheel type or chain tyep having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines,' Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wyoming
COUNTY: Statewide
DECISION NUMBER: WY80-5127
DATE: Date of Publication
Supersedes Decision No. WY79-5108 dated March 16, 1979, in 44 FR 16349

DESCRIPTION OF WORK: Highway Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 9.29	.50			
CEMENT MASONS	9.95	.50			
IRONWORKERS:					
Structural	9.36				
Reinforcing	8.81	.50	1.25		
PAINTERS:					
Brush and Spray	8.18				
LINE CONSTRUCTION:					
All work over 34.5 KV all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, streets and highway lighting:					
Cable Splicer	11.00	.45	3%+.25		4/10%
Linemen	10.00	.45	3%+.25		4/10%
Equipment Operators	9.01	.45	3%+.25		4/10%
Groundmen	7.37	.45	3%+.25		4/10%
All work 34.5 KV and under:					
Lineman	10.00	.45	3%+.25		4/10%
Line Equipment Operator	8.62	.45	3%+.25		4/10%
Groundman	7.37	.45	3%+.25		4/10%
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental					

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DECISION NO. WY80-5127 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Group 1: Axeman and hand faller; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; General Labor; Heater Tender; Material Handler (lumber, rods, cement, concrete); Nozzleman, air and water; Pre-watering, pre-wetting and pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Men; Grade Concrete, etc.; Scissor Man or Hopper Man; Stake Jumper for equipment; Tar and Asphalt Pot Tender; Wrecking and demolition	$ 6.03				

DECISION NO. WY80-5127 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Group 2: Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher Tender; Chuck Tender; Form Setter (paving); Hand Operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type); Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Power type concrete buggy (push or ride); Power Saw Operator (cleaning); Vibrator - concrete	$ 6.13				
Group 3: Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from Bos'n Chair, Swing Stage, Lift Belt or Block and Tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)	6.28				

DECISION NO. WY80-5127 Page 4

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 4:					
Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	$ 6.55				
Group 5:					
Tunnel and Underground Work:					
Brakeman; Swamper; Vibrator Man	6.51				
Bull Gang; Dumpman; Mucker; Trackman	6.35				
Miners (drillers) Machine Men; Timbermen; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggers spilling and/or Caisson Workers; Powderman; Jackhammermen; Finishers	6.78				
Nipper; Chucktender; Topman; Toplander	6.62				

DECISION NO. WY80-5127 Page 5

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.54	.50	.35		
Group 2	8.59	.50	.35		
Group 3	8.64	.50	.35		
Group 4	8.68	.50	.35		
Group 5	8.71	.50	.35		
Group 6	8.76	.50	.35		
Group 7	8.80	.50	.35		
Group 8	8.82	.50	.35		
Group 9	8.93	.50	.35		
Group 10	8.99	.50	.35		
Group 11	9.01	.50	.35		
Group 12	9.19	.50	.35		
Group 13	9.23	.50	.35		
Group 14	9.30	.50	.35		
Group 15	9.36	.50	.35		
Group 16	9.53	.50	.35		
Group 17	9.87	.50	.35		

POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Brakeman; Crusher Oiler; Oiler Utility; Screed Operator; Tractor Operators (Farm, Crawler or wheel type, 60 HSP - drawbar) or less with or without use of power attachments, except for use of Backhoe or Bucket

Group 2: Broom Operators, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Roller Operators (self-propelled pneumatic, rubber tired, sheep foot vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Stacker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP - drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

Group 11: Haulage Motorman and Industrial type Motorman; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

POWER EQUIPMENT OPERATORS - (Cont'd)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises or Plant Operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine or similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator (Tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes (manufacturers' rating) up to 3½ yds., all attachments; Hydro type cranes (15 tons and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use of power attachments shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums, shafts or raises); Repairman; Mechanics; Machine Doctors, Welders; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes (manufacturer's rating) 3½ yds. to 7 cu. yds.; all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pickup Truck Drivers (when used for hauling)	$ 6.93	.50			
Dump Truck Drivers (water level capacity box):					
7 cu. yds. and less	6.98	.50			
Over 7 cu. yds. to and including 10 cu. yds.	7.13	.50			
Over 10 cu. yds. to and including 13 cu. yds.	7.23	.50			
Over 13 cu. yds. to and including 20 cu. yds.	7.73	.50			
Over 20 cu. yds. to and including 25 cu. yds.	7.73	.50			
Over 25 cu. yds. to and including 30 cu. yds.	7.83	.50			
Over 30 cu. yds. to and including 35 cu. yds.	7.88	.50			
Over 35 cu. yds. to and including 40 cu. yds.	7.93	.50			
Over 40 cu. yds. to and including 45 cu. yds.	7.98	.50			
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	6.93	.50			
Gravel Spreader	6.98	.50			

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flat Rack Material Truck Drivers:					
Less than 2 tons	$ 6.98	.50			
2 tons to 5 tons	7.13	.50			
Over 5 tons	7.23	.50			
Low Boy and Tandem Axle Float Drivers	7.73	.50			
Gang Truck Drivers	6.98	.50			
Stringing Truck Drivers:					
Single axle type truck	6.98	.50			
Multiple axle type truck, semi	7.73	.50			
Winch Trailer Truck Drivers (cable and hoist)	7.23	.50			
Utility Winch Truck Drivers	7.23	.50			
"A" Frame Truck Drivers	7.23	.50			
Warehousemen, Partsmen	6.98	.50			
Material Checkers	7.13	.50			
Transit Mix or Wet Mix Truck Drivers:					
Less than 5 cu. yds.; single axle	7.23	.50			
Over 5 cu. yds. to and including 10 cu.yds.; Tandem axle	7.33	.50			
Over 10 cu. yds.	7.43	.50			
Power Broom Drivers and/or Operator	7.13	.50			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
Water Truck Drivers:					
2500 gallons or less (straight truck)	$ 6.98	.50			
2500 gallons or less (semi truck)	7.13	.50			
Over 2500 gallons to and including 3600 gallons	7.23	.50			
Over 3600 gallons (straight truck)	7.33	.50			
Over 3600 gallons (semi truck)	7.43	.50			
Heavy Duty (Euclids, electric or semilar type)	7.73	.50			
Fuel Service Truck Drivers	6.98	.50			
Greasemen, Tireman, Service Men	6.98	.50			
Truck Mechanics (shop and Field):					
Field Mechanics	7.93	.50			

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 80-27079 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
September 5, 1980

Part IV

Department of Agriculture

Federal Grain Inspection Service

Assignment of Official Agency Geographic Area; Illinois

V45/174 SE5 80 UMI

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Geographic Area; Assignment of Geographic Area to the Alton Grain Inspection Department, Alton, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Alton Grain Inspection Department, Alton, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Alton Grain Inspection Department (the "Agency"), 145 West Broadway, Alton, Illinois 62002, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 28, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2636). One comment was received. The Illinois Department of Agriculture commented that it had discontinued servicing applicants in that portion of Calhoun County previously serviced by the Illinois Department of Agriculture several years ago and did not wish to make it part of its permanent geographic boundaries. Since the Agency was and is presently servicing applicants in some of Calhoun County, it was decided with the concurrence of both agencies, to add the remaining part of Calhoun County to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this Agency is as follows: the area within Illinois in the Counties of Calhoun, Jersey, and Madison, west to State Route 4 and north of Interstate 70 and Interstate 270.

The above has been restated to utilize county names for clarification purposes and does not alter the geographic area as originally proposed in any way, except for the addition of part of Calhoun County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C., on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27231 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Bloomington Grain Inspection Department Bloomington, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Bloomington Grain Inspection Department, Bloomington, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Bloomington Grain Inspection Department (the "Agency"), 1700 W. Olive Street, P.O. Box 817, Bloomington, Illinois 61701, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 20, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2635). Two comments were received. The Agency and Decatur Grain Inspection Inc., indicated the Agency has been and is presently providing service to the Pillsbury Co., elevator at Wapella, Illinois. This location had been proposed as part of the Decatur Agency's geographic area. Also, information was received from the Agency through the FGIS Peoria Field

Office, that Farm Service, Arrowsmith, Illinois, and East Lincoln Farmers Grain Co., Lincoln, Illinois, located within the Agency's proposed geographic area have been and are presently being serviced by Gibson City Grain Inspection Department and Springfield Grain Inspection, respectively. Accordingly, after review of this information with the involved official agencies and with their consent, the Pillsbury Co., elevator at Wapella has been added to the Agency's geographic area, and the other two locations have been listed as exceptions for service for this Agency.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this Agency is as follows:

Bounded: on the North by State Route 18 from State Route 26 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to ICG Railroad line;

Bounded: on the East by the ICG Railroad line southeast to Pontiac; a straight line running north and south from Pontiac south through Arrowsmith to the southern McLean County line;

Bounded: on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to State Route 121; and

Bounded: on the West by State Route 121 north to Interstate 74; Interstate 74 northwest to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

The above has been restated in part for clarification purposes and does not alter the geographic area as originally proposed except as indicated below.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Pillsbury Co., Wapalla, Illinois, in De Witt County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Gibson City Grain Inspection Department, Givson City, Illinois: Farm Service, Arrowsmith, Illinois, in McLean County; and

Springfield Grain Inspection Department, Springfield, Illinois: East Lincoln Farmers Grain Co., Lincoln, Illinois, in Logan County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27232 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Cairo Grain Inspection Agency, Cairo, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Cairo Grain Inspection Agency, Cairo, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Cairo Grain Inspection Agency (the "Agency"), 4007 Sycamore Street, Cairo, Illinois 62914, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2637). One comment was received. The Illinois Department of Agriculture indicated that two locations (Twin County Service at Jacob, Illinois, and Jones Ridge, Illinois), situated within the Agency's proposed geographic area have been and are presently being serviced by the Illinois Department of Agriculture. Accordingly, after review of this information with the involved official agencies, and with their concurrence, these two locations are added as exceptions for service to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to the Agency is as follows:

In Illinois, the area shall be bounded on the North by State Route 150 from the Mississippi River north to State Route 3; State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County;

In Illinois, the area shall also include the following counties: Alexander, Johnson, Massac, Pulaski, and Union;

In Kentucky, the area shall include the following counties: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg; and

In Tennessee, the area shall include the following counties: Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Steward, and Weakley.

Exceptions to the foregoing geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by the Illinois Department of Agriculture: Twin County Service at

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Jacob, Illinois, and Jones Ridge, Illinois, in Jackson County.

In addition, the following locations which are outside the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Hopkinsville Elevator Company, Inc., Hopkinsville, Kentucky, and the L & N Railroad siding five miles southeast of Hopkinsville along Alternate U.S. Route 41, in Christian County.

These locations have been restated to more accurately describe the locations by listing the elevator site and railroad siding serviced rather than by general reference to the city, town, or other area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requireing a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27228 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Champaign-Danville Grain Inspection Departments, Inc., Danville, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Champaign-Danville Grain Inspection Departments, Inc. (the "Agency"), 527 East Main Street, Danville, Illinois 61832, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 15, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2638). One comment was received, that a location within the Agency's proposed contiguous geographic area, had been and is presently being serviced by Titus Grain Inspection, Inc. After review of this matter with all affected parties, it was mutually agreed that the York Richland Grain Elevator, Inc., in Earl Park, Indiana, would be made an exception to the Agency's geographic area. Also, additional information was received from the FGIS Peoria Field Office that another agency (Kankakee Grain Inspection Bureau, Inc.), was also providing service to a location within the Agency's proposed area. After discussing this matter with both agencies it was decided, with their consent, to eliminate Herscher, Illinois, and some surrounding area from the Agency's geographic boundary. Because of this, the northern boundaries were changed in part making the Northern Iroquois County line part of the northern boundary instead of State Route 115.

After due consideration of all relevant information available to the United States Department of Agriculture, the geographic area assigned to this agency is as follows:

Bounded: on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana to U.S. Route 41;

Bounded: on the East by U.S. Route 41 south to the southern Fountain County line; the Fountain County line west to Vermilion County;

Bounded: on the South by U.S. Route 36 west into Illinois, to the eastern Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded: on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north and south from this point north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the northern Champaign County line; the western Vermilion and Iroquois County line.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed except as indicated above.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Moultrie Grain Association, Caldwell, Illinois, in Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, Farmer City, Illinois, in De Witt County; Moultrie Grain Association, Lovington, Illinois, in Moultrie County; Monticello Grain Company, Monticello, Illinois, in Piatt County; and Gillespie Grain Company, Pittwood, Illinois, in Iroquois County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Paris Illinois Grain Inspection, Paris, Illinois: Cargill, Inc., Dana, Indiana, in Vermilion County; Miller Grain Company, Newman, Illinois, in Douglas County; and Miller Grain Company, Oakland, Illinois, in Coles County;

Schneider Inspection Service, Inc., Lowell, Indiana: Tidewater Grain Company, Ford Iroquois Supply and Service, and Summer Elevator, Sheldon, Illinois, in Iroquois County; and

Titus Grain Inspection, Inc., West Lafayette, Indiana: Boswell Grain Company, Boswell, Indiana, in Benton County; Dunn Grain, Dunn, Indiana, in Benton County; York Richland Grain Elevator Inc., Earl Park, Indiana, in Benton County; and Raub Grain Company, Raub, Indiana, in Benton County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27230 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to Decatur Grain Inspection, Inc., Decatur, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Decatur Grain Inspection, Inc., Decatur, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Decatur Grain Inspection, Inc. (the "Agency"), 3434 East Wabash Avenue, Decatur, Illinois 62521, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on November 13, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2646). Two written comments were received. The Agency and Bloomington Grain Inspection indicated that the Bloomington Agency has been and is presently providing service to the Pillsbury Co., elevator at Wapella, Illinois. This location had been proposed as part of the Agency's geographic area. Also, information was received from the agency through the FGIS Peoria Field Office, that Chestervale Elevator Co., Chestervale, Illinois, and Stonington Coop Grain Company, Stonington, Illinois, situated within the Agency's proposed geographic area have been and are presently being serviced by Springfield Grain Inspection Department. Accordingly, after review of this information, and with the concurrence of the involved official agencies, the three locations were added as exceptions for service to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the northern and eastern De Witt County lines; the eastern Macon County line south to Interstate 72; Interstate 72 northeast to the eastern Piatt County line;

Bounded: on the East by the eastern Piatt, Moultrie, and Shelby County lines;

Bounded: on the South by the southern Shelby County line; a straight line running along the southern Montgomery County line west to State Route 16 to a point one mile northeast of Irving, Illinois; and

Bounded: on the West by a straight line from the southern boundary northeast to Stonington, Illinois, on State Route 48; a straight line from Stonington northwest to Elkhart, Illinois, on Interstate 55; a straight line from Elkhart northeast to the west side of Beason, Illinois, on State Route 10; State Route 10 east to De Witt County; the western De Witt County line.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Bloomington Grain Inspection, Bloomington, Illinois: Pillsbury Co., Wapella, Illinois, in De Witt County;

Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois: Moultrie Grain Association, Caldwell, Illinois, in Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, Farmer City, Illinois, in De Witt County; Moultrie Grain Association, Lovington, Illinois, in Moultrie County; Monticello Grain Company, Monticello, Illinois, in Piatt County;

Illinois Department of Agriculture Springfield, Illinois: Sigel Elevator Company, Inc., Sigel, Illinois, in Shelby County; and

Springfield Grain Inspection Department, Springfield, Illinois: Chestervale Elevator Co., Chestervale, Illinois, in Logan County; Stonington Coop Grain Company, Stonington, Illinois, in Christian County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In

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addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870, (7 U.S.C. 79))

Done in Washington, D.C., on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27233 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Paris Ill., Grain Inspection, Paris, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Paris Illinois Grain Inspection, Paris, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Paris Illinois Grain Inspection (the "Agency"), 1020 North Central Avenue, Paris, Illinois 61944, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2643). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

Bounded: on the North by U.S. Route 36 from the western Edgar County line east across the Illinois-Indiana State line to the western Parke County line; the northern Parke and Putnam County lines;

Bounded: on the East by the eastern Putnam, Owen, and Greene County lines;

Bounded: on the South by the southern Greene County line, the southern Sullivan County line west to U.S. Route 41 (150); U.S. Route 41 (150) south to U.S. Route 50; U.S. Route 50 west across the Indiana-Illinois State line to Illinois State Route 33; Illinois State Route 33 north and west to the western Crawford County line; and

Bounded: on the West by the western Crawford and Clark County lines; the western Edgar County line north to U.S. Route 36.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed in any way.

Locations outside of the foregoing contiguous geographic area, but also to be serviced by the Agency and considered as part of the Agency's geographic area include: Cargill, Inc., Dana, Indiana, in Vermillion County; Miller Grain Company, Newman, Illinois, in Douglas County; and Miller Grain Company, Oakland, Illinois, in Coles County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by the Illinois Department of Agriculture: Huisinger Grain, Inc., Casey, Illinois, in Clark County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27227 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Quincy Grain Inspection and Weighing Service, Quincy, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Quincy Grain Inspection and Weighing Service, Quincy, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This fianl action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

The Quincy Grain Inspection and Weighing Service (the "Agency"), 902 South 6th Street, P.O. Box 755, Quincy, Illinois 62301, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each offical agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2644). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

In Illinois, the area shall include the following counties: Adams and Brown.

Exceptions to this geographic area are the following locations inside the area which have been and will continue to be serviced by Keokuk Grain Inspection Service, Inc., Keokuk, Iowa: Ursa Farmers Coop., Meyer, Illinois; and Ursa Farmers Coop., Ursa, Illinois, in Adams County. These have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United Stated Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27226 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Springfield Grain Inspection Department, Springfield, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Springfield Grain Inspection Department, Springfield, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Springfield Grain Inspection Department (the "Agency"), 1301 North 15th Street, Springfield, Illinois 62702, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 11, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2645). No comments were received. However, information was received from the FGIS Peoria Field Office, that four locations serviced by the Agency had been inadvertently listed in several nearby agencies' proposed geographic boundaries. Accordingly, after review of this information and with the concurrence of the involved official agencies, these four locations (East Lincoln Farmers Grain Co., Lincoln, Illinois proposed in Bloomington Grain Inspection Department's area; Chestervale Elevator Co., Chestervale, Illinois, and Stonington Coop Grain Company, Stonington, Illinois, both proposed in Decatur Grain Inspection, Inc.'s, area; and OK Grain Co., Litchfield, Illinois, proposed in the Illinois Department of Agriculture's area) have been added to the Agency's proposed geographic area.

After due consideration of all relevant matters and information available to the United States Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded: on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded: on the South by State Route 16 west to Interstate 55; a straight line from the junction of Interstate 55 and State Route 16 northwest to the junction of State Route 111 and the Morgan County line; the southern Morgan and Scott County lines; and

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Bounded: on the West by the western Scott, Morgan, Cass, and Schuyler County lines.

The above has been restated to utilize county lines where possible for classification purposes and does not alter the geographic area as orginally proposed in any way.

In addition, the following locations which are outside the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Chestervale Elevator Co., Chestervale, Illinois, in Logan County; Pillsbury Co., Florence, Illinois, in Pike County; East Lincoln Farmers Grain Co., Lincoln, Illinois, in Logan County; OK Grain Co., Litchfield, Illinois, in Montgomery County; and Stonington Coop Grain Co., Stonington, Illinois, in Christian County. These have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27229 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Illinois Department of Agriculture, Springfield, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Illinois Department of Agriculture, Springfield, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Illinois Department of Agriculture (the "Agency"), Emmerson Building, Illinois State Fairgrounds, Springfield, Illinois 62706, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on November 13, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2634). Two comments were received. The Agency commented that it had discontinued servicing applicants in that portion of Calhoun County previously serviced by the Agency several years ago, and did not wish to make it part of its permanent geographic boundaries. Since a nearby agency (Alton Grain Inspection Department, Inc.) was already providing service to applicants in some of the County, it was decided, with the concurrence of both agencies, to delete that portion of Calhoun County from the Agency's geographic area.

Also, the Agency indicated that it has been and is presently providing service to Twin County Service, at Jacob, Illinois, and Jones Ridge, Illinois. These two points had been proposed as part of Cairo Grain Inspection Agency's geographic area. Accordingly, after review of this information with the two agencies and with their concurrence, these locations have been added to the Agency's geographic area.

Additionally, the FGIS Peoria Field Office indicated that OK Grain Co., Litchfield, Illinois, situated within the Agency's proposed geographic area, had been and is presently serviced by Springfield Grain Inspection Department. After review of this situation with the affected agencies, and with their concurrence, this location has been made an exception to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture the geographic area assigned to the Agency is as follows:

The Northern section of the area shall be:

Bounded: on the North by the northern Stephenson, Winnebago, Boone, and McHenry County lines; the northern Lake County line east to Interstate 94;

Bounded: on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to the Southern Dupage County line;

Bounded: on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded: on the West by the western Lee, Ogle, and Stephenson County lines.

The Southern Section shall be:

Bounded: on the North by the northern Pike and Greene County lines; the northern Macoupin County line east to State Route 111; a straight line from junction of State Route 111 and the Macoupin County line southeast to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately one mile northeast of Irving, Illinois; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines; the northern and eastern Jasper County lines south to State Route 33; State Route 33 east-southeast to U.S. Route 50; U.S. Route 50 east to the eastern Lawrence County line;

Bounded: on the East by the eastern Lawrence, Wabash, Edwards, White, Gallatin, Hardin, and Pope County lines;

Bounded: on the South by the southern Pope and Williamson County lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and

Bounded: on the West by the Mississippi River north to Interstate 270; Interstate 270 east to Interstate 70; Interstate 70 east to State Route 4; State Route 4 north to Macoupin county; the southern and western Macoupin, Greene, and Pike County lines.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed in any way.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Huisinga Grain, Inc., Casey, Illinois, in Clark County; Twin County Service at Jacob, Illinois, and Jones Ridge, Illinois, in Jackson County; Leland Farmers Company, Leland, Illinois, in La Salle County; and Sigel Elevator Company, Inc., Sigel, Illinois, in Shelby County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by Springfield Grain Inspection Department, Springfield, Illinois: Pillsbury Co., Florence, Illinois, in Pike County; and OK Grain Company, Litchfield, Illinois, in Montgomery County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C., on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27234 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

V45/174 SE5 80
UMI

federal register

Friday
September 5, 1980

Part V

Department of Health and Human Services

Public Health Service

Grants to Health Systems Agencies; Discretionary Funding

V45/174 SE5 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 122

Grants To Health Systems Agencies; Discretionary Funding

AGENCY: Public Health Service, HHS.

ACTION: Interim regulations with request for comments.

SUMMARY: These regulations set forth rules governing the award of additional funds under section 1516 of the Public Health Service Act, as amended by Pub. L. 96–79, to health systems agencies to assist those agencies in meeting certain extraordinary expenses which would not otherwise be covered by their health planning grants. Interested persons are invited to comment on these regulations. Following consideration of the comments received, the Secretary will publish an analysis of the comments and will revise these regulations if appropriate.

DATES: These regulations are effective September 5, 1980. To be considered, comments must be received on or before November 4, 1980. All comments received will be available for public inspection and copying at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday (Federal holidays excepted).

ADDRESS: Interested persons may submit written comments and recommendations concerning these regulations to: Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, 3700 East-West Highway, Room 6–22, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Lee Teets, Chief, Grants and Contracts, Administration Branch, Bureau of Health Planning, 3700 East-West Highway, Room 5–50, Hyattsville, Maryland 20782, (301) 436–6107

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, is amending 42 CFR Part 122, Subpart C, by adding a new § 122.204A entitled *"Discretionary funding."* This new section implements section 1516(d)(2) of the Public Health Service Act, ("the Act") as amended by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79). Section 1516(d)(2) authorizes the Secretary to use not more than five percent of the funds appropriated for grant awards to health systems agencies ("HSAs") for any fiscal year to assist HSAs in meeting extraordinary expenses which would not otherwise be covered by the amount of their grants awarded under section 1516(b) of the Act.

Although the Secretary is authorized to set aside up to five percent of the amount appropriated for grants to HSAs to assist these agencies in meeting extraordinary expenses, she has determined that not more than $1.7 million (1.4% of the appropriation) can be made available for discretionary funding during the current Federal fiscal year. This amount was determined consistent with the congressional intent that award of these additional funds not result in a reduction of per capita funding of HSAs from the previous fiscal year. (See S. Rep. No. 96–420, 96th Cong., 1st Sess., 62 (1979).)

Eligibility. The Secretary has determined that, depending upon the availability of discretionary funds, any fully designated HSA which serves (1) a large geographic area, (2) an interstate health service area, and/or (3) a large medically underserved population is eligible to apply for additional funds under section 1516(d)(2) of the Act.

The Secretary has determined that only fully designated agencies will be eligible to apply for discretionary funds because of the limited amount of those funds and her view that such funds should be awarded to those HSAs which are performing all of the functions required under the statute and regulations. The Secretary further notes, however, that regulations are currently being developed to govern the funding of conditionally designated HSAs and will address the issue of funding for extraordinary expenses incurred by those agencies.

Although the Secretary realizes that there may be other categories which could be added to these regulations, the three above-listed categories have been selected because (1) they are specifically identified in section 1516(d)(2) as examples of the types of factors which are likely to generate extraordinary expenses, and (2) statements made by HSAs during several regional meetings held to discuss Pub. L. 96–79 urged that these three categories should be given priority consideration. One other category was specifically mentioned in the statute as an example of an area which should be considered for possible funding. This category consisted of the development and implementation of innovative health planning techniques. For this fiscal year, however, discretionary funds are not proposed to be awarded in this area due to the limited amount of funds available and the time involved in developing appropriate criteria, soliciting, evaluating, rating and funding projects of this type.

Because of the congressional directive that the discretionary funds be "promptly distributed," and for the reasons stated above, the Secretary has determined that public participation in the rulemaking process prior to the adoption of these regulations is impracticable and contrary to the public interest. The public is invited, however, to submit comments on these regulations in an effort to determine whether the three selected categories should be revised or expanded for future fiscal year appropriations. The Secretary is soliciting comments particularly on the amounts of discretionary funds that should be allocated to innovative planning techniques and the types of innovative planning techniques that should be funded.

Large geographic areas: Eligibility for additional funding under this category is based on two factors: size and population density. The regulations set out below state that an HSA will be considered eligible for additional funding if (1) it covers 20,000 square miles or more or (2) it covers 10,000–19,999 square miles and has a population density of less than 50 persons per square mile. In the case of areas which cover 20,000 square miles or more, those whose population density is less than 50 persons per square mile are eligible to receive a larger additional amount than those whose population density is 50 or more persons per square mile.

The Secretary has predetermined the large geographic areas eligible for discretionary funding based upon factors used in determining whether to grant population waivers under section 1511(a)(3) of the Public Health Service Act (See *Guidelines for Designation of Health Service Areas,* February 1975, Bureau of Health Planning and Resources Development). The amount of additional funds to be awarded is based on the findings made in a study conducted for the Bureau of Health Planning on "Funding Adequacy and Staffing Needs in Health Systems Agencies," March 1978. This study suggested that a maximum of $50,000 to $70,000 in additional funds be awarded to HSAs serving "large geographic areas," and particularly encouraged additional funds for HSAs serving a "large geographic area with low population." The amount of additional costs associated with a large geographic area ranged from a low of approximately $19,000 to a high of over $300,000.

Because of the limited availability of funds for this discretionary program, coupled with the fact that HSAs with large populations are more capable of meeting their expenses under the population-based section 1516(c) formula than are HSAs with smaller populations, the Secretary has determined that for the current fiscal year (1) HSAs which serve areas of 20,000 square miles or more and which have a population density of less than 50 persons per square mile will be eligible to receive $15,000 in additional funds to meet their extraordinary expenses; (2) HSAs which serve 20,000 square miles or more and which have a population density of 50 or more persons per square mile will be eligible to receive $7,500; and (3) HSAs which serve areas of 10,000–19,999 square miles and which have a population density of less than 50 persons per square mile will be eligible to receive $7,500. A total of approximately $750,000 will be allocated for this purpose this fiscal year.

Interstate HSAs: The regulations set out below provide that HSAs whose health service areas include portions of two or more States will be eligible to receive additional funds to assist them in meeting extraordinary expenses associated with their interstate status.

A study conducted by the Bureau of Health Planning in 1978 on "Extraordinary Costs of Interstate HSAs" indicated that on the average these HSAs incurred approximately $22,000 a year in additional costs related to their interstate status. The amount of additional costs ranged from a low of approximately $7,500 to a high of over $50,000. Because of the limited funds available, however, the Secretary has determined that during this fiscal year, HSAs whose health service areas include portions of two or more States will be eligible to receive $7,500 to assist them in meeting their extraordinary expenses, unless the agency requests a lesser amount. A total of approximately $115,000 will be allocated for this purpose this fiscal year.

Large medically underserved populations: The regulations provide that HSAs serving areas with a medically underserved population of at least 25 percent of the population of the area or 250,000 persons, whichever is less, will be eligible to receive additional funds. For purposes of this regulation, medically underserved populations will be those designated by the Secretary under 42 CFR 51c.102(e).

The population threshold of 25 percent or 250,000, whichever is less, was established by examining the medically underserved populations in existing health service areas. All but a very few HSAs have some medically underserved populations within their health service areas. In roughly one-half of the health service areas, 25 percent or 250,000 or more of the population is medically underserved; and those health service areas account for more than 75 percent of the total medically underserved population in the country. Because only $1.7 million is available for discretionary funding this fiscal year, and because approximately $900,000 will be required for funding related to large geographic areas and interstate HSAs, only approximately $800,000 will be available for HSAs serving medically underserved areas. Therefore, the Secretary has determined to limit eligibility to those HSAs serving a health service area where the medically underserved population constitutes at least 25 percent of that area's total population or 250,000, whichever is less. Some 90-odd HSAs, with medically underserved populations totalling over 40 million, are eligible under the latter test. The Secretary has therefore determined that each HSA which serves such a population is eligible to receive two cents for each person in a medically underserved population within its health service area, unless the agency requests a lesser amount. Clearly, the amounts that those HSAs eligible for such funding could usefully expend to improve, expand, and accelerate their planning and implementation efforts aimed specifically at enhancing the availability of ambulatory and other health care services to their medically underserved populations, far exceed two cents per capita.

Accordingly, Title 42, Code of Federal Regulations, is amended by the addition of a new § 122.204A to Part 122, as set forth below.

Dated: August 28, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: September 2, 1980.

Patricia Roberts Harris,

Secretary.

§ 122.204A Discretionary funding.

In addition to the grant award under § 122.204(a), the Secretary may, under the circumstances set forth below, award a fully designated HSA an amount determined under paragraph (c) of this section to assist it in meeting extraordinary expenses which would not otherwise be covered under the grant award.

(a) *Eligibility.*

(1) Any fully designated agency which (i) serves a large geographic health service area, or (ii) whose health service area is located in portions of two or more States, or (iii) serves a health service area with a medically underserved population of at least 25 percent of the population of the area or 250,000 persons, whichever is less, is eligible to apply for additional funds under this subpart to assist in meeting the extraordinary expenses associated with these three characteristics.

(2) For purposes of this subparagraph, (i) medically underserved populations will be those designated by the Secretary under 42 CFR 51c.102(e), and (ii) an agency will be considered to serve a large geographic health service area if the area covers (A) 20,000 square miles or more, or (B) 10,000–19,999 square miles and has a population density of less than 50 persons per square mile.

(b) *Application.* Eligible agencies may apply for these additional funds by submitting PHS Form 5161–1.

(c) *Amount.* The amount of additional funds to be awarded under this section is as follows:

(1) An agency described in paragraph (a)(1)(i) of this section will receive in fiscal year 1980 (i) $15,000 if it serves a health service area which covers 20,000 square miles or more and has a population density of less than 50 persons per square mile; (ii) $7,500 if it serves a health service area which covers 20,000 square miles or more and has a population density of 50 or more persons per square mile, or (iii) $7,500 if it serves a health service area which covers 10,000–19,999 square miles and has a population density of less than 50 persons per square mile, unless the agency requests a lesser amount.

(2) An agency described in paragraph (a)(1)(ii) of this section will receive in fiscal year 1980 $7,500 unless the agency requests a lesser amount.

(3) An agency described in paragraph (a)(1)(iii) of this section will receive in fiscal year 1980 an amount equal to the product of two cents and the medically underserved population of the health service area, unless the agency requests a lesser amount.

[FR Doc. 80-27452 Filed 9-3-80; 2:05 pm]

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Reader Aids

Federal Register
Vol. 45, No. 174
Friday, September 5, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator.
Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

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53363 8–11–80 / Terms, conditions, and limitations of certificates to engage in charter air transportation; removal of limitations on cargo charters

53365 8–11–80 / Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only; removal of limitations on cargo charters

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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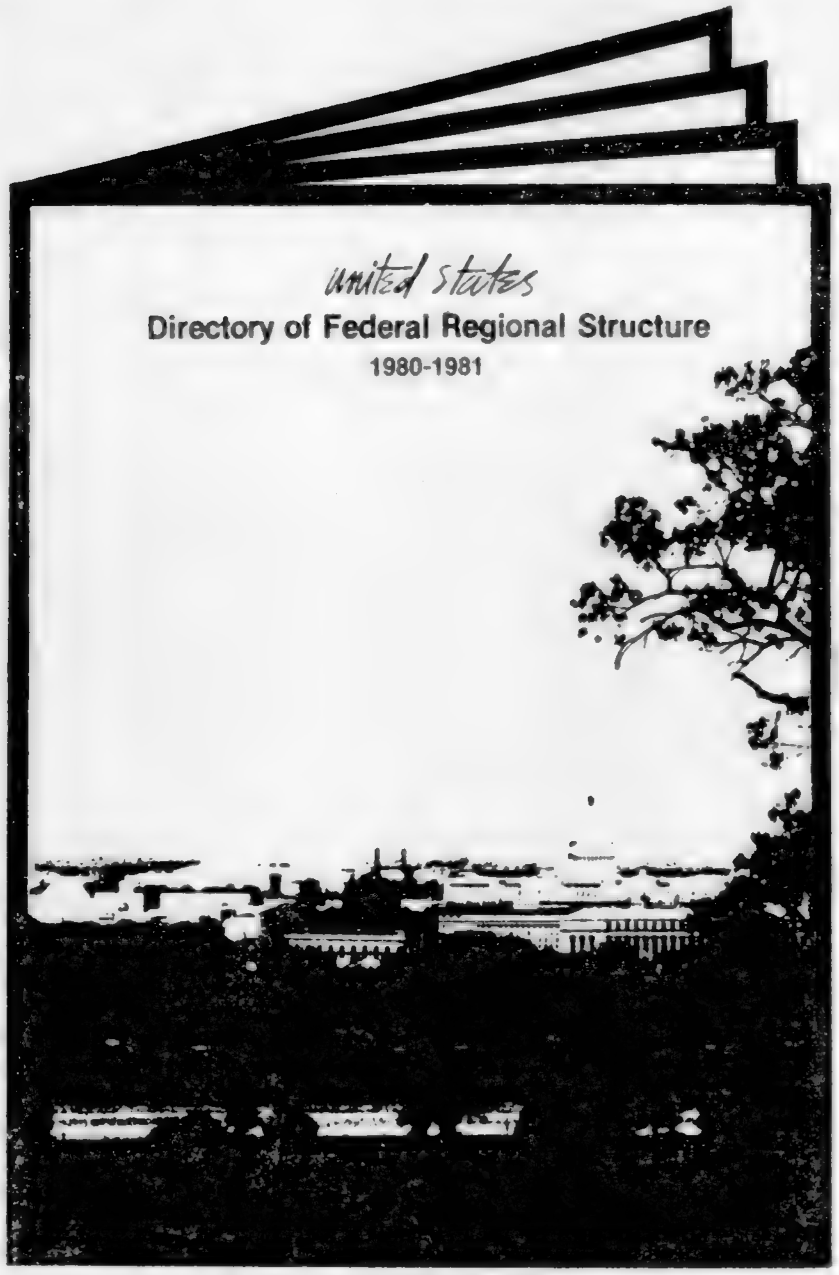
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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Monday, September 8, 1980

Presidential Documents

Title 3—

The President

Proclamation 4790 of September 4, 1980

National Forest Products Week, 1980

By the President of the United States of America

A Proclamation

The vast, unforgettable forests of America have always been one of our most precious treasures. Today, we have some 740 million acres of woodland—roughly one-third of the Nation's land area. This vast resource provides many of the products we depend upon—lumber for our homes, paper for recording our thoughts, fuel for heating and cooking, and the basic elements of thousands of other products.

Seventy-five years ago, the Forest Service was created within the United States Department of Agriculture to help conserve and protect America's forestlands. The dedicated men and women of this agency can be proud of their accomplishments. The science of forestry has made great strides. Today, researchers are finding ways to speed the growth of trees; discovering new methods for protecting forests from fire, insects, and disease; and developing production methods for more fully utilizing our wood resources. New methods for extracting energy from wood are also under development to help solve the Nation's energy problems.

Progress is also being made in the effort to ensure that adequate areas of our forests are preserved in their natural state for the enjoyment and benefit of Americans both now and in the future. Congress is now considering my recommendations for classifying an additional 15.4 million acres as wilderness within the National Forest System. These lands, in addition to the wilderness already created by Congress, will preserve the pristine quality of more than 30 million acres of National Forest.

While our forests continue to meet our demands for wood and recreation today, careful management is needed if they are to continue to do so in the future. All of us need to become more aware of the role woodlands play, directly and indirectly, in our lives. We must strive to improve our small woodlots as well as our large, professionally managed, public and private forests.

In order to promote awareness and to recognize the efforts of the thousands of men and women who have devoted their lives to managing this valuable resource, the Congress has designated the third week in October as National Forest Products Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of October 19 through October 25, 1980, as National Forest Products Week and ask all Americans to demonstrate their appreciation of the value of forests through suitable activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of September, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-27639
Filed 9-4-80; 4:14 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 175
Monday, September 8, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

Mandatory Petroleum Price Regulations; Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 20 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of September, October, and November 1980 of $6.56, $6.62, and $6.68 per barrel (lower tier) and $14.65, $14.77 and $14.90 per barrel (upper tier), respectively.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202–653–4055.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202–653–3459.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction*
B. *Crude Oil Price Schedule No. 20*

A. Introduction

On May 30, 1980, we issued Crude Oil Price Schedule No. 19 (45 FR 38038, June 6, 1980), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. This policy will continue during the period of September 1980 through September 1981 as we gradually decontrol domestic crude oil. Accordingly, we are issuing Crude Oil Price Schedule No. 20 which provides for lower tier and upper tier crude oil during the months of September, October and November 1980 to take into account the impact of inflation.

B. Crude Oil Price Schedule No. 20

Under Crude Oil Price Schedule No. 20, the August 1980 lower tier ceiling price (the May 15, 1973 posted price plus $2.81 per barrel, resulting in an average first sale price of approximately $6.50 per barrel), and the August 1980 upper tier ceiling price (the September 30, 1975 posted price plus $1.86, resulting in an average first sale price of approximately $14.53 per barrel), are adjusted for inflation for September, October and November 1980, based on the first revision of the GNP deflator published on August 19, 1980, which reflects an annual rate of inflation of 10.6 percent.

1. Lower tier ceiling prices

Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October and November 1980, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00843 which when applied over a twelve-month period yields an effective annual rate of adjustment of 10.6 percent.
B. September 1980 adjustment=(6.50) (.00843) per barrel $.055 per barrel rounded to $.06 per barrel
C. October 1980 adjustment=($6.50 + .06) (.00843) per barrel = $0.55 per barrel rounded to $.06 per barrel
D. November 1980 adjustment=($6.50 + .06 + .06) (.00843) per barrel = $0.56 per barrel rounded to $.06 per barrel

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of September, October and November 1980 are computed as follows:

September 1980=$6.50 + $.06 = $6.56
October 1980=$6.56 + $.06 = $6.62
November 1980=$6.62 + $.06 = $6.68

Using an average highest posted field price on May 15, 1973, of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
September 1980	May 15, 1973 highest posted field price plus $2.87.	$6.56
October 1980	May 15, 1973 highest posted field price plus $2.93.	$6.62
November 1980	May 15, 1973 highest posted field price plus $2.99.	$6.68

[1] Estimated average first sale price.

Upper tier ceiling prices

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October and November 1980 are determined pursuant to the following methodology:

A. Adjustement factor (explained above)=.00843
B. September 1980 adjustment=($14.53)(.00843) per barrel=$.122 per barrel rounded to $.12 per barrel
C. October 1980 adjustment=($14.53 + .12) (.00843) per barrel = $.124 per barrel rounded to $.12 per barrel
D. November 1980 adjustment=($14.53 + .12 + .12) (.00843) per barrel = $.125 per barrel rounded to $.13 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of September, October and November 1980, are computed as follows:

September 1980=$14.53 + $.12 = $14.65
October 1980=$14.65 + $.12 = $14.77
November 1980=$14.77 + $.13 = $14.90

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
September 1980	September 30, 1975 highest posted field price plus $1.98.	$14.65
October 1980	September 30, 1975 highest posted field price plus $2.10.	14.77
November 1980	September 30, 1975 highest posted field price plus $2.23.	14.90

[1] Estimated average first sale price.

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(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159 as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective September 1, 1980.

Issued in Washington, D.C., August 29, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 20 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

Appendix

* * * * *

Schedule No. 20 of Monthly Price Adjustments Effective Sept. 1, 1980

Month	Lower Tier	Upper Tier
	May 15, 1973 posted price [1] (plus)	Sept. 30, 1975 posted price [2] (plus)
1976:		
February	1.35	−1.32
March	1.38	−1.25
April	1.41	−1.18
May	1.45	−1.11
June	1.48	−1.05
July	1.48	−1.05
August	1.48	−1.05
September	1.48	−1.05
October	1.48	−1.05
November	1.48	−1.05
December	1.48	−1.05
1977:		
January	1.48	−1.25
February	1.48	−1.25
March	1.48	−1.70
April	1.48	−1.70
May	1.48	−1.70
June	1.48	−1.70
July	1.48	−1.70
August	1.48	−1.70
September	1.51	−1.44
October	1.54	−1.18
November	1.57	−.92
December	1.59	−.87
1978:		
January	1.61	−.82
February	1.63	−.77
March	1.66	−.71
April	1.69	−.65
May	1.72	−.59
June	1.75	−.52
July	1.78	−.45
August	1.81	−.38
September	1.86	−.28
October	1.91	−.17
November	1.96	−.06
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96
December	2.45	1.05
1980:		
January	2.49	1.14
February	2.53	1.23
March	2.57	1.33
April	2.61	1.43
May	2.66	1.53
June	2.71	1.64
July	2.76	1.75
August	2.81	1.86
September	2.87	1.98
October	2.93	2.10
November	2.99	2.23

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on August 29, 1980, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1980, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 19 effective June 1, 1980, are further increased as indicated in this schedule, effective September 1, 1980.

This schedule is effective only through November 30, 1980.

[FR Doc. 80–27477 Filed 9–5–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–WE–40–AD; Amdt. 39–3907]

Hiller Model UH–12 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement, if necessary, of rotor drive system torsional coupling on Hiller Model UH–12 Series helicopters. The AD is needed to prevent loss of power to the rotor system attributed to fatigue failure of the coupling.

DATES: Effective September 8, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93275.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA
800 Independence Avenue, S.W.
Washington, D.C. 20591,
or
Rules Docket in Room 6W14, FAA
Western Region
15000 Aviation Boulevard
Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California. Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION: There have been reports of failures of torsional couplings (P/N 21046) on Hiller Model UH–12 Series helicopters These failures are the result of overtorqueing the six nuts which clamp the upper and lower torsional coupling segments, and could result in failure of the mechanical drive system to transmit power. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection and replacement, if necessary, of rotor drive torsional couplings on Hiller Model UH–12 Series helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Hiller Aviation: Applies to Models UH–12E and UH–12E (4 place) series helicopters certificated in all categories (including military Models H–23F and OH–23G).

Compliance required as indicated, unless already accomplished.

To prevent possible loss of driving torque to the helicopter rotor system accomplish the following:

(a) Within 300 hours' time in service from the effective date of this AD and thereafter at intervals not to exceed 300 hours' additional time in service since the last such inspection, inspect the rotor drive torsional coupling P/N 20146 for general condition and for adequacy of clamp-up per paragraphs 2.D, 2.E and 2.F of Hiller Aviation Service Bulletin SB UH–12–21–1 dated August 4, 1980 (hereinafter referred to as SB UH-12–21–1).

(b) If torsional coupling is found to be servicable, reinstall per paragraph 2.G and 2.H of SB UH–12–21–1 and revert to the repetitive inspection schedule of paragraph (a) of this AD.

(c) If torsional coupling installation does not meet the inspection requirements of paragraph (a) of this AD, replace with like serviceable part(s) and revert to the repetitive inspection schedule of paragraph (a) of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 8, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Los Angeles, Calif. on August 22, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80–27176 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–SO–46, Amdt. No. 39–3908]

Piper Model PA–28R Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and modification, as necessary, of the mufflers and muffler shrouds on certain Piper Model PA–28R series airplanes. The AD is prompted by reports of worn through and broken mufflers which could result in carbon monoxide entering the cabin through the cabin heating system.

DATES: Effective September 12, 1980. Compliance required within the next 50 hours time in service after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lockhaven, Pennsylvania 17745.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: R. C. Padgett, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7435.

SUPPLEMENTARY INFORMATION: There have been reports of worn through and broken mufflers caused by loose fitting muffler shroud end plates on certain Piper Model PA–28R series airplanes. This condition can result in carbon monoxide entering the cabin through the cabin heating system. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires the inspection of mufflers and muffler shrouds for loose fit or excessive wear and maintenance action as necessary on certain Piper Model PA–28R series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation. Applies to Model PA–28R–180 serial numbers 28R–30002 through 28R–7130013; Model PA–28R–200 serial numbers 28R–35001 through 28R–7635545; PA–28R–201 serial numbers 28R–7737001 through 28R–7837317; and PA–28RT–201 serial numbers 28R–7918001 through 28R–8018088 airplanes certificated in all categories.

Compliance required within the next 50 hours time in service after the effective date of this AD unless already accomplished.

To prevent possible leakage of carbon monoxide into the cabin, accomplish the following:

(a) Remove upper and lower engine cowling.

(b) Remove and discard clips on muffler shroud end plates shown on Figure 1.

(c) Inspect for movement between the muffler shroud end plates and the muffler pipes.

(d) If there is no relative movement, the muffler assembly is acceptable and no modification is necessary.

(e) If relative movement is observed, accomplish the following:

(1) Remove and disassemble the muffler and shroud assembly from the engine and inspect all parts for wear and cracking. Repair or replace as necessary.

Note.—During the inspection required in (1), direct particular attention to the muffler shroud end plates and the mating area of contact on the muffler tubes.

(2) Rework the end plates to provide a 0.030 inch minimum gap between the plates after assembly as shown in figures 1 and 2.

(3) Slot the two 0.141 inch holes in the top of the shroud assembly to allow the screws to be installed without causing deformation of the shroud skin.

(4) Install the two screws holding the shroud assembly on the bottom side of the muffler prior to installing the strap clamps but do not tighten until the top screws are in place.

(5) Install the strap clamps, tightening to a torque of 25 to 30-inch pounds.

(6) Install and tighten the two top screws then tighten the bottom screws.

(7) Inspect the muffler and shroud assembly for tightness. If relative motion still exists between the muffler pipes and the muffler shroud end plates, repeat steps (1) through (6) until any relative motion is eliminated.

(8) Reinstall the muffler assembly in the aircraft using new exhaust gaskets, Lycoming part number 65321, and torque exhaust stack nuts to 120 to 170-inch pounds.

(f) Make an appropriate maintenance record entry.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Note.—Piper Service Bulletin No. 691, dated August 6, 1980, pertains to this subject.

This amendment becomes effective September 12, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in East Point, Ga., on August 25, 1980.

Louis J. Cardinali,

Director, Southern Region.

BILLING CODE 4910–13–M

FIGURE 1.

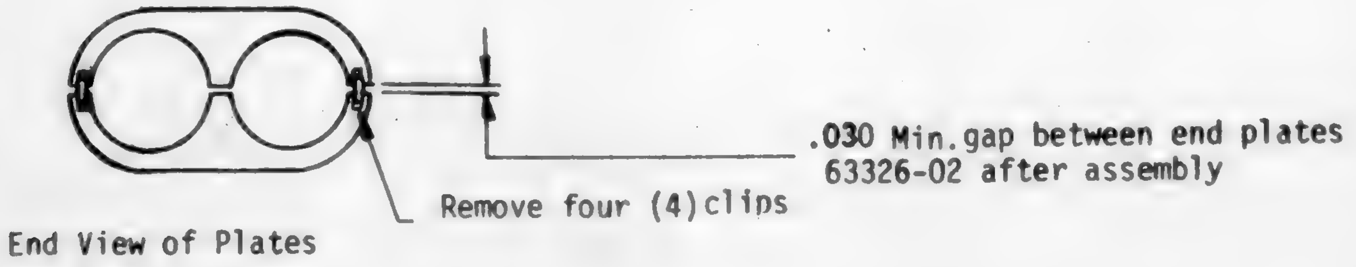
.030 Min.gap between end plates
63326-02 after assembly
Remove four (4)clips
End View of Plates

FIGURE 2.

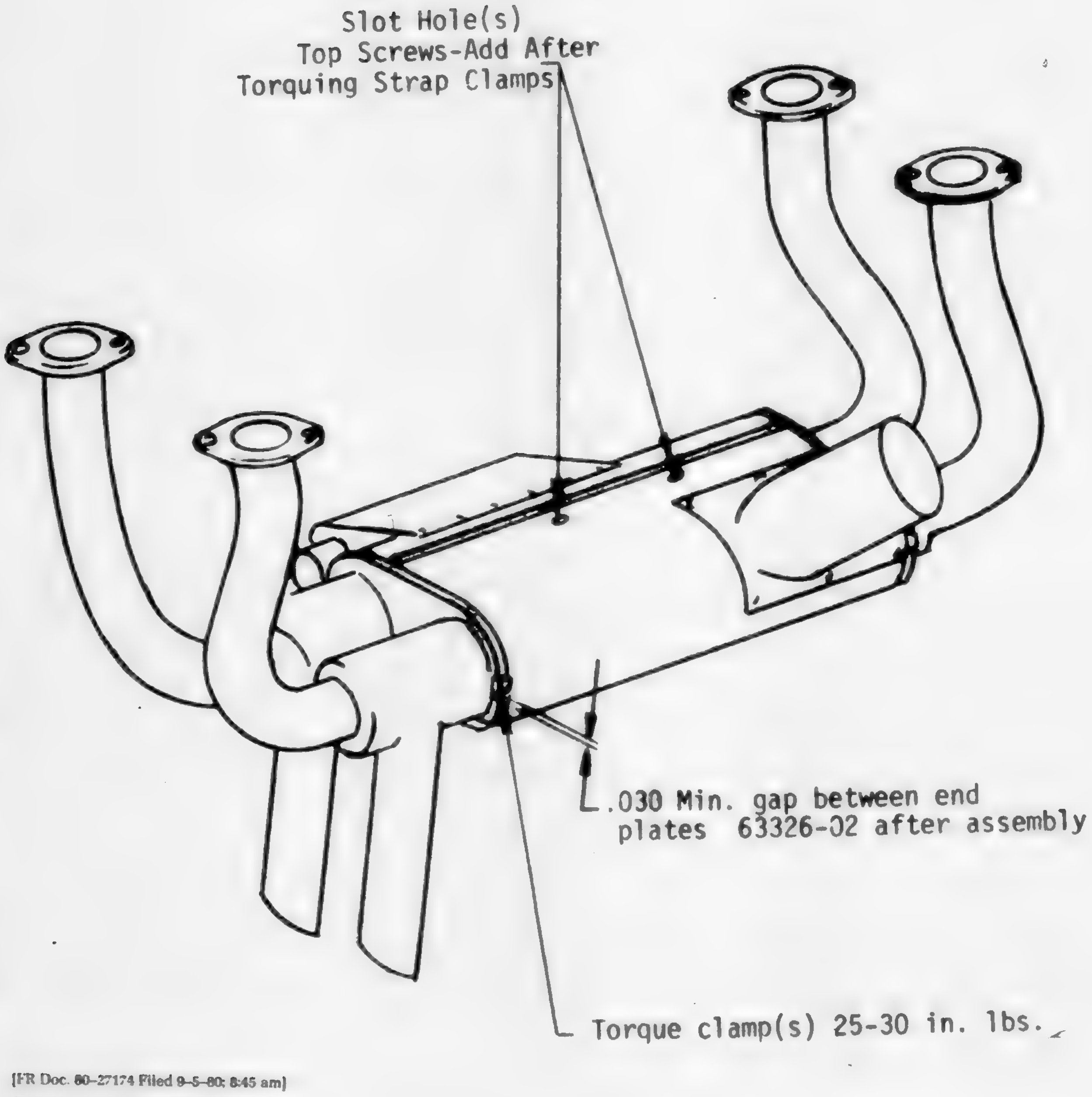
Slot Hole(s)
Top Screws-Add After
Torquing Strap Clamps
.030 Min. gap between end
plates 63326-02 after assembly
Torque clamp(s) 25-30 in. lbs.

[FR Doc. 80-27174 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 80-NW-28-AD; Amdt. 39-3910]

Airworthiness Directives: Hiller UH-12D and UH-12E as Modified by Soloy Conversions, Ltd.; STC Nos. SH177WE and SH178WE Respectively

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires replacement of the engine output coupling shaft to prevent excessive torsional stresses which could lead to engine, transmission, or driveline failure resulting in loss of power to the rotor drive system. This AD is prompted by investigations which show that certain combinations of engine and torquemeter gear induce steady-state torsional vibrations which exceed the engine manufacturer's approved installation limits.

DATES: Effective Date: October 11, 1980. Compliance: As indicated in the body of the AD.

ADDRESSES: The Soloy Service Bulletin specified in this directive may be obtained upon request to: Soloy Conversions, Ltd., Post Office Box 60, Chehalis, Washington 98532. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Daniel I. Cheney, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 (206) 767-2520.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** on June 30, 1980, (45 FR 43790) proposing to require replacement of the engine output coupling shaft. This action was prompted by recent testing with an instrumented helicopter drive shaft where torsional vibrations were discovered which exceeded the engine manufacturer's approved installation limits for the engine. Subsequent investigations indicated the problem to be with certain undefined characteristics of the torquemeter gear used in combination with the Soloy Part Number 560-2408-2 drive shaft. This gear is found mainly on Detroit Diesel Allison (DDA) 250-C20B engines but which may also be found on 250-C20 engines.

The replacement drive shaft required by this AD reduces these torsional vibrations to acceptable levels. This action is necessary to preclude engine, transmission, or driveline failure and the resultant loss of power.

Public Participation

Interested persons were invited to comment on the proposed rule. The National Transportation Safety Board (NTSB) commented favorably on the proposed AD. No adverse comments were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Hiller Aviation: Applies to Hiller UH-12D and UH-12E (including 4-place) helicopters certificated in all categories which have been converted to turbine power under Soloy Conversions, Ltd. Supplemental Type Certificates SH177WE or SH178WE.

Compliance required within 500-hours operating time or 180 days, whichever occurs first, after the effective date of this AD.

To prevent engine, transmission, or driveline failure and the resultant loss of power, replace Soloy Part Number 560-2408-2 engine output coupling shaft with Soloy Part Number 660-2408-3 shaft in accordance with Soloy Service Bulletin Number 12-560 dated May 21, 1980, or later FAA Approved revisions.

Equivalent methods of compliance may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Soloy Conversions, Ltd., Post Office Box 60, Chehalis, Washington 98532. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective October 11, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979.

Issued in Seattle, Wash., on August 27, 1980.

Charles R. Foster,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-27175 Filed 9-5-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 20668; Amdt. No. 1172]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

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By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airman (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for the Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective October 30, 1980:

Immokalee, FL—Immokalee, VOR Rwy 18, Original
Miami, FL—Miami Int'l, VOR Rwy 30, Amdt. 3
Naples, FL—Naples Muni, VOR Rwy 4, Original
Naples, FL—Naples Muni, VOR Rwy 22, Original
Pensacola, FL—Pensacola Regional, VOR Rwy 7, Original
Tallahassee, FL—Tallahassee Muni, VOR Rwy 18, Amdt. 6
Tifton, GA—Henry Tift Myers, VOR Rwy 27, Amdt. 4
Tifton, GA—Henry Tift Myers, VOR Rwy 33, Amdt. 6
Cleveland, MS—Cleveland Muni, VOR-A, Amdt. 5
Pembina, ND—Pembina Muni, VOR Rwy 33, Original
Portsmouth, OH—Greater Portsmouth Regional, VOR/DME-A, Amdt. 2
Martinsville, VA—Blue Ridge, VOR-B, Amdt. 3
Martinsville, VA—Blue Ridge, VOR/DME Rwy 30, Original

* * * Effective October 16, 1980:

Eufaula, AL—Weedon Field, VOR Rwy 18, Amdt. 4
Pahokee, FL—Palm Beach County Glades, VOR Rwy 17, Amdt. 8
Campbellsville, KY—Taylor County, VOR/DME-A, Amdt. 3
Louisville, KY—Standiford Field, VOR Rwy 29 (TAC), Amdt. 15
Hallock, MN—Hallock Muni, VOR/DME Rwy 31, Amdt. 3
West Point, MS—McCharen Field, VOR-A, Amdt. 1
West Point, MS—McCharen Field, VOR/DME-B, Amdt. 1
Fargo, ND—Hector Field, VOR Rwy 35, Amdt. 9
Harrisburg, PA—Capital City, VOR Rwy 12, Amdt. 14, cancelled
Morristown, TN—Moore-Murrell, VOR Rwy 5, Amdt. 3, cancelled

* * * Effective October 2, 1980:

Kankakee, IL—Greater Kankakee, VOR Rwy 4, Amdt. 3
Kankakee, IL—Greater Kankakee, VOR Rwy 22, Amdt. 3
Westland, MI—National, VOR-A, Amdt. 4, cancelled
Jamestown, ND—Jamestown Muni, VOR Rwy 12, Amdt. 5
Jamestown, ND—Jamestown Muni, VOR Rwy 30, Amdt. 6

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective October 30, 1980:

Miami, FL—Miami Intl, LOC/DME Rwy 30, Amdt. 1
Tallahassee, FL—Tallahassee Muni, LOC BC Rwy 18, Amdt. 12

* * * Effective October 16, 1980:

Fargo, ND—Hector Field, LOC BC Rwy 17, Amdt. 9
Morristown, TN—Moore-Murrell, SDF Rwy 5, Original
Bremerton, WA—Kitsap County, LOC BC Rwy 1, Amdt. 2

* * * Effective October 2, 1980:

Decatur, IL—Decatur, LOC BC Rwy 24, Amdt. 6
Grand Forks, ND—Grand Forks Intl, LOC BC Rwy 17, Amdt. 5
Jamestown, ND—Jamestown Muni, LOC/DME BC Rwy 12, Amdt. 3
Portland, OR—Portland Intl, LOC BC Rwy 10L, Amdt. 11

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective October 30, 1980:

Cullman, AL—Folsom Field, NDB Rwy 19, Original
Tallahassee, FL—Tallahassee Muni, NDB Rwy 36, Amdt. 15
Gainesville, GA—Lee Gilmer Memorial, NDB Rwy 4, Amdt. 4
Tifton, GA—Henry Tift Myers, NDB Rwy 33, Amdt. 8
Cleveland, MS—Cleveland Muni, NDB Rwy 17, Amdt. 3
Portsmouth, OH—Greater Portsmouth Regional, NDB Rwy 36, Original
Martinsville, VA—Blue Ridge, NDB-A, Amdt. 3
Racine, WI—Horlick-Racine, NDB Rwy 4, Original
Racine, WI—Harlick-Racine, NDB Rwy 22, Amdt. 1, cancelled

* * * Effective October 16, 1980:

West Palm Beach, FL—Palm Beach International, NDB Rwy 9L, Amdt. 15
Campbellsville, KY—Taylor County, NDB Rwy 5, Amdt. 1

Louisville, KY—Standiford Field, NDB Rwy 29, Amdt. 12
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 10
Memphis, TN—Memphis Intl, NDB Rwy 35R, Amdt. 5

* * * Effective October 16, 1980:

Morristown, TN—Moore-Murrell, NDB Rwy 5, Original
Morristown, TN—Moore-Murrell, NDB Rwy 5, Amdt. 4, cancelled
Bremerton, WA—Kitsap County, NDB Rwy 1, Amdt. 10

* * * Effective October 2, 1980:

Decatur, IL—Decatur, NDB Rwy 6, Amdt. 2
Jamestown, ND—Jamestown Muni, NDB Rwy 30, Amdt. 4
Portland, OR—Portland Intl, NDB Rwy 28L, Amdt. 1
Portland, OR—Portland Intl, NDB Rwy 28R, Amdt. 8
Troutdale, OR—Portland-Troutdale, NDB-A, Amdt. 6

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective October 30, 1980:

Tallahassee, FL—Tallahassee Muni, ILS Rwy 36, Amdt. 18

* * * Effective October 16, 1980:

West Palm Beach, FL—Palm Beach International, ILS Rwy 9L, Amdt. 17
Lexington, KY—Blue Grass, ILS Rwy 22, Amdt. 2
Fargo, ND—Hector Field, ILS Rwy 35, Amdt. 27
Florence, SC—Florence City-County, ILS Rwy 9, Amdt. 11
Bremerton, WA—Kitsap County, ILS Rwy 19, Amdt. 7

* * * Effective October 2, 1980:

Pocatello, ID—Pocatello Muni, ILS Rwy 21, Amdt. 21
Decatur, IL—Decatur, ILS Rwy 6, Amdt. 9
Kankakee, IL—Greater Kankakee, ILS Rwy 4, Original
Grand Forks, ND—Grand Forks Intl, ILS Rwy 35, Amdt. 4
Jamestown, ND—Jamestown Muni, ILS Rwy 30, Amdt. 4
Portland, OR—Portland Intl, ILS Rwy 28R, Amdt. 10

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective October 16, 1980:

Lexington, KY—Blue Grass, RADAR-1, Amdt. 5
Gulfport, MS—Gulfport-Biloxi Rgnl, RADAR-1, Amdt. 2
Walls, MS—Twinkle Town, RADAR-1, Amdt. 2
Fargo, ND—Hector Field, RADAR-1, Amdt. 4

* * * Effective October 2, 1980:

Portland, OR—Portland Intl, RADAR 1, Amdt. 21, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective October 30, 1980:

Portsmouth, OH—Greater Portsmouth Regional, RNAV Rwy 18, Amdt. 2

* * * Effective October 16, 1980:

West Point, MS—McCharen Field, RNAV Rwy 36, Amdt. 1
Fargo, ND—Hector Field, RNAV Rwy 13, Amdt. 3
Bremerton, WA—Kitsap County, RNAV Rwy 1, Amdt. 4

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 29, 1980.

John S. Kern,
Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-27172 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Pass Along of Federal Supplemental Security Income Benefit Cost-of-Living Increases to Recipients of State Supplementary Payments; Limitations on State Costs for Hold-Harmless States

Correction

In FR Doc. 80-24862 appearing at page 54742 in the issue for Monday, August 18, 1980, in § 416.2096(c)(5), on page 54750 (first column), in the second line, the word "afer" should read "after".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1251

[Docket No. 79-10; Notice 3]

State Highway Safety Agency

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes new requirements for the authority and function of State highway safety agencies. The intent of these requirements is to improve the management of highway safety programs on a Statewide basis by upgrading the role of the central highway safety agencies. This program is listed in the Catalogue of Federal Domestic Assistance (CFDA) as the State and Community Highway Safety Program, CFDA No. 20.600, Part III of OMB Circular No. A-95 (revised) applies.

EFFECTIVE DATE: The effective date for implementation of the rule is October 1, 1980.

FOR FURTHER INFORMATION CONTACT: NHTSA: Adele Spielberger, Office of State Program Assistance, 202-426-1760, or FHWA: James Rummel, Office of Highway Safety, 202-426-2131. Office hours for NHTSA and FHWA are from 7:45 a.m. to 4:15 p.m. Eastern Time, Monday through Friday. All offices are located at 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: As originally enacted, the Highway Safety Act of 1966 (Pub. L. 89-564) provided that the Governor of each State was to be responsible for the State's highway safety programs. Without reducing the responsibility of the Governor, amendments to the Act have directed the exercise of that responsibility through a State agency. The first step in this direction was taken in the Highway Safety Act of 1970, which provided that the responsibility of the Governor was to be exercised "through a State agency which shall have adequate powers and be suitably equipped and organized" to carry out the program (sec. 203, Pub. L. 91-605, 84 Stat. 1741; 23 U.S.C. 402(b)(1)(A)).

In conjunction with the review of the Highway Safety Program Standards mandated by the Highway Safety Act of 1976 (Pub. L. 94-280, 90 Stat. 451), the

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Department of Transportation submitted a report to Congress in which it pointed to the need for improvement in the status of the offices administering the State highway safety programs. In response to this report, and on the basis of its own examination of the highway safety program, the House Committee on Public Works and Transportation prepared an amendment to the State agency provisions of the Act. As enacted, this amendment made it clear that the State agency was to be a State "highway safety" agency (sec. 207(b)(1), Pub. L. 95–599, 92 Stat. 2731).

In explaining the addition of "highway safety" to the State agency requirement, the Committee dwelt at length on the need to have one central authority responsible for a State's highway safety program. In the Committee's view, the intent of the amendment was to ensure that program responsibilities presently fragmented and diffused among several different State agencies be brought together and coordinated by a single State agency with explicit authority for highway safety programs (H.R. Rep. No. 95–1485, at 49).

Notices of Proposed Rulemaking

To carry out the intent of the Highway Safety Act of 1978 with respect to State highway safety agencies, NHTSA and FHWA issued two notices of proposed rulemaking.

The first notice, published on June 21, 1979, (44 FR 36204) drew a number of adverse comments. The authority proposed for the highway safety agencies by the June 21 proposal received a number of strong protests, particularly from those State agencies, such as the Highway Patrol, State Police, and State Highway Departments, that have traditionally played an independent role in highway safety matters. Of particular concern was the authority of the State agency to "coordinate" highway safety programs in the State by reviewing and commenting on highway safety programs of other State agencies prior to implementation of such programs. Many commentors expressed doubts about the capability of the existing highway safety agencies to undertake such a coordinating role. No one supported the increased staff for the safety agencies that would be necessary if the proposed authority were to be effectively exercised.

In response to the objections to the first notice, a second proposed rule was published on December 6, 1979, prescribing a more limited role for the safety agencies. The revised proposal was based largely on an alternative proposal submitted by the National Association of Governors Highway Safety Representatives. As revised, the section proposed that the State agencies be authorized to keep themselves informed about highway safety programs administered by other State and local agencies and to assist the other agencies in developing and carrying out highway safety programs. The "coordinating" role would be carried out by having the safety agency report to the Governor periodically on the effectiveness of highway safety activities in the State, including State and locally-funded activities, as well as those that are federally-funded. The oversight thus exercised would therefore resemble that of a staff agency rather than that of an operating agency, and would not involve either the expanded staff (the review would be on a selective basis) or the delays (the review would not precede implementation) that could result from the first proposal.

The second notice also shortened and simplified the section prescribing the functions of the highway safety agencies. As revised, the list of functions closely resembled those suggested by the National Association of Governors Highway Safety Representatives. The "management" functions were confined to the section 402 funded aspects of the safety agencies' responsibility. With respect to other State and local agencies, the State highway safety agency would act in a supportive, not a managerial capacity. The functions relating to the collection of statistics, which met with objections in the first notice, were limited by the second notice to statistics for the agencies' own purposes, not for the purposes of NHTSA and FHWA. In the final rule, the direction to collect statistics has been deleted while the requirement to assess the performance of the program has been retained and, thus emphasized.

Comments

The majority of commentors to the second notice reacted favorably to the proposed rule, with several noting that the second notice had resolved the objections they had had to the first notice. Those who objected to the second notice stated that the current procedures were adequate and should not be changed (North Carolina DOT, Minnesota Department of Public Safety); that the proposed rule was unnecessary for those States with adequate laws (Washington Department of Licensing); that making Highway Safety Plan approval contingent on compliance with the rule would add another layer of requirements (Oklahoma Department of Public Safety); and that the evaluation function was being adequately performed, either by other agencies or by the legislature's oversight committees (Oklahoma Department of Public Safety, Minnesota Department of Public Safety). By far the largest number of objections were directed at the basic concept of the highway safety agency as an agency with the authority to review and comment on other agencies' highway safety programs, regardless of the funding source for those programs. To these commentors, review was seen as a means of Federal control and intervention in the affairs of State government (see, e.g., the comments from the Colorado State Patrol and the California Highway Patrol). In its most extreme form, this concern was expressed by the Massachusetts Department of Motor Vehicles as the belief that the rulemaking "has as its underlying theme the complete Federal absorption of highway safety programs."

A number of the objections to the proposal could not be met except by retracting the proposal, a course that would violate the intent of the Highway Safety Act of 1978. A highway safety agency whose scope was limited to reviewing federally-funded programs would not serve the purposes intended by Congress when it directed the establishment of the highway safety agencies. The elements of the second notice have therefore been incorporated into the final rule with only minor changes.

In response to a comment that the provision of technical assistance under §§ 1251.3 (c) and (d) could be duplicative of other agencies' assistance (Ohio DOT), a phrase has been added to § 1251.3(c) to make it clear that the highway safety agency can operate as a clearinghouse when assistance is available from other agencies, rather than provide such assistance itself. This would help alleviate the highway safety agency staffing problem noted by several comments. In response to additional comments concerning the duplication of forms (Ohio DOT), it will be the policy under the final rule to use existing procedures and forms wherever possible. Where existing procedures provide for annual review of highway safety programs, such as the annual evaluation report for the Highway Safety Improvement Program cited by the West Virginia Department of Highways, such procedures can be relied on by the safety agencies in their periodic evaluation of safety programs.

The functions of monitoring and auditing, proposed as § 1251.4(f), have been separated into two sections, with the monitoring function described in greater detail in paragraph (f). In keeping with the objectives of Attachment P of Office of Management and Budget Circular A–102, paragraph (g) requires the State to assure that an independent audit is performed both of the Highway Safety Agency and of any use of 402 funds by a subrecipient.

Several comments expressed concern about the lack of implementing instructions for the rule (Washington Traffic Safety Commission, Washington Department of Transportation) and about the need for procedures in the rule to grant exceptions beyond the proposed effective date (National Association of Governors Highway Safety Representatives). The Federal agencies anticipate that most States will be able to comply with the provisions of §§ 1251.3 and 1251.4 in a timely manner.

As stated in § 1251.2 of the rule, approval of a State's Highway Safety Plan will depend upon the State's compliance with §§ 1251.3 and 1251.4. Any difficulties that a State might encounter in meeting the October 1 effective date should be brought to the attention of the FHWA/NHTSA regional offices. Any intractable timing problems, such as those caused by a need for legislation, can be taken into account and a schedule devised and approved for complete compliance with the rule.

In consideration of the foregoing, Part 1251 is added to Title 23, Code of Federal Regulations, to read as set forth below:

Note.—The National Highway Traffic Safety Administration and the Federal Highway Administration have determined that this document is a nonsignificant regulation under the regulatory policies and procedures established by the Department of Transportation (44 FR 11034). The anticipated impact of this regulation is so minimal that a full regulatory evaluation is not required.

Issued on: September 2, 1980.

Joan Claybrook,

Administrator, National Highway Traffic Safety Administration.

John S. Hassell, Jr.,

Federal Highway Administrator.

PART 1251—STATE HIGHWAY SAFETY AGENCY

Sec.
1251.1 Purpose.
1251.2 Policy.
1251.3 Authority.
1251.4 Functions.

Authority: 23 U.S.C. 402; 23 U.S.C. 315; 49 CFR 1.48 and 1.50.

§ 1251.1 Purpose.

The purpose of this Part is to prescribe the minimum authority and functions of the State Highway Safety Agency established in each State by the Governor under the authority of the Highway Safety Act (23 U.S.C. 402).

§ 1251.2 Policy.

In order for a State to receive funds under the Highway Safety Act, the Governor shall exercise his or her responsibilities through a State Highway Safety Agency that has "adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary." 23 U.S.C. 402(b)(1)(A). Accordingly, it is the policy of this Part that approval of a State's Highway Safety Plan will depend upon the State's compliance with §§ 1251.3 and 1251.4 of this Part.

§ 1251.3 Authority.

Each State Highway Safety Agency shall be authorized to:

(a) Develop and implement a process for obtaining information about the highway safety programs administered by other State and local agencies.

(b) Periodically review and comment to the Governor on the effectiveness of highway safety plans and activities in the State regardless of funding source.

(c) Provide or facilitate the provision of technical assistance to other State agencies and political subdivisions to develop highway safety programs.

(d) Provide financial and technical assistance to other State agencies and political subdivisions in carrying out highway safety programs.

§ 1251.4 Functions.

Each State Highway Safety Agency shall:

(a) Develop and prepare the Highway Safety Plan prescribed by Volume 102 of the Highway Safety Program Manual (23 CFR 1204.4, Supplement B), based on evaluation of highway accidents and safety problems within the State.

(b) Establish priorities for highway safety programs funded under 23 U.S.C. 402 within the State.

(c) Provide information and assistance to prospective aid recipients on program benefits, procedures for participation, and development of plans.

(d) Encourage and assist local units of government to improve their highway safety planning and administration efforts.

(e) Review the implementation of State and local highway safety plans and programs, regardless of funding source, and evaluate the implementation of those plans and programs funded under 23 U.S.C. 402.

(f) Monitor the progress of activities and the expenditure of section 402 funds contained in the State's approved Highway Safety Plan.

(g) Assure that independent audits are made of the financial operations of the State Highway Safety Agency and of the use of section 402 funds by any subrecipient.

(h) Coordinate the State Highway Safety Agency's Highway Safety Plan with other Federally and non-Federally supported programs relating to or affecting highway safety.

(i) Assess program performance through analysis of data relevant to highway safety planning.

[FR Doc. 80–27293 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 215

[Docket No. R–80–842]

Rent Supplement Payments

AGENCY: Department of Housing and Urban Development (HUD), Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: This Interim Rule implements Section 203(a) (1) and (2) of the Housing and Community Development Amendments of 1979 by redefining "income" to make the tenant eligibility consistent with those of the Section 8 Program for Housing Assistance to Low and Moderate Income Persons. The change is intended to simplify processing under the various programs by making uniform the definitions of eligibility and adjusted income.

EFFECTIVE DATE: October 1, 1980.

COMMENTS DUE DATE: November 7, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading of the document. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410,

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(202) 426–8730. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to implement section 203(a) (1) and (2) of the HCD Amendments of 1979, which changed the definition of qualified tenant in section 101 of the Housing and Urban Developmenmt Act of 1965 to: Any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the day preceding the date of the enactment of the Housing and Community Development Amendments of 1979; and defined the term "income" to mean income as determined under section 8 of the United States Housing Act of 1937. In addition, section 203 eliminated the noneconomic criteria contained in section 101 of the Housing and Urban Development Act of 1965.

The Department is not implementing sections 203 (3) and (4) of the Housing and Community Development Amendments of 1979 at this time. Section 203(3) deletes section 101(e)(1)(B) of the Housing and Urban Development Act of 1965, which requires the Secretary to issue a certificate as to the noneconomic criteria for admission to, and continued occupancy in, rent supplement units, and inserts a provision requiring the Secretary to issue a certificate as to whether the individual or family was occupying substandard housing or was involuntarily displaced at the time assistance was being sought. Section 203(4) adds a new subsection (k) to section 101 providing for a priority to individuals or families who are occupying substandard housing or who are involuntarily displaced at the time they are seeking rent supplement assistance. The Department is presently formulating a definition of "involuntarily displaced" for other program requirements. Since the Department wants the definition to be consistent for all purposes, it was determined that sections 203 (3) and (4) should not be implemented until the Department has arrived at an acceptable definition. As soon as the definition has been developed, this interim rule will be amended by another interim rule amending Part 215 to provide for a priority to individuals and families who were occupying substandard housing or were involuntarily displaced at the time they were seeking rent supplement assistance.

The Secretary has determined that it is urgent to make this rule effective as soon as possible, as it affects positively the eligibility of prospective tenants under the section 101 Rent Supplement Program. These amendments will not adversely affect any individuals or families now participating in the Rent Supplement Program. Since providing an opportunity for public comment on this rule prior to its effective date would delay it for a substantial period of time, the Secretary has found that such rulemaking procedure would be contrary to the public interest. Accordingly, the amendment is being published as an interim rule to become effective as provided above, with a 60-day public comment period following this publication.

The Department will evaluate the comments received on this amendment prior to formulating its final regulation.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The finding of inapplicability in accordance with HUD's Environmental procedures is available for inspection at the Office of the Rules Docket Clerk, at the above address. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

PART 215—RENT SUPPLEMENT PAYMENTS

Accordingly, 24 CFR Part 215 is amended as follows:

1. The Table of Content is revised to read as follows:

215.1. Definitions.
215.5. Scope of rent supplement assistance.
215.10. Projects eligible for benefits.
215.15. Eligible housing owner.
215.20. Qualified tenant.
215.21. Adjusted income (annual income after allowances).
215.25. Certificate of eligibility.
215.30. Provisions applicable to cooperative members.
215.35. Term of contract.
215.40. Maximum annual project payments under contract.
215.45. Maximum payments under contract for each tenant.
215.50. Time of payment under contract.
215.55. Recertification of income under contract.
215.60. Hardship cases.
215.65. Tenant occupancy limitations.
215.70. Form of lease.
215.75. Housing owner's obligation under contract to report tenant income increase.
215.80. Change in tenant income status.

Authority: Section 101(g) of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s).

2. Section 215.20 is revised to read as follows:

§ 215.20 Qualified tenant.

(a)(1) An individual or family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent of the median for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(2) An individual or family who was a qualified tenant under the Rent Supplement Program pursuant to Section 101 of the Housing and Urban Development Act of 1965, on the day preceding the effective date of the publication of this rule.

(b) The benefits of the rent supplement payments are available only to an individual or a family renting a dwelling unit in a project owned by an eligible housing owner or occupying such a dwelling unit as a cooperative member.

(c) For purposes of determining Annual Income, the income shall be determined in accordance with paragraph (d) of this section, except that where an individual or family has Net Assets in excess of $5,000, income shall include the actual amount of income, if any, derived from all of the Net Assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, Net Assets means value of equity in real property, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(d) Except as provided in paragraph (e) of this section, all payments from all sources received by the individual or family head (even if temporarily absent) and each additional member of the household who is not a Minor shall be included in the Annual Income. Income shall include, but not be limited to:

(1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;

(2) The net income from operation of a business or profession or from rental of real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);

(3) Interest and dividends;

(4) The full amount of periodic payments received from Social Security,

annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay (but see paragraph (e)(3) of this section);

(6) Public Assistance. If the Public Assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the Public Assistance Agency in accordance with the actual cost of shelter and utilities, the amount of Public Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus

(ii) The maximum amount which the Public Assistance Agency could be fact allow for the individual or family for shelter and utilities.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is an individual or head of a family or spouse (but see paragraph (e)(5) of this section).

(e) The following items shall not be considered as income:

(1) Casual, sporadic or irregular gifts;

(2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;

(3) Lump-sum additions to assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses (but see paragraph (c) of this section);

(4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes of which are available for subsistence are to be included in income;

(5) The special pay to an individual or head of a family who is in the service, away from home and exposed to hostile fire;

(6) Relocation payments made pursuant to title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(7) Foster child care payments;

(8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;

(9) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:

(i) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs,

(ii) National Older American Volunteer Programs for persons aged 60 and over, which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to assist Small Business Experience, Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).

(f) If the circumstances are such that it is not feasible reasonably to anticipate a level of income over a 12-month period, a shorter period may be used subject to a redetermination at the end of such period.

(g) Whenever the Commissioner determines that a project, because of its location or other considerations, could ordinarily be expected to substantially serve the family needs of military personnel who are serving on active duty and who meet the income requirements established by the Commissioner, such preference for occupancy shall be afforded to the family of such military personnel as the Commissioner determines is appropriate.

3. A new § 215.21 is added to read as follows:

§ 215.21 Adjusted income. (Annual income after allowances)

Annual income as defined in § 215.20 less the following:

(a) $300 for each Minor member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a full-time student.

(b) Medical expenses which exceed 3 percent of the Annual Income and which are to be anticipated during the 12-month period for which the Annual Income is computed, and which are not covered by insurance (however, premiums for such insurance may be included as medical expenses).

(c) Unusual expenses paid by the Family for the care of Minors under 13 years of age or for the care of disabled or handicapped Family household members, but only where such care is necessary to enable a Family member to be gainfully employed, and the amount allowable as Unusual Expenses shall not exceed the amount of income from such employment.

4. Section 215.45 is revised to read as follows:

§ 215.45 Maximum payments under contract for each tenant.

The rent supplement contract shall provide that the payment on behalf of a qualified tenant shall be that amount by which the rent approved by the Commissioner for the unit exceeds one-fourth of the tenant's adjusted income, or exceeds any Public Assistance Payment for housing if such allowance is larger than one-fourth of the tenant's adjusted income.

Issued at Washington, D.C., July 24, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-27474 Filed 9-5-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 236

[Docket No. R-80-841]

Mortgage Insurance and Interest Reduction Payment for Rental Projects

AGENCY: Department of Housing and Urban Development (HUD), Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: This Interim Rule implements Section 203 (b) and (c) of the Housing and Community Development Amendments of 1979 by redefining "income" to make the tenant eligibility consistent with those of the Section 8 Program for Housing Assistance to Low and Moderate Income Persons. The change is intended to simplify processing under the various programs by making uniform the definitions of eligibility and adjusted income.

DATES: Effective date: October 1, 1980.

Comments due date: November 7, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this document. A copy of each communication will be available for public inspection during regular business hours at the above address.

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FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426–8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The change made to Section 236 by Section 203 of the Housing and Community Development Amendments of 1979 was the change in Section 236(m) concerning the definition of income. For the purposes of this section, the term "income" means income as determined under Section 8 of the United States Housing Act of 1937.

The Secretary has determined that it is urgent to make this rule effective as soon as possible, as it affects the eligibility of prospective tenants under Section 236, Mortgage Insurance and Interest Reduction Payment for Rental Projects. This rule will not adversely affect any individuals or families now participating in the Section 236 program. Since providing an opportunity for public comment on this rule prior to its effective date would delay it for a substantial period of time, the Secretary has found that such rulemaking procedure would be contrary to the public interest. Accordingly, the amendment is being published as an interim rule to become effective as provided above, with a 60-day public comment period following this publication. The Department will evaluate the comments received on this amendment prior to formulating its final regulations.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The finding of inapplicability in accordance with HUD's Environmental procedures is available for inspection at the Office of the Rules Docket Clerk, at the above address. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR 236.2 is amended by revising paragraphs (a)–(c), the introductory clause of (d) and (e); and by adding paragraphs (i)–(k). Such provisions read as follows:

§ 236.2 Definitions used in this subpart.

As used in this subpart, the following terms shall have the meaning indicated:

(a) *Qualified tenant.* (1) An individual or family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustment for smaller or larger Families, except that HUD may establish income limits higher or lower than 80 percent of the median for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(2) The benefits of the interest reduction payments are available only to an individual or a family renting a dwelling unit in a project owned by an eligible housing owner or occupying such a dwelling unit as a cooperative member.

(b) Annual Income shall be determined in accordance with paragraph (b)(1) of this section, except that where an individual or family has Net Assets in excess of $5,000, income shall include the actual amount of income, if any, derived from all of the Net Assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, Net Assets means value of equity in real property, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(1) Except as provided in paragraph (b)(2) of this section all payments from all sources received by the individual or Family head (even if temporarily absent) and each additional member of the household who is not a Minor shall be included in the Annual Income. Income shall include, but not be limited to:

(i) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;

(ii) The net income from operation of a business or profession or from rental of real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);

(iii) Interest and dividends;

(iv) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;

(v) Payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay (but see paragraph (b)(2)(iii) of this section);

(vi) *Public Assistance.* If the Public Assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the Public Assistance Agency in accordance with the actual cost of shelter and utilities, the amount of Public Assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus

(B) The maximum amount which the Public Assistance Agency could in fact allow for the individual or Family for shelter and utilities;

(vii) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(viii) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is an individual or head of a Family or spouse (but see paragraph (b)(2)(v) of this section).

(2) The following items shall not be considered as income:

(i) Casual, sporadic or irregular gifts;

(ii) Amounts which are specifically for or in reimbursement of the cost of medical expenses;

(iii) Lump-sum additions to assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation); capital gains and settlement for personal or property losses (but see paragraph (b) of this section);

(iv) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes of which are available for subsistence are to be included in income;

(v) The special pay to an individual or head of a Family who is in the service, away from home and exposed to hostile fire;

(vi) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(vii) Foster child care payments;

(viii) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;

(ix) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:

(A) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer programs.

(B) National Older American Volunteer programs for persons aged 60 years and over which include Retired

Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Programs, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

(3) If the circumstances are such that is not feasible reasonably to anticipate a level of income over a 12-month period, a shorter period may be used subject to a redetermination at the end of such period.

(c) *Adjusted Income.* Annual Income less the following:

(1) $300 for each Minor member of the Family Household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a full-time student.

(2) Medical expenses which exceed 3 percent of the Annual Income and which are to be anticipated during the 12-month period for which the Annual Income is computed, and which are not covered by insurance (however, premiums for such insurance may be included as medical expenses).

(3) Unusual expenses paid by the Family for the care of Minors under 13 years of age or for the care of disabled or handicapped Family household members, but only where such care is necessary to enable a Family member to be gainfully employed, and the amount allowable as Unusual Expenses shall not exceed the amount of income from such employment.

(d) Handicapped means a person who has an impairment which:

* * * * *

(e) *Minor.* A member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a full-time student.

* * * * *

(i) *Adjusted Monthly Income.* One-twelfth of Adjusted Income as defined in § 236.2(c).

(j) *Public Assistance.* Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, State, or local governments.

(k) Family means two or more persons related by blood, marriage, or operation of law, who occupy the same dwelling or unit.

(Sec. 236 of the National Housing Act, as amended (12 U.S.C. 1715z–1))

Issued at Washington, D.C. July 24, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80–27471 Filed 9–5–80; 8:45 am]

BILLING CODE 4210–01–M

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24 CFR Part 886

[Docket No. R–80–850]

Low Income Housing; Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule would give HUD, under the Section 8 Program, the option of either applying a rent formula based on data supplied by the project owners or utilizing contract rents. The Department under this program provides tenant assistance to the owners by paying a part of the contract rents on behalf of the eligible tenant. Contract rent is the rental income necessary to maintain the projects' physical and financial viability. The resulting flexibility should enable HUD to provide sufficient rents in appropriate cases and thereby prevent deterioration of the property and potential foreclosures.

DATE: Effective date: October 1, 1980.

This amendment to the regulations expires September 30, 1981 unless extended by notification in this publication.

Comment due date November 7, 1980.

ADDRESS: The Department is soliciting comments from the public prior to issuing a final rule. All written comments on the rule should refer to Docket No. R–80–850 and should be submitted to the Rules Docket Clerk, Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All written comments made in connection with this subpart will be available for public inspection during normal business hours at this office. All comments received will be considered by the Department in preparation of the final rule.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 426–8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: This section applies to adjustments of the dollar amount stated in the Contract as the Maximum Unit Rent. The Contract Rents approved by HUD will only be affected by this amendment when the Maximum Unit Rent as adjusted by the Automatic Annual Adjustment Factor is less than the unit rent determined to be necessary by HUD in applying its rent formula. In that case, if HUD determines that it is necessary to protect the project viability, then the Contract Rents as determined by the HUD rent formula shall prevail. This regulation in no way prohibits the Department from adjusting the Maximum Unit Rent with the Automatic Annual Adjustment Factor or the Special Additional Adjustment Factor if it is determined that the use of these adjustment factors are more appropriate for the particular project involved than using the HUD rent formula.

In no event shall the tenant's portion of the rent be affected by this regulation.

The Secretary has determined that it is necessary to make this rule effective as soon as possible, since numerous project owners are having difficulty maintaining the viability of their projects due to insufficient Automatic Annual Adjustment Factors. Without this amendment, defaults, assignments and foreclosures will increase drastically, adversely affecting the insurance funds. Since providing an opportunity for public comment on this rule prior to its effective date would delay it for a substantial period of time, the Secretary has found that such rulemaking procedure would be contrary to the public interest. Accordingly, the amendment is being published as an interim rule to become effective as provided above, on October 1, 1980, with a 60 day public comment period following this publication.

The Department will evaluate the comments received on this amendment prior to formulating its final regulation.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The finding of inapplicability in accordance with HUD's environmental procedures is available for inspection at the Office of the Rules Docket Clerk, at the above address. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR 886.112 is amended by revising the introductory text and paragraphs (a) and (b) to read as follows:

§ 886.112 Rent adjustments.

This section applies to adjustments of the dollar amount stated in the Contract as the Maximum Unit Rent. It does not apply to adjustments in rents payable to Owners as required by HUD in connection with its mortgage insurance and/or lending functions.

(a) Funding of Adjustments. Housing Assistance Payments will be made in increased amounts commensurate with

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Contract Rent adjustments up to the maximum annual amount of housing assistance payments specified in the Contract pursuant to § 886.108(b).

(b) Annual Adjustments. The contract rents may be adjusted annually, or more frequently, at HUD's option, either (1) on the basis of a written request for a rent increase submitted by the owner and properly supported by substantiating evidence, or (2) by applying, on each anniversary date of the contract, the applicable Automatic Annual Adjustment Factor most recently published by HUD in the **Federal Register** in accordance with 24 CFR Part 888, Subpart B. Published Automatic Annual Adjustment Factors will be reduced appropriately by HUD where utilities are paid directly by Families. If HUD requires that the owner submit a written request, HUD, within a reasonable time, shall approve a rental schedule that is necessary to compensate for any increase in taxes (other than income taxes) and operating and maintenance costs over which owners have no effective control, or shall deny the increase stating the reasons therefor. Increases in taxes and maintenance and operating costs shall be measured against levels of such expenses in comparable assisted and unassisted housing in the area to ensure that adjustments in the Contract Rents shall not result in material differences between the rents charged for assisted and comparable unassisted units. Contract Rents may be adjusted upward or downward as may be appropriate; however, in no case shall the adjusted rents be less than the contract rents on the effective date of the contract.

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); Sec. 5(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c(b); Sec. 8 of the United States Housing Act of 1937 (42 U.S.C. 1437b)))

Issued at Washington, D.C., July 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-26822 Filed 9-5-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Army

35 CFR Part 253

Regulations of the Secretary of the Army; Compensation and Allowances

AGENCY: Secretary of the Army.

ACTION: Final rule.

SUMMARY: Effective September 30, 1979 the tax allowances was eliminated for employees of Federal agencies in the Republic of Panama hired after that date. By this action the tax allowance is eliminated for all other employees of such agencies.

EFFECTIVE DATE: These amendments to 35 CFR Part 253 are effective the first day of the first pay period beginning after October 1, 1980.

ADDRESS: Department of the Army, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Colonel Robert D. Banning, Office of the Assistant Secretary of the Army (CW), Washington, D.C. 20310; telephone (202) 695-1370.

Adoption of Amendments

Accordingly, effective the first day of the first pay period beginning after October 1, 1980, the following amendments to title 35, Code of Federal Regulations are adopted:

§ 253.102 [Amended]

1. Section 253.102 is amended by striking the comma after the word "employees", inserting the word "and" in place thereof, and striking the words "and the tax allowance,".

§ 253.131 [Amended]

2. Section 253.131(a) is amended by striking the second sentence thereof.

3. Section 253.133 is amended by revising the first sentence to read as follows:

§ 253.133 United States citizen employees.

The rates of pay for United States citizen employees shall be the base salary or wage rate plus the differential prescribed by § 253.135. * * *

* * * * *

§ 253.134 [Amended]

4. Section 253.134 is amended by striking the text of the section in its entirety, by striking the caption "Tax allowance" and by designating the section as reserved.

§ 253.135 [Amended]

5. Section 253.135(a) is amended by revising the first sentence to read as follows:

(a) An overseas, tropical differential for U.S. citizen employees who qualify under the provisions of paragraph (b) of this section shall be fixed by the head of each department in an amount equal to 15 percent of the compensation established under § 253.131. * * *

6. Section 253.135(b)(4) is amended to read as follows:

* * * * *

(b) * * *

(4) An employee may be paid tropical differential only to the extent that such payment, when combined with his compensation established under § 253.131, does not exceed the current rate of step 5, GS-17, of the General Schedule set out in 5 U.S.C. 5332(a).

7. Section 253.135(c) is amended by correcting the spelling of the words "solely" (erroneously printed "soley") and "established" (erroneously printed "setablished").

8. Section 253.156(c) is amended to read as follows:

§ 253.156 Pay savings.

* * * * *

(c) If for any employee the elimination of the tax allowance prescribed prior to October 1, 1980 by section 253.134 of this part would result in a decrease in base salary or wage rate, such employee shall, pending individual raises or general increases in base salary or wage rates which will fully offset the pay decreases attributable to the elimination of the tax allowance, continue to receive the rate of pay to which he was entitled immediately prior to the effective date of such elimination.

9. The table of contents of Part 253 is amended by designating § 253.134 as reserved.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 80-27500 Filed 9-5-80; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1598-6]

Designation of Areas for Air Quality Planning Purposes; Section 107 Designations—Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces final designation of air quality attainment status in the Allentown-Bethlehem-Easton Air Basin with respect to total suspended particulates (TSP). EPA has determined that the proper TSP designation is "does not meet primary standards". This designation affects only two persons that challenged the earlier nonattainment designation.

EFFECTIVE DATE: October 8, 1980.

ADDRESSES: Copies of the written and oral public hearing testimony are available for public inspection during normal business hours at the following locations:

Air, Toxics and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106.
Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), Air Programs Branch, Air, Toxics and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, 10th Floor, Curtis Building, Philadelphia, PA 19106, telephone (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. Background

The 1977 Amendments to the Clean Air Act added Section 107(d) which directed each State, within 120 days after the Amendments were enacted, to submit to the Administrator a list describing the National Ambient Air Quality attainment status for all areas within the State. The Administrator was then required to promulgate the State lists, with any necessary modifications, as a final rule within sixty days of their submittal.

On December 5, 1977, the Commonwealth of Pennsylvania submitted to EPA a list of air quality attainment designations. For total suspended particulates (TSP), the designations were based on either modeling data or monitoring data. In its list of designations, the Commonwealth of Pennsylvania designated the Allentown-Bethlehem-Easton Air Basin, the Harrisburg Air Basin, the City of Sharon and City of Farrell as nonattainment areas for primary TSP standards.

On March 3, 1978, 43 FR 8962, the Administrator published Pennsylvania's designations as final agency action effective immediately, and solicited comments in the 60-day period following publication.

On May 1, 1978, the Bethlehem Steel Corporation and the Sharon Steel Corporation filed petitions for review in the United States Court of Appeals for the Third Circuit challenging the Administrator's March 3, 1978 designations of the Allentown-Bethlehem-Easton Air Basin, the Harrisburg Air Basin, the City of Farrell, and the City of Sharon as nonattainment areas. The Third Circuit decided April 25, 1979 that the Administrator lacked good cause to dispense with the Administrative Procedure Act's requirements of prior notice and an opportunity to comment and the Court remanded the matter to the Administrator with its instructions "* * * that the Administrator shall forbear from applying to Sharon and Bethlehem any of the requirements of sanctions imposed on nonattainment areas by the 1977 amendments to the Clean Air Act until the Administrator shall have conducted a limited legislative hearing in which he gives these two companies the required statutory notice and opportunity for participation and comments as provided by the APA, 5 U.S.C. 553 (1976)." *Sharon Steel Corp.* v. *EPA*, 597 F.2d 377, 381-82 (1979).

II. Public Hearings

On May 25, 1979, EPA published a notice, 44 FR 30338, of public hearings which were held on June 25, 1979 and June 28, 1979, in Philadelphia and Pittsburgh, respectively, for the purpose of allowing the Bethlehem Steel Corporation, Sharon Steel Corporation and other interested persons the opportunity to comment on EPA's nonattainment designations for these areas. The Administrator provided for a ten-day period following each public hearing during which written comments could be submitted.

III. Evaluation of Written and Oral Testimony

A. *Allentown-Bethlehem-Easton Air Basin.* At the June 25, 1979 public hearing, the Bethlehem Steel Corporation submitted testimony in favor of redesignating the Allentown-Bethlehem-Easton Air Basin, with the exception of Northampton Borough, as attainment for TSP. The company argued that the redesignation should be made based on the following information:

1. The Bethlehem East monitor (which has recorded violations of primary TSP standards) is improperly located in that it is located near a roadway, too close to a wall, and in close proximity to a fuel oil stack located on the same building roof.

2. "Higher than normal" deposits of vanadium (a trace element associated with the combustion of fuel oil) have been found on the filter of the monitor, which suggests that the emissions from the fuel oil stack has an undue influence on this site.

3. Fugitive TSP emissions from ongoing construction activity in the vicinity of the monitoring site have been influencing the air quality data. In addition, construction that had taken place during 1977 on the roof of the building where the monitor is located influenced the data as well.

4. A monitoring network operated by Bethlehem Steel showed no violations of either the primary or secondary TSP standards for the year ending July, 1977.

5. Although a nonattainment monitor located in the air basin (Northampton Borough) has recorded violations of primary TSP standards, other monitoring sites located in the same general direction as the Northampton monitor but close to the Bethlehem Steel facility show attainment. Therefore, the nonattainment monitor is being influenced by sources located closer to Northampton Borough, and thus the nonattainment area should be limited to that area, rather than the entire air basin. Bethlehem Steel supports this argument by citing similar redesignations that have been accepted by EPA.

The Pennsylvania Department of Environmental Resources (DER) also submitted testimony both at the public hearing and during the public comment period. The State argued that the nonattainment designations should not be revised based on the following:

1. The Bethlehem East monitoring site is located properly, and therefore the primary nonattainment violations of the TSP standard recorded at this site should be considered valid. On days when construction activity took place on the roof, the monitor samples were invalidated. In addition, the probable effect of having this site located to close to a wall would be a reduction of the impact from source contributions on the monitor.

2. Modeling studies performed by DER show at least violations of the secondary TSP standards throughout the air basin.

3. The violations in the air basin represent an urban problem, so that the problem of attaining standards is not solely related to individual point sources, but are more characteristic of urban development where a multitude of small sources contribute to TSP violations. Similarly, it would be difficult to break up the boundaries within the air basin.

4. The nonattainment monitor in Northampton Borough is not attributed to Bethlehem Steel. However, two monitors operated by Bethlehem Steel which had recorded violations of TSP standards were discontinued.

EPA has reviewed both the oral and written testimony presented at the June

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25, 1979 public hearing or submitted during the written comment period.

EPA also has reviewed the latest air quality data available from the State. Where questions of validity of the monitoring sites were raised, EPA performed a microscopy analysis of the filters. Based on the above mentioned evaluation, EPA responds to the points mentioned by the commentors:

1. EPA has determined that the modeling data submitted by the State is valid in its assumptions, and therefore, the air basin should at least remain nonattainment for the secondary TSP standard.

2. EPA has also determined that the Bethlehem East monitor is considered to be valid monitor for assessing ambient TSP levels in the Bethlehem area. EPA has reached this conclusion based on an optical microscopy analysis of samples drawn from fifteen randomly selected filters collected from the Bethlehem East monitor and which represent observations between May 5, 1978 and April 27, 1979, including three observations collected during the construction period. This analysis concluded that "emissions from various operations of an iron and steel processing complex were identified as the main causes of elevated TSP levels at the TSP monitoring site (Bethlehem East) adjacent to the complex." Of the 15 samples, two represented days on which the secondary 24-hour TSP standard (150 μ/m^3) was exceeded. An analysis of the filters collected on these two days (one of which was collected during the construction period) revealed that particle types from industrial iron and steel processing emission made up significant portions of the TSP sample and were "most directly responsible for the TSP standard excursions." The analysis further concludes that "oil combustion sources were not major causes of elevated TSP levels at this site." The analysis also concludes that the slag particles found on the filters is primarily from a slag handling operation rather than traffic-related or construction-related fugitive emissions.

In view of the fact that EPA considers the Bethlehem East monitor site to be valid, the air quality data collected from this site can be used to assess the proper designation status with respect to TSP.

3. EPA policy states that the most recently available eight quarters (two years) of TSP data would be used. The most recently available air quality data, which covers all of calendar years 1978 and 1979, shows a violation of the annual primary TSP standard (75 μ/m^3) at three sites in the Allentown-Bethlehem Easton Air Basin: Bethlehem East, Northampton and Nazareth.

4. While EPA has approved Section 107 redesignations which reduce the size of a nonattainment area, the Administrator believes that a size reduction of this primary TSP nonattainment area (currently the entire air basin) is not warranted because of the fact that violations of the annual primary TSP standard have been recorded at three different sites within the air basin, each located several miles from the others.

EPA Actions

Based on the Administrator's evaluation of the testimony received at both the June 25, 1979 public hearing and the subsequent written comment period, EPA designates the Allentown-Bethlehem-Easton Air Basin as a primary nonattainment area for TSP as it affects the petitioners in *Bethlehem Steel Corp.* v. *EPA* effective October 8, 1980. The existing designation of nonattainment of primary TSP standards as to all other persons is not affected by this action.

Under Section 307(b)(1) of the Clean Air Act, judicial review of (this action) is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of September 8, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Therefore the effectiveness of § 81.339 is reaffirmed as it applies to the listing for "Allentown, Bethlehem, Easton Air Basin" in the table entitled "Pennsylvania–TSP".

(Sections 107(d), 171(2), 301(a), of the Clean Air Act, As Amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: September 2, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–27508 Filed 9–5–80; 8:45 am]

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40 CFR Part 409

[FRL 1598–7]

Sugar Processing Point Source Category; Effluent Limitations Guidelines; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of Correction.

SUMMARY: EPA is correcting a coding error in the November 6, 1979, **Federal Register** (44 FR 64080) notice of final BPT effluent limitations for the Hilo-Hamakua Coast of the Island of Hawaii Raw Cane Sugar Processing Subcategory.

FOR FURTHER INFORMATION CONTACT: Mark L. Mjoness, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telphone (202) 426–2554.

Correction

In the **Federal Register** notice published on November 6, 1979, (44 FR 64080), five stars should have been printed directly above the table containing the final BPT effluent limitations. The stars indicate that only the table beneath them is to be changed in § 409.62 of the Code of Federal Regulations. The inclusion of the five stars provides that paragraphs (a) and (b) of § 409.62 will not be deleted from publication in the Code of Federal Regulations. Paragraphs (a) and (b) of § 409.62 have previously been published in the **Federal Register** and therefore are not being reproduced at this time.

The final regulations for § 409.62 should read:

§ 409.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

* * * * *

Effluent characteristics	Maximum for any 1 day		Average of daily values for 30 consecutive days shall not exceed	
	kg	lb	kg	lb
	kkg gross cane	1000 lb gross cane	kkg gross cane	1000 lb gross cane
BOD5	No limitations		No limitations	
TSS	9.9	9.9	3.6	3.6
pH	No limitations		No limitations	

Dated: August 29, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-27509 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement for Costs of Approved Internship and Residency Programs

Correction

In FR Doc. 80-23370, appearing at page 51783, in the issue of Tuesday, August 5, 1980, make the following correction:

On page 51786, third column, in the fourth line of the second paragraph below: *"Application to Medicaid Payments"*, the reference to paragraphs "(d)(2)" should have read "(b)(2)".

BILLING CODE 1505-01-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Parts 1050 and 1068

Procurement Standards

AGENCY: Community Services Administration.

ACTION: Final amendment to a rule.

SUMMARY: The Community Services Administration (CSA) is amending its policy statement governing grantee procurement standards (45 CFR 1050, Subpart P) published in the **Federal Register** on April 28, 1980. CSA has determined that there is a need for Federal oversight of separate business entities established by its grantees. CSA's goals in amending the rule are to assure that the assets of these separate business entities remain in the community, that their hiring and procuring practices are consistent with federal standards, that their activities are subject to public scrutiny and that business-like financial management practices are observed.

EFFECTIVE DATE: October 8, 1980.

FOR FURTHER INFORMATION CONTACT: Timothy P. McTighe, Community Services Administration, Office of Community Action, 1200 19th Street, N.W., Washington, D.C. 20506; telephone (202) 254-5047; teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: On June 5, 1980, CSA published in the **Federal Register** a proposed amendment to its policy statement governing grantee procurement standards. We received two responses to the proposed amendment. One respondent asks whether the amendment applies only to contractors doing business with the procuring party or to any non-Federal account of a grantee's which "does business" with the organization's Federal grants. The amendment itself applies only to the contracts for the procurement of goods and services. It does not apply to intra-agency billings so long as they take place within the same corporate entity and are not formalized in a contract. But this question, let us add, requires a more complete answer. If a grantee has a non-Federal account which "does business" with its Federal grants, any money which is paid to the non-Federal account in excess of actual costs is considered program income, as defined in Subpart E of Part 1050. CSA determines whether the program income will be reprogrammed by the grantee or will be deducted from the Federal share of the grant.

The second respondent remarks that sole-source contracts made between state associations and other CSA grantees should not require prior CSA approval even if they exceed $5,000 in a twelve-month period. If prior approval for such contracts is required, the respondent continues, it should be required only once if the relationship is to continue on a yearly basis. The need for prior approval of contracts exceeding $5,000 in a twelve-month period was not the subject of the amendment, but is provided for in OMB Circular A-110, which CSA implemented in its policy statement adopted on April 28, 1980. This requirement is more liberal than CSA's previous policy on sole-source contracts. CSA maintains the need to review *all* sole-source contracts for the procurement of goods and services which are expected to exceed $5,000 in a twelve-month period.

The amendment is adopted as proposed, with minor changes in language. We thank those two people who took the time to comment on the proposed amendment.

At the same time, CSA is deleting Subpart 1068.41, Standard Form for Professional or Technical Services to a Community Action Program. This Subpart by oversight was not removed when Subpart P to Part 1050 was adopted on April 28, 1980.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Robert S. Landmann,

Acting Director.

1. 45 CFR 1050.160 is amended by § 1050.160-8(h) to read as follows:

§ 1050.160 [Amended]

* * * * *

(h) Any proposed sole source contract, or proposed contract where only one bid or proposal is received by a nongovernmental procuring party, shall be subject to prior approval by the appropriate CSA administering office if the aggregate expenditure for all items procured from the contractor will exceed $5,000 in a 12-month period. In addition, for any procurement contract in which payment will be made by the procuring party in whole or in part with Title II grant funds, if the proposed contractor does the major part of its business with the procuring party and/or if the proposed contractor is a firm established or controlled by a member or members of the procuring party's staff or board, CSA approval will be based on, but not be limited to, the following:

(1) Evidence that the proposed contractor is a non-profit corporation whose income and assets would, in event of failure of the procuring party, continue to be used to benefit low-income individuals;

(2) Evidence that the hiring and procurement policies of the proposed contractor include the same prohibitions against nepotism and conflict of interest as those found in 160-6 of this subpart;

(3) Inclusion in the contract of a provision that the management, financial, and procurement records of the proposed contractor must be made available for inspection and examination to those parties and on the same basis as required for private nonprofit grantees in Subpart D of this Part;

(4) Submission by the proposed contractor of an audited revenue and expenditures statement and balance sheet dated within the last twelve months; and

(5) Submission of supporting documentation that the prices being charged are competitive with prices being charged for similar items and/or services by other businesses.

§§ 1068.41-1, 1068.41-2, 1068.41-3, and Appendix A [Deleted]

2. Part 1068 is amended by deleting Subpart 1068.41, Standard Form for Professional or Technical Services to a Community Action Program, §§ 1068.41-1, 1068.41-2, and 1068.41-3 and

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Appendix A to Subpart 1068.41 in their entirety.

[FR Doc. 80-27188 Filed 9-5-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 25

Relocation Assistance and Land Acquisition for Federal and Federally Assisted Programs; Schedule of Moving Expense Allowances; Individuals and Families

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 provides that a displaced individual or family may elect to be paid for moving expenses on the basis of a moving expense schedule. This document updates the moving expense schedules to reflect changes made in certain States.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: John Murnane, Relocation Assistance Division, Office of Right-of-Way (202-426-0156); or Reid Alsop, Office of the Chief Counsel (202-426-0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours Monday-Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894, provides that a displaced individual or family may elect to be paid for moving expenses on the basis of a moving expense schedule. To ensure statewide uniformity among all agencies operating under the Act, General Services Administration Regulations, 41 CFR Part 101-6, provide in 101-6.105-1 that the schedule shall be maintained by the respective State highway departments, and approved and disseminated by the Federal Highway Administration.

The regulations of the Office of the Secretary, 49 CFR 25.153, implementing the Uniform Act, direct the Federal Highway Administration to establish and maintain the moving expense schedule in Appendix A to Part 25 of Title 49 and to update it semi-annually. The purpose of this amendment is to revise the current schedule, which was published on July 12, 1979 (44 FR 40641) to reflect changes in the moving expense schedules of the following States:

Table I—Personalty—Alabama, Florida, Georgia, Kentucky, Minnesota, Mississippi, New Hampshire, New Mexico, North Carolina, Puerto Rico, Rhode Island, South Carolina, South Dakota, Texas, Vermont, and Washington.

Table II—Mobile Homes—Alabama, Florida, Georgia, Kentucky, Mississippi, New Mexico, North Carolina, South Carolina, South Dakota, Vermont, and Washington.

(Catalog of Federal Domestic Assistance program Number 20.205, Highway Reserach, Planning, and Construction. The provisions OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

(42 U.S.C. 4601 *et seq.*; 41 CFR 101-6.105-1; 49 CFR 25.153)

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this amendment is so minimal as to not require preparation of a full regulatory evaluation.

Issued on: August 28, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

BILLING CODE 4910-22-M

Appendix A

Title 49--Transportation
Table I--Personalty

State	Occupant provides furniture: Number of rooms of furniture 1	2	3	4	5	6	7	8	9	10	Occupant does not provide furniture: First room	Each additional room
Alabama[1]	90	140	190	240	290	300					(See end of table)	
Alaska	75	150	200	250	275	300					15	15
Arizona	50	100	150	200	250	300					25	15
Arkansas	70	110	150	190	230	270	300				40	20
California	75	100	150	200	250	300					25	15
Colorado	120	180	240	300							30	20
Connecticut	50	90	140	170	230	260	300				15	15
Delaware	60	100	140	180	220	260	300				25	15
District of Columbia	100	135	170	210	250	290	300				35	15
Florida	75	120	165	210	255	300					25	25
Georgia	100	140	180	220	260	300					40	10
Guam	48	85	120	168	205	240	300				10	10
Hawaii	65	100	135	175	215	255	295	300			45	30
Idaho	60	100	140	180	220	260	300				20	10
Illinois	50	100	150	200	250	300					25	15
Indiana	50	100	150	200	250	300					25	15
Iowa	75	140	195	240	275	300					30	12
Kansas	60	120	180	240	300						30	10
Kentucky	65	130	195	260	300						35	25
Louisiana	60	100	140	180	220	260	300				40	15
Maine	50	90	125	150	175	200	225	250	275	300	15	10
Maryland	80	110	145	185	230	275	300				20	10
Massachusetts	60	130	150	190	225	250	275	300			25	15
Michigan	65	130	180	240	300						50	10
Minnesota	75	150	200	250	300						30	15
Mississippi	100	150	200	250	300						50	25
Missouri	50	100	150	200	250	300					25	10
Montana	60	100	140	180	220	260	300				35	20
Nebraska	50	100	150	200	250	300					30	10
Nevada	50	100	150	200	250	300					25	15
New Hampshire	100	150	190	230	270	300					25	15
New Jersey	80	140	195	245	300						25	15
New Mexico[2]	138	205	271	300							(See end of table)	
New York	80	130	175	215	250	275	300				25	15
North Carolina	70	110	160	210	260	300					40	30
North Dakota	75	125	150	200	250	275	300				30	15
Ohio	50	100	150	200	250	300					30	10
Oklahoma	95	135	175	215	255	300					40	15
Oregon	60	120	180	240	300						20	20
Pennsylvania	60	115	170	230	285	300					25	25
Puerto Rico	75	120	165	210	255	300					25	25
Rhode Island	70	140	210	250	275	300					25	10
South Carolina	105	180	220	300							30	10
South Dakota	100	150	200	250	300						50	15
Tennessee	75	100	150	200	250	300					25	15
Texas	95	135	175	215	255	300					50	25
Utah	75	100	130	155	180	210	240	270	300		25	15
Vermont	100	150	190	230	270	300					25	15
Virginia	60	100	140	180	220	260	300				40	10
Virgin Islands	105	150	195	240	275	300					35	35
Washington	100	150	200	250	300						25	25
West Virginia[3]	60	100	140	180	220	260	300				25	10
Wisconsin	60	120	170	220	260	300					30	15
Wyoming	60	120	180	240	260	300					40	20

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[1] Furnished units including sleeping rooms. Occupant does not own furniture.

First Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	Each Additional Room
$30	$50	$75	$95	$120	$140	$15

[2] Furnished units including sleeping rooms. Occupant does not own furniture.

First Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	7 Rooms	8 Rooms	9 Rooms
$59	$113	$140	$169	$196	$224	$252	$279	$300

to a maximum of $300

[3] Where occupant does not provide furniture, allowance for 2 rooms is $40.

Federal-Aid Highway Program Manual

Vol. 7, Chap. 5,
Sec. 3, Subsec. 1,
Attachment 1

Table II--Mobile Homes

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Alabama			0 (0)	200 (18.6)			165
			200 (18.6)	400 (37.2)			225
			400 (37.2)	600 (55.8)			285
			600 (55.8)				300
Alaska	All Trailers						300
Arizona			0 (0)	300 (27.9)			150
			300 (27.9)	400 (37.2)			200
			400 (37.2)	500 (46.5)			250
			500 (46.5)				300
Arkansas					0 (0)	12 (3.7)	200
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
California[1]					0 (0)	8 (2.4)	(see 1-end of table)
					8 (2.4)		
Colorado[2]							(see 2-end of table)
Connecticut[3]					0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
Delaware			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Florida	All Trailers						300
Georgia			0 (0)	400 (37.2)			125
			400 (37.2)	500 (46.5)			185
			500 (46.5)	600 (55.8)			245
			600 (55.8)				300
Guam			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Hawaii			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Idaho			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Illinois	0 (0)	24 (38.6)			0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
	24 (38.6)	50 (80.5)			0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	200
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		300

See footnotes at end of table.

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Subtitle A--Office of the Secretary of Transportation App. A

Table II--Mobile Homes

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Indiana					0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	185
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		300
Iowa	0 (0)	25 (40.2)			0 (0)	8 (2.4)	130
					8 (2.4)	10 (3)	150
					10 (3)	12 (3.7)	180
					12 (3.7)		230
	25 (40.2)	50 (80.5)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	170
					10 (3)	12 (3.7)	200
					12 (3.7)		300
Kansas			0 (0)	200 (18.6)			80
			200 (18.6)	400 (37.2)			160
			400 (37.2)	600 (55.8)			240
			600 (55.8)				300
Kentucky[4]					0 (0)	8 (2.4)	265
					8 (2.4)		300
Louisiana					0 (0)	10 (3)	175
					10 (3)	12 (3.7)	200
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
Maine					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 (3)	12 (3.7)	250
					12 (3.7)		300
Maryland			0 (0)	200 (18.6)			110
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			165
			600 (55.8)	800 (74.4)			195
			800 (74.4)	1,000 (93)			220
			1,000 (93)	1,200 (111.6)			250
			1,200 (111.6)				300
Massachusetts			0 (0)	200 (18.6)			80
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			200
			600 (55.8)				300
Michigan					0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	230
					10 (3)	12 (3.7)	280
					12 (3.7)		300
Minnesota[4]					0 (0)	8 (2.4)	200
					8 (2.4)		300

See footnotes at end of table.

Table II--Mobile Homes

	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		
	More than	But not more than	More than	But not more than	More than	But not more than	Allowance Dollars
Mississippi			0 (0)	300 (27.9)			200
			300 (27.9)	400 (37.2)			250
			400 (37.2)				300
Missouri			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Montana[4]					0 (0)	10 (3)	150
					10 (3)	12 (3.7)	200
					12 (3.7)	14 (4.3)	225
					14 (4.3)		275
Nebraska			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Nevada			0 (0)	400 (37.2)			150
			400 (37.2)	500 (46.5)			200
			500 (46.5)	600 (55.8)			250
			600 (55.8)				300
New Hampshire	All Mobile Homes						300
New Jersey			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
New Mexico[4,5]	0 (0)	20 (32.2)			0 (0)	8.5 (2.6)	182
					8.5 (2.6)	10.5 (3.2)	244
					10.5 (3.2)	12.5 (3.8)	252
					12.5 (3.8)		300
	20 (32.2)	50 (80.5)			0 (0)	8.5 (2.6)	212
					8.5 (2.6)	10.5 (3.2)	252
					10.5 (3.2)	12.5 (3.7)	272
					12.5 (3.7)		300
New York			0 (0)	300 (27.9)			150
			300 (27.9)	500 (46.5)			200
			500 (46.5)	700 (65.1)			250
			700 (65.1)				300
North Carolina[4,6]					0 (0)	12 (3.7)	200
					12 (3.7)		300
North Dakota			0 (0)	200 (18.6)			125
			200 (18.6)	400 (37.2)			175
			400 (37.2)	600 (55.8)			225
			600 (55.8)	800 (74.4)			275
			800 (74.4)				300

See footnotes at end of table.

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Table II--Mobile Homes

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Ohio[4]	0 (0)	10 (16)	0 (0)	320 (29.8)			130
			320 (29.8)	500 (46.5)			150
			500 (46.5)	840 (78.1)			170
			840 (78.1)	1,120 (104.2)			205
			1,120 (104.2)				250
	10 (16)	25 (40.2)	0 (0)	320 (29.8)			135
			320 (29.8)	500 (46.5)			155
			500 (46.5)	840 (78.1)			190
			840 (78.1)	1,120 (104.2)			220
			1,120 (104.2)				275
	25 (40.2)	50 (80.5)	0 (0)	320 (29.8)			145
			320 (29.8)	500 (46.5)			165
			500 (46.5)	840 (78.1)			200
			840 (78.1)	1,120 (104.2)			250
			1,120 (104.2)				300
Oklahoma					0 (0)	10 (3)	250
					10 (3)		300
Oregon			0 (0)	200 (18.6)			100
			200 (18.6)	600 (55.8)			200
			600 (55.8)				300
Pennsylvania			0 (0)	300 (27.9)			130
			300 (27.9)	500 (46.5)			225
			500 (46.5)	800 (74.4)			275
			800 (74.4)				300
Rhode Island					0 (0)	8 (2.4)	225
					8 (2.4)	10 (3)	250
					10 (3)	12 (3.7)	275
					12 (3.7)		300
South Carolina[6]					0 (0)	10 (3)	175
					10 (3)	12 (3.7)	200
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
South Dakota	All Trailers						300
Tennessee[2]					0 (0)	10 (3)	100
					10 (3)		150
Texas					0 (0)	8.5 (2.6)	175
					8.5 (2.6)	10.5 (3.2)	235
					10.5 (3.2)	12.5 (3.8)	270
					12.5 (3.8)		300
Utah[4]	0 (0)	10 (16)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	145
					10 (3)	12 (3.7)	165
					12 (3.7)		200
	10 (16)	25 (40.2)			0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	155
					10 (3)	12 (3.7)	175
					12 (3.7)		225

See footnotes at end of table.

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App. A

Subtitle A--Office of the Secretary of Transportation

Table II--Mobile Homes

State	Miles (Kilometres) More than	Miles (Kilometres) But not more than	Area--Square Feet (Square Metres) More than	Area--Square Feet (Square Metres) But not more than	Width--Feet (Metres) More than	Width--Feet (Metres) But not more than	Allowance Dollars
Utah--Continued	25 (40.2)	50 (80.5)			0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	160
					10 (3)	12 (3.7)	190
					12 (3.7)		250
Vermont[7]	All Trailers						300
Virginia			0 (0)	200 (18.6)			150
			200 (18.6)	400 (37.2)			200
			400 (37.2)	600 (55.8)			250
			600 (55.8)	800 (74.4)			300
Washington	All Trailers						300
West Virginia			0 (0)	300 (27.9)			100
			300 (27.9)	450 (41.9)			150
			450 (41.9)	550 (51.2)			225
			550 (51.2)				300
Wisconsin					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 (3)	12 (3.7)	250
					12 (3.7)		300
Wyoming[4]					0 (0)	8.5 (2.6)	135
					8.5 (2.6)	10.5 (3.2)	165
					10.5 (3.2)	12.5 (3.8)	210
					12.5 (3.8)		300

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[1] Width to 8' (2.4 m) Length 40' (12.2 m)............$200
Length 40' (12.2 m)............$300
Width over 8' (2.4 m) Length 40' (12.2 m)............$300
Length 40'+ (12.2 m)............$300

[2] Under 8' (2.4 m) x 40' (12.2 m) - Unskirted $150
Over 8' (2.4 m) x 40' (12.2 m) - $300

[3] Plus $50 for expandable trailer.

[4] $300 for double trailer.

[5] Escort fee included.

[6] Personalty Only

Width-------	Under 10 feet (3 m)	10 feet (3 m)	12 feet (3.7 m) and over	Doubles
	$60	$70	$100	$175

[7] $50 for extras.

[FR Doc. 80-27466 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-22-C

Research and Special Programs Administration

49 CFR Part 195

[Amdt. No. 195-19; Docket No. OPSO-48]

Seams on Adjacent Pipe Lengths

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This final rule revokes § 195.218 which requires that seams on adjacent pipe lengths be offset. This action is taken because the pipe manufacture and welding technology has advanced sufficiently to make the requirement of this section unnecessary.

EFFECTIVE DATE: September 8, 1980.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, (202) 426-2392.

SUPPLEMENTARY INFORMATION: On September 21, 1977, MTB issued a notice of proposed rulemaking (Notice 77-6, 42 FR 48900) proposing to revoke § 195.218, "Welding: Seam Offset." The notice invited comments from interested persons concerning the need to offset weld seams on adjacent pipe lengths as required by § 195.218. MTB initiated this rulemaking proceeding as a result of waivers granted to the Alyeska Pipeline Service Company. Information provided in support of the waivers demonstrated that technological advances in pipe manufacture and welding have minimized the likelihood of weld failure due to residual stresses and have, therefore, made unnecessary the requirement to offset adjacent longitudinal weld seams.

Seven commenters responded to the notice. Six industry commenters, including the American Petroleum Institute and the American National Standards Committee B-31, concurred with MTB's proposed revocation of the offset requirement of § 195.218 for the same reasons given in the notice.

One dissenting industry commenter argued that removal of § 195.218 is not warranted in all cases because much of the pipe that could be installed may not have been manufactured according to the latest technology. This commenter stated that the Alyeska pipeline was built to a specification which included requirements for ductility and notch toughness of weld and pipe metals in the arctic environment. However, Notice 77-6 was not issued on the basis that line pipe available for use in liquid service throughout the U.S. would have material characteristics similar to those on the Alaskan pipeline. Rather, the notice was predicated on the fact that pipe manufacturing and welding technology has advanced in the area of ductility to the point where § 195.218 is no longer necessary. This statement is as true for Grade B pipe, made to standard API 5L, as it is for the higher strengths and grades of pipe. Each of the normally followed API standards for pipe manufacture, API 5L and 5LX, provides for a level of ductility that is high enough to remove the potential, under normal operating conditions, of weld seam failure and propagation that § 195.218 was intended to prevent. Although Grade B pipe may be more brittle under cold conditions than the higher grades of pipe, due to its higher transition temperature from a ductile to brittle condition, § 195.102 requires the carrier to select component materials for the temperature environment in which the component will be used to assure that structural integrity is not impaired. For these reasons, the MTB believes it is not necessary to maintain the requirement to offset weld seams on Grade B pipe or other pipe.

In view of the cost savings that will result from the revocation of this regulation the effective date of this final rule is September 8, 1980.

In consideration of the foregoing, 49 CFR Part 195 is amended as follows:

§ 195.218 [Revoked]

1. By revoking § 195.218 "Welds: Seams Offset."

2. By deleting § 195.218 from the table of sections. (Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-219, November 30, 1979); 49 CFR 1.53 and Appendix A of Part 1).

Issued in Washington, D.C., on September 2, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-27220 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 195

[Amdt. 195-17; Docket No. PS-55]

Testing Highly Volatile Liquid Pipelines

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This final rule provides that onshore "interstate pipeline facilities" (as that term is defined in the Hazardous Liquid Pipeline Safety Act of 1979) constructed before January 8, 1971, may not transport highly volatile liquids (HVL) unless they have been hydrostatically tested in accordance with Subpart E of Part 195 or do not operate at a pressure that exceeds 80 percent of any test or operating pressure which has been held for four continuous hours. This rule reduces the potential for severe HVL pipeline accidents caused by latent material and construction defects.

EFFECTIVE DATE: October 8, 1980, except that a longer compliance period is set forth in the final rule for pipelines in HVL service before September 8, 1980.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION: Accident reports on file with the MTB show that HVL pipelines have caused a substantially higher percentage of deaths, injuries, and property damage than hazardous liquid pipelines carrying less volatile commodities. The record of hazardous liquid pipeline accidents reported on Form DOT-7000-1 from 1968 through 1977 shows that although HVL pipeline accidents comprise only 10 percent of the total number of accidents involving liquid pipelines, the HVL pipeline accidents caused 66 percent of the deaths, 50 percent of the injuries, and 30 percent of the property damage. These statistics clearly illustrate that an HVL spill presents a much higher risk to safety than spills of other hazardous liquids. This higher potential for damage is due to the fact that when HVL is released to the atmosphere, it forms a gas cloud, which is a markedly different and more insidious hazard than that presented by spills of less volatile liquids.

A definition of a highly volatile liquid has been adopted under Part 195 in Amendment 195-15, Docket PS-51 (44 FR 41197, July 16, 1979), but is repeated here for clarity: a "highly volatile liquid" or "HVL" is "a commodity which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kpa (40 psia) at 37.8°C (100°F)."

Inside the pipeline, HVL will remain a liquid as long as the pressure is higher than the vapor pressure of the liquid. If a pipeline rupture occurs and the pressure is reduced to atmospheric pressure, some of the liquid will immediately vaporize to a gas. The remainder will turn to gas as it picks up heat from its surroundings. The gas forms a cloud that will move downhill or downwind depending on the terrain, type of liquid involved, and atmospheric conditions. Because it is generally heavier than air, the rapidly expanding gas cloud will tend to hug the ground as it continues to migrate. If a source of ignition is encountered, a petroleum gas cloud will burn or explode. In the case of the lighter anhydrous ammonia vapor, the greatest danger is that of toxicity or asphyxiation. For either commodity, the hazards are severe.

Analysis of the hazardous liquid pipeline accidents reported on Form DOT–7000–1 shows that one-tenth of the accidents during the years 1968 through 1977 were caused by defective pipe seams, defective girth welds, and defective pipe materials. These types of defects could have been found during an original hydrostatic test.

MTB's further review of 2,883 of these accident reports selected from submissions between 1968 and the first quarter of 1977 showed that 1,364 (47 percent) of the pipelines involved had not been hydrostatically tested. While not all the reports examined involved HVL pipelines, MTB finds it reasonable to conclude that a substantial number of HVL pipelines have not been hydrostatically tested in order to remove potentially harmful latent material and construction defects.

The value of an adequate hydrostatic test is well stated in the study "Transportation of Highly Volatile, Toxic, or Corrosive Liquids by Pipeline" (DOT/OPSO/75/06) by Battelle Columbus Laboratories.
On page 52, this study states:

> "The ultimate test for basic structural integrity of a pipeline is the field hydrostatic test * * * within thousands of miles of pipelines tested to a stress level of 90 percent of SMYS, or more, and subsequently operated at a stress level of 72 percent of SMYS there have been no ruptures resulting from original manufacturing or construction defects. This operating experience strongly suggests that of all the steps an operator can take to ensure that his pipeline is initially free of harmful defects, high-pressure hydrostatic testing in the field (to 90 percent of SMYS or more) is the only one that has demonstrated a successful track record. The benefits of such testing are accrued in rehabilitation testing of existing lines, as well as in new pipelines."

Viewed in another way, this information shows that material and construction defects left undiscovered by an initial test have not proven to be harmful if the pipeline is operated at a stress level no higher than 80 percent of the level achieved during the test.

Prior to this final rule, pipelines constructed before January 8, 1971 (the effective date of Subpart E of Part 195), were not required by Federal regulation to be qualified for use by hydrostatic testing. Although qualification testing of existing pipelines was proposed in Notice 68–4 (33 FR 10213), the proposal was withdrawn when Part 195 was adopted (34 FR 15473), primarily on cost benefit grounds. In view of the HVL accident record and the potential for catastrophic accidents, the MTB now believes, however, that either hydrostatically testing onshore HVL pipelines to 1.25 times maximum operating pressure or limiting actual operating stress level to 80 percent of the level achieved by testing or by previous operations is essential to minimize the risk of failures due to material or construction defects.

This final rule requires, therefore, as a condition of operation in HVL service, that onshore steel pipelines constructed before January 8, 1971, be hydrostatically tested in accordance with Subpart E of part 195 or operated at not more than 80 percent of a previous maximum test or operating pressure held for four or more hours.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on November 13, 1978 (43 FR 52504), proposing a requirement to hydrostatically test all onshore HVL pipelines in accordance with Subpart E which have not been previously tested to 1.25 times their maximum operating pressure for at least 24 hours. Several issues were raised in the NPRM, and comments were solicited regarding these issues. The issues, the comments, the responses to the comments, and the development of the final rule follow:

Need for Testing HVL Pipelines Which Have Not Been Tested

Three industry commenters contested the need for hydrostatic testing of untested HVL pipelines, pointing to the relatively small number of deaths and injuries and relatively small amounts of property damage caused by HVL pipelines in relation to other modes of transportation as support for their position. The MTB does not believe that a review of past accidents alone provides an adequate basis for predicting the potential for and effects of future HVL pipeline accidents. A significant pipeline spill of HVL in a populated region could cause a major disaster that would dwarf any previous HVL pipeline accident. It is this inordinate potential for damage, together with the record of past accidents illustrating the hazardous nature of an HVL, that leads the MTB to conclude that accidental spills of HVL are a serious risk to public safety. This final rule reduces that risk by eliminating the harmful effects of latent material and construction defects.

Untested HVL Pipelines Which Have Not Leaked

Two industry commenters recommended that untested HVL pipelines which have never leaked need not be tested until a leak occurs, arguing that a pipeline which has been in service several years without leaks most likely has no latent material or construction defects.

In contrast, the American Petroleum Institute (API), the National Transportation Safety Board (NTSB), and one major carrier recommended that all untested HVL pipelines be tested regardless of leak history, arguing that the leak history of a pipeline does not necessarily indicate the potential for future failures. The MTB agrees with this view because of its knowledge of accidents wherein pipelines failed after a period of satisfactory service. For this reason, the final rule applies to all untested HVL pipelines regardless of leak history.

Test Pressure

The API, the B31.4 Subcommittee on Liquid Petroleum Transportation Piping of the American Society of Mechanical Engineers (ASME) Code Committee on Pressure Piping, and one industry commenter recommended that HVL pipelines previously tested to 110 percent of the maximum operating pressure (MOP) not be retested to 125 percent of the MOP, arguing that the requirement to retest would disrupt normal deliveries and would present additional hazards to the carriers' personnel during the testing period. None of these commenters argued that testing to 110 percent of MOP was adequate to ensure safety.

Three industry commenters and the NTSB recommended that all HVL pipelines not previously tested to 1.25 times MOP be required to be tested to that level, arguing that testing to 1.25 times MOP is essential to ensure safety. The MTB agrees with this view and cites the following statement from the Battelle study "Transportation of Highly Volatile, Toxic or Corrosive Liquids by Pipeline" as support for this position:

> "A hydrostatic proof test to 125 percent of MOP is essential to demonstrate the initial structural integrity of a line * * *. Additional evidence documented in the literature shows that natural gas pipelines tested to 125 percent of MOP have much better performance records, from the standpoint of original manufacturing or construction defects, than those * * * not tested to pressure levels significantly in excess of their operating pressure. Furthermore, research on the long term behavior of defects under load indicates that through slow growth at constant load * * * pipe defects can be extended to critical size and cause ruptures at loads of 6 to 10 percent below levels they had previously endured without failing. Hence, margins of less than 110 percent of MOP are unsafe and provide no real assurance that existing defects will not fail in service. On the other hand as experience has shown, a margin of 125 percent of MOP produces excellent serviceability."

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The Battelle study goes on to recommend that MTB "reconsider requiring a field pressure test to 125 percent of MOP on existing pipeline systems which have not been tested in this manner."

Prior to 1966, the B31.4 code required testing only to 110 percent of MOP for newly constructed pipelines. Since 1966, the B31.4 code has required testing to 125 percent of MOP in recognition of the necessity to test to this pressure level to ensure safety.

One of the industry commenters who recommended testing to 125 percent of MOP initiated a program in 1975 to retest all its HVL pipelines not previously tested to this level, even though the pipelines had been previously tested to meet the current industry code at the time of construction. This commenter, a major carrier of HVL commodities, stated:

> "Our retesting experience shows that pipe defects which cause operating problems are eliminated by testing to 1.25 times the maximum operating pressure. Also, this same experience shows that maximum pressure reversal encountered during testing was 15 percent. Therefore, the 1.25 times maximum operating pressure test results in reducing the chances of future failures [due to latent materials and construction defects] to zero. This future zero failure possibility is also confirmed by our operating experience on lines that were tested to 1.25 times the maximum operating pressure."

In view of the research and industry experience quoted in the Batelle study, the requirement of the B31.4 code since 1966, and the comments from industry and the NTSB, the MTB believes that the minimum level of pressure to test pipelines to ensure safety is 1.25 times the MOP. The final rule has been written accordingly. An exception is not provided for pipelines previously tested to 1.10 times the MOP because the record shows this level is not high enough to ensure future operating safety.

Adequate Test Hold Period To Ensure Safety

The NPRM proposed that existing HVL pipelines which had not been tested to 125 percent of MOP for 24 hours be pressure tested in accordance with Subpart E, which requires that the test pressure be held for 24 hours. Most of the commenters disagreed with the 24-hour hold period both as a means to determine which HVL pipelines must be retested and as part of the test required under Subpart E. Most of the commenters argued that a 24-hour hold period was more than necessary to ensure safety.

One industry commenter recommended a 2-hour hold period, arguing that a 2-hour hold period is sufficient to ensure safety.

Five industry commenters recommended an 8-hour hold period, arguing that an 8-hour hold period is adequate to ensure pipeline integrity. These commenters pointed to the 8-hour hold period in Part 192 for natural gas pipelines and the 1974 edition of the B31.4 code for petroleum pipelines as support for their recommendation. These commenters further argued that an 8-hour hold period in lieu of the proposed 24-hour hold period would (1) permit the operator to perform the tests during daylight hours thereby making the test procedures less hazardous, (2) be much less costly, and (3) minimize the time pipelines being tested are out of service.

The API, the B31.4 Subcommittee, and one industry commenter recommended a 4-hour hold period in lieu of the proposed 24-hour period. These commenters argued that a 4-hour hold period was adequate to prove the integrity of a pipeline system. These commenters argued that the 24-hour hold period was initially developed as an industry standard because of the inability to explain the failures which occurred during the hold period and the belief that 24 hours was more than sufficient time to expose defects that might later fail in service. These commenters argued that subsequent research and industry experience have demonstrated that the 24-hour hold period is not necessary to prove the integrity of the pipeline system. References cited supporting this view were: "Pressure Reversal Failures," *Oil and Gas Journal,* January 13, 1975; "Background Behind Proposed Test Pressure Hold Period of Two Hours" developed by Battelle and presented to the ANSI B31.8 Transmission and Compressor Station Sub-group, April 8, 1970; "Hydrostatic Testing Pipelines in Place" *Oil and Gas Journal,* December 2, 1968; and "High Pressure Hydrostatic Testing Eliminates More Line Pipe Defects" *Oil and Gas Journal,* July 11, 1966. Further, the B31.4 Subcommittee stated that although the current edition of the B31.4 code requires an 8-hour hold period at 125 percent of internal design pressure, that requirement will be changed in the next edition. The new requirement in the B31.4 code will include a strength test, consisting of a 4-hour hold period at 125 percent of internal design pressure where all of the pressurized components can be visually inspected, plus, in addition to the strength test, a leak test, consisting of a 4-hour hold period at not less than 110 percent of internal design pressure where the pressurized components cannot be visually inspected.

In view of the above information which demonstrates that a strength test as short as 4 hours is adequate to ensure safety and the pending change in the B31.4 code, the MTB has adopted prior field pressure testing to 1.25 times the MOP for 4 hours as a determinant of which HVL pipelines are to be hydrostatically tested under Subpart E.

Rulemaking Concerning Test Hold Period in Subpart E

As a separate matter, the API submitted a petition (P3) on March 12, 1979, to reduce the test hold period in Subpart E, arguing that a shorter hold time is adequate to ensure safety and would reduce the cost of testing. The API recommended that the test in Subpart E be reduced from 24 hours at 125 percent of MOP to a two part test, consisting of a strength test at 125 percent of internal design pressure for 4 hours where pipeline components can be visually inspected plus, in addition to the strength test, a leak test at 110 percent of internal design pressure for four hours where the pipeline components cannot be visually inspected.

The API petition cited the same references included in its comments to the notice in this docket as support for its petition. In further support of its petition, the API also cited the pending change to the B31.4 code to indicate the industry is responsive to the information contained in the referenced research reports.

As a result of the information contained in the cited research, industry experience, and the comments to the notice in this docket concerning testing HVL pipelines, all of which supports a reduced hold period, together with the obvious cost reductions resulting from a reduced hold period and the lack of any information demonstrating that a 24-hour hold period is necessary to ensure safety, a notice of proposed rulemaking has been published (45 FR 16230, March 13, 1980), proposing to change the test requirements in Subpart E. The notice proposes requirements for a strength test to 125 percent of MOP for 4 hours for pipelines which are visually inspected and an additional leak test to 110 percent of MOP for 4 hours for those pipelines which are not visually inspected. The MTB believes these new test requirements will significantly reduce the time to test and reduce the cost of testing while maintaining adequate safety. The publication of the final rule reducing the test hold period for all pipelines subject to Part 195 is imminent and will be completed before

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HVL carriers have to commence any testing as a result of the final rule in this docket.

Appropriate Test Records

One industry commenter recommended that any record of past testing offered by the carrier as evidence that proper testing had been performed should be acceptable because there is no requirement in Part 195 to retain records made prior to the effective date of Subpart E, January 8, 1971. Another industry commenter suggested that the actual pressure device charts should be acceptable. Four industry commenters recommended that records which demonstrate the appropriate pressure has been applied and held for an adequate time should suffice as adequate records. These four commenters argued that detailed test records were not commonly kept prior to the effective date of Subpart E and, as a result, such detailed records are not available, although the pipelines were adequately tested. Further, these same commenters argued that in the transfer of ownership of pipelines, only summary statements of these data are transferred rather than detailed records. Four additional industry commenters recommended that certification by an officer of the carrier be acceptable as proof of testing when other proof of testing is not available.

The MTB recognizes that prior to January 8, 1971, there was no requirement in Part 195 to keep detailed records nor was there an industry standard concerning test records in common use and, as a result, test records vary in content and in detail. The MTB does not believe, however, that a mere transfer statement or current certification should qualify as proof of prior testing, as there should be no doubt about the efficacy of prior tests in determining whether a pipeline must be tested. Although detailed records of the type prescribed by section 195.310 are not required, the MTB believes that test records made at the time of test in sufficient detail to demonstrate that the pipeline has been tested to 1.25 times the maximum operating pressure for four continuous hours are necessary to prove the integrity of the pipeline. Thus, the final rules require carriers who wish to demonstrate that pipelines have been previously tested to 125 percent of MOP to use recording charts or logs made at the time the test was conducted.

Reduction in Operating Pressure and Use of Previous Operating Pressure

The final rule provides as an alternative to testing under Subpart E, the option of reducing a pipeline's MOP to 80 percent of its previous hydrostatic test pressure held for four or more hours. Similarly, a reduction in MOP to 80 percent of a previous operating pressure held for four or more hours will also meet the requirement of this final rule since the same pressure level is achieved in the pipeline, whether during test or actual operation. Both of these options provide the 1.25 safety margin between test and MOP proposed in the notice. These options do not apply, however, to pipelines constructed before January 8, 1971, that are converted to HVL service under § 195.5, since hydrostatic testing is mandatory under that section. In either case, the new MOP must be controlled within the limits prescribed by § 195.406. In the event a reduction in MOP is utilized as an alternative to testing under Subpart E, the carrier shall provide charts or logs in sufficient detail made at the time the previous pressure was achieved and held for four continuous hours. Utilization of a previous test pressure or previous operating pressure to establish MOP is prescribed in a new § 195.406(a)(5). The MTB believes these provisions will be attractive to carriers with HVL pipelines which have not been tested or have not been tested to 125 percent of the current MOP, but have been operated satisfactorily by providing means whereby these HVL pipelines can continue in service at a reduced MOP and avoid the cost of testing.

Test Medium

Although the notice did not specifically mention the use of test mediums other than water, § 195.306(b) provides for the use of liquid petroleum that does not vaporize rapidly as a test medium in lieu of water under certain circumstances. Use of such a medium might be attractive to those carriers who have a supply of liquid petroleum readily available and to those multi-commodity pipelines that transport such a commodity.

One industry commenter recommended that the final rule provide for the use of an inert gas as a test medium in lieu of water. The recommendation was not adopted in the final rule because (1) inert gas is compressible, and its use as a test medium poses the hazard of failure by a propagating sinusoidal brittle fracture that is avoided by the use of water, and (2) the use of inert gas as a test medium would be feasible in only very few instances, and in such instances, approval for the use of inert gas can be sought by filing with MTB a waiver application under section 203 of the Hazardous Liquid Pipeline Safety Act of 1979.

Effect on Environment

The effect on the environment of testing HVL pipelines was not raised as an issue in the notice nor did it become an issue in the comments.

The MTB is aware that some effect on the environment will be caused by installing scraper traps necessary to accomplish the testing. However, this effect will be confined to the pipeline right-of-way and will be minimal. The MTB is also aware that disposing of test water which is contaminated with petroleum products can be troublesome. However, because separators, skimmers, and other reliable equipment are available to perform this task, the MTB does not believe disposal of test water will be a serious problem.

Time for Compliance

Five industry commenters recommended a five-year compliance period for the existing HVL pipelines constructed before January 8, 1971. Three industry commenters recommended three years as the appropriate time for compliance. In support of these recommendations, these commenters argued that a substantial time for compliance would be necessary because (1) pipelines would have to be tested in segments to avoid the need to shut down an entire system, (2) testing can only be performed in the summer months in northern regions of the country, (3) disruption of services must be minimized to avoid creating commodity shortages, and (4) substantial planning and scheduling must be done before the actual testing can commence. The NTSB recommended that the testing be completed within one year, arguing that the risk to the public justifies the short testing period.

The MTB does not believe that the testing requirement can be completed within one year and questions the feasibility of attempting to complete the testing requirement within three years. The MTB believes that: substantial planning, scheduling, and budgeting must be done prior to testing; revisions to pipeline systems such as installation of valves, pig-traps, etc., must be designed and equipment procured and installed where necessary; revisions to the pipeline systems as well as the actual testing must be coordinated with normal pipeline operations to minimize the time pipelines are out of service and to minimize the impact on users of the commodities transported; and the actual testing must be performed in a manner to minimize risks to the public and pipeline personnel that can be caused by testing. For these reasons, the MTB believes a five-year period to comply with the testing requirement is appropriate for existing pipelines in HVL service. The five-year period is reflected in the new § 195.302(b). To assure compliance within the five-year period, planning and scheduling or reduction in MOP must be completed by Sept. 15, 1981, and at least 50 percent of required testing must be done by Sept. 15, 1983.

Under section 195.302(b), steel onshore liquid pipelines constructed before January 8, 1971, that are to begin HVL service would have to be hydrostatically tested or meet the MOP limitation of § 195.406(a)(5) before transporting HVL, or before the effective date, whichever is later.

Use of Electronic Detection

One industry commenter recommended that electronic detection to locate latent material and construction defects be provided as an alternative to hydrostatic testing for those HVL pipelines which do not have a history of leaks or ruptures due to defective pipe or welds. Three industry commenters, the API, the NTSB, and one individual recommended that electronic detection not be provided as an alternative to hydrostatic testing, arguing that electronic detection techniques will detect anomalies in the pipe wall but will not determine the strength of the pipeline. The MTB believes that the pipeline integrity must be ensured as a result of the testing requirement and that electronic detection will not ensure pipeline integrity. Therefore, use of electronic detection is not provided as an alternative to hydrostatic testing in the final rule.

Occasional Transport of HVL

Four industry commenters recommended that carriers who occasionally transport HVL in a pipeline be exempted from compliance with the proposed rule, arguing that the testing requirement would be burdensome for occasional carriers and that they would choose to discontinue transporting HVL rather than comply with the testing requirements. Among these commenters, there was no consensus for a definition of an occasional carrier. One commenter recommended that carriers transporting HVL equal to 75% or more of the throughput be subject to the rule while another commenter recommended that 33% or more of throughput be the appropriate dividing line, while yet another recommended that 25% or more of throughput be so classified. None of the commenters argued that a spill from a pipeline transporting HVL on an occasional basis would present a lesser hazard than a spill from a dedicated HVL pipeline. The API recommended that no distinction be made between pipelines which are in continuous or intermittent HVL service, but recognized that the testing requirement could cause some carriers to discontinue transporting HVL. The NTSB recognized that a proportionately greater economic burden would be borne by occasional carriers than by carriers who have pipelines dedicated to HVL service, but argued that the hazardous nature of HVL makes testing all HVL pipelines imperative. The MTB agrees with the NTSB assessment because the nature of the hazard presented by an accidental spill of HVL is the same regardless of whether the pipeline is an occasional carrier of HVL or is dedicated to HVL service; hence, the final rule applies to all HVL carriers. The MTB believes the five-year compliance period in the final rule together with the shorter test hold period for identifying pipelines subject to the final rules and the options of reducing MOP will lessen the economic impact sufficiently to permit occasional carriers to continue transporting HVL.

Cost of Compliance

Two industry commenters argued that compliance with the proposed rule would require substantial expense in shutting down the pipeline systems in addition to the actual costs of testing. The MTB believes that the cost of testing to comply with the final rule will be much less than that envisioned by these commenters for several reasons: First, the final rule permits five years for compliance which the MTB believes is sufficient time to plan an orderly testing program that will avoid most of the costs associated with loss of throughput. Second, the final rule provides for a 4-hour hold period in identifying pipelines to be tested instead of the 24-hour period required by the proposed rule, which will require fewer pipelines to be tested. Third, an NPRM was published, proposing to reduce the hold period in Subpart E from 24 hours to 8 hours, or under certain conditions 4 hours. When the proposal becomes a final rule, the shorter hold period will greatly reduce the cost associated with actual testing. Fourth, only those segments of HVL pipelines that have not been tested to 125 percent of MOP must be tested to comply with the final rule. Fifth, carriers will have the option of testing to 125 percent of MOP under Subpart E or reducing the current MOP to 80 percent of the pressure to which the pipeline has been tested or operated. This option might be especially attractive for those pipelines that have been tested to 110 percent of design pressure, as was required by the B31.4 code prior to 1966, and those carriers who do not choose to maintain current MOP by retesting under Subpart E. Finally, carriers will have the option of using liquid petroleum which does not vaporize rapidly in lieu of water as provided in section 195.306. This option might be attractive to those pipelines in multi-commodity service and for testing during the winter months.

One commenter, a major carrier of liquefied petroleum gas and anhydrous ammonia who initiated an extensive program in 1975 to test all its HVL pipelines to 125 percent of MOP, argued that the testing requirement will reap benefits that can pay for the cost of testing. This experience notwithstanding, the MTB believes that the five-year compliance period, the shorter test hold period for identifying pipelines subject to the final rules, the prospect of a shorter hold time for testing under Subpart E, and the options to reduce maximum operating pressure in lieu of conducting a testing program will reduce the cost of compliance such that a major cost to the industry will not result.

The API, the B31.4 Subcommittee on Liquid Petroleum Transportation Piping, and one industry commenter argued that the few accidents on HVL pipelines which would be prevented by hydrostatic testing would be outweighed by the costs involved, but failed to support their argument with computations of costs or benefits.

The Final Evaluation in the docket estimates the annualized cost of this final rule to be $638,000 over a 20-year period. The value of the benefits in lives saved, injuries prevented, and property damage prevented is estimated to be $722,000 a year over the same period. Thus, the benefits outweigh the costs by a ratio of 1.13:1.

The MTB believes the actual benefits will be greater than the estimated benefits because the estimated value of the benefits is based solely on historical accident data over the past decade and does not include the effects of a catastrophic type of accident like that which occurred near Edmonton, Alberta, Canada, on March 2, 1979. Although no fatalities were experienced in that accident, 19,000 persons were evacuated to avoid the hazard created by a spill of LPG. Considering the uncertainties inherent in any attempt to quantify the benefit of preventing a catastrophic accident, the potential for the large loss in lives and property, together with the favorable cost benefit ratio based only on historical data, the MTB believes the cost of the final rule is warranted as an investment in public safety.

In view of the foregoing, Part 195 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 195.300 to read as follows:

§ 195.300 Scope.

This subpart prescribes minimum requirements for hydrostatic testing of newly constructed steel pipeline systems; existing steel pipeline systems that are relocated, replaced, or otherwise changed; and onshore steel pipeline systems constructed before January 8, 1971, that transport highly volatile liquids. However, this subpart does not apply to movement of pipe covered by §195.424.

2. In § 195.302, by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 195.302 General requirements.

* * * * *

(b) No person may transport a highly volatile liquid in an onshore steel pipeline constructed before January 8, 1971, unless the pipeline has been hydrostatically tested in accordance with this subpart or, except for pipelines subject to § 195.5, its maximum operating pressure is established under § 195.406(a)(5). Pipelines that were in highly volatile liquid service before September 8, 1980 must meet this requirement according to the following schedule:

(1) Planning and scheduling of hydrostatic testing or actual reduction in maximum operating pressure to meet § 195.406(a)(5) must be completed before Sept. 15, 1981; and

(2) Hydrostatic testing must be completed before Sept. 15, 1985, with at least 50 percent of the testing completed before Sept. 15, 1983.

* * * * *

3. By adding § 195.406(a)(5) as follows:

§ 195.406 Maximum operating pressure.

(a) * * *

(5) In the case of onshore HVL pipelines constructed before January 8, 1971, that have not been tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted. (See § 195.302(b) for a compliance schedule for pipelines in HVL service before September 8, 1980.

* * * * *

(Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96–129, November 30, 1979, 93 Stat. 1003); 49 CFR 1.53(a) and Appendix A to Part 1)

Issued in Washington, D.C., on September 2, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80–27217 Filed 9–5–80; 8:45 am]

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49 CFR Part 195

[Amdt. 195–18; Docket PS–63]

Transportation of Liquids by Pipeline; Hydrostatic Testing

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This final rule reduces the time and cost of hydrostatic testing in light of studies which show that the currently required 24-hour hydrostatic hold period is unnecessary. A two part test is prescribed for hydrostatically testing liquid pipelines: A strength test of at least 4 hours' duration at a pressure equal to 125 percent or more of the maximum operating pressure is prescribed for all hazardous liquid pipelines subject to Part 195; additionally, a leak test for four hours or more at a pressure equal to 110 percent or more of the maximum operating pressure is prescribed for those pipelines which are not visually inspected for leakage while under the strength test.

DATE: Because this final rule relaxes an existing requirement, resulting in substantial cost savings, the effective date of the final rule is September 8, 1980, for hazardous liquid pipelines currently subject to Part 195. Upon reissuance of Part 195 under the authority of the Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96–129, November 30, 1979) and in accordance with the notice of proposed rulemaking in this docket, the effective date of this final rule for intrastate liquid pipelines not now subject to Part 195 will be announced.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202–426–2392.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published March 13, 1980 (45 FR 16230), proposing to reduce the 24-hour hydrostatic hold period in § 195.302(c) for all hazardous liquid pipelines. (After publication of the NPRM, § 195.302(b) was renumbered § 195.302(c).) Section 195.302(c) requires that hydrostatic tests be maintained for at least 24 hours without leakage. The MTB believed this requirement was more than adequate to ensure pipeline safety and resulted in greater testing costs than were necessary.

The purpose of a hydrostatic test is to ensure that a pipeline will not later fail in service due to latent material or construction defects. Broadly defined, the hydrostatic test is the maintenance of water pressure above the maximum operating pressure (MOP) under no-flow conditions for a fixed period of time. The hydrostatic test precludes later rupture or leak due to latent material or construction defects by causing these potentially harmful defects to surface during the test period.

The 24-hour hold period for hydrostatic testing evolved as an industry safety practice before it could be explained why failures occurred during the hold period. Further, there was no distinction made between testing the pipeline for strength and testing the pipeline for leakage.

In recent years, scientific research and industry experience have demonstrated that the 24-hour hold period is not necessary to ensure pipeline integrity and that a distinction can be made between a strength test and a leak test. Some of that research and experience was discussed in the NPRM.

Response to the Notice and Development of Final Rule

Nine oil and gas companies, the American Petroleum Institute (API), the Chemical Manufacturers Association (CMA), the Interstate Natural Gas Association of America (INGAA), the Offshore Operators Committee (OOC), the B31.4 Code Section Committee for Liquid Petroleum Transportation of the American Society of Mechanical Engineers, and the National Transportation Safety Board (NTSB) commented on the NPRM. None of the commenters argued that the proposed rule to reduce the hydrostatic test period was not adequate to ensure pipeline safety and most commenters agreed that reduced costs of testing would result.

The INGAA, the OOC, and three oil and gas companies recommended modifying the language of the proposed rule so that prescribed test pressures and hold periods would be clearly stated as minimum requirements in order to avoid the possibility of the rules being interpreted as maximum permissible standards. Further, although these commenters agreed that the rules as proposed are adequate to ensure safety, they argued that there can be other reasons for testing to higher pressures or maintaining longer hold periods than those prescribed in the proposed rule. For example, thermal effects on the test water and pipe being tested can require a hold period longer than 4 hours to be certain that pressure has stabilized. Additionally, as a practical matter, it may be necessary to raise the pressure to a point above the test level to be certain that the desired test pressure has been achieved throughout the length of pipeline under test.

Although the proposed rule was intended to establish minimum testing standards, the MTB agrees with the commenters that there is a need to more clearly state the rule to avoid ambiguity. The MTB further agrees with the commenters that there can be cases wherein it may be advisable to exceed the prescribed pressures and hold periods while conducting the testing, and the rule should provide for these cases. As a result, the qualifying phrases "at least" and "or more" have been added to § 195.302(c) in the final rule with reference to the prescribed test pressures and hold periods.

The OOC recommended that offshore pipelines be tested to 125 percent of MOP for two hours instead of the proposed four hour strength test at 125 percent of MOP, and the four hour leak test at 110 percent of MOP where not visually inspected for leakage during the strength test. The OOC argued that the research report cited in the notice "Background Behind Proposed Test Pressure Hold Period of 2 Hours" by G. M. McClure provides ample justification for the two hour hold period. The MTB is not prepared at this time to further reduce the testing requirements for offshore pipelines below the levels proposed, because: (1) the reduction in the test hold period proposed in the notice is consistent with the cited research as well as industry experience reflected in the B31.4 code and the API petition (P3); (2) the proposed reduction in the test hold period will provide most of the economic advantages of short period testing; and (3) four hours, or perhaps more, is required to discover leaks that may be present.

The NTSB recommended that criteria for the test procedure and monitoring equipment be prescribed, arguing that improved procedures and monitoring equipment will be required to assure compliance with the regulations. No evidence has been presented to show that a shorter test period will require substantially different procedures or equipment than a test of longer duration, and even where differences exist, MTB feels confident that the records required by § 195.310 will continue to assure that a proper test has been conducted. Consequently, no further regulations concerning test procedures or test equipment have been included in the final rule.

Several of the commenters commended the MTB for revising the pipeline safety regulations as technology for testing develops and for taking positive steps to reduce the cost of testing. The MTB estimates that testing costs will be reduced by 30 percent resulting in a $12,000,000 annual savings to the industry.

In view of the foregoing, the MTB amends 49 CFR Part 195 by revising § 195.302(c) to read as follows:

§ 195.302 General requirements.

* * * * *

(c) The test pressure for each hydrostatic test conducted under this section must be maintained throughout the part of the system being tested for at least 4 continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and, in the case of a pipeline that is not visually inspected for leakage during test, for at least an additional 4 continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

The MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures. Also, because of the estimated cost savings, a full Final Evaluation is not needed.

(Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96–129, November 30, 1979, 93 Stat. 1003); 49 CFR 1.53(a), Appendix A to Part 1)

Issued in Washington, D.C., on September 3, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80–27479 Filed 9–5–80; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amendt. No. 6 to S.O. No. 1289]

Burlington Northern Inc. Authorized To Operate Over Tracks of Union Pacific Railroad Co. at Sterling, Colo.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 6 to Service Order No. 1289.

SUMMARY: Service Order No. 1289 authorizes the Burlington Northern Inc., to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado. This amendment extends the expiration date of Service Order No. 1289 until 11:59 p.m., October 31, 1980, permitting the Commission time to consider Burlington Northern's petition pending under F.D. 29357F without interruption of the temporary authority.

EFFECTIVE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., October 31, 1980, unless modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., 202–275–7840.

SUPPLEMENTARY INFORMATION:

Decided: August 21, 1980.

Upon further consideration of Service Order No. 1289 (42 FR 63423; 43 FR 24694, 56671; 44 FR 31982; 45 FR 26965 and 36415), and good cause appearing therefor:

It is ordered,

§ *1033.1289 Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado,* Service Order No. 1289 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–27461 Filed 9–5–80; 8:45 am]

BILLING CODE 7035–01–M

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49 CFR Part 1033

[Amdt. No. 1 to Third Revised S.O. No. 1435]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Third Revised Service Order No. 1435.

SUMMARY: Throughout the Chicago, Rock Island Pacific Railroad Company (RI) rail network there are numerous locations where the RI and other railroads had conducted joint operations by the use of RI owned tracks and/or facilities. The use of these tracks and/or facilities is essential to the continued operations of the other railroads. Third Revised Service Order No. 1435 grants authority to various railroads to use such RI tracks and/or facilities, as listed in Appendix A to this order.

This amendment to Third Revised Service Order No. 1435 extends the expiration date until 11:59 p.m., November 30, 1980.

EFFECTIVE DATE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., November 30, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: August 21, 1980.

Upon further consideration of Third Revised Service Order No. 1435 (45 FR 18004, 23701, 26331, 37845 and 40599), and good cause appearing therefor:

It is ordered, § 1033.1435 *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee),* Third Revised Service Order No. 1435 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27462 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Amendment No. 2 to Service Order No. 1464]

Railroads Required To Hold Empty Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Freight Equipment Bearing Reporting Marks RI, ROCK, ROCX and WOV

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1464.

SUMMARY: Service Order No. 1464 requires various railroads to hold empty Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee) Freight Equipment. Railroads must not place such equipment for loading and will hold such cars without car hire charges. Railroads holding such equipment shall provide the Rock Island Trustee with a complete listing of such cars by initial, number, and location. Carriers holding such equipment, upon receipt of disposition from the RI Trustee, forward those cars in accordance with the disposition furnished.

This amendment to Service Order No. 1464 extends this expiration date until 11:59 p.m., November 30, 1980.

EFFECTIVE: 11:59 p.m., August 31, 1980, and continuing in effect until 11:59 p.m., November 30, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: August 21, 1980.

Upon further consideration of Service Order No. 1464 (45 FR 25811 and 45 FR 38059), and good cause appearing therefor:

It is ordered, § *1033.1464 Service Order No. 1464 (Railroads Required To Hold Empty Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) Freight Equipment Bearing Reporting Marks RI, ROCK, ROCX and WOV).* Service Order No. 1464 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

(49 U.S.C. 10304–10305 and 11121–11126)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80-27480 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1036

[Ex Parte No. 252 (Sub-5) [1]

Elimination of Incentive Per Diem Charges

AGENCY: Interstate Commerce Commission.

ACTION: Elimination of Final Rules.

SUMMARY: The Interstate Commerce Commission is eliminating its incentive per diem (IPD) rules governing the imposition of charges on boxcars and gondolas. Effective August 31, 1980, the regulations concerning the earning of IPD (49 CFR 1036.1, 1036.2, 1036.6, and 1036.7) are eliminated. The regulations concerning the use of accumulated IPD funds will remain in effect to June 30, 1982. The Commission is taking this action because conditions and other programs have eliminated the need for IPD and because of IPD's undesirable consequences. Eliminating IPD should improve utilization, lower costs and accord carriers more freedom in their operations.

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[1] This proceeding embraces Ex Parte No. 334, *Car Compensation-Basic Per Diem Charges,* Ex Parte No. 252 (Sub-1), *Incentive Per Diem Charges (1968) and XF Cars,* and Ex Parte No. 252 (Sub-2), *Incentive Per Diem Charges-Gondolas.*

EFFECTIVE DATE: August 31, 1980.

ADDRESSES: Copies of the Commission's decision are available from: Office of the Secretary, Room 2229, Interstate Commerce Commission, Washington, DC 20423. (800) 424–5230.

FOR FURTHER INFORMATION CONTACT: Richard Felder, 202–275–7693.

SUPPLEMENTARY INFORMATION: This rulemaking was instituted to examine whether incentive per diem (IPD) charges on boxcars and gondolas should be eliminated, maintained or modified, 44 FR 71848 (December 12, 1979). Our notice requested public comment on (1) the effectivenss of the IPD program for plain boxcars, and plain gondolas, (2) IPD's effect on rail car shortages, fleet size, and railroad system efficiency, and (3) whether the IPD program should be eliminated or modified based on the full implementation of the revised car-hire formula adopted in Ex Parte No. 334, *Car Service Compensation-Basic Per Diem Charges.*

Having completed our review, we have concluded that the Commission's IPD rules prescribed in 49 CFR 1036 should be eliminated.

Our conclusion was based on a 3 part analysis. We decided that (1) the increase in the basic per diem rates prescribed in Ex Parte No. 334, *Car Service Compensation-Basic Per Diem Charges,* has eliminated the need for an incentive element to encourage equipment acquisition, (2) IPD has had undesirable consequences on railroad resource allocation and operations, including equipment utilization, and (3) long and short run supply conditions for each IPD car do not warrant continued application of IPD.

A final decision on proposed regulations governing the use of earmarked IPD funds is being issued simultaneously with this decision, EX Parte No. 252 (Sub-3) *Use of Incentive Per Diem Funds.*

Accordingly, the elimination of IPD shall be accomplished in two stages. First, effective August 31, 1980, the incentive per diem regulations concerning the earning of IPD (§§ 1036.1, 1036.2, 1036.6, and 1036.7) shall be eliminated. Secondly, in order to insure an orderly and proper disposition of earmarked IPD funds, §§ 1036.3, 1036.4, and 1036.5 shall remain in effect to June 30, 1982.

This proceeding does not appear to affect significantly either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321 and 11122 and 5 U.S.C. 553)

Decided: August 14, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Vice Chairman Gresham and Commissioner Clapp concurring in the result. Commissioner Stafford dissenting with a separate expression.

Agatha L. Mergenovich,
Secretary.

§§ 1036.1, 1036.2, 1036.6 and 1036.7 [Removed]

Accordingly, 49 CFR Chapter X is amended by removing §§ 1036.1, 1036.2, 1036.6 and 1036.7.

Commissioner Stafford, Dissenting

I would retain the IPD program for the immediate future with a review of the program's usefulness to take place in the next 6 months to two years.

My primary concern is that the majority's decision to act now denies us the opportunity to consider the effects of several directly related proceedings. The first proceeding is Ex Parte No. 334, *Car Service Compensation—Basic Per Diem Charges,* decided some 14 months ago. While the basic per diem was raised considerably, this does not *per se* mean that no need exists for a continued incentive to purchase freight cars. Indeed, with inflation rampaging at 14 percent or more a year, the basic per diem cost of capital rate by itself is simply going to be unappealing to investors. Moreover, we recently adopted Ex Parte No. 334 (Sub-4), *Order to Show Cause For Granting Railroads Flexibility in Setting Per Diem Levels.* This proceeding permits carriers to lower per diem levels on short notice to alleviate spot car surpluses. Conversely, the charges could go back to their original levels—again on short notice—once the surplus had abated. By eliminating IPD, we are cutting back on the percentage range the carriers may adjust their per diem charges.

Another proceeding of lesser consequence is Ex Parte No. 252 (Sub-3), *Use of Incentive Per Diem Funds.* These final rules further free up the use of IPD funds for a broader range.

In sum, the foregoing proceedings have substantial effects on the future necessity of IPD. Before eliminating IPD all together, why not allow a reasonable time for these changes to take effect?

There is another problem with the "timeliness" of this proceeding—the recession. It is undisputed that the current economic downturn is at least partially responsible for the current "car surplus". I would agree that in times of car surpluses the need for IPD is questionable. But this surplus is illusionary in two respects. First, there are always going to be shortages of cars at certain places at certain times—such as grain hopper cars at harvest. Second, once the recession is ended so will the car surplus. I again must question whether basic per diem will be appealing by itself to investors.

My final concern is strictly an equitable one. Several years ago when we were faced with extreme shortages, IPD served its purpose well. The necessary investment in rail cars was made. Some of these investors were financiers with no particular other interest in railroads. I think it irrelevant who made the investment, the fact is it was made and now to substantially reduce the value of that investment is not my sense of fair play.

[FR Doc. 80-27524 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1036

[Ex Parte No. 252 (Sub-3)]

Use of Incentive Per Diem Funds

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The proposed regulations to expand the uses of incentive per diem (IPD) funds earned on boxcars and gondolas are adopted except for one modification. The rules governing the imposition of IPD charges on boxcars and gondolas are being eliminated by a rule published elsewhere in this issue. The regulations concerning the use of IPD funds including these final rules (49 CFR 1036.3, 1036.4, and 1036.5) shall remain in effect to June 30, 1982 to insure the proper and orderly expenditure of accumulated IPD funds.

EFFECTIVE DATE: The final rules shall take effect October 8, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, 202–275–7693.

SUPPLEMENTARY INFORMATION: On April 11, 1980, we issued an interim decision in this proceeding at 362 I.C.C. 723 (1980) with notice published in the **Federal Register** on April 29, 1980 (45 FR 28380). We proposed to amend our incentive per diem (IPD) regulations (49 CFR Part 1036) to allow: the use of IPD funds upon Commission approval on a matching basis for projects that directly improve utilization of cars in short supply; funds earned on one type of IPD car to be drawn down on another IPD car; funds used for major repairs that place bad order cars on line; and, under certain circumstances, a second nonequity to be an assumption of the initial nonequity lease. Our April decision asked for comments from parties on the proposed regulations. We received nine comments and no replies.

Upon consideration of the comments, the proposed regulations are adopted except for one revision. 49 CFR 1036.4(c) is amended by deleting the sentence: "This assumption can only be done once per lease."

This decision will not significantly affect either the quality of the human environment or conservation of human resources.

This notice is issued pursuant to authority of 49 U.S.C. 10321 and 11122 (the Interstate Commerce Act) and 5 U.S.C. 553 and 559 (the Administrative Procedure Act).

V45/175 SE8 80 UMI

Decided: August 14, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp dissenting in part with a separate expression. Commissioner Trantum concurred, except that he supported removal of the matching requirement for projects that directly improve IPD car utilization.

Agatha L. Mergenovich

Secretary.

Commissioner Clapp, Dissenting in Part

In my partial dissent to the interim decision, I disagreed with the majority's conclusion that no matching fund requirement should be imposed regarding the use of IPD for major repairs. I remain of the same view.

The requirement is retained for use of IPD for projects that improve car utilization and the majority again fails even to attempt to resolve the resulting inconsistency. As I have previously stated, the purpose of a matching fund requirement is to ensure that carriers do not use IPD for projects that would ordinarily be paid for with general funds. If imposition of the requirement serves this purpose in one instance, and I believe it does, it should also be efficacious in the other. Thus, the public interest demands, in my view, that the requirement be made applicable to major repairs.

Sections 1036.4 and 1036.5 are revised to read as follows:

§ 1036.4 Use of funds on boxcars.

(a) The net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, or purchase, in whole or in part, new or rebuilt unequipped boxcars for general service (boxcars), XF cars, or gondola cars described in § 1036.1: *Provided,* The carrier has in the same calendar year built, leased, or purchased its 1964–68 average acquisitions of boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. Earmarked funds may also be used in whole or in part to lease any number of new or rebuilt boxcars, XF cars or gondolas described in § 1036.1 in which the carrier is not acquiring an equity interest: *Provided,* The carrier has in the same calendar year leased its 1964–68 average number of boxcars and made up any arrearage in having failed to maintain such an average each year the order is in effect. Earmarked funds may be used in whole or in part to rebuild any number or portion of boxcars, XF cars or gondolas described in § 1036.1: *Provided,* The carrier has in the same calendar year rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year the order is in effect. Incentive funds may also be used for major repairs that equal at least 25% of the cost of a new car of the same kind and class at that time if this expenditure results in placing a bad order car on line. Incentive funds cannot be used for ordinary repair and maintenance.

(b) As an alternative, the net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, purchase, or lease in which a carrier is not acquiring an equity interest, in whole or in part, new or rebuilt boxcars, XF cars or gondolas described in § 1036.1, or rebuild any number or portion of those cars: *Provided,* The carrier has in the same calendar year built, leased, purchased, nonequity leased, or rebuilt its 1964–68 average number of boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. A carrier may, as another alternative, draw down earmarked funds in whole or in part, to build, lease, purchase, or nonequity lease new or rebuilt boxcars, XF cars, or gondolas or rebuild those cars provided, as a minimum, it matches the earmarked funds it will use to obtain those cars with an equal amount of its own funds. To facilitate the change to the aggregate test period from the previous three separate test periods, the effective date of the aggregate test period is August 8, 1977 and on that date all previous test period arrearages will be eliminated for the aggregate test period.

(c) Nonequity leases for unequipped boxcars for general service and XF boxcars must be at least 10 years in duration and, in connection with such leases, earmarked funds must not be used for the cost of maintenance nor on leases entered into prior to January 1, 1975. In a lessee's default in a non-equity lease, the second lease shall be considered an assumption of the initial lease for IPD purposes and the IPD in the second non-equity lease shall be considered new, if the term of the second lease equals the remainder of the defaulted lease.

(d) Net balances on Canadian-owned cars may be drawn down without regard to prior acquisitions, but where the designee is a class I United States carrier such drawdowns shall not affect that carrier's accumulation of arrearages.

(e) XF cars—the net credit balances resulting from incentive per diem settlements on XF cars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, nonequity lease, purchase in whole or in part, or rebuild XF cars, unequipped boxcars, or gondolas. The carrier, as a minimum, must match the earmarked funds with an equal amount of its own funds. Incentive funds may also be used for major repairs that equal at least 25% of the cost of a new car of the same kind and class at that time if this expenditure results in placing a bad order car on line. Incentive funds may not be used for ordinary repair and maintenance.

(f) All earmarked funds that have accrued since the inception of the incentive per diem program must be put to use within 18 months after the end of the calendar year in which the funds are collected and result in a net credit balance for the building, rebuilding, leasing, purchasing, or nonequity leasing of general service, unequipped boxcars described in § 1036.1 for addition to such carrier's or designee's fleet in accordance with this part. Upon a showing of good cause an application, including a showing that the parties to the proceeding herein have been notified by the carrier of such application, may be made to the Commission for waiver of the said 18-month period, which may, in the Commission's discretion, be granted after consideration of all views regarding the application. If the earmarked funds are not used within the 18-month period, they may be voluntarily surrendered to Rail Box whose establishment and operation was approved in *American Rail Box Car Co.—Pooling,* 347 I.C.C. 862. If the carrier fails within the stated period to put to use collected earmarked funds which result in a net credit balance, has not obtained relief from that requirement, and has not surrendered such funds to Rail Box, the Commission will investigate the matter to determine what, if any, corrective action is warranted. Appropriate corrective action would include section 16(12) remedies among others.

(g) Carriers may make temporary investment in unexpended funds in Government bonds or other liquid securities. Such securities must be readily convertible to cash so that funds remain available for boxcar purchases. Interest earned must become part of the earmarked fund.

(h) As used in this section, "build," "rebuild," "lease," or "purchase" refer to a commitment to build, rebuild, lease, or purchase which results in the acquisition of a car on line ready for use within 10 months from the date of commitment, except that in extraordinary cases beyond the control of the carrier or the car supplier, a car that is delivered after 10 months from the date of commitment may qualify if approved by the Bureau of Accounts of this Commission.

(i) Upon application to the Commission, common carriers by railroad who have either adequate car supplies or good cause for not purchasing additional incentive per diem cars described in § 1036.1 from funds earned on those cars, may apply to the Commission to permit expenditure of such funds, on a matching basis, for projects that can be shown to improve directly the utilization of any of the car types earning incentive per diem.

§ 1036.5 Use of funds generated on gondola cars.

The net credit balances resulting from incentive per diem settlements generated on general service unequipped gondola cars described in § 1036.1, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier, or designee of a Canadian railroad, to build, lease equivalent to purchase, lease (nonequity), purchase in whole or in part, or rebuild unequipped gondolas, unequipped boxcars and XF cars as described in § 1036.1. The nonequity leases must be entered into after January 1, 1977, be at least 10 years in duration, and in connection with such leases, earmarked funds must not be used for the cost of maintenance. Upon application to the Commission, common carriers by railroad which have either adequate car supplies or good cause for not purchasing additional incentive per diem cars described in § 1036.1 from funds earned on those cars, may apply to the Commission to permit expenditure of such funds on a matching basis, for projects that can be shown to directly improve the utilization of any of the car types earning incentive per diem. Earmarked funds must be put to use within 30 months after the end of the calendar year in which the funds are collected. Failure to spend 85 percent of the incentive per diem funds within the 30-month time period by a carrier will result in that carrier not being allowed to earn incentive per diem charges on its unequipped gondola cars until such earmarked funds have been expended. Incentive funds may also be used for major repairs that equal at least 25% of the cost of a new car of the same kind and class at that time if this expenditure results in placing a bad order car on line. Incentive funds cannot be used for ordinary repair and maintenance.

[FR Doc. 80-27525 Filed 9-5-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Wildlife Management Areas 10, 11, and 12 to Public Pheasant Hunting; Lacreek National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will supply additional recreational opportunities to the public. These special regulations describe the conditions under which pheasant hunting will be permitted on portions of Lacreek National Wildlife Refuge.

DATES: October 18, 1980 through December 14, 1980 and December 27, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota 57551 or Telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

General

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer this area for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the area was established, and (2) that funds are available for the development, operation, and maintenance of permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Lacreek National Wildlife Refuge was established. This determination is based upon consideration of the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; hunting ring-necked pheasant; for individual wildlife refuge areas.

Public hunting of cock ring-necked pheasants on the Lacreek National Wildlife Refuge, South Dakota, is permitted in those parts of Wildlife Management Areas 10, 11, and 12 (3,850 acres) delineated on maps available at designated registration stations and Refuge Headquarters. Hunting shall be according to State and Federal Regulations governing the hunting of cock pheasants subject to the following special conditions:

a. Hunters must check in and check out each day.

b. A special daily permit is required and must be in possession while hunting. The permits are available at self-service registration stations.

c. Motor vehicle use is restricted to designated access roads and parking areas.

d. Parking is permitted only in designated parking areas.

e. Discharging of firearms from, upon, or across any public roadway, or within 50 feet of the center line of any public roadway, or within the confines of parking areas, is prohibited.

f. Hunting with the aid of a motor vehicle is prohibited. No person may discharge a firearm within .5 miles of any motor vehicle available for his transportation unless that vehicle is parked in a designated parking area.

The provisions of this special regulations supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50 Code of Federal Regulations, Part 32, and are effective through December 31, 1980. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact

V45/175 SE8 80 UMI

Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 29, 1980.

Rolf H. Kraft,

Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.

[FR Doc. 80-27510 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of Wildlife Management Areas 10, 11, and 12 to Public Sharptailed Grouse Hunting; Lacreek National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of sharp-tailed grouse is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will supply additional recreational opportunities to the public. These special regulations describe the conditions under which sharp-tailed grouse hunting will be permitted on portions of Lacreek National Wildlife Refuge.

DATES: October 18, 1980 through December 7, 1980.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota 57551 or Telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

General

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer this area for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the area was established, and (2) that funds are available for the development, operation, and maintenance of permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Lacreek National Wildlife Refuge was established. This determination is based upon consideration of the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; hunting sharp-tailed grouse; for individual wildlife refuge areas.

Public hunting of sharp-tailed grouse on the Lacreek National Wildlife Refuge, South Dakota, is permitted in those parts of Wildlife Management Areas 10, 11, and 12 (3,850 acres) delineated on maps available at designated registration stations and Refuge Headquarters. Hunting shall be according to State and Federal Regulations governing the hunting of sharp-tailed grouse subject to the following special conditions:

a. The opening day for the sharp-tailed grouse season shall be October 18, 1980, a date more restrictive than State regulations.

b. Hunters must check in and check out each day.

c. A special daily permit is required and must be in possession while hunting. The permits are available at self-service registration stations.

d. Motor vehicle use is restricted to designated access roads and parking areas.

e. Parking is permitted only in designated parking areas.

f. Discharging of firearms from, upon, or across any public roadway, or within 50 feet of the center line of any public roadway, or within the confines of parking areas, is prohibited.

g. Hunting with the aid of a motor vehicle is prohibited. No person may discharge a firearm within .5 miles of any motor vehicle available for his transportation unless that vehicle is parked in a designated parking area.

The provisions of these special regulations supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50 Code of Federal Regulations, Part 32, and are effective through December 31, 1980. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 29, 1980.

Rolf H. Kraft,

Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.

[FR Doc. 80-27511 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

Alaska Salmon Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final regulations.

SUMMARY: This document makes final those proposed regulations, published on May 21, 1980 (45 FR 34020), which would implement the 1980 amendment to the fishery management plan (FMP) for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude. That FMP amendment was implemented by emergency regulations on May 20, 1980 (45 FR 33638). With the exception of incorporating one minor procedural change, these final regulations are identical to those emergency regulations published on May 20 and the proposed regulations published on May 21.

EFFECTIVE DATE: September 3, 1980, at 0001 hours Pacific Daylight Time (PDT).

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: On May 2, 1980, the Assistant Administrator for Fisheries, NOAA, approved, with the exception of one provision, the 1980 amendment to the fishery management plan (FMP) for the "High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude." This FMP amendment had been prepared by the North Pacific Fishery Management Council, pursuant to the Fishery Conservation and Management Act of 1976 (the Act), as amended, 16 U.S.C. 1801, *et seq.* Regulations proposed to implement the approved portion of the amendment were published on May 21, 1980 (45 FR 34020), with a public comment period ending on July 14, 1980. In accordance with section 305(e) of the Act, the FMP was implemented by emergency regulations published on May 20, 1980 (45 FR 33638). The preamble to the emergency regulations discussed several aspects of the amendment. That discussion is not repeated here. With the exception of incorporating a minor procedural change to § 674.22 of the regulations that was inadvertently omitted when the emergency regulations were published, these final regulations are identical to those emergency regulations.

The procedural change in § 674.22 merely provides that field orders become effective at the time the order is filed for publication with the **Federal Register** rather than the time the order is published in the **Federal Register**.

Response to Comments

Most of the comments received pertained to that portion of the amendment which was disapproved. Those comments were directed not to regulations, but to the plan as amended. The practical effect of that disapproval was a continuation of hand trolling in the fishery conservation zone (FCZ), which the State of Alaska opposed.

1. Disapproval of the Proposed Ban on Hand Trolling in the FCZ.

Comment: Persons opposed to hand trolling in the FCZ contended that hand trolling could result in overfishing in the FCZ and complicates the enforcement of the State's ban in its coastal waters.

Response: The Assistant Administrator, in disapproving the hand trolling restriction, found that it was inconsistent with National Standard No. 4 of the Act. The restriction would have excluded from the FCZ fishery some people who had historically fished in that zone, while allowing other individuals (power trollers) to continue to do so. The agency determined that no legitimate conservation or management purpose is served by such differing treatment of fishermen in the FCZ. A notice of availability of the final Supplemental Environmental Impact Statement for the FMP amendment was published on July 25, 1980 (45 FR 49665).

A final regulatory analysis as required under Executive Order 12044 for the FMP and 1980 amendment has been prepared, and is available from the Director, Alaska Region.

The Assistant Administrator for Fisheries, for good cause, finds that further opportunity for public comment prior to the effective date of these regulations is impracticable, unnecessary, and contrary to the public interest, and that there is good cause for these regulations to take effect on the date specified herein. That finding is based upon the following:

1. It would not be in the interest of the resource to delay further in implementing these regulations; and

2. These regulations are almost identical to those in effect since mid-May, and therefore the fishermen are familiar with them.

Dated this 3rd day of September 1980, at Washington, D.C.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

50 CFR 674 is amended as follows:

§ 674.4 [Amended]

1. Amend § 674.4(a)(5) by changing "1980" to "1981."

2. Amend § 674.21 *Catch Limitations* by revising paragraph (a) (1) and (2), (c) and by adding paragraph (d) as follows:

§ 674.21 Catch limitations.

(a) *Size Restrictions.*

(1) *Minimum size limit*—(i) *Chinook Salmon.* Only chinook salmon 28 inches or more in length may be retained.

(ii) *Other Salmon.* There is no minimum size limit for sockeye, coho, pink or chum salmon.

(2) *Method of Measurement.* For purposes of paragraph (1)(i) of this subsection, a chinook salmon is measured in a straight line passing over the pectoral fin, from the tip of the snout to the tip of the tail in its natural open position (see figure 1).

* * * * *

(c) *Landing Requirements.* All chinook or coho salmon taken in the management area must be landed with heads on.

(d) *Possession Prohibited.* The possession or retention of species of salmon in the management area or portion thereof which has been closed to the taking of such species of salmon, by vessels engaged in commercial fishing, is prohibited.

3. Change figure 1 to appear as follows:

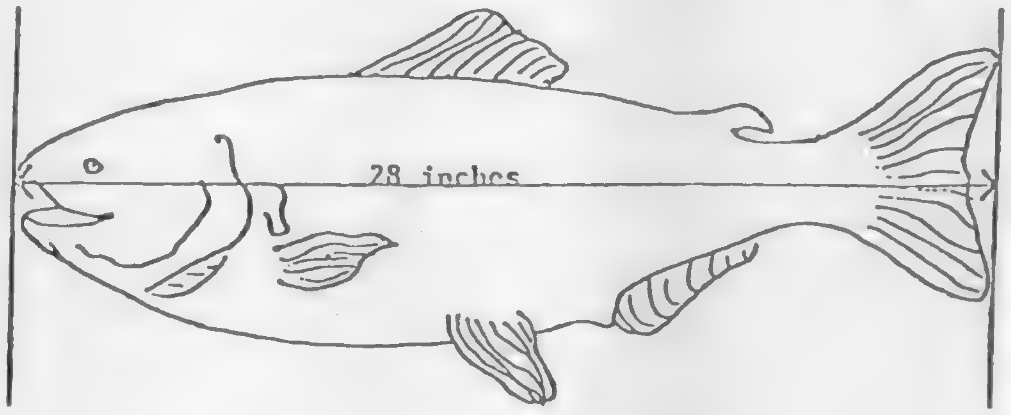

4. Amend § 674.22 by revising (b)(1)(i) as follows:

§ 674.22 Time and Area closures.

* * * * *

(b) Field Orders—(1) Contents.

* * * * *

(i) It is filed for publication with the **Federal Register.**

* * * * *

5. Amend sec. 674.24 by adding paragraph (a)(2)(ii) to read as follows:

§ 674.24 Gear restrictions.

(a) * * *

(2) * * * (i) [Reserved]

(ii) Vessels engaged in commercial fishing for salmon may not fish more than four lines south of a line beginning at the intersection of the inner boundary of the FCZ and the latitude of Cape Spencer at 58°12'08" N. lat., thence west along said latitude to 138°00' W. long., thence south along said longitude to 58°00' N. lat., thence west along said latitude to the intersection of the outer boundary of the FCZ and 58°00' N. lat. North of the line described above, such vessels may not fish more than six lines. All vessels engaged in commercial fishing for salmon must not have more than six gurdies mounted and in operational condition.

* * * * *

[FR Doc 80-27475 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-22-M

V45/175 SE8 80 UMI

Proposed Rules

Federal Register
Vol. 45, No. 175
Monday, September 8, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Administrative Committee of the Federal Register.

ACTION: Semiannual agenda.

SUMMARY: The purpose of this agenda is to report the current rulemaking activities of the Administrative Committee of the Federal Register that might affect Federal Register publications. This information will allow the public and agencies to participate in the Committee's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Margaret M. Donohoe, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408, Telephone (202) 523-3408.

SUPPLEMENTARY INFORMATION: In response to President Carter's Executive order on improving Government regulations, the Administrative Committee of the Federal Register published this agenda (E.O. 12044). The regulations issued by the Administrative Committee of the Federal Register govern the Federal Register publications and are contained in Title 1 of the Code of Federal Regulations (CFR).

Previous agendas were published on January 8, 1979, at 44 FR 1802, July 9, 1979, at 44 FR 40070 and March 10, 1980, at 45 FR 15183.

The Committee at present has one rulemaking in progress concerning the identification of subjects in agency regulations. A discussion of that rulemaking follows.

Identification of Subjects in Agency Regulations

Description

The Committee is proposing to require agencies to identify major topics and categories of persons affected in their regulations in standard terms derived from the Federal Register Thesaurus of Indexing Terms and the Standard Industrial Classification Manual. Increased public involvement and need for information on regulations has led to the need for more comprehensive indexes and information services for the Federal Register and Code of Federal Regulations (CFR). Having agencies identify the subjects in their regulations that affect or are of interest to them. It would also help the Office of the Federal Register (OFR) provide more effective information services to the public directly and through published finding aids.

Status

An advance notice of proposed rulemaking was published on January 15, 1980 (45 FR 2998). A meeting with agency personnel was held on March 18, 1980, to discuss implementation of the proposal.

A proposed rule amendment 1 CFR Part 18 was published on July 9, 1980 (45 FR 46328). Comments must be received by September 8, 1980.

Publication of a final rule is anticipated in December 1980.

For Further Information Contact: Carol Mahoney, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408, Telephone (202) 523-5266.

Although other improvements to the Federal Register system are being considered which may result in amending existing regulations contained in 1 CFR Ch. I, the proposed rule on identification of subjects in agency regulations is the only rulemaking anticipated during the next six months.

Martha B. Girard,

Acting Secretary, Administrative Committee of the Federal Register.

[FR Doc. 80-27472 Filed 9-5-80; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-WE-15]

Proposed Alteration of Transition Area, Placerville, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter a portion of the 700-foot transition area at Placerville, California, so as to provide controlled airspace for instrument procedures at the Placerville Airport.

DATE: Comments must be received on or before October 2, 1980.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before October 2, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling

(213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the applications procedures.

Drafting Information

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter the Placerville, California 700-foot transition area. This action will provide controlled airspace protection for IFR operations at the Placerville Airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

71.181 *Placerville, Calif.*

Delete period following * * * "southwest of the VOR" and add "and within four miles each side of the Hangtown VOR 197° radial extending from four mile radius area to eleven miles south of the VOR."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Los Angeles, Calif., on August 22, 1980.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 80-27173 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Docket No. SD-155]

Validity, Termination, and Replacement of Visa

AGENCY: Department of State.

ACTION: Proposed rulemaking.

SUMMARY: This rule would amend and clarify the regulations in section 41.122 relating to termination of the validity of a nonimmigrant visa by a consular or immigration officer in those cases where the page on which the visa was issued has been physically removed from an expired passport.

DATES: Written comments received by the Department prior to October 31, 1980 will be considered.

ADDRESS: Written comments should be addressed to the Director, Office of Legislation, Regulations and Advisory Assistants, Visa Services, Bureau of Consular Affairs, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, 202-632-1900.

SUPPLEMENTARY INFORMATION: Increasing numbers of nonimmigrant aliens have been presenting at the time of their applications for admission visas which have been physically removed from passports issued to them earlier and affixed to subsequently issued passports. In many instances, there is no method by which immigration inspectors at ports-of-entry can identify the applicant for admission as the alien to whom the visa was issued. This is particularly true in the cases of bearer(s) stamp visas now in use pursuant to section 41.124(d)(1). These amendments provide that a visa that has been physically removed from the passport in which it was originally issued is invalid and is to be physically cancelled by a consular or immigration officer to whom it is presented.

1. In § 41.122(e) the word "or" in subparagraph (6) is deleted; the period at the end of subparagraph (7) is substituted by a semicolon followed by the word "or" and a new subparagraph (8) is added to read:

§ 41.122 Validity, termination and replacement of visa.

* * * * *

(e) *Termination of validity by consular or immigration officer.* * * *

(8) The visa has been physically removed from the passport in which it was originally issued.

* * * * *

2. In § 41.122(f) subparagraph (1), after "United States," the phrase "the visa has been physically removed from the passport in which it was originally issued, or" is inserted.

3. In § 41.122(f) subparagraph (2) is revised to read:

§ 41.122 Validity, termination and replacement of visa.

* * * * *

(f) *Termination of validity prior to alien's journey to the United States.* * * *

(2) Upon learning that a visa has been physically removed from the passport in which it was originally issued or upon a finding of ineligibility pursuant to paragraph (f)(1) of this section, the consular officer shall, if possible, physically cancel such visa. If the consular officer is unable to physically cancel the visa he shall give notice of the termination of validity to the master, commanding officer, agent, owner, charterer, or consignee of the carrier or transportation line on which it is believed that the alien intends to travel to the United States and shall promptly submit to the Department a full report of the facts of any case in which a finding of ineligibility to receive a visa has been made pursuant to paragraph (f)(1) of this section.

* * * * *

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104; Section 109(b)(1), 91 Stat. 847)

Dated: August 26, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-27487 Filed 9-5-80; 8:45 am]

BILLING CODE 4710-06-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Establishment of Regulations Regarding "Life Estates"

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing proposed standards and procedures to govern the award of life estate leases to members of the Hopi and Navajo Tribes who have been displaced because of relocation. This rule sets forth application and disability determination procedures. These regulations are required under section 30(b) of the

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Navajo and Hopi Indian Relocation Amendments Act of 1980.

DATES: Comments must be received on or before September 26, 1980. A hearing will be scheduled on or about September 13, 1980.

ADDRESS: Send comments to Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Blvd., Bldg. A, Flagstaff, Arizona 86001. The hearing will be held at the Tuba City Community Center, Tuba City, Arizona.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, (602) 779-3311, ext. 1376, FTS: 261-1376.

SUPPLEMENTARY INFORMATION: On July 8, 1980, the Navajo and Hopi Indian Relocation Amendments Act of 1980, (25 U.S.C. 640-d, Pub. L. 96-305), hereinafter referred to as the "Amendments Act", was approved. The "Amendments Act" requires the Commission to promulgate certain regulations concerning Life Estates within ninety (90) days of its enactment (i.e.: by October 8, 1980). For this reason, these proposed rules are not intended to be exhaustive. It is anticipated that additional rules further outlining procedures regarding such matters as fencing of Life Estates, access to Life Estates by visitors and family, appeal procedures, and Life Estate Leases will be promulgated in the near future.

Because of the time constraints imposed by the Amendments Act, The Commission has been required to adopt a shorter than usual comment period which requires comments to be received on or before September 26, 1980. A public hearing will be scheduled on or about September 13, 1980, on the reservation to assure full public input.

Section 700.17(a) of the proposed rule is concerned with the content of the application for Life Estate Leases. After adoption of a final rule, the Commission will prepare an appropriate application form and make it available immediately upon its approval.

Section 700.17(b) of the proposed rule is concerned with the determination of disability as it relates to eligibility for Life Estates. The Commission has adopted the Veteran's Administration definition of "disability" for purpose of the proposed rule for several reasons; the severe time constraints imposed by the Amendments Act; Senate Report No. 96-373 may require the Commission to use the Veteran's Administration schedule for rating disabilities, and last, it may be expeditious to the disability examination process to use the Veteran's Administration standards because many physicians are familiar with such standards.

Section 700.17(c) of the proposed rule concerns grouping and awarding of Life Estate Leases. This section adopts the language of the Amendments Act.

The principal author is William G. Lavell, Field Solicitor, Valley Bank Center, Suite 2080, 201 N. Central Avenue, Phoenix, Arizona 85073.

Accordingly, 25 CFR 700.17 is proposed to read as follows:

§ 700.17 Life estate leases.

The following standards and procedures shall govern the awarding of Life Estate Leases:

(a) *Filing of Applications for Life Estate Lease.* Applications for Life Estate Leases shall be filed at the Commission's office in Flagstaff, AZ, not later than April 1, 1981, unless extended by the Commission for not more than 180 (one-hundred and eighty) days, for good cause. Application shall be made on an approved Commission form known as "Application for Life Estate Lease" and shall contain the following information:

(1) Name, address, birthdate, social security number, census number of the head of household and his/her spouse, and date of marriage, if married. The head of household who applies for a Life Estate Lease shall be known as the "applicant".

(2) Applicant's Quad Map location.

(3) Name, birthdate, census number, and social security number of the applicant's minor, dependent children.

(4) The nature of the applicant's disability, if any, and the names and addresses of those persons or hospitals which have treated applicant within the past five (5) years.

(5) The name(s) and address(es) of the person(s), if any, who presently cares for and resides with the applicant.

(6) A statement indicating the nature, extent, and term of the care, if any, provided to the applicant by the person(s) named in paragraph (a)(5) of this section.

(7) Applications shall be accompanied, wherever possible, with documentation such as Birth Certificates, Baptismal Records, Tribal Records, Family Census Cards, Marriage Certificates, Tax Returns, and such other documentation required by the Commission.

(b) *Determinations of disability.* The Commission shall determine disability pursuant to an opinion rendered by a physician or physicians selected and approved by the Commission. Such determinations shall be governed by the following procedures:

(1) Each applicant who claims entitlement to a Life Estate, by virtue of a disability, shall submit with his/her application, a certificate from a physician(s) approved by the Commission indicating the physician's opinion of applicant's disability from 0% (zero percent) to 100% (one-hundred percent) in accordance with paragraph (b)(2) of this section.

(2) For purposes of this subsection, "disability" shall be defined from the Veteran's Administration definition at 38 U.S.C. shall be used to rank applicant's disabilities.

(c) Grouping and Awarding of Applications for Life Estate Leases. Upon receipt of application filed pursuant to this section, the Commission shall group and award Life Estate Leases in the following manner:

(1) Applicants who are determined to be at least 50 percent (50%) disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

(2) Applicants who are not at least 50 percent (50%) disabled shall be ranked in order of their age with the oldest listed first and the youngest listed last; PROVIDED that, if any applicant physically resides in Quarter Quad Numbers 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE, as designated on the Quarter Quad Maps of the Former Joint Use Area prepared by the Bureau of Indian Affairs Field Administrative Office, such applicant shall be given priority over another applicant of equal age.

(3) Applicants who did not, as of December 22, 1974, and continuously, thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

(4) Applicants who were not at least forty-nine (49) years of age on December 22, 1974, *or* are not at least 50 percent (50%) disabled, shall also be rejected by the Commission.

(5) The Commission shall award Life Estate Leases to not more than one-hundred and twenty (120) Navajo applicants and not more than ten (10) to Hopi applicants with first priority being given to applicants listed pursuant to paragraph (c)(1) of this section and the next priority being given to applicants listed pursuant to paragraph (c)(2) of this section, in order of such listing.

(Pub. L. 96-305, 94 Stat. 929, 25 U.S.C. 640-d)

Roger Lewis,

Vice-Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 80-27588 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-HD-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Ch. III

[BMCS Docket No. MC-94; Notice No. 80-8]

Minimum Levels of Financial Responsibility for Motor Carriers

Correction

In FR Doc. 80-26353, appearing on page 57676, in the issue of Thursday, August 28, 1980, make the following corrections:

On page 57676, third column, fourth line from the bottom, the figure "$75,000" should have read "$750,000". In the eleventh line from the bottom, the word "interstate" should have read "intrastate".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1599-5]

Approval and Promulgation of Implementation Plans; Nevada State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the Nevada Revised Statutes and the Nevada Air quality Regulations have been submitted to the Environmental Protection Agency (EPA) by the Governor for the purpose of revising the Nevada State Implementation Plan (SIP). The intended effect of these revisions is to rescind all of the indirect (complex) source regulations contained in the Nevada SIP.

On October 16, 1979 (44 FR 59561), EPA proposed to approve the revisions. Due to the decision in *Manchester Environmental Coalition v. U.S. Environmental Protection Agency,* ———F.2d———(No. 79-4062, 2d Cir. dec. December 6, 1979), which specified that rescission of an indirect source review program should be based on attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), the EPA has reevaluated the proposed action. In this notice EPA proposes to approve the rescission of Nevada's indirect source review program since the State's nonattainment area plans are proposed to be conditionally approved.

The EPA invites public comments on these revisions especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to November 7, 1980.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV 89710.

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On October 16, 1979 (44 FR 59561), EPA proposed to approve revisions to the Nevada SIP which would remove all indirect source review regulations. The Governor submitted the revisions on December 29, 1978 and July 24, 1979. A complete list of the rules being proposed are contained in the October 16, 1979 notice.

An indirect source review program (ISRP) provides for the preconstruction review of such facilities as shopping centers, sports complexes, and apartment developments, which induce or attract significant traffic. The purpose of this program is to ensure that the substantial increase in traffic resulting from the construction of such facilities will not cause violations of the NAAQS for transportation related pollutants.

EPA's proposed action was based on the view that Section 110(a)(5)(A)(iii) of the Clean Air Act, as amended, permits a State to rescind its ISRP so long as the State complies with the procedural requirements in Section 110. During the 60 day comment period, EPA received comments opposing the proposed approval as well as comments favoring it.

On December 6, 1979 the U.S. Court of Appeals in *Manchester Environmental Coalition v. U.S. Environmental Protection Agency,* ——— F. 2d ——— (No. 79-4062, 2d Cir. dec. December 6, 1979), held that Section 110(a)(5)(A)(iii) requires the Agency to ensure that a State's SIP revision rescinding an ISRP meets both the procedural and substantive requirements of Section 110. The Court held that before deciding whether to approve such a rescission, EPA must also consider whether the rescission would render the SIP inadequate to attain and maintain the NAAQS. Accordingly, EPA has reevaluated the October 16, 1979 proposed action to determine the impact on the NAAQS.

The Clean Air Act requires States to submit a nonattainment area plan (NAP) for those areas which are not attaining the NAAQS. The State of Nevada has submitted NAPs for the areas of the State which are not attaining the NAAQS for transportation related pollutants.

Since the remainder of the State is attaining and maintaining these NAAQS, EPA has determined that the control strategies currently in effect in these areas are adequate even without the ISRP. This determination is substantiated by the fact that these areas have been attaining and maintaining these NAAQS even though the State rescinded and has not enforced its ISRP since January 17, 1977.

As discussed elsewhere in today's **Federal Register**, EPA has determined that the strategies for attaining and maintaining the NAAQS contained in the NAPs meet the requirements of the Clean Air Act with Certain minor deficiencies. EPA is proposing to approve the State's NAPs with the condition that the minor deficiencies be corrected by a specified deadline.

Since the NAPs are basically consistent with the requirements of the Clean Air Act, and provide for the attainment and maintenance of the NAAQS, EPA concludes that the rescission of the ISRP for these areas would not render the Nevada SIP inadequte to attain and maintain the NAAQS. Therefore, EPA proposes to approve the rescission of Nevada's ISRP.

To accommodate equitably all competing interests during the period of transition to the revised Nevada plan, the agency is deferring implementation of a broad scale permit program. However, where a would-be permit applicant can show that it would suffer undue hardship as a result of protracted delay in plan approval and revision, the agency will accept a permit application on a case-by-case basis. This interim approach protects the rights of regualted parties without intruding wastefully or unreasonably into the State's air quality management program.

The State of Nevada has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51,

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the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before November 7, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans. EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, and 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7601(a))

Dated: June 20, 1980.

Paul DeFalco,

Regional Administrator.

[FR Doc. 80-27486 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1599-3]

Indiana State Implementation Plan; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking, notice of extension of comment period.

SUMMARY: The U.S. EPA is giving notice that the comment period for the notice of proposed rulemaking on the Indiana State Implementation Plan (SIP) revision to control particulate emissions from iron and steel process sources in the State of Indiana published July 3, 1980 (45 FR 45314), has been extended from August 4, 1980 to October 17, 1980.

DATE: Comments are now due on or before October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Air Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: This notice extends the period for submitting comments on the notice published July 3, 1980 (45 FR 45314) proposing rulemaking on revisions to Indiana's SIP. These revisions pertain to the control of particulate emissions from iron and steel process sources in the State of Indiana.

United States Steel Corporation, Jones & Laughlin Steel Corporation and Youngstown Sheet & Tube Company, by their attorney, on July 17, 1980, requested a 25 day extension of time for filing their comments regarding U.S. EPA's proposed action on the revisions. In addition, the State of Indiana, Air Pollution Control Board, on July 22, 1980, requested a 60-day extension of time for filing their comments. On July 23, 1980, Bethlehem Steel Corporation requested a 60-day extension of time for filing their comments.

U.S. EPA has decided that the extension of the public comment period is appropriate and the comment period is hereby extended to October 17, 1980.

Dated: August 29, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-27520 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1599-2]

Approval and Promulgation of Implementation Plans; Proposed Revisions Idaho State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and advance notice of proposed rulemaking.

SUMMARY: EPA announces today receipt of the Silver Valley Sulfur Dioxide (SO_2) Control Strategy and sulfur dioxide regulation for the Bunker Hill smelter as revisions to the Idaho State Implementation Plan. The public is invited to submit written comments to the record. A Notice of Proposed Rulemaking describing these revisions and the action that EPA intends to take regarding the proposed revisions will be published in the **Federal Register** at a later date. A second comment period for submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Preliminary comments on the proposed revisions will be accepted by EPA until such time as EPA proposes its decision on the Idaho State Implementation Plan. Subsequent to such proposal, EPA will again invite public comment on the proposed revisions to the Idaho SIP.

ADDRESSES: The revisions may be examined during normal business hours at the following locations:

Central Docket Section (10A-80-Z)2, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

State of Idaho, Department of Health And Welfare, 450, W. State Street, Boise, Idaho 83720.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 629, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Air Programs Branch M/S 625, Environmental Protection Agency 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1226, (FTS) 399-1230.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that states submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated nonattainment.

On March 3, 1978 [43 FR 8984] EPA designated certain areas in Idaho as nonattainment. Subsequently, EPA published specific guidance for an approvable Part D SIP. This guidance is described in a General Preamble on April 4, 1979, **Federal Register** [44 FR 20372] and supplemented in the **Federal Register** on July 2, 1979 [44 FR 38583], August 28, 1979 [44 FR 50371], September 17, 1979 [44 FR 53761], and November 23, 1979 [44 FR 67182]. This guidance is incorporated by reference and will not be restated here.

The purpose of this Notice is to call the public's attention to the fact that the Silver Valley Sulfur Dioxide Control Strategy and sulfur dioxide regulation for the Bunker Hill smelter have been formally submitted to EPA and are available for public inspection at the locations listed above. The public is encouraged to submit written comments regarding the proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 [44 FR 20372] and supplemented in the **Federal Register** on July 2, 1979 [44 FR 38532], August 28, 1979 [44 FR 50371], September 17, 1979 [44 FR 53761], and November 23, 1979 [44 FR 67132] which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of these revisions will be published in the **Federal Register** at a later date as part of a Notice of Proposed Rulemaking.

(Sec. 110 and 172 of the Clean Air Act, 142 U.S.C. 7410 and 75021)

Dated: August 28, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-27478 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1598-4]

State of New Mexico: Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: The New Mexico Environmental Improvement Division (NMEID) has requested that EPA change the existing, nonattainment designation for carbon monoxide (CO) for the Santa Fe area to attainment.

EPA has reviewed the requested redesignation which is based upon the evaluation of the CO data collected in Santa Fe for the period 1977–1979. This notice proposes approval of the revisions to the air quality attainment designations for New Mexico and solicits public comment on this proposed action.

DATES: Comments must be received on or before October 8, 1980.

ADDRESSES: Submit comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d) of the Clean Air Act, amended in 1977 directed each State to submit to the Administrator a list of identifying areas within the State and their status with regard to attainment of the National Ambient Air Quality Standards (NAAQS). On March 3, 1978, at 43 FR 9016, the Administrator promulgated nonattainment designations for the State of New Mexico for CO and other pollutants. These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations.

Section 107(d)(5) of the Act allows a State to revise and resubmit, as appropriate an amended list to the Administrator. The State of New Mexico proposed to amend its list by redesignating the Santa Fe area to attainment status for CO and on November 15, 1979, submitted the revisions to the EPA.

Redesignation of the Santa Fe Area

In Air Quality Control Region (AQCR) 157, the Santa Fe area is designated as nonattainment for primary CO standards in the Code of Federal Regulations (40 CFR 81.333). The Santa Fe area is under consideration for revision from nonattainment to attainment. A review of the information supporting redesignation was based upon the evaluation of the CO data collected during the period 1977–1979. The NMEID presents highest and second highest values for both one-hour and eight-hour averages. As indicated in the chart below, the 2nd high eight hour CO average at the site has decreased to levels below NAAQS. Levels in Santa Fe have not exceeded the one-hour NAAQS in the past. From 1977 to 1979 the averages ranged as follows:

Carbon Monoxide Values for Santa Fe, 1977–79

Year	1-h per average		8-h per average	
	High	Second high (ppm)	High	Second high (ppm)
1977	16.5	16.5	9.7	8.9
1978	13.5	12.0	6.7	5.9
1979	15.5	15.0	6.7	6.6
Standard		35		9

The table illustrates that no violations of either the eight-hour or the one-hour standard have occurred in the most recent eight quarters of data available. Therefore, EPA, proposes to redesignate the Santa Fe area from nonattainment to attainment.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

Dated: August 8, 1980.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 80-27485 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL-1598-3]

State of Oklahoma: Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Oklahoma State Department of Health has requested that EPA change the existing nonattainment designation for ozone for Cleveland County to attainment.

EPA has reviewed the requested redesignation which is based upon four years of ambient data, 1976–1979 and the first quarter of 1980 data. This notice proposes approval of the revisions to the air quality attainment designations for Oklahoma and solicits public comment on this proposed action.

DATES: Comments must be received on or before October 8, 1980.

ADDRESSES: Submit comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d) of the Clean Air Act, amended in 1977 directed each State to submit to the Administrator a list of identifying areas within the State and their status with regard to attainment of the National Ambient Air Quality Standards (NAAQS). On March 3, 1978, at 43 FR 9027, the Administrator promulgated nonattainment designations for the State of Oklahoma for ozone and other pollutants. These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations.

Section 107(d)(5) of the Clean Air Act allows a State to revise and resubmit as appropriate an amended list of areas to the Administrator. On February 8, 1979, EPA promulgated a revised ozone standard that raised the level of the standard from 0.08 ppm to 0.12 ppm. Based upon this revised standard the State of Oklahoma has amended its list, thus correcting the original designation of the Cleveland County area from nonattainment to attainment.

Redesignation of Cleveland County

In Air Quality Control Region (AQCR) 184, the Cleveland County area is designated as nonattainment for the primary ozone standard in the Code of Federal Regulations (40 CFR 81.337). The Cleveland County area is under consideration for revision from nonattainment to attainment based upon EPA's revised ozone standard from 0.08 ppm to 0.12 ppm. A review of the information supporting redesignation indicates that the expected number of exceedances per calendar year equals zero at this site. The following is a summary of ozone daily maxima at the site in Cleveland County, Oklahoma:

Ozone Daily Maxima Data (1976–80) for Cleveland County

Year	Daily maximum 1st (ppm)	1-hr Conc's 2d (ppm)	Exceedances of the NAAQS [1]
76	0.102	.094	0
77	.115	.112	0
78	.123	.103	0
79	.103	.091	0
80 (1st qtr)	.093	.072	0

[1] To exceed the NAAQS, concentrations must exceed 0.125 ppm. Annual exceedances = 0.

Based upon the above data, EPA proposes to redesignate the Cleveland County area from nonattainment to attainment.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407–(d).

Dated: August 8, 1980.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 80-27484 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Ch. I

[FRL 1600-3]

Federal Assistance Limitations; State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to limit certain federal funding assistance for specific areas in the State of California. These limitations apply to funds provided under the Clean Air Act, the Clean Water Act, and the Surface Transportation Assistance Act. This action is being taken pursuant to Sections 176(a) and 316(b) of the Clean Air Act, because the State of California has failed to submit or make a reasonable effort to submit a nonattainment area plan revision that considers each of the elements in Section 172 of the Clean Air Act, 42 U.S.C. 7502. If finalized, this action may impact as much as $850 million in federal assistance for the State of California in fiscal year 1981. EPA invites public comment on this action.

DATES: Comments may be submitted up to 45 days following the date of publication of this notice (October 23, 1980). (The normal 30-day comment period provided under the Section 176(a) procedures has been extended to 45 days because of the controversial nature of this proposed action.)

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Planning Branch, Program Development Section (A-2-1), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

EPA has established a rulemaking Docket, 9A-80-1, containing all the information for the proposed rulemaking, which is available for public inspection during normal business hours at EPA Region IX Office at the above address.

In addition, copies of this notice and support information are available for public inspection during normal business hours at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.
Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Blackard, Chief, Program Development Section, Planning Branch (A-2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, telephone: (415) 556-6048, ext: 2937.

SUPPLEMENTARY INFORMATION:

Background

In 1977 Congress amended the Clean Air Act, 42 U.S.C. 7401 *et seq.*, to address the serious health problem posed by the states' failure to attain the national ambient air quality standards. While extending the deadline for attaining these standards to December 31, 1982, Congress required those states with nonattainment problems to submit by January 1, 1979 a nonattainment area plan (NAP) revision to its state implementation plan (SIP). This NAP must be designed to correct the deficiencies in the existing plans and insure that the new attainment deadlines will be reached. (Sections 172(a)(1) and 172(b)(1)–(10), 42 U.S.C. 7502(a)(1) and 7052(b)(1)–(10).) In addition, for those areas with serious ozone (O_3) or carbon monoxide (CO) problems that can demonstrate that even with the implementation of all reasonable available control measures they could not attain the O_3 or CO standards by the end of 1982, Congress allowed EPA upon request of a state to extend the attainment deadline for O_3 and CO beyond 1982 and up to December 31, 1987. (Section 172(a)(2), 42 U.S.C. 7502(a)(2).)

In return for this extension for O_3 and CO, Congress required the requesting state to submit additional measures in its 1979 NAP. (Section 172(b)(11), 42 U.S.C. 7502(b)(11).)

One such additional measure was a schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program along with certification that the state has legal authority to go forward and implement and enforce that program.[1] (Sections 172(b)(10) and 172(b)(11)(b), 42 U.S.C. 7502(b)(10) and 7502(b)(11)(b).)

The basic statutory, regulatory and policy criteria for EPA's review of the 1979 NAP have been summarized and discussed in the General Preamble for Proposed Rulemaking on Approval of Plan revisions for Nonattainment Areas (44 FR 20372, April 4, 1979) and its supplements (44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

To insure that federal funds do not further exacerbate the already serious nonattainment problem and to encourage state cooperation, Congress provided that in certain situations federal funds that would finance or were related to pollution generating activities such as roads or new sewage treatment works would be withheld unless there was an acceptable NAP in place to deal with the air pollution problem or, at a minimum, unless the state was making reasonable efforts to develop such a plan. Specifically Congress adopted Section 176(a), 42 U.S.C. 7506(a) which provides:

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[1] The state must also show in its 1979 NAP that it is committed to implement and enforce an I/M program, has adequate resources to do so, and that the program once implemented will meet a minimum standard of effectiveness. Sections 172(b)(2), (7) and (10), 42 U.S.C. 7502(b) (2), (7) and (10).

> (a) The Administrator shall not approve any projects or award any grants authorized by this Act and the Secretary of Transportation shall not approve any projects or award any grants under title 23, United States Code, other than for safety, mass transit, or transportation improvement projects related to air quality control region—
>
> (1) in which any national primary ambient air quality standard has not been attained,
>
> (2) where transportation control measures are necessary for the attainment of such standard, and
>
> (3) where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982).

On April 10, 1980, after prior notice and public comment, EPA published its final policies and procedures governing imposition of the Section 176(a) funding restrictions. (45 FR 24692.) In this notice EPA stated that the geographic applicability of Section 176(a) will be the applicable air quality control region; however, EPA would consider applying the limitations to a smaller area if the purpose of the limitations could thereby be better served. (45 FR 24695.) The notice also discussed what adequate consideration of all the required elements in Section 172 would entail, pointing out that the state has an affirmative duty to investigate and compile data on the required elements, analyze that data, and consider and incorporate the required elements into the SIP in a manner consistent with the intent and purposes of the Act. (45 FR 24695.)

With respect to the reasonable effort requirement, the notice states that if a state made a good faith effort, judged on a case-by-case basis, to consider all of the Section 172 elements, then the funding limitations would not be imposed. (45 FR 24695.)

Finally, the notice outlines the procedures to be followed in imposing the funding limitations under Section 176(a). These include a notice by letter to the state and affected political entities followed by a 30 day negotiating period, followed by a formal notice of proposed rulemaking with 30-day comment period followed by a final action. In addition, a Section 307(d) type docket will be established for the rulemaking. The other administrative procedures provided for under Section 307(d) do not apply to this rulemaking, however, because this is not an action listed or designated by the Administrator under Section 307(d)(1). (42 U.S.C. 7607(d)(11).) Normal notice and comment procedures provided for under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* will govern this action.

In addition to Section 176(a), Congress also added Section 316(b) to the Clean Air Act which allows the Administrator to withhold, condition or restrict funds for the construction of sewage treatment works if he determines that a state does not have an approved SIP or that the approved SIP does not provide for the increased emissions resulting directly or indirectly from the operation of that facility. (Section 316(b), 42 U.S.C. 7616(b).) The EPA policy for implementing Section 316(b) was published in the **Federal Register** on August 11, 1980 (45 FR 53382).

Facts

For purposes of attaining clean air California has divided itself into fourteen air basins, six of which, or portions thereof, are urban areas of greater than 200,000 which have been designated nonattainment for either O_3 or CO and have requested an extension of the attainment deadline for those pollutants beyond 1982. These areas are:

Nonattainment area	Pollutant for which an extension of the attainment date is requested
South coast air basin	O_3, CO
San Francisco Bay area air basin	O_3, CO
San Diego air basin	O_3, CO
Ventura County portion of the south central coast air basin.	O_3
Sacramento metropolitan area	O_3
Fresno County portion of San Joaquin Valley air basin	O_3, CO

Under the Clean Air Act, the NAPs for these areas, which must include the required elements of an I/M program, were to have been submitted to EPA by January 1, 1979 and EPA was to have acted upon them by July 1, 1979. As of July 1, 1979, however, California had not submitted a NAP for any of the above-listed air basins. Subsequent to July 1, 1979, the State has submitted NAPs for the areas in question and has included an I/M program in each of the plans. The State has failed, however, to certify in its NAPs, as required under Section 172(b)(10), that it has legal authority to implement and enforce an I/M program. Because of this critical deficiency EPA found it necessary to propose to disapprove the O_3 and CO portions of the NAPs for the San Diego (44 FR 57110, Oct. 4, 1979), South Coast (45 FR 21271, April 1, 1980) and San Francisco Bay Area (45 FR 21282, April 1, 1980) air basins and intend to propose similar action for the remaining basins requiring I/M.

The California legislature considered in depth in 1978 and again in 1979 and 1980 various bills to provide legal authority for implementation and enforcement of an annual I/M program. In fact, a bill to provide authority for an I/M program has been before the California legislature for each year since at least 1975. In January 1980 a bill that could have provided legal authority passed the California Senate but failed to be voted out of a key Assembly committee in early June of this year. Other bills, in the California Assembly, that have had extensive hearings and could have been the basis for adequate legal authority, have not been passed by the legislature.

On June 16, 1980, almost one year after the July 1, 1979 deadline, EPA informed California by letter to the Governor that because of the State's failure to certify adequate legal authority for I/M, EPA was beginning the procedures for imposing the funding limitations under Sections 176(a) and 316(b) by starting the 30-day negotiating period. Between June 16 and the date of this notice EPA officials have met with numerous state and local officials, and representatives from business, labor and environmental groups in an effort to resolve this problem. In addition, EPA extended this negotiation period to September 1, because of assurances of legislative support and because of the ongoing consideration of potentially acceptable legal authority. This extension has expired however and California has still not adopted adequate I/M authority.

EPA Proposed Findings

For the air basins listed above California has failed to submit NAPs that include a certification of I/M legal authority. As explained above, Section 172(b)(10) requires such a certification for each of the above listed basins and lack of such certification means that a critical element of Section 172 has not been considered. Therefore, the Agency hereby proposes to find that for each of these air basins California has not submitted a NAP that considers each of the required elements of Section 172.

Moreover, at the present time it appears that California is no longer making reasonable effort to submit plans for these air basins that consider

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each of the Section 172 elements. The state legislature has had numerous opportunities to adopt the needed I/M legal authority. Also, more than a year and a half has passed since California was to have submitted NAPs that included such legal authority. These facts, plus the continuing health threat posed by the nonattainment problem in these air basins, appear to indicate that California is not making reasonable efforts to submit acceptable NAPs.

Finally, under section 316(b) funds for sewage treatment facilities may be withheld when, among other things, a state does not have an approved SIP. Since California does not have approved SIPs for these air basins and, again considering the continuing health hazard posed by the nonattainment problem in these basins, EPA proposes to withhold funds for construction of sewage treatment facilities in the above listed air basins.

Effect of Proposed Rulemaking

EPA proposes in this notice to limit certain types of federal assistence in the air basins previously mentioned. Upon final rulemaking the Secretary of Transportation shall not approve any projects or award any grants under the Surface Transportation Assistance Act (23 U.S.C. 101 *et seq.*) except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. It is estimated that this restriction could affect approximately $450 million of funding to the affected areas for federal government fiscal year 1981.

Also affected potentially will be the award of certain air grants authorized under the Clean Air Act (42 U.S.C. 7401 *et seq.*), including section 105 grants, to local air quality control districts. These funds could amount to approximately $5 million in the affected areas during fiscal year 1981.

Finally, EPA will also withhold certain grants for the construction of sewage treatment works available under section 201(g) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) to municipalities, sanitation districts, or other eligible grantees located in the affected basins. The EPA Regional Administrator may fund a specific project if he finds that it is needed for relief of an immediate public health hazard and will not expand useable treatment capacity by more than one million gallons per day. In addition, the EPA Regional Administrator may fund a project which will improve treatment capability, but will not expand capacity for future growth. These funding limitations could amount to approximately $390 million for fiscal year 1980/1981.

The following table indicates potential fiscal year 1981 Federal assistance funds affected by this action:

Affected area	Transportation projects	Sewage treatment works	Air grants	Total
South Coast Air Basin	$200,000,000	$143,000,000	$1,500,000	$344,500,000
San Francisco Bay Area Air Basin	160,000,000	164,000,000	700,000	324,700,000
San Diego Air Basin	50,000,000	61,000,000	500,000	111,500,000
Ventura County portion of South Central Coast Air Basin	25,000,000	7,000,000	200,000	32,200,000
Sacramento Metropolitan Area	16,000,000	10,000,000	100,000	26,100,000
Fresno County portion of San Joaquin Valley Air Basin	6,000,000	4,000,000	200,000	10,200,000
Air Resources Board			2,000,000	2,000,000
Total	457,000,000	389,000,000	5,200,000	851,200,000

Negotiation Period

The following is a summary of actions taken by EPA including and subsequent to the identification of the areas where the federal assistance limitations referenced in this notice will apply:

June 16, 1980

- Notification of initiation of § 176(a) procedures provided by letter to the Governor of California and the Regional Administrator of the Federal Highway Administration, Region IX.
- Regional Administrator of EPA, Region IX and the Regional Representative of the Secretary of the Department of Transportation met with representatives of the following:

Office of the Governor
California Air Resources Board
Cal Trans
California State Water Resources Control Board
Office of Mayor, City of Los Angeles
Office of the Mayor, City of San Diego
Southern California Association of Governments
Southern California League of Cities
Los Angeles City Council
Office of the Mayor, City of Long Beach
City of Yorba Linda
San Diego County Board of Supervisors
Comprehensive Planning Organization of San Diego

June 17, 1980

- Regional Administrator of EPA, Region IX and the Region IX Regional Representative of the Secretary of the Department of Transportation met with representatives of government, industry and public interest groups including the following:

California Association of Sanitation Agencies[2]
California Council of Governments
County Supervisors Association of California
Metropolitan Transportation Commission
League of California Cities
Bay Area Council
California Manufacturers Association
California Building Industry Association
California Chamber of Commerce
California Labor Federation[2]
Associated General Contractors of California[2]
League of Women Voters
California Lung Association
Sierra Club
Common Cause

June 27 and July 1, 1980

- Regional Administrator of EPA, Region IX, notified by letter 384 elected officials in the six affected areas of the initiation of procedures to implement Sections 176(a) and 316(b).

July 1, 1980

- Regional Administrator of EPA, Region IX, notified Federal Agencies by letter of the initiation of procedures to implement Section 176(a) and 316(b).

August 15, 1980

- Administrator of EPA, extended comment period to September 1, 1980.

As previously stated, this notice provides for a 45-day public comment period during which continued negotiation with the state is possible.

After the close of the comment period and evaluation of public comments, if no resolution is reached, EPA will publish a Notice of Final Rulemaking in the **Federal Register**, imposing the federal assistance limitations. The limitations would be effective upon publication of the Notice of Final Rulemaking.

In order to remove the limitations on federal assistance, once they are established, EPA must publish a Notice of Proposed Rulemaking in the **Federal Register** and allow for a 45-day public comment period regarding such action. After evaluation of public comments, if EPA decides to remove the limitations, EPA must publish a Notice of Final Rulemaking which authorizes rescission of the federal assistance limitations. The limitations, however, would remain in effect until publication of the notice of final rulemaking.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

Secs. 110, 172, 176(a), 301, and 316 of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7502, 7506(a), 760(a), and 7616).

Dated: September 2, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-27640 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

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[2] Invited but did not attend.

Notices

Federal Register
Vol. 45, No. 175
Monday, September 8, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Renewal of Enrollment

Enrolled Actuaries Whose Enrollment Status Expires in February 1981 Should Advise the Executive Director If They Do Not Receive a Renewal Application. Under § 901.11(a) (20 CFR 901.11(a)) of the regulations governing individuals enrolled to perform actuarial services under the Employee Retirement Income Security Act of 1974, enrollment is valid for a period of five years. Renewal of enrollment is available to enrolled actuaries provided an application for renewal is made within six months before the date of the expiration of enrollment. The records of the Executive Director, Joint Board for the Enrollment of Actuaries, disclose that the enrollment of a number of enrolled actuaries will expire within the next six months. Forms for renewal are being sent those persons in early September. If they wish to retain their enrollment status, they are required to execute the application form and return it to the Executive Director. Because of a great number of address changes and enrolled actuaries' failure to notify the Executive Director of them, it is possible some forms will be sent to wrong addresses. Consequently, those enrolled actuaries whose enrollment status expires in February 1981 who have not received the renewal application by early October, should notify the Executive Director of this fact. The date of enrollment is shown on the enrollment certificate. The correct mailing address is: Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220.

Dated: September 3, 1980.

Leslie S. Shapiro,
Executive Director.

[FR Doc. 80-27425 Filed 9-5-80; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Estimate With Respect to 1980 White or Irish Potato Production

AGENCY: Foreign Agricultural Service.

ACTION: Estimate with respect to 1980 white or Irish potato production.

Headnote 2 of Subpart A of Part 8 of Schedule 1 of the Tariff Schedules of the United States (TSUS) provided that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 37.5 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1980, is that for the calendar year 1980 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C., this 3rd day of September 1980.

Thomas R. Hughes,
Administrator.

[FR Doc. 80-27488 Filed 9-5-80; 8:45 am]

BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

[Order 80-8-178; Dockets 37554 and 36448]

Establishment of Standard Foreign Fare Level and Petition by Air Transport Association of America Regarding International Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of August, 1980.

In the matter of Establishment of the standard foreign fare level (Docket 37554); Petition to amend Part 399 regarding International Passenger Fares by the Air Transport Association of America (Docket 36448).

The International Air Transportation Competition Act (IATCA), P.L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base[1] periodically by percentage changes in actual operating costs per available seat-mile (ASM). The SFFL thus computed becomes the benchmark for measuring the statutory no-suspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in section 1002(d) of the Federal Aviation Act of 1958 (the Act). Order 80-2-69 established the first interim SFFL and subseqent Order 80-7-134, established the currently effective SFFL effective through September 30, 1980.

The SFFL for travel commencing October 1, 1980, will be established for a two-month period, and, alternatively, for a four-month period—October through January—thus, lending stability to the airline fare structure.

In establishing the SFFL for the period commencing October 1, we have projected non-fuel costs, based on the year ended June 30, 1980, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation. Our analysis has examined the change in non-fuel costs both on a quarterly and an annual basis, and in the absence of compelling reasons to do otherwise, we are continuing our policy of relying on annual data. As we have stated before, twelve-month data are more reliable because quarterly results can be completely distorted, and in the absence of unusual circumstances annual data provide a preferable base.

4-month SFFL

In establishing the SFFL for the four month period commencing October 1, 1980, we have projected non-fuel costs, based on the year ended June 30, 1980, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation. Our calulations measure inflation from January 1, 1980 to December 1, 1980, the midpoint of the October-January projection period, for the three rate-making entities: Atlantic, Latin America, and Pacific.

The four-month average of April-July fuel cost increases produces the following rate of escalation: 1.16 cents per gallon in the Atlantic; .99 cents a for gallon in Latin America; and 1.76 cents per gallon in the Pacific. The resulting projections are fuel prices of 113.39 cents in the Atlantic; 100.87 cents in

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[1] As defined in section 1002(j)(7) of the Federal Aviation Act of 1958.

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Latin America; and 115.29 cents in the Pacific at December 1, 1980.

Consequently, based on our calculations, we find the projected cost adjustment factor to be 17.06 percent in the Atlantic, 23.72 percent in Latin America, and 16.67 percent in the Pacific, over the October 1, 1979, level. (See Appendix B.) This results in an increase over the August 1, 1980, fares of 2.82 percent in the North Atlantic, 3.15 percent in Latin America, and 1.49 percent in the Pacific.

2-Month SFFL

As above, our calculations, based on the year ended June 30, 1980, measure inflation from January 1, 1980 to November 1, 1980, the midpoint of the Octobe–November projection period, for the three rate-making entities. The rates of escalation for fuel are the same and result in fuel price projections of 112.23 cents in the Atlantic; 99.88 cents in Latin America; and 113.53 cents in the Pacific at November 1, 1980. Based on our calculations, we find the projected cost adjustment factor to be 16.25 percent in the Atlantic; 22.51 percent in Latin America; and 15.76 percent in the Pacific, resulting in an increase over the August 1, 1980, fares of 2.11 percent in the Atlantic, 2.14 percent in Latin America, and .70 percent in the Pacific.

Carriers should note that we will issue a revised two-month SFFL effective December 1, but those implementing the four-month projection may not take the December 1 revision.

On August 24, 1979, the Air Transport Association (ATA) petitioned for rulemaking in Docket 36448. The petition asked the Board to amend 14 CFR Part 399 to establish for international fares a base level, a method for updating it, and a zone of flexibility. On February 15, 1980, we deferred action on the petition because the issues could be affected by pending legislation. With the enactment of the IATCA, Congress has now established a fare flexibility scheme for international fares that is much like the one in the petition. We are therefore denying the petition.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. Effective October 1, 1980, fares may be increased by the following adjustment factors over the October 1, 1979, level:

	4 Month	2 Month
Atlantic	1.1706	1.1625
Latin America	1.2372	1.2251
Pacific	1.1667	1.1576

2. The petition of the Air Transport Association in Docket 36448 is denied.

3. We shall serve a copy of this order upon all U.S. certificated air carriers and all foreign air carriers; and

4. We shall publish the order in the **Federal Register**.

By the Civil Aeronautics Board.[2]

Phyllis T. Kaylor,

Secretary.

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[2] All Members concurred.

Appendix A.—*International Normal Fare Adjustment Factor by Entity to Nov. 1, 1980, Over Oct. 1, 1979, Fare Level*

	International entity [1]		
	Atlantic	Latin America	Pacific [10]
Year ended June 1980:			
Total operating expense [2] (000)	$2,665,556	$1,803,524	$1,210,124
Less: Property and Mail	332,625	176,866	196,160
Nonscheduled [3]	86,471	35,866	2,745
Transport related [4]	133,531	25,831	14,205
Passenger operating expense	2,112,929	1,564,959	997,014
Passenger fuel cost [5]	648,039	446,237	338,413
Passenger nonfuel cost	1,464,890	1,118,722	658,601
Scheduled service ASM's (000)	37,852,276	25,678,858	20,395,348
Nonfuel operating expense per ASM	$0.03870	$0.04357	$0.03229
Fuel expense per ASM	.01712	[9].01792	.01659
Total expense per ASM	.05582	[10].06149	.09888
Year ended June 1979:			
Total operating expense [2] (000)	$2,091,633	$1,399,476	$881,444
Less: Property and Mail	270,801	159,822	156,700
Nonscheduled [3]	122,725	42,668	6,840
Transport related [4]	123,335	23,915	15,365
Passenger operating expense	1,574,772	1,173,071	702,539
Passenger fuel cost [5]	318,928	243,890	156,645
Passenger nonfuel cost	1,255,844	929,181	545,894
Scheduled service ASM's (000)	34,512,258	25,056,174	17,486,191
Nonfuel operating expense per ASM	$0.03639	$0.03863	$0.03122
Fuel expense per ASM	.00924	.01062	.00896
Total expense per ASM	.04563	.04925	.04018
Percent change in nonfuel operating expense per ASM	6.35	12.79	3.43
Projected change in nonfuel, Jan 1 to Nov. 1, 1980 (percent)	5.26	10.55	2.85
Estimated change in fuel cost, year ended June 1980, average to Nov. 1, 1980 [6] (percent)	23.89	21.42	30.09
Nonfuel operating expense per ASM at Nov. 1, 1980 [7]	$0.04074	$0.04817	$0.03321
Fuel expense per ASM at Nov. 1, 1980 [7]	.02121	.02176	.02158
Total expense per ASM at Nov. 1, 1980	.06195	.06993	.05479
Total expense per ASM at Oct. 1, 1979	$0.05329	$0.05708	$0.04733
Cost adjustment factor [8] (percent)	16.25	22.51	15.76
Change from prior SFFL (percent)	2.11	2.14	.70
Prior SFFL adjustment factor (percent)	13.85	19.94	14.96

[1] Includes following carriers: For Atlantic BN/DL/NA/NW/PA/TW; for Latin America AA/BN/CO/DL/EA/PA/WA/NA; for Pacific BN/CO/NW/PA.

[2] Total operating expense for all operations and service.

[3] Total nonscheduled revenues times 0.95 assuming charter operations would only be conducted at profit.

[4] Total transport-related expense, less any excess of expense over total transport-related revenues.

[5] Total fuel cost, scheduled service, times complement of rate of freight expense to total operating expense.

[6] Estimated average cost per gallon for the carriers at Nov. 1, 1980, divided by the year ended June 1980.

[7] Operating expense per ASM for the year ended June 1980 times projected change.

[8] Projected operating expense per ASM at Nov. 1, 1980, divided by operating expense for Oct. 1, 1979.

[9] Fuel expense for the Latin American entity excluding U.S.-Puerto Rico/Virgin Islands service. Passenger fuel cost for the entity less Puerto Rico/Virgin Islands is $309,477 and $166,677 for the year ended June 1980 and 1979 respectively. Available seat miles less Puerto Rico/Virgin Islands is 17,272,225 and 15,700,752 for the 1980 and 1979 annual periods respectively.

[10] Annual figures do not include NW for the first quarter to compensate for 1978 strike.

International Normal Fare Adjustment Factor by Entity for 2-Month Ratemaking Period Oct. 1–Nov. 30, 1980

	International entity		
	Atlantic	Latin America	Pacific
Average fuel cost per gallon (in cents): Year ending June 30, 1980	90.59	82.26	87.27
Month (in cents):			
April	103.83	93.19	100.98
May	105.61	94.48	102.11
June	107.97	94.74	105.09
July	108.17	96.41	107.37
Average monthly change over prior month (in cents):			
April	.28	.75	.66
May	1.78	1.29	1.13
June	2.36	.26	2.98
July	.20	1.67	2.28
4-month average	1.16	.99	1.76
Projected fuel cost (in cents):			
July 1980 price	108.17	96.41	107.37
Estimated July 15–Nov. 1, 1980	4.06	3.47	6.16
Total	112.23	99.88	113.53
Percent change over base: year ending June 30, 1980	23.89	21.42	30.09

Appendix B.—*International Normal Fare Adjustment Factor by Entity to Dec. 1, 1980, Over Oct. 1, 1979, Fare Level*

	International entity [1]		
	Atlantic	Latin America	Pacific [10]
Year ended June 1980:			
Total operating expense [2] (000)	$2,665,556	$1,803,524	$1,210,124
Less: Property and mail	332,625	176,868	196,160
Nonscheduled [3]	86,471	35,866	2,745
Transport related [4]	133,531	25,831	14,205
Passenger operating expense	2,112,929	1,564,959	997,014
Passenger fuel cost [5]	648,039	446,237	338,413
Passenger nonfuel cost	1,464,890	1,118,722	658,601
Scheduled service ASM's (000)	37,852,276	25,678,858	20,395,348
Non-fuel operating expense per ASM	$0.03870	$0.04357	$0.03229
Fuel expense per ASM	.01712	[9].01792	.01659
Total expense per ASM	.05582	.06149	.04888
Year ended June 1979:			
Total operating expense [2] (000)	$2,091,633	$1,399,476	$881,444
Less: Property and mail	270,801	159,822	156,700
Non-scheduled [3]	122,725	42,668	6,840
Transport related [4]	123,335	23,915	15,365
Passenger operating expense	1,574,772	1,173,071	702,539
Passenger fuel cost [5]	318,928	243,890	156,645
Passenger non-fuel cost	1,255,844	929,181	545,894
Scheduled service ASM's (000)	34,512,258	24,056,174	17,486,191
Non-fuel operating expense per ASM	$0.03639	$0.03863	$0.03122
Fuel expense per ASM	.00924	[9]01062	.00896
Total expense per ASM	.04563	.04925	.04018
Percent change in non-fuel operating expense per ASM	6.35	12.79	3.43
Projected change in non-fuel, Jan. 1 to Dec. 1, 1980 (percent)	5.81	11.66	3.14
Estimated change in fuel cost, year ended June 1980, average to Dec. 1, 1980 [8] (percent)	25.17	22.62	32.11

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Appendix B.—*International Normal Fare Adjustment Factor by Entity to Dec. 1, 1980, Over Oct. 1, 1979, Fare Level—Continued*

	International entity [1]		
	Atlantic	Latin America	Pacific [10]
Non-fuel operating expense per ASM at Dec. 1, 1980 [7]	$0.04095	$0.04865	$0.03330
Fuel expense per ASM at Dec. 1, 1980 [7]	.02143	.02197	.02192
Total expense per ASM at Dec. 1, 1980	.06238	.07062	.05522
Total expense per ASM at Oct. 1, 1979	$0.05329	$0.05708	$0.04733
Cost adjustment factor [8] (percent)	17.06	23.72	16.67
Change from prior SFFL (percent)	2.82	3.15	1.49
Prior SFFL adjustment factor (percent)	13.85	19.94	14.96

[1] Includes following carriers: For Atlantic BN/DL/NA/NW/PA/TW; for Latin America AA/BN/CO/DL/EA/PA/WA/NA; for Pacific BN/CO/NW/PA.

[2] Total operating expense for all operations and service.

[3] Total nonscheduled revenues times 0.95 assuming charter operations would only be conducted at profit.

[4] Total transport-related expense, less any excess of expense over total transport-related revenues.

[5] Total fuel cost, scheduled service, times complement of rate of freight expense to total operating expense.

[6] Estimated average cost per gallon for the carriers at Dec. 1, 1980, divided by the year ended June 1980.

[7] Operating expense per ASM for the year ended June 1980 times projected change.

[8] Projected operating expense per ASM at Dec. 1, 1980, divided by operating expense for Oct. 1, 1979.

[9] Fuel expense for the Latin American entity excluding U.S.-Puerto Rico/Virgin Islands service. Passenger fuel cost for the entity less Puerto Rico/Virgin Islands is $309,477 and $166,677 for the year ended June 1980 and 1979 respectively. Available seat miles less Puerto Rico/Virgin Islands is 17,272,225 and 15,700,752 for the 1980 and 1979 annual periods respectively.

[10] Annual figures do not include NW for the first quarter to compensate for 1978 strike.

International Normal Fare Adjustment Factor by Entity for 4-Month Ratemaking Period Oct. 1, 1980–Jan. 31, 1981

	International entity		
	Atlantic	Latin America	Pacific
Average fuel cost per gallon (in cents): Year ending June 30, 1980	90.59	82.26	87.27
Month (in cents):			
April	103.83	93.19	100.98
May	105.61	94.48	102.11
June	107.97	94.74	105.09
July	108.17	96.41	107.37
Average monthly change over prior month (in cents):			
April	.28	.75	.66
May	1.78	1.29	1.13
June	2.36	.26	2.98
July	.20	1.67	2.28
4-month average	1.16	.99	1.76
Projected fuel cost (in cents):			
July 1980 price	108.17	96.41	107.37
Estimated July 15–Dec. 1, 1980	5.22	4.46	7.92
Total	113.39	100.87	115.29
Percent change over base: Year ending June 30, 1980	25.17	22.62	32.11

[FR Doc. 80–27281 Filed 9–5–80; 8:45 am]

BILLING CODE 6320–01–M

Additional Appointments to Senior Executive Service Performance Review Board

Two additional members are being appointed to the CAB's Performance Review Board as first announced in the **Federal Register** on February 13, 1980 (45 FR 9758). The additional members are: Ivars V. Mellups and Anthony F. Toronto.

For further information contact: D. D. Lundell, Assistant Director, Work Force Management, Civil Aeronautics Board. (202) 673–5503.

Dated at Washington, D.C., September 3, 1980.

Michael Sherwin,

Director, Office of Human Resources.

[FR Doc. 80–27656 Filed 9–5–80; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On July 29, 1980, Notice was published in the **Federal Register** (45 FR 50378), that an application had been filed with the National Marine Fisheries Service by the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way N.E., Building 32, Seattle, Washington 98115, for a permit to take one skin/blubber biopsy from up to 120 bowhead whales (*Balaena mysticetus*) for the purpose of scientific research.

Notice is hereby given that on August 29, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) the National Marine Fisheries Service issued a Scientific Research Permit to the National Marine Mammal Laboratory for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such permit: 1) was applied for in good faith; 2) will not operate to the disadvantage of the endangered species which is the subject of the permit; and 3) will be consistent with the purposes and policies set forth in Section 2 of the Endandered Species Act of 1973. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: August 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27489 Filed 9–5–80; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit No. 93 issued to Dr. Nicholas R. Hall and Dr. William W. Dawson, Department of Ophthalmology, College of Medicine, University of Florida, Gainesville, Florida 32610, on May 8, 1975 (40 FR 21507), as modified February 16, 1978, June 2, 1978, and June 13, 1979, is modified in the following manner:

Section B–9 has been changed to read, "this Permit is valid with respect to the taking authorized herein until December 31, 1982."

This modification is effective on September 8, 1980. The Permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27491 Filed 9–5–80; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given than an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Randall Davis (P256).

b. Address: Scripps Institution of Oceanography, University of California, San Diego; La Jolla, CA 92093.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Weddell seal *(Leptonychotes weddelli)*, 50.

4. Type of Take: Animals will be captured, instrumented with time-depth recorders, released and later recaptured; 30 seals will also be radio-tagged; the other 20 seals will have multiple muscle, blood and urine samples taken for diving physiology studies.

5. Location of Activity: McMurdo Sound and White Island, Antarctica.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 8, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following office: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Dated: September 2, 1980.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80–27490 Filed 9–5–80; 8:45 am]

BILLING CODE 3510-22-M

Receipt of a Petition To Amend the Preliminary Fishery Management Plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and the Northeast Pacific Ocean

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Petition to amend the preliminary fishery management plan.

SUMMARY: This notice announces receipt of a petition to amend the PMP for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific Ocean.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; telephone (907) 586–7221.

SUPPLEMENTARY INFORMATION: On August 21, 1980, the Assistant Administrator for Fisheries, NMFS, received a petition to amend regulations implementing the Preliminary Fishery Management Plan (PMP) for the Trawl

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Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and the Northeast Pacific Ocean.

The petitioners, represented by Norman A. Cohen and Donald C. Mitchell, are from the following organizations and villages of southwestern Alaska: City of Chevak, City of Eck, City of Goodnews Bay, City of Hooper Bay, City of Kipnuk, City of Mekoryuk, City of Newtok, City of Nunapitchuk, City of Platinum, City of Quinhaquak, City of Toksook Bay, City of Tunuak, City of Scammon Bay, Indian Reorganization Act (IRA) Council of Kwigillingok, Traditional Council of Kongiganak, Lower Yukon Fish and Game Advisory Committee, Central Bering Sea Fish and Game Advisory Committee, Stoknavik Fishermen's Cooperative, Nunam Kitlutsisti Inc., and the Association of Village Council Presidents, Inc. The petitioners request that the PMP be amended by closing the Groundfish Regulatory Areas Nos. I and II from October 1 to March 31, 1980, in order to reduce the incidental catch of salmon taken by foreign groundfish trawlers.

Dated: August 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27468 Filed 9-5-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Performance Review Board; Establishment and Membership

This notice announces the establishment by the Assistant Secretary for Productivity, Technology and Innovation, as Appointing Authority for the Senior Executive Service at OPTI, of the OPTI Performance Review Board (PRB) and the appointment of the initial members.

The purpose of the PRB is to review performance agreements, performance appraisals and ratings, recommendations for certain personnel actions and other related material, and to make appropriate recommendations to the Appointing Authority concerning such matters as will assure the fair and equitable treatment of senior executives and the organization of which they are members and instill in the minds of such senior executives confidence in the integrity, competence and impartiality of the PRB.

The names, titles and terms of the members of the PRB who have been appointed, are set out below:

Dr. Francis W. Wolek, Chair, Deputy Assistant Secretary for Productivity, Technology and Innovation, Washington, D.C. 20230. Term—Continuous as long as in current position.

Mr. Robert B. Ellert, Assistant General Counsel for Productivity, Technology and Innovation, Washington, D.C. 20230. Term—Continuous as long as in current position.

Dr. Howard Forman, Deputy Assistant Secretary for Product Standards, Washington, D.C. 20230. Term—Continuous as long as in current position.

Dr. Philip Goodman, Industrial Engineer, Washington, D.C. 20230. Term—Continuous as long as in current position.

Ms. Florence Feinberg, Special Assistant to the Assistant Secretary for Productivity, Technology and Innovation, Washington, D.C. 20230. Will serve as non-voting Executive Secretary to the PRB.

Persons desiring any further information about the PRB or its membership may contact Ms. Florence S. Feinberg, Special Assistant to the Assistant Secretary of Commerce for Productivity, Technology and Innovation, Department of Commerce, Washington, D.C. 20230. (202) 377-5065.

Dated: August 28, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-27424 Filed 9-5-80; 8:45 am]

BILLING CODE 3510-18-M

Technical Advisory Committees; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63, (Revised), and after consultation with members of the Committees, the Secretary of Commerce has determined that the renewal of the following Technical Advisory Committees is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law:

Computer Systems Technical Advisory Committee;

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee;

Electronic Instrumentation Technical Advisory Committee;

Numerically Controlled Machine Tool Technical Advisory Committee;

Semiconductor Technical Advisory Committee; and Telecommunications Equipment Technical Advisory Committee.

The Committees were initially established by the Secretaary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. 2401 et seq. They are being renewed in accordance with section 5(h)(1) of the Export Administration Act of 1979, 50 U.S.C.A. App. 2401 et seq. (Supp. 1979). The purpose of the committees was and continues to be to perform the advisory functions set forth in the Export Administration Act of 1969 as amended. The Committees shall be consulted where a recognized need of the Department of Commerce exists, with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department (B) worldwide availability of product and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to unilateral and multilateral controls which the United States establishes or in which it participates, including proposed revisions of any such controls.

The technical findings and recommendations which have been submitted to the Department and the reports on which the Committees are currently working, will be utilized not only by the Department, but also by other agencies, including the Departments of State and Defense, in formulating the U.S. Government's position with regard to international negotiations on continuing or modifying existing international export controls over commodities within the purview of the Committees.

Inasmuch as there is considerable technical input from industry, the information and recommendations could not be obtained as effectively from other sources within the Department, from other advisory committees of the Department, or from another Federal agency.

The Committees will continue to function solely as advisory bodies and in compliance with the provisions of the Federal Advisory Committee Act. Membership will continue to be balanced by maintaining a representative cross-section of the applicable industry.

Copies of the Committees revised charters will be filed with appropriate committees of the Congress, and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, International Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583, or Mrs. Yvonne Barnes, the Department's Committee

Management Analyst, telephone 202-377-4217.

Dated: August 29, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-27519 Filed 9-5-80; 8:45 am]

BILLING CODE 3510-17-M

COUNCIL ON ENVIRONMENTAL QUALITY

Publishing of Three Memoranda for Heads of Agencies

August 20, 1980.

The Council on Environmental Quality is publishing three Memoranda for Heads of Agencies.

The first memorandum, dated August 11, 1980, on Analysis of Impacts on Prime and Unique Agricultural Lands in Implementing the National Environmental Policy Act was developed in cooperation with the Department of Agriculture. It updates and supersedes the Council's previous memorandum on this subject of August 1976.

The second memorandum, dated August 11, 1980, requests information on agency agriculatural land policies and other information related to the implementation of the first memorandum.

The third memorandum, dated August 10, 1980, on Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory is intended to assist federal agencies in meeting their responsibilities under the President's August 2, 1979 directive.

Edward L. Strohbehn, Jr.,

Executive Director.

Executive Office of the President,
Council on Environmental Quality,
722 Jackson Place, NW., Washington, D.C.

August 11, 1980.

Memorandum for Head of Agencies

Subject: Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act

Approximately one million acres of prime or unique agricultural lands [1] are being converted irreversibly to nonagricultural uses each year. Actions by federal agencies such as construction activities, development grants and loans, and federal land management decisions frequently contribute to the loss of prime and unique agricultural lands directly or indirectly. Often these losses are unintentional and are not necessarily related to accomplishing the agency mission.

On August 30, 1976, CEQ, in cooperation with the Department of Agriculture, issued a memorandum to the heads of federal agencies on the need for analysis of prime or unique farmlands in the preparation and review of environmental impact statements. The memorandum also recommended steps for agencies to take in making such analyses. Since that memorandum was issued, federal agencies' environmental impact statements have begun to include references to the presence of prime or unique farmlands that would be affected by the propsed federal action. Moreover, they have clearly indicated that many federal and federally assisted projects have direct and indirect adverse impact on prime or unique farmlands.

Recent studies by the Council and the General Accounting Office indicate that federal agencies have not adequately accounted for the impacts of their proposed actions on agricultural land through the environmental assessment process. Furthermore, agency project plans and decisions have frequently not reflected the need and opportunities to protect these lands. The purpose of this memorandum is to alert federal agenices to the need and the opportunities to analyze agricultural land impacts more effectively in the project planning process and under the National Environmental Policy Act (NEPA).

Agencies can substantially improve their analysis of impacts on prime or unique agricultural lands by following closely our recently established NEPA regulations (40 CFR 1500-1508, Nov. 29, 1978). The regulations apply to these lands in several specific respects. Determining the effects of a proposed federal agency action on prime or unique agricultural lands must be an integral part of the environmental assessment process, and must be a factor in deciding whether or not to prepare an environmental impact statement. For examle, when an agency begins planning any action, it should, in the development of alternative actions, assess whether the alternatives will affect prime or unique agricultural lands. Then, recognizing the importance of these lands and any significant impacts that might affect them, it must study, develop, and describe appropriate alternative uses of available resources. (Sec. 1501.2(c).)

In determining whether to prepare an environmental impact statement, the regulations note that the "Unique characteristics of the geographic area such as * * * prime farmlands * * *" (Sec. 1508.27(b)(3)) must be considered, among others. If an agency determines that a proposal significantly affect the quality of the human environment, it must initiate the scoping process (Sec. 1501.7) to identify those issues, including effects on prime or unique agricultural lands, that will be analyzed and considered, along with the alternatives available to avoid or mitigate adverse effects. An environmental impact statement must include a description of the area that will be affected by the proposed action (Sec. 1502.15) and an analysis of the environmental consequences of the proposal, including a discussion of "natural or depletable resource requirements and conservation potential or various alternative and mitigation measures" (Sec. 1502.16(f)). These resource requirements include prime or unique agricultural lands. The effects to be studied encompass indirect effects that may include "growth inducing effects and other effects related to induced changes in the pattern of land use * * *" (Sec. 1508.8(b)). The cumulative effects of a proposal must be studied (Secs. 1508.7, 1508.8(b)), as must any mitgation measures that could be taken to lessen the impact on prime or unique agricultural lands (Secs. 1505.2(c), 1508.20). Agencies must also cooperate with state or local governments in their efforts to help retain these lands (Secs. 1502.16(c), 1506.2(d).)

Federal agencies with technical data on the occurence, value, or potential impacts of federal actions on these lands will provide the lead agency with data that may be useful in preparing environmental assessments or impact statements. The U.S. Department of Agriculture will cooperate with all agencies in planning projects or developments, in assessing impacts on prime or unique agricultural lands, and in defining alternatives. Technical data as assistance regarding agricultural land may be obtained by contacting the Chairperson of the USDA Land Use Committee (list attached) or any USDA office. In addition to providing technical data and assistance, the USDA will continue to emphasize the review of EISs on federal actions likely to have significant effects on prime and unique farmlands. Under Section 1504 of the regulations, USDA should refer to CEQ those proposed federal actions which it believes will be environmentally unsatisfactory because of unacceptable effects on prime or unique farmlands. CEQ will review such referrals, and take necessary steps in accordance with Section 1504 of our regulations.

Because prime and unique agricultural lands are a limited and valuable resource, the Council urges all agencies to make a particularly careful effort to apply the goals and policies of the National Environmental Policy Act to their actions and to obtain necessary assistance in their planning processes so that these lands will be maintained to meet our current national needs and the needs of future generations of Americans.

Gus Speth,

Chairman.

Attachments.

U.S. Department of Agriculture State Land Use Committee Chairpersons

Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830

Mr. Marvin C. Meier, Director, State and Private Forestry, 2221 E. Northern Lights Blvd., Box 6606, Anchorage, Alaska 99502

Mr. Thomas G. Rockenbaugh, State Conservationist, Soil Conservation Service, Federal Bldg., Rm. 3008, 230 N. First Street, Phoenix, Arizona 85025

Mr. M. J. Spears, State Conservationist, Soil Conservation Service, P.O. Box 2323, Little Rock, Arkansas 72203

Mr. James H. Hansen, State Resource Conservationist, Soil Conservation Service,

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[1] As used in this memorandum, prime and unique agricultural land is cropland, pastureland, rangeland, forest land or other land, but not urban built-up land, which is capable of being used as prime and unique farmland as defined by the Department of Agriculture (see attachement) [The attachment to this memorandum was § 657.5 of title 7 CFR.]

2828 Chiles Road, P.O. Box 1019, Davis, California 95616

Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, P.O. Box 17107, Denver, Colorado 80217

Ms. Maria Maiorana Russell, Assistant Director, Community Resource & Staff Dev., Cooperative Extension Service, University of Connecticut, Storrs, Connecticut 06268

Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, 204 Treadway Towers, 9 East Lockerman Street, Dover, Delaware 19901

Mr. William E. Austin, State Conservationist, Soil Conservation Service, P.O. Box 1208, Gainesville, Florida 32601

Mr. Dwight Treadway, State Conservationist, Soil Conservation Service, P.O. Box 832, Athens, Georgia 30601

Mr. Jack P. Kanalz, State Conservationist, Soil Conservation Service, P.O. Box 50004, Honolulu, Hawaii 96850

Mr. Randall Johnson, Farmers Home Administration, U.S. Department of Agriculture, 304 North Eighth Street, Boise, Idaho 83702

Mr. Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, P.O. Box 678, Champaign, Illinois 61820

Mr. Robert Bollman, Assistant State Conservationist, Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224

Mr. Rollin Swank, Assistant State Conservationist, Soil Conservation Service, 693 Federal Bldg., 210 Walnut Street, Des Moines, Iowa 50309

Mr. John W. Tippie, State Conservationist, 760 South Broadway, P.O. Box 600, Salina, Kansas 67401

Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504

Dr. Floyd L. Corty, Ag. Econ. & Agribusiness, Louisiana State University, Baton Rouge, Louisiana 70803

Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Bldg., Univ. of Main, Orono, Maine 04473

Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, Rm. 522, Hartwick Bldg., 4321 Hartwick Road, College Park, Maryland 20740

Dr. Gene McMurtry, Assoc. Dir., Coop. Ext. Service, Stockbridge Hall, Rm. 211, University of Massachusetts, Amherst, Massachusetts 01003

Dr. Raleigh Barlowe, 323 Natural Resources Bldg., Michigan State University, East Lansing, Michigan 48824

Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 316 North Robert Street, St. Paul, Minnesota 55101

Mr. Billy C. Griffin, Deputy State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Mississippi 39205

Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, P.O. Box 459, Columbia, Missouri 65201

Mr. Van K. Haderlie, State Conservationist, Soil Conservation Service, Federal Bldg., P.O. Box 970, Bozeman, Montana 59715

Mr. Russell Schultz, Soil Conservation Service, Federal Bldg., U.S. Courthouse, Rm. 345, Lincoln, Nebraska 68508

Mr. Gerald C. Thola, State Conservationist, Soil Conservation Service, P.O. Box 4850, Reno, Nevada 89505

Mr. Roger Leighton, James Hall, University of New Hampshire, Durham, New Hampshire 03824

Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, P.O. Box 219, Somerset, New Jersey 08873

Mr. Thomas G. Schmeckpeper, Deputy Regional Forester, U.S. Forest Service, Rm. 5424, Federal Bldg., 517 Gold Avenue, S.W., Albuquerque, New Mexico 87102

Mr. Robert L. Hilliard, State Conservationist, Soil Conservation Service, U.S. Courthouse & Federal Bldg., 100 South Clinton St., Rm. 771, Syracuse, New York 13260

Mr. Mitchell E. Clary, Assistant State Conservationist, Soil Conservation Service, P.O. Box 27307, Raleigh, North Carolina 27611

Mr. Sylvester C. Ekart, Chairman, North Dakota Land Use Comm., Federal Bldg., P.O. Box 1458, Bismarck, North Dakota 58501

Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Bldg., Rm. 522, 200 N. High Street, Columbus, Ohio 43215

Mr. Bobby T. Birdwell, Soil Conservation Service, Agricultural Center Office Bldg., Farm Road & Brumley Street, Stillwater, Oklahoma 74074

Mr. Guy Nutt, State Conservationist, Soil Conservation Service, Federal Bldg., 16th Floor, 1220 SW Third Avenue, Portland, Oregon 97204

Mr. Thomas B. King, Associate Director, Cooperative Extension Service, The Pennsylvania State University, 323 Agricultural Admin. Bldg., University Park, Pennsylvania 16802

Mr. Richard F. Kenyon, State Executive Director, Agricultural Stabilization and Conservation Service, 222 Quaker Lane, West Warwick, Rhode Island 02893

Mr. K. G. Smith, State Director, Farmers Home Administration, 240 Stoneridge Drive, Columbia, South Carolina 29210

Mr. Wayne D. Testerman, State Executive Director, Agricultural Stabilization and Conservation Service, 200 Fourth Street, SW., Federal Bldg., Rm. 210, Huron, South Dakota 57350

Dr. M. Lloyd Downen, Director, Agricultural Extension, University of Tennessee, P.O. Box 1071, Knoxville, Tennessee 37901

Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501

Mr. Reed Page, State Director of the Farmers Home Administration, 125 South State St., Rm. 5434, Salt Lake City, Utah 84138

Mr. Coy Garrett, State Conservationist, Soil Conservation Service, One Burlington Square, Suite 205, Burlington, Vermont 05401

Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240

Mr. Lester N. Liebel, Ext. Rural Development Coord., Cooperation Extension Service, Washington State University, 417, Ag. Phase II, Pullman, Washington 99163

Mr. Craig M. Right, State Conservationist, Soil Conservation Service, P.O. Box 865, Morgantown, West Virginia 26505

Mr. Jerome C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711

Mr. Robert W. Cobb, Assistant State Conservationist, Soil Conservation Service, P.O. Box 2440, Casper, Wyoming 82601

Executive Office of the President,
Council on Environmental Quality,
722 Jackson Place, NW., Washington, D.C.

August 11, 1980.

Memorandum for Heads of Agencies

Subject: Prime and Unique Agricultural Lands and the National Environmental Policy Act (NEPA)

The accompanying memorandum on Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act was developed in cooperation with the Department of Agriculture. It updates and supersedes the Council's previous memoradnum on this subject of August 1976.

In order to review agency progress or problems in implementing this memorandum the Council will request periodic reports from Federal agencies as part of our ongoing oversight of agency implementation of NEPA and the Council's regulations. At this time we would appreciate receiving from your agency by November 1, 1980, the following information:

- identification and brief summary of existing or proposed agency policies, regulations and other directives specifically intended to preserve or mitigate the effects of agency actions on prime or unique agricultural lands, including criteria or methodology used in assessing these impacts.
- identification of specific impact statements and, to the extent possible, other documents prepared from October 1, 1979 to October 1, 1980 covering actions deemed likely to have significant direct or indirect effects on prime or unique agricultural lands.
- the name of the policy-level official responsible for agricultural land policies in your agency, and the name of the staff-level official in your agency's NEPA office who will be responsible for carrying out the actions discussed in this memorandum.

Gus Speth,
Chairman.

Executive Office of the President,
Council on Environmental Quality,
722 Jackson Place, NW., Washington, D.C.

August 10, 1980.

Memorandum for Heads of Agencies

Subject: Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory

In his second Message on the Environment, issued in August 1979, the President underscored the need to strengthen the National Wild and Scenic Rivers System and to take particular care not to harm rivers which may qualify for inclusion in the System.

The President issued a directive on August 2, 1979 in conjunction with his Message which required that:

"Each Federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory prepared by the Heritage Conservation and Recreation Service in the Department of the Interior. Agencies shall, as part of their normal environmental review process, consult with the Heritage Conservation and Recreation Service prior to taking actions which could effectively foreclose wild, scenic, or recreational river status on rivers in the Inventory."

This memorandum is intended to assist your agency in meeting its responsibilities under the President's directive. A brief set of procedures is attached which provides guidance on how to integrate these responsibilities with your normal environmental analysis process under the National Environmental Policy Act (NEPA). The objective is to ensure that the President's directive is met promptly and efficiently.

Development along our rivers continues to outpace our ability to protect those rivers that might qualify for designation in the National Wild and Scenic Rivers System. The Heritage Conservation and Recreation Service (HCRS) in the Department of the Interior has been preparing a Nationwide Inventory of river segments that, after preliminary review, appear to qualify for inclusion in the System. It is therefore essential that federal agencies proceed carefully and limit any adverse effects of their actions on rivers identified in the Nationwide Inventory. Otherwise, the Inventory could be depleted before the identified rivers can be fully assessed to determine the desirability of including them as components of the National Wild and Scenic Rivers System.

Although the President's directive does not prohibit an agency from taking, supporting or allowing an action which would adversely affect wild and scenic values of a river in the Inventory, each agency is responsible for studying, developing and describing all reasonable alternatives before acting, and for avoiding and mitigating adverse effects on rivers identified in the Inventory. Where agency action could effectively foreclose the designation of a wild, scenic, or recreational river segment, the President has directed the agency to consult with HCRS. It is difficult to restore a river and its immediate environment once its wild and scenic qualities have been lost.

The purpose of this consultation requirement, which is meant to be part of the normal environmental analysis process, is to provide the opportunity for HCRS experts to assist other agencies in meeting program objectives without irreparably damaging potential wild, scenic, and recreational river areas. Consultation with HCRS should encourage better planning *at an early stage* in order to reduce resource management conflicts or to avoid them altogether. The consultation requirement also provides an opportunity to seek early resolution of problems by policy-level officials if necessary.

Completed portions of the Nationwide Inventory—those for the Eastern half of the country—were sent to you from HCRS Director Chris T. Delaporte on November 13, 1979. Forthcoming portions of the Inventory will be transmitted as they are completed. You should ensure that the list of rivers in the Inventory and the attached procedures receive wide distribution in your agency.

Copies of orders, guidance, or memoranda which you use to adopt or to transmit the attached procedures within your agency should be sent to the Council on Environmental Quality (Attention: Larry Williams) and to the Interagency Wild and Scenic Rivers Study Group (Attention: Jack Hauptman, HCRS, 440 G Street, N.W., Washington, D.C. 20243).

Gus Speth,

Chairman.

Attachment.

Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory

These procedures are designed to assist federal officials in complying with the President's directive (attached) to protect rivers in the Nationwide Inventory through the normal environmental analysis process. NEPA, E.O. 11514, CEQ's NEPA Regulations, and agency implementing procedures should be used to meet the President's directive.

Although the steps outlined below pertain to wild and scenic river protection, they also fit clearly within agencies' existing environmental analysis processes. Agencies are already required: to identify and analyze the environmental effects of their actions; to consult with agencies with jurisdiction by law or special expertise (in this case, HCRS); to develop and study alternatives; and to use all practicable means and measures to preserve important historic, cultural, and natural aspects of our national heritage.

The procedures outlined below simply link the appropriate elements of the normal environmental analysis process with the President's directive "to take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory." Federal officials should promptly take steps to incorporate the actions specified below into their planning and decisionmaking activities and the conduct of their environmental analyses.

1. *Determine whether the proposed action could affect an Inventory river.*

Check the current regional Inventory lists to determine whether the proposed action could affect an Inventory river.

If an Inventory river could be affected by the proposed action, an environmental assessment or an environmental impact statment may be required depending upon the significance of the effects.

If the action would not affect an Inventory river, no further action is necessary under these procedures. (The agency is still required to fulfill any other responsibilities under NEPA).

2. *Determine whether the proposed action could have an adverse effect on the natural, cultural and recreational values of the Inventory river segment.*

Using the Guide for Identifying Potential Adverse Effects, which is appended to these procedures, you should determine whether the proposed action could *adversely* affect the natural, cultural, or recreational values of the Inventory river segment. Adverse effects on inventoried rivers may occur under conditions which include, but are not limited to:

(1) Destruction or alteration of all or part of the free flowing nature of the river;

(2) Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

(3) Deterioration of water quality; or

(4) Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

If you have prepared a document which finds that there would be no adverse effects—such as a Finding of No Significant Impact under the CEQ NEPA regulations—you should send a courtesy copy to the HCRS field office in your region.

3. *Determine whether the proposed action could foreclose options to classify any portion of the Inventory segment as wild, scenic or recreational river areas.*

In some cases, impacts of a proposed action could be severe enough to preclude inclusion in the Wild and Scenic Rivers System, or lower the quality of the classification (e.g. from wild to recreational). If the proposed undertaking would effectively downgrade any portion of the Inventory segment you should consult with HCRS.

Proposed actions (whether uses or physical changes), which are theoretically reversible, but which are not likely to be reversed in the short terms, should be considered to have the effect of foreclosing for all practical purposes wild and scenic river status. This is because a river segment, when studied for a possible inclusion in the Wild and Scenic River System, must be judged as it is found to exist at the time of the study, rather than as it may exist at some future time.

If a proposal, including one or more alternatives, could have an adverse effect on a river in the Inventory, an environmental assessment or, if the effects are significant, an environmental impact statement must be prepared. HCRS staff is available to assist you in determing the significance or severity of the effects in connection with your assessment, scoping process, and EIS, if one is needed. A detailed analysis of each of the rivers in the Inventory is available from HCRS for your use.

You should request assistance in writing from HCRS, as early as you can, providing sufficient information about the proposal to allow HCRS to assist you in determining whether any of the alternatives under consideration would foreclose designation. HCRS will in turn provide you with an analysis of the impacts on natural, cultural and recreational values which should enable you to make a determination as to whether or not designation would be foreclosed. HCRS is available to assist you in developing appropriate avoidance/mitigation measures.

When environmental assessments are prepared on proposals that affect Inventory

V45/175 SE 8 80 UMI

rivers, copies should be sent in a timely fashion to the HCRS field office in your area before a proposed action is taken and while there is still time to avoid or mitigate adverse effects. When environmental impact statements are prepared on proposals that affect Inventory rivers the lead agency should request HCRS and the affected land managing agency to be cooperating agencies as soon as the Notice of Intent to prepare an EIS has been published.

If HCRS does not respond to your request for assistance within 30 days, you may proceed with completing preparation and circulation of the environmental assessment or EIS as planned. Even where HCRS has been unable to comment on the environmental assessment or Draft EIS, you are still obligated by the President's directive to ". . . take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory . . ."

4. *Incorporate avoidance/mitigation measures into the proposed action to maximum extent feasible within the agency's authority.*

Any environmental documents prepared on the proposed action should identify the impacts on natural, cultural and recreational values, address the comments submitted by HCRS, and state the avoidance/mitigation measures adopted. Any disagreements will be resolved through existing procedures. For projects requiring environmental impact statements, the record of decision must adopt appropriate avoidance/mitigation measures and a monitoring and enforcement program as required by the CEQ regulations. (40 CFR 1505.2(c)).

A Note on the Meaning of "Federal Actions"

The above procedures are meant to apply to all federal actions that could adversely affect a river in the Nationwide Inventory (see Section 1508.18 of CEQ's NEPA Regulations (40 CFR 1508.18) for the meaning of "major federal actions"). For actions which are known in advance to require an environmental assessment or environmental impact statement these procedures would be followed in the normal course of NEPA compliance. If a federal action would *not* normally require an environmental assessment or an environmental impact statement, but could adversely affect a river in the Nationwide Inventory, the action should either (1) not be "categorically excluded" under agency implementing procedures, or (2) be considered an "extraordinary circumstance" in which a normally excluded action must be subjected to environmental analysis (see Section 1508.4 of NEPA Regulations).

The above procedures should be used for any proposals (including the evaluation of alternative courses of action) for which the NEPA process is not yet completed. The above procedures should therefore also be applied to a proposed modification or supplement to a previously authorized or implemented action.

For Futher Information or Guidance

The HCRS regional office will usually provide the best source of information on rivers in the Nationwide Inventory and on specific ways that these rivers could be protected. For general assistance on policy and procedural matters, please contact the Chairman of the Interagency Wild and Scenic Rivers Study Group (202/343–4793), or contact the Council on Environmental Quality (202/395–4540).

Appendix I.

Guide for Identifying Potential Adverse Effects

The impact of a propose action should be assessed in relation to the eligibility and classification criteria of the Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287, as amended.

In order to be eligible for inclusion in the National System, a river must:

1. Be "free-flowing," i.e., "existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, or low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided,* That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of national wild and scenic rivers system." (16 U.S.C. Sec. 1286)

2. Possess "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values." (16 U.S.C. Sec. 1271)

Eligible river segments are classified according to the extent of evidence of man's activity as one of the following:

1. "Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

2. "Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads."

3. "Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past." (16 U.S.C. Sec. 1273(b))

Any action which could alter the river segment's ability to meet the above eligibility and classification criteria should be considered an adverse impact. Actions which diminish the free-flowing characteristics or outstandingly remarkable values of a river segment could prevent the segment from qualifying for inclusion in the national system. Actions which increase the degree of evidence of man's activity, i.e., level of development, could change the classification of the river segment.

The effect of all proposed developments within the river corridor should be assessed in terms of severity of effect and extent of area affected. Development outside the corridor which would cause visual, noise, or air quality impacts on the river corridor should also be examined.

Only proposed new construction or proposed expansion of existing developments need be considered in assessing impacts. Repair or rehabilitation of existing structures would not have a negative impact except if the action would result in significant expansion of the facility or if the construction process itself would cause an irreversible impact on the environment.

Placement of navigation aids such as buoys and channel markers will not be considered as causing adverse effects.

The following are examples of types of developments which would generally require consultation with HCRS because of the potential for adverse effects on the values of a potential wild, scenic, or recreational river. The list is not exhaustive.

Small dock
Small bulkhead
Clearing and snagging
Drainage canal, culvert or outfall
Irrigation canal
Levee or dike
Rip-rap, bank stabilization or erosion control structure
Small reservoir
Increase in commercial navigation
Dredging or filling
Run-of-the-river dam or diversion structure
Road
Railroad
Building (any type)
Pipeline, transmission line
Bridge or ford
Gas, oil or water well
Sub-surface mine opening
Quarry
Power substation
Recreation area
Dump or junkyard
Change in flow regime
Clear-cut timber harvest
Radio tower, windmill

The following are examples of types of development which appear most likely to cause serious adverse effects if they are constructed adjacent to or in close proximity to an Inventory river. Such development proposals will almost always require consultation with HCRS because their effects are likely to conflict with the values of a potential wild, scenic or recreational river. These effects could be severe enough to foreclose designation of the affected river segment. This list is not exhaustive.

Impoundment
Channelization
Instream or surface mining
Lock and dam
Airport
Landfill
Factory
Gas or oil field
Major highway
Railroad yard
Power plant
Sewage treatment plant
Housing development
Shopping center
Industrial park
Marina
Commercial dock

Appendix II

[For a memorandum from the President on Wild and Scenic Rivers and National Trails dated August 2, 1979, see the *Weekly Compilation of Presidential Documents* (Vol. 15, page 1379).]

[FR Doc. 80-27023 Filed 9-5-80; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on ECM; Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session October 2–3, 1980 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic countermeasure.

In accordance with 5 U.S.C. APP I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 3, 1980.

[FR Doc. 80-27454 Filed 9-5-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Glaser Gas, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Glaser Gas, Inc., P.O. Box 38; Calhan, CO 80808. This Proposed Remedial Order Charges Glaser Gas, Inc. with pricing violations in the amount of $87,712.46 connected with the resale and retailing of propane during the time period November 1, 1973 through February 29, 1976 in the State of Colorado.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226, phone (303) 234-3195. On or before September 23, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Lakewood, CO on the 15th day of August 1980.

Kenneth E. Merica,

District Manager of Enforcement, Rocky Mountain District.

[FR Doc. 80-27483 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-661]

Central Illinois Public Service Co.; Filing

August 20, 1980.

The filing company submits the following:

Take notice that on August 13, 1980, Central Illinois Public Service Company tendered for filing a supplement to Rate Schedule FERC No. 72, dated August 7, 1980, and entitled Revision No. 7 to Interconnection Agreement dated February 18, 1972 among Central Illinois Public Service Company, Illinois Power Company and Union Electric Company. This supplement provides for compliance with Section 35.23 of the Commission's regulations, as promulgated by Order No. 84 issued May 7, 1980.

Copies of this filing have been sent to Illinois Power Company, Union Electric Company and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27435 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-606]

Central Illinois Light Co., Filing

August 20, 1980.

The filing Company submits the following:

Take Notice that Central Illinois Light Company on August 11, 1980, tendered for filing Modification No. 4, dated August 8, 1980, to the Interconnection Agreement (CILCO FERC Rate Schedule No. 20), dated August 31, 1976, between CILCO and Central Illinois Public Service Company, and Modification No. 10, dated August 4, 1980, to the Intercomnection Agreement (CILCO FERC Rate Schedule No. 14), dated March 30, 1973, between CILCO and Illinois Power Company.

The Company indicates that this filing is made in response to Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27439 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-587]

Iowa Public Service Co.; Filing

August 20, 1980.

The filing Company submits the following:

Take notice that on August 5, 1980, Iowa Public Service Company (Iowa) submitted for filing a Notice of Cancellation pursuant to the termination of service to the City of Anthon, Iowa.

Iowa further submits that the service agreement between Iowa and the City of Wall Lake, Iowa, which was accepted by the Federal Power Commission on October 1, 1964, remains in full force and effect.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27440 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-458]

Mitco Pipeline Co.; Application

August 20, 1980.

Take notice that on July 23, 1980, Mitco Pipeline Company (Applicant), 3900 One Shell Plaza, Houston, Texas 77002, filed in Docket No. CP80-458 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco) and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to implement the terms of a transportation agreement between it and Transco dated April 16, 1980, whereby Applicant would connect and transport in interstate commerce for the account of Transco new supplies of natural gas which Transco would purchase from natural gas producers in Blocks 189 and 190, Galveston Area, offshore Texas, to an existing intrastate pipeline. Specifically in order to implement said service for Transco, Applicant proposes to construct and operate approximately 8.5 miles of 6-inch pipeline together with appurtenant equipment and facilities from a point in the southeast quarter of Block 189L to a point in the northwest quarter of Block 214L. At said point in Block 214L, the proposed pipeline would intersect and be connected to an existing intrastate pipeline owned by Seagull Pipeline Company (Seagull), it is said.

Applicant asserts that the gas which it would deliver to Seagull would be transported by Seagull through existing facilities for the account of Transco and then delivered to the Houston Pipeline Company for delivery to Transco.

The estimated cost of the facilities proposed herein by Applicant is $1,612,376 which cost would be financed through short-term borrowing, it is said.

Pursuant to the gas transportation agreement dated April 16, 1980, Applicant asserts it would transport up to 10,000 Mcf of natural gas per day on a firm basis for the account of Transco. It is further stated that Transco would pay 25.0 cents per Mcf for such service.

Transco, it is stated, is purchasing the subject gas from Mitchell Energy Offshore Corporation (Mitchell). Applicant states it has been advised by Mitchell that liquid hydrocarbons would also be produced from the Block 189L area. Applicant assures that liquids would either be transported by Applicant for the account of Mitchell or a third party purchaser, and contracts regarding the transportation of liquid hydrocarbons would be entered into in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protect in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely file, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27433 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-640]

Ohio Power Co.; Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 31 which represents an Interconnection Agreement with The Cleveland Electric Illuminating Co. (CEI). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27436 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-643]

Ohio Power Co.; Filing

August 20, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (OPCo.) tendered for filing on or before August 12, 1980 a Supplement A to the Federal Energy Regulatory Commission OPCo Rate Schedule No. 22 which represents an Interconnection Agreement with Kentucky Utilities Company (KY UT). This proposed Supplement is stated to be an interim filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27437 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-596]

Southern Company Services, Inc.; Filing

August 20, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Southern Companies) on August 8, 1980, tendered for filing an Amendment to Rate Schedules to comply with Order No. 84 of the Federal Energy Regulatory Commission. The rate schedules affected by such amendment are those between the Southern Companies and Duke Power Company, Tennessee Valley Authority, Mississippi Power & Light Company, and Florida Power Corporation. The amendment to each of such rate schedules is designed to specify the charges to be imposed by the Southern Companies in transactions which involve purchase by Southern Companies of capacity and/or energy from third parties for delivery to the purchasing entity under these rate schedules so as to comply with the provisions of FERC Order No. 84.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file wih the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27438 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-663]

Wisconsin Electric Power Co; Filing

August 20, 1980.

The filing Company submits the following

Take Notice that Wisconsin Electirc Power Company (Wisconsin Electric) on August 13, 1980, tendered for filing an Amendment, effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Wisconsin Public Service Corporation (Public Service).

This amendment, modifies Service Schedules A-Limited Term Power, B-Emergency Energy, D-Short Term Power, E-Maintenance Energy, and F-General Purpose Energy of the Interconnection Agreement, dated December 23, 1969, to provide for an energy transmission rate between Wisconsin Electric and Public Service pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 30 and Public Service Rate Schedule FERC No. 30. Wisconsin Electric and Public Service maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Public Service and also that a copy of the herein filing has been mailed to both the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Paragraph 1.8 and Paragraph 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27434 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-604]

Wisconsin Electric Power Co.; Filing

August 20, 1980.

The filing Company submits the following:

Take Notice that Wisconsin Electric Power, a Wisconsin corporation, Company (Wisconsin Electric) on August 14, 1980, tendered for filing an Amendment, effective August 10, 1980, to the Interconnection Agreement between Wisconsin Electric and Northern States Power Company, a Minnesota corporation (Northern States-Minnesota) and Northern States Power Company, a Wisconsin corporation (Northern States-Wisconsin).

This amendment, modifies Service Schedules A-Emergency Energy, C-Short Term Power, D-Maintenance Energy, E-General Purpose Energy, and F-Limited Term Power of the Interconnection Agreement, dated November 18, 1965 to provide for an energy transmission rate between Wisconsin Electric and Northern States-Wisconsin and Northern States-Minnesota pursuant to the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket RM 79-29. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 28 and Northern States-Minnesota Rate Schedule FERC No. 319, and Northern States-Wisconsin Rate Schedule FERC No. 39. Wisconsin Electric and Northern States-Minnesota and Northern States-Wisconsin maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

Wisconsin Electric states that a duplicate original of the amendment had been provided to Northern States-Minnesota and Northern States-Wisconsin, which for the purposes of this amendment are considered as one party, and also that a copy of the herein filing has been mailed to the Public Service Commission of Wisconsin and the Minnesota Public Service Commission.

V45/175 SE8 80 UMI

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Paragraph 1.8 and Paragraph 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27441 Filed 9-5-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[PP8G2129/T247; FRL 1550-2]

Bendiocarb; Establishment of a Temporary Tolerance

Correction

In FR Doc. 80-22567 appearing at page 49671, in the issue of Friday, July 25, 1980, on page 49671, second column, fifth line, "catle" should be corrected to read "cattle".

BILLING CODE 1505-01-M

[FRL 1550-1; DPP-C30 190]

Receipt of Applications to Register Pesticide Products Containing New Active Ingredients

Correction

In FR Doc. 80-22355 appearing at page 49667 in the issue of Friday, July 25, 1980, on page 49667, in the third column, last paragraph, last line, "prod" should be corrected to read "product".

BILLING CODE 1505-01-M

[FRL 1599-6 OPTS-51119]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 80-191—October 4, 1980; PMN 80-196—October 6, 1980; PMN 80-197—October 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Rick Green, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons shouuld consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES," submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices.

Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51119]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m, Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 2, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–191

Close of Review Period. November 3, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Manufacturing site—East-north central region, U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of: Methylene bis (4-cyclo hexyl isocynate), poly propylene glycol, hydroxy ethyl acrylate, and polyoxy propylene diamine.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The PMN substance will be used in an open use that will release less than 50 kilogram (kg) of the substance to the environment per year. The use will involve exposure to industrial employees with a potential of skin and eye contact and inhalation.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	2,000
2d year	2,000	4,500
3d year	3,000	9,000

Physical Chemical Properties

	Polymerization	Dried polymer
Solid content	69.9 pct	
Density	1.09 g/ml	1.13 g/ml.
Solubility in water		<0.01 g/100 ml.
Number average molecular weight.	566–590	
Weight average molecular weight.	4800–5000	
Flash point (closed cup).	Above 212° F	Above 212° F.
Residual monomers.	None detected	
Elemental analysis		C=64.38 pct. H=8.43 pct. O=24.29 pct. N=2.90 pct.
Chemical oxygen demand (ug/g).	2,060,000	

Toxicity Data

Raw Materials:

Methylene bis (4-cyclo hexyl isocyanate). A strong skin irritant and sensitizer, causing bronchial irritation and coughing. The oral LD_{50} in rats is over 11,000 mg/kg and the dermal LD_{50} in rabbits is over 10,000 mg/kg. The Threshold Limit Value (TLV) is 0.01 ppm.

Poly propylene glycol—1025. Mildly irritating to the eyes and not irritating to the skin. The single dose oral toxicity, LD_{50}, in rats is 2.15 g/kg. Tests conducted on rabbits have indicated that this material is not significantly irritating to the skin even when exposures are prolonged and repeated.

Hydroxy ethyl acrylate. The oral LD_{50} on rats is about 500 mg/kg. The skin LD_{50} in rabbits is about 63–128 mg/kg. Overexposure may cause irritation of the nose, throat, lungs and possible organic injury.

Polyoxy propylene diamine. The oral LD_{50} in rats is 1,660 mg/kg (moderately toxic). The dermal LD_{50} in rabbits is 760 mg/kg. It is extremely irritating to the eyes with possible permanent injury.

New Oligomer:

Tests	Numerical results	Descriptive results
Acute oral LD_{50}	Greater than 10 ml/kg	Minimal hazard.
Primary skin irritation (draize score)	2.29	Slight hazard.
Acute eye irritation (average draize score of 6 animals—total possible score=110).	6.5 at 24 h	Slight hazard.
	4.0 at 48 h	Slight hazard.
	3.0 at 72 h	Slight hazard.

Occupational exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	average	peak
Manufacturng	Dermal, inhalation.	3	2	6	0–1	1–10
Disposal	Dermal, inhalation.	1	2	1	0–1	1–10

Environmental release/disposal.

Manufacturing:

Media—Amount/duration of chemical release (kg/yr).

Air—10–100. 10 hr/da; 6 da/yr.

Each reactor at the manufacturing plant is equipped with an exhaust and fume condenser. The effluent (air borne) is also treated by an exhaust fume scrubber. Scrubber water goes to biological treatment lagoons with a sixty-day retention period. Sludge is transported by state licensed carriers to a state licensed landfill.

PMN 80–196.

Close of Review Period. November 5, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—Between $100 million and $499,999,999.

Manufacturing site—Mid-Atlantic region, U.S.

Standard Industrial Classification Code—284.

Specific Chemical Identity. Claimed confidential. Generic name provided:

Alkenal, ethyl-(trimethyl monocyclic).

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Production estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	100	1,000
2d year	1,000	2,000
3d year	2,000	5,000

Physical/chemical properties.

Appearance—Clear, viscous liquid.

Boiling point—108°–120° C at 3mm Hg.

Solubility:

Water—Insoluble.

Organic solvents—Soluble.

Flashpoint—>200° F.

Toxicity Data. Data submitted for analogue (Bacdanol):

Eye irritation test (rabbit), 6.25% on proipylene glycol—Mildly irritating.

Topical sensitization (guinea pig), 1% in SDA39C—No significant response.

Repeated Insult Patch Test (RIPT), 1% and 5% in SDA39C—Nonsensitization.

Occupational exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal, inhalation.	10	Accidental contact only		0–1	1–10
Use	Dermal, inhalation.	10	Accidental contact only		0–1	1–10
Disposal	Dermal, inhalation.	10	Accidental contact only		0–1	1–10

The manufacturer claims that there will be no exposure of consumers to the substance.

Environmental release/disposal. The submitter states that less than 10 kg per year of the PMN substance will be released to the environment. Disposal of waste products will be through regional sewage system and incineration in state-approved facility.

PMN 80-197.

Close of review period. November 5, 1980.

Manufacturer's identity. Claimed confidential. Generic name provided:

Annual sales—Between $100,000,000 and $499,999,999.
Manufacturing site—Mid-Atlantic region, U.S.
Standard Industrial Classification Code—284.

Specific chemical identity. Claimed confidential. Generic name provided: Trimethyl monocyclic ethyl alkenol. The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The manufacturer states that the substance will be used in an open use that will release less than 50 kg of the substance to the environment per year and that will involve exposure to commercial and chemical industrial employees with a potential for skin and eye contact.

Production estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	100	1,000
2d year	1,000	2,000
3d year	2,000	5,000

Physical/Chemical properties.

Appearance—Clear, viscous liquid.
Boiling point—114–130°C at 3mm Hg.
Solubility—Soluble in organic solvents; not soluble in water.
Flashpoint—>200°F.

Toxicity data.

Eye irritation test (rabbit), 6.25% in propylene glycol—Mildly irritating.
Topical sensitization test (guinea pig), 1% in SDA39C—No significant response.
Repeated Insult Patch Test (RIPT), 1% and 5% in SDA39C—Nonsensitizer.

Occupational exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal, inhalation.	10	Accidental contact only		0–1	1–10
		10	Accidental contact only		0–1	1–10
Disposal	Dermal, inhalation.	10	Accidental contact only		0–1	1–10

Environmental release/disposal. The submitter states that less than 10 kg per year of the PMN substance will be released to the environment. Disposal of waste products will be through regional sewage system and incineration in state-approved facility.

[FR Doc. 80-27427 Filed 9-5-80 8:45 am]

BILLING CODE 6560-01-M

[FRL 1598-5]

Clean Air Act; Guidance for State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance document.

SUMMARY: This notice announces the availability of a guidance document which summarizes emissions limitations for particulate matter which EPA's evaluation of available data suggests are generally achievable on a retrofit basis for iron and steel manufacturing processes. The summary does not establish regulatory requirements, but represents guidance for use in development and evaluation of state implementation plan provisions for iron and steel sources to satisfy the reasonably available control technology (RACT) requirements of the Clean Air Act.

ADDRESSES: Copies of the guidance document may be obtained from: Mr. Edward Reich, Director, Division of Stationary Source Enforcement (EN-341), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Copies may also be obtained from the Director of the Enforcement Division or the Director of the Air and Hazardous Materials Division in the following EPA Regional Offices:

EPA Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
EPA Region II, 26 Federal Plaza, New York, New York 10007.
EPA Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.
EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604.
EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270.
EPA Region VII, 324 East 11th Street, Kansas City, Missouri, 64106.
EPA Region VIII, 1860 Lincoln Street, Denver, Colorado 80203.
EPA Region IX, 215 Fremont Street, San Francisco, California 94105.
EPA Region X, 1200 6th Avenue, Seattle, Washington 98105.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Reich, Director, Division of Stationary Source Enforcement (EN-341), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 755-2550.

SUPPLEMENTARY INFORMATION: This notice advises the interested public of the availability of a guidance document which summarizes, in table format, particulate matter emissions limitations which EPA believes are generally achievable on a retrofit basis for various iron and steel manufacturing processes. As explained in more detail below, the table does not establish regulatory requirements, but rather presents in a single reference document the results of EPA's evaluation of available data.

By way of background, EPA is currently reviewing several state implementation plan (SIP) revisions which were submitted to satisfy the requirements of Part D of the Clean Air Act for areas which are designated non-attainment for the national ambient air quality standards (NAAQS) for total suspended particulates (TSP) and which contain iron and steel sources. Part D requires SIPS to include strategies and regulations adequate to assure attainment of the primary (health-based) NAAQS as expeditiously as practicable but not later than December 31, 1982, and, in the interim, to provide for reasonable further progress towards attainment through the application of reasonably available control technology (RACT) on all stationary sources. EPA has defined RACT as: the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[1] Therefore, RACT can involve case-by-case determinations and, depending on site-specific considerations, RACT can differ among sources in the same industrial category.

In its review of Part D plans for areas containing iron and steel sources, EPA has endeavored to verify independently that the plans submitted by the States in fact include provisions which represent RACT. In order to make that determination, EPA has collected and evaluated a voluminous amount of data which reflect levels of performance achieved by various iron and steel sources applying control technology, and has made those data available for review as part of the appropriate Part D rulemaking dockets. *See, e.g.,* 45 FR 45314, July 3, 1980 (Indiana); 45 FR 50825, July 31, 1980 (Illinois). The document which is the subject of this notice is simply a summary, in tabular form, of examples of emission limitations for various processes which, in EPA's judgment, the available data demonstrate to be generally achievable on a retrofit basis.

By gathering and evaluating the available data, however, EPA does *not* intend to set uniform RACT standards which the States are required to adopt, and the summary should not be so construed. The limitations and standards summarized in the table should not be regarded as categorical RACT requirements for iron and steel sources, but solely as guidance which EPA will utilize as the starting point in its review and evaluation of a State's submission. The State may develop its RACT requirements independently of EPA's guidance. EPA will approve any submitted RACT requirement that the State shows will satisfy the requirements of the Act for RACT, based on the economic and technical circumstances of the particular sources being regulated.

In meeting its burden of demonstrating that its proposed requirements for iron and steel processes represent RACT, a State has various options. For example, if its proposed limitations are consistent with those summarized in the table, the State may simply refer to the corresponding underlying support data. If the State's proposal is in whole or in part not consistent with the limitations in the table, the State may still rely on some or all of that same underlying support data and may demonstrate with an appropriate analysis that such data support its proposed RACT limitations. The State may also rely on and submit additional data not in the existing compilation, including economic or other site-specific information, together with an appropriate analysis, to demonstrate that its proposed limitations represent RACT. In any event, EPA will *not* rely on the summary table as having established RACT, but will carefully review and evaluate in detail the State's analysis to determine whether it in fact supports the State's proposed RACT requirements. EPA's approval, conditional approval, or disapproval of the submitted Part D plan will be based on that review and evaluation of the State's analysis, taking into account *all* the available data as well as public comment on the State's analysis and EPA's evaluation thereof.

Dated: August 27, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-27430 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1599-1]

Enforcement Policy for Sulfur Dioxide Emission Limitations in Ohio

The U.S. Environmental Protection Agency is clarifying the policy concerning enforcement of sulfur dioxide emission limitations in Ohio previously announced on February 11, 1980 (45 FR 9101).

The means of determining compliance with emission limitations under the applicable SIP is a stack test conducted in accordance with 40 CFR Part 60, Appendix A, Method 6. The purpose of the announced policy is to focus enforcement resources on those plants which present the greatest environmental threat. The enforcement policy represents a screening process for selection of the highest priority cases in need of federal enforcement action. This enforcement policy is not intended to modify the emission limitations applicable to any source of SO_2 emissions.

Dated: August 27, 1980.

John McGuire,

Regional Administrator, Region V.

[FR Doc. 80-27470 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1599-7; OPTS-51100A]

Ethanedioic Acid, Di-N-Butyl Ester; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice clarifies the status of the chemical substance ethanedioic acid, di-*N*-butyl ester, the subject of a premanufacture notice (PMN) submitted to the EPA in accordance with section 5(a)(1) of the Toxic Substances Control Act (TSCA) by a company claiming its identity confidential.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: On July 15, 1980, EPA received a PMN, as required in section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), from a certain company whose identity was claimed confidential under section 14 of TSCA, to manufacture the substance ethanedioic acid, di-*N*-butyl ester. The Agency published a notice as required in section 5(d)(2) of TSCA announcing the receipt of this PMN in the **Federal Register** of August 1, 1980 (45 FR 51272).

Subsequently, it was determined that the substance was already on the Inventory of existing substances compiled by the Agency under section 8(b) of TSCA. Consequently, a PMN was not required and EPA has terminated its

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[1] EPA articulated its definition of RACT in a memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I-X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas." Section 1.a (December 9, 1976), reprinted in (1976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication *Workshop on Requirements for Non-attainment Area Plans—Compilation of Presentations* 154 (OAQPS No. 1.2-103, revised edition April 1978).

V45/175 SE 8 80 UMI

review of the PMN. EPA therefore recinds the 5(d)(2) notice of receipt for this PMN.

Dated: September 2, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80–27428 Filed 9–5–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1599–8; OPTS–51123]

2-Oxepanone, Polymer With 1,4-Butanediol, 1,3-Diisocyanatomethylbenzene, and (2-Hydroxyethyl)-2-Propenoate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by October 10, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202/426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558), and the notice of availability of the Revised Inventory was published on July 29, 1980 (45 FR 50544). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the special chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before October 10, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51123]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 2, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–208.

Close of Review Period. November 9, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—Between $100 million and $499,999,999.

Manufacturing site—Mid-Atlantic region, U.S.

Standard Industrial Classification Code—2891.

Specific Chemical Indentity. 2–Oxepanone, polymer with 1.4–butanediol, 1,3–diisocyanatomethylbanzene, and (2–hyroxyethyl)–2–propenoate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Generic Use. Radiation curable coating.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	7,500	8,500
2d year	8,000	9,500
3d year	9,000	11,000

Physical/Chemical Properties: Minimum average molecular weight—2200. No other data submitted.

Toxicity Data. No data were submitted.

Exposure. During manufacture. During the blending or packaging operation, one to two workers may be dermally exposed for four hours per day, ten days per year.

During use. The coating will be applied by a totally automated dispensing equipment to parts on a moving conveyor. Worker exposure may be possible during the repackaging of the coating from drums into the dispensing equipment.

Disposal. Practically nil. Any waste will be contracted out to private firm for either landfill or incineration.

[FR Doc. 80-27429 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS 59028 A; FRL 1587-3]

Toxic Substances; Approval of Exemption Application

AGENCY: Environmental Protection Agency.

ACTION: Approval of an exemption for test marketing activities from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA).

SUMMARY: On June 25, 1980 EPA received an exemption application for test marketing purposes from Sybron Corporation. The Test Marketing Exemption (TME) number assigned to the substance is T-80-31. EPA has determined that the manufacturer's test marketing of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted the manufacturer an exemption from the TSCA premanufacturing reporting requirements for test marketing in the manner described in the application. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Notice Review Branch, Premanufacturing Review Division (PTS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (426-3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purpose in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On June 25, 1980 EPA received an application from Sybron Corporation for an exemption from the requirements of section 5(a) and 5(b) of TSCA, to manufacture Amines, C_{10}–C_{16} alkyldimethyl, phosphate salt for test marketing purposes. A **Federal Register** notice published on July 23, 1980 (45 FR 49148) announced the receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency received no comment concerning the application. The company stated in the application that the substance would be used as textile dyeing assistants for acrylic fiber products.

In the test marketing application and in telephone conversations with the manufacturer we obtained information on the manufacturing process to be used and on worker exposure during both manufacturing and processing. We also obtained information on the environmental release and disposal practices to be employed. [The Agency also obtained information from its own sources which aided in the review of the test marketing activities associated with the phosphate salt.]

While it is possible that the test market substance may be absorbed to some extent using the gastrointestinal tract there are no other toxicological concerns regarding this chemical substance. Considering then both toxicity and exposure, the Agency has determined that this substance's manufacture, production, and use, in the manner described in the test market application, will not present any unreasonable risk to the people who manufacture it or those who come into contact with it during processing. As a result of this substance's particular properties none of it will be contained in the final fabric. It will all be "washed out" or replaced by the dye itself. Consumers therefore will not come into contact with the test market substance since it will not be in the final acrylic fiber products. The material will be disposed of in an acceptable manner using on-site wastewater treatment plants. It is therefore the Agency's decision to grant Sybron Corporation a test market exemption for this substance, Amines, C_{10}–C_{16} alkyldimethyl, phosphate salt.

At least 90 days prior to manufacturing this substance for commercial purposes other than test marketing or in small quantities solely for Research and Development (R&D) research, the manufacturer must submit a premanufacture notice (PMN) as required under section 5(a) of TSCA. This exemption is granted solely to the applicant of TME 80-31, Sybron Corporation, with the following provisions:

1. That the company not exceed the production amount specified in the test market application;
2. That the substance be manufactured in a closed system as indicated and that worker exposure shall not exceed the levels specified;
3. That the company maintain records of customers to whom the test market substance has been given or sold and that these records may be inspected by EPA; and
4. That a material safety data sheet or similar document shall accompany the product; and be available for employees who come into contact with it during its processing, and use.

Dated: September 2, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-27432 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

V45/175 SE8 80 UMI

[FRL 1598-8]

Water Quality Standards; Navigable Waters of the State of North Carolina; Correction

August 26, 1980.

AGENCY: Environmental Protection Agency.

ACTION: Correction notice of State water quality standards approval.

SUMMARY: The Environmental Protection Agency (EPA) herein corrects a previous notice of approval of revisions to North Carolina's Water Quality Standards.

FOR FURTHER INFORMATION CONTACT: Robert F. McGhee, Water Division, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: 404-881-4793.

SUPPLEMENTARY INFORMATION: On July 2, 1980, EPA published a notice in the **Federal Register** of EPA's approval of North Carolina's Water Quality Standards (45 FR 45017). A portion of that notice was incorrect. The following material is intended to replace the section entitled, "Supplementary Information" in the earlier publication.

On November 9, 1979, the EPA approved revisions to North Carolina's water quality standards resulting from the State's triennial review in accordance with section 303(c) of the Clean Water Act. Substantive changes included the incorporation of additional toxic pollutant criteria, clarification of the State's antidegradation policy and in-zone restrictions on mixing zones.

On January 18, 1980, EPA approved the reclassification of several stream segments in the Lumber, Pasquotank, White Oak, Cape Fear and Neuse River Basins. These revisions represent upgraded use designations.

These revisions are consistent with the Clean Water Act as interpreted in the Agency's water quality standards regulations at 40 CFR 35.1550.

Copies of the revisions are available from the North Carolina Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611.

(Section 303(c) of the Clean Water Act (33 U.S.C. 1313(c))

Dated: August 29, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-27502 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL HOME LOAN BANK BOARD

First Federal Savings & Loan Association of Niles; Niles, Mich.

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(B) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)(6)(B) (1976)), The Federal Home Loan Bank Board appointed Robert Shepherd as conservator of First Federal Savings and Loan Association of Niles, Niles, Michigan, effective as of September 2, 1980.

Dated: September 3, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-27487 Filed 9-5-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. T-3155-5 and T-3155-6]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreements do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreements Nos. T-3155-5 and T-3155-6, between the Port Authority of New York and New Jersey (Port) and Maersk Container Service Company, Inc. (Maersk), assignee of Moller Steamship Company, Inc. (Moller), modify the parties basic agreement providing for Moller's 25-year lease of a marine terminal at Port Newark, New Jersey. The purpose of Agreement No. T-3155-5 is to provide for additional premises and additional basic rental for said premises. Agreement No. T-3155-6 simply adds certain premises, deletes other premises, and provides for the relocation of a fence. The Office of Environmental Analysis' (OEA) major environmental concern is whether these agreements will significantly affect energy usage and/or the quality of the air, water, noise and biological environment.

The OEA has determined that the Commission's final resolution of Agreements Nos. T-3155-5 and T-3155-6 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment on or before September 29, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-27492 Filed 9-5-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Catoosa Bancshares, Inc.; Formation of Bank Holding Company

Catoosa Bancshares, Inc., Fort Oglethorpe, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of Fort Oglethorpe State Bank, Fort Oglethorpe, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reseve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27506 Filed 9-5-80; 8:45 am]

BILLING CODE 6210-01-M

Dominion Banqueshares Ltd.; Formation of Bank Holding Company

Dominion Banqueshares Limited, Kansas City, Missouri, has applied for the Board's approval under section

3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Grandview Bank and Trust Company, Grandview, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27507 Filed 9-5-80; 8:45 am]

BILLING CODE 6210-01-M

First Paullina Bancorp; Formation of Bank Holding Company

The First Paullina Bancorp, Paullina, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.5 percent of the voting shares of The First National Bank of Paullina, Paullina, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27503 Filed 9-5-80; 8:45 am]

BILLING CODE 6210-01-M

First Schulenburg Financial Corp.; Formation of Bank Holding Company

First Schulenburg Financial Corporation, Schulenburg, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Schulenburg, Schulenburg, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27505 Filed 9-5-80; 8:45 am]

BILLING CODE 6210-01-M

Security Bancorp, Inc.; Formation of Bank Holding Company

Security Bancorp, Inc., Hampton, New Hampshire, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Hampton National Bank, Hampton, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27504 Filed 9-5-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 2, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 26, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests an extension-without-change clearance of the reporting requirements contained in Part 248 of the Board's Economic Regulations. Section 248.2 requires that each certificated air carrier which has caused an annual audit of its books to be made by independent public accountants must file a copy of the accountants' report with the Board. If no audit was made the carrier must file a statement with the Board at the close of the fiscal year as part of its periodic reports stating that no audit has been performed. Section 248.3 requires carriers to file a report reconciling the audit report balance sheet and profit and loss statement with the balance sheet and profit and loss statement filed with the Board as part of Form 41 reports. The reports required by Part 248 must be filed with the Board within 15 days after the due date of the appropriate periodic Form 41 report, filed for the 12-month period covered by the audit report, or the date the accountant submits his audit report to the air carrier, whichever is later. The CAB estimates that respondents will number approximately 34 and that reporting time will average 11½ hours for each carrier. The CAB is authorized to collect such information under Section 407 of the Federal Aviation Act.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-27480 Filed 9-5-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Board of Regents; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on October 9–10, 1980, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center and National Medical Audiovisual Center Subcommittee on the preceding day, October 8, 1980, from 2:00 to 4:00 p.m., in the 5th floor Conference Room of the Lister Hill Center Building, and from 2:00 to 5:00 p.m., in the 7th floor Conference Room of the Lister Hill Center Building, respectively.

The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on October 9 and from 9:00 a.m. to 11:00 a.m. on October 10 for administrative reports and program discussions. The entire meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee will be open to the public for the discussion and examination of program and review mechanisms. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on October 8 will be closed to the public, and the regular Board meeting on October 10 will be closed from 11:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Note.— NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-27420 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, October 2–3, 1980, Building 31, 6th floor, "C" wing, Conference Room 10, National Institutes of Health. This meeting will be open to the public on October 2 and 3, 1980, from 8:30 a.m. to 5:30 p.m., to review program plans, contract recompetitions and budget for the DCT program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 2, 1980, from 7:00 p.m. to 9:30 p.m., for review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Saul A. Schepartz, Acting Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301–496–4291) will furnish summaries of meetings, rosters of committee members, and substantive program information.

Dated: August 27, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-27414 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors, NIA; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 30–31, 1980, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. to adjournment on Thursday, October 30, and from 9:00 a.m. until 1:30 p.m. Friday, October 31. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 31, from 1:30 p.m. until adjournment for the review, discussion and evaluation of individual programs, and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA Building 31, Room 2C–08, National Institutes of Health, Bethesda, Maryland 20205, (telephone: 301/496–4120) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular.

Dated: August 27, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-27415 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-08-M

V 45/175 SE 8 80 UMI

Division of Research Grants, Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for October through November 1980, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Marian Oakleaf, Acting Chief, Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study section	October–November 1980 meetings	Time	Location
Allergy & Immunology: Dr. Morton Reitman, Rm. 320, Tel. 301–496–7380.	October 30–November 1	8:30 a.m.	Linden Hill Motel, Bethesda, MD.
Applied Physiology and Orthopedics: Ms. Ileen E. Stewart, Rm. 350, Tel. 301–496–7581.	October 30–November 1	8:30 a.m.	Room 10, Bldg. 31C, Bethesda, MD
Bacteriology and Mycology: Dr. Milton Gordon, Rm. 304, Tel. 301–496–7340.	October 23–25	8:30 a.m.	Holiday Inn, Bethesda, MD.
Biochemical Endocrinology: Dr. Norman Gold, Rm. A–17, Tel. 301–496–7430.	October 27–29	8:30 a.m.	In Town Motel, Chevy Chase, MD
Biochemistry: Dr. Adolphus P. Toliver, Rm. 318, Tel. 301–496–7516	October 29–November 1	9:00 a.m.	Ramada Inn, Rosslyn, VA.
Biophysics and Biophysical, Chemistry A: Dr. James C. Cassatt, Rm. 236, Tel. 301–496–7060.	October 17 to 19	8:30 a.m.	Room 9, Bldg. 31C, Bethesda, MD.
Biophysics and Biophysical, Chemistry B: Dr. John B. Wolff, Rm. 236, Tel. 301–496–7070.	October 30–November 1	8:30 a.m.	Room 7, Bldg. 31C, Bethesda, MD.
Bio-Psychology: Dr. A. Keith Murray, Rm. 220, Tel. 301–496–7058	November 2–5	9:00 a.m.	Maryland Inn, Annapolis, MD.
Cardiovascular and Pulmonary: Dr. Constance E. Weinstein, Rm. 2A-04, Tel. 301–496–7316.	October 29–31	8:00 a.m.	Georgetown Holiday Inn, Washington, DC.
Cardiovascular and Renal: Dr. Rosemary S. Morris, Rm. 321, Tel. 301–496–7901.	October 29–31	8:30 a.m.	Holiday Inn, Bethesda, MD
Cell Biology: Dr. Gerald Greenhouse, Rm. 306, Tel. 301–496–7681	October 29–31	8:30 a.m.	Room 8, Bldg. 31C, Bethesda, MD.
Chemical Pathology: Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7078.	October 20–21	8:00 a.m.	Holiday Inn, Bethesda, MD
Communicative Sciences: Dr. Michael Halasz, Rm. 226, Tel. 301–496–7550.	October 29–31	8:30 a.m.	Room 4, Bldg. 31A, Bethesda, MD.
Diagnostic Radiology: Dr. Catharine Wingate, Rm. 219, Tel. 301–496–7650.	October 20–22	8:30 a.m.	Linden Hill Hotel, Bethesda, MD.
Endocrinology: Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346	October 20–22	7:00 p.m.	Linden Hill Hotel, Bethesda, MD
Epidemiology and Disease Control: Dr. Ann Schluederberg, Rm. 234, Tel. 301–496–7246.	November 5–8	8:30 a.m.	Room 10, Bldg. 31C, Bethesda, MD.
Experimental Therapeutics: Dr. Anne R. Bourke, Rm. 319, Tel. 301–496–7839.	October 22–25	1:00 p.m.	Holiday Inn, Chevy Chase, MD
Experimental Virology: Dr. Eugene Zebovitz, Rm. 206, Tel. 301–496–7474.	October 19–22	2:00 p.m.	Room 8, Bldg. 31C, Bethesda, MD
General Medicine A: Dr. Harold Davidson, Rm. 354, Tel. 301–496–7797.	October 27–28	8:30 a.m.	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B: Dr. William Davis, Jr., Rm. 322, Tel. 301–496–7730.	October 29–November 1	8:30 a.m.	Georgetown Holiday Inn, Washington, DC
Genetics: Dr. David Remondini, Rm. 349, Tel. 301–496–7271	October 23–25	9:00 a.m.	Room 6, Bldg. 31C, Bethesda, MD.
Hematology: Dr. Clark Lum, Rm. 355, Tel. 301–496–7508	October 16–18	8:30 a.m.	In Town Motel, Chevy Chase, MD.
Human Development: Dr. Miriam Kelty, Rm. 303, Tel. 301–496–7025	November 6–8	8:30 a.m.	Gramercy Inn, Washington, DC.
Human Embryology and Development: Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	October 29–31	8:30 a.m.	Linden Hill Hotel, Bethesda, MD.
Immunobiology: Dr. William Stylos, Rm. 226, Tel. 301–496–7780	November 5–7	8:30 a.m.	Sheraton Inn, Silver Spring, MD.
Immunological Sciences: Dr. Lottie Kronfeld, Rm. 233, Tel. 301–496–7179.	October 22–24	8:30 a.m.	Linden Hill Hotel, Bethesda, MD.
Mammalian Genetics: Dr. Halvor Aaslestad, Rm. 349, Tel. 301–496–7271.	October 30–November 1	9:00 a.m.	Room 6, Bldg. 31C, Bethesda, MD
Medicinal Chemistry A: Dr. Ronald Dubois, Rm. A–27, Tel. 301–496–7108	October 29–31	9:00 a.m.	Georgetown Holiday Inn, Washington, DC
Metabolism: Dr. Robert Leonard, Rm. 334, Tel. 301–496–7091	November 6–8	8:30 a.m.	Room 6, Bldg. 31C, Bethesda, MD.
Metallobiochemistry: Dr. Mariam Behar, Rm. 310, Tel. 301–496–7733	November 13–15	9:00 a.m.	Rosslyn Westpark Hotel, Rosslyn, VA
Microbial Physiology: Dr. William Slater, Rm. 238, Tel. 301–496–7183	October 23–24	8:30 a.m.	Holiday Inn, Bethesda, MD
Molecular Biology: Dr. Ronald Disque, Rm. 328, Tel. 301–496–7830	October 23–25	8:30 a.m.	Marriott Hotel, Bethesda, MD.
Molecular Cytology: Dr. Ramesh Nayak, Rm. 233, Tel. 301–496–7149	October 23–25	8:30 a.m.	Room 8, Bldg. 31C, Bethesda, MD.
Neurological Sciences: Dr. Edwin Bartos, Rm. 207, Tel. 301–496–7000.	October 23–25	8:30 a.m.	Wellington Hotel, Washington, DC.
Neurology A: Dr. William Morris, Rm. 326, Tel. 301–496–7095	October 30–November 1	9:00 a.m.	Executive House Hotel, Washington, DC.
Neurology B: Dr. Willard McFarland, Rm. A–25, Tel. 301–496–7422	October 29–November 1	8:30 a.m.	Mayflower Hotel, Washington, DC
Nutrition: Dr. John R. Schubert, Rm. 204, Tel. 301–496–7178	October 29–31	8:30 a.m.	Room 9, Bldg. 31C, Bethesda, MD
Oral Biology and Medicine: Dr. Thomas Tarpley, Jr., Rm. 325, Tel. 301–496–7818.	October 28–31	8:30 a.m.	Holiday Inn, Silver Spring, MD.
Pathobiological Chemistry: Dr. Clarice E. Gaylord, Rm. A–26, Tel. 301–496–7820.	October 22–25	8:30 a.m.	Room 7, Bldg. 31C, Bethesda, MD
Pathology A: Dr. Harold Waters, Rm. 337, Tel. 301–496–7305	October 22–25	8:00 a.m.	Holiday Inn, Rosslyn, VA.

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Study section	October-November 1980 meetings	Time	Location
Pathology B: Dr. Earl Fisher, Rm. 352, Tel. 301-496-7244	October 29-31	8:30 a.m.	Ramada Inn, Bethesda, MD.
Pharmacology: Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	October 28-30	8:30 a.m.	Holiday Inn, Bethesda, MD.
Physiological Chemistry: Dr. Harry Brodie, Rm. 440, Tel. 301-496-7837.	October 23-25	8:30 a.m.	Rosslyn Westpark Hotel, Rosslyn, VA
Physiology: Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	October 22-25	9:00 a.m.	Room 9, Bldg. 31C, Bethesda, MD.
Radiation: Dr. Robert L. Straube, Rm. 219, Tel. 301-496-7073	November 3-5	9:00 a.m.	Holiday Inn, Chevy Chase, MD.
Reproductive Biology: Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318.	October 15-18	9:00 a.m.	Ramada Inn, Augusta, GA.
Social Sciences and Population: Ms. Carol Campbell, Rm. 210, Tel 301-496-7906.	October 17-19	9:00 a.m.	Georgetown Holiday Inn, Washington, DC
Surgery, Anesthesiology and Trauma: Dr. Keith Kraner, Rm. 336, Tel. 301-496-7771.	October 17-18	8:30 a.m.	Linden Hill Hotel, Bethesda, MD
Surgery and Bioengineering: Dr. Joe Atkinson, Rm. 348, Tel. 301-496-7506.	October 16-17	8:30 a.m.	Georgetown Holiday Inn, Washington, DC
Toxicology: Dr. Raymond Bahor, Rm. 205, Tel. 301-496-7570	October 22-24	8:30 a.m.	Holiday Inn, Washington, DC.
Tropical Medicine and Parasitology: Dr. Betty June Myers, Rm. 203, Tel. 301-496-7494.	November 2-4	8:30 a.m.	Connecticut Inn, Washington, DC
Virology: Dr. Claire Winestock, Rm. 309, Tel. 301-496-7605	October 23-25	8:30 a.m.	Room 4, Bldg. 31A, Bethesda, MD
Visual Sciences A: Dr. Orvil E. A. Bolduan, Rm. 439, Tel. 301-496-7280.	October 29-31	9:00 a.m.	Ramada Inn, Alexandria, VA.
Visual Sciences B: Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251	November 15-18	9:00 a.m.	Georgetown Holiday Inn, Washington, DC

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–27419 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

Epilepsy Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, NIH, October 23–24, 1980, Room B119, Federal Building, Bethesda, MD 20205.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Dr. Roger J. Porter, Chief, Epilepsy Branch, Neurological Disorders Program, NINCDS, Federal Building, Room 114, NIH, Bethesda, MD 20205, telephone 301/496–6691, will provide summaries of the meeting and rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Neurological Disorders Program, National Institutes of Health)

NOTE.—NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 27, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–27413 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, On October 15, 16, and 17, 1980 in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. until adjournment on October 15 and 16, and from 9:00 a.m. until 1:30 p.m. on October 17. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 17, 1980 from 1:30 p.m. until adjournment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary, National Institute on Aging, Building 31, Room 2C–08, National Institutes of Health, Bethesda, Maryland 20205 (Area Code 301, 496–4120), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–27418 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory Dental Research Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on October 23–24, 1980, in Conference Room 10, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on October 24 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Code and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on October 23 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31–C, Room 2C36, Bethesda, MD 20205, (phone 301 496–2883) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 13.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.845-Dental Research Institutes, 13.878-Soft Tissue Stomatology and Nutrition Research, National Instututes of Health)

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–27416 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory Environmental Health Sciences Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given to the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, October 6–7, 1980 at the National Institute of Environmental Health Sciences, Building 18 Conference Room, Research Triangle Park, North Carolina.

This meeting will be open to the public on October 6, 1980, from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, interagency activities, scientific presentations, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 6, from approximately 1 p.m. to adjournment on October 7, 1980, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Leota B. Staff, Committee Management Officer, NIEHS, Building 31, Room 4B31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, National institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 755–4015, FTS 672–4015, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13,892, 13,893, 13,894, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–27422 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, October 16 and 17, 1980, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 16, 1980, from 9 a.m. to 1 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public for approximately the last four hours of the day on October 16, 1980, and six hours on October 17, 1980. It is estimated that the closed session will occur on October 16 from approximately 1:00 p.m. to 5:00 p.m., and on October 17, 1980, from 9:00 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Wanda Warddell, Acting Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301, 496–5231 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–821, Physiology and Biomedical Engineering; 13–859, Pharmacology-Toxicology Research; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers (MARC))

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 29, 1980

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–27421 Filed 9–5–80; 8:45 am]

BILLING CODE 4110–08–M

National Arthritis, Metabolism, and Digestive Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on October 15–17, 1980, in Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on October 15 from 8:30 a.m. to 5:00 p.m. for a symposium on DNA, the Cell Nucleus, and Genetic Diseases, and on October 16 from 1:30 to approximately 3:30 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, US Code and Section 10(d) of Pub. L. 92–463, on October 16 from 8:30 a.m. to 12:00 noon the Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases; and Kidney Urologic and Blood Diseases subcommittees will meet in closed session for the review, discussion and evaluation of individual grant applications. The meeting of the full Council will be closed on October 16 from approximately 3:30 p.m. to closing, and on October 17 from 8:30 a.m. to

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adjournment. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis Metabolism, and Digestive Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the office of the Committee Management Assistant, NIAMDD, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases, Diabetes, Endocrine and Metabolism, Digestive Diseases and Nurtition, and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institues of Health.

[FR Doc. 80-27417 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Interim Designation Order AK-010-8002]

Alaska Off-Road Vehicle Designation Decisions

AGENCY: Bureau of Land Management.

ACTION: Notice of off-road vehicle designation decisions.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited or closed to off-road motorized vehicles use.

The 460,000 acre area affected by the designations is known as the Tangle Lakes Archeological District in the Denali Block of the Southcentral Planning Unit. Comments received from three public meetings and numerous written responses influenced these designation decisions. This designation order for interim off-road vehicle designations was initiated prior to development of the Southcentral Management Framework Plan. The interim designations will remain in effect until evaluations and subsequent justifications for adjustment of the boundaries of the Tangle Lakes Archeological District are developed. These designations are published as final (43 CFR 4.21). An appeal may be filed within 30 days with Interior Board of Land Appeals.

The Bureau has consulted with the State Historic Preservation Officer and the Advisory Council on Historic Preservation to assure compliance with Section 106 of the National Historic Preservation Act of 1966.

A. *Limited Designation*

1. Limited Season of Use—460,000

The Tangle Lakes Archeological District is located west of Paxson, Alaska on the Denali Highway. This area is open to motorized vehicle use from October 16 through May 15 and closed to use from May 16 through October 15, except on designated roads and trails (see list below), to protect cultural resources values.

2. Use Limited to Designated Roads and Trails

Vehicle use in this area is permitted on designated roads and trails which are identified with signs and on maps.

Within the Tangle Lakes Archeological District, the following roads and trails will be open to off-road vehicles use.

1. Maclaren River Road.
2. Sevenmile Lake Trail.
3. Osar Lake Trail (south of Denali Highway).
4. Swede Lake Trail (to Middle Fork of the Gulkana River).
5. Landmark Gap Trail (to a designated point approximately one-fourth mile south of Land Mark Gap Lake).
6. Glacier Lake Trail (to a designated point approximately one-fourth mile south of Glacier Lake).

The following additional trails may be opened in the future as archeological clearances and appropriate mitigations are completed:

1. Middle Fork Gulkana River Branch Trail to Dickey Lake and Alphabet Hill (clearance/mitigation scheduled for completion by August 1, 1980).
2. Landmark Gap Trail (south of Denali Highway).
3. Glacier Lake Trail (final one-fourth mile).
4. Osar Lake Trail (north of Denali Highway).

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the offices listed below.

ADDRESS:

District Manager, Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

Area Manager, Glennallen Resource Area, Glennallen, Alaska 99588.

Darryl Fish,

Glennallen Resource Area Manager.

Donovan Yingst,

Acting Anchorage District Manager.

[FR Doc. 80-26809 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-84-M

California; Emergency Closure of Public Lands

Notice is hereby given that effective immediately all public lands in Section 17 and 18 T. 1N., R. 27E., M.D.M., located north of the maintained gravel/dirt road transversing diagonally from near the west quarter corner of Section 18 to the extreme southwest corner of Section 17, and east of the mining access road which parallels the west section line north from the west quarter corner of Section 18 with the exception of the designated parking area, are closed to vehicle access. (See accompanying map.)

The purpose of this closure is to protect the fragile Mono Lake tufa towers from damage by motor vehicles.

Authority for this closure is under Title 43 CFR 8341.2 and will be in effect until motor vehicle designations for the Benton-Owens Valley planning are implemented.

Carol Kinderknecht

Acting District Manager.

August 22, 1980.

BILLING CODE 4310-84-M

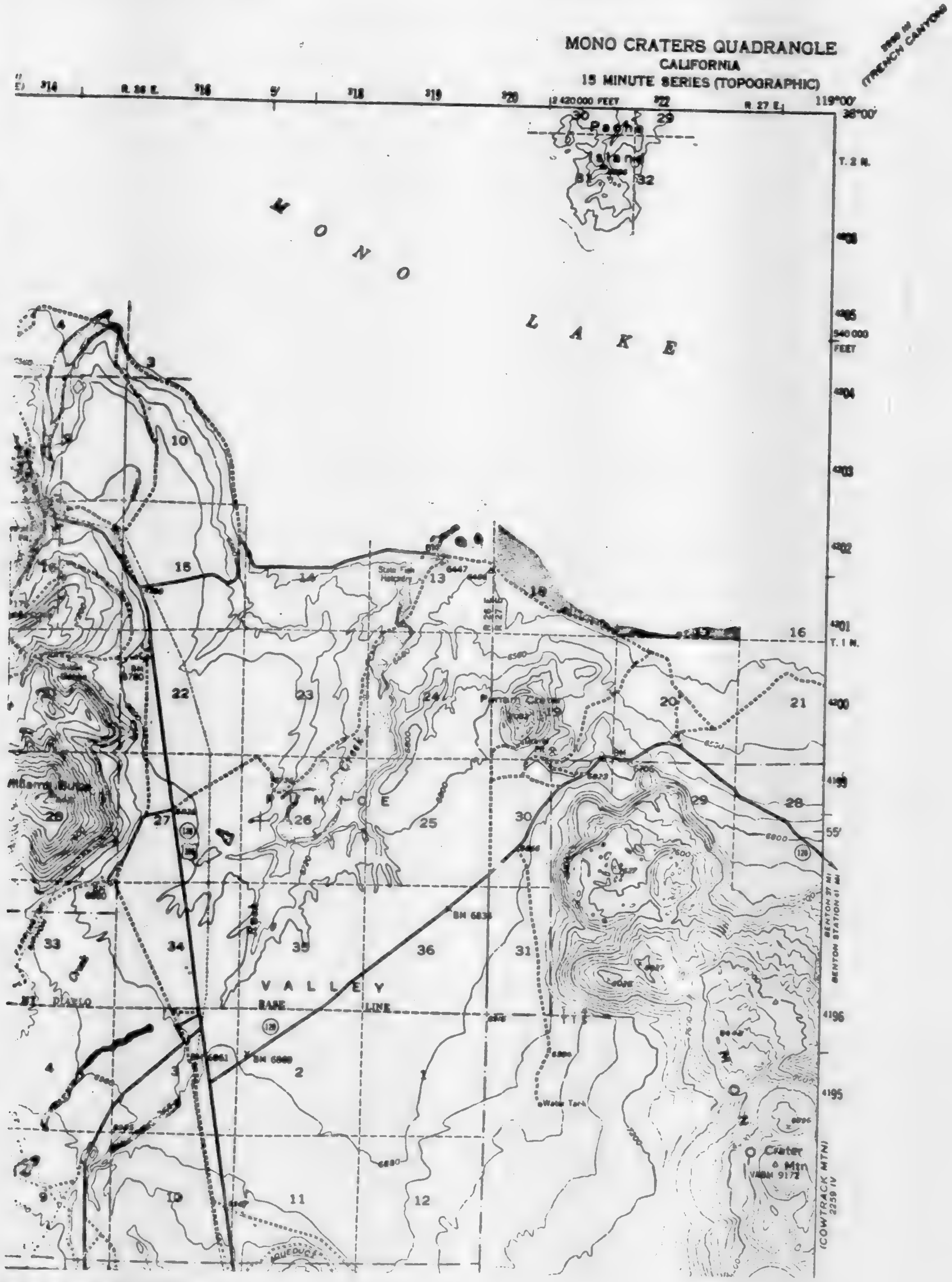
MONO CRATERS QUADRANGLE
CALIFORNIA
15 MINUTE SERIES (TOPOGRAPHIC)
(TRENCH CANYON)
R. 26 E.
R. 27 E.
119°00'
38°00'
T. 2 N.
T. 1 N.
Paoha Island
MONO LAKE
State Fish Hatchery
Panum Crater
PUMICE
VALLEY
BASE LINE
Crater Mtn
BENTON STATION
COWTRACK MTN
Water Tank

[FR Doc. 80-27456 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-84-C

V45/175 SE8 80 UMI

[F-023812]

Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, on May 13, 1980, filed application, Serial No. F-023812, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws subject to valid existing rights:

Minchumina Area

U.S. Survey No. 2655 located in fractional Secs. 5, 8, and 17, T. 12 S., R. 24 W., Fairbanks Meridian.

Containing 690.26 acres.

The lands described are currently withdrawn for the Federal Aviation Administration, which has filed a notice of intent to relinquish the site. The effect of the proposed order would be to transfer jurisdiction over the lands from the Federal Aviation Administration to the Bureau of Land Management.

The applicant agency desires that the lands be withdrawn and reserved for the continued operation and expansion of the fire control base at Minchumina.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before October 14, 1980.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, on or before October 14, 1980. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-27455 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-84-M

Oil Shale Task Force; Meetings

Notice is hereby given that meetings of the Oil Shale Task Force will be held on September 18 and 19, 1980, to review the findings and recommendations of the Task Force for a Permanent Oil Shale Leasing Program. The meeting on September 18 will begin at 7:00 p.m. in the Big Horn Room, Denver Marina Hotel, 303 West Colfax Avenue, Denver, Colorado, and conclude at 9:00 p.m. The meeting on September 19 will begin at 9:00 a.m. in Room 128, Salt Palace, Salt Lake City, Utah, and conclude at 12:00 noon.

The meetings are open to the public. It is expected that space will permit approximately 50 people to attend the meetings in addition to Task Force members. Interested persons may make brief presentations. Written comments on the subject matter of these meetings, previous Task Force meetings on prototype oil shale leasing held on August 26 and 27, 1980, and Task Force reports or other Oil Shale Task Force activities may be filed at the meetings announced herein or submitted until October 31, 1980, to Mr. Jeffrey F. Zabler, Office of the Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C. 20240. Single copies of the Oil Shale Task Force Reports to Under Secretary James A. Joseph on the Prototype Oil Shale Leasing Program may be obtained after September 15, 1980, and on the Permanent Oil Shale Leasing Program after October 8, 1980, from Mr. Henry O. Ash, Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234-3275.

Daniel P. Beard,

Acting Assistant Secretary, Land and Water Resources.

September 2, 1980.

[FR Doc. 80-27459 Filed 9-5-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

SES Performance Review Board for the Advisory Council on Historic Preservation; Names of Members

Sec. 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Pursuant to the Memorandum of Understanding between the Advisory Council and the Department of the Interior, the SES Performance Appraisal Plan for the Department has been adopted for use by the Council. A Performance Review Board will review the appraisal, award, and bonus recommendations for the SES members of the Council staff, and recommend final action to the Chairman. This notice is processed on behalf of the Advisory Council.

The names of the members for this Performance Review Board are:

Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development
Calvin W. Carter, Vice Chairman, Advisory Council on Historic Preservation
Barry Flamm, Director, Office of Environmental Quality, Department of Agriculture
George M. White, Architect of the Capitol

For further information, contact Thomas M. Gernhofer, Chief, Branch of Policies and Programs, Division of Personnel Services (202–343–6793); mailing address: Department of the Interior (PSO–P), Washington, DC 20240.

Dated August 29, 1980.

William L. Carpenter,

Acting Deputy Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 80–27514 Filed 9–5–80; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 194]

Assignment of Hearings

August 25, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 140163 (Sub-3F), Post & Sons Transfer, Inc., now assigned September 10, 1980, at Seattle, WA, will be held in Room 2866, Federal Building, 915 Second Avenue.

MC 136711 (Sub-41F), McCorkle Truck Line, Inc., now assigned September 8, 1980, at Kansas City, MO, will be held in Room No. 609, 911 Walnut Street, Federal Building.

MC 41432 (Sub-160F), East Texas Motor Freight Lines, Inc., now assigned September 2, 1980, at Kansas City, MO, will be held in Room No. 609, 911 Walnut Street, Federal Building.

MC 145733 (Sub-2F), American Auto Shippers, now assigned September 22, 1980, at New York, NY, will be held in Room No. F–2220, Federal Building, 26 Federal Plaza.

MC 141441 (Sub-4F), Crocker Truck Lines, Inc., now assigned September 22, 1980, at Spokane, WA, will be held in Room 752, U.S. Courthouse, West 920 Riverside.

MC 142416 (Sub-6F), Hamilton Transfer, Storage & Feeds, Inc., now assigned for hearing on September 29, 1980 at Cheyenne, WY, will be held at the O'Mahoney Building, GSA Conference Room, 2120 Capitol Avenue.

MC 118038 (Sub-16F), Easley Hauling Service, Inc., now assigned for hearing on September 29, 1980 at Yakima, WA, will be held at the Pacific Power & Light, 7 North 3rd Street.

MC 2960 (Sub-28F), England Transportation Company of Texas, now assigned for hearing on October 28, 1980 (9 days) at Oklahoma City, OK, in a hearing room to be later designated.

MC 107678 (Sub-71F), Hill & Hill Truck Line, Inc., now assigned for hearing on October 28, 1980 (9 days) at San Francisco, CA, in a hearing room to be later designated.

MC 118457 (Sub-30F), Robbins Distributing Company, Inc., now assigned for hearing on October 1, 1980 (3 days) at Milwaukee, WI, in a hearing room to be later designated.

MC 95540 (Sub-1105F), Watkins Motor Lines, Inc., now assigned for hearing on October 6, 1980 (5 days) at Milwaukee, WI, in a hearing room to be later designated.

MC 128951 (Sub-26F), Robert H. Dittrich, d.b.a. Bob Dittrich Trucking, now assigned for hearing on October 22, 1980 (2 days) at St. Paul, MN, in a hearing room to be later designated.

MC 140024 (Sub-166F), J. B. Montgomery, Inc., now assigned for hearing on October 28, 1980 (4 days) at Pittsburgh, PA, in a hearing room to be later designated.

MC 147281 (Sub-2F), Robert G. Willment and Edward J. Blyzwick Jr. d.b.a. Keyston Air Freight, now assigned for hearing on November 3, 1980 (1 week) at Pittsburgh, PA, in a hearing room to be later designated.

MC 138878 (Sub-8F), John S. Watson, d.b.a. John S. Watson Trucking Co. now being assigned for hearing on October 7, 1980 (4 days) at Charleston, WV, location of hearing room will be designated later.

MC 61592 (Sub-475F), Jenkins Truck Line, Inc., now being assigned for hearing on November 4, 1980 (2 days) at Chicago, IL, location of hearing room will be designated later.

MC 119493 (Sub-275F), Monkem Company, Inc., now assigned for hearing November 4, 1980 at Chicago, IL, is cancelled and application dismissed.

MC 115841 (Sub-752F), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on October 29, 1980 (3 days) at San Antonio, TX, location of hearing room will be designated later.

MC 31389 (Sub-284F), McLean Trucking, now being assigned for hearing on November 3, 1980 at Fort Worth, TX, location of hearing room will be designated later.

MC 100666 (Sub-511F), Melton Truck Lines, Inc., application is dismissed.

MC 59206 (Sub-25F), Holland Motor Express, Inc., is transferred to Modified Procedure.

MC 140829 (Sub-313F), Cargo, Inc., is transferred to Modified Procedure.

MC 44605 (Sub-52F), Milne Truck Lines, Inc., now assigned for hearing on November 3, 1980 (5 days) at Salt Lake City, UT, at the Tri-Arc Travel Lodge, 161 West 6th South.

MC 9291 (Sub-11F), Carrol Ball Transport, Inc., now assigned for hearing on September 24, 1980 (2 days) at Kansas City, MO, in Room No. 609, Federal Building, 911 Walnut Street.

MC 9291 (Sub-12F), Carrol Ball Transport, Inc., now assigned for hearing on September 23, 1980 (1 day) at Kansas City, MO, in Room No. 609, Federal Building, 911 Walnut Street.

MC 106839 (Sub-8F), Larsen Motor Lines, Inc., now assigned for hearing on September 9, 1980 at New Orleans, LA, in Room No. 125, Hale Boggs Federal Building, 500 Camp Steet

MC 14252 (Sub-61F), Commercial Lovelace Motor Freight, Inc., now assigned for hearing on September 23, 1980 (4 days) at Indianapolis, IN, at the Conference Room No. 284, New Federal Bldg., 575 North Pennsylvania Street.

MC 2934 (Sub-24F), Aero Mayflower Transit Company, Inc., now assigned for hearing on September 22, 1980 at Los Angeles, CA, is cancelled and application dismissed.

MC 35628 (Sub-429F), Interstate MOTOR FREIGHT SYSTEM, now assigned for Prehearing Conference on September 22, 1980 at the Offices of the Intersate Commerce Commission at Washington, D.C. is cancelled and Application dismissed.

MC 32882 (Sub-138F), Mitchell Bros. Truck Lines, an Oregon Corporation, now being assigned for hearing on October 28, 1980 (2 weeks) at Portland, OR, location of hearing room will be designated later.

MC 121658 (Sub-13F), Steve D. Thompson Trucking Inc., now assigned for hearing on September 3, 1980 (2 days) at Austin, TX, will be held at the Railroad Commission of Texas, 1124 South I–H 35.

MC 74164 (Sub-7F), West Farms Express, Inc., now assigned for hearing on September 9, 1980 at New York, NY, is postponed to October 28, 1980 (4 days) at New York, NY in a hearing room to be later designated.

MC 112520 (Sub-379F), McKenzie Tank Lines, Inc., application is dismissed.

MC 119349 (Sub-20F), Startling Transport Lines, Inc., now assigned for hearing on October 8, 1980 at New York, NY, is canceled and application is dismissed.

MC 135070 (Sub-47F), Jay Lines, Inc., now assigned for hearing on October 20, 1980 at Fort Worth, TX, is canceled and reassigned to October 20, 1980 (5 days) at Amarillo, TX in a hearing room to be later designated.

MC 94201 (Sub-177F), Bowman Transportation, Inc., is transferred to Modified Procedure.

MC 78228 (Sub-134F), J. Miller Express, Inc., is transferred to Modified Procedure.

MC 10343 (Sub-37F), Churchill Truck Lines, Inc., is transferred to Modified Procedure.

MC 119493 (Sub-312F), Monkem Company, Inc., application is dismissed.

MC-F-14236F, Graves Truck Line, Inc.—Purchase—Stewart Motor Freight, Inc., MC 53965 (Sub-168F), Graves Truck Line, Inc., MC 53965 (Sub-156F), Graves Truck Line, Inc., now assigned for hearing on September 16, 1980 at Salina, KS, will be held in the Mid America Inn, 1846 North 9th Street.

MC 140389 (Sub-57F), Osborn Transportation, Inc., now assigned for hearing on

December 12, 1980 (9 days) at Atlanta, GA, in a hearing room to be later designated.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27445 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 44]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the filed officials named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting and particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Republication

MC 115826 (Sub-No. 556TA), filed October 18, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. By decision of July 21, 1980, Review Board Number 2 acting on applicant's petition, granted authority to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs and material, equipment and supplies used by a manufacturer of foodstuffs, from Los Angeles, CA, and points in its commercial zone, to points in OH, GA, and KY, for 180 days. The above described request for authority was published in the **Federal Register** on December 12, 1979, but the destination states of OK and CA were shown in lieu of OH and GA. Any interested party may file a petition for reconsideration on or before 20 calendar days from the date this notice is published. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27451 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-54

The following applications were filed in Region I. Send protests to: Regional Authority Center, Interstate Commerce Commission, 150 Causeway St., Rm. 501, Boston, MA 02114.

MC 151632 (Sub-1-TA), filed August 26, 1980. Applicant: EASTWOOD CARRIERS, INC., P.O. Box 1073, Lockhouse Road, Westfield, MA 01086. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Iron and Steel articles and machinery used in the manufacture of such commodities,* between points in Henry County and Cook County, IL, Worcester County, MS, Alleghany County, MD, York County, ME, Erie County, NY, Stark County, OH, and Beaver County, PA. Supporting shipper: Peterson Steel Corp., 61 West Mountain Street, Worcester, MA 01606.

MC 149367 (Sub-1-5TA), filed August 27, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega, 11 Newark Street, Providence, RI 02908. *Contract carrier,* irregular routes: *Plastic Articles including Hospital Supplies and Raw Materials used in the manufacture thereof* between all points in the United States under a continuing contract(s) with the Superior Plastics Products Company of Cumberland, RI. Supporting shipper: Superior Plastics Products Company, Cumberland Industrial Park, Cumberland, RI 02864.

MC 151667 (Sub-1-1TA), filed August 27, 1980, Applicant: J. F. LOMMA, INC., 125 Adams Street, South Kearny, NJ 07032. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Railroad Cars and Parts,* between Baltimore, MD, New York, NY, and Philadelphia, PA, on the one hand, and on the other, Cleveland, OH. Supporting shipper: Costa Line Cargo Services, Inc., 26 Broadway, New York, NY 10004.

MC 151675 (Sub-1-1TA), filed August 28, 1980. Applicant: NORTH JERSEY TRANSFER, INC., P.O. Box 292, Sparta, NJ 07871. Representative: Fred M. Finkle, P.O. Box 292, Sparta, NJ 07871. *Insulation, sound deadening, and fireproofing materials and equipment and equipment, materials, and supplies used in the manufacture and installation thereof (except in bulk)* between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to traffic originating or destined to facilities of United States Mineral Products Company. Supporting shipper: United States Mineral Products Co., Furnace Street, Stanhope, NJ 07874.

MC 151674 (Sub-1-1TA), filed August 28, 1980. Applicant: TRANSMODAL, INC., P.O. Box 195, Cowansville, Quebec, Canada J2K 3H6. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier*, irregular routes: *General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, between St. Albans, VT, on the one hand, and, on the other, the ports of entry of the international boundary line between the United States and Canada. Service is restricted to traffic having a prior or subsequent movement by rail. Supporting shipper: Central Vermont Railway, Inc., 2 Federal Street, St. Albans, VT 05478.

MC 150360 (Sub-1-2TA), filed August 28, 1980. Applicant: KENNEDY CO., INC. d.b.a. BRENNAN TRANSPORTATION SERVICES, Pike Road, Mt. Laurel, NJ 08054. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd and Cottman St., Jenkintown, PA 19046. *Pharmaceutical Tablets* from the facilities of PACO Packaging, Inc., Lakewood, NJ to Philadelphia, PA commercial zone. Supporting shipper: PACO Packaging, Inc., RT. 70 and Corporate Highway, Lakewood, NJ 08701.

MC 143236 (Sub-I-9TA), filed August 28, 1980. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Ave., Kearny, NJ 07032. Representative: Brock Adams, 1919 Pennsylvania Ave. NW., Suite 850, Washington, DC 20006. *Such commodities as are dealt in or used by department stores*, between points in the US. Supporting shippers: (1) Toys 'R' Us, 395 W. Passaic Ave., Rochelle Park, NJ 07662. (2) Child World, 25 Littlefield Rd., Avon, MA 02322.

MC 125440 (Sub-1-1TA), filed August 28, 1980. Applicant: CONCRETE TRUCKING, INC., 50 James Street, Somerville, NJ 08876. Representative: Raymond P. Keigher, Esq., 401 E. Jefferson Street, Suite 102, Rockville, MD 20850. *Contract carrier*, irregular routes: *Precast and prestressed concrete, materials, equipment and supplies used in the manufacture or distribution of precast and prestressed concrete*, from Baltimore, Odenton and Whitemarsh, MD, to points in CT, DE, DC, NJ, NY, NC, PA, SC and VA; from Morrisville, PA, to points in CT, NC, SC and VA, under a continuing contract(s) with Strescon Industries, Inc. Supporting shipper: Strescon Industries, Inc., 3501 Sinclair Lane, Baltimore, MD 21213.

MC 36517 (Sub-1-1TA), filed August 28, 1980. Applicant: JAMES J. KEATING, INC., P.O. Box 830, Perth Amboy, NJ 08862. Representative: Robert B: Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Sodium Methylate, in bulk, in tank vehicles* between Niagara Falls, NY, on the one hand, and, on the other, New York, NY and Baltimore, MD Commercial Zones. Supporting shipper: Olin Chemicals Group, 120 Long Ridge Road, Stamford, CT 06904.

MC 143223 (Sub-1-1TA), filed August 29, 1980. Applicant: CARL CRAWFORD, d.b.a. CRAWFORD MOBILE HOMES, North Road, Houlton, ME 04730. Representative: John R. McKernan, Jr., Verrill & Dana, Two Canal Plaza, Portland, ME 04112. *Contract carrier*, irregular routes: *Modular homes in initial movements in truckaway service*, from Pine Grove, PA to points in NY, CT, VT, NH, MA, and RI, under a continuing contract with APECO Corporation, Newport Homes Division of Pine Grove, PA. Supporting shipper: Newport Homes, Rt #443, Pine Grove, PA 17963.

MC 120818 (Sub-1-1TA), filed August 28, 1980. Applicant: ALLFREIGHT LINES, INC., 309 New Boston Street, Woburn, MA 01888. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Iron and steel articles, and equipment, material and supplies used in their manufacture, processing and distribution*, between points in MA, on the one hand, and, on the other, points in CT, DE, MD, ME, NH, NJ, NY, PA, RI, and VT. Supporting shippers: Precision Steel Corp., Eastern Avenue, Malden, MA 02148; Atlantic Steel Co., Inc., 69 Norman Street, Everett, MA 02149; Northern Steel Corp., 80 Gibson Street, Medford, MA 02155; American Chain Link Fence Co. Inc., 24 Ship Avenue, Medford, MA 02155.

MC 151335 (Sub-1-2TA), republication, filed August 8, 1980. Applicant: H D H TRUCKING, INC., 1172 Smithfield Road, North Smithfield, RI 02895. Representative: A. Joseph Mega, 175 Forbes Street, East Providence, RI 02915. *Contract*, irregular: *Cement pipe and raw materials and supplies used in the manufacture thereof* from the International border at or near Rousses Point, NY, Swanton, VT, Derby Line, VT, to all points in the United States on and east of US Hwy 55. Also *defective and refused pipe and raw materials and supplies used in the manufacture of cement pipe* from all points in the United States on and east of US Hwy 55 to the International border at Rousses Point, NY, Swanton, VT, Derby Line, VT. Supporting shipper: Gelinite Perma Por Corp., Iron Mine Hill Road, North Smithfield, RI 02895.

MC 151408 (Sub-1-4TA), filed August 27, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Avenue, P.O. Box 268, Somerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Refractory lining materials, supplies and accessories used in the manufacture, installation and sale thereof, (except commodities in bulk)*, between Belmont, Ma; Lewiston, Me.; Montpelier, Vt.; and Troy, N.Y.; on the one hand, and on the other, points in Me., NH., Vt., Ma., R.I., Ct., N.Y., N.J., Pa., Oh., Md., and De. Supporting shipper(s): Eastern Refractories Co., Inc., 20 Flanders Rd., Belmont, MA 02178.

MC 59655 (Sub-1-5TA), filed August 28, 1980. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Such commodities as are dealt in or used by manufacturers and distributors of containers, container ends and closures (except commodities in bulk)*, between those points in the US in and east of ND, SD, NE, CO, and NM. Supporting shipper(s): There are 8 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 141932 (Sub-1-10TA), filed August 28, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner, 176 King Street, Hanover, MA 02339. *Foodstuffs and Kindred Products*, between Memphis, TN and all points in or East of MN, IA, MO, OK and TX. Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 128343 (Sub-1-13TA), filed August 28, 1980. Applicant: C-LINE, INC., 340 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, NW—Suite 501, Washington, DC 20036. *Contract carrier*, irregular routes: *General commodities* (except household goods as defined by the commission and Classes A and B explosives), between NJ, NY and PA, on the one hand, and, on the other, AZ, CA, GA, IL, KS, MN, MO, OR, TX and WA, under continuing contract with Jewelers Shipping Association of Cranston, RI. Supporting shipper: Jewelers Shipping Association, 125 Carlsbad St., Cranston, RI 02920.

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MC 124905 (Sub-1-1TA), filed August 29, 1980. Applicant: GARY W. GRAY, P.O. Box 48, Delaware, NJ 07823. Representative: Joseph F. Keating, Jr., 121 S. Main Street, Taylor, PA 18517. *Scrap Metal,* from Easton, PA to Port Newark, Newark, Perth Amboy, Raritan & Florence, NJ. Supporting shipper: Easton Iron & Metal Co., 1100 Bushkill Dr., Easton, PA 18042.

MC 103210 (Sub-1-1TA), filed August 29, 1980. Applicant: SERVICE BUS CO. INC., 845 Nepperhan Avenue, Yonkers, N.Y. 10703. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. *Passengers in non-scheduled special round trip operations,* beginning and ending at points in the counties of Westchester, Putnam, Dutchess, Rockland and Bronx, NY and extending to Atlantic City, NJ. Supporting Shipper: There are 6 statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 59640 (Sub-1-9TA), filed August 29, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier,* irregular routes: *Paperboard, in rolls, disposable dishes, plates and trays, and scrap paper,* between Brentwood, NY, on the one hand, and, on the other, Indianapolis, IN, New Orleans, LA, South Lee, MA, Detroit, MI, Minneapolis, MN, St. Louis, MO, Columbus, OH, and Columbus, WI, under a continuing contract(s) with Carnation Paper Products Corporation, Brentwood, NY. Supporting shipper: Carnation Paper Products Corporation, 86 Emjay Boulevard, Brentwood, NY 11717.

MC 151408 (Sub-1-3TA), filed August 27, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Avenue, P.O. Box 268, Somerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Building materials, and materials, supplies and equipment used in the sale, distribution and handling thereof (except materials in bulk and Classes A and B explosives),* between points in the US in and east of the states of MN, IA, MO, AR, TX. Supporting shipper: James H. Boyle & Son, Inc., 77 Ferry Street, Everett, MA 02149.

MC 93147 (Sub-1-6TA), filed August 25, 1980. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, P.O. Box 546, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street—Suite 413, Springfield, MA 01103. *Brakes, railway and parts thereof, power pumps, and parts thereof, castings, racks, steel, and other than steel, agriculture implements and parts thereof, and materials, equipment and supplies used in the manufacture, distribution and sale of such commodities,* between Jefferson City, NY and points in the contiguous 48 states. Supporting shipper: New York Air Brake Company, a Unit of General Signal, Starbuck Avenue, Watertown, NY 13601.

MC 61502 (Sub-1-1TA), filed August 22, 1980. Applicant: WM. McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Highway 1, Elizabeth, NJ 07102. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10001. *General commodities, with the usual exceptions,* between the Commercial Zone of Baltimore, MD, on the one hand, and, on the other, Philadelphia, PA. Applicant intends to tack this authority with its existing authority. Supporting shipper(s): Puerto Rico Marine Management, Inc., P.O. Box 1910, Elizabeth, NJ 07207; Prudential Lines, Inc., One World Trade Center, New York, NY 10048.

MC 92371 (Sub-1-1TA), filed August 22, 1980. Applicant: SHEARERS EXPRESS, INC., P.O. Box 189, Oneonta, NY 13820. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. *Sand and gravel spreaders, machinery and parts,* from Oneonta, NY, to all points in the following states: ME, NH, VT, CT, RI, MA, NY, PA, NJ, MD, VA, WV, DC, OH, IL, IN, IA. Supporting shipper: Highway Equipment Co., 179 River Street, Oneonta, NY 13820.

MC 119103 (Sub-1-2TA), filed August 22, 1980. Applicant: J. E. FORTIN TRANSPORT, INC., 116 Fortin Boulevard, St. Bernard de Lacolle, Quebec JOJ 1VO, Canada. Represenative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. *Fruit juice and fruit juice concentrates,* in vehicles equipped with mechanical refrigeration, from Bartow, Howey-in-the-Hills, Plymouth, Umatilla, and Winter Haven, FL, to port of entry on the United States—Canada boundary line at or near Champlain, NY. Supporting Shipper: Dominion Stores, Ltd, 3195 Bedford Road, Montreal, Quebec, Canada.

MC 95336 (Sub-1-2TA), filed August 22, 1980. Applicant: J. B. WILLIAMS EXPRESS, INC., P.O. Box V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Piken & Piken, Esqs., Queens Office Tower, 95-25 Queens Boulevard, Rego Park, NY 11374. *General commodities,* with the usual exceptions, between points in CT, on the one hand, and, on the other, points in MA and RI and to permit tacking with present authorities in Docket No. MC 95336 and sub numbers. Supporting shippers: There are fifteen (15) supporting statements.

MC 151634 (Sub-1-1TA), filed August 22, 1980. Applicant: GOLDEN COACH, A.C. INC., Boston at Pacific, P.O. Box 1737, Atlantic City, NJ 08404. Representative: Larsh B. Mewhinney, Esq., Moore, Berson Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. *Passengers and their baggage,* in special operations, between points in CT, DE, MD, NJ, NY, PA, VA and DC, on the one hand, and, on the other, the facilities of GNAC, Corp. at Atlantic City, NJ. Supporting shippers: There are (12) twelve supporting statements to this application.

MC 151631 (Sub-1-1TA), filed August 22, 1980. Applicant: AMERICAN MESSENGER SERVICE, INC., 160 Lake Avenue, Manchester, NH 03105. Representative: Susan M. Vercillo, Esq., Devine, Millimet, Stahl & Branch, Professional Association, 1850 Elm Street, Manchester, NH 03105. *Contract carrier,* irregular routes: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between all points and places within and between the States of NH, ME and MA. Supporting shippers(s): Granite State Stamps, Inc., P.O. Box 1121, 1261 Elm Street, Manchester, NH 03105; Charles Frank, Inc., P.O. Box 1105, Manchester, NH 03105.

MC 59457 (Sub-1-3TA), filed August 22, 1980. Applicant: SORENSEN TRANSPORTATION COMPANY, INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Hugh M. Joseloff, P.O. Box 325B, Hartford, CT 06103. *Printed matter and equipment, materials and supplies used in the manufacture and distribution or sale of printed matter,* between Maryville, MO, on the one hand, and, on the other, Townsend, Auburn and Springfield, MA, Petersboro, NH, and East Rutherford, NJ. Supporting shipper: New England Business Service, Inc., N. Main Street, Groton, MA 01450.

MC 146479 (Sub-1-5TA), filed August 11, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, New York 10528. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfiled, MA 01103. *Artificial Christmas trees and wreathes, ornaments and novelties,* from East Douglas, MA to points in the United States in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Mr.

Christmas, Inc., North Street, East Douglas, MA 01516.

MC 151496 (Sub-1-2TA), filed August 22, 1980. Applicant: WARDICK TRUCKING, INC., R.D. No. 4, Box 260, Auburn, NY 13152 Representative: Carl Hornung, R.D. No. 4, Box 260, Auburn, NY 13152. *Coal,* from points in PA to points in NY. Supporting shipper: R. J. Bastian Co., Inc., 103 West Lake Street, Skaneateles, NY 13152.

MC 150751 (Sub-1-3TA), filed August 22, 1980. Applicant: HAROLD A. YOUNG, d.b.a. YOUNG'S EXPRESS, 21 Glenwood Avenue, Southbridge, MA 01550. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403. *Automobile parts and accessories,* from the facilities utilized by E. B. Harvey & Associates, Inc. at Brighton, MA, to points in RI. Supporting shipper: E. B. Harvey & Associates, Inc., 165 Chestnut Hill Avenue, Brighton, MA 02135.

MC 8973 (Sub-1-4TA), filed August 22, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, 2 World Trade Center—Suite 1832, New York, NY 10048. *Such commodities as are manufactured, dealt in or used by a manufacturer or processor of chemicals (except in bulk),* between points in the US. Supporting shipper: Emery Industries, Inc., 1300 Carew Tower, Cincinnati, OH 45202.

MC 145108 (Sub-1-10TA), filed August 22, 1980. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220, Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. *Contract carrier,* irregular routes: *Foodstuffs,* between points in the US, under a continuing contract(s) with Action Shippers Cooperative, Inc. Supporting shipper: Action Shippers Cooperative, Inc., P.O. Box 3176, Anaheim, CA 92803.

MC 2860 (Sub-1-10TA), filed July 30, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Transformers and parts (except commodities which because of size and weight require the use of special equipment)* between points in De Soto County, FL on the one hand, and on the other, all points in the states of AL, AR, GA, LA, MS, NC, SC and TN. Supporting shipper: Central Moloney Transformer Div., 2400 W. 6th Street, Pine Bluff, AR 71601.

MC 151639 (Sub-1-1TA), filed August 25, 1980. Applicant: COMMAND TRANSPORTATION, INC., 16 Colburn Drive, Sharon, MA 02067. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Beer,* from Newark, NJ to Norwood, MA. Supporting shipper: United Liquors, Ltd., 99 Rivermoor Street, West Roxbury, MA 02132.

MC 151457 (Sub-1-1TA), filed August 25, 1980. Applicant: BOMBARDO CORPORATION d.b.a. FAIRFIELD FREIGHT LINES, 48 Mopus Bridge Road, Ridgefield, CT 06877. Representative: Alexander J. Holland, Esq., c/o Duel and Holland, 283 Greenwich Avenue, Greenwich, CT 06830. *Textile mill products and rolls of vinyl fabric* from and between MA, TN and NC to points in and around Los Angeles, CA. Supporting shipper: Monarch Corporation, 1060 N. Tustin Avenue, Anaheim, CA 92807.

MC 97580 (Sub-1-1TA), filed August 26, 1980. Applicant: M and S EXPRESS, INC., d.b.a. M & S EXPRESS, 200 Mystic Avenue, Medford, MA 02155. Representative: Richard R. Sparks, Jr., 25 Boynton Road, Medford, MA 02155. *General commodities (except those of unusual value, Classes A and B explosives and commodities in bulk),* between points in MA, NH, ME, VT, NY, NJ, CT and RI. Supporting shippers: E. Sidney Stockwell Co., Inc., 15 Broad Street, Boston, MA 02109. W. N. Proctor Co., Inc., 115 Broad Street, Boston, MA. 02109. T. D. Downing Co., 88 Broad Street, Boston, MA 02110.

MC 151469 (Sub-1-1TA), filed August 26, 1980. Applicant: PETER BALL EXPRESS, INC., 7 Summit Street, Peabody, MA 01960. Representative: George S. Cokorogianis, 7 Summit Street, Peabody, MA 01960. *Freight All Kinds in Containers,* between points in the MA Counties of Essex, Middlesex and Suffolk, and the NH counties of Cheshire, Hillsboro, Merrimac and Rockingham. Supporting shipper: Davies-Turner Company, 177 Milk Street, Boston, MA.

MC 148764 (Sub-1-1TA), filed August 26, 1980. Applicant: MAR PAT TRANSPORTATION CORP., 2445 Allen Avenue, Niagara Falls, New York 14303. Representative: William Hirsch, 1110 Convention Tower, 43 Court Street, Buffalo, New York 14202. *Pig Iron in Bulk* from Erie, PA to Syracuse, NY. *Returned, refused, rejected shipments* in the reverse direction. Supporting shipper: Marley's Division Abe-Cooper-Syracuse, Inc., 320 West Hiawatha Blvd., Syracuse, NY 13208.

MC 143236 (Sub-1-8TA), filed August 27, 1980. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Ave., Kearny, NJ 07032. Representative: Brock Adams, 1919 Pennsylvania Ave., N.W., Suite 650, Washington, DC 20006. *General commodities* (with the usual exceptions), between Middlesex County, NJ and points in the U.S. Supporting shipper: Mitsubishi International Warehouse Corp., 100 Wade Ave., So. Plainfield, NJ 07080.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 56155 (Sub-II-1TA), filed August 25, 1980. Applicant: JOHN S. EWELL, INC., East Earl, PA 17519. Representative: J. Bruce Walter, P.O. Box 1146, 410 N 3rd St., Harrisburg, PA 17108. Contract, irregular: *Foodstuffs,* between Baltimore, MD, Chambersburg, PA and Cumberland, MD and pts. in the US in and east of MN, KS, IA, AR and TX under continuing contracts with Kraft, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Kraft, Inc., 2701 Lockhaven Rd., Baltimore, MD 21218.

MC 150501 (Sub-2-3TA), filed August 25, 1980. Applicant: DULANEY INVESTMENTS, INC., 305 W. Chesapeake Ave., Suite 111, Towson, MD 21204. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract: Irregular:* (1) *Baseboard radiation units, boilers, heating and air conditioning equipment, boiler castings and copper tubing,* (2) *apparatus and accessories used in connection with the commodities named in (1) above,* and (3) *steel and aluminum used in the manufacture of the commodities in (1) and (2) above,* between E. Hills and Westbury, NY, on the one hand, and, on the other, points in AZ, CA, CO, CT, DE, DC, ID, IL, IN, IA, KS, MD, MA, MI, MN, MO, MT, NE, NV, NJ, NY, ND, OH, OR, PA, RI, SD, UT, VA, WA, WV, WI and WY, under continuing contract(s) with Slant/Fin Corporation, of Greenvale, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Slant/Fin Corp., 100 Forest Dr., Greenvale, NY 11548.

MC 147932 (Sub-II-1TA), filed August 25, 1980. Applicant: COWEN TRUCK LINE, INC., Rt. #2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of passenger buses,* between Ashland and Delaware Counties, OH, on the one hand, and, on the other, points in NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Grumman Flxible 970 Pittsburgh Dr., Delaware, OH 43015.

MC 3419 (Sub-II-1TA), filed August 22, 1980. Applicant: THE CLEVELAND,

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COLUMBUS & CINCINNATI HIGHWAY, INC., 1375 Euclid Ave., 201 Stouffer Bldg., Cleveland, OH 44115. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Common, regular: *General commodities (except household goods as defined by the Commission and Classes A & B explosives),* (1) Between Cincinnati, OH, and Richmond, KY, From Cincinnati over U.S. Hwy 25 to Richmond, and return over the same route (2) Between Louisville, KY, and Winchester, KY, From Louisville over U.S. Hwy 60 to Winchester, and return over the same route (3) Between Louisville, KY, and Nashville, TN, From Louisville over U.S. Hwy 31W to Nashville and return over the same route. Service in connection with routes (1), (2), and (3) is authorized at all intermediate points and at all points in Hamilton County, OH, Madison, Jefferson and Clark Counties, KY, and Davidson County, TN, as off-route points, for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack and interline. Supporting shippers: There are 68 supporting shippers. Their statements may be viewed at the ICC Regional Office, Phila., PA.

MC 142864 (Sub-II-4TA), filed August 22, 1980. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *Foodstuffs (except commodities in bulk), empty containers, materials, equipment and supplies used in production thereof,* from the facilities of Seneca Foods Corp. in Cayuga, Ontario, Seneca, Wayne and Yates Counties, NY, on the the one hand, and, on the other, all pts. in the states of OH, PA, IL, IN, KY, MI, NJ, DE, MD, and DC. An underlying ETA seeks 120 days authority. Supporting shipper: Seneca Foods Corp 3637 South Main St., Marion, NY 14505.

MC 2368 (Sub-II-5TA), filed August 22, 1980. Applicant: BRALLEY-WILLETT TANK LINES, INC., P. O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn (same as applicant). *Gasoline, in bulk, in tank vehicles,* from Marcus Hook, PA to Knoxville, TN and its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: World Wide Racing Fuels, Inc., Box 500, New Canton, VA 23123.

MC 146807 (Sub-II-5TA), filed August 20, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Paul Seleski (same as above). *General commodities* (except those of unusual value), Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment between points in PA (except Phila. & Pitts.); NY (except NY, NY); and NJ, on the one hand, and, on the other, points in the US. Restriction: Restricted to transportation originating at or destined to the facilities utilized by Northeastern Pennsylvania Shipper's Cooperative Assoc., Inc., or its members & restricted to shipments moving on bills of lading of Northeastern Pennsylvania Shipper's Cooperative Assoc., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Northeastern PA. Shipper's Coop. Assoc., Inc., 1212 O'Neill Hwy., Dunmore, PA 18512.

MC 146807 (Sub-II-6TA), filed August 20, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Paul Seleski (same as above). *Metal Springs and supplies and equipment used in the manufacture of metal springs* from Dallas, TX to Erie, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Associated Spring Corp., 3443 Morse Dr., Dallas, TX 75211.

MC 135234 (Sub-II-3TA), filed August 26, 1980. Applicant: TRENCO, INC., 2109 Marydale Avenue, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. *Contract Carrier, Irregular routes, Vacuum cleaners, and materials, parts and supplies therefor (except commodities in bulk),* between points in the U.S., restricted to traffic moving under continuing contract(s) with Shop-Vac, Division of Craftools Corporation, for 270 days. Supporting shipper: Shop-Vac, Division of Craftools Corporation, 2323 Reach Road, Williamsport, PA 17701.

MC 104896 (Sub-II-2TA), filed August 25, 1980. Applicant: WOMELDORF, INC., Box G, Knox, PA 16232. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg. Phila., PA 19107. *Such commodities as are dealt in by chain retail variety stores and materials, equipment and supplies used in the conduct of such business* between the facilities of G. C. Murphy Co. at McKeesport, PA, on the one hand, and, on the other, points in IL, IN, KY, MI, MN, OH (except points in the Counties of Belmont, Coshocton, Cuyahoga, Lorain, Portage and Trumbull), and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) G. C. Murphy Company, 531 Fifth Ave., McKeesport, PA 15132.

MC 117565 (Sub-II-7TA), filed August 21, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Storage Tanks and (2) Accessories and Supplies used in the installation, manufacture, shipping, and maintenance of (1) above,* from the plant site and warehouse facilities of R L Industries Inc., at or near Miamitown, OH to points in the US except AK and HI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R L Industries Inc., P.O. Box 324, 5885 St. Route 128, Miamitown, OH 45041.

MC 144910 (Sub-II-4TA), filed August 21, 1980. Applicant: TY PRUITT TRUCKING, INC., 6717 Quad Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Malt beverages,* from Winston-Salem, NC, to points in VA, MD, DE, NJ, and NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Jos. Schlitz Brewing Co., Milwaukee, WI 53201.

MC 117565 (Sub-II-8TA), filed August 22, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Roof Cement, Waterproofing Compounds, Paint, Caulking, Adhesives, Sealant, Coatings and (2) Accessories and supplies used in the installation, manufacture, and maintenance of (1) above,* from the plant site and warehouse facilities of Perfection Industries Co., at or near Cleveland, OH to points in AL, AZ, AR, IA, KS, KY, LA, MN, MS, MO, NE, NM, NY, OK, OR, SC, UT, WA, WV, WI, WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Perfection Industries Co., 8001 Franklin Blvd., Cleveland, OH 44102.

MC 114696 (Sub-II-6TA), filed August 22, 1980. Applicant: PROPANE TRANSPORT, INC., 1724 State Route 131, P.O. Box 232, Milford, OH 45150. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. *Nitrogen fertilizer solution, liquid, in bulk,* from Mt. Carmel, IL to points in IN and from Jordan, IN to points in IL for 270 days. Supporting shipper: Amoco Oil Co., 200 East Randolph Dr., Chicago, IL 60601.

MC 151625 (Sub-II-2TA), filed August 22, 1980. Applicant: POTTSVILLE STORAGE & TRANSFER CO., 1254 Wheatland Ave., Lancaster, PA 17603. Representative: C. Richard Holbein (same as above). *Contract; irregular: Retail home furnishings sold by J. B. VanSciver Co.* (1) from Lancaster, PA to Camden, NJ and return; and to points in

MD (east of Route 15, North of IS 70 to Baltimore and west of US 40 to the DE state line); and (2) from Allentown, PA to Camden, NJ and return; and to pts. in NJ (south of IS 80 to Junction of IS 80 and IS 287, south of IS 287 to US 202 and south of US 202 to the PA state line) for 270 days under contract with J. B. VanSciver Co. An underlying ETA seeks 120 days authority. Supporting shipper: J. B. VanSciver Co., Delaware Ave. & Federal St., Camden, NJ 08101.

MC 150444 (Sub-II-2TA), filed August 27, 1980. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA. 22043. Representative: Wayne Hartke (same as applicant). Contract, irregular: *Automotive replacement parts, automotive accessories and equipment, materials and supplies used in the manufacture of the above described commodities (except in bulk),* from, to, and between Nashville, TN, Pulaski, TN, and Chickasha, OK, on the one hand, and, on the other, points in AL, GA, FL, NC, and SC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Maremont Corporation, 1283 Murfreesboro Road, Nashville, TN 37217.

MC 146890 (Sub-II-8TA), filed August 25, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Wearing apparel and materials, supplies and equipment* used in the manufacture, distribution and sale of wearing apparel between points in Hudson County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: The Miller-Wohl Co., Inc., 915 Secaucus Road, Secaucus, NJ 07094.

MC 116763 (Sub-II-27TA), filed August 25, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the U.S. in and east of MN, IA, MO, OK, and TX, for 270 days. Restricted to the transportation of traffic originating at or destined to the facilities of Package Products Company. Supporting shipper(s): Package Products Company, 8800 South Boulevard, Charlotte, NC 28233.

MC 146892 (Sub-II-4TA), filed August 25, 1980. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *(2)(a) Foam and foam products (except commodities in bulk), and materials and printed materials,* from Greenfield, OH, to points in the US (except AK and HI); and (b) *materials, equipment and supplies used in the manufacture and distribution of commodities in (2)(a) above (except commodities in bulk),* in the reverse direction for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Hoover Universal, P.O. Box 150, Greenfield, OH 45123.

MC 5470 (Sub-II-8TA), filed August 25, 1980. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian Troiano, 700 World Center Building, 918 Sixteenth Street, N.W., Washington, DC 20006. *Millscale,* from Johnstown, PA to Sparrows Point, MD for 270 days. Supporting shipper(s): Bethlehem Steel Corp., Bethlehem, PA 18016.

MC 2368 (Sub-II-6TA), filed August 27, 1980. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn (same as applicant). *Chemicals, in bulk in tank vehicles,* from points in NJ; Delaware City, DE, and Marcus Hook, PA, to points in VA for 270 days. Supporting shipper(s): Industrial Chemical, Inc., 1510 Webster St., Richmond, VA 23260.

MC 109533 (Sub-II-10TA), filed August 27, 1980. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Ave., Richmond, VA 23224. Representative: Eugene T. Liipfert, Suite 1100, 1660 L St., NW, Washington, DC 20036. *Common carrier, regular route: General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):* Between Birmingham, AL, and Ft. Worth, TX, serving all intermediate points; from Birmingham, AL, over U.S. Hwy 11 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Monroe, LA, then over Interstate Hwy 20 (or U.S. Hwy 80) to Shreveport, LA then over U.S. Hwy 80 to Fort Worth, and return over the same route. (2) Between Montgomery, AL, and junction U.S. Hwys 11 and 80 near Cuba, AL; over U.S. Hwy 80 as an alternate route for operating convenience only, serving no intermediate points and serving the said junction for the purpose of joinder only. (3) Between Atlanta, GA, and Montgomery, AL, serving all intermediate points, points within 15 miles of Atlanta, and the off-route point of River View, AL; from Atlanta over U.S. Hwy 29 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Montgomery, AL and return over the same route. (4) Between Memphis, TN, and Fort Worth, TX, serving all intermediate points; from Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy 67 to Dallas, TX, then over U.S. Hwy 80 to Forth Worth and return over the same route. (5) Between Scranton and Hazleton, PA, serving all intermediate points, and the off-route point of Old Forge, PA; from Scranton over U.S. Hwy 11 to Pittston, PA, then over unnumbered highway (formerly U.S. Hwy 309) to Wilkes-Barre, PA, thence over Pennsylvania Hwy 309 to Hazleton, PA. (6) Between Hazleton and Allentown, PA, over PA (formerly U.S.) Hwy 309, serving all intermediate points, and the off-route point of East Mauch Chunk, PA. (7) Between Allentown and Philadelphia, PA; over PA (formerly U.S.) Hwy 309, serving all intermediate points. (8) Between Scranton and Harrisburg, PA, serving all intermediate points, and the off-route points of Throop and Olyphant, PA; from Scranton over U.S. Hwy 11 via Shickshinny, PA, to Harrisburg, and return over the same route (also from Scranton over U.S. Hwy 11 to junction U.S. Hwys 22-322, then over U.S. Hwys 22-322 to Harrisburg). (9) Between Easton and Philadelphia, PA, over U.S. Hwy 611, serving no intermediate points, but serving the off-route point of Bethlehem, PA. (10) Between Birmingham, AL, and Harrisburg, PA as an alternate route for operating convenience only, serving no intermediate points; from Birmingham over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Harrisburg. (11) Between Atlanta, GA, and Harrisburg, PA, as an alternate route for operating convenience only, serving no intermediate points; from Atlanta, GA, over Interstate Hwy 75 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Harrisburg, PA. (12) Serving the commercial zones of all authorized service points in (1) through (11) for 270 days. Applicant intends to tac with authority held in MC-109533, and Subs 63 and 93. Applicant intends to interline at Atlanta, Baltimore, Birmingham, Charlotte, Harrisburg, Louisville, Memphis, Richmond and St. Louis. An underlying ETA seeks 120 days authority. There are 152 supporting shippers. Their statements may be

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examined at the ICC Regional Office in Philadelphia, PA.

MC 107012 (Sub-II-78TA), filed August 26, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *Barbecue grills and parts and accessories for barbecue grills, and (2) materials, parts, and supplies used in the manufacture and distribution of (1) above* between the facilities of ARKLA Industries Inc. at or near Paragould, AR on the one hand, and, on the other, points in the US for 270 days. Supporting shipper: ARKLA Industries Inc., 1600 Jones Rd., P.O. Box 1309, Paragould, AR 72450.

Note.—Common control may be involved.

MC 150180 (Sub-II-2TA), filed August 22, 1980. Applicant: MENCHVILLE MARINE SUPPLY CORP., 494 Menchville Rd., Newport News, VA 23602. Representative: T. V. Morrison, Jr., P.O Box 1003, Newport News, VA 23601. *Contract; irregular: Brewer's condensed solubiles* from the facilities of Anheuser-Busch, Williamsburg, VA to points in OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Associates Research Management, Inc., 9608 Partridge, Crystal Lake, IL 60014.

MC 107403 (Sub-II-30TA), filed August 27, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Liquid chemicals, in bulk, in tank vehicles* from Torrance, CA to Worland, WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): PPG Industries, 465 Crenshaw Blvd., Torrance, CA 90509.

MC 128302 (Sub-II-3TA), filed August 28, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Can coating compounds, paint, paint products, latex and resins in bulk in tank vehicles* between the facilities of SCM Corp. at or near Columbus, GA, on the one hand, and, on the other, points in TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115.

MC 112184 (Sub-II-4TA), filed August 25, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., 11250 Kinsman Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular: Corn starch, in bulk* from Indianapolis, IN to points in OH, NJ, NY and PA for the account of Cargill, Inc. for 270 days. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55400.

MC 135364 (Sub-II-6TA), filed August 25, 1980. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 76C, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract: Irregular: General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* between points in the United States (except AK and HI), under continuing contract(s) with Essex Chemical Corp. of Clifton, NJ, for 270 days. Supporting shipper: Essex Chemical Corp., 1401 Broad St., Clifton, NJ 07105.

MC 107012 (Sub-II-77TA), filed August 25, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such commodities as are sold, dealt in, or used by variety and hardware stores* from the facilities of Associated Sales Agency Inc. in Birmingham, AL to points in FL, GA, IN, KY, LA, MS, NC, SC, and TN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Sales Agency, Inc., 135 Goodrich Dr., Birmingham, AL 35217.

Note.—Common control may be involved.

MC 150339 (Sub-2-10TA), filed August 25, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: General commodities except those of unusual value, Classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) from Clifton, NJ, to Dallas, TX, Kansas City, MO, Chicago, IL, Denver, CO, and Los Angeles, CA; (2) from Rockwood, MI, to Savannah, GA, Dallas, TX, Kansas City, MO, Denver, CO, Los Angeles, CA and Portland, OR; (3) from Aiken, SC to Mechanicsburg, PA, Rockwood, MI, Chicago, IL, Nashville, TN, Kansas City, MO, Dallas, TX, Denver, CO, and Los Angeles, CA; and (4) from El Paso, TX, to Clifton, NJ for 270 days, under a continuing contract(s) with Beecham Products, Church Hill Road, Pittsburgh, PA 15230. An underlying ETA seeks 120 days authority. Supporting shipper(s): Beecham Products, Church Hill Rd., Pittsburgh, PA 15230.

MC 107012 (Sub-II-79TA), filed August 26, 1980. Applicant: NORTH AMERICAN VAN LINE, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *Fireplaces;* (2) *parts, materials and supplies used in the manufacture and distribution of (1) above* and; (3) *parts and accessories for (1) above;* (1) from the facilities of Whittier Steel and Manufacturing, Inc. near Santa Fe Springs, CA to all points in the U.S. (except AZ, CO, ID, MT, NH, NM, NV, OR, RI, UT, VT, WA and WY); (2) from Shelbyville, KY to Santa Fe Springs, CA and to points in and east of ND, SD, NE, KS, OK and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Whittier Steel & Manufacturing, Inc., 10705 S. Painter Ave., Santa Fe Springs, CA 90670.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 114604 (Sub-3-8TA), filed July 25, 1980. Republication—originally published in **Federal Register** of August 6, 1980, page 52268, volume 45, No. 153. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer 1, State Farmers Market No. 33, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Malt beverages and related advertising materials (except in bulk),* from Perrysburg, OH and Detroit, MI to MO, IL, IN, OH, PA, KY, WV, VA, AR, TN, NC, LA, MS, AL, GA, SC and FL. Supporting shipper(s): Stroh's, Inc., 1 Stroh's Drive, Detroit, MI 48226.

MC 141187 (Sub-3-2TA), filed July 22, 1980. Republication—originally published in **Federal Register** of August 4, 1980, page 51664, volume 45, No. 151. Applicant: BLUFF CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: Wallace A. Knerr, P.O. Box 18391, Memphis, TN 38118. *Contract carrier,* irregular routes: *Such commodities as are dealt in by manufacturers and distributors of pharmaceutical and medical supplies, foods and products,* from Cleveland, MS, Mountain Home, AR, Hays, KS, Kingstree, SC, Eaton, OH, Round Lake, IL, North Cove, NC, and Memphis, TN to points in the U.S. (except AK and HI), under a continuing contract(s) with Travenol Laboratories, Inc. Supporting shipper(s): Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, IL 60053.

MC 141145 (Sub-3-3TA), filed July 22, 1980. Republication—originally published in **Federal Register** of August 4, 1980, page 51665, volume 45, No. 151. Applicant: REYNOLDS & COMPANY, INC., One Railroad Ave., P.O. Box 227, Waynesboro, GA 30830. Representative: Thomas L. Reynolds (same as above). *General commodities, usual exceptions, having a prior, immediate or subsequent movement by rail TOFC service,* between August, GA, on the one hand, and, on the other, points in Richmond, Columbia, Burke, Jefferson, Glascock, Warren, McDuffie, Lincoln, Screven, Jenkins, Emanuel, Washington, Hancock, Taliafero, Wilkes, Bullock, Candler, Treulten, Johnson, Baldwin, Putnam, Greene, Oglethorpe, Elbert, Effingham, Chatham, Evans, Tattnall, Tooms, Montgomery, Wheeler, Laurens, Wilkinson, Jones, Jasper, Morgan, Oconee, Clarke, Madison, and Hart Counties, GA and Edgefield, Aiken Barnwell, McCormick, Allendale, Abbeville, Jasper, Hampton, Beaufort, Colleton, Dorchester, Bamberg, Barnwell, Orangeberg, Calhoun, Sumpter, Saluda, Lexington, Greenwood, Richland, Newberry, Anderson, Laurens, Fairfield, Chester, Union, Spartanburg, Greenville, and Kershaw Counties, SC. Supporting shipper(s): Kaiser Agricultural Chemicals, P.O. Box 343, Waynesboro, GA 30830 and Thiele Kaolin Company, P.O. Box 337, Wrens, GA 30833.

Note.—Applicant intends to tack with existing authority.

MC 147113 (Sub-3-1TA), filed August 1, 1980. Republication—originally published in **Federal Register** of August 11, 1980, page 53262, volume 45, No. 156. Applicant: TEPPCO TRANSPORT, INC., 1111 E. 39th Street, Chattanooga, TN 37409. Representative: Jon G. Boderlund (same as above). *Molded polystyrene foam egg cartons,* (a) Between Lawrenceville, GA, on the one hand, and, on the other, all points in SC, NC, VA, WV, FL, AL, MS, LA, AR and TN. (b) Between Decatur, IN, on the one hand, and, on the other, all points in VA, WV, OH, KY and TN. Supporting shipper(s): Dolco Packaging Corp. 13400 Riverside Dr., Sherman Oaks, CA.

MC 126542 (Sub-3-3TA), filed August 26, 1980. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, Attorney at Law, 634 Woodward Building, 1927 First Avenue North, Birmingham, AL 35203. *Contract carrier:* irregular routes; *(1) Pipe and fittings; (2) materials, supplies, and equipment, except commodities in bulk, used in the manufacture and shipping thereof,* (1) from Los Angeles, CA, to all points in the US, except AK and HI; (2) from destination points to Los Angeles, CA. Supporting shipper: L. A. Tube Division of Phelps Dodge Brass, Inc., 6100 South Garfield, Los Angeles, CA 90022.

MC 151653 (Sub-3-1TA), filed August 26, 1980. Applicant: GLOSSON ENTERPRISES, INC., Route 15, Box 55, Lexington, NC 27292. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *New furniture and new furniture parts, and materials and supplies used in the manufacture thereof,* between points in NC, on the one hand, and, on the other, points in and east of TX, OK, MO, IA and MN. Supporting shipper: There are seventeen supporting shippers to this application. Their statements may be examined at the Atlanta office of the ICC upon request.

MC 151396 (Sub-3-3TA), filed August 25, 1980. Applicant: AERO DISTRIBUTING CO., INC., 5038 Atlanta Road, Smyrna, GA 30080. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Scrap, manufactured and reprocessed plastic,* between the facilities of Southeastern Polymers, Inc. at Fulton County, GA and points in FL. Supporting shipper: Southeastern Polymers, Inc., 55 Enterprise Blvd., Atlanta, GA 30336.

MC 112520 (Sub-3-8TA), filed August 26, 1980. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Petroleum and petroleum products, in bulk, in tank vehicles,* from Bay County, FL, to points in AL and GA. Supporting shipper: Georgia Supply Co., P.O Box 1239, Bainbridge, GA 31717.

MC 146125 (Sub-3-1TA), filed August 22, 1980. Applicant: CHAR-LO, INC., 101 Zeigler Circle, West, Mobile, AL 36608. Representative: R. S. Richard, 57 Adams Avenue, Montgomery, AL 36197. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and foodstuffs),* between points in AL, AR, FL, GA, KS, LA, MS, MO, NC, OK, SC, TN, TX, and VA. Supporting shipper: There are 12 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 107515 (Sub-3-55TA), filed August 26, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Malt Beverages (except in bulk, in tank vehicles)* from Detroit, MI and Perrysburg, OH to Atlanta, GA. Supporting shipper: City Beverage Company, 565 Western Avenue, Atlanta, GA 30314.

MC 2934 (Sub-3-12TA), filed August 25, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *New furniture (case goods and upholstered),* from the States of NC, VA, TN, IL, PA, NY, VT, OH, MO, and MS, to the facilities of Kittle's Home Furnishings, Inc., at Indianapolis and Greenwood, IN. Supporting shipper: Kittle's Home Furnishings, Inc., Castleton, Indianapolis, IN 46250.

MC 146449 (Sub-3-1TA), filed August 14, 1980. Applicant: ALL CITIES TRANSFER, INC., P.O. Box 90130, East Point, GA 30364. Representative: Bill McCann, P.O. Box 90130, East Point, GA 30364. *Common carrier:* regular: *General commodities, except commodities in bulk, household goods and commodities which because of size or weight require special equipment* between the following points: (1) Between Opelika, AL and the NC-VA state line: From Opelika, AL over Interstate Hwy 85 to its junction with the NC-VA state line, serving all intermediate points and return over the same route; (2) Between Chattanooga, TN and the GA-FL state line: From Chattanooga over Interstate Hwy 75 to its junction with the GA-FL state line, serving all intermediate points and return over the same route; (3) Between Atlanta, GA and Columbia, SC: From Atlanta over Interstate Hwy 20 to Columbia, SC, serving all intermediate points and return over the same route; (4) Between Kingsland, GA and Roanoke Rapids, NC: From Kingsland, GA over Interstate Hwy 95 to Roanoke Rapids, NC serving all intermediate points and return over the same route; (5) Between Charleston, SC and Asheville, NC: From Charleston over Interstate Hwy 26 to Asheville, NC serving all intermediate points and return over the same route; (6) Between Savannah, Ga and Macon, GA: From Savannah over Interstate Hwy 16 to Macon, serving all intermediate points and return over the same route; (7) Between Folkston, GA and Henderson, NC: From Folkston, GA over US Hwy 1 to Henderson, NC serving all intermediate points and return over the same route; (8) Between Nags Head, NC and Atlanta, GA: From Nags Head over US Hwy 64 to its junction with US Hwy 19 then over US Hwy 19 to Atlanta serving all intermediate points and return over the same route; (9) Between Chattanooga, TN and the junction of

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Hwy US 64 and US 19 near Murphy, NC and return over the same route; (10) Between Rossville, GA and the GA–FL state line serving all intermediate points and return over the same route; (11) Between Columbus, GA and Savannah, GA: From Columbus over US Hwy 80 to Savannah, GA serving all intermediate points and return over the same route; (12) Between Brunswick, GA and Cuthbert, GA: From Brunswick, GA over US Hwy 82 to Cuthbert, GA serving all intermediate points and return over the same route; (13) Between Fargo, GA and the NC–TN state line: From Fargo over US Hwy 441 to its junction with the NC–TN state line serving all intermediate points and return over the same route; (14) Between New Bern, NC and Asheville, NC: From New Bern over US Hwy 70 to Asheville, serving all intermediate points and return over the same route; (15) Between Brunswick, GA and the NC–VA state line: From Brunswick over US Hwy 17 to its junction with the NC–VA state line serving all intermediate points and return over the same route; (16) Between Wilmington, NC and Charlotte, NC: From Wilmington over US Hwy 74 to Charlotte serving all intermediate points and return over the same route; (17) Between Charleston, SC and Asheville, NC: From Charleston over Interstate Hwy 26 to Asheville serving all intermediate points and return over the same route; (18) Between Atlanta, GA and Myrtle Beach, SC: From Atlanta over US Hwy 78 to its junction with US Hwy 378 at or near Washington, GA then over US Hwy 378 to Myrtle Beach, SC serving all intermediate points and return over the same route; (19) Between Oxford, NC and Summerton, SC: From Oxford over US Hwy 15 to Summerton, SC serving all intermediate points and return over the same route; (20) Between Charlotte, NC and Hardeeville, SC: From Charlotte over US Hwy 21 to its junction with US Hwy 321 then over US Hwy 321 to Hardeeville, SC serving all intermediate points and return over the same route; (21) Between Thomasville, GA and Louisville, GA: From Thomasville over US Hwy 319 to Louisville serving all intermediate points and return over the same route; (22) Between Greensboro, NC and Asheville, NC: From Greensboro over Interstate Hwy 40 to Asheville serving all intermediate points and return over the same route. Service in connection with the routes named above is authorized serving all points in GA, NC and SC as off-route points. In connection with temporary authority, applicant requests the right to interchange traffic at all authorized points. Applicants also requests the right to serve the commercial zone of Opelika, AL and Chattanooga, TN. There are 19 Statements in Support attached to this application which may be examined in the ICC office in Atlanta, GA.

MC 139917 (Sub-13TA), filed November 16, 1979. Republication—Originally Published in **Federal Register**, of 03–26–80, Page 18826, Volume 45, No. 60. Applicant: SEARAIL, INC., 701 South Royal Street, Mobile, AL 36601. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *General commodities (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment)*, between Pensacola, FL, and New Orleans, LA: (1) From Pensacola, over U.S. Hwy. 90 and/or Interstate Hwy 10 to New Orleans, and return over the same route. (2) From Pensacola, over US. Hwy. 29 to junction thereof with U.S. Hwy. 31 at or near Flomaton, AL, and over U.S. Hwy. 31 to junction thereof with U.S. Hwy. 90 and Interstate Hwy. 10 at or near Spanish Fort, AL, then over U.S. Hwy. 90 and/or Interstate 10 to New Orleans, and return over the same route. Service in connection with Routes 1 and 2 above is requested to and from the intermediate points of Mobile, AL, Gulfport and Pascagoula, MS, and all intermediate points in Escambia County, FL. Service in connection with Routes 1 and 2 is requested to and from all off-route points in Escambia County, FL. Applicant intends to interline with other carriers at Pensacola, FL, Pascagoula and Gulfport, MS, Mobile, AL, and New Orleans, LA. Applicant intends to tack at Mobile and Flomaton, AL, with its other authority. Supporting shippers: There are 48 statements of support which can be examined at the Birmingham, AL, ICC Field Office. Send protests to Mabel E. Holston, T/A, Room 1616—2121 Bldg., Birmington, AL 35203.

MC 128555 (Sub-3–3TA), filed June 9, 1980. Republication—Originally Published in **Federal Register**, of 06–23–80, Page 42062, Volume 45, No. 122. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same as above). *Contract*, irregular; *Cleaning compounds, liquid and dry, boxed, bottled or canned*, from North Hollywood, CA to all points in and east of ND, SD, NE, KS, OK and TX, under a continuing contracts(s) with Blue Cross laboratories of North Hollywood, CA. Supporting Shipper: Blue Cross Laboratories, 7400 Greenbush Ave., North Hollywood, CA 91605.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 2392 (Sub-5–7TA), filed August 27, 1980. WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Keith D. Wheeler, P.O. Box 14248 West Omaha Station, Omaha, NE 68124. *Propane, in bulk, and in Tank Vehicles* from Clay Center, KS to all points in the State of NE. Supporting shipper: K K Appliance Company, P.O. Box 343, Holdrege, NE 68949.

MC 29910 (Sub-5–44TA), filed August 26, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). *Paper, paper articles and articles used in the manufacture and distribution of paper and paper articles*, Between the plant site of International Paper Compnay northeast of Mansfield, LA, DeSota Parish, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616.

MC 108207 (Sub-5–32TA), filed August 27, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, Texas 75265. Representative: M. W. Smith (same address as applicant). *Broadgoods, adhesives, and resins moving in vehicles equipped with mechanical refrigeration* from the facilities of Hexcel Corporation at Casa Grande, AZ to points in TX, OK, KS, and OH. Supporting shipper: Hexcel Corporation, 11711 Dublin Blvd., Dublin, CA 94566.

MC 124393 (Sub-5–3TA), filed August 26, 1980. Applicant: FRANK POTTER TRUCKING CO., INC., Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Contract irregular, *Meats, meat products and articles distributed by meat packinghouses (except hides and commodities in bulk)*, from the facilities of Wilson Food Corp. located at Marshall, MO to points in AR, IL, IN, IA, KS, KY, MN, NE, OH, OK, SD, TX, MI and WI. Supporting shipper: Wilson Foods Corp. 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 129830 (Sub-5–1TA), filed August 26, 1980. Applicant: JACOBSMA TRANSPORTATION COMPANY, 2600 Highway 75 North, Sioux City, IA 51105. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. (1)

Iron and steel articles, (2) *materials, equipment and supplies, used in the manufacture and distribution of commodities in (1) above.* Between facilities utilized by Sioux City Foundry Co. located in the States of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WI and WY. Restricted to traffic originating at or destined to the facilities of Sioux City Foundry Co. Supporting shipper: Sioux City Foundry Co., Sioux City, IA.

MC 138328 (Sub-5-11TA), filed August 26, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). (1) *Corrugated boxes,* and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above,* between Omaha, NE, on the one hand, and, on the other, points in IL, IA, KS, MI, MO, OK, SD, and TX. Supporting shipper: Packaging Corporation of America, 1002 Missouri Ave., Omaha, NE 68107.

MC 140612 (Sub-5-4TA), filed August 26, 1980. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour, P.O. Box 2207, Cedar Raids, IA 52406. *(1) stove pipe, chimneys, ducts, flashings, metal products and stoves and, (2) equipment, materials and supplies used in the manufacture, sale and distribution of the commodities in (1) above, (except commodities in bulk in tank vehicles).* Between Redwood City, CA, and Vicksburg, MS, and points in the U.S. (except AK and HI). (Restricted to traffic originating at or destined to the facilities used by Dura-Vent Corporation or its customers.) Supporting shipper: Dura-Vent Corporation, P.O. Box 2249, Redwood City, CA 94064.

MC 142463 (Sub-5-3TA), filed August 26, 1980. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha St., Sioux City, IA 51103. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. (1) *Iron and steel articles,* (2) *Materials, equipment and supplies, used in the manufacture and distribution of the commodities in (1) above.* Between facilities utilized by Sioux City Foundry Co. located in the States of AL, AZ, CA, FL, GA, LA, MI, MS, NM, NC, OH, OR, PA, SC, TN, TX and WA. Restricted to traffic originating at or destined to the facilities of Sioux City Foundry Co. Supporting shipper: Sioux City Foundry Co., Sioux City, IA.

MC 143411 (Sub-5-1TA), filed August 26, 1980. Applicant: VALLEY CONTRACT CARRIERS, INC., P.O. Box 3479, McAllen, TX 78501: Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Contract; Irregular. *Fruits and vegetable juices and concentrates (except commodities in bulk)* from Weslaco, TX to points in IA, IL, IN, KS, MN, MI, MO, MS, MT, SD, TN, and WI, under continuing contract(s) with Texsun Corporation. Supporting shipper: Texsun Corporation, P.O. Box 327, Weslaco, TX 78596.

MC 143978 (Sub-5-2TA), filed August 26, 1980. Applicant: EMERSON DELIVERY, INC. P.O. Box 652, Cedar Rapids, IA 52406. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract irregular *Automobile parts,* from the facilities of American Motors Sales Corp. at Elk Grove Village, IL to points in IA, under continuing contract(s) with American Motors Sales Corp. Supporting shipper(s): American Motors Sales Corporation, 3280 South Clement Avenue, Milwaukee, WI 53207.

MC 144622 (Sub-5-45TA), filed August 26, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such commodities as are dealt in by grocery, discount, and variety stores (except commodities in bulk)* between points in the United States (except AK & HI), restricted to the transportation of traffic originating at or destined to the facilities of Mass Merchandisers, Inc. Supporting shipper: Mass Merchandisers, Inc., P.O. Box 790, Harrison, AR 72601.

MC 148060 (Sub-5-4TA), filed August 27, 1980. Applicant: STOVER LINES, INC., 5636 NW 17th St., Topeka, KS 66618. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and mattings; flexible air duct, (except commodities in bulk)* originating at the facilities of CertainTeed Corp., Kansas City, KS to points in the states of AR, LA and TX. Supporting shipper: CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482.

MC 149026 (Sub-5-12TA), filed August 27, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, P.O. Box 1485, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *Chemicals or allied products and rubber or miscellaneous plastic products (except in bulk) and materials, equipment and supplies (except in bulk) used in the manufacture and distribution of commodities named above,* between Los Angeles County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Crain Industries, 5401 S. Zero Street, Fort Smith, AR 72901.

MC 150088 (Sub-5-7TA), filed August 26, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, Brown & Walker, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Common; Irregular. *(a) merchandise dealt in and used by retail, chain, grocery and food or feed business houses, soy products, dairy based products and (b) raw materials, equipment and supplies used in the manufacture, distribution and sales thereof* from the facilities of Ralston-Purina Company in Oklahoma, Canadian, Caddo, Cleveland and Pottawatomie Counties, OK to points in TX. Supporting shipper: Ralston-Purina Company, 13700 North Lincoln Boulevard, Edmond, OK 73034.

MC 150783 (Sub-5-6TA), filed August 27, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Candy and confectionery items and nuts in packages and containers. Supplies and equipment used in manufacturing confectionery (except in bulk),* between points in the U.S. Restricted to traffic for California Peanut Co. Supporting shipper: California Peanut Co., 500 W. Ohio Ave., P.O. Box 157, Point Station, Richmond, CA 94806.

MC 150783 (Sub-5-7TA), filed August 27, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Candy and confectionery products.* From Berks County, PA to points in the U.S. restricted to traffic originating at or destined to the facilities of R.M. Palmer Candy Co. and Bortz Chocolate Co. Supporting shipper: R.M. Palmer Company, 77 Second Ave., West Reading, PA 19602 and Bortz Chocolate Company, 1414 Moss Street, Reading PA 19604.

MC 150783 (Sub-5-8TA), filed August 27, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Petroleum and Petroleum products (except in bulk),* between points in and east of ND, SD, NE, CO, OK, and TX. Restricted to traffic moving for the account of Rogers Oil Co. Supporting shipper: Rogers Oil Co., 1325 West Walnut, Rogers, AR 72756.

MC 151579 (Sub-5–1TA), filed August 27, 1980. Applicant: ALAN HAL EVANS, d.b.a. H E TRANSPORTATION, Rt. 2 Box 187A, Mt. Pleasant, TX 75455. Representative: J. D. McLaughlin, 501 Liberty Natl. Bank Building, Paris, TX 75460. *Castings, ingots, bar and castings, foundry dross, skimmings, foundry equipment and/or supplies,* between Lamar, Smith, Gregg, and Harris Counties, TX, on the one hand, and, on the other, points in Jefferson County, AL, Cook County, IL, and Lancaster County, PA. Supporting shipper: Southerwestern Foundry Company, Inc., P.O. Box 897, Paris, TX 75460.

MC 151614 (Sub-5–2TA), filed August 26, 1980. Applicant: GOTTAGO, INC., 21522 Greengate Drive, Spring, TX 77379. Representative: Billy R. Reid, 1721 Carl Street, Forth Worth, TX 76103. *Oil well drilling tools, earth drilling machinery and equipment,* between points in AZ, CO, KS, LA, MS, MT, ND, NM, OK, TX, WY and UT, restricted to shipments having origins at or destined to facilities of Hughes Tool Company of Houston, TX. Supporting shipper: Hughes Tool Company, 5425 Polk Avenue, Houston, TX 77023.

MC 151637 (Sub-5–2TA), filed August 27, 1980. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Mattress and materials, equipment and supplies used in the manufacture thereof.* Between Van Buren, AR, on the one hand, and on the other, points in AL, AX, CA, CO, GA, IA, IL, IN, KS, KY, MO, MS, NE, NM, OK, TN and TX. Supporting shipper: Dodd Mattress Company, Inc., 11 North 3rd Street, Van Buren, AR 72956.

MC 151659 (Sub-5–1TA), filed August 26, 1980. Applicant: MICHAEL J. WETZIG, JR., d.b.a. GULF-TEXAS EXPRESS, 12522 Twin Sisters, Cypress, TX 77429. Representative: Michael J. Wetzig, Jr., 12522 Twin Sisters, Cypress, TX 77429. *General commodities (with the usual exceptions) having a prior or subsequent move by water.* Between the commercial zones of Houston and Dallas/Ft. Worth, TX and including the TX counties of Parker, Johnson, Ellis, Kaufman, Rockwall, Collin, Denton, Wise, Cooke, Grayson, Wichita, Angelina, Brazos, Karnes, Hunt, Smith, Navarro and Van Zandt. Supporting shipper: Chilton and Wilderspin, P.O. Box 394, Grapevine, TX 76051: Milchem, Inc., 3920 Essex Lane, Houston, TX 77027: H. T. Ardinger & Son, 9040 Governors Row, Dallas, TX 75247: The I.C.E. Company, Inc., P.O. Box 61583, Dallas/Ft. Worth Airport, TX 75261: Virginia Chemicals, Inc., 4100 Platinum Way, Dallas, TX 75224.

MC 151660 (Sub-5–1TA), filed August 26, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 2556 Royal Lane, A–191, Dallas, TX 75229. Representative: Larry P. Cardin, 2556 Royal Lane, A–191, Dallas, TX 75229. Common, regular. *General commodities (except Classes A and B explosives and household goods as defined by the Commission),* (1) between Ft. Worth, TX and Memphis, TN serving the intermediate points of Dallas, TX and Little Rock, AR as follows: From Ft. Worth over Interstate Highway 20 to junction with Interstate Highway 30, then over Interstate Highway 30 to junction with Interstate Highway 40, and then over Interstate Highway 40 to Memphis, and return over the same route, (2) between Ft. Worth, TX and New Orleans, LA, serving the intermediate points of Dallas, TX and Baton Rouge, LA, as follows: From Ft. Worth over Interstate Highway 20 to junction with Interstate Highway 45, then over Interstate Highway 45 to junction with U.S. Highway 175, then over U.S. Highway 175 to junction with U.S. Highway 69, then over U.S. Highway 69 to junction with Interstate Highway 10, and then over Interstate Highway 10 to New Orleans, and return over the same route, (3) between Ft. Worth, TX and New Orleans, LA serving the intermediate points of Dallas, TX, Shreveport, LA, and Baton Rouge, LA, as follows: From Ft. Worth over Interstate Highway 20 to junction with U.S. Highway 71, then over U.S. Highway 71 to its junction with U.S. Highway 190, then over U.S. Highway 190 to its junction with Interstate Highway 10, and then over Interstate Highway 10 to New Orleans, and return over the same route, (4) between Shreveport, LA and Jackson, MS, serving no intermediate points as follows: From Shreveport over Interstate Highway 20 to Jackson and return over the same route, (5) between Memphis, TN and New Orleans, LA, serving the intermediate points of Jackson, MS and the junction of Interstate Highways 55 and 12 at Hammond, LA, as follows: From Memphis over Interstate Highway 55 to junction with Interstate Highway 10, and then over Interstate Highway 10 to New Orleans, and return over the same route, (6) between the junction of Interstate Highway 55 and Interstate Highway 12 and Baton Rouge, LA, serving no intermediate points, as follows: From the junction of Interstate Highways 55 and 12 at Hammond, LA over Interstate Highway 12 to Baton Rouge, and return over the same route. Authority is sought (1) to tack the above authorities at common points, (2) to serve the commercial zones of all authorized points, and (3) to interline with other carriers at all service points. Supporting shippers: 42.

Republication

Mc 110817 (Sub-5–1TA), filed July 22, 1980. Applicant: E. L. FARMER & COMPANY, P.O. Box 3512, Odessa, TX 79760. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *(1) Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof. (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal. operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes and wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes and wells,* between points in AR, AZ, CO, KS, LA, MO, MT, NV, MN, OK, TX, UT, and WY, on the one hand, and, on the other, points in CA, IA, ID, MN, ND, NE, OR, SD and WA. Supporting shippers: 6.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 147329 (Sub-6–1TA), filed August 25, 1980. Applicant: ALL STATE TRANSPORT, INC., 5959 South Alameda Street, Los Angeles, CA 90001. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Contract carrier,* irregular routes, transporting *oil,* not in bulk, from Los Angeles County, CA, to points in AZ, CO, FL, ID, MN, NC, NM, OR, PA, SC, TX, UT, VA and WA; for 270 days.

Supporting shipper: Mouren-Laurens Oil Co., 641 East Compton Boulevard, Compton, CA 90220.

MC 151635 (Sub-6–1TA), filed August 21, 1980. Applicant: APOLLO AIR LOGISTICS, INC., 1004 Andover Park East, Seattle, WA 98188. Representative: Russell A. Evans, Atty., 200 West Thomas, rm, 500, Seattle, WA 98119. *Garments on hangers and garments in boxes,* between points located in the State of CA and the State of WA for 270 days. An underlying ETA seeks 120-day authority. Supporting shipper: The Bon, 17000 Southcenter Parkway, Seattle, WA 98188.

MC 52793 (Sub-6–9TA), filed August 22, 1980. Applicant: BEKINS VAN LINES CO.—New Products Division, 3090 Via Mondo, Compton, CA 90221. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Furniture and furnishings,* from Appomattox County, VA to MI, IL, IN, OH, WI, MO, KS, NE, ND, SD, MN and IA, for 270 days. Supporting shippr: Thomasville Furniture Industries, P.O. Box 339, Thomasville, N.C. 27360.

MC 129219 (Sub-6–3TA), filed August 22, 1980. Applicant: CMD TRANSPORTATION, INC., 12340 SE Dumolt Road, Clackamas, OR 97015. Representative: Philip G. Skofstad, 1525 NE Weidler, Portland, OR 97232. *Contract carrier,* Irregular routes: *Compressed sawdust logs* from Josephine County, OR to points in WA for the account of Agnew Environmental Products, Inc., for 270 days. Supporting shipper: Agnew Environmental Products, Inc., P.O. Box 1168, Grants Pass, OR 97526.

MC 140409 (Sub-6–3TA), filed August 25, 1980. Applicant: CIRCLE B TRANSPORTATION CORPORATION, Box 207, Wheat Ridge, CO 80033. Representative: Robert W. Armstrong, Box 207, Wheat Ridge, CO 80033. *Foodstuffs; canned goods, frozen or other than frozen,* from the facilities of Skyland Food Corporation at or near Delta, Co., to points in AK, AR, CA, IA, ID, IL, KS, LA, MA, MD, MI, MO, MN, MT, NE, ND, NM, NV, OK, PA, SD, TX, VT, WY and WI, for 270 days. Supporting shipper: Skyland Food Corporation, Box 250, Delta, CO 81416, Mr. Jack L. Ray, Sales Manager.

MC 42487 (Sub-6–28TA), filed August 22, 1980. Applicant: CONSOLIDATION FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities, (except household goods as defined by the Commission and Classes A and B explosives),* between Evansville, IN and Owensboro, KY, serving no intermediate points (1) from Evansville over IN Hwy 66 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Owensboro, and return over the same route, and (2) from Evansville over U.S. Hwy 41 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Owensboro, and return over the same route, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined with Docket No. MC 42487 Sub 578 at Evansville, IN. The Docket No. MC 42487 Sub 578 authority, in turn, will be tacked or joined with other present authorities of Applicant at such points as St. Louis, MO, Des Moines, IA, Minneapolis, MN, Chicago, IL, Cincinnati, OH, Buffalo, NY and Boston, MA, to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): There are twelve (12) statements in support attached to this application which may be examined at the Regional Office listed.

MC 17745 (Sub-6–1TA), filed August 22, 1980. Applicant: CONTRACTORS CARGO COMPANY, 11100 S. Garfield Ave., South Gate, CA 90280. Representative: John H. Briggs (same address as applicant). *Contract Carrier,* irregular routes: *Condenser Sections,* between Orange, CA and Marble Hill Generating Plant near New Washington, IN, for 270 days. An underlying ETA seeks 120-days authority. Supporting shipper: Marley Heat Transfer Company, 2095 N. Batavia Street, Orange, CA 92666.

MC 136595 (Sub-6–2TA), filed August 25, 1980. Applicant: EASTSIDE ENTERPRISES, INC., 1440 South "A" Street, Springfield, OR 97477. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210. *Mobile homes* and *sectionalized buildings,* from Weiser, Nampa and Boise, ID and Woodland and Chehalis, WA, and their commercial zones to points in Lane, Douglas and Coos Counties, OR, for 270 days. Supporting shippers: Joe Bando Mobile Home Sales, 1300 Main, Springfield, OR 97477; Statewide Mobile Homes, Inc., d.b.a Florence Mobile Homes, 2909 Highway 101, Florence, OR 97439.

MC 124679 (Sub-6–25TA), filed August 22, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Representative: Michael L. Bunnell (same as Applicant). *Pharmaceuticals, medical supplies, confectionaries, foodstuffs, and personal care products and materials, equipment and supplies used in the manufacture and distribution thereof, except in bulk,* between the points in the United States, except Alaska and Hawaii, restricted to traffic originating at or destined to the facilities of Warner-Lambert Company, its subsidiaries, affiliates and vendors for 270 days. Supporting shipper: Warner-Lambert Company, 201 Tabor Road, Morris Plains, New Jersey 07950.

Note.—Applicant holds motor contract carrier authority in number MC–128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 120 days authority.

MC 124679 (Sub-6–26TA), filed August 22, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Representative: Robert H. Cannon (same as applicant). *Cleaning compounds, lubricants, chemicals and such merchandise as is dealt in by wholesale, retail, variety and grocery stores,* except in bulk between the facilities of the Southland Corporation at San Diego, Los Angeles, Orange County, Santa Ana & San Francisco, CA., Salt Lake City, UT., Phoenix, AZ., Atlanta, GA., Louisville, KY., Boston, MA., New York, NY., Great Meadows, NJ., Charlotte, NC, Chattanooga, TN., Ft. Worth, Dallas, McKinley, TX., Denver, CO., Chicago, Champaigne, IL., Falmouth, VA., Sanford & Orlando, FL. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Southland Corporation, 2828 N. Haskell, Dallas, Texas. 75221.

Note.—Applicant holds motor contract carrier authority in number MC–128813 and sub numbers thereunder, therefore dual operations may be involved.

MC 124679 (Sub-6–27TA), filed August 22, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same as applicant). *Oil, gas, air and smog control filters* from Salt Lake City, UT to OR and WA for 270 days. An underlying ETA filed seeking 120 days authority. Supporting shipper: Campbell Filter Company, 1940 South 3480 West, Salt Lake City, UT 84119.

Note.—Applicant holds motor contract carrier authority in number MC–128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 90 days authority.

MC 125433 (Sub-6–33TA), filed August 22, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson. *Plastic bags and plastic roll film,* from the facilities of USI Film Products at or near Tyler, TX on the one hand, and on the other, points in the United States (except AK), for 270 days. Supporting shipper: USI Film Products, P.O. Box 818, Tyler, TX 75710.

MC 145102 (Sub-6–8TA), filed August 25, 1980. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Avenue, Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Prepared foodstuffs* from Denison, TX to points in AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, OK, OR, SD, UT and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Company, 608 Second Avenue, South, Minneapolis, MN 55337.

MC 151624 (Sub-6–1TA), filed August 21, 1980. Applicant: GARRISON TRANSPORTATION COMPANY, INC., 901 Castaic Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Steel pipe, with or without couplings* between Dallas and Harris Counties, TX on the one hand, and Kern, Los Angeles and Ventura Counties, CA on the other, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ampco Supply Inc., 3728 Chester Ave., Bakersfield, CA 93301.

MC 151450 (Sub-6–1TA), filed August 25, 1980. Applicant: JOE GILBERT GONZALES, P.O. Box 93, Dixon, NM 82527. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Feed and feed ingredients (except livestock and poultry feed),* from Denver, CO and its commercial zone to points in NM, for 270 days. An underlying ETA seeks 90 days' authority. Supporting shippers: Navajo Feed Store, Inc., P.O. Box 1473, Gallup, NM 87301; Miller's Feed & Supply, 8998 Fourth Street, NW, Albuquerque, NM 87114; Rancher's Feed and Supply, Inc., P.O. Box 2281, Milan, NM 87021.

MC 147236 (Sub-6–1TA), filed August 25, 1980. Applicant: KENYON TRUCKING, INC., Box 477, Mills, WY 82644. Representative: Donnie G. Kenyon, 2912 Pheasant Drive, Casper, WY 82601. (1) *Machinery, materials, equipment, and supplies,* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *Machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and pick up thereof, between points in WY, CO, UT, ID and MT for 270 days. An underlying ETA seeks 120 days authority. There are 10 supporting shippers. Their statements may be examined at the office listed.

MC 151623 (Sub-6–2TA), filed August 19, 1980. Applicant: McDOUGALD OIL CO., INC., 459 Nichols Lane, Moab, UT 85432. Representative: Dale E. Isley, Steele Park, Suite 330, 50 S. Steele St., Denver, CO 80209. *Chemicals or allied products,* between points in AZ and NM on the one hand, and, on the other, points in Grand and San Juan Counties, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Atlas Minerals, North Hwy 163, Moab, UT.

MC 140827 (Sub-6–2TA), filed August 21, 1980. Applicant: MARKET TRANSPORT, LTD., 110 N. Marine Drive, Portland, Oregon 97217. Representative: Nick I. Goyak, One Southwest Columbia, No. 555, Portland, Oregon 97258. *Soap/washing and cleaning compound, day and liquid,* from Los Angeles, CA to Eugene, Medford and Milwaukie, OR and Seattle and Spokane, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: White King, Inc., P.O. Box 2198 Terminal Annex, Los Angeles, CA 90054.

MC 142686 (Sub-6–17TA), filed August 22, 1980. Applicant: MID–WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes; *Brass, Bronze, Cooper Rod, Sheet and tube,* Between points in the United States (except AK and HI), for 270 days. Supporting shipper: Anaconda American Brass Division, P.O. Box 109, Paramount, CA.

MC 151629 (Sub-6–1TA), filed August 21, 1980. Applicant: POLY PIPE DISTRIBUTORS, INC., 1471 Yampa Avenue, Craig, CO 81625. Representative: Thomas J. Burke, Jr. 1660 Lincoln Street, Suite 1600, Denver, CO 80264. *(1) Drilling muds and (2) Oilfield chemicals, in packages or containers,* between point in Moffat County, CO, Natrona County, WY, and Lander County, NV, on the one hand, and, on the other hand, points in WY, CO, OK and TX, for 270 days. Supporting shipper: Dresser Industries, Inc., Magcobar Division, 1600 Metro Bank Bldg., 425–17th St., Denver, CO 80202.

MC 52709 (Sub-6–19TA), filed August 25, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). (29) *Petroleum or coal products,* between Essex County, NJ and Denver County, CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Samsonite Corporation, 11200 East 45th Ave., Denver, CO 80239.

MC 151617 (Sub-6–1TA), filed August 20, 1980. Applicant: ROY–L–T–TRUCKING COMPANY, INC., 15006 E. Nelson, City of Industry, CA. 91744. Representative: Roy Tyra (same as above). *Contract Carrier,* Irregular Routes; *Carpets and rugs, carpet padding, and plastic articles and rubber articles and adhesives, used in manufacture, sale, and distribution of carpets, and rugs,* between the facilities of General Felt Industries in Los Angeles County CA, and points in OR, WA AZ, NV, ID, MT, WY, UT, CO, NM, OK and TX, for 270 days. Restricted to shipments originating at the facilities of General Felt Industries, Inc. in Los Angeles County, CA. An underlying ETA seeks 120 days authority. Supporting shipper: General Felt Industries, Park 80 Plaza West-one, Saddlebrook, New Jersey 07662.

MC 142941 (Sub-6–10TA), filed August 25, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Applicant's representative: Doug W. Sinclair (same as applicant). *Charcoal and charcoal briquettes, and materials, equipment and supplies* used in the manufacture and distribution of such commodities, between points in Branson, MO; Dickinson, ND; Pachuta, MS; Scotia, NY; and White City, OR and all points in the United States (except AK and HI), for 270 days. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346.

MC 142941 (Sub-6–11TA), filed August 25, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Applicant's representative: Doug W. Sinclair (same as applicant). *Such commodities as are dealt in by wholesale, retail, food, discount houses, and department stores* (except in bulk), from Chicago, IL (and it's commercial zone) to all points in the United States (except AK and HI), for 270 days. Supporting shipper: Chicago Candy Association, 2535 North 25th Avenue, Franklin Park, IL 60131.

MC 145237 (Sub-6–3TA), filed August 22, 1980. Applicant: SCOTT TRUCK LINES, INC., 5280 Newport Street, Commerce City, CO 80022. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104.

Contract; Irregular: *Plastic or Rubber Film or Sheeting* from Bond County Illinois to Denver County, Colorado, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Watersaver Company, Inc., P.O. Box 16465, Denver, CO 80216.

MC 148737 (Sub-6–5TA), filed August 21, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27153, Salt Lake City, UT 84104. Applicant's representative: Carl I. Sundeaus (same as applicant). (1) *Flavorings and syrups* from Clovis, CA to the states in and east of KS, NE, ND, OK, SD, and TX, and (2) *materials and supplies used in the manufacture and distribution of the commodities in (1) above* in the reverse direction, for 270 days. Restricted to shipments originating from or destined to the facilities of Lyons-Magnus Co. Supporting shipper: Lyons-Magnus Company, 3789 E. Alluvial Ave., Clovis, CA 93612.

MC 136818 (Sub-6–14TA), filed August 25, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85030. Applicant's representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Meat, meat byproducts and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from Phoenix, AZ to points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Arizona Beef Company, 2601 N. 31st Ave., Phoenix, AZ 85009.

MC 136897 (Sub-6–15TA), filed August 25, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Contract carrier:* Irregular routes: *Suitcases, briefcases, and related travel goods,* (1) from Denver, CO and El Paso, TX to Los Angeles, CA and Houston, TX, and (2) from Denver, CO to El Paso, TX, for the account of Samsonite Corporation-International Division, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Samsonite Corporation-International Division, 11200 E. 45th Ave., Denver, CO 80239.

MC 136897 (Sub-6–16TA), filed August 25, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Contract carrier:* Irregular routes: *Pneumatic tires and tubes,* from Waco, TX; Mayfield, KY; Mt. Vernon, IL; and Charlotte, NC, to points in the United States, except AK and HI, for the account of Reynolds Tire and Rubber Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Reynolds Tire and Rubber Corp., 1421 38th Street, Brooklyn, NY 11218.

MC 147315 (Sub-6–5TA), filed August 21, 1980. Applicant: TRIWAYS, INC., 2455 E. 27th St., Los Angeles, CA 90058. Representative: William Davidson, P.O. Box 58408, Los Angeles, CA 90058. *Contract carrier,* irregular routes: *Doors, wooden, glazed and unglazed and related parts,* from Portland and Springfield, OR to the Los Angeles, CA commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nicolai Co., 1029 N.W. Hoyt, Portland, OR 97209.

MC 26396 (Sub-6–41TA), filed August 25, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Valves and accessories,* from Houston, TX to ports of entry on the International Boundary line between the U.S. and Canada located at Detroit, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Adamson-Chronister Company, 13223 Spencer Road, Houston, TX 77040.

MC 151630 (Sub-6–1TA), filed August 22, 1980. Applicant: PAUL D. WARE, d.b.a. WARE TRANSPORTATION, 17190 Valley Blvd., Fontana, CA 92335. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. *Iron or steel articles,* between points in CA on the one hand, and points in AZ and NV on the other hand, for 270 days. Supporting shipper: Fontana Steel Corp., 17190 Valley Blvd., Fontana, CA 92335.

MC 141768 (Sub-6–1TA), filed August 21, 1980. Applicant: WESTERN ASPHALT (1972), LTD., 3780 76th Avenue, SE., Calgary, Alberta, Canada, T2C 1J8. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Anhydrous ammonia, in bulk, in tank vehicles,* from ports of entry on the International Boundary Line between the United States and Canada located at Sweetgrass and Wild Horse, MT to points in MT, for 270 days. Supporting shipper: Farmer's Union Central Exchange, Incorporated, A/K/A CENEX, P.O. Box 43089, St. Paul, MN 55164.

MC 151596 (Sub-6–1TA), filed August 21, 1980. Applicant: BOB WHITAKER & SON, INC., P.O. Box 65, Roswell, NM 88201. Representative: Bob Whitaker (same as applicant). (1) *Meats, meat products, meat by-products and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions In Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and (2) *Materials, equipment and supplies used* in processing, distribution and sale of the commodities named in (1) above. *Between* Points in Ford County, KS, on the one hand and points in the United States (except AK and HI) on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hyplains Dressed Beef, Inc., P.O. Box 359, Dodge City, KS 67801.

MC 89684 (Sub-6–6TA), filed August 21, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). *Common,* regular routes: *Cereal and cereal products,* between Los Angeles, CA on the one hand, and on the other, Salt Lake City, UT via I–15; Denver CO via I–15 and I–80; Grand Junction CO via I–15 and I–70, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Organic Milling Company, 3509 Casitas Avenue, Los Angeles, CA 90039.

MC 143775 (Sub-6–27TA), filed August 22, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Such commodities as are dealt in by retail department stores, including garments on hangers,* between points in CA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of or used by A & B Transportation Services, Department Store Shippers Association and Store Services, Inc., for 270 days. Supporting shippers: A & B Transportation Services, Inc., 2645 Nevin Ave., Los Angeles, CA 90011; Department Store Shippers Association, 2231 E. 49th Street, Vernon, CA 98058; Store Services Inc., 20 Enterprise Avenue, Secaucus, NJ 07094.

MC 150021 (Sub-6–2TA), filed August 21, 1980. Applicant: JAMES DANIELS, d.b.a. ZIP TRUCK LINES, P.O. Box 4237, Freemont, CA 94538. Representative: (same as applicant). *Heaters, boilers, storage tanks, solar collectors, solar panels,* and *commodities used in the installation or production thereof,* from Newark and Los Angeles, CA and Seattle, WA to TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: A. O. Smith Corporation, Newark, CA.

MC 147528 (Sub-6–5TA), filed August 25, 1980. Applicant: T.A.S. TRUCKING, INC., 2625 Springwood Drive, Meridian,

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ID 83642. Representative: Dan L. Poole, P.O. Box 1559, Boise, Idaho 83701. *Contract Carrier,* irregular routes: *Glass, aluminum, and plastic extrusions,* from Los Angeles, Fullerton, Buena Park, Kingsburg, Watsonville and Fresno, CA to Nampa, ID for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Robert M. Atkinson, d.b.a. Aluma-Glas Industries, Inc., 2715 Star Rd., Nampa, ID 83651.

MC 141804 (Sub-6-73TA), filed August 22, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Lighting Fixtures* (fluorescent) with equipment of electrical apparatus with or without lamps, between Americus and Atlanta, GA; Eufaula, AL on the one hand, and, on the other points in the U.S. (except AK & HI), for 270 days. Supporting shipper: Steve Owen, Assistant Traffic Manager, Metalux Lighting, P.O. Box 1207, Americus, GA 31709.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27453 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain rquirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 327

Decided: Sept. 2, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 117142 (Sub-4F), filed April 10, 1980 (republication), published in the

Federal Register issue of July 3, 1980, and republished this issue.

Applicant: AMERICAN TRAILER HAUL, INC., 609B South Main St., Woodstock, GA 30188. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *trailers* designed to be drawn by passenger automobiles, (2) *double-wides*, and (3) *portable buildings*, between points in AL, FL, GA, MS, NC, SC, and TN.

Note.—This republication corrects the commodity description in part (3) above.

MC 142672 (Sub-146F), filed June 23, 1980 (republication), published in the **Federal Register** issue of July 31, 1980 and republished this issue. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting (1) *electric motors, grinders, buffers, dental lathes, dust collectors and pedestals;* and, (2) *parts, accessories and attachments* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, (i) from the facilities of Baldor Electric Company, at or near Columbus, MS and Westville, OK, and (ii) from points in OH to the facilities of Baldor Electric Company, at or near St. Louis, MO, to the facilities of Baldor Electric Company, at or near Columbus, MS.

Note.—This republication corrects the territory description in (i) above.

Volume No. 328

Decided: Aug. 27, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 10173 (Sub-18F), filed July 1, 1980. Applicant: MARVIN HAYES LINES, INC., P.O. Box 468, Clarksville, TN 37040. Representative: Leon D. Huffine (same address as applicant). Over *regular routes*, transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) Between Louisville, KY, and Nashville, TN, (a) over U.S. Hwy 31–W, and (b) over Interstate Hwy 65, serving no intermediate points; (2) Between Louisville, KY, and Memphis, TN, (a) from Louisville over U.S. Hwy 31–W to Bowling Green, KY, then over U.S. Hwy 68 to Elkton, KY, then over Hwy 181 to Guthrie, KY, then over U.S. Hwy 79 to Milan, TN, then over U.S. Hwy 45–E to Jackson, TN, then over Interstate Hwy 40 to Memphis, and return over the same route, serving no intermediate points, and (b) from Louisville over Interstate Hwy 65 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, serving no intermediate points.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 119552 (Sub-8F), filed June 10, 1980. Applicant: J.T.L., INC., 49 Rosedale St., Providence, RI 02903. Representative: Ronald N. Cobert, 1730 M St., NW., Suite 501, Washington, DC 20036. Transporting (1)(a) *automotive supplies* and (b) *such commodities* as are used in the sale of filters and filter products, and (c) *tools* for filters and filter parts, from Nevada, MO, Greenville, OH, East Providence, RI, and Salt Lake City, UT, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Fram Corporation, of Providence, RI.

MC 128102 (Sub-4F), filed March 27, 1980. Applicant: STATE MOTOR FREIGHT, INC., 3905 E."A" St., Pasco, WA 99301. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. Transporting *fertilizer and fertilizer ingredients*, (1) from Finley Hedges, WA, to points in MT, and (2) from Three Forks, MT, to Finley Hedges, WA.

MC 144912 (Sub-5F), filed April 22, 1980. Applicant: LEON R. GOLDSMITH d.b.a., TERMINAL MOTOR EXPRESS, 1711 East 15th St., Los Angeles, CA 90012. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of non-profit shipper associations as defined in 49 U.S.C. § 10562(3), (1) from Los Angeles, CA, to Albuquerque, NM, and points in AZ and CO, and (2) between points in AZ, CA (except Los Angeles), NV, and UT, on the one hand, and on the other, those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–27443 Filed 9–5–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by special rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 23, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-033

Decided: September 2,1980.

By the Commission Review Board No., Members Carleton, Joyce, and Jones.

MC 115162 (Sub-538F) (correction), filed August 19, 1980, published in the **Federal Register**, issue of August 28, 1980, and republished, as corrected, this issue. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same as applicant). Transporting (1) *Refractories, refractory products, insulation, insulating materials, alumina, calcined or hydrated,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, distribution, and installation of commodities in (1) above, between points in Audrain, Callaway, and Montgomery Counties, MO, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to state that this application is not a fitness application. The publication on August 28, 1980 should be disregarded.

Volume No. OP2-034

Decided: August 29, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 124393 (Sub-7F), filed August 25, 1980. Applicant: FRANK POTTER TRUCKING CO., INC., P.O. BOX 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* between points in the U.S., under continuing contract(s) with Wilson Foods Corporation of Oklahoma City, OK.

MC 117613 (Sub-32F), filed August 22, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transporting (1) *printed matter, and paper and paper articles,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. under continuing contract(s) with Arnold Graphics Inc., of Chambersburg, PA.

MC 150892 (Sub-1F), filed August 25, 1980. Applicant: JOHN T. SHARP, d.b.a. J-S RANCH, 125 East 1st North, Wellsville, UT 84339. Representative: John T. Sharp (same as applicant). Transporting (1) *foodstuffs,* and *materials and supplies* used in the manufacture of foodstuffs, between points in the U.S., under continuing contract(s) with Del Monte Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27444 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-019]

Permanent Authority Decisions; Decision-Notice; Correction

Decided: August 8, 1980.

Notice of Correction. The following was previously noticed in the **Federal Register** issue of August 19, 1980, and is being republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 69292 (Sub-11F), filed August 5, 1980. Applicant: ATLAS TRANSPORTATION, INC., P.O. Box 4028, 8100 Stansbury Rd., Baltimore, MD 21222. Representative: Charles F. Perkinson (same address as applicant). Transporting (1) *contractor's equipment and supplies,* (2) *commodities* which, because of size or weight, require the use of special equipment, (3) *machinery and machinery parts,* (4) *metals,* and (5) *iron and steel articles,* between points in DE, MD, NJ, NY, NC, PA, VA, and DC. Condition: Issuance of a certificate here is subject to prior or coincidental cancellation at applicant's written request of Certificates No. MC 69292, issued December 11, 1963, and MC 69292 (Sub-7F), issued April 25, 1980.

MC 107162 (Sub-73F), filed August 6, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. Transporting *building and insulating materials* (except iron and steel articles), from Chicago, Rockdale, and Waukegan, IL and Minneapolis, MN, to points in MI and WI.

MC 115162 (Sub-536F), filed August 4, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *non-ferrous metals, and materials, equipment, and supplies* used in the manufacture and distribution of non-ferrous metals, between points in

TX, AZ, NE, MO, OK, IN, NJ, CA, IL, and OH on the one hand, and, on the other, points in the U.S.

MC 123812 (Sub-6F), filed August 4, 1980. Applicant: SULLIVAN FREIGHT LINES, INC., Congress Parkway, Athens, TN 37303. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *farm implements* and *parts and accessories* for farm implements, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Yazoo County, MS, on the one hand, and on the other, points in the U.S.

MC 141532 (Sub-88F), filed August 4, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transporting Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Traffic between points in Davis County, UT, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-89F), filed August 5, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation, Commodity Code Tariff, between points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-90F), filed August 5, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation, Commodity Code Tariff, (1) between points in Alameda County, CA, on the one hand, and, on the other, points in the U.S., (2) between points in Chester County, PA, on the one hand, and, on the other, points in CA, and (3) between points in Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146982 (Sub-4F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting, *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, OR, MT, NV, NM, TX, UT, WA and WY.

MC 146982 (Sub-5F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting (1)(a) fireplaces, space heaters, and chimneys, and (b) parts and accessories for the commodities in (1)(a) above, and (2) materials, equipment and supplies used in the manufacture or distribution of the commodities in (1)(a) above (A) between Stevens Point and Wisconsin Rapids, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in San Bernardino County, CA, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM.

MC 151352 (Sub-1F) filed August 5, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 So. Lawrence Street, Montgomery, AL 36104. Transporting *None-exempt food or kindred products,* as described in item 20 of the Standard Transportation Commodity Code Tariff between points in Chautauqua County, NY; Passaic and Hudson Counties, NJ; Charleston County, SC; Armstrong County, PA; and Dearborn County, IN, on the one hand, and, on the other, points in Mobile, Montgomery, and Houston Counties, AL.

[FR Doc. 80-27446 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-017]

Permanent Authority Decisions; Decision-Notice; Correction

Decided: August 7, 1980.

Notice of Correction. The following was previously noticed in the **Federal Register** issue of August 19, 1980, and is being republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except

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those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3 Members Parker, Fortier and Hill.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 25823 (Sub-10F), filed July 28, 1980. Applicant: WERCH TRUCKING COMPANY, INC., Route No. 2, Box 113, Berlin, WI 53923. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Transporting: *Lignin pitch* from points in WI to points in the U.S. (except AK and HI).

MC 88203 (Sub-13F), filed July 28, 1980. Applicant: OTIS WRIGHT & SONS, INC., 700 East Wayne St., P.O. Box 277, Lima, OH 45802. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Procter & Gamble Company and its subsidiaries, of Cincinnati, OH.

MC 115162 (Sub-535F), filed August 1, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *(1) plumbing goods and fixtures,* and *(2) materials, supplies and equipment used in the manufacture, sale and distribution of commodities named in (1) above,* between Cook County, IL; Rhea County, TN; and Robeson County, NC; on the one hand, and, on the other those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 115353 (Sub-46F), filed July 30, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting: *(1) steel and steel articles, (2) materials, supplies and equipment* used in the manufacture and distribution of commodities in (1) (except in bulk), between points in the U.S. (except AK and HI) under a continuing contract(s) with Raritan River Steel Co. of Perth Amboy, NJ.

MC 134783 (Sub-68), filed July 30, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting: *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Section A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, TN, and D.C.

MC 139193 (Sub-116F), filed July 31, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW, Washington, DC 20006. Transporting *meats, meat products, meat byproducts, dairy products, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in sections A, B, C, and D Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in the U.S., under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 143383 (Sub-8F), filed August 4, 1980. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: Dale E. Nicholson, (same address as applicant). Transporting *lead, zinc, and copper concentrates,* in bulk, from Corridon, MO, to Glover, MO.

MC 144293 (Sub-16F), filed August 1, 1980. Applicant: DUANE McFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *Foodstuffs* and (2) *such commodities* as are dealt in by meat-packing houses, between points in Mower, Hennepin and Steele Counties, MN, Dodge and Scottsbluff Counties, NE, Webster, Kossuth, Marion and Wapello Counties, IA, and Rock County, WI, on the one hand, and, on the other, points in IL, IA, MN, NE and WI.

MC 144622 (Sub-180), filed August 1, 1980. Applicant: GLEN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting: *Foods,* between points in Dallas County, TX, on the one hand, and, on the other, points in AR, LA, NM, and OK.

MC 146773 (Sub-3F), filed August 4, 1980. Applicant: CON-EX, INC., 369 Mast Rd., Manchester, NH 03102. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, NH, VT, and MA, on the one hand, and, on the other, points in the U.S. (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC).

MC 150103 (Sub-8F), filed August 1, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Transporting *synthetic staple fiber and synthetic yarn,* between points in the United States, under continuing contract(s) with Borg Textile Corporation, a division of Bunker Ramo, of Jefferson, WI.

[FR Doc. 80-27447 filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-012]

Permanent Authority Decisions; Decision-Notice; Correction

Decided: August 6, 1980.

Notice of Correction. The following was previously noticed in the **Federal Register** issue of August 19, 1980, and is being republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number /, Members Carleton, Joyce and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 115162 (Sub-534F), filed July 30, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same as applicant). Transporting (1) *petroleum and petroleum products, additives, and agricultural chemicals,* from points in Montgomery County, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction.

MC 123872 (Sub-119F), filed July 30, 1980. Applicant: W & L MOTOR LINES, INC.:, P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same as applicant). Transporting *(1) (a) Cotton and synthetic yarn, (b) cotton and synthetic rope and twine, and (c) tape, and (2) materials and supplies used in the manufacture of commodities listed in (1)* above (except commodities in bulk), between points in Alexander, Burke, Caldwell, and Catawba Counties, NC, and DeKalb County, GA, on the one hand, and, on the other, points in AZ, CA, CO, GA, IA, ID, IL, KS, MN, MO, MT, NC, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 127042 (Sub-301F), filed July 30, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant). Transporting *foods,* between points in Finney County, KS, and those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA.

MC 138882 (Sub-371F), filed July 30, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Henderson Rd., Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *beverages* (except in bulk, in tank vehicles), between St. Louis, MO, on the one hand, and, on the other, points in AL, GA, and TN; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of beverages (except commodities in bulk, in tank vehicles), between points in GA, on the one hand, and, on the other, points in AL and TN.

[FR Doc. 80-27448 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Decisions Nos. 37482 and 37483; Ex Parte Nos. 368 and 375]

Texas Intrastate Freight Rates and Charges

Decided: September 2, 1980.

A number of railroads operating in intrastate commerce in Texas files joint petitions on July 30, 1980 requesting this Commission to institute an investigation of Texas intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502.[1] They seek an order prescribing the increase of these rates and charges in the same amount approved for interstate application by this Commission in Ex Parte Nos. 368 and 375.

The railroads previously filed petitions with the Railroad Commission of Texas, requesting approval of interstate rate increases equal to those authorized in Ex Parte Nos. 368 and 375. In an order dated May 28, 1980, the Railroad Commission of Texas authorized a 6.65 percent increase in lieu of the 7.8 percent increase requested by petitioners under Tariff X368A. In an order dated July 21, 1980, the Railroad Commission authorized a 1.6 percent increase in lieu of the 4 percent increase requested by petitioners under Tariff X375. Thus, we have jurisdiction to address these requests. The petitioners have stated grounds sufficient to warrant instituting an investigation.

The railroads also filed a motion on July 30, 1980 that the two requested investigations be consolidated. We grant the motion, because the petitions involve related issues.

It is ordered: The petitions for investigations are granted. The motion to consolidate the investigations is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether Texas intrastate rail freight rates and charges in any respect cause (A) unreasonable discrimination against persons or localities in interstate or foreign commerce in relation to persons or localities in interstate commerce, or (B) unreasonable discrimination against or an unreasonable burden on interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of the intrastate rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte Nos. 368 and 375. In the investigation we shall also determine if any rates or charges, or maximum or minimum rates or charges, or both, should be prescribed to remove any unlawful discrimination or undue burden or other violation of law found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall notify the Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423, on or before September 23, 1980. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

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[1] The Atchison, Topeka and Santa Fe Railway Company, the Fort Worth and Denver Railway Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, Saint Louis-San Francisco Railway Company, Saint Louis Southwestern Railway Company, and Southern Pacific Transportation Company.

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Soon after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon the petitioners, and copies shall be sent by certified mail to the Railroad Commission of Texas and the Governor of Texas. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary

[FR Doc. 80-27442 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of quarterly meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), OJARS.

The National Minority Advisory Council on Criminal Justice will hold a quarterly meeting on September 26 and 27, 1980 in the DuPont Room of the Washington Hilton Hotel, located at Connecticut Avenue and Columbia Road, N.W., in Washington, D.C. The meeting is scheduled to run from 9:00 a.m. to 12:00 noon on Friday the 26 and 9:00 a.m. on Saturday, the 27. The meeting is open to the public.

Discussion at the meeting will focus on the NMACCJ report, *The Inequality of Justice,* the NMACCJ national results conference, and a presentation on LEAA's Police Use of Deadly Force project.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA-NMACCJ Coordinator at 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 724-5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, N.W., Suite 200, Washington, D.C. 20036 (202) 862-9348.

Peggy E. Triplett,

Project Monitor, National Miniority Advisory Council on Criminal Justice.

[FR Doc. 80-27482 Filed 9-5-80; 8:45 am]

BILLING CODE 4410-18-M

LEGAL SERVICES CORPORATION

Solicitation of Proposals To Provide Pro Bono Legal Services to the Poor

September 3, 1980.

On June 20, 1980, the Board of Directors of the Legal Services Corporation passed a resolution which approved the allocation of $500,000 of one-time Corporation funds to be used for the development of *pro bono* and private bar activities which will improve the quality of legal services in civil matters to poor people.

The Corporation anticipates funding approximately 20 grantees. The funds will be awarded on a one-time, non-annualized basis for one-year terms. Funded programs will be considered demonstration projects, and will not be entitled to continued receipt of funds. Corporation staff will evaluate the results of the demonstration and present those results to the Board.

Copies of the complete Solicitation of Proposals and other materials can be obtained from: The Legal Services Corporation, Office of Field Services, 733 Fifteenth Street NW., Washington, D.C. 20005, Attn: Steve Granberg, 202/272-4080.

Dan J. Bradley,

President.

[FR Doc. 80-27481 Filed 9-5-80; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8743]

Availability of Environmental Report and Announcement of Scoping Meeting for the Sand Rock Mill Project To Be Located in Campbell County, Wyo., Conoco, Inc.

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Nuclear Regulatory Commission in 10 CFR Part 51, Conoco, Incorporated has filed an application and an environmental report for a source material license for the construction and operation of the Sand Rock Mill Project located in Campbell County, Wyoming. The proposed project involves processing 3,000 tons of ore per day in an acid leach, solvent extraction circuit. The project is located approximately 70 miles northeast of Casper, Wyoming in the southwest Powder River Basin.

The application and environmental report are available for public inspection and copying at the Commission Public Document Room, 1717 H Street, NW., Washington, DC 20555. Copies of the environmental report are also being made available at the State Planning coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming 82002 and Fremont County Public Library, 451 North Second, Lander, Wyoming.

The Commission's staff intends to prepare a Draft Environmental Statement on the proposed project which is expected to be available March 1, 1981. The principle alternatives currently planned to be considered include alternatives of siting, waste management methods, energy sources, and the alternative of no licensing action.

The scoping process will include a meeting to be held in the Hilton Inn, 800 Union Boulevard, Casper, Wyoming at 7:30 p.m. on October 16, 1980. This meeting will provide for a briefing of interested parties concerning the proposed action and alternatives and opportunity for comment on the scope of the proposed statement. The participation of the public and all interested government agencies is invited. Copies of this notice will be mailed to all Federal, State, and local agencies and other interested persons. Written comments concerning the scope of the proposed statement will be accepted until October 31, 1980.

Questions and/or written comments about the proposed action, DEIS, or scoping meeting should be directed to Ms. Kathleen Hamill, U.S. Nuclear Regulatory Commission, Division of Waste Management, Mail Stop 483-SS, Washington, DC 20555, phone (301) 427-4546.

Dated at Silver Spring, Md., this 29th day of August 1980.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 80-27515 Filed 9-5-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee Meeting

An ACRS Ad Hoc Subcommittee will meet on September 19-20, 1980 with representatives of the Reactor Safety Committee (RSK) of the Federal

Republic of Germany in Room 1046, 1717 H St., NW., Washington, DC. Notice of this meeting was published August 22, 1980. In order to insure the security of information identified and supplied by a foreign government as confidential, this meeting will be closed to public attendance (Sunshine Act Exemption 1).

The agenda for subject meeting shall be as follows:

Friday and Saturday, September 19–20, 1980.

8:30 a.m. until the conclusion of business each day

The Subcommittee will hear presentations by and hold discussions with representatives of the RSK, the NRC Staff, and their consultants, regarding the design of the B&W NSSS, proposed changes in the NRC siting criteria, and consideration of Class-9 Accidents in emergency planning.

Further information about this meeting can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee for this meeting, Mr. Raymond F. Fraley (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it is necessary to close this meeting to public attendance to ensure the security of information identified and supplied by a foreign government as confidential. The authority for such closure is Exemption (1) to the Sunshine Act, 5 U.S.C. 552b(c)(1). Separation of nonexempt material from exempt material while this meeting is in process is considered impractical.

Dated: September 3, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–27518 Filed 9–5–80; 8:45 am]

BILLING CODE 7590–01–M

Extension of Comment Period, Draft Human Engineering Guide to Control Room Evaluation

Notice that the Commission's Office of Nuclear Reactor Regulation had published a draft Human Engineering Guide to Control Room Evaluation for public review and comment was published in the **Federal Register**, Vol. 45, No. 163, August 20, 1980, page 55551. The due date for comments on this draft document was September 12, 1980. The due date has now been extended to September 29, 1980.

Comments should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Human Factors Safety.

Dated at Bethesda, Md., this 25th day of August, 1980.

Dominic Tondi,

Acting Chief, Human Factors Engineering Branch, Division of Human Factors Safety.

[FR Doc. 80–27516 Filed 9–5–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–250]

Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Unit No. 3); Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated July 30, 1980, Martin H. Hodder, Esq. and Cheryl Anderson Flaxman, Esq. on behalf of certain residents and homeowners in South Florida requested that the Commission issue to Florida Power & Light Company an order to show cause why the Turkey Point Unit 3 facility should not be shutdown by July 31, 1980, to perform a steam generator inspection and repair. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Md., this 15 day of August 1980.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80–27517 Filed 9–5–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

September 3, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available):

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interst requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Farmer's Home Administration
National Rural Community Facilities Assessment Study
Single time
Local officials and facility administrator, 22,730 responses, 14,915 hours
Office of Federal Statistical Policy & Standard, 673-7974

Revisions

Agricultural Marketing Service
Annual Report of Cooperative Milk Marketing Association
DA 24
Annually
Milk cooperatives, 290 responses, 145 hours
Charles A. Ellett, 395-7340
Food and Nutrition Service
7 CFR—227 Nutrition Education and Training Program
FNS-42
Quarterly
Regional, State, local offices, 9,885 responses, 409,461 hours
Charles A. Ellett, 395-7340
Rural Electrification Administration
Community Development Survey
REA 627
Annually
REA electric & telephone borrowers, 1,184 responses, 592 hours
Charles A. Ellett, 395-7340
Extensions
Food and Nutrition Service, Food Requisition—Donated Foods and State Distribution
FNS-52
On occasion
State distributing agency, 51,000 responses, 25,500 hours
Charles A. Ellett, 395-7340

Reinstatements

Food and Nutrition Service
Application and Agreement—NSLP, SBP, and SNP
FNS-67, 66, & 66-1
On occasion
School food authorities, 8,400 responses, 8,400 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

Revisions

Industry and Trade Administration
WITS U.S. Supplier Application—WITS U.S. Export
Products/Services Application
ITA-4076P & 4077P
On occasion
U.S. firms exporting or wishing to export, 78,000 responses, 35,100 hours
William T. Adams, 395-4814
National Oceanic and Atmospheric Administration
Coastal Energy Impact Program (Pub. L. 94-370)—Loans and Guarantees
NOAA 36-23
On occasion
State & local governments, 20 responses, 244 hours
William T. Adams, 395-4814

Extensions

Bureau of the Census
Environmental Quality Control Agency Compilation Sheet EQC 1
Annually
Large Governments (Federal-State-local) 300 responses, 100 hours
Off. of Federal Statistical Policy & Standard 673-7974

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245-7488

New Forms

Center for Disease Control
Proficiency Testing Report Forms
On occasion
Laboratories, 11,618 responses, 4,285 hours
Eisinger, Richard, 395-6880
Center for Disease Control
Nutrition Education for the Elderly
Single time
Elderly in Congregate meal sites, 3,600 responses, 1,060 hours
Eisinger, Richard, 395-6880
Food and Drug Administration
Hearing Aid Device Recordkeeping Requirements
On occasion
Dispensers of hearing aid, 696,000 responses, 58,000 hours
Eisinger, Richard, 395-6880
Health Care Financing Administration (Departmental)
ESRD Network Coordinating Council Quick Assessment Reviews
HCFA-223
Annually
ESRD networks, 22 responses, 110 hours
Eisinger, Richard, 395-6880
Health Resources Administration
Feasibility Study of Dental Practice Location
Single time
Practicing dentists of UCSF dental school, 312 responses, 104 hours
Off. of Federal Statistical Policy & Standard, 673-7974
National Institutes of Health
Smoking Prevention in Adolescents
Other (see SF-83)
11 and 12 year-old children, 6,391 responses, 2,487 hours
Eisinger, Richard, 395-6880
National Institutes of Health
Cancerline Intermediary Searcher Questionnaire
Single time
Library search specialist, 350 responses, 120 hours
Eisinger, Richard, 395-6880
National Institutes of Health
Query Concerning Potential Data Source for Studies of Cholesterol and Non-CVD Mortality
Single time
Biomedical investigators, 25 responses, 3 hours
Eisinger, Richard, 395-6880

Revisions

Office of Human Development
WIN Certification Report—SAU Certification Record
WIN 117-A; SAU-4
Quarterly
State & project WIN SAU Agencies, 2,266 responses, 1,832 hours
Barbara F. Young, 395-6880
Public Health Service
1981 Health Interview/Reinterview Survey Questionnaires
On occasion
Samp. Hshlds representing civ., noninstit. pop. in U.S., 40,000 responses, 23,200 hours
Off. of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Housing Production and Mortgage Credit
Compliance Inspection Report
HUD-92051
On occasion

Appraisers & inspectors, 500,000 responses, 125,000 hours
Richard Sheppard, 395–6880

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

New Forms

U.S. Fish and Wildlife Service
1980 National Survey of Fishing, Hunting, and Wildlife Recreation
FH–2, FH–3, & FH–4
Single time
Households in 24 retired CPS rotations, 156,500 responses, 55,833 hours
Off. of Federal Statistical Policy & Standard, 673–7974

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

New Forms

Offices, Boards, Division
Survey of Criminal Justice Information Agencies
NIJ (Series 6640)
Single time
Users of criminal justice data & information, 450 responses, 270 hours
Off. of Federal Statistical Policy & Standard, 673–7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

New Forms

Employment and Training Administration
Monthly Report on CETA PSE Accrued Expenditures
ETA–17A
Monthly
State and local agencies, 7,116 responses, 1,779 hours
Arnold Strasser, 395–6880

Revisions

Bureau of Labor Statistics
Monthly Report on Labor Turnover
DL–1219
Monthly
Industrial establishments, 462,000 responses, 76,540 hours
Off. of Federal Statistical Policy & Standard, 673–7974
Employment and Training Administration
Part C, Handbook on Adjustment Assistance for Workers Under Trade Act of 1974
ETA 8–55, ETA 8–62
On occasion
TRA claimants, 1,590,000 responses, 396,338 hours
Arnold Strasser, 395–6880
Employment and Training Administration
Monthly Enrollment Levels of On-Board PSE CETA Participants
ETA–17
Monthly
State and local agencies, 7,116 responses, 1,779 hours
Arnold Strasser, 395–6880
Employment and Training Administration
Extended Benefit Data
ETA 5–39
Weekly
SESA's, 2,756 responses, 2,067 hours
Arnold Strasser, 395–6880

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0747

New Forms

ASRT Air Pollution Survey
Single time
Households in affected area, 600 responses, 200 hours
Edward H. Clarke, 395–7340
Funds Transfer Deposit
EPA 2560–6
On occasion
All types of firms, 183 responses, 366 hours
Edward H. Clarke, 395–7340

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–9515

Revisions

Training Course Application
FEMA 95–2
On occasion
Federal/State/local officials requesting training, 36,000 responses, 36,000 hours
Edward C. Springer, 395–4814

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Alyce Harding—377–6025

Extensions

Security Information and Protection Devices, Report P–1
FHL BB 93
On occasion
FSLIC-insured institutions, 1,500 responses, 750 hours
Warren Topelius, 395–7340

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Reinstatements

Questionnaire for Former Federal Executives
Single time
Federal Executives who have left Fed. service since July 1979, 150 responses, 113 hours
Edward C. Springer, 395–4814

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Clearance Officer—Jacquelin Brent—632–3858

New Forms

Project Information Report
Single time
CPIC clients, 75 responses, 113 hours
Phillip T. Balazs, 395–4814

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2146

Revisions

Offer to Rent on a Month-to-Month Basis and Credit Statement
26–6725
On occasion
Prospective tenants (veterans), 100 responses, 33 hours
Laverne V. Collins, 395–6880

Reinstatements

Application for Dependency and Indemnity Compensation by Child
21–4183
On occasion
Children of veterans, 8,500 responses, 2,125 hours
Laverne V. Collins, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–27513 Filed 9–5–80; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21694; (70–6487)]

Cedar Oil Co., et. al; Proposed Mining Equipment Leases by Coal Mining Subsidiaries

August 29, 1980.

In the Matter of Cedar Coal Company, Central Appalachian Coal Company, Southern Appalachian Coal Company, 301 Virginia Street East, Charleston, West Virginia 25327; Central Ohio Coal Company, 301 Cleveland Avenue, S.W., Canton Ohio 44702; and Southern Ohio Coal Company, Post Office Box K, Moundsville, West Virginia 26041.

Notice is hereby given that Cedar Coal Company ("Cedar"), Central Appalachian Coal Company ("CACCo"), and Southern Appalachian Coal Company ("SACCo"), coal mining subsidiaries of Appalachian Power Company ("Appalachian"), and Central Ohio Coal Company ("COCCo") and Southern Ohio Coal Company ("SOCCo"), coal mining subsidiaries of Ohio Power Company, which, like

Appalachian, is an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9 and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application which is summarized below, for a complete statement of the proposed transactions.

Applicants propose to enter into a separate master leasing agreement with Connecticut Bank and Trust Company and Donald E. Smith, as Trustees for the Bank of New York, ("Lease") pursuant to which the Trustees will commit to lease to such companies coal mining equipment with a total cost to Trustees not exceeding $25,000,000. It is stated that Applicants anticipate lease coal mining equipment during 1980 and 1981 under the Lease, having a total estimate value as set forth below:

[In thousands of dollars]

Company	Estimated new equipment cost	Estimated replacement equipment cost	Contingency allowance	Total
Cedar	$1,256	$3,270	$474	$5,000
CACCo	1,310	650	290	2,250
COCCo	850	3,711	439	5,000
SACCo	3,865		435	4,300
SOCCo	6,637	1,070	743	8,450
Total	13,918	8,701	2,361	25,000

Applicants state that the mining equipment to be leased will contribute to maintaining and improving the efficiency and capacity of Appalachian's and Ohio's fuel supply operations. The coal mined by Applicants is of a quality which permits burning in conformance with present environmental standards applicable to consuming power plants. The generating plants named below expect to burn Applicant's coal in the indicated amounts:

[In thousands of tons]

Coal company	Receiving plant	Plant burn (annual)			Operating company
		Actual 1979	Estimated 1980	Estimated 1981	
Cedar	Amos (a)	7,618	7,209	7,074	Appalachian.
CACCo	Mountaineer	0	755	3,020	Appalachian.
SACCo	Amos		(see above)		Appalachian.
COCCo	Muskingum	3,829	3,244	3,532	Ohio.
SOCCo	(1) Gavin (b)	8,218	8,063	7,483	Ohio.
	(2) Mitchell	3,385	3,379	3,391	Ohio.
	Total	23,050	22,650	24,500	

The table below indicates each Applicant's "proven and probable" reserves of clean, recoverable coal, its current annual production capacity, and the anticipated additional production capacity to be obtained from the equipment proposed to be leased together with other new investments.

[In thousands of tons]

	Total reserves	1979 tons shipped	Anticipated additional clean tons capacity	Total anticipated clean tons capacity
Applicant:				
Cedar	122,235	1,774	721	2,495
CACCo	22,250	684	200	884
SACCo	57,275	1,242	1,153	2,395
COCCo	102,500	3,451		3,451
SOCCo	324,340	4,623	1,577	6,200
Total	628,600	11,774	3,651	15,425

The Lease provides for the lease on or before October 1, 1981 of various types of equipment for surface and underground mining of coal for terms of three, five, seven or ten years. The lessor's total cost, including freight taxes and installation, will not exceed $25,000,000 in the aggregate. Rents are payable quarterly and provide for the full amortization of lessor's cost over periods of 12 to 40 calendar quarters. Each quarterly rental payment for an item under lease will consist of (i) one quarter's amortization of the lessor's cost of the item on a level basis over the lease term for that item, plus (ii) as an additional rental factor, the Quarterly Interest Rate applied to lessor's amortized cost of the item on the first day of the quarter. The Quarterly Interest Rate for such quarter shall be the lower of the prime interest rate of the owner (based on a 365 day year) or LIBO Rate (based on a 360 day year). The Prime Rate shall mean a rate per annum equal to the minimum commercial lending rate charged by Owner for 90 day loans to substantial and responsible commercial borrowers plus ¼% beginning July 1, 1984 until July 1, 1986; ½% beginning July 1, 1986, until July 1, 1988; ¾% beginning July 1, 1988 until July 1, 1991. The LIBO Rate shall mean a rate per annum equal to the rate per annum at which deposits of United States Dollars are offered by Owner to prime banks in The London interbank market at 11:00 AM (London time) for a period of 90 days, and in an amount substantially equal to the aggregate of all Quarterly Lease Rates due hereunder and under the Other Leases for the Quarter involved plus ½% beginning on the effective date until July 1, 1984; ⅝% beginning July 1, 1984 until July 1, 1986; ¾% beginning July 1, 1986 until July 1, 1988; ⅞% beginning on July 1, 1988 unit July 1, 1991.

Assuming a prime rate of 11¼% over the term of the leased equipment, the equivalent effective annual interest rate would be 11.45% on a weighted basis, or lower if the LIBO Rate is less than 11¼%. If an item of equipment is placed under lease other than on the first day of a calendar quarter, the rental for each fraction thereof during that quarter will consist only of the Quarterly Interest Rate for that period applied to Lessor's Cost of the item and prorated for the number of days in the period that the item was under lease. In that event, the Quarterly Interest Rate will be restricted to the prime interest rate of the Owner. When the aggregate Amortized Value of any item equals the lessor's cost of such item, the lessee has the option to purchase it for a price of one dollar or return it to the lessor or its agent at lessee's expense freight collect.

Upon 90-days written notice, the lessee may terminate the lease of any item by purchasing the item from the lessor for the Termination Value plus any accrued but unpaid rent and any taxes and charges upon such sale. During the term of the lease, if the coal supply agreement between the lessee and its immediate parent shall for any reason cease to be in full force and effect or be rescinded or terminated, lessee shall promptly give lessor written notice thereof. Lessee shall pay lessor an amount equal to the Stiplated Loss Value of the leased items and any accrued and unpaid rent for the equipment due on such quarterly date and all sales taxes and charges. Upon such payment the lease shall terminate and lessor shall transfer all its right, title and interest in and to the equipment to the lessee. Prior consent of the lessor is required to amend, supplement, modify or waive the coal supply agreement. Investment tax credits will be for the account of the lessee. The Lease is a net lease with all expenses directly related to the transaction borne by the lessee. The lessor will be indemnified by the lessee against all liabilities and risks of loss.

For its $25,000,000 commitment under the Lease, lessor will charge Applicants an annualized fee of ½ of 1% of the unused amount of the commitment during the period commencing on the closing date of the Lease Agreement and ending on October 1, 1981. No other fees or expenses are expected to be incurred in connection with the proposed transactions. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended, or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delagated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27494 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21698, (70-6484)]

Indiana & Michigan Electric Co.; Proposed Extension of Unsecured Debt Borrowing Limitation and Proposed Revised Charter; Order Authorizing Solicitation of Proxies in Connection Therewith

September 2, 1980.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M proposes to obtain the consent of the holders of its outstanding cumulative preferred stock to approve a 5-year extension of I&M's authority under its Articles of Acceptance ("Charter") to issue or assume unsecured debt in an aggregate principal amount exceeding 10%, but which amount, including all outstanding long-term unsecured debt, would not exceed 20% of I&M's total capitalization at any time. I&M's capitalization is defined as the sum of (i) the total outstanding principal amount of its secured debt, (ii) the total par value of, or stated capital represented by, outstanding shares of all classes of its stock, and (iii) any surplus. I&M is at present authorized to incur or assume unsecured debt within the foregoing limitation through December 31, 1980, pursuant to an order dated September 29, 1976 (HCAR No. 19697). The proposed extension would commence January 1, 1981, and end December 31, 1985, and would be subject to the condition that the principal amount of such unsecured debt in excess of 10% of total capitalization outstanding on December 31, 1985, shall mature not later than June 30, 1986. The actual

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issuance and sale of any debt securities within the limits of the shareholder and Commission authorizations described above will be subject to further authorization by the Commission.

I&M also proposes to adopt a new Charter which generally would integrate, restate and supersede the existing Charter and the resolutions of its Board of Directors creating the various series of cumulative preferred stock currently outstanding, and which would effect a number of essentially technical amendments designed to correct obsolete references and to simplify and modernize the Charter by eliminating certain provisions which are unnecessary or redundant under, or which conflict with, the Indiana General Corporation Act. Counsel to I&M have advised that none of the proposed technical changes would be substantially prejudicial to the rights of the holders of any series or I&M's cumulative preferred stock, and thus ordinarily would not require the approval of such holders. In addition to such technical changes, however, the proposed new Charter will also provide for a 4,000,000 share increase, from 7,200,000 to 11,200,000, in the number of shares of $25 Preferred Stock that I&M shall be authorized to issue. Such an increase requires the consent of holders of I&M's cumulative preferred stock and of the holder of its common stock. I&M therefore proposes to submit the new Charter for adoption by holders of its cumulative preferred stock, voting as a class, and by the holder of its common stock. Adoption of the new Charter and the amendments contained therein will be submitted as a single proposal, so that if the proposed new Charter should not be adopted by the holders of the cumulative preferred stock, none of the changes proposed therein, including those not otherwise requiring approval by such holders, will become effective.

I&M proposes to solicit proxies from its common stockholder and the holders of its cumulative preferred stock to be used at a special meeting of the common and preferred shareholders to be held on October 17, 1980. Holders of I&M's cumulative preferred stock will be asked to approve the extension of the unsecured borrowing authority in excess of 10% of I&M's capitalization, and to approve the new Charter. Approval of the extension of time to issue unsecured debt in excess of 10% of capitalization requires the affirmative vote of the holders of cumulative preferred stock entitled to cast a majority of the votes which all outstanding shares of cumulative preferred stock are entitled to cast (with holders of $100 Preferred entitled to cast one vote per share, and holders of $25 Preferred entitled to cast one-quarter of a vote per share). Approval of the new Charter requires the affirmative vote of the holders of shares of cumulative preferred stock entitled to cast a majority of the votes which all outstanding shares of cumulative preferred stock are entitled to cast (with holders of $100 Preferred entitled to cast one vote per share, and holders of $25 Preferred entitled to cast one-quarter of a vote per share), voting as a class, and by the holders of a majority of the outstanding shares of common stock, voting as a class. AEP, the holder of all of I&M's common stock, has indicated that it intends to vote all of such shares in favor of the new Charter.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than September 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will received any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the amended declaration, insofar as it proposes the solicitation of proxies from I&M's preferred and common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, that the amended declaration regarding the proposed solicitation of proxies from I&M's preferred and common stockholders, be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62, subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Corporate Regulation Division, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27493 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11323; (812-4481)]

Kemper Income and Capital Preservation Fund, Inc.; Filing of Application

August 29, 1980.

In the Matter of Kemper Income and Capital Preservation Fund, Inc., Kemper High Yield Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Fund for Government Guaranteed Securities, Inc., Kemper Financial Services, Inc., 120 South LaSalle Street, Chicago, Illinois 60603. Notice is hereby given that Kemper Income and Capital Preservation Fund, Inc. ("Income Fund"), Kemper High Yield Fund, Inc. ("High Yield Fund"), Kemper Municipal Bond Fund, Inc. ("Municipal Fund"), and Kemper Fund for Government Guaranteed Securities, Inc. ("Government Fund"), each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and Kemper Financial Services, Inc. ("Kemper"), investment manager for such investment companies (hereinafter, such investment companies and Kemper are referred to as "Applicants"), filed an application on June 1, 1979, and amendments thereto on February 5, 1980, June 20, 1980, and August 7, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act to the extent necessary to permit the sale of shares of the applicant's investment companies (and shares of such other registered open-end, management investment companies with portfolios consisting primarily of fixed income securities and for which Kemper serves as investment manager and principal underwriter in the future) (collectively, "Funds") at net asset value, without imposition of normal sales charges and without regard to minimum initial investment requirements, to participants in reinvestment programs proposed to be offered to unitholders of: (1) Kemper Tax-Exempt Income Trust, (2) Kemper Income Trust, (3) Kemper Trust for Government Guaranteed Securities and (4) other unit investment trusts sponsored by Kemper in the future (collectively, "Trusts"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application: (1) Income Fund seeks to provide as high a level of current income as is consistent with stability of capital by investing in corporate debt securities rated "A" or better by Standard & Poors Corporation or Moody's Investment Services, Inc., U.S. government obligations, certificates of deposit, and prime commercial paper; (2) High Yield Fund seeks the highest level of current income, consistent with reasonable risk, obtainable from a professionally managed, diversified portfolio of fixed income securities; (3) Municipal Fund seeks the highest level of current interest income exempt from federal income taxation as is consistent with preservation of capital through a professionally managed portfolio of municipal bonds rated "A" or better at the time of purchase; and (4) Government Fund seeks high current income, liquidity and security of principal by investing in obligations issued or guaranteed by the U.S. government or its agencies. The Trusts are unit investment trusts which are or will be registered under the Act. The portfolios of the Trusts are or will be invested in one of various types of fixed income securities.

Applicants propose to permit unitholders of each Trust to invest monthly distributions of principal (including capital gains, if any), interest, or both, in shares of one of the Funds which invests in securities similar to those in which that Trust is invested ("Reinvestment Fund"), without a sales charge and without regard to minimum investment requirements pursuant to a reinvestment program ("Program"). Each of the Trusts will disclose the availability of the Program and details concerning how a unitholder can become a participant in the Program ("Participant"). In addition, each Fund will disclose the existence of the Program in its prospectus. The application states that the expenses of offering the Programs will be borne by Kemper. The application further states that, upon request, each unitholder of the Trusts will be furnished with a prospectus of the appropriate Reinvestment Fund and a form by which the unitholder may affirmatively elect to invest monthly distributions in shares of the Reinvestment Fund. Investors Fiduciary Trust Company, a limited purpose turst which is a joint venture of Kemper and DST, Inc. ("DST"), is or will be the trustee for each of the Trusts, and will serve as program agent for the Programs ("Program Agent").

Applicants state that upon the dates distributions of the Trusts are made, such distributions with respect to a Participant's units which have been designated by the Participant to be invested will automatically be forwarded by the Program Agent to DST, transfer agent for the Funds, for the purchase of shares of the appropriate Reinvestment Fund at the net asset value next determined. Where a Participant has elected to invest distributions of principal, the proceeds of redemption, or payment at maturity, of securities held by the Trust will be invested in shares of the appropriate Reinvestment Fund pursuant to the Program. Any redemption of units of a Trust initiated by a Participant will result in payment of redemption proceeds directly to that Participant. Applicants state that notices will be mailed by the Program Agent to each Participant setting forth the total amount of each distribution made by a Trust on the units held by that Participant and the portions thereof attributable to interest and principal, and that DST will mail confirmations of purchases of shares of the Funds to Participants. According to the application, by notifying the Program Agent in writing, Participants will be able to terminate their participation in the Programs as to: (1) all Trust distributions; (2) Trust principal and capital gains distributions; or (3) Trust interest distributions. Such notification will have to be received by the Program Agent at least 10 days prior to the record day applicable to any distribution in order to be effective with respect to that distribution.

Applicants state that participation in the Programs will not interfere with the rights of unitholders to redeem their units as set forth in the Trusts' prospectuses. They represent that the interests of Participants as shareholders of the Funds will be identical to the interests of other shareholders of the Funds and will include the right of redemption and the right to reinvest Fund distributions in additional Fund shares at net asset value as set forth in each Fund's prospectus. Participants will be provided with annual updated prospectuses of the appropriate Reinvestment Fund. The Funds' normal sales charges a minimum investment requirements will apply to purchases of Fund shares by Participants other than through the Programs.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus. Applicants request an exemption from the provisions of Section 22(d) of the Act to permit the investment of monthly distributions made by the Trusts in shares of the Funds at net asset value, without a sales charge and without regard to minimum initial investment requirements, pursuant to the Programs.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the granting of an exemption from the provisions of Section 22(d) of the Act would be consistent with the public interest and with the purposes of Section 22(d) of the Act, and that such exemption would also be beneficial to the Funds and to the unitholders of the Trusts. Applicants assert that the major portion of the cost of selling investment company shares is incurred in identifying potential investors and ascertaining their financial requirements. In this respect, Applicants state that unitholders of the Trusts have already been identified as having objectives identical to those of the Fund in which their distributions would be invested because the applicable Reinvestment Fund will be investing in securities similar to those in which each unitholder's Trust has invested. Applicants further assert that little or no additional sales cost need be allocated to the purchase of shares of

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the Funds through the Programs and, therefore, submit that Participants should receive the benefit of the reduced selling expenses associated with the Programs through the investment of distributions made by the Trusts at net asset value without the payment of a sales charge. Applicants submit that the Funds will benefit from the proposed transactions because: (1) the investments in the Funds through the Programs will produce larger asset bases and steady cash flows which should assist the Funds in meeting redemption requests without liquidating portfolio securities; (2) to the extent that the Funds' operating expenses do not increase in direct proportion to increases in assets, increases in asset bases attributable to the Programs will reduce the costs of operations on a per share basis; and (3) the Funds and DST have agreed that the transfer agency fees attributable to Participants' accounts in the Funds will not exceed, as a percentage of assets, the fees paid by the Funds with respect to other shareholder accounts. Applicants further submit that the Trusts also will benefit from the Programs to the extent that they will be able to provide unitholders with the opportunity to invest their distributions in open-end investment companies which are similar to the Trusts.

Notice is further given that any interested person may, not later than September 25, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27498 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21696; (70-6491)]

Louisiana Power & Light Co.; Notice of Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

August 29, 1980.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell, subject to the competitive bidding requirements of the Act, not in excess of $1,200,000 shares of a new series of its class of preferred stock, $25 par value ("Stock"). The Stock is to be established by appropriate corporate action and, except as to the number of shares and designation, divided rate, the date from which dividends commence to accumulate, the amounts payable upon redemption, the terms and amount of the sinking fund, and matters relating to par value and certain voting rights (including matters relating to quorums and adjournments), will have the same rank and the same relative rights as the presently outstanding preferred stock of the company.

The dividend rate of the stock (which will be a multiple of $\frac{1}{25}$ of 1%) and the price to be paid to the company for the Stock (which will be not less than $25 nor more than $25.70 per share, plus accumulated dividends, if any) will be determined by competitive bidding. The terms of the Stock will include a prohibition until November 1, 1985, against refunding the Stock, directly or indirectly, with funds derived from the issuance of securities at a lower effective interest or dividend cost. Louisiana presently expects that the terms of the stock will include provisions for a sinking fund designed to redeem at $25 per share, plus accumulated dividends, 60,000 shares on each November 1 commencing in the year 1985, with the company having a non-cumulative option to redeem an additional 60,000 shares on each November 1 during the sinking fund redemption period. In the event, however, that market conditions change so that, in the opinion of the company, the market for non-sinking fund preferred stock is more favorable, the company may amend the declaration to provide therefor.

The declaration states that in the event that market conditions change so that, in the opinion of the company, the market for $100 par value preferred stock is more favorable than that for $25 preferred stock, Louisiana may amend the declaration to propose the issuance and sale of not in excess of 300,000 shares of its $100 par value preferred stock in lieu thereof.

Louisiana will apply the net proceeds derived from the issuance and sale of the preferred stock to the payment in part of short-term borrowings estimated to total $149,000,000 at the time the sale proceeds are received, to the financing in part of the company's construction program, and to other corporate purposes.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $170,000, including legal fees of $51,000 and auditor's fees of $15,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 30, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the

Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27496 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21697 (70-6489)]

Middle South Utilities, Inc.; Notice of Proposed Issuance and Sale of Common Stock at Competitive Bidding

August 29, 1980.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 8,000,000 authorized but unissued shares of common stock, $5 par value, to underwriters or investment bankers who will promptly make a public offering thereof. If market conditions at the time of the offering of the securities are unfavorable, Middle South may request an exception from the competitive bidding requirements of Rule 50 so that the common stock may be offered pursuant to a negotiated underwriting.

The net proceeds to be derived from the sale of the common stock (presently estimated to be approximately $100,000,000) will be applied toward the reduction of Middle South's then outstanding bank loans made pursuant to the credit agreement between Middle South and various commercial banks dated as of June 27, 1980. The amount of the loans to be outstanding is estimated to be $198,000,000. Proceeds derived from the bank borrowings are used to acquire common stock of Middle South's subsidiary companies which apply such funds to construction, acquisition of property, retirement of short-term indebtedness, and other corporate purposes.

Middle South Energy, Inc., ("MSEI"), is a wholly-owned subsidiary of Middle South whose function is to construct Grand Gulf Electric Generating Unit No. 1 and No. 2 near Port Gibson, Mississippi. MSEI has covenanted with its bondholders and with the holders of its bank notes that Grand Gulf Unit No. 1 will be placed in commercial operation no later than December 31, 1982, and, with the bondholders that Grand Gulf Unit No. 2 will be placed in commercial operation no later than December 31, 1986. If either of these covenants is not fulfilled or if MSEI defaults with respect to either the bonds or the bank borrowings, MSEI's outstanding obligations will become due and payable by MSEI and by Middle South under its Capital Funds Agreement, unless extensions of time can be arranged. MSEI has assigned, as security, to the banks and to the trustee for the bondholders its rights under its Availability Agreement with Middle South's five electric utility subsidiaries. It provides that no later than December 31, 1982, the operating companies will begin paying MSEI such amounts as will be at least equal to MSEI's operating expenses or an equivalent amount if Unit No. 1 is not in operation, including MSEI's interest charges and depreciation expense.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 28, 1980, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27495 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21695; (70-6492)]

The Southern Co.; Proposal by Holding Company to Act as Surety on Bonds of Public Utility Subsidiary Companies

August 29, 1980.

Notice is hereby given that The Southern Company ("Southern"), Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to act as a surety on bonds of its subsidiaries, Alabama Power Company ("Alabama") and Southern Electric Generating Company ("SEGCo."), in connection with appeals by Alabama and SEGCo from final ad valorem tax assessments by the State of Alabama.

The Department of Revenue of the State of Alabama, on July 2, 1980, issued its final assessments and notices of 1980 ad valorem taxes on Alabama's and SEGCo's property located in the State of Alabama. On July 28, 1980, Alabama and SEGCo appealed their respective assessments in connection with such taxes to the Circuit Court of Montgomery County, Alabama, alleging that the valuation of property owned by non-public utility taxpayers at less than 100% of fair market value and the valuation of the property of Alabama and SEGCo at 100% of fair market value discriminates against Alabama and SEGCo in violation of the Alabama

Constitution of 1901 and the United States Constitution.

As a condition to appealing from assessments for the ad valorem tax without being required to pay the disputed taxes when allegedly due, Alabama and SEGCo are required to post supersedeas bonds with the court in double the amount of the respective taxes payable, and such bonds must have a good and sufficient surety thereon. Such taxes are currently estimated to be approximately $30 million for Alabama, resulting in the need for a surety bond of approximately $60 million, and $766,000 for SEGCo, resulting in a need for a surety bond in the amount of $1,532,000.

Alabama and SEGCo have been advised that bonds can be obtained from a commerical surety company, but with aggregate required premiums of over $70,000 annually. In order for Alabama and SEGCo to avoid the substantial premium cost attendant upon the use of a commercial surety, Southern proposes to act as surety on Alabama's and SEGCo's bonds for no premium, fee, or other compensation. Approval of these bonds by the Circuit Court of Montgomery County is expected. Southern intends to act as surety on the supersedeas bonds during the entire appeal period in order to avoid the payment of the alledgedly discriminatory taxes until the questions raised in the appeals have been finally determined.

The fees and expenses incurred or to be incurred in connection with the proposed transactions are estimated at $3,200. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27497 Filed 9-5-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-24]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 29, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 29, 1980.

John H. Cassady,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20525	Peter G. Hardy	14 CFR 65.77	To allow Mr. Hardy to take the powerplant mechanics rating examinations without first meeting the experience requirements for a mechanic rating.
16148	Aerospatiale Helicopter Corp	14 CFR 91.28(b)(3)	To extend a present exemption which permits the issuance of a special flight authorization for the purpose of flight testing Aerospatiale-manufactured helicopters, for conducting customer crew training in the helicopters, and for ferrying them for export to Canada and Mexico. (The exemption will only apply to helicopters of Canadian or Mexican registry.)
20590	Flight Safety International, Inc.	14 CFR 141.35 (b)(4), (c)(5)(i), and (d)(3).	To allow Edward Rountree, Jr., to be chief instructor of numerous helicopter training courses without meeting recency of experience requirements.
20562	Swift Aire Lines	14 CFR 121.220	To permit operation of F-28 and Nord 262 aircraft up to flight level 20.0 for short periods of time without meeting the ozone check requirements.
20552	Tulsa County Area Vocational Technical School	14 CFR 147.31	To enable petitioner to credit students with instruction given during a period when it did not have FAA certification.

Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
20543	Altair Airlines, Inc	14 CFR 121.319(b)(5)(i) and 121.310(d)(2)(i).	To permit operation of at least six F-28 aircraft with interphone system and emergency light system switches which are not "readily accessible" for use from a normal flight attendant seat.
20381	Air U.S.	14 CFR 91.7(a)(1)	To allow required copilots to leave their station in flight to provide passenger services.
20575	Western Airlines, Inc.	14 CFR 121.411(a)(3)	To delete the inflight maneuvers required by Appendix F for their professional simulator check airmen.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—Disposition
19474	Eastman Kodak Company	14 CFR 61.57(d)	To permit the petitioner to substitute six-month proficiency checks in Flight Safety International's Gulfstream I and II visual cue simulators for the recent night experience prescribed. *Denied 8/26/80.*
20321	Capt. Vernon W. Lowell	14 CFR 121.383(c)	To permit petitioner to serve as a pilot in Part 121 operations after he has reached his 60th birthday. *Denied 8/21/80.*
20353	Elmer F. Collin	14 CFR 121.383(c)	To permit petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 8/21/80.*
15590	Embrey-Riddle Aeronautical University	14 CFR Part 141, Appendices A, C, D, F, and H.	Renewal of Exemption No. 2329 which permits petitioner to train the majority of its students to a performance standard instead of meeting the prescribed minimum flight time requirements. *Granted 8/15/80.*
20417	Combs Airways, Inc	14 CFR 121.61(d)(1)	To allow Mr. Carroll D. Wesson to serve as chief inspector for petitioner without meeting the three year certificate requirements. *Granted 8/8/80.*
20372	Alaska Aeronautical Industries, Inc.	14 CFR 91.33(b)(11)	To allow petitioner's air taxi flights to be operated beyond the power-off gliding distance from shore without approved flotation gear readily available to each occupant. *Denied 8/8/80.*
20170	Air Transport Association	14 CFR 121.434	Relief from the required one night takeoff and one night landing for all transitioning and upgrading pilots. *Denied 8/15/80.*

[FR Doc. 80-27458 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 145—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 145 on Digital Avionics Software to be held on September 30 and October 1-2, 1980 in Conference Rooms 9A-B-C, DOT/Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on July 22-23, 1980; (3) Reports of Working Group Activities; (4) Presentation on F-6 Digital Fly-by-Wire System; (5) Review of Comments Received Since the First Committee Meeting; (6) Working Groups Meet in Separate Sessions; (7) Discussion of Committee Report Outline and Content; (8) Establish Committee Schedule of Activities; (9) Discussion of Working Group Task Assignments; (10) Chairman's Review and Discussion of Committee Progress; and (11) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 28, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-27133 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Ripley County, Ind.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed extension of S.R. 129 into Batesville, Ripley County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. John Breitwieser, Staff Environmentalist, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204. Telephone: 317/269-7481.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana State Highway Commission will prepare an EIS on a proposal to extend S.R. 129 from 1.4 miles north of S.R. 48 northward to S.R. 46 on the east side of Batesville, Indiana. The proposal intends to construct a two-way road (two 12-foot lanes with 11-foot stabilized shoulders) inside a minimum right-of-way width of 160 feet. Total proposed project study length is approximately 5.2 miles. In addition, a 0.474 mile segment immediately south of the southern terminus (previously improved 1975) will require further improvement. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demands.

The following alternatives are being considered: Do-Nothing; and three (3) alternatives extending S.R. 129 into Batesville. All three alternatives would generally follow the alignment of existing County Road 300 E to a point south of Mollenkramer Reservoir where the three alternatives diverge. These alternates then converge north of Mollenkramer Reservoir at S.R. 46. In the vicinity of the Mollenkramer Reservoir, the three alternatives have varying degrees of potential impacts on

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recreational and fish and wildlife resources of the area. Letters describing the proposed action and soliciting comments have been sent to 17 Federal, State and local agencies, private organizations, and citizens who had previously expressed interest in this proposal. A public information meeting was held on May 17, 1979. In addition, the opportunity for a public hearing will be advertised. Public notice will be given of the time and place of the public hearing. The draft EIS will be available for public and agency review and comment. A formal scoping meeting is planned at 10:00 a.m. on October 7, 1980 at the project site where existing County Road 300E crosses Mollenkramer Reservoir, south of Batesville, Indiana.

To insure that the full range of issues to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments and/or questions should direct them to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, (Highway Research, Planning and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: August 27, 1980.

George D. Gibson, Jr.,

Division Administrator Indianapolis, Indiana.

[FR Doc. 80–27269 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Bibb County, Ga.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Bibb County, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404) 881–4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: the FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to widen the present two and three-lane substandard facility on Pio Nono Avenue. The proposed project begins at Dent Street on the south and extends to Pierce Place on the north, a distance of approximately 2.0 miles. Exceptions to this project are Pio Nono Avenue between Catherine Street and Straight Street and the Pio Nono Bridge over the Central of Georgia Railroad, a total distance of approximately 0.2 mile. The project concept consists of four through travel lanes with standard width. At major cross-streets (Anthony Road, Dempsey Avenue, Columbus Road/Montpelier Avenue, Napier Avenue, Laseter Place, Hillcrest Avenue and Vineville), Pio Nono Avenue would be improved to four through travel lanes with a standard fourteen-foot wide turning lane where needed. A standard five-lane section will be constructed between Dempsey Avenue and Columbus Road/Montpelier Avenue.

Alternatives under consideration include: This proposed project has one build alternate, and a no-build alternate.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meetings have been scheduled at this time. A series of public meetings will be held, if requested, during the progress of the proposed project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action on the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.

Issued on August 28, 1980.

Joe D. Wilkerson,

Assistant Division Administrator, Atlanta, Georgia.

[FR Doc. 80–27457 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; City of Spokane, Wash.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advice the public that an environmental impact statement will be prepared for the proposed Monroe-Lincoln Street project in the City of Spokane, Spokane County, Washington.

FOR FURTHER INFORMATION CONTACT: William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza Building, 711 South Capitol Way, Olympic, Washington 98501, Telephone: (206) 753–9480.

SUPPLEMENTARY INFORMATION:

The FHWA, in cooperation with the Washington State Department of Transportation and the City of Spokane, will prepare an environmental impact statement (EIS) on a proposal to complete the midtown Monroe-Lincoln Street Couplet between Main Avenue and the vicinity of Alice Avenue.

The major construction remaining in the development of the Couplet is: (1) a river crossing between Main Avenue and Bridge Avenue, and (2) widening Lincoln Street from 30 feet to 40 feet from Sharp Avenue to the vicinity of Alice Avenue and the construction of a crossover vicinal to Alice Avenue between Lincoln Street and Monroe Street. Improvements to the corrider are considered necessary to provide for the existing and projected traffic demand.

Alternates under consideration include: (1) taking no action; (2) widening Monroe Street Bridge and transitioning Lincoln Street traffic on and off the Bridge; (3) a new Lincoln Street Bridge; (4) transitioning Lincoln Street onto the south end of the existing Post Street Bridge; (5) utilize existing Monroe Street and Post Street Bridges as complementing one-way river crossing; and (6) the use of Post Street in lieu of Lincoln Street for the extension to Alice Avenue vicinity.

Letter describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. A series of public meetings have already been held. Upon completion of the draft EIS, a public hearing will be held. As provided for the past meetings a public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: August 27, 1980.

Willian J. Glover,

Environmental Engineer, Washington Division, Olympic, Washington.

[FR Doc. 80-27287 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; City of Spokane, Wash.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed North Foothill Drive project in the City of Spokane, Spokane County, Washington.

FOR FURTHER INFORMATION CONTACT: William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza Building, 711 South Capitol Way, Olympia, Washington 98501, Telephone: (206) 753-9480.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the City of Spokane, will prepare an environmental impact statement (EIS) on a proposal that would provide a new east-west arterial between Division and Market Streets in the City of Spokane, Washington.

The proposed action is to complement the existing improved section of Euclid Avenue between Crestline and Market Streets with construction of a new section of road between Ruby Street at Buckeye Avenue and Crestline Street at Euclid Avenue. Buckeye Avenue in the block between Division and Ruby Streets has already been improved. Development of a new east-west arterial is considered necessary to provide for the existing and projected traffic demand.

Alternates under consideration include: (1) taking no action; (2) constructing the new section of road on railroad right-of-way; and (3) constructing the new section of road on various sections of Euclid, Cleveland, Grace and Buckeye Avenues. There are roughly four variations of alignment, (depending on location of crossovers) under this alternate.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A series of public meetings will be held in Spokane in the latter part of 1980. In addition, upon completion of the draft EIS, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: August 27, 1980.

William J. Glover,

Environmental Engineer, Washington Division, Olympia, Washington.

[FR Doc. 80-27288 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-22-M

National Advisory Committee on Outdoor Advertising and Motorist Information

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Advisory Committee on Outdoor Advertising and Motorist Information.

DATE: Meetings will begin a 9 a.m. on September 25 and 8 a.m. on September 26, 1980.

ADDRESS: Meetings will be held in the Lockheed Room, Airport Admiral Benbow Inn, 1419 Virginia Avenue, Atlanta, Georgia 30337.

ATTENDANCE: The public is invited to attend subject to available space. Any member of the public may file a written statement with the Committee. Interested persons may be permitted to speak at the meeting in accordance with procedures established by the Committee.

AGENDA: 1. Review and approval of minutes.

2. Presentation of position papers by members on the following topics: New signs; on-premise signs; Stafford bill status; electronic signs; effects of tourism; landscaping; vegetation clearance; banning off-premise signs; developed commercial and industrial aress; zoning; alternate systems.

3. Motions or proposals.

4. Future meeting date.

5. Other general matters as may be specified by the Chairperson or the Executive Director.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Ann Morgan, Executive Director of the Committee, Room 3215, HRW-2, (202) 426-0116, or Mr. Edward Kussy, Deputy Assistant Chief Counsel, Room 4230, HCC-40, (202) 426-0791, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

(Catalog of Federal Domestic Assistance Program Number 20.214, Highway Beautification—Control of Outdoor Advertising, and Control of Junkyards. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: September 3, 1980.

L. P. Lamm,

Executive Director.

[FR Doc. 80-27469 Filed 9-5-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Calendar of Public Meetings

This calendar consists of NHTSA-sponsored meetings in which public interest or participation is expected. It is published for planning purposes and meeting dates and places are subject to change.

September 10, 1980

9:30-11:00 a.m.

Motorcycle Accident Factors Research, Room 7200, DOT Headquarters Building, Washington, D.C.

Purpose: Results of a study to determine the cause of motorcycle accidents, the causes of injuries, the severity of the injuries and effective methods of reducing accidents, deaths, and injuries will be reported.

V 45 / 175 SE 8 80 UMI

Coordinator: Nicholas G. Tsongos, Research and Development (NRD–32), 202–426–9124.

October 2, 1980

Biomechanics Advisory Committee Meeting, Room 6200, DOT Headquarters Building, Washington, D.C.

Purpose: This Committee reviews NHTSA's procedures, programs and projects requiring the use of live and deceased humans for research in order to validate the need for such use, to minimize the risk of injury to volunteers, and to assure the rights and dignity of the subjects.

Coordinator: Kathy Hasse, Executive Secretariat (NOA–10), 202–426–2872.

October 8, 1980

NHTSA-Public-Industry Technical Meeting, EPA Conference Room, Motor Vehicle Environmental Laboratory, Ann Arbor, Michigan.

Purpose: Technical, interpretative or procedural questions from the public and industry regarding NHTSA's bumper, vehicle safety and consumer information programs will be answered. Questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities.

Coordinator: Michael Finkelstein, Rulemaking (NRM–01), 202–426–1810.

October 21, 1980

1:30 p.m.

Improved Low Beam Photometrics; Interim Contractor's Briefing, Room 4436, DOT Headquarters Building; Washington, D.C.

Purpose: Report on progress of study being conducted by the Highway Safety Research Institute to identify approaches for grading low beam headlights.

Coordinator: Michael Perel, Research and Development (NRD–41), 202–755–8753.

October 21–24, 1980

Eighth International Technical Conference on Experimental Safety Vehicles, Wolfsburg, West Germany.

Purpose: The ESV Conferences are conducted to provide a forum for exchanging the results of integrated vehicle development. Various automobile manufacturers, as well as NHTSA contractors have designed and developed vehicles which incorporate advanced systems to satisfy national goals in safety, fuel economy, and vehicle emissions. This meeting will be hosted by Federal Republic of Germany. The Governments of the Federal Republic of Germany, France, Great Britain, Italy, Japan, Sweden and the United States as well as manufacturers of these countries and others will participate.

Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2957.

October 27–28, 1980

Problem-Behavior Workshop: Pedestrian, Bicyclists and Public Transportation, Capitol Hilton, 16th and K Streets NW, Washington, D.C.

Purpose: The workshop is to bring together interested practitioners and researchers to review NHTSA program plans and to obtain detailed suggestions, improvements and reactions regarding planned projects and/or approaches.

Coordinator: Monore B. Snyder, Research and Development (NRD–42), 202–426–2977.

October 27–30, 1980

National Highway Safety Advisory Committee Orientation for New Members and Full Committee Meeting, Room 6200, DOT Headquarters Building, Washington, D.C.

Purpose: On October 27 DOT staff will provide a one-day orientation for newly appointed members. October 28–30 will be a full Committee meeting. Introductory briefings on the subject areas selected for study during the 1980–81 session will be presented.

Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872.

October 28–30, 1980

Fatal Accident Reporting System (FARS) Annual Workship, Hilton Inn West, Orlando, Florida.

Purpose: To solve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regular scheduled working meeting of FARS State Analysts and NHTSA regional and headquarters technical managers.

Coordinator: Angie Sebastian, Research and Development (NRD–32), 202–426–4844.

November 17–18, 1980

National Accident Sampling System (NASS) Advisory Committee, Room 2230, DOT Headquarters Building, Washington, D.C.

Purpose: To review program status and make recommendations on data collected, field procedures and analysis, including plans and operations.

Coordinator: Russell A. Smith, Research and Development (NRD–32), 202–426–1942.

December 1–2, 1980

Automotive Fuel Economy Contractors' Coordination Meeting, Sheraton National, Arlington, Virginia.

Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Research Program will be explained.

Coordinator: Charles L. Gauthier, Research and Development (NRD–13), 202–0426–2957.

December 9–11, 1980

Symposium on Automotive Ratings, Host Farm Inn, 2300 Lincoln Highway, East Lancaster, Pennsylvania.

Purpose: To exchange information on the "state-of-the-art" of automotive ratings, crashworthiness, damageability and ease of diagnosis and repair, as well as to provide an opportunity for those affected by the ratings to comment. In addition to technical data, public comment and reaction will be solicited to insure the ratings program is responsive to consumer needs.

Coordinator: Ivy Baer, Office of Rulemaking (NRD–30), 202–426–0852.

January 19–21, 1981 (Tentative)

National Highway Safety Advisory Committee Meeting, DOT Headquarters Building, Washington, D.C.

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be prepared.

Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872.

June 15–17, 1981

National Highway Safety Advisory Committee Meeting, DOT Headquarters Building, Washington, D.C.

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation will be adopted.

Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872.

October 12–16, 1981

Second International Automotive Fuel Economy Research Conference, Rome, Italy.

Purpose: Government Status Reports on Automotive Transportation Conservation Programs and reports of research in automotive technology for improved fuel economy will be presented.

Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2957.

October 28–30, 1981

Fatal Accident Reporting System (FARS) Annual Workshop (Location undetermined).

Purpose: To resolve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regularly scheduled meeting.

Coordinator: Angie Sebastian, Research and Development (NRD–32), 202–426–4844.

Persons desiring additional information on a particular meeting on may phone the coordinator listed under each meeting.

Alternatively, the coordinator can be reached by mail at the following address: U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on August 28, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80–27122 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–59–M

Pedestrian Impact Protection; Technical Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public meeting.

SUMMARY: This notice is issued to announce the presentation by NHTSA of a summary of the pedestrian impact protection research conducted in the past five years. NHTSA will hold a public meeting so that the public can be made aware of the pedestrian impact protection research data.

DATES: The public meeting will be held on October 9, 1980, from 10:00 a.m. until 5:00 p.m. If additional time for comments or demonstration is necessary, the meeting will continue on October 10, 1980 at 10:00 a.m.

ADDRESS: The meeting will be held at NHTSA's Vehicle Research and Test Center, on the premises of the Transportation Research Center of Ohio, East Liberty, Ohio. For purposes of planning the meeting, persons wishing to attend are requested to notify Mr. Timothy Hoyt in advance at the address listed below.

SOURCES OF FURTHER INFORMATION: Questions concerning the agenda of and/or arrangements for the meeting should be submitted to: Dr. Rolf Eppinger, Research and Development, NHTSA, NRD–12, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–4875, or Mr. Timothy Hoyt, Research and Development, NHTSA, Vehicle Research and Test Center, P.O. Box 37, East Liberty, Ohio 43319, (513) 666–4511.

SUPPLEMENTARY INFORMATION:

Background

NHTSA presented three papers at the Seventh International Experimental Safety Vehicle Conference in June 1979, which summarized NHTSA's research results and rulemaking plans regarding pedestrian impact protection. NHTSA subsequently sought written comments on the publications from the Motor Vehicle Manufacturers Association (MVMA) and MVMA responded on May 15, 1980. The MVMA requested that NHTSA provide an opportunity for them to interpret the completed research tests and recommend the design of future pedestrian impact protection research activities.

NHTSA's research to date has investigated the pedestrian impact phenomenon by striking highly instrumented pedestrian surrogates with a variety of vehicle frontal structures. The data from these experiments have been used to determine the injury mechanisms and correlate impact response with injury severity. A means of physically simulating the lower body impact with the frontal structure of passenger cars was also developed in anticipation of proposing a new Federal Motor Vehicle Safety Standard.

A production vehicle was then modified using this pedestrian simulation device and a proposed criteria, and its performance evaluated by impacting both an adult and child dummy with it. The impact responses of both dummies were significantly reduced from levels produced by a baseline vehicle. It has been tentatively concluded that substantial pedestrian protective measures can be incorporated in vehicle structures via this methodology.

Agenda

NHTSA will present a summary of both its completed and planned pedestrian impact protection activities to all interested parties. A demonstration of the pedestrian simulation device striking the modified vehicle is planned and both the vehicle and the simulation device will be available for inspection at the meeting. Comments on the completed and planned research will be sought after the NHTSA presentations and demonstration. This portion of the meeting will be aimed at obtaining information that may be helpful in interpreting completed research or in restructuring the planned pedestrian research. All comments will be recorded and placed in the public docket. Attendees need not prepare written documents in order to participate in the meeting.

Persons who wish to submit any specific technical comments or questions for NHTSA consideration prior to this meeting may forward them to Dr. Rolf Eppinger, NHTSA, NRD–12, 400 Seventh Street, S.W., Washington, D.C., 20590.

Issued on September 8, 1980.

R. Rhoads Stephenson,

Associate Administrator for Research and Development.

[FR Doc. 80–27713 Filed 9–5–80; 9:52 am]

BILLING CODE 4910–59–M

V45/175 SE8 80 UMI

59248–59254

Sunshine Act Meetings

Federal Register

Vol. 45, No. 175

Monday, September 8, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 171, p. 58296, September 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 4, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The meeting previously scheduled for 9:30 a.m., September 4, 1980, has been cancelled.

No. 388, September 3, 1980.

[S–1653–80 Filed 9–4–80; 12:17 pm]

BILLING CODE 6720–01–M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 11 a.m., September 11, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Modification of Condition—City Trust Services, N.A., (Wholly-owned subsidiary of) City Federal Savings and Loan Association, Elizabeth, New Jersey.

Application for Reconsideration of Conditions 9 and 10 of Resolution 79–612 Homestead Savings and Loan Association, San Francisco, California.

No. 389, September 4, 1980.

[S–1656–80 Filed 9–4–80; 3:17 pm]

BILLING CODE 6720–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

September 3, 1980.

TIME AND DATE: 10 a.m., September 10, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Paramont Mining Corporation, VA 79–51 (Issues include proper interpretation and application of 30 CFR 75.313).
2. Alabama By-Products Corporation, SE 79–110, etc. (Issues include enforceability of the respirable dust standard at 30 CFR 70.100(b)).
3. Olga Coal Company, HOPE 79–113–P (Issues include enforceability of the respirable dust standard at 30 CFR 70.100(b)).
4. Sewell Coal Company, HOPE 79–6–P, etc. (Issues include whether the administrative law judge erred in denying a continuance and defaulting the operator for failing to appear at the hearing).
5. Eastern Associated Coal Corporation, WEVA 79–117–R (Issues include whether the administrative law judge erred in dismissing without prejudice the operator's application for review of withdrawal order).
6. Republic Steel Corporation, PENN 80–56–R, etc. (Issues include whether the administrative law judge erred in dismissing without prejudice the operator's application for review of withdrawal order).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–6820–12 Filed 9–4–80; 2:55 pm]

BILLING CODE 6820–12–M

4

INTERSTATE COMMERCE COMMISSION.

Notice of Federal/State Intercity Bus Conference.

TIME AND DATE:

9 a.m.–5 p.m., Monday, September 22, 1980

and

8:30 a.m.–1 p.m, Tuesday, September 23, 1980.

PLACE: National Academy of Science Conference Center, 2101 Constitution Avenue NW., Washington, D.C. 20418.

STATUS: Open meeting.

PURPOSE: To assist Congress and the Commission in determining what regulatory reforms, if any, are appropriate for the intercity bus industry.

DISCUSSION AGENDA:

1. The current status of federal and state regulations of the bus industry.
2. Pending federal legislation (H.R. 7677) and legislative proposals under preparation by the Commission staff which will be available prior to the conference.
3. The impact of total economic deregulation in the State of Florida.
4. The present and prospective problems of Federal and State entry, exit, and rate regulations.
5. Coordination of Federal and State Regulations.

Note.—Although the conference will be informal, the proceedings will be documented and made available to those unable to attend.

CONTRACT FOR ADDITIONAL INFORMATION: Mr. Martin D. Zell, Deputy Director, State/Community Affairs, (202) 275–7138.

[S–1655–80 Filed 9–4–80; 2:56 pm]

BILLING CODE 7035–01–M

5

[NM–80–32]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 58297, September 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, September 9, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first two items will be open to the public; the third item will be closed under Exemption 9B of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Multiple Vehicle Collision and Fire, U.S. Route 101, Los Angeles, California, March 3, 1980.
2. *Pipeline Accident Report*—Cordele Georgia Gas Department, Explosion and Fire, Cordele, Georgia, February 21, 1980, and *Recommendations* to the Research and Special Programs Administration, U.S. Department of Transportation, and to the city of Cordele, Georgia.
3. *Aircraft Accident Report*—Redcoat Air Cargo, Ltd., Bristol Britannia 253F, G–BRAC, Billerica, Massachusetts, February 16, 1980.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–462–6822.

September 4, 1980.

[S–1657–80 Filed 9–5–80; 3:22 pm]

BILLING CODE 4910–58–M

federal register

Monday
September 8, 1980

Part II

Department of Transportation

Federal Aviation Administration

Non-Federal Navigation Facilities; Proposed Microwave Landing System Requirements

V45/175 SE8 80 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 171

[Docket No. 20669; Notice No. 80-15]

Non-Federal Navigation Facilities; Proposed Microwave Landing System Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes minimum standards and procedures for the approval, installation, operation, and maintenance of a Microwave Landing System (MLS) facility that is not operated and maintained by the FAA or other Federal agency. MLS is a system which has been specifically designed to take the place of the Instrument Landing System (ILS) that has been used at commercial airports in the United States and around the world since 1945. MLS is projected to meet both civil and military requirements for the foreseeable future and will provide more flexibility in terminal area operations, abate noise, be cost effective and promote standardization. MLS has been selected by the International Civil Aviation Organization (ICAO) for installation at terminal areas of member States. The need for this system arose from the fact that as terminal areas became more congested because of an increase in air traffic, an improved system was needed to handle the increase. MLS fulfills this need. Since these facilities may be operated and maintained by persons other than the FAA, the requisite standards and procedures to operate these facilities in the National Airspace System must be provided in the form of a regulation to govern those activities.

DATE: Comments must be received on or before November 7, 1980.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 20669, 800 Independence Avenue, S.W., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. Comments delivered must be marked: Docket No. 20669. Comments may be examined in Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Sotires P. Mantis, Airway Facilities Service, (AAF-720), Airway Systems Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3008.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of these proposals may also be submitted. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address indicated above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, for examination by interested persons both before and after the closing date for comments, in the Rules Docket. A report summarizing each substantive public contact with FAA personal concerned with this rule making will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 20669." The postcard will be date/time stamped and returned to the commenter.

II. Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-3058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

III. Background

The search for an adequate replacement for the present Instrument Landing System (ILS) has been underway for several decades. ILS was adopted for national service in 1941 and has been installed at approximately 700 locations in the United States. ILS is also the international standard and as such is installed in many other locations worldwide. Although significant improvements in system design have been made since it entered service, ILS is basically the creation of an older technology which limits its utility in some applications and falls short of meeting the full range of operational requirements as now defined nationally and internationally.

In 1967, the Radio Technical Commission for Aeronautics (RTCA) formed a special committee (SC-117) to collect user requirements and synthesize a set of operational requirements which would meet the needs of a wide range of civil and military users for precision approach and landing guidance well into the future. The RTCA operational requirements emerged in 1969 with a recommendation that microwave systems using a Doppler or scanning beam signal format should be investigated for implementation.

In the early 1970s ICAO adopted similar operational requirements and invited member states to propose candidate systems as a successor to the standard ILS. In July 1971, a U.S. National Plan for the joint development of an MLS was published by the Department of Transportation (DOT), Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA). The time referenced scanning beam (TRSB) MLS which emerged from this development program became the U.S. candidate system proposed for international adoption. In April 1978 ICAO selected the TRSB MLS for international standardization.

It should be noted that an interim standard microwave landing system (ISMLS) was adopted in 1975 for use at locations where a VHF/UHF ILS would not perform in an effective manner, or where the need for a low approach service would be better served by the use of the ISMLS. This system was intended as an adjunct to the ILS system and was considered necessary to fulfill some immediate aviation growth needs during a transition period. That transition period was the time necessary to develop an MLS which meets international standards.

IV. Need for the Regulation

This regulation makes provision for approval of an instrument approach procedure using an MLS not provided by the Federal Government, which will satisfy the needs of various operators. Among these are operators who desire an instrument approach procedure but do not qualify for Federally provided equipment; operators who qualify for Federally provided equipment but prefer an MLS to an ILS; operators with locations on which the ILS cannot be properly sited; and operators who desire immediate installation of an MLS system without having to wait for the installation of a Federal system.

The MLS system proposed herein provides for a ±10° approach sector and glideslopes from 3° to 5°. This minimal system does not preclude the use of additional units to produce a system with a wider approach sector, steeper glidepaths, a back azimuth capability, precision DME, or the use of redundant units to maximize system availability. While the MLS specified in this proposal is the minimum system which would be approved for use in an IFR procedure, the provisions of this proposed subpart are not intended to prevent the selection of an MLS system which has increased performance characteristics, as long as the system incorporates the standardized MLS signal format.

A draft finding of no significant environmental impact can be found in the public docket for this rulemaking action.

V. Relationship to International Standards

Subsequent to the ICAO selection of an MLS in 1978, the process of creating and adopting international Standards and Recommended Practices (SARPS) has proceeded. The basic SARPS, which will assure interoperability between ground and airborne equipments, are in an advanced stage of preparation.

In March 1980, the All Weather Operations Panel of ICAO determined that these standards are sufficiently mature for adoption and recommended inclusion of MLS angle SARPS and guidance material in Annex 10 to the Convention of International Civil Aviation. Subsequently, ICAO has scheduled a divisional meeting for April 1981 to allow member States to consider and approve this recommendation.

The FAA has and will continue to fully participate in the international standardization process. This participation will ensure that the MLS described in this subpart remains compatible with the international standard.

VI. Synopsis of Proposals

The FAA is considering adding a new subpart to Part 171 of the Federal Aviation Regulations to provide requirements for a non-Federal MLS facility. This proposal sets forth minimum requirements that must be met before the FAA authorizes instrument flight rule approaches to the airport and air traffic control procedures incorporating that facility. Such a facility would be designed to interface with existing and planned Federal facilities and systems. The proposed sections are as follows:

A. Definitions (proposed § 171.303). The proposal describes twenty one definitions in an initial section that apply throughout the subpart.

B. Requests for IFR procedure (proposed § 171.305). That section lists the requirements for each person who requests an IFR procedure based on an MLS facility which that person owns. The required information includes a description of the facility and shows that the equipment meets specified performance requirements; a proposed procedure for operating the facility; a proposed maintenance organization and manual; a statement of intent to meet the requirements of the proposed subpart, and a demonstration that the MLS facility has an acceptable level of operational reliability and maintainability. A provision also specifies the procedures to be followed after the FAA inspects and evaluates the facility.

C. Minimum requirements for approval (proposed § 171.307). That proposed section prescribes the minimum requirements that must be met before the FAA approves an IFR procedure for an MLS facility. Those requirements relate to performance, installation, operation, maintenance, operational records, inspection, withdrawal from service, and costs.

D. General requirements (proposed § 171.309). That proposed section describes the MLS as a precision approach and landing guidance system which provides position information and various ground to air data. It also states that the position information is provided in a wide coverage section and is determined by an azimuth angle measurement, an elevation angle measurement and a range (distance) measurement. An MLS constructed to meet the requirements of this subpart must include: approach azimuth equipment, associated monitor, remote control and indicator equipment; approach elevation equipment, associated monitor remote control and indicator equipment; optional back azimuth equipment with associated monitor, remote control and indicator equipment; a means for the transmission of basic data words with associated monitor, remote control and indicator equipment; and Distance Measuring Equipment (DME), VHF Marker Beacons (75 MHz) or both, with associated monitor, remote control and indicator equipment. That proposed section also prescribes environmental ambient conditions covering temperature, humidity, wind, hail, rain, and ice loading that the electronic equipment must meet when installed in shelters and outdoors. The MLS and its components must meet specified standards prescribed under this proposed subpart.

E. Signal format requirements (proposed § 171.311). Signals radiated by the MLS must conform to the TRSB signal format. Specific minimum requirements govern such things as frequency assignment, transmission rates and sequences, digital codes, and data modulation.

F. Azimuth performance requirements (proposed § 171.313). The performance requirements for the azimuth equipment components of the MLS are listed. Included are requirements concerning approach and back azimuth coverage, siting, accuracy and antenna coordinates and characteristics.

G. Approach azimuth monitor and back azimuth monitor and approach elevation monitor systems (proposed §§ 171.315 and 171.319). Those proposed sections prescribe monitor system that must provide an "Executive Alert" to the designated control points if any one of several conditions persist, such as an abnormal reduction in radiation power.

H. Approach elevation performance requirements (proposed § 171.317). The performance requirements for the elevation equipment components of the MLS included are requirements as to elevation coverage, siting, accuracy, and antenna coordinates and characteristics.

I. DME and marker beacon performance requirements (proposed § 171.321). DME equipment must meet the performance requirements prescribed in Subpart G of this part and marker beacon equipment must meet the performance requirements prescribed in Subpart H of this part. Both subparts impose requirements that performance features must comply with International Standards and Recommended Practice, Aeronautical Telecommunications, Part I, to ICAO Annex 10.

J. Fabrication and installation requirements (proposed § 171.323). The MLS facility must be permanent in nature and located, constructed and installed in accordance with best commercial engineering practices, and with applicable safety codes and Federal Communications Commission (FCC) licensing requirements. Suitable primary and secondary power sources must be provided. The facility must also have, or be supplemented by ground, air or landline communications services with the location of antenna phase centers and the runway centerline at threshold determined by a survey within certain limits of accuracy.

K. Maintenance, operations requirements, and operational records

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(proposed §§ 171.325 and 171.327). The owner of the facility must establish an adequate maintenance system and provide qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. The owner must have an approved operations and maintenance manual that sets forth the mandatory procedures for operations and periodic and emergency maintenance. Also, the owner of the facility, or his maintenance representative, must submit the following data at the indicated time to the appropriate FAA regional office (1) Facility Equipment Performance and Adjustment Data (FAA Form 198); (2) Facility Maintenance Log (FAA Form 6030-1); and (3) Technical Performance Records (FAA Form 418).

VII. General

The performance requirements proposed in this notice are derived from the draft SARPS on MLS developed by ICAO. The new SARPS were based partly on field tests and engineering evaluations conducted by the FAA.

In addition, persons affected by this rule making action should determine the applicability of FCC regulations to the installation and operation of the MLS. The regulations of the FCC applicable to radio frequency allocation and use are found in Parts 2 and 87 of the Title 47 of the Code of Federal Regulations.

As part of the requirements, the FAA also proposes to incorporate by reference several technical documents. The following documents are available for inspection in accordance with § 171.71, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161: FAA Handbook 8260.3A, and FAA Handbook AOP 8200.1, and the provisions of FAA-G-2100 governing quality control, type testing, reliability, standard parts selection and maintainability.

It should also be noted that publication of this notice at this time provides no assurance that the standards and procedures used in this proposed system will be ultimately adopted in this present form by ICAO for international use or by FAA or a Federal MLS system.

VIII. The Proposed Amendment

Accordingly, the FAA proposed to amend Part 171 of the Federal Aviation Regulations (14 CFR Part 171) by adding a new Subpart J to read as follows:

Subpart J—Microwave Landing System (MLS)

Sec.
171.301 Scope.
171.303 Definitions.
171.305 Requests for IFR procedure.
171.307 Minimum requirements for approval.
171.309 General requirements.
171.311 Signal format requirements.
171.313 Azimuth performance requirements.
171.315 Azimuth monitor system.
171.317 Approach elevation performance requirements.
171.319 Approach elevation monitor system.
171.321 DME and marker beacon performance requirements.
171.323 Fabrication and installation requirements.
171.325 Maintenance and operations requirements.
171.327 Operational records.

Authority: Sections 305, 307, 313(a), 601, and 606, Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1346, 1348, 1354(a), and 1421, and 1426); Section 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c).

Subpart J—Microwave Landing System (MLS)

§ 171.301 Scope.

This subpart sets forth minimum requirements for the approval, installation, operation and maintenance of non-Federal Microwave Landing System (MLS) facilities that provide the basis for instrument flight rules (IFR) and air traffic control procedures.

§ 171.303 Definitions.

As used in this subpart:

"Back azimuth reference datum" means a point located 15 meters (50 feet) above the runway centerline at the runway midpoint.

"Basic data" means data transmitted by the ground equipment that are associated directly with the operation of the landing guidance system.

"Clearance guidance sector" means the volume of airspace, inside the coverage sector, within which the azimuth guidance information provided is not proportional to the angular displacement of the aircraft, but is a constant left or right indication on which side the aircraft is with respect to the proportional guidance sector.

"Control Motion Noise (CMN)" means those fluctuations in the guidance which affect aircraft attitude, control surface motion, column motion, and wheel motion. Control motion noise is evaluated by filtering the flight error record with a band-pass filter which has corner frequencies at 0.3 radian/sec and 10 radians/sec for azimuth data and 0.5 radian/sec and 10 radians/sec for elevation data.

"Data rate" means the average number of times per second that transmissions occur for a given functional element.

"Differential Phase Shift Keying (DPSK)" means differential phase modulation of the radio frequency carrier with relative phase states of 0 degrees or 180 degrees.

"Guard time" means an unused period of time provided in the transmitted signal format to allow for equipment tolerances.

"Integrity" means that quality which relates to the trust which can be placed in the correctness of the information supplied by the facility.

"Mean corrective time" means the average time required to correct an equipment failure over a given period, after a service technician reaches the facility.

"Mean course error" means the mean value of the azimuth error along a specified radial of an azimuth function.

"Mean glide path error" means the mean value of the elevation error along the extended glidepath of an elevation function.

"Mean time between failures" means the average time between equipment failures over a given period.

"Microwave Landing System (MLS)" means the MLS selected by ICAO for international standardization.

"Minimum glidepath" means the lowest angle of descent along the zero degree azimuth that is consistent with published approach procedures and obstacle clearance criteria.

"MLS approach reference datum" means a point 15 meters (50 feet) above the runway on any glidepath that is consistent with published approach procedures and obstacle clearance criteria.

"MLS datum point" means a point defined by the intersection of the runway centerline with a vertical plane perpendicular to the centerline and passing through the elevation antenna phase center.

"Out of Coverage Indication (OCI)" means special pulses radiated outside the angle guidance region by sector antennas. The power level of these pulses is chosen to prevent acquisition and tracking of any sidelobe or reflected signal by a receiver and to provide a positive indication that the airborne receiver is outside the normal coverage sector.

"Path Following Error (PFE)" means the guidance perturbations which the aircraft will follow. It is composed of a path following noise and of the mean course error in the case of azimuth functions, or the mean glidepath error in the case of elevation functions. Path following errors are evaluated by filtering the flight error record with a second order low pass filter which has corner frequencies at 0.5 radian/sec for azimuth data and 1.5 radians/sec for elevation data.

"Path Following Noise (PFN)" means that portion of the guidance signal error which could cause aircraft displacement from the mean course line or mean glidepath as appropriate.

"Split-site ground station" means the type of ground station in which the azimuth portion of the ground station is located on the centerline beyond the stop end of the runway, and the elevation portion is located alongside the runway near the approach end.

"Time Division Multiples (TDM)" means that each function is transmitted on the same frequency in time sequence, with a distinct preamble preceding each function transmission.

§ 171.305 Requests for IFR procedure.

(a) Each person who requests an IFR procedure based on an MLS facility which that person owns must submit the following information with that request:

(1) A description of the facility and evidence that the equipment meets the performance requirements of §§ 171.309, 171.311, 171.313, 171.315, 171.317, 171.319, and 171.321 and is fabricated and installed in accordance with § 171.323.

(2) A proposed procedure for operating the facility.

(3) A proposed maintenance organization and a maintenance manual that meets the requirements of § 171.325.

(4) A statement of intent to meet the requirements of this subpart.

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience with a facility with identical design and operational characteristics will be considered in showing compliance with this subparagraph.

(b) FAA inspects and evaluates the MLS facility, it advises the owner of the results, and of any required changes in the MLS facility or in the maintenance manual or maintenance organization. The owner must then correct the deficiencies, if any, and operate the MLS facility for an in-service evaluation by the FAA.

§ 171.307 Minimum requirements for approval.

(a) The following are the minimum requirements that must be met before the FAA approves an IFR procedure for a non-Federal MLS facility:

(1) The performance of the MLS facility, as determined by flight and ground inspection conducted by the FAA, must meet the requirements of §§ 171.309, 171.311, 171.313, 171.315, 171.317, 171.319, and 171.321.

(2) The fabrication and installation of the equipment must meet the requirements of § 171.323.

(3) The owner must agree to operate and maintain the MLS facility in accordance with § 171.325.

(4) The owner must agree to furnish operational records as set forth in § 171.327 and agree to allow the FAA to inspect the facility and its operation whenever necessary.

(5) The owner must assure the FAA that he will not withdraw the MLS facility from service without the permission of the FAA.

(6) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspection made before the MLS facility is commissioned, except that the FAA may bear certain costs subject to budgetary limitations and policy established by the Administrator.

(b) [Reserved.]

§ 171.309 General requirements.

(a) The MLS is a precision approach and landing guidance system which provides position information and various ground-to-air data. The position information is provided in a wide coverage sector and is determined by an azimuth angle measurement, an elevation angle measurement and a range (distance) measurement.

(b) An MLS constructed to meet the requirements of this subpart must include:

(1) Approach azimuth equipment, associated monitor, remote control and indicator equipment.

(2) Approach elevation equipment, associated monitor, remote control and indicator equipment.

(3) A means for the transmission of basic data words, associated monitor, remote control and indicator equipment.

(4) Distance measuring equipment (DME), and/or VHF marker beacons (75 MHz) associated monitor, remote control and indicator equipment.

(c) In addition to the equipment required in paragraph (b) of this section the MLS may include:

(1) Back azimuth equipment, associated monitor, remote control and indicator equipment.

(2) A wider proportional guidance sector which exceeds the minimum specified in § 171.313.

Note.—The MLS signal format will accommodate additional functions (e.g., flare elevation) which may be included as desired.

(d) MLS ground equipment must be designed to operate on an nominal 120/240 volt, 60 Hz, 3-wire single phase AC power source and must meet the following service conditions:

(1) AC line parameters, DC voltage, elevation and duty:

120 VAC nominal value—102 V to 138 V (±1 V)*
240 VAC nominal value—204 V to 276 V (±2 V)*
60 Hz AC line frequency—57 Hz to 63 Hz (±0.2 Hz)*
24 VDC nominal value—20 V to 30 V (±0.25 V)*
Elevation—0 to 3000 meters (10,000 feet) above sea level
Duty—Continuous, unattended

(2) Ambient conditions within the shelter for electronic equipment installed in shelters are:

Temperature—−10° C to +50° C
Relative humidity—5% to 90%

(3) Ambient conditions for electronic equipment and all other equipment installed outdoors (for example, antenna, field detectors, and shelters):

Temperature—−50° C to +70° C
Relative humidity—5% to 100%

(4) All equipment installed outdoors must operate satisfactorily under the following conditions:

Wind Velocity—The ground equipment shall remain within monitor limits with wind velocities of up to 70 knots from such directions that the velocity component perpendicular to runway centerline does not exceed 35 knots. The ground equipment shall withstand winds up to 100 knots from any direction without damage.
Hail Stones—1.25 centimeters (½ inch) diameter
Rain—Provide coverage through a distance of 9 kilometers (5 nautical miles) with rain falling at a rate of 50 millimeters (2 inches) per hour, and rain falling at the rate of 25 millimeters (1 inch) per hour for the additional 28 kilometers (15 nautical miles).
Ice Loading—Encased in 1.25 centimeters (½ inch) radial thickness of clear ice
Antenna Radome De-Icing—Down to 6° C (20° F) and wind up to 48 KPH (30 MPH)

(e) The azimuth and elevation transmitter frequency of an MLS must be in accordance with the frequency plan approved by the FAA.

(f) The MLS must perform in accordance with the following standards and practices in order to be approved for IFR use:

(1) The DME component listed in paragraph (b)(4) of this section must comply with the minimum standard performance requirements specified in Subpart G of this Part. The marker beacon components listed in paragraph (b)(4) of this section must comply with the minimum standard performance requirements specified in Subpart H of

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*Note: Where discrete values of the above frequency or voltages are specified for testing purposes, the tolerances given in parentheses indicated by an asterisk apply to the test instruments used to measure these parameters.

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this Part. All components must comply with the provisions of the latest edition of specification FAA-G-2100 governing quality control, type testing, reliability and maintainability.

§ 171.311 Signal format requirements.

The signals radiated by the MLS must conform to the Time Reference Scanning Beam (TRSB) signal format. In this format, angle guidance functions and data functions are transmitted sequentially on the same C-band frequency. Each function is identified by a unique digital code which initializes the airborne receiver for proper processing. The signal format must meet the following minimum requirements:

(a) *Frequency Assignment.* The ground components (except DME/Marker Beacon) must operate on a single frequency assignment or channel, using time division multiplexing and have 200 channels spaced 300 KHz apart with center frequencies from 5031.0 MHz to 5090.7 MHz and with channel numbering as shown in Table 1. The operating radio frequencies of all ground components must not vary by more than ±10 KHz from the assigned frequency. Any one transmitter frequency must not vary more than ±50 Hz in any one second period.

TABLE 1. FREQUENCY CHANNEL PLAN

Channel No.	Frequency (MHz)
500	5031.0
501	5031.3
502	5031.6
503	5031.9
504	5032.2
505	5032.5
506	5032.8
507	5033.1
508	5033.4
509	5033.7
510	5034.0
511	5034.3
.	.
.	.
.	.
598	5060.4
599	5060.7
600	5061.0
601	5061.3
.	.
.	.
.	.
698	5090.4
699	5090.7

(b) *Polarization.* (1) The radio frequency emissions from all ground equipment must be nominally vertically polarized. Any horizontally polarized radio frequency emission component from the ground equipment must not have incorrectly coded angle information such that the limits specified in subparagraphs (2) and (3), below are exceeded.

(2) Rotation of the receiving antenna thirty degrees from the vertically polarized position shall not cause the guidance information to change by more than 40% of the allowable path following error applicable at that location.

(3) All system accuracy limits are to be met with the receiving antenna up to thirty degrees from the vertically polarized position.

(c) *Modulation Requirements.* Each function transmitter must be capable of DPSK and continuous wave (CW) modulations of the RF carrier which have the following characteristics:

(1) DPSK. The DPSK signal must have the following characteristics:

Bit rate—15.625KHz
Bit length—64 usec.
Logic "0"—no phase transition
Logic "1"—phase transition
Phase transition—less than 10 usec.

It is intended that the phase transition be made with the least amplitude decrease that is consistent with the requirements of paragraph (d) of this section. Figure 1 illustrates the amplitude characteristics of two logic "1" bits in sequence. Control in the transition region must be such that the time interval between adjacent 90% points does not exceed 10 usec and the rise and fall of the amplitude in the transition region is symmetrical. The phase characteristics inside the transition region must be as linear as possible and in no case deviate more than ±90 degrees from a linear transition.

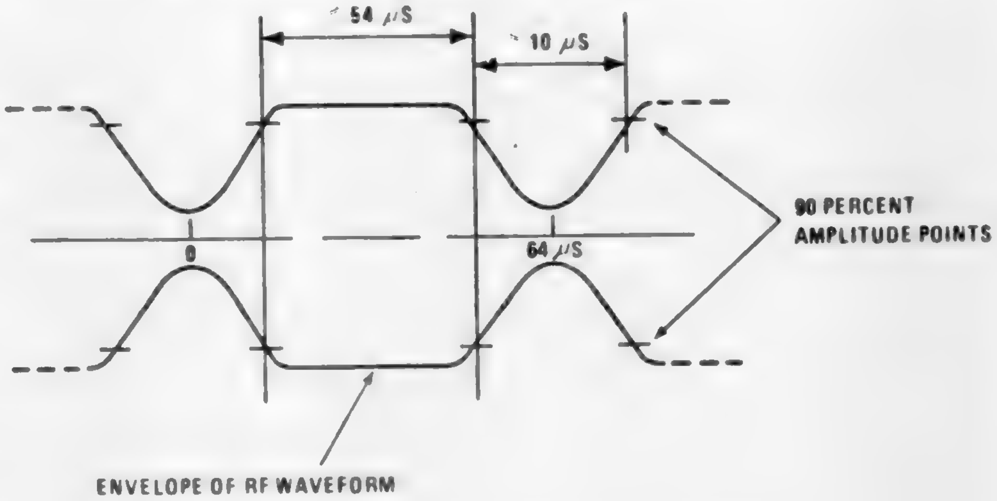

FIGURE 1. DPSK WAVEFORM CHARACTERISTICS

(2) CW. The CW pulse transmissions and the CW angle transmissions as may be required in the signal format of any function must have rise and fall times such that the requirements of paragraph (d) of this section are met.

(d) *Spectral Control.* The transmitted signal must be such that during the transmission time, the mean power density above a height of 600 meters (2000 feet) does not exceed −100.5 dBW/m² for angle guidance and −95.5 dBW/m² for data, as measured in a 150 KHz bandwidth centered at a frequency of 840 KHz or more from the assigned frequency.

(e) *Synchronization.* Synchronization between the azimuth and elevation components is required and, in split-site configurations, would normally be accomplished by landline interconnections. Synchronization monitoring must be provided to preclude function overlap.

(f) *Transmission Rates.* Angle guidance and data signals must be transmitted at the following average repetition rates:

Function	Average data rate (per second)
Approach azimuth	13
High rate approach azimuth	[1] 39
Approach elevation	39
Back azimuth	6.5
Basic data	([2])

[1] The higher rate is recommended for azimuth scanning antennas with beamwidths greater than two degrees. It should be noted that the time available in the signal format for additional functions is limited when the higher rate is used.

[2] See table 7.

(g) *Transmission Sequences.* Sequences of angle transmissions which will generate the required repetition rates are shown in Figures 2 and 3.

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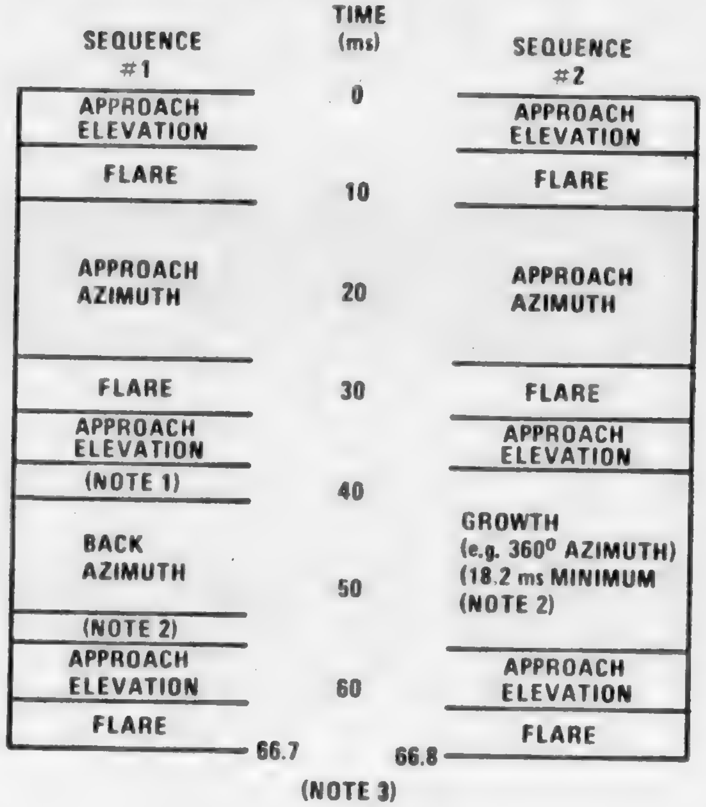
SEQUENCE #1
TIME (ms)
SEQUENCE #2
APPROACH ELEVATION
FLARE
APPROACH AZIMUTH
FLARE
APPROACH ELEVATION
(NOTE 1)
BACK AZIMUTH
(NOTE 2)
APPROACH ELEVATION
FLARE
0
10
20
30
40
50
60
66.7
66.8
(NOTE 3)
APPROACH ELEVATION
FLARE
APPROACH AZIMUTH
FLARE
APPROACH ELEVATION
GROWTH (e.g. 360° AZIMUTH) (18.2 ms MINIMUM (NOTE 2)
APPROACH ELEVATION
FLARE

NOTES:

1. WHEN BACK AZIMUTH IS PROVIDED, BASIC DATA WORD #2 MUST BE TRANSMITTED ONLY IN THIS POSITION.
2. BASIC DATA WORDS MAY BE TRANSMITTED IN ANY OPEN TIME PERIODS.
3. THE TOTAL TIME DURATION OF SEQUENCE #1 PLUS SEQUENCE #2 MUST NOT EXCEED 134 ms.

FIGURE 2. TRANSMISSION SEQUENCE PAIR WHICH PROVIDES FOR ALL MLS ANGLE GUIDANCE FUNCTIONS

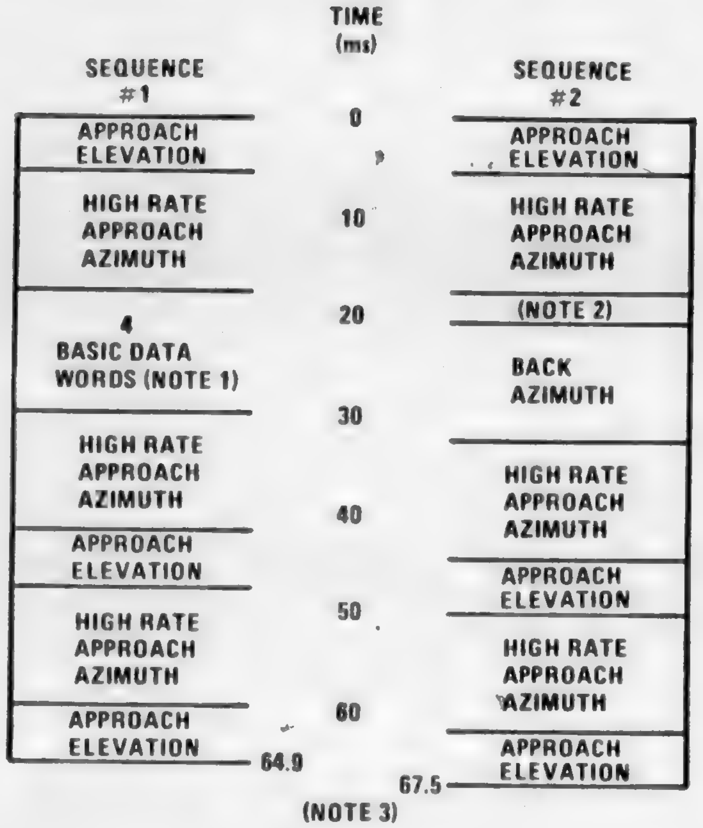
SEQUENCE #1
TIME (ms)
SEQUENCE #2
APPROACH ELEVATION
HIGH RATE APPROACH AZIMUTH
4 BASIC DATA WORDS (NOTE 1)
HIGH RATE APPROACH AZIMUTH
APPROACH ELEVATION
HIGH RATE APPROACH AZIMUTH
APPROACH ELEVATION
0
10
20
30
40
50
60
64.9
67.5
(NOTE 3)
APPROACH ELEVATION
HIGH RATE APPROACH AZIMUTH
(NOTE 2)
BACK AZIMUTH
HIGH RATE APPROACH AZIMUTH
APPROACH ELEVATION
HIGH RATE APPROACH AZIMUTH
APPROACH ELEVATION

NOTES:

1. BASIC DATA WORDS MAY BE TRANSMITTED IN ANY OPEN TIME PERIODS.
2. WHEN BACK AZIMUTH IS PROVIDED, BASIC DATA WORD #2 MUST BE TRANSMITTED ONLY IN THIS POSITION.
3. THE TOTAL TIME DURATION OF SEQUENCE #1 PLUS SEQUENCE #2 MUST NOT EXCEED 134 ms.

FIGURE 3. TRANSMISSION SEQUENCE PAIR WHICH PROVIDES FOR THE MLS HIGH RATE APPROACH AZIMUTH ANGLE GUIDANCE FUNCTION

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(h) *TDM Cycle.* The time periods between angle transmission sequences must be varied so that exact repetitions do not occur within periods of less than 0.5 second in order to protect against synchronous interference. One such combination of sequences is shown in Figure 4 which forms a full multiplex cycle. Basic data may be transmitted during suitable open times within or between the sequences.

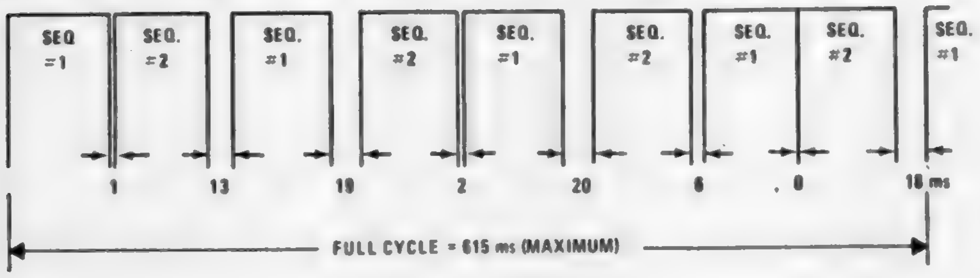
SEQ =1
SEQ. =2
SEQ. #1
SEQ. #2
SEQ. =1
SEQ. #2
SEQ. #1
SEQ. #2
SEQ. #1
1
13
19
2
20
6
0
18 ms
FULL CYCLE = 615 ms (MAXIMUM)

FIGURE 4. A COMPLETE FUNCTION MUTIPLEX CYCLE

Note.—Angle sequences are those from Figure 2 or 3. Do not mix sequences.

(i) *Function Formats (General).* Each angle function must contain the following elements: a preamble; sector signals; and a TO and FRO angle scan organized as shown in Figure 5a. Each data function must contain a preamble and a data transmission period organized as shown in Figure 5b.

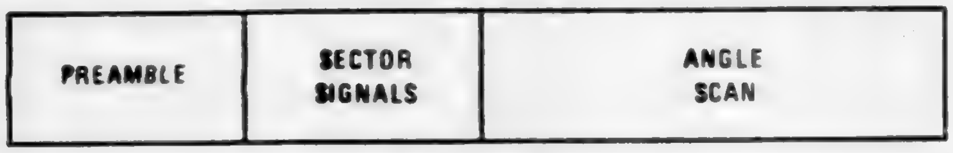
PREAMBLE
SECTOR SIGNALS
ANGLE SCAN

(a) ANGLE FUNCTION

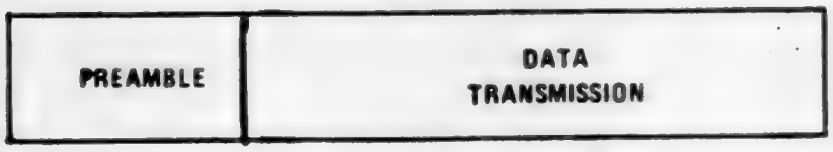
PREAMBLE
DATA TRANSMISSION

(b) DATA FUNCTION

FIGURE 5. FUNCTION FORMAT

(1) *Preamble Format.* The transmitted angle and data functions must use the preamble format shown in Figure 6. This format consists of a carrier acquisition period of unmodulated CW transmission followed by a receiver synchronization code and a function identification code. The preamble timing must be in accordance with Table 2.

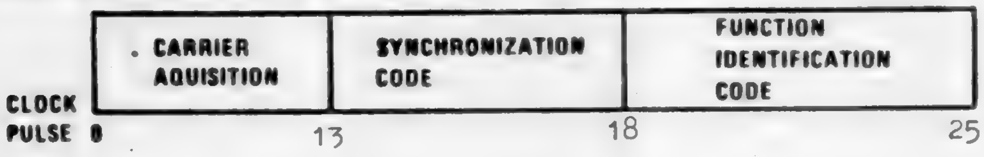
CARRIER AQUISITION
SYNCHRONIZATION CODE
FUNCTION IDENTIFICATION CODE
CLOCK PULSE
0
13
18
25

FIGURE 6. PREAMBLE ORGANIZATION

(i) *Digital Codes.* The coding used in the preamble for receiver synchronization is a Barker code logic 11101. Receiver timing is established on the transition to the last bit (I_5) of the code (see Table 2). The function identification codes must be as shown in Table 3. The last two bits (I_{11} and I_{12}) of the code are parity bits obeying the equations:

$I_6+I_7+I_8+I_9+I_{10}+I_{11}=$ Even

$I_6+I_8+I_{10}+I_{12}=$ Even

(ii) *Data Modulation.* The digital code portions of the preamble must be DPSK modulated (171.311(c)(1)) and must be transmitted throughout the function coverage volume.

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TABLE 2. PREAMBLE TIMING *

EVENT	EVENT TIME SLOT BEGINS AT: 15.625 KHz CLOCK PULSE (NUMBER)	TIME (milliseconds)
CARRIER ACQUISITION (CW TRANSMISSION)	0	0
RECEIVER REFERENCE TIME CODE:		
$I_1 = 1$	13	0.832
$I_2 = 1$	14	0.896
$I_3 = 1$	15	0.960
$I_4 = 0$	16	1.024
$I_5 = 1$	17	1.088**
FUNCTION IDENTIFICATION CODE:		
I_6	18	1.152
I_7	19	1.216
I_8	20	1.280
I_9 (see Table 3)	21	1.344
I_{10}	22	1.408
I_{11}	23	1.472
I_{12}	24	1.536
END PREAMBLE	25	1.600

* Applies to all functions transmitted.

** Reference time for receiver synchronization for all function timing.

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TABLE 3. FUNCTION IDENTIFICATION CODES

FUNCTION	CODE						
	I_6	I_7	I_8	I_9	I_{10}	I_{11}	I_{12}
APPROACH AZIMUTH	0	0	1	1	0	0	1
HIGH RATE APPROACH AZIMUTH	0	0	1	0	1	0	0
APPROACH ELEVATION	1	1	0	0	0	0	1
BACK AZIMUTH	1	0	0	1	0	0	1
BASIC DATA 1	0	1	0	1	0	0	0
BASIC DATA 2	0	1	1	1	1	0	0
BASIC DATA 3	1	0	1	0	0	0	0
BASIC DATA 4	1	0	0	0	1	0	0
BASIC DATA 5	1	1	0	1	1	0	0
BASIC DATA 6	0	0	0	1	1	0	1
BASIC DATA 7	1	1	1	0	0	1	1

TABLE 4a. APPROACH AZIMUTH FUNCTION TIMING

EVENT	EVENT TIME SLOT BEGINS AT:	
	15.625 KHz CLOCK PULSE (NUMBER)	TIME (milliseconds)
PREAMBLE	0	0
MORSE CODE	25	1.600
ANTENNA SELECT	26	1.664
REAR OCI	32	2.048
LEFT OCI	34	2.176
RIGHT OCI	36	2.304
TO TEST	38	2.432
TO SCAN *	40	2.560
PAUSE		8.760
MID SCAN POINT		9.060
FRO SCAN *		9.360
FRO TEST		15.560
END FUNCTION (AIRBORNE)		15.688
END GUARD TIME; END FUNCTION (GROUND)		15.900

* The actual commencement and completion of the TO and FRO scan transmissions are dependent on the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of ±62 degrees.

(2) *Angle Function Formats.* The timing of the angle transmissions must be in accordance with Tables 4a, 4b, and 5.

(i) *Preamble.* Must be in accordance with requirements of § 171.311(i)(1).

(ii) *Sector Signals.* In all azimuth formats, sector signals must be transmitted to provide Morse Code identification, airborne antenna selection, and system test signals. These signals are not required in the elevation formats. In addition, if an installed ground subsystem has undesirable flag actions outside the guidance sector, OCI signals must be radiated as provided for in the signal format (see Tables 4a, 4b, and 5). The sector signals are defined as follows:

(A) *Morse Code.* DPSK transmissions that will permit Morse Code facility identification in the aircraft by a four letter code starting with the letter "M" must be included in all azimuth functions. They must be transmitted and repeated at approximately equal intervals, not less than six times per minute, during which time the ground subsystem is available for operational use. When the transmissions of the ground subsystem are not available, the identification signal must be suppressed. The audible tone in the aircraft is started by setting the Morse Code bit to logic "I" and stopped by a logic "O" (see Tables 4a and 4b). The identification code characteristics must conform to the following: the dot must be between 0.13 and 0.16 second in duration, and the dash between 0.39 and 0.48 second. The duration between dots and/or dashes must be one dot plus or minus 10%. The duration between characters (letters) must not be less than three dots.

(B) *Airborne Antenna Selection.* A signal for airborne antenna selection shall be transmitted as a "zero" DPSK signal lasting for a six-bit period (See Tables 4a and 4b).

TABLE 4b. HIGH RATE APPROACH AZIMUTH AND BACK AZIMUTH FUNCTION TIMING

EVENT	EVENT TIME SLOT BEGINS AT:	
	15.625 KHz CLOCK PULSE (NUMBER)	TIME (milliseconds)
PREAMBLE	0	0
MORSE CODE	25	1.600
ANTENNA SELECT	26	1.664
REAR OCI	32	2.048
LEFT OCI	34	2.176
RIGHT OCI	36	2.304
TO TEST	38	2.432
TO SCAN *	40	2.560
PAUSE		6.760
MID SCAN POINT		7.060
FRO SCAN *		7.360
FRO TEST		11.560
END FUNCTION (AIRBORNE)		11.688
END GUARD TIME; END FUNCTION (GROUND)		11.900

* The actual commencement and completion of the TO and FRO scan transmissions are dependent upon the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of ±42 degrees. Scan timing shall be compatible with accuracy requirements.

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TABLE 5. APPROACH ELEVATION FUNCTION TIMING

EVENT	EVENT TIME SLOT BEGINS AT: 15.625 KHz CLOCK PULSE (NUMBER)	TIME (milliseconds)
PREAMBLE	0	0
PROCESSOR PAUSE	25	1.600
OCI	27	1.728
TO SCAN *	29	1.856
PAUSE		3.406
MID SCAN POINT		3.606
FRO SCAN *		3.806
END FUNCTION (AIRBORNE)		5.356
END GUARD TIME; END FUNCTION (GROUND)		5.600

* The actual commencement and completion of the TO and FRO scan transmissions are dependent upon the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of -1.5 degrees to +29.5 degrees. Scan timing shall be compatible with accuracy requirements.

(C) *OCI.* Where provided, the OCI pulses must be: (1) greater than any guidance signal in the OCI sector; (2) at least 5dB less than the level of the scanning bean within the proportional guidance sector; and (3) for azimuth functions with clearance signals, at least 5dB less than the level of the left (right) clearance pulses within the left (right) clearance sector. The duration of each OCI pulse must be 0.128 ms, and the rise and fall times must be less than 10 microseconds.

(D) *System Test.* A pair of CW pulses for system test must be provided on each azimuth function transmission in the time slots as shown in Tables 4a and 4b. The duration of each pulse must be 0.128 ms, and the time separation of the pulse centers (T_t) must be as shown in Table 6. The actual value of T_t must not deviate more than 2 microseconds on any one scan nor more than 1 microsecond average over any one-second interval.

(iii) *Angle encoding.* The encoding must be as follows:

(A) *General.* Azimuth and elevation angles are encoded by scanning a narrow beam between the limits of the proportional coverage sector first in one direction (the "TO" scan) and then in the opposite direction (the "FRO" scan). Angular information must be encoded by the amount of time separation between the beam centers of the TO and FRO scanning beam pulses. Angular coding must be linear with angle and properly decoded using the formula:

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$\theta = \frac{V}{2}(T_o - t)$ where:

θ = Receiver angle in degrees

V = Scan velocity in degrees per microsecond

T_o = Time separation in microseconds between TO and FRO beam centers corresponding to zero degrees.

t = Time separation in microseconds between TO and FRO beam centers

The timing requirements are listed in Table 6 and illustrated in Figure 7.

TABLE 6. ANGLE SCAN TIMING CONSTANTS

FUNCTION	MAX VALUE OF $_t$ (usec)	T_o (usec)	V (deg/msec)	T_m (usec)	PAUSE Time (usec)	T_t (usec)
Approach Azimuth	13,000	6,800	20	7,972	600	13,128
High Rate Approach Azimuth	9,000	4,800	20	5,972	600	9,128
Approach Elevation	3,500	3,350	20	2,518	400	N/A
Back Azimuth	9,000	4,800	20	5,972	600	9,128

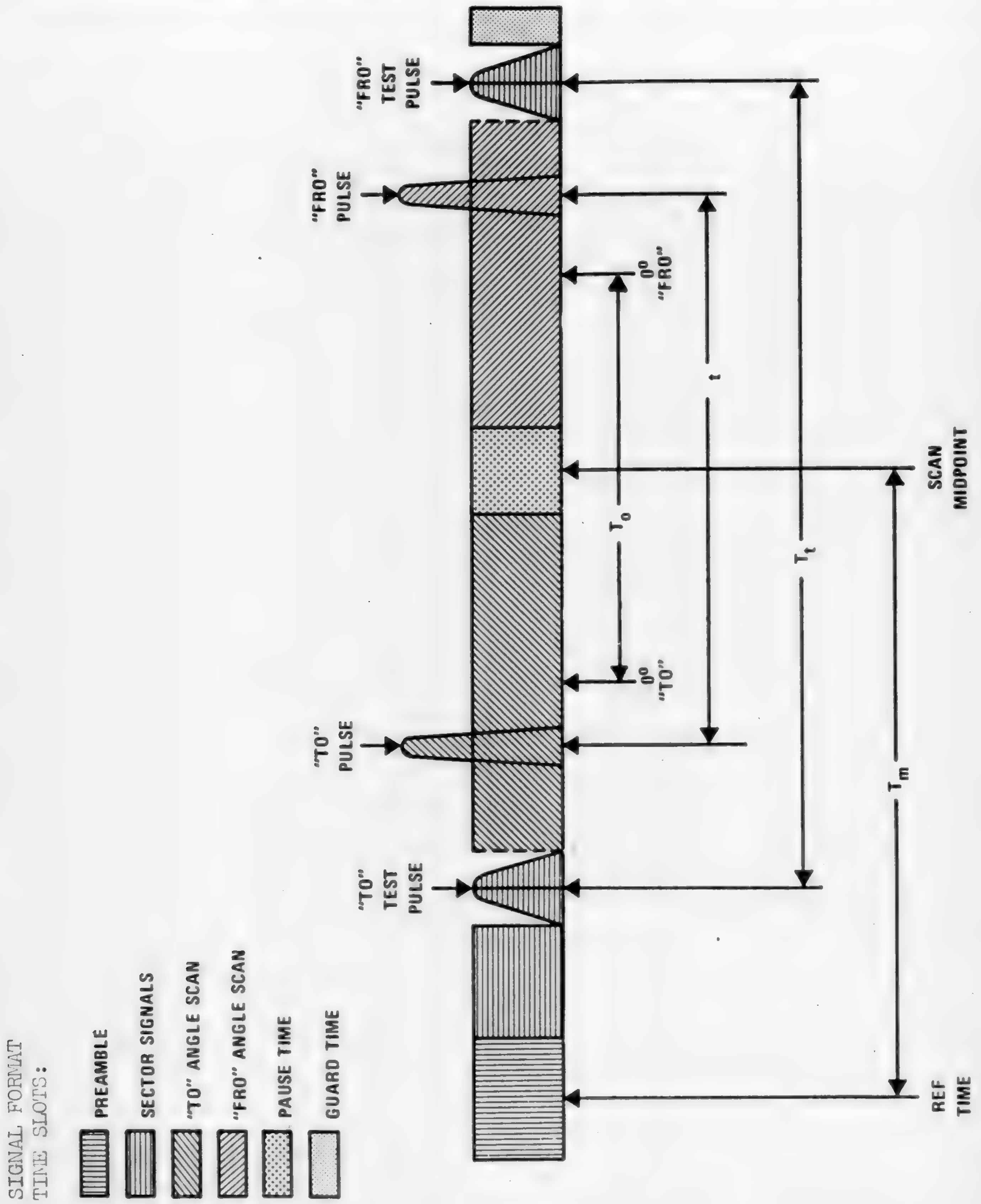
SIGNAL FORMAT TIME SLOTS:
PREAMBLE
SECTOR SIGNALS
"TO" ANGLE SCAN
"FRO" ANGLE SCAN
PAUSE TIME
GUARD TIME
"FRO" TEST PULSE
"FRO" PULSE
0° "FRO"
t
SCAN MIDPOINT
T_0
T_t
0° "TO"
"TO" PULSE
"TO" TEST PULSE
T_m
REF TIME

FIGURE 7. AZIMUTH ANGLE SCAN TIMING (NOT TO SCALE)

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(B) *Azimuth Angle Encoding.* The radiation from azimuth equipment must produce a beam that scans from negative to positive azimuth angles and then scans back through the proportional coverage sector. The antenna has a narrow beam in the plane of the scan direction and broad beam in the orthogonal plane which fills the vertical coverage. Increasing positive angles must be seen as a clockwise rotation when viewed from above. Zero angle must be defined along the runway centerline in the approach sector.

(C) *Elevation Angle Encoding.* The radiation from elevation equipment must produce a beam which scans from the horizon up to the highest elevation angle and then scans back down to the horizon. The antenna has a narrow beam in the plane of the scan direction and a broad beam in the orthogonal plane which fills the horizontal coverage. Elevation angles are defined from the horizontal plane containing the antenna phase center; positive angles are above the horizontal and zero angle is along the horizontal.

(iv) *Clearance Guidance.* The timing of the clearance pulses must be in accordance with Figure 8. For azimuth elements with proportional coverage of less than ±40 degrees, clearance guidance information must be provided by transmitting pulses in a TO and FRO format adjacent to the stop/start times of the scanning beam signal. The right clearance pulses must represent positive angles and the left clearance pulses must represent negative angles. The duration of each clearance pulse must be 50 microseconds with a tolerance of ±2 microseconds. The transmitter switching time between the clearance pulses and the scanning beam transmission must not exceed 1 microsecond. The rise time at the edge of the clearance pulse not adjacent to the scanning beam must be less than 10 microseconds. In the right clearance guidance sector, the transmitted right clearance pulses must exceed the transmitted left clearance pulses by more than 15 dB and must exceed the sidelobes of the scanning beam signal by at least 5 dB. The right clearance pulses must be at least 5 dB below the scanning beam level at the scanning beam positive angle scan limit. The converse applies to the left clearance guidance sector. Clearance guidance pulses must be at least 5 dB greater than any other signal in the appropriate clearance sector.

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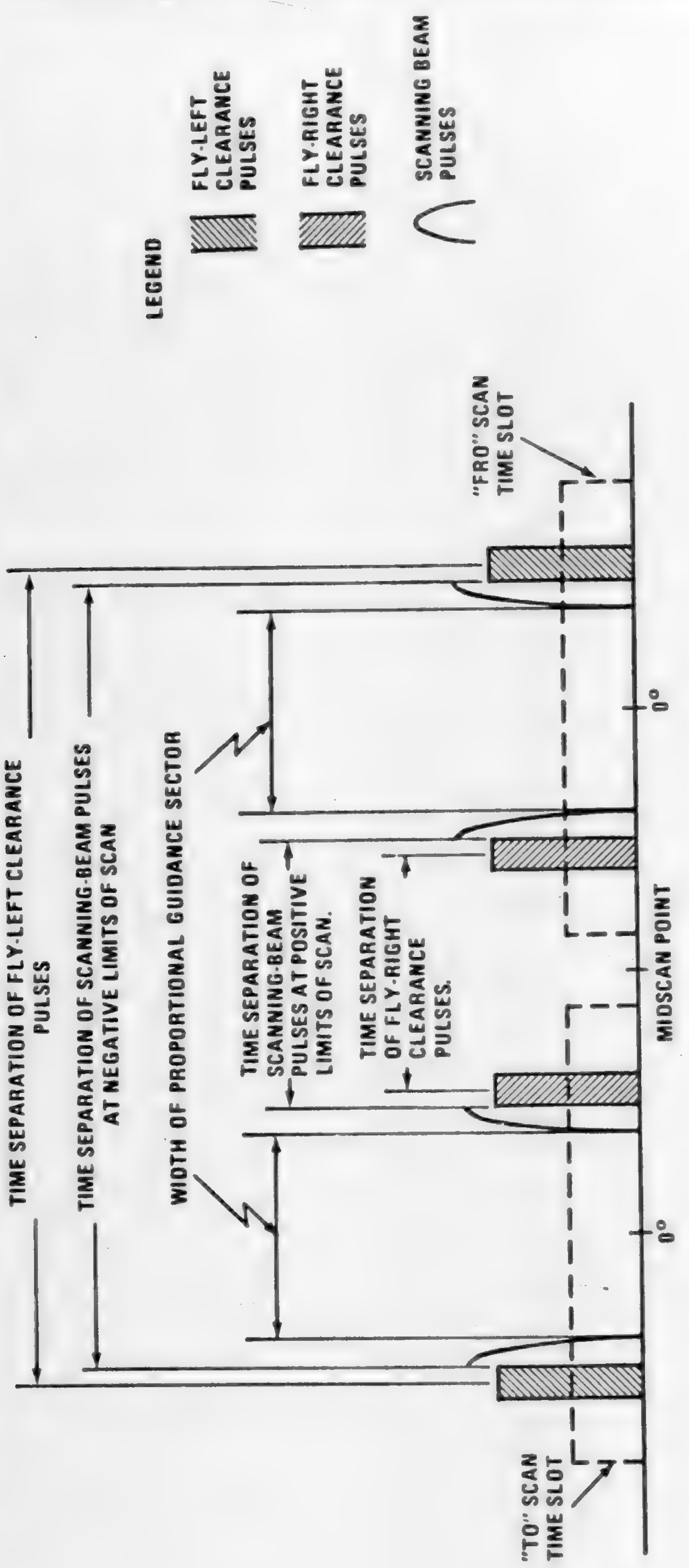
LEGEND
FLY-LEFT CLEARANCE PULSES
FLY-RIGHT CLEARANCE PULSES
SCANNING BEAM PULSES
TIME SEPARATION OF FLY-LEFT CLEARANCE PULSES
TIME SEPARATION OF SCANNING-BEAM PULSES AT NEGATIVE LIMITS OF SCAN
WIDTH OF PROPORTIONAL GUIDANCE SECTOR
TIME SEPARATION OF SCANNING-BEAM PULSES AT POSITIVE LIMITS OF SCAN.
TIME SEPARATION OF FLY-RIGHT CLEARANCE PULSES.
"FRO" SCAN TIME SLOT
0°
MIDSCAN POINT
0°
"TO" SCAN TIME SLOT

FIGURE 8. CLEARANCE PULSE TIMING FOR AZIMUTH FUNCTIONS

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(3) *Data Function Format.* Basic data words provide equipment characteristics and certain siting information. Basic data words must be transmitted from an antenna located at the approach azimuth or back azimuth site which provides coverage throughout the appropriate sector. Data function timing must be in accordance with Table 7 as follows:

TABLE 7. BASIC DATA FUNCTION TIMING

EVENT	EVENT TIME SLOT BEGINS AT:	
	15.625 KHz CLOCK PULSE (NUMBER)	TIME (milliseconds)
PREAMBLE	0	0
DATA TRANSMISSION (BITS I_{13} - I_{30})	25	1.600
PARITY TRANSMISSION (BITS I_{31} - I_{32})	43	2.752
END FUNCTION (AIRBORNE)	45	2.880
END GUARD TIME; END FUNCTION (GROUND)		3.100

(i) *Preamble.* Must be in accordance with requirements of Section 171.311(i)(1).

(ii) *Data Transmissions.* Basic data must be transmitted using DPSK modulation. The content and repetition rate of each basic data word must be in accordance with Table 8. For data containing digital information, binary number 1 must represent the lower range limit with increments in binary steps to the upper range limit shown in Table 8.

(j) *Basic Data Word Requirement.* Specific basic data word requirements are as follows:

(1) Approach azimuth to threshold distance must represent the distance from the approach azimuth antenna to runway landing threshold.

(2) Approach azimuth proportional coverage must represent the approach azimuth sector boundaries in which proportional guidance is transmitted.

(3) Ground equipment performance level must represent the operational status of the equipment in use. The exact use of this element is not yet defined.

(4) Approach elevation antenna height must represent the height of the elevation antenna phase center above the MLS datum point.

(5) Approach elevation antenna offset must represent the minimum distance between the elevation antenna phase center and a vertical plane containing the runway centerline.

(6) Back azimuth next function must indicate that the next function to be transmitted will be back azimuth.

(7) Minimum glidepath must represent the minimum glidepath as defined.

(8) Beamwidth must represent, for a particular function, the antenna beamwidth as defined to the nearst least significant bit provided for in the data word.

(9) Approach azimuth guidance alert must represent the elevation angle in the specified azimuth sector which guidance is unreliable or unsafe. A binary code "0" in this message element must indicate that all approach azimuth angles in a particular sector are useable.

(10) DME distance must represent the minimum distance between the phase center of the DME antenna and a vertical plane containing the elevation antenna phase center and the MLS Datum Point.

(11) DME offset must represent the minimum distance between the DME antenna phase center and a vertical plane containing runway centerline.

(12) DME channel must represent the channel designation of the DME associated with the MLS equipment in use.

(13) Approach azimuth antenna offset must represent the minimum distance between the approach azimuth antenna phase center and a vertical plane containing runway centerline.

(14) MLS ground equipment identification must represent the last 3 characters of the system identification specified in Section 171.311(i)(2). The characters must be encoded in accordance with the 5-unit code of the International Telegraph Alphabet No. 2. Even character parity must also be provided.

Note.—Restriction of data content of alpha characters eliminates the need for transmission of signal numbers 29 and 30 designating letters and figures.

(15) Back azimuth antenna distance must represent the minimum distance between the back azimuth antenna phase center and a vertical plane perpendicular to runway centerline which contains the back azimuth reference datum.

(16) Back azimuth proportional coverage represent the back azimuth sector boundaries in which proportional guidance is transmitted.

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TABLE 8. BASIC DATA

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
1	PREAMBLE	0.25	12			$I_1 - I_{12}$
	Approach Azimuth to Threshold Distance		6	100M to 6300M	100M	$I_{13} - I_{18}$
	Approach Azimuth Proportional Coverage Limit		5	-10° to -60°	2°	$I_{19} - I_{23}$
	Approach Azimuth Proportional Coverage Limit		5	+10° to +60°	2°	$I_{24} - I_{28}$
	SPARE		2			$I_{29} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
2	PREAMBLE	0.15	12			$I_1 - I_{12}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{13} - I_{14}$
	Approach Elevation Antenna Height		5	-1M to 5.2M	0.2M	$I_{15} - I_{19}$
	Approach Elevation Antenna Offset		4	30M to 150M	8.0M	$I_{20} - I_{23}$
	Back Azimuth Next Function		1	SEE NOTE 3		I_{24}
	Minimum Glide Path		6	2° to 8.2°	0.1°	$I_{25} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
3	PREAMBLE	10	12			$I_1 - I_{12}$
	Approach Azimuth Beamwidth		2	1° to 4°	1°	$I_{13} - I_{14}$
	Approach Elevation Beamwidth		2	1° to 2.5°	0.5°	$I_{15} - I_{16}$
	Flare Elevation Beamwidth		2	0.5° to 1°	0.25°	$I_{17} - I_{18}$
	Back Azimuth Beamwidth		2	1° to 4°	1°	$I_{19} - I_{20}$

TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
	Approach Azimuth Guidance Sector Alert					
	-60° to -20°		3	1° to 4°	0.5°	I_{21} - I_{23}
	-20° to -5°		2	1° to 4°	1°	I_{24} - I_{25}
	20° to 5°		2	1° to 4°	1°	I_{26} - I_{27}
	60° to 20°		3	1° to 4°	0.5°	I_{28} - I_{30}
	PARITY		2	SEE NOTE 1		I_{31} - I_{32}
4	PREAMBLE	10	12			I_{1} - I_{12}
	DME Distance		11	1M to 8000M	4M	I_{13} - I_{23}
	DME Offset		6	-155M to +155M	5M	I_{24} - I_{29}
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		I_{31} - I_{32}
5	PREAMBLE	10	12			I_{1} - I_{12}
	DME Channel		8	SEE NOTE 2		I_{13} - I_{20}
	Approach Azimuth Antenna Offset		7	-126M to +126M	2M	I_{21} - I_{27}
	SPARE		3			I_{28} - I_{30}
	PARITY		2	SEE NOTE 1		I_{31} - I_{32}
6	PREAMBLE	10	12	SEE NOTE 4		I_{1} - I_{12}
	MLS Ground Subsystem Identification			LETTERS A TO Z		
	Character 2		6			I_{13} - I_{18}
	Character 3		6			I_{19} - I_{24}
	Character 4		6			I_{25} - I_{30}
	PARITY		2	SEE NOTE 1		I_{31} - I_{32}

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TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
7	PREAMBLE	1	12	SEE NOTE 5		$I_1 - I_{12}$
	Back Azimuth Antenna Distance		5	100M to 3100M	100M	$I_{13} - I_{17}$
	Back Azimuth Proportional Coverage Limit		4	-10° to -40°	2°	$I_{18} - I_{21}$
	Back Azimuth Proportional Coverage Limit		4	+10° to +40°	2°	$I_{22} - I_{25}$
	Back Azimuth Beamwidth		2	1° to 4°	1°	$I_{26} - I_{27}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{28} - I_{29}$
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$

NOTE 1 Parity checks an even number of ones in Bits I_{13} to I_{30} and obeys the equations:

$$I_{13} + I_{14} \quad \cdots \quad I_{29} + I_{30} + I_{31} = \text{EVEN}$$

$$I_{14} + I_{16} + I_{18} \quad \cdots \quad I_{28} + I_{30} + I_{32} = \text{EVEN}$$

NOTE 2 Coding not yet defined.

NOTE 3 Code for I_{24} is:

0 No Back Azimuth Transmission
1 Back Azimuth Transmission to follow

NOTE 4 Data word 6 is transmitted alternately throughout the Approach Azimuth and Back Azimuth coverage sectors, such that the maximum time between transmissions is satisfied for each sector.

NOTE 5 Data word 7 is transmitted only in the Back Azimuth coverage sector.

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§ 171.313 Azimuth performance requirements.

This section prescribes the performance requirements for the azimuth equipment of the MLS as follows:

(a) *Approach Azimuth Coverage Requirements.* The approach azimuth equipment must provide guidance information in at least the following volume of space (see Figure 9).

(1) Horizontally within a sector plus or minus 40 degrees about the runway centerline originating at the datum point and extending in the direction of the approach to 20 nautical miles from the runway threshold. The minimum proportional guidance sector must be plus or minus 10 degrees about the runway centerline. Clearance signals must be used to provide the balance of the required coverage, where the proportional sector is less than plus or minus 40 degrees.

(2) Vertically between:

(i) A conical surface originating 2.5 meters (8 feet) above the runway centerline at threshold inclined at 0.9 degree above the horizontal, and

(ii) A conical surface originating at the azimuth ground equipment antenna inclined at 15 degrees above the horizontal to a height of 6000 meters (20,000 feet).

(iii) Where intervening obstacles penetrate the lower surface, coverage need be provided only to the minimum line of sight.

(3) Runway region.

(i) Proportional guidance horizontally within a sector 45 meters (150 feet) each side of the runway centerline beginning at the stop end and extending parallel with the runway centerline in the direction of the approach to join the approach region.

(ii) Vertically between a horizontal surface which is 2.5 meters (8 feet) above the farthest point of runway centerline which is in line of sight of the azimuth antenna, and, a conical surface originating at the azimuth ground equipment antenna inclined at 20 degrees above the horizontal up to a height of 600 meters (2000 feet).

(4) Within the approach azimuth coverage sector defined in (1), (2) and (3) above, the power densities must not be less than those shown in Table 9 under the following conditions:

(i) Transmitter power degraded from normal by −1.5dB;

(ii) Rain loss of −2.2dB at the longitudinal coverage extremes.

(b) *Siting requirements.* The approach azimuth antenna system must, except as allowed in paragraph (c) of this section:

(1) Be located on the extension of the centerline of the runway beyond the stop end;

(2) Be adjusted so that the zero degree azimuth plane will be a vertical plane which contains the centerline of the runway served;

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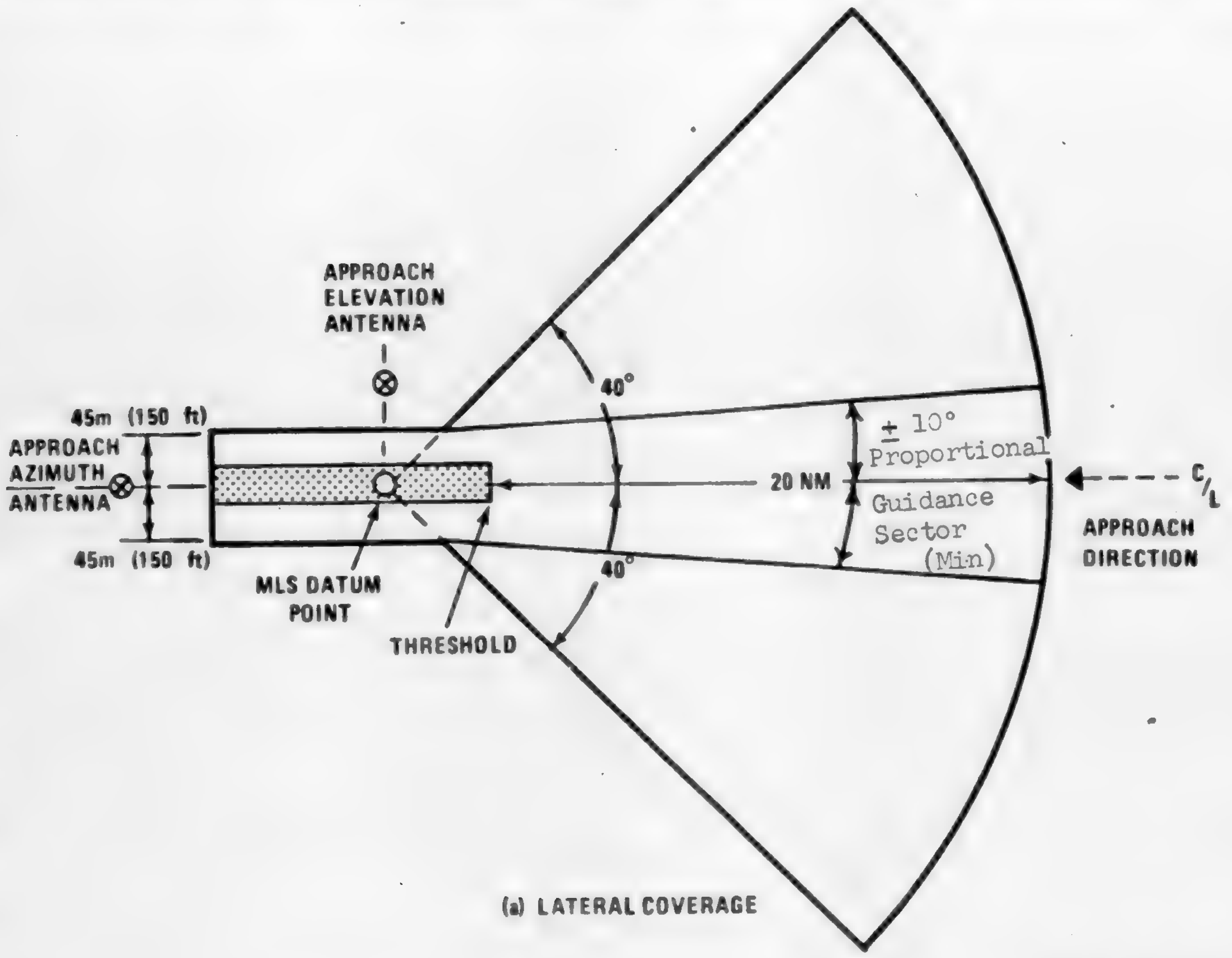
APPROACH ELEVATION ANTENNA
45m (150 ft)
APPROACH AZIMUTH ANTENNA
45m (150 ft)
MLS DATUM POINT
THRESHOLD
40°
40°
± 10° Proportional Guidance Sector (Min)
20 NM
C/L
APPROACH DIRECTION

(a) LATERAL COVERAGE

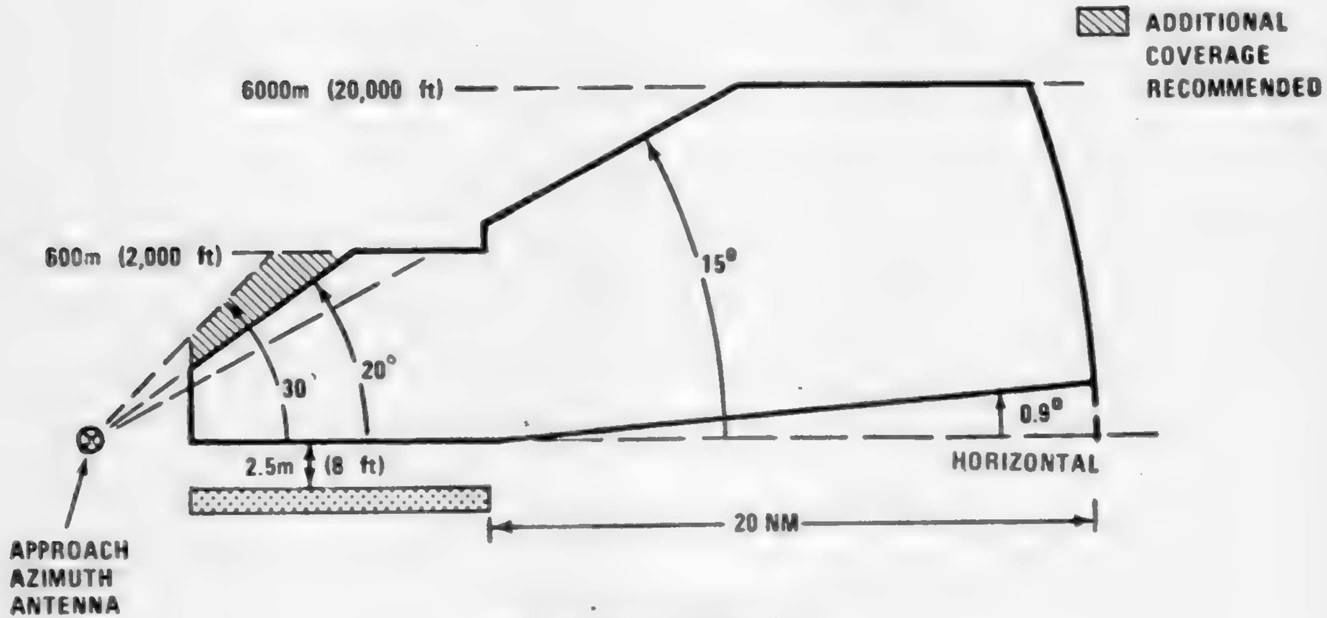
▨ ADDITIONAL COVERAGE RECOMMENDED
6000m (20,000 ft)
600m (2,000 ft)
30°
20°
15°
0.9°
HORIZONTAL
2.5m (8 ft)
20 NM
APPROACH AZIMUTH ANTENNA

(b) VERTICAL COVERAGE

FIGURE 9. APPROACH AZIMUTH COVERAGE

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TABLE 9. AZIMUTH POWER DENSITY REQUIREMENTS (dBW/m²)

Function	DPSK	Clearance	ANTENNA BEAMWIDTH (3dB)		
			1°	2°	3°
Approach Azimuth	-89.5	-88	-88	-85.5	-82
High Rate Approach Azimuth	-89.5	-88	-88	-88	-86.8
Back Azimuth	-81	-88	-79.5	-77	-73.5

(3) Have the minimum height necessary to comply with the coverage requirements prescribed in paragraph (a) of this section;

(4) Be located at a distance from the stop end of the runway that is consistent with safe obstruction clearance practices;

(5) Not obscure any light of an approach lighting system; and

(6) Be installed on frangible mounts or beyond the 300 meter (1000 feet) light bar.

(c) On runways where limited terrain prevents the azimuth antenna from being positioned on the runway centerline extended, and the cost of the land fill or a tall tower antenna support is prohibitive, the azimuth antenna may be offset. If an offset azimuth antenna is used, the criteria in Subpart C of Part 97 of this chaper is applicable.

(d) *Antenna coordinates.* The scanning beams transmitted by the approach azimuth equipment within ± of the centerline may be either conical or planar.

(e) *Approach azimuth accuracy.*

(1) The accuracies shown in Table 10 are required at the approach reference datum. From this point to the longitudinal coverage extremes, the equivalent angular PFE is allowed to increase linearly to 0.5 degree. The equivalent angular CMN at threshold is allowed to increase linearly to 0.2 degree at the coverage extremes. No additional degradations of either PFE or CMN are allowed with azimuth or elevation angle. For the errors allowable in other regions, the accuracy specified at threshold should first be converted to its equivalent angular value with an origin at the antenna.

(2) The system and ground subsystem accuracies shown in Table 10 are to be demonstrated at commissioning as maximum error limits. Subsequent to commissioning, the accuracies are considered to be the 95% probability limits.

TABLE 10. APPROACH AZIMUTH ACCURACIES

		Angular Error (Degrees)	
ERROR TYPE	SYSTEM	GROUND SUBSYSTEM	AIRBORNE (5) SUBSYSTEM
PFE	±20 ft. (1)(2) (6.1m)	0.118 (3)	0.017
CMN	±10.5 ft. (3.2m)(1)(4)	0.030	0.015

Notes.

(1) System angular error calculations assume an antenna to runway threshold distance of 1500 meters (5000 feet).

(2) The PFN component must not exceed ±3.5 meters (11.5 feet).

(3) The mean course error component contributed by the ground equipment must not exceed ±3.0 meters (10 feet).

(4) Aircraft flight control considerations limit the system control motion noise to 0.1°.

(5) The airborne subsystem angular errors are provided for information only.

(f) Approach azimuth antenna characteristics are as follows:

(1) *Drift.* Any azimuth angle as encoded by the scanning beam at any point within the proportional coverage sector must not vary more than ±0.07 degree over the range of service conditions specified in 171.309(c). Multipath effects are excluded from this requirement.

(2) *Beam pointing errors.* The azimuth angle as encoded by the scanning beam at any point within the proportional coverage sector must not deviate from the true azimuth angle at that point by more than ±0.05 degree. Multipath and drift effects are excluded from this requirement.

(3) *Antenna alignment.* The antenna must be equipped with suitable optical and mechanical means to bring the zero degree azimuth radial into coincidence with the vertical plane containing the runway centerline with a maximum error of 0.02 degree. Additionally, the azimuth antenna bias adjustment must be electrically steerable at least to the monitor limits in steps not greater than 0.01 degree.

(4) *Antenna far field patterns in the plane of scan.* On boresight, the azimuth antenna mainbeam pattern must conform to Figure 10, and the beamwidth must not exceed three degrees. The sidelobe levels shown in Figure 10 must be as follows:

(i) Static sidelobe levels, with the antenna not scanning, the sidelobe level at any point in space must not exceed −20dB relative to the amplitude of the mainbeam on boresight.

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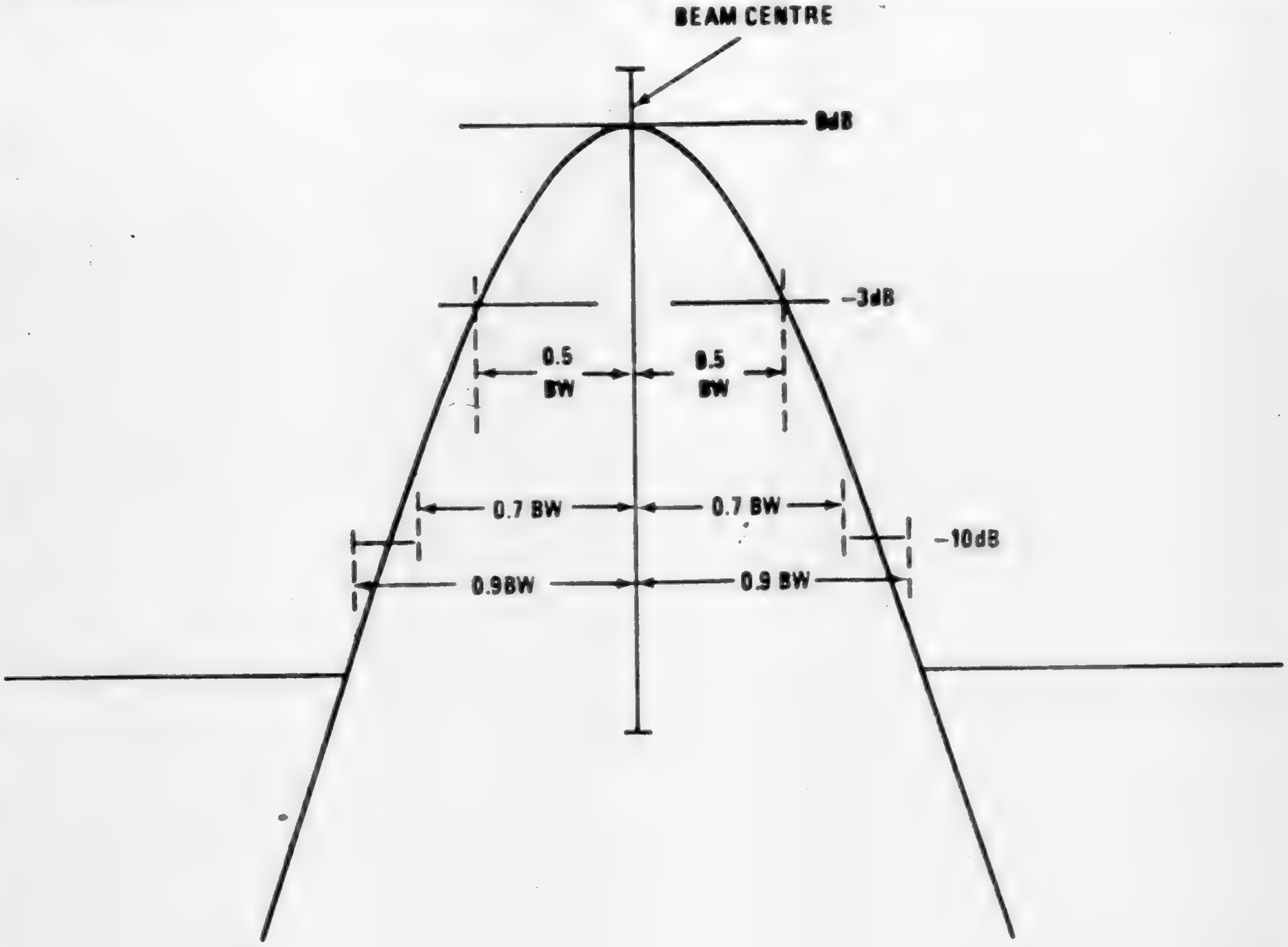
BEAM CENTRE
0dB
−3dB
0.5 BW
0.5 BW
0.7 BW
0.7 BW
−10dB
0.9BW
0.9 BW

NOTES: THE BEAM ENVELOPE IS SMOOTHED BY A 26 kHz VIDEO FILTER BEFORE MEASUREMENT.
BW=BEAMWIDTH.

FIGURE 10. FAR FIELD DYNAMIC SIGNAL IN SPACE

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(ii) *Dynamic sidelobe levels.* With the antenna scanning normally, the sidelobe level detected by a receiver at any point within the proportional coverage sector must not exceed −20dB relative to the mainbeam amplitude on boresight for more than 3% of the time on any single scan. The peak sidelobe level must not exceed −17dB relative to the mainbeam amplitude on boresight.

(5) *Antenna far field pattern in the vertical plane.* The azimuth antenna free space radiation pattern below the horizon must have a slope of at least −8dB/degree at the antenna pattern −6dB point, and all sidelobes below the horizon must be at least 13dB below the pattern peak. The antenna radiation pattern above the horizon must satisfy both the system coverage requirements and the spurious radiation requirement.

(g) *Back azimuth coverage requirements.* The back azimuth equipment must provide guidance information in at least the following volume of space (see Figure 11).

(1) Horizontally within a sector plus or minus 20 degrees about the runway centerline originating at the back azimuth ground equipment antenna and extending in the direction of the missed approach at least to 5 nautical miles from the runway stop end.

(2) Vertically in the runway region between:

(i) A horizontal surface 2.5 meters (8 feet) above the farthest point of runway centerline which is in line of sight of the azimuth antenna, and,

(ii) A conical surface originating at the azimuth ground equipment antenna inclined at 20 degrees above the horizontal up to a height of 600 meters (2000 feet).

(3) Vertically in the back azimuth region between:

(i) A conical surface originating 2.5 meters (8 feet) above the runway stop end, inclined at 0.9 degree above the horizontal, and,

(ii) A conical surface originating at the missed approach azimuth ground equipment antenna, inclined at 15 degrees above the horizontal up to a height of 1500 meters (5000 feet).

(iii) Where obstacles penetrate the lower coverage limits, coverage need be provided only to minimum line of sight.

(4) Within the back azimuth coverage sector defined in (1), (2), and (3) above, the power densities must not be less than those shown in Table 9 under the following conditions:

(i) Transmitter power degraded from normal by −1.5dB.

(ii) Rain loss of −2.2dB at the longitudinal coverage extremes.

(h) *Back azimuth siting.* The back azimuth equipment antenna must normally be located on the extension of the runway centerline at the threshold end, and the antenna must be adjusted so that the vertical plane containing the zero degree course line contains the back azimuth reference datum.

(i) *Back azimuth antenna coordinates.* The scanning beams transmitted by the back azimuth equipment within ±40° of the centerline may be either conical or planar.

(j) *Back azimuth accuracy.* The requirements specified in § 171.313(e) apply.

(k) *Back azimuth antenna characteristics.* The requirements specified in § 171.313(f) apply.

(l) *Scanning conventions.* Figure 12 shows the approach azimuth and back azimuth scanning conventions.

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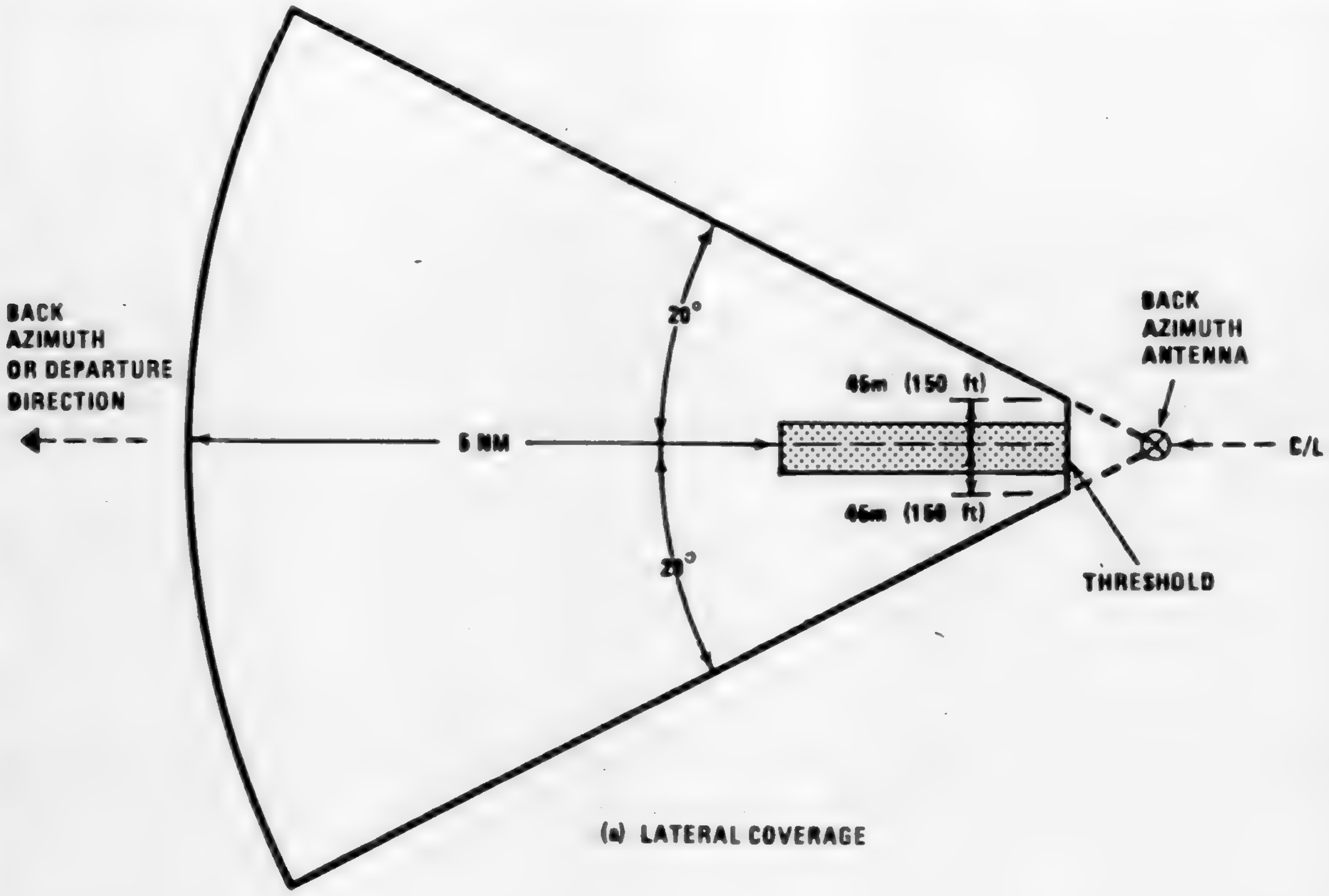
BACK
AZIMUTH
OR DEPARTURE
DIRECTION
20°
5 NM
46m (150 ft)
46m (150 ft)
20°
BACK
AZIMUTH
ANTENNA
C/L
THRESHOLD

(a) LATERAL COVERAGE

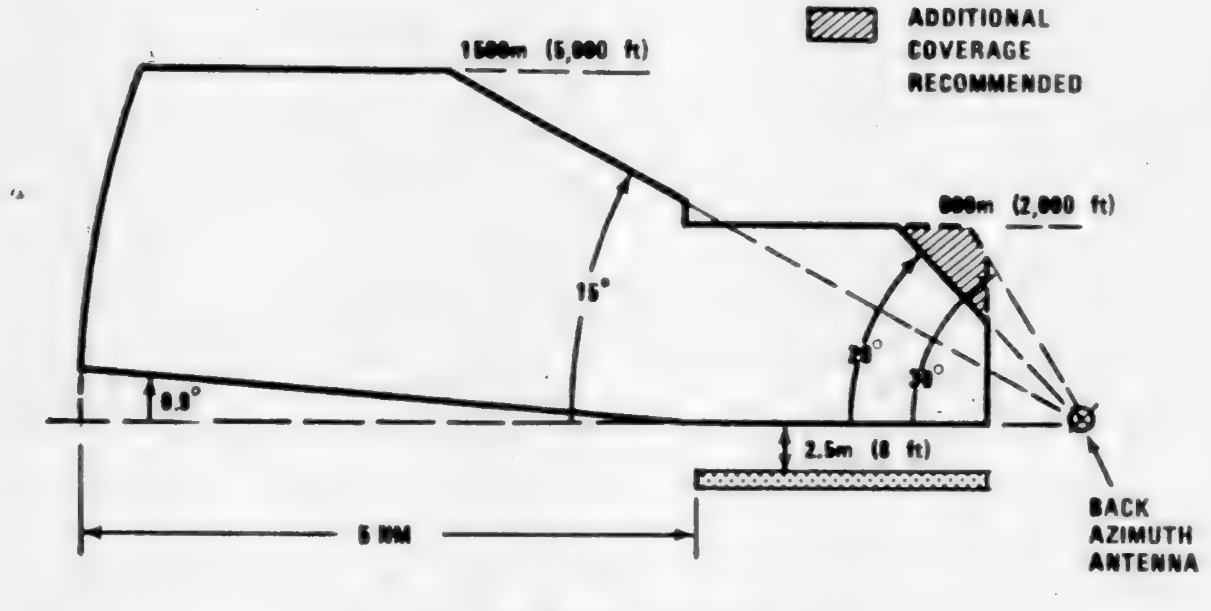
1500m (5,000 ft)
ADDITIONAL
COVERAGE
RECOMMENDED
600m (2,000 ft)
15°
20°
30°
0.9°
2.5m (8 ft)
5 NM
BACK
AZIMUTH
ANTENNA

(b) VERTICAL COVERAGE

FIGURE 11. BACK AZIMUTH COVERAGE

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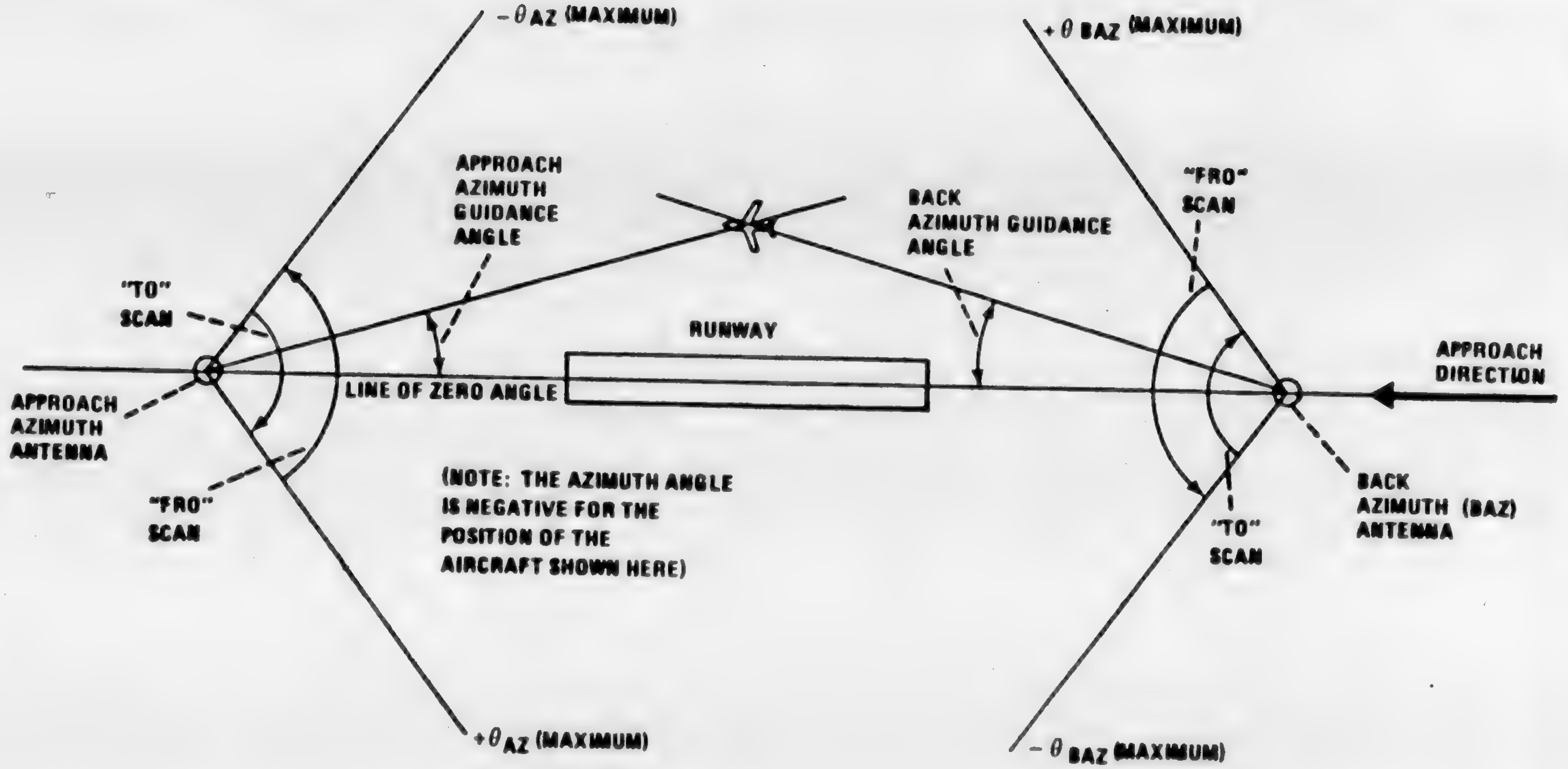
$-\theta_{AZ}$ (MAXIMUM)
$+\theta_{BAZ}$ (MAXIMUM)
APPROACH AZIMUTH GUIDANCE ANGLE
BACK AZIMUTH GUIDANCE ANGLE
"FRO" SCAN
"TO" SCAN
RUNWAY
APPROACH DIRECTION
APPROACH AZIMUTH ANTENNA
LINE OF ZERO ANGLE
BACK AZIMUTH (BAZ) ANTENNA
"FRO" SCAN
"TO" SCAN
(NOTE: THE AZIMUTH ANGLE IS NEGATIVE FOR THE POSITION OF THE AIRCRAFT SHOWN HERE)
$+\theta_{AZ}$ (MAXIMUM)
$-\theta_{BAZ}$ (MAXIMUM)

FIGURE 12. AZIMUTH GUIDANCE FUNCTIONS SCANNING CONVENTIONS

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§ 171.315 Azimuth monitor system.

(a) The approach azimuth or back azimuth monitor system must cause the radiation to cease and a warning must be provided at the designated control point if any of the following conditions persist for longer than the periods specified:

(1) There is a change in the ground equipment contribution to the mean course error component such that the path following error at the reference datum or in the direction of any azimuth radial, exceeds the limits specified in Section 171.313 for a period of more than one second.

(2) There is a reduction in the radiated power to less than that necessary to satisfy the requirements specified in § 171.313 for a period of more than one second.

(3) There is an error in the preamble DPSK transmissions which occurs more than once in any one second period.

(4) The timing standards specified in Table II are exceeded for a period of more than one second.

(5) There is an error in the time division multiplex synchronization of a particular azimuth function such that the requirement specified in Section 171.311(e) is not satisfied and if this condition persists for more than one second.

(6) A failure of the monitor is detected.

TABLE II. SIGNAL FORMAT TIMING TOLERANCES

The internal timing accuracy tolerance of any function format shall be as follows:

SIGNAL FORMAT ITEM	TIMING TOLERANCE
Clearance and OCI Signals	As specified ±2 µsec
DPSK phase transitions	As specified ±2 µsec
TO-FRO scan timing (internal to scan)	As required to meet accuracy specs.

NOTE: The timing jitter relative to the specified value plus the tolerance above, must be less than 1 µsec rms.

(b) The period during which erroneous guidance information is radiated must not exceed the periods specified in § 171.315(a). If the fault is not cleared within the time allowed, the ground equipment must be shutdown. After shutdown, no attempt must be made to restore service until a period of 20 seconds has elapsed.

§ 171.317 Approach elevation performance requirements.

This section prescribes the performance requirements for the elevation equipment components of the MLS as follows:

(a) *Elevation coverage requirements.* The approach elevation facility must provide proportional guidance information in at least the following volume of space (see Figure 13):

(1) Laterally within a sector originating at the datum point which is at least equal to the proportional guidance sector provided by the approach azimuth ground equipment.

(2) Longitudinally from 75 meters (250 feet) from the datum point to 20 nautical miles from threshold in the direction of the approach.

(3) Vertically within the sector bounded by:

(i) A surface which is the locus of points 2.5 meters (8 feet) above the runway surface;

(ii) A conical surface originating at the datum point and inclined 0.9 degree above the horizontal and,

(iii) A conical surface originating at the datum point and inclined at 7.5 degrees above the horizontal up to a height of 6000 meters (20,000 feet).

Where the physical characteristics of the approach region prevent the achievement of the standards under paragraphs (a) (1), (2), and (3) of this section, guidance need not be provided below a conical surface originating at the elevation antenna and inclined 0.9 degree above the line of sight.

(4) Within the elevation coverage sector defined in paragraphs (a) (1), (2) and (3) of this section the power densities must not be less than those shown in Table 12 under the following conditions:

(i) Transmitter power degraded from normal by −1.5dB.

(ii) Rain loss of −2.2dB at the coverage extremes.

(b) Elevation siting requirements. The elevation antenna system must:

(1) Be located within 150 meters (500 feet) of runway centerline.

(2) Be located near runway threshold such that the minimum glidepath crosses runway threshold at a height between 15 and 18 meters (50 and 60 feet).

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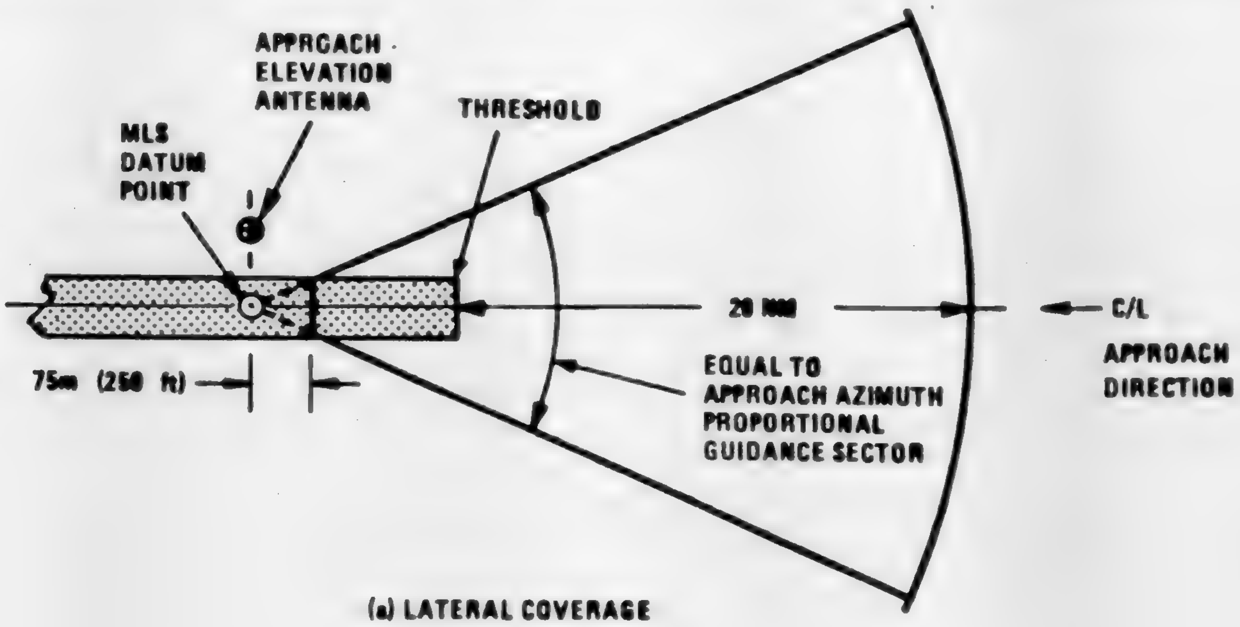
APPROACH ELEVATION ANTENNA
MLS DATUM POINT
THRESHOLD
20 NM
C/L
APPROACH DIRECTION
75m (250 ft)
EQUAL TO APPROACH AZIMUTH PROPORTIONAL GUIDANCE SECTOR

(a) LATERAL COVERAGE

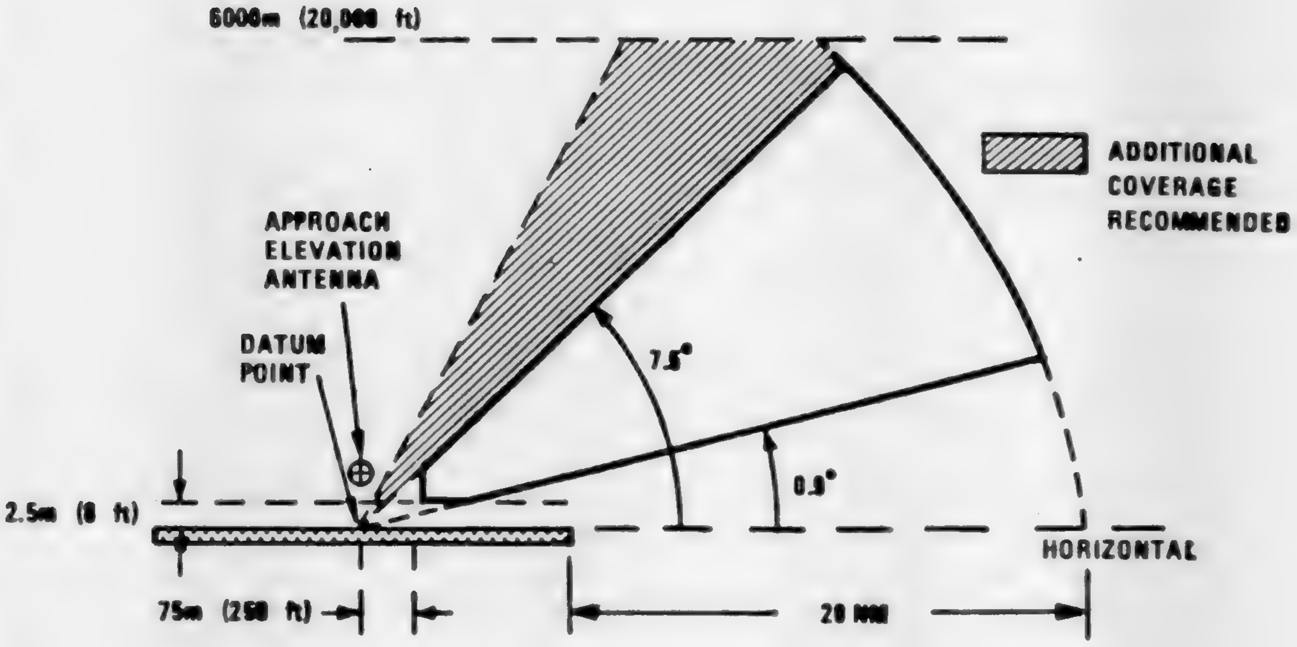
6000m (20,000 ft)
ADDITIONAL COVERAGE RECOMMENDED
APPROACH ELEVATION ANTENNA
DATUM POINT
7.5°
0.9°
2.5m (8 ft)
HORIZONTAL
75m (250 ft)
20 NM

(b) VERTICAL COVERAGE

FIGURE 13. APPROACH ELEVATION COVERAGE

BILLING CODE 4910-13-C

(3) Satisfy obstacle clearance criteria specified in Subpart C of Part 97 of this chapter.

(c) *Antenna coordinates.* The scanning beams transmitted by the elevation subsystem must be conical.

TABLE 12. ELEVATION POWER DENSITY REQUIREMENTS (dBW/m^2)

DPSK	ANTENNA BEAMWIDTH (3dB) 1°	ANTENNA BEAMWIDTH (3dB) 2°
-89.5	-88.0	-88.0

TABLE 13. ELEVATION ACCURACIES

		Angular Error (Degrees)	
ERROR TYPE	SYSTEM	GROUND SUBSYSTEM	AIRBORNE (4) SUBSYSTEM
PFE	±2.0 ft. (1) (0.6m)(2)	0.093 (3)	0.017
CMN	±.75 ft. (0.3m)(1)	0.020	0.010

Notes.—(1) System angular error calculations assume the following: 262 meters (861 feet) antenna to reference datum. Distance calculation assumed 15 meters (50 feet) threshold crossing on 3° glidepath, 3 meters (10 feet) antenna phase center height and a 122 meters (400) feet antenna offset from runway centerline.

(2) The system PFN component shall not exceed ±0.4 meters (1.3 feet).

(3) The mean glidepath error component contributed by the ground equipment must not exceed ±0.3 meters (1 foot).

(4) The airborne subsystem angular errors are provided for information only.

(d) *Elevation accuracy.* (1) The accuracies shown in Table 13 are required at the approach reference datum. From this point, the following accuracy degradations are allowed:

(i) The equivalent angular PFE required at the approach reference datum must be maintained on a particular glidepath angle at any point within the required coverage except as noted in paragraph (d)(1)(ii) of this section. Using the linear value from Table 13 and the actual slant range from the approach reference datum to the elevation antenna phase center, the equivalent angular value may be calculated.

(ii) Above 1500 meters (5000 feet), the PFE must not exceed 0.4 degree or 90 meters (300 feet).

(iii) The equivalent angular CMN required at the approach reference datum is allowed to degrade linearly with range to 0.2 degree at the coverage extremes. Using the linear value from Table 13 and the actual slant range from the approach reference datum to the elevation antenna phase center, the equivalent angular value may be calculated.

(iv) For elevation angles below 60% of the minimum glidepath down to the lower limit of coverage specified, the path following error, the path following noise, and the CMN expressed in angular terms, shall be allowed to increase linearly to 5 times the value on the extended centerline at the same distance from the approach reference datum. In no case shall the path following error be allowed to exceed 0.6 degree.

(2) The system and ground subsystem accuracies shown in Table 13 are to be demonstrated at commissioning as maximum error limits. Subsequent to commissioning, the accuracies are to be considered at 95% probability limits.

(e) Elevation antenna characteristics are as follows:

(1) *Drift.* Any elevation angle as encoded by the scanning beam at any point within the coverage sector must not vary more than 0.04 degree over the range of service conditions specified in Section 171.309(c). Multipath effects are excluded from this requirement.

(2) *Beam pointing errors.* The elevation angle as encoded by the scanning beam at any point within the coverage sector must not deviate from the true elevation angle at that point by more than 0.04 degree. Multipath and drift effects are excluded from this requirement.

(3) *Antenna alignment.* The antenna must be equipped with suitable optical and mechanical means to align the lowest operationally required glidepath to the true glidepath angle with a maximum error of 0.01 degree. Additionally, the antenna bias adjustment must be electronically steerable at least to the monitor limits in steps not greater than 0.005 degree.

(4) *Antenna far field patterns in the plane of scan.* On the lowest operationally required glidepath, the antenna mainbeam pattern must conform to Figure 8, and the beamwidth must not exeed 2 degrees. The sidelobe levels must be as follows:

(i) *Static sidelobe levels.* With the antenna not scanning, the sidelobe level below a 1° elevation angle must be at least 20dB below the peak of the main beam, and above a 1° elevation angle the sidelobe level must be at least 15 dB below the peak of the main beam.

(ii) *Dynamic sidelobe levels.* With the antenna scanning normally, the sidelobe level detected by a receiver at any point in coverage below a 1° elevation angle must not exceed 20dB below the peak of the main beam for more than 3% of the time in a single scan and in no case exceed −17dB relative to the main beam peak. Above a 1 degree elevation angle at any point within coverage, the sidelobe level must not exceed −18dB relative to the peak of the main beam for more than 3% of the time in a single scan and in no case exceed −15dB relative to the peak of the main beam.

(5) *Antenna far field pattern in the horizontal plane.* The horizontal pattern of the antenna shall gradually deemphasize the signal away from antenna boresight. The horizontal pattern shall be reduced by at least 3 dB at 20 degrees off boresight and by at least 6 dB at 40 degrees.

§ 171.319 Approach elevation monitor system.

(a) The monitor system must act to ensure that any of the following conditions do not persist for longer than the periods specified when:

(1) There is a change in the ground component contribution to the mean glidepath error component such that the path following error at the reference datum on any glidepath consistent with published approach procedures and obstacle clearance criteria exceeds the limits specified in § 171.317 for a period of more than one second.

(2) There is a reduction in the radiated power to less than that necessary to satisfy the requirements specified in § 171.317 for a period of more than one second.

(3) There is an error in the preamble DPSK transmissions which occurs more than once in any one second period.

(4) The timing standards specified in Table 11 are exceeded for a period of more than one second.

(5) There is an error in the time division multiplex synchronization of a particular elevation function such that the requirement specified in § 171.311(e) is not satisfied and this condition persists for more than one second.

(6) A failure of the monitor is detected.

(b) The period during which erroneous guidance information is radiated must not exceed the periods specified in § 171.319(a). If the fault is not cleared within the time allowed, radiation shall cease. After shutdown, no attempt must be made to restore service until a period of 20 seconds has elapsed.

§ 171.321 DME and marker beacon performance requirements.

The DME equipment must meet the performance requirements prescribed in Subpart G of this Part. MLS marker beacon equipment must meet the performance requirements prescribed in Subpart H of this Part. Both of these subparts impose requirements that performance features must comply with International Standards and Recommended Practices, Aeronautical Telecommunications, Vol. I of Annex 10 to ICAO.

§ 171.323 Fabrication and installation requirements.

(a) The MLS facility must be permanent and must be located, constructed, and installed in accordance with best commercial engineering practices, using applicable electric and safety codes and Federal Communications Commission (FCC) licensing requirements and §§ 171.313(b) and 171.317(b).

(b) The MLS facility components must utilize solid state technology with a maximum level of common modularity. Diagnostics to facilitate maintenance and troubleshooting must be provided.

(c) An approved monitoring capability must be provided which indicates the status of the equipment at the site and at a remotely located maintenance area, with monitor capability that provides prealarm of impending system failures at the ground subsystem limits shown in Table 10 for azimuth and Table 13 for elevation. This monitoring feature must also be capable of interfacing with FAA remote monitoring requirements.

(d) The mean corrective maintenance time of the MLS equipment must be equal to or less than 0.5 hours with a maximum corrective maintenance time not to exceed 1.5 hours. This measure applies to correction of unscheduled failures of the monitor, transmitter and associated antenna assemblies, limited to unscheduled outage and out of tolerance conditions.

(e) The mean time between failures of the MLS angle system must not be less than 1,500 hours. This measure applies to unscheduled outage, out-of-tolerance conditions, and failures of the monitor, transmitter, and associated antenna assemblies.

(f) The MLS facility must have a reliable source of suitable primary power, either from a power distribution system or locally generated. Adequate power capacity must be provided for the operation of the MLS as well as the test and working equipment of the MLS.

(g) The MLS facility must have a continuously engaged or floating battery power source for the continued normal operation of the ground station operation if the primary power fails. A trickle charge must be supplied to recharge the batteries during to period of available primary power. Upon loss and subsequent restoration of power, the battery must be restored to full charge within 24 hours. When primary power is applied, the state of the battery charge must not affect the operation of the MLS ground station. The battery must allow continuation of normal operation of the MLS facility for at least 3 hours without the use of additional sources of power. The equipment must meet all specification requirements with or without batteries installed.

(h) There must be a means for determining, from the ground, the performance of the equipment including antenna, both initially and periodically.

(i) The facility must have, or be supplemented by ground, air or landline communications services. At facilities within or immediately adjacent to air traffic control areas, that are intended for use as instrument approach aids for an airport, there must be ground air communications or reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communication facility. Compliance with this paragraph need not be shown at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to air traffic control zones or areas, and where extensive delays are not a factor, the requirements of this paragraph may be reduced to reliable communications from the airport to the nearest FAA air traffic control or communications facility. If the adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure down to the minimum en route altitude for the controlled area, this would require at least a landline telephone.

(j) The location of the phase centers for all antennas must be clearly marked on the antenna enclosures.

(k) The latitude, longitude and mean sea level elevation of all antenna phase centers, and the runway threshold will be determined by survey with an accuracy of ±.3 meters (±1.0 foot) laterally and ±.3 meters (±1.0 foot) vertically. The results of this survey will be included in the "operations and maintenance" manual required by § 171.325 of this subpart and will be noted on FAA Form 198 required by § 171.327.

§ 171.325 Maintenance and operations requirements.

(a) The owner of the facility must establish an adequate maintenance system and provide MLS qualified maintenance personnel to maintain the facility at the level attained at the time

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it was commissioned. Each person who maintains a facility must meet at least the FCC licensing requirements and demonstrate that he has the special knowledge and skills needed to maintain an MLS facility, including proficiency in maintenance procedures and the use of specialized test equipment. A written approval of these capabilities must be posted alongside the FCC license.

(b) In the event of out of tolerance conditions or malfunctions, as evidenced by receiving two successive pilot reports, the owner must close the facility by ceasing radiation, and issue a "Notice to Airmen" (NOTAM) that the facility is out of service.

(c) The owner must prepare, and obtain approval of, an operations and maintenance manual that sets forth mandatory procedures for operations, periodic maintenance, and emergency maintenance, including instructions on each of the following:

(1) Physical security of the facility.

(2) Maintenance and operations by authorized persons.

(3) FCC licensing requirements for operations and maintenance personnel.

(4) Posting of licenses and signs.

(5) Relations between the facility and FAA air traffic control facilities, with a description of the boundaries of controlled airspace over or near the facility, instructions for relaying air traffic control instructions and information, if applicable, and instructions for the operation of an air traffic advisory service if the facility is located outside of controlled airspace.

(6) Notice to the Administrator of any suspension of service.

(7) Detailed and specific maintenance procedures and servicing guides stating the frequency of servicing.

(8) Air-ground communications, if provided, expressly written or incorporating appropriate sections of FAA manuals by reference.

(9) Keeping the station logs and other technical reports, and the submission of reports required by Section 171.317.

(10) Monitoring of the MLS facility.

(11) Inspections by United States personnel.

(12) Names, addresses, and telephone numbers of persons to be notified in an emergency.

(13) Shutdowns for periodic maintenance and issuing of NOTAM for routine or emergency shutdowns.

(14) Commissioning of the MLS facility.

(15) An acceptable procedure for amending or revising the manual.

(16) An explanation of the kinds of activities (such as construction or grading) in the vicinity of the MLS facility that may require shutdown or recertification of the MLS facility by FAA flight check.

(17) Procedures for conducting a ground check of the azimuth and elevation alignment, marker beacon power, and modulation.

(18) The following information concerning the MLS facility:

(i) Facility component locations with respect to airport layout, instrument runways, and similar areas.

(ii) The type, make and model of the basic radio equipment that provides the service.

(iii) The station power emission and frequencies of the MLS azimuth, channel, DME, marker beacon, and associated compass locators, if any.

(iv) The hours of operation.

(v) Station identification call letter.

(vi) A description of the critical parts that may not be changed adjusted, or repaired without an FAA flight check to confirm published operations.

(d) The owner or his maintenance representative must make a ground check of the MLS facility periodically in accordance with procedures approved by the FAA at the time of commissioning, and must report the results of the checks as provided in § 171.327.

(e) The only modifications permitted are those that are submitted to FAA for approval by the MLS equipment manufacturer. The owner or sponsor of the facility may incorporate these modifications in the MLS equipment, but must also incorporate these changes, after FAA approval, into the operations and maintenance manual required in (c) above. All other corrections and additions to this operations and maintenance manual must also be submitted to FAA for approval.

(f) The owner or the owner's maintenance representative must participate in inspections made by the FAA.

(g) Whenever it is required by the FAA the owner must incorporate improvements in MLS maintenance.

(h) The owner must ensure the availability of a sufficient stock of spare parts, including solid state components, or modules to make possible the prompt replacement of components or modules that fail or deteriorate in service.

(i) FAA approved test instruments must be used for maintenance of the MLS facility.

(j) Inspection consists of an examination of the MLS equipment to ensure that unsafe operating conditions do not exist.

(k) Monitoring of the MLS radiated signal must ensure a high degree of integrity and minimize the requirements for ground and flight inspection. The monitor must be checked periodically during the in-service test evaluation period for calibration and stability. These tests and ground checks of azimuth, elevation, and marker beacon radiation characteristics must be conducted in accordance with the maintenance requirements of this section.

§ 171.327 Operational records.

The owner of the MLS facility or his maintenance representative must submit the following operational records at the indicated time to the appropriate FAA regional office where the facility is located.

(a) *Facility Equipment Performance and Adjustment Data (FAA Form 198).* The FAA Form 198 shall be filled out by the owner or his maintenance representative with the equipment adjustments and meter readings as of the time of facility commissioning. One copy must be kept in the permanent records of the facility and two copies must be sent to the appropriate FAA regional office. The owner or his maintenance representative must revise the FAA Form 198 data after any major repair, modernization, or returning to reflect an accurate record of facility operation and adjustment.

(b) *Facility Maintenance Log (FAA Form 6030–1).* FAA Form 6030–1 is permanent record of all the activities required to maintain the MLS facility. The entries must include all malfunctions met in maintaining the facility including information on the kind of work and adjustments made, equipment failures, causes (if determined) and corrective action taken. In addition, the entries must include completion of periodic maintenance required to maintain the facility. The owner or his maintenance representative must keep the original of each form at the facility and send a copy to the appropriate FAA regional office at the end of each month in which it is prepared. However, where an FAA approved remote monitoring systems is installed which precludes the need for periodic maintenance visits to the facility, monthly reports from the remote monitoring system control point must be forwarded to the appropriate FAA regional office, and a hard copy retained at the control point.

(c) *Technical Performance Record (FAA Form 418).* FAA Form 418 contains a record of system parameters, recorded on each scheduled visit to the facility. The owner or his maintenance representative shall keep the original of each record at the facility and send a copy of the form to the appropriate FAA regional office.

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the captain "For Further Information Contact."

Issued in Washington, D.C., on August 28, 1980.

Gerald L. Thompson,

Director, Airway Facilities Service.

[FR Doc. 80-27403 Filed 9-5-80; 8:45 am]

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federal register

Monday
September 8, 1980

Part III

Department of Health and Human Services

Office of Human Development Services

Head Start Policy Manual Amendment

V45/175 SE 8 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Head Start Policy Manual Amendment

AGENCY: Office of Human Development Services, DHHS.

ACTION: Notice of proposed policy manual amendment.

SUMMARY: This proposed policy manual amendment prescribes an arbitration procedure for resolution of conflicts between Head Start Agencies and Policy Groups in certain situations. The basis of the proposed amendment is the belief of the Administration for Children, Youth and Families, derived from experience of the past several years, that Head Start Agencies and Policy Groups need to know what to expect of each other in their mutual dealings. Furthermore, a method of resolving their differences in an orderly way will serve to facilitate meaningful parent participation in the Head Start program, and thereby enhance the effectiveness of both the Head Start Agency and the Head Start program itself.

DATE: Written comments must be received on or before October 8, 1980.

ADDRESS: Comments should be directed to: Commissioner, Administration for Children, Youth and Families, Department of Health and Human Services, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Richard H. Johnson, Program Development and Innovation Division, Head Start Bureau, Administration for Children, Youth and Families, (202 755-7700).

SUPPLEMENTARY INFORMATION: The Commissioner for Children, Youth and Families, with the approval of the Assistant Secretary for Human Development Services, proposes to amend the Head Start Policy Manual, Instruction I-30, Section B 2, The Parents (OCD Transmittal Notice 70.2, dated August 10, 1970.) This policy is normally referred to as the Parent Policy.

The current Head Start Performance Standards (45 CFR Part 1304 *et seq.*) specifically provide that all Head Start programs must comply with the parent participation policy set out in the Parent Policy as a condition of being granted financial assistance. Charts B and C of the Parent Policy establish several functions in the administration of programs by a Head Start agency which require the approval of the Policy Group before action can be taken. In referring to the definition as used in Charts B and C of the Parent Policy it states that where the Charts indicate that policy committee or policy council approval is required before a decision is made final or action taken, the policy group " * * * must also have been consulted in the decision-making process prior to the point of seeking approval." It is added that if the policy group does not " * * * the proposal cannot be adopted, or the proposed action taken, until agreement is reached between the disagreeing groups of individuals." As currently written, the Parent Policy does not contain any provision for dealing with a deadlock between the parties other than to prohibit the proposed action. The requirement for Policy Group concurrence has not been a problem for most of the functions in the Parent Policy. Serious problems have arisen when the disagreement between the parties involved the hiring or firing of the Head Start Director, (Charts B and C, III, Personnel Administration, (b) and (d)), or when the conflict involved the provisions of the Head Start Agency's application for refunding or major amendments in budget and work program, (Charts B and C, IV, Grant Application Process, (a) and (b)). Over the past few years, the incidence of such disagreements or impasse has been substantial enough (an estimated five per region per year), to require an inordinate amount of Regional and National Office staff time for their resolution. Frequently, there is serious disruption of services to children and their families enrolled in the program.

The purpose of the proposed amendment is to prescribe a process applicable to the relationship of the parties in the performance of their respective functions. The policy also provides a binding arbitration procedure *only* in the two situations described.

The proposal requires that unresolved conflicts be reduced to writing and that the parties attempt to resolve them by means of additional meetings. If that proves unsuccessful, unresolved conflicts involving (1) hiring or firing of a Head Start Director; or (2) a grant application for refunding or major changes in budget and work programs while the program is in operation, must be submitted to binding arbitration.

Disregard of the revised policy by Head Start agencies, once it becomes final, will be grounds for the denial or refunding or the suspension and termination of financial assistance under existing Head Start regulations. Policy groups, under the proposed amendment, are required to promptly notify the appropriate Regional Office in writing of any such agency disregard of policy in order that timely and appropriate action may be taken by the responsible DHHS official.

(Catalog of Federal Domestic Assistance Program No. 13.600, Administration for Children, Youth and Families—Head Start)

Dated: June 20, 1980.

John A. Calhoun,

Commissioner for Children, Youth and Families.

Approved: August 27, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

The proposed amendment to the Head Start Policy Manual, Instruction I-30, Section B 2, The Parent (OCD Transmittal Notice 70.2, dated August 10, 1970) reads as follows:

C. Standard for Resolving Potential Impasse Situation Between Head Start and the Policy Group

1. Definitions. "Head Start agency" or "agency" means either a grantee or delegate agency acting through its governing board. "Impasse" occurs when the agency proposes the hiring or firing or a Head Start Director, or presents a grant request for refunding or major changes in budget and work programs while the program is in operation, and the Policy Council does not concur in the agency's action within fifteen (15) days or by the time of the next regularly scheduled Policy Council meeting, whichever occurs later. "Policy group" means either a policy council or a policy committee, acting as a body or through its authorized representative or representatives.

2. Preliminary Procedures. a. After informal discussions, if the agency believes the Policy Group will not approve its decision and the agency wants to formalize the approval process, it should notify the Policy Group in writing. The notice shall contain a statement of the reasons in support of the proposed decision or action.

b. Within 10 days after receipt of the notice, the Policy Group shall hold a special meeting for consideration of the agency proposed decision or action.

c. Immediately after the special meeting, the Policy Group shall notify the agency in writing of its approval or disapproval of the proposed decision or action. If the notice is of disapproval, it shall contain a statement of the reasons.

d. In the event of a disapproval and if the agency desires further consideration of the matter, it shall initiate a meeting between itself and the Policy Group for the purpose of attempting to resolve their differences.

e. If, after these efforts, the agency and the Policy Group are unable to reach an agreement, the proposed decision or action shall not be taken; *except* if the impasse is as defined in C-1. In that case, the agency must invoke the arbitration procedures in Section D if it is unwilling to abide by the decision of the Policy Group.

f. If the agency makes the decision or takes the action without invoking the arbitration procedures in Section D, the Policy Group shall promptly notify, in writing, the appropriate Regional Office with a copy of the notice to the agency. The notice shall contain a description of the circumstances in which the agency is alleged to have disregarded or violated the Policy Group approval requirements. Such disregard or violation is a ground for the denial of refunding or the suspension and termination of financial assistance.

D. Arbitration Procedure

Where there is impasse between the agency and the Policy Group the agency must require that it be submitted to binding arbitration in accordance with the following rules and procedures:

1. Arbitration Panel Composition

The arbitration shall be conducted by a panel of three (3) arbiters, one to be designated by the agency, one to be designated by the Policy Group, and the third, who will be the chairperson of the arbitration panel, to be designated by the other two members. The arbiters shall be persons of good reputation and standing in the community and shall not be associated with the Head Start program. If the two arbiters first designated are unable to agree upon a third arbiter who will serve within seven (7) days after the designation of the second of them, they will request the State or local bar association or the American Arbitration Association to name one of its members who would be willing to serve as chairman. None of the arbiters shall be relatives of any of the parties and they shall serve without compensation.

2. Notice of Arbitration

When the agency decides to submit the impasse to arbitration, it shall notify the Policy Group, in writing, that the impasse is to be resolved by binding arbitration. The Notice shall include:

a. A statement of the issue on which the agency and the Policy Group are at impasse; which can be based on the letters exchanged under C.2.

b. The name and address of the person the agency has designated as a member of the arbitration panel; and

c. A request that the Policy Group designate a member of the arbitration panel within seven (7) days of the receipt of the Notice and instruct him/her to communicate immediately with the person designated by the agency for the purpose of selecting the third member of the panel.

d. The agency shall send a copy of the Notice to the Head Start Regional Office.

3. Failure To Designate Arbiter

Failure by the Policy Group to designate an arbiter within seven (7) days of receipt of the Notice of Arbitration shall be a default, and shall be considered to be approval of the agency's proposed acton.

4. Preliminary Matters

a. The Arbitration Panel shall schedule the arbitration hearing within a reasonable time but not more than 20 days after the designation of the third arbiter.

b. The hearing shall be held in the locality of the Head Start agency, but not at the agency, at a place fixed by the Arbitration Panel with consideration for the convenience of the parties.

c. The Head Start agency and the Policy Group are the parties to the arbitration hearing.

d. The agency shall assume any expenses entailed by the arbitration and shall provide clerical and other support as needed.

5. Proceedings

The duty of the arbitration panel is to resolve the issues in dispute as expeditiously and fairly as possible at the minimum expense to the parties involved.

The proceedings of the arbitration panel shall consist of:

a. Oral presentation of the Policy Group's position, including minority views if there are any.

b. Oral presentation of the agency's position.

c. Response by both parties to such questions as the panel wishes to ask.

d. Informal cross examination of each party by the other, within the limits allowed by the panel.

e. Such additional presentation of oral or written materials as the panel deems necessary to fully apprise it of relevant facts for an informed decision. The parties may suggest to the panel additional relevant witnesses or materials that would be helpful to the panel.

f. If the panel needs additional material such as budget statements, Head Start regulations or other materials of that nature, the agency has the duty to provide the panel with such documents.

6. Standard of Conduct

a. Both parties are obligated to act in good faith before and during the proceedings. Neither party may communicate with the arbitrators once the panel has been selected except at formal meetings attended by all parties. Any attempt to intimidate an arbitrator shall be reported to the Regional Office and shall result in a defualt judgement against the party guilty of it.

b. Refusal to comply with directions, continued use of delaying tactics by any person at the hearing, or other obstructive tactics shall constitute grounds for immediate exclusion of such person from the hearing by the chairperson.

7. Compromise

The arbitration procedures does not preclude the parties from compromising their differences and reaching a settlement, so long as no final decision has been issued by the panel.

8. Representation of the Parties at the Hearing

Both the agency and the policy group shall designate one and only one of its members to represent them at the proceedings.

9. Posthearing Procedures and Decisions

a. The arbitration panel shall issue its decision in writing fifteen (15) days after the panel meeting. Copies shall be sent promptly to the grantee, the policy group, and the Regional Office.

b. The final decision shall be binding on both parties and there shall be no appeal. Failure to abide by the final decision by the agency is a ground for denial of the application for refunding, for suspension and termination of financial assistance or for denial of the application for amendment to the budget or work program.

[FR Doc. 80-27499 Filed 9-5-80; 8:45 am]
BILLING CODE 4110-92-M

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federal register

Monday
September 8, 1980

Part IV

Department of Transportation

Federal Aviation Administration

Operations Review Program: Notice No. 8A

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[Docket No.

Operation
No. 8A

AGENCY: Fe
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ACTION: No
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SUMMARY:
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 17897; Notice No. 78–7B]

Operations Review Program: Notice No. 8A

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: This notice reopens the period for submission of public comments relating to Notice of Proposed Rule Making (NPRM) No. 78–7A, which proposes to amend § 121.391(d) of the Federal Aviation Regulations to provide that all flight attendants must remain seated during taxi except to perform duties related to the safety of the airplane and its occupants. As a result of a petition from the Air Transport Association of America, the comment period is reopened for a period of 45 days.

DATES: Initial comments must be received on or before October 23, 1980. Reply comments must be received on or before November 23, 1980.

ADDRESSES: Comments on Notice 78–7A may be mailed in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No. 17897, (AGC–204), 800 Independence Ave. SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Ave. SW., Washington, D.C. 20591. All comments must be marked: Docket No. 17897.

Comments may be inspected in Room 916 between 8:30 a.m. and 5:30 p.m. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA/public contact dealing with the substance of this rulemaking action will be filed in the rules docket. Persons wishing the FAA to acknowledge receipt of comments submitted in response to this notice should submit a self-addressed, stamped postcard with the following statement: "Comments to Docket No. 17897." The postcard will be dated and time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Norman C. Miller, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 755–8716.

SUPPLEMENTARY INFORMATION: In NPRM 78–7 (43 FR 20448; May 11, 1978), the FAA proposed to amend § 121.391 to add a provision to require flight attendants to remain seated during taxi, except to perform safety-related duties. This provision was adopted on June 16, 1980 (45 FR 41586). At the same time the FAA published NPRM 78–7A (45 FR 41596) which proposes to require non-required flight attendants as well as required flight attendants to remain seated during taxi.

By letter dated August 14, 1980, the Air Transport Association of America (ATA) petitioned on behalf of its member airlines for a 45-day extension of the comment period. ATA states that compiling the economic data requested in the NPRM is taking longer than expected.

The FAA has reviewed this request and has determined that reopening of the comment period will afford the public an additional opportunity to furnish comments that should be considered in the development of the final regulation. This action is consistent with Executive Order 12044, Improving Government Regulations, and the FAA's desire to assure full public participation in its regulatory actions. The FAA concludes that the public interest would be served by granting additional time for submission of written comments.

Accordingly, the initial comment period for NPRM 78–7A is reopened to close on October 23, 1980. Reply comments are due on or before November 23, 1980.

(Secs. 313, 314, 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on August 29, 1980.

Bernard A. Geier,

Acting Director of Flight Operations.

[FR Doc. 80–27501 Filed 9–5–80; 8:45 am]

BILLING CODE 4910–13–M

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Reader Aids

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275-3030	Slip Law Orders (GPO)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

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55201 8-18-80 / FM broadcast station in Lake Havasu City, Ariz.; table of assignments

51561 8-4-80 / FM broadcast stations in Rio Grande City and Roma, Los Saenz, Tex.; changes made in table of assignments

51562 8-4-80 / Radio broadcast services, FM broadcast station in Mariana, Ariz.; changes made in table of assignments

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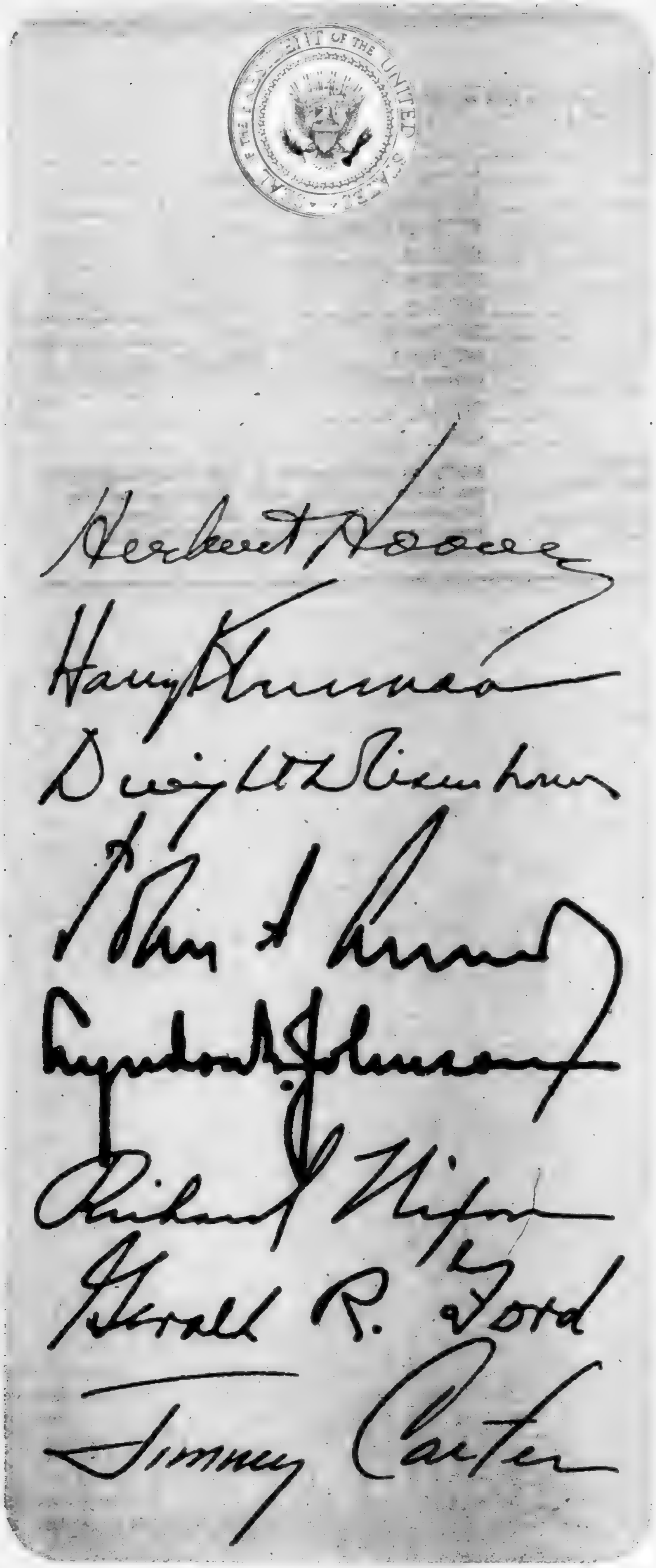

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Pages 59297-59548

federal register

Tuesday
September 9, 1980

Highlights

59297 **Incorporation by Reference** OFR gives final approval for Environmental Protection Agency's State Implementation Plans and Amendments for one year effective 7-1-80

59510 **Nondiscrimination** HUD/FHEO issues final rule establishing compliance and enforcement procedures concerning equal opportunity in housing; effective 10-1-80 (Part V of this issue)

59502 **Public Housing** HUD/FHC issues interim rule establishing uniform standards for determining amounts of utility allowances applicable to tenants; comments by 11-10-80; effective 10-1-80 (Part IV of this issue)

59378, 59379 **Grant Programs—Education** ED invites applicants to participate in Fellowship Program that provides financial assistance to full-time graduate students who are preparing to train teachers for bilingual education; apply by 11-10-80 and 3-2-81 (2 documents)

59350 **Communications** FCC issues proposed rule regarding AM stereophonic broadcasting; comments by 12-9-80; reply comments by 1-8-81

59318 **Refugees** HHS/Sec'y sets forth requirements a State must meet as condition to receiving assistance for refugees; effective 10-1-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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59311 **Mobile Homes** HUD/NVACP issues rule amending procedural and enforcement regulations to provide for disqualification and requalification of primary inspection agencies; effective 10–9–80

59308, 59309 **Rent Subsidies** HUD/FHC amends Existing Housing Program regulations to eliminate Rent Reduction Incentive and issues interim rule requesting comments by 11–10–80 to revise regulations for determining how much a family pays toward rent; effective 10–9 and 10–1–80 (2 documents)

59349 **Grant Programs—Education** ED issues proposed rules to establish procedures for the award of grants in programs that do not have specific program regulations; comments by 11–10–80

59520 **Floodplains** FEMA issues final rules regarding floodplain management and protection of wetlands; effective 9–9–80 (2 documents) (Part VI of this issue)

59311 **Veterans** VA amends regulations concerning eligibility for vocational rehabilitation and educational assistance; effective 10–8–80

59496 **Grant Programs—Community Development Block Grants** HUD/CPD issues interim rule providing more complete guidance to prospective applicants on requirements of Innovative Grants Program; comments by 11–10–80; effective 10–1–80 (Part III of this issue)

59306 **Grant Programs—Community Development Block Grants** HUD/CPD issues interim rule revising regulations to conform to 1979 amendments; comments by 11–10–80; effective 10–1–80

59344 **Grant Programs—Disaster Assistance** FEMA sets forth proposed rule to implement State assistance program for training and education in emergency management; comments by 9–30–80

59305 **Fair Housing** HUD/FHEO lists States and jurisdictions recognized as providing rights and remedies for discriminatory housing practices; effective 10–9–80

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59471 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 176
Tuesday, September 9, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51

Final Approval of Incorporation by Reference for Environmental Protection Agency's State Implementation Plans and Amendments

AGENCY: Office of the Federal Register.

ACTION: Final approval of the State implementation plans and amendments for incorporation by reference.

SUMMARY: The Director of the Federal Register published a list of approved material for incorporation by reference on June 30, 1980 (45 FR 44090). At that time, the Director granted an extension until September 1, 1980, for the Environmental Protection Agency's (EPA) request to incorporate by reference the State Implementation Plans and Amendments developed under the Clean Air Act. In today's document, the Director of the Federal Register gives final approval to EPA for incorporation by reference of its State Implementation Plans and Amendments.

EFFECTIVE DATE: Approval is given for one year effective July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Rose Anne Lawson, (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Authority. Each agency that wishes material incorporated by reference in the *Code of Federal Regulations* to remain effective must annually submit to the Director a list of that material and the date of its last revision (1 CFR 51.13).

5 U.S.C. 552(a) and 1 CFR Part 51 provide that material approved for incorporation by reference by the Director of the Federal Register has the same legal status as if it were published in full in the **Federal Register**.

Availability. Before an agency may incorporate by reference any material into the *Code of Federal Regulations*, it must make the material reasonably available to the class of persons affected by it.

If you have any problems obtaining the material incorporated, please contact the agency. If you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Service, Washington, DC 20408, or call (202) 523–4534.

Approval. The Director of the Federal Register grants final approval to the Environmental Protection Agency to incorporate by reference the State Implementation Plans and Amendments, as listed in the June 30, 1980 table at 45 FR 44102. The material is incorporated into 40 CFR 52.02(d).

Martha B. Girard,

Acting Director of the Federal Register.

[FR Doc. 80-27801 Filed 9-8-80; 8:45 am]

BILLING CODE 1505-02-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management has amended excepted service regulations which authorize appointments under the Stay-in-School Program, to limit the program to students pursuing an education no higher than the baccalaureate level and performing duties no higher than the GS–4 level or equivalent under the Federal Wage System. The number of hours that students may work and the dates during which no new appointments may be made have also been revised. The revision provides agencies and State Employment Service offices with more defined guidelines and clarifies the original intent of the program.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: James R. Poole, (202) 632–5677.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1980, OPM published proposed regulations in the **Federal Register** (45 FR 36416) which would amend Schedule A authority 213.3102(w), limiting the Stay-in-School Program to students enrolled in undergraduate curricula who are performing duties no higher than the GS–4 level or equivalent under the Federal Wage System. The 60-day period for interested parties to submit written comments ended on July 29, 1980.

Discussion of Comments

Nine written comments were received: three from labor organizations, five from agencies, and one from an individual.

Two of the labor organizations had no comments while the third supported the proposed amendment.

One agency noted that "work of a routine nature up to the GS–4 level" lacked clarity and recommended rephrasing the statement to read: "up to and including the GS–4 level." This wording has been incorporated into the final regulations.

The second agency addressed the number of hours that students may work while in school, and suggested that the hours be increased from 16 to 20 hours per week. Even though the proposed regulations were not intended to alter this aspect of the program, the suggestion has merit and could benefit both students and agencies. The suggestion, therefore, has been made a part of the final regulations.

The third agency also addressed an issue which was not a part of the original proposal. The agency felt that it was too restrictive to prohibit new appointments under this authority between May 1 and August 31, and questioned the time lag between May 1 and May 13, the beginning of the Summer Aid Program. To ensure that agencies participate fully in the Federal Government's summer employment program, the prohibition on making new appointments under this authority during the summer months was not eliminated. However, for the sake of continuity between this program and the Summer Aid Program, we are permitting new appointments of Stay-in-Schoolers until the beginning of the summer employment period. The final regulations reflect a change in this date to May 13.

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The fourth agency commented that if students were permitted to work "not to exceed 40 hours" per week during their vacation period, they would be prohibited from working overtime. Stay-in-Schoolers may not routinely work overtime, but we recognize the fact that on a one time or occasional basis it may be necessary to permit a student to work a few additional hours. The regulation has been modified by permitting students to work full time without citing a 40-hour limitation.

The fifth agency and the individual felt that graduate students should be permitted to participate in the program since they, too, require financial assistance and the Federal Government has a continuous need for personnel trained at the post-graduate level. While we agree with the commenters that graduate students may have similar needs and are valuable employees, we are also responsible for protecting and carrying out the original intent of this program. Since there are other student programs and appointing authorities available for graduate students, this suggestion was not adopted.

The Director has found that good cause exists for making this regulation effective on the date of publication, since the majority of appointments under the Stay-in-School Program are made at the beginning of the school year in September. OPM has determined that this is a significant regulation for the purposes of EO 12044.

Office of Personnel Management

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, the U.S. Office of Personnel Management is revising § 213.3102 (w) to read as follows:

§ 213.3102 Entire Executive Service.

* * * * *

(w) Part-time or intermittent positions, the duties of which involve work of a routine nature up to and including the GS-4 level of difficulty or equivalent under the Federal Wage System, when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign or when filled by mentally retarded or severely physically handicapped students, provided that the following conditions are met:

(1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 20 hours in any calendar week, except that students may work full time during any period in which their school is officially closed.

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees need the earnings from the employment to continue in school, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. *However*, such appointments may be made for additional periods of not to exceed 1 year, each, if the conditions for initial appointment are still met. Students may not be appointed under this authority unless they have reached their 16th birthday. No new appointments may be made between May 13 and August 31, inclusive.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-27727 Filed 9-8-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 47

Rules of Practice Under the Perishable Agricultural Commodities Act, 1930

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action will formally delete those provisions contained in 7 CFR Part 47, issued under the Perishable Agricultural Commodities Act, 1930, (7 U.S.C. 499a et seq.), which pertains to disciplinary proceedings for violations of the Act, because they have been superseded by the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 CFR 1.1301.151). The primary purpose of this action is to make the Rules of Practice under the Perishable Agricultural Commodities Act conform with the Rules of Practice prescribed by the Secretary.

EFFECTIVE DATE: September 9 1980.

FOR FURTHER INFORMATION CONTACT: Wilbur A. Rife, Head, License Section, Regulatory Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 447-2189.

SUPPLEMENTARY INFORMATION: In accordance with the administrative procedure provisions in 5 U.S.C. 553, notice is hereby given that the Agricultural Marketing Service, pursuant to authority provided in section 15 of the Perishable Agricultural Commodities Act is deleting §§ 47.26 through 47.45 of the Rules of Practice issued under the Act, which were superseded by the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings instituted by the Secretary under various statutes (7 CFR 1.130-1.151).

The Perishable Agricultural Commodities Act establishes a code of fair trading practices in the marketing of fresh and frozen fruits and vegetables. It provides a means for the enforcement of marketing contracts by providing for the collection of damages from anyone who fails to live up to contractual obligations. All commission merchants, dealers, and brokers dealing in these commodities are required to be licensed. Licenses are the key to the enforcement of the Act, and can be suspended or revoked for violaton of the law.

Sections 3(c), 4(d), 6(c), 8(a), 8(b), 8(c), 9, and 13(a) of the Act authorize opportunities for hearing in connection with suspension or revocation of a license. Relevant regulations were promulgated describing procedures for such hearings when requested. These regulations which were set forth in 7 CFR (47.26 through 47.45) now have been made ineffective by the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings instituted by the Secretary under various statutes (7 CFR 1.130-1.151).

The purpose of these amendments is to delete those sections of the regulations which have been superseded by the Rules of Practice prescribed by the Secretary.

§§ 47.26 through 47.45 [Deleted]

Said regulations (7 CFR 47.26 through 47.45), therefore, are deleted.

Because these amendments codify existing law and deal with rules of internal agency practice, the Department is satisfied that the notice and comment provisions of the Administrative Procedure Act 5 U.S.C. 553(b) do not apply.

Dated: September 4, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-27718 Filed 9-8-80; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

7 CFR Part 760

[Amdt. 3]

Indemnity Payment Programs: Beekeeper Indemnity Payment Program (1978-1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Beekeeper Indemnity Payment Program Regulations to terminate the Beekeeper Indemnity Payment Program on October 9, 1980.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, 4095 South Building, Washington, D.C. 20013, (202) 447-7997. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This regulation has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

The title and number of the Federal assistance program that this final rule applies to is: Title—Beekeeper Indemnity Payments, NUMBER—10.060 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

Section 207 of the Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 284, extended the authority of the Secretary to conduct the Beekeeper Indemnity Payment Program through September 30, 1981. On July 14, 1978, the Department published final regulations (43 FR 30264) to govern the conduct of the program through September 30, 1981. It is not mandatory that the program be conducted.

The proposed budget for the Department of Agriculture for fiscal year 1980 contained no funding for the Beekeeper Indemnity Payment Program. The Agriculture Appropriations Act for fiscal year 1980 authorized $2.89 million for the Beekeeper Indemnity Payment Program. The proposed budget for the Department of Agriculture for fiscal year 1981 again requests no funding for the program. The Department has remaining approximately $900,000 to pay an estimated $4.0 million in claims filed after June 15, 1979.

On April 11, 1980, a Notice of Proposed Rulemaking to terminate the Beekeeper Indemnity Payment Program (BIPP) was published in the **Federal Register** at 45 FR 24899. The proposed termination date was May 15, 1980.

Interested persons were given 20 days or until April 30, 1980, to file comments. Many of the early comments were critical of the short comment period. On May 13, 1980, a second notice was published in the **Federal Register** at 45 FR 31393 extending the comment period to June 12, 1980, and revising the proposed termination date of the program to July 1, 1980.

A total of 718 written comments were received. Of these, 661 (92 percent) favored continuation of the BIPP, 36 (5 percent) favored termination and 21 (3 percent) did not state whether they favored continuation or termination of the program. The 661 comments favoring continuation of the program included comments from 10 Senators, 15 Congressmen, American Farm Bureau Federation, 4 State farm bureau federations, the National Farmers Union, 53 beekeeper associations, 9 universities and colleges, 9 State departments of agriculture and 13 agribusinesses and associations.

The 36 comments favoring termination of the program included two agribusinesses and one university. The remaining 33 comments appeared to be split about evenly between beekeepers and other interested individuals.

Even though the public comments were strongly in favor or continuing the program, it has been determined that the program should be terminated for the following reasons: (1) No funds were included in the proposed budgets for the Department of Agriculture for the Beekeeper Indemnity Payment Program for fiscal years 1980 and 1981, and; (2) The Beekeeper Indemnity Payment Program was determined under the zero base budgeting process to be a low priority program.

Furthermore, the intent of Congress to terminate the present Beekeeper Indemnity Payment Program was evident when the House of Representatives did not include funding in the proposed appropriations for the Department for the program for fiscal year 1981. Instead, the House recommended that $1.5 million be appropriated for a new experimental Beekeeper Indemnity Payment Program.

Final Rule

Accordingly, the regulations at 7 CFR Part 760, the title of the subpart—Beekeeper Indemnity Payment Program (1978–1981)—and § 760.101(b) are amended to read as set forth below:

Subpart—Beekeeper Indemnity Payment Program (1978-1980)

§ 760.101 Definitions.

* * * * *

(b) "Application period" means any period with respect to which application for payment is made beginning not earlier than January 1, 1978, and ending not later than October 9, 1980.

(Sec. 804, 87 Stat. 1382 (7 U.S.C. 135b note); sec. 1(27), 87 Stat. 237 (7 U.S.C. 135b note); and sec. 207, 91 Stat. 921 (7 U.S.C. 284 note))

Signed at Washington, D.C., on September 3, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-27476 Filed 9-8-80; 8:45 am]

BILLING CODE 3410-05-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 13]

Delegations of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is delegating approval authority of Surety Bond Guarantees on contracts not to exceed $1,000,000 to Regional Administrators. Previously, on contracts between $500,000 and $1,000,000, approval action could only be exercised by the Central Office. It is expected that this action will shorten SBA's response time to requests for surety guarantees.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6703.

SUPPLEMENTARY INFORMATION: Because Part 101 consists of rules relating to the Agency's organization and procedures, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. Accordingly, pursuant to authority contained in Section 5(b)(6) of

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the Small Business Act, 15 U.S.C. 634, Part 101, Chapter I, Title 13 of the Code of Federal Regulations is amended as follows:

§ 101.3-2 [Amended]

Section 101.3-2, Part III, Section C, is amended to increase the Regional Administrator's authority as follows:

Section C—Surety Guarantee

1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed the following amounts:

a. Regional Administrator, $1,000,000

* * * * *

Dated: September 2, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27526 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368, 369, 370, 372, 377, 385, and 390

Amendments to the Export Administration Regulations To Reflect Legislative and Organizational Changes

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Act of 1979 took effect on October 1, 1979, upon the expiration of the Export Administration Act of 1969, on September 30, 1979. Department Organization Order 10-3, dated January 2, 1980, abolished the Industry and Trade Administration, the Bureau of Trade Regulation, and the position of Deputy Assistant Secretary for Trade Regulation, and established the International Trade Administration and the position of Deputy Assistant Secretary for Export Administration. This rule amends the Export Administration Regulations to reflect those legislative and organizational changes. This rule also amends the Regulations to correct references to other organizational name and address changes.

EFFECTIVE DATE OF ACTION: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended as follows:

PART 368—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

1. Section 368.2(a)(4) is amended by revising the introductory paragraph as follows:

§ 368.2 International Import Certificate.

(a) *Procedure.* * * *

(4) *Foreign Excess Property.* Where foreign excess property imported into the United States is involved, a request for certification and validation of an International Import Certificate shall be submitted in triplicate directly to the Office of Export Administration. However, if a request for such certification of Form ITA-645P is made at the same time as Form ITA-302P, application for Foreign Excess Property Import Determination, both forms may be sent together to the Foreign Excess Property Officer, Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, who will refer the Form ITA-645P to the Office of Export Administration for action. A request for an International Import Certificate for foreign excess property requires the following special information:

* * * * *

§ 368.2 [Amended]

2. Section 368.2(a)(5) is amended by deleting the words "Office of Export Control (Attention: 852)" and inserting, in their place, the words "Office of Export Administration."

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

§§ 369.6 and 370.2 [Amended]

3. 15 CFR Parts 369 and 370 are amended by deleting the words "Bureau of Trade Regulation" and inserting, in their place, the words "International Trade Administration" in the following places:

(a) Section 369.6(b)(4); and

(b) Section 370.2, the definition of the term "Department of Commerce."

§ 369.6 [Amended]

4. Section 369.6(c)(4) is amended by deleting the words "section 3(5) of the Export Administration Act of 1969, as amended" and inserting, in their place, the words " section 3(5) of the Export Administration Act of 1979."

§ 369.8 [Amended]

5. Section 369.8 is amended by deleting the words "Deputy Assistant Secretary for Trade Regulation" and inserting, in their place, the words "Deputy Assistant Secretary for Export Administration" in the following places: Section 369.8 (b)(2); (c); and (f), example (ii).

§ 370.1 [Amended]

6. Section 370.1(b)(1) is amended by deleting the words "Export Administration Act of 1969" and inserting, in their place, the words "Export Administration Act of 1979."

§ 370.2 [Amended]

7. The definition of the term "Export Administration Act" in §370.2 is revised to read as follows:

"Export Administration Act. Export Administration Act of 1979, effective October 1, 1979."

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

§§ 372.1, 377.1, 377.4, 377.6, 390.1 [Amended]

8. 15 CFR Parts 372, 377 and 390 are amended by deleting the words "Export Administration Act of 1969, as amended" and inserting, in their place, the words "Export Administration Act of 1979" in the following places:

(a) § 372.1(d);

(b) § 377.1(a);

(c) § 377.4(j);

(d) § 377.6 (d)(1)(iii), and (d)(6)(ii)(c); and

(e) § 390.1(l)(1).

§§ 377.5, 377.6, 377.15 [Amended]

9. §§ 377.5(g), 377.6(h) and 377.15(e) are amended by deleting the words "section 7(c) of the Export Administration Act of 1969, as amended" and inserting, in their place, the words "section 12(c) of the Export Administration Act of 1979".

§ 385.2 [Amended]

10. § 385.2(a) is revised as follows:

(a) The Export Administration Act of 1979 states that it is the policy of the United States "to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest." The Act also states that it is the policy of the United States "to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." Accordingly, and in compliance with other sections of the Export Administration Act of 1979, the Department conducts a continuing review of commodities and technology to assure that prior approval is required for the export or reexport of U.S.-origin commodities and technical data to the U.S.S.R., Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Hungary, Laos, Latvia, Lithuania, Mongolian People's Republic, Poland, People's Republic of China, and Romania only if the commodities or technical data have a potential for being used in a manner that would prove detrimental to the national security of the United States. The general policy of the Department, however, is to approve applications or requests to export or reexport such commodities and technical data to these destinations when the Department determines, on a case-by-case basis, that the commodities or technical data are for a civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

To permit such policy judgments to be made, each export application and reexport request is reviewed in the light of prevailing policies with full consideration of all relevant aspects of the proposed transaction. The review generally includes an analysis of the kinds and quantities of commodities or technologies to be shipped; their military or civilian uses; the unrestricted availability abroad of the same or comparable items; the country of destination; the ultimate end-users in the country of destination, and the intended end-use. Applications covering certain commodities and technical data that are controlled by the United States and certain other nations that cooperate in an international export control system and are proposed for export or reexport to Country Group P, Q, W, or Y may have to be forwarded to the Coordinating Committee (COCOM) of this international export control system for consideration in accordance with established COCOM procedures. Although each proposed transaction is considered individually, certain goods on the Commodity Control List are more likely to be approved than others. See Supplement No. 1 to this Part 385 for an identification of such goods.

* * * * *

§ 386.3 [Amended]

11. § 386.3(r)(2) is amended by deleting the words "Bureau of International Commerce" and inserting, in their place, the words "International Trade Administration."

§ 390.2 [Amended]

12. § 390.2 is amended by deleting the words "Domestic and International Business Administration" and inserting, in their place, the words "International Trade Administration" in the following places:

§ 390.2(a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (a)(3)(i), (a)(3)(ii), and (a)(3)(iii).

§ 390.1 [Amended]

13. § 390.1 (a) and (b) are amended by deleting the words "section 5(c) of the Export Administration Act of 1969, as amended" and inserting, in their place, the words "section 5(h) of the Export Administration Act of 1979."

14. § 390.1(h)(3) is revised to read as follows:

§ 390.1 Advisory committees.

* * * * *

(h) * * *

(3) Request for records should be addressed to: International Trade Administration Freedom of Information Officer, Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone 202-377-3031. Rules concerning the use of the Records Inspection Facility are contained in Part 4, Subtitle A, Title 15, Code of Federal Regulations, or may be obtained from the facility.

§ 390.4 [Amended]

15. § 390.4(c) is amended by deleting the words "section 7(c) of the Export Administration Act of 1969" and inserting, in their place, the words "section 12(c) of the Export Administration Act of 1979."

(Secs. 13 and 15, Pub. L. 96–72, to be codified at 50 U.S.C. App. § 2401 *et seq.*; Exec. Ord. No. 12214 (45 FR 29783, May 6, 1980); Dept. Org. Ord. 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Org. and Func. Ord. 41–1 (45 FR 11862, February 22, 1980))

Dated: September 4, 1980.

William V. Skidmore,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–27598 Filed 9–8–80; 8:45 am]

BILLING CODE 3510–25–M

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15 CFR Part 371

Export Licensing Requirements for U.S. Civil Aircraft on Temporary Sojourn

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: General License *GATS* authorizes, subject to certain conditions, the departure from the United States of foreign registered civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad. This revision, which neither limits nor expands the provisions of General License *GATS*, is issued to emphasize the inapplicability of General License *GATS* to flights of certain U.S. registered aircraft that depart the United States for destinations in Country Groups P, S, W, Y and Z. Addition of language emphasizing when validated licenses are required for temporary sojourn flights is expected to reduce confusion among aircraft operators who attempt to apply the provisions of General License *GATS* to flights to destinations in Country Groups P, S, W, Y and Z.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which

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expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Accordingly, the Export Administration Regulations (15 CFR Parts 368 *et seq.*) are amended by revising § 371.19(b)(2), reading as follows:

§ 371.19 General License GATS; Aircraft on Temporary Sojourn

* * * * *

(b) * * *

(2) Any other operating civil aircraft of U.S. registry may depart from the United States under its own power for any destination, except Country Groups P, S, W, Y, and Z (flights to these destinations require a validated license): *Provided,* That—

* * * * *

(Secs. 4, 5, 6, 13 and 15, Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*, Executive Order No. 12214 (45 FR 29783,May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862,February 22, 1980))

Dated: September 4, 1980.

William V. Skidmore,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–27597 Filed 9–8–80; 8:45 am]

BILLING CODE 3510–25–M

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15 CFR Part 377

Short Supply Controls; Extension of Deadline for Applications To Participate in the Allocation of the Export Quota for Unprocessed Western Red Cedar for Fiscal Year 1981 and Thereafter

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Interim rule.

SUMMARY: This rule revises the regulations governing the licensing of exports of unprocessed western red cedar published in the **Federal Register** on April 2, 1980 (45 FR 21615), by extending, from July 31, 1980, to September 15, 1980, and the same date in future years, the deadline for submission of applications to participate in the allocation of the statutory quota for FY 1981 and those applicable to future fiscal years. It also revises the regulations by providing that only those pre-October 1, 1979 inventories which are still unexported and were not claimed during the current quota year will qualify for the allocation of a share of the FY 1981 quota. Finally, the regulations are revised to provide for the reduction of individual companies' quota allocations in future fiscal years by the amount of any shipment made in FY 1980 which was in excess of a company's quota allocation for that year and the reallocation of such deducted amounts among other persons qualifying for export quotas.

DATES: This rule is effective September 9, 1980. Comments by November 10, 1980.

ADDRESS: Written comments (five copies) should be sent to: Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, DC 20044, (202) 377–3984.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of Section 7(i) of the Export Administration Act of 1979 (Pub. L. 96–72 to be codified at 50 U.S.C. App. 2401 *et seq.*), regulations were published in the **Federal Register** on April 2, 1980 (45 FR 21615), establishing validated licensing requirements for the export of all unprocessed western red cedar commodities. Exports of these commodities, when harvested from state or federal lands, excluding Indian lands and lands in the State of Alaska, were made subject to quota restrictions. The regulations further established a procedure for applying to participate in the allocation of the statutory quotas and prescribed deadlines for the submission of applications to participate in the allocation of the quotas.

The present rule revises the earlier regulations by extending from July 30 to September 15, the deadline for submission of applications to participate in the allocation of the statutory quota for the fiscal year commencing the following October 1. The documentation required to support claims for quota shares in each of the four categories remains the same.

Applicants under the Historical Exporter category who have already submitted documentation establishing their past exports need not reapply for a share of the quota for the FY 1981 or subsequent fiscal years. Similarly, applicants under the Contract Harvester category who have already submitted affidavits including a statement as to the volume of cedar stumpage which they expect to harvest from state and federal lands during the fiscal year commencing October 1, 1980, need not reapply. However, applicants under the Contract Harvester category who have not submitted such information in affidavit format must do so on or before the required deadline (e.g., September 15, 1980) to be considered for a share of the export quota to be allocated for fiscal year 1981.

Applicants under the Inventory Owner category are required to submit new applications in order to be considered for a share of the export quota to be allocated for FY 1981. Such applications must be in affidavit format, and must state the quantity of unprocessed western red cedar harvested from state or federal lands which the applicant owned and held in inventory on October 1, 1979, and the quantity of this pre-October 1, 1979, cedar inventory which the applicant did not claim in his request for a share of the FY 1980 export quota and which he still has and will have in owned inventory on October 1, 1980. Inventories claimed for a share of the FY 1980 quota which have not yet been exported may *not* be reclaimed for a share of the FY 1981 quota. The Department does not consider that it would be appropriate or reasonable to consider the same log or piece of lumber more than once as a basis for allocaing quotas. Such affidavits must be accompanied by documentation establishing the accuracy of the claim, and the burden of proof will be on the applicant.

Persons seeking a share of the export quota on the basis of unique hardship must submit new applications accompanied by appropriate supporting documentation. Such applications must be accompanied by an affidavit setting forth with specificity the precise nature of the unique hardship experienced. Applicants under this category are advised to study carefully the unique hardship provisions of the regulations (Section 377.3) before preparing their applications and they are placed on notice that only those asserted hardships which are "unique" in nature and not experienced by the industry as a whole will be considered.

In allocating the FY 1981 export quota, the Department will deduct from each quota recipient's preliminary quota allocation any exports which such person made during the period October 1, 1979–April 16, 1980 which were in excess of his FY 1980 quota allocation. If necessary, deductions for such excess exports will also be made in future fiscal years until the excess exports have been completely absorbed. Amounts so deducted will be re-allocated among other persons receiving quota shares, thus assuring allocation of each fiscal year's entire statutory quota.

To be considered, all new and revised applications for a share of the FY 1981 export quota must be physically received in the Short Supply Division, Office of Export Administration, no later than 5:00 p.m., EDT September 15, 1980.

Rulemaking Procedure and Invitation to Comment

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedures Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close November 10, 1980. However, since the Department plans to allocate the FY 1981 statutory quota in the latter part of September 1980, any comments relating to fiscal year 1981 should be submitted as soon as possible.

All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, this consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda (in five copies) which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC, 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the introductory text of § 377.7(e) and paragraphs (e)(1)–(e)(4) and paragraph (f) of the Export Administration Regulations are revised to read as follows:

§ 377.7 Unprocessed red cedar.

* * * * *

(e) Applications to participate in the allocation of export quotas.

To participate in the allocation of an export quota for the fiscal year which begins on October 1, each applicant must file either the affidavit concerning prior exports required under paragraph (d) of this section or an affidavit stating that he has made no exports during the period October 1, 1979–April 16, 1980, of the unprocessed western red cedar commodities listed in Supplement No. 4 to Part 377. In addition, he must file an application for a quota share under one or more of the categories listed below specifying under which category or categories he is applying. Such application must actually be received by the Office of Export Administration no later than 5:00 p.m. EDT on the preceding September 15 or, if the latter is not a working day, on the first working day thereafter. Applications received subsequent to that date and time will not be considered for participation in the export quota to be allocated for the fiscal year beginning on the following October 1.

(1) Past participation in exports.

Each applicant for a share of an export quota on the basis of a prior history of exports must submit Form DIB–669P, Past Participation Statement, in duplicate, listing his exports of unprocessed western red cedar commodities by commodity, country of destination, and month of export during the eighteen-month period April 1, 1978–September 30, 1979. If the applicant is already required to submit Form DIB–669P pursuant to paragraph (d) of this section because he exported unprocessed western red cedar during the period October 1, 1979 through April 16, 1980, he should not combine the two reports but should submit a separate Form DIB–669P, in duplicate, to claim a quota share based on his past participation in exports. Exporters are advised that the Office of Export Administration intends to compare the aggregates of all Past Participation Statements received with the official Bureau of the Census export statistics for the commodities, months, and countries of destination and, in appropriate cases, to require exporters to submit for audit documentation substantiating the exports claimed on their Past Participation Statements. Exporters should accordingly have in their possession documentation such as copies of Shipper's Export Declarations, bills of lading, letters of credit, commercial invoices, and similar material which will substantiate their claimed history of exports.

(2) Ownership of inventories of unprocessed western red cedar.

Each applicant who seeks a share of an export quota on the basis of owning an inventory of unprocessed western red cedar, must submit the following documentation in duplicate:

(i) An affidavit listing separately by commodity and in board feet scribner all inventories of unprocessed western red cedar harvested from, or produced from commodities harvested from, state or federal lands and destined for export to which he had title as of October 1, 1979, to which he will still have title and which will remain unexported as of the beginning (October 1) of the fiscal year for which he is seeking a quota allocation. The affidavit should exclude all stocks of unprocessed western red cedar which were not harvested from state or federal lands and all stocks which were claimed in seeking a share of a prior year's export quota. In those instances where the applicant was neither the harvester nor the producer of the commodities, the affidavit should identify the harvester(s) and/or producer(s) and the quantities in board feet scribner allocable to each, and should be accompanied by similar affidavit(s) as to origin from such harvesters and/or producers;

(ii) A certificate of inspection by a log scaling and grading bureau recognized by the state or federal agency having jurisdiction over the land where the timber was harvested, stating the volume of the cedar in board feet scribner and listing each separate brand, tag or paint marking appearing on any log in the export-committed inventory on which his application for a quota share is based, or on any log from which the unprocessed western red cedar commodities were produced; and

(iii) A copy of the signed export sales contract(s) committing the unprocessed western red cedar for or into export during the fiscal year for which a share of the export quota is sought.

(3) Contractual obligations to harvest western red cedar from state or federal lands.

A contract harvester who seeks a share of an export quota on the basis of having entered into a contract, prior to October 1, 1979, to harvest western red cedar from state or federal lands with the intention of selling it for or into export must submit the following documentation:

(i) An affidavit listing, by federal or state agency with which it has been entered into, the following: (A) each of the applicant's separate harvesting contracts which was valid as of October 1, 1979, and which has not yet been completed; (B) the estimated volume, in board feet scribner, of unharvested western red cedar stumpage remaining under each contract as of October 1, 1979 and as of the date of application; (C) the volume of such western red cedar stumpage which the applicant intended on October 1, 1979, and still intends, as of the date of this affidavit, to sell for or into export during the fiscal year for which the application has been filed; (D) the date on which the contract was entered into; (E) the date it expires; and (F) the volume of cedar stumpage under that contract which the applicant expects to harvest during the fiscal year which begins on the following October 1, and during each succeeding fiscal year in which he expects to harvest under that contract.

(ii) A copy of each harvesting contract listed under paragraph (e)(3)(i) of this section; and

(iii) A copy of each export sales contract entered into prior to October 1, 1979 committing his then unharvested stumpage into export, or alternative evidence of his intent to export that stumpage (e.g. an affidavit specifying the quantity in board feet scribner of western red cedar harvested by the applicant from state or federal lands and the proportion thereof which the applicant sold for or into export during the period October 1, 1977–September 30, 1979.

(4) Hardship and exceptions applications.

Each applicant for a share of an export quota on the grounds of unique hardship or other exceptional circumstances must file a request therefor accompanied by a full statement, in affidavit format, of the precise nature of the unique hardship or exceptional circumstances experienced. The affidavit must explain how the hardship or exceptional circumstances were caused by the imposition of these controls, and demonstrate that there is no practicable alternative to the relief requested, i.e., the granting of a share of the quota for the export of unprocessed western red cedar. In addition to the general criteria for unique hardship set forth in § 377.3, the Office of Export Administration will consider the extent to which the unprocessed western red cedar covered by the application has been subjected to primary manufacture.

* * * * *

(f) Allocation of export quotas.

(1) The Office of Export Administration will review the applications submitted under paragraph (e) of this section for a share of the export quota and, based on that review, will determine what proportion of the fiscal year's quota specified in paragraph (c) of this section to allot to each of the four categories set forth under paragraph (e) of this section. After determining the quantity to be allocated to each of the four categories discussed in paragraph (e) of this section, quota shares will be allocated to successful applicants within each of the first three categories on a proportionate basis and, after making any adjustments required by paragraph (f)(3) of this section, written notification thereof will be mailed as soon as possible to each person receiving a quota share. Quota shares under the hardship and exceptions category will be allocated after a case by case review of each presentation and in accordance with the merits of each case. Persons applying under the hardship and exceptions category will also be notified in writing as to whether their applications have been successful.

(2) Quota allocations will be made without restriction as to the particular unprocessed western red cedar commodity involved and will entitle the allocation holders to apply for licenses to export to any destination other than one to which exports generally are restricted under other provisions of these regulations.

(3) Each person who exported a quantity of western red cedar subject to quota restriction during the period October 1, 1979–April 16, 1980, which was in excess of his quota allocation for the period October 1, 1979–September 30, 1980, will have such excess exports deducted from his quota allocation in FY 1981 and in subsequent fiscal years until such excess exports have been totally absorbed. The quantities so deducted from exporters' allocations will then be re-allocated among other persons receiving quota shares so as to permit the issuance of licenses in each fiscal year for up to the total statutory quota.

(4) Requests by quota holders to extend the validity of their annual quotas beyond the fiscal year to which they relate will not be considered. Any portion of a quota share remaining unlicensed as of close of business on September 30, each year will expire and be lost.

* * * * *

Drafting Information: The principal authors of these rules are Converse Hettinger, Director, Short Supply Division, Office of Export Administration; Christopher Marcich, Export Administration Specialist, Short Supply Division, Office of Export Administration; and Pete M. Dalmut, Attorney-Adviser, Office of General Counsel, Department of Commerce.

(Secs. 7, 15 and 21, Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 et seq.; E.O. 12214, (45 FR 29783, May 6, 1980); Department Organization Order 10–3, (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980))

Dated: September 4, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 80–27637 Filed 9–4–80; 4:03 pm]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 201, 204, 260, and 282

[Docket No. RM79-14; Order No. 49]

Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Correction

September 3, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Errata notice to correct Commission forms to comply with provisions of final order.

SUMMARY: The Federal Energy Regulatory Commission (Commission) Order Nos. 49 and 49–A, "Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978," amended the Commission's Uniform Systems of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act for Classes A, B, C and D, to include therein the Account Nos. 192.1, 192.2, 805.2, and 731.2. The forms on which these accounts were to be reported, Form Nos. 2 and 2–A, were not correspondingly changed at the time of the rulemaking to include these accounts. By this notice, the Commission corrects Form Nos. 2 and 2–A to include Account Nos. 192.1, 192.2, and 805.2 in Form No. 2, and Account Nos. 192.1, 192.2 and 731.2 in Form No. 2–A.

FOR FURTHER INFORMATION CONTACT:
Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 3329, Washington, D.C. 20426. (202) 357–8318.
Elaine M. Dawson, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 3405N, Washington, D.C. 20426. (202) 357–9190.

SUPPLEMENTARY INFORMATION: In the Federal Energy Regulatory Commission's Order Nos. 49 and 49–A,[1] "Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978," the Commission amended its Uniform Systems of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act for Class A and Class B,[2] and Class C and Class D,[3] by adding thereto the Account Nos. 192.1, 192.2, 805.2 and 731.2.[4] Corresponding revisions to the forms on which these accounts are to be reported were inadvertently omitted: Form No. 2, "Annual Report for Natural Gas Companies (Class A and Class B)" should have included Account Nos. 192.1, 192.2 and 805.2, and Form No. 2–A, "Annual Report for Natural Gas Companies (Class C and Class D)" should have included Account Nos. 192.1, 192.2 and 731.2.

The schedules of Form Nos. 2 and 2–A are respectively changed as follows to include Account Nos. 192.1, 192.2, 805.2 and 731.2 [5]

Form No. 2

Schedule Page 110, Comparative Balance Sheet, add:

Line 43—Unrecovered Incremental Gas Costs (192.1)

Line 44—Unrecovered Incremental Surcharges (192.2)

Schedule Page 528, Gas Operations and Maintenance Expenses (Continued), add:

Line 73—805.2, Incremental Gas Cost Adjustments

Schedule Page 535, Gas Purchases, Instruction 2, add:

805.2, Incremental Gas Cost Adjustments

Schedule Pages 535–536A, revise title as follows:

Gas Purchases (Accounts 800–805.2)

Form No. 2–A

Schedule Page 4, Comparative Balance Sheet, add:

Line 28—Unrecovered Incremental Gas Costs

Line 29—Unrecovered Incremental Surcharges

Schedule Page 12, revise title as follows:

Gas Purchases (Accounts 730–731.2)

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–27575 Filed 9–8–80; 8:45 am]

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[1] Order No. 49 was issued September 28, 1979 (44 FR 57726, October 5, 1979); Order No. 49–A was issued September 27, 1979 (45 FR 767, January 3, 1980).

[2] 18 CFR Part 201.

[3] 18 CFR Part 204.

[4] 192.1 Unrecovered Incremental Gas Costs (Class A, B, C and D Companies). 192.2 Unrecovered Incremental Surcharges (Class A, B, C and D Companies). 805.2 Incremental Gas Cost Adjustments (Class A and B companies only). 731.2 Incremental Gas Cost Adjustments (Class C and D companies only).

[5] Attached are the schedules in Form Nos. 2 and 2–A, as revised (Attachments A and B, respectively). These schedules are not being printed by the Federal Register. Copies are available in the Office of Public Information.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. 80–818]

Fair Housing; Recognition of Substantially Equivalent Laws

AGENCY: Housing and Urban Development/Office of Fair Housing and Equal Opportunity.

ACTION: Final rule.

SUMMARY: This rule amends current regulations which provide for recognition of State and local fair housing laws which provide rights and remedies which are substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment grants recognition to the following:

States

California; Iowa; and Maryland.

Localities

Charleston, W. Va.; Charlotte, N.C.; Fort Wayne, Ind.; Montgomery County, Md.; Omaha, Nebr.; Philadelphia, Pa.; Phoenix, Ariz.; Seattle, Wash.; Sioux Falls, S. Dak.; and Tacoma, Wash.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Fair Housing Enforcement and Section 3 Compliance, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451, 7th Street SW., Washington, D.C. 20410, (202) 426–3500.

SUPPLEMENTARY INFORMATION: On June 17, 1980, the Department of Housing and Urban Development published in the **Federal Register** (45 FR 40999) a notice that pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968, as amended, it was proposing to grant recognition to the fair housing laws of three States and ten localities as being substantially equivalent to Title VIII. The evaluation of the fair housing laws of these three States and ten localities was conducted in accordance with the provisions of 24 CFR Part 115, with particular reference to §§ 115.2(a), 115.3 and 115.8. In the notice of June 17, 1980, those sections were set forth to provide appropriate information to all parties with an interest in HUD's proposed action.

All interested persons and organizations were invited to submit written comments on or before

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August 18, 1980. No comments were received with respect to the jurisdictions listed in this final rule.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Accordingly, it has been determined to adopt the proposed amendment as a final rule and amend § 115.11 of 24 CFR Part 115 by adding the three States and ten localities to the list of jurisdictions with substantially equivalent laws as follows:

§ 115.11 Jurisdictions with substantially equivalent laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska
California [1]
Colorado
Connecticut
Delaware
Indiana
Iowa [1]
Kansas
Kentucky
Maine
Maryland [1]
Massachusetts
Michigan
Minnesota
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
Oregon
Pennsylvania
Rhode Island
South Dakota
Virginia
West Virginia
Wisconsin

Localities

Charleston, W. Va.[1]
Charlotte, N.C.[1]
District of Columbia
Fort Wayne, Ind.[1]
Montgomery County, Md.[1]
Omaha, Nebr.[1]
Philadelphia, Pa.[1]
Phoenix, Ariz.[1]
Seattle, Wash.[1]
Sioux Falls, S. Dak.[1]
Tacoma, Wash.[1]

[1] Denotes States and localities added to the list of jurisdictions currently recognized.

(Section 810(c) of the Civil Rights Act of 1968, 42 U.S.C. 3610; Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Section 7(o) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o); Section 234 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. on September 2, 1980.

Sterling Tucker,

Assistant Secretary, Fair Housing and Equal Opportunity.

[FR Doc. 80-27684 Filed 9-8-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-852]

Community Development Block Grants and Urban Development Action Grants; Conforming Amendments

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: This rule revises provisions of the Community Development Block Grant (CDBG) regulations to conform to the Housing and Community Development Amendments of 1979. This rule included changes to Subparts A, General Provisions; B, Allocation and Distribution of Funds; D, Entitlement Grants; and K, Other Program Requirements.

EFFECTIVE DATE: October 1, 1980. Comment due date: November 10, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Charles Kreiman or Harriet Frank, Office of Block Grant Assistance, Department of Housing and Urban Development, Washington, D.C. 20410, 202/755-5977 and 755-1871 respectively. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Sections 103 and 109 of the Housing and Community Development Amendments of 1979 (PL 96-153) made various technical changes to the CDBG program.

Section 103(a) of the Amendments increased the funds authorized for the Urban Development Action Grant program from $400,000,000 to $675,000,000 for Fiscal Year 1980. This rule revises the section on allocation of funds for discretionary grants (§ 570.104(e)) to reflect this change.

Section 103(b) of the Amendments increased the set aside of funds for Small Cities grants in metropolitan areas from $250,000,000 to $275,000,000 for Fiscal Year 1980. This rule revises § 570.101(a), Metropolitan area "set-aside" fund, accordingly.

The provisions of section 103(c) of the Amendments concerning the Small Cities CDBG program have been implemented separately in a final rule published on March 12, 1980 at 45 FR 15927.

Section 103(d) of the Amendments extended the use of a pro-rata reduction through Fiscal Year 1980, when funds available are insufficient to meet all basic grant needs. This regulation extends the applicability of the pro-rata reduction provision.

Section 103(e) of the Amendments revised the basis for computing grants to Urban Counties. Under the amendment, the entire area of a participating jurisdiction that is partly within and partly outside of the urban county shall be included in computing the grant for the urban county if part of that jurisdiction's area would otherwise be included in the computation and if the part that is outside of the county is not included in computing the grant for any other unit of general local government. In addition to incorporating the statutory provisions, § 570.102 requires that the unit of general local government that is partly within and partly outside of an urban county enter into a cooperation agreement with the urban county to undertake or assist in undertaking essential housing and community development activities. Where authority under State law to undertake such activities in the part of the participating jurisdiction that is outside of the urban county rests with another county or other government unit, that other unit must also enter into the cooperation agreement. The jurisdiction that is partly within more than one urban county has the option to decide in which county its area shall be included if it wants its entire area to be included in only one county rather than being split.

Section 103(f) of the Amendments added the Northern Mariana Islands to the entities defined as a unit of general local government. This rule adds the Northern Mariana Islands to the definition found at § 570.3(v).

Section 103(g) of the Amendments revised provisions of the statute delegating authority for environmental review of proposed projects by grant recipients. The revision makes clear that the authority to delegate environmental review and decisionmaking responsibilities included review and decisionmaking under the National Environmental Policy Act (NEPA) of 1969 as well as other provisions of law specified at 24 CFR 58.1(a)(3) and (a)(4), which further the purposes of NEPA. Accordingly, the certification at § 570.307(e) and the general reference to environmental concerns (§ 570.603) are revised to reflect this delegation of responsibility.

A new § 570.306(b)(2)(iv)(F) is added to reflect the requirement of section 109(a) of the Amendments. Applicants must include in their Housing Assistance Plans (HAP) a discussion of the impact of conversions of rental housing to condominum or cooperative ownership on the housing assistance needs of low- and moderate-income households. This requirement is added to the list of special housing conditions and needs to be included in the narrative to HAP Table II.

This new language merely re-emphasizes an existing requirement that both public and private displacement (which, of course, includes displacement due to condominium or cooperative conversion) be considered by applcants in preparing their Housing Strategies and HAP's. The Housing Strategy requirements at § 570.304(b)(2)(v) require a description of the applicant's actions to assist persons displaced directly or indirectly by the community development program.

In addition, the HAP already requires applicants to estimate the numbers of low- and moderate-income households displaced or to be displaced by public or private action during the three year program. Because these displacees or potential displacees are included in the needs figures of the HAP, they must also be reflected in the applicant's goals for the provision of housing assistance.

Inasmuch as the needs of those displaced or to be displaced by condominium or cooperative conversions are already reflected in approved Housing Assistance Plans, grantees will not be required to resubmit or amend their existing HAP's to conform with this new requirement. The new requirements will become effective whenever an applicant next submits a new or revised HAP Table II.

This rule includes provisions which must become effective immediately so that applicants can take into account statutory changes which apply to applications now being developed. In particular, the revision to permit jurisdictions partly within and partly outside of an urban county to be included in the urban county must become effective immediately in order to facilitate the urban county qualification process which must be completed by October, 1980. In view of these factors, the Secretary has determined that it would be impracticable to invite public comment on this rule prior to its effective date. However, interested persons are invited to participate in this rulemaking by filing data, comments and suggestions with the Rules Docket Clerk at the above address, on or before the comment due date. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading to this document. all relevant comments will be considered before adoption of a final rule and copies of all comments received will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semi-annual agenda of significant rules pursuant to Executive Order 12044.

Accordingly, the Department amends Title 24, Chapter V of the Code of Federal Regulations as follows:

I. Section 570.104(e) is revised to read as follows:

§ 570.104 Funds for discretionary grants.

* * * * *

(e) *Urban Development Action Grants fund.* Using funds appropriated for each of the Fiscal Years 1978, 1979, and 1980 for such purpose, grants may be made to assist severely distressed cities and urban counties to provide supplemental assistance in alleviating excessive physical and economic deterioration. Such funds allotted shall not exceed $400,000,000 for Fiscal Years 1978 and 1979 and shall not exceed $675,000,000 in Fiscal Year 1980.

II. Section 570 101(a) is revised to read as follows:

§ 570.101 Allocation between metropolitan and metropolitan areas.

* * * * *

(a) *Metropolitan area "set-aside" fund.* $50,000,000 for each of Fiscal Years 1975 and 1976, $200,000,000 for Fiscal Year 1977 (not more than 50 percent of which to be used for hold harmless needs in metropolitan areas), $350,000,000 for Fiscal year 1978 (not more than 50 percent for hold harmless needs in metropolitan areas), $265,000,000 for Fiscal Year 1979 (not more than $25,000,000 for hold harmless needs in metropolitan areas), and $275,000,000 for Fiscal Year 1980.

III. Section 570.103(f) is revised to read as follows:

§ 570.103 Hold harmless grants.

* * * * *

(f) *Pro-rata reduction.* In the event that the total amount of funds available for distribution in metropolitan areas under this Part in Fiscal Years 1978, 1979, or 1980 is insufficient. . . .

IV. Section 102(b)(4) is redesignated as Section 102(b)(5) and a new Section 102(b)(4) is inserted as follows:

§ 570.102 Basic grant amounts.

* * * * *

(b) Urban counties.

* * * * *

(4) In computing the grant amounts for an urban county, there shall be included all of the area of any unit of general local government which is part of, but is not located entirely within the boundaries of, such urban county, provided that:

(i) The part of such unit of general local government which is within the boundaries of such urban county would otherwise be included in computing the grant amount (e.g. that such unit of general local government either enters into a cooperation agreement with the urban county or does not elect to have its population excluded from the county);

(ii) The part of such unit of general local government which is not within the boundaries of such urban county is not included as part of any other unit of local government for purposes of this section. Where such unit is within the jurisdiction of more than one urban county and it wishes its entire area to be included in only one, it shall have the option to determine in which urban county its area shall be included;

(iii) Such unit of general local government has entered into a cooperation agreement with such urban county to undertake or assist in the undertaking of essential activities pursuant to § 570.105. Where the authority to undertake essential activities within any portion of such unit of general local government under State law rests with another county or other unit of general local government, that other county or unit of general local government has also entered into the cooperation agreement.

V. Section 570.3(v) is revised to read as follows:

§ 570.3 Definitions

* * * * *

(v) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands.

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VI. Section 570.307(e)(1) is revised to read as follows:

§ 570.307 Certifications.

* * * * *

(e) Its chief executive officer or other authorized certifying office of the applicant:

(1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of Federal law, as specified at 24 CFR 58.1(a)(3) and (a)(4), which further the purposes of NEPA insofar as the provisions of such Federal law apply to this Part;

VII. Section 570.603 is revised to read as follows:

§ 570.603 Environment.

In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of Federal law which further the purposes of such Act (as specified in 24 CFR 58.1(a)(3) and (a)(4)) are most effectively implemented in connection with the expenditure of block grant funds, the recipient shall comply with the Environmental Review Procedures for the Community Development Block Grant program (24 CFR Part 58). These regulations set forth procedures for carrying out the environmental responsibilities under the National Environmental Policy Act of 1969 (NEPA) and other provisions of Federal law which further the purposes of NEPA. Upon completion of the environmental review the recipient shall submit a certification and request for release of funds for particular projects in accordance with 24 CFR Part 58.

VIII. Section 570.306(b)(2)(iv) is amended to read as follows:

§ 570.306 Housing Assistance Plan.

* * * * *

(b) *Housing Assistance Plan Content.*

* * * * *

(2) *Housing Assistance Needs*

* * * * *

(iv) In addition, the applicant shall provide a narrative statement which summarizes any special housing conditions in the community and special housing needs found to exist in the total group of lower-income households in the community. Such summary shall include but need not be limited to, discussion of:

(A) Female heads of households;

(B) Individual minority groups;

(C) Handicapped persons;

(D) Special housing conditions such as concentrations of mobile homes;

(E) Special housing needs related to a community's economic base such as military housing, migrant workers, and retirement centers; and

(F) The impact of conversion of rental housing to condominium or cooperative ownership.

(Title I, Housing and Community Development Act of 1974, as amended; (42 U.S.C. 5301 et seq.); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); and Section 7(o) Department of Housing and Urban Development Act (42 U.S.C. 335(d))

Issued at Washington, D.C., July 25, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80–27647 Filed 9–8–80; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R–80–697]

Section 8 Housing Assistance Payments Program—Existing Housing Elimination of Rent Reduction Incentive

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The Department is issuing a final rule to amend the Section 8 Existing Housing Program regulations to eliminate the Rent Reduction Incentive (Rent Credit). This final rule also establishes the procedures for the gradual phasing out of this incentive for those families already receiving the Rent Credit.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: Cecelia D. McConnell, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation Programs, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6596. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On September 26, 1979 (at 44 FR 55392), a proposed revisions to the Section 8 Existing Housing Program regulations, 24 CFR Part 882, was published in the **Federal Register** for public comment. The Department proposed to amend § 882.115 to eliminate the Rent Credit. In addition to eliminating the Rent Credit, the proposed rule also provided procedures for the gradual phasing out of this incentive for those families already receiving the Rent Credit.

The purpose of the current rent reduction incentive provision was to encourage families to choose decent, safe, and sanitary units renting for less than the Fair Market Rent (FMR) and to allow the family to keep a portion of the difference between the actual rent and the FMR by a reduction (Rent Credit) in its required monthly Gross Family Contribution (GFC).

As cited in the proposed rule, the Department proposed to amend the Section 8 Existing Housing regulations to eliminate the Rent Credit. This action was proposed because: (a) the results of a Survey of the Section 8 Existing Program indicated, among other things, that no more than 14 percent of the families assisted understood the incentive system and that families who may have understood the Rent Credit were not renting below the FMR more than those who did not understand it; and (b) both the Senate Appropriations Committee Report for the 1978 Appropriations Act (Report No. 95–280, page 10), and the General Accounting Office (GAO), Report of January 28, 1977 entitled "Major Changes are Needed in the New Leased-Housing Program" contained recommendations regarding elimination of this program feature. The GAO Report concluded that the costs and problems in establishing, administering, and monitoring the Rent Credit outweigh any savings to be made. Interested parties were given until November 26, 1979 to submit written comments to the proposed rule. By the end of the comment period, comments were received from 59 organizations and individuals. A discussion of the more recurrent and significant comments is set forth below.

The majority of the comments favored the proposed changes to § 882.115 of the Section 8 Existing Housing regulations. Some of the reasons cited by comments for the elimination of the Rent Credit are:

(1) The rent reduction incentive does not induce program participants to search for and/or rent less costly housing units. Their housing cost is reduced so greatly by participating in the program that the additional small amount of savings is not important.

(2) The current rent reduction incentive program is difficult to administer and results in many miscalculations of rent.

(3) The briefing received by the tenant is impractical and leads to great disappointment for the applicant.

Two comments expressed concern about the time period for cutting off families presently receiving the rent credit. They suggested that these families should continue to receive the rent credit as long as they remain in their present units. The Department has determined, for consistency, that there should be a point in time when this aspect of the program is completely eliminated, and Public Housing Agencies (PHAs) are no longer held accountable for this procedure. At the same time, we feel the credit should be phased out gradually rather than all at once. Therefore, the final rule states that the rent credit will be eliminated from the program within three years, since leases for units under the program pursuant to Section 882.107 ". . . shall be for not less than one year nor more than three years. . . ."

Six of the 59 comments opposed eliminating the Rent Credit from the Existing Housing Program regulations. One comment indicated that, if this incentive were removed, there would be no motivation for tenants to select units with rents below existing FMRs. In considering these comments, the Department observed that one basis for GAO's recommendation for eliminating the Rent Credit was that it appeared to have a negligible effect on the number of families selecting cheaper housing. This is because half of the families receiving the Rent Credit did not move from the unit they lived in before applying to the program. Also, as discussed in the proposed rule, current studies and other evidence suggests that assisted families had a negligible role in negotiating the terms of the Section 8 lease, including the amount of rent.

Three comments suggested that eliminating the Rent Credit from the program would be detrimental to elderly, handicapped, and working families as those families would more likely suffer rent increases as a result. In response to these comments, the Department feels that the increased amounts that any family would have to pay upon the elimination of the Rent Credit would be minimal and, at any rate, the family would pay no more than between 15 and 25 percent of their income for housing as required under program regulations.

As was noted in the proposed rule, the Senate Appropriations Committee Report on the 1978 HUD Appropriations Bill directed the Department to eliminate the Rent Credit for families who do not choose to move. However, many of the comments which favored the elimination of the Rent Credit expressed the concern that if it is to be eliminated for applicants who lease in place, it must be eliminated for all in order to prevent an unfair situation. We agree with this position since there are no compelling reasons, given the nature of the Rent Credit, to eliminate it for certain families while continuing it for others.

Given the complexity of the current formula for rent reduction, and the recommendations of the Senate Appropriations Committee, GAO and others, the Department believes that the present rent reduction credit should be phased out. This does not preclude future consideration of other methods of cost containment.

NEPA

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, 24 CFR Part 882, is amended as follows:

1. Amend § 882.115 by adding a new paragraph (d) to read:

§ 882.115 Rent reduction incentive.

* * * * *

(d) As of (insert effective date of these regulations), no family entering the program may receive a Rent Credit. For any family currently receiving a reduction in its Gross Family Contribution because the unit selected by the family has a Gross Rent less than the Fair Market Rent or higher rent approved by HUD under § 882.106(a)(3), the rent reduction will be eliminated at the end of the stated lease term or when the family moves to another unit, whichever is earlier.

(Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., September 4, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-27641 Filed 9-8-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 889

[Docket No. R-80-848]

Section 8 Housing Assistance Payments Program—Computation Gross Family Contribution

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: HUD is issuing this interim rule to revise its regulations for determining how much of its income a Family pays towards rent under the Section 8 Housing Assistance Payments Program. This interim revision reflects recent statutory changes.

EFFECTIVE DATE: October 1, 1980.

Comments due: Comments should be filed on or before November 10, 1980.

ADDRESS: File comments with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Edward Whipple, Chief, Public Housing Rental and Occupancy Branch (202) 755-5842, James Tahash, Director, Multifamily Program Planning Division (202) 426-8730, Stephanie Giddings, Existing Housing Division (202) 755-6596, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. None of the above telephone numbers is toll-free.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Housing and Community Development Amendments of 1979 (PL #96-153) amends Section 8(c)(3) of the United States Housing Act of 1937 by establishing new rules for computing the Gross Family Contributions required of some Eligible Families. Specifically, the Amendments raise the Gross Family Contribution required of Very Large Lower-Income Families (Without Exceptional Medical or Other Expenses) from 15 to 20 percent of family income, and raise the minimum Gross Family Contribution limits applicable to certain other Lower-Income Families from 15 to 20 percent of family income. These amendments also permit the Department to raise the maximum from 25 to 30 percent of family income. Section 202(c) provides, however, that the changes authorized by Section 202(b) are not to be applied to "families whose occupancy of housing units assisted under the United States Housing Act of 1937 commenced prior to (January 1, 1980) . . . so long as such occupancy is continuous thereafter."

In order to implement the statutory requirements as expeditiously as possible, and to facilitate the orderly transition to the new requirements for program administrators, the Department has decided to make the fewest possible changes at this time, consistent with the statute. In addition, the Department has determined to minimize the financial hardship to certain families, consistent with the statute. Accordingly, although the required change in the minimum

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family contribution from 15 to 20 percent of family income for certain families is being made, HUD has determined *not* to increase the maximum contribution for certain other families from 25 to 30 percent of family income.

To avoid the hardship which would result if affected families were required to make retroactive payments back to January 1, 1980, (the effective date of the amendments), HUD considers it necessary to limit the immediate effect of the statutory changes to families who begin occupancy 60 days after publication of this rule.

HUD has determined that a retroactive payment requirement would impose undue administrative burdens on Public Housing Agencies (HPHs) and Section 8 owners, and would impose financial burdens on many of the affected Families. Altering the leases of such Families to reflect interim increases in Gross Family Contributions for this reason could also be inconsistent with some State laws relating to tenant's rights, thereby potentially exposing owners and HUD to litigation.

Section 889.105 is being revised to indicate that the Gross Family Contribution required of certain Very Large Lower-Income Families (Without Exceptional Medical or Other Expenses) and other Lower-Income Families not covered in other categories is dependent upon the time at which the Family establishes occupancy in a PHA's Existing Housing Program or in the same Section 8 assisted project. Under the revised regulation, a Family will be subject to the new Gross Family Contribution requirements if it leases a Section 8 unit on or after the effective date of this interim rule, but will not be affected by the changes if it commenced occupancy prior to January 1, 1980 and maintains occupancy in the same PHA's Existing Housing Program or in the same Section 8 assisted project on a continuous basis. A Family which initially leased a unit in a program or project on or after January 1, 1980, but prior to the effective date of this interim rule, will not be affected by the changes until its current lease expires or until its next income reexamination (as provided in the lease) whichever occurs first.

In the interest of implementing promptly the amendments of Section 202 which were to have immediately affected families entering the program on or after January 1, 1980, HUD has determined that good cause exists for making these revised regulations effective on an interim basis. Although the Department has no definitive knowledge at this time of the effects of the statutory changes (i.e., the absolute or relative payment level of various families in relation to income, size, and other factors), HUD has determined to implement the changes, consistent with the statute, in a manner which would cause the least amount of disruption of current practices. The Department is, however, interested in receiving and invites comments regarding any perceived inequities and suggestions for reducing any hardships. Such comments will be given full consideration before the Final Rule is adopted.

This regulation implements the mandatory provisions of the 1979 amendments only for the Section 8 Housing Assistance Payments Program (including Existing Housing, Moderate Rehabilitation, New Construction, Substantial Rehabilitation, State Agencies, Farmer's Home Administration, Section 202, and Property Disposition and Loan Management Set-Aside Programs.)

In addition, the Department expects to publish an Advance Notice of Proposed Rule soliciting public comments on other changes to achieve the maximum consistency in establishing tenant rents between the Section 8 and the public housing programs.

NEPA

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a Finding of no Significant Impact under the National Environmental Policy Act of 1969 has been made and is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address specified above.

This is not listed in HUD's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Part 889 is amended by revising § 889.105 to read as follows:

§ 889.105 Computation of gross family contribution on a monthly basis.

If a family qualifies for more than one category, select the category resulting in the lowest monthly gross family contribution.

(a) Very Low-Income Family. The monthly gross family contribution shall be 25 percent of the family's monthly income after allowances, but in no event less than 15 percent of the family's monthly income.

(b) Larger Very Low-Income Family or Any Lower-Income Family with Exceptional Medical or Other Expenses. The monthly gross family contribution shall be 15 percent of the family's monthly income.

(c) Very Large Lower-Income Family. The monthly gross family contribution shall be 20 percent of the family's monthly income except that:

(1) For a family who began occupancy of an assisted unit prior to January 1, 1980 and who continues to participate in the same Section 8 Existing program or who continues to live in the same Section 8 assisted project, the monthly gross family contribution shall be 15 percent of the family's monthly income and

(2) For a family whose occupancy commenced on or after January 1, 1980 but prior to the effective date of this rule, the monthly gross family contribution shall be computed in accordance with paragraph (c)(1) until the time of the family's next lease expiration (as provided in the lease) or income reexamination, whichever is sooner. At that time the family will be required to begin paying 20 percent of the family's monthly income.

(d) Other Lower-Income Family (with income above 50 percent of median, but not exceeding 80 percent). The monthly gross family contribution shall be 25 percent of the family's monthly income after allowances, but in no event less than 20 percent of the family's monthly income except that:

(1) For a family whose participation in the same Section 8 Existing program or whose residency in the same Section 8 assisted project commenced prior to January 1, 1980, the monthly gross family contribution shall be 25 percent of the family's monthly income after allowances, but in no event less than 15 percent of the family's monthly income, and

(2) For a Family whose occupancy commenced on or after January 1, 1980 but prior to the effective date of this rule, the monthly gross family contribution shall be computed in accordance with paragraph (d)(1) until the time of the family's next lease expiration (as provided in the lease) or income reexamination, whichever comes first. At that time, the family will be required to pay 25 percent of the family's monthly income after allowances.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., July 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-27645 Filed 9-8-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3282

[Docket No. R-80-743]

Mobile Home Procedural and Enforcement Regulations; Disqualification and Requalification of Primary Inspection Agencies

AGENCY: Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection HUD.

ACTION: Final rule.

SUMMARY: This rule amends the Mobile Home Procedural and Enforcement Regulations to provide for automatic disqualification of any primary inspection agency [Production Inspection Primary Inspection Agency (IPIA) or Design Approval Primary Inspection Agency (DAPIA)] if such agency has been inactive for a period of one year. This disqualification is based upon the Department's belief that a primary inspection agency may lose expertise and may fail to keep abreast of changes in the regulations if it is not actively engaged in the performance of its functions. In addition, the required annual monitoring cannot be done for an agency which is not performing.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: John Mason, Director, Enforcement Division, Office of Mobile Home Standards, Room 3242 Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6894.

SUPPLEMENTARY INFORMATION: Regulations dealing with primary inspection agencies (both IPIA's and DAPIA's) were promulgated pursuant to the Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* In order for a primary inspection agency to provide services pursuant to the Mobile Home Procedural and Enforcement Regulations, it must be approved by the Department pursuant to these regulations.

The present rule 24 CFR 3282.356 deals with disqualification of a primary inspection agency where such agency is not adequately carrying out one or more of its functions. It does not address the issue of disqualification of an inactive primary inspection agency.

The Department believes that a primary inspection agency may lose expertise and may fail to keep abreast of changes in the regulations if it is not actively engaged in the performance of its functions. In addition, the performance of each primary inspection agency must be monitored at least once a year pursuant to 24 CFR 3282.453(b). It is, of course, impossible to monitor the performance of an agency which is not performing.

In order to deal with these concerns, this rule was prepared and published as a proposed rule in the **Federal Register**, Vol. 44, No. 228, pages 67440-41 on November 26, 1979. Only one comment was received which concurred fully with the regulation as proposed. No other comments were received. Accordingly, no changes have been made in this rule as it was proposed. The rule would automatically disqualify any primary inspection agency which has been inactive for a period of one year. The rule also permits any agency which has been disqualified because of inactivity to resubmit an application in order to be requalified.

A Finding that the substance of this rule does not affect the quality of the environment was made in accordance with the Departmental "Procedures for Protection and Enhancement of Environmental Quality" for the proposed rule and remains applicable to this final rule. It is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, during normal business hours.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044. Accordingly, 24 CFR 3282.356(e) is added as follows:

§ 3282.356 Disqualification and requalification of primary inspection agencies.

* * * * *

(e) Both provisional and final acceptance of any IPIA (or DAPIA) automatically expires at the end of any period of one year during which it has not acted as an IPIA (or DAPIA). An IPIA (or DAPIA) has not acted as such unless it has actively performed its services as an IPIA (or DAPIA) for at least one manufacturer by which it has been selected. An IPIA (or DAPIA) whose acceptance has expired pursuant to this section may resubmit an application under § 3282.353 in order to again be qualified as an IPIA (or DAPIA), when it can show a bona fide prospect of performing IPIA (or DAPIA) services.

(Sec. 625, National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5424); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., September 2, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-27644 Filed 9-8-80; 8:45 am]

BILLING CODE 4210-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Eligibility for Vocational Rehabilitation and Educational Assistance—Character of Discharge

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations concerning eligibility for vocational rehabilitation and educational assistance under chapters 31 and 34, title 38, United States Code. These changes are necessary in order to implement a law enacted October 8, 1977. Most of the changes are of a minor technical nature. The regulatory amendments will implement the provisions of the law.

EFFECTIVE DATE: October 8, 1977.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 2667 through 2669 of the **Federal Register** of January 14, 1980, there was published a notice of intent to amend part 21 to provide methods for determining the eligibility for vocational rehabilitation and educational assistance of people who completed satisfactorily their period of obligated military service; to provide for determining the eligibility period for those persons who became eligible for benefits under chapter 34, title 38, United States Code, as a result of Pub. L. 95-126 (91 Stat. 1106) and liberalized §§ 3.12 and 3.13, Title 38, Code of Federal Regulations; and to clarify that once an eligible veteran is released from active duty he or she will have no more than 10 years in which to use his or her entitlement to educational assistance under chapter 34, title 38, United States Code.

Interested persons were given 30 days in which to submit comments.

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suggestions, or objections regarding the proposal. The Veterans Administration received two letters containing comments and suggestions.

One writer correctly deduced that the regulatory amendments would allow some veterans with dishonorable discharges to receive educational assistance. He objected, stating that this would negate the military's attempt to differentiate between those whose service deserves recognition and those whose service does not deserve this recognition.

The Veterans Administration appreciates the viewpoint of this veteran. Nevertheless, it has decided not to change the policy reflected in these regulations. The regulations follow logically from the provisions of section 101(18), title 38, United States Code.

That section states, in part, "The term 'discharge or release' includes * * * the satisfactory completion of the period of active military naval or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of * * * completion * * * and who * * * would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable." Hence, any veteran who satisfactorily completed his or her initial period of obligated service would be eligible for educational assistance (if everything else were in order) even if the veteran eventually received a dishonorable discharge at the end of a subsequent period of service.

One commenter objected to the idea of requiring veterans to use their educational benefits during a fixed time period. He suggested that this program should be open-ended.

While the Veterans Administration can understand the desire of veterans to use their benefits throughout their lifetimes, this also is not permitted by law. Section 1661, title 38, United States Code, generally limits veterans to 10 years in which to use their benefits and provides that no benefits may be paid after December 31, 1989. Therefore, the agency has not adopted the suggestion.

The Veterans Administration analyzed these regulations internally after they were proposed. The agency concluded that the paraphrase of § 3.13 of this chapter contained in the original proposal might mislead some readers into thinking that the policy being implemented with regard to educational benefits is different from that being implemented with regard to compensation and pension benefits. This is not the case. Accordingly, the proposal has been rewritten to make direct reference to § 3.13.

Furthermore, references to the veteran's completing an initial period of obligated service have been replaced with references to completion of any period of obligated service. The agency believes that the word "initial" is to restrictive and not in keeping with the intent of the law.

The changes to §§ 21.40, 21.42, 21.1040, 21.1042 and 21.4131 are deemed proper and hereby approved.

Approved: August 28, 1980.

By direction of the Administrator:

Rufus H. Wilson,
Deputy Administrator.

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

1. In § 21.40, paragraph (b) is revised to read as follows:

§ 21.40 Basic eligibility.

* * * * *

(b) *Discharge or release.* (1) The veteran must have received an unconditional discharge or release from active service under conditions other than dishonorable.

(2) The Veterans Administration will consider that the veteran has received an unconditional discharge or release if—

(i) The veteran was eligible for complete separation from active duty on the date a discharge or release was issued to him or her, or

(ii) The provisions of § 3.13(c) of this chapter are met. See also § 3.12 of this chapter on character of discharge. (38 U.S.C. 101)

* * * * *

2. In § 21.42, footnote [1] is revised to read as follows:

§ 21.42 Dates of eligibility.

* * * * *

[1] Date of discharge refers to the first unconditional discharge or release under conditions other than dishonorable following the period of service in which the disability occurred. If the unconditional discharge or release was under dishonorable conditions, date of discharge refers to the last date of the satisfactorily completed period of obligated active service during which the disability occurred.

* * * * *

Subpart B—Veterans' Educational Assistance Under 38 U.S.C. Chapter 34

3. In § 21.1040, paragraph (d) is revised to read as follows:

§ 21.1040 Basic eligibility.

* * * * *

(d) *Discharge or release.* (1) The veteran must have received an unconditional discharge or release under conditions other than dishonorable from the period of service on which eligibility is based.

(2) The Veterans Administration will consider that the veteran has received an unconditional discharge or release if

(i) The veteran was eligible for complete separation from active duty on the date a discharge or release was issued to him or her, or

(ii) The provisions of § 3.13(c) of this chapter are met. See also § 3.12 of this chapter on character of discharge. (38 U.S.C. 101)

4. In § 21.1042, paragraph (a) is revised, new paragraphs (d) and (e) are added and the former paragraphs (d) and (e) are redesignated (f) and (g) so that the added and revised material reads as follows:

§ 21.1042 Ending dates of eligibility.

The ending date of eligibility will be determined as follows:

(a) General. Except as otherwise provided in this section and as provided by §21.1043, no educational assistance will be afforded a veteran later than 10 years after his or her last discharge or release from active duty after January 31, 1955 or December 31, 1989, whichever is the earlier. (38 U.S.C. 1662)

* * * * *

(d) *Eligibility based on completion of an obligated period of active duty.* A veteran's eligibility may be based solely on a completion of an obligated period of active duty followed by discharge considered to be unconditional under § 3.13(c) of this chapter. When this occurs, the Veterans Administration shall not afford the veteran an educational assistance allowance after October 8, 1987 or 10 years after the veteran completed the qualifying period of active duty unless the veteran qualified for a later ending date pursuant to § 21.1043. In no event, however, shall the Veterans Administration furnish educational assistance allowance after December 31, 1989. (38 U.S.C. 101, 1662)

(e) *Eligibility established after the Veterans Administration determines the character of discharge.* If a veteran receives an undesirable discharge, or a bad conduct discharge, but is entitled to educational assistance allowance because the Veterans Administration determines pursuant to § 3.12 of this chapter that the discharge was under conditions other than dishonorable, the last date on which educational allowance may be afforded shall be determined as follows:

(1) If the veteran's discharge is under other than dishonorable conditions pursuant to § 3.12 of this chapter as that section was written and interpreted on the date the veteran was discharged, no educational assistance shall be afforded after the dates set forth in paragraph (a) or (c) of this section, as appropriate.

(2) If the veteran was discharged prior to October 8, 1977, and his or her

discharge is considered to have been under dishonorable conditions pursuant to § 3.12 of this chapter as that section was written and interpreted on the date of his or her discharge, but is considered to have been under other than dishonorable conditions pursuant to § 3.12 of this chapter as that section was written and interpreted after October 7, 1977, educational assistance shall not be afforded after October 7, 1987 unless the veteran qualifies for a later date pursuant to § 21.1043. In no event, however, shall such a veteran receive educational assistance allowance after December 31, 1989.

(3) A veteran may have his or her eligibility arise under paragraph (b) of this section, and then lose eligibility under that paragraph, because a later review by an appropriate military authority revealed that the change, correction or modification was not in accordance with historically consistent, uniform standards and procedures. If such a veteran having been in receipt of educational assistance, reestablishes his or her eligibility through the Veterans Administration's determination that the veteran's discharge was under conditions other than dishonorable, no educational assistance shall be afforded later than:

(i) Ten years from the date of discharge or dismissal if the veteran's discharge would have been considered to have been under other than dishonorable conditions pursuant to § 3.12 of this chapter as that section was written and interpreted on the date he or she was discharged or dismissed.

(ii) Ten years from the first date of training for which the veteran received educational assistance if the veteran's discharge or dismissal would have been considered to have been under dishonorable conditions pursuant to § 3.12 of this chapter as that section was written on the date the veteran was discharged or dismissed, but is considered to have been under conditions other than dishonorable pursuant to § 3.12 of this chapter as that section was written after October 7, 1977. In no event, however, shall such a veteran receive educational assistance allowance after December 31, 1989. (38 U.S.C. 1662, 3103)

(f) *Discontinuance.* If the veteran is pursuing a course on the date of expiration of eligibility as determined under this section, the educational assistance allowance will be discontinued effective the day preceding the end of the 10-year period, or December 31, 1989, whichever is the earlier. (38 U.S.C. 1662)

(g) *Periods excluded.* There shall be excluded in computing the 10-year period of eligibility for educational assistance under this section, any period during which the eligible veteran subsequent to his or her last discharge or release from active duty was captured and held as a prisoner of war by a foreign government or power plus any period immediately following the veteran's release from detention during which he or she was hospitalized at a military, civilian, or Veterans Administration medical facility, provided:

(1) The veteran served on or after February 1, 1955, and

(2) The veteran was eligible for educational assistance under the provisions of chapter 34 of chapter 36 of title 38, United States Code. (38 U.S.C. 1662)

Subpart D—Administration of Educational Benefits: 38 U.S.C. Chapters 34, 35, and 36

5. In § 21.4131, paragraph (g) is revised to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(g) *Correction of military records (§§ 21.1042(b), 21.3042(b)).* Where eligibility of a veteran arises as the result of correction or modification of military records under 10 U.S.C. 1552 or change, correction or modification of a discharge or dismissal pursuant to 10 U.S.C. 1553, or other competent military authority, the commencing date of educational assistance allowance which is otherwise payable will be in accordance with the facts found, but not earlier than the date the change, correction or modification was made by the service department. (38 U.S.C. 1662(b))

(38 U.S.C. 210(c))

[FR Doc. 80-27593 Filed 9-8-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-1600-6]

Revision to the New Hampshire State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 11, 1980 (45 CFR 24869) the Environmental Protection Agency (EPA) promulgated conditions on its approval of the New Hampshire State Implementation Plan (SIP). Among the conditions was a requirement that the state submit a SIP revision for public, local and state involvement in federally supported air pollution control activities and an analysis and public comment on the SIP revisions promulgated on April 11, 1980. These revisions were received on February 28, 1980.

EFFECTIVE DATE: October 9, 1980.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses: Environmental Protection Agency, Air Branch, Room 1903, J.F.K. Federal Building, Boston, MA 02203; Air Resources Agency, State Laboratory Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Gail Petersen, Public Participation Coordinator, Office of Public Awareness, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2203, Boston, MA 02203, (617) 223-0967.

SUPPLEMENTARY INFORMATION: On April 11, 1980 (45 CFR 24869) the EPA promulgated conditions on its approval of the New Hampshire SIP. Among the conditions was a requirement that the state submit a SIP revision for public, local and state involvement in federally supported air pollution control activities and an analysis and public comment on the SIP revisions promulgated on April 11, 1980. These revisions were received on February 28, 1980. That Notice stated that EPA would approve the New Hampshire SIP revisions conditioned upon submittal by March 31, 1980, of: an analysis and public comment on the health, welfare, air quality, economic, energy and social effects of the plan adopted on April 11, 1980, and, a long-term plan for public participation as contained in the grant conditions on the New Hampshire fiscal year 1980 program grant under section 105 of the Clean Air Act.

New Hampshire's February 28 submittal included the following elements:

a. Description of resources.

b. A commitment to an annual work plan for public participation and subsequent evaluation of this plan.

c. An identification of interested and affected constituencies, and a summary of how the issues could affect them.

d. A listing of public participation objectives for each issue.

e. A listing of specific techniques to be employed to satisfy each objective.

f. A commitment to an evaluation procedure, to be developed by EPA, and a summary of A-95 and other public comments.

g. Provisions for compliance with the Public Notification (section 127) Guidelines.

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Based on its review of the submitted document, EPA finds that the condition it promulgated on the New Hampshire SIP has been fully met. Therefore, EPA is incorporating the changes into the SIP and revoking the applicable condition. Furthermore, this action serves to continue EPA's conditional approval.

EPA finds that further notice and comment on these issues are unnecessary (see 5 U.S.C. section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act, as amended)

Dated: September 2, 1980.

Douglas M. Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart EE—New Hampshire

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. Section 52.1520, paragraph (c), is amended by adding paragraph (15) as follows:

§ 52.1520 Identification of plan.

(c) * * *

(15) A plan to provide comprehensive public participation and an analysis of the effects of the New Hampshire 1979 SIP revisions were submitted on February 28, 1980.

§ 52.1527 [Amended]

2. Section 52.1527, rules and regulations is amended by revoking paragraphs (a)(4) and (a)(5).

[FR Doc. 80-27608 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1601-2]

Revision to the Maine State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 19, 1980 (40 CFR 10766) the Environmental Protection Agency (EPA) promulgated conditions on its approval of the Maine State Implementation Plan (SIP). One condition was a requirement that the state submit a SIP revision of a comprehensive plan to involve the public in federally funded air pollution control activities by March 31, 1980. The revision was submitted on May 28, 1980.

EFFECTIVE DATE: October 9, 1980.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses: Environmental Protection Agency, Air Branch, Room 1903, J.F.K. Federal Building, Boston, MA 02203; Bureau of Air Quality Control, State House, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Gail Petersen, Public Participation Coordinator, Office of Public Awareness, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2203, Boston, MA 02203, (617) 223-0967.

SUPPLEMENTARY INFORMATION: On February 19, 1980 (40 CFR 10766) the EPA promulgated conditions on its approval of the Maine SIP. One condition was a requirement that the state submit a SIP revision of a comprehensive plan to involve the public in federally funded air pollution control activities by March 31, 1980. The revision was submitted on May 28, 1980.

The February 19, 1980 Notice stated that EPA would approve the Maine SIP revisions conditioned upon compliance with conditions attached to a grant received by Maine under control activities of the Clean Air Act. These grant conditions included a comprehensive plan for public participation and the identification of a skilled public participation staff person to have overall responsibility for carrying out an effective public participation program.

Maine has submitted a SIP revision containing a commitment to the development of an annual comprehensive plan for public participation. The submittal also identified a public participation staff person and described the resources to be allocated to the public participation program. The state is currrently developing its public participation plan.

Based on its review of the submitted document, EPA finds that the condition it promulgated on the Maine SIP has been fully met. Therefore, EPA is incorporating the changes into the SIP and revoking the applicable condition. Furthermore, this action serves to continue EPA's conditional approval.

EPA finds that further notice and comment on these issues are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: September 2, 1980.

Douglas M. Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart U—Maine

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In Section 52.1020, paragraph (c) is amended by adding paragraph (12) as follows:

§ 52.1020 Identification of plan.

(c) * * *

(12) A plan to provide for public involvement in federally funded air pollution control activities was submitted on May 28, 1980.

§ 52.1027 [Amended]

2. Section 52.1027, *Rules and Regulations*, is amended by deleting paragraph (a)(2).

[FR Doc. 80-27613 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1601-3]

Revision to the Vermont State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 19, 1980 (40 CFR 10775) the Environmental Protection Agency (EPA) promulgated a condition on its approval of the Vermont State

Implementation Plan (SIP). The one condition was a requirement that the state submit a SIP revision of a comprehensive plan to involve the public in federally funded air pollution control activities by March 31, 1980. The revisions were submitted on March 28, 1980.

EFFECTIVE DATE: October 9, 1980.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses: Environmental Protection Agency, Air Branch, Room 1903, J.F.K. Federal Building, Boston, MA 02203; Air and Solid Waste Program, Agency for Environmental Conservation, State Office Building, Montpelier, VT 05602.

FOR FURTHER INFORMATION CONTACT: Gail Petersen, Public Participation Coordinator, Office of Public Awareness, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2203, Boston, MA 02203, (617) 223-0967.

SUPPLEMENTARY INFORMATION: On February 19, 1980 (40 CFR 10775) the EPA promulgated a condition on its approval of the Vermont SIP. The one condition was a requirement that the state submit a SIP revision of a comprehensive plan to involve the public in federally funded air pollution control activities by March 31, 1980. The revisions were submitted on March 28, 1980.

The February 19, 1980 Notice stated that EPA would approve the Vermont SIP revisions conditioned upon submittal, by March 31, 1980, of a comprehensive plan for continuing public participation.

The March 28 SIP submittal included the following elements:

1. A description of resources.
2. A commitment to an annual work plan for public participation and subsequent evaluation of this plan.
3. An identification of major program issues.
4. An identification of interested and affected constituencies, and a summary of how the issues could affect them.
5. A listing of public participation objectives for each issue.
6. A listing of specific techniques to be employed to satisfy each objective.
7. A commitment to utilize an evaluation procedure, to be developed by EPA, and a summary of A-95 and other public comments.
8. Provisions for compliance with the Public Notification (Section 127) Guidelines.

Based on its review of the submitted document, EPA finds that the condition it promulgated on the Vermont SIP has been fully met. Therefore, EPA is incorporating the change into the SIP and revoking the applicable condition. This action serves to fully approve Vermont's SIP revisions.

EPA finds that further notice and comment on these issues are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: September 2, 1980.

Douglas M. Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart UU—Vermont

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In Section 52.2370, paragraph (c) is amended by adding subparagraph (11) as follows:

§ 52.2370 Identification of plan.

(c) * * *

(11) A plan to provide for public, local and state involvement in federally funded air pollution control activities was submitted on March 28, 1980.

§ 52.2382 [Amended]

2. In Section 52.2382, *Rules and Regulations*, paragraph (a) is hereby revoked and paragraph (b) is renumbered to (a).

[FR Doc. 80-27614 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1584-5]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Attainment Status: Nevada and California

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: The Environmental Protection Agency takes action to correct a clerical error made in an earlier final rulemaking **Federal Register** notice concerning redesignations of attainment status in Nevada and California. The document revising 40 CFR Part 81 published in the **Federal Register** on July 11, 1980, as 45 FR 46807 is corrected by changing the reference to Santa Clara County's attainment status designation in § 81.305 from "Does not meet primary standards" to "Does not meet secondary standards" for the Total Suspended Particulate standard.

DATES: Effective July 11, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Attn: Morris Goldberg (415) 556-8065.

SUPPLEMENTARY INFORMATION: On July 11, 1980 (45 FR 46807) EPA took final action to approve revisions to attainment status designations in the states of Nevada and California. A clerical error was in that notice, resulting in designation of Santa Clara County as "Does not meet primary standards" for Total Suspended Particulates (TSP). This action corrects that clerical error and reinstates the designation of "Does not meet secondary standards" for TSP.

Specifically, in FR Doc. 80-20701 appearing at page 46807 in the July 11, 1980 **Federal Register**, in the TSP table for California, the row concerning Santa Clara County is corrected by moving the "x" from the column "Does not meet primary standards" to the column "Does not meet secondary standards."

Since this notice does not impose any new requirements and merely corrects a clerical error made in the July 11, 1980 **Federal Register** notice, the effective date of this correction is July 11, 1980.

Dated: September 2, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-27610 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1600-4]

Designation of Areas for Air Quality Planning Purposes; Section 107—Nonattainment Status Designation—Montana

AGENCY: Environmental Protection Agency.

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ACTION: Final rulemaking.

SUMMARY: This notice revises the National Ambient Air Quality Standards (NAAQS) attainment status of the portion of the Great Falls area requested by the Montana State Air Quality Bureau from attainment to nonattainment for carbon monoxide (CO). During the period July, 1977 to February, 1979, there were 16 violations of the eight hour CO standard at the one monitoring station in Great Falls.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Alkema, Coordinator, Environmental Protection Agency, Montana Office, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59601. Telephone (406) 449–5414.

SUPPLEMENTARY INFORMATION: EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons: (1) this action merely identifies a problem area for air quality planning purposes; (2) this action imposes no additional obligation on any source; (3) development of a plan to attain the CO standard within the designated area must begin immediately in order to protect the public health.

The Clean Air Act Amendments of 1977, Pub. L 95–95, added Section 107(d)(2) to the Clean Air Act (CAA), which directed each State to submit to the Administrator of the EPA a list of the NAAQS attainment status of all areas within the State. The Administrator was required under Section 107(d)(2) to promulgate the State lists, with any necessary modifications.

For each NAAQS, areas are classified as (1) not attaining the standard or, for certain pollutants, projected not to maintain the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data or information to be classified (unclassified areas). The EPA published these lists on March 3, 1978 (43 FR 8962). At that time, the Great Falls area was classified as attainment for CO.

On December 24, 1979, the State of Montana requested EPA to redesignate a portion of the City of Great Falls from attainment to nonattainment for CO. In the March 28, 1980, **Federal Register** (45 FR 20501) EPA proposed to modify the State's request and redesignate the entire city as a nonattainment area. A 30 day comment period was provided. This was subsequently extended to May 31, 1980 (45 FR 34020, May 21, 1980), to provide additional time for the City of Great Falls to submit its comments. A meeting was scheduled in Great Falls on May 20, 1980, to receive comments from city officials, but because of dust entering Montana from the Mt. St. Helens volcano eruption, all nonessential activities were ordered to be curtailed by the Governor, and the meeting was cancelled. The meeting was rescheduled for June 5, 1980, the earliest date which was mutually acceptable to city officials, EPA, and State personnel, and was announced in the *Great Falls Tribune* on June 3, 1980.

EPA believes that the comments submitted by the city as a result of that meeting are eligible for inclusion as official comments for the following reasons: (1) the May 20, 1980, meeting was specifically requested by Great Falls city officials to afford them the opportunity to provide EPA with comments, but was cancelled because of the natural disaster at Mt. St. Helens. The same personnel attended the meeting on June 5, 1980, as would have on May 20, 1980, and no one wanting to attend the meeting was excluded; (2) the second meeting date (June 5, 1980) was announced in an article in the *Great Falls Tribune* on June 3, 1980. This afforded the public an opportunity to learn of the meeting, to attend if desired, or to contact the city to propose a revised date for the meeting; and (3) if any other comments had been submitted by June 5, 1980, EPA would have considered them in developing the final rule.

Detailed Comments

Major concerns raised by the City of Great Falls (hereafter the "city") in its verbal and written communications with EPA, together with EPA's responses to those concerns are contained in the following paragraphs.

The city contends that it has no CO problem and that the data utilized by the EPA is invalid because the analyzer used was not equivalent according to EPA standards under 40 CFR Part 58. However, EPA found the analyzer equivalent because the unit referenced by the city (Bendix Model 8501–5CA) was designated as a reference analyzer on February 18, 1976, and remains so to this date. The Montana Air Quality Bureau has verified that a Bendix 8501–5CA was used to collect the data. As stated earlier in this notice, these data showed 16 violations of the eight-hour CO standard.

The city also stated that the monitor was not sited according to EPA siting criteria. The monitor in the city was sited according to existing EPA criteria. These criteria are contained in *EPA—450/3–75–007, Selecting Sites for Carbon Monoxide Monitoring, September, 1975.* This publication was used in developing the CO siting criteria set forth in 40 CFR Part 58. The criteria in this latter document, although abbreviated, are not substantively different from those set forth in the earlier document. Furthermore, the city contends that the ambient temperature inversions and heavy traffic flows should be considered as mitigating factors in judging the data for violations. It is EPA's position that temperature inversions and heavy traffic on 10th Avenue South cannot be considered as mitigating factors. Adverse meteorological conditions are certain to occur as part of the normal climatological cycle. Temperature inversions are fairly frequent in Great Falls during the winter months. Similarly, since motor vehicle traffic generates roughly 85 to 95 percent of all CO found to occur in a community such as Great Falls, it would not be logical to exclude that source from consideration. Rather, it is precisely because these factors combine to result in high CO concentrations that the public health must be protected from the results of such events.

The city has incorrectly stated that because the Montana Air Quality Bureau characterized the Great Falls monitoring site as microscale, the data from it should not be used for purposes of redesignation. Congressman Williams also commented that the data from the microsite is insufficient to justify a designation of the entire city and that other evidence is needed before a designation is made. Data from any scale site can be used to designate an area as nonattainment, be it microscale, middlescale, neighborhood scale or other scale. The important thing is that the public has access to the area in the vicinity of the monitor. In this case, there are a number of small businesses adjacent to the monitoring site, and there are residences on 9th Avenue South within 50 to 75 meters of it. Moreover, using the criteria set forth in 40 CFR Part 58, a case could be made for characterizing the Great Falls site as middlescale rather than microscale.

The city also argues that EPA is unjustified in redesignating the entire city based on the data from one monitoring site. EPA agrees that, ideally, data from more than one monitor would be desirable for designation purposes. However, because of the high cost of operating large CO monitoring networks, EPA recommends that limited monitoring networks be used, even in large metropolitan areas. EPA also recommends that monitoring efforts be supplemented by diffusion modeling techniques to estimate CO concentrations at other locations within the community.

In the case of Great Falls, there are two areas where violations of the CO standards could be expected to occur. These are the 10th Avenue South corridor where the monitored violations occurred, and another area some distance away which corresponds roughly to the central business district. Neither monitoring nor modeling data exist for this latter area. However, transportation planning data developed by the city indicate that there are some intersections and street segments in the vicinity of the central business district which experience relatively high traffic volumes and low travel speeds. EPA believes that these segments and intersections need to be analyzed for potential standards violations. Therefore, in recognition of the lack of monitoring or modeling data for the central business district, EPA is reducing the size of the nonattainment area to that described in the following section.

EPA Action

EPA is limiting the designation to the following subarea of Great Falls: that area between 9th Avenue South on the north, and 11th Avenue South on the south, and between 2nd Street on the west and 54th Street on the east. This is the area originally recommended for nonattainment status by the State Air Quality Bureau.

In addition to the nonattainment area, the following study area is hereby identified: beginning at the intersection of 2nd Street and 2nd Avenue South, then east on 2nd Avenue South to 15th Street, then north on 15th Street to North River Road, then west on North River Road to 10th Street, then south on 10th and subsequently 9th Street to 8th Avenue North, then west on 8th Avenue to Park Drive, then southwest on Park Drive to 3rd Avenue North, then south on 1st Street to 1st Avenue South, then east on 1st Avenue to 2nd Street, then south on 2nd Street to the point of beginning.

Within the study area, and as part of the development of its Transportation Control Plan, the city will analyze certain street intersections and street segments for violations of the CO standards. The analyses are to be conducted according to procedures acceptable to the State in consultation with EPA. The current "Transportation System Management" (TSM) report prepared by Great Falls shall be used to select the intersections and street segments. The worst intersections and segments in terms of volume-capacity ratios and slow travel speed shall be analyzed first, proceeding on to those segments and intersections which have improved volume-capacity ratio and higher travel speeds. When enough intersections have been analyzed to ensure that the analysis of additional segments and intersections will not result in any more predicted violations, the process will be discontinued. The decision to discontinue the analytical procedure shall be made by the State Air Quality Bureau in consultation with EPA.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may *not* be challenged later in civil or criminal proceedings brought by the Environmental Protection Agency (EPA) to enforce these requirements.

(Sec. 107 of the Clean Air Act as amended)

Dated: September 2, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 81 of the Code of Federal Regulations is amended as follows:

In § 81.327 the attainment status designation table for CO is revised to read as follows:

§ 81.327 Montana.

* * * * * * *

Montana—CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Billings	[1]X	
City of Missoula	X	
Great Falls Designated Area	X	
Rest of State		X

[1] EPA designation replaces State designation.

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[FR Doc. 80-27607 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 122

[FRL 1600-8]

Consolidated Permit Regulations; Criteria for New Source Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends a portion of the criteria for National Pollutant Discharge Elimination System (NPDES) new sourced determinations in the consolidated permit regulations pending further rulemaking.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brook, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. (202) 755-0750.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations under the Clean Water Act and other statutes. Those regulations included a provision containing criteria for distinguishing construction of a new source at the site of an existing source from construction that merely modified the existing source. 40 CFR § 122.66(b) (1) and (2). Classification as a new source depended in part on whether the construction involved a new "building, structure, facility, or installation." Following promulgation of the regulations, discussions with several regional permit writers raised questions about how the

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provision would actually operate, particularly as applied to industries in which virtually each piece of new equipment may constitute a separate structure or building.

Because of the confusion generated by this language, we have decided that the regulation should be carefully re-examined. Accordingly, EPA is today suspending the effectiveness of § 122.66(b) (1) and (2). During the period of suspension, permit writers will use Appendix A to Subpart I, 40 CFR Part 6 (1979), Guidance on Determining a New Source, as guidance for determinations otherwise controlled by § 122.66(b) (1) and (2). EPA also is today publishing elsewhere in the **Federal Register** a proposed revision of this rule for public comment. At the end of that rulemaking, we will amend the rule or terminate the suspension.

§ 122.66 [Amended]

In 40 CFR § 122.66, paragraphs (b)(1) and (b)(2) are suspended until further notice.

Dated: September 2, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-27611 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 400

Refugee Resettlement Program; Plan and Reporting Requirements for States

AGENCY: Office of the Secretary (OS), HHS.

ACTION: Final rule.

SUMMARY: This regulation sets forth the plan requirements a State must meet as a condition for receiving assistance for refugees under title IV of the Immigration and Nationality Act. It also includes requirements for the establishment of advisory councils to participate in the implementation of the plan, the content of the State annual reports on the use of refugee resettlement program funds, and maintenance of records. This regulation implements section 412(a)(6) of the Immigration and Nationality Act (added by section 311(a)(2) of the Refugee Act of 1980). It requires a State, as a condition for receiving assistance for refugees, to submit to the Office of Refugee Resettlement (ORR) (1) a plan that provides details of the State's program for delivering assistance and services funded by ORR, and (2) an annual report, after the end of each fiscal year, on the use of State-administered Federal funds provided under the program. State plans must be submitted by October 1, 1980; the first annual report is due by December 31, 1980; advisory councils must be established by January 1, 1981.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis Gallagher (202) 426-6510.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published on May 27, 1980, in the **Federal Register** (45 FR 35359), setting forth plan and reporting requirements for States under the Refugee Resettlement Program. The purpose of the regulation is to set forth requirements for, and to provide guidance to States on, the content of their plans due to ORR by October 1, 1980. No major changes were made in the proposed regulation.

The basis of the regulation is section 311 of Pub. L. 96-212 (the Refugee Act of 1980) which amended title IV of the Immigration and Nationality Act to establish the Office of Refugee Resettlement (ORR) in HHS. This regulation implements section 412(a)(6) of the Immigration and Nationality Act. That section, added by section 311(a)(2) of the Refugee Act of 1980, requires States, as a condition for receiving refugee assistance, to—

(1) Submit a plan to the Director of ORR;

(2) Meet standards, goals, and priorities, developed by the Director of ORR, which assure the effective resettlement of refugees and which promote their economic self-sufficiency expeditiously and the efficient provision of services; and

(3) Submit to the Director, after the end of the fiscal year, a report on the uses of resettlement funds administered by the State.

Under section 313(d) of the Refugee Act of 1980, the requirements for a plan apply to assistance furnished after October 1, 1980. The regulation sets forth (1) the plan requirements contained in the statute; (2) the requirement for establishing a State advisory council to participate in the development and review of plan amendments submitted to ORR; (3) the required content of the annual State reports on the uses of Federal funds provided for refugee assistance; and (4) the requirement for maintenance of records. The statute requires the plan to:

(1) describe how the State plans to encourage effective refugee resettlement and promote economic self-sufficiency;

(2) describe how the State plans to insure that language training and employment services will be made available to refugees receiving cash assistance;

(3) designate a State coordinator for refugee resettlement;

(4) provide for the care and supervision of unaccompanied refugee children; and

(5) Provide for the identification and necessary treatment or observation of refugees with medical conditions requiring attention and monitoring of such treatment or observation.

Over the next year we intend to develop comprehensive regulations governing the refugee resettlement program after consultation with States, private voluntary resettlement organizations, refugees and their representatives, and others. After a thorough examination of the legislation and current program policy as well as these various consultations, we will issue program regulations to implement the law effectively. Complete program regulations should be in place before the beginning of FY 1982.

Given the limited time frame between passage of the statute and the October 1, 1980 due date for plans, this regulation is intended to provide States with as much advance notice and guidance as possible on the required content of the plan and annual reports, as well as maintenance of records requirements. Further revision of these requirements may be necessary in connection with program regulations to be developed and published over the next year.

Section 301 of the Refugee Act of 1980 amends section 101(a) of the Immigration and Nationality Act by adding a new definition of the term "refugee." The Department of Justice, which is charged with determining the admission of refugees and providing appropriate documentation, published interim regulations covering these matters in the **Federal Register** (45 FR 37392) on June 2, 1980, which identify aliens who are refugees under section 207 or section 208 of the Immigration and Nationality Act. Also, under current policy, individuals who would have met the definition of a "refugee" under the Migration and Refugee Assistance Act of 1962, as amended, or the Indochina Refugee Assistance Act of 1975, as amended, will also meet the definition of a refugee under the Refugee Resettlement Program. ORR will issue guidance to State agencies and other service providers on the identification and documentation of refugees.

Discussion of Comments

We received 61 letters from State and local government agencies, voluntary resettlement agencies, other public and private nonprofit agencies, service providers, refugee community groups and mutual assistance associations, and refugees themselves. Specific major concerns expressed and our responses are as follows:

1. Comments that go beyond the scope and intent of this regulation.

We received 13 comments that included suggestions for additions to the regulation that go beyond the limited scope of this regulation. Several commenters requested that we require plans to include research and evaluation of State planning objectives and services provided to refugees, as well as specific time lines for achieving objectives. One State agency requested that there be some provision in the regulation for public review of the plan in addition to State advisory council review.

In addition, we received extensive comments from several States, community groups and service providers offering suggestions on methods of service delivery. For example, two commenters wanted the regulation to require provision of services through the use of bilingual/bicultural staff when contact with refugees is part of the service delivery methodology. We received comments on methods and outreach techniques for assuring maximum use and benefits from language training and employment services as well as the need to provide skills and language training simultaneously.

Several respondents were concerned about the lack of requirements placed on voluntary resettlement agencies. Other respondents expressed concern that the regulation does not address a preventive program in mental health, and that reference to the unaccompanied refugee children program is limited.

We recognize the need to address additional concerns in developing program regulations and appreciate the careful thought that went into the comments we received. The present regulation, however, is limited to plan and reporting requirements that must be met by October 1, 1980, and minimum maintenance of records requirements. The regulation is applicable to State programs for refugee resettlement and sets forth the basic requirements States must meet as a condition for receiving Federal funds under title IV of the Immigration and Nationality Act.

We will be publishing proposed regulations for State programs for cash assistance, medical assistance, child welfare services (including services for unaccompanied refugee children), support services, and grants to public and private nonprofit agencies. We will consider the above comments and suggestions, plus other comments discussed under specific sections, in developing those regulations.

However, we want to clarify that this regulation is applicable to voluntary resettlement agencies or other private agencies only to the extent that they receive HHS funds through the States under this Act. To the extent that voluntary resettlement agencies receive reception and initial placement grants from the Department of State, we have neither the authority nor the responsibility to regulate such grants.

We realize that this regulation cannot meet the concerns of all commenters. Therefore, we plan extensive public participation in the subsequent regulations development process planned during FY 1981. In addition, we will be providing technical assistance and guidance to help assure that programs are developed to best meet refugees' needs.

2. English language training and employment services.

We received five comments on the Director's establishing the provision of English language training and employment services as a priority in accomplishing the purposes of the program (section 400.1 (c)). One commenter strongly endorsed setting those priorities but wanted to add a work-search requirement as a condition for receiving assistance to further strengthen this commitment. We will consider such a requirement in developing regulations governing State programs for cash assistance to refugees. The statute, however, does require that refugees register with an agency providing employment services and accept appropriate offers of employment as pre-conditions for receipt of cash assistance. Under the statute, the requirement for registration for employment services does not apply during the first 60 days after a refugee's arrival in the U.S.

Several other commenters generally agreed with making English language training and employment services priorities in the program but suggested that initial and ongoing health care and orientation services also be set as priorities in accomplishing the purposes of the program. The targeting of priorities by the Director of ORR in this regulation should not be interpreted to mean that services and assistance not targeted are not important. While we want to stress the immediate need of many newly arrived refugees for English language training and employment services, such emphasis is not meant to minimize other necessary, even vital, services needed by refugees. Although we are bound by specific statutory requirements placed on the program, our intent is to permit maximum flexibility in determining and planning to meet basic refugee needs.

We received six comments on the requirement that the plan describe how the State will ensure that language training and employment services are made available to refugees receiving cash assistance and to other refugees (§ 400.5(c)). Several commenters expressed concern about the scope of this requirement. One State requested the requirement be limited to assuring the provision of the services to refugees eligible for cash and medical assistance only, to avoid the possibility of being found out of compliance because the State lacked funds to assure that *all* refugees received these services. Other States commented that until there were Federal assurances that funding will be available and that the Departments of Labor and Education will supply assistance and resources to States, States cannot ensure service delivery.

We realize that the extent to which States provide these services to all refugees may be dependent upon the availability of Federal funds. States will not be penalized for failing to provide these services when funds are not available at the Federal level. Section 412(a)(1) of the Immigration and Nationality Act requires that the Director make sufficient resources for these services available "to the extent of available appropriations." States must give priority in providing these services to those refugees receiving cash assistance. The extent to which States can provide services to other refugees will depend upon the availability of funds.

3. Submittal and content of the plan.

a. *Due Date.* Four commenters expressed their concern that the October 1 due date for plans in § 400.4(a) did not allow enough time for States to develop comprehensive plans. They asked that the October 1 plan be considered a minimal plan and that States be allowed additional time to meet the requirements in § 400.5 (Content of the plan). Submittal of a plan that meets statutory and regulatory requirements by October 1, 1980, is a condition for receipt of Federal refugee resettlement funds. Plans submitted by October 1 must meet the minimal requirements set forth in this regulation.

We understand the difficulties States face in submitting a plan by the due date and have thus kept requirements for its content to a minimum. This plan is viewed as an initial document to be amended in the future. Federal funding to States will be provided unless a State fails to submit a plan or submits a plan that omits the statutory and regulatory requirements.

b. *State Coordinator.* We received 14 comments on the requirement that States designate a State Coordinator with the responsibility and authority to ensure coordination of public and private refugee resettlement resources (§ 400.5(d)). One commenter, in favor of the designation of a State Coordinator, urged that candidates be considered from both the private and public sector. States may select their State Coordinators from either the private or public sector. We do not expect the consideration of qualified individuals to be limited to a given sector.

One commenter suggested that we require the State Coordinator's office to develop and maintain a registry of available information on resources. We agree that such a registry is one of the State's responsibilities and will consider more detailed requirements when we develop more comprehensive program regulations or issue guidance on the expected role of the office.

One commenter requested that the title of the State Coordinator be left to the State. We have not accepted this suggestion because we want to stress the importance of this position.

Another commenter recommended that we require the Coordinator's office to be located in the Office of the Governor. The proposed regulation included the requirement that the State Coordinator "have the responsibility and authority to ensure coordination . . . ." However, the Act does not specify an organizational location for the State Coordinator, and we believe that this is a matter which can appropriately be determined by the State. In response to this recommendation, we have, however, amended the regulation to require that the State Coordinator be designated by the Governor or the appropriate legislative authority of the State.

We received a number of comments on the extent of the Coordinator's responsibility. Commenters were concerned about funding for the position because of State fiscal restraints. The cost of the position is reimbursable as a State administrative cost from funds allowed under the refugee resettlement program.

Other comments questioned the extent of the Coordinator's authority and the difficulty of ensuring coordination since voluntary resettlement organizations and other private groups are not required to report on their activities. The wording of this requirement is from the statute. We recognize the difficulty of this task and that the State Coordinator may not be able to achieve full coordination among agencies not funded through the State government. However, it is a vitally important function and one that will be invaluable in filling a void that has previously existed in the resettlement program. Private as well as public agencies stand to gain from the coordination effort and we would hope that agencies involved in the program would cooperate with the State Coordinator.

We received two comments expressing concern about the requirement in the statute that States, through their plans, insure "coordination of public and private resources in refugee resettlement." These respondents foresaw the creation of a new, expensive level of bureaucracy between HHS and the local agencies providing services. There was concern that States lack the authority over the private sector needed to meet statutory requirements.

The regulations published today, and the regulations under development, are in no way intended to create an additional level of bureaucracy that would discourage States and the private sector from participating in the program. Nor are we moving away from acknowledging the vital role of the private sector in refugee resettlement.

ORR is charged with insuring proper planning, coordination and accountability to Congress in the administration of the U.S. resettlement program. The Committee Report on the Refugee Act of 1980 (H. Rept. No. 96–608), states on page 20 that the Act is designed, among other things, to insure State and local government involvement in the resettlement process and require Federal and state-wide coordination in the expenditure of resettlement fund. This regulation, as well as future program regulations, are necessary if we are to fulfill our responsibilities under the statute and meet Congressional expectations.

c. *Identification and monitoring of necessary treatment of refugee medical problems.* We received 15 comments on the plan requirement that States provide for and describe their procedures to ensure identification of refugees who, at the time of resettlement in the State, are determined to have medical conditions or histories requiring treatment or observation, and the monitoring of any treatment or observation (§ 400.5(f)). Most respondents believe it is the Federal government's responsibility to identify health problems when refugees are screened for entry into the country and to supply States with necessary information.

Two commenters asked that the Center for Disease Control (CDC) of the U.S. Public Health Service transmit information to the health departments quickly. One commenter stated that it is the sponsor's responsibility to see that medical treatment is received and that voluntary resettlement agencies and the State Department must notify States of the arrival and of the sponsors of refugees for State monitoring purposes. Commenters thought the requirements too stringent because of lack of control of sponsors and refugee mobility. Two commenters were concerned that the requirement implies that the State is the primary health screening agent and mandates health screenings by the State to all refugees. Others were concerned about a State's ability to "ensure" that identification, treatment, observation and monitoring are done without necessary information and additional resources from the Federal government.

This plan requirement is statutorily imposed as a condition for the receipt of funds under title IV of the Immigration and Nationality Act. It is not within our discretion to change statutory language. However, in response to commenters' concern about a State's ability to "ensure" identification, treatment, observation, and monitoring, we have amended § 400.5(f) to require the plan to "provide for and describe the procedures established to identify refugees who. . . ." We believe some of the comments are based on a misunderstanding of the requirement. This regulation does not impose a screening requirement on States. It is the Federal government's responsibility to screen refugees before entry into the country for certain medical problems or medical conditions that require treatment or observation. The Federal government provides States with information obtained during these health screenings. We will make every effort to ensure that States receive necessary information on refugees' medical needs as quickly as possible. States should advise Mr. Ferdinand Tedesco of the Quarantine Division of CDC ((404) 329–3573) of the State official to be provided with this information.

Two commenters recommended that all refugees be eligible for medical assistance for the first year after entry. We are considering the question of eligibility for medical assistance for all refugees for an initial period of time after arrival in developing regulations for medical assistance for refugees.

We also received three comments expressing concern that the regulation identify tuberculosis as a medical condition existing among refugees. These commenters stressed the need for an area-wide approach to the tuberculosis problem and suggested that the plan include a requirement for currently recommended procedures for the detection, management and prevention of tuberculosis. While we agree with the importance of diagnosis, treatment, and follow-up of tuberculosis among refugees, this exceeds the scope and intent of this regulation. The Public Health Service (PHS) has previously made a number of public health recommendations in this area, and we have brought these comments to PHS' attention for their consideration as to recommended public health procedures.

4. Plan Amendments.

One commenter pointed out that the proposed regulation did not require that a plan amendment must be determined to meet the plan requirements in section 400.5. Any plan amendment, as well as the plan, must meet the requirements in § 400.5. We have added the language to § 400.6 of the regulation.

5. Federal Financial Participation (FFP).

We received seven comments on the availability of Federal funds under the plan for cash and medical assistance, refugee support services and reasonable and necessary costs of administration (section 400.8). One commenter requested that we change the regulation to state that the Director will establish quarterly allocations according to the approved State plan. Quarterly grants will be made based on the plan and estimates submitted by the State, taking into account other pertinent information, such as a State's prior expenditure rates, funding authority needed for service projects approved by ORR, and the availability of funds.

Another commenter recommended including other economic assistance, social services and mental health services in the list of assistance and services eligible for funding. The three categories of assistance and services (cash assistance, medical assistance, and refugee support services) plus administrative costs are meant to cover all types of expenditures under the program. Guidance on the range of specific allowable services will be provided by program instruction.

6. State advisory councils.

We received 29 comments on the requirement that States establish an advisory council responsible for assisting in the development and review of any plan amendment (section 400.9). One commenter wanted the regulation to require State advisory council review of the initial plan. We required the council to review plan amendments after January 1, 1981, to allow adequate time to establish such a council. There may be situations where, by State law, only the State legislature can establish an advisory council and the legislature will not convene in time to meet the requirements for an advisory council in this regulation. Any State in which this is the case should indicate in its plan submittal that such a situation exists and a waiver of the requirements for an advisory council will be granted until such time as the legislature meets and establishes the council. If a State already has an advisory council in operation or can establish an advisory council before submittal of the plan, this regulation does not preclude that council's assistance in development and review of the initial plan. We would strongly encourage that participation.

Most commenters favored an advisory council but objected to limiting the maximum size of the counil to 15 members. Some States indicated they already have advisory councils with more than 15 members and others were concerned that limiting membership to that number would mean that all important views were not represented on the council. Some commenters wanted the size and composition of the council left to the State's discretion. One State suggested establishing a hierarchy of local and statewide councils.

Section 412(a)(6)(B) of the Act gives the Director the authority to establish standards, goals, and priorities which assure the effective resettlement of refugees and the efficient provision of services. The Director has exercised his authority under that section to set standards for the program that ensure the continued involvement of both the public and private sector working in cooperation to meet the particular needs of various refugee groups. The State advisory council must be comprised of individuals whose combined knowledge of, commitment to, and concerns for, refugees' quick economic and social adjustment make their involvement in the process of developing the plan a valuable test of the effectiveness we hope to achieve.

Although we believe that a requirement for a hierarchy of councils would be too extensive to impose on States, we recognize the need for, and encourage, maximum communication at all levels. We also recognize the need for adequate representation of views on the State council. Therefore, we have amended the regulation to allow membership of up to 25 individuals. This does not preclude a State from appointing more than 25 members to its advisory council. However, Federal reimbursement from program funds is limited to costs incurred on behalf of 25 members on the council.

In response to a suggestion that council membership be for a specific time period, we have specified one year for membership. This does not preclude reappointment of an individual for an additional year but ensures that new members may be appointed each year.

We received 15 comments on the composition of the advisory council. Several commenters wanted one-third of the members to be refugees; others wanted 51% of the members to be refugees. One commenter requested that membership be limited to voluntary resettlement agencies, while other commenters wanted State governments, health departments and organizations, the business community and other interested individuals to be added to the list of members. Commenters wanted assurances that council membership would be representative ethnically of the refugee population in the State and would include local representatives involved in all aspects of refugee resettlement. Several commenters were concerned that refugee members include women and that refugee members would be reimbursed for lost wages and/or paid per diem and travel costs.

We expect States to include a wide cross section of expertise and experience on advisory councils, and to ensure that selection is made without regard to sex or other bias. Some experience with advisory councils is needed, however, before we consider specific proportional composition requirements for councils. The list of members is not meant to be all inclusive; our intent is to ensure representation from a variety of sectors and viewpoints in the State. Because the council's experience should be specific to the needs of the State, we have required that members live in the State. We expect States to include representation by "other appropriate individuals and organizations." We do not, however, believe that a State needs representation by its own officials on the council. States have other means of receiving input from their own officials. Necessary and appropriate travel and per diem costs for the council are permissible costs for States under funds authorized for the refugee resettlement program.

Two commenters expressed concern that refugee membership not be limited

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to refugees "eligible to benefit from services" because those refugees who have been successful in becoming assimilated into the mainstream would be excluded. The requirement that members be "refugees eligible to benefit from services" does not specifically limit membership to new arrivals because the statute does not place a time limit on eligibility for most services. (While the Act contains a 36-month limit, beginning April 1, 1981, on refugee eligibility, this limit applies only to eligibility for cash and medical assistance and child welfare services.) It would, however, preclude persons who have become U.S. citizens from being considered as "refugees."

7. Maintenance of records and annual reports.

We received 21 comments on the maintenance of records and reporting requirements in § 400.10. Most commenters were concerned that maintenance of records requirements were too stringent and would necessitate a significant increase in State efforts and Federal funding.

One commenter indicated that if requirements were not eased, we should supply Federal funds to develop systems to gather data. The commenter referred to the heavy burden of a screening, tracking and monitoring system for refugee medical problems. Since the program is funded up to 100%, the additional time and effort expended by States in establishing and maintaining records and preparing reports will be reimbursed under administrative costs, to the extent of available appropriations. However, as we noted previously, this regulation does not impose a screening requirement on States. We do not believe that the medical recordkeeping which is required exceeds that which would be maintained under any program assuring adequate treatment, observation, and monitoring.

One private nonprofit agency commented that it does not keep records documenting services and assistance provided to individual refugees, and was also concerned that there may be duplication of reporting requirements between the Department of State (DOS) and HHS. These requirements would apply to a voluntary resettlement or other private nonprofit agency only if the agency enters into a purchase-of-service agreement with the State for which HHS funds are used. Under such agreements, agencies must meet HHS requirements in 45 CFR Part 74 (Administration of Grants) and applicable regulations. Since the present regulation relates only to the use of HHS funds for refugee program activities, there would be no duplication with DOS reporting requirements.

These are basic maintenance of records requirements. We do not believe they are too stringent. However, to avoid duplication of effort and conflicting requirements with 45 CFR Part 74, we amended the proposed regulation by deleting 400.10(a)(4) which required maintenance of fiscal records in a format specified by the Director, and 400.10(a)(5) which required annual and other reports. The requirements of 45 CFR Part 74 apply to all HHS grants and include rules on the format and submittal of fiscal records and the length of time records must be maintained.

Eleven of the 21 comments received on section 400.10 concerned the annual report requirement. Three respondents were concerned that requiring an annual report only 60 days after the end of the fiscal year does not allow adequate time for preparation of the report. One commenter suggested a preliminary report be filed on January 1; another commenter suggested the report be filed by February 1. In keeping with 45 CFR Part 74 and in response to these concerns, we have amended the regulation to require filing of the report by December 31, allowing States 90 days after the close of the fiscal year to complete and submit it.

ORR is required to submit a substantive report to Congress each January 31 on program activities. Much of the information supplied by States in their annual report is needed for the report to Congress, including data on unaccompanied children as well as the extent to which refugees received assistance and services under the program.

One commenter saw the annual report as a funding document, with funding dependent upon report approval. Another commenter said the report should contain only fiscal information for the previous year and that the narrative statement of the program status belongs in a planning document. Four commenters requested that the report contain qualitative evaluation of the results of services provided as well as quantitative data.

We wish to clarify that the annual report is not a funding document. However, the statute requires submittal of the report as a condition for the State to receive funds under the Act.

In revising the reporting requirements to conform with the regulations on administration of grants in 45 CFR Part 74, we separated the annual report into the two reports required under Part 74: An annual performance report and an annual financial status report. The annual performance report must contain a narrative statement of the program status; State cash and medical assistance and support services caseloads; the number of refugees receiving English language training and employment-related services and a description of the services provided; a report on the status, location, and progress of unaccompanied refugee children admitted to the State; and additional statistical or programmatic information that the Director may require to enable proper Federal monitoring of the State's program.

We believe that the narrative statement of the progress achieved and of the State's plans for improvement of refugee resettlement is an essential part of the annual report. Information on a State's experience, progress, and plans will enable us to better understand and plan to meet the needs of resettled refugees in the country. The statement is a vehicle for the State to inform us about what is or is not working in the program. We would hope that the narrative statement would include a qualitative evaluation of the results of services provided. We are studying evaluation methods in conjunction with the development of further program regulations, and will address possible program evaluation methods in those regulations.

We received several comments on the requirement to report on the status and progress of each unaccompanied refugee child. One respondent referred to the reports currently required to be submitted by States to the ORR regional offices. These reports meet the requirements for reports on each individual child. The annual report requirement regarding unaccompanied children is intended to be of a summary nature, and we have revised the language accordingly. Another commenter stated that case planning is not a function of the Federal government and that States should submit only statistical data on unaccompanied refugee children because the Federal government should monitor the general flow of children to identify national trends while the States develop treatment plans for children based on their expertise. While we agree that individual case planning is a State responsibility, the Director of ORR is required by statute to maintain a list of unaccompanied refugee children, and to report to Congress annually on the location and status of unaccompanied refugee children.

8. Confidentiality of records.

We received eight comments on § 400.11, Confidentiality of records. Seven commenters were concerned that the language would preclude the exchange of information between State, local, Federal and other public and private nonprofit agencies involved in the refugee resettlement program. Two commenters suggested adopting confidentiality of records language contained in the program regulations for Aid to Families with Dependent Children (AFDC) or Medicaid. We agree with respondents that information sharing is necessary for efficient coordination of the program, as long as a refugee's rights to privacy are protected. Therefore we amended the section by adding the language "Except for purposes directly connected with the administration of the program. . . ." In developing cash and medical assistance regulations, we will consider the confidentiality of records language in the AFDC, Medicaid and social services regulations.

One commenter questioned whether we should require a parent or guardian's consent to release of information concerning an individual if the individual is a minor. We agree and have added language to require this consent.

We amended the attached regulation to incorporate the changes discussed above as well as other minor clarifying or technical changes.

45 CFR Chapter IV is amended by adding a new Part 400 to read as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

Subpart A—Introduction

Sec.
400.1 Basis and purpose of the program.
400.2 Definitions.
400.3 Other HHS regulations that apply.

Subpart B—General Requirements

400.4 Purpose of the plan.
400.5 Content of the plan.
400.6 Plan amendments.
400.7 Submittal of plans for Governor's review.
400.8 Federal financial participation.
400.9 State advisory council.
400.10 Maintenance of records and reports.
400.11 Confidentiality of records.

Authority: Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

Subpart A—Introduction

§ 400.1 Basis and purpose of the program.

(a) This part prescribes requirements concerning grants to States under title IV of the Immigration and Nationality Act.

(b) It is the purpose of this program to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.

(c) Under the authority in sec. 412(a)(6)(B), the Director has established the provision of English language training and employment services as a priority in accomplishing the purpose of this program.

§ 400.2 Definitions.

The following definitions are applicable for purposes of this part:

"Act" means the Immigration and Nationality Act;

"Cash assistance" means financial assistance for which funding is available under title IV of the Immigration and Nationality Act;

"Director" means the Director, Office of Refugee Resettlement;

"HHS" means the Department of Health and Human Services:

"Medical assistance" means medical services for which funding is available under title IV of the Immigration and Nationality Act;

"ORR" means the Office of Refugee Resettlement;

"Plan" means a written commitment by a State submitted under section 412(a)(6)(A) of the Act, to administer or supervise the administration of a refugee resettlement program in accordance with Federal requirements.

"Support services" means services provided by, or purchased by, a State, which are designed to meet resettlement needs of refugees, for which funding is available under title IV of the Immigration and Nationality Act;

"State" means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territories of the Pacific;

"State agency" means the agency designated by the Governor or the appropriate legislative authority of the State to develop and administer, or supervise the administration of, the plan under title IV of the Immigration and Nationality Act, and except where the context otherwise requires, includes any local agencies administering the plan under supervision of the State agency; and

"State Coordinator" means the individual designated by the Governor or the appropriate legislative authority of the State to be responsible for, and authorized to, ensure coordination of public and private resources of refugee resettlement.

§ 400.3 Other HHS regulations that apply.

The following HHS regulations apply to grants under this part:

42 CFR Part 441 Subparts E and F Services: Requirements and limits applicable to specific services—Abortions and Sterilizations
45 CFR Part 16 Department grant appeals process
45 CFR Part 74 Administration of grants
45 CFR Part 75 Informal grant appeals procedures
45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81 Practice and procedure for hearings under part 80 of this title
45 CFR Part 84 Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

Subpart B—General Requirements

§ 400.4 Purpose of the plan.

(a) In order for a State to receive refugee resettlement assistance from the allotments of funds under sec. 414 of the Act, it must submit, to ORR by October 1, 1980, a plan that the Director determines to meet the plan requirements in § 400.5.

(b) The plan is a statement submitted by the State describing the nature and scope of its program and giving assurances that the program will be administered in conformity with specific requirements stipulated in title IV of the Act, official issuances by the Director, and all applicable regulations. The plan contains information necessary for the Director to determine whether the plan meets the plan requirements under § 400.5 as a basis for Federal funding of the State program.

§ 400.5 Content of the plan.

The plan must:

(a) Provide for the designation of a State agency responsible for developing the plan, and administering, or supervising the administration of, the plan;

(b) Describe how the State will encourage effective refugee resettlement and promote economic self-sufficiency as quickly as possible, through effective use of cash assistance, medical assistance and support services;

(c) Describe how the State will ensure that language training and employment services are made available to refugees receiving cash assistance, and to other refugees, including State efforts to actively encourage refugee registration for employment services;

(d) Identify an individual designated by the Governor or the appropriate legislative authority of the State, with

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the title of State Coordinator, who is employed by the State, and will have the responsibility and authority to ensure coordination of public and private resources in refugee resettlement;

(e) Provide for the care and supervision of, and legal responsibility for, unaccompanied refugee children in the State;

(f) Provide for and describe the procedures established to identify refugees who, at the time of resettlement in the State, are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation, and the monitoring of any necessary treatment or observation;

(g) Specify the composition of the State advisory council established in accordance with the requirements of § 400.9 and describe how the State will ensure that the council is organized and operating by January 1, 1981;

(h) Provide that assistance and services funded under the plan will be provided to refugees without regard to race, religion, nationality, sex or political opinion; and

(i) Provide that the State will comply with the provisions of title IV of the Act, official issuances of the Director, and all applicable regulations, and will amend the plan as needed to comply with standards, goals, and priorities established by the Director.

§ 400.6 Plan amendments.

A State's administration or supervision of the program under this part must conform with the plan submitted to ORR, and determined by the Director to meet the plan requirements in § 400.5. Before the State agency implements any material changes in the content or adminstration of the plan, it must submit an amendment to the plan to ORR that the Director determines to meet the plan requirements in § 400.5.

§ 400.7 Submittal of plans for Governor's review.

A plan or plan amendment under title IV of the Act must be submitted to the State Governor for review and comment before the plan is submitted to ORR, unless the Governor delegates the authority to review and comment on the plan and plan amendment to the designated State agency or State Coordinator.

§ 400.8 Federal financial participation.

(a) Federal financial participation, under the terms and conditions approved by the Director, will be made available under the plan to States for cash and medical assistance, refugee support services, and reasonable and necessary administrative costs of such assistance and services, provided to eligible refugees beginning October 1, 1980. The Director will establish quarterly grants which will be communicated to States each quarter.

(b) A State must submit claims for Federal reimbursement for assistance and services provided to refugees under the plan on forms prescribed by the Director.

§ 400.9 State advisory council.

(a) A State must establish an advisory council responsible for assisting in the development and reviewing of any plan amendments after January 1, 1981.

(b) The State advisory council must be comprised of no less than five and no more than 25 members who live in the State and who are—(1) refugees eligible to benefit from services under the plan by virtue of being a refugee; and (2) representatives from local government, voluntary resettlement organizations, service providers, and other interested private organizations and individuals. Appointment to the council must be for a period of one year.

(c) The State must consult with the advisory council during the development of any plan amendment, and provide for the advisory council's review of the contents of a plan amendment prior to its submittal to ORR.

§ 400.10 Maintenance of records and reports.

(a) A State must provide for the maintenance of such operational records as are necessary for Federal monitoring of the State's refugee resettlement program. This recordkeeping must include:

(1) Documentation of services and assistance provided, including identification of individuals receiving those services;

(2) Records on the progress and status of unaccompanied minor refugee children, including the last known address of parents; and

(3) Documentation that necessary medical follow up services and monitoring have been provided.

(b) A State must submit statistical or programmatic information that the Director determines to be required to fulfill his or her responsibility under the Act.

(c) In order for a State to receive refugee resettlement assistance from the allotment of funds under sec. 414 of the Act, it must submit to the Director of ORR, by December 31 of each year, an annual performance report and an annual financial status report on the uses of funds received and administered by the State in the fiscal year ending the previous September 30.

(d) The performance report must include:

(1) A narrative statement of the program status, including progress achieved, problems encountered, and plans for improvement of refugee resettlement;

(2) State cash assistance, medical assistance and support services caseloads;

(3) The number of refugees receiving English language training services and a description of the services provided;

(4) The number of refugees receiving employment-related services and a description of the services provided;

(5) A report on the status, location, and progress of unaccompanied refugee children admitted to the State; and

(6) Additional statistical or programmatic information that the Director may require to enable proper Federal monitoring of the State's program.

(e) The financial status report must include expenditures for, and other financial data on, cash assistance, medical assistance, support services (by type of service), and administration.

§ 400.11 Confidentiality of records.

Except for purposes directly connected with the administration of the program, a State must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under the plan, will be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian.

(Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)))

Approved: September 3, 1980.

Patricia Roberts Harris,

Secretary of the Department of Health and Human Services.

[FR Doc. 80-27724 Filed 9-8-80; 8:45 am]

BILLING CODE 4110-12-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Part 2852

U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans. These proposed voluntary grade standards were developed at the request of the frozen vegetable industry. These standards would provide industry with a common language and contribute to orderly and efficient marketing.

DATE: Comments must be received on or before September 30, 1981.

ADDRESS: Written comments should be sent to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Building, Washington, D.C. 20250. See also comments under supplementary information.

FOR FURTHER INFORMATION CONTACT: Mr. Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6247. The Draft Impact Analysis describing the options considered in developing this proposal and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This proposal has been reviewed under the USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the office of the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the **Federal Register.** All comments submitted regarding this proposal will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours (7 CFR 1.27(b)).

Background

A proposed revision of the U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans was published in the **Federal Register** (43 FR 47755) on October 17, 1978. The purposes of the proposed revision are to adopt an on-line procedure for the attributes-type sampling, eliminate the dual grading nomenclature, consider bean "character" separately in determining the grade of frozen green beans and frozen wax beans, provide separate tolerances for precooked beans versus regular beans and eliminate color as a classified defect.

The current U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans define "character" as a measurement of the tenderness, maturity and firmness of the bean. While beans determined to have "good" Character—as defined in the U.S. grade standards—are not considered deficient in quality, those determined to have "reasonably good," "fairly good" or "poor" character are considered quality deficient.

The tolerances provided in the present standards were established for a combination of character and other defects, including blemishes, mechanical damage, stems, vine material and bean pod fiber. Because of the importance of character in determining different levels of bean quality, there is a need to separate this factor in establishing grade. Accordingly, the proposed rule would establish separate tolerances for character and noncharacter defects. In addition, character defects for frozen wax beans would be separately defined from those of frozen green beans.

Present tolerances for noncharacter defects would also be modified. For example, since bean pod fiber is really an indication of advancing maturity and therefore would be considered in evaluating character, this factor would be eliminated from the list of noncharacter defects.

In response to the proposed rule, two comments were submitted. Both were filed by green and wax bean processors who generally favored the proposal. However, one of those commenting objected to the separate classification of normal color changes which occur in snap beans with advancing maturity. We agree that this factor of color is dependent upon the maturity of the beans and would be considered in evaluating character. Therefore, the factor of color would also be eliminated from the list of noncharacter defects. Only color changes which are not typical of snap beans will be considered. Accordingly, the prerequisite factor of brightness and the classified factor of blemished would be retained.

Tolerance adjustments would have the net effect of retaining about the same quality for each grade as the current standards.

Other changes in this proposed rule are in the interest of clarity and uniformity. These include replacing the dual grade nomenclature of "U.S. Grade A" or "U.S. Fancy," "U.S. Grade B" or "U.S. Extra Standard," and "U.S. Grade C" or "U.S. Standard" with "U.S. Grade A," "U.S. Grade B" and "U.S. Grade C," and referencing sampling plans contained in the general regulations.

Because of the comments received, and additional information available to the Department, the October 17, 1978, proposal is hereby withdrawn and a new proposal is published as set forth herein.

A manual to guide the user of the sampling plans is available to the public and may be obtained from Mr. Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6247.

Options Considered

The Department considered three options in preparing this proposed rule.

Option I—Revise the U.S. Standards for Grades of Frozen Green Beans and Wax Beans

This action would revise the standards to adopt new grading procedures and establish separate

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[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.

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tolerances for "character" defects. It would also provide separate tolerances for precooked beans versus regular beans; eliminate poor color as a classified defect but retain brightness as a prerequisite factor and blemishes as classified defects; and, eliminate the dual grading nomenclature.

Option II—Continue the Currently Effective U.S. Standards for Grades of Frozen Green Beans and Wax Beans

The frozen food industry would be denied a change in the standards. Also, the standards would not be simplified by this option.

Option III—Revise the Standards to Revert to the Variables Type (Score-point) Standards

This option would reverse the policy of developing attributes type standards, where applicable, that contain an objective, step-by-step grading procedure that is more easily understood.

Both Options II and III do not promote the orderly marketing of frozen snap beans and fail to utilize the procedure which is currently available to improve the U.S. standards.

Option I was selected for the reasons previously stated herein.

Accordingly, Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans (7 CFR Part 2852), §§ 2852.2321 through 2852.2332, would be revised; new §§ 2852.2333 and 2852.2334 would be added, and the Table of Contents would be amended to read as follows:

Subpart—U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans

Sec.
2852.2321 Product description.
2852.2322 Styles.
2852.2323 Style classification and tolerances.
2852.2324 Types.
2852.2325 Kind of pack.
2852.2326 Definitions of terms.
2852.2327 Recommended sample unit sizes.
2852.2328 Grades.
2852.2329 Factors of quality.
2852.2330 Classification of defects.
2852.2331 Tolerances for defects.
2852.2332 Sample size.
2852.2333 Style requirement criteria.
2852.2334 Quality requirement criteria.

Subpart—U.S. Standards for Grades of Frozen Green Beans and Frozen Wax Beans

§ 2852.2321 Product description.

"Frozen green beans" and "frozen wax beans," hereinafter called "frozen beans," means the frozen product prepared from the clean, sound, succulent pods of the bean plant. The pods are stemmed, washed, blanched, sorted, and properly drained. The product is then frozen in accordance with good commercial practice and maintained at temperatures necessary for the preservation of the product.

§ 2852.2322 Styles.

(a) *"Whole"* means frozen beans consisting of whole pods of any length.

(b) *"Cut"* means frozen beans consisting of pods that are cut transversely into pieces less than 7 cm (2-¾ in) but not less than 1.9 cm (¾ in) in length.

(c) *"Short Cut"* means frozen beans consisting of pods that are cut transversely into pieces less that 1.9 cm (¾ in) in length.

(d) *"Mixed"* means a mixture of two or more of the following styles of frozen beans: Whole, cut, or short cut.

(e) *"Sliced Lengthwise"* means frozen beans consisting of pods that are sliced lengthwise and may also be known as *"French Style," "French Sliced," "Julienne,"* or *"Shoestring."*

§ 2852.2323 Style classification and tolerances.

(a) *General.* For the purpose of determining acceptance with the styles of *"Cut"* and *"Short Cut,"* pieces are considered as "minor" or "major" defects according to their lengths as specified in Table I. Each "X" represents one (1) defect.

(b) *Requirements.* Tolerances for style requirements are contained in Tables II and III.

Table I.—*Style Defect Classification*

Style	Defect	Classification	
		Minor	Major
Cut	Pieces shorter than 1.3 cm (½ in) in length.	X	
	Pieces longer than 7 cm (2¾ in) in length.		X
Short Cut	Pieces 1.9 cm (¾ in) or longer but not longer than 4.5 cm (1¾ in) in length.	X	
	Pieces longer than 4.5 cm (1¾ in) in length.		X

Table II.—*Tolerances for Cut Style*

	Total [2]	Major
AQL [1]	20.0	2.5

[1] AQL expressed as percent defective.
[2] Total = Minor + Major.

TABLE III.—*Tolerances for Short Cut Style*

	Total [2]	Major
AQL [1]	20.0	0.65

[1] AQL expressed as percent defective.
[2] Total = Minor + Major.

§ 2852.2324 Types.

The type of frozen beans is not incorporated in the grades of finished product, since it is not a factor of quality. The types of frozen beans are described as "round type" and "flat type."

(a) *"Round type"* means frozen beans having a width not greater than 1½ times the thickness of the bean.

(b) *"Flat type"* means frozen beans having a width greater than 1½ times the thickness of the beans.

§ 2852.2325 Kind of pack.

The kind of pack of frozen beans is not incorporated in the grades of finished product, since it is not a factor of quality. The kind of pack of frozen beans is described as "regular process" or "multi-branch process."

(a) *"Regular process"* means the frozen beans are processed in such a manner that the brightness is not affected by the process.

(b) *"Multi-blanch process"* means the frozen beans are intentionally processed in such a manner that the brightness is affected by the process.

§ 2852.2326 Definitions of terms.

(a) *Acceptable Quality Level (AQL)* means the maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Blemished* means any unit which is affected by discoloration, or any other means to the extent that the appearance or eating quality is adversely affected:

(1) Slightly;
(2) Materially; or
(3) Seriously.

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is affected by dullness. (Applies to "regular pack" only).

(1) Grade A—not affected.
(2) Grade B—slightly affected.
(3) Grade C—materially affected.
(4) Substandard—seriously affected.

(d) *Character.* (1) *Round type—Green Beans.* (i) *Good character* means the pods are full fleshed; upon cooking, the pods are tender and the seeds are not mealy.

(ii) *Reasonably good character* means the pods are reasonably fleshy; upon cooking, the pods are tender and the seeds are not mealy.

(iii) *Fairly good character* means the pods have not entirely lost their fleshy structure; upon cooking, the pods may contain edible fiber (no inedible fiber allowed) and the seeds may be slightly mealy.

(iv) *Poor character* means the green beans fail the requirements for "fairly good character."

(2) *Round type—Wax Beans.* (i) *Good character* means the pods are full fleshed and may show slight breakdown of the flesh between seed cavities; upon cooking, the pods are tender and the seeds are not mealy.

(ii) *Reasonably good character* means the pods are reasonably fleshy and may show substantial breakdown of the flesh between the seed cavities; upon cooking, the pods are tender and the seeds are not mealy.

(iii) *Fairly good character* means the pods may show total breakdown of the flesh between the seed cavities with no definite seed pocket but still retain flesh on the inside pod wall; upon cooking, the pods may contain edible fiber (no inedible fiber allowed) and the seeds may be slightly mealy.

(iv) *Poor character* means the wax beans fail the requirements for "fairly good character."

(3) *Flat type.* (i) *Good character* means the pods have a definite seed pocket and the seeds may be slightly enlarged for the type; upon cooking, the pods are tender and the seeds are not mealy.

(ii) *Reasonably good character* means the pods may not have a definite seed pocket and the seeds may be no more than moderately enlarged for the type; upon cooking, the pods are tender and the seeds may be slightly mealy.

(iii) *Fairly good character* means the pods are lacking a seed pocket; upon cooking, the pods may contain edible fiber (no inedible fiber allowed) and the seeds may be mealy and moderately hard.

(iv) *Poor character* means the flat beans fail the requirements of "fairly good character."

(4) *Fiber.* (i) *Edible fiber* means fiber developed in the wall of the bean pod that is noticeable upon chewing but may be consumed with the rest of the bean material without objection.

(ii) *Inedible fiber* means fiber developed in the wall of the bean pod that is objectionable upon chewing and tends to separate from the rest of the bean material.

(e) *Defect* means any nonconformance of unit(s) of product from a specified requirement of a single quality characteristic.

(f) *Detached stem* means the stem or portion of stem, that attaches the bean pod to the vine stem, has become separated from the pod.

(g) *Extraneous vegetable material (EVM).* (1) *Edible EVM* means tender, green, edible vegetable material similar in color and texture to that of bean pods, including but not limited to:

(i) Leaves or portions of leaves or grass;

(ii) Material from plants other than the bean plant.

(2) *Inedible EVM* means any plant material that is not tender, may not be green, may be tough, and includes but is not limited to:

(i) Discolored leaves or grass or portions thereof;

(ii) Bean stalk or vine material;

(iii) Material from plants other than the bean plant.

(h) *Flavor and odor.* (1) *Good flavor and odor* means the product, after cooking, has a good characteristic flavor and odor and is free from objectionable flavors and odors of any kind.

(2) *Fairly good flavor and odor* means the product, after cooking, may be lacking in good flavor and odor but is free from objectionable flavors and odors of any kind.

(i) *Mechanical damage* means any unit that is broken or split in two parts, or has very ragged edges, or is crushed, or is damaged by mechanical means to such an extent that the appearance is seriously affected.

(j) *Sample unit* means the amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container;

(3) A combination of the contents of two or more containers; or

(4) A portion of unpacked product.

(k) *Sloughing* means the separation of the outer layer of tissue from the bean pod giving a ragged or feathery appearance to the unit.

(l) *Small piece (Sliced lengthwise style only)* means a piece of pod less than 1.9 cm (¾ in) in the longest dimension and loose seeds and pieces of seeds.

(m) *Tough strings* means strings or pieces of strings, removed from the cooked bean pod, which will support a 227 g (½ lb) weight for not less than five (5) seconds.

(n) *Unit* means a bean pod or any individual portion thereof.

(o) *Unsnipped unit* means a unit without an attached stem but with a stem collar that is hard or tough and would be objectionable upon eating.

(p) *Unstemmed unit* means a unit with the attached stem or portion thereof that attaches the pod to the vine stem.

§ 2852.2327 Recommended sample unit sizes.

(a) In all styles, other than sliced lengthwise, a mechanically damaged unit that is broken into separate parts will be reassembled to approximate its original size and counted as one unit in the sample unit size.

(b) *Style requirements.* Requirements for cut and short cut styles are based on the recommended sample unit size of 200 units.

(c) *Quality requirements.* Requirements for factors of quality are based on the following recommended sample unit sizes for the respective style:

(1) *Classified defects (other than character).*

(i) Sliced lengthwise style—250 g (8.8 oz).

(ii) Whole style—100 units.

(iii) All other styles—200 units.

(2) *Character defects.*

(i) Sliced lengthwise style—250 g (8.8 oz).

(ii) Whole style—100 units.

(iii) All other styles—200 units.

§ 2852.2328 Grades.

(a) *"U.S. Grade A"* is the quality of frozen beans that:

(1) Meets the folowing prerequisites in which the beans:

(i) Have similar varietal characteristics (except "special" packs);

(ii) Have a good flavor and odor;

(iii) Have a good overall brightness as a mass that is not affected by dullness (Regular pack only);

(iv) In the style of "sliced lengthwise," have no more than 70 g of small pieces;

(v) Have an appearance or eating quality that is not materially affected by sloughing;

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, IX or X, as applicable, for the style.

(b) *"U.S. Grade B"* is the quality of frozen beans that:

(1) Meets the following prerequisites in which the beans:

(i) Have similar varietal characteristics (except "special" packs);

(ii) Have a good flavor and odor;

(iii) Have a reasonably good overall brightness as a mass which may be slightly dull (Regular pack only);

(iv) In the style of "sliced lengthwise," have no more than 70 g of small pieces;

(v) Have an appearance or eating quality that is not seriously affected by sloughing;

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, IX, or X, as applicable, for the style.

(c) *"U.S. Grade C"* is the quality of frozen beans that:

(1) Meets the following prerequisites in which the beans:

(i) Have similar varietal characteristics (except "special" packs):

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(ii) Have a fairly good flavor and odor;

(iii) Have a fairly good overall brightness as a mass which may be dull but is not off-color (regular pack only);

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, IX, or X, as applicable, for the style.

(d) *"Substandard"* is the quality of frozen beans that fail to meet the requirements of *"U.S. Grade C."*

§ 2852.2329 Factors of quality.

The grade of frozen beans is based on requirments for the following quality factors:

(a) *Prerequisite quality factors:* (1) Similar varietal charcteristics (except "special" packs);

(2) Flavor and odor;

(3) Brightness (regular pack only);

(4) Freedom from small pieces in the "sliced lengthwise" style;

(5) Freedom from sloughing.

(b) *Classified quality factors:* (1) Blemished;

(2) Mechanical damage (all styles except sliced lengthwise);

(3) Workmanship;

(4) Tough strings;

(5) Extraneous vegetable material;

(6) Character.

§ 2852.2330 Classification of defects.

All defects, other than character defects, are classified as minor, major, severe, or critical. All character defects are classified as reasonably good, fairly good, or poor. Each "X" in Tables IV and V represents "one (1) defect."

Table IV.—*Classification of Defects (Other Than Character)*

[Cut, Short Cut, Whole, Mixed Styles]

Quality factor	Defects	Classification			
		Minor	Major	Severe	Critical
Blemished	Slightly	X			
	Materially		X		
	Seriously			X	
Mechanical damage	(All styles except sliced lengthwise)	X			
Workmanship	Unstemmed Unit			X	
	Detached Stem			X	
	Unsnipped Unit		X		
Tough strings	Each unit		X		
Extraneous vegetable material.	Edible (each piece)			X	
	Inedible (each piece)				X

[Sliced lengthwise style]

Quality factor	Defects	Classification			
		Minor	Major	Severe	Critical
Blemished (each 2.5 g)	Slightly	X			
	Materially		X		
	Seriously			X	
Workmanship	Unstemmed Unit			X	
	Detached Stem			X	
	Unsnipped Unit		X		
Tough strings	(each unit)		X		
Extraneous vegetable material.	Edible (each piece)		X		
	Inedible (each piece)				X

Table V.—*Classification of Character Defects*

[All styles]

Quality factor	Defect	Reasonably good	Fairly good	Poor
Character	"B" (each unit)	X		
	"C" (each unit)		X	
	"SSTD" (each unit)			X

NOTE.—For sliced lengthwise style only—each 2.5 g increment equals one (1) unit.

§ 2852.2331 Tolerances for defects.

Table VI.—*Cut, Short Cut, and Mixed Styles*

[All classified defects except character]

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	6.5	1.5	0.65	0.10	8.5	2.5	1.0	0.25	12.5	4.0	2.5	1.0

Table VII.—*Whole Style*

[All classified defects except character]

	Grade A				Grade B				Grade C			
	Total [2]	Major	Severe	Critical	Total [2]	Major	Severe	Critical	Total [2]	Major	Severe	Critical
AQL [1]	10.0	2.5	1.0	0.25	15.0	4.0	2.5	0.65	20.0	6.5	4.0	2.5

[1] AQL expressed as defects per hundred units.
[2] Total = Minor + Major + Severe + Critical.

Table VIII.—*Sliced Lengthwise Style*

[All classified defects except character]

	Grade A				Grade B				Grade C			
	Total [2]	Major	Severe	Critical	Total [2]	Major	Severe	Critical	Total [2]	Major	Severe	Critical
AQL [1]	6.5	2.5	1.5	0.25	10.0	4.0	2.5	0.65	15.0	6.5	4.0	2.5

[1] AQL expressed as defects per hundred units (100—2.5 g increments in 250 g).
[2] Total = Minor + Major + Severe + Critical.

Table IX.—*Cut, Short Cut, Whole, and Mixed Styles*

[Classified defects for character only]

	Grade A			Grade B		Grade C
	Total [2]	Fairly good	Poor	Total [3]	Poor	Total [4]
AQL [1]	6.5	0.65	0.15	6.5	0.65	6.5

[1] AQL expressed as percent defective.
[2] Total = Reasonably Good + Fairly Good + Poor.
[3] Total = Fairly Good + Poor.
[4] Total = Poor.

Table X.—*Sliced Lengthwise Style*

[Classified defects for charactier only]

	Grade A		Grade C
	Total [2]	Poor	Total [3]
AQL [1]	6.5	0.65	6.5

[1] AQL expressed as percent defective (100—2.5 g increments in 250 g).
[2] Total = Fairly Good = Poor.
[3] Total + Poor.

§ 2852.2332 Sample size.

The sample size used to determine the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 2852.1—2852.83) for lot grading and on-line grading, as applicable.

§ 2852.2333 Style requirement criteria.

(a) *Lot grading.* A lot of frozen beans is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Tables II and III, as applicable for the style, are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Tables II and III, as applicable for the style, are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for style evaluation will be treated individually and is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Tables II and III, as applicable for the style, are not exceeded.

§ 2852.2334 Quality requirement criteria.

(a) *Lot grading.* A lot of frozen beans is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in tables VI, VII, VIII, IX, and X, as applicable for the style, are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, VIII, IX, and X, as applicable for the style, are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in tables VI, VII, VIII, IX, and X, as applicable for the style, are not exceeded.

(Agricultural Marketing Act of 1946, Sections 203, 205, 60 Stat. 1087, 1090, as amended; (7 U.S.C. 1622, 1624))

Done at Washington, D.C., on September 4, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-27717 Filed 9-8-80; 8:45 am]

BILLING CODE 3410-DM-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1601-5]

Approval and Promulgation of Revisions to the Michigan State Implementation Plan To Control Particulate Emissions From Iron and Steel Processes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking supplements rulemaking proposed by the United States Environmental Protection Agency (USEPA) on August 13, 1979 (44 FR 47350) on a revision to the Michigan State Implementation Plan (SIP). The revision to the Michigan SIP was submitted by the State pursuant to Part D of the Clean Air Act as amended (Act). The purpose of today's notice is to discuss the results of USEPA's review of the Michigan particulate control strategy as it relates to emissions from iron and steel process sources and to invite public comment on the specific issues raised in this notice.

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DATE: Comments on the parts of the Michigan SIP revision discussed in this notice and on USEPA's proposed actions of these revisions are due by October 9, 1980.

ADDRESSES: Copies of both the existing federally approved SIP and the proposed revisions to it are available for inspection at the following addresses:

United States Environmental Protection Agency, Region V, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604.
United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.
Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

WRITTEN COMMENTS SHOULD BE SENT TO: Cynthia Colantoni, United States Environmental Protection Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: 312/353–2110.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Act, USEPA designated certain areas in each state as not meeting the National Ambient Air Quality Standards for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), or nitrogen dioxide (NO_2).

Part D of the Act, which was added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary National Ambient Air Quality Standards as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987, for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). In addition, USEPA proposed rulemaking on November 27, 1979 (44 FR 67675) to clarify existing Federal regulations related to state or local discretionary authority to carry out provisions of a SIP.

On April 25, 1979, the State of Michigan submitted a portion of its revised SIP to USEPA to satisfy the requirements of Part D. USEPA published a notice of proposed rulemaking on many of the proposed revisions on August 13, 1979 (44 FR 47350). The notice of proposed rulemaking described the nature of most of the SIP revisions, discussed provisions which in USEPA's judgment did not comply with the requirements of the Act and requested comments from the State and public. USEPA published final rulemaking on these revisions on May 6, 1980 (45 FR 29790). The notice of proposed rulemaking did not discuss or solicit public comment on the State's strategy for controlling particulate emissions from iron and steel sources. Consequently, USEPA did not take final rulemaking action on these provisions on May 6, 1980. USEPA is today addressing these previously undiscussed provisions, proposing rulemaking action on them, and soliciting public comments. USEPA's proposed rulemaking on each of these provisions will take one of three forms: approval, conditional approval, or disapproval. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (44 FR 38583) and in the November 23, 1979 **Federal Register** (44 FR 67182).

As USEPA discussed in the August 13, 1979 **Federal Register**, some of the regulations in the State's April 25, 1979 submittal were preliminarily adopted by the Michigan Air Pollution Control Commission (MAPCC) and would be finally adopted after completion of necessary State administrative procedures. On January 9, 1980, USEPA received a letter from the State which demonstrated that all regulations were finally adopted and would be fully effective on January 18, 1980. USEPA's review of the finally adopted regulations indicated that the final regulations were the same as those submitted on April 25, 1979 except that Michigan modified its numbering system. USEPA has reviewed these finally enacted regulations and has determined that the requirement for legal adoption contained in section 110(a)(2) of the Act has been met. In the discussion below on specific rules, USEPA specifies for each rule the new number after the recodification.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for new and existing sources will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations; or if it chooses, challenging the new regulations. Failure by a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the existing regulations while moving toward compliance with the new regulations. In these cases, the State may propose to exempt to a source from compliance with the pre-existing regulations. Any exemptions granted will be reviewed and acted on by USEPA either as part of these promulgated regulations or as a future SIP revision.

USEPA is providing a thirty day comment period because the public has had an opportunity to review the proposed revisions to the Michigan SIP since August 13, 1979, when USEPA announced receipt of the plan and proposed rulemaking on other provisions (44 FR 47350). To be considered, comments on this supplemental notice of proposed rulemaking must be postmarked not later than thirty days from the publication of this notice. If, however, interested parties require additional time to comment on USEPA's proposed rulemaking actions, they can petition USEPA at the address below for an extension of the comment period. Requests for extension of the comment period must be received by USEPA prior to the closing of the thirty day comment period announced in this Notice of Proposed Rulemaking.

Michigan Strategy for Controlling Particulate Emissions for Iron and Steel Sources

Part D of the Act requires State Implementation Plans to include strategies and regulations adequate to assure attainment of the primary National Ambient Air Quality Standards as expeditiously as practicable but not later than December 31, 1982, and in the interim, to provide reasonable further progress towards attainment through the application of reasonably available control technology (RACT) on all stationary sources. EPA has defined

RACT as: The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[1] Therefore, depending on site specific considerations, such as geographic constraints, RACT can differ for similar sources.

USEPA believes that the burden of demonstrating that a regulation represents RACT rests on the state. In reviewing a proposed SIP revision to determine its adequacy, USEPA can verify independently that the provisions in the state plan represent RACT. Although USEPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. This data is available for review in the rulemaking docket on this notice at the addresses cited above. Where a state proposes regulations which are not technically supported by USEPA's data, the state must submit adequate data supporting its proposal as representing RACT.

To remedy its particulate nonattainment problem, the State of Michigan proposes a control strategy which relies on existing regulations, amendments to existing regulations, and new regulations, and which commits the State to conduct additional studies of nontraditional sources of particulates. Although most of the regulations in the control strategy are generally applicable to particulate sources, some of the provisions are specifically for the control of particulate emissions from iron and steel process sources. USEPA completed final rulemaking on most of the Michigan particulate control strategy on May 6, 1980 (45 FR 29790). In that notice, USEPA conditionally approved the overall Michigan particulate control strategy but took no action on the strategy as to those TSP nonattainment areas containing iron and steel process sources. Those portions of the control strategy include Item C of Table 31 of Rule 336.1331 (formerly Rule 336.44) which regulates particulate emissions from steel manufacturing and new Rules 336.1349 through 336.1357 which provide standards of performance for slot type coke ovens.

The proposed rulemaking today addresses the previously omitted provisions of the Michigan submittal pertaining to particulate control for iron and steel process sources, and the control strategy in TSP nonattainment areas containing iron and steel sources and invites public comment on the specific revisions and USEPA's proposed action. Today's rulemaking proposes to approve certain regulations, conditionally approve certain regulations, disapprove others, and conditionally approve the Michigan particulate strategy for non-attainment areas containing iron and steel sources. The conditional approval of the control strategy follows from EPA's view that the regulations proposed for approval or conditional approval, along with Michigan's commitment either to demonstrate that certain new rules are RACT or to adopt acceptable rules on a specified schedule, satisfy the Part D requirements for Reasonably Available Control Technology. The requirements of RACT in conjunction with Michigan's ongoing commitment to further address non-traditional particulate sources and to adopt additional regulations to achieve attainment on a detailed schedule together satisfy the requirement for conditional approval of the particulate control strategy. However, if Michigan fails to meet on schedule its commitments regarding RACT required by today's notice or pertaining to non-traditional sources, it will not be meeting its obligations under the Act and the growth restrictions will again apply.

In certain instances USEPA was unable to propose approval of certain regulatory provisions submitted by Michigan only because source definitions or testing procedures were not clearly defined. In those instances this package proposes approval if during the comment period Michigan provides adequate clarification of the provision in question. Alternatively, this notice proposes conditional approval if Michigan makes a commitment to clarify the provision in question on a schedule to be negotiated during the comment period. That clarification may consist of a statement of traditional administrative practice, judicial interpretation, enforcement handbook, or other statement from an authoritative source (including the State hearing record). In each case where such clarification has been requested, the rulemaking docket contains examples of definitions or testing procedures acceptable to USEPA.

Rule 336.1301 General Opacity: USEPA today proposes to approve this general opacity rule because insofar as it relates to iron and steel sources this rule together with approvable mass emission rules is acceptable as reasonably available control technology.

Rule 336.1331 Emissions of Particulate Matter: Rule 336.1331 contains specific emission limitations for traditional sources of particulates and identifies the reference test method to be used to determine compliance with each emission limit. The emission limits in the regulation are applicable statewide. The rule, formerly codified as Rule 336.44, was submitted as a proposed revision to the existing plan which is Wayne County Air Pollution Control Regulation 6.1 and 6.2. In the May 6, 1980 **Federal Register** (45 FR 29790), USEPA approved revisions to Rule 336.1331 as part of the federally approved Michigan SIP but took no rulemaking action on the revisions to Item C of Table 31 of Rule 336.1331. USEPA's discussion of Item C of Table 31 which addresses steel manufacturing follows.

1. Open Hearth Furnaces

Michigan proposes revising the emission limitation in the existing federally approved SIP for open hearth furnaces from 0.15 pounds of particulate per 1,000 pounds of gas to 0.10 pounds of particulate per 1,000 pounds of gas. Data collected by USEPA demonstrates that a more stringent emission limit is achievable with the application of reasonably available control technology. This data is available for review at the addresses listed in the front of this notice. USEPA proposes to disapprove the proposed emission limitation for open hearth furnaces. Because there are no open hearth furnaces in Michigan the disapproval of this rule will not affect the overall approvability of Michigan's TSP Part D plan.

2. Basic Oxygen Furnaces

Michigan proposes revising the emission limitation in the existing federally approved SIP for basic oxygen furnaces from 0.15 pounds of particulate per 1,000 pounds of gas (0.078 gr/dscf) to 0.10 pounds of particulate per 1,000 pounds of gas (.053 grains per standard dry cubic foot (gr/dscf)). USEPA believes that a more stringent emission limitation is achievable with the application of reasonably available control technology. Data from Michigan BOF shops reflect that, during the oxygen blow, basic oxygen furnaces meet an emission limit in the range of 0.015 to 0.030 gr/dscf at the primary

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[1] EPA articulated its definition of RACT in a memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I–X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas." Section 1.a (December 9, 1976), reprinted in (1976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication *Workshop on Requirements for Non-attainment Area Plans-Compilation* of *Presentations* 154 (OAQPS No. 1.2–103, revised edition April 1978).

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control device. The proposed Michigan standard would also appear to apply to the outlet of secondary gas cleaners. For these devices EPA data reflects that a limit of 0.005 to 0.02 gr/dscf, is achievable, depending on flow rate and other variables. Alternatively data reflects that a mass emission standard for emissions from the entire BOF shop of 0.1 to 0.2 pounds per ton of ingot steel can be achieved. This data is available for review at the addresses listed in the front of this notice. Therefore, USEPA proposes to disapprove the proposed emission limitation for basic oxygen furnaces unless the State demonstrates during the comment period that its proposed emission limitation represents RACT. U.S. EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

3. Electric Arc Furnaces

Michigan proposes revising the emission limitation in the existing federally approved SIP for electric arc furnaces from 0.15 pounds of particulate per 1,000 pounds of gas (0.078 gr/dscf) to 0.10 pounds of particulate per 1,000 pounds of gas (0.053 gr/dscf). USEPA believes that a more stringent emission limitation is achievable with the application of reasonably available control technology. For primary gas cleaning devices serving direct shell evacuation hoods, data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that concentrations ranging from 0.005 to .030 gr/dscf are achievable. USEPA also believes that fugitive emissions from electric arc furnaces are controllable. Data collected by USEPA and contained in the rulemaking docket demonstrates that RACT for such controls achieve outlet concentrations between 0.005 and 0.020 gr/dscf depending on flow rates and other variables. Therefore, USEPA proposes to disapprove the proposed emission limitation unless the State demonstrates during the comment period that its proposed emission limitation represents RACT. U.S. EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

4. Sintering Plants

In its April 25, 1979 submittal, the State did not propose revising the existing federally approved emission limitation for sintering plants of 0.20 pounds of particulate per 1,000 pounds of gas (0.10^6 gr/dscf). Sinter plants include both windbox and discharge ends to which this standard would apply. USEPA believes that a more stringent emission limit is achievable with the application of reasonably available control technology. Data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that RACT for windbox emission and discharge emissions ranges from .010 to .035 gr/dscf and .005 to .020 gr/dscf, respectively, depending on the type of control employed. Therefore, USEPA proposes to disapprove this State rule unless the State demonstrates during the comment period that it represents RACT. U.S. EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

5. Blast Furnaces

In its April 25, 1979 submittal, the State did not propose revising the existing federally approved emission limitation for blast furnaces of 0.15 pounds of particulate per 1,000 pounds of gas (0.078 gr/dscf). USEPA reads this rule to apply to stove emissions and casthouse emissions control devices. USEPA believes that a more stringent emission limit is achievable with the application of RACT. Gas cleaners on existing blast furnace stoves currently achieve 0.02 lbs./1000 pounds of gas. Data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that RACT for gas cleaners installed to clean casthouse generated and captured particulate emissions achieve 0.1 lbs./ton iron or, depending on capture air exhaust rate, a maximum of 0.010 gr/dscf, sampled and averaged over those periods when casting is occurring. Therefore, USEPA proposes to disapprove this State rule unless the State demonstrates during the comment period that it represents RACT. U.S. EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

6. Heating and Reheating Furnaces

In its April 25, 1979 submittal, the State did not propose revising the existing federally approved emission limitation for heating and reheating furnaces of 0.30 pounds of particulate per 1,000 pounds of gas (0.16 gr/dscf). USEPA believes that a more stringent emission limit is achievable with the application of RACT. Data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that RACT for these sources can reduce particulate emissions to a range from 0.005–0.010 gr/dscf or an equivalent opacity standard. Therefore, USEPA proposes to disapprove this State rule unless the State demonstrates during the comment period that it represents RACT. U.S. EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

7. Coke Oven Preheater Equipment Effective After July 1, 1979

The State of Michigan proposes this new regulation as a SIP revision. USEPA proposes to approve the emission limitation of 0.45 pounds of particulate per ton of coal fed to the coal preheater if the State clarifies during the comment period that the emissions are determined based on the measurement of the whole train.

Rule 336.1349 Coke Oven Compliance Date: The State proposes new Rules 336.1350 through 336.1357 containing requirements for the control of emissions from existing slot type coke ovens statewide. The State also proposes new Rule 336.1349 which requires all facilities subject to these rules to achieve compliance as expeditiously as practicable but not later than December 31, 1982. While Rule 336.1349 specifies a final compliance date, interim increments of progress are not provided as required by 40 CFR Part 51.15 and Section 172(b)(3) of the Clean Air Act. Numerous coke oven emission sources in Michigan have already installed the equipment required and implemented the practices necessary to achieve the limitations required by the proposed Michigan rules in order to comply with the existing SIP. Therefore, USEPA proposes to approve this rule only if prior to final rulemaking the State (1) submits a schedule containing enforceable increments insuring reasonable further progress for each source subject to Rules 336.1350 through 336.1357 and (2) demonstrates a clear need for the additional time allowed.

Rule 336.1350 Emissions From Larry-Car Charging of Slot-Type Coke Ovens: The State proposes this new regulation which prevents larry-car, charging hole, or leveling door visible emissions except for periods aggregating 80 seconds during any four consecutive charging periods on a coke battery. The regulation does not specify an inspection method for evaluating compliance with the rule. Without a clearly defined inspection method, the regulation is potentially unenforceable. Therefore, USEPA proposes to approve this regulation as part of the federally approved Michigan SIP if the State specifies an inspection method for determining compliance prior to final rulemaking. In the alternative, USEPA proposes to conditionally approve the regulation if the State makes a commitment to develop and submit an inspection method on a schedule to be negotiated by the State and the USEPA Regional Office prior to final rulemaking. Examples of acceptable test methods are contained in the rulemaking docket on this Notice.

Rule 336.1352 Pushing Emissions From Slot-Type Coke Ovens: Michigan proposes a new rule regulating pushing operations. The rule prevents the discharge from any opening between the oven and the coke-receiving car of any visible air contaminant of a density of more than 40% opacity, except that one pushing operation of any eight consecutive pushing operations can exceed this requirement. The regulation also provides that visible air contaminants of a density of more than 40% opacity may not be discharged from the coke in any coke-receiving car, as it travels from the oven to the quench tower, except that one trip to the quench tower in any eight consecutive trips to the quench tower can exceed this requirement.

In addition, Rule 352 only limits the opacity of pushing emissions from any opening *between* the oven and the coke-receiving car. The emissions from the car itself during the pushing operation should be regulated. The word "consecutive" in the one out of eight consecutive trips needs to be clarified to mean eight consecutively observed trips so as to distinguish it from eight chronologically occurring trips. The trips that are discussed in Rule 352 should be clarified to be either trips per battery or trips per system. With respect to the 40% opacity/fugitive emissions requirement, a clarification is needed that the 40% opacity is instantaneous and not an average. In addition, the method of reading 40% opacity (whether it is against the sky above the top of the collector main, or against a hood, or at the point of maximum density in any emission, etc.), needs to be clarified.

Data supporting these comments is available for review at the addresses listed in the front of this notice. Therefore, USEPA proposes to conditionally approve the proposed emission limitation for this source if the State makes a commitment to adopt and submit the clarifications identified on a schedule to be negotiated by the State and USEPA Regional Office prior to final rulemaking.

USEPA believes that in addition to the 40% rule, the Michigan rule should include a mass emission limitation on the gas cleaning equipment, installed to comply with this rule. Data collected by USEPA demonstrates that Michigan sources can achieve a mass emission rate not exceeding 0.1 pounds per ton of coke pushed. EPA will conditionally approve the overall Part D plan for iron and steel sources if Michigan commits to a schedule during the comment period for adopting an acceptable mass emission limit for these sources.

Rule 336.1353 Standpipe Assembly Emissions During Coke Cycle From Slot-Type Coke Ovens: Michigan proposes a new regulation which prevents visible emissions from a standpipe assembly during a coking cycle except that visible emissions may be emitted from a number of standpipe assembly points on a coking cycle not to exceed 4% of all standpipe assembly emission points on the coke battery. The regulation will not constitute RACT, unless the State clarifies that the 4% of all standpipe assembly emission points pertains to operating ovens.

The rule should also include a means to determine compliance to assure consistent enforcement of the standard. An acceptable methodology should include a description of the emissions to be observed, a description of the appropriate place of observation, and the scope of the observation. Examples of acceptable methodologies are included in the Docket. USEPA proposes to approve this rule provided that during the comment period the State clarifies the noted deficiencies or, in the alternative, conditionally approve it if during the comment period the State commits to remedy the deficiencies on an acceptable schedule.

Rule 336.1354 Standpipe Assembly Emissions During Decarbonization From Slot-Type Coke Ovens: Michigan proposes a new regulation which prevents visible air contaminants from any open standpipe lid of a density of more than 20% opacity except for the first two minutes of the decarbonization period. Moreover, it prohibits any standpipe lid to be open for decarbonization on any oven which is more than three ovens ahead of the oven being pushed. USEPA proposes to approve this regulation.

Rule 336.1355 Coke Oven Gas Collector Main Emissions From Slot-Type Coke Ovens: Michigan proposes this new regulation which prevents visible emissions from coke oven gas collector mains. USEPA proposes to approve this rule.

Rule 336.1356 Coke Oven Door Emissions From Slot-Type Coke Ovens, Doors Which Are Five Meters or Shorter, and Rule 336.1357 Coke Oven Door Emissions from Slot-Type Coke Ovens, Doors Which Are Taller Than Five Meters: Michigan proposes these new regulations to control emissions from coke oven doors by limiting the number of leaking doors per battery. USEPA proposes to approve these regulations if Michigan clarifies the test methodology to determine compliance. The USEPA proposes to approve these rules provided that during the comment period the State clarifies the noted deficiency, or in the alternative conditionally approve them if the State commits during the comment period to clarify the deficiency on an acceptable schedule.

Coke Battery Combustion Stacks

In its April 25, 1979 submittal, the State did not propose revising the existing federally approved emission limitation (336.1331) for coke battery combustion stacks of approximately 45 pounds per hour (in excess of 0.15 gr/dscf).

USEPA believes that a more stringent emission limit is achievable with the application of RACT. Data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that RACT for these sources is a particulate concentration of 0.030–0.050 gr/dscf. Therefore, USEPA proposes to disapprove this State rule unless the State demonstrates during the comment period that it represents RACT. US EPA will, however, conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations reflecting RACT on a definite, identified schedule.

By Product Coke Plant Quenching Emissions

In its April 25, 1979 submission Michigan did not propose revising its existing Federally approved process weight regulation for coke plant quench towers. EPA has found this type of regulation to be inadequate because severe problems involved in testing quench towers render it unenforceable. However, USEPA has determined that there is a relationship between the quality of water used to quench incandescent coke and the quantity of emissions generated by the quenching process. Empirical data available to USEPA and contained in the rulemaking docket on this notice demonstrates that the quantity of total dissolved solids (TDS) in quench water is approximately two times the quantity of TDS in the make-up water. To improve this rule,

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Michigan could adopt a specific TDS quench water or make-up water requirement and a method for determining such TDS levels, on a daily basis. USEPA's technical information indicates that quench water with 1000–1325 milligrams per liter (mg/l) TDS in the quench water or 500–600 mg/1 in the make-up water represents a reasonably available control technology standard. USEPA will approve the proposed emission limitation if the State develops and submits an acceptable test method for quench towers during the comment period. In the alternative USEPA will conditionally approve the overall Part D plan if during the comment period Michigan commits to adopt and submit regulations consistent with the above discussion.

Scarfing

In its April 25, 1979 submittal, the State did not propose a specific emission limitation to control scarfing emissions. The Michigan plan controls scarfing emissions by Table 32 of Rule 336.1331 which limits particulate emissions from most scarfers to 50–70 lbs./hr. Data collected by USEPA and contained in the rulemaking docket on this notice demonstrates that the following standards can be achieved utilizing RACT:

1. A concentration, during scarfing, of 0.010–0.030 gr/dscf;
2. A mass rate of 5–10 pounds/hour during times of continuous scarfing; or,
3. A concentration per continuous hour, of 0.005–0.010 gr/dscf.

An acceptable Part D plan must ultimately include rules requiring RACT for scarfing emissions. EPA will conditionally approve the overall Part D plan for iron and steel sources if Michigan commits during the comment period to a schedule on which such rules will be adopted.

Part 10 Testing

The Michigan rules do not specify when the testing periods for iron and steel industry facilities begin and terminate. Test methods should be clarified so that the testing of the fugitive emissions from blast furnaces should occur during the cast. The starting and ending period should be specified for basic oxygen furnaces (for both primary and secondary emissions generating operations), electric arc furnaces and for each of the three emission processes at sinter plants. USEPA proposes to approve these rules if during the comment period the State makes these clarifications or in the alternative conditionally approve them if the State commits during the comment period to a schedule by which these clarifications will be made.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant", and therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed these proposed regulations pursuant to the guidance and USEPA's response to Executive Order 12044 "Improving Environmental Regulations", signed March 29, 1979, by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sections 110(a) and 172 of the Clean Air Act, as amended (42 U.S.C. Section 7410(a), 7502).)

John McGuire,
Regional Administrator.

[FR Doc. 80–27592 Filed 9–8–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1599–4]

Approval and Promulgation of Implementation Plans; Nonattainment Area Plans for the State of Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 10 and 27, 1979 (44 FR 21307 and 24880) the Environmental Protection Agency (EPA) published Notices of Proposed Rulemaking for the following nonattainment area plans (NAPs): Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley. Revisions to these NAPs have been submitted to EPA by the Governor. The revisions consist of amendments to Nevada's Air Quality Regulations, Clark County Health District's Air Pollution Control Regulations, Washoe County District Board of Health's Air Pollution Control Regulations, and other documentation which supports the control strategies in the NAPs. The intended effect of these revisions is to correct certain deficiencies in the previously submitted NAPs, which had been identified in the April 10 and 27, 1979 notices.

The EPA invites public comments on these revisions, the identified issues, suggested corrections, and associated proposed deadlines and whether the overall plans or certain portions of the plans should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments must be received on or before October 9, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions, the NAPs, and EPA's associated Evaluation Reports are contained in document files NAP–NV–1, 3, 4, 5, 6, and 7 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89101.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

In addition, copies of the applicable NAPs are available at the following locations:

Lyon County Commission, Drawer G, Yerington, NV 89447.
City of Yerington, Box 479, Yerington, NV 89447.
Lander County Commission, Courthouse, Austin, NV 89502.
City of Fallon, 55 West Williams, Fallon, NV 89406.
Humboldt County Board of Commissioners, P.O. Box 352, Winnemucca, NV 89445.
Washoe Council of Governments, 241 Ridge Street, Reno, NV 89502.
Clark County Department of Comprehensive Planning, Environmental Protection Division, 200 East Carson Avenue, Las Vegas, NV 89101.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Proposed Action

The revisions have been evaluated for conformance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas."

EPA's review indicates that the revisions for the Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley NAPs are consistent with the Part D requirements and that the deficiencies identified in the April 10 and 27, 1979 notices have been corrected, with certain minor exceptions as noted below. EPA is proposing to approve and incorporate into the State Implementation Plan (SIP) those portions of the NAPs that have been corrected.

The resources portion of all the NAPs contains a minor deficiency with respect to Part D. In addition, the following portions of the Truckee Meadows (TM) and Las Vegas Valley (LVV) NAPs contain minor deficiencies with respect to Part D: legally adopted measures for carbon monoxide (TM and LVV), extension requirements for carbon monoxide (LVV), attainment provision, extension requirements, and legally adopted measures, for ozone (LVV), and legally adopted measures for particulate matter (LVV). These portions of the NAPs are proposed to be approved and incorporated into the SIP with the condition that the deficiencies be corrected by a specified deadline.

Therefore, EPA is revising the April 10 and 27, 1979 proposed rulemaking actions regarding the NAPs and, in this notice, proposes to conditionally approve the Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley NAPs with respect to Part D of the Clean Air Act.

Upon final rulemaking action, conditional approval would be sufficient to lift the current prohibition on construction of certain new or modified sources in these nonattainment areas. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 **Federal Register** (44 FR 38471).

Background

New provisions of the Clean Air Act, amended in August 1977, Public Law No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS).

On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the revisions submitted.

The following table shows the areas, plans, and nonattainment designation for those portions of the State of Nevada covered in the notice:

Area	Plan	Pollutant		
		Ozone	Carbon monoxide	Total suspended particulate
Las Vegas Valley	Las Vegas Valley	X	X	X
Truckee Meadows	Truckee Meadows	X	X	X
Mason Valley	Mason Valley/Fernley area			X
Fernley area	Mason Valley/Fernely area			X
Lower Reese River Valley	Lander County			X
Clovers area	Lander County			X
Carson Desert	Carson Desert			X
Winnemucca segment	Winnemucca segment			X

On December 29, 1978, the Governor of Nevada submitted NAPs for the Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley to EPA as revisions to the SIP. In addition, the Governor submitted statutes and regulations which together provide an inspection and maintenance (I/M) program for portions of Nevada. EPA evaluated the submitted plans and the I/M program with respect to the Clean Air Act requirements and published notices of proposed rulemaking in the **Federal Register** on April 10, April 27, and May 7, 1979. Those notices provide descriptions of the December 29, 1978 SIP revisions, summarize the Clean Air Act requirements, compare the revisions to those requirements, identify deficiencies, and suggest corrections. Those notices should be consulted for necessary background information concerning today's proposed rulemaking action.

Description of Proposed Revisions

This notice includes NAP related SIP revisions submitted by the Governor prior to April 1, 1980. The revisions submitted on July 24, and September 18, 1979 and March 17, 1980 include: (1) amendments to Nevada's Air Quality Regulations; (2) amendments to Clark County Health District's Air Pollution Control Regulations; (3) amendments to the Washoe County District Board of Health's Air Pollution Control Regulations; (4) paving schedules for the Mason Valley/Fernley Area, Carson Desert, and Winnemucca Segment; (5) a resolution concerning Lander County; (6) two memoranda of understanding between Clark County, the Health District, and the Transportation Policy Committee; and (7) Senate Bill 543 and Assembly Bill 281 which amend Nevada Revised Statutes 445.632, 445.634, 445,635, and 445.644. In order to expedite EPA's review of the NAPs, this notice addresses only the portions of the State and County regulations mentioned above which appear to relate to applicable Part D requirements, and thus support the NAPs, such as violatile organic compound and new source review rules. The regulations revisions and the appropriate submittal dates are listed below.

Nevada Air Quality Regulations

July 24, 1979

Article 1—Definitions (Nos. 1 and 2)
Article 3—Registration Certificates and Operating Permits
Article 13.1.3—Point Sources and Registration Certificates

March 17, 1980

Article 13.1.3—Point Sources and Registration Certificates

Nevada Revised Statutes

July 24, 1979

445.632
445.634
445.635
445.644.

Clark County Health District Air Pollution Control Regulations

July 24, 1979

Section 1—Definitions
Section 15—Source Registration
Section 50—Storage of Petroleum Products
Section 51—Petroleum Product Loading into Tank Trucks and Trailers
Section 52—Handling of Gasoline at Service Stations, Airports and Storage Tanks

September 18, 1979

Section 1—Definitions
Section 15.13.13—Public Participation
Section 60—Evaporation and Leakage

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Washoe County District Board of Health Air Pollution Control Regulations

July 24, 1979

Sections 010.011 to 010.1751, Definitions
Sections 030.000 to 030.3108, Source Registration and Operation
Section 040.070, Storage of Petroleum Products
Section 040.075, Gasoline Loading into Tank Trucks and Trailers
Section 040.080, Gasoline Unloading from Tank Trucks and Trailers into Storage Tanks
Section 040.085, Organic Solvents
Section 040.090, Cut-Back Asphalt

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans. The citations which follow referring to portions of the Clean Air Act, provide the bases for these requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in section 171 of the Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emissions growth increment (172(b)(5)).
8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).
9. A permit program for major new or modified sources (172(b)(6) and 173).
10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).
11. Evidence of public, local government, and state involvement and consultation (172(b)(9)).
12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).
13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:
    a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs (172(b)(11)(A)).
    b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).
    c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110)(a)(3)(D) and (110)(c)(5)(B).
    d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).
14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines (172(a)(2)). For rural areas, and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D plan requirements described in the preceding section, Criteria for Approval. In this section, the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s).

EPA policy for approval of ozone nonattainment area plans submitted as 1979 SIP revisions differentiates between rural and urban nonattainment areas. EPA's policy, including the definition of rural areas, is discussed in the General Preamble. Based on the definition of rural areas and the policy, Truckee Meadows is considered a rural area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural ozone plan do not provide that all of the Criteria for Approval listed above be fully met. This distinction does not affect the analysis of the other plans contained in this Notice.

Each criterion is discussed in depth below. As noted in the SUMMARY section, EPA reviewed the plans for conformance with these requirements and, in this section, identifies the portions of the plans that are approvable or conditionally approvable. Where a plan deficiency is identified, recommendations for revision of the plan are specified. Based on this analysis EPA proposes to approve conditionally each of the plans overall with respect to Part D.

1. Emission Inventory

EPA's review of the emission inventories for particulate matter, carbon monoxide (CO), hydrocarbons (HC), and nitrogen oxides finds them to be reasonably accurate, comprehensive, and current. Accordingly, EPA proposes to approve this portion of the plans.

2. Modeling

Carbon Monoxide and Particulate Matter. EPA's review of the analyses of the necessary level of control to attain the standards indicates that, for purposes of the 1979 SIP revision, the modeling analysis for all areas adequately determined the emission reductions required to attain the carbon monoxide (CO) and total suspended particulate (TSP) standards. The carbon monoxide model used for the Las Vegas Valley has been validated in response to EPA's comments in the April 27, 1979 Notice of Proposed Rulemaking. Therefore, EPA proposes to approve the TSP and CO modeling portions of the plans.

Ozone. As referenced in the General Preamble, EPA policy does not require a specific demonstration of attainment for rural ozone nonattainment areas. Therefore, no ozone modeling is required for the Truckee Meadows ozone NAP. An accurate identification of the necessary level of control to attain the ozone standards in urban areas such as Las Vegas is required. The modeling contained in the Las Vegas Valley ozone NAP is sufficient for the 1979 SIP revision and EPA proposes to approve the ozone modeling portion of the plans.

3. Emission Reduction Estimates

EPA proposes to approve the emission reduction estimates in each of the plans.

4. Attainment Provision

Particulate Matter. EPA proposes to approve in each plan the attainment provision for the total suspended particulate (TSP) primary standards. EPA also proposes to grant the State's request for an extension to July 1, 1980, for submittal of plans showing attainment of the secondary standards for TSP, as discussed in the April 10, and 27, 1979 notices.

Carbon Monoxide. For Las Vegas Valley, the State requested an extension of the attainment date beyond 1982, and committed to submitting a revised NAP by July 1982 that provides for expeditious attainment. Based on the information submitted, EPA proposes to grant this entension pursuant to the provisions of Section 172(a)(2) and EPA proposes to approve the submitted demonstration of attainment as satisfactory for the 1979 SIP revision. For Truckee Meadows, the plan demonstrates attainment by 1982 and EPA proposes to approve this portion of the Truckee Meadows CO plan.

Ozone. Both the Las Vegas Valley NAP and the Truckee Meadows NAP request an extension beyond 1982 to attain the photochemical oxidant standard of 0.08 ppm, which has since been revised by promulgation of the present standard for ozone of 0.12 ppm (see 44 FR 8202, February 8, 1979). The control strategy demonstration submitted by the State is inadequate since attainment of previous standard of 0.08 ppm is not shown by 1987. Unless the Las Vegas Valley is reclassified to attainment or unclassified (as requested by the State), the NAP for this area must be revised to provide expeditious attainment of, as a minimum, the 0.12 ppm national standard for ozone. The State may choose to continue to attempt to show attainment with the previous 0.08 ppm standard. Also, the granting of an attainment date extension to 1982 must be justified using the 0.12 ppm ozone standards as the benchmark, regardless of the final ozone level desired. Therefore, this portion of the Las Vegas Valley ozone NAP is proposed to be approved with the following conditions: (1) that the State submit by January 1, 1981 a demonstration showing attainment of either the 0.12 ppm standard or the 0.08 ppm standard; (2) if an attainment date extension is still desired, either demonstration must show that attainment of the 0.12 ppm standard by December 31, 1982 is impossible despite implementation of all reasonably available measures. These conditions do not apply to the Truckee Meadows NAP since, as explained above, ozone NAPs for rural areas need not include a specific demonstration of attainment. Therefore, EPA proposes to approve this portion of the Truckee Meadows ozone plan.

5. Reasonable Further Progress

As referenced in the General Preamble, rurual ozone nonattainment area plans need not contain a specific demonstration of reasonable further progress. Thus such a demonstration need not be made for the Truckee Meadows ozone plan. The showing of estimated emission reductions in all of the other plans appears to be consistent with the requirements of Section 172(b)(3), and the definition of reasonable further progress in Section 171(1). This showing must be supported by the implementation of a process for monitoring and verification of transportation related emission reductions. EPA proposes to apporve this portion of all the plans.

6. Legally-Adopted Measures

Particulate Matter. EPA's Notices of Proposed Rulemaking of April 10 and 27, 1979, indicated that all participate matter NAPs except for the Truckee Meadows NAP, lack sufficient evidence of commitments to scedules for study, adoption, or implementation of control measures. The State's July 24, 1979 SIP revision included the necessary commitments to fugitive dust control measures, and schedules for Mason Valley/Fernley Area, Carson Desert, Winnemucca Segment, and Lander County.

A letter dated June 22, 1979, from the Clark County Manager to EPA, Region IX, indicated that the adopted measures and schedules identified in the Las Vegas Valley NAP had been supplemented by the following measures:

(a) A Clark County ordinance requiring paving of certain roads to subdivisions;

(b) A demonstration project involving road stabilization by the Regional Street and Highway Commission;

(c) A demonstration project involving short-term stabilization of a cleared area in downtown Las Vegas; and

(d) A demonstration project for reducing fugitive dust emissions from construction activities.

In addition, the July 24, 1979 SIP revision included more stringent fugitive dust regulations (amendments to Sections 9 and 41 of the Clark County Air Pollution Control Regulations). These added measures for evaluation and control of nontraditional emissions, together with commitments and enforceable procedures in the original NAP, constitute an acceptable program for the attainment of total suspended particulate primary standards. This portion of the Las Vegas Valley particulate matter NAP is proposed to be approved with the condition that the State officially submit by January 1, 1981 the measures referenced in the June 22, 1979 letter from the Clark County Manager.

Carbon Monoxide. Neither the Las Vegas Valley CO plan nor the Truckee Meadows CO plan satisfy the requirements of Section 172(b)(10), since the plans do not include sufficient written evidence that all the agencies identified as responsible for transportation related measures have formally committed to implement and (where appropriate) enforce the necessary transportation control measures, nor have they adequately identified the specific measures to be implemented and established implementation schedules with milestone dates for planning, programming, implementing, operating, enforcing, and monitoring each transportation control measure consistent with a demonstration of reasonable further progress. This portion of the Las Vegas Valley and Truckee Meadows CO plans is proposed to be approved with the condition that the State submit by January 1, 1981, such commitments for adopted measures and schedules for the analysis of the other measures listed in Section 108(f) of the Act.

Ozone. EPA policy requires that minimum levels of control technology be provided in the nonattainment area plans. The NAPs must include adopted, legally-enforceable regulations reflecting the application of reasonably available control technology (RACT) to volatile organic compound sources covered in control techniques guidelines (CTGs) issued by January 1978. In addition, the plans must contain commitments to adopt RACT regulations for sources in categories to be addressed by future CTGs. For rural ozone nonattainment areas such as Truckee Meadows, the RACT requirements apply only to major sources (i.e., those with more than 100 tons/year of potential emission).

The Las Vegas Valley NAP indicates that, of the eleven source categories for which adopted RACT regulations are required, only seven categories exist within the nonattainment area. These categories are service stations (Stage I, gasoline vapor recovery), gasoline bulk plants, gasoline bulk terminals, fixed-roof tanks, solvent metal cleaning (degreasing), cutback asphalt, and surface coating at large appliance manufacturers. On July 24 and September 18, 1979, the State submitted as official SIP revisions Clark County Regulations (Sections 1, 50, 51, 52, 60) providing controls for these sources which, based on information contained in the CTGs, are sufficient to fulfill the requirements for RACT. These modified regulations and administrative provisions correct defects in earlier versions reviewed by EPA in the April 27 proposed rulemaking. The regulations are now fully approvable and satisfy the Part D requirement for RACT. The Las Vegas NAP also contains the required commitments to adopt RACT regulations for future CTG categories.

While the Las Vegas Valley ozone plan satisfies stationary source RACT requirements, EPA proposes the same conditions for approval of this portion of the ozone plan as are indicated above

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for the CO plan, namely, that the State submit by January 1, 1981, commitments for adopted measures and schedules, for the analysis of the other Section 108(f) measures.

The Truckee Meadows NAP now includes adopted regulations for all six categories of RACT sources existing within the nonattainment area: service stations (Stage I, gasoline vapor recovery), gasoline bulk plants, gasoline bulk terminals, fixed-roof tanks, solvent metal cleaning (degreasing), and cutback asphalt. These regulations (Sections 010, 040) are fully approvable as amended in the July 24, 1979 revision and satisfy Part D requirements for RACT, based on information in the CTGs.

The Truckee Meadows NAP also contains the required commitement to adopt RACT regulations for future CTG categories. Therefore, EPA proposes to approve this portion of the Truckee Meadows ozone NAP.

7. Emissions Growth

Each NAP indicates that there will be no emissions growth from major new stationary sources, since new or modified sources will be subject to permit conditions requiring full offsets of emissions. Permit regulations containing these offset provisions have been submitted for the State, Las Vegas Valley (Clark County), and Truckee Meadows (Washoe County). Therefore, EPA proposes to approve this portion of the plans.

8. Annual Reporting

The Truckee Meadows and Las Vegas Vallay NAPs contain a commitment to submit annual reports of reasonable further progress and updated emissions inventories. Such annual reports are required for each nonattainment area. The annual report submitted by the State is expected to include the other nonattainment areas covered by this notice. Therefore, EPA proposes to approve this portion of the plans.

9. Permit Program

The Nevada State New Source Review (NSR) regulations apply to all major new or modified sources throughtout the State, except for Clark and Washoe Counties. Within Clark and Washoe Counties, the State has permitting authority over fossil fuel-fired electric steam generators; all other sources in these two counties are subject to the permit requirements of the Clark County Health District Air Pollution Control Regulations and the Washoe County District Board of Health Air Pollution Control Regulations

Amendments to the NSR regulations for the State (Article 13), Clark County (Section 15), and Washoe County (Section 030) were submitted on July 24, 1979, September 18, 1979, and March 17, 1980. These regulations now satisfy the requirements of Section 173 through the provision from emissions offsets, lowest achievable emissions rate, and the certification of compliance of all major sources within the State owned, operated, or controlled by the applicant. EPA interprets the offset provisions in these regulations to require submittal of external offsets as SIP revisions, and solicits comments on this interpretation. Therefore, EPA proposes to approve this portion of the plans.

10. Resources

While each NAP contains some identification and commitment of resources, none of the NAPs specifically identifies and budgets all financial and manpower resources necessary for plan implementation. This portion of the NAPs is proposed to be approved with the condition that the State submit these essential resource commitments by January 1, 1981.

11. Public and Government Involvement

Following submittal of summaries of public comments received on plan impact analyses, all NAPs now meet the requirements of Section 172(b)(9). EPA proposes to approve this portion of the plans.

12. Public Hearings

EPA proposes to approve this portion of the plan, since all plans and regulations were adopted by the State after reasonable notice and public hearing.

13. Extension Requirements

As referenced in the General Preamble (44 FR 20372), the 1979 ozone NAPs for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of criterion 13 do not apply to Truckee Meadows. Since the State has requested an extension of the attainment date beyond December, 1982, for ozone and CO for Las Vegas Valley, the Las Vegas Valley NAP must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A), both Clark County and State regulations must include, in conjunction with the new source review permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrates that the benefits of a major emitting facility outweigh environmental costs. While Clark County regulations were submitted satisfying the permitting process requirements of Section 172(b)(11)(A), the State must also submit regulations containing these provisions for review and permitting of fossil fuel-fired electric steam generators in Las Vegas Valley. This portion of the Las Vegas Valley CO and ozone NAP is proposed to be approved with the condition that the State submit these permit program elements by January 1, 1981.

As indicated in a Notice of Proposed Rulemaking (44 FR 26763, May 7, 1979) dealing with the State's vehicle inspection and maintenance (I/M) program, the requirements of Section 172(b)(11)(B) concerning I/M are fully satisfied. This finding is not altered by recent changes in the I/M program submitted on July 29, 1979 by the Governor. These revisions delay implementation of the I/M program, add additional requirements or improve the enforceability of the regulations. EPA is proposing to approve these revisions. Therefore, EPA proposes to approve this portion of the CO and ozone plan for Las Vegas Valley.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the Las Vegas Valley NAP contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants and State and local funds to implement public transportation programs. All such commitments with respect to public transportation needs are not included in the plan. EPA proposes to approve this portion of the Las Vegas Valley CO and ozone plan with the condition that the State submit these commitments by January 1, 1981.

Section 172(b)(11)(C) requires that the plan identify other measures (included but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the National Ambient Air Quality Standards no later than December 31, 1987. The Plan does contain a preliminary analysis of some transportation control measures; however, the plan does not provide detailed schedules for analysis of those measures reserved for further study nor does the plan contain commitments to implement those measures shown to be reasonably available. EPA proposes to approve this portion of the Las Vegas Valley NAP for CO and ozone with the condition that the State submit by January 1, 1981: (1) commitments and schedules to analyze further the Section

108(f) transportation control measures not yet included in the plan, as applied to the total transportation system of the nonattainment area; (2) a commitment to initiate implementation of those measures shown to be reasonably available.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

As discussed in the ozone section of Criterion 6, the RACT requirements are satisfied for the Las Vegas Valley and Truckee Meadows. Therefore, EPA proposes to approve this portion of the plans.

Public Comments

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the SIP revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received within 30 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the ADDRESSES section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of section 110(a)(2) and Part D of the Clean Air Act, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comments is adequate because:

(1) The NAPs and the I/M program have been available for public inspection and comment since they were the subject of Notices of Proposed Rulemaking on April 10, April 27, and May 7, 1979;

(2) The issues involved in the revisions submitted on July 24 and September 18, 1979, and March 17, 1980 are limited in scope and are sufficiently clear to allow comments to be developed in the available 30-day period; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: June 20, 1980.

Paul De Falco, Jr.,
Regional Administrator.

[FR Doc. 80-27605 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1600-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve two revisions to the Ohio State Implementation Plan for sulfur dioxide as it applies to the Interlake Incorporated Toledo Plant and The Koppers Company Incorporated Toledo Coke Plant which are located in Lucas County, Ohio. The proposed approval is based upon an overall emission reduction of 43.5 lbs/hr of sulfur dioxide from Koppers. The purpose of this notice is to invite public comment on U.S. EPA's proposed revision to the Ohio State Implementation Plan.

DATE: Comments must be received on or before October 9, 1980. Requests for a public hearing on this revision must be received no later than September 24, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The docket (#5A-80-1) for this revision is available for inspection and copying during normal business hours at the above address and at the Central Docket Section, West Tower Lobby, Gallery 1, U.S. EPA, 401 M. Street, S.W., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6039.

SUPPLEMENTARY INFORMATION: On May 31, 1977 (42 FR 27588, 40 CFR Section 52.1881) U.S. EPA promulgated final regulations establishing a State Implementation Plan (SIP) for the control of sulfur dioxide (SO_2) for the majority of sources in Lucas County, Ohio. This proposed rule would amend that SIP as it applies to the Interlake Incorporated (Interlake) Toledo Plant and The Koppers Company Incorporated (Koppers) Toledo Coke Plant in Lucas County, Ohio.

Interlake has requested a site specific SIP revision for its Toledo Plant. Interlake owns three boilers at this facility each rated at 228.3 million BTUs per hour for a total of 684.9 million BTUs per hour. The present allowable SO_2 emission rate is 0.10 pounds of SO_2 per million BTU actual heat input for fossil fuel-fired steam-generating units, pursuant to 40 CFR Section 52.1881(b)(39)(xi)(A). Therefore, when operating at maximum capacity, the three boilers are allowed to emit 68.5 pounds of SO_2 per hour. At the time the SIP was promulgated by U.S. EPA, Interlake owned and operated a coke battery, a blast furnace, a pig iron casting facility, a steam generator and an electric power generator. Interlake has since sold the coke battery to Koppers and terminated operations at all other facilities except for the electric power generator facility which consists of the three boilers.

Interlake has stated that it will reduce the SO_2 emissions from these three units by operating at a lower load (i.e., 300 million BTU/hr maximum heat input combined). This would reduce the SO_2 emissions to 30.0 pounds/hour. Interlake has requested that 38.5 pounds per hour allowable be transferred to Koppers for its use. Thus, 30.0 pounds allowable per hour would be retained by Interlake for its use at the three existing Interlake boilers.

Therefore, it is proposed that the site specific SIP revision for the Interlake Toledo Plant will decrease Interlake's hourly allowable SO_2 emissions from Boilers 4, 5 and 6 to 30.0 pounds per hour from the allowed 68.5 pounds per hour pursuant to 40 CFR Section 52.1881(b)(39)(xi)(A). Interlake shall reduce the maximum allowable heat input rate in the three boilers to 300 million BTUs per hour (combined) to comply with the new hourly allowable SO_2 emission rate. The remaining 38.5 pounds per hour of allowable SO_2 emissions will be acquired by the Koppers Toledo Coke Plant, Lucas County, Ohio, which is adjacent to the Interlake Plant. The allowable SO_2 emissions will be used by Koppers for offset purposes. In addition, Interlake shall be subject to emission monitoring and reporting requirements.

Koppers has requested a site specific SIP revision for its Toledo Coke Plant. Koppers has entered into a special terms and condition Permit to Install with The Ohio Environmental Protection Agency. The permit allows Koppers to install two new boilers, each rated at 48.8 million BTUs per hour. Since these two boilers will be located in an SO_2 nonattainment area of Lucas County, an emission limitation of 0.256 pounds per million BTU of SO_2 is required for the boilers. This emission limitation results in 25 pounds per hour of SO_2 emissions. The emission offsets required will be obtained from Interlake's boilers and the recently purchased Interlake coke battery.

The Interlake coke battery had an allowable SO_2 emission limitation of 4.0 pounds per ton of actual process weight input pursuant to 40 CFR Section 52.1881(b)(39)(xi)(B). This limit is equivalent to 192.68 pounds per hour of SO_2 from the coke battery. The sale of the coke battery also transferred the allowable SO_2 emissions to Koppers. Koppers now plans to reduce SO_2 emissions from the coke battery to 3.38 pounds per ton of product, which is equivalent to 162.82 pounds per hour. This is a 30.0 pound per hour reduction, which will offset the 25.0 pounds per hour that the two new boilers will produce. In addition, Interlake is reducing the load on its Boilers 4, 5 and 6, which have a total allowable SO_2 emission rate of 68.5 pounds per hour. Interlake is giving 38.5 pounds per hour of SO_2 emissions to Koppers along with the coke battery sale. These combined actions result in an overall reduction of 43.5 pounds per hour of SO_2 emissions from Koppers.

Both Interlake and Koppers submitted air quality analyses on June 29 and August 8, 1979, in support of their SIP revision requests. In 1978, violations of the primary and secondary SO_2 National Ambient Air Quality Standards were observed at these sites.

The existing and proposed facilities were modeled using U.S. EPA reference urban RAM Model. Toledo surface and Flint upper air meteorological data for 1964 were input to RAM. RAM receptor grid resolution varied from 0.1 to 0.5 km near the source to 1 km or less at greater distances.

The maximum net increases due to the proposed facility are below the ambient significant impact levels of 1 $\mu g/m^3$ (annual), 5 $\mu g/m^3$ (24-hour) and 25 $\mu g/m^3$ (3-hour). In addition, a net air quality benefit was demonstrated at a majority of receptors during periods of nonattainment.

Based upon the Agency's review of the technical data submitted, U.S. EPA has determined that approval of the proposed SIP will result in an improvement in the air quality in Lucas County and will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, U.S. EPA proposes to approve the revised emission limitations for Interlake Inc.'s Toledo Plant and the Koppers Company's Toledo Coke Plant.

Interlake is the first source in Ohio for which U.S. EPA is proposing to promulgate a regulation at a reduced operating load. In order to monitor this reduced operating load, U.S. EPA has determined that Interlake will be subject to the monitoring and reporting requirements of 40 CFR Section 52.1882(g). Any other source which receives an emission limitation based on a reduced operating load will also be subject to these requirements.

Final promulgation of this revision will follow an analysis of any comments submitted. Comments are being solicited.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations, "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979, by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act, as amended, 42 U.S.C. § 7410)

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by revising § 52.1881(b)(39)(xi)(A), by revoking § 52.1881(b)(39)(xi)(B), and by adding as a new section, § 52.1881(b)(39)(xvi):

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(39) In Lucas County:

* * * * *

(xi) Interlake Steel or any subsequent owner or operator of the Interlake Steel facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.10 pounds of sulfur dioxide per million BTU actual heat input for the fossil fuel-fired steam-generating units and the combined maximum hourly allowable heat input rate shall not exceed 300 million BTUs per hour.

* * * * *

(xvi) The Koppers Company Incorporated or any subsequent owner or operator of the Koppers facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.26 pounds of sulfur dioxide per million BTU actual heat input for the two new fossil fuel-fired steam generating units.

(B) 3.38 pounds of sulfur dioxide per ton of actual process weight input for the coke battery.

* * * * *

2. Section 52.1882 is amended by adding a new paragraph (g) as follows:

§ 52.1882 Compliance schedules.

* * * * *

(g) Monitoring and reporting requirements for sources subject to reduced operating load requirements.

(1) Any owner or operator of any source of sulfur dioxide subject to a provision of § 52.1881 of this chapter which limits the operating level of any point source at any time shall, in addition to any other reporting requirements of this chapter, comply with the following:

(i) Install not later than the date by which compliance with the applicable emission limitation of § 52.1881 is required a device(s) to determine and record the level of operation of each such point source;

(ii) Retain such records for at least two years; and

(iii) Report to the Administrator within 30 days of each such occurrence any period during which any source is operated above the specified operating level allowed by an applicable requirement of § 52.1881.

Dated: August 12, 1980.

John McGuire,
Regional Administrator.

[FR Doc. 80-27606 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 65

[Docket No. 9-80-8; FRL 1601-7]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for Guam Power Authority, Agana, Guam

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue a Federal Delayed Compliance Order (DCO) to Guam Power Authority (GPA), Agana, Guam. The DCO requires GPA to bring its two fossil-fuel fired steam generators at Piti, Guam, into compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations, part of the Federally approved State Implementation Plan for the Territory of Guam. Because GPA is unable to comply with this regulation at this time and GPA will use a new means of emission limitation to achieve compliance with this regulation, the proposed DCO would establish an expeditious schedule requiring final compliance by May 15, 1984. Source compliance with the DCO would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulation covered by the DCO.

DATES: Written comments must be received on or before October 9, 1980 and requests for a public hearing must be received on or before September 24, 1980. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, California 94105. The DCO, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robert G. Kuykendall, Chief, Air and Hazardous Materials Branch, Enforcement Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 556-6150.

SUPPLEMENTARY INFORMATION: GPA operates two fossil-fuel fired steam generators located in Piti, Guam. On April 23, 1979, GPA proposed the use of a new means of emission limitation for control of sulfur dioxide emissions from the fossil-fuel fired steam generators to meet the requirement of Guam SIP. The new means of sulfur dioxide emission control is the Flakt Hydro Flue Gas Desulfurization system which utilizes fresh seawater with no chemical additions to scrub the flue gas. Guam Environmental Protection Agency (hereinafter referred to as "GEPA") adopted a DCO and on June 25, 1979 submitted it to EPA for EPA's approval. On April 10, 1980, EPA advised GEPA that the DCO submitted by GEPA would not be approvable since it was issued prior to the adoption of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations and also failed to meet certain other procedural requirements. On April 11, 1980, GPA notified EPA that the two fossil-fuel fired steam generators known as Cabras Units 1 and 2 are in violation of the Guam SIP and that GPA waives any right it may have to a Notice of Violation, to a thirty day waiting period, and to an administrative conference under Section 113 of the Act. On April 15, 1980, GEPA requested that EPA issue a Federal DCO pursuant to Section 113(d)(4) of the Act in order to expedite the issuance of a DCO for GPA. GEPA also requested that the supporting document previously submitted by GEPA be considered by EPA in issuing the Federal DCO and fulfilling the requirements of Section 113(d)(4). After a thorough evaluation, EPA has determined that GPA's proposed sulfur dioxide emission reduction system does constitute a "new means of emission limitation" as defined by Section 113(d)(4) of the Clean Air Act. EPA, therefore, proposes to issue a DCO which requires final compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations by May 15, 1984. The source has consented to the terms of the DCO and has agreed to meet the DCO's remaining increments during the period of this informal rulemaking. If the DCO is issued, source compliance with its terms would preclude further EPA enforcement against this source for violation of the applicable regulation covered by the DCO while the DCO is in effect. Enforcement against the source under the citizen suit provision of the Clean Air Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the DCO.

Testimony given at any public hearing concerning the DCO will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the DCO in 40 CFR Part 65.

(Sec. 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: August 1, 1980.

Paul De Falco, Jr.,
Regional Administrator, Environmental Protection Agency, Region IX.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDER

§ 65.90 [Amended]

1. By amending the table in § 65.90 Federal delayed compliance orders issued under Sections 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order: Docket No. 9-80-8. The text of the order reads as follows:

U.S. Environmental Protection Agency; Region IX

In the Matter of Guam Power Authority, Piti, Guam. Proceeding under Section 113(d)(4) of the Clean Air Act, as Amended.

Docket No. 9-80-8.

Delayed Compliance Order.

This Order is issued this date pursuant to Section 113(d)(4) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) (hereinafter referred to as the "Act") and contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days notice to the Territory of Guam have

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been provided pursuant to Section 113(d)(1) of the Act.

Findings

On April 11, 1980, Mr. John L. Kerr, Chairman of the Board, Guam Power Authority (hereinafter referred to as "GPA"), Agana, Guam sent a letter to Mr. Clyde B. Eller, Director, Enforcement Division, Region IX, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), concerning the operation of Units 1 and 2 of the Cabras Steam Power Plant at Piti, Guam (hereinafter referred to as Cabras Units 1 and 2). Mr. Kerr states in the April 11, 1980 letter that Cabras Units 1 and 2 are in violation of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations and further states that GPA waives any right it may have to a Notice of Violation, to a thirty day waiting period, and to an administrative conference under Section 113 of the Act. Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations is a part of the Federally approved implementation plan for Guam.

On April 15, 1980, the Administrator, Guam Environmental Protection Agency (hereinafter referred to as "Guam EPA"), sent a letter to Paul De Falco, Jr., the Regional Administrator, Region IX, U.S. EPA requesting that a delayed compliance order (DCO) adopted on June 23, 1979 by GEPA and applicable to GPA with respect to the Cabras Units 1 and 2 and submitted to EPA for approval be withdrawn, and that, instead, EPA issue a Federal DCO pursuant to Section 113(d)(4) of the Act. The letter further requested that the supporting documents previously submitted by GEPA be considered by EPA in issuing the Federal DCO and fulfilling the requirements of Section 113(d)(4).

After a thorough investigation of all relevant facts, U.S. EPA has determined that:

1. GPA is unable to immediately comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations;

2. the control system proposed is a new means of emission limitation for control of sulfur dioxide emissions from fossil-fuel fired steam generators;

3. the use of this innovative technology is likely to be demonstrated upon expiration of this Order;

4. this means of emission reduction has a substantial likelihood to achieve final compliance at lower cost in terms of economic and energy savings and with substantial non-air quality environmental benefit over conventional method and technology.

5. such new means are not likely to be used without this Order

6. compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations is impractical prior to or during installation of the new means; and,

7. that the issuance of this Order is consistent with the policy and intent of Section 113(d)(4) of the Act.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule set forth in this Order is as expeditious as practicable, and that terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby Agreed and Ordered that:

A. GPA shall proceed on a program of biological and environmental research on the marine ecosystem at Piti, such research to be directed toward an ultimate determination of the environmental feasibility of installing that Flakt Hydro Flue Gas Desulfurization system (hereinafter referred to as "seawater scrubber") on Cabras Units 1 and 2 as a means of continuous emission control in order to comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations.

B. The research program set out in Paragraph A shall be carried out in accordance with the detailed scope of work document (hereinafter referred to as the "the Plan") which GPA submitted on July 2, 1979 to the Director, Enforcement Division, Region IX, U.S. EPA.

C. GPA shall submit quarterly progress reports on the Plan to U.S. EPA in accordance with the following schedule:

(1) September 15, 1980—Quarterly report summarizing progress to August 15, 1980.

(2) December 15, 1980—Quarterly report summarizing progress to November 15, 1980.

(3) March 15, 1981—Quarterly report summarizing progress to February 15, 1981.

(4) June 15, 1981—Phase III report summarizing progress to May 15, 1981.

(5) September 15, 1981—Quarterly report summarizing progress to August 15, 1981.

(6) November 15, 1981—Final report.

D. If any delay is anticipated in meeting any requirements of this Order, GPA shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay. All submittals and nofications to U.S. EPA, pursuant to this Order, shall be made to Clyde B. Eller, Director, Enforcement Division, Region IX, U.S. EPA, 215 Fremont Street, San Francisco, California 94105. In addition, all submittals and notifications required in this Order shall simultaneously be transmitted to the Guam EPA.

E. If at any time GPA shall decide not to complete the research program, then GPA should immediately notify U.S. EPA and the marine studies shall be deemed to have shown that the seawater scrubber will not meet applicable clean water requirements, and the provisions of Paragraph F(2) shall be immediately applicable.

F. By November 15, 1981, GPA shall advise U.S. EPA:

(1) That it has entered into a firm undertaking for the installation of a seawater scrubber, such installation to commence within three months and to be completed within two and one-half years of such notice; or

(2) If the marine studies shall have demonstrated that the seawater scrubber will not meet applicable clean water requirements, that GPA has entered into a firm undertaking for the installation on utilization of some alternate means of continuous emission reduction, such alternate means to be fully operational within two years from the date of such notice, except that if such alternate means shall be the continuous burning of low sulfur fuel oil, such means shall be fully operational within six months from the date of such notice.

G. At the time GPA notifies U.S. EPA that it will install the seawater scrubber or alternate means of continuous emission reduction pursuant to Paragraph F(1) or (2), it will also submit a compliance schedule to U.S. EPA with increments of progress toward final compliance (as specified in 40 CFR 51.1(q)), said compliance schedule, subject to approval by U.S. EPA, to become part of this Order. Further GPA shall certify to the Director, no later than fifteen (15) days after each increment of progress specified by such compliance schedule whether compliance has or has not been achieved and, if not, the reasons therefor.

H. Within 30 days of completion of construction of the seawater scrubber or alternate control means, GPA shall achieve full compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations. GPA shall submit performance test results to U.S. EPA to demonstrate such compliance. The performance tests shall be conducted in accordance with 40 CFR 60.8 and 60.46.

I. GPA shall provide the U.S. EPA and Guam EPA at least 30 days notice prior to conducting any performance tests in order to afford EPA and Guam EPA an opportunity to evaluate the test methods and procedures to be used and to enable the Agencies to have an observer present to such testing.

J. Pursuant to Section 113(d)(7) of the Act, during the period of this Order GPA shall comply with the Air Quality Contingency plan Island-wide Power System, Piti-Cabras Complex as adopted November 1, 1978 and approved on January 31, 1979 by Guam Power Authority, U.S. Navy Public Works Center, Guam, Guam Environmental Protections Agency, and the Island-wide Power System Joint Coordinating Committee. The ambient sulfur dioxide monitoring method used by GPA in accordance with the Contingency Plan should be a Federal reference or equivalent method as defined by 40 CFR 50.1 and 40 CFR Part 53. GPA shall not only calibrate and maintain the monitors as recommended by manufacturers, but also follow the quality assurance and probe siting criteria for ambient air quality monitoring as specified in Appendices A and E to 40 CFR Part 58—Ambient Air Quality Surveillance. If such Contingency Plan is amended at anytime during the pendency of this Order a copy of such amended continguency plan shall be immediately submitted to U.S. EPA for approval. Until such approval by EPA, Guam Power Authority shall be required to comply with the Contingency Plan as adopted November 1, 1978. U.S. EPA has determined that the use of a low sulfur fuel oil during adverse air quality conditions as required by the Contingency Plan represents the best practicable system of interim emission reduction during the pendency of this Order and therefore satisfies the requirements of Section 113(d)(7) of the Act.

K. Nothing contained in these Findings or Order shall affect GPA's responsibility to comply with Territory of Guam laws or regulations or other Federal laws or regulations during the pendency of this Order.

L. GPA is hereby notified that its failure to meet the interim requirements of this DCO or to achieve final compliance by May 15, 1984 (or such earlier date as may be required in a revised compliance schedule established in accordance with Paragraph G) at the source covered by this Order may result in a requirement ot pay a noncompliance penalty in accordance with Section 120 of the Act, 42 U.S.C. 7420. In the event of such failure, GPA will be formally notified pursuant to Section 120(b)(3), 42 U.S.C. 7420(b)(3), and any regulations promulgated thereunder of its noncompliance.

M. This order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations no longer exists.

N. Violation of any requirement of this Order shall result in one or more of the following actions:

(1) Enforcement of such requirement pursuant to Section 113(a), (b), or (c) of the Act, 42 U.S.C. 7413(a), (b), or (c), including possible judicial action for an injunction and/or penalities and in appropriate cases, criminal prosecution.

(2) Revocation of this Order, after notice and opportunity for public hearing, and subsequent enforcement of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations in accordance with the preceding paragraph.

O. GPA is protected by Section 113(d)(10) of the Act against Federal enforcement action under Section 113 of the Act and citizen suits under Section 304 of the Act for violation of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations during the period the Order is in effect and GPA remains in compliance with the terms of such Order.

P. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Act, including, but not limited to Section 303 of the Act, 42 U.S.C. 7603.

Q. This Order shall become effective upon final promulgation in the **Federal Register**.

Date ______

______

Administrator, U.S. Environmental Protection Agency.

GPA has reviewed this Order, consents to the terms and conditions of this Order, and believes it to be reasonable means by which GPA can achieve final compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations.

Dated: July 24, 1980.

Frank G. Blaz,

General Manager, Guam Power Authority.

[FR Doc. 80-27609 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 122

[FRL 1601-1]

Consolidated Permit Regulations; Criteria for New Source Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Comments are solicited on a proposed revision of the criteria for distinguishing construction that creates a new source of water pollution discharges from construction that merely modifies an existing source. The proposed revision is intended to avoid the potential difficulties in applying the criteria published in the consolidated permit regulations on May 19, 1980.

DATES: Comments must be received on or before October 24, 1980.

ADDRESSES: Send comments to: Robert Brook, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-0750.

FOR FURTHER INFORMATION CONTACT: Robert Brook, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-0750.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA published (45 FR 33290) as part of its consolidated permit regulations criteria for new source determinations under the National Pollutant Discharge Elimination System (NPDES) program of the Clean Water Act. 40 CFR § 122.66(b). That regulation provided that a new source could result from (1) construction of a source at a new or "green field" site, (2) construction at the site of an existing source of a new building, structure, facility, or installation which totally replaced the equipment causing the pollutant discharge from the existing source, or (3) construction at the site of an existing source of a new building, structure, facility, or installation that resulted in a change in the nature or quantity of pollutants discharged. This third situation presents the greatest problem in applying the regulation. If the construction of an addition, replacement, or alteration at the site of an existing source does not qualify as a new source under this third criterion, it then constitutes the modification of an existing source. The distinction in the May 19 regulation hinged on whether the construction resulted in a change in the nature or quantity of pollutants discharged by creating a new building, structure, facility, or installation. Upon reconsideration, EPA believes that this language could be interpreted to classify as new sources some structures that more appropriately should be considered as modifications of existing sources. Some industries typically modify or expand their plants by adding similar or related process equipment which itself constitutes a new building or structure. EPA does not think it appropriate to classify each such additional piece of equipment as a new source solely because it constitutes a new building or structure. Instead, it is appropriate to classify as a new source a facility that may happen to be located at the site of an existing source but that to a substantial degree functions independently of it.

We therefore have today published elsewhere in the **Federal Register** a suspension of § 122.66(b)(1) and (2). We propose to amend § 122.66(b)(1)(ii)(B) to provide that construction at the site of an existing source creates a new source (or new discharger) if it creates not only a new building, structure, facility, or installation, but one whose processes are substantially independent of the existing source. The "substantial independence" test would allow the addition of similar or related process or production equipment at the site of an existing source to be classified in many cases as a modification rather than a new source (or new discharger). Even the construction of a new facility with processes substantially independent of the existing source would create a new source only if there exist new source performance standards that independently apply to the new facility (and not merely to the existing source as modified by the new construction). A new facility with substantially independent processes but to which no new source performance standard applies would be a new discharger rather than a new source or a modification of an existing source. (Similarly, construction of a facility at a green field site or construction that totally replaces an existing source would be a new discharger if no new source performance standard applies to the new facility.)

For example, the addition of a structurally separate cracking unit at the site of an existing refinery that produces petroleum by the use of topping and catalytic reforming would be considered a modification of the existing source because the cracking unit would not be

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a substantially independent process. Similarly, a pulp mill might expand its capacity by adding a new digester to four existing digesters. This, too, would be a modification of an existing source because the new digester would be integrated with the existing process equipment.

The addition of a new facility to produce petrochemicals at the site of an existing refinery, however, conceivably could involve substantially independent processes. But this new facility then would be a new discharger rather than a new source because the existing new source performance standards for petroleum refineries (40 CFR Part 419) do not apply independently to the petrochemical facility, but only to the entire refinery as modified by the addition of the petrochemical operations. Thus, the petrochemical unit would not itself constitute a new source.

An expansion of plant capacity by essentially replicating the existing facility would not be classified as a modification of an existing source, however, because the new facility *could* operate substantially independently of the existing facility and thus would appropriately be considered a new source. Similarly, a new facility may be substantially independent of the existing facility even though it uses the same waste treatment system, produces feedstock for the existing plant, or uses as its feedstock the product of the existing plant. For example, a new facility to produce diammonium phospate fertilizer by using as feedstock the ammonia produced as a byproduct by an existing phosphoric acid plant at the same site well might constitute a new source which for convenience is located at the site of the existing plant.

Accordingly, 40 CFR § 122.66(b)(1) and (b)(2) are proposed to be amended to read as follows:

§ 122.66 New sources and new discharges.

* * * * *

(b) *Criteria for new source determination.*

(1) A source is a "new source" if:

(i) It is constructed at a site at which no other source is located; or

(ii) It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) Its processes are substantially independent of an exisiting source at the same site; and it meets the definition of "new source" in § 122.3. A source meeting the requirements of paragraphs (b)(1)(i), (ii), or (iii) of this section, is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger. See § 122.3.

(2) Construction on a site at which an existing source is located results in a modification subject to § 122.15 rather than a new source (or new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs (b)(1)(ii) or (iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

Dated: September 2, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-27612 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

[Docket No. FEMA PP-360]

Implementation of State Assistance Program for Training and Education in Emergency Mangement

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule sets forth a description of the FEMA training and education assistance program to the States. The program functions through State Cooperative Agreements and is designed to further comprehensive emergency management training including emergency preparedness planning, hazard mitigation, and disaster response and recovery. In response to State and local expressed needs, FEMA was formed to coordinate and manage all disaster planning and response in one Agency. The combined training responsibilities of predecessor agencies are now being administered by the Training and Education Office of FEMA using the State Cooperative Agreements and Regional Support Contracts as the vehicle to meet individual State training needs. This rule defines the objectives and elements of the program, the funding approach, and the State application/proposal.

DATE: Comments are due on or before September 30, 1980. It is intended after careful consideration has been given to the comments and appropriate adjustments made to make this regulation, which is primarily procedural, effective immediately on its adoption.

ADDRESSES: Send comments to Rules Docket Clerk, Federal Emergency Management Agency, Room 801, 1725 I Street, N.W., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Dave McLoughlin, Assistant Director for Training and Education, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, D.C. 20472, Telephone: (202) 254-9556.

SUPPLEMENTARY INFORMATION: Predecessor agencies of FEMA in cooperation with the various States conducted training programs in the past. The logic of combining a number of training programs into a comprehensive one was initially recognized by the States and they in turn became advocates of a merger of emergency programs. The training and education program, therefore, is not unlike that which has previously been conducted by several separate agencies in conjunction with the States. The States, independent commonwealths, and territories, will be the only eligible participants in the program. Discussions with the States as to the implementation of the program have been ongoing throughout the FEMA organization process and considerable public participation has taken place. Because of this open forum on the program, FEMA has determined that sufficient cause exists for making this rule effective immediately upon adoption. Also, in view of the need to implement this program as soon as possible for continuity in the States' training program, and since actual notice has been provided to all the States, further notice and public hearings appear unwarranted. Comments, however, are requested and will be considered before this rule is made final.

FEMA has the responsibility of identifying the multitude of constituencies requiring training and education in comprehensive emergency management. To simply train the key leaders, the emergency management officers, is not enough. Since the needs of State and local governments differ as to audiences desirous and in need of training due to legislative mandate and governmental structure, FEMA recognized the States' unique capacity to effectively select those audiences responsible for carrying out emergency management and related tasks, and tailoring the training to meet those needs. This intergovernmental cooperation in the training area is essential to the ultimate success of the overall program and for the safety and lives of our populace. Therefore, this program is designed to increase the existing capabilities of the States, to allow them to identify new audiences in need of training, as well as to develop more effective methods of conducting training. This intergovernmental program is, in turn, expected to enhance the local capability making each jurisdiction more secure in its knowledge and ability to handle disasters and catastrophic events of all kinds. The States have asked for clear objectives and mission assignments in order that they may then plan the utilization of available Federal and State resources according to State and local needs.

Joint State and FEMA program objectives to be accomplished through the State Cooperative Agreement include the following: the design and delivery of training to meet emergency and disaster operational requirements; the presentation and management of training programs to disseminate emergency management concepts; to further intergovernmental operational response capability; to provide management development for emergency management staffs; to motivate the general public to practice emergency self-help; and to build confidence among public officials as to their capability to successfully manage crises.

FEMA has determined that an environmental impact statement is not needed for this program. A copy of the environmental assessment and the finding of no significant impact is available for inspection at the above address.

This rule in no way impacts on the small business sector and thus is not in conflict with the President's Memorandum of November 16, 1979.

Accordingly, it is proposed to amend Chapter I of Title 44, Code of Federal Regulations, by adding a new Part 360 as follows:

PART 360—STATE ASSISTANCE PROGRAMS FOR TRAINING AND EDUCATION IN COMPREHENSIVE EMERGENCY MANAGEMENT

Sec.

360.1 Purpose.
360.2 Description of Program.
360.3 Eligible Applicant.
360.4 Administrative Procedures.
360.5 General Provisions for Cooperative Agreements.

Authority: Reorganization Plan No. 3 (3 CFR 1978 comp. p. 329); Executive Order 12127 (44 FR 19367); Executive Order 12148 (44 FR 43239).

§ 360.1 Purpose.

The Emergency Management Training Program is designed to enhance the States' emergency management training program to increase State capabilities and those of local governments in this field, as well as to give States the opportunity to develop new capabilities and techniques. The Program is an ongoing intergovernmental endeavor which combines financial and human resources to fill the unique training needs of local government, State emergency staffs and State agencies, as well as the general public. States will have the opportunity to develop, implement and evaluate various approaches to accomplish FEMA emergency objectives as well as goals and objectives of their own. The intended result in an enhanced capability to protect lives and property through planning, mitigation, operational skill, and rapid response in case of disaster or attack on this country.

§ 360.2 Description of program.

(a) The program is designed for all States regardless of their present level of involvement in training or their degree of expertise in originating and presenting training courses in the past. The needs of individual States, difference in numbers to be trained, and levels of sophistication in any previous training program have been recognized. It is thus believed that all States are best able to meet their own unique situations and those of local government by being given this opportunity and flexibility.

(b) Each State is asked to submit an acceptable application, to be accompanied by a Training and Education (T&E) plan for a total of three years, only the first year of which will be required to be detailed. The remaining two year program should be presented in terms of ongoing training objectives and programs. In the first year plan applicants shall delineate their objectives in training and education, including a description of the programs to be offered, and identify the audiences and numbers to be trained. Additionally, the State is asked to note the month in which the activity is to be presented, the location, and cost estimates including instructional costs and participant's travel and per diem. These specifics of date, place, and costs will be required for the first year of any three year plan. A three year plan will be submitted each year with an application. Each negotiated agreement will include a section of required training (Radiological Defense), and a section including optional courses to be conducted in response to State and local needs.

(c) FEMA support to the States in their training program for State and local officials, has been designed around three Program elements. Each activity listed in the State Training and Education (T&E) Plan will be derived from the following three elements:

(1) Government Conducted Courses:

Such courses require the least capability on the part of the State. They are usually conducted through provisions in a FEMA Regional Support Contract and/or FEMA or other Federal agency staff. The State's responsibilities fall primarily into administrative areas of recruiting participants, making all arrangements for the facilities needed for presentation of the course, and the handling of the cost reimbursement to participants, though State staff may participate as instructors. These courses for example include:

(i) Career Development Courses: Phases I, II, and III,

(ii) Radiological Officer and Instructor Courses,

(iii) Technical Workshops on Disaster Recovery or Hazard Mitigation.

(2) Government and Recipient Conducted Courses:

Responsibilities in these courses fall jointly upon Federal and State government as agreed in the planning for the course. Courses in this category might include:

(i) Emergency Management Workshops,

(ii) Multijurisdictional Emergency Operations Simulation Training.

In this category also, it is expected that the State will be responsible for administrative and logistical requirements, plus any instructional activity as agreed upon prior to the conduct of the course.

(3) Recipient Conducted Courses:

This element requires the greatest degree of sophistication in program planning and delivery on the part of the State. Training events proposed by the State must be justified as addressing Emergency Management Training Program objectives. Additionally, they must address State or community needs and indicate the State's ability to present and carry out the Program of Instruction. Courses in this category could include:

(i) Radiological Monitoring,

(ii) Emergency Operations Simulating Training,

(iii) Shelter Management.

(d) In order that this three year comprehensive Training and Education Program planning can proceed in a timely and logical manner, each State will be provided three target appropriation figures, one for each of the three program years. States will develop their proposals, using the target figure to develop their scope of work. Adjustments in funding and the scope of

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work will be subject to negotiation before finalization. Both the funding and the scope of work will be reviewed each year and adjustments in the out years will reflect increased sophistication and expertise of the States as well as changing training needs within each State.

(e) FEMA funding through the State Cooperative Agreement for the training activities is to be used for travel and per diem expenses of students selected by the States for courses reflecting individually needed or required training. Additionally, funds may be expended for course materials and instructor expenses. The funding provided in the State Cooperative Agreement is not for the purpose of conducting ongoing State activities or for funding staff positions to accomplish work to be performed under this Agreement. Nor is the Agreement for the purpose of purchasing equipment which may be obtained with the help of Personnel and Administrative funds. In cases where equipment has been identified as needed in the scope of work submitted with the application, and where it serves as an outreach to a new audience or methodology, equipment purchase may be approved at the time of initial application approval.

During FY 81 only, allowable cost will be funded at 100%. The projected program envisions a sharing of eligible costs in the future however.

§ 360.3 Eligible applicants.

Each of the 50 States, independent commonwealths, and territories is eligible to participate in a State Cooperative Agreement with FEMA. The department, division, or agency of the State government assigned the responsibility for State training in comprehensive emergency management should file the application.

§ 360.4 Administrative procedures.

(a) *Award.*

Each State desiring to participate will negotiate the amount of financial support for the training and education program. Deciding factors will be the scope of the program, a prudent budget, the number of individuals to be trained, and variety of audiences included which are in need of training. All these factors are part of the required application as discussed in Section 360.2

(b) *Period of Agreement.*

Agreements will be negotiated annually and will be in effect for a period of 12 months. Each agreement, however, will include a scope of work for three years as reflected in Section 360.2(b) to give continuity to the total training and education program.

(c) *Submission Procedure.*

Each State applicant shall comply with the following procedures:

(1) *Issuance of a Request for Application:* Each State emergency management agency will receive a Request for Application Package from the State's respective FEMA Regional Director.

(2) *How to Submit:* Each State shall submit the completed application package to the Regional Director of the Appropriate Region.

(3) *Application Package:* The Application Package should include:

(i) A transmital letter signed by the State Director of the agency tasked with emergency management responsibilities for that State.

(ii) A three year projected training and education scope of work including both "required" training and "optional" courses. The first of the projected three year program is to be detailed as to list of courses, description of training to be offered, audiences to be reached and numbers to be trained. Dates and locations of training as well as costs of delivery and student travel and per diem are to be estimated. Special instructions for this portion of the submittal will be included in the Application Package.

(iii) Standard Form 270 "Request for Advance or Reimbursement" as required by OMB Circular A-102 and FEMA General Provisions for Cooperative Agreements.

(d) *Reporting Agreements.*

Recipients of State Agreement benefits will report quarterly during the Federal Fiscal year, directly to the Regional Director of their respective Regions. The report should include a narrative of the training programs conducted accompanied by rosters for each event, agenda, and a summary financial statement on the status of the Agreement funds.

Any course or training activity included in the Scope of Work and not presented as scheduled should be explained in detail as to the reason for cancellation in the quarterly report. The costs allocated to this cancelled activity should be reporgrammed to another training activity approved by the Regional Director no later than the last day of the 3rd quarter, or released to the Region.

An evaluation of the degree to which objectives were met, the effectiveness of the methodology, and the appropriateness of the resources and references used should also be included in the quarterly report.

The report is due in the Regional Office no later than the 15th day of January, April, and July. A final report for the year is due the 15th of October.

§ 360.5 General provisions for State Cooperative Agreement.

The legal funding instrument for the State Assistance Program for Training and Education FEMA Is the State Cooperative Agreement. All States will be required to comply with FEMA General Provisions for the State Cooperative Agreement. The General Provisions for the State Cooperative Agreement will be provided to the States as part of the Request for Application package. The General Provisions will become part of the Cooperative Agreement.

Dated: September 2, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 80-27595 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

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44 CFR Parts 59 and 60

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This rule amends the National Flood Insurance Program regulations concerning AO zones (shallow flooding zones), and adds regulations for AH zones (also shallow flooding zones), which are currently not mentioned in the regulations. These changes are necessary due to changed flood mapping methods which permit the Federal Insurance Administration (FIA) to determine base flood elevations for shallow flooding areas characterized by "ponding" flooding.

DATES: Comments received on or before October 9, 1980, will be considered before this rule becomes final.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 801, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472. (202) 755-5581.

SUPPLEMENTARY INFORMATION:

A. *Explanation of Rule Change.*

Under the authority contained in the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et. seq.), the Federal Insurance Administration (FIA) proposes to amend §§ 59.1 and 60.3, of Title 44 (formerly appearing at former §§ 1909.1 and 1910.3 of Title 24).

Originally, FIA only mapped one type of shallow flooding zone—the AO zone, where the average depth of flooding is one to three feet above local grade, where a clearly defined channel does not exist, where the flooding path is unpredictable, and where velocity flow may be evident. The earlier maps had no indication of flood depths for AO zones, but on more recent maps, the flooding depth in AO zones has been specifically indicated (e.g., AO (depth 2 feet) indicates a two foot flooding depth). Additionally, there are shallow flooding zones where FIA can determine base flood elevations relative to the National Geodetic Vertical Datum of 1929. This is an easier standand for rating and regulatory purposes. To avoid confusion between the shallow flooding zones with base flood elevations and those with an average depth of flooding above local grade, FIA has established the AH zone where base flood elevations are indicated.

Since the regulatory flood plain management standard in the AO zone will be relative to the highest adjacent grade to a proposed structure, "highest adjacent grade" is defined. Previously, AO zones were regulated relative to a depth number above the crown of the nearest street. This treatment assumed that all shallow flooding areas would be relatively flat, ponding areas, where elevating relative to the crown of the nearest street would provide an adequate protection level and a convenient reference point. However, this criterion is inadequate since many of the shallow flooding zones now being mapped are on slopes, where the nearest street may be well above or below the proposed construction site. For this reason, the protection level in AO zones will be relative to "highest adjacent grade," as defined in § 59.1 of the proposed rule change. This new standard will correspond to the mapping methodology, which determines the average depth of flooding over local grade.

The current definition of "area of shallow flooding" in § 59.1 mentions a VO zone as one type of shallow flooding zone. FIA has never designated a VO zone. This zone may be used at some time in the future, after Section 60.3 is amended to specify regulatory standards for the VO zone.

Whether or not a shallow flooding area will be designated as an AH or AO zone depends on the rapidity of change in the water surface elevation relative to the topographical information available for the shallow flooding area. The following types of shallow flooding areas generally indicate where AH and AO zone designations will be used.

(1) Flat, ponding areas, where shallow floodwaters accumulate, and little or no velocity flow is evident and a 10-year flood elevation does not occur or cannot be estimated. This type of shallow flooding area will normally be designated an AH zone.

(2) Sloping areas, where shallow floodwaters flow in a sheet, maintaining a relatively constant average depth above local grade. Normally, this type of shallow flooding area will be designated as an AO zone, unless the topographical information is detailed enough and the slopes are small enough to determine base flood elevations relative to mean sea level and adequately present their location on a map.

(3) Alluvial fan areas, where floodwaters flow out of confined paths in hilly or mountainous areas and spread over large areas of a valley in an unpredictable manner. Alluvial fan areas are normally found in arid regions of the western states. They will normally be designated AO zones. Alluvial fan areas are being studied in more detail by FIA and the findings may lead to separate regulation and rating of this hazard area.

AH zones will be regulated similarly to Zones A1–30, since both types of zones have base flood elevations. A flood protection level at the depth number above highest adjacent grade will be required for AO Zones. (A two foot flood protection level will be used if no depth number is indicated for the AO zone.) Aside from this different protection standard, AO zones will be regulated similarly to AH and A1–30 zones.

In summary, the AO and AH zones will be used in the following situations:

(1) The AO zones (with flood depths indicated) will be used primarily for sheet flow areas where the depth of flooding is from one to three feet, where a clearly defined channel does not exist, where the flooding path is unpredictable, where velocity flow may be evident, and where it is not cost effective to determine flood elevations relative to mean sea level. The regulatory flood plain management standard will be based on a flood depth number of one to three feet above adjacent grade.

(2) The AH zone will be used primarily for areas of ponded water, or sheet flow over areas of very low slope, where the depth of flooding is from one to three feet, where a clearly defined channel does not exist, where the flooding path is unpredictable, where velocity flow is minimal, where the 10-year flood does not exist or cannot be calculated, and where it is cost effective to determine flood elevations relative to mean sea level. The regulatory flood plain mangement standard will be based on the base flood elevation.

B. *Procedural Information.*

This proposed rule does not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file and is available for public inspection and copying at the above address.

Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the above address. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received within thirty days of the date of this proposed rule will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. This proposed rule may change in light of the comments received. Accordingly, Parts 59 and 60, of Title 44 of the Code of Federal Regulations are proposed to be amended as follows:

PART 59—GENERAL PROVISIONS

1. Section 59.1 is amended to have the following definitions read as follows:

§ 59.1 [Amended]

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flodding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refinded into Zones A, AO, AH, A1–99, VO, or V1–30.

"Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM OR FIRM as Zone A, AO, A1–99, AH, VO, V1–30, M or E.

2. Section 59.1 is further amended by adding a new definition—"Highest adjacent grade."

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

60.3 [Amended]

3. Section 60.3(c) introductory paragraph is amended to read as follows:

(c) When the Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

* * * * *

4. Section 60.3(c)(1) is amended by inserting the words, "AH zones," between the words "unnumbered A zones" and "and AO zones."

5. Section 60.3(c)(2) and (3) are amended by inserting the words "and AH zones" between the words "Zones A1–30" and "on the community's FIRM," wherever they appear.

6. Section 60.3(c)(7) is revised to read as follows:

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

7. Section 60.3(c)(8) is revised to read as follows:

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in § 60.3(c)(3)(ii);

8. Sections 60.3(c) is amended by adding a new subparagraph (11) to read as follows:

(11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp. 329) and Executive Order 12127 (44 FR 19367)).

Catalog of Domestic Assistance Number 83.100 Flood Insurance.

Issued: July 24, 1980.

Gloria M. Jimenez,

Federal Insurance Adminstrator.

[FR Doc. 80-27596 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

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44 CFR Part 67

[Docket No. FEMA 5894]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, in Alaska and Hawaii call Toll Free Line (800) 424–9080, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town county	Source of flooding	Location	#Depth in meters above ground
Commonwealth of Puerto Rico	Rio Tallaboa Basin	Rio Tallaboa	40 meters upstream of intersection of Rio Tallaboa and Puerto Rico Highway 127	#6.0
			Intersection of Rio Tallaboa and Puerto Rico Highway 132	#40.5
		Rio Guayanes	10 meters downstream of intersection of Rio Guayanes and Puerto Rico Highway 386	#72.5
		Caribbean Sea	At the mouth of Rio Tallaboa	#1.8

Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.

Send comments to Honorable Carlos Romero Barcelo, La Fortaleza, San Juan, Puerto Rico 00902.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 26, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-27624 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF EDUCATION

45 CFR Parts 100a and 100b

Education Division General Administrative Regulations (EDGAR); Grant Programs Without Specific Regulations

AGENCY: Department of Education.

ACTION: Proposed rules.

SUMMARY: These proposed rules establish procedures for the award of grants in programs that do not have specific program regulations. They establish a general framework of the rules that are necessary to make orderly awards consistent with the authorizing statute.

DATES: All comments must be received on or before November 10, 1980.

ADDRESSES: All written comments should be addressed to Kenneth Depew, Office of General Counsel, Division of Regulations Management, U.S. Department of Education, Room 2134 FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Kenneth Depew. Telephone (202) 245–7091.

SUPPLEMENTARY INFORMATION: These proposed rules would establish procedures and standards for administering grant programs that do not have specific regulations of their own.

They are proposed in an effort to find a new solution to a longstanding problem. The Department of Education is authorized by law to carry out a number of programs that have never received an appropriation and may never receive one.

These programs pose a special problem. If the Department has no regulations for such programs, they may never be funded, because the first year's appropriation cannot be spent in an orderly and responsible way.

At the same time, writing a complete set of regulations for such programs has obvious drawbacks. In many cases, it is a waste of administrative resources. Moreover, administrative experience suggests that if a program is not funded within a year or two of the enactment of the authorizing legislation, later appropriations are often made for specific purposes that differ, slightly or greatly, from the program originally envisioned. Regulations written as an academic exercise are seldom adequate to the newly perceived needs that lead to a later appropriation.

These proposed rules offer an alternative solution. They establish a general framework of the rules that are necesssary to make orderly awards consistent with the authorizing statute. It is the expectation of the Department that reliance on these proposed rules will be a temporary expedient, employed only during the first year in which a previously unfunded program is funded. While the program is being administered in the first year, draft rules covering later years will be proposed and made final. This would allow the final rules to reflect not only the new priorities that generated the appropriation but also the first year's administrative experience.

If necessary, the Department may supplement these rules soon after the first appropriation, by publishing a notice in the **Federal Register** that interprets the statute. If the authorizing legislation cannot be implemented without program-specific regulations (for example, if the authorizing legislation mandates regulations on specific topics), the Department will continue its practice of writing rules even in the absence of an appropriation.

The specific provisions of the proposed rules are simple. They establish the principle that a program without regulations will be administered under the authorizing legislation and, to the extent consistent with the authorizing legislation, under the General Education Provisions Act (GEPA) and the Education Division General Administrative Regulations (EDGAR). In many cases, particularly formula grant programs, this will suffice. The proposed rules also deal with the issues that are most liklely to arise in programs administered under these provisions. For example, in discretionary grant programs, these proposed rules would distribute "points" for the criteria used in evaluating applications in a federally administered discretionary program. Programs without regulations will judge applications under the criteria established by EDGAR as well as two additional criteria—the need for the applicant's project and the extent to which the applicant's project carries out the statutory purposes. In order to further "tailor" the selection criteria to the program, fifteen points of a possible 100 may be redistributed among the listed evaluation criteria.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered in the development of the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at the Department of Education, Room 2134, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

The reader will find a citation of statutory or other legal authority in parentheses after each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance numbers not assigned. Part I of OMB Circular A–95 does not apply.)

Dated: August 27, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary proposes to amend Parts 100a and 100b of Title 45 as follows:

1. Section 100a.1 is amended by revising the introductory paragraph, redesignating that paragraph as paragraph (a), and by adding a new paragraph (b), to read as follows:

§ 100a.1 Programs to which Part 100a applies.

(a) The regulations in Part 100a apply to the programs of the Education Division that are listed in the table following this section. In addition to the name of the program, the table gives the statute that authorizes the program, the regulations that implement the program, and the number that the Catalog of Federal Domestic Assistance (CFDA) gives to the program.

Note.—* * *

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(b) If a direct grant program does not have implementing regulations, the Secretary implements the program under the authorizing statutes and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "direct grant program" does not include a program whose authorizing statute provides a formula for allocating program funds among eligible States.

Cross-reference.—Section 100b.1 Programs to which Part 100b applies.

Note.—See § 100a.101(c) for a description of the information in the application notice for a discretionary grant program that does not have regulations; § 100a.200(b) for a description of a discretionary grant program; § 100a.200(c) for a description of formula grant programs; and § 100a.210 for the selection criteria for discretionary grant programs that do not have regulations.

* * * * *

(20 U.S.C. 1221e–3(a)(1))

2. Section 100a.101 is amended by adding a new paragraph (c) to read as follows:

§ 100a.101 Information in the application notice that helps an applicant apply.

* * * * *

(c) If a discretionary grant program does not have implementing regulations, the application notice describes—

(1) The purposes of the statute that authorizes the program;

(2) The needs recognized in the authorizing statute;

(3) Other interpretations of the statute adopted by the Secretary that will significantly affect the administration of the program;

(4) Inconsistencies, if any, between the authorizing statute and the General Education Provisions Act or the regulations in this part;

(5) How the criteria in § 100a.210 of EDGAR apply to an application; and

(6) How the Secretary will distribute the points reserved under § 100a.210(c).

(20 U.S.C. 1221e–3(a)(1))

3. A new § 100a.210 is added to read as follows:

§ 100a.210 Selection criteria for a discretionary grant program that does not have regulations.

(a) *How this section works.* (1) If a discretionary grant program does not have implementing regulations, the Secretary uses the criteria in this section to evaluate applications for new grants under the program.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*

(1) *Meeting the purposes of the authorizing statute.* (30 points)

(i) The Secretary reviews each application for information that shows the project will meet the purposes of the statute that authorizes the program.

(ii) In conducting this review, the Secretary looks for information that describes—

(A) The objectives of the project; and

(B) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points)

(i) The Secretary reviews each application for information that shows the project meets specific needs recognized in the statute that authorized the program.

(ii) In conducting this review, the Secretary looks for information that—

(A) Describes the needs addressed by the project;

(B) Describes how the applicant identified those needs;

(C) Describes how those needs will be met by the project; and

(D) Describes the benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points)

The Secretary evaluates each application on the basis of the criterion in § 100a.202.

(4) *Quality of key personnel.* (7 points)

The Secretary evaluates each application on the basis of the criterion in § 100a.203.

(5) *Budget and cost effectiveness.* (5 points)

The Secretary evaluates each application on the basis of the criterion in § 100a.204.

(6) *Evaluation plan.* (5 points)

The Secretary evaluates each application on the basis of the criterion in § 100a.205.

(7) *Adequacy of resources.* (3 points)

The Secretary evaluates each application on the basis of the criterion in § 100a.206.

(c) *Weighing the criteria.* (15 points) The Secretary distributes an additional 15 points among the criteria listed in paragraph (b) of this section. The Secretary indicates in the application notice for the program how these 15 points are distributed.

(20 U.S.C. 3474)

Cross-reference.—See § 100a.101 Information in the application notice that helps an applicant apply.

4. Section 100b.1 is amended by revising the introductory paragraph, redesignating that paragraph as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 100b.1 Programs to which Part 100b applies.

(a) The regulations in Part 100b apply to the programs of the Department of Education that are listed in the table following this section. In addition to the name of the program, the table gives the statute that authorizes the program, and the number that the Catalog of Federal Domestic Assistance (CFDA) gives to the program.

Note.—* * *

(b) If a State-administered program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "State-administered program" means a program whose authorizing statute provides a formula for allocating program funds among eligible States.

* * * * *

(20 U.S.C. 1221e–3(a)(1))

5. Section 100b.102 is amended by revising the introductory phrase and by adding a new paragraph (x) and a cross reference, to read as follows:

§ 100b.102 Definition of "State plan" for Part 100b.

As used in this part "State plan" means any of the following documents:

* * * * *

(x) *Programs that do not have regulations.* If a State-administered program does not have implementing regulations, the State plan must include the documents that the authorizing statute for the program requires a State to submit to receive a grant.

(20 U.S.C. 1221e–3(a)(1))

Cross-reference.—See § 100b.1 Programs to which Part 100b applies. This section includes a definition of "State-administered program" and a table of citations for the programs listed in § 100b.102.

[FR Doc. 80–28922 Filed 9–8–80; 8:45 am]

BILLING CODE 4000–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket 21313; RM–2646; RM–3038; RM–3040; RM–2717; RM–3039; FCC 80–477]

AM Stereophonic Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order and further notice of proposed rule making.

SUMMARY: Various petitions for "special relief" in the matter of the Commission's April 9, 1980, selection of the Magnavox system of AM stereophonic transmission are denied by *Memorandum Opinion and Order,* to the extent that they are not granted through the adoption of the *Further Notice of Proposed Rule Making.* The intent of the *Further Notice of Proposed Rule Making* is to solicit additional technical information deemed necessary for the completion of the FCC Docket 21313 file and to ensure selection of the best of five proposed AM stereo transmission systems. Additionally, the *Notice* sets forth the Commission's AM stereo system evaluation and selection methodology for public comment.

DATES: Comments must be filed by December 9, 1980, and reply comments by January 8, 1981.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Federal Communications Commissions, Broadcast Bureau, Policy and Rules Division, Mr. James E. McNally, Jr.at (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order and Further Notice of Proposed Rulemaking

Adopted: July 31, 1980.

Released: September 11, 1980.

By the Commission: Commissioners Quello and Jones concurring in the result.

1. On April 9, 1980, the Commission considered a proposed *Report and Order* in the matter of AM stereophonic broadcasting. The Broadcast Bureau recommended that the Commission adopt rules which would have provided minimum technical standards for all five of the formally proposed systems without selecting a particular AM stereophonic system.[1] On the same agenda, the Office of Science and Technology recommended that the Commission adopt a single AM stereo system. After a lengthy debate, the Commission decided that it would select a single system, although it generally endorsed the concept of the marketplace making such selections where a viable process could exist. Accordingly, based upon the information before it at that time, the Commission directed the Broadcast Bureau and the Office of Science and Technology to prepare a *Report and Order* adopting rules to choose a single AM stereo system and explaining thoroughly the reasoning upon which the choice was based.

2. Subsequent to that Commission meeting, a number of petitions and pleadings have been filed with the Commission requesting, *inter alia,* oral argument before the Commission *en banc,* release of the evaluation table ("matrix") discussed by the Commission at its April 9th meeting, and rescission of the Commission's tentative decision to select the Magnavox system.[2] These matters are discussed *infra.*

3. Immediately following the April 9th meeting the Broadcast Bureau and the Office of Science and Technology, pursuant to the Commission's instructions, began the preparation of a *Report and Order.* Given the controversy surrounding this matter, as highlighted by the petitions for oral argument and other relief, the Commission's technical staff undertook an even more comprehensive examination of the record compiled in this proceeding. As described in detail, *infra,* the staff's first evaluation was based upon a review of the comments and reply comments with relative judgments used as the basis for the ratings contained in the original evaluation table ("matrix"). In its further examination, the staff utilized a data quantification process so that system performance characteristics could be utilized in the evaluation table and thereby reduce reliance upon the more qualitative relative judgments. Even under this revised process, however, it has not been possible to quantify all system performance characteristics. It still appears that further empirical data is needed in some areas in order to carry out a more complete analysis of these systems. Accordingly, before the Commission finally selects an AM stereo system, we believe that additional data and information are desirable.

4. We believe that the most expeditious and fair way to proceed at this stage of the proceeding is by issuing a *Further Notice of Proposed Rule Making* so that all parties may have full opportunity to supplement their record showings. We also see no reason at this time to withhold either the original evaluation table or the revised table. We believe that our selection process will, therefore, be made clear to all interested parties and, further, will be open to full comments and evaluation. Additionally, we have prepared a list of specific questions which will be directed to each system proponent. We emphasize that our purpose is not in any way to delay the selection of an AM stereo system but, rather, to base our final determination upon a full, complete, and accurate record.

5. The following is the AM stereo evaluation table which was before the Commission when it issued instructions to the staff to prepare a *Report and Order* on April 9, 1980.

Initial AM Stereo System Evaluation Table

Evaluation Category Numbers in parentheses ( ) indicate the maximum possible scores in the various categories or subcategories.	MAGNAVOX	MOTOROLA	HARRIS	BELAR	KAHN
I. Monophonic compatibility (15)	12	11	7	12	11
II. Interference characteristics:					
(1) Occupied bandwidth (10)	7	5	9	5	8
(2) Protection ratios (10)	5	3	8	5	7
III. Coverage (10)	7	6	6	5	5
IV. Transmitter stereo performance:					
(1) Distortion (10)	8	7	3	9	2
(2) Frequency response (10)	9	4	5	10	7
(3) Separation (10)	9	9	6	10	2
(4) Noise (10)	7	8	7	6	6
V. Receiver stereo performance:					
Propagation degradation (5)	3	5	4	3	5
Directional antenna effects (5)	3	3	4	3	3
VI. Mistuning effects (5)	3	3	4	3	3
Tentative total score (100)	73	64	63	71	59

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[1] The AM stereo transmission systems under consideration are: (a) the Magnavox Consumer Electronics Co. (Magnavox), an AM/PM system; (b) the Belar Electronics Laboratory, Inc. (Belar), an AM/FM system; (c) the Kahn Communications, Inc. and Hazeltine Corporation (Kahn/Hazeltine), an independent side-band system (ISB); (d) the Motorola, Inc. (Motorola), a "Compatible Quadrature Modulation" (C-Quam) system; and (e) the Harris Corporation (Harris), a "Variable Compatible Phase Modulation" (V-CPM) system. Additionally, F.T. Fisher's Sons, Ltd. (Fisher) has proposed a system (hereinafter referred to as the "Fisher" system) which may generally be described as a modification of the originally proposed Harris CPM system, utilizing signal sampling techniques. The Fisher system has only been presented on a theoretical basis. Absent any "real world" laboratory or on-the-air testing, we will not be able to give it futher consideration in this proceeding.

[2] Pleadings have been filed by Kahn Communications, Inc., Hazeltine Corporation, Motorola, Inc., Magnavox Consumer Electronics Co., American Broadcasting Company, Inc., and the Consumer Electronics Division of the Electronics Industries Association and the Stations' Committee for AM Stereo. A listing of these pleadings is given in Appendix B.

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6. The evaluation criteria or categories in the preceding table are derived from the various technical concerns raised by the Commission in the *Notice* for the most part, but several performance factors of ongoing interest are also included so as to allow for a sufficiently comprehensive evaluation of the various systems. Each evaluation criterion is defined as follows:

Monophonic compatibility: The measure of the average harmonic distortion (generally, the data submitted was too sparse to permit consideration of intermodulation distortion as well) over the range of 50–5000 Hz under the condition of left or right channel[3] only stereophonic transmission, taken from the audio output of an envelope detector type of monophonic station modulation monitor. We believe this approach is more desirable than that taken by the National AM Stereophonic Radio Committee (NAMSRC), which was a measurement of the increase in distortion resulting from mistuning, since we believe that individuals will take the trouble to tune a receiver to the point where the station's general audio quality is perceived as optimum. What is important, we feel, is the distortion present under optimum tuning conditions. We selected the condition of L or R only since it represents a good compromise between the extreme conditions of main channel only (L=R, monophonic) or stereophonic channel only (L=−R, a rarely encountered condition) modulation. Monophonic modulation monitor distortion measurements were preferred since such devices are wideband in nature and different models could be expected to yield similar results. In some cases, however, only samples of various receiver distortion measurements were presented and an estimate had to be made as to what the distortion would have been had it been measured on a monophonic modulation monitor.

Occupied bandwidth: This is defined in Section 2.202(a) of the Commission's Rules as the frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5% of the total mean power radiated by a given emission. For the purpose of this proceeding, an equivalent definition would be the frequency range over which the radiated emission spectrum exceeds −26 dB relative to the carrier as measured on a spectrum analyzer with 300 Hz bandwidth. In more simplistic terms it is a measure of the spectrum required for the proper operation of an AM stereo transmission system. This measurement was taken by reviewing spectrum analyzer displays of the various systems' performance under the NAMSRC-recommended modulation conditions.[4]

Protection Ratio: Section 73.37 of the Commission's Rules generally summarizes protection ratios in terms of signal strength contours for the various classes of stations for the co-channel and first, second and third adjacent channel conditions. These desired and undesired station signal strengths which exist at the edge of station service contours are used as a basis for evaluating the co-channel and adjacent channel susceptibility of a receiver, following the approach taken by NAMSRC in its test A.7. Again, the "4 tone test" (see footnote 4) is used to modulate the proponent's AM stereo transmission system and the resulting "noise" is measured with respect to the desired 85% amplitude-only modulated station for the co-channel and various adjacent channel conditions. Thus, the term "protection ratio" as used in this proceeding, is a measure of the audio "noise" or interference generated by various conditions of stereophonic operation relative to a signal of a desired station. In reviewing the information provided by the system proponents, we considered (in addition to the usual modulation modes of L=R, L=−R, L only and R only) the NAMSRC-recommended "stress test" of 45% AM modulation by the right channel containing 400 Hz and 9500 Hz tones, and similar modulation by the left channel containing 2500 Hz and 5500 Hz tones.

Coverage: By this we mean any loss in service area, relative to the present monophonic service area, which takes place as a result of stereophonic operation. The two conditions of interest are stereo transmitter to mono receiver and stereo transmitter to stereo receiver.

Stereo Separation: A measure, in dB, of the isolation between the left and right channels over the frequency range 50–5000 Hz for various levels of modulation.

Stereo Frequency Response: A measure, in dB, of the uniformity of system response over the frequency range 50–10000 Hz for various levels of modulation.

Stereo Distortion: A measure, in percentage or dB, of the harmonic distortion resulting from a condition of left or right only modulation. Consideration of intermodulation distortion was not possible due to the limited amount of information provided.

Stereo Noise: A measure, in dB, of the signal-to-noise ratio of a stereo transmission as received on an ideal stereo decoder in a closed circuit configuration.

Mistuning Effects: A measure of the increase in distortion in a monophonic receiver as a result of various degrees of off-frequency tuning of a stereo transmission. This takes place because as a monophonic receiver is tuned through a stereo station transmission, varying amounts of stereophonic (L–R) information will be blended with the desired main channel (L+R) information to produce an unbalanced monophonic program and increased harmonic and intermodulation distortion.

7. The system scores on the evaluation table given in paragraph 5 resulted from the consensus opinion of Commission engineers who reviewed the comments filed. In a number of cases (which will be discussed subsequently) desired information was not submitted by a system proponent and it was necessary to make engineering estimates of anticipated system performance. All in all, the system ratings indicated in the initial table should be regarded as based upon engineering judgments of the different systems' operation.

8. After the April 9 meeting the Commission engineering staff began a second phase of its review of the technical data. The second phase was begun in order to validate the initial work that had been done and, as discussed below, to allow for the preparation of a more complete *Report and Order*. It was not anticipated that the outcome of the review would indicate a system other than Magnavox would be superior in its performance characteristics. Rather, it was felt that a

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[3] Subsequently, the left and right channels will be referred to as L or R, respectively. Also, L−R is used to indicate the main (monophonic) channel and L–R is used to indicate the difference (stereophonic) channel.

[4] The NAMSRC-recommended "4 tone test" (A.6) was used, where the transmitter is modulated 35% wth a 400 Hz tone, 25% with a 2500 Hz tone, 15% with a 5500 Hz tone and 10% with a 9500 Hz tone. We reviewed the data with respect to 85% L+R, 85% L=−R, 42.5% L only and 42.5% R only modulation. We decided that the 85% 8 kHz L−R "stress test" was too atypical of real world conditions, so the information which was provided concerning this facet of system operation was not considered.

second review would furnish additional justification for the initial selection of the Magnavox system. It was also felt that the *Report and Order* resulting from such an analysis could not only document the rationale and methodology leading to the particular system selection but should also, through a thorough and complete discussion, anticipate most, if not all, of the concerns and objections which could be raised by losing system proponents in a reconsideration proceeding and dispose of them in a straightforward manner. Such an approach was felt desirable to permit the rapid introduction of AM stereo service. This could only occur, we reasoned, if our initial selection was bolstered with a methodical step-by-step evalution of each of the proposed systems.

9. Thus, it was determined that the second review should again address the same areas outlined in the initial evaluation table (with minor improvements as discussed below). The second review would make explicit as many engineering judgments as possible, however, and place emphasis on a quantitative treatment of experimental data furnished by the proponents and others. In fact, it was felt that quantification of the data would minimize the need for engineering judgment once criteria, weights, maximum and minimum system performance limits (where possible) and scoring procedures were determined. Thus, depending upon the reliability and accuracy of the submitted data, the system evaluation process would be as objective and as accurate as possible.

10. During the second phase of the AM stereo system review process, we also are-examined the evaluation table itself to see if the addition of any new evaluation factors was warranted, or if the relative weighting among the various categories should be shifted. We decided not to add, delete or modify the weighting of any evaluation factors but we did make some minor rearrangements for the sake of clarity and categorization. There is no substantive difference between the initial evaluation table and the revised one, with regard to categories considered.

11. The evaluation table which follows indicates our assessment of the five proposed AM stereo systems at the present time. Asterisks (*) indicate instances in which data in the record either are inadequate or are believed to be erroneous or inconsistent with other data. This does not mean that we are unable to rate the systems in the indicated categories; but that we would prefer to defer such action pending submission of additional information. These specific areas will be discussed in later paragraphs.

Revised AM Stereo System Evaluation Table

Evaluation category Numbers in parenthesis ( ) indicate the maximum possible scores in the various categories or sub-categories.	MAGNAVOX	MOTOROLA	HARRIS	BELAR	KAHN
I. Monophonic compatibility:					
(1) Average harmonic distortion (15)	*	9	6	*	12
(2) Mistuning effects (5)	5	5	5	5	5
II. Interference characteristics:					
(1) Occupied bandwidth (10)	10	10	10	10	10
(2) Protection ratios (10)	7	10	8	*	9
III. Coverage (relative to mono):					
(1) Stereo to mono receiver (5)	*	*	*	*	*
(2) Stereo to stereo receiver (5)	*	*	*	*	*
IV. Transmitter stereo performance:					
(1) Distortion (10)	8	[illegible]	[illegible]	8	4
(2) Frequency response (10)	8	5	5	6	8
(3) Separation (10)	7	10	2	6	3
(4) Noise (10)	6	10	8	6	*
V. Receiver stereo performance: Degradation in stereo performance over that measured at the transmitter, including consideration of directional antenna and propagation degradation (10).	*	*	*	*	*

12. The definitions of terms for the evaluation table given above are the same as those of the earlier table. The weightings assigned to the various categories are also the same. Given these basic premises, two further steps are necessary to the process of converting the raw engineering data to scores on the indicated scales of 0–5, 0–10, and 0–15: (a) define the meaning of the extreme values of the scale, and (b) describe an objective process for converting engineering data to scores, based on the meaning of the extreme scores. Judgments as to how systems are to be compared are then primarily done in step (a), and questions as to adequacy and accuracy of engineering data may arise under step (b). For consistency of results, it is important to be able to determine and define maximal and minimal necessary performance levels of a system in the category under consideration. Otherwise, about the only alternative is to rate the systems relative to each other. This should be avoided wherever possible because any change in the performance of either the best or the worst system is likely to result in a change in the ratings given to intermediate systems. Further, the resultant change in the difference between the best and worst systems may be viewed as more or less appropriate depending on how it relates to perceived real-world conditions. To give an extreme example, consider the case of five systems being evaluated in terms of distortion, an evaluation category worth 10 points. However, the difference between the best and the worst system is only 0.5%. Under most circumstances, it would be absurd to give the best system 10 points and the worst system only one point, which would be the case if the systems were evaluated in relation to each other. As will be indicated subsequently, in the absence of clear guidelines, we found it necessary to resort to relative system evaluation in several categories. If future comments we receive indicate some kind of consensus of opinion on ranges over which system performance should be evaluated in the indicated categories, absolute evaluation of system performance will be possible.

13. Fortunately, in our judgment, all five AM stereo systems are at least minimally acceptable under all of the rating criteria. Therefore, the full rating scale (0–10, for example) can be used to describe the range from "just barely acceptable" (zero score) to a performance level so high that further improvements would be essentially undetectable or meaningless under real-world operating conditions of AM broadcasting (score of 10). This interpretation of the rating is particularly valid where realistic extreme values of system performance are known and applied, although it may, depending on the circumstances, be valid when a relative system evaluation or comparison is performed. Where the latter is performed, the simplest procedure would be to use the scoring

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scale simply to describe the performance of the worst (zero score to the best (maximum score) of the systems available for evaluation. In either event, after the scoring scale is defined, the engineering data is used to place the systems on the scoring scale in a linear or logarithmic (decibels) fashion, as appropriate to the characteristic being evaluated. Because of uncertainties associated with some of the submitted information, and because of the slight error which may result from rounding-out in the data averaging process, we concluded that the use of an exact linear relationship in relating the engineering data to a score would be without purpose, so for realism as well as convenience, we decided to use the "segmented" or "bracketed" approach described below.

14. Monophonic Compatibility: As an example, we take the category of monophonic compatibility to show how this approach is applied. All five systems "pass" in the sense that a standard monophonic receiver will produce an acceptable audio signal from a stereophonic broadcast signal. The quality judgment is based on the degree of audio distortion attributable to the fact that the receiver is being presented with a stereo rather than a monophonic radio frequency signal. In this case the choice of value for a score of ten is obvious: zero percent distortion. The judgment which we made was to choose five percent distortion as the limit of acceptability; any system exhibiting more than five percent audio distortion when a stereo signal is received on a monophonic receiver would have been given a score of zero. Then it was a straightforward matter to distribute distortion figures among the fifteen available points: systems with distortion of 0–1% received 15 points, from 1–2% received 12 points, and so on. (In case a system's performance fell exactly on a division point, the higher score would have been awarded.) If there were multiple sources of distortion data in the docket record, all the available and applicable data were averaged to obtain the distortion figure used for establishing the score. Note that in the case of monophonic compatibility the "granularity" of scoring was three points; there is an uncertainty of ±1.5 points associated with each tabulated score, independent of any uncertainty associated with the raw data themselves.

15. Mistuning Effects: In the case of our initial evaluation table we were unable to detect strong differences among the five systems on the basis of the expected effects of slight mistuning of receivers. Further review of the comments makes us feel even more certain that differences between the systems in regard to this evaluation category are insignificant. Therefore, pending public comment which convinces us otherwise, we proposed to award five points to all five of the proposed systems, effectively eliminating mistuning effects as a decision criterion.

16. Occupied Bandwidth: Occupied bandwidth is the only one of the selection criteria for which the Commission's Rules contain quantitative requirements which are directly applicable to stereophonic broadcasting.[5] Thus we have available in this case a reasonably clear pass/fail test. The Rules state that signal components more than 15 kHz removed from the carrier frequency must be more than 25 decibels lower in power level than that of the unmodulated carrier. "Occupied bandwidth" data in the docket record were derived from the NAMSRC 4-tone test described in footnote 4, above. This test is not a direct measure of occupied bandwidth as defined in the Rules, but it does give an indication of bandwidth performance. According to data in the docket, the 4-tone test shows that the highest out-of-band components of the "worst" and the "best" systems were around 50 and 70 decibels, respectively, below the carrier level. Although the 4-tone test neither represents all possible types of program material nor corresponds to a direct test of the Commissions's occupied bandwidth requirement, the test does seem to indicate better-than-acceptable performance on the part of all five systems. Although we realize that occupied bandwidth characteristics that meet the Commission's minimum requirements may be significantly different in terms of interference potential, we have concluded that it is unfair and unnecessary to penalize one system with respect to another when both systems significantly exceed stated occupied bandwidth requirements. From the viewpoint expressed in paragraph 12, above, we would say that all five systems fall at the high end of the scale where further improvements are not meaningful in the real-world operating conditions of AM broadcasting. We are therefore awarding the full 10 points to each of the five systems in this category; however, we specifically request comment as to whether the result of "−50 dB" from the 4-tone test used here does in fact represent "virtually perfect" performance and therefore deserves a score of 10.

17. Protection Ratios: For purposes of obtaining an integrated single indicator of audio protection ratios characteristic of the proposed systems, the previously mentioned NAMSRC 4-tone test was used (including the modulation condition where the right channel is modulated with a 400 and a 9500 Hz tone, and the left channel with a 2500 and a 5500 Hz tone) to determine the audio protection ratios afforded under cochannel and first, second, and third adjacent channel conditions. These were averaged to give a composite number, in decibels. The systems were then rated relative to one another, with the best system getting 10 points and the worst system 1 point. The following audio protection ratio table was used to score the intermediate systems and we would welcome comment on its appropriateness.

Audio protection ratio (db)	Points
35.5 to 36.7	10
34.3 to 35.5	9
33.1 to 34.3	8
31.9 to 33.1	7
30.7 to 31.9	6
29.5 to 30.7	5
28.3 to 29.5	4
27.1 to 28.3	3
25.9 to 27.1	2
24.7 to 25.9	1

18. Coverage: In the category of coverage, the data necessary for the quantification approach was not supplied by all of the system proponents. Thus, our present opinions on system performance are primarily based on calculated results and listening tests. The Harris, Inc., calculations should be singled out as being particularly well presented.[6] However, it would be very desirable to have such calculations borne out through on-the-air testing. We intend, in a later paragraph, to solicit additional information in this category from each of the system proponents.

19. Transmitter Stereo Performance: Quantification of transmitter stereo performance data proved to be fairly straightforward. Distortion data were applied to the table in the manner discussed previously, using a scoring scale of 0–10 against a distortion scale of 0–5 percent. In the area of frequency response, 5 out of the 10 available points were derived from the average (of absolute value dB deviations of) frequency response as follows:

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[5] See Section 73.40(a)(12), (13) and (14) of the Commissions's Rules.

[6] See the Harris comments, Volume 2, Appendix 4, Page IV–8.

Average response (dB)	Points
.5 to 0	5
1.0 to .5	4
1.5 to 1.0	3
2.0 to 1.5	2
2.5 to 2.0	1

The average frequency response was taken over the range of 50–10,000 Hz. The second 5 points were derived from the worst case deviation (from 0 dB @ 1,000 Hz) over the same range. The following scale was used:

Worst case response (dB)	Points
3 to 0	5
6 to 3	4
9 to 6	3
12 to 9	2
15 to 12	1

20. With respect to separation, it was concluded that below 16 dB should be considered unacceptable and above 25 dB unnecessary (at least for reasonably strong and steady signal conditions). Thus, the table simply represents a 1 point per dB relationship:

Separation	Points
25 or better	10
24 to 25	9
23 to 24	8
22 to 23	7
21 to 22	6
20 to 21	5
19 to 20	4
18 to 19	3
17 to 18	2
16 to 17	1
Below 16	0

Separation was measured over the range of 50–5000 Hz.

21. Points were applied to the subcategory of stereo noise by apportioning 5 dB intervals between the best and worst systems. Again, the systems were related relative to one another, and, recognizing that the lower limit of 33 dB may be considered unacceptable, we welcome comment on the appropriateness of the following table which was used to score the intermediate systems:

Stereo noise [1]	Points
53 to 58	10
48 to 53	8
43 to 48	6
38 to 43	4
33 to 38	2

[1] Decibels below carrier level.

22. Receiver Stereo Performance: In most cases, we feel the data in the docket record were inadequate to provide for complete quantitative scoring in this category. However, we attempted to use the following procedure to derive a quantitative indication of performance: The average stereophonic frequency response, separation, distortion and noise was determined for each proponent's receiver(s) as measured in the laboratory with the proponent's stereo exciter feeding an "ideal modulator". This was used as a gauge of the best performance possible from the receiver. Then over-the-air receiver performance data was compiled and the difference between this data and the transmitter stereophonic performance data was noted. Listening tests were conducted on the tape recordings submitted by the proponents and various radio stations in order to confirm the results. This measure of propagation degradation accounted for 5 of the 10 available points. The remaining 5 points were assigned on the basis of how the respective systems performed under adverse conditions such as deep fading, reception in or adjacent to null areas of directional arrays and co-channel and adjacent channel interference.

23. This concludes our discussion of our AM stereo system evaluation table. We are, through this *Further Notice*, allowing all AM stereo system proponents an additional opportunity to present evidence (preferably of an empirical nature) in any system evaluation category where they feel their systems may have been misrated. Sources of engineering data and additional information pertaining to the completion of the AM stereo system evaluation table are provided in Appendix A. Further, we solicit comments on the appropriateness of the evaluation categories, on the weights assigned to them, on whether or not any categories should be added or deleted from the evaluation table, and on our assignments of ranges of engineering data scales corresponding to numerical scoring scales. We would welcome suggestions as to how areas in which quantitative data are not available, such as listening tests on propagation degradation, may be evaluated more objectively. It is our desire that the methods we use to select the nation's AM stereo transmission system be agreeable to a majority of system proponents if possible, and to broadcasters and the listening public in general. Such a consensus of opinion would greatly expedite the resolution of this proceeding.

24. To further assist us in this undertaking, we have developed a list of questions which we wish to pose to the particular AM stereo system proponents and to the radio stations which tested their respective systems. Others who feel qualified to comment on these areas of interest should feel free to do so.

25. Recognizing that to varying degrees some information has already been provided, the Commission wishes to solicit from all AM stereo system proponents additional information as to reduction in coverage relative to present monophonic transmission. This information may be submitted as a result of calculations (which, as we have mentioned, has been done to a certain extent already); but even more desirable would be additional results of an empirical nature from on-the-air testing. The results of such tests should be specified in terms of signal-to-noise degradation relative to mono or in loss of service radius or area for the following modes of operation:

Transmission mode	Reception mode
Mono	Mono (Reference Case)
Stereo	Mono
Stereo	Stereo

The information we receive will be used to more accurately rate the systems in evaluation table category III.

26. We also wish to solicit, from all system proponents, additional information on signal degradation (increased distortion, loss of separation and any special effects peculiar to the particular system) in deep nulls and areas immediately adjacent thereto on the sides of lobes of directional antenna systems. To date, Magnavox has presented the clearest data in this regard. However, their results indicate substantial degradation. Yet even monophonic signals can become badly distorted and we see nothing in any of the proposed stereo systems which would tend to exempt them from such natural deterioration. Nevertheless, we would like to know, if at all possible, how the systems compare to one another in terms of the rate of degradation as a deep null is approached. It would be preferable that the same radio station be used in conducting such a test. Additionally, in most cases we feel we do not have good examples of stereo system performance during deep fades in skywave propagation. Such fades should involve at least momentary loss of the desired signal. The information received in

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response to the concerns expressed in this paragraph will be used to better rate the various systems in evaluation table Category V (Receiver stereo performance).

27. Magnavox, in its comments relating to monophonic compatibility, took the approach of measuring the distortion in 19 miscellaneous monophonic receivers for the cases of L only and R only modulation to yield and average receiver distortion of 3.1%.[7] This distortion, however, was only taken for a 400 Hz modulating tone.[8] In order to derive a monophonic compatibility rating for Magnavox comparable to those for the other systems, we would like to obtain distortion data (measured at a transmitter on a monphonic modulation monitor) for 45% AM L-only or R-only conditions, over the frequency range 50–5000 Hz. We would like these distortion measurements to be taken at the discrete frequencies of 50, 100, 200, 500, 1000, 2000, 3000, 4000 and 5000 Hz.

28. Belar, like Magnzvox, approached the subject of monophonic compatibility by measuring the distortion in a monophonic receiver under left channel-only transmission conditions (Belar Comments of May 29, 1979, Page 46) only over an extended range of modulating frequencies. We would like additional information submitted pursuant to the instructions given to Magnavox in the preceding paragraph. We also wish to direct Belar's attention to the adjacent channel protection ratio data presented in its comments on pages 13 and 15. This data indicates that less adjacent channel protection is afforded by the modified or "new" Belar system than the original or "old" Belar system, according to the data presented on Page 19 of Section I of the NAMSRC Report. This result seems inconsistent with the reduction in occupied bandwidth which has been achieved and we would appreicate an explanation. In the absence of such an explanation, we would be obliged to give the Belar system a score of only 1 in this category.

29. With respect to the Kahn/Hazeltine AM stereo system, we have reservations about making transmitter separation measurements with a spectrum analyzer. As pointed by Station KING in its report on the Kanh/Hazeltine system, it is incorrect to consider this system independent sideband in nature since certain harmonic predistortion components resulting from the modulation of one sideband appear in the other. More significantly, the Kahn-provided decoder (which, according to the particular need, seems to serve the function of a stereo modulation monitor or a receiver decoder) failed to approach the separation measured on the spectrum analyzer. Since members of the listening public (should this AM stereo system be adopted) would have to use some type of real-world decoder in their stereo receivers, it was felt that this system should be evaluated largely on the basis of transmitter performance as measured on the Kahn-provided stereo decoder (acting as a modulation monitor). Measured in this manner, transmitter separation was still satisfactory (18.4 dB average); however, the stereo noise, at least as measured by Station WFIL, was only –33 dB.[9] We would like to know whether or not this amount of noise is typical of the Kahn decoder, and if not, what a more realistic figure would be. On the basis of the present record, we would be obliged to give the Kahn/Hazeltine system a score of only 1 in this category. Additionaly, we would like to be provided with a mathematical formula which accurately expresses the stereophonic waveform of the Kahn/Hazeltine system.

30. Lastly, we would ask Harris and Fisher to comment individually or jointly on the feasibility of applying the transmission and reception technology described in the Fisher comments to the Harris V–CPM system. If such an implementation is practical and if, as Fisher contends, the potential channel separation is so great as to enable simultaneous transmission of separate programming on each channel, we believe that such a potential should be further explored if it does not significantly delay the resolution of this proceeding.

31. To the extent the additional information requested in this *Notice* requires further on-the-air testing by system proponents, the Commission will favorably consider granting special test authority to radio stations willing to make their facilities available for such a purpose.

32. We must clarify here our proposed action in cases where we fail to receive adequate quantitative information in reponse to our need for such information, as noted in preceding paragraphs. We are confident that if we received no further information at all, and where thereby forced to use only the information on hand, we are in a position to choose an AM stereo system which would serve AM broadcasters and the American public very well. We present this further opportunity to supply quantitative data and analysis only to make our best possible effort to choose the best of a set of acceptable AM stereo systems, and in fairness to offer to all system proponents every opportunity to resolve our questions about the performance of their systems. We feel, however, that the public interest would be served by proceeding with whatever information we have available at the close of comment and reply comment periods associated with this *Further Notice.*

33. After any appropriate modifications are made in the AM stereo system evaluation table, and after all of the numerical ratings are awarded, the choice of the best system could be made by summing the ratings for each system and then comparing the total scores. However, we do not intend to confine the evaluation process to the mechanical summing of figures. The evaluation table is simply being used to bring order to a large number of individual engineering judgments. Upon its completion, the experience of the Commission and its technical staff will be brought to bear to re-examine the apparent result represented by the final scores. It is important to consider the degree to which the technical staff is confident of the results. Otherwise, the collection of numerical scores could rightly be viewed as somewhat barren and incomplete, particularly if some of the scores turn out to be nearly identical. Some of the relevant factors which may be used to support the results of the numerical evaluation process or to choose between systems having identical or nearly identical scores are:

(1) The degree to which there is a consensus that the evaluation criteria and weightings are appropriate, and that the results are not overly sensitive to relatively minor details of the selection process;

(2) Whether the technical staff's recommendation of the winning system represents a consensus, including but not limited to the results of the numerical scoring;

(3) Staff estimates of the uncertainty associated with individual ratings in the evaluation table, and whether the choice of system might change if "better" data were available;

(4) The relative complexity of the various systems, to the degree that complexity may be related to cost, reliability or receiver performance; and,

(5) The potential for improvement in cost, reliability and performance as new technology makes hardware improvements practical.

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[7] See the Magnavox Comments of May 15, 1979, Page C.1–7, where the mean L-only distortion [illegible] stated to be 2.9% and the mean R-only distortion is stated to be 3.18%. Thus, the average single channel only distortion is 3.1%.

[8] *Ibid.* Page C.1.6.

[9] *Ibid.*. Page C.1–6.

This listing is not intended to be all-inclusive; but it is representative of the types of factors which could be considered by the Commission in the system selection process.

34. This *Further Notice* has thus far been directed to the matter of acquisition of additional information to assist the Commission in the selection of a single AM stereo broadcasting system based on a ranking of technical performance characteristics. The Commission recognizes, however, that there are imperfections in such a method of selection. These imperfections stem from the difficulty in designing any completely objective selection method. For example, the determination of both the weighting factor applied to each performance characteristic and the range of the characteristic over which the systems are to be graded involve subjective judgment. The Commission cannot be certain that its judgment in making these decisions properly reflects the balance that would be struck by consumers if they were free to choose. The lack of any relative price information associated with these technical decisions increases this uncertainty.

35. In addition to this fundamental difficulty with the selection method, there is the possibility of a tie, or near tie, among the best two or three systems. As an alternative, therefore, the Commission has considered the merit of authorizing more than one system, or even all five, with the ultimate selection of the surviving system or systems being left to the market. We have been reluctant to adopt this alternative because of our concern that incompatibilities among the systems may have an adverse effect on public reception of AM stereo. We believe that any member of the public who purchases an AM stereo receiver should be able to receive the signals of any of the authorized stereo systems.

36. The requirement that signals from all systems be receivable could, of course, be satisfied by multi-system receivers if such receivers could be obtained at reasonable cost. We believe that the added cost should be small compared with the cost of a single system receiver. It would also be desirable for the receiver to switch automatically to the correct reception mode when the listener tunes in an AM stereo signal. We are requesting comments, therefore, on the following questions:

(1) Is it technically feasible to produce multi-system receivers? Could automatic mode switching be incorporated? Are there reliability or operational problems that can be envisioned with the use of multi-systems?

(2) What would be the cost of developing such a multi-system receiver with and without automatic mode switching? After development, what would be the added cost at wholesale of producing a multi-system receiver, compared to the cost of single-system AM stereo receiver of comparable quality? What would be the added cost at retail of multi-system receivers compared to the cost of single-system AM stereo receivers? How would the added cost of production depend on the number of units produced? To what extend would the added cost of developing and producing multi-system receivers depend on whether the receiver was designed to receive five systems, or fewer than five systems? How would these costs be affected by which systems the receiver was designed to receive? Please supply any available evidence to support your answers.

37. Another approach that the Commission could consider would be the selection of a system by lottery. This could involve selection from among all five systems on the basis that all systems are minimally qualified. On the other hand, the lottery might be used to select from among the best two or three after prior screening based on technical characteristics. We invite comments on these alternatives.[9]

38. All interested parties are invited to file written comments on or before December 9, 1980, and reply comments on or before January 8, 1981. All relevant and timely comments and reply comments will be considered by the Commission. The Commission may take into account any other relevant information before it in addition to the comments invited by this *Notice*.

39. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 5 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished the Commission. Members of the public wishing to participate informally in this proceeding may submit a single copy of their comments, specifying the above-captioned docket number in the heading. Copies of all responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, N.W.).

40. For further information concerning this proceeding contact James McNally, (202) 632-9660. However, interested parties and members of the public should be aware that when the Commission issued the *Notice of Proposed Rule Making* in this proceeding, it stated that *ex parte* contacts were prohibited. See *Notice of Proposed Rule Making*, Paragraph 32, published in the **Federal Register** on October 19, 1978 (43 FR 48659). An *ex parte* contact is a message (written or spoken) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. As we explained when we recently issued our *Memorandum Opinion and Order and Notice of Proposed Rule Making* in the FM quadraphonic proceeding (FCC Docket 21310), we believe that the approach we took in this proceeding prohibiting all *ex parte* contacts may not have been compelled under *Sangamon*[10] as a legal matter. However, we do not believe it is desirable or necessary to change the restricted status of this proceeding at this stage.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Source and Derivation of Engineering Data Used in Rating the Five Proposed AM Stereo Systems in the 11 Identified Evaluation Categories

Monophonic Compatibility

As stated in the *Further Notice of Proposed Rule Making* in this proceeding, monophonic compatibility is defined as the measure of the average harmonic distortion over the range of 50–5000 Hz under the condition of left or right channel only stereophonic transmission, taken from the audio output of an envelope detector type of monophonic modulation monitor. Where available, distortion measurements were tabulated for the following discrete frequencies: 50, 100, 200, 500, 1000, 2000, 3000, 4000 and 5000 Hz and averaged. Data provided at 400 Hz rather than 500 Hz, or 2500 Hz rather than 3000 Hz was used as an acceptable alternative in the averaging process. Where there was a simple omission of data, such as at the frequencies 3000 and 4000 Hz, the data at 2000 Hz and 5000 Hz was averaged to yield an estimate of intermediate frequency response. If data was not provided for either 50 or 5000 Hz, no

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[9] If, however, the technical staff reaches a consensus that the top-ranked system is indeed the best choice, this recommendation will be considered by the Commission prior to any decision to use a lottery. This engineering judgment could be made on the basis of other factors which, in the experience of staff members, were deemed significant.

[10] *Sangamon Valley Television Corp.* v. *United States*, 269 F. 2d 221 (D.C. Cir. 1959).

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estimate was made for the missing point and only the remaining submitted data was used in the averaging process. Generally, (as indicated by the references given below) data provided by several radio stations was averaged to give a comprehensive average of actual system performance. This average was then converted to an evaluation table score using the procedure set forth in Paragraph 14 in the *Further Notice*. Data sources utilized in the system evaluation process are indicated below for each AM stereo system.

Harris—(1) Harris Comments of May 15, 1979, Volume 2, Page VI–B–5, Table 1–2, concerning Station WTAD "envelope distortion" tests using the MW–1A transmitter.

(2) *Ibid.*, Page VI–C–5, Table II–2, Station WGN "mono mod. monitor distortion."

(3) *Ibid.*, Page VI–D–3, Table III–1, Station WTAD "mono mod. monitor distortion."

Magnavox—Data was not submitted in the above-mentioned format. However, in the Magnavox Comments of May 15, 1979, on Page C.1–7 it is stated that "Where the (receiver) distortion is measured for a left transmission, the mean is found to be 2.97% . . .". And "For the right channel transmission, the mean measured monaural distortion was 3.18% . . .". See also Paragraph 27 of the *Further Notice.*

Belar—Data was not submitted in the above-mentioned format. However, in the Belar Comments of May 29, 1979, Page 46, a plot is given of a Panasonic RF–1090 monophonic receiver distortion under 95% left channel only modulation. The average distortion would appear to be in the vicinity of 8.5%. See also Paragraph 28 of the *Further Notice.*

Kahn—Station WABC Comments of January 2, 1980, presenting the results of an engineering test of August 15, 1979, revised as of December 12, 1979, Appendix 1, Pages 57, 58, 59 and 60.

Motorola—(1) Undated Motorola Comments received May 15, 1979, Exhibit VII (New Over The Air Tests), Figure 7, Page VII–21, concerning WGN tests.

(2) *Ibid.*, Figure 8, Page VII–22.

(3) *Ibid.*, Figure 11, Page VII–69 for WTAQ.

(4) *Ibid.*, Figure 12, Page VII–70.

(5) *Ibid.*, Figure 3, Page VII–102 for KAAM.

(6) *Ibid.*, Figure 4, Page VII–103.

Note.—In the above referenced multiple plot graphs, Plot 7 (L+R distortion) was used as the basis of measurement. No specific data was tabulated on the subject of mistuning effects. The decision to award the maximum possible score of give to each system was based simply on a general reading of the comments and the resultant conviction that there was no significant difference between the various systems.

Interference Characteristics

Occupied bandwidth data was derived from examination of spectrum analyzer photographs provided by system proponents. (See also Paragraph 10 of the *Further Notice.*)

Harris—Harris Comments of May 15, 1979, Volume 2, Appendix VI, Section E, "Occupied Bandwidth," Pages VI–E–1 through 5. Only data for V–CPM was considered.

Magnavox—National AM Stereophonic Radio Committee (NAMSRC) Report of December, 1971, Pages H–93, H–96, H–99 and H–102.

Belar—Belar Comments of May 29, 1979, Page 9.

Kahn—Kahn Communications, Inc. Comments of May 14, 1979, Figure 17c (lower half of page), Figure 17d (upper half of page) and Figure 17f (excepting the photograph of the unmodulated carrier).

Motorola—NAMSRC Report of December, 1977, Pages H–94, H–97, H–100 and H–103.

In evaluating the cochannel and adjacent channel protection ratios for the different systems, we used (except as noted below) data based on NAMSRC Test A.7. Refer to the discussion of audio protection ratio in paragraphs 6 and 17 of the *Further Notice.*

The data averaging process involved reformating the data provided by the system proponents to show an average adjacent channel protection ratio (inasmuch as data on the upper and lower adjacent channels was provided). This data was then arranged in a new table as follows:

	L–R	L	R	400–9500 R 2500–5500 L	Horizontal data Average
Cochannel					
1st adjacent					
2d adjacent					
3d adjacent					
Composite (vertical data) average					

As can be seen from the above, the procedure simply involved averaging all of the protection ratio data provided to obtain a single composite indicator of the protection ratios.

Harris—Harris Comments of May 15, 1979, Volume 2, Appendix VI, Section F, "Protection Ratio, Stereo to Mono, Envelope Detector Receiver," Page VI–F–2.

It should be noted that the desired-to-undesired signal strengths used by Harris were not the same as those used by NAMSRC in its Test A.7. However, the signal strength ratios were the same, so the data was considered acceptable.

Magnavox—NAMSRC Report of December, 1977, Page H–122. Only the data pertaining to the effects on the NAMSRC-provided "compatibility receiver" were considered.

Belar—Belar Comments of May 29, 1979, Page 13.

Kahn—Kahn Communications, Inc. Comments of May 14, 1979, table on the page after page 12 for the Panasonic RF–1080 receiver.

Motorola—NAMSRC Report of December, 1977, Page H–125. Only the data pertaining to the effects on the NAMSRC-provided "compatibility receiver" were considered.

Coverage

As indicated in the *Further Notice* (see Paragraph 18), we wish to solicit more complete information on this facet of AM stereo system operation. We propose to rate the systems on a relative basis, based on the dB reduction in signal-to-noise ratio, or on the loss of service area relative to monophonic operation. The two modes under consideration are stereo transmitter to mono receiver and stereo transmitter to stereo receiver. Since the differences in system performance in these areas may be rather small, relative weighting may result in exaggerated evaluation table scores between the best and the worst systems. Accordingly, we will carefully consider alternative suggestions as to how AM stereo systems should be evaluated in this category.

Transmitter Stereo Performance

In general, information on transmitter stereo performance in the areas of frequency response, separation and distortion is presented in the form of multi-purpose of composite tables or graphs. The data given in a particular table or graph on a particular page will be designated by "FR" (frequency response), "S" (separation) or "D" (distortion). In averaging frequency response, the absolute value of the deviation from 0 dB @ 1000 Hz was used. Otherwise, it would be possible for a system with extreme but balanced deviations to average out to zero, which would be an unrealistic result. The methods of applying the average values of these three parameters is discussed in paragraphs 19 (frequency response), 20 (separation) and 14 (distortion was per the procedure used in monophonic compatibility) of the *Further Notice.*

Harris—(1) Harris Comments of May 15, 1979, Volume 2, Page VI–B–4 Table I–1, for left and right channels, FR and S. Data in "overall response" column were utilized, as we believe the data under "transmitter response" pertain to readings taken on a monophonic station modulation monitor.

(2) *Ibid.*, Page VI–B–5, Left right channel stereo D.

(3) *Ibid.*, Page VI–C–4, left and right channel FR and S, Station WGN.

(4) *Ibid.*, Page VI–C–5, left and right channel stereo D, Station WGN.

(5) *Ibid.*, Page VI–D–3, left and right channel stereo D and S, Station WTAD.

Magnavox—(1) NAMSRC Report of December, 1977, Page I–41 (top graph) for left channel FR, S and D.

(2) *Ibid.*, Page I–42 (top graph) for right channel FR, S and D.

(3) *Ibid.*, Page I–58 (top graph) for left channel FR, S and D.

(4) *Ibid.*, PageI–59 (top graph) for right channel FR, S and D.

(5) Magnovox Comments of May 15, 1979, Section M (Over the air tests), Figure M6 for left channel FR, S and D and Figure M7 for the right channel FR, S and D.

Note.—The graphs from the NAMSRC Report referenced above are labeled "Fidelity Bandwidth" as though the measurements were taken on the magnovox receiver. However, the general excellence of the results (but particularly the frequency response) seems beyond the capability of the bandwidth-limited Magnovox receiver. Further, a reading of NAMSRC Test B.1 (Over the air tests) indicates that except for noted differences, the procedures followed were the same as for Test A.1 (Monitor performance), where the stereo monitor was utilized at the transmitter site. Lastly, it is indicated on Page H–129 of the NAMSRC Report that the proponents' receivers were located about 5 miles from the transmitter site. For these reasons we believe the data reflects stereo monitor performance, not receiver performance and that the graphs are labeled incorrectly.

Belar—(1) Belar Comments of May 29, 1979, Page 57, Figure 2 for left channel FR, S and D.

(2) *Ibid.*, Page 58 for right channel FR, S and D.

(3) *Ibid.*, Page 59 for left channel FR, S and D.

(4) *Ibid.*, Page 60 for right channel FR, S and D.

(5) *Ibid.*, Page 61 for left channel FR, S and D.

(6) *Ibid.*, Page 62 for right channel FR, S and D.

Note.—In view of the fact that on Page 53, Belar claims that the modulation monitor originally supplied to WJR performed poorly due to mistuning, leading us to conclude that the data from sources 1 through 4 above might not be as good as "typical" measurements might be, we decided to average laboratory data using an "ideal modulator" (sources 5 and 6) with the other as a compensatory measure. This had the effect of changing the data averages from 1.7/20.1/2.2 (frequency response/separation/distortion) to 1.3/21.5/1.8. Since our use of the laboratory data may be considered objectionable, we would like to have additional field data to bear out the validity of our conclusions.

Kahn—(1) WFIL Comments of July 31, 1979, Page 15, Table 2 for left and right channel FR and D.

(2) *Ibid.*, Table 4, Page 19 for left and right channel S.

(3) KING Engineering Report of April–July, 1979, Page 53, Table 7a (Tests 3 and 4) for left and right channel FR and S.

(4) *Ibid.*, Page 54, Table 7b for left and right channel D.

Motorola—(1) Motorola Comments (undated in response to the Notice of Proposed Rule Making, Exhibit VII, Page VII–15 for WGN, left and right channel FR, S and D.

(2) *Ibid.*, Page VII–16, left and right channel FR, S and D.

(3) *Ibid.*, Page VII–21, left and right channel FR, S and D.

(4) *Ibid.*, Page VII–22, left and right channel FR, S and D.

Note.—Above measurements were apparently made with no pilot tone.

(5) *Ibid.*, Page VII–64 for WTAQ, left and right channel FR, S and D.

(6) *Ibid.*, Page VII–65, left and right channel FR, S and D.

(7) *Ibid.*, Page VII–69, left and right channel FR, S and D.

(8) *Ibid.*, Page VII–70, left and right channel FR, S and D.

(9) *Ibid.*, Page VII–102 for KAAM, left and right channel FR, S and D.

(10) *Ibid.*, Page VII–103, left and right channel FR, S and D.

(11) NAMSRC Report of December, 1977, Page I–41 (middle graph) for left channel FR, S and D. (Station WGMS)

(12) *Ibid.*, Page I–42 (middle graph) for right channel FR, S and D.

(13) *Ibid.*, Page I–58 (middle graph) for left channel FR, S and D. (Station WTOP)

(14) *Ibid.*, Page I–59 (middle graph) for right channel FR, S and D.

Noise:

Harris—(1) Harris Comments of May 15, 1979, Volume 2, Page VI–B–6 for MW–1A transmitter.

(2) *Ibid.*, Page VI–C–7 for Station WGN.

(3) *Ibid.*, Page VI–D–13 for Station WTAD.

Magnavox—NAMSRC Report of December, 1977 Page 33.

Belar—Belar Comments of May 29, 1979, Page 53 (L–R detector operating).

Kahn—WFIL Comments of July 31, 1979, Page 7.

Motorola—NAMSRC Report of December, 1977, Page 33.

Receiver Stereo Performance

Our proposed approach in evaluating receiver stereo performance is described in Paragraph 22 of the *Further Notice*. Average stereo receiver frequency response, separation, distortion and noise would be determined and compared with same system transmitter performance. Loss of performance in each category would be noted and the systems would be compared on a relative basis. This aspect of receiver evaluation would comprise five of the ten available points. The five remaining points will be assigned on the basis of combined transmission, propagation and reception performance, based on engineering judgment. System performance under adverse conditions of cochannel or adjacent channel interference, distortion or loss of separation in or adjacent to nulls of directional arrays and under deep fading conditions will be of primary interest. The degree to which receiver design can compensate for unavoidable or potential system weakenesses (such as momentary loss of the stereophonic channel) will also be considered. We would like to see system proponents utilize receivers of comparable bandwidth and selectivity in developing additional data in this category.

Appendix B—Pleadings Involving Special Relief in the Matter of AM Stereophonic Broadcasting

(1) A "Motion to Permit Public Inspection of and Comment on a Matrix Analysis Study Made by an Office of Science and Technology/Broadcast Bureau Committee" filed by the Hazeltine Corporation. (Dated April 11, 1980, received April 14, 1980)

(2) A "Motion to Grant an Oral Hearing" filed by Kahn Communications, Inc. (Dated April 18, 1980, received April 21, 1980)

(3) Comments of Motorola, Inc. in support of Hazeltine's request in (1) above. (Dated and received on April 21, 1980)

(4) A request from the Consumer Electronics Group of the Electronics Industries Association for a 9 month delay period between the adoption of rules for AM stereophonic broadcasting and commencement of such broadcasting. (Dated and received on April 22, 1980)

(5) On April 29, 1980, letter from Crowell & Moring, counsel for Hazeltine Corporation, giving the results of a Dippell-Reed survey of 23 AM stations which had tested AM stereo transmission systems and again urging that the Commission release its AM stereo evaluation matrix, provide for a

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period of expedited comments and allow for oral presentation by knowledgeable persons.

(6) A "Petition for Oral Presentation" filed by Motorola, Inc. (Dated and received on May 5, 1980)

(7) A statement of the American Broadcasting Company, Inc., concerning the need for prompt public inspection of the AM stereo "matrix analysis". (Dated and received on May 6, 1980)

(8) A May 16, 1980, letter from Patton, Boggs & Blow, counsel for the Magnavox Consumer Electronics Co. (Magnavox) urging the Commission not to grant the relief requested by Kahn Communications, Inc. in (2) above.

(9) A "Petition for Emergency Relief" filed by Kahn Communications, Inc. (Dated May 21, 1980, received May 23, 1980)

(10) An "Opposition to Petition for Oral Presentation" filed by Magnavox, through its counsel, directed at the Motorola pleading in (6) above. (Undated, received May 27, 1980)

(11) An "Opposition to Petition for Emergency Relief" filed by Magnavox, through its counsel, directed at the Kahn pleading in (9) above.

(12) "Reply of Motorola, Inc. to Opposition to Petition for Oral Presentation" directed at the Magnavox pleading in (10) above. (Dated and received on June 6, 1980)

(13) A June 9, 1980, letter from Crowell and Moring, counsel for Hazeltine Corporation, listing various *ex parte* contacts and asking for oral presentation.

(14) A June 19, 1980, letter from Patton, Boggs & Blow, counsel for Magnavox, requesting denial of the pleadings filed by Kahn Communications, Inc. and Hazeltine Corporation for special relief.

(15) A June 30, 1980, letter from Patton, Boggs & Blow, counsel for Magnavox, urging the Commission's prompt adoption of a Report and Order in this proceeding.

(16) A "Statement of Interest" filed by the Stations' Committee for AM Stereo endorsing the "marketplace concept" as the means of resolving this proceeding. (Dated July 14, 1980, received July 22, 1980).

[FR Doc. 80-27729 Filed 9-8-80, 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-541; RM-3586; RM-3657]

FM Broadcast Stations in Rushville and Virden, Ill.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign Channel 244A to Rushville, Illinois, and to Virden, Illinois, in response to petitions filed by Steve Waters and by Joseph Cerar and Randal J. Miller, respectively. Each city could receive a first local aural service.

DATE: Comments must be filed on or before October 24, 1980, and reply comments on or before November 13, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Rushville and Virden, Illinois). [BC Docket No. 80-541; RM-3586, RM-3657.]

Adopted: August 22, 1980.

Released: September 4, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal and Comments:*

(a) Petitions for rule making were filed by Joseph Cerar and Randal J. Miller proposing the assignment of FM Channel 244A to Virden, Illinois,[1] and by Steve Waters proposing the assignment of Channel 244A to Rushville, Illinois.[2]

(b) Both petitioners state they will apply for the channel, if assigned. Comments in opposition to the Rushville request were received from Beardstown Broadcasting Co., licensee of Stations WRMS(AM) and WRMS-FM, Beardstown, Illinois.

(c) The channel can be assigned to both communities in compliance with the mileage separation requirements provided a total of 8 kilometers (5 miles) of site restrictions are imposed to avoid short spacing to each other.

2. *Demographic Data:*

(a) *Location:* Rushville is located in west central Illinois, approximately 400 kilometers (250 miles) southwest of Chicago, Illinois, and 200 kilometers (125 miles) north of St. Louis, Missouri. Virden is located approximately 96 kilometers (60 miles) southeast of Rushville.

(b) *Population:* Virden—3,744;[3] Macoupin County—44,557; Rushville—3,300; Schuyler County—8,135.

(c) *Local Aural Broadcast Service:* Virden—none; Rushville—none.

3. *Economic Considerations:* Virden and Rushville are both described as primarily agricultural areas. Virden specializes in feed grains—corn, soybeans, wheat. A new coal mine was discovered just south of Virden in the early 1970's. Rushville is the retail, social, medical, and educational center of the area.

4. In its opposition, Beardstown Broadcasting contends that the preclusive impact of the Rushville and Virden proposals should be carefully considered since the area in which the channels can be assigned is 10,920 square kilometers (4,200 square miles) with 72 communities. A judicious selection of communities, we are told, could produce three new assignments of this channel in the open area rather than the two requested. Several of the communities are said to have no local aural service, the largest of which is Louisiana, Missouri (pop. 4,533). Because the Rushville proposal would foreclose three possible assignments by its central location in this area, that assignment is opposed by Beardstown Broadcasting.

5. While three assignments would certainly be more desirable than two, neither Rushville nor Virden have local service. Only at these communities has interest been expressed. By virtue of this proposal, solicitation of other interests may be accomplished. In addition, we request a showing of alternative available channels in the precluded areas. Both petitioners have expressed a willingness to accept transmitter site restrictions in order to resolve the short spacing of 8 kilometers (5 miles.)

6. In view of the fact that the proposed FM channel assignments would provide for first local aural broadcast services, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the listed cities:

City	Channel No.	
	Present	Proposed
Rushville, Ill		244A
Virden, Ill		244A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

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[1] Public Notice of the petition was given on February 27, 1980. Report No. 1218.

[2] Public Notice of the petition was given on May 20, 1980, Report No. 1229.

[3] Population figures are from the 1970 U.S. Census.

8. Interested parties may file comments on or before October 24, 1980, and reply comments on or before November 13, 1980.

9. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation requested by the Commission.

Federal Communications commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decisions in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisons of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27725 Filed 9-8-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-539; RM-3607]

FM Broadcast Station in Walker, Minn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM Channel to Walker, Minnesota, in response to a petition filed by Stagg Broadcasting. The proposed channel could provide a first fulltime local aural broadcast service to Walker.

DATE: Comments must be filed on or before October 24, 1980, and reply comments on or before November 13, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Walker, Minnesota). [BC Docket No. 80-539; RM-3607].

Adopted: August 22, 1980.

Released: September 4, 1980.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Stagg Broadcasting ("petitioner"), proposing the assignment of Channel 257A to Walker, Minnesota, as that community's first FM assignment.

(b) The channel can be assigned to Walker in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Walker, seat of Cass County, is located approximately 321 kilometers (200 miles) north of Minneapolis-St. Paul.

(b) *Population:* Walker—1,073 [2], Cass County—71,323.

(c) *Local Aural Broadcast Service:* Walker is served locally by daytime only AM Station KLLR, licensed to petitioner.

3. *Economic Consideration:* Petitioner states that Walker and the surrounding area is experiencing a rapid population growth. It asserts that the economy is based on tourism and government. Petitioner has also shown that service will be provided to a small area that is presently unserved and underserved by existing stations or assignments.

4. Since Walker is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 257A to Walker, Minnesota, requires coordination with the Canadian Government before it can be adopted.

5. In view of the fact that the proposed FM channel could provide a first fulltime local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with regard to Walker, Minnesota, as follows:

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[1] Public Notice of the petition was given on March 20, 1980, Report No. 1220.

[2] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Walker, Minn.		257A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 24, 1980, and reply comments on or before November 13, 1980.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27726 Filed 9-8-80; 8:45 am]

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Notices

Federal Register
Vol. 45, No. 176
Tuesday, September 9, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1981 Feed Grains and Soybean Programs

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1981 feed grain crops: (a) Whether there should be a set-aside requirement and, if so, the extent of such set-aside; (b) the national progam acreages (NPA's); (c) the recommended percentage reduction from previous year's harvested acreage to qualify for deficiency payments on their entire 1981 planted acreage; (d) if a set-aside is implemented, whether a limitation should be placed on planted acreage; (e) whether there should be a land diversion program, and, if so, the extent of such diversion and the level of the payment; (f) whether barley and oats should be included in the 1981 Feed Grain Program; (g) whether to require compliance with the established farm normal crop acreage (NCA) as a condition of eligibility for program benefits; (h) the methodology to be used to adjust the established "target" prices from the 1980-crop levels, and if NCA and set-aside requirements are deemed necessary, whether the established "target" prices should be adjusted further to compensate producers for complying with the NCA and set-aside requirements; (i) the loan and purchase rates for the 1981-crops of corn, sorghum, barley, oats, and rye. Determinations (a) through (c) are required to be made by the Secretary on or before November 15, 1980, in accordance with applicable provisions in section 105A of the Agricultural Act of 1949, as amended. The Secretary also proposes to determine the support level for the 1981 crop of soybeans. All proposed determinations are to be made in accordance with applicable provisions in sections 105A and 201(e) of the Agricultural Act of 1949, as amended, and section 1001 of the Food and Agriculture Act of 1977, as amended. This notice invites written comments on the proposed determinations.

DATE: Comments must be received on or before October 9, 1980.

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe or Lois Moe, Agricultural Program Specialists, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7987. The Draft Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available from the above-named individuals.

SUPPLEMENTARY INFORMATION: This proposed determination has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant".

In compliance with Secretary's Memorandum No. 1955 and the final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving USDA Regulation" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR 707, 709, 713, 718, 719, 792, 794–96, and 1421.72–.76, .111–.115, .235–.239, .270–.274, .350–.354, .390–.392 for need, currency, clarity, and effectiveness, that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in development of the final determination.

The need for this notice is to satisfy the statutory requirements provided in Sections 105A(a), 105A(b)(1)(A), 105A(b)(1)(B), 105A(d)(1), 105A(d)(3), 105A(f)(1), 105A(f)(2) and 201(e), of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"), and Sections 1001(a), 1001(b), and 1001(c), of the Food and Agriculture Act of 1977, as amended (hereinafter referred to as the "1977 Act").

The titles and numbers of the federal assistance programs that this notice applies to are: Title-Commodity Loans and Purchases; Number-10.051; and Title-Feed Grain Production Stabilizatio; Number-10.055; as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of these actions.

Final actions on these proposed determinations by the Secretary for 1981-crop program purposes should be made by not later than October 15, 1980, to allow feed grain producers additional time to plan their 1981 crop plantings within announced program provisions. Therefore, I have determined that it is impractical and contrary to the public interest to comply with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044.

Accordingly, the public comment period is being limited to 30 days which will allow the Secretary sufficient time to properly consider the comments received before the final program determinations are made.

The following proposed program determinations with respect to the 1981 crops of feed grains and soybeans are to be made by the Secretary.

Proposed Determinations

Feed Grains

a. *Whether there should be a set-aside requirement and, if so, the extent of such set-aside.* Section 105A(f)(1) of the 1949 Act provides that the Secretary shall implement a set-aside of cropland if it is determined that the total supply of feed grains will, in the absence of a set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. An adequate U.S. carryover level for the 1981-82 marketing year has been determined by USDA to be equal to 6.7 percent of the world consumption of coarse grains or an estimated 52 million metric tons (MMT).

The Secretary is required to announce whether a set-aside is to be in effect for

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the 1981 crops of corn, sorghum, and if designated, barley and oats by not later than November 15, 1980. If a set-aside is instituted, then as a condition of eligibility for loans, purchases, and payments, producers must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the acreage of feed grain program crops planted for harvest in 1981.

Carryover corn stocks at the end of the 1979–80 marketing year (September 30, 1980) are estimated to be near 1,700 million bushels, an increase of approximately 30 percent from a year earlier. Sorghum carryover stocks are estimated at approximately 100 million bushels, down from 159 million bushels a year earlier. Carryover barley and oats stocks at the end of the 1979–80 marketing year (May 31, 1980) were 191 and 239 million bushels, respectively, both down approximately 17 percent from a year earlier.

Average farm prices for the 1979-80 season for corn and sorghum are expected to be about 25 to 30 cents per bushel higher than for 1978–79, barley prices are expected to increase about 40 cents, and oats prices are expected to increase about 15 cents. These prices increases were achieved even though feed grain supplies were at a record 280 MMT, an increase of eight percent over the 1978–79 level. Feed grain carryover stocks are estimated at 53.4 MMT—up 16 percent from a year earlier. However, it is significant that approximately 31 MMT or 59 percent of the 1979–80 feed grain carryover is in the farmer-owned reserve (FOR) or owned by the Commodity Credit Corporation (CCC). For 1978–79, about 20 MMT, or 44 percent of the carryover, was in the FOR or owned by CCC.

Of the 80.0 million acres planted to corn in 1979, 17.2 million acres, or 21 percent, complied with the 1979 Feed Grain Set-Aside Program. Sorghum compliance was 8.5 million acres, or 55 percent of 15.4 million acres planted, while barley compliance was 3.4 million acres, or 42 percent of 8.1 million acres planted. Oats were not included in the 1979 Feed Grain Program. A paid diversion program was also offered for 1979-crop corn and sorghum to producers who participated in the set-aside program. About 70 percent of the corn participants also participated in the paid diversion program while about 38 percent of the sorghum participants participated in the diversion progran. With no set-aside requirements in effect or paid diversion program offered for the 1980 crops, all producers of feed grains, except for oats, will be eligible for deficiency and disaster payments. Also, in 1980-crop feed grain producers will be eligible for the price support and grain-reserve programs.

Feed grain planted acreage for 1980-81 totals about 121 million acres, or an increase of 3.2 million acres over 1979–80. Corn acreage increased around 3.5 million acres, sorghum around 0.4 million acres, barley about 0.2 million acres, while the planted acreage of oats is down about one million acres. Total corn production in million bushels is projected to range from 6,200 to 7,100, sorghum from 600 to 700, barley from 325 to 355, and oats from 420 to 460. Total feed grain production could range from 187 to 207 MMT. However, a 1980–81 corn crop based on most likely weather conditions could result in a corn production around 700 million bushels less than projected demand, reducing carryover stocks by about the same amount. Sorghum, barley and oats carryover stocks are also expected to show a sharp decrease-sorghum, from 101 to 52 million bushels; barley, from 191 to 119 million bushels; and oats, from 239 to 141 million bushels. Feed grain carryover is projected to decrease arond 40 percent, or from 53.4 MMT to 31 MMT. This assessment is, however, subject to change because of the impact that the hot weather and drought could have on the final 1980 feed grain production.

It is estimated that the 1980–81 domestic use of feed grains will total about 148 MMT, a decrease of 7.5 MMT from 1979–80. The 1980–81 feed use may decrease approximately 7 percent, or 10 MMT, primarily because of a reduction in pork and poultry production, continued large supplies of oilseeds, and a tight supply situation for sorghum, barley and oats. Domestic feed use for corn may decrease approximately 175 million bushels while sorghum is expected to decrease by about 150 million bushels for 1980–81. Corn used for the production of gasohol and sweeteners is projected to increase by 110 million bushels. Weather could be an important factor in domestic usage and could result in a feed grain domestic use of 139 to 157 MMT. Corn domestic usage could range from 4,550 to 5,200 million bushels, compared with the 1979–80 projected use of 4,950 million bushels.

Export demand is expected to continue to be strong. Current projections for 1980–81 are corn exports at 2,500 million bushels, an increase of 100 million bushels over 1979–80 projections. Sorghum exports are currently projected at 225 million bushels, a decrease of 115 million bushels. Total feed grain exports are projected at 71.0 MMT, the same as projected for 1979–80. However, due to uncertain 1980-crop world feed grain production prospects, U.S. corn exports could vary from 2,300 to 2,700 million bushels; sorghum, from 200 to 250 million bushels; barley, from 55 to 95 million bushels; and oats, from 5 to 15 million bushels. Total feed grain exports could vary from 65 to 77 MMT. The final export figure is highly dependent on the 1980 crop production, growth in import demand, and export availabilities of other exporters.

The 1980 world coarse grain crops are still very dependent on future weather conditions. For the second consecutive year, world coarse grain utilization is expected to exceed coarse grain production. World coarse grain production for 1980–81 is estimated at 721 MMT, down 1 percent from 1979–80. Utilization is expected to be around 738 MMT, up 5 MMT from 1979–80, and near the record 739 MMT in 1978–79. Import demand is expected to remain strong. As a result, coarse grain stocks are estimated to fall by about 19 percent. World stocks would be the lowest they have been since 1975–76.

Feed grain demand is likely to remain related to overall economic conditions. Improved total grain prospects in the U.S.S.R., Eastern Europe and Brazil are expected to reduce coarse grain import demand in these countries below last year's levels. Total U.S. feed grain exports are projected at 71 MMT—near the record 70.8 MMT for 1979–80. Heavy exports, in addition to U.S. crop prospects significantly below last year's record outturn, are expected to draw U.S. coarse grain stocks to the lowest level in four years.

Aggregate marketing year carryout stocks for other major exporting countries are also expected to decline this year. Canadian coarse grain stocks, already at a low level as a result of the poor 1979/80 crop and heavy exports, will be further stressed by this year's drought-affected outturn. Canadian coarse grain exports are currently projected to be at the lowest level in six years. Southern hemisphere crops are yet to be planned.

The probable outlook for feed grains in the 1980–81 marketing year depends a great deal on the 1980–81 outcome. It is expected that 1980–81 feed grain planted acreage will increase by three to four percent in 1981–82, assuming no feed grain set-aside program for the 1981 feed grain crops. Total feed grain supplies are expected to increase about five percent. Total use is estimated to be up about five percent with both feed use and exports expected to increase. Corn used for gasohol production and sweeteners will continue to increase. Ending stocks for feed grains are projected to increase from 31 MMT to 34 MMT—about a 10 percent increase and well below the Department stocks objective of around 52 MMT. About 65 percent of the carryout is projected to be in free stocks. Feed grain prices are projected to remain around 1980/81 levels. Corn ending stocks would probably increase around 70 million bushels, or from a projected 983 million bushels in 1980–81 to 1,053 million bushels in 1981–82.

The above outlook would suggest that a set-aside program may not be necessary for the 1981 feed grain crops. However, later crop developments throughout the world could change this outlook. Options under consideration at this time include the following: (a) No set-aside program; (b) a percent set-aside with no paid diversion program; and (c) no set-aside program with a 10 percent paid diversion program.

Interested persons are encouraged to comment on the need for a 1981 feed grain set-aside program and the appropriate percentage of acreage to be set-aside, if deemed necessary, taking into account the above figures.

b. *Determination of the national program acreages (NPA's).* NPA for the 1981 crops of feed grains not later than November 15, 1980. The NPA shall be the number of harvested acres of the feed grains that the Secretary determines (on the basis of an estimated national weighted average farm program payment yield) will produce the quantity (less imports) that is estimated to be used domestically and for export during the 1981–82 marketing year. The NPA may be further adjusted by an amount the Secretary determines will accomplish a desired carryover stock level. The Secretary may later revise the NPA first proclaimed if the Secretary determines it is necessary based upon the latest information.

The U.S. feed grain stock objective, an amount judged to be our "fair" share of world grain stocks, has been determined to be equal to 6.7 percent of the world consumption of coarse grains, or approximately 49 MMT (1,925 million bushels corn equivalent) for feed grains for the 1980–81 marketing year.

The likely NPA for the 1981 crops of corn, sorghum, barley, and oats, are:

	Corn	Sorghum	Barley	Oats
a. Estimated domestic use, 1981–82 (Mil. Bu.)	4,980	507	375	515
b. Plus estimated silage use, 1981–82 (Mil. Bu.)	635	50		
c. Plus estimated exports, 1981–82 (Mil. Bu.)	2,600	265	50	10
d. Minus estimated imports, 1981–82 (Mil. Bu.)	1		10	1
e. Plus stock adjustment [1] (Mil. Bu.)	477	133	71	104
f. Divided by national weighted average farm program payment yield [2] (Bu./Ac.)	97.0	58.2	48.7	51.4
g. Equals 1981 Crop NPA (Mil. Acres)	89.6	16.4	10.0	12.2

	Corn	Sorghum	Barley	Oats
[1] a. Estimated 1981–82 beginning stocks (Mil. Bu.)	983	52	119	141
b. Desired carryover level for 1980–81 (Mil. Bu.)	1,460	185	190	245
c. Difference equals desired stock adjustment (Mil. Bu.)	+477	+133	+71	+104

[2] Program payment yield has not been established for oats. The analysis uses the last five year's average yield (1975–1979).

These NPA's compare to the 1980 crop NPA's which were first proclaimed at 82.1, 13.9 and 7.9 million acres for corn, sorghum and barley, respectively. Oats were not eligible for payments under the 1980 Feed Grain Program. Therefore, it was not necessary to proclaim a 1980 oats NPA.

Comments on the NPA's and the appropriate stock levels for the 1981 crops of feed grains from interested persons, along with appropriate supporting data, are requested.

c. *Recommended percentage reduction from previous year's harvested acreage.* Section 105A(d)(3) of the 1949 Act provides that the 1981 individual farm program acreage of corn, sorghum, barley, and oats which are eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of these feed grains planted for harvest on the farm from that planted in 1980 by at least the percentage recommended by the Secretary in his proclamation of the NPA's for the 1981 crop.

The previous year's (1980) acreage will include the acreage actually harvested plus acreage considered harvested which includes prevented planted acreage. The likely national recommended reduction percentages for the 1981-crops are:

[Millions of acres]

	Corn	Sorghum	Barley	Oats
a. 1980 Est. National Harv. Ac	81.5	13.4	7.4	8.9
b. Plus Ac. Credited as Harv	([1])	([1])	([1])	([1])
c. Equals 1980 Considered Harv. Ac	81.5	13.4	7.4	8.9
d. Minus 1981 Preliminary NPA	89.6	16.4	10.0	12.2
e. Equals Ac. Reduction Needed from Previous Year's Harv. Ac	0	0	0	0
f. Divided by 1980 Considered Harv. Ac	81.5	13.4	7.4	8.9
g. Equals 1981 Recommended Reduction (percent)	0	0	0	0

[1] Less than 50,000 acres.

With a 0% recommended reduction, a producer whose 1981 planted acreage of a crop does not exceed the producer's 1980 planted acreage of such crop would be eligible for deficiency payments on the entire 1981 planted acreage of such crop, if in compliance with other program provisions.

Comments from interested persons with respect to the reduction percentage, if any, are requested.

d. *If a set-aside is implemented, whether a limitation should be placed on planted acreage.* Section 105A(f)(1) of the 1949 Act authorizes the Secretary to limit acreage planted to corn, sorghum, and, if designated, barley and oats, if a set-aside is in effect. Such limitation is required to be applied on a uniform basis to all farms which are participating in the announced program and are producing the feed grain program crops.

Interested persons are invited to comment on the pros and cons of limiting planted acreage if a set-aside program is announced.

e. *Whether there should be a land diversion program and, if so, the extent of such diversion and the level of payment.* Section 105A(f)(2) of the 1949 Act authorizes the Secretary to implement a land diversion program and to make land diversion payments to producers of corn, sorghum and, if designated, barley and oats. Land diversion payments may be made if the Secretary determines they are necessary to assist in adjusting the total national acreage of feed grains to desired goals. If land diversion payments are made, participating producers will be required to devote to approved conservation uses an acreage of cropland equal to the amount of such land diversion.

Land diversion payments may be established at a flat rate (specific rate per bushel times farm program yield) or

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through the submission of bids by producers.

If it is deemed necessary to make land diversion payments in 1981, such payments will likely be established at an offer rate. The diversion option being considered is a no set-aside program with a 10 percent paid diversion program. However, if a paid diversion program is offered for the 1981 crop, it may only be necessary for corn and sorghum—as was the situation for the 1979 Feed Grain Program. Diversion payment rates per bushel under consideration range from $1.50 to $2.00.

Interested persons are encouraged to address the need for a land diversion program, the terms and conditions and the pros and cons of a land diversion program either in place of, or in combination with, a set-aside program for 1981.

f. *Whether barley and oats should be determined to be eligible commodities for payment purposes under the feed grain program.* Section 105A(b)(1)(A) of the 1949 Act gives the Secretary discretionary authority concerning the inclusion of barley and oats as commodities which are eligible for payments under the feed grain program. In the past, oats have not been determined to be eligible for payments. Thus, oats producers were not eligible to receive deficiency of disaster payments for their crops but were eligible for the price support and farmer-held grain reserve programs. Barley has been included as a commodity for which payments can be made under the feed grain program, with the exception of the 1967, 1968 and 1971 programs.

Barley and oats acreage has been reduced significantly over the past few years, resulting in smaller supplies of both grains, especially oats. In addition, the 1980 barley and oats crops have been severely damaged by heat and drought. Barley demand has remained fairly stable. With declining production and reduced supplies, oats feed demand has fallen rapidly—from 778 million bushels fed in 1970–71 to an estimated 450 million bushels for the 1980–81 crop year. Carryover stocks for both barley and oats are expected to approach pipeline levels during the 1981–82 crop year.

Interested persons are encouraged to comment on barley and oats being included as commodities for which payments can be made under the 1981 Feed Grain Program, considering the supply and demand situation indicated above.

g. *Whether to require compliance with the established farm NCA for program benefit eligibility.* Section 1001(a) of the 1977 Act, as amended by the Agricultural Adjustment Act of 1980 (Pub. L. 96–213, 94 Stat. 119), provides that for the 1981 crops of feed grains the Secretary may require, as a condition of eligibility for loans, purchases and payments, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary (the established farm NCA).

It is proposed that an NCA requirement be established for the 1981 feed grain program as a condition of eligibility to receive program benefits.

Interested persons are invited to comment on the pros and cons of requiring compliance with the farm NCA with respect to the 1981 crops of feed grains as a condition of eligibility to receive program benefits.

h. *Determination of the 1981-crop established "price" level and, if NCA and set-aside requirements are placed in effect, whether the established "target" price should be increased to compensate producers for complying with such requirements.* Section 105A(b)(1)(B) of the 1949 Act provides that the established "target" price for the 1981 crop of corn shall be not less than the 1980 target price ($2.35) per bushel, adjusted upward to reflect such changes in the costs of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities. Section 105A(b)(1)(D) provides that the payment rate for sorghum and, if designated, barley and oats shall be fair and reasonable in relation to the rate at which payments are made available for corn. No established "target" price was established for the 1980 oats crop. Additionally, Section 1001(b) of the 1977 Act provides that if an NCA requirement is in effect for the 1981 feed grain crops, the Secretary is authorized to increase the established "target" price for feed grains by an amount he determines appropriate to compensate producers for not exceeding the NCA and for participation in any required set-aside for feed grains.

The 1980 crop established "target" price for corn was established at $2.35 per bushel by an amendment to Section 105A of the Agricultural Act of 1949 by the Agricultural Adjustment Act of 1980 (Pub. L. 96–213, 94 Stat. 119, approved March 18, 1980). Sorghum and barley established "target" prices were determined to be $2.50 and $2.55 per bushel, respectively. Section 1001 of the 1977 Act, as amended, provides that producers who do not comply with the farm NCA requirement for the 1980 crop of feed grains would receive deficiency payments based on the lower established per bushel "target" prices ($2.05 for corn, $2.45 for sorghum, and $2.29 for barley), determined in accordance with the formula prescribed in section 105A in effect prior to the amendment by the Agricultural Adjustment Act of 1980. Established "target" prices are not intended to cover the total costs of producing feed grains, but should be established at such levels as will ensure that farmers' incomes during periods of large supplies and weak market prices will cover short-term costs. Short-term costs are defined as those costs that cannot be postponed by the producer and include (a) variable costs less producer labor; (b) machinery ownership costs less replacement costs and interest; (c) general farm overhead costs; (d) land costs (a composite of owner-operator land costs and renter and cash rental charges) and (e) a return for family living based on a median family income.

The $2.35, $2.50, and $2.55 per bushel established "target" prices for corn, sorghum and barley, respectively, approximate short-term costs of production for the 1980 crop.

Accordingly, it seems appropriate to use the estimated short-term costs for 1981 in the establishment of the 1981-crop established "target" prices for feed grains. By following this approach, the latest cost of production estimates are used in determining a subsequent year's established "target" price for feed grains rather than historical costs as have been used in determining established "target" prices for feed grains in prior years.

Depending on projected short-term costs and yields, 1981 per bushel "target" prices could range as follows: Corn—$2.55 to $2.70; sorghum—$2.70 to $2.90; barley—$2.75 to $3.10; and oats—$1.50 to $1.70.

The authority to increase established "target" prices to compensate producers for participation in a set-aside has been used for both 1978 and 1979 when set-aside programs have been in effect. When increasing the established "target" prices, the Secretary is required to take into account changes in the cost of production resulting from producers (1) not exceeding the NCA requirements and (2) participating in any required set-aside program. For 1978 and 1979, the increase in established "target" prices was approximately 10 cents with a 10 percent set-aside.

Based on the estimated changes in the 1981-crop costs of production, it appears that a 10 to 15 cent increase in the established "target" price for 1981 corn would probably be considered as necessary compensation to producers participating in a 10 percent set-aside. Other feed grains would be raised accordingly, depending upon the level of set-aside and the costs of production.

Interested persons are encouraged to comment with respect to the method by which the established "target" price for the 1980 crops of feed grains should be adjusted upward to determine the 1981 established "target" price and whether the established ' 'target" price should be further adjusted if NCA or set-aside requirements are implemented.

i. *The loan and purchase level for the 1981 crop of feed grains.* Section 105A(a)(1) of the 1949 Act requires the Secretary to make available to producers loans and purchases for the 1981 crop of corn at not less than $2.00 per bushel, as the Secretary determines will encourage the export of feed grains and not result in excessive total stocks. However, if the Secretary determines that the average price of corn received by producers in the 1980 marketing year is not more than 105 percent of the level of loans and purchases for corn, the Secretary may reduce the level of loans and purchases for corn for the 1981 marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain. However, the level of loans and purchases shall not be reduced by more than 10 percent in any year, nor below $1.75 per bushel. Loan and purchase levels being considered for the 1981 crop of corn range from $2.25 per bushel to $2.35 per bushel.

Section 105A(a)(2) of the 1949 Act requires the Secretary to make available to producers loans and purchases on the 1981 crop of sorghum, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market for sorghum in relation to corn.

The Secretary shall also make available loans and purchases on the 1981 crops of barley, oats, and rye at such levels as the Secretary determines are fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of each commodity in relation to corn and other factors specified in section 401(b) of the 1949 Act. These factors are: (1) The supply of the commodity in relation to demand; (2) the price levels at which other commodities are being supported; (3) the availability of funds; (4) the perishability of the commodity; (5) the importance of the commodity to agriculture and the national economy; (6) the ability to dispose of stocks acquired through a price support operation; (7) the need for offsetting temporary losses of export markets; and (8) the ability and willingness of producers to keep supplies in line with demand.

Soybeans

Section 201(e) of the 1949 Act requires the Secretary to make available to producers loans and purchases on the 1981 crop of soybeans, at such level as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors. Loan and purchase levels being considered for the 1981 crop range from $5.02 per bushel to $5.25 per bushel.

World soybean production for 1980–81 is still highly uncertain. Hot, dry conditions have reduced yield prospects in the U.S., particularly in Arkansas and Mississippi. Beginning world soybean stocks for 1980–81 of around 13.0 MMT are at a record level. The growth in world consumption of oilseed products will continue. However the rate of growth for soybean meal consumption may decline, reflecting higher meal prices, slowing livestock expansion and weakening economic conditions in many consuming countries.

Comments are requested on the appropriate loan and purchase levels for the 1981 crops of corn, sorghum, barley, oats, rye, and soybeans, taking into account the above factors.

Other Related Provisions

A number of other determinations must be made in carrying out the feed grain and soybean loan and purchase program such as: (a) Commodity eligibility; (b) premiums and discounts for grades, classes, and other qualities; (c) establishment of county loan and purchase rates; and (d) such other provisions as may be necessary to carry out the program.

Consideration will be given to any data, views and recommendations that may be received relating to above items.

Signed at Washington, D.C., on September 5, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–27753 Filed 9–8–80; 8:45 am]

BILLING CODE 3410–05–M

Rural Electrification Administration

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request by Alabama Electric Cooperative, Inc. (AEC), P.O. Box 550, Andalusia, Alabama 36420, for a reclassification of existing guaranteed loan funds to provide long-term financing for the purchase of a leasehold interest in coal property. The properties are located in northeastern Marion County, southeastern Franklin County, southeast Winston County, northeast Lamar County, and southern Marion County, Alabama.

The project involves an ongoing mining activity. Alabama Electric Cooperative will not mine the coal nor purchase or own equipment associated with mining and transportation of the coal. Alabama Electric will contract for the mining of the coal on the properties.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Copies of the REA Final Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines and the following libraries: Carl Elliot Regional Library, 20 E 18th Street, Jasper, Alabama and North West Regional Library, 130 N 1st Street, Winfield, Alabama 35594. The Final Environmental Impact Statement may also be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 11th day of August 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80–27426 Filed 9–8–80; 8:45 am]

BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Order 80–9–14]

Application of Air Jamaica Ltd.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-9-14.

SUMMARY: The Board proposes to approve the following application:

Applicant: Air Jamaica Limited.

Application Date: September 5, 1979. Docket: 36529.

Authority Sought: Renewal and amendment of its foreign air carrier permit to operate scheduled services between Jamaica and any ten U.S. coterminal points via intermediate and beyond points, as well as specified charter authority, subject to conditions and limitations.

Objections

All interested persons having objections to the Board's tentative findings and conclusions that these actions should be taken, as described in the order cited above, shall, no later than September 29, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Jamaica in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESS OBJECTIONS TO:

Docket 36529, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: Air Jamaica Limited, c/o Albert F. Grisard, Suite 1014, 1435 G Street, NW., Washington, D.C. 20005.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: C. Robert Mallalieu, Negotiations Analysis Division, Bureau of International Aviation, Civil Aeronautics Board: (202) 673-5044.

By the Civil Aeronautics Board: September 3, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-27653 Filed 9-8-80; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended August 29, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Aug. 25, 1980	36630	Bonavair Ltd., Ottawa International Airport, Box 8980 Terminal, Ottawa, Ontario, K1G 3J2. Application of Bonavair Ltd. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit authorizing small aircraft charter operations between Canada and the United States pursuant to the nonscheduled air service agreement. Answers may be filed by September 22, 1980.
Aug. 26, 1980	36642	Challenge Air Transport, Inc., c/o Arthur D. Bernstein, Galland, Kharasch, Calkins & Short, 1054 Thirty-First Street, N.W., Washington, D.C. 20007. Application of Challenge Air Transport, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to perform the following foreign charter air transportation of property and mail: Between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and (a) Any point in Canada; (b) Any point in Mexico; (c) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) Any point in Central and South America; and (e) Any point in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; (f) Any point in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications and Answers are due September 23, 1980.
Aug. 25, 1980	29833	Transporturile Aeriene Romane (TAROM), c/o John G. Adams, Adams & Reiber, Suite 921, 1625 I Street, N.W., Washington, D.C. 20006. Amended Application of Transporturile Aeriene Romane (TAROM) pursuant to Section 402 [illegible] the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a new foreign air carrier permit pursuant to Section 402 of the Act, authorizing it to engage in the scheduled foreign air transportation of persons, their accompanying baggage, property and mail: From Romania via points in Czechoslovakia, Austria, the Federal Republic of Germany, France, Denmark, Belgium, the Netherlands, and Montreal, Canada, to New York, in both directions. Answers may be filed by September 22, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-27655 Filed 9-8-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Statistical Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on September 25 and 26, 1980, at 9 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the September 25 meeting, which will adjourn at 5:30 p.m., is: (1) Introductory remarks by the Director of the Bureau of the Census, including (a) staff changes and Bureau organization, (b) major budget and program developments, and (c) other topics of current interest; (2) discussion of premises on which the Census Bureau will base its decision on adjustment of the 1980 census; (3) proposed Census Bureau policy on data modification (adjustment, editing, imputation, substitution and weighting); (4) statistical standards and user needs in presenting Census Bureau data; (5) use of area samples in the 1982 Census of Agriculture; and (6) Committee meeting to develop recommendations.

The agenda for the September 26 meeting, which will adjourn at 12:30 p.m., is: (1) Status report on the 1980 census; (2) Committee discussion of recommendations; (3) Census Bureau research organization and professional statistical career paths; (4) Committee and Census Bureau staff discussion on (a) Bureau responses to prior Committee recommendations, (b) status of specific Bureau activities, and (c) Bureau activities described at earlier Committee meetings; and (5) recommendations, plans, and suggested agenda items for the next meeting.

The meeting will be open to the public, and a brief period will be set aside on September 26 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. James L. O'Brien, Assistant Chief, Statistical Research Division, Bureau of the Census, Room 3577, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-7530.

Dated: September 3, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 80-27538 Filed 9-8-80; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Industry Advisory Committees for Trade Policy Matters; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: A meeting of the committees listed below will be held September 24, 1980. The committees were established to provide advice to the Secretary of Commerce and the U.S. Trade Representative on trade negotiations and other matters arising in connection with the administration of U.S. trade policy.

Industry Policy Advisory Committee for Trade Policy Matters

Industry Sector Advisory Committees for Trade Policy Matters (ISACs)

On Aerospace Equipment (ISAC 1)
On Capital Goods (ISAC 2)
On Chemicals and Allied Products (ISAC 3)
On Consumer Goods (ISAC 4)
On Electronics and Instrumentation (ISAC 5)
On Energy (ISAC 6)
On Ferrous Ores and Metals (ISAC 7)
On Footwear, Leather, and Leather Products (ISAC 8)
On Industrial and Construction Material and Supplies (ISAC 9)
On Lumber and Wood Products (ISAC 10)
On Nonferrous Ores and Metals (ISAC 11)
On Paper and Paper Products (ISAC 12)
On Services (ISAC 13)
On Small and Minority Business (ISAC 14)
On Texiles and Apparel (ISAC 15)
On Transportation, Construction, and Agricultural Equipment (ISAC 16)
On Wholesaling and Retailing (ISAC 17)
Industry Functional Advisory Committee on Customs Valuation for Trade Policy Matters
Industry Functional Advisory Committee on Standards for Trade Policy Matter.

TIME AND PLACE: Wednesday, September 24, 1980; U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC

Plenary Session: 9:30 a.m. to 12:15 p.m.—Auditorium.

Workshops: 2:00 p.m. to 3:30 p.m.—Conference Rooms A/B, 6029, 3836.

AGENDA:

Plenary Session: 1. Framework of International Trade Policy and Continuing Role of Advisory Process

2. Congressional Perspectives on the Advisory Process

3. Private Sector Experience with the Advisory Process

Workshops: Workshop will feature discussion of current trade policy matters such as implementation of the MTN agreements and U.S. export policy.

PUBLIC PARTICIPATION: Limited seating for the public is available.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Redding, Trade Advisory Center, Room 3036, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-3268.

Dated: September 5, 1980.

Frederick L. Montgomery,

Acting Deputy Assistant Secretary for Trade Agreements.

[FR Doc. 80-27742 Filed 9-8-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council's public meeting notice, published in the **Federal Register**, Volume 45, No. 164, dated August 21, 1980, is amended as follows:

The meeting will convene on Wednesday, September 10, 1980, at approximately 1:00 p.m., and adjourn on Thursday, September 11, 1980, at approximately 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115—Federal Building, Dover, Delaware 19901. Telephone: (302) 674-2331

Dated: September 3, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27671 Filed 9-8-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by

V 45 / 176 SE 9 80 UMI

Section 302 of the Fishery Conservation and Management Act (FCMA) of 1976 (Public Law 94–265), its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) will hold joint and separate meetings.

DATES: The Council meeting will convene Wendesday, September 24, 1980, at 9:00 a.m., and adjourn Friday, September 26, 1980, at 5:00 p.m., in the Baranoff Auditorium of the Centennial Building, Sitka, Alaska. The SSC meeting will convene Tuesday, September 23, 1980, at 9:00 a.m., and will adjourn at 5:00 p.m., in the Rousseau Room of the Centennial Building. The AP meeting will convene Tuesday, September 23, 1980, at 9:00 a.m., and will adjourn at 5:00 p.m., in the Baranof Auditorium of the Centennial Building. The meetings may be lengthened or shortened depending upon progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510. Telephone: (907) 274–4563

Proposed Agenda:

Council

Special Note: Preregistation (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk as early as possible of the agenda item to be addressed and the time requested. Preregistration and public comment may be scheduled for the following agenda topics: C. Old business; D. New business; E. fishery management plans (FMP's).

The follwing agenda items will be discussed by the Council: A. Call to order, approval of agenda, and minutes of the previous meetings. B. Special reports. B–1. Executive Director's Report. B–2. Alaska Department of Fish and Game (ADF&G) Report on Domestic Fisheries. B–3. National Marine Fisheries Service Report on Foreign Fisheries. B–4. U.S. Coast Guard Report on Enforcement and Surveillance. B–5. National Marine Fisheries Service Report on Tanner Crab Resource Survey in the Bering Sea. B–6. U.S./Canada Negotiations Report by Dr. Lee Alverson. C. Old business. C–1. Policy and Planning Report. C–2. FCMA Amendments Workgroup Report. C–3. Joint Venture (J/V) Closure Criteria Workgroup Report. D. New business. D–1. Foreign Fishing Permits. D–2. Pletnikoff Proposal for J/V with Taiwan. D–3. Request for Advisory Panel nominees for re-organization of AP at October meeting and notice of re-organization of the Scientific and Statistical Committee in December. D–4. Election of Council Officers. D–5. Other new business as appropriate.

E. Fishery Management Plans (FMP's). E–1. Tanner Crab FMP: Council approval of 1981 amendment options to go forward for public comment. E–2. King Crab FMP: Set hearing dates and locations. E–3. Bering Sea/Aleutian Islands Groundfish FPM: Set public hearing dates for 1981 amendments; call for proposals for 1982 amendments. E–4. Gulf of Alaska Groundfish FMP; Call for proposals for 1982 amendments. E–5. Salmon FMP: council approval of proposed 1981 amendments to go to public comment. E–6. Herring FMP; Initial Council review and approval of Herring FMP. F. Contracts, proposals, and financial reports. F–1. Contract 77–5, Groundfish Observer Program: final approval. F–2. Contract 78–4, Computerized Fishries Information System: final approval. F–3. Contract 79–3, Troll Salmon Tag Recovery Program: final approval. F–4. Contract 80–2, Halibut Fish Tickets: possible final approval. F–5. Contract 80–5, A Study of the Off-shore Chinook and Coho Salmon Fishery Off Alaska: possible first draft of final report. F–6. Two new proposals, halibut pot study and ADF&G data position. F–7. Financial Status Report. G. Public comments. H. Chairman's closing comments and adjournment.

SSC and AP agenda same as council agenda.

Dated: September 3, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27673 Filed 9–8–80; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council's Information and Education Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established an Information and Education Advisory Panel, which will meet to discuss and make recommendations regarding upcoming Fishery Management Plan public hearings, proposed Information and Education efforts, and other Information and Education activities as deemed appropriate and necessary.

DATE: The meeting, which is open to the public, will convene on Wednesday, September 17, 1980, at approximately 9:00 a.m., will adjourn at approximately 5:00 p.m.

ADDRESS: The meeting will take place at the Council Headquarters, One Southpark Circle, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407. Telephone: (803) 571–4366.

Dated: September 3, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27672 Filed 9–8–80; 8:45 am]

BILLING CODE 3510–22–M

Office of the Secretary

Open Meeting of the U.S. Delegation to the International Laboratory Accreditation Conference

The Fourth Annual International Laboratory Accreditation Conference (ILAC/80) will be held in Paris, France on October 27–31, 1980. In order to prepare for this conference, the U.S. Delegation to ILAC will participate in a pre-conference briefing on Tuesday afternoon, September 23 beginning at 1:00 p.m. in Room 3817, U.S. Department of Commerce Building, 14th Street between Constitution Avenue and "E" Street N.W., Washington, D.C.

Subjects to be covered are contained in the reports of ILAC Task Forces A, B, and C and the definitions to be used in accrediting laboratories compiled by an ad hoc working group representing ILAC and the International Standards Organization (ISO).

Copies of these documents may be obtained by request from Dr. Howard I. Forman, Room 3876, Main Commerce Building, 202 377–3221.

The public is invited to attend this meeting on an unreserved, first-come first-served basis, to the limit of available facilities remaining after the delegation is accommodated.

Dated: September 3, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80–27615 Filed 9–8–80; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Wool Textile Products From the Republic of Korea

September 5, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling wool sweaters in Category 445/446, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1980, at the agreed specific ceiling of 49, 915 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, the United States Government has decided to control imports of wool textile products in Category 445/446, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76573) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, as amended, the United States Government has decided also to control imports of wool textile products in Category 445/446, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1980, at the specific ceiling of 49,915 dozen. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 445/446 in excess of the designated level of restraint. The level of restraint has not been adjusted to account for imports after December 31, 1979. Imports in Category 445/446 during the period January-July 1980 have amounted to 46,063 dozen and will be charged. As the data become available, further import charges will be made for the period which began on August 1, 1980 and extends to the effective date of this directive.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

September 5, 1980.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textitle Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 9, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 445/446, produced or manufactured in the Republic of Korea in excess of 49,915 dozen.

Wool textiles products in Category 445/446 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Wool textile products in Cateogory 445/446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 F.R. 27463) and August 12, 1980 (45 F.R. 53506).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of wool textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80–27842 Filed 9–8–80; 10:07 am]

BILLING CODE 3510–25–M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract; Notice of Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on a plywood contract proposed to be traded by the Chicago Mercantile Exchange. Copies of this proposed contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Commission Secretary.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by October 9, 1980, to Ms. Jane Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C., 20581. (202) 254-6314. Copies of all comments will be available for inspection at the Commission's Washington office.

The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports during the January, July period of 1980 have amounted to 3,673 dozen in Category 445 and 42,390 dozen in Category 446.

V45/176 SE9 80 UMI

Issued in Washington, D.C., on September 3, 1980.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 80-27539 Filed 9-8-80; 8:45 am]

BILLING CODE 6351-01-M

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendment to Regulation 1081.01(11) of the Chicago Board of Trade

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 12, 92 Stat. 871 (1978), has determined that the proposed amendment set forth below to regulation 1081.01(11) submitted by the Chicago Board of Trade is of major economic significance. The proposed amendment to regulation 1081.01(11) eliminates the maximum load-out charges on grain, thereby allows warehouses to set load-out charges freely.

The amendment to regulation 1081.01(11) of the Chicago Board of Trade is printed below, showing deletions in brackets and additions underscored:

1081.01(11) Regularity of Warehouses

No warehouse shall be deemed suitable to be declared regular if its location, accessibility, tariffs, insurance rates, or other qualifications shall depart from uniformity to the extent that its receipts, if tendered in satisfaction of futures contracts, will unduly depress the values of futures contracts or impair the efficacy of futures trading in this market, or if the warehouseman operating such warehouses engaged in unethical or inequitable practices, or if, being a federally licensed warehouse fails to comply with the federal statute rules or regulations or being a state licensed warehouse fails to comply with the state statutes, rules and regulations.

All warehousemen are and shall be and remain subject to the Rules, Regulations and Rulings of the Board of Trade of the City of Chicago on all subjects and in all areas with respect to which the U.S. Department of Agriculture does not assert jurisdiciton pursuant to the U.S. Warehouse Act, as amended.

A regular warehouseman or an owner of warehouse receipts can make delivery in a strike bound elevator. The taker of delivery is liable for all storage charges. However, where the owner of warehouse receipts in a strike bound elevator delivered against futures contracts has a bona fide bid for like receipts in a strike free elevator and decides to load the grain out or sell his receipts, the strike bound warehouseman has the option:

(a) to provide that same quantity and like quality of grain in store in another regular warehouse, not on strike, in the same delivery market, or

(b) to provide that same quantity and like quality of grain in store at another location on mutually acceptable terms, or

(c) if no initial agreement can be reached as provided above, the strike bound warehouseman must buy his warehouse receipts back at the bid price in store for that same quantity and like quality of grain in a strike free elevator in the same delivery market or he has the alternative of proceeding as in (a) above. The bid (which must be a basis bid versus futures) referred to in this paragraph must be good for a minimum period of one hour and must be tendered in writing to the strike bound warehouseman between 1:30 p.m. and 4:30 p.m. on a business day and prior to 8:30 a.m. but not before 7:30 a.m. on the following business day.

The warehousemen must respond to the bid as outlined above within the time period during which the bid is alive.

Should the warehouseman question the validity of the bid, the question shall be referred to a Standing Committee which shall have been appointed on an annual basis by the Chairman of the Board, with the approval of the Board. The Committee shall consist of three members including one regular warehouseman with suitable alternates. In case the strike bound elevator involved is in a market other than that directly represented by the warehouseman appointed, the Chairman may designate a member in said alternate market who is familiar with cash grain values in that market. The sole duty of the Committee shall be to determine that the bid is bona fide. The Committee shall not express any opinion with respect to the economics of the bid.

Within the cointext of this Regulation, a strike bound elevator is defined as the facility itself being on strike.

[The maximum load-out charge on grain which has been tendered in satisfaction of the Board of Trade futures contracts shall be 3¢ perbushel, effective July 1, 1970, regardless of the date of the warehouse receipt. Effective August 1, 1974 the maximum load-out charge of Board of Trade futures contracts shall be 5¢ per bushel regardless of the date of the warehouse receipt.]

Any person interested in submitting written data, views, or arguments on these regulations should send comments by October 9, 1980, to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C., on September 3, 1980.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 80-27705 Filed 9-8-80; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80-4]

Advance Machine Co., Inc., et al.; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Consumer Product Safety Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Advance Machine Co., Inc. formerly also doing business as Commercial Mechanisms, Inc., and Robert J. Pond, individually, and as an officer of the corporation and former officer of Commercial Mechanisms, Inc.

Dated: September 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Nature of the Proceedings

In the Matter of Advance Machine Company, Inc., a corporation, formerly also doing business as Commercial Mechanisms, Inc., and Robert J. Pond, individually, and as an officer of the corporation and former officer of Commercial Mechanisms, Inc.

1. This is an Adjudicative Proceeding under the Consumer Product Safety Commission's Rules of Practice for Adjudicative Proceedings, 45 FR 29215 (May 1, 1980) (to be codified in 16 CFR Part 1025), for the assessment of a civil penalty against the respondents in the sum of five hundred thousand dollars ($500,000) pursuant to section 20 of the Consumer Product Safety Act (hereinafter, the "CPSA"), 15 U.S.C. 2051, 2069

Respondents

2. Respondent Advance Machine Company, Inc. (hereinafter "Advance") is a Minnesota

corporation with corporate offices located at 4080 Sunset Drive, Spring Park, Minnesota.

3. Advance owned, controlled and operated Commercial Mechanisms, Inc. (hereinafter "CMI"), a Missouri corporation, until CMI was disolved by Advance in December 1975.

4. At times relevant to the transactions alleged herein, Advance manufactured various products through its subsidiary, CMI, and as such Advance and CMI, prior to its dissolution in December 1975, were manufacturers as the term "manufacturer" is defined in section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

5. Respondent Robert J. Pond is the President of Advance and was the President of CMI prior to December 1975. As such, he controls or controlled the acts, practices and policies of Advance and CMI.

Consumer Products

6. Respondents have been engaged in the distribution in "commerce," as that term is defined in section 3(a)(12) of the CPSA, 15 U.S.C. 2052(a)(12), of automatic baseball pitching machines (hereinafter "pitching machines"), sold under various names including, but not limited to, the "T.C.," the "T.D.," the "Special," the "Champ," the "Blazer," the "Professional," the "Range," and the "Olympia."

7. The pitching machines were manufactured by Advance Machine Company, Inc. through its wholly owned subsidiary, CMI.

8. The pitching machines were distributed by the respondents for sale or use of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise and are therefore "consumer products," as that term is defined in section 3(a)(1) of the CPSA, 15 U.S.C. 2052 (a)(1).

9. Respondents manufactured and sold approximately 7,500–8,000 pitching machines between the years 1962 and 1975.

10. The pitching machines consist of a metal frame containing a gas or electric motor connected to a pulley system which in turn, is connected to a circular metal hub. The hub and an attached metal pitching arm are mounted on one side of the machine. A baseball basket or cylindrical baseball rack is mounted on the top of the machine. A cable runs from a heavy spring in the bottom rear portion of the machine to the pitching arm hub.

11. The machine motor propels the pulley system which causes the hub and metal pitching arm to rotate slowly in a clockwise manner. As the arm approaches the six o'clock position tension begins to build in the heavy spring and cable. The metal pitching arm continues slowly towards the nine o'clock position where it can pick up a ball at the mouth of the ball rack. as the arm begins to rise towards the twelve o'clock position the tension increases until a critical point is reached at which time the metal pitching arm flies suddenly and swiftly forward and downward.

Defect

12. At times, even though the pitching machine is disconnected from its power source, the spring and cable retain a high degree of tension. Under these conditions, a slight vibration can cause the machine's metal pitching arm to suddenly and unexpectedly pitch swiftly forward and downward.

13. The sudden, unexpected, swift forward and downward motion of the metal pitching arm can result, and has resulted, in severe personal injuries to consumers struck by the metal pitching arm.

14. Until January 1974, the pitching machine did not have a safety guard or shield or any other effective safety device(s) to keep consumers away from the area through which the metal pitching arm travels.

15. The potential for the metal pitching arm of the pitching machine to unexpectedly activate with great force and speed while the pitching machine is disconnected from its power source is a defect which could create a substantial product hazard as that term is defined in section 15(a)(2) of the CPSA. 15 U.S.C. 2064(a)(2).

16. Between the years 1962 and 1975, respondents distributed in commerce approximately 7,500–8,000 pitching machines, described in paragraphs six through eleven of this Complaint, which contained a defect which could create a substantial product hazard.

Violation

17. By January 1974 and thereafter, respondents knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a pitching machine which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers.

18. Therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard.

19. The respondents knew of the existence and the authority of the Consumer Product Safety Act prior to January 1974.

20. The respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR Part 1115.

21. The respondents failed to inform the Commission by January 1974 or at any time thereafter that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

22. By failing to inform the Commission immediately after they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

Relief Sought

Wherefore, the staff of the Consumer Product Safety Commission believes that the following relief is in the pulic interest and requests that the Commission, after affording interested persons an opportunity for a hearing:

1. Determine that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines described in paragraphs six through eleven of this Complaint contained a defect, which could create a substantial product hazard and which was subject to the reporting requirements of section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

2.Determine that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in paragraphs twelve through sixteen of this Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

3. Pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents Advance Machine Company, Inc., a corporation, formerly also doing business as Commerical Mechanisms, Inc., and Robert J. Pond, individually, and as an officer of Advance Machine Company, Inc., and former officer of Commerical Mechanisms, Inc., for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alleged in this Complaint.

4. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

Dated: August 5, 1980.

David Schmeltzer,

Associate Executive Director for Compliance and Enforcement.

List and Summary of Documentary Evidence Supporting the Charges

In the matter of Advance Machine Company, Inc., a corporation, fomerly also doing business as Commerical Mechanisms, Inc., and Robert J. Pond, individually, and as an officer of the corporation and former officer of Commerical Mechanisms, Inc.

A list and summary of documentary evidence supporting the charges contained in the Complaint issued in this matter is provided herewith pursuant to section 1025.11 of the Commission's Rules of Practice for Adjudicative Proceedings, 45 FR 29216 (May 1, 1980) (to be codified in 16 CFR 1025.11). Complaint Counsel reserves the right to offer additional evidence during the course of this proceeding.

1. CPSC Establishment Inspection Report.

This report contains the findings obtained by CPSC investigators during the initial inspection of Advance on February 22, 1977.

2. CPSC Engineering Report.

This report contains the CPSC engineering evaluation of a pitching machine manufactured by the respondents and obtained by the Commission on July 26, 1977.

3. Respondents' letter offering to sell arm guard.

By this letter of July 19, 1974, respondents informed owners of pitching machines that complaints had been received concerning injuries to users of the machines and that in order to "avoid any further litigation or complaints," each owner should purchase an arm guard at a cost of $45.00, plus freight.

4. Personal injury claims.

These documents identify victims and describe personal injuries alleged to have resulted from the defect in respondents' pitching machines. Among the victims and injuries are the following:

Name of victim	Description of injury	Date of injury
Lawrence Schmitt	Fractured skull; broken nose; severe facial lacerations	Mar. 24, 1965.
Jerry Williams	Loss of sight in one eye	Mar. 23, 1972.
Ronald Wussow	Fractured skull	July 3, 1972.
Michael Mankin	Head injuries	Jan. 1, 1973.
Larry Pierce	Fractured skull; permanent cosmetic and possible neural damage.	Mar. 19, 1973.
Lorraine Bryant	Loss of sight in one eye; head injuries	June 29, 1974.
Harvey Berndt	Loss of sight in one eye; facial damage	Feb. 24, 1975.
Gary Campbell	Fractured skull; paralysis	Mar. 14, 1976.
John Roth	Fractured skull; sensory/motor impairment	Mar. 24, 1976.
Terry Lee Holley	Fractured skull; permanent brain damage	July 20, 1976.

5. Correspondence between respondents and the distributor of the pitching machines concerning newly enacted Consumer Product Safety Act.

This exchange of correspondence on December 27, 1972 and January 8, 1973 between the respondents and the main distributor of the pitching machines discusses the then newly enacted Consumer Product Safety Act and the "implications involved" in the terms of the safety of the pitching machines.

[FR Doc. 80-27676 Filed 9-8-80; 8:45 am]

BILLING CODE 6355-01-M

[CPSC Docket No. 80-5]

Athlone Industries, Inc. et al.; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish the Federal Register Complaints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Athlone Industries, Inc., also doing business as Dudley Sports Co., and Harold J. Miller and Charles H. Gilbert, individually and as officers of the corporation.

Dated September 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Nature of the Proceedings

In the Matter of Athlone Industries, Inc., a corporation, also doing business as Dudley Sports Company, and Harold J. Miller and Charles H. Gilbert, individually and as officers of the corporation.

1. This is an Adjudicative Proceeding under the Consumer Product Safety Commission's Rules of Practice for Adjudicative Proceedings, 45 FR 29215 (May 1, 1980) (to be codified in 16 CFR Part 1025), for the assessment of a civil penalty against the respondents in the sum of five hundred thousand dollars ($500,000) pursuant to section 20 of the Consumer Product Safety Act (hereinafter, the "CPSA"), 15 U.S.C. 2051, 2069.

Respondents

2. Respondent Athlone Industries, Inc. (hereinafter "Athlone") is a Delaware corporation with corporate offices located at 200 Webro Road, Parsippany, New Jersey.

3. Athlone owns, controls and operates Dudley Sports Company (hereinafter "Dudley") as an unincorporated division of Athlone.

4. Athlone and Dudley are distributors as the term "distributor" is defined in section 3(a)(5) of the CPSA, 15 U.S.C. 2052(a)(5).

5. Respondent Harold J. Miller is the President of Athlone. As such, he controls the acts, practices and policies of the respondent corporation.

6. Respondent Charles H. Gilbert was, at times relevant to the transactions alleged herein, the Vice-President of Athlone and the President of Dudley. As such, he controlled the acts, practices and policies of Athlone and Dudley.

Consumer Products

7. Respondents have been engaged in the distribution in "commerce," as that term is defined in section 3(a)(12) of the CPSA, 15 U.S.C. 2052(a)(12), of automatic baseball pitching machines (hereinafter "pitching machines"), sold under various names including, but not limited to, the "T.C.," the "T.D.," the "Special," the "Champ," the "Blazer," the "Professional," the "Range," and the "Olympia."

8. The pitching machines were manufactured by Advance Machine Company, Inc. through its wholly owned subsidiary, Commercial Mechanisms, Inc., and were distributed almost exclusively by the respondents.

9. The pitching machines were distributed by the respondents for sale or use of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise and are therefore "consumer products," as that term is defined in section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

10. Respondents sold or distributed approximately 7,500–8,000 pitching machines between the years 1962 and 1975.

11. The pitching machines consist of a metal frame containing a gas or electric motor connected to a pulley system which in turn, is connected to a circular metal hub. The hub and an attached metal pitching arm are mounted on one side of the machine. A baseball basket or cylindrical baseball rack is mounted on the top of the machine. A cable runs from a heavy spring in the bottom rear portion of the machine to the pitching arm hub.

12. The machine motor propels the pulley system which causes the hub and metal pitching arm to rotate slowly in a clockwise manner. As the arm approaches the six o'clock position tension begins to build in the heavy spring and cable. The metal pitching arm continues slowly towards the nine o'clock position where it can pick up a ball at the mouth of the ball rack. As the arm begins to rise towards the twelve o'clock position the tension increases until a critical point is reached at which time the metal pitching arm flies suddenly and swiftly forward and downward.

Defect

13. At times, even though the pitching machine is disconnected from its power source, the spring and cable retain a high degree of tension. Under these conditions, a slight vibration can cause the machine's metal pitching arm to suddenly and unexpectedly pitch swiftly forward and downward.

14. The sudden, unexpected, swift forward and downward motion of the metal pitching arm can result, and has resulted, in severe personal injuries to consumers struck by the metal pitching arm.

15. Until January 1974, the pitching machine did not have a safety guard or shield or any other effective safety device(s) to keep consumers away from the area through which the metal pitching arm travels.

16. The potential for the metal pitching arm of the pitching machine to unexpectedly activate with great force and speed while the pitching machine is disconnected from its power source is a defect which could create a substantial product hazard as that term is defined in section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

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17. Between the years 1962 and 1975, respondents distributed in commerce approximately 7,500–8,000 pitching machines, described in paragraphs seven through twelve of this Complaint, which contained a defect which could create a substantial product hazard.

Violation

18. By January 1974 and thereafter, respondents knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a pitching maching which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers.

19. Therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard.

20. The respondents knew of the existence and the authority of the Consumer Product Safety Act prior to January 1974.

21. The respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR Part 1115.

22. The respondents failed to inform the Commission by January 1974 or at any time thereafter until July 1977 that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

23. By failing to inform the Commission immediately after they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

Relief Sought

Wherefore, the staff of the Consumer Product Safety Commission believes that the following relief is in the public interest and requests that the Commission, after affording interested persons an opportunity for a hearing:

1. Determine that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines described in paragraphs seven through twelve of this Complaint contained a defect, which could create a substantial product hazard and which was subject to the reporting requirements of section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

2. Determine that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in paragraphs thirteen through seventeen of this Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

3. Pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents Athlone Industries, Inc., a corporation also doing business as Dudley Sports Company, and Harold J. Miller and Charles H. Gilbert, individually and as officers of Athlone Industries, Inc. for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alleged in this Complaint.

4. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

Dated: August 5, 1980.

David Schmeltzer,

Associate Executive Director for Compliance and Enforcement.

List and Summary of Documentary Evidence Supporting the Charges

In the Matter of Athlone Industries, Inc., a corporation, also doing business as Dudley Sports Company, and Harold J. Miller and Charles H. Gilbert, individually and as officers of the corporation.

A list and summary of documentary evidence supporting the charges contained in the Complaint issued in this matter is provided herewith pursuant to § 1025.11 of the Commission's Rules of Practice for Adjudicative Proceedings, 45 FR 29216 (May 1, 1980) (to be codified in 16 CFR Part 1025.11). Complaint Counsel reserves the right to offer additional evidence during the course of this proceeding.

1. *CPSC Establishment Inspection Report.*

This report contains the findings obtained by CPSC investigators during the initial inspection of Athlone on June 29, 1977.

2. *Respondents' July 18, 1977 letter to CPSC.*

Respondents' letter of July 18, 1977 provides information pursuant to 16 CFR Part 1115 (Substantial Product Hazard Notifications), responses to questions raised by Commission staff, and a synopsis of claims against respondents for injuries alleged to have been caused by the pitching machines.

3. *CPSC Engineering Report.*

This report contains the CPSC engineering evaluation of a pitching machine distributed by the respondents and obtained by the Commission on July 26, 1977.

4. *Respondens' letter offering to sell arm guard.*

By this letter of July 19, 1974, respondents informed owners of pitching machines that complaints had been received concerning injures to users of the machines and that in order to "avoid any further litigation or complaints," each owner should purchase an am guard at a cost of $45.00, plus freight.

5. *Personal injury claims.*

These documents identify victims and describe personal injuries alleged to have resulted from the defect in respondents' pitching machines. Among the victims and injures are the following:

Name of victim	Description of injury	Date of injury
Lawrence Schmitt	Fractured skull; broken nose; severe facial lacerations	Mar. 24, 1965.
Jerry Williams	Loss of sight in one eye	Mar. 23, 1972.
Ronald Wussow	Fractured Skull	July 3, 1972.
Michael Mankin	Head injuries	Jan. 1, 1973.
Larry Pierce	Fractured skull; permanent cosmetic and possible neural damage.	Mar. 19, 1973
Lorraine Bryant	Loss of sight in one eye; head injuries	June 29, 1974.
Harvey Berndt	Loss of sight in one eye; facial damage	Feb. 24, 1975.
Gary Campbell	Fractured skull; paralysis	Mar. 14, 1976.
John Roth	Fractured skull; sensory/motor impairment	Mar. 24, 1976.
Terry Lee Holley	Fractured skull; permanent brain damage	July 20, 1976.

6. Correspondence between respondents and the manufacturer of the pitching machines concerning newly enacted Consumer Product Safety Act.

This exchange of correspondence on December 27, 1972 and January 8, 1973 between the respondents and the manufacturer of the pitching machines discusses the then newly enacted Consumer Product Safety Act and the "implications involved" in terms of the safety of the pitching machines.

[FR Doc. 80-27675 Filed 9-8-80; 8:45 am]

BILLING CODE 6355-01-M

Performance Review Board, Senior Executive Service; Appointment of Members

The purpose of this notice is to publish the names of the members of the Performance Review Board at the Consumer Product Safety Commission, effective July 14, 1980. The members are as follows:

Bert Simson, Chair (membership term expires July 1983, term as Chairman expires July 1981); Lowell Dodge (unlimited membership term); Robert

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Jenkins (membership term expires July 1982); Robert Knisely (unlimited membership term); Andrew Krulwich/Margaret Freeston (unlimited membership term); and Joann Langston (membership term expires July 1981).

Dated: September 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-27679 Filed 9-8-80; 8:45 am]

BILLING CODE 6355-01-M

[Petition No. CP 78-17]

Petition Concerning Gasoline Cans; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting it to issue a consumer product safety standard for portable gasoline containers. The Commission is taking this action because currently available data do not indicate that the design or performance of gasoline containers as a class presents an unreasonable risk of injury. In addition, the Commission believes that a mandatory standard is not needed at this time because of an anticipated voluntary standard for gasoline containers.

ADDRESS: Copies of the petition and the staff's briefing materials on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th St., N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6453.

SUPPLEMENTARY INFORMATION:

1. Background

Section 10 of the Consumer Product Safety Act (CPSA) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the **Federal Register**.

By letter dated August 7, 1978 Martin Bennett petitioned (CP 78-17) the Commission to ban certain hazardous portable containers for consumer use of gasoline and to establish a standard for gasoline containers. To support his request, the petitioner cited an explosion of an ice cream truck which injured a number of persons and was alleged to be associated with a gasoline container. The petitioner stated that any standard should cover specified characteristics of gasoline containers such as structural integrity, stability, labeling, and provision for containment of an explosion.

The Commission has treated the petition as one requesting a standard for gasoline containers since the petitioner did not identify the specific kinds of containers that should be banned and since a standard requiring that all gasoline containers conform to certain safety specifications would presumably eliminate the need for a ban.

The Commission first considered this petition in September of 1979 and at that time deferred decision on the petition. The Commission instructed the staff to analyze 1979 gasoline-related injury information as soon as it became available, to encourage industry development of a voluntary safety standard for gasoline containers used by consumers, to prepare and disseminate materials on the safe use and storage of gasoline, and to closely monitor future injuries associated with gasoline containers. The Commission also directed the staff to investigate the possibility of revising the recommended labeling for gasoline containers under the Federal Hazardous Substances Act (FHSA) to include specific warnings about the explosive nature of gasoline and the safe storage of gasoline.

2. Commission Decision on the Petition

Based on all available information, including information submitted by the petitioner, information prepared by the staff in September of 1979, and subsequent information gathered by the staff, the Commission has now decided to deny this petition. The reasons for the Commission's decision are discussed below.

The Commission staff estimates that approximately 9700 people were treated in hospital emergency rooms in 1979 for thermal burns associated with gasoline. The staff notes that gasoline-related injuries tend to be quite severe: about 25 percent of the victims were admitted to the hospital for further treatment. In the time period from 1974-1978 (the most recent time period for which data are available), the Commission's death certificate files identify about 120 deaths a year as being associated with the ignition of gasoline.

In order to ascertain the role of "gas cans" (i.e., containers specifically marketed for the storage of gasoline) in these incidents, the Commission staff also reviewed 126 gasoline-related indepth investigations collected in 1978, 1979, and 1980. Containers sold specifically for the purpose of holding gasoline were mentioned in only 16 of the 126 cases (13 percent of the total). The remaining 110 gasoline-related cases reported the involvement of such items as metal cans, glass jars, and pails and buckets or did not report any container as playing a specific role in the accident sequence.

Most of the 16 incidents which mentioned gas cans involved gasoline use around ignition sources, for example, gasoline poured onto fires or into carburetors, or ignition of gasoline in an open container by a remote heat source. The Commission staff is unable to conclude that the design of specific containers contributed substantially to the accident sequence in most of the reported incidents.

Based on the staff analysis of the injury data, the Commission concludes that current information does not indicate that the design or performance of gas cans presents an unreasonable risk of injury. The Commission believes that the majority of accidents occur because of the way gasoline and containers are used around ignition sources. However, since gasoline is a dangerous substance and gasoline-related injuries, whatever the cause, can be extremely serious, the Commission supports the current work to develop voluntary standards regarding gas can construction and labeling. In addition, the Commission recognizes the need to inform consumers about the dangers associated with gasoline and has published materials regarding safe use and storage of gasoline.

The American Society for Testing and Materials (ASTM) F-15 Committee on Consumer Products has begun development of a voluntary standard on portable containers for petroleum products, including performance and labeling requirements. The standard will address the hazards of 1) gasoline leakage from containers during both storage and transfer of gasoline, and 2) vapor leakage from open or closed gasoline containers. If, as anticipated, the ASTM Committee makes recommendations for labeling changes on gasoline containers, the Commission will consider incorporating these changes in its recommended labeling under the FHSA.

The Commission staff will participate in the voluntary development effort. Although the Commission does not believe that the design or performance of gas cans as a class presents an unreasonable risk of injury, Commission engineers, based on evaluation of current gasoline containers, have concluded that performance requirements for stability, and handle strength, and in particular, requirements concerning leakproof caps, leakproof seams and extension spouts could increase the safety of the current gasoline containers that are sold in the retail market. It is expected that a final standard may be approved by ASTM by December 1981.

In addition, the Commission continues to be concerned that specific models of gas cans may be hazardous because they are unstable or may leak. Any such information including any results of tests performed by Commission engineers, will be investigated by Commission staff for possible action under section 15 of the CPSA.

Dated: September 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-27676 Filed 9-8-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Board of Visitors to the U.S. Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on October 7 and 8, 1980, at the Naval Academy. The sessions, which are open to the public, will commence at 1:00 p.m., October 7, 1980, and at 8:30 a.m., October 8, 1980, in Room 301, Rickover Hall.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

The contact officer will be Rear Admiral Robert W. McNitt, USN (Ret.), Secretary to the Board of Visitors, Dean of Admission, U.S. Naval Academy, Annapolis, Md. 21402, (301) 267-2188.

Dated: September 2, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 80-27704 Filed 9-8-80; 8:45 am]

BILLING CODE 3810-71-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operation (CNO) Executive Panel Advisory Committee will meet on October 7-8, 1980, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Va. All sessions will be closed to the public.

The entire agenda for the meeting will consist of a review of recent intelligence developments, sub-panels' findings and recommendations on the application of artificial intelligence and other new technologies, and discussions of a global strategy into the 1980s. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine Z. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Phone No. (703) 756-1205.

Dated: September 3, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 80-27702 Filed 9/8/80; 8:45 am]

BILLING CODE 3810-71-M

Semicoa; Limited Exclusive Patent License Granted

Pursuant to the provisions of Part 746 of Title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976), the Department of the Navy announces that on August 13, 1980, it granted to Semicoa, a corporation of the State of California, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent No. 4,005,282, issued January 25, 1977, entitled "Decometer", inventor, Kirk E. Jennings.

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. 202, 696-4005.

Dated: September 3, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 80-27703 Filed 9-8-80; 8:45 am]

BILLING CODE 3810-71-M

Jet Research Center, Inc.; Limited Exclusive Patent License Granted

Pursuant to the provisions of Part 746 of Title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976), the Department of the Navy announces that on August 12, 1980, it granted to Jet Research Center, Inc., a corporation of the State of Texas, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent No. 3,695,951, issued October 3, 1972, entitled "Pyrotechnic Composition", inventors: Horace H. Helms, Jr. and Alexander G. Rozner.

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, conctact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696-4005.

Dated: September 2, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-27694 Filed 9-8-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Task Force on EMP Hardening of Aircraft; Closed Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session 30 September-1 October 1980 at the Air Force Weapons Laboratory, Albuquerque, New Mexico.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range

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guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 4, 1980.

[FR Doc. 80-27628 Filed 9-8-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Cruise Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on October 14 and 15, 1980, at the Defense Nuclear Agency Conference Facility, Marina del Rey, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning advanced cruise missile technology.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 4, 1980.

[FR Doc. 80-27627 Filed 9-8-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Bilingual Education—Fellowship Program; Closing Date for Transmittal of Applications

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications for Participation in the Fellowship Program.

Applications are invited for participation in the Fellowship Program under the Bilingual Education Act.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

The Secretary approves for participation in the Fellowship Program an institution of higher education that offers a program of study leading to a degree above the master's level in the field of training teachers for bilingual education. The Secretary awards fellowships to individuals nominated by the approved institutions of higher education.

The purpose of the fellowships is to provide financial assistance to full-time graduate students who are preparing to become trainers of teachers for bilingual education.

Closing Date for Transmittal of Applications: An application for participation must be mailed or hand delivered by November 10, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.403K Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: An institution of higher education may be approved for participation in the Fellowship Program for a period of from one to five years based on the quality of its bilingual education traning program. The Secretary notifies an approved institution of higher education of the numbers of students by language(s) that it may nominate for fellowship support.

An individual interested in receiving a fellowship must apply directly to approved institutions of higher education. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll. A list of participating institutions may be obtained by calling or writing the Office of Bilingual Education and Minority Languages Affairs contact person.

In accordance with the program regulations, individuals who are selected will be required to sign a contract by which they will agree either to work for an equivalent period of time in an activity related to training bilingual education personnel or to repay the assistance received. Additional information on the service requirement is contained in program regulations.

Available Funds: It is expected that approximately $1,700,000 will be available for fellowships at newly approved institutions uner the Fellowship Program in fiscal year 1981.

It is estimated that these funds could support 215 fellowships.

However, these estimates do not bind the Department of Education to a specific number of fellowships unless that number is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 30 pages in length. The Secretary furthers urgers that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Fellowship Program (45 CFR Parts 123 and 123h); and

(2) The regulations contained in 45 CFR 100a.51 and 45 CFR 100c.1–100c.2 of the Education Division General Administrative Regulations (EDGAR).

For Further Information: For further information contact Ms. Paquita Biascoechea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245–2600.

(20 U.S.C. 3233)

(Catalog of Federal Domestic Assistance Program No. 84.003, Bilingual Education)

Dated: August 19, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80–27630 Filed 9–8–80; 8:45 am]

BILLING CODE 4000–01–M

Bilingual Education—Fellowship Program; Closing Date for Transmittal of Applications

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications for Continuing Participation in the Fellowship Program.

Applications are invited for continuing participation in the Fellowship Program under the Bilingual Education Act.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561.

(20 U.S.C. 3233)

Eligible applicants are institutions of higher education with programs of study that have been previously approved by the Secretary for a period in excess of one year. The Secretary awards fellowships to individuals nominated by the approved instititions of higher education.

The purpose of this program is to provide continued financial assistance to full-time graduate students who are preparing to become trainers of teachers for bilingual education.

Closing Date for Transmittal of Applications: To be assured of consideration for participation, an application should be mailed or hand delivered by March 2, 1981.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for continuing participation and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information: Each institution applying for continuing participation in the Fellowship Program is asked to submit with its application a ranked list of nominees and alternates for fellowships. The applicant should develop a ranked list of nominees and alternates for each approved language, using the nomination form included in the continuation application package. The Secretary will make final selections from these lists. A nominee who is not initially selected as a recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to an approved institution of higher education. A fellowship is awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll. A list of participating institutions may be obtained by calling or writing the Office of Bilingual Education and Minority Languages Affairs contact person.

In accordance with the program regulations, individuals who are selected will be required to sign a contract by which they will agree either to work for an equivalent period of time in an activity related to training bilingual education personnel or to repay the assistance received. Additional information on the service requirement is contained in the program regulations.

Available Funds: It is expected that approximately $2,800,000 will be available for fellowships at continuation institutions under the Fellowship Program in fiscal year 1981.

It is estimated that these funds could support 360 fellowships.

However, these estimates do not bind the Department of Education to a specific number of fellowships unless that number is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Fellowship Program (45 CFR Parts 123 and 123h); and

(2) The regulations contained in 45 CFR 100a.51 and 45 CFR 100c.1–100c.2 of the Education Division General Administrative Regulations (EDGAR).

Further Information: For further information contact Ms. Paquita Biascoechea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245–2600.

(20 U.S.C. 3233)

V45/176 SE9 80 UMI

(Catalog of Federal Domestic Assistance Program No. 84.003 Bilingual Education)

Dated: August 19, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-27631 Filed 9-8-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA DOCKET NO. 80-CERT-030]

Terra Chemicals International, Inc., Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On October 2, 1979, Terra Chemcials International, Inc. (Terra), P.O. Box 1828, Sioux City, Iowa 51103, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-088). The certification involved the purchase of natural gas from Centennial Gas Corporation, and Yates Drilling Company and Martin Yates III for use by Terra at its Port Neal Plant, Port Neal, Iowa. The ERA certificate expires on October 1, 1980.

On August 22, 1980, Terra filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Port Neal Plant pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Terra states that the volume of natural gas for which it requests recertification is approximately 3,500 Mcf per day. It is estimated that approximately 2,500,000 gallons (59,524 barrels) of No. 2 fuel oil (0.5 percent maximum sulfur) will be displaced per year at the Port Neal Plant.

The eligible seller of the natural gas is Centennial Gas Corporation, c/o Industrial Gas Services, Inc., 4501 Wadsworth Boulevard, Wheat Ridge, Colorado 80033. The gas will be transported by Northern Natural Gas Company, Colorado Interstate Gas Company, Western Slope Gas Company, and Iowa Public Service Company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-57, 2000 M Street, N.W., Washington, D.C. 20461 Attention: Albert F. Bass, on or before September 18, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 18, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Terra and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on August 29, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27674 Filed 9-8-80; 8:45 a.m.]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-422]

Central Vermont Public Service Corp.; Order Accepting Settlement Rates

Issued: September 2, 1980.

On May 30, 1980, Central Vermont Public Service Corporation (Central Vermont) filed proposed revisions to its FERC Electric Tariff Original Volume No. 1, R-7 and R-7A. The proposed rates would have resulted in increased revenues of approximately $833,469 (11.1%) for firm power service to six non-affiliated wholesale customers[1] and one affiliated wholesale customer.[2] Central Vermont proposed an effective date of August 1, 1980. On July 8, 1980, Central Vermont submitted an executed settlement agreement between Central Vermont and each of its wholesale customers affected by the rates filed in this docket, together with settlement rate schedules and motion for approval of the settlement, agreement. The settlement rates[3] would result in an increase of approximately $685,617 (9.1%) which is $152,962 less than the original request.

In its motion, Central Vermont requested waiver of our notice requirements and an effective date of August 1, 1980, for the proposed settlement rates. Central Vermont represented that all of the affected wholesale customers have joined in the request for an August 1, 1980 effective date. By order issued on July 31, 1980, in this docket we accepted for filing and suspended the originally filed R-7 and R-7A rates and allowed the settlement rates, R-8 and R-8A, to become effective August 2, 1980, on an interim basis pending final action by the Commission on the settlement proposal.

On July 28, 1980, the Town of Springfield, Vermont (Springfield) filed a response in partial opposition to Central Vermont's motion for approval of the settlement agreement.[4] Springfield stated that it does not oppose the proposed settlement rates. However, it does object to an availability clause contained in the proposed R-8 and R-8A tariffs which limits service under those tariffs to customers existing "as of the effective date [of the tariff]."[5]

Discussion

In an order considered by the Commission concurrently with this one,[6] we have established a mechanism for inquiring further into questions concerning the availability clauses in Central Vermont's R-6, R-8 and R-8A tariffs. Springfield, the complainant in that proceeding, will have full opportunity, if necessary, to present its position with respect to the availability clause in that proceeding. Accordingly, questions concerning the availability clause should not pose an obstacle to acceptance of the present settlement agreement.

We find that good cause exists to grant waiver of the notice requirement of section 35.3 of our regulations since all affected customers have agreed to an August 1, 1980 effective date. Moreover, we find that acceptance of the proposed settlement rates is in the public interest. Therefore, we shall accept the proposed settlement rates without suspension to become effective as of August 1, 1980.

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[1] Allied Power & Light Company, New Hampshire Electric Cooperative, Inc., Rochester Electric Light & Power Company, Village of Hyde Park Water & Light Department, Village of Johnson Water and Light Department, Woodsville Fire District Water & Light Department.

[2] Connecticut Valley Electric Company, Inc.

[3] *See* Attachment A for rate schedule designations.

[4] Our order of July 31, 1980, permitted Springfield to intervene in this proceeding.

[5] This clause, which is identical to an availability clause contained in Central Vermont's R-6 tariff, provides:

"1. *Availability.*

Electric service hereunder is available to any organization functioning as an electric utility, *as of the effective date hereof,* under the jurisdiction of the appropriate federal/state electric utility regulatory body, for its own use and for resale to its ultimate customers, or to other utilities upon specific agreement of the Company and Customer, as existing delivery points and at such other points on the Company's power supply system, as mutually agreed upon, where there are facilities of adequate type and capacity." (Emphasis added).

[6] *Town of Springfield* v. *Central Vermont Public Service Co.,* Docket No. EL80-5.

Central Vermont Public Service Corporation, ER80-422, Settlement Rates

Designation	Description
Sixth Revised Sheet No. 2 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Fifth Revised Sheet No. 2).	Revised Table of Contents.
Sixth Revised Sheet No. 14 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Fifth Revised Sheet No. 14).	Revised Rate Schedule for R-8 and R-8A Rates.
Seventh Revised Sheet No. 15 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Sixth Revised Sheet No. 15).	Revised Rate Schedule for R-8 and R-8A Rates.
Seventh Revised Sheet No. 16 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Sixth Revised Sheet No. 16).	Revised Rate Schedule for R-8 and R-8A Rates.
Sixth Revised Sheet No. 17 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Fifth Revised Sheet No. 17).	Revised Rate Schedule for R-8 and R-8A Rates.
Sixth Revised Sheet No. 18 to FPC Electric Tariff First Revised Volume No. 1. (Supersedes Fifth Revised Sheet No. 18).	General Terms and Conditions for Resale Service.

Central Vermont's proposed fuel adjustment clause does not comply with section 35.14(a)(6) of the Commission's regulations in that Central Vermont proposes to recover all expenses debited to Accounts 501 and 547 through the fuel clause in addition to those fuel costs recorded in Account 151. Therefore, we shall require Central Vermont to file within 30 days a revised fuel adjustment clause which includes as the cost of fossil fuel only those items recorded in Account 151. In the event that such clause conforms to the Commission's regulations, it shall become effective from the August 1, 1980 effective date of the settlement rates.

The Commission orders: (A) The notice requirements of Section 35.3 of the Commission's regulations are hereby waived.

(B) Central Vermont's proposed R-8 and R-8A settlement rates submitted on July 8, 1980, are hereby accepted for filing to become effective as of August 1, 1980.

(C) Within thirty (30) days from the issuance of this order, Central Vermont shall file a revised fuel adjustment clause that conforms to section 35.14 of the Commission's regulations. Such clause shall become effective as of August 1, 1980, provided that it complies with the regulations.

(D) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding or any other proceeding now pending or hereinafter instituted by or against any of the parties to this proceeding.

(E) Upon satisfactory compliance with the filing requirement imposed by paragraph (C) above, this docket will be terminated.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27545 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-706]

Central Vermont Public Service Corp.; Notice of Proposed Tariff Change

September 2, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980 tendered for filing proposed changes in its FERC Electric Service Rate No. 97. The proposed changes would decrease revenues from jurisdictional sales and services by $4,701 for the 12 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with the Village of Ludlow Electric Light Department which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27563 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-701]

Central Vermont Public Service Corp.; Notice of Proposed Tariff Change

September 2, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Compnay) on August 27, 1980, tendered for filing a proposed change in its FERC Electric Service Rate No. 88. The proposed change would increase revenues from jurisdictional sales and service by $67,236 for the 12 month period ending October 30, 1980.

The change is proposed in accordance with Article V of the Company's agreement with Vermont Electric Cooperative, Inc. which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Copies of the filing were served upon the Vermont Electric Cooperative, Inc. and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27564 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-703]

Central Vermont Public Service Corp.; Notice of Proposed Tariff Change

September 2, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980, tendered for filing a proposed change in its FERC Electric Service Rate No. 96. The proposed change would increase revenues from jurisdictional sales and service by $21,252 for the 12 month period ending October 31, 1980.

The change is proposed in accordance with Article V of the Company's agreement with the Village of Ludlow Electric Light Department which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27565 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-704]

Central Vermont Public Service Corp.; Notice of Proposed Tariff Change

September 2, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980 tendered for filing proposed changes in its FERC Electric Service Rate No. 89. The proposed changes would decrease revenues from jurisdictional sales and service by $11,411 for the 12 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreeement with the Vermont Electric Cooperative, Inc. which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Vermont Electric Cooperative, Inc. and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of pratice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27566 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-705]

Central Vermont Public Service Corp.; Notice of Proposed Tariff Change

September 2, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980, tendered for filing proposed changes in its FERC Electric Service Rate No. 93. The proposed changes would decrease revenues from jurisdictional sales and service by $1,982 for the 12 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with Lyndonville Electric Department which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27567 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3210]

City of Gold Hill and Western States & Resources, Inc. of Oregon; Notice of Application for Preliminary Permit

September 3, 1980.

Take notice that City of Gold Hill and, Western States Energy & Resources, Inc., of Oregon (Applicant) filed on June 11, 1980, a joint application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3210 to be known as Gold Hill and Gold Ray Water Power Project located on the Rogue River in Jackson County, Oregon. Correspondence with the Applicant should be directed to: Mr. Jeffrey Kossack, Western States Energy & Resources, Inc., 200 S. W. Alder, Portland, Oregon 97201.

Project Description—The proposed project would consist of two run-of-the river developments, approximately 6 miles apart on the Rogue River, with total rated capacity of 10,870 kW—(1) the existing Gold Hill Development which comprises an intake structure within the river, a 2,400-foot long canal and a concrete powerhouse containing two existing inoperable generating units with installed capacity of 2,500 kW (a third unit with rated capacity of 1,500 kW is proposed to be added to the powerhouse); and (2) the Gold Ray Development (upstream of the Gold Hill Development) which comprises the existing Gold Ray Reservoir with a gross storage capacity of 100 acre-feet at elevation 1,146 feet (mean sea level), the existing 36-foot high, 374-foot long Gold Ray concrete gravity dam, a proposed concrete powerhouse containing two generating units with total rated capacity of 6,870 kW, and a transmission line connecting the two developments to the Pacific Power and Light Company's (PP&L) existing 69-kV transmission line, approximately 300 feet downstream of the Gold Ray Dam.

Purpose of Project—Project energy would be sold to PP&L or another utility.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $102,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 10, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 9, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended 44 Fed. Reg.* 61328, (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 10, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27573 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. TA80-2-21 (PGA80-4) (IPR80-3), (LFUT80-2) (TT80-2) and (AP80-2)]

Columbia Gas Transmission Corp.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Subject to Conditions and Setting Issue for Hearing

Issued August 29, 1980.

On July 31, 1980, Columbia Gas Transmission Corporation (Columbia) filed revised tariff sheets [1] reflecting increased purchased gas costs together with a surcharge adjustment increase; reduced Louisiana First Use Tax adjustment and surcharge adjustment; a transportation costs tracker decrease filed pursuant to Article XI of the Stipulation and Agreement in Docket No. RP78-19, et al.; and an Advance Payment adjustment reduction filed pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76-94, et al. The proposed effective date is September 1, 1980.

The filing provides for the recovery of $103,324,665 in additional purchased gas costs, based on the six month period ending February 28, 1981. Columbia's buyers who supply nonexempt industrial boiler fuel facilities have reported no projected Maximum Surcharge Absorption Capability (MSAC) amounts for the PGA period. Consequently, Columbia has effected no reduction to its total gas acquisition costs for MSACs. The commodity surcharge adjustment provides for the return of a deferred purchased gas balance of $5,821,261 as of June 30, 1980, over the six month period September 1, 1980 through February 28, 1981.

Columbia's filing contains $14,637,784 in LNG purchased gas costs, which is based upon a full six-month cost of service of $21,971,090, less adjustments of $7,333,306 which reflects a four-month "minimum bill" period. LNG's tariff provides that may flow-through its total cost of service less related return on equity and associated taxes when specified circumstances arise, causing deliveries to cease. Columbia has estimated that current deliveries will cease on November 1, 1980, resulting in the two months of full costs and four months of adjusted costs as reflected in this filing.

Two complaints have been filed to date regarding Columbia's LNG purchased gas costs. The People's Counsel of Maryland filed its complaint on July 18 in Docket No. TA80-2-21 (PGA80-3), alleging Columbia's failure to invoke the minimum bill provision contained in the tariff of its LNG supplier, Columbia LNG Corporation, and further alleging overpayment by Columbia's customers in an amount exceeding $2.35 million due to Columbia's failure in this regard. The Attorney General of Ohio filed a complaint in Docket No. RP80-129 on August 4, 1980 regarding the trafiff provisions and purchased gas costs of Columbia Gas Transmission Corporation, Columbia LNG Corporation and two other companies, Consolidated Gas and Consolidated LNG Company. The merits of this complaint, as well as any responses, will be addressed in a future Commission order in that docket.

Based upon the complaints outstanding against Columbia and the issues raised thereby, the Commission intends to set for hearing the issue of the proper amount to be reflected in Columbia's rates for purchases from Columbia LNG. *See* Order Instituting Investigation, Docket Nos. TA80-2-21 and TA80-2-22. Consequently, as set forth more fully in that order, the LNG

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[1] Sixty-Second Revised Sheet No. 16, Tenth Revised Sheet No. 16A, Fifteenth Revised Sheet No. 64 and Third Revised Sheet Nos. 64E through 64I to FERC Gas Tariff, Original Volume No. 1.

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purchased gas costs shall be collected subject to refund pending the outcome of the Commission's investigation in those dockets.

Based upon a review of Columbia's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Columbia's filing, grant waiver of the 30-day notice requirements and suspend the effectiveness such that it shall become effective on September 1, 1980, subject to refund and subject to the conditions described below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[2] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[3] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is sustantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. When the rate change filed is pursuant to Commission authorized tracking authority it is precisely the type of circumstance which justifies a shortened suspension period. Accordingly, we believe we should exercise our discretion to suspend the rate, but permit the rate to take effect September 1, 1980, subject to refund.

Columbia's filing includes increases pursuant to area rate clauses in the contracts between Columbia and its producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order 23, as amended by subsequent orders, in Docket No. RM79-22. Should it be ultimately determined that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to the pipeline shall be flowed through to ratepayers in accordance with the procedures prescribed in the pipeline's PGA clause.

Columbia's filing also reflects increases due to costs associated with purchases from affiliated production priced at NGPA levels. The Commission is unable to determine from the information submitted herein whether the proposed purchase price assigned to its affiliate production priced at NGPA levels satisfies the affiliated entities limitation set forth in section 601(b)(1)(E) of NGPA. That section provides that in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid in a first sale shall be deemed just and reasonable, if, in addition to not exceeding the maximum lawful price ceiling, such amount does not exceed the amount paid in comparable first sale transactions between persons not affiliated with such pipeline. Accordingly, the Commission's acceptance of this increase is conditioned upon Columbia filing within thirty days data demonstrating that its purchases from affiliates meet the affiliated entities test, upon Commission review of that data.

The Commission Orders:

(A) Columbia Gas Transmission Corporation's proposed Sixty-Second Revised Sheet No. 16, Tenth Revised Sheet No. 16A, Fifteenth Revised Sheet No. 64 and Second Revised Sheet Nos. 64E through64I, to FERC Gas Trafiff, Original Volume No. 1 are accepted for filing and suspended, and waiver of notice requirements is granted such that the filing shall become effective September 1, 1980, subject to refund, and subject to the conditions enumerated in the body of this order and the ordering paragraphs below.

(B) Columbia shall file data within 30 days of the issuance of this order to show that the pricing of gas purchased from its affiliates is in accordance with section 601(b)(1)(E) of NGPA.

(C) The costs associated with Columbia's purchase from its producer affiliates shall be collected subject to refund and subject to: (1) Columbia filing within 30 days of the issuance of this order the data required in Paragraph (B) above; and (2) review of such data by the Commission to determine what further action is appropriate.

(D) The Costs attributable to purchases from Columbia LNG shall be collected subject to refund pending the outcome of the investigation ordered in Docket No. TA80-2-21 and TA80-2-22.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27546 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. TA80-2-21 (PGA80-3); TA80-2-22 (PGA80-50) (IPR80-3) (LFUT80-2) and (RD&D80-2); and RP80-136]

Columbia Gas Transmission Corp. et al.; Order Establishing Investigation and Hearing and Consolidating Proceeding

Issued August 29, 1980.

On July 18, 1980, the People's Counsel of Maryland (People's Counsel) filed a complaint in Docket No. TA80-2-21 (PGA80-3) alleging the unlawful collection of approximately $2.35 million in costs and charges by Columbia Gas Transmission Corporation (Columbia). The People's Counsel bases this claim upon the failure of Columbia to invoke the "minimum bill" provision of its service agreement with Columbia LNG Corporation (Columbia LNG), its affiliate.

The minimum bill provision is to be invoked when deliveries of LNG cease under specified circumstances. In its Answer to the complaint, filed by Columbia on August 4, 1980, the company responded that these specified circumstances were not present, and therefore warranted no action to invoke the minimum bill provision.

Violations of Sections 4, 5, 7 and 9 of the Natural Gas Act (Act) are alleged by the People's Counsel, who states that "[n]o measurable or significant quantity of regasified LNG has been delivered by Columbia LNG to Columbia since at least early May, and possibly earlier." The subject LNG is supplied by Sonatrach, the state owned and operated national oil and gas company of Algeria. Shipments of this LNG to the United States were suspended earlier this year and have not resumed. The resumption of LNG supplies and the price to be paid for LNG from Algeria is the subject of on-going negotiations between the governments of the United States and Algeria. The issue is unresolved to date.

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[2] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, — F. 2d — (D.C. Cir. May 30, 1980).

[3] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

While the complaint filed by the People's Counsel does not address the activities of Consolidated Gas Supply Corporation (Consolidated) and its pipeline affiliate, Consolidated LNG Company (CLNG), the Commission notes the commonality of facts and legal issues between Columbia's and Consolidated's treatment of LNG purchases gas costs. Specifically, Consolidated is co-owner with Columbia of the facility used by both to import and regasify LNG. Further, both companies have virtually similar tariffs regarding the billing for deliveries of LNG. Accordingly, the Commission funds it appropriate to consolidate these two proceedings for the purpose of examining the tariff terms to determine the proper amounts to be reflected in Columbia's and Consolidated's rates for purchases from respective affiliates, Columbia LNG and CLNG.

Based upon the allegations contained in the People's Counsel complaint and the importance of the issues raised therein, and given the commonality of issues between Consolidated's and Columbia's treatment of LNG purchased gas costs, the Commission finds that an investigation under Sections 4 and 14 of the Natural Gas Act into the proper interpretation of the LNG tariffs of those companies is warranted.

On August 27, 1980, the Public Service Commission of the State of New York filed a Notice of Intervention and Protest in the two dockets. PSCNY requests the relief ordered above—institution of an investigation into the minimum bill provisions of the LNG tariffs of the two companies. Further, PSCNY requests the results ordered in the separate orders issued in the PGA dockets, suspension of the PGA filings.

The Commission finds that the People's Counsel, and PSCNY, have demonstrated interests in this proceeding warranting their intervention. Accordingly, we shall grant these requests to intervene.

On our motion, the Commission will also investigate, as part of this docket, the activities of Southern Natural Gas Company (Southern) and its affiliate, Southern Energy Corporation, regarding the minimum bill provision of its tariff governing LNG supplies. Inclusion of Southern in this proceeding is appropriate because Southern has the same basic minimum bill provision and Section 7 certificate as Columbia and Consolidated, and faces similar reduction in receipt of Algerian LNG.

The Commission Orders:

(A) Pursuant to the authority of Sections 4 and 14 of the Natural Gas Act, and the Commission's rules and regulations, joint investigation shall be initiated to determine whether and to what extent the Act has been violated by (1) Columbia Gas Transmission Corporation, and its affiliate, Columbia LNG Corporation, by (2) Consolidated Gas Supply Corporation and its affiliate, Consolidated LNG Company, and (3) Southern Natural Gas Company, and its affiliate, Southern Energy Corporation.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a conference in this proceeding to be held at a time and conference room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, as he deems appropriate. The Presiding Administrative Law Judge is authorized to establish such procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(C) For purposes of investigation, hearing, and decision, the issues related to LNG purchased gas costs presented in the above-referenced dockets, and in the circumstances relevant to Southern Natural Gas Company, shall be consolidated into a single proceeding.

(D) The Public Service Commission of the State of New York, and the People's Counsel of Maryland, are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27547 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-698]

Consolidated Edison Co. of New New York, Inc.; Notice of Filing

September 2, 1980.

The filing Company submits the following:

Take notice that Consolidated Edison Company of New York, Inc. (Con Edison) on August 28, 1980, tendered for filing as a rate schedule an executed agreement dated August 4, 1980 between Con Edison and the companies of the Northeast Utilities system (The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, hereinafter collectively called NU). The proposed rate schedule provides for the interruptible transmission of power and energy by Con Edison.

The rate schedule provides for a transmission charge of 2.0 mills per kilowatthour for the energy transmitted each hour.

Con Edison requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective August 20, 1980 in accordance with the anticipated utilization by the parties.

Con Edison states that a copy of its filing was served on NU.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27568 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-510]

Consolidated System LNG Co.; Notice of Application

September 2, 1980.

Take notice that on August 20, 1980, Consolidated System LNG Company (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-510 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27569 Filed 9-8-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-492]

Idaho Power Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Intervention, and Establishing Hearing Procedures

Issued August 29, 1980.

On June 27, 1980, Idaho Power Company (Idaho) submitted for filing a proposed rate increase to one of its wholesale customers, CP National Corporation (CP National).[1] Based on a calendar 1980 test year, the proposed rates would produce additional revenues of approximately $5,967,135 (89%).[2] Idaho requests that the rates be made effective on September 1, 1980.

Notice of Idaho's filing was issued on July 2, 1980, with responses due on or before July 25, 1980. Timely notices of intervention were filed by the Idaho Public Utility Commission on July 16, 1980, and by the Public Utility Commissioner of Oregon on July 22, 1980. Neither notice raised any substantive issues with regard to Idaho's submittal.

On July 25, 1980, CP National filed a petition to intervene and requested that the proposed rates be suspended for five months and set for investigation. CP National alleges that the rates may be unjust and unreasonable but does not identify any specific objections to Idaho's submittals.

Discussion

We feel that participation in this proceeding by CP National may be in the public interest. Therefore, we shall grant the petition to intervene. The timely-filed notices of intervention submitted by the Idaho Public Utility Commission and the Public Utility Commissioner of Oregon are sufficient to initiate their participation as intervenors.

Our preliminary analysis indicates that Idaho's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.[3] Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutues say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that Idaho's tendered rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on February 1, 1981.

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[1] See Attachment A for rate schedule designations.

[2] CP National is a public utility providing service in California, Oregon, Nevada, Utah and Arizona. It sells electric capacity and energy at retail in Eastern Oregon and in Elko, Nevada. It purchases all the capacity and energy for these sales from Idaho Power. The proposed rate changes would increase the rates for CP National's Eastern Oregon operations by $5,228,218 (92%) and the rates for the Elko operations by $678, 917 (72%).

[3] Idaho has allocated demand related costs using the demands coincident with the 12 monthly system peaks for the year 1980. While we now do not express an opinion as to the reasonableness of the 12-CP method in this case, we note that the method differs from that found to be appropriate in an earlier Idaho rate case. *See* Opinion No. 13, issued May 4, 1978, in Docket Nos. ER76-469 and ER76-508 (3-CP method).

[4] *Connecticut Light and Power Company* v. *F.E.R.C.*, ——— F.2d ——— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

The Commission orders:

(A) The rate changes submitted by Idaho in this docket are hereby accepted for filing and suspended for five months from the proposed effective date to become effective February 1, 1981, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held to determine the justness and reasonableness of the proposed rates.

(C) CP National is hereby permitted to intervene in this proceeding; *Provided, however,* that its participation shall be limited to the allegations as set forth in its petition to intervene and *provided, further,* that the admission of CP National shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered by the Commission in this proceeding.

(D) The Commission staff shall serve top sheets in this proceeding on or before November 3, 1980.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish all procedural dates and to rule on all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Idaho Power Co., Docket No. ER80–492, Rate Schedule Designations

Designations and Other Party

(1) Supplement No. 5 to Rate Schedule FPC No. 57 (supersedes supplement No. 4 to Rate Schedule FPC No. 57)—CP National—Oregon

(2) Supplement No. 4 to supplement No. 1 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 3 to Supplement No. 1 to Rate Schedule FPC No. 30)—CP National—Nevada

[FR Doc. 80–27548 Filed 9–8–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER76–716]

Indiana & Michigan Electric Co.; Notice of Determination by the Designated Commissioner

Issued August 29, 1980.

Take notice that Chairman Curtis, the designated Commissioner pursuant to § 1.28 of the Commission's rules of practice and procedure, determined that no extraordinary circumstances had been demonstrated by Indiana & Michigan Electric Company (I&M) warranting referral to the full Commission of I&M's August 25, 1980, appeal from rulings of the presiding officer in the above-captioned proceeding. The matter was, therefore, not referred to the Commission and the contested rulings of the presiding officer shall not be reviewable by the Commission prior to the time the Commission considers the proceeding with respect to which the rulings were rendered.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27570 Filed 9–8–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–495]

Iowa Public Service Co.; Order Accepting for Filing and Suspending Proposed Increase in Rates, Granting Intervention, Initiating Hearing, and Establishing Procedures

Issued August 29, 1980.

On June 30, 1980, Iowa Public Service Company (IPS) submitted for filing a proposed increase in rates [1] to its fourteen wholesale customers (Customers).[2] IPS proposes an increase in annual revenues of approximately $649,000 (16.2%) based on the twelfth month period ending December 31, 1979 (Period I). IPS indicates in its transmittal letter that it held pre-filing conferences with the Customers on May 21 and June 11, 1980, and that the Customers support the submittal. IPS requests that its effective date be deferred until September 1, 1980, in lieu of August 29, 1980 (sixty days after filing) to accommodate the Customers.

Notice of the filing was issued on July 8, 1980, with comments, protests and petitions to intervene due on or before July 25, 1980. On July 29, 1980, the Customers petitioned to intervene. The Customers state that they do not request a formal hearing, that they support IPS' submittal, and that the proposed increase should be approved as requested.

Discussion

Initially, we find that participation by Customers in this proceeding may be in the public interest and that good cause exists to grant their untimely petition to intervene. Therefore, we shall permit them to intervene in this docket.

Despite the acquiescence of the Customers to the instant rate increase proposal, our analysis indictes that IPS' proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, suspend them as ordered below, and establish hearing procedures.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[3] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

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[1] See Attachment A for rate schedule designations.

[2] Lincoln Light and Power Company and the Iowa Cities of Aplington, Auburn, Breda, Denver, Estherville, Fonda, Hudson, Lakeview, Livermore, Pocahontas, Rockford, Sergent Bluff, and Wall Lake.

[3] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* ——— F. 2d ——— (D.C. Cir. May 30, 1980).

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The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or chage that is not just and reasonable is hereby . . . declared unlawful." [4] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. Iowa's submittal indicates that it conducted two pre-filing meetings with its customers to discuss the expected filing. Each of these customers has consented to the proposed rate change including the proposed effective date. Under these circumstances, we believe that we should exercise our discretion to suspend the rates for only one day, permitting the rates to take effect on September 2, 1980, subject to refund.

The Commission orders:

(A) Iowa Public Service Company's submittal is hereby accepted for filing and suspended for one day to become effective September 2, 1980, subject to refund.[5]

(B) Customers are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practices and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petition to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) Pursuant to the authority contined in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a formal settlement conference in this proceeding to be held within 10 days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provide for in the Commission's Rules of Practice and Procedure.

(E) The Commission staff serve top sheets in this proceeding on or before November 20, 1980.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Iowa Public Service Co., Rate Schedule Designations, Docket No. ER80-495

Dated: June 30, 1980

Filed: June 30, 1980

FPC Electric Tariff—Original Vol. No. 1

(1) Seventh Revised Sheet No. 1 (Supersedes Sixth Revised Sheet No. 1), List of Customers, Applicable Energy Charge, etc.

(2) Third Revised Sheet No. 2 (Supersedes Second Revised Sheet No. 2), Energy Cost Adjustment Clause

(3) Second Revised Sheet No. 3 (Supersedes First Revised Sheet No. 3), Energy Cost Adjustment Clause

(4) Original Sheet No. 3-A (Supersedes Exhibit A to 1st Revised Sheet No. 3), page 3 of 3, Statement O, Twelve Months Ending 12/31/79.

[FR Doc. 80-27549 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3259]

Joseph M. Keating; Notice of Application for Preliminary Permit

September 2, 1980.

Take notice that Joseph M. Keating (Applicant) filed on July 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-725(r)] for proposed Project No. 3259 to be known as Paoha Project located on Wilson Creek in Mono County, California. The proposed project would affect U.S. lands under the administration of the Bureau of Land Management. Correspondence with the Applicant should be directed to: Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

Project Description—The proposed project would consist of: (1) a proposed intake structure in an existing afterbay canal which is owned by the Southern California Edison Company; (2) a 2500-foot long buried penstock; (3) a powerhouse containing one generating unit rated at 500 kW; (4) a transmission line; and appurtenant facilities. The proposed project would utilize the regulated flows from the afterbay of Southern California Edison's Lundy powerplant. The average annual energy production is estimated to be 1,000 MWh.

Purpose of Project—The power and energy generated by the project would be sold to the Southern California Edison Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 12 months, during which time it would conduct engineering studies and surveys, perform preliminary designs and do a feasibility analysis, prepare an environmental report, make a historical review, and prepare an FERC license application. No new roads are required to conduct the studies.

The estimated cost of the work to be performed under the preliminary permit is $35,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of applicaton for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

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[4] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[5] The Commission staff's preliminary analysis indicates that the proposed rates will result in excess revenues. The showing of such excess might have been mitigated, at least in part, if Iowa had elected to support its rates on the basis of estimated Period II data rather than historical Period I information. While this election was within the discretion of the company, in the instant case, where the customers have consented to the proposed incease, we believe that production of reliable future cost estimates by the company might assist in forthcoming settlement discussions.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 3, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 3, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27571 Filed 9-8-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. TA80-2-26 (PGA80-2)(LFUT80-2), (AP80-2)(TT80-1), RP80-107)

Natural Gas Pipeline Co. of America; Order Accepting for Filing and Suspending Proposed Tariff Sheets and Consolidating Proceedings

Issued August 29, 1980.

On July 23, 1980, Natural Gas Pipeline Company of America (Natural) filed revised tariff sheets [1] to reflect a PGA increase of 2.19¢ per Mcf based on (1) a 6.18¢ per Mcf Purchased Gas Cost Adjustment composed of an 8.98¢ per Mcf increase from producer and pipeline suppliers and a (2.80¢) decrease from the Deferred Purchase Gas Cost Account; (2) a decrease of (0.84¢) in the Louisiana First Use Tax Adjustment and (3) Base Rate Decrease Adjustments of (0.55¢) from Advance Payments and (2.60¢) from Transportation Unit Adjustments.

Public notice of the filing was issued on July 31, 1980 providing for protests or petitions to intervene to be filed on or before August 22, 1980. Iowa Power and Light Company (Iowa) filed a petition to intervene on August 4, 1980 requesting that it be made a party to all matters which may arise in the proceeding. Iowa, having demonstrated an interest in this proceeding which warrants its participation, shall be granted intervention.

Based upon a review of Natural's filing, the Commission finds that the proposed tariff sheets has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Natural's filing and suspend its effectiveness such that it shall become effective September 1, 1980, as described below, subject to refund and subject to the conditions described below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[2] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[3] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are present here * * * approved by order issued October 4, 1979, which authorized the inclusion of the advance payment adjustment discussed below, any rate change filed pursuant to such adjustment may be made subject to refund without suspension provided such change is made effective on the date originally proposed. In other words the advance payment portion of this filing need not be suspended in order for that portion of the increase to be made subject to refund. Because additional issues relating to affiliate purchases may require subsequent review and possible refunds, it is necessary to suspend the filing. Given that those costs reflect merely a rate change filed pursuant to Commission authorized tracking authority, we find special circumstances to exist. We find that a shortened suspension period is justified.

Our review of the advance payments portion of the proposed tariff indicates that it is based upon the same agreements and involves similar issues as those which are the subject of a formal proceeding in Natural's general rate filing under Section 4(e) of the Natural Gas Act in Docket No. RP80-107. Accordingly, the advance payments adjustment of the instant docket will be consolidated with those issues of the proceeding in Docket No. RP80-107. Further procedures may be established by the Presiding Administrative Law Judge in the consolidated proceeding.

Natural's filing includes increases pursuant to area rate clauses in the contracts between Natural and its producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order 23, as amended by subsequent orders, in Docket No. RM 79-22. Should it be ultimately determined that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to the pipeline shall be flowed through to ratepayers in accordance with the procedures prescribed in the pipeline's PGA clause.

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[1] Third Substitute Fortieth Revised Sheet No. 5 and Second Revised Sheet Nos. 5C and 5D all to FERC Gas Tariff, Third Revised Volume No. 1.

[2] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* ——— F.2d ——— (D.C. Cir. May 30, 1980).

[3] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

Natural's filing also reflects increases due to costs associated with purchases from affiliated production priced at NGPA levels. The Commission is unable to determine from the information submitted herein whether the proposed purchase price assigned to its affiliate production priced at NGPA levels satisfies the affiliated entities limitation set forth in section 601(b)(1)(E) of the NGPA. That section provides that in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid shall be deemed just and reasonable if in addition to not exceeding the applicable maximum lawful price ceiling, such amount does not exceed the amount paid in comparable first sale transactions between persons not affiliated with such pipeline. Accordingly, the Commission's acceptance of this increase is conditioned upon Natural's filing data within thirty days demonstrating that its purchases from its affiliates meet the affiliated entities test and is subject further to Commission review of that data.

The Commission Orders:

(A) Natural Gas Pipeline Company of America's proposed Third Substitute Fortieth Revised Sheet No. 5 and Second Revised Sheet Nos. 5C and 5D to FERC Gas Tariff, Third Revised Volume No. 1 is accepted for filing and suspended such that the filing shall become effective September 1, 1980 subject to refund, and subject to the conditions enumerated in the body of this order and the ordering paragraphs below.

(B) The advance payments portion (AP80-2) of the instant Docket No. TA80-2-26 is hereby consolidated with Docket No. RP80-107 for purposes of hearing and decision.

(C) Natural shall file data within 30 days of the issuance of this order to show that the pricing of gas purchased from its affiliates is in accordance with section 601(b)(1)(E) of the NGPA.

(D) The costs associated with Natural's purchases from its producer affiliates shall be collected subject to refund and subject to: (1) Natural's filing within 30 days of the issuance of this order the data called for in Paragraph (C) above; and (2) review of such data by the Commission to determine what further action is appropriate.

(E) Iowa Light and Power Company shall be permitted to intervene subject to the Commission's rules and regulations; *Provided*, however, that the participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall be construed as recognition that it might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27550 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-692]

New Bedford Gas & Edison Light Co.; Notice of Filing

August 29, 1980.

The filing Company submits the following:

Take notice that on August 26, 1980, New Bedford Gas and Edison Light Company (New Bedford) tendered for filing on behalf of itself, Montaup Electric Company, and Boston Edison Company supplemental data pertaining to their applicable gross investments, combined Federal income and franchise tax rates, and local tax rates for the twelve month period ending December 31, 1979. New Bedford states that this supplemental data is submitted pursuant to a letter order of the Federal Power Commission in Docket No. E-7981 dated April 26, 1973 accepting for filing New Bedford's Rate Schedule FERC No. 21, Boston Edison Company's Rate Schedule FERC No. 67, and Montaup Electric Company's Rate Schedule No. 27.

New Bedford states that these rate schedules have previously been similarly supplemented for the calendar years 1972 through 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27572 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3231]

North American Hydro, Inc.; Notice of Application for Preliminary Permit

September 2, 1980.

Take notice that North American Hydro, Inc. (Applicant) filed on July 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3231 to be known as the Neshonoc Project located on the LaCrosse River in LaCrosse County, Wisconsin. The project is located near the Town of Hamilton. Correspondence with the Applicant should be directed to: Mr. Charles Alsberg, Box 676, Wautoma, Wisconsin 54982.

Project Description—The proposed project would consist of: (1) an existing 28-foot high and 215-foot long reinforced concrete and masonry dam; (2) an existing powerhouse with a proposed installed generating capacity of 231 kW and an annual energy output estimated to be 1,500 MWh; (3) an existing 687-acre reservoir with 3,100 acre-feet of storage capacity at the normal maximum surface elevation 699.5 feet msl; and (4) appurtenant facilities.

Purpose of Project—North American Hydro, Inc. proposes to develop the hydroelectric potential of the project and sell the power to LaCrosse County or Northern States Power Comany.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The applicant's estimated total cost for performing these studies is $28,670.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 3, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 2, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 3, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 80-27553 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-696]

Northern States Power Co; Notice of Filing

September 2, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company on August 26, 1980, tendered for filing Supplement No. 2, dated August 14, 1980, to the Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Fairfax, Minnesota.

Supplement No. 2 amends the Agreement providing for the sale of Load Pattern Power to the City to supply its requirements in excess of that provided by WAPA.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street, N.E., Washigton, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27554 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3237]

Penobscot Hydro Associates; Application for Preliminary Permit

September 2, 1980.

Take notice that Penobscot Hydro Associates (Applicant) filed on July 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3237 to be known as the Arches Project located on the West Branch of the Penobscot River in Piscataquis County, Maine. Correspondence with the Applicant should be directed to: Peter F. O'Connell, Penobscot Hydro Associates, 140 Lisbon Street, Lewiston, Maine 04240.

Project Description—The proposed project would consist of: (1) a new 460-foot long, 52-foot high concrete gravity dam; (2) two 17-foot diameter 4,500-foot long penstocks; (3) a 15 acre reservoir with no storage capacity; (4) a fishway; (5) a powerhouse located approximately 4,500 feet downstream containing two turbine/generator units with a total rated capacity of 33.6 MW; and (6) appurtenant facilities. The proposed run-of-the-river project would generate up to 119,077,000 kWh annually saving the equivalent of 195,000 barrels of oil or 55,100 tons of coal.

Purpose of Project—Markets for the electric energy produced would be determined during the term of the preliminary permit.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include geotechnical investigations at the site of the proposed dam, engineering plans, and an environmental assessment. Geotechnical investigations would include a boring program in the vicinity of the axis of the proposed dam. Applicant states that all disturbed areas would be regraded and restored. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $700,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other

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formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 3, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d) (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulation Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 3, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27555 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-697]

Puget Sound Power & Light Co.; Notice of Filing

September 2, 1980.

The filing Company submits the following:

Take notice that on August 28, 1980, Puget Sound Power & Light Company (Puget) tendered for filing a rate schedule, an Exchange Agreement between Puget and Pacific Gas and Electric Company (PG and E).

The Agreement sets forth the Terms and Conditions under which Puget will make available capacity and energy to PG and E during the months of July and August 1980. This capacity and energy will help PG and E meet is anticipated heavy airconditioning loads on its system this summer. PG and E will make available this capacity and energy to Puget during the months of December 1980 and January 1981.

A copy of the filing has been sent to Pacific Gas and Electric.

Any person desiring to be heard or to protest said filing should file a peition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27556 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-68]

Rochester Gas & Electric Co.; Application for Staff Adjustment

Issued: August 29, 1980.

Take notice that on January 28, 1980, Rochester Gas and Electric Corporation (RG&E) filed with the Federal Energy Regulatory Commission (Commission) an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), wherein RG&E sought relief from the Commission's regulations implementing the incremental pricing program.[1]

RG&E is an investor-owned public utility that provides gas, electric and steam service to customers in western New York. In 1977, RG&E sold 62.8 percent of the total steam generated at its district heating facility Station 9[2] to users that are not exempt from incremental pricing. Under § 282.103(d)(2) of the Commission's regulations, a district heating facility is not considered to be an "industrial facility," and therefore is exempt from incremental pricing, only if it sold more than 50 percent its steam in 1977 to exempt users. RG&E seeks an adjustment from the operation of the regulations that subject Station 9 to incremental pricing.[3]

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979 (44 FR 19881, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 24, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27551 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1846]

Herbert W. Sears; Notice of Filing

August 29, 1980.

Take notice that on August 19, 1980, Herbert W. Sears (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, The Connecticut Light and Power Company, Public Utility
Senior Vice President, The Hartford Electric Light Company, Public Utility
Senior Vice President, Western Massachusetts Electric Company, Public Utility
Senior Vice President, Holyoke Water Power Company, Public Utility
Senior Vice President, Holyoke Water Power Company, Public Utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

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[1] The January 28, 1980 application requested an interpretation of the General Counsel pursuant to 18 CFR 1.42 that RG&E's facility was not subject to incremental pricing and, in the alternative, an adjustment. Accordingly, no action was taken on the staff adjustment prior to July 10, 1980, when the General Counsel issued an interpretation that the facility was subject to incremental pricing under the Commission's regulations.

[2] Under § 282.103(d)(2), a district heating facility is a facility which generates steam which is sold to the public.

[3] On July 18, 1980, the Director of the Office of Pipeline and Producer Regulation issued an order in this docket granting interim relief pending the ultimate disposition of the application. The granting of interim relief, however, may not be viewed as an expression of position rearding the merits of the application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27557 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1923]

Lawrence H. Shay; Notice of Filing

September 2, 1980.

Take notice that on August 5, 1980, Lawrence H. Shay (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Chief Administrative Officer, Western Massachusetts Electric Company, Public Utility
Vice President and Chief Administrative Officer, Holyoke Water Power Company, Public Utility
Vice President and Chief Administrative Officer, Holyoke Power and Electric Company, Public Utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27558 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1839]

H. Russell Smith; Order Granting Authority To Hold Certain Interlocking Directorates

Issued: September 2, 1980.

On May 19, 1978, Mr. H. Russell Smith (Applicant) submitted an application for authority to hold the positions of Director of Southern California Edison Company (Edison)—a jurisdictional utility—and Director of Beckman Instruments, Inc. (Beckman)—a supplier of electrical equipment. Mr. Smith's application was filed pursuant to section 305(b) of the Federal Power Act and Part 45 of our regulations.

The application states that Mr. Smith has held the position of Director of Edison since 1974 and has also held the position of Director of Beckman since 1976.[1] Furthermore, Applicant states that as a Director of both Beckman and Edison, he has performed the duties that are customarily performed by an individual holding such positions.

Notice of Mr. Smith's application was issued on June 5, 1978,[2] with comments due on or before June 26, 1978. On March 13, 1980, Edison filed a petition to intervene out of time. In its petition, Edison requests that we either grant Mr. Smith's application or declare that Mr. Smith's position with Beckman is not within the scope of the Federal Power Act. Edison's petition also contains updated sales data concerning the Edison-Beckman relationship.

On July 24, 1980, Edison submitted certain supplemental information pursuant to our request. In its supplemental filing Edison states that the materials purchased from Beckman consist primarily of instruments used to measure the purity of steam produced at a number of Edison's generating stations.

Discussion

We find that Edison's participation in this proceeding may be in the public interest. Accordingly, we shall grant its petition to intervene out of time.

As noted above, Edison contends that Beckman is not an electrical equipment supplier of Edison within the meaning of the Federal Power Act.[3] However, as Edison's supplemental filing indicates, Beckman sells instruments to Edison which are used in the electrical generating process. We conclude from the nature of these transactions that Beckman is a supplier of electrical equipment to Edison, and that the relationship between Beckman and Edison is of a type contemplated by Section 305(b) of the Federal Power Act. Therefore, our approval is required in order for the applicant to hold the requested interlocking positions.

Where the relationship between a jurisdictional utility and an electrical equipment supplier is of a *de minimis* character, we have held that the public interest would best be served by granting an application to hold interlocking positions, while imposing an annual reporting requirement to ensure continued consistency with statutory requirements, *e.g.*, Charles T. Fisher III, Docket No. ID-1758 (October 25, 1979). The Commission here finds that the existing relationship between Edison and Beckman is, in fact, *de minimis* whether considered in terms of percentage or total dollar purchases. For illustrative purposes, we note that data submitted by Edison indicate that in 1979, Edison's purchases from Beckman constituted 0.004% of Edison's total purchases of material; in 1978, that proportion was 0.007%. Under these circumstances, we shall grant Mr. Smith's application, subject to the reporting conditions stated below.

The Commission Orders

(A) Until further order of the Commission, Applicant is authorized to hold the positions of Director of Beckman and Director of Edison, subject to Part 45 of the Commission's regulations (18 CFR 45 *et seq.*), and further subject to the provisions of ordering paragraphs (B) and (C) below.

(B) On or before April 30, 1981, and on or before April 30 of every year thereafter during which Applicant holds the positions authorized by this order, Applicant shall submit a report disclosing, for the preceding year, the nature and dollar amount of any electrical equipment supplied by Beckman, or any subsidiary of Beckman, either directly or indirectly, or through wholesale or retail suppliers, or any other intermediary to Edison.

(C) The Commission reserves the right to require Applicant to make further showings that neither public nor private interests will be adversely affected by the continued holding of the interlocking positions authorized by this order.

(D) Edison is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved

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[1] Pursuant to our regulations, Mr. Smith should have filed his application within thirty (30) days of his election to the position of Director of Beckman. 18 CFR 45.3(b). However, in his application, Mr. Smith claims that he did not comply with this rule because he did not believe, and still does not believe, that Beckman is an electrical supplier of Edison within the purview of the Federal Power Act.

[2] 43 FR 25381 (1978).

[3] Edison does not challenge the fact that it is a jurisdictional electric utility. *See Southern California Edison Co.*, 6 F.P.C. 549, 550 (1947).

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because of any order or orders by the Commission entered in this proceeding.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27562 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-205]

Southern California Edison Co.; Notice of Filing

August 29, 1980.

The filing company submits the following:

Take notice that on August 18, 1980, Southern California Edison Company (Edison) submitted for filing revised resale rate schedules. The instant filings have been made in order to correct errors made in Edison's compliance filings. The compliance filings were made pursuant to Commission Opinion No. 62-A.

Copies of this filing have been sent to the Public Utilities Commission of the State of California and to Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27559 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-12706, et al.]

Texas Eastern Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

September 2, 1980.

Take notice that the pipelines in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, any type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 17, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
7/30/80	Texas Eastern Transmission Corp..	G-12706	Plan.
8/15/80	Texas Eastern Transmission Corp..	G-12706	Report.
8/19/80	Texas Eastern Transmission Corp..	RP80-133	Plan.
8/25/80	Northern Natural Gas Co..	RP78-58	Report.
8/25/80	Columbia Gas Transmission Corp..	TA80-1-21	Report.
8/25/80	Texas Eastern Transmission Corp..	RP78-87	Report.

[FR Doc. 80-27561 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-146]

Texas Gas Pipe Line Corp.; Application for Adjustment

September 2, 1980.

On August 21, 1980, Texas Gas Pipe Line Corporation (Texas Gas) filed with the Commission an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* By its application, Texas Gas seeks an adjustment from the Commission's regulations in Part 282, implemented by Order No. 49, in Docket No. RM79-14, issued September 29, 1979. The requested adjustment would exempt Texas Gas from computing and charging incremental prices to two of its customers, Transcontinental Gas Pipe Line Corporation (Transco) and Texas Eastern Transmission Corporation (Texas Eastern).

Texas Gas claims that the requested adjustment is fully justified under section 502(c) of the NGPA, which authorizes adjustments as may be necessary to prevent special hardship, inequity or unfair distribution of burdens. Texas Gas asserts that compliance with Order No. 49 would be unduly burdensome, as the accounting and financial personnel which are required for compliance with the order are completely disproportionate to the magnitude of the regulatory requirements and statutory intent. Texas Gas further asserts that compliance would be duplicative, and therefore unnecessary, since Transco and Texas Eastern, who purchase approximately 5,700 Mcf per day from Texas Gas, are also required to make the necessary incremental pricing computations.

Texas Gas proposes to provide Transco and Texas Eastern with all data and/or estimates necessary for the computation of incremental pricing costs and surcharges applicable to the volumes of natural gas acquired by Texas Gas, and to notify the Commission, Transco and Texas Eastern of any operational change which would affect the basis for the requested exemption.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to be heard or to protest this adjustment shall file a petition to intervene or protest in accordance with provisions of § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All petitions to intervene or protest shall be filed with the Secretary of the Commission, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C.20426, and must be filed by September 24, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestants party to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27560 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-699]

The Washington Water Power Co.; Notice of Filing

September 2, 1980.

The filing Company submits the following:

Take notice that on August 27, 1980, The Washington Water Power Company (Washington) tendered for filing copies of an agreement with Bonneville Power Administration (Bonneville) providing for the transfer of power and energy over the transmission facilities of Washington or Bonneville to the other party's customers.

For many years, Washington and Bonneville have each provided transmission service to the other party for that party's customers connected to the other party's transmission facilities. This service was provided under multiple agreements—in some instances multiple agreements for same customer. The subject agreement replaces these multiple agreements and consolidates into one agreement essentially the same provisions (rates excepted) for transfer service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27562 Filed 9-8-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1600-1; OPP-180471]

Department of Agriculture; Issuance of Specific Exemption for Carbaryl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to as the "Applicant"), to use Sevin 4 Oil (carbaryl) on small grains and alfalfa to control grasshoppers in seventeen western States. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Rm. E-107, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, grasshoppers are the most serious pest in western rangeland. Each year they occur in outbreak numbers in some locations and on many occasions cause severe economic loss on rangeland and nearby crops. Most of the grasshoppers which are of economic concern are strong flyers. After devastation of rangeland, they quickly migrate to nearby cropland. Severe infestations are expected to occur in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming this year.

Although there are several hundred species of grasshoppers in the United States, only about 35 of them are considered perennial pests. These species prefer green vegetation to dry and prefer cultivated plants to wild plants. Small populations feed selectively on the tenderest parts of grasses and forbes. However, when present in large numbers, they virtually consume all vegetation.

Female grasshoppers deposit egg pods about one inch below the soil surface in late summer or early fall. These lie dormant through the winter and hatch the following spring or early summer. Young grasshoppers (nymphs) emerge and will molt about five or six times before they are able to fly. Warm, dry weather conditions are generally the most favorable for high grasshopper populations.

The Applicant proposes to use Union Carbide's product, Sevin 4 Oil (EPA Reg. No. 264-323, formerly EPA No. 1016-70), in its grasshopper control program on alfalfa and small grains. Treatment will be limited to include only those parts of the alfalfa and small grain fields which are adjacent to rangeland which has been treated for grasshopper control. Approximately 200,000 pounds of carbaryl, the active ingredient (a.i.), will be needed. A single aerial application will be made using 0.5 pound a.i. plus 4 ounces of diesel oil for a total formulation of 20 ounces per acre. All applications will be carried out under the supervision of certified Federal and State entomologists.

According to the Applicant, the cost of grasshopper control would be prohibitive on low-value rangelands and if left entirely to the individual owner, treatment would not be carried out. This would ultimately result in a much larger acreage becoming infected and needing control. Consequently, if private lands were left untreated, it would negate control on contiguous public lands. Grasshopper control will be conducted on an as-needed basis only, the costs of which are to be shared by Federal and State agencies as well as individuals.

The Applicant cites a number of alternatives which would not provide control of grasshoppers in the 1980 Cooperative Grasshopper Management Program. Biological controls such as fungi, e.g., *Entomophthora grylli*, bacteria e.g., *Bacillus thuringiensis*, viruses, protozoa e.g., *Nosema locustae*, and parasites and predators e.g., insects, moles, and birds, are either in research stages or do not provide sufficient control until after considerable damage has been incurred. Cultural and mechanical means (tillage methods) are not desirable due to the high cost and increased likelihood of wind and water erosion. Eradication is not a feasible nor desirable option. The Applicant chose malathion and carbaryl as the insecticides for use in the 1980 Cooperative Grasshopper Management Program. Other insecticides such as diazinon, dimethoate, parathion, and toxaphene, were considered but rejected due to various environmental, safety or labeling problems.

Carbaryl, as Sevin 4 Oil, was selected to treat small grain and alfalfa fields instead of malathion even though malathion is already registered for this use. This choice was made because malathion is extremely short-lived, loses some effectiveness in cool weather, and is not resistant to rainfall. Sevin 4 Oil, which is already registered for use on rangeland for grasshopper control, has none of these problems which malathion exhibits.

Carbaryl has a permanent tolerance of 100 parts per million (ppm) in or on alfalfa and alfalfa hay. Some carbaryl formulations are presently registered for use on alfalfa to control grasshoppers; however, the formulation of choice, Sevin 4 Oil, is not. This formulation is preferred to others because it contains oil which enhances its effectiveness.

Permanent tolerances for carbaryl are also established for the straw and green fodder of oats, barley, rye and wheat at 100 ppm. A zero ppm tolerance has also been established for carbaryl on the grain of oats, barley, rye, and wheat.

EPA anticipates no unreasonable hazard to the environment from this use of carbaryl.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

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1. Union Carbide's product Sevin 4 Oil, EPA Reg. No. 264-323 (formerly EPA Reg. No. 1016-70), may be applied. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Treatment of alfalfa and small grain fields will be limited to include only those portions adjacent to rangeland which has been treated for grasshopper control;

3. Treatments may be made in the seventeen States named above;

4. Sevin 4 Oil may be applied at a rate of 0.5 pound a.i. plus 4 ounces of diesel oil for a total formulation of 20 ounces per acre;

5. Applications will be made using aerial equipment and carried out under the supervision of certified Federal or State entomologists;

6. A maximum of one application may be made;

7. A maximum of 200,000 pounds a.i. may be used;

8. Prior to the initiation of this program, the appropriate State agencies must be advised. Also, notification of residents in the areas to be treated must be carried out as outlined in the Rangeland Grasshopper Cooperative Management Program;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. Alfalfa treated in accordance with the above provisions is not expected to have residues of carbaryl and its metabolites in excess of 100 ppm in or on alfalfa and alfalfa hay. Small grains (oats, barley, rye, and wheat) treated in accordance with the above are not expected to have residues of carbaryl and its metabolites in excess of 3 ppm in or on grain or in excess of 100 ppm in or on straw and green fodder. Commodities with residue levels not in excess of the above may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of carbaryl in connection with this program; and

12. The Applicant is responsible for ensuring that these conditions are met and must submit a report summarizing the results of this program by January 31, 1981.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: August 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-27581 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1595-1]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Ninth Decision of the Administrator

I. Introduction

This is the ninth decision I have issued under Section 202(b)(5) of the Clear Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standards scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As the introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, however, include a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[3] However, these amendments require the Administrator to promulgate standards for vehicles granted waiver applications which do not permit CO emissions over 7.0 gpm.[4]

In response to waiver applications received prior to the one under consideration, EPA held five public hearings and issued eight consolidated decisions pursuant to section 202(b)(5)(A).[5] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology[6] was available contrary to the requirement of section 202(b)(5)(C)(iii) of the Act or because the applicant failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining for each of those families that available information established sufficient likelihood that the requisite technology would not be available, considering costs, driveability, and fuel economy, and that each of those applications met all of the remaining statutory criteria for receiving a waiver.

On May 27, 1980, EPA received a waiver application from Volkswagen (VW).[7] Specifically, VW submitted an application for the 1981 model year for a carbureted 1.46 liter (L) one-venturi (V) engine family similar in several respects to the 1.6 liter carbureted engine family earlier denied a waiver.[8] EPA held a hearing on this application on June 20, 1980.[9]

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[1] The preceding decisions were published as follows: 44 FR 53376 (September 13, 1979); 44 FR 69417 (December 3, 1979); 45 FR 7122 (January 31, 1980); 45 FR 17914 (March 19, 1980); 45 FR 37360 (June 2, 1980); 45 FR 40030 (June 12, 1980); 45 FR 49876 (July 25, 1980); 45 FR 53400 (August 11, 1980).

[2] Regulations were promulgated on August 24, 1978, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081-8(a)(1)(ii). This standard represents at least a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(C) of the Act provides, in part:

The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

[4] As noted in previous decisions, Section 202(b)(5) of the Act requires that I make a separate assessment for each vehicle model covered by a waiver request. See, e.g., 44 FR 53376 (September 13, 1979); 44 FR 69416 (December 3, 1979); 45 FR 7122 (January 31, 1980). Thus, these earlier consolidated decisions generally have included separate decisions for individual engine families. As in the previous decisions, I have distinguished among engine families primarily on the basis of engine displacement. See note 17, second consolidated decision, 44 FR 69416, 69418 (December 3, 1979).

[5] EPA has included testimony received at these five hearings, as well as all other information considered in deciding these five groups of waiver applications, in EPA public Dockets EN-79-4, EN-79-17, EN-79-19, EN-80-1 and EN-80-9.

[6] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operating methods, or other alternatives" included as part of section 202(b)(5)(C)(iii) of the Act.

[7] Volkswagenwerk, A.G.

[8] 44 FR 53376 (September 13, 1979).

This decision will address the waiver request from VW on the basis of recently provided information from VW and from other sources.[10]

II. Summary of Decision

I am denying the waiver request by VW covering its 1.46L/1–V engine family for the 1981 model year. VW has failed to provide information sufficient to establish that effective control technology is unavailable for this engine family for the model year in question. Instead, the information which VW did provide does not include enough emissions data to demonstrate the likely effect on emissions of certain engineering modifications which VW still could employ to try to meet the 3.4 gpm standard for the 1981 model year. In addition, VW has alternative technology (namely, its 1.7L fuel injected (FI) engine family) which it can employ in the vehicle model covered by its waiver request and which is capable of meeting the 3.4 gpm CO standard. Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for determining that VW has established the unavailability of technology for this engine family.

While VW's request may meet some of the remaining statutory criteria for receiving a waiver, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting a waiver covering this engine family.

III. Discussion

A. *Availability of Technology*

The decision I have made here on whether to grant or deny the requested waiver again turns primarily on whether technology is available to enable an engine family covered by this waiver application to meet the 3.4 gpm CO standard in the 1981 model year. Section 202(b)(5)(C)(iii) of the Act expressly assigns the applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy. Even if the Administrator determines that an applicant has met this burden, section 202(b)(5)(C)(iv) requires the Administrator to consider whether NAS studies or other information indicate that technology is available, considering costs, driveability, and fuel economy, before granting a waiver request.

As part of my assessment of technology, I have considered the results of NAS studies and investigations[11] conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. For the reasons discussed in my recent consolidated waiver decisions, the findings of the available NAS studies do not contradict my assessment regarding the availability of technology for this engine family.[12]

As was the case in the previous consolidated CO waiver decisions, this decision relies on information contained in the waiver application and other information found in the public record.[13]

I previously denied VW's waiver request for its 1.6L carbureted engine family because I determined that alternative technology is the form of VW's 1.6L/FI engine family was capable of meeting the 3.4 gpm CO standard and was available for use in the VW vehicle model in question.[14] In addition, I determined that VW failed to show that it would pass any cost savings related to the carbureted version on to consumers and that it would suffer significant sales losses were it unable to market the carbureted version of its 1.6L engine family.[15]

Volkswagen's new application requested a waiver to a CO standard of 7.0 gpm for its 1.46L/1–V engine family with a non-feedback carburetor system for the 1981 model year only. VW has marketed substantially similar versions of this engine family for several years prior to the 1981 model year.[16] VW stated that it now wishes to use this engine family instead of the 1.6L feedback carburetor (FBC) engine family which it initially had planned to market in some of its Rabbit model vehicles before it was denied a waiver in my first consolidated decision.[17] VW explained that it wants to market a carbureted engine version of its Rabbit model to help make successful its planned expansion into the U.S. market through the opening of an additional assembly plant in Sterling Heights, Michigan, in 1982.[18]

In this application, VW contends that technology is unavailable to enable its 1.46L/1–V engine family to meet the 3.4 gpm CO standard for the 1981 model year (but admits such technology should be available for the 1982 model year).[19] In addition, VW stated (1) that it discontinued development work on its 1.6L/FBC engine family as a result of the previous waiver denial and then began development work on its 1.46L/1–V engine family, and (2) that because of deteriorating market conditions it now needs to market a less expensive carbureted version of its 1.7L fuel injected Rabbit model.[20] VW indicated that it is unable to employ as part of its 1.46L engine family a more sophisticated feedback carburetor system which would be capable of meeting the statutory standard before the 1982 model year because components for this system would not be available from Carter Carburetor Division in time for the 1981 model year.[21]

To support its contention that effective control technology is not available, VW has provided both descriptions of the systems it has been considering in trying to attain the 3.4 gpm CO emission standard and low-mileage emission test results it has measured from vehicles incorporating those systems. I also have reviewed data from extended-mileage emission tests performed on different versions of the VW vehicle model in question for the purpose of receiving certification for the 1980 model year.

However, VW has not provided sufficient emission data on this engine family with calibrations optimized to meet the 3.4 gpm standard to establish that effective control technology will not be available for the 1981 model year.[22] As indicated in the Guidelines for

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[9] The transcript from this hearing is located in EPA Public Docket EN–80–11. This decision uses the following abbreviations: VW. App.—Volkswagen Application for CO Waiver, dated May 27, 1980, for its 1.46L/1–V engine family.

[10] See the discussion on my considerations of other sources of information in the previous waiver decisions, e.g., section III(B)(1)(C), 44 FR 69416, 69422 (December 3, 1979).

[11] Report by the Committee on Motor Vehicle Emissions by the National Research Council of the National Academy of Sciences, dated June, 1980. See also discussions of the applicability of earlier NAS studies in previous CO waiver decisions; e.g., 44 FR 53376, 53386 (September 13, 1979) and 44 FR 69416, 69423, 69428 (December 3, 1979).

[12] See, e.g., 45 FR 49876, 49878 (July 25, 1980); 45 FR 53400 (August 11, 1980).

[13] Much of this information was gathered for an included in the records for the previous consolidated CO waiver decisions. See note 5, supra. Those records have been incorporated by reference into the record for this ninth decision, EPA Public Docket EN–80–13.

[14] 44 FR 53376, 53385–53386 (September 13, 1979).

[15] 44 FR 53376, 53386, n. 94 (September 13, 1979).

[16] VW supp. submission, July 1, 1980 p. 1.

[17] 44 FR 53376 (September 13, 1979). VW App., Executive Summary.

[18] June 20, 1980 Transcript, pp. 34–36. VW supp. submission, July 1, 1980, p. 4.

[19] VW App., section 3.

[20] Id., Executive Summary. VW has increased the displacement (to 1.7L) of its 1.6L/FI engine judged as available alternative technology in my first decision.

[21] June 20, 1980 Transcript, pp. 60–61. VW explained it is trying to employ carburetors produced by a U.S. manufacturer, in order to maintain a long-term source of U.S. components.

[22] App. A, sections V, IX. See also June 20, 1980 Transcript, pp. 70–73.

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Waiver Applications [23] and in previous waiver decisions,[24] the manufacturer must provide sufficient emission data on a system designed to meet the 3.4 gpm standard to permit me to assess adequately the capability of its emission control system to meet Federal emission standards for the model years in question through the use of the Monte Carlo statistical simulation and appropriate factors representing the likely effect on emissions from available technological improvements.

Instead, the only emission test results VW provided on technology geared toward meeting 1981 model year emission requirements were low-mileage development data on a relatively unsophisticated emission control system which has undergone only a minimal amount of development toward meeting the 1981 model year statutory emission standard.[25] These data do not give me an adequate basis for determining whether this engine family can meet this standard in certification or in production.

The only information VW provided on the likely emission durability characteristics of the 1981 1.46L/1–V engine family was the certification test "deterioration factor" (DF) from its 1980 predecessor, which indicates no projected CO emissions control deterioration over the engine family's 50,000-mile statutory useful life.[26]

Even assuming that this DF accurately projects the CO emissions control deterioration of the 1981 version of this engine family, and even recognizing that this would serve only to increase the likelihood that this engine family would pass the Monte Carlo simulation, this analysis still might not adequately indicate the emission control capabilities of this engine family. EPA cannot apply factors in order to accurately predict the emissions control performance benefit in the Monte Carlo simulation unless the waiver applicant has calibrated the engine family in question for optimal emissions control through a reasonably comprehensive development program.[27] Here, development data supplied by VW only reflect about two months of emissions control calibration development testing on this engine family in a configuration targeted to meet a 3.4 gpm CO standard.[28] The technical analysis in Appendix A indicates that several emission test vehicle components may well have employed less than optimal calibrations to enable this engine family to meet the statutory standards.[29] VW did not supply sufficient information to enable EPA to determine whether these calibrations were optimal or whether factors could be applied to reflect available improvements to those calibrations. VW has had sufficient lead time to continue development work on these parameters and apply the results of that work in time for 1981 model year production, because the calibration settings involved here have relatively short lead-time requirements.[30]

I have previously evaluated engine families which utilized relatively unsophisticated emissions control systems for which the manufacturer demonstrated a considerable amount of development work and optimization of calibrations.[31] I have also evaluated engine families which utilize previously unavailable and relatively sophisticated emissions control systems for which less information was available.[32] However, VW has submitted a waiver application for an emissions control system which it has been using for several years but for which there is available only a minimal amount of 1981 model year development information.[33] Under these circumstances, in which available lead time still would permit VW to perform calibration development work with the prospect of achieving the 3.4 gpm CO standard, I find that VW has failed to provide information sufficient to enable me to determine whether effective emissions control technology is available to enable the 1.46L/1–V engine family to meet the 3.4 gpm CO standard in the 1981 model year.

VW also has alternative technology capable of meeting the 3.4 gpm CO standard for the vehicle model scheduled to use its 1.46L/1–V engine. The 1.7L/FI engine is capable of meeting the statutory CO standard [34] and is capable of being substituted in the vehicle model scheduled to use the 1.46L/1–V engine.[35]

VW claimed that the 1.7L/FI engine version of this model is not an acceptable alternative to the 1.46L/1–V engine version because of cost and fuel economy penalties associated with the 1.7L/FI version.[36] VW asserted that because of the changed market conditions since my denial of the waiver request for its 1.6L carbureted engine family, it is no longer able to sell all of the 1.7L/FI models it could produce at the higher cost associated with the 1.7L/FI version of this model. VW, therefore, claimed it would sell fewer vehicles [37] than it otherwise planned if it were unable to market the 1.46L/1–V version of this model.

However, even considering costs and fuel economy, I have determined that VW still can competitively market vehicle models otherwise scheduled to use the 1.46L/1–V engine by substituting the 1.7L/FI alternative. As I stated in earlier waiver decisions, Congress probably envisioned that some cost, fuel economy or driveability penalties would be associated with technology capable of meeting the 3.4 gpm CO standard.[38]

VW still can market the vehicle model in question with alternative effective emissions control technology acceptable to a great majority of potential customers of the 1.46L/1–V version.[39]

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[23] 43 FR 47272, 47276 (October 13, 1973).

[24] See 44 FR 53376, 53385 (September 13, 1979); 44 FR 69416, 69427 (December 3, 1979); 45 FR 7122, 7123, (January 31, 1980); and 45 FR 37360, 37363 (June 2, 1980) (discussing the methodology used for analyzing available emission data in light of the applicable statutory criteria).

[25] App. A. section V. VW's 1.6L/FBC engine family previously denied a waiver employed a lambda-sensor closed-loop feedback carburetor, pulse-air injection, and a dual bed catalyst instead of the open-loop system used on its 1.46L/1–V engine. VW was denied a waiver for its 1.6L/FBC engine family in September 1979. However, the low-mileage emission data supplied by VW covered a testing period of only 2 months (March and April 1980). In addition, the components employed on the 1.46L/1–V engine/emissions control system were originally designed to meet much higher standards.

[26] VW supp. submission, June 1980, p. 24.

[27] App. A. sections IV, V, IX.

[28] App. A. sections IX.

[29] App. A. section V, IX.

[30] App. A. section IX.

[31] See, e.g., my decision regarding the Toyota 88.6 CID engine family, 44 FR 53376, 53380, 53396 (September 13, 1980).

[32] See, e.g., my decision regarding the AMC 151 CID engine family, 45 FR 7122, 7124, (January 31, 1980).

[33] App. A. section V.

[34] App. A. section V.

[35] June 20, 1980 Transcript, p. 54.

[36] VW claimed that because of the differences in the costs associated with producing these two engine families, it could price the 1.46L/1–V engine version at $225 less per vehicle. June 20, 1980 Transcript, p. 12. Development data on VW's 1.46L/1–V engine version using certain calibrations showed a 1.4% fuel economy improvement over official EPA test data on VW's 1.6L/FI engine version. App. A. section VIII.

[37] VW estimated that it would sell about 15,000 to 18,000 fewer gasoline powered vehicles in the 1981 model year if it did not market the 1.46L/1–V engine family. VW supp. submission, July 1, 1980, p. 3, Cf. Transcript of Proceedings, July 12, 1979, p. 58. However, the only substantiating information VW submitted indicated that substituting the higher-priced fuel-injected vehicles could lead to a sales decline of 10% in the number of sales originally planned for its lower-priced 1.46L/1–V carbureted model, or about 3,000 to 7,000 sales lost. App. A, section VI (based upon VW's sales projections for its 1.6L/FBC model (Transcript of Proceedings, July 12, 1979, p. 34) and EPA estimates of 1980 sales of the 1.46L carbureted model).

[38] See, e.g., 44 FR 53376, 53387 (September 13, 1979).

[39] As stated in footnote 36, *supra*, VW has projected sales losses ranging from 3,000 to 18,000 units. This compares with 1980 (EPA estimated) sales of about 150,000 vehicles of all Rabbit models. VW supp. submission, pp. 3, 4. App. A, section VI. however, although total U.S. sales of all manufacturers have been declining, VW has been able to maintain or increase its 1980 production and

Footnotes continued on next page

VW could recoup at least some of its claimed decrease in projected sales through increased sales of the diesel engine versions of this vehicle model and other models as well.[40]

No other considerations of costs, driveability, or fuel economy offer a basis for altering my conclusion that VW has failed to establish that effective emissions control technology is not available for models scheduled to employ its 1.46L/1-V engine family.[41] VW did not raise driveability as an issue, and did not provide any information to support claims based upon this factor.[42] In addition, VW has not established any cost, driveability, or fuel economy differences between the 1.46L/1-V engine covered by this waiver request for a 7.0 gpm interim CO standard and a system it would need to enable its 1.46L/1-V engine family to meet the 3.4 gpm CO standard because VW has not supplied sufficient information indicating what modifications, if any, it might use to improve the capability of that engine family to meet the 3.4 gpm CO standard in the 1981 model year.

B. *Protection of Public Health*

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which applicants failed to establish the unavailability of effective control technology (considering costs, driveability, and fuel economy) meet any of the remaining statutory criteria in order for me to deny these applications. The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria, regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address some of the remaining criteria briefly as I have done in the eight previous waiver decisions.

Section 202(b)(5)(C) if the Act states that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver.[43]

While waiving the 1981 statutory CO standard for the engine family here arguably would not significantly affect the public health, noticeable increases in ambient CO levels could result from granting waivers industry-wide.[44] In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry consisting of engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available (presuming these families also meet the remaining statutory criteria).[45]

C. *Essential to the Public interest or to the Public Health and Welfare*

Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare.[46]

I have determined that it is not essential to the public interest to grant a waiver to the VW 1.46L/1-V engine family where the applicant has failed to establish that this engine family is incapable of meeting a 3.4 gpm CO standard or is likely to incur significant risks associated with marketing available alternative technology which is capable of meeting that standard. VW has not established that the costs (or other penalties) involved are so substantial as to present a significant risk to the waiver applicant's ability to produce and competitively market vehicles of that engine family, or vehicles generally.[47]

In this case, denial is consistent with Congress' legislative intent to apply waivers only in those instances where I have determined, among other things, that effective control technology is unavailable and the granting a waiver is essential to the public interest.[48] Congress did emphasize the granting of waiver requests to assist in deploying new technology.[49] However, as I concluded in my previous denial of VW's 1.6L carbureted engine family,[50] it is highly unlikely that absent other extenuating circumstances Congress intended the CO waiver provision to accommodate a manufacturer, like Volkswagen, which can market a model meeting the 3.4 gpm CO standard using available technology, but which wants to market the same model using alternative technology which it already has marketed for several years and which is generally less effective technology.

D. *Risks in Determining Available Technology*

In *International Harvester Co.* v. *Ruckelshaus,*[51] the United States Court of Appeals for the District of Columbia Circuit reviewed the Administrator's decision to deny manufacturers' requests for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The court stated, among other things, that the Administrator should have considered the risks associated with the possibility of erroneously granting or denying those requests. The court indicated that the Administrator should balance the economic costs (in terms of jobs and misallocated resources) possibly associated with an erroneous or only

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Footnotes continued from last page

sales of its Rabbit vehicle model using several different engine versions. VW has, therefore, been able to maintain or increase its market share in a difficult market period. For example, VW U.S. Rabbit production for 1980 is now reported to be about 24,000 units more than for the same period in 1979. (*Automotive News,* August 18, 1980, p. 55). VW has had to employ overtime shifts to keep up with production demands of the Rabbit models (Id., May 12, 1980, p. 39) while maintaining relatively lean inventory stock backlog of 21 to 39 days compared to an average figure of 72 days for all U.S. manufacturers (Id., August 18, 1980, p. 1). In addition, although VW has had some months in 1980 where sales were slightly lower than the same months in 1979, VW has achieved higher sales to date for the 1980 model year than in the same period in 1979 (Id., July 14, 1980, p. 46) and has increased it share of the U.S. market (Id., August 18, 1980, p. 55). VW's financial condition also contrasts sharply with that of other U.S. automobile manufacturers. Where the other U.S. manufacturers have suffered huge quarterly losses (*Wall Street Journal,* July 30, 1980, p. 1) within the last two quarters, VW has suffered only a slight decline in profits. (*Automotive News,* July 21, 1980, p. 29; May 12, 1980, p. 8.)

[40] June 20, 1980, Transcript, pp. 34–35.

[41] App. A, sections VI, VII and VIII.

[42] VW did state that the driveability of the 1.6L/FI version is slightly better than that of the 1.46L/1-V version, which it nevertheless termed acceptable. June 20, 1980, Transcript, p. 53.

[43] These criteria are found in section 202(b)(5)(C) of the Act. For discussion regarding these criteria in earlier waiver decisions, see 44 FR 53376, 53378 (September 13, 1979); 44 FR 69416, 69420 (December 3, 1979); 45 FR 7122, 7126 (January 31, 1980).

[44] VW argued that granting a waiver to this engine family would have an insignificant impact on air quality especially considering VW's portion of total projected U.S. sales in the 1981 model year. VW App., section 2.1. For further discussion concerning these contentions, see the first decision, 44 FR 53376, 53381, and Appendix B at 44 FR 53402–53407 (September 13, 1979).

[45] I discussed the ambient air quality effect of granting CO waivers in each Appendix B in two previous decisions, 44 FR 53376, 53402–53407 (September 13, 1979) and 44 FR 69416, 69456–69462 (December 3, 1979).

[46] Previous decisions discussed more fully the public interest and public health and welfare effects of engine families denied waivers. 44 FR 53387, 44 FR 69429 (September 13, 1979 and December 3, 1979).

[47] This point was discussed in the public interest analysis section in previous decisions regarding engine families denied waivers. 44 FR 53376, 53385 (September 13, 1979); 44 FR 69416, 69430 (December 3, 1979); 45 FR 7122 (January 31, 1980); 45 FR 7914 (March 19, 1980). Appendix A contains a closer examination of these penalties. App. A, section V–IX. See also, 44 FR 53376, 53385, 53386 (September 13, 1980). Section III (D), infra, presents a more detailed discussion of my consideration of the risks at issue.

[48] See 44 FR 53376, 53377 (September 13, 1979).

[49] 123 CONG. REC. § 13703 (August 4, 1977) (Remarks of Senator Muskie).

[50] 44 FR 53376, 53387 (September 13, 1979).

[51] 478 F.2d 615 (D.C. Cir. 1973). For further discussion of this case, see 44 FR 53376, 53388 (September 13, 1979).

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partially accurate denial versus the possible environmental benefits lost through an erroneous grant. Even though the health risks associated with erroneous grants in the proceedings at hand may not be great, the risks associated with erroneous denials (which do not involve health considerations) also are limited significantly.

The information in the record indicates that VW has not demonstrated an adequate likelihood that a waiver denial based upon my conclusions here would be erroneous or partially accurate. Even if VW's continued development work established that the 1.46L/1–V carbureted engine could not meet the 3.4 gpm CO standard, VW still has not demonstrated that the risks presented by a denial require a waiver grant. The risk VW identifies that may cause a waiver denial (which is based on a conclusion that effective control technology is available) to be only partially accurate[52] is the risk that sales of this vehicle model using the alternative 1.7L/FI engine version will not replace all of the projected sales of its 1.46L/1–V version.[53]

The information VW provided indicates that sales of the 1.7L/FI version could substitute for the great majority of the 1.46L/1–V sales otherwise projected by VW. Although VW may not replace all of the potential sales of its 1.46L/1–V engine version with sales of its 1.7L/FI version, it could also compensate part of a decline in potential sales through an increase in the sales of the diesel powered version of this model,[54] thus further limiting any potential inaccuracy of a waiver denial here.

Moreover, VW did not establish that any partial inaccuracy would result in any significant adverse consequences to VW or to the public. I have concluded that even if my denial here were partially inaccurate, it would not present any threat to VW's viability as a manufacturer.[55] VW has failed to establish that the adverse consequences resulting from realizing fewer sales than it originally planned would be so significant as to merit altering my determination here, considering costs, fuel economy and driveability.

VW did claim generally that a waiver denial could affect adversely its ability to expand in the U.S. automobile market, and thus affect its plans to build a new production plant in Sterling Heights, Michigan, which could employ about 5,000 workers.[56] However, VW gave no substantiation of how or to what extent a waiver denial would be likely to affect its decision to build that plant. Moreover, any decline in projected sales which VW experiences as a result of an inability to market its 1.46L/1–V engine family in the 1981 model year will be limited to only one engine family and for only one model year, thus limiting the potential impact.

This contrasts with the situation in the *International Harvester* suspension decision in which EPA's Administrator had to make a judgment regarding the ability of the industry as a whole to produce cars for the public generally.[57] In light of these counter-balancing considerations, and in light of Congress' expressed intent to afford a statutory waiver only in exceptional circumstances rather than on an across-the-board basis, I have concluded that it is appropriate to deny waiver applications insofar as they cover engine families for which the manufacturer has failed to establish that effective control technology, considering costs, driveability, and fuel economy, is not available.

IV. Conclusion

I have determined that VW has failed to provide information sufficient to establish that effective emissions control technology, considering costs, driveability, and fuel economy, it not available to enable the vehicle model scheduled to use its 1.46L/1–V engine family to meet the 3.4 gpm CO standard in the 1981 model year. Therefore, I must deny the waiver request for this engine family.

Dated: August 28, 1980.

Barbara Blum,
Acting Administrator.

Appendix A.—Summary of Technological Capability

Contents

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I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 gram per mile HC, 3.4 grams per mile CO, and 1.0 gram per mile NOx. Section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982.

The applicant being considered in this document is Volkswagenwerk AG, hereafter referenced as VW. This is the second time a waiver request has been considered by EPA from VW. VW is requesting a waiver of the statutory CO standard for model year 1981 vehicles using 1.46 liter engines equipped with open-loop Solex Carburetors. These engines will only be installed in Rabbit vehicles with manual transmissions [5 at 1].[1]

This appendix deals with the technological capability of VW to meet the 1981 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendices, particularly for explanation of the basic concepts of the standard Monte Carlo simulation. These appendixes are:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Techincal Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

This appendix relies on reference 12 for discussion of the Modified Monte Carlo simulation used in this appendix. As indicated in Section 202(b)(5)(C)(iii) of the Clean Air Act, the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics.

II. Summary of Technological Capability

Table II–1 summarizes the capability of the applicant manufacturer to meet the 1981 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NOx.

A guide to the summary table is as follows. The first column lists engine displacement. The "as received" column refers to the emission data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data submitted by the manufacturer.

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[52] Cf., 45 FR 53400, section III A(2) (August 11, 1980).

[53] See Transcript, June 20, 1980, p. 34.

[54] See e.g., Transcript, June 20, 1980, p. 33.

[55] Cf. my decisions regarding Chrysler and Ford, where viability of the manufacturer was a concern, and thus the scope of the potential impact on the public, in terms of lost opportunities for jobs, suppliers, etc., was much greater. 45 FR 17914 (March 19, 1980), 45 FR 53400 (August 11, 1980).

[56] VW supp. submission, pp. 3, 4. June 20, 1980 Transcript, pp. 33–35.

[57] See also discussion of the *International Harvester* case in two previous decisions. 44 FR 53376, 53387 (September 13, 1979); 44 FR 69416, 69429 and 69430 (December 3, 1979).

[1] The abbreviated notation [W at Y] means reference number W from the references section of this document at page number Y.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's established technological analysis as referred to in EPA's published CO waiver guidelines. The applicant has known for about six years what sort of data is necessary for EPA to make a determination under its established methodology whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in some cases there was a lack of useable data for vechicles using specific engines. This effectively precluded EPA from making a pass/fail determination for those vehicles through the established methodology. In these cases the vehicles using these engines are called "no data", and no pass/fail determination was made.

Table II-1.—*Applicant: Volkswagen*

Engine	Pass as received?	Pass with improvement?
1.46L-1V	No data for model year 1981. No waiver requested for model year 1982.	N/A [1]

[1] N/A means not applicable or that no hardware improvement factors were applied to these vehicles.

III. Statistical Treatment of the Data

The standard Monte Carlo methodology would have been used for the analysis of prototype durability vehicles in this appendix if acceptable data had been available. No changes have been made in the standard Monte Carlo methodology since its last use in a technical appendix. This methodology, which is the foundation for the Modified Monte Carlo methodology for certification vehicles has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 or 1982 model years. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation.

Second, all vehicles submitted for EAP staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also, the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a decision that the technology would be too costly for production vehicles.

Factors which have previously been developed, but not used in the following analysis include factors for:

- Warm up catalysts for 3W catalyst or 3W+OC systems.
- Deletion of power enrichment.
- Use of insulated or dual-walled exhaust pipes.
- Use of exhaust port liners.
- Use of throttle body fuel injection.
- Use of multiple point fuel injection.

No factors were utilized in this particular analysis of data from Volkswagen for two reasons. First, Volkswagen has not provided durability data on either certification or prototype vehicles designed for compliance with a 0.41 HC, 3.4 CO, 1.0 NO_x standard. Second, calibration efforts are in such an early stage at VW for this engine that effects of emission control systems changes cannot yet be evaluated fully.

V. Discussion VW's Technical Capability

This section will discuss all vehicles which (1) were submitted by the applicant and (2) also are acceptable for input into either the standard Monte Carlo simulation or the Modified Monte Carlo analysis for certification vehicles. Acceptable for input means that (1) the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components and (2) a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

Details of the pass/fail determinations in section II are presented here. To pass the 1981 and 1982 emission standard of 0.41 HC, 3.4 CO, 1.0 NO_x, the probabilities of passing each individual pollutant must be greater than or equal to 80% in either the standard or Modified Monte Carlo. If the probability of passing only HC, for example, is less than or equal to 79%, the vehicle is projected to fail—even if the probabilities of passing the CO and NO_x standards greatly exceed the 80% cut point. For completed 1981 model year certification vehicles, pass/fail is determined by a comparison of their calculated 4,000 mile and 50,000 mile results to the standard.

This is the second CO waiver application received from VW. In their current application VW has requested a CO waiver from 3.4 to 7.0 grams/mile for their vehicles using 1.46 liter engines with open loop, one venturi (1V) carburetors for 1981. In their previous application, they requested a waiver for vehicles using feedback carburetor-equipped 1.6 liter engines for 1981 and 1982. The previous application was denied for reasons detailed in reference 8.

VW's proposed emission control system for the 1.46 liter engine in model year 1981 includes the following components [1 at 18]:

1. Solex single venturi, open loop carburetor.
2. Pulse air injection system with two reed valves.
3. Monolithic oxidation catalyst: diameter—4.66 inches; length—6 inches; density—300 cells per square inch.
4. Ported EGR.

This emission control system is considered to be somewhat less than one of the best examples of state-of-the-art technology by the EPA technical staff. This system is less effective in controlling emissions than the closed loop systems which have been developed by other manufacturers *and by VW* for other engines. Table V-1 lists the development vehicles which were included in VW's CO waiver application. This table indicates that none of the vehicles were suitable for Monte Carlo analysis.

At the public hearing, VW stated that they had no durability data for their proposed 1981 model year configuration [1 at 86]. Additionally, VW stated that they do not have any durability data on their model year 1981 candidate catalyst [1 at 103].

The EPA technical staff can only conclude that the 1.46 liter engine is a "no data" case because of VW's apparent failure to test (or report on) even a single vehicle equipped with the proposed model year 1981 control system for a minimum of 20,000 miles. Volkswagen did not provide any durability data for either certification or prototype vehicles designed for compliance with the 3.4 CO standard. Efforts have not been adequate to evaluate fully the effects of emission control calibration changes. The most recent of Volkswagen's durability vehicles (car number 449-534) was designed and calibrated for emission

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standards of 0.41 HC, 7.0 CO, 2.0 NO_x. This was their 1980 certification durability vehicle. They also presented data on their 1979 certification vehicle which was designed and calibrated to meet standards of 1.5 HC, 15 CO, 2.0 No_x. Two development durability vehicles were tested in the 1978 calendar year [449–543, 449–544], and were probably also designed for the 1979 standards, in the opinion of the EPA technical staff.

Additionally, VW has already demonstrated the ability to certify the Rabbit model vehicle at a 3.4 CO standard. Table V–2 lists the certification test results for a model year 1980 vehicle. This vehicle was equipped with a 1.6 liter engine and fuel injection system instead of the 1.46 liter engine and an open loop carburetor.

There is some evidence that additional calibration efforts could enable VW to certify their PAIR/EGR/OC system in 1981. This is evident in the results of the VW certification fuel economy and emissions data vehicle 306–501 in the 1980 model year program. It certified at emission levels of 0.259 HC, 2.65 CO, 0.76 NO_x. This vehicle does not demonstrate compliance with the 3.4 CO standard because the CO and NO_x emissions of the corresponding 1980 model year 1.46 liter certification durability vehicle exceeded the statutory 1981 standards i.e., the 1980 durability car line crossed for CO and NO_x. The certification durability and data vehicles generally utilize nominally identical emission control components, however, differences usually exist between their calibrations. The emission levels of data vehicle 306–501 indicate that the emission control system of the 1980 model year 1.46 liter engine may have the potential of compliance with the 3.4 CO standard.

The calibration of the emission control systems is very important at the 3.4 CO level. It is recognized by the technical staff that systems more sophisticated and effective than VW's can also fail the 0.41 HC, 3.4 CO, 1.0 NO_x emission levels due to inadequate calibration development. Since the only calibration for this package which has been tested and reported by VW is apparently main jet size, other calibration efforts may need to be completed prior to evaluating VW's ability to comply with a 3.4 CO standard. Additionally, durability data must be accumulated using hardware and calibrations designed for the 1981 emission standards before a Monte Carlo analysis can be completed.

Table V-1.—*Development Vehicles in the VW Waiver Application for the 1.46-Liter Engine*

Engine displacement (liters) and VIN	Emission control system [1]	Entered in modified Monte Carlo?	If not entered in Monte Carlo—why?	Comment	Reference
1.46, 0177	EGR, OC, PAIR	No	<20,000 miles	Tested with various catalysts and main metering jets.	2 at 5.12, 5.13.
1.46, 0159	EGR, OC, PAIR	No	<20,000 miles	Tested with various catalysts and main metering jets.	2 at 5.13, 5.14
1.46, 537	EGR, OC, PAIR	No	<20,000 miles	Catalyst Comparison test vehicle.	2 at 5.15.
1.46, 512	EGR, OC, PAIR	No	<20,000 miles	Catalyst comparision test vehicle.	2 at 5.15.
1.46, 0154	EGR, OC, PAIR	No	<20,000 miles	Evap. development vehicle	2 at 5.16.
1.46, 449–544	EGR, OC, PAIR	No	Not equuipped with proposed MY 1981 catalyst	Development vehicle SLS mileage dyno.	2 at 5.11.
1.46, 449–543	EGR, OC, PAIR	No	Not equipped with proposed MY 1981 catalyst	Development vehicle SLS mileage dyno.	2 at 5.10.
1.46, 439–734	EGR, OC, PAIR	No	Not equipped with proposed My 1981 catalyst	1979 cert. durability vehicle	2 at 5.8.
1.46, 449–534	EGR, OC, PAIR	No	Not equipped with proposed MY 1981 catalyst	1980 cert. durability vehicle	2 at 5.9.

[1] EGR Means Ported Exhaust Gas Recirculation, PAIR Means Pulse Air Injection System, OC Means Oxidation Catalyst.

Table V-2.—Final Certification Results of a 1980 Model Year VW Vehicle Using a 1.6-Liter Fuel-Injected Engine

[Vehicle ID. 283; exhaust family 37C]

Miles	HC	CO	NO_x
5,189	0.31	3.0	0.48
10,079	.28	3.1	.45
15,174	.27	2.8	.64
15,193	.29	1.5	.42
19,974	.25	2.5	.53
24,926	.26	2.3	.42
29,898	.28	2.8	.47
29,918	.24	2.3	.28
34,985	.25	2.5	.26
39,927	.30	2.9	.35
45,208	.23	2.5	.28
49,809	.22	2.4	.27
4k (calc)	.30	2.65	.53
50k (calc)	.23	2.4	.26
df (calc)	.79	.92	.50
df (effective)	1.0	1.0	1.0

VI. Cost Analysis

The costing methodology used here is essentially the same as that used in previous CO waiver decisions [12], [13 at 40030], [14 at 53400], [15 at 69450], [16 at 7133], [17 at 17915]. Responses to the EPA subpoena of August 8, 1979 enabled EPA to revised cost estimates of certain emission control devices, notably monolithic three-way and oxidation catalysts. The subpoena requested prices that suppliers charge the automobile manufacturers for emission control devices or systems.

Described below are estimates of cost to the consumer for compliance with 3.4 vs 7.0 CO (due to lead time problems for certain emission control devices, separate estimates are often necessary for 1981 and 1982). The changes in cost were calculated by individual engine size. These changes are based on the differences in emission control hardware between systems targeted to meet 7.0 CO, as described by each manufacturer in their applications and systems judged capable by EPA of meeting 3.4 CO, based on the Monte Carlo analysis results or successful certification of similar vehicles.

VW 1.46 Liter Carbureted Engine

As shown in Table VI–1, EPA did not find an increase in cost for VW's 1.46 liter engine to achieve a 3.4 CO standard compared to a 7.0 CO standard in model year 1981. The cost issue does not arise for engines which are labeled "no data" or "fail" in the Monte Carlo analysis.

VW stated in their application for waiver, ". . . effective control technology is not available for the 1981 model year which would allow the carbureted 1.46 liter engine to meet a 3.4 gram/mile CO standard" [2 at 0.2]. VW contends that without a CO waiver for the 1.46 liter engine in the 1981 model year, this carbureted engine could not be available to the consumer [2 at 0.2].

Table VI-1.—*Cost of Compliance With 3.4 v. 7 CO*

Engine	EPA cost estimate	VW cost estimate
1.46 liter with open-loop carbureter	[1] $0	(2)
1.7 liter with closed-loop fuel injection	0	0

[1] No data.

[2] VW contends that effective emission control technology is not available for the 1981 model year which would allow the open-loop carbureter equipped 1.46 liter engine to complying with 3.4 CO standard [2 at 0.2]. VW did not estimate the cost differential between meeting at 3.4 vs 7.0 CO standard with this engine.

VW has closed-loop fuel injected engine which can meet the statutory CO standard [4 at 2]. This fuel injected engine is available in the same model vehicle as the 1.46 liter engine.

Additionally, VW stated that sufficient capacity of closed-loop fuel injected engines is available to meet market demand if the waiver request were denied for the 1.46 liter engine [1 at 54].

VW stated, "If the waiver is granted, VW will price the carburetor engine approximately $225 lower than the fuel injected engine. . . ." [2 at 0.3]. VW submitted the following information which relates sales sensitively to vehicle price:

(1) $50 is approxmately 1% of the base price of the VW Rabbit which is the only model which will use the 1.46 liter engine.

(2) A 1% increase in the absolute price of this vehicle will result in a sales loss of 2% to 2½% [5 at 3].

These projections imply that a $225 price increase would result in a 9% to 10¼% sales loss. VW projected a sales loss in model year 1981 of 15,000 to 18,000 gasoline-fueled Rabbits if the carbureted engine were not available [5 at 4]. This sales loss projection was based upon both the price and projected fuel economy differentials between the carbureted engine and the close-loop fuel injected engine.

The EPA technical staff does believe that the closed-loop fuel injected engine will cost more than the open-loop carbureted engine and that, in general, vehicle price will influence sales. However, the 1.46 liter engine for which a CO waiver was requested has been judged a "no data" case which precludes a pass/fail determination. Without a pass/fail determination an estimation of the cost of compliance to a 3.4 CO standard can not be made because VW has not supplied information on a 3.4 CO system versus a 7.0 CO system.

VII. Driveability

The technological feasibility of meeting the 1981–1982 emission standards is, in part, determined by the applicant's ability to maintain acceptable driveability while attaining these standards.

VW did not contend that driveability constraints were an issue in their request for CO waiver. At the public hearing Mr. Gerhard Delf of VW stated the following concerning the driveability of the carbureted 1.46 liter engine and the model year 1981 closed-loop fuel injected engine:

"In general, I have to say that with the fuel injected engine, driveability during warm-up can be controlled better than with the carbureted engine. But both engines fulfill our requirements as far as driveability is concerned. But the fuel injection does it better, warm-up driveability." [1 to 53]

The EPA technical staff concludes that VW has not shown driveability to be a crucial factor in their ability to meet a 3.4 CO standard.

VIII. Fuel Economy

VW did not address the issue of any possible fuel economy influence associated with compliance to a 3.4 CO standard versus a 7.0 CO standard or the open-loop carbureted 1.46 liter engine. VW claims the carbureted engine cannot meet a 3.4 CO standard [2 at 0.2]. VW stated at the public hearing, "* * * the only remaining possibility to offer a carburetor Rabbit for model year 1981 is to certify the Solex open-loop carburetor concept. This is only possible if a waiver is granted". [4 at 4]

The closed-loop fuel injected Rabbit can meet the 3.4 CO standard [4 at 2]. Thus, VW contends that without a waiver for the carbureted 1.46 liter engine only the closed-loop fuel injected version of the Rabbit could be certified for model year 1981. VW stated at the public hearing, "* * * between a carburetor and fuel injection, we would say the carburetor has the better fuel economy, however, assuming the same displacement and the same transmission-axle combination." [1 at 58] VW further qualified the preceding statement by stating that equal emissions were *not* assumed [1 at 58, 59].

Table VIII–1 lists the city fuel economy for both a closed-loop fuel injected 1.7 liter Rabbit which is certified at the 3.4 CO standard and an average fuel economy value from development open-loop carbureted 1.46 liter Rabbits. The carbureted development vehicles have an average fuel economy advantage of 1.4 percent compared to the fuel injected vehicle. However, the emissions of this fuel injected vehicle were markedly less than any of the development vehicle data used for the fuel economy comparison. The fuel injected vehicle was equipped with an engine of approximately 16 percent larger displacement. Using a sensitivity coefficient of Avg. $S_c = -.589$, which means percent change in fuel economy per percent change in displacement, one can estimate the fuel economy of a 1.46 liter fuel injected engine [15 at IV–9]. The city fuel economy is 8.2 percent greater than the carburetor version.

Table VIII–1.—*VW Fuel Economy Data*

Vehicle description	EPA city mpg
1981 Model Year Emission Data Vehicle No. 648–81 Rabbit 1.7 L, Fuel Injection, M–4	27.8
Estimated Fuel Economy for 1.46 L, Fuel Injected Package	30.5
1981 Model Year Development Data Rabbit 1.46 L, Carburetor, M–4	[1] 28.2

[1] Average of data items 82, 84, 90, 92, 96 and 98 in reference No. 3. These data are inclusive of all development tests submitted which utilized VW's first choice calibration (130 jet and EXP catalyst).

In conclusion, the EPA technical staff has no basis to believe that the fuel economy of the carbureted 1.46 liter engine will be adversely impacted by compliance with a 3.4 CO standard compared to a 7.0 CO standard because VW did not supply information on these systems. Furthermore, the fuel economy differential between the fuel injected Rabbit which is certified at the 3.4 CO standard and the development data for the carbureted Rabbits is slight.

IX. Lead Time Considerations

VW requested a CO waiver for the open-loop carbureted 1.46 liter engine for only the 1981 model year [2 at 1.5]. VW intends to essentially carry over the 1980 model year 1.46 liter engine and emission control system with some modifications to provide reduced CO, NOx and evaporative emissions [2 at 1.5]. The decision to offer the 1.46 liter engine in 1981 was made at some time after VW was denied a CO waiver for a 1.6 liter closed loop carbureted engine [1 at 54]. The date of the 1.6 liter engine waiver denial was September 5, 1979 [8]. Additionally, the open-loop Solex carburetor concept which the applicant engine incorporates will be replaced in model year 1982 by a closed-loop Carter carburetor [2 at 4.2, 4.3].

At the public hearing, VW summarized their leadtime situation in the following statement:

"At this point, no leadtime is available to pursue further exploration of concepts which will meet the 1981 statutory CO emission standard. In fact, design of the Solex open-loop concept is now fixed. Even though the certification process has begun, we are seriously behind schedule and will have difficulty meeting the already delayed December 1980 start of production date established to satisfy market demands." [4 at 4].

It appears from the 1.46 liter engine CO waiver application that the majority of development efforts were expended testing various combinations of main metering jets and catalysts on two otherwise production vehicles. These tests were perfomed mainly in March and April of 1980 [14 at 2 thru 5].

The proposed catalyst for model year 1981 has a larger substrate than the production model year 1980 catalyst. VW stated this larger substrate reduced the exhaust backpressure which, in turn, provided increased oxygen from the pulse air injection system [5 at 21]. The ported EGR valve which is used on the 1.46 liter engine *does not* sense backpressure [1 at 18]. Therefore, a reduction of backpressure will reduce the EGR flow rate unless the EGR valve is recalibrated.

VW stated that "* * * we did not do any changes in EGR between model year 1980 and model year 1981." [1 at

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50]. They also said "The EGR system is optimized as it presently is * * *" [1 at 50]. However, no data was presented which indicated that VW had performed any testing to verify that EGR calibrations were indeed optimized with the proposed model year 1981 calibrations.

VW has not made any efforts to optimize the spark timing calibration for model year 1981. At the public hearing, VW claimed a development lead time problem to optimize spark and EGR calibrations. VW said, "It is usually, according to our experience, about a two year development process to optimize spark and EGR for one given fuel system for a given set of standards." [1 at 93].

The EPA technical staff believes spark and EGR optimization could be accomplished in much less than two years, especially for an engine which has been in production for several years.

Another area which apparently has not received much development work is the carburetor calibration. VW did test a range of main metering jets, however, no test results were reported for other carburetor calibration parameters. Areas which could have been tested include, but are not limited to; idle system, idle-main transition system, and choke. Changes in these areas have the potential to reduce CO emissions and usually have fairly short lead time requirements.

In conclusion, the EPA technical staff agrees with VW that insufficient lead time is available for model year 1981 to develop new emission control concepts for the 1.46 liter engine. However, it appears evident that several important calibrations parameters of the proposed 1981 model year control system which have the potential to reduce CO emissions could be implemented within the present lead time constraints. Finally, without adequate data to perform a pass/fail analysis it is not possible to determine what changes, if any, would be required for the 1.46 liter engine to comply with a 3.4 CO standard.

1. *Transcripts of Proceedings, United States Environmental Protection Agency, Public Hearing on Volkswagenwerk for Waiver of the Effective Date of the 1981 Emission Standard for Carbon Monoxide,* Washingtion D.C., June 20, 1980, Neal R. Gross Court Reporters and Transcribers.

2. *Application for Waiver of the 1981 CO Emission Standard for Light Duty Vehicles,* Volkswagenwerk AG, May 1980.

3. Letter and enclosures to Mr. William Heglund (EPA) from Mr. Wolfgang Groth (VW) dated June 18, 1980.

4. Opening Statement of Mr. Karl-Heinz Neuman (VW), June 20, 1980.

5. Letter and enclosures to Mr. William Heglund (EPA) from Mr. Wolfgang Groth (VW) dated July 1, 1980.

6. Leroy H. Lindgren, *Cost Estimations for Emission Control Related Component-Systems and Cost Methodology Description* EPA Pub. #460/3-78-002, March 1978.

7. *Federal Register,* Vol. 45, No. 115, June 12, 1980.

8. *Federal Register,* Vol. 44, No. 179, September 13, 1979.

9. *Federal Register,* Vol. 44, No. 223, December 3, 1979.

10. *Federal Register,* Vol. 45, No. 22, January 31, 1980.

11. *Federal Register,* Vol. 45, No. 55, March 19, 1980.

12. *Federal Register,* Vol. 45, No. 107, June 2, 1980.

13. Letter to Mr. Joseph Whitehead (EPA) from Mr. Donald Colliver (Carter-Weber, Inc.), dated July 23, 1980.

14. Letter and enclosures to Mr. William Heglund (EPA) from Mr. Wolfgang Groth (VW) dated July 16, 1980.

15. *Passenger Car Fuel Economy: EPA and Road, A Report To The Congress,* U.S. Environmental Protection Agency, January 1980 Draft.

[FR Doc. 80-27431 Filed 9-8-80; 8:45 am]

BILLING CODE 6560-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Privacy Act of 1974; Systems of Records; Annual Publication

The Privacy Act of 1974, 5 U.S.C. 552a(e)(4) requires that each Agency publish in the **Federal Register** at least annually a notice of the existing Systems of Records it maintains.

The Export-Import Bank of the United States last published the full text of its Systems of Records at 42 FR, pages 48077-48093, September 22, 1977.

The full text of the Export-Import Bank Systems of Records also appears in the Privacy Act Issuance, 1978, Compilation, Volume IV, pages 6886 and 1979 Compilation Volume IV, pages 2650-2665. These volumes may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The following changes have been made to those Systems of Records:

The wording Civil Service Commission wherever it appears has been changed to read "OPM".

The wording "Privacy Access Request" wherever it appears has been changed to read "Privacy Act Request."

EIB-1 retention and disposal has been changed to read "if applicant selected for position, file maintained in OFP".

EIB-7 the word "grievance" has been deleted and "discrimination complaint" has been added wherever it appears.

EIB-12 retention has been changed to read "previous calendar year" and "present calendar year."

EIB-13 categories of individuals covered by the system has been changed to read "Eximbank past and present employees required to travel overseas in an official capacity who request an Official Passport."

EIB-21 is deleted in its entirety.

EIB-22 categories of individuals covered by the system has been changed to read "All current GS Eximbank employees who are not in the top step of their grade". Safeguard has been changed to read "locked cabinet and in a building that has a GSA contractor guard".

EIB-23 system location secondary various divisions or offices within the Bank has been deleted and "Payroll Office" has been added. Retrievability has been changed to "chronologically."

EIB-24 retention and disposal has been changed to read "while employed at Eximbank."

EIB-25 System Manager has been changed to "Vice President—Administration, EDP Center."

EIB-26 categories of individuals covered by the system has been changed to read "Eximbank employees, applicants and consultants". Retention and disposal has been changed to read "Investigative files destroyed:

1. If applicant declines employment;
2. Upon employee's departure; or
3. Upon consultant's completion of service."

EIB-29 system manager has been changed to read "Vice President—Administration, EDP Center."

EIB-31 retention and disposal should be changed to read "2 years from date of receipt." System manager has been changed to read "Office of Personnel."

EIB-39 categories of individuals covered by the system has been changed to read "Eximbank employees past and present who travel on official business and go to countries that require a visa to be applied to their Official Passport." Storage has been changed to read "file folder" and retention and disposal should read "previous calendar year and present calendar year."

EIB-40 storage has been changed to read "active in Kardex; inactive in boxes."

EIB-42 storage has been changed to read "bookbinders."

EIB-45 is deleted in its entirety.

Adrian B. Wainwright,
Vice President—Administration.
September 2, 1980.

EIB—1

SYSTEM NAME:

EIB Applicant File, SF-171's and resumes.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Primary: 811 Vermont Avenue, N.W., Washington, D.C. 20571.

Secondary: Various offices and divisions within the Eximbank.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have sent in their resumes and forms requesting employment with the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel qualification statement and employment history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For use whenever a vacancy becomes available and one is qualifed for said position. By officials and employees of the Eximbank in the performance of their official duties. By representatives of the OPM and by officials and employees of other components of Federal government and departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

Alphabetically.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

If applicant selected for position, file maintained in OPF.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031,Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—2

SYSTEM NAME:

EIB biographical sketches on Eximbank employees.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and professionals of the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, place of birth, educational and work experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank personnel management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and personnel of the Eximbank for public appearance. By news media in connection with speeches, public appearance, newspapers, etc. By departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in binder books and file folders.

RETRIEVABILITY:

Alphabetically.

SAFEGUARDS:

Bookcases and desks and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained while employed by the Eximbank or until appointment expires.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Office, 811 Vermont Avenue, N.W., Washington;, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should by able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information matintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual and miscellaneous personnel forms.

EIB—3

SYSTEM NAME:

EIB Confidential Statement of Employment and Financial Interest.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Eximbank past and present employees above a certain grade level unless exempted by the Ethics Committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title of position, date of appointment in present position, office or division, employment and financial interest, creditors, interests in real property and information requested of other persons, signature and date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Required by Section 402 of Executive Order 11222 dated May 8, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reviewed by members of the Ethics Committee regarding conflicts of interest. By officials and employees of the Eximbank in the performance of their official duties and by other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contain a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—4

SYSTEM NAME:

EIB Driver's License file.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SF-46, U.S. Government Motor Vehicle Operator's Identification Card for issuance to those present and past employees authorized to drive an official Government car in the performance of their assigned duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, card number, date issued, expiration date, signature of operator, sex, date of birth, color of hair, color of eyes, height, weight, birthplace, social security number, signature of issuing official, title, name and location of issuing unit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In accordance with FPM 930.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By the Department of Motor Vehicles, D.C. Police Department, Justice Department and insurance companies in the performance of their official duties. By other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Numerically.

SAFEGUARDS:

Locked desk drawer and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contain a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual and the completion of EIB Form 74-2 and SF-47.

EIB—5

SYSTEM NAME:

EIB Earnings and Tax Statement.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank past and present employees yearly earnings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, home address, gross earnings for the year, federal and state tax deductions for the year and marital status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used at the end of the calendar year by the Payroll Unit. By officials and employees of the Eximbank in the performance of their official duties. By representatives of the OPM, Comptroller General, Attorney General, Treasury and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File cabinet.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual and payroll records.

EIB—6

SYSTEM NAME:

EIB Employee Records (relocation site).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Eximbank employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Service records cards, retirement deductions, bond balances, annual and sick leave balances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Vital Records Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records maintained for reference and backup for main records. By officials and employees of the Eximbank in the performance of their official duties. By employees and officials of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Expandable envelope.

RETRIEVABILITY:

Alphabetically within the envelope.

SAFEGUARDS:

Locked safe file at relocations site.

RETENTION AND DISPOSAL:

Records are updated quarterly, and out-of-date records destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Office of Personnel and Payroll Unit.

EIB—7

SYSTEM NAME:

EIB Equal Employment Opportunity, discrimination complaint.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank employee filing a discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and type of complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10590, Government Employment Policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By persons of the Eximbank in the performance of their official duties. By Justice, OPM, duly authorized representatives of the complainant in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

Alaphabetical.

SAFEGUARDS:

Locked file cabinet and a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

2 years after the case has been resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc.

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Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Investigator, individual and employees of the division of office where the complainant was/is employed.

EIB—8

SYSTEM NAME:

EIB Financial Assistance Request for (under Federal Employee Training Act).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EIB employees requesting financial assistance for training and text books.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees Training Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as official authorization to justify payment for training expenses. By officials and employees of the Eximbank in the performance of their official duties and by GAO and other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Folders.

RETRIEVABILITY:

Alphabetical by period.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller and Office Services, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 822 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request"—and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—9

SYSTEM NAME:

EIB Financial Organization, Credit to Account (Checking).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EIB employees complete when they want their salary check to be sent directly to a financial organization of their choice.

CATEGORIES OR RECORDS IN THE SYSTEM:

Employees application for deposit of salary check to the financial organization (checking) of their choice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department Fiscal Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Treasurer Controller and his staff and officials and employees of the Eximbank in the performance of the official duties. By representatives of the OPM, Controller General, Treasury, financial institutions and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Filed in folders.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Until employee cancels.

SYSTEM MANAGERS(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—10

SYSTEM NAME:

EIB Financial Organization, Credit to Account (Savings).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EIB employees complete when they want their salary check or a portion to be sent to a savings financial organization of their choice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employees application for the deposit of salary check or a portion to be sent to a savings financial organization of their choice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Department of the Treasury, Bureau of Accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Treasurer Controller and his staff and officials and employees of the Eximbank in the performance of their official duties. By representatives of the OPM, Comptroller General, Treasury, financial institutions and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked combination safe and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Until employee cancels.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—11

SYSTEM NAME:

EIB Garage Space Application.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EIB employees and other employees in federal agencies within the area holding parking spaces in the building.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, license number, telephone number, make and license tag number of car, building location and room number and signature and date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintained as the current list of current and potential garage space holders and alternaes. By officials and employees of the Eximbank in the performance of their official duties. By representatives of the GSA and insurance companies in the performance of their official duties and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

File cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Yearly update.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable indentification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual

EIB—12

SYSTEM NAME:

EIB immunization request.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank past and present employees who travel abroad on official business requiring immunization for such travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and countries to be visited.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By State Department, Health, Education and Welfare, and private physicians in the performance of their official official duties, and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE

File folder.

RETRIEVABILITY:

Chronologically.

SAFEGUARDS:

2 drawer unlocked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Previous calendar year and present calendar year.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President–Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—13

SYSTEM NAME:

EIB Passport request file.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank past and present employees required to travel overseas in an official capacity who request an Official Passport.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, approximate dates of travel, destination, purpose of travel and date of security clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By State Department and embassies in the performance of their official duties and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Chronologically.

SAFEGUARDS:

2 drawer unlocked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—14

SYSTEM NAME:

EIB Payroll Certification.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present Eximbank employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll summary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department, Bureau of Accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Treasurer Controller and his staff and officials and employees of the Eximbank in the performance of their official duties. By representatives of the OPM, GAO, Justice in the performance of their official duties and by other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder

RETRIEVABILITY:

Numerical.

SAFEGUARDS:

Combination safe and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Time and attendance cards and personnel notification.

EIB—15

SYSTEM NAME:

EIB Payroll Change Slip, SF–1126.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank present and past personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee payroll summary showing notification of basic pay change, data on unpaid absence, payroll change data and remarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

U.S. Civil Service Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Treasurer Controller and his staff and officials and employees of the Eximbank in the performance of their official duties. By representatives of the OPM, GAO, Comptroller General, Attorney General, Treasury and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

By date of changes.

SAFEGUARDS:

Combination safe and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Maintained 2 years and then destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Office of Personnel and payroll records.

EIB—16

SYSTEM NAME:

EIB Payroll Coding Sheet, magnetic tape.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Eximbank past and present employees, except day laborers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Master payroll employee record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By GSA, Justice, Treasury, GAO, Comptroller General and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Pay period.

SAFEGUARDS:

Locked fire-proof safe and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

15 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Payroll Unit and related personnel files.

EIB—17

SYSTEM NAME:

EIB Payroll Information Employee.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present and past Eximbank employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee payroll summary, i.e., name, social security number, marital status,

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grade and step, annual hourly and overtime rate, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies for controls over automated payroll system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By OPM, GAO, IRS, HUD, Department of Labor and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Filed in binders.

RETRIEVABILITY:

Numerically.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Office of Personnel and individual.

EIB—18

SYSTEM NAME:

EIB Payroll Listing.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank past and present employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, net pay and check.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as a check list to distribute pay check to employees. By officials and employees of the Eximbank in the performance of their official duties. By Treasury, GAO, Comptroller General, OPM and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

By pay period.

SAFEGUARDS:

File cabinet in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained 2 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Time and attendance cards and related personnel forms.

EIB—19

SYSTEM NAME:

EIB Payroll Master Record.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All new Eximbank employees and changes to old employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee payroll summary, i.e., name, social security number, hourly rate, overtime rate, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies Title 6 for controls over automated payroll system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to enter new employees and making any changes effecting old employees. By officials and employees of the Eximbank in the performance of their offical duties. By Social Security, GAO, Comptroller General, IRS and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Binders.

RETRIEVABILITY:

Office or division.

SAFEGUARDS:

Locked cabinets in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration 811 Vermont Avenue, N.W., Room 1031 Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly market "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Office of Personnel and individual.

EIB—20

SYSTEM NAME:

EIB Payroll Control Manual.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All new employees and present and past employees making deductions and pay changes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Control covering the biweekly payroll including such information as name, base pay and any deductions such as FICA, retirement, bond, insurance, health, charity, optional insurance and savings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies for controls over automated payroll system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By OPM, Justice, IRS, Comptroller General and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

According to pay period.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Office of Personnel and individual.

EIB—22

SYSTEM NAME:

EIB Periodic Step Increase File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current GS Eximbank employees who are not in the top step of their grade.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, current GS grade, current step of grade and date of next equivalent increase.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PRUPOSES OF SUCH USES:

Used by Office of Personnel to insure all step increases are given at the correct time. By officials and employees of the Eximbank in the performance of their official duties. By OPM and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Cabinet.

RETRIEVABILITY:

Alphabetical by due dates.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

As long as employee is employed by the Eximbank.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE;

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope

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clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Based on information contained in the official personnel file of each Eximbank employee.

EIB—23

SYSTEM NAME:

EIB Personnel Action, Notification SF-50.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Primary: 811 Vermont Avenue, N.W., Washington, D.C. 20571.

Secondary: Payroll office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel of the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, date of birth, grade, step, salary, location of job, FICA or retirement deductions, health and life insurance eligibility and effective date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Chronologically.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Until employee is terminated or transfers.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration. Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

From personnel records.

EIB—24

SYSTEM NAME:

EIB Personnel Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Primary: 811 Vermont Avenue, N.W., Washington, D.C. 20571.

Secondary: Various divisions and offices within the Bank.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees of the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, forms and anything that pertains to an individual assigned to an an office or division.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the supervisor of the offices or divisions for quick reference for the reassignment or promotion of their employees. By officials and employees of the Eximbank in the performance of their duties and by other agencies and departments in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Binders.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked filing cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

While employed at Eximbank.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Related personnel forms and from the individual.

EIB—25

SYSTEM NAME:

EIB Personnel Listing.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Eximbank employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade, title, salary and next salary change.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used for staffing requirements, promotions and by officials and employees in the performance of their official duties. By other agencies and departments in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Loose leaf binders or file folders.

RETRIEVABILITY:

Alphabetically by office.

SAFEGUARDS:

Locked cabinet or desk drawer in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Each time a new listing comes out the previous one is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration EDP Center, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Eximbank Data Processing Center and payroll records.

EIB—26

SYSTEM NAME:

EIB Personnel Security Records.

SECURITY CLASSIFICATION:

Confidential.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank employees, applicants, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel investigations of current and former employees including actual investigations, summary investigations from other Federal agencies, security forms and correspondence relating to security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel security records are maintained in order to determine the level of clearance Eximbank employees permitted regarding access to classified materials and meetings in accordance with Executive Order 10450. By officials and employees of the Eximbank in the performance of their official duties. By OPM, FBI and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Combination security locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Investigative files destroyed:

1. If applicant declines employment; 2. upon employee's departure; 3. upon consultant's completion of services.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administation, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Investigations received from Federal investigative agencies and correspondence generated by other departments and agencies containing information from employers, references, schools, neighbors, police, credit agencies and other Federal investigative agencies.

EIB—27

SYSTEM NAME:

EIB Personnel Roster.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present and past Eximbank employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical listing of employees by name, home address and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by officials and employees of the Eximbank in the performance of their official duties. By officials and employees of other departments and

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agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Each calendar year.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Employee official personnel file and individual.

EIB-28

SYSTEM NAME:

EIB Personnel Security Correspondence.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present Eximbank employees, applicants and terminated or transferred employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters of transmittal to OPM requesting an NAC or full field and memorandum to office and/or division heads regarding clearance. Letters of tansmittal returning file to OPM or other investigative agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Chronologically.

SAFEGUARDS:

Combination locked security cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

2 years, destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual and various personnel forms.

EIB—29

SYSTEM NAME:

EIB Personnel Summary.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Eximbank at the time period the record covers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade and division of all employees at the time period the records were kept.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Periodic requests from OMB, Congress, GAO, etc., for justifying additional personnel needs and productivity studies of the Bank.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of the Eximbank in the performance of their official duties. By OMB, GAO, and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

By fiscal year, by office.

SAFEGUARDS:

The cabinets in area accessed to authorized personnel and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Maintained for historical data.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration EPD Center, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Various payroll records.

EIB-30

SYSTEM NAME:

EIB Position Description File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Primary:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

Secondary:

Various divisions within the Eximbank.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are assigned to the different offices and divisions of the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade, title, location, series and description of duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the officials and employees of the Eximbank in the performance of their official duties and other department and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Binder books.

RETRIEVABILITY:

By division or office.

SAFEGUARDS:

Locked file cabinet and in a building, that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Office of Personnel.

EIB-31

SYSTEM NAME:

EIB Referrals for Non-Career Assignments.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applications, personal resumes and personnel memoranda on individuals requesting non-career assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal resumes, personnel memoranda and applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For use whenever a vacancy becomes available to be filled by a non-career assignment. By officials and employees of the Eximbank in the performance of their official duties. By representatives of the Civil Service Commission, White House, Congress of the United States and by officials and employees of other components of the Federal government and departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

2 years from date of receipt.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Personnel, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

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RECORD SOURCE CATEGORIES:

Individuals.

EIB—32

SYSTEM NAME:

EIB Retirement Record Cards.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Record maintained on every Eximbank employee paid by the computer system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number and pay rates during employment by the Eximbank. Primary record is cumulative retirement deductions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM requirement of all Federal agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Updated for each salary change and yearly total of retirement deductions: Original sent to OPM when employees leave Eximbank. By officials and employees of the Eximbank in the performance of their official duties and by OPM and other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Steel file cabinet.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

Steel file cabinet with combination lock and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained until the employee leaves the Eximbank either by transfer to another agency, retirement or resignation.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Payroll Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

SF–50 and payroll computer printout.

EIB—33

SYSTEM NAME:

EIB Savings Bond Authorization.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Eximbank who have signed up to purchase bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for the purchase of savings bonds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Dept., Bureau of Accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For ordering bonds, changing inscription, allotment and beneficiary. Used by officials and employees of the Eximbank in the performance of their official duties. By Treasury, IRS, OPM, GAO, Controller General and other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File cabinet.

RETRIEVABILITY:

According to bond subscriber number.

SAFEGUARDS:

2 drawer horizontal file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Maintained 1 year after termination.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Payroll Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Employee complete SF–1192.

EIB—34

SYSTEM NAME:

EIB Savings Bond File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank present and past employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, amount of bond and bond serial number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as a check list to distribute bonds to employees. By officials and employees of the Eximbank in the performance of their official duties. By IRS, Treasury, GAO, Comptroller General and other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

By pay period.

SAFEGUARDS:

File cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

3 years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Cash Control Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Payroll Unit.

EIB—35

SYSTEM NAME:

EIB Tax Exemption Certificate.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Maintained on each present and past employee of the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number and the number of withholding exemptions an employee claims on his/her taxes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IRS regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used when a new employee enters employment or when a present employee wishes to make a change. By officials and employees of the Eximbank in the performance of their official duties. By OPM, Treasury, IRS, GAO, state governments and by other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File cabinet.

RETRIEVABILITY:

Alphabetically.

SAFEGUARDS:

Single drawer file and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

1 year after employee transfers, retires or resigns.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Payroll Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—36

SYSTEM NAME:

EIB Time and Attendance Card.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Eximbank present and past employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Number of hours worked, i.e., regular, overtime, compensatory time, holiday, night differential, leave taken, annual, sick, compensatory time, LWOP and other.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine payment to all Eximbank employees on duty. By officials and employees of the Eximbank in the performance of their official duties. By OPM, GAO, Treasury, Justice, agent of an employee in connection with a grievance and by other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetical by division.

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SAFEGUARDS:

Steel file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Payroll Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Time and attendance files.

EIB—37

SYSTEM NAME:

EIB Travel Advance Application.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank employee travelling on official business requesting travel advance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, agency, bureau/division, office, authorization number, date, address to where check should be mailed, signature of applicant, amount applied for, balance due on previous advance, signature of approving officer and date, appropriation number and any remarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

General Accounting Office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Travelers making a request for an advance. By officials and employees of the Eximbank in the performance of their official duties. By GAO, Comptroller General, Attorney General, Treasury and by officials and employees of other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congessional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Cards.

RETRIEVABILITY:

Alphabetical.

SAFEGUARDS:

File box and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

4 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Travel and Administrative Expense Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administation, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Private Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—38

SYSTEM NAME:

EIB Travel Ledger.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons travelling on official business for the Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travelers name, travel order number, place travelling to, voucher number, accurals of expenses, payments broken into 2 parts (P.D. and carrier), and the balance of accurals for particular trip.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To control accounting of travel expenses. By officials and employees of the Eximbank in the performance of their official duties and by GAO, and other departments and agencies in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES, AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Ledger.

RETRIEVABILITY:

Period basis.

SAFEGUARDS:

Cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Unit audited.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer Controller, Travel and Administative Expense Unit, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and evelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information mantained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Disbursement vouchers and related travel forms.

EIB—39

SYSTEM NAME:

EIB Visa Request File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W.,
Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eximbank employees, past and present, who travel on official business and to to countries that require a visa to be applied to their Official Passport.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, passport number and approximate dates of travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

State Department and regulations of foreign countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by officials and employees of the Eximbank in the performance of their official duties and by State Department, embassies and by other departments and agencies in the performance of their official duties.

Disclosure may be to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

Chronological.

SAFEGUARDS:

2 drawer unlocked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Previous calendar year and present calendar year.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and evelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information mantained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Individual.

EIB—40

SYSTEM NAME:

EIB Service Cards (SF–7).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W.,
Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees of Eximbank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number, date of appointment or transfer, organization to which assigned, position title, position number, grade/step/salary, and date of separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by personnel clerical employees in the processing of official personnel actions.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active in Kardex; inactive in boxes.

RETRIEVABILITY:

By organization for current employees, alphabetically for former employees.

SAFEGUARDS:

Locked cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Personnel Office, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individuals should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Offical Personnel Folder.

EIB—41

SYSTEM NAME:

EIB Training Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W.,
Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees who request training.

CATEGORIES OF RECORDS IN THE SYSTEM:

All information called for on Optional Form 170, including but not limited to, name, amount of current continuous

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service, name of course, where taken, and the cost.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Is used by the employee to request training, by various levels of supervisors for recommendation, by the Office of Administration for approval, and by other officials and employees of Eximbank in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Bookbinder.

RETRIEVABILITY:

Alphabetically and by date.

SAFEGUARDS:

Unlocked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Personnel Office, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification. i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the sytem should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Employee.

EIB—42

SYSTEM NAME:

EIB Awards.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have been nominated for any kind of award or who have submitted a suggestion under the Awards Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of the proposed awardee and all supporting information required to pass judgment on and to implement the award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by supervisors and others for appropriate review, by the Personnel Committee for approval, and by the Office of Administration for implementation.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Bookbinders.

RETRIEVABILITY:

Alphabetically and by date.

SAFEGUARDS:

Locked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Personnel Office, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification. i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Recommendations made by supervisors, suggestions submitted by employees, and minutes of actions by the Personnel Committee.

EIB–43

SYSTEM NAME:

EIB Positions and Incumbents, except attorneys, in Schedules A, B, and C positions.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present incumbents of positions in Schedules A, B, and C (other than attorneys).

CATEGORIES OF RECORDS IN THE SYSTEM:

Position description (including Optional Form 8), legal authorization for establishment of position, and the name of the incumbent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Personnel Office in maintaining record control over the filing of the cited positions. By officials and employees of Eximbank in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Bookbinder.

RETRIEVABILITY:

Numerically and alphabetically.

SAFEGUARDS:

Unlocked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Personnel Office, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Employee, OPM authorizations, and Official Personnel Folder.

EIB-44

SYSTEM NAME:

EIB Positions and Incumbents in GS-16, 17, and 18.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

811 Vermont Avenue, N.W., Washington, D.C. 20571.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present individuals of the Eximbank assigned to positions at the GS-16, 17, and 18 level.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position descriptions (including Optional Form 8), legal authority for the establishment of the position, and the name of the individual encumbering the position.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Eximbank management practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Personnel Office in maintaining record control over the filing of the cited positions and by officials and employees of Eximbank in the performance of their official duties.

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Bookbinder.

RETRIEVABILITY:

Alphabetically.

SAFEGUARDS:

Unlocked file cabinet and in a building that has a GSA contractor guard.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President—Administration, Personnel Office, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

NOTIFICATION PROCEDURE:

Vice President—Administration, 811 Vermont Avenue, N.W., Room 1031, Washington, D.C. 20571.

RECORD ACCESS PROCEDURES:

Same as Notification. A request for information as to whether a Systems of Record contains a record pertaining to an individual and all requests for access to a record from the system shall be in writing with the letter and envelope clearly marked "Privacy Act Request" and stating full name and address of individual. For personal visits the individual should be able to provide some acceptable identification, i.e., driver's license, identification card, etc. Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above.

RECORD SOURCE CATEGORIES:

Employee, OPM authorizations, and Official Personnel Folder.

[FR Doc. 80-27599 Filed 9-8-80; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Interagency Policy Regarding the Assessment of Civil Money Penalties by the Federal Financial Institutions Regulatory Agencies

AGENCIES: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration, and the Office of the Comptroller of the Currency

ACTION: Intergency supervisory policy regarding the assessment of civil money penalties.

SUMMARY: The Financial Institution Regulatory and Interest Rate Control Act of 1978 provides that the Federal financial institutions regulatory agencies may assess money penalties for the violation of a final cease and desist order or violations of the provisions of certain other statures. As a means of promoting consistency in the application of this authority, the five agencies represented on the Examination Council have adopted a supervisory policy (1) establishing procedures for exchanging information on assessment actions taken and (2) specifying the factors that should be taken into consideration in deciding whether, and in what amount, civil money penalties should be imposed. The policy does not attempt to establish an inflexible schedule of "Standard penalties," however.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Virgil Mattingly, Legal Division, Board of Governors of the Federal Reserve Systems, 20th and Constitution Avenue, NW., Room B-1000-E, Washington, DC 20219, (202) 452-3430.

Interagency Policy Regarding the Assessment of Civil Money Penalties by the Federal Financial Institutions Regulatory Agencies

Under provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRA"), 92 Stat. 3641, the Federal financial institutions regulatory agencies [1] are authorized to

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[1] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and Office of the Comptroller of the Currency.

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assess civil money penalties for violations of various Federal statutes and regulations promulgated thereunder. The agencies are each authorized to assess a civil money penalty for a violation of the terms of a final cease and desist order. The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are each authorized to assess civil money penalties for violations of:

(1) sections 22(h) and 23A of the Federal Reserve Act (respectively, limitations on loans by insured banks to their executive officers, directors and principal shareholder and limitation on loans by insured bank to their affilates);

(2) the prohibitions of Title VIII of FIRA (12 U.S.C.§ 1972(2)) against preferential lending to bank executive officers, directors, and principal shareholders based upon a correspondent account relationship; and

(3) a willful violation of the Change in Bank Control Act of 1978 (12 U.S.C. § 1817.(j)).

In addition, the Board is authorized to assess civil money penalties for violations of sections 19 and 22 of the Federal Reserve Act (reserve requirements, interest rate limitations and limitations on loans to executive officers of member banks) and for violations of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841–1849). The Comptroller may assess penalties for violations of section 22 of the Federal Reserve Act and any provision of the National Banking Act. The Federal Savings and Loan Insurance Corporation is authorized to assess a civil money penalty for a violation of the Savings and Loan Holding Company Act (12 U.S.C. 1730a) and the Change in Savings and Loan Control Act of 1978 (12 U.S.C. 1730(q)).

The maximum civil penalty that may be assessed is generally $1,000 per day for each day the violation continues. The maximum civil penalties are $100 per day for a violation of section 19 of the Federal Reserve Act and $10,000 per day for a violation of the Change in Bank Control Act and the Change in Savings and Loan Control Act. In determining the amount of the penalty, the FIRA provisions require the appropriate agency to consider the financial resources and good faith of the company or person charged, the gravity of the violation, any history of previous violations, and such other matters as justice may require.

The agencies have adopted amendments to their Rules of Practice and Procedure to implement their civil money penalty authority.[2] The procedures are essentially uniform among the agencies. The agency procedures provide for the commencement of civil money penalty proceedings with the issuance of a notice of assessment. The notice generally contains:

(1) a statement of the legal authority for the assessment;

(2) the amount of the proposed penalty;

(3) the factual or legal grounds for the assessment;

(4) advice to the person being assessed of a right to a formal administrative hearing on the assessment; and

(5) advice regarding the 10 day time limit to request such a hearing.

Under the FIRA civil penalty provisions, the person against whom a penalty is assessed has the opportunity to challenge the assessment in a formal administrative hearing[3] and, following the hearing, to obtain judicial review of any assessment in an appropriate United States court of appeals. Under the Change in Bank Control Act and the Change in Savings and Loan Control Act, the person is entitled to a trial on the assessment in an appropriate United States district court.

To provide guidance in the procedures and criteria used by the agencies in the assesment of civil money penalties under the FIRA provisions and to promote coordination among the agencies in the assessment of penalties, the agencies have adopted this supervisory policy.

1. *Interagency Notification of Civil Money Penalty Assessments.*

Any Federal bank regulatory agency that initiates a civil money penalty assessment will notify the other two Federal bank regulatory agencies. The other Federal bank regulatory agencies shall also be furnished copies or summaries of any notices of assessment and final assessment orders.

Any Federal financial institutions regulatory agency that assesses a civil money penalty for a violation of the terms of a final cease and desist order or for a violation of the Change in Bank Control Act or the Change in Savings and Loan Control Act will provide the other agencies that have assessment authority for violations of similar statutes with summaries of the assessment action without identifying details or other confidential information. The Federal bank regulatory agencies will exchange detailed and complete information among themselves regarding all assessment actions.

The agencies believe that this policy of interagency notification of civil money penalty actions will promote consistency among the agencies in assessment situations, particularly in the case of statutes where the agencies have similar assessment authority. The agencies also believe that interagency notification is desirable in view of the size of the penalties that may be assessed and the possibility of impact on affiliated institutions. The procedure is not intended to preclude or delay any agency from initiating a civil penalty action.

2. *Considerations in the Assessment of Civil Money Penalties.*

In assessing a civil money penalty under the various FIRA provisions, the agencies are required to consider the size of the financial resources and good faith of the respondent, the gravity of the violation, the history of previous violations, and such other matters as justice may require. In determining the amount of a civil money penalty, the agencies believe that a significant consideration should be the financial or economic benefit the respondent obtained from the violation. Accordingly, the agencies will consider, in addition to the other factors specified in the statute, the financial or economic benefit the respondent derived from the illegal activity. The removal of economic benefit will, however, usually be insufficient by itself to promote compliance with the statutory provisions. The penalty may, therefore, in approproiate circumstances reflect some additional amount beyond the economic benefit derived to provide a deterrent to future conduct.

In determining whether the violation is of sufficient gravity (i.e., the importance, significance, and seriousness of the situation) to warrant initiating a civil money penalty assessment proceeding, the agencies have identified the following factors as relevant:

(1) Evidence that the violation or pattern of violations was intentional or committed with a disregard of the law or the consequences to the institution;

(2) The frequency or recurrence of violations and the length of time the violation has been outstanding;

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[2] These rules are codified at 12 CFR Parts 19, 263, 308, and 747 (1980).

[3] The Federal Reserve Board's Rules of Practice provide a person against whom a penalty is being considered with an opportunity, prior to the formal issuance of a notice of assessment, to submit written comments and for an informal conference with the Board's staff to show that a proposed penalty is inappropriate or should be reduced in amount. The other agencies have adopted a similar informal procedure as a matter of internal agency policy.

(3) Continuation of violation after the respondent becomes aware of it, or its immediate cessation and correction;

(4) Failure to cooperate with the agency in effecting early resolution of the problem;

(5) Evidence of concealment of the violation, or its voluntary disclosure;

(6) Any threat of or actual loss or other harm to the institution, including harm to public confidence in the institution, and the degree of any such harm;

(7) Evidence that participants or their associates received financial or other gain or benefit or preferential treatment as a result of or from the violation;

(8) Evidence of any restitution by the participants in the violation;

(9) History of prior violations, particularly where similarities exist between those and the violation under consideration;

(10) Previous criticism of the institution for similar violations;

(11) Presence or absence of a compliance program and its effectiveness;

(12) Tendency to create unsafe or unsound banking practices or breach of fiduciary duty; and

(13) The existence of agreements, commitments or orders intended to prevent the subject violation.

The delineation of these factors is intended to provide guidance regarding the circumstances under which the agencies may initiate a civil money penalty action and is not intended to preclude any Federal financial institutions regulatory agency from considering any other matters relevant to the appropriateness of a civil money penalty assessment.

Dated: September 3, 1980.

Theodore E. Allison,

Secretary, Board of Governors of the Federal Reserve System.

Dated: September 3, 1980.

Rosemary Brady,

Secretary of the Board, National Credit Union Administration.

Dated: September 3, 1980.

Robert D. Linder,

Acting Secretary, Federal Home Loan Bank Board.

Dated: September 3, 1980.

Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Office of the Comptroller of the Currency.

Dated: September 3, 1980.

Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 80-27522 Filed 9-8-80; 8:45 am]

BILLING CODE 6722-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-630-DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA-630-DR), dated August 23, 1980, and related determinations.

DATED: August 23, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 23, 1980, the President declared a major disaster as follows:

> I have determined that the damage in certain ares of the State of Ohio resulting from severe storms and flooding beginning on or about August 11, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Ohio.
>
> In order to provide Federal Assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirements that Federal assistance be supplemental, the Federal Government will provide 75 percent of all eligible public assistance under Pub. L. 93-288 in designated areas.

The time period prescribed for the implementation of Section 3 13(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Ronald Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance and Public Assistance:

Belmont
Columbiana
Guernsey
Jefferson
Muskingum

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-27621 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-627-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-627-DR), dated August 11, 1980, and related determinations.

DATED: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The notice of a major disaster for the State of Texas, dated August 11, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 11, 1980.

The following counties for public assistance in addition to individual assistance.

Aransas
Brooks
Cameron
Hidalgo
Jim Wells
Kleberg
Nueces
San Patricio
Willacy

(Catalog of Federal Domestic Assistance No. 83.310, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc 80-27619 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

V45/176 SE9 80 UMI

[FEMA-627-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FEMA-627-DR), dated August 11, 1980 and related determinations.

DATE: August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of Texas dated August 11, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 11, 1980.

The following counties for Individual Assistance only:

Duval
Jim Hogg
Kenedy

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-27670 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

West Virginia; Amendment to Notice of Major Disaster Declaration

[FEMA-628-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of West Virginia (FEMA-628-DR), dated August 15, 1980, and related determinations.

DATED: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of West Virginia dated August 15, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 1980.

Fayette County for Individual Assistance only.

The following Counties for Individual and Public Assistance:

Hancock
Jackson
Kanawha
Marion
Marshall
Monongalia
Preston
Ohio
Putnam
Taylor
Webster

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-27622 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-628-DR]

West Virginia; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of West Virginia (FEMA-628-DR), dated August 15, 1980, and related determinations.

DATED: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of West Virginia dated August 15, 1980, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 1980.

Nicholas County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance.

Thomas R. Casey,

Acting Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-27623 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Filing Requirements Applicable to "Per-Container" Rates; Filing of Petition for Rulemaking

Notice is given that a petition has been filed by Sea-Land Service, Inc., for institution by the Commission of a rulemaking proceeding to provide for the filing of "per-container" rates in foreign commerce trades. Specifically, Sea-Land asserts that there are no rules currently extant which govern the filing of such rates and that confusion and ambiguities have arisen as a result.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101, or may inspect the petition at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico.

Interested persons may submit replies to the petition to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 30, 1980. An *original and fifteen copies* of such replies shall be submitted.

Francis C. Hurney,

Secretary.

[FR Doc. 80-27728 Filed 9-8-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Am-Can Investment, Inc.; Proposed Retention of Lending Activities

Am-Can Investment, Inc., Moorhead, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain one loan previously made by Am-Can Investment. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 29, 1980.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27584 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Barnesville Investment Corp.; Proposed Retention of First Agency

Barnesville Investment Corporation, Barnesville, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain First Agency, Barnesville, Minnesota.

Applicant states that the proposed subsidiary would perform the activities of general insurance agent. These activities would be performed from offices of Applicant's subsidiary in Barnesville, Minnesota, and the geographic areas to be served are Barnesville, Clay County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any requests for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 29, 1980.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27583 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

First of Herington, Inc.; Proposed Retention of Insurance Agency Activities

First of Herington, Inc., Herington, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a community that has a population not exceeding 5,000. These activities would be performed at offices of Applicant's subsidiary bank in Herington, Kansas, and the geographic areas to be served are that town and the surrounding area within a radius of approximately 12 miles. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 29, 1980.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27585 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Strasburg Banshares, Inc.; Formation of Bank Holding Company

Strasburg Banshares, Inc., Strasburg, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.85 percent or more of the voting shares (less director's qualifying shares) of Strasburg State Bank, Strasburg, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27582 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Ackley Bancorporation; Proposal To Continue To Engage in Insurance Activities

Ackley Bancorporation, Ackley, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage through its subsidiary, Ackley Insurance Agency, in general insurance agency activities in a community having a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Ackley, Iowa, and the geographic area to be served is Ackley, Iowa and its immediate surrounding area. Such activities have been specified by the

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Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 29, 1980.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27708 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 29, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Chemical New York Corporation, New York, New York (leasing and financing activities; Florida): to engage, through its subsidiary, Chemical Business Credit Corp., in leasing real and personal property and equipment on a non-operating, full payout basis, and acting as agent, broker and advisor with respect to leases; financing real and personal property and equipment such as would be done by a commercial finance company; and servicing such extensions of credit. These activities would be conducted from an office in Altamonte Springs, Florida, serving the State of Florida. Comments on this application must be received by September 26, 1980.

2. Manufacturers Hanover Corporation, New York, New York (mortgage banking, insurance activities; Ohio): to relocate an office of Manufacturers Hanover Mortgage Corporation. The office of MHMC is engaged in the making, acquiring and servicing for its own account and the account of others mortgage loans and insurance agency activities related to such loans. The application is for office relocation from 1121 Superior Boulevard, Cleveland, Ohio 44114 to Suite 180, One Independence Place, 4807 Rockside Road, Indpendence, Ohio 44131. The application does not involve the commencement of any new activity. The new office will serve the same service area as the old office, which is comprised of Cuyahoga, Lake, Lorraine, Madina and Geoga Counties. Comments on this application must be received by September 26, 1980.

3. J. P. Morgan & Co., Inc., New York, New York, financing community welfare projects; United States, its territories, possessions and Puerto Rico): to expand the activities of its direct subsidiary Morgan Community Development Corporation, to include making loans to projects designed for community welfare purposes. Previously approved activities, which included the financing of housing for low- and moderate-income persons will continue to be engaged in. This proposal involves an expansion of activities only; these activities will be conducted from offices in New York, New York; and the service area for the existing and expanded activities continues to include the united States, its territories, possessions and Puerto Rico.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Bank of Virginia Company, Richmond, Virginia (finance and insurance activities; Pennsylvania): to engage through its subsidiary, General Finance Service Corporation, in the activities of making loans and other extensions of credit such as would be made by a consumer finance company, and of acting as agent in the sale of credit life insurance, credit accident and health insurance, and other insurance written to protect collateral, directly related to extensions of credit by General Finance Service Corporation. These activities would be conducted from an office in Trackville, Pennsylvania, serving Trackville, Pennsylvania.

2. Maryland National Corporation, Baltimore, Maryland (finance activities; Arizona, Louisiana, New Mexico, Oklahoma, and Texas): to engage through its subsidiary, Maryland National Industrial Finance Corporation, in the activities of making and servicing loans and other extensions of credit such as would be made by a commercial finance company, and acting as advisor or broker in commercial lending transactions. These activities would be performed from an office in Houston, Texas, serving the states listed in the caption above.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Ill. 60690:

Continental Illinois Corporation, Chicago, Ill. (making or acquiring loans and other extensions of credit and servicing loans and other extensions of credit for any person; Florida). To establish a *de novo* subsidiary, to be known as Continental Illinois Commercial Corporation, to engage in making or acquiring, for its own account or for the account of others, secured and unsecured loans and other extensions of credit (including issuing letters of credit and accepting drafts) to or for business, governmental and other customers (excluding direct consumer lending), and servicing such loans and other extensions of credit. Such activities will be conducted from offices of Continental Illinois Commercial Corporation to be located in Chicago, Ill. and Miami, Fla., both serving the State of Florida. Comments on this application must be received by September 26, 1980.

D. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand avenue, Kansas City, Mo. 64198:

Kansas City Bancshares, Inc., Kansas City, Mo. (leasing activities; Kansas and Missouri): to engage, through its subsidiary, Capital Services, Inc., in leasing personal property in conformance with the Board's Regulation Y. These activities would be conducted from an office in Kansas City, Missouri, servicing Jackson, Platt and Clay Counties in Missouri and Johnson and Wyandatte Counties in Kansas. Comments on this application must be received by September 26, 1980.

E. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, Calif. 94120:

Security Pacific Corporation, Los Angeles, Calif. (finance and credit-related insurance activities; California): to engage, through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from an office of the subsidiary located in Irvine, Calif., serving the state of California.

F. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27709 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Cen-Tex Bancshares, Inc.; Formation of Bank Holding Company

Cen-Tex Bancshares, Inc., Georgetown, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Georgetown, Georgetown, Texas. The factors that are considered in acting on the application ar set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27711 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

Hunter Holding Company; Formation of Bank Holding Company

Hunter Holding Company, Hunter, North Dakota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank of Hunter, Hunter, North Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27710 Filed 9/8/80; 8:45 am]

BILLING CODE 6210-01-M

First State Bancshares, Inc.; Formation of Bank Holding Company

First State Bancshares, Inc., Valdosta, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank and Trust Company, Valdosta, Georgia and 75.9 percent of the voting shares of Farmers and Merchants Bank, Adel, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27680 Filed 9-8-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

National Committee on Vital and Health Statistics; Subcommittee on Environmental Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the Subcommittee on Environmental Health Statistics of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(K), Paragraph (4) of the Public Health Service Act (42 USC 242K), will convene Friday, September 19, 1980, at 9:30 a.m. in Room 337-339 of the Hubert H.

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Humphrey Building, 200 Independence Avenue, N.W., Washington, D.C.

Principal consideration will be devoted to a discussion of guidelines and plans for the Subcommittee, and recommendations to be made to the National Committee on Vital and Health Statistics. Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting Samuel P. Korper, Ph. D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A–55, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2660.

Dated: September 3, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80–27537 Filed 9–8–80; 8:45 am]

BILLING CODE 4110–85–M

Warner-Lambert Co.; Intent To Grant Exclusive License

Pursuant to § 6.3 of the Department Patent Regulations and 41 CFR Part 101–4, notice is hereby given of an intent to grant to Warner-Lambert Company of Ann Arbor, Michigan, an exclusive license to manufacture, use, and sell in the United States the invention described in United States patent application Serial No. 841,098, entitled "New Imidazole Compounds, Methods for Their Production and Conversion of Said Compounds Into (R)-3-(2-Deoxy-β-D-*Erythro*-Pentofuranosyl)-3,6,7,8-Tetrahydroimidazol[4,5-d][1,3] Diazepin-8-OL." A copy of the subject patent application may be obtained upon written request submitted to the Acting Chief, Patent Branch, Department of Health and Human Services, Room 5A03, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years; may be royalty-bearing; and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health and Human Services Patent Regulations. Department of Health and Human Services will grant the license unless within sixty (60) days of this Notice the Acting Chief of the Patent Branch named hereinabove receives in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR 101–4.104–2, and the applicant states that he has already brought the invention to practical application, or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

Authority; 45 CFR.

Dated: September 3, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 80–27657 Filed 9–8–80; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. NI–29]

Office of Environmental Quality

Intented Environmental Impact Statements for Certain Areas in Texas

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following projects under HUD programs as described in the appendices to this Notice: Booth Creek Subdivision, City of Carrollton, Denton County, Texas and Areawide EIS, Houston, SMSA, Fort Bend and Brazoria Counties, Texas. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning these projects to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicted is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. August 29, 1980.

James Miller,

Acting Director, Office of Environmental Quality.

Appendix—EIS on Booth Creek Subdivision, City of Carrollton, Denton County, Tex.

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare and issue a supplement to the Draft Environmental Impact Statement for the Rosemeade Subdivision located in the City of Carrollton, Denton County, Texas. The Supplement will be entitled Rosemeade—Booth Creek Subdivisions and will take into account the cumulative environmental impacts of the two subdivisions. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state, and Federal agencies regarding the issues to be addressed in depth in the Supplement.

Description. The Trenton Corporation, 3141 Hood Street, Dallas, Texas, proposes to develop a 600 acre tract of land primarily for single family residential use. This subdivision is located in the northeast section of the City of Carrollton, with FM Road 544 as its northern boundary and Hebron Parkway as its southern boundary. The proposed extension of Josey Lane will bisect the subdivision. The Booth Creek subdivision is near the proposed Rosemeade subdivision. When fully developed, the subdivision will have 748 single family residences which will accommodate approximately 2,850 persons.

The developer has requested that the Department accept the subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. The developer has requested an early-start on 193 lots of the proposed subdivision.

Need. Due to the size and scope of the proposed development, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to Pub. L. 91–190, the National Environmental Policy Act of 1969. This office has also determined that the impact statement may best be accomplished as a supplement to the environmental impact statement of the nearby Rosemeade subdivision.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered as a part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determined significant environmental issues, and (2) identify data which the EIS should address.

Contact. Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is (214) 767–8347 and the FTS number is 729–8347.

Areawide EIS for Urbanizing Area of the South-Southwest Houston, Tex., SMSA, Fort Bend and Brazoria, Tex.

The Dallas Area Office of the Department of Housing and Urban Development proposes to prepare an Areawide Environmental Impact Statement on the northern portions of Fort Bend and Brazoria Counties.

Description. The area under consideration is a potential growth area of the Houston Standard Metropolitan Statistical Area. The area is triangular in shape with the southern boundary of Harris County on the northeast, State Highway No. 35 on the southeast and State Highway No. 36 on the southwest. Specifically, the area includes census tracts 701 through 705, 707 through 709 and 714 in Fort Bend County, and census tracts 601 through 604, 607 through 609, 614, 615 and 617 of Brazoria County. The area is estimated to include approximately 900 square miles.

Need. An Areawide EIS is designed to assess the cumulative environmental impacts that development might impose upon the area. The significant issues will be addressed, the environmentally sensitive areas will be identified and Areawide solutions and mitigating measures will be sought.

Alternatives. The proposed EIS will explore alternatives to the usual individual project or subdivision EIS approach. Through this approach, it is believed that delays in the acceptance of subdivisions for mortgage insurance may be minimal and paperwork may be reduced.

Scoping. Due to the large size of the area to be studied, the regional and local concerns to be addressed, the Dallas Area Office intends to hold a scoping meeting at the offices of the Houston-Galveston Area Council, 3701 West Alabama, Houston, Texas. The date and time of the meeting will be announced later. Interested persons, local, State and Federal agencies are invited to attend the meeting to discuss the significant issues which they believe should be analyzed in depth in the EIS.

Prior to the scoping meeting, we solicit your comments or a listing of significant issues. If any of the issues listed by you or your agency involve an area of expertise not generally known to be a part of HUD's interdisciplinary capability, your assistance may be requested in the preparation of the EIS in accordance with 40 CFR 1501.6. Please submit the name, address and telephone number of a designated person whom we may contact concerning the issues and needed assistance. Should you have knowledge of any pertinent documents regarding the issues which you have identified, HUD requests a copy of each, either on a permanent or loan basis for use in preparing the EIS. In the event that you are aware of individuals or agencies who are capable of providing information about your issue of concern, we would appreciate your providing names, addresses and telephone numbers of such individuals or agencies.

Comments. All relevant comments, recommendations, issues or information should be forwarded on or before September 30, 1980, to I. J. Ramsbottom, Environmental Clearance Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201, telephone (214) 767–8347.

[FR Doc. 80-27581 Filed 9-8-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oil Shale Tract Delineation-Selection Criteria Clarification of Due Date for Written Statements

On August 6, 1980, notice was published (**Federal Register** 52260) of meetings to be held in Salt Lake City, Utah on August 25, and in Denver, Colorado on August 28, to establish criteria for the delineation and tract selection for additional prototype oil shale leasing. That notice stated that written statements could be submitted to Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225.

The closing date for written comments on the preliminary draft criteria distributed at those meetings is hereby extended until October 16, 1980. Comments are especially requested which recommend more detail concerning the individual preliminary draft criteria. Copies of the criteria may be obtained from Mr. Ash at the above address or Mr. Winston Short, Bureau of Land Management (530), Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. Written comments should also be directed to Mr. Short at the latter address rather than to Mr. Ash.

Daniel P. Beard,

Acting Assistant Secretary of Land and Water Resources.

September 3, 1980.

[FR Doc. 80-27700 Filed 9-8-80; 8:45 am]
BILLING CODE 4310-84-M

[ORE 012701]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 2956 on March 4, 1963, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridan

T. 19 S., R. 14 E.,
Sec. 15, W½E½ and W½;
Sec. 22, NW¼NE¼ and N½NW¼.

The area described contains 600 acres in Deschutes County.

The site, originally withdrawn and reserved for ecological studies and research as the Western Juniper Natural Area, is now known as the Horse Ridge Research Natural Area. The land is currently segregated from location and entry under the public land laws generally, including the mining laws. No change is proposed in the purpose or segregative effect of the withdrawal.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before October 15, 1980. Upon determintion by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before October 15, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential

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demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 28, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-27523 Filed 9-8-80; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 29, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by September 24, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

MICHIGAN

Historic Engineering and Industrial sites in Michigan Thematic Resources. Reference—see individual listings under Allegan, Alger, Bay, Berrien, Calhoun, Cheboygan, Chippewa, Delta, Dickinson, Eaton, Goygebic, Grand Traverse, Gratiot, Houghton, Huron, Ionia, Iosco, Jackson, Kent, Keweenaw, Lenawee, Macomb, Marquette, Mecosta, Menominee, Muskegon, Newaygo, Ontonagon, Saginaw, St. Clair, St. Joseph, Schoolcraft, Washtenaw, Wayne, and Wexford Counties.

Allegan County

Hamilton, *Rabbit River Trestle (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Little Rabbit River.

New Richmond, *Fifty-seventh Street Bridge (Historic Engineering and Industrial sites in Michigan Thematic Resources)* Spans Kalamazoo River.

Alger County

Chatham vicinity, *Union Fuel Company Charcoal Kiln (Historic engineering and Industrial sites in Michigan Thematic Resources)* SR G-2.

Shingleton vicinity, *Grand Island East Channel Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Baraga County

Baraga vicinity, *Sand Point Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Sand Point.

Bay County

Bay City, *Michigan Central Railroad Dutch Creek Trestle (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Over Dutch Creek.

Bay City, *Saginaw River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Saginaw River.

Essexville, *Saginaw River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Saginaw River.

Kawkawlin, *Kawkawlin River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Kawkawlin River.

Berrien County

St. Joseph, *St. Joseph River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans St. Joseph River.

St. Joseph, *St. Joseph Station (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 410 Vine St.

Calhoun County

Albion, *Cass Avenue Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Cass Ave.

Battle Creek, *Battle Creek Station (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 25 E. Dickman St.

Ceresco vicinity, *F Drive Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Kalamazoo River.

Ceresco vicinity, *Wattles Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Wattles Rd.

Cheboygan County

Mackinac City and vicinity, *Mackinac Straits Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* (also in Mackinac County).

Chippewa County

Sault Ste. Marie, *Internatinal Railroad Bridge, American Locks Section (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Sault Ste. Marie, *International Railroad Bridge, River Section (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans St. Mary's River.

Sault Ste. Marie, *Michigan Lake Superior Power Company Generating Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On St. Mary's River.

Sault Ste. Marie, *Michigan Lake Superior Power Company Headgates (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off I-75.

Sault Ste. Marie, *Michigan Lake Superior Power Company Power Canal (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Sault Ste. Marie, *Sault Ste. Marie International Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans St. Mary's River.

Sault Ste. Marie, *Sault Ste. Marie Water Tower (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Ryan Rd. and Easterday St.

Delta County

Bark River, *Carp River Iron Company: Barkville Kilns (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Two Mile Hill.

Escanaba, *Escanaba Roundhouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off MI 35.

Escanaba vicinity, *Escanaba Power Company Dam No. 1 (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* N of Escanaba.

Wells, *Escanaba River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Escanaba River.

Dickinson County

East Kingsford vicinity, *Chicago, Milwaukee, St. Paul, and Pacific Railroad: Menominee River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Menominee River.

Iron Mountain, *Cornish Pumping Engine (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Kent St.

Iron Mountain vicinity, *Chicago and Northwestern Railroad: Minominee River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Menominee River.

Quinnesec, *Fumee Creek Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Fumee Creek.

Eaton County

Bellevue vicinity, *Dyer Kiln (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Sand Rd.

Grand Ledge, *Detroit, Lansing, and Northern Michigan Railroad Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Gogebic County

Bessemer, *First Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off U.S. 2.

Ramsay, *Keystone Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Black River.

Grand Traverse County

Old Mission vicinity, *Old Mission Point Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Gratiot County

St. Louis, *Cheesman Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Cheesman Rd.

Houghton County

Baltic, *Baltic Mine (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off MI 26.

Hubbell vicinity, *Calumet and Hecla Mining Company Dredge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off MI 26.

Jacobsville, *Jacobsville Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Lake Superior.

Lake Linden vicinity, *Calumet and Hecla Mining Company Reclamation Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* S of Lake Linden.

Redridge, *Redridge Dam (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Salmon Trout River.

Redridge, *Redridge Steel Dam (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Salmon Trout River.

Bay Port vicinity, *Bay Port Quarries (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Ionia County

Portland, *Bridge Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Portland vicinity, *Charlotte Highway Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Smyrna vicinity, *Button Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* E of Smyrna.

Iosco County

Sand Lake vicinity, *Cooke Hydroelectric Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Au Sable River.

Iron County

Stambaugh, *Hiawatha Mine Number One Buildings (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Seldon Rd.

Stambaugh, *Hiawatha Mine Number One Headframe (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Seldon Rd.

Jackson County

Jackson, *Jackson Station (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 501 E. Michigan Ave.

Norvell, *Ament Mills (Norvell Mill) (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 305 Mill Rd.

Norvell, *Norvell Dam and Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Mill Rd.

Kent County

Grand Rapids, *Berkey and Gay Furniture Company (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 920—964 Monroe St., NW.

Grand Rapids, *Bridge Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Bridge St.

Grand Rapids, *Grand Rapids and Indiana Line: Grand Rapids Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Grand Rapids, *Keeler Building (historic Engineering and Industrial Sites in Michigan Thematic Resources)* 60 N. Division St.

Grand Rapids, *Michigan Central Railroad: Grand River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River to Market St.

Grand Rapids, *Michigan Railway Engineering Company: Grand River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources,* Spans Grand River.

Grand Rapids, *North Park Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Grand Rapids, *Pere Marquette Railroad Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Grand Rapids, *Waters Building (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Ottawa Ave.

Lowell, *Jackson Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Jackson St.

Lowell, *Pere Marquette Railroad: Grand River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Grand River.

Rockford, *Rouge River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Rouge River.

Wyoming, *New York Central Railroad: Grand River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* I–196.

Keweenaw County

Ahmeek vicinity, *Ahmeek Mine, Shafts 3 and 4 (HIstoric Engineering and Industrial Sites in Michigan Thematic Resources)* U.S. 41.

Eagle River, *Eagle River Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off MI 26.

Eagle River vicinity, *Sand Hills Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Five Mile Point.

Gay vicinity, *Bete Gris (Mendota) Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Lenawee County

Adrian, *Michigan Southern Railroad: Raisin River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Raisin River.

Macomb County

Mount Clemens, *Mount Clemens Station (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 198 Grand Ave.

Marquette County

Big Bay vicinity, *Big Bay Point Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Big Bay Point.

Ishpeming, *Cliff Shaft Headframe (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Euclid St. and Lake Shore Dr.

Ishpeming, *Cliff Shaft Mine: East End (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 7th and Division Sts.

Mangum, *Mangum Kiln (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Greenfield and Mangum Rds.

Marquette, *Marquette City Waterworks (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Lake St.

Marquette, *Peninsular Iron Company: Carp River Kiln (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* U.S. 41.

Negaunee, *Negaunee Mine (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Lincoln St.

Mecosta County

Big Rapids vicinity, *Rogers Hydroelectric Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Muskegon River.

Menominee County

Hermansville, *Wisconsin Land and Lumber Company, IXL Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Off U.S. 2.

Stephenson vicinity, *Grands Rapids Hydroelectric Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* On Menominee River.

Stephenson vicinity, *Stephenson Charcoal Kilns (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* SR 352.

Muskegon County

Montague vicinity, *White Lake Lighthouse (Historic Engineering and Industrial Sites* *in Michigan Thematic Resources)* White Lake Channel.

Muskegon, *Amazon Hosiery Mill (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 530—550 W. Western Ave.

Muskegon, *Lake Shore Drive Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Ruddiman Creek.

Newaygo County

Newaygo, *Muskegon River Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Muskegon River.

Ontonagon County

Victoria vicinity, *Victoria Mining Company Air Compressor (Historic Engineering and Industrial Sites in Michigan Thematic Resources).*

Saginaw County

Birch Run vicinity, *Burt Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Burt Rd.

Oakley vicinity, *Niver Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Shiawasee River.

Saginaw, *Saginaw Station (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Potter St.

Saginaw, *Sixth Street Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Saginaw River.

St. Clair County

Port Huron, *Bluewater Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans St. Clair River.

St. Joseph County

Centreville vicinity, *Langley Covered Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans St. Joseph River.

Flowerfield, *Flowerfield Mills (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Factory St.

Schoolcraft County

Gulliver vicinity, *White Marble Lime Company Kilns (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Duck Inn Rd.

Manistique, *Manistique Water Tower (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Deer St.

Washtenaw County

Dexter, *Island Lake Road Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Island Lake Rd.

Dexter, *Mill Creek Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Spans Mill Creek.

Ypsilanti, *Ypsilanti Water Tower (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Summit and Cross Sts.

Wayne County

Detroit, *Ambassador Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 1227 21st St. (also in Canada).

Detroit, *Belle Isle Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Jefferson Ave. and E. Grand Blvd.

Detroit, *Cadillac Motor Car Company (Historic Engineering nd Industrial Sites in Michigan Thematic Resources)* Amsterdam Ave.

Detroit, *Detroit Chesapeake and Ohio Bridge (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Southern Rd. and Miller St.

Detroit, *Detroit River Railroad Tunnel (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Jefferson Ave. and 10th St. (also in Canada).

Detroit, *Detroit-Windsor Tunnel (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 151 E. Atwater St. (also in Canada).

Detroit, *Ford Motor Company Piquette Plant (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 411 Piquette and Beaubien Sts.

Detroit, *Packard Motor Company, Building No. 10 (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 1580 E. Grand Blvd.

Detroit, *Palms Apartment House, (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 1001 E. Jefferson St.

Detroit, *Parker Block (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* 1075 Woodward Ave.

Grosse Ile, *Grosse Ile Lighthouse (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Lighthouse Point.

Wexford County

Cadillac, *Shay Logging Locomotive (Historic Engineering and Industrial Sites in Michigan Thematic Resources)* Cass St.

VIRGINIA

Alexandria (independent city)

Protestant Episcopal Theological Seminary, 3737 Seminary Rd.

Appomattox County

Pamplin, *Pamplin Pipe Factory.*

Buckingham County

Buckingham vicinity, *Perry Hill,* VA 56.

Cumberland County

Cumberland vicinity, *Grace Church, Ca Ira,* W of Cumberland on VA 632.

Cumberland vicinity, *Thornton, Charles Irving, Tombstone,* W of Cumberland on Oak Hill Rd.

Gloucester County

Gloucester vicinity, *Warner Hall,* VA 629.

Lynchburg (independent city)

Jones Memorial Library, 434 Rivermont Ave.

Petersburg (independent city)

Washington Street Methodist Church, 14—24 E. Washington St.

Portsmouth (independent city)

Pythian Castle, 610—612 Court St.

Prince George County

Carson vicinity, *Martin's Brandon Church,* VA 10 and VA 1201.

Roanoke (independent city)

Mountain View, 714 13th St., SW.

[FR Doc. 80-27521 Filed 9-8-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on September 30, 1980 at 3:30 p.m in the community room at the Malibu Civic Center, 23525 Civic Center Way, Malibu, CA.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Dr. Henry David Gray
Ms. Mary C. Hernandez
Mr. Mike Levett
Ms. Susan Barr Nelson
Mr. Carey Peck
Ms. Marilyn Whaley Winters

The major agenda items include a status report of the Santa Monica Mountains National Recreation Area, a report on Los Angeles Count beaches, a report on the Los Angeles County Area Plan, a report and vote on the criteria for interim use and management of newly acquired land, and an update on the General Management Plan.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by October 31, 1980, at the above address.

Dated: September 2, 1980.

Jean C. Henderer,

Chief, Office of Cooperative Activities, National Park Service.

[FR Doc. 80-27586 Filed 9-8-80; 8:45 am]

BILLING CODE 4310-70-M

Geological Survey

Earthquake Data Review Panel; Public Meeting

Pursuant to Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting will be held beginning at 9:00 a.m. (local time) on Wednesday, September 10, 1980. The Panel will meet at the California Institute of Technology in Pasadena.

(1) *Purpose.* To review earthquake data recorded in Southern California.

(2) *Membership.* The Panel is chaired by Dr. C. B. Raleigh and is composed of persons drawn from the fields of geology, geophysics, engineering, and rock mechanics, primarily from the academic community.

(3) *Agenda.* Review of the most recent earthquake data recorded in Southern California.

For more detailed information about the meeting, pleas call Dr. C. B. Raleigh, Research Geophysicist, Office of Earthquake Studies, Menlo Park, California 94025 (415) 323-2893.

James F. Devine,

Acting Director, U.S. Geological Survey.

[FR Doc. 80-27867 Filed 9-8-80; 11:42 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 195]

Assignment of Hearing; Correction

September 2, 1980.

MC 30319 (Sub-151F), SOUTHERN PACIFIC TRANSPORT COMPANY of Texas and Louisiana, appearing page 54457, August 15, 1980 is corrected as follows:

MC 30319 (Sub-151F), SOUTHERN PACIFIC TRANSPORT COMPANY of Texas and Louisiana now being assigned for hearing on October 27, 1980 at Ft. Worth, TX location of hearing room will be designated later. (instead of continued hearing on September 29, 1980).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27602 Filed 9-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-31F)]

Chesapeake & Ohio Railway Co.—Abandonment Between Cincinnati and Fernald, Ohio; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 12, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chesapeake and Ohio Railway Company of a line of railroad known as Cheviot and Miami Subdivisions, extending from railroad milepost 1.68, valuation station 90+86.5, at or near Cincinnati, OH to railroad milepost 19.20, valuation station 1016+00, at or near Fernald, OH, a distance of 17.52 miles, in Hamilton County, OH, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that potentially historical structures (in this case bridges) be maintained until such time as a determination concerning historical significance can be made. A certificate of pulic convenience and necessity permitting abandonment was issued to Chesapeake and Ohio Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 24, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27601 Filed 9-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-67F)]

Illinois Central Gulf Railroad Co.—Abandonment Near Black Bayou Junction and Minter City, Miss.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 8, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad known as the Tallahatchie District (portion), extending from railroad milepost 99.74 at Black Bayou Junction, MS, to milepost 103.82 at Minter City, MS, in Leflore and Tallahatchie Counties, MS, a distance of 4.08 miles, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of public convenience and necessity permitting abandonment was issued to Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 24, 1980. The offer, as filed shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 24, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27600 Filed 9-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisiohs Volume No. 326]

Permanent Authority Decisions; Decision-Notice

Decided: August 27, 1980.

V45/176 SE9 80 UMI

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 9, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before October 9, 1980, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 2095 (Sub-31F), filed June 25, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, 420 N. Sixth, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *gypsum,* and *gypsum products,* and *building materials,* and (2) *materials, equipment, and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Georgia-Pacific Corporation, Gypsum Division.

MC 106674 (Sub-450F), filed December 19, 1979, previously published in the **Federal Register** issue of March 27, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *insulating materials* and *equipment and supplies* (except in bulk), used in the manufacture and installation of insulation materials, between Newark, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication correctly states the territorial description.

MC 159535 (Sub-6F), filed February 28, 1980. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn St., Chicago, IL 60602. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle St., Chicago, IL

60603. Transporing *such commodities* as are used in the manufacture and distribution of new furniture, from points in IL, IN, KY, MA, MI, NC, NJ, SC, and WI, to Archbold, OH.

The following six (6) applications are republished to correction the docket number Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn St., Chicago, IL 60602. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle St., Chicago, IL 60603.

MC 144527 (Sub-5F), filed July 25, 1979, previously published on March 18, 1980, has been reassigned MC 150535F.

MC 144527 (Sub-6F), filed September 25, 1979, previously published on March 14, 1980, has been reassigned MC 150535 (Sub-1F).

MC 144527 (Sub-7F), filed November 6, 1979, previously published on May 13, 1980, has been reassigned MC 150535 (Sub-2F).

MC 144527 (Sub-8F), filed November 6, 1979, previously published on March 14, 1980, has been reassigned MC 150535 (Sub-3F).

MC 144527 (Sub-12F), filed December 27, 1979, previously published on March 27, 1980, has been reassigned MC 150535 (Sub-4F).

MC 144527 (Sub-13F), filed February 11, 1980, previously published on May 13, 1980, has been reassigned MC 150535 (Sub-5F).

[FR Doc. 80-27604 Filed 9-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP3-013]

Permanent Authority Decisions; Decision-Notice

Decided: August 25, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (eg., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its propose service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 24, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before November 10, 1980, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman, participating

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 125254 (Sub-73F), filed August 14, 1980. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell, Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 133805 (Sub-58F), filed August 21, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. government, between points in the U.S.

MC 135364 (Sub-44F), filed August 15, 1980. Applicant: MORWALL TRUCKING, INC., Box 76C R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 135524 (Sub-155F), filed August 20, 1980. Applicant: G. F. TRUCKING COMPANY, a Corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 135605 (Sub-14F), filed August 19, 1980. Applicant: WILKINSON TRUCKING, INC., P.O. Box 25, Barton, AR 72312. Representative: C. Jack Pearce, 1000 Connecticut Ave., Suite 1200, Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 138815 (Sub-2F), filed August 8, 1980. Applicant: MERCHANTS' DELIVERY, INC., 1027 Elm Hill Pike, Nashville, TN 37210. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 144874 (Sub-3F), filed August 15, 1980. Applicant: HARRY J. BERRY, d./b./a. BERRY TRUCKING, P.O. Box 658, Penns Grove, NJ 08069. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

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MC 151555F, filed August 14, 1980. Applicant: LAMONT L. ALBERS, Oakes, ND 58474. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

[FR Doc. 80-27608 Filed 9-8-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[731-TA-29 (Preliminary)]

Asphalt Roofing Shingles From Canada; Notice of Change in Scheduled Date for Conference

AGENCY: United States International Trade Commission.

ACTION: The notice instituting the above-captioned investigation appearing in the **Federal Register** on September 4, 1980 (45 FR 58728) stated that the preliminary conference was scheduled for 10:00 a.m., e.d.t., on September 15, 1980. This notice is to inform all interested parties that the date of the conference has been changed to 10:00 a.m., e.d.t., September 22, 1980.

WRITTEN SUBMISSIONS: Will now be due on or before September 24, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Senior Investigator (202-523-0368).

By order of the Commission.

Issued: September 4, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-27707 Filed 9-8-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Special Notice of Extended Benefit Period in All States Beginning On July 20, 1980

A notice published in the **Federal Register** on Tuesday, August 26, 1980 (45 FR 56964), announced the beginning of a national Extended Benefit Period in all States, effective on August 24, 1980. This notice supersedes the earlier notice, and announces the beginning of a national Extended Benefit Period in all States, effective on July 20, 1980.

Background

Extended Benefits are payable only during an Extended Benefit Period, which is triggered on in a State when insured unemployment in the State, or nationally in all States, reaches the trigger levels set in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note). Regulations implementing the Act appear in Part 615 of Title 20, Code of Federal Regulations (20 CFR Part 615), and prescribe the method of calculating the insured unemployment rates that trigger the Extended Benefit Periods on and off.

Prior to February 3, 1980, the regulations provided that insured unemployment rates were to be calculated by including claims for Extended Benefits as well as claims for regular benefits in the equation. Effective on February 3, 1980, the regulations were amended (see 45 FR 797 and 1015) to exclude claims for Extended Benefits from the calculations. The earlier notice, announcing the beginning of a national Extended Benefit Period on August 24, was based on the amended regulations. Had the regulations not been amended, a national Extended Benefit Period would have commenced on July 20.

In a suit brought by the American Federation of Labor and Congress of Industrial Organizations, and others, contesting the validity of the change in the regulations, the United States District Court for the District of Columbia held that the amended regulations were invalid, and in effect restored the regulations as they read prior to the amendments made earlier this year. The court's ruling is not being appealed, and as a result it is necessary to issue this notice announcing that the national Extended Benefit Period began as of July 20, 1980.

The national extended Benefit Period will remain in effect in all States for a minimum period of 13 weeks. It extends the Extended Benefit Periods that had triggered on in a number of States on the basis of State triggers prior to July 20. The court's ruling also has the effect of reinstating State-triggered Extended Benefit Periods that had triggered off in the States of Maine, New Jersey, and Rhode Island, on the basis of the amended regulations, and in those States the reinstated Extended Benefit Periods will extended through the week beginning on July 20, and thereafter until there are both State and national off triggers in those States. The national Extended Benefit Period will terminate at the end of the third week after the week in which there is a national off trigger, but any State in which there is a State or trigger in the week in which there is a national off trigger will continue in effect the Extended Benefit Period in that State until there is also a State off trigger.

Determination of "on" Indicator

Pursuant to delegation of authority from the United States Secretary of Labor, I, as Assistant Secretary for Employment and Training, have determined, in accordance with section 203(d)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 and the implementing regulations at 20 CFR 615.12, that the average rate of insured unemployment (seasonally adjusted) for all States, for the period consisting of the week ending on July 5, 1980, and the preceding 12 weeks, equalled or exceeded 4.5 percent.

Therefore, there was a national Extended Benefit "on" indicator for the week ending on July 5, 1980, and a national Extended Benefit Period began in all States on July 20, 1980.

Information for Claimants

During the Extended Benefit Period in each State claimants will be eligible to receive up to 13 weeks of Extended Benefits. This includes, and is not in addition to, any Extended Benefits received for weeks before or after the week beginning on July 20.

The employment security agency of each State has been notified of its responsibility to identify individuals who may be eligible for Extended Benefits in the national Extended Benefit Period, and to notify each individual personally. There should also be widespread publicity in each State of the retroactive beginning of the national Extended Benefit Period. In addition to those individuals who had established eligibility for Extended Benefits before July 20, in States with pre-existing Extended Benefit Periods, the individuals who become eligible after July 20 are those who exhausted all rights to regular benefits prior to July 20 and whose benefit years did not expire prior to that date, and those who exhaust their rights to regular benefits during the time the national Extended Benefit Period is in effect. The eligible exhaustees include those individuals covered by State unemployment compensation laws, and those individuals covered by the unemployment compensation laws for federal government employees and former members of the armed forces.

Individuals who believe they may be entitled to Extended Benefits in any State (including the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands), or who wish to inquire about their rights under this program, should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on September 5, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-27783 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Special Notice of Reinstatement of Extended Benefit Periods in the States of Maine, New Jersey, and Rhode Island

Notices were previously published in the **Federal Register** announcing the ending of Extended Benefit Periods in those three States on different dates in June and July. This notice announces the reinstatement of the Extended Benefit Periods in those States, and the continuation of the benefit periods without interruption through the week beginning on July 20, 1980, when a national Extended Benefit Period began in all States, including those three States.

Background

Extended Benefits are payable only during an Extended Benefit Period, which is triggered on in a State when insured unemployment in the State, or nationally in all States, reaches the trigger levels set in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note). Regulations implementing the Act appear in Part 615 of Title 20, Code of Federal Regulations (20 CFR Part 615), and prescribe the method of calculating the insured unemployment rates that trigger the Extended Benefit Periods on and off.

Prior to February 3, 1980, the regulations provided that insured unemployment rates were to be calculated by including claims for Extended Benefits as well as claims for regular benefits in the equation. Effective on February 3, 1980, the regulations were amended (see 45 FR 797 and 1015) to exclude claims for Extended Benefits from the calculations. The earlier notices announcing the ending of Extended Benefit Periods in Main, on June 14, in New Jersey, on June 7, and in Rhode Island, on July 5, were based on the amended regulations. Had the regulations not been amended, the Extended Benefit periods in those States would have continued in effect until the national Extended Benefit Period began in all States on July 20, 1980.

In a suit brought by the American Federation of Labor and Congress of Industrial Organizations, and others, contesting the validity of the change in the regulations, The United States District Court for the District of Columbia held that the amended regulations were invalid, and in effect restored the regulations as they read prior to the amendments made earlier this year. The court's ruling is not being appealed, and as a result it is necessary to issue this notice announcing the reintstatement of the Extended Benefit Periods in the three States.

The Extended Benefits Periods in the three States therefore are reinstated, and will continue in effect until there are both national and State off triggers in those States. In a **Federal Register** notice also published today the Department has determined that a national Extended Benefit Period began in all States on July 20, 1980. The national Extended Benefit Period will remain in effect in all States for a minimum period of 13 weeks. As noted above, the extended Benefit Period in any State will trigger off only when there are both national and State off triggers. When there is a national off trigger, those States with State on triggers will remain in Extended Benefit Periods until they have State off triggers.

Redetermination of "off" Indicators

The heads of the employment security agencies of the States of Main, New Jersey, and Rhode Island, upon being advised of the ruling of the United States District Court for the District of Columbia and of the reinstatement of the regulations as they read prior to amendment, have recalculated the insured unemployment rates in those States for the week begining subsequent to February 2, 1980, in accordance with the State law and 20 CFR 615.12(e), and have determined that the insured uemployment rates in those States did not fall below the trigger points set in the laws of the States, and that there was not as previously reported an off indicator in those States.

Therefore, the Extended Benefit Periods in those States did not end as was previously announced, but have continued in effect to this date, and will remain in effect in each State until there are both national and State off indicators in that State.

Information for Claimants

During the reinstated Extended Benefit Period in each State claimants will be eligible to receive up to 13 weeks of Extended Benefits. This includes, and is not in addition to, any Extended Benefits received for weeks before or after the week following the previously announced ending of the Extended Benefit Periods in the three States.

The employment security agency of each State has been notified of its responsibility to identify individuals who may be eligible for Extended Benefits in the reinstated Extended Benefit Period, and to notify each individual personnally. There should also be widespread publicity in each State of the reinstatement of the Extended Benefit Period. In addition to those individuals who had establish eligibility for Extended Benefits before the Extended Benefit Period ended in those States, the individuals who become eligible after those dates are those who exhausted all rights to regular benefits after those dates and while the reinstated Extended Benefit Periods remain in effect. The eligible exhaustees include those individuals covered by the State unemployment compensation laws, and those individuals covered by the unemployment compensation laws for federal government employees and former members of the armed forces.

Individuals who believe that may be entitled to Extended Benefits in the States of Main, New Jersey, and Rhode Island, for weeks beginning after June 14, June 7, and July 5, respectively, or who wish to inquire about their rights under this program, should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on September 5, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-27782 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Reallocation of funds under title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the redistribution of funds reallocated under Title II-D of CETA.

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FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The Department of Labor has determined to provide the following CETA prime sponsors the amounts indicated of reallocated Title II-D funds. The Department of Labor reviewed the operations of these prime sponsors and determined that the prime sponsors needed and will be able to effectively utilize the amounts indicated prior to the end of fiscal year 1980.

Region I

None.

Region II

None.

Region III

Frederick, Maryland—$31,447.

Region IV

None.

Region V

None.

Region VI

BOS, Arkansas—$465,000.
Rapides Parish, Louisiana—$30,000.
BOS, New Mexico—$500,000.
Webb County, Texas—$100,000.

Region VII

Davenport/Scott County, Iowa—$37,800.

Region VIII

None.

Region IX

None.

Region X

None.

Signed at Washington, D.C., this 22d day of August 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-27720 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of Funds Reallocated Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the reallocation of Title II-D funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: (202) 376-6254.

SUPPLEMENTARY INFORMATION: The Department of Labor determined by reviewing actual enrollments with planned enrollments and rates of expenditures, that the CETA programs listed below were underutilizing available funds. The prime sponsors were provided with an opportunity to increase their performance before a final decision was made with respect to reallocation. The respective Governors, the general public and other prime sponsors were advised of the proposed reallocation of funds in the July 1, 1980, **Federal Register.**

At the end of 30 days from the date of notice to the prime sponsors, the Department again reviewed the prime sponsors' enrollments. The Department found, in the case of the prime sponsors listed below, that the amount of funds indicated for each prime sponsor could not effectively by utilized by the prime sponsor prior to the end of Fiscal Year 1980. As a result, the Department took final reallocation actions with respect to these prime sponsors. Prime sponsors which were listed in the July 1, 1980, **Federal Register,** and which are not listed below, were found to have improved their performance to the point where no reallocations were required.

Region I

None.

Region II

None.

Region III

Northern Virginia Consortium—$31,447.

Region IV

Seminole County, Florida—$71,190.
South Carolina Statewide Consortium—$1,607,780.
BOS-Tennessee—$352,230.

Region V

None.

Region VI

BOS-Louisiana—$495,000.
El Paso Consortium—$600,000.

Region VII

Woodbury County, Iowa—$37,800.

Region VIII

None.

Region IX

Hawaii-BOS—$55,320.

Region X

None.

Signed at Washington, D.C., this 22d day of August 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-27723 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Application No. D-2036]

Proposed Exemption for Certain Transactions Involving the Arizona Machinery Co., Inc. Employees' Profit-Sharing Retirement Plan, Located in Avondale, Ariz.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan by the Arizona Machinery Company, Inc. Employees' Profit-Sharing Retirement Plan (the Plan) to Arizona Machinery Company, Inc. (the Employer), a party in interest, for the lesser of $516,000 or 40 percent of the Plan's assets. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 17, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2036. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the

Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, which was established in 1969, is a profit sharing plan with 115 participants and total assets as of June 18, 1980 of $1,051,000. The Employer is a closely-held corporation formed in 1959 to sell agricultural machinery and equipment.

2. The Plan proposes to loan the Employer the lesser of $516,000 or 40 percent of the Plan's assets receiving in return a promissory note collateralized with a first mortgage interest in two parcels of improved real property owned by the Employer consisting of commercial office, warehouse, and service facilities. The first parcel consists of two pieces of real property located at 225 North 1st Street (Miller Road), and on Edison Street west of Miller Road, both in Buckeye, Arizona. The second parcel is located at 197 West Warner Road, Chandler, Arizona. The loan is to be repaid in forty equal quarterly installments. The interest rate shall be 12 percent per annum for the first five years of the loan. On the fifth anniversary of the making of the loan, the interest rate shall be adjusted to the higher of 12 percent per annum, or the interest rate for comparable loans prevailing in Maricopa County, Arizona, as determined by an independent fiduciary manager.

3. The parcels of real porperty have been appraised by L. D. Ryan and Associates of Phoenix, Arizona, an MAI certified appraiser, as having a current fair market value of $1,435,000. Thus, the loan represents less than 50 percent of the value of the improved real property that will secure it. The appraiser also represents that the parcels could be sold within a reasonably short period, if need be, for no less than $775,000 and that they could be leased to independent tenants within a reasonably short period of time at rentals reflecting a fair market value of no less than $775,000. The Employer represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, the Employer will keep the collateral adequately insured against fire or other loss at its expense.

4. B. B. Cohen & Co., a mortgage and industrial banker located in Phoenix, Arizona, has represented that it would lend between $600,000 and $1,000,000 to the Employer for 10 years at 11.75 percent interest per annum, with annual payments of principal and interest based upon a 20 year amortization schedule with a balloon payment of the outstanding balance at the end of ten years. The loan would be secured by a first mortgage on the same parcels of improved real property that would serve as collateral for the proposed loan.

5. The trustees of the Plan will appoint Sheldon H. Rosenberg, C.P.A., Ltd. of Goodyear, Arizona, a certified public accountant who is experienced with pension and profit-sharing plans, to serve as an indpendent fiduciary manager of the proposed loan. Mr. Rosenberg has no other relationship with the Employer or the Plan. The fiduciary manager, who is responsible for making an indendent determination that the proposed loan is appropriate and suitable for the Plan, has examined the terms of the proposed loan and has initially determined that the proposed loan is appropriate and suitable for the Plan. The fiduciary manager will be required to make the same determination immediately prior to consummation of the transaction. The fiduciary manager will be empowered and directed to enforce the terms of the loan agreement between the Plan and the Employer, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event to default, keeping accurate records, and reporting at least annually to the trustees of the Plan on the performance of the loan, specifiaclly including whether the value of the collateral securing the loan remians equal to at lest 150 percent of the outstanding balance of the loan. The fiduciary manager will be entitled to such information from the Employer and the Plan as may reasonably be necessary to fulfill his responsibilities, and he shall be paid resonable compensation plus reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs, as agreed upon with the trustees of the Plan. If Mr. Rosenberg is unable or unwilling to serve, dies, resigns, or becomes incapacitated, another unrelated, qualified, independent person or institution will be appointed to serve as an indendent fiduciary manager for the proposed loan.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the act because (1) the Plan will receive 12 percent interest or more on its investment, which is greater than the rate proposed by an unrealted party, (2) the loan is secured by parcels of improved real property with an appraised value that is more than twice the amount of the loan, (3) the Employer will insure the collateral and add additional collateral so that the value of collateral securing the loan is always at least 150 percent of the outstanding balance of the loan, (4) the loan will be administered by an independent fiduciary manager, and (5) the trustees and the fiduciary manager have determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries and protective of their interests.

Tax Consequences of Transaction

The Internal Revenue Service has determined that payment of amounts in excess of fair market value to a plan constitutes a contribution to the plan to the extent of such excess and therefore must be examined under Code sections 401(a)(4), 404, and 415.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the **Federal Register** notice will be given to all Plan participants, beneficiaries, and other interested parties by mail, personal delivery, or by posting in the Employer's locations where particpants work and which are customarily used for notices to employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

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General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a loan by the Plan to the Employer for the lesser of $516,000 or 40 percent of the Plan's assets, based on the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-27633 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-1498; Prohibited Transaction Exemption 80-64]

Exemption From the Prohibitions for a Certain Transaction Involving the Retirement Plan for Production, Maintenance, etc. Employees; the Retirement Plan for Management Employees; and the Retirement Plan for Sales, Clerical, etc. Employees of Neuhoff Bros. Packers, Inc., Located in Dallas, Tex.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by Newcourt Industries, Inc. (formerly Neuhoff Brothers Packers, Inc.) (the Employer) of 21,075 shares of stock of the Employer from the Retirement Plan for Production, Maintenance, etc. Employees; the Retirement Plan for Management Employees; and the Retirement Plan for Sales, Clerical, etc. Employees of Neuhoff Brothers, Packers, Inc., (the Plans).[1]

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 27, 1980, notice was published in the **Federal Register** (45 FR 43501) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, for the purchase of stock by the Employer from the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to all interested persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. Two public comments were received by the Department. One comment was in support of the requested exemption. The other comment did not relate to the transaction for which exemptive relief was proposed, but rather concerned the distribution of retirement benefits from the Plans. No requests for a hearing were received by the Department. The Department has reviewed the entire application and the comments that were received and has determined to grant the proposed exemption.

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[1] The transaction for which an individual exemption is now being granted is within the scope of a final regulation adopted by the Department on August 1, 1980, 29 CFR § 2550.408(e). At the time of the application for exemption and the publication of the notice of pendency, the regulation had not been finalized. Therefore, having satisfied the statutory criteria contained in section 408(a) of the Act and section 4975(c)(2) of the Code, the Department is granting the requested exemption.

The notice of pendency was issued and the exemption is being granted solely by the department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4775(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 49759c)(1)(A) through (E) of the Code, shall not apply to the purchase by the Employer of 21,075 shares of stock of the Employer from the plans pursuant to the terms and conditions set forth in the application, provided that the amount paid for the stock is not less than the fair market value at the time of the consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-27632 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-1827; Prohibited Transaction Exemption 80-66]

Exemption From the Prohibitions for Certain Transactions Involving the First Oklahoma Bancorporation Participating Companies Savings and Thrift Plan Located in Oklahoma City, Okla.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the sale of mortgages by the First Oklahoma Bancorporation Participating Companies Savings and Thrift Plan (the Bancorp Plan) to the First National Bank and Trust Company of Oklahoma City (First National), one of the contributing employers to the Bancorp Plan.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8915. (This is not a toll-tree number.)

SUPPLEMENTARY INFORMATION: On June 27, 1980, notice was published in the **Federal Register** (45 FR 43506) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the sale of certain mortgages by the Bancorp Plan to First National. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a

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fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Bancorp Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Bancorp Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash by the Bancorp Plan of first mortgages secured by real property to First National for an amount equal to the sum of the unpaid principal balances, provided this amount is not less than fair market value at the time of sale, plus any accrued unpaid interest to the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–27626 Filed 9–8–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1756]

Proposed Exemption for Certain Transactions Involving the William Michael Watterson, M.D., P.A. Profit Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a 10% limited partnership interest by the William Michael Watterson, M.D., P.A. Profit Sharing Trust (the Plan) to William Michael Watterson, plan participant, trustee and sole shareholder of the plan sponsor. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, and the general and limited partners of Professional Land Developers (the Partnership).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 20, 1980.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1756. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975 (c)(2) of the Code, and in accordance with procedures set forth in ERISA procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan which had six participants as of February 27, 1980. William Michael Watterson is the sole trustee of the Plan.

2. In 1977, upon recommendation of its investment advisor, the Plan purchased a 10% limited partnership interest in the Partnership. As of May 15, 1980, the Plan's total investment in the Partnership amounted to $8,561.97. The Partnership is a land development company with assets consisting of two parcels of unimproved real property located adjacent to the Haywood County Hospital in Haywood County, North Carolina.

3. The Partnership plans to construct a medical complex on the property. Pursuant to advice received prior to the Plan's acquisition of such Partnership interest, Dr. Watterson believed he could later purchase the interest from the Plan without restriction.

4. Several local banks contacted by the Partnership expressed an unwillingness to loan development money to the Partnership because of the greater risks they perceived under circumstances where some or all of the partners are employee benefit plans. In the absence of such financing, the real property has little investment potential.

5. The real property was appraised on November 29, 1979 by Francis J. Naeger, MAI, an independent appraiser, as having a fair market value of $135,200 for its highest and best use as a medical

complex, and $96,000 for other commercial uses.

6. The Plan proposes to sell, for cash, its 10% limited partnership interest to William Michael Watterson, M.D. Dr. Watterson has offered to purchase the Plan's interest in the Partnership for $13,520 (10% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities. As of May 15, 1980, the Partnership's total liability amounted to $22,720 which was the outstanding indebtedness of the Partnership on the acquisition of the real property. The Plan's share of that liability on that date amounted to $2,272 (10% of the total $22,720).

7. In summary, the applicant represents that the proposed sale meets the criteria of section 408(a) of the Act because: (1) It will be a one time cash transaction; (2) It will remove a nonproductive asset from the Plan at a profit to the Plan; (3) The sales price will be determined by the greater of two independent appraisals; and (4) The trustee of the Plan has determined that the proposed transaction is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries.

The Department notes that the proposed exemption pertains only to the sale of the Plan's limited partnership interest to William Michael Watterson, M.D. An exemption has not been requested with respect to the acquisition and holding of the limited partnership interest, nor does the proposed exemption, if granted, encompass any such transactions.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, notice of the proposed exemption will be mailed directly or hand delivered to all participants and beneficiaries of the Plan. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform these persons of their right to comment on or request a hearing regarding the requested exemption within the time period set forth above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the 10 percent limited partnership interest in Professional Land Developers from the Plan to William Michael Watterson, M.D., for $13,520 (10 percent of the appraised value of $135,200) less its pro rata share of the Partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-27635 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1755]

Proposed Exemption for Certain Transactions Involving the Federick G. Wenzel, M.D., P.A. Profits Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a 25% limited partnership interest by the Frederick G. Wenzel, M.D., P.A. Profit Sharing Trust (the Plan) to Frederick G. Wenzel, plan participant, trustee and sole shareholder of the plan sponsor. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, and the general and limited partners of Professional Land Developers (the Partnership).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of

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Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1755. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and 406(b) (2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975 (c) (1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408 (a) of the Act and section 4975 (c) (2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganiztion Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan which had four participants as of January 28, 1980. Frederick G. Wenzel and Judith P. Wenzel are the co-trustees of the Plan.

2. In 1977, upon recommendation of its investment advisor, the Plan purchased a 25% limited partnership interest in the Partnership. As of May 15, 1980, the Plan's total investment in the Partnership amounted to $21,404.93. The Partnership is a land development company with assets consisting of two parcels of unimproved real property located adjacent to the Haywood County Hospital in Haywood County, North Carolina.

3. The Partnership plans to construct a medical complex on the property. Pursuant to advice received prior to the Plan's acquisition of such Partnership interest, Dr. Wenzel believed he could later purchase the interest from the Plan without restriction.

4. Several local banks contacted by the Partnership expressed an unwillingness to loan development money to the Partnership because of the greater risks they perceived under circumstances where some or all of the partners are employee benefit plans. In the absence of such financing, the real property has little investment potential.

5. The real property was appraised on November 29, 1979 by Francis J. Naeger, MAI, an independent appraiser, as having a fair market value of $135,200 for its highest and best use as a medical complex, and $96,000 for other commercial uses.

6. The Plan proposes to sell, for cash, its 25% limited partnership interest to Frederick G. Wenzel, M.D. Dr. Wenzel has offered to purchase the Plan's interest in the Partnership for $33,800 (25% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities. As of May 15, 1980, the Partnership's total liability amounted to $22,720 which was the outstanding indebtedness of the Partnership on the acquisition of the real property. The Plan's share of that liability on that date amounted to $5,680 (25% of the total $22,720).

7. In summary, the applicant represents that the proposed sale meets the criteria of section 408(a) of the Act because: (1) It will be a one time cash transaction; (2) It will remove a nonproductive asset from the Pan at a profit to the Plan; (3) The sales price will be determined by the greater of two independent appraisals; and (4) The trustees of the Plan have determined that the proposed transaction is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries.

The Department notes that the proposed exemption pertains only to the sale of the Plan's limited partnership interest to Frederick G. Wenzel, M.D. An exemption has not been requested with respect to the acquisition and holding of the limited partnership interest nor does the proposed exemption, if granted, encompass any such tranaction.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, notice of the proposed exemption will be mailed directly or hand delivered to all participants and beneficiaries of the Plan. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform these persons of their right to comment on or request a hearing regarding the requested exemption within the time period set forth above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interest persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the 25% limited partnership interest in Professional Land Developers from the Plan to Frederick G. Wenzel, M.D., for $33,380 (25% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities, provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–27634 Filed 9–8–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–65; Exemption Application No. D–1191]

Exemption From the Prohibitions for a Certain Transaction Involving the Figure World Profit-Sharing Trust Located in San Antonio, Tex.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of real property by the Figure World Profit Sharing Trust (the Plan) to Figure World, Inc. (the Employer).

EFFECTIVE DATE: This exemption is effective May 15, 1977.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 17, 1980, notice was published in the **Federal Register** (45 FR 41092) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the Employer and the Plan trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Internal Revenue Service has determined that payment of amounts in excess of fair market value to a plan constitutes a contribution to the plan to the extent of such excess and therefore must be examined under Code sections 401(a)(4), 404, and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, effective May 15, 1977, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the

Code, shall not apply to the sale of real property located at 8103 Cross Creek, San Antonio, Texas, by the Plan to the Employer for the amount of $43,000, providing that amount was not less than the fair market value of the property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 2d day of September, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-27625 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1753]

Proposed Exemption for Certain Transactions Involving the Blue Ridge Urological Associates, P.A. Plan located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a 15% limited partnership interest by the Blue Ridge Urological Associates, P.A. Plan (the Plan) to Guy Abbate, plan participant, trustee and sole shareholder of the plan sponsor. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, and the general and limited partners of Professional Land Developers (the Partnership).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1753. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown, of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. the Plan is a profit sharing plan which had three participants as of January 28, 1980. Guy Abbate and Lucretia S. Abbate are the co-trustees of the Plan.

2. In 1977, upon recommendation of its investment advisor, the Plan purchased a 15% limited partnership interest in the Partnership. As of May 15, 1980, the Plan's total investment in the Partnership amounted to $12,842.96. The Partnership is a land development company with assets consisting of two parcels of unimproved real property located adjacent to the Haywood County Hospital in Haywood County, North Carolina.

3. The Partnership plans to construct a medical complex on the property. Pursuant to advice received prior to the Plan's acquisition of such Partnership interest, Dr. Abbate believed he could later purchase the interest from the Plan without restriction.

4. Several local banks contacted by the Partnership expressed an unwillingness to loan development money to the Partnership because of the greater risks they perceived under circumstances where some or all of the partners are employee benefit plans. In the absence of such financing, the real property has little investment potential.

5. The real property was appraised on November 29, 1979 by Francis J. Naeger, MAI, an independent appraiser, as having a fair market value of $135,200 for its highest and best use as a medical complex, and $96,000 for other commercial uses.

6. The Plan proposes to sell, for cash, its 15% limited partnership interest to Guy Abbate, M.D. Dr. Abbate has offered to purchase the Plan's interest in the Partnership for $20,280 (15% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities. As of May 15, 1980, the Partnership's total liablility amounted to $22,720 which was the outstanding indebtedness of the Partnership on the acquisition of the real property. The Plan's share of that liability on that date amounted to $3,408 (15% of the total $22,720).

7. In summary, the applicant represents that the proposed sale meets the criteria of section 408(a) of the Act because: (1) It will be a one time cash transaction; (2) It will remove a nonproductive asset from the Plan at a profit to the Plan; (3) The sales price will be determined by the greater of two independent appraisals; and (4) The trustees of the Plan have determined that the proposed transaction is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries.

The Department notes that the proposed exemption pertains only to the sale of the Plan's limited partnership interest to Guy Abbate, M.D. An exemption has not been requested with respect to the acquisition and holding of the limited partnership interest, nor does the proposed exemption, if granted, encompass any such transactions.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, notice of the proposed exemption will be mailed directly or hand delivered to all participants and beneficiaries of the Plan. Such notice include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform these persons of their right to comment on or request a hearing regarding the requested exemption within the time period set forth above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the 15% limited partnership interest in Professional Land Developers from the Plan to Guy Abbate, M.D., for $20,280 (15% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–27636 Filed 9–8–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D-1754]

Proposed Exemption for Certain Transactions Involving the Ralph N. Feichter, M.D., P.A. Profit Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a 10% limited partnership interest by the Ralph N. Feichter, M.D., P.A., Profit Sharing trust (the Plan) to Ralph N. Feichter, plan participant, trustee and sole shareholder of the plan sponsor. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, and the general and limited partners of Professional Land Developers (the Partnership).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1754. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan which had five participants as of February 27, 1980. Ralph N. Feichter is the sole trustee of the plan.

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2. In 1977, upon recommendation of its investment advisor, the Plan purchased a 10% limited partnership interest in the Partnership. As of May 15, 1980, the Plan's total investment in the Partnership amounted to $8,561.97. The Partnership is a land development company with assets consisting of two parcels of unimproved real property located adjacent to the Haywood County Hospital in Haywood County, North Carolina.

3. The Partnership plans to construct a medical complex on the property. Pursuant to advice received prior to the Plan's acquisition of such Partnership interest, Dr. Feichter believed he could later purchase the interest from the Plan without restriction.

4. Several local banks contacted by the Partnership expressed an unwillingness to loan development money to the Partnership because of the greater risks they perceived under circumstances where some or all of the partners are employee benefit plans. In the absence of such financing, the real property has little investment potential.

5. The real property was appraised on November 29, 1979 by Francis J. Naeger, MAI, an independent appraiser, as having a fair market value of $135,200 for its highest and best use as a medical complex, and $96,000 for other commercial uses.

6. The Plan proposes to sell, for cash, its 10% limited partnership interest to Ralph N. Feichter, M.D. Dr. Feichter has offered to purchase the Plan's interest in the Partnership for $13,520 (10% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities. As of May 15, 1980, the Partnership's total liability amounted to $22,720 which was the outstanding indebtedness of the Partnership on the acquisition of the real property. The Plan's share of that liability on that date amounted to $2,272 (10% of the total $22,720).

7. In summary, the applicant represents that the proposed sale meets the criteria of section 408(a) of the Act because: (1) It will be a one time cash transaction; (2) It will remove a nonproductive asset from the Plan at a profit to the Plan; (3) The sales price will be determined by the greater of two independent appraisals; (4) The trustee of the Plan has determined that the proposed transaction is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries.

The Department notes that the proposed exemption pertains only to the sale of the Plan's limited partnerhship interest to Ralph N. Feichter, M.D. An exemption has not been requested with respect to the acquisition and holding of the limited partnership interest, nor does the proposed exemption, if granted, encompass any such transactions.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, notice of the proposed exemption will be mailed directly or hand delivered to all participants and beneficiaries of the Plan. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform these persons of their right to comment on or request a hearing regarding the requested exemption within the time period set forth above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the 10% limited partnership interest in Professional Land Developers from the Plan to Ralph N. Feichter, M.D., for $13,520 (10% of the appraised value of $135,200) less its pro rata share of the Partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of September, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-27669 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the

Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 25–29, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–8917; Kingston Krome Company, Kingston, Mississippi

A certification was issued covering all workers of the firm separated on or after *September 7, 1979.*

TA–W–8728; Fostoria Glass Company, Moundsville, West Virginia

A certification was issued covering all workers of the firm separated on or after *May 20, 1979.*

TA–W–7870; Academy Knitters, Williamstown, New Jersey

A certification was issued covering all workers of the firm separated on or after *June 28, 1979.*

TA–W–8641; Jaclyn Incorporated; Jaclyn Division, West New Jersey, New Jersey

A certification was issued covering all workers of the firm separated on or after *May 13, 1979.*

TA–W–8908; Powell/Adamson Enterprises, Incorporated, McCleary, Washington

A certification was issued covering all workers of the firm separated on or after *September 1, 1979.*

TA–W–9035; Allied Chemical Corporation; Automotive Prod. Division, Mt. Clemens, Mississippi

A certification was issued covering all workers of the firm separated on or after *May 30, 1979.*

TA–W–7792; Aloha Shake Company, Incorporated, Aloha, Washington

A certification was issued covering all workers of the firm separated on or after *March 28, 1979.*

TA–W–8021; Callins Industries, Incorporated, Hollandale, Mississippi

A certification was issued covering all workers of the Hollandale, Mississippi plant who were separated on or after *April 30, 1979.*

TA–W–9195; Callins Industries, Incorporated, Greenfield, Tennessee

A certification was issued covering all workers of the Greenfield, Tennessee plant who were separated on or after *April 30, 1979.*

With respect to workers producing aluminum electrolytic capacitors at the Greenfield, Tennessee plant, a certification was issued covering all such workers separated on or after April 30, 1979 and before *April 6, 1980.*

With respect to workers at the Greenfield plant producing dielectric capacitors, the investigation revealed that criterion (1) has not been met.

TA–W–7891/a G&L Shake Co., Inc., Hoquiam & Forks, Washington

A certification was issued covering all workers of the firm separated on or after *April 7, 1979.*

TA–W–8272; Quonset Shake Co., Port Angeles, Washington

A certification was issued covering all workers of the firm separated on or after *April 29, 1979.*

Negative Determination

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–8317; TRA Dean Fashions, Newark, New Jersey

The investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA–W–8997; Ardee Sportswear, Incorporated, Los Angeles, California

The investigation revealed that criterion (3) has not been met.

The subject firm is engaged exclusively in the importing of ladies sportswear.

TA–W–8053; AMIL Manufacturing Co., Incorporated, Shickshinny, Pennsylvania

The investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA–W–7973; Virginia Oak Tannery, Incorporated, Luray, Virginia

The investigation revealed that criterion (3) has not been met.

A survey of customers indicated that increased imports did not contribute importantly to workers separations at the firm.

TA–W–8956; Hooker Chemical Company, North Tonawanda, New York

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *Phenolic resins and compounds* are negligible.

TA–W–9452; Westover Knitting Mills, Indian Orchard, Massachusetts

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *finished fabric* did not increase as required, for certification.

TA–W–9715; Avondale Mills, Stevenson, Alabama

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *carpet yarn* did not increase as required for certification.

TA–W–9015; JADCO Homes, Incorporated, Vassar, Michigan

The investigation revealed that criterion (3) has not been met.

There are no imports of new homes; and imports of automobiles may not be considered like or directly competitive with new homes.

TA–W–7255; Wagner Electric Corporation, Hazleton, Pennsylvania

The investigation revealed that criterion (3) has not been met.

A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7744; Dayton Malleable, Incorporated; Ohio Division, Columbus, Ohio

The investigation revealed that criterion (3) has not been met.

A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *Scrap* are negligible.

TA–W–7362; Singer Corporation, Elizabeth, New Jersey

With respect to workers producing industrial sewing machines, the

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investigation revealed that criterion (3) has not been met.

A survey of customers indicated that increased imports did not contribute importantly to separations of workers producing industrial sewing machines at the firm.

With respect to workers producing consumer sewing machines, the investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *consumer sewing machines* did not increase as required for certification.

With respect to workers producing parts for *industrial sewing machines*, a certificate was issued applicable to all such workers separated from employment on or after February 19, 1979.

With respect to workers producing parts for *consumer sewing machines* a certification was issued applicable to all such workers separated on or after April 20, 1979.

TA-W-9168, 9168a; Washington Steel Corporation, Houston, Pennsylvania—Washington, Pennsylvania

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *sheet, strip & plate* did not increase as required for certification.

TA-W-8980; Ferroslag Division of Spang & Company, Larin, Ohio

The investigation revealed that criterion (3) has not been met.

Aggregate U.S. imports of *scrap* are negligible.

TA-W-8873; International Salt Co., Detroit, Michigan

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of salt did not increase as required for certification.

TA-W-9646; Gene Bell Chevrolet, Inc., Detroit, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7696; Olympic Cedar Product Inc., Amanda Park, Washington

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8883; Westvaco Corp., Detroit, Michigan

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of corrugated boxes are negligible.

TA-W-8983; The Levy Co., Chesterton, Indiana

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of scrap are negligible.

TA-W-9614; Mike Derian Ford, Inc., Mt. Clemens, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7726; Firestone Tire & Rubber Co., Butte, Montana

Investigation revealed that criterion (3) has not been met. The closure of the Butte, Montana store resulted from a corporate decision by Firestone to reduce operations at the retail level. Certifications of Firestone plants were based upon increased imports of tires by customers who did not buy their tires through Firestone retail stores.

TA-W-8938; C. J. Larger Felder & Sons, Inc., Pittsburgh, Pennslyvania

Investigations revealed that criterion (3) has not been met. Aggregate U.S. imports of scrap are negligible.

TA-W-10, 159-10, 160-10, 161; Bee Chemical Co., Belleville, Michigan, Gardena, California, Lansing, Illinois

Investigations revealed that criterion (3) has not been met. Aggregate U.S. imports of paint are negligible.

TA-W-9056; Tenaglia Construction, Inc., Leonard, Michigan

Investigation revealed that criterion (3) has not been met. Increased imports of automobiles are not like or directly competitive with carpentry activities performed by the petitioning group of workers.

TA-W-9324; National Garment Co., Hammonton, New Jersey

Investigation revealed that criterion (3) has not been met. Aggegate U.S. imports of ladies coats did not increase as required for certification. Further, sales by the subject firm increased in the first seven months of 1980 compared to the first seven months of 1979.

TA-W-9609; Detroit Body Products Division, Wixom, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9111, 9111a; Slab Fork Coal Co., Alpoca & Wyoming City, West Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal & coke did not increase as required for certification.

I hereby certify that the aforementioned determinations were issued during the period August 25–29th, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: September 3, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27716 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-28-M

General Motors Corp.; Determinations Regarding Eligibility To apply for Worker Adjustment Assistance

In the matter of:

TA-W-6705: Delco Electronics Division, Kokomo, Indiana
TA-W-6783: General Motors Assembly Division, Baltimore, Maryland
TA-W-6877: Harrison Radiator Division, Buffalo, New York
TA-W-6917: General Motors Assembly Division, Lakewood, Georgia
TA-W-6999: Buick Assembly, Flint, Michigan
TA-W-7000: Cadillac Assembly, Detroit, Michigan
TA-W-7001: Chevrolet Motor Division, Bay City, Michigan
TA-W-7002: Chevrolet Motor Division, Buffalo, New York
TA-W-7003: Chevrolet Motor Division, Livonia, Michigan
TA-W-7004: Chevrolet Motor Division, Flint Manufacturing, Flint, Michigan
TA-W-7004A: Chevrolet Motor Division, Adrian, Michigan
TA-W-7005: Chevrolet Motor Division, Indianapolis, Indiana
TA-W-7007: Chevrolet Motor Division, Saginaw Plant, Saginaw, Michigan
TA-W-7008: Chevrolet Motor Division, Tonawanda, New York
TA-W-7009: Chevrolet Assembly, Flint, Michigan
TA-W-7010: Chevrolet Motor Division, Detroit Plants, Detroit, Michigan
TA-W-7011: Chevrolet Motor Division, Parma, Ohio
TA-W-7012: Chevrolet Motor Division, Flint Engine and Metal Fabricating, Flint, Michigan
TA-W-7013: Chevrolet Motor Division, Toledo, Ohio
TA-W-7014: Chevrolet Motor Division, Warren, Michigan
TA-W-7015: Oldsmobile Assembly, Lansing, Michigan
TA-W-7016: Pontiac Assembly, Pontiac, Michigan

TA–W–7018: Fisher Body Division, Fleetwood, Detroit, Michigan
TA–W–7019: Fisher Body Division, Cleveland, Ohio
TA–W–7021: Fisher Body Division, Grand Rapids Trim, Grand Rapids, Michigan
TA–W–7022: Fisher Body Division, Flint No. 1, Flint, Michigan
TA–W–7023: Fisher Body Division, Grand Blanc, Michigan
TA–W–7024: Fisher Body Division, Techumseh, Michigan
TA–W–7026: Fisher Body Division, Columbus, Ohio
TA–W–7027: Fisher Body Division, Fort Street, Detroit, Michigan
TA–W–7028: Fisher Body Division, Trenton, New Jersey
TA–W–7029: Fisher Body Division, Coldwater Road, Flint, Michigan
TA–W–7030: Fisher Body Division, Syracuse, New York
TA–W–7031: Fisher Body Division, Elyria, Ohio
TA–W–7032: Fisher Body Division, Lansing, Michigan
TA–W–7033: Fisher Body Division, Pontiac, Michigan
TA–W–7035: Fisher Body Division, Hamilton, Ohio
TA–W–7036: Fisher Body Division, Euclid, Ohio
TA–W–7037: Fisher Body Division, Pittsburgh Plant, McKeesport, Pennsylvania
TA–W–7038: Fisher Body Division, Detroit Central Plants, Detroit, Michigan
TA–W–7039: Fisher Body Division, Chicago Plant, Willow Springs, Illinois
TA–W–7040: Fisher Body Division, Livonia, Michigan
TA–W–7041: Fisher Body Division, Marion, Indiana
TA–W–7044: AC Spark Plug Division, Flint, Michigan
TA–W–7045: Delco Remy Division, Anderson, Indiana
TA–W–7046: Delco Remy Division, Muncie, Indiana
TA–W–7048: Guide Division, Anderson, Indiana
TA–W–7049: Guide Division, Monroe, Louisiana
TA–W–7050: Harrison Radiator Division, Lockport, New York
TA–W–7052: Delco Moraine Division, Dayton, Ohio
TA–W–7053: Delco Moraine Division, Fredericksburg, Virginia
TA–W–7055: New Departure-Hyatt Division, Sandusky, Ohio
TA–W–7056: New Departure-Hyatt Division, Clark, New Jersey
TA–W–7057: Saginaw Steering Gear Division, Saginaw, Michigan
TA–W–7059: GMC Truck and Coach Assembly Division, Pontiac, Michigan
TA–W–7065: Central Foundry Division, Danville, Illinois
TA–W–7066: Central Foundry Division, Saginaw, Michigan
TA–W–7067: Central Foundry Division, Defiance, Ohio
TA–W–7068: Central Foundry Division, Bedford, Indiana
TA–W–7070: Delco Electronics Division, Shreveport, Louisiana
TA–W–7071: General Motors Assembly Division, Doraville, Georgia
TA–W–7073: General Motors Assembly Division, South Gate, California
TA–W–7074: General Motors Assembly Division, Arlington, Texas
TA–W–7075: General Motors Assembly Division, Fremont, California
TA–W–7076: General Motors Assembly Division, Janesville, Wisconsin
TA–W–7078: General Motors Assembly Division, Leeds, Kansas City, Missouri
TA–W–7079: General Motors Assembly Division, Van Nuys, California
TA–W–7080: General Motors Assembly Division, Norwood, Ohio
TA–W–7081: General Motors Assembly Division, St. Louis, Missouri
TA–W–7082: General Motors Assembly Division, Lordstown, Ohio
TA–W–7305: Fisher Body Division, Kalamazoo, Michigan
TA–W–7603: Delco Products Division, Rochester, New York
TA–W–7782: Delco Products Division, Dayton, Ohio
TA–W–8017: Inland Division, Dayton, Ohio
TA–W–8105: Packard Electric Division, Brookhaven, Mississippi
TA–W–8106: Packard Electric Division, Warren, Ohio
TA–W–8107: Packard Electric Division, Clinton, Mississippi
TA–W–8572: Delco Air Conditioning Division, Dayton, Ohio
TA–W–8581: Creative Services Department, Chevrolet Motor Division, Detroit, Michigan
TA–W–8609: Fisher Body Division, Mansfield, Ohio
TA–W–8610: AC Spark Plug Division, Milwaukee Operations, Oak Creek, Wisconsin
TA–W–8611: Rochester Products Division, Rochester, New York
TA–W–8612: Delco Electronics Division, Indianapolis, Indiana
TA–W–8613: General Motors Assembly Division, Fairfax, Kansas
TA–W–8614: Delco Remy Division, Meridian, Mississippi

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued ten Certifications Regarding Eligibility to Apply for Worker Adjustment Assistance which were published in the **Federal Register** on March 28, 1980, (45 FR 20589); May 2, 1980, (45 FR 29433); May 9, 1980, (45 FR 30750); May 23, 1980, (45 FR 35050); June 6, 1980, (45 FR 38189); August 15, 1980, (45 FR 54490); August 19, 1980, (45 FR 55299); July 25, 1980, (45 FR 49703). The remaining two certifications were signed on August 1, 1980, (TA–W–7782) and on August 21, 1980, (TA–W–8581 and 8612) and will be published in the **Federal Register** at a later date.

The first certification mentioned above was applicable to all workers covered under petition TA–W–6783, cited above of the General Motors Assembly Division of the General Motors Corporation, Baltimore, Maryland.

The second certification mentioned above was applicable to all workers covered under petitions TA–W–6999, 7009, 7015–16, 7071, 7074–76 and 7078–80, cited above of the General Motors Corporation, Buick Assembly, Flint, Michigan; Chevrolet Assembly, Flint, Michigan; Oldsmobile Assembly, Lansing, Michigan; Pontiac Assembly, Pontiac, Michigan; GMAD-Doraville, Georgia; GMAD-Arlington, Texas; GMAD-Fremont, California; GMAD-Janesville, Wisconsin; GMAD-Leeds (Kansas City), Missouri; GMAD-Van Nuys, California; and GMAD-Norwood, Ohio.

The third certification mentioned above was applicable to all workers covered under petitions TA–W–7000, 7073 and 7081, cited above of the General Motors Corporation, Cadillac Assembly, Detroit, Michigan; GMAD-South Gate, California; and GMAD-St. Louis, Missouri.

The fourth certification mentioned above was applicable to all workers of component parts plants covered under petitions TA–W–7001–7004, 7004A, 7005, 7007–7008, 7010–7014, 7018–7019, 7021–7024, 7026–7033, 7035–7041, 7044–7046, 7048–7050, 7052–7053, 7055–7057, 7065–7068, 7070, and 7305, cited above of the General Motors Corporation's Chevrolet Motor Division, Bay City, Michigan; Buffalo, New York; Livonia, Michigan; Flint Manufacturing, Flint, Michigan; Adrian, Michigan; Indianapolis, Indiana; Saginaw Plants, Saginaw, Michigan; Tonawanda, New York; Detroit Plants, Detroit, Michigan; Parma, Ohio; Flint Engine and Metal Fabricating, Flint, Michigan; Toledo, Ohio; Warren, Michigan; and the Fisher Body Division's plants at Fleetwood, Detroit, Michigan; Cleveland, Ohio; Grand Rapids Trim, Grand Rapids, Michigan; Flint No. 1, Flint, Michigan; Grand Blanc, Michigan; Tecumseh, Michigan; Columbus, Ohio; Fort Street, Detroit, Michigan; Trenton, New Jersey; Coldwater Road, Flint, Michigan; Syracuse, New York; Elyria, Ohio; Lansing, Michigan; Pontiac, Michigan; Hamilton, Ohio; Euclid, Ohio; Pittsburgh Plant, McKeesport, Pennsylvania; Detroit Central Plants, Detroit, Michigan; Chicago Plant, Willow Springs, Illinois; Livonia, Michigan; Marion, Indiana; and AC Spark Plug Division Plant at Flint, Michigan, and Delco-Remy Division Plants at Anderson, Indiana; Muncie, Indiana; and the Guide Division Plants at Anderson, Indiana; Monroe, Louisiana; and the Harrison Radiator Division Plant at Lockport, New York; and the

Delco Moraine Division Plants at Dayton, Ohio; Fredericksburg, Virginia; and the New Departure-Hyatt Division Plants at Sandusky, Ohio; Clark, New Jersey; and the Saginaw Steering Gear Division Plant at Saginaw, Michigan; and the Central Foundry Division plants at Danville, Illinois; Saginaw, Michigan; Defiance, Ohio; Bedford, Indiana; and the Delco Electronics Division Plants at Shreveport, Louisiana; and the Fisher Body Division Plant at Kalamazoo, Michigan.

The fifth certification mentioned above was applicable to all workers covered under petition TA-W-7603, cited above of the General Motors Corporation, Delco Products Division, Rochester, New York.

The sixth certification mentioned above was applicable to all workers covered under petitions TA-W-8609-11 and 8614, cited above of the General Motors Corporation, Fisher Body Division, Mansfield, Ohio; AC Spark Plug Division, Milwaukee Operations, Oak Creek, Wisconsin; Rochester Products Division, Rochester, New York; and Delco-Remy Division, Meridian, Mississippi.

The seventh certification mentioned above was applicable to all workers covered under petition TA-W-8613, cited above of the General Motors Corporation, GM Assembly Division, Fairfax, Kansas.

The eighth certification mentioned above was applicable to all workers covered under petitions TA-W-8017, 8105-7 and 8572, cited above of the General Motors Corporation, Inland Division, Dayton, Ohio; Packard Electric Division, Brookhaven, Mississippi; Packard Electroc Division Warren, Ohio; Packard Electric Division, Clinton, Mississippi; and Delco Air Conditioning Division, Dayton, Ohio.

The ninth certification mentioned above was applicable to all workers covered under petition TA-W-7782, cited above of the General Motors Corporation, Delco Products Division, Dayton, Ohio.

The tenth certification mentioned above was applicable to all workers covered under petition TA-W-8581 and 8612, cited above of the General Motors Corporation Creative Services Department of the Chevrolet Motor Division, Detroit, Michigan and the Delco Electronics Division, Indianapolis, Indiana.

The Department issued a Notice of Determination which was published in the **Federal Register** on May 2, 1980, (45 FR 29442) applicable to all workers covered under petitions TA-W-6917, 7059 and 7082, cited above of the General Motors Corporation, General Motors Assempty Division Plant at Lakewood, Georgia; GMC Truck and Coach Assempty Division Plant at Pontiac, Michigan; and the General Motors Assembly Division Plant at Lordstown, Ohio.

The Department also issued a Notice of Revised Determination Regarding Eligibility to Apply for Worker Adjustment Assistance which was published in the **Federal Register** on June 20, 1980, (45 FR 41732) applicable to all workers covered under petitions TA-W-6705 and 6877, cited above of the General Motors Corporation, Delco Electronics Division at Kokomo, Indiana; and the Harrison Radiator Division in Buffalo, New York.

The Department issued a Notice of Amended Determination on Reconsideration which was published in the **Federal Register** on July 22, 1980, (45 FR 48998) applicable to all workers at the Fremont, California, plant of General Motors Corporation (TA-W-7075).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certifications. It was found on review that workers at several subdivisions of General Motors Corporation, who were certified under the ten above-mentioned certifications, were not able to establish their individual eligibility for trade readjustment allowances since multiple certifications of various plants of the same firm did not allow for coverage of certain employees who had transferred from one certified worker group to another in the 52 weeks prior to their layoffs. Furthermore, on additional review, it was found that significant layoffs occurred prior to the original impact dates in 7 cases: TA-W-6877, TA-W-7000, TA-W-7002, TA-W-7014, TA-W-7033, TA-W-7048 and TA-W-7073.

The intent of the certification is to cover all workers at the several locations of the General Motors Corporation who were affected by the decline in the sales or production of passenger cars, pick-up trucks, light trucks, utility vehicles, vans and component parts for passenger cars, trucks, vans and general utility vehicles at 85 assembly and auxiliary plants of the General Motors Corporation, Detroit, Michigan, related to increased import competition. The Notices of Certifications, Notices of Determinations and Notices of Revised Determination, therefore are amended to include all workers at the 85 assembly and auxiliary plants of the General Motors Corporation, Detroit, Michigan, except those who were specifically denied under TA-W-6917, 7059 and 7082.

The separate certifications applicable to the General Motors Corporation are hereby amended as follows:

> "All workers of the following facilities of the General Motors Corporation, except as specifically limited herein, who became totally or partially separated from employment on or after the indicated impact dates are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

TA-W	Plant	Impact date
6705	Delco Electronics Division, Kokomo, Indiana	Nov. 1, 1979.
6783	General Motors Assembly Division, Baltimore, Maryland	Jan 7, 1979.
6877	Harrison Radiator Division, Buffalo, New York	July 1, 1979.
6917	General Motors Assembly Division, Lakewood, Georgia (lightt duty trucks)	Sept. 1, 1979.
6999	Buick Assembly, Flint, Michigan	Sept. 1, 1979.
7000	Cadillac Assembly, Detroit, Michigan	July 1, 1979.
7001	Chevrolet Motor Division, Bay City, Michigan	July 1, 1979.
7002	Chevrolet Motor Division, Buffalo, New York	July 1, 1979.
7003	Chevrolet Motor Division, Livonia, Michigan	Aug. 1, 1979.
7004	Chevrolet Assembly, Flint Manufacturing, Flint, Michigan	Aug. 1, 1979.
7004A	Chevrolet Motor Division, Adrian, Michigan	Aug. 1, 1979.
7005	Chevrolet Motor Division, Indianapolis, Indiana	June 1, 1979.
7007	Chevrolet Motor Division, Saginaw Plants, Saginaw, Michigan	July 1, 1979.
7008	Chevrolet Motor Division, Tonawanda, New York	June 1, 1979.
7009	Chevrolet Motor Division, Flint, Michigan	Aug. 1, 1979.
7010	Chevrolet Motor Division, Detroit Plants, Detroit, Michigan	July 1, 1979.
7011	Chevrolet Motor Division, Parma, Ohio	June 1, 1979.
7012	Chevrolet Motor Division, Flint Engine and Metal Fabricating, Flint, Michigan	Aug. 1, 1979.
7013	Chevrolet Motor Division, Toledo, Ohio	July 1, 1979.
7014	Chevrolet Motor Division, Warren, Michigan	July 1, 1979.
7015	Oldsmobile Assembly, Lansing, Michigan	Sept. 1, 1979.
7016	Pontiac Assembly, Pontiac, Michigan	July 1, 1979.
7018	Fisher Body Division, Fleetwood, Detroit, Michigan	July 1, 1979.
7019	Fisher Body Division, Cleveland, Ohio	March 1, 1979.
7021	Fisher Body Division, Grand Rapids Trim, Grand Rapids, Michigan	May 1, 1979.
7022	Fisher Body Division, Flint No. 1, Flint, Michigan	Dec. 1, 1979.
7023	Fisher Body Division, Grand Blanc, Michigan	July 1, 1979.
7024	Fisher Body Division, Tecumseh, Michigan	July 1, 1979.
7026	Fisher Body Division, Columbus, Ohio	Mar. 1, 1979.
7027	Fisher Body Division, Fort Street, Detroit, Michigan	May 1, 1979.
7028	Fisher Body Division, Trenton, New Jersey	July 1, 1979.
7029	Fisher Body Division, Coldwater Road, Flint, Michigan	Jan. 28, 1979.
7030	Fisher Body Division, Syracuse, New York	May 1, 1979.
7031	Fisher Body Division, Elyria, Ohio	May 1, 1979.
7032	Fisher Body Division, Lansing, Michigan	Oct. 1, 1979.
7033	Fisher Body Division, Pontiac, Michigan	July 1, 1979.
7035	Fisher Body Division, Hamilton, Ohio	Oct. 1, 1979.
7036	Fisher Body Division, Euclid, Ohio	Sept. 1, 1979.
7037	Fisher Body Division, Pittsburgh Plant, McKeesport, Pennsylvania	July 1, 1979.
7038	Fisher Body Division, Detroit Central Plants, Detroit, Michigan	Mar. 1, 1979.
7039	Fisher Body Division, Chicago Plant, Willow Springs, Illinois	Nov. 1, 1979.
7040	Fisher Body Division, Livonia, Michigan	June 1, 1979.
7041	Fisher Body Division, Marion, Indiana	Apr. 1, 1979.
7044	AC Spark Plug Division, Flint, Michigan	July 1, 1979.
7045	Delco Remy Division, Anderson, Indiana	July 1, 1979.
7046	Delco Remy Division, Muncie, Indiana	Jan. 1, 1979.
7048	Guide Division, Anderson, Indiana	June 1, 1979.
7049	Guide Division, Monroe, Louisiana	Sept. 1, 1979.
7050	Harrison Radiator Division, Lockport, New York	June 1, 1979.
7052	Delco Moraine Division, Dayton, Ohio	July 1, 1979.
7053	Delco Moraine Division, Fredericksburg, Virginia	Dec. 1, 1979.
7055	New Departure-Hyatt Division, Sandusky, Ohiuo	Sept. 1, 1979.
7056	New Departure-Hyatt Division, Clark, New Jersey	July 1, 1979.
7057	Saginaw Steering Gear Division,. Saginaw, Michigan	Aug. 1, 1979.
7059	GMC Truck and Coach Assembly Division, Pontiac, Michigan light and heavy trucks.	Sept. 1, 1979.
7065	Central Foundry Division, Danville, Illinois	July 1, 1979.
7066	Central Foundry Division, Saginaw, Michigan	June 1, 1979.
7067	Central Foundry Division, Defiance, Ohio	Apr. 1, 1979.
7068	Central Foundry Division, Bedford, Indiana	June 1, 1979.
7070	Delco Electronics Division, Shreveport, Louisiana	Sept. 1, 1979.
7071	General Motors Assembly Division, Doraville, Georgia	June 1, 1979.
7073	GMAD, South Gate, California	July 1, 1979.
7074	GMAD, Arlington, Texas	Dec. 1, 1979.
7075	GMAD, Fremont, California	July 13, 1979.
7076	GMAD, Janesville, Wisconsin	Nov. 1, 1979.
7078	GMAD, Leeds, Kansas City, Missouri	Oct. 1, 1979.
7079	GMAD, Van Nuys, California	Oct. 1, 1979.
7080	GMAD, Norwood, Ohio	Nov. 1, 1979.
7081	GMAD, St. Louis, Missouri	June 1, 1979.
7082	GMAD, Lordstown, Ohio (vans)	Sept. 22, 1979.
7305	Fisher Body Division, Kalamazoo, Michigan	July 1, 1979.
7603	Delco Products Division, Rochester, New York	Aug. 1, 1979.
7782	Delco Products Division, Dayton, Ohio	Apr. 1, 1979.
8017	Inland Division, Dayton, Ohio	July 1, 1979.
8105	Packard Electric Division, Brookhaven, Mississippi	Nov. 1, 1979.
8106	Packard Electric Division, Warren, Ohio	June 1, 1979.
8107	Packard Electric Division, Clinton, Mississippi	Jan. 1, 1979.
8572	Delco Air Conditioning Division, Dayton, Ohio	Aug. 1, 1979.
8581	Creative Services Department, Chevrolet Motor Division, Detroit, Michigan	Jan. 1, 1979.
8609	Fisher Body Division, Mansfield, Ohio	Dec. 1, 1979.
8610	AC Spark Plug Division, Milwaukee Operations, Oak Creek, Wisconsin	Jan. 1, 1979.
8611	Rochester Products Division, Rochester, New York	Dec. 1, 1979.
8612	Delco Electronic Division, Indianapolis, Indiana	Jan. 1, 1979.
8613	General Motors Assembly Division, Fairfax, Kansas	Dec. 1, 1979.
8614	Delco Remy Division, Meridian, Mississippi	May 1, 1979.

Signed at Washington, D.C., this 28th day of August 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-27715 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade adjustment Assistance, at the address shown below, not later than September 19, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 19, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Sunroof (union)	Warren, MI	8/19/80	8/15/80	TA-W-10,459	Chrysler products.
Briggs and Stratton Lock & Key Division (workers).	Perry, GA	8/20/80	8/18/80	TA-W-10,460	Locks and keys.
Barberton Puritan Plastics Products (workers)	Barberton, OH	8/19/80	8/12/80	TA-W-10,461	Boat fenders, dock bumpers, toys and sump bases.
Crown Cork and Seal Company (union)	Baltimore, MD	8/15/80	8/12/80	TA-W-10,462	Can and bottle fillers equipment.
CTS of Bernie, Inc. (workers)	Bernie, IN	8/20/80	8/15/80	TA-W-10,463	Electronic component.
Everlock Detroit, Inc. (workers)	Sterling Heights, MI	6/30/80	6/26/80	TA-W-10,464	Fasteners and assemblers for autos.
General Refractories Company (workers)	Pittsburgh, PA	8/18/80	8/13/80	TA-W-10,465	Refractory fire brick.
Industrial Fibre Products Co., Inc. (workers)	Utica, MI	8/11/80	8/06/80	TA-W-10,466	Parts for cars.
Lexington Metal Products Co. (workers)	Lexington, TN	7/29/80	7/25/80	TA-W-10,467	Automotive hardware.
C. G. Conn (workers)	Abilene, TX	8/19/80	8/13/80	TA-W-10,468	Brass musical instruments.
Furnco Construction Corporation (workers)	Lancaster, NY	8/15/80	8/8/80	TA-W-10,469	Steel plant maintenance work (quick repair for brick).
Garland Coal & Mining Company (UMWA)	Fort Smith AR	8/18/80	8/11/80	TA-W-10,470	Mine coal.
Huron Tool & Manufacturing Co. (UAW)	Lexington, MI	8/20/80	8/19/80	TA-W-10,471	Automatic screw machine products.
Lear Seigler Metal Products (workers)	Detroit, MI	8/19/80	8/12/80	TA-W10,472	Parts for autos.
Long-Airdox Co. (workers)	Oakhill, WV	8/15/80	8/11/80	TA-W10,473	Mining machinery, also, warehouse.
Metro Stamping & Manufacturing Co. (workers).	Detroit, MI	8/19/80	8/5/80	TA-W10,474	Metal stamping.
Midway Spring & Wire Company (UAW)	Mount Clemens, MI	8/19/80	8/13/80	TA-W10,475	Springs.
Racal Sportswear, Inc. (ILGWU)	Brooklyn, NY	7/14/80	7/8/80	TA-W10,476	Ladies' dresses and sportswear.
AM General Corp. (workers)	South Bend, IN	8/21/80	8/20/80	TA-W10,477	Military vehicles.
Brake & Steering Division of Bendix Corp. (UAW).	South Bend, IN	8/21/80	8/18/80	TA-W10,478	Power brakes and steering and drum brakes.
Glass Laboratories, Inc. (UAW)	Brooklyn, NY	8/18/80	8/13/80	TA-W10,479	Plastic extrusions.
Irvin Industries, Inc. (UTWA)	Blytheville, AR	8/21/80	8/19/80	TA-W10,480	Security shades for cars.
Kellers Aluminum Furniture of Indiana (Upholsterers International Union of North America).	Linton, IN	8/22/80	8/19/80	TA-W10,481	Promotional aluminum folding furniture.
Prestige Stamping, Inc. (workers)	Warren, MI	8/22/80	8/20/80	TA-W10,482	Metal stampings for auto manufacturers and structural washers.
Rockwell International—Powertool Division, Tupelo Plant (USWA).	Tupelo, MS	8/22/80	8/14/80	TA-W10,483	Stationary power tools.
Tiffin Crystal Division of Towle (American Flint Glass Workers Union).	Tiffin, OH	8/1/80	7/25/80	TA-W10,484	Table ware
Vaungarde, Inc. (workers)	Owosso, MI	8/22/80	7/21/80	TA-W10,485	Auto body parts
Burgess Mining & Construction Corp. (UMWA).	Birmingham, AL	8/21/80	8/19/80	TA-W-10,486	Mine coal.
Dana Corporation, Weatherhead Division (UAW).	Angola IN	8/22/80	8/18/80	TA-W-10,487	Safety brake valves.
Material Handling, Division of Union Metals Manufacturing Corp. (workers).	Macadonia, OH	8/21/80	8/18/80	TA-W-10,488	Car racks
Modern Machine, Inc. (company)	Bay City, MI	8/21/80	8/18/80	TA-W-10,489	Special testing equipment, special tooling and experimental development parts for General Motors.
Motorola, Inc.—Auto Division (workers)	Arcade, NY	8/22/80	8/18/80	TA-W-10,490	Auto workers, underhood.
Natco Products Corp., Mat Division (workers).	West Warwick, RI	8/22/80	8/20/80	TA-W-10,491	Rug gripper matting.
RPI, Inc. (company)	Oscoda MI	8/21/80	8/7/80	TA-W-10,492	Rolled formed articles and stampings for auto industry.
RPI, Inc. (company)	Bay City, MI	8/21/80	8/7/80	TA-W-10,493	Rolled formed articles and stampings for auto industry.
Aluminum Company of America (union)	Point Comfort, TX	8/18/80	8/15/80	TA-W-10,494	Aluminum smelter.
Aluminum Company of America (union)	Rockdale, TX	8/18/80	8/15/80	TA-W-10,495	Aluminum smelter
Bristol Brass Co., Division of Bristol Ind. (union).	Bristol, CT	8/01/80	8/30/80	TA-W-10,496	Brass sheet, rod, and wire.
Continental Mills (workers)	Gloversville, NY	8/15/80	8/13/80	TA-W-10,497	Cloth.
Joseph M. Herman Shoe Co. (workers)	Scarborough, ME	8/19/80	8/14/80	TA-W-10,498	Footwear
Palm Beach Inc.—Formal Wear Division (workers).	Mineola, NY	8/08/80	8/05/80	TA-W-10,499	Sales representative of NY area for men's formal wear.
Plas-Tech, Inc. (workers)	Warren, MI	8/19/80	8/13/80	TA-W-10,500	Plastic parts for Ford.
Seco Knit Fabrics, Inc. (company)	Jersey City, NJ	8/21/80	8/18/80	TA-W-10,501	Knitters of double knit fabrics.
TRW/IRC (union)	Philadelphia, PA	8/19/80	8/13/80	TA-W-10,502	Carbon composition resistors.
Allegheny-Ludlum Steel Corp. (USWA)	Wallingford, CT	7/21/80	7/16/80	TA-W-10,503	Stainless strip and welded tubing.
Bangor Division of Collins & Aikman Corp. (workers).	Cowpens, SC	8/21/80	8/14/80	TA-W-10,504	Warp knit fabrics.
Barberton Recon Center (company)	Barberton, OH	8/20/80	8/14/80	TA-W-10,505	Sale of reconditioned automobiles.
Janesville Products (Upholsterers International Union of North America).	Franklin, OH	8/20/80	8/18/80	TA-W-10,506	Unwoven fiber padding used to insulate cars.
Nichols Buick-Pontiac-GMC, Inc. (workers)	Albion, MI	8/20/80	8/13/80	TA-W-10,507	New car dealership.
Quaker Alloy Casting Co. (workers)	Myerstown, PA	8/4/80	7/31/80	TA-W-10,508	High alloy castings valve bodies, pumps, and related products.
Reco Manufacturing Co. (company)	Springfield, NJ	5/13/80	5/7/80	TA-W-10,509	Wooded framed wall clocks.
Trim Trends, Inc. (company)	Clawson, MI	8/5/80	7/30/80	TA-W-10,510	Provided engineering and administrative services to affiliated companies.
U.S. Pattern Co., Inc. (workers)	Richmond, MI	8/25/80	8/21/80	TA-W-10,511	Wood and metal patterns for auto engines.
Acme Carbide Die, Inc. (workers)	Melvindale, MI	8/19/80	8/7/80	TA-W-10,512	Carbide cold forming dies.
Associated Spring Corp., Barns Group (UAW)	Plymouth, MI	8/19/80	8/13/80	TA-W-10,513	Specialty springs and stamp.
Aztec Chemical (workers)	Elyria, OH	8/19/80	8/13/80	TA-W-10,514	Chemicals.
Bechroth, Inc. (workers)	Brooklyn, NW	8/19/80	8/11/80	TA-W-10,515	Sheepskin tanners, and dyers.
General Tire & Rubber Company (IAM)	Batesville, AR	8/19/80	8/3/80	TA-W-10,516	Glass run channel belt strip, sponge weather strip.
J. Mar Glove Company (ACTWU)	Gloversville, NY	8/1/80	7/30/80	TA-W-10,417	Golf clubs and other sport gloves.
Kelly-Springfield Tire Company (URW)	Freeport, IL	8/18/80	8/13/80	TA-W-10,518	Farm tractor and passenger car tires and pick up tires.
Lazarus Fabrics (UAW)	New York, NY	8/15/80	8/13/80	TA-W-10,519	Drapery goods and upholstery
Sealed Power Tappet Division (Johnson Products) (UAW).	Muskegon MI	8/19/80	8/12/80	TA-E-10,520	Auto engine parts.
Airco Welding Products Inc. (USWA)	Chester, WV	8/25/80	8/19/80	TA-W-10,521	Welding wire.
American Motor Sales Corp. (workers)	Minneapolis, MN	8/25/80	8/18/80	TA-W-10,522	Service and sales, parts division.
Merck & Co., Inc., Calgon Corp.—Neville Carbon Plant (USWA).	Pittsburgh, PA	8/25/80	8/22/80	TA-W-10,523	Activated carbon.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ramsey Corporation of Sullivan (workers)	Sullivan, MO	8/25/80	8/8/80	TA-W-10,524	Piston rings.
U.S. Steel Corp., Research Laboratory (workers).	Monroeville, PA	8/13/80	8/7/80	TA-W-10,525	Laboratory research.
U.S. Steel Corp., Joliet Plant (workers)	Joliet, IL	8/8/80	8/30/80	TA-W-10,526	Carbon steel wire, wire products, and bars.
Wheeling-Pittsburgh Steel Corp., Benwood Plant (USWA).	Benwood, WV	8/22/80	8/19/80	TA-W-10,527	Carbon steel, structural shapes, plates, silicon steel, pipes and tubing, piling, round wire, stainless round wire, and welded pipe.
Wheeling-Pittsburgh Steel Corp., La-Belle Plant (USWA).	Wheeling, WV	8/22/80	8/19/80	TA-W-10,528	Nails.
Willow Run Rubber & Lining Co., Inc., (USWA).	Farmington, MI	8/25/80	8/20/80	TA-W-10,529	Ring assembly alternators.
Alma Plastic's Polymid Division (USWA)	Linwood, MI	8/7/80	8/4/80	TA-W-10,530	Interior plastic molded parts for autos.
A. M. Varityper Co. (IAM)	Hanover, NJ	8/25/80	8/20/80	TA-W-10,531	Computerized printing equipment.
Delta Tube and Fabricating Corp. (Iron Workers).	Holly, MI	8/25/80	8/21/80	TA-W-10,532	Steel fabricated for storage containers (racks)
Firestone Tire & Rubber Co. (URW)	Salinas, CA	7/31/80	7/29/80	TA-W-10,533	Tires.
Hyde Athletic Industries (workers)	Cambridge, MA	8/11/80	8/7/80	TA-W-10,534	Athletic footwear.
Roberts-Hart, Inc. (workers)	Keene, NH	5/8/80	5/7/80	TA-W-10,535	Work shoes and boots.
Skimmer, Inc. (workers)	Romulus, MI	8/11/80	7/29/80	TA-W-10,536	Conveyor belts for automobiles.
Stalwart Rubber Co. (URWA)	Burton, OH	8/11/80	8/4/80	TA-W-10,537	Automotive parts.
Supreme Knits, Inc. (workers)	Oakboro, NC	8/25/80	7/28/80	TA-W-10,538	Terry and velour cloth.
Canteen Service of Anderson (workers)	Anderson, IN	6/27/80	6/24/80	TA-W-10,539	Serve meals.
Fablock Mills Best Dyeing and Finishing (UAW).	Murray Hill, NJ	8/25/80	8/21/80	TA-W-10,540	Textile industries.
Ford Motor Credit Co. (workers)	Augusta, GA	8/11/80	8/5/80	TA-W-10,541	Finance company.
Hunter Stevens Company (workers)	Spencerport, NY	7/24/80	7/18/80	TA-W-10,542	Socket set fasteners.
Proper Mold & Engineering, Inc., (workers)	Roseville, MI	8/22/80	8/19/80	TA-W-10,543	Build plastic injection molds.
South River Coat Company (Shirt, Leisure, Robe Union.	South River, NJ	8/4/80	7/31/80	TA-W-10,544	Coats.
Toledo Pickling & Steel (workers)	Toledo, OH	8/14/80	8/11/80	TA-W-10,545	Pickled and slitted steel.
Uniroyal, Inc. Naugatuck Footwear Plan (company).	Naugatuck, CT	8/3/80	8/3/80	TA-W-10,546	Canvas footwear.

[FR Doc. 80-27719 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-28-M

Senior Executive Service; Appointment of Member to the Performance Review Board

This amends Department of Labor Notice published in 44 FR 55240, dated September 25, 1979, listing Department of Labor members of the Performance Review Board of the Senior Execuive Service.

Lawrence E. Weatherford has been appointed to fill William B. Hewitt's unexpired three-year term as a member of the Performance Review Board of the Senior Executive Service. Mr. Weatherford's term will cover the period March 19, 1980, through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank A. Yeager, Director of Personnel Management, Room C5526, FP Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone 202-523-9191.

Signed at Washington, D.C., this 3rd day of September, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-27722 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-23-M

Senior Executive Service; Schedule for Awarding Performance Awards (Bonuses)

The Office of Personnel Management, in paragraph 3(b) of its Memorandum to Heads of Departments and Agencies, dated July 21, 1980, recommends that each agency "publish a notice in the **Federal Register** of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be made."

Accordingly, the Department of Labor announces that bonuses will be paid on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frank A. Yeager, Director of Personnel Management, Room C5526, FP Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-9191.

Signed at Washington, D.C., this 3rd day of September, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-27721 Filed 9-8-80; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Panel (Choreography Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Panel (Choreography Fellowships) to the National Council on the Arts will be held September 29, 1980 from 9:00 a.m. to 5:30 p.m., September 30, 1980 from

9:00 to 5:30 p.m., October 1, 1980 from 9:00 a.m. to 5:30 p.m., and October 2, 1980 from 9:00 a.m. to 5:30 p.m. in room 1422 at the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 29, 1980.

[FR Doc. 80–27697 Filed 9–8–80; 8:45 am]

BILLING CODE 7537–01–M

Music Panel (Joint Meeting of the Chamber Music and New Music Performance Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Joint meeting of the Chamber Music and New Music Performance Section) to the National Council on the Arts will be held September 26, 1980 from 9:00 a.m. to 5:30 p.m., in Room 1422 in the Columbia Plaza Office Complex, 2401 E Street, N.W.

A portion of this meeting will be open to the public on September 26, 1980 from 2:00 p.m. to 4:00 p.m. to discuss guideline revisions.

The remaining sessions of this meeting on September 26, 1980 from 9:00 a.m. to 2:00 p.m. and from 4:00 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 27, 1980.

[FR Doc. 80–27698 Filed 9–8–80; 8:45 am]

BILLING CODE 7537–01–M

Music Panel (Chamber Music Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Chamber Music Section) will be held September 22, 1980 from 9:00 a.m. to 6:00 p.m., September 23, 1980 from 9:00 a.m. to 6:00 p.m., September 24, 1980 from 9:00 a.m. to 6:00 p.m., and September 25, 1980 from 9:00 to 6:00 p.m. in room 1422 in the Columbia Plaza Office Complex, 2401 E Street, N.W.

A portion of this meeting will be open to the public on September 25, 1980 from 2:00 p.m. to 4:00 p.m. to discuss guidelines.

The remaining sessions of this meeting on September 22, 1980 from 9:00 a.m. to 6:00 p.m., September 23, 1980 from 9:00 a.m. to 6:00 p.m., September 24, from 9:00 a.m. to 6:00 p.m., and September 25, 1980 from 9:00 a.m. to 2:00 p.m. and 4:00 p.m. to 6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

August 26, 1980.

[FR Doc. 80–27699 Filed 9–8–80; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neural Sciences; Subcommittee for Sensory Physiology and Perception; Meeting

In accordance with the Federal Advisory Committee act, P.L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences Subcommittee for Sensory Physiology and Perception.

Date and time: October 1, 1980, 7:00 p.m. to 10:00 p.m.; October 2 and 3, 1980, 9:00 a.m. to 5:00 p.m.

Place: Room 543, National Science Foundation, 1800 "G" Street NW., Washington, D.C. 20550.

Type of meeting: Part Open—Open 10/1—7:00 p.m. to 9:00 p.m. Closed 10/1–9:00 p.m. to 10:00 p.m. Closed 10/2–9:00 a.m. to 5:00 p.m. Closed 10/3—9:00 a.m. to 5:00 p.m.

Contact person: Dr. Terrence R. Dolan, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550.

Summary minutes: May be obtained from the Contact Person, Dr. Terrence R. Dolan, at the above-stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.

Agenda: Open—October 1, 7:00 p.m. to 9:00 p.m. (1) Discussion of problems and perspectives in basic research in the sensory physiology and perception sciences. (2) Methods for improvement of the Sensory Physiology and Perception Program at the National Science Foundation. Closed—October 1, 9:00 p.m. to 10:00 p.m. and October 2 and 3, 9:00 a.m. to 5:00 p.m. To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(C), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator

September 4, 1980.

[FR Doc. 80-27665 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Behavioral and Neural Sciences; Subcommittee on Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, P.O. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee of Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 9-10, 1980, 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, N.W., Room 421, Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9898.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management officer pursuant to provisions of Section 10(d) of P. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27658 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Behavioral and Neural Sciences: Subcommittee on Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, as amended P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 23-24, 1980: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street NW. Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert A. Baron, Program Director, Social and Developmental Psychology, room 320, National Science Foundation, Wash. D.C. 20550, telephone (202) 357-9485.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27660 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 8, 9, & 10, 1980: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. A. O. Dennis Willows, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7471.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27661 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee on Special Research Equipment; Chemistry Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting;

Name: Advisory Committee on Special Research Equipment (2-year and 4-year colleges) (Chemistry Subcommittee).

Date/Time: October 6-7, 1980—9:00 a.m. to 5:00 p.m.

Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed.

Contact Person: Dr. Howard H. Hines, Program Director, Room 428, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-9615.

Purpose of Committee: To evaluate research equipment proposals.

Agenda: To review and evaluate research equipment proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such

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determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27666 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular, and Molecular Biology; Subcommittee on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and Time: October 1, 2, and 3, 1980; 9:00 to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, N.W., Washington, DC 20550.

Type of meeting: Closed.

Contact Person: Dr. J. Eugene Fox, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington DC 20550. Telephone: 202/357-7474.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27664 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: October 15, 16, 17, 1980—starting at 9:00 a.m., to 5:00 p.m.

Place: Room 628, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 332, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7989.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27663 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Molecular Biology, Group A; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group A, of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and Time: October 16 and 17, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Arthur Kowalsky, Program, Biophysics Program, Room 329, National Science Foundation, Washington, DC 20550, Telephone: 202/357-7777.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27662 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Regulatory Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: October 8, 9, 10, 1980 (8:30 a.m. to 5:00 p.m.).

Place: Conference Room 523, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Bruce L. Umminger, Program Director, Regulatory Biology, Room 332, National Science Foundation, Washington, DC 20550, Telephone: 202/357-7975.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

September 4, 1980.

[FR Doc. 80-27659 Filed 9-8-80; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11324]

American General Shares, Inc.; Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased To Be an Investment Company

September 2, 1980.

Notice is hereby given that American General Shares, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company having outstanding two classes of common stock, American General Capital Growth Fund ("Capital Growth") and American General Income Fund ("Income"), 2777 Allen Parkway, Houston, Texas 77019, filed an application on August 4, 1980, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Maryland corporation, registered under the Act on November 13, 1973. It is the successor in interest to a Delaware corporation which had registered under the Act, and filed a registration statement pursuant to Section 8(b) of the Act on November 1, 1940. Applicant's predecessor filed its initial registration statement (File No. 2-13945) under the Securities Act of 1933 in 1936, covering shares of Capital Growth and shares of Income. This registration statement was declared effective by the Commission in 1936, at which time an initial public offering of Applicant's securities commenced. At the close of business on August 31, 1979, Applicant had outstanding 30,374,627 shares of Capital Growth with a net asset value of $5.14 per share for a total net asset value of $155,990,273, and 13,730,790 shares of Income with a net asset value of $6.49 per share for a total net asset value of $89,138,072.

The application states that on August 31, 1979, Applicant was merged with and into American General Enterprise Fund, Inc. ("Enterprise"), pursuant to a Plan and Articles of Merger ("Merger") dated June 8, 1979. The Merger was approved by Applicant's board of directors on June 8, 1979, and by a majority of the holders of each outstanding class of its shares at a special meeting of Applicant's shareholders on August 23, 1979. Under the terms of the Merger all assets and liabilities of Applicant automatically became assets and liabilities of Enterprise, and each of the then outstanding shares of Applicant was converted into shares of common stock of Enterprise and each shareholder of Applicant received approximately .6667 shares of Enterprise for each share of Capital Growth then owned by such shareholder and .8428 shares of Enterprise for each share of Income then owned by such shareholder. The number of Enterprise shares issued in the Merger to Applicant's shareholders was determined on the basis of relative net asset values which were computed by Applicant and by Enterprise on the same basis.

Applicant states that it currently has no debts or other liabilities outstanding because all of its debts and liabilities were either assumed by Enterprise or paid by Applicant; that it has no assets; it has no securityholders; it is not a party to any litigation or administrative proceedings; and within the last 18 months Applicant has not, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Both Applicant and Enterprise bore their own expenses in connection with the Merger. Finally, Applicant states that its legal existence as a corporation ceased under the laws of the State of Maryland by the filing of Articles of Merger on August 31, 1979, with the State of Maryland's Department of Assessment and Taxation, and that it is not now engaged, and does not propose to engage, in any business activities since its corporate existence has ceased.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27617 Filed 9-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11328]

Fund for Growth, Inc.; Proposal To Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

September 2, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Fund for Growth, Inc. ("Fund"), c/o arvey, Hodes & Mantynband, One North LaSalle Street, Chicago, IL 60602, registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Maryland on August 16, 1967, and registered under the Act on October 23, 1967. The Fund filed a registration statement pursuant to the Securities Act of 1933 ("1933 Act") on Form S-5 to make a public offering of shares of its capital stock. The files of the Commission further indicate that counsel for the Fund requested withdrawal of this registration statement pursuant to Rule 477 under the 1933 Act, and requested that the Fund be deregistered pursuant to Section 8(f) of the Act. This 1933 Act registration statement was ordered withdrawn on March 1, 1971; and, thus, the Fund never made a public distribution of its securities. The Fund has never filed any of the periodic reports required by the Act. Counsel for the Fund has stated that the Fund never had any assets or liabilities, and never engaged in any business operations. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment copany has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27618 Filed 9-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6237; 18-70]

Ladas & Parry Profit-Sharing Plan; Application

September 3, 1980.

Notice is hereby given that the law firm of Ladas & Parry (the "Firm" or "Applicant"), 10 Columbus Circle, New York, NY 10019, a New York partnership, has by letter, dated February 14, 1980, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for any participations or interests issued in connection with its Profit-Sharing Plan (the "Plan") for certain partners and employees of the Applicant. All interested persons are referred to the application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers all of Applicant's qualifying partners and employees of whom there were approximately 250 as of August 6, 1980. All employees are eligible to participate in the Plan if they have attained age 25 and have completed one year of consecutive employment with the Firm. Participation in the Plan is automatic and each person becomes a Plan "participant" on July 1 or January 1 following his or her satisfaction of the eligibility requirements.

The Plan is of a type commonly referred to as a "Keogh" plan, which covers persons (in this case certain partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"). Therefore, even though the Plan is qualified under Section 401 of the Code, the exemption provided by Section 3(a)(2) is inapplicable to the interests in the Plan, absent an order of the Commission.

In relevant part, Section 3(a)(2) provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant states that the Plan became effective on February 1, 1978, and has the purpose of creating a Trust Fund for the provisions of benefits for its Participants upon their retirement, disability or death. The Internal Revenue Service ("IRS") has issued a ruling to the effect that the Plan is a qualified one under Section 401 of the Code. The Plan is an employee profit-sharing plan subject to the full fiduciary, reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 ("ERISA").

Applicant states that its contributions to the Trust Fund established by the Plan become fully vested and non-forfeitable upon the earliest of the following occurrences involving the Participant: his total and permanent disability; his death; completion of ten years of service with the Firm; termination of the Plan by the Firm; or complete discontinuance of contributions to the Plan by the Firm. The unvested portion of the Firm's contributions are forfeited by a Participant upon the termination of his employment and are applied to reduce the Firm's future contributions to the Trust Fund. Any voluntary contributions made by the Participant are fully vested at all times.

The Plan has a mandatory Firm contribution feature and a voluntary Participant contribution feature, both of which are based on a percentage of compensation. In general, the Firm's annual contribution made by it on behalf of each eligible Participant cannot be more than the maximum amount deductible for federal income tax purposes nor more than 7% of that portion of a Participant's annual salary which exceeds $15,000. The Firm's contribution further is limited by formulas which take account of (1) the Participant's contributions and forfeitures and (2) the Participant's anticipated annual benefits under the Firm's defined benefit plan and under its defined contribution plan (i.e., this Plan). The Firm may determine in any year to contribute a lesser amount than that determined by these formulas or to make no contributions. A Participant is not required to contribute to the Plan, but is permitted to make voluntary contributions which may not exceed the greater of (1) 10% of his aggregate earnings in that year or (2) 10% of these earnings plus 10% of those for every other year in which he is a Participant less any amount previously contributed by him to the Plan.

Applicant states that the Firm is designated as the Administrator of the Plan. The Firm's Management Committee must appoint an Administrative Committee for the Plan and one or more Trustees for the Plan and can appoint one or more Investment Managers. The Administrative Committee has been appointed and three Trustees, all partners in the Firm, have been appointed; as yet, no Investment Manager has been designated. Applicant states that at the request of a Participant other than a partner, the Trustees may purchase a life insurance policy on his behalf in an amount defined by the Plan. The Trustees shall own such policies, except that the right to name and change a beneficiary shall be exercised by the Trustee in accordance with the written direction of the Participant. At his own expense, such a Participant may direct the Trustee to purchase any supplemental insurance benefits which may be available.

Contributions not invested in insurance policies are retained in the Trust Fund, which the Trustees are authorized to manage, invest and reinvest in such manner as they determine, within their discretion, is in the best interests of the Fund and the Participants, except to the extent such authority is delegated to an Investment Manager and except to the extent the Administrative Committee directs that the Trust Fund be used to make limited loans to Participants or to pay the expenses of administering the Fund. Except as it regards the life insurance option, a Participant has no right to direct the manner in which any portion of that Fund is invested or administered.

Applicant contends that were the Firm a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant also states that it is engaged in furnishing legal services which involve financially sophisticated and complex matters, exercises extensive administrative control over the Plan, and believes that it is able to represent adequately its own interests and those of its partners and employees without the protection of the registration requirements of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to the participants.

Finally, Applicant argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Applicant argues that its Plan is distinguishable from multi-employer plans or uniform prototype plans designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons and that these latter plans are the type of plans Congress intended to exclude from the Section 3(a)(2) exemption.

For all of the foregoing reasons, Applicant believes that the Commission should issue an order finding that an exemption from the provisions of Section 5 of the Act for interests or participations issued in connection with the Plan is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 29, 1980 at 5:30 p.m., submit to the Commission a request for a hearing on the matter, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following September 29, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27668 Filed 9-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11329; 812-4598]

National Municipal Trust, et al.; Application

September 3, 1980.

In the matter of National Municipal Trust, National Municipal Trust, Special Trusts, National Government Securities Trust, National Corporate Trust, Thomson McKinnon Securities Inc., Piper, Jaffray & Hopwood Incorporated, A. G. Edwards & Sons, Inc., Oppenheimer & Co. Inc., c/o Thomson McKinnon Securities Inc., One New York Plaza, New York, New York 10004.

Notice is hereby given that National Municipal Trust ("Municipal Trust"), National Municipal Trust, Special Trusts ("Special Trusts"), National Government Securities Trust ("Government Trust"), National Corporate Trust ("Corporate Trust"), registered under the Investment Company Act of 1940 ("Act"), as unit investment trusts (collectively referred to as the "Trusts") and Thomson McKinnon Securities Inc., Piper, Jaffray & Hopwood Incorporated, A. G. Edwards & Sons, Inc. and Oppenheimer & Co., Inc. (all such securities firms hereinafter referred to as the "Sponsors," and collectively with the Trusts, the "Applicants") filed an application on January 22, 1980 and amendments thereto on August 27, and September 2, 1980, for an order of the Commission (1) pursuant to Section 6(c) of the Act exempting them from the provisions of Section 22(d) of the Act and (2) pursuant to Section 11 of the Act permitting the Trusts to offer their units at net asset value plus a fixed dollar sales charge pursuant to a conversion option. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The investment objectives of Municipal Trust and Special Trusts are tax-exempt income and conservation of capital through an investment in a diversified portfolio of tax-exempt bonds. All of such bonds are obligations issued by or on behalf of states, counties, territories, possessions and

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municipalities of the United States and/or authorities, agencies, instrumentalities or political subdivisions thereof, the interest on which in the opinion of counsel to the various issuers of such bonds is exempt from all federal income taxes under existing law. The objectives of the Corporate Trust are a high level of current income and preservation of principal through an investment in a diversified portfolio of corporate securities, and the objectives of the Government Trust are safety of capital and a high level of interest income through investment in a diversified portfolio of taxable securities guaranteed or backed by the full faith and credit of the United States. At the present time more than 50 series of the Trusts have been issued. It is anticipated that further series will be created in full compliance with the representations herein made concerning the respective series now outstanding.

Applicants state that a separate trust indenture is entered into each time a series of a Trust is created and the securities to comprise its portfolio are deposited with one or more trustee banks (the "Trustee(s)"). Pursuant to the related indenture the Trustee may dispose of securities when events occur which may affect their investment stability and must sell securities if necessary for the payment of the redemption price of units tendered for redemption. In the case of the Municipal Trust and Special Trust, proceeds from such sales must be distributed in partial liquidation to unitholders, while such proceeds may be reinvested in the case of the Corporate and Government Trusts subject to certain limitations.

The Applicants propose to offer, subject to the conditions described below, a conversion option (the "Plan") to unitholders of the various series of the Trusts. The purpose of the Plan is to provide investors in each of the Trusts a convenient means of transferring interests as their investment requirements change. The Sponsors contemplate holding open this option at all times although they reserve the right to modify, suspend or terminate the Plan at any time without further notice to unitholders. A unitholder wishing to dispose of his units for whch a market is maintained will have the option to convert his units into units of any other series of the same Trust or of any series of any other Trust for which units are available for sale in the secondary market and the Sponsors are participating in the Plan. While it is not presently contemplated that unitholders would be permitted to exchange their units into units of other series which are available during the initial offering, the Sponsors might determine at some future date to permit such exchanges. When a unitholder notifies the Sponsors of his desire to exercise such a conversion option, the Sponsors will mail a current prospectus for units of each series that the unitholder indicates interest and which the Sponsors have available to offer to the unitholders as a result of acquisitions by them in the secondary market. The unitholder may then select the series into which he desires his investment converted.

Applicants indicate that the conversion transaction will operate in a manner essentially identical to any secondary transaction, except that Applicants propose to allow a reduced sales charge in a transaction under the Plan. At the present time, except in the case of Series of the Government Trust, for which the Sponsors' repurchase price is based on the offering side evaluations, units in the Trusts are repurchased by the Sponsors of the Trusts at the per unit price based on the aggregate bid side evaluations of the underlying securities in the portfolio of the series and are resold at that price plus a specified sales charge which is a percentage of that price. Applicants propose to sell units in the secondary market under the Plan at the public offering price plus a fixed sales charge of $25 per unit except for unitholders of a series with a sales charge less than the sales charge of the series into which they desire their investment converted. Such unitholders must have held their units for a period of at least six months in order to exercise the conversion option or agree to pay a sales charge based on the greater of $25 per unit or an amount which together with the initial sales charge paid in connection with the acquisition of units being exchanged equals the normal sales charge of the series into which the investment is being converted determined as of the date of exchange.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. None of the exemptions from the provisions of that section provided by Rule 22d-1 applies to the Plan. The Applicants therefore would be unable to proceed with the Plan unless, pursuant to Section 6(c), the Commission exempts the Plan from the provisions of Section 22(d).

Section 6(c) of the act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Applicants state that under the proposed Plan, a person desiring to dispose of units of one series and acquire units of another series may wish to do so for a number of reasons, such as changes in his or her particular investment goals or requirements (which might lead to a decision that he or she prefers taxable income to tax-exempt income) or in order to take advantage of possible tax benefits flowing from the exchange. Taking these factors into account, it is likely that there will be a continuing need to assess an investor's individual financial and tax position and in all probability the account executives of the Sponsors will actively participate in financially counseling the investor as to the proper course of action to follow considering all of the relevant investment factors involved. However, the fact that the investor is an existing customer whose essential investment needs have been identified should produce some transaction savings. Further, in view of the fact that all of the Trust are very similar investment vehicles, an exchanging unitholder may require somewhat less advice than if he was acquiring an interest in an entirely different kind of investment.

Applicants assert that the reduced charge as set forth in the Plan is a reasonable and justifiable expense to be allocated to the broker for his professional assistance in connection with a conversion transaction. Further, Applicants contend that the sales charge compares favorably to the regular sales charges which are currently allocated to broker-dealers in the sale of units in any primary and secondary sales of the Trusts. Thus, the Sponsors submit that a sales charge of $25 per unit is warranted in that such charges should cover reasonable costs related to the conversion of units under the Plan and yet give participants an opportunity to share in cost savings.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27667 Filed 9-8-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 01/01-0309]

Application for License To Operate as a Small Business Investment Company; Alta Capital Corp.

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Alta Capital Corporation (Applicant), 75 Federal Street, Boston, Massachusetts 02110, with the Small Business Administration pursuant to 13 CFR 107.102 (1980).

The Officers, Directors and Stockholder are as follows:

William P. Egan, 75 Federal Street, Boston, Massachusetts 02110, President and Director.
Craig L. Burr, 75 Federal Street, Boston, Massachusetts 02110, Treasurer and Director.
Jean Deleage, 475 Sansome Street, San Francisco, California, Director.
Andrew L. Nichols, 60 State Street, Boston, Massachusetts 02109, Clerk.
Alta Company Limited Partnership,[1] 75 Federal Street, Boston Massachusetts 02110, 100 percent.

Burr, Egan, Deleage & Co., Inc., 75 Federal Street, Boston, Massachusetts 02110, Investment Advisor.

The Applicant, a Massachusetts corporation, will begin operations with $2,000,000 Paid-in Capital and Paid-in Surplus. The Applicant's Investment Advisor maintains offices in Boston, Massachusetts and San Francisco, California, and accordingly the Applicant may be expected to invest in small businesses located in reasonable proximity to these cities.

Matter involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than September 24, 1980 submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1141 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27534 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0399]

Application for a License To Operate as a Small Business Investment Company; Noro Capital Corp.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1980)), under the name of Noro Capital Corporation (Applicant) for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $1,000,000.

The Applicant will have its place of business at 230 Park Avenue, Suite 1260, New York, New York 10017, and it intends to conduct operations primarily in the State of New York.

The officers, directors and ten percent (10%) or more stockholders of the Applicant will be:

Harvey J. Wertheim, 9 Rawlings Drive, Melville, New York 11746, President, Treasurer, Director.
Elizabeth Wehner, 630 W. 264th Street, Riverdale, New York 10471, Secretary, Assistant Treasurer.
John H. French II, 151 E. 72nd Street, New York, New York 10023, Director.
Cydney R. Meltzer, 221 Clinton Street, Brooklyn, New York 11201, Assistant Secretary.
Daniel Cornelis van Eibergers Santhagens van Oldebarneveltweg 26, Wassenaar, Director.
[*]Noro Ventures, N.V. J.B. Corsiraweg 6, Willemstad, Curacao, Parent, 100%.

The Applicant will conduct its operations in the New York area with the intention of making investments throughout the United States and its territories and possessions as may from time to time be approved by SBA as its

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[1] Messrs. Egan, Burr and Deleage are each a General Partner of Alta Company Limited Partnership, together with TM Resources Inc., a subsidiary of Thomson McKinnon Securities, Inc. The following two Limited Partners of Alta Company Limited Partnership own a 10 or more percent interest therein: INOVELF, c/o Elf Aquitaine Development, 9 West 57th Street, New York, New York 10019; Rucal & Co., c/o University of California, Treasurer's Office, 615 University Hall, Berkeley, California 94270.

[*] The holders of ten percent (10%) or more stock of Noro Ventures, N.V. are: John Arthur Van Vlissingen and Mjichael Schmidt-Ruthenbeck.

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operating territory. Applicant plans to participate in various types of financing for small businesses and may include straight equity, straight debt, convertible debt, convertible preferred shares and debt with warrants or shares attached. Applicant will also enter into a management advisory contract with Research and Science Investors, Inc. (RASI), 230 Park Avenue, New York, New York 10017. RASI also serves as advisor to three other licensed SBIC's—Van Rietschoten Capital Corporation, Bohlen Capital Corporation and European Development Capital Corporation.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than fifteen (15) days from the date of publication of this Notice in the **Federal Register**, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Investment.

Dated: September 1, 1980.

[FR Doc. 80-27532 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 04/04-0146]

Application for a License To Operate as a Small Business Investment Company; Peachtree Capital Corp. (Formerly Warranty Capital Corp.)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. Section 107.102(1980)), under the name of Peachtree Capital Corporation, 1611 Gas Light Tower, 235 Peachtree Street, Atlanta, Georgia 30303, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.)

The proposed officers, directors, and major stockholders are as follows:

David Howe, 3176 Greenfield Dr., Mariette, Georgia 30067, President, Treasurer, Director and 8.5 percent Stockholder.

Stephen E. Raville, 665 Starlight Lane, Atlanta, Georgia 30303, Secretary, Director and 8.3 percent Stockholder.

Prabhudas Ruparell, 408 Wilverside Way, S.E., Calgary, Canada, Vice President, Director and 50 percent Stockholder.

The Applicant will begin operations with a capitalization of $500,000 which will be a source of both equity and debt financing to qualified small business concerns in a wide range of industries for normal growth, expansion and working capital.

The Applicant does not intend to use the services of an investment adviser but will provide consulting services to its clients and other small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management and owner, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Atlanta, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27535 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-5235]

Application for a License To Operate as a Small Business Investment Company; Power Ventures, Inc.

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing Section 301(d) Licensees (13 C.F.R. Section 107.102 (1980)), under the name of Power Ventures, Inc., 829 Highway 270 North, Malvern, Arkansas 72104, for a License to operate as a Section 301(d) Licensee under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Dorsey David Glover, Route 5, Box 493-A, Malvern, Arkansas 72104, President, Director.

William Harrison Glover, 1661 Circle Drive, Malvern, Arkansas 72104, Secretary, Director.

Paul Ligon Offutt, 1055 Kahiki Drive, Diamonhead, Hot Springs, Arkansas 71901, Director.

Stihl Southwest, Inc., P.O. Box 518, Malvern, Arkansas 72104, 100 Percent shareholder.

Mr. Dorsey Glover is the sole owner of all of the outstanding stock of Stihl Southwest, Inc.

There will be two classes of stock authorized: one thousand shares of common stock with a par value of $1.00 per share, and two hundred shares of Preferred Stock-Series A, with a par value of $10,000 per share. The preferred stock will be issued only for sale to SBA and will be non-voting stock. Initially 100 shares of the common stock will be issued with a resultant private capital of $500,000. Applicant proposes to conduct its operations principally in the State of Arkansas.

As a Section 301(d) Licensee the investment policy of the Applicant will be limited to making investments solely in small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantage.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA; in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Malvern, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27531 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0305]

Issuance of License To Operate as a Small Business Investment Company; Chestnut Capital Corp.

On July 23, 1980, a notice was published in the **Federal Register** (45 FR 49204) stating that Chestnut Capital Corporation, 111 Devonshire Street, Boston, Massachusetts 02109 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the regulations governing small business invesment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on August 7, 1980, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0305 on August 20, 1980, to Chestnut Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27533 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1914]

Mississippi; Declaration of Disaster Loan Area

Tallahatchie County and adjacent counties within the State of Mississippi constitute a disaster area as a result of damage caused by rain and flooding which occurred on June 23-24, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 3, 1980, and for economic injury until the close of business on June 2, 1981, at:

Small Business Administration, District Office, New Federal Building, Suite 322, 100 W. Capitol Street, Jackson, Mississippi 39201.

or other locally accounced locations.

(Catalog of Federal domestic Assistance Program Nos. 59002 and 59008)

Dated: September 2, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27536 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 9:30 a.m., Thursday, October 9, 1980, at the Country House Restaurant, 276 North Main St., Barre, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State St., P.O. Box 605, Montpelier, Vermont 05602, (802) 229-0538.

Dated: September 2, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27527 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine will hold a public meeting at 12:00 noon on Thursday, October 2, 1980, at Hazel Green's Restaurant, 349 Water Street, Augusta, Maine, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Tom McGillicuddy, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine, (207) 622-6171, Ext. 225.

Dated: September 2, 1980.

Micheal B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27530 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 1:00 p.m., Wednesday, October 8, 1980 through noon on Thursday, October 9, 1980, at the Boar's Head Inn, Charlottesville, Virginia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Raymond P. Kuttenkuler, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240, (804) 771-2741.

Dated: September 2, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27529 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Lubbock, Texas, will hold a public meeting beginning at 9:30 a.m., Thursday and Friday, October 23 and 24, 1980, at the Rodeway Inn, 6201 Gateway West, El Paso, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Russell R. Berry, District Director, U.S. Small Business Administration, 712 Federal Office Building and Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401, (806) 762-7462.

Dated: September 2, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27528 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1903]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Cameron, Jim Wells, Kleberg, Nueces, San Patricio and Willacy Counties, Texas constitute a disaster area because of the damage resulting from Hurricane Allen beginning on or about August 10, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 10, 1980, and for economic injury until close of business on May 11, 1981, at:

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Small Business Administration, District
Office, 222 E. Van Buren—Suite 500,
Harlingen, Texas 78550

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 15, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27648 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Boston, Massachusetts, will hold a public meeting from 10:00 a.m. to 4:00 p.m., Monday, September 29, 1980, in the Conference Room of the Greater Worcester Massachusetts Area Chamber of Commerce, Suite 350, Mechanics Tower, Worcester, Massachusetts, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Constance Roberts, U.S. Small Business Administration, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114—(617) 223-4074.

Dated: September 2, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27649 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island, will hold a public meeting at 12:00 noon, on Friday, October 3, 1980, at the Governor Dyer Buffet House, Providence, Rhode Island, to discuss such matters as may be presented by members of the Small Business Administration, and others attending.

For further information, write or call Charles J. Fogarty, District Director, U.S. Small Business Administration, 40 Fountain Street, Providence, Rhode Island 02903—(401) 528-4580).

Dated: September 3, 1980.

Michael B. Kraft,

Director, Office of Advisory Councils.

[FR Doc. 80-27651 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Coral Gables, Florida, will hold a public meeting from 8:30 a.m. to 4:30 p.m., Thursday, October 9, 1980, in the Sarasota Room, Barclay Airport Inn, 5303 W. Kennedy Boulevard, Tampa, Florida, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Bernard Layne, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Boulevard—5th floor, Coral Gables, Florida 33134—(305) 350-5533.

Dated: September 3, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27650 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Meeting; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis, Missouri, will hold a public meeting from 10:00 a.m., Wednesday, October 8, 1980, in the Windsor Room at the Cheshire Inn & Lodge, 6306 Clayton Road, St. Louis, Missouri, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, One Mercantile Center, Suite 2500, St. Louis, Missouri 63101—(314) 425-4191.

Dated: September 4, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27652 Filed 9-8-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/316]

Shipping Coordinating Committee, Subcommitte on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of SOLAS will conduct an open meeting at 1:30 p.m. on September 18, 1980 in Room 8440 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-second Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization to be held in London September 29, 1980. In particular, the working group will discuss the following topics:

—survival craft radio equipment;

—operational requirements for future EPIRBs;

—operational standards for shipboard radio equipment;

—maritime distress system.

For further information contact LT R. F. Carlson, U.S. Coast Guard (G-OTM-3/TP32), Washington, D.C. 20593, telephone (202) 426-1345.

Dated: August 28, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-27712 Filed 9-8-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/317]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The US SOLAS Working Group on Safety of Fishing Vessels will conduct an open meeting at 10:00 a.m. on September 23, 1980, in room 1319 of the Coast Guard Headquarters, 2100 2nd St., S.W., Washington, D.C. 20593.

The purpose of the meeting will be a review of the agenda items and delegation papers received by that time in preparation for the 23rd Session of Subcommittee on Safety of Fishing Vessels of the Intergovernmental Maritime Consultative Organization. In particular the Working Group will discuss:

—Harmonization of Fishing Vessel Code and Convention;

—New European attempt to outlaw ammonia as refrigerant.

For further information contact Mr. William A. Cleary, Jr., U.S. Coast Guard (G-MMT-5/TP12), 2100 2nd St., S.W., Washington, D.C. 20593, telephone (202) 426-2188.

Dated: August 28, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-27654 Filed 9-8-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/318]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The National Committee for the Prevention of Marine Pollution (NC) of the Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Wednesday, November 5, 1980 in room 3201 of the U.S. Coast Guard Headquarters Building, 2100 Second Street S.W., Washington, D.C. 20593.

The purpose of this meeting is to finalize preparations for the 14th Session of the Marine Environment Protection Committee (MEPC) of the Intergovernmental Maritime Cnsultative Organization (IMCO) which is scheduled for November 10–14, 1980 in London. In particular, the NC will discuss the development of U.S. positions dealing with, inter alia, the following topics:

—Uniform interpretation and possible amendments of 1973 MARPOL Convention as modified by the 1978 Protocol
—Revised CBT Specifications and Manual
—Oil-water separators and monitoring equipment.

For further information contact Captain R. A. Biller, U.S. Coast Guard Headquarters (G-CPI), 2100 2nd Street, S.W., Washington, D.C. Telephone (202) 426-2280.

Dated: August 28, 1980.

John Todd Steward,
Chairman, Shipping Coordinating Committee.

[FR Doc. 80-27714 Filed 9-8-80; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/319]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 8, 1980, at 9:30 a.m. in the Preston Room, Baltimore Hilton Hotel, 101 West Fayette street, Baltimore, Maryland.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review the outcome of the international meeting in June 1980; begin planning for the final meeting in October 1981; and plan for input into International Working Party ⅓ on review of activities of Study Group 1.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffuctt, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: September 2, 1980.

Gordon L. Huffcutt,
Chairman, U.S. CCIR National Committee.

[FR Doc. 80-27696 Filed 9/8/80; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/320]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 9, 1980, at 9:00 a.m. in Room 3012 of the Department of Commerce Boulder Laboratories Building, 325 Broadway, Boulder, Colorado.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be to review the work undertaken at the Interim Meeting of Study Group 6 held in June/July 1980 and to initiate the activities for the Final Meeting scheduled for the Fall 1981.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: September 2, 1980.

Gordon L. Huffcutt,
Chairman, U.S. CCIR National Committee.

[FR Doc. 80-27695 Filed 9-8-80; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice 724]

Implementation of Executive Order 12114, Environmental Effects Abroad of Major Federal Actions; Revision of Procedures

AGENCY: Department of State.

ACTION: Revision of procedures for implementation of Executive Order 12114.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Irene F. Dybalski, Office of Environment and Health, Room 7820, U.S. Department of State, Washington, D.C. 20520 (Tel: 202/632-9267).

The Department of State has revised its procedures implementing Executive Order 12114, Jan. 4, 1979, on Environmental effects abroad of major federal actions (44 FR 1957–1962, Jan. 9, 1979). Those procedures were originally issued as Department of State Foreign Affairs Manual Circular (FAMC) 807A, Sept. 4, 1979, and published at 44 FR 67004–67008, Nov. 21, 1979.

The principal effect of the revisions is to clarify, for purposes of these procedures, the definitions of the geographical areas within which various types of environmental review documents are to be prepared. No expansion or modification of U.S. territorial jurisdiction is implied. Subpart A, section 5 has been modified to read as follows:

"5. *Definitions*

"For the purpose of these procedures, the term:

"a. 'Responsible action officer' means the department officer principally responsible for the preparation of action memoranda and other documents relating to a given Departmental action governed by these procedures. Ordinarily, the responsible action officer will be the country or office director whose office has action responsibility for a given action.

"b. 'United States' means the States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, American Samoa, the U.S. Virgin Islands, Guam and the other territories and possessions of the United States, including the territorial seas thereof. For the purpose of these procedures, actions having significant environmental effects on the resources of the U.S. continental shelf or resources of the U.S. Fishery Conservation Zone subject to the jurisdiction of the United States shall be considered to be actions having significant environmental effects in the United States.

"c. 'Foreign nation' means any territory under the jurisdiction of one or more foreign governments, including the territorial sea thereof. For the purpose of these procedures, actions having significant environmental effects on the resources of a nation's continental shelf or, to the extent its claim of jurisdiction is recognized by the United States, its fisheries zone shall be considered to be actions having significant environmental effects in that foreign nation.

"d. 'Global commons or areas outside the jurisdiction of any nation' means all areas not described in subsections b. or c. above.

"e. 'Environment' means the natural and physical environment and excludes social, economic and other environments; an action 'significantly affects' the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment."

Consequential changes have been made to bring the wording in other sections of the procedures into accordance with these definitions.

Thomas R. Pickering,

Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs.

September 2, 1980.

[FR Doc. 80-27540 Filed 9-8-80; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Performance Review Board

ACTION: Notice of Members of Performance Review Board (PRB).

SUMMARY: This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt.

FOR FURTHER INFORMATION CONTACT: W. M. Gregg, Deputy Commissioner, Bureau of the Public Debt, Room 300 WA, 1435 G Street, N.W., Washington, D.C. 20226; Telephone 202-376-0265.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt are listed below. This Board reviews the performance of Senior Executives below the level of bureau head and principal deputy in the four bureaus, except for the Assistant Commissioner (Comptroller) at the Bureau of Government Financial Operations. At least three voting members constitute a quorum. The notice of Fiscal Service PRB members published in the **Federal Register** on February 7, 1980, Volume 45, Number 27, page 8420, is hereby superseded.

E&P

Primary: Robert J. Leuver, Assistant Director (Administration)

Alternate: Milton J. Seidel, Assistant Director (Research and Engineering)

Mint

Primary: Alan J. Goldman, Deputy Director

Alternate: Galen D. Dawson, Assistant Director for Production

GFO

Primary: Michael D. Serlin, Assistant Commissioner (Disbursement and Claims)

Primary: John Turner, Assistant Commissioner (Governmentwide Accounting)

PD

Primary: W. M. Gregg, Deputy Commissioner

Alternate: Kenneth W. Rath, Assistant Commissioner (Washington)

This notice does not meet the Department's criteria for significant regulations.

Bette B. Anderson,

Under Secretary.

[FR Doc. 80-27542 Filed 9-8-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Notice of Meetings

Under the provisions of section 10 of Public Law 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 2, 1980
Thursday, October 16, 1980
Thursday, October 30, 1980
Thursday, November 13, 1980
Tuesday, November 25, 1980
Thursday, December 11, 1980
Monday, December 22, 1980

The meetings will convene at 2:30 p.m and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, as amended by Public Law 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: August 28, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-27616 Filed 9-8-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 176
Tuesday, September 9, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Friday, September 12, 1980.

PLACE: 2033 K STREET NW., WASHINGTON, D.C., EIGHTH FLOOR CONFERENCE ROOM.

STATUS: closed.

MATTERS TO BE CONSIDERED: Judicial session.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1663-80 Filed 9-5-80; 11:28 a.m.]

BILLING CODE 6351-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 10, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Proposed Commission Regulations for a Performance Appraisal System (Non-SES and Non Bargaining Unit Employees).

Common Carrier—1—Applications for authority to provide service to Cuba filed by Communications Satellite Corporation (File Nos. I-P-C-6916-29, I-P-C6916-31, I-P-C-7388-32, and I-P-C-7378-35); RCA Global Communications, Inc. (File Nos. I-T-C-2869, I-T-C-2904, I-T—I-T-C-2905 and I-T-C-3029) Western Union International, Inc. (File No I-T-C-2941); and TRT Telecommunications Corporation (File No. I-T-C-2613).

Hearing—1—Remand of the proceeding involving an application for a new standard broadcast station at Lares, Puerto Rico (Docket No. 20969).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: September 4, 1980.

[S-1660-80 Filed 9-5-80; 9:00 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, September 9, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

Broadcast—1—Report and Order in Docket No. 20418, In the Matter of Petition for Rule Making to amend Television Table of Assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming. Commission will consider proposals to add VHF-TV television allotments in Knoxville, Tennessee; Salt Lake City, Utah; Charleston, West Virginia; and Johnstown, Pennsylvania.

Broadcast—2—Inquiry into the Future Role of Low Power Television and Television Translators in the National Telecommunications System, BC Docket No. 78-253.

Broadcast—3—Notice of Proposed Rule Making re: Table of Television Channel Allotments. The Commission considers initiating a rule making to amend the Rules for the addition of new VHF television allotments to the Table of Allotments to allow stations at less than minimum mileage separations, provided the new stations reduce antenna height and power to provide equivalent protection to existing stations.

Broadcast—4—*Title:* Request for authority to accept 15 applications for low power broadcast stations. *Summary:* The Commission considers whether to authorize the acceptance and further processing of applications for low power broadcast stations before the adoption of final rules.

Broadcast—5—*Title:* Applications by Hubbard Broadcasting, Inc. for permission to construct new UHF television translator stations at the following Minnesota communities: Aitkin (BPTT-790122IE), Alexandria (BPTT-790307IK), Brainerd (BPTT-780906IC), Donnelly & Herman (BPTT-790314IA), Little Falls (BPTT-3619), Long Prairie (BPTT-3621), Marshall (BPTT-781215IE), St. James (BPTT-790306IA), Wadena (BPTT-790215IX), Willmar (BPTT-781016IB), Worthington (BPTT-781227IG). *Summary:* The applicant seeks these translators to rebroadcast the signal of its Stations KSTP-TV, St. Paul, Minnesota to the respective communities which lie beyond KSTP-TV's Grade B contour. Petitions to deny filed by three television licensees raise questions concerning economic injury, need for these translators, adverse impact upon the development of local television stations and applicant's relationship with the ABC network.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: September 3, 1980.

[S-1662-80 Filed 9-5-80; 9:00 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 10, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—*Title:* Revision of Rules Concerning the Filing of Pleadings and Comments During and Immediately After Open Sunshine Meetings. *Summary:* Section 0.602 of the rules is supplemented to make clear that attendance at open Commission meetings does not include the right to file untimely and unauthorized pleadings and comments based on discussions occurring at such meetings.

General—2—*Title:* Renewal of the Radio Technical Commission for Marine Services (RTCM). *Summary:* The RTCM has worked since 1947 in marine telecommunications, providing appropriate recommendations to the Government and to Industry. The FCC sponsors the RTCM as a Federal Advisory Committee and the current charter expires on 30 September 1980.

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General—3—*Title:* Petition for the Adoption of Procedures To Limit the Time in Which the Commission Must Respond to a Petition for Rulemaking (RM–3539). *Summary:* The rulemaking petition, submitted by the National Citizens Committee for Broadcasting, asks the Commission to establish a 180-day deadline for action on all rulemaking petitions.

General—4—*Title:* Add New Section 1.103 to the Commission's Rules, Which Will (1) Establish the Effective Date of Commission Actions and (2) Establish a Date by Which Commission Actions Are Final for Purposes of Seeking Reconsideration or Judicial Review. Amend Section 1.4(b) of the rules. *Summary:* The Commission must decide whether to adopt a new rule which establishes that the effective date of any Commission action will be the date of public notice of such action, unless affirmatively designated otherwise. The new rule will also provide that all Commission decisions become final, for purposes of initiating further relief, on the date of public notice of such decisions. Also, the Commission will consider whether to amend Section 1.4(b) of the rules and establish that the date of public notice will commence at 3 p.m. eastern time on the day after the occurrence of certain events.

General—5—*Title:* Petition for Rulemaking To Establish Standards for Determining the Standing of a Party to Petition To Deny a Broadcast Application (RM–2847). *Summary:* The rulemaking petition, submitted by the National Association of Broadcasters, asks the Commission to promulgate a rule requiring parties filing petitions to deny on behalf of one or more groups to provide descriptive information to facilitate a determination of whether the petitioner qualifies as a party in interest under Section 309(d) of the Communications Act.

General—6—*Title:* Amendment of Parts 2, 22, and 90 of the Commission's Rules to Allocate Spectrum in the 928–941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way paging Stations in the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services. *Summary:* The Commission will consider whether to adopt a *Supplementary Notice of Proposed Rule Making* which discusses an alterantive allocation method to that proposed in the original *Notice of Proposed Rule Making* adopted April 24, 1980. This alternative method places more emphasis on market forces, rather than administrative decisions.

Private Radio—1—*Title:* Spanish Language Amateur Radio Operator Examinations. *Summary:* The FCC will consider rulemaking petitions RM–2529 and RM–2757, which propose that the FCC produce written amateur radio operator examinations in the Spanish language.

Private Radio—2—*Title:* Rulemaking petition (RM–3505) to amend Part 90 of the Commission's Rules governing operation in the Special Industrial Radio Service, and other Rules not limited to the Special Industrial Radio Service concerning licenses and application filings. *Summary:* The FCC will consider a Rulemaking Petition (RM–3505) requesting editorial amendments to the rules (1) clarifying general policies regarding discontinuance of station operation, temporary location operation and the scope of grants of temporary authority, and (2) clarifying Rules in the Special Industrial Radio Service concerning interservice frequency coordination, and other minor matters.

Private Radio—3—*Title:* Order terminating Docket 20908. *Summary:* This order terminates the Notice of Proposed Rule Making in Docket 20908 which has been superseded by General Docket 80–87.

Private Radio—4—*Title:* Petition for Limited Reconsideration in Docket 79–192. *Summary:* The Commission will consider whether to grant a Petition for Limited Reconsideration in Docket 79–192. The petition seeks recommendation of action that denied a proposal to require formal frequency coordination for assignment of four 450 MHz band medical paging frequencies in the Special Emergency Radio Service (Part 90).

Private Radio—5—*Title:* Report and Order which amends Part 81 of the Commission's Rules to specify the circumstances under which class III–B public coast stations may be exempted from the watch requirement. *Summary:* The FCC will consider whether to amend Part 81 at § 81.191(c)(3) to specify the circumstances under which class III–B public coast stations may be exempted from the channel 16 watch requirements.

Common Carrier—1—*Title:* Applications of Airsignal International, Inc., and its subsidiaries, for construction permits in the Domestic Public Land Mobile Radio Service. *Summary:* This item would resolve questions arising out of the Xerox-WUI merger concerning the application of the common carrier cut-off rule to applications of a WUI subsidiary, Airsignal International, Inc., that were pending at the time the merger took place. At the time the merger was consummated, Airsignal had on file applcations for new stations and for major and minor modifications of its existing stations. Airsignal filed amendments to these applications to reflect the change in ownership. The Commission must now decide which of these amendments should be classified as "major" and which as "minor." The Commission must then determine whether "major amendment" status should cause the applications amended to be treated as newly filed for purposes of the cut-off rule.

Common Carrier—2—*Title:* Elimination of Financial Qualifications in the Public Mobile Radio Services. *Summary:* Commission will consider whether to eliminate financial qualifications requirement in the Public Mobile Radio Services.

Common Carrier—3—*Title:* The Lincoln County Telephone System Inc. v. The Mountain States Telephone and Telegraph Company. (File No. TS 3–79). *Summary:* Lincoln County, a Nevada telephone company seeks to prevent Mountain Bell, a Bell System company, from removing an open wire line that serves as one of Lincoln County's two links to the national telephone network. The Commission will decide whether the removal of the open wire facility will result in unreasonable service or inadequate facilities to Lincoln County and its service area.

Common Carrier—4—In the Matter of Commercial Communications, Inc. *et al.* Considers Petition of Commercial Communications, Inc. *et al.* for a declaratory ruling alleging inconsistency between federal "interconnection" decisions and an Oklahoma Corporation Commission rule regulating the use and supply of customer-provided equipment.

Common Carrier—5—*Title:* Memorandum of Understanding concerning Interconnection in the Domestic Public Land Mobile Radio Service. *Summary:* Commission will consider whether to accept the Memorandum of Understanding concerning interconnection between wireline telephone carriers and radio common carriers and the implementation of the Single Number Access Plan (SNAP).

Common Carrier—6—*Cable Information Services, Inc., et al.* v. *Appalachian Power Company,* PA–79–0008. Joint complaint of four CATV operators that electric company's payments received for pole attachments are in excess of the maximum just and reasonable rate permitted and company engages in unfair practice of denying additional attachments under Communications Act Section 224. The Commission must decide: (1) whether the complaint should be granted; (2) what remedies, if any, are appropriate. Remedies the Commission may consider include: (a) terminate payments currently received; (b) substitute a just and reasonable rate for payments being received; (c) refund with interest excess payments made by the CATV operators; (d) grant or deny request requiring further attachments.

Common Carrier—7—*Title:* Petition for Reconsideration of the Commission's decision in *International Relay, Inc.,* FCC 80–222, released May 5, 1980, filed by ITT World Communications Inc. *Summary:* The Commission will consider whether the public interest would be served by: (1) imposing a time limitation upon the 214 authorization granted to International Relay, Inc. (IRI); and (2) conditioning IRI's authorization upon IRI adopting the uniform settlement rates for service between the United States and the United Kingdom.

Common Carrier—8—*Title:* Applications of WUI, RCAGC, ITT and TRT to lease DIGISAT circuits from Comsat for the provision of digital data leased channel and other services between the U.S. and various European countries. *Summary:* The Commission is considering (1) whether a special showing is required for the lease and multiplexing of a high-speed DIGISAT channel; (2) whether a separate rate should be required for DIGISAT-derived channels; (3) whether the use of DIGISAT-derived channels should be limited to digital data leased channel service and (4) whether the absence of an operating agreement prevents authorizing the carriers to lease and operate DIGISAT channels.

Common Carrier—9—*Title:* Applications for review of *MCI Telecommunications Corp.*, FCC Mimeo No. 25862 (released February 7, 1980), and *MCI Telecommunications Corp.*, FCC No. 31252 (released May 15, 1980). *Summary:* The Commission will consider applications for review of two orders of the Common Carrier Bureau allowing MCI Transmittal No. 118 (limiting the number of access codes available to Execunet customers) and MCI Transmittal No. 129 (eliminating the volume discount on the Execunet and Quickline options of Metered Use Service) to become effective.

Common Carrier—10—*Title:* Application for review of *AT&T*, Mimeo No. 11063 (released January 4, 1979). *Summary:* The Commission will consider an application for review filed by Satellite Business Systems of a Bureau order allowing AT&T Transmittal No. 13085, which eliminated a minimum switching terminals requirement for EPSCS customers, to become effective.

Common Carrier—11—*Title:* Amendment of Parts 1 and 61 of the Commission Rules with respect to petitions for rejection and petitions for suspension of tariff filings. *Summary:* The Rule changes proposed in this item would establish the same procedural requirements for tariff suspension and rejection petitions. As a separate matter, the Rules would be changed to reduce the number of working papers required by a carrier submitting a filing which involves a tariff change or a service not previously offered.

Common Carrier—12—*Title:* Petition of the New York State Commission on Cable Television (CCT) for reconsideration of the Commission's declaratory ruling, preempting certain policies and rulings enunciated by CCT to the extent that they interfered with the provision of Multipoint Distribution Service (MDS). *Summary:* On September 19, 1978, the Commission issued a declaratory order, *Orth-O-Vision, Inc.*, 69 FCC 2d 657, wherein it found that certain policy statements of CCT, if put into effect, would hinder the development of MDS. Therefore, the Commission preempted the policies and rulings contained in CCT's statements to the extent that they would prohibit the receipt of MDS transmission. CCT is petitioning the Commission to reconsider its decision, citing numerous alleged errors of fact and law as grounds for its request.

Cable Television—1—"Petition for Stay" filed July 10, 1980, by the Smaller Market UHF Television Stations Group. The Smaller Market UHF Television Stations Group, an informal association of UHF television broadcast station licensees operating in markets other than the first 50, requests that the Commission stay Section 76.92(g) of the Commission's Rules pending Commission disposition of a forthcoming rulemaking petition from the Group. The Group's petition is opposed by Winchester TV Cable Company, Vermont Television Corporation, United Antenna Service of Boone, Inc., the National Cable Television Association, and two groups of cable television system operators.

Renewal—1—*Title:* Mutually exclusive applications filed by: United Broadcasting Company, Inc. for renewal of license for station WOOK(FM), Washington, D.C.; District Broadcasting Company for a construction permit on WOOK's frequency; and Hispanic Broadcasting Company for a construction permit on WOOK's frequency; and petitions to deny United's renewal application filed by Hispanic Broadcasting Company and by the Metropolitan Washington Coalition for Latino Radio. *Summary:* Petitioners contend that United is not qualified as an applicant for the station by virtue of the misconduct which has resulted in the loss of some of its other broadcast licenses. They also allege that the procedures utilized by United in its format switch are further evidence of its disqualifying lack of character, and that the format switch, which ultimately resulted in the elimination of the market's only Spanish-language station, should not have been permitted by the Commission. Various issues are raised as to the acceptability of the other applications, and whether the Commission should consider at this stage of the proceedings Hispanic's claim for a preference based on its Spanish-language programming proposal, and what that resolution should be.

Aural—1—*Subject:* (a) Request by Braverman Broadcasting Company, Inc., licensee of AM Station KCJJ, Iowa City, Iowa, to operate at a minimal power level during certain nighttime hours. (b) Requests for interim authorizations by limited-time stations assigned to Class I–A Clear Channels. *Summary:* The Commission will consider the KCJJ request as well as similar requests by limited-time stations in accordance with paragraph 84 of the *Report and Order* in Docket 20642, released June 20, 1980.

Aural—2—Memorandum Opinion and Order in re application of Northwestern College for a change in the facilities of station KNWC, Sioux Falls, South Dakota, and petitions to deny filed by Midwest Radio Corporation (KWYR) and WXYZ, Inc. (WXYZ). *Summary:* The FCC considers the above application and petitions alleging that the proposed operation will cause interference to KWYR, Winner, South Dakota, and WXYZ, Detroit, Michigan.

Aural—3—*Title:* "Application for Review of Action taken by Delegated Authority" filed May 19, 1980 by San Antonio Community Radio Corporation, Inc. *Summary:* This pleading is directed against the staff action of May 6, 1980 which denied its request for assignment of the call letters KAZZ to a new noncommercial educational FM station in San Antonio, Texas.

Aural—4—*Subject:* Reguest for Declaratory Ruling filed by Patton Communications Corporation. *Summary:* This request concerns the pouring of concrete footings for a proposed broadcast tower and whether such activity constitutes premature construction within the ambit of Section 319(a) of the Communications Act.

Television—1—*Title:* Mutually exclusive applications for a CP for new TV station on channel 11, Houma, LA. *Summary:* Six mutually exclusive applications to be designated for comparative hearing. Questions raised by informal objections and petitions to deny to be resolved. Questions include short-spacing and need for "satellite" form of operation.

Television—2—*Title:* Application of Front Range Educational Media for CP for new TV station in Broomfield, CO. *Summary:* Commission granted unopposed application and denied a Denver ETV station's post-grant petition for reconsideration. The Commission considers the applicant's financial ability to operate for 3 months on remand from Court of Appeals for D.C. Circuit, which vacated Commission's original grant.

Broadcast—1—Report and Order in Docket 80–10, In the Matter of Operation of Visual and Aural Transmitters of TV Stations. The Commission will consider proposed rule amendments (Section 73.653) to permit separate operation of the aural and visual transmitters of TV stations during "graveyard" hours—a period defined as between 12 Midnight and 6 A.M.

Broadcast—2—*Title:* Requests for the formation of a new Government-Industry Advisory Committee, and for the inauguration of an omnibus proceeding to facilitate a comprehensive approach to AM and FM matters now being considered in separate dockets, and for the inauguration of rulemaking to discontinue the threshold requirements of Section 73.37(e)(2) of the rules. *Summary:* The Commission will consider staff recommendations for action upon the foregoing requests.

Broadcast—3—*Title:* Notice of Proposed Rulemaking in Docket No. 21473; Amendment of the Rules governing the Conversion of Radiation Patterns for AM broadcast stations. *Summary:* The commission considers whether to issue a Notice of Proposed Rulemaking looking towards conversion of all U.S. AM directional stations to standard patterns.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 4, 1980.

[S–1659–80 Filed 9–5–80; 8:59 am]

BILLING CODE 6712–01–M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Monday, September 15, 1980 and Tuesday, September 16, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

Broadcast—1—*Ttile:* Panel discussions In the Matter of Radio Deregulation (BC Docket No. 79–219). *Subject:* The Special meetings

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will be held so that panel discussions can take place to permit the exchange of views with the Commission regarding the issues in this proceeding. No official action will be taken by the Commission at these meetings.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: September 4, 1980.

[S-1661-80 Filed 9-5-80; 9:00 am]

BILLING CODE 6712-01-M

6

[NM-80-33]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, September 16, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Head-on Collision of Baltimore & Ohio Freight Trains Extra 6474 East and Extra 4367 West, Orleans Road, West Virginia, and *Recommendations* to the Federal Railroad Administration and to the Baltimore & Ohio/Chesapeake & Ohio Railroad Companies.
2. *Special Study*—Air Taxi Safety in Alaska and *Recommendations* to the Federal Aviation Administration, to the State of Alaska, to the National Weather Service, and to the Alaska Air Carriers Association.
3. *Safety Effectiveness Evaluation* of Selected State Highway Skid Resistance Programs and *Recommendations* to the Federal Highway Administration.
4. *Marine Accident Report*—SS FRONTENAC Grounding in Lake Superior at Silver Bay, Minnesota, November 22, 1979, and *Recommendations* to the U.S. Coast Guard and to the National Oceanic and Atmospheric Administration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

September 5, 1980.

[S-1664-80 Filed 9-5-80; 11:37 am]

BILLING CODE 4910-58-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, September 11, 1980.

PLACE: Commissioners Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

10 a.m.

Discussion of Management-Organization & Internal Personnel Matters (Approx 2 hrs) (CLOSED-Exemption 2 & 6)

3:30 p.m.

1. Affirmation Session (approximately 10 minutes, public meeting): (a) Licensing Requirements for Spent Fuel Storage (tentative); (b) Order in Seabrook (tentative); (c) Part-Time Members of ASLB (tentative).
2. Time Reserved for Discussion and Vote on Affirmation Items (if required).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status of the day of the meeting.

Roger M. Tweed,
Office of the Secretary.

[S-1665-80 Filed 9-5-80; 3:03 pm]

BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 45 FR 58297, September 2, 1980; to be published.

STATUS: Closed meetings: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: August 26, 1980 and September 2, 1980.

CHANGES IN THE MEETINGS: Cancellation/additional items.

The following item was not considered at the closed meeting scheduled for Wednesday, September 3, 1980, at 2:30 p.m.:

Legislative and regulatory matters bearing enforcement implications.

The following additional items were considered at the closed meeting scheduled for Thursday, September 4, 1980, at 9:00 a.m.:

Formal Order of Investigation.

Litigation matter.

The following additional item will be considered at the open meeting scheduled for Wednesday, September 10, 1980, at 10:00 a.m.:

Consideration of an application by Alabama Power Company, an electric utility subsidiary of The Southern Company, a registered holding company, pursuant to the Public Utility Holding Company Act of 1935 to issue and sell at competitive bidding up to $300 million principal amount of first mortgage bonds in one or more series and up to $100 million of preferred stock in one or more series not later than February 28, 1981. A request for hearing has been received in connection with the proposal. For further information, please contact William C. Weeden at (202) 523-5677.

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

September 4, 1980.

[S-1658-80 Filed 9-5-80; 8:59 am]

BILLING CODE 8010-01-M

federal register

Tuesday
September 9, 1980

Part II

Department of the Interior

Fish and Wildlife Service

Fish and Wildlife Service Mitigation Policy; Notice of Draft Policy

V45/176 SE9 80 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Fish and Wildlife Service Mitigation Policy; Notice of Draft Policy

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Draft Policy—Request for Comment.

SUMMARY: This Notice invites public comment on draft policy guidance for Fish and Wildlife Service (FWS) personnel involved in providing recommendations to protect or conserve fish and wildlife resources that may be impacted by Federal or Federally permitted or licensed land and water resource developments. The policy is needed to: 1) ensure consistent and effective FWS recommendations; 2) allow Federal and private developers to anticipate FWS recommendations and plan for mitigation needs early, and 3) reduce FWS and developer conflicts as well as project delays. The intended effect of the policy is to protect and conserve the most important and valuable fish and wildlife resources while facilitating balanced development of the Nation's natural resources.

DATES: Written comments are due on or before October 9, 1980.

ADDRESS: Comments should be addressed to: Associate Director—Environment, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 Attention: John Christian.

FOR FURTHER INFORMATION CONTACT: John Christian, Program Development Staff—Environment, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202) 343-7151.

SUPPLEMENTARY INFORMATION:

Background

The development and use of the Nation's natural resources continues in an effort to provide people with their basic needs and to improve their lives. Fish and wildlife and the intricate fabric of natural resources upon which they depend provide benefits to people in many ways. Fishing, hunting, and bird watching are basic benefits that come to mind immediately. These activities involve the direct use of these renewable "natural resources." Perhaps a greater benefit, although more difficult for some to understand, is the maintenance of the structure and function of the ecosystem that comprises all living species, including people. The presence of diverse, healthy fish and wildlife populations generally signals a healthy ecosystem which contains those elements necessary for human survival, including unpolluted air and water and productive land.

That fabric of natural resources called habitat is the supply for fish and wildlife renewal. The life requirements for plant and animal species are varied and complex. Every species requires a different set of environmental conditions for survival and vigorous growth. These conditions form the habitat of the various species. The development and use of natural resources leads to changes in environmental conditions that can redefine habitat and thus change the mix and abundance of plant and animal species.

The FWS has provided Federal leadership for over 40 years to protect and conserve fish and wildlife and their habitat. The FWS under its legal authorities related to habitat preservation conducts fish and wildlife impact analysis and provides mitigation recommendations for Federal projects and private projects that require a Federal license or permit or will utilize Federal funds. Fish and Wildlife Service policies on mitigation have been developed over the years. The most important of these include:

1. A general policy statement entitled "Position Paper of the Fish and Wildlife Service Relative to Losses to Fish and Wildlife Habitat Caused by Federally Planned or Constructed Water Resource Developments." It was approved and released on December 18, 1974.
2. Guidelines entitled: "Review of Fish and Wildlife Aspects of Proposals in or Affecting Navigable Waters" and "Oil and Gas Exploration and Development Activities in Territorial and Inland Navigable Waters and Wetlands." They were published in the **Federal Register** on December 1, 1975 (FR 55804–55824).

These policies outline mitigation positions and recommendations for FWS personnel involved in the review of water resource development projects. The 1974 policy provides an overall mitigation policy for the FWS, but it is very general in nature and does not provide decisionmaking guidance. The 1975 guidelines are very specific with regard to specific mitigation methods for various activities but they do not outline an overall mitigation policy.

Recent events have indicated a need for an updated overall mitigation policy for the FWS that contains specific guidance on mitigation goals. The President's Water Policy Statement and Directives of 1978 indicated a greater need to define appropriate mitigation.

The Executive Orders on the Protection of Wetlands (E. O. 11990) and Floodplain Management (E. O. 11988) require mitigation of project impacts, to the extent practicable. Finally, the current national need to accelerate development of energy resources requires that early planning decisions be made that can minimize conflict between important environmental values and energy resource development. For those reasons, it was determined to be necessary to fully outline the overall mitigation policy of the Fish and Wildlife Service.

The draft FWS mitigation policy outlines and describes the current basis for mitigation decisionmaking in the Fish and Wildlife Service. An analysis was made of 365 examples of FWS field level mitigation recommendations. The principles currently being applied at the field level were then consolidated into the overall statement of policy that is the subject of this notice.

This policy conditions the actions of FWS employees involved in providing mitigation recommendations, with the exception of those recommendations relating to threatened or endangered species. Those requirements are covered by the Endangered Species Act of 1973 and 40 CFR Part 402. The policy does not dictate actions or positions that development agencies or individuals must accept. However, it is hoped that the policy will provide a common basis for mitigation decisionmaking and facilitate earlier consideration of important fish and wildlife values in project planning activities. This policy does not extend the authorities of the Department of the Interior or the Fish and Wildlife Service beyond those that currently exist.

Finally, it should be stressed that this FWS policy outlines mitigation needs for fish and wildlife, their habitat and uses thereof. Others interested in mitigation of project impacts on other aspects of the environment such as human health or heritage conservation may find the FWS policy does not fully cover their needs. There was no intent to develop an FWS mitigation policy that covers all possible project impacts except those stated. The FWS believes that preservation and conservation of important natural resources is a necessary prerequisite to human existence.

Discussion

1. Relationship of Mitigation policy to Other FWS Planning Activities.

The draft policy is designed to stand on its own. However, for a clearer perspective of the relationship of the policy to the goals and objectives of the Fish and Wildlife Service, it should be read with the Service Management Plan and the Habitat Preservation Program Management Document which includes a discussion of Important Resource Problems that the FWS believes require priority attention.

The Service Management Plan describes the overall direction of the Fish and Wildlife Service and the interrelationships of the four major categories of the Service including Habitat Preservation, Wildlife Resources, Fishery Resources, and Federal Aid-Endangered Species.

The Habitat Preservation Program Management Document (PMD) outlines what the FWS will do over a one to five year period to ensure the protection and proper management of fish and wildlife habitat. It provides guidance to Service personnel and other interested parties on the goals, objectives, policies, and strategies of the Habitat Preservation Category of the Fish and Wildlife Service.

The Habitat Preservation PMD identified 78 problems that concern nationally important fish and wildlife resources. The Fish and Wildlife Service has ranked them to aid in program planning. Each Important Resource Problem indicates that a certain species or community of species in a specified geographic area is or will be under significant stress. Those Important Resource Problems ranked higher on the list imvolve relatively higher value, in the broad sense of the term, or more threatened species or habitat.

Most Important Resource Problems involve habitat: physical destruction, chemical contamination, or reduction in water quantity or quality. The programs of the Habitat Preservation Category deal with these problems to the extent possible. Important Resource Problems provide a focus for financially and personnel-constrained Category activities. Given limited funds and personnel, specific Habitat Preservation Category activities will be directed to the Service's Important Resource Problems.

2. Relationship of the Mitigation Policy to the Fish and Wildlife Coordination Act (FWCA) Regulations.

The Fish and Wildlife Service published proposed regulations on May 19, 1979, for implementing the Fish and Wildlife Coordination Act (16 U.S.C. 661–667(e)) (FWCA). A subsequent decision was made to prepare an Environmental Impact Statement on the proposed action. The FWCA regulations have been significantly revised and will be reproposed in the near future. Those regulations will interpret the FWCA and establish procedures and guidelines for Federal agencies in implementing the FWCA. In contrast to the FWCA regulations, the proposed mitigation policy does not suggest any requirements for any other Federal agency nor does it predetermine or preempt issues which may also be covered in those rules. It explains existing policy for determining the substance of specific Fish and Wildlife Service mitigation recommendations under numerous authorities, including the FWCA.

Whereas the FWCA rules, if and when reproposed, would in part provide internal FWS guidance on subjects similar to those addressed in this draft policy, this policy addresses basically different concepts: levels of and priorities for mitigation; techniques for impact analysis; and selection among mitigation tools. The policy would operate internally, not in the context of what action agencies must or should do once they receive recommendations from the FWS which are made under this policy or other guidance. For these reasons, it was decided that this policy could and should be set forth for the information of the public separately from the FWCA rulemaking.

3. Focus of Policy on Habitat Value.

The policy covers impacts to fish and wildlife populations, their habitat and the human uses thereof. However, the primary focus in terms of specific guidance is on the mitigation of habitat value losses.

Population estimates are considered by many to be unreliable indicators for evaluating fish and wildlife impacts. Sampling errors, cyclic fluctuations of populations and the lack of time series data all contribute to the problem. Therefore, the FWS feels that habitat value, by measuring carrying capacity, is a much better basis for determining mitigation requirements. However, the use of population information is not foreclosed by the policy. In fact, concern for population losses led to formulation of the "General Principles" section to seek "* * * (mitigation for) all losses of fish, wildlife, their habitat and uses thereof * * *." The FWS agrees that mitigation of population losses is a necessary aspect of this policy, for example, when habitat value is not affected but migration routes are blocked off as in the case of dam construction on a salmon river.

Mitigation of human use losses of fish and wildlife resources is also a necessary aspect of the policy. However, if habitat mitigation occurs, then in the majority of cases, human use losses are also minimized. However in some cases, public access to the resource may be cut off by the project or significant recreational or commercial benefits may be lost.

In those cases where habitat value mitigation of fish and wildlife population or human use losses is not deemed adequate, the FWS will seek to mitigate such losses in accordance with the general principles and concepts presented in the policy. However, in the majority of cases, the Service feels the preferred way to assure a continuous supply of fish and wildlife populations and human use opportunities is to mitigate impacts on habitat values.

The Fish and Wildlife Service has recently revised and updated its *Habitat Evaluation Procedures* (HEP). These procedures define habitat value through the use of Habitat Units. A Habitat Unit, which measures both habitat quality and quantity, is expressed as a function of the suitability of a particular study habitat for a given important species (habitat quality) multiplied by the number of acres of that habitat (habitat quantity). It can be used, where appropriate, to determine mitigation needs based on habitat value losses. In some cases, the project may not be deemed appropriate for applying the methodology as in the case of activities conducted on the high seas under the Outer Continental Shelf (OCS) leasing program. Other limitations are outlined in the policy. The HEP are available upon request from the Chief, Division of Ecological Services, Fish and Wildlife Service, Washington, D.C. 20240.

4. Rationale for Mitigation Goals.

In developing this policy, it was agreed that the fundamental principles guiding mitigation are: 1) that avoidance or full compensation be recommended for the most valued resources; and 2) that the degree of mitigation requested correspond to the importance and scarcity of habitat at risk. Five resource categories of decreasing importance were identified, with mitigation goals of decreasing stringency developed for the four significant categories. Table 1 summarizes all categories and their respective goals.

Table 1.—*Resource Categories and Mitigation Goals*

Resource category	Designation criteria	Mitigation goal
1	High value for important species and unique or irreplaceable.	No loss of habitat.
2	High value for important species and scarce or becoming scarce.	No net loss of in-kind habitat value.
3	High value for important species and abundant.	No net loss of total habitat value.
4	Low value for important species.	Minimize loss of habitat value.
5	No value for important species.	None.

For categories 1, 2, and 3, mitigation goals are fixed standards recommending, at a minimum, total

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habitat preservation or total habitat value replacement. These standards represent minimum planning goals for FWS recommendations and are based on the premise that these high importance categories of fish and wildlife resources constitute a "merit good" to society and should be preserved so that their benefits may be enjoyed by all.

Therefore, to adequately protect the public interest, Service mitigation recommendations in the most highly valued resource categories (1, 2, and 3) are based on predetermined levels of habitat value that will reserve their special values to humans. The mitigation goals do demonstrate some flexibility since limited habitat tradeoffs are permitted. In-kind habitat replacement is allowed in Resource Category 2 and out-of-kind habitat replacement in Resource Category 3 provided these substitutions are of equal habitat value.

Precedents for standards dictating a minimum acceptable quality necessary to protect the public interest are prevalent throughout government and industry; for example:

- Environmental Protection Agency: air and water quality standards.
- Food and Drug Administration: food and drug quality standards.
- Industry: tolerance limits for machinery; quality control standards.

These standards serve as valuable and dependable guidance to Federal and private developers, enabling them to develop implementation and compliance strategies in the earliest stages of the project planning process.

In contrast to the first three categories, the mitigation goal for category 4 is presented as a general directive, i.e., "minimize loss of habitat value." A continual loss of habitat value in this category is inevitable, but is acceptable since the habitat is of low value for the support of important species. Significant loss of any habitat type currently in this category may be prevented through timely reclassification by FWS personnel as it becomes scarcer and more important.

A mitigation goal was not set for category 5 habitat. These areas of impact are judged to be of relatively low ecological value such that development on these lands or waters does not compromise important species.

Finally, it should be understood that these mitigation goals are to act as floors in recommending project design parameters, and are in no way intended as ceilings. Planners, while deciding on project plans will be urged by FWS personnel to find means of blending habitat enhancement opportunities for all resource categories into project design. All enhancement efforts in plans containing adequate mitigation features will have the full support of the Fish and Wildlife Service.

National Environmental Policy Act Requirements

The FWS has prepared an environmental assessment of this policy. Based on an analysis of the environmental assessment, the Director of the Fish and Wildlife Service has concluded that the proposed action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) requiring an Environmental Impact Statement (EIS) for the following reasons:

1. The proposed action is not a major Federal action as defined in the regulations for implementing NEPA prepared by the Council on Environmental Quality (40 CFR 1508.18(b)(1)).

The proposed policy is basically a summary and a compilation of approaches and policy currently being practiced by FWS field personnel involved in providing mitigation recommendations. Since the Service has been providing such recommendations under its legal authorities for many years, the proposed policy document will not result in any new FWS programs nor will it substantially alter the operation or impacts of any existing programs.

2. The proposed action will not significantly affect the quality of the human environment as defined in 40 CFR 1508.27 of the NEPA regulations because:

a. The FWS recommendations based on this proposed policy have no impacts on the natural environment amenable to analysis under NEPA. Any impacts on Federal or private development actions are unpredictable because: 1) information is not available on where development will occur or what will be developed, 2) the effect of the proposed policy depends upon the willingness of developers to accept and implement recommendations and 3) no method exists to predict future site-specific FWS mitigation recommendations in advance of the development of project plans.

b. The proposed policy does not impose requirements on Federal or private developers to accept or implement FWS mitigation recommendations.

c. The proposed policy substantially reflects current FWS positions; it will have little effect on the human environment beyond that which currently exists.

It is also appropriate to note that preparations of an EIS at this time would be premature. Any action which is the subject of a recommendation by the FWS pursuant to this policy and which has significant effects on the human environment would be the subject of an EIS when it is proposed by an action agency (See, Andrus v. Sierra Club, 442 U.S. 347,363 (1979)).

The Environmental Assessment and Finding of No Significant Impact will be furnished upon request.

Public Comment Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the policy development process. Interested persons are invited so submit written comments regarding the proposed policy or the environmental assessment. These comments and any additional information received will be considered by the Director before recommending a final policy to the Secretary for approval. Correspondence should be mailed to the address given at the beginning of this proposal.

The primary author of this proposed policy is John Christian, Leader, Policy Group, Program Development Staff—Environment, U.S. Fish and Wildlife Service, (202) 343–7151.

Fish and Wildlife Service Proposed Mitigation Policy

I. Purpose

This document establishes policy for Fish and Wildlife Service recommendations on mitigating the impacts of land and water developments on fish, wildlife, their habitats, and use thereof. It will help to assure consistent and effective recommendations by outlining policy for the levels of mitigation to be achieved and the various methods for accomplishing mitigation. It will allow government agencies and private developers to anticipate Fish and Wildlife Service recommendations and plan for mitigation measures early, thus avoiding delays and assuring equal consideration of fish and wildlife resources with other project features and purposes.

This policy supercedes the December 18, 1974, policy statement entitled "Position Paper of the Fish and Wildlife Service Relative to Losses to Fish and Wildlife Habitat Caused by Federally Planned or Constructed Water Resource Developments."

II. Authority

This policy is established in acordance with the following major authorities: (See Appendix A for other authorities.)

Fish and Wildlife Act of 1956 (16 U.S.C. 742(a)–754). This Act authorizes the development and distribution of fish and wildlife information to the public, Congress, and the President and the development of policies and procedures that are necessary and desirable to carry out the laws relating to fish and wildlife including: 1) " * * * take such steps as may be required for the development, advancement, management, conservation, and protection of the fisheries resources;" and 2) "* * * take such steps as may be required for the development, managment, advancement, conservation, and protection of wildlife resorces through research * * * and other means."

Fish and Wildlife Coordination Act (16 U.S.C. 661–667(e)). This Act authorizes the Fish and Wildlife Service to investigate all proposed Federal undertakings and non-Federal actions proposed under Federal permit or license which would impound, divert, deepen, or otherwise control or modify a stream or other body of water and to make mitigation and enhancement recommendations to the involved Federal agency. "Recommendations * * * shall be as specific as practicable with respect to features recommended for wildlife conservation and development, lands to be utilized or acquired for such purposes, the results expected, and shall describe the damage to wildlife attributable to the project and the measures proposed for mitigating or compensating for these damages." In addition, the Act requires that wildlife conservation shall receive equal consideration and be coordinated with other features of water resource development programs.

National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347). This Act and its implementing regulations (40 CFR 1500–1508) require that the Fish and Wildlife Service be notified of all Federal actions potentially affecting fish and wildlife resources and requires the Service to review, comment, and make recommendations. In addition, the Act provides that "the Congress authorizes and directs that, to the fullest extent possible * * * all agencies of the Federal Government shall * * * identify and develop methods and procedures * * * which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." The regulations specifically require all agencies to "Use all practicable means * * * to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment."

III. Scope

This policy will apply to all activities of the Fish and Wildlife Service related to the evaluation of impacts of land and water developments and to the development of recommemdations to mitigate those impacts except for those relating to threatened or endangered species. This includes, but is not limited to, reviews and recommendations for federally issued permits and licenses, Federal projects, coal and Outer Continental Shelf lease sales, Federal approval of State programs, and areawide plans. The requirements for threatened and endangered species are covered in the Endangered Species Act of 1973 and accompanying regulations at 40 CFR Part 402.

This policy does not apply to Fish and Wildlife Service recommendations related to the enhancement of fish and wildlife resources. Enhancement occurs when overall habitat value is improved beyond that which would occur without the project and beyond that necessary to fully compensate for project-related losses. Whenever practicable, the Fish and Wildlife Service strongly supports enhancement of fish and wildlife resources.

IV. Definition of Mitigation

The President's Council on Environmental Quality defined the term mitigation in the National Environmental Policy Act regulations as a planning process. That process includes "(a) avoiding the impact altogether by not taking a certain action or parts of an action; (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and (e) compensating for the impact by replacing or providing substitute resources or environments." (40 CFR 1508.20(a–e))

The Fish and Wildlife Service supports and adopts this definition of mitigation.

V. Mitigation Policy of the Fish and Wildlife Service

The overall goals and objectives of the Fish and Wildlife Service are outlined in the Service Management Plan and an accompanying Important Resource Problems document which describes specific fish and wildlife problems of importance for planning purposes. Goals and objectives for Service activities related to land and water development are contained in the Habitat Preservation Program Management Document. These documents should be consulted to provide the proper perspective for the Service mitigation policy. They are available upon request from the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

A. *General Principles.*

It is the policy of the Fish and Wildlife Service to seek to mitigate all losses of fish, wildlife, their habitat, and uses thereof from land and water developments.

Fish and wildlife are public resources. They are protected and managed for the people by State, Federal, and Indian tribal governments. Any loss of fish and wildlife habitat results in a direct and indirect loss of fish and wildlife populations. When land or water developments threaten those resources, State and Federal fish and wildlife agencies and Indian tribal agencies have a responsibility to take actions necessary to recommend mitigation of potential losses.

The preferred method of protecting the public trust is to use an approach toward development planning which makes concern for fish and wildlife resources an integral part of project design. The Fish and Wildlife Service will actively support projects that provide equal consideration for fish and wildlife resources along with other project features.

The Service will require as a condition for support that projects be designed to avoid or minimize losses including 1) adoption of features that will cause no significant disruption of the structure and function of the larger ecosystem of which the project will be a part, 2) selection of the least environmentally damaging practicable alternative, and 3) assuring that the proposed activity is water-dependent if it is a work, structure, or activity that will be within or affect waters of the United States. In addition, if project design cannot rectify all losses or reduce or eliminate them over time, then the Service will require that the public be compensated for such loss consistent with the appropriate mitigation goal for that fish and wildlife resource as a further condition for support.

Mitigation of all project impacts can best be assured by close, early coordination and cooperation between fish and wildlife agencies and private developers or government agencies that develop or regulate development of natural resources.

B. *Fish and Wildlife Service Mitigation Goals by Resource Category.* The goals that follow shall be used to guide Fish and Wildlife service recommendations on mitigation of project impacts. Five Resource Categories are used to indicate that the level of mitigation recommended must be consistent with the fish and wildlife resource values involved. (See Appendixes B, C, and D and the Fish and Wildlife Service *Habitat Evaluation Procedures,* 1980, for an explanation and illustration of concepts used in this section. These procedures are available upon request from the division of Ecological Service, Fish and Wildlife Service, Washington, DC 20240.)

Resource Category 1

a. *Designation Criteria.*

Habitat to be impacted is of high value for important species and is unique or irreplaceable in the ecoregions of concern.

b. *Mitigation Goal.*

No Loss of Habitat

Guideline: Losses of those habitat features which justify the designation of unique or irreplaceable habitat must be prevented.

Resource Category 2

a. *Designation Criteria.*

Habitat to be impacted is of high value for important species and is relatively scarce or becoming scarce in the ecoregions of concern. The Fish and Wildlife Service identified Important Resource Problems generally fit into this Category.

b. *Mitigation Goal.*

No net loss of in-kind habitat value.

Guideline: Losses must be avoided or minimized. When losses occur they should be rectified by repairing, rehabilitating, or restoring the affected environment or reduced or eliminated over time by preservation and maintenance operations during the life of the action.

If losses cannot be avoided or minimized and rectified, or reduced or eliminated over time, then losses must be fully compensated by replacement of the *same kind of habitat* so that the total loss of in-kind habitat value equals zero.

This can be accomplished by the physical modification of replacement habitat to convert it to the same type lost or restoration and rehabilitation of previously altered habitat. By replacing habitat losses with similar habitat, populations of important species associated with that habitat will remain relatively stable in the area over time. This is generally referred to as in-kind replacement.

Exceptions: An exception can be made to this goal when 1) different habitats and important species available for compensation are determined by the Fish and Wildlife Service to be of greater value than those lost *or* 2) in-kind replacement is not physically or biologically attainable in the ecoregions of concern. In either case, replacement involving *different habitat kinds* may be acceptable provided that the *total value* of the habitat lost is replaced (see the guideline for Category 3 mitigation below).

Resource Category 3

a. *Designation Criteria.*

Habitat to be impacted is of high value for important species and is relatively abundant in the ecoregions of concern.

b. *Mitigation Goal.*

No net loss of total habitat value.

Guideline: Losses must be avoided or minimized. When losses occur, they should be rectified by repairing rehabilitating, or restoring the affected environment, or reduced or eliminated over time by preservation and maintenance operations during the life of the action.

If losses cannot be avoided or minimized and rectified, or reduced or eliminated over time, then losses must be fully compensated by replacement of habitat value so that the total loss of habitat value equals zero. *It is not necessary to replace habitat losses with the same kind of habitat.* This goal can be achieved by substituting different kinds of habitats (out-of-kind replacement) and/or by increasing management of replacement habitats so that the value of the lost habitat is replaced.

By replacing habitat value losses with different habitats or increasing management of habitats, populations of important species will change depending on the ecological attributes of the replacement habitat. This will result in no net loss of total habitat value, but may result in significant differences in fish and wildlife populations.

Resource Category 4

a. *Designation Criteria.*

Habitat to be impacted is of low value for important species in the ecoregions of concern.

b. *Mitigation Goal.*

Minimize loss of habitat value.

Guideline: Losses must be avoided or minimized. When losses occur they should be rectified by repairing, rehabilitating, or restoring the affected environment, or reduced or eliminated over time by preservation and maintenance operations during the life of the action.

If losses cannot be avoided or minimized and rectified, or reduced or eliminated over time, then in-kind or out-of-kind replacement will not be required.

Resource Category 5

a. *Designation Criteria.*

Habitat to be impacted is of no value for important species in the ecoregions of concern.

b. *Mitigation Goal.*

None.

Guideline: No mitigation is required.

c. *Mitigation Planning Procedures.*

1. *Mitigation Goals.*

The Fish and Wildlife Service, in cooperation with State fish and wildlife agencies, will make Resource Category determinations and develop specific mitigation goals for projects as part of the mitigation plan. Such determinations should be made early in the planning process, to the extent possible, and transmitted to the lead agency or private developer.

2. *Impact Assessment Methods.*

a. The net biological impact of a development proposal (or alternatives) is the difference in predicted habitat value between the future with the action and the future without the action. If the future without the action cannot be reasonably predicted and documented by the project sponsor, then the FWS analysis should be based on biological conditions that would be expected to exist over the planning period due to natural species succession in the absence of human interference or which currently exist at the project site.

b. The Habitat Evaluation Procedures will be used by the Service as a basic tool for evaluating project impacts and as a basis for formulating subsequent recommendations for mitigation subject to the exemptions below:

—Time constraints preclude Habitat Evaluation Procedures application;

—Adequate funds (transferred or otherwise) are not available;

—The project is relatively insignificant; or

—The project is deemed not appropriate for applying the methodology.

When the Habitat Evaluation Procedures do not apply as determined above, then other habitat-based evaluation systems may be used provided such use conforms with policies provided herein.

c. In those cases where instream flows are an important determinant of habitat value, strong consideration should be given to the use of the Fish and Wildlife Service's Instream Flow Incremental Methodology to develop instream flow mitigation recommendations.

d. Fish and Wildlife Service review of project impacts and development of appropriate mitigation recommendations will consider, whenever possible:

—The total long-term ecological impact of the project, including any secondary or indirect impacts regardless of location; and

—Any cumulative effects when viewed in the context of existing or planned projects.

3. *Mitigation Recommendations.*

a. Recommendations will be presented by the Service at the earliest possible stage of project planning to assure maximum consideration. The Fish and Wildlife Service will strive to provide a mitigation recommendation that represents the best judgment of the Service on the most cost-effective means of achieving the mitigation goal for the project area. Such recommendations will be developed in cooperation with the lead agency or private developer responsible for the project and will place heavy reliance on cost estimates provided by that agency or private developer. In addition, the Service will be receptive to alternative mitigation proposals by the lead agency or private developer that are considered more cost-effective and that will fully achieve the mitigation goal established by the Fish and Wildlife Service.

b. The Fish and Wildlife Service will recommend that the lead agency or private developer include designated funds for all environmental mitigation (including the initial development costs as well as continuing operation, maintenance, replacement, and administrative costs) as part of the initial and any alternative project plans and that mitigation funds be spent concurrently and proportionately with overall project construction and operation funds throughout the life of the project.

c. First priority will be given to recommendation of a mitigation site in proximity to the project site within the same ecoregion section. Second priority will be given to recommendation of a mitigation site elsewhere within the same ecoregion section. Third priority will be given to recommendation of a mitigation site located in a different ecoregion section within the same ecoregion province.

d. If losses cannot be avoided or minimized and rectified, or reduced or eliminated over time, then final achievement of the mitigation goal for compensation of losses through means and measures other than land acquisition in fee title will be given priority consideration where such means and measures:

—Would fully achieve the mitigation goal for the specific project area.

—Are cost-effective in comparison to fee title land acquisition taking into account the initial development costs as well as continuing operation, maintenance, replacement, and administrative costs.

—Are to be funded by the lead project agency (as authorized and appropriated by Congress) or private developer as an integral part of overall project cost. Such funding must include that required for the lead agency or for any other agency which assumes a participating role in the mitigation effort for initial development, operation, maintenance, replacement, or administrative costs.

—Would be the ultimate responsibility of the lead project agency to enforce and administer the continuous effective implementation of such means and measures, particularly where a lease or easement is involved, even in instances where the Fish and Wildlife Service, involved State fish and wildlife agency, or Indian tribal agency may agree to participate in management efforts.

—Would provide public benefits similar in scope and extent to those expected to be achieved via fee title land acquisition.

—Would provide for a duration of effectiveness for the life of the project plus such additional time required for the adverse effects of an abandoned project to cease to occur.

4. *Follow-Up.*

The Fish and Wildlife Service encourages, supports, and will participate whenever practicable, in post-project evaluation to determine the effectiveness of recommendations in achieving the mitigation goal.

D. *Project Opposition.*

Projects may be opposed by the Fish and Wildlife Service when the conditions for project support outlined under *General Principles* are not met.

Appendix A. Other Authorities for FWS Mitigation Recommendations

Legislative

Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–et seq). The 1977 amendments require the Fish and Wildlife Service "* * * upon request of the Governor of a State, and without reimbursement, to provide technical assistance to such State in developing a Statewide (water quality planning) program and in implementing such program after its approval." In addition, this Act requires the Service to comment on proposed State permit programs for the control of discharges of dredged or fill material and to comment on all Federal permits within 90 days of receipt.

Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009). This Act allows the Secretary of the Interior to make surveys, investigations, and "* * * prepare a report with recommendations concerning the conservation and development of wildlife resources * * *" on small watershed projects.

Estuary Protection Act (16 U.S.C. 1221–1226). This Act requires the Secretary of the Interior to review all project plans and reports for land and water resource development affecting estuaries and to make recommendations for conservation, protection, and enhancement. It also requires the Secretary to "* * * conduct directly or by contract a study and inventory of the Nation's estuaries * * *."

Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1465). This Act requires the Secretary of Commerce to obtain the views of Federal agencies affected by the program, including the Department of the Interior, and to insure that these views have been given adequate consideration before approval of Coastal Zone Management Plans. The Service provides the Department's views about fish and wildlife resources.

Water Bank Act (16 U.S.C. 1301–1311). This Act requires that the Secretary of Agriculture "shall consult with the Secretary of Interior and take appropriate measures to insure that the program carried out * * * is in harmony with wetlands programs administered by the Secretary of the Interior."

Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). This Act requires the Secretary of the Interior to comment on such proposals. The Fish and Wildlife Service provides the Department's views with regard to fish and wildlife resources.

Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025). This Act requires that the Fish and Wildlife Service recommend to the Secretary those lands that shall not be leased for geothermal development by reason of their status as "a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction."

Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). This Act requires the Department of the Interior to regulate surface mining and reclamation at existing and future mining areas. The Fish and Wildlife Service provides the Department with technical assistance regarding fish and wildlife aspects of Department programs on active and abandoned mine lands, including review of State regulatory submissions and mining plans, and commenting on mining and reclamation plans.

Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1801). This Act requires the Secretary of the Interior to manage an environmentally sound oil and natural gas development program on the outer continental shelf. The Fish and Wildlife Service provides recommendations for the Department regarding potential ecological impact before leasing in specific areas and contributes to environmental studies undertaken subsequent to leasing.

Federal Power Act of 1920 (6 U.S.C. 791(a), 803,811). This Act authorizes the Secretary of the Interior "* * * to acquire or otherwise make available such adjacent lands or interests therein as are necessary for * * * fish and wildlife use * * *" for reserviors being built or otherwise under his control.

Mineral Leasing Act of 1920, as amended (30 U.S.C. 181–287). This Act authorizes the Secretary of the Interior to grant rights-of-way through Federal lands for pipelines transporting oil, natural gas, synthetic liquids or gaseous fuels, or any other refined liquid fuel. Prior to granting a right-of-way for a project which may have a significant impact on the environment, the Secretary is required by this Act to request and review the applicant's plan for construction, operation, and rehabilitation of the right-of-way. Also, the Secretary is authorized to issue guidelines and impose stipulations for such projects which shall include, but not be limited to, "* * * requirements for restoration, revegetation and curtailment of erosion of surface land; * * * requirements designed to control or prevent damage to the environment (including damage to fish and wildlife habitat);
and * * * requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife and biotic resources of the area for subsistence purposes."

Cooperative Unit Act (16 U.S.C. 753(a)–753(b)). This Act provides for cooperative programs for research and training between the Fish and Wildlife Service, the States, and universities.

Airport and Airways Development Act (49 U.S.C. 1912). This Act requires the Secretary of Transportation to "consult with the Secretary of the Interior with regard to the effect that any project * * * may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment * * *."

Department of Transportation Act (49 U.S.C. 1653(f)). This Act makes it national policy that "special effort should be made to preserve the natural beauty of the country-side and public park and recreation lands, wildlife and waterfowl refuges, and historic sites," and requires that the Secretary of Transportation "cooperate and consult with the Secretary of the Interior in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed." The Department of Transportation projects using protected lands cannot be approved unless there are no feasible and prudent alternatives to avoid such use and, if none, all possible measures to minimize harm have been considered.

Executive

President's Water Policy Message (June 6, 1978). This message directs the Secretary of the Interior to promulgate procedures for determination of measures to prevent or to mitigate losses of fish and wildlife resources.

Water Resources Council's *Proposed Rules; Principles, Standards and Procedures for Planning Water and Related Land Resources* (April 14, 1980). These rules reiterate the importance of participation in the development planning process by interested Federal agencies, including the Department of the Interior. This participation includes review, coordination, or consultation required under various legislative and executive authorities. Under these rules, "Alternative plans are to include appropriate mitigation measures as determined by the responsible Federal planning agency. Mitigation measures are to be implemented concurrently with and in proportion to the installation of other plan measures. Fish and wildlife habitat mitigation measures are to be planned in coordination with Federal and State fish and wildlife agencies as required by the rules implementing the Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661–664)."

Executive Order 11990—Protection of Wetlands (May 24, 1977). This Executive Order requires that each Federal agency "* * * take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing and disposing of Federal lands and facilities; and (2) providing federally undertaken, financed or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation and licensing activities." Relevant wetland concerns and values include, but are not limited to, maintenance of natural systems and long-term productivity of existing flora and fauna, habitat diversity, hydrological utility, fish, wildlife, timber, and food. Under this Order, a developmental project in a wetland may proceed only if no practicable alternatives can be ascertained and if the proposal "* * * includes all practicable measures to minimize harm to the wetland that may result from its use."

Executive Order 11998—Floodplain Management (May 24, 1977). This Executive Order requires that Federal agencies take floodplain management into account when formulating or evaluating water or land use plans and that these concerns be reflected in the budgets, procedures, and regulations of the various agencies. This Order allows developmental activities to proceed in floodplain areas only when the relevant agencies have "considered alternatives to avoid adverse affects and incompatible development in the floodplains" or when, in lieu of this, they have "* * * designed or modified their actions in order to minimize potential harm to or within the floodplain * * *."

National/International Treaties

Federal Trust Responsibility to Indian Tribes. This responsibility is reflected in the numerous Federal treaties with the Indian tribes. These treaties have the force of law. Protection of Indian hunting and fishing rights necessitates conservation of fish and wildlife and their habitat.

Convention Between the United States and Japan (March 4, 1972). This Treaty endorses the establishment of sancturaries and fixes preservation and enhancement of migratory bird habitat as a major goal of the signatories.

Convention Between the United States and the Union of the Soviet Socialist Republic Concerning the Conservation of Migratory Birds and Their Environments (November 19, 1976). This Treaty endorses the establishment of sanctuaries, refuges, and protected areas. It mandates reducing or eliminating damage to all migratory birds. Furthermore, it provides for designation of special areas for migratory bird breeding, wintering, feeding, and molting, and commits the signatories to "* * * undertake measures necessary to protect the ecosystems in these areas * * * against pollution, detrimental alteration and other environmental degradation."

Appendix B. Mitigation Means and Measures

Mitigation recommendations can include, but are not limited to, the following types of actions.

1. *Loss Avoidance and Minimization.*

a. Physical Modifications:

(1) Location at least damaging site.

(2) Reduction in size.

(3) Design of project to prevent disruption of biological community structure and function.

(4) Fish and wildlife passage structures.

(5) Fish and wildlife avoidance structures.

(6) Water pollution control structures.

(7) No project.

b. Management Practices:

(1) Timing and control of initial construction operations and subsequent operation and maintenance to eliminate disruption of biological community structure and function.

(2) Control of water pollution through best management practices.

(3) Timing and control of flow diversions and releases.

(4) Control over public access for recreational or commercial purposes.

(5) Hunting and fishing regulations.

(6) Selective tree clearing or other habitat manipulation.

(7) Including fish and wildlife protection as an authorized purpose of Federal projects.

(8) Control over domestic livestock use.

(9) Maintenance of public access.

(10) Wetland protection through full application of environmental laws such as Section 404 of the Clean Water Act (33 U.S.C. 1251 et seq.).

2. *Habitat Modification and Improvement.*

a. Physical Modifications:

(1) Habitat construction measures to restore or rehabilitate previously altered habitat or modify existing habitat suited to important species for the purpose of offsetting habitat value losses.

(2) Revegatating and restocking disrupted habitat.

(3) Fishery propagation facilities.

(4) Construction of public access facilities.

b. Management Practices:

(1) Wildlife management planning to increase habitat value of existing areas.

(2) Legislative set aside or protective designation.

(3) Land use zoning.

(4) Provision of buffer zones.

(5) Water rights acquisition.

c. Land Acquisition:

(1) Lease arrangements.

(2) Easement acquisition.

(3) Land acquisition in fee title.

Appendix C. Other Definitions

"Cost-effective" means the return of an acceptable level of average habitat value per dollar spent in mitigation. The mitigation policy defines acceptable levels of habitat value for resource categories based on their perceived importance. Among mitigation alternatives, the most cost-effective measure is that recommendation returning the greatest number of habitat units per dollar spent in mitigation, provided the mitigation goal has also been met.

"Ecoregions of concern" means those ecoregion divisions, provinces, and sections that contain fish, wildlife, their habitat or uses thereof that may be directly or indirectly impacted by a proposed project or development plan.

"Ecosystem" means all of the biotic elements (i.e., species, populations, and communities) and abiotic elements (i.e., land, air, water, energy) interacting in a given geographic area so that a flow of energy leads to a *clearly* defined trophic structure, biotic diversity, and material cycles. (Eugene P. Odum. 1971. *Fundamentals of Ecology)*

"Equal replacement," when applied to out-of-kind replacement, means one-for-one compensation of habitat value units when the replacement species mix is considered to be of equivalent value to society.

"Fish and wildlife resources" mean birds, fish, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent.

"Habitat" means the area or ecosystem which provides direct support for a given species, population, or community. It includes all environmental features that comprise an area such as air quality, water quality, vegetation and soil characteristics and water supply (including both surface and groundwater).

"Habitat value" means the suitability of an area or ecosystem to support a given important species. For purposes of this mitigation policy, habitat value can be expressed for a given important species and study area as Habitat Units (HU) where:

$$\text{HU} = \text{Habitat Suitability Index (HSI)} \times \text{Acres}$$

where

$$\text{HSI} = \frac{\text{Study area habitat conditions}}{\text{Optimum habitat conditions}}$$

"Important" means a determination that the attributes of a fish and wildlife resource warrant FWS involvement.

"Important species" means those fish and wildlife resources in the geographic area of concern that represent high resource values to people or represent a critical indicator of ecosystem structure or function. The term is generally synonomous with "evaluation" and "target species" as used in the FWS *Habitat Evaluation Procedures,* 1980. As a guideline, the following should be considered when making selections of important species:

1. Species that are associated with Important Resources Problems as designated by the Director of the Fish and Wildlife Service.

2. Species with monetary and non-monetary benefits to people accruing from consumptive and noncomsumptive human uses including, but not limited to, fishing, hunting, birdwatching and educational, aesthetic, scientific, or subsistence uses.

3. Species that perform a key role in maintaining community structure and function. These species represent a critical pathway for energy flow and ecosystem stability.

4. Species that represent groups of species which use common environmental resources (guilds). Predicted impacts on that indicator species can be extended to other guild members.

5. Species known to be sensitive to specific water and land development actions. These species serve as an "early warning" indicator species for the affected community.

"Important Resource Problem" means a clearly defined problem with a single important population or a community of similar species in a given geographic area as defined by the Director of the Fish and Wildflife Service.

"In-kind replacement" means providing substitute resouces that are physically and biologically the same or closely approximate those lost. The term is described further in the Habitat Evaluation Procedures.

"Loss" means a change in habitat due to human activities that reduces the biological value of that habitat for important species. Changes that improve the value of existing habitat for important species are not considered

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losses, i.e., burning or selective tree cutting for wildlife management purposes.

"Minimize" means to reduce to the smallest practicable amount or degree.

"Out-of-kind replacement" means providing substitute resources that replace the habitat value of the resources lost, but are physically or biologically different than those lost. The term requires "equal" or "relative" replacement as defined in this appendix.

"Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost, or technology. The test includes a heavy burden on the lead agency to both identify alternatives and conduct a searching inquiry into their practicability. This test, however, is not limited by the temporary unavailability of sufficient financial resources to implement mitigation measures. In addition, mitigation measures will not be rejected as "impracticable" solely on the basis of increased costs associated with an undertaking. However, "reasonableness" will be a key factor in practicability determinations.

"Problem" means the difference between the existing or potential resource status and the desired status.

"Project" means a work, structure, or activity that will directly or indirectly affect an ecosystem.

"Relative replacement" means proportionate compensation of habitat value units when the replacement species mix is considered to be of greater or lesser value to society.

Appendix D. Hypothetical Example Explaining Application of Mitigation Goals by Resource Category

The table below demonstrates application of FWS mitigation goals to a specific project area variously classified (for purposes of illustration) as belonging to Resource Categories 1, 2, 3, 4, and 5.

The first two columns depict the existing, or "without project," condition of the proposed project area. Column 1 lists current species composition. Column 2, using habitat value units, records the value of the habitat for the support of these important species.[1]

The remaining five columns show post-mitigation conditions in the project area that would be acceptable to the FWS. Depending upon the resource categorization of the project area, the mitigation goal can range from no loss of habitat (Resource Category 1) to no mitigation required (Resource Category 5).

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[1] Habitat value units measure the relative suitability of an area or ecosystem for support of a given important species. Habitats particularly suitable for a species' nesting, foraging, reproductive, or other biological needs will, on a per acre basis, be assigned higher habitat values for that species' needs than areas less suitable.

EXISTING CONDITIONS IN PROPOSED PROJECT AREA		ACCEPTABLE POST-MITIGATION CONDITIONS IN PROJECT AREA UPON CLASSIFICATION AS:				
Species Composition* (Important Species)	Habitat Value to Important Species (Habitat Value Units)	Resource Category 1 Goal: No Loss of Habitat (Habitat Value Units)	Resource Category 2 Goal: No Net Loss of In-Kind Habitat Value (Habitat Value Units)	Resource Category 3 Goal: No Net Loss of Total Habitat Value (Habitat Value Units)	Resource Category 4 Goal: Minimize Loss of Habitat Value (Habitat Value Units)	Resource Category 5 Goal: None (Habitat Value Units
Species A	50	No Loss	50	10	30	None
Species B	30	No Loss	30	0	10	None
Species C	10	No Loss	10	0	5	None
Species D	10	No Loss	10	40	5	None
Species E	0	N/A***	N/A	50	N/A	None
	100 habitat value units	No Loss of original 100 habitat value units	100 in-kind habitat value units	100** total habitat value units	50 total habitat value units	None

* Important Species are designated A-E for illustration only.
** Assuming "equal replacement" as defined in Appendix C.
*** N/A = Not applicable

Dated: September 4, 1980.
Cecil Andrus,
Secretary of the Department of the Interior.

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Tuesday
September 9, 1980

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Community Development Block Grants; Innovative Grants Program

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-849]

Community Development Block Grants; Innovative Grants Program

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Community Planning and Development.

ACTION: Interim rule.

SUMMARY: This rule modifies requirements governing the Innovative Grants Program in order to (1) clarify program objectives, and (2) provide more explicit guidance to prospective applicants on the requirements for unsolicited proposals, solicited preapplications and full applications. The new requirements replace the current rule in its entirety.

EFFECTIVE DATE: October 1, 1980.

COMMENT DUE DATE: November 10, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the document number indicated in the headings, and give reasons for any recommendations. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may change in the light of comments received.

FOR FURTHER INFORMATION CONTACT: William C. Jacobson, Office of Policy Planning, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6092. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Innovative Grants Program was authorized under the Housing and Community Development Act of 1974 as one of six (now eight) programs under Section 107, the Secretary's Discretionary Fund.

The program provides opportunities for HUD to award grants to eligible applicants for demonstration projects that address serious community development problems and have promise of providing exemplary ways for states and units of general local government (e.g., counties and cities) to resolve such problems.

Since the inception of the program, six grant competitions have been conducted and a number of unsolicited proposals have been awarded. Based upon this experience, it is evident that the current regulations require modification to provide more complete and explicit guidance to prospective applicants on the requirements of the program. This includes a simplified definition of program objectives (i.e., project innovativeness) and specific information on the format, contents and other requirements of unsolicited proposals.

The new rules also permit community and other groups to submit unsolicited proposals to HUD for consideration, as long as the applicable States or units of general local government endorse the proposals and agree to submit full applications, if HUD review of the proposed project is favorable.

An interim rule is proposed in order to permit use of (1) the revised full application requirements by finalists in the current Community Energy Conservation competition, and (2) revised preapplication requirements by proposers participating in a new competition planned for Fall of 1980.

A handbook which details the HUD review and approval process is currently under preparation and will be available for distribution shortly after the effective date of the proposed interim rule.

A finding of inapplicability has been made with respect to the environmental review of the proposed interim rule pursuant to 24 CFR Part 50. A copy of this finding is available for inspection in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

We refer readers to the final rule published February 27, 1976 (41 FR 8612), as amended on August 31, 1976 (41 FR 36650), and further modified on September 12, 1977 (42 FR 45768) and March 1, 1978 (43 FR 8473).

This interim rule is not listed on the Department's semi-annual agenda of significant rules.

Accordingly, § 570.406 is amended as follows:

§ 570.406 Innovative grants program.

(a) *Program Objectives.* The Innovative Grants Program provides an opportunity for HUD to award grants to States and units of general local government for projects that test or demonstrate exemplary community development activities or techniques. The projects to be tested or demonstrated must meet the following criteria for innovativeness:

(1) Involve concepts, methods or devices that can be replicated by other eligible Community Development Block Grant entities without special federal funding;

(2) Provide an improved way of meeting a common community development need (i.e., advance the state of the community development art); and

(3) Meet one of the following additional criteria: (i) Be untried or unique; or

(ii) Have been implemented elsewhere, and the special conditions or circumstances surrounding the project warrant its consideration for funding.

(b) *Types of Proposals and Applications.* Funding requests may be unsolicited preliminary proposals or solicited preapplications.

(1) *Unsolicited Preliminary Proposals*—States, units of general local government and other public or private organizations may submit unsolicited preliminary proposals to obtain HUD reaction to project ideas they have originated.

(i) Proposals shall be used by HUD to make judgments of the eligibility of proposed project activities and their potential for funding. Proposers may be invited by HUD to submit full applications for proposals that HUD regards highly. There is no HUD commitment to fund any unsolicited preliminary proposal or full application, regardless of its merit.

(ii) Proposers not eligible for direct program funding pursuant to § 570.406(c) must submit with their proposals a letter signed by the chief executive officer of the appropriate State or unit of general local government. Said letter must endorse the proposal, certify that the proposed project is consistent with the relevant community development and housing assistance plans, and indicate agreement to submit a full application for the proposed project, if such an application is invited by HUD.

(iii) Preapplications that were submitted and not funded under an Innovative Grants Program competition pursuant to § 570.406(h) may not be resubmitted as unsolicited preliminary proposals.

(2) *Solicited Preapplications*—Preapplications are accepted only from States and units of general local government and only in response to grant competitions announced in Notices published in the **Federal Register**. The requirements for preapplications are stated in such Notices. Successful preapplicants shall be invited by HUD to submit full applications. There is no HUD commitment to fund any preapplication or full application, regardless of its merits.

(c) *Eligible Applicants.* Only States and units of general local government (as defined in 24 CFR 570.3(u) and 570.3(v)) are eligible to submit preapplications or full applications for, or receive Innovative Grants; except that:

(1) In addition to States and units of general local government, any interested community group or other public and private organizations may submit unsolicited preliminary proposals for HUD review pursuant to § 570.406(g), even though such organizations are ineligible for direct program funding. HUD shall not accept from such ineligible organizations full applications invited by HUD under the unsolicited preliminary proposal process.

(2) In addition to those submitted by eligible applicants on behalf of themselves, proposals or preapplications may be submitted jointly or on behalf of other eligible jurisdictions. These requests shall:

(i) Contain copies of agreements with each jurisdiction listed in the proposal or preapplication that specify concurrence with the purpose and intent of the proposal or preapplication and intent to comply with grant requirements, if funded by HUD:

(ii) Address problems faced by all jurisdictions listed in the proposal or preapplication, as such requests shall be considered only if mutual action is essential;

(iii) Be submitted by one of the jurisdictions listed for all others, and that jurisdiction shall be responsible for overall coordination and administration of the project,

(d) *Eligible Activities.* Project activities that may be funded under this Section are those eligible under 24 CFR Part 570—Community Development Block Grants, Subpart C—Eligible Activities. As specified in 24 CFR 570.200(i), no more than twenty (20) percent of the funds awarded under this Section may be used for overall program administration or planning activities eligible under 24 CFR 570.205 and 570.206.

(e) *Submission Times and Places.* (1) Unsolicited preliminary proposals may be submitted any time during the year. They shall be sent to:

Department of Housing and Urban Development, Office of Community Planning and Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Attention: Director, Secretary's Fund Division, CPM.

(2) Solicited preapplications shall be submitted by the time and to the place stated in the Federal Register Notice for a competition.

(f) *A–95 Clearances.* Applicants for assistance under this Section shall comply with Attachment A, Part I of Office of Management and Budget (OMB) Circular No. A–95 and 24 CFR Part 52, except as modified below.

(1) *Proposals and Preapplications*—The requirements of OMB Circular No. A–95 shall not apply to unsolicited preliminary proposals or preapplications.

(2) *Full Applications.* (i) HUD shall notify State and and areawide A–95 clearinghouses of applicants invited to submit full applications at the same time HUD notifies said applicants. This shall be at least 60 days prior to the deadline indicated by HUD for submission of full applications. To permit early clearinghouse review, each applicant invited to submit a full application shall send a copy of its preliminary proposal to the appropriate State and areawide clearinghouses immediately following receipt of the invitation from HUD. This preliminary proposal shall serve as the Notification of Intent under the A–95 Project Notification and Review System.

(ii) Unless otherwise advised by a clearinghouse, the applicant shall submit the full application to the appropriate State and areawide A–95 clearinghouses at least forty-five (45) days prior to the deadline for submission to HUD. Clearinghouses shall have thirty (30) days from the date of receipt to review the application and send any comments to the applicant. The applicant shall have fifteen (15) days, including mailing time, to respond to clearinghouse comments, if any. The applicant shall submit to HUD by the prescribed deadline three (3) copies of the following documents: any clearinghouse comments; the applicant's response to such comments; and the full application. HUD shall not take final action on the application until either:

(A) All clearinghouse comments and applicant responses have been considered; or

(B) The thirty (30) day clearinghouse review and comment period, plus mailing time, has elapsed without comment and the application has been submitted to HUD.

(3) *Grant Amendments.* For major amendments, as defined by HUD, grantees shall submit a completed Standard Form 424 to the appropriate State and areawide A–95 clearinghouses. In the description section of the form, the grantee shall clearly and concisely summarize the purpose and impact of the proposed amendment. Clearinghouses shall determine, immediately upon receipt of the completed Form 424, whether to request from the grantee and review copies of the complete proposed amendment. If review of the complete amendment is requested, clearinghouses shall have thirty (30) days from the date of receipt, plus mailing time, to review the proposed amendment and send any comments to the grantee. The grantee shall have fifteen (15) days following the clearinghouse review and comment period, including mailing time, to submit to HUD three (3) copies of the following documents: any clearinghouse comments; the applicant's response to such comments; and the proposed amendment. If clearinghouses did not request copies of the proposed amendment or comments have not been received by the end of the 30-day review and comment period, plus mailing time, the grantee shall submit three (3) copies of the proposed amendment to HUD for review and approval.

(g) *Unsolicited Preliminary Proposal Requirements.* Proposals shall comply with the format, contents, length and other requirements of this paragraph. Three (3) copies of a proposal must be sent to the address stated in § 570.406(e)(1). In addition, proposers that are ineligible for direct program funding pursuant to § 570.406(c) shall submit a letter from the appropriate State or unit of general local government as required under § 570.406(b)(1)(ii). All other proposers must submit with their proposals a brief letter of transmittal containing the signature of the chief executive officer of the applicable State or unit of general local government. Proposals that do not comply with all requirements of this paragraph shall not be reviewed by HUD.

(1) To be accepted for review by HUD, proposals shall be typed using letter-size paper, standard type face and one-inch margins, and shall contain:

(i) A one (1) page cover sheet which includes the date of the proposal; a one-line title; the name and address of the proposer; the name, organization, address and telephone number of a contact person; the total amount of Innovative Grants Program funds requested; the total amount of other funds to be committed; the date by which the project must be initiated to meet all goals; the duration of the project in months; and the names of any other HUD offices or federal agencies to which the proposal (or one similar to it) has been or may be sent for consideration.

(ii) A one (1) page abstract that identifies: the problems addressed by the project; the activities to be undertaken to resolve such problems: and the innovative features of the proposal.

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(iii) A narrative description of the project divided into three (3) sections:

(A) A general information section of no more than five (5) pages which briefly describes: the innovative aspects of the project pursuant to § 570.406(a); the specific needs or problems which the project will address; the characteristics of the target group(s) and area(s) to be assisted by the project; how the project fits into existing community development and housing assistance strategies; and the experience and other qualifications of the proposer and any proposed subcontractors or subrecipients to undertake and successfully complete the project.

(B) A project goals and strategies section of no more than ten (10) pages in length that briefly describes: specific quantitative and other anticipated achievements of the project; each program activity, including a discussion of how these activities can be expected to resolve the needs or problems addressed in the general information section; how the project shall be organized and managed; the responsibilities of any participating public or private groups; the elements of the project that could be replicated by other communities; methods to be used for evaluating and documenting the project experience; specific activities for which Innovative Grants Program funds shall be used and how these activities shall be funded after completion of the grant; any other funds or resources to be committed to the project, the source(s) of such support, and the estimated amount of support needed from each source for the project to be successful; and strategies that have been and/or will be employed to provide citizens likely to be affected by the project, particularly low- and moderate-income persons, an opportunity to comment on the project.

(C) An appendix section of no longer than five (5) pages in length that contains: statements of local support for the project,particularly from target area residents; and additional information that the proposer believes may assist HUD in an evaluation of the project.

(2) Each unsolicited preliminary proposal submitted pursuant to this Section shall be evaluated by HUD using the following criteria:

(i) The extent to which the problems identified may be common to a significant number of other communities.

(ii) The estimated impact of the proposed activities on low- and moderate-income persons.

(iii) The feasibility of the project—i.e., its potential for achieving the goals stated in the proposal.

(iv) The potential for replication by other communities.

(v) The chances of the project being continued beyond the period of the grant with other funding.

(vi) The clarity of plans for organizing and managing the project.

(vii) The presentation of ideas for evaluating and documenting the project experience.

(viii) Prior experience of the proposer and proposed subcontractors or subrecipients with similar activities.

(h) *Solicited Preapplication Requirements.* Preapplications shall comply with the format, content, submission time and other requirements stated in the **Federal Register** Notice announcing an Innovative Grants Program competition. Preapplication content requirements shall be those listed under § 570.406(g)(1), except that additional requirements may be included that are appropriate to the objectives of a specific competition. Criteria to be used by HUD to evaluate preapplications also shall be stated in the Notice; the criteria specified shall be those listed under § 570.406(g)(2), except that additional criteria may be included that are appropriate to the objectives of a competition. Only data submitted by the deadline established in the **Federal Register** Notice for receipt by HUD of preapplications shall be considered by HUD in the preapplication evaluation process, unless additional information is specifically requested in writing by HUD. HUD requests shall be limited to clarification of statements in the preapplication. HUD shall not request nor accept for consideration new data that might revise or augment materials already submitted. The HUD request shall include a date for receipt by HUD of the additional information. This information shall not be considered by HUD unless it is received by that date.

(i) *Full Application Requirements.* There are no length restrictions for full applications. Applications shall be accepted only from eligible applicants pursuant to § 570.406(c) and only in response to a HUD letter inviting a proposer or preapplicant to submit a full application. Invitation letters shall contain special instructions, limitations or requirements, including advice on funding levels.

(1) Full applications shall contain Standard Form 424 as prescribed by Office of Management and Budget (OMB) Circular No. A–102 that has been signed by the chief executive officer of the applicable State or unit of general local government; complete answers to all issues, concerns, questions and other requirements stated in the HUD invitation letter; and a two (2) to four (4) page project summary that identifies the problems to be addressed by the project, the project activities to be undertaken to resolve such problems, the expected accomplishments of the project, and the specific activities for which Innovative Grants Programs funds will be used. HUD may require additional information, subsequent to receipt of a full application, in order to answer questions or concerns arising during the evaluation of an application.

(2) HUD shall screen each full application received pursuant to this paragraph to determine if:

(i) All of the requirements of the invitation letter have been met.

(ii) The funds requested in the application do not exceed the amount specified in the invitation letter.

(iii) The activities proposed are those discussed in the unsolicited preliminary proposal or solicited preapplication, and are eligible pursuant to § 570.406(d).

(iv) The application has been submitted to the appropriate State and areawide A–95 clearinghouses pursuant to the requirements of § 570.406(f).

(3) If a full application is not received by HUD within the deadline stated in the invitation letter, the application shall be disqualified; except that, HUD may grant an extension of the deadline of no more than thirty (30) days if HUD believes that circumstances warrant such an extension. The applicant must document reasons for the extension in a letter to HUD requesting an extension. To be considered, the letter shall be received by HUD no later than fifteen (15) days prior to the original deadline.

(4) Full applications shall be evaluated by HUD using criteria listed below and such others as the Secretary may deem necessary and appropriate in particular situations.

(i) The consistency of statements made in the application with available facts and data.

(ii) On the basis of the more detailed full application, whether the activities described in the original unsolicited preliminary proposal or preapplication are:

(A) Likely to be effective in correcting the problems described in the application;

(B) Of benefit to low- and moderate-income groups;

(C) Related to problems that are serious enough to justify the project.

(iii) The existence of firm commitments for non-Innovative Grant funding or other resources necessary for completion of the project;

(iv) The need for Innovative Grant funds, based upon the availability of other funds for the project;

(v) Applicant capacity to undertake and successfully complete the project in a timely manner and within the estimated funds or resources available.

(5) Applicants may be authorized by HUD to incur costs for the planning and preparation of a full application, up to $10,000 or five (5) percent of the Innovative Grant funding limit established in an invitation letter, whichever is lower. Reimbursement by HUD of such costs shall be contingent upon HUD award of a grant for the project. Only those costs associated with the actual planning or preparation of a full application shall be incurred. Such costs shall be subject to the eligible activities requirements of § 570.406(d) and shall be included in the funding limit established in the invitation letter. Costs obligated or incurred prior to the date of the invitation letter shall not be eligible for reimbursement.

(6) Applicants shall comply with the certifications contained in § 570.307 of 24 CFR Part 570, except that (f) is excluded and (d) is modified as follows: the applicant must certify that citizens likely to be affected by the project, particularly low- and moderate-income persons, have been provided an opportunity to comment on the application.

(j) *Selection and Notification.* Each unsolicited preliminary proposal, preapplication or final application received by HUD shall be reviewed by HUD to determine its compliance with the requirements of § 570.406(g), (h) or (i), as appropriate. Those that meet such requirements shall be accepted for review by HUD and shall be evaluated using criteria specified in § 570.406(g), (h), or (i), as appropriate. The final HUD decision to approve, disapprove or conditionally approve a grant shall be communicated in writing to each proposer, preapplicant or applicant, and to the appropriate State and areawide clearinghouses. The effective date of any grant approved or conditionally approved by HUD under § 570.406 shall be the date that the acceptance provisions of the HUD funding approval document (form HUD-7082 or its replacement) are signed by the grantee chief executive officer.

(k) *Post-Approval Conditions.* In addition to other applicable requirements of 24 CFR Part 570, Subpart E, grantees funded under this Section shall comply with the following requirements and any special contract conditions and other terms prescribed in the grant agreement.

(1) The grantee shall comply with the grant requirements and shall incur obligations against the grant and make disbursements of grant funds only in conformity with the latest grant budget approved by HUD; except that, the grantee shall have authority to rebudget funds from one approved budget line item to another, so long as the cumulative effect of any such rebudgeting does not exceed ten (10) percent (plus or minus) of the totals originally approved for that line item, and the administrative cost limitations of 24 CFR 570.200(i) have been exceeded. The approved budget may be revised periodically by the grantee, but no revision shall be effective unless and until HUD has approved it in writing.

(2) Except for contracts involving amounts less than $10,000, or unless otherwise authorized in writing by HUD, the grantee shall not execute any contract or obligate itself in any other manner with any party with respect to the grant prior to notifying HUD in writing and obtaining HUD concurrence. Such notice to HUD shall identify the proposed party or parties to the undertaking, specify the purpose and/or products of the undertaking, and indicate the amount of funds proposed for expenditure in the undertaking.

(3) Within thirty (30) days from the effective date of the grant or as otherwise requested by HUD, the grantee shall submit a work plan to HUD. In addition, within sixty (60) days from the effective date of the grant, the grantee shall submit a final plan for the evaluation of the work performed or procedures and devices developed under the grant that includes: the draft format of the final report to be prepared by the grantee; a strategy for collecting and analyzing data to be used in the final report; and a strategy for maintaining a photographic record of all physical improvements that is complete, of publication quality, and includes both before and after photographs. These plans shall require HUD review and concurrence, and shall be prepared in accordance with specifications provided by HUD to the grantee immediately after the effective date of the grant. The grantee shall be responsible for assuring that all work is performed in accordance with the schedules, costs and other requirements of such plans.

(4) The reporting requirements of 24 CFR Part 570, Subpart O shall apply to this grant, except that technical progress reports are required on a quarterly basis, beginning with the 15th of the month after completion of the first quarter and for each succeeding quarter after the grant becomes effective. The quarterly report format shall be as specified by HUD.

(5) Thirty (30) days prior to the completion of the grant period, or as otherwise requested by HUD, the grantee shall submit three (3) copies of the edited final report to HUD for review and acceptance.

(6) The grantee shall obtain the prior written approval of HUD for the publication of any grant-related reports or other publications during the period of the grant and for six (6) months after the grant period; except that, instructions and other documents issued to further the accomplishment of grant requirements are excluded from this restriction. Any grant-related report or other publication prepared for general issuance shall contain an appropriate statement of the Federal financial assistance provided to the grantee by HUD. HUD shall have unrestricted authority to reproduce, distribute, publish and otherwise use any report, data, or any other type of written material, wholly or in part and for any purpose, that is developed under the grant. In addition, HUD shall have unrestricted authority to use or promote the use of any procedures or devices developed pursuant to the grant.

(7) The grantee shall permit and facilitate follow-up surveys and data collection by HUD that are associated with activities funded under or related to the grant, for a period of three (3) years after completion of the grant period. Such surveys and data collection shall be used by HUD for further, longer term assessment of project impact.

(8) The grantee shall provide HUD with any information required by HUD in the periodic monitoring of grantee activities and performance. Such information shall be provided in the format and schedule required by HUD.

(9) In addition to the corrective and remedial action available under § 570.910, the Secretary may reduce or withdraw a grant made pursuant to this part. For any such reduction or withdrawal action, the provisions of § 570.911 shall apply.

(Section 107 of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307))

Issued at Washington, D.C., July 25, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-27646 Filed 9-8-80; 8:45 am]

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September 9, 1980

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

PHA-Owned Projects; Project Management; Interim Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 865

[Docket No. R-80-853]

PHA-Owned Projects—Project Management; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: This interim rule establishes uniform standards and procedures for determining the amounts of utility allowances and surcharges applicable to tenants of dwelling units owned or leased by Public Housing Agencies (PHAs) and assisted under the United States Housing Act of 1937. This interim rule replaces the nonmandatory instructions on utility allowances and surcharges provided by HUD in the local Housing Authority Management Guide Controlling Utility Consumptions and Costs, dated April 1963 (HUD Guide). This interim rule reflects the basic principles of the HUD Guide, with necessary refinement and updating, and will alleviate confusion and controversy arising under the HUD Guide by establishing mandatory standards and procedures applicable to all PHAs. The interim rule does not apply to the Section 8 Housing Assistance Payments Program or to the Mutual Help Homeownership Opportunity Program.

EFFECTIVE DATE: October 1, 1980. Comments due: November 10, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Charles R. Ashmore, Utilities Specialist, Room 6241, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–6640 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice was given on January 5, 1979 in the **Federal Register** (43 FR 1600) that HUD proposed to add §§ 865.470 through 865.476 to Subpart D applicable to Tenant Allowances for Utilities. That Notice allowed 30 days for public comment; however, since commentors requested additional time for response, HUD extended the public comment period to May 16, 1979 (44 FR 22472, April 16, 1979).

The proposed rule provided for certain changes in the title of Part 865 and in the numbering of certain sections in that Part. These changes are incorporated in this interim rule.

Substantively, the proposed rule provided that Allowances for both PHA-Furnished and Tenant-Purchased Utilities be based upon the actual consumption data for each project. Each Allowance was to be based on the average consumption level for dwelling units, by size of unit in terms of number of bedrooms, as adjusted to reflect consumption trends or other projected changes in utility usage. The PHA was to consider, to the extent feasible, physical characteristics of dwellings (i.e., top floor units, exterior walls, etc.). For PHA-Furnished Utilities, it was proposed that a surcharge be made for consumption in excess of 115 percent of the Allowance, but not to exceed an amount equal to one-third of the tenant's Gross Rent. It was also proposed that a credit be given to any tenant for consumption below 85 percent of the Allowance, but again not to exceed an amount equal to one-third of the tenant's Gross Rent. No such provisions were included for Tenant-Purchased Utilities where, by the very nature of the system, any tenant who consumes less than the Allowance retains the savings and any tenant who consumes above the Allowance bears the extra cost. All Allowances were to be reviewed at least once every year and adjusted, if necessary.

In response to the Notice of proposed rulemaking, a total of 202 comments were received, all of which were carefully considered. The great majority of the comments were made by two groups: (1) Public Housing Agencies and (2) organizations representing tenant's interests. The great majority of the significant comments were critical of the proposed rule, but the objections of each group were for opposite reasons.

(1) PHAs objected to basing Allowances on the average actual consumption as being inconsistent with the Performance Funding System and wasteful of energy. The PHAs recommended that the standard be "adequate", as determined by the PHA or HUD. The tenant groups also objected to the "average" standard for PHA-Furnished Utilities but for the opposite reason; they maintained that the standard was too low. They argued that the Allowances should be established so as to result in surcharge of only very high users, e.g., 5 to 15 percent.

(2) PHAs objected to the 15 percent "free zone" before surcharging, as being unnecessary, wasteful of energy, and negating the value of checkmeters. The tenant groups argued that the 15 percent free zone was inadequate, and that it should be anywhere from 20 to 50 percent. They also argued that checkmetering is not as effective as HUD maintains and should be suspended until all other energy conservation improvements have been made.

(3) PHAs objected that the provision limiting surcharges to ⅓ of gross rent is unwarranted, inequitable and contrary to national energy conservation goals. The tenant groups argued that the ⅓ of gross rent limit should be extended to Tenant-Purchased Utilities.

(4) PHAs objected to the requirement for separate Allowances for each project and for annual adjustments as unworkable and prohibitively expensive. The tenant groups argued that Allowances should be tailored as closely as possible to the conditions and circumstances of the particular dwelling units for which the Allowances are established.

(5) Some PHAs, as well as tenant groups, took the position that energy conservation was best achieved through weatherization activities because this was where the most significant energy waste occurred. Weatherization activities will continue to be an important component of the modernization program, but in themselves they are not a substitute for a system maximizing energy savings on an individual dwelling unit basis.

In light of the sharply differing objections to the most basic features of the proposed rule, the Department concluded that the proposed rule would be considered unacceptable by either group, that it would increase rather than alleviate controversy, and therefore that the proposed rule should be withdrawn. At the same time, however, a continuation of the existing situation, in which there are no mandatory Federal standards, leaving the establishment of Allowances entirely to local discretion, is even less acceptable in terms of the best interests of the program. Many PHAs have been establishing utility allowances based on the HUD Guide which in general have been considered acceptable both in terms of minimum hardships to tenants, administrative burden on PHAs and costs to the Federal Government. Accordingly, the Department has decided to develop an interim rule based on the general concepts of the HUD Guide, making it effective with no further delay but allowing an opportunity for public comment.

Differences in Utility Service Between Different Utility Metering Systems

Generally, there are three different utility metering systems in the public housing program: (1) Master meter to the housing project, with no checkmeters, (2) Master meter to the housing project with checkmeters for the individual dwelling units, and (3) no master meter to the PHA; only direct utility meters for the individual dwelling units. Concern has been expressed that the HUD systems for encouraging energy savings and for providing tenants with utilities be as consistent as possible.

In case (1), where the utilities are master metered to the housing project, but there are no checkmeters for individual dwelling units, there is no way to measure energy used by each individual unit and thus no direct way to encourage energy conservation. Under present policy (as provided for in the HUD Guide, and augmented by the Public Housing Occupancy Handbook, Chapter 3—Tenant Rents, Section 3.5, paragraph 6, Charges in Addition to Contract Rents) the PHA is authorized to charge for those units which contain special appliances, such as air conditioners which are not otherwise included as authorized equipment for the project. For these tenants utility charges are included in their rent and can vary only to the extent that the tenants own special appliances. In addition, it is HUD policy to encourage the installation of either checkmeters or direct utility meters so that energy usage can be monitored or measured on an individual unit basis and, as a result, energy conservation can be promoted (See § 865.401 through 865.410, Individual Metering of Utilities for Existing PHA-Owned Projects).

In Case (2), where the utilities are master metered to the housing project, and there are checkmeters for the individual dwelling units, it is feasible to encourage energy savings by establishing a maximum limit ("allowance") and surcharging the tenants for consumption above that limit. As explained below, the interim rule will provide for the establishment of this maximum limit at a high enough level to accommodate the consumption of 90 percent of the tenants, and surcharging only those whose consumption is above the 90 percent level. It should be noted, however, that any savings resulting from energy consumption below the 90 percent level inures to the PHA, because the PHA pays the actual utility bills for all the tenants in this group.

In Case (3), where there are no master meters to the PHA, but only the direct meters to the individual dwelling units, each tenant receives its utility bills and pays them directly to the utility suppliers. In order to provide an energy saving incentive, the PHA establishes a monetary "allowance" which, however, should not be confused with the "allowance" used in Case (2). In Case (2), the "allowance", as noted above, is in fact only a *maximum* limit on the amount of utility consumption to be paid for by the PHA, and all savings resulting from usage below this level inure to the PHA. In Case (3), however, the "allowance" is both a maximum and a minimum—it is a flat amount representing what the PHA will pay for. Thus, if an individual's utility bill is more than the allowance, that tenant must absorb the additional cost; but by the same token, if the utility bill is less than the allowance, the tenant retains the benefit of savings. This is accomplished by the providing that the amount of rent otherwise payable by the tenant, based on percentage of adjusted family income, is reduced by the amount of the allowance.

In Case (3), as explained below, the interim rule provides that the allowances shall be based upon the "average" consumption for the group, rather than a 90 percent level as in Case (2). This is the arithmetic average or mean, i.e., the total consumption for the group divided by the number of dwelling units in the group, so that, by definition, the total cost of the allowance to the PHA is equal to the total amount of the utility bills for all the units in the group. There is neither net gain or net loss to the PHA, as compared with the cost in Case (2). This is because any excess cost resulting from consumption above the average is offset by savings resulting from consumption below the average. The Case (3) system, by its nature, places a greater cost burden on those who consume above the average, but by the same token it provides incentive for energy savings because those tenants who consume below the average retain the monetary benefits. It is also possible that utility costs could be higher because tenants cannot obtain the same utility rate as PHAs.

It has been argued that it is inequitable and discriminatory to have three different utility systems and especially to establish allowances at the 90 percent level in Case (2), and to set the allowances at a lower level—the average consumption level—in Case (3). The argument fails to consider the inherent differences between the two systems, and the significant difference in function served by the allowances in them. As stated above, the allowance in Case (2) is a *maximum limit*, and the PHA gets the benefit of lower consumption, so that it is entirely feasible to set this maximum limit at the 90 percent level. In Case (3), however, the allowance is a flat amount—a minimum as well as maximum—and the benefit of lower consumption is retained by those tenants who consume less. Consequently, if the allowance in Case (3) were set at a level higher than the average—at the 80 or 90 percent level for example—the total cost to the PHA would be the total amount of this higher allowance for all the units in the group. This total cost to the PHA would be much greater than the actual total cost for utilities to the tenants in the group, and correspondingly greater than the total cost would be under the system described in Case (2).

The Department has given very careful consideration to this problem and appreciates the importance of achieving similarity of the three systems in so far as feasible. However, it is our judgement that there are inherent differences between the three systems and as a result it is not feasible to provide literal similarity. However, because of this equity concern, the Department is very interested in receiving suggestions and comments on ways it might be possible to increase equity across the three systems. The Department is also interested in receiving comments on the specific allowance levels established in this interim rule.

Summary and Explanation of Principal Features of Interim Rule

1. The rule will not apply to dwelling units which are served by PHA-Furnished Utilities unless checkmeters have been installed to measure the actual utility consumption of the individual units.

2. Separate Allowances will be established for categories of dwelling units which are reasonably comparable in regard to basic characteristics affecting utilities consumption. PHAs will determine the appropriate structure categories, and within any given structure category will establish Allowances for different size units, in terms of number of bedrooms.

Individual differences among units, such as location within a building or direction of exposure generally, will not be considered. Such precision of detail when attempted in establishing Allowances has produced results which have been uncertain and controversial, and any possible benefits have not justified the detailed administrative work involved.

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3. In establishing the structure categories, the PHA will include structures that are generally comparable as to age and construction type, and have the same utility combinations and the same size and type of major utility consuming equipment. Walk-up apartments, elevator buildings, row dwellings and detached dwellings are the basic structure types.

Scattered site units may present a special problem because of their diversity. If the PHA has in its program at least 25 units which are sufficiently comparable, these units will be used as a category. If fewer than 25 such units are in the PHA Program, the PHA may, if available from the local utility or other sources, include consumption data for comparable non-PHA units and will closely monitor the results.

4. Allowances for housing in a given category will be based on consumption records for the housing in that category, using records for the most recent consecutive three years, two years or one year, depending upon availability of records. If records are not available for the particular housing category for an entire year, records for the most comparable PHA housing will be used. If the data base consists of less than three consecutive years for the particular housing, the Allowances will be reviewed each year until a three-year data base is achieved.

5. These rules (paragraphs 2–4) will apply for both PHA-Furnished and Tenant-Purchased Utilities, but since the tenants in the latter cases receive the utility bills, the interim rule provides that each PHA shall establish a system for obtaining the tenants' consumption data for use in establishing and revising their Allowances.

6. The standards for establishing and revising Allowances in the case of PHA-Furnished Utilities reflect the basic principles of the HUD Guide. There has been some misunderstanding of the Guide because of the statement therein that the Allowance should normally be set at about 20% more than the average for the particular group. However, the HUD Guide also states that the Allowance shall be sufficient to permit the great majority of tenants to use the utility without surcharge, and that if experience shows that more than 25% of tenants are being surcharged the Allowance should be reviewed and revised so that about 10% of the tenants will be surcharged. To carry out the basic plan of the HUD Guide, the interim rule provides that the Allowances should be set at the level at which 90% of the tenants will be covered without being surcharged. Before applying the 90% standard, the PHA will exclude from consideration any unusually high instances of consumption that appear to be due to abuse or wasteful practices. Revisions will not be made until the number of surcharge cases reaches 25 percent at which time the Allowance will be adjusted on the basis of the 90% standard.

7. In the case of Tenant-Purchased Utilities, the basic standard for establishing the Allowance will be the average consumption for the dwelling units in the category. This is consistent with the standard contained in the HUD Guide as well as the standard contained in the proposed rule. Since those individuals who consume less than the average retain the savings, while those who consume more than the average bear the excess cost, this standard for establishing the Allowance results in a total cost to the PHA no more and no less than if the PHA were paying the utility bills to the supplier. The resulting total cost to the PHA is thus the same (except for any difference between retail and wholesale rates) as in the case of PHA-Furnished Utilities.

8. In the case of PHA-Furnished Utilities, tenants will be surcharged for consumption above the Allowance, which may be in blocks. There will be no so-called "free zone" before surcharging because the 90% standard is deemed to be sufficiently generous. Surcharge will be based only on the utility rate as applied to the excess consumption; there will be no charge for PHA administrative expense.

9. Allowances for PHA-Furnished Utilities will be monitored regularly and whenever more than 25 percent of the units are surcharged there will be a review and revision, if appropriate, to restore the allowance on the basis of the 90 percent standard.

10. In the case of Tenant-Purchased Utilities, revisions because of changes in utility rates will be made when the cumulative rate change is 10 percent. Reviews for changes in consumption levels will be made only at three-year intervals unless there is a change in circumstances indicating a significant change in average consumption levels.

11. The allowances are intended to provide for utility consumption for authorized purposes, which in general include the use of major appliances or equipment furnished by the PHA and minor appliances including those furnished by the tenants. Because of possible variations among PHA projects, the interim rule requires each PHA to include with its rent schedule and the allowances a statement of the major appliances and equipment whose consumption requirements are included in determining the amount of the allowance.

12. Allowances for PHA-Furnished Utilities will usually be on a quarterly basis and will reflect season variations. For Tenant-Purchased Utilities, the allowances will be on a monthly basis and may reflect season variations.

13. Requests for individual relief will be authorized (a) where consumption for a billing period is so far out of line with previous periods as to indicate possible defect in the meter or error in meter reading and (b) where there is a defect in the dwelling unit or in PHA-Furnished equipment which the PHA has a duty to repair and which is causing an abnormal increase in consumption. This does not include deficiencies in original design such as inadequate insulation, absence of storm windows, etc. In addition, in the case of Tenant-Purchased Utilities only, requests for relief may be granted where utility consumption exceeds the applicable allowance by 20 percent or more for reasons other than wasteful or unauthorized usage. All investigations for individual relief will include investigation of whether excess consumption is due in whole or in part to wasteful or unauthorized usage or to the characteristics of the individual unit, and where appropriate the PHA will advise and assist the tenant on methods of reducing utilities usage.

14. In order to allow a reasonable time for PHAs to assemble the records and data and establish allowances in accordance with the standards and procedures of this interim rule, the rule provides that they shall proceed promptly, but shall establish allowances effective no later than 120 days from the effective date of this rule. This time period may be extended if good cause is shown and HUD approves.

Energy Saving Credit

In the case of Tenant-Purchased Utilities, an energy saving feature is inherent in the system. If a tenant conserves the use of utilities and his or her utility bills fall below the amount of the allowance, the tenant retains the savings.

In the case of PHA-Furnished Utilities, where the utility bills are paid by the PHA, the problem of devising a suitable energy saving credit plan is far more difficult. A literal parallel to the Tenant-Purchased Utilities situation would suggest that energy credits be allowed for consumption below the allowance. As a practical matter, however, such a plan is not acceptable because with the allowance set at a point high enough to cover 90 percent of the tenants, all tenants except those being surcharged would be entitled to energy credits, but there would be no net saving in total energy consumption or in total cost to the PHA.

Consideration was given to the possibility of allowing energy saving credits for those tenants whose consumption falls below the average consumption for the group. Since by definition, half the amount of consumption is below the average to begin with, many tenants under such a plan would receive energy saving credit without having made any actual reduction from their previous rate of consumption. There would be no way under such a plan of assuring that the amount of the energy saving credit is matched by a corresponding reduction in overall consumption or in net overall cost to the PHA. At the same time, the plan would offer no incentive to tenants whose consumption has been above average, unless they were so close to the average that they could hope to achieve a substantial reduction below the average.

Justification

The Department has determined that a delay in effectiveness of this rule is impracticable and contrary to the public interest because of the urgent need for PHAs to revise allowances for utilities before the coldest months of the 1980–81 heating season. The revised allowances will reflect current tenant consumptions and utility rates and will, in many cases, alleviate tenant hardship. Accordingly, this rule is being published as an interim rule effective as of the date stated above. However, interested persons are invited to participate in the making of the final rule by providing written comments as described above. All comments received by the due date will be considered in the development of the final rule. Copies of comments received will be available for inspection and copying at the above stated address.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed as item number H–95–78 in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Title 24 is hereby amended by (1) changing the title "Part 865—PHA-Owned Projects—Project Management" to read "Part 865—PHA Owned or Leased Projects—Maintenance and Operation," (2) revising the index of sections as shown below, and (3) by adding new §§ 865.470 through 865.482, "Tenant Allowances for Utilities," to read as follows:

PART 865—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

* * * * *

Subpart D—Utilities

Individual Metering of Utilities for Existing PHA-Owned Projects

Sec.
865.401 Purpose.
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Tenant Allowances for Utilities

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865.477 Standards for allowances for PHA-furnished utilities.
865.478 Standards for allowances for tenant-purchased utilities.
865.479 Surcharges for excess consumption of PHA-furnished utilities.
865.480 Review and revision of allowances.
865.481 Individual relief.
865.482 Establishment of allowances under secs. 865.470 through 865.481.

Authority: Sec. 6(a)(4) United States Housing Act of 1937 (42 U.S.C. 1437d): Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. § 3535(d)).

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Subpart D—Utilities

Individual Metering of Utilities for Existing PHA-Owned Projects

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§ 865.470 Purpose.

The purpose of §§ 865.470 through 865.482 is to establish procedures to be used by PHAs in establishing and administering Allowances for PHA-Furnished Utilities and Allowances for Tenant-Purchased Utilities. Allowances for PHA-Furnished Utilities represent the maximum consumption units (e.g., kilowatt hours of electricity) which may be used by a dwelling unit without a surcharge for excess consumption against the tenant. Allowances for Tenant-Purchased Utilities represent fixed dollar amounts which are deducted from the Gross Rent otherwise chargeable to a tenant who pays the actual Utility charges directly to the Utility suppliers whether they be more of less than the amounts of the Allowances.

§ 865.471 Applicability.

(a) Except as provided in paragraph (b) of this section, §§ 865.470 through 865.482 apply to all dwelling units assisted under the United States Housing Act of 1937 in projects owned by or leased to PHAs and leased or subleased by PHAs to tenants, except the Section 8 Housing Assistance Payments Program and the Mutual Help Homeownership Opportunities Program.

(b) Sections 865.470 through 865.482 do not apply to dwelling units which are served by PHA-Furnished Utilities unless Checkmeters have been installed to measure the actual Utilities consumption of the individual units but tenants in such units are subject to charges for consumption of tenant-owned major appliances in accordance with § 866.4 of this chapter.

§ 865.472 Definitions.

Checkmeter. A device for measuring Utility consumption of each individual dwelling unit where the Utility service is supplied through a Mastermeter System. The PHA pays the Utility supplier for the Utility service on the basis of the Mastermeter readings and uses the Checkmeters to determine whether and to what extent of the Utility consumption of each dwelling unit is in excess of the Allowances for PHA-Furnished Utilities.

Contract Rent. The amount of rent payable by the tenant to the PHA. In the case of PHA-Furnished Utilities, the Contract Rent is the same as the Gross Rent. In the case of Tenant-Furnished Utilities, the Contract Rent is the Gross Rent minus the amount of the Allowances for Tenant-Purchased Utilities. This definition of Contract Rent is not the same as contract rent for purposes of 24 CFR Parts 880 to 889.

Gross Rent. The rent chargeable to a tenant for the use of the dwelling accomodation and equipment (such as range and refrigerator, but not including furniture), services, and Utilities not to exceed the Allowances for PHA-Furnished Utilities or the Allowances for Tenant-Purchased Utilities, as applicable. This definition of Gross Rent is not the same as gross rent for purposes of 24 CFR Parts 880 to 889.

Mastermeter System. A Utility distribution system in which a PHA is

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supplied Utility service by a Utility supplier through a meter or meters and the PHA then distributes the Utility service to its tenants.

Surcharge. The amount charged by the PHA to a tenant, in addition to the tenant's Contract Rent, for consumption of Utilities in excess of the Allowance for PHA-Furnished Utilities included in the Contract Rent.

Utility. Electricity, gas, heating fuel, water and sewerage service, and trash and garbage collection. Telephone service is not included as a Utility.

§ 865.473 Establishment of allowances by PHAs.

(a) *Basic Requirement.* PHAs shall establish (1) Allowances for PHA-Furnished Utilities for all Checkmetered Utilities and (2) Allowances for Tenant-Purchased Utilities for all Utilities purchased directly by tenants from the Utilities suppliers. These Allowances shall be incorporated into the PHA's rent schedules and shall be submitted for approval by the HUD field office, after compliance with requirements of notice to tenants prescribed under 24 CFR part 861.

(b) *Authorized Uses of Utilities on which Allowances Are Based.* Allowances for both PHA-Furnished and Tenant-Purchased Utilities shall be designed to include Utility consumption requirements for major equipment furnished by the PHA (for example, heating furnace, hot water heater, range and refrigerator) and for minor items of equipment (such as toasters and can openers) furnished by the tenants. To avoid misunderstanding, the PHA shall include with the rent schedules a statement of the specific items of major equipment whose Utility consumption requirements were included in determining the amounts of the Allowances. This does not mean that tenants may not supply and use other items of major equipment, but if they do so the cost of any Utility consumption in excess of the applicable allowance will have to be borne by the tenant.

§ 865.474 Dwelling unit categories for establishment of allowances.

(a) *Structure type Categories.* Separate Allowances shall be established for each utility and for each category of dwelling units within structures which are reasonably comparable as to age and construction type, have the same utility combination and the same type and size of major equipment. Walk-up apartments, elevator buildings, row or townhouse dwellings, and detached or semi-detached dwellings shall constitute different structure types, but consideration may also be given to other major construction differences which have a significant effect on utility consumption. Generally, PHAs should include in the same structure type category all structures of similar design and equipment which were constructed at about the same time and are located within an area which experience very similar weather conditions.

(b) *Scattered site units.* In the case of scattered site dwelling units which were acquired by the PHA, with or without rehabilitation, the PHA shall determine to what extent the units are comparable so as to permit their being treated as one structure type category for purposes of establishing Allowances. If the number of units which can be reasonably so grouped is insufficient for this purpose (i.e., generally, less than 25 units), the PHA should include in its data base the best available Utility consumption data with respect to comparable units not in the PHA's program. In such cases, the PHA shall monitor the consumption experience of the units within its program as well as the non-PHA units, and thereafter revise its data base in light of that experience (see Section 865.476).

(c) *Dwelling Unit Categories by Size of Dwelling Unit.* Within each structure type category, separate Allowances shall be established for units of different size, i.e., Efficiency or 0-bedroom, 1-bedroom, 2-bedroom, 3-bedroom, 4-bedroom, 5 or more-bedroom. Variations shall not be made for such factors as dimensions of the rooms or dwelling units and generally not by reason of factors such as upper or lower floor, number of exposed walls, or direction of exposure. However, if the PHA determines that there are sufficient differences between dwelling units it may designate a category to reflect those differences.

§ 865.475 Period of allowances.

(a) *For PHA-Furnished Utilities.* Preference shall be given to setting Allowances on a quarterly basis appropriately adjusted to reflect season variations, because this results in lower costs for meter reading and bookkeeping, and may also reduce the number of tenants surcharged due to averaging consumption over the three-month period. Monthly Allowances may be used where justified by special circumstances such as high tenant turnover or where excess consumption is extremely high. If in a locality the billing for a Utility, such as water and sewerage service, is on a longer-term basis, such as semi-annually, the Allowance computed for that Utility may be set for a corresponding period and pro-rated to the quarterly allowance.

(b) *Tenant-Purchased Utilities.* The amount of the Allowance for Tenant-Purchased Utilities is deducted from the Gross Rent in computing the amount of the Contract Rent payable by the tenants to the PHA. Monthly Allowances shall be established at a uniform amount, based on average monthly utility requirements for a year; however where utility company level payment plans (customers of a utility company pay to the utility company a uniform amount each month) are unavailable to PHA tenants and a uniform monthly allowance may result in hardships the allowances established may provide for seasonal variations. HUD, if approving this action, will provide the PHA with instructions regarding adjustments necessary in the rental income estimates used for computation of operating subsidy payable under the Performance Funding System.

§ 865.476 Data upon which allowances shall be based (PHA-Furnished and Tenant-Purchased Utilities).

(a) *Where records are available for the particular housing.* The portion of the Allowance applicable to each Utility shall be based upon the consumption records (consumption and cost records in the case of Tenant-Purchased Utilities) for the particular structure type category (865.474) for the most current three-year period. Because of seasonal variations in the use of Utilities, each year shall consist of 12 consecutive months. If records are not available for a three-year period, the PHA shall use records for the most current two-year period or, if such records are unavailable, for the most current one-year period. If records are not available for the particular housing category for the entire year, records for the most comparable PHA housing will be used. Allowances based on records for only a one-year period should be adjusted for normal weather conditions.

(b) *Where records are not available for the particular housing.* For new housing or existing housing for which adequate records covering a full year are not available, the Allowances shall be based on records for the most comparable PHA housing in the area as to construction type and size of units, utility combinations, climatic conditions, and types of equipment. Utilities data for comparable projects shall be obtained from the records of PHAs, the Utility suppliers or the HUD Field Office. See also § 865.474(b) with respect to scattered site dwelling units.

(c) *Source of data for Tenant-Purchased Utilities.* In the case of Tenant-Purchased Utilities, the PHA must establish a special procedure for obtaining the consumption data for those dwelling units. The PHA shall utilize a method which it finds best taking into consideration practicability, reliability, and administrative cost. Such methods may include, for example, arrangements with Utility suppliers to furnish consumption data to the PHA (without identification of the users, if the Suppliers so prefer); meter readings by the PHA; having the tenants furnish copies of their utility bills (or making them available for copying) in connection with the payments of their monthly rents.

§ 865.477 Standards for allowances for PHA-furnished utilities.

The Allowances for PHA-Furnished Utilities for each dwelling unit category and unit size shall be established in terms of consumption units, sufficient to meet the requirements of about 90% of the dwelling units in the category. Conversely, the Allowances should be such as are likely to result in surcharges for about 10% of the dwelling units. The basic method of determining the Allowances should be as follows:

(a) The dwelling unit consumption data for all units within each dwelling unit category and unit size should be listed in order from low to high consumption for each billing period.

(b) The PHA should determine whether there are any unusually high instances of consumption which might be due to unusual individual circumstances, wasteful practices, or use of the Utility for tenant-supplied major appliances. The PHA should exclude such cases from consideration in calculating the amount of the allowance.

(c) Where the available data covers two or more years, averages should be computed and adjustments made, if warranted, by reason of abnormal weather conditions or other changes in circumstances affecting utility consumption.

(d) The Allowances should then be established at the level which can reasonably be expected to meet the requirements of 90% of the dwelling units in the category.

§ 865.478 Standards for allowances for tenant-purchased utilities.

In the case of Tenant-Purchased Utilities, the Allowance is provided in terms of a fixed number of dollars made available to each tenant in the dwelling unit category for purposes of paying his or her Utility bills. If a tenant's Utility expense is less than the Allowance, the tenant retains the benefit, while if a tenant's Utility expense is more than the Allowance, the tenant must absorb the excess cost. In these circumstances, in order for the total Utility expense to the PHA for the particular dwelling unit category to be equal to the total of the Utility bills for all the dwelling units in that category, the amount of the Allowance for each dwelling unit must be established at the average amount per dwelling unit. Accordingly, the basic method of determining the Allowance should be as follows:

(a) Proceed as stated in paragraphs (a) through (c) of § 865.477.

(b) Determine the total amount of consumption for each month for all the dwelling units in the category, and divide by the number of dwelling units, in order to obtain the average amount of consumption per dwelling unit for that month.

(c) Apply the current rate structure of the Utility supplier to each month's average amount of consumption in order to compute the dollar cost of each month's average amount of consumption. The result will be the monthly Allowances for Tenant-Purchased Utilities for the particular Utility and dwelling unit category involved.

§ 865.479 Surcharge for excess consumption of PHA-furnished utilities.

PHAs shall include in their rent schedules for dwelling units subject to Allowances for PHA-Furnished Utilities, schedules of Surcharges indicating the additional dollar amounts tenants will be required to pay for Utility consumption in excess of the Allowances. These Surcharge Schedules may show the amounts of Surcharge for specific blocks of excess consumption rather than amounts computed on a straight per-utility-unit basis. The amount of the Surcharge for each block shall be computed by applying the Utility Supplier's average rate to the amount of excess consumption.

§ 865.480 Review and revision of allowances.

(a) *Revisions by Reason of Inadequate Data Base (for PHA-Furnished Utilities).* Where the data base for establishment of the Allowance consisted of less than three years for the particular housing, the PHA shall review the Allowances at the end of each year, taking into consideration the data for the particular housing, until an Allowance based on records for three years for the particular housing has been established.

(b) *Allowance for PHA-Furnished Utilities.* (1) At the end of each quarterly or other billing period, in connection with the determination of surcharges, the PHA shall determine the number and percentage of tenants who are subject to surcharge. When the PHA finds that the percentage of surcharge cases is more than 25 percent of a category and there is no reason of a non-recurring nature (such as weather extremes) to account for this, the PHA shall review the consumption data and if appropriate, establish a revised Allowance in accordance with Section 865.477.

(2) No separate revisions in the allowance by reason of changes in Utility rates are necessary because the PHA is billed directly by the Utility suppliers at their current rates and, by the same token, the PHA uses current rates in computing surcharges.

(c) *Allowances for Tenant-Purchased Utilities.* (1) Since the tenants in these cases are billed directly by the Utility suppliers at their current rates, the PHA shall monitor the rates on a monthly basis. Whenever there is a rate change which, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more, the PHA shall revise the Allowance accordingly.

(2) The average consumption levels on which the Allowances are based shall be reviewed and revised in accordance with § 865.478 in the event of any change in circumstances indicating probability of a significant change in average consumption levels, but in any event once every three years.

(d) *Effective Date of Revised Allowances.* In order to allow a reasonable time for PHA determination and processing of a revision in Allowances, a revised Allowance shall take effect with the next billing period following compliance with requirements of notice to tenants prescribe under 24 CFR Part 861.

§ 865.481 Individual relief.

(a) Requests for relief from surcharges for excess consumption of PHA-Furnished Utilities or from Utility supplier billings in excess of the Allowances for Tenant-Purchased Utilities may be submitted to the PHA on the following grounds:

(1) The consumption for the billing period is so far out of line with previous billing periods (seasonally adjusted) as to indicate a possible defect in the meter or error in the meter reading.

(2) A defect in the dwelling unit of PHA-Furnished equipment is causing a substantial and abnormal increase in Utility consumption. The term "defect" means a condition which the PHA has a

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duty to repair, such as windows or doors which do not close in accordance with their original design, broken windows, damaged walls, etc. The term "defect" does not include a deficiency in the original design, such as inadequate insulation by current standards, absence of storm windows, etc.

(3) In the case of Tenant-Purchased Utilities only, that the utility consumption exceeds the applicable Allowance by 20 percent or more for reasons other than wasteful or unauthorized usage.

(b) Requests for relief on the grounds authorized by this section shall be investigated by the PHA, which shall conduct or cause to be conducted, an energy audit of the unit to determine whether excess utility consumption is reasonable, given the characteristics of the specific dwelling unit, and appropriate relief shall be granted in accordance with the findings of the PHA.

(c) Where the PHA finds that excess utility consumption is due to wasteful or unauthorized usage, the PHA shall advise and assist the tenant on methods of reducing the utilities usage. This advice and assistance may include counseling, installation of new energy conserving equipment or appliances and corrective maintenance.

§ 865.482 Establishment of allowances under §§ 865.470 through 865.481.

It is recognized that a reasonable time must be allowed for PHAs to assemble the records and data and establish allowances in accordance with the standards and procedures set forth in §§ 865.470 through 865.481, after providing an opportunity for tenant comment as required by section 866.5 of this chapter. Accordingly, PHAs shall proceed to accomplish these results as promptly as possible, but shall establish such allowances effective as of a date no later than 120 days from the effective date of this rule or extended date, if approved by HUD.

Issued at Washington D.C., July 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

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Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Fair Housing and Equal Opportunity

Nondiscrimination and Equal Opportunity in Fair Housing Under Executive Order 11063

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 107

[Docket No. R-80-700]

Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063

AGENCY: Department of Housing and Urban Development

ACTION: Final rule.

SUMMARY: Executive Order 11063, Equal Opportunity in Housing was issued November 20, 1962 (27 FR 11527). Regulations implementing the Executive Order were issued under program authorities administered by various agencies that were incorporated in the Department of Housing and Urban Development when it was established in 1965. These are the first Department-wide regulations proposed under E.O. 11063.

Pursuant to the delegation of authority with respect to E.O. 11063 from the Secretary of Housing and Urban Development to the Assistant Secretary for Equal Opportunity, now the Assistant Secretary for Fair Housing and Equal Opportunity, 37 FR 12253 (June 21, 1972), this final rule establishes compliance and enforcement procedures to be utilized by the Department in implementing its responsibilities under the Executive Order. The Department will revise obsolete regulations concerning Nondiscrimination and Equal Opportunity in Housing, 24 CFR 200.300.

DATES: Effective: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ellen Stern, Special Assistant, Assistant Secretary for Fair Housing and Equal Opportunity, Room 5108, Department of Housing & Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone No. (202) 755–6113. This is not a toll free number.

SUPPLEMENTARY INFORMATION: E.O. 11063 directs Federal departments and agencies to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin (1) in the sale, leasing, rental or other disposition of residential property and related facilities which are owned or operated by the Federal Government or provided with Federal assistance; and (2) in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured or guaranteed by the Federal Government.

The purpose of these regulations is to establish a process to implement E.O. 11063; state the discriminatory practices prohibited by E.O. 11063; provide for affirmative action to overcome the effects of past discrimination and to prevent discrimination; and establish procedures and sanctions regarding the Department's enforcement of the Order.

The process established by the regulation to implement the Executive Order includes the following: (1) compliance meetings, to provide a forum for informal resolution of complaints; (2) compliance reviews; and (3) imposition of sanctions. The process is structured to exhaust informal avenues for resolution prior to imposition of sanctions. Specifically, upon receipt of a complaint or other indication of violation of the Executive Order, a compliance meeting is scheduled with the respondent to attempt to resolve the matter informally. If the respondent fails to appear or resolution fails, a compliance review is initiated by the Director of the Office of Regional Fair Housing and Equal Opportunity (FH&EO). Additionally, a compliance review may be scheduled, even in the absence of indication of a violation, for monitoring purposes or other legitimate purposes. Following completion of the review, a report is made to the Assistant Secretary for FH&EO for determination whether the respondent is in compliance or noncompliance with the Executive Order. In the event of a finding of noncompliance, the Assistant Secretary for FH&EO, pursuant to Notice to respondent of such a finding, may apply sanctions as provided in § 107.60.

Notice of a proposed amendment to Title 24 to issue these regulations as Part 107 was published in the **Federal Register** on September 26, 1979 (44 FR 55522) and comments were received from interested persons and organizations. Consideration was given to each comment. In general, comments of civil rights organizations reflected the following major concerns: the relationship of the Executive Order and this regulation to Title VI of the Civil Rights Act of 1964; role of the complainant; definition of discriminatory practices; and statute of limitations on the filing of complaints. Commenting regulatory agencies questioned coverage of regulated financial institutions by the rule as duplicatory. Other comments concerned, primarily the record keeping requirements and rights of respondents in addressing complaints and responding to findings pursuant to compliance reviews. These major areas of comment are addressed below.

Applicability of the Rule to Title VI Matters

The proposed rule stated that where discrimination on the grounds of race, color or national origin was cognizable under E.O. 11063 and involved a matter subject to Title VI of the Civil Rights Act of 1964, the provisions of that Title and its implementing regulations (24 CFR Part 1) would apply.

A number of commentors indicated that this language appeared to be a misconstruction of the statutory language of Title VI with regard to contracts of insurance or guaranty.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in programs of Federal financial assistance. Section 602 of the Title specifically exempts from coverage assistance by way of contract of insurance or guaranty. Further, Section 605 of Title VI provides that "Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of contract of insurance or guaranty."

In implementing Title VI of the Civil Rights Act of 1964, the Department by regulation has provided that the provisions of Title VI take precedence over all previous orders and regulations. However, the Title VI regulation states that the provisions of E.O. 11063 and any regulations issued thereunder insofar as they prohibit discrimination on the ground of race, color or national origin in any program or activity or situation to which Title VI does not apply are not superseded.

In view of the fact that Title VI supersedes only those provisions of E.O. 11063 regarding Federal financial assistance other than that provided by way of a contract of insurance or guaranty, the Department agrees that the reference to matters as cognizable under E.O. 11063 and Title VI is misleading. This Section has been revised to state that where allegations of discrimination on the grounds of race, color or national origin arise in a program or activity of Federal financial assistance which does not involve a contract of insurance or guaranty, the matter shall be processed in accordance with Title VI and its implementing regulations.

Thus, any complaint alleging discrimination on the basis of race, color, creed or national origin in a Department program or activity involving a contract of insurance or guaranty will be received and processed pursuant to this Part. Where sanctions for the violation are imposed pursuant to the Department's Debarment, Suspension and Ineligibility Regulations (Part 24 of this Title) the participant, pursuant to the Department's authority to administer its programs and activities, can be excluded from participation in all Department programs for a specified period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance.

Role of Complainants and Respondents

Civil rights organizations commented in detail about the role of complainants in the enforcement procedures established by the rule. These commentors proposed inclusion of provisions for more active involvement of complainants as parties to matters in connection with the enforcement and compliance review processes. The compliance and enforcement system provided in E.O. 11063 establishes a process for Federal agencies to refuse to continue or to extend assistance in their programs and activities to persons who violate the requirements of the Executive Order. While the Department can address issues raised in connection with complaints and attempt in negotiations to achieve redress for complainants, its imposition of sanctions will not result in vindication of individual claims. The Department has determined, therefore, that it would be inappropriate to provide complainants with the status of parties in these procedures. However, in response to these comments, a variety of revisions have been incorporated to provide complainants with information regarding matters which are the subject of compliance investigation or review and to afford them a full opportunity to participate in the administrative processing of their complaints.

Specifically, provisions of the rule relating to complaints and to enforcement have been revised to provide for notice to complainants at all stages of proceedings under this regulation regarding determinations of compliance and to provide complainants an opportunity to attend compliance meetings. Complainants also will receive a copy of the compliance report and findings and will be given an opportunity to review the compliance review file and provide comments thereon. Additionally, the intent of this rule is that whenever a complainant alleges, pursuant to the Executive Order, a discriminatory practice which is also covered by Title VIII, it shall be the responsibility of the Department to advise the complainant of the right to file a complaint pursuant to Title VIII and to inform him or her of the Department procedures available under that Title. These two major areas of revision reflect the conviction of the Department that a complainant who alleges the existence of a discriminatory housing practice should be given information about matters under review and access to all available remedies. Additionally, since initial attempts to review compliance will involve specific matters raised in a complaint, the Department has decided that the complainant should have an opportunity to assist the Department in attempts to resolve the specific matter informally previous to initiation of more comprehensive review, through a formal Department compliance review, of the respondent's total Department funded activities.

Accordingly, §§ 107.35, 107.40, 107.50, and 107.55 as revised will now assure notification of the complainant of every step planned and every determination made in the enforcement process, including initial findings relative to the complaint; notice of compliance meetings; outcome of compliance meetings; intent to conduct compliance review or to refer matters to the Assistant Secretary for FH&EO for possible imposition of sanctions; and notification of date of compliance reviews and outcome of such reviews. Additionally, § 107.40 has been amended to provide for participation of complainants in compliance meetings (through addition of a new Subsection(c)) and to allow complainants representation by counsel (Subsection (e)) at such meetings.

In response to other comments, provision has also been made for more adequate notification of respondents and greater opportunity for respondents to address findings of violations. Section 107.40 has been revised to provide for notification to the respondent of the allegations contained in a complaint and of the matters to be addressed in a compliance meeting. Section 107.55 has been amended to provide that a notice of noncompliance pursuant to a compliance review shall afford the respondent seven days to respond to the violations found and to resolve and remedy violations in the compliance report prior to referral of the matter to the Assistant Secretary for FH&EO.

Definition of "Discriminatory Practice"

Three major areas of concern were articulated by civil rights organizations in their comments on the definition of "discriminatory practices": (1) Inadequate cognizance of the "effects test" in defining such practices; (2) Implied narrowness in the applicability of the definition; and (3) Need for more guidance to identify specific prohibited practices under the Executive Order, particularly in areas such as steering and redlining.

With respect to the effects tests issue, commentors suggested that failure to state explicitly in the rule its applicability to practices which have the effect of denying benefits to protected persons would result in interpretations that only intentional acts of discrimination are covered. It is not the interpretation of the Department that the Executive Order requires the existence of intent to discriminate as an essential element in establishing discriminatory practices; on the contrary, the Department believes that matters which appear neutral on their face in many cases may constitute violations of E.O. 11063 by virtue of their impact on protected groups. Nothing in the proposed rule was inconsistent with this conclusion. However, in order to more clearly state the Department's position in this area two revisions to the proposed rule have been adopted. Section 107.15(g)(1) has been revised to include explicitly in the definition of "discriminatory practices" activities which are discriminatory in effect. A new section 107.51, further, sets the standard for findings of noncompliance with the Executive Order, and includes among the basis for such findings the existence of a practice which is discriminatory in effect, unless a respondent can establish that such practice is designed to serve a legitimate business necessity or governmental purpose of the respondent unrelated to race, color, creed or national origin; that it carries out effectively the interest it is designed to serve; and that no alternative course of action would enable the respondent's interest to be served with less discriminatory impact. A practice with discriminatory effect is characterized as a policy or practice, or "any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons to apply for or receive the benefits of assistance. . . ."

With regard to the scope of practices covered, a number of commentors stated that the discriminatory practices defined did not fully cover the range of prohibited housing practices. These commentors pointed out that the regulation did not address the relationship of E.O. 11063 enforcement

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and compliance with the fair housing provisions of Title VIII of the Civil Rights Act of 1968. In response to these comments, § 107.15(g)(4) of the proposed regulation has been revised to state that a finding of a violation of Title VIII or of a state or local fair housing law with respect to activities covered by E.O. 11063 shall constitute a discriminatory housing practice under the Executive Order. Additionally, § 107.60 has been revised to provide that such violations can be a basis for the initiation of sanctions under this Part.

New regulations to describe practices and activities which constitute discriminatory housing practices are now under development to implement the Secretary's responsibility to investigate and to attempt to resolve matters under Title VIII. These regulations will serve to provide more explicit guidance to identify violations in such areas as redlining, steering, and residential financing. As indicated, findings of violations of Title VIII with respect to activities also covered by E.O. 11063, are a basis for the imposition of sanctions pursuant to the Executive Order. It is the judgment of the Department that this regulation establishing a compliance procedure implementing E.O. 11063 should define discriminatory housing practices generally, rather than in detailed form.

Comment received from groups representing handicapped persons objected to the fact that the definition of discriminatory practices does not include reference to handicapped persons, pursuant to the provisions of Section 504 of the Rehabilitation Act of 1973. Section 504 prohibits discrimination against persons solely on the basis of handicap in programs and activities of Federal financial assistance. Under Section 504, each Federal Department and agency is responsible for assuring that all its programs of Federal financial assistance are administered in a nondiscriminatory manner. Each Federal Department and agency also is required to develop regulations implementing this Section 504 requirement. The Department has published proposed regulations regarding nondiscrimination based on handicap in its programs 43 FR 16656 (April 19, 1978). As proposed, these regulations would describe discriminatory practices and would be applicable to all Department programs of Federal financial assistance.

Inasmuch as E.O. 11063 does not cover discrimination based on handicap and in view of the fact that the Department has proposed implementation of Section 504 in its programs and activities in a separate Part of 24 CFR, these comments have not been adopted in the final rule.

Statute of limitations for Filing Complaints

Several commentors criticized the provision in the proposed rule (§ 107.35) that complaints must be filed within 180 days of the alleged act of discrimination. These comments suggested that the time limit for filing complaints be extended. The final rule adopts this suggestion and provides that complaints may be filed within one year of the alleged discriminatory practice.

Recordkeeping

Section 107.30(a) requires collection of racial and national origin data in Department programs and activities. Comment by civil rights groups interpreted the recordkeeping requirement in the proposed rule as being circumscribed by the recordkeeping requirements of the Department program or activity under which assistance is granted. The language of § 107.30(a) has been clarified to mandate maintenance of race, and national origin data as is required by the Department. This revised language assures that the regulation incorporates all applicable Department recordkeeping requirements for racial and national origin data.

There was comment by several groups that recordkeeping provisions applicable to lenders (§ 107.30(b)) are duplicative of requirements imposed by Federal financial regulatory agencies. It is not the intent of this regulation to mandate duplicatory recordkeeping where records already kept by a lender pursuant to other regulations meet the requirements of this rule. Additionally, several commentors objected to the provision in this section that failure to comply with the recordkeeping requirements is *prima facie* evidence of discrimination.

Section 107.30 reflects the position of the Department that is has the authority to require the collection of data on the race and national origin of persons participating in programs and activities pursuant to its obligations regarding the administration and enforcement of its civil rights responsibilities. For example, in cases where the crucial issue is whether a disproportionate number of minorities have been denied housing or loans in violation of the Executive Order, the race and national origin records collected in connection with Department programs and activities will often be the only source of the statistical information needed to resolve the issue. Thus this Section was not intended to describe a new violation not provided in the Executive Order but rather to provide an appropriate evidentiary mechanism for assisting the Assistant Secretary for FH&EO in determining whether a violation has occurred. However, the language in the proposed rule stating that a failure to comply with recordkeeping requirements pursuant to this section shall be deemed *prima facie* evidence of a discriminatory practice is subject to misinterpretation and has, therefore, been deleted. Further, to clarify the relationship of the recordkeeping requirements to the other requirements of this regulation, the revised § 107.30(c) now indicates that where data required § 107.30 is rendered unavailable by a respondent's own violation of recordkeeping requirements, it is the obligation of that respondent to establish its compliance with this Part and with the equal housing opportunity requirements of the Executive Order.

Of course, under § 107.60 failure or refusal to comply with the Executive Order or the requirements of this Part is a proper basis for applying sanctions which include sanctions specified by the rules or regulations of the Department governing the program under which assistance is provided.

Question was raised as to what liability, if any, would fall on a purchaser of "third party paper" in the event mortgages purchased or accompanying documents failed to contain the information required in § 107.25. In general, in the event of technical violations, no liability would be imposed on such a purchaser. The Department is responsible for assuring that the originating mortgages complies with this recordkeeping requirement.

Question was raised about the interpretation of the term "national origin" and the possible difficulty in identifying such origin in some cases where the information is not volunteered by the applicant. It should be noted with regard to recordkeeping described in § 107.30(b) that the term encompasses the same six broad categories established by the Equal Credit Opportunity Act.

Overlapping Jurisdiction With Regulatory Agencies

Commenting regulatory agencies questioned the jurisdiction and need for this regulation with respect to coverage of financial institutions regulated by such agencies. These commentors pointed out that certain lenders are subject to regulations requiring compliance with the nondiscrimination in lending requirements of the Federal Fair Housing Act and the Equal Credit Opportunity Act.

The Department recognizes that many lenders to whom the proposed Nondiscrimination and Equal Opportunity in Housing Regulation would apply are already subject to regulatory requirements designed to assure that persons are not discriminated against on any prohibited basis covered by E.O. 11063. However, the Department has determined that the E.O. 11063 directive to Federal departments to take all actions necessary and appropriate to prevent discrimination in the lending practices of institutions with respect to assisted activities mandates the Department to continue to require compliance with the Executive Order by all institutions in their participation in the Department's activities. In this regard the regulation describes the processes the Department will utilize to review compliance by participants and to provide procedural due process in determining whether to impose sanctions provided in the Executive Order. The Department believes that compliance with the Executive Order and this regulation will not result in any significant burden on lenders desiring to participate in Department programs and activities. Additionally, the Department believes that this section is consistent with recordkeeping requirements imposed by Federal financial regulatory agencies, such as the Comptoller of the Currency and the Federal Home Loan Bank Board, pursuant to their regulatory authority and in furtherance of their responsibility to affirmatively further fair housing. Thus, the final regulation continues to require compliance by any financial institution with respect to their lending practices insofar as they relate to Department programs and activities.

However, in response to one comment, the sanctions provision of the regulation has been revised to provide notification to appropriate Federal financial regulatory agencies of findings of discrimination in order to permit those agencies to take prompt action consistent with their supervisory responsibilities.

In addition to the major areas of comment discussed above, numerous comments focused on specific provisions of the regulation:

§ *107.20(b) Prohibition Against Discrimination.*

Comment by a regulatory agency proposed inclusion of guidelines, similar to guidelines proposed for enforcement of Regulation B, (pursuant to the Equal Credit Opportunity Act) to define affirmative action required to overcome the effects of prior discrimination. It is the intent of the Department to consider guidelines for incorporation in Title VIII regulations or in a separate regulation. In the judgment of the Department, it is not appropriate to incorporate detailed standards or guidelines defining affirmative action in this procedural regulation.

Also in response to comment by a regulatory agency, the word "recipient" in § 107.15(g) and 107.20(b) has been replaced by "person", to clearly indicate the applicability of the paragraph to all persons covered by the Executive Order.

§ *107.25 Provision in Legal Instruments.*

In response to several comments, § 107.25 has been amended to provide that all legal instruments in which statements of compliance with E.O. 11063 are required must include reference to the sanction provided in § 107.60 of this rule.

Additionally, in response to another critique, the language of this section has been revised and clarified extensively.

§ *107.40 Compliance meeting.*

Several comments proposed an extension of the respondent's response time to notices of compliance meetings from seven to thirty days. It should be noted that the compliance meeting process and the procedures to implement it are parallel to those incorporated in 24 CFR Part 108, Compliance Procedures for Affirmative Fair Housing Marketing. These identical procedures and timetables will make it possible, in instances where there are complaints or indications of violations of both this regulation and 24 CFR Part 108 to address these matters in one proceeding, thus avoiding a cumbersome dual enforcement process. The purpose of the enforcement procedures in these regulations, including the initial compliance meeting, is to establish a process which provides opportunity for speedy and informal resolution of matters previous to initiation of steps toward the imposition of sanctions. The compliance meeting procedure is the pivotal vehicle for such speedy and informal resolution. This forum is designed primarily to acquaint the respondent fully with the nature of the alleged violation cited in the notice and to provide an informal setting for early discussion of the matters at issue. It is the determination of the Assistant Secretary for FH&EO that these purposes of the compliance meeting can best be accomplished by maintaining the notification provisions of the regulation.

Against this background, it is the judgment of the Department that extension of the response period would be counterproductive to the speedy and informal resolution of matters which is the aim of compliance meetings. These comments have not been adopted.

§ *107.45 Resolution of Matters.*

In response to comments by civil rights organizations, the provision in Section 302 of the Executive Order stipulating that informal resolution need not be pursued when similar efforts by other agencies have failed has been incorporated in § 107.45. Additionally, the role of the Assistant Secretary for FH&EO with respect to review of compliance with the terms of settlement agreements has been clarified and the Assistant Secretary's authority to take immediate action to impose sanctions in cases involving a failure to comply with such agreements has been made explicit.

§ *107.60 Sanctions and Penalties.*

In response to comment by civil rights groups, the language referring to Departmental authority to impose sanctions provided in accordance with Department procedures relating to debarment, suspension, and ineligibility of contractors and grantees (24 CFR Part 24) in § 107.60(a) was revised to remove possible ambiguity about the applicability of this section.

Additionally, consistent with the provisions of the Executive Order, a new subsection (c) has been added to this section indicating that the Department shall use its good offices and take appropriate action, including the institution of litigation, "to promote the abandonment of discriminatory practices" with respect to residential property and related facilities provided with financial assistance previous to the effective date of the Executive Order.

One commentor suggested that an assurance be given that termination of approved lender status or of participation in GNMA mortgage purchase programs is the only appropriate sanction against lenders. This suggestion is not adopted. The Executive Order provides a full range of sanctions for violations of the Executive Order including referral to the Department of Justice for appropriate civil actions. Thus, the Department believes it would be inappropriate in this regulation to attempt to define all the remedies which are available in enforcement under the Executive Order.

A finding of no significant impact has been prepared in accordance with Department "Procedures for Protection and Enhancement of Environmental Quality." A copy of the Finding is available for inspection and copying in the Office of the Rules Docket Clerk,

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Office of General Counsel, Room 5218, Department of HUD, 451 7th St., S.W., Washington, D.C. 20410. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government.

This rule is listed as item number FH&EO-3-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Part 107 is added to 24 CFR as follows:

PART 107—NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063

Sec.
107.10 Purpose
107.11 Relation to other authorities.
107.15 Definitions.
107.20 Prohibition against discriminatory practices.
107.21 Prevention of discriminatory practices.
107.25 Provisions in legal instruments.
107.30 Recordkeeping requirements.
107.35 Complaints.
107.40 Compliance meeting.
107.45 Resolution of matters.
107.50 Compliance reviews.
107.51 Findings of Noncompliance.
107.55 Compliance report.
107.60 Sanctions and penalties.
107.65 Referral to the Attorney General.

Authority. E.O. 11063, Equal Opportunity in Housing, issued November 20, 1962 (27 FR 11527); delegation of authority by the Secretary of Housing and Urban Development published in 34 FR 12253 (June 21, 1972).

§ 107.10 Purpose.

These regulations are to carry out the requirements of E.O. 11063 that all action necessary and appropriate be taken to prevent discrimination because of race, color, creed, or national origin in the sale, rental, leasing or other disposition of residential property and related facilities or in the use or occupancy thereof where such property or facilities are owned or operated by the Federal Government, or provided with Federal assistance by the Department of Housing and Urban Development and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the Department. These regulations are intended to assure compliance with the established policy of the United States that the benefits under programs and activities of the Department which provide financial assistance, directly or indirectly, for the provision, rehabilitation, or operation of housing and related facilities are made available without discrimination based on race, color, creed, or national origin. These regulations are also intended to assure compliance with the policy of this Department to administer its housing programs affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, creed, or national origin.

§ 107.11 Relation to other authorities.

(a) Where allegations of discrimination on the grounds of race, color, or national origin are made in a program or activity of Federal financial assistance of the Department which does not involve a contract of insurance or guaranty, the provisions of Title VI of the Civil Rights Act of 1964 and regulations implementing Title VI, Nondiscrimination in Federally Assisted Programs, under Part 1 of this Title shall apply. Any complaint alleging discrimination on the basis of race, color, creed or national origin in a program or activity of the Department involving a contract of insurance or guaranty will be received and processed according to this Part.

(b) Where a complaint filed pursuant to this Part alleges a discriminatory housing practice which is also covered by Title VIII of the Civil Rights Act of 1968, the complainant shall be advised of the right to file a complaint pursuant to Section 810 of that Title and of the availability of Department procedures regarding fair housing complaints under Part 105 of this Title. The complainant shall also be advised of the right to initiate a civil action in court pursuant to Section 812 of the Civil Rights Act of 1968 without first filing a complaint with HUD.

§ 107.15 Definitions.

(a) "Department" means the Department of Housing and Urban Development.

(b) "Secretary" means the Secretary of Housing and Urban Development.

(c) "State" means each of the fifty states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas, and the territories of the United States.

(d) "Assistance" includes (1) grants, loans, contributions, and advances of Federal funds; (2) the grant or donation of Federal property and interests in property; (3) the sale, lease, and rental of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale or lease to the recipient, when such order granting permission accompanies the sale, lease, or rental of Federal properties; (4) loans in whole or in part insured, guaranteed, or otherwise secured by the credit of the Federal Government; and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(e) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives or agents, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and public entities.

(f) "Public entity" means a government or governmental subdivision or agency.

(g) "Discriminatory practice" means: (1) Any discrimination on the basis of race, color, creed, or national origin or the existence or use of a policy or practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons to apply for or receive the benefits of assistance because of race, color, creed or national origin, in the sale, rental or other disposition of residential property or related facilities (including land to be developed for residential use), or in the use or occupancy thereof, where such property or related facilities are:

(i) Owned or operated by the Secretary;

(ii) Provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Department after November 20, 1962;

(iii) Provided in whole or in part by loans insured, guaranteed or otherwise secured by the credit of the Department after November 20, 1962; or

(iv) Provided by the development or the redevelopment of real property purchased, leased, or otherwise obtained from a State or local public agency or unit of general purpose local government receiving Federal financial assistance from the Department under a loan or grant contract entered into after November 20, 1962.

(2) Any discrimination on the basis of race, color, creed, or national origin or the existence or use of a policy, practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially

impairs the ability of persons to apply for or receive the benefits of assistance because of race, color, creed or national origin in lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans, insured or guaranteed, by the Department after November 20, 1962. Examples of discriminatory practices under subsections (1) and (2) include but are not limited to the following when based on race, color, creed or national origin:

(i) Denial to a person of any housing accommodations, facilities, services, financial aid, financing or other benefit provided under a program or activity;

(ii) Providing any housing accommodations, facilities, services, financial aid, financing or other benefits to a person which are different, or are provided in a different manner, from those provided to others in a program or activity;

(iii) Subjecting a person to segregation or separate treatment in any matter related to the receipt of housing, accommodations facilities, services, financial aid, financing or other benefits under a program or activity;

(iv) Restricting a person in any way in access to housing, accommodations, facilities, services, financial aid, financing or other benefits, or in the enjoyment of any advantage or privilege enjoyed by others in connection with such housing, accommodations, facilities, services, financial aid, or other benefits under a program or activity;

(v) Treating persons differently in determining whether they satisfy any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, financing or other benefits under a program or activity; and

(vi) Denying a person opportunity to participate in a program or activity through the provision of services or otherwise, or affording the person an opportunity to do so which is different from that afforded others in a program or activity.

(3) Noncompliance with relevant affirmative fair housing marketing requirements contained in Department programs and regulations.

(4) A formal finding of a violation of Title VIII of the Civil Rights Act of 1968 or a state or local fair housing law with respect to activities also covered by E.O. 11063.

§ 107.20 Prohibition against discriminatory practices.

(a) No person receiving assistance from or participating in any program or activity of the Department involving housing and related facilities shall engage in a discriminatory practice.

(b) Where such person has been found by the Department or any other Federal Department, agency, or court to have previously discriminated against persons on the ground of race, color, creed, or national origin, he or she must take affirmative action to overcome the effects of prior discrimination.

(c) Nothing in this Part precludes such person from taking affirmative action to prevent discrimination in housing or related facilities where the purpose of such action is to overcome prior discriminatory practice or usage or to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, creed or national origin.

§ 107.21 Prevention of discriminatory practices.

All persons receiving assistance from, or participating in any program or activity of the Department involving housing and related facilities shall take all action necessary and proper to prevent discrimination on the basis of race, color, creed, or national origin.

§ 107.25 Provisions in legal instruments.

(a) The following documents shall contain provisions or statements requiring compliance with E.O. 11063 and this Part:

(1) Contracts, grants and agreements providing Departmental assistance for the provision of housing and related facilities,

(2) Contracts, grants and agreements regarding the sale, rental or management of properties owned by the Secretary,

(3) Corporate charters and regulatory agreements relating to multifamily and land development projects assisted by the Department,

(4) Approvals of financial institutions and other lenders as approved FHA mortgagees,

(5) Requests for subdivision reports under home mortgage procedures and for preapplication analysis of multifamily and land development projects, and

(6) Contracts and agreements providing for Departmental insurance or guarantee of loans with respect to housing and related facilities.

(b) The provision or statement required pursuant to this section shall indicate that the failure or refusal to comply with the requirments of E.O. 11063 or this Part shall be a proper basis for the imposition of sanctions provided in § 107.60.

§ 107.30 Recordkeeping requirements.

(a) All persons receiving assistance through any program or activity of the Department involving the provision of housing and related facilities subject to E.O. 11063 shall maintain racial and national origin data required by the Department in connection with its programs and activities.

(b) All lenders participating in Departmental mortgage insurance programs, home improvement loan programs, GNMA mortgage purchase programs, or special mortgage assistance programs, shall maintain data regarding the race and national origin of each applicant and joint applicant for assistance with regard to residential property and related facilities. This data shall be noted in the following categories: American Indian/Alaskan Native, Asian/Pacific Islander, Black, White, Hispanic, Other (specify). If an applicant or joint applicant refuses to voluntarily provide the information or any part of it, that fact shall be noted and the information shall be obtained through observation. Applications shall be retained for a period of at least twenty-five (25) months following the date the record was made.

(c) If an investigation or compliance review under this Part reveals a failure to comply with any of the requirements of paragraph (a) or (b) of this section, the respondent shall have the burden of establishing its compliance with this Part and with the equal housing opportunity requirements of the Executive Order.

§ 107.35 Complaints.

(a) The Assistant Secretary for FH&EO, or designee, shall conduct such compliance reviews, investigations, inquiries, and informal meetings as may be necessary to effect compliance with this Part.

(b) Complaints under this Part may be filed by any person and must be filed within one year of date of the alleged act of discrimination unless the time for filing is extended by the Assistant Secretary for FH&EO. Complaints must be signed by the complainant and may be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C., 20410, or any Regional or Area Office of the Department. All complaints shall be forwarded to the Director, Office of Regional Fair Housing and Equal Opportunity in the appropriate Regional

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Office which has jurisdiction in the area in which the property is located.

(c) Upon receipt of a timely complaint, the Director of the Office of Regional FH&EO shall determine whether the complaint indicates a possible violation of the Executive Order or this Part. The Director of the Office of Regional FH&EO or a designee within a reasonable period of time shall conduct an investigation into the facts. The complainant shall be notified of the determination.

§ 107.40 Compliance meeting.

(a) Where preliminary analysis of a complaint, a compliance review initiated by the Assistant Secretary for FH&EO, or other information indicates a possible violation of E.O. 11063, or this Part, the person allegedly in violation ("respondent") shall be sent a Notice of Compliance Meeting and requested to attend a compliance meeting. The Notice shall advise the respondent of the matters to be addressed in the Compliance Meeting and the allegations contained in a complaint received pursuant to Sec. 107.35. The purpose of the compliance meeting is to provide the respondent with the opportunity to address matters raised and to remedy such possible violations speedily and informally, to identify possible remedies; and to effect a resolution as provided in § 107.45.

(b) The Notice of Compliance Meeting shall be sent to the last known address of the person allegedly in violation, by certified mail, or through personal service. The Notice will advise such person of the right to respond within seven (7) days to the matters and to submit information and relevant data evidencing compliance with E.O. 11063, the Affirmative Fair Housing Marketing Regulations, 24 CFR 200.600, the Fair Housing Poster Regulations, 24 CFR Part 110, the Advertising Guidelines for Fair Housing, 37 FR 6700, April 1, 1972, other affirmative marketing requirements applicable to the program or activity and any revisions thereto. Further, the person will be offered an opportunity to be present at the meeting in order to submit any other evidence showing such compliance. The date, place, and time of the scheduled meeting will be included in the Notice.

(c) Whenever a compliance meeting is scheduled as a result of a complaint, the complainant shall be sent a copy of the Notice of Compliance Meeting and shall be provided an opportunity to attend the meeting.

(d) The Area Office having jurisdiction over the program will prepare a report concerning the status of the respondent's participation in Department programs to be presented to the respondent at the meeting. The Area Manager shall be notified of the meeting and may attend the meeting.

(e) At the Compliance Meeting the respondent and the complainant may be represented by counsel and shall have a fair opportunity to present any matters relevant to the complaint.

(f) During and pursuant to the Compliance Meeting, the Director of the Office of Regional FH&EO shall consider all evidence relating to the alleged violation, including any action taken by the person allegedly in violation to comply with E.O. 11063.

(g) If the evidence shows no violation of the Executive Order or this Part, the Director of the Office of Regional FH&EO shall so notify the person(s) involved within ten (10) days of the meeting. A copy of this notification shall be sent to the complainant, if any, and shall be submitted to the Assistant Secretary for FH&EO.

(h) If the evidence indicates an apparent failure to comply with the Executive Order or this Part, and the matter cannot be resolved informally pursuant to § 107.45, the Director of the Office of Regional FH&EO shall so notify the respondent and the complainant, if any, no later than ten (10) days after the date on which the compliance meeting is held, in writing by certified mail, return receipt requested, and shall advise the complainant, if any, and the respondent whether the Department will conduct a compliance review pursuant to § 107.50 or, where appropriate, refer the matter to the Assistant Secretary for FH&EO for possible imposition of sanctions. A copy of this notification shall be submitted to the Assistant Secretary for FH&EO. The compliance review shall be conducted to determine whether the respondent has complied with the provisions of E.O. 11063, Title VIII of the Civil Rights Act of 1968, Department regulations and the Department's Affirmative Fair Housing Marketing requirements.

(i) If the respondent fails to attend a compliance meeting scheduled pursuant to this section, the Director of the Office of Regional FH&EO shall notify the respondent no later than ten (10) days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, as to whether the Department will conduct a compliance review or, where appropriate, refer the matter to the Assistant Secretary for FH&EO for possible imposition of sanctions. A copy of this notification shall be submitted to the Assistant Secretary for FH&EO and sent to the complainant, if any.

§ 107.45 Resolution of matters.

(a) Attempts to resolve and remedy matters found in a complaint investigation or a compliance review shall be made through the methods of conference, conciliation, and persuasion.

(b) Resolution of matters pursuant to this section and § 107.40 need not be attempted where similar efforts by another Federal agency have been unsuccessful in ending and remedying the violation found with respect to the same respondent.

(c) Efforts to remedy matters shall be directed toward achieving a just resolution of the probable violation and obtaining assurance(s) that the respondent will satisfactorily remedy any violation of E.O. 11063 and will take actions to eliminate the discriminatory practices and prevent reoccurrences. Compensation to individuals from the respondent may also be considered.

(d) The terms of settlements shall be reduced to a written agreement, signed by the respondent and the Assistant Secretary for FH&EO or a designee. Such settlements shall seek to protect the interests of the complainant, if any, other persons similarly affected, and the public interest. A written notice of the disposition of matters pursuant to this section and of the terms of settlements shall be given to the Area Manager by the Assistant Secretary for FH&EO or a designee and to the complainant, if any. When the Assistant Secretary or a designee determines that there has been a violation of a settlement agreement, the Assistant Secretary immediately may take action to impose sanctions provided under this Part, including the referral of the matter to the Attorney General for appropriate action.

§ 107.50 Compliance reviews.

(a) Compliance reviews shall be conducted by the Director of the Office of Regional FH&EO or a designee. Complaints alleging a violation(s) of this Part or information ascertained in the absence of a complaint indicating apparent failure to comply with this Part shall be referred immediately to the Director of the Office of Regional FH&EO. The Regional Director of the Office having jurisdiction over the programs involved and the Area Manager shall be notified of all alleged violations of the regulations. A complaint is not a prerequisite for the initiation of compliance review.

(b) The purpose of a compliance review is to determine whether the respondent is in compliance with the Executive Order and this Part. Where allegations may also indicate a violation of the provisions of Title VIII of the Civil

Rights Act of 1968, HUD regulations issued thereunder and Affirmative Fair Housing Marketing requirements, a review may be undertaken to determine compliance with those requirements. The respondent shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. The complainant shall also be notified of the compliance review.

§ 107.51 Findings of Noncompliance.

(a) A finding of noncompliance shall be made when the facts disclosed during an investigation or compliance review, or other information, indicate a failure to comply with the provisions of E.O. 11063 or this Part. In no event will a finding of noncompliance precede the completion of the compliance meeting procedures set forth in § 107.40.

(b) Determinations of noncompliance with E.O. 11063 shall be made in any case in which the facts establish the existence of a discriminatory practice under § 107.15(g).

(c) The existence or use of a policy or practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons, because of race, color, creed or national origin, to apply for or receive the benefits of assistance shall be a basis for finding a discriminatory practice unless the respondent can establish that:

(1) The policy or practice is designed to serve a legitimate business necessity or governmental purpose of the respondent;

(2) The policy or practice effectively carries out the interest it is designed to serve; and

(3) No alternative course of action could be adopted that would enable respondent's interest to be served with a less discriminatory impact.

§ 107.55 Compliance report.

(a) Following completion of efforts under this Part, the Director of the Office of Regional FH&EO or a designee shall prepare a compliance report promptly and the Assistant Secretary for FH&EO shall make a finding of compliance or noncompliance. If it is found that the respondent is in compliance, all persons concerned shall be notified of the finding. Where a finding of noncompliance is made, the report shall specify the violations found. The Director of the Office of Regional FH&EO shall send a copy of the report to the respondent by certified mail, return receipt requested, together with a Notice that the matter will be forwarded to the Assistant Secretary for FH&EO for a determination as to whether actions will be initiated for the imposition of sanctions. The Regional Director of the Office having jurisdiction over the programs involved and the Area Manager shall also receive a copy of the report and the notice of intention to refer the matter to the Assistant Secretary for FH&EO.

(b) The Notice will provide that the respondent shall have seven (7) days to respond to the violations found and resolve and remedy matters in the compliance report. At the expiration of the seven (7) day period the matter shall be referred to the Assistant Secretary for FH&EO.

(c) The complainant shall be sent a copy of the findings and compliance report and shall have seven (7) days to comment thereon.

§ 107.60 Sanctions and penalties.

(a) Failure or refusal to comply with E.O. 11063 or the requirements of this Part shall be proper basis for applying sanctions. Violations of Title VIII of the Civil Rights Act of 1968 or a state or local fair housing law, with respect to activities covered by the Executive Order, or of the regulations and requirements under E.O. 11063 of other Federal Departments and agencies may also result in the imposition of sanctions by this Department.

(b) Such sanctions as are specified by E.O. 11063, the contract through which Federal assistance is provided, and such sanctions as are specified by the rules or regulations of the Department governing the program under which Federal assistance to the project is provided, shall be applied in accordance with the relevant regulations. Actions which may be taken include: cancellation or termination, in whole or in part of the contract or agreement; refusal to approve a lender or withdrawal of approval; a determination of ineligibility, suspension or debarment from any further assistance or contracts provided, however, that sanctions of debarment, suspension and ineligibility are subject to the Department's regulations under Part 24 of this Title; and provided further, that no sanction under Section 302 (a), (b) and (c) of E.O. 11063 shall be applied by the Assistant Secretary for FH&EO without the concurrence of the Secretary.

(c) The Department shall use its good offices in order to promote the abandonment of discriminatory practices with regard to residential property and related facilities provided with assistance prior to the effective date of E.O. 11063 and take appropriate actions permitted by law including the institution of appropriate litigation to provide such equal housing opportunities.

(d) In any case involving the failure of a lender to comply with the requirements of the Executive Order or this Part, the Assistant Secretary for FH&EO shall notify the Federal financial regulatory agency having jurisdiction over the lender of the findings in the case.

§ 107.65 Referral to the Attorney General.

If the results of a complaint investigation or a compliance review demonstrate that any person, or specified class of persons, has violated E.O. 11063 or this Part, and efforts to resolve the matter(s) by informal means have failed, the Assistant Secretary for FH&EO in appropriate cases shall recommend that the General Counsel refer the case to the Attorney General of the United States for appropriate civil or criminal action under Section 303 of E.O. 11063.

Issued at Washington, D.C., September 4, 1980.

Sterling Tucker,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 80-27642 Filed 9-8-80; 8:45 am]

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Tuesday,
September 9, 1980

Part VI

Federal Emergency Management Agency

Floodplain Management and Protection of Wetlands Regulations and Finding of No Significant Impact on the Environment

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA Gen-9]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency.

ACTION: Final regulations.

SUMMARY: These regulations implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. Since its formation, the Federal Emergency Management Agency (FEMA) has been complying with these two Executive Orders. However, these regulations apply specific procedures and criteria to FEMA for the Agency's actions in or affecting floodplains and wetlands.

DATE: These regulations are effective September 9, 1980.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, Federal Emergency Management Agency, 1725 Eye Street NW., Washington, DC 20472. Telephone: (202) 634-1990.

SUPPLEMENTARY INFORMATION: On May 24, 1977, Executive Order 11988 was issued for the following purposes:

(a) To avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains; and

(b) To avoid direct or indirect support of floodplain development wherever there is a practicable alternative. This Executive Order applies to federal agencies for all actions involving:

(1) Acquiring, managing and disposing of federal land and facilities;

(2) Providing federally undertaken, financed or assisted construction and improvements; and

(3) Conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. The United States Water Resources Council (WRC) published guidelines for implementing E.O. 11988 in the **Federal Register** on February 10, 1978 (43 FR 6030). These regulations follow closely the WRC Guidelines in setting forth policy and procedures for floodplain management relating to disaster planning, response and recovery and hazard mitigation for all actions taken by FEMA. The main emphasis of these regulations is on compliance with Executive Order 11988, Floodplain Management. However, in cases where Executive Order 11990, Protection of Wetlands, would apply, these regulations also set forth policy and procedures to implement that Executive Order.

FEMA recognizes floodplains and wetlands as unique and vital natural resources. Both ecological systems possess many natural values and carry on numerous functions that are of great benefit to all of us. Because wetlands frequently lie within floodplains, they constitute a natural and beneficial value of floodplains. Thus, where a wetland is in a floodplain, the more restrictive terms of Executive Order 11988 apply.

On June 13, 1979, the Federal Disaster Assistance Administration (DHUD) published a proposed rule in the **Federal Register** (44 FR 34048-34058) implementing Executive Order 11988 and Executive Order 11990. The present regulation applies to the Office of Disaster Response and Recovery (formerly the Federal Disaster Assistance Administration) as well as the other elements of FEMA.

On December 27, 1979, FEMA published interim regulations in the **Federal Register** (44 FR 76510-76523) implementing the two Executive Orders. These regulations took effect on January 28, 1980. Comments were due on or before February 28, 1980, but were accepted after that date.

The Supplementary Information section of the interim regulations includes an explanation of some of the basic provisions of the regulations and the 8-step decision-making process. Except where changes have been made in the interim regulations, we refer you to its Supplementary Information section for additional background.

We now address the comments received on the interim regulations. About 40 comments were received from outside of the Agency. Many comments addressed the same issues, with about half the comments falling on one side of the issue and half on the other side. The comments are categorized based on the section of the regulations to which they pertain. At the end of each section is a discussion of the changes made to that section. The comments which are general in nature are addressed first.

General Comments

We received several comments to the effect that the regulations are burdensome and will delay the disaster relief effort. We have made every attempt to streamline the decision-making process. We have made adjustments and clarifications to §§ 9.7 Determination of proposed action's location (Step 1), 9.8 Public notice requirement (Step 2), 9.10 Identify impacts of proposed action (Step 4) and 9.12 Final public notice (Step 7) to facilitate the process. We believe that these changes have resulted in a process which will allow disaster relief to continue to be provided in a timely and effective fashion while the concepts of hazard mitigation, floodplain management and protection of wetlands are conscientiously applied. Nevertheless implementation of the regulations will require increased time and effort. However, FEMA has a firm commitment to minimize harm to and within floodplains and wetlands. In light of this commitment, the Agency has determined that it will expend the time and effort necessary to effectively implement Executive Orders 11988 and 11990.

Some comments expressed the view that FEMA should apply the regulations to its traditional role as Federal coordinator in the post-disaster situation. While FEMA does have statutory authority to appoint a coordinator, that official is not statutorily authorized to direct the actions of other agencies in a post-disaster situation. However, pursuant to Executive Order 12148, FEMA is authorized to establish Federal mitigation policy after a disaster or emergency. FEMA, in this role, and the Federal Coordinating Officer intend to encourage other agencies to act consistently with FEMA in its compliance with Executive Order 11988 and Executive Order 11990.

A few commentators stated that the regulations should be more specific in addressing FEMA's programs. We do believe that there is a degree of specificity, especially where it is critical, in § 9.11, Mitigation. However, these are Agency-wide regulations and are intended to establish performance standards with which the subunits of FEMA must comply. We thought it was important to allow the subunits the flexibility to achieve compliance with the procedural and substantive performance requirements in their own way. As is stated in § 9.18(b), the Associate Directors shall identify the programmatic changes necessary to comply with the regulations.

A couple of comments were received suggesting that FEMA ensure that the necessary floodplain management measures have, in fact, been implemented. This is provided for in § 9.6(b), Step 8, which requires FEMA to—

> Review the implementation and post-implementation phases of the proposed action to ensure that the requirements stated in § 9.11 are fully implemented. Oversight

responsibility shall be integrated into existing processes.

It is expected that the subunits will identify how they intend to monitor field implementation of their mitigation actions. This will be done in the report required under section 9.18.

One comment suggested that a process be established whereby State and local governments could be certified by FEMA to implement the two Executive Orders and the regulations. Even if FEMA wanted to establish such a process, such a delegation would be improper. There is only one delegation permitted under Executive Order 11988 (section 9) and under Executive Order 11990 (section 10). No other delegations are authorized. Moreover, FEMA would consider such a delegation to be shirking its hazard mitigation responsibilities.

§ 9.4 Definitions

Actions Affecting or Affected by Floodplains or Wetlands was changed to include all impacts and not just adverse impacts.

Critical Action was changed to clarify that the list of actions was a representative but not an exclusive list of what actions are to be considered critical.

Direct Impacts was amended to include changes in the risk to lives and property.

Emergency Actions added the citation of the complete definition in the regulations of the Office of Disaster Response and Recovery.

Environmental Document was omitted because it is not used in the regulation.

Floodplain was clarified to exclude areas subject only to mudflow until FIA adopts maps identifying "M" Zones. This was done due to mapping problems and the lack of knowledge regarding hazard mitigation for mudflow.

Indirect Impacts was amended to include impacts on the risk to lives and property.

Natural Values of Floodplains and Wetlands was expanded to include archeological and historic sites. This was in direct response to several comments.

New Construction was changed to include the placement of a mobile home. The term "replacement" rather than "reconstruction" is now used relating to a structure or facility which has been totally destroyed. By "totally destroyed", we mean destroyed for all practical purposes.

Regional Director was changed to mean the Disaster Recovery Manager (DRM) when one is designated, as the DRM will be in charge of FEMA operations in a post-disaster situation.

Substantial Improvement was changed in several ways. It now includes any repair, reconstruction or other improvement of a structure or facility which has been damaged in excess of 50%. FEMA found that repairs were being made incrementally and thus floodplain management standards were not being applied to structures and facilities that had been damaged 50% or more. The definition was also changed to include damages equalling 50% and not necessarily exceeding 50%. The value of all public facilities is now to be based on replacement cost. Where a facility is an essential link in a larger system, the percentage of damage will be based on the relative cost of repairing the damaged facility to the replacement cost of the portion of the system which is operationally dependent on the facility. Without this change, the "system" which forms the basis of the value assessment could be the entire U.S. highway system. The intent of the change is to establish a performance criterion—how much of the remaining investment in a damaged facility would be lost if the damaged portion were not rebuilt. Lastly, the definition was amended to exclude any alteration of a structure or facility listed in the National Register of Historic Places or a State Inventory of Historic Places.

There were a few suggested changes to definitions that were not made.

It was suggested that the definition of *wetlands* be amended to be consistent with the definition used by the Army Corps of Engineers. We decided not to change our definition as it is consistent with the one used by the U.S. Fish and Wildlife Service (FWS). We prefer this definition since the FWS is responsible for mapping wetlands nationally, and it is a more inclusive definition.

One commentator suggested that *functionally dependent use* be expanded to cover public facilities, serving health, safety, and welfare, such as transportation, flood control and drainage systems. Flood control and drainage systems will often be considered functionally dependent uses under the present definition. With the exception of some bridges, roads should not be considered a functionally dependent use. They do not, in fact, have to be in close proximity to water in order to function.

§ 9.5 Scope

There were several general comments which advocated either increasing or decreasing the scope of the regulations. Some commentators stated that the regulations covered too broad a spectrum of FEMA actions. One recommended excluding all emergency work, functionally dependent uses, and utility projects. Emergency work necessary to save lives and protect property (under sections 305 and 306 of the Disaster Relief Act of 1974) is already excluded. While the floodplain/wetland may be the only practicable location for many utility projects, and for functionally dependent uses, these projects have the potential to impact on or be affected by floodplains and wetlands. Thus, analysis of such actions is necessary to determine whether there are alternative sites (in some cases), alternative actions, and whether no action is appropriate, and to determine what mitigation is necessary.

On the other hand, quite a number of comments were received to the effect that the exceptions were too broad, that FEMA had excluded from all or part of the decision-making process many actions which will impact on, or be affected by, their location in floodplains or wetlands. One comment opposed § 9.5(d) altogether, stating that if non-floodplain locations were not practicable for these actions, then such locations will fall out of the analysis quickly. We have taken a careful look at each of these actions and determined on a categorical basis, that there is no practicable alternative site for them. However, the alternative action and the no action options must still be analyzed.

More specifically, one comment took issue with § 9.5(d)(3) (now § 9.5(d)(2)), stating that new and substantially improved facilities funded as small projects (under § 419 of the Disaster Relief Act of 1974) should be treated alike, and alternative sites should be examined for both. There is a $25,000 ceiling per community on small projects. Typically, several projects will receive part of the $25,000. Data from five of the Federal regions for July, 1977 to May, 1978 show the average project to cost about $3,000. About 70% of the funds went to roads and bridges, water control facilities and utilities. Due to the nature of such facilities, there will probably be relatively few substantial improvements. These uses are generally either functionally dependent uses or other uses for which no practicable alternative site is available. Further, it is the intent of section 419 of the Disaster Relief Act of 1974 (Pub. L. 93–288) to give the local government flexibility in the use of funds without the onus of elaborate recordkeeping and detailed audit. Based on the limited amount of money included in each project, the very limited opportunities for alternative siting and the legislative intent to reduce red tape, there is no practicable

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alternative site outside the floodplain or wetland for small projects other than new structures or facilities. We have maintained the distinction between new and substantially improved facilities funded as small projects under § 419.

One commentator opposed the criterion that eliminates the analysis of alternative sites for public facilities unless the FEMA estimated cost of repairs is more than 50% of the estimated reconstruction cost of the entire facility or structure, or is more than $100,000. The suggestion was to impose a $10,000 threshold instead. Under the criteria of the interim rule, if a public facility is damaged less than $100,000 but more than 50% of its reconstruction cost, alternative sites would have to be examined. However, if the remaining investment is greater than 50%, and if the reconstruction cost is less than $100,000, then FEMA does not believe that an alternative site is practicable. However, FEMA still must determine if the floodplain site is itself practicable and if there are alternative actions which would accomplish substantially the same objectives but with less of a flood risk potential. Because of these requirements, the $100,000/50% criterion is considered more appropriate than a $10,000 threshold.

One commentator suggested that even if alternative sites are not addressed, that FEMA should still perform Step 7, Final public notice, and inform the public as to why the floodplain or wetland is the only practicable alternative. Since the focus of final public notice is explaining why the action could not be located outside of a floodplain or wetland, FEMA deemed it unnecessary to apply this step to actions for which alternative sites are categorically not practicable.

One comment suggested that each specific FEMA action covered by the regulations should be cited in the scope section. We felt that it was more effective to state:

> These regulations apply to all Agency actions which have the potential to affect floodplains or wetlands or their occupants or which are subject to potential harm by location in floodplains or wetlands.

Some comments stated that FEMA should take affirmative steps to foster the goals of floodplain management and wetlands protection. It is anticipated that FIA will review the criteria of the National Flood Insurance Program and that the Office of Disaster Response and Recovery will review its section 406 Hazard Mitigation regulations in light of the policies established by these regulations. In addition, FIA is now implementing section 1362 of the National Flood Insurance Act of 1968, as amended, entailing acquisition of flood damaged properties and replacement with open space.

A few comments asserted that the regulations should address actions which individually or cumulatively could impact on floodplains or wetlands. Section 9.5(a)(2) was changed to read:

> The basic test of the potential of an action to affect floodplains or wetlands is the action's potential (both by itself and when viewed cumulatively with other proposed actions) to result in the long or short term impacts associated with: * * *

One commentator recommended that the repair of roadways and culverts be exempted from the entire 8 step process. The rationale was that any analysis should have been done at the time the road or culvert was initially constructed. FEMA believes that in the post-disaster situation the Agency is in a position to correct past mistakes. Even if there may be only a limited opportunity to avoid the floodplain, there may still be significant possibilities for minimization of harm to and within the floodplain.

Another comment suggested that flood control facilities should be exempted from the decision-making process. If such facilities are to be built at all, they are typically built in floodplains. However, nonstructural floodplain management and "no action" present alternatives to flood control works. Further, flood control works often should not be built if they would engender a false sense of security and the new development which will result. When they are built, these facilities must be constructed safely and in a manner which minimizes harm to the environment.

Four changes in § 9.5 should be noted. Section 9.5(a)(3)(i) provides that where an action was begun as of May 24, 1977, the effective date of the Orders, and is not complete as of the effective date of these regulations, that FEMA must determine if the action has progressed beyond critical stages in the decision-making process. The regulation now adds that this determination need only be made at the time that followup actions are being taken to complete or implement the action in question. This provision was added so FEMA would not have to go through all of its files to determine the status of each, when no FEMA action is called for.

The scope section applicable to debris removal has also been changed. It had been included in § 9.5(d), and applied to

> Debris removal (sec. 403); except those grants involving non-emergency disposal of debris within the floodplain or non-emergency removal of debris from the floodways.

The scope provision applicable to debris removal is now in § 9.5(c) and exempts debris removal from the 8-step process, as follows:

> Debris removal (sec. 403), except those grants involving non-emergency disposal of debris within a floodplain or wetland.

Minimal home repairs was moved from the § 9.13 Review for temporary housing to § 9.5(c) where it is totally exempt from the 8-step process. Minimal home repair under section 404(c) of the Disaster Relief Act of 1974 is quite similar to limited home repair which had already been excluded from the 8-step process in the interim regulations. The two programs are intended to provide assistance in repairing minimally damaged homes to a habitable condition. In neither program does the assistance provided approach the $3,750 ceiling on limited home repairs. Minimal home repair is rarely used; to the extent that it is employed, the average grant is estimated to be about $600–$700. This is also the average for limited home repair. FEMA has determined that such actions do not have the potential to affect floodplains or wetlands or their occupants, or to be subject to potential harm by location in floodplains or wetlands.

Also added to the list of exempt actions are repairs of less than $5,000 performed under section 402 (of the Disaster Relief Act) to damaged structures or facilities. However, actions in a floodway or coastal high hazard area, and new or substantially improved structures or facilities are not subject to the exemption. Based in part on our experience in applying the interim regulation to the southern California disaster of January, 1980, it became clear that public assistance actions costing less than $5,000 offered little, if any, opportunity for hazard mitigation, particularly where the action was not a new or substantially improved structure or facility, and when it was not located in a floodway or coastal high hazard area. Where those opportunities do arise, even for actions below $5,000, FEMA will take advantage of them. In a fairly large disaster, such as southern California, when the Agency is confronted with about 8,000 actions in a short period of time, we see the need to devote our resources in the area of floodplain management where they will be most effective. At the same time, we do not want to overlook actions which have the potential for flood damage, either to themselves or to others. We believe that by drawing the line at $5,000, and limiting the exception to actions which do not constitute new or substantially improved structures and facilities, and those outside of high hazard areas, that FEMA has struck an appropriate balance. In the interim regulation, we had already exempted most individual and family grant actions, which could amount to $3,750 per structure. Where an action has been exempted, but the Regional Director sees the need to apply the 8-step process, this analysis shall be performed.

Clarification of the application of both the Executive Orders to the National Flood Insurance Program (NFIP) was necessary. The two Executive Orders do apply to the administration of the NFIP as do these regulations.

The practical question has been raised of how the 8-step decision-making process is to be applied to FIA's issuance of insurance policies, the terms of the policy, its floodplain management criteria applicable to local communities and its insurance rates. For instance, must the 8-step process be carried out every time FIA issues an insurance policy or admits a community into the program? The "action" to which the 8-step process must be applied under the regulations is the *establishment* of programmatic criteria, not the *application* of programmatic criteria to individual situations. Thus for example, FIA would apply the 8-step process to a programmatic determination of categories of structures to be insured, but would not be expected to apply an 8-step review to a determination of whether to insure each individual structure. The substantive concepts of (1) avoidance of the floodplain if a practicable alternative exists (steps 3 and 6), and (2) minimizaton of harm to and within the floodplain (step 5) are to be applied on an overall programmatic basis. Early (step 2) and final (step 7) notices can be given by publication of proposed and final regulations or other notices in the **Federal Register** much along the lines of current publication actions. The assessment of impacts (steps 4) can be accomplished by an environmental assessment or an environmental impact statement, as appropriate.

Also, FIA will review its floodplain management criteria, its insurance rates, its mapping procedures, the terms of the Standard Flood Insurance Policy, the conditions of insurability and where insurance is to be made available in light of the 8-step process. FIA will provide the Director with a written report by December 1, 1980, indicating the results of its review and any appropriate changes.

Because most of what FIA does in administering the NFIP is performed on a program wide basis, and FIA is thus applying the 8-step process programmatically, § 9.5(f) (a new subsection) provides for types of actions for which applications of the 8-step process is not required on an action by action basis. This exemption emphasizes the importance of FIA's programmatic analysis. In particular, FIA will apply the following concepts to its program wide review of the NFIP (1) avoidance of floodplains and wetlands unless no practicable alternative exists, and (2) minimization of harm to and within floodplains and wetlands.

Further, the Office of General Counsel has determined that FIA has the authority to restrict the availability of flood insurance, even in communities participating in the NFIP. As is discussed below, changes were made in §§ 9.9(e)(6) and 9.11(e)(4) in which FIA is exercising this authority.

§ 9.6 Decision-making Process

No outside comments were received on this section but one change was made. At the end of § 9.6(a), the following is added:

> The numbering of Steps 1 through 8 does not firmly require that the steps be followed sequentially. As information is gathered throughout the decision-making process, and as additional information is needed, re-evaluation of lower numbered steps may be necessary.

For example, if the information initially gathered under Step 1 turns out to be inadequate for compliance with Step 5, FEMA will return to Step 1 and augment its data base.

§ 9.7 Determination of Proposed Action's Location

One comment suggested the addition of groundwater flooding as an additional flooding characteristic to be identified by FEMA as appropriate. This was done by amending § 9.7(a)(2)(v)(I).

One comment suggested that FEMA be required to consult with the State wetland agency in every case. At present, FEMA must consult with the State wetland agency only if the U.S. Fish and Wildlife Service does not have the necessary information. If the U.S. Fish and Wildlife has the necessary data, no further investigation is warranted.

There were two contrary comments, one stating that too much information was required and the other stating that not enough information was required under Step 1. The key to Step 1 is the performance standard for FEMA to obtain sufficient information to enable it to comply with the Orders' requirements to (1) avoid floodplain and wetland locations unless they are the only practicable alternatives, and (2) minimize harm to and within floodplains and wetlands. In the case of a replacement structure, this may entail a great deal of information regarding flood elevations and specific hazards. In the case of reparing a 10 yard segment of a road that has been washed away, very little information may be necessary. In the case of replacement of a bridge, it may entail stream-cross-sections. Whatever it takes to know if the floodplain location is or is not practicable, and what it will take to minimize the hazard and harm to the environment is the amount of information that FEMA must collect.

Aside from these changes, the only other alterations to § 9.7 were organizational in nature—in the interest of clarity.

§ 9.8 Public Notice Requirements

There were no outside comments received on this section. Several changes were made, however.

Section 9.8(a) was amended to indicate that public notice would be given for any proposed action "in or affecting floodplains or wetlands."

Sections 9.8(c)(3) and 9.8(c)(7) were altered to indicate that cumulative notice may be permitted and to set out the factors upon which its appropriateness must be determined.

Section 9.8(c)(5)(ii) was changed to indicate that instead of publication of a map of the area, FEMA may state that such map is available for public inspection and provide the telephone number and address at which the map may be inspected.

§ 9.9. Analysis and Re-Evaluation of Practicable Alternatives

One outside comment was received on this section. It stated that FEMA should emphasize the presumption against floodplain development built into the "practicability" requirement of the Orders. We agree with the comment and believe that this concept is already emphasized. In section 9.9(e), FEMA is not allowed to act in a floodplain unless the importance of the floodplan site "clearly outweights" the objectives of E.O. 11988, with "great weight" in this balancing process being given to the objectives of the Order. However, at the suggestion of this commenter, § 9.8(a)(1) was changed to require the avoidance of floodplains and wetlands "unless there is no practicable alternative" rather than "wherever practicable."

There were a couple of other substantive changes made. Section 9.9(b) was amended to delete the

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preface: "Upon completion of determination of Steps 1 and 2 . . ." This was deleted to be consistent with the new provision for the reordering of steps in § 9.6. Also, in § 9.6, "at a minimum" at the end of the paragraph was deleted because alternative sites, alternative actions and no action are the only alternatives which FEMA must consider.

Section 9.9(e) was clarified by adding:

> Upon determination of *the impact of the proposed action to or within the floodplain or wetland and of* what measures are necessary to comply with the requirement to minimize harm to and within floodplains and wetlands (§ 9.11) FEMA shall: * * *

A new § 9.9(e)(6) was added:

> In any case in which the Regional Director has selected the "no action" option, FIA may not provide a new or renewed contract of flood insurance for that structure.

It would be inconsistent for FEMA to deny disaster assistance for a structure and then provide flood insurance on the same structure. Whatever the factors which justify selecting the "no action" option for disaster assistance under § 9.9(e)(5) will also provide the same justification for denying flood insurance. Of course, an existing policy of flood insurance will run to the end of the policy year.

§ 9.10 Identify Impacts of Proposed Actions

No outside comments were received on this section. Two changes were made, however, both to § 9.10(b). The Agency is required to identify the potential direct and indirect adverse impacts instead of the "full range of" all such impacts. This language was deleted because it added nothing to the sentence. At the end of § 9.10(b), a provision was added parallel to that of § 9.7 which makes clear that FEMA must collect enough information to enable it to comply with the Orders' requirements to avoid floodplain and wetland locations unless they are the only practicable alternatives and to minimize harm to and within floodplains and wetlands.

§ 9.11 Mitigation

Quite a number of comments were received on this section and several changes were made.

Several comments expressed the view that new and substantially improved structures should be elevated above the 100-year level by one or two feet. Over the last decade, the 100-year level has come to be accepted as the standard to which new construction must be built. Some standards have been lower (Federal Housing Administration) and some have been higher (Corps of Engineers' Standard Project Flood). However, the 100-year level has been accepted as the nationwide standard for new construction under the National Flood Insurance Program and E.O. 11988. We do not see sufficient basis to alter this now commonly accepted standard. There is one exception. For critical actions, those for which even a slight chance of flooding would be too great, FEMA will apply the 500-year standard.

One comment stated that the only mitigation provision which FEMA applies to bridges is the floodway encroachment standard. While this may be the only specific standard, if a bridge is to be repaired or replaced, harm to and within the floodplain must be minimized. Thus, if in order to minimize such harm, a bridge must be enlarged or otherwise redesigned, this is what FEMA will do. Even before reaching that point, FEMA must determine if the alternative action and no action alternatives are appropriate or if the floodplain is itself a practicable location. FEMA does intend to address minimization standards for specific actions in handbook form.

One comment stated that no FEMA funds in floodplains should be approved unless flood insurance is purchased. Any such requirement is based on the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and is set out in other Agency regulations. It is not appropriate for these regulations.

One comment suggested that there should be no provision for variances from FEMA's minimization standards. With two exceptions, there are no variances allowed. Where FIA has granted an exception, or the community has granted a variance which FEMA determines is consistent with 44 CFR 60.6(a), then a variance from the elevation requirements (§ 9.11(d)(3)) is allowable. Where a Flood Insurance Rate Map is not in effect (and thus there are probably no local elevation requirements), FEMA may approve a variance from the elevation requirements (§ 9.11(d)(3)) after compliance with the standards of 44 CFR § 60.6(a). The latter provision represents a change from the interim rule to alleviate potential inequities in emergency program communities. We believe that the standards of 44 CFR § 60.6 will relieve such inequities in the flood fringe without allowing the exception to become the rule. Further, no variances are allowable from the standards applicable to coastal high hazard areas and floodways.

One comment suggested that the regulations should not distinguish between floodways and coastal high hazard areas regarding substantial improvements; that substantial improvements should be prohibited in coastal high hazard areas and not just in floodways. We do find that distinction appropriate in light of the encroachment factor in floodways which is not present in coastal high hazard areas. Since a structure or facility in a floodway can aggravate the flood hazard for others by increasing flood heights upstream and downstream, it is justifiable to treat structures and facilities in floodways differently than those in coastal high hazard areas.

It was also suggested that while functionally dependent uses and actions which facilitate open space uses are excluded from the floodway and coastal high hazard area prohibitions, that the rest of the regulation still applies to such actions. We agree and this is made clear in § 9.11(d)(5) which emphasizes the "practicability" and "minimization" standards. This concept is re-emphasized by new language at the beginning of § 9.11(d).

One comment asserted that a zero rise floodway rather than a 1 foot rise floodway should be used. This was not done for a couple of reasons. First, this was one area where consistency with the National Flood Insurance Program was important. Second, the Water Resources Council's guidelines use the regulatory (one foot rise) floodway. On a similar subject, we recognize that in a post-disaster situation, regardless of the encroachment standard used, such standard will not preclude repair of structures that were already in the floodway as the flood heights used are those which existed prior to and not after the disaster. However, if FEMA has an opportunity to reduce flood heights, it may well be required to do so under the "minimization" standard.

A couple of comments were to the effect that the sections regarding the restoration and preservation of natural and beneficial floodplain values should be set out in greater detail. The Agency believes that its use of performance standards is appropriate. It is also quite difficult to establish specific standards in this area. To the extent that anyone has specific suggestions as to how this has, or could be done, FEMA welcomes them. Such suggestions could form the basis of a handbook or other Agency guidance.

Quite a number of changes were made in this section. Most basically the section was reorganized to apply one set of minimization standards to the disaster assistance program, another set of standards to the National Flood Insurance Program (NFIP), and the general requirement of "minimization" to the rest of the Agency. In its administration of the NFIP, FIA does not take site specific actions (with a couple of minor exceptions). Rather, it establishes criteria for the availability of flood insurance and other forms of Federal assistance. This is in contrast to the implementation of the disaster assistance program under which disaster assistance is provided on a site specific basis. There are also basic differences between administering 40,000 to 50,000 individual disaster relief actions per year versus 1.8 million insurance policies in force and renewed each year.

The specific minimization standards in the interim rule applicable to the disaster assistance program have been altered slightly. Section 9.11(d) (1) and (2) were reworded for clarity and now appear at § 9.11(d)(1). Section 9.11(d)(3) (of the interim regulation) required those structures which were not prohibited in floodways to be elevated on piles or columns. This provision was taken out because of information indicating that piles or columns might be dangerous in a floodway. However, even if a structure is built in the floodway, it may not violate the encroachment standards, and of course must be elevated. Only if a new or substantially improved structure or facility is a functionally dependent use or facilitates an open space use may it be placed in a floodway.

As discussed above, § 9.11(d)(3) was changed to allow for variances from the elevation requirements, even in communities without flood elevations in effect under the NFIP.

Section 9.11(d)(7) was clarified to address new structures and substantial improvements. For the reasons set out above, new and substantially improved structures do not have to be elevated on piles or columns in floodways—fill is acceptable provided it does not violate the encroachment standards.

Section 9.11(e) establishes specific minimization standards for the NFIP. There are several basic provisions. First, FIA is to identify all coastal high hazard areas, with or without base flood elevations, by October 1, 1981. Second, FIA may only provide flood insurance for a new or substantially improved structure in a coastal high hazard area if the structure is elevated to the 100-year level including wave heights and such structure is rated to reflect the actual risk. These latter requirements shall take effect no later than February 1, 1981. The structure must also be adequately anchored. FIA is to notify communities with coastal high hazard areas and federally related lenders in such communities of the provisions of this paragraph. Notice to the lenders may be accomplished by the Federal instrumentalities to which the lenders are related.

FIA recently adopted a reliable method of determining wave heights. The first maps with wave heights went into effect in April of this year. In order to realistically appraise the risk in coastal areas, it is necessary to apply wave heights for insurance rating. In order to protect new development from the real risk, new and substantially improved structures must be built to the wave height level. Without applying wave heights in areas where they are known to be a factor (coastal high hazard areas), insurance availability would encourage unwise development by providing coverage and not requiring adequate elevation of structures.

Finally, wherever the Regional Director has been, pursuant to § 9.11(d)(1), precluded from providing assistance for a new or substantially improved structure in a floodway, FIA may not provide a new or renewed policy of flood insurance for that structure. In an effort to minimize harm by clearing the floodway of encroachments, FIA should not be insuring those structures in floodways for which disaster assistance will not be provided. An existing flood insurance policy will run to the end of the policy year.

The requirements of § 9.11 to minimize harm to people and property in floodplains goes far beyond the specific standards of § 9.11(d) and (e). In fact, these subsections are merely the bottom line. "Minimize" is defined as reducing to the smallest amount or degree possible. In order to comply with this standard FEMA will often have to go beyond the specific requirements of § 9.11(d) and (e). Compliance with local codes and other established criteria may also be inadequate to achieve minimization in many circumstances. However, FEMA will not be expected to employ unworkable means to reduce the risk to the smallest amount or degree possible.

§ 9.12 Final Public Notice

Only one comment was received on this section. It stated that the 15-day waiting period after the final public notice and prior to carrying out the action is too short. It is FEMA's determination that the § 9.12(f) standard of "15 days without good cause shown" is reasonable, particularly in the post-disaster situation.

There were a few changes made to this section. The first sentence was qualified to apply the section where "the Agency decides to take an action in or affecting a floodplain or wetland." This is consistent with the Orders.

There were several additions to § 9.12(d). First, the relationship between final public notice under the Orders and the OMB A-95, EIS, and environmental assessment processes was clarified.

Parallel to § 9.8, cumulative notice is provided for and the factors upon which it is to be allowed are set out. Due to the nature of the notice in explaining why the action is to be located in a floodplain, it is more difficult to justify cumulative notice in § 9.12 than in § 9.8. There must be a definite similarity among the actions to be covered by the notice to justify a cumulative notice. Unless this similarity exists, the cumulative notice will fail to address the issues required by § 9.12(e). Thus "similarity" was added as a factor needed for cumulative notice.

Section 9.12(d) also allows for early notice (§ 9.8) and final notice (§ 9.12) to be accomplished by a single notice where a damaged structure or facility is already being repaired by the State or local government at the time of the Damage Survey Report. Such notice is to contain the information required by both sections. The single notice is only allowable where the repair was not under federal control at the time it was initiated.

The final change in this section is to § 9.12(e)(7) which now allows, as an alternative to publishing a map of the area, inclusion of a statement that such map is available for public inspection with the address and telephone number of the location at which it may be inspected. FEMA recognizes that it may be unwieldy to publish this map.

§ 9.13 Particular Types of Temporary Housing

Several comments were received on this section. Comments suggested that "temporary housing" be clarified or defined to ensure its temporariness. To the extent that it is not temporary, the comments assert, there should be no special provision made for it. Temporary housing is defined at 44 CFR 205.45. While no specific time limit is placed on it, there is a performance standard applied which in practice limits the time for which the housing may be made available. Experience bears out this practical limitation.

Another comment pointed out that the requirement to elevate mobile homes placed for temporary housing to the greatest extent practicable might not comply with § 9.13(d)(4)(ii) which requires compliance with the provisions of the NFIP. In acknowledgment of this concern, to § 9.13(d)(4)(ii) was added: "Such standards may require elevation

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to the base flood level in the absence of a variance."

One comment states that the requirement to elevate structures to the 100-year level should also be applied to mobile homes used for temporary housing. As was explained in the preamble to the interim regulations, it is not always practicable to elevate mobile homes to the 100-year level when they are being placed as temporary housing on a private or commercial site. Due to their structural character, it may be creating a danger to elevate mobile homes to a given level. Since mobile homes are the last resort for temporary housing and they are being placed temporarily, it is not always practicable to elevate mobile homes to the 100-year flood level. However, they must be elevated to the fullest extent practicable.

Section 9.13(e) was amended to no longer prohibit the sale of mobile homes in floodplains. The prohibition still applies in coastal high hazard areas and floodways. In the remainder of the floodplain, mobile homes may only be sold if after application of the 8-step process it is found that there is (1) a compelling need of the family or individual to buy a mobile home for permanent housing, and (2) a compelling requirement to locate the unit in a floodplain. Further, wherever FEMA sells or otherwise disposes of a mobile home in a floodplain, the unit is to be elevated to the 100-year level. The Regional Director is to notify the Associate Director for Disaster Response and Recovery whenever a floodplain location has been found to be the only practicable alternative for a mobile home sale.

§ 9.14 Disposal of Agency Property

A couple of comments were received on this section. One said that since the "no action" alternative is always viable, there is no reason to consider incompatible uses and therefore the priorities set out in § 9.14(b)(7) are unnecessary. We do not believe that the "no action" alternative will always be viable. However, due to the assortment of objectives associated with property disposal, the priorities of § 9.14(b)(7) are prefaced by the following:

> To the extent that it would decrease the flood hazard to property and lives * * *.

The only changes may to § 9.14 were editorial.

§ 9.15 Planning Programs Affecting Land Use

No comments were received on this section and no changes were made in it.

§ 9.16 Notice to Private Persons

No comments were received on this section. However, after intra-agency discussion it was decided that section 4 of Executive Order 11988, after which this section was modeled, does not apply to FEMA as this Agency does not guarantee, approve, regulate or insure any financial transaction related to floodplains. We therefore took § 9.16 Notice to private persons out of the regulations altogether.

§ 9.16 Guidance to Applicants (Formerly § 9.17)

No comments were received on this section and no changes were made.

§ 9.17 Instructions to Applicants (Formerly § 9.18)

No comments were received on this section and no changes were made.

§ 9.18 Responsibilities (Formerly § 9.19)

No comments were received on this section and one change was made. To § 9.18(b)(1) was added a provision allowing the Associate Director for Disaster Response and Recovery to decide appeals of determinations made by the Regional Director.

§ 9.19 Delegation of Authority

This is a new section delegating the consultation function under section 2(d) of Executive Order 11988, as amended by section 5-207 of Executive Order 12148 to the Federal Insurance Administrator. Executive Order 11988 had originally delegated this function directly to FIA. With FIA's reorganization into FEMA, Executive Order 12148 delegated the consultation role to FEMA. Under this regulation, FIA will act as consultant to other federal agencies as these agencies develop their floodplain management regulations. FIA participates with the Council on Environmental Quality and the Water Resources Council in performing this function.

Accordingly, Chapter 1 of Title 44, Code of Federal Regulations is amended as follows:

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Sec.
9.1 Purpose of part.
9.2 Policy.
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9.10 Identify impacts of proposed actions.
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9.13 Particular types of temporary housing.
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9.19 Delegation of authority.
Appendix A—Decision-Making Process for E.O. 11988.

Authority: Executive Order 11988, May 24, 1977; Executive Order 11990, May 24, 1977; Reorganization Plan No. 3 of 1978 (43 FR 41943); Executive Order 12127, April 1, 1979; Executive Order 12148, July 20, 1979.

§ 9.1 Purpose of part.

This regulation sets forth the policy, procedure and responsibilities to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

§ 9.2 Policy.

(a) FEMA shall take no action unless and until the requirements of this regulation are complied with.

(b) It is the policy of the Agency to provide leadership in floodplain management and the protection of wetlands. Further, the Agency shall integrate the goals of the Orders to the greatest possible degree into its procedures for implementing NEPA. The Agency shall take action to:

(1) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the destruction and modification of wetlands;

(2) Avoid direct and indirect support of floodplain development and new construction in wetlands wherever there is a practicable alternative;

(3) Reduce the risk of flood loss;

(4) Promote the use of nonstructural flood protection methods to reduce the risk of flood loss;

(5) Minimize the impact of floods on human health, safety and welfare;

(6) Minimize the destruction, loss or degradation of wetlands;

(7) Restore and preserve the natural and beneficial values served by floodplains;

(8) Preserve and enhance the natural values of wetlands;

(9) Involve the public throughout the floodplain management and wetlands protection decision-making process;

(10) Adhere to the objectives of the Unified National Program for Floodplain Management; and

(11) Improve and coordinate the Agency's plans, programs, functions and resources so that the Nation may attain

the widest range of beneficial uses of the environment without degradation or risk to health and safety.

§ 9.3 Authority.

The authority for these regulations is (a) Executive Order 11988, May 24, 1977, which replaced Executive Order 11296, August 10, 1966, (b) Executive Order 11990, May 24, 1977, (c) Reorganization Plan No. 3 of 1978 (43 FR 41943); and (d) Executive Order 12127, April 1, 1979 (44 FR 1936). E.O. 11988 was issued in furtherance of the National Flood Insurance Act of 1968, as amended (Pub. L. 90–488); the Flood Disaster Protection Act of 1973, as amended (Pub. L. 92–234); and the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190). Section 2(d) of Executive Order 11988 requires issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions. E.O. 11990 was issued in furtherance of NEPA, and at section 6 required issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions.

§ 9.4 Definitions.

The following definitions shall apply throughout this regulation.

Action means any action or activity including: (a) acquiring, managing and disposing of federal lands and facilities; (b) providing federally undertaken, financed or assisted construction and improvements; and (c) conducting federal activities and programs affecting land use, including, but not limited to, water and related land resources, planning, regulating and licensing activities.

Actions Affecting or Affected by Floodplains or Wetlands means actions which have the potential to result in the long- or short-term impacts associated with (a) the occupancy or modification of floodplains, and the direct or indirect support of floodplain development, or (b) the destruction and modification of wetlands and the direct or indirect support of new construction in wetlands.

Agency means the Federal Emergency Management Agency (FEMA).

Agency Assistance means grants for projects or planning activities, loans, and all other forms of financial or technical assistance provided by the Agency.

Associate Director means the head of any Office or Administration of the Federal Emergency Management Agency, who has programmatic responsibility for a particular action.

Base Flood means the flood which has a one percent chance of being equalled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

Base Floodplain means the 100-year floodplain (one percent chance floodplain).

Coastal High Hazard Area means the areas subject to high velocity waters including but not limited to hurricane wave wash or tsunamis. On a Flood Insurance Rate Map (FIRM), this appears as zone V1–30.

Critical Action means an action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 500-year floodplain, i.e., critical action floodplain. Critical actions include, but are not limited to, those which create or extend the useful life of structures or facilities:

(a) such as those which produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;

(b) such as hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;

(c) such as emergency operation centers, or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(d) such as generating plants, and other principal points of utility lines.

Direct Impacts means changes in floodplain or wetland values and functions and changes in the risk to lives and property caused or induced by an action or related activity. Impacts are caused whenever these natural values and functions are affected as a direct result of an action. An action which would result in the discharge of polluted storm waters into a floodplain or wetland, for example, would directly affect their natural values and functions. Construction-related activities, such as dredging and filling operations within the floodplain or a wetland would be another example of impacts caused by an action.

Director means the Director of the Federal Emergency Management Agency (FEMA).

Emergency Actions means emergency work essential to save lives and protect property and public health and safety performed under sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146). See 44 CFR 205, subpart E.

Enhance means to increase, heighten, or improve the natural and beneficial values associated with wetlands.

Facility means any man-made or man-placed item other than a structure.

FEMA means the Federal Emergency Management Agency.

FIA means the Federal Insurance Administration.

Five Hundred Year Floodplain (the 500-year floodplain or 0.2 percent change floodplain) means that area, including the base floodplain, which is subject to inundation from a flood having a 0.2 percent chance of being equalled or exceeded in any given year.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Fringe means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe").

Floodplain means the lowland and relatively flat areas adjoining inland and coastal waters including, at a minimum, that area subject to a one percent or greater chance of flooding in any given year. Wherever in this regulation the term "floodplain" is used, if a critical action is involved, "floodplain" shall mean the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year (500-year floodplain). "Floodplain" does not include areas subject only to mudflow until FIA adopts maps identifying "M" Zones.

Floodproofing means the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out, or to reduce effects of water entry.

Floodway means that portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest, i.e., where water depths and velocities are the greatest. It is that area which provides for the discharge of the base flood so the cumulative increase in water surface elevation is no more than one foot.

Flood Hazard Boundary Map (FHBM) means an offical map of a community, issued by the Director, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards have been designated as Zone A, M, or E.

Flood Insurance Rate Map (FIRM) means an official map of a community on which the Director has delineated both the special hazard areas and the

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risk premium zones applicable to the community.

Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, (e.g., bridges, and piers).

Indirect Impacts means an indirect result of an action whenever the action induces or makes possible related activities which effect the natural values and functions of floodplains or wetlands or the risk to lives and property. Such impacts occur whenever these values and functions are potentially affected, either in the short- or long-term, as a result of undertaking an action.

Minimize means to reduce to the smallest amount or degree possible.

Mitigation means all steps necessary to minimize the potentially adverse effects of the proposed action, and to restore and preserve the natural and beneficial floodplain values and to preserve and enhance natural values of wetlands.

Natural Values of Floodplains and Wetlands means the qualities of or functions served by floodplains and wetlands which include but are not limited to: (a) water resource values (natural moderation of floods, water quality maintenance, groundwater recharge); (b) living resource values (fish, wildlife, plant resources and habitats); (c) cultural resource values (open space, natural beauty, scientific study, outdoor education, archeological and historic sites, recreation); and (d) cultivated resource values (agriculture, aquaculture, forestry).

New Construction means the construction of a new structure (including the placement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed.

New Construction in Wetlands includes draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective dates of the Orders, May 24, 1977.

Orders means Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

Practicable means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of all pertinent factors, such as environment, cost and technology.

Preserve means to prevent alterations to natural conditions and to maintain the values and functions which operate the floodplains or wetlands in their natural states.

Regional Director means the Regional Director of the Federal Emergency Management Agency for the Region in which FEMA is acting or the Disaster Recovery Manager when one is designated.

Regulatory Floodway means the area regulated by federal, State or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program).

Restore means to reestablish a setting or environment in which the natural functions of the floodplain can again operate.

Structures means walled or roofed buildings, including mobile homes and gas or liquid storage tanks.

Substantial Improvement means any repair, reconstruction or other improvement of a structure or facility, which has been damaged in excess of, or the cost of which equals or exceeds, 50% of the market value of the structure or replacement cost of the facility (including all "public facilities" as defined in the Disaster Relief Act of 1974) (a) before the repair or improvement is started, or (b) if the structure or facility has been damaged and is proposed to be restored, before the damage occurred. If a facility is an essential link in a larger system, the percentage of damage will be based on the relative cost of repairing the damaged facility to the replacement cost of the portion of the system which is operationally dependent on the facility. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

Support means to encourage, allow, serve or otherwise facilitate floodplain or wetland development. Direct support results from actions within a floodplain or wetland, and indirect support results from actions outside of floodplains or wetlands.

Wetlands means those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to, swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mud flats, river overflows and other similar areas. This definition includes those wetlands areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid-fill road beds and activities such as mineral extraction and navigation improvements. This definition is intended to be consistent with the definition utilized by the U.S. Fish and Wildlife Service in the publication entitled *Classification of Wetlands and Deep Water Habitats of the United States* (Cowardin, et al., 1977).

§ 9.5 Scope.

(a) *Applicability.* (1) These regulations apply to all Agency actions which have the potential to affect floodplains or wetlands or their occupants, or which are subject to potential harm by location in floodplains or wetlands.

(2) The basic test of the potential of an action to affect floodplains or wetlands is the action's potential (both by itself and when viewed cumulatively with other proposed actions) to result in the long- or short-term adverse impacts associated with:

(i) The occupancy or modification of floodplains, and the direct and indirect support of floodplain development; or

(ii) The destruction or modification of wetlands and the direct or indirect support of new construction in wetlands.

(3) This regulation applies to actions that were, on the effective date of the Orders (May 24, 1977), ongoing, in the planning and/or development stages, or undergoing implementation, and are incomplete as of the effective date of these regulations. The regulation also applies to proposed (new) actions. The Agency shall:

(i) Determine the applicable provisions of the Orders by analyzing whether the action in question has progressed beyond critical stages in the floodplain management and wetlands protection decision-making process, as set out below in § 9.6. This determination need only be made at the time that followup actions are being taken to complete or implement the action in question; and

(ii) Apply the provisions of the Orders and of this regulation to all such actions to the fullest extent practicable.

(b) *Limited exemption of ongoing actions involving wetlands located outside the floodplains.* (1) Executive Order 11990, Protection of Wetlands, contains a limited exemption not found in Executive Order 11988, Floodplain Management. Therefore, this exemption applies only to actions affecting wetlands which are located outside the floodplains, and which have no potential to result in harm to or within floodplains or to support floodplain development.

(2) The following proposed actions that impact wetlands located outside of floodplains are exempt from this regulation:

(i) Agency-assisted or permitted projects which were under construction before May 24, 1977; and (ii) projects for which the Agency has proposed a draft of a final environmental impact statement (EIS) which adequately analyzes the action and which was filed before October 1, 1977. Proposed actions that impact wetlands outside of floodplains are not exempt if the EIS:

(A) Only generally covers the proposed action;

(B) Is devoted largely to related activities; or

(C) Treats the project area or program without an adequate and specific analysis of the floodplain and wetland implications of the proposed action.

(c) *Decision-making involving certain categories of actions.* The provisions set forth in this regulation are not applicable to the actions enumerated below except that the Regional Directors shall comply with the spirit of the Orders to the extent practicable. For any action which is excluded from the actions enumerated below, the full 8-step process applies (See § 9.6) except as indicated at paragraphs (d) and (f) of this section. The provisions of these regulations do not apply to the following (all references are to the Disaster Relief Act of 1974, Pub. L. 93–288, as amended):

(1) Assistance provided for emergency work essential to save lives and protect property and public health and safety performed pursuant to sections 305 and 306;

(2) Emergency Support Teams (sec. 304);

(3) Unemployment Assistance (sec. 407);

(4) Emergency Communications (sec. 415);

(5) Emergency Public Transportation (sec. 416);

(6) Fire Suppression Assistance (sec. 417);

(7) Community Disaster Loans (sec. 414), except to the extent that the proceeds of the loan will be used for repair of facilities or structures or for construction of additional facilities or structures;

(8) The following Individual and Family Grant Program (sec. 408) actions:

(i) Housing needs or expenses, except for restoring, repairing or building private bridges, purchase of mobile homes and provision of structures as minimum protective measures;

(ii) Personal property needs or expenses;

(iii) Transportation expenses;

(iv) Medical/dental expenses;

(v) Funeral expenses;

(vi) Limited home repairs;

(vii) Flood insurance premium;

(viii) Cost estimates;

(ix) Food expenses; and

(x) Temporary rental accommodations.

(9) Mortgage and rental assistance under sec. 404(b);

(10) Debris removal (sec. 403), except those grants involving non-emergency disposal of debris within a floodplain or wetland;

(11) Minimal home repairs (sec. 404(c));

(12) Repairs, under section 402, of less than $5,000 to damaged structures or facilities except for:

(i) actions in a floodway or coastal high hazard area; and

(ii) new or substantially improved structures or facilities.

(d) For each action enumerated below, the Regional Director shall apply steps 1, 2, 4, 5, and 8 of the decision-making process (§§ 9.7, 9.8, 9.10 and 9.11, see § 9.6). Steps 3 and 6 (§ 9.9) shall be carried out except that alternative sites outside the floodplain or wetland need not be considered. After assessing impacts of the proposed action on the floodplain or wetlands, and of the site on the proposed action, alternative actions to the proposed action, if any, and the "no action" alternative shall be considered. The Regional Director may also require certain other portions of the decision-making process to be carried out for individual actions as is deemed necessary. For any action which is excluded from the actions listed below, except as indicated in paragraphs (c) and (f) of this section, the full 8-step process applies (see § 9.6). The references are to the Disaster Relief Act of 1974, Pub. L. 93–288, as amended.

(1) Actions performed under the Individual and Family Grant Program (sec. 408) for restoring or repairing a private bridge, except where two or more individuals or families are authorized to pool their grants for this purpose.

(2) Small project grants (sec. 419), except to the extent that federal funding involved is used for construction of new facilities or structures.

(3) Replacement of building contents, materials and equipment. (secs. 402 and 419).

(4) Repairs under section 402 to damaged facilities or structures, except any such action for which one or more of the following is applicable:

(i) FEMA estimated cost of repairs is more than 50% of the estimated reconstruction cost of the entire facility or structure, or is more than $100,000, or

(ii) The action is located in a floodway or coastal high hazard area, or

(iii) The facility or structure is one which has previously sustained structural damage from flooding due to a major disaster or emergency or on which a flood insurance claim has been paid, or

(iv) The action is a critical action.

(e) *Other categories of actions.* Based upon the completion of the 8-step decision-making process (§ 9.6), the Director may find that a specific category of actions either: offers no potential for carrying out the purposes of the Orders and shall be treated as those actions listed in § 9.5(c), or has no practicable alternative sites and shall be treated as those actions listed in § 9.5(d). This finding will be made in consultation with the Water Resources Council, the Federal Insurance Administration and the Council on Environmental Quality as provided in section 2(d) of E.O. 11988. Public notice of each of these determinations shall include publication in the **Federal Register**, and a 30 day comment period.

(f) *The National Flood Insurance Program (NFIP).*

(1) Most of what is done by FIA in adminstering the National Flood Insurance Program is performed on a program-wide basis. For all regulations, procedures or other issuances making or amending program policy, FIA shall apply the 8-step decision-making process to that program-wide action. The action to which the 8-step process must be applied is the establishment of programmatic standards or criteria, not the application of programmatic standards or criteria to specific situations. Thus, for example, FIA would apply the 8-step process to a programmatic determination of categories of structures to be insured, but not to whether to insure each individual structure. The two prime examples of where FIA does take site specific actions which would require individual application of the 8-step process are property acquisition under section 1362 of the National Flood Insurance Act of 1968, as amended, and the issuance of an exception to a community under 44 C.F.R. § 60.6(b). (See also § 9.9(e)(6) and § 9.11(e).)

(2) The provisions set forth in this regulation are not applicable to the actions enumerated below except that

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the Federal Insurance Administrator shall comply with the spirit of the Orders to the extent practicable:

(i) The issuance of individual flood insurance policies and policy interpretations;

(ii) The adjustment of claims made under the Standard Flood Insurance Policy;

(iii) The hiring of independent contactors to assist in the implementation of the National Flood Insurance Program;

(iv) The issuance of individual flood insurance maps, Map Information Facility map determinations and map amendments; and

(v) The conferring of eligibility for emergency or regular program (NFIP) benefits upon communities.

§ 9.6 Decision-making process.

(a) *Purpose.* The purpose of this section is to set out the floodplain management and wetlands protection decision-making process to be followed by the Agency in applying the Orders to its actions. While the decision-making process was initially designed to address the floodplain Order's requirements, the process will also satisfy the wetlands Order's provisions due to the close similarity of the two directives. The numbering of Steps 1 through 8 does not firmly require that the steps be followed sequentially. As information is gathered throughout the decision-making process and as additional information is needed, reevaluation of lower numbered steps may be necessary.

(b) Except as otherwise provided in § 9.5 (c), (d) and (f), when proposing an action, the Agency shall apply the 8-step decision-making process. FEMA shall:

Step 1. Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (500-year floodplain for critical actions); and whether it has the potential to affect or be affected by a floodplain or wetland (see § 9.7);

Step 2. Notify the public at the earliest possible time of the intent to carry out an action in a floodplain or wetland, and involve the affected and interested public in the decision-making process (see § 9.8);

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain or wetland (including alternative sites, actions and the "no action" option) (see § 9.9). If a practicable alternative exists outside the floodplain or wetland FEMA must locate the action at the alternative site.

Step 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action (see § 9.10);

Step 5. Minimize the potential adverse impacts and support to or within floodplains and wetlands to be identified under Step 4, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands (see § 9.11);

Step 6. Reevaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards to others, and its potential to disrupt floodplain and wetland values and second, if alternatives preliminarily rejected at Step 3 are practicable in light of the information gained in Steps 4 and 5. FEMA shall not act in a floodplain or wetland unless it is the only practicable location (see § 9.9);

Step 7. Prepare and provide the public with a finding and public explanation of any final decision that the floodplain or wetland is the only practicable alternative (see § 9.12); and

Step 8. Review the implementation and post-implementation phases of the proposed action to ensure that the requirements stated in § 9.11 are fully implemented. Oversight responsibility shall be integrated into existing processes.

§ 9.7 Determination of proposed action's location.

(a) The purpose of this section is to establish Agency procedures for determining whether any action as proposed is located in or affects (1) the base floodplain (the Agency shall substitute the 500-year floodplain for the base floodplain where the action being proposed involves a critical action), or (2) a wetland.

(b) *Information needed.* The Agency shall obtain enough information so that it can fulfill the requirements of the Orders to (1) avoid floodplain and wetland locations unless they are the only practicable alternatives; and (2) minimize harm to and within floodplains and wetlands. In all cases, FEMA shall determine whether the proposed action is located in a floodplain or wetland. In the absence of a finding to the contrary, FEMA may assume that a proposed action involving a facility or structure that has been flooded is in the floodplain. Information about the 100-year and 500-year floods and location of floodways and coastal high hazard areas may also be needed to comply with these regulations, especially § 9.11. The following additional flooding characteristics shall be identified by the Regional Director as appropriate:

(i) Velocity of floodwater;

(ii) Rate of rise of floodwater;

(iii) Duration of flooding;

(iv) Available warning and evacuation time and routes;

(v) Special problems:

(A) Levees;

(B) Erosion;

(C) Subsidence;

(D) Sink holes;

(E) Ice jams;

(F) Debris load;

(G) Pollutants;

(H) Wave heights;

(I) Groundwater flooding;

(J) Mudflow.

(c) *Floodplain determination.* (1) In the search for flood hazard information, FEMA shall follow the sequence below:

(i) The Regional Director shall consult the FIA Flood Insurance Rate Map (FIRM) the Flood Hazard Floodway Boundary Map (FHFBM) and the Flood Insurance Study (FIS).

(ii) If a detailed map (FIRM or FHFBM) is not available, the Regional Director shall consult an FIA Flood Hazard Boundary Map (FHBM). If data on flood elevations, floodways, or coastal high hazard areas are needed, or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site, the Regional Director shall seek the necessary detailed information and assistance from the sources listed below.

Sources of Maps and Technical Information

Department of Agriculture: Soil Conservation Service
Department of the Army: Corps of Engineers
Department of Commerce: National Oceanic and Atmospheric Administration
Federal Insurance Administration
FEMA Regional Offices/Division of Insurance and Hazard Mitigation
Department of the Interior:
  Geological Survey
  Bureau of Land Management
  Bureau of Reclamation
Tennessee Valley Authority
Delaware River Basin Commission
Susquehanna River Basin Commission
States

(iii) If the sources listed do not have or know of the information necessary to comply with the Orders' requirements, the Regional Director shall seek the services of a federal or other engineer experienced in this type of work.

(2) If a decision involves an area or location within extensive federal or state holdings or a headwater area, and an FIS, FIRM, FHFBM, or FHBM is not available, the Regional Director shall

seek information from the land administering agency before information and/or assistance is sought from the sources listed in this section. If none of these sources has information or can provide assistance, the services of an experienced federal or other engineer shall be sought as described above.

(d) *Wetland determination.* The following sequence shall be followed by the Agency in making the wetland determination.

(1) The Agency shall consult with the U.S. Fish and Wildlife Service (FWS) for information concerning the location, scale and type of wetlands within the area which could be affected by the proposed action.

(2) If the FWS does not have adequate information upon which to base the determination, the Agency shall consult wetland inventories maintained by the Army Corps of Engineers, the Environmental Protection Agency, various states, communities and others.

(3) If state or other sources do not have adequate information upon which to base the determination, the Agency shall carry out an on-site analysis performed by a representative of the FWS or other qualified individual for wetlands characteristics based on the performance definition of what constitutes a wetland.

(4) If an action is in a wetland but not in a floodplain, and the action is new construction, the provisions of this regulation shall apply. Even if the action is not in a wetland, the Regional Director shall determine if the action has the potential to result in indirect impacts on wetlands. If so, all adverse impacts shall be minimized. For actions which are in a wetland and the floodplain, completion of the decision-making process is required. (See § 9.6.) In such a case the wetland will be considered as one of the natural and beneficial values of floodplain.

§ 9.8 Public notice requirements.

(a) *Purpose.* The purpose of this section is to establish the initial notice procedures to be followed when proposing any action in or affecting floodplains or wetlands.

(b) *General.* The Agency shall provide adequate information to enable the public to have impact on the decision outcome for all actions having potential to affect, adversely, or be affected by floodplains or wetlands that it proposes. To achieve this objective, the Agency shall:

(1) Provide the public with adequate information and opportunity for review and comment at the earliest possible time and throughout the decision-making process; and upon completion of this process, provide the public with an accounting of its final decisions (see § 9.12); and

(2) Rely on its environmental assessment and OMB Circular A–95 processes, to the extent possible, as vehicles for public notice, involvement and explanation.

(c) *Early public notice.* The Agency shall provide opportunity for public involvement in the decision-making process through the provision of public notice upon determining that the proposed action can be expected to affect or be affected by floodplains or wetlands. Whenever possible, notice shall precede major project site identification and analysis in order to preclude the foreclosure of options consistent with the Orders.

(1) For an action for which an environmental impact statement is being prepared, the Notice of Intent to File an EIS is adequate to constitute the early public notice, if it includes the information required under paragraph (c)(5) of this section.

(2) For each action having national significance for which notice is being provided, the Agency shall use the **Federal Register** as the minimum means for notice, and shall provide notice by mail to national organizations reasonably expected to be interested in the action. The additional notices listed in paragraph (c)(4) of this section shall be used in accordance with the determination made under paragraph (c)(3) of this section.

(3) The Agency shall base its determination of appropriate notices, adequate comment periods, and whether to issue cumulative notices (paragraphs (c)(4), (c)(6) and (c)(7) of this section) on factors which include, but are not limited to:

(i) Scale of the action;

(ii) Potential for controversy;

(iii) Degree of public need;

(iv) Number of affected agencies and individuals; and

(v) Its anticipated potential impact.

(4) For each action having primarily local importance for which notice is being provided, notice shall be made in accordance with the criteria under paragraph(c)(3) of this section, and shall entail as appropriate:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A–95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Information required in the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(x) Holding a public hearing.

(5) The notice shall include:

(i) A description of the action, its purpose and a statement of the intent to carry out an action affecting or affected by a floodplain or wetland;

(ii) Based on the factors in (c)(3), above, a map of the area or other indentification of the floodplain and/or wetland areas which is of adequate scale and detail so that the location is descernible; instead of publication of such map, FEMA may state that such map is available for public inspection, including the location at which such map may be inspected and a telephone number to call for information;

(iii) Based on the factors in (c)(3), above, a description of the type, extent and degree of hazard involved and the floodplain or wetland values present; and

(iv) Identification of the responsible official or organization for implementing the proposed action, and from whom further information can be obtained.

(6) The Agency shall provide for an adequate comment period.

(7) In a post-disaster situation in particular, the requirement for early public notice may be met in a cumulative manner based on the factors set out in paragraph (c)(3) of this section. Several actions may be addressed in one notice or series of notices. For some actions involving limited public interest a single notice in a local newspaper or letter to interested parties may suffice.

(d) *Continuing public notice.* The Agency shall keep the public informed of the progress of the decision-making process through additional public notices at key points in the process. The preliminary information provided under paragraph (c)(5) of this section shall be augmented by the findings of the adverse effects of the proposed actions and steps necessary to mitigate them. This responsibility shall be performed for actions requiring the preparation of an EIS, and all other actions having the potential for major adverse impacts, or the potential for harm to the health and safety of the general public.

§ 9.9 Analysis and reevaluation of practicable alternatives.

(a) *Purpose.* (1) The purpose of this section is to expand upon the directives set out in § 9.6, above, in order to clarify and emphasize the Orders' key requirements to avoid floodplains and wetlands unless there is no practicable alternative.

(2) Step 3 is a preliminary determination as to whether the floodplain is the only practicable location for the action. It is a preliminary determination because it comes early in the decision-making process when the Agency has a limited amount of information. If it is clear that there is a practicable alternative, or the floodplain or wetland is itself not a practicable location, FEMA shall then act on that basis. Provided that the location outside the floodplain or wetland does not indirectly impact floodplains or wetlands or support development therein (see § 9.10), the remaining analysis set out by this regulation is not required. If such location does indirectly impact floodplains or wetlands or support development therein, the remaining analysis set out by this regulation is required. If the preliminary determination is to act in the floodplain, FEMA shall gather the additional information required under Steps 4 and 5 and then reevaluate all the data to determine if the floodplain or wetland is the only practicable alternative.

(b) *Analysis of practicable alternatives.* The Agency shall identify and evaluate practicable alternatives to carrying out a proposed action in floodplains or wetlands, including:

(1) Alternative sites outside the floodplain or wetland;

(2) Alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect or be affected by the floodplain or wetlands; and

(3) *No action.* The floodplain and wetland site itself must be a practicable location in light of the factors set out in this section.

(c) The Agency shall analyze the following factors in determining the practicability of the alternatives set out in paragraph (b), above:

(1) Natural environment (topography, habitat, hazards, etc.);

(2) Social concerns (aesthetics, historical and cultural values, land patterns, etc.);

(3) Economic aspects (costs of space, construction, services, and relocation); and

(4) Legal constraints (deeds, leases, etc.).

(d) *Action following the analysis of practicable alternatives.*

(1) The Agency shall not locate the proposed action in the floodplain or in a wetland if a practicable alternative exists outside the floodplain or wetland.

(2) For critical actions, the Agency shall not locate the proposed action in the 500-year floodplain if a practicable alternative exists outside the 500-year floodplain.

(3) Even if no practicable alternative exists outside the floodplain or wetland, in order to carry out the action the floodplain or wetland must itself be a practicable location in light of the review required in this section.

(e) *Reevaluation of alternatives.* Upon determination of the impact of the proposed action to or within the floodplain or wetland and of what measures are necessary to comply with the requirement to minimize harm to and within floodplains and wetlands (§ 9.11), FEMA shall:

(1) Determine whether:

(i) The action is still practicable at a floodplain or wetland site in light of the exposure to flood risk and the ensuing disruption of natural values;

(ii) The floodplain or wetland site is the only practicable alternative;

(iii) There is a potential for limiting the action to increase the practicability of previously rejected non-floodplain or wetland sites and alternative actions; and

(iv) Minimization of harm to or within the floodplain can be achieved using all practicable means.

(2) Take no action in a floodplain unless the importance of the floodplain site clearly outweighs the requirement of E.O. 11988 to:

(i) Avoid direct or indirect support of floodplain development;

(ii) Reduce the risk of flood loss;

(iii) Minimize the impact of floods on human safety, health and welfare; and

(iv) Restore and preserve floodplain values.

(3) Take no action in a wetland unless the importance of the wetland site clearly outweighs the requirements of E.O. 11990 to:

(i) Avoid the destruction or modification of the wetlands;

(ii) Avoid direct or indirect support of new construction in wetlands;

(iii) Minimize the destruction, loss or degradation of wetlands; and

(iv) Preserve and enhance the natural and beneficial values of wetlands.

(4) In carrying out this balancing process, give the factors in paragraphs (e)(2) and (3), above, the great weight intended by the Orders.

(5) Choose the "no action" alternative where there are no practicable alternative actions or sites and where the floodplain or wetland is not itself a practicable alternative. In making the assessment of whether a floodplain or wetland location is itself a practicable alternative, the practicability of the floodplain or wetland location shall be balanced against the practicability of not carrying out the action at all. That is, even if there is no practicable alternative outside of the floodplain or wetland, the floodplain or wetland itself must be a practicable location in order for the action to be carried out there. To be a practicable location, the importance of carrying out the action must clearly outweigh the requirements of the Orders listed in paragraphs (e) (2) and (e)(3) of this section. Unless the importance of carrying out the action clearly outweighs those requirements, the "no action" alternative shall be selected.

(6) In any case in which the Regional Director has selected the "no action" option, FIA may not provide a new or renewed contract of flood insurance for that structure.

§ 9.10 Identify impacts of proposed actions.

(a) *Purpose.* The purpose of this section is to ensure that the effects of proposed Agency actions are identified.

(b) The Agency shall identify the potential direct and indirect adverse impacts associated with the occupancy and modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action. Such identification of impacts shall be to the extent necessary to comply with the requirements of the Orders to avoid floodplain and wetland locations unless they are the only practicable alternatives and to minimize harm to and within floodplains and wetlands.

(c) This identification shall consider whether the proposed action will result in an increase in the useful life of any structure or facility in question, maintain the investment at risk and exposure of lives to the flood hazard or forego an opportunity to restore the natural and beneficial values served by floodplains or wetlands. Regional Offices of the U.S. Fish and Wildlife Service may be contacted to aid in the identification and evaluation of potential impacts of the proposed action on natural and beneficial floodplain and wetland values.

(d) In the review of a proposed or alternative action, the Regional Director shall specifically consider and evaluate: impacts associated with modification of wetlands and floodplains regardless of its location; additional impacts which may occur when certain types of actions may support subsequent action which have additional impacts of their own; adverse impacts of the proposed actions on lives and property and on natural and beneficial floodplain and wetland values; and the three categories of factors listed below:

(1) *Flood hazard-related factors.* These include for example, the factors listed in § 9.7(b)(2);

(2) *Natural values-related factors.* These include, for example, the following: Water resource values (natural moderation of floods, water quality maintenance, and ground water recharge); living resource values (fish and wildlife and biological productivity); cultural resource values (archeological and historic sites, and open space recreation and green belts); and agricultural, aquacultural and forestry resource values.

(3) *Factors relevant to a proposed action's effects on the survival and quality of wetlands.* These include, for example, the following: Public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion; maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

§ 9.11 Mitigation.

(a) *Purpose.* The purpose of this section is to expand upon the directives set out in § 9.6, above, and to set out the mitigative actions required if the preliminary determination is made to carry out an action that affects or is in a floodplain or wetland.

(b) *General provisions.* (1) The Agency shall design or modify its actions so as to minimize harm to or within the floodplain;

(2) The Agency shall minimize the destruction, loss or degradation of wetlands;

(3) The Agency shall restore and preserve natural and beneficial floodplain values; and

(4) The Agency shall preserve and enhance natural and beneficial wetland values.

(c) *Minimization provisions.* The Agency shall minimize:

(1) Potential harm to lives and the investment at risk from the base flood, or, in the case of critical actions, from the 500-year flood;

(2) Potential adverse impacts the action may have on others; and

(3) Potential adverse impact the action may have on floodplain and wetland values.

(d) *Minimization standards.* In its implementation of the Disaster Relief Act of 1974, the Agency shall apply at a minimum, the following standards to its actions to comply with the requirements of paragraphs (b) and (c), of this section: Except as provided in sections 9.5(c), and (d), any Agency action to which the following specific requirements do not apply, shall nevertheless be subject to the full 8-step process (see § 9.6) including the general requirement to minimize harm to and within floodplains:

(1) There shall be no new construction or substantial improvement in a floodway, and no new construction in a coastal high hazard area, except for:

(i) A functionally dependent use; or

(ii) A structure or facility which facilitates an open space use.

(2) For a structure which is a functionally dependent use, or which facilitates an open space use, the following applies. There shall be no construction of a new or substantially improved structure in a coastal high hazard area unless it is elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level (the 500-year flood level for critical actions) (including wave height). The structure shall be anchored so as to withstand velocity waters and hurricane wave wash. The Regional Director shall be responsible for determining the base flood level, including the wave height, in all cases. Where there is a FIRM in effect, it shall be the basis of the Regional Director's determination. If the FIRM does not reflect wave heights, or if there is no FIRM in effect, the Regional Director is responsible for delineating the base flood level, including wave heights.

(3) *Elevation of structures.* (i) There shall be no new construction or substantial improvement of structures unless the lowest floor of the structures (including basement) is at or above the level of the base flood.

(ii) There shall be no new construction or substantial improvement of structures involving a critical action unless the lowest floor of the structure (including the basement) is at or above the level of the 500-year flood.

(iii) If the subject structure is nonresidential, FEMA may, instead of elevating the structure to the 100-year or 500-year level, as appropriate, approve the design of the structure and its attendant utility and sanitary facilities so that below the flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iv) The provisions of paragraphs (d)(3)(i), (ii), and (iii) of this section do not apply to the extent that the Federal Insurance Administration has granted an exception under 44 CFR § 60.6(b) (formerly 24 CFR § 1910.6(b)), or the community has granted a variance which the Regional Director determines is consistent with 44 CFR § 60.6(a) (formerly 24 CFR 1910.6(a)). In a community which does not have a FIRM in effect, FEMA may approve a variance from the standards of paragraphs (d)(3)(i), (ii), and (iii) of this section, after compliance with the standards of 44 CFR 60.6(a).

(4) There shall be no encroachments, including fill, new construction, substantial improvements of structures or facilities, or other development within a designated regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the base floodplain unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(5) Even if an action is a functionally dependent use or facilitates open space uses (under paragraphs (d) (1) or (2) of this section) and does not increase flood heights (under paragraph (d)(4) of this section), such action may only be taken in a floodway or coastal high hazard area if:

(i) Such site is the only practicable alternative; and

(ii) Harm to and within the floodplain is minimized.

(6) In addition to standards (d)(1) through (d)(5) of this section, no action may be taken if it is inconsistent with the criteria of the National Flood Insurance Program (44 CFR 59 *et seq.*). or any more restrictive federal, State or local floodplain management standards.

(7) New construction and substantial improvement of structures shall be elevated on open works (walls, columns,

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piers, piles, etc.) rather than on fill, in all cases in coastal high hazard areas and elsewhere, where practicable.

(8) To minimize the effect of floods on human health, safety and welfare, the Agency shall:

(i) Where appropriate, integrate all of its proposed actions in floodplains into existing flood warning and preparedness plans and ensure that available flood warning time is reflected;

(ii) Facilitate adequate access and egress to and from the site of the proposed action; and

(iii) Give special consideration to the unique hazard potential in flash flood, rapid-rise or tsunami areas.

(9) In the replacement of building contents, materials and equipment, the Regional Director shall require as appropriate, disaster proofing of the building and/or elimination of such future losses by relocation of those building contents, materials and equipment outside or above the base floodplain or the 500-year floodplain for critical actions.

(e) In the implementation of the National Flood Insurance Program, the Federal Insurance Administrator:

(1) Shall identify all coastal high hazard areas (with or without base flood elevations) in the United States by October 1, 1981;

(2) Beginning February 1, 1981, may only provide flood insurance for new construction or a substantial improvement in a coastal high hazard area if:

(i) The structure is individually rated by FIA based on the structure's capacity to withstand damage from the 100-year frequency flood (500-year flood for critical actions) including, but not limited to, an analysis of the following:

(A) flood risk;

(B) flood related erosion risk;

(C) soil composition; and

(D) stability of the structure;

(ii) Wave heights have been designated for the site of the structure either by FIA or by another source, to FIA's technical satisfaction. Without the designation of wave heights, no flood insurance may be provided as the structure will be considered unratable; and

(iii) The structure is elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the piles or columns) is elevated to or above the base flood level (the 500-year flood level for critical actions) (including wave heights). The structure shall be anchored so as to withstand velocity waters and hurricane wave wash.

(3) Shall notify communities with coastal high hazard areas and federally related lenders in such communities, of the provisions of this paragraph. Notice to the lenders may be accomplished by the federal instrumentalities to which the lenders are related.

(4) In any case in which the Regional Director has been, pursuant to § 9.11(d)(1), precluded from providing assistance for a new or substantially improved structure in a floodway, FIA may not provide a new or renewed policy of flood insurance for that structure.

(f) *Restore and preserve.* (1) For any action taken by the Agency which affects the floodplain or wetland and which has resulted in, or will result in, harm to the floodplain or wetland, the Agency shall act to restore and preserve the natural and beneficial values served by floodplains and wetlands.

(2) Where floodplain or wetland values have been degraded by the proposed action, the Agency shall identify, evaluate and implement measures to restore the values.

(3) If an action will result in harm to or within the floodplain or wetland, the Agency shall design or modify the action to preserve as much of the natural and beneficial floodplain and wetland values as is possible.

§ 9.12 Final public notice.

If the Agency decides to take an action in or affecting a floodplain or wetland, it shall provide the public with a statement of its final decision and shall explain the relevant factors considered by the Agency in making this determination.

(a) For its programs that are subject to OMB Circular A-95 (revised), the Agency shall send the final notice to the State and areawide A-95 clearinghouse for the affected area. In addition, those sent notices under § 9.8 shall also be provided the final notice.

(b) For actions for which an environmental impact statement is being prepared, the FEIS is adequate to constitute final notice in all cases except where:

(1) Significant modifications are made in the FEIS after its initial publication;

(2) Significant modifications are made in the development plan for the proposed action; or

(3) Significant new information becomes available in the interim between issuance of the FEIS and implementation of the proposed action. If any of these situations develop, the Agency shall prepare a separate final notice that contains the contents of paragraph (e) of this section and shall make it available to those who received the FEIS. A minimum of 15 days shall, without good cause shown, be allowed for comment on the final notice.

(c) For actions for which an environmental assessment was prepared, the Notice of No Significant Impact is adequate to constitute final public notice, if it includes the information required under paragraph (e) of this section.

(d) For all other actions, the finding shall be made in a document separate from those described in paragraphs (a), (b), and (c) of this section. Based on an assessment of the following factors, the requirement for final notice may be met in a cumulative manner:

(1) Scale of the action;

(2) Potential for controversy;

(3) Degree of public need;

(4) Number of affected agencies and individuals;

(5) Its anticipated potential impact; and

(6) Similarity of the actions, i.e., to the extent that they are susceptible of common descriptions and assesssments.

When a damaged structure or facility is already being repaired by the State or local government at the time of the Damage Survey Report, the requirements of Steps 2 and 7 (§§ 9.8 and 9.12) may be met by a single notice. Such notice shall contain all the information required by both sections.

(e) The final notice shall include the following:

(1) A statement of why the proposed action must be located in an area affecting or affected by a floodplain or a wetland;

(2) A description of all significant facts considered in making this determination;

(3) A list of the alternatives considered;

(4) A statement indicating whether the action conforms to applicable state and local floodplain protection standards;

(5) A statement indicating how the action affects or is affected by the floodplain and/or wetland, and how mitigation is to be achieved;

(6) Identification of the responsible official or organization for implementation and monitoring of the proposed action, and from whom further information can be obtained; and

(7) A map of the area or a statement that such map is available for public inspection, including the location at which such map may be inspected and a telephone number to call for information.

(f) After providing the final notice, the Agency shall, without good cause shown, wait at least 15 days before carrying out the action.

§ 9.13 Particular types of temporary housing.

(a) The purpose of this section is to set forth the procedures whereby the Agency will provide certain specified types of temporary housing.

(b) Prior to providing the types of temporary housing enumerated in paragraph (c) of this section, the Agency shall comply with the provisions of this section. For all temporary housing not enumerated below, the full 8-step process (see § 9.6) applies.

(c) The following temporary housing actions are subject to the provisions of this section and not the full 8-step process:

(1) Providing housing in existing resources; and

(2) Placing a mobile home or readily fabricated dwelling on a private or commercial site, but not a group site.

(d) The actions set out in paragraph (c) of this section are subject to the following decision-making process:

(1) The temporary housing action shall be evaluated in accordance with the provisions of § 9.7 to determine if it is in or affects a floodplain or wetland.

(2) No mobile home or readily fabricated dwelling may be placed on a private or commercial site in a floodway or coastal high hazard area.

(3) An individual or family shall not be housed in a floodplain or wetland unless the Regional Director has complied with the provisions of § 9.9 to determine that such site is the only practicable alternative. The following factors shall be substituted for the factors in §§ 9.9(c) and 9.9(e) (2) through (4):

(i) Speedy provision of temporary housing;

(ii) Potential flood risk to the temporary housing occupant;

(iii) Cost effectiveness;

(iv) Social and neighborhood patterns;

(v) Timely availability of other housing resources; and

(vi) Potential harm to the floodplain or wetland.

(4) An individual or family shall not be housed in a floodplain or wetland (except in existing resources) unless the Regional Director has complied with the provisions of § 9.11 to minimize harm to and within floodplains and wetlands. The following provisions shall be substituted for the provisions of § 9.11(d) for mobile homes:

(i) No mobile home or readily fabricated dwelling may be placed on a private or commercial site unless it is elevated to the fullest extent practicable up to the base flood level and adequately anchored.

(ii) No mobile home or readily fabricated dwelling may be placed if such placement is inconsistent with the criteria of the National Flood Insurance Program (44 CFR 59 *et seq.)* or any more restrictive federal, State or local floodplain management standard. Such standards may require elevation to the base flood level in the absence of a variance.

(iii) Mobile homes shall be elevated on open works (walls, columns, piers, piles, etc.) rather than on fill where practicable.

(iv) To minimize the effect of floods on human health, safety and welfare, the Agency shall:

(A) Where appropriate, integrate all of its proposed actions in placing mobile homes for temporary housing in floodplains into existing flood warning and preparedness plans and ensure that available flood warning time is reflected;

(B) Provide adequate access and egress to and from the proposed site of the mobile home; and

(C) Give special consideration to the unique hazard potential in flash flood and rapid-rise areas.

(5) FEMA shall comply with Step 2 Early Public Notice (§ 9.8(c)) and Step 7 Final Public Notice (§ 9.12). In providing these notices, the emergency nature of temporary housing shall be taken into account.

(e) FEMA shall not sell or otherwise dispose of mobile homes or other readily fabricated dwellings which would be located in floodways or coastal high hazard areas. FEMA shall not sell or otherwise dispose of mobile homes or other readily fabricated dwellings which would be located in floodplains or wetlands unless there is full compliance with the 8-step process. Given the vulnerability of mobile homes to flooding, a rejection of a non-floodplain location alternative and of the no-action alternative shall be based on (1) a compelling need of the family or individual to buy a mobile home for permanent housing, and (2) a compelling requirement to locate the unit in a floodplain. Further, FEMA shall not sell or otherwise dispose of mobile homes or other readily fabricated dwellings in a floodplain unless they are elevated at least to the level of the 100-year flood. The Regional Director shall notify the Associate Director for Disaster Response and Recovery of each instance where a floodplain location has been found to be the only practicable alternative for a mobile home sale.

§ 9.14 Disposal of Agency property.

(a) The purpose of this section is to set forth the procedures whereby the Agency shall dispose of property.

(b) Prior to its disposal by sale, lease or other means of disposal, property proposed to be disposed of by the Agency shall be reviewed according to the decision-making process set out in § 9.6, above, as follows:

(1) The property shall be evaluated in accordance with the provisions of § 9.7 to determine if it affects or is affected by a floodplain or wetland;

(2) The public shall be notified of the proposal and involved in the decision-making process in accordance with the provisions of § 9.8;

(3) Practicable alternatives to disposal shall be evaluated in accordance with the provisions of § 9.9. For disposals, this evaluation shall focus on alternative actions (conveyance for an alternative use that is more consistent with the floodplain management and wetland protection policies set out in § 9.2 than the one proposed, e.g., open space use for park or recreational purposes rather than high intensity uses), and on the "no action" option (retain the property);

(4) Identify the potential impacts and support associated with the disposal of the property in accordance with § 9.10;

(5) Identify the steps necessary to minimize, restore, preserve and enhance in accordance with § 9.11. For disposals, this analysis shall address all four of these components of mitigation where unimproved property is involved, but shall focus on minimization through floodproofing and restoration of natural values where improved property is involved;

(6) Reevaluate the proposal to dispose of the property in light of its exposure to the flood hazard and its natural values-related impacts, in accordance with § 9.9. This analysis shall focus on whether it is practicable in light of the findings from §§ 9.10 and 9.11 to dispose of the property, or whether it must be retained. If it is determined that it is practicable to dispose of the property, this analysis shall identify the practicable alternative that best achieves all of the components of the Orders' mitigation responsibility;

(7) To the extent that it would decrease the flood hazard to lives and property, the Agency shall, wherever practicable, dispose of the properties according to the following priorities:

(i) Properties located outside the floodplain;

(ii) Properties located in the flood fringe; and

(iii) Properties located in a floodway, regulatory floodway or coastal high hazard area.

(8) The Agency shall prepare and provide the public with a finding and public explanation in accordance with § 9.12.

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(9) The Agency shall ensure that the applicable mitigation requirements are fully implemented in accordance with § 9.11.

(c) At the time of disposal, for all disposed property, the Agency shall reference in the conveyance uses that are restricted under existing Federal, State and local floodplain management and wetland protection standards relating to flood hazards and floodplain and wetland values.

§ 9.15 Planning programs affecting land use.

The Agency shall take floodplain management into account when formulating or evaluating any water and land use plans. No plan may be approved unless it

(a) reflects consideration of flood hazards and floodplain management and wetlands protection; and

(b) prescribes planning procedures to implement the policies and requirements of the Orders and this regulation.

§ 9.16 Guidance for applicants.

(a) The Agency shall encourage and provide adequate guidance to applicants for agency assistance to evaluate the effects of their plans and proposals in or affecting floodplains and wetlands.

(b) This shall be accomplished primarily through amendment of all Agency instructions to applicants, e.g., program handbooks, contracts, application and agreement forms, etc., and also through contact made by agency staff during the normal course of their activities, to fully inform prospective applicants of:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decision-making process to be used by the Agency in making the determination of whether to provide the required assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public notice and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements applicable to applications for the lease or other disposal of Agency owned properties set out in § 9.14.

(c) Guidance to applicants shall be provided where possible, prior to the time of application in order to minimize potential delays in process application due to failure of applicants to recognize and reflect the provisions of the Orders and this regulation.

§ 9.17 Instructions to applicants.

(a) *Purpose.* In accordance with Executive Orders 11988 and 11990, the federal executive agencies must respond to a number of floodplain management and wetland protection responsibilities before carrying out any of their activities, including the provision of federal financial and technical assistance. The purpose of this section is to put applicants for Agency assistance on notice concerning both the criteria that it is required to follow under the Orders, and applicants' responsibilities under this regulation.

(b) *Responsibilities of Applicants.* Based upon the guidance provided by the Agency under § 9.16, that guidance included in the U.S. Water Resources Council's *Guidance for Implementing E.O. 11988,* and based upon the provisions of the Orders and this regulation, applicants for Agency assistance shall recognize and reflect in their application:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decision-making process to be used by the Agency in making the determination of whether to provide the requested assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements for application for the lease or other disposal of Agency-owned properties, as set out in § 9.13.

(c) *Provision of supporting information.* Applicants for Agency assistance may be called upon to provide supporting information relative to the various responsibilities set out in paragraph (b) of this section as a prerequisite to the approval of their applications.

(d) *Approval of applications.* Applications for Agency assistance shall be reviewed for the recognition and reflection of the provisions of this regulation in addition to the Agency's existing approval criteria.

§ 9.18 Responsibilities.

(a) *Regional Directors' responsibilities.* Regional Directors shall, for all actions falling within their respective jurisdictions:

(1) Implement the requirements of the Orders and this regulation. Anywhere in §§ 9.2, 9.6 through 9.13, and 9.15 where a direction is given to the Agency, it is the responsibility of the Regional Director.

(2) Consult with the General Counsel regarding any question of interpretation concerning this regulation or the Orders.

(b) *Associate Directors' responsibilities.* Associate Directors/Administrators shall ensure that the offices/administrations under their jurisdiction:

(1) Implement the requirements of the Orders and this regulation. When a decision of a Regional Director relating to disaster assistance is appealed, the Associate Director for Disaster Response and Recovery may make determinations under these regulations on behalf of the Agency.

(2) Identify within ninety (90) days of the effective date of this regulation:

(i) The modifications that are necessary to make their existing floodplain management and wetlands protection procedures adequate to meet the directives of the Orders;

(ii) Which of these modifications should be made a part of this regulation;

(iii) Which of these modifications are to be included in program regulations other than this one; and

(iv) The steps being taken to prepare and implement these modifications.

(3) Are in full compliance with the Orders' provisions through the modification of their processes in accordance with (1) and (2), above.

(4) Prepare and submit to the Office of General Counsel reports to the Office of Management and Budget in accordance with section 2(b) of E.O. 11988 and section 3 of E.O. 11990. If a proposed action is to be located in a floodplain or wetland, any requests to the Office of Management and Budget for new authorizations or appropriations shall be accompanied by a report indicating whether the proposed action is in accord with the Orders and these regulations.

§ 9.19 Delegation of authority.

The Federal Insurance Administrator is authorized to exercise the power and authority of the Director, Federal Emergency Management Agency, with respect to the consultation function under Section 2(d) of Executive Order 11988 entitled "Floodplain Management," as amended by Section 5–207 of Executive Order 12148 entitled "Federal Emergency Management Agency." This delegation revokes and supersedes all prior delegations regarding authority under Section 2(d) of Executive Order 11988.

Dated: August 13, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

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DECISION-MAKING PROCESS FOR E.O. 11988

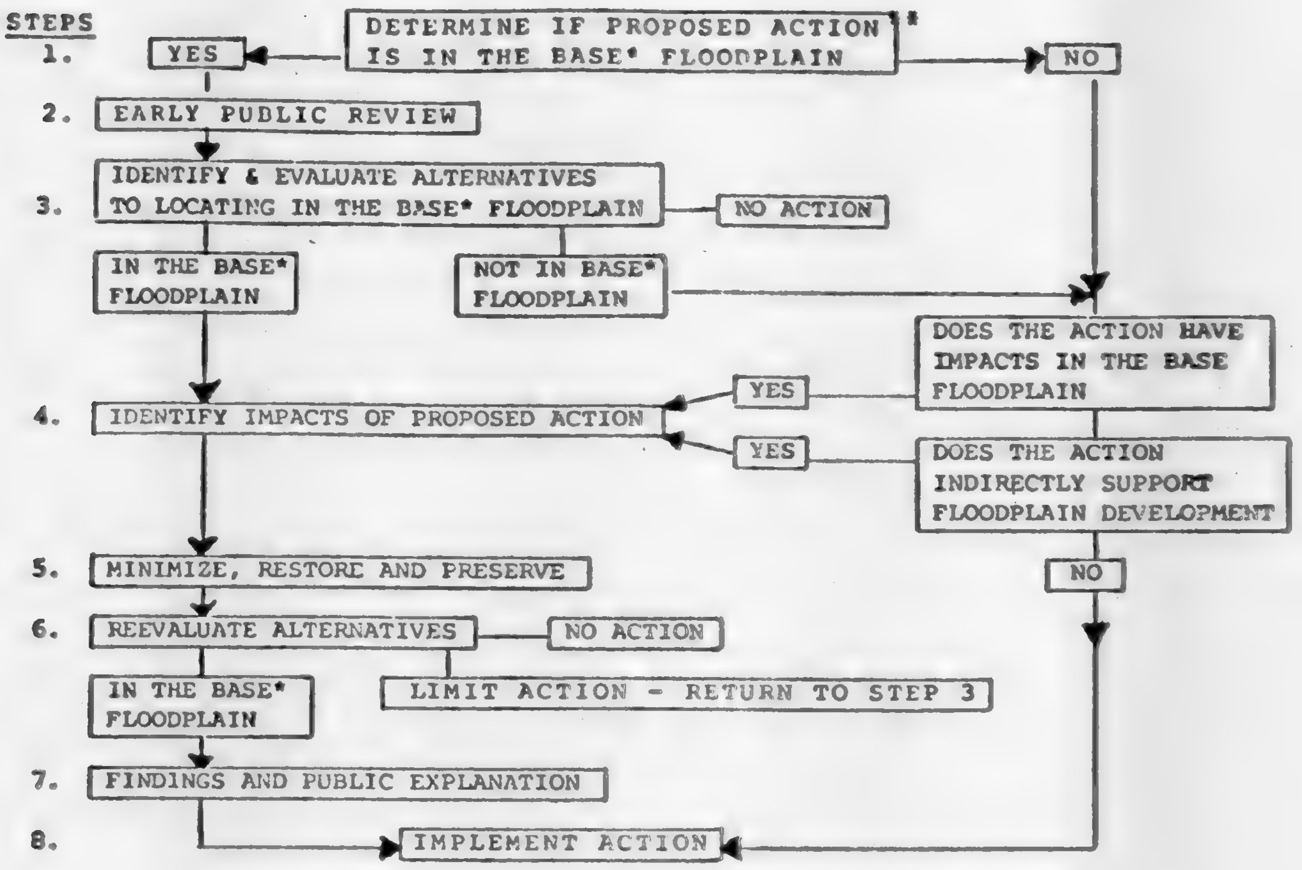
STEPS
1.
YES
DETERMINE IF PROPOSED ACTION IS IN THE BASE* FLOODPLAIN**
NO
2.
EARLY PUBLIC REVIEW
3.
IDENTIFY & EVALUATE ALTERNATIVES TO LOCATING IN THE BASE* FLOODPLAIN
NO ACTION
IN THE BASE* FLOODPLAIN
NOT IN BASE* FLOODPLAIN
DOES THE ACTION HAVE IMPACTS IN THE BASE FLOODPLAIN
YES
4.
IDENTIFY IMPACTS OF PROPOSED ACTION
YES
DOES THE ACTION INDIRECTLY SUPPORT FLOODPLAIN DEVELOPMENT
NO
5.
MINIMIZE, RESTORE AND PRESERVE
6.
REEVALUATE ALTERNATIVES
NO ACTION
IN THE BASE* FLOODPLAIN
LIMIT ACTION - RETURN TO STEP 3
7.
FINDINGS AND PUBLIC EXPLANATION
8.
IMPLEMENT ACTION

* FOR CRITICAL ACTIONS SUBSTITUTE "500 YEAR" FOR "BASE" AND FOR WETLANDS DELETE "BASE FLOODPLAIN" AND SUBSTITUTE " WETLANDS".

** FOR WETLANDS "ACTION" INCLUDES "NEW CONSTRUCTION" ONLY.

[FR Doc. 80-27739 Filed 9-8-80; 8:45 am]

BILLING CODE 6718-01-C

44 CFR Part 9

Floodplain Management and Protection of Wetlands Regulations; Finding of No Significant Impact on the Environment

AGENCY: Federal Emergency Management Agency.

ACTION: Finding of no significant impact on environment of issuance of Federal Emergency Management Agency's final regulations implementing Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), the Federal Emergency Management Agency (FEMA) has prepared an environmental assessment of the issuance by FEMA of final regulations implementing Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands.

ADDRESS: Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 802, 1725 I Street NW., Washington, DC 20472, Telephone: (202) 634–1990.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, Telephone: (202) 634–1990.

SUPPLEMENTARY INFORMATION: The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the issuance of the final regulations implementing Executve Orders 11988 and 11990. These regulations will restrict FEMA actions in or affecting floodplains or wetlands. At the very least, when FEMA does act in, or affect a floodplain or wetland, it will have to minimize harm to the floodplain or wetland environment. No action may be taken by FEMA in a floodplain or wetland unless such site is the only practicable location. In short, FEMA will take no action in or affecting floodplain or wetland which it would not have taken prior to issuance of the final regulations, and any action taken will minimize harm to the environment.

It is therefore found that there will be no significant impact on the environment caused by FEMA's issuance of the final regulations implementing Executive Order 11988 and Executive Order 11990. On this basis, an environmental impact statement will not be prepared.

Dated: August 13, 1980.

John W. Macy, Jr.,
Director.

[FR Doc 80–27740 Filed 9–8–80; 8:45 am]

BILLING CODE 6718–01–M

V 45/176 SE 9 80 UMI

federal register

Tuesday
September 9, 1980

Part VII

Department of Health and Human Services

Food and Drug Administration

Anthelmintic Drug Products for Over-The-Counter Human Drugs; Establishment of a Monograph; Proposed Rulemaking

V45/176 SE 9 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 79N-0378]

Anthelmintic Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) anthelmintic drug products, which destroy pinworms, are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by December 8, 1980; reply comments by January 7, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on June 23, 1978, a report of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner of Food and Drugs issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC drug products are generally recognized as safe and effective and not misbranded (i.e., Category I); (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding (i.e., Category II); (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above (i.e., Category III); and (4) the conclusions and recommendations of the Panel. The Panel's conclusions on OTC anthelmintic drug products contained no Category III conditions.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and it represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any final decision on the Panel's recommendations. FDA, however, has reviewed those ingredients which the Panel recommends should be placed in Category I for OTC anthelmintic drug products and considers that the potential risks from the use of gentian violet as an OTC anthelmintic outweigh its benefits and, therefore, intends to classify this ingredient in Category II at the tentative final monograph.

The Panel reviewed the information available to it regarding the safety of gentian violet and acknowledged both a scarcity of acute toxicity data and "a high incidence of undesirable side effects associated with its clinical use in children." The Panel also reviewed reports regarding the potential carcinogenicity of gentian violet and recommended "that further testing be performed to resolve the carcinogenic concerns." According to the Panel, however, these reports were not convincing when weighed against the lack of evidence of adverse effects reported during the long marketing history of gentian violet. The Panel, therefore, concluded that gentian violet was safe when used as directed.

After reviewing the available data relevant to the genetic toxicity of gentian violet (Refs. 1 through 4), FDA concludes that in bacterial and mammalian cells in culture, gentian violet in cytotoxic (having a deleterious effect on cells) and clastogenic (causing genetic damage). In addition, it has been shown to damage deoxyribonucleic acid (DNA) in *Escherichia coli* in vitro (Refs. 1 and 4). Gentian violet did not induce gene mutations in the Ames Assay (Ref. 4), but this may be a result of its cytotoxicity masking any mutagenic effect. In cultured mammalian cells gentian violet induced various chromosomal anomalies (Ref. 2). In a chick embryo assay and an in vivo mouse bone marrow assay, gentian violet did not induce chromosomal aberrations; however, it was toxic to the chick embryos at high doses (Ref. 4). The decreased genetic toxicity of gentian violet in vivo may be attributed to the presence of inactivating enzyme systems, a lack of penetration of the compound to the genetic material of the cell, or both. It is not known whether such protective mechanisms would be effective in preventing chromosomal and other genetic damage in humans receiving therapeutic doses of gentian violet.

The genetic toxicity data cited above indicate that gentian violet apparently interacts with and damages DNA in cultured cells. Since current theories of chemical carcinogenesis include the premise that active forms of chemical carcinogens may interact with DNA to initiate the neoplastic process (Ref. 5), this evidence is also suggestive of a potential carcinogenic effect of gentian violet. Moreover, gentian violet belongs to a class of dyes collectively referred to as di- and triaminophenylmethanes. A few of these dyes are known animal carcinogens; two of them, auramine and magenta, have been implicated as human carcinogens (Refs. 6, 7, and 8). The provisional listing of Food, Drug, and Cosmetic Violet Number 1, another dye of this same structural class, was revoked in the **Federal Register** of April 10, 1973 (38 FR 9077) on the basis of its possible carcinogenic activity. Review of one study on gentian violet itself suggests that long-term feeding to rats results in the induction of hepatocellular carcinoma (Ref. 9).

FDA recognizes that a definitive conclusion regarding the carcinogenic activity of gentian violet cannot be reached at this time. On the basis of the available evidence, the agency has nominated gentian violet for study in the newly formed National Toxicology Program. Prior to this nomination it was on the list of compounds to be included in the National Cancer Institute's Carcinogenisis Bioassay Program. In the meantime, the evidence that gentian violet interacts with DNA and belongs to the same structural class as known carcinogens necessitates a conservative policy regarding human exposure. Such exposure should be limited to situations where a clear-cut and unique beneficial effect of the drug can be expected.

FDA appreciates the different considerations noted by the Panel between lifetime exposure to gentian violet resulting from consuming residues of the drug in edible tissues of treated animals and the infrequent, intermittent exposure occasioned by use as a pinworm remedy. Nevertheless, the quantities ingested for treatment of pinworms are very large compared with the amounts individuals consume as residues in meat. Thus the cumulative dose of gentian violet resulting from its use as an OTC anthelmintic may be comparable to the total exposure through the food supply for individual users.

With regard to effectiveness, FDA believes that under ideal conditons when gentian violet is used at proper doses for the full recommended 10-day course of treatment, it is effective against pinworms. In practice, however, the Panel recognized that its undesirable side effects (gastrointestinal disturbances) result in a considerable degree of noncompliance which "would obviously reduce the overall effectiveness of this ingredient." Individuals who discontinue treatment because of such side effects may experience no benefit from the gentian violet. In addition, gentian violet is unique among anthelmintics in having a recommended 10-day course of treatment. The length of the treatment by itself could lead to relatively lower patient compliance in relation to agents which are effective as the result of a single treatment or two widely spaced treatments.

One of the standards for determining that a drug is effective for OTC use as described in § 330.10(a)(4) (21 CFR 330.10(a)(4)) is "general recognition of effectiveness." In a letter to the Bureau of Drugs dated December 27, 1977 (Ref. 10), the Committee on Drugs of the American Academy of Pediatrics concluded that "because of the high incidence of adverse gastrointestinal effects (up to 50 percent), potential toxicity, low compliance, relatively low efficiency, and because of the availability of superior anthelmintics—gentian violet has no role in the treatment of enterobiasis." This opinion argues against a conclusion that gentian violet is generally recognized as safe and effective.

Gentian violet is currently the only active ingredient marketed OTC for pinworms. Other anthelmintic active ingredients are available on a prescription basis. The Panel found that pyrantel pamoate is effective for this indication and does not induce gastrointestinal side effects. The Panel recommended that pyrantel pamoate be moved from prescription-only to OTC status for the treatment of pinworms. If the agency accepts this recommendation, consumers would continue to have a pinworm remedy available OTC. FDA has made a tentative determination to accept the Panel's recommendations on the OTC use of pyrantel pamoate. Any persons marketing such an OTC product prior to the publication in the **Federal Register** of a final monograph will do so subject to the risk the agency may adopt a different position as detailed in § 330.13 (21 CFR 330.13).

FDA concludes that the rather modest health benefits associated with the continued OTC availability of gentian violet as an anthelmintic are outweighed by the risks, which are potentially quite serious. The agency invites specific comment on its intent to classify gentian violet in Category II at the tentative final monograph.

References

(1) Rosenkranz, H. S., and H. S. Carr, "Possible Hazard in Use of Gentian Violet," *British Medical Journal,* 3:702–703, 1971.

(2) Au, W., et al., "Cytogenetic Toxicity of Gentian Violet and Crystal Violet on Mammalian Cells in Vitro," *Mutation Research,* 58:269–276, 1978.

(3) Hsu, T. C., et al., "Cytogenetic Assays of Chemical Clastogens using Mammalian Cells in Culture," *Mutation Research,* 45:233–247, 1977.

(4) Au, W., et al., "Further Study of the Genetic Toxicity of Gentian Violet," *Mutation Research,* 66:103–112, 1979.

(5) Magee, P. N., "Extrapolation of Cellular and Molecular Level Studies to the Human Situation," *Journal of Toxicology and Environmental Health,* 2:1415–1424, 1977.

(6) Williams, M. H. C., and G. M. Bonser, "Induction of Hepatomas in Rats and Mice Following the Administration of Auramine," *British Journal of Cancer,* 16:87–92, 1962.

(7) International Agency for Research on Cancer, IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man, Lyon, France, Vol. 4, pp. 57–64, 1974.

(8) Arcos, J. C., and M. F. Argus, "Chemical Induction of Cancer, Structural Basis and Biological Mechanisms," Academic Press, New York, Vol. II B, pp. 17–23, 1974.

(9) Weinberger, M. A., "Review of Slides from Old FDA Chronic Oral Toxicity Study with Gentian Violet," attached to FDA Memorandum dated February 1, 1978, in Panel Administrator's File (OTC Volume 17FPAII).

(10) Letter from Segal, S., to M. Freeman dated December 27, 1977, in Panel Administrator's File (OTC Volume 17FPAII).

The agency has reviewed the general labeling recommendations of the Panel for all OTC anthelmintic drug products. In particular, the Panel has recommended the following label warning: "Do not take this product if you are pregnant or ill, without first consulting a physician." The agency advises that this recommendation is inconsistent with the required labeling for pyrantel pamoate which is currently available only by prescription. The agency has further reviewed the Panel's report and concludes that there are insufficient data at this time to require a pregnancy warning for pyrantel pamoate. It is the agency's position that such a warning should only be required when medical and scientific evidence has demonstrated such need for the safe use of a product. Based upon the available data at this time, it is the agency's intent not to include such a pregnancy warning in the Tentative Final Order.

After FDA has carefully reviewed all comments submitted in response to both the Panel's and the agency's proposals, the agency will issue a tentative final regulation in the **Federal Register** to establish a monograph for OTC anthelmintic drug products.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2)), the Panel and FDA have held as confidential all information concerning OTC anthelmintic drug products submitted for consideration by the Advisory Review Panel. All this information will be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after October 9, 1980, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests of confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address given above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (monograph conditions), be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

2. That the conditions excluded from the monograph either because they would cause the drug to be not generally recognized as safe and effective or to be misbranded or because the available data are insufficient to support the inclusion of such conditions in the monograph (nonmonograph conditions) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the **Federal Register,** regardless of whether further testing is undertaken to justify their future use.

FDA published in the **Federal Register** of May 13, 1980 (45 FR 31422) its proposal to revise the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy,* 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug regulations (21 CFR 330.10) are unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph. Accordingly, the proposed

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regulations delete this provision and provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (45 FR 31442).

Although it was not required to do so under *Cutler,* FDA has also decided to stop using the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). Any OTC drug product containing a "nonmonograph conditions" will be subject to regulatory action after the establishment of a final monograph. This document, however, retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). In the **Federal Register** of August 27, 1975 (40 FR 38179) a further notice supplemented the initial notice with a detailed list of ingredients which included anthelmintic ingredients.

The Commissioner appointed the following Panel to review the data and information submitted and to prepare a report under § 330.10(a)(1) and (5) on the safety, effectiveness, and labeling of the ingredients in those products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, Ed.D.
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O.
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.S. (appointed March 1976)
Diana F. Rodriguez-Calvert, Pharm. D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J. D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R. Ph., served as the Panel Administrator. Enrique Fefer, Ph. D., served as the Executive Secretary until July 1976, followed by George W. James, Ph. D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer. Joseph Hussion, R. Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R. Ph., M.S., until October 1977, followed by John R. Short, R. Ph.

In order to expand its medical and scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Carol R. Angle, M.D. (pediatrics)
Jay M. Arena, M.D. (pediatrics)
William A. MacColl, M.D. (pediatrics)
Ralph B. D'Agostino, Ph. D. (statistics)

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for anthelmintic drug products in this document. The review of other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be published periodically in future issues of the **Federal Register**.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): February 23 and 24, March 23 and 24, April 27 and 28, June 22 and 23, September 21 and 22, and *November 16 and 17,* 1975; February 8 and 9, *March 7 and 8, April 11 and 12, May 9 and 10, July 11 and 12,* and *October 10 and 11,* 1976; *February 20 and 21,* April 3 and 4, *May 15 and 16, July 9, 10, and 11, October 15, 16, and 17,* and *December 2, 3, and 4, 1977; January 28, 29, and 30, March 10, 11, and 12, May 5, 6, and 7,* and *June 23,* 1978.

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

The following individuals were given an opportunity to appear before the Panel to express their views on OTC anthelmintic drug products either at their own or at the Panel's request:

Saul Bader, Ph. D.
Harold W. Brown, M.D.
Hugh C. Dillon, M.D.
Albert Eckian, M.D.
William Fiedelman, M.D.
George Goldstein, M.D.
Michael Hospador, Ph. D.
Harold Howes, Ph. D.
Edgar Martin, M.D.
Vernon W. Mayer, Ph. D.
John Penicnak, Ph. D.
Roger Sachs, M.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and the various data submissions, has listened to additional testimony from interested persons; and has considered all pertinent data and information submitted through June 23, 1978 in arriving at its conclusions and recommendations for OTC anthelmintic drug products.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel considered OTC anthelmintic drug products with respect to the following three categories:

Category I. Conditions under which OTC anthelmintic drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC anthelmintic drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. Submission of Data and Information

Pursuant to the notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions related to anthelmintic drug products:

A. Submissions by Firms

Firms and Marketed Products

Glenbrook Laboratories, New York, NY 10016, Jayne's P-W Vermifuge (for Children under 6 years), Jayne's P-W Vermifuge (for adults and children 6 years and older).

Pfizer Pharmaceuticals, New York, NY 10017, Pyrantel Pamoate Oral Suspension.

Scientific Associates, Inc., St. Louis, MO 63123, Piperazine Citrate Syrup, U.S.P.

B. Ingredients Reviewed by the Panel

Labeled Ingredients Contained in Marketed Products Submitted to the Panel.

Gentian violet
Piperazine citrate
Pyrantel pamoate

C. Classification of Ingredients

1. *Active ingredients.*

Gentian violet
Piperazine citrate
Pyrantel pamoate

2. *Inactive ingredients.*

None.

D. Referenced OTC Volume Submissions

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call for data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the submitted information included in these volumes, except for those deletions made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after October 9, 1980, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Statements and Recommendations

A. Definition of Terms

For the purposes of this document, the Panel adopted the following definitions:

1. *Anthelmintic.* An agent that is destructive to pinworms.
2. *Children.* Persons from 2 to under 12 years of age.
3. *Enuresis.* Urinary incontinence during sleep, i.e., bed wetting.
4. *Infants.* Persons under 2 years of age.
5. *Perianal.* In the region of the anus.
6. *Pruritus ani.* Itching in the region of the anus.
7. *Vermifuge.* Anthelmintic.

B. General Discussion

The Panel is aware that the term "anthelmintic" refers to therapeutic agents that are destructive to all worms. However, only the pinworm, *Enterobius vermicularis*, was considered in this document since it is the only intestinal worm which is amenable to self-diagnosis and treatment with an OTC drug product.

The Panel is also aware that another type of worm, *Ascaris lumbricoides* (large roundworm), is treatable by some of the same drug products which may be used for the treatment of pinworms; but since the *Ascaris* infestation can be much more serious, the Panel concludes that its diagnosis and treatment should be under the supervision of a physician.

The pinworm, *Enterobius vermicularis*, is the most common parasitic worm afflicting man. It occurs in all geographical areas within the United States, urban and rural. There is little socioeconomic difference in its incidence. Man is the only host for this usually benign but frequently irritating parasite. Infestation occurs more often in children than in adults.

Pinworms occur in humans only after pinworm eggs are ingested, and the adult worms live in the entire intestinal tract (the cecum, large and small bowel). When eggs are ingested, they hatch and mature in 15 to 28 days in the large bowel, and the worms live for 28 to 42 days (Ref. 1). During the night the female worm travels through the anus where it deposits approximately 11,000 eggs (Ref. 2).

Transmission of pinworms to the same or another host may be accomplished by several methods. Reinfestation can occur by transferring the eggs from the anal site to the mouth. The eggs can be harbored under the fingernails and transmitted to the mouth, where they are ingested. Pinworm eggs can contaminate food and drink and can survive for long periods of time without any host. Eggs can be present on clothing, bedding, bathroom fixtures, and other objects and can be readily transferred by handling the contaminated objects. The eggs are resistant to household disinfectants and can hatch after 2 to 3 weeks at room temperature (Ref. 2).

Most pinworm infestations cause no symptoms. Of the symptoms which do occur, the most frequent is perianal itching which may extend to the vulva in females. These symptoms are very disturbing to children and adults alike. It is occasionally the cause of secondary conditions, such as insomnia, enuresis, irritability, and secondary infection (due to localized scratching). Vague complaints of nausea and other gastrointestinal symptoms have also been associated with pinworm infestation.

It is noted in the literature that other complications of pinworm infestation such as appendicitis and vaginitis occur rarely (Ref. 3).

Diagnosis of pinworm infestation can be accomplished by either of two methods. One method is to cover the end of a swab or tongue depressor with scotch tape (sticky side out) and apply this end to the perianal area. The presence or absence of eggs is confirmed by examining the tape under the microscope. Although collection of eggs can be done at home, inspection and evaluation must be done in a laboratory or physician's office.

The other method of detection and identification for the consumer is to visually inspect the anal site (usually with a flashlight an hour or so after the child has gone to bed) for the presence of the female pinworm, which is one-fourth to one-half inch (8 to 13 millimeters (mm)) in length, and to see the worm actually move.

The primary goal of treating pinworm infestation is to completely eradicate the parasite and its eggs from the entire household. The eggs are extremely light in weight and can be airborne very easily and dispersed throughout the house.

The Panel is aware of a concern regarding the practice of treating all members of the household, and that the potential exists for the overuse of pinworm medication. In other words, those persons without confirmed infestations would also be recipients of therapy whether or not they exhibited the infestation or the symptoms of infestation.

The Panel believes that this practice will not present any hazard to those using pinworm medications, since the ingredients must be safe for general consumer use (when used as directed) in order to be marketed as an OTC drug product. Therefore, the Panel and its consultants concur with the widely accepted medical practice of treating all members of the household to eliminate the pinworm once one infested member has been identified. Such treatment extends to all members of a household except infants under two years of age, children weighing less than 25 pounds, or persons who are ill or pregnant, who should take such treatment only when so advised by a physician. If there is any question regarding the identification of the pinworm or the therapy for any member(s) of the household, a physician should be consulted before beginning treatment.

The Panel is aware of other pinworm drug products in current prescription status, and it urges FDA and drug manufacturers to review these new drug applications (NDA's) with an eye towards switching from prescription to OTC status, when appropriate.

References

(1) OTC Volume 170068.

(2) Hebeler, J. R., "Pinworms: A Nocturnal Nuisance," *Continuing Education*, pp. 1–3, February 1975.

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(3) "Parasitic Infections," *in* "Textbook of Pediatrics," 10th Ed., Edited by Vaughan, V. C., R. J. McKay, and W. E. Nelson, W. B. Saunders Co., Philadelphia, pp. 754–755, 1975.

C. Labeling

The Panel believes that all labeling should be clear, concise, and easily read and understood by most consumers so that the medication can be properly used. The Panel has followed these concepts in the development of the Category I labeling. The Panel is also concerned about the size and color of the print used in the labeling of these and all drug products, and it recommends that the industry make the necessary effort to design labeling which can be read easily by consumers.

Due to the complexity of the pinworm identification, the dosage involved in treatment, and the hygiene procedures to be followed to reduce reinfestation, the Panel recommends that the packaging of OTC pinworm drug products contain a package insert for the consumer. This insert should contain: (1) a detailed description of how to find and identify the pinworm; (2) commentary on the life cycle of this parasite; (3) the ways in which it may spread from person to person and hygienic procedures to curtail such spreading; (4) all other Category I labeling information contained in the monograph.

The indications for use should be simply and clearly stated; the directions for use should provide the user with enough information for the safe and effective use of the product; and the label should include a statement that the product is only intended to eradicate pinworm infestation and should not be used to treat other types of worm infestation. Instructions for product usage (e.g., "Shake Well Before Using") should be prominently displayed on all appropriate package labeling.

The Panel feels that any statements suggesting prophylactic use of an anthelmintic drug product are entirely unwarranted and should not appear on any OTC anthelmintic labeling.

The Panel concurs with the current OTC labeling regulation dealing with warning statements (21 CFR 330.1(g)) and recommends that labeling for anthelmintic drug products contain a "Warnings" section which contains the following warnings in addition to any drug-specific warnings: "Keep this and all drugs out of the reach of children" and "In case of accidental overdose, seek professional assistance or contact a poison control center immediately."

Since both gentian violet and pyrantel pamoate have the potential for causing gastrointestinal side effects, the Panel has recommended a warning alerting the consumer to discontinue its use and consult a physician if these side effects occur. OTC pinworm medication is not recommended for infants, children who weigh less than 25 pounds, or persons who are ill or pregnant unless advised otherwise by a physician.

Since OTC drug products can be purchased by anyone, it is the view of the Panel that the public generally does not regard these products as medicines which, if used improperly, can result in injurious or potentially serious consequences. The public needs to be continually alerted to the idea that these products, like all medicine, carry some risk and should be treated with respect. The consumer should also be informed of any possible signs of known toxicity or any symptom requiring discontinuation of the use of the drug so that appropriate steps may be taken before more severe consequences become apparent.

The Panel believes that the label should contain a listing of all ingredients and that it should clearly indicate which are active and which are inactive. Active ingredients must be listed by their established names, and the label should state the quantity of the active ingredient in the recommended dosage.

III. Anthelmintic Drug Products

A. Category I Conditions

The following are Category I conditions under which anthelmintic drug products are generally recognized as safe and effective and not misbranded.

1. *Category I active ingredients.*

Gentian violet.
Pyrantel pamoate

a. *Gentian violet.* The Panel concludes that gentian violet (also known as methylrosaniline chloride) is safe and effective for OTC use as an anthelmintic when used as specified in the dosage and labeling sections below.

(1) *Safety.* Very little data are available on the acute toxicity of gentian violet, but the Panel has found the following information. Hodge et al. (Ref. 1) reported that the administration of gentian violet in propylene glycol resulted in a 7-day oral LD$_{50}$ (median lethal dose) of 600 milligrams/kilogram (mg/kg) for mice and a 7-day oral LD$_{50}$ of 250 mg/kg for rats. For guinea pigs and cats, a propylene glycol solution of gentian violet was used intraperitoneally, and results showed an approximate lethal dose of 100 to 150 mg/kg. In rabbits the intraperitoneal adminsitration of a propylene glycol solution of gentian violet gave a lethal dose from 125 to 250 mg/kg. The minimum lethal dose in rabbits given gentian violet orally in capsules for 6 days was 22 mg/kg daily for a total dose of 132 mg/kg. In two dogs treated orally with enteric-coated tablets of gentian violet for 18 days, one dog died at 40.1 mg/kg daily, whereas the second dog survived a dose of 35.4 mg/kg daily. Since the human dose is 2 mg/kg daily for a 10-day treatment, the authors concluded that the total dose would be "* * * less than one-fifth the [acute] lethal doses for the various species, so that the margin of safety seems adequate in consideration of the conditions of use."

In clinical use, the side effects of nausea, vomiting, abdominal pain, or diarrhea may occur in as many as one-third of the children treated with gentian violet (Refs. 1 and 2). Although the Panel acknowledges a high incidence of undesirable side effects affecting patient compliance, it considers gentian violet to be generally recognized as safe when properly used as an OTC anthelmintic in humans.

The Panel is aware of both the recent concern that gentian violet may be a carcinogen and the recently published and unpublished data regarding its potential carcinogenicity (Refs. 3 through 6). The Panel recognizes the propriety of the FDA Bureau of Foods' position that the present weight of the evidence regarding the toxicity of gentian violet indicates that gentian violet may be carcinogenic and that the question of carcinogenicity cannot be unequivocally answered based on the available data. No decision on the safety of gentian violet residues in the edible parts of animals can be made until appropriate data resolving the question of carcinogenicity are submitted to FDA.

The Panel was also made aware of concerns expressed by a physician from the Division of Anti-Infective Drug Products of the Bureau of Drugs about the continued OTC status of gentian violet, namely, that more effective and better-tolerated drugs for treating pinworm infestations are available and that questions regarding the carcinogenic, mutagenic, and embryotoxic potential of gentian violet have not been resolved.

The Panel has considered the concerns of both the Bureau of Foods and the Division of Anti-Infective Drug Products. However, the Panel recognizes that safety considerations regarding the short-term use of a compound as a drug in humans differ significantly from safety considerations regarding low-level, long-term human exposure to that compound in food. In this context, the data on the potential carcinogenicity of gentian violet remain a concern but do not preclude the short-term, effective use of gentian violet as an anthelmintic in humans. The Panel recommends that further testing be performed to resolve the concerns about carcinogenicity associated with gentian violet. Because there is no conclusive proof that gentian violet is a carcinogen, the Panel concludes that it is safe for OTC use as an anthelmintic when used as directed.

The Panel was also made aware of one report that gentian violet may cause contact sensitization (Ref. 7). The Panel knows of no other such reports and concludes that the demonstrated benefits of gentian violet as an OTC anthelmintic in humans outweigh the risks of contact sensitization.

In evaluating the safety of gentian violet, the Panel was made aware of the reported high incidence of gastrointestinal distress associated with ingestion of the drug. Although it is generally recognized as an effective anthelmintic, therapeutic doses of the drug may produce side effects such as nausea, vomiting, diarrhea, and abdominal pain as a result of a direct irritant effect of the drug on the mucosa of the stomach and small intestine (Ref. 8). The Panel concludes that while these side effects are annoying, they are not deemed to be dangerous.

The Panel recommends that gentian violet for use as an anthelmintic be marketed only as an enteric-coated tablet. By delaying release of the drug until it reaches the small intestine, the incidence and severity of direct gastrointestinal irritation may be lessened, and patient compliance may be improved.

(2) *Effectiveness.* Gentian violet is an aniline dye that has been used for many years as an OTC anthelmintic. It is currently the only anthelmintic available for OTC use. Because of a lack of interest in the ingredient, very few studies have been performed to demonstrate its effectiveness in treating pinworm infestations. The effectiveness studies which have been performed were conducted 25 to 40 years ago under considerably less stringent standards than are applicable today, but the results are still informative.

In one study (Ref. 9) conducted on 20 children who were given gentian violet orally as sugar-coated tablets in doses of 11 mg (for every year of life)/day for a 7-day treatment (and repeated after 7 days), 70-percent effectiveness was demonstrated.

Another study (Ref. 2) performed on children and adults resulted in 92-percent effectiveness. In this study enteric-coated gentian violet tablets were administered to children in doses of 10 mg (for every year of life)/day and to adults in a dose of 64 mg before meals three times daily. Of the 122 patients who completed the treatment (36 did not), 107, of whom 85 were 16 years of age or younger, were given the treatment for 10 days, while the remaining individuals (all children) received the drug over a period of 8 days, rested 7 days, and then repeated the 8-day treatment. A total of 112 patients of the 122 showed no pinworm eggs on post-treatment swab examinations.

As noted earlier, about one-third of the patients treated with gentian violet experience adverse reactions, and these reactions result in a considerable incidence of noncompliance with the 10-day course of treatment. In the study cited immediately above (Ref. 2), there was a 23-percent dropout rate. The low compliance would obviously reduce the overall effectiveness of this ingredient, but the effectiveness rate for those who complete the 10-day course of therapy is sufficient enough for the Panel to conclude that gentian violet is generally recognized as effective when used as directed.

(3) *Dosage.* The usual daily dose of gentian violet for adults and children is 2 mg/kg daily divided into two or three administrations as enteric-coated tablets (Ref. 10). Treatment should continue for a complete 10-day course with a maximum of 150 mg/day (Ref. 11). The Panel believes that gentian violet should not be used for children who are less than 2 years of age, who weigh less than 25 pounds, or those who cannot swallow the tablet whole, except under the supervision of a physician. The manufacturer should include dosage information on the labeling in such a manner that persons can readily determine how much of the drug product to take in relation to their body weight.

(4) *Labeling for gentian violet.* The Panel recommends that in addition to the Category I labeling recommended for OTC anthelmintic drug products in general, the labeling for gentian violet should contain the following warning, direction and other information. (See part III paragraph A.2 below—Category I labeling.)

(a) *Warnings.* "Because of the staining properties of this preparation, do not bite, chew, or suck the tablets."

(b) *Directions.* "Tablets should be swallowed whole and taken with water."

(c) *Other information.* (i) "If vomiting occurs with this medication, the vomitus may be colored purple."

(ii) "This medication will cause your stools to be colored purple. This is harmless."

References

(1) Hodge, H. C., et al., "Acute Oral Toxicity of Methylrosaniline Chloride," *Toxicology and Applied Pharmacology,* 22:1–5, 1972.

(2) Wright, W. H., and F. J. Brady, "Studies on Oxyuriasis," *Journal of the American Medical Association,* 114:861, 1940.

(3) Rosenkranz, H. S., and H. S. Carr, "Possible Hazard in Use of Gentian Violet," *British Medical Journal,* 3:702–703, 1971.

(4) Au, W., et al., "Cytogenetic Toxicity of Gentian Violet on Mammalian Cells in Vitro," *Mutation Research,* 58:269–276, 1978.

(5) Hsu, T. C., et al., "Cytogenetic Assays of Chemical Clastogens Using Mammalian Cells in Culture," *Mutation Research,* 45:233–247, 1977.

(6) Weinberger, M. A., "Review of Slides from Old FDA Chronic Oral Toxicity Study with Gentian Violet," attached to FDA Memorandum dated February 1, 1978, in Panel Administrator's File (OTC Volume 17FPAII).

(7) Bielicky, T., and M. Novak, "Contact-Group Sensitization to Triphenylmethane Dyes," *Archives Dermatology* 100:540–543, 1969.

(8) Gleason, M. N., et al., "Clinical Toxicology of Commercial Products," 3d Ed., The Williams and Wilkins Co., Baltimore, p. 73, 1969.

(9) White, R. H. R., and O. D. Steinden, "Piperazine in the Treatment of Threadworms in Children," *British Medical Journal,* 2:755–757, 1953.

(10) Shirkey, H. C., "Pediatric Therapy," 4th Ed., The C. V. Mosby Co., St. Louis, p. 1108, 1972.

(11) OTC Volume 170024.

b. *Pyrantel pamoate.* The Panel concludes that pyrantel pamoate is safe and effective for OTC use as an anthelmintic when used as specified in the dosage and labeling sections below.

(1) *Safety.* The safety of pyrantel pamoate seems well established because of the paucity of adverse reactions reported since its introduction as a prescription drug in 1972 (Ref. 1). There have been no reports of significant toxicity due to accidental overdosage.

The Panel has evaluated data submitted by a manufacturer and considers it of sufficient importance to this document to be included in toto (Ref. 2):

Pyrantel pamoate at doses of 50, 250, and 500 mg/kg/day was administered to the rat for 30 days without adverse symptoms. Postmortem examination and histologic examination revealed no morphologic changes attributable to the treatment.

In another study, rates were given 100, 300, or 600 mg/kg/day for 13 weeks. Apart from a slight reduction in growth rate and food consumption in rats receiving 600 mg/kg/day there were no adverse symptoms observed. No gross or histopathologic changes attributable to the drug were observed.

An inconsistent hepatotoxicity has been observed in dogs. Male beagle dogs were given 500, 250, or 50 mg/kg/day for 30 days. Transaminase elevations were seen in 2 (out of 4) which received the top dose and liver changes were observed histologically in one. In an identical, but separate, study in female dogs these same effects appeared at both 500 and 250 mg/kg/day. In a third study in male and female beagle dogs serum transaminases and liver biopsy specimens were normal after 14 and 30 days of 250 or 50 mg/kg/day.

Pyrantel pamoate administered to beagle dogs in daily doses of 100, 300, or 600 mg/kg for 13 weeks caused no toxic symptoms or effect on body weight. In three of four dogs receiving 300 mg/kg and two of four receiving 600 mg/kg, transaminase levels were raised after 13 weeks' treatment. A slight, apparently dose-dependent lymphocytosis was observed in dogs after 13 weeks. There were no histopathologic changes attributable to the drug. It should be noted that these effects were not observed in dogs which were given the better absorbed tartrate salt of pyrantel.

Those dose levels represent approximately 27 times the recommended dose in man of 11 mg/kg [5 milligrams/pound (mg/lb)].

Reproductive and teratologic studies were carried out to investigate the effects of pyrantel pamoate on fertility, pregnancy, the developing fetus, and the newborn in rats and rabbits, These consisted of reproduction studies in three parts, all according to the protocol recommended in the 1966 FDA Guidelines.

Pyrantel pamoate at dose levels of 260 or 25 mg/kg/day had no effect on fertility, reproduction, organogenesis, parturition, or lactation in rats or organogenesis in rabbits.

In clinical studies of children given a single dose of 5 mg/lb, there was a documented incidence of transient elevation of the serum glutamic-oxaloacetic transaminase (SGOT) in 1.2 percent of 571 subjects from several institutions. In undocumented cases without baseline values, the SGOT was mildly elevated at 24 or 48 hours after therapy in 20 percent of 155 children (Ref. 2).

In humans side effects due to pyrantel pamoate (as the suspension) at the recommended doses of 5 mg/lb (base activity) of body weight have occurred infrequently, and even at high doses (up to 3,500 mg) the side effects were still infrequent (Ref. 2). The most frequently reported side effects were specific to the gastrointestinal tract and may be related to the clearing of worms (Ref. 2). The most frequent gastrointestinal disturbances are nausea, vomiting, abdoiminal cramps, and diarrhea. Other side effects encountered include headache, dizziness, anorexia, drowsiness, and rashes.

Information on the absorption of pyrantel pamoate is incomplete. The Panel is aware of one study in which single oral doses of 5 mg/lb yielded low plasma levels of less than 0.05 to 0.13 microgram/millimeter (μg/ml) of unchanged drug. This study of 14 subjects showed a maximum absorbance (urinary excretion) of 6.7 percent. This low level of absorption may contribute to the paucity or reported adverse reactions (Ref. 3).

During an oral presentation at a Panel meeting, the Panel was reminded of some adverse reactions which have previously been reported (Ref. 4), including one case each of ototoxicity, optic neuritis, and hallucinations with confusion and paresthesias. The Panel considered this information in depth and concluded that, in the absence of information to support cause and effect, these reports were not evidence of a pyrantel pamoate reaction.

The Panel has reviewed the information available to it (Refs. 5 and 6) regarding an incident in Egypt in which 12 of 37 children treated with pyrantel pamoate developed severe reactions and two children died. In view of the scanty information available now or likely to be available in the future and considering the vast experience with pyrantel pamoate, which is estimated at over 100 million persons treated without any reported incidence of death, the Panel concludes that these reactions and deaths were not due to pyrantel pamoate.

The Panel concludes that pyrantel pamoate is generally recognized as safe of OTC human use an an anthelmintic in the dosages discussed below.

(2) *Effectiveness.* Pyrantel pamoate works like succinylcholine chloride in that it depolarizes muscle thereby paralyzing the worm's contractile hold on the intestinal wall. Both the pinworm *(Enterobius vermicularis)* and the large roundworm *(Ascaris lumbrioides)* are particularly sensitive to the effect of the drug.

Numerous studies document the high degree of effectiveness of pyrantel pamoate. Pitts and Migliardi (Ref. 3) determined that the overall effectiveness in three groups totalling 1,506 patients (mainly children) was 97.2 percent. The dose used was a single dose of 5 mg/lb of body weight.

Another study, by Sanati and Ghadirian (Ref. 7), determined that pyrantel pamoate was effective in 95 percent of 120 patients. Treatment consisted of a single dose of 10 mg/kg of body weight. One week after the treatment, 114 of the 120 patients had no sign of pinworm infestation. Of 30 patients used as controls, there were no instances of eradication of the pinworm infestation.

(3) *Dosage.* The Panel recommends the usual single dose of pyrantel pamoate in suspension of 5 mg/lb or 11 mg/kg of body weight, not to exceed 1 gram (g) (Refs. 8 and 9). This dose is expressed in terms of the active moiety or pyrantel pamoate and is applicable to both pediatric and adult populations. The Panel recommends that the manufacturer include dosage information in the labeling in such a manner that the user can readily determine how much of the drug product to take in relation to his or her body weight.

(4) *Labeling for pyrantel pamoate.* The Panel recommends that the Category I labeling for OTC anthelmintic drug products be used for pyrantel pamoate. (See part III. paragraph A.2. below—Category I labeling.)

References

(1) OTC Volume 170161.

(2) OTC Volume 170033.

(3) Pitts, N. E., and J. R. Migliardi, "Antiminth (Pyrantel Pamoate)—The Clinical Evaluation of a New Broad-Spectrum Anthelmintic," *Clinical Pediatrics*, 13:87–94, 1974.

(4) Summary minutes of the OTC Miscellaneous Internal Drug Products Panel 21st meeting, March 10, 11, and 12, 1978.

(5) OTC Volume 170162.

(6) OTC Volume 170160.

(7) Sanati, S., and E. G. Ghadirian, "Treatment of Enterobiasis with Pyrantel Pamoate in Iran," *Journal of Tropical Medicine and Hygiene*, 74:160–161, 1971.

(8) Tudor, R. B., "Pediatrics—Ridding Children of Common Worm Infections," *Postgraduate Medicine*, 58:115–120, 1975.

(9) Diefenbach, W. C. L., "Intestinal Parasites: Common and Becoming More So," *Consultant*, pp. 47–54, 1976.

2. *Category I labeling.* The Panel recommends the following labeling for the Category I OTC anthelmintic drug products in addition to the specific labeling discussed in the individual ingredient statements.

a. *Indications.* "For the treatment of pinworms."

b. *Warnings.* (i) "If upset stomach, diarrhea, nausea, or vomiting occurs with this medication, discontinue using it and consult a physician."

(ii) "Do not take this product if you are pregnant or ill, without first consulting a physician."

(iii) "Do not give to infants under two years of age or children who weigh less than 25 pounds without first consulting a physician."

c. *Directions.* (i) "When one individual in a household has pinworms, the entire household should be treated. Persons who are ill or pregnant, infants under two years of age, or children who weigh less than 25 pounds should not be treated without first consulting a physician."

(ii) "Take only according to directions."

(iii) "Do not exceed the recommended dosage."

(iv) "If any worms other than pinworms are present before or after treatment, consult a physician."

d. *Package insert.* The Panel recommends that each OTC anthelmintic drug product contains a consumer package insert which includes the following information.

(i) A detailed description of how to find and identify the pinworm.

(ii) A commentary on the life cycle of the pinworm.

(iii) A commentary on the ways in which pinworms may be spread from person to person and hygienic procedures to follow to avoid such spreading.

(iv) All other Category I labeling information contained in the monograph.

B. Category II Conditions

The following are Category II conditions under which drug products used as anthelmintics are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredient.* The Panel has classified piperazine citrate as not generally recognized as safe and effective for OTC use as an anthelmintic.

Piperazine citrate. The Panel concludes that piperazine citrate is effective as an anthelmintic for the treatment of pinworms but unsafe for OTC use. The Panel recommends that this drug remain available only on prescription.

(a) *Safety.* Piperazine citrate, the citrate salt of hexahydropiperazine, is widely used as a prescription drug for the treatment of the pinworm (*Enterobius vermicularis*) and the large roundworm (*Ascaris lumbricoides*).

There are many published reports of neurotoxicity characterized by confusion, somnolence, incoordination, and myoclonic or petit mal seizures in persons treated with this product. Nickey (Ref. 1) related the case of a 9-year-old girl who was well-stabilized on trimethadione for petit mal seizures. She was treated with anhydrous piperazine for pinworms and experienced "long, hard" seizures. After discontinuing the piperazine therapy and then rechallenging the patient with additional piperazine citrate, Nickey reported that seizures resumed. This case and others (Refs. 2, 3, and 4) indicate that piperazine citrate can possibly precipitate seizures in patients with neurological disorders.

Miller and Carpenter (Ref. 5) reported that neurotoxic side effects of piperazine citrate were evident in an 8-year-old boy with no history of central nervous system disease. However, the child did have compromised renal function. Thus, it is suggested by this case that transient neurotoxicity may occur in persons with renal dysfunction who are treated with piperazine.

Belloni and Rizzoni (Ref. 6) have described a case of neurotoxicity associated with the dosing of an apparently normal, healthy child. They state that in 10 of 11 patients on piperazine hydrate therapy, electroencephalographic (EEG) changes were noticed over a 5-day period. Schuch et al. (Ref. 2) cite the induction of EEG changes in 11 of 16 children with previously normal tracings.

In view of the reported risk of neurotoxicity, the Panel believes that the benefit-to-risk ratio of piperazine makes it inappropriate for general use as an OTC preparation.

(b) *Effectiveness.* The Panel believes that piperazine citrate is an effective anthelmintic when used under the direct supervision of a physician. This belief is based upon its wide usage as a prescription product for over 20 years since approval of the first new drug application for this ingredient.

(c) *Evaluation.* Based on its review of the neurotoxic side effects of piperazine citrate, the Panel concludes that piperazine citrate is not safe for OTC use and should remain a prescription drug product.

References

(1) Nickey, L. N., "Possible Precipitation of Petit Mal Seizures with Piperazine Citrate," *Journal of the American Medical Association,* 195:1069–1070, 1966.

(2) Schuch, P., U. Stephan, and G. Jacobi, "Neurotoxic Side Effects of Piperazine," *The Lancet,* 1:1218, 1966.

(3) Neff, L., "Another Severe Psychological Reaction of Side Effects of Medication in an Adolescent," *Journal of the American Medical Association,* 197:150–151, 1966.

(4) Savage, D. C. L., "Neurotoxic Effects of Piperazine," *British Medical Journal,* 2:840–841, 1967.

(5) Miller, C. G., and R. Carpenter, "Neurotoxic Side-Effects of Piperazine," *The Lancet,* 1:895–896, 1967.

(6) Belloni, C., and G. Rizzoni, "Neurotoxic Side-Effects of Piperazine," *The Lancet,* 2:369, 1967.

2. *Category II labeling.* Of the products reviewed, the Panel found no claims which are inappropriate, unreasonable, or incorrect. However, OTC anthelmintic labeling should not, in any way, suggest that anthelmintic drug products intended to treat pinworm infestations can be used successfully to treat other intestinal worms. Such information would be not only misleading, but also would present a direct, serious health hazard to the patient.

The Panel also believes that any statement suggesting the prophylactic use of anthelmintic drug products is entirely unwarranted and should not appear on any OTC anthelmintic labeling.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant effect and the evidence supporting this finding, contained in an environmental assessment under 21 CFR 25.31 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), may be seen in the Hearing Clerk's Office, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding to Part 357 a new Subpart B to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart B—Anthelmintic Drug Products

Sec.
357.101 Scope.
357.103 Definitions.
357.110 Anthelmintic active ingredients.
357.150 Labeling of anthelmintic drug products.

V45/176 SE9 80 UMI

Sec.
357.152 Package inserts for anthelmintic drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart B—Anthelmintic Drug Products

§ 357.101 Scope.

(a) An over-the-counter anthelmintic drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.103 Definitions.

As used in this part:

(a) *Age.* "Infant" means a person under 2 years of age, "child" means a person 2 years to under 12 years of age, and "adult" means a person 12 years of age and older.

(b) *Anthelmintic.* An agent that is destructive to pinworms.

§ 357.110 Anthelmintic active ingredients.

The active ingredients of the product consist of the following when used within the dosage limits and dosage forms established for each ingredient:

(a) *Gentian violet* (enteric-coated tablets).

(b) *Pyrantel pamoate.*

§ 357.150 Labeling of anthelmintic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "anthelmintic."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase "For the treatment of pinworms."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing any ingredient identified in § 357.110.* (i) "If upset stomach, diarrhea, nausea, or vomiting occurs with this medication, discontinue using it and consult a physician."

(ii) "Do not take this product if you are pregnant or ill, without first consulting a physician."

(iii) "Do give to infants under two years of age or children who weigh less than 25 pounds, without first consulting a physician."

(2) *For products containing gentain violet identified in § 357.110(a).* "Because of the staining properties of this preparation, do not bite, chew, or suck the tablets."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions," followed by "or as directed by a physician."

(1) *For products containing any ingredient identified in § 357.110.* (i) "When one individual in a household has pinworms, the entire household should be treated. Persons who are ill or pregnant, infants under two years of age, or children who weigh less than 25 pounds should not be treated without first consulting a physician."

(ii) "Take only according to directions."

(iii) "Do not exceed the recommended dosage."

(iv) "If any worms other than pinworms are present before of after treatment, consult a physician."

(2) *For products containing gentian violet identified in § 357.110(a).* (i) Oral dosage for adults and children is 2 milligrams/kilogram daily, divided into two or three administrations as enteric-coated tablets. Treatment continues for a complete 10-day course with a maximum of 150 milligrams/day. For infants under two years of age or children who weigh less than 25 pounds, there is no recommended dosage except under the advice and supervision of a physician.

(ii) "Tablets should be swallowed whole and taken with water."

(3) *For products containing pyrantel pamoate identified in § 357.110(b).* Oral dosage for adults and children is 11 milligrams/kilogram. The total single dose does not exceed 1 gram. For infants under two years of age and children who weigh less than 25 pounds, there is no recommended dosage except under the advice and supervision of a physician.

(e) *Other information.* The labeling of gentian violet, identified in § 357.110(a), contains the following additional information:

(1) "If vomiting occurs with this medication, the vomitus may be colored purple."

(2) "This medication will cause your stools to be colored purple. This is harmless."

§ 357.152 Package inserts for anthelmintic drug products.

The labeling of the product containing any ingredient identified in § 357.110 contains a consumer package insert which includes the following information:

(a) A detailed description of how to find and identify the pinworm.

(b) A commentary on the life cycle of the pinworm.

(c) A commentary on the ways in which pinworms may be spread from person to person and hygenic procedures to follow to avoid such spreading.

(d) All labeling information contained in the § 357.150.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before December 8, 1980. Comments should be addressed to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before January 7, 1981. Comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 27, 1980.

Jere E. Goyan,
Commissioner of Food and Drugs.

[FR Doc. 80-27587 Filed 9-8-80; 8:45 am]

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Federal Register

Vol. 45, No. 176

Tuesday, September 9, 1980

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This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 507 / Pub. L. 96-335 To authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes. (Sept. 4, 1980; 94 Stat. 1062) Price: $1.

S. 496 / Pub. L. 96-336 To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes. (Sept. 4, 1980; 94 Stat. 1063) Price: $1.

S.J. Res. 83 / Pub. L. 96-337 To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia. (Sept. 4, 1980; 94 Stat. 1066) Price: $1.

S. 1998 / Pub. L. 96-338 To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation. (Sept. 4, 1980; 94 Stat. 1067) Price: $1.

S. 2549 / Pub. L. 96-339 To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes. (Sept. 4, 1980; 94 Stat. 1069) Price: $1.

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59609	**Grant Programs—Education** ED invites applicants for new projects under the Pre-College Teacher Development in Science Program; closing date 10-20-80
59750	**Continental Shelf** Interior/BLM announces acceptance of sealed bids for oil and gas lease sale No. 55; bid acceptance until 10-20 or 10-21 based on method of delivery (Part IV of this issue)
59613	**Petroleum Price Regulations** DOE/ERA gives notice of applications submitted for designation as eligible recipients of entitlements under the Domestic Crude Oil Allocation Program
59635- 59637, 59642	**Privacy Act Documents** HHS/SSA (3 documents) Interior/Sec'y, and GSA
59627	**Energy** DOE/OHA solicits comments regarding manner in which Consent Order funds should be distributed; comments by 10-27-80
59818	**Energy** DOE/ERA proposes to modify entitlement benefit accorded naphtha imported into Puerto Rico; comments by 11-10-80; hearing 9-25-80 (Part IX of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

59589 **Mortgages** HUD proposes prohibiting prepayment of mortgages which are assisted by way of Housing Assistance Payments Contracts during the term of the mortgage; comments by 11–10–80

59609 **Grant Programs—Education** ED cancels closing dates for transmittal of applications for fiscal year 1980 Community Service and Continuing Education; Special Projects Program

59734 **Medicare and Medicaid** HHS/HCFA proposes to provide prospective payment method for reimbursement of independent rural health clinics; comments by 11–10–80 (Part III of this issue)

59609 **Grant Programs—Education** ED notifies interested persons of the lack of availability of funds for fiscal year 1980 for grant awards for Construction, Reconstruction, or Renovation of Higher Education Facilities Program

59668 **Grant Requirements** OMB revises Circular A–102, "Uniform requirements for grants to State and local governments" to assure small and minority business use when contracting for audit services

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59634 **Consumer Food Study** FTC invites comments on study of consumer response to availability of advertised specials; comments by 10–30–80

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Federal Register
Vol. 45, No. 177
Wednesday, September 10, 1980

Presidential Documents

Title 3—

The President

Presidential Determination of September 8, 1980

Determination Concerning the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State, the Secretary of the Treasury

Under Section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5 note), and a previous determination made by me on September 12, 1979 (44 *Fed. Reg.* 53153 (1979)), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1980.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by Section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1981, the exercise of those authorities with respect to countries affected by: (1) the Foreign Assets Control Regulations, 31 CFR Part 500; (2) the Transaction Control Regulations, 31 CFR Part 505; (3) the Cuban Assets Control Regulations, 31 CFR Part 515; and (4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This Determination shall be published in the **Federal Register**.

Jimmy Carter

THE WHITE HOUSE,
Washington, September 8, 1980.

[FR Doc. 80-27908
Filed 9-8-80; 3:58 pm]
Billing code 3195-01-M

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Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 640, Amdt. 4]

Valencia Oranges Grown in Arizona and Designated Part of California; Amendment of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment suspends during the period September 5, 1980, through January 31, 1981, the maximum size requirement of 3.41 inches in diameter for fresh shipments of Valencia oranges grown in Arizona and designated part of California. This action is necessary to provide markets with ample supplies of acceptable sizes of fruit to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This amendment is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

Valencia Orange Regulation 640 (§ 908.940; 45 FR 23638; 38339; 45573; 53801), during the period April 11, 1980, through January 31, 1981, limits shipments of Valencia oranges grown in Arizona and a designated part of California to oranges not smaller than 2.32 inches in diameter. It also requires that such oranges be not larger than 3.41 inches in diameter during the period September 5, 1980, through January 31, 1981. The amendment suspends the maximum size requirement applicable to shipments of such oranges. This action is necessary to satisfy current and prospective demand for larger sizes of Valencia oranges. It is designed to assure an ample supply of acceptable sizes of Valencia oranges to consumers consistent with the size composition of the crop.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The amendment relieves restrictions on the handling of Valencia oranges and will not require any special preparation by persons subject thereto which cannot be completed by the effective time.

§ 908.940 [Amended]

Therefore, paragraph (b) of § 908.940 Valencia Orange Regulation 640 (45 FR 23638; 38339; 45573; 53801) relating to maximum size requirements is hereby deleted.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: September 5, 1980 to become effective September 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–27847 Filed 9–9–80; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34–17112]

Annual Assessment Form for SECO Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of form.

SUMMARY: The Securities Exchange Act of 1934 authorizes the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to broker-dealers who are not members of a registered national securities association. This form sets forth the annual schedule under which such broker-dealers are to be assessed for fiscal year 1980.

EFFECTIVE DATES: The form is adopted effective September 10, 1980. The Form is required to be filed on or before October 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Finegan, Office of Reports and Information Services, Room 7417 Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 523–5545.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has adopted Form SECO–4–80 which sets forth the annual assessment payable to the Commission for fiscal year 1980 by registered broker-dealers who are not members of a registered national securities association (nonmember or "SECO" broker-dealers).

In adopting Form SECO–4–80, the Commission has determined to increase the basic membership fee from $250 to $300. In addition, the Commission has increased the gross municipal securities income assessment from .19% to .21% and the gross securities income assessment (exclusive of municipal securities) from .23% to .25%. These assessments are being increased pursuant to Rule 15b9–2 of the Securities Exchange Act of 1934 (the "Act"). Rule 15b9–2 provides that, unless the Commission takes action to change them, the levels or rates of fees and

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assessment imposed on SECO broker-dealers will be set each year at the same levels or rates as the corresponding fees and assessments imposed by the National Association of Securities Dealers, Inc. on its members.

Notice of Date for Filing Form SECO-4-80

Normally, Rule 15b9-2 requires nonmember broker-dealers to file a Form SECO-4 for the particular year and pay the assessment specified therein by September 1 of each year. This year, however, the Commission has extended the deadline until October 31, 1980, to provide sufficient notice to those broker-dealers required to file the Form and pay the fees and assessments.

Statutory Basis

The modifications of 1980 assessments for SECO broker-dealers are adopted pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(b)(7), 15(b)(8), and 23(a) thereof. The Commission finds, in accordance with the Administrative Procedure Act [5 U.S.C. 553(b)(3)(D)], that Rule 15b9-2 and Securities Exchange Act Release No. 16143 (August 28, 1979) (44 FR 52773 (September 10, 1979)) provided sufficient notice of the basis for and amount of these fees and assessments, that further notice is unnecessary as a prerequisite to the adoption of the requirements, and that the extension of time provided grants a temporary exemption sufficient to permit the requirements to become effective on publication in accordance with the Administrative Procedure Act [5 U.S.C. 553(d)(3)]. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly the implementation of the Commission's continuing mandate under Section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to SECO broker-dealers. The Securities and Exchange Commission, pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)] and particularly Sections 15(b)(7), 15(b)(8), and 23(a) thereof, amends Part 249 of Title 17 of the Code of Federal Regulations by adding § 249.504n as follows:

§ 249.504n Form SECO-4-80, 1980 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before October 31, 1980, pursuant to § 240.15b9-2 of this chapter, accompanied by the annual assessment fee required thereunder and specified in the form, by every registered broker and dealer not a member of a registered national securities association. Those broker-dealers which are exempt from the payment of any assessment or fee pursuant to the provisions of § 240.15b9-2(e) must still file the form.

Copies of the proposed form have been filed with the Office of the Federal Register and additional copies are available on request from the Commission.

By the Commission.

George A. Fitzsimmons,
Secretary.
September 3, 1980.
[FR Doc. 80-27855 Filed 9-9-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Butter Cookies From Denmark; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Revocation of Countervailing Duty Order.

SUMMARY: This notice is to inform the public that, as a result of a negative injury determination by the International Trade Commission, the Department of Commerce is revoking the countervailing duty order on butter cookies from Denmark. The table in Part 355, Annex III of the Commerce Regulations is amended to reflect this revocation.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-4347).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination," T.D. 78-12, was published in the **Federal Register** of January 5, 1978 (43 FR 956). The notice stated that the Treasury Department had determined that exports of butter cookies from Denmark were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). This merchandise is provided for in item 182.20 of the Tariff Schedules of the United States (TSUS). Concurrently with that determination, Treasury Decision 78-11 (43 FR 955) was published waiving the imposition of those duties under the authority of section 303(d) of the Tariff Act of 1930.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce (the Department). Since Denmark was a "country under the Agreement" (as defined in section 701(b) of the Tariff Act of 1930) as of January 1, 1980, the Department referred this case to the International Trade Commission (ITC) for a material injury determination in accordance with section 104(a)(1)(A) of the TAA. Section 105 of the TAA continued the waiver pending the ITC determination. Liquidation continued throughout the period. The ITC published a negative material injury decision in the **Federal Register** of June 25, 1980 (45 FR 72895).

As a result, the Department hereby revokes T.D. 78-11 and T.D. 78-12 with respect to all entries of butter cookies from Denmark. The Department will instruct Customs officers to continue with the liquidation of all such entries without regard to countervailing duties.

The table in Part 355, Annex III of the Commerce Regulations (19 CFR Part 355, Annex III, 45 FR 4949), is amended under the country heading "Denmark" by deleting from the column headed "Commodity," the words "Butter cookies"; from the column headed "Treasury Decision," the numbers "78-12" and "78-11"; and from the column headed "Action," the words "Bounty declared" and "Imposition of countervailing duties waived."

This revocation and notice publication are in accordance with section 104(a)(3)(B) of the TAA (93 Stat. 191, 19 U.S.C. 1671 note).

John D. Greenwald,
Deputy Assistant Secretary for Import Administration.
September 4, 1980.
[FR Doc. 80-27779 Filed 9-9-80; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF STATE

22 CFR Part 161

[Departmental Reg. 108.795]

Regulations for Implementation of the National Environmental Policy Act (NEPA)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: On November 28, 1978, the Council on Environmental Quality (CEQ) promulgated regulations establishing uniform procedures for implementing the procedural provisions of the National Environmental Policy Act Regulations. In compliance with the requirement that other Federal Agencies adopt appropriate regulations to supplement the CEQ regulations, the Department of State is today publishing its final rules. These rules seek to assure that environmental considerations are included in the Department's decisionmaking process and to assign responsibility for assessing significant environmental effects.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Irene F. Dybalski, Office of Environment and Health, Room 7820, Department of State, Washington, D.C. 20520 (tel: 202/632-9267).

SUPPLEMENTARY INFORMATION:

I. Background

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for protecting the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward attaining those goals. All Federal agencies are required to give appropriate consideration in their decision-making to the environmental effects of their proposed actions and to prepare environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, on November 29, 1978, CEQ issued final regulations (CEQ Regulations) (43 FR 55978–56007, Nov. 29, 1978, codified at 40 CFR Parts 1500–1508) for implementing NEPA which are binding on all Federal agencies as of July 30, 1979. The CEQ Regulations provide that each Federal agency shall, as necessary, adopt implementing regulations to supplement those regulations. Section 1507.3(b) of the CEQ Regulations identifies those sections of the CEQ Regulations which must be addressed in agency regulations.

The Departmental regulations are applicable to environmental review of major Department actions with significant environmental effects within the United States. Departmental environmental review of major Federal actions with significant adverse environmental effects abroad is governed by the Department's environmental review procedures, which entered into effect on September 4, 1979 (FAMC No. 807A) (44 FR 67004). The environmental review procedures have been revised (see Notices section of this issue).

II. Comments and Other Revisions

A. *Comments.* Comments were received from one private organization. The Department has carefully considered these comments. The principal matters raised were:

(1) Whether the regulations should be applicable to actions whose environmental impacts fall outside the United States.

(2) Whether the regulations should be integrated more closely with the Department's procedures implementing E.O. 12114.

(3) Whether the list of actions normally requiring environmental assessments should be expanded.

(4) The need for a reference to the Clean Air Act.

1. *Applicability of the regulations to impacts outside the United States.* The commenter considered that the regulations were improperly limited to review of impacts within the United States of Department actions, and suggested that they be expanded in scope to apply to all environmental impacts, regardless of location, of Department actions. The commenter made a number of specific proposals in this connection. The Department did not accept this proposal. In accordance with Executive Order 12114 of Jan. 4, 1979 (44 FR 1957–1962, Jan. 9, 1979), the Department has issued procedures, applicable to consideration of environmental impacts abroad of major Departmental actions (44 FR 67004–67008, Nov. 21, 1979), which have recently been amended (see Notices section of this issue) and which adequately and properly treat environmental impacts beyond the United States. To the extent possible, the Department has drafted these regulations and the E.O. 12114 procedures in a consistent and parallel manner so as to permit ready and coordinated application of the two sets of undertakings.

2. *Closer integration of NEPA regulations and E.O. 12114 procedures.* The commenter suggested that the Department's NEPA regulations and E.O. 12114 procedures be integrated and issued as a single document. The Department did not adopt this proposal. The legal bases for conducting studies of impacts in the United States and of impacts outside the United States are sharply different, as are the documents the Department is called upon to prepare; integration into a single document would create confusion on both the legal and the operational level. As noted above, the Department has, to the extent possible, drafted these regulations and the E.O. 12114 procedures so as to permit their coordinated application.

3. *Expansion of list of actions normally requiring environmental assessment.* The commenter proposed addition of three classes of actions to the list found in § 161.7(c): Actions involving intentional weather or climate modification; actions involving natural resources shared with Canada or Mexico or activities in Canada or Mexico with potential transfrontier environmental effects; and actions having potential for harm to migratory species of the United States or any species in the global commons. These suggestions have not been accepted. While it would be anticipated that any such actions would be examined with particular care, the Department engages in actions relating to weather modification only rarely and virtually never has lead responsibility for them, and their inclusion in the list would therefore be misleading. Proposals that actions affecting natural resources which may be shared with Canada or Mexico and those affecting migratory species or species in the global commons have not been adopted because, in the view of the Department, actions affecting such resources or species do not constitute a unique problem calling for special treatment in the regulations. They would be routinely covered under the appropriate environmental review documents. Impacts in the United States of actions taking place in foreign countries will be considered under NEPA and these regulations in the same manner as impacts in the United States of actions taking place within the United States.

4. *Reference to Clean Air Act.* The commenter suggested that a reference to be made to the Clean Air Act, 42 U.S.C. 7401 et seq. The Department has accepted the suggestion that a reference

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be made (§ 161.11) to section 309 of the Act, as required by the CEQ Regulations, but has not adopted the further suggestion that section 115 be referred to in the regulations since that provision calls for foreign affairs policy decisions in specific contexts which may arise in the future, and does not lend itself to codification in regulations.

B. *Other revisions.* Section 161.4(c) has been amended to clarify the definition of the United States and the Department's intent that these regulations be applicable to actions affecting the fishery resources of the U.S. Fishery Conservation Zone and the resources of the continental shelf appertaining to the United States. The close nexus between the resources of these areas and the United States as strictly defined, and the established practice of preparing environmental documentation under NEPA on actions which may affect them, convince the Department that it should consider NEPA as applicable to them. This decision is not intended to imply any expansion of U.S. territorial jurisdiction over these areas, but rather reflects the fact that the United States possesses internationally-recognized exclusive rights to the management and exploitation of the fishery resources of the U.S. 200-mile zone and the resources of the continental shelf and that full application of our domestic environmental review legislation to actions affecting these resources is consequently appropriate.

Accordingly, Subchapter Q, Part 161 of Title 22 of the Code of Federal Regulations is amended and adopted as set forth below.

Dated: September 2, 1980.

Thomas R. Pickering,

Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs.

SUBCHAPTER Q—ENVIRONMENTAL PROTECTION

PART 161—REGULATIONS FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Subpart A—General

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161.1 Purpose and scope.
161.2 Policy.
161.3 Applicability.
161.4 Definitions.

Subpart B—NEPA and Departmental Decisionmaking

161.5 Major decision points and timing.
161.6 Responsibilities of departmental officials.
161.7 Categories of actions.

Subpart C—Environmental Review Procedures

Sec.
161.8 General description of the Department's NEPA process.
161.9 Specific steps in the Department's NEPA process.

Subpart D—Coordination of Other Requirements of NEPA

161.10 Non-Federal applicants for permits.
161.11 Environmental review and consultation requirements.
161.12 Environmental effects abroad of major departmental actions.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; Executive Order 11514, 34 FR 4247, as amended by Executive Order 11991, 42 FR 26927; 22 U.S.C. 2658, as amended.

Subpart A—General

§ 161.1 Purpose and scope.

These Departmental regulations are designed to supplement the CEQ Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the CEQ Regulations. The CEQ Regulations are incorporated herein by reference. The Department's regulations seek to assure that environmental considerations and values are incorporated into the Department's decisionmaking process and assign responsibility within the Department for assessing the significant environmental effects in the United States of the Department's actions.

§ 161.2 Policy.

It is the policy of the Department of State to use all practicable means, consistent with the Department's statutory authority, available resources and national policy, to:

(a) Protect and enhance the quality of the environment;

(b) Ensure that environmental amenities and values are appropriately considered in Departmental actions;

(c) Integrate planning and environmental review procedures with the Department's decisionmaking process;

(d) Invite and facilitate, when appropriate, Federal, State and local governmental authorities and public involvement in decisions which affect the quality of the environment; and

(e) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

§ 161.3 Applicability.

The provisions of these regulations apply to decisions on all Departmental actions which may affect the quality of the environment within the United States. The Department is establishing separate environmental review procedures under Executive Order 12114 (January 4, 1979) for actions having potential effects on the environment of global commons or areas outside the jurisdiction of any nation, or on the environment of foreign nations.

§ 161.4 Definitions.

Definitions for many terms used in these regulations may be found in section 1508 of the CEQ Regulations. In addition, for the purpose of these regulations, the term:

(a) "Responsible action officer" means the Department officer principally responsible for the preparation of action memoranda and other documents relating to a given Departmental action to which by these regulations apply. Ordinarily, the responsible action officer will be the country or office director whose office has action responsibility for a given action.

(b) "CEQ Regulations" means the regulations implementing the procedural provisions of the National Environmental Policy Act, issued by the Council on Environmental Quality on November 29, 1978 (43 FR 55978–56007), and codified at 40 CFR Parts 1500–1508.

(c) "United States" means the States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, American Samoa, the U.S. Virgin Islands, Guam and the other territories and possessions of the United States, including the territorial seas thereof. For the purpose of these regulations, actions having significant environmental effects on the resources of the U.S. continental shelf or resources of the U.S. Fishery Conservation Zone subject to the jurisdiction of the United States shall be considered to be actions having significant environmental effects in the United States.

(d) "Environmental document" means an environmental assessment, an environmental impact statement, a Finding of No Significant Impact or a Notice of Intent prepared under these regulations.

Subpart B—NEPA and Departmental Decisionmaking

§ 161.5 Major decision points and timing.

(a) The responsible action officer shall ensure compliance with these regulations at the earliest practicable stage of Departmental study.

consideration or planning of a proposed major Federal action which could significantly affect the quality of the human environment. To accomplish this the responsible action officer must ensure that data developed during the review process is collected, analyzed and made available for consideration early in planning and decisionmaking when it will be most valuable in formulating, reviewing and deciding upon proposals for Departmental action.

(b) Environmental analysis and review of a proposed Departmental action shall be conducted as early as practicable so as to be timely, yet late enough to be relevant to the decisionmaking.

(c) Environmental documents should, whenever possible, accompany the principal action memorandum relating to a proposed action. An environmental document required in conjunction with conclusion of an international agreement shall, where possible, be prepared and circulated for review and comment before final negotiations begin. The completed environmental document should thus ordinarily accompany the principal action memorandum or request for authority to negotiate an agreement under the Department's Circular 175 regulation (11 FAM 720).

(d) To the maximum extent possible an environmental document should be prepared before the establishment of a final United States position on a proposal. In such cases the document should indicate the alternatives under consideration without specifying a Departmental preference. If the content and dimensions of a proposed action will not be clear until after the conclusion of an international negotiation or if a decision to proceed on an action involving another nation or international organization is required on short notice and before the environmental document can be prepared, the environmental document should be prepared as soon as possible after the conclusion of an agreed text of a treaty or agreement on the proposed action. If the Senate's advice and consent to a treaty with potential significant environmental effects in the United States will be sought, the final environmental impact statement should accompany other decision documentation for ratification. Legislative environmental impact statements on proposed treaties or legislation shall conform to the requirements of § 1506.8 of the CEQ Regulations and must be prepared in time for Congressional hearings and deliberations.

(e) Because actions having effects on the United States may to varying degrees be initiated, influenced and conducted by other countries, it is recognized that the preparation of environmental documents for such actions must be adjusted to meet a variety of circumstances. Bearing in mind the degree to which other countries possess information on and the ability to affect the decision under consideration, responsible action officers shall seek at all times to prepare environmental analysis documents as early as feasible in the decisionmaking process.

§ 161.6 Responsibilities of departmental officials.

(a) *General.* As a general rule, responsibility for preparing environmental analysis documents will follow the Department's standard organizational practices; in this way environmental considerations and awareness of environmental responsibilities will be integrated most readily and effectively into the usual decisionmaking processes.

(1) *Departmental bureaus.* Each bureau within the Department shall be responsible for:

(i) Implementing these regulations and incorporating them into its normal decisionmaking processes;

(ii) Identifying actions it intends to initiate which may affect significantly the environment of the United States and employing the environmental evaluation procedures outlined in these regulations to ensure that necessary actions are taken to meet the requirements of applicable laws and regulations;

(iii) Coordinating environmental assessment-related activities for which it is responsible with the Office of Environment and Health in the Bureau of Oceans and International Environmental and Scientific Affairs and supporting and assisting the Office of Environment and Health in implementing these regulations as required; and

(iv) Providing the personnel required to implement these regulations, informing the Office of Environment and Health and the Office of the Legal Adviser whenever it is anticipated that environmental documents will be prepared under these regulations, and consulting the Office of Environment and Health and the Office of the Legal Adviser as necessary for guidance and assistance in the preparation of such documents.

(2) *Bureau of Oceans and International Environmental and Scientific Affairs.* Through its Office of Environment and Health the Bureau shall have the primary responsibility for ensuring the Department's compliance with environmental policies, regulations and procedures. It shall provide policy and professional direction and guidance within the Department for implementing these regulations. It shall also assist other bureaus in obtaining appropriate scientific advice and budgetary resources to implement the regulations. The Office of Environment and Health will act as the focal point for implementation, working closely with the Departmental bureaus and the Office of the Legal Adviser. The Bureau and other involved bureaus will work closely with the Assistant Secretary for Congressional Relations in the preparation of environmental documents relating to legislation. In carrying out its responsibilities the Bureau shall:

(i) Coordinate the formulation, development and revision of Departmental policies and positions on matters pertaining to environmental evaluation and review;

(ii) Develop and ensure the implementation of Departmentwide standards, procedures and working relationships for environmental review and compliance with applicable environmental laws and regulations;

(iii) Develop, as an integral part of the Department's basic decision processes, procedures to ensure that environmental factors are properly considered in all relevant proposals and decisions;

(iv) Monitor these processes to ensure that Departmental procedures are achieving their purposes;

(v) Advise, assist and inform Departmental bureaus of the technical and management aspects of environmental analysis, and of the relevant expertise available in and outside the Department;

(vi) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other federal, State and local governmental agencies concerned with environmental matters;

(vii) Represent the Department in working with other government agencies and organizations to formulate, revise and achieve uniform understanding and application of government-wide policies relating to the environment;

(viii) Consolidate and transmit to the appropriate parties Departmental comments on environmental impact statements and other environmental reports prepared by other agencies; and

(ix) Acquire information for and prepare other Departmental reports on environmental assessment matters.

(3) *Office of the Legal Adviser.* The Office of the Legal Adviser is the principal Departmental authority on the legal aspects of environmental matters

and the implementation of these regulations and shall advise and assist Departmental Bureaus in these matters.

(4) *Bureau Environmental Coordinators.* Each Departmental bureau and major office shall designate an officer to act as coordinator, adviser and principal point of contact for environmental matters within the bureau. The bureau coordinator will advise and assist the bureau in implementing these regulations and serve as a member of the Departmental Committee of Environmental Coordinators.

(5) *Departmental Committee of Environmental Coordinators.* A Departmental Committee of Environmental Coordinators shall be established to assist in coordinating Departmental implementation of these regulations; in providing advice on major issues, policies and procedures relating to the Department's implementation of environmental analysis requirements; and in ensuring general conformity of Departmental implementation practices. The Committee's responsibility will be to exchange information on the implementation of these regulations, assist bureaus in early identification of Departmental actions which should be analyzed for environmental effects and help to coordinate and provide the appropriate analysis. The Committee will be chaired by the Office of Environment and Health and will be comprised of bureau and office coordinators designated by the respective bureaus and offices.

(6) *Outside contractors.* Qualified outside contractors may be employed to assist Departmental officers in preparing environmental documents as required under these regulations.

§ 161.7 Categories of actions.

Departmental officers shall review each major Departmental action having a potentially significant effect on the quality of the environment in the United States. The need to prepare formal environmental documents will depend on the scope of the action and the context and intensity of any environmental effects expected if the action is implemented. Departmental actions can generally be grouped into three categories, as follows:

(a) *Actions normally requiring environmental impact statements.* Any Departmental action deemed to have a "significant effect upon the quality of the human environment" of the United States requires the preparation of an environmental impact statement. The criteria to be used in determining significance are set forth in § 1508.27 of the CEQ Regulations. The Department has reviewed representative actions and has found no common pattern which would enable it to specify actions normally requiring environmental impact statements. If developments later enable such designations to be made the Department will publish a description of proposed actions for such designation in the **Federal Register.**

(b) *Actions categorically excluded from the requirement to prepare environmental impact statements.* Categorical exclusion, as defined in § 1508.4 of the CEQ Regulations, provides for exclusion from environmental review of specified actions which have as a class been found to have no significant impact on the quality of the human environment. Neither an environmental assessment nor an environmental impact statement is ordinarily required for such actions. Departmental actions categorically excluded from the requirements of these regulations include the following:

(1) Routine conduct of Departmental and overseas political and economic functions, including reporting on political and economic developments, trends and activities, communicating to host governments United States Government views, maintaining contact with foreign officials and individuals, and facilitating trade opportunities abroad and U.S. business expansion in foreign markets;

(2) Provision of consular services—visas, passports and citizenship, and special consular services, such as issuing or reviewing passports and visas, taking legal depositions, notarizing absentee ballots and other documents and delivering retirement checks, social security payments and veterans benefits;

(3) Conduct of routine administrative functions, such as budget and finance, personnel and general services. This includes routine administrative procurements (e.g., general supplies, negotiating leases for office space or staff housing, ordering supplies and arranging for customs clearances); financial transactions, including salaries, expenses and grants; routine management, formulation and allocation of the Department's budget at all levels (this does not exempt the preparation of environmental documents for proposals included in the Department's budget when required); and personnel actions (e.g., promotions, hirings, and counseling American and host country employees who work for the Department of State);

(4) Preparing for and participating in conferences, workshops or meetings for information exchange, data collection or research or study activities; and

(5) Document and information exchanges.

Even though an action may be categorically excluded from the need for an environmental impact statement, if information developed during the planning for the actions indicates the possibility that the particular action in question may nonetheless cause significant environmental effects, an environmental assessment shall be prepared to evaluate those effects. Based upon the assessment, a determination will be made whether to prepare an environmental impact statement. The Department may designate additional actions for categorical exclusion by publishing a listing of actions proposed for such designation in the **Federal Register**.

(c) *Actions normally requiring environmental assessments.* An environmental assessment shall provide the basis of the determination whether an environmental impact statement is required. A Departmental action shall require the preparation of an environmental assessment if the action is not one known normally to require an environmental impact statement and is not categorically excluded. Departmental actions normally included in this category are actions for which the Department has lead-agency responsibility and which may significantly affect the human environment of the United States, such as those actions involving:

(1) Issuance of permits for construction of international bridges and pipeline (see Executive Order 11423 and the International Bridge Act of 1972 (Pub. L. 92-434, 86 Stat. 23));

(2) Wetlands, floodplains, endangered species and national historical, archeological and recreational sites (see also specific requirements for environmental review and consultation in § 161.11 of these regulations); and

(3) Ocean dumping, control of toxic substances, disposal and storage of wastes and radioactive substances.

(d) *Emergencies and other exceptional circumstances.* Not every Departmental activity will be considered a major Federal action for the purposes of these regulations. Several limited classes of action which might ordinarily be subject to these regulations will not be considered major Federal actions requiring the preparation of an environmental impact statement. Among them are the following:

(1) Actions taken in emergency circumstances and disaster and emergency relief activities as defined in section 1506.11 of the CEQ Regulations

(in such circumstances the responsible action officer should consult with the Office of Environment and Health which shall consult with the Council on Environmental Quality about appropriate alternative arrangements);

(2) Mandatory actions required under any treaty or international agreement to which the United States Government is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant except when the United States has substantial discretion over implementation of such requirements;

(3) Payment of contributions, either assessed or voluntary, to any international organization of which the United States is a member pursuant to the obligation of a treaty or other international agreement or which is not for the purpose of carrying out a specifically identifiable action which would affect the environment; and

(4) Support for or acquiescence in (by affirmative vote or agreement to consensus) an activity or expenditure of funds by an international organization where the United States has no unilateral right to control such expenditures.

Subpart C—Environmental Review Procedures

§ 161.8 General description of the Department's NEPA process.

In reviewing proposed actions for potential environmental effects in the United States responsible action officers will follow the procedural steps set forth below. These steps are developed in conjunction with the procedural steps required by the CEQ Reguations which are referenced in the following sections.

(a) *Preliminary environmental evaluations.* Early in the process of considering any possible action the responsible action officer shall review the action to determine if it may cause potential significant environmental effects on the environment of the United States. A proposed action shall be reviewed initially to determine into which of the following three basic categories of action it falls:

(1) Actions normally requiring environmental impact statements;

(2) Actions categorically excluded from environmental impact statements; or

(3) Actions normally requiring environmental assessments. If the responsible action officer concludes that the proposed action is a major action potentially having significant effects in the United States he should, in cooperation with other appropriate Departmental officials, carry out the steps described in these regulations. If during his review of the location of potential environmental effects or following preparation of an environmental assessment it is determined that the action could affect the environment of the global commons or a foreign nation the officer is responsible for ensuring compliance with the Department's procedures for implementing Executive Order No. 12114 on Environmental Effects Abroad of Major Federal Actions (Foreign Affairs Manual, Volume 2).

(b) *Environmental Assessment.* An environmental assessment is a concise document which analyzes potential environmental effects to determine if an environmental impact statement is required (CEQ Regulations §§ 1501.3 and 1508.9). If the action does not fall into either the category of those actions normally requiring an environmental impact statement or that of actions categorically excluded from the requirement to prepare an environmental impact statement, then the responsible action officer, in cooperation with other Departmental officials, shall prepare an environmental assessment to determine whether it is necessary to prepare an environmental impact statement or a "Finding of no significant impact". If the action normally requires an environmental impact statement, there is ordinarily no need for the preparation of an environmental assessment and the environmental impact statement process should be initiated without preparing such an assessment. If the action is categorically excluded, no further environmental review is needed. If an environmental assessment is prepared it may also be used to evaluate whether the proposed action may have effects outside the United States.

(c) *Finding of no significant impact.* If the environmental assessment indicates that the environmental effects of the action in the United States are not significant, then the responsible action officer shall make a "Finding of no significant impact", thereby concluding the NEPA review process (CEQ Regulations §§ 1501.4 and 1508.13).

(d) *Environmental impact statement.* If the environmental assessment demonstrates that the environmental effects of the action with the United States may be "significant" (see § 1508.27 of the CEQ Regulations) the Department is required to prepare an environmental impact statement (EIS) in accordance with these regulations (see also CEQ Regulations § 1501.8, Part 1502 and §§ 1506.2 through 1506.7). In preparing the environmental impact statement the following steps will be carried out:

(1) *Notice of intent to prepare an EIS.* If an impact statement is required, the Department will publish in the **Federal Register** a "Notice of intent" to prepare such a statement (CEQ Regulations §§ 1501.7 and 1508.22).

(2) *Scoping procedures.* The Department will then hold a scoping meeting with interested agencies and individuals to determine the proper content ("scope") of the statement (CEQ Regulations §§ 1501.7 and 1508.25).

(3) *Draft environmental impact statement (DEIS).* The Department will then prepare a draft EIS (DEIS) which will be filed with the Environmental Protection Agency and circulated to agencies and the public for comment for at least 45 days, except where the CEQ Regulations and these regulations permit the time period to be shortened (CEQ Regulations § 1501.8, Part 1502, §§ 1506.2 through 1506.7, 1506.10(d) and 1506.11; §§ 161.7(d), 161.9(n)(2)).

(4) *Final environmental impact statement (FEIS).* In light of the comments and following any revision in the draft EIS, the Department will file with the Environmental Protection Agency and circulate to agencies and the public a final EIS at least 30 days before making a final decision on the action, except where the CEQ Regulations and these regulations permit the time period to be shortened (CEQ Regulations §§ 1506.9, 1506.10(d), 1506.11; §§ 161.7(d), 161.9(n)(2)).

(5) *Record of decision.* After making a decision on the action, the Department will make available a formal "Record of decision" (CEQ Regulations § 1505.2).

§161.9 Specific steps in the Department's NEPA process.

(a) *Decision whether to prepare an EIS.* In deciding whether to prepare an environmental impact statement, the responsible action officer shall make an initial review in the early planning stages of a proposed action to identify and evaluate potential environmental effects of the actions and all reasonable measures which may be taken to mitigate adverse impacts. This review must be conducted in conjunction with all requests under the Department's Circular 175 procedure (11 FAM 720), with all actions involving the obligation of funds within the Department's annual or supplemental budget submissions to the Office of Management and Budget, and with other actions when a potentially significant environmental impact may result. The responsible action officer shall ensure that the principal action memoranda prepared

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for such actions properly reflect the environmental review in all cases. No written statement is required in the case of actions which do not raise the question of environmental impacts. The environmental evaluation document prepared shall be considered along with political, economic and other decisionmaking factors relating to the proposed action.

(1) *Review of the categories of actions.* During the initial environmental review of the proposed action, the responsible action officer should classify the proposed Departmental action as one either (i) normally requiring an environmental impact statement, (ii) normally not requiring such a statement, or (iii) normally requiring an environmental assessment. (See § 1504.1 of the CEQ Regulations and § 161.7 of these regulations.)

(i) *Actions normally requiring environmental statements.* Environmental assessments are not required for actions which it is already known will require the preparation of environmental impact statements. For each major Departmental action which, in the view of the responsible action officer meets the criteria of this section, he shall, in cooperation with the Office of Environment and Health, initiate steps to prepare an environmental impact statement. This will be accomplished by preparing a "Notice of intent" to prepare an EIS (see § 1508.22 of the CEQ Regulations). The Office of Environment and Health shall arrange for publication of the notice in the **Federal Register** (see § 1507.3(e) of the CEQ Regulations). The responsible action officer shall then apply the procedures set forth in § 161.8 of these regulations to determine the scope of the proposed EIS, and proceed to prepare and release the environmental impact statement in accordance with CEQ and Departmental regulations. If, however, the responsible action officer believes that the proposed action, though included within or closely similar to one which normally requires the preparation of an EIS, will itself have no significant impact, he should conduct an environmental assessment in accordance with the CEQ Regulations (§ 1508.9). If the assessment demonstrates that there will be no significant impact, he should prepare a "Finding of no significant impact" and provide for public review a notice of this finding in accordance with §§ 1501.4(e) and 1506.6 of the CEQ Regulations.

(ii) *Actions categorically excluded.* Separate detailed documentation is not normally required for actions which are categorically excluded and which are therefore exempt from the requirement of preparations of an environmental assessment or environmental impact statement. However, the responsible action officer shall note in the action memorandum concerning the action that the proposed action has been reviewed under the Department's environmental procedures and determined to be categorically excluded. The Office of Environment and Health shall periodically review actions in the classes categorically excluded under these regulations to determine if the original decision to categorically exclude the class remains valid. If such a review determines that a proposed action may have a significant impact on the human environment the necessary revision in the categorical exclusion shall be made and an environmental assessment shall be prepared to determine the need for the preparation of an environmental impact statement.

(iii) *Actions normally requiring environmental assessments.* For each action meeting the criteria of this section the responsible action officer shall prepare an environmental assessment (see §§ 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required. If the determination is that no environmental impact statement is required, the responsible action officer shall, in coordination with the Office of Environment and Health, prepare a "Finding of no significant impact" (see §§ 1501.4 and 1508.13 of the CEQ Regulations). The "Finding of no significant impact" shall be made available to the public through direct distribution and publication in the **Federal Register.** If the determination is that an environmental impact statement is required, the official shall proceed with the "Notice of intent" to prepare an EIS and the subsequent steps in the preparation and release of an EIS in accordance with the CEQ Regulations (§§ 1501.7, 1507.3 and 1508.22) and these regulations.

(2) *Preparation of environmental assessments.* Environmental assessments, as defined in the CEQ Regulations (§ 1508.9), should be prepared as directed in § 1501.3 of the CEQ Regulations. The environmental assessment shall be used to determine whether to prepare an environmental impact statement or a "Finding of no significant impact". The assessment shall include a brief discussion of the need for the proposed action, of alternatives and of environmental impacts and a listing of agencies and persons consulted in preparing the assessment.

(3) *Notice of intent to prepare an EIS:* As soon as practicable after deciding to prepare an environmental impact statement and before initiating the scoping process (see § 161.9(b) of these regulations) the Department or another lead agency, if one is designated in accordance with § 1501.5 of the CEQ Regulations, shall publish in the **Federal Register** a "Notice of intent" to prepare an EIS in accordance with §§ 1501.7 and 1508.22 of the CEQ Regulations. The Office of Environment and Health shall arrange for publishing the notice.

(b) *Scoping.* The Department shall conduct an early and open meeting with interested agencies and the public for determining the scope of issues to be addressed in a given environmental impact statement and for identifying the significant issues related to a proposed action. The elements of the scoping process are defined in § 1501.7 of the CEQ Regulations and must include consideration of the range of actions, alternatives, and impacts discussed in § 1508.25 of the CEQ Regulations.

(c) *Cooperation with other agencies.* Departmental officials are encouraged to cooperate with other agencies and the public throughout the conduct of the Department's NEPA process. The Office of Environment and Health shall ensure also that the Department reviews the draft and final impact statements submitted for review by other agencies (§ 1502.19 of the CEQ Regulations). Where appropriate and to eliminate duplication it shall arrange to prepare environmental assessments and impact statements jointly with other Federal or State agencies. Where possible it will arrange for the department to "adopt" statements prepared by other agencies (§ 1506.3 of the CEQ Regulations). It shall arrange lead and cooperating agency responsibilities for preparing environmental documents (see §§ 1501.5 and 1501.6 of CEQ Regulations).

(d) *Preparation of draft environmental impact statement.* The responsible action officer shall be responsible for the preparation of the draft environmental impact statement in the manner described in § 1501.8, Part 1502, and §§ 1506.2 through 1506.7 of the CEQ Regulations. Preliminary copies of the draft environmental impact statement and attachments shall be submitted to the Office of Environment and Health before any formal review is conducted outside the Department. This submission shall be accompanied by a list of Federal, State, and local officials (Part 1503 of the CEQ Regulations) and a list of other interested parties (§ 1506.6 of the CEQ Regulations) whose comments shall be sought. The Office of

Environment and Health shall review the draft and obtain additional comments from other appropriate Departmental bureaus and offices.

(e) *Review of and comment on draft EIS.* For external review, the Office of Environment and Health shall transmit five copies of the revised draft statement to the Environmental Protection Agency (EPA) Office of Federal Activities. EPA will publish a notice of the statement's availability the following week in the **Federal Register**. Upon transmission of the draft statement to EPA, the Office of Environment and Health shall also seek the views of appropriate agencies and individuals in accordance with Part 1503 and §§ 1506.6 and 1506.9 of the CEQ Regulations. It shall specify that replies are required at a stated date not earlier than 45 days from the date of NEPA publication of the draft statement availability. Any views submitted during the comment period shall be provided to the responsible action officer in the Department for consideration in preparing the final statement. To the fullest extent possible, requirements for review and consultation with other agencies on environmental matters established by statutes other than NEPA, such as the review and consultation requirements of the Endangered Species Act of 1973, as amended, should be met before or through this review process (see § 161.11 of these regulations). In addition, the draft EIS shall list all environmentally-related federal permits, licenses or other approvals required to implement the proposal as specified in § 1502.25(b) of the CEQ Regulations.

(f) *Public involvement.* (1) Departmental officials will make diligent efforts to involve the public in implementing these regulations as provided in § 1501.4(e), 1503.1(a)(e) and 1506.6 of the CEQ Regulations.

(2) Interested persons can obtain information on the Department's environmental impact statements and other aspects of the Department's NEPA process by contacting the Director, Office of Environment and Health, Room 7820, Department of State, Washington, D.C. 20520 (tel. 202/632–9266). Information pertaining to the NEPA process may be sent to the above address. **Federal Register** notices concerning the Department's environmental documents shall specify where such information relevant to the documents in question may be obtained.

(3) The responsible action officer shall identify those persons, community organizations, environmental interest groups, international organizations or other bodies which may have an interest in or be affected by the proposed Departmental action and who should therefore be involved in the NEPA process. With the assistance of the Office of Environment and Health, the responsible action shall transmit a list of such persons, groups and organizations to the Office of Environment and Health at the same time he submits:

(i) A recommendation regarding a "Finding of no significant impact";

(ii) A "Notice of intent to prepare an EIS";

(iii) A recommendation on possible public hearings (see § 1506.6(c) of CEQ Regulations);

(iv) A draft EIS, or

(v) A final EIS.

(4) The responsible action officer shall consult with the Office of Environment and Health and make recommendations regarding the need for public hearings. The Office of Environment and Health shall, as necessary, review such recommendations with the Office of the Legal Adviser.

(g) *Preparation of final environmental impact statement.* (1) After conclusion of the review process with other Federal, State and local agencies and the public, the responsible action officer shall consider suggestions received and revise the draft environmental impact statement as appropriate in accordance with Part 1502 and §§ 1501.8 and 1506.2 through 1506.7 of the CEQ Regulations.

(2) Five copies of the preliminary final environmental impact statement, with attached copies of the comments received and suggested responses, shall be provided to the Office of Environment and Health. The Office of Environment and Health will, as appropriate, obtain additional comments from any other appropriate Departmental bureau or offices and notify the responsible action officer of any further changes required and the number of final statements to be transmitted. The Office of Environment and Health shall submit five copies of the final statement to the Environmental Protection Agency's Office of Environmental Review. Copies shall also be sent to all parties who commented and to other interested parties in accordance with § 1506.9 of the CEQ Regulations.

(3) Each draft and final statement, the supporting documentation, and the "Record of decision" (see § 161.9(h) of these regulations) shall be available for public review and copying at the Office of Environment and Health (OES/ENH), Room 7820, Department of State, Washington, D.C. 20520 (tel. 202/632–9267).

(h) *Record of the decision.* At the time of the decision on the proposed action, the responsible Departmental official shall consult with the Office of Environment and Health and prepare a concise "Record of decision" (see § 1505.2 of the CEQ Regulations).

(i) *Timing of EIS preparation and action decision.* Preparation of an environmental impact statement shall be initiated as soon as the responsible action officer, in consultation with the Office of Environment and Health and the Office of the Legal Adviser, has determined that the statement shall be prepared. Except where permitted by the CEQ Regulations (§§ 1506.10(d), 1506.11) and these regulations (§§ 161.7(d), 161.9(n)(2)), no decision on the proposed action shall be made by the Department until the later of the following dates:

(1) Ninety (90) days after publication by EPA of a notice of availability of a Departmental draft EIS.

(2) Thirty (30) days after publication by EPA of a notice of availability of a departmental final EIS.

(j) *Implementing and monitoring the decision.* Section 1505.3 of the CEQ Regulations establishes the procedures to be followed by the Department in monitoring to assure that any mitigation measures or other commitments associated with the decision and its implementation are carried out. The Office of Environment and Health will maintain general oversight and cooperate with bureau officers in such monitoring.

(k) *Supplemental environmental impact statements.* Departmental officials shall supplement a draft EIS whenever an alternative which is substantially different from those discussed in the draft is under consideration or when the draft is otherwise out of date. A final EIS shall be supplemented when a substantial change is made in the proposed action or when significant new information on the environmental impacts comes to light. A supplemental EIS should be prepared, circulated and approved in accordance with the provisions of § 1502.9 of the CEQ Regulations. No supplemental EIS need be prepared when the final decision on the action in question has already been made. If there are reasons not to prepare a supplemental EIS when one ordinarily would be called for, the responsible action officer should consult with the Office of Environment and Health, which shall consult with the Council on Environmental Quality on the matter.

(l) *Programmatic and generic environmental impact statements.* (1) Before preparing an environmental document under these regulations the responsible action officer should

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determine if there exists a generic or programmatic environmental document analyzing actions, effects or issues similar to those involved in the proposed action. A generic environmental document reviews the environmental effects that are generic or common to a class of Departmental actions which may not be specific to any single country or area. Where such a document is prepared it could be applied to a number of similar specific country applications. If a generic document exists and if it deals with relevant similarities in the action, such as common timing, environmental impacts, alternatives, methods of implementation or subject matter it will not be necessary to prepare further environmental documentation.

(2) A programmatic environmental document shall focus its analysis on the environmental aspects of an entire program rather than on the specific elements of the program. If a programmatic environmental document has already been prepared the responsible action officer should determine whether it adequately deals with the environmental effects of the particular action under review. If the programmatic document adequately reviews the environmental impacts of the action under consideration, then additional environmental documentation is not required under these regulations. In preparing environmental documents on specific actions, Departmental officers shall consider the advisability of modifying or expanding the documents so they may serve as generic or programmatic documents for a broader range of actions.

(m) *Amendments.* Amendments to these regulations may be made by the Assistant Secretary for Oceans and International Environmental and Scientific Affairs in consultation with other Departmental bureaus and the Office of the Legal Adviser. Such amendments will be published in the **Federal Register** after consultation with the Council on Environmental Quality, in accordance with § 1507.3 of the CEQ Regulations, and public review and comment.

(n) *Modifications.* The Department's procedures for preparing environmental documents may be modified to accommodate the following circumstances:

(1) *Classified material.* Most Departmental environmental documents will not normally contain classified or administratively controlled material (see § 1507.3(c) of the CEQ Regulations); in some cases, however, an environmental document must include such material to evaluate adequately environmental effects. In such cases Departmental environmental documents, or portions thereof, may be classified. Such material should, if possible, be confined to a classified annex of the environmental document. Approval for classification must be granted with the concurrence of the Assistant Secretary for Oceans and International Environmental and Scientific Affairs and the Office of the Legal Adviser, and the assistant secretary of the bureau with the action responsibility for the proposed action. In these cases, Departmental environmental documents or portions thereof may be classified in accordance with the criteria set forth in Executive Order 12065, dated December 1, 1978. Handling and disclosure of classified or administratively controlled material shall be governed by 22 CFR Part 9. The portions of an environmental document which are not classified or administratively controlled will be made available to persons outside the Department, as provided in 22 CFR Part 9. Classification does not preclude the obligation to ensure that environmental documents are reviewed by competent scientific and technical experts. Appropriate arrangements will be made through the Office of Environment and Health for Federal agency review of classified or administratively controlled environmental documents.

(2) *Time periods for environmental review.* When necessary to comply with other specific statutory requirements or for compelling reasons of national policy the Department may, by agreement with the Environmental Protection Agency, modify time periods specified by the CEQ Regulations for preparing environmental documents in accordance with § 1506.10 of the CEQ Regulations. See also provisions for emergency circumstances contained in § 1506.11 of the CEQ Regulations and § 161.7(d) of these regulations.

Subpart D—Coordination of Other Requirements of NEPA

§ 161.10 Non-Federal applicants for permits.

The Department is responsible for issuing international permits for the construction of bridges and oil pipelines that cross the international boundaries with Canada and Mexico. The Office of Environment and Health will assist in preparation of the required environmental analysis documentation for such permits. Applicants for international permits may obtain information on the type of environmental information needed and the extent of the applicant's participation in the necessary environmental studies and their documentation from the Office of the Legal Adviser, Department of State, Washington, D.C. 20520 (tel. 202/632–0349). Applicants are encouraged to consult early with the Department on the necessary environmental and other requirements in order to expedite the NEPA process.

§ 161.11 Environmental review and consultation requirements.

In addition to the environmental review requirements of NEPA the Department has other statutory environmental review and consultation requirements. Departmental officials, in cooperation with the Office of Environment and Health and the Office of the Legal Adviser shall, to the maximum extent possible, conduct environmental review and consultation for these additional requirements concurrently with and integrated with preparation of assessments, and environmental impact statements. The principal additional requirements affecting the Department of State's actions are outlined below.

(a) Section 7 of the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, requires identification of and consultation on aspects of any Departmental action that may have effects in the United States on listed species or their habitat. As appropriate, written request for consultation, along with the draft environmental document, shall be conveyed by the Office of Environment and Health to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the Region in the United States where the action will be carried out.

(b) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f), requires identification of National Register properties, eligible properties, or properties in the United States which may be eligible for the National Register within the area of the potential impact of a proposed Departmental action. Evaluation of the impact of the action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comments.

(c) Executive Order 11988 (Floodplains Management) and Executive Order 11990 (Wetlands), requires identification of actions which will occur in or affect a floodplain or wetland (e.g., in areas along the boundary with Canada or Mexico). A comparative evaluation of such actions shall be discussed in draft environmental impact statements and transmitted to the U.S. Water Resources Council for comments.

(d) Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

(e) Section 309 of the Clean Air Act of 1955, as amended, 42 U.S.C. 7609.

(f) Clean Water Act of 1977, 33 U.S.C. 1251 *et seq.*

(g) Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(h) Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 *et seq.*

(i) Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.*

(j) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*

§ 161.12 Environmental effects abroad of major departmental actions.

Departmental officials shall analyze actions under their cognizance with due regard for the environmental effects in the global commons and areas outside the jurisdiction of any nation and in foreign jurisdictions. Such analysis shall be prepared in accordance with separate Departmental procedures (Foreign Affairs Manual, Volume 2), dated September 4, 1979 for implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (44 FR 1957), dated January 4, 1979.

[FR Doc. 80-27541 Filed 9-9-80; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-80-654]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Delivery of One-to-Four Family Properties Occupied by Tenants or Former Mortgagors; Revised Criteria

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: This rule establishes new §§ 203.670 through 203.683 to Subpart C, Servicing Responsibilities. These new sections come under the general heading Occupied Conveyance and prescribe revised criteria for determining when HUD will accept conveyance of one-to-four-family property by mortgagees with tenants or former mortgagors in occupancy. These new sections represent a revision and replacement of the criteria formerly contained in Section 203.381, Occupancy of Property Subpart B, Contract Rights and Obligations. Section 203.381 is not utilized to prescribe the mortgagee's obligation to convey property vacant unless the Secretary has consented to accept the property occupied.

DATES COMMENTS DUE: November 10, 1980.

EFFECTIVE DATE: November 10, 1980.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451-7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Pat Grote, Director, Single Family Preservation and Sales Division, Office of Single Family Housing, Department of Housing and Urban Development, 451-7th Street, S.W., Washington, D.C. 20410, 202-755-8680. This is not a toll free number.

SUPPLEMENTARY INFORMATION: A proposed rule governing occupied conveyance was published in the **Federal Register** for public comment on April 20, 1979 (Volume 44, 23800–23801). Interested parties were given until June 19, 1979 to submit written comments. Twenty-nine comments were received on the proposed rule. The major categories of commentors were HUD Field Office staff, legal aid organizations and HUD approved mortgagees. The Field Office staff were concerned primarily with how to administer the rule; whether or not its provisions would reduce occupied conveyances; and the need for more detailed instructions, particularly definitions of certain terms used in the rule. The thrust of the legal aid organizations' comments was for HUD to liberalize its policy in this area and accept more occupied conveyances as a vehicle for providing rental housing for needy families as well as avoiding the adverse effects of vacant buildings. The comments submitted by the mortgagees and their organizations were concerned primarily with procedural issues.

It was initially intended that after the public comment period a final rule would be published. In revising the proposed rule, however, it was found that extensive changes would have to be made. It was, therefore, decided that the rule would be issued on an interim basis with a sixty day period for public comment. In developing this interim rule each comment received during the public comment period was carefully considered. Nevertheless, it should be noted that both the proposed and interim rules were developed in accordance with two basic, underlying determinations. We tended not to adopt comments which urged a policy incompatible with these two basic determinations.

The first determination was that the Single Family Property Disposition Program is essentially a sales program and that its primary objective is to reduce the inventory of acquired properties in such a manner as to ensure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities. Other HUD programs are structured to provide rental housing to needy families.

The second determination was that HUD does not have the resources to effectively perform the role of a large scale landlord and, accordingly, occupied conveyance should be approved as only a temporary measure in aid of the sales program.

Thus the occupied conveyance procedure is not an acceptable vehicle for providing rental housing to needy families. Nevertheless, occupied conveyance can make a positive contribution to the property disposition function under those circumstances where it significantly reduces vandalism and/or the blighting effect of a large number of vacant properties in a given area.

Discussion of Comments

Each commentor presented a number of recommendations for the revision of the proposed rule. Because the total number of these recommendations is very large, it is not practicable to address them individually. This discussion of the comments does provide, however, a presentation of the substantive changes made in the rule in response to comment, and a brief discussion of major issues raised in the comments.

Several of the commentors addressed HUD's overall policy with respect to the disposition of single family properties. The supplementary sections of both the proposed rule and of this interim rule have statements of HUD's overall policy with respect to Property Disposition. However, because of the number of comments directed to this issue, we have included in the rule an explicit statement of the primary objective of HUD's Property Disposition Program.

The proposed rule contained language to the effect that as a precondition for occupied conveyance, a property must in its present condition be habitable. Included in this requirement was a statement that the property must be free of lead-based paint hazards. Many commentors stated that the habitability requirements would be used by HUD Field Offices to exclude nearly all applicants for occupied conveyance. In some areas, it was argued, occupied conveyance could be denied categorically. In response to these comments two changes were made: (1) the existence of a lead-based paint hazard will not, unconditionally, result in a property's vacant delivery; and (2) the rule will allow HUD to complete minor repairs in order to render a property habitable. Where a lead-based paint health hazard exists in a property which otherwise would be approved for occupied conveyance, HUD will approve occupied conveyance provided that, among other things, the hazard can be abated with the occupant remaining in the property without the abatement process itself constituting a hazard. The rule limiting moderate repairs to fifteen percent of the repaired value of the housing (§ 203.673) explicitly excludes the cost of abatement of lead-based paint hazards and requires that such repairs be accomplished by HUD on an expedited basis. Also, detailed guidelines for determining whether or not a property is habitable have been included in the rule.

Section 203.663(a)(3) of the proposed rule provided that, other conditions being met, occupied conveyance would be approved if the number of vacant homes in a neighborhood exceeded five percent of the total number of homes in the neighborhood. A number of HUD Field Offices commented that this vacancy criterion would be practically impossible for them to administer. In response to those comments, that criterion was dropped from the interim rule.

Numerous comments were made on § 203.663(c) which provided for the mortgagee's initial notice to the occupant of pending acquisition. It also established the time frame within which an occupant must act if he or she wishes to be considered for occupied conveyance. Numerous commentors called for greater specificity with respect to the content of the initial notice. Other commentors stated that the 20 day time frame for occupant requests was too brief, particularly, since the actual time of mailing the notice could not always be verified. One commentor recommended that (1) HUD should be notified by the mortgagee of pending acquisition and of the name of the occupant, (2) HUD should itself make the initial notice to the occupant, and (3) with HUD sending the notice, the 20 day time frame was adequate. We changed the rule in accordance with this last comment on the basis of its being the most effective way of addressing the deficiencies in the proposed rule cited in the other comments.

Two commentors recommended that, when after reconsideration HUD affirms its decision to deny occupied conveyance, it should explain its decision in a notice to the occupant. The interim rule, in § 203.678, reflects a change from the proposed rule that accords with these comments.

One commentor suggested that § 203.663(g) of the proposed rule was unclear. That section provided that the mortgagee could make an occupied delivery under special circumstances without being notified, in advance, of HUD's approval. Another commentor objected to such occupied conveyances because there were no due process procedures to evict the occupants of such properties after conveyance where the property is uninhabitable and/or HUD was unable to make the required inspections within the 90-day period. The interim rule clarified the matter of occupied conveyances without HUD's prior consent and provides for the application of the occupied conveyance criteria after acquisition.

In response to one commentor, the rule has been changed with respect to multiple-unit properties. The interim rule in § 203.681 has been changed with regard to such properties to (1) explicitly require that determinations of habitability be made on a unit-by-unit basis, taking into consideration the common areas, (2) provide an exception whereby, if the property's marketability would be improved, one unit may be denied occupied conveyance, notwithstanding the satisfaction of the other criteria, (3) establish the general assumption that the presence of qualified, rent-paying tenants will improve the marketability of multiple-unit dwellings, and (4) provide guidelines for applying the cost limitation on repairs set forth in § 203.673 of the interim rule.

A number of commentors called for a definition of fair market rent, guidelines for determining the financial ability of occupants to pay the rent, and the terms and conditions for continued occupancy during HUD's ownership subsequent to occupied conveyance. The interim rule incorporates changes addressed to these comments.

A large number of commentors stated that it was necessary that the rule define the term neighborhood and provide guidelines as to their physical definition. Consideration of this issue resulted in conclusion that "neighborhood" was essentially a sociological term, unamenible to the kind of precise definition necessary for the application of the criterion set forth in § 203.663(a)(2) of the proposed rule and in § 203.672 of this interim rule. Therefore, the term "neighborhood" was dropped in the interim rule and the term "residential area" substituted. It was felt that this substitution was more in line with what was intended in the proposed rule, that is, the division of HUD local offices into smaller geographic areas over which the criteria specified in § 203.672 may be applied. It was recognized that local HUD offices need sufficient time to accomplish an orderly transition from current established patterns of dealing with the disposition of the acquired home property inventory and related records to the newly established definition of residential area. Accordingly, provisions were included to allow up to a 6 months time after publication of this rule for pending transition.

Some commentors stated that the hardship condition set forth in § 203.663(a)(4) of the proposed rule should be extended to include all hardships, including financial hardship and the inability to find decent comparable housing that the occupant can afford. Other commentors recommended that it be extended to allow for continued occupancy in the case of permanent illness or injury altough, logically, such a policy would require HUD to allow the occupants to stay in the property indefinitely. Both of these comments, if adopted, would impede the achievement of the Property Disposition objective. Rather, it would change the very nature of the program from being essentially a sales program to one providing housing of last resort to the disadvantaged. Therefore, these comments were not adopted. This condition has now been modified to eliminate the term "unusual personal hardship" and to clearly limit the condition to temporary illnesses and injuries which would be aggravated by moving.

Other comments were made which called for more detailed implementational and instructional material. Although the interim rule does provide more detail in the way of guidelines, it was felt that in general such instructional and implementational material, should not be placed in the rule. The rule establishes the essentials with respect to occupied conveyance and instructional material directed to HUD's Field Office staff is inappropriate for inclusion in the HUD Regulations and is particularly inappropriate for inclusion in the Mortgage Servicing Regulations. Establishing detailed instructional material in the Regulations would unnecessarily limit program flexibility and procedural inadequacies would be more difficult to correct. Material not fully developed in the rule will be appropriately expanded upon in the appropriate HUD handbooks.

There were a large number of individual recommendations for additional or alternative criteria for occupied conveyance that would have the effect of substantially increasing the volume of occupied conveyances. Another number of recommendations were designed to persuade the Secretary to redefine the purpose and objective of the Single Family Property Disposition program in such a way as to be providing rental housing to needy families and/or being landlord to a large number of tenants in single family homes. These comments were not adopted because they were inconsistent with the underlying determinations for the rule.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451—7th Street, S.W., Washington, D.C. 20410.

The rule is listed as H–1–78 in the Department's semiannual agenda of significant rules, pursuant to Executive Order 12044.

Accordingly, Part 203 of Chapter II of 24 CFR is amended as follows:

1. § 203.381 is amended to read as follows:

§ 203.381 Occupancy of property.

The mortgagee shall certify that the property is vacant and contains no personal property as of the date of filing for record of the deed to the Secretary or that the Secretary has consented to accept the property occupied.

2. § 203.662 is deleted as follows:

§ 203.662 [Deleted and Reserved]

3. Part 203 is revised to amend the Table of Contents to reflect the following new sections and a centered caption and new §§ 203.670 through 203.683 are added as follows:

Occupied Conveyance

§ 203.670 Conveyance of occupied property.

It is the policy of the Department to reduce the inventory of acquired properties in such manner as to insure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities. Except as specified in § 203.679 (a) and (b), the Secretary will accept conveyance of property occupied by a tenant or former mortgagor only when the Secretary finds that the following conditions have been satisfied:

(a)(1) It is in the Secretary's interest to accept conveyance of the property occupied, or (2) the occupant or a member of the occupants family residing in the property suffers from a temporary illness or injury which would be aggravated by the process of moving from the property, and

(b) the property is habitable, and

(c) the occupant meets the eligibility criteria set forth in § 203.674.

§ 203.671 Criteria for determining the Secretary's interest.

It is in the Secretary's interest to accept occupied conveyance when one or more of the following are met:

(a) Occupancy of the property is essential to protect it from vandalism from time of acquisition to the time of preparation for sale.

(b) The number of Secretary-owned, vacant, unsold home properties in the residential area in which the property is located exceeds the number of properties acquired by the Secretary in that area within the past six months.

(c) With respect to multi-unit properties, the marketability of the property would be improved by retaining occupancy of one or more units.

§ 203.672 Residential area.

(a) For the purposes of occupied conveyance considerations, a residential area is any area which constitutes a local economic market for the purchase and sale of residential real estate. In making determinations of residential areas, substantial weight shall be given to delineations of such areas commonly used by persons active in the real estate industry in the affected area.

(b) HUD shall establish such residential areas within six (6) months of the publication of these regulations when HUD's current established patterns of dealing with the disposition of its acquired home property inventory and related recordkeeping does not coincide with (a) above. Under such circumstances the Secretary shall apply such established patterns in defining residential areas until the standards in (a) are implemented.

§ 203.673 Habitability.

As the term is used in § 203.670, a property is habitable if it meets the standards of this paragraph in its present condition or will meet such standards by the timely and expeditious performance of moderate repairs at a cost (exclusive of the cost of abating any lead based paint hazards) not to exceed 15% of the repaired value of the property.

(a) Each living unit shall provide the following:

(1) A continuing supply of hot and cold water.

(2) Adequate sanitary facilities and a safe method of sewage disposal.

(3) Heating facilities adequate for healthful and comfortable living conditions, taking into consideration the climatic condition of the area.

(4) Adequate electric supply for lighting and for equipment used in the dwelling unit.

(5) Adequate cooking facilities.

(b) Mechanical systems shall assure safety of operation, be protected from destructive elements, have reasonable durability and economy, and have adequate capacity and quality.

(c) The property shall be structurally sound and free of those hazards which may adversely affect the health and safety of the occupants or which may impair the customary use and enjoyment by the occupants. Unacceptable hazards include but are not limited to subsidence, erosion, flood, broken stairs, or exposed or unsafe electrical wiring.

(d) If repairs are to be made while the property is occupied the occupant must hold the Secretary harmless from any personal injury on property damage which may occur during the process of repairs. If temporary relocation of the occupant is necessary during the process of repair no relocation expense will be provided to the occupant.

§ 203.674 Occupant eligibility.

An occupant is eligible for continued occupancy if:

(a) The occupant will have been in occupancy at least 60 days prior to the date the mortgagee acquires title to the property.

(b) The occupant allows access to the property, during normal business hours,

(1) by the Secretary's representative for a physical inspection of the property within 15 days of the Secretary's request and (2) by contractors designated by the Secretary to accomplish necessary repairs.

(c) The occupant's financial ability will be considered adequate if the rent does not exceed 40% of the occupant's total income including forms of public assistance. Income may be considered adequate in cases where this limitation is exceeded if other favorable, compensating factors are present or if the applicant can establish by

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documentation that he/she has been paying the required rental amount.

(d) The occupant agrees to execute, at the time of acquisition of the property by the Secretary, a month-to-month lease at fair market rental on a form prescribed by HUD. The rental rate shall be established on the basis of rents charged for other similar properties which are comparable in a condition after completion of repairs.

(e) The occupant tenders one month rental in advance, at the time the lease is executed.

203.675 Mortgagee notice of pending acquisition.

At least 60 days but not more than 90 days prior to the date on which the mortgagee reasonably expects to acquire title to the property, the mortgagee shall notify the Area or Service Office having jurisdiction over the area in which the property is located of its pending acquisition and of the name of the person (head of household) actually occupying each unit in the property.

§ 203.676 Notice to occupant.

The Area or Service Office shall notify the occupant that:

(a) Acquisition of the property is pending.

(b) The Secretary generally requires that properties be vacant at the time of acquisition, but the Secretary will accept the property occupied by the present tenant or mortgagor if the conditions specified in § 203.670 have been met.

(c) The occupant may request permission to remain in occupancy by notifying the Area or Service Office in writing within 20 days of the mailing of notice to the occupant. The Secretary will require vacant delivery of the property without further notice if the occupant fails to provide a timely request.

(d) If the Area or Service Office has, at the time of notice, determined that it is not in the Secretary's interest to accept the property occupied, the notice to the occupant shall state such determination and the occupant may provide information or documentation to refute the determination.

(e) If the occupant seeks to qualify for continued occupancy under the provisions of § 203.670(a)(2) relating to illness or injury, the occupant must provide information or documentation which will support this claim.

§ 203.677 Preliminary determination and reconsideration.

(a) Occupants who make a timely request for permission to remain in occupancy will be advised of the Secretary's preliminary determination and, if the request is denied, the reasons for the determination.

(1) If the request is denied because it has been determined that the property is not habitable, a copy of the inspection report shall be furnished to the occupant.

(2) If the request is denied for other reasons, the occupant shall be permitted to review all relevant material in HUD's possession.

(b) The Secretary will reconsider the preliminary determination if the occupant furnishes to the Secretary information and documentation relating to the reasons for the determination:

(1) Within 20 days after the mailing of the Secretary's preliminary determination, if the information is submitted in writing.

(2) At an informal conference with representatives of the Secretary if the occupant requests such conference in writing within 10 days after the mailing of the Secretary's preliminary determination. The occupant may be represented or assisted by counsel or other persons at the conference.

(c) If, after reconsideration, the Secretary denies the request for new or additional reasons, the occupant shall be advised of the new or additional reasons and shall be afforded an opportunity to present information and documentation relating to such reasons as provided in paragraph (b) of this section.

§ 203.678 Final decision.

(a) Upon timely submission of written or oral information by the occupant the Secretary shall review the matter and render a final decision. The final decision shall be based solely on the reasons provided to the occupant in the preliminary determination notice or notices and information provided by the occupant.

(b) The mortgagee and the occupant shall be notified of the Secretary's final decision. In the event of denial the notice shall be accompanied by a brief statement explaining why the additional information provided by the occupant was inadequate for a reversal of the preliminary determination.

§ 203.679 Conditional occupied conveyance.

The Secretary consents to accept good marketable title to occupied property under the following conditions:

(a) The Secretary has notified the mortgagee, pursuant to the conditions in § 203.670, that occupied conveyance will be acceptable; or

(b) Ninety days has elapsed since the mortgagee notified the Secretary of pending acquisition as provided in § 203.675 without notification from the Secretary; or

(c) A deed in lieu of foreclosure has been accepted.

§ 203.680 Continued occupancy.

(a) Occupancy of Secretary-owned property is temporary in all cases and is subject to termination to facilitate preparing the property for sale and completing its sale.

(b) The Secretary will notify the occupant to vacate the property and, if necessary, take appropriate eviction action for the following causes:

(1) Failure of the occupant to execute the lease required by § 203.674(d).

(2) Failure of the occupant to pay the required rent, including the initial payment at the time of execution of the lease.

(3) Failure of the occupant to allow access to the property to accomplish necessary repairs.

(4) Failure of the occupant to comply with the terms of the lease.

(5) Preparation of the property for sale.

(6) Assignment of the property by the Secretary to a different use or program.

(7) A determination by the Secretary pursuant to § 203.683 that the conditions of § 203.670 governing occupied conveyances have not been met.

§ 203.681 Multiple-unit dwellings.

In the case of two, three, or four family dwellings:

(a) The required notice shall be sent to the occupants, if any of each dwelling.

(b) Determinations of habitability shall be made for each individual living unit but shall also include consideration of the common areas of the building. With respect to the cost limitations on repairs referenced in § 203.673, the cost to each unit to be conveyed occupied may not exceed 5 percent of the estimated value of the property and, for the common areas, the cost may not exceed 10 percent of the estimated repaired value of the property.

(c) Notwithstanding the satisfaction of any of the criteria set forth in § 203.671, the Secretary may deny the occupied conveyance of one unit of a multiple-unit property if doing so would enhance the property's marketability.

(d) In general, it will be assumed that the presence of qualified, rent-paying tenants will improve the marketability of multiple-unit dwellings.

§ 203.682 Authorization of HUD areas office managers

HUD Area Office Managers shall act for the Secretary in all matters relating to assignment and occupied conveyance determinations. The decision of the Area Office Managers shall be final and not subject to further administrative review.

§ 203.683 Approval of occupancy after conveyance.

Where the Secretary has accepted an occupied conveyance in accordance with § 203.679(b) and (c), the Secretary shall after conveyance of the property make a determination regarding continued occupancy in accordance with the conditions for the approval of occupied conveyance.

(Sections 203 and 211 of the National Housing Act (12 U.S.C. 1709 and 1715b))

Issued at Washington, D.C., September 4, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 27609 Filed 9-9-80; 8:45 am]

BILLING CODE 4210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Final Rule

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain State and local fair employment practices agencies so that they may process employment discrimination charges filed with the Commission, within their jurisdiction.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E. St., NW., Washington D.C. 20506, telephone 202/634-6040.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706 Agency:

New Hanover (North Carolina) Human Rights Commission [1]

§ 1601.74 [Amended]

With the addition of the above mentioned agency 29 CFR 1601.74 (a) and (b) are amended as follows:

(a) * * *

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ill.) Human Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Commission
California Department of Fair Employment and Housing
Charleston (W.Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Fairfax County (Va.) Human Rights Commission
Florida Commission on Human Relations
Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Department of Human Rights
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Neb.) Commission on Human Rights
Madison (Wi.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Mn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Hanover (NC) Human Relations Commission [1]
New Jersey Division of Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Neb.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Rights
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Mn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wa.) Human Rights Commission
Sioux Falls (S.D.) Human Relations Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Oh.) Human Relations Department
Tacoma (Wa.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W.Va.) Human Rights Commission
Wichita (Ks.) Commission on Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wisconsin State Personnel Commission
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

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[1] The new Hanover Human Relations Commission is being designated as a 706 Agency for charges covering employment practices under § 706(c) of Title VII and CFR 1601.70 *et seq.* (1980) within New Hanover County and "such cities within the County as may by resolution of their governing boards, permit the Ordinance of the Board of Commissioners of New Hanover County entitled 'Prohibition of Discrimination in Employment' to be applicable within such cities." This covers Wilimington City and the unincorporated area of. New Hanover County. At this time Wrightsville Beach, Carolina Beach and Kure Beach are not included in this designation. For charges from these latter locales the New Hanover Human Relations Commission shall be deemed a "Notice agency", pursuant to 29 CFR 1601.71(b).

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Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713 (a) 78 Stat. 265 (42 U.S.C. 20003—12(a)))

Signed at Washington, D.C. this 5th day of September, 1980.

For the Commission.

John E. Rayburn,
Director, State and Local Division.

[FR Doc. 80-27845 Filed 9-9-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 288

[DoD Instruction 7230.7] [1]

User Charges

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This Part is revised (a) to update the schedule of fees and rates of user charges to reflect increases in consumer prices; and (b) to incorporate several changes. This revision clarifies and corrects procedures, guidelines, and requirements.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Flaherty, Office of the Deputy Assistant Secretary of Defense (Management Systems), the Pentagon, Washington, D.C. 20301 Telephone 202-697-7297.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-5381, appearing in the **Federal Register** on March 1, 1978 (43 FR 8271), the Office of the Secretary of Defense issued a proposed rule changing its schedule of fees and rates, and in FR Doc. 79-19107, appearing in the **Federal Register** on June 20, 1979 (44 FR 36029), the Office of the Secretary of Defense issued a complete revision of this Part, but cited a wrong authority statement. In FR Doc. 80-4922, appearing in the **Federal Register** on February 15, 1980 (45 FR 10377), the Office of the Secretary of Defense again proposed to change the schedule of fees and rates (§ 288.9) to reflect further increases in consumer prices. No comments were received.

The Office of the Secretary of Defense is amending 32 CFR Chapter I by revising Part 288, incorporating all changes, and citing the correct authority reference. Accordingly, Part 288 now reads as follows:

PART 288—USER CHARGES

Sec.
288.1 Reissuance and purpose.
288.2 Applicability.
288.3 Policy.
288.4 Responsibilities.
288.5 Charges and fees.
288.6 Collections.
288.7 Legislative proposals.
288.8 Examples of benefits not to be charged under provisions of § 288.3(d) of this part.
288.9 Schedule of fees and rates.

Authority: 31 U.S.C. 483a; Title V, Pub. 2, 137 82nd Congress, Act of August 31, 1951, 65 Stat. 290.

§ 288.1 Reissuance and purpose.

This Part:

(a) Is hereby reissued to make it consistent with DoD editorial policies to improve Government regulations affecting the public.

(b) Clarifies the use of "interest on investment;" makes user charges rules consistent with those for Foreign Military Sales; and updates the Schedule of Fees and Rates (§ 288.9) to take price increases into account.

(c) Establishes DoD policy and procedures for implementation of the policy of the U.S. Government with respect to user charges, as expressed in 31 U.S.C. 483a and Office of Management and Budget Circular No. A-25, "User Charges," September 23, 1959, as amended.

(d) Furnishes guidelines for determination of user charges, the disposition of receipts, and accounting control of revenue from such charges.

§ 288.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff and the Defense Agencies (hereafter referred to as "DoD Components").

§ 288.3 Policy.

(a) *General.* It is DoD policy not to compete with available commercial facilities in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service or sale is made that conveys special benefits to recipients, above and beyond those accruing to the public at large, a reasonable charge shall be made to each identifiable recipient, except as otherwise authorized by the Secretary of Defense.

(b) *Special Services.* A charge shall be imposed to recover the full cost to the Federal Government of rendering a special service or the fair market value of such service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be made based on recovery of full costs to the Federal Government. A special benefit will be considered to accrue and a charge shall be imposed when the service rendered:

(1) Enables the recipient to obtain more immediate or substantial gain or values (which may or may not be measurable in monetary terms) than those which accrue to the general public; or

(2) Is performed at the request of the recipient and is above and beyond the services regularly received by or available without charge to the general public.

(c) *Lease or Sale.* Where federally-owned resources are leased or sold, a fair market value shall be obtained. Fair market value shall be determined by the application of sound business management principles and, so far as practicable and feasible, in accordance with comparable commercial practices. Charges based on fair market value need not be limited to the recovery of costs; they may produce net revenues to the Government.

(d) *Exclusions and Exceptions.* (1) The provisions of this Part do not apply to:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense;

(ii) Sale or disposal of surplus property under approved programs;

(iii) Services furnished the general public relating to or in furtherance of the Armed Forces recruiting program;

(iv) Services furnished representatives of public information media or the general public in the interest of public understanding of the Armed Forces;

(v) Records made available to the public, pursuant to 32 CFR 286 (Pub. L. 93-502). Charges for such records are governed by 32 CFR 286.8;

(vi) Services furnished to non-Government audio-visual media. Charges for such services are governed by the provisions of DoD Instruction 5410.15,[1] "Delineation of DoD Audio-Visual Public Affairs Responsibilities and Policies," November 3, 1966;

(vii) Armed Forces participation in public events. Charges for such participation are governed by the provisions of 32 CFR 238;

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[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120. Attention: Code 301.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

(viii) Government-developed computer programs released to non-Government customers. Charges for software packages are governed by DoD Instruction 4105.65,[1] "Acquisition of Automatic Data Processing Computer Program and Related Services," June 29, 1970.

(2) Charges may be waived or reduced when:

(i) The recipient of the benefits is engaged in nonprofit activity designed for the public safety, health or welfare;

(ii) Payment of the full costs or fee by a State, local government, or nonprofit group would not be in the interest of the program;

(iii) Furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country; and

(iv) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

§ 288.4 Responsibilities.

Heads of *DoD Components*, or designees, shall:

(a) Identify each service or activity covered by this Part;

(b) Determine the extent of the special benefit provided;

(c) Determine applicable cost and fair market value; and

(d) Establish appropriate charges.

§ 288.5 Charges and fees.

(a) *Special Services.* (1) *Basic Requirements.* Charges for special services shall be based on the total costs to perform such services as determined or estimated from the best available records or fair market value, whichever is higher. The maximum charge for a special service shall be governed by its total cost or fair maket value, whichever is higher, and not by the value of the service to the recipient. Cost accounting systems shall not be established solely for the purpose of determining charges, but the results of existing cost acounting systems shall be used. Costs shall include all direct and indirect costs, such as:

(i) Civilian salaries or wages and costs of leave and Government contributions for retirement, medical expense, life insurance.

(ii) The full cost of military personnel services including retirement, other personnel support, leave, and permanent change of station factors as prescribed in DoD Handbook 7220.9–H, "Accounting Guidance Handbook," February 1, 1978.

(iii) The cost of materials, supplies, travel expenses, communications, utilities, equipment and property rental, and maintenance of property and equipment;

(iv) An asset use charge at 4% of direct costs to cover depreciation and interest on investment in DoD-owned fixed assets;

(v) The cost of research, and of establishing standards and regulations when directly associated with the service performed;

(vi) An administrative surcharge at 3% of total costs ((a)(1) (i) through (v) of this section) to cover general and administrative costs of the DoD Component.

(2) *Fees and Rates.* Fees and rates for the recovery of full costs or fair market value of a special service will be established in advance, when feasible. Fees and rates shall be reviewed at least annually or whenever significant changes in costs occur, and necessary revisions made to ensure recovery of full costs.

(3) *DoD-wide Fees and Rates.* § 288.9 provides a schedule of fees and rates for certain services for use throughout the Department of Defense. Recommendations for additions and revisions to the schedule will be made to the Assistant Secretary of Defense (Comptroller).

(b) *Lease or Sale of Property.* Charges for lease or sale of property will be based on determination of fair market value.

(1) In cases involving the lease or rental of military equipment, where there is no commercial counterpart, fair market value will be based on the computation of an annual rent which will be the sum of the annual depreciation plus interest on investment. The amount of interest on investment is determined by applying the interest rate to the net book value; that is, acquisition cost plus additions less depreciation. The interest rate to be used will be 10%. Support, if furnished, and applicable general administration expenses will be extra.

In determining the value, consideration may be given to the responsibility of the lessee to assume the risk of loss or damage to the property and to hold the Government harmless against claims or liabilities by the lessee or third parties.

(2) In cases involving the sale of property where there is no known fair market, costs shall be based on the total of the standard price of the item carried in inventory or at reduced price when so authorized for sale within DoD; and the accessorial and administrative costs computed under DoD Instruction 7510.4I, "Uniform Policy for Charging Accessorial and Administrative Costs Incident to Issues, Sales, and Transfers of Material, Supplies and Equipment," April 7, 1967.

§ 288.6 Collections.

(a) Collections of charges and fees shall be made in advance of rendering the service, if practicable.

(b) Collections of fees and charges normally will be deposited to Miscellaneous Receipts of the Treasury unless otherwise authorized by law or regulation.

(c) Collections for utilities and services in connection with the lease of property will be deposited to the appropriation or fund responsible for financing the operations of the equipment and facility.

§ 288.7 Legislative proposals.

In cases where collections of fees and charges for services or property are limited or restricted by provisions of existing law, the DoD Component(s) concerned will submit appropriate remedial legislative proposals under applicable legislative procedures.

§ 288.8 Examples of benefits not to be charged under provisions of § 288.3(d) of this part.

(a) Services requested by members of the U.S. Armed Forces in their capacity as service members.

(b) Services requested by members of the U.S. Armed Forces who are in a casualty status, or requested by their next of kin or legal representative, or requested by any source when it relates to a casualty.

(c) The address of record of a member or former member of the U.S. Armed Forces when the address can be furnished informally through local directory (locator) reference; when the address is requested by a member of the U.S. Armed Forces, or by a relative or a legal representative of a member of the U.S. Armed Forces; or when the address of record is requested by any source for the purpose of paying monies or forwarding property to a member or former member of the U.S. Armed Forces.

(d) Services requested by or on behalf of a member or former member of the U.S. Armed Forces or, if deceased, his/her next of kin or legal representative that pertain to:

(1) Information required to obtain financial benefits regardless of the terms of separation from the service;

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions except as provided in § 288.8 (d)(1) and (d)(4);

(3) Information relating to a decoration or award or required for memorialization purposes;

(4) Review or change in type of discharge or correction of records;

(5) Personal documents, such as birth certificates, when such documents are required to be furnished by the individual.

(e) Services that are furnished free in accordance with statutes or Executive Orders.

(f) Information from or copies of medical and dental records or X-ray films of patients or former patients of military medical or dental facilities, when such information is required and requests for such data are (1) submitted by an accredited medical facility, physician, or dentist; or (2) requested by the patient, his/her next of kin, or legal representative.

(g) Services involving confirmation of employment, disciplinary or other records, salaries of active or separated civilian or military personnel, when requested by prospective employers or recognized sources of inquiry for credit or financial purposes.

(h) Services requested by and furnished to a member of Congress for official use.

(i) Services requested by State, territorial, county or municipal government, or an agency thereof, that is performing a function related to or furthering of a DoD objective.

(j) Services requested by a court, when the service will serve as a substitute for personnel court appearance of a military or civilian employee of the Department of Defense.

(k) Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or that is in the interest of public health and welfare.

(l) Services requested by an individual or corporation that is performing a function related to or furthering an objective of the Federal Government, when the cost of such services would be chargeable to a Federal Government contract or grant held by the individual or corporation.

(m) Services requested by donors with respect to their gifts.

(n) Requests for occasional and incidental services (including requests from residents of foreign countries), that are not requested often, when it is administratively determined that a fee would be inappropriate for the occasional and incidental services.

(o) Requests from Federal employees for the completion of claims for reimbursement under the Federal Employees Health Benefit Act of 1959.

(p) Administrative services provided by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

(q) Requests for military locator service by financial organizations that are located on DoD installations.

(r) Requests for military locator service by financial organizations that are engaged in the composite check program and that are not located on DoD installations. Requests for an address of record will include:

(1) A statement that the financial organization is listed as a composite check recipient in the current U.S. Treasury Bureau of Accounts, "Financial Organizations Directory";

(2) A statement that the individual, whose address is being requested, has his/her pay forwarded as a direct deposit by a DoD disbursing officer;

(3) The individual's financial organization's account number.

(s) Services rendered in response to requests for classification review of DoD classified records, submitted under Executive Order 12065, "National Security Information," June 28, 1978, and implemented by DoD 5200.1-R, "Information Security Program Regulation," December 1978. Such services consist of the work performed in conducting the classification review or in granting and carrying to completion an appeal from a denial of declassification following such review.

(t) Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-Governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary will not be assessed a "user charge."

§ 288.9 Schedule of fees and rates.

This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under § 288.3(d), or § 288.8. Except as provided in special cases prescribed below, a minimum fee of $2.85 will be levied for processing any chargeable case. Normally only one copy of any record or document will be provided.

Requests Involving

(a) *Training and Education.*

	Fee
(1) Transcripts:	
Original copy	$2.85
Each additional copy	35
(Includes requests for transcripts of graduation from military academies and schools)	
(2) Certificates:	
Original copies	2.85
Each additional copy	.35
(includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities)	

(b) *Medical and Dental Records of Patients and Former Patients (when requested for purposes other than further medical treatment).* Covers request for information from or copies of medical records, including clinical records (inpatient records of military and nonmilitary patients), health records (military outpatient records), outpatient records (nonmilitary outpatient records), dental records, and loan of X-rays.

	Fee
(1) Searching and processing (per hour)	$10.85
Minimum charge	6.80
(2) Each typewritten page	2.85
(3) Office copy reproduction (per image)	.07
(4) Loan of each X-ray	2.10
(5) Copy of X-ray:	
8" x 10"	2.10
10" x 12"	2.85
14" x 17"	4.25

(c) *Military Membership and Record (Excluding Medical and Dental Records).*

	Fee
(1) Address of record, each	$2.85
(2) Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted personnel, reproduced for the personal use of active retired and former members or next of kin of missing in action or deceased member of the Armed Forces.	
(i) Minimum charge (up to six reproduced images)	$2.85
(ii) Each additional image	07
(iii) Statement of verification of service or report of separation for individuals with other than honorable discharges	4.25

(d) *Photography.*

	Fee
(1) Still pictorial or documentary photographic prints; no more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.	
8" x 10" single-weight glossy finish, 1st print	$1.25
2d and 3d prints, each	1.00
8" x 10" double-weight matte finish, 1st print	2.00
2d and 3d prints, each	1.80
11" x 14" double-weight matte finish, each	4.20
16" x 20" double-weight matte finish, each	5.50
20" x 24" double-weight matte finish, each	7.75
35mm color transparency slide made from color negative material, each	3.50
35mm duplicate from 35mm slide	.60
4" x 5" black and white negative, each	2.25
4" x 5" color transparencies or color negatives, each	8.00
8" x 10" color transparencies or color negatives, each (in quantities not to exceed three copies of any one view.)	16.75
8" x 10" color "C" print, 1st print	4.50
2d and 3d prints, each	2.00
11" x 14" color type "C" print, 1st print	9.60
2d and 3d prints, each	6.00
16" x 20" color type "C" print, each	17.50

	Fee
(1) Still pictorial or documentary photographic prints; no more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.	
16" x 20" color type "C" print, mounted on 20" x 24" cardboard, each	$23.00
70mm color internegative, each	4.00
(2) Aerial photographic prints, contact prints, or exact negative sizes, single-weight glossy or double-weight semi matte, black and white, per frame:	
Contact Prints:	
70mm film	3.00
5" x 5", paper or film	3.00
9" x 9", 10" x 10", paper	3.00
9" x 9", 10" x 10", film	4.50
Enlargements:	
9" x 9", (from 70mm only), paper	3.00
9" x 9", (from 70mm only), paper	4.50
12" x 12" thru 16" x 16" (1.5X), paper	6.00
18" x 18" thru 20" x 20" (2X), paper	7.50
24" x 24" thru 30" x 30" (3X), paper	9.00
36" x 36" thru 40" x 40" (3X), paper	18.00
For an intermediate-size enlargement, use the price listed for the next larger size	
(3) Aerial photographic indices and mosaic copies, each	
10" x 12"	4.50
20" x 24"	7.50
(4) Reproduction of cover overlays, each	
Transparent foil film overlays	3.75
Transparent paper overlays	2.25

	Price per foot	
	Contact	Reduction
(5) Motion Picture		
Color:		
16mm work print (positive work print from an original negative)	0.20	0.28
16mm reversal work print	.20	.28
16mm color master	.44	.75
16mm dup negative (from master positive)	.47	.52
16mm reversal dup negative	.47	.52
16mm internegative (from reversal original)	1.00	
16mm short rolls (under 100 feet)	.07	(1)
16mm tab-to-tab printing, add	.18	(1)
35mm work print (negative/positive)	.26	
35mm master positive	.71	
35mm dup negative	.71	
35mm reversal dup negative	1.41	
35mm short rolls (under 100 feet) add	.07	(1)
35mm tab-to-tab printing, add	.21	(1)
Black and White		
16mm work print (negative/positive)	.12	.19
16mm master positive (fine grain)	.15	.20
16mm dup negative	.24	.31
16mm short rolls (under 200 feet), add	.07	(1)
16mm tab-to-tab printing, add	.08	(1)
35mm work print	.13	
35mm master positive	.17	
35mm dup negative	.28	

[1] To basic price.

	Fee
Black and White:	
35mm short rolls (under 400 feet), add	.07(1)
35mm tab-to-tab printing, add	.08(1)
Magnetic tape:	
Dubb (16mm, 35mm, 1/4") per hour	64.85(2)
Miscellaneous:	
Searching, each hour or fraction thereof	14.70
Minimum charge per order (including stock search)	28.25
16mm film to 2" video tape (does not include tape) per hour	254.05
Minimum charge	141.15

[1] To basic price.
[2] Plus raw stock.

(e) *Construction and Engineering Information.* Copies of aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents.

	Fee
(1) Searching, per hour or franction thereof (including overhead costs)	$10.85
(2) First print	2.10
(3) Each additional print of same document	.70

(f) *Copies of Medical Articles and Illustrations.* Standards contained in the basic Instruction will be utilized in computing costs.

(g) *Claims, Litigation.* (Includes court-martial records furnishing information from Report of Claims Investigations; e.g., automobile collision investigations and safety reports). Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in § 288.9 (b) or (c)(m).

	Fee
(1) Searching and processing (per hour)	10.85
Minimum charge	6.80
(2) Office copy reproduction (minimum up to six reproduced images)	2.85
(3) Each additional image	.07
(4) Certification and validation with seal, each	4.25
NOTE.—Charges for professional search or research will be made in accordance with § 288.9(j)(2), below.	

(h) *Publications and Forms.* A search and/or processing fee, as described in § 288.9(j)(1), will be made for requests requiring extensive time (1 hour or more).

	Fee
(1) Shelf Stock. (Requesters may be furnished more than one copy of publication or form if it does not deplete stock levels below projected planned usage.)	
(i) Minimum fee per request (up to six printed pages) plus	$2.85
(A) Form, per copy	.07
(B) Publications, per printed page	.01
(C) Microfiche, per fiche	.08
(ii) (Examples: Cost of 20 forms, $4.25; cost of a publication with 100 pages, $3.85; cost of microfiche publication consisting of 10 fiches, $3.65)	
(2) Office Copy Reproduction (when shelf stock is not available)	
(i) Minimum fee per request (up to six reproduced pages)	2.85
(ii) Each additional page	.07
(iii) Minimum charge first fiche	7.10
(iv) Each additional fiche	.14

(i) *Engineering Data (Microfilm).*

	Fee
(1) Aperture Cards:	
(i) Silver duplicate negative, per card	.60
When keypunched and verified, per card	.70
(ii) Diazo duplicate negative, per card	.50
When keypunched and verified, per card	.60
(2) 35mm roll film, per frame	.40
(3) 16mm roll film, per frame	.35
(4) Paper prints (engineering drawings), each	.70
(5) Paper reprints of microfilm indices, each	.07

(j) *General.* Charges for any additional services not specifically provided above, consistent with the provisions of the basic Instruction, will be made by the respective DoD Components at the following rates:

	Fee
(1) Clerical search and processing, per hour	$10.85
Minimum charge	6.80
(2) Professional searching or researching (To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rate.)	
(3) Minimum charge for office copy reproduction (up to six images)	$2.85
(4) Each additional image	.07
(5) Each typewritten page	2.85
(6) Certification and validation with seal, each	4.25
(7) Hand-drawn plots and sketches, each hour or fraction thereof	8.15

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 4, 1980.

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BILLING CODE 3810-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 28

Fire Island National Seashore, New York; Zoning Standards

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is directed, pursuant to the Fire Island National Seashore Act (16 U.S.C. 459e *et seq.*), to promulgate and amend zoning standards for the communities within the boundaries of the Seashore. Upon promulgation of the standards, the communities may submit zoning ordinances to the Secretary. If such ordinances conform to the standards, then upon approval of the ordinances by the Secretary, the Secretary's authority to condemn certain property within the Seashore is suspended for property constructed or maintained in accordance with the standards. Since promulgation of the initial standards in 1966, the Park Service has prepared a General Management Plan and Final Environmental Impact Statement for the Seashore and Congress has amended the Act to add a Dune District. On January 17, 1980, revised zoning standards were published in the **Federal Register** (45 FR 3261), as a Final Rule with Comments. This Final Rule incorporates comments received on the January 17, 1980, Final Rule.

EFFECTIVE DATE: December 9, 1980.

FOR FURTHER INFORMATION CONTACT: Joel Pickelner, Superintendent, Fire Island National Seashore, Patchogue, New York 11772, telephone: (516) 289-4810.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 88-587, 78 Stat. 928, the Act establishing Fire Island National Seashore (the Seashore), was promulgated September 11, 1964. The

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Act appears at 16 U.S.C. 459e *et seq.* The first zoning standards for Fire Island National Seashore went into effect on April 2, 1966, and were printed in the Code of Federal Regulations, Title 36, Part 28, 31 FR 5289, April 2, 1966. The General Management Plan for Fire Island National Seashore was approved in March, 1978. The Plan proposes "A Model Zoning Ordinance" containing specific details regarding permitted land uses within the communities. This revision of the standards is also based upon studies made by McCormick and Sons, the Babcock Report, and the Nassau-Suffolk Regional Planning Board, as well as the Final Environmental Impact Statement, the Final General Management Plan, and the Dune District amendments in the National Parks and Recreation Act of 1978, Pub. L. 95–625 322(b), 92 Stat. 3489 (1978). Within the boundaries of the Seashore are some seventeen identifiable communities. Fifteen of the communities are within municipal authority of either the Towns of Brookhaven or Islip. Two of the communities, Saltaire and Ocean Beach, are incorporated Villages with their own zoning authority.

The January 17, 1980, Final Rule with Comments reflected substantive changes needed to be consistent with the Plan, the FEIS, and the amendments, and reorganized the format from the 1966 regulations. The Final Rule published today contains relatively few substantive changes and corrects a few typographical errors. The major changes are summarized below.

Major Changes

Section 28.2(11) and 28.4(b)(1)(i) were revised to clarify the fact that biological or ecological sand-enhancing or stabilization measures are permitted uses in the Dune District and will not render undeveloped property into developed property. Therefore, the small diameter poles (which many homeowners use and which tend to dissipate wave energy and stabilize the dunes) may continue to be used although this amendment would not permit groins, dikes or other engineering solutions to erosion problems.

The definition of "zoning authority" was expanded to permit villages or political subdivisions which may be established in the future to be included within these regulations even though they are not included by name now.

The boundary of Saltaire was corrected.

The Nonconforming Use section was revised by adding the word "intensified." Citizens suggested that an existing nonconforming use might be made more consistent with the purposes of the Act (for instance the conversion of a disco to a restaurant) but that the regulations should be drafted to prevent a more intensive nonconformity (such as the conversion of a restaurant to a disco).

Also in response to citizens' comments, the reconstruction of nonconforming uses was revised to permit reconstruction to commence within one year rather than to require it to be completed within one year. See § 28.5(c)(1)(iv).

Section 28.6(a)(3) of the zoning standards was revised to base the 28 foot height limitation from "average ground level" instead of "the ground."

The provisions of § 28.7(b)(3) which describes the standards for Secretarial approval of local zoning ordinances have been revised to include protection for property losses as well as erosion losses. Similar language was also added to § 28.9 on emergency actions.

A certified as completed survey, instead of a Certification of Occupancy, will be required for completed structures because of the National Park Service has been informed that the survey is a more appropriate document than the certificate to show that the structure has been completed as required. The zoning authority has also been provided fifteen days, instead of five days, to send the Superintendent copies of their action on applications for variances, exceptions, special permits or surveys.

The following chart, which was published in the January 17, 1980, Final Rule with Comments, is included again to assist the public. It is unchanged.

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RECONSTRUCTION OF
NONCONFORMING USES
OR STRUCTURES

	"Improved Property"		"Unimproved Property"
Community Development District		Yes - To previous dimensions if conformed or had variance. (i)	Yes - To previous dimensions, only if conformed. (iii). If variance, ineligible for Certificate.
Dune District	Community Development District	Yes - To current standards, if conformed or had variance. (ii)	Yes - To current standards, if conformed. (iii)
	Seashore District	Yes - To current standards, if conformed or had variance. (ii)	No (iv)
Seashore District		Yes - To previous dimensions, if conformed or had variance. (i)	No (iv)

The lower-case Roman numerals refer to the subsection of Section 28.5(c)(2).

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Discussion of Major Comments

The majority of the changes which have been made and are summarized above were made in response to citizen comments. Other comments are discussed below.

Questions were raised regarding the use of the phrase "toe of the natural foredune line." As explained in the Final Rule with Comments, this phrase was used in the legislative history and in Congressional-Departmental correspondence at the time of passage of the Act to distinguish between the communities and the beach-Seashore District. The toe of the foredune is defined by coastal geologists as the point of change between the generally flat slope of the beach and the steeper slope of the dune. It is not the crest of the dune.

Public commentators also requested that nonconforming structures be permitted to be moved. Section 28.5(b)(3) now provides that nonconforming stuctures may either be moved on the same lot, as long as such movement does not exceed lot density standards, or may be moved to bring the structure into conformity with current standards.

One commentator requested clarification of the term "Exception to a zoning ordinance." The phrase appears in the Act. Since the Act contemplates that all new developments or uses which do not conform to the approved local ordinance are subject to condemnation, even if a development or use does not require a variance under the procedures or doctrines of local or New York law, this section makes clear that condemnation authority does extend to such inconsistent uses. For instance under the procedures followed to implement some local grandfathering provisions, such as single separate ownership, new construction on a nonconforming lot is not required to go through the zoning authority's variance procedure. Since the use would than be inconsistent with the approved zoning ordinance, it would be an "exception to a zoning ordinance," and render the property subject to condemnation under Federal law.

Drafting Information

The principal authors of this document are Robin Lepore, Esq., Office of the Regional Solicitor, Northeast Region, Department of the Interior and Richard W. Marks, former Superintendent, Fire Island National Seashore. However, other personnel from the office of the Superintendent participated in its development.

Impact Analysis

The National Park Service has determined that the regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority. The Environmental Impact Statement prepared by the National Park Service in 1978 for the General Management Plan for Fire Island National Seashore covers the adoption of these revised zoning standards.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); Section 3 of the Act of September 11, 1964 (78 Stat. 930; 16 U.S.C. 459e–2); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

F. Ross Holland, Jr.,

Acting Associate Director, Management and Operations.

In consideration of the foregoing, Part 28 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 28—FIRE ISLAND NATIONAL SEASHORE; ZONING REGULATIONS

Subpart A—Zoning Standards

Sec.
28.1 Purpose.
28.2 Definitions.
28.3 Boundaries.
28.4 Permitted and prohibited uses.
28.5 Non-conforming uses.
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Subpart B—Condemnation Authority

28.21 Condemnation authority of the Secretary.
28.22 Certificates of suspension of authority for acquisition by condemnation.
28.23 Severability.

Authority: Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); sec. 3 of the Act of September 11, 1964, 78 Stat. 930 (16 U.S.C. 459e–2); 245 DM 1 (44 FR 23384) as amended, and National Park Service Order No. 77 (38 FR 7478) as amended.

Subpart A—Zoning Standards

§ 28.1 Purpose.

(a) To the extent consistent with the legislation creating the Fire Island National Seashore (the Seashore), the development and management of the Seashore will be conducted with the primary aim of conserving and preserving certain relatively unspoiled and undeveloped beaches, dunes and other natural resources while assuring the widest possible public use, understanding and enjoyment of its natural and scientific features. This contemplates a broad range of outdoor recreational activities, including, but not limited to, hiking, boating, swimming, fishing, picnicking, nature study, beachcombing, and any such activities that shall be compatible with wise resource management and the physical capabilities of the Seashore.

(b) The regulations in this part are designed to establish enforceable minimum standards to which local zoning ordinances within the Seashore must conform if certain properties within the Seashore are to be exempt from condemnation. These regulations do not establish minimum standards which are directly enforceable (other than through condemnation) against property within the Seashore as federal zoning; rather these standards provide the basis for determining what constitutes conforming local zoning ordinances. These standards are intended: (1) To prohibit new commercial or industrial uses of all property within the Seashore or the expansion of existing commercial or industrial uses, other than uses which the Secretary of the Interior (the Secretary) considers are consistent with the purposes of the Act;

(2) To promote the protection of the land within the Seashore in keeping with the purposes of the Act by means of minimum acreage, frontage, and setback requirements, and other such environmental, aesthetic, protective, and development controls;

(3) To recognize that the zoning authorities have the initial interest and authority over the use of land within the Seashore and that respect for diversity and uniqueness of the character of Fire Island communities is in the public interest; and

(4) To provide that private property within the Community Development District, both "improved" and "unimproved", may be retained by its owner as long as it is maintained in accordance with approved local zoning requirements. To provide that within the Seashore District, private "improved property" may be retained by its owner as long as it is maintained in accordance with approved local zoning requirements. And to provide that in the Dune District, private undeveloped property, if otherwise subject to condemnation, may be retained by its owner as long as it is maintained in its natural state.

(c) The Secretary may utilize any other statutory authority available to him for the conservation and development of natural resources to the extent he finds that such authority will further the purposes of the Act.

§ 28.2 Definitions.

(1) "Accessory structure" shall mean any development which is located on the same lot as the principal building or use, is customarily incidental and subordinate to the principal building or use, and is not used for overnight habitation. Accessory structure may include storage sheds, docks, decks, patios, swimming pools or tennis courts, but shall not include bicycle racks and the single primary access walk. Accessory structure shall also include guest houses without cooking facilities used for overnight habitation.

(2) "Act" shall mean the Act of September 11, 1964, Pub. L. 88–587 (78 Stat. 928, 16 U.S.C. 459e), as amended, as further amended by Section 322 of the Act of November 10, 1978, Pub. L. 95–625 (92 Stat. 3488).

(3) "Building" shall mean an enclosed structure having a roof supported by columns, walls, or cantilevers and if separated by a party wall without openings, it shall be deemed a separate "building".

(4) "Developed property" shall mean any property which has been altered from its natural state by the construction or erection of materials located in, upon, or attached to something located in or upon the ground. Such alterations may include buildings, decks, swimming pools, storage sheds, patios, docks, tennis courts, septic systems or leaching fields, walkways, groins, fences and signs (except dune protection fences and signs), roads, retaining walls, grading, artificial fill, or other structures or materials excluding live vegetation.

(5) "Development" shall mean any activity, action, or alteration which changes undeveloped property into developed property.

(6) "Exception to a zoning ordinance" shall mean any development or change in use of developed property which is not regulated by the zoning ordinance or the variance procedures of the zoning authority, or if regulated by the zoning ordinance fails to conform to the approved ordinance or the standards of the Secretary.

(7) "Guest house" shall mean an accessory structure on the same lot as the principal building for the temporary accommodation of guests of residents living in the principal building, without any cooking facilities.

(8) "Improved property" is a type of developed property which is defined by the Act to mean any building, the construction of which was begun prior to July 1, 1963, together with such amount of land on which said building is situated as the Secretary considers reasonably necessary to the use of said building not, however, to exceed 2 acres in the case of a residence or 10 acres in the case of a commercial use. The Secretary may exclude from such "improved property" any beach or waters, as well as land adjoining such beach or waters, which he deems necessary for public access thereto.

(9) "Local law" shall mean the state and town or village law applicable to the development, use or lot.

(10) "Lot" shall mean a parcel of land which meets the minimum acreage and frontage requirements of the local zoning authority and is occupied or capable of being legally occupied by one (1) principal building or main building, and the accessory structures or uses including such open spaces as are required by these standards, but in no case shall a lot include lands below the toe of the natural foredune line.

(11) "Undeveloped property" shall mean any property which has not been altered from its natural state with the exception of such dune protection measures as snow fencing, beach nourishment, dune grass planting, or other approved biological or ecological sand-enhancing or stabilization methods.

(12) "Unimproved property" shall mean either (1) undeveloped property, or (2) property which is developed property but not "improved property".

(13) "Zoning authority" shall mean the Town of Brookhaven, the Town of Islip, the Village of Saltaire, the Village of Ocean Beach and/or any other legally incorporated village or political subdivision hereafter created.

§ 28.3 Boundaries: The Community Development District; The Dune District; The Seashore District.

(a) Generally: The boundaries of the Seashore are described in the Act, as amended, and are delineated on the official boundary maps OGP–0002, dated June 1964 and amended by OGP–0004, dated May 1978. The maps are available for inspection at the Seashore headquarters. There are three districts: the Community Development District, the Seashore District, and the Dune District.

(b) The Community Development District: (1) The seventeen communities which comprise the Community Development District are set out below with their respective boundaries: (i) Lighthouse Shores—Kismet Park Unit

West Boundary: 100 feet west of the west line of West Lighthouse Walk.
East Boundary: 80 feet east of the east line of Pine Street.

(ii) Seabay Beach Unit

West Boundary: Approximately 94 feet west of the west line of Seabay Walk.
East Boundary: Approximately 94 feet east of the east line of Seabay Walk.

(iii) Saltaire

West Boundary: By the east side of National Park Service Tract 2204.
East Boundary: 85 feet east of the east side of East Walk.

(iv) Fair Harbor

West Boundary: By the east side of Broadway Walk.
East Boundary: By the east side of Spruce Walk.

(v) Dunewood

West Boundary: By the east side of Spruce Walk.
East Boundary: Approximately 84.8 feet east of the east side of East Walk.

(vi) Lonelyville

West Boundary: Approximately 84.8 feet east of the east side of East Walk.
East Boundary: Approximately 100 feet east of the east side of Raven Walk.

(vii) Atlantique

West Boundary: 80 feet west of the west line of Sea Breeze Walk.
East Boundary: 80 feet east of the east line of East End Walk.

(viii) Robbins Rest

West Boundary: The west side of Broadway Walk.
East Boundary: Approximately 112 feet east of the east side of Ocean Pathway.

(ix) Fire Island Summer Club—Corneille Estates

See combined boundary at subdivision (xiii) of this subparagraph.

(x) Ocean Beach

See combined boundary at subdivision (xiii) of this subparagraph.

(xi) Seaview

See combined boundary at subdivision (xiii) of this subparagraph.

(xii) Ocean Bay Park

See combined boundary at subdivision (xiii) of this subparagraph.

(xiii) Point O'Woods For (ix)–(xiii):

West Boundary: Approximately 320 feet west of the west side of First Walk.
East Boundary: Approximately 200 feet east of the east line of Division Street.

(xiv) Cherry Grove

West Boundary: The west line of West Walk.
East Boundary: Approximately 100 feet east of the east side of Ivy Walk.

(xv) Fire Island Pines

West Boundary: Approximately 150 feet west of Sandy Walk or formerly known as the west line of Sammis lot No. 27.

East Boundary: Approximately 120 feet east of Sail Walk or formerly known as the east line of Sammis lot No. 27.

(xvi) Water Island

West Boundary: The west line of Charach Walk.
East Boundary: Approximately 100 feet east of the east side of East Walk.

(xvii) Davis Park

West Boundary: The line approximately 90 feet west of the west side of Eider Duck Walk.
East Boundary: The east line of Ocean Ridge, formerly known as Sammis Lot #41, Section 3.

(xviii) Northern boundary of communities.

(i)–(xviii) is the mean high water line on the south shore of the Great South Bay.

(xix) Southern boundary of the communities.

(i)–(xvii) is the toe of the natural foredune line parallel with the Atlantic Ocean.

(c) The Dune District: The Dune District shall extend from the mean high tide line to 40 feet landward of the primary natural high dune crest, as defined by Fire Island National Seashore on OGP 0004 and on Suffolk County Property Maps, section numbers 491–498 (Islip), 002 (Ocean Beach), 002–004 (Saltaire), and 985.70–987 (Brookhaven), as mapped in November 1976. Map overlays of the Dune District are available for inspection in the Superintendent's office. The Dune District overlaps portions of the Community Development District and the Seashore District.

(d) The Seashore District: The Seashore District shall comprise all portions of the lands and waters within the boundary of the Seashore which are not included in the Community Development District with the exception of the headquarters facilities at Patchogue.

§ 28.4 Permitted and prohibited uses.

(a) The Community Development District: (1) Permitted Uses: (i) Principal, Accessory and Professional Uses: As principal uses, the construction and maintenance of detached buildings to be used as single family dwellings and churches, schools, or community buildings, and accessory uses. Offices for professional occupations (physician, dentist, etc.) incidental to a residential use must be utilized by the person residing on the premises and may not exceed more than 1/3 of the first floor area if part of the principal structure.

(ii) Existing commercial and industrial uses providing a service to the community in support of community living and authorized by a special use permit from the Secretary and a special permit from the zoning authority.

(2) Prohibited Uses: (i) The construction, or expansion of apartment or other multiple dwellings or conversion of existing buildings for multiple occupancy.

(ii) The construction or expansion of guest houses with cooking facilities, or conversion of existing structures for guest houses with cooking facilities.

(iii) The construction of inground swimming or diving pools.

(iv) The subdivision of land into lots which do not meet the requirements of approved zoning ordinances.

(v) New commercial or industrial uses without a special use permit from the Secretary and a special permit from the zoning authority. The zoning authority may further restrict commercial or industrial uses to commercial zones. Such uses must provide a service to the community in support of community living. Any change in use of existing commercial and industrial uses including construction, expansion or conversion of existing structures or changes in type, mode or manner of operation constitutes a new commercial or industrial use.

(b) The Dune District: (1) Permitted Uses: (i) Community vehicular and private or community pedestrian dune crossings permitted by the zoning authority and approved by the Secretary necessary for access to areas behind the dune and such dune protection measures as snow fencing, beach nourishment, dune grass planting, or other approved biological or ecological sand-enhancing or stabilization methods.

(ii) Residential use and maintenance of existing structures or reconstruction in accordance with § 28.5.

(2) Prohibited Uses: Any development subsequent to November 10, 1978 including construction of new structures and expansion of existing structures, such as buildings, bulkheads, piles, septic systems, revetments, decks, in-ground swimming or diving pools, and other structures or man-made dune stabilization devices (except those permitted in § 28.4(b)(1)) and all uses of the dune including recreational uses.

(3) Conflict with other provisions: If a development, or lot lies (i) partially within the Dune District and partially in the Community Development District, or (ii) partially within the Dune District and partially within the Seashore District, and the standards applicable to such development, lot or use are in conflict, the standards for the Dune District shall prevail for the portion of the development, lot or use which lies within the Dune District.

(c) The Seashore District: (1) The Seashore District: (i) Permitted Uses of Privately-held Property: Residential use and maintenance of "improved property" may be continued. New development on "improved property" or the alteration or movement of "improved property" may be permitted if consistent with § 28.6 and does not increase lot coverage. "Unimproved property" which has been developed may be maintained but may not be altered or moved. General recreation, environmental and historic education, and natural resource protection uses and facilities are permitted if consistent with the uses and facilities appropriate with each zone as set forth in the General Management Plan and Final Environmental Impact Statement. Section 28.4(a)(i)(ii) shall apply in the Seashore District.

(ii) Prohibited Uses of Privately-held Property: Development or expansion of any property other than "improved property" is prohibited. The provisions of § 28.4(a)(2) shall apply in the Seashore District.

(iii) Permitted Uses of Publicly-held Property: General recreation, environmental and historic education and natural resources protection uses and facilities consistent with the uses and facilities appropriate for each zone as set forth in the General Management Plan and Final Environmental Impact Statement.

§ 28.5 Nonconforming uses.

(a) Any development or use lawfully in existence under local law as of July 1, 1963 and rendered nonconforming by the Act or the original zoning standards published in 31 FR 5289 on April 2, 1966, or any development or use consistent with the original Act or standards but rendered nonconforming by subsequent amendments to the Act or standards, may continue (including routine repair and maintenance), subject to the provisions of this section, and will not lose its exemption from condemnation, if otherwise eligible.

(b) Change in Nonconforming Uses: (1) No nonconforming development or use shall be altered, intensified, enlarged, or extended (excepting routine repair and maintenance), unless such alteration, enlargement, or extension conforms to these regulations.

(2) Any nonconforming use which has been abandoned for more than one (1) year shall not be resumed or replaced by another nonconforming use.

(3) A nonconforming structure may be moved to bring it into conformity with current standards or may be moved on the same lot, as long as such movement does not exceed lot density standards.

(c) Reconstruction of Nonconforming Uses: (1) General Rules. The following general rules shall apply to all nonconforming uses: (i) If a nonconforming development or use is severely damaged (as determined by fair professional insurance practices), destroyed or rendered a hazard, whether by fire, natural disaster, abandonment or neglect, no alteration, intensification, enlargement, reconstruction or extension shall be permitted without compliance with these regulations;

(ii) No property within the Seashore built in violation of local law when constructed may be reconstructed except in compliance with these regulations;

(iii) If the nonconforming building can be brought into conformity with current standards, then it shall be reconstructed as to conform to current standards. If the building can conform to all standards of this regulation, except for minimum lot sized or setback requirements, then it may be reconstructed, subject to the specific rules of § 28.5(c)(2);

(iv) The reconstruction shall be commenced within one (1) year of the damage, destruction or abandonment; and

(v) Commercial and industrial uses shall not be reconstructed without a special use permit from the Secretary and a special permit from the zoning authority.

(2) Specific Rules. No nonconforming use shall be reconstructed without compliance with the appropriate specific rule as follows: (i) "Improved property" in the Community Development District or in the Seashore District may be reconstructed to its previous dimensions provided the building conformed to minimum lot sizes and setback requirements or had a variance or exception issued by the zoning authority at the time of original construction;

(ii) "Improved property" in the Dune District portions of the Community Development District and the Seashore District may be reconstructed only if it can conform to all current zoning standards and provided the building conformed to minimum lot sizes and setback requirements or had a variance or exception issued by the zoning authority at the time of original construction.

(iii) "Unimproved property" in the Community Development District may be reconstructed to its previous dimensions provided the building conformed to minimum lot sizes and setback requirements at the time of original construction. "Unimproved property" in the Dune District portion of the Community Development District may be reconstructed if it can conform to all current zoning standards and provided the building conformed to minimum lot sizes and setback requirements at the time of original construction. If such "unimproved property" was built pursuant to a variance or exception issued by the zoning authority, the owner may apply to the zoning authority for a special permit to reconstruct to previous dimensions under local law. However, such structures are not eligible for a Certificate of Suspension of Authority to Acquire Property by Condemnation. The Secretary may object to the issuance of the special permit or take other measures as appropriate under these regulations or local law.

(iv) "Umimproved property" in the Seashore District and "umimproved property" in the Dune District portion of the Seashore District may not be rebuilt.

§ 28.6 Zoning standards.

(a) No use permitted under § 28.4 may be constructed, altered, or conducted unless it complies with the general and specific standards prescribed in these regulations and is consistent with the objectives and purposes of the Act. From time to time these standards will be reviewed and, if necessary, revised through the issuance of amended regulations.

(1) Maximum plot occupancy shall not exceed 25 percent for principal structures and 10 percent for accessory structures. Plot occupancy shall be calculated to include any extensions of the upper floors beyond area of the ground floor;

(2) Maximum second floor area shall not exceed 25 percent of total plot occupancy;

(3) At no point of the building shall the roof be more than 28 feet above average ground level. The roof includes gables, dormers, stairwells, chimneys or other protrusions in excess of two square feet in base area but does not include vent stacks or such protrusions less than two square feet in base area. The ground is the surface of the sand or earth and does not include walkways, decks, vegetation, artificial fill, retaining walls or other man-made alterations from the natural state.

(4) There shall be a maximum of one kitchen and 2½ bathrooms per building lot;

(5) Those provisions relating to acreage, frontage, and setback requirements contained in zoning ordinances of the towns of Brookhaven and Islip and Villages of Ocean Beach and Saltaire which are in effect on Fire Island as of September 10, 1980, are hereby incorporated as the acreage, frontage, and setback standards for developments within the Seashore, provided the zoning authority provides the Secretary and the Superintendent of the Seashore (the Superintendent) within sixty (60) days of the effective date of these regulations a certified copy of the acreage, frontage and setback requirements in effect on the date of publication. Amendments to acreage, frontage, and setback requirements by the zoning authority will be incorporated as the Standards for the Seashore provided such amendments are approved by the Secretary pursuant to § 28.7.

(6) Signs. No sign shall be self-illuminated. In residential zones within the Community Development District and throughout the Seashore District, signs shall not exceed one square foot in area. If the zoning authority has established a commercial zone, signs for commercial or industrial uses in such zone shall be limited to four square feet in area. All signs are limited in number to one per premises and shall be located on premises where the use occurs. Nonconforming signs may continue such nonconformity until they are destroyed, structurally altered, reconstructed, changed, or moved. Noncommercial signs to be used for public information, orientation, or education purposes may be larger, by special permit of the zoning authority and the Superintendent.

§ 28.7 Approval of local zoning ordinances.

(a) After promulgation of these regulations, a zoning authority may submit a certified copy of its ordinance for approval by the Secretary. If the zoning authority relies upon provisions of New York law or provisions of the town or village ordinance not contained within the zoning sections to meet some of the standards set forth in these regulations, the transmittal letter shall specify what other provisions are being relied upon and certified copies of such provisions shall also be submitted.

(b) The Secretary shall approve any zoning ordinances or amendments to approved zoning ordinances submitted to him which conform to these regulations. He may not however, approve an ordinance or amendment thereto which: (1) Contains any provision that he considers adverse to the protection and development of the Seashore;

(2) Does not provide appropriate limitations, requirements or restrictions upon the burning of cover and trash, the excavation, displacement, or removal of sand, or vegetation and the dumping, storing or piling of refuse materials,

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equipment, or other unsightly objects which would detract from the cultural and natural scene;

(3) Does not contain appropriate regulations to lessen the potential for flood and related erosion and property losses consistent with the Federal Insurance Administration's National Flood Insurance Program criteria for "Land Management and Use," as set forth in 24 CFR Part 1910, subpart A, as it may from time to time be amended; and

(4) Fails to provide for the variance procedures of § 28.8.

(c) Revocation of Approval of Local Zoning Ordinances. The Secretary shall revoke the approval of any ordinance or of a portion of an ordinance which fails to conform to these regulations as they shall be amended from time to time. Upon resubmission of an amended ordinance, the Secretary shall approve such ordinance, if it conforms with § 28.7(b).

§ 28.8 Variance procedures.

(a) For "improved property", if the owner of such structure cannot comply with the requirements of such ordinance, the owner may file an application for a variance with the zoning authority and send a copy of such application to the Superintendent. For "unimproved property", variances, exceptions or uses inconsistent with these standards will render the property subject to acquisition by condemnation.

(b) The zoning authority shall send the Superintendent a copy of all applications for variances, exceptions, special permits and a certified as completed survey submitted to the zoning authority within five calendar days of their submission by the applicant.

(c) The zoning authority shall send the Superintendent written notice of the dates and times of public hearings to be held concerning such applications no less than 10 days prior to such hearings.

(d) The zoning authority shall send the Superintendent written notice within fifteen calendar days of the approval or disapproval of all applications for a variance, exception, special permit or certified as completed survey and copies of any variances, exceptions, special permits or certificates which have been granted;

(e) The Superintendent, within 15 working days of the receipt of a copy of an application for a variance, exception or special permit submitted to the zoning authority, shall inform the applicant and the appropriate zoning authority whether or not it conforms to the standards of these regulations, and whether or not it will be subject to potential acquisition by condemnation. If the application does not conform to the standards, the Superintendent shall also inform the applicant that should the application be granted, the Park Service may seek to enjoin the development and acquire the property by condemnation, subject to available funds.

(f) The Park Service may also appeal the decision of the zoning authority pursuant to procedures of local law.

(g) The zoning authority shall send copies of all correspondence referred to above to:

The Superintendent,
Special Attention: Zoning,
Fire Island National Seashore,
120 Laurel Street,
Patchogue, New York 11772.

§ 28.9 Emergency action.

In the rare situation where immediate action by an agency or person is essential to avoid or eliminate an immediate threat to the public health or safety, or a serious and immediate threat to private property or natural resources, a temporary use may for the purposes of these regulations, commence without a permit from the zoning authority, provided that the agency or person obtains the prior approval of the Superintendent. In all cases an application must be sent to the zoning authority and a copy to the Superintendent within 10 days of the commencement of the use and the applicant shall commence full compliance with the provisions of these regulations. Where the reasons for undertaking the emergency action no longer exist, any emergency action taken under this section shall cease until the provisions of these regulations have been complied with.

Subpart B—Condemnation Authority

§ 28.21 Condemnation authority of the Secretary.

(a) The Secretary has the authority to exercise his powers of condemnation with respect to: (1) Private property within the 8-mile area between the eastern boundary of Davis Park and the westerly boundary of the Smith Point County Park;

(2) Any beach or water and such adjoining land as he determines is necessary for access to the beach or water;

(3) Any property in the Seashore if the appropriate zoning authority does not have in force and applicable to such property a zoning ordinance adopted by the zoning authority and approved by the Secretary;

(4) Any property not within the definition of "improved property" if located outside of the Community Development District;

(5) Any "improved property", if it is not maintained in accordance with the zoning ordinance approved by the Secretary, is made subject to a variance under, or becomes for any reason an exception to an approved ordinance, or is subject to any variance, exception or use that fails to conform to any applicable standard contained in these regulations;

(6) Any "unimproved property" within the Community Development District if it is made the subject of a variance, exception or use;

(7) Any property for which the Certificate of Suspension of Authority for Acquisition by Condemnation has been revoked;

(8) Any property which has been granted a variance, exception or special use permit and fails to conform to any applicable standard contained in these regulations and the Secretary did not receive and approve a copy of the application for such variance, exception or special use permit; or

(9) Any property, if the approval of the ordinance of the zoning authority has been revoked or partially revoked, and such property fails to conform to these standards, as amended.

(b) Undeveloped property which is otherwise subject to condemnation under the Act is not subject to condemnation if it is located in the Dune District and is maintained in its natural state.

(c) The above provisions shall not be interpreted to otherwise limit or circumscribe the authority of the Secretary to condemn property as provided by the Act, or other provisions of law.

§ 28.22 Certificates of suspension of authority for acquisition by condemnation.

The Secretary shall furnish to any eligible party in interest upon request a Certificate of Suspension of Authority for Acquisition by Condemnation for any property with respect to which the Secretary's authority to acquire by condemnation is suspended.

§ 28.23 Severability.

The invalidation of any provision of this Part 28 by any court of competent jurisdication shall not invalidate any other provision hereof.

[FR Doc. 80-27851 Filed 9-9-80; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1576-7]

Approval and Promulgation of Implementation Plans; Florida: Temporary Relaxation of Particulate Emission Limits for Florida Power & Light Co.'s Sanford Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision to the Florida State Implementation Plan which will allow the Florida Power and Light Company to conduct a temporary test to determine the feasibility of burning a mixture of coal and oil in a 400 megawatt utility boiler designed to burn oil only. The results of the test will indicate whether similar units can be converted to coal-oil mixtures to reduce dependence on foreign oil. The selected boiler, Unit 4 at the Florida Power and Light, Sanford generating station, has insufficient air pollution controls to meet present State emission limitations for boilers burning coal. The revision allows a temporary relaxation of the particulate, visible, and excess emission limitations in order to allow the test to be conducted without the installation of additional air pollution controls. On May 2, 1980, EPA proposed approval of this revision to the Florida Plan (45 FR 29312). No adverse comments were received during the 30 day public comment period following the proposal. Therefore, EPA is approving the proposed revision.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Lee, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365. 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On February 4, 1980, the Florida Department of Environmental Regulation submitted to EPA the proposed implementation plan revision described above in the Summary. To accommodate the test burn, it is necessary to relax the State limitations on particulate emissions, visible emissions, and excess emissions. The effective period of the relaxation begins on the date that the coal-oil mixture has first been burned at Unit 4 and ends when the mixture has been burned to produce 1,152,000 megawatt hours of electricity or twelve months from the initial burn date, whichever comes first. Also, a change is required in an SIP revision approved by EPA on February 29, 1980 (45 FR 13455), which allowed the Sanford Plant to meet emission limits higher than those previously allowed, but lower than those promulgated today. The previous SIP limitation for Sanford Unit 4 was 0.1 pound of particulate matter per million BTU's heat input (lb/MMBTU). The SIP revision for Sanford Units 3, 4, and 5 approved on February 29, 1980 (45 FR 13455), allows particulate emissions of 0.3 lb/MMBTU. The revision promulgated today allows a limit of 5150 pounds of particulate per hour for Unit 4, averaged over 24 hours, with an alternative plantwide limit of 6850 pounds per hour, averaged over 24 hours. For visible emissions and for mass emissions during certain conditions, such as startup, shutdown, and malfunction, the revision promulgated today grants a complete exemption during the test period.

The test at Sanford Unit 4 is subject to EPA regulations for the Prevention of Significant Air Quality Deterioration (PSD), 40 CFR 52.21. A PSD permit for the proposed test was issued on February 20, 1980. The permit contains conditions which include a limitation on particulate emissions of 5,639 pounds per hour and 1.57 lb/MMBTU.

The variance which was issued and submitted as an SIP revision contains SO_2 emission limits necessary to protect the Federal PSD Increments for Class II areas. The variance requires that the emission limits be met by limiting Unit 4 to 2.75 lb/MMBTU when Units 3 and 5 are emitting at a rate of 2.59 lb/MMBTU, or by limiting Unit 4 to 2.51 lb/MMBTU when Units 3 and 5 are emitting at a rate of 2.75 lb/MMBTU.

The proposed SIP revision submitted by Florida has been reviewed by EPA and found to comply with all requirements of the Clean Air Act and EPA regulations promulgated thereunder. In order to monitor compliance with the proposed emission limitations, the company will conduct particulate emission tests at appropriate intervals. Emission tests required under the State SIP submittal will be sufficient to meet EPA requirements for particulate tests at Unit 4 if EPA test methods are employed. In addition, fuel analyses will be required in order to determine compliance with SO_2 limits. Since some of the emission limitations are based upon simultaneous emission rates from all three boilers at the plant, a procedure must be developed for relating emission rates to other, more quickly measured, operating characteristics. Accordingly, the company will be required to develop correlations using results of the Unit 4 emission tests, opacity observations and megawatt load, in order to enable the State and EPA to determine continuing compliance. These data will be used in conjunction with the assumption that Units 3 and 5 are always emitting particulate matter at the maximum allowable emission rate of 0.3 lbs/MMBTU at all loads in order to determine compliance with the plantwide particulate limit. The test protocol, including identification of test methods to be used, was developed by EPA, the State, and the company during the comment period. Comments were solicited on the development of the test program. In a letter from Florida Power and Light, dated June 2, 1980, the company agrees to a test protocol described by the DER in a letter to EPA dated April 4, 1980. A description of the test protocol may be obtained by contacting the person indicated above in the section entitled "For Further Information Contact."

Action: After a 30-day comment period, during which no adverse comments were received, EPA is promulgating the proposed SIP revision with no changes. This action is effective October 10, 1980.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: September 3, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, paragraph (c) is amended by adding paragraph (20) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(20) Limited variance from particulate, visible, and excess emissions limits granted to Florida Power and Light for Unit 4 of its Sanford station, submitted

on February 4, 1980, by the Department of Environmental Regulation.

[FR Doc. 80–27777 Filed 9–9–80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1602-3]

Approval and Promulgation of Implementation Plans; Massachusetts State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a temporary revision to the Massachusetts State Implementation Plan (SIP). The variance to Massachusetts Regulation 310 CMR 7.05 (1) "Sulfur Content of Fuels and Control Thereof" allows Seaman Paper Company in Otter River to burn 2.2 percent sulfur fuel oil, temporarily. No letters of comment were received.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903 JFK Federal Building, Boston, Massachusetts 02203, (617) 223–4448.

SUPPLEMENTARY INFORMATION: On July 8, 1980 the Regional Administrator published in the **Federal Register** (45 FR 45931) a proposed rulemaking to approve a temporary revision to the Massachusetts SIP. The SIP revision, submitted on March 20, 1980 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (The Massachusetts Department), is a variance to regulation 7.05 (1) "Sulfur Content of Fuels and Control Thereof" allowing Seaman Paper Company, Otter River, to burn higher sulfur fuel oil, temporarily.

This revision, which EPA is today approving, allows Seaman Paper Company to burn fuel oil having a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil) until July 1, 1982 pending conversion of the facility to coal. The facility, rated at 28.2 million Btu per hour heat input capacity, is located in the Central Massachusetts Air Pollution Control District (CMAPCD). The CMAPCD has the same geographical boundaries as the Central Massachusetts Intrastate Air Quality Control Region.

Under regulation 310 CMR 7.05 sources in the CMAPCD rated at less than 100 million Btu per hour are limited to the burning of fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content residual fuel oil). The variance granted today allows Seaman Paper Company to burn residual fuel oil having a maximum sulfur content of 2.2 percent until July 1, 1982 or three months after the startup of the coal burning operation, whichever date is sooner. The variance applies only to the burning of residual fuel oil and specifically prohibits the burning of coal having a sulfur content in excess of 0.55 pounds per million Btu heat release potential. Seaman Paper Company has demonstrated that it will take the necessary steps to convert its oil burning facility to a low-sulfur coal burning facility prior to July 1, 1982.

Technical support for the revision shows compliance with National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide (SO_2). NAAQS are maximum ambient air pollutant concentrations which are set to protect public health and welfare. PSD increments are allowable incremental increases in ambient pollutant concentrations which are set to limit the degradation of air quality over baseline levels. The technical support submitted by the Massachusetts Department includes an analysis of predicted ambient air quality levels and PSD increment consumption using EPA approved mathematical modeling techniques and an analysis of monitoring data to determine existing ambient air quality.

Although 2.2 percent sulfur fuel burning will cause an increase in particulate emissions, the current Massachusetts SIP particulate emission limitation (0.12 pounds per million Btu) will not be violated.

The EPA finds good cause for making this revision effective immediately for the following reasons:

1. The implementation plan revision is already in effect under State law and the EPA approval imposes no additional regulatory burdens.
2. The immediate use of less expensive, higher sulfur content fuel oil will facilitate the conversion of Seaman Paper Company to a low-sulfur coal burning operation.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C.)

Dated: September 3, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120, paragraph (c) is amended by adding subparagraph (31) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(31) A temporary variance to the Provisions of Regulation 310 CMR 7.05, Sulfur Content of Fuels and Control Thereof, for Seaman Paper Company, Otter River. Submitted on March 20, 1980 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

[FR Doc. 80–27773 Filed 9–9–80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1602-6]

Approval and Promulgation of Implementation Plans; North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces full approval of the implementation plan revisions which the North Carolina Division of Environmental Management submitted pursuant to the requirements of Part D of Title I of the Clean Air Act for the Mecklenburg County ozone nonattainment area. Conditional approval was given to these revisions on April 17, 1980 (45 FR 26038). Under the terms of the conditional approval, the State was to revise two of its regulations for volatile organic compounds and submit them for EPA's approval. This has been done and the revised regulations are the basis for giving full approval.

DATE: This action is effective October 10, 1980.

ADDRESSES: Copies of the materials submitted by North Carolina may be examined during normal business hours at the Public Information Reference Unit of EPA's Washington, D.C. office at 401 M Street, S.W., or at the library of the Agency's Region IV office in Atlanta, Georgia, 345 Courtland Street, N.E.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, EPA Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365. 404/881-3043 (FTS 257-3043).

SUPPLEMENTAL INFORMATION: On April 17, 1980 (45 FR 26038), EPA gave conditional approval to the implementation plan revisions which North Carolina had submitted for the Mecklenburg County (Charlotte) ozone and carbon monoxide nonattainment area. Under the terms of the conditional approval, the State was to submit supplemental materials by April 15, 1980. These were adopted on April 10, 1980, by the North Carolina Environmental Management Commission, and were submitted to EPA shortly thereafter. Thus EPA's conditional approval of the North Carolina 1979 revisions for CO continues in effect until August 31, 1980, the date by which a supplemental submittal dealing with the CO plan is to be made; EPA will take action on the CO plan upon receipt of that submittal.

The corrective submittal required for the ozone plan consists of revisions in two of the regulations for the control of volatile organic compounds (VOC). Regulation 2D.0903, dealing with recordkeeping, reporting, and monitoring by sources, has been revised so that it applies to sources with 100 tons per year of potential emissions rather than 100 tons per year of actual emissions. In effect, this means that all VOC sources which are required to control emissions are also subject to recordkeeping, reporting, and monitoring requirements. Regulation 2D.0931, which restricts the manufacture, storage and use of cutback asphalt, has been revised to specify authoritative sources for determining outdoor air temperature; paragraph (c)(2) of the regulation now permits the use of cutback asphalt when the ambient temperature is less than 50°F as measured at the nearest National Weather Service Field Office or Federal Aviation Administration Station.

The proposal notice of October 23, 1979 (44 FR 61055) and the notice of conditional approval of April 17, 1980 (45 FR 26038) may be referred to for detailed information on the Mecklenburg County ozone plan and the basis for EPA's finding that it satisfies the requirements of Part D of Title I of the Clean Air Act. In brief, the plan provides for the attainment by December 1982 of the national ambient standards for ozone through reductions in hydrocarbon emissions resulting from the application of reasonably available control technology (RACT) on stationary sources, including all those covered by EPA's Control Techniques Guidelines (CTGs), and from the Federal Motor Vehicle Control Program. The plan contains a commitment to adopt RACT regulations based on subsequent CTGs.

Accordingly, North Carolina's 1979 revisions for the Mecklenburg County ozone nonattainment area are given full approval. This action is effective October 10, 1980. Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant," and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 4, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart II—North Carolina

1. In § 52.1770, paragraph (c) is amended by adding paragraph (23) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(23) Revised regulations 2D.0903 and 2D.0931, adopted on April 10, 1980, and submitted on May 2, 1980, by the North Carolina Department of Natural Resources and Community Development to correct deficiencies in the Part D ozone revisions given conditional approval on April 17, 1980.

§ 52.1780 [Amended]

2. In § 52.1780(a), paragraph (1), dealing with conditional approval of the Mecklenburg County ozone control strategy, is revoked.

[FR Doc. 80-27771 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1602-7]

Approval and Promulgation of Implementation Plans; Massachusetts Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving a revision to the Massachusetts Implementation Plan, submitted on April 17, 1980 to satisfy a condition of EPA's recent approval of Massachusetts' Attainment Plan required under Part D of the Clean Air Act. The submittal amends the new source review regulation by adding a provision to require that emissions from new or modified sources not interfere with reasonable further progress towards attainment of air quality standards.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Linda Murphy, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On January 10, 1980 (45 FR 2036), the Administrator published a final rulemaking notice in the **Federal Register**, conditionally approving revisions to the Massachusetts State Implementation Plan (SIP) which were submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the DEQE) to satisfy the requirements of Part D of the Clean Air Act (42 USC 7401 et seq.) Plan Requirements for Non-Attainment Areas. Those SIP revisions included Massachusetts' Attainment Plan for Total Suspended Particulates (TSP) in Worcester and a new source review and permit program applicable throughout Massachusetts in areas which are non-attainment for any pollutant.

On April 17, 1980 the DEQE submitted a SIP revision in fulfillment of the condition of approval described in the January 10 Notice of Final Rulemaking and specified in Section 52.1166(a)(2) of

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Title 40, Code of Federal Regulations. This condition required submittal by March 1, 1980 of a regulation governing construction and operation of major new and modified sources which satisfies the requirements of Section 173(1)(A) of the Clean Air Act. A Notice of Receipt of the submittal was published in the **Federal Register** on May 19, 1980 (45 FR 32674).

The DEQE amended Regulation 310 CMR 7.02(2)(b) by adding a new criterion for approval of major source applications to construct or modify, which specifies that approval will not be issued if the proposed source's emissions, together with other emissions in the pertinent area, are inconsistent with the provisions in the SIP for reasonable further progress (RFP) towards attainment of the National Ambient Air Quality Standards (NAAQS). Adoption of the regulation and EPA approval of the SIP revision provide DEQE the authority to deny a permit if the proposed source's emissions would interfere with RFP, and means that emission reductions can be used to offset new major source growth only to the extent that they are not otherwise required for RFP.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts SIP.

A separate proposed rulemaking notice was not published because this submittal was discussed in detail as a condition of approval in the Massachusetts Part D Attainment Plan in a **Federal Register** Proposal published on July 16, 1979 (44 FR 41258) and in a final rulemaking notice published on January 10, 1980 (45 FR 2036). Opportunity for public comment was provided in the July 16 Notice of Proposed Rulemaking, and the submittal was available for public inspection in accordance with the May 19 notice. No comments have been received.

The Agency finds that good cause exists for making this action immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401)

Dated: September 4, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

§ 52.1120 [Amended]

1. Section 52.1120(c)(26) is amended by striking the introductory phrase "On May 3, 1979 and on August 7, 1979" and inserting in place thereof the Phrase "On May 3, 1979, August 7, 1979, and April 17, 1980".

§ 52.1166 [Amended]

2. Section 52.1166(a)(2) is revoked.

[FR Doc. 80-27770 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1584-6]

Utah; Approval and Promulgation of State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves a revision to Utah's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, paragraph 58.20, air quality surveillance, plan content. The revision establishes State and local air monitoring stations, maintenance of monitoring stations, and the method of data reporting and annual review for monitoring stations.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. De Spain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On April 1, 1980, EPA proposed for comment in the **Federal Register** this revision to the Utah State Implementation Plan. No comments were received. Therefore, EPA is approving the revisions as proposed.

This SIP revision establishes the state and local air monitoring stations (SLAMS), the maintenance of monitoring stations, and the method of data reporting and annual reviews for monitoring stations. The SLAMS stations will monitor ambient levels of "criteria pollutants;" i.e., pollutants which have an established national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining compliance with the NAAQS, determining if a source which emits criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58, and will be sited according to Appendix E to 40 CFR Part 58. Reference or equivalent monitors will be used as defined in 40 CFR 50.1 and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

EPA finds that good cause exists for making this action immediately effective because the revision is already in effect under State law and EPA approval imposes no additional regulatory burden.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by filing a petition for review in the United States Court of Appeals for the appropriate circuit on or before November 10, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in the civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: September 2, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart TT—Utah

1. Section 52.2320 is amended by adding paragraph (c)(7) as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(7) On November 5, 1979, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring, 40 CFR Part 58, Subpart C, Paragraph 58.20.

[FR Doc. 80-27806 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Alabama, Arkansas, Georgia, Louisiana, and Mississippi

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Alabama, Arkansas, Georgia, Louisiana, and Mississippi is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. In addition, managed big game hunts are designed to keep populations levels compatible with habitat capabilities. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory birds, upland game, and big game species.

DATES: Period Covered—September 6, 1980 to May 30, 1981. See state regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 200 East Pascagoula St., Suite 300, Jackson, Mississippi 39201, Telephone (601) 960-4900.

Refuge Manager, Eufaula National Wildlife Refuge, Route 2, Box 97-B, Eufaula, Alabama 36027, Telephone (205) 687-4065.

Refuge Manager, Wheeler National Wildlife Refuge, Box 1643, Decatur, Alabama 35602, Telephone (205) 353-7243.

Refuge Manager, Big Lake National Wildlife Refuge, Box 67, Manila, Arkansas 72442, Telephone (501) 564-2429.

Refuge Manager, Felsenthal National Wildlife Refuge, P. O. Box 279, Crossett, Arkansas 71635, Telephone (501) 364-8700.

Refuge Manager, Holla Bend National Wildlife Refuge, Box 1043, Russellville, Arkansas 72801, Telephone (501) 968-2800.

Refuge Manager, Wapanocca National Wildlife Refuge, P. O. Box 279, Turrell, Arkansas 72384, Telephone (501) 343-2595.

Refuge Manager, White River National Wildlife Refuge, Box 308, DeWitt, Arkansas 72042, Telephone (501) 946-1468.

Refuge Manager, Catahoula National Wildlife Refuge, P. O. Drawer LL, Jena, Louisiana 71342, Telephone (318) 992-5261.

Refuge Manager, D'Arbonne National Wildlife Refuge, P.O. Box 3065, Monroe, Louisiana 71201, Telephone (318) 325-1735.

Refuge Manager, Lacassine National Wildlife Refuge, Route 1, Box 186, Lake Arthur, Louisiana 70549, Telephone (318) 774-2750.

Refuge Manager, Sabine National Wildlife Refuge, MRH Box 107, Hackberry, Louisiana 70645, Telephone (318) 762-5135.

Refuge Manager, Upper Ouachita National Wildlife Refuge, P. O. Box 3065, Monroe, Louisiana 71201, Telephone (318) 325-1735.

Refuge Manager, Hillside National Wildlife Refuge, P. O. Box 107, Yazoo City, Mississippi 39194, Telephone (601) 746-8511.

Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739, Telephone (601) 323-5548.

Refuge Manager, Panther Swamp National Wildlife Refuge, P. O. Box 107, Yazoo City, Mississippi 39194, Telephone (601) 746-8511.

Refuge Manager, Yazoo National Wildlife Refuge, Route 1, Box 286, Hollandale, Mississippi 38748, Telephone (601) 839-2638.

SUPPLEMENTARY INFORMATION: Alton Dunaway is the primary author of these special regulations.

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, all applicable state regulations, the general conditions, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of special conditions applying to individual refuge hunts and a map of the hunt area(s) are available at each refuge headquarters. Portions of refuges which are closed to hunting are designated by signs and/or delinated on maps.

3. Access points on certain refuges are limited to designated roads or other specified areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

4. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

5. Persons under 16 must be under the close supervision of an adult. For safety reasons, each adult may not have more than two juveniles under his supervision.

6. Unless otherwise specified, dogs are not permitted on refuge areas during hunts. Exception: retriever dogs are allowed during waterfowl hunts, but they must be under control of the handler at all times.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Alabama

Eufaula National Wildlife Refuge

Migratory Waterfowl Hunting

(1) Hunting will be permitted on areas comprising approximately 450 acres (Alabama unit) which have been designated as being open to public waterfowl hunting.

(2) Hunts will be held from 30 minutes prior to sunrise until 11:30 A.M., Central Standard Time, on the Alabama unit on alternating Saturday and Wednesday mornings of the State waterfowl season.

(3) Hunters must hunt only from designated blind areas located by refuge personnel. Shooting is not permitted outside designated blind zone.

(4) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(5) Applications for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Alabama, prior to October 26, 1980. Successful applicants will be determined by an impartial drawing on Monday, October 27, 1980. Permits are non-transferable.

Mourning Dove Hunting

(1) Dove hunting will be permitted on areas comprising approximately 800 acres which have been designated as being open to public dove hunting from 12 noon until sunset (Central Standard Time) on dates to be announced by the refuge manager.

(2) Hunters must check in and out of the refuge at the designated checking stations and are not permitted within hunting areas before 11:45 A.M. on hunt days.

(3) Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.

Arkansas

Felsenthal National Wildlife Refuge

(1) Ducks and coots only may be hunted one-half hour before sunrise until noon during regular statewide seasons, except the last three days of the season when State shooting hours apply. Teal may also be hunted during the early State teal season between sunrise and noon. Hunting is permitted refugewide, except for the waterfowl sanctuary area.

(2) The waterfowl sanctuary is closed to all public entry during the waterfowl season, except the main channel of the Ouachita River and the barrow pits along U.S. Highway 82 will be open for navigation and fishing. The sanctuary area includes all refuge lands and waters as delineated on hunt area maps available at refuge headquarters.

(3) Only portable blinds are permitted and must be removed each day either to a designated area or from the refuge.

(4) Woodcock may be hunted during State season and hours refugewide, except for waterfowl sanctuary area during the waterfowl season.

(5) All firearms being transported in vehicles or boats must be empty and encased or dismantled. Firearms in camps must be empty. Handguns are prohibited.

(6) Camping is allowed only adjacent to readily identifiable roads and river channels within areas open to hunting.

Holla Bend National Wildlife Refuge

(1) Dove hunting will be permitted only in the approximately 500 acre area which has been designated as being open to public dove hunting from 12 noon until sunset on September 6, 1980, and September 13, 1980.

(2) A permit is required and is non-transferable.

(3) Persons may enter the refuge when the entrance gate opens each morning (daylight), and must leave the refuge by the time posted at the entrance gate.

(4) Firearms must be cased or unloaded when outside the designated hunt area.

(5) Alcoholic beverages are not permitted in the hunt area.

(6) Use of properly licensed retrievers is permitted and encouraged.

White River National Wildlife Refuge

(1) Ducks and coots only may be hunted on Tuesdays, Thursdays, and Saturdays during the regular State seasons on approximately 11,100 acres. Hunters may begin hunting one-half hour before sunrise and must depart the hunting area before 12 noon. Waterfowl hunting will not be permitted on November 29, 1980, because deer hunting is scheduled for the same area.

(2) The construction and use of blinds is prohibited.

(3) Camping in refuge campgrounds for the purpose of waterfowl hunting is not permitted.

(4) Decoys may not be left overnight.

(5) The maximum outboard motor size allowed is 10 h.p.

(6) Open fires are prohibited in the hunting area.

(7) Firearms must be unloaded and encased when traveling to and from the hunting area.

(8) Waterfowl may be drawn but not plucked or dressed on the refuge.

Georgia

Eufaula National Wildlife Refuge

Migratory Waterfowl Hunting

(1) Hunting will be permitted on areas comprising approximately 770 acres (Georgia unit) which have been designated as being open to public waterfowl hunting.

(2) Hunts will be held from 30 minutes prior to sunrise until 11:30 A.M., Eastern Standard Time, on the Georgia unit on alternating Saturday and Wednesday mornings of the respective State waterfowl seasons.

(3) Hunters must hunt only from designated blind areas located by refuge personnel. Shooting is not permitted outside designated blind zone.

(4) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(5) Applications for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Alabama, prior to October 26, 1980. Successful applicants will be determined by an impartial drawing on Monday, October 27, 1980. Permits are non-transferable.

Louisiana

D'Arbonne National Wildlife Refuge

(1) Ducks and coots only may be hunted from one-half hour before sunrise until 12 noon during regular statewide seasons. Teal may be hunted during the early State teal season between sunrise and noon.

(2) Only portable blinds are permitted. Blinds may not be constructed with wire, nails, or boards.

(3) Boats may not be left unattended overnight.

Lacassine National Wildlife Refuge

(1) Public hunting for ducks, geese, and coots will be permitted on designated areas comprising approximately 6,400 acres. Waterfowl hunting will be allowed from one-half hour before sunrise until 11:00 A.M., Wednesday through Sunday, during the Louisiana western zone season, excluding the special teal season. Hunters may enter the hunting area no earlier than two hours before legal shooting time and must depart the refuge be 12:00 noon.

(2) Only steel shot ammunition may be used, except that hunters participating in the steel shot study may be given lead loaded ammunition to shoot as part of the study.

(3) A permit will be needed to hunt the area between the Pipeline Canal and the Intracostal Canal and all of the hunting area east of the Lacassine Bayou. These areas are reserved for the special shooting study. The hunting area south of the Pipeline Canal and west of Misere Bayou is open to hunting without a permit.

(4) Hunters must hunt from prepared blinds. They may not utilize material to build blinds other than native vegetation; no boards, wire, lumber, netting, burlap, poles, brush, trees, or cane (bamboo) larger than 1 inch in diameter at the large end. Portable blinds made of any material may be used; however, they must be removed from the refuge by 12 noon each day. Hunters may place blinds only in the area open to first come-first serve hunting.

(5) Hunting parties may hunt closer than 150 yards to each other. The first hunter(s) at a pond or blind site outside the reserved area holds that site until the hunt is completed; other parties must move away at least 150 yards.

(6) No hunting closer than 50 yards to any ditch, canal, or waterway.

(7) No decoys may be left in the hunting area overnight.

(8) No boats may be left on the refuge earlier than one week prior to the opening of the hunting season. No air-thrust boats or ATVs may be used on the refuge. Mud boats are permitted.

Sabine National Wildlife Refuge

(1) Public hunting for ducks, geese, and coots will be permitted on designated areas comprising approximately 10,000 acres. Waterfowl hunting will be allowed from one-half hour before sunrise until 11:00 A.M., Wednesday through Sunday, during the regular Louisiana western zone duck season. Hunters may enter the hunting area no earlier than two hours before legal shooting time and must depart the refuge by 12 noon. The refuge is closed to hunting on Christmas Day.

(2) Upon request hunters are required to exhibit a valid State hunting license, duck stamp, and all shells in possession to a designated refuge official prior to hunting and permit authorized Service personnel to inspect his person, equipment, and/or vehicle.

(3) Hunting parties may not hunt closer than 100 yards apart and must station themselves a minimum of 50 yards inland from refuge canals. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt.

(4) Temporary blinds made of native vegetation may be constructed or portable blinds may be carried in for each hunt.

(5) Firearms must be encased or dismantled when carried in transit through refuge canals.

(6) Furbearing animals or trapping equipment in the hunting area shall not be molested or disturbed by hunters.

(7) Hunters are required to check in at the hunt check station before entering the hunt area and must check out; this includes hunters who did not bag any game. All waterfowl bagged must be checked through the check station after each hunt.

Upper Ouachita National Wildlife Refuge

(1) Ducks and coots only may be hunted from one-half hour before sunrise until 12 noon during regular statewide seasons. Teal may be hunted during the early State teal season between sunrise and noon.

(2) Only portable and brush blinds are permitted. Blinds may not be constructed with wire, nails, or boards.

(3) Boats, blinds, and decoys may not be left on refuge overnight except at designated area on the dam on Steep Bank Creek.

Mississippi

Hillside National Wildlife Refuge

Migratory Waterfowl Hunting

(1) Ducks and coots only may be hunted on Monday, Wednesday, and Saturday mornings on approximately 6,000 acres designated as Area II of the refuge from one-half hour before sunrise until 12 noon during the regular State seasons. Daily permits are required.

(2) Woodcock and snipe may be hunted during the State season on the same refuge area as open to duck hunting.

(3) Duck hunters are required to check in and out daily at the designated check station.

Mourning Dove Hunting

(1) Hunting will be permitted on the first three Saturday afternoons of the State season and two days in November (to be announced) only in fields marked open for dove hunting.

(2) Permits are required.

(3) Dove hunters are required to check out after each day's hunt.

(4) Retriever dogs are allowed.

Noxubee National Wildlife Refuge

(1) Public hunting of ducks and coots will be permitted only on the areas designated as green-tree reservoirs numbers 1 and 2.

(2) Hunting will be permitted only on Mondays, Wednesdays, and Saturdays from one-half hour before sunrise until 12 noon during the State waterfowl season.

(3) The use of boats with electric motors is permitted within the hunting area.

(4) The construction of blinds is not permitted.

(5) Hunters will not be permitted to enter the hunting area sooner than 45 minutes before legal shooting hours.

(6) No hunter may take more than 16 shot gun shells into the hunting area.

(7) No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

(8) All hunters are required to check in and out at the designated check station.

(9) Permit is required.

Panther Swamp National Wildlife Refuge

(1) Ducks and coots only may be hunted on Monday, Wednesday, and Saturday mornings from one-half hour before sunrise to 12 noon during the State duck hunting season in Area II of the refuge.

(2) Duck hunters are required to check out at the designated check station after each day's hunt.

(3) Woodcock and snipe may be hunted during the State season on the same refuge area as open to duck hunting.

Yazoo National Wildlife Refuge

(1) Mourning dove hunting will be permitted on approximately 600 acres (Swan Island) which has been designated as open to public hunting from 12 noon until sunset on September 13, 1980, and September 20, 1980.

§ 32.22 Special regulations; upland game hunting for individual wildlife refuge areas.

Alabama

Wheeler National Wildlife Refuge

(1) Upland game hunting is permitted on approximately 19,000 acres for squirrel, rabbit, fox, raccoon, and opossum.

(2) Seasons: squirrel October 1, 1980, through October 14, 1980; raccoon and opossum–February 2, 1981, through February 14, 1981, night hours only. Special rabbit hunt–February 14, 1981, through February 28, 1981, with shotguns and bows and arrows except in southwest portion of refuge where bows and arrows only are allowed; the use of dogs is permitted.

(3) Permits are required.

(4) Sunday hunting is prohibited.

Arkansas

Big Lake National Wildlife Refuge

(1) Species permitted: squirrel, rabbit, and beaver–State fall season through October 31, 1980; raccoon–November 1, 1980, through November 9, 1980, 4 P.M. until 7 A.M.

(2) Dogs are required for raccoon hunt; no more than two dogs per hunter allowed. No dogs permitted during other species hunts.

(3) Firearms must be unloaded during transportation to hunting sites.

(4) A permit is required for raccoon hunting.

(5) No boats are allowed within the refuge after October 31.

(6) Hunts may be closed without advance notice under flood conditions.

Felsenthal National Wildlife Refuge

(1) Squirrel may be hunted from October 1, 1980, through January 31, 1981; refugewide, except closed in the waterfowl sanctuary area during waterfowl season. Hunting from boats is not permitted.

(2) Rabbits may be hunted October 1, 1980 through February 5, 1981; refugewide, except closed in the

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waterfowl sanctuary area during the waterfowl season.

(3) Quail may be hunted November 22, 1980 through February 15, 1981; refugewide, except closed in the waterfowl sanctuary area during waterfowl season.

(4) Beaver may be hunted October 1, 1980, through February 15, 1981; refugewide, except closed in the waterfowl sanctuary area during waterfowl season.

(5) Racoon may be hunted the first three nights of the State season and four consecutive nights starting on the night following closure of the State waterfowl season. Hunting hours are 4:00 P.M. to 7:00 A.M. Open refugewide, except closed in the waterfowl sanctuary area during the waterfowl season.

(6) Dogs are permitted only for quail and raccoon hunts. No more than two dogs per hunter and four dogs per party are permitted for raccoon hunts.

(7) All firearms being transported in vehicles or boats must be empty and encased or dismantled. Firearms in camps must be empty. Handguns are prohibited.

(8) Camping is allowed only adjacent to readily identifiable roads and river channels within areas open to hunting.

Wapanocca National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 1, 1980 through October 31, 1980; beaver may be taken as an incidental species. Raccoon—October 15, 1980 through October 31, 1980, from 4 P.M. to 7 A.M.

(2) One dog per hunter is required (2 per hunter maximum) for raccoon hunts; no dogs allowed during other species hunts.

(3) Permit is required for raccoon hunting.

White River National Wildlife Refuge

(1) Species permitted: squirrel, rabbit, beaver—October 1, 1980 through October 20, 1980; north of Highway 1 season—October 1, 1980 through November 6, 1980; in duck hunting area—every Tuesday, Thursday and Saturday only during duck season. Raccoon—December 4, 1980, through December 6, 1980, and December 11, 1980 through December 13, 1980, 4:30 P.M. until 12 midnight. Raccoon hunters must depart refuge by 1 A.M.

(2) A permit is required for raccoon hunts.

(3) Horses are allowed for raccoon hunts only.

(4) Weapons: shotguns and .22 caliber rimfire fires are permitted. Rifles are not allowed in duck hunting area.

(5) Boats and off-road vehicles are not allowed during the raccoon hunts.

(6) Dogs are required for raccoon hunts; one dog per hunter maximum.

Louisiana

Catahoula National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 4, 1980 through October 31, 1980, on approximately 3,800 acres.

(2) No dogs permitted.

D'Arbonne National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 4, 1980 through January 4, 1981; rabbits with beagles—January 5, 1981 through January 31, 1981; raccoon—January 5, 1981 through January 31, 1981; quail—November 27, 1980 through January 4, 1981; quail with dogs—January 6, 1981 through January 31, 1981.

(2) Dogs are permitted during the January raccoon, rabbit, and quail hunts only.

Upper Ouachita National Wildlife Refuge

(1) Squirrel—State season; rabbit—State season to January 31, 1981, dogs allowed after State gun deer season; quail—State season after January 31, 1981, dogs allowed after State gun deer season; raccoon—day after State deer season ends to January 31, 1981.

Mississippi

Hillside National Wildlife Refuge

(1) Upland game hunting is permitted on approximately 15,400 acres for quail, rabbit, squirrel, raccoon, and opossum. Beaver may be taken as an incidental species.

(2) Seasons: quail—State season; rabbit—State season except dogs allowed only from February 1, 1981 through February 28, 1981; squirrel—State season; raccoon and opossum—November 1, 1980 through November 20, 1980 and January 16, 1981 through February 8, 1981.

(3) Hours for raccoon and opossum hunting are 6 P.M. until 4 A.M.

(4) Sunday hunting is prohibited.

(5) Dogs are permitted during the quail, raccoon, and opossum hunts. Only beagles are permitted during the February 1, 1981 through February 28, 1981 rabbit hunt.

(6) Sunday hunting is prohibited.

Noxubee National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 18, 1980 through December 12, 1980; beaver may be hunted as an incidental species during the squirrel and rabbit hunts. Quail—November 27, 1980 through December 12, 1980, and January 12, 1981 through end of State season; rabbit, snipe, and woodcock may be hunted as incidental species during the quail hunt. Weapons restricted to shotguns only. Raccoon and opossum—November 1, 1980 through November 30, 1980, and January 16, 1981 through February 8, 1981, only with .22 caliber rimfire weapons from 4 P.M. to 7 A.M.

(2) No refuge permit will be required for squirrel, rabbit, quail, raccoon, and opossum hunts.

(3) Sunday hunting is prohibited.

(4) Dogs are permitted during the quail, raccoon, and opossum hunts only.

Panther Swamp National Wildlife Refuge

(1) Upland game hunting is permitted on approximately 16,300 acres for rabbit, squirrel, raccoon, and opossum. Beaver may be taken as an incidental species.

(2) Seasons: rabbit—State season except dogs allowed only from February 1, 1981 through February 28, 1981. Squirrel—State season. Raccoon and opossum—November 1, 1980 through November 20, 1980, and January 16, 1981 through February 8, 1981.

(3) Hours for raccoon and opossum hunting are 6 P.M. until 4 A.M.

(4) Sunday hunting is prohibited.

(5) Dogs are permitted during the raccoon and opossum hunts. Only beagles are permitted during the February 1, 1981 through February 28, 1981 rabbit hunt.

Yazoo National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 4, 1980 through October 31, 1980; raccoon and opossum—December 15, 1980 through December 20, 1980 from 5 P.M. until midnight.

(2) Permits are required.

(3) No Sunday hunting is permitted.

(4) Upland game hunting of designated species is permitted on approximately 7,800 acres.

§ 32.22 Special regulations; big game hunting for individual wildlife refuges.

Alabama

Wheeler National Wildlife Refuge

(1) Archery deer hunt: October 15, 1980 through November 20, 1980; either sex.

(2) Primitive weapons deer hunt (archery and flintlock only): November 21, 1980 through November 29, 1980; either sex.

(3) Redstone Arsenal deer hunt: Contact Post Warden's Office for dates and regulations.

(4) Permits are required.

(5) Hunting is permitted on approximately 19,000 acres.

(6) Sunday hunting is prohibited.

Arkansas

Felsenthal National Wildlife Refuge

(1) Deer (archery, muzzle-loader, and regular gun) hunting is permitted during regular State seasons. Open refugewide, except closed in the waterfowl sanctuary area during waterfowl season. Only portable stands may be used.

(2) Coyote may be hunted during all other refuge hunts in areas and with firearms applicable to those hunts.

(3) Feral hogs may be hunted during deer gun seasons only in areas open and with weapons legal for deer. There is no bag limit.

(4) The use of dogs for coyote, feral hog, and deer hunting is prohibited.

(5) All firearms being transported in vehicles or boats must be empty and encased or dismantled. Firearms in camps must be empty. Pistols legal for taking deer are authorized during deer gun hunts. All pistols prohibited at other times. Possession of rifles larger than .22 rimfire caliber, slugs, and buckshot is prohibited outside of refuge deer gun seasons. Firearms are not permitted outside of refuge hunting seasons.

(6) Horses are prohibited during refuge gun hunts. At other times they may be used on refuge roads.

(7) Camping is allowed only adjacent to readily identifiable roads and river channels within areas open to hunting.

(8) It is unlawful to drive a nail, spike, or other metal object into a tree or to hunt from any tree in which a nail, spike or metal object has been driven.

Holla Bend National Wildlife Refuge

(1) Archery deer hunt: October 15, 1980 through December 15, 1980 on approximately 6,367 acres.

(2) Persons may enter the refuge when the entrance gate opens each morning (daylight) and must leave the refuge by the time posted at the entrance gate.

(3) All hunters must register upon entering the refuge each day.

(4) All deer bagged must be checked at the refuge check station before leaving the refuge.

(5) No hunting is permitted from any vehicle.

(6) Only portable tree stands which do not permanently attach to or damage trees may be used. Stands may be placed after September 15, 1980, and must be removed January 1, 1981.

(7) Alcoholic beverages are not permitted in hunting areas.

White River National Wildlife Refuge

(1) Archery hunt (deer and turkey): October 11, 1980 through October 30, 1980, and January 16, 1981 through January 31, 1981. Season north of Highway 1—October 1, 1980 through November 6, 1980. Limit and sex: State regulations. Squirrel, rabbit, and beaver may be taken as incidental species.

(2) Primitive weapons deer hunt: October 23, 1980 through October 25, 1980. Limit: one deer of either sex (bonus deer).

(3) Gun deer hunt: November 10, 1980 through November 12, 1980. Limit: one legal buck (not a bonus deer).

(4) Youth gun deer hunt: November 7, 1980 through November 8, 1980, and November 28, 1980 through November 29, 1980. Limit: one deer of either sex (not a bonus deer).

(5) Turkey hunt: Spring hunt dates to be announced.

(6) Permits are required for primitive weapons hunt, gun deer hunt, youth deer hunt, and turkey hunt.

(7) No loaded firearms allowed in boats, vehicles, on campgrounds, or in roadways used by vehicles.

(8) All deer taken in the gun deer hunt and in the youth deer hunt must be checked at a designated check station.

(9) Horses are prohibited.

Louisiana

Catahoula National Wildlife Refuge

(1) Archery deer hunt: October 1, 1980 through October 31, 1980, and December 6, 1980 through January 3, 1981, on approximately 2,500 acres; either sex. Rabbit and squirrel may be taken as incidental species.

(2) Muzzle-loader hunt: November 8, 1980 through November 16, 1980; bucks only.

(3) Youth deer hunt: November 1, 1980 through November 2, 1980; either sex.

(4) A refuge permit will be required for all gun hunters.

(5) No permanent tree stand may be constructed.

(6) All bagged deer must be checked out at refuge headquarters.

D'Arbonne National Wildlife Refuge

(1) Archery deer hunt: State season; gun deer hunts—first segment of State season and first 2 days of second segment. Either sex hunting on opening day and on both days of second segment.

(2) Portable stands only. Stands may not be nailed to trees or left on refuge overnight.

(3) Unmarked feral hogs and coyotes may be taken during refuge deer seasons.

Upper Ouachita National Wildlife Refuge

(1) Archery deer hunt: State season; gun deer hunts—first segment of State season and first 2 days of second segment. Either sex hunting on opening day and on both days of second segment.

(2) Portable stands only. Stands may not be nailed to trees or left on refuge overnight.

(3) Unmarked feral hogs and coyotes may be taken during refuge deer seasons.

Mississippi

Hillside National Wildlife Refuge

(1) Archery deer hunt—State seasons: primitive weapons deer hunt—State season. Either sex.

(2) Sunday hunting is prohibited.

(3) The use of any drug on arrows is prohibited. Bow hunters may not have arrows employing drugs or drug holding devices in their possession.

Noxubee National Wildlife Refuge

(1) Archery deer hunt: October 4, 1980 through October 30, 1980, and November 1, 1980 through November 19, 1980; either sex.

(2) Primitive weapons deer hunt: December 2, 1980 through December 12, 1980; either sex.

(3) Gun deer hunt: December 13, 1980 through December 26, 1980, and January 3, 1981 through January 10, 1981; bucks only.

(4) Gun deer hunt—Either sex: A limited either sex gun hunt not to exceed three days is planned. Hunt dates and other information will be available at refuge headquarters after November 1, 1980.

(5) Turkey hunt: State seasons; with shotguns only.

(6) All deer and turkey harvested must be checked at the refuge headquarters or designated check station.

(7) Weapons allowed for deer gun hunts are: centerfire rifles and 20 gauge or larger shotguns.

(8) The possession or use of any drugged arrow for bow hunting is prohibited.

(9) Sunday hunting is prohibited.

(10) Horses are prohibited.

(11) Permits are required for all deer and turkey hunts.

(12) Man-drive deer hunting is prohibited.

(13) The use of any citizens band radio device to aid in the pursuit or taking of game animals is prohibited.

Panther Swamp National Wildlife Refuge

(1) Archery deer hunt—State season: primitive weapons deer hunt—State season; gun deer hunt—State season.

(2) The use of any drug on arrows is prohibited. Bowhunters may not have arrows employing or any drug holding devices in their possession.

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(3) Sunday hunting is prohibited.

Yazoo National Wildlife Refuge

(1) Archery deer hunt: November 1, 1980 through November 15, 1980, and January 17, 1981 through January 23, 1981, on approximately 7,800 acres: either sex.

(2) Primitive weapons deer hunt: December 2, 1980 through December 12, 1980; either sex. Hunt to be closed when 60 doe deer have been harvested.

(3) Gun deer hunt: December 27, 1980 through January 3, 1981, and January 10, 1981; bucks only.

(4) Permits are required.

(5) Loaded firearms in vehicles are prohibited.

(6) Man-drive deer hunting is prohibited.

(7) All deer must be checked at refuge headquarters.

(8) No Sunday hunting permitted.

(9) A minimum of 500 square inches of fluorescent hunter orange must be visibly worn above the waist during deer gun hunts.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge area and which are set forth in Title 50, *Code of Federal Regulations,* Part 32. The public is invited to offer suggestions and comments at any time.

Dated: September 4, 1980.

Dennis F. Holland,

Acting Area Manager.

[FR Doc. 80-27849 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of change in catch rate.

SUMMARY: This notice changes the allowable catch rate of giant Atlantic bluefin tuna in the General Category, Northern Area, from two (2) per day per vessel to four (4) per day per vessel.

EFFECTIVE DATE: 0001 hours e.d.t. September 13, 1980.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930—Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: On June 13, 1980, final regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. Sections 971–971h), and implementing the provisions thereof, were filed with the Office of the Federal Register. Section 285.32(b)(1) of those final regulations provides that in the Northern Area, as defined in § 285.30(b)(2), "On or about September 7, the Assistant Administrator shall review dealer and buy boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the quota of giant bluefin has been caught, an allowable catch of one giant bluefin tuna per day per vessel shall be continued or reestablished. If the Assistant Administrator determines that 70 or more percent and less than 85 percent of the quota has been caught, the allowable catch shall be set at two giant bluefin tuna per day per vessel. If more than 60 and less than 70 percent of the quota has been caught, the allowable catch shall be set at three giant tuna per day per vessel. If the Assistant Administrator determines that 60 percent or less of the quota has been caught, the allowable catch shall be increased to four giant tuna per day per vessel."

The Assistant Administrator for Fisheries, NOAA, has determined, based upon dealer and buy boat landing reports, that the catch of giant Atlantic bluefin tuna in the General Category, Northern Area, is approximately 800 fish. As this number is less than 60 percent of the total quota, the daily catch rate of giant Atlantic bluefin tuna shall be increased from two (2) to four (4) fish per day per vessel at 0001 e.d.t. on September 13, 1980. This catch rate will remain in effect for the remainder of the 1980 season or until the quota of 2400 giant bluefin tuna is reached. This change in the daily catch for giant Atlantic bluefin tuna does not apply to those vessels registered in the Charter or Harpoon Boat Categories in the Northern Area, or those vessels permitted to take giant Atlantic bluefin tuna in the Southern Area with gear other than purse seines.

Notice of this change in catch rate has been mailed to all vessel owners holding a valid vessel permit for this fishery.

Signed at Washington, D.C., this 5th day of September, 1980.

(16 U.S.C. 971–971h)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27788 Filed 9-5-80; 11:30 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 177
Wednesday, September 10, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision to Method of Establishing Size Standards and Definitions of Small Business

AGENCY: Small Business Administration.

ACTION: Public notice.

SUMMARY: SBA published an Advance Notice of Proposed Rulemaking concerning its size standards in the **Federal Register** of March 10, 1980 (45 FR 15442). Subsequently public hearings were held in each SBA region. The purpose of this notice is to solicit additional comments on several critical size standards issues.

DATE: Written comments must be submitted by October 27, 1980, and should especially be directed at the specific issues identified in this notice.

ADDRESS: Send all comments to: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, N.W., Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Kaleel C. Skeirik, Size Standards Division, (202) 653–6373.

SUPPLEMENTARY INFORMATION: On March 10, 1980, SBA published in the **Federal Register** an Advance Notice of Proposed Rulemaking to amend the small business size regulations. This advance notice set forth, on an industry-by-industry basis, which businesses are eligible for SBA assistance.

The advance notice was the result of an intensive review of the entire size standards program, and constituted the first general review of SBA's size standards since they were established in the 1950's.

Contained within the March 10 document were SBA's philosophy and policy for establishing size standards. The philososphy is to base the size standards on the competitive structure of each industry, and to use the size standards as a policy tool to allocate SBA resources in order to enhance the level of competition of the U.S. economy.

Because of the high level of interest in the advance notice, SBA extended the comment period and held public hearings in each SBA region. These hearings were well-attended, with participants ably presenting their views. SBA received in excess of 1500 comment from the public hearings and form individual written correspondence. The comments involve about 200 of 726 different industries. There are about 25 industry areas (75 SIC industries) that are considered to be particularly impacted by the proposed size standards. While all industries will be reviewed, these particular industries will be given special attention.

In addition, SBA is asking small businesses, and others, to provide any additional information on the issues listed below. These issues need to be clarified and resolved, as they have a major influence in determining the direction of, and levels at which, the proposed size standards will be established.

Issues

1. *Is SBA's policy of using size standards to promote economic competition a valid goal?*

In its March 10 advance notice, SBA articulated a policy by which the degree of economic competition in an industry would be the major criterion for establishing the industry's size standard. In concentrated industries, size standards were to be set relatively high; in competitive industries, relatively low. In so doing, the degree of small business eligibility varied from industry to industry to reflect the differing competitive conditions in each industry. The size standard, thus, would expand eligibility in some industries (those with high size standards) and deemphasize eligibility in others (those with low size standards).

Some comments criticized SBA for using the intensity of economic competition in each industry as a major criterion to establish size standards. Critics argued that SBA's role should be to assist all small businesses in general, regardless of their industry or their effect on competition. The inference was also made that the absolute size of a firm is more important than the relative size of firm within an industry in establishing size standards.

2. *Is SBA's method of defining an industry's competitiveness correct?*

SBA used the Standard Industrial Classification system to define industries, and all size standards were established on a 4-digit industry basis. Also, while other indicators were used, SBA primarily relied on concentration ratios to determine the degree of competitiveness within an industry.

SBA used the SIC system because it is widely accepted, uniform, and statistical information is tabulated on an SIC basis. Moreover, the Small Business Act requires that size standards be established on an industry basis rather than by item, product, service, or market.

Commenters stated that the 4-digit industry is either too broad or too narrow. For example, some commenters from the apparel manufacturing industries indicated that the 4-digit SIC is too narrow, while others such as in engineering or boat building said it's too broad. Others stated that since the SIC system hadn't been revised since 1972, it doesn't reflect the changes in industry, especially in electronics, communications, optics, computers, and so on.

The basic data used in defining an industry's competitiveness are the "Census of Economics" in which the industries are classified on a 4-digit SIC basis. The most recent Census data available by size distribution of firms on a corporate entity basis are for the year 1972. The 1977 data on this basis will not be available until early in 1981. However, the SBA also used other data sources ("Dun & Bradstreet" and "Economic Information Systems") to a great extent to update information on the various industries.

Comments were received that the 1972 data are outdated, and that other basic sources and more recent years should be used.

The use of concentration ratios to determine competition was questioned, as was the wisdom of categorizing industries by degree of competitiveness——either concentrated, mixed, or competitive.

3. *How should firm size be measured?*

All size standards in the advance notice, except farming, are expressed in terms of number of employees. This number includes full as well as part-time

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employees. In addition, no size standard is less than 15 employees, nor is any above 2,500 employees.

Firm size was expressed by number of employees, rather than by annual sales, to avoid periodic increases for inflation. SBA counts all employees because the statistical sources upon which size standards are based (e.g., Census Bureau and others) include both full-time and part-time employees. It is also administratively simple to count all employees rather than calculate full-time equivalents of part-timers.

The floor of 15 employees was used because SBA believed that any firm with 15 or fewer employees could be considered small regardless of industry. The proposal of this floor, rather than another, was in part due to the limitations of the data.

SBA also felt that firms with more than 2500 employees would not be justified in securing SBA assistance, even in highly concentrated industries. SBA believes that currently its programs cannot, with a few exceptions, handle firms above 2500 employees.

Commenters, especially in the construction industries, stated that the use of an employee rather than an annual sales measure of size would encourage companies to subcontract work and thus avoid accounting for the actual number of employees involved. For this as well as other reasons, some suggested one or a combination of alternative firm size measures such as sales, assets, profits, net worth, a demonstration of absence of industry dominance, ability to obtain regular commercial financing, and others.

Concerning part-time employees, industries that often use part-timers stated that the definition of "employee" is too restrictive. They suggested use of a full-time equivalent; or higher size standards.

Comments indicated that the floor was too low, limiting eligibility and discouraging expansion beyond the size standard. Others indicated that the ceiling was too high and that a firm with as many as 2500 employees should not be classified as small, regardless of industry.

4. *Should there be one size standard for each industry for all SBA programs or different size standards for each program?*

The advance notice presented one size standard for each industry for all SBA programs. This is a change from the present SBA convention of having size standards vary by program as well as by industry.

A single size standard reflects the application of a consistent policy by making firms eligible for all SBA programs simultaneously. So, the reason for this proposed change is to simplify the size standards by eliminating conflicting definitions. It avoids the problem of having to develop two, three, or more definitions of small business for the various SBA Programs for every industry. Commenters stated that the size standards should reflect the objective of each SBA program. This was particularly raised by firms which currently participate in the procurement set-aside and SBIC programs. They argued that the various SBA programs have different objectives and needs. Others indicated that the government requirements for procurement were so different as to preclude their firms from normal commercial markets.

A number of comments indicated that the proposed size standards (for competitive industries), which are lower than the current size standards, would have an adverse impact on the goals of the Pub. L. 95–507 program, particularly for minority firms interested in subcontracting for federal procurement. By reducing a size standard, there would be fewer qualified or capable small firms to handle the subcontracting, they say.

5. *Are SBA size standards applicable to other government programs?* SBA size standards are designed for SBA programs. They are not a generic or all-purpose definition of small business, nor are they necessarily applicable for use in other government programs. Definitions for other federal programs should be tailored to meet the objectives of those purposes.

There appears to be some confusion in the applicability to the proposed SBA size standards of the small business definition recommended by the White House Conference on Small Business described in their Resolution No. 8. The definition in Resolution No. 8 has four different size categories on an employment basis, with an upper limit of 500 employees. This is a broad and general definition that may be more applicable to other federal programs, particularly regulatory agencies. This general definition does not take into account SBA's statutory requirement to vary size standards expressed in number of employees on an industry-by-industry basis.

6. *How should SBA's new size standards be implemented?*

SBA appreciates the fact that in some industries, and for some programs, the proposed size standards constitute a major change in their business environment. To be most responsive to the requirements of the small business sector, SBA has not proposed a schedule for the implementation of the proposed size standards. In the advance notice, SBA requested comments on an implementation plan. However, very few substantive comments were received. Therefore, we again invite your comments on the merits of alternative implementation schemes. Included among issues under consideration are: should the implementation timetable be the same for all SBA programs; should industries where the size standard has been raised be treated the same as industries where the size standard has been lowered; should implementation be scheduled on an incremental basis or take effect at one time; what should be the total length of time before all new size standards are put into effect; should different industries be given different amounts of time to comply with the new size standards?

Since the role of the private sector is important in development of size standards, SBA believes that the public should have the opportunity to provide comments on the basic issues raised.

SBA requests that comments be restricted to the above issues. Comments previously received on specific industry size standards are being reviewed and will be taken into account prior to publishing the proposed rule.

Dated: September 4, 1980.

A. Vernon Weaver,

Administrator

[FR Doc. 80–27967 Filed 9–9–80; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Change in hearing date and filing dates for notifications, proposed testimony and written comments.

SUMMARY: On August 11, 1980, (45 FR 53340) the Commission published its Notice of Rulemaking announcing a hearing date and filing requirements for participation in this proceeding together with proposed amendments to the rule. This Notice is being issued to change the date for commencing Washington, D.C. hearings from September 25, 1980, to November 12, 1980, and to change the filing dates as specified below.

DATES: New public hearing date: November 12, 1980. Notification of intention to present views orally and copies of verbatim proposed testimony must be received on or before October 29, 1980. Written comments must be received by October 27, 1980.

ADDRESSES: Send one copy of notification of intention to present views orally, five copies of proposed verbatim testimony and five copies of written comments to "Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking," Federal Trade Commission, Washington, D.C. 20580. Hearing address: Room 332, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–724–1491 or Lucerne D. Windrey, 202–724–1453, Attorneys, Bureau of Consumer Protection, Division of Energy and Product Information, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 11, 1980, the Commission issued its Notice of Rulemaking (45 FR 53340) setting forth proposed amendments to the rule and establishing a date for public hearings and filing requirements with respect to this rulemaking proceeding.

On August 18, 1980, the Air-Conditioning and Refrigeration Institute ("ARI") requested a 45-day extension for both the public hearing and the written comment period on the basis that the industry is developing comments for submittal to DOE regarding its proposed rule on minimum efficiency standards for consumer products and that in view of the potential severe impact of the DOE proposed rule on the industry their resources necessary of develop a substantive comment thereto will make it very difficult for the industry to devote appropriate attention to the Commission's proposal until after the DOE comment period has ended on September 15, 1980. The Commission Staff verified the circumstances and did not oppose ARI's request. Therefore, the Presiding Officer in his Ruling No. 1 granted the request in part and the new dates have been established as follows:

1. The date for the Washington, D.C. hearings to commence is now November 12, 1980. Therefore, the public hearing will commence on November 12, 1980, at 10:00 a.m. in Washington, D.C., Room 332, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C.

2. Persons wishing to make oral presentations at the hearing must file a notification of intention to testify with Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking, Federal Trade Commission, Washington, D.C. 20580, and file with the Presiding Officer five copies of the required verbatim statement of proposed testimony and any relevant exhibits on or before October 29, 1980.

3. Persons desiring to submit written comments must file them with the Presiding Officer at the above address on or before October 27, 1980.

The other provisions of the Commission's Notice of Rulemaking dated August 11, 1980, remain the same and the instructions and requirements set forth therein shall be observed.

Issued: August 29, 1980.

Raymond L. Rhine,

Presiding Officer.

[FR Doc. 80-27850 Filed 9-9-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance; and Supplemental Security Income for the Aged, Blind, and Disabled; Personalized Notices To Be Provided Certain SSA Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to publish proposed regulations which will specify the information to be included in designated disability determination notices which are unfavorable in whole or in part to disability claimants.

Section 305 of Pub. L. 96–265 amends sections 205(b) and 1631(c)(1) of the Social Security Act. The former deals with disability determinations under the Federal Old-Age Survivors and Disability Insurance program and the latter with disability determinations under the Supplemental Security Income for the Aged, Blind and Disabled program. The statutory amendments require that effective July 1981, a personalized notice be sent when a disability determination is made which is unfavorable in whole or in part to the disability claimant. These notices currently cite the statutory/regulatory bases for the determination, but do not contain a personalized explanation of the case. The proposed regulations will provide that such notices will be accompanied by the following information: a brief nontechnical statement, written in understandable language, setting forth a discussion of the evidence, the Secretary's determination and the reason or reasons for the determination.

The proposed regulations amend §§ 404.907, 404.915 (recodified (NPRM-FR April 4, 1979 (44 FR 20176)) 404.904 and 404.917), 416.1404, and 416.1422 (recodified (NPRM-FR April 4, 1979 (44 FR 20176)) 416.1404 and 416.1417), of title 20 CFR Parts 404, and 416. The Department has classified the proposed regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Charles Sinlock, Social Security Administration, 3–G–9 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. Telephone: 301–594–6920.

Dated: August 15, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-27844 Filed 9-9-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 220, 221, 231, 236

[Docket No. R-80-859]

Mortgage and Loan Insurance Programs Under the National Housing Act

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: Sections 220.590, 221.524, 231.12, 231.13, and 236.30 are being amended to prohibit prepayment of mortgage which are assisted by way of Housing Assistance Payments Contracts during the term of the mortgage without the prior consent of the Commissioner.

DATE: Comments Due by November 10, 1980.

ADDRESSES: Comments should be sent to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Linda D. Cheatham, Office of Multifamily Housing Development, Development Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–9280 (This is not a toll free number.)

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SUPPLEMENTARY INFORMATION: Regulations presently prohibit prepayment of mortgages under Sections 221 and 236 of the National Housing Act, which are receiving payments under a rent supplement contract, unless prior approval of the Commissioner is granted. The proposed rule extends the prepayment prohibition to mortgages insured under Sections 220, 221, 231, and 236 of the National Housing Act where the mortgagor enters into a Housing Assistance Payments Contract, after September 1, 1980, unless prior approval is granted by the Commissioner. The purpose of the proposed amendment is to prevent unwarranted conversion of Section 8 assisted projects to market rate tenancy. Interested persons may participate in this proposed rulemaking by submitting such written data, suggestions, or arguments as they may desire. All such materials should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 and should refer to the above docket number and title. All comments received on or before November 10, 1980 will be considered before adoption of a final rule in this matter. Copies of all comments received will be available for public inspection at the above address during regular business hours both before and after the close of the comment period. The Department has determined that this proposed rule will not have a significant impact upon the quality of the environment.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address specified above. This rule is listed as item number H-21-79 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, the Department proposes to amend 24 CFR, Chapter II by:

1. Adding a new paragraph (3) under subsection 220.590(a) to read as follows: "(3) Unless prior approval is granted by the Commissioner, no prepayment of the mortgage indebtedness will be permitted if the mortgagor has entered into a Housing Assistance Payments Contract as defined in 880.102, 881.102, 883.202, and 883.702 of this title, executed after September 1, 1980."

2. Adding a new subparagraph (v) under subsection 221.524(a)(1) to read as follows: "(v) where the mortgagor has not entered into a Housing Assistance Payments Contract as defined in 880.102, 881.102, 883.202, and 883.702 of this title, executed after September 1, 1980."

3. Adding a new subparagraph (d) under subsection 231.12 to read as follows: "(d) Prepayment prohibited. Except as required or consented to by the Commissioner, no prepayment of the mortgage indebtedness will be permitted where the mortgagor has entered into a Housing Assistance Payments Contract as defined in 880.102, 881,102, 883.202, and 883.702 of this title, executed after September 1, 1980."

4. Adding a new paragraph (c) under section 231.13 to read as follows: "(c) Prepayment prohibited. Except as required or consented to by the Commissioner, no prepayment of the mortgage indebtedness will be permitted where the mortgagor has entered into a Housing Assistance Payments Contract as defined in 880.102, 881.102, 883.202, and 883.702 of this title, executed after September 1, 1980."

5. Amending subparagraph (1)(i) of subsection 236.30(a) to read as follows: "(i) If the prepayment occurs after the expiration of 20 years from the date of final insurance endorsement of the mortgage, provided the mortgagor is not receiving payments from the Commissioner under a rent supplement contract executed pursuant to the provisions of 5.1 et seq. of this title, or has not entered into a Housing Assistance Payments Contract, executed after September 1, 1980, as defined in 880.102, 881.202, 883.202, and 883.702 of this title."

Authority: Sec. 211, 52 Stat. 23, as amended,/Sec. 220, 68 Stat. 596 as amended; 12 U.S.C. 1715b, 1715k:/Sec. 221, 68 Stat. 599 as amended; 12 U.S.C. 1715b;/Sec. 231, 73 Stat. 665; 12 U.S.C. 1715b, 1715v;/Sec. 236, 82 Stat. 498, as amended; 12 U.S.C.; 1715B, 1715z-1;/see 7(d), Department of Housing and Urban Development A.7 (4L U.S.C. 3535(d)).

Issued at Washington, D.C., on August 15 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-27706 Filed 9-9-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1201

Criteria for Comprehensive Statewide Historic Surveys and Plans

AGENCY: Heritage Conservation and Recreation Service (HCRS), Interior.

ACTION: Proposed amendment to interim rule.

SUMMARY: This proposed amendment revises § 1201.4(e) which establishes the minimum number of meetings that State Review Boards are required to hold annually.

The amendment increased the number of required meetings of State Review Boards from three to six per year. This amendment is intended to insure that sufficient opportunities exist for the State Review Board to carry out its responsibilities to provide for timely consideration of nominiations to the National Register of Historic Places and public participation in the nomination process, and to participate in the nomination appeals process established in the proposed amendments to 36 CFR 1202, published in the **Federal Register**, August 5, 1980.

DATES: Comments must be received on or before October 10, 1980.

ADDRESS: Written comments should be addressed to: Chief, Division of State Plans and Grants, Heritage Conservation and Recreation Service, Department of the Interior, Washington, DC 20243.

FOR FURTHER INFORMATION CONTACT: Stephanie S. Toothman, Historian, Division of State Plans and Grants, HCRS, Washington, DC 20243, (202) 343-6221.

SUPPLEMENTARY INFORMATION: This amendment is intended to insure that sufficient opportunities exist for the State Review Board to carry out its responsibilities to provide for timely consideration of nominations to the National Register of Historic Places and public participation in the nomination process, and to participate in the nomination appeals process established in the proposed amendments to 36 CFR 1202, published in the **Federal Register**, August 5, 1980.

This amendment is developed under the authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.* Because these amendments have to do with administration of the Historic Preservation Fund program and have no impact upon the environment, an environmental impact statement is not necessary. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 42 CFR Part 14.

The originator of these procedures is Stephanie S. Toothman of the Division of State Plans and Grants, (202) 343-6221.

Dated: August 27, 1980.

David Hales,

Deputy Assistant Secretary of the Interior.

In consideration of the foregoing, it is proposed to amend § 1201.4(e) to read as follows:

§ 1201.4 State Review Board.

* * * * *

(e) The State Review Board shall meet at least six times a year and should adopt bylaws governing its operation consistent with the provisions of this section.

[FR Doc. 80-27852 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-03-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Travel Expenses for Counseling Purposes

AGENCY: Veterans Adminstration.

ACTION: Withdrawal of proposed regulation changes.

SUMMARY: The Veterans Administration is withdrawing its proposal to implement a provision of the Veterans Omnibus Health Care Act of 1976, by providing rules for paying for travel expenses incurred going to and from places of counseling by veterans eligible for subsistence allowance or veterans and other persons eligible for educational assistance.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On page 66623-24 of the **Federal Register** of November 20, 1979, there were published proposed amendments to 38 CFR 21.728 and 21.4104.

Interested person were given 30 days to submit comments, suggestions, or objections. We received no comments.

However, on December 20, 1979 the Veterans Health Programs Extension and Improvement Act of 1979 (Pub. L. 96-151) was enacted. This act contains provisions which make the proposed regulations obsolete. Accordingly, the Veterans Administration is withdrawing them.

Approved: September 4, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-27848 Filed 9-9-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1601-4]

Approval and Promulgation of Implementation Plans; Lake Tahoe Basin Nonattainment Area Plans and Regulations in the States of California and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California and Nevada State Implementation Plans (SIP) were submitted to the Environmental Protection Agency (EPA). The revisions consist of control strategies and regulations for the Lake Tahoe Basin and constitute the Nonattainment Area Plans (NAP) for ozone (O_3) and carbon monoxide (CO). This basin includes portions of El Dorado and Placer Counties on the California side of the basin and portions of Carson City, Douglas, and Washoe Counties on the Nevada side of the basin. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas."

The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether the overall plans or certain portions of the plans should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: Comments may be submitted on or before October 10, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Reports are contained in document file NAP-CA-NV-01 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Room 2404, Washington, D.C. 20460.

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812.

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710.

Tahoe Regional Planning Agency, P.O. Box 8896, 2155 South Avenue, South Lake Tahoe, CA 95731.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Proposed Action

The plans for the Lake Tahoe Basin have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the plans, summarizes the applicable Clean Air Act requirements, compares the plans to those requirements, and proposes approval or conditional approval for each portion of the plans.

EPA's review indicates that the O_3 plans for California and Nevada are consistent with the Part D requirements and are therefore proposed to be approved and incorporated into the SIP with the exception of the permit program in California as noted below.

In addition, all portions of the CO plans for California (CA) and Nevada (NV) are consistent with the Part D requirements and are therefore proposed to be approved and incorporated into the SIP with the exception of the following portions, which contain minor deficiencies: modeling (NV), emission reduction estimates (CA and NV), attainment provisions (NV), legally adopted measures (CA and NV), permit program (CA), resources (CA and NV), and extension requirements (CA). These portions of the plans are proposed to be approved and incorporated into the SIP with the condition that the deficiencies be corrected by a specified deadline.

Approval or conditional approval of all portions of the plans would be sufficient to lift the current prohibition on construction of certain major new or modified sources in the Lake Tahoe Basin. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 **Federal Register** notice (44 FR 38471).

EPA is proposing in this notice to conditionally approve the overall Lake Tahoe Basin plans for and the California plan for O_3, CO, since they contain only minor deficiencies with respect to Part D.

Background

New provisions of the Clean Air Act, amended in August 1977, Public Law No.

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95-95, requires states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were requried to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53671, and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the submittals.

The Lake Tahoe Basin includes portions of El Dorado and Placer Counties on the California side of the Basin and portions of Carson City, Douglas, and Washoe Counties on the Nevada side. The Lake Tahoe Basin is a designated nonattainment area for O_3 and CO.

Description of Proposed SIP Revisions

The Governor's designee for California submitted the California plan to EPA on August 21, 1979 and the Governor of Nevada submitted the Nevada plan to EPA on July 24, 1979. Preparation of the proposed SIP revisions was coordinated by the Tahoe Regional Planning Agency for the Nevada plan and the State Air Resources Board for the California plan. The nonattainment area plans for the Lake Tahoe Basin consist of the following major components:

—A summary of those pollutants that exceed the NAAQS specifying the violations by pollutant;

—A list of the Federal nonattainment area plan requirements and the plan elements fulfilling those requirements;

—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation, and intergovernmental consultation;

—An examination of air quality trends;

—An analysis of the candidate air quality control measures that examines expected emission reductions, costs, resource impacts, social impacts, and enforcement aspects; and

—A discussion of the specific strateges for O_3 and CO which includes schedules for reasonable further progress, adopted stationary and mobile source control measaures, and commitments to adopt additional control measures.

While the two states intended to develop consistent bi-state nonattainment area plans and, in fact, did submit plans that are identical in many respects, some differences in both technical assumptions and adopted measures emerged before the plans were officially submitted to EPA. EPA has nevertheless administratively combined its evaluation of the two plans in a single Notice of Proposed Rulemaking because of the similarity of the plans and the problems they address.

Both states continue to recognize the many advantages of treating the Basin as a single planning area and cooperating in the evaluation, development, and implementation of necessary plan revisions. The Western Federal Regional Council has also endorsed the need for coordinated environmental planning in order to promote efforts to protect the unusual scenic value of this area.

California and Nevada have identified a greater health risk of exposure to pollutants at high altitudes. The standards applied by the states at Lake Tahoe (elevation greater than 6,200 feet) are compared to the federal standards in the following table:

Pollutant	Averaging time (hours)	Ambient standard	
		State standard (ppm)	Federal standard (ppm)
CO	8	6.0	9.0
O_3	1	0.10	0.12

The plans and this notice, however, address only the federal standards.

The Nevada plan indicates attainment of the CO standard by 1982 with the implementation of reasonable available control measures including:

—A vehicle emission control inspection and maintenance program; and

—Transportation measures to reduce emissions from automobiles including traffic flow improvements, driver advisories, snow removal procedures, traffic movement controls, idling restriction, bikeways, and pedestrian facilities.

The California plan indicates that attainment of the CO standard by 1982 is not possible on the California side of the Basin despite the implementation of all reasonably available control measures identified above for Nevada and the following additional measures:

—California's motor vehicle standards on new vehicles; and

—Transportation measures to reduce emissions from automobiles including reversible bus lanes, loading regulations, parking operations and location controls, peripheral parking facilities, priority treatment for carpools, and express bus lanes.

The State of California requests an extension of the CO attainment date until no later than December 31, 1987.

Both plans indicate that the Basin is currently attaining the O_3 standard and will maintain it through 1995.

In addition to the July 24 and August 21, 1979 plan submittals, this notice considers: (1) amendments to the El Dorado County Air Pollution Control District's rules and regulations submitted to EPA by the Governor's designee on May 23, 1979 and February 11, 1980; (2) amendments to the Washoe County District Board of Health's Air Pollution Control regulations submitted to EPA by the Governor of Nevada on July 24, 1979; (3) amendments to the State of Nevada's Air Quality regulations submitted to EPA by the Governor on July 24, 1979 and March 17, 1980; and (4) amendments to the Placer County Air Pollution Control District's rules and regulations submitted as Appendix L to EPA by the Governor's designee for California on August 21, 1979. In order to expedite EPA's review of the Lake Tahoe nonattainment area plans, this notice addresses only the portion of those State and District regulations listed above which appear to relate to applicable Part D requirements, and thus support the nonattainment area plans, such as volatile organic compound and new source review rules.

El Dorado County Air Pollution Control District Rules and Regulations

May 23, 1979

Rule 102, Definitions
Rule 213, Storage of Petroleum Products at Terminals and Large Bulk Loading Facilities
Rule 214, Transfer of Gasoline into Stationary Storage Facilities

February 11, 1980

Rule 501, Permits Required
Rule 502, Exceptions to Rule 501 and 515
Rule 503, Standards for Granting Applications
Rule 504, Best Available Control Technology
Rule 505, Air Quality Impact Analysis
Rule 506, Exemptions to Rule 505

Rule 508, Determination of Emission Increases
Rule 509, Consideration of Future Emission Reductions: Emission Offsets
Rule 510, Procedures for Evaluation of Application for Authority to Construct
Rule 516, Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants than Assumed in the Analysis Performed Pursuant to Rule 503
Rule 517, Permit Condition
Rule 518, Exemption

Washoe County District Board of Health Air Pollution Control Regulations

July 24, 1979

Sections 010.011 to 010.1751, Definitions
Sections 030.000 to 030.3108, Source Registration and Operation
Section 040.070, Storage of Petroleum Products
Section 040.075, Gasoline Loading into Tank Trucks and Trailers
Section 040.080, Gasoline Unloading from Tank Trucks and Trailers into Storage Tanks
Section 040.085, Organic Solvents
Section 040.090, Cut-Back Asphalt

Nevada Air Quality Regulations

July 24, 1979

Article 1—Definitions (Nos. 1 and 2)
Article 3—Registration Certificates and Operating Permits
Article 13.1.3—Point Sources and Registration Certificates

March 17, 1980

Article 13.1.3—Point Sources and Registration Certificates

Placer County Air Pollution Control District Rules and Regulations

August 21, 1979

Rule 101, Title
Rule 102, Definitions
Rule 212, Storage of Petroleum Products
Rule 213, Gasoline Transfer into Storage Containers
Rule 508, New Source Review
Rule 514, Standards for Granting Applications

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans. The citations which follow referring to portions of the Clear Air Act, provide the bases for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in Section 171 of the Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emissions growth increment (172(b)(5)).
8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).
9. A permit program for major new or modified sources (172(b)(6) and 173).
10. An identification of an commitment to the resources necessary to carry out the plan (172(b)(7)).
11. Evidence of public, local government, and state involvement and consultation (172(b)(9)).
12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).
13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:
    a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of evironmental and social costs (172(b)(11)(A)).
    b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).
    c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110(a)(3)(D) and 110(c)(5)(B)).
    d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements described in the preceding section, Criteria for Approval. EPA policy for approval of ozone nonattainment area plans submitted as 1979 SIP revisions differentiates between rural and urban nonattainment areas. EPA's policy, including the definition of rural areas, is discussed in the General Preamble. Based on the definition of rural areas and the policy, the Lake Tahoe Basin is considered a rural area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural ozone nonattainment area plan do not provide that all of the Criteria for Approval listed above be fully met. This urban/rural distinction does not affect the analysis of the California and Nevada carbon monoxide plans for the Lake Tahoe Basin.

Each criterion is discussed in depth below. As noted in the Summary section, EPA reviewed the plans for conformance with these requirements and, in this section, identifies the portions of the plans that are approvable or conditionally approvable. Where a plan deficiency is identified, recommendations for revision of the plan are specified.

Based on this analysis EPA proposes to approve the Nevada ozone plan and to conditionally approve both of the CO plans and the California ozone plan overall with respect to Part D of the Act.

1. *Emission Inventory.*

The emission inventories in the plans are reasonably comprehensive, current, and accurate. Therefore, EPA proposes to approve this part of the CO and ozone plans for both States.

2. *Modeling.*

Ozone

Both States designated the Lake Tahoe Basin as nonattainment based upon violations of the 0.08 ppm National Ambient Air Quality Standard for photochemical oxidant. On February 8, 1979, this national standard was altered by the promulgation of the 0.12 ppm standard for ozone (44 FR 8202). Monitoring records in the Basin indicate that the 0.12 ppm national standard has never been equaled or exceeded. The plans use the EKMA model to adequately show that the national ozone standard is currently being attained and will be maintained through 1995. Accordingly, EPA proposes to approve this portion of the ozone plans for California and Nevada.

Carbon Monoxide

The plans use the CALINE 2 and EPA HIWAY line source diffusion models to identify and evaluate CO hotspots.

California

Some of the hotspots were subjected to further analysis using the California Air Resources Board's numerical CARS model. The modeling methodology is consistent with EPA guidance for 1979 plan development, and the modeling results correspond to the monitored data. The modeling predicts violations of the 8-hour CO NAAQS in 1982 at numerous locations in California and Nevada. EPA proposes to approve this part of the California CO plan.

Nevada

On the Nevada side, additional CO modeling was performed by the Nevada Division of Environmental Protection (DEP), with the assistance of the Nevada

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Department of Transportation. This modeling revised significantly the modeling results (ambient concentrations) for hotspots within Nevada, such that the Nevada plan now predicts attainment of the CO NAAQS at all hotspot areas in the Nevada portion of the Basin by 1982.

The DEP modeling apparently is based upon traffic inputs (e.g. vehicle speed and percent cold starts) differing from those identified in the modeling discussion contained in the two plans. The Nevada plan fails to indicate what assumptions were made concerning either meteorology or traffic conditions; in fact, the plan fails to identify the modeling technique employed in the hotspot reanalysis.

Under these circumstances, EPA proposes to approve this portion of the Nevada CO plan with the condition that the State submit such explanatory information and documentation on the DEP modeling by January 1, 1981, in order to justify the predicted attainment.

3. *Emission Reduction Estimates.*

The plans estimate emission or ambient reductions for either individual strategies or groups of strategies for both 1982 and 1987. CO reductions are indicated for the average winter day and reactive hydrocarbon reductions for the average summer day. While the CO reduction estimates appear to be reasonable, insufficient information is provided to allow verification of predicted reductions from combinations of measures or from key individual strategies, such as vehicle inspection and maintenance (I/M).

The States must amend the CO plans to include estimated reductions per tactic. This portion of the CO plans is proposed to be approved with the condition that the States submit such emission reduction estimates by January 1, 1981.

EPA policy for rural ozone plans does not require emission reduction estimates. Therefore, EPA proposes to approve this portion of the ozone plans.

4. *Attainment Provision.*

Ozone

The plans adequately demonstrate that the Basin is currently attaining the ozone NAAQS and is projected to maintain it through 1995. This demonstration is based on monitored air quality, current and projected emissions, and the EKMA modeling results. Therefore, EPA proposes to approve this portion of the ozone plans.

Carbon Monoxide

Nevada

Although the Nevada plan as submitted indicates attainment of the CO NAAQS on the Nevada side in 1982, the modeling inconsistencies noted above make that demonstration uncertain. EPA therefore proposes to approve this portion of the Nevada CO plan with the condition that the State submit by January 1, 1981 acceptable modeling documentation, as noted in item 2 above. This modeling documentation must confirm that the CO standards in Nevada will in fact be attained by December 31, 1982.

California

The California plan projects violation of the 8-hour CO NAAQS on the California side in 1982 despite the application of all reasonably available measures. The State has accordingly requested an extension of the attainment date on the California side of the Basin since attainment by December 31, 1982 is not possible. EPA proposes to approve this portion of the California plan and to grant the extension pursuant to the provisions of Section 172(a)(2).

5. *Reasonable Further progress.*

Ozone

No analysis of reasonable further progress was performed since the Basin currently attains and is projected to maintain the ozone NAAQS through 1995. EPA proposes to approve this portion of the ozone plans.

Carbon Monoxide

The plans provide representations of reasonable further progress, including regular, consistent reductions to assure attainment by the required date. The representations are sufficient for the 1979 SIP revision and meet the requirements of Sections 172(b)(3) and 171(1). The representations must be supported by the implementation of a process for monitoring and verification of transportation related emission reductions. EPA proposes to approve this portion of the CO plans.

6. *Legally Adopted Measures.*

Ozone

Until the Lake Tahoe Basin nonattainment area for ozone is reclassified by each state, California and Nevada SIPs must include adopted regulations reflecting reasonably available control technology (RACT) for all applicable major stationary source categories of Volatile Organic Compounds (VOC) for which EPA had published a Control Techniques Guideline (CTG) document by January 1978. In addition, the plans must contain a commitment to adopt RACT regulations for major sources of VOC in categories to be addressed by future CTG documents. Major sources are those with over 100 tons per year potential emissions.

The plans indicate that of the 15 source categories of VOC (addressed by 11 CTG documents) for which adopted regulations would be required, only five such source categories exist in the nonattainment area: service stations, bulk plants, degreasers, fixed-roof tanks, and cutback asphalt. The emission inventory indicates that there are currently no major sources for any of these five source categories, however. Therefore, no adopted regulations for VOC control are required at this time to satisfy the requirement for RACT, since there are no applicable VOC sources in the Basin.

El Dorado and Placer County Rules 213 and 214, however, have been submitted to EPA for the California portion of the nonattainment area. These regulations control service stations, bulk plants, and fixed- and floating-roof storage containers.

Regulations for service stations, bulk plants, bulk terminals, fixed-roof tanks, solvent metal cleaning, and cutback asphalt have been submitted separately for the Washoe County (Nevada) portion of the planning area. The Washoe regulations for the first five categories were proposed for approval in a **Federal Register** notice respecting the Truckee Meadows (Nevada) Nonattainment Area Plan (44 FR 24880, April 27, 1979). These regulations, as well as cutback asphalt regulations, will be the subject of an additional **Federal Register** notice.

EPA has reviewed the El Dorado and Placer County rules and proposes that they be approved for inclusion in the SIP, since they are consistent with the Clean Air Act, EPA policy, and 40 CFR Part 51. These regulations apply to sources which are currently regulated by Federal Regulation 52.255, "Gasoline Transfer Vapor Control". The Counties' rules now adequately control those sources regulated by the Federal Regulation. It is proposed that the Federal Regulation remain in effect, however, until sources achieve compliance with the provisions of the revised State regulation. For Placer County, the final compliance date is October 19, 1980. For El Dorado County, the final compliance date is November 1, 1979. After these dates, the Federal Regulation could be rescinded.

The California State Implementation Plan also contains the Federal Regulation 40 CFR 52.256, "Control of

Evaporative Losses From the Filling of Vehicular Tanks." This regulation applies to the Lake Tahoe Basin portion of El Dorado and Placer Counties but has not been implemented, since final compliance with its provisions was indefinitely deferred on May 31, 1977 (42 FR 27674). It is proposed that this regulation be rescinded for the Tahoe Air Basin portion of El Dorado and Placer Counties, since the control strategy indicates that control of these sources is not necessary for the attainment and maintenance of the ozone standard.

As stated above, nonattainment area plans must contain a commitment to adopt RACT regulations for source categories of VOC to be covered by future CTG documents. The emission inventory in the plans, however, indicates that there are no additional major stationary sources of VOC. This portion of the ozone plans is proposed to be approved.

Carbon Monoxide

The plans indicate that the overwhelming emission source of CO in the basin is the automobile. The plans also recognize that effective control of vehicular emissions requires basinwide transportation control strategy development and implementation, with substantial commitments and active participation from both states, the five counties, the regional agencies and the City of South Lake Tahoe, along with state and local transportation departments. Most of the adopted transportation related control measures appear to require this cooperative commitment if implementation is to secure necessary emission reductions. Examples of such adopted transportation control strategies include employee mass transit incentives and traffic movement control.

One major strategy in the California plan, initiation of mail delivery in the Basin, requires commitments from the U.S. Postal Service, as well as by the state and local agencies. The plan indicates that implementation of this strategy would eliminate 13,000 daily trips in the California portion of the Basin alone, reduce traffic congestion, and play a significant role in abatement of CO emissions.

The plans do not contain these explicit implementation commitments by the responsible implementing agencies. In the absence of the commitments to implement the adopted measures, the plans do not afford sufficient evidence that the tactics will be carried out. The plans, therefore, must be revised to meet fully the requirements of Section 172(b)(10).

This portion of the CO plans is proposed to be approved with the condition that the States submit by January 1, 1981 written evidence that all adopted measures are supported by sufficient implementation commitments, or that adopted schedules for obtaining such commitments will ensure that all measures will be implemented consistent with reasonable further progress. Each adopted schedule for obtaining necessary commitments must contain specific details and include key milestones to be used in evaluating progress. As an alternative, the States may submit by January 1, 1981, equivalent CO control strategies supported by commitments and full legal adoption.

The demonstration of attainment in the California CO plan for Lake Tahoe relies in part upon a vehicle inspection and maintenance (I/M) program and a road use or entry charge (basin user fee). The State Legislature has failed to provide the necessary legal authority to implement the basin user fee or the I/M program and EPA cannot approve these measures without such legislative authority. However, because a basin user fee is not required by EPA policy and EPA policy has established that I/M is not a mandatory control measure in an urbanized area with a population of less than 200,000, such as Lake Tahoe, the California CO plan is not required to include these measures. Therefore, EPA is deferring action on these control measures until such time as legal authority is adopted.

In this notice, EPA proposes to approve the legally adopted measures portion of the California CO plan, absent I/M and the basin user fee, with the condition mentioned above, and to approve the California CO plan with the additional condition that the State provide by January 1, 1981, substitute control measures to demonstrate attainment.

It should be noted that the California plan includes the current Transportation Improvement Program and portions of the Regional Transportation Plan. These documents are accepted for informational purposes only, not as part of the Federally enforceable SIP.

40 CFR Part 52

In addition to the rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the Tahoe Basin area.

The following Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52 are proposed to be rescinded in their entirety for the California portion (portions of El Dorado and Placer Counties) of the Lake Tahoe Air Basin, since they have been invalidated by the previous court actions of *Brown* v. *EPA* 521 F. 2d 827 (1975):

52.242 Inspection and maintenance program.
52.243 Motorcycle limitation.
52.244 Oxidizing catalyst retrofit.
52.245 Control of oxides of nitrogen, hydrocarbon, and carbon monoxide emission from in-use vehicles.
52.247 Definitions for parking management regulations.
52.251 Management of parking supply.
52.257 Computer carpool matching.
52.264 Mass Transit priority strategy and planning.
52.266 Monitoring transportation mode trends.

7. *Emissions Growth.*

The plans must provide either: (1) an emission growth increment for the construction or modifications of new major stationary sources or (2) regulations applicable to all portions of the Basin requiring offset of emissions from major new stationary sources. The requirements of Section 172(b)(5) are satisfied by the submittal of New Source Review (NSR) rules that require emissions offsets as an alternative to a reserved increment of emissions growth for major new sources. Therefore, EPA proposes to approve this portion of the CO and ozone plans for both States.

8. *Annual Reporting.*

Both States must submit annual reports of reasonable further progress, including updated emissions inventories. EPA urges the consolidation of these parts in a single, consistent bi-state document. EPA proposes to approve this portion of the plans.

9. *Permit Program.*

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 **Federal Register** (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

In the Lake Tahoe Basin, new source review (NSR) rules with these provisions must be adopted by El Dorado and Placer Counties in California and Washoe County and the State of Nevada in Nevada.

California

EPA's review indicates that the NSR regulations for El Dorado and Placer Counties are not fully consistent with the above critieria. The inconsistencies principally involve: (1) exemptions from offset and lowest achievable emission rate (LAER) requirements for certain types of modification; and (2) less stringent requirements for offsets and statewide compliance. EPA has determined that these deficiencies in the NSR regulations are minor deficiencies, with respect to Section 173 (see evaluation report for further discussion).

Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulations with the following condition. The regulation must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulations within nine months to be consistent with that final action.

Nevada

Amendments to the NSR regulations for the State (Article 13) and Washoe County (Section 030) were submitted on July 24, 1979 and March 17, 1980. These regulations now satisfy the requirements of Section 173 through the provision for emissions offsets, lowest achievable emissions rate, and the certification of compliance of all major sources within the State owned, operated, or controlled by the applicant. Therefore, EPA proposes to approve this portion of the Nevada CO and ozone plans.

10. *Resources.*

Ozone

This portion of the ozone plans is proposed to be approved since adequate resources for implementation exist.

Carbon Monoxide

The CO plans do not specifically identify and commit financial and manpower resources necessary for plan implementation, as required by Sections 110(a)(2)(F) and 172(b)(7). The plans lack any evidence that the responsible implementing agencies have provided written assurance of adequate personnel, funding, and authority to carry out the plans' provisions. Since many of the adopted strategies in the CO plans require substantial commitments and since some of the key implementing agencies have shown a clear lack of dedicated resources and/or support for the plans' strategies, the measures in the plans lack the corroboration required by Part D of the Act.

This portion of the CO plans is proposed to be approved with the condition that the State submit by January 1, 1981 evidence of commitments of needed resources on the part of each Federal, State, regional, and local agency assigned responsibility for implementing the adopted strategies. The plans must also provide evidence that responsible agencies have adopted the required agreements, ordinances, budgetary provisions, and other executive or legislative authorizations.

Federal financial assistance is crucial to the success of the bi-state transportation planning process and to the successful implementation of many of the control measures proposed in the plans. The Western Federal Regional Council Members' *Federal Policy for the Lake Tahoe Basin* indicates that the "Department of Transportation shall promote a coordinated and comprehensive transportation planning effort, including the development of public transportation within the Basin, the use of commercial transport to and from the Basin * * *." In order to receive DOT financial assistance to support the implementation of certain of the control measures set forth in the plans, the two states must engage in coordinated transportation planning and must comply with the provisions of Section 176(d), giving priority consideration to those portions of plans and programs with air quality benefits in the Basin.

11. *Public and Government Involvement.*

The plans contain an adequate identification and analysis of the air quality, health, welfare, economic, energy and social effects of the plans along with a record of public comments on those effects and the plans, as required by Section 172(b)(9). Therefore, EPA proposes to approve this portion of the plans.

The plans do not offer, however, adopted procedures for ensuring that the lead agencies will consult on a regular basis with participating and affected agencies and with members of the public. It is especially important that the California plan (prepared by the State Air Resources Board) contain provisions for consultation with locally elected officials and that both plans be revised to establish a mechanism for constant bi-state communication at both the policy and technical levels. The California and Nevada SIP's must be revised to provide this process of consultation, as required by Section 121, 40 CFR 51.240, and the EPA/DOT Transportation-Air Quality Planning Guidelines.

12. *Public Hearings.*

The plans meet the requirements of Section 172(b)(1) and 40 CFR 51.4 since they include evidence that the plans were properly adopted after reasonable notice and public hearings. Therefore, EPA proposes to approve this portion of the plan submittals.

13. *Extension Requirements (California Plan).*

Since California has requested an extension of the attainment date beyond December 1982 for CO, the California plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the new source review permit program a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrates that the benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) process is equivalent to that required by Section 172(b)(11)(A), official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). This portion of the plan is proposed to be approved with the condition that the State submit the relevant portions of CEQA by January 1, 1981.

EPA policy does not require an I/M program or schedule in the 1979 SIP revision for nonurbanized areas. The requirements of Section 172(b)(11)(B) thus do not apply to the California portion of the Lake Tahoe Basin. Please refer to the legally adopted measures section above for further discussion.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the California plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using federal grants, and state and local funds to implement public transportation programs. All such commitments with respect to basic transportation needs are not included in the plan. EPA proposes to approve this portion of the plan with the condition that the State submit these commitments by January 1, 1981.

Section 172(b)(11)(C) requires that the plan identify other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987. The plan does contain a preliminary analysis of a large number of transportation control measures, including most of those measures listed in Section 108(f) of the Act. Several transportation control measures were rejected based on an adequate level of analysis. However, the plan does not provide detailed schedules for analysis of those measures reserved for further study. EPA proposes to approve this portion of the plan on the condition that the State submit by January 1, 1981 commitments and schedules to analyze further the Section 108(f) transportation control measures not yet included in the plan, as applied to the total transportation system of the nonattainment area. The State must also submit a commitment to initiate implementation of those measures shown to be reasonably available.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP. The Regional Administrator hereby issues this notice setting forth the revisions described above, as proposed rulemaking, and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies. EPA is further interested in receiving comment on the specified deadline for the States to submit the corrections, in the event of conditional approval.

Comments received on or before October 10, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions or scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comments is adequate because:

1. The plans have been available for inspection and comment since October 2, 1979;
2. EPA's notice published in the October 2, 1979 **Federal Register** (44 FR 56716) indicated that the comment period would be 30 days; and
3. EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on those portions of the SIPs that address the requirements of Part D.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: June 20, 1980.

Paul De Falco, Jr.,

Regional Administrator.

[FR Doc. 80-27776 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1602-2]

Approval and Promulgation of Nonattainment Plan for Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on specified changes in regulations which were submitted by the State of Illinois to satisfy the requirements of Part D of the Clean Air Act (Act). The changes in the regulations were made after publication of a Notice of Proposed Rulemaking on July 2, 1979 (44 FR 38587). Changes were made in the following regulations: Rule 203(f) which controls fugitive particulate emissions and Rule 205 which controls stationary source hydrocarbon emissions. On February 21, 1980 (45 FR 11472), the United States Environmental Protection Agency (USEPA) published final rulemaking on the unchanged portions of the regulations as revisions to the federally approved Illinois State Implementation Plan.

DATE: Comments on this revision and on the proposed USEPA action are due on or before October 10, 1980.

ADDRESSES:

U.S. Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Illinois Environmental Protection Agency, 2200 Churchill Street, Springfield, Illinois 62706.

Written comments should be sent to: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, (312) 886-6029.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, requires each state to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). The SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances no later than December 31, 1987 for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On April 3, 1979, the State of Illinois submitted a draft SIP to USEPA to satisfy the requirements of Part D of the Act. USEPA published a notice of proposed rulemaking on these draft SIP revisions on July 2, 1979 (44 FR 38587) and a correction notice on September 20, 1979 (44 FR 54500). In the July 2, 1979 notice, USEPA indicated that the regulations in the State's submittal were preliminarily adopted by the Illinois Pollution Control Board (IPCB) and would be finally adopted after completion of necessary State Administrative procedures. USEPA stated that until all State administrative requirements were satisfied, it would not complete federal rulemaking on the SIP revisions. USEPA also indicated that any substantive changes in the final SIP which were not discussed or anticipated in the Notice of Proposed Rulemaking would be addressed in additional Notices of Proposed Rulemaking. On November 16, 1979, December 21, 1979, and January 25, 1980, USEPA received letters from the State of Illinois which demonstrated that, with one exception, all regulations were finally adopted. USEPA's review of these finally enacted regulations indicated that changes were made in some of the regulations after the publication of the Notice of Proposed Rulemaking on July 2, 1979.

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Therefore, in the February 21, 1979 **Federal Register** (45 FR 11472), USEPA took no rulemaking action in regard to those portions of regulations which were significantly changed between the submittal of the draft State Implementation Plan on April 3, 1979 and the submittal of the final State Implementation Plan. A discussion of the changed portions of Rule 203(f) and Rule 205 follows.

Rule 203(f)—Fugitive Particulate Emission Control Regulations

(a) The finally adopted rule added an exemption to Rule 203(f)(3)(A) which eliminates control requirements from storage piles if the owner or operator of the pile proves that fugitive emissions from the pile do not cross the property line. USEPA proposes to disapprove the exemption contained in Rule 203(f)(3)(A). USEPA's longstanding policy is that the National Ambient Air Quality Standards need not be attained on company property were physical access by the general public is precluded by some means. This policy is based on the definition at 40 CFR 50.1(e) restricting "ambient air" to "that portion of the atmosphere, external to buildings, to which the general public has access." The exemption proposed by Illinois relates solely to a company's property line without regard to accessibility by the general public.

(b) The finally adopted rule deleted Rule 203(f)(3)(C) which restricted emissions from conveying operations to 10 percent opacity. Conveyors are now subject to the provisions of Rule 203(f)(3)(E) which requires dust treatment methods such as spraying with water or surfactants and utilizing enclosures. USEPA proposes to approve these changes.

Rule 205—Stationary Source Hydrocarbon Control Regulations

Rule 205(k)(1) has been modified so that an owner or operator satisfying the requirements of Rule 205(k)(1) (A) or (B) is exempt from *all* provisions of Rules 205(k) (2) and (3). The draft rule provided that an owner or operator satisfying the requirements of Rule 205(k)(1) (A) or (B) was exempt from all requirements except the provisions requiring the storage of waste solvent in covered containers and the provisions specifying the allowable amount of evaporation for waste solvent. USEPA proposes to approve this change.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels such regulations "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

The proposed rulemaking is issued under the authority of Section 110, 172 and 301(a) of the Clean Air Act (42 U.S.C. 7410, 7502, and 7601(a)).

Dated: August 12, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-27772 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 120

[FRL 1598-2]

Water Quality Standards; Navigable Waters of the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to withdraw a rule which amended the Commonwealth of Kentucky's water quality standards by establishing uses for waters left unclassified by the State and which established bacterial limitations for the secondary contact recreation use. EPA believes that recently approved revisions to Kentucky's water quality standards make the Federally-promulgated rule unnecessary.

DATES: All written comments received on or before October 27, 1980 will be considered in the preparation of the final rule.

ADDRESSES: Comments should be sent to Mr. R. F. McGhee, Water Quality Standards Coordinator, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Mr. R. F. McGhee, 404-257-4793 or Mr. Kent Ballentine, 202-245-3030.

Background

On May 7, 1980 EPA's Regional Administrator for Region IV determined that water quality standards for Kentucky which were adopted by the State on December 5, 1979, were consistent with the requirements of the Clean Water Act. In those standards, Kentucky addressed comprehensive beneficial use designations for its surface waters and bacterial criteria for secondary contact uses. Notice of that determination is published elsewhere in today's **Federal Register.**

Although the Regional Administrator has approved Kentucky's revised water quality standards, elements of previous water quality standards had been determined by EPA not to be consistent with the requirements of the Clean Water Act. On December 2, 1974, EPA promulgated a regulation establishing for Kentucky acceptable beneficial use designations for waters left unclassified by the State and secondary contact bacterial standards (39 FR 41709; codified in 40 CFR 120.27). EPA's promulgation also included requirements for EPA approval of variances in beneficial use designations. Following the approval of the recently revised Kentucky water quality standards, EPA is herein proposing to withdraw the rule in 40 CFR 120.27.

Legal Requirements

Section 303(c) of the Clean Water Act (33 USC 1313(c)) requires States triennially to review and appropriately revise water quality standards. Following State action, revised or new water quality standards are submitted to EPA. If EPA identifies inconsistencies in the standards with the requirements of the Clean Water Act, it so notifies the State. If corrective actions are not undertaken by the State to bring the standards into compliance with the Clean Water Act, the Administrator of EPA is required to initiate an appropriate promulgation action.

As indicated above, a rule was adopted to correct deficiencies in the Kentucky water quality standards adopted by the State on February 28, 1974. It is EPA's policy that when a State adopts new or revised water quality standards, and EPA's review shows that the rulemaking to correct prior objections is no longer necessary, then EPA will withdraw the rule.

Statement of Basis and Purpose

40 CFR 120.27(a) established for Kentucky the requirement that variances granted by the State for criteria and/or use classifications less than required for desirable or indigenous species of aquatic life and secondary contact recreation must be approved by EPA. This provisions was promulgated by EPA before the adoption of general regulations for water quality standards on November 28, 1975 [40 FR 55336, codified at 40 CFR 35.1550]. The general water quality standard regulations provide the mechanisms for beneficial use designations and water quality criteria changes. Thus, in effect, the

provision directly applicable to Kentucky has been superseded by the general water quality standard regulation. EPA can, therefore, withdraw this regulation without any effect on the State's water quality program.

40 CFR 120.27(b) amended the 1974 Kentucky water quality standards by designating, as aquatic life waters, all waters not classified by the State. In addition to meeting the State's existing requirements for water quality criteria for aquatic life, EPA added a requirement that fecal coliform bacteria densities not exceed an average of 2,000/100 milliliters (ml) nor a maximum of 4,000/100 ml to protect secondary contact water uses.

Kentucky's 1979 water quality standards have been interpreted by the State such that all waters are classified for all uses.[1] This interpretation by the State of section 7 of "401 KAR 5:031 Classification of Waters" satisfies the objections leading to EPA's promulgation and allows EPA to propose withdrawal of that portion of 40 CFR 120.27(b).

The fecal coliform limitations for secondary contact recreation adopted by Kentucky in its 1979 revisions to water quality standards specifies that fecal coliform bacteria densities not exceed 5,000/100 ml in more than 10% of the samples taken during any 30 day period.

The 1974 EPA rulemaking reflected the guidance in "Water Quality Criteria"[2] for general recreational use of surface waters. This criterion was recommended to protect uses not involving significant risks of water ingestion, a use similar to Kentucky's secondary contact recreation. EPA's current water quality criteria guidance document, *Quality Criteria for Water*[3] does not contain a specific recommendation for secondary body contact uses. EPA's policy for evaluating State water quality standards revisions which seek to reduce the stringency or eliminate criteria for particular uses is to require a justification from the State. Kentucky justified its criterion on an analysis of data collected in eight areas in Ohio classified for secondary contact recreational use. Additionally, EPA recognizes that the criterion adopted by Kentucky would approximate a geometric mean fecal coliform density of about 1,000–1,500/100 ml. Such a mean density may actually be more stringent than the rule of 40 CFR 120.27.

It is EPA's judgment, that the State adequately justified its criterion in accordance with EPA policy. EPA is therefore proposing to withdraw that part of 40 CFR 120.27.

Availability of Record

The administrative record for the consideration of Kentucky's revised water quality standards is available for public inspection and copying at the Environmental Protection Agency, Region 4 Office, Water Division, 345 Courtland Street, N.E., Atlanta, Georgia 30308 during normal weekday business hours of 8:00 a.m. to 4:30 p.m. The approved Kentucky water quality standards and the State's administrative interpretation is available for inspection and copying from the Criteria and Standards Division (WH-585), 401 M Street, S.W., Washington, D.C. 20460 in Room 2818 of the Mall.

Regulatory Analysis

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 303 (33 USC 1313) of the Clean Water Act (Pub. L. 92–500, as amended (33 USC 1251 *et seq.*)))

Dated: September 4, 1980.

Douglas S. Costle,
Administrator.

Section 120.27 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to read as follows:

§ 120.27 Kentucky [Reserved].

* * * * *

[FR Doc. 80–27775 Filed 9–9–80; 8:45 am]

BILLING CODE 6560–01–M

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[1] Letter to EPA from Robert J. Blanz, Director, Division of Water Quality, Commonwealth of Kentucky, dated March 19, 1980.

[2] "Water Quality Criteria," Report of the National Technical Advisory Committee to the Secretary of the Interior, Washington, D.C. (1968).

[3] *Quality Criteria for Water.* U.S. Environmental Protection Agency, Washington, D.C. (1976).

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5893]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations and the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES:

See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4 (a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

V 45 SE 10 80 UMI

Prposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Ansonia, City, New Haven County	Naugatuck River	Upstream side of Division Street	*24
			Upstream side of Maple Street	*32
			Upstream Corporate Limits	*41
		Two Mile Brook	Upstream side of Bartholomew Road (extended)	*240
			Upstream side of dam, 435 feet downstream of State Route 243 (Pulaski Highway).	*365
			Upstream side of day, 157 feet upstream of State Route 243 (Pulaski Highway).	*286
			Upstream side of dam, 690 feet downstream of Ford Street	*356
			Upstream side of Milan Street	*366
Maps available at the Town Clerk's Office, Town Office Building, 253 Main Street, Ansonia, Connecticut.				
Send comments to Honorable James J. Finnucan, 253 Main Street, Ansonia, Connecticut 06401.				
Connecticut	Burlington, Town, Hartford County	Farmington River	Downstream Corporate Limit	*238
			State Route 4 (extended)	*256
			Downstream side of Lower Collins Dam	*271
			Upstream side of Lower Collins Dam	*275
			Upstream Corporate Limits	*278
			Approximately 500 feet upstream of Corporate Limits	*279
Maps available at the Town Clerk's Office, Route 4, Burlington, Connecticut.				
Send comments to Honorable Clarance R. Speilman, First Selectman of Burlington, Town Offices, Route 4, Burlington, Connecticut 06085.				
Florida	Martin County (Unicorporated Areas).	Atlantic Ocean	Intersection of Jupiter Road and Merrit Way	*6
			Southern side of intersection of Bridge Road and Laurel Lane	*6
			At northern county limits	*7
			Intersection of Prophet Lane and Jordan Way	*7
		St. Lucie River	Dyer Point Road	*7
			Intersection of Murphy Road and Bessey Creek Terrace	*7
			Intersection of Gaines Avenue and Fork River Drive	*7
			West side of intersection of Millwood Terrace and Caguga Terrace	*7
			Intersection of Indian Street and St. Lucie Boulevard	*8
			Intersection of River Terrace and St. Lucie Boulevard	*8
			Intersection of Railway Avenue and Lincoln Street	*8
		Indian River	Intersection of Chardon Street and Indian River Drive	*7
			Intersection of Ocean Boulevard and MacArthur Boulevard	*7
			South side of intersection of 42nd Street and Indian River Drive	*8
			Intersection of Palmer Street and Sewalls Point Road	*8
		Loxahatchee River	At southernmost county limits (approximately 500 feet east of Interstate Highway 95).	*8
		Lake Okeechobee	Shoreline at southern county limits	*23
			Shoreline at northern corporate limits	*25
		Ponding	Approximately 1,000 feet north along Green River Parkway from its intersection with Jensen Beach Road.	*17
			Approximately 600 feet west along Dixon Way from its intersection with NE 9th Avenue.	*17
Maps available for inspection at 50 Kindred Street, Stuart, Florida.				
Send comments to Honorable Maggy Hurchalla, 50 Kindred Street, Stuart, Florida 33494.				
Florida	Ocean Breeze Park (Town), Martin County.	Indian River	Intersection of Little Bit Lane and Indian Drive	*8
Maps available for inspection at P.O. Box 846, Jensen Beach, Florida.				
Send comments to Honorable Carl E. Hoke, P.O. Box 846, Jensen Beach, Florida 33457.				
Georgia	City of Pine Lake, De Kalb County.	Snapfinger Creek	Just upstream of Bearer Road	*926
			Just upstream of Spruce Drive	*927
Maps available for inspection at City Hall, 300 Courthouse Drive, Pine Lake, Georgia 30072.				
Send comments to Mayor Copeland or Dr. Charles Waag, City Hall, 300 Courthouse Drive, Pine Lake, Georgia 30072.				
Oklahoma	City of Broken Arrow, Tulsa County.	Arkansas River	Just upstream of S. Willow Springs Road Extended	*589
			Just downstream of 145th East Avenue Extended	*590
		Adams Creek	Approximately 300 feet upstream of East 61st Street South	*596
			Just upstream of South 193rd Avenue (County Line)	*664
		Broken Arrow Creek	Approximately 150 feet upstream the Missouri, Kansas and Texas Railroad.	*69
		West Branch Broken Arrow Creek	Approximately 500 feet upstream of Lynn Lane Road	*651
			Just upstream 101st Street	*663
		Halkey Creek	Just upstream of 111th Street	*628
			Just upstream of 91st Street	*647
			Just downstream of 129th East Avenue	*689
			Just upstream of Dover Street	*722
		East Branch Halkey Creek	Just upstream of 91st Street	*693
			Just upstream of 161st East Avenue	*704
			Just upstream of Main Street	*717
		Middle Branch Halkey Branch	Just upstream of 129th East Avenue	*651
			Just upstream of 81st Street	*677
		Turtle Creek	Just upstream of 145th East Avenue	*675
			Just downstream of 81st Street	*706
		Park Grove Creek	Just upstream of West Elgin Street	*717
		Olive Creek	Just upstream of 81st Street	*682
			Just upstream of 129th East Avenue	*668

Prposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Floral Haven Creek	Just upstream of 71st Street	*677
			Just upstream of 136th East Avenue	*703
		West Branch Halkey Creek	Approximately 100 feet downstream of Garnett Road	*671
		West Branch Halkey Creek Tributary.	Approximately 2,800 feet North of 81st Street	*669
		Little Halkey Creek	Just downstream of 101st Street	*646

Maps available for inspection at City Hall, City Engineer's Office, Broken Arrow, Oklahoma 74012.

Send comments to Mayor Nick Hood Jr., or Mr. Jim Whitlock, City Manager, City Hall, P.O. Box 610, Broken Arrow, Oklahoma 74012.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Charleroi, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*760
			Upstream of Lock and Dam No. 4	*761
			Upstream Corporate Limits	*762

Maps available at the Charleroi Municipal Building.

Send comments to Honorable Armand Balsano, Council President of Charleroi, Municipal Building, Room 209, Fourth and Fallowfield Avenue, Charleroi, Pennsylvania 15022.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Dunlevy, Borough, Washington County.	Monongahela River	Upstream Corporate Limits	*763
			Downstream Corporate Limits	*763

Maps available at the Dunlevy Borough Building.

Send comments to Honorable Velma Rollison, Council President of Dunlevy, Box 578, Dunlevy, Pennsylvania 15432.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	East Berlin, Borough, Adams County.	West Conewago Creek	Downstream Corporate Limits	*401
			Upstream State Route 194	*403
			Downstream State Route 234	*409
			Upstream Corporate Limits	*412
		Beaver Creek	Confluence with West Conewagoe Creek	*401
			Upstream Corporate Limits	*403

Maps available at the East Berlin Borough Offices.

Send comments to Honorable John Kohler, Mayor of East Berlin, P.O. Box 238, East Berlin, Pennsylvania 17316.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	East Rochester, Borough, Beaver County.	Ohio River	Downstream Corporate Limits	*704
			Upstream Corporate Limits	*705

Maps available at the Borough Building, Spruce Street, East Rochester, Pennsylvania.

Send comments to Honorable Stan Rihely, Council President of East Rochester, 715 Second Street, East Rochester, Pennsylvania 15074.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Reading, Township, Adams County.	West Conewago Creek	Downstream Corporate Limits	*400
			Upstream State Route 194	*403
			Upstream State Route 234	*410
			Upstream Legislative Route 01037	*421
			Upstream Green Ridge Road	*433
			Upstream Dam	*445
			Upstream Legislative Route 01203	*453
			Approximately 6,450′ upstream of Legislative Route 01203	*456

Maps available at the Reading Municipal Building.

Send comments to Honorable Fred Leas, Chairman of the Reading Township Board of Supervisors, Municipal Building, R.D. 2, East Berlin, Pennsylvania 17316.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Speers, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*762
			Upstream I-70	*762
			Upstream Corporate Limits	*763

Maps available at the Speers Borough Building.

Send comments to Honorable Roger Grandy, Council President of Speers, 209 Davidson Drive, Charleroi, Pennsylvania 15022.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Carolina	City of Lake City, Florence County.	Lynches Lake	Just downstram of Church Street	*63
			Just upstream of U.S. Highway 52	*65
			Just downstream of Matthews Road	*66
		Camp Branch	Approximately 600 feet upstream of Confluence with Lynches Lake	*67

Maps available for inspection at City Hall, 127 Acline Street, Lake City, South Carolina 29560.

Send comments to Mayor Gaskins or Mr. Ronnie McKnight, Building Inspector, City Hall, P.O. Box 398, Lake City, South Carolina 29560.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Dyersburg, Dyer County	North Fork Forked Deer River	200 feet upstream of U.S. Highway 51	*275
		Lewis Creek Drainage Ditch	Just upstream of State Highway 104	*283
		Light Creek	Just upstream of Illinois Central Gulf Railroad	*298
		Hurricane Creek	150 feet downstream of Highway I-155	*304

Maps available for inspection at City Hall, 119 South Mill Avenue, Dyersburg, Tennessee 38024.

Send comments to Mayor Robert S. Kirk or Mr. Van Williams, City Recorder, City Hall, 119 South Mill Avenue, Dyersburg, Tennessee 38024.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Moscow, Fayette County	Wolf River	Just downstream of State Highway 57	*344

Maps available for inspection at City Hall, Charleston Street, Moscow, Tennessee 38057.

Send comments to Mayor J. B. Brunson, City Hall, P.O. Box 185, Moscow, Tennessee 38057.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	Town of Rossville, Fayette County.	Wolf River	Just upstream of Western Corporate Limits	*312

Maps available for inspection at City Hall, 80 Third Street, Rossville, Tennessee 38066.

Send comments to Mayor Billy P. Farley or Ms. Jan Bennett, City Clerk, City Hall, P.O. Box 27, Rossville, Tennessee 38066.

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Prposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	Unincorporated Areas of Atascosa County.	Atascosa River	At the City Pleasanton East Corporate Limits	*350
			Approximately 1,000 feet downstream of the confluence of Bomita Creek and at the corporate limits of Pleasanton.	*350
			Just upstream of the City of Pleasanton North Corporate limits	*363
		Bonita Creek	Approximately 700 feet upstream of Bryant Street	*360
			Approximately 650 feet downstream of the upstream corporate limits of Pleasanton.	*363

Maps available for inspection at County Judge's Office, County Courthouse, Circle 41 Drive, Jourdonten, Texas 78064.

Send comments to County Judge O. B. Gates, P.O. Box 186, Jourdonten, Texas 78026.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Beeville, Bee County	Poesta Creek	Just upstream of U.S. Business Highway 181 (Washington Street)	*208
			Just downstream of FM 673 (Hugosota Street)	*216
		Hesley Creek	Just upstream of St. Mary's Street	*205
			Just upstream of Southern Pacific Railroad	*209
		Salt Creek	Just downstream of U.S. Business Highway (Northeast Washington Street).	*254

Maps available for inspection at City Hall, 100 West Corpus Christi Street, Beeville, Texas 78102.

Send comments to Mayor John Galloway or Mr. Dennis Clark, City Manager, City Hall, 100 West Corpus Christi Street, Beeville, Texas 78102

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Lancaster, Dallas County	Tenmile Creek	Just upstream of Missouri-Kansas-Texas Railroad	*477
			Approximately 100 feet downstream of Blue Grove Road	*493
			Approximately 400 feet upstream of Houston School Road	*508
		Keller Branch	Just upstream of Lancaster Hutchins Road	*476
			Just upstream of Missouri-Kansas-Texas Railroad	*519
		Halls Branch	Just upstream of West Red Bud Street	*505
			Just upstream of West First Street	*512
		Deep Branch	Just upstream of Belt Line Road	*498
			Approximately 500 feet upstream of Pleasant Run Road	*556
		Mill Branch	Approximately 200 feet upstream of Pleasant Run Road	*572
			Just upstream of Houston School Road	*584
		Stream 3A6	Approximately 1,290 feet upstream of Belt Line Road	*524
		Floyd Branch	Approximately 200 feet upstream of Lancaster Road	*556
		Runyon Springs Branch	Approximately 400 feet upstream of Houston School Road	*568
			Approximately 200 feet downstream of Houston School Road	*545

Maps available for inspection at Office of City Secretary, City Hall, 211 North Henry Street, Lancaster, Texas 75146.

Send comments to Mayor Earl Sewell or Mr. Gordon C. Pierce, Acting City Manager, City Hall, P.O Box 548, Lancaster, Texas 75146.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	Town of Rio Hondo, Cameron County.	Arroyo Colorado	At Colorado Avenue	*15
			At downstream of Dam	*15

Maps available for inspection at City Hall, 600 Colorado Avenue, Rio Hondo, Texas 78583.

Send comments to Mayor Jeff Burke, or Mr. Paul Thomah, City Manager, City Hall, P.O. Box 389, Rio Hondo, Texas 78583.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued August 26, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–27594 Filed 9–9–80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA–5874]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 80–23845, in the issue of Thursday, August 7, 1980, at page 52422, in the "Proposed Base (100-year) Flood Elevations" table on page 52424, under the State of Indiana, the "City/town/county" of Michigan City, LaPorte County, the "Source of flooding" is Beck Ditch and the "Location" is corrected to read "At mouth at Otter Creek".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Proposed Addition of National Wildlife Refuges to the List of Open Areas; Upland Game Hunting, and Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add Blowing Wind Cave National Wildlife Refuge, Alabama, to the areas open for upland game hunting. Big Lake National Wildlife Refuge, Arkansas, would be added to the list of refuge areas open for big game hunting. The Director has received information that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such uses are compatible with the major purposes for which each refuge was established. Upland game hunting and big game hunting, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before September 22, 1980.

ADDRESS: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is the primary author of this proposed rulemaking. National Wildlife Refuges are closed to hunting or sport fishing until officially opened by rulemaking. The Director may open refuge areas to hunting or sport fishing upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for development, operation, and maintenance of the permitted forms of recreation.

The proposals are as follows: Blowing Wind Cave National Wildlife Refuge would be opened to squirrel and rabbit hunting. Big Lake National Wildlife Refuge would be opened to deer hunting.

This action will be in accordance with provisions of all laws applicable to the areas, will be compatible with the principles of sound wildlife management, and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuges to the hunting of migratory birds, upland game and big game.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments have been prepared and are available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail, addressing the Director at the address above.

Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time the Service can allow for public comment. The States of Alabama and Arkansas have already formalized their hunting seasons. To the extent that these States have already set their hunting seasons which include these proposals, we must move speedily with this rulemaking action. To do otherwise will result in unnecessary confusion of the public on the status of these refuge hunts.

Nevertheless, the policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to the issuance of a final rule.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to amend 50 CFR Part 32 by additions in §§ 32.21 and 32.31, as follows:

§ 32.21 List of open areas; upland game.

* * * * *

Alabama

Blowing Wind Cave National Wildlife Refuge.

* * * * *

§ 32.31 List of open areas; big game.

* * * * *

Arkansas

Big Lake National Wildlife Refuge.

* * * * *

Dated: September 8, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-28006 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Parts 32 and 33

Proposed Addition of National Wildlife Refuges to the List of Open Areas; Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add Morgan Brake National Wildlife Refuge, Mississippi, to the refuge areas open for migratory game bird hunting. It is also proposed to add Delta National Wildlife Refuge, Louisiana; and Morgan Brake National Wildlife Refuge, Mississippi; to the areas open for upland game hunting. Eufaula National Wildlife Refuge, Alabama; Delta National Wildlife Refuge, Louisiana; and Morgan Brake National Wildlife Refuge, Mississippi, would be added to the list of refuge areas open for big game hunting. Banks Lake National Wildlife Refuge, Georgia, would be added to the refuge areas open for sport fishing. The Director has received information that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such uses are compatible with the major purposes for which each refuge was established. Migratory game bird hunting, upland game hunting, big game hunting, and sport fishing, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before October 10, 1980.

ADDRESS: Comments may be addressed to the Director, (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is the primary author of this proposed rulemaking. National Wildlife Refuges are closed to hunting or sport finshing until officially opened by rulemaking. The Director may open refuge areas to hunting or sport fishing upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for development, operation, and maintenance of the permitted forms of recreation.

The proposals are as follows: Waterfowl, upland game, and deer hunting are proposed at Morgan Brake National Wildlife Refuge. Delta National Wildlife Refuge would be opened to rabbit and deer hunting. Eufaula National Wildlife Refuge would be opened to deer hunting. Banks Lake National Wildlife Refuge would be opened to sport fishing.

This action will be in accordance with provisions of all laws applicable to the areas, will be compatible with the principles of sound wildlife management, and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuges to the hunting of migratory birds, upland game, big game, and sport fishing.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments have been prepared and are available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the Director at the address above. The policy of the department of Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to the issuance of a final rule.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to amend 50 CFR Parts 32 and 33 by additions in §§ 32.11, 32.21, 32.31, and 33.4 as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Mississippi

* * * * *

Morgan Brake National Wildlife Refuge.

* * * * *

§ 32.21 List of open areas; upland game.

* * * * *

Louisiana

* * * * *

Delta National Wildlife Refuge.

* * * * *

Mississippi

* * * * *

Morgan Brake National Wildlife Refuge.

* * * * *

§ 32.31 List of open areas; big game.

* * * * *

Alabama

Eufaula National Wildlife Refuge.

* * * * *

Louisiana

* * * * *

Delta National Wildlife Refuge.

* * * * *

Mississippi

* * * * *

Morgan Brake National Wildlife Refuge.

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§ 33.4 List of open areas; sport fishing.

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Georgia

Banks Lake National Wildlife Refuge.

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Dated: Sept. 8, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-28005 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 177
Wednesday, September 10, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Hop Marketing Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is given of a meeting of the Hop Marketing Advisory Board at 9:00 a.m., p.d.t., October 14, 1980, in Bend, Oregon, at a place to be announced.

The purpose of the meeting is to discuss reserve pool matters, filling of deficiencies in annual allotments, marketing policy, and related matters. The meeting will be open to the public.

The Hop Marketing Advisory Board is established under Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674).

The names of Board members, agenda, location of meeting, summary of the meeting and other information pertaining to the meeting may be obtained from Robert H. Eaton, Hop Administrative Committee, Room 1002, Corbett Building, 430 SW Morrison Street, Portland, Oregon 97204, telephone (503) 224–1823.

Dated: September 5, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–27854 Filed 9–9–80; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

City of Cheyenne Water Diversion Proposal; Medicine Bow National Forest, Albany and Carbon Counties, Wyo.; Intent to Prepare a Supplement to Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, prepared a draft environmental impact statement that was transmitted to the EPA on May 19, 1980. This document was prepared as set forth in the notice of intent published in the **Federal Register**, February 7, 1979.

Substantive comment and new information received during the public review period could have a significant bearing on the decision. In accordance with Council of Environmental Quality Regulations for "The Implementation of the National Environmental Quality Regulations," 40 CFR 1500–1508, November 29, 1978, Section 1502.9; a supplement or revised draft environmental impact statement will be required.

To comply with this requirement, the Medicine Bow National Forest will issue this document on or about February 1, 1981. The final environmental impact statement will be issued on or about July 1, 1981. Notification will be sent to all agencies, organizations, and individuals who received copies of the draft environmental impact statement.

Comments on this notice of intent should be sent to Craig W. Rupp, Regional Forester, Rocky Mountain Region, 11177 W. 8th Avenue, P.O. Box 25127, Lakewood, Colorado 80225.

Dated: August 28, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80–27730 Filed 9–9–80; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee will convene at 1:30 pm and will end at 4:30 pm, on October 6, 1980, at Ramada Inn East, 1355 Eastern Blvd., Azalea Room, Montgomery, Alabama 36117.

The purpose of this meeting is to make plans for conducting a voting rights project; discuss results of September primary elections.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Marie S. Jemison, 3328 Dell Rd., Birmingham, AL 35223. or the Southern Regional Office, Citizens Trust Bank, Rm. 362, 75 Piedmont Ave., N.E., Atlanta, Georgia 30303, 404/221–4344.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washinton, D.C., September 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27785 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

Iowa Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee of the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on October 7, 1980, at 929 Third Street, Room 203, Des Moines, Iowa 50309.

The purpose of this meeting is to discuss program plans for fiscal year 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Lee B. Furgerson, 1125 Stephenson Way, Des Moines, Iowa 50307, 515/245–4848, or the Central States Regional Office, Old Federal Office Building, Rm. 3103, 911 Walnut St., Kansas City, MO 64106, 816/374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 2, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27803 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

Missouri Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee of the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on October 10, 1980, at Holiday Inn, 422 Monroe, Room 1114, Jefferson City, Missouri.

The purpose of this meeting is to discuss program planning for fiscal year 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Joanne M. Collins, 4030 Bellefontaine, Kansas City, MO. 64130, 816/274–1321, or the Central States Regional Office, Old Federal Office Building, Rm. 3103, 911 Walnut St., Kansas City, MO 64106, 816/374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 2, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27790 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on September 23, 1980, at Federal Building and Court House, 600 Arch Street, Rm. 6306, Philadelphia, PA 19106.

The purpose of this meeting is program planning and discussing civil rights developments.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Grace Alpern, 260 S. 15th Street, Philadelphia, PA 19126, 215/546–7600, or Mid-Atlantic Regional Office, 2120 L Street NW., Rm. 510, Washington, D.C. 20037, 202/254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 2, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27802 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01

South Carolina Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee will convene at 1 p.m. and will end at 4 p.m., on October 10, 1980, at Carolina Townhouse, 1615 Gervais St., Columbia, South Carolina 29202.

The purpose of this meeting is to make plans for conducting a voting rights project in selected sites in the State.

Persons desiring additional information or planning a presentation to the Committee, should contact the acting Chairperson Dr. Oscar P. Butler, Jr., P.O. Box 1705, South Carolina State College, Orangeburg, South Carolina, or the Southern Regional Office, Citizens Trust Bank Bldg. Rm. 362, 75 Piedmont Ave., N.E., Atlanta, Georgia 30303, 414/221–4344.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27784 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

Tennessee Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee of the Commission will convene at 5:00 p.m. and will end at 8:00 p.m., on September 25, 1980, at Passport Inn, 650 New Providence Blvd., Conference Room, Clarksville, Tenn. 37040.

The purpose of this meeting is to follow up the affirmative acting factfinding meeting and discussion of SAC report; programing planning for fiscal year 1981; reviews of complaints alleging race discrimination from citizens of Clarksville, Tenn.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Samuel B. Kyles, 704 S. Parkway East, Memphis, Tenn. 38106, 901/946–2529, or the Southern Regional Office, Citizens Trust Bank Bldg., Rm. 362, 75 Piedmont Ave. N.E., Atlanta, GA 60604, 404/221–4344.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 2, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27789 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the West Virginia Advisory Committee (SAC) of the Commission originally scheduled for September 4, 1980, at Wheeling, West Virginia, (FR Doc. 80–23341 on page 51630) has been changed.

The meeting now will be held on September 22, 1980, beginning at 1:30 p.m. and will end at 4:30 p.m. and will begin at 6:30 p.m. and will end at 9:30 p.m., at the City County Building, 1500 Chaplin Street, City Council Chambers, Wheeling, West Virginia 26003.

Dated at Washington, D.C., September 3, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–27788 Filed 9–9–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Memorial Sloan-Kettering Cancer Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW, Washington, D.C. 20230.

Docket No. 80–00030. *Applicant:* Memorial Sloan-Kettering Cancer Center, 1275 York Avenue, New York, N.Y. 10021. *Article:* Therac 20/Saturne Medical Linear Accelerator and Accessories. *Manufacturer:* AECL, Canada. *Intended use of article:* The article is intended to be used for the treatment and study of effects of many forms of head and neck cancers, breast cancer and peripherally situated tumors in addition to more extensive and deep seated lesions. The research programs in which the article will be used will include the following studies:

(1) Total Nodal Irradiation for Hodgkin's and Non-Hodgkin's Lymphoma.

(2) Interdisciplinary Study of the Management of Embryonal Rhabdomysarcoma in Children.

(3) Combination Chemotherapy and Radical Radiation in Advanced Cancers of the Head and Neck.

(4) Gynecological Malignancies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 79-00154 which was denied without prejudice to resubmission on August 3, 1979. Using the electron beam, the foreign article provides field sizes up to 30 x 30 centimeters (CM) at 100 CM from the target.

The Department of Health, Education, and Welfare advises in its memorandum dated April 9, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-27820 Filed 9-9-80, 8:45 am]

BILLING CODE 3510-25-M

Memorial Sloan-Kettering Cancer Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 80-00036. Applicant: Memorial Sloan-Kettering Cancer Center, 1275 York Avenue, New York, New York 10021. *Article:* Afterloading-Irradiation Device for Tumor Therapy. *Manufacturer:* Isotopen-Technik Dr. Sauerwein, GMBH, West Germany. *Intended Use of Article:* The article is intended to be used in various experimental studies aimed at a better understanding of treatment parameters. For example, and initial investigation planned would examine the relative doses of radiation required to reach the same degree of skin reaction, using miniswine, for high dose rate treatments with the Remote Afterloader in (about 1 mg Ra eq) Ir-192 sources to the skin surface.

Ir-192 remote afterloader treatments would provide normalizing data for a series of experiments investigating different types of sources and different time modes of treatment. The article will be used for educational objectives in a Radiation Oncology Training program for residents and fellows.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides remotely controlled intracavitary radiation therapy.

The Department of Health, Education and Welfare advises in its memorandum dated April 9, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-27821 Filed 9-9-80; 8:45 am]

BILLING CODE 3510-25-M

University of Missouri-Rolla; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultrual Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. 5:00 p.m. in Room 3109 of the Department of Commerce building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 80-00025. Applicant: The University of Missouri-Rolla, Purchasing Department, Rolla, Missouri 65401. *Article:* Flow System for study of two-phrase turbulent flow. *Manufacturer:* Swiss Federal Institute of Technology, Switzerland. *Intended use of article:* The article is intended to be used for studies of turbulent structure at fluid interfaces, wind-generated waves, structure of turbulaent shear flow. Laser Droppler Anemometer measurements of mean and fluctuating velocities, including second order space-time correlations will be conducted in order to obtain a fundamental understanding of the basic phenomena cited above. In addition, the article will be used in the courses Graduate Research Ch.E.-490 and Fluid Mechanics Ch.E.-231.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a liquid-liquid system with a turbulent flow in one or both phases separated by a randomly wavy interface. The National Bureau of Standards advises in its memorandum dated May 12, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–27822 Filed 9–9–80; 8:45 am]

BILLING CODE 3510–25–M

Maritime Administration

Construction of Four 28,200 DWT Petroleum Products Tankers, MA Design T6–M–136a; Intent to Compute Foreign Cost

Notice is hereby given of the intent of the Maritime subsidy Board, pursuant to the provisions of Section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of four 28,200 dwt petroleum products tankers, MA Design T6–M–136a.

Any person, firm or corporation having any interest (within the meaning of Section 502(b)) in such computations may file written statements by the close of business on September 19, 1980, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

Dated: September 3, 1980.

By Order of the Maritime Subsidy Board, Maritime Administration.

Robert Patton,

Secretary.

[FR Doc. 80–27734 Filed 9–9–80; 8:45 am]

BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit; Daniel P. Costa

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Daniel P. Costa, NIH Postdoctoral Fellow.

b. Address: Physiological Research Laboratory, Scripps Institution of Oceanography, La Jolla, California 92093.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Northern elephant seal (*Mirounga angustirostris*), 30.

4. Type of Take: The seals will be captured and held temporarily for research on fasting and sleeping.

5. Location of Activity: Año Nuevo.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Adminstrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C., 20235, on or before October 10, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 25, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80–27731 Filed 9–9–80; 8:45 am]

BILLING CODE 3510–22–M

Issuance of Marine Mammal Permit

On January 30, 1980, Notice was published in the **Federal Register** (45 FR 6818), that an application has been filed with the National Marine Fisheries Service by Ruhr-Zoo Gelsenkirchen for a permit to take six (6) California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that on September 2, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Ruhr-Zoo Gelsenkirchen, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 2, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–27769 Filed 9–9–80; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Performance Review Boards; List of Members; Addition

AGENCY: Department of the Air Force, DOD.

ACTION: Addition of names to notice on "Performance Review Boards List of Members."

SUMMARY: In FR Doc. 80–22455, appearing on pages 49970–49972, of the July 28, 1980 **Federal Register,** add the following names: Under *Secretariat:* Robert J. McCormick, Administrative Assistant; Victor Cohen, Deputy for Tactical Warfare. Under *Air Force Logistics Command (AFLC):* Elroy M. Haberlandt, Deputy Director, Maintenance, San Antonio Air Logistics Center; John Barton, Deputy Director, Materiel Management, Ogden Air Logistics Center; L. Worth Crosswhite, Deputy Director, Materiel Management, Oklahoma City Air Logistics Center; Samuel E. Greenwood, Director, Directorate of Materiel Requirements and Financial Resource Management; James M. Gallagher, Deputy Director, Assistant to the Commander for International Logistics.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, telephone: (202) 697–1861.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80–27791 Filed 9–9–80; 8:45 am]

BILLING CODE 3910–01–M

V 45 5 SE 10 80 UMI

Department of the Navy

Senior Executive Service Performance Review Board; Addition to Membership

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of change in the membership of the Department of the Navy's Performance Review Board.

SUMMARY: Brigadier General A. Lukeman, U.S. Marine Corps, has been named as an additional member of the Department of the Navy's Senior Executive Service Performance Review Board. Initial notice of the Board's membership appeared in 45 **Federal Register** 41692, June 20, 1980.

EFFECTIVE DATE: September 10, 1980.

Dated: September 3, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-27732 Filed 9-9-80; 8:45 am]

BILLING CODE 3810-71-M

Senior Executive Service Bonuses; Schedule for Awarding

As required by Director, Office of Personnel Management memorandum of July 21, 1980, the Department of the Navy gives notice that Senior Executive Service (SES) bonus payments will be made on or before September 30, 1980.

Dated: September 5, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-27804 Filed 9-9-80, 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

Community Service and Continuing Education, Special Projects; Cancellation of Notices of Closing Dates for Transmittal of Applications for Fiscal Year 1980—New and Continuation Projects

The Secretary gives notice of cancellation of the Notice of Closing Dates for Transmittal of Applications for fiscal year 1980 for the Cummunity Service and Continuing Education—Special Projects Program. (20 U.S.C. 1005a)

The original notices of closing dates for this program, published in the **Federal Register** on May 6, 1980, pages 29890–29892, indicated that the program was included in the President's proposed budgetary rescissions. The Congress has approved the President's proposal to eliminate funds for this program. Therefore, there will be no competition for the Community Service and Continuing Education—Special Projects Programs in fiscal year 1980.

(Catalog of Federal Domestic Assistance Number 13.557; University Community Service—Special Projects)

Dated: September 5, 1980.

Shirley Hufstedler,

Secretary of Education.

[FR Doc. 80-27797 Filed 9-9-80; 8:45 am]

BILLING CODE 4000-01-M

Financial Assistance for Construction, Reconstruction, or Renovation of Higher Education Facilities; Notice of Program Status

The Secretary gives notice that no funds are available in fiscal year 1980 for grant awards under Title VII of the Higher Education Act. (20 U.S.C. 1132a–1132e–1)

The final regulations for the Financial Assistance for Construction, Reconstruction or Renovation of Higher Education Facilities program were published in the **Federal Register** on April 29, 1980, pages 28666–28683 (45 CFR Part 170). The preamble to the regulations stated that the President has proposed a rescission of the $25 million appropriated for fiscal year 1980 for grants for the removal of architectural barriers to the mobility impaired.

Through the enactment of the Supplemental Appropriation and Rescission Act of 1980 (P.L. 96–304) Congress rescinded $15 million of the $25 million appropriation for removal of architectural barriers. The balance of $10 million was deferred to 1981. Accordingly, plans are being made to implement the program in fiscal year 1981.

(Catalog of Federal Domestic Assistance Numbers 13.457; 13.458; 13.459; 13.593; 13.594—Financial Assistance for Construction, Reconstruction or Renovation of Higher Education Facilities)

Dated: September 5, 1980.

Shirley Hufstedler,

Secretary of Education.

[FR Doc. 80-27799 Filed 9-9-80, 8:45 am]

BILLING CODE 4000-01-M

Office of Educational Research and Improvement

Closing Date for Transmittal of Applications for New Projects

AGENCY: Department of Education.

ACTION: Notice of closing date for transmittal of applications for new projects.

Applications are invited for new projects under the Pre-College Teacher Development in Science Program.

Authority for this program is contained in the National Science Foundation Act (42 U.S.C. 1862). The program was transferred to the Education Department by the Department of Education Organization Act (P.L. 96–88). Reauthorization of the program for fiscal year 1981 is contained in Senate bill S. 1839, which amends the Higher Education Act of 1965 (20 U.S.C. 1001). Funding of projects under this program is contingent upon full Congressional approval of the reauthorization and the subsequent appropriation for the program.

The program issues grant awards to colleges and universities nationwide that offer at least a baccalaureate degree in science and to certain nonprofit institutions having both the scientific research staff and the facilities necessary to offer a quality science education program for precollege teachers.

The awards provide continuing education in science, mathematics, engineering and social studies to inservice elementary school teachers.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by October 20, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.119, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

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An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The Secretary considers making a grant to an eligible institution only if an application has been prepared and submitted according to—

(a) The regulations in Part 34 CFR 797;

(b) The applicable provisions in EDGAR; and

(c) The instructions and forms included in the *Guide for Preparation of Proposals for the Pre-College Teacher Development in Science Program.* Publication No. ED 80–42001.

Available Funds

It is expected that approximately $2,500,000 will be available for the Pre-College Teacher Development in Science Program in FY 1981, for projects to take place in summer 1981 and academic year 1981–82. Applicants may request a maximum of $50,000. The average dollar amount of a grant for project in FY 1980 was $27,500. It is estimated that these FY 1981 funds could support 84 projects.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application forms and program information packages are available. They may be obtained by requesting Publication No. 80–42001, Guide for Preparation of Proposals for the Pre–College Teacher Development in Science Program, from Ms. Mary G. Lewis, Program Manager, Pre–College Teacher Development in Science Program, DPI/OERI, 1800 G Street, NW., Washington, D.C. 20550. Telephone: (202) 282–7038.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 15 double-spaced pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Proposed regulations governing the Pre-College Teacher Development in Science Program, published in the Federal Register on August 13, 1980, Vol 45, No. 158, pages 54000–54002.

(b) Education Division General Administrative Regulations (EDGAR) (45 CFR Part 100a and 45 CFR Part 100c).

If substantive changes are made in the final regulations, applicants will be given an opportuntiy to amend their applications.

Further Information

For further information contact Ms. Mary G. Lewis, Program Director, Pre-College Teacher Development in Science Program, OERI, U.S. Department of Education, 1800 G Street, N.W., Washington, D.C. 20550, Telephone: (202) 292–7038.

(20 U.S.C. 12001)

Dated: September 15, 1980.

Shirley M. Wufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 13, 119, Pre-College Teacher Development in Science Program. OMB Circular A–95 does not apply to this program)

[FR Doc. 80–27798 Filed 9–9–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Proposal To Establish a New Subsystem of Records

AGENCY: Department of Energy.

ACTION: Notice of proposal to establish a new subsystem of records under DOE–67: participants in experiments, studies, and surveys.

SUMMARY: Hanford Environmental Health Foundation (HEHF) provides medical and epidemiological support to the Department of Energy for the Richland Operations Office. In addition to providing pre-employment, periodic, and termination physicals, HEHF provides the long-term mortality surveillance of the workers and their families. As part of this mission, the Foundation plans to conduct DOE approved clinical epidemiological studies to better understand how employment relates to specific illness among employees and their families, looking at their experience in the light of appropriate comparison groups among workers and the general population. The proposed system of records, to be identified as Subsystem E, Hanford Clinical Epidemiologic Studies (attached as Appendix I), will allow Hanford Environmental Health Foundation to collect and maintain information necessary for these studies. Examples would include: 1) studies of reproduction and birth defects as related to occupational exposures, 2) exposure to metals as related to respiratory disease, and 3) the prevalence of blood disorders among workers exposed to specific chemicals.

DATES: Written comments must be received on or before October 10, 1980. If no comments are received which would require a change to the notice, it will become effective as published.

ADDRESSES: Written comments should be forwarded to U.S. Department of Energy, Public Hearing Management, 2000 M Street NW, Room 2313, Box WQ, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Milton Jordan, Director of FOI & Privacy Acts, 1000 Independence Avenue SW, Forrestal Building, Mail Stop: 5B–138, Washington, D.C. 20585, Telephone: (202) 252–5955.

Leslie B. Greenspan, Office of the General Counsel, 1000 Independence Avenue SW, Forrestal Building, Mail Stop: 6A–152, Washington, D.C. 20585, Telephone: (202) 252–8618.

Issued in Washington, D.C.; September 4, 1980.

William S. Heffelfinger,

Director of Administration.

Appendix I

Subsystem E to DOE 67: Participants in Experiments, Studies, and Surveys

Subsystem Name: Hanford Clinical Epidemiologic Studies

System Location: Hanford Environmental Health Foundation, Post Office Box 100, Richland, Washington, 99352.

Categories of Individuals Covered by the System: All present and former Department of Energy (DOE) and DOE contractor Richland Operations employees, their spouses, and offspring, and selected controls.

Categories of Records in the System: This system consists of a variety of records pertinent to the health status of individuals and their families: medical history; reproductive history; birth records; developmental history; occupational history and work environment; demographic information; and selected items such as smoking habits, alcohol use, family medical history, and location of residence.

Authority for Maintenance of the System: Section 161(i)(3), Atomic Energy Act of 1954, as amended, 42 USC 2201(i)(3) (1976); Section 301, Department of Energy Organization Act (Public Law 95-91).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Disclosure may be made to DOE contractors and collaborating researchers and their staff for the purposes of determining influences of the workplace, and other factors, on the health of workers and their families. The contractor and/or collaborating researchers and their staff shall be required to maintain Privacy Act Safeguards with respect to such records.

b. Portions of records (name, social security number if known, date of birth and last known address) may be disclosed to one or more of the following to obtain a current address for the individual: Federal, state, and local agencies; employers; retail credit associations; commercial tracing firms; trade unions; and relatives and associates. The purpose of obtaining the address is so that the individual can be contacted and asked to provide additional research information.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Paper records, computer printouts, index cards, microfilm and disc.

Retrievability: By name, alphanumeric code, and social security number.

Safeguards: Records are maintained in locked file cabinets, in secured buildings. Access is limited to individuals having a need to know.

Retention and Disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager & address:

Manager, Richland Operations Office, P.O.
Box 550, Richland, Washington 99352.

Notification Procedures:

a. Requests by an individual to determine if the system of records contains information about him or her should be directed to:

Director, FOI & Privacy Acts Activities,
Department of Energy, Richland
Operations Office, P.O. Box 550, Richland,
Washington 99352.

b. Required identifying information:
i. Complete name at the time of the study
ii. Birthdate
iii. Social security number
iv. Current name, address and telephone number

Record access procedures:

Requests by an individual for access to a system of records that contains information about him or her should be directed to the DIRECTOR, FOI and Privacy Acts Activities at the above address.

Required identifying information is complete name at the time of the study, birthdate, social security number, current name, address and telephone number.

Contesting record procedures:

Requests by an individual to correct or amend the content of a record containing information about him/her should be directed to the address given above. The information required under notification procedures must be included as well as the record and information to be contested.

Record source categories:

The individual who is the subject of the record; family members; physicians; medical institutions; federal, state, and local agencies; occupational and employment records.

Systems exempt from certain provisions of the act: None.

[FR Doc. 80-27766 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-01-M

International Trade and Emergency Preparedness

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 18, 1980, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 AM. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a meeting of an IEA Standing Group on Emergency Questions (SEQ) *ad hoc* group on SEQ/Standing Group on the Oil Market (SOM) Data Requirements, which is being held at Paris on that date.

The agenda for the meeting is under the control of the SEQ *ad hoc* group. It is expected that the following subjects pertaining to SEQ data requirements will be discussed (the group is to formulate recommendations where possible):

1. Current information requirements of the SEQ including the usefulness of Questionnaire B submissions without company detail, notably in the context of import monitoring and the identification of emerging supply problems of individual countries.
2. The statistical treatment of petrochemical naphtha and other petrochemical feedstocks.
3. Experience with the new Questionnaire B and Quarterly Oil Statistics (QOS) reporting instructions notably with respect to the more detailed reporting of stocks.
4. Experience with the monthly system of reporting in the QOS format.
5. Review of the timeliness, accuracy and usefulness of data collected on consumer stocks and stocks at sea.
6. Statistical treatment of hydrocarbons derived from tar sands, coal, upgrading with hydrogen benzole, etc., and other oil products of non-crude of oil origin.

It is expected that the following subjects pertaining to SOM data requirements will be discussed (without immediate recommendations):

1. Accuracy of crude oil import price system.
2. Operation of the crude oil and product registers.
3. The financial reporting system.
4. The crude cost and price reporting systems including the problems of swaps.
5. The usefulness of the QOS and MOS systems to the SOM, notably in the context of stock monitoring.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 F.R. 28949, July 3, 1978), E.O. 11932 (41 F.R. 32691, August 5, 1976) and 22 C.F.R. 9a.1-9a.8, will be available in the Reading Room of the Department of Energy, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

Issued in Washington, D.C., September 4, 1980.

Craig S. Bamberger,
Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-27760 Filed 9-9-80, 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-029]

Western Massachusetts Electric Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Western Massachusetts Electric Company (WMECO), P.O. Box 270, Hartford, Connecticut 06101, filed an application for certification of an eligible use of natural gas to displace fuel oil at its West Springfield Station, Unit No. 3, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on August 14, 1980. WMECO has requested that, if necessary, it be issued the

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certification without the requirement for a 10-day public comment period prior to the certification. The natural gas to be used for oil displacement will be available to WMECO only during the period September 1, 1980 through October 31, 1980, and the applicant requests that the assignment of this gas to West Springfield Station be certificated as soon as possible after September 1, 1980.

The ERA has reviewed WMECO's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979) and has determined that WMECO's application satisfies the criteria enumerated in 10 CFR Part 595. We are therefore granting the certification and transmitting that certification to the Federal Energy Regulatory Commission A copy of the transmittal letter and the actual certification are appended to this notice.

This certification is being issued without a 10-day public comment period prior to certification and being made effective upon issuance. The certification involves the displacement of volumes of predominantly imported fuel oil, and it is in the public interest to maximize the displacement of imported fuel oil. The application also states that WMECO and the eligible seller are in a position to begin immediate use of this natural gas to displace fuel oil and that it will be available only for a limited two-month period ending October 31. Given the limited availability of the gas, it is not in the public interest to permanently lose this limited opportunity to displace fuel oil while public comments are being solicited. Based upon the applicant's representations as to the limited availability of the gas, however, and because they form the basis for our granting immediate relief, the certificate will expire on October 31, 1980. Public comments will still be accepted by ERA recieved on or before September 22, 1980. The Administrator can terminate a certification for good cause (10 CFR 595.08) and will do so in this instance if the comments show that the certificate was improvidently granted.

More detailed information is contained in the application on file with the ERA and is available for public inspection at Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–57, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, recieved on or before September 22, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to WMECO and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on September 3, 1980.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

September 3, 1980.

Re: ERA Certification of Eligible Use, ERA Docket No. 80–CERT–029, Western Massachusetts Electric Company.

Mr. Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Albert F. Bass, Deputy Director, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, RG–57, Washington, D.C. 20461, telephone (202) 653–3286. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80–CERT–029.

Sincerely,

Douglas G. Robinson

Deputy Administrator for Policy, Economic Regulatory Administration.

CERTIFICATION BY THE ECONOMIC REGULATORY ADMINISTRATION TO THE FEDERAL ENERGY REGULATORY COMMISSION OF THE USE OF NATURAL GAS FOR FUEL OIL DISPLACEMENT BY THE WESTERN MASSACHUSETTS ELECTRIC COMPANY

ERA Docket No. 80-Cert-029

Application for Certification

Pursuant to 10 CFR Part 595, Western Massachusetts Electric Company (WMECO) filed an application for certification of an eligible use of approximately 853,000 Mcf of natural gas at its West Springfield Station, Unit No. 3, with the Administrator of the Economic Regulatory Administration (ERA) on August 14, 1980. The application states that the eligible seller of the gas is the New York State Electric and Gas Corporation and that the gas will be transported by the Tennessee Gas Pipeline Company. The application indicates that the use of this natural gas is estimated to displace 5,838,000 gallons (139,000 barrels) of No. 6 fuel oil (2.2 percent sulfur) between September 1, 1980 and October 31, 1980. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 853,000 Mcf of natural gas per year at WMECO's West Springfield Station, Unit No. 3, purchased from the New York State Electric and Gas Corporation is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires on October 31, 1980, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for amounts not to exceed the certified volume when used to displace oil at the named facilities and when the gas is purchased from the eligible seller named in the certificate.

Issued in Washington, D.C., on September 3, 1980.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 80–27765 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–01–M

Thunderbird Resources, Inc.'s Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application withdrawal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 27, 1980, Thunderbird Resources, Inc. (Thunderbird) withdrew its application for permission to use multiple allocation fractions, which the firm had filed with the ERA on May 7, 1980. Thunderbird reserves the right to refile an application.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104–I, 2000 M Street, NW., Washington, DC 20461, Telephone: (202) 653–3701.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 4th day of September 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–27764 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–79–014; OFC Case No. 56074–9088–01–12]

Powerplant and Industrial Fuel Use Act of 1978; Termination of Proceeding on a Petition for Exemption From the Prohibitions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of termination of proceeding on a petition for exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

Pursuant to the provisions of 10 CFR, Part 515 (44 FR 60690, October 19, 1979, as amended, 44 FR 69919, December 5, 1979—Transitional Facilities), Champlin Petroleum Company, by certification dated July 3, 1980, qualified a packaged boiler (designated boiler 61–B–1A or A-prime boiler by Champlin) which was installed at its Corpus Christi, Texas, refinery as an existing major fuel burning installation (MFBI). Prior to this action, Champlin had petitioned the Economic Regulatory Administration (ERA) for a permanent fuel mixture exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (U.S.C. 8301 *et seq.*) for the same MFBI. Title II of FUA prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBI's. As an existing MFBI, boiler 61–B–1A is not subject to the prohibitions of Title II, and, therefore, Champlin's petition for a permanent exemption for that boiler is now moot. Accordingly, ERA's proceeding on Champlin's petition, as announced in the **Federal Register** on April 30, 1980 (45 FR 28794), is hereby terminated.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128–J, Washington, D.C. 20461, Phone (202) 653–4226.

Robert Goodie, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128–M, Washington, D.C. 20461, Phone (202) 653–4257.

Marilyn Ross, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

Public files pertaining to Champlin's certification of the eligibility of boiler 61–B–1A for automatic classification as an existing unit (OFC Case No. 56074–9088–02–77) and its previously filed petition for a permanent exemption (OFC Case No. 56074–9088–01–12) are available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on September 3, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–27763 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–01–M

Applications for Entitlements Benefits for Petroleum Substitutes

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of applications for entitlement benefits for petroleum substitutes.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of applications submitted to the ERA as of June 23, 1980, for designation as eligible recipients of entitlements under the domestic crude oil allocation program (10 CFR, Part 211, Section 211.67).

Under amendments to the Mandatory Petroleum Allocation Regulations, ERA may grant entitlements to producers of petroleum substitutes made from domestically renewable sources of biomass, coal, solid waste or tar sands which are used as feedstock or fuel in a refinery or which are used outside a refinery as a boiler fuel or elsewhere as engine fuel. The appendix contains a list of firms which have applied for entitlement benefits under the case-by-case provisions of section 211.67. The firms listed in the appendix have filed applications for entitlement benefits as of June 23, 1980. Those applications are now being reviewed by the ERA and a public disclosure copy of each application is available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Robert Thompson (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6212 C, Washington, D.C. 20461, (202) 653–3475.

William Funk (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585. (202) 252–6739.

SUPPLEMENTARY INFORMATION: Section 211.67 (a) (5) of the Mandatory Petroleum Allocation Regulations provides for the automatic inclusion in the crude oil entitlements program of shale oil produced from domestic sources, ethyl alcohol derived from domestic biomass and blended into gasohol, solid municipal waste and derivates thereof uses as fuel, and methane derived from municipal sewage or landfills.

Section 211.67 (a) (5) also provides for the issuance of entitlements to other petroleum substitues which the ERA determines on a case-by-case basis to be eligible for participation in the entitlements program under the ERA's "Guidelines for Evaluation of Applications for Designation as a Producer, Marketer or Consumer of Petroleum Substitutes in the Entitlements Program" (44 FR 6895, February 5, 1979). Those petroleum substitutes which are eligible only on a case-by-case basis include solid fuels derived from non-municipal solid waste, gaseous fuels derived from any solid waste sources, and any other fuel in a liquid form which is derived from domestic biomass, coal, or tar sands.

As of June 23, 1980, the ERA was in receipt of sixty-three pending applications submitted by firms requesting designation as producers, marketers or consumers of petroleum substitutes eligible for inclusion in the entitlements program. The firms submitting these applications are identified in the appendix to this notice. The appendix also provides the date on which each firm's application was filed and indicates the type of petroleum substitute for which each applicant is seeking entitlements benefits.

Non-confidential copies of all applications filed by the firms listed in the appendix, including supporting documentation, may be examined at the ERA Office of Public Information, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excepting Federal holidays.

Any person may file with the ERA a submission relevant to any application. Any submission which is received on or before October 9, 1980 will be considered by the ERA prior to determining whether to permit the inclusion of any firm in the entitlements program. Filings should be submitted to: Economic Regulatory Administration, Office of Petroleum Operations, Entitlements Program, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461.

Issued in Washington, D.C. September 3, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

Company	Date filed	Type of application
Abitibi Corporation	May 30, 1980	Bark, black liquor, wood waste.
Alabama River Pulp Co., Inc	Feb. 28, 1980	Do.
Alexander and Baldwin, Inc	May 1, 1980	Bagasse (sugar cane waste).
Alton Box Board Company	May 1, 1980	Bark, black liquor, wood waste.
American Can Company	May 30, 1980	Do.
Atlantic Sugar Association	Mar. 31, 1980	Bagasse (sugar cane waste).
Boise Cascade Company	Apr. 30, 1980	Bark, black liquor, wood waste.
Boise Southern	Apr. 29, 1980	Do.
Bowater, Inc	May 30, 1980	Do.
Brown Company	May 3, 1980	Do.
Champion International	Apr. 29, 1980	Do.
East Highlands Company	May 30, 1980	Do.
Federal Paper Board Company	Apr. 30, 1980	Do.
Finch, Pruyn & Company, Inc	May 1, 1980	Do.
Flambeau Paper Corporation	June 11, 1980	Do.
Georgia Kraft Company	May 1, 1980	Do.
Georgia Pacific Corporation	June 12, 1980	Do.
Getty Oil Company	Jan. 4, 1979	Diatomaceous earth.
Gilman Paper Company	June 11, 1980	Bark, black liquor, wood waste.
Great Northern Nekoosa Corporation	Apr. 30, 1980	Do.
Gulf Western Food Products	Mar. 31, 1980	Bagasse (sugar cane waste).
Hammermill Paper Company	May 11, 1980	Bark, black liquor, wood waste.
Hercules Corporation	Mar. 28, 1980	Stumpwood.
Hilo Coast Processing Company	June 2, 1980	Bagasse (sugar cane waste).
Inland Container Corporation	May 2, 1980	Bark, black liquor, wood waste.
International Paper	Feb. 29, 1980	Do.
Isenhour Brick and Tile Company	Jan. 31, 1980	Sawdust.
ITT Rayonier, Inc	Apr. 30, 1980	Bark, wood waste.
Landsay Olive Growers	June 23, 1980	Olive pits.
Longview Fibre Company	June 3, 1980	Black liquor, hog fuel, soap.
MacMillan-Bloedel, Inc	May 8, 1980	Bark, black liquor, wood waste.
Masonite Corporation	June 4, 1980	Do.
Mead Corporation	Apr. 10, 1980	Do.
Menasha Corporation	June 11, 1980	Do.
Midtec Paper Company	May 15, 1980	Do.
Mosinee Paper Corporation	May 27, 1980	Do.
Nabisco, Inc	Jan. 29, 1980	Wood waste.
Niagara of Wisconsin Paper Corp	June 2, 1980	Bark, wood waste.
Nortru, Inc	Mar. 27, 1980	Chemical wastes.
Olinkraft, Inc	June 15, 1980	Bark, black liquor, wood waste.
Owens-Big Island Mill	Apr. 22, 1980	Chemical wastes, wood waste.
Owens-Jasper Mill	Apr. 22, 1980	Do.
Owens-Orange Mill	Apr. 22, 1980	Do.
Owens-Tomahawk Mill	Apr. 22, 1980	Do.
Owens-Valdosta Mill	Apr. 22, 1980	Do.
P. H. Glatfelter Company	May 9, 1980	Bark, black liquor, wood waste.
Potlatch Corporation	May 30, 1980	Hog fuel, black liquor, wood waste.
Quaker Oats Company	May 30, 1980	Bark, bagasse, wood waste, corn cobs.
Scott Paper Company	Mar. 31, 1980	Black liquor, hog fuel.
Simpson Timber Company	May 14, 1980	Bark, black liquor, wood waste.
South Carolina Industries	May 29, 1980	Do.
Southwest Forest Industries	May 20, 1980	Do.
S & W Plant No. 9	May 2, 1980	Pits from cherry, olive, peach.
Sugar Cane Growers Coop	Mar. 28, 1980	Bagasse.
Temple-Eastex, Inc	May 2, 1980	Bark, black liquor, wood waste.
Tennessee River Pulp and Paper Co	May 9, 1980	Do.
The Chesapeak Corporation	June 23, 1980	Do.
The Dexter Corporation	May 13, 1980	Do.
The Nestle Co., Freehold	June 11, 1980	Coffee grounds.
The Nestle Co., Sunbury	July 16, 1980	Do.
The Nestle Co., Granite City	July 18, 1980	Tea grounds, wood waste.
The Procter & Gamble Paper Products Company	May 30, 1980	Municipal solid waste.
Tri/Valley Growers, Inc	Jan. 28, 1980	Pits from cherry, olive, peach.
Uncle Ben's Foods	May 26, 1980	Ground rice hulls.
United States Steel	Apr. 25, 1980	Coal, tar sands.
Weyerhaeuser Company	May 30, 1980	Bark, black liquor, wood waste.
Williamette Industries	Apr. 25, 1980	Do.

[FR Doc. 80-27762 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-01-M

Meeting of the Technical Subcommittee of the Committee on Emergency Preparedness of the National Petroleum Council

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of meeting.

SUMMARY: The National Petroleum Council (NPC), an advisory committee to the Department of Energy, provides technical advice and information to the Secretary of Energy on matter relating to oil and gas or the oil and gas industries. The NPC's Committee on Emergency Preparedness has been requested by the Secretary to undertake an analysis of issues bearing on emergency preparedness planning and the ability of the refining industry to respond to energy emergencies. The Technical Subcommittee of the Committee on Emergency Preparedness will hold a meeting on October 31, 1980, for the purpose of preparing a proposal for the scope, organization, and timetable of the study for review by the Committee on Emergency Preparedness.

DATE AND LOCATION: The Technical Subcommittee of the NPC's Committee on Emergency Preparedness will meet on Friday, October 31, 1980, at 10:00 a.m., in NPC's Conference Room, Suite 601, 1625 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Acting Deputy Assistant Administrator, Office of Energy Contingency Planning, 2000 M Street, NW., Washington, D.C. 20461, Room 7320, Telephone (202) 653–3205.

Ms. Joan Walsh Cassedy, National Petroleum Council, 1625 K Street, NW., Washington, D.C. 20006, Telephone (202) 393–6100.

SUPPLEMENTARY INFORMATION:

Items for consideration at the meeting will include:

1. Review the September 8, 1980, meeting of the NPC Committee on Emergency Preparedness.
2. Review the status of individual Coordinating Subcommittee assignments.
3. Discuss schedule of Subcommittee activities.
4. Discuss any other matters pertinent to the overall assignment from the Secretary.

All meetings are open to the public. The Chairman of the Subcommittee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements at the meeting should inform Joan Walsh Cassedy, National Petroleum Council, (202) 393–6100, prior to the meeting, and provision will be made for their appearance on the agenda. A transcript of the Technical Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room 5B–180, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 30, 1980.

Barton R. House,

Deputy Administrator for Operations and Emergency Management, Economic Regulatory Administration.

[FR Doc. 80-27859 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–79–012; OFC Case No. 55119-9044-01-11, 55119-9044-02-11, 55119-9044-03-11]

General Motors Corp.; Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On December 17, 1979, General Motors Corporation (GM) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting three major fuel burning installations (MFBI's) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et. seq.*) (FUA or the Act), which prohibit the use of petroleum or natural gas as a primary energy source in new MFBI's. GM requested a temporary public interest exemption for each of the three MFBI's to allow the use of a fuel mixture of coal and less than 25 percent natural gas until ERA completed its analysis and issued a final determination and order on GM's petition, filed with ERA on October 29, 1979, for a permanent fuel mixture exemption for each of the three MFBI's.

The MFBI's for which the petition is filed are three new identical field-erected boilers (identified as Boilers Number 1, 2 and 3) installed at GM's Assemby Division (GMAD), Oklahoma City, Oklahoma, facility. Each boiler has a design heat input rate of 182 million Btu's per hour with a steam generating capacity of 150,000 pounds per hour and is capable of burning petroleum, coal and natural gas.

ERA accepted the petition on January 16, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the **Federal Register** on January 24, 1980 (45 FR 5794). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. During this period, interested persons were also afforded an opportunity to request a public hearing. The period expired March 10, 1980. No comments were submitted. No hearing was requested.

Based upon ERA's review and analysis of the information contained in the record of this proceeding to date, a Tentative Staff Analysis has been made recommending that an order be issued denying the requested temporary public interest exemptions for Boilers Number 1, 2 and 3, from the prohibitions of Title II of the Act.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials in this proceeding is available upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 am–4:30 pm.

ERA will issue a final order granting or denying GM's petition for temporary public interest exemptions for Boilers Number 1, 2 and 3 within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such an extension, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Analysis are due on or before September 24, 1980. Pursuant to 10 CFR 501.33, a request for public hearing on the Tentative Staff Analysis can also be made within this same period.

ADDRESSES: Fifteen copies of written comments and a request for a public hearing shall be submitted to the Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA–FC–79–012 should be printed clearly on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Edward Jiran, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

Kathleen Ewing, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW.,

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Room 3319, Washington, D.C. 20461, Phone (202) 653–4258.

SUPPLEMENTARY INFORMATION: General Motors Corporation (GM) has installed at its Oklahoma City, Oklahoma facility, three new identical field-erected boilers. Each unit has a design heat input rate of 182 million Btu's per hour and is capable of burning petroleum, coal and natural gas.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). Title II of FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations (MFBI's) unless an exemption for such use has been granted. On June 6, 1980, ERA adopted a final rule pertaining to new facilities which became effective on August 5, 1980 (10 CFR, Part 500 *et seq.*) (45 FR 38276 and 38302).

Under Section 505.15 of the interim rules, GM filed a petition with ERA on December 17, 1980, requesting temporary public interest exemptions for the three subject boilers in order to burn natural gas in a fuels mixture with coal until ERA completed its analysis and issued a final determination and order on GM's petition, filed with ERA on October 29, 1979, for a permanent fuel mixture exemption for each of the three MFBI's.

Provision for the temporary public interest exemption authorized by Section 211(c) of the Act is contained in § 503.25 of the final rule and the Tentative Staff Analysis noticed herein was made pursuant to the final rule. The changes in the provisions of the interim rule relating to temporary public interest exemptions which are contained in the final rule were found not to be detrimental to GM and were not a factor in the conclusions reached in the analysis.

In accordance with 10 CFR 503.25, a temporary public interest exemption, under Section 211(c) of the Act, may be granted if the petitioner can demonstrate to the satisfaction of ERA that he is unable to comply with the applicable prohibitions imposed by the Act during the period for which the exemption is requested, but that he will be capable of complying at the end of the proposed exemption period, and that the granting of the petition would be in accord with the purposes of the Act and would be in the public interest.

GM contends that the granting of these exemptions will be in the public interest since (1) it will promote energy conservation by allowing the company to operate the units at low steam production levels without wasting coal energy; (2) reduce environmental problems caused by use of coal during periods of low load operations; and (3) but for the necessary regulatory delay in ERA's action upon GM's permanent mixtures exemption petition, GM would be authorized by FUA to use natural gas in mixture with coal in the subject boilers.

In GM's demonstration of public interest, and in support of its contention that it is unable to comply with the applicable prohibitions imposed by the Act, GM states that although it has obtained all necessary permits to consume coal at this facility, the exclusive combustion of coal in each MFBI has created environmental problems generating a complaint from at least one area resident. GM contends that the use of natural gas in a fuel mixture with coal in these boilers will allow the company to operate the units at low steam production levels without wasting coal energy or incurring potential opacity and noise pollution problems.

ERA does not consider this demonstration and GM's statement that the immediate use of a fuels mixture is required to alleviate various operational, environmental, and noise problems, as well as to prevent further waste of coal energy, to be adequate demonstration that the granting of the temporary exemption would be in accord with the purposes of the Act and in the public interest. It has not claimed that the existing condition has or will result in decreased production, affect employment in the area, or will cause other like consequences that could be considered to adversely impact on the public interest.

GM has also failed to provide substantial evidence or adequate demonstration that it is unable to comply with the applicable prohibitions imposed by the Act during the period for which the exemption is requested. In fact, GM is currently operating the three MFBI's with coal as the primary energy source, and presumedly is doing so in compliance with all applicable environmental requirements.

ERA is not convinced that the purposes of the Act and the public interest would be served by the use of natural gas to avoid the waste of coal energy. Nor is ERA convinced that GM has thoroughly investigated options other than the use of natural gas to meet these low load conditions.

GM has failed to demonstrate to ERA's satisfaction that sufficient environmental and operational problems exist whereby the granting of the temporary exemptions, allowing the immediate use of natural gas in a fuels mixture with coal in each unit, would be in accord with the purposes of the Act and would be in the public interest.

Based upon its review and analysis of all the information contained in the record of this proceeding to date, the ERA staff has determinaed that GM failed to make adequate demonstration and provide substantial evidence to corroborate the eligibility requirements, pursuant to Section 211(c) of the Act and 10 CFR 505.25, that it is eligible for the requested temporary public interest exemptions.

The ERA staff, therefore, recommends that an order be issued denying GM the requested temporary public interest exemptions from the prohibitions of Title II of the Act for Boilers Number 1, 2 and 3.

This Tentative Staff Analysis does not constitute a decision by ERA to deny the requested exemptions. Such a decision will be made in accordance with 10 CFR 501.66 on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C., on September 4, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion Economic Regulatory Administration.

[FR Doc. 80–27758 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EL 80–5]

Town of Springfield, Vt. vs. Central Vermont Public Service Corp.; Electric Rates; Order Initiating Investigation and Establishing Procedures, Denying Motion for Summary Relief, and Directing To Show Cause

Issued August 29, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

The Town of Springfield, Vermont (Springfield) filed a complaint and a petition for a declaratory order on October 12, 1979.[1] Springfield has requested that the Commission strike an availability clause in Central Vermont

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[1] This complaint and petition was amended on November 13, 1979. The amendment strikes the portion of the complaint relating to "Credit for Rural and Domestic Customers for Electric Power and Associated Energy Purchased From the Power Authority of the State of New York."

Public Service Company's (Central Vermont) R–6 wholesale tariff which purports to limit the availability of service under the R–6 tariff to electric utilities existing prior to December 1, 1975.[2] Notice of the complaint was issued on October 30, 1979, with comments, protests, or petitions to intervene due on or before November 29, 1979. No responses were filed. On November 29, 1979, Central Vermont filed an answer to the complaint.

On January 15, 1980, Springfield filed a "Motion for Summary Grant of Relief Requested." Springfield asserted that Central Vermont's failure to specifically deny all but two of the allegations in the complaint, as well as certain additional facts which were set out in attachments to Springfield's motion, entitled it to summary relief. On February 13, 1980, Central Vermont answered this motion, and on March 7, 1980, Springfield replied to the answer. On April 1, 1980, Springfield filed a supplement to the evidentiary material previously offered in support of its motion for summary relief.

Background

Springfield is in the process of establishing a municipal electric system. The residents of Springfield approved the establishment of such a system on March 4, 1975.[3] However, Central Vermont challenged this vote, and the Supreme Court of Vermont invalidated the referendum on technical grounds.[4] The residents of Springfield voted a second time on October 20, 1977, and again approved the establishment of a municipal electric system.

Springfield represents that Central Vermont has informed the Vermont Public Service Board (PSB) that it will refuse to provide service to Springfield under its its R–6 tariff, relying on the existence of the availability clause. Service under this tariff, which contains rates based on average system costs, is made available to other municipal electric systems, cooperatives, and investor owned electric utilities within the state of Vermont. Springfield further contends that Central Vermont has offered to serve Springfield under its more expensive R–9 wholesale tariff, based on incremental costing rather than average system costs.

In addition, Springfield states that Central Vermont is arguing before the PSB that Springfield must show that rates charged by a Springfield municipal utility would be lower than those presently charged by Central Vermont in order for Springfield to obtain Central Vermont's system in Springfield. According to Springfield, Central Vermont has further argued that since Springfield will have access to the R–9 tariff rather than the R–6 tariff, Springfield will be unable to make such a showing. This allegation and the other assertions set out above have not been rebutted in Central Vermont's pleadings.

Discussion

I. Motion for Summary Grant of Relief

We shall deny Springfield's motion for summary relief because we cannot conclude from the pleadings that there are no material issues of fact to be resolved.[5]

Springfield asserts that by specifically denying only two of Springfield's allegations, both of which pertain to the possession of monopoly power in the relevant market, Central Vermont must be deemed to have admitted the remaining allegations in Springfield's complaint. As to the two allegations that were specifically denied, Springfield contends that these matters were proven by documents attached to the motion. Thus, Springfield argues[6] that Central Vermont maintains monopoly power, that the availability clause in the R–6 tariff increases costs to competitors, that Central Vermont has not justified the restrictive provision, and that, therefore, the availability clause should be stricken on the authority of Opinion No. 57.[7]

We disagree that Springfield's conclusion is necessarily warranted. The pleadings do not demonstrate conclusively that Central Vermont has monopoly power in the relevant markets. Additionally, Central Vermont did purport to offer a justification for the availability clause in its answer. The company stated that "the tariff limitation in question is needed in fairness to the Company's retail customers, who would otherwise have to pay higher rates." Central Vermont further stated that "if a proceeding is ordered, the Company will show that its tariff limitation is fair and economically justified in light of Central Vermont's obligations towards its retail customers and the power supply situation in New England." Based on the pleadings before us, we cannot conclude that the tariff restriction is *per se* unlawful or that Springfield is entitled to summary relief.

II. Complaint and Petition for Declaratory Order

The matters raised by Springfield warrant close Commission scrutiny. The availability clause in Central Vermont's R–6 wholesale tariff is broadly restrictive, and the justification proferred by Central Vermont for such a clause is exceedingly vague. Additionally, because Central Vermont is currently providing retail service to residents of Springfield, the establishment of Springfield as a new wholesale customer would not appear to have additional load impact on Central Vermont. We initially foresee little operational or power planning justification for Central Vermont to restrict its tariff availability as it applies to Springfield. The vague justification for the clause offered by Central Vermont is insufficient to allow us to conclude that the availability clause will pass the statutory bar against undue discrimination. Accordingly, we shall order Central Vermont to show cause within sixty days of the issuance of this order why the availability clause should not be found to be unduly discriminatory. Pending Commission review of Central Vermont's additional submission, we shall not order a hearing into the allegations that the provision is anticompetitive in effect. Central Vermont is also directed to address the question of what harm would result

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[2] This clause provides: "I. *Availability.* Electric service hereunder is available to any organization functioning as an electric utility, *as of the effective date hereof,* under the jurisdiction of the appropriate federal/state electric utility regulatory body, for its own use and for resale to its ultimate customers, or to other utilities upon specific agreement of the Company and Customer, at existing delivery points and at such other points on the Company's power supply system, as mutually agreed upon, where there are facilities of adequate type and capacity." (Emphasis added.)

[3] The availability clause was included in the R–6 tariff effective on December 1, 1975, nine months after Springfield's first referendum.

[4] *In Re Central Vermont Public Service Corp.,* 135 Vt. 432, 378 A.2d 510 (1977).

[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC,* 450 F.2d 1341, 1345 (D.C. Cir. 1971), *cert. denied,* 405 U.S. 989 (1971); *Tennessee Gas Pipeline Co.* v. *FPC,* 561 F.2d 955, 958 (D.C. Cir. 1977); *Bell Telephone Co. of Pennsylvania* v. *FCC,* 503 F.2d 1250, 1267 (3d Cir. 1974), *cert. denied,* 422 U.S. 1026 (1974).

[6] Springfield also claims undue discrimination. However, we cannot find on the face of the pleadings that the availability clause necessarily unduly discriminatory. Indeed, in the only case cited by Springfield in support of its claim of undue discrimination, *Towns of Alexandria* v. *FPC,* 555 F.2d 1020 (D.C. Cir. 1977), the court held that the Commission acted properly in declining to pass on the discrimination claim prior to completion of a full hearing.

[7] *Florida Power & Light Co.,* Opinion No. 57, Docket Nos. ER78–19, ER78–81, (August 3, 1979). Specifically, the language that Springfield relies on in Opinion No. 57 is the following:

". . . . where a utility possessing market power in a relevant market seeks to amend a general tariff to impose conditions which foreclose supply options or increase the costs of competitors, or which otherwise contribute to the acquisition or maintenance of monopoly power, its application for amendment must be rejected and found unjust and unreasonable under Sections 205 and 206 of the Federal Power Act—unless the utility can show that compelling public interests justify the service conditions."

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from the adoption of availability clause language similar to that contained in *Florida Power & Light Company's* compliance filing (underlined below) in Opinion Nos. 57 and 57–A:

Applicable:

To electric service for total power requirements at existing and future delivery points of municipal electric utility systems and corporations organized under the Rural Electric Cooperative Law *to the extent of their total present and future requirements in areas now being served by the Company and to areas not presently receiving electric service which are natural and reasonable expansions of such areas;* provided, however, that the foregoing shall not be construed as preventing a generation and transmission cooperative from receiving service hereunder to the extent that the Company provides, or would in the future provide, service to its member cooperatives. This schedule shall not apply to service at those delivery point(s) to which Sale for Resale Partial Requirements Rate Schedule PR is applicable.

Central Vermont's answer to the complaint cited *Niagara Mohawk Power Corporation*[8] in which the Commission held that "the party raising the anticompetitive issue has the burden of going forward with the evidence relating to the issue." Therefore, Central Vermont has requested that Springfield be required to meet such a burden. We agree, and, in the event that a hearing is subsequently ordered, and we shall direct Springfield to come forward with all evidence upon which it relies in alleging anticompetitive claims. However, Springfield will not be required to come forward with such evidence until Central Vermont has provided its additional submission to the Commission and unless the Commission issues a subsequent order which finds that submission requires initiation of a hearing rather than summary disposition of the issue.

It should also be noted that in an order considered concurrently with this one,[9] we are accepting Central Vermont's R–8 and R–8A wholesale tariffs for filing. These tariffs, which supersede the R–6 tariff, contain identical availability clauses. Therefore, the availability provisions in the R–8 and R–8A tariffs also shall be investigated at the hearing to be convened pursuant to this order.

The Commission orders:

(A) Springfield's Motion for Summary Grant of Relief is hereby denied.

(B) The Town of Springfield and Central Vermont Public Service Corporation are hereby made participants in the proceeding.

(C) Central Vermont Public Service Corporation shall provide the information specified in the body of this order concerning the restrictive provision in its availability clause with the Commission within 60 days of the issuance of this order.

(D) If the Commission, by subsequent order, finds that Central Vermont's additional information requires initiation of a hearing, the Town of Springfield, Vermont shall come forward with all evidence upon which it relies in alleging anticompetitive conduct.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27831 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–85–M

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[8] 54 F.P.C. 2146, 2149 (1975).

[9] *Central Vermont Public Service Company,* Docket No. ER80–422.

[Docket No. ER80–691]

Union Electric Co.; Filing

August 29, 1980.

The filing Company submits the following:

Take notice that on August 25, 1980 Union Electric Company (Union) tendered for filing a Boundary Line Agreement dated July 25, 1980, between the Missouri Edison Company and Union. Said Agreement provides a basis for supplying electric service to customers in one service area more economically by line extension made across the boundary lines from the adjacent utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27830 Filed 9–9–80; 8:45 am]

BILLING CODE 6450–85–M

[Dockets Nos. ER80–506 and ER80–58, et al.]

Alabama Power Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Waiver of Notice Requirements and Certain Filing Requirements, Consolidating Dockets, and Establishing Procedures

Issued: August 29, 1980.

On July 2, 1980, Alabama Power Company (Alabama) filed a superseding interconnection agreement[1] with Alabama Electric Cooperative, Inc. (AEC) that provides for the coordination and interconnected operation of both systems and for the exchange of three services: (1) emergency assistance, (2) short-term power and (3) economy interchange. The agreement also provides that either party may from time to time obtain from the other party capacity on a firm basis for periods of one year or longer. This service is referred to as "purchase capacity." In addition, as a supplement to this agreement, the parties have filed a Service Schedule I that provides for transmission to be supplied by Alabama to AEC.[2]

Purchase capacity under the proposed agreement may be requested by either party. However, there is no initial commitment for this service. Therefore, the parties anticipate that the pricing and term of such capacity will be set forth in separate schedules and filed with the Commission at such time at this service is desired.

Under the revised agreement, charges for economy energy transactions would be assessed on a split-savings basis. Rates for emergency assistance, short-term power,[3] and transmission service (supplied by Alabama to AEC) would be predicated on cost of service formulas which permit the periodic revision of capacity charges to reflect changes in the cost of providing the respective services. The procedures and methodology proposed to be used in determining charges under the formulas are set forth in supplementary documentation incorporated in the proposed agreement by reference and in separate service schedules. The proposed agreement contemplates that schedules identifying subsequent revisions of charges under the formulas would be filed with this Commission for informational purposes.

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[1] This agreement, which is dated May 5, 1980, would supplant a prior interconnection agreement of February 23, 1972, as amended.

[2] See Attachment A for rate schedule designations.

[3] Short-term power is defined as the reservation of capacity and associated energy for periods of not less than one week. For these transactions Alabama would act as agent for the "Southern Companies" and costs for short-term power supplied by Alabama would be based upon the Southern Companies' costs.

Alabama requests waiver of the notice requirements of section 35.3 of the Commission's regulations so as to permit the proposed agreement to become effective as of June 1, 1980.

Notice of the filing was issued on July 10, 1980, with comments, petitions or protests due on or before August 1, 1980. On July 21, 1980, AEC submitted a letter in support of Alabama's request for waiver of the notice requirements and an effective date of June 1, 1980. Both parties support the immediate effectiveness of the proposed agreement subject to reservation of the right of seek subsequent changes in the proposed agreement through appropriate filings with the Commission.

Discussion

Because the rates for economy interchange service are not based on a formula, but are predicated on a split-savings approach, consistent with the industry standard, the Commission will accept the economy interchange service schedule for filing, waive the notice requirements, and grant an effective date of June 1, 1980, without suspension.

With respect to emergency assistance, short-term power, and transmission service, our review indicates that the proposed formulas and the rates calculated under the formulas for 1980 have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept for filing these formulas and rates and suspend their operation as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary stufy leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that no adverse interventions have been received and that the parties to the proposed interconnection agreement each support the proposed effective date. Moreover, the agreement would provide for new services between the parties for which no appropriate rate schedules are presently on file. In similar cases, we have elected to suspend for a norminal period.[6] Accordingly, we believe we should exercise our discretion to suspend the rates and formulas for emergency assistance, short-term power, and transmission service for only one day. These considerations also support Alabama's request for waiver of the Commission's notice requirements. Hence, we shall waive the notice requirements and permit the proposed formulas and the rates developed for 1980 for emergency assistance, short-term power, and transmission service to become effective subject to refund on June 2, 1980.

In several previous dockets involving various subsidiaries of the Southern Company, the Commission has suspended similar formulas rates, initiated investigation into the formulas and resulting rates, and consolidated the pending dockets.[7] Because of the similarity between the formula rates in the instant docket and the formula rates proposed in Docket Nos. ER80-58, *et al.*, we shall also consolidate the instant docket with those ongoing proceedings.

In Docket No. ER80-58,[8] and in subsequent dockets the Commission had consistently taken the position that if a formulary rate which has not been found to be just and reasonable operates to increase rates, subsequent filings must be made under Section 205 of the Federal Power Act. Therefore, any subsequent revision to the capacity charges developed under the suspended formulary rates shall be filed by Alabama as a change in rate within 60 days before its proposed effective date. However, we shall waive the full filing requirements of section 35.13 of the Commission's regulations as to subsequent revisions on condition that any increased capacity charges shall be collected subject to refund pending the Commission's investigation.[9]

Alabama Power Co., Docket No. ER80-506

Filed: July 2, 1980.

Effective: (6), (10)—June 1, 1980; (1), (2), (3), (4), (5), (7), (8), (9)—June 2, 1980 subject to refund; (11), (12)—N.A.

Designation and Description

(1) Rate Schedule FERC No. 145 (Supersedes R.S. FERC No. 139, as supplemented)—Interconnection Agreement.

(2) Supplement No. 1 to R.S. FERC No. 145—Service Schedule I—Transmission.

(3) Supplement No. 2 to R.S. FERC No. 145—Appendix A to Service Schedule

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[4] *Connecticut Light and Power Company* v. *F.E.R.C.*, ——— F.2d ——— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[6] *See, e.g., Georgia Power Company*, Docket Nos. ER80-466, *et al.*, order issued August 18, 1980.

[7] *See* Docket No. ER80-58 and consolidated Docket Nos. ER80-65, ER 80-160 (Florida Power Corporation), ER80-243 (Jacksonville Electric Authority), ER80-262 (Florida Power and Light Company), ER80-343 (Savannah Electric and Power Company), ER80-415 (Mississippi Power and Light Company) and ER 80-466 (Crisp County Power Commission). AEC was granted leave to intervene in Docket No. ER80-58.

[8] Order issued February 12, 1980.

[9] We note that the proposed agreement contains language providing for advance notice of rate changes to AEC and for the collection of changed rates under the formulas subject to refund, with interest, from the date upon which AEC challenges any such change. The procedural requirements imposed by this order are consistent with the procedures enunicated in several prior orders and, to the extent that they differ from the commitments expressed in the instant submittal, they shall nonetheless be applied to Alabama.

I—Methodology to determine rate for Transmission Service.
(4) Supplement No. 3 to R.S. FERC No. 145—Exhibit B—Methodology for determining adder for Emergency Service.
(5) Supplement No. 4 to R.S. FERC No. 145—Exhibit C—Methodology for determining Short-Term Power Rate.
(6) Supplement No. 5 to R.S. FERC No. 145—Exhibit E—Definitions of Incremental and Decremental Costs for Economy Interchange Service.
(7) Supplement No. 6 to R.S. FERC No. 145—Specified rates for Transmission Service for 1980.
(8) Supplement No. 7 to R.S. FERC No. 145—Specified rate for Emergency Service adder for year 1980.
(9) Supplement No. 8 to R.S. FERC No. 145—Specified rate for Short-Term Power for year 1980.
(10) Supplement No. 9 to R.S. FERC No. 145—Exhibit A—Determination of Capacity Resources.
(11) Exhibit A to R.S. FERC No. 145—Exhibit D—Methodology for determining Short-Term Power Rate from Cooperative to Company.
(12) Exhibit B to R.S. FERC No. 145—Specified rate for Short-Term Power from Cooperative to Company.

The Commission orders:

(A) Alabama's request for waiver of the Commission's notice requirements is hereby granted.

(B) The formulas for emergency assistance, short-term power, and transmission service contained in the proposed superseding interchange agreement, and the rates applicable to those services during the calendar year 1980, are hereby accepted for filing and suspended for one day from the proposed effective date to become effective June 2, 1980, subject to refund.

(C) The proposed rates for economy interchange service are hereby accepted for filing, to become effective June 1, 1980.

(D) We hereby grant waiver of the full filing requirements contained in Section 35.13 of the regulations for future changes in capacity charges made in accordance with the formulas filed herein on the condition that Alabama agrees to collect any increased charges under the formulas subject to refund pending Commission investigation. Alabama shall file any changes in capacity charges under the formulas with the Commission within 60 days before their proposed effective dates.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates and formulas proposed by Alabama in this docket.

(F) This proceeding is hereby consolidated with Docket Nos. ER80-58, ER80-65, ER80-160, ER80-243, ER80-262, ER80-343, ER80-415, and ER80-466 for purposes of hearing and decision.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27832 Filed 9-9-80, 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-508]

Boston Edison Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: August 29, 1980.

On July 2, 1980, Boston Edison Company (Edison) submitted for filing a proposed increased in rates[1] for its three full requirements customers[2] and one contract demand customer.[3]

Edison currently serves its full requirements customers under settlement rates that the Commission accepted for filing by letter order dated June 26, 1980, in Docket No. ER79-216. The current contract demand rates were submitted for filing in Docket No. ER79-217, and were accepted pursuant to a settlement agreement approved by letter order issued August 14, 1980. Edison's proposed rate increase for full requirements service would increase revenues based on the calendar 1980 test year by approximately $2,093,093 (8.04%). The proposed increase in contract demand rates would increase revenues based on the same test period by approximately $745,584 (6.0%).

Edison has requested that the proposed rates be granted an "effective" date of September 1, 1980, but that the rates be suspended for one month until October 1, 1980. The request for suspension was made by Edison pursuant to the provisions of the settlement agreement in Docket No. ER79-216.[4]

Notice of Edison's filing was issued on July 8, 1980, with responses due on or before August 1, 1980. By notice issued August 1, 1980, the Commission granted a request to extend the response date until August 11, 1980. On August 1, 1980, a petition to intervene and protest was filed by the Town of Reading, Massachusetts (Reading), Edison's only contract demand customer. Reading asserts that Edison is seeking an unprecedented rate of return of 16% on common equity, and that Edison has not furnished any workpapers or explanation to support the fuel costs in its Period II forecasts. In addition, Reading contends that Edison's filing does not explain the basis on which the contract demand cost of service is segregated into customer, commodity, and capacity requirements. Finally, Reading complains that the workpapers that Edison has provided are not adequately explained by the prepared testimony submitted with the filing. Reading concludes by requesting that the Commission defer acceptance of Edison's submittal for filing until the purported filing deficiencies are cured, and that the Commission set the rate of return issue for expedited hearing.

On August 11, 1980, the Towns of Concord, Norwood, and Wellesley Massachusetts (Towns) filed a joint protest, petition to intervene and motion to reject Edison's filing. According to the Towns, Edison's filing does not include sufficient explanations, supporting papers, or explanatory testimony to permit a proper evaluation of the filing. The Towns further assert that Edison's proposed rate of return is excessive, and that Edison's claim for a cash working capital based upon the forty-five day formula is improper. Additionally, the Towns challenge Edison's continued use of the "net change" method of computing deferred taxes for ratemaking purposes. The Towns also allege that a comparison of Edison's proposed wholesale rates with its current retail rates indicates that approval of the proposed wholesale rates would create a price squeeze.

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[1] See attachment A for rate schedule designations.

[2] Concord, Norwood, and Wellesley, Massachusetts.

[3] Reading, Massachusetts.

[4] Under the terms of the settlement agreement accepted for filing in Docket No. ER79-216, Edison is precluded from increasing its full requirements rates until either (1) October 1, 1980, or (2) the effective date of an Edison retail rate increase, whichever occurs later. Edison has recently filed a retail rate increase which is expected to become effective not later than October 1, 1980. In addition, the settlement provides that "it is understood, however, that Edison may submit for filing a proposed wholesale rate increase and request a proposed effective date that precedes October 1, 1980; provided that Edison will request suspension of the proposed increase until October 1, 1980 * * * " Consistent with the settlement moratorium provision, Edison does not seek to collect the revised full requirements rates until October 1, 1980. No such moratorium applies under Edison's contract demand rate schedule. However, Edison has requested similar treatment of its proposed increase in the contract demand rate.

Discussion

Our review reveals that Edison's submittal substantially complies with the Commission's filing requirements. Consequently, we shall deny the Towns' motion to reject the filing and Reading' request to defer acceptance of the filing.

However, our analysis also indicates that neither the full requirements rates nor the contract demand rates proposed by Edison have been shown to be just and reasonable, and that they may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it used to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[5] We have done this as a predicate to our action on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[6] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the bases of the filings before it that Edison's tendered rates are just and reasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on February 1, 1981.[7]

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

As noted above, the Towns have stated that the proposed wholesale rates could create a price squeeze. In accordance with the policy expressed in *Arkansas Power & Light Co.*, Docket No. ER79–339 (Aug. 6, 1979), we will phase the price squeeze issue raised by the Towns. As we have noted on a number of occasions, such a procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

We find that participation in this proceeding by Reading and the Towns may be in the public interest. Accordingly, we shall grant the petitions to intervene. The substantive issues raised in the pleadings may be addressed at the hearing to be ordered below. We do not believe that it is necessary to sever the rate of return issue for expedited consideration as requested by Reading.

The Commission orders:

(A) The Towns' motion to reject Edison's submittal and Reading's request to defer acceptance of the filing are hereby denied.

(B) Edison's proposed full requirements and contract demand rates are hereby accepted for filing and suspended for five months to become effective, subject to refund, on February 1, 1981.

(C) The petitions to intervene are hereby granted subject to the rules and regulations of the Commission; *Provided, however*, that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further*, that the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act, and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of Edison's proposed rates.

(E) The Commission stafff shall serve top sheets in this proceeding on or before November 12, 1980.

Boston Edison Co., Docket No. ER80–508

Dated: Undated.
Filed: July 2, 1980.

Designations and Descriptions

(1) Supplement No. 6 to Rate Schedule FPC No. 47 (Supersedes Supplement No. 4)—Town of Concord, Massachusetts, Rate S–6 (all requirements service).
(2) Supplement No. 5 to Rate Schedule FPC No. 48 (Supersedes Supplement No. 4)—Town of Norwood, Massachusetts, Rate S–6 (all requirements service).
(3) Supplement No. 6 to Rate Schedule FPC No. 51 (Supersedes Supplement No. 4)—Town of Wellesley, Massachusetts, Rate S–6 (all requirements service).
(4) Third Revised Sheet No. 1 and Second Revised Sheet Nos. 2 and 3 to Exhibit B of FPC Electric Tariff, Original Volume No. 1 (Supersedes Second Revised Sheet No. 1 and First Revised Sheet Nos. 2 and 3)—Town of Reading, Massachusetts, Rate CD.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) We hereby order initiation of price squeeze procedures and further order that this proceeding shall be phased so

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[5] *Connecticut Light and Power Co.* v. *F.E.R.C.*, No. 78–2012, ——— F. 2d ——— (D.C Cir. May 30, 1980).

[6] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[7] We construe the language in Edison's full requirements settlement agreement (*see* footnote 4, *supra*) as enabling Edison to propose an effective date prior to October 1, 1980, so long as it consents to a suspension period that would prevent the rates from becoming effective before that date. Thus, we consider the company's September 1, 1980 proposed "effective" date to be consistent with the settlement agreement and we shall suspend for five months from that date.

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that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in Section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27833 Filed 9-9-80; 8:45 am]

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[Docket No. ER80-492]

Idaho Power Corp.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Intervention, and Establishing Hearing Procedures

Issued: August 29, 1980.

On June 27, 1980, Idaho Power Company (Idaho) submitted for filing a proposed rate increase to one of its wholesale customers, CP National Corporation (CP National).[1] Based on a calendar 1980 test year, the proposed rates would produce additional revenues of approximately $5,967,135 (89%).[2] Idaho requests that the rates be made effective on September 1, 1980.

Notice of Idaho's filing was issued on July 2, 1980, with responses due on or before July 25, 1980. Timely notices of intervention were filed by the Idaho Public Utility Commission on July 16, 1980, and by the Public Utility Commissioner of Oregon on July 22, 1980. Neither notice raised any substantive issues with regard to Idaho's submittal.

On July 25, 1980, CP National filed a petition to intervene and requested that the proposed rates be suspended for five months and set for investigation. CP National alleges that the rates may be unjust and unreasonable but does not identify any specific objections to Idaho's submittals.

Discussion

We find that participation in this proceeding by CP National may be in the public interest. Therefore, we shall grant the petition to intervene. The timely-filed notices of intervention submitted by the Idaho Public Utility Commission and the Public Utility Commissioner of Oregon are sufficient to initiate their participation as intervenors.

Our preliminary analysis indicates that Idaho's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.[3] Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that Idaho's tendered rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on February 1, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

The Commission orders:

(A) The rate changes submitted by Idaho in this docket are hereby accepted for filing and suspended for five months from the proposed effective date to become effective February 1, 1981, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held to determine the justness and reasonableness of the proposed rates.

(C) CP National is hereby permitted to intervene in this proceeding; *Provided, however,* that its participation shall be limited to the allegations as set forth in its petition to intervene and *provided, further,* that the admission of CP National shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered by the Commission in this proceeding.

(D) The Commission staff shall serve top sheets in this proceeding on or before November 3, 1980.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish all procedural dates and to rule on all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

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[1] See Attachment A for rate schedule designations.

[2] CP National is a public utility providing service in California, Oregon, Nevada, Utah and Arizona. It sells electric capacity and energy at retail in Eastern Oregon and in Elko, Nevada. It purchases all the capacity and energy for these sales from Idaho Power. The proposed rate changes would increase the rates for CP National's Eastern Oregon operations by $5,228,218 (92%) and the rates for the Elko operations by $678,917 (72%).

[3] Idaho has allocated demand related costs using the demands coincident with the 12 monthly system peaks for the year 1980. While we now do not express an opinion as to the reasonableness of the 12–CP method in this case, we note that the method differs from that found to be appropriate in an earlier Idaho rate case. *See* Opinion No. 13, issued May 4, 1978, in Docket Nos. ER76–469 and ER76–508 (3–CP method).

[4] *Connecticut Light and Power Company* v. *F.E.R.C., ——— F. 2d ——— (D.C. Cir. May 30, 1980).*

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Idaho Power Company, Docket No. ER80-492, Rate Schedule Designations

Designations and Other Party

(1) Supplement No. 5 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 4 to Rate Schedule FPC No. 57)—CP National-Oregon.

(2) Supplement No. 4 to Supplement No. 1 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 3 to Supplement No. 1 to Rate Schedule FPC No. 30)—CP National-Nevada.

[FR Doc. 80-27834 Filed 9-9-80, 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-689]

Iowa Southern Utilities Co.; Filing

August 29, 1980.

Take notice that Iowa Southern Utilities Company (Iowa Southern) on August 15, 1980, tendered for filing a unilateral amendment to the Interchange Agreement date December 27, 1965 between Iowa Southern and Union Electric Company.

Iowa Southern indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 19, 1980. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27835 Filed 9-9-80, 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-690]

Kansas Power & Light Co.; Filing

August 29, 1980.

Take notice that on August 25, 1980 the Kansas Power and Light Company (KPL) tendered for filing a notice of cancellation of Service Schedule B dated March 2, 1964, designated FPC Rate Schedule No. 72 between KPL and Central Telephone & Utilities Corporation.

KPL indicates that this cancellation is to be effective as of August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 22, 1980. Protestants will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27836 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-261]

Mississippi Power & Light Co.; Order Granting Intervention and Directing Appointment of Settlement Judge

Issued: August 29, 1980.

Procedural History

On February 29, 1980, Mississippi Power and Light Company (MPL) submitted for filing an unexecuted interconnection agreement between MPL and Gulf States Utilities (GSU) in order to provide for transmission service from the City of Lafayette, Louisiana (Lafayette) to the Cities of Clarksdale and Greenwood, Mississippi (Cities). Notice of MPL's filing was issued on March 6, 1980,[1] with comments due on or before March 28, 1980. The Cities filed a petition to intervene on March 28, 1980.

On July 23, 1980, the Municipal Energy Agency of Mississippi (MEAM) and Cities filed a request for the appointment of a settlement judge and immediate convocation of a settlement conference. In their request, MEAM and Cities state that as part of a previous settlement agreement in Docket Nos. ER78-583 and ER78-584,[2] MPL assured MEAM that an agreement would be negotiated with GSU to permit a transaction between MEAM members and Lafayette. No such agreement between MPL and GSU has been reached. However, MEAM and Cities cite a letter from MPL to the Nuclear Regulatory Commission which, according to MEAM and Cities, indicates that MPL is prepared to commence transmission service to Cities even in the absense of an agreement between MPL and GSU. MEAM and Cities further state their understanding that GSU is willing to sign an interconnection agreement so long as service and rate schedules are incorporated, and that MPL is willing to execute an interconnection agreement so long as it is not bound to accept service under GSU's service schedules or to offer services to GSU that would be inconsistent with previous arrangements. Under these circumstances, MEAM and Cities believe that both MPL and GSU agree that transmission service should be provided from Lafayette to Cities. Nonetheless, no such service has yet been provided. Since MPL and GSU apparently agree in prinicple that transmission service should be made available to Cities, MEAM and Cities believe that appointment of a settlement judge would facilitate resolution of the remaining differences between the two utilities.

On July 31, 1980, MPL filed an answer in support of the request by MEAM and Cities. In its answer, MPL concurs in the request for appointment of a settlement judge and states that it has repeatedly expressed its willingness to assist in facilitating the proposed transmission of power from Lafayette to Cities.

Discussion

We have yet to issue an order in this proceeding.[3] Consequently, we have

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[1] 45 FR 16322 (1980).

[2] The settlement agreement in Docket Nos. ER78-583 and ER78-584 was accepted by the Commission on December 4, 1979.

[3] By letter dated April 14, 1980, MPL was advised that its filing in this docket was deficient. Following several written communications, MPL submitted a letter on June 23, 1980, requesting that further action in this docket be deferred. MPL explained that it

Footnotes continued on next page

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not yet acted upon the petition to intervene filed by Cities. Since Cities have a direct interest in this proceeding, we find that their participation may be in the public interest and we shall therefore grant their petition to intervene. Granting intervenor status at this time will preserve the rights of Cities to participate fully as parties in settlement discussions.

We have recently amended our rules concerning settlement conferences and procedures. 45 FR 45902 (1980) (amending 18 CFR 1.18). The purpose of the amendments was to promote and encourage the settlement process by making available a supplemental procedure which may be employed when the Commission or the Chief Administrative Law Judge believes that the prospects for settling a particular case would be enhanced. *Id.* Specifically, we established an optional procedure under which an administrative law judge other than the judge who will preside at hearing (designated as a settlement judge) may be appointed to facilitate settlement. Where, as here, the case has not yet been set for hearing, a motion requesting the appointment of such a judge must be filed with the Commission. 18 CFR 1.18(g)(3)(i)(C).

We find that the prospects for settling the disputed issues in this case would be enhanced by appointing a settlement judge to convene a formal settlement conference. Accordingly we shall direct the Chief Administrative Law Judge to appoint a settlement judge. 18 CFR 1.18(g)(4).

The Commission orders: (A) Cities are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission, *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petition to intervene; and *provided, further,* that the admission of any intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(B) The motion of MEAM and Cities requesting appointment of a settlement judge is hereby granted.

(C) Pursuant to §1.18(g) of the Commission's regulations, the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within twenty (20) days of the issuance of this order. The designated settlement judge shall have all powers and duties enumerated in § 1.18(g)(7) of the regulations and shall convene an initial settlement conference as soon as practicable for the participants.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27837 Filed 9-9-80; 8:45 am]

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Footnotes continued from last page

had advised Cities of its willingness to commence transmission service under existing interconnection agreements with Cities, and that such transmission service could possible be accomplished without an MPL/CSU interceonnection agreement.

[Docket No. ER80-511]

Niagara Mohawk Power Corp.; Order Accepting for Filing and Suspending Proposed Rates, Granting Interventions, Consolidating Certain Dockets, Waiving Notice and Certain Filing Requirements, Imposing Subsequent Filing Requirements, and Establishing Hearing Procedures

Issued: August 29, 1980.

On July 1, 1980, Niagara Mohawk Power Corporation (Niagara) submitted for filing in this docket a proposed reduction in the rates currently being charged, subject to refund, for transmission service to the Village of Lake Placid, New York (Lake Placid).[1] Pursuant to current agreements, the Power Authority of the State of New York (PASNY) sells hydroelectric power to Lake Placid. That power is wheeled to Lake Placid over the facilities of Niagara, pursuant to Contracts NS-1 and S-6 between Niagara and PASNY. The transmission rate charged by Niagara is negotiated with, and paid by, PASNY. PASNY is then reimbursed by Lake Placid.

On July 31, 1979, Niagara Mohawk tendered for filing in Docket Nos. ER79-559 and ER79-560, a proposed agreement with PASNY to increase Niagara's transmission rates to all NS-1 and S-6 customers. By order issued on April 2, 1980, the Commission determined that the filing was deficient since Niagara had failed to demonstrate that it had obtained the agreement of PASNY to the proposed rates, as is required by law.[2]

Subsequently, on December 3, 1979, Niagara submitted for filing in Docket No. ER80-116, a revised transmission rate for service to Lake Placid. According to PASNY's petition to intervene in the present proceeding,[3] Lake Placid agreed to pay the increased rate proposed by Niagara in exchange for Niagara's consent to build a transmission line from Niagara's facilities to Lake Placid. The transmission line was intended to allow Niagara to provide increased capacity to Lake Placid for the 1980 Winter Olympic Games and to serve Lake Placid's other requirements. On April 2, 1980, the Commission accepted the proposed rate for filing, and allowed the rate to become effective as of November 28, 1979, subject to refund.[4]

Thereafter, on July 1, 1980, Niagara submitted the present rate reduction for filing. The instant submittal is intended to supersede the rates filed on December 3, 1979, in Docket No. ER80-116. Niagara proposes to collect its reduced rate as of July 1, 1980, and to refund to Lake Placid any amounts collected since November 28, 1979, under the rates filed in Docket No. ER80-116 that are in excess of the rates submitted in the present filing. In its submittal, Niagara has supported its proposed revised rates on the basis of projected data for the calendar year 1980. However, Niagara's filing does not contain certain required materials, including workpapers, supporting statements, or testimony.

Notice of Niagara's filing was issued on July 14, 1980, with comments due on or before August 4, 1980. On July 14, 1980, Lake Placid submitted a motion to consolidate the present proceeding with Docket Nos. ER79-559 and ER79-560. In support of its motion, Lake Placid states that the rates proposed in the present proceeding are the same as those being charged to other members of the Municipal Electrical Utilities Association of New York (MEUA) as a result of Niagara's filing in Docket Nos. ER79-559 and ER79-560.[5]

Niagara filed a response to Lake Placid's motion on July 28, 1980. Niagara does not object to Lake Placid's request for consolidation, and further moves to consolidate the present proceeding with Docket No. ER80-116. However, Niagara disputes Lake Placid's claim that, with the present filing, Lake Placid will be charged the same rates as other MEUA members for the same service. According to Niagara, neither PASNY nor the other MEUA members have approved the rates proposed in Docket Nos. ER79–559 and ER79–560. However, Niagara does acknowledge that the rates proposed in all three proceedings (Docket Nos. ER79–559 and ER79–560, Docket No. ER80–116, and the present proceeding) are identical, and that the technical issues are parallel. Yet Niagara notes that the resolution of the issues in Docket Nos. ER79–559 and ER79–560 depends upon PANSY's acceptance of the proposed rates, while this issue is not presented in the other proceedings.

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[1] Designated as: *Niagara Mohawk Power Corporation* Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 109.

[2] Niagara's filings in Docket Nos. ER79-559 and ER79-560 remain deficient pending PASNY's agreement to the proposed rates.

[3] PASNY is not a party to Docket No. ER80-116.

[4] The April 2 order also provided for incorporation by reference in Docket No. ER80-116 of the cost support submitted by Niagara in Docket Nos. ER79-559 and ER79-560.

[5] This assertion is a curious one in view of the fact that Docket Nos. ER79-559 and ER79-560 have been and remain deficient.

On August 1, 1980, Lake Placid filed a protest and petition to intervene in the present proceeding. In its pleading, Lake Placid states that it is a power supply customer of PASNY and a transmission customer of Niagara, and that its interests can not be adequately represented by any other party to this proceeding. On August 4, 1980, PASNY filed a petition to intervene, in which it asserts that Niagara's filing would have a direct effect upon PASNY and its municipal customers, and that PASNY has an interest in this proceeding which can not be adequately represented by any other party.

Discussion

We find that participation in this proceeding by Lake Placid and PASNY may be in the public interest. Accordingly, we shall grant the petitions to intervene.

Our analysis of Niagara's proposed rates indicates that they have not been shown to be just and reasonable, and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit had led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing compiles with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that the present filing represents a reduction in the rates that are currently in effect. Moreover, Niagara has agreed to refund the difference between the proposed rates and the currently effective rates since November 28, 1979. Accordingly, we believe we should exercise our discretion to suspend the rates for a nominal period. We construe Niagara's proposal to begin collecting its reduced rate as of July 1, 1980, and to refund any interim difference collected after November 28, 1979, as an implied request for waiver of the Commission's prior notice requirements and an effective date for the currently proposed rate of November 28, 1979. Under the circumstances, we shall grant this request so that the proposed reduced rates will be collected, subject to refund, as of November 28, 1979.

Because Docket Nos. ER80–116 and ER80–511 present common questions of law and fact, we shall consolidate those dockets for purposes of hearing and decision. Niagara has stated in its letter of transmittal that the company has submitted for consideration by PASNY the same transmission rate as that proposed in this proceeding for transmission service rendered by Niagara under its S–6 and NS–1 contracts with PASNY. Those transmission services are the subject of Docket Nos. ER79–559 and ER79–560. As indicated above, Niagara states that it has no objection to the consolidation of the instant docket with Docket Nos. ER79–559 and ER79–560. In any event, however, Niagara has consented to charging the same rates for transmission service to Lake Placid as those that may finally be determined in Docket Nos. ER79–559 and ER79–560. Consequently, litigation of the rate proposed in the instant docket may result in wasted effort if PASNY ultimately executes the agreement pending in Docket Nos. ER79–559 and ER79–560. However, we note again that Niagara's filings in Docket Nos. ER79–559 and ER79–560 are currently deficient with no indication of when the filings will be completed. In order to avoid the possibility of unnecessary duplication or waste of resources, on the part of all concerned, the proceedings in the instant docket will be held in abeyance for 120 days in order to give Niagara a reasonable opportunity to complete its filings in Docket Nos. ER79–559 and ER79–560. In the event that such filings are completed within the 120-day period, we shall consolidate the instant docket and Docket No. ER80–116 with the proceedings in Docket Nos. ER79–559 and ER79–560. However, if Niagara fails to complete its arrangement with PASNY and submit an appropriate filing within the 120-day period, we shall deny the request for consolidation of the instant docket and Docket No. ER80–116 with Docket Nos. ER79–559 and ER79–560.

We further note that Niagara's submittal, while based on calendar year 1980 data, does not contain Statements A through P for 1980 or the necessary workpapers and accompanying testimony as required by our regulations. Moreover, the use of a calendar year 1980 Period II test year in support of rates to become effective in November of 1979, is inconsistent with Section 35.13 of the regulations which require Period II to begin no later than the proposed effective date of the tendered rates.[8] In order to avail Lake Placid of the refunds which Niagara has agreed to provide and in an effort to avoid further delays associated with the subject transmission rates, we shall grant a temporary waiver of the filing requirements, but we shall further require Niagara to submit the requisite statements, workpapers and testimony

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[6] *Connecticut Light & Power Co.* v. *F.E.R.C.*, No. 78–2312, —— F. 2d —— (D.C. Cir. May 30, 1980).

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[8] It is pertinent to observe that a 1980 Period II would not be prohibited in this instance under the revised filing regulations set forth in Docket No. RM79–64, order issued June 27, 1980. The revisions *inter alia*, permit Period II to begin no later than three months from the proposed effective date of a rate change.

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for the 1980 test period within 120 days of the issuance of this order in the event that Niagara's filing in Docket Nos. ER79-559 and ER79-560 are not completed by that time.

The Commission orders: (A) The prior notice requirement of the Commission's regulations is hereby waived.

(B) The existing requirement of section 35.13 of the Commission's regulations providing that Period II must commence no later than the filing utility's proposed effective date is hereby waived.

(C) The filing requirements of section 35.13 of the Commission's regulations are hereby waived subject to the condition imposed by paragraph (F) below.

(D) The rates proposed by Niagara in this docket are hereby accepted for filing and suspended to become effective subject to refund on November 28, 1979.

(E) Within thirty (30) days of the issuance of this order, Niagara shall refund to Lake Placid, with interest computed in accordance with section 35.19a of the regulations, all amounts collected in excess of the rates proposed in this docket since November 28, 1979.

(F) In the event that Niagara does not complete its filings in Docket Nos. ER79-559 and ER79-560 within 120 days from the issuance of this of this order, Niagara shall file, within such 120 days, cost of service Statements A through P for the 1980 test period, together with workpapers supporting the 1980 data, and case-in-chief testimony.

(G) The motion to consolidate Docket Nos. ER80-116 and ER80-511 is hereby granted.

(H) Action on the motion for consolidation of Docket Nos. ER80-116 and ER80-511 with Docket Nos. ER79-559 and ER79-560 is hereby deferred. In the event that Niagara completes its filings in Docket Nos. ER79-559 and ER79-560 within 120 days of the issuance of this order, Docket Nos. ER80-116 and ER80-511 will be consolidated with Docket Nos. ER79-559 and ER789-560.

(I) The petitions of Lake Placid and PASNY to intervene are hereby granted subject to the rules and regulations of the Commission; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(J) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act, and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of Niagara's proposed rates.

(K) Pending further order of the Commission, the proceedings in this docket shall be held in abeyance for 120 days following the issuance of this order.

(L) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27836 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1846]

Herbert W. Sears; Notice of Filing

August 29, 1980.

Take notice that on August 19, 1980, Herbert W. Sears (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, The Connecticut Light and Power Company, Public Utility.
Senior Vice President, The Hartford Electric Light Company, Public Utility.
Senior Vice President, Western Massachusetts Electric Company, Public Utility.
Senior Vice President, Holyoke Water Power Company, Public Utility.
Senior Vice President, Holyoke Power and Electric Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27839 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-205]

Southern California Edison Co.; Notice of Filing

August 29, 1980.

The filing company submits the following:

Take notice that on August 18, 1980, Southern California Edison Company (Edison) submitted for filing revised resale rate schedules. The instant filings have been made in order to correct errors made in Edison's compliance filings. The compliance filings were made pursuant to Commission Opinion No. 62-A.

Copies of this filing have been sent to the Public Utilities Commission of the State of California and to the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27840 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-113]

U.S. Geological Survey, New Mexico; Section 108 NGPA Determination; El Paso Natural Gas Co., Ballard No. 17 Well, FERC No. JD80-34000, USGS No. NM5213-79; Preliminary Finding

Issued: August 28, 1980.

On May 12, 1980, the United States Geological Survey in New Mexico (USGS) submitted to the Commission a notice of determination that the Ballard #17 well qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission's Regulations implementing that section. The Commission published notice of the determination in the **Federal Register** on June 3, 1980.

Section 108(b)(1) of the NGPA provides that in order for a well to qualify as a stripper natural gas well it must, *inter alia,* produce "nonassociated natural gas" at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. If the average production of natural gas per production day during such 90-day period is 30 Mcf or more but less than 50 Mcf, then, the natural gas produced is "nonassociated natural gas" as defined in § 271.803(b) of the Commission's regulations if the average crude oil production per day from that well does not exceed 2 barrels.

In this case, review of production records submitted with the notice of determination reveals that the Ballard #17 well produced an average of 42 Mcf of natural gas and 2.29 barrels of crude oil per production day during the 90-day production period upon which the determination was based (July–September, 1979). Pursuant to § 275.202(b), the 45-day Commission review period was tolled and USGS was requested to furnish an explanation of the basis for its determination. On July 29, 1980, the Commission received a reply from USGS which included a letter from El Paso Natural Gas Company. USGS stated that it had rounded off the 2.29 barrels of crude oil production to 2 barrels in finding that the natural gas involved is "nonassociated natural gas". USGS also indicated that its action in rounding off the 2.29 barrels of crude oil to 2 barrels was based upon the Commission's Order No. 44 (issued August 22, 1979). In Order No. 44 the Commission ruled that, for purposes of calculating the average volume of *natural gas* produced per day during the applicable 90-day production period, the figure reached should be rounded to the nearest whole number. In information submitted to the USGS, El Paso Natural Gas Company stated that the only rounding method set forth by the Commission in its NGPA regulations is found in Order No. 44 and that this method should be applied to both oil and gas production.

Section 271.803(b) of the Commission's regulations clearly provides for a 2 barrel crude oil production limit in the present case. Moreover, § 271.803(b) does not provide for an exception where the crude oil production rounds off to the 2 barrel limit. However, in determining whether crude oil production exceeded the applicable limit prescribed by § 271.803(b) of the Commission's regulations, the Commission, in Docket No. GP80-47, rounded off the production to the first nearest deicmal. In that case, the Commission issued a preliminary finding on October 26, 1979, that the estimated 2.08 barrels of crude oil production exceeded the applicable 2 barrel limit. However, the record in that Docket was supplemented with additional information which established that the actual crude oil production was 2.03 barrels. Thereafter, the Commission issued a final finding on February 22, 1980, which held that the 2.03 barrels did not exceed the 2 barrel limit, and upheld the section 108 determination.

The Commission will continue to round off crude oil production to the nearest decimal for the purposes of determining whether such crude oil production exceeds the applicable limit prescribed by § 271.803(b) of the Commission's regulations. For example, where the applicable limit is 2 barrels and the crude oil production rounds off to 2.1 barrels or more, the limit has been exceeded. If however, the crude oil production is less than 2.05 barrels the 2 barrel limit will not have been exceeded.

In the present case, the 2.29 barrels of crude oil production rounded off to the first decimal is 2.3 barrels. Since the 2.3 barrels of crude oil production exceeds the 2 barrel limit allowed by § 271.803(b) of the Commission's regulations, the natural gas produced from the Ballard #17 well is not "nonassociated natural gas" as required by section 108 of the NGPA.

Accordingly, the Commission finds that there is not substantial evidence to support the determination that the Ballard #17 well qualifies as a section 108 stripper well.

The Commission Finds: On the basis of the record submitted with this determination the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determination submitted by USGS that the Ballard #17 well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27841 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Consent Order Funds; Solicitation of Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) solicits comments on the manner in which Consent Order funds under the control of the DOE should be distributed. The Consent Orders were entered into between the DOE and the following firms or individuals (the amount of funds available for distribution is indicated in parentheses): Continental Oil Company, now Conoco, Inc. ($2,000,000), Albert B. Alkek ($3,240,000), Jack E. Guenther ($841,528.26), Vickers energy Corporation ($2,850,000), The Coastal Corporation ($9,000,000), and Standard Oil Company (Indiana) ($71,000,000). The present proceedings are occurring under 10 CFR Part 205, Subpart V.

DATE: Comments due on or before October 27, 1980.

ADDRESS: Send comments in duplicate to: Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, N.W., HG–20 M St., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: George B. Breznay, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N.W., HG–20 M St., Washington, D.C. 20461 (202) 653–3120.

SUPPLEMENTARY INFORMATION: Currently pending before the Office of Hearings and Appeals of the Department of Energy are six Petitions for the Implementation of Special Refund Procedures which the Office of Enforcement (OE) and the Office of Special Counsel for Compliance (OSC) of the Economic Regulatory Administration have filed pursuant to the provisions of 10 CFR Part 205, Subpart V. Those Petitions relate to Consent Orders which the DOE has entered into with four petroleum firms and two individuals. The circumstances surrounding the Consent Orders are described below.

Pursuant to the terms of the Consent Orders, the parties involved have delivered checks to the DOE for various amounts. Those funds are currently being held by the U.S. Department of Treasury or by private financial institutions pending the receipt of instructions from the DOE regarding their final disposition. On December 5, 1979 and August 21, 1980, the Office of Hearings and Appeals issued Decisions and Orders which accepted jurisdiction over these funds pursuant to the provisions of 10 CFR Part 205, Subpart V. See *Office of Enforcement (Panhandle), et al.,* 6 DOE ¶——, BFF-0003 (August 21, 1980); *Office of*

V 45 SE 10 80 UMI

Enforcement, Economic Regulatory Admin.: In the Matter of Albert B. Alkek; Vickers Energy Corp., 4 DOE ¶ 82,574 (1979).

The six Consent Orders in question involve Continental Oil Company, now Conoco, Inc. (Conoco), Albert B. Alkek (Alkek), Jack E. Guenther (Guenther), Vickers Energy Corporation (Vickers), The Coastal Corporation (Coastal), and Standard Oil Company (Indiana) (Amoco).

The Conoco Consent Order

The Conoco Consent Order was entered into between Conoco and the OSC on August 11, 1978. See 43 Fed. Reg. 38925 (August 31, 1978). The Consent Order resulted from an investigation initiated by the Federal Energy Administration in March 1977 and later continued by the DOE. The investigation was undertaken after representatives of Conoco informed the FEA that Conoco employees might have previously engaged in a scheme to sell motor gasoline and No. 2 heating oil at unlawful prices. The OSC investigation generally confirmed the information that had been provided by Conoco and further revealed that the purchasers of the products in question, Foremost Petroleum Company (Foremost) and M & A Petroleum Company (M & A), had voluntarily participated in the scheme.

After completing its investigation, the OSC referred the matter to the Department of Justice for investigation of possible criminal violations by Conoco, Foremost, and M & A. The three firms, the DOE, and the Department of Justice subsequently agreed to the following disposition of the pending proceedings: Conoco entered a plea of *nolo contendere* to a felony charge of making false records under 18 U.S.C. § 1001 and a misdemeanor count of violating Cost of Living Council regulations. It paid $15,000 in criminal fines. M & A entered a plea of *nolo contendere* to one felony count of violating 18 U.S.C. § 1001 and paid $10,000 in criminal fines. Foremost entered a plea of *nolo contendere* to one misdemeanor count of violating Cost of Living Council regulations and paid $5,000 in criminal penalties.

Conoco, M & A, and Foremost also agreed to separate Consent Orders with the DOE. In its Consent Order, Conoco agreed to tender a certified check for $2,000,000 to the United States Government. This payment was deemed to satisfy any administrative remedial action that might be sought by the DOE for the refund of overcharges by Conoco in sales of gasoline and No. 2 heating oil to M & A and Foremost during the period March 6, 1973 through November 30, 1973. Conoco and the DOE agreed in the Consent Order that the payment to the United States Government represented the most effective means of achieving restitution to any end-users injured by Conoco's allegedly unlawful practices.

In addition, the DOE agreed in the Consent Order to establish and administer a claims procedure to be followed by persons asserting a right to any portion of the payment which Conoco made to the United States. The Department stated that it would evaluate these claims and make refunds to persons who were able to prove that they had been overcharged. At the same time, Conoco agreed to cooperate with the DOE in the evaluation of these claims.

Finally, Conoco agreed to pay the United States an additional $985,000 in civil penalties in complete settlement of all administrative remedial actions that might be undertaken by the DOE against Conoco with regard to the matters described in the Consent Order.

In the other two Consent Orders, also executed on August 11, 1978, M & A and Foremost agreed to pay $40,000 and $45,000, respectively, in civil penalties in settlement of all administrative remedial actions that might be undertaken in connection with the transactions with Conoco. M & A and Foremost further agreed to waive all claims for refunds that they might have against Conoco with respect to the transactions involved.

On April 20, 1979, the OSC filed a Petition for the Implementation of Special Refund Procedures, Case No. DFF-0003. In its Petition, the OSC requests that the Office of Hearings and Appeals institute proceedings under the provisions of 10 C.F.R. Part 205, Subpart V, for the disposition and distribution of the $2,000,000 payment which Conoco made to the United States pursuant to the August 11, 1978 Consent Order.

The Alkek Consent Order

The Alkek Consent Order was entered into by Alkek and the OE on March 22, 1977. See 44 Fed. Reg. 24913 (April 27, 1979). The Consent Order was an integral part of the disposition of certain criminal and civil disputes involving Alkek as set forth in the Statement of Plea Bargaining and other documents filed on February 28, 1979 with the United States District Court for the Southern District of Texas in *United States* v. *Albert B. Alkek* (Crim. No. H-79-39). In the Statement of Plea Bargaining, Alkek agreed to plead quility to a Misprision of a Felony, a violation of 18 U.S.C. § 4. Alkek further agreed to pay $3,240,000 to the U.S. Government in full settlement of all civil liability arising out of specific transactions and events between Uni Oil, Inc. and M & A Petroleum Company during the period December 1, 1975 through July 1, 1977.

That payment was implemented through the March 22, 1979 Consent Order. On April 19, 1979, the OE filed a Petition for the Implementation of Special Refund Procedures, Case No. DFF-0002, requesting that the Alkek Consent Order funds be distributed pursuant to the provisions of 10 C.F.R. Part 205, Subpart V.

The Guenther Consent Order

On March 22, 1979, the United States District Court for the Southern District of Texas entered a Consent Order that had been agreed to by Guenther and the U.S. Government. *United States* v. *Jack E. Guenther,* Civil No. H-79-587. In the Consent Order, Guenther agreed to refund $841,528.26 in commissions that he had received in violation of the provisions of 10 C.F.R. § 210.62(c). Accordingly to the Consent Order, the refund is to be made by the payment of $100,000 to the DOE no later than March 28, 1979, and by the payment of $148,305.65 annually for five years commencing on March 28, 1980.

On May 14, 1979, the OE filed a Petition for the Implementation of Special Refund Procedures with respect to the Guenther Consent Order funds, Case No. DFF-0004.

The Vickers Consent Order

The Consent Order between Vickers and the OE, issued on May 11, 1979, settled all claims and disputes between the two parties with respect to prices charged by Vickers in sales of covered products other than crude oil during the period August 19, 1973 through March 1979. In the Consent Order, Vickers agreed to implement price reductions in retail sales of motor gasoline through its company-operated stations in order to accomplish a refund in the aggregate amount of $6,300,000. With respect to non-retail sales of motor gasoline and retail sales of gasoline through non-company-operated stations, Vickers agreed to pay into an interest-bearing escrow account a total of $2,850,000 in equal monthly installments over a two year period. Finally, Vickers agreed to reduce its banks of unrecouped increased product costs for motor gasoline by $14,000,000.

On September 5, 1977, the OE filed a Petition for the Implementation of Special Refund Procedures with respect to the $2,850,000 payment made by Vickers into the escrow account, Case No. DFF-0006.

The Coastal Consent Order

On January 11, 1980, the OSC entered into a Consent Order with Coastal and Holborn Oil Company Ltd. The Consent Order settled certain specified claims and disputes, including those arising from Coastal's sales of domestic crude oil to Coral Petroleum, Inc. (Coral) at prices allegedly in excess of those permitted under DOE regulations. Pursuant to the Consent Order, Coastal paid the DOE $9,000,000 in settlement of the allegation that Coastal overcharged Coral by that amount. In a separate Consent Order issued on January 11, 1980, Coral agreed to refund $9,000,000 to the DOE in three $3,000,000 installments over two years and to waive any claim for the refund of monies paid to Coastal in the transactions covered by the Consent Order.

On May 15, 1980, the OSC submitted a Petition for the Implementation of Special Refund Procedures with respect to the $9,000,000 payment made by Coastal to the DOE, Case No. BFF-0005.

The Amoco Consent Order

The OSC and Amoco entered into a Consent Order on February 14, 1980. The Consent Order settled all claims and disputes against Amoco by the DOE based on the DOE's audit of Amoco's compliance with federal petroleum price and allocation requirements during the period March 6, 1973 through December 31, 1979.

Pursuant to the Consent Order, Amoco agreed to deposit $71,000,000 into an escrow account whose funds can be distributed only by the DOE. In addition, Amoco agreed to make refunds in an aggregate amount up to $29,000,000 to purchasers of various middle distillate products in its commercial/consumer direct shipment and direct sales channels who take delivery in tank truck/tank car or larger delivery modes. To the extent that it initially refunds less than $29,000,000 in this manner, Amoco is to make direct refunds to purchasers or to deposit the remaining amount into the escrow account. Amoco also agreed in the Consent Order to reduce its banks of unrecovered increased motor gasoline and propane costs by a total of $180,000,000. Finally, Amoco agreed to make investments of $410,000,000 for new, expanded, or accelerated projects relating to the production of domestic crude oil and the development of a cat fed hydrotreating facility.

On July 18, 1980, the OSC filed a Petition for the Implementation of Special Refund Procedures with respect to the $71,000,000 that Amoco deposited into the escrow account, Case No BFF-0007.

Subpart V Proceedings

Subpart V of 10 C.F.R. Part 205 was implemented to establish special procedures pursuant to which refunds may be made to injured persons in order to remedy the effects of violations of DOE regulations. 10 C.F.R. § 205.280. Subpart V procedures may be requested by any DOE enforcement official upon a determination that the persons who are entitled to refunds to be remitted pursuant to a Remedial Order or a Consent Order cannot be readily identified or the amounts of refunds that such persons are entitled to receive cannot be readily determined. 10 C.F.R. § 205.281. After considering the request, the Office of Hearings and Appeals issues a Proposed Decision and Order which sets forth the standards and procedures to be applied in evaluating refund claims. After publication of the Proposed Decision and Order in the **Federal Register** and consideration of the comments submitted, the Office of Hearings and Appeals publishes a final Decision and Order. 10 C.F.R. § 205.282. Any funds that remain after refunds are distributed to successful applicants and after administrative expenses have been satisfied are to be deposited in the United States Treasury or distributed in any other manner specified in the final Decision and Order issued by the Office of Hearings and Appeals. 10 C.F.R. § 205.287.

In the present proceedings, there is reason to believe that it is not likely that the Office of Hearings and Appeals will be able to identify a substantial number of specific purchasers that are entitled to a portion of the Consent Order funds. For example, in the Conoco proceeding the only direct purchasers of allegedly overpriced petroleum products from Conoco have waived their rights to refunds. Moreover, there is no evidence that those purchasers increased their own prices to reflect the higher prices paid to Conoco. Furthermore, the OSC stated in its Petition for the Implementation of Special Refund Procedures that in view of the enormous number of sales and resales involved in the transactions described in the Consent Order and the relatively small sum paid by Conoco, consumers that might pursue claims for refunds would probably be entitled to minimal amounts, sometimes only a few cents.

Likewise, in the Coastal proceeding, the only purchaser that was allegedly overcharged by Coastal, Coral, waived any claim for a refund of monies. This prompted the OSC to state in its Petition for the Implementation of Special Refund Procedures that "[b]ecause of Coral's waiver and its $9 million payment, which could be refunded to its customers, there are no direct, identifiable claimants to the $9 million Coastal has paid DOE." OSC Petition at 2.

In the Vickers Consent Order, the OE stated:

> The matters resolved by this Consent Order, which primarily concern fundamental elements in a refiner's calculation of maximum allowable prices as defined in 10 C.F.R. § 212.82 may have affected many purchasers from Vickers. However, even if Vickers' positions on some of these matters were not sustained, the discretion that Vickers possessed as to the manner in which it could allocate its increased costs and determine its prices under the DOE petroleum price regulations would make it difficult for any particular purchaser to demonstrate actual legal injury in an ascertainable amount before a court.

Vickers Consent Order at 5–6. Similarly, we believe that purchasers from Vickers are not likely to be able to prove specific overcharges in the course of a Subpart V proceeding before the Office of Hearings and Appeals.

Finally, the Amoco Consent Order states:

> Even if the manner in which [Amoco] actually recognized costs and determined its prices during the period covered were found to have been improper in some respects under the federal petroleum price and allocation requirements, the discretion that [Amoco] possessed as to the manner in which it may allocate its increased costs, utilized its unrecovered (banked) costs, and determine its prices as a refiner under the federal petroleum price and allocation requirements make it most difficult for any purchaser to demonstrate actual legal injury, if any, in an ascertainable amount.

Amoco Consent Order at 7.

In view of these circumstances, it will be difficult to refund any of the Consent Order funds involved in these proceedings directly to particular purchasers of petroleum products. It therefore appears that alternative mechanisms for the distribution of the Consent Order funds may become essential and that the particular mechanisms chosen will be an important issue in these proceedings. See 10 CFR § 205.287. Accordingly, we are soliciting comments from the public prior to the issuance of a Proposed Decision and Order in these matters. We are particularly interested in receiving suggestions as to alternative distribution mechanisms for the Consent Order funds involved in these proceedings. Comments may be of a general nature or specific, offering concrete proposals to the extent possible.

In addition, we solicit comments regarding the manner in which the Office of Hearings and Appeals can most effectively locate and identify firms or individuals that may be entitled to a portion of the Consent Order funds as a result of having been charged unlawful prices in sales of covered products. These comments should address how best to strike an appropriate balance between the costs of administering an effective refund proceeding and the rights of overcharged customers to refunds.

All comments should be typewritten and submitted in duplicate to the address specified above on or before October 27, 1980. Copies of all comments will be placed in the Office of Hearings and Appeals Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C., and will be made available for public inspection Monday through Friday, except Federal holidays, between the hours of 1:00 p.m. and 5:00 p.m.

After considering the comments submitted, the Office of Hearings and Appeals will issue a Proposed Decision and Order in accordance with the provisions of 10 CFR § 205.282.

The CECA Proposal

The Office of Hearings and Appeals has already received one proposal for the distribution of a portion of the Consent Order funds. On April 9, 1980, twenty consumer and public interest groups, represented by common counsel, filed a Comment and Request with respect to the OSC Petition for the Implementation of Special Refund Procedures concerning the Conoco Consent Order funds. In their submission, the consumer and public interest groups (hereafter identified as "CECA," for "Consumer Energy Council of America," the first-named group in the submission) request that the Conoco Consent Order funds be used to provide the initial funding for an independent entity called the Public Energy Trust (the Trust). As proposed by CECA, the Consent Order funds and earnings from investment of those funds would be used for two purposes: (i) to repay individual consumers who are able to prove that they were overcharged by Conoco as a result of the activities described in the Consent Order, and (ii) to finance projects designed to assist consumers in coping with energy costs. CECA contemplates that the Trust would receive additional funding through other Consent Orders executed by the DOE and through other DOE administrative and judicial enforcement actions.

The OSC has filed comments in support of the CECA proposal that the Conoco Consent Order funds be used to establish a Public Energy Trust. The OSC states that the Trust approach represents a credible and cost-effective mechanism for ensuring that retail consumers of petroleum products, individually and collectively, receive appropriate benefits from the refunds resulting from DOE settlements with major refiners. In addition, the OSC has requested that the Coastal Consent Order funds be distributed through the Trust.

The CECA request may be viewed in the Office of Hearings and Appeals Public Docket Room, Case No. DFF-0003. Comments submitted pursuant to this Notice may also address the desirability of implementing the CECA proposal.

Issued in Washington, D.C., September 3, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 80-27767 Filed 9-9-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL; OPP 50501]

Extension of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an extension of an experimental use permit to the following applicant. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

677-EUP-19. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Avenue, Cleveland, OH 44114. This experimental use permit allows the use of the fungicides chlorothanlonil (1,022 pounds) and benomyl (245 pounds) on soybeans to evaluate control of anthracnose, downy mildew, Diaporthe pod and stem blight, frogeye leaf spot, purple seed stain, and Septoria brown spot. A total of 1,120 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Georgia, Illinois, Louisiana, Mississippi, and Texas. The experimental use permit is effective from July 24, 1980 to October 1, 1980. This permit is being issued with the limitation that: (1) An 18-month rotational corp restriction must be placed on the label; (2) A buffer zone of 240 feet must be maintained where endangered or threatened aquatic species could be exposed; and (3) The following label claims are added: "Do not use seed from treated soybean plants for food, feed or oil purposes" . . . and "seed from treated soybean plants may be used only as planting seed, otherwise it must be destroyed". (PM 21, Eugene Wilson, Rm. E-349, 202-755-1806).

Persons wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding this permit should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: August 29, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-27743 Filed 9-9-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1601-8]

Determination to Withdraw the Specification, Prohibit, Restrict, or Deny the Specification, or the Use for Specification, of an Area as a Disposal Site, Florida; Notice and Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and Notice of Public Hearing Notice No. 80 FL 404-003—September 8, 1980.

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq*) provides that, if the Administrator of the U.S. EPA determines that unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas would result from the discharge of dredged or fill material, he may exercise his authority to withdraw, restrict, or prohibit the defined area from specification as a disposal site. The procedures for implementation of 404(c) are set forth in 40 CFR 231 (44 FR 58076, October 9, 1979). This notice is being published in accordance with Section 231.3(2) by the Regional Administrator of Region IV.

Under Section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq*) any person who wishes to discharge dredged or fill material into the waters, including

wetlands, of the United States must first obtain a dredge or fill permit from the Secretary of the Army, acting through the Chief of Engineers.

On January 16, 1976 the Corps of Engineers Advertised public notice 75B-0869. The applicant was the Chief of North Miami, Florida, c/o Lawrence C. Casey, City Manager 776 N.E. 125th Street, North Miami, Florida 33161. The proposed project was located in Biscayne Bay and adjacent wetlands East of U.S. 1 and North of NE 135th Street, in Sections 21 and 22, Township 52 South; Range 42 East, North Miami, Dade County, Florida. The applicant sought authorization to place fill material into 291 acres for a public recreational facility consisting of a 36-hole golf course, tennis courts and clubhouse. Approximately 1,540,000 cubic yards of fill material were to be used to achieve sufficient elevation for the landscaping of golf courses and to prevent damage caused by flood tides. The minimum elevation within the area of the golf course was to be +4.0 Mean Sea Level (MSL). Within the project there were 8.2 acres of upland mangroves to be preserved and 3 shallow ponds with tidal connections.

The Jacksonville District Corps of Engineers issued permit No. 75B-0869, on March 15, 1976. This proposed determination would withdraw the specification of the area covered by the permit as a disposal site and thereby prohibit any further discharges of fill material into that area. In a companion action, EPA gave notice on August 1, 1980 (45 FR 51275) of its proposed determination to prohibit, or deny the specification, or the use for specification, of an additional 12 acres (proposed permit 77B-0376) at the same site covered by Corps of Engineers permit No. 75B-0869. On August 27, 1980, notice of public hearing was published (45 FR 57169) announcing a public hearing on permit No. 77B-0376. This notice serves as a notice of proposed determination and public hearing on permit No. 75B-0869. The public hearing will be a joint hearing to cover both permits since the permits involve the same party and site.

DATES: Hearings, 3:00-6:00 p.m. and 7:30-11:00 p.m., October 2, 1980, and, if necessary, during the same time periods on October 3, 1980.

ADDRESS: The public hearing will be held in the North Miami Beach Sr. High School Auditorium, 1247 N.E. 167th Street, North Miami Beach, Florida. Copies of all comments submitted in response to this notice, or the previous public notice of the proposed determination, will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at U.S. Environmental Protection Agency, Region IV, Enforcement Division, Legal Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365. The materials are maintained by the Record Clerk, Ms. Cheryn B. Jones.

FOR FURTHER INFORMATION CONTACT: Dr. Howard Marshall, Life Scientist, Ecological Review Branch, Enforcement Division, U.S. Environmental Protection Agency, Atlanta, Georgia 30365, (404) 881-2643.

SUPPLEMENTARY INFORMATION:

I. Background and Information

On March 15, 1976, the Jacksonville District Corps of Engineers issued permit No. 75B-0869. Prior to issuance of the permit, the City of North Miami had entered into an agreement with Munisport, Inc. to operate a solid waste disposal facility at the site and to construct the recreational complex upon the completed landfill. Munisport has operated a landfill upon the uplands at the site for several years.

Upon issuance of the Corps permit, Munisport expanded the landfill into the Corps permit area. Neither the Corps public notice nor the Corps permit referenced placement of solid waste (including garbage) into the Corps permit area. The general public and the Federal Environmental Review Agencies were not afforded an opportunity to comment on the impacts of the operation of a solid waste (garbage) disposal facility in the wetlands adjacent to Biscayne Bay. The procedural requirements of Section 404(b) of the Clean Water Act were not met because the District Engineer failed to consider the restrictions on contaminated fill as required by § 230.5(d) of the Environmental Protection Agency Regulations for the Discharge of Dreged or fill Material in Navigable Waters, published in the **Federal Register** on September 5, 1975.

It is not clear whether the Corps was aware that the area covered by permit 75B-0869 was to be used for solid waste disposal (garbage). An Environmental Assessment provided the Corps by the engineering firm of Post, Buckley, Schuh and Jernigan, Inc., 7500 N.W. 52nd Street, Miami, Florida 33166 did not reference placement of solid waste (garbage) in the disposal area, however, a complete description of the construction techniques for the placement of clean fill was provided. This environmental assessment further implied that issuance of the Corps permit would facilitate the termination of the upland solid waste disposal project. The water quality certification provided by the Corps to the State of Florida pursuant to Section 401 of the Federal Clean Water Act did reference the operation of a solid waste disposal facility in the permit area. The Corps transmitted neither the Environmental Assessment nor the Water Quality Certification to the Environmental Protection Agency for review prior to issuance of Permit 75B-0869. The Environmental Protection Agency was first notified of solid waste (garbage) disposal at the site on March 25, 1977, when the Corps issued a revised public notice (77B-0376).

Several million cubic yards of solid waste, including garbage, have been placed at the site since issuance of permit 75B-0869 on March 15, 1976. Wastes have been placed to a height of approximately 40′ above sea level over much of the site. Several lakes have been excavated to −35′ below sea level. Quantities of leachate containing ammonia in excess of 500 ppm have been observed flowing into one of the large lakes. The ammonia level in three of the lakes has ranged from 5-20 ppm and these high ammonia levels are evidence of gross contamination. The lakes constructed at the site are an integral part of the proposed recreation complex and could be a significant hazard for anyone coming into contact with the contaminated water within the lakes. The contaminated lakes will not provide a desirable habitat for balanced populations of fishes and invertebrates. These deep lakes penetrate the highly porous Miami oolite geologic structure. The direction of flow of ground water within the Miami oolite is southeast, toward Biscayne Bay. There are a number of excavations nearby in Biscayne Bay that penetrate the Miami oolite, therefore, there is a direct hydrological connection between the contaminated lakes and Biscayne Bay. High levels of ammonia have also been observed in the mangrove preserve adjacent to the disposal area. There is significant potential for continuing leachate pollution of the recreation lakes, mangrove areas and Biscayne Bay from the solid waste that has already been placed at this site.

On July 1, 1977 the Regional Administrator of EPA sent a letter to the Jacksonville Corps District Engineer detailing the engineering and environmental problems with permit 75B-0869. That letter recommended that permit 75B-0869 be immediately suspended and that proceedings be instituted to revoke the permit. EPA received no response to that request. On July 31, 1978 the Regional Administrator

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of EPA sent a letter to the Jacksonville Corps District Engineer proposing a number of engineering changes to alleviate some of the problems at the site but, again, no response was received. The Deputy Administrator of the Environmental Protection Agency, in an August 6, 1980, letter to Lieutenant General John W. Morris of the Corps of Engineers, again recommended that permit 75B–0869 be suspended. On August 28, 1980, the Regional Administrator notified the District Engineer of her intent to issue a public notice of a proposed determination to prohibit, restrict, or withdraw the specification, or deny the specification, or use for specification, of the area covered by permit 75B–0869 as a disposal site. If the final determination of the Administrator is issued, it will prevent or restrict, the subsequent discharge of waste or other fill material at this site.

The Environmental Protection Agency has developed predictive models regarding the production of organic acid leachate from solid waste disposal facilities. EPA models predict that the wastes disposed at the site will produce large quantities of leachate for many years. Continued Federal approval of permit 75B–0869 would allow the construction of seven additional deep lakes at the site (seven deep lakes have already been excavated). These lakes will be contaminated by the leachate moving through the porous underground strata from the existing contaminated lakes at the site. The continued authorization would also allow the addition of several more million cubic yards of solid waste (including garbage) to the disposal area located in waters of the United States that could also contaminate these lakes. Biscayne Bay, including adjacent mangrove areas, is an aquatic resource of national importance containing valuable shellfish and fisheries resources and has been designated as a State Aquatic Preserve. Recreational utilization of Biscayne Bay is also of significant value. Leachate contamination of Biscayne Bay, adjacent mangrove wetlands and the lakes could have an unacceptable adverse effect on shellfish beds and fishery areas (including spawning and breeding areas), wildlife, and recreational areas.

On August 1, 1980, the Environmental Protection Agency published (45 FR 51275) a proposed determination to prohibit, or deny the specification, or the use for specification, of an additional 12 acres, as a disposal site for the discharge of fill material that would be authorized by permit No. 77B–0376. This area is on the same site and is part of the same project. As a result, the hearing noticed on August 27, 1980 (45 FR 57169) for permit No. 77B–0376 and the hearing noticed today for permit No. 75–B0869 will be combined into one hearing.

II. Hearing Procedures

a. I, as Regional Administrator, or my designee, will be the Presiding Officer at the hearing.

b. Any person may appear at the hearing and submit oral or written statements and data and may be represented by counsel or other authorized representative. Any person may present written statements for the hearing file prior to the time the hearing file is closed to public submissions, and may present proposed findings and recommendations. The Presiding Officer shall afford the participants an opportunity for rebuttal.

c. The Presiding Officer will establish reasonable limits on the nature, amount or form of presentation of documentary material and oral presentations. No cross examination of any hearing participant shall be permitted, although the Presiding Officer may make appropriate inquiries of any such participant.

d. The hearing file will be open for submission of written comments until the close of business, October 15, 1980.

Dated: August 28, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80–27744 Filed 9–9–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1602–4]

Water Quality Standards, Navigable Waters of the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Notice of State water quality standards approval.

SUMMARY: The Environmental Protection Agency has approved the 1979 water quality standards revisions adopted by the Commonwealth of Kentucky.

FOR FURTHER INFORMATION CONTACT: Mr. R. F. McGhee, Water Quality Standards Coordinator, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404–257–4793).

SUPPLEMENTARY INFORMATION: On May 7, 1980, the Environmental Protection Agency approved Kentucky's water quality standards which were adopted by Kentucky's Department for Natural Resources and Environmental Protection on December 5, 1979. EPA's approval action was taken in accordance with the provisions of Section 303(c) of the Clean Water Act as the revisions adopted by Kentucky were judged consistent with the requirements of the Clean Water Act.

Kentucky's revisions included expansion of use designations to include all uses for all waters, specific requirements to accompany applications for designated use adjustments and variances, definition of mixing zone requirements, numeric toxic limits for aquatic life protection for eleven constituents in addition to general bioassay requirements, bacteriological criteria for primary contact recreation waters and secondary contact recreation waters, and a new use classification of Outstanding Resource Waters.

In reponse to these revisions, EPA is today also publishing a proposal to withdraw Federally promulgated water quality standards for Kentucky.

Copies of the Kentucky water quality standards can be obtained from the Kentucky Department for Natural Resources and Environmental Protection, Bureau of Environmental Protection, Division of Water Quality, 1065 U.S. 127 ByPass South, Frankfort, Kentucky 40601. Kentucky's water quality standards for purposes of Section 303(c) of the Clean Water Act consist of the following:

401 KAR 5:026. Classification of Waters

401 KAR 5:029. General Provisions

401 KAR 5:031. Surface Water Standards.

(Section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)))

Dated: August 18, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80–27774 Filed 9–9–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Citicorp, et al.; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 2, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (insurance activities; Maryland, Virginia, Delaware, Pennsylvania and the District of Columbia): to engage through its subsidiary Citicorp Financial, Inc. in the sale of credit life and credit accident and health insurance in connection with its credit card activities and in the sale of credit property insurance in connection with both its credit card and direct consumer lending activities. These activities woud be conducted from Citicorp Financial, Inc.'s approved office location in Towson, Maryland serving the states listed in the caption to this notice. It is also proposed that an additional limited purpose office in Glen Burnie, Maryland, will provide customer service, account adjustment and application acceptance functions in connection with these proposed new activities, and also in connection with the present activities of Citicorp Financial, Inc. relating to the purchase and servicing, for its own account or the account of others, of credit card accounts receivable.

2. Manufacturers Hanover Corporation, New York, New York (finance and insurance activities; Georgia): to engage in consumer finance and sales finance activities and in the sale of credit life, accident and health, and property and casualty insurance related to such lending activities. The application is for a relocation of previously approved activities from an office in Atlanta, Georgia, to an office in Mableton, Georgia, serving customers in Fulton, Cobb, and Douglas Counties, Georgia.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Continental Illinois Corporation, Chicago, Illinois (investment advisory activities; nationwide): to engage, through its subsidiary, Republic Realty Mortgage Corporation, in providing portfolio investment advice to other persons primarily for the investment of funds in real property interests, except where the real property is to be used in the trade or business of the person being advised. Such activities will be conducted from offices located in Chicago, Illinois; St. Louis, Missouri; Kansas City, Missouri; Atlanta, Georgia, and Wauwatosa, Wisconsin and the geographic area to be served is nationwide.

2. Millikin Bancshares, Inc., Decatur, Illinois (mortgage lending activities; Illinois and contiguous states): to engage, through Millikin Realty Financing Corp., in mortgage lending activities including acting as agent for the origination of loans and sale of loans to affiliated companies. Such activities will be conducted from an office in Decatur, Illinois, servicing the states of Illinois, Indiana, Iowa, Michigan, Kentucky and Wisconsin.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (finance and credit-related insurance activities; Kentucky): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life accident and health insurance and credit related property and casualty insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Lexington, Kentucky, serving the State of Kentucky.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27823 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

The Bridger Co.; Proposed Retention of General Insurance Agency

The Bridger Company, Wayzata, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to operate a general insurance agency.

Applicant proposes that it would continue to engage in the sale of general insurance in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Bridger, Montana, and the geographic areas to be served are Carbon County, Montana. Such activities have been specified by § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 3, 1980.

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Board of Governors of the Federal Reserve System, September 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27825 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

First Belmond BanCorporation; Formation of Bank Holding Company

First Belmond BanCorporation, Belmond, Iowa, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Belmond, Iowa. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27828 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

First Grand Prairie Bank Shares, Inc.; Formation of Bank Holding Company

First Grand Prairie Bank Shares, Inc., Grand Prairie, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of National Bank of Grand Prairie, Grand Prairie, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27829 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

Hutsonville Banc Corp.; Formation of Bank Holding Company

Hutsonville Banc Corp., Hutsonville, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants Bank of Hutsonville, Hutsonville, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27824 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

Northwestern Bank Corp.; Formation of Bank Holding Company

Northwestern Bank Corporation, East Jordan, Michigan, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Northwestern State Bank, East Jordan, Michigan. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27827 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

Orange Bancshares, Inc.; Formation of Bank Holding Company

Orange Bancshares, Inc., Orange, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Orange Bank, Orange, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27826 Filed 9-9-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

A Study of Consumer Response to the Availability of Advertised Specials; Invitation To Comment on Study

AGENCY: Federal Trade Commission.

ACTION: Invitation to the public to comment on the Study of Consumer

Response to the Availability of Advertised Specials.

SUMMARY: The Commission is requesting public comment with respect to a study, conducted for the Commission by Market Facts, Inc., describing consumer response to the availability of advertised food specials.

DATE: Written comments will be accepted until October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Richard C. Donohue, Federal Trade Commission, Room 272, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580, Telephone: 202/523-3913.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission has released a study conducted by Market Facts Inc., describing consumers' behavior and attitudes toward food store advertised specials. This study indicated the ways and extent in which consumers relied upon price advertised specials, their reactions to instances of unavailability, and the benefits that consumers believe they obtain from this trade regulation rule.

Invitation To Comment on Unavailability Study

Before the Commission determines what its current enforcement policy should be, it wants additional information bearing on availability of advertised food specials. The Commission, therefore, seeks comment on the study and its impact on the Commission's Trade Regulation Rule Concerning Retail Food Store Advertising and Marketing Practices, 16 CFR 424 (1979).

The Commission requests that persons commenting on the study and the trade regulation rule address the following questions in particular:

(1) Is there additional available information, reports, studies, etc. bearing on or relevant to unavailability, overpricing, or overcharging at retail grocery stores? (If yes, the Federal Trade Commission would appreciate receiving copies of such).

(2) What costs, if any, does compliance with the rule impose upon retail grocery stores that would not otherwise be incurred?

(3) Should the rule be kept as is, eliminated, modified, or broadened to include other retailers such as drugstores, department stores, etc.? What costs benefits and other ramifications would result from each suggested change?

Some specific modifications about which comment is requested are:

(a) A requirement that if an advertised item is unavailable, the store must provide a comparable item at the bargain price.

(b) A requirement that in lieu of achieving any pre-set level of availability, a store must be able to demonstrate that it has established procedures for ensuring availability that conform to pre-established standards.

(c) Establishment of specified tolerance levels for unavailability and specified criteria for measuring unavailability. What should such criteria be? Is the following audit procedure an acceptable means for measuring unavailability industrywide? The audit procedure is as follows:

(1) Data should be gathered by a source independent of the store manager.

(2) Probability sampling methods should be used in sampling stores, times within stores, and items.

(3) The sample size should be sufficient so that the sampling variance does not exceed a prespecified value.

(4) The procedures used should be specified in sufficient detail so that an evaluation of their adequacy is possible.

The above list is not intended to exhaust the modifications which are possible.

(4) What, if any, internal procedures are used by retail grocery store headquarters and regional management to ensure compliance with the trade regulation rule by individual retail store managers?

(5) What is the nature and extent of state regulation of unavailability of advertised items, not only in the food industry but in other retail industries as well? Is state regulation adequate to address the problems in this area or is complementary federal regulation also needed?

(6) What is the quantity of consumer complaints regarding unavailability at the state and local level? Do state or local officials view unavailability as a problem? Has any state or local government conducted investigations, brought enforcement or taken other action concerning unavailability?

(7) To what extent do costs to supermarkets vary depending on the level of unavailability achieved? What is the relative and absolute cost of ensuring that not more than 8 percent or 6 percent or 4 percent of advertised specials are unavailable during the period of a sale?

(8) Should the Commission develop a uniform raincheck policy as an addition or an alternative to the current trade regulation rule?

Written comments will be accepted until October 30, 1980. Comments may be mailed to: Richard C. Donohue, Federal Trade Commission, Room 272, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. A copy of the Study of Consumer Response to the Availability of Advertised Specials is available in Room 130 of the Federal Trade Commission at the above address. Copies will be sent upon request.

By direction of the Commission.

James A. Tobin,
Acting Secretary.

[FR Doc. 80-26918 Filed 9-9-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Annual Notice of Systems of Records

Correction

In FR Doc. 80-25712 appearing at page 57860 in the issue for Friday, August 29, 1980, the following change should be made: on page 57861, in the first column, above the bold face heading "SYSTEM NAME", the alphanumerical designation (GSA/Agency-1) for the system should appear.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Board of Scientific Counselors, NIDA; Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services of the following advisory committee:

Designation: Board of Scientific Counselors, NIDA.

Purpose: The Board is established to provide advice to the Secretary, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, through periodic visits to the intramural laboratories for assessment of both research in progress and new program directions, and evaluation of the productivity and performance of staff scientists.

Authority for this committee will expire on August 27, 1982, unless the Secretary formally determines that continuance is in the public interest.

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Dated: September 2, 1980.

Gerald L. Klerman, M.D.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-27756 Filed 9-9-80; 8:45 am]

BILLING CODE 4110-88-M

Research Working Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism; Meeting Change

In FR Doc. 80-25362 appearing on page 55821 in the issue of Thursday, August 21, 1980, the meeting of the Research Working Group scheduled for September 19, 1980 has been changed to September 18, 1980, in conference Room N, Parklawn Building.

Dated: September 4, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-27757 Filed 9-9-80, 8:45 am]

BILLING CODE 4110-88-M

Public Health Service, Health Resources Administration

Privacy Act of 1974; New System of Records

Correction

In FR Doc. 80-26614 appearing at page 58209 in the issue for Tuesday, September 2, 1980, the comment date was omitted. On page 58209, in the third column, the second complete paragraph should read:

"PHS invites interested persons to submit comments on the proposed routine uses on or before October 2, 1980."

BILLING CODE 1505-01-M

Social Security Administration

Privacy Act of 1974; Report of New Routine Uses and Minor Changes

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Notification of new routine uses and minor changes.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are proposing to establish new routine uses of information in several systems of records. The proposed routine uses will provide for disclosures to various Federal, State, and local agencies for assisting us in administering our programs and/or administering their own programs. See the "Supplementary Information" section below for specific information about the routine uses.

We are proposing also to make minor nonsubstantive changes to the systems as necessary. Exerpts from the following applicable systems appear with this notice:

(1) 09-60-0058, Master Files of Social Security Number, HHS/SSA/OEER;

(2) 09-60-0059, Earnings Recording and Self-Employment Income System, HHS/SSA/OEER;

(3) 09-60-0089, Claims Folders and Post-Adjudicative Records of Applicants for and Beneficiaries of Social Security Benefits, HHS/SSA/OCO;

(4) 09-60-0090, Master Beneficiary Record, HHS/SSA/OURV; and

(5) 09-60-0103, Supplemental Security Income Record, HHS/SSA/OURV.

We last published systems 09-60-0058, 09-60-0059, 09-60-0089, and 09-60-0090 in the **Federal Register** on December 7, 1979, Vol. 44, No. 237, pages 70571-70579. We last published system 09-60-0103 on January 11, 1980, Vol. 45, No. 8, pages 2401-2404.

We invite public comments on this proposal.

DATES: The proposed routine uses will become effective without further notice on October 10, 1980 unless we receive comments which would result in a contrary determination.

ADDRESS: Interested individuals, who wish, may address comments on this proposal to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. We will make comments received available for public inspection in Room 4212, West High Rise Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

1. For information about the routine use we are proposing to add to system 09-60-0058 regarding disclosure to third parties, contact Mr. Bernard Oehlers, Chief, Privacy Branch, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-6978.

2. For information about the routine use we are proposing to add to systems 09-60-0058 and 09-60-0059 regarding disclosure to Federal, State, or local agencies for validating social security numbers in administering their income or health maintenance programs, contact Mr. Robert Thomas, Chief, State Programs Interface Branch, Office of User Requirements and Validation, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 597-1835.

3. For information about the routine use we are proposing to add to systems 09-60-0090 and 09-60-0103 regarding disclosure to the Department of Education for the administration of student benefits and grants, contact Mr. John McHale, Acting Director, Office of User Requirements and Validation, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-6812.

4. For information about the routine uses we are proposing to add to system 09-60-0103 regarding disclosure to Federal, State, or local agencies for administering income or health maintenance programs, and disclosure to the United States Postal Service and the Treasury Department for investigating lost of stolen checks, contact Mr. Bernard Oehlers, Chief, Privacy Branch, Office of Regulations, Social Security Administration, 6401 Security Boulevard 21235, telephone (301) 594-6978.

5. For information about the routine we are proposing to add to systems 09-60-0058, 09-60-0059, 09-60-0089, and 09-60-0090 regarding disclosure to the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands, contact Mr. Joe Rausch, Senior Analyst, Office on International Policy, Social Security Administration, 112 Professional Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-1025.

SUPPLEMENTARY INFORMATION: We maintain information in the above-mentioned systems primarily for the purpose of administering various social security programs. The systems notices below contain specific information about the systems.

The Privacy Act allows us to disclose information without an individual's consent for "routine use", that is, disclosure for purposes which are compatible with the purpose for which we collected the information. We published a Notice of Proposed Rulemaking in the **Federal Register** on April 10, 1979, which sets out the criteria under which we will disclose information pursuant to a routine use. Basically, we will disclose information where necessary to carry out our programs and for use in other programs which have purposes similar to the purposes of our programs. We consider other programs similar to our programs when they deal with administering income or health maintenance programs, e.g., food stamps program, Aid to Families with Dependent Children program, Medicaid, and Medicare. In accordance with these criteria, we are proposing to add new routine uses to the systems below.

A. Systems Notices 09–600058, Master Files of Social Security Number Holders, HHS/SSA/OEER; 09–60–0059, Earnings Recording and Self-Employment Income System, HHS/SSA/OEER; 09–60–0089, Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Benefits, HHS/SSA/OCO; and 09–60–0090, Master Beneficiary Record, HHS/SSA/OURV.

1. We are proposing to modify a routine use currently published with these systems notices which provide for disclosure to the Department of State for administering the Social Security Act in foreign countries; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; and the American Institute on Taiwan for administering the Social Security Act on Taiwan to include a new user category. The new user category is the Department of Interior which we will disclose information to for the purpose of administering social security affairs in the Trust Territory of the Pacific Islands. We are proposing this new user category because of the lack of State Department representation in the Pacific Islands. The Department of Interior administers Federal affairs in the Trust Territory and has agreed to administer the Social Security Act for SSA in the Trust Territory. We will limit disclosures to that information needed to determine initial or continuing eligiblity for social security benefits and to administer those other provisions of the Social Security Act related to receipt of benefit payments. The proposed routine use is as follows:

> "Disclosure may be made to the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; the American Institute on Taiwan for administering the Social Security Act on Taiwan; and the Department of State for administering the Social Security Act in foreign countries; through facilities and services of these agencies."

B. Systems Notices 09–60–0058, Master Files of Social Security Number Holders, HHS/SSA/OEER and 09–60–0059, Earnings Recording and Self-Employment Income System, HHS/SSA/OEER.

1. In addition to the modification in A.1 above, we are proposing to add a routine use to these systems which will permit us to disclose information to various Federal, State, and local agencies for the purpose of validating social security numbers in administering their income or health maintenance programs. These agencies will use information in these systems to determine which individuals may be receiving benefits or services erroneously under incorrect social security numbers. This will assist them in combatting fraud and abuse in their programs. Accordingly, we are proposing the following routine use:

> "Disclosure may be made to Federal, State, or local agencies (or agents on their behalf) for the purpose of validating social security number used in administering cash or non-cash income maintenance or health maintenance programs."

2. In addition to the above routine use we are proposing to add another routine system 09–60–0058 which will permit us to disclose information to third parties for the purpose of verifying suspect documents pertaining to identity or status, e.g., birth certificates, drivers licenses, or citizenship papers. Such third parties could include the Immigration and Naturalization Service and other agencies or entities that may have originally issued the documents. The proposed routine use is as follows:

> "Disclosure may be made to third party contacts in situations where the party to be contacted has, or is expected to have, information which will verify documents pertaining to identity and/or status when the Social Security Administration is unable to determine if such documents are authentic."

C. Systems Notices 09–60–0090, Master Beneficiary Record, HHS/SSA/OURV and 09–60–0103, Supplemental Security Income Record, HHS/SSA/OURV.

1. Public Law 96–88, the Department of Education Organization Act, was enacted on October 17, 1979. This law created the Department of Education (ED), a new agency separate from the former Department of Health, Education, and Welfare (now the Department of Health and Human Services (DHHS).) Prior to enactment of the law, the Office of Education was a component of HEW (now HHS) and we disclosed information to that component on a need-to-know basis for the administration of student benefits and grants. Now that ED is a separate agency, we are proposing to adopt a routine use which will permit us to continue to provide DE with the data. The routine use is as follows:

> "Disclosure may be made to the Department of Education for determining the eligibility of applicants for Basic Educational Opportunity grants."

D. System Notice 09–60–0103, Supplemental Security Income Record, HHS/SSA/OURV.

In addition to the routine use in item C above, we are proposing to add three additional routine uses to system 09–60–0103.

1. The SSI payments an individual receives may affect his or her eligibility to, or amount of, benefits under an income or health maintenance program which may be administered by a Federal, State, or local agency. It is necessary in some instances for us to provide these agencies with information about an individual's eligibility to social security benefits or services in order that they may effectively administer their programs. Accordingly, we are proposing the following routine use:

> "Disclosure may be made to Federal, State, or local agencies (or agents on their behalf) for administering cash or non-cash income maintenance or health maintenance programs."

2. There are times when an individual's SSI check may become lost, stolen, or unlawfully negotiated. When this happens, it is necessary that we disclose information to the United States Postal Service and the Treasury Department so that they may investigate these cases. In the past, we disclosed the necessary information only with the consent of the subject individual. We are now proposing the following routine uses:

> "Disclosure may be made to the United States Postal Service for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks."
>
> "Disclosure may be made to the Treasury Department for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks."

In addition to proposing the above new routine uses, we are making nonsubstantive changes to the notices which will make them more complete. These changes will not alter the character of the notices in any manner.

We maintain records in the above systems manually and in automated form. We have established system security for the automated records in accordance with National Bureau of Standards guidelines and the Department's *ADP System Manual,* "Part 6, ADP System Security". This includes maintaining the automated records in an enclosure attended by security guards and issuing special badges to all personnel authorized to enter the secured area. We safeguard manual records by storing them in locked cabinets, limiting access to the records to personnel authorized to work with the records, and employing armed security guards at entrances and exits of building which house the records. The Privacy Act prescribes specific penalties

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for unauthorized disclosures and these provisions have been explained to all individuals working the records.

We have prepared the above routine uses in accordance with the principles and requirements of the Privacy Act, our Regulation No. 1 (20 CFR Part 401), and our proposed regulation, "Disclosure of Official Records About Individuals", **Federal Register** April 10, 1979, pages 21496–21502. Therefore, we anticipate no untoward effect on the privacy of individuals.

Dated: August 18, 1980.

William J. Driver,

Commissioner of Social Security.

09–60–0058

SYSTEM NAME:

Master files of Social Security Number Holders HHS SSA OEER.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Department of Interior for administering the Social Security Act in the Trust territory of the Pacific Islands; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; the American Institute on Taiwan for administering the Social Security Act on Taiwan; and the Department of State for administering the Social Security Act in foreign countries; through facilities and services of these agencies.

Disclosure may be made to Federal, State, or local agencies (or agents on their behalf) for the purpose of validating social security number used in administering cash or non-cash income maintenance of health maintenance programs.

Disclosure may be made to third party contacts in situations where the party to be contacted has, or is expected to have, information which will verify documents pertaining to identity and/or status when the Social Security Administration is unable to determine if such documents are authentic.

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09–60–0059

SYSTEM NAME:

Earnings Recording and Self-Employment Income System HHS SSA OEER.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; the American Institute on Taiwan for administering the Social Security Act on Taiwan; and the Department of State for administering the Social Security Act in foreign countries; through facilities and services of these agencies.

Disclosure may be made to Federal, State, or local agencies (or agents on their behelf) for the purpose of validating social security number used in administering cash or non-cash income maintenance or health maintenance programs.

* * * * *

09–60–0089

SYSTEM NAME:

Claims folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HHS SSA OCO.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; the American Institute on Taiwan for administering the Social Security Act on Taiwan; and the Department of State for administering the Social Security Act in foreign countries; through facilities and services of these agencies.

* * * * *

09–60–0090

SYSTEM NAME:

Master Beneficiary Record HHS SSA OURV.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands; the Veterans Administration, Regional Office, Philippines for administering the Social Security Act in the Philippines; the American Institute on Taiwan for administering the Social Security Act on Taiwan; and the Department of State for administering the Social Security Act in foreign countries; through facilities and services of these agencies.

Disclosure may be made to the Department of Education for determining the eligibility of applicants for Basic Educational Opportunity grants.

* * * * *

09–60–0103

SYSTEM NAME:

Supplemental Security Income Record HHS SSA OURV.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Department of Education for determining the eligibility of applicants for Basic Opportunity grants.

Disclosure may be made to Federal, State, or local agencies (or agents on their behalf) for administering cash or non-cash income maintenance or health maintenance programs.

Disclosre may be made to the United States Postal Service for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks.

Disclosre may be made to the Treasury Department for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks.

[FR Doc. 80–27787 9–9–80; 8:45 am]

BILLING CODE 4110–07–M

Privacy Act Of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Notification of new routine use.

SUMMARY: In accordance with 5 U.S.C. 552a(3)(11), we are proposing to add a new routine use to a number of notices of systems of records. The systems may contain, among other data, Internal Revenue Service (IRS) tax return data (for example, data derived from IRS income tax returns). The purpose of the proposed routine use is to allow IRS access to the systems to conduct an audit of SSA's compliance with the safeguard provisions of the Internal Revenue Code (IRC) of 1954, as amended. Excerpts from the applicable systems appear with this notice. We last published all of the systems, except systems 09–60–0103 and 09–60–0213, in

the **Federal Register** on October 9, 1979, Vol. 44, No. 196, Book 2 of 2, pages 58416–58492. We last published system 09–60–0103 on January 11, 1980, Vol 45, No. 8, pages 2401–2404 and system 09–60–0213 on April 2, 1980, Vol. 45, No 65, pages 21715–21717.

We invite public comments on this proposal.

DATES: The proposed new routine use will become effective October 10, 1980, without further notice, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals, who wish, may address comments on this proposal to the SSA Privacy Officer, Room 4212, West High Rise Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. Comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Bernard A Oehlers, Chief, Privacy Branch, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–6978.

SUPPLEMENTARY INFORMATION: We maintain IRS tax return data in many of our Privacy Act systems of records, primarily for determining prospective claimants' eligibility to social security benefits. In the majority of the systems, the tax return data is commingled with other SSA personal data. Although we maintain and use the tax return data when administering our programs, IRS maintains some control over the data.

Section 6103(p)(4) of the IRC requires us to establish safeguards to protect tax return data in our possession. IRS may periodically audit our maintenance of the data to determine if our safeguards comply with the law. These audits involve a review of the tax return data in our systems of records and the applicable safeguards. We are proposing to add the following routine use to the systems listed below to permit IRS access to the systems for the purpose of reviewing tax return data and applicable safeguards.

> "Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended."

The Privacy Act allows us to disclose information under a routine use when the information will be used for a purpose which is compatible with the purpose for which we collected the information. We published a Notice of Proposed Rulemaking in the **Federal Register** on April 10, 1979, which sets out the criteria under which we will disclose information pursuant to a routine use. Basically, we will disclose information where necessary to carry out our programs. Also, we will disclose information for use in other programs which have purposes similar to those of our own programs, or as required by law. Since the establishment of safeguards is a condition to our maintenance and use of tax return data for administering social secruity programs, we feel that the above routine use is appropriate.

We have prepared the proposed routine use in accordance with the principles and requirements of the Privacy Act, our Regulation No. 1 (20 CFR Part 401), and our proposed regulation, "Disclosure of Official Records About Individuals," **Federal Register**, April 10, 1979, pages 21496–21502. Therefore, we expect no unfavorable effect on the privacy rights of individuals.

Dated: August 22, 1980.

William J. Driver,

Commissioner of Social Security.

09–60–0003

SYSTEM NAME:

Hearing File and Attorney Fee File HHS SSA OHA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09–60–0004

SYSTEM NAME:

Appeals File HHS SSA OHA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09–60–0005

SYSTEM NAME:

Administrative Law Judge File HHS SSA OHA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09–60–0006

SYSTEM NAME:

Storage of Hearing Records: Tape Cassettes and Audiograph Discs HHS SSA OHA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09–60–0038

SYSTEM NAME:

Employee Identification Card Files (Building Passes) HHS SSA OA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09–60–0040

SYSTEM NAMES:

Quality Review System HHS SSA OMBP.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0042

SYSTEM NAME:

Quality Review Casefile HHS SSA OA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0050

SYSTEM NAME:

Completed Determination Record—Continuing Disability Determinations HHS SSA OCO.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0051

SYSTEM NAME:

Administrative Disallowance Records for Technical Denials HHS SSA OCO.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0060

SYSTEM NAME:

Correspondence File of the Office of Central Operations HHS SSA OCO.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

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Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0077

SYSTEM NAME:

Congressional Inquiry File HHS SSA ORC.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0078

SYSTEM NAME:

Public Inquiry Correspondence File HHS SSA ORC.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0080

SYSTEM NAME:

Problem Case File HHS SSA OURV.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0081

SYSTEM NAME:

Problem Case File (Supplement Security Income) HHS SSA ORC.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0089

SYSTEM NAME:

Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HHS SSA OCO.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0097

SYSTEM NAME:

Program Integrity Case Files HHS SSA OA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0103

SYSTEM NAME:

Supplemental Security Income Record HHS SSA OURV.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0128

SYSTEM NAME:

Retirement, Survivors and disability Insurance Claims Study HHS SSA OA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0129

SYSTEM NAME:

Adjudication of Supplemental Security Income Claims Study HHS SSA OA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0186

SYSTEM NAME:

Litigation Master Record File HHS SSA OR.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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09-60-0210

SYSTEM NAME:

Record of Individuals Authorized Entry to Secured Electronic Data Processing (EDP) Area, HHS SSA OMBP.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0214

SYSTEM NAME:

Personal Identification Number File (PINFile) HHS SSA OA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

* * * * *

09-60-0213

SYSTEM NAME:

Quality Review of Hearing Process, HHS SSA OHA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosure may be made to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

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[FR Doc. 80-27786 Filed 9-9-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

National Park Service

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., September 26, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was established by Pub. L. 95-625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.
2. New Business

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764, phone 914-252-3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

V 45 SE 10 80 UMI

Dated: September 2, 1980.

James W. Coleman Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 80-27853 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Contract Negotiations With the Ute Mountain Ute Indian Tribe; Intent To Continue Repayment Contract Negotiations

In accordance with procedures established by the Department of the Interior concerning public participation in repayment contract negotiations, Water and Power Resources service intends to continue negotiations with the Ute Mountain Ute Indian Tribe, Towaoc, Colorado, for the repayment of construction, operation, and maintenance of a portion of the Dolores Project in Colorado. The Dolores Project was authorized as a participating project of the Colorado River Storage Project (CRSP) by the act of April 11, 1956 (70 Stat. 105). The contract will be negotiated pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187) and the CRSP Act.

The Dolores Project would provide 22,900 acre-feet of water for the full service irrigation of 7,500 acres of reservation land; 1,000 acre-feet of water for municipal and industrial use by the Tribe; and 800 acre-feet of water for recreation, fish and wildlife enhancements. The repayment obligation association with Indian irrigation water will be deferred as long as the lands involved remain in Indian ownership pursuant to the Colorado River Storage Act which extends the Leavitt Act of July 1, 1932 (47 Stat. 564).

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

For further information about scheduled meetings and copies of the proposed contract form, please contact R. W. Radcliffe, Project Construction Engineer, 60 S. Cactus, or P.O. Box Q, Cortez, Colorado 81321, telephone (303) 565-4473. All meetings scheduled by the Service with the potential contractors for the purpose of discussing terms and conditions of the proposed contract shall be open to the general public as observers. Advance notice of such meetings shall be furnished to those parties requesting such notice from the office identified above. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and conditions of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: September 2, 1980.

Clifford J. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-27580 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Privacy Act of 1974; New System of Records

Notice is hereby given that the Office of Personnel, Department of the Interior has created a new system of records. The new system contains files on employees which document an employee's work performance problems and the progress made to correct the problems through the Employee Counseling Services Program, and the new system is known as the Employee Counseling Services Program Records—Interior, Office of the Secretary—100.

Comments on the proposed new system should be submitted to the Departmental Privacy Act Officer, Office of Administrative Services, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240. Copies of any comments received may be inspected in Room 5417, Main Interior Building, 18th & E Streets, NW., Washington, D.C. 20240. All comments received on or before October 10, 1980, will be considered.

Dated: September 2, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

Narrative Statement

System name: Employee Counseling Services Program Records—Interior, Office of the Secretary—100.

1. *Purpose of the System of Records:* These records are used to document the nature of an employee's work performance problem and progress made to correct the problem and to record an individual's participation in, and the results of, community or private referrals for solution of personal problems, rehabilitation or treatment.

2. *Authority:* The authority for maintenance of this system is contained in: (1) 5 U.S.C. 301 and 7901, Pub. L. 79-658, (2) The Drug Abuse and Treatment Act of 1972, Pub. L. 92-255, 21 U.S.C. 1101, 1108, *et seq.*, (3) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1972, Pub. L. 91-616, U.S.C. 4541 *et seq.*, (4) OMB Circular No. A-72, Federal Employees Occupational Health Service, (5) 44 U.S.C. 3101.

3. *Probable and/or Potential Effects on the Privacy of People:* The potential effect is that these records and information in these records may disclose information about an individual's mental or physical condition and associated personal problems. However, disclosures of these records beyond officials of the Department Employee Counseling Services Program having bona fide need for them or to the person to whom they pertain, will be rarely made. Disclosures of information pertaining to an individual with a history of alcohol or drug abuse will be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Record Regulations, 42 CFR Part 2. Disclosures of records pertaining to the physical and mental fitness of employees are, as a matter of Departmental policy, afforded the same degree of confidentiality.

4. *The Effect on States and the Principle of the "Separation of Powers":* This new system of records will not affect states nor will it adversely affect the principle of separation of powers.

5. *Security Provided for the System:* These records are maintained in locked file cabinets with access strictly limited to employees directly involved in the Employee Counseling Services Program with an alcohol and drug abuse prevention function as defined in 42 CFR Part 2.

INTERIOR/OS—100

SYSTEM NAME:

Employee Counseling Services Program Records—Interior, Office of the Secretary—100

SYSTEM LOCATION:

This system of records is located:

(1) Office of Personnel, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

(2) Contractor(s) providing counseling services.

(3) Bureau Headquarters Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Interior employees and their families who seek, are referred, and/or receive assistance through the Employee Counseling Services Program (ECSP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the problem assessment, recommended plan of action to correct the major issue, referral to community or private resource for assistance with personal problems, referral to community or private resource for rehabilitation or treatment, results of referral, and other notes or records of discussions held with the employee made by the ECSP counselor. Additionally, records in this system may include documentation of treatment by a therapist or at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 7901, 21 U.S.C. 1101 and 1108, 42 U.S.C. 4541 and 4561, 44 U.S.C. 3101, OMB Circular A–72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the Employee Counseling Services Program Counselor to document the nature of an individual's work performance problem and progress made to correct the problem. The primary uses of these records are: (1) For the ECSP counselor to document the nature of an individual's work performance problem and progress made to correct the problem, and, (2) Record an individual's participation in, and the results of, community or private referrals for solution of personal problems, rehabilitation, or treatment programs.

These records and information may be used:

(1) To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Department in connection with the individual.

(2) To disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by DOI, all patient identifying information will be removed).

(3) Transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of the records.

(4) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

(5) Disclosure to a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(6) Disclosure to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant of other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Note.—Disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2. Disclosure of records pertaining to the physical and mental fitness of employees are, as a matter of Department policy, afforded the same degree of confidentiality.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to employees directly involved in the Department's Employee Counseling Service Program alcohol and drug abuse prevention function as that term is defined in 42 CFR Part 2.

RETENTION AND DISPOSAL:

Records are maintained for three to five years after the employee or family member's last contact with the ECSP prevention function or until the employee's separation or transfer, whichever comes first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Department: Program Administrator, Employee Counseling Services Program, Office of Personnel, Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

Bureaus: Bureau Headquarters Personnel Officers or other officials designated by the bureau head or Assistant Secretary—Policy, Budget and Administration as appropriate, after consultation with the Program Administrator. Addresses for such officials are listed in the appendix to the publication containing these system notices.

NOTIFICATION PROCEDURE:

Department employees wishing to inquire whether this system of records contains information about them should contact the Department of the Interior Employee Counseling Services Program Coordinator who arranged for counseling or referral. Individuals must furnish their name and date of birth for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification above. Any individual must also follow the Department Privacy Act Regulations regarding verification of identity and access to records (See 43 CFR 2.62).

CONTESTING RECORDS PROCEDURES:

Department employees wishing to request amendment to these records should contact the Department Employee Counseling Services Program Coordinator who arranged for counseling or referral. An individual must follow the Department's Privacy Act Regulations regarding verification of identity and amendment of records (See 43 CFR 2.70).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program staff who records the counseling session, and therapists or institutions used as referrals or providing treatment.

[FR Doc. 80-27798 Filed 9-9-80; 8:45 am]

BILLING CODE 4310-10-M

V 45 SE 10 80 UMI

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practices, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed by October 27, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Application for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP5-009

Decided: August 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 110328 (Sub-20F), filed August 18, 1980. Applicant: ROY A. LEIPHART TRUCKING, INC., 1298 Toronita St., York, PA 17402. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 117119 (Sub-830F), filed August 12, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 144368 (Sub-6F), filed August 11, 1980. Applicant: GENPAT, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 So. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149118 (Sub-2F), filed August 12, 1980. Applicant: BEST WAY TRANSPORT, INC., d.b.a. BEST TRANSPORT, INC., 3841 No. Columbia Blvd., Portland, OR 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149388 (Sub-2F), filed August 11, 1980. Applicant: PEPCO TRUCKING CO., INC., 3458 Moreland Ave., Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149518F, filed August 14, 1980. Applicant: STRONG MOTOR LINES, INC., P.O. Box 8821, Richmond, VA 23225. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151609F, filed August 19, 1980. Applicant: BRIAN KARGMAN, d.b.a. B. K. LEASING CO., Dutch Mill Rd., Franklinville, NJ 08322. Representative: David Earl Tinker, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP5-012

Decided: September 4, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 34479 (Sub-5F), filed August 8, 1980. Applicant: E. I. KANE, INC., 4546 B Annapolis Rd., Baltimore, MD 21227. Representative: Robert Y. H. Shertz, 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 112668 (Sub-62F), filed August 15, 1980. Applicant: HARVEY R. SHIPLEY & SONS, INC., 2601 Emory, P.O. Box 266, Finksburg, MD 22101. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 120728 (Sub-9F), filed August 14, 1980. Applicant: MOJAVE TRANSPORTATION CO., 14410 South Avalon Blvd., Gardena, CA 90247. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 123649 (Sub-9F), filed August 15, 1980. Applicant: MAGILL TRUCK LINES, INC., 211 West 53rd North, Wichita, KS 67219. Representative: Lester C. Arvin, 813 Century Plaza Bldg., Wichita, KS 67202. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 130988F, filed August 13, 1980. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Arlington, VA 22210. To engage in operations as a *broker* of general commodities (except household goods), between points in the U.S.

MC 144909 (Sub-7F), filed August 11, 1980. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125k Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151219 (Sub-1F), filed August 11, 1980. Applicant: ASSOCIATED AIR FREIGHT, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Edward J. Kiley, 1730 M Street NW., Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27752 Filed 9-9-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Notice

Decided: August 22, 1980.

Notice of Correction, previously noticed in the **Federal Register** issue of August 28, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed by October 27, 1980, (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 143701 (Sub-27F), filed August 20, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202.

[FR Doc. 80-27754 Filed 9-9-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practices, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

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In the absence of legally sufficient protests in the form of verified statements filed by October 27, 1980, (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verfied statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Application for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–026

Decided: August 28, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 38921 (Sub-17F), filed July 21, 1980. Applicant: KMA LEASING, INC., d.b.a. WM. H. P., 1342 North Howard St., Philadelphia, PA 19122. Representative: Michael R. Werner, 167 Fairfield Rd. (P.O. Box 1409), Fairfield, NJ 07006. Transporting (1) *malt beverage* and (2) *materials, equipment and supplies* used in the manufacture and distribution of malt beverages, between Detroit, MI, on the one hand, and, on the other, points in CT, DE, FL, GA, MA, MD, NC, NJ, NY, OH, PA, RI, SC, VA, WV, and DC.

Volume No. OP3–014

Decided: August 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 52704 (Sub-283F), filed August 20, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *containers and container parts,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 106074 (Sub-157F), filed August 25, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221 South, P.O. Box 727, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *general commodities,* from points in NC and SC, to points in WI, IL, MI, IN, KY, TN, AL, MD, GA, FL, SC, NC, VA, WV, OH, PA, DE, NY, CT, NH, ME, NJ, RI, MA, VT, MS, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of chemicals, synthetic yarns, resins, dyes, fiber products, and nonwoven fabrics, in the reverse direction.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 106674 (Sub-498F), filed August 25, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *plastic pipe, tubing and fittings,* and (2) *materials, supplies, and accessories,* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S.

MC 110325 (Sub-155F), filed August 19, 1980. Applicant: TRANSCON LINES, a corporation, P. O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting general commodities (except household goods as defined by the Commission, and classes A and B explosives), (1) between Kansas City, MO, and Chicago, IL, from Kansas City over Alternate U.S. Hwy 169 and U.S. Hwy 169 to St. Joseph, MO, then over U.S. Hwy 36 to Cameron, MO (also from Kansas City over Alternate U.S. Hwy 69 and U.S. Hwy 69 to Cameron), then over U.S. Hwy 36 to Springfield, IL, then over U.S. Hwy 66 to Chicago (also from Springfield over U.S. Hwy 66 to Gardner, IL, then over Alternate U.S. Hwy 66 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Chicago), and return over the same route, serving all intermediate points, and serving the off-route points of Atchison, KS, and Coal City, IL, (2) between Kansas City, MO, and Chicago, IL, from Kansas City over U.S. Hwy 24 to El Paso, IL, then over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago (also from Rushville over U.S. Hwy 67 to Monmouth, IL, then over U.S. Hwy 34 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Harvey), and return over the same route, serving all intermediate points and the off-route points of Aurora, Rockford, and Pekin, IL, (3) between Kingdom City, MO, and Chicago, IL, from Kingdom City over U.S. Hwy 54 to junction U.S. Hwy 36, then over U.S. Hwy 36 to Springfield, IL, then over U.S. Hwy 66 to Chicago, and return over the same route, serving all intermediate points, (4) between Wenona, IL, and Dwight, IL, over IL Hwy 17, serving all intermediate points, and (5) between St. Joseph, MO, and Concordia, KS, from St. Joseph over U.S. Hwy 36 to Belleville, KS, then over U.S. Hwy 81 to Concordia, and return over the same route, serving all intermediate points, and serving Linn and Sabetha, KS, as off-route points. Condition: Issuance of a certificate is subject to the submission by applicant of a request, in writing, for prior or coincidental revocation of MC–110325 Sub 1.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 117565 (Sub-101F), filed August 21, 1980. Applicant: MOTOR SERVICE COMPANY INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting (1) *roof cement, waterproofing compounds, paint, caulking, adhesives, sealant, coatings, building, construction and maintenance materials,* and (2) *accessories and supplies* used in the installation, maintenance, distribution, and manufacture of (1) above, between points in OH, on the one hand, and, on the other, points in the U.S.

MC 123744 (Sub-81F), filed August 25, 1980. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 North Second St., Clearfield, PA 16830. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in Centre County, PA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 134405 (Sub-100F), filed August 22, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma, City, OK 73112. Transporting *sand,* in bulk, from points in St. Charles County, MO, to points in AL, AR, IL, IN, KS, and OK.

MC 149515F, filed August 11, 1980. Applicant: LONNY RAYE CUMMINGS, d.b.a. AMERICAN MACHINERY MART, Highway 16 and Railroad Ave., P.O. Box B, Madison, CA 95663. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518. Transporting (1) *primary metal products,* including galvanized, except coating or other allied processing, *fabricated metal products* (except ordnance), *machinery and supplies,* and *transportation equipment* as described in Items (33), (34), (35), and (37) of the Standard Transportation Commodity Code, respectively, (2) *commodities* the transportation of which because of size or weight requires the use of special equipment, and (3) *contractor's materials and supplies* incidental to the transportation of the commodities in (2) above, between points in the U.S. (except AK and HI).

MC 149524 (Sub-1F), filed August 18, 1980. Applicant: CHAR-LO, INC., 101 Zeigler Circle, West, Mobile, AL 36608. Representative: R. S. Richard, 57 Adams Ave., Montgomery, AL 36197. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, AR, FL, GA, KS, LA, MS, MO, NC, OK, SC, TN, TX, and VA.

MC 151354F, filed August 15, 1980. Applicant: STEVEN FREIGHT SERVICE CO., INC., 16 Sturtevant St., Sommerville, MA 02145. Representative: Robert L. Cope, 1730 M St., N.W., Suite 501, Washington, D.C. 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Cam-Con Corporation, of Sommerville, MA.

MC 151634 (Sub-1F), filed August 21, 1980. Applicant: GOLDEN COACH, A.C., INC., Boston at Pacific, P.O. Box 1737, Atlantic City, NJ 08404. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting *passengers and their baggage,* in special operations, between points in CT, DE, MD, NJ, NY, PA, VA, and DC, on the one hand, and, on the other, facilities of GNAC, Corp., at Atlantic City, NJ.

MC 130994 (Sub-1F), filed August 20, 1980. Applicant: EL SEGUNDO EQUIPMENT CORPORATION, 101 Continental Blvd., El Segundo, CA 90245. Representative: Wentworth E. Griffin, 1221 Baltimore Ave., Kansas City, MO 64105. As a *broker,* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5-010

Decided: Aug. 29, 1980

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 4428 (Sub-20F), filed August 20, 1980. Applicant: HARCHELROAD TRUCKING CO., 243 Tilford Rd., Pittsburgh, PA 15235. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles, and materials, equipment, and supplies* used in the manufacuture, sale, and distribution of iron and steel articles, between points in Allegheny, Beaver, Westmoreland, Butler, Washington, Armstrong, and Cambria Counties, PA, and Mahoning County, OH, on the one hand, and, on the other, points in PA, OH, WV, MD, MI, IN, and IL.

MC 5888 (Sub-52F), filed August 14, 1980. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth St., Kansas City, MO 64105. Representative: Tom Zaun (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles), between points in CO, IA, IL, IN, ID, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and WY. Condition: Any certificate issued in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of MC-5888 Sub 4/F.

MC 52579 (Sub-208F), filed August 15, 1980. Applicant: GILBERT CARRIER CORP., One Gibert Drive, Secaucus, NJ 07094. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *wearing apparel,* on hangers and in cartons, between points in Horry County, SC, Decatur and Trousdale Counties, TN, Clayton County, GA, Hudson County, NJ, Los Angeles County, CA, and Cook County, IL.

MC 56388 (Sub-40F), filed August 13, 1980. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting *cement,* from Baltimore, MD, points in Berkeley County, WV, and DC, to points in MD, DC, VA, WV, PA, and DE.

MC 106679 (Sub-17F), filed August 14, 1980. Applicant: WHEELER FREIGHTWAYS, A Corporation, 3375 So. Polaris Ave., Las Vegas, NV 89102. Representative: R. Alan Wheeler, Jr. (same address as applicant). Transporting *building, construction, and mining materials, equipment and supplies,* between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, UT, and WY.

MC 120978 (Sub-33F), filed August 18, 1980. Applicant: MAYER TRUCK LINE, INC., 1203 So. Riverside Dr., Jamestown, ND 58401. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting (1) *primary metal products and fabricated metal products,* as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *waste or scrap materials,* as described in Item 40 of the Standard Transportation Commodity Code Tariff, between points in IL, IA, MI, MN, MO, NE, PA, and UT, on the one hand, and, on the other, points in ID, MT, OR, WA, and WY, and (3) *animal skins,* between points in MT, on the one hand, and, on the other, points in NY.

MC 121259 (Sub-2F), filed August 21, 1980. Applicant: JAY-BEE CARTAGE CO., INC., 1514 S. Canal St., Chicago, IL 60607. Representative: Themis N. Anastos, 120 W. Madison St., Chicago, IL 60602. Transporting (1) *paper, printed material, war rations, case goods, and general commodities,* within a 50 mile radius of 2029 West Hubbard Street, Chicago, IL, and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area, and (2) transporting *general commodities* (except classes A and B explosives and household goods), (a) between points in Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry and Will Counties, IL, and (b) between points in Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, IL, on the one hand, and, on the other, points in IL.

Note.—Applicant seeks in (1) to convert its Certificate of Registration in MC-121259 Sub 1, issued October 14, 1963, to a certificate of public convenience and necessity. Issuance of a certificate is conditioned upon applicant's written request for the coincidental cancellation of its Certificate of Registration in MC-121259 Sub 1.

MC 126679 (Sub-22F), filed August 8, 1980. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting *waste paper and cardboard* for recycling, (a) between points in GA on the one hand, and, on the other, points in Al, FL, GA, MS, NC, SC, and TN, and (b) from points in DE, MD, NJ, NY, PA, VA, WV, and DC, to points in GA.

MC 140808 (Sub-4F), filed August 15, 1980. Applicant: GARY MATHENY, R.R. 1, Lebanon, NE 69036. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. Transporting *non-exempt farm products,* between points in Lancaster and Douglas Counties, NE, and Wyandotte County, KS, on the one hand, and, on the other, points in Decatur and Norton Counties, KS.

MC 142059 (Sub-140F), filed August 20, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd. Joliet, IL 60436. Representative: Jack Riley (same address as applicant. Transporting *motor vehicle parts and accessories, boat parts and accessories, construction materials, and plastic metal, and rubber articles and products,* between points in the U.S., restricted to traffic originating at or destined to the facilities of Elixir Industries.

MC 143059 (Sub-127F), filed August 18, 1980. Applicant: MERCER TRANSPORTATION CO. a Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same address as applicant). Transporting (1) *textile mill products,* and (2) *Machinery and supplies* used in the manufacture, sale, and distribution of the commodities in (1), between points in Guilford County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145468 (Sub-35F), filed August 18, 1980. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *chemicals,* in bags and containers, between points in IA, on the one hand, and, on the other, points in IL, MN, MO, and WI.

MC 150596 (Sub-1F), filed August 19, 1980. Applicant: WILLIAM J. MUNGER, d.b.a. MUNGER TRUCK LINE, P.O. Box 115, Beattie, KS 66406. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. Transporting *dry corn products,* from the facilities of Lincoln Grain, Inc., at or near Atchison, KS, to points in AZ, AR, CA, CO, MN, MT, NE, NM, ND, OK, SD, TN, TX, UT, and WY.

MC 150718 (Sub-1F), filed August 11, 1980. Applicant: KENDE LEASING CORP., d.b.a. K.B. TRUCKING, a corporation, 2 Terry Lane, Clark, NJ 07066. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Contract carrier, transporting (1) *toilet preparations, cosmetics, and hair care preparations,* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under a continuing contract(s) with Cosmair, Inc., of Clark, NJ.

MC 150718 (Sub-2F), filed August 12, 1980. Applicant: KENDE LEASING CORP., d.b.a. K.B. TRUCKING, a corporation, 2 Terry Lane, Clark, NJ 07066. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Transporting *fire extinguishers, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of fire extinguishers, between points in the U.S., under a continuing contract(s) with Amerex Corp., of Trussville, AL.

MC 150939F, filed August 19, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under a continuing contract(s) with Fishers Big Wheel, Inc., of New Castle, PA.

MC 151118 (Sub-3F), filed August 8, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Household appliances and television sets,* and (2) *equipment, materials, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) (except commodities in bulk and those requiring special equipment), between the facilities of General Electric Co., at Louisville and Appliance Park, KY, on the one hand, and, on the other, points in AL, AR, GA, MO, MS, and TN, (3) *electric motors and electric equipment,* and (4) *equipment, materials, and supplies* used in the manufacture, sale, and distribution of the commodities in (3) (except commodities in bulk and those requiring special equipment), between the facilities of General Electric Co., at Jonesboro, AR, on the one hand, and, on the other, points in CA and TX, and those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151348 (Sub-1F), filed August 8, 1980. Applicant: J. D. TRANSPORTS, INC., P.O. Box 179, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Cook County, IL, and Shelby County, TN.

MC 151378 (Sub-2F), filed August 8, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John F. Clark (same address as applicant). Transporting *copper wire bars, aluminum wire bars, and copper and aluminum ingots,* between Truesdale, MO, on the one hand, and, on the other, St. Louis and Kansas City, MO.

MC 151509F, filed August 14, 1980. Applicant: J.E.R. DELIVERY CO., INC., R.R. 1, Box 239, Bargersville, IN 46106. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting (1) *printing matter,* (2) *paper products,* and (3) *office equipment and supplies,* between points in Jefferson County, KY, on the one hand, and, on the other, points in IN.

MC 151559F, filed August 14, 1980. Applicant: THE GRAY ROCK FARM, INC., Route 12, Box 143, Statesville, NC 28677. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Contract carrier,* transporting (1) *new furniture and furniture parts,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Lewittes Furniture Enterprises, Inc., of New York, NY, (3) *furniture parts, and materials, equipment, and supplies* used in the manufacture of furniture parts, between points in the U.S., under continuing contract(s) with Acme Metal Slide, Inc., of Statesville, NC, and O. W. Slane Glass Co., Inc., of Statesville, NC, and (4) *janitorial products and supplies,* between points in the U.S., under continuing contract(s) with Gardner Supply, Inc., of Statesville, NC.

MC 151608F, filed August 19, 1980. Applicant: MUTCH OIL CO., INC., Larimore, ND 58551. Representative: David C. Britton, 1425 Cottonwood St., Grand Fords, ND 58201. Transporting *hazardous materials,* as described in Item 49 of the Standard Transportation Commodity Code Tariff, between points in Natrona County, WY, Polk and Clay Counties, MN, and Lake County, IN, on the one hand, and, on the other, points in ND.

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Decided: September 4, 1980

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

FF-529F, filed August 1, 1980. Applicant: MegNa FORWARDING, INC., Rt. 9, Wilder, KY 41072. Representative: Stephen D. Strauss, 2613 Carew Tower, Cincinnati, OH 45202. To operate as a *freight forwarder,* in interstate commerce, of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Wilder and Louisville, KY, Dayton, OH and Indianapolis, IN, on the one hand, and, on the other, New York, NY, Philadelphia, PA, Baltimore, MD, Savannah, GA, Norfolk, VA, and Jacksonville and Miami, FL, restricted to export-import traffic.

MC 28478 (Sub-49F), filed August 7, 1980. Applicant: GREAT LAKES EXPRESS COMPANY, a corporation, 114 Fifth Ave., New York, NY 10011. Representative: C. G. Heller (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Lapeer, Macomb, St. Clair, Sanilac, and Tuscola Counties, MI, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 34479 (Sub-4F), filed August 8, 1980. Applicant: E. I. KANE, INC., 4546 Annapolis Rd., Baltimore, MD 21227. Representative: Robert H. Shertz, 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Alexandria, Falls Church, and Manassas, VA, points in Anne Arundel, Baltimore, Carroll, Charles, Harford, Montgomery, and Prince Georges Counties, MD, points in Arlington, Culpeper, Fairfax, Fauquier, Loudoun, and Prince William Counties, VA, and points in DC.

MC 52579 (Sub-209F), filed August 15, 1980. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *wearing apparel, piece goods,* and *materials, supplies and accessories* used in the manufacture of wearing apparel, between points in Hudson County, NJ and points in Poinsett County, AR.

MC 52709 (Sub-398F), filed August 8, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *non-exempt farm products and non-exempt food or kindred products,* as defined in Items 01 and 20 of the Standard Transportation Commodity Code, between points in Finney County, KS, on the one hand, and, on the other, points in the U.S. (except AL, AK, AR, FL, GA, HI, LA, MS, NC, OK, SC, TN, and TX.)

MC 57239 (Sub-52F), filed August 11, 1980. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Indianapolis and Terre Haute, IN, over U.S. Hwy 40, (2) between Terre Haute and Evansville, IN, over U.S. Hwy 41, (3) between Indianapolis and South Bend, IN, over U.S. Hwy 31, (4) between Fort Wayne and Elkhart, IN, over U.S. Hwy 33, (5) between Fort Wayne and Terre Haute, IN, from Fort Wayne over U.S. Hwy 24 to junction IN Hwy 25, then over IN Hwy 25 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Terre Haute, and return over the same route, (6) between junction U.S. Hwy 41 and IN Hwy 63 and Terre Haute, IN, over IN Hwy 63, (7) between Indianapolis, and Lafayette, IN, over U.S. Hwy 52, (8) between Indianapolis, and Vincennes, IN, (a) over IN Hwy 67, and (b) from Indianapolis over IN Hwy 37 to junction U.S. Hwy 150, then over U.S. Hwy 150 to Vincennes, and return over the same route, (9) between Columbus and Terre Haute, IN, from Columbus over IN Hwy 46 to junction IN Hwy 59, then over IN Hwy 59 to junction U.S. Hwy 40, then over U.S. Hwy to Terre Haute, and return over the same route, (10) between Attica and Lafeyette, IN, from Attica over IN Hwy 28 to junction IN Hwy 25, then over IN Hwy 25 to Lafayette, and return over the same route, (11) between South Bend, IN, and Cleveland, OH, over U.S. Hwy 20, (12) between Indianapolis, IN, and Cleveland, OH, from Indianapolis over U.S. Hwy 40 to junction Interstate Hwy 71, then over Interstate Hwy 71 to Cleveland, and return over the same route, (13) between Indianapolis, IN, and Danville, IL, over U.S. Hwy 136, (14) between Sturgis, MI, and Lagrange, IN, from Sturgis over MI Hwy 78 to the MI-IN State line, then over IN Hwy 9 to Langrange, and return over the same route, and (15) serving all intermediate points in (1)-(14), and serving Akron, OH, and Owensboro, KY, as off-route points in connection with applicant's existing regular-route operations.

MC 88368 (Sub-46F), filed August 11, 1980. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. Transporting (1) *furniture,* (2) *parts and accessories* for furniture, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in Faulkner County, AR, on the one hand, and, on the other, points in the U.S.

MC 100449 (Sub-122F), filed August 11, 1980. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meats, meat products and meat by-products and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA, restricted to traffic originating at the named origin points and destined to the indicated destinations.

MC 113678 (Sub-890F), filed August 13, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission, (1) between points in Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties, CA, Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ, and Bronx, Kings, Nassau, Queens, Suffolk, and Westchester Counties, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in AZ, CA, CO, ID, MA, MT, NV, NJ, NM, NY, OR, PA, TX, UT, WA, and WY.

MC 121568 (Sub-45F), filed August 5, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting *paper and paper products,* and *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, between Nashville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 123048 (Sub-486F), filed August 13, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st St., Racine, WI 53406. Representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of farm, dairy, and water treatment equipment, materials and supplies (except commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Dabson Bros. Co. or its dealers.

MC 125079 (Sub-3F), filed August 15, 1980. Applicant: CLAY TRANSPORT, INC., 2400 Greensburg Road, New Kensington, PA 15068. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *clay products, concrete*

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products, and stone products, from Baltimore, MD, to points in Allegheny, Beaver, Butler, Washington, and Westmoreland Counties, PA.

MC 127478 (Sub-20F), filed August 14, 1980. Applicant: WILLIAM HAYES, d.b.a. HAYES TRUCKING COMPANY, Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *confectionery* from the facilities used by E. J. Brach and Sons, a Division of American Home Products Corp., at or near Chicago, IL, to Atlanta, GA.

MC 128709 (Sub-9F), filed August 15, 1980. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Ft. Smith, AR 72902. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Little Rock, AR, and Ft. Worth, TX, over Interstate Hwy 30, serving Dallas, TX, as an intermediate point. Condition: Any certificate issued here, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in time to a period expiring 5 years from its date of issue.

MC 130989F, filed August 13, 1980. Applicant: FUNAWAY TOURS, INC., 574 Fifth Avenue, New York, NY 10017. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. To engage in operations in interstate or foreign commerce, as a *broker,* at New York, NY in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special or charter operations, beginning and ending at points in NY, NJ, and CT, and extending to points in the U.S. (including AK and HI).

MC 133119 (Sub-183F), filed August 11, 1980. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Transporting *chemicals and cleaning supplies,* (1) from St. Louis, MO to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NC, ND, OH, PA, SC, SD, TN, TX, VA, and WI, (2) from points in Douglas County, NE, to points in CA, CO, FL, GA, IL, MN, MO, OH, PA, TX, VA, and WI, and (3) from Chicago, IL to points in CO, FL, GA, IN, IA, MI, MN, MO, OH, PA, TX, and WI.

MC 138308 (Sub-121F), filed August 7, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39206. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting (1) *such commodities* as are dealt in or used by grocery, hardware, or drug stores, (2) *cleaning and building maintenance materials and supplies,* (3) *swimming pool, spa, and hot tub supplies,* (4) *chemicals,* and (5) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities in (1), (2), (3), (4), and (5) (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Purex Corporation or its subsidiaries.

MC 138328 (Sub-122F), filed August, 13, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Transporting *silicon carbide and silicon carbide briquettes,* between points in Milwaukee County, WI, Saginaw County, MI, and Jefferson County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 140389 (Sub-87F), filed August 14, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Transporting *frozen foods,* from the facilities of Pure Packed Foods, Inc., at or near Arlington, TN, to those points in the U.S. in and west of MT, WY, UT, and NM (except AK and HI).

MC 141318 (Sub-4F), filed August 11, 1980. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 531 North 8th St., Medford, WI 54451. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *such commodities* as are dealt in by manufacturers of doors and windows, and (2) *materials, equipment, and supplies* used in the manufacture of commodities in (1), between points in the U.S., under continuing contract(s) with Weather Shield Manufacturing, Inc., of Medford, WI.

MC 144828 (Sub-6F), filed August 14, 1980. Applicant: FEPCO TRUCKING, INC., 3458 Moreland Avenue, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *such commodities* as are dealt in or used by chemical manufacturers and distributors, between points in the U.S., under continuing contract(s) with Oxford Chemicals, Inc., of Atlanta, GA.

MC 145999 (Sub-5F), filed August 11, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC. d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: James C. Waddell (same address as applicant). Transporting (1) *gypsum wallboard and gypsum plaster,* and (2) *materials and supplies* used in the installation of the commodities in (1), from points in Clark County, NV, to points in CA, AZ, UT, ID, OR, and WA.

MC 147388 (Sub-3F), filed August 11, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R. 1, P.O. Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, 521 So. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting *beverages, and materials, equipment, and supplies* used in the manufacture and distribution of beverages, between points in Buffalo, Hall and Adams Counties, NE, and Mitchell County, KS, on the one hand, and, on the other, points in IL, KS, MO, OK, and TX.

MC 147388 (Sub-4F), filed August 11, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R. 1, P.O. Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) (a) *plastic articles* (b) *fasteners, and* (c) *parts* for plastic articles and fasteners, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in Hall County, NE, on the one hand, and, on the other, points in the U.S.

MC 150079 (Sub-1F), filed August 14, 1980. Applicant: K.R.C. TRANSIT, INC., P.O. Box 572, Westmont, IL 60559. Representative: Stephen H. Loeb, 33 N. LaSalle, Suite 2027, Chicago, IL 60602. Transporting (1) *aluminum articles, paper articles, and plastic articles,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in Porter and LaPorte Counties, IN, on the one hand, and, on the other, points in IL, restricted to traffic originating at or destined to the facilities of Kaiser Aluminum and Chemical Corporation.

MC 150409 (Sub-1F), filed August 11, 1980. Applicant: MITCH-MOR TRUCKING, INC., Route 1, Becker, MN 55308. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *aluminum die castings,* between points in Hennepin County, MN, Montgomery County, OH, Nassau County, NY, and Cook County, IL, on the one hand, and, on the other, points in the U.S.

MC 150499 (Sub-1F), filed August 11, 1980. Applicant: ENGELS TRUCK

SERVICE, INC., P.O. Box 201, Mead, NE 68401. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Transporting *meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from points in Nobles County, MN, Beadle County, SD, and Madison County, NE, to points in WI, IL, IA, SD, NE, ND, MN, MO, CA, OR, and WA.

MC 151468F, filed August 15, 1980. Applicant: FERDINAND FURNITURE CO., a corporation, 431 Fourth St., Huntingburg, IN 47542. Representative: Robert H. Menke, Jr. (same address as applicant). Transporting *furniture*, between points in the U.S., under a continuing contract(s) with Styline Corporation of Huntingburg, IN.

MC 151548F, filed August 13, 1980. Applicant: RONALD WATT d.b.a. R & E TRUCKING, Rt. 1, Milton ND 58260. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *farm products*, as described in Item No. 01 of the Standard Transportation Commodity Code Tariff, between points in IA, KS, MN, NE, ND, and SD.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27755 Filed 9-9-80, 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-55

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N 7th St., Room 620, Philadelphia, PA 19106.

Originally published in **Federal Register** of August 18, 1980.

MC 150179 (Sub-II-2TA), filed August 4, 1980. Applicant: LOGISTICS, INC., 6242 Executive Blvd., P.O.Box 638, Dayton, OH 45402. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Contract, irregular—*Corn starch*, in bags, from Indianapolis, IN and Dayton, OH to points in IL, IN, KY, MD, MI, NJ, NY, OH, PA, VA and WV, under contract(s) with Cargill, Inc., of Dayton, OH, for 270 days. Supporting shipper(s): Cargill, Inc., 3201 Needmore Rd., Dayton, OH 45414. The purpose of this re-publication is to show OH as one of the destination points as it was omitted in the first publication.

MC 147681 (Sub-II12TA), filed August 20, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, West Middlesex, PA 16159. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Plastic products*, between Winchester, VA and points in MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Advanco Corp., 999 Troy Ct., Troy, MI 48084.

MC 56388 (Sub-II-5TA), filed August 20, 1980. Applicant: HAHN TRANSPORTATION, New Market, Md 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Commodities in bulk*, between points in DC, VA, WV, PA, DE and MD, for 270 days. Supporting shipper(s): Riverton Corp., Riverton, VA 22651.

MC 115703 (Sub-II-6TA), filed August 21, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 6331, Wyomissing, PA 19610. Representative Bernard L. Quaglia (same as applicant). *Contractor's equipment, heavy and bulky articles, machinery and machine parts, and articles requiring special handling or rigging*, between points in Guilford County, N.C. on the one hand, and on the other, points in the U.S. (except AK, CT, HI, MA, NH, NY and RI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ARCT, Inc., P.O. Box 11381, Greensboro, N.C. 27409. Graystone Corporation, Brittany Building, Suite 5007, 1717, Penn Avenue, Pittisburgh, PA, 15221. Newman Machine Company, Inc., 507 Jackson Street, Greensboro, N.C. 27403.

MC 4491 (Sub-II-1TA), fied August 22, 1980. Applicant: GREAT COASTAL EXPRESS, INC., P.O. Box 24286, 5600 Midlothian Tnpk., Richmond, VA 23224. Representative: Paul D. Collings (same address as above). *Cotton wast fibres*, from Wellford, SC to the facilities of Crawford Manufacturing Co., at or near Richmond, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Crawford Manufacturing Co., Third & Decatur Sts., Richmond, VA 23261.

MC 151483 (Sub-II-1TA), filed August 22, 1980. Applicant: LOVE'S TRUCKING, INC., 1841 East State Route 55, Troy, OH 45373. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Fabricated metal products* (except ordinance, machinery or transportation equipment), from the facilities of (1) Krohn Steel Service Center, Inc. at Springfield, OH to McRae and Swainsboro, GA; Columbus and Seymour, IN; Chicago, IL; Louisville, KY: Lavergne, TN; and (2) from the facilities of BurJon Steel Service, Inc., Dayton and Middletown, OH to McRea, GA and Lietchfield, KY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: BurJon Steel Service, Inc., 67 Millard Dr., Franklin, OH 45005. Krohn Steel Service Center, Inc., 5750 Dower Valley Pike, Springfield, OH 45502.

MC 146656 (Sub-II-5TA), filed August 20, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21225. Representative: William F. Lamperelli (same address as above). Contract, irregular-*Alcoholic beverages*, from Frankfort, KY and Cincinnati, OH to Baltimore and Halethorpe, MD and Washington, DC, under a continuing contract(s) with Milton S. Kronheim & Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Milton S. Kronheim & Co., Inc., 2900 V St., NE, Washington, DC.

MC 121272 (Sub-II–2TA), filed August 18, 1980. Applicant: HESS TRUCKING CO., 1000 West Chocolate Ave., Hershey, PA 17033. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Such commodities as are dealt in by grocery and food business houses* (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Dauphin Distribution Services Co., in Cumberland County, PA, to points in PA, for 270 days. Supporting shipper: Dauphin Distribution Services Co., 5023 East Trindle Road, Mechanicsburg, PA 17055.

MC 136490 (Sub-II–1TA), filed August 26, 1980. Applicant: WALTER LUBINSKI, d.b.a. L & K TRANSPORTATION, R.D. 4, P.O.B. 199, Dallas, PA 18612. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048. *Paper and paper products,* between Columbia County, PA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, OR, UT and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): DataCom, Inc., P.O. Box 539, Willow Grove, PA 19090.

MC 30089 (Sub-II–1TA), filed August 25, 1980. Applicant: FRANK W. LILLY, INC. P.O. Box 111, Turtle Creek, PA 15145. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Contract, irregular, *lumber or wood products (except furniture)* from points in Hudson County, NJ to points in PA restricted to transportation to be performed under a continuing contract with Heinz, U.S.A. Division of H. J. Heinz Company, Pittsburgh, PA. An underlying ETA seeks 120 days authority. Supporting shipper: H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 4491 (Sub-II–2TA), filed August 27, 1980. Applicant: GREAT COASTAL EXPRESS, INC., P.O.B. 24286, 56 Midlothian Trpk., Richmond, VA 23224. Representative: Paul D. Collins (same address as above). *Carpet, carpeting, carpet remnants, or rugs,* from the facilities of Columbus Mills, Inc., at or near Columbus, GA to Norfolk, Richmond and Roanoke, VA, and their respective commercial zones, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Columbus Mills, Inc., P.O.B. 1560, Columbus, GA 31902.

MC 5649 (Sub-II–2TA), filed August 28, 1980. Applicant: KULP & GORDON, INC., P.O. Box 628, Phoenixville, PA 19460. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Roof insulation, hot tops and side boards,* from the facilities of C. G. Sproule & Assoc., Inc., located in Chester County, PA, to points in CT, DE, MA, MD, NJ, NY, RI, VA, VT, and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): C. G. Sproule & Assoc., Inc., 717 Nutt Road, Phoenixville, PA 19460.

MC 128290 (Sub-II–1TA), filed August 27, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. (1) *Plastic film, plastic sheeting, counters, heels, pads, shanks, soles, soling, tops and welting,* from the facilities of O'Sullivan Corp. at or near Winchester, VA; Lebanon, PA; and Hawthorne, NJ; to points in MD, PA, NJ, NY, CT, MA, RI, NH, NC, and VA and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: O'Sullivan Corp., P.O. Box 603, Winchester, VA 22601.

MC 128290 (Sub-II–2TA), filed August 27, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. (1) *Canned goods, pallets, glassware, and cans,* from Berkeley and Jefferson Counties, WV; and Frederick, Clarke, Warren, Shenandoah and Rockingham Counties, VA to OH, WV, PA, MD, DE, NJ, NY, CT, MA, RI, and VA; and (2) *Glass containers, caps and closures, cardboard cartons and dividers, glue in drums, sugar in bags, containers, and labels* from OH, WV, PA, MD, DE, NJ, NY, CT, MA, RI, VA, NC, SC, and GA to Berkeley and Jefferson Counties, WV; Frederick, Clarke, Warren, Shenandoah, Rockingham Counties, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Royal Crown Bottling Co. of Winchester, Inc., P.O. Box 2300, Winchester, VA 22601; Giant Food, Inc., 6300 Sheriff Rd., Landover, MD; National Fruit Products Co., P.O. Box 2040, Winchester, VA 22601; Shenandoah Apple Co-operative, Inc., P.O. Box 435, Winchester, VA 22601.

MC 151529 (Sub-II–1TA), filed August 28, 1980. Applicant: DANIEL W. AND DAVID J. GREGORY, d.b.a. GREGORY TRUCKING, P.O. Box 859, Wise, VA 24293. Representative: Daniel W. Gregory (same as applicant). *Such commodities as are dealt in by hardware stores and equipment and supplies used in the distribution thereof* between points in McHenry and Cook Counties, IL, on the one hand, and, on the other, points in GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cotter and Co., 2740 Clybourn Ave., Chicago, IL 60614.

MC 109537 (Sub-II–1TA), filed August 28, 1980. Applicant: HERRON TRANSFER CO., 1026 Franklin St., Salem, OH 44460. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. (1) *Tile, brick, refractories, and refractory products, and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk),* between Columbiana, OH and Plymouth Meeting, PA, on the one hand, and, on the other, points in the U.S. east and north of the States of WI, IA, MO, TN, and NC for 270 days. Supporting shipper: Kaiser Aluminum & Chemical Sales, 200 Route 22, Hillside, NJ 07205.

MC 143394 (Sub-II–10TA), filed August 28, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Road, P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). *Contract:* Irregular: *Beer* from Jacksonville, FL, to Mobile, AL. An underlying ETA seeks 120 days authority. Supporting shipper: Budweiser Busch Distributing Company, Inc., 1050 N. Beltline, Mobile, AL 36607.

MC 148604 (Sub-II–8TA), filed August 27, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44306. Representative: C. K. Woodring, National Transportation Consultants, Inc., 7650 Chippewa Rd., Brecksville, OH 44141. (1) *Commodities dealt in by retail stores and materials, equipment and supplies used in the operation of retail stores (except commodities in bulk)* between facilities of Gray Drug Stores, Inc. and/or Revco Drug Stores, Inc. at Cincinnati, Cleveland, Columbus, Dayton and Toledo, OH and their respective commercial zones and Somerset, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, MD, MA, MI, NJ, NY, OH, PA, RI and WI; and (2) *aircraft parts and machinery, equipment and supplies used in the manufacture of aircraft parts (except commodities in bulk)* between the facilities of Cleveland Pneumatic Corp. at Cleveland, OH on the one hand, and, on the other, points in CT, MA, NJ and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Gray Drug Stores, Inc., 666 Euclid Avenue, Cleveland, OH

44114; Revco Drug Stores, Inc., 1925 Enterprise Parkway, Twinsburg, OH 44087; Cleveland Pneumatic Corp., 3781 East 77th Street, Cleveland, OH 44105.

MC 151419 (Sub-II–2TA), filed August 25, 1980. Applicant: GORDON JOHNSON, Box 252; Route 2, Fredericktown, OH 43019. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. (1) *Lawn and garden tools and farm implements;* (2) *appliances, component parts and supplies* between (1) Columbus, OH, on the one hand, and, on the other, Frankfort, NY, and (2) between Marion, OH, on the one hand, and, on the other, Albany, Binghamton, Buffalo, Rochester, Syracuse and Utica, NY, and Fairfield and Kearny, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Morris Distributing, 1153 W. Fayette St., Syracuse, NY 13204; the Union Fork & Hoe Co., 500 Dublin Ave., Columbus, OH 43215; and Whirlpool Corp., 2000 U.S. 33, North, Benton Harbor, MI 49022.

MC 13134 (Sub-II–13TA), filed August 25, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Expanded plastic products*, from points in Lawrence County, OH, to points in WV, NY, MD, PA and DE, for 270 days. Supporting shipper: Dow Chemical U.S.A., P.O. Box 36000, Strongsville, OH 44136.

MC 151692 (Sub-II–1TA), filed August 28, 1980. Applicant: EVANS TRANSPORTATION CO., 7800 Rt. No. 13, Levittown, PA 19057. Representative: Peter R. Gilbert, 1919 Pennsylvania Ave., NW., Suite 850, Washington, DC 20006. *Contract*, irregular: *Iron and steel articles and equipment, materials and supplies used in the manufacture thereof*, between pts. in the US, under a continuing contract with Ferrodeck, Inc. for 270 days. Supporting shipper: A. F. Enterprise, Inc., 161 Highland Ave., Needham Heights, MA 02194.

MC 14314 (Sub-II–3TA), filed August 29, 1980. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway & Vine, Lima, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Common*, regular: *General commodities (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission)*, (1) between jct U.S. Hwy 40 and Interstate Hwy 75 and Terre Haute, IN serving the intermediate points of Richmond and Brazil, IN and the off-route point of Greencastle, IN. From jct U.S. Hwy 40 and Interstate Hwy 75 over U.S. Hwy 40 to Terre Haute and return over the same route. (2) Between Cincinnati, OH and Indianapolis, IN serving the intermediate points of Morristown and Rushville, IN and the off-route points of Connersville, Shelbyville, Greensburg, Aurora, Batesville and Lawrenceburg, IN. From Cincinnati over U.S. Hwy 52 to Indianapolis and return over the same route. (3) Between Indianapolis, IN and Fort Wayne, IN serving the intermediate point of Huntington, IN and the off-route points of Noblesville, Frankton, Elwood, Wabash, Upland, Alexandria, Lagro, New Haven, Cicero, Roanoke, Sweetser and Van Buren, IN. From Indianapolis over IN Hwy 37 to Fort Wayne and return over the same route. (4) Between Indianapolis, IN and Fort Wayne, IN serving the intermediate points of Pendleton, Anderson and Muncie, IN and the off-route points in Yorktown, Decatur, Union City, Woodburn, New Castle, Portland, Hartford City, Middletown, Montpelier, and Lapel, IN. From Indianapolis over IN Hwy 67 to jct U.S. Hwy 27, then over U.S. Hwy 27 to Fort Wayne and return over the same route. (5) Between Evansville, IN and Louisville, KY serving the intermediate points of Chandler, St. Meinrad, and Corydon, IN and the off-route points of Griffin, Newburgh, Mt. Vernon, Marengo, and Oakland City, IN. From Evansville over U.S. Hwy 460 to Louisville and return over the same route.

Note.—The sole purpose of this request is to substitute single line for joint operations. Applicant intends to tack with its authority held in MC–14314 and Subs thereto and interline at Louisville, KY and Indianapolis, Evansville, and Fort Wayne, IN, for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack and interline.

Supporting shippers: International Playtex, Inc., P.O. Box 631, Dover, DE 19901; Rohm & Haas, Independence Mall West, Philadelphia, PA 19105; and Vidal Sassoon, 9640 Owensmouth Ave., Chatsworth, CA 91311.

MC 128746 (Sub-II–3TA), filed August 28, 1980. Applicant: D'AGATA NATIONAL TRUCKING CO., 3240 S. 61st St., Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, D.C. 20036. *Malt beverages, in containers*, from the Anheuser-Busch facility at or near Williamsburg, VA to pts. in PA, on and east of US Route 220, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Anheuser-Busch Companies, Inc. P.O. Drawer V. Williamsburg, VA 23185.

MC 488 (Sub-II–4TA), filed August 28, 1980. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same address as applicant). *Leather, leather products and hides and materials supplies used in the production and distribution of leather, leather products and hides*, between the facilities of Howes Leather Co. at Curwensville, PA, on one hand, and, on the other, pts. in DE, OH, MA, MD, NJ, NY, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Howes Leather Co., P.O. Box 57, Curwensville, PA 16833.

MC 488 (Sub-II–3TA), filed August 28, 1980. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same address as applicant). *Leather, leather products and hides and materials and supplies used in the production and distribution of leather, leather products and hides*, between the facilities of A. C. Lawrence Leather Co., in Ashland, KY, and Hazelwood, NC on one hand, and, on the other, pts. in MA, NJ, OH, PA, and VA for 270 days. An underlying ETA Seeks 120 days authority. Supporting shipper: A. C. Lawrence Leather Co., Danvers, MA 01923.

MC 124333 (Sub-II–3TA), filed June 27, 1980. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract*, irregular: *Fuel oil, in bulk, in tank vehicles*, from Pennsauken, NJ to Clayton, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Campbell Soup Co., Campbell Place, Camden, NJ 08101.

MC 145104 (Sub-II–1TA), filed August 29, 1980. Applicant: MIL-CO TRUCKING, INC., 319 S. Main St., West Unity, OH 43570. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of brass and brass products*, between the facilities of Chase Brass, at or near Montpelier, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX for 270 days. Restricted to the transportation of shipments originating at or destined to the origins specified above. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chase Brass & Copper Co., 20600 Chagrin Blvd., Cleveland, OH 44122.

MC 78228 (Sub-II–4TA), filed August 29, 1980. Applicant: J. MILLER EXPRESS, INC., 962 Greentrees Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA

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15219. *Pig iron, in bulk in dump vehicles,* from Portsmouth, NH to Laconia, NH for 270 days. Supporting shipper: Philipp Bros., Division of Engelhard Minerals & Chemicals Corp., 1221 Avenue of the Americas, New York, NY 10020.

MC 146807 (Sub-II-7TA), filed August 28, 1980. Applicant: S & W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Rope, synthetic cordage and strapping and tools, seals and buckles used with synthetic strapping, oakum and packing and synthetic twine* from Honesdale, PA to New Orleans, LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Mfg. Co., 206 Willow Ave., Honesdale, PA 18431.

MC 138068 (Sub-II-3TA), filed August 29, 1980. Applicant: WAREHOUSE TRANSPORTATION CO., INC., P.O. Box 84, Urbana, OH 43078. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Contract;* Irregular; *Toilet preparations, hair spray* and *such commodities* as are used, dealt in, or distributed by retail and wholesale department, hardware, drug and food stores, and equipment, materials, and supplies used in the conduct of the business described above, between Florence, KY, and its commercial zone, on the one hand, and, on the other, Niles, IL and its commercial zone, for 270 days. Supporting shipper(s): Redken Laboratories, 7080 New Buffington Rd., Florence, KY 41042.

MC 2202 (Sub-II-14TA), filed August 29, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Common,* regular: *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Flowery Branch, GA as an off-route point in connection with applicant's regular routes to and from Norcross, GA for 270 days. Applicant proposes to tack the authority sought herein with its regular routes a Norcross, GA. Applicant proposes to interline at existing gateways throughout its system. Supporting shipper: Reliance Electric, 220 Eastview, Brooklyn Heights, OH 44131.

MC 2202 (Sub-II-13TA), filed August 29, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Common,* regular: *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Monroeville, AL as an off-route point in connection with applicant's regular routes to and from Evergreen, AL for 270 days. An underlying E.T.A. seeks 120 day's authority. Applicant proposes to tack the authority sought herein with its regular routes at Evergreen, AL. Applicant proposes to interline at existing gateways throughout its system. Supporting shipper: Vanity Fair Mills, Inc., 624 South Alabama Ave., Monroeville, AL 36462.

MC 119632 (Sub-II-14TA), filed August 29, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *General commodities* (except those of unusual value, household goods and class A & B explosives, commodities in bulk, and those requiring special equipment) between Franklin and Licking Counties, OH on the one hand and points in IL on the other, for 270 days Restricted to traffic having prior or subsequent movements by rail. Supporting shipper: Merchant Shippers Div. of Transway Corp., 2350 Victory Parkway, Cincinnati, OH 45206.

The following applications were filed in Region 3. Sent protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 73165 (Sub-3-2TA), filed August 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. *General commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, and commodities in bulk) in containers or trailers and empty containers or trailers having prior or subsequent movement by water or rail* between points in VA, NC, SC, GA, FL, AL, MS, LA and TX on the one hand, and on the other, points in and east of MN, IA, NE, KS, OK and TX. Supporting shipper(s): There 59 statements of support attached to this application which may be examined at the I.C.C Regional Office in Atlanta, GA.

MC 52704 (Sub-3-9TA), filed August 25, 1980. Applicant: GLENN McCLENDON TRUCKING COMPNAY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representatives: Archie B. Culberth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Paper and paper products,* from the facilities of Manville Forest Products Corporation at or near Monroe and West Monroe, LA to points in NC and SC; and (2) *Materials, equipment and supplies used in the manufacture, sale, distribution and conversion of paper and paper products,* from points in NC and SC to Monroe and West Monroe, LA. Supporting shipper(s): Manville Forest Products Corporation, P.O. Box 488, West Monroe, LA 71291.

MC 147333 (Sub-3-1TA), filed August 26, 1980. Applicant: McGEE TRUCKING COMPANY, P.O. Box 297, Bostic, NC 28018. Representative: Judy Baldwin McGee (same address as applicant). *Contract carrier:* irregular routes: *Business and office furniture and replacement parts for same,* between the facilities of GF Business Equipment, Inc. located at or near Forest City, NC, Gatlin, TN, and Youngstown, OH, on the one hand, and, points in the U.S. (except AK and HI), on the other hand, under a continuing contract with GF Business Equipment, Inc. Supporting shipper(s): GF Business Equipment, Inc., P.O. Box 260, Forest City, NC 28043.

Note.—Applicant intends to tack in MC 147333 (Sub-1).

MC 145541 (Sub-3-3TA), filed August 26, 1980. Applicant: SUNWAY CORPORATION, 118 West Main Street, Thomasville, North Carolina 27360. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *New furniture and parts, supplies and materials used in the manufacturing of new furniture,* between points in Caldwell, Davidson and Guilford Counties, NC, on the one hand, and, on the other, points in CA, AZ and TX. There are 8 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 124251 (Sub-3-1TA), filed August 26, 1980. Applicant: JACK JORDAN, INC., P.O Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Ground Limestone,* from points in Franklin County, TN, to points in Whitfield County, GA. Supporting shipper: TAC Industries, Inc., 821 Tilton Road, S.E., Dalton, GA 30720.

MC 151352 (Sub-3-1TA), filed August 21, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 South Lawrence Street, Montgomery, AL 36104. *General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk* *and those requiring special equipment),* between points in Lee County, AL, on the one hand, and, on the other, points in the U.S. Supporting shippers: There are seven statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 151393 (Sub-3TA), filed August 21, 1980. Applicant: MILLERS BEND CARRIERS, INC., 1135 Hwy. 231, No., P.O. Box 197, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. (1) *Cleaning, scouring, washing, and buffing compounds, (2) hardwood veneer, (3) athletic apparel, and (4) piece goods,* (1) From Montgomery, IL, and Rochester, NY, to Los Angeles, San Diego, and San Jose, CA; Denver, CO; Seattle, WA; Dallas, TX; St. Paul, MN; St. Louis, MO; New Orleans, LA; Memphis, TN; Tampa, FL; Atlanta, GA; and Greensboro, NC; (2) from Pine Hill, AL, to Columbia, TN; Louisville, KY; Evansville, IN; and points in NC; (3) from Thomasville, AL, to all points in the contiguous U.S. and (4) from NC and SC and Fall River, MA, to Thomasville, AL. Supporting shippers: Simplex Industries, Inc., Old School Road, Thomasville, AL 36784; Thomasville Veneer, Inc., P.O. Box 267, Pine Hill, AL 36769; Rochester Germicide Co., Inc., P.O. Box 1515, Rochester, NY 14603.

MC 145541 (Sub-3–2TA), filed August 21, 1980. Applicant: SUNWAY CORPORATION, 118 West Main Street, Thomasville, NC 27360. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *New furniture and parts, supplies and materials used in the manufacture of new furniture,* between points in Wilkes, Randolph, Lee, Beaufort and Rockingham Counties, NC, and Roanoke, Campbell and Franklin Counties, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY. Supporting shippers: There are five statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 146465 (Sub-3–1TA), filed August 21, 1980. Applicant: LAWRENCE PILGRIM d.b.a., PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree Street, N.E., Atlanta, GA 30309. *Iron and steel articles,* (a) between Detroit, MI; Chicago, IL; Hammond, IN; Cleveland, Cincinnati, Canton and Columbus, OH; Newport, KY; Darlington, SC; Weirton, WV; and points in the commercial zones thereof, and (b) from those points described in (a) above to points in AL, GA, KY, NC, SC, TN and VA. Supporting shipper: United Trading Steel Distributors, Inc., 432 Walnut Street, Suite 1100, Cincinnati, OH 45202.

MC 146293 (Sub-3–23TA), filed August 22, 1980. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Esq., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Bottled water and materials, equipment and supplies used in the manufacture, distribution and sale of bottled water (except in bulk)* between Ukiah, CA, on the one hand, and, on the other, points in the US in and east of NM, CO, WY and MT. Supporting shipper: Vichy Springs Mineral Water Distribution Co., 2813 Marcia Drive, Lawrenceville, GA 30245.

MC 116254 (Sub-3–14TA), filed August 22, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Coal Tar, in bulk, in tank vehicles,* from Middletown, OH, to Woodward, AL. Supporting shipper: Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219.

MC 146646 (Sub-3–25TA), filed August 22, 1980. Applicant: BRISTOW TRUCKING CO., Inc., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Glassware* Between the facilities of Indiana Glass Co. located at or near Dunkirk, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to traffic moving for the account of Wallace International. Supporting shipper: Wallace International, P.O. Box 26226, Birmingham, AL 35226.

MC 146646 (Sub-3–26TA), filed August 22, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Materials, equipment, and supplies used in the manufacture, sale and distribution of residential and mobile homes* From Lagrange, IN and Chicago, IL to the facilities of Manufactured Housing Products Company, Inc. located at or near Americus, GA Supporting shipper: Manufactured Housing Products Company, Inc., P.O. Box 525, Americus, GA 31709.

MC 105813 (Sub-3–3TA), filed August 25, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Frozen Ice Cream Novelties* from Sikeston, MO to Ocala, FL. Supporting shipper: Gold Bond Ice Cream of Florida, Inc., 701 S.W., 3rd Ave, Ocala, FL 32671.

MC 124306 (Sub-3–7TA), filed August 25, 1980. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, Post Office Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman (same as above). *Chelating compounds and citric acid,* from Southport, NC to Spotswood, NJ. Supporting shipper: Pfizer Inc., 235 East 42nd St., New York, NY 10017.

MC 107515 (Sub-3–56TA), filed August 25, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment)* between the facilities or agents of the J. C. Penney Catalog Division located in Hartford County, CT; Clayton County, GA; Johnson County, KS; Washoe County, NV; Franklin County, OH; and Milwaukee County, WI, on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: The J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10010.

MC 151352 (Sub-3–2TA), filed August 25, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 South Lawrence Street, Montgomery, AL 36104. *Paper and Paper Articles,* from the facilities of Alabama Kraft, Division of Georgia Kraft Company, at or near Cottonton, AL to points in the U.S. Supporting shipper: Alabama Kraft, Division of Georgia Kraft Company, P.O. Box 940, Phenix City, AL 36867.

MC 148075, filed August 25, 1980. Applicant: CECIL E. KING, JR., d/b/a CECIL KING TRUCKING, Route 2, Seagrove, NC 27341. Representative: Francis J. Ortman, Esquire, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract carrier:* Irregular: *Meat,* between Randolph County, NC and points in AL, FL, GA, IA, IN, KY, MO, NE, OH, SC, TN, VA, and WV. Supporting shipper: Yates Country Ham, Inc., P.O. Box 61, Asheboro, NC 27203.

MC 111871 (Sub-3–1TA), filed August 26, 1980. Applicant: SOUTHEASTERN FREIGHT LINES, INC., U.S. Highway 378, P.O. Box 5887, Columbia, SC 29250. Representative: Thomas G. Sloan (same address as applicant). *General Commodities (except those of unusual* *value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in GA, SC, and points in NC except points in Cleveland, Gaston, Mecklenburg, Union, Anson, Lincoln, Cabarrus, Stanley, Catawba, Rowan, Alexander, Iredell and Davie Counties. Supporting shipper(s): There are 52 statements of support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA

Note.—Applicant intends to interline at Charlotte, NC, Columbia, Florence, Greenville, N. Augusta, and Charleston, SC, and, Atlanta, Savannah, and Albany, GA.

MC 151673 (Sub-3-1TA), filed August 28, 1980. Applicant: J & R CARRIERS, INC., Route 6, Box 17, Vicksburg, MS 39180. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Mobile homes* between points in AL, LA, GA, MS, TN, TX and FL. Supporting shippers: There are nine statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 121683 (Sub-3-1TA), filed August 26, 1980. Applicant: JACKSON EXPRESS, INC., P.O. Box 3310, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *General Commodities (except Class A & B explosives, commodities in bulk, household goods, and commodities which because of size or weight require the use of special equipment)* between all points in McNairy County, TN and all points on and south of TN Hwy. 57 and Crump in Hardin County, TN as off-route points in connection with existing authority held in MC-121683 and subs thereunder. Supporting shipper(s): Tennessee-Carolina Transportation, Inc., P.O. Box 100943, Nashville, TN 37210; American Freight System, Inc., P.O. Box 7257, Nashville, TN 37210; and Lance Garment, Inc., P.O. Drawer O, Red Bay, AL 35582.

Note.—Applicant intends to tack in MC-121683 and subs and intends to interline with other carriers at Jackson, Nashville, and Memphis, TN, Tupelo and Corinth, MS, and Red Bay, AL.

MC 151352 (Sub-3-3TA), filed August 19, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104. *Wine*, from Westfield, NY to Mobile, Montgomery, and Dothan, AL. Supporting shipper(s): San Pedro Wine Co., Inc., Brookley Complex and Airport Building, 106 E-1, Mobile, AL 36615.

MC 151253 (Sub-3-1TA), filed August 26, 1980. Applicant: TRI-STATE TRANSPORT, INC., 322 Grange Road, Port Wentworth, GA 31407. Representative: J. L. Frant, P.O. Box 577, Jonesboro, GA 30236. *General commodities, in steamship containers*, from Savannah, GA and Chatham County, GA to all points in the States of AL, FL, GA, NC, and SC. Supporting shipper(s): There are eight statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 145213 (Sub-3-1TA), filed August 26, 1980. Applicant: DEEP SOUTH TRUCKING, INC., Highway 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main Street, P.O. Box 696, Purvis, MS 39475. *Contract carrier*, irregular routes, *iron and steel products*, between points in IL, IN, KY, KS, LA, MI, MN, MO, OH, and WI, on the one hand, and, on the other, Harrison County, MS, under a continuing contract or contracts with International Harvester—Pay Line Product Distribution Company. Supporting shipper: International Harvester, Pay Line Product Distribution Company, Box 6103, Gulfport, MS 39501.

MC 151633 (Sub-3-1TA), filed August 26, 1980. Applicant: EASTERN FREIGHT FORWARDERS, INC., 1750 Australian Avenue, P.O. Box 9728, Riviera Beach, FL 33404. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave. NW., Washington, DC 20036. *Contract carrier*, irregular routes, *General commodities, usual exceptions*, between Riviera Beach, FL, on the one hand, and, points in Broward, Dade, Palm Beach, and Monroe Counties, FL, on the other, restricted to traffic having a prior or subsequent movement by water and further restricted to transportation to be performed under continuing contract(s) with Freeport Transfer, Ltd. Supporting shipper(s): Freeport Transfer, Ltd., P.O. Box F-263, Freeport, Grand Bahama.

MC 145596 (Sub-3-2TA), filed August 26, 1980. Applicant: A & M EXPRESS, INC., 1136 Haley Road, Murfreesboro, TN 37130. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. *Pulp, paper or allied products and printed matter and commodities used in the manufacture and distribution of pulp, paper or allied products and printed matter*, between Rutherford Co., TN, on the one hand, and, on the other, points in VT, NH, MA, CT, RI, NJ, DE, MD, WV, NY, SC, AR, MS, OK, IA, ND, SD, NE, MT, WY, CO, NM, AZ, UT, ID, NV, WA, OR, and CA. Supporting shipper: Standard Register Corp., P.O. Box 839, 325 Butler Drive, Murfreesboro, TN 37130.

MC 138635 (Sub-3-8TA), filed August 26, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same as applicant). *(1) Printed matter and (2) pulp, paper and allied products and machinery and supplies used in the manufacture, packaging and distribution of (1) above*, between all points in the U.S. Supporting shipper: R. R. Donnelley & Sons Company, Jones Road at Route 57, Spartanburg, SC 29300.

MC 116938 (Sub-3-1TA), filed August 27, 1980. Applicant: BEATY TRUCKING CO., INC., Route 2, Manchester, TN 37355. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier:* irregular routes: *Brick, cinder block, concrete block, and tile, and materials and supplies used in the manufacture of brick, block, and tile (except cement in bags, and commodities in bulk)* between Atlanta, GA, on the one hand, and, on the other, points in TN, AL, and NC, under a continuing contract with General Shale Products Corporation. Supporting shipper: General Shale Products Corporation, P.O. Box 3547, C.R.S., Johnson City, TN 37355.

MC 148780 (Sub-3-1TA), filed August 26, 1980. Applicant: ENGINEERED TRANSPORT SERVICES, INC., 3001 Ponce de Leon Blvd., Suite 201, Coral Gables, FL 33134. Representative: Charles R. Stiller (same as applicant). *Contract carrier:* irregular routes: *Motor vehicle parts, materials and supplies, and equipment, materials, and supplies* utilized in the manufacture thereof (except commodities in bulk), between points in AZ, CA, ID, NV and UT, under a continuing contract with General Motors Corporation. Supporting shipper: General Motors Corporation (General Motors Parts Division), 6060 W. Bristol Rd., Flint, MI 48554.

MC 114334 (Sub-3-8TA), filed May 21, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Manufactured wire products and raw materials*, between Madill, OK and points in AR, MO, TN, MS, AL, KY, IL, IN, IA and WI. Supporting shipper: Oklahoma Steel Wire Company, P.O. Box 220, Madill, OK 73446.

MC 111045 (Sub-3-3TA), filed August 26, 1980. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). *Petroleum Products* between points in MS, SC, TN, AL and GA on the one hand, and, points in FL on the other hand. Supporting shipper: Peak Oil Co., Rt. 3, Box 24, Tampa, FL 33619.

MC 151662 (Sub-3-1TA), filed August 25, 1980. Applicant: KENNETH HADDIX, 3955 Thomas Dr., Ridgeview Heights, KY 41018. Representative: Ronald J. Denicola, 901 Fifth & Race Tower, Cincinnati, OH 45202. *Contract Carrier:* irregular routes: *Toilet goods and cosmetic articles,* from Canoga Park, CA to all points within the U.S., and from Florence, KY to all points within the U.S., under a continuing contract with Redkin Laboratories, Inc. Supporting shipper(s): Redkin Laboratories, Inc., 7080 New Buffington Road, Florence, KY 41042.

MC 65697 (Sub-3-3TA), filed August 20, 1980. Applicant: THEATRES SERVICE COMPANY, P.O. Box 1695, Atlanta, GA 30301. Representative: Paul W. Smith (same as above). *Common carrier: regular: General commodities (except Class A and B explosives) moving in express service:* 1. Between Natural Bridge, AL, and Phil Campbell, AL, over AL Hwy. 5. 2. Between Andalusia, AL and Mobile, AL. From Andalusia, AL, over U.S. Hwy. 29 to Pensacola, FL, thence over U.S. Hwy. 98 to Mobile, AL. 3. Between Brewton, AL and Mobile, AL. From Brewton, AL, over AL Hwy. 41 to AL-FL stateline, thence over FL Hwy. 87 to Milton, FL, thence over U.S. Hwy. 90 to Mobile, AL. 4. Between Greenville, AL, and Mobile, AL, over U.S. Hwy. 31. 5. Between Greenville, AL, and Mobile, AL, over Interstate Hwy. 65. 6. Between Milton, FL, and Mobile, AL, over Interstate Hwy. 10, and return over all of the foregoing routes, as pertinent, serving all intermediate points in (1) through (6) above inclusive, and serving the off route points of Frisco City, AL, and Monroeville, AL. Supporting shippers: There are 70 statements in support attached to this application, which may be examined at the ICC Regional Office in Atlanta, GA.

Note.—Applicant proposes to tack this authority with existing regular-route authority in MC 65697, Sub 52.

MC 121821 (Sub-3-6TA), filed August 26, 1980. Applicant: TENNESSEE MOTOR LINES, INC., P.O. Box 100363, Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Pumps, pump parts and material, equipment and supplies (except in bulk) used in the manufacture and distribution of pumps and pump parts* between Nashville, TN on the one hand, and, on the other, the facilities of Tokheim Corporation at or near Jasper, TN. Supporting shippers: Tokheim Corporation, 1602 Wabash Avenue, Ft. Wayne, IN 46801 and Renner's Express, Inc., 1350 South West St., Indianapolis, IN 46225.

Note.—Applicant intends to interline at Nashville, TN.

MC 2900 (Sub-3-18TA), filed August 21, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Common carrier: regular: General commodities (except those of unusual value, Classes A & B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission),* (1) Between Louisville, KY and Nashville, TN over U.S. Hwy 31W, (2) Between Cincinnati, OH and Morristown, TN from Cincinnati, over U.S. Hwy. 25 to Jct. U.S. Hwy. 25E, then over U.S. Hwy. 25E to Morristown, TN and return over the same route; (3) Between Louisville, KY and the Jct. U.S. Hwys. 60 and 25 over U.S. Hwy 60, and (4) Between Jct. U.S. Hwys. 60 and 127 and the Jct. of U.S. Hwys. 150 and 25, from Jct. U.S. Hwys. 60 and 127 over U.S. Hwy. 127 to Jct. U.S. Hwy. 150 then over U.S. Hwy. 150 to Jct. U.S. Hwy. 25 and return over the same route, serving all intermediate points and the off-route point of Nicholasville, KY. Supporting shipper(s): There are 29 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

Note.—Applicant seeks authority to tack with present authority, to interline, and to serve commercial zones.

MC 116254 (Sub-3-15TA), filed August 27, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Knitted Gloves, Mittens, Headwear, Display Racks, and Yarn,* from Appleton and Milwaukee, WI to AR, CA, IL, IN, KY, ME, MA, MI, MO, NJ, NY, NC, OH, OR, PA, TN, VA. Supporting shipper: Zwicker Knitting Mills, 410 North Richmond Street, Appleton, WI 54911.

MC 138441 (Sub-3-1TA), filed August 28, 1980. Applicant: CARL N. SHEFFIELD, d.b.a. S & S TRANSPORT COMPANY, 4810 Dignan Street, Jacksonville, FL 32205. Representative: O. C. Beakes, 836 Riverside Avenue, Jacksonville, FL 32205. *Contract carrier,* irregular routes; *Molasses in bulk in tank trucks,* from Jacksonville, FL to points in GA South of Georgia Highway 80 and points in FL North of Interstate Highway 4. Supporting shipper: Industrial Molasses Division Westway Trading Corp., 464 Hudson Terrace, Engelwood Cliffs, NJ 07632.

MC 146844 (Sub-3-1TA), filed August 28, 1980. Applicant: NATIONAL TRUCK BROKERAGE, INC., d.b.a. HICKS MOTOR LINES, 219 W. Main Street, P.O. Box 176, Humboldt, TN 38343. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Foodstuffs* between the Memphis, TN facilities of Nachos, Inc. on the one hand, and, on the other, all points in the continental United States. Supporting shipper: Nachos, Inc., 1886 Brooks Road, Memphis, TN 38116.

MC 91306 (Sub-3-5TA), filed August 28, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Avenue, N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Fiberglass, and materials and supplies used in the manufacture thereof,* from Shelby and Lexington, NC, and points in their commercial zones, to points in VA, MD, DC, DE, PA, NJ, NY, CT, RI, MA, ME, VT, OH, WV, NH, MI, IN and KY. Supporting shipper: PPG Industries, Inc., 14E3, One Gateway Center, Pittsburgh, PA 15222.

MC 148410 (Sub-3-2TA), filed August 27, 1980. Applicant: BRAVO TRANSPORT, INC., 6440 Hillandale Drive, Suite 263, Lithonia, GA 30058. Representative: Charles E. Puckett, 6440 Hillandale Drive, Suite 263, Lithonia, GA 30058. *Contract carrier,* irregular routes; *Plastic articles, expanded or non-expanded; plastic forms or shapes, finished and unfinished, in cartons, crates or loose; and materials, equipment and supplies used in the manufacture thereof;* from Chicago, IL; Hawthorne, NJ; Hayward, CA, to all points in the Continental US excluding AL and HI. Supporting shipper: Astro Packaging, Inc., 470 W. 169th Street, South Holland, IL 60473.

MC 148410 (Sub-3-1TA), filed August 27, 1980. Applicant: BRAVO TRANSPORT, INC., 6440 Hillandale Drive, Suite 263, Lithonia, GA 30058. Representative: Charles E. Puckett (same address as applicant). *Contract carrier,* irregular routes: *Furniture and furniture parts, new in cartons, and materials, equipment and supplies used in the manufacture thereof;* from Pittsburgh, Arnold, Boyers, PA; to AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. Supporting shipper: Malibu Industries, Inc., P.O. Box 11243, Pittsburgh, PA 15238.

MC 140389, (Sub-3-14TA), filed August 27, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *Foodstuffs,*

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except in bulk, from Memphis, TN, to points in the U.S. (except AK and HI). Supporting shipper(s): Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 144503 (Sub-3–2TA), filed August 26, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *(1) Yarn, (2) Thread, sewing, cotton, yarn, fasteners, slide (zippers), dry goods, books, cloth, plastic articles, needles, notions, display cases, racks, sheet steel articles, and friction fabric, (3) Thread, sewing cotton, yarn, fasteners, slide (zipper), dry goods, books, cloth, plastiç articles, needles, notions, display cases, racks, sheet steel articles, and friction fabric,* (1) From the plantsite of Coats & Clark Sales Corp. located at or near Atlanta, GA to the states of MO, KS, NB, IA, IL, IN, OH, MI, WI, MN, SD, KY, AL, MS, SC, NC, TN, LA, & TX (2) From the plant site of Coats and Clark Sales Corp located at or near Atlanta, GA to the state of MO and (3) From the plant site of Coats and Clark Sales Corp located at or near St. Louis, MO to the state of MN. Supporting shipper: Coats & Clark Sales Corp., 2915 NE Parkway, Doraville, GA 30340.

MC 139323 (Sub-3–1TA), filed August 26, 1980. Applicant: KARS TRANSPORT, INC., 3333 NW 116th St., Miami, FL 33167. Representative: Gerard J. Donovan, 4791 SW 82nd Ave., Davie, FL 33328. *General Commodities (except cement, commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between all points in FL. Applicant intends to interline at Miami, Tampa, Orlando, and Jacksonville, FL. Supporting shippers: There are 11 statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 116947 (Sub-3–11TA), filed August 26, 1980. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street, S.W., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Contract carrier:* irregular: *General Commodities (Except those of unusual value, Classes A and B, Explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between points in the U.S. except AK and HI, under a continuing contract with Jos. Schlitz Brewing Company: Supportiang shipper: Jos. Schlitz Brewing Co., 235 W. Galena St. Milwaukee, WI 53212.

MC 144827 (Sub-3–12TA), filed August 25, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N Main Bldg., Memphis, TN 38103. (1) *Oil, except in bulk,* from the facilities of Burmah-Castrol, Inc. at or near Kenner, LA, to points in AL, GA, TN and TX; and, (2) *Oil, except in bulk,* from Edison, NJ; Kansas City, MO; and Griffin, GA, to facilities of Burmah-Castrol, Inc., at or near Kenner, LA. Supporting shipper: Burmah-Castrol, Inc., 200 Crofton, P.O. Box 336, Kenner, LA 70063.

MC 147127 (Sub-3–TA), filed August 26, 1980. Applicant: MCLAURIN TRUCKING CO., P.O. Box 26506, Charlotte, NC 28213. Representative: Donald J. Balsley, Jr., Esquire, 2310 Grant Building, Pittsburgh, PA 15219. *Carbonated beverages and other soft drinks, materials, equipment and supplies used in the production, sale and distribution of carbonated beverages and other soft drinks,* between points in GA, NC, SC, TN and VA, restricted to the transportation of traffic originating at or destined to the facilities of Shasta, a division of Consolidated Foods, Inc., Supporting shipper: Shasta Beverages, 3820 N. Davidson St., Charlotte, NC.

MC 47171 (Sub-3–5TA), filed August 15, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2320, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Displays, advertising, store or window, NOI, racks on stands, store display; or cases, store display, other than furniture,* NOI from Old Bethpage, LI, NY; Providence, RI: Hauppague, LI, NY; Marlboro, MA; Newark, NJ; and Elmsford, NY to Creedmoor, NC and Goldston, NC. Supporting shipper: Kayser-Roth Hosiery, Inc. 2303 W. Meadowview Rd., Greensboro, NC 27407.

MC 121598 (Sub-3–1TA), filed August 26, 1980. Applicant: SHELBYVILLE EXPRESS, INC., P.O. Box 187, Shelbyville, TN 37160. Representative: James G. Caldwell, P.O. Box 100906, Nashville, TN 37210. *General commodities, Regular Routes, (except those of unusual value, classes A & B explosives, household, goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) Between Nashville, TN and Lewisburg, TN, serving all intermediate points from Nashville over US Highway 31A–41A to Kirkland, TN thence over US Highway 31A to Lewisburg, TN and return; (2) Between Nashville, TN and Lewisburg, TN serving all intermediate points from Nashville, TN over Interstate 65 to its junction with TN Highway 50 thence over TN Highway 50 to Lewisburg, TN and return; (3) Between Shelbyville, TN and Lewisburg, TN serving all intermediate points from Shelbyville over TN Highway 64 to its junction with US Highway 31A thence over US Highway 31A to Lewisburg, TN and return; (4) Between Lewisburg, TN and Ardmore, TN serving all intermediate points from Lewisburg over US Highway 31A to its junction with Interstate 65 thence over Interstate 65 to its junction with US Highway 31, thence over US Highway 31 to Ardmore, TN and return. Applicant intends to tack with MC 121598 and interline at Nashville, TN and other authorized points. Supporting shippers: There are 14 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 124896 (Sub-3–5TA), filed August 26, 1980. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Peter A. Greene, 404 Farragut Bldg., 900 Seventeenth St., N.W., Washington, D.C. 20006. *Bananas, agricultural commodities, and foodstuffs* for Williamson Distributors, Inc., Florida, from NC, SC, GA, FL, to AL, DE, IL, IN, IA, KY, MD, MO, NJ, OH, PA, TN, VA, WV, and WI. Supporting shipper: Williamson Distributors, Inc., Florida, Homestead, FL 33030.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 147343 (Sub-4–6TA), filed: August 26, 1980. Applicant: TREADWAY CARRIERS, INC., 9333 N. Meridian St., Indianapolis, IN 46260. Representative: Charles E. Mayer (same as applicant). *Radio receiving sets, and phonographs or tape or wire recorders, separate or combined, or materials used in the manufacture of radio receiving sets and phonographs or tape or wire recorders* (1) from Los Angeles, CA, Santa Claus, IN, and New York, NY, to points in the U.S. (except Plantersville, MS and Cedar Bluff (Princeton) KY) and (2) materials used in the manufacturing of radio receiving sets and phonographs or tape or wire recorders, from points in the U.S. (except Plantersville, MS and Cedar Bluff (Princeton) KY) to the origin points named in (1) above. Supporting shipper: Soundesign Corp., 13111 Temple Ave., City of Industry, CA 91744.

MC 148751 (Sub-4–4TA), filed: August 26, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R.

Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Such commodities as are dealt in or used by manufacturers of paper and paper articles (except commodities in bulk and waste paper),* from (1) Godfrey, IL, to IN, KY, MI, MO, and OH; (2) St. Louis, MO, to IN, IL, KY, MI, and OH, and (3) Chicago, IL, to IN, KY, MI, MO, and OH. An underlying ETA seeks 120 days authority. Supporting shipper: Mead Packaging, Division of The Mead Corp., P.O. Box 4417, Atlanta, GA 30302.

MC 146643 (Sub-4–27TA), filed: August 26, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Contract;* irregular; *empty containers* between points in OH, MI, IN, IL and KY. Supporting shipper: Cortland Container Corp., 8806 Crane Avenue, Cleveland, OH 44105.

MC 28813 (Sub-4–1TA), filed: August 26, 1980. Applicant: MOTOR EXPRESS INC. OF INDIANA, 1440 West 34th Street, Chicago, IL 60608. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Common;* regular; *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), (1) Between Cincinnati, OH, and Lexington, KY, from Cincinnati over U.S. Hwy 24 to Lexington, and return over the same route; (2) Between Indianapolis, IN, and Nashville, TN, from Indianapolis over U.S. Hwy 31 to Louisville, KY, thence over U.S. Hwy 31W to Nashville, and return over the same route; (3) Between Louisville, KY, and Lexington, KY, from Louisville over U.S. Hwy 60 to Lexington, and return over the same route. Service in connection with routes (1), (2), and (3) is sought at all intermediate points and at all points in Fayette and Jefferson Counties, KY, and Davidson County, TN, and Franklin and Seymour, IN, as off-route points.

Note.—Applicant seeks authority to tack with its present authority, to interline, and to serve the commercial zones of the points specified. There are 68 supporting shippers.

MC 90870 (Sub-4–4TA), filed August 26, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route 1, Box 1284, Granite City, IL 62040. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Mouldings, wood, and vinyl, and chip and particleboard from* Lafayette County, MS and Greene County, MO to points in AR, MO, IA, MN, WI, IL, IN, MI, and OH. Supporting shipper: Decker Hardwood Lumber, Inc., P.O. Box 367, Worden, IL 62097.

MC 129071 (Sub-4–1TA), filed August 26, 1980. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, WI 54773. Representative: Eugene D. Anderson, Suite 428, 910 Seventeen St., NW., Washington, DC 20006. Contract; Irregular; *meats, meat products and meat by-products,* as described in Appendix 1A of Descriptions in Motor Carrier Certificates, 61 MCC 209, 272–273 and 61 MCC 766, between points in CO, CT, IA, IL, MA, MN, MO, NE, NJ, NY, PA, TX, under a continuing contract(s) with All American Meat Company. An underlying ETA seeks 120 days authority. Supporting shipper: All American Meat Company, P.O. Box 215, Whitehall, WI 54773.

MC 18121 (Sub-4–5TA), filed August 22, 1980. Applicant: ADVANCE TRANSPORTATION COMPANY, P.O. Box 719, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *General commodities,* with the usual exceptions. (1) Between Chicago, IL and Detroit, MI, serving all intermediate points. From Chicago, IL over I–94 to Detroit, MI and return over the same route. (2) Between Detroit, MI and Toledo, OH, serving all intermediate points. From Detroit, MI over I–75 to Toledo, OH and return over the same route. (3) Between Chicago, IL and Cleveland, OH, serving all intermediate points. From Chicago, IL over I–94 to jct. I–80–90, then over I–80–90 to Cleveland, OH and return over the same route. (4) Between Gary, IN and Cleveland, OH, serving all intermediate points. From Gary, IN over U.S. Hwy. 20 to Cleveland, OH and return over the same route. (5) Between Cleveland, OH and Cambridge, OH, serving all intermediate points. From Cleveland, OH over I–77 to Cambridge, OH and return over the same route. (6) Between East St. Louis, IL and Cambridge, OH serving all intermediate points. From East St. Louis, IL over I–70 to Cambridge, OH and return over the same route. (7) Between Rock Island, IL and Indianapolis, IN serving all intermediate points. From Rock Island, IL over I–80 to jct. I–74, the over I–74 to Indianapolis, IN, and return over the same route. (8) Between Chicago, IL and Indianapolis, IN serving all intermediate points. From Chicago, IL over I–94 to jct. I–65, then over I–65 to Indianapolis, IN and return over the same route. Applicant intends to tack these requested routes as well as tacking these routes with all existing authority and to interline with other existing carriers. Authority sought for 270 days. Underlying ETA seeks 120 days authority. There are 83 supporting shippers.

MC 119641 (Sub-4–3TA), filed August 25, 1980. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, IN 47944. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Material handling equipment, containers, skids,* and *pallets;* and (2) *materials, equipment, and supplies used in the manufacture of (1) above,* between Fowler, IN and Hubbard, OH, on the one hand, and, on the other, points is the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Powell-Essco Products Company and Powell Pressed Steel Company. Supporting shipper: Powell-Essco Products Company and Powell Pressed Steel Company, P.O. Box 345, Fowler, IN 47944.

MC 127187 (Sub-4–1TA), filed August 25, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401. (1) *Animal and poultry feed and animal and poultry feed ingredients* (except commodities exempt from ICC regulation under 49 U.S.C. 10526), and (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1),* between Mapleton, ND; Minneapolis, MN; Rudd and Muscatine, IA; and North Baltimore, OH, on the one hand, and on the other, points in the U.S. (excluding AK and HI). Supporting shipper(s): Westway Trading Corporation, 6600 France Avenue South, Minneapolis, MN 55435.

MC 144323 (Sub-4–2TA), filed August 25, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Contract; irregular; *Salt* (except in bulk), from Cook County, IL, to points in WI. An underlying ETA seeks 120 days authority. Supporting shipper(s): Cargill, Incorporated, Box 9300, Minneapolis, MN 55440.

MC 112239 (Sub-4–1TA), filed August 25, 1980. Applicant: LOGAN TRUCKING, INC., Prairie Hill Road, P.O. Box 41, South Beloit, IL 61080. Representative: Donald S. Mullins, 1033 Graceland Ave., DesPlaines, IL 60016. *Concrete products, also, materials, and equipment used in the manufacture and/or installation of concrete products:* between Janesville, WI, on the one hand, and on the other, points in IL. Supporting shipper(s): Janesville

Concrete Products, 301 Benton Ave., Janesville, WI 53545.

MC 151636 (Sub-4–1TA), filed August 25, 1980. Applicant: RULEAU BROS. TRANSPORT, INC., Cedar River, MI 49813. Representative: Michael S. Varda, 121 S. Pickney St., Madison, WI 53703. *Pet food,* from lower Allen Township, Cumberland County, PA to points in IN, KY, MI and OH. Supporting shipper(s): Perk Foods Company, a subsidiary of CHB Foods, Inc., P.O. Box 235, Camp Hill, PA 17011.

MC 105045 (Sub-4–9TA), filed August 25, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, Vice President (same as above). *Automotive Signs* between A & E Plastiline, Emory Rd., Knoxville, TN and Atlanta, GA, Chicago, IL, Houston, TX, Dallas, TX, San Antonio TX, Denver, CO, St. Louis, MO, Los Angeles, CA, San Francisco, CA, San Diego, CA, Kansas City, MO, Oklahoma City, OK, Tulsa, OK, Salt Lake City, UT, Seattle, WA, Portland, OR, Pittsburgh, PA, Philadelphia, PA and Phoenix, AZ. An underlying ETA seeks 30 days authority. Supporting shipper(s): A & E Plastiline, Emory Rd., Knoxville, TN.

MC 111594 (Sub-4–4), filed August 25, 1980. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wisconsin 54494. Representative: Donald B. Levine, 39 South La Salle Street, Chicago, Illinois 60603. *Common regular General commodities* (except household goods as defined by the Commission, and Classes A and B explosives): (1) From Columbus, OH to Pittsburgh, PA, from Columbus over I–70 to Washington, PA, then over U.S. 19 to Pittsburgh and return over the same routes. (2) From Mansfield, OH to Pittsburgh, PA, from Mansfield over U.S. 30 to Pittsburgh and return over the same route. (3) From St. Louis, MO to Kansas City, MO, from St. Louis over I–70 to Kansas City and return over the same route. (4) From St. Louis, MO to Memphis, TN, from St. Louis over I–55 to Memphis and return over the same route. (5) From Cincinnati, OH to Memphis, TN, from Cincinnati over I–71 to Louisville, KY, then over I–65 to Nashville, TN, then over I–40 to Memphis and return over the same routes. (6) From Cincinnati, OH to Atlanta, GA, from Cincinnati over I–75 to Atlanta and return over the same route. There was no filing of an underlying ETA. There are 41 supporting shippers.

Note.—(1) Applicant proposes to serve the commercial zone of all termini points and intermediate points. (2) Applicant proposes to tack any authority granted therein with its own existing authorities to provide service to points in GA, IL, IN, KY, MI, (U.P.), MN, MO, NC, OH, SC, and WI. (3) Applicant proposes to interline freight at the termini and intermediate points on said routes.

MC 145437 (Sub-4–6TA), filed August 22, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Contract:* irregular; *Wearing apparel* from Norcross, GA to Indianapolis, IN; Cincinnati, OH; Minneapolis, MN; and Chicago, IL and points in their respective commercial zones. Restriction: Restricted to service performed under a continuing contract(s) with J. Riggins, a Division of U.S. Shoe Company. An underlying ETA seeks 120 days authority. Supporting shipper: J. Riggins, a Division of U.S. Shoe Company, 5850 Peachtree Industrial Boulevard, Atlanta/Norcross, GA 30071.

MC 113434 (Sub-4–4TA), filed August 22, 1980. Applicant: GRA–BELL TRUCK LINE, INC., P.O. Box 1001, A5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk (same address as applicant). *Pet foods and ingredients materials and supplies* used in the manufacture and distribution of pet foods, between IA, IL, IN, KY, OH, MI, MO, MD, NY, NJ, PA and WI. Restricted to shipments originating at or destined to the facilities of Benco Pet Foods. An underlying ETA seeks 120 days authority. Supporting shipper: Benco Pet Foods, Inc., P.O. Box 270, Zanesville, OH 43701.

MC 4024 (Sub-4–1TA), filed August 25, 1980. Applicant: HORN TRUCKING CO., P.O. Box 127, Highland, IL 62249. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. *Malt beverage liquors and materials, equipment and supplies related to the manufacturing, sales and distribution of malt beverage liquors,* between IL, AL, AR, FL, IN, KY, MI, MS, MO, OH, OK, TN, and WI. Supporting shipper: Carling National Brewing, Division of G. Heileman Brewing Co., 1201 W. E Street, Belleville, IL 62220.

MC 140779 (Sub-4–3TA), filed August 25, 1980. Applicant: TRANSIT SERVICING, INC. 8121–C East 34 Road, Cadillac, MI 49601. Representative: Burton A. Hines, Sr., 121 North Mitchell St., Cadillac, MI 49601. *Contract:* Irregular; *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* from, to or between the following points or described areas: facilities used by K Mart Corp. at or near Ft. Wayne, IN, Chicago, IL and Melvindale, MI, on the one hand, and on the other, points south of the counties of Manistee, Wexford, Missaukee, Roscommon, Ogemaw and Iosco in the lower peninsula of MI; restricted to traffic having a prior or subsequent interstate movement and destined to or originating at K Mart stores or warehouses. Applicant intends to interline. Supporting shipper: K Mart Corporation, International Headquarters, 3100 W. Big Beaver Road, Troy, Michigan 48084.

MC 146976 (Sub-4–3TA), filed August 25, 1980. Applicant: FOREWAY TRANSPORTATION, INC., 6633 Lake Michigan Drive, Allendale, MI 49401. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, Jenison, MI 49428. *Fuel wood, compressed saw dust logs,* from Port Clinton, OH to points in IA, IL, IN, KY, MI, and WI, and from Memphis, TN, and Pocahontas, AR to points in IL, IN, KY, MI, MO, OH, and WI. Supporting shipper: Agnew Environmental Products, Inc., 50015 S.E. Coalman Rd., Sandy, OR 97055.

MC 148646 (Sub-4–4TA), filed August 25, 1980. Applicant: BECKSTROM ENTERPRISES, INC., P.O. Box 56, Gwinner, ND 58040. Representative: William J. Gambucci, 400 Marquette Avenue, Suite M–20, Minneapolis, MN 55401. *Contract:* Irregular; (1) *Steel building system components,* from Galesburg, IL and Kansas City, MO to points in the SD counties of Hand, Jerauld, Beadle, Faulk and Hyde restricted to the transportation of traffic under a continuing contract of contracts with Donlin, Inc., Miller, SD. Supporting shipper: Donlin, Inc., Box 168, Miller, SD 57362.

MC 118838 (Sub-4–7TA), filed August 25, 1980. Applicant: GABOR TRUCKING, INC., RR No. 4, Detroit Lakes, MN 56501. Representative Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Lumber, lumber mill products, composition board and millwork;* from points in ID, MT, and WY to points in IA, IL, IN, MI, MN, ND, NE, OH, PA, SD, and WI. There are eleven (11) supporting shippers.

MC 136318 (Sub-4–6) filed August 25, 1980. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th Street, Denver, Co 80202. *Contract:* Irregular; *New furniture,* from Bedford Park, IL to points in OK. Restricted to a transportation service to be performed under contract(s) with Douglas Furniture Corporation, for 270 days. Supporting shipper: Douglas Furniture Corporation, 5020 West 73rd Street, Chicago, IL 60638.

MC 129790 (Sub-4–2TA), filed August 28, 1980. Applicant: JOSEPH A. BECKER d.b.a. BECKER HI–WAY FRATE, an individual Route 5, Box 10B, Albert Lea, MN 56007. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract:* Irregular, *Plastic articles (except in bulk)* From Forest City, NC and Wellsburg, WV to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, MD, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. Supporting shipper: Genpack Corporation, P.O. Box 727, Glens Falls. NY 12801.

MC 151482 (Sub-4–2), filed August 28, 1980. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 5058 Larchmont Pl., Rockford, IL 61111. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract:* Irregular; (1) *Fasteners and equipment, materials and supplies* used in the manufacture and distribution of fasteners, between points in IL, on the one hand, and, on the other, points in MD, MI, OK, and PA, under continuing contract(s) with National Lock Fastener Div. of Rockford, IL; (2) *Display racks and related accessories and equipment, materials and supplies* used in the manufacture of the above described commodities between points in WI on the one hand, and, on the other, points in NJ, OH, PA, TX, and UT, under continuing contract(s) with United Industires, Inc. of Beloit, WI; (3) *Tanks, valves, piping systems and equipment, materials and supplies* used in the manufacture, distribution and assembly of the above described commodities, between points in IL on the one hand, and, on the other, points in CA, IA, OH, OR, TN, and TX, under continuing contract(s) with Illinois Water Treatment Co. of Rockford, IL; (4) *Machines and machinery parts, and equipment, materials and supplies* used in the manufacture and distribution of the above named commodities, between points in IL, on the one hand, and. on the other, points in CA, CO, IN, MI, NJ, NY, OH, PA, and TX, under continuing contract(s) with Centro Morganshammer, Inc. of Rockford, IL and W. F. John & Barnes Co. of Rockford, IL; (5) *Floor coverings,* between Salem, NJ, Canton, OH, Dalton and Calhoun, GA, on the one hand, and, on the other, points in IL under continuing contract(s) with United Flooring Distri. Inc. of Rockford, IL; for 270 days. Supporting shippers: National Lock Fastener Div., 4500 Kishwaukee Ave., Rockford, IL; United Industries, Inc., 1546 Henry Ave., Beloit, WI; Illinois Water Treatment Co., 4669 Shepherd Trl., Rockford, IL; Centro Morganshammer Inc., 2730 Eastrock Dr., Rockford, IL; W. F. John & Barnes Co., 325 Madison St., Rockford, IL; United Flooring Distri. Inc., 6201 Material Ave., Rockford, IL.

MC 141459 (Sub-4–1TA), filed August 28, 1980. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Boulevard, Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. (1) *cardboard packaging materials,* from Flemington and Clinton, NJ, and Litchfield, IL, to points in the United States (except AK and HI); (2) materials, equipment, and supplies used in the manufacture of the commodities named above from points in the United States (except AK and HI) to Flemington and Clinton, NJ, and Litchfield, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Quality Packaging Materials, Inc., P.O. Box 5253, Clinton, NJ 08809.

MC 151664 (Sub-4–1TA), filed August 27, 1980. Applicant: ILLINOIS DISPATCH SERVICE, 3108 Gilead Ave., Zion, IL 60099. Representative: Michael Massey, 2625 Glen Flora Ave. Apt. #417, Waukegan, IL 60085. *Contract:* Irregular; *Blood and Blood Components, Pharmacueticals and Messenger service carriage.* From Waukegan, Illinois to points in Kenosha, Racine, and Milwaukee Counties of WI. Supporting shipper: Jacob Blumberg Memorial Blood Bank, 1350 North Sheridan Road, Waukegan, IL 60085.

MC 125777 (Sub-4–5TA), filed August 29, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Mr. Duane C. O'Donnell, 4600 E. 15th Ave., Gary, IN 46403. *Coke, in Dump Vehicles,* from Guntersville, AL, Sheffield, AL, Decatur, AL, Florence, AL, Chattanooga, TN, Knoxville, TN, to points in AL, GA, TN and MS. Supporting shipper: Koch Carbon, Inc., 888 Worchester St., Wellesley, MA 02181.

MC 64932 (Sub-4–8TA), filed August 28, 1980. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: William F. Farrell, 10735 South Cicero Avenue, Oak Lawn, IL 60453. *Acid, Nitric and Sulfuric, in bulk, in tank vehicles,* From East Chicago, IN, to Phoenix, AZ. Supporting shipper: E. I. Du Pont de Memours & Co., 1007 Market Street, Wilmington, DE 19898.

MC 135410 (Sub-4–11TA), filed August 28, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, North 6th Street Road, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Avenue, Park Ridge, IL 60068. *Paper and paper products,* from the facility of International Paper Company at Minneapolis, MN and its commercial zone to Monmouth, IL and points in its commercial zone. Supporting shipper: International Paper Company, 220 East 42nd Street, New York, NY 10017.

MC 111812 (Sub-4–10TA), filed August 28, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Pulp, Paper, or Allied Products,* from Port Chester, NY to the facilities of St. Joseph's Indian School located at or near Chamberlain, SD. An underlying ETA seeks 90 days authority. Supporting shipper: St. Joseph's Indian School, P.O. Box 89, Chamberlain, SD 57325.

MC 139482 (Sub-4–15TA), filed August 29, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Foodstuffs (except commodities in bulk),* between Memphis, TN and points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 144692 (Sub-4–1TA), filed August 29, 1980. Applicant: GARY L. MANN, d.b.a. G. L. MANN TRUCKING, 551 East 18th Street, Hastings, MN 55033. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Coke,* from Milwaukee, WI to Renville, MN. Supporting shipper: North Central Sugar Marketing Cooperative, 400 Co. Road 18, Room 490 Shelard Plaza, Minneapolis, MN 55426.

MC 146880 (Sub-4–8TA), filed August 29, 1980. Applicant: LOWELL E. DENTON, d.b.a. DENTON CARTAGE COMPANY, P.O. Box 40, Palos Park, IL 60464. Representative: Anthony E. Young, 29 S. LaSalle St., Chicago, IL 60603. *Scrap metal* between points in and East of ND, SD, NE, KS, OK and TX. Supporting shippers: American Automotive Parts, Inc., 900 W. Weed, Chicago, IL 60622, Metalsco, Inc., 111 W. Port Plaza, St. Louis, MO 63141.

MC 8964 (Sub-4–1TA), filed August 29, 1980. Applicant: WITTE TRANSPORTATION COMPANY, 2500 West County Road C, St. Paul, MN 55113. Representative: Meyer Bolnick, 2500 West County Road C, St. Paul, MN 55113. Common; irregular; *plastic and fiberglass articles and accessories and supplies used in the manufacturer, sale and distribution thereof.* From, to, or between St. Bonifacius, MN to Grundy Center, IA; Chicago, IL, to Grundy Center, IA; Grundy Center, IA, to Peru, IN; Belle Plaine, MN, between points in states of IL, IN, IA, and MN. "An underlying ETA seeks 120 days authority", Supporting shipper: Norwesco, Incorporated, 815 E. Main, Belle Plaine, MN 56011.

MC 134477 (Sub-4-41TA), filed August 28, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul MN 55118. Representative: Thomas Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Foodstuffs (except in bulk),* from Madera County, CA to Poplar, WI, An underlying ETA seeks 120 days authority. Supporting shipper: P.V. Foods, Inc., 2021 E. Hennipen, Suite 180, Minneapolis, MN 55413.

MC 149191 (Sub-4-2TA), filed August 28, 1980. Applicant: PALLET TRANSFER, INC., 3420 E. 28th, Box 342, Sioux Falls, SD 57101. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. *Common irregular* (1) *Wooden pallets and pallet Components.* (2) *Lumber materials used in manufacture of wooden pallets.* (1) *FROM:* Sioux Falls, SD *To:* IA, KS, MN, MO, NE, WI and WY. (2) *FROM:* MN, MT and WY *To:* Sioux Falls, SD. Supporting shipper: Sioux Vocational School, 4100 S. Western, Sioux Falls, SD 57105.

MC 19311 (Sub-4-3TA), filed August 28, 1980. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Patrick O. Smith, 755 West Big Beaver, Suite 1200, Troy, MI 48084. *Common;* irregular; *General Commodities,* with the usual exceptions, serving Brodhead, WI as an off-route point in connection with carrier's presently authorized regular route operations. Applicant seeks authority for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Motors Corporation, 14250 Plymouth Road, Detroit, MI 48232.

MC 114457 (Sub-4-14TA), filed August 28, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *Plastic articles and materials, equipment, and supplies used in the manufacture, sale, and distribution thereof,* between the facilities of Amoco Foam Products Company located in Eau Claire County and Chippewa County, WI, and Frederick County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Amoco Foam Products Company., 2111 Powers Ferry Road, NW., Atlanta, GA 30339.

MC 114457 (Sub-4-15TA), filed August 28, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *Such commodities as are dealt in by wholesale, retail, chain grocery, and food business houses* (except commodities in bulk) from the facilities of A. E. Staley Manufacturing Company at Arlington, TX to Atlanta, GA and its commercial zone. Supporting shipper: A. E. Staley Manufacturing Company, 2200 E. Eldorado Street, Decatur, IL 62521.

MC 114457 (Sub-4-16TA), filed August 28, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *General commodities* (except foodstuffs, clothing, and commodities which because of size or weight require special equipment, and commodities in bulk) between the facilities utilized by W.M. Industries in the states of FL, GA, OH, and PA, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: W. M. Industries, 5616 Peachtree Road, Atlanta, GA 30341.

MC 116273 (Sub-4-5TA), filed August 26, 1980. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery, (same as applicant). *Industrial Lubricants and Coolants* in bulk, from Northville, MI to Lewisburg & Smyrna, TN & Winchester, KY. Supporting shipper: D. A. Stuart Oil Co., 7575 Plaza Court, Willowbrook, IL, 60521.

MC 112223 (Sub-4-6TA), filed August 27, 1980. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413. *Cement in bulk and in bags* from the facilities of Martin Marietta Cement Company, St. Paul, MN to points in WI, restricted to traffic for Martin Marietta Cement Company. Supporting shipper: Martin Marietta Cement, Midwest Division, 606–A Davenport Bank Building, Davenport, IA 52808.

MC 143233 (Sub-4-2TA), filed August 27, 1980. Applicant: DENNY TRANSPORT, INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: David G. Abraham, Suite 304, 6400 Goldsboro Rd., Washington, DC 20034. *Contract;* irregular: *Inedible animal grease, tallow, oil, and stearine, and tall oil, in bulk, in shipper-owned tank trailers,* between the facilities of Geo. Pfau's Sons Co., Inc., in Jeffersonville, IN, on the one hand, and on the other, points in AL, CA, CO, CT, DE, FL, KS, LA, MD, MN, NE, NC, OK, RI, SC, SD, TN and VA; under continuing contract(s) with Geo. Pfau's Sons Co., Inc., of Jeffersonville, IN. Supporting shipper: Geo. Pfau's Sons Co., Inc., P.O. Box 7, Jeffersonville, IN 47130.

MC 57239 (Sub-4-3TA), filed August 28, 1980. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: James R. Smith, 1350 South West Street, Indianapolis, IN 47225. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* serving Cumberland County, KY as off-route in connection with carrier's regular-route operations. Supporting shipper: South Wind Division, Stewart-Warner Corporation, 1514 Drover Street, Indianapolis, IN 46221.

MC 108393 (Sub-4-9TA), filed August 28. 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Thomas B. Hill (same as applicant). *Contract;* Irregular: *Such merchandise, equipment and supplies, sold, used* or distributed by a manufacturer of *cosmetics, toilet preparations and jewelery* (except commodities in bulk, in tank vehicles) Between Kansas City, MO, and its commercial zone on the one hand, and on the other Fayetteville, Fort Smith, Little Rock, AR; Denver, Boulder, CO; Shreveport, LA; Albuquerque, Gallup, NM; Oklahoma City, Tulsa, OK; Alta Loma, Amarillo, Austin, Dallas, El Paso, Fort Worth, Galveston, Houston, Lubbock, Port Arthur, San Antonio, TX; and their commercial zones. From Cincinnati, OH; to Kansas City, MO. Under a contract(s) with Avon Products, Inc. Supporting shipper: Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053.

MC 147264 (Sub-4-7TA), filed August 28, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Avenue, Muncie, IN 47302. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Bananas and agricultural commodities exempt from regulation under Section (b)(6) of the Act when transported in mixed loads with bananas,* from Gulfport, MS to points in OH, IN, IL, MI, KY, MO, KS, WI, TN and AL. An underlying ETA seeks 120 days authority. Supporting shipper: Castle & Cooke Foods, 2900 Veterans Blvd., Metairie, LA 70002, and Chiquita

Brands, Inc., 212 Veterans Blvd., Metairie, LA 70002.

MC 105045 (Sub-0-4-1 RTA), filed August 28, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, Vice President (same as above). *Iron and Steel Articles* between Huntington, WV on the one hand, and on the other, Newark, NJ, Middleton, NY, Charlotte, NC and Middletown (Dauphine Co.), PA. An underlying ETA seeks 120 days authority. Supporting shipper: Connors Steel, Huntington, WV.

MC 107295 (Sub-4-17TA), filed August 28, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same as applicant). *Furniture parts* and *materials, equipment and supplies* used in the manufacture or distribution of furniture parts, between Aurora, Carthage and Springfield, MO; Nicholasville, Simpsonville and Winchester, KY; and Mason, OH; on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, DC, FL GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, UT, VT, VA, WV, and WI. Restricted to traffic originating at or destined to facilities utilized by Leggett & Platt Inc. An underlying ETA has been filed seeking 120 days authority. Supporting shipper: Leggett & Platt, Inc., 18th Road, P.O. Box 757, Carthage, MO 64836.

MC 106674 (Sub-4-32TA), filed August 28, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Rubber and/or plastic articles and materials, equipment and supplies, used in the manufacture and distribution of rubber and plastic articles* between the facilities of Entek Corporation of America located at or near Irving, TX, on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261.

MC 106674 (Sub-4-22TA), filed August 28, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Building woodwork and materials, equipment and supplies* between Oshkosh, WI on the one hand, and, on the other, points in and east of MT, WY, CO and NM. An underlying ETA seeks 120 days authority. Supporting shipper: C. E. Refactories Division of Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482.

MC 139445 (Sub-4-1TA), filed August 28, 1980. Applicant: TANK TRANSPORT, INC., 9325 North 107th St., Milwaukee, WI 53224. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. *Petroleum products,* in bulk, in tank vehicles from East Chicago, IN to the facilities of Frickleton Aviation Companies, Inc., at or near Madison, WI, under continuing *contract(s)* with Frickleton Aviation Companies, Inc., Madison, WI. Applicant has filed a corresponding ETA seeking up to 120 days of operating authority. Supporting shipper: Frickleton Aviation Companies, Inc., 3430 Miller St., Dane County Airport, Madison, WI 53704.

MC 105045 (Sub-4-11TA), filed August 28, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech (same address as above). *Iron and Steel* between Fulton Co., GA and New Orleans, LA, Mobile, AL, Charleston, SC and Wilmington, DE. An underlying ETA seeks 120 days authority. Supporting shipper: Emko Stainless Steele, Atlanta, GA.

MC 126904 (Sub-4-5TA), filed August 27, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. *Malt beverages,* from Peoria Heights, IL and Milwaukee, WI, to Cleveland, OH, and points in its Commercial Zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Knall Beverage, 4550 Tedman Road, Brooklyn, OH 44144.

MC 123048 (Sub-4-2TA), filed July 29, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: James C. Hardman, 333 North LaSalle Street, Chicago, IL 60602. (1) *Farm, dairy and water treatment equipment, materials and supplies and cleaning products and pesticides,* and (2) *Cleaning products, paint, pesticides and materials, equipment and supplies used in the manufacture, sale or distribution of the commodities named in (1) above.* Restricted against the transportation of commodities in bulk and those which because of size or weight require the use of special equipment, from the facilities of Babson Bros. Co. at or near Osceola, IA to points in the U.S. (except AK and HI). Supporting shipper: Babson Bros. Co., 2100 S. York Rd., Oak Brook, IL 60521.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5-41TA), filed August 22, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Foodstuffs, and such articles dealt in by Wholesale, Retail, Chain Grocery, and Food Business Houses,* between the facilities of Safeway Stores at or near Dallas, TX; Denison, TX; Richmond, VA, and Chester, VA. Restricted to shipments originating at the named origins and destined to the indicated destinations. Supporting shipper: Safeway Stores, Inc., 5725 F. 14th Street, Oakland, CA 94660.

MC 30844 (Sub-5-18TA), filed August 22, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC.; P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Plastic articles, parts, materials, and supplies used in the manufacture of plastic articles and parts,* between Belle Plaine and St. Bonifacuis, MN; Grundy Center, IA; Gastonia, NC and Spartanburg, SC and points in the United States, except AK and HI. Supporting shipper: Norwesco, Inc., Suite 300, 7850 Metro Parkway, Minneapolis, MN 55420.

MC 35320 (Sub-5-31TA), filed August 21, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). *Common,* regular. *General commodities, except household goods as defined by the Commission and classes A and B explosives,* serving Amarillo, TX and its Commercial zone as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shipper: Levi Strauss & Company, Amarillo, TX.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 96878 (Sub-5-2TA), filed August 21, 1980. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Robert L. Winsky, 1251 Taney, North Kansas City, MO 64116. *Mineral wool (glass, clay, rock, or slag); Building wall or insulating boards; Mats pads/sheets glass fiber; Insulating material NOI; Adhesive, cement, glues, or paste, NOI; Wallboard tape joining* between Kansas City, KS Commercial Zone and points in the United States. Supporting shipper:

V 45 SE 10 80 UMI

Owens Corning Fiberglas Corp., Sunshine and Fiberglass Rd., Kansas City, KS 66115.

MC 105566 (Sub-5-11TA), filed August 21, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *(1) Wearing apparel, and (2) materials, equipment and supplies used in the manufacture, and distribution of wearing apparel and in the operation of retail stores engaged in the sale of wearing apparel,* between points in Boone County, KY and Ventura County, CA, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper: The GAP Stores, Inc., 3434 Mineola Pike, Erlanger, KY 41018.

MC 106398 (Sub-5-42TA), filed August 22, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Building materials.* From: The facilities of Metal Building Insulation at Houston, TX. To: AL, AR, MS, GA, MO, KS, NM, AZ, TN, FL, IL, CO, KY, IN, NC and SC. Supporting shipper: Metal Building Insulation, 8363 Kempwood, Houston, TX 77055.

MC 106398 (Sub-5-48TA), filed August 22, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *(1) Farm implements and (2) Steel, materials and supplies used in the manufacture of farm implements.* Between the facilities of Forrest City Machine Works at West Memphis, AR on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Forrest City Machine Works, P.O. Box 984, Forrest City, AR 73255.

MC 107496 (Sub-5-31TA), filed August 21, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Weed Killer and Weed Killer Ingredients, in bulk,* from points in MT, ND, and AR to Polk County, IA. Supporting shipper: Albaugh Chemical Corporation, 710 SE. Creekview, Ankeny, IA 50021.

MC 108207 (Sub-5-27), filed August 21, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Yogurt, in mechanically refrigerated equipment,* from Reed City and/or Otsego, MI, to Denver, CO. Supporting shipper: Yoplait USA, Inc., 400 S. County Road 18, Suite 605, Minneapolis, MN 55426.

MC 108207 (Sub-5-30TA), filed August 21, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Liquid urea compound,* from Oklahoma City, OK to points in AR, KS, LA, MO, NM, and TX. Supporting shipper: C. L. Nissen, Inc., 8813 Rolling Green, Oklahoma City, OK 73132.

MC 108326 (Sub-5-2TA), filed August 22, 1980. Applicant: C & D TRANSPORTATION CO., INC., Post Office Box 10506, New Orleans, LA 70121. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer of candy and confectionery (except in bulk),* from New Orleans, LA, and points in its commercial zone, to points in TX, LA and MS. Restriction: Restricted to the transportation of shipments moving in trailers equipped with mechanically refrigerated units. Supporting shipper: E. J. Brach and Sons, a division of American Home Products, 4656 W. Kinzie Street, Post Office Box 802, Chicago, IL 60609.

MC 114211 (Sub-5-15TA), filed August 22, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Such commodities as are dealt in or used by manufacturers, dealers, distributors and lessors of contractors', industrial, and construction equipment, between points* in the United States (except AK and HI). Restriction: Restricted to transportation of traffic from, to, or between facilities used by Davis Crane & Rigging Company. Supporting shipper: Davis Crane & Rigging Company, 3401 East Illinois Street, Phoenix, AZ 85040.

MC 114211 (Sub-5-16TA), filed August 22, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo IA 50704. *Such commodities as are dealt in or used by manufacturers and dealers of industrial, agricultural, construction, and forestry equipment,* between points in the United States (except AK and HI). Restriction: Restricted to transportation of traffic moving from, to or between the facilities used by National Hydro-Ax, Inc. or its dealers. Supporting shipper: National Hydro-Ax, Inc., Box 568, Owatonna, MN 55060.

MC 119493 (Sub-5-39TA), filed August 21, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Flour, (except in bulk).* From: McPherson, Kansas. To: AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, & WY. Supporting shipper: W. D. Knotts, Traffic Manager, The Wall-Rogalsky Milling Company, 418 N. Main Street, McPherson, KS 67460.

MC 121496 (Sub-5-5TA), filed August 22, 1980. Applicant: CANGO CORPORATION, 1100 Milam Building, Suite 2900, Houston, TX 77002. Representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, D.C. 20001. *Petroleum Products, in bulk, in tank vehicles,* from Chalmette, LA to Bayport, TX. Supporting shipper: Petrolite Corporation, Tretolite Division, 13200 Bay Park Rd., Pasadena, TX 77507.

MC 121517 (Sub-5-4TA), filed August 22, 1980. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Cement in bulk,* from Edmond, OK to points in TX. Supporting shipper: Victor Division, General Portland, Inc., P.O. Box 18556, Wichita, KS 67218.

MC 124236 (Sub-5-8TA), filed August 21, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as above). *Cement, in Bulk and In Packages, and Mineral Filler,* between points in LA, MS, AL, GA and FL. Supporting shipper: Louisiana Cement Company, 14900 Intracoastal Drive, New Orleans, LA 70129.

MC 124813 (Sub-5-17TA), filed August 22, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Commodities used in the construction and operation of railroad tracks* between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MI, MS, MO, NE, ND, OH, OK, SC, SD, TN, TX and WI. Supporting shipper: D. A. Wilson Company, 2017 East Lincolnway, Ames, IA 50010.

MC 133562 (Sub-5-1TA), filed August 21, 1980. Applicant: HOLIDAY EXPRESS CORPORATION, P.O. Box 115, Highway No. 4, Estherville, IA 51334.

Representative: Merle L. Johnson (same as above). *Meats, meat products and meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M. C. C. 209 and 766, (except hides and commodities in bulk),* from Hartley and Spencer, IA to points in FL and GA. Supporting shipper: Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661.

MC 133805 (Sub-5–22TA), filed August 21, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Glassware, glass containers, caps, covers, stoppers and tops of the equipment utilized in the manufacture of such commodities* between the facilities of Libbey Glass division of Owens-Illinois, at or near City of Industry and Mira Loma, CA; Shreveport, LA; and Toledo, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Libbey Glass—Division of Owens-Illinois, P.O. Box 919, Toledo, OH 43693.

MC 136008 (Sub-5–7TA), filed August 22, 1980. Applicant: JOE BROWN CO., INC., 20 Third Street, N.E., Ardmore, Okla. 73401. Representative: John Tipsward, P.O. Box 6210, Moore, Okla. 73153. *Alumina, Calcined or Hydrated,* from the facilities of Kaiser Aluminum & Chemical Corporation in East Baton Rouge and St. James Parishes, LA, to points in IL, KS, MO, OK and TX. Supporting shipper: Kaiser Aluminum & Chemical Corp., 300 Lakeside Dr. Oakland, CA 94643.

MC 139923 (Sub-5–2TA), filed August 22, 1980. Applicant: MILLER TRUCKING CO., INC., 105 South 8th Avenue, P.O. Drawer D, Stroud, Okla. 74079. Representative: Edward L. Handlin, P.O. Drawer D, Stroud, Okla. 74079. *Foodstuffs (Bakery Pan Coating)* from Dolton, IL, to Los Angeles, CA. Supporting shipper: Breddo Food Products Co., Kansas City, KS.

MC 145396 (Sub-5–2TA), filed August 22, 1980. Applicant: BOYCE HOWARD d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. *Primary metal products and fabricated metal products,* between points in AR, LA, TX, MS and TN. Supporting shipper: Edgcomb Metals, P.O. Box 272, Memphis, TN 38101.

MC 145441 (Sub-5–23TA), filed August 21, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, P.O. Box 5130, North Little Rock, AR 72119. *Doors,* from Red River County, TX to points in AL, AR, AZ, CO, KS, KY, LA, MO, MS, NM, OK, and TN. Supporting shipper: Annona Manufacturing Co., P.O. Box 287, Annona, TX 75550.

MC 146616 (Sub-5–6TA), filed August 22, 1980. Applicant: B & H MOTOR FREIGHT, INC., 4024 West 21st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Rahal & Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. *Contract:* irregular (1) *Iron and steel articles including fabricated metal buildings and bridges,* between the facilities of Robberson Steel Co. at Oklahoma City, OK, on the one hand, and, on the other, points in CA, WY, CO, AZ, and MT, under continuing contract(s) with Robberson Steel Co. of Oklahoma City, OK; and (2) *iron and steel articles,* between the facilities of Zelrich Steel Co. at Houston, TX and Dallas, TX, on the one hand, and, on the other, points in OK, KS, AR and MO; under continuing contract(s) with Zelrich Steel Co. of Tulsa, OK, for 270 days. Supporting shipper: Robberson Steel Co., P.O. Box 25888, Oklahoma City, OK; Zelrich Steel Co., 3105 East Skelly Drive, Tulsa, OK 74105.

MC 149026 (Sub-5–10TA), filed August 22, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, P.O. Box 1485, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *New furniture, crated and uncrated; and materials, equipment and supplies (except in bulk) used in the manufacture and distribution of new furniture,* between Charleston, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Correll, Inc., P.O. Box 417, Charleston, AR 72933.

MC 149026 (Sub-5–11TA), filed August 22, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Paint, paint products and materials, equipment and supplies used in the manufacture, distribution and packaging thereof,* between Fort Smith, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Coating & Plastics, 5112 Wheeler Avenue, Fort Smith, AR 72901.

MC 150440 (Sub-5–3TA), filed August 21, 1980. Applicant: UNIVERSAL EXPRESS, LTD., 536 S. 19th Street, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Contract;* irregular. *Such commodities as are used, manufactured and dealth in by producers of rubber and rubber products (except commodities in bulk and those which because of size or weight require special handling or equipment),* (1) Between the facilities of Armstrong Rubber Co. at or near Des Moines, IA; Hanford, CA; Natchez, MS; Little Rock, AR; West Haven, CT; Jackson, MS; and Knoxville and Madison, TN; and (2) between the facilities of Armstrong Rubber Co. at or near Des Moines, IA; Hanford, CA; Natchez, MS; Little Rock, AR; West Haven, CT; Jackson, MS; and Knoxville and Madison, TN, on the one hand, and, on the other, points in NC. Supporting shipper: Armstrong Rubber Co., 500 Sargent Drive, New Haven, CT 06516.

MC 145997 (Sub-5–3TA), filed: Applicant: JEM EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Such commodities as are dealt in by wholesale and retail discount and variety stores*—From points in AL, CA, CT, FL, GA, KY, MA, ME, MS, NC, NH, OH, RI, SC, TN, UT, VA, WI and WV—To the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Ft. Smith and Searcy, AR; and Palestine, TX. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 116544 (Sub-6–15TA), filed August 26, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Non-exempt foodstuff* (except commodities in bulk, in tank vehicles) between Shelby County, TN and points in the United States (except AK and HI) for 270 days. Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 112123 (Sub-6–1TA), filed August 25, 1980. Applicant: BESTWAY TRANSPORTATION, 1813 East Thomas Road, Phoenix, AZ 85016. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Common carrier,* regular routes, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Superior, AZ and Tucson, AZ, serving all intermediate points, over State routes 177 and 77 and U.S. Hwy 89, and return over the same routes; (2) Between Globe, AZ and Winkelman, AZ, serving all intermediate points, over State route 77, and return over the same route; and (3) Between Safford, AZ and Morenci, AZ, serving all intermediate points, over U.S. Hwy 70 and 666, and return over the same routes. Authority is requested to tack, interline and serve commercial zones of all points, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at the regional office listed.

MC 48958 (Sub-6-5TA), filed August 26, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189. *Steel channels, sheet metal, aluminum shapes (cut and bent), hand tools, fork trucks, and all related contractors' supplies, equipment, and materials* from the facilities of Owens Corning Fiberglass Power & Process Contracting at or near Lenexa, KS, to the Owens Corning temporary job site at or near Valmy, NV for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Owens Corning Fiberglass Power & Process Contracting, 14851 W. 99th, Lenexa, KS 66215.

MC 139906 (Sub-6-33TA), filed August 27, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Photographic equipment materials and supplies* (except in bulk), from the facilities of Visual Graphics Corp. at or near Tamarac, FL to South Hackensack, NJ; Arlington, TX; Garden Grove, CA; Elmhurst and Bensonville, IL and points in their respective commercial zones; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Visual Graphics Corp., 5701 N.W., 94th Ave., Tamarac, FL 33321.

MC 139906 (Sub-6-34TA), filed August 27, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 30303, Lincoln, NE 68501. *Bakery products* (except those requiring refrigeration) from the facilities of Interbake, Foods, Inc., at or near Battle Creek, MI, and Richmond, VA, to points in the states of CA, WA, OR, NV, TX, IL, TN, AL, IA, LA, MO, WI, OH, and IN for 270 days. Supporting shipper: Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261.

MC 151652 (Sub-6-1TA), filed August 25, 1980. Applicant: JOHN C. MEACHAM and QUENTIN HAROLD MAPLES d.b.a. M & M OILFIELD TRUCKING, 3737 Gilmore Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Chemicals* (1) between Kern County, CA and NV, NM, TX, UT, WA and WY and (2) between Lander and Nye Counties, NV and Salt Lake County, UT on the one hand and CA on the other, for 270 days. Supporting shippers: X-L Laboratories, 1903 Virginia Ave., Bakersfield, CA 93307, and Milchem, Inc., P.O. Box 969, Bakersfield, CA 93389.

MC 142686 (Sub-6-18TA), filed August 27, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Contract Carrier,* Irregular Routes, *General Commodities, (with usual exceptions),* Between points in the United States, for 270 days. Supporting shipper: Amway Corp., Mr. Sam Pullara, 7575 East Fulton, Ada, Michigan, 49355.

MC 151669 (Sub-6-1TA), filed August 26, 1980. Applicant: MICHELSEN PACKAGING CO., 202 N. 2nd Avenue, Yakima, WA 98902. Representative: Marvin A. Wagner (same address as applicant). *Contract Carrier,* Irregular routes: *Beverages, carbonated, flavored or phosphated, in cases,* from Yakima, WA, to Baker and La Grande, OR; and, Boise and Fruitland, ID; for the account of Coca Cola Bottling Co. of Yakima, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Coca Cola Bottling Co. of Yakima, P.O. Box 1726, Yakima, WA 98907.

MC 144953 (Sub-6-1TA), filed August 27, 1980. Applicant: MULLEN TRUCKING, LTD., 6204-A Burbank Road, S.E., Calgary, Alberta, Canada T2H 2C2. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Drilling mud and drilling mud additives and conditioners* between Ports of Entry on the International Boundary between the United States and Canada located in WA, ID and MT on the one, and, on the other, points in CA, WA, ID, NV, OK, TX and KS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Canamara Supply Co., Ltd., 15806 112 Avenue, Edmonton, Alberta, Canada T5M 2W1; Milchem Canada Ltd., 309 2nd Avenue S.W., Calgary, Alberta, Canada T2P 0C5.

MC 138732 (Sub-6-4TA), filed August 27, 1980. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 5 Crow Canyon Court, Suite 200, San Ramon, CA 94583. *Cast Iron Pressure Pipe,* from the facilities of U.S. Pipe and Foundry Co. at Union City, CA, to points in NV, for 270 days. Supporting shipper: U.S. Pipe and Foundry Co., P.O. Box 707, Union City, CA 94587.

MC 730 (Sub-6-10TA), filed August 25, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Lubricating oil,* in bulk, in tank vehicles, from Compton, CA to Beulah and Underwood, ND, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Imperial Oil & Grease Co., 10960 Wilshire Blvd., Los Angeles, CA 90024.

MC 151654 (Sub-6-1TA), filed August 26, 1980. Applicant: DENNIS D. RICHMEIER, 5661 West Bates Avenue, Denver, CO 80227. Representative: Dennis D. Richmeier (same address as applicant). (1) *Meat (Fresh & Frozen) and Packing House Products* from Denver, CO, and Adams County, CO to points in: AL, AZ, AR, CA, FL, GA, ID, KY, LA, MS, NV, NM, NC, OK, OR, SC, TN, TX, UT, and WA for 270 days. Supporting shippers: Roth Boneless Beef, Inc., 4340 Glencoe St., Denver, CO 80216; Litvak Meat Co., 5900 York Street, Denver, CO 80216; Goldstar Beef, Inc., 4810 Newport Street, Commerce City, CO 80022.

MC 138875 (Sub-6-20TA), filed August 25, 1980. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). *Chilled shot* (except commodities in bulk), from Mishawaka, IN and Bedford, VA to AZ, AR, CA, NV, NM, OK, OR, UT and WA, for 270 days. Supporting shipper(s): Donald L. Everly, Traffic Manager, Wheelabrator, 500 S. Byrleit, Mishawaka, IN 46544.

MC 141867 (Sub-6-5TA), filed August 27, 1980. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader (same address as applicant). *Ferrosilicon and silicon metal,* from Douglas County, WA to points in CA and UT for 270 days. Supporting shipper: The Hanna Mining Co., P.O. Box 361, Wenatchee, WA 98801.

MC 110325 (Sub-6-39TA), filed August 27, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. *Common carrier,* regular routes, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Muskegon, MI and points within its commercial zone as an off-route point in connection with carrier's otherwise authorized regular route operations, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shippers: There are 22 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 141804 (Sub-6-74TA), filed August 25, 1980. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., 4015 Guasti Road, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Lawn Mowers and engines combined, rotary tillers k.d., garden tractors, snow throwers k.d. and steel machine parts,* between Ft. Worth, TX and McDonough, GA on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: John Prentice, Traffic Manager, McDonough Power Equipment, 535 Macon road, McDonough, GA 30253.

MC 141804 (Sub-6-75TA), filed August 25, 1980. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., 4015 Guasti Road, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Such commmodities as are dealt in or utilized by manufacturers and distributors of electrical products* (except commodities which because of their size or weight require the use of special equipment), between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Sanyo Electric, Inc., for 270 days. Supporting shipper: Roy J. Wesleyson, Traffic Manager, Sanyo Electric, Inc., 1200 W. Artesia Blvd., Compton, CA 90220.

MC 150667 (Sub-6-2TA), filed August 25, 1980. Applicant: WORTHING TRANSPORT EDSON, LTD., Box 2580, Edson, Alberta, Canada TOE OPO. Representative: David T. Chambers, Box 2580, Edson, Alberta, Canada TOE OPO. *Rubber Tired Seismic Machines,* which because of size or weight require the use of special equipment between the ports of entry on the International Boundary LIne between the U.S. and Canada located in MT, on the one hand, and, on the other, points in MT, WY and NE, for the account of Western Geophysical Co. of Canada for 270 days. Supporting shipper: Western Geophysical Co. of Canada, 530-71 Ave., S.E., Calgary, Alberta, T2H 1X6, Canada.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27751 Filed 9-9-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 23 (Revised)]

Regional Assistant Administrators and Assistant Administrator for Private and Development Cooperation

Pursuant to the authority delegated to me by Delegation of Authority No. 5 from the Director of the International Development Cooperation Agency, dated July 2, 1980, it is hereby directed as follows:

Delegation of Authority No. 23 is hereby amended by:

1. Amending the introductory paragraph to read:

By virtue of the authority delegated to me by Delegation No. 5 from the Director of the International Development Cooperation Agency and entitled Delegation of Certain Pub. L. 480 Authorities, and to the extent consistent with law, it is hereby directed as follows:

2. Amending Section 1, paragraph (1), deleting paragraph (1)(a), and amending paragraph (1)(b)-(d) to read:

(1) The functions of carrying out the purposes described in the following lettered paragraphs of section 104 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), with foreign currencies that accrue under Title I of that Act, and are made available in consonance with law and the provisions of Executive Order 12220:

(a) Section 104(g);

(b) Section 104(e) and section 104(f), including the function of determining the manner in which the loans provided for by section 104(f) shall be made;

(c) Section 104(d).

These amendments to the Delegation of Authority are effective immediately.

Dated: August 27, 1980.

Joseph Wheeler,

Acting Administrator.

[FR Doc. 80-27733 Filed 9-9-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 80-22]

Ray Roya, M.D., Chicago, Ill.; Hearing

Notice is hereby given that on August 11, 1980, the Drug Enforcement Administration, Department of Justice, issued to Ray Roya, M.D., Chicago, Illinois, an Order To Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration under Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing will be held commencing at 10:00 a.m. on Thursday, October 16, 1980, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: September 4, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-27768 Filed 9-9-80; 8:45 am]

BILLING CODE 4110-09-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. STN 50-528, STN 50-529, STN 5-530]

Arizona Public Service Co., et al.; Establishment of Atomic Safety and Licensing Board to Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Arizona Public Service Company, et al. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3)

Construction Permits Nos. CPPR-141, CPPR-142 and CPPR-143

This action is in reference to a notice published by the Commission on July 11, 1980, in the **Federal Register** (45 FR

46941–43) entitled "Receipt of Application for Facility Operating Licenses; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing", and a clarification thereto published by the Commission on July 25, 1980, in the **Federal Register** (45 FR 49732).

The Chairman of this Board and his address is as follows:

Robert M. Lazo, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their address are as follows:

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Dixon Callahan, Union Carbide Corporation, P.O. Box Y, Oak Ridge, Tennessee 37830.

Dated at Bethesda, Maryland this 3rd day of September 1980.

Robert M. Lazo,

Acting Chairman Atomic Safety and Licensing Board Panel.

[FR Doc. 80–27795 Filed 9–9–80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-488, STN 50-489, and STN 50-490]

Duke Power Co. (Perkins Nuclear Station, Units 1, 2, and 3); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members: Alan S. Rosenthal, Chairman, Dr. John H. Buck, Thomas S. Moore.

Dated: September 2, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80–27794 Filed 9–9–80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 370; 70-2623]

Duke Power Co.; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for Duke Power Company's William B. McGuire Nuclear Station, Units 1 and 2, from the Public Library of Charlotte and Mecklenburg County to the Atkins Library, University of North Carolina at Charlotte (UNCC). The Public Library no longer has the space or the staff to continue to maintain the LPDR collection and asked that the McGuire documents be transferred to another location.

Members of the public may now inspect and copy documents and correspondence related to the licensing and proposed operation of the McGuire Station at the Atkins Library, University of North Carolina—Charlotte, UNCC Station, NC 28223. Documents related to the NRC hearing to consider the storage of irradiated Oconee Nuclear Station fuel at McGuire are also on file at the Atkins Library, UNCC. When classes are in session, the hours of operation at the Atkins Library are 8:00 am to 11:00 pm Monday—Friday, 9:00 am to 10:00 pm on Saturday, and 2:00 pm to 11:00 pm on Sunday. Hours are limited during certain brief school vacation periods.

For further information interested parties in the Charlotte area may contact the LPDR directly through Ms. Dawn Hubbs, Documents Librarian, telephone number (704) 597–2243. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 1717 H Street, N.W., Washington, DC 20555, telephone number (202) 634–3273. The cost of ordering records from the NRC Public Document Room is 8¢ per page, plus postage and handling.

Questions concerning the availability of documents at the McGuire LPDR and the NRC's local public document room program in general should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (301) 492–7536.

Dated at Bethesda, Maryland, this 2 day of September, 1980.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80–27793 Filed 9–9–80, 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Circular A-102; Uniform Requirements for Grants to State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Final policy.

SUMMARY: This notice advises that Circular A–102, "Uniform requirements for grants to State and local governments," has been revised by modifying Attachment P, "Audit Requirements." The revision calls for State and local governments to assure that small and minority businesses are used when contracting for audit services.

The change was made in response to concerns that organization-wide audits called for by Attachment P might result in larger audit contracts, and that this could give an edge to larger accounting firms. We believe it is clear from paragraph 2 of Attachment P that the audit entity could be an agency or department of a State or local government, and need not be the entire unit of government. Therefore, the Circular does not encourage larger audits or require the entire governmental body to be audited at the same time. However, we believe a change to the Circular is necessary to ensure that small and minority accounting firms are considered as sources for audits under Federal grant programs.

EFFECTIVE DATE: This revision becomes effective upon issuance.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, Financial Management Branch, Office of Management and Budget, Washington, D.C. 20503 (202) 395–4773.

John J. Lordan,

Chief, Financial Management Branch.

[Circular No. A-102, Revised, Transmittal Memorandum No. 2]

To: the Heads of Executive Departments and Establishments.

September 2, 1980.

Subject: Use of small and minority audit firms in federally assisted programs.

This Transmittal Memorandum revises Circular A–102, "Uniform requirements for grants to State and local governments," by modifying Attachment P. "Audit Requirements." The revision calls for State and local governments to assure that small and minority businesses are used when contracting for audit services.

James T. McIntyre, Jr.,

Director.

Office of Management and Budget

Circular A–102

Uniform Requirements for Grants to State and Local Governments

The following paragraph is added to *Attachment P—Audit Requirements:*

"16. Small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded with Federal funds. Grantees of Federal funds shall take the following affirmative action to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals as defined in Pub. L. 95-507 are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available, and arrange time frames for the audit so as to encourage and facilitate participation by small or disadvantaged audit firms.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small or disadvantaged firms.

d. Encourage contracting with small or disadvantaged audit firms which have traditionally audited government programs, and in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small or disadvantaged audit firms as described in paragraph a. when a contract is too large for an individual small or disadvantaged audit firm.

f. Use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Community Services Administration in the solicitation and utilization of small or disadvantaged audit firms."

[FR Doc. 80-27778 Filed 9-9-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21706; (70-6497 and 70-6496)]

Connecticut Gas Co. and National Fuel Gas Supply Corp.; Proposal To Acquire Voting Securities of Natural Gas Supply Company

September 4, 1980.

Notice is hereby given that the Connecticut Gas Company ("Conn Gas"), Selden Street, Berlin, Connecticut 06037, a gas utility subsidiary of the Connecticut Light and Power Company, itself a subsidiary of Northeast Utilities, a registered holding company, and National Fuel Gas Supply Corporation ("NFG Supply"), 308 Seneca Street, Oil City, Pennsylvania 16301, a non-utility subsidiary of National Fuel Gas Company, also a registered holding company, have filed separate applications pursuant to Sections 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the applications, which are summarized below, for a complete description of the proposed transaction.

Conn Gas and NFG Supply and twelve other public utility companies (collectively, the "Participants") which serve natural gas at retail in New England and in New York and New Jersey, have conducted negotiations with TransCanada PipeLines Limited ("TransCanada"), a Canadian corporation which owns and operates a natural gas transmission pipeline system extending from the province of Alberta to Eastern Canada, for an additional source of natural gas supply for resale in domestic markets. In order to facilitate their negotiations with TransCanada, the Participants have organized a new company under Delaware law, named Boundary Gas, Inc. ("Boundary Gas"), and propose to acquire all of the voting securities that Boundary Gas is authorized to issue (100 shares of Common Stock, par value $100 per share) for an aggregate price to the Participants of $10,000.

Boundary Gas was organized primarily at the request of TransCanada, which prefers to deal with one entity representing the Participants, rather than separately with each Participant. It is contemplated that Boundary Gas will enter into (i) a gas purchase contract with TransCanada ("Purchase Contract") under which TransCanada will agree to sell and Boundary Gas to purchase volumes of natural gas, and (ii) a gas sales agreement ("Sales Agreement") with the Participants. Under the Sales Agreement, it is intended that Boundary Gas will sell to the several Participants their respective *pro rata* share of the natural gas which Boundary Gas has purchased from TransCanada under the Purchase Contract. Since it is not contemplated that Boundary Gas will own any material properties or facilities or conduct any active business other than taking of legal title to natural gas purchased from TransCanada, the sales by Boundary Gas to each Participant will take place simultaneously with the purchase made by Boundary Gas from TransCanada.

The Participants and their proposed respective stock ownership in Boundary Gas is as follows:

Participant	Percentage of stock ownership
The Brooklyn Union Gas Company	22.54
Consolidated Edison Company of New York, Inc	22.54
Long Island Lighting Company	12.97
Bay State Gas Company	10.27
New Jersey Natural Gas Company	7.85
Boston Gas Company	7.52
Connecticut Gas Company	5.11
National Fuel Gas Supply Corp	4.87
Haverhill Gas Company	1.74
Berkshire Gas Company	1.16
Manchester Gas Company	1.15
Valley Gas Company	1.14
Gas Service, Inc	57
Fitchburg Gas and Electric Co	.57

Under the terms of the subscription agreement which the Participants have entered into, Conn Gas may acquire 5.11 shares of Boundary Gas' capital stock for a total of $511, and NFG Supply may acquire 4.87 shares for a total of $487. The number of shares which each Participant may purchase corresponds to the percentage of natural gas to which each Participant will be entitled to purchase from Boundary Gas under the Sales Agreement with the Participants. The physical delivery of natural gas by TransCanada is to be made at a point near Niagara, Ontario, where the facilities of TransCanada interconnect with those of Tennessee Gas Pipeline Company ("Tennessee"). Tennessee will take delivery of the natural gas at this point for the account of Boundary Gas and, pursuant to transportation contracts with the several Participants, deliver such gas to the Participants.

Under the Purchase Contract, TransCanada will sell and deliver to Boundary Gas up to 185,000 Mcf of natural gas per day for a period of ten years, commencing on November 1, 1981, at the international border price for gas as determined under Canadian law. Under the Sales Agreement, Conn Gas and NFG Supply will agree to take and pay for 5.11% and 4.87%, respectively, of the gas which Boundary Gas becomes obligated to purchase from TransCanada and will be obligated to pay for gas not taken only to the extent that the failure to take gas results in a requirement that Boundary Gas pay TransCanada for gas not taken. The applicants have estimated that their share of the gas purchased by Boundary Gas will result in the purchase of at least 3,285 MMCF of gas per year for each of the ten years covered by the Purchase Contract in the case of NFG Supply and 3,450 MMCF in the case of Conn Gas.

The fees, commissions and expenses paid or incurred in connection with the proposed transaction total, in addition to the filing fees, approximately $1,500.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than September 25, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by either of said applications which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant(s) at the above-stated address(es), and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applications, as filed or as they may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27750 Filed 9-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11331; (811-1398)]

Equity Growth Fund of America, Inc.; Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased To Be an Investment Company

September 4, 1980.

Notice is hereby given that Equity Growth Fund of America, Inc. ("Applicant") 277 Allen Parkway, Houston, Texas 77019 registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 13, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant, a Maryland corporation, registered under the Act on June 28, 1966. On the same date it filed a registration statement (File No. 2-25194) under the Securities Act of 1933, registering shares of its capital stock in connection with a proposed public offering of Applicant's shares. This registration statement was declared effective by the Commission on August 24, 1966, at which date the initial public offering of shares commenced. At the close of business on December 31, 1979, Applicant had outstanding 3,778,646 shares with a net asset value of $9.06 per share for a total net asset value of $34,229,530.

At the annual meeting of shareholders held on December 28, 1979, holders of a majority of Applicant's outstanding shares of capital stock approved an Agreement and Plan of Reorganization which provided for the transfer of all of Applicant's portfolio securities and substantially all of its other assets to American General Enterprise Fund, Inc. ("Enterprise"), in exchange for shares of capital stock of Enterprise, and for the dissolution of Applicant.

The board of directors of Applicant approved the transfer of assets to Enterprise on September 7, 1979. The application states that the transfer of assets was effected on December 31, 1979, and that Applicant distributed to its shareholders all of the Enterprise shares it acquired by establishing for each shareholder an Enterprise account and transferring to each account the shareholder's pro-rata portion of the Enterprise shares. The transfer of assets was based on the relative net asset values of the shares of the two companies, which were determined by Applicant and Enterprise on the same basis. Each shareholder of Applicant received approximately 1.0258 Enterprise shares for each share of Applicant then owned by such shareholder.

Applicant states that it currently has no debts or other liabilities outstanding because all of its debts and liabilities were either assumed by Enterprise or paid by Applicant; it has no assets; it has no securityholders; it is not a party to any litigation or administrative proceedings; and within the last 18 months Applicant has not for any reason transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Applicant also states that both Enterprise and it bore their own expenses in connection with the transfer of assets. Finally, Applicant states that it was dissolved as a corporation under the laws of the State of Maryland by the filing of Articles of Dissolution on February 20, 1980, and that it is not now engaged, and does not propose to engage, in any business activities since it has completed the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27749 Filed 9-9-80; 8:45 am]

BILLING CODE 8010-01-M

V 45 SE 10 80 UMI

[Release No. 21704; (70-6469)]

Southern Co.; Proposed Issuance and Sale of Common Stock at Competitive Bidding

September 4, 1980.

Notice is hereby given that The Southern Company ("Southern"), 64 Perimeter Center Street, P.O. Box 720071, Atlanta, Georgia 30346 a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to issue and sell at competitive bidding on or before November 12, 1980, an undetermined number of shares of its authorized but unissued common stock, par value $5 per share. The number of shares to be issued will be determined by Southern and set forth in its registration statement or an amendment thereto and will be an amount which Southern estimates, in light of market conditions at that time, will result in aggregate cash proceeds of $200,000,000. Southern states that it may request an exception from the competitive bidding requirements of Rule 50 if circumstances develop which, in the opinion of Southern, make such an exception in the best interest of Southern and its investors and consumers.

It is stated that Southern intends to use the net proceeds from the sale of the additional common stock, together with treasury funds and the proceeds from the sales of common stock through operation of its dividend reinvestment and stock purchase plan, the employee savings plan, and the employees stock ownership plan to make, from time to time, additional equity investments in the form of capital contributions to the operating subsidiaries and for other corporate purposes. The operating subsidiaries intend to use the funds received for the construction or acquisition of property, for the retirement of interim indebtedness incurred for such purposes, and for other corporate purposes.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 6, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27747 Filed 9-9-80; 8:45 am]

BILLING CODE 8010-01-M

[File NO. 500-1]

Sundance Gold Mining & Exploration, Inc.; Order of Suspension of Trading

August 22, 1980.

It appearing to the Securities and Exchange Commission that there are questions concerning a letter to shareholders dated July 15, 1980 referring to the company's discovery of gold, the Commission is of the opinion that the public interest and the protection of investors require the summary suspension of trading in the securities of Sundance Gold Mining & Exploration, Inc.

Therefore, it is orderd, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that the suspension of trading of such securities will be effective at 9:45 a.m. on August 22, 1980 through August 31, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27748 Filed 9-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11333; (812-4620)]

InterCapital High Yield Securities, Inc., et. al.; Filing of Application

September 4, 1980.

Notice is hereby given that InterCapital High Yield Securities Inc. ("High Yield"), InterCapital Industry-Valued Securities Inc. ("Industry-Valued"), InterCapital Tax-Exempt Securities Inc. ("Tax-Exempt") and InterCapital Liquid Asset Fund Inc. ("Liquid Asset") (collectively, the "Funds"), One Battery Park Plaza, New York, New York 10004, registered, open-end, diversified, managment investment companies, and Dean Witter Reynolds Inc. ("Dean Witter") (collectively with the Funds, "Applicants"), 130 Liberty Street, New York, New York 10006, filed an application on February 27, 1980, and an amendment thereto on May 14, 1980, for an order pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act") approving certain proposed offers of exchange of shares among the Funds on a basis other than their relative net asset values and pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22 (d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Dean Witter, as principal underwriter for High Yield, Industry-Valued and Tax-Exempt, maintains a continuous offerings of the shares thereof at their respective net asset values plus a sales load. A continuous offering of the shares of Liquid Asset is made directly by Liquid Asset on a no-load basis. Each of the Funds permits reinvestment of dividends and distributions without a sales load. At present, the applicable sales load for High Yield and Industry-Valued varies with the quantity purchased as follows:

Size of transaction at offering price	Sales load as percentage of offering price
Less than $25,000	5.50
$25,000 but less than $50,000	5.00
$50,000 but less than $100,000	4.25

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Size of transaction at offering price	Sales load as percentage of offering price
$100,000 but less than $250,00	3.25
$250,000 but less than $500,000	2.50
$500,000 and over	1.75

The sales load for Tax-Exempt varies as follows:

Size of transaction at offering price	Sales load as percentage of offering price
Less than $25,000	4.00
$25,000 but less than $50,000	3.50
$50,000 but less than $100,000	3.25
$100,000 but less than $250,000	2.75
$250,000 but less than $500,000	2.50
$500,000 and over	1.75

According to the application, at present investors may have the benefit of reduced sales loads in accordance with the above schedules by combining purchases of shares of High Yield, Industry-Valued or Tax-Exempt in single transactions with the purchase of shares of any of the other Funds which are sold with a sales load. The sales load payable on the combined purchase of shares or two or more such Funds would be at their respective rates applicable to the total amount of the combined concurrent purchases. Also according to the application, investors currently may benefit from a reduction of sales loads in accordance with the above schedules through the operation of "rights of accumulation," whereby an investor, when computing the sales load applicable to a present purchase of shares of one of the Funds, may add the total cost of shares of the Funds which he had previously purchased at a load, or the current net asset value of such shares, whichever is higher, to the public offering price of the shares purchased. In calculating the applicable sales load on a purchase affected by the right of accumulation, shares of Liquid Asset acquired through an exchange at relative net asset values of shares of one of the other Funds are treated as if they had been purchased at a load. In this regard, Applicants state that at present shares of Industry-Valued or High Yield may be exchanged for shares of any of the Funds, and shares of Tax-Exempt may be exchanged for shares of Liquid Asset, on the basis of relative net asset values and subject to applicable minimum investment restrictions. Shares of Liquid Asset acquired through such an exchange (and shares received as dividends thereon) may be exchanged in the same manner as shares of the Fund for which the Liquid Asset shares were formerly exchanged.

Applicants propose to make the following offers of exchange: Industry-Valued and High Yield propose to offer their shares to shareholders of Tax-Exempt in exchange for shares of Tax-Exempt at their relative net asset values per share, plus a sales load differential representing the difference in sales loads that would have to be paid upon purchases of Industry-Valued or High Yield, and Tax-Exempt shares, giving recognition to the rights of accumulation and the combined purchase privileges described above. That difference in sales loads will be determined as follows: (a) the total cost of shares of all Funds with a sales load previously purchased at their public offering price, or the current net asset value of shares of all such Funds owned by the same shareholder at the time of the exchange, whichever is higher, will be calculated (excluding shares of Liquid Asset acquired directly, but including Liquid Asset shares acquired in exchange for shares of an other Fund and Liquid Asset shares received as dividends thereon); (b) the sales load that would be applicable to the purchase of shares in the amount calculated in (a), expressed as a percentage of public offering price, will be ascertained for both Industry-Valued or High Yield, and Tax-Exempt shares; (c) the sales load will then be subtracted from the sales load percentage that would be applicable to such a purchase of shares of Industry-Valued or High Yield; and (d) the resulting difference in percentages between Industry-Valued or High Yield, and Tax-Exempt shares will be applied to the value of the shares of Tax-Exempt to be exchanged. The resulting amount will be the sales load differential payable on the exchange.

Industry-Valued and High Yield propose to offer their shares to shareholders of Liquid Asset in exchange for shares of Liquid Asset which were acquired in exchange for Tax-Exempt shares, together with Liquid Asset shares received as dividends thereon, at their relative net asset values per share, plus a sales load differential determined in the same manner as set forth in the preceding paragraph, with the Liquid Asset shares to be exchanged considered as though they were Tax-Exempt shares in those calculations.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered, open-end investment company or any principal underwriter thereof to make or cause to be made an offer to a security holder of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the company's prospectus.

Applicants represent that the purpose of the proposed offers of exchange is to permit a shareholder of Tax-Exempt (or a shareholder of Liquid Asset who acquired his shares in exchange for Tax-Exempt shares) who changes his investment objective to that of Industry-Valued or High Yield to change his investment to Industry-Valued or High Yield upon payment of the difference in sales loads but without paying the full sales load otherwise applicable. Applicants asset that an exchange offer to shareholders of Tax-Exempt (or shareholders of Liquid Asset who acquired their shares in exchange for Tax-Exempt shares) at the relative net asset value of the Fund to be acquired would unfairly benefit such shareholders, who would pay substantially lower sales load to acquire shares of Industry-Valued or High Yield than investors who purchased those Funds directly.

Applicants state that the proposed exchange offers would violate Section 11(a) of the Act unless an order approving the offers of exchange is issued. Also, if shares of Industry-Valued or High Yield were acquired by a shareholder of Tax-Exempt (or by a shareholder of Liquid Asset whose shares were acquired in exchange for Tax-Exempt shares), then such acquisition might be deemed to be in violation of Section 22(d) of the Act since an investor thereby would be able to acquire shares of Industry-Valued or High Yield at a public offering price other than that described in its prospectus by purchasing shares of Tax-Exempt and subsequently exchanging those shares for shares of Industry-Valued or High Yield, with or without an intervening exchange into shares of Liquid Asset.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the proposed offers of exchange are fair and equitable to shareholders of each of the Funds while at the same time giving all of them desireable flexibility in their financial planning and that the orders requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–27800 Filed 9–9–80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11337; (812–4551)]

Pacific Fidelity Life Insurance Co., et al.; Filing of Application

September 4, 1980.

Notice is hereby given that Pacific Fidelity Life Insurance Company ("PFL" of the "Company"), Fidelity Variable Annuity Account ("FVAA"), 4333 Edgewood Road, N.E., Cedar Rapids, IA 52499, a unit investment trust registered under the Investment Company Act of 1940 (the "Act"), Fidelity Daily Income Trust ("FDIT"), Fidelity Cash Reserves ("FCR"), Fidelity Corporate Bond Fund ("FCBF"), Fidelity Aggressive Income Fund ("FAIF") Fidelity Thrift Trust ("FTT"), and Fidelity Government Securities Fund, Ltd. ("FGSF"), 82 Devonshire Street, Boston, MA 02109, each of which is organized as an open-end diversified management investment company under the Act (hereinafter collectively referred to as "Applicants"), have filed an application on October 12, 1979, and amendments thereto on May 30, 1980 and July 23, 1980, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 26(a), 26(a)(2)(C) and 27(c)(2) to the extent requested and for approval of certain offers of exchange pursuant to Section 11 of the Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Background

PFL is a stock life insurance company organized under the laws of the State of California. On August 24, 1979, PFL created FVAA under California law as a separate account for the purpose of investing the net purchase payments received by the company for certain variable annuity contracts ("Contracts"). FDIT, FCR, FAIF and FTT are each organized as Massachusetts business trusts. FCBF is a Massachusetts corporation, and FGSF is organized as a Nebraska limited partnership. FDIT, FCR, FAIF, FTT, FCBF and FGSF are hereinafter collectively referred to as the "Funds."

FVAA proposes to offer and sell variable annuity contracts and to invest the net purchase payments for each such contract, as directed by the Contract purchaser, in shares of one or more of the Funds. FVAA will hold only shares of such funds and will reinvest any dividends and distributions in additional shares of the appropriate Fund. Subject to receipt of the order requested hereby, individuals will have the right to purchase such Contracts by exchanging their shares of a Fund; in addition, contract owners would be permitted without charge, at any time, to exchange their shares in one Fund for those of another Fund.

Section 11

Section 11(a) of the Act provides, in pertinent part, that no registered, open-end company or any principal underwriter for such a company shall make an offer to the holder of a security of such company to exchange his security for a security in the same or another such company on any basis other than relative net asset values unless the terms of the offer have been approved by the Commission.

Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

As hereinabove described, holders of shares in the Funds will be offered the right to exchange the net asset value of shares toward the purchase of a contract without any sales charges; in addition, Contract owners will have the right to transfer accumulated purchase payments from one Fund to another. Applicants have requested an Order of the Commission pursuant to Section 11 in order that the Contract purchaser or participant may make such exchanges or transfers under the circumstances described.

Sections 26(a) and 27(c)(2)

Sections 26(a) and 27(c)(2) of the Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor or underwriter for such investment company are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee and are held under an indenture or agreement containing the following provisions: (1) that the trustee or custodian be a bank of a designated size; (2) that the assets be held in trust and only certain charges be made against them; (3) that the trustee or custodian may only resign in a specified fashion; and (4) that certain records be kept and notice given to securities holders in the event of substitution of the trust's securities.

Applicants hereby request an exemption from Sections 26(a) and 27(c)(2) to permit them to sell Contracts without need of an independent trustee or custodian.

Applicants state that the Company is subject to extensive supervision and control by California's insurance authorities, and the Insurance Commissioners of each state in which the Contracts will be sold. In addition, Applicants state that under California law and the terms of the Contracts, the assets of FVAA are not chargeable with liabilities arising out of any other business conducted by the Company. Obligations arising under the Contracts are general obligations of the Company and cannot be abrogated without violating California insurance law. Therefore, Applicants assert that such existing regulation of the Company affords substantially the same protection contemplated by the provisions of Sections 26(a) and 27(c)(2) of the Act.

Sections 26(a), 26(a)(2)(C), and 27(c)(2)

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian. Section 26(a)(2)(C) provides that a payment to the depositor shall not be allowed as an expense to the custodian of a unit investment trust except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself. Section 27(c)(2) applies the same restrictions to periodic payment plan certificates.

Insurance Commissioners

Applicants state that the Contracts will be distributed through Fidelity Insurance Agency, Inc. ("FIA"), which is affiliated with the investment adviser for the Funds. PFL has agreed to pay insurance commissoners to FIA for its services as an insurance general agent in distributing the Contracts. FIA may have subagents to whom it may pay a portion of its commissions. The insurance commissions payable to FIA are assessed at an annual rate of 0.55% of annuity business in force, payable monthly.

PFL will deduct from the Separate Account an amount which is equal on an annual basis to 0.8% of the daily net asset value of the Separate Account. The 0.8% amount is an insurance charge and will be retained by PFL to compensate it for mortality risks which inhere in the annuity tables forming a part of the Contracts. PFL will profit from the insurance premium to the extent that actual mortality experience is more favorable than expected and to the extent that it is not required to bear unreimbursed expenses. Since PFL will not be reimbursed for insurance commissions paid to FIA, its profit will be reduced to the extent of these commissions.

Applicants state that PFL will pay insurance commissions out of its general funds, and not directly "out of" the insurance premium. To the extent that PFL's unreimbursed expenses and mortality experience are such that it realizes a profit from the 0.8% insurance premium, this profit will increase the pool of general company surplus which is available to pay commissions. Such profit may not in fact occur, in which case PFL must still pay the commissions and represents that it will not seek reimbursement from the Contract owners. In order to remove any possible uncertainty that the Custodian is, in effect, being allowed as an expense amounts which are indirectly paid towards distribution expenses, Applicants seek an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit such payments. Applicants acknowledge the Commission policy against investment companies bearing distribution expenses. However, Applicants submit that the Contract charges are consistent with industry norms and argue that charging both an asset charge and a sales load would not clearly be in the best interest of the Contract owners.

Applicants have consented that the foregoing requested exemptions may be made subject to the following conditions: (1) that the deductions for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, the Commission reserving jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges. In addition, Applicants agree that if the requested exemptions are granted, the exemptive order shall remain in effect only so long as there is no increase in the Contract Administrative Charge.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, transaction, or any class or classes of the same from any provision of the Act, if and to the extent necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly inteneded by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 29, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may requests that they be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 29, 1980 unless the Commission thereafter orders a hearing upon the request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further development in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-27805 Filed 9-9-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1865; Amdt. No. 1]

South Dakota; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 46264, July 9, 1980) is amended by adding the following counties:

County, Natural Disaster(s), and Date

Brown, Drought, 10/1/79–7/18/80; Frost, 5/8/80.
Marshall, Drought, 12/1/79–6/30/80; Hard Frost, 5/8/80, 5/11/80.
Jackson, Drought, 10/1/79–7/14/80; Freeze, 5/8/80; Hail, 6/6/80, 6/20/80.
Bennett, Drought, 6/1/80–7/15/80; Frost, 5/7/80, 5/8/80.
Tripp, Drought, 10/1/79–5/31/80; Frost, 5/6/80, 5/7/80; Hail, 6/1/80, 6/6/80, 7/5/80; Grasshopper Infestation, 5/15/80.
Day, Drought, 9/1/79–7/1/80.
Gregory, Drought, 6/1/80–7/17/80; Frost, 5/8/80; Hail, 6/6/80; Grasshopper Infestation, 5/15/80.
Brule, Drought, 10/1/79–7/18/80; Hail, 6/6/80; Grasshopper Infestation, 5/15/80; Hot Winds, 6/6/80.
Charles Mix, Late Frost, 5/8/80; Drought, 9/1/79–7/17/80; Hail, 5/26/80, 5/29/80, 6/6/80; Grasshopper Infestation, 5/15/80.
Douglas, Drought, 5/1/80–7/17/80; Hail, 6/6/80, 6/25/80; Grasshopper Infestation, 5/15/80.
Hutchinson, Drought, 4/1/80–7/14/80; Freeze, 5/8/80; Hail, 6/6/80.
Bon Homme, Wind and Hail, 6/6/80; Drought, 4/1/80–7/18/80.
Yankton, Drought, 4/1/80–7/17/80; Hail, 6/6/80, 6/26/80.
Union, Drought, 5/15/80–7/17/80; Hail, 5/29/80, 6/6/80.
Davison, Frost, April 1980; Drought, 1/1/80–6/18/80.
Sanborn, Drought, 3/1/80–7/15/80; High Winds and Hail, 6/25/80, 6/26/80.

and adjacent counties within the State of South Dakota as a result of natural disaster as indicated; all other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on January 2, 1981 and for economic injury until the close of business on April 1, 1981.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: September 4, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80–27807 Filed 9–9–80; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Ambulatory Care Addition to Veterans Administration Medical Center Tuscaloosa, Ala.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of the Ambulatory Care Addition at the Veterans Administration Medical Center, Tuscaloosa, Alabama.

The Ambulatory Care Addition project proposes the construction of a two (2) level (with possible future expansion) structural addition of approximately 28,000 net square feet. The addition is proposed to be located northwest of and attached to building No. 1. The addition will fill in part of the existing space between building No. 1 and building No. 63. Included as part of this project is the renovation of approximately 12,000 net square feet of space in building No. 1.

Construction of this project will require the realignment of the station loop road and the relocation of approximately 358 parking spaces.

The mitigation of the project's impacts on the environment include: implementation of erosion and sedimentation controls; onside noise abatement measures; construction traffic controls; air quality controls; and exterior design and materials selection compatible with the period architecture of building No. 1.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: September 3, 1980.

By direction of the Administrator.

Maury S. Gralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80–27792 Filed 9–9–80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 177
Wednesday, September 10, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-292, September 5, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., September 12, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

MATTERS TO BE CONSIDERED:

1. Ratification of items adopted by notation.
2. Docket 36508, Request for Instructions on Carrier Selection in El Dorado/Camden Case. (Memo No. 9562–D, BDA, OCCR)
3. Air carrier tariff rules governing confirmation of reserved space. (Memo No. 9882–B, BCP)
4. Docket 29637, *Patricia Kennedy* v. *National Airlines, Inc.*, Enforcement Proceeding; Docket 30851, *Patricia Kennedy* v. *Pan American World Airways, Inc.*, Enforcement Proceeding, motion of Pan American to be relieved of monthly inspection obligation. (Memo No. 9904, OGC)
5. Docket 36889 *(Michael P. Schreiber* d/b/a/ Casino Tours v. *Frontier Airlines, Inc. and Fun Country Tours).* Motion for review of BCP's dismissal of third-party complaint. (Memo No. 9899, OGC)
6. Docket 36595, Investigation into the Competitive Marketing of Air Transportation and Docket 37833, Agreements CAB 28217, 27001–A13, 27004–A4, and 27020–A2; application of ATC for interim approval and immunity for new passenger agency resolutions. (Memo No. 9504–D, OGC)
7. Dockets 35986 and 36595, DOD petition for disapproval by show cause procedures, of ATC ban on commissions for sales of government travel. Order on Reconsideration. (Memo No. 9504–C, OGC)
8. Docket 26973, Application of Aeromar C. por A. for renewal and amendment of its foreign air carrier permit. (Memo No. 2496–H, OGC, BIA, BCP)
9. Docket 36481, Application of Air Midwest for compensation for the provision of essential air service, and Docket 32901, Application of TXI for compensation for essential air service losses. (BDA)
10. Docket 37982, Reconsideration of Domestic Fare Flexibility. (BDA, OGC)
11. Tariffs that state prices as maximum amounts instead of exact amounts. (OGC, BDA)
12. Docket 38298, Application by Trans World Airlines for exemption to pay commissions to forwarders, now prohibited by section 296.32 of the Board's Economic Regulations; Docket 38284, Application by Northwest Airlines for exemption to charge passenger fares and cargo rates lower than those in their effective tariffs; Dockets 38157, 38242, 38308, 38309, 38447, and 38554, Applications by Braniff Airways, Japan Air Lines, Korean Air Lines, Pan American World Airways, Philippine Airlines, and Singapore Airlines for an exemption to permit acceptance of tickets of other carriers at fares not on file. (OGC, BDA)
13. Docket 30667, Termination of rulemaking concerning price advertising. (Memo No. 7167–A, OGC, BCP)
14. Part 385, Amendment of Delegation to the Office of the General Counsel. (Memo No. 9875, OGC)
15. WTI Group Tours, Inc. Petition for review of staff action denying a waiver of certain escrow provisions of Part 380. (Memo No. 9908, BDA)
16. Dockets 37352, Circle Airfreight Corp, Docket 38040, Global International Airways Corp, and Docket 38149, Providence Air Charter, Inc., certification as section 418 all-cargo air carriers. (Memo No. 9893, BDA)
17. Docket 38219, Northern Air Cargo, Inc. (NAC)—application for exemption under section 416(b) of the Federal Aviation Act. (Memo No. 9907, BDA)
18. Dockets 38516 and 38556 (NR–259), sixty-day notice of Ozark Air Lines of intent to suspend nonstop and single-plane service in 11 markets under section 401(j)(2) of the Act and request for exemption to suspend service on less than sixty-day notice. (Memo No. 9906, BDA)
20. Dockets 30308, 30390, 30485, 30536, 30551, 30557, 30590, 30629, 31059, 31286, 31287, 31541, 31762, 31812, 33077, Dismissal of Stale Applications. (Memo No. 9895, BDA)
21. Docket 38086, Republic-Hughes Airwest Acquisition Show-Cause Proceeding; Docket 38477, Application of Republic Airlines; Docket 38478, Application of Republic Airlines; Docket 38479, Application of Republic Airlines. (BDA)
22. Dockets 35908 and 36204, Notices of USAir and Pennsylvania Commuter Airlines to terminate service at Clearfield/Philipsburg, PA. (BDA, OCCR)
23. Dockets 35908 and 36204, Essential Air Service at Clearfield/Philipsburg, PA. (Memo No. 9105–B, OCCR, OGC, BDA)
24. Docket 32660, IATA agreements proposing Guam/Saipan-Japan fare increases and Tokyo-Hawaii promotional fare revisions. (Memo No. 9567–B, BIA)
25. Dockets 38033, Application of Guyana Airways to amend its foreign air carrier permit to add passenger authority between Guyana and Miami via intermediate points. (Memo No. 9780–A, BIA, OGC)
26. Docket 37644, Application of Condor Flugdienst GmbH for (1) amendment and reissuance of its foreign air carrier permit and (2) the elimination of certain operation conditions. (Memo No. 9876, BIA, OGC, BALJ)
27. Docket 36519, Trans Island Express, Ltd. Application for an initial foreign air carrier permit authorizing nonscheduled foreign air transportation of property and mail between the British Virgin Islands and Miami via intermediate points. (Memo No. 9897, BIA, OGC, BALJ)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1672–80 Filed 9–8–80; 3:46 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 19, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1668–80 Filed 9–8–80; 10:21 am]

BILLING CODE 6351–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 10, 1980.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Briefing on Potassium Supplements: Final PPPA Exemption.

The staff will brief the Commission on issues related to exemption of certain potassium supplements from chid-resistant packaging requirements of the Poison Prevention Packaging Act. In June, 1979, the Commission proposed to exempt effervescent tablets containing no more than 50 milliequivalents of potassium, and will vote on a final exemption at the September 17 meeting. At this briefing, the staff and Commission also will discuss possible exemption of other forms of potassium supplements.

2. Briefing on Upholstered Furniture: Status Report.

The staff will brief the Commission on the progress of the voluntary program of the Upholstered Furniture Action Council (UFAC) to produce upholstered furniture which resists cigarette ignition.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C.; telephone: (202) 634-7700.

Agenda approved September 3, 1980.

[S-1673-80 Filed 9-8-80; 3:52 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 9, 1980.

LOCATION: Eighth floor conference room, 1111 18th Street NW., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Selection of Advisory Committees.

The Commission is meeting to select new members for three of its advisory committees: the Product Safety Advisory Council, the National Advisory Committee for the Flammable Fabrics Act, and the Technical Advisory Committee on Poison Prevention Packaging. Members of these committees serve staggered two-year terms. (Closed under exemption 6: possible invasion of personal privacy.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C.; telephone: (202) 634-7700.

Agenda approved September 2, 1980.

[S-1674-80 Filed 9-8-80; 3:52 pm]

BILLING CODE 6355-01-M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 59029, September 5, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., September 9, 1980.

CHANGE IN THE MEETING: Time of the meeting is changed from 9 a.m. to 10 a.m. on September 9, 1980.

[S-1667-80 Filed 9-8-80; 9:23 am]

BILLING CODE 6730-01-M

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, September 15, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 5, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1669-80 Filed 9-8-80; 11:15 am]

BILLING CODE 6210-01-M

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, September 15, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: September 5, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1666-80 Filed 9-8-80; 9:23 am]

BILLING CODE 6210-01-M

8

NUCLEAR REGULATORY COMMISSION.

DATE: September 4 and 11, 1980 (changes).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open (changes).

MATTERS TO BE CONSIDERED: Thursday, September 4:

3:30 p.m.

The affirmation of: (c) Licensing Requirements for Uranium Mills; (d) NRC Jurisdiction in Waters Beyond Agreement State Territorial Waters was postponed.

The Affirmation of Low Power Operating License for Farley was added.

Thursday, September 11:

3:30 p.m.

Affirmation Session: (a) Licensing Requirements for Spent Fuel—is postponed. (b) Order in Seabrook—is postponed and replaced by (a) Amendment to Part 2 on Discipline During Adjudicatory Proceedings and (b) Delegation of Authority to Grant Exemptions to Parts 25 and 95.

ADDITIONAL INFORMATION: By vote of 4-0 on September 4, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that the Affirmation of Farley Low Power License be held on less than one week's notice of the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

September 5, 1980.

Roger M. Tweed,

Office of the Secretary.

[S-1670-80 Filed 9-8-80; 2:03 pm]

BILLING CODE 7590-01-M

9

PAROLE COMMISSION.

(National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).)

TIME AND PLACE: 9:30 a.m., Thursday, September 18, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda W. Marble, Case Analyst, National Appeals Board (202) 724-3094.

[S-1671-80 Filed 9-8-80; 3:42 pm]

BILLING CODE 4410-01-M

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federal register

Wednesday
September 10, 1980

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Section 312 Rehabilitation Loan Program

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 510

[Docket No. R-80-781]

Section 312 Rehabilitation Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Final rulemaking

SUMMARY: HUD is issuing a Final Rule governing the administration of the Section 312 Rehabilitation Loan Program under the Housing Act of 1964, as amended. No comprehensive rules have been previously published for this program, which has been operating currently under the HUD Rehabilitation Financing Handbook 7375.1 REV., dated February 1974 and various Interim rules (44 FR 21750, April 11, 1979; 44 FR 27627, May 10, 1979; 44 FR 47512, August 13, 1979; 44 FR 55562, September 27, 1979), Departmental Notices and Memoranda. With issuance of this Final Rule, the Department is publishing for the first time a comprehensive rule which not only puts existing program policies and procedures into regulatory form but also makes significant changes in the program. In order to allow sufficient time to implement the new regulations and a new Handbook which is being developed, the effective date of the regulations will be February 15, 1981. During the period before implementation, the Department will be conducting training sessions throughout the country for HUD field staff and local officials in order to provide a smooth transition into new policy and program guidelines. Further, § 510.22(a)(1)–(3), containing provisions limiting CDBG-related Section 312 loans to NSAs or comparable areas, will not be applicable until October 1, 1981 in order to allow localities sufficient time to review and select target areas which meet the new eligibility requirements and to coincide with the beginning of the FY 1981 Fiscal Year. Until the February 15, 1981 effective date, the current Handbook, various Interim rules, Departmental Notices and Memoranda will remain in effect and will govern loans approved until that date.

EFFECTIVE DATE: February 15, 1981.

FOR FURTHER INFORMATION CONTACT: Craig S. Nickerson, Office of Urban Rehabilitation and Community Reinvestment, Room 7162, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: 202/755–5970. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1979, an Advanced Notice of Proposed Rulemaking was published in the **Federal Register** (44 FR 51999) requesting comments on a number of major issues involving the design and administration of the Section 312 Program. The resulting comments, numbering 47, were solicited in order to assist the Department in developing comprehensive regulations for the program for the first time. These comments, addressing eight major program and policy issues, were helpful in formulating the Proposed Rule.

On April 10, 1980, the Proposed Rule was published in the **Federal Register** (45 FR 24808) and public comments were invited. Sixty comments were received.

Comments were received from private individuals, local, state and Federal Government officials, housing and community development and administrators, public interest groups, tenant and neighborhood organizations, and legal service groups.

The final Section 312 rules described below reflect the Department's analysis and determination on public and internal comments received in response to the April 10, 1980 Proposed Rule. In order to highlight the major aspects of the final Regulations for the Section 312 Program and to discuss the range of public comments, the following summary is organized by sections of the regulations. Public comments are discussed first, followed by the Department's response to those comments.

§ 510.2 Purpose of Program

Of the eight comments received on the program's purpose, the majority responded to the issue of priority for low- and moderate-income borrowers. The comments were generally supportive of the emphasis, with three suggesting that a fixed percentage of the annual fund allocation or the number of units rehabilitated be earmarked for low- and moderate-income residents. On the contrary, one commenter discussed the value of participation by higher income applicants in deteriorated neighborhoods and suggested it be specifically encouraged. Two commenters suggested that the priority for low- and moderate-income residents should be evaluated over the whole range of a locality's rehabilitation activity and not just based on the section 312 loans made.

A tenants' organization suggested that cooperatives be credited and given preference for section 312 loans by virtue of leveraging conventional financing for acquisition.

The Department believes that the statutory mandate for priority to applications from low- and moderate-income owner-occupants, including those applications from condominiums and cooperatives with principally low- and moderate-income residents, is a sound policy which provides sufficient guidance, yet a measure of flexibility and discretion for participating localities. Prescribing a fixed percentage of loans to be made or units rehabilitated for low- and moderate-income persons may not be responsive to local conditions or administratively feasible at all times. However, the Department wants participating localities to make a concerted effort to adhere to the priority, giving the maximum feasible benefit to those applicants eligible for the statutory priority. In addition, since the priority is a statutory one and specific to the section 312 program, it must be applied directly to section 312 activity, rather than to the entire range of a locality's rehabilitation effort. With regard to priority for principally low- and moderate-income condominiums and cooperatives, the Department feels that priority is clearly delineated in section 510.2(b). Therefore, no changes have been made in this section as a whole in response to the public comments.

§ 510.4 Definitions

Of the eight comments received, three concerned the definition of "Low- and Moderate-Income" person and area. These commenters felt that the two definitions, 95 percent of median income for persons and 80 percent of median income for area, were confusing. It was suggested that since the section 312 program supports CDBG activities, the 80 percent threshold established for CDBG be used for section 312.

One commenter suggested that the definition of "Owner-Occupied" (510.4(s)) be expanded to include member/shareholders of cooperative housing corporations who reside in their units and are covered by a proprietary lease. The commenter felt that this was appropriate since these owners enjoyed many of the benefits of fee simple homeownership and experienced none of the detriments of tenants.

Two comments concerned the definition for "Investor-Owned Property" (510.4(j)). One locality felt that the definition should be amended to indicate that investor-owned property means real property, while the other felt that the proposed definition excluded 2–

4 unit properties not occupied by the owner.

Another commenter suggested that the term "Dwelling Unit" (510.4(g)) should make eligible residential structures designed with single room occupancy units, which were not congregate facilities.

One locality suggested that the word "bid" should be deleted from the definition of "Work Write-up" (510.4(ee)) as the bid document generally includes required and optional work items for which bids are requested after an inspection by the LPA, and the actual work write-up which may be drafted after bids are received often excludes some of the specified items for various reasons. The LPA felt that to include the word "bid" in the definition of "Work Write-up" implies a new definition for the bid document.

In response to the comments received on the "Low- and Moderate-Income" definitions for person and area, the Department believes it should distinguish borrowers who should receive priority, those below 95 percent of median income, and areas, with respect to CDBG eligible areas, distinguished by income which does not exceed 80 percent of median income. The priority (as described in section 510.2(b)) for borrowers below 95 percent of median income is a statutory requirement of the section 312 Program and is a more reasonable level for a direct loan program often providing funds for substantial rehabilitation. As a result, the 95 percent level will be maintained. The 80 percent level for "areas" which is principally significant in section 510.100(a) for multifamily properties will also be maintained, since multifamily loan funds are more limited and HUD wants to target these funds to the most needy areas, to the extent feasible.

In response to the comment suggesting the inclusion of member/shareholders of cooperative housing corporations in the owner-occupied definition, the Department is currently working on additional clarification concerning lending to cooperatives and condominiums which will specifically address the above mentioned definitional concerns.

With respect to the recommendations to expand the definition of "dwelling unit" to include single room occupancy units, HUD believes that the existing definition already does this. However, the definition will be further clarified as part of the implementation of the 1980 Housing and Community Development Amendments, which includes provisions on congregate and single-room occupancy housing.

The recommendation on changing the definition of work write-up has been accepted.

§ *510.6 Funding Allocation System*

Two comments were received on the funding allocation system which did not result in changes in the language of this Section. One comment was very supportive of the system because it provides for improved consistency in funding to localities on an annual basis, thus allowing for better allocation of local staff resources and improved rehabilitation and revitalization planning.

The second comment was not specifically directed at the allocation system section of the regulations but was expressing dismay at the budget rescission in Section 312 funds recommended in Fiscal Year 1980 and proposed in Fiscal Year 1981 by the Administration to Congress.

§ *510.20 Eligibility Requirements/General*

One commenter suggested that the final regulations apply only to borrowers who made application after the effective date of the regulations and not to applicants in the processing "pipeline."

The Department's response to that concern is that the regulation must apply to all loans approved after the effective date, February 15, 1981. However, the effective date has been established far enough in the future to allow for a smooth transition, with paragraphs (1) through (3) of § 510.22(a), Eligible Areas, not effective until October 1, 1981 to allow localities the opportunity to review and select eligible program areas.

§ *510.22 Eligible Areas*

Out of 36 comments from cities, localities, and public interest groups responding to the section on eligible areas, 29 commenters thought the designation of Community Development Block Grant-Neighborhood Strategy Areas (NSAs) for Section 312 loans was too restrictive. It was a general consensus that the regulation should include all areas receiving concentrated, community development and physical revitalization treatment. Commenters stated that forcing cities, especially small cities, to use Section 312 funds only in designated NSAs, when NSAs themselves are not required under the CDBG program, is inconsistent with granting local flexibility and permitting comprehensive strategies of local governments. Many small- and medium-sized cities concentrate their rehabilitation and CDBG activities in "target areas" which do not have the official NSA designation. Also, one city was forced to eliminate NSAs, because they were found to be counter-productive to efforts aimed at leveraging private investment, mobilizing citizen involvement, and generally achieving CDBG program goals. Many cities, while having not officially designated NSAs, have substantially equivalent areas.

Two localities supported the designation of NSAs in that funds would be dispersed otherwise and the funding impact minimal. One of these localities conditioned its statement by suggesting that NSAs would have to include sufficient "feasible" tenant-occupied properties. The other locality felt that the opportunity for moderate-income persons to benefit from Section 312 loans is enhanced by restricting their availability to specific neighborhoods, like NSAs.

Five commenters addressed the one year time period for Section 312 assistance following the completion of CDBG-assisted physical development activities. They generally felt that there should be no time limitations on Section 312 loans in otherwise eligible NSAs. Two commenters felt that the Area Manager should not have the authority to rule against the time period, but the decision should be left to the locality. One commenter addressed the time period for categorical projects, i.e., Urban Renewal projects involving a Categorical Program Settlement Grant. The commenting locality felt that the one year eligibility for Section 312 loans should follow completion of the Settlement Grant. It is HUD's position that financial settlement as used in the proposed regulation means the date of the actual financial settlement transaction between HUD and the locality, but loans may be made for more than a year following that date if expressly required by the Financial Settlement Agreement.

Three urban counties commented that counties usually contain a wide dispersion of lower-income persons and deteriorated properties in small pockets. In such jurisdictions, NSAs may constitute only a small portion of the areas undergoing rehabilitation and revitalization.

The Department carefully considered all of the comments that objected to the Department's proposal to limit Section 312 lending to CDBG–NSAs and has modified the definition by permitting use of Section 312 funds not only in NSAs but also in comparable areas, as described in Section 510.22(a)(ii).

The Department believes that only through a concentration of public and private resources will a visible impact on a target neighborhood be achieved. Current experience with Section 312 loans shows that localities on the whole are not concentrating these rehabilitation funds adequately, when on the average only one and one-half loans are being made per census tract. It is for this reason that the Department is redefining eligible Section 312 areas for CDBG Entitlement and Small Cities comprehensive grant recipients as targets for assistance in which the concentration of CDBG-assisted physical improvements, necessary public facilities and services, and property rehabilitation activities and private investment are appropriate to the needs of the area and will be sufficient to produce long-term improvements in living conditions in the area within a reasonable period of time. Neighorhood Strategy Areas (NSAs) and other comparable areas will meet this requirement. It is incumbent on localities to choose the areas and limit the size of them to fulfill this requirement, which will be closely monitored by HUD.

In response to the commenters addressing the one-year time period for Section 312 assistance following the completion of CDBG-assisted physical development activities, the Department has expanded that one-year time period to two years for CDBG-NSAs and other comparable areas and designated areas of localities receiving CDBG Small Cities One-Time Comprehensive or Single-Purpose Discretionary Grants.

With regard to other specific comments, the Department will not allow Section 312 loans to be made on a spot basis, outside an eligible area, except by specific authorization under Section 510.22(d).

For cooperatives or condominiums to be eligible, the property must be in an eligible area.

§ 510.24 *Eligible Properties*

Expanding the list of eligible properties to residential hotels was recommended by one commenter, who suggested that residential hotels for the elderly be classified as a multifamily property with a loan limit of $10,000 per unit.

Three commenters suggested that the Section 312 Program be coupled with the Moderate Section 8 Program for use in rehabilitating small multifamily buildings. One of the commenters suggested a 10 unit or less limit on the combined use of the programs, while another suggested that 51 percent of project funds must be privately supplied.

Two commenters suggested that two, three or four unit properties were excluded from the listing of eligible properties. However, that is not the case as can be noted in the definition of "single-family property" in § 510.4(cc). Another commenter expressed concern over the eligibility of property owned by a cooperative. It should be noted that § 510.24(c)(4) of the regulation clearly states that cooperatives are eligible for Section 312 loans.

With regard to the Property Rehabilitation Standards (PRS), one commenter responded negatively to those standards being defined as State or local codes or any other rehabilitation requirements established by the locality and suggested that the Department should establish a minimum standard. In contrast, a public interest group lauded the Department's definition and felt it would encourage the development of local standards which address rehabilitation specifically.

In response to the comment concerning classifying residential hotels for the elderly as multifamily property, that result is already achieved by the definition of "dwelling unit" in § 510.4(g) of the regulations. However, the regulations will be clarified on this point as part of the implementaion of the Housing and Community Development Amendments of 1980 currently being considered by Congress which would establish a $15,000 loan limit per unit for such property.

The recommendation of coupling the Section 312 Program and Section 8 Moderate Rehabilitation has been carefully considered by the Department. It is felt that this combination is inappropriate in that it constitutes a double subsidy. If a locality wishes to provide a deeper subsidy to a particular building or buildings within a target neighborhood, that should be done with Community Development Block Grant funds. Any exception to the rule, in which Section 312 and Section 8 funds are proposed to be used in tandem would have to be approved by both the Assistant Secretary for Community Planning and Development and the Assistant Secretary for Housing.

With reference to Property Rehabilitation Standard (PRS), the Department will maintain its current definition and thereby allow localities flexibility in using State or local codes or a local rehabilitation standard, but HUD is establishing a minimum standard of meeting Section 8 Moderate Rehabilitation Program Standards.

In response to another comment, Section 312 funds may be utilized on either section 810 acquired or locally acquired homesteading properties, but these properties must be in an eligible area as defined in § 510.22 in order to target Section 312 funds to complement on-going housing and community development activity.

§ 510.26 *Eligible Applicants*

There were seven comments regarding eligible applicants. Three commenters supported 312 loans being made to purchaser-occupants of property under an installment land sales contract. One addressed the omission of a purchaser of nonresidential property and investor-owned multifamily properties purchased under a land sales contract. One commenter suggested that land sales contract provisions could be made simpler by requiring the seller to sign the mortgage also.

Two comments concerning condominiums were raised. One stated that the applicant should be the potential owner of the individual condominium or a mechanism should be provided for allowing the benefits of the three percent interest rate to be transferred to the ultimate purchaser after rehabilitation. The other comment supported condominiums and cooperatives in stating that they effectively accomplish the goal of encouraging owner-occupancy by moderate income families allowing for equity contribution, debt service and maintenance costs.

Other specific comments mentioned that the regulation excludes owners of nonresidential properties while tenants are eligible, and that an eligible applicant should be a citizen of the United States (either native born or naturalized).

In response to the comments on land sales contract purchasers, the Department is not precluding lending to purchaser-occupants as long as the owner of the property executes a mortgage or deed of trust to secure the section 312 loan. Separate provisions for loans below $3,500 have been dropped, since very few loans are foreseen below $3,500 and all other loans are secured.

The Department is currently developing further guidelines on loans on cooperative and condominiums properties and will consider the comments made on this issue.

On the specific comments concerning the exclusion of owners of nonresidential property, we have corrected that unintended omission. On applicant eligibility based on citizenship, the section 312 program wishes to parallel the CDBG program and not require it.

§ 510.32 *Term of Loan*

One comment was received which supported the existing requirement that the term should be consistent with the borrower's ability to pay.

§ *510.34 Interest Rates*

Twenty six comments were received on the new provision for a sliding scale of interest rates based on the type of property and income of the borrower. Of those 26, four commenters favored the scale as proposed. Two comments from public interest groups favored the proposed scale because it would increase the discretion of local governments and directly encourage private sector involvement in rehabilitation financing. Two commenters specifically mentioned the importance of the below market rate interest in providing an incentive to middle income borrowers to invest in deteriorating neighborhoods.

Six comments focused on the allowance of three percent interest for investor-owned properties and expressed concern over the apparent inequity between the lower fixed rate for investors and the sliding rate based on income prescribed for owner occupants of single family property. Three of the commenters suggested that the sliding scale be prescribed for single family investor-owners. Two of the commenters suggested that six percent is an appropriate interest rate for investor-owned property, while another suggested that three percent be allowed for investor-owners only when they agree to lease their property to a local housing authority for use by a low-income tenant or sign a statement limiting annual rents for a period of time ranging from three to five years.

In supporting lower interest rates, three commenters suggested that a lower than three percent rate be allowed for leveraged loans, while another commenter suggested a one percent rate for borrowers below 80 percent of median income. Two commenters suggested that 95 percent of median income, the priority income level, be the threshold for the three percent interest rate. Another commenter suggested that 200 percent of median income be the cap on section 312 lending, while another suggested 150 percent of median income. Two commenters recommended the maintenance of the three percent rate for all loans regardless of borrower income. In contrast, one commenter suggested an interest rate varied by ⅛ of one percent based on income applied to all categories of borrowers.

There were three comments on income determination, two suggesting that adjusted annual family income be better defined and another recommending that net income be used to determine interest rates for investor-owned properties.

In response to the exception language permitting the use of a rate lower than nine percent, but no less than six percent, for cases where it is necessary to achieve community development objectives and is so documented by the LPA in the case file, two local public officials strongly opposed the exception language citing its difficulty of administration because of its subjective nature.

It is HUD's intention to maintain the three percent for investor-owned single family, multifamily, nonresidential and mixed use properties in order to encourage the improvement of rental housing and commercial property which will benefit low- and moderate-income residents of eligible neighborhoods. The Department believes the deeper subsidy of three percent interest may be especially necessary to achieve a full scale rehabilitation of multifamily properties which would be infeasible at a higher rate because of poor physical and market conditions of the neighborhood. It is noted that multifamily properties must either be in low- and moderate-income areas or have a majority of low- and moderate-income tenants to be eligible for Section 312 rehabilitation, and that a Rent Regulatory Agreement is required for both multifamily and single-family investor-owned properties.

Local public officials, however, should evaluate all loans for investor-owned properties to determine whether a combination of private and public funds could achieve the necessary rehabilitation at an effective interest rate which is higher than three percent. Section 312 funds at three percent, without the involvement of leveraged funds at a higher interest rate, should be used only when the scope of rehabilitation and an assessment of project finances indicate that an effective rate of three percent is necessary for project feasibility. Leveraging of private funds in combination with Section 312 funds should be the first approach utilized in evaluating investor-owned loan applications.

With regard to definition of adjusted annual income, the Department refers in its definition of low- and moderate-income persons to the income limits published by HUD under Section 221(d)(3) BMIR of the National Housing Act. The income limits are adjusted by family size which is the only adjustment that Department intends for gross annual family income.

With respect to the exception language allowing for a lower interest rate to achieve community development objectives documented by the LPA, the Department believes this provision can be judiciously administered by localities to achieve rehabilitation or revitalization of that property or neighborhood which remains undeveloped because of excessive cost or severely depressed market conditions. The exception provision can be administered in a conscious attempt to foster rehabilitation in areas which resist traditional redevelopment techniques and in a manner which would allow local LPAs to respond to local conditions more flexibly.

§ *510.36 Maximum Loan Amount*

There were eight comments on this section. Four addressed the minimum loan amount. One commenter supported the $20 minimum monthly loan payment and another felt that a $20 minimum affected low-income applicants in an adverse manner. It was recommended that a $10 minimum payment be instituted to lower the chance of delinquency and default and still realize cost effective loan processing. The two other commenters on this issue felt that the $20 minimum was unduly restrictive for low-income borrowers. One felt that it should be worked out between HUD Area Offices and localities and not be specified in the regulation. The other suggested that local public agencies be permitted to establish a lower monthly payment plan where current housing expenses exceed 25 percent of the household income.

Two comments recommended that the maximum loan amounts be raised. One commenter suggested a limit of at least $36,000 per unit, while another recommended $35,000 to $40,000 per unit. The same commenter said they currently rejected 30 percent of their single family applicants because their homes cannot be brought up to standard with the current $27,000 limit.

One commenter asked that the loan to value ratio limit for mixed use loans be explained. The other commenter said the nonresidential formula (80 percent of the estimated market value after rehabilitation) is not adequate to finance the nonresidential portion, and therefore HUD should eliminate the third component of the formula and restrict the loan to $100,000 or actual cost of rehabilitation.

In response to the comments and concerns on the minimum monthly loan payment, it was the Department's intent to ensure cost effective loan servicing. Currently, the Department must pay $4.50 per month to service each single family loan, in addition to the administrative costs generally for the

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LPA and HUD to process a loan application. Section 312 funds should be used as a supplement to CDBG and other rehabilitation activity. If a borrower cannot afford a $20 per month minimum payment, the locality should, then, provide another alternative to accomplish the rehabilitation.

In response to the comments on higher loan limits, Congress is currently reviewing higher limits requested by the Department.

With regard to determining the debt limit on nonresidential property, the Department has increased the nonresidential formula to 90 percent of the estimated market value of the property after rehabilitation.

§ 510.38 *Costs Includable in the Loan*

Twelve comments were received addressing various items that the interested parties felt should be eligible costs or asking for further explanation of these items mentioned in the regulation. The comments are identified by the affected paragraph of this Section and are summarized and responded to in the order of those paragraphs.

(c) *GPI's*—One commenter felt GPI's (General Property Improvements) should be more limited than the 40 percent of rehabilitation cost and recommended a 10 percent limit. The Department wants the major focus of the loan to be correction of those items relating to PRS. Only when all PRS items are treated will GPI's be allowed. However, the Department will maintain the percent requirement that GPI's should generally not exceed 40 percent of rehabilitation.

(d) *Environmental Standards (and other Federal Requirements)*—One commenter felt removal of architectural barriers, where applicable, should be includable in the loan. Another comment concerned the eligibility of costs due to historic preservation or other requirements not included in PRS. The costs of compliance with historic preservation, environmental, and architectural barrier requirements are not only eligible, but required to be included in Section 312 loans, as § 510.38 now makes clear. Further guidance may be found in Subpart D on these and other Federal requirements.

(h) *Architectural Fees*—One commenter asked that localities be able to recover costs of architectural fees from the applicant, if the applicant does not wish to proceed with the loan. These fees are bourne by the applicant if the application is not approved or withdrawn; they are only reimbursable to the applicant and/or professionals providing the service at loan settlement, if the loan is approved.

(i) *Appraisal Fees*—Two comments asked that single-family appraisal fees be eligible loan costs. The Department agrees; all appraisal fees including those for single-family properties may be included in the loan in the future.

Processing and Settlement Costs—One commenter stated that the role of private lenders should be expanded, since they can perform the application, eligibility, underwriting and document preparation tasks more efficiently than LPA staff. Lenders could be compensated by an origination fee which would be an eligible cost. An origination fee for a private lender has been included as an eligible loan cost.

(n) *Contingency*—Six comments were received. Four stated that the five percent contingency should be increased to 10 percent, because the risk of unexpected cost is spread over fewer units and the likelihood of individuals procuring additional funds is smaller than for investor-owners. Another concern was that there are delays between loan approval and loan settlement as well as lapses between when a contract is signed and the start of construction. Materials and equipment costs can escalate considerably during that time. One commenter said they did not use a contingency fund and felt it should be eliminated, while another felt five percent was adequate. The Department believes a five percent contingency is satisfactory in most cases where work specifications and costs estimates are adequate.

(o) *Refinancing*—Comments on refinancing are in the 510.40 section of the summary.

(p) *Taxes*—Section 510.38 allowed for payment of taxes accruing during construction but did not mention back taxes, while § 510.39 did not directly prohibit payment of back taxes. The commenter felt that back taxes should be an includable item when the case reflects consistent payment of housing related and other expenses on a monthly basis. The Department disagrees; payment of back taxes is currently an ineligible cost, as § 510.39 now makes clear. If back taxes endanger the security for the loan and cannot be cleared up by the borrower, the loan should not be approved.

Relocation—Two commenters recommended that temporary relocation costs be eligible for single-family applicants, while one felt relocation costs, except administrative expenses of the locality, should be allowable. The Department carefully considered making temporary relocation costs an eligible loan expense, but decided against it. It was felt that localities wishing to pay benefits could use CDBG funds.

§ 510.39 *Costs Not Includable in the Loan*

There were two responses to this Section. One public interest group felt that credit report fees should be eligible and new construction of additions should be allowed where necessary to alleviate overcrowding (bedrooms). They also asked that reconstruction be defined and allowed where such reconstruction qualifies under the loan limits. A locality asked that "purchase, installation, or repair of furnishings or trade fixtures" be defined.

HUD is removing credit report fees from this Section and making them an eligible cost of the loan. Inspection fees are further clarified in that they are ineligible except for investor or multifamily applicants with loans over $27,000 where the LPA can require the applicant to have a work write-up prepared by an outside source. Refer to § 510.78(b)(1).

The revised Handbook will further define reconstruction which is essentially totally rebuilding a structure from a few remaining parts. However, neither new construction or reconstruction is considered to be within the statutory definition of rehabilitation and work so characterized is therefore legally ineligible. While kitchen appliances, i.e., dishwashers, refrigerators, etc., are eligible items for residential users, they are ineligible for commercial establishments. Counters and shelving are examples of trade fixtures which are also ineligible.

§ 510.40 *Refinancing*

In the ten comments received on refinancing, there was general support of the Department's new, more limited, approach to refinancing as a last resort to be used only when all other options available to the LPA in assisting the property owners have proven infeasible. It places the onus of responsibility and judgment squarely on the participating localities to use this important tool carefully. Also, the new policy which limits refinancing to single-family borrowers under 95 percent of median income is an effort to direct resources to those borrowers most in need and who could not rehabilitate their properties without assistance.

Among the responses on refinancing, two commenters suggested that the percentage of the loan for rehabilitation should be higher than 30 percent, while another suggested that the eligibility ratio of principal and interest costs to income should be raised from 20 percent to 25, 33⅓ percent. Another commenter suggested that the income eligibility of 95 percent of median income should be raised to 120 percent of median income to allow greater participation by land sales contract purchasers.

With regard to refinancing indebtedness, further clarification of the kinds of debt which could be refinanced was requested. On this subject, another commenter suggested that home improvement loans should not be allowed.

In response to the comments received, the Department believes that the majority of supportive comments is an affirmation of the new policy. That 30 percent of the loan must be directed to rehabilitation is further restricted by the fact that the 30 percent must be directed to meet PRS or other required costs. Raising the ratio of debt service to income eligibility factor from 20 percent to a higher percentage was considered and is still under consideration but the present rule directly follows the statute. It was felt that the new policy restrictions of eligibility below 95 percent of median income and limiting refinancing to only a last resort option would serve the immediate purpose of a more judicious, considered use of refinancing by localities.

§ *510.42 Note and Security Instrument*

Three comments were received. One comment concerned the requirement that the note provide estimated annual amounts of ground rents, property taxes and assessments, flood, and fire insurance and the like. The commenter recommended that we retain the prior format, and require monthly amounts rather than mix monthly and annual figures. Another comment was that the short-form mortgage for loans under $10,000 should still be allowed. This commenter also suggested a standard form which can be filled in without legal involvement or approval. The third commenter felt that the Relocation Regulations should be included in the note and security instrument on loans in which the "Right to Continue in Occupancy" is used. They felt there should be some remedy provided in the loan documents if a landlord violates the provisions of the lease terms involved in the relocation requirements.

In response to the first comment on mixing monthly and annual payments in the note format, we have changed annual to monthly where it refers to amounts of ground rents, property taxes, etc., and this provision for escrow payments has been relocated to the mortgage portion of this Section.

The Department has also decided all loans will be secured and it will provide guidance in the Handbook on the preparation of the note and mortgage documents, which vary from State to State.

With regard to including the relocation provisions in the note and security instruments, the Department feels that such inclusion would not be useful. The relocation section of these regulations provides for a lease under which tenants can seek redress if its provisions have been violated.

§ *510.44 Title Evidence*

Five comments were received, of which two felt formal title evidence should be required for all loans regardless of loan amount. Another thought title should be verified only by a preliminary or short-form title report. This commenter also felt neither title insurance nor an attorney's opinion should be required because of costs and delays and the fact that the loan is ordinarily in second or a lower position.

One comment stated that Section 510.44 made no reference to escrow accounts for taxes and insurance.

One commenter felt title evidence for loans under $10,000 creates an added expense for the borrower which should be absorbed by the LPA.

The Department has specified the acceptable forms of title evidence including title insurance, attorney's title certificates, etc., and has provided that title evidence must be obtained prior to loan approval. However, there is provision for the Area Office to approve alternative forms of title evidence on a locality by locality or State by State basis, for loans under $27,000. Title evidence is an eligible loan cost.

In response to the comment on escrows, the Department will require escrows for all loans in first position or where the primary lien holder does not escrow.

§ *510.46 Standard Terms and Conditions*

There were seven comments received on the Standard Terms and Conditions. They are summarized according to the order in which they appear in the regulation:

One commenter suggested that the borrower should also agree not to award contracts to anyone deemed unacceptable to the LPA. It was also suggested that arbitration procedures should be spelled out, including a procedure for paying the contractor for acceptable work when the borrower will not sign the check; and a procedure for loan termination where there is a breach in the construction contract, the work is incomplete, and the homeowner will not proceed with the work.

It was suggested that language should be included to require total repayment of principal and interest due on terminated Section 312 loans. This would advise the owner of the necessity for immediate repayment should the loan be terminated for cause.

A commenter stated if a new owner who wishes to assume a Section 312 loan would qualify for the Section 312 program, then he/she should be able to benefit from the program, too.

Another comment was that the program should allow for the assumption of the Section 312 mortgage by a non-equity cooperative from a non-profit developer, or in the case of a merger, consolidation, re-organization, or the conveyance of the underlying fee and subsequent lease from a land trust or mutual housing association, wherein there would be no substantive adverse effect upon the cooperative or its members in their goal of preventing displacement or providing decent housing on a continuing basis for low- and moderate-income persons.

It was stated that since Section 312 loans require adequate property insurance, not allowing the Section 312 borrower the option to rebuild a substantially destroyed unit could force him/her back into substandard housing.

It was suggested that the Area Manager be given the power of waiver at the conflict of interest provision for employees of the LPA or the locality if they meet low- and moderate-income guidelines.

It was also recommended that the HUD 6231 be rewritten in language more easily understood by the applicant.

In response to the comments received on the Standard Terms and Conditions, a locality with respect to unacceptable contractors may develop its own procedures for contractor prequalification, selection and disbarment. In § 510.78, the regulations do provide that the LPA shall concur in any contract award, which has the effect of requiring the contractor to be acceptable to the LPA.

With respect to repayment upon loan cancellation, the loan cancellation procedure will be carefully detailed in the Handbook.

The Department's loan assumption policy is currently under development and will be explained in the loan servicing section of the regulation to be completed at a later date.

With respect to loan repayment upon destruction of a secured property, the Department has, as does any other secured lien holder, the right to recover its investment as from insurance proceeds.

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In response to the conflict of interest provisions, an employee of the local government or the LPA who exercises any functions or responsibilities assigned with the administration of the Section 312 Loan Program shall not receive program benefit. This rule is designed to prevent collusion or the appearance of a collusive arrangement in the program.

The form containing the Standard Terms and Conditions (HUD-6231) is being revised to make clearer to the borrower all loan provisions and conditions.

§ 510.50 *Program Administration*

Six comments were received on this section. The majority of the comments related to paragraph (b)(10) Labor Standards. The commenters addressing labor standards generally endorsed the proposed rule to exempt residential properties with less than 15 dwelling units from the requirements of the Davis-Bacon Act. These commenters felt that such an exemption would not only encourage the development of smaller multifamily projects, but would also reduce the rehabilitation cost of such projects.

However, one Federal official provided comments objecting to the increased thereshold for residential properties. Essentially, the commenter felt that HUD's limitation of Davis-Bacon to projects containing 15 or more dwelling units was beyond the scope of HUD's authority. It was this commenter's opinion that the Davis-Bacon requirement should be applicable to all residential property where the actual cost of rehabilitation exceeds $2,000.

The commenter, while agreeing that the waiver for "sweat-equity" projects proposed in § 510.50(a)(3)(iii) was permissible under Davis-Bacon, suggested that the language be amended to include the full requirements for a waiver as set forth in Section 402(f) of the Housing Act of 1950, as amended.

Other comments suggested that owner-occupied residential properties be exempt from the requirements for accessibility by the handicapped and that the energy audits required by § 510.50(n) be waived for small scale multifamily projects.

In response to the comments concerning the Davis-Bacon provisions, the Department has lowered the required unit threshold from fifteen to twelve units for residential projects. Twelve units was the threshold used for the purpose in the program prior to 1975. The language on the "sweat-equity" provisions will remain the same, which includes the proper citation of the waiver authority in Section 402(f) of the Housing Act of 1950, as amended.

In response to the requirements concerning accessibility by the handicapped, the Department is currently developing regulations which will apply to all HUD-assisted housing. Additionally, the Department is developing a guidebook on the cost-effective energy conservation standards which will assist LPAs in applying the standards.

§ 510.52 *Relocation/Displacement*

Eleven comments were received in response to the relocation/displacement provisions published for comment in § 510.52. This section was published as both a proposed rule (to obtain public comment) and as a final rule (45 FR 24802; effective May 12, 1980).

One commenter discussed the need for clarifying the role of a lease in protecting a tenant's rights. With regard to the lease, another commenter interpreted the provisions at § 510.52(c)(5)(i) to require owners to establish a fixed amount for the monthly housing cost (rent and utilities) charged a tenant during the first year of the four-year period guaranteed under the notice of right to continue in occupancy.

With regard to exclusion from the relocation provisions of those units where the Section 312 loan attributable per unit is less than $2,500, one commenter suggested that the $2,500 unit level be determined by the total cost of the rehabilitation per unit whether Section 312 or privately financed.

Another commenter requested clarification on the locality certification procedure, while another included a proposal to restrict the use of the waiver procedure at § 510.52(c)(6), unless suitable approved alternative protections were provided. Another commenter suggested that single-family (1–4 units) properties be exempted from the relocation rules.

Several of the comments reflected a misunderstanding of the purpose of the notice of right to continue in occupancy and the relationship of that notice to the rent regulatory agreement.

In response to the first comment on the role of the lease in protecting a tenant's rights, the Department has modified the language at § 510.52(c)(5) to explain that in order to receive the protections provided by the rule, the tenant must agree to enter into a reasonable lease, as specified in § 510.52(c)(5), within a reasonable period of time after completion of the rehabilitation. To ensure that this does not impose an unfair requirement on the tenant, the final rule specifies the tenant's unilateral right to cancel the lease on 30-days advance written notice, if allowable under State or local law.

With regard to the second comment on the lease and the inclusion of utility charges in the lease, it is not the intent of the Department to preclude an owner from entering into a lease that provides for the tenant to pay the cost of all utilities. The rule at § 510.52(c)(5)(i) explains that the maximum rent that can be charged to a tenant during the first year after rehabilitation shall not exceed (1) 25 percent of the gross income of all adult members of the household, or, if greater, (2) 105 percent of the tenant's monthly rent for the unit six months prior to issuance of the notice of right to continue in occupancy. In response to the comment the Department is revising this rule to explain that the cost of utilities to be metered and paid separately by the tenant after the rehabilitation are not to be considered in the latter computation.

In response to the commenter who suggested that the relocation provisions apply to the total cost of rehabilitation per unit, whether Section 312 or privately financed, the Department agrees with the comment. Accordingly, § 510.52(c)(7)(i) of the rule has been revised to ensure that the rule will apply to each dwelling unit where the total cost of rehabilitation financing exceeds $2,500.

With regard to the fourth comment about the locality certification procedure, under the provision of § 510.52(a), an annual certification from the locality or LPA is satisfactory. It is not necessary to submit a certification with each loan.

The comment which included a proposal to restrict the use of the waiver procedure was not adopted.

In reply to the comment requesting exclusion of single-family (one to four units) properties form the relocation provisions, the Department believes that such an exemption would be unfair to the affected tenants. Many of these tenants have essentially the same needs as tenants in multifamily properties (5 units or more) and might be displaced without satisfactory alternatives if the rules did not offer protections. Accordingly, this proposal was not adopted.

Several comments reflected a misunderstanding of the purpose of the notice of the right to continue in occupancy and the relationship of that notice to rent regulatory agreement. The Department invites attention to the explanation of these two documents which appeared in the preamble to the final Section 312 relocation rules at 45 FR 24803, dated April 10, 1980. The

Department also encourages localities and prospective loan applicants to discuss their concerns with HUD Area Office rehabilitation and relocation staff who can explain these procedures and provide related advice and assistance.

§ *510.70 General—Loan Processing and Administration.*

There were three comments on loan processing and administration. One comment spoke directly to the need for the Department to expedite check processing and to shorten the time between application submission to HUD and check receipt by the LPA. Another comment suggested streamlining the loan application process and placing greater responsibility on the borrower. The third comment requested greater guidance on the division of responsibility between the individual borrower and the LPA.

The Department is carefully examining these recommendations and has made efforts to simplify several procedural aspects of the program including changes in income verification, appraisals, and the selection of contractors. These suggestions will be considered in the preparation of the Handbook which the Department is projecting to be issued to be effective simultaneously with the final regulations.

In response to internal comments on the regulation, the Department has added new provisions as § 510.70 (b) and (c), which are designed to clarify the relative responsibilities of the locality, the LPA, and contractors under the program.

§ *510.72 Local Approval Authority*

There were six comments on local loan approval authority. Three comments related directly to the Agreement for Local Processing Agency Approval and were requesting procedural clarification.

A comment from a public interest group opposed the requirement for localities to assume local loan approval authority once their fund use level exceeded $200,000 or more annually for a two year period. This group felt that local loan approval authority should be a local option.

The fourth commenter suggested that loan approval and funding should be condensed into one step for localities who have local loan approval authority. One locality requested local loan approval authority on multifamily loans.

In response to the comments on the LPA approval agreement, a guideform agreement and instructions for its use will be included in the new Handbook. With regard to the assumption of local loan approval by localities, it is the Department's contention that localities must begin to assume responsibility for their loan underwriting decisions if they are consistent users of Section 312 funds.

With respect to condensing the necessary steps between loan submission and the loan settlement with fund disbursal, the Department is developing a procedure to simplify the process, which will be described in greater detail in the new Handbook. In addition, the Department will develop guidelines for multifamily local loan approval authority in the future, when a larger number of localities have experience in underwriting Section 312 and CDBG loans.

§ *510.74 Property Appraisal*

There were three comments on the property appraisal section. Two commenters strongly supported the elimination of the appraisal requirements for loans of less than a fixed dollar value. They cited the time, expense and limited value of the appraisal in underwriting a Section 312 loan; and indicated their preference for a simplified approach to determining property value paralleling private lending practices. Two of the three commenters also favored the inclusion of the property appraisal fee as an eligible loan amount when it is required.

The Department in response to the appraisal question has dropped a formal appraisal as a requirement for single family loans of $27,000 or less but will require an estimate of current value. It still will be required on all single family loans which exceed $27,000 and every multifamily, nonresidential and mixed use loan.

Under § 510.38 on eligible costs, appraisal fees on all categories of property may be an eligible loan expense.

§ *510.76 Financial Verifications*

Three comments were received concerning financial verifications. Each commenter suggested that an attempt should be made to reduce the amount of paperwork currently associated with financial verifications. It was recommended that HUD develop a standard system of verification such as verification through a recognized credit bureau. It was also suggested that the income verification procedures of the section 235 recertification process be adopted for section 312 income verifications.

The Department has recognized the need to streamline the verification of income process and will accept alternative means of documenting income. The simplified verification procedures will be explained in greater detail in the Handbook.

§ *510.78 Rehabilitation Contract Development*

Several localities commented on the proposed provisions of paragraph (b), Contract Development. One locality objected to the provision which allows the borrower and the contractor to provide the scope of work and cost estimate for negotiated contracts. The locality felt that this should be provided by the borrower with the assistance of the LPA.

Other comments included support for the provision which allows the borrower to select a bidder who is within 10 percent of the LPA cost estimate and a recommendation that the threshold for competitive bidding be increased.

The Department believes that, where feasible, the borrower should assume a more active, involved role in determining the scope of work and selecting a contractor to do the rehabilitation for cases involving loans of less than $27,000. An on-site property inspection by the LPA will be required and joint borrower-contractor work write-ups will be carefully reviewed by the LPA to determine whether the scope of work is clearly delineated and meets PRS and whether the price is within 110 percent of the LPA's estimation of cost. The LPA will still provide assistance including work write-up preparation to the borrower as needed.

Changing the threshold for competitive bidding was considered but remains at $27,000, except in those cases where the owner serves as contractor as described in § 510.80 or the requirement is waived under special circumstances by the HUD Area Manager.

§ *510.80 Borrower as Contractor*

Five comments were received, two of which stated the self-help/sweat equity borrower should be capable of doing the work based upon a demonstratable ability to complete the work satisfactorily. The LPA should have the authority to assess the applicant's ability to perform his/her own work and to act as his/her own general contractor, and limit the type and quantity of work to be performed, and accept or reject the applicant's proposal to act as a general contractor.

One comment from a non-equity cooperative was that they should be permitted to compensate employees—including those who happen to be members—for labor provided in that such labor is not performed as a component of the "sweat equity" program. Another comment was that a subcontractor should not receive payment for profit and overhead in his/her bid amount when the subcontractor, hired by the borrower acting as general contractor, is a family member.

There was one objection to the compensation for specified materials and equipment only after proper installation. The commenter said there are many "cash" and "carry" building supply houses, which are able to offer better prices. It was suggested that where a supply house prepares, in conjunction with borrower and LPA, a price list of needed materials, the LPA could cut a two-party check against the invoice for payment "up-front" for materials.

In order to provide clearer guidance on the self-help/sweat equity concept and the borrower who is a building professional, the Department has retitled this section "Borrower as Contractor" and has provided guidance on contract development for both types of borrowers.

Under the provisions of the self-help/sweat equity concept, the Department has provided guidance on the minimum conditions for accomplishing the rehabilitation and will provide further guidance in the Handbook.

Compensation to a member of a borrower's nuclear family, whether subcontractor or laborer, is not permitted.

Disbursement from the rehabilitation escrow account for specified materials and equipment may be made only after proper installation.

Section 510.80(b), Professional Contractor, clearly delineates the responsibilities and requirements applicable to this kind of borrower.

§ 510.82 Loan Approval: Required Determinations

Three comments were received. One commenter suggested that special language concerning loan approval criteria apply specifically to non-profit corporations. Suggested criteria for non-profits would include a determination that sufficient security in the value of the property to cover repayment of the loan exists and that the proforma indicating income and expenses be reasonable and include reserves as an expense.

It was also suggested that appropriate underwriting standards be applied to cooperative loans.

Another commenter suggested that HUD should apply more flexible underwriting criteria on determining an owner occupant's ability to afford the loan. The commenter wanted the flexibility to consider the dollar amount of disposable income left after fixed expenses and the number of people to be supported on that income.

With respect to underwriting loans proposed by non-profit corporations, the Department believes that special language directed to non-profit loans is unnecessary. The merits of the project and the development team capability must be evaluated in each case, in order to approve any loan.

The Department is currently considering more detailed procedural guidelines for loans to cooperatives and condominiums to be issued in the future.

The Department, as part of this Final Rule, has not established a predetermined or fixed percentage of debt to income for the purpose of determining acceptable risk. However, underwriting guidance will be provided in the revised program Handbook and will discuss all aspects considered in underwriting including debt to income ratio, credit history, expenses attributable to rental property and the like.

§ 510.84 Loan Settlement

Five comments were received regarding the proposed loan settlement procedures. Two localities commented that the requirement for escrow payment of taxes and insurance could be burdensome and suggested that small loans be exempt from the escrow requirement. One locality also felt that the payment of taxes and insurance, as well as supplemental financing required from the borrower, should be the responsibility of the borrower, not the LPA.

Another locality suggested that the execution of the rehabilitation contract be deleted from loan settlement activities. The locality felt that it was the owner's responsibility to initiate the rehabilitation work, and recommended that the contract be executed prior to loan settlement with an effective date after the expiration of the rescission period. The locality suggested that HUD should encourage private lenders to assume responsibility for loan origination and settlement.

Three localities, while agreeing with the intent of the modified loan settlement procedure, felt that the procedure was time consuming and should not be required for all loans over $60,000 or where construction exceeds 4 months. Referring to the requirement that interest be calculated for each separate draw-down, one locality suggested that in lieu of calculating interest for each draw, loan payment should begin after a preset period.

In response to comments on the requirement for escrow payments of taxes and insurance, it is the Department's judgment that this is a necessary requirement to Section 312 lending in order to protect HUD's investment.

With regard to the execution of the rehabilitation contract before loan settlement, the Department has decided to explain its policy in § 510.78, concerning the possible relationship between the execution of the contract and commencement of work and mechanics liens on the property. Application of the policy will be left to the LPA in consultation with HUD.

With regard to involvement by private financial institutions in loan origination and settlement, the Department is actively encouraging LPAs to develop such an arrangement.

Loan origination fees for lending institutions have been included as an eligible loan cost. Localities may not receive a loan origination fee.

In response to the comments on the modified loan settlement procedure, the Department has developed new disbursement procedures which will be explained in detail in the Handbook and will eliminate the cumbersome procedures of the modified loan settlement.

§ 510.86 Management of Rehabilitation Escrow Account

There were eleven comments on the management of the rehabilitation escrow accounts. There were three comments on whether the accounts were interest bearing or non-interest bearing; two commenters favored interest-bearing accounts. One suggested that the interest be returned to the borrower while the other suggested that the interest be used by the LPA to defray administrative costs. The third commenter, recommending non-interest bearing accounts, mentioned the deposit of funds as an encouragement to private financial institutions to leverage private funds.

With regard to the use of supplemental funds, one commenter felt that using them in full prior to disbursement of Section 312 funds is a hardship on the borrower. It was also suggested that contractor payments be done through a voucher system, as was originally proposed.

Three comments were received on the need to develop a method of resolving homeowner/contractor disputes. The Department realizes the importance of this topic and will discuss LPA and borrower options in greater detail in the Handbook.

With regard to unutilized loan funds, a recommendation was made that they be used as an operating and/or replacement reserve account but that this provision be limited to non-equity cooperatives.

Two commenters favored the provisions allowing the cancellation of original loans to be supplemented by new loans if there is no other recourse to handle rehabilitation cost overruns.

In response to the comments made on this Section, the Department is specifying that rehabilitation escrow accounts must be non-interest bearing. New procedures will be incorporated in the Handbook to minimize the level of funds in escrow accounts.

In response to the comment on supplemental funds and with the recognition of a possible hardship on the borrower in using supplemental funds first in full, the Department will permit private and public funds to be drawn upon jointly during the course of construction.

In response to a recommendation for and in an effort to streamline procedures, the Department is instituting a voucher system of payment, whereby the borrower requests and authorizes, in conjunction with the LPA, that payment be made directly to the contractor. The voucher system will remove the duplicate approval by the borrower necessary in the past for issuance of progress payments to the contractor.

With respect to unutilized loan proceeds, the Department wishes to maintain the proposed procedure established for disbursement of funds.

§ *510.88 Inspection, Monitoring and Progress Payments*

Comments were received from six localities. Two localities were supportive of the flexibility given to reduce the 20 percent holdback for progress payments as presented in the regulation. Three of the localities felt 20 percent was too high and that a 10 percent holdback should be adopted as the general rule.

One locality felt that cooperatives, under the special supervision of the LPA, should be able to draw down reasonable amounts of cash (5–10 percent of the loan amount) as advance for prepaying for purchases of materials.

In response to the comments on the holdback provisions for progress payments, the Department has decided to reduce the holdback to 10 percent. However, the Department maintains the requirement that payment should only be made for work in place and properly installed.

Subpart F. Special Requirements Applicable on Multifamily Loans, Mixed-Use Properties With More Than Five Units, and Single-Family Investor-Owned Properties/General.

§ *510.100 General—Multifamily*

One locality stated applications for properties with 2–4 dwelling units, not occupied by the owner, were ignored.

No changes have been made to this section in response to the comment. The requirements under this section are additional limitations and conditions imposed by statute for multifamily properties. HUD chose as a matter of policy to also impose the same conditions on single family investor-owners.

§ *510.102 Rent Regulatory Agreement*

Three comments were received on the Rent Regulatory Agreement. One recommended the development of a written document with understandable instructions which would be available to investor-owners explaining the purpose of the regulation and obligations under the agreement as well as penalties involved for violations. Another commenter still expressed confusion over the requirements between the rent increase formulas proposed for the tenant's "Notice of Right to Continue in Occupancy" and the landlord's Rent Regulatory Agreement formula. The same commenter expressed concern over the exclusion of debt service for other rehabilitation financing unless the term is a minimum of ten years for purposes of calculating the return of equity. Another commenter expressed concern about the monitoring of the rent regulatory requirement.

With regard to guidance on completing the Rent Regulatory Agreement, a guideform, instructions and detailed requirements will be contained in the program Handbook.

In response to the confusion over the requirements between the Rent Regulatory Agreement and the Notice of Right to Continue in Occupancy, please refer to the detailed explanation in the April 10, 1980 **Federal Register** (45 FR 24803).

With regard to exclusion of debt of less than 10 years in the calculation of the return of equity, the use of short-term financing in the calculation would in most cases completely emasculate the effect of the statutorily required rent regulatory agreement. The exclusion from the calculation of financing with less than 10 years initial maturity will thus be continued.

§ *510.154 Performance Evaluation*

One locality commented that under paragraph (a)(4) careful review of the benefiting population should be made, and clear sanctions be established to ensure that at least 50 percent of the units rehabilitated directly benefit owner-occupants and tenants within 95 percent of the median income of the area.

There were no changes made from the proposed Regulation. Localities are mandated to give priority to applications of low- and moderate-income persons who are owner-occupants, and to applications from condominiums and cooperatives where the tenants are primarily low- and moderate-income. HUD feels that localities should have the flexibility to impose more stringent guidelines as long as they are uniformly applied. The Department, of course, will monitor local program implementation and may impose sanctions, including a reduction or withdrawal of Section 312 funding, if the priority for low- and moderate-income borrowers is not satisfactorily carried out.

§ *510.156 Corrective and Remedial Sanctions*

One Area Office commented that paragraph (a)(7) of this Section should clarify whether "local public funds" include CDBG funds.

No changes were made in the Regulation. The phrase local public funds is intended to include CDBG funds.

Summary of Final Rule

The Section 312 Loan Program has evolved in its 15 years of operation in an effort to be more responsive to changing economic, social and community development objectives. The program continues to be a below market interest rate loan program for the rehabilitation of residential, nonresidential and mixed-use property primarily for the benefit of low- and moderate-income persons and the revitalization of eligible areas.

In order to highlight the central issues, a brief analysis of the regulation's major subparts—priorities, eligibility requirements, loan terms and conditions, loan processing and administration—follows:

(A) Priorities. Localities shall administer the Section 312 loan funds so as to give priority to applications by low- and moderate-income owner-occupants, and to cooperatives and condominiums, and to the extent feasible to:

(1) Minimize the displacement of low- and moderate-income persons;

(2) Improve the housing of low- and moderate-income persons;

(3) Conserve neighborhoods and improve facilities which principally benefit low- and moderate-income persons; and

(4) Leverage conventional financing.

Loans which do not meet these objectives may be made to meet other housing and community objectives of a locality participating in the HUD Community Development Block Grant (CDBG) Program.

(B) Eligibility Requirements. For localities receiving CDBG Entitlement Grants and Small Cities Grants, section 312 loans will be made in areas meeting Neighborhood Strategy Area (NSA) criteria or in comparable areas; in categorical program areas under the Urban Renewal, Neighborhood Development, and Code Enforcement Programs; and in section 810 Urban Homesteading areas. The final rule broadens area eligibility from only CDBG–NSAs to other comparable areas meeting the basic criterion in § 510.22(a)(1) and approved by the Area Office. Properties eligible for improvement include owner-occupied and investor-owned residential, nonresidential and mixed-use property. Applicants must be owners of the property to be improved; purchaser occupants of single-family property under a land sales contract or similar instrument; or long-term tenants of nonresidential property.

(C) Terms and Conditions. The term of a section 312 loan may not exceed 20 years or three quarters of the remaining economic life of the structure after rehabilitation, whichever is less. However, the shortest term possible is encouraged in order to conserve loan funds.

Interest rates on loans for single-family properties are varied at 3, 6, and 9 percent depending on the income of the borrower. Interest rates on other loans are at 3 percent. The sliding scale interest rates are a major policy change.

Costs includable in the loan are primarily directed to activities which will improve a property to meet property rehabilitation standards (PRS). Excessive general property improvements, LPA administrative costs and development fees are excluded, except in cases where private financial institutions are assisting in loan processing and then a financial institution's reasonable origination fee is allowed.

Single family refinancing, although allowed, is restricted in its application in order to provide the majority of loan funds for actual rehabilitation work, and then only to applicants below 95 percent of the median income for the area. Multifamily refinancing is currently not permitted although it is statutorily permissible. HUD believes that multifamily refinancing merits further study prior to implementation.

Activities of individuals administering the program which may be considered a conflict of interest shall be prohibited, as stated in § 510.46(1).

(D) Other Federal Requirements. A locality will annually certify its compliance with the other Federal requirements applicable to the section 312 program. With regard to the Labor Standards, the Department has increased the dwelling unit threshold from eight to twelve for the applicability of Davis-Bacon to residential properties.

Displacement shall be minimized and relocation benefits shall be paid to eligible tenants, which may include participation in the section 8 Existing Housing Program.

(E) Loan Processing and Administration. Localities participating in the program are generally responsible for performing most loan processing activities, as prescribed in these regulations. The Department, in an effort to streamline loan processing and reduce local administrative costs, is, by provisions in this rule, encouraging localities to cooperate with local lending institutions in certain aspects of processing, including applicant verifications and loan underwriting.

Local Approval Authority is required for most jurisdictions which have the underwriting know-how, especially those which have committed $200,000 or more annually in general use and/or homesteading funds over the past two years.

Loans shall be settled and funds disbursed after inspection and assurance that adequate work has been completed. The modified loan settlement procedure has been deleted and disbursement procedures will be described in the Handbook.

Supplemental funds are required if the loan amount is insufficient to bring the property up to code standards. A 5 percent (10 percent for multifamily and 15 percent on self-help) loan contingency factor is permitted in the loan amount and a 10 percent holdback on progress payments to the contractor is permitted, based upon Area Office judgment. Both the increased contingency amounts and the reduction in progress payment holdback are new features of the program.

Self-help and sweat-equity may be used in the program but require a special agreement with the LPA. Subpart G, Loan Servicing is reserved from the proposed rule because it is currently being developed and will be published later.

(F) Multifamily Properties. Multifamily projects must have fewer than 100 units except on special approval of the Area Office to meet revitalization or low- and moderate-income needs. In the multifamily category, the Department intends to provide section 312 loan funds generally for rehabilitation of smaller properties of 5 to 20 units. A rent regulatory agreement will be required on multifamily and single family investor-owned properties to prevent excessive investor profit.

The LPA shall administer the program properly according to these regulations and keep appropriate records. HUD will inspect and monitor the LPA's administration and may impose sanctions for serious violations of Federal requirements, as necessary.

Other Information: The Department has determined that an environmental impact statement is not required with this rule. A copy of the Finding of No Significant Environmental Effect is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

This rule is listed as CPD–24–78 in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, 24 CFR Part 510 is revised to read as follows:

PART 510—SECTION 510 REHABILITATION LOAN PROGRAM REGULATIONS

Subpart A—General

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510.1 Scope of regulations.
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Subpart B—Eligibility Requirements

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510.24 Eligible properties and rehabilitation standards.
510.26 Eligible applicants.

Subpart C—Basic Loan Terms and Conditions

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510.36 Maximum and minimum loan amounts.
510.38 Costs includable in the loan.
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510.40 Refinancing.
510.42 Note and security instrument.
510.44 Title evidence.
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Subpart D—Other Federal Requirements

510.50 Program administration.
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510.70 General.
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510.86 Management of rehabilitation escrow account.
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Subpart F—Special Requirements Applicable on Multifamily Loans, Mixed Use Properties With More Than Five Units, and Single-Family, Investor-Owned Properties

510.100 General—multifamily.
510.102 Rent regulatory agreement.

Subpart G—Loan Servicing

510.120 General [Reserved].

Subpart H—Performance Evaluation and Recordkeeping

510.150 Records and reporting requirements.
510.154 Performance evaluation.
510.156 Corrective and remedial sanctions.

Authority: Section 312 of the United States Housing Act of 1964, as amended (42 U.S.C. 1452b), and Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 510.1 Scope of regulations.

(a) *Applicability.* The policies and procedures in this Part are applicable to the administration of the rehabilitation loan program authorized by Section 312 of the Housing Act of 1964, as amended. They include, but are not limited to:

(1) Program policies and objectives;

(2) Eligible program areas and within the areas, eligible applicants for rehabilitation loans;

(3) Loan terms and conditions;

(4) Costs includable in the loans;

(5) Criteria for refinancing housing-related indebtedness with rehabilitation loans;

(6) Loan approval criteria and definition of acceptable risk;

(7) Procedures required prior to and after loan settlement;

(8) Loan servicing;

(9) Special procedures for processing multifamily rehabilitation loans under Section 312; and

(10) Records, reporting, performance evaluation, and corrective and remedial provisions.

(b) *Waiver.* The Secretary may waive any provision of this Part with respect to any specifically identified Section 312 loan: *Provided,* That the provision waived is not required by statute, judicial decision, executive order, or a regulation which may not be waived by the Secretary. Any such waiver may be granted if the Secretary finds that the provision to be waived would, if applied to the loan in question, adversely affect the achievement of the purposes of Section 312 of the Housing Act of 1964, as amended.

§ 510.2 Program purpose and priorities.

(a) *Purpose.* The purpose of the Section 312 Rehabilitation Loan Program is to provide low interest loan funds to owners and eligible nonresidential tenants of property to finance the rehabilitation of such property. The loans will generally be made in conjunction with other rehabilitation activity, and only in areas designated by the locality to receive concentrated public investment. The investment should be expected to result in the successful achievement of local community development objectives within a reasonable period of time. These objectives may include the elimination of slums and blight; conservation or renewal of areas; and the improvement of the living conditions of persons principally of low- and moderate-income by providing decent, safe, and sanitary housing.

(b) *Priorities.* In processing and recommending or approving loans under this Part, localities shall give priority, as required by Section 312 (a) of the Housing Act of 1964, to applications of low- and moderate-income persons who own the single-family property to be rehabilitated and who will occupy such property upon completion of the rehabilitation, and to applications by condominiums and cooperatives in which the residents are principally of low- and moderate-income. In addition, localities shall administer to the extent feasible the Section 312 Loan Program so as to:

(1) Minimize the displacement of low- and moderate-income persons;

(2) Improve the housing of low- and moderate-income persons;

(3) Revitalize or conserve low- and moderate-income areas, as described in 24 CFR 570.302(d)(2)(i); and

(4) Leverage conventional financing.

Loans which do not meet the foregoing priorities may be made when necessary to meet other community development objectives of the locality as described in their community development and housing plan under 24 CFR 570.304.

§ 510.4 Definitions.

(a) *"Applicant"* means one or more individuals, corporations, partnerships or other legal entities which apply for a Section 312 loan. Eligibility requirements for applicants are stated in Subpart B.

(b) *"Approving Officer"* means the authorized HUD official, or the individual so designated in a local loan approval agreement between the locality and HUD, who approves or disapproves rehabilitation loans.

(c) *"Borrower"* means one or more individuals, corporations, partnerships or other legal entities which receive approval of a Section 312 loan.

(d) *"Chief Executive Officer"* means the elected official, or legally designated official, who has the primary responsibility for the conduct of the locality's Governmental affairs, as defined in 24 CFR 570.3(d).

(e) *"Community Development Block Grant Program"* ("CDBG") means the program conducted under the provisions of 24 CFR Part 570.

(f) *"Conventional Financing"* means rehabilitation loan funds which are borrowed from private non-governmental financial institutions; the term does not include any Federal, State or local government-assisted rehabilitation financing except for loans provided under insurance programs (such as FHA insurance programs) and loan guarantee programs, which insure or guarantee all or a portion of the private loan.

(g) *"Dwelling Unit"* means a residential space which qualifies under the laws of the State and locality as a place of permanent habitation or abode for one family or one or more individuals, such as an apartment or house, which contains a living room, kitchen area, bathroom(s) and bedroom(s). However, a dwelling unit in a congregate housing facility need not contain a kitchen area if dining facilities are available within the building or housing complex, and a 0-bedroom unit may have a combined living/bedroom area.

(h) *"General Property Improvements"* (GPIs) means rehabilitation work to improve the condition of the property beyond the level necessary to correct violations of property rehabilitation standards, to correct any incipient violations and to comply with Federal requirements.

(i) *"HUD"* means the U.S. Department of Housing and Urban Development.

(j) *"Incipient Violation"* means a physical condition of a property which, if not repaired, could be expected to deteriorate within two years into a violation of the Property Rehabilitation Standard (PRS).

(k) *"Investor-Owned Property"* means property which is residential, nonresidential, or mixed-use and which is not occupied by the owner; or a residential property with five or more dwelling units whether or not occupied by the owner.

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(l) *"Leveraging"* means securing conventional financing to supplement a Section 312 loan on a specific property.

(m) *"Locality"* means the unit of general local government, as defined in the first sentence of 24 CFR 570.3(v), which undertakes participation in the Section 312 loan program.

(n) *"Local Processing Agency"* (LPA) means the agency designated by the locality to operate the Section 312 Rehabilitation Loan Program for the locality, as described in Section 510.70(b) of this Part.

(o)(1) *"Low- and Moderate-Income Person"* means an individual or family whose income, adjusted for family size, does not exceed the higher of 95 percent of the median family income of the area or 95 percent of the applicable Census Region median family income. Income statistics meeting this definition are published by HUD pursuant to Section 221(d)(3) BMIR of the National Housing Act.

(2) *"Low- and Moderate-Income Area"* means, when referring to Community Development Block Grant areas or categorical program areas, an area in which the median income of persons and families residing in the area, adjusted for family size, does not exceed 80 percent of the median income for the area. In determining income for purposes of this definition, the definitions of low- and moderate-income persons and families which appear at 24 CFR § 570.3 (o) and (p) shall be used.

(p) *"Median Income of the Area"* means the median income of persons and families in a standard metropolitan statistical area as established by the Department of Commerce or, when applicable to an area outside a standard metropolitan statistical area, means the median income of persons or families, residing in nonmetropolitan counties of the State. The income of an applicant, borrower, or tenant under these regulations should be compared to the median income of the area for the corresponding number of persons or for the family of corresponding size.

(q) *"Mixed-Use Property"* means property containing a combination of residential dwelling units with some other use, such as commercial.

(r) *"Multifamily Property"* means property devoted solely to residential use and composed of five or more dwelling units.

(s) *"Nonresidential Property"* means property containing no dwelling units.

(t) *"Owner"* means one or more individuals, corporations, partnerships, or other legal entities which hold valid legal title to the property to be rehabilitated.

(u) *"Owner-Occupied"* refers to property devoted solely to residential use containing one to four dwelling units where the owner lives in one of the units as his or her principal residence.

(v) *"Principally"* means more than 50 percent of the families and persons residing in a structure or area, when used in the context of measuring benefit for low- and moderate-income persons.

(w) *"Process"* means the administrative activities undertaken by the locality and/or the LPA to assist the applicant in applying for and using a Section 312 loan.

(x) *"Property Rehabilitation Standards"* (PRS) means the State or local code standards and any other rehabilitation requirements established by a locality, as described in Section 510.24(b).

(y) *"Rehabilitation"* means the improvement or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as required by applicable codes or PRS.

(z) *"Rehabilitation Management Specialist"* means the staff person responsible for rehabilitation activities in a HUD Area Office, including the Section 312 Loan Program, who may act as the Approving Officer for Section 312 loans not covered by a local loan approval agreement pursuant to Section 510.72.

(aa) *"Section 312 Rehabilitation Loan Program"* means the program described in this Part as authorized under Section 312 of the Housing Act of 1964, as amended. It is also variously called the Section 312 Loan Program, the rehabilitation loan program, or just the loan program throughout this regulation.

(bb) *"Secretary"* means the Secretary of the Department of Housing and Urban Development or his/her designee.

(cc) *"Self-Help/Sweat Equity"* means the undertaking of all or part of the actual physical rehabilitation work on a property by the owner using materials and equipment purchased with section 312 loan funds.

(dd) *"Single-Family Property"* means property devoted solely to residential use and composed of one to four dwelling units.

(ee) *"Supplemental Financing"* means any rehabilitation financing necessary to complete the rehabilitation of a property as agreed with the borrower in the rehabilitation loan agreement, in addition to the section 312 loan. Supplemental financing may be obtained from any source, provided it is committed at loan settlement as described in section 510.86(b).

(ff) *"Tenant"* means, (1) in the case of nonresidential property, an individual, corporation, partnership, or other legal entity which is occupying a structure or part thereof under a lease; or, (2) in the case of a residential property, a family or individual which is occupying a dwelling unit on the property, other than the owner.

(gg) *"Underwrite"* means the positive finding of financial soundness of the loan as part of the approval of a section 312 loan by the signature of the Approving Officer of a locality or the HUD Rehabilitation Management Specialist, after a careful analysis of the applicant's creditworthiness; the security available for the loan, and a certification of adherence to program requirements.

(hh) *"Violation"* a physical condition in a property which can be identified as below the standard established by the PRS.

(ii) *"Work Write-Up"* means the itemization of all rehabilitation work to be done on a property, including such directions and specifications for workmanship and materials or architectural plans and specifications as may be necessary for the job to be accurately costed and constructed properly.

§ 510.6 fund allocation system.

(a) The Secretary will use an annual fund allocation system to distribute section 312 funds which will meet the objectives of:

(1) Permitting an equitable distribution of funds among localities;

(2) Allowing a reasonable degree of certainty of funding within the program year so localities can project fund use and determine appropriate staff levels; and

(3) Providing incentives for efficient local section 312 Program management.

(b) The fund allocation system for distributing section 312 funds to localities shall be based on such factors as a measure of community development and housing need, a measure of priority for rehabilitiation and a measure of capacity to use section 312 loan funds. This three-part formula shall be further adjusted by other factors such as a locality's level of loan delinquency, its adherence to the priority for funding applications from low- and moderate-income owner-occupants, and the quality and efficiency of management in the local rehabilitation loan program. Allocations to participating localities may also be based on a measure of distress as defined pursuant to 24 CFR 570.452. The Department will publish for information by General Notice in the **Federal**

Register its fund allocation system and any major revisions thereto.

(c) Allocations of funds to localities by the Secretary pursuant to this section are not legally binding fund commitments of the Secretary. The Secretary has discretion to change these allocations, including reducing them to zero, if warranted by the fund allocation system issuance or § 510.156 of this Part.

Subpart B—Eligibility Requirements

§ 510.20 General.

This Subpart describes the requirements governing eligibility to apply for a rehabilitation loan under section 312 of the Housing Act of 1964, as amended. In general, these eligibility requirements relate to the applicant for the loan; the real property to be improved; and the area in which the property is located. An application shall not be processed by the LPA unless the LPA preliminarily determines that the loan will meet the eligibility requirements of this Subpart; however, eligibility under this Subpart does not assure a loan will be approved.

§ 510.22 Eligible areas.

No Section 312 loan shall be approved or made unless the property is located within one of the eligible areas described in this Section. Localities without one of the following areas are not eligible for Section 312 lending.

(a) *Community Development Block Grant (CDBG) Program Areas.* Paragraphs (1) through (3) of this § 510.22(a) are applicable to loans approved on or after October 1, 1981. Paragraph (4) is applicable to loans approved after the effective date but prior to October 1, 1981.

(1) *Localities Receiving CDBG Entitlement Grants or Small Cities Multi-Year Comprehensive Discretionary Grants.* For these localities, CDBG-related areas shall meet the following basic criterion to be eligible for Section 312 lending. Such areas shall be the target of CDBG assistance planned to result in a concentration of physical improvements, necessary public facilities and services, property rehabilitation activities and private investment appropriate to the needs of the area and sufficient to produce substantial long term improvements in living conditions in the area within a reasonable period of time.

(i) *Neighborhood Strategy Areas* (*NSAs*) identified in the locality's HUD-approved 3-year Community Development and Housing Plan pursuant to 24 CFR 570.304(b)(1)(i) are deemed eligible by HUD under this basic criterion. In addition, a locality may further limit Section 312 loans within NSA's to smaller target areas which the locality determines better meet the basic criterion above.

(ii) *Areas Comparable to NSA's.* Localities may also annually request the HUD Area Manager's approval to make Section 312 loans in areas comparable to NSA's, even though these areas have not been identified by the locality and approved by HUD as NSA's. The HUD Area Manager may find the area designated by the locality eligible for Section 312 lending, if the Area Manager determines that the area qualifies under the basic criterion stated in paragraph (a)(1) of this section. In requesting and approving areas for Section 312 lending under this authority, the locality and the HUD Area Manager shall take into account the size of the area in relation to the severity of its problems and the amount of resources that can be provided, so that the basic criterion can properly be met.

(iii) *Urban Development Action Grants (UDAG) Projects.* Section 312 rehabilitation loans may be approved to support UDAG projects, but only if the property to be rehabilitated is in an area described in paragraphs (a)(1)(i) or (ii) of this section.

(iv) NSA's, and areas comparable to NSA's (once found eligible under paragraph (a)(1)(ii)), will remain eligible for Section 312 lending during the 2-year period following the completion of CDBG-assisted physical development activities (as defined in 24 CFR 510.201(e)(1)(i)) unless the Area Manager, after consultation with the locality, determines that the rehabilitation goals for the eligible area have been substantially carried out prior to that time or unless, as a result of performance evaluation under § 510.154 or another basis for the application of sanctions, the area is declared ineligible by HUD pursuant to Section 510.156.

(2) *Localities Receiving CDBG Small Cities One-Time Comprehensive or Single-Purpose Discretionary Grants.* These localities may annually request the HUD Area Manager's approval to make Section 312 loans in areas designated by the locality. The HUD Area Manager may find the designated areas eligible for Section 312 lending, if the Area Manager determines that the area has property rehabilitation and coordinated supporting activities similar to those described in the basic criterion in paragraph (a)(1) of this Section, although these areas may be smaller and have fewer activities due to the more limited funding. Once found eligible, these areas will remain eligible for Section 312 lending for a 2-year period following the end of the program year in which the locality's CDBG funds were received, provided that the CDBG program's rehabilitation goals have not been substantially carried out and the administrative capacity to manage the rehabilitation effort is maintained by the locality, in the judgment of the HUD Area Manager. In addition, an area found eligible under this paragraph may be declared ineligible under Section 510.156 as a result of performance evaluation under Section 510.154 or another basis for the application of sanctions.

(3) Determinations of area eligibility required under paragraphs (1) and (2) of this § 510.22(a) shall be made concurrently with environmental reviews required by § 510.50(g).

(4) For loans approved in CDBG-related areas prior to October 1, 1981, the LPA shall assure that the rehabilitation is part of or necessary or appropriate to the execution of the locality's approved CDBG Program.

(b) *Categorical Program Areas.* Loans may be approved in the following categorical program areas provided they are necessary to carry out the original objectives of the project or to enable the project to be financially settled. No loans may be approved after a period of one calendar year from financial settlement of a categorical project unless the area is also an eligible CDBG program area as described in paragraph (a) of this Section or the loan is necessary to meet express post-settlement activity conditions of the financial settlement. Eligible categorical program areas may include:

(1) Urban Renewal Project Areas approved under Part A of Title I of the Housing Act of 1949.

(2) Neighborhood Development Program Areas (NDPs) approved under Part B of Title I of the Housing Act of 1949.

(3) Concentrated Code Enforcement Program Areas approved under Section 117 of the Housing Act of 1949, as amended.

(c) *Section 810 Urban Homesteading Areas.* Urban Homesteading Areas as approved annually under Section 810 of the Housing and Community Development Act of 1974, as amended, and 24 CFR Part 590 are eligible for Section 312 lending. These loans may be for homesteading properties and for other properties in the homesteading area in order to support the overall upgrading of the neighborhood.

(d) *Exceptions.* The HUD Area Manager may authorize the approval of a Section 312 loan on a property not located in one of the eligible areas described in paragraph (a), (b), or (c) of this Section, if it is determined, upon the

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recommendation of the LPA, that the loan is necessary or appropriate to the execution of the locality's approved Community Development Program.

§ 510.24 Eligible properties and rehabilitation standards.

(a) *Condition prior to rehabilitation.* To be eligible for Section 312-assisted rehabilitation, a property must be in such condition prior to rehabilitation that repairs or improvements are required in order for the property to meet the applicable property rehabilitation standards for the area.

(b) *Property rehabilitation standards (PRS).* These standards will be State or local code standards and any other rehabilitation requirements established by a locality in a HUD-approved Urban Renewal Plan or Community Development and Housing Plan (24 CFR 570.304) for the Section 312 eligible target area. In cases where local codes, by reference to new construction codes, would require infeasible or unrealistic work items not related to basic safety or health needs, such work need not be included in the approved loan. Where local housing codes do not exist, the property after rehabilitation shall meet standards that approximate, but are no more costly than those standards established by HUD for housing rehabilitation, such as the standards cited in the Minimum Design Standards for Rehabilitation for Residential Properties, HUD Handbook 4940.4. In no case, however, shall PRS be lower than the Housing Quality Standards of the Moderate Section 8 Rehabilitation Program pursuant to 24 CFR 882.405.

(c) *Types of eligible properties.* Eligible properties include properties which are:

(1) Owner-occupied single-family residential;

(2) Investor-owned single-family residential;

(3) Multifamily residential containing 5 to 99 dwelling units;

(4) A condominium or cooperative (single-and multifamily residential up to 99 units);

(5) Nonresidential where rehabilitation is required as part of the locality's community or economic development strategy under 24 CFR 570.304 (b)(1) or (3), with primary emphasis placed on neighborhood scale commercial properties;

(6) Mixed-use (residential and non-residential) where rehabilitation is required as part of the locality's community development, housing or economic development strategy under 24 CFR 570.304(b)(1), (2) or (3).

(d) *Exceptions.* A Section 312 loan shall not be approved on a property which also is or will be assisted under the Section 8 Substantial or Moderate Rehabilitation Programs (24 CFR Parts 881 and 882) unless specifically authorized by the Secretary. Loans on multifamily properties of 100 or more units may be authorized by the Secretary, pursuant to § 510.100 of this Part.

§ 510.26 Eligible applicants.

To be eligible for and to receive a Section 312 rehabilitation loan, an applicant shall qualify, under one of the following categories:

(a) *Owners.* The applicant is the owner of an eligible property.

(b) *Land Contract Purchasers.* The applicant is the purchaser-occupant of a single-family property under an installment land sales contract for the acquisition of title to the property, provided that the following conditions are met:

(1) The contract is a written legally enforceable agreement under which the purchaser-occupant has the right to full use, possession, and quiet enjoyment of the property;

(2) The owner of the property executes a mortgage or deed of trust to secure the Section 312 loan; and

(3) an opinion of LPA Counsel is obtained at loan settlement that conditions in paragraphs (b)(1)(2) have been met. Approvals of loans to installment land sales contract purchaser-occupants under this paragraph (b) are subject to the condition of compliance with these conditions at loan settlement.

(c) *Tenants of Nonresidential Property.* Applicant is a tenant of nonresidential property or the nonresidential portion of a mixed-use property (where the rehabilitation work to be completed with the proceeds of the loan relates solely to applicant's leased premises and where the remainder of the property meets or will meet PRS by the time of loan close-out) under a lease having a remaining term at least equal to the term of the Section 312 loan. In addition, the owner of the property shall execute a mortgage or deed of trust securing the Section 312 loan. Approvals of loans to nonresidential tenants under this paragraph are subject to the condition of compliance with the preceding sentence at loan settlement.

(d) *Urban Homesteaders.* Applicant is an urban homesteader and has executed with the local homesteading agency a conditional conveyance and homesteader agreement, which meets the requirements of 24 CFR 590.7(b)(2), (3), (4), and (5), with respect to a single-family property located in a HUD-approved urban homesteading neighborhood.

(e) *Cooperative or Condominium Associations.* For loans to rehabilitate existing residential cooperative or condominium projects, the applicant shall be the governing body of the project's cooperative or condominium association. The application shall include an opinion, acceptable to LPA counsel and to the Approving Officer, of a qualified attorney-at-law that the governing body is authorized by State and local law and the organizational documents of the cooperative or condominium to act in accordance with the application and to agree to the terms and conditions of the loan, including furnishing security as described in § 510.42.

Subpart C—Basic Loan Terms and Conditions

§ 510.30 General.

The purpose of this Subpart is to provide the basic terms and conditions applicable to Section 312 rehabilitation loans.

§ 510.32 Term of Loan.

(a) *Maximum term.* The term of a rehabilitation loan shall not exceed 20 years after completion of rehabilitation, or three-fourths of the remaining estimated economic life of the structure after rehabilitation, whichever is less. A loan to a tenant (of nonresidential property or the nonresidential portion of a mixed-use property) may not extend beyond the unexpired term of the lease, excluding any options to extend the term of the lease that have not been exercised prior to loan approval.

(b) *Minimum term.* All Section 312 loans shall be made with the shortest reasonable term consistent with the borrower's ability to pay and the maintenance of an acceptable risk, as determined pursuant to § 510.82.

§ 510.34 Interest rates.

For purposes of loan origination, interest rates on Section 312 loans shall be established according to the following property and income categories:

(a) *Types of Property.* (1) *For single-family owner-occupied properties,* the interest rates shall be:

(i) 3 percent if the borrower's annual family income is below 120 percent of the median income of the area;

(ii) 6 percent if the borrower's annual family income is below 200 percent but at/or above 120 percent of the median income of the area;

(iii) 9 percent if the borrower's annual family income is at/or above 200 percent of the median income of the area; except in cases where the use of a lower rate, not less than 6 percent, is necessary to achieve community development objectives and is so documented by the LPA in the case file.

(2) *For multifamily properties, investor-owned single-family properties, mixed-use properties, and nonresidential properties,* the interest rate shall be 3 percent, regardless of the borrower's or residents' incomes.

(b) *Relationship of interest rates to the priority for low- and moderate-income owner-occupants.* Notwithstanding the sliding scale of interest rates based on income, localities are to comply with the priority, as required by Section 312(a) of the Housing Act of 1964, for applications from low- and moderate-income persons who own the single-family property to be rehabilitated and who will occupy such property upon completion of the rehabilitation, and to applications by condominiums and cooperatives in which the residents are principally of low- and moderate-income.

(c) *Maximum Interest Rate.* Notwithstanding any other provision of this Section, the initial interest rate for a Section 312 loan shall not exceed the average current market yield on outstanding marketable securities of the United States with remaining periods of maturity comparable to the terms of loans made pursuant to Section 312, adjusted to the nearest one-eighth of one percentum. The Secretary will determine when such maximum permissible interest rate for Section 312 loans necessitates reduction of any of the interest rates prescribed in this Section and will issue instructions at that time to localities participating in the Section 312 Loan Program.

§ 510.36 Maximum and minimum loan amounts.

(a) *Residential.* The maximum loan amount for a Section 312 rehabilitation loan on a single-family or multifamily property shall not exceed the lesser of:

(1) $27,000 per dwelling unit; or

(2) The total cost of rehabilitation (plus the cost of refinancing as defined in § 510.40 of this Part if applicable); or

(3) An amount which when added to the outstanding indebtedness related to the property, creates a total indebtedness which does not exceed 97 percent of the sum of the as-is value of the property and the actual cost of rehabilitation.

(b) *Nonresidential.* The maximum loan amount for a Section 312 rehabilitation loan on a nonresidential property shall not exceed the lesser of:

(1) $100,000; or

(2) The total cost of rehabilitation; or

(3) An amount which, when added to the outstanding indebtedness related to the property, creates a total indebtedness which does not exceed 90 percent of the estimated market value of the property after rehabilitation.

(c) *Mixed-use.*

In the case of a Section 312 loan on a mixed-use property, the maximum rehabilitation loan amount is the sum of the loan amounts, up to their respective maximums, that may be made separately for the residential and nonresidential parts of the property.

(d) *Minimum Loan.*

Although there is no minimum loan amount requirement, administration of the program should be cost effective. Very small loans should be carefully considered and prudent professional judgment used in determining if loan servicing and application processing costs may be excessive in relation to the benefits provided by the making of the Section 312 loan. In order to implement cost effective loan processing, no loan shall be made with a monthly loan repayment of less than $20.

§ 510.38 Costs includable in the loan.

The costs described in paragraphs (a), (d), (e), (f) and (g) of this Section are required for inclusion in a Section 312 rehabilitation loan, as applicable, while the costs described in the other paragraphs are eligible, within the maximum loan amounts described in Section 510.36.

(a) The actual cost of rehabilitation necessary to bring the property up to the property rehabilitation standards (PRS) applicable to the eligible area in which the property is located.

(b) The cost of rehabilitation to correct or remove incipient violations including all physical conditions of the property which, if not repaired, would reasonably be expected to deteriorate into actual violations of PRS within 2 years.

(c) The cost of general property improvements. This includes the cost of rehabilitation necessary to put the property in a generally good and readily maintainable condition. GPIs shall not be the major focus of the loan, and shall usually be less than 40 percent of the cost of the rehabilitation. Moreover, they may be included only if the minimum improvements required to meet the property rehabilitation standards are satisfied first.

(d) The cost of rehabilitation necessary to comply with environmental standards pursuant to §§ 510.50(g)–510.50(k).

(e) The cost of rehabilitation necessary to meet cost effective energy standards as described in § 510.50(n).

(f) The cost of rehabilitation necessary to comply with requirements for accessibility by the handicapped as described in § 510.50(m).

(g) The cost of treatment of identified immediate lead-based paint as required by § 510.50(l).

(h) The cost required to purchase a relatively small parcel of adjacent land in order to bring the property into conformance with local requirements for minimum lot size and dimensions.

(i) The cost of rehabilitation to convert a property from one economic use to another, including, but not limited to, increasing or decreasing the number of units in the property.

(j) The cost of building permits and related fees required to carry out the proposed rehabilitation work.

(k) The cost of architectural, engineering or related professional services required in the preparation of rehabilitation plans and drawings or write-up beyond those services normally to be provided by the LPA for the category of applicant. These costs shall not, as a general rule, exceed 10 percent of the total rehabilitation costs. All includable architectural, engineering or related professional services must be paid by the borrower if, for any reason, the loan application is not approved.

(l) The cost of processing and settling the loan beyond those services normally provided by the LPA, and the costs necessary to obtain security for the loan. These costs may include but are not limited to:

(1) Origination fee, if the loan is originated by a private financial institution;

(2) Credit reports;

(3) Fees for title evidence acceptable to the Secretary under Section 510.42 and reasonable corrective title work and other related legal fees;

(4) Fees for recordation and filing of legal documents related to the loan;

(5) Current accruals for the mortgage servicer's escrow account;

(6) Appraisal fees; and

(7) Fees for an independent rehabilitation cost estimate.

(m) The cost of emergency repairs to protect the health and safety of the occupants when made in contemplation of applying for a loan provided:

(1) The loan is subsequently approved; and

(2) The repairs are otherwise eligible for inclusion in the loan. Should the loan not be approved or the costs be ineligible for any reason, the costs shall be paid by the borrower from funds other than Section 312 funds.

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(n) The cost of interest paid on a construction loan when the Section 312 rehabilitation loan is used as permanent financing.

(o) The cost of liability and worker's compensation insurance during the construction period for borrowers acting as their own general contractor, where applicable.

(p) A contingency reserve not to exceed 5 percent of the cost of rehabilitation for loans on single-family and mixed-use properties with fewer than five dwelling units and not to exceed 10 percent for multifamily, nonresidential, and mixed-use loans with five or more dwelling units. The contingency amount for self-help/sweat equity projects may be increased up to 15 percent as described in § 510.80(a)(5).

(q) The cost of refinancing an existing debt secured by the property to be rehabilitated, provided it is within the prescribed loan limits, and the property is to be used for single-family residential purposes after rehabilitation (see § 510.40 for particular refinancing requirements).

(r) The cost of interest, taxes, and insurance payments if necessary during construction under the loan settlement procedures described in § 510.84.

§ 510.39 Costs not includable in a loan.

The cost of the following items are not eligible to be financed by a Section 312 loan:

(a) The costs of administering the loan program by the locality. Ineligible costs include any type of application fee paid to the locality or the LPA, inspection fees (except for applications for loans over $27,000 on investor-owned or multifamily property where the LPA can require the applicant to have a work write-up prepared by an outside source), and staff or administrative overhead costs.

(b) Work so extensive as to be equivalent to new construction or reconstruction of the property. (This does not exclude so-called "gut" rehabilitation of a property if necessary in part to meet local property rehabilitation standards.)

(c) Excessive general property improvements which are inconsistent with requirements described in § 510.38.

(d) The repair or construction of swimming pools, but not the cost to fill in or eliminate a pool from the property.

(e) Rental marketing costs.

(f) Development fees.

(g) Costs associated with conventional or Government rehabilitation loans which are used in tandem with Section 312 loans, such as interest, settlement costs, and loan fees.

(h) Materials, fixtures, equipment, or landscaping of a type or quality which substantially exceeds that customarily used in the locality for properties of the same general type as the property to be rehabilitated.

(i) Purchase, installation, or repair of furnishings or trade fixtures.

(j) Costs of acquiring the property to be rehabilitated, except as stated in §§ 510.38(e) (necessary small parcels) and 510.40(b)(1) (refinancing eligible land sales contracts).

(k) Payment of back taxes owed by the borrower.

(l) Funds to pay the borrower or family members for their labor.

§ 510.40 Refinancing.

(a) *Includable costs.* In accordance with the criteria in paragraph (b) of this Section, a Section 312 loan may be used to refinance an existing debt secured by the property to be rehabilitated including:

(1) The unpaid principal and accrued interest on a mortgage, deed of trust, or similar instrument or the balance due under a land sales contract eligible for refinancing under (b)(1) of this Section; and

(2) Termination fees, prepayment penalties, revenue stamps, or taxes required in connection with the release or renewal of a mortgage or the transfer of title.

(b) *Criteria.* Refinancing shall be used only as a last resort when the additional costs of CDBG rehabilitation or Section 312 rehabilitation assistance results in a total housing expense which will be unaffordable by the borrower and the loan is considered vital to the revitalization of the neighborhood. Moreover, refinancing shall be used only when all other means of financing the needed rehabilitation have proved infeasible, including direct Section 312 financing without refinancing, CDBG funded rehabilitation programs, and other public or private financing. Refinancing shall only be allowed when the following specific criteria are met:

(1) The applicant must own and occupy the property; or be the purchaser-occupant under a written land sales contract, as described in § 510.26(b)(1), which has been in effect for at least 180 days prior to application.

(2) The applicant's monthly principal and interest payments for the Section 312 loan, any supplementary rehabilitation loan and the monthly payments on existing debt secured by the property must result in total monthly payments for principal and interest that would exceed 20 percent of the applicant's average monthly income.

(3) Applicant's income must not exceed 95 percent of the median income for the area.

(4) The property must be a single-family property.

(5) The actual cost of the rehabilitation shall represent at least 30 percent of the total loan amount. Further, only those repairs required to be included in the loan pursuant to § 510.38 shall be included in the 30 percent rehabilitation portion of the loan.

(6) The cost of refinancing, when added to the cost of rehabilitation, shall not exceed the loan limits under § 510.36.

(7) Refinancing shall only be permitted for indebtedness which can be documented as having resulted from housing related items such as a home improvement loan. Indebtedness from personal liabilities, bill consolidations, business ventures, and family recreation is not eligible for refinancing.

(8) All existing debts secured by the property need not be refinanced. However, those that are refinanced must be refinanced in their entirety.

(c) The LPA will include in the loan file documentation supporting its determination that refinancing met the criteria of this Section.

§ 510.42 Note and security instrument.

(a) *Note.* All Section 312 loans shall be evidenced by a promissory note executed by the borrower in the form prescribed by HUD for use in the jurisdiction in which the property to be rehabilitated is located. In addition to any other provisions prescribed by the Secretary, the note shall have the following characteristics:

(1) The principal amount shall be the amount of the Section 312 loan.

(2) The interest rate shall be established in accordance with § 510.34.

(3) The note shall provide for late charges, in the amount prescribed by HUD.

(4) The term of the borrower's obligation to repay shall be established in accordance with § 510.32.

(5) The note shall provide for monthly payments to amortize the principal of the loan and the interest which will accrue over its term.

(6) The note shall provide that all payments under the note shall be credited first to interest due, then to principal due, and any remaining balance is to be applied to late charges, if any, before crediting to prepayment of the loan.

(b) *Security Instrument.* All Section 312 loans shall be secured by a lien, evidenced by a security instument (mortgage or deed-of-trust, and/or any other instrument necessary under applicable law) in the form prescribed by HUD for use in the jurisdiction, upon the property to be rehabilitated with the Section 312 loan. The security instrument may contain such provisions as the Secretary deems necessary for the protection of the Secretary's security interest, including provision for monthly escrow payments by the borrower to the Secretary in the amount estimated by the Secretary to be necessary to pay when due:

(1) Ground rents, if any;

(2) Property taxes and special assessments, if any; and

(3) Fire and extended coverage, flood (if applicable), and any other hazard insurance premiums required by the Secretary to be paid by the borrower.

§ 510.44 Title evidence.

(a) *Responsibility of Borrower and LPA.* The borrower is responsible for providing evidence of title acceptable to the Secretary under this Section as a condition of approval and settlement of the borrower's Section 312 loan. The LPA may assist the borrower in obtaining acceptable title evidence. The cost of acceptable title evidence is eligible for inclusion in the approved loan amount under § 510.38(i). The LPA is responsible to the Secretary for reviewing the title evidence prior to loan approval and at loan settlement in order to assure the Secretary that the borrower's title to the property (except as stated in paragraph (d) of this Section) and the title evidence meet the requirements of this Section and in order to assist the LPA in making the determination of acceptable risk required by Section 510.82.

(b) *Acceptable Types of Title Evidence.*

(1) For loans over $27,000, the following types of title evidence are acceptable to the Secretary:

(i) *Mortgagee's Title Policy.* A mortgagee's policy of title insurance issued by a title company, duly authorized by law and qualified by experience to issue such policies. The policy shall be drawn in favor of the "United States of America, acting by and through the Secretary of Housing and Urban Development, and successors and assigns."

(ii) *Abstract, Legal Opinion and/or Attorney's Certificate of Title.* An abstract of title prepared by a company or individual engaged in the business of preparing abstracts of title and accompanied by a legal opinion as to the quality of such title, or an abstract and Attorney's Certificate of Title, or an Attorney's Certificate of Title, in each case signed by an attorney-at-law experienced in examination of titles.

(iii) *Torrens or Similar Certificate.* A Torrens or similar certificate of registered title, where available.

(2) For loans at or under $27,000, the forms of title evidence described in paragraph (b)(1) are acceptable, and such other forms of title evidence as the HUD Area Office may approve on a locality-by-locality or State-by-State basis are acceptable.

(c) *Coverage of Title Evidence: Acceptability of Title.* Evidence of title obtained by the LPA prior to loan approval shall be updated to the date of recordation of the Secretary's security instrument after loan settlement. The LPA is responsible for determining that, according to such title evidence as of such date, the borrower has good and marketable title to the security property based on the public records (except as stated in paragraph (d) of this Section), subject only to such liens and encumbrances as are approved by the LPA and the Approving Officer as part of the determination of acceptable risk required under § 510.82. As part of such review and approval of the condition of title, the LPA may consider any of the title conditions listed in 24 CFR 203.389(a)–(n)(3) acceptable without specific comment; any other prior and subordinate liens and encumbrances shall be specifically listed in the approved Section 312 loan application. The Section 312 loan may be in a subordinate lien position as long as the LPA and Approving Officer determine the loan to be an acceptable risk under § 510.82.

(d) *Borrowers Who Are Not Owners.* Where loans are made to land sales contract purchasers pursuant to § 510.26(b) or nonresidential tenants pursuant to § 510.26(c), the requirements of this Section as to title evidence are applicable to the title of the seller under the land sales contract or the owner of the property leased to the nonresidential tenant, which seller or owner must join in the Section 312 mortgage pursuant to §§ 510.26(b)(2) and 510.26(c), respectively.

§ 510.46 Standard terms and conditions.

A Section 312 loan shall be subject to such additional terms and conditions as may be prescribed by HUD in the loan documents, including but not limited to, the application, the rehabilitation loan agreement, promissory note, security instruments, rent regulatory agreement (if any), and any other documents that may be executed by or furnished to the borrower at HUD's direction in connection with the loan. Without limiting HUD's authority to require additional terms and conditions, a Section 312 loan shall be, at a minimum, subject to the following conditions:

(a) *Use of Funds.* The borrower shall agree to use the loan proceeds only for the approved purposes of the loan.

(b) *Term.* The borrower shall agree to the loan amount, term, interest rate, and repayment schedule; and LPA administered loan settlement, disbursement, and closeout procedures.

(c) *Expediting Work.* The borrower shall agree, to the maximum extent feasible, to carry out all of the rehabilitaion work promptly and efficiently, either personally or under written contract within the time period specified in the rehabilitation agreement.

(d) *Unacceptable Contractors.* The borrower shall agree not to award any contract for work, material or services to any contractor or subcontractor judged unacceptable by HUD, whether paid for in whole or part by Section 312 loan proceeds.

(e) *Inspections.* The borrower shall agree to allow inspections of the property, the rehabilitation work, and all contracts, materials, equipment, payrolls, conditions of employment, and relevant records and data by HUD or LPA staff or their designee.

(f) *Records.* The borrower shall agree to keep such records for such a period as is required by HUD and shall make them available for inspection upon appropriate notice.

(g) *Other Federal Requirements.* The borrower shall agree to ensure the enforcement of all requirements of applicable Federal law and regulations, including Equal Opportunity and Labor Standards Requirements.

(h) *Security Maintenance.* The borrower shall agree to preserve the security of the loan by proper property maintenance and the retention of hazard or other forms of property insurance, and not to sell, lease or transfer the property without repayment of the entire loan, except with the consent of HUD.

(i) *Termination.* The borrower shall agree that HUD shall have the right to cancel and terminate the Section 312 loan by written notice to the borrower if rehabilitation work has not commenced within 60 days of the execution of the promissory note, if work is not continued with due diligence after commencement, if the rehabilitation work is not completed within the time specified in the rehabilitation loan agreement or if the property is abandoned.

(j) *Repayment.* The borrower shall agree that any part or the entire amount of indebtedness under the note and security instrument shall be due and payable immediately without notice upon:

(1) The appointment of a receiver or liquidator for the property;

(2) The filing of a petition of insolvency under the Bankruptcy Reform Act of 1978 as amended, or similar State law;

(3) The making of an assignment for the benefit of the borrower's creditors;

(4) The divestiture or sale of the property, including sale or divestiture of equitable ownership of the property through land sales contract or similar mechanism;

(5) The substantial destruction of the property or improper or poor maintenance which may seriously impair the value of the property;

(6) The death or legal incapacity of the borrower prior to completion of the rehabilitation work; or

(7) Default by the borrower.

(k) *Bonus, Commission or Fee.* The borrower shall not pay any bonus, commission or fee to HUD, the locality, or the LPA for the customary processing of a loan including the preparation of work write-ups and cost estimates, approval of the loan, or any concurrence required to complete the rehabilitation work.

(l) *Conflict of Interest.* (1) The borrower shall agree that no Member of Congress of the United States and no Resident Commissioner shall be permitted to share the proceeds and benefits of the loan.

(2) The following persons shall not be eligible for Section 312 loans and shall have no interest in the proceeds of the loan or any contract for work, supplies, or services, financed in whole or part with loan proceeds:

(i) Members of the governing body of the locality;

(ii) Members of the governing body of the LPA; and

(iii) Any officer or employee of the LPA who exercises any function or responsibility in connection with the administration of a Section 312 loan program.

(3) HUD employees above a GS-9 level shall not be eligible for Section 312 loans nor shall they have any interest in the proceeds of the loans or any contract for work, supplies, or services, financed in whole or part with loan proceeds.

Subpart D—Other Federal Requirements

§ 510.50 Program Administration.

The Section 312 Rehabilitation Loan Program shall be administered in compliance with all applicable Federal statutes and regulations as they may be amended from time to time including, but not limited to, those cited in this Subpart. The Chief Executive Officer of each locality participating in the Section 312 loan program shall submit to HUD each year a certificate, in the form prescribed by HUD, that the locality will administer the program in compliance with the provisions of the Federal statutes and regulations cited in this Subpart.

(a) *Truth-in-Lending.* The Truth-in-Lending Act (15 U.S.C. 1601, *et seq.*) and 12 CFR Part 226 (Regulation Z), require that borrowers in consumer credit transactions be vested with certain rights and protections in connection with the transaction and receive specified written information from their lenders. The disclosures must be made before credit is extended and before the borrower becomes obligated in connection with the transactions. The amount of credit that the borrower will have for his/her actual use must be disclosed as well as the finance charge, expressed both as a dollar amount and as an Annual Percentage Rate (APR). In addition, if a borrower's loan is secured by a lien on his/her residence, the borrower is allowed 3 days to rescind the transaction. The disclosure provisions of the Truth-in-Lending Act apply only to loans on residential and mixed-use property containing one to four dwelling units where the borrower is a person, as opposed to a corporation, partnership or other legal entity. The rescission provision of the Truth-in-Lending Act applies only to loans, secured by a mortgage or deed of trust, on residential or mixed-use property containing one to four dwelling units where the borrower is a person who will reside in the property following rehabilitation.

(b) *Real Estate Settlement.* The Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. 2601, *et seq.*), as amended, and regulations (24 CFR Part 3500) require that for the refinancing of a land sales contract for title acquisition the lender (HUD) shall provide the borrower with a Special Information Booklet and a good faith estimate of the amount or range for each charge for specific settlement services that the borrower is likely to incur in connection with the settlement. The good faith estimate must be developed and presented on a form in accordance with 24 CFR 3500.7–3500.8. Both the booklet and the estimate shall be provided within 3 days of receipt of a written loan application. The Uniform Settlement Statement (HUD-1) shall be used at settlement and an opportunity to inspect the statement one business day prior to settlement shall be afforded the borrower upon request.

(c) *Flood Insurance.* (1) The National Flood Insurance Act of 1968 (42 U.S.C. 4001, *et seq.*) and regulations (44 CFR Part 59, *et seq.*) require that Section 312 loan funds shall not be expended for rehabilitation of property located in an area which has been identified for a period of more than one year by the Director, Federal Emergency Management Agency (FEMA), as having special flood hazards, if the locality in which such area is located has been determined by the Director, FEMA, to be in noncompliance with the National Flood Insurance Program pursuant to 42 U.S.C. 4105(d).

(2) When the locality has not been so determined to be in noncompliance with the National Flood Insurance Program, Section 312 loans may be approved for the rehabilitation of properties located in identified special flood hazard areas, subject to the mandatory purchase of flood insurance as required by 42 U.S.C. 4012(a).

(d) *Freedom of Information and Privacy Acts.* (1) *Freedom of Information Act.* HUD procedures governing requests by members of the public for records and information and standards for disclosure of such records or information under the Freedom of Information Act (5 U.S.C. 552) are contained in 24 CFR Part 15. These procedures and standards apply to the production and disclosure by HUD officials of records and information in HUD's custody concerning the Section 312 Loan Program. Requests by members of the public to state or local officials for records or information in custody of the locality, the LPA, or any private individual or organization under contract with the locality or the LPA to exercise any responsibilities in connection with the Section 312 Program (hereinafter in this Section collectively referred to as "local custody") are governed by State and local law, except as otherwise provided in paragraph (3) of this § 510.50(d).

(2) *Privacy Act.* Information maintained by HUD or in the custody of any private organization in a contractual relationship with HUD (such as a loan servicer) which is retrievable by the name or other identifier of a Section 312 loan applicant or borrower is subject to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and HUD's regulations at 24 CFR Part 16. The Privacy Act and regulations concern the collection, maintenance and disclosure of HUD's records, although the disclosure of information required to be released under the Freedom of Information Act does not violate the Privacy Act. Other

disclosures authorized under the Privacy Act are set forth in 5 U.S.C. 552a(b). Section 312 records or information in local custody are not subject to the Privacy Act of 1974.

(3) *HUD Requirements.* Notwithstanding the inapplicability of the Freedom of Information and Privacy Acts to records or information concerning the Section 312 loan program in local custody, it is HUD's policy under the Section 312 loan program that State and local officials shall not permit the release of any records or information concerning any applicant or borrower that would constitute a "clearly unwarranted invasion of personal privacy" within the meaning of 5 U.S.C. 552(b)(6). In applying this standard, HUD officials may release from HUD custody pursuant to 24 CFR Part 15, and HUD does not object if State and local officials release from local custody, the following information concerning Section 312 program participants:

(i) The name of the borrower or applicant;

(ii) The address of the property rehabilitated or to be rehabilitated; and

(iii) The proposed or actual amount of the loan.

(e) *Right to Financial Privacy Act.* (1) *General.* In accordance with the Right to Financial Privacy Act (12 U.S.C. 3401, *et seq.*), HUD, any locality or LPA, or any person or organization acting for HUD, the locality, or the LPA under contract shall comply with this Section in obtaining financial records or information from any financial institution, as defined in 12 U.S.C. 3401, concerning any individual or any partnership of five or fewer individuals (called a "covered partnership" in the remainder of this Part) in connection with any Section 312 loan.

(2) *Financial Records of Applicants or Assignees: "Notice to Applicant."* The LPA or locality which processes the application for any Section 312 loan to one or more individuals or covered partnerships shall give each individual applicant or partner a "Notice to Applicant" in the form prescribed by HUD prior to attempting to obtain financial records or information from a financial institution about such individual, partner, or covered partnership. Similarly, the LPA, HUD or any loan servicer acting for HUD under contract, shall give a "Notice to Applicant" to any individual or partner of a covered partnership which applies to assume a Section 312 loan. The "Notice to Applicant" advises the person or covered partnership to whom it is given of HUD's rights of access to financial records held by financial institutions concerning such person or partnership in connection with the Section 312 loan. No further Notice shall be required for subsequent access to that person's or partnership's financial records during the term of the loan by HUD, the locality, the LPA, or the loan servicer.

(3) *Financial Records of Others: "Customer Authorization."* Financial records or information shall not be obtained in connection with a Section 312 loan from a financial instituiton concerning any individual or any covered partnership which has not applied to receive or assure a Section 312 loan, unless a "Customer Authorization," in the form prescribed by HUD, is obtained as described in this paragraph. The Customer Authorization must be signed and dated by the individual or covered partnership whose financial records are sought and must be delivered to the financial institution, before disclosure of the financial records identified therein is permitted. A new Customer Autorization is required when additional records are sought from the financial institution after expiration or outside the scope of the original Customer Authorization. A Customer Authorization is revocable by its issuer at any time prior to disclosure of the records sought. Examples of when Customer Authorizations may be needed in the Section 312 Program are to evaluate the credit worthiness of potential personal guarantors of a loan or in evaluating potential contractors.

(4) *Certification to Financial Institution.* Each financial institution from which financial records or information are requested by or on HUD's behalf concerning an individual or a covered partnership in connection with a Section 312 loan shall be given a "Certification to Financial Institution," in the form prescribed by HUD, that HUD is in compliance with the applicable provisions of the Right to Financial Privacy Act in connection with the request. No further certification shall be required by the financial institution for subsequent access by or on HUD's behalf during the term of the loan to financial records or information concerning individuals or covered partnerships which have received Notices under paragraph (2) of this Section. However, a new Certification to Financial Institution is required in every case in which a new Customer Authorization under paragraph (3) of this § 510.50(e) is required.

(5) *Use of Financial Records.* Financial records or information obtained pursuant to this Section may be used only for the purpose for which they were originally obtained and may not be further disseminated, except as otherwise provided by 12 U.S.C. 3413(h)(4). However, the permissible uses of financial records or information obtained pursuant to paragraph (2) of this § 510.50(e) include any use or transfer of the records in connection with the loan, whether for purposes of processing, servicing, or foreclosure or other collection action. Financial records or information obtained by Customer Authorization under paragraph (3) of this §510.50(e) may only be used by or on behalf of HUD in accordance with the terms of the Authorization or 12 U.S.C. 3413(h)(4).

(f) *Equal opportunity.* (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*) and the regulations issued under 24 CFR Part 1, provide that no person in the United States shall be excluded from participation in the program, or be denied the benefits of the program, or in any way be subjected to discrimination under the program on the basis of race, color, or national origin. These requirements apply for the period during which the property is used as rehabilitated or is owned by the recipient, whichever is longer.

(2) Title VIII of the Civil Rights Act of 1968 (42 U.S.C 3601, *et seq.*) as amended, requires that the program be carried out in a manner which will affirmatively further fair housing, including all activities relating to sales, rentals, additional financing, and brokerage services, and shall not discriminate against persons on the basis of race, color, religion, sex or national origin.

(3) Executive Order 11063 requires the provision of equal opportunity in housing and nondiscrimination based on race, color, creed or national origin in the sale and rental of housing improved under the program.

(4) Executive Order 11246 and the regulations at 41 CFR Chapter 60, require that no person shall be discriminated against during the performance of construction contracts under the program, based on race, color, religion, sex, or national origin. Contractors and subcontractors participating in the program shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, transfer, recruitment and recruitment advertising; lay-off and termination; rates of pay and compensation; and selection for training and apprenticeship.

(5) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u.), as amended, and the regulations in 24 CFR Part 135, require that, to the greatest extent feasible, opportunities for training and

employment arising in connection with any project assisted by the program be given to lower income residents of the project area. Contracts awarded in connection with the program shall, to the greatest extent feasible, be awarded to eligible business concerns which are located in, or are owned in substantial part by persons residing in the project area.

(6) Equal Credit Opportunity Act of 1976 (15 U.S.C. 1691, *et seq.*) and the regulations at 12 CFR Part 202 require that no person shall be denied credit based on race, color, religion, national origin, sex, marital status, age (as long as there is the legal capacity to enter into a contract), public assistance program as an income source, or the exercise of any right under the Consumer Credit Protection Act of 1976 (15 U.S.C. 1601, *et seq.*). The Consumer Credit Protection Act includes the Truth-in-Lending, Fair Credit Reporting, and Consumer Leasing Acts.

(7) The borrower shall ensure that rehabilitated units will be marketed for rental or sale in a manner to affirmatively further fair housing pursuant to 24 CFR § 200.600 *et seq.* If a rehabilitated unit is advertised for rental or sale, it will be done in a manner to inform persons who would otherwise be least likely to apply for the unit. The "Equal Opportunity" logo shall be displayed in all advertising.

(g) *National Environmental Policy Act of 1969.* (1) Before Section 312 rehabilitation loans are made in CDBG areas eligible under § 510.22, the environmental impact of the rehabilitation shall be assessed for the area. The CDBG Environmental Review Record (ERR) for the area prepared and submitted to HUD by the locality shall contain adequate documentation of the locality's consideration pursuant to 24 CFR Part 58 of the type and level of rehabilitation anticipated by the locality for the Section 312 program year.

Rehabilitation activities which:

(i) Increase the number of dwelling units per acre by more than 20 percent;

(ii) Change land use from residential to nonresidential or nonresidential to residential;

(iii) Change one class of residential land use to another class of residential land use; or

(iv) Involve a cost of rehabilitation which exceeds 75 percent of the replacement cost of the property after rehabilitation,

shall be separately reviewed (24 CFR 58.21(b)(8)) and documentation of the environmental impact assessment shall be specifically included in the ERR for the CDBG area. HUD staff will independently evaluate the adequacy of the locality's impact assessment for the area and shall be responsible for the scope, content, and accuracy of the impact assessment with respect to the proposed section 312 activity.

(2) Where no environmental review has been undertaken in connection with Urban Renewal, NDP, Code Enforcement, or Urban Homesteading Projects, HUD will conduct environmental reviews pursuant to 24 CFR Part 50 before section 312 loans are made in conjunction with such activities or projects, except where an environmental clearance is not required under 24 CFR 50.21(a)(3). If an original and current environmental clearance has been undertaken but HUD determines it does not address section 312 activities in sufficient detail, HUD shall make findings regarding the impact of section 312 activity, as required by 24 CFR 50.21(m)(3).

(h) *Historic Preservation.* (1) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*), Executive Order 11593, and the Preservation of Archeological and Historical Data Act of 1966 (16 U.S.C. 469a–1 *et seq.*), are applicable to rehabilitation activities financed in whole or in part by section 312 loans. The Procedures for Protection of Historic and Cultural Properties (36 CFR Part 800), pending issuance of 24 CFR Part 59, implement these authorities. Consultation with the State Historic Preservation Officer and the National Register of Historic Places shall be accomplished to determine whether properties receiving loans are listed in, or eligible for inclusion in, the National Register of Historic Places and to determine whether or not a section 312 loan may affect another property that is listed on or eligible for the National Register. If a National Register property, or a property eligible for the Register, is not involved or affected, a statement of this fact shall be made in the environmental review record. If a proposed loan may affect a National Register property, or a property eligible for inclusion on the National Register, the procedures of 36 CFR Part 800 (or 24 CFR Part 59, after its issuance by HUD) shall be completed to avoid or mitigate any adverse effects, and the appropriate documentation made part of the environmental review record. Historic preservation reviews under this paragraph shall be undertaken in conjunction with and in the same manner as the environmental reviews specified in § 510.50(g), but the thresholds for NEPA review shall not apply to these historic preservation reviews.

(2) Where consultation with the Advisory Council on Historic Preservation is necessary as to a specific property, HUD will undertake the consultation.

(i) *Floodplains and Wetlands.* Rehabilitation activities carried out under this Part shall comply with the requirements of section 2(a) of Executive Order 11988 on Floodplain Management, with sections 2 and 5 of Executive Order 11990 on Protection of Wetlands and with the implementing Departmental regulations at 24 CFR Part 55. These Executive Orders require that a threshold determination be made as to whether the rehabilitation activity will be located in or affect a floodplain or wetland. If so, and the activity occurs in a CDBG area as described in § 510.22, then the procedures outlined in 24 CFR 58.23 shall apply, but HUD staff shall make an independent evaluation of the locality's review, as described in the last sentence of § 510.50(g)(1). If the activity is proposed in a non-CDBG area as described in § 510.22 (b) and (c), HUD staff shall undertake the procedures in 24 CFR Part 55, as applicable.

(j) *Environmental Criteria and Standards.* In areas eligible for section 312 loans, other than CDBG areas eligible under § 510.22, section 312 rehabilitation activities shall comply with the standards of 24 CFR Part 51, Environmental Criteria and Standards. In such CDBG areas, 24 CFR 58.1(a)(3) and 24 CFR 58.5(a)(2) shall apply.

(k) *Other Environmental Requirements.* (1) Concurrently with the area review described in § 510.50(g)(1), reviews shall be conducted by localities in CDBG areas eligible under § 510.22 with respect to the authorities cited in 24 CFR 58.22, as applicable. HUD staff shall review and be responsible for the adequacy of the locality's evaluations.

(2) When section 312 loans are proposed to be made in non-CDBG areas as described in § 510.22 (b) and (c), HUD will retain the responsibility for compliance with the authorities cited in 24 CFR 58.22, as applicable.

(l) *Lead-Based Paint.* Rehabilitation activities must comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801, *et seq.*) and the HUD Lead-Based Paint Regulations, 24 CFR Part 35, requiring:

(1) The prohibition of the use of lead-based paint (defined at 24 CFR 35.12(a)) in the rehabilitation of residential structures (defined at 24 CFR 35.3(f));

(2) The inspection for and identification of immediate lead-based paint hazards (defined at 24 CFR 35.3(i));

(3) The treatment of identified immediate lead-based paint hazards in residential structures in accord with 24 CFR 35.24(b)(3); and

(4) The notification to owners and tenants of pre-1950 residential structures of the possible existence and potential hazards of lead-based paint, of the symptoms and treatment of lead-based paint poisoning, and of the precautions to be taken to avoid lead-based paint poisoning.

(5) The borrower's agreement to comply with paragraphs (1) and (3) of this Section shall be a condition of receiving a Section 312 loan. The LPA shall be responsible for assuring that the inspection required by paragraph (2) of this Section is accomplished and treatment of identified immediate lead-based paint hazards is included as part of the required work under an approved Section 312 loan. Inspections required pursuant to Section 510.88 prior to release of funds for completed rehabilitation work shall include inspection for completion of treatment of identified immediate lead-based paint hazards in accord with paragraph (3) above.

(m) *Handicapped Accessibility.* Rehabilitation work financed in whole or in part by a Section 312 loan shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the regulations issued thereunder, to the extent required by said Act and regulations. Such work shall also comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), and the regulations issued thereunder, to the extent required by said Act and regulations. Such regulations will specify which residential structures are required to be made accessible to the handicapped. Until such regulations are issued, the standards for accessibility by the handicapped to nonresidential property and the nonresidential portion of mixed use property shall be the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable By, the Physically Handicapped" Number A–117.1–R 1979, subject to the exceptions contained in 41 CFR 101–19.604.

(n) *Cost Effective Energy Conservation.* Section 312(i) of the Housing Act of 1964, as amended in 1978 (42 U.S.C. 1452b.) and the regulations at 24 CFR Part 39, require that rehabilitation of residential properties under the Section 312 Loan Program be subject to Cost Effective Energy Conservation Standards, which are set forth in 24 CFR Part 39. Such Cost Effective Energy Standards apply to Section 312 loans as follows:

(1) Thermal improvement of construction elements which would not be made accessible or become exposed during rehabilitation is not required.

(2) Energy conservation improvements which are not practical considering economic feasibility, program needs, and the materials and type of construction, may be eliminated.

(3) For mid-rise, high-rise and many low-rise multifamily projects, an energy audit must be carried out to identify and specify the energy and cost savings which are estimated to result from installing energy conservation measures.

(4) All measures determined to be cost effective, given loan term and interest rate, shall be accomplished.

(o) *Labor Standards.* (1) For a loan on a residential property that will contain 12 or more dwelling units after rehabilitation; or a loan on a nonresidential property where the actual cost of the rehabilitation work exceeds $2,000, compliance with the Davis-Bacon Act (40 U.S.C. 276a through 276a–5, as amended), the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) and all regulations issued under these Acts, and with other applicable Federal laws and regulations pertaining to labor standards will be required. In particular, all laborers and mechanics employed by contractors and subcontractors on rehabilitation work, as noted above, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor.

(2) For mixed-use properties exceeding the respective threshold for the residential portion of 12 dwelling units or $2,000 for the nonresidential portion, the lower threshold shall determine the applicability of labor standards to the specific project.

(3) For residential rehabilitation loans using the "Sweat Equity" principle under § 510.80, the Secretary may waive the application of labor standards for work being accomplished by residents, where services are voluntarily donated pursuant to Section 402(f) of the Housing Act of 1950.

(4) Where part of the rehabilitation work is not funded by the Section 312 loan, the labor standards requirements shall apply, to the extent required by this Section, to all rehabilitation work that will be performed after loan approval, whether such work is conventionally financed, financed by the borrower's own funds or supplemental financing, or financed by Section 312 loan funds. However, if conventional financing involves a loan insurance or guarantee program that requires application of Davis-Bacon where not otherwise required by this Section, Davis-Bacon shall apply as required under such program.

(5) The LPA is responsible for ensuring that labor standards requirements are applied in accordance with this Section. This includes making sure that these requirements are in contract documents, as well as monitoring borrower compliance with these requirements.

§ 510.52 Relocation/displacement.

(a) *Responsibility of Locality.* The locality shall administer its section 312 Rehabilitation Loan Program in a manner that minimizes any potential or actual involuntary displacement of tenants. Wherever it offers the potential of minimizing displacement, the locality shall require the owner to consider the feasibility of carrying out the rehabilitation in stages. The locality is responsible for assuring compliance with the provisions of this section. The locality shall annually certify to HUD that it will assure compliance with these provisions. To pay the cost of relocation payments and other relocation assistance, the locality may use local public funds or funds available under the locality's Community Development Block Grant Program. (To use block grant funds, the locality must adopt a written policy in accordance with 24 CFR 570.602(c).) The locality may also enter into a written agreement with the private owner of a project which provides for the owner to pay all or part of the cost of relocation payments and other assistance required under this section and/or to reduce the rent charged to tenants who are permitted to continue in occupancy of a dwelling unit in the project. The locality shall maintain the records described at 24 CFR 42.207(e) and 24 CFR 42.225.

(b) *Applicability of Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 apply to the displacement of certain persons as a result of a section 312 Rehabilitation Loan provided in connection with an Urban Renewal Project or Neighborhood Development Program under Title I of the Housing Act of 1949, as amended, Code Enforcement under section 117 of the Housing Act of 1949, or a comprehensive city demonstration program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966.

(c) *Displacement Not Subject to the Uniform Act.* The provisions of this paragraph apply only to approved section 312 loan activities that are not subject to the Uniform Act. HUD has determined that requirements identical to those set forth at 24 CFR Part 42, as modified by this paragraph (c), shall apply with respect to any tenant (not an owner-occupant) who occupies property to be rehabilitated with such a section 312 loan.

(1) *Issuance of Notice to Residential Tenants.* (i) Except as indicated in paragraph (c)(7) below, the locality shall issue to each residential tenant either a notice of displacement (described at 24 CFR 42.205) which is effective immediately or a notice of right to continue in occupancy (described at CFR 42.207). The notice shall be issued within 30 days after the date of loan approval or by such later date as is agreed to by the HUD Area Office. If the tenant is not issued either of these notices within the prescribed time, he or she shall automatically be eligible for relocation assistance as described at 24 CFR 42.205(b).

(ii) Any tenant required by the owner to move from the property before issuance of a notice as described under paragraph (c)(1)(i) of this section, but after the date six months prior to submission of the section 312 preapplication (or application, if there is no preapplication) to the approving officer shall also be issued a notice of displacement, unless he or she was required to move because of his/her breach of an obligation under the terms and conditions of the tenancy. The notice shall be effective on the date the tenant vacated the property. If the tenant chooses to relocate again, the 1-year period within which the tenant must purchase/rent and occupy a replacement dwelling (see 24 CFR 42.451(c)) and the 18-month period for filing relocation payment claim(s) shall not begin until the tenant has been provided a reasonable choice of opportunities to relocate to a comparable replacement dwelling. If the tenant does not choose to relocate again, he/she shall be given at least 6 months in which to file relocation payment claim(s).

(2) *Issuance of Notice to Nonresidential Tenants.* The locality shall determine whether or not a nonresidential tenant will be required to move as a result of an owner's section 312 loan. If a nonresidential tenant is ordered to vacate the property in connection with the rehabilitation or if the locality determines that undue hardships (e.g., substantial increase in rent or costly suspension of operations) will result from the rehabilitation, the locality shall promptly issue the tenant a notice of displacement (described at 24 CFR 42.205). If a nonresidential tenant is not required to move as a result of the rehabilitation, the terms and conditions of continued occupancy are matters for negotiation between the owner and tenant.

(3) *"Initiation of Negotiations."* For purposes of determining eligibility for a replacement housing payment under Subpart G of 24 CFR Part 42, the effective date of the notice of displacement shall be considered to be the "initiation of negotiations."

(4) *Replacement Housing Payment.* A displaced residential tenant who meets the eligibility conditions described in 24 CFR 42.451 is entitled to a replacement housing payment to help him or her rent or buy a replacement dwelling. Any such tenant who chooses to buy a replacement dwelling, shall receive a downpayment assistance payment computed under 24 CFR 42.455. Any such tenant who chooses to rent a replacement dwelling is entitled to a rental assistance payment computed in accordance with 24 CFR 42.453, unless a Public Housing Agency administering the section 8 Existing Housing Program (24 CFR Part 882) determines in accordance with the section 8 eligibility criteria in 24 CFR Part 889 and selection criteria described in its Administrative Plan approved by HUD that the displaced tenant can be issued a Certificate of Family Participation under that program. Assistance through the section 8 Existing Housing Program can only occur when (i) the tenant has voluntarily selected a replacement dwelling which meets the housing quality standards and other requirements of that program, and (ii) the landlord of the replacement dwelling unit is willing to participate in the program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at 24 CFR 42.453. (If an eligible tenant voluntarily selects a rental unit that meets the section 8 requirements and the owner is willing to participate in the Existing Housing Program but the tenant refuses to apply for and accept an available certificate, the tenant is not entitled to a rental assistance payment. However, the tenant remains eligible for a moving expense payment computed as described at 24 CFR 42.303 or 24 CFR 42.353).

(5) *Modifications to Notice of Right to Continue in Occupancy.* A residential tenant who receives a notice of right to continue in occupancy (described at 24 CFR 42.207) is assured, among other things, that he or she will have the right to continue in occupancy in the property for a period of at least four (4) years. The owner must explain these rights to the tenant. The terms and conditions of continued occupancy must be set forth in a lease which is offered to the tenant. The lease, including renewal options, if any, shall run for a continuous period of at least four (4) years. The rent under such a lease shall be in accordance with this paragraph, and the other terms and conditions of the lease shall be as customary in the jurisdiction. In addition, the lease shall give the tenant the unilateral right to cancel the lease on thirty (30) days advance written notice if he or she wishes to vacate unless State or local law requires a longer notice period. In order to benefit from the protections of this rule, the tenant must agree to enter into the lease within a reasonable period after completion of the rehabilitation work. The procedures for an automatic notice of displacement described at 24 CFR 42.205(b) and 24 CFR 42.207(a)(4) shall not apply. In addition, the provisions at 24 CFR 42.207(a)(2) governing the tenant's maximum monthly housing cost (rent and estimated utility charges) during the 4-year period are modified to read as follows:

(i) During the first year of the four-year period, the tenant's monthly housing cost shall be established at a level that does not exceed the greater of:

(A) Twenty-five percent (25%) of the gross income of all adult members of the household, or

(B) One hundred and five percent (105%) of the tenant's monthly housing cost (rent and utility charges) for the unit six months prior to issuance of the notice of right to continue in occupancy. However, this provision does not preclude the owner of the building from requiring the tenant to pay directly to the utility company the cost of utilities which are separately metered after rehabilitation. The cost of any such separately metered and tenant-paid utilities shall be excluded from the 105% computation.

(ii) At the end of the first, second and third years, the monthly housing cost may be increased. The monthly increase, however, shall not exceed the sum of (A) the monthly increase in the owner's costs for utility charges and property taxes over the previous year, plus (B) five percent (5%) of the monthly contract rent (exclusive of utility costs) charged during the prior year.

(6) *Waiver of Right to Continue in Occupancy.* Nothing in these regulations shall prevent a fully informed tenant, who will not be required to relocate permanently, from waiving his/her right to be issued a notice of right to continue

in occupancy. The waiver shall be in a format prescribed by HUD.

(7) *Ineligible Tenants.* Under the following circumstances, the tenant is neither entitled to a notice of displacement nor a notice of right to continue in occupancy, nor will he or she receive relocation assistance:

(i) The tenant occupies a dwelling and the total cost of the rehabilitation work (financed by a Section 312 loan or other source) that is allocable to the tentant's unit does not exceed $2,500 and the locality determines that the tenant will not be required to move because of the rehabilitation. In a building of two or more units, the cost allocable to the tenant's unit includes the pro rata share of the cost of work done to common elements of the property.

(ii) The tenant moves to the property after submission of the loan application and is notified in writing prior to execution of the lease about the proposal and its effect on him or her.

Subpart E—Loan Processing and Administration

§ 510.70 General.

(a) *Responsibilities of Locality.* Localities participating in the Section 312 Program shall be responsible for performing the following program functions in accordance with applicable law, this Part and other applicable Federal regulations and executive orders and any further requirements contained in program forms, legal documents, and Handbooks:

(1) Selecting eligible areas in which to use the loan funds made available by the Secretary, consistent with§ 510.22.

(2) Selecting income groups and property types on which to focus the available loan funds, as described in 510.2 and 510.24.

(3) Recommending approval of loan applications to HUD, or approval of loans under an agreement entered into a described in § 510.72, Local Approval Authority.

(4) Disapproving loan applications.

(5) Publicizing the availability of Section 312 loan funds in active eligible areas.

(6) Providing program information and application assistance to potential loan applicants.

(7) Processing of loan applications which includes, but is not limited to, obtaining credit reports, employment, income verifications, title evidence, appraisals and other pertinent information.

(8) Making sound loan underwriting decisions on loan applications pursuant to 510.82.

(9) Assuring that cost estimates, work write-ups and detailed specifications for Section 312-assisted rehabilitation work are prepared properly and preparing the documents, where necessary.

(10) Preparing rehabilitation contract documents and, where necessary, completing formal competitive bidding procedures.

(11) Assisting the borrower in selecting qualified contractors.

(12) Completing loan settlement in accordance with HUD requirements and assuring a valid and enforceable Section 312 loan.

(13) Maintaining a rehabilitation escrow account.

(14) Performing interim and final inspections of the rehabilitation work.

(15) Assisting in resolving disputes between the contractor and the borrower.

(16) Assuring that the rehabilitation financed in whole or in part by the Section 312 Program meets minimum property rehabilitation standards for the area.

(17) Completing loan closeout, including the proper disposition of all funds in the rehabilitation escrow account in accordance with HUD requirements.

(18) Assisting HUD in contacting and counseling borrowers who have become delinquent in making payments on their loans.

(19) Assuring that the other Federal requirements noted in Subpart D are satisfactorily implemented.

(b) *Designation of LPA.* The locality shall designate a local processing agency ("LPA") as its lead agency in administering the Section 312 program for the locality. The LPA shall be a part of the locality's governmental structure, unless the locality lacks legal capacity to perform the functions listed in paragraph (a) of this Section, in which case the LPA may be a separate, special-purpose unit of local government. Insofar as practicable under the governmental organization of the locality, the LPA shall have the authority and responsibility to coordinate or perform all of the locality's responsibilities under the Section 312 loan program, including those listed in paragraph (a) of this Section. As stated in Section 510.72, the Local Loan Approval Agreement shall be between HUD and the locality (and the Approving Officer shall be an employee of the locality), unless the locality lacks legal capacity to enter into the Local Loan Approval Agreement with HUD, in which case the agreement shall be between HUD and the LPA.

(c) *Contracting by the LPA.* As permitted by State and local law, the LPA may contract with individuals or private nonprofit or for-profit organizations, including financial institutions, to perform all or any of its functions in connection with the Section 312 loan program, except for loan approval. If the contract is funded in whole or in part by CDBG funds pursuant to 24 CFR 570.202(c)(4) or 570.206, all applicable requirements of 24 CFR Part 570 apply to the contract, including §§ 570.201(g), 570.307 (g) and (i) and 570.507. If the contract or activity is funded with Section 312 funds by inclusion of an amount in the approved loan to compensate the contractor for the contractor's services, the requirements of 24 CFR Part 570 and OMB Circular A–102 (REV) do not apply to the contract or activity. Nothwithstanding any contract entered into by the LPA, HUD will hold the locality and LPA responsible for compliance with this Part, the 312 Handbook, program forms and legal documents, and any other applicable statutes and regulations, as fully as if the locality or LPA itself had performed the contract. Where the terms "locality" or "LPA" are used in this Part, they include any contractor with the locality or LPA which performs services related to the Section 312 loan program.

§ 510.72 Local approval authority.

(a) *Agreement.* Section 312 rehabilitation loans may be approved by a HUD Approving Officer or by the locality under a Local Loan Approval Agreement between HUD and the Chief Executive Officer of the locality, unless the locality lacks legal capacity to enter into such an agreement with HUD, in which case the agreement shall be between HUD and the LPA. Loans approved under a Local Loan Approval Agreement are contingent upon fund availability, and HUD shall retain final commitment (obligation) authority.

(1) The Local Loan Approval Agreement shall be in form prescribed by HUD and shall specify a Local Processing Agency (LPA) within the locality to process the loans, and an Approving Officer to approve or disapprove the loans.

(2) The Agreement shall also specify the type of loans for which the locality will have local approval authority.

(3) The locality shall furnish to HUD information on the LPA which has been designated to process Section 312 loans, and the Approving Officer who will make the approval/disapproval decisions.

(4) The determination of whether an LPA is qualified to process and the Approving Officer to approve rehabilitation loans shall be made by

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the HUD Area Office Manager. The person selected as Approving Officer must have supervisory or executive level responsibilities within the locality, or within an LPA if the locality lacks legal capacity to accept responsibility of loan approval. The person shall also have a total familiarity with the section 312 program requirements and policies, with rehabilitation financing standards, and with conventional underwriting principles. However, the person shall not exercise any direct section 312 loan processing responsibilities. The locality or LPA, as applicable, may designate an alternative Approving Officer who will act in the Approving Officer's absence, also subject to HUD approval. No individual may serve as Approving Officer unless mentioned in the Agreement.

(5) Once the LPA and Approving Officer are found acceptable, HUD will prepare the Agreement with the locality.

(6) The Agreement once concluded with the locality shall remain in effect until cancelled by HUD or the locality pursuant to the terms of the Agreement.

(b) *Performance Monitoring.* Periodic monitoring of the locality and LPA's performance shall be undertaken by the Area Office staff in accordance with the requirements of § 510.154. Failure to abide by this Part or any other HUD program requirement in the operation of the local section 312 program may result in:

(1) Cancellation of the Agreement and withdrawal of local approval authority;

(2) Temporary suspension of all or part of the local approval authority until corrective measures are taken; and/or

(3) Other actions as described in § 510.156 or the Agreement.

(c) *Agreement Required.* All participating localities committing $200,000 or more annually in General Use and/or Urban Homesteading rehabilitation loans for any previous 2-year period shall be required to assume local approval authority for at least single-family loans within 18 months of the effective data of this regulation. Failure to meet this requirement may result in either a reduction of loan fund allocation or in total withdrawal of loan funds. All other participating localities may assume local approval authority if they have demonstrated their capacity to carry out either a CDBG rehabilitation loan program or a local section 312 Loan Program as described in § 510.70(a).

§ 510.74 Property appraisal.

(a) An appraisal is required for every single-family residential property to be rehabilitated under the section 312 program where the loan exceeds $27,000, and for every multifamily, nonresidential and mixed-use loan in order to determine the value of the security available for repayment of the loan.

(b) *Residential.* For residential property on which the loan amount will exceed $27,000, an as-is appraisal is required. This appraisal represents the price a property will bring on the open market given its current condition, its adaptability, and the availability of conventional financing.

(c) *Nonresidential.* For a nonresidential property, the appraisal shall be an estimate of the fair market value of the property after rehabilitation.

(d) *Mixed-Use.* For mixed-use property, the appraisal shall include the as-is value for the entire property and the estimated fair market value of the nonresidential portion of the property after rehabilitation.

(e) *Appraisal responsibility.* The LPA shall arrange for appraisals by HUD-approved appraisers on properties involving loans of $250,000 or more. For loans of less than $250,000, the appraisals shall be made either by qualified local staff or by fee appraisers. The LPA shall maintain adequate documentation to support the qualifications of the appraiser and the adequacy of the appraisal.

§ 510.76 Financial verifications.

(a) *Forms of Verification.* The financial capability of the applicant shall be verified by the LPA for the purpose of making the required determinations under § 510.82(a)(3) concerning the ability to repay the rehabilitation loan. Financial verifications shall be satisfactorily completed either by using the financial verification forms developed by HUD or other types of documentation acceptable to HUD. In all cases, data must be adequate to make a sound credit decision.

(b) *Compliance with other Federal Requirements.* Financial verification under this section is subject to § 510.50(e) of this Part, *Right to Financial Privacy Act.* The disclosure of information identifiable as pertaining to individual section 312 applicants and recipients is subject to § 510.50(d) of this Part, *Freedom of Information and Privacy Acts.*

§ 510.78 Rehabilitation contract development.

The borrower, as described in § 510.80, may act as his or her own contractor or may hire a recognized general contractor, who has a license where applicable, with an established record of satisfactory performance as a general contractor for the types and level of proposed construction applicable to the property to be rehabilitated.

(a) *Contract requirements.* Where the borrower is hiring a general contractor, a written contract between them shall be required. At a minimum, the contract shall include:

(1) The detailed description of the work to be performed;

(2) The bid and proposal of the contractor where formal bidding is involved or a price with an itemized breakdown of cost where negotiation is used;

(3) The times within which performance and payment are required;

(4) All other provisions necessary to describe the responsibilities of both the borrower and the contractor, including a one-year warranty on all work performed; and

(5) All provisions necessary to comply with the Federal statutes and regulations which apply to Section 312 construction contracts, including labor standards (510.50(o)), Executive Order 11246 (510.50(f)(4)), Section 3 of the Housing and Urban Development Act of 1968 (510.50(f)(5)), and lead-based paint (510.50(l)).

(b) *Contract development.* The LPA shall provide technical assistance in contract development as described in this § 510.78(b).

(1) *Determining the scope of work and cost estimates.* While preliminary code enforcement inspections and notices of violations are not required by HUD, the work write-up shall include all work necessary to meet the Property Rehabilitation Standards for the eligible area in which the property is located. In assuring that this requirement is met, the LPA must make at least one mandatory site visit to the property.

Any rehabilitation work necessary to comply with handicapped accessibility requirements (510.50(m)), historic preservation and environmental standards (510.50(g)(k)), cost effective energy conservation standards (510.50(n)), and to treat identified immediate lead-based paint hazards (510.50(l)) shall also be included. Finally, the work write-up shall also include all the work necessary to provide the Government with a property sound enough to qualify as an acceptable financial risk. For work estimated to cost $27,000, or less, the borrower in conjunction with a contractor may provide a detailed work write-up and costs will be verified by the LPA. For work estimated to cost more than $27,000, except in cases where the owner serves as contractor, the contractor may not prepare the work write-up. In such cases, the work write-up will be prepared by the LPA or by the borrower with assistance from an independent third party such as an architectural, engineering or building inspection firm which may prepare all or a portion of the detailed work write-up and cost estimate. In all cases in which the LPA does not prepare the work write-up, the LPA shall assure that the planned scope of work corrects all PRS deficiencies, complies with the Federal requirements cited above, and that the cost is reasonable.

(2) *Obtaining contractors' bids and proposals.* Prior to loan approval, firm bids shall be obtained, or an agreement with the borrower developed pursuant to 510.80(b), for all work included in the work write-up, whether financed by the section 312 loan or by supplementary financing. For rehabilitation estimated to cost over $27,000, the contractor (if other than the borrower) shall be selected by formal competitive bidding, under written procedures developed by the LPA. Rehabilitation projects estimated to cost less than $27,000 may utilize negotiation to select a contractor. The borrower and the LPA are encouraged, but not required, to negotiate with more than one contractor. Negotiations may also be used when competitive bidding is infeasible or unreasonable for projects over $27,000, with the approval of the HUD Area Manager.

(3) *Contractor selection.* The borrower is responsible for selection of the contractor. The borrower shall select a contractor at a price which is not in excess of 110 percent of the LPA cost estimate for the work. If the borrower wishes to select a contractor whose bid is in excess of 110 percent of the LPA's cost estimate for the work included, the borrower may do so, provided that the borrower escrows at time of settlement, or provides a letter of commitment pursuant to § 510.86(b), for supplementary financing in the amount by which the contract price exceeds 110 percent of the LPA estimate. In order to assure HUD, as lender, of the contractor's qualifications and of compliance with the Federal requirements cited in paragraph (b)(1) of this Section, the LPA shall concur in the award of all contracts. Prior to concurrence, the LPA shall assure that each contractor has adequate worker's compensation, comprehensive public liability, and property damage insurance. The LPA shall apply standards for approval of contractors in a manner which complies with § 510.50(f). Also the locality shall encourage the participation in the Section 312 program by small local contractors and socially and economically disadvantaged contractors including contractors owned or controlled by members of minority groups or women by helping to reduce their problems with insurance, bonding, credit, or skills training. CDBG funds may be used for this purpose, to the extent permitted by 24 CFR 570.206.

(4) *Contract preparation and award.* The LPA shall prepare the contract and assist the borrower in its execution. The LPA shall assure that, to the extent possible under State and local law, the timing of execution of the contract or issuance of the proceed order is arranged so that the lien of the Section 312 loan will have priority over mechanics liens resulting from work financed by the Section 312 loan and any supplementary financing.

§ 510.80 Borrower as contractor.

(a) *Non-Professional Contractor.* (1) Rehabilitation work on any eligible property may be undertaken by the borrower, including cooperatives, corporations or partnerships, using their own labor; by acting as a general contractor and supervising the hiring and work of all subcontractors; by performing some of the work themselves; or by some combination of these methods. Where subcontractors are utilized in part, the borrower shall have separate written contracts with each subcontractor performing work which shall include those provisions listed in § 510.78(a).

(2) *Self-Help Agreement.* For those portions of the work to be accomplished by the borrower, either by his/her own labor, or by acting as a general contractor, an agreement shall be executed between the LPA and the borrower which sets forth the minimum conditions for accomplishing the work. This Self-Help Agreement shall contain:

(i) The specifications and scope of work to be done by the borrower and by subcontractors;

(ii) A reasonable time schedule for completion;

(iii) Alternate means of accomplishing the work if the borrower is unable or unwilling to do so;

(iv) A method of selecting and managing subcontractors;

(v) Costs for materials and equipment to be used by the borrower and for the work to be done by subcontractors;

(vi) Provisions necessary to comply with applicable Federal, State and local requirements; and

(vii) Sanctions to be applied if the work is not completed properly or is unduly delayed.

(3) *Technical Assistance.* The LPA shall provide technical assistance as described in § 510.78(b)(1) for determining the scope of work and cost estimate, clearly differentiating the work which will be completed by the borrower from the work which will be completed by subcontractors. Construction assistance, in the form of counseling and guidance to the borrower on construction techniques, may be provided by the LPA or its designee as necessary. A written contract between the borrower and each subcontractor is required and shall be reviewed by the LPA prior to the approval of the loan. The LPA shall inspect and ensure the proper installation of materials and equipment. During the progress of the work of each subcontractor, 10 percent of payment will be retained. However, upon satisfactory completion of an individual subcontract, the entire amount due may be released from the rehabilitation escrow account, except where State or local law provides otherwise.

(4) *Compensation to borrower.* For work accomplished directly by the labor of the borrower, the rehabilitation loan amount shall not include funds to pay the borrower or family members for their labor. Disbursements from the rehabilitation escrow account for specified materials and equipment may be made only after proper installation. In addition, no compensation allowance may be made to the borrower from loan proceeds for his/her performance of the function of general contractor. However, subcontractors who are under contract with the borrower, acting as general contractor, may include profit and overhead in their bid amounts.

(5) *Contingency factor.* For rehabilitation loans utilizing the self-help process, the Area Manager may authorize up to a 15 percent contingency, if appropriate, as an includable cost under Section 510.38.

(b) *Professional contractor.*(1) *Self-Help Agreement.* Where the borrower is a recognized general contractor, who has a license where applicable, with an established record of satisfactory performance as a general contractor for the types and level of proposed construction as described in this Part, an agreement between the borrower and LPA shall include at minimum those provisions cited in Section 510.78(a).

(2) *Work Write-up and Cost Estimate.* Where the borrower is a building professional and is serving as a general contractor, the borrower, the LPA or a third party may provide the work write-up. For loans of $27,000 or under, the LPA shall verify the proposed cost as being not more than 110 percent of the

LPA's estimate of the amount described in paragraph (b)(3) of this Section (including overhead allowance). For loans over $27,000 where the work write-up is prepared by the borrower, the LPA shall require an independent cost estimate by a qualified third party selected by the LPA and agreed upon by the applicant. It is anticipated that those requested to prepare the cost estimate will generally be building inspection firms, architectural and/or engineering firms, or other general contractors. The party preparing the estimate shall have no interest in the property beyond his or her fee, which shall be paid by the applicant and is an eligible loan expense.

(3) *Compensation to Borrower.* No compensation allowance, or profit, may be made to the borrower from loan proceeds for his/her performance of the function of general contractor. However, the borrower/professional contractor may receive an overhead allowance of 10 percent of the following: the total of the cost of all the subcontractor's contracts plus the cost of materials and labor for those portions of the work to be performed by the contractor's employees.

(c) *Timing of Commencement of Work.* To the extent possible under State and local law, the LPA shall assure that the timing of execution of the self-help agreement or issuance of proceed order is arranged so that the lien of the Section 312 loan will have priority over mechanics liens resulting from work financed by the Section 312 loan and any supplementary financing.

§ 510.82 Loan Approval: Required Determinations.

The Approving Officer, in connection with approving a Section 312 rehabilitation loan subject to HUD fund availability and the LPA or locality (as applicable) in recommending approval of a Section 312 loan, shall underwrite the loan and make the following specific determinations:

(a) *The loan is an acceptable risk, taking into consideration:* (1) *The need for the rehabilitation.*

(2) *The security available for the loan.* While all Section 312 loans must be secured as stated in § 510.42 and must be within the maximum loan amounts set forth in § 510.36, under this paragraph the borrower's equity in the property and the lien position of the Section 312 loan as shown by the title evidence shall be considered for underwriting purposes. The following provisions shall be utilized where applicable to improve the security available for the loan:

(i) In cases in which a corporation is the borrower, the authorized Officer of the corporation shall execute the promissory note and mortgage on behalf of the corporation. When there is little or no net worth in a corporation beyond the property involved in the loan or there are other factors associated with the loan application which make the loan a questionable underwriting risk, the Approving Officer shall require a corporate officer or a principal stockholder to personally guarantee the Section 312 loan and to co-sign the promissory note. The assets of the personal signatory must be sufficient to add materially to the security of the loan.

(ii) In cases of individual ownership, joint ownership or when a partnership or trust is the borrower, the Section 312 loan shall be considered a recourse loan and all partners or trustees, corporations and individuals shall assume personal liability for repayment of the Section 312 loan. This requirement includes limited partners who shall also assume personal liability by co-signing the note as a borrower or by personally guaranteeing the loan.

(iii) Any personal guarantee or endorsement by an individual shall not relieve the partnership, trust or corporate applicant from being required to secure the Section 312 loan with a mortgage or deed of trust on the property to be rehabilitated.

(3) *The ability of the applicant and/or an investment project to repay the loan.* This shall include consideration of the applicant's history of debt repayment as well as the actual sources and amounts comprising the applicant's income and/or investment project income and expenses. In cases where an investor-owned property only marginally produces enough income to cover expenses and the loan repayment, the applicant's strong financial condition and ability to repay the loan may support a finding of acceptable risk.

(4) *The sufficiency of funds for rehabilitation.* This consideration means assurance that funding from the Section 312 loan and any supplemental financing will be sufficient to finance all rehabilitation which is required by the rehabilitation loan agreement between HUD and the borrower.

(b) *The applicant is unable to secure the necessary funds to finance the required rehabilitation from other sources upon comparable terms and conditions.* "Other sources" in this context refer to conventional financing and do not include other Federal, State or local funding programs providing rehabilitation financing, such as CDBG.

(c) *The loan complies with all other requirements of this Part.*

(d) Loans which do not meet these standards shall be disapproved and the applicant informed under the provisions of the Equal Credit Opportunity Act of 1976, pursuant to § 510.50(f)(6).

§ 510.84 Loan Settlement.

(a) *Loan settlement.* Loan settlement of Section 312 rehabilitation loan funds shall be accomplished by the LPA according to the following procedures:

(1) Prepare and have the borrower execute the rehabilitation loan agreement, the promissory note and mortgage, deed of trust, or other loan security instrument as required by Section 510.42;

(2) Prepare and have the borrower execute the Rent Regulatory Agreement if required under § 510.102;

(3) Take actions to assure that settlement complies with Truth-in-Lending Requirements (510.50(a)) and Real Estate Settlement Procedures (if refinancing a land sales contract is involved, § 510.50(b)).

(4) Ensure that necessary and adequate insurance policies such as fire, flood, disaster and extended coverage are in force and all taxes, special assessments and ground rents are paid to date of loan settlement and provision is made for payment of these items during construction and for collection of monthly escrow payments for these items unless a lender with a senior position is collecting such escrows;

(5) For refinancing, ensure that a full statement of amounts due for all loans or mortgages to be refinanced is available;

(6) Advise the borrower of the loan repayment schedule including escrow accounts, the servicer's name and address, and the date the first loan payment is due;

(7) Inform the borrower that the rehabilitation loan agreement will become a legally binding contract, effective after the full discharge of rescission rights under the Truth-in-Lending Act, if applicable;

(8) Have the LPA's counsel participate as may be necessary to assure the legal enforceability of the loan documents and the priority of the lien of the loan security instrument in accordance with the approved loan application;

(9) If the cost of rehabilitation work exceeds the amount of the loan approved, then supplemental financing from the borrower or legally-binding commitments of such financing from other parties shall be provided at loan settlement, as required by 510.86(b).

(b) *Post-settlement.* After settlement, the LPA shall ensure that:

(1) Section 312 loan documents are immediately and properly recorded;

(2) Documentation is obtained of completion of refinancing in accordance with correct legal procedure for the jurisdiction.

(3) All loan funds are disbursed from the rehabilitation escrow account properly pursuant to § 510.86.

(4) Within the time prescribed by HUD, all appropriate documentation is forwarded to the HUD Area Office; the necessary loan documents are sent directly to the servicer, as specified by HUD.

§ 510.86 Management of rehabilitation escrow account.

(a) *Accounts.* The LPA shall maintain one or more accounts with cash depository institutions for all rehabilitation escrow account funds, as well as for supplemental funds provided by the borrower. The account(s) shall be separate and distinct from all other accounts maintained by the LPA and shall be for the sole purpose of depositing rehabilitation escrow account funds. The accounts will be non-interest bearing. LPAs are encouraged to open accounts in minority lending institutions and/or institutions that promote and support, by lending practice, the localities' community development objectives.

(b) *Supplemental financing.* Supplemental financing which is provided by means of a commitment from a lending institution, or a grant or loan from other Federal, State, public or private sources may either be deposited in the escrow account or be applied directly to payment for the rehabilitation work. If applied directly, such financing shall be set aside for the rehabilitation work under a legally-binding commitment provided at loan settlement and shall either be used in full prior to any disbursements being made from the escrow account or both private and public funds shall be drawn upon jointly. For supplemental financing provided in cash by the borrower, it shall be deposited in the escrow account at or prior to loan settlement to assure its availability for the rehabilitation work. A loan approval made in reliance on the availability from any source of supplemental financing for any portion of the rehabilitation work included in the approved loan amount is subject to the condition that such financing will be legally committed at loan settlement as required by this paragraph. If such financing is not available at settlement, loan approval may be cancelled by the LPA.

(c) *Disbursements.* (1) Disbursements from the rehabilitation escrow account shall be by check, and checks shall be issued directly to the contractor or other payee based upon a voucher system. The voucher shall include a request for payment from the payee, and such payment from the escrow account shall be authorized by both the borrower and the LPA executing the voucher. At loan settlement vouchers are not required; payments due at settlement as described in § 510.38 shall be paid by check which is made payable jointly to the borrower and payee. The disbursement to the payee will occur by endorsement of the check by the borrower. In case of a default prior to completion of construction under the Section 312 security instrument, HUD may order disbursement from the rehabilitation escrow account in order to complete construction, if determined necessary by HUD in order to protect its security interest.

(2) If the rehabilitation costs are less than anticipated and unutilized funds remain in the account, such funds may be disbursed in the following order:

(i) to the borrower, as a reimbursement for supplementary financing originally made available as a cash deposit in the escrow account (but in no instance shall the reimbursement be in excess of the cash deposit made by the borrower);

(ii) to reduce the principal amount of the supplemental loan, up to the principal amount of any supplemental financing made available through conventional financing or other Federal, State or local rehabilitation loan programs; and

(iii) to reduce the principal amount of the Section 312 loan.

(d) *Cost overruns.* If the rehabilitation costs are greater than anticipated, and the scope of work cannot be decreased, the additional funds needed shall be obtained from the borrower and immediately deposited in the rehabilitation escrow account. However, if the reasons for the cost overrun were clearly beyond the control of the borrower and supplemental financing cannot be timely obtained from any reasonably available source, then a new loan application for the total adjusted rehabilitation cost may be processed and approved, subject to availability of funds from HUD and applicability of loan limits.

(e) *Fund accountability.* The Secretary and the Comptroller General of the United States, or their designees, shall have access, for the purpose of audit and examination, to the books, documents, and records of the locality and the LPA, or its agent or contractor, related to the administration of the Section 312 Loan Program. Records shall be retained for the life of the loan or for such shorter period as may be prescribed by the Secretary.

§ 510.88 Inspection monitoring and progress payments.

(a) *Inspections.* (1) Progress and final payments to the contractor, or to the materials supplier where a line of credit is established in the case of self-help projects, shall be approved by the LPA only after the work has been inspected and found to be in compliance with the contract and with the PRS.

(2) The LPA is responsible for securing inspections on all properties where the Section 312 loan amount is less than $250,000.

(3) On properties with Section 312 loans of $250,000 or more, HUD or a HUD-approved inspector and the LPA staff shall make joint inspections, as agreed upon by them.

(b) *Holdback.* (1) A holdback of 10 percent of the value of the work completed for each progress payment to the general contractor, the borrower and subcontractors under self-help/sweat equity loans is required during construction. Upon inspection and certification of completion in accordance with the contract and applicable PRS, the final construction payment, including the holdback amount, may be approved by the LPA. A holdback higher than 10 percent may be utilized by the LPA to ensure construction is completed satisfactorily.

(2) A holdback of 5 percent may be approved on a case-by-case basis by the Area Manager if:

(i) The likelihood of construction completion is not jeopardized;

(ii) Local progress inspections are thorough and accurate; and

(iii) The borrower/contractor obtains a performance guarantee, performance bond, or letter of credit satisfactory to the Area Manager.

(c) *Payments.* For progress and final payments that the LPA is required to approve after inspection, in accordance with this Section, the LPA shall process a disbursement from the rehabilitation escrow account as provided in § 510.86(c). After a final inspection determines that the rehabilitation work has been completed, the LPA shall obtain a release of liens from the contractor and all subcontractors, and a copy of each warranty on the work. Any work not completed in accordance with the construction contract and PRS shall be corrected by the contractor, or else no payment shall be authorized by the LPA.

(d) *Monitoring.* The LPA, to the maximum extent feasible, shall cause the contractor to correct any

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deficiencies in work covered under the contract within the one year warranty period.

Subpart F—Special Requirements Applicable on Multifamily Loans, Mixed-use Properties With More Than Five Units, and Single-Family, Investor-Owned Properties

§ 510.100 General—Multifamily.

(a) *Assurances.* The locality shall certify in the loan application that: "The property is located in a low- and moderate-income area as described in 24 CFR 570.302(d)(2)(i) or at least 51 percent of the property's initial tenants after rehabilitation will be low- and moderate-income. The loan is consistent with the locality's current community development and housing plan developed pursuant to 24 CFR 570.304."

(b) *Maximum unit exception.* No Section 312 loan shall be made on a property having 100 or more units after rehabilitation, unless HUD determines that the loan is essential to meet the community development needs of a neighborhood and alternative sources of financing are not available. The Area Manager is hereby authorized to grant an exception to the 99 unit limit, based upon a written request from the locality including clear evidence of the importance of the specific project to the community development needs of the eligible area in which the property is located. The Area Manager is authorized to approve the locality's request, if the Area Manager finds that:

(1) The rehabilitation of the project will provide needed housing units for low- and moderate-income tenants, *or*

(2) The revitalization of the target area would be significantly hindered if the property were not rehabilitated.

(3) Under either (1) or (2) above, alternate sources of financing which would be adequate for the specific project are not available.

§ 510.102 Rent regulatory agreement.

(a) *Agreement.* A Rent Regulatory Agreement shall be executed at loan settlement for all multifamily and investor-owned single-family properties rehabilitated with Section 312 funds, for the purpose of limiting the rate of return to the borrower through increased rents caused by the rehabilitation of the property over the first 5 years of the loan commencing on the completion of rehabilitation work. Such an agreement shall be between the borrower and the United States of America acting by and through the Secretary of Housing and Urban Development and shall be executed by the HUD Area Manager or his/her designee on behalf of the Secretary. The agreement shall be in a form prescribed by HUD and shall include, among other loan information:

(1) The total monthly rents that may be charged for all dwelling units in the property computed in accordance with paragraph (b) of this Section;

(2) A provision to allow increases in such total monthly rents to cover increases in operating costs, including property taxes, insurance, utilities, maintenance, and other reasonable costs. Such increases in costs shall be documented in the files of the borrower, to be maintained for HUD inspection at its option for a period of 2 years following the expiration of the agreement. The borrower shall notify the LPA administering the loan and all original tenants still in tenancy of any rent increases above the initial allowed maximum and the reasons therefor during the period of the agreement;

(3) A provision for declaring the loan in default and/or for taking other appropriate legal action if the borrower fails to correct violations of the Rent Regulatory Agreement;

(4) A provision that the tenants of the property be provided with information in writing by the borrower regarding the terms of the Rent Regulatory Agreement;

(5) A provision that pre-existing debt and other rehabilitation financing on the property may be calculated into the Rent Regulatory Agreement if the original term is at least ten years, pursuant to paragraphs (b)(1)(ii) and (iv) of this Section. However, if the term of the existing debt expires within the first four years of the agreement, the amount of annual principal and interest payments on such debt must be subtracted from the figure used in paragraph (b)(1)(ii) and (iv) and the monthly rental amount recalculated on an annual basis for the remaining year or years;

(6) A provision that the agreement shall bind any successors in interest and shall be recorded with the mortgage which shall specifically incorporate the Rent Regulatory Agreement by reference; and

(7) A provision that any lease between the borrower and tenant contain a statement allowing the borrower to evict tenants only for cause and in accordance with State and local laws.

(b) *Rental amount.* The total monthly rent amount to be used as a basis for the Rent Regulatory Agreement shall be computed by:

(1) Totaling (i) through (v) of this subparagraph:

(i) The estimated annual operating expenses including insurance and taxes after rehabilitation;

(ii) The annual principal and interest payments on pre-existing mortgage debts, but only if the original terms were at least 10 years;

(iii) The annual principal and interest payments on the Section 312 loan;

(iv) The annual principal and interest payments on other rehabilitation financing, but only if the original terms were at least 10 years;

(v) An amount which is a reasonable return on investment as determined by HUD, on recommendation of the LPA, which shall not exceed a 20 percent return on equity defined as:

(A) appraised market value prior to rehabilitation plus;

(B) the cost of rehabilitation minus;

(C) after rehabilitation indebtedness (of at least a 10-year term) secured by the property.

(2) Dividing the total calculated in Subsection (b)(1) by .93 to adjust for vacancies.

(3) Dividing the amount calculated in Subsection (b)(2) by 12 to calculate the allowable total monthly rent.

(c) *Adjustments.* HUD reserves the right to revise downward the maximum percentage return on equity permitted under paragraph (b)(1)(v) of this Section as necessary to reflect changes in economic conditions, including changes in the prime rate. Any such decrease may be made by direct notice to localities processing Section 312 loans and shall be effective only for loans approved after the effective date of such Notice.

Subpart G—Loan Servicing

§ 510.120 General. [Reserved]

Subpart H—Performance Evaluation and Recordkeeping

§ 510.150 Records and reporting requirements.

(a) *Loan file.* The LPA shall keep complete records for each Section 312 loan which shall include, without being limited to, the following:

(1) All documents and supporting material required for a complete loan application submission to the Approving Officer;

(2) All documents and supporting material relating to loan settlement, the rehabilitation contract, inspection of the rehabilitation work, and loan close-out, including transmittal of documents to the loan servicer;

(3) A record of all contacts with and complaints from the borrower;

(4) A record of all problems experienced with the rehabilitation contractor(s); and

(5) Any other items specifically required by this Part or program forms

and documents to be included in the loan file.

(b) *Program records.* The locality or LPA, as appropriate, shall maintain the following program records:

(1) A record of the amounts and types of loans made on a yearly basis, as well as a record of the areas in which the loans were made;

(2) Accounting records which will, among other things:

(i) Fully disclose activity and status of the rehabilitation escrow account;

(ii) Disclose the name of each borrower, amount of the loan to the borrower, date(s) funds were received from HUD for each loan, date(s) funds were disbursed and the amount and date of any loan cancellations; and

(iii) Facilitate an effective audit;

(3) Documentation of corrective actions taken by the locality as a result of HUD reviews of program performance; and

(4) Other records as may be required by the Secretary by direct notice to the locality.

(c) *Reports.* The Secretary may require localities or LPAs participating in the program to submit periodic or one-time reports which may contain, without being limited to, the following:

(1) Information about amounts and types of loans approved and disapproved;

(2) Characteristics of loan applicants;

(3) Information about other activities in areas where the locality is targeting the loan funds;

(4) Information about the utilization of minority contractors; and

(5) Information concerning application of solar energy systems in rehabilitated property.

§ 510.154 Performance evaluation.

(a) *HUD review.* HUD shall review each locality's performance at least once each two years to determine whether corrective or remedial actions as described in § 510.156 are necessary because of the locality's failure:

(1) To carry out the Section 312 Program substantially in accordance with the requirements of applicable law, this Part, other applicable Federal regulations and executive orders, and any further requirements contained in program forms, legal documents and Handbooks;

(2) To maintain a continuing capacity to carry out the program in an efficient and timely manner;

(3) To provide a sustained level of concentrated public investment to complement the rehabilitation efforts in eligible loan areas, pursuant to § 510.22; or

(4) To meet the priorities and objectives set forth in § 510.2.

(b) *Scope of Review.* In reviewing each locality's performance under this Section, HUD will consider all available information, which may include, but need not be limited to, the following:

(1) The loan files maintained by the Secretary and by the locality or LPA;

(2) The locality's rate of committing Section 312 funds compared to any fund use schedules that may have been furnished to the Secretary;

(3) In-depth, on-site monitoring reviews of the locality to view program administration, concentration and quality of rehabilitation activity, including interviews with loan applicants and borrowers;

(4) Reports and records of public and private investment in eligible loan areas, as described in § 510.22;

(5) Reports prepared by the locality or LPA and furnished to the Secretary, as described in § 510.150(c);

(6) Results of previous reviews of the locality's or LPA's performance;

(7) Records maintained by the locality or LPA, as described in § 510.150(b);

(8) Audit reports whether conducted by the locality, the LPA, HUD or the General Accounting Office; and

(9) Records of comments and complaints by citizens and organizations, or litigation.

§ 510.156 Corrective and remedial sanctions.

(a) *Actions.* If the Secretary determines on the basis of a review of the locality's performance under Section 510.154, or otherwise, that corrective or remedial actions are necessary, the Secretary may take one or more of the actions authorized in this Section. In each instance, the action taken will be designed to first prevent a continuance of the deficiency; second, mitigate any adverse effect of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiency.

(b) *These actions may include:* (1) Directing the locality to submit additional information concerning any and all aspects of its administration of the program;

(2) Directing the locality to submit progress schedules and other reports on loan activity;

(3) Issuing a letter of warning that advises the locality of a deficiency and puts the locality on notice that more serious sanctions will be taken if the deficiency is not corrected or is repeated;

(4) Directing the locality to suspend or terminate loan processing activities;

(5) Reducing the Section 312 funds to a locality for that fiscal year as a result of the locality's inability to commit funds in accordance with the established use schedule for that locality or because of evidence of poor performance;

(6) Reducing the Section 312 funds available to the locality for the next fiscal year;

(7) Requiring the locality to make local public funds available to a borrower in order to complete the rehabilitation of his/her property where HUD determines that the locality's deficient administration of the program has resulted in the rehabilitation not being successfully carried out with the funds available from the loan;

(8) Conditioning the availability of a succeeding year's funds on the locality's correction of deficiencies noted by HUD; and

(9) Declaring an area or locality no longer eligible for Section 312 funding.

Issued at Washington, D.C., September 2, 1980.

Walter G. Farr, Jr.,

Deputy Assistant Secretary for Community Planning and Development.

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federal register

Wednesday
September 10, 1980

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Reimbursement for Services Furnished by Rural Health Clinics

V 45 SE 10 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 447

Medicare and Medicaid Programs; Reimbursement for Services Furnished by Rural Health Clinics

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would provide a prospective payment method for Medicare and Medicaid reimbursement of independent rural health clinics. Under present rules, both programs pay clinics for covered services furnished during a reporting period by using an interim rate, determine their share of each clinic's reasonable costs after the end of the period, and adjust their payments retroactively. Under the proposed regulations, the payment rate generally will be set at the beginning of the reporting period, with no year-end adjustment. These regulations are needed to replace existing interim regulations on payment of clinics, and are intended to provide rural health clinics with increased incentives to be more efficient and cost effective in their operations.

In addition to these proposed changes in our payment method, we are proposing to revise the current screening guidelines for clinic productivity and overhead costs (set forth in a notice published on September 21, 1978 (43 FR 42787)) to conform to the guidelines used by the Bureau of Community Health Services (BCHS), Public Health Service. We also are proposing to eliminate the current payment limit (set forth in the September 21, 1978 notice) for clinics paid under the prospective method.

DATE: To assure consideration, comments should be received by: November 10, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Maryland 21235. If you prefer, you may deliver your comments to: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., in Washington, D.C.; or to Room 789, East High Rise Bldg., 6401 Security Blvd., in Baltimore.

Please refer to file code BPP–22–P. Agencies and organizations are requested to submit comments in duplicate.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 309–G of the Department's offices at 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Bernadette Schumaker, 301–597–1048.

SUPPLEMENTARY INFORMATION:

Background

The Rural Health Clinic Services Act of 1977 (Pub. L. 95–210) added rural health clinic (RHC) services as a new benefit of Part B of Medicare, and as a mandatory benefit of certain State Medicaid plans. This new benefit includes payment for physician services and for medical services provided by nurse practitioners and physician assistants in a particular health care setting. Previously, certain medical services provided by nurse practitioners and physician assistants were not covered under Medicare, unless they were furnished incident to a physician's services. Other medical services were paid for if furnished by a physician, but not if furnished by a nurse practitioner or physician assistant. Under Medicaid, coverage of physician assistant and nurse practioner services was optional with the State.

This new benefit became effective for Medicare on March 1, 1978. Under Medicaid it became effective on July 1, 1978. The Medicare reimbursement regulations for RHC services are contained in 42 CFR Part 405, Subpart X, and the Medicaid reimbursement regulations are located at 42 CFR 447.371. Our current reimbursement systems for RHCs is expressly interim. These proposed regulations contain a prospective payment method that is intended to replace the current system.

Current Payment Method

Payment to Provider Clinics

Medicare and Medicaid regulations now require that RHCs that are a part of a hospital, skilled nursing facility, or home health agency (i.e., a provider of services) participating in the Medicare program be paid as part of the provider, under the provider reimbursement principles of Subpart D of Part 405.

Payment to Independent Clinics

Medicare now reimburses independent RHCs (i.e., those that are not part of a hospital or other provider of services) based on the clinics' reasonable cost incurred in furnishing RHC services to Medicare beneficiaries. Medicare intermediaries (called "carriers" in our RHC regulations because they pay Part B benefits) make interim payments to clinics based on an all-inclusive rate for each visit by a Medicare beneficiary. For each clinic, the carrier sets an interim rate of payment at the beginning of each reporting period. This interim rate is based on the clinic's estimated costs and estimated number of patient visits for the period. The carrier pays the clinic 80 percent of the all-inclusive rate for each Medicare covered visit, if the patient has fully incurred the Medicare Part B deductible amount. (If the deductible has not been fully incurred, the carrier pays the clinic a lesser amount or nothing, depending on the amount of the unmet deductible and the clinic's customary charges for the services.)

At the end of each reporting period, the clinic must file with the carrier a report of its actual costs and of the total number of visits for RHC services it actually furnished for the period. Based on this report, the carrier adjusts the payments made during the period to equal 80 percent of the reasonable costs the clinic actually incurred in furnishing covered RHC services to Medicare beneficiaries.

Medicaid now reimburses independent RHCs for rural health clinic services under a similar method. States that pay for RHC services use interim rates established by Medicare carriers, subject to adjustment at the end of the reporting period based on actual costs and visits. However, Medicaid pays 100 percent of the all-inclusive rate (subject to State copayment requirements, if applicable), whereas Medicare payments are set at 80 percent of the rate and are subject to the Part B deductible.

Under the current payment method, both Medicare and Medicaid payments for RHC services are subject to productivity and overhead cost screening guidelines. These guidelines, which are used to identify clinic costs that will not be reimbursed without special justification by the clinic, are set forth in a notice published in the **Federal Register** on September 21, 1978 (43 FR 42787), and are described in detail later in this preamble. The September 21, 1978 notice also provides an upper limit on the all-inclusive rate of payment for

RHC services. Both Medicare and Medicaid payments are subject to this limit.

Change to Prospective Payment Method

When the current RHC payment regulations were issued, we decided to use a retrospective payment method because it would not place clinics "at risk" during their first few years of dealing with Medicare and Medicaid. Also, this method has given us a base of information about, and experience with, RHCs that has been used in developing the prospective payment method that we now propose to use. (However, for reasons explained under "Proposed Payment Method" below, we plan to change the current payment method for independent RHCs only, not for provider-based clinics.)

One major objective of the proposed change to a prospective payment method is to give clinics an incentive for more cost-efficient operations. Under the current method, clinics generally have little incentive to control their costs, since any difference between a clinic's allowable cost per visit and its interim payment rate is taken into account by means of the year-end adjustment. Under the prospective method, however, the year-end adjustment would be eliminated. Therefore, a clinic would be encouraged to achieve an actual cost per encounter for each reporting period that is lower than its prospective rate for the period, so that it could keep the difference. (As explained later in this preamble, we do not propose to recalculate a clinic's rate because of increases in the clinic's efficiency.) On the other hand, the clinic would not be reimbursed for any actual costs in excess of its payment rate at year end, as is now the case, unless it could qualify for an exception under the conditions specified later in this preamble. This also would encourage efficiency.

Definitions

Under the retrospective payment method, HCFA uses the "visit" as its basic unit of measure for patient contact. Our current regulations, at 42 CFR 405.2401(b)(18), define a "visit" as a face-to-face encounter between a clinic patient and a health professional. This regulation also specifies that encounters with more than one health professional and multiple encounters with the same health professional that occur on the same day and at a single location are considered only one visit unless, after the first encounter, the patient suffers an illness or injury requiring additional diagnosis or treatment.

Our use of this term has caused concern among clinics that also receive grants from the Bureau of Community Health Services (BCHS), PHS. The BCHS, in evaluating the performance of clinics that receive these grants, uses the term "encounter" as its basic unit of measure for patient contact. Until recently, encounters with more than one health professional, and multiple encounters with the same health professional, were counted separately by the BCHS.

In the past, clinics have stated that they find the use of different terms and definitions by HCFA and the BCHS confusing, and that because of these differences it is difficult for the clinic to comply with both the HCFA and BCHS requirements. In particular, clinics have found it difficult to comply with the separate productivity standards and reporting requirements that HCFA and the BCHS have used.

As explained later in this preamble, we are proposing to adopt, concurrently with the change to the prospective payment method, the productivity guidelines used by the BCHS. In addition, HCFA and the BCHS are developing a common reporting system for use for reporting periods beginning on or after the effective date of the final regulations setting forth HCFA's prospective payment method. To make it possible for clinics to use the same productivity guidelines and reporting system, HCFA and the BCHS have agreed to a common definition of the term "encounter". This definition, which is substantially the same as the current HCFA definition of the term "visit," is set forth in our proposed regulations and has been used to replace the term "visit" in those regulations. Under this definition, both the BCHS and HCFA would use the same criteria for determining the number of encounters a clinic furnishes.

Except for the change from "visit" to "encounter," both the prospective payment method and the current payment method use the same definitions (set forth in § 405.2401(b)), and the same general rules (set forth in proposed § 405.2426) regarding the types of costs that are allowable.

Proposed Payment Method

Payment to Provider Clinics

We have decided not to propose use of a prospective payment method to pay provider clinics. Instead, we propose to retain the present system for them. Under this system, a provider clinic is treated as an outpatient department of the provider, and payment for clinic services is made under the Medicare principles of reimbursement for provider services set forth in 42 CFR Part 405, Subpart D. We plan to continue using this system for these clinics because we believe it is more reasonable and efficient for Medicare to pay a provider for clinic services on the same basis as it pays for other outpatient services of the provider. We believe segregating the provider clinic and paying it on some other basis would be unduly complex. Because very few clinics (fewer than twenty-five) are operated as provider clinics, we do not expect that paying these clinics under the Medicare principles will defeat the purposes of the prospective method.

Because some States pay hospitals, skilled nursing facilities, and home health agencies for services to Medicaid patients under reimbursement principles that differ from Medicare's, we considered allowing them to pay provider clinics using those different principles. We rejected this approach because we believe the need for consistent Medicare and Medicaid reimbursement of RHCs outweighs the minor administrative advantages this approach would produce. Also, under Medicaid, many States already use different reimbursement principles for different provider components. For example, inpatient services may be paid for under Medicare principles, while outpatient services are paid for using a negotiated rate. Therefore, we believe any additional administrative complexity introduced by our proposed approach will not be significant.

Payment to Independent Clinics

Under our proposed regulations, Medicare and Medicaid generally would use the prospective method to pay independent clinics. However, we plan to use the retrospective method of payment for some of these clinics. For example, we are proposing to pay new clinics that have unstable costs or utilization, or both, under the retrospective method for their first two years of participation in Medicare or Medicaid. We also propose to use the retrospective payment method for established clinics that incur unusually high costs per encounter because of the special needs of their patients, because of increases in their range of services, or because of increases in costs or decreases in utilization due to factors beyond their control. The specific circumstances under which we would pay an independent clinic under the retrospective method are described below.

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Payments to Newly Participating Clinics

Under the proposed regulations, we would generally use the retrospective payment method, rather than the prospective method, to pay RHCs that have not participated in Medicare or Medicaid, or both, for at least two full reporting periods. New clinics typically experience considerable fluctuation in the costs they incur, and in the number of encounters they furnish, during their early years of operation. These fluctuations make it difficult to calculate an accurate prospective rate, and can produce an average cost per encounter that varies substantially from the per encounter costs of well-utilized clinics. If we paid these new clinics under the prospective method applicable to well-established clinics, they might be placed unnecessarily "at risk" during their early years of participation, since the prospective method could result in reimbursement lower than that justified by the clinics' financial situations. Therefore, we proposed, as a general rule, to apply the retrospective method to these clinics for their first two reporting periods of participation. We believe that normally two years is enough time for a clinic to stabilize its costs and utilization sufficiently to permit payment to be made under the prospective method.

Under certain conditions, HCFA will instruct the carrier to pay a newly participating clinic under the prospective method. A clinic can qualify for prospective payment by demonstrating to the satisfaction of HCFA that its costs and utilization (i.e., annual number of encounters) are sufficiently stable to allow accurate prospective payment, and that it can generate the cost and utilization information the carrier needs to calculate a prospective rate.

Rate Setting Under the Prospective Method

General. Under the prospective method, we propose to pay each clinic at a single, all-inclusive rate for all services furnished during each patient encounter. This part of our proposed method does not represent a change from the current method.

We are proposing to continue using an all-inclusive rate for two reasons. First, clinics are already familiar with this payment method. Medicare and Medicaid have paid RHCs on an all-inclusive rate basis since 1978 and, in addition, approximately two-thirds of all facilities that participate as RHCs also receive grants from the BCHS, and report their costs to BCHS on an all-inclusive rate basis, i.e., as an average cost per encounter. Therefore, we believe continuing to use an all-inclusive rate will help clinics make the transition from a retrospective method to a prospective method.

We also believe an all-inclusive rate method is desirable because, unlike some other methods, it would not impose any additional recordkeeping or reporting burden on clinics. We considered paying clinics different amounts for the different types of services they furnish during each patient encounter. However, we are not proposing this approach because many clinics are very small, and do not have accounting systems that are sophisticated enough to allow them to calculate their costs on a service-by-service basis. We do not believe it would be equitable to these clinics to mandate a payment method that would require them to develop more complex and costly accounting systems.

Under the prospective method, the carrier would set a clinic's payment rate for a period at the lower of the Statewide target rate or the alternative individual clinic rate, and would not adjust its payments retrospectively at the end of the period. HCFA would calculate the Statewide target rate by estimating the national median RHC cost per encounter for the period, increasing that amount by 15 percent, and adjusting the labor portion of the resulting rate to reflect the prevailing wage level in the particular State. The carrier would calculate the individual clinic rate for each clinic by determining the allowable cost per encounter the clinic incurred in its "base period", and increasing that amount by 15 percent.

Both the Statewide target rate and the individual clinic rate include a 15 percent allowance above cost. In the case of the Statewide target rate, this allowance is intended to give the clinic an incentive to restrain cost increases by allowing it to maintain a margin between its base period cost per encounter and its payment rate. In the case of the individual clinic rate, the 15 percent allowance over the base period cost per encounter is intended to serve this purpose, and to take account of any cost increases that occur during the current period. We expect that clinics will use this margin to acquire more up-to-date equipment, upgrade staff qualifications, and otherwise improve the quality of their services.

Generally, the Statewide target rate and individual clinic rate would be recalculated based on new cost and utilization data only once every three years. For other periods, the carrier would determine a clinic's prospective rate by increasing both the target rate and the individual clinic rate for inflation, and paying the clinic at the lower of the two rates. The method we propose to use to update these payment rates is described later in this preamble.

Exceptions to the use of the prospective method are permitted for clinics that incur unusually high per-encounter costs because of the special needs of their patients, because of needed staffing changes or expansion of their range of services, or because of natural disasters or other factors beyond their control. If a clinic is able to demonstrate to HCFA that an exception for a period is warranted, HCFA will direct the carrier to pay the clinic under the retrospective method for that period.

The proposed regulations would also permit HCFA to recalculate a clinic's prospective rate to reflect reductions in the clinic's cost per encounter that result from reduction of the clinic's range of services, or increases in utilization of 15 percent per year, or more.

The proposed regulations specify how the clinic's payment rate will be calculated under the prospective payment method. We are describing this method in detail so that a clinic will know how its rate will be calculated, and how the recalculation and exception provisions will operate. However, our proposed method for computing a clinic's payment rate would not impose any substantial new reporting or recordkeeping requirements on the clinic. As under the current method, a clinic would submit a report of its costs and utilization to the carrier, which would process the report. The carrier would then forward the information to HCFA. HCFA and the carrier would perform all calculations needed to determine a rate of payment for the clinic, in accordance with the method specified in these regulations.

Use of Base Period

Under the prospective payment method, the carrier would first establish a "base period" for each clinic. The purpose of the base period is to establish a foundation for making cost comparisons that reflects a clinic's actual cost experience for a relevant period of time. A clinic's initial base period would be the reporting period that immediately precedes the first reporting period for which the clinic is paid using the prospective method. Each third reporting period after the initial base period would become a new base period. However, the part of any reporting period for which the clinic's rate is recalculated, or for which the clinic is granted an exception because of an atypical situation or because of material changes in costs or utilization, also would become a new base period. This new base period would continue to be used for rate calculation until it is replaced by the next regular base period.

After it has established a clinic's base period, the carrier would calculate the allowable cost per encounter actually incurred by the clinic for the base period. The carrier would make this calculation from the clinic's report of its total allowable costs and actual number of encounters for RHC services by all patients during the period. In making this calculation, the carrier would use the same rules regarding the allowability of costs as are used under the present retrospective method.

Use of Interim Rate

An interim rate for part of a clinic's first period after a base period is necessary because the carrier could not know whether the clinic should be paid at the Statewide target rate, or at an individual clinic rate, until it has received and analyzed the clinic's base period cost and utilization report. This report would not be available until sometime after the beginning of the new reporting period. The interim rate for the new reporting period would be calculated by increasing the payment rate used at the end of the RHC's previous period by 15 percent. In the case of a new clinic paid under the prospective method, the carrier will set the interim rate at 115 percent of the allowable cost per encounter it estimates the clinic will incur for the current period. The carrier will base this estimate on the current period cost and utilization information the clinic submitted to qualify for prospective payment.

This interim rate would be used until the actual rate can be calculated based on the actual allowable cost per encounter incurred in the preceding period. We plan to instruct carriers to calculate an actual rate for each clinic within 45 days of the date they receive the clinic's report of prior period costs and encounters. The actual rate for the period, once calculated, would apply retroactively to the beginning of the payment period. The carrier would make an adjustments if the temporary rate differed from the actual rate for the period, in order to bring the payments made in the beginning of the period into line with the actual rate. This adjustment would have the same result as if the new prospective rate had been used for this entire reporting period.

Determination of All-Inclusive Rate

After calculating a clinic's allowable cost per encounter for its base period, the carrier would establish the clinic's all-inclusive rate for the current period. This rate would be the lower of:

(1) A Statewide target rate that HCFA calculates by estimating the median inflation-adjusted cost per encounter for all RHCs in the nation for the current period, increasing this estimated median cost by 15 percent, and adjusting the resulting national rate to account for State-to-State variations in labor costs; or

(2) An alternative individual clinic rate that HCFA calculates by multiplying the clinic's base period allowable cost per encounter by 115 percent for the first reporting period after the base period, by 132 percent for the second reporting period after the base period, or by 152 percent for the third reporting period after the base period.

Statewide Target Rate

HCFA will calculate a separate Statewide target rate for clinics in each State by using the following methodology.

(1) *Use of Comparison Period.* HCFA would first establish a standard twelve-month comparison period, and obtain from the carriers a copy of each clinic cost report filed for a reporting period that ended within the comparison period. However, HCFA would not obtain reports, or use data, from clinics that have not participated in Medicare or Medicaid for at least two reporting periods.

(2) *Data.* From each cost report, HCFA would obtain the following data:

(i) The ending date of the period to which the report applied;

(ii) The allowable average cost per encounter for rural health clinic services the clinic incurred for the period, as determined by using the productivity guidelines described later in this preamble. To calculate the clinic's per-encounter cost, HCFA would divide the clinic's total allowable costs for the period by the greater of the number of encounters the clinic reported it furnished during that period, or the number of encounters expected under the productivity guidelines; and

(iii) The ratio of the clinic's compensation costs (e.g., employees' salaries and fringe benefits) to its total costs.

(3) *Use of Comparability Factor.* Because RHCs use various reporting periods (e.g., January through December, or July through June), not all the cost data extracted under step 2 will relate to the same time period. If a particular clinic uses a reporting period that ends before the close of the comparison period, cost data from that clinic must be adjusted to account for increases in costs that have occurred between the end of the clinic's reporting period and the end of the comparison period. To make this adjustment, HCFA would update these data by using a comparability factor.

Under 42 CFR 405.504, HCFA publishes an annual notice that limits the increases in the prevailing charges for physicians' services that will be recognized by Medicare. The annual increase factor set forth in this notice is derived from data that reflect changes in the level of workers' earnings generally and physicians' practice costs. The most recent notice of this type was published in the **Federal Register** on June 27, 1980 (45 FR 43475). The annual increase factor set forth in that notice is 1.0842. We propose to use the current annual increase factor to predict increases in the costs of rural health clinics.

To determine the comparability factor for a particular reporting period, we would first divide the annual increase fator for the comparison period by twelve, to determine a monthly comparability factor. We would then increase the averge cost per encounter each clinic reported for that period by 1/12 (8.33 percent) of the annual increase factor for each month between the end of the reporting period and the end of the comparison period. This adjustment would have the effect of relating the average cost per encounter data for all clinics to a standard comparison period.

(4) *Adjustment for Wage Differences.* After the average cost per encounter data for clinics have been adjusted to relate to a uniform time period, these data also must be adjusted to remove variations due only to State-by-State differences in labor costs. To make this adjustment, HCFA would first group these data by State. For each State, each average cost per encounter would then be separated into its labor and non-labor portions. We would determine the labor portion of cost for each clinic by multiplying the average cost per encounter for that clinic by that clinic's ratio of compensation cost to total cost, as computed in step 2. We would then divide the labor portion of cost by the rural wage index for that State.

For this purpose, we propose to use the rural wage index for each State that appears in the schedule of limits on hospital inpatient general routine operating costs that is authorized by 42 CFR 405.460, and published annually in the **Federal Register.** This index, which reflects the different wage levels in areas in which clinics are located, relates the wage levels in each State to a national norm of 1.0 (Specific State index values range from a low of .7753 (for South Dakota) to a high of 1.5107 (for Alaska)). The most recent wage index was published in the **Federal Register** on June 20, 1980 (45 FR 41868). The effect of this calculation would be to adjust the labor portion of each clinic's costs to remove the effect of State-to-State wage differences. For each clinic, we would then add the adjusted labor portion of the average cost per encounter to the non-labor portion of the clinic's average cost per encounter.

(5) *Median Cost Per Encounter.* To determine the median cost per encounter for the comparison period, we would array the average costs per encounter for each clinic, as adjusted in steps 1–4, and determine the median of these costs.

(6) *Projected Median Cost Per Encounter.* To account for inflation that will occur between the end of the comparison period and the end of the first reporting period for which the Statewide rate is being calculated, we would multiply the median average cost per encounter computed in step 5 by an adjustment factor necessary to project the data from the midpoint of the comparison period to the midpoint of the first reporting period to which the Statewide target rate will apply. This adjustment factor would be the product of one twelfth of the current annual increase factor and the number of months between the midpoints of the two periods. The result of this computation would be the estimated median cost per encounter all rural health clinics in the nation will incur in the first reporting period to which the Statewide target rate would apply.

(7) *National Target Rate.* To determine the national target rate, we would multiply the projected median cost per encounter, as computed in step 6, by 115 percent.

(8) *Statewide Target Rate.* To determine the target rate for clinics in each State, we would first isolate the labor portion of the national rate by multiplying the national target rate by the aggregate ratio of compensation to non-compensation costs for all clinics in the nation. This aggregate ratio would be the average of the individual clinic ratios computed in step 2.

For each State, we would multiply the labor portion of the national rate by the rural wage index for the particular State, as in step 4. We would then add the State-adjusted labor portion of the rate to the non-labor portion of the national rate to arrive at a separate target rate for each State.

The Statewide target rate would apply for clinics with reporting periods beginning on the same date as the first period for which the rate is effective. For clinics with reporting periods starting on later dates, we would increase the Statewide target rate by 1/12 (8.33 percent) of the pertinent annual increase factor for each month after the start of the first reporting period for which the rate is effective and before the particular clinic's reporting period.

For the two full clinic reporting periods that follow the first period for which a Statewide target rate is calculated, the target rate would be increased for inflation by using the annual increase factor used to establish the economic index described in 42 CFR 405.504. For the next period, the target rate would be recalculated based on new data.

Exceptions

The proposed regulations would permit HCFA to make exceptions to the use of the prospective rate under two sets of circumstances. If a clinic incurs an average allowable per-encounter cost in its base period in excess of the Statewide target rate for the current period, it may ask HCFA to direct the carrier to pay it under the retrospective method for the current period. For this type of request to be approved, the clinic must demonstrate to the satisfaction of HCFA that the excess costs are proper and necessary in the delivery of RHC services, that the costs do not result from over-staffing, and that the costs are due to the special needs of the clinic's patients.

The proposed regulations also would permit an exception to the use of the prospective payment method for clinics that incur average per-encounter costs higher than their prospective rates because of material increases in their costs or decreases in the utilization, or both, caused by circumstances that occur after the base period. Examples of these circumstances include changes in staffing essential to the efficient operation of the clinic, changes in the clinic's range of services, as well as fires, floods, and other natural disasters that can drastically alter a clinic's costs, or utilization, or both. We have not attempted to define all circumstances that would justify an exception under this section in the proposed regulations, because we intend this section to give HCFA administrative flexibility to meet actual costs under a variety of circumstances that can unavoidably affect a clinic's operations. If a clinic is able to demonstrate to the satisfaction of HCFA that circumstances beyond its control, or changes in its range of services, have caused its actual cost per encounter to exceed its prospective rate for a period, the clinic may choose to be paid for that period under the retrospective method.

If an exception is granted for a period, that period would then become a base period for future rate computations, and would continue to be used as a base period until HCFA calculates a new national median.

Rate Recalculation

In addition to the exceptions described above, which permit a clinic's payment rate to be increased because it incurs unusually high per-encounter costs, the proposed regulations would authorize HCFA to reduce a clinic's rate for the remainder of the current reporting period to reflect certain decreases in per-encounter costs that occur after the rate has been calculated. Under the proposed regulations, HCFA would recalculate a clinic's rate if, during the current period, the clinic reduced the range of services it furnishes. HCFA also would recalculate a clinic's rate if the clinic's utilization increased sufficiently to make it clear that, if the increase in utilization continued for an entire reporting period, the clinic would furnish at least 15 percent more encounters than it furnished the previous reporting period. The regulations required clinics to report these changes in range of services or utilization, or face recovery action. Except under unusual circumstances, HCFA would not expect the need for a rate recalculation to occur more often than once a year.

If a recalculation is necessary, HCFA will direct the carrier to reduce the clinic's rate to 115 percent of the cost per encounter incurred by the clinic during the part of the reporting period following the reduction in range of services, or increase in utilization. In recalculating the clinic's rate, the carrier will, to the extent possible, exclude changes in the clinic's cost per encounter that result from regular seasonal variations in utilization and other changes that are not related to the circumstances that required the recalculation. If HCFA recalculates a clinic's rate, the part of the period for which the rate is recalculated becomes a base period for purposes of future rate determinations.

This recalculation provision is intended to permit HCFA to adjust a clinic's prospective payment rate to reflect reductions in per-encounter costs that occur after a base period, and result from factors other than increased clinic efficiency. Because one major objective of the change to a prospective payment system is to encourage more efficient clinic operations, we do not plan to recalculate a clinic's rate between base periods to reflect lower per-encounter costs that result from greater efficiency. We believe clinics must be allowed to benefit from these cost reductions so they will have an incentive to improve their operations. However, we are aware that there are circumstances other than increases in efficiency that can reduce a clinic's cost per encounter. To avoid allowing clinics an unintended benefit from cost reductions that are unrelated to efficiency, we plan to recalculate a clinic's rate in these circumstances.

One change that can reduce a clinic's cost per encounter is a reduction in its range of services. Each clinic's individual clinic rate is calculated based on the range of services the clinic furnished during its base period. Therefore, any reduction in the clinic's range of services that is not accompanied by a corresponding decrease in utilization will result in a lower cost per encounter. We do not believe that decreases in the range of services equate with increases in efficiency, nor do we intend that the prospective payment system should give clinics an incentive to eliminate necessary but unprofitable services. Therefore, when a clinic eliminates one or more services it furnished in its base period, we propose to recalculate the clinic's rate to reflect the reduced range of services.

Another change that can affect a clinic's cost per encounter is a substantial increase in its utilization. Since the individual clinic rate is calculated based on the level of utilization the clinic experienced during its base period, any marked increase in utilization that is not accompanied by a corresponding cost increase will result in a lower cost per encounter. While some utilization increases may result from more efficient use of clinic resources in the delivery of services, we believe that substantial increases in utilization (i.e., increases of 15 percent or more per year) typically result from other factors, such as increases in the population of the clinic's service area or the departure of a physician from that area. These factors, which are beyond the clinic's control, cannot be equated with increases in efficiency. Therefore, we propose to recalculate a clinic's rate to reflect any change in utilization that the clinic reasonably expects will continue throughout a reporting period and, if continued, would result in an increase of 15 percent or more over the previous period's utilization. By contrast, clinics would not be expected to report short-term or seasonal increases in utilization that would not increase their total utilization for a period by 15 percent or more.

We have selected the recalculation criteria we are proposing (i.e., decreases in the range of services, or increases in utilization of 15 percent or more) because we believe these criteria will help identify changes in costs per encounter that do not result from increased clinic efficiency. We are specifically requesting public comment on whether there are any circumstances other than increasing utilization or reductions in services that should be cause for rate recalculation, whether the threshold for recalculation based on increases in utilization should be more or less than 15 percent, and whether any other changes in the proposed regulation would be desirable to prevent excessive payments without penalizing clinic efficiencies. Based on the comments we receive, we may include expanded or revised recalculation criteria in the final regulations.

Reporting Requirements

Although the proposed regulations would not change the current requirement that clinics paid under the retrospective method submit annual reports in the form required by HCFA, we are considering a change in the reporting forms some clinics must use for this purpose. As indicated above, a number of clinics participating in the Medicare and Medicaid programs as RHCs receive funds under grant programs administered by the Bureau of Community Health Services (BCHS) of PHS, and are required to report costs and statistical information as part of the BCHS Common Reporting Requirements. HCFA is concerned that these clinics may incur unnecessary reporting expenses because they are required to report to two agencies of the Department using different definitions, cost principles, and reporting forms. Consequently, HCFA and BCHS are developing a combined reporting system that a clinic could use to satisfy both the BCHS and HCFA requirements. This reporting system would apply to clinics paid under either the retrospective or prospective method. We hope to have this report available for reporting periods beginning on or after the effective date of the final regulations.

Clinics paid under the prospective method would be requried to submit two types of reports. Within 90 days after the end of a base period, the clinic would be required to submit to the carrier a report of its operations in that year. This report would include the costs the clinic incurred for the period, and the total number of encounters for RHC services the clinic furnished to all patients during the period. Within 60 days after the end of each reporting period that is not a base period, the clinic would be required to submit to the carrier a simplified summary of its costs and encounters for the period. In addition, a clinic would be required to report to the carrier any reductions in its range of services or increases in utilization of 15 percent or more the clinic should reasonably expect would, if the increase continued for an entire period, produce an increase of at least 15 percent in the total number of encounters the clinic would furnish for that period relative to the number of encounters it furnished in the preceding period. This report would include current cost information, and if services were reduced, utilization information. Based on this report, HCFA would determine whether a rate recalculation is needed. If a clinic delayed reporting these changes and HCFA learned of them by other means (e.g., from the clinic's next annual report), HCFA would determine the amount by which payments under the previous rate were excessive, and reduce later payments to recover that amount.

Screening Guidelines and Payment Limit

The House and Senate committee reorts accompanying the RHC benefit legislation (Pub. L. 95–210) direct the Secretary to establish screening guidelines to identify situations in which costs would not be allowed without further investigation or reasonable justification. At present, we use two such guidelines. The guidelines appeared in the September 21, 1978, **Federal Register** (43 FR 42787), and apply to productivity of the clinic's health care staff and to its level of overhead expenses. The productivity guideline provides that clinics with per visit costs of more than $16, including allowable overhead costs, should provide at least three visits per physician hour for rural health clinic services furnished at the clinic, at least two visits per physician assistant or nurse practitioner hour for rural health clinic services furnished at the clinic, and at least one visit per hour for services furnished at locations other than the clinic. If the clinic does not meet these guidelines and cannot adequately justify its failure to do so, its rate is reduced to what it would have been if the clinic had met the guidelines.

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but not to less than $16 per visit. The overhead cost guideline provides that allowable overhead costs may not exceed 30 percent of a clinic's total allowable costs, unless reasonably justified by the clinic.

We propose to continue using the current productivity and overhead cost guidelines for reporting periods beginning before the effective date of the final regulations. For reporting periods beginning on or after that date, under both the prospective and retrospective methods of payment, we propose to eliminate use of the overhead cost guideline. In addition, under both methods, we propose to use productivity guidelines that are the same as those used by BCHS to evaluate the performance of clinics that receive Federally funded health center grants. These productivity guidelines are set forth in January, 1978 BCHS program instructions to clinics. They are as follows:

(1) At least 4200 encounters per year per full-time equivalent physician employed by the clinic;

(2) At least 2100 encounters per year per full-time equivalent physician assistant or nurse practitioner employed by the clinic; or

(3) If physicians and nurse practitioners or physician assistants are coordinated into a team, at least 6300 encounters per year for each team that consists of a full-time equivalent physician and full-time equivalent nurse practitioner or physician assistant.

For purposes of these guidelines, the number of "full-time equivalent" employees of each type (i.e., physician, physician assistant, or nurse practitioner) would be determined by calculating the total number of hours per year worked by all employees of that type, and dividing that number by the greater of (1) the number of hours per year for which one employee of that type would have to be compensated to meet the clinic's definition of a full-time employee, or (2) 1600 hours per year.

Under the retrospective payment method, the carrier would use the greater of the minimum number of encounters a clinic is expected to furnish under the guidelines, or the number of encounters the clinic actually furnished, in calculating the clinic's all-inclusive rate and annual reconciliation amount. Thus, if the clinic furnished fewer encounters than the screens indicated it should have, the all-inclusive rate would be calculated by dividing the clinic's allowable costs by the number of encounters indicated by the screens. If, however, the clinic reported that it had furnished more encounters than called for under the screens, the carrier would use the higher number of encounters reported by the clinic in calculating the all-inclusive rate.

Under the prospective method, the carrier would use the greater of the number of encounters expected under the guidelines, or the number of encounters the clinic actually furnished in its base year, to calculate an individual clinic rate for each clinic. In estimating the national median allowable cost per encounter for purposes of determining the target rate, HCFA will, for each clinic, use the higher of the number of encounters expected under the productivity guidelines, or the actual number of encounters reported by clinics.

Under the proposed regulations, new clinics that are paid under the retrospective method because they cannot qualify for prospective payment would be subject to less stringent guideline than other clinics. These new clinics would be expected to furnish only two-thirds of the number of encounters called for by the guidelines for their first two years of operation. However, all other clinics would be expected to furnish the full number of encounters specified by the guidelines.

Any clinic, whether paid under the retrospective or prospective method, may ask the carrier to waive application of the guidelines for a reporting period. If the clinic provides the carrier with reasonable justification of its failure to furnish the expected number of encounters, the carrier will calculate the clinic's all-inclusive rate based on the number of encounters the clinic actually furnished in the period. For example, if a clinic could demonstrate to the carrier that it employs only the minimum number of staff necessary to meet applicable certification requirements (see 42 CFR 481.8) but nevertheless is unable to furnish the expected number of encounters, the carrier will not apply the productivity guidelines in calculating the all-inclusive rate for the clinic.

We have selected the proposed guidelines for several reasons. First, approximately two-thirds of all facilities now participating in Medicare and Medicaid as RHCs also receive grants from the BCHS. Because these clinics already are subject to the BCHS productivity guidelines, adoption of these guidelines by HCFA will not impose any additional burden on the clinics. Also, HCFA's change to these guidelines will ensure that these clinics are not subject to different guidelines imposed by two different agencies of HHS. In addition, we believe the proposed guidelines are reasonable because they are very close to our estimates of the actual average productivity of clinics now reporting their costs and utilization to HCFA.

The proposed guidelines have not been incorporated into the proposed rule because they will be subject to change from time to time. However, we wish to obtain public comment on their use. We will consider the comments received, and publish final guidelines in the **Federal Register**. We will also publish a notice of any changes in these guidelines.

The present reimbursement system also provides for a maximum rate per visit that could be paid to RHCs. As specified in the September 21, 1978, notice in the **Federal Register**, this limit is currently set by HCFA at $27.30. This was derived from prevailing charge data obtained from the Medicare carriers for a group of items and services that comprise a typical rural health clinic visit.

We propose to delete this specific payment limitation for clinics paid under the prospective rate system. We believe the proposed prospective system contains adequate incentives for clinics to operate efficiently, and that the target rate will serve the same purpose as the payment limitation. We are, however, retaining a maximum rate for clinics paid under the retrospective methodology. Some clinics incur such high overall costs that application of the productivity guidelines would not result in an average cost per encounter that is reasonable We believe a payment limit should be retained to pervent excessive payments to these clinics. We propose to establish this maximum rate at 150 percent of the median cost per encounter for all RHCs, and to adjust this maximum rate annually to account for inflation. We are proposing to set the maximum rate at this level because we believe that an allowance of 50 percent above the median is sufficient to account for reasonable variations in per-encounter costs. Public comment is invited on this proposal or alternatives for calculation of the maximum rate.

Medicare Reimbursement Appeals

Under our current regulations, provider clinics have the general hearing rights applicable to providers of services, as set forth in 42 CFR Part 405, Subpart R. The hearing rights of provider clinics would not be changed by this proposal.

Our current regulations do not explain the administrative appeal rights for independent clinics that are dissatisfied with their Medicare reimbursement. Under the proposed regulations independent rural health clinics dissatisfied with their reimbursement for services would be entitled to an administrative appeal if the amount in controversy is $1,000 or more. If the amount in dispute is less than $10,000, hearings for independent clinics would be conducted by the fiscal intermediary, acting as carrier; if the amount is $10,000 or more, hearings would be held by the Provider Reimbursement Review Board, as specified in 42 CFR Part 405, Subpart R. However, independent clinics would not be required to wait until the end of a reporting period to appeal determinations that affected their payment rates for that period, as is the case for providers.

Hearings for independent clinics paid under the retrospective method would concern whether the clinic received the amount to which it is entitled for the period; i.e., 80 percent of the allowable costs properly attributable to covered services furnished to Medicare beneficiaries. Under the prospective method, hearings would concern:

(1) Whether the rate established for the period was accurate based on the facts available to the carrier when it was established;

(2) Whether the clinic reasonably justified costs exceeding screening guidelines;

(3) When HCFA has recalculated the rate and the clinic has objected, whether the recalculation was proper based on the facts available to HCFA when it recalculated the rate;

(4) When HCFA has denied a request for an exception, whether that denial was proper; or

(5) Whether HCFA acted properly in recovering amounts it previously paid to a clinic based on inadequate reporting.

Change in Medicaid Reimbursement

The proposed revisions to 42 CFR 447.371 of the Medicaid regulations generally follow the proposed changes in the Medicare regulations. In keeping with the intent of Congress expressed in the Rural Health Clinic Services Act and the accompanying legislative history, we intend to maintain consistency between rural health clinic reimbursement under Medicare and Medicaid.

Current Medicaid regulations provide that States must pay for services furnished by provider rural health clinics on the same basis used by Medicare. These proposed regulations would not alter this requirement, since payment to provider clinics would continue to be made under the Medicare provider reimbursement principles in 42 CFR Part 405, Subpart D.

Under current Medicaid regulations, the payment method or methods a State may use in paying an independent clinic is determined by the range of services the clinic offers. If the clinic does not offer any ambulatory services other than "rural health clinic services" as defined in 42 CFR 440.20(b), the State must pay the clinic for the rural health clinic services it furnishes at the same rate as Medicare. However, if the clinic offers both rural health clinic services and "other ambulatory services" (i.e., services to ambulatory patients that do not meet the definition of "rural health clinic services" but are otherwise covered under a particular state Medicaid plan, as provided in 42 CFR 440.20(c)), the State has three options for payment. The current options are:

(1) Payment for all services on a cost basis by means of a single, all-inclusive rate per visit;

(2) Payment for rural health clinic services at the Medicare rate per visit, and payment for other ambulatory services at the rates or charges set by the State for payment for the services when furnished by other facilities or by physicians not associated with a rural health clinic; and

(3) Payment for dental services at a separate, all-inclusive rate per visit, and payment for other services as provided in either option 1 or 2.

This proposed regulation would eliminate payment options 1 and 3. These options are not compatible with the proposed prospective payment system, which is based on national cost data from RHCs. Because States cover other ambulatory services and dental services on different bases, national cost data could not be used to establish payment rates under these options.

The proposed regulation would require State Medicaid programs to pay clinics for rural health clinic services on the same prospective or retrospective basis used by Medicare. State payment to clinics would be at 100 percent of the rate established by the Medicare carrier, subject to any applicable State copayment requirements. Medicare deductible and coinsurance requirements are not applicable. Other ambulatory services would be paid for on the same basis as the State pays for those services when they are furnished by other facilities, or by physicians not associated with a rural health clinic.

Capitation Payments

Although the proposed rule does not include a capitation payment method, we are requesting public comment on the desirability and feasibility of establishing a capitation payment system for RHCs. Under such a system, an RHC would have the option to receive a predetermined paymnent amount for each Medicare or Medicaid patient that enrolls with the clinic. In return for this predetermined amount, the RHC would agree to provide all primary care services the patient would require, either by furnishing the services itself or by arranging for the patient to receive them from others. Services other than primary care services would be paid for under the usual Medicare and Medicaid payment methods.

Because we believe some clinics would be unwilling to accept patients on a capitation basis, this method could be offered only in combination with the proposed system, not as a total replacement for it. However we are interested in establishing a capitation method for rural health clinics that would be willing to accept patients on this basis because we think this payment method provides clinics with the strongest incentives for cost efficiency, while promoting the timely delivery of needed health services to beneficiaries and recipients.

Public comment is specifically invited on the issues of how many clinics would be interested in establishing a capitation system, how mechanisms could be established to determine Medicare patient deductible and coinsurance amounts properly, and how this method of payment could be coordinated with the proposed payment system.

"Base Rate" Proposal

Although the proposed rule does not incorporate the concept of a "base rate," we also are requesting comments on the use of a "base rate" system for rural health clinic payment. Such a system might, for example, permit clinics to receive a fixed, predetermined rate per encounter throughout the reporting year, without submitting a cost report and without having a separate rate determined by the intermediary. We are interested in this type of payment method because we believe it could benefit clinics with very low Medicare and Medicaid utilization since it could eliminate the need for a full reporting of costs. We would appreciate receiving comments concerning the feasibility of this method of payment, and suggestions regarding a mechanism for calculating a rate equitable both for clinics and the Medicare and Medicaid programs.

Classification System

In theory, a clinic's costs could be expected to vary in relation to its operating characteristics, such as its staff size (i.e., number of full-time equivalent staff employed), staff mix (i.e., number of physicians relative to physician assistants and nurse practitioners employed), scope of services offered, and volume of Medicare/Medicaid utilization. We considered establishing a clinic classification system based on these or other factors, assigning clinics with similar characteristics to comparison groups, and establishing separate prospective rates for each group. However, the data now available to us do not indicate a significant correlation between these characteristics and the per-encounter costs experienced by clinics. Therefore, we have not incorporated any classification system into the proposed rule.

We are continuing to collect information on clinic costs. This information may enable use to group clinics according to the characteristics that affect their costs, and establish separate prospective rates for the clinics in each comparison group. If we can develop a rate-setting method that is based on clinic classification, we will publish for public comment an NPRM explaining that method.

Agreements between the Secretary and Rural Health Clinics

The proposed regulation would revoke 42 CFR 405.2402(e), which provides that agreements between the Secretary and rural health clinics concerning participation in Medicare have a term of one year, subject to renewal. Removal of this provision would make these agreements open-ended.

Experience with time-limited agreements shows the major result to be a proliferation of paperwork. Also, time-limited agreements permit no flexibility in scheduling serveys and require State survey agencies to visit facilities at precise times. Similar time limits on processing and certification burden the regional offices.

The proposed regulations also would specifically authorize the Secretary to approve a clinic's request to terminate its agreement retroactively if it has not actually been paid as an RHC. In some cases, a facility that has agreed to participate as an RHC finds that it furnishes so few RHC services to Medicare beneficiaries that complying with the reporting requirements it must meet to obtain payment for these services under the cost-based method in Subpart X would not be worthwhile. However, under our current rules, the facility could not claim normal Part B charge payments for these services if, when the services were furnished, it was participating as an RHC. Thus, unless retroactive withdrawal were allowed, the facility would not be able to recover the costs of its services.

We propose to allow retroactive withdrawals only for clinics that have not been paid as RHCs. If a clinic that has participated and received payment as an RHC wishes to terminate its agreement, it can do so only prospectively. To do otherwise could create legal and administrative problems for HCFA and the carriers, since it would require recovery of amounts paid for services, and recalculation of the amounts due for the services.

Other Changes

In addition to the changes already discussed, we propose to reorder the material in §§ 504.2425 through 405.2429, and to revise these regulations and those in § 447.371 for clarity. We are proposing these changes in order to make these regulations more easily understandable. The changes do not affect substantive policies.

42 CFR Chapter IV is amended as set forth below:

A. The Table of Contents of Part 405, Subpart X, is amended to read as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

Subpart X—Rural Health Clinic Services

Sec.
405.2401 Scope and definitions.
405.2402 Basic requirements.
405.2403 Content and terms of the agreement with the Secretary.
405.2404 Terminations of agreements.
405.2410 Beneficiary entitlement and liability.
405.2411 Scope of benefits.
405.2412 Physicians' services.
405.2413 Services and supplies incident to a physician's services.
405.2414 Nurse practitioner and physician assistant services.
405.2415 Services and supplies incident to nurse practitioner and physician assistant services.
405.2416 Visiting nurse services.
405.2417 Visiting nurse services: Determination of shortage of home health agencies.
405.2148 Applicability of general payment exclusions.
405.2425 Payment for rural health clinic services.
405.2426 Reimbursement principles.
405.2427 Retrospective method of payment.
405.2428 Prospective method of payment
405.2429 Reports and maintenance of records.
405.2430 Beneficiary appeals.
405.2431 Clinic appeals.

Authority: Sections 1102, 1833, 1861(aa), 1871, 1902(a) and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395*l*, 1395x(aa), 1395hh, 1396a(a) and 1396d(a)).

B. Part 405, Subpart X is amended as follows:

1. Section 405.2401 is amended by revising paragraph (b)(18) to read as follows:

§ 405.2401 Scope and definition.

* * * * *

(b) *Definitions.* As used in this subpart, unless the context indicates otherwise:

* * * * *

(18) "Encounter" means a face-to-face contact for the provision of medical services between a clinic patient and a physician, physician assistant, nurse practitioner, nurse midwife, specialized nurse practitioner, or visiting nurse. Contacts with more than one health professional and multiple contacts with the same health professional, that take place on the same day and at a single location, constitute a single encounter unless the patient, subsequent to the first encounter, suffers illness or injury requiring additional diagnosis or treatment.

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2. Section 405.2402 is amended by deleting paragraph (e):

§ 405.2402 Basic requirements.

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(e) [Reserved]

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3. Section 405.2404 is amended by adding paragraph (a)(2)(iii) to read as follows:

§ 405.2404 Terminations of agreements.

(a) *Termination by rural health clinic.* (1) *Notice to Secretary.* If the clinic wishes to terminate its agreement it shall file with the Secretary a written notice stating the intended effective date of termination.

(2) *Action by the Secretary.* (i) The Secretary may approve the date proposed by the clinic, or set a different date no later than 6 months after the date of the clinic's notice.

(ii) The Secretary may approve a date which is less than 6 months after the date of notice if the Secretary determines that termination on that date would not:

(A) Unduly disrupt the furnishing of services to the community serviced by the clinic; or

(B) Otherwise interfere with the effective and efficient administration of the Medicare program.

(iii) The Secretary may approve a date that is the same as the date on which the clinic's agreement was first effective if the Secretary determines the clinic has not received any Medicare payments for rural health clinic services. If the Secretary determines that the clinic has received Medicare payments for rural health clinic services, the

Secretary will not approve a date earlier than the date of the clinic's notice.

4. Section 405.2425 is revised to read as follows:

§ 405.2425 Payment for rural health clinic services.

(a) *Payment to provider clinics.* The carrier will pay for rural health clinic services in accordance with the provider reimbursement principles in subpart D of this part if:

(1) The clinic is an integral and subordinate part of a hospital, skilled nursing facility or home health agency participating in Medicare (i.e., a provider of services); and

(b) *Payment to independent clinics.*

(1) The carrier will pay for rural health clinic services furnished by all other clinics ("independent clinics") under the retrospective method of payment described in § 405.2427 or the prospective method of payment described in § 405.2428. Both methods require the carrier to pay the clinic based on all-inclusive rate for each beneficiary encounter for covered rural health clinic services. The carrier will select the appropriate payment method (i.e., either the retrospective or prospective method), and calculate the rate, in accordance with this subpart and general instructions issued by HCFA.

(2) The carrier will determine the amount payable for each encounter for covered rural health clinic services as follows:

(i) If the beneficiary has incurred the full deductible before the encounter, the carrier will pay the clinic 80 percent of the all-inclusive rate.

(ii) If the beneficiary has not incurred the full deductible before the encounter, the carrier will pay the clinic only if the clinic's reasonable customary charge for the services furnished exceeds the amount needed to satisfy the beneficiary's deductible. The carrier will subtract the amount needed to satisfy the deductible from the all-inclusive rate, and pay the clinic 80 percent of the remainder, if any.

(3) In calculating the all-inclusive rate under either the retrospective or prospective method, the carrier will allow only costs that are allowable and reasonable under the reimbursement principles in § 405.2426.

(4) The carrier will pay an independent clinic under the prospective method if:

(i) The clinic has participated as a rural health clinic in Medicare or Medicaid, or both, for the two reporting periods immediately preceding the current period; or

(ii) The clinic can demonstrate to the satisfaction of HCFA that its costs and annual number of encounters are sufficiently stable so that use of the prospective method would not result in inaccurate payment, and that it can generate the cost and utilization information the carrier requires to calculate a prospective rate under § 405.2428(e).

(5) The carrier will pay an independent clinic that does not meet the requirements of paragraphs (b)(4)(i) or (ii) of this section under the retrospective method.

(c) in order to receive payment, the clinic must follow the procedures in § 405.250–2 and general instructions issued by HCFA.

5. Section 405.2426 is revised by changing the title, redesignating the current content as § 405.2427 (a) and (b), and revising and redesignating as § 405.2426 the content of § 405.2428 (except for paragraphs (d) and (e) which are deleted):

§ 405.2426 Reimbursement principles.

(a) *Applicability of general Medicare principles.* In determining whether a specific type or item of cost such as interest, depreciation, bad debts and owner compensation, is allowable for purposes of rate calculation and payment under §§ 405.2427 and 405.2528, the carrier will follow the provider reimbursement principles set forth in Subpart D of this part, as applicable.

(b) *Typical rural health clinic costs.* The carrier will include the following types and items of cost in allowable costs to the extent that they are reasonable:

(1) Compensation for the services of physicians, physician assistants, nurse practitioners, nurse midwives, specialized nurse practitioners and visiting nurses employed by the clinic.

(2) Compensation for the duties that a supervising physician is required to perform under the agreement specified in § 481.8 of this chapter.

(3) Costs of services and supplies incident to the services of a physician, physician assistant, nurse practitioner, nurse midwife or specialized nurse practitioner.

(4) Overhead costs, including clinic adminstration, costs applicable to use and maintenance of the clinic facility, and depreciation costs.

(5) Costs of services purchased by the clinic.

(c) *Tests of reasonableness for rural health clinic cost and utilization.* (1) HCFA may establish tests of reasonableness authorized by sections 1833(a) and 1861(v)(1)(A) of the Act with respect to direct or indirect overall costs, costs of specific items and services, or costs of groups of items and services. Those tests include, but are not limited to, screening guidelines and payment limitations. The carrier, acting under general instructions issued by HCFA, also may establish tests of reasonableness and screening guidelines.

(2) The screening guidelines HCFA establishes will set minimum standards for the productivity of physicians, physician assistants, nurse practitioners, and teams comprising a physician and a physician assistant or nurse practitioner, employed by a clinic. If, during a reporting period, a clinic does not furnish at least the minimum number of encounters expected under applicable productivity guidelines, the carrier will calculate the clinic's all-inclusive rate by using the number of encounters expected, unless the clinic furnishes the carrier with reasonable justification of the clinic's failure to furnish the number of encounters expected. For example, if a clinic does not furnish the number of encounters expected under the guidelines, but can demonstrate to the satisfaction of the carrier that it does not employ an excessive number of staff in relation to the number of encounters it can reasonably expect to furnish, the carrier will calculate the clinic's all-inclusive rate based on the number of encounters actually furnished.

(3) HCFA may set limits on payments for rural health clinic services, on the basis of costs estimated to be reasonable for the provision of such services.

6. Section 405.2427 is revised by changing the title, redesignating current paragraphs (a) through (d) as paragraphs (c) through (f), and redesignating the content of § 405.2426 as paragraphs (a) and (b):

§ 105.2427 Retrospective method of payment

(a) Determination of *all-inclusive rate.*

(1) The carrier will determine all-inclusive rate at the beginning of the reporting period.

(2) The rate will be determined by dividing the estimated total allowable costs by estimated total encounters for rural health clinic services.

The carrier may consider prior period costs, encounters, and other relevant factors in determining these estimates.

(3) The rate determination will be subject to any tests of reasonableness that may be established in accordance with § 405.2426

(b) *Adjustment of rate.* (1) The carrier will, during each reporting period, periodically review the rate to assure that payments approximate actual

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allowable costs and encounters for rural health clinic services, and will adjust it if:

(i) There is a significant change in the utilization of clinic services;

(ii) Actual allowable costs vary materially from the clinic's estimated allowable costs; or

(iii) Other circumstances arise which warrant an adjustment.

(2) The clinic may request the carrier to review the rate to determine whether adjustment is appropriate.

(c) *Annual reconciliation.* Payments made to a rural health clinic during a reporting period will be subject to reconciliation to assure that those payments do not exceed or fall short of 80 percent of the allowable costs attributable to covered services furnished to Medicare beneficiaries during that period less applicable deductible amounts.

(d) *Calculation of reconciliation.* (1) The carrier will determine the total reimbursement amount due the clinic on the basis of:

(i) The report specified in § 405.2429(c)(2); and

(ii) The rate determined by dividing the total allowable costs incurred for rural health clinic services in the reporting period by total encounters for rural health clinic services furnished for the period. The rate will be subject to tests of reasonableness which may be established in accordance with this subpart.

(2) The carrier will compare the total reimbursement amount due with total payments made to the clinic for the reporting period, to determine the amount of the reconciliation.

(e) *Notice of program reimbursement.* After review of the clinic's report and audit, as necessary, the carrier will send written notice to the clinic of:

(1) The carrier's determinations under paragraphs (d)(1) and (2) of this section for the reporting period; and

(2) The clinic's right to have the determination reviewed at a hearing under the procedures set forth in Subpart R of this part, if the amount in controversy is at least $1,000 (see § 405.2431).

(f) *Payment of reconciliation amount*—(1) *Underpayments.* If the total reimbursement due the clinic exceeds the payments made for the reporting period, the carrier will make a lump-sum payment to the clinic for the difference.

(2) *Overpayments.* (i) If the total payments made to a clinic for the reporting period exceed the total reimbursement due the clinic for the period, the carrier will collect the difference through a lump-sum refund, or through offset against subsequent payments or a combination of offset and partial refund.

The carrier will select the collection method or methods that, in its judgment, will result in collection of the difference within the period specified in paragraph (f)(2)(ii) of this section.

(ii) The carrier will collect the difference from the clinic within one year of the date of the notice of program reimbursement, unless it determines that a longer period is justified. Any longer period must be based on collection of the difference as soon as possible while minimizing hardship to the clinic.

7. Section 405.2428 is revised by changing the title, redesignating its content as § 405.2426, and adding new content as follows:

§ 405.2428 Prospective method of payment.

(a) *Determination of base period.*

(1) The initial base period for each clinic is the reporting period immediately preceding the first reporting period for which payment is made under the prospective method of payment.

(2) Except as specified in paragraphs (a)(3) and (a)(4) of this section, each third reporting period after the initial base period becomes a new base period.

(3) If a clinic's rate for a reporting period is recalculated as described in paragraph (f) of this section, the part of the reporting period used as a basis for recalculating the rate becomes a new base period. That new base period will be used in calculating the clinic's individual clinic rate until the next base period as described in paragraph (a)(2) of this section.

(4) If a clinic is granted an exception under paragraph (g) of this section, the part of the reporting period for which the exception is granted becomes a new base period. That new base period will be used in calculating the clinic's individual clinic rate until the next base period as described in paragraph (a)(2) of this section.

(b) *Use of interim rate.*

(1) Until the carrier determines a clinic's all-inclusive rate for the first reporting period after a base period, it will pay the clinic using an interim payment rate.

(2)(i) The interim payment rate for a clinic will be 115 percent of the rate paid for the last day of the clinic's base period on which covered services were furnished.

(ii) If the clinic is a new clinic that has qualified for prospective payment under the prospective method under § 405.2425(b)(4)(ii), the interim rate will be 115 percent of the clinic's allowable cost per encounter for the current period, as calculated by the carrier based on the most recent cost and utilization information available to the carrier.

(3) When the all-inclusive rate for a reporting period is determined, the carrier will notify the clinic of the all-inclusive rate. That all-inclusive rate replaces the interim rate for the entire period unless the rate is recalculated as described in paragraph (f) of this section, or the clinic is granted an exception as described in paragraph (g) of this section.

(4) When the all-inclusive rate for a reporting period is determined, the carrier will:

(i) Compute the difference between the amount that would have been paid using the all-inclusive rate and the amount that was paid using the interim rate;

(ii) If the amount that would have been paid using the all-inclusive rate exceeds what was paid using the interim rate, pay the clinic a lump sum for the difference; or

(iii) If the amount that was paid using the interim rate exceeds what would have been paid using the all-inclusive rate, collect the difference from the clinic through a lump-sum refund, an offset against subsequent payments, or a combination of these two methods.

(c) *Determination of all-inclusive rate.* The carrier will determine an all-inclusive rate to be paid uniformly for each beneficiary encounter for covered services furnished during each reporting period. The all-inclusive rate for each clinic will be the lower of the target rate calculated under paragraph (d) of this section, or the clinic rate calculated under paragraph (e) of this section.

(d) *Statewide target rate.*

(1) For the reporting period beginning on [effective date of this regulation], and for each reporting period beginning every third year thereafter, HCFA will calculate a new target rate for each State. HCFA will notify carriers for each State of the new target rate before the start of the first reporting period for which the new Statewide target rate applies.

(2) To calculate a new target rate for each State, HCFA will:

(i) Calculate, by obtaining actual rural health clinic cost data from prior reporting periods and increasing that data for inflation, the current period median allowable cost per encounter for all rural health clinics in the nation;

(ii) Multipy the current period median cost per encounter by 115 percent; and

(iii) Adjust the resulting rate to account for the prevailing wage level in each State.

(3) For any reporting period for which HCFA does not calculate a new target

rate, the carrier will adjust the Statewide target rate by:

(i) Computing the number of months between the start of the reporting period for which HCFA last calculated a new target rate and the start of the reporting period for which the rate is being adjusted; and

(ii) Increasing the most recent new Statewide target rate by one-twelfth (8.33 percent) of the pertinent annual increase factor for each month after the start of the reporting period for which HCFA last calculated a new target rate. The annual increase factors used in this calculation will be the ones HCFA uses to limit annual increases in prevailing charge levels for physician services under Medicare. Use of these factors is authorized by § 405.504 of subpart E of this part, and the factor that applies from July 1 of each year through June 30 of the following year is published annually in the **Federal Register**.

(e) *Individual clinic rate.* The carrier will calculate the clinic rate for each clinic by multiplying the average allowable cost per encounter the clinic incurred in its base period by the following percentages:

(1) For the first reporting period after a base period, 115 percent;

(2) For the second reporting period after a base period, 132 percent; and

(3) For the third reporting period after a base period, 152 percent.

(f) *Use of recalculated rate.* (1) HCFA will direct the carrier to recalculate a clinic's payment rate and pay the clinic at the recalculated rate for the remainder of the current period, if the clinic reports that, since its base period:

(i) It has reduced the range of services it furnishes; or

(ii) Its utilization has increased so that it should reasonably expect its current rate of utilization, if continued for an entire reporting period, to result in a number of encounters for that period that is at least 15 percent higher than the number of encounters the clinic furnished in the preceding reporting period.

(2) In establishing the recalculated rate, the carrier:

(i) Will use the lower of 115 percent of the cost per encounter currently incurred by the clinic (taking the reduction in range of services or increased utilization into account) or the Statewide target rate; and

(ii) Will not, to the extent possible, take into account other changes, such as regular seasonal variations in utilization, that are unrelated to the reduction in range of services or long-term increase in utilization.

(3) The part of the reporting period following the reduction in range of services or increase in utilization becomes a base period for use in calculating the all-inclusive rates for later periods, as specified in paragraph (a)(3) of this section. In calculating the cost per encounter the clinic incurred in the base period, the carrier will take into account the reduction in range of services, or increased utilization that occurred in that period. To the extent possible, the carrier will not take into account other factors, such as regular seasonal variations in utilization, that are unrelated to the reduction in range of services, or long-term increase in utilization.

(g) *Exceptions.* (1) The carrier will pay a clinic for a reporting period under the method in § 405.2427 if HCFA determines that the clinic meets the requirements in paragraphs (h)(2) or (h)(3) of this section, and files a written request as specified in paragraph (h)(4) of this section.

(2) If the average allowable cost per encounter incurred by a clinic in its base period exceeds the Statewide target rate calculated under paragraph (d) of this section for the period immediately following the base period, the clinic will qualify for an exception if it can demonstrate to the satisfaction of HCFA that:

(i) The excess costs are proper and necessary for the efficient delivery of rural health clinic services.

(ii) The excess costs do not result from the employment of excessive numbers of staff relative to the total number of encounters the clinic can reasonably expect to furnish; and

(iii) The excess costs are necessary because of the special needs of the clinic's patients.

(3) If a clinic incurs actual per encounter costs that exceed the payment rate calculated under paragraph (c) of this section, the clinic will qualify for an exception if it can demonstrate to the satisfaction of HCFA that:

(i) The excess costs are proper and necessary for the efficient delivery of rural health clinic services; and

(ii) The excess costs are incurred due to material increases in costs or decreases in utilization that have occurred subsequent to the base period and that were the result of a variation in the range of services offered by the clinic, or of extraordinary circumstances beyond the control of the clinic.

(4) To qualify for an exception, a clinic must file a written request with the carrier.

(5) The part of any reporting period for which an exception is granted becomes a base period for use in calculating the all-inclusive rates for later periods, as specified in paragraph (a)(4) of this section.

(h) *Notices.* (1) The carrier will send the clinic written notice of:

(i) Its determination under paragraph (c) of this section of an all-inclusive rate for the clinic;

(ii) Its determination under paragraph (f) of this section of a recalculated rate for the clinic; or

(iii) Its determination regarding the clinic's request for an exception under paragraph (g)(1) or (2) of this section.

(2) The carrier will send notice to the clinic within 10 days of the date it makes any of the determinations described in paragraph (h)(1), and will inform the clinic of its right to a hearing under § 405.2431 if it is dissatisfied with its reimbursement.

8. Section 405.2429 is amended by amending paragraphs (a) and (b), revising the title of paragraph (c), redesignating paragraphs (c)(3) through (6) as paragraphs (e) through (h), and adding new paragraph (d), as follows:

§ 405.2429 Reports and maintenance of records.

(a) *Maintenance and availability of records.* The rural health clinic shall:

(1) Maintain adequate financial and statistical records, in the form and containing the data required by HCFA, to allow the carrier to determine payment for covered services furnished to Medicare beneficiaries in accordance with this subpart;

(2) Make the records available for verification and audit by HHS or the General Accounting Office; and

(3) Maintain financial data on an accrual basis, unless it is part of a governmental institution that uses a cash basis of accounting. In the latter case, appropriate depreciation on capital assets will be allowable rather than the expenditure for the capital asset.

(b) *Adequacy of records.* (a) The carrier may suspend reimbursement if it determines that the clinic does not maintain records that provide an adequate basis to determine payments under Medicare.

(2) The suspension will continue until the clinic demonstrates to the carrier's satisfaction that it does and will continue to maintain adequate records.

(c) *Report requirements: retrospective method.*—(1) *Initial report.* At the beginning of its initial reporting period, the clinic shall submit to the carrier an estimate of budgeted costs and encounters for rural health clinic services for the reporting period, in the form required by HCFA, and such other information as HCFA may require to establish the payment rate.

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(2) *Annual reports.* Within 90 days after the end of its reporting period, the clinic shall submit to the carrier, in the form required by HCFA, a report of:

(i) Its operations, including the costs actually incurred for the period and the actual number of encounters for rural health clinic services furnished during the period; and

(ii) The estimated costs and estimated encounters for rural health clinic services for the succeeding reporting period, and such other information as HCFA may require to establish the payment rate.

(d) *Report requirements: prospective method.* (1) *Base period report.* Within 90 days after the end of each base period, the clinic must submit to the carrier, in the form required by HCFA, a report of its operations that includes:

(i) The costs actually incurred during the base period; and

(ii) The actual number of encounters for rural health clinic services furnished to all patients during the period.

(2) *Reports for other period.* Within 60 days after the end of each reporting period that is not a base period, the clinic shall submit to the carrier, in the form required by HCFA, a summary report of:

(i) The costs actually incurred during the period; and

(ii) The actual number of encounters for rural health clinic services furnished to all patients during the period.

(3) *Reports of changes in range of services or utilization.* (i) Whenever a clinic reduces its range of services or experiences an increase in its utilization, or both, that it reasonably should expect may require recalculation of its payment rate for the current period under § 405.2428(f), it shall notify HCFA of this change.

(ii) HCFA will than recalculate the clinic's rate to take account of the change if it determines that a rate recalculation under § 405.2428(f) is warranted.

(iii) If a clinic does not notify HCFA of this change but HCFA Learns of the changes from the clinic's next annual report, or by other means, HCFA will recalculate the clinic's rate, determine the difference between what would have been paid for that period under the recalculated rate and what was actually paid, and recover this difference through a lump-sum refund, an offset against subsequent payments, or a combination of these two methods.

(e) *Late reports.* If the clinic does not submit an adequate annual report on time, the carrier may reduce or suspend payments to preclude excess payment to the clinic.

(f) *Inadequate reports.* If the clinic does not furnish a report or furnishes a report that is inadequate for the carrier to make a determination of program payment, HCFA may deem all payments for the reporting period to be overpayments.

(g) *Postponement of due date.* For good cause shown by the clinic, the carrier may, with HCFA's approval, grant a postponement of the due date for the annual report.

Except under unusual circumstances, the postponement would not exceed 30 days.

(h) *Termination of agreement or change of ownership.* A clinic that voluntarily or involuntarily ceases to participate in the Medicare program or experiences a change in ownership shall submit the report within 45 days folllowing the effective date of the termination of agreement or change of ownership.

9. Section 405.2430 is revised to read as follows:

§ 405.2430 Beneficiary appeals.

A beneficiary may request a hearing by the carrier (subject to the procedures and conditions set forth in Subpart H of this part as applicable) If:

(a) The beneficiary is dissatisfied with a carrier's determination denying a request for payment made on his or her behalf by a rural health clinic; or

(b) The beneficiary is dissatisfied with the amount of payment; or

(c) The beneficiary believes the request for payment is not being acted upon with reasonable promptness.

10. Section 405.2431 is added to read as follows:

§ 405.2431 Clinic appeals.

(a) *Reimbursement appeals of provider clinics.* (1) If a provider clinic is dissatisfied with the payment received for covered services furnished during a reporting period, the provider that operates the clinic may, after the end of the period, request a hearing.

(2) The hearing will be held by the carrier or the Provider Reimbursement Review Board, as appropriate, subject to the procedures set forth in subpart R of this part for intermediary and Provider Reimbursement Review Board hearings.

(b) *Reimbursement appeals of independent clinics.* (1) If an independent rural health clinic is dissatisfied with the payment received for covered services furnished during a reporting period and the amount in controversy is at least $1,000, the clinic may, either during the reporting period or after the end of the reporting period, request a hearing.

(2) Notwithstanding any provision in subpart R of this part to the contrary, the hearing on the facts available to HCFA when it was recalculated;

(iv) Whether the clinic had adequately demonstrated to HCFA that it is entitled to an exception for excess costs under § 405.2428(g); or

(v) Whether HCFA acted properly in recovering amounts it previously paid to a clinic based on inadequate reporting, under § 405.2429(d)(3).

C. Part 447, subpart, C, is amended by revising § 447.371 to read as follows:

Rural Health Clinic Services

§ 447.371 Services furnished by rural health clinics.

(a) *Basic requirement.* The agency must pay for rual health clinic services, as defined in § 440.20(b) of this subchapter, and for other ambulatory services furnished by a rural health clinic, as defined in § 440.20(c) of this subchapter, as set forth in this section.

(b) *Payment to provider clinics.* The agency must pay for services furnished by a clinic in accordance with the Medicare provider reimbursement principles in subpart D of Part 405 of this chapter if:

(1) The clinic is an integral and subordinate part of a hospital, skilled nursing facility, or home health agency participating in Medicare (i.e., a Medicare provider); and

(2) The clinic is operated with other departments of the provider under common licensure, governance, and professional supervision.

(c) *Payment to independent clinics-general.* The agency must pay for services furnished by all other clinics (i.e., "independent clinics") as specified in paragraph (d) or (e) of this section, as appropriate.

(d) *Payment to independent clinics that furnish only rural health clinic services.* For clinics that do not furnish other ambulatory services or dental services, the agency must pay for rural health clinic services at 100 percent of the all-inclusive rate determined by the Medicare carrier under §§ 405.2427 or 405.2428 of this chapter.

(e) *Payment to independent clinics that furnish other ambulatory services or dental services, or both.* For clinics that furnish rural health clinic services and other ambulatory services, or dental services, or both, the agency must:

(i) Pay for rural health clinic services at 100 percent of the all-inclusive rate determined by the Medicare carrier under §§ 405.2427 or 405.2428 of this chapter; and

(ii) Pay for other ambulatory services or dental services, or both, at the same rates it sets for the particular services when not furnished by a rural health clinic. These rates must not exceed the upper limits in this subpart.

(f) For purposes of paragraphs (e) (1) and (2) of this section, "encounter" means a face-to-face contact for the provision of medical services between a clinic patient and any health professional whose services are reimbursed under the State plan. Contacts with more than one health professional, and multiple contact with the same health professional, that take place on the same day and at a single location, constitute a single encounter except when the patient, after the first encounter, suffers illness or injury requiring additional diagnosis or treatment.

(Sections 1102, 1833, 1861(aa), 1871, 1902(a) and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395l, 1395x(aa), 1395hh, 1396a(a), and 1396d(a)))

(Catalog of Federal Domestic Assistance Program No. 13,774, Medicare-Supplmentary Medicare Insurance; No. 13,761 Medical Assistance Program)

Dated: February 8, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: September 3, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-27577 Filed 9-9-80; 8:45 am]

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federal register

Wednesday
September 10, 1980

Part IV

Department of the Interior

Bureau of Land Management

Outer Continental Shelf, Eastern Gulf of Alaska; Oil and Gas Lease Sale No. 55

4310-84

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

OUTER CONTINENTAL SHELF, EASTERN GULF OF ALASKA

OIL AND GAS LEASE SALE NO. 55

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, Alaska Outer Continental Shelf (OCS) Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., October 20, 1980; or by personal delivery to Captain Cook Hotel, Discovery Room, 5th and K Streets, Anchorage, Alaska 99501 between the hours of 8:30 a.m., a.h.s.t. and 9:30 a.m., a.h.s.t., October 21, 1980. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.h.s.t., October 21, 1980. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 45 FR 26827, April 21, 1980, as corrected in 45 FR 27836, April 24, 1980, and 45 FR 28822, April 30, 1980.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.h.s.t., October 21, 1980", must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental of $8 per hectare or fraction thereof. Leases awarded under 4(a) and (c) will provide for a minimum royalty of $8 per hectare or fraction thereof. The following systems will be utilized.

(a) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 55-138, 55-139, 55-159, 55-160, 55-161, 55-162, 55-182, 55-183, 55-184, 55-185, 55-195, 55-196, 55-205, 55-206, 55-207, 55-208, 55-218, 55-219, 55-228, 55-229, 55-230, 55-231, 55-326, 55-327, 55-328, 55-329, 55-330, 55-341, 55-342, 55-343, 55-344 and 55-345 must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $22.300636 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $22.300637 million, but less than or equal to $4793.351779 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved removed or sold in quarter j

$b = 9.0$

$\ln$ = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

$S = 3.5$

When the adjusted quarterly value of production is equal to or greater than $4793.351780 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 26.372765 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

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Figure 1
Form of the Sliding Royalty Schedule

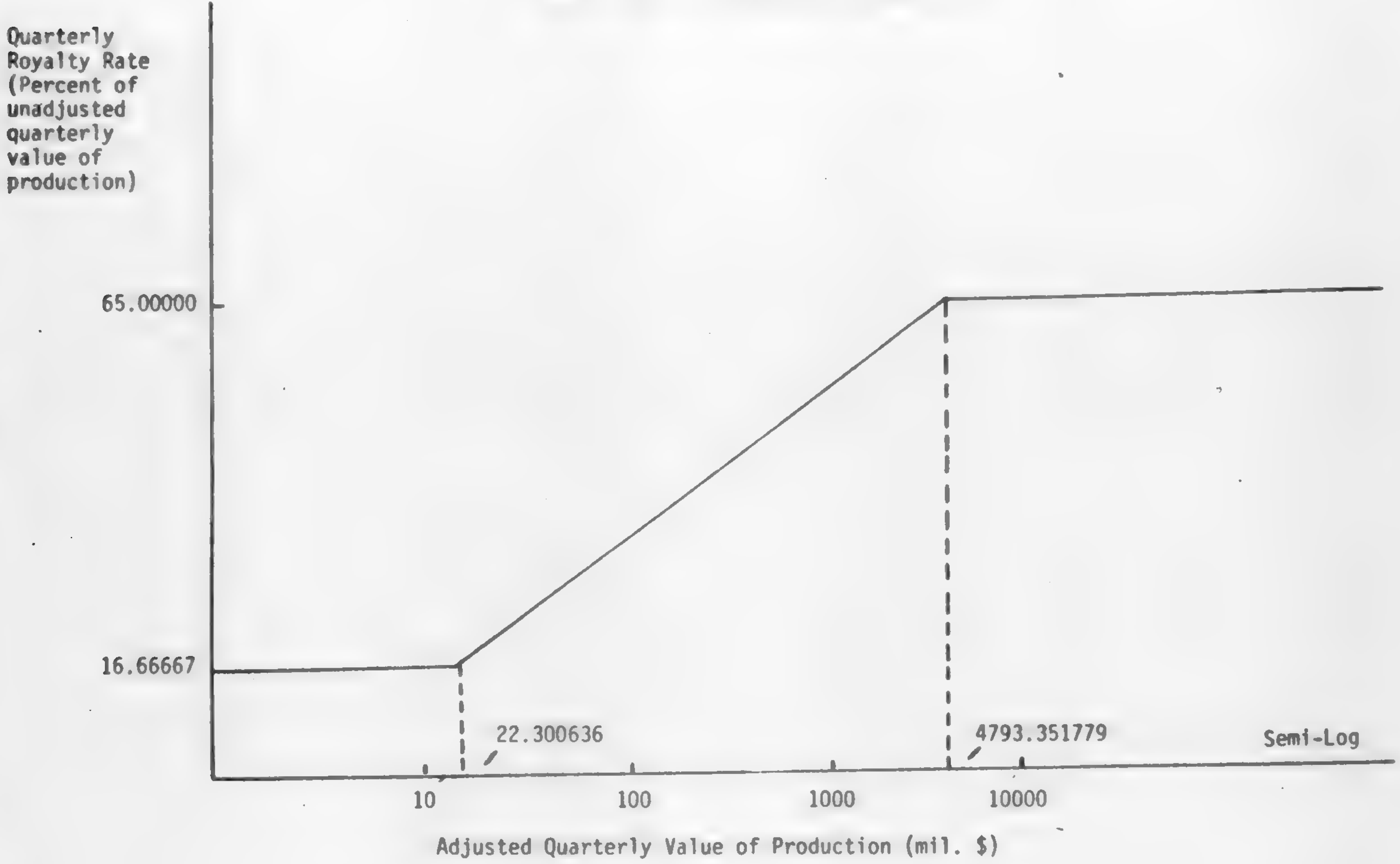

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	16.74677	5.024031
90.000000	200.0	4/3	67.500000	26.63428	23.970852
270.000000	200.0	4/3	202.500000	36.52179	98.608833
810.000000	200.0	4/3	607.500000	46.40930	375.915330
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	16.66667	5.000001
90.000000	250.0	5/3	54.000000	24.62599	22.163391
270.000000	250.0	5/3	162.000000	34.51350	93.186450
810.000000	250.0	5/3	486.000000	44.40101	359.648181

[1] Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

[2] Column (A) divided by Inflation Factor.

[3] Column (A) times Column (E). All values are rounded for display purposes only.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(b) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts 55-78, 55-79, 55-80, 55-104, 55-105, 55-106, 55-130, 55-131, 55-132, 55-151, 55-152, 55-153, 55-163, 55-164, 55-174, 55-175, 55-176, 55-186, 55-187, 55-188, 55-197, 55-198, 55-199, 55-209, 55-210, 55-211, 55-212, 55-220, 55-221, 55-222, 55-232, 55-233, 55-234, 55-235, 55-251, 55-252, 55-253, 55-267, 55-268, 55-269, 55-283, 55-284, 55-285, 55-288, 55-289, 55-290, 55-291, 55-292, 55-293, 55-294, 55-295, 55-296, 55-297, 55-298, 55-299, 55-300, 55-301, 55-304, 55-305, 55-306, 55-307, 55-308, 55-309, 55-310, 55-311, 55-312, 55-313, 55-314, 55-315, 55-316, 55-317, 55-320, 55-321, 55-322, 55-323, 55-324, 55-325, 55-331, 55-332, 55-333, 55-335, 55-336, 55-337, 55-338, 55-339, 55-340, 55-346, and 55-347 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a 1.5 capital recovery factor. The new profit share payment shall be calculated according to the Department of Energy regulation in 10 CFR 390 (45 FR 36784, May 30, 1980).

(c) Bonus Bidding with a Fixed Constant Royalty. Bids on the remaining tracts must be on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.h.s.t., October 21, 1980, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on October 21, 1980, beginning at 10 a.m., a.h.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 21, 1980, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

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8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510, at $2 each.

(a) Outer Continental Shelf Official Protraction Diagram NO 7-2, Yakutat (approved 10/31/74)

(b) Outer Continental Shelf Official Protraction Diagram NO 7-4, (approved 9/22/75)

12. Tract descriptions. The tracts offered for bid are as follows:

NOTE—There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2
(Approved 10/31/74)

[illegible]	Block No.	Description	Hectares
55-75	798	All	2304.00
55-76	799	All	2304.00
55-77	800	All	2304.00
55-78	801	All	2304.00
55-79	802	All	2304.00
55-80	803	All	2304.00
55-81	804	All	2304.00
55-82	805	All	2304.00
55-83	806	All	2304.00
55-84	807	All	2304.00
55-101	842	All	2304.00
55-102	843	All	2304.00
55-103	844	All	2304.00
55-104	845	All	2304.00
55-105	846	All	2304.00
55-106	847	All	2304.00
55-107	848	All	2304.00
55-108	849	All	2304.00
55-109	850	All	2304.00
55-110	851	All	2304.00
55-111	852	All	2304.00
55-127	886	All	2304.00
55-128	887	All	2304.00
55-129	888	All	2304.00
55-130	889	All	2304.00
55-131	890	All	2304.00
55-132	891	All	2304.00
55-133	892	All	2304.00
55-134	893	All	2304.00
55-135	894	All	2304.00
55-136	895	All	2304.00
55-137	896	All	2304.00
55-138	897	All	2304.00
55-139	898	All	2304.00
55-148	930	All	2304.00
55-149	931	All	2304.00
55-150	932	All	2304.00
55-151	933	All	2304.00
55-152	934	All	2304.00
55-153	935	All	2304.00
55-154	936	All	2304.00
55-155	937	All	2304.00
55-156	938	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2, continued

Tract No.	Block No.	Description	Hectares
55-157	939	All	2304.00
55-158	940	All	2304.00
55-159	941	All	2304.00
55-160	942	All	2304.00
55-161	943	All	2304.00
55-162	944	All	2304.00
55-163	945	All	2304.00
55-164	946	All	2304.00
55-172	975	All	2304.00
55-173	976	All	2304.00
55-174	977	All	2304.00
55-175	978	All	2304.00
55-176	979	All	2304.00
55-177	980	All	2304.00
55-178	981	All	2304.00
55-179	982	All	2304.00
55-180	983	All	2304.00
55-181	984	All	2304.00
55-182	985	All	2304.00
55-183	986	All	2304.00
55-184	987	All	2304.00
55-185	988	All	2304.00
55-186	989	All	2304.00
55-187	990	All	2304.00
55-188	991	All	2304.00
55-195	1019	All	2304.00
55-196	1020	All	2304.00
55-197	1021	All	2304.00
55-198	1022	All	2304.00
55-199	1023	All	2304.00
55-200	1024	All	2304.00
55-201	1025	All	2304.00
55-202	1026	All	2304.00
55-203	1027	All	2304.00
55-204	1028	All	2304.00
55-205	1029	All	2304.00
55-206	1030	All	2304.00
55-207	1031	All	2304.00
55-208	1032	All	2304.00
55-209	1033	All	2304.00
55-210	1034	All	2304.00
55-211	1035	All	2304.00
55-212	1036	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4
(Approved 9/22/75)

Tract No.	Block No.	Description	Hectares
55-218	7	All	2304.00
55-219	8	All	2304.00
55-220	9	All	2304.00
55-221	10	All	2304.00
55-222	11	All	2304.00
55-223	12	All	2304.00
55-224	13	All	2304.00
55-225	14	All	2304.00
55-226	15	All	2304.00
55-227	16	All	2304.00
55-228	17	All	2304.00
55-229	18	All	2304.00
55-230	19	All	2304.00
55-231	20	All	2304.00
55-232	21	All	2304.00
55-233	22	All	2304.00
55-234	23	All	2304.00
55-235	24	All	2304.00
55-240	54	All	2304.00
55-241	55	All	2304.00
55-242	56	All	2304.00
55-243	57	All	2304.00
55-244	58	All	2304.00
55-245	59	All	2304.00
55-246	60	All	2304.00
55-247	61	All	2304.00
55-248	62	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-249	63	All	2304.00
55-250	64	All	2304.00
55-251	65	All	2304.00
55-252	66	All	2304.00
55-253	67	All	2304.00
55-254	68	All	2304.00
55-255	69	All	2304.00
55-256	98	All	2304.00
55-257	99	All	2304.00
55-258	100	All	2304.00
55-259	101	All	2304.00
55-260	102	All	2304.00
55-261	103	All	2304.00
55-262	104	All	2304.00
55-263	105	All	2304.00
55-264	106	All	2304.00
55-265	107	All	2304.00
55-266	108	All	2304.00
55-267	109	All	2304.00
55-268	110	All	2304.00
55-269	111	All	2304.00
55-270	112	All	2304.00
55-271	113	All	2304.00
55-272	142	All	2304.00
55-273	143	All	2304.00
55-274	144	All	2304.00
55-275	145	All	2304.00
55-276	146	All	2304.00
55-277	147	All	2304.00
55-278	148	All	2304.00
55-279	149	All	2304.00
55-280	150	All	2304.00
55-281	151	All	2304.00
55-282	152	All	2304.00
55-283	153	All	2304.00
55-284	154	All	2304.00
55-285	155	All	2304.00
55-286	156	All	2304.00
55-287	157	All	2304.00
55-288	186	All	2304.00
55-289	187	All	2304.00
55-290	188	All	2304.00
55-291	189	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-292	190	All	2304.00
55-293	191	All	2304.00
55-294	192	All	2304.00
55-295	193	All	2304.00
55-296	194	All	2304.00
55-297	195	All	2304.00
55-298	196	All	2304.00
55-299	197	All	2304.00
55-300	198	All	2304.00
55-301	199	All	2304.00
55-302	200	All	2304.00
55-303	201	All	2304.00
55-304	230	All	2304.00
55-305	231	All	2304.00
55-306	232	All	2304.00
55-307	233	All	2304.00
55-308	234	All	2304.00
55-309	235	All	2304.00
55-310	236	All	2304.00
55-311	237	All	2304.00
55-312	238	All	2304.00
55-313	239	All	2304.00
55-314	240	All	2304.00
55-315	241	All	2304.00
55-316	242	All	2304.00
55-317	243	All	2304.00
55-318	244	All	2304.00
55-320	274	All	2304.00
55-321	275	All	2304.00
55-322	276	All	2304.00
55-323	277	All	2304.00
55-324	278	All	2304.00
55-325	279	All	2304.00
55-326	280	All	2304.00
55-327	281	All	2304.00
55-328	282	All	2304.00
55-329	283	All	2304.00
55-330	284	All	2304.00
55-331	285	All	2304.00
55-332	286	All	2304.00
55-333	287	All	2304.00
55-335	318	All	2304.00
55-336	319	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Hectares
55-337	320	All	2304.00
55-338	321	All	2304.00
55-339	322	All	2304.00
55-340	323	All	2304.00
55-341	324	All	2304.00
55-342	325	All	2304.00
55-343	326	All	2304.00
55-344	327	All	2304.00
55-345	328	All	2304.00
55-346	329	All	2304.00
55-347	330	All	2304.00

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13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on form 3300-1 (September 1978), available from the Manager, Alaska Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(a), Form 3300-1 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $22.300636 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $22.300637 million, but less than or equal to $4793.351779 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 9.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $4793.351780 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 26.372765 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of 40 percent with a 1.50 capital recovery factor, calculated pursuant to 10 CFR 390.

(c) Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term DCM refers to the Deputy Conservation Manager, Field Operations, Alaska Region, U.S. Geological Survey and the term Manager refers to the Manager of the Alaska OCS Office of the Bureau of Land Management.

Stipulation No. 1.

If the DCM, having reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as a "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline or platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys, as well as other pertinent natural and cultural environmental data, shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by such lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and the Manager for review.

If such cultural resource indicators are present, the lessee shall (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager, for their review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the lease area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2.

The lessee shall include in any exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DCM. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated and implemented by qualified instructors experienced in pertinent fields of study, and shall employ effective methods to insure that personnel understand and use techniques necessary to preserve archaeological, geological, and biological resources including bird and sea mammal rookeries, and insuring avoidance and non-harassment of wildlife resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3.

Pipelines will be required, (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of any intergovernmental coordinating committee.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms, geohazards, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCM.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972, as amended (46 U.S.C. 391a).

Stipulation No. 4.

(a) Wells: Subsea well-heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible, in such a manner as to allow commercial trawl gear to pass over the structure without snagging or otherwise damaging the structure or the fishing gear. Latitude and longitude coordinates of these structures along with water depths, shall be submitted to the DCM. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ± 50 ft (15.25 m) at 200 mi (322 kms).

(b) Pipelines: All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other protrusions, they shall be shielded in such a manner as to allow trawl gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 5.

(To be included only in the leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice)

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, U.S. Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16-2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

Stipulation No. 6

No underwater blasting using high velocity explosives for the purposes of seismic exploration may be conducted. As used in this stipulation, "high velocity explosives" are those explosives with a burning rate greater than 4,500 fps or creating a pressure curve with a sharp spike and rise time of less than 6 milliseconds.

14. Information to Lessees. Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties. The lessee should contact the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, as appropriate, regarding potential impacts of lease activities with regard to these laws.

To reduce the impacts of aircraft disturbance at seabird colonies and marine mammal rookeries along the coast, a distance of at least one-half mile from the coastline and an altitude of 1500 feet should be maintained from Yakutat Bay to Dry Bay during the period of May 1 to September 15. To provide similar protection to waterfowl nesting and staging in Yakutat Bay and on the Yakutat forelands, a 1,500-foot altitude should be maintained over these areas during April 1 to October 31. The

DCM shall identify the critical areas in the Yakutat forelands to lessees and operators. The lessee is advised that all violations may be reported to the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or the Alaska Department of Fish and Game, an appropriate, for disposition. Human safety will take precedence over the provisions of these restrictions.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which may be established among other reasons, for the purpose of protecting commercial fisheries. Bidders are advised that the United States reserves the right to designate necessary fairways through leased tracts pursuant to the Ports and Waterways Safety Act, as amended (33 U.S.C. 1223 (c)).

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines, Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular considerations to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a silding scale, or a fixed net profit share.

Bidders for these tracts should recognize that the Department of Energy is authorized under section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

17. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Alaska Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Ed Hastey
Director, Bureau of Land Management
Associate

Date: 9-4-80

Approved:

Cecil D. Andrus
Secretary of the Interior

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BILLING CODE 4310-84-C

different royalty rate or a royalty rate based on a sliding scale, or a fixed net profit share.

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf, Eastern Gulf of Alaska

Notice of Bidding Systems, Sale No. 55

Sec. 8(a)(8) [43 U.S.C. 1337 (a)(8)] of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. 55, tracts will be offered under the following three bidding systems as authorized under Sec. 8(a)(1) [43 U.S.C. 1337 (a)(1)]: (1) bonus bidding with a fixed sliding scale royalty on 32 tracts, (2) bonus bidding with a fixed net profit share on 88 tracts, and (3) bonus bidding with a fixed 16 2/3 percent royalty on 90 tracts.

(1) Bonus Bidding with Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(c) of the OCS Lands Act, as amended. The use of the sliding scale royalty system was introduced in OCS Sale 43 (March 28, 1978) and used again in the last nine OCS lease sales.

The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The sliding scale formula provided for Sale 55 is based on the current assumed range of costs and wellhead prices for this area.

The sliding scale used in Sales #43 and #45 was linear in form. Although this form is easy to describe it has three disadvantages which may affect the socially optimal level of production. At certain levels of production, a linear schedule causes erratic fluctuations in the royalty charged on increments in output which may lead producers to make socially non-optimal production decisions in order to minimize these royalty impacts on net revenues. Marginal royalty rates also can reach very high levels even though the average rates are low. In addition, because production costs are non-linear it can be shown that the royalty rate schedule should conform more closely to the functional form of these costs in order to minimize production losses from non-development of otherwise profitable tracts.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $22.300636 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $22.300637 million, but less than or equal to $4793.351779 million, the royalty percent due on the unadjusted value is given by the formula

$$R_j = b(\ln(V_j/S))$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 9.0$

$\ln$ = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $4793.351780 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the "Survey of Current Business," by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold.

(2) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. Sale 55 will be the second test of this bidding system, following Sale A62, which was established by Department of Energy (DOE) regulations effective May 14, 1980. This fixed net profit share system is intended to increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It is designed to increase the volume of production, because certain allowable capital costs may be deducted prior to any liability for profit share payments. In addition, the system may foster the development of marginal fields when compared to a royalty system since the government shares more of the risk and the lessees incremental costs are lower in the presence of a capital recovery.

The initial experiment with a profit share system uses cash bonus as the bid variable principally to avoid percentage bids at too high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that the most efficient firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

Firms will be permitted to recover a factor of 1.50 over their actual allowable costs before any profit share payments are due. The profit share rate selected for this sale is 40 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, government receipts, gross production, minimal economic tract sizes, and particularly on the incentive to alter the production profile.

(3) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This relatively low royalty system has been used extensively since the passage of the OCS Lands Act in 1953 and results in greater risks to the lessee from finding a dry hole, but more rewards (i.e., lower contingency payments to the government) if a commercial field is discovered. The use of this system will also provide data to compare the performance of the other alternative systems.

B. Designation of Tracts. The selection of tracts to be offered under the three systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforseen problems which could arise in the use of any new bidding system. The number of tracts must also be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes for each system. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the location of tracts across trends.

The enclosed list shows the particular system selected for each tract.

Enclosure

Ed Hastey
Director, Bureau of Land Management
Associate

Approved:

Cecil D. Andrus
Secretary of the Interior

SEP [illegible]

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2
(Approved 10/31/74)

Tract No.	Block No.	Description	Bidding System[a]	Hectares
55-75	798	All	FS	2304.00
55-76	799	All	FS	2304.00
55-77	800	All	FS	2304.00
55-78	801	All	PS	2304.00
55-79	802	All	PS	2304.00
55-80	803	All	PS	2304.00
55-81	804	All	FS	2304.00
55-82	805	All	FS	2304.00
55-83	806	All	FS	2304.00
55-84	807	All	FS	2304.00
55-101	842	All	FS	2304.00
55-102	843	All	FS	2304.00
55-103	844	All	FS	2304.00
55-104	845	All	PS	2304.00
55-105	846	All	PS	2304.00
55-106	847	All	PS	2304.00
55-107	848	All	FS	2304.00
55-108	849	All	FS	2304.00
55-109	850	All	FS	2304.00
55-110	851	All	FS	2304.00
55-111	852	All	FS	2304.00
55-127	886	All	FS	2304.00
55-128	887	All	FS	2304.00
55-129	888	All	FS	2304.00
55-130	889	All	PS	2304.00
55-131	890	All	PS	2304.00
55-132	891	All	PS	2304.00
55-133	892	All	FS	2304.00
55-134	893	All	FS	2304.00
55-135	894	All	FS	2304.00
55-136	895	All	FS	2304.00
55-137	896	All	FS	2304.00
55-138	897	All	SS	2304.00
55-139	898	All	SS	2304.00
55-148	930	All	FS	2304.00
55-149	931	All	FS	2304.00
55-150	932	All	FS	2304.00
55-151	933	All	PS	2304.00
55-152	934	All	PS	2304.00
55-153	935	All	PS	2304.00
55-154	936	All	FS	2304.00
55-155	937	All	FS	2304.00
55-156	938	All	FS	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, YAKUTAT NO 7-2, continued

Tract No.	Block No.	Description	Bidding System	Hectares
55-157	939	All	FS	2304.00
55-158	940	All	FS	2304.00
55-159	941	All	SS	2304.00
55-160	942	All	SS	2304.00
55-161	943	All	SS	2304.00
55-162	944	All	SS	2304.00
55-163	945	All	PS	2304.00
55-164	946	All	PS	2304.00
55-172	975	All	FS	2304.00
55-173	976	All	FS	2304.00
55-174	977	All	PS	2304.00
55-175	978	All	PS	2304.00
55-176	979	All	PS	2304.00
55-177	980	All	FS	2304.00
55-178	981	All	FS	2304.00
55-179	982	All	FS	2304.00
55-180	983	All	FS	2304.00
55-181	984	All	FS	2304.00
55-182	985	All	SS	2304.00
55-183	986	All	SS	2304.00
55-184	987	All	SS	2304.00
55-185	988	All	SS	2304.00
55-186	989	All	PS	2304.00
55-187	990	All	PS	2304.00
55-188	991	All	PS	2304.00
55-195	1019	All	SS	2304.00
55-196	1020	All	SS	2304.00
55-197	1021	All	PS	2304.00
55-198	1022	All	PS	2304.00
55-199	1023	All	PS	2304.00
55-200	1024	All	FS	2304.00
55-201	1025	All	FS	2304.00
55-202	1026	All	FS	2304.00
55-203	1027	All	FS	2304.00
55-204	1028	All	FS	2304.00
55-205	1029	All	SS	2304.00
55-206	1030	All	SS	2304.00
55-207	1031	All	SS	2304.00
55-208	1032	All	SS	2304.00
55-209	1033	All	PS	2304.00
55-210	1034	All	PS	2304.00
55-211	1035	All	PS	2304.00
55-212	1036	All	PS	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4
(Approved 9/22/75)

Tract No.	Block No.	Description	Bidding System	Hectares
55-218	7	All	SS	2304.00
55-219	8	All	SS	2304.00
55-220	9	All	PS	2304.00
55-221	10	All	PS	2304.00
55-222	11	All	PS	2304.00
55-223	12	All	FS	2304.00
55-224	13	All	FS	2304.00
55-225	14	All	FS	2304.00
55-226	15	All	FS	2304.00
55-227	16	All	FS	2304.00
55-228	17	All	SS	2304.00
55-229	18	All	SS	2304.00
55-230	19	All	SS	2304.00
55-231	20	All	SS	2304.00
55-232	21	All	PS	2304.00
55-233	22	All	PS	2304.00
55-234	23	All	PS	2304.00
55-235	24	All	PS	2304.00
55-240	54	All	FS	2304.00
55-241	55	All	FS	2304.00
55-242	56	All	FS	2304.00
55-243	57	All	FS	2304.00
55-244	58	All	FS	2304.00
55-245	59	All	FS	2304.00
55-246	60	All	FS	2304.00
55-247	61	All	FS	2304.00
55-248	62	All	FS	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Bidding System	Hectares
55-249	63	All	FS	2304.00
55-250	64	All	FS	2304.00
55-251	65	All	PS	2304.00
55-252	66	All	PS	2304.00
55-253	67	All	PS	2304.00
55-254	68	All	FS	2304.00
55-255	69	All	FS	2304.00
55-256	98	All	FS	2304.00
55-257	99	All	FS	2304.00
55-258	100	All	FS	2304.00
55-259	101	All	FS	2304.00
55-260	102	All	FS	2304.00
55-261	103	All	FS	2304.00
55-262	104	All	FS	2304.00
55-263	105	All	FS	2304.00
55-264	106	All	FS	2304.00
55-265	107	All	FS	2304.00
55-266	108	All	FS	2304.00
55-267	109	All	PS	2304.00
55-268	110	All	PS	2304.00
55-269	111	All	PS	2304.00
55-270	112	All	FS	2304.00
55-271	113	All	FS	2304.00
55-272	142	All	FS	2304.00
55-273	143	All	FS	2304.00
55-274	144	All	FS	2304.00
55-275	145	All	FS	2304.00
55-276	146	All	FS	2304.00
55-277	147	All	FS	2304.00
55-278	148	All	FS	2304.00
55-279	149	All	FS	2304.00
55-280	150	All	FS	2304.00
55-281	151	All	FS	2304.00
55-282	152	All	FS	2304.00
55-283	153	All	PS	2304.00
55-284	154	All	PS	2304.00
55-285	155	All	PS	2304.00
55-286	156	All	FS	2304.00
55-287	157	All	FS	2304.00
55-288	186	All	PS	2304.00
55-289	187	All	PS	2304.00
55-290	188	All	PS	2304.00
55-291	189	All	PS	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Bidding System	Hectares
55-292	190	All	PS	2304.00
55-293	191	All	PS	2304.00
55-294	192	All	PS	2304.00
55-295	193	All	PS	2304.00
55-296	194	All	PS	2304.00
55-297	195	All	PS	2304.00
55-298	196	All	PS	2304.00
55-299	197	All	PS	2304.00
55-300	198	All	PS	2304.00
55-301	199	All	PS	2304.00
55-302	200	All	FS	2304.00
55-303	201	All	FS	2304.00
55-304	230	All	PS	2304.00
55-305	231	All	PS	2304.00
55-306	232	All	PS	2304.00
55-307	233	All	PS	2304.00
55-308	234	All	PS	2304.00
55-309	235	All	PS	2304.00
55-310	236	All	PS	2304.00
55-311	237	All	PS	2304.00
55-312	238	All	PS	2304.00
55-313	239	All	PS	2304.00
55-314	240	All	PS	2304.00
55-315	241	All	PS	2304.00
55-316	242	All	PS	2304.00
55-317	243	All	PS	2304.00
55-318	244	All	FS	2304.00
55-320	274	All	PS	2304.00
55-321	275	All	PS	2304.00
55-322	276	All	PS	2304.00
55-323	277	All	PS	2304.00
55-324	278	All	PS	2304.00
55-325	279	All	PS	2304.00
55-326	280	All	SS	2304.00
55-327	281	All	SS	2304.00
55-328	282	All	SS	2304.00
55-329	283	All	SS	2304.00
55-330	284	All	SS	2304.00
55-331	285	All	PS	2304.00
55-332	286	All	PS	2304.00
55-333	287	All	PS	2304.00
55-335	318	All	PS	2304.00
55-336	319	All	PS	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NO 7-4, continued

Tract No.	Block No.	Description	Bidding System	Hectares
55-337	320	All	PS	2304.00
55-338	321	All	PS	2304.00
55-339	322	All	PS	2304.00
55-340	323	All	PS	2304.00
55-341	324	All	SS	2304.00
55-342	325	All	SS	2304.00
55-343	326	All	SS	2304.00
55-344	327	All	SS	2304.00
55-345	328	All	SS	2304.00
55-346	329	All	PS	2304.00
55-347	330	All	PS	2304.00

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a/ FS is one-sixth fixed royalty system

SS is sliding scale royalty system

PS is fixed net profit share system

[FR Doc. 80-27737 Filed 9-8-80; 8:45 am]

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Part V

Environmental Protection Agency

Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1601-6]

Guidelines for the Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy

AGENCY: Office of Enforcement, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of a policy for implementation of the Toxic Substances Control Act, with respect to the assessment of civil penalties under Section 16; interim guidance for the determination of penalties for violations of the PCB regulations.

SUMMARY: Section 16 of the Toxic Substances Control Act (TSCA or the Act) authorizes the Administrator of EPA to assess civil penalties for violations of the Act. On March 10, 1980, Jeffrey G. Miller, Acting Assistant Administrator for Enforcement, transmitted to the EPA Regional Administrators a document which implements an administrative civil penalty policy for TSCA. This document sets forth a general penalty assessment policy which will be supplemented by regulation-specific penalty assessment guidance. Together, these documents provide internal procedural guidelines to aid EPA personnel to assess appropriate penalties. They are not regulations. The penalty assessment policy establishes standardized definitions and applications of the statutory factors that the Act requires the Administrator to consider in assessing a penalty. It also provides a mechanism whereby Agency personnel may, within specified boundaries, exercise discretion in negotiating consent agreements, and otherwise adapt the proposed penalty to the exigencies of special circumstances.

Separate guidances will apply the penalty system to specific regulatory and statutory provisions. These guidances will be developed on a continuing as-needed basis.

On April 24, 1980, Richard D. Wilson, deputy Assistant Administrator for General Enforcement, transmitted to the EPA Regional Administrators the first of the regulation specific penalty policies. This document consisted of interim guidance for the determination of penalties for violations of the PCB regulations.

The TSCA civil penalty policy and the PCB penalty policy were effective on March 10, 1980 and April 24, 1980, respectively, the dates these policies were issued to the Regional Offices. Although the Agency is not required to publish these documents, EPA is doing so in order to give them the wide circulation that publication will provide.

The full text of the TSCA civil penalty policy, and the PCB penalty policy, with the appropriate transmittal memoranda, appear below in the "Supplementary Information" section.

FOR FURTHER INFORMATION CONTACT: Peter J. Niemiec, Attorney-Advisor, Pesticides and Toxic Substances Enforcement Division (EN-342), 401 M St., SW., Washington, D.C. 20460, (202) 755-9404.

SUPPLEMENTARY INFORMATION: The doucments appearing below were transmitted to the EPA Regional Administrators on March 10, 1980, and April 24, 1980, respectively. The "Technical Support Document" referred to in the TSCA civil penalty document has not been reproduced, but is available upon request from the EPA address above.

Dated: July 7, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

TSCA Civil Penalty System

Introduction

The Toxic Substances Control Act (TSCA), passed by Congress and signed into law in 1976, provides for increased regulation of chemical substances and mixtures. The Environmental Protection Agency is charged with carrying out and enforcing the requirements of the Act and any rules promulgated under the Act.

Section 16 of the Act provides for civil and criminal penalities for violations of TSCA or TSCA rules. Civil penalty amounts may range up to $25,000 per violation, with each day that a violation continues constituting a separate violation. Civil penalties are to be administratively imposed, after the person is given a written notice and the opportunity to request a hearing. There is a right to review in the United States Courts of Appeals after the penalty has been imposed by the Administrator.

Section 16 of TSCA requires that a number of factors be considered in assessing a civil penalty, as follows:

> In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, and history of prior such violations, the degree of culpability, and such other matters as justice may require.

The purpose of the general penalty system is to assure that TSCA civil penalties be assessed in a fair, uniform and consistent manner; that the penalties are appropriate for the violation committed; that economic incentives for violating TSCA are eliminated; and that persons will be deterred from committing TSCA violations.

Scope of the Civil Penalty System

The penalty system described in this document provides the general framework for civil penalty assessment under TSCA. It establishes standardized definitions and applications of factors the Act requires the Administrator to consider in assessing a penalty. As regulations are developed, specific penalty guidelines will be developed adopting in detail the application of the general penalty system to the new regulation. These specific guidelines will generally be issued when enforcement strategies are issued for each new regulation.

Note.—This document does not discuss whether assessment of a civil penalty is the correct enforcement response to a given violative condition. Rather, this document focuses on determining what the proper civil penalty should be if a decision has been made that a civil penalty is the proper enforcement remedy to pursue.

Brief Description of the System

The general civil penalty system is designed to assign penalties for TSCA violations in accordance with the statutory requirements of Section 16. Penalties are determined in two stages: (1) Determination of a "gravity based penalty" (GBP), and (2) adjustments to the gravity based penalty.

To determine the gravity based penalty, the following factors affecting a violation's gravity are considered:

- The "nature" of the violation,
- The "extent" of environmental harm that could result from a given violation, and
- The "circumstances" of the violation.

These factors are incorporated on a matrix which allows determination of the appropriate gravity based penalty.

Once the gravity based penalty has been determined, upward or downward adjustments to the penalty amount are made in consideration of these other factors:

- Culpability,
- History of such violations,
- Ability to pay,
- Ability to continue in business, and
- Such other matters as justice may require.

Civil Penalty System and Its Application

This section describes in detail the

general civil penalty system, how specific penalty guidances will be developed and applied, and the reasoning behind the development of the system.

The Penalty Factors

The Act requires the consideration of eight named factors in any penalty assessment, as well as "other factors as justice may require."

The first four factors—nature, circumstances, extent, and gravity—relate to the violation. Under the penalty system these four factors are charted on a matrix which yields the Gravity Based Penalty (GBP). This matrix is a *constant* throughout the penalty system. As will be seen below, however, the specific penalty guidelines will affect into which category along each axis of the matrix the violation will fall.

Once a GBP figure is reached, several adjustment factors are applied:

- An upward or downward adjustment may be made for particularly culpable or non-culpable conduct. An upward adjustment of up to 100% may be made where there is a history of such a violation.
- Two other adjustments (not specifically required by the Act, but authorized under the "as justice may require" language of § 16) are to recover cleanup costs paid by the United States, and to reduce or eliminate any financial or competitive advantage gained by the violator as a result of his failure to follow the Act, or its regulations. Other case-by-case adjustments may also be warranted under the "as justice may require" language.
- The final statutory adjustment factors are the violator's ability to pay and the effect on the violator's ability to continue to do business. For several reasons we have combined the concepts involved in these factors onto one "ability to pay" factor. This factor will often act as a limit on the amount of penalty assessed, even where other factors indicate a higher penalty is warranted.

Calculation of the Gravity Based Penalty

The gravity based penalty (GBP) is found on the following matrix:

Circumstances (probability of damages)	Extent of potential damage		
	A major	B significant	C minor
High range:			
1	$25,000	$17,000	$5,000
2	20,000	13,000	3,000
Mid range:			
3	15,000	10,000	1,500
4	10,000	6,000	1,000
Low range:			
5	5,000	3,000	500
6	2,000	1,300	200

NOTE.—Significant violations are assessed at 60–68% of major violations, while minor violations are assessed at 20% and 15% of major violations for levels 1 and 2, and 10% for levels 3–6.

The GBP incorporates nature, extent, circumstances, and gravity as follows:

1. *Nature*. The "nature" factor, as all factors in the penalty system, is used in accordance with its commonly understood meaning: "The essential character of a thing; quality or qualities that make something what it is; essence" (Webster's New World Dictionary).

In the context of penalty assessment, this factor indicates which specific penalty guideline should be used to determine appropriate matrix levels of "extent" and "circumstances" (of environmental harm surrounding the violation). Thus, the nature (essential character) of a violation is best defined by the set of requirements violated, such as the PCB rule, or the premanufacture notification requirement. Since each TXCA section, rule, or other appropriate group of requirements will have a separate specific penalty guideline that will include criteria for assigning violations to the several levels of "extent" of potential harm, and probability of harm, the specific tailoring of these operational criteria for each section or rule ensures that penalties assessed will reflect the nature of the violation.

Also incorporated in the concept of "nature" is whether the violation is of a *chemical control, control-associated data gathering,* or *hazard assessment* nature:

Chemical control: Chemical control regulations are aimed at minimizing the risk presented by a chemical substance, by placing constraints on how it is handled. Sections 6, 7, 12, 13 and subsections 5(e), and 5(f) authorize a wide variety of chemical control actions, from labeling requirements to total bans on manufacture. These requirements are variously imposed by rulemaking, administrative order, court injunction, or by the Act itself.

Control-associated data gathering: Control-associated data gathering requirements are the recordkeeping and/or reporting requirements associated with a chemical control regulation. These requirements enable the Agency to evaluate the effectiveness of the regulation, and to monitor compliance.

Hazard assessment: Hazard assessment requirements are used to develop and gather the information necessary to intelligently weigh and assess the risks and benefits presented by particular chemical substances, and to impose chemical control requirements when appropriate. The requirments include those of premanufacture notification under § 5, testing under § 4, and reporting and recordkeeping under § 8.

As discussed in the next two sections, the "nature" of the violation will have a direct effect on the measure used to determine which "extent" and "circumstances" categories are selected on the GBP matrix.

2. *Extent.* "Extent" is used to take into consideration the degree, range, or scope of the violation. The matrix provides three levels for measuring extent:

Level A (Major):
—Potential for "serious" damage to human health or for *major* damage to the environment.
Level B (Significant):
—Potential for *"significant"* amount of damage to human health or the environment.
Level C (Minor):
—Potential for a lesser amount of damage to human health or the environment.

A number of factors affect into which level of "extent" a particular violation fits. The specific application of these factors depends in large degree on the specific penalty system's treatment of a particular violation. For example, the specific penalty system will not only provide guidance for PCBs in general, but also for the type of PCB violation.

Chemical control: For a chemical control violation (e.g., rules for storage

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and disposal of PCBs), the *quantity* of the regulated substance involved might be the principal basis for categorizing extent. In other words, a violation involving under 10 pounds of a given substance might be Level C, 10 to 100 pounds Level B, and over 100 pounds Level A.[1] In the development of specific guidelines, environmental impact data and other analyses developed in support of the chemical control rule making will generally be the basis for determining "extent" levels.

Control-associated data-gathering: For control-associated data gathering regulations, the quantity of regulated substance involved in the recordkeeping will be used as the indicator of the extent of the violation. For example, not reporting the whereabouts of 1,000 pounds of PCBs is more serious than not reporting one pound. In general, the quantity measures used to define the "extent" of such a violation will be the same as those used to define the "extent" categories of the control violation with which it is associated. As with chemical control rules, factors other than quantity may be used when appropriate to indicate the "extent" of potential damage.

Hazard assessment: Hazard assessment data-gathering regulations require a different approach to make an "extent" determination. Unlike chemical control and control-associated data-gathering regulations, the degree of danger or "hazard" presented by the substance in question may not be known. Indeed, this lack of knowledge is the principle reason for the data-gathering. The measure of "extent" of harm will focus on the goals of the given hazard assessment regulation, and the types of harm it is designed to prevent. For example, a § 4 test violation will be of Level A extent *if* it "seriously" affects the validity of a test on a substance which is manufactured in large quantities, with lesser violations treated accordingly, whereas manufacturing a chemical without submitting a premanufacture notification form 90 days in advance, could either be treated as (1) always being of Level A or, (2) varying in level of "extent" according to the volume illegally manufactured. Thus, a great number of judgments must be made in the formulation of the specific penalty policy.

3. *Circumstances.* "Circumstances" is used in the penalty policy to reflect on the probability of the assigned level of "extent" of harm actually occurring. In other words, a variety of facts surrounding the violations as it occurred are examined to determine whether the circumstances of the violation are such that there is a *high, medium,* or *low* probability that damage will occur. The matrix provides the following levels for measuring circumstances (probability factors):

Levels 1 and 2 (High): The violation is *likely* to cause damage.

Levels 3 and 4 (Medium): There is a *significant* chance that damage will result from the violation.

Levels 5 and 6 (Low): There is a *small likelihood* that damage will result from the violation.

The probability of harm, as assessed in evaluating circumstances, will always be based on the risk inherent in the violation *as it was committed.* In other words, a violation which presented a high probability of causing harm when it was committed (and/or was allowed to exist) must be classified as a "high probability" violation and *penalized* as such, even if through some fortuity no actual harm resulted in that particular case. Otherwise some who commit dangerous violations would be absolved. Similarly, when harm has actually resulted from a violation, the "circumstances" of the violation should be investigated to calculate what the probabilities were for harm occurring at the time of the violation. The theory is that violators should be penalized for the violative conduct, and the "good" or "bad" luck of whether or not the proscribed conduct *actually* caused harm should *not* be an overriding factor in penalty assessment. However, the responsibility for clean-up attaches without regard to the probability of harm (see Adjustment Factor 3, Government Clean-up Costs). As with "extent," the specific penalty guidelines are an essential tool in characterizing the circumstances of a violation.

Chemical control: With chemical control violations, probability is determined primarily by physical factors which affect the chance of improper exposure to the chemical's effects. For example, certain types of improper storage of PCBs are more likely than others to result in release of PCBs into the environment, and actual dumping of PCBs is virtually certain to do some harm. Criteria for assessing the probability of harm resulting from a violation will whenever possible be based on information developed in support of the chemical control rule.

Data-gathering and hazard assessment: A slightly different approach is taken to evaluate circumstances of data-gathering violations. The effect on the Agency's ability to implement of enforce the Act is the principal circumstance to be considered. Thus, the matrix levels for measuring circumstances (probability) for data-gathering and hazard assessment violations are as follows:

Levels 1 and 2 (High)—Violations which seriously impair the Agency's ability to monitor (data-gathering) or evaluate chemicals (hazard assessment).

Levels 3 and 4 (Medium)—Violations which impair the Agency's ability to monitor or evaluate chemicals in a less than critical way.

Levels 5 and 6 (Low)—Violations that impair the Agency's ability to monitor or evaluate chemicals in a less than important way.

Under these criteria, a violation of a Section 4 test standard (serious enough to make a study totally unreliable) has a higher probability of resulting in harm to the public through its effect on the Agency and would probably be Level 1 or 2, while late submission of a required report might be only a Level 5 or 6 violation.

Whenever possible, the specific penalty system will attempt to classify certain types of violations according to probability of damage. For example, certain types of violations of a disposal rule might always involve a high probability of damage. But other types of violations might involve such a large range of probability of harm that each case would have to be evaluated individually. In the latter case, the specific penalty guideline will include criteria to guide the evaluation of each violation. It is difficult to estimate the probability of harm presented by given situation, particularly in light of the many variables that make up "circumstances." However, "circumstances" can be evaluated for guideline purposes by comparing situations. For example, it is clear that, as a general rule, there is a greater probability of a falsified laboratory test leading to *actual damage,* than to have such damage resulting from minor errors in test report formatting.

The specific guidelines will also address the range of probabilities within each of the six "circumstances" classifications. For some violations, any probability of causing harm of over 10% might be in the "high" range, while other violations might be classified quite differently. One particular factor that may affect probability determinations is the length of time during which the violation presents a threat to health or the environment. Dumping PCBs in an unapproved landfill may not cause harm immediately but may inevitably cause harm as it leaches into nearby groundwater. But where only temporary improper *storage* is intended, and removal is planned, the probability of harm would be decreased accordingly.

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[1] Other criteria, such as number of people exposed or potentially exposed, could have been utilized here, but (1) those factors are difficult and expensive to quantify for individual violations, and (2) these factors are already considered, to some extent, under "circumstances."

4. *Gravity.* "Gravity" refers to the overall seriousness of the violation. As used in this penalty system, "gravity" is a dependent variable, i.e., the evaluation of "nature," "extent," and "circumstances" will yield a dollar figure on the matrix that determines the gravity based penalty.

The Adjustment Factors

The gravity based penalty reflects the seriousness of the violation's threat to health and environment. The Act also requires the Agency to consider certain factors in assessing the violator's conduct: Culpability, history of such violations, ability to pay, and ability to continue in business. In addition, the Act authorizes the Agency some discretion to consider "other factors as justice may require." Under this last authorization, two additional factors are considered and balanced: the cost of the violation to the government, and the benefits received by the violator due to his non-compliance. In order to compute penalty adjustments in a logical fashion, these adjustment factors are considered in the following sequence:

(1) Culpability;
(2) History;
(3) Cost to the government;
(4) Benefits from non-compliance; and
(5) Ability to pay/ability to continue in business.

1. *Culpability.* Since the law only requires the Agency to consider the culpability of the violator as an adjustment factor, the existence of a violation can be established without relying solely on this "blameworthiness" factor. In other words, the Agency may pursue a policy of strict liability in penalizing for a violation, though some allowance must be made based on the extent of the violator's culpability.[2] Under this penalty system, the gravity based penalty may be increased or decreased, or may remain the same depending on the violator's "culpability."

The two principal criteria for assessing culpability are (a) the violator's *knowledge* of the particular TSCA requirement, and (b) the degree of the violator's *control* over the violative condition.

(a) *The violator's knowledge:* The lack of knowledge of a particular requirement would not necessarily reduce culpability, since the Agency has no intention of encouraging ignorance of TSCA and its requirements. The test under TSCA will be whether the violator knew or should have known of the relevant TSCA requirement *or* of the general hazardousness of his actions. This latter point will allow the Agency to find a violator fully culpable even if he has no knowledge of a particular regulatory requirement when he does have knowledge that the particular substance he was dealing with was hazardous. For example, lack of knowledge of the PCB rules would not reduce culpability if the violator had knowledge that the dumping of PCBs creates a serious threat to human health. Thus, a reduction in the penalty based on lack of knowledge could only occur where a reasonably prudent and responsible person in the violator's position would not have known that the conduct was hazardous or violative of TSCA. It is anticipated that such situations and attendant reductions will be rare.

(b) *Degree of control over the violation:* There may be situations where the violator may be less than fully responsible for the violation's occurrence. For example, another company may have had some role in creating the violative conditions and thus must also share in the legal responsibility for the resulting consequences. Or an employee whose conduct caused the violation may have been disobeying his employer's instructions. Such situations would probably warrant some reduction in the penalties.

(c) *Initial culpability determination:* For penalty assessment purposes, three levels of culpability have been assigned, as follows:

Level I: The violation is willful, i.e., the violator intentionally committed an act which he knew would be a violation or would be hazardous to human health or the environment.

—Adjust the GBP *Upward* 25%.

Level II: The violator either had sufficient knowledge to recognize the hazard created by his conduct, or significant control over the situation to avoid committing the violation.

—No adjustment to the GBP.

Level III: The violator lacked sufficient knowledge of the potential hazard created by his conduct, and also lacked control over the situation to prevent occurrence of the violation.

Adjust the GBP *downward* 25%.

It is anticipated that most cases will present Level II culpability. Level I situations, in many instances, could be treated as criminal violations (and often will be so treated). However, the decision to file a criminal action has no effect on civil penalty calculations and is a totally separate issue.

(d) *Attitude of the violator:* In assessing the violator's "attitude," the Agency will look at the following factors: Whether the violator is making "good faith" efforts to comply with the appropriate regulations; the promptness of the violator's corrective actions; and any assistance given to EPA to minimize any harm to the environment caused by the violation.

Since "attitude" is already reflected in Level I culpability, and since it is largely irrelevant to Level III culpability, this adjustment will really only be utilized where "knowledge" and "control" result in a Level II culpability finding. While Level II normally yields no reduction or increase in penalty, the attitude of the violator may justify a penalty adjustment of up to 15% of the GBP in either direction. Objective evidence, such as statements or actions of the violator, should be used to justify such adjustments.

2. *History of prior such violations.* The gravity based penalty matrix is designed to apply to "first offenders." Where a violator has demonstrated a similar history of "such violations," the Act requires the penalty to be adjusted upward. The need for such an upward adjustment derives from the violator's not being sufficiently motivated to comply (deterred from non-complying) by the penalty assessed for the previous violation, either because of economic factors consciously analyzed by the firm, or because of negligence. Another reason for penalizing repeat violators more severely than "first offenders" is the increased enforcement resources that are spent on the same violator.

The Agency's policy is to interpret "prior *such* violations" as referring only to prior violations of *TSCA*, even though it would seem "such" could refer to *any* violations of EPA statutes, or remedial statutes in general (e.g., OSHA, CPSC). However, since Congress did not *explicitly* state it wanted the Agency to go beyond TSCA in determining violation history, the Agency is using this narrower interpretation. The penalty system distinguishes between previous TSCA violations in general, and previous violations of the same set of regulatory requirements.

The following rules apply in evaluating history of prior such violations:

(a) In order to constitute a prior violation, the prior violation must have resulted in a *final order*, either as a result of an uncontested complaint, or as a result of a contested complaint which is finally resolved against the violator. Violations litigated in the Federal courts, under the Act's imminent hazard (§ 7), specific enforcement and seizure (§ 17), and criminal (§ 16(b)) provisions, are part of a violator's "history" for penalty assessment purposes, as are violations for which civil penalties have been previously assessed. However, a notice of non-compliance does *not constitute* a *"prior* such *violation"*, since no violation has formally been found, and no opportunity to contest the notice has been given.

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[2] There are certain circumstances where an "act of God" or some other circumstance totally out of a company's control may not result in assessment of a violation (no legal liability). For examply where PCBs are *properly* stored, and a plane crashes into the storage facility, causing a spill, there will probably be no violation.

(b) To be considered a "prior such violation", the violation must have occurred within five years of the present violation. This five year period begins when the prior violation becomes a final order. Beyond five years, the prior violative conduct becomes too distant to require compounding of the penalty for the present violation.

(c) Generally, companies with multiple establishments are considered as one when determining history. Thus, if one establishment of a company commits a TSCA violation, it counts as history when another establishment of the same company, anywhere in the country, commits another TSCA violation However, two companies held by the same parent corporation do not necessarily affect each other's history if they are in substantially different lines of business, and they are substantially independent of one another in their management, and in the functioning of their Boards of Directors. In the case of wholly- or partly-owned subsidiaries, the violation history of a parent corporation shall apply to its subsidiaries, and that of the subsidiaries to the parent.

(d) If the prior such violation is of a different TSCA provision or regulation, the penalty should be upwardly adjusted 25 percent for a first repetition and 50 percent for a second repetition of the violation. If the prior "such" violation is of the same, or closely similar provision or regulation, the penalty should be upwardly adjusted 50 percent for the first repetition and 100 percent for the second repetition.

For these purposes, a prior such violation is the "same or closely related" if it is *similar* to the present violation. Each TSCA rule or regulation is considered a separate entity for "closely related" purposes. Thus the identical provision does *not* have to be violated both times for this higher adjustment to be made. For example, *two separate* unlawful disposals of PCBs may be "closely similar" if the PCBs were unlawfully dumped on the highways in the first instance, and in the second instance, PCBs of over 500 ppm were burned in a facility that did not comply with the PCB incinerator standards.

The specific guidelines will give some guidance on what violations are "closely similar" to others, and may set up a sliding scale of upward adjustment percentages rather than the 50 percent or 100 percent figures provided here.

3. *Government clean-up costs.* An adjustment factor not specified in the statute, but which the Agency feels "justice * * * require[s]," is reimbursement to the government for funds expended to investigate, clean-up, or otherwise mitigate the effects of a violation.

Generally, the clean-up expense of a violator is to be borne by the violator as a necessary cost of violation in addition to any civil penalty assessed. The government may seek a Federal district court injunction under §§ 7 or 17 to require the violator to clean-up, but there will almost certainly be situations where the government will have to clean-up the violation to quickly alleviate any hazards created. Where these latter situations happen, the government could probably file a non-statutory suit in Federal district court to recover funds which it expended, but it could even more easily assess these costs, when they are sufficiently low, in an administrative proceeding under § 16, particularly where a § 16, particularly where a § 16 action is going to be filed anyway.

The major limitation to seeking reimbursement of government investigatory and clean-up costs is the limit of $25,000 for each violation. However, since each day a violation continues constitutes a separate violation for which a $25,000 penalty may be assessed, in many instances clean-up and investigatory costs can be recovered where the violation is a continuing one. However, where a penalty would be in the area of $25,000 for the violation even before government investigatory and clean-up costs are considered, a § 16 action would be of little value in recovering these additional costs.

In adjusting the penalty, the government investigatory and clean-up cost should be added to the penalty calculated thus far. Where the total penalty under this method exceeds $25,000, the penalty should be cut back to $25,000. As will be discussed later, this type of situation lends itself to utilization of the continuing violation provisions of § 16.

It is important to note that consideration of government investigatory and clean-up costs in the penalty assessment is *not* intended to in any way affect the *right* of the government to *recover investigatory and clean-up costs* in a separate court action. A violator may argue that investigatory and clean-up costs have been abrogated by settlement of the penalty. Thus, if there is a reasonable possibility that the Agency will seek to recover such costs in a separate suit, this factor should *not* be utilized in assessing the § 16 penalty. Thus the investigatory and clean-up costs will *not* be included twice in calculating a penalty for a violation.

4. *Gains from noncompliance.* Another adjustment factor which "justice * * * require[s]" is that the violator not profit from its violative acts. TSCA's ability to prevent harm to public health and the environment is severely weakened whenever an economic incentive exists to violate the law. The penalty system attempts to eliminate, or at least reduce, these economic incentives, by adding to the base penalty an estimate of the economic gains obtained by the violator as a result of his noncompliance.

Among such economic gains would be money saved by not investing in new equipment, or by not following more costly operating procedures, or profits gained through the sale of illegal products. Removing such gains not only protects the public by deterring violations, but also prevents violators from gaining unfair competitive advantage over those who are complying with the law. For example, a company which manufactures a new chemical without submitting a premanufacture notice, pursuant to § 5, may gain a strong competitive advantage over another company who intends to manufacture the same chemical, but follows the § 5 procedure. The violator should be penalized at least to the extent of the economic gains achieved through his noncompliance. Any other result would put a premium on noncompliance.

The specific penalty guidelines should, where possible, indicate the types of economic gains from noncompliance, and include either standard estimates of such gains (e.g., the purchase price of required new equipment or facilities), or a procedure for estimating the gain. In cases where economic gains resulted from the company's failure to make required capital and operation and maintenance expenditures, those gains must be calculated in accordance with the Agency's September 27, 1978, "Technical Support Document" for computing civil penalties under the April 11, 1978, Civil

Penalty Policy. The resulting economic savings figure must be reviewed by the Civil Penalty Policy Panel for consistency with that policy. In many instances, the GBP will be sufficiently high without adjustment for this factor. In other situations where there is no economic motive or benefit from noncompliance, or when the cost of cleaning up a violation outweighs any economic benefits received, this adjustment factor need not be applied.

5. *Ability to pay and ability to continue in business.* (a) *Usage of these terms.* The Act lists "ability to pay" and "ability to continue in business" as two adjustment factors, but for the purposes of the penalty system the distinctions between the two are so narrow and artificial that they are treated as one. In making this determination it was considered that "ability to pay" might be limited (in the extreme sense) to such indicators as the market value of the violator in liquidation, the profits accrued by the firm over a given time period, the net sales or income generated over a given time period, the value of cash and other liquid assets held by the firm, and the value of all liquid assets plus borrowable cash. Essentially, however, a firm can pay up to the point where it can no longer do business.[3] However, it is evident that Congress, by inserting these two factors into the Act, for *most* cases did not intend that TSCA civil penalties present so great a burden as to pose the threat of destroying, or even severely impairing, a firm's business.

Measuring a firm's ability to pay[4] a cash penalty, without ceasing to be operable, can be extremely complex. The focus is on the solvency of the firm. Rather than performing extensive financial analysis of a firm, which would take an unreasonable effort on the part of both the Agency and the firm, it is believed that a year's net income, as determined by a fixed percentage of total sales, will generally yield an amount which the firm can afford to pay. The average ratio of net income to sales level for U.S. manufacturing in the past five years is approximately five percent (*1978 Economic Report of the President*). Since small firms are generally slightly less profitable than average sized firms, and since small firms are the ones most likely to have difficulty paying TSCA penalties, the guideline is reduced to four percent.

Even where the net income is negative, four percent of gross sales should still be used as the "ability to pay" guideline, since companies with high sales will be presumed to have sufficient cash to pay penalties even where there have been net losses.

For purposes of calculating the ability to pay, figures for the current year and the prior three years should be averaged. Four percent of the average sales will serve as the guideline for whether the company has the ability to pay.

(b) *Application of ability to pay.* While it would be possible for an inspector to utilize Dunn and Bradstreet, or to inquire during the course of the inspection to ascertain sales data, the firm should be presumed to have the ability to pay at the time the complaint is issued. This is preferable not only for purposes of administrative convenience, but also because many firms will not have their sales information in Dunn and Bradstreet or similar publications, and because the Act indicates that financial and sales data are only subject to inspection when "the nature and extent of such data are described with reasonable specificity in the written notice (of inspection)," § 11(b)(2). This singling out by Congress of these factors indicates that they are not to be routinely asked for in every inspection, and since any alleged violator can raise the issue of ability to pay in his answer to the complaint, both the Agency and the inspected firm will save time and resources by using this approach. Of course, if such information can easily be obtained prior to or during the inspection, there is no harm in doing so.

If the firm raises the issue of inability to pay in its answer, or in the course of settlement discussions, the four percent guideline discussed above should be the model to follow. The firm should be asked to bring appropriate documentation to indicate what their sales have been, such as tax returns, financial statements, etc. If the proposed penalty exceeds four percent of total sales, the penalty may be reduced to an affordable level.

There may be some cases where a firm argues that it cannot afford to pay even though the penalty as adjusted does not exceed four percent of sales. A variety of factors, too complex to discuss here, might require such further adjustment to be made. In complex cases, the agency may need to rely on a management division economist or an accountant to analyze the firm's ability to pay and, on a case-by-case basis, to further reduce the proposed penalty.[5]

6. *Other factors at justice may require.* While two "other factors" have been incorporated as adjustment factors, other issues might arise, on a case-by-case basis, which should be considered in assessing penalties. Among these factors are:

- *Money spent by the violator in cleaning up or otherwise mitigation the harm caused by the violation.* Normally there should be no reduction for these costs, since it is part of the cost of violation. However, there may be instances where the cost of penalty, plus cost of cleanup, are excessive for the particular violation, so that some credit for these expenditures should be given.
- *New ownership for "history of violations."* It may be unfair in some cases to burden new ownership with the previous owner's history.
- *National defense.*
- *Foreign policy.*
- *Conflict or ambiguity vis-a-vis other Federal statutes and regulations* (e.g., OSHA, USDA, DOE).
- *Environmentally beneficial expenditure.* Circumstances may arise where a violator will offer to make expenditures for environmentally beneficial purposes above and beyond those required by law, in lieu of paying civil penalties. The Agency, in penalty actions in the U.S. District Courts under the Clean Air and Water Acts, has determined that crediting such expenditures is consistent with the purpose of civil penalty assessment. Although civil penalties under TSCA are administratively assessed, the same

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[3] Technically, a firm would often be able to pay even if imposing a penalty would cause it to file for bankruptcy, since a reorganization might still leave the business in operation.

[4] Henceforth "ability to pay" will be used to include "ability to continue in business".

[5] The analyst must keep several particular points in mind. First, small firms often report no taxable income, and instead provide a return of their owner/operators through salaries and benefits such as automobiles, medical plans, and so forth. When reconstructing the firm's cash flow, owner/operators should receive as payment for services only that amount which they could obtain for providing similar services in the general labor market. The rest of their compensation should properly be assigned to profit for the company. The second point to keep in mind in examining tax returns is that small, privately-owned plants often have several corporations set up to handle various aspects of the business. If one or more of these corporations is culpable for some part of the TSCA violation, the tax returns for all involved corporations should be examined and a combined cash flow prepared. Once the firm's historical cash flows have been assembled, the analyst must make some assessment of the likely future path of the company. In so doing, the analyst must consider the firm's ability to earn cash from its operations, its ability to liquidate assets to meet penalty amounts (and still remain in business), and its ability to raise additional cash from lenders and its owners. The analyst must judge these factors without expending excessive resources on the analysis. Such a process can be assisted through discussions with individuals knowledgeable in the particular industry, such as local bankers, consultants, and others, if appropriate.

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rational applies. This adjustment, which constitutes a credit against the actual penalty amount, will normally be discussed only in the course of settlement negotiations. The criteria for acceptable credits are discussed in detail in section VIII of the April 11, 1978 Civil Penalty Policy. Before proposed credit amounts can be incorporated into a settlement, the complainant must assure himself that the penalty (with credit adjustment) is consistent with the April 11, 1978, Civil Penalty Policy, and that the company has not already received credits in another enforcement action for the same environmentally beneficial expenditures. The settlement agreement incorporating such an adjustment should make clear what the actual *penalty* assessment is, after which the terms of the reduction should be spelled out in detail and in a clearly enforceable manner.

- *Significant-minor borderline violations.* Occasionally a violation, while of significant extent, will be so close to the borderline separating minor and signficant violations that the penalty may seem disproportionately high. In this situation, additional reduction of up to 25% off the GBP may be applied before the other adjustment factor are considered.

Continuing Violations

Since the Act provides not only that civil penalties may be assessed up to $25,000 for each violation, but that each day a violation continues constitutes a separate violation for which additional penalties may be assessed, there is a potential for very large penalties to be assessed in many situations. In some cases, such large penalties will be appropriate for continuing violations, while for others, such as late inventory reporting, assessing an additional penalty for each day of violation would yield a penalty assessment for greater than the violation merits. The specific penalty guidelines will discuss the types of continuing violations which should be assessed on a per-day basis. This discussion should indicate how criteria such as this will be applied, e.g., which continuing violations should never be penalized on a per-day basis, and which should usually or always be so penalized.

When a penalty is assessed on a per-day basis for a continuing violation, care must be taken to assure that the adjustment factors, "government clean up costs", and "economic benefits from non-compliance" are spread over the entire penalty, since these figures are calculated by looking at the entire violative situation. For example, if a continuing violation lasted four days and generated $40,000 in government clean-up costs, these $40,000 in costs should be added to the daily penalties (although each day would still be limited to a maximum $25,000 penalty).

Continuing violations are distinguished from multiple violations and violations which occur several separate times. These latter violations will generally be separately assessed.

Settlement

This guidance does not prescribe a specific percentage guideline for penalty reductions in the course of settlement. While, as a general rule, penalties may be altered in the course of settlement, there should always be some substantive reason given, which is to be incorporated in any settlement agreement and consent decree and final order for any penalty reduction. Other aspects of settlement are discussed in the context of particular penalty factors.

Designing and Applying a Specific Penalty Guidance

Designing a Specific Penalty Guidance

The specific penalty guidance, which will usually be developed as part of the enforcement strategy for a particular regulation, will provide the detailed information needed to fit particular violations in the overall civil penalty system. Each specific penalty guidance will address:

- To the extent possible, the types of violations that can occur;
- How to evaluate the nature (i.e., whether chemical control; or information gathering) of a violation;
- How to determine and classify the extent of possible harm posed by a given violations;
- Special considerations in using the adjustment factors, particularly including means of estimating government clean-up costs and economic benefits from non-compliance;
- How and when to utilize the concept of multi-day violations;
- Any "other matters as justice may require" which may particularly apply to the given regulation; and
- Anything else necessary to effectuate enforcement of the regulation and the Act's penalty policy.

Applying a Specific Penalty Guidance

This section briefly summarizes the steps necessary to calculate a proposed penalty assessment.

Step 1: Utilizing the specific penalty guidances, determine the nature, extent, and circumstances of the violation.

Step 2: Find the appropriate extent and circumstances levels on the gravity based penalty matrix to determine the gravity based penalty (GBP).

Step 3: Determine the percentage adjustment for culpability, if any.

Step 4: Determine the percentage adjustment for history, if any.

Step 5: Add the adjustment percentages from steps 3 and 4 and apply the GBP. If the amount is in excess of $25,000, reduce the penalty to $25,000.

Step 6: Multiply the step 5 figure by the number of days of violation.

Step 7: Apply government cleanup costs adjustment, if applicable. Add to the step 6 figure.

Step 8: Apply economic gains from non-compliance adjustment, if applicable. Add to the step 6 figure.

Step 9: Make other adjustments "as justice may require."

Step 10: Issue formal complaint proposing the penalty.

Step 11: Discuss settlement any time before a final administrative law judge's decision (unless the complaint is not contested and becomes final as a matter of law). If applicable, determine violator's ability to pay. If appropriate, reduce penalty to amount violator can afford to pay. Penalties may be reduced as a condition of settlement.

Step 12: Issue Final order.

Civil Penalty Assessment Worksheet

Name of Respondent: ——————
Address of Respondent: ——————

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(1) Complaint I.D. Number: ——————
(2) Date Complaint Issued: ——————
(3) Date Answer Received: ——————
(4) Date Default Order Sent: ——————
(5) Date Consent Agreement Signed: ——————
(6) Date Final Order Sent: ——————
(7) Date Remittance Received: ——————

1. Gravity Based Penalty (GBP) from matrix, $——.

2. Percent increase or decrease for culpability, %——.

3. Percent increase for violation history, %——.

4. Add lines 2 and 3, %——.

5. Multiply GBP by percentage total on line 4, $——.

6. Add lines 1 and 5 (subtract line 5 from line 1 if negative percentage), $——.

7. Enter line 6 amount or $25,000, whichever is *less*, $——.

8. Multiply line 7 by the number of days of violation, $——.

9. Government clean-up costs, if any, $——.

10. Economic gains from non-compliance, if appropriate, $——.

11. Add lines 8 through 10, $——.

12. Total of other adjustments as justice may require, $——.

13. If line 12 represents a net *increase* to the penalty add line 12 to line 11, $——,

or

If line 12 represents a net *decease* to the penalty subtract line 12 from line 1, $——.

Note.—Line 13 should be the proposed penalty for a given violation. This procedure is repeated for each violation.

PCB Penalty Policy

Introduction

Background

On March 10, 1980, the Agency issued a TSCA Civil Penalty Policy memorandum. That document implements a system for determining penalties in administrative actions brought pursuant to Section 16 of the Toxic Substance Control Act (TSCA). Under that system, penalties are determined in two stages: (1) Determination of a "gravity based penalty" (GBP), and (2) adjustments to the gravity based penalty.

To determine the gravity based penalty, the following factors affecting a violation's gravity are considered:

- The "nature" of the violation,
- The "extent" of environmental harm that could result from a given violation, and
- The "circumstances" of the violation.

These factors are incorporated on a matrix which allows determination of the appropriate gravity based penalty.

Once the gravity based penalty has been determined, upward or downward adjustments to the penalty amount are made in consideration of these other factors:

- Culpability,
- History of such violations,
- Ability to pay,
- Ability to continue in business, and
- Such other matters as justice may require.

The TSCA Civil Penalty Policy system provides a framework for the development of individual penalty guidances for each rule promulgated under TSCA. This document sets forth Agency policy for the use of the GBP Matrix to assess penalties for specific violations of the regulations regarding polychlorinated biphenyls (PCBs). These regulations appear at 43 FR 7150 (Feb. 17, 1978) and 44 FR 31514 (May 31, 1979). The document also will explain where multiple violations should be charged, and how penalties should be determined for such violations.

This policy is being issued as an interim guidance for the determination of penalties for violations of the PCB regulations. The Agency will review its experience with this policy before issuing a final penalty policy for the PCB rule. The final policy will also address any special considerations which the Agency decides should be used to apply the adjustment factors (e.g., removing benefits from non-compliance.)

A summary of the policy appears immediately below the applicability section. That summary is followed by a detailed explanation of the policy.

Applicability

This policy is immediately applicable and should be used to calculate penalties for all administrative actions concerning PCBs instituted after the date of the policy, regardless of the date of violation. Pending cases should be reviewed to determine whether the penalty calculated under this policy is lower than the penalty in the civil complaint. If this policy yields a lower penalty, an amendment to the complaint should be made to substitute the lower penalty. This policy should not be used to raise penalties in existing actions. No case should be settled for an amount higher than the penalty which this policy would yield.

Summary of the Policy

The gravity based penalty (GBP), based on the nature, extent, and circumstances of the violation, is found from the following matrix:

Table I

		Extent of potential damage		
		A Major	B Significant	C Minor
Circumstances (probability of damages):				
High range	1	$25,000	$17,000	$5,000
	2	20,000	13,000	3,000
Mid range	3	15,000	10,000	1,500
	4	10,000	6,000	1,000
Low range	5	5,000	3,000	500
	6	2,000	1,300	200

Since the purpose of the PCB regulation is to prevent additional PCBs from entering the environment, all violations of it are chemical control violations by nature. Thus, the nature is the same for all violations. To use the GBP matrix to determine a penalty for a PCB violation, it is necessary to determine the extent and circumstances of each violation.

Extent

The extent is determined by the amount and concentration of the PCB material involved. The total weight of PCB material should be ascertained for each violation of the rule. That weight should then be reduced, depending on the concentration, as follows:

Table II

Concentration Reductions

(1) 50–499 ppm—70% reduction.
(2) 500–9,999 ppm—50% reduction.
(3) 10,000–99,999 ppm—20% reduction.
(4) over 100,000 ppm—no reduction.

Exceptions: This reduction step does *not* apply in the following circumstances:

(i) Violations of 40 CFR 761.10(d) (road oiling, coating, dust control);
(ii) Where the violation consists of failing to test to qualify for an authorization; or
(iii) For solids, where the unit of measurement is other than the actual weight.

Extent categories: The total weight figures, reduced by the concentration, if applicable, are used to determine extent, as follows:

Table III

(A) Major—5000 kg. or more.
(B) Significant—1000 kg. more, but less than 5000 kg.
(C) Minor—less than 1000 kg.

Alternative measures: If weight is not available, use these alternative measures:

Table IV

(A) *Major:*

Liquid

(a) 1100 gallons or more, or
(b) a contaminated area of 750 square feet or more, or
(c) 300 or more large capacitors.

Non-liquid

(a) 100 or more fifty-five gallon drums containing contaminated soil, rags, debris or small capacitors; or
(b) 25 or more drained transformers, or 100 or more empty drums which once contained PCB fluid, or any other PCB solids having a volume of 750 cubic feet or more.

(B) *Significant:*

Liquids

(a) 220 gallons or more but less than 1100 gallons, or
(b) A contaiminated area of 150 square feet or greater, but less than 750 square feet, or
(c) 60 large capacitors or more, but less than 300 large capacitors.

Non-liquids

(a) 20 or more, but less than 100 fifty-five gallon drums containing contaminated soil, rags, debris or small capacitors.
(b) 5 or more, but less than 25, drained transformers, or more than 20, but less than 100, empty drums which once contained PCB fluids, or any other solid having a volume of 150 or more, but less than 750 cubic feet.

(C) *Minor:*

Liquids

(a) Less than 220 gallons, or

(b) A contaminated area of less than 150 square feet.

(c) Less than 60 large capacitors.

Non-liquids

(a) Less than 20 fifty-five gallon durms containing contaminated soil, rags, debris or small capacitors; or

(b) Less than 5 drained transformers, 20 fifty-five gallon drums which previously contained PCB fluids, or any other PCB solid having a volume of approximately 150 cubic feet.

Spills into water, food or feeds. Any PCB disposal which results in contamination of surface or ground water, or food or feeds is *always* major in extent.

Circumstances (Probability for Damage)

To determine which level on the circumstances axis to use, classify each violation of the regulation into one of these eight categories of violation:

(1) Disposal
(2) Marking
(3) Storage
(4) Manufacturing
(5) Processing
(6) Distribution
(7) Use
(8) Recordkeeping

After classifying the violations, determine the level on the circumstances axis from the following chart:

Table V

High range:
Level one:
(1) Improper disposal.
(2) Manufacturing
Level two:
(1) Processing.
(2) Distribution.
(3) Improper use.
Medium range:
Level three:
(1) Major storage violations.
(2) Major recordkeeping violations, disposal facilities.
(3) Major marking violations.
Level four:
(1) Major recordkeeping violations, use and storage facilities.
Low range:
Level five:
(1) Failure to date PCB items placed in storage.
(2) Minor storage violations.
(3) Minor marking violations.
Level six:
(1) Minor recordkeeping violations.
(2) Failure to use "No PCBs" lable as rquired.

Finding the GBP penalty. The extent and circumstances, as determined above, will determine a penalty amount on the GBP Matrix, Table I. This figure should be entered on line one (1) of the Civil Penalty Assessment Worksheet, (hereinafter, "worksheet") attached as Appendix A. The other penalty factors, such as culpability, ability to pay, and others, should be applied in the manner described in the TSCA Civil Penalty Policy.

Multiple Violations

Assess multiple violations against a single violator in any of the following circumstances:

(1) The violations fall into more than one violation category;

(2) The violations are in substantially different locations; or

(3) There is evidence that the violation has been committed on repeated occasions or has continued for more than one day.

If multiple violations are charged because of evidence of repeated or continuing conditions, the penalty will normally be calculated using the proportional penalty calculation, which appears in Table VI, below. However, the Agency can exercise its discretion either to charge for only one day, or to charge on a straight per day or per violation basis (GBP X number of days or violations), depending on factors such as substantial actual harm, the unusual nature of risk presented, or other unique circumstances.

Table VI

Proportional Penalty Calculation

Step 1: Find the total amount of PCB materials involved. If more than two times the major extent category, (more than 10,000 kg.) go to step 2. If less than two times the mimimum amount in the major extent category (less than 10,000 kg.), use this amount to get a penalty from the GBP Matrix. Divide the penalty by the number of days[1] and enter on line one of the worksheet (Appendix A).

Step 2: Divide the amount from step one by the minimum amount in the major extent category (5000 kg). (Round fractions to one decimal place.)

Step 3: Multiply the amount form step two by the dollar amount from the GBP Martix major extent category. This is the total GBP charged.

Step 4: Divide the amount from step 3 by the number of days or violations involved. Enter this daily amount on line one of the worksheet (Appendix A).

Explanation of Policy

Nature

Since the purpose of the PCB regulation is to prevent further introduction of PCBs into the environment, this regulation is a chemical control regulation, as defined by the TSCA Civil Penalty Policy. Accordingly, most violations of this regulation are chemical control violations. The only exception would be violations of the recordkeeping requirements, which are control-associated data-gathering in nature. The Agency has taken this into account in designing a specific policy for PCB penalties. The definitions of the "extent" and "circumstances" categories below reflect the nature of these violations.

Extent

Because the PCB regulations are chemical control and control-associated data-gathering in nature, the greater the amount of PCB containing material (hereinafter, "PCB material") involved in a particular violation, the more likely it is that harm will result from the violation of the PCB rules. For this reason, the amount of PCB material involved in a particular incident will determine whether the major, significant, or minor extent category should be used in deriving a penalty from the GBP Matrix. Since the concentration of the PCB material involved in an incident will also affect the potential for harm, this factor must also be considered in determining which extent category is applicable to a particular violation.

Amount of Material Involved

The most obvious measure of the amount of PCB material involved in a violation is weight. Therefore, the weight of the PCB material involved in a violation is the primary determinant of the extent category to be used to find the GBP. To be consistent with the three extent categories of the GBP Matrix (i.e. major, significant, and minor), three weight classes have been chosen to define the extent of a PCB violation. These classes are as follows:

(A) Major: 5000 kilograms or more.

(B) Significant: Between 1000 and 5000 kilograms.

(C) Minor: Less than 1000 kilograms.

The minor category weight was defined as less than 1000 kilograms because this is slightly less than the amount of PCBs in an average transformer. Since a major portion of the PCBs in existence are in transformers, it is essential that these items be disposed of properly. Accordingly, the Agency defined the minor category as an amount of PCBs less than the contents of an average transformer, so that most transformers would fall in the significant category. The Agency believes this will encourage the proper disposal of transformers.

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[1] It should be noted that if the proportional penalty calculation is based on repeated violations, then the calculation at line 8 of the worksheet should represent the number of violations rather than the number of days.

The major category weight was selected at 50 kg. kilograms. This is slightly less than the contents of five average size transformers, and corresponds to the fact that the penalty for a major improper disposal is five times larger than that for a minor improper disposal; that is, $25,000 versus $5,000. (As will be seen below, improper disposal is always level one on the circumstances axis.) The significant category is defined as 1,000 kg. or greater, but less than 5,000 kg. This definition is a direct consequence of the definition of the other two categories.

Units Other Than Weight

The Agency realizes that there will be situations where the number of kilograms of PCBs involved is not easily determined. In many cases, other units of measurement (e.g. gallons, cubic feet, etc.) may be more easily obtained. Additionally, some violations will involve non-liquid PCB material, usually as a result of liquid PCBs being spilled into or cleaned up by absorbent solid materials. Such solids will often weigh considerably more than liquid PCBs. If the penalty for such solids were based on the weight categories outlined above, the result, in the Agency's opinion, would be inequitable.

For these reasons, the Agency has decided to define each of the three extent categories by several different units of measurement. Although these units of measurement are not necessarily equal, it is the Agency's opinion that they are generally comparable.

(A) *Major:*

Liquid

(a) 1100 gallons or more, or

(b) A contaminated area of 750 square feet or more, or

(c) 300 or more large capacitors

Non-liquid

(a) 100 or more fifty-five gallon drums containing contaminated soil, rags, debris or small capacitors, or

(b) 25 or more drained transformers, or 100 or more empty fifty-five gallon drums which once contained PCB fluid, or any other PCB solid having a volume of 750 cubic feet or more.

(B) *Significant:*

Liquids

(a) 220 gallons or more, but less than 1,100 gallons, or

(b) A contaminated area of 150 square feet or greater, but less than 750 square feet, or

(c) 60 large capacitors or more, but less than 300 large capacitors.

Non-liquids

(a) 20 or more but less than 100, fifty-five gallon drums containing contaminated soil, rags, debris or small capacitors.

(b) 5 or more, but less than 25, drained transformers; or more than 20, but less than 100, empty fifty-five gallon drums which once contained PCB fluids, or any other solid having a volume of 150, but less than 750, cubic feet.

(c) *Minor:*

Liquids

Less than 220 gallons, or

(b) A contaminated area of less then 150 square feet, or

(c) Less than 60 large capacitors.

Non-liquids

(a) Less than 20 fifty-five gallon drums containing contaminated soil, rags, debris or small capacitors; or

(b) Less than 5 drained transformers, 20 fifty-five gallon drums which previously contained PCB's fluids, or any other PCB solid having a volume of approximately 150 cubic feet.

The figures above are based on the assumption that the density of PCB fluids is 10 lbs. per gallon, which is the average density of high concentration PCB's. If the actual density of the fluid involved is known, then the actual density should be used to convert the volume of fluids involved into kilograms. The figure for capacitors is based on an average of 36 pounds of fluid in the most popular models of large capacitors.

Because it is often difficult to determine the amount of PCB's in a solid, the Agency did not attempt to define the extent categories for solids by trying to estimate how much solid PCB material had the same amount of PCB's as the average PCB transformer. Instead, the Agency tried to maintain the same economic incentives for solids as for liquids. Thus, the decision to make 20 drums the cut off point for the upper limit of the minor category is based on an estimate that the cost of disposing of twenty 55 gallon drums, either empty or containing PCB solids, is approximately the same as the cost of incinerating the liquid in one transformer.

In certain instances, the use of the different units of measurement discussed above would result in a particular violation falling into more than one category. For example, fluid PCB material having a density less than that of average high concentration PCB's may result in 250 gallons weighing as little as 900 kilograms. Using the gallon measurements, this would be a significant violation; but using the kilogram measurement, this would be a minor violation. In such instances, the penalty should be based on the category determined by the actual weight, in kilograms, of the material involved, if this information is known. If the weight is not known, the gallon measure should be used.

Exceptions to Extent Category

Spills into water. Where any improper disposal results in a contamination of surface or ground water, the extent will *always* be considered major. Since it is virtually impossible to remove all PCB's from surface or ground water once a spill occurs, environmental harm is almost assured. Because of this clean-up problem, such a spill creates a substantial risk of human exposure, either directly from the water, or through the food chain. For these reasons, the Agency believes that spills into surface or ground water are always major incidents, regardless of the amount and concentration.

Spills into food and feed. Where any improper disposal results directly in contamination of food or feed, the extent is *always* major. If such spills are not quickly detected, they will result in direct human exposure. Even if the problem is detected before humans eat the contaminated food, it is likely that the cost of finding and destroying the contaminated products will be high. Thus, the Agency believes such incidents should always be considered major in extent.

Concentration Adjustments

The Agency recognizes that the concentration of the PCB materials is a relevant factor to consider in determining the amount of damage done from a violation of this regulation. Obviously, a spill of high concentration PCB's puts more contaminants into the environment than a spill of low concentration PCB's. Nonetheless, because PCB's can be toxic at very low concentrations, a spill of a large amount of low concentration PCB material could cause widespread harm. Thus, a system which would require the total weight of PCB material involved to be reduced in direct proportion to the concentration of that material would severely undermine the regulatory scheme.

The problem is illustrated by the following hypothetical: Someone spills 2,000,000 lbs. (or 909,090 kgs.) of fluid containing PCBs at a concentration of 1,000 parts per million (ppm). If, in calculating the penalty, the total weight of the fluid was reduced by the direct proportion of the concentration, less than 1,000 kilograms of PCBs would be involved for the purpose of calculating a penalty. As a result, this incident would be considered minor in extent, and the violator would not be fined more than $5,000. A penalty as small as this would not reflect the potential for harm to the

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environment and would create an enormous economic incentive for people to improperly dispose of PCBs at low concentrations, contrary to the intent of the regulations.

To account for the effect of the concentration of PCB liquids in determining the extent of a violation, and at the same time establish a system which does not severely hinder the agency's program, the following system has been developed. To determine the extent of probable damage for a particular violation, the total amount of PCB material involved in an incident should be reduced by the percentages which appear below:

(1) 50–499 ppm—70% reduction.
(2) 500–9,000 ppm—50% reduction.
(3) 10,000–99,999 ppm—20% reduction.
(4) 100,000 ppm or above—no reduction.

Thus, in the hypothetical quoted above, where 2,000,000 lbs. of PCB fluid at a concentration of 1,000 ppm was disposed of, the total amount would be reduced by 50%. Thus, the amount of fluids for determining the extent of the probable harm would be 1,000,000 lbs.,or 454,545 kilograms.

Exceptions to Concentration Adjustment Calculation

These concentrations adjustment factors are not used in the following circumstances:

Waste oil. The use of waste oil that contains detectable concentrations of PCBs as a sealant, coating, or dust control agent, which is prohibited by 40 CFR 761.10(d), is one situation where the concentration reduction would not apply. The agency chose to prohibit these uses whenever any detectable level of PCBs were present because any such use of PCBs is likely to result in widespread environmental and health damage. Thus, allowing any reduction of the amount of PCBs used by virtue of low concentration would be contrary to the regulatory scheme.

Failure to test. The concentration reduction also does not apply where the violation is the failure to test liquid required to be tested; for example, the contents of a heat transfer system that has contained PCBs, 40 CFR 761.31(d)(1). In such cases, the risk created by the violation is that the fluid will be high concentration PCBs, and that this material will continue in use. Thus, the Agency feels that these persons should not obtain a fortuitous benefit when the liquid is finally tested and found to be of some lower concentration.

Alternative measure for solids. Finally, the concentration adjustment should not be used when the PCB material is measured by one of the alternative measures for solids which appear in Table IV. These alternative measures were chosen to maintain economic incentives for proper disposal. The cost of disposal of such materials is not dependent on the concentration of the PCBs in them. Accordingly, to allow adjustments for lower concentration might remove the economic incentives to dispose of these materials properly.

Circumstances

The other variable for determining a penalty from the GBP Matrix is the circumstances of the violation, also called the probability of damages. The TSCA Civil Penalty System established three ranges of probability of damages, high, medium, and low. Each of these ranges in turn has two different levels, for a total of six levels of probability of damages.

Explanation of Categories

Because there are many ways the PCB regulation can be violated, and because each of these violations could occur in so many different environmental contexts, it is virtually impossible to assess in advance all the possible factors that logically might have some impact on the probability of damages for a particular PCB violation. It would be even more difficult to try to determine, in advance, how all of these factors would interact in any particular situation. For this reason, the Agency believes it is appropriate to group the different types of PCB violations, assess the probability for harm resulting from each type of violation, and then assign that type of violation to one of the levels on the circumstances axis of the GBP Matrix.

For the purposes of assessing the probability of damages from a particular type of PCB violation, all the possible violations of the PCB rule can be grouped into eight categories, as follows:

(1) Disposal
(2) Marking
(3) Storage
(4) Manufacturing
(5) Processing
(6) Distributing
(7) Use
(8) Recordkeeping

Immediately below is a table assigning the different categories of PCB violations to the levels of probability of damages on the GBP Matrix. After the table, the reasons for the assignment of each category of violation to a level of probability of damages is explained.

High Range

Level one:

(1) Improper disposal of PCBs. This includes operating disposal facilities at conditions which do not meet the requirements of the regulations. It also includes any uncontrolled discharge of PCBs, e.g., Leakage from a stored container.

(2) Manufacturing of PCBs without an exemption or in violation of any condition of an exemption.

Level two:

(1) Processing PCBs without an exemption or in violation of any condition of an exemption.

(2) Distribution in commerce of PCBs without exemption or in violation of any condition of an exemption.

(3) Improper use of PCBs or using PCBs in violation of any condition of authorization. For example, this includes removing a coil from a PCB transformer for servicing, and the failure to test a heat transfer system that once contained PCBs.

Medium Range

Level three:

(1) Major storage violations. A major storage violation means a situation where a significant portion of spilled material would not be contained. Examples of such situations are storage in areas with no curbing, non-continuous or no flooring, or unsealed floor drains. Storage of PCBs in a area with permeable flooring or curbing would also be a major storage violation.

(2) No records or major record keeping violations at disposal facilities, including high efficiency boilers and landfills. Major record keeping violations would include the failure to keep data on incinerator operating parameters.

(3) Major marking violations. A major marking violation is a situation where there is no indication to someone who is unfamiliar with the situation that PCBs are present.

Level four:

(1) No records or major recordkeeping violations at facilities that use or store PCBs. Major recordkeeping violations would include the absence of data on PCB transformers, and the absence of records on any transfer of PCBs from the site.

Low Range

Level five:

(1) Failure to date PCB items placed in storage.

(2) Minor storage violations. Examples of these are small cracks in walls, no roof, or small cracks in otherwise impervious floor or curbing.

(3) Minor marking violations. These are situations in which all the requirements of the rule have not been followed, but there are sufficient indications to notify someone unfamilar with the situation that PCBs are present and enable them to identify PCB items. An example would be the failure to mark a transport vehicle containing PCB items which are themselves marked.

Level six:

(1) Minor recordkeeping violations. Examples of such violations are small errors in the numbers of large capacitors, small errors in number of containers, or the omission of the date of transfer on PCBs.

(2) Failure to label small capacitors, fluorescent light ballasts, or large low-voltage capacitors with a "no PCBs" label as required by 40 CFR 761.20(g).

Explanation for Assignment of Levels of Probability of Damage

Level one. This level contains the two violations which the Agency considers most serious, manufacturing and improper disposal. Manufacturing is extremely serious because it creates new PCBs. In so doing, it enlarges the risk of environmental and human exposure, places additional burdens on disposal facilities, and increases the cost of protecting the public from this chemical. Improper disposal creates grave risks of harm to the environment or human health, because it assures the entry of more PCBs into the environment. This is contrary to the main thrust of the PCB regulation, which was to prevent further contamination of the environment with PCBs. Thus, these violations are considered to be the most serious, and provide the standard against which the other PCB violations are measured.

Level two. The violations which were placed in level two on the GBP Matrix were those which the Agency considered to be the most likely to result in improper disposal. For example, processing or distribution of PCBs without an exemption or in violation of a condition of an exemption is likely to result in spillage, leakage, volatilization or other uncontrolled discharges of PCBs. Similarly, improper use of PCBs will, at worst, result in PCB contamination of a wide range of products (as when they are used in a leaking hydraulic system), or at best will result in an increased risk of improper disposal.

Level three. This level includes major storage violations, major recordkeeping violations at disposal facilities, and major marking violations. The Agency regards storage violations, such as the lack of a floor, to be somewhat less dangerous than the risk incurred by use, processing, or distribution of PCBs without an exemption. The latter are very likely to result in improper disposal. However, storage violations will only cause damage where there is an accident, or a leak, which probably would be unintentional. Nonetheless, if such events occurred, the possibility for widespread contamination would be high.

The lact of records, or inadequate records, at disposal facilities similarly does not present as severe a risk of improper disposal as processing of PCBs without an exemption. However, such a violation severely reduces the Agency's ability to enforce the requirements of the regulation as they pertain to the operators of such facilities. Accordingly, the absence of adequate records at these facilities removes a significant incentive for compliance, thus substantially increasing the risk of improper disposal.

Major marking violations have been defined as those situations where someone investigating a situation would not know that PCBs were present or would be unable to tell which items contained PCBs. Such a situation creates a high risk of improper disposal. However, if the other portions of the PCB regulation are observed, records would be kept on PCB materials, thereby creating at least some chance that improper disposal would not occur. For this reason, this violation is not considered as risky as improper use or distribution. However, where major marking is associated with other violations, such as recordkeeping, the increased risk will be reflected by an additional penalty.

Level four. Level four includes major recordkeeping violations at facilities that use or store PCBs. Major recordkeeping violations at facilities that use or store PCBs present a somewhat lower risk than major recordkeeping violations at disposal facilities. Since these facilities do not themselves dispose of the PCBs, there is a greater chance that the PCBs will be identified as such before they are actually disposed of. However, the fact that these violations substantially hinder the Agency's ability to trace the movement of PCB's means that they make improper disposal more likely. For this reason, the Agency considers this violation to be significant.

Level five. Included in this category are the failure to date PCB items placed in storage, minor storage violations, and minor marking violations. The failure to date PCB items placed in storage simply means that the items may be stored longer than is presently permitted by the rule. Assuming these items are otherwise treated in accordance with the rule, the lengthy storage will simply increase, by a small amount, the risk of an accidental spill. Similarly, minor marking violations are, by definition, violations where there is sufficient marking to alert someone investigating the situation that there are PCBs present. Thus, the likely ill effect of such violations is simply that, in emergency situations, the length of time required to discover the presence of PCBs might be increased somewhat. This should not significantly increase the amount of damage done. Finally, minor storage violations are those in which any spilled material will be substantially contained. Thus, the amount of damage that could result from such violations would be relatively small.

Level six. Level six represents those violations which the Agency believes pose the least risk of causing harm. It includes only minor recordkeeping violations, and failure to label with the "no PCBs" mark. In the case of minor recordkeeping violations, such violations, although they might make enforcement somewhat more difficult, should not seriously impair the Agency's enforcement efforts. The failure to label with the "no PCB" mark will only result in the disposal of certain items more carefully than necessary, thereby increasing the cost of compliance with the regulation.

The risk to the environment and human health in this case is minimal. Moveover, the Agency believes that there are already substantial economic incentives for manufacturers to comply with this labeling requirement, since their customers would probably be anxious to obtain equipment bearing such a label.

Using the GBP Matrix To Find a PCB Penalty

In order to determine a penalty for a specific PCB violation, the following steps should be followed:

Step 1: Determine which category of violation is involved (i.e., disposal, marking, storage, manufacturing, processing and distribution, use, or recordkeeping). If more than one violation category is involved, repeat the calculation in steps 2 through 8 for each violation category.

Step 2: Find which level the violation fits on the circumstances axis of the GBP Matrix.

Step 3: Calculate the total amount of PCBs involved in the violation. If there are several materials involved which fall into different concentration ranges, do a separate calculation for each concentration.

Step 4: Reduce the amounts in step 3 by the concentration adjustment. (Be sure to note the exceptions to this step).

Step 5: If different concentration ranges are present, add up the figures from step 4.

Step 6: Determine which extent category (major, significant, or minor) is applicable to the amount from step 5.

Step 7: Use the level from step 2 and the extent from step 6 to locate the penalty on the GBP Matrix (E.g., Level 3, significant is $10.000).

Step 8: Enter the amount from step 7 on line 1 of the Civil Penalty Assessment worksheet attached to the TSCA Civil Penalty Policy. Use that worksheet to complete the calculation of the penalty accounting for factors such as culpability, history of violations, etc.

Example

An inspection of X Company reveals that the following items are all stored for disposal in a room with an earthen floor:

2 transformers
3 capacitors

All three capacitors have name plates that show that they contain high concentration PCBs and have a volume of 30 gallons each. One transformer contains 300 gallons, and is tested at 1000 ppm. The second transformer contains 500 gallons, and is tested at 64% PCBs. It is leaking, and X's general foreman says that about 20 gallons have leaked. The equipment is marked, and X has records on this equipment. Assume the density of all fluids is 10 lbs/gal.

Step 1: Determine the categories of violation.

These are:
Disposal
Storage

Because there are two categories, a calculation is needed for each.

Disposal

Step 2: Find the "circumstances" level. This is level one, for disposal.

Step 3: Find the total amount involved. Total disposal: 20 gallons.

$$20 \text{ gal. X } \frac{10 \text{ lbs}}{\text{gal.}} = 200 \text{ lbs.}$$

$$200 \text{ lbs. X } \frac{.45 \text{ kg.}}{\text{lb}} = 90 \text{ kg.}$$

Step 4: Make concentration adjustment.
No reduction for PCBs over 100,000 ppm, which is what was spilled.
Step 5: Not applicable.
Step 6: Determine extent category.
90 kg. = Minor
Step 7: Find penalty from matrix.
Level one + Minor = $5,000
Step 8: Enter $5,000 or line 1 of the worksheet (Appendix A)

Storage

Step 2: Find "circumstances" level.
Major storage (permeable floor) is level 3.
Step 3: Find total amount involved.

(a) over 100,000 ppm:

1 transformer @ 500 gal. 500
3 capicators @ 30 gal. 90
590 gal.

$$590 \text{ gal. X } 10 \frac{\text{lb.}}{\text{gal.}} \text{ X } .45 \frac{\text{kg.}}{\text{lb.}} =$$

2655 kg. over 100,000 ppm

(b) 500-10,000 ppm:

1 transformer @ 300 gal.

$$300 \text{ gal. X } 10 \frac{\text{lb.}}{\text{gal.}} \text{ X } .45 \frac{\text{kg.}}{\text{lb.}} = 1350 \text{ kg.}$$

Step 4: Make concentration adjustment.

(a) over 100,000 ppm—no adjustment 2655 kg.

(b) 500–10,000 ppm—50% reduction 1350 kg. X .50 = 675 kg.

Step 5: Add figures from step 4.

$$\begin{array}{r} 2656 \text{ kg.} \\ +\ 675\text{kg.} \\ \hline 3330 \text{ kg.} \end{array}$$

Step 6: Determine extent category.
3330 kg. = Significant.
Step 7: Find the penalty from the matrix.
Level 3 + significant = $10,000.
Step 8: Enter $10,000 on line 1 of the worksheet (Appendix A).

Penalty Assessment for Multiple Violations

In the past, the Office of Enforcement has had numerous questions about which circumstances were appropriate for the assessment of multiple penalties. For the purpose of promoting consistency between regions and to be consistent with the penalty scheme set forth above, the following guidelines should be followed for assessing multiple penalties.

When Not To Assess Multiple Penalties

There are certain instances when separate counts should not be charged and multiple penalties not assessed. The first type of case where this is not appropriate is where a single situation presents violations of many portions of the regulation, which are all in the same violation category. For example, if X Company has a storage area which is unmarked, and which contains one unmarked PCB container, there are two infractions of the regulation: The failure to mark the container, and the failure to mark the storage area. However, only one violation should be charged; namely, a major marking violation. Both infractions present the same risk; that is, that no one will realize that PCBs are present. Accordingly, only one penalty is assessed. If the violation category is one like marking, which appears at several levels of the circumstances axis, the penalty should be assessed by looking at the most serious infraction committed.

Another situation in which only one count should be alleged and one penalty charged is where there are multiple infractions of the same regulatory requirement. For example, if five transformers are unmarked, only one penalty should be charged. Although five transformers present a greater risk than one transformer, this fact is accounted for by the larger extent category applicable to the situation with five unmarked transformers. Again, the nature of the risk presented is the same, so only one penalty is charged.

When Multiple Penalties Should Be Assessed

The most obvious situation for assessing multiple penalties is where the situation constitutes infractions of different violation categories (e.g., marking and storage). In such instances, one count should be charged for each violation category. This was done in the sample penalty calculation, above.

Another example of multiple penalties used properly is where one company has several PCB situations which are in violation of the regulation in substantially different locations. Different buildings or yards on the same site would be sufficient for a multiple violation; two sites in the same building would not, unless the building is very large (for example, an auto assembly building). In these cases, the separate locations present separate and distinct risks to human health and the environment. Thus, separate penalties are justified.

Assessing Penalties for Continuing or Repeated Violations

Section 16 of TSCA clearly gives the Agency the power to assess penalties on a daily basis for continuing situations, such as where a transfomer is improperly stored for a month. It also gives the Agency the discretion to charge a penalty for each separate act of a repeated course of conduct, such as where someone manufactures PCBs on twenty different occasions, without an exemption. However, any simple rule the Agency might develop concerning when to charge multiple counts in such cases is likely to have undesirable effects. For example, a policy which said that only one charge will be assessed for a continuing violation would not adequately protect the environment. Under such a policy, a company with a leaking PCB transformer would have no incentive to correct the leak, since how quickly it acted would not affect the penalty significantly. Alternatively, a policy that required the Agency to assess multiple penalties whenever there was evidence of a continuing

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violation would also cause undesirable effects. Someone who stored an intact PCB transfomer improperly for 30 days could be liable for $300,000. This penalty, in the absence of aggravating circumstances, seems excessive.

For these reasons, the Agency has developed the "proportional penalty calculation", which is explained in detail below. This calculation should be used whenever there is evidence of continuing violations, or repeated violations which are part of a single course of conduct. Except in unusual circumstances, this calculation will yield the penalty to be charged for such repeated or continuing violations. The effect of this calculation is that the penalty is multiplied for repeated or continuing violations where substantial amounts of PCBs are involved. The magnitude of the multiplication is proportional to the amount of material involved, subject to the limitation of $25,000 per day. the Agency believes it is appropriate that the very large penalties that can result from continuing or repeated violations be assessed in those situations where large amounts of PCBs are involved.

Nonetheless, the Agency realizes that there may be situations where no multiple penalties are appropriate, or where the violation merits a penalty calculated by multiplying the GBP penalty directly by the number of days or incidents involved. Accordingly, the Agency reserves the discretion to assess penalties for repeated or continuing violations without regard to the proportional penalty calculation.

The Agency expects that, in most cases, the penalty for repeated or continuing violations will be computed by use of the proportional penalty calculation. The discretion to assess penalties more or less than the proportional penalty can be exercised under the following circumstances:

- Where substantial actual harm has occurred as a result of the violation;
- Where the unusual circumstances of the violation give rise to extraordinary risks to the environment; or
- Other types of highly unusual circumstances.

The decision to use this discretion should only be made after consultations with Headquarters personnel in which the reasons for this exercise are explained in detail.

Explanation of the Proportional Penalty

The proportional penalty is calculated in the following manner:

Step 1: Calculate the total amount of PCBs involved in the situation, reduced by the concentration adjustment. Using as an example an individual who processes 20 gallons of PCBs for 200 days, the total amount is 4,000 gallons (assuming the concentration is greater than 100,000 ppm). If two 50 gallon capacitors are stored improperly for 20 days, the amount involved is 100 gallons.

Step 2: If the amount from step 1 is less than two times the major extent category (10,000 kg. or 2,200 gallons), use this amount to determine the extent category and obtain a penalty from the GBP Matrix. For example, the penalty for the two capacitors improperly stored for 20 days would be $1,500. Twenty counts would be charged, at a penalty of $1,500/20 days or $75 per day. If the amount from step 1 is greater than 2 times the extent category, proceed to step 3.

Step 3: Divide the total amount from step 1 by the major extent category limit (e.g., 5,000 @ kg. or 1,100 gallons). Multiply the result by the amount in the major penalty category. This yields the proportional penalty. Using the example of the individual who processes 20 gallons of PCBs per day for 200 days, the calculation goes as follows:

Amount from Step 1 = 4,000 gal.

4,000 gal. = 3.6
———
1,100 gal. (major limit)

3.6 × $20,000 (major, level 2) = $72,000. Total penalty

Step 4: Divide the total penalty by the number of days (or events) involved. Enter this amount on line 1 of the TSCA Civil Penalty Assessment Worksheet. In our example:

$72,000 total penalty/200 days = $360 per day.

This figure goes on line 1 of the worksheet.

The proportional penalty should always be used unless the calculation yields more than $25,000 per day. In that case, the penalty should be $25.000 per day, the maximum allowed by statute.

The proportional penalty should be used in the same way as any other penalty derived from the GBP Matrix.

The per day penalty should be entered on line 1 of the TSCA Civil Penalty Assessment Worksheet, and should be adjusted by the factors, such as culpability and violation history, shown on that document, which is attahced to this policy.

Dated: April 24, 1980.

Richard D. Wilson,

Deputy Assistant Administrator for General Enforcement.

Civil Penalty Assessment Worksheet

Name of Respondent: ________________
Address of Respondent: ________________
____
(1) Complaint I.D. Number: ________________
(2) Date Complaint Issued: ________________
(3) Date Answer Received: ________________
(4) Date Default Order Sent: ________________
(5) Date Consent Agreement Signed: ________________
(6) Date Final Order Sent: ________________
(7) Date Remittance Received: ________________

1. Gravity Based Penalty (GBP) from matrix .... $——
2. Percent increase or decrease for culpability..... %
3. Percent increase for violation history................ %
4. Add lines 2 and 3 .... %
5. Multiply GBP by percentage total on line 4 ...... $——
6. Add lines 1 and 5 (subtract line 5 from line 1 if negative percentage). $——
7. Enter line 6 amount or $25,000, whichever is *less*. $——
8. Multiply line 7 by the number of days of violation. $——
9. Government clean-up costs, if any .... $——
10. Economic gains from non-compliance, if appropriate. $——
11. Add lines 8 through 10 .... $——
12. Total of other adjustments as justice may require. $——
13. If line 12 represents a net *increase* to the penalty and line 12 to line 11,. $——

or

If line 12 represents a net *decrease* to the penalty subtract line 12 from line 1. $——

*Line 13 should be the proposed penalty for a given violation. This procedure is repeated for each violation.

[FR Doc. 80-27780 Filed 9-9-80; 8:45 am]

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Wednesday
September 10, 1980

Part VI

Department of Energy

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

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DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of interpretations.

SUMMARY: Attached as Appendix A are interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period July 1, 1980 through July 31, 1980. Also attached as Appendix B is a rescission of Interpretation 1978–51, issued to Apco Oil Corporation on August 11, 1978. Appendix C identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Ave, S.W., Room 5E052, Washington, D.C. 20585 (202) 252–2931

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpetations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation or ruling to the extent that the interpretation is inconsistent with the amended regulation or ruling (§ 205.85(e)). The interpretations published below are not subject to administrative appeal.

Issued in Washington, D.C. September 3, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A—Interpretations

No.	To	Date	Category	File No.
1980-18	The Gulf Companies	July 22	Allocation	A-384
1980-19	Concord Oil Companies, Inc	July 28	Price	A-520
1980-20	U.S. Steel Corp.	July 31	Allocation	A–493

Interpretation 1980–18

To: The Gulf Companies (Gulf).

Regulations and Rulings Interpreted: 10 CFR 211.11; 211.51; Rulings 1974–3, and 1975–8.

Code: GCW–AI–Definition of Wholesale Purchaser-Reseller and Transfer of Allocation Entitlement.

Facts

In 1953, Mr. J. E. Smith (Smith) became a distributor of motor gasoline for The Gulf Companies (Gulf) in the Fayetteville, Arkansas area. This relationship existed for 25 years until a mutual cancellation and release agreement was signed by the parties on June 7, 1978. Under the terms of that agreement, the relationship was to terminate as of August 1, 1978. On that date Smith was to vacate the bulk plant premises leased from Gulf from which Smith operated his distributor business. After the cancellation agreement was signed, Smith filed suit to contest the agreement. *Smith* v. *Gulf*, No. 78–5055 (W. D. Ark. September 27, 1979). A settlement of the law suit was negotiated after the conclusion of the opening arguments, calling for Smith to vacate the premises leased from Gulf by November 19, 1978, and to sell to Gulf all personal property, included supplies, equipment, furniture and motor vehicles, used by Smith exclusively in his business. The agreement expressly left open the issue as to whether Smith would thereafter be entitled to receive an allocation of motor gasoline from Gulf.

After leaving the Gulf bulk plant, Smith has continued to receive his base period allocations of motor gasoline from Gulf, and he has supplied many of his former customers through a cooperative arrangement with Robertson Oil Company (Robertson), also located in Fayetteville, Arkansas.[1] Commercial carriers receive Smith's gasoline after payment in advance by Smith to Gulf at a local pipeline and transport it either directly to Smith's customers or to bulk plant located several miles from the Gulf plant where Smith formerly conducted his business. Smith maintains an office at Robertson's terminal where he manages his business and determines the prices to be paid for gasoline by his customers. Smith uses Robertson's trucks and drivers for delivery of gasoline from Robertson's terminal and in some instances the drivers perform service functions for Smith's accounts. Some of Smith's customers pay the truck drivers directly upon delivery and others are billed for the product after delivery, typically on invoices of Robertson Oil Company. Smith has made no capital contribution to Robertson's business and does not participate in any accounts other than his own. He compensates Robertson for the use of his facilities and the other support functions described herein by a cents-per-gallon payment relating to revenues received from Smith's customers.

Gulf now supplies gasoline to both Smith and to a new Gulf distributor who has replaced him at Gulf's Fayetteville bulk terminal. Gulf filed this request for interpretation to confirm its view that it no longer has any supply obligation to Smith. In an effort to limit its supply obligations to the current lessee of its terminal, Gulf contends that Smith is not entitled to his base period allocation of motor gasoline because, by vacating the Gulf premises and selling the equipment used in the business, Smith has "gone out of business" pursuant to 10 CFR 211.11 (a) and (c). Gulf further contends that Smith's supplying customers from Robertson's terminal constitutes a new business as an unbranded jobber and Gulf's supply obligation does not transfer to that new business. Smith points out that he has been a distributor of motor gasoline for 25 years and in recent months has continued to supply some of his customers without the use of the Gulf facility. He argues that under the Mandatory Petroleum Allocation Regulations he has not ceased to do business and, as a wholesale purchaser-reseller, is entitled to continue to receive his allocation entitlements from Gulf.

Issue

Is Smith, a former distributor of motor gasoline for Gulf, entitled to receive an allocation of motor gasoline from Gulf after the termination of his distributorship, the relocation of his business to a new site, and changes in the method of operating his business?

Interpretation

For the reasons given below, the Department of Energy (DOE) has determined that under the Mandatory Petroleum Allocation Regulations in 10 CFR Part 211 Smith was entitled to an allocation of motor gasoline during the period his distributorship agreement with Gulf was in effect, and Gulf, as his base period supplier, is required to continue to supply Smith after the termination of that agreement and the relocation of his ongoing business.[2]

To be entitled to a supply of motor gasoline, Smith must be found to be a wholesale purchaser-reseller. That term is defined as follows in 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations:

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[1] Among the customers which Smith has not retained after relocating his business are several Gulf service stations which, according to Gulf, now purchase Gulf gasoline from the current lessee of Gulf's bulk plant in Fayetteville.

[2] 10 CFR 211.9(a)(1) reads as follows: (a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

> "Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

While the operative agreement between Smith and Gulf do not chacterize Smith as a "wholesale purchaser-reseller," it is clear that as Gulf's distributor, he functioned in that capacity. Ruling 1975–8, 40 FR 30037 (July 17, 1975). Indeed, nowhere in its request for interpretation does Gulf deny that it had a supply obligation to Smith during the period his distributorship agreement was in effect.

Gulf now seeks, however, to divest Smith of his entitlement to an allocation on the grounds that he has failed to maintain an ongoing business and has gone out of business under 10 CFR 211.11 (a) and (c) which provide as follows:

> (a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based on its conduct of an *ongoing business* or maintenance of an established end-use * * *.
>
> * * * * *
>
> (c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers and end-users which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to *going out of business.* (Emphasis added.)

In support of its contention that its supply obligation has been extinguished, Gulf implies that it was Smith's intention to go out of business when he agreed to terminate the Gulf lease and to vacate its bulk plant. Gulf points out that at that time, Smith sold his inventory to Gulf along with most of the equipment used in his business. Gulf also maintains that any sales by Smith of its gasoline on an unbranded basis from Robertson's plant represents a new business rather than conduct of "an ongoing business" and that the changes in the method of operating Smith's business also support this conclusion. The principal facts which buttress the line of argument espoused by Gulf are that gasoline is now delivered to Smith's customers in Robertson's trucks, some customers pay Robertson's drivers directly or are billed after receipt of product on Robertson's invoices and, presumably as a consequence, some of Smith's customers apparently believe that Robertson Oil Company, rather than Smith, is now their supplier.

These facts do not support the conclusion that Smith went out of business when he vacated Gulf's plant. Far from abandoning his business as a jobber, Smith has, following the termination of his franchise, simply found an alternate site and means to continue the ongoing business of supplying some of his traditional customers. Aided by Robertson's clerical assistance, transportation and other support services, Smith continues to manage his own business and holds exclusive title to the gasoline he sells, all the way from his supplier to his customers. Robertson has no interest in Smith's business other than the right to compensation on a per-gallon basis for support services rendered. Neither the sale of Gulf gasoline on an unbranded rather than a branded basis by Smith, nor the apparent misperception on the part of a few of Smith's customers, that Robertson Oil Company is their supplier, is sufficient to demonstrate a cessation of Smith's "ongoing business" necessary to release Gulf from its supply obligation to Smith under 10 CFR 211.9.[3] Ruling 1974–3, 39 FR 4467 (February 1, 1974) provides the following standard with respect to termination of the supplier-purchaser relationship:

> Unless the historical purchaser has completely abandoned his original ongoing business or conveyed it to a third party, he continues to have the right to an allocation from his historical supplier even though (1) the supplier ceased supplying the purchaser since the base period, (2) *the supplier terminated a franchise or lease agreement with the purchaser since the base period,* or (3) *the purchaser has moved the location of his ongoing business to other premises since the base period.* (Emphasis added.)

Gulf also cites 10 CFR 211.11(d) in support of its contention that Smith's entitlement to an allocation does not follow him to the new site. Section 211.11(d) provides in relevant part as follows:

> . . . The right to an allocation shall be deemed to have been transferred only when the *entire business or activity* of the firm is transferred to a successor firm. (Emphasis added.)

While Smith's successor at Gulf's bulk plant in Fayetteville now serves some of his former customers, Smith continues an ongoing business as noted above. Inasmuch as there has been no transfer of "the entire business or activity" of Smith's firm to a successor firm, Smith does not forfeit his entitlement to an allocation under § 211.11(d).

The settlement negotiated by the parties cancelling Smith's lease and consignment agreements does not dictate a contrary result. While it is true that the settlement stipulations provide for the sale of most of Smith's equipment to Gulf as well as the reversion of its bulk plant, they do not bar Smith from securing other equipment and continuing his business from another site. Indeed, the possibility of Smith's continuing his operations is maintained in Stipulation No. 5 of the agreement which provides as follows:

> The parties are in dispute as to the extent, if any, to which Smith is entitled to gasoline allocations under the current law, and that issue is not hereby resolved but rather is to be here-after determined in accordance with applicable law.

Accordingly, Smith did not lose the right to receive his base period allocation of motor gasoline as a result of the termination of the distributorship and lease agreements and the relocation of his business to a new site.[4]

Issued in Washington, D.C., on July 22, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–19

To: Concord Oil Company, Inc.
Regulations Interpreted: 10 CFR 205.202, 210.62(a) 212.83
Code: GCW–AI–PI—Part 212, Subpart E; Normal Business Practices

Facts

Concord Oil Company, Inc. (Concord) is a wholesale purchaser-reseller of motor gasoline, subject to the Mandatory Petroleum Allocation and Price Regulations, 10 CFR Part 211. On December 12, 1969 Concord entered into a motor gasoline supply contract with Gulf Oil Company (Gulf). Under the terms of the contract in effect on May 15, 1973, Concord could purchase 880,000 gallons of motor gasoline a year from Gulf, with payment due 30 days from the date of the invoice. Accordingly, Gulf and Concord have a supplier-purchaser relationship for the supply of motor gasoline because of the continuing purchases of gasoline by Concord from Gulf since 1969, including the original and updated base period for motor gasoline use, pursuant to 10 CFR 211.9, 211.10, 211.11, 211.12 and 211.102.

As a result of Department of Energy (DOE) assignments and corresponding upward certifications, the volume of motor gasoline purchased by Concord has increased substantially. In the year 1976 Concord purchased over 8 million gallons of motor gasoline. At the end of that year Gulf purported to change the terms of sale. Under the new terms, Gulf required Concord to make payment on the twentieth day of the month for gasoline delivered and invoiced between the first and tenth days of the month; on the thirtieth day of the month for gasoline delivered and invoiced between the eleventh and twentieth days of the month; and on the tenth day of the following month for gasoline delivered and invoiced between the twenty-first and thirty-first days of the month. Concord agreed to this change, although Concord claims its agreement was obtained under duress. Thus, Gulf no longer allows Concord 30 days from the date of the invoice in which to make payment, as was done on May 15, 1973. Rather, Gulf now allows Concord no more than ten days from the invoice date to make payment in full to Gulf.

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[3] Even changes in brand name of a purchaser do not terminate the supplier-purchaser relationship. Section 211.9(c) expressly provides that "the supplier/purchaser relationships required by this part . . . shall not be altered by . . . changes in the brand or franchise under which a wholesale purchaser-reseller maintains its on-going business." *See Greenbelt Consumer Services Inc.,* Interpretation 1974–7, 42 FR 25651 (May 18, 1977).

[4] Gulf contends that even if DOE determines that Smith is entitled to a continuing allocation of motor gasoline from Gulf, Smith's allocation should be less than his base period volume since he no longer supplies a number of his base period accounts. Smith, however, remains legally obligated to supply his base period customers, and his allocation may not therefore be reduced. Although Gulf claims that it must now supply several branded Gulf stations which were Smith's former customers through the current lessee of its Fayetteville bulk terminal, it does not state the factual or regulatory basis for that contention, and this interpretation does not reach that issue.

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Gulf submitted comments concerning the Concord request. In those comments, Gulf asserts that its change in payment terms was based upon Concord's exceeding its "line of credit" due to the increased volume of its purchases and the increased price of motor gasoline. The "line of credit" was an internal Gulf policy to which no reference was made in the contract signed by the parties in 1969 or in any written agreements entered into on or before May 15, 1973, by Gulf and Concord. It should be noted that Concord asserts that it was not even aware of any credit limitation until Gulf notified the firm at the end of 1976 that it had been exceeded.[5]

Gulf asserts that there is no provision under the Mandatory Petroleum Allocation and Price Regulations that compels it to increase Concord's "line of credit," as requested by Concord, even if the refusal to do so has the practical effect of requiring Concord to make payments prior to the due date under the former payment schedule. Gulf argues that the amount of a customer's "line of credit" is not a component of the normal business practices rule of § 210.62(a). In addition, Gulf argues that if Gulf were required to accept Concord's determination of the "line of credit" to be extended by Gulf, that occurrence would deviate from Gulf's normal credit practices.[6]

Issue

Do the provisions of § 210.62(a) allow Gulf to change the terms of sale from those in effect on May 15, 1973, which required payment 30 days from the invoice date, to a more frequent payment schedule?

Interpretation

For the reasons set forth below, Gulf has improperly applied the provisions of § 210.62(a) by changing the payment schedule in its sales of motor gasoline to Concord from the one in effect on May 15, 1973.

Section 210.62(a) provides in pertinent part: [7]

> (a) Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter . . . Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973 price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payment for allocated products, as customarily associated with that class of purchaser . . . on May 15, 1973 . . . However, no supplier *may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser . . . on May 15, 1973*. . . .

In the present case, on May 15, 1973 Concord had 30 days from the invoice date in which to make payment to Gulf for the gasoline which the firm purchased. At the end of 1976 Gulf required Concord to make payment for its purchases on a more frequent schedule than once every 30 days. Section 210.62(a) prevents the imposition of a more stringent payment schedule on purchasers than was in effect on May 15, 1973. Thus, Gulf's May 15, 1973 payment schedule with Concord may not be modified to impose a more stringent payment schedule upon Concord, since such a modification would result in the circumvention of the Mandatory Petroleum Allocation and Price Regulations in violation of § 210.62(a) [8]

In its comments to Concord's submission, Gulf states that it altered Concord's payment schedule only after the firm exceeded a line of credit established for the firm by Gulf. Gulf argues that Concord's line of credit was never part of its express contractual arrangement with Gulf and therefore is not subject to the provisions of § 210.62(a).

Whether or not its assertion that the line of credit established for Concord on May 15, 1973, was a normal business practice under § 210.62(a), Gulf miscontrues its line of credit policy as analogous to its payment schedule policy. In the present case, the amount of credit which Gulf extends to Concord, is not in question; rather, the question involves only Gulf's alteration of Concord's payment schedule. A 30-day payment schedule was in effect between Gulf and Concord on May 15, 1973. Gulf may not change that payment schedule under the guise of Concord's having exceeded a varying "line of credit."

Accordingly, § 210.62(a) prohibits Gulf's modification of Concord's payment schedule for the sale of motor gasoline.

Issued in Washington, D.C., on July 28, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–20

To: United States Steel Corporation

Regulations Interpreted: 10 CFR 211.9, 211.11, 211.51, 211.82, 211.83; Ruling 1974–3

Code: GCW–AI—Part 211, Subpart D; Supplier/Purchaser Relationship; Transfer of Allocation Entitlement

Facts

The United States Steel Corporation (U.S. Steel) purchased the Pasadena ethylene plant in Huston, Texas, from the Atlantic Richfield Company (ARCO), a major, integrated petroleum company, in January 1979. ARCO had operated this plant until November 1977, using as a feedstock propane which it obtained from the Shell Oil Company (Shell) under an allocation provided pursuant to the Mandatory Petroleum Allocation Regulations.[9] ARCO "mothballed" the Pasadena plant in November 1977 when it put into operation two new ethylene plants in the Houston area,[10] which can use gas liquids, including propane, as feedstock in the same manner as the Pasadena plant. However, ARCO has purchased no propane from Shell since it stopped operating the Pasadena plant, apparently using naphtha and middle distillates instead as the primary feedstocks for its new ethylene plants. Each of the new ARCO plants has roughtly double the output capacity of the Pasadena plant and, as was the case with the ethylene produced at the Pasadena plant, some of the ethylene produced at the new ARCO plants is consumed by ARCO in its own operations and the rest is marketed to various purchasers.

In its request for interpretation, U.S. Steel contends that at the time of the transfer of the Pasadena ethylene plant to U.S. Steel, ARCO had a right to an allocation of propane from Shell based on ARCO's base period consumption of propane at that specific plant. U.S. Steel contends that as the purchaser of the Pasadena plant it is entitled to that allocation.

Shell has submitted comments in opposition to U.S. Steel's request for interpretation, arguing that ARCO lost its right to an allocation of propane from Shell by closing the Pasadena plant in November 1977 and not purchasing propane from Shell since that time. Furthermore, Shell argues that even if ARCO retains an entitlement to an allocation of propane from Shell based on ARCO's base period consumption of that product at the Pasadena plant despite not purchasing propane from Shell nor operating the Pasadena plant since November 1977, the allocation could not have been transferred from ARCO to U.S. Steel by the sale of the Pasadena ethylene plant because that sale did not constitute the transfer of "the entire business or activity of the firm" which is necessary for an entitlement to an allocation to be transferred under 10 CFR 211.11(d).

Issue

Does U.S. Steel succeed to an entitlement to an allocation of propane based upon its purchase of the Pasadena plant?

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[5] Gulf states that Concord's "line of credit" on May 15, 1973 was $25,000, and in 1977 it was raised to $300,000. In the fall of 1979, due to the increases in price and volume of motor gasoline purchased by Concord (over 17 million gallons in 1979), Concord was required by Gulf to pay its invoices on the day they were received, or even before they were received by Concord because the "line of credit" had already been exceeded. Concord requested that Gulf increase its "line of credit" to allow Concord to meet the payment schedule established at the end of 1976. Gulf increased the "line of credit" to $600,000 effective January 1, 1980.

[6] Gulf has not alleged that Concord is financially unable to arrange proper payment for the motor gasoline sold by Gulf to Concord nor has Gulf alleged that Concord has moved to a new class of purchaser because of increased volume.

[7] In *Marathon Oil Co.* v. *FEA*, 547 F.2d 1140 (TECA1976), the authority of the Federal Energy Administration (FEA) and its successor, the DOE, to regulate credit terms incident to the Mandatory Petroleum Price Regulations was upheld.

[8] It should be noted that if Concord deviates substantially from the payment schedule or fails to pay Gulf for motor gasoline, Gulf may be permitted, with DOE approval, to either terminate the relationship or alter its credit terms. *See Yellow Cab. Co.; Gulf Oil Co.*, Interpretation 1978–57, 43 FR 46517 (October 10, 1978); *Mack C. Colt, Inc.*, Interpretation 1978–56, 43 FR 40209 (September 11, 1978).

[9] ARCO purchased propane from Shell during the base period for propane, defined in § 211.82 as "each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter."

[10] The new ARCO ethylene plants are located in Channelview, Texas, approximately 15 miles from the Pasadena plant.

Interpretation

For the reasons set forth below, U.S. Steel does not succeed to ARCO's entitlement to an allocation of propane based on ARCO's base period use of propane at the Pasadena plant because the transfer of that plant by ARCO to U.S. Steel did not transfer the right to receive an allocation under 10 CFR 211.11.[11]

Under 10 CFR 211.9(a) each supplier of an allocated product must supply all wholesale purchasers[12] that purchased or obtained that allocated product from that supplier during the base period, as specified in 10 CFR Part 211, Subparts D through K. Under § 211.9(b) each supplier of an allocated product shall also supply, to the maximum extent practicable, all end-users that purchased the allocated product from that supplier as of January 15, 1974, and which are entitled to an allocation level under the provisions of Subparts D through K. Rules governing the allocation of propane are contained in 10 CFR Part 211, Subpart D. Allocation levels for propane and other natural gas liquids are provided for certain specified uses as set forth within that Subpart in § 211.83. Under that section, wholesale purchaser-consumers and end-users receive allocation levels of propane equal to their base period use, subject to reduction by application of an allocation fraction, for their consumption of that product for "petrochemical feedstock and process fuel use" and for "other industrial use." Consumption of propane to produce ethylene generally qualifies for either of these priority uses. *See* 10 CFR 211.51, 211.82.

Section 211.11 provides the basis for a purchaser's entitlement to an allocation of an allocated product. This section provides in relevant part:

> (a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level *shall receive an allocation based on its conduct of an ongoing business or maintenance of an established end use.* (Emphasis added.)

Section 211.11(d) sets forth the rule regarding the transfer of an entitlement to an allocation, stating:

> (d) *Transfer of entitlement.* The right to receive an allocation *shall not be assignable separately but shall be considered an integral part of the on-going business or established end use.* The right to an allocation shall be deemed to have been transferred *only when the entire business or activity of the firm* is transferred to a successor firm. (Emphasis added.)

As stated expressly by these regulations, an entitlement to an allocation of a wholesale purchaser or end-user is not assignable separately from the on-going business or established end use which is itself the basis of the allocation. Furthermore, the right to an allocation can only be transferred if the entire business or activity of the transferor firm is also transferred to a successor firm.

Allocation levels of propane are provided under § 211.83 only to end-users and wholesale purchaser-consumers of this product. The terms "wholesale purchaser-consumer" and "end-user" are defined in § 211.51 by reference to the term "firm." These definitions state, in relevant part:

> *"End-user" means any firm which is an ultimate consumer* of an allocated product other than a wholesale purchaser-consumer.
>
> * * * * *
>
> *"Wholesale purchaser-consumer" means any firm that is an ultimate consumer* which, as part of its normal business practices. . . . (Emphasis added.)

U.S. Steel argues that by purchasing the Pasadena plant it purchased an entire "firm," thereby satisfying the requirements for the transfer of an allocation set forth in § 211.11(d), *supra.* U.S. Steel apparently contends that this construction of the term "firm" in § 211.11(d) is consistent with the definition of "firm" contained in § 211.51, which provides in relevant part:

> . . . The FEO may, in regulations and forms issued in this part, treat as a firm:
>
> (a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) *any part of a firm.* (Emphasis added.)[13]

However, § 211.51 is a general definition. The provisions of § 211.11(b), not § 211.51, apply in this case. Thus, for purposes of applying § 211.11(d), U.S. Steel must refer to § 211.11(b). That section expressly defines "firm" as follows:

> *End-users and wholesale purchasers as a firm.* (1) For purposes of defining an end-user or wholesale purchaser-consumer in this part, *a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers* including all sites, storage tanks, and other facilities or entities of the end-user or wholesale purchaser-consumer that utilize or store an allocated product. (Emphasis added.)[14]

Accordingly, an end-user or wholesale purchaser-consumer which is entitled to receive an allocation level of propane for a specified use under § 211.83 includes all entities under common control.

As stated above, an end-user or wholesale purchaser-consumer entitled to an allocation level of propane receives its allocation pursuant to § 211.11(a), based on its conduct of an on-going business or maintenance of an established end use. Assuming that at the time it sold the Pasadena plant to U.S. Steel, ARCO was still entitled to an allocation of propane based on its base period consumption of that product at the Pasadena plant, it would continue to be entitled to that allocation provided it continues to conduct the on-going business or maintains the established end use which is the basis of the allocation. As explained in Ruling 1974-3, 39 FR 4467 (February 4, 1974):

> A supplier must provide for allocation to its wholesale purchasers of record during the base period *as long as those purchasers continued to maintain their ongoing business since the base period. . . . Unless the historical purchaser has completely abandoned his original ongoing business or conveyed it to a third party, he continues to have the right to an allocation from his historical supplier* even though (1) the supplier ceased supplying the purchaser since the base period . . . or (3) the purchaser has moved the location of his ongoing business to other premises since the base period. (Emphasis added.) 39 FR at 4467, 4468.

Under the facts presented in U.S. Steel's request for interpretation, ARCO continued to produce ethylene after selling the Pasadena plant. The production of ethylene from propane clearly qualifies for an allocation level under § 211.83, *i.e.,* either for "petrochemical feedstock and process fuel use" or for "other industrial use." Pursuant to § 211.11(a), any entitlement to an allocation which ARCO may have had from Shell due to its base period ethylene production activities was based on its continued conduct of the on-going business of producing ethylene or on the maintenance of the established end use of consuming propane in the production of ethylene.

However, ARCO could not transfer this right to an allocation by selling the Pasadena plant to U.S. Steel because it continued to conduct its ethylene production business after the sale. Under § 211.11(d), any right to an allocation which ARCO may have from Shell, as ARCO's historical supplier of propane at the Pasadena plant, would be considered an integral part of the on-going business which is the basis of the allocation. Because this right to an allocation could not be transferred separately from the on-going business of producing ethylene, ARCO did not transfer its propane allocation to U.S. Steel by the transfer to U.S. Steel of the

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[11] In its request for interpretation U.S. Steel specifically asks that in the event it is not entitled to succeed to an allocation of propane by its purchase of the Pasadena plant, "the ARCO allocation be declared still operative and that [DOE determine that] Shell still has an obligation to supply ARCO." Since U.S. Steel does not have standing to ask for a determination of the allocation rights of another firm this Interpretation addresses this question only to the extent necessary to determine U.S. Steel's rights. Although ARCO was served a copy of U.S. Steel's request for interpretation, ARCO has expressed no interest in the request.

[12] The term "wholesale purchaser" includes wholesale purchaser-consumers and wholesale purchaser-resellers. 10 CFR 211.51.

[13] U.S. Steel points out that under § 211.106(b) each retail sales outlet of motor gasoline is treated as a separate firm and claims that by analogy the DOE should also treat the Pasadena plant as a separate firm. *See* 10 CFR 211.206 (c) and (e). However, by its own express language, and as is evident from its regulatory history, § 211.106(b) applies only to retail sales outlets of motor gasoline. *See* 39 FR 15960 (May 6, 1974).

[14] *Compare* the treatment afforded under the recently promulgated § 211.11(b)(3) to end-users and wholesale purchaser-consumers applying to DOE for assignments, adjustments or other relief. That provision states:

> The ERA may, in considering applications by end-users and wholesale purchaser-consumers for assignments, adjustments or other relief, treat as a separate firm any part of the parent or consolidated or unconsolidated entities that it controls including any separate site or facility. 45 FR 47671 (July 16, 1980).

See also § 211.86(f), promulgated effective January 1, 1980, 44 FR 60638 (October 19, 1979).

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Pasadena plant, which was only part of ARCO's ethylene production business.[15]

Issued in Washington, D.C., on July 31, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix B—Rescission of Interpretation

Interpretation: Apco Oil Corporation, 1978–51, 43 FR 40204 (September 11, 1978)

Date of Rescission: July 31

On August 11, 1978, in response to your request for interpretation the Department of Energy (DOE) issued *Apco Oil Corp.*, Interpretation 1978–51, 43 FR 40204 (September 11, 1978). This Interpretation addressed whether the "B" factor of the refiner price formula in 10 CFR 212.83(c)(2)(iii)(D) required the exclusive use of the "Y" formula to compute the increased cost of purchased products when no covered products of the type "i" were purchased in May 1973 but blending materials to make the covered product of the type "i" were purchased in that month. We concluded that the "B" factor required the exclusive use of the "Y" formula and thus Apco could not use the alternative "A-type" formula to compute its increased cost of blending materials to make the covered product.

Pursuant to 10 CFR 205.85(d) we have reexamined Interpretation 1978–51. Further review of the specific facts in this case, the regulations, and the regulatory history of § 212.83 indicates that it is appropriate to rescind Interpretation 1978–51 because the result appears to be inconsistent with both the purpose of the refiner price and its proper application to Apco. The purpose of the refiner price formula is to provide a reasonable method for a refiner to compute actual increases in the cost of purchased products. Since there is no provision in § 212.83 that the "B" factor required the exclusive use of the "Y" formula, under the facts presented by Apco, Interpretation 1978–51 is incorrect and should be rescinded.

Just as Interpretation 1978–51 bound only the requester, Apco, this rescission affects only Apco. In addition, this rescisson does not relieve Apco of its obigation to comply with other DOE regulations not expressly addressed in that Interpretation.

For the reasons set forth above, *Apco Oil Corp.*, Interpretation 1978–51, 43 FR 40204 (September 11, 1978) is hereby rescinded pursuant to 10 CFR § 205.85(d).

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix C—Cases Dismissed

File No.	Requester	Category	Date Dismissed
A-385	Texaco, Inc	Allocation and Price	July 7.
A-415	Siegel Oil Co	Price	July 8.
A-382	Century Oil Management, Inc	Price	July 9.
A-404	Mobil Oil Corp	Price	July 14.
A-267	Shell Oil Co	Price	July 16.
A-492	Honeymon Drilling Co., Ltd	Price	July 18.
A-545	Brock Exploration Corp	Price	July 18.
A-464	Parker & Parsley, In	Price	July 18.
A-471	The Superior Oil Co	Price	July 18.
A-503	Gerald DuPont Enterprises	Price	July 18.
A-505	Calvert Drilling Co	Price	July 18.
A-461	Williams Exploration Co	Price	July 18.
A-566	McCormick Oil & Gas Corp	Price	July 18.
A-499	North Central Oil Corp	Price	July 18.
A-417	Energy Consumers and Producers Association.	Price	July 18.
A-504	McMoRan Oil & Gas Co	Price	July 18.
A-537	Forest Oil Corp	Price	July 18.
A-527	Standard Oil Co. (Indiana)	Price	July 18.
A-519	Grigsby Oil & Gas	Price	July 18.
A-475	Finders Oil & Gas Co	Price	July 18.
A-510	Seneca Oil Co	Price	July 18.
A-524	Jones & Pellow Oil Co.	Price	July 18.
A-448	Kirby Exploration Co	Price	July 18.
A-447	Saga Petroleum U.S. Inc	Price	July 18.
A-474	Rick Buck Oil & Gas Investments	Price	July 18.
A-426	Deans Power Oil Corp	Allocation	July 22.
A-408	Hamilton Exxon Service Center	Allocation	July 22.
A-497	Knox Industries	Allocation and Price	July 23.
A-350	National Association of Texaco Wholesalers, Inc.	Price	July 24.
A-528	Texas Oil Marketers Association	Price	July 24.
A-473	Leede Exploration	Allocation and Price	July 24.
A-542	Southern Gulf Oil Distributors Association	Price	July 28.
A-476	International Carwash Association	Allocation	July 28.
A-442	Emergency Management Assistance Agency	Allocation	July 28.
A-529	Brubart Realty Corp	Price	July 28.
A-480	BTA Oil Producers	Price	July 29.
A-462	National Association of Texaco Wholesalers, Inc.	Allocation	July 29.
A-580	McCaffrey-Smith Inc	Allocation	July 31.
A-540	Yazoo City, Miss	FUA	July 31.

[FR Doc. 80–27810 Filed 9–9–80; 8:45 am]

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[15] This result is entirely consistent with *Fisher's Fuel Inc.*, 3 FEA ¶ 80,601 (March 16, 1976), which recognized that for an allocation to be transferred, a significant, severable portion of the transferor's total business operations must be transferred. Any allocation of propane to which ARCO may have been entitled at the time of the sale of the Pasadena plant, based on its historical consumption of propane at that plant, is not severable, under § 211.11(d) from ARCO's entire ethylene production business since the allocation would run to the entire business and not just to the Pasadena plant. *See also Russell B. Newton*, 3 FEA ¶ 83,138 (March 23, 1976), allowing, by exception from the regulations, the transfer of an allocation from the seller to the purchaser of a firm's entire business of refining and distributing petroleum products in the Western United States but not the entire business of the firm, where the firm met the "gross inequity" standard for exception relief.

federal register

Wednesday
September 10, 1980

Part VII

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Coinsurance for State Housing Finance Agencies: Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 250

[Docket No. R-80-597]

Coinsurance for State Housing Finance Agencies

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: Part 250 is being revised to set forth eligibility requirements, contract rights and obligations with respect to the multifamily coinsurance program to correct certain errors included in previously published regulations, to simplify program operations and to increase the potential for coinsurance usage.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Lynda M. Murphy, Office of State Agency and Bond Financed Programs, Room 6138, Department of Housing and Urban Development, Washington, D.C. 20410. Telephone (202) 426-7113. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On December 29, 1978 proposed changes in the regulations for Coinsurance for State Housing Finance Agencies (24 CFR Part 250) were published in the **Federal Register** (43 FR 61222) for public comment. Interested parties were given until January 29, 1979 to submit comments. Nine organizations submitted written comments. Numerous changes are being made in the proposed regulations in response to these comments. In addition, the organization of the regulations has been changed to make it flow more logically and, hence, make it easier to read. A discussion of these comments and the changes are set forth below. The following table indicates the original and revised section numbers and the revised titles.

Part 250—Coinsurance for State Housing Finance Agencies

Title	New No.	Old No.
Subpart A—Purpose, Scope and Applicability		
Purpose	250.1	260.1
Effect of Implementation of Program on Mortgage Market	250.2	250.4
Effect of Availability of Coinsurance on Flow of Mortgage Credit to Older, Declining Areas	250.2	250.7
Effect of Availability of Coinsurance	250.3	250.6
Utilization of Existing Multifamily Insurance Authorities	250.4	250.5
Coinsurance Pursuant to Section 223(e) Not Available	250.4	250.8
Limitation on HUD Liability	250.5	
Eligible Projects	250.6	[1] 250.10
Subpart B—Coinsurance Contract Rights and Obligations		
Definitions	250.101	250.701
Definition of State Housing Agency	250.101	250.2
Approved Agency	250.101	250.3
Eligibility of Property	250.102	250.330
Development of Property	250.103	250.331
Commercial and Community Facilities	250.104	250.332
Form of Construction Contract	250.105	250.334
Mortgage to Cover the Entire Property	250.106	250.313
Maximum Mortgage Amounts	250.107	250.402
Adjusted Mortgage Amount—Rehabilitation Projects	250.108	250.403
Covenant for Hazard Insurance	250.109	250.314
Eligibility of Title	250.110	250.346
Title Evidence	250.111	250.347
Eligible Mortgagors	250.112	250.401
Regulation of Mortgagors	250.113	250.322
Supervision Applicable to All Mortgagors	250.114	250.323
Supervision Applicable to General Mortgagors	250.115	250.324
Supervision Applicable to Limited Distribution Mortgagors	250.116	250.325
Supervision Applicable to Cooperative Mortgagors	250.117	250.326
Required Regulatory Agreement with Mortgagors	250.118	250.208
Occupancy Requirements Applicable to All Mortgagors	250.119	250.327
Creation of Contract of Coinsurance	250.120	250.703
Mortgage Form	250.121	250.309
Mortgage Lien	250.122	250.310
Maximum Mortgage Interest Rate	250.123	250.318
Maturity	250.124	250.311
Payment Requirements	250.125	250.312
Application of Mortgage Payments	250.126	250.312a
Accumulation of Accruals	250.126	250.315
Prepayment Privileges	250.127	250.316
Late Charge	250.128	250.317
Amount of Mortgage Insurance Premium (MIP)	250.129	250.705
Annual Payment of MIP on a Level Percentage of the Declining Principal Balance	250.130	250.707
Duration of MIP	250.131	250.710
Applicability of Prevailing Wage Requirements	250.132	250.328
Discrimination Prohibited	250.133	250.329
Environmental Review	250.134	250.9(b)
Mortgagor's Certification of Nondiscrimination and Mortgage Covenant Regarding Use of Property	250.135	250.321
Subpart C—Certification of Agency for Approval		
Review and Certification of Agency	250.201	250.201 250.202
Withdrawal of Approval	250.202	250.204
Effect of Withdrawal of Certification as an Approved Agency on Insurance Commitments Made While it was Approved	250.203	250.205
Mortgage Servicing During Coinsurance Period	250.204	250.207
Subpart D—Processing and Commitment		
Application	250.301	250.301
Processing	250.302	250.305
Financing and Processing Fees	250.303	250.302
Inspections During Construction	250.304	250.9(a)
Certification of Cost Requirements	250.305	250.333
Certificate as to Subcontracts	250.306	250.335
Requisites of Agreement and Certification	250.307	250.344
Records	250.308	250.339
Certificate of Actual Cost—Contents in General	250.309	250.336
Certificate of Actual Cost—Builder's and Sponsor's Profit and Risk Allowance	250.310	250.337
Certificate of Public Accountant	250.311	250.340
Certificate of Actual Cost—Land Value	250.312	250.341
Contractor's Certification	250.313	250.338
Reduction in Mortgage Amount—New Construction	250.314	250.342
Reduction in Mortgage Amount—Rehabilitation	250.315	250.343
Cost Certification Incontestable	250.316	250.345
Loans to Cover Two Year Operating Loss	250.317	250.320
Subpart E—Defaults Under a Mortgage		
Definition of Default	250.401	250.715
Date of Default	250.402	250.716
Notice of Default and Intent to File an Insurance Claim	250.403	250.717
Reinstatement of Defaulted Mortgage	250.404	250.718
Forbearance Relief	250.405	250.719
Special Forbearance Agreement	250.405	250.720
Advance to the Agency	250.406	250.723
Termination of Contract of Coinsurance	250.407	250.726
Termination of Contract of Coinsurance by Prepayment and Voluntary Termination	250.408	250.727
Termination of Contract of Coinsurance for Other Reasons	250.409	250.728
Acquisition of Property	250.410	250.730
Deed in Lieu of Foreclosure	250.411	250.731
Filing of Initial Claim	250.412	250.732
Method of Payment	250.413	250.734
Amount of Payment	250.414	250.738
Disposition of Property	250.415	250.739
Items Added to Principal in Computing Claim Payment	250.416	250.740
Claim Payment Deductions	250.417	250.741
Debentures	250.418	250.742
Rights in Housing Fund	250.419	
Effect of Amendments	250.420	250.743

[1] Included in 9/76 rule.

Effect of Implementation of Program on Mortgage Market (Previously § 250.4, now § 250.2).

Section 244 of the National Housing Act provides that no contract for coinsurance be entered into until after the Secretary has consulted with the mortgage lending industry and determined that the program will not disrupt the mortgage market or reduce the availability of mortgage financing under regular HUD programs. HUD is to monitor this and consider information submitted at any time.

It was suggested that this be clarified as to how HUD will consult with the industry and provide continuous monitoring to assure that State coinsurance will not disrupt the mortgage market.

No change has been made. The Secretary will consult with the industry before making the required statutory determination. The program will be continually monitored by reviewing significant indicators and evidence of significant adverse affect on the mortgage market may be submitted for review at any time. The Department currently makes an annual report to Congress on Coinsurance and will continue this practice.

It should be noted that a new § 250.6 entitled Eligible Projects has been included to limit coinsurance to projects in which at least 20 percent of the units are subject to the Section 8 Housing

Assistance Program or a similar Federal, State or local program as determined by the Commissioner, or to projects located in problem neighborhoods of Urban Development Action Grant or targeted Tandem areas. This substantially reduces the likelihood of any competition with the private mortgage lending industry.

It should also be noted that the word "casually" in the last sentence of § 250.2(a) has been changed to "causally".

Eligible Projects (Formerly § 250.10, now § 250.6).

Objections to the deletion of § 250.10—Eligible Projects, were received. This section of the current rule requires that at least 20 percent of the units in a project be available to families whose incomes do not exceed 80 percent of the median income for the area.

Claims were that the deletion creates unfair competition for private lenders; that it violates the public purpose concept of tax-exempt bonds, that States have access to mortgage insurance without complying with HUD underwriting requirements and that it encourages the expansion of government.

The provisions of § 250.10 of the current rule have again been included as § 250.6 but changed to require that at least 20 percent of the units in a project be subject to Section 8, a successor Federal subsidy program, or a similar State or local program or that projects be located in certain areas of political jurisdictions which are eligible for assistance under the Urban Development Action Grant Program. This approach is consistent with recent discussions in Congress on legislation to limit the use of tax-exempt bonds for housing. Inclusion of this provision was determined to be sound public policy since it encourages integration of households within a reasonable and achievable range of incomes and should increase the supply of housing in troubled communities.

Review of State Agency Prior to Certification as an Approved Agency (Previous title) Present title—"Review and Certification of Agency".)

Section 250.201 provides that approval of an agency's participation will be made after an on-site review by HUD of the agency's operations.

Several suggestions were made that this responsibility be placed specifically at the HUD Headquarters level. Such a change specifies a particular framework in a regulation which is not appropriate. It was decided that the present level of flexibility in this area should be maintained. However, it is intended that in the absence of workload problems, these functions will be performed at the Headquarters level.

Certification as an Approved Agency (previously § 250.202, now incorporated in § 250.201—Review and Certification of Agency).

It was suggested that when an agency has a large portfolio of non-insured multifamily mortgages which it has successfully underwritten, the agency be approved for participation in the coinsurance program based on use of their inplace underwriting system rather than requiring compliance with the fully insured system.

Section 250.202 (presently § 250.201) was simplified by changing it to provide for much greater discretion by the Commissioner in approving both the experienced and inexperienced agencies. However, all underwriting guidelines must, conform to Federal statutory requirements and any other requirements as determined by the Commissioner to be in the best interest of the Secretary.

Several requests were received for changes in § 250.202(b) which is related to HUD's review of the means whereby States can show that their assets are adequate and invested properly so as to meet their needs and that States can meet their share of coinsurance liabilities or losses. Perhaps the most significant was an objection to the Commissioner's concern with the Agencies' ability to meet their share of coinsurance losses.

HUD agrees and has deleted these provisions but has added § 250.5, Limitation on HUD Liability, which provides for a disclaimer of any HUD responsibility for obligations of an approved agency. The Department's only financial obligations are limited to the program and run only to the agency as mortgagee. The determination that an agency can meet its financial responsibilities to a buyer of its obligations or other lenders is a responsibility of entities other than HUD. This disclaimer must be included in prospectuses for agency issues and applications for loans to finance projects which are coinsured under this part.

The consequences of an agency's failure to meet its financial obligations are so great with respect to the agency and the parent government that both would be less than prudent to take this responsibility lightly. For this reason and the fact that the Department wishes to make it very clear that HUD has no risk with respect to financial soundness of the agency, the requirement for HUD review in this area has been deleted.

An objection was raised to the requirement in § 250.202(h) that HUD be notified of any changes in processing procedures. It was suggested that HUD only be notified of significant changes. The present wording may present difficulties but leaving "significant" open to interpretation could cause greater problems. Wording to this effect remains in § 250.201. Specifics can be addressed in the Coinsurance Handbook, if necessary.

Withdrawal of Approval (previously § 250.204, now § 250.202).

This Section provides among other things, that approval for participation in the program may be withdrawn if the default ratio as measured by dollar balances exceeds 20 percent.

It was suggested that this provision is broad, vague and redundant and that the 20 percent default clause be removed. The 20 percent default clause has been removed and the provision has been changed to read "such other reasons as the Commissioner may determine." It is believed that a broad provision such as this is necessary for the protection of HUD.

Required Regulatory Agreement with Mortgagors (previously § 250.208, now § 250.118).

An objection was raised to language in the Section previously designated as § 250.208(b), currently § 250.118(b) which states: "Further, the agency may regulate and restrict the mortgagor, as long as the Commissioner and the agency are coinsurers of the mortgage on such other matters as may be required by the agency as conditions for lending which do not conflict with the requirements of the Commissioner under this Part." The commentor interpreted this as meaning the agency's regulatory power terminates when coinsurance terminates.

The interpretation is incorrect. Regulatory powers of agencies subsequent to termination of coinsurance are not covered by these regulations and are a matter between the agency and Mortgagor unless there is HUD subsidy involved after termination of coinsurance.

Application Fees, Inspection Fees and Service Charges (previously § 250.302, now § 250.303 *Financing and Processing Fees*).

It was suggested that the maximum fees be more clearly stated. The present wording, which limits such fees to the maximums allowable for the Sections 221(d)(3) and 221(d)(4) program was retained since these fee schedules are well known in the industry. The title of this section has been changed, however, to Financing and Processing Fees and a provision has been added in § 250.123(b) which requires a certification that any override on obligations issued under the

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Internal Revenue Code does not exceed Department of Treasury arbitrage rules.

Processing and Commitment (previously § 250.305, now § 250.302 *Processing*).

HUD received a request that this section be changed to allow agencies to extend a commitment to insure without HUD approval. It was also suggested that a review of the first five applications be conducted by HUD Headquarters.

Approval of commitment extensions relates to monitoring of the Section 8 "pipeline" and the mortgage insurance fund; therefore, extensions must be approved by HUD. With regard to the second suggestion, it is intended that the first five cases be reviewed by Headquarters. However, this could be altered by workload and staff levels, and field office staffs could be used.

Section 250.302(a) has been changed to provide that project reviews related to previous participation of principals and fair housing and equal opportunity cannot be delegated to agencies.

Mortgage Lien (previously § 250.310, now § 250.122).

It was suggested that this section be changed to allow title insurance to insure over any liens on property.

The suggestion is contrary to Section 207(a)(1) of the National Housing Act which provides that the mortgage must constitute a first lien. No change has been made.

Payment Requirements (previously § 250.312, now § 250.125).

A suggestion was received to permit any necessary extensions of the amortization date as determined by the Agency.

Deferrals of principal payments are permissible under present wording. Extensions of amortization beyond the maximum allowable term are not legally permissible. No change has been made.

Mortgage to Cover the Entire Property (previously § 250.313, now § 250.106).

One agency which commented requested that this section be changed to permit street dedications, utility easements, small property additions for enhancement of the property, etc. which are not adverse to the Commissioner.

These are permissible, therefore, no change is necessary. Dedicated streets by definition are excluded from the mortgaged property. Easements are only a right of use for a particular purpose and would be included in the mortgaged property. Permanently affixed improvements such as fencing, playground equipment, toolsheds, dumpster pads, etc. would, under most State laws, become a part of the property and therefore would be subject to the mortgage.

Prepayment Privileges (formerly § 250.316, now § 250.127).

An agency questions the need for the Commissioner to be concerned about the reasonableness of prepayment fees.

This concern stems from a philosophy that owners, particularly those with high mortgage interest rates, should be allowed to refinance at favorable rates if such are available. This may be of particular importance in troubled projects.

HUD believes that if interest rates are drastically reduced, for example from 9 to 5 percent, it is prudent to allow an owner to refinance with reasonable penalty. The States are protected since they must approve prepayments and are entitled to reasonable costs of bond redemption as determined by the Commissioner. It should also be noted that agencies are empowered to deny prepayments under this section.

Maximum Mortgage Interest Rate (previously § 250.318, now § 250.123).

An agency objected to the 9 percent maximum interest rate and felt that the lack of an indication of whether MIP is included or excluded adversely affects Section 8 projects with financing cost contingencies. It wants no limit other than the cost of borrowing plus 1½ percent, which would include MIP.

This section has been changed in part to provide for a maximum mortgage interest rate which is not in excess of that agreed to by the agency and mortgagor or that in effect for Sections 221(d)(3) and 221(d)(4) insured programs at the time of initial endorsement by the agency plus, MIP. Section 250.123(b) has been added which requires agencies to certify that in setting the mortgage interest rate, when added to other fees and charges, the override does not exceed the arbitrage limitations of the U.S. Department of Treasury.

Given the tax exempt and public purpose status of agencies, HUD believes that a rate higher than the maximum FHA rate is not warranted.

Loans to Cover Two Year Operating Loss (previously § 250.320, now § 250.317).

It was suggested that payments to limited dividend owners be specifically excluded from eligible expenses in operating loss loans.

No change is needed since allowable expenses enumerated do not specifically allow payments to the owner.

A cross default provision has been added. § 250.317(e).

Supervision Applicable to all Mortgagors (previously § 250.323, now § 250.114).

A respondent suggested that paragraph (e)(4) of this section be deleted since his agency does not require filing of minutes of meetings of directors, officers, etc. of mortgagors with it. These reports are required for fully insured cases. They could provide insight for management and could be useful for audits. No change has been made.

It was suggested that "financial difficulties" of mortgagors which must be reported by the agency to the Commissioner each calendar quarter be defined. (See paragraph (e)(5) of this section.)

Financial difficulties should have a broad definition in the regulations. The issues should be addressed more specifically in the coinsurance handbook.

Supervision Applicable to General Mortgagors (previously § 250.324, now § 250.115).

The opinion was expressed that this section is confusing and the difference between general and limited distribution mortgagors as covered in the following section is unclear.

A major cause of confusion could be that the opening sentence of the section says that general mortgagors may be limited by States but are not required to be limited by HUD. The reason for this language is that limited distribution mortgagors are limited by the Commissioner to a maximum return on equity of 6 percent. No such limit is imposed by HUD on general mortgagors but the regulations permit the agencies to limit the return on equity for general mortgagors.

Occupancy Requirements Applicable to all Mortgagors (previously § 250.327, now § 250.119).

It was suggested that paragraph (a) of this section, which forbids discrimination against families with children except in elderly projects, may run counter to an Amendment of the National Housing Act passed in 1977. The amendment prohibits high-rise Section 8 projects for families unless specifically approved by HUD. It was said that the noted paragraph (a) may cause problems if an agency wants to coinsure high-rises for small non-elderly Section 8 households, handicapped persons, two person households, or single person occupancy. Section 221 of the regulations prohibits discrimination against children unless the project is designed specifically for the elderly or handicapped. However, discrimination against children in high-rise special purpose structures for two person households or single person occupancy is forbidden under Section 221. In addition, such structures would require special approval for occupancy by children under the Section 8 rules.

A suggestion that paragraph (a) of this section, which requires that any future buyer of the property must certify that he/she will not discriminate against children or use the property for transient purposes is out of place and should be placed under § 250.410, Effect of Termination (previously § 250.728) was unclear in that the two sections are unrelated.

Certificate of Actual Cost—Contents in General (previously § 250.336, now § 250.309).

At the suggestion of the HUD Office of General Counsel § 250.309(d) has been added, which delegates the authority for review and approval of cost certifications to the agencies.

Certificate of Actual Cost—Builder's and Sponsor's Profit and Risk Allowance (previously § 250.337, now § 250.310).

It was suggested that HUD accept State guidelines for builder's sponsor profit and risk allowance (BSPRA) as part of the HUD review and approval and that BSPRA be allowed in non-identity of interest cases. HUD disagrees. To avoid confusion, guidelines for BSPRA will follow the fully insured programs.

A conflict was identified between § 250.337(b) (now § 250.310(b)) which says that BSPRA shall be 10 percent of allowable costs or such lesser amount as provided by the Commissioner through regulatory amendment and previously § 250.402(a)(2)(ii), now deleted, which said that BSPRA is 10 percent unless the agency determines that this amount is unreasonable.

Section 227 of the National Housing Act provides that BSPRA shall be 10 percent unless the Secretary determines that this amount is unreasonable and by regulation prescribes a lesser percentage. HUD does not find the present 10 percent unreasonable. There is no provision for the percentage being reduced by an agency.

Certificate of Public Accountant—(previously § 250.340, now § 250.311).

It was suggested that the wording "certificate as to accuracy" and "to verify the actual costs" be deleted from this section. We have changed this section to conform to General Accounting Office standards by substituting the wording "certified to accuracy" in place of "supported by a certificate as to accuracy." The phrase "to verify the actual costs" is still used since this is the primary purpose of the cost certification. The wording "and in accordance with the standards promulgated by the U.S. General Accounting Office" also has been added.

Title Evidence (previously § 250.347, now § 250.111).

It was suggested that this section should be more specific with respect to what is required i.e., what liens or encumbrances are allowable and not allowable under the requirements of an agency.

HUD disagrees that changes are necessary. The primary purpose of the various forms of title evidence are to determine if the mortgage comprises a first lien on the property in accordance with § 250.122.

Eligible Mortgagors (previously § 250.401, now § 250.112).

It was suggested that the definition of general mortgagors included here under Eligible Mortgagors should be contained under Supervision Applicable to General Mortgagors (previously § 250.324, now § 250.115) and should be simplified to coincide with the opening paragraph of that section.

HUD disagrees. Section 250.115 relates to supervision of general mortgagors. The definition of general mortgagors is provided in this section.

Maximum Mortgage Amounts (Previously § 250.402, now § 250.107).

HUD has been advised that the per unit mortgage limits shown in this section differ from those permitted under current legislation and was asked to raise the maximum per unit limits to those supportable by fair market rents and to define the term "exterior land improvements".

This section has been changed so that the current per unit mortgage limits for Sections 221(d)(3) and 221(d)(4) plus a maximum five percent reserve allowance apply to coinsurance. Per unit limits cannot be those limits supported by fair market rents as coinsurance is subject to the maximum per unit mortgage limits for Section 221(d)(3) or 221(d)(4) as applicable, plus such reserves and development costs not to exceed five percent of the applicable amount as may be established by the agency under its underwriting system.

The term "exterior land improvements" is somewhat confusing in that it applies to costs not attributable to dwelling use and may therefore apply to interior space such as that used for lobbies, meeting rooms, central dining rooms, etc. Conversely, some exterior improvements such as utility lines and interior streets to the dwellings are attributable to dwelling use. Thus, no definitions has been included here but the program handbook will contain a more specific explanation.

Amount of Mortgage Insurance Premium (MIP)—previously § 250.705, now § 250.129).

It was suggested that the percentage of loss that can be coinsured should include a provision as contained in Section 244 of the National Housing Act of 1974 to the effect that "coinsurance shall not be less than 10 percent, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by one mortgagee".

There seems to be no inconsistency since HUD coverage ranges from 10 percent to 90 percent and therefore takes care of the 10 percent minimum.

A commentor suggests that the MIP charged by HUD is excessive in relation to the risk, i.e., under full insurance programs the MIP is 0.5 percent while the potential claim is 99 percent (100 percent in the case of Section 811) while for coinsurance the MIP is the same and the HUD risk is no more than 90 percent. HUD agrees that the section should be changed and has revised it so that the share of MIP is received by HUD in direct proportion to HUD's risk.

A provision has been added which gives the Commissioner discretionary power to approve additional premiums for agencies so long as the total received by an agency and HUD does not exceed one percent of the average outstanding principal amount.

Duration of MIP (previously § 250.710, now § 250.131) *and Termination of Contract of Coinsurance* (previously § 250.726, now § 250.407).

HUD received a comment that the former section, which provides that the MIP shall be charged until the contract of coinsurance is otherwise terminated with the consent of the Commissioner, is inconsistent with the latter which provides that the coinsurance contract may be terminated at the joint request of the mortgagor and agency.

HUD agrees that an inconsistency exists and has changed § 250.131(c) (previously § 250.710(e)) to read:

"The contract of coinsurance is terminated in accordance with § 250.407."

Accordingly, subparagraph (e) of the latter section has been changed to read:

"The mortgagor and agency jointly request termination and that request is approved by the Commissioner."

Approval of termination by the Commissioner is important in that it impacts risk. If premiums are effective only during the earlier, high risk years, there is an adverse actuarial effect. If § 250.407 remained unchanged, there would be excellent reason to have a higher MIP for coinsurance than for full insurance.

Notice of Default (formerly § 250.717, now *Notice of Default and Intention to*

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File an Insurance Claim § 250.403). This Section has been rewritten and expanded to more closely conform to the fully insured regulations.

Forbearance Relief (previously § 250.719) and *Special Forbearance Agreement* (previously § 250.720) now combined as *Forbearance Relief* § 250.405. These sections were rewritten to clarify the terms and conditions under which forbearance relief may be granted.

Advance to the Agency (previously § 250.723, now § 250.406) this section has also been rewritten to clarify the method in which advances may be made.

HUD believes that the changes made in §§ 250.405 and 250.406 will prove beneficial to the agencies and the Department.

Termination of Contract of Coinsurance (previously § 250.726, now § 250.407) slight changes have been made for clarity. Also subparagraph (f) has been added which provides for termination if the mortgage is transferred without the consent of the Commissioner.

Effect of Termination (previously § 250.728, now § 250.409 *Termination of Contract of Coinsurance for Other Reasons).*

It was suggested that this section be changed to read "Upon termination of the contract of coinsurance, the obligation to pay any subsequent MIP shall cease and all rights of the mortgagor and agency *to coinsurance benefits* shall be terminated.

HUD agrees and has changed the language, not exactly as suggested but rather to conform to the fully insured regulations.

It should be noted that termination provisions presently covered in §§ 250.407, 250.408 and 250.409 have been rewritten to parallel the fully insured program.

Items Added to Principal in Computing Claim Payment (previously § 250.740, now § 250.416).

Two suggestions were received that this section be changed to include unpaid interest from the date due to the date of acquisition of title and not from the date of default as presently shown.

HUD disagrees. Conventional HUD mortgagees have traditionally lost one month's interest in cases of default and they are in the more difficult position of receiving interest only at the debenture rate.

It should be noted that insurance claim and benefits provisions presently covered in § 250.410 through § 250.419 have been rewritten to parallel similar provisions for the fully insured program.

Several suggestions were received that provisions be made for fast-tracking Section 8 under the Coinsurance Program. HUD agrees and has changed appropriate sections accordingly. Coinsured projects for which Section 8 assistance has been requested must be processed in accordance with and must be subject to the provisions of 24 CFR Part 883.

It was suggested that Section 236 again be included. HUD disagrees since the number of Section 236 projects remaining in the "pipeline" is not large enough to merit consideration.

It was suggested by several organizations that provisions be included to coinsure construction loans. This is a major change involving substantial modification of the program and increased HUD staff requirements. HUD believes that this issue should be deferred pending experience with permanent loan coinsurance.

Inapplicability of NEPA

A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is listed as item Number H-82-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Part 250 is amended in its entirety to read as follows:

PART 250—COINSURANCE FOR STATE HOUSING FINANCE AGENCIES

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250.1 Purpose.
250.2 Effect of Implementation of Program on the Mortgage Market and the Flow of Mortgage Credit to Older Declining Areas.
250.3 Effect of Availability of Coinsurance.
250.4 Utilization of Existing Multifamily Insurance Authorities.
250.5 Limitation on HUD Liability.
250.6 Eligible Projects.

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250.101 Definitions.
250.102 Eligibility of Property.
250.103 Development of Property.
250.104 Commercial and Community Facilities.
250.105 Form of Construction Contract.
250.106 Mortgage to Cover the Entire Property.
Sec.
250.107 Maximum Mortgage Amounts.
250.108 Adjusted Mortgage Amount—Rehabilitation Projects.
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250.110 Eligibility of Title.
250.111 Title Evidence.
250.112 Eligible Mortgagors.
250.113 Regulation of Mortgagors.
250.114 Supervision Applicable to All Mortgagors.
250.115 Supervision Applicable to General Mortgagors.
250.116 Supervision Applicable to Limited Distribution Mortgagors.
250.117 Supervision Applicable to Cooperative Mortgagors.
250.118 Required Regulatory Agreement with Mortgagors.
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250.121 Mortgage Form.
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Subpart D—Processing and Commitment

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250.302 Processing.
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250.305 Certification of Cost Requirements.
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250.308 Records.
250.309 Certificate of Actual Cost—Contents in General.
250.310 Certificate of Actual Cost—Builder's and Sponsor's Profit and Risk Allowance.
250.311 Certificate of Public Accountant.
250.312 Certificate of Actual Cost—Land Value.
250.313 Contractor's Certification.
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Sec.
250.315 Reduction in Mortgage Amount—Rehabilitation.
250.316 Cost Certification Incontestable.
250.317 Loans to Cover Two Year Operating Loss.

Subpart E—Defaults Under a Mortgage

250.401 Definition of Default.
250.402 Date of Default.
250.403 Notice of Default and Intent to File an Insurance Claim.
250.404 Reinstatment of Defaulted Mortgage.
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250.406 Advance to the Agency.

Termination

250.407 Termination of Contract of Coinsurance.
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Claim Procedure

250.410 Acquisition of Property.
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Payment of Insurance Benefits

250.413 Method of Payment.
250.414 Amount of Payment.
250.415 Disposition of Property.
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250.418 Debentures.
250.419 Rights in Housing Fund.

Amendments

250.420 Effect of Amendments.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—Purpose, Scope and Applicability

§ 250.1 Purpose.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act by adding a new Section 244 entitled Coinsurance. Section 244, authorizes the Secretary of Housing and Urban Development to insure and make commitments to insure, under any provision of Title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provision, pursuant to a coinsurance contract with a State Housing Agency. The State agency must be willing (1) to assume a percentage of any loss and (2) to carry out certain functions (subject to audit, exception, or review requirements) such as credit approvals, appraisals, inspections, property disposition or other functions for which the Secretary approves the agency.

(b) By placing some of the risks which HUD now assumes when insuring mortgages on approved State Housing Agencies, the coinsurance program could help to assure more careful initial evaluation of proposed projects by lenders who are willing to accept some, but not all, of the risk of mortgage lending for rental housing projects. It could also make feasible the assumption by lenders of the processing responsibilities for a mortgage insurance program and thereby reduce the time and staff required to approve applications for mortgage insurance.

(c) The Congress indicated its concern that in delegating mortgage insurance processing duties to lenders, physical inspections of new dwelling units be continued in accordance with the same standards used under the regular HUD mortgage insurance programs. In accordance with this concern, this Part sets forth the Department's regulations describing a coinsurance program for mortgages on multifamily, rental housing underwritten by State Housing Agencies.

(d) The primary purpose of this program is for HUD to assume some of the risk for the multifamily loans made by State Housing Agencies and thereby to reduce the perceived risks to investors in the obligations of State Housing Agencies. This should increase the access of these agencies to capital markets. In recognition of the capabilities of State Housing Agencies, their successful operating histories, and their accountability to their individual State governments, these regulations vest the maximum amount of processing responsibilities with these agencies.

(e) To avoid unfair competition with the private lending industry and to maintain consistency with the public purpose concept of tax exempt financing the Department has limited this program to projects in which at least 20 percent of the units are subject to an allocation under the Section 8 Housing Assistance Payments Program or a similar Federal, State or local Program as determined by the Commissioner or to projects which are proposed in certain areas of political jurisdictions which meet the minimum standards of physical and economic distress for the Urban Development Action Grant Program as specified in § 570.452(b)(1) and (2) of this title. See § 250.6.

(f) Section 244 of the Act requires that a coinsured mortgage be "otherwise eligible" under other provisions of Title II of the Act. Sections 221(d)(3) and 221(d)(4) are the appropriate insuring authorities for coinsurance. Therefore, many regulations in the Part are parallel to multifamily provisions of Part 221 of this title, substituting, as appropriate, "agency" for "Commissioner" as the entity responsible for reviews, consents, approvals, determinations and other acts or decisions relating to coinsured mortgages.

§ 250.2 Effect of implementation of program on the mortgage market and the flow of mortgage credit to older declining areas.

(a) Section 244 of the Act requires that no contract of coinsurance be entered into under this part until the Secretary has, after due consultation with the mortgage lending industry, determined that a program for State Housing Finance Agencies, as authorized by Section 244, will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under provisions of the Act other than Section 244. The Department intends to monitor continuously the impact of this program and to consider evidence submitted at any time which suggests that disruptions in the mortgage market or reduced availability of mortgage credit to borrowers is causally related to the availability of coinsurance under this part.

(b) Insurance will continue to be available under this part only to the extent the Secretary has determined that the availability of insurance authorized by this part does not adversely affect the flow of mortgage credit to older, declining areas and to purchasers of older and lower-cost housing.

§ 250.3 Effect of availability of coinsurance.

No insurance authorized under any provision of the National Housing Act other than Section 244 of that Act shall be withdrawn, denied or delayed by reason of the availability of insurance under the program authorized by this part.

§ 250.4 Utilization of existing multifamily insurance authorities.

(a) With respect to mortgages to be coinsured under this part, mortgage insurance will be provided under the authority granted in Section 221(d)(3) or Section 221(d)(4) of the National Housing Act and the regulations implementing those sections as set forth in this part.

(b) Insurance authorized by this part will not be available for mortgages on properties which are eligible to be fully insured pursuant to authority of Section 223(e) of the National Housing Act.

§ 250.5 Limitation on HUD liability.

In no event shall HUD's financial obligations under this part exceed its participation in the coinsurance program. HUD's only financial

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obligation under this part is to the participating agencies in their role as mortgagees and coinsurers. HUD's financial responsibility does not run to any holder of obligations issued by an approved agency. The determination that a participating agency can meet its financial responsibilities to the buyers of its obligations or to other lenders is a responsibility of entities other than HUD. A disclaimer of this nature shall be included in all prospectuses for agency issues of obligations and any applications by agencies for loans used to finance projects which are insured under this part. Any changes to such disclaimer require prior written approval by the Commissioner.

§ 250.6 Eligible projects.

To be eligible for mortgage insurance under this part a project must be proposed for new construction or substantial rehabilitation and (a) at least twenty (20) percent of the dwelling units in the project must be subject to an allocation of subsidy under the Section 8 Housing Assistance Payments Program or a similar Federal, State or local program as determined by the Commissioner, or a suitable successor Federal program as determined by the Commissioner, or (b) must be located in a Municipality or County or portion of a Municipality or County which meets the minimum standards of physical and economic distress for the Urban Development Action Grant Program as specified in § 570.452(b) (1) and (2) of this title. The criteria following paragraph (b) in this section should be used to achieve community neighborhood redevelopment objectives; the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income; or the revitalization of deteriorating and deteriorated neighborhoods to attract persons of higher income. Projects with dwelling units which are subject to an allocation of subsidy under the Section 8 Housing Assistance Payments Program must be processed and administered in accordance with Part 883 of this title including § 883.401(b) permitting Fast Track processing for projects initially selected under Part 880 or 881 of this title. Projects which are subject to a successor Federal subsidy program as determined by the Commissioner must be subject to the appropriate regulations for that program.

Subpart B—Coinsurance Contract Rights and Obligations

§ 250.101 Definitions.

(a) *"Commissioner"*—The Federal Housing Commissioner.

(b) *"Act"*—The National Housing Act, as amended.

(c) *"Mortgage"*—A first lien upon real estate and other property commonly given to secure advances on, or the unpaid balance of the purchase price of real estate under the laws of the State, district or territory in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby. In any instance where an operating loss loan is involved, the term shall include both the original mortgage and the instrument securing the operating loss loan.

(d) *"Insured Mortgage"*—A mortgage which has been insured by the endorsement of the credit instrument by the Commissioner, or his duly authorized representative.

(e) *"Contract of Coinsurance"*—The agreement between an approved agency and the Commissioner for the coinsurance of a mortgage which includes the terms, conditions and provisions specified in this part and the National Housing Act and is evidenced by the Commissioner's issuance of a mortgage insurance certificate.

(f) *"Mortgagor"*—Means the original borrower under a mortgage and, where appropriate in context, its successor and such of its assigns as are approved by the Commissioner.

(g) *"MIP"*—means the mortgage insurance premium paid by the agency to the Commissioner in consideration of the contract of coinsurance.

(h) *"State Housing Agency (Agency)"*—Any public body, agency, or instrumentality created by a specific act of a State legislature and empowered to finance activities designed to provide housing and related facilities, through land acquisition, construction, or rehabilitation, for persons and families of low and moderate income. The term State shall include the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

(i) *"Approved Agency"*—A State Housing Agency certified as eligible to underwrite mortgages for coinsurance as provided in § 250.202. The HUD Headquarters shall have sole responsibility for the certification of approved agencies pursuant to the requirements of this part.

§ 250.102 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) Under a lease for not less than ninety-nine years which is renewable; or

(3) Under a lease having a period of not less than 75 years to run from the date the mortgage is executed; or

(4) Under a lease executed by a governmental agency, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease: *Provided*, That the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

(b) The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of all liens other than that of such mortgage.

§ 250.103 Development of property.

(a) *Obligation of the mortgagor.* The mortgagor shall be obligated to either construct and complete new housing accommodations on the mortgaged property or rehabilitate existing housing accommodations designed principally for residential use. The property, including improvements, shall comply with any material zoning or deed restrictions applicable to the project site and with all applicable building and other governmental regulations.

(b) *Minimum number of units.* A project shall consist of not less than five dwelling units.

§ 250.104 Commercial and community facilities.

(a) The project may include such commercial and community facilities as the agency and the Commissioner determine to be adequate and appropriate to serve the occupants.

(b) In the case of a project designed primarily for occupancy by the elderly or handicapped, the project may include central dining and other shared facilities as approved by the agency and the Commissioner.

§ 250.105 Form of construction contract.

(a) *In general.* The contract between the mortgagor and the general contractor to develop the property shall be in the form of either a lump sum contract or a cost-plus contract. The lump sum contract shall provide for the payment of a specified amount. The cost-plus contract shall provide for the payment of the actual cost of construction, not to exceed an upset price, which may include a fee to the builder in an amount allowed by the agency.

(b) *Lump sum contract.* A lump sum contract may be used where it is established to the satisfaction of the agency that no identity of interest exists between the mortgagor or any of its officers, directors, stockholders, or partners and the general contractor, and where the mortgage is executed by a limited distribution or general mortgagor. A lump sum contract may also be used where the mortgage is executed by a cooperative mortgagor if the agency makes the foregoing determination as to the nonidentity of interest and it is established to the agency's satisfaction that a cost-plus form of contract is not required to protect its interests or the interests of the cooperative mortgagor.

(c) *Cost-plus contract.* A cost-plus contract shall be used in each of the following instances:

(1) Where it is determined by the agency that an identity of interest exists between the mortgagor or any of its officers, directors, stockholders, or partners and the general contractor.

(2) Where the mortgage is executed by a cooperative mortgagor and it is determined by the agency that a cost-plus form of contract is required to protect the interests of the agency or mortgagor.

(3) Where the mortgage is executed by a nonprofit mortgagor, unless it is established to the agency's satisfaction that a cost-plus contract is not required to protect its interests and the interests of the mortgagor, in which case a lump sum form of contract may be used.

§ 250.106 Mortgage to cover the entire property.

The mortgage shall cover the entire property included in the housing project.

§ 250.107 Maximum mortgage amounts.

The mortgage shall involve a principal amount which does not exceed the maximum permitted under the Section 221(d)(3) or Section 221(d)(4) program, whichever is applicable; plus such reserves and development costs not to exceed 5 percent of the applicable amount, as may be established by the agency under its procedures and underwriting standards.

§ 250.108 Adjusted mortgage amount—rehabilitation projects.

A mortgage having a principal amount computed in compliance with this section, and which involves a project to be repaired or rehabilitated, shall be subject to the following additional limitations:

(a) *Property not subject to existing mortgage.* If the mortgagor owns the project free of an existing mortgage, the maximum mortgage amount shall not exceed 100 percent of the agency's estimate of the cost of the proposed repairs or rehabilitation.

(b) *Property subject to existing mortgage.* If the mortgagor owns the project subject to an existing mortgage, which is to be prepaid with part of the insured mortgage, the maximum mortgage amount shall not exceed:

(1) *Nonprofit or cooperative mortgagor.* If the mortgagor is a nonprofit or cooperative, and the project is insured under Section 221(d)(3) of the Act, the agency's estimate of the cost of the repairs or rehabilitation plus such portion of the outstanding indebtedness as does not exceed the agency's estimate of the value of such land and improvements prior to the repair or rehabilitation. In the case of projects insured under Section 221(d)(4) the agency's estimate of the cost of the repairs or rehabilitation plus such portion of the outstanding indebtedness as does not exceed 90 percent of the agency's estimate of the value of such land and improvements prior to the repairs or rehabilitation.

(2) *General or limited distribution mortgagor.* If the mortgagor is a general or limited distribution mortgagor, the agency's estimate of the cost of repair or rehabilitation plus such portion of the outstanding indebtedness as does not exceed 90 percent of the agency's estimate of the value of such land and improvements prior to the repair or rehabilitation.

(c) *Property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with a part of the insured mortgage, the maximum mortgage amount shall not exceed:

(1) *Nonprofit or cooperative.* If the mortgagor is a nonprofit or cooperative, and the project is insured under Section 221(d)(3) of the Act, the agency's estimate of the cost of the proposed repairs or rehabilitation plus the lesser of either of the following:

(i) The actual purchase price of the land and improvements.

(ii) The agency's estimate of the value of such land and improvements prior to the repair or rehabilitation. If the project is to be insured under Section 221(d)(4) of the Act, 90 percent of the agency's estimate of the cost of the proposed repair or rehabilitation plus 90 percent of the lesser of the actual purchase price of the land and improvements or the agency's estimate of the value of such land and improvements prior to the repair or rehabilitation.

(2) *General or limited distribution mortgagor.* If the mortgagor is a general or limited distribution mortgagor:

(i) Ninety percent of the agency's estimate of the cost of the repair or rehabilitation, plus

(ii) Ninety percent of the lesser of the actual price of the land and improvements, or the agency's estimate of value of such land and improvements prior to the repair or rehabilitation.

§ 250.109 Covenant for hazard insurance.

The mortgage shall contain a covenant acceptable to the Commissioner and the agency binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the Commissioner and the agency, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the coinsurance clause applicable to the location and character of the property, but not less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The initial coverage shall be in an amount estimated by the agency and approved by the Commissioner at the time of completion of the entire project or units therefor. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss payable to the agency and the Commissioner as their interests may appear.

§ 250.110 Eligibility of title.

For the mortgaged property to be eligible for insurance, the agency must determine that marketable title thereto is vested in the mortgagor as of the date the mortgage is filed for record. The title evidence will be examined by the agency and the issuance of a mortgage insurance certificate by the Commissioner will be conditioned on certification by the agency of its acceptability. The agency shall assume all risks for any problems or title exceptions set forth in the title policy or other evidence of title, that it approves which are inconsistent with the requirement in § 250.101(c) that the mortgage be a first lien.

§ 250.111 Title evidence.

(a) Upon final closing of the mortgage loan by the agency, the mortgagor shall furnish to the agency a survey of the mortgaged property satisfactory to the agency and a policy of title insurance covering such property, as provided in subparagraph (1) of this paragraph. If, for reasons the agency deems satisfactory, title insurance cannot be furnished, the mortgagor shall furnish such evidence of title in accordance

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with subparagraph (a)(2), (3), or (4) of this paragraph, as the agency may require. Any survey, policy of title insurance, or evidence of title required under this section shall be furnished without expense to the agency. The types of title evidence are:

(1) A policy of title insurance issued by a title insurance company and in a form satisfactory to the agency. The policy shall name as the insured the agency and the mortgagor as their interests may appear. The policy shall provide that upon acquisition of title by the agency, it will become an owner's policy running to the agency.

(2) An abstract of title satisfactory to the agency, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the agency as to the quality of such title, signed by an attorney-at-law experienced in the examination of titles.

(3) A Torrens or similar title certificate.

(4) Evidence of the title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or Territory thereof.

(b) The survey required by paragraph (a) of this section need not be furnished in connection with a project involving rehabilitation where the mortgage does not exceed $200,000.

(c) Regardless of the form of title evidence set forth in subparagraphs (1), (2), (3) or (4) of paragraph (a) of this section, the agency shall certify that the title to the project reflects that the insured mortgage on the project is a first lien.

§ 250.112 Eligible mortgagors.

A mortgage shall only be executed by mortgagor meeting one of the following qualifications:

(a) *Nonprofit mortgagor.* The nonprofit mortgagor shall be a corporation or association organized for purposes other than the making of profit or gain for itself or persons identified therewith and which the agency finds is in no manner controlled by, or under the direction of, persons or firms seeking to derive profit or gain therefrom. Such a mortgagor shall be regulated or supervised under Federal or State laws or by political subdivisions of States or agencies thereof, or the agency, as to rents, charges, and methods of operation.

(b) *Limited distribution mortgagor.* The limited distribution mortgagor may be a corporation, trust, partnership, association, other entity, or an individual. Such mortgagor shall be restricted by law (or by the agency) as to distribution of income and shall be regulated as to rents, charges, rates of return, and methods of operation.

(c) *Cooperative mortgagor.* The cooperative mortgagor shall be a nonprofit cooperative ownership housing corporation approved by the agency which restricts permanent occupancy of the project to the members of the corporation and which requires membership eligibility and transfers of membership in a manner approved by the agency. Such a mortgagor will be regulated or restricted by the agency as to rents or sales, charges, rate of return, and methods of operation.

(d) *General mortgagor.* A general mortgagor shall be any mortgagor approved by the agency, not meeting the eligibility requirements of paragraphs (a) through (c) of this section which, until the termination of all obligations of the agency and the Commissioner under the insurance contract and during such further period of time as the agency shall be the owner or holder of the mortgage, is regulated or restricted by the agency as to rents or sales, charges, capital structure, rate of return, and methods of operation.

§ 250.113 Regulation of mortgagors.

The mortgagor and the agency may agree to such regulation and restriction of the actions of the mortgagor by the agency as they deem desirable; provided, that the requirements set forth in §§ 250.114, 250.115, 250.116, 250.117, 250.118 and 250.119 are met. Mortgagors of projects which have dwelling units which are subject to an allocation of subsidy under the Section 8 Housing Assistance Payments Program must also meet the requirements of Part 883 of this title. Mortgagors of projects with units which are subsidized under a successor Federal program as determined by the Commissioner, must meet appropriate regulatory requirements of that program.

§ 250.114 Supervision applicable to all mortgagors.

(a) No charge shall be made by the mortgagor for accommodations, facilities, or services offered by the project except those approved in writing by the agency.

(b) The mortgagor shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and will promptly complete necessary repairs and maintenance as required by the agency.

(c) In all projects a fund for replacements shall be established and maintained with the agency. The amount and type of such fund and the conditions under which it shall be accumulated, replenished, and used, shall be specified in the charter, trust agreement, or regulatory agreement. The replacement reserve provisions of § 883.703(a) of this title apply to Section 8 projects other than partially-assisted projects, as defined in § 883.302 of this title. The first and second sentences of this paragraph apply to partially-assisted projects and non-Section 8 projects.

(d) The mortgagor, its property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the agency, the Commissioner, and the Comptroller General of the United States or their duly authorized agents at all reasonable times.

(e) The mortgagor shall execute and deliver to the agency a certificate that the books and accounts of the mortgagor will be established and maintained in a manner satisfactory to the agency on the date the certificate is executed. So long as the mortgage is coinsured under this part, the mortgagor's books and accounts will be kept in accordance with the requirements of the agency; will be in such form as to permit a speedy and effective audit and as may otherwise be prescribe by the agency; will be maintained for such periods of time as may be prescribed by the agency; and will be available to the agency, and to the Commissioner and to the Comptroller General of the United States for such examination and audit as they may desire to make. The mortgagor shall file with the agency the following reports verified by the signature of such officers of the mortgagor as the agency may designate and in such form as prescribed by the agency.

(1) Monthly occupancy reports as required by the agency.

(2) Complete annual financial reports based upon examinations of the books and records of the mortgagor, prepared in accordance with the requirements of the agency, certified to by an officer of the mortgagor and, when required by the agency, prepared and certified by a Certified Public Accountant, or other public accountant acceptable to the agency and the Commissioner.

(3) Specific answers to questions upon which information is desired from time to time relative to the actual cost of construction, the disposition of mortgage funds, the operation and condition of the property and the status of the coinsured mortgage.

(4) Properly certified copies of minutes of meetings of directors, officers, stockholders, shareholders, or beneficiaries.

(5) At the end of each calendar quarter the agency shall report to the Commissioner on any mortgagors encountering financial difficulties and on corrective actions being taken to alleviate such difficulties.

§ 250.115 Supervision applicable to general mortgagors.

General mortgagors may include mortgagors which under State law or rules are required to be limited or regulated as to rates of return or distribution of profits, but which are not required to be so limited or regulated under the provisions of Section 221(d)(4) of the Act if the mortgage is insured under that section. The following restrictions and regulations will be applicable to general mortgagors.

(a) *Capital structure.* (1) The number of shares of capital stock, in the case of a corporation, may be issued in such amounts and form as may be agreed upon by the mortgagor and the agency prior to the endorsement of the mortgage for insurance; and

(2) In the case of a trust entity, beneficial certificates of interest, or, in the case of a partnership, participations therein may be issued in such amounts and form as may be agreed upon by the mortgagor and the agency.

(b) *Distribution of earnings.* Dividends or other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No dividends or other distributions shall be declared or made except out of surplus cash legally available and remaining after the payment of and segregation of such funds as determined by the applicable laws and procedures of the agency. Distributions may be made for projects which are assisted under Section 8, only in accordance with the provisions on limitation of distributions in § 883.306 (a) through (e) of this title. For small projects and partially-assisted projects as defined in § 883.302 of this title, the first two sentences of this paragraph shall apply.

(c) *Borrowed funds.* No distribution of any kind may be made from borrowed funds.

(d) *Rents and charges.* In approving the allowable rents and charges and in passing upon applications for changes, consideration will be given by the agency to the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Rental income necessary to provide a reasonable return on the investment consistent with providing reasonable rentals to tenants.

§ 250.116 Supervision applicable to limited distribution mortgagors.

(a) *Rate of return.* The amount of any allowable distribution or disbursement from surplus cash generated by the mortgagor will not exceed in any one fiscal year more than six percent of the mortgagor's initial equity investment as is agreed to by the agency and the Commissioner. The right of allowable distribution or disbursement from surplus cash may be cumulative. Dividends or other distributions may be declared or made only as of or after the end of a semi-annual fiscal period. Distributions may be made for projects which are assisted under Section 8, only in accordance with the provisions on limitation on distributions in § 883.306 (a) through (e) of this title. For small projects and partially-assisted projects as defined in § 883.302 of this title, the first three sentences of this paragraph shall apply. No dividends or other distribution shall be declared or made except out of surplus cash and pursuant to applicable laws and procedures of the agency.

(b) *Rents and charges.* In approving the allowable rents and charges and in passing upon applications for changes, consideration will be given by the agency to the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Rental income necessary to provide a rate of return on the investment not exceeding the rate limitation of paragraph (a) of this section, and consistent with providing reasonable rentals to tenants.

(c) *Borrowed funds.* No distribution of any kind may be made from borrowed funds.

§ 250.117 Supervision applicable to cooperative mortgagors.

(a) The mortgagor shall not permit occupancy except under an occupancy agreement or lease approved by the agency.

(b) Except with the prior written approval of the agency, no compensation shall be paid by the corporation to its officers or directors, as such, or to any persons or corporation for supervising or managerial service. No compensation shall be paid by the corporation to any employee in excess of an amount agreed to by the agency, and specified in the charter. No officer, director, stockholder, agent, or employee of the corporation shall in any manner become indebted to the corporation except on account of approved occupancy charges.

(c) A general operating reserve shall be established and maintained as long as the mortgage is coinsured under this part in a manner and for the purposes specified in the charter or regulatory agreement.

(d) Surplus funds, after meeting reserves and after meeting all obligations of the mortgagor, may be disbursed to the members in the form of reduced carrying charges or reduced sales prices of the dwelling accommodations, or patronage refunds. For projects which are assisted under Section 8, the provisions on the use of project funds contained in § 883.702(e) of this title shall apply.

§ 250.118 Required regulatory agreement with mortgagors.

(a) The agency and the mortgagor shall effect an agreement whereby the mortgagor, as further consideration for making of the mortgage loan, contracts with the agency and with the Commissioner that it will fulfill the applicable provisions of this Subpart (§ 250.113 through § 250.119). Such regulation or restriction will be in the form of a regulatory agreement between the mortgagor and the agency which shall be responsible for enforcing the provisions of the regulatory agreement.

(b) Further, the agency may regulate and restrict the mortgagor, as long as the Commissioner and the agency are coinsurers of the mortgage, on such other matters as may be required by the agency as conditions for lending which do not conflict with the requirements of the Commissioner under this Part.

§ 250.119 Occupancy requirements applicable to all mortgagors.

(a) The mortgagor shall certify under oath to the agency that so long as the mortgage is coinsured under this part the mortgagor will not:

(1) In selecting tenants for the project covered by the mortgage, discriminate against any family because there are children in the family unless the project was designed expressly for occupancy by elderly or handicapped persons. Applicant preferences based on residency in the community may be used only to the extent they do not conflict with affirmative marketing objectives and the HUD approved Affirmative Marketing Plan.

(2) Rent, permit the rental or permit the offering for rental of housing, or any part thereof, covered by such mortgage, for transient or hotel purposes. For the purposes of this certification, the term rental for transient or hotel purposes shall mean: (i) Rental for any period less

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than 30 days, or (ii) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellboy service.

(b) Preference for displacees. With respect to all dwelling units insured under this part, a preference or priority of opportunity to rent dwelling units shall be given by the mortgagor to families or single persons who have been displaced from an urban renewal area, or as a result of governmental action, or as a result of a disaster determined by the President to be a major disaster.

§ 250.120 Creation of the contract of coinsurance.

This part and the Act shall constitute the contract of coinsurance and the agency and the Commissioner shall be bound in accordance with this part and the Act with the same force and effect and to the same extent as if a separate contract has been executed. The contract of coinsurance shall be evidenced by the Commissioner's issuance of a mortgage insurance certificate.

§ 250.121 Mortgage form.

(a) The mortage shall be executed on the agency's form as approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.

(b) In the case of cooperative mortgagors, the mortgage shall provide that the mortgagor will not arrange for management of the property except in the manner and under an agreement approved by the agency and the Commissioner in writing.

§ 250.122 Mortgage lien.

A mortgagor shall certify at the final closing of the loan and the agency shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the agency and the Commissioner. Liens other than the insured mortgage which may be approved (other than liens for taxes and assessements of the State or subdivisions of the State not yet due and payable, or ground rents) may not have, under applicable law, a priority equal or superior to the insured mortgage.

(b) There will not be outstanding any unpaid obligation contracted for in connection with the mortgage transaction, the purchase of the mortgage property, or the construction of the project, except obligations approved by the agency and the Commissioner. Obligations of the mortgagor shall be approved under this section only if such obligations are determined to be of a lesser priority for payment than the obligation of the insured mortgage.

§ 250.123 Maximum mortgage interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor. This rate shall not exceed the maximum interest rate established by the Secretary for the Section 221(d)(3) or the Section 221(d)(4) insured programs and in effect at the time the Commissioner endorses the mortgage as evidenced by the issuance of a mortgage insurance certificate. In the event that the maximum interest rate established by the Secretary for the Sections 221(d)(3) and 221(d)(4) insured programs changes between the time of the issuance of a commitment for a project and the time a certificate of insurance would be issued by the Commissioner, the interest rate set forth in the certificate of insurance when issued shall reflect the interest rate determined in accordance with the Department's outstanding handbook instructions regarding "Procedural Actions Accompanying Changes in the Maximum FHA Interest Rates." Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

(b) When an approved agency issues tax-exempt obligations under Section 103 of the Internal Revenue Code to fund a mortgage loan coinsured under this part, it must certify that, in setting the mortgage interest rate, when added to other fees and charges, the override does not exceed the arbitrage limitations of the U.S. Department of Treasury for such obligations.

(c) The amount of any increase approved by the agency and the Commissioner in the mortgage amount between the start of construction and final closing in excess of that which the agency and the Commissioner had committed to insure at the start of construction shall bear interest at the rate agreed upon by the mortgagor and the agency which rate shall not exceed the greater of: (1) The maximum interest rate established by the Secretary for the applicable program and in effect at the time construction began, (2) the maximum interest rate established by the Secretary for the applicable program and in effect at the time the application for a mortgage increase was received by the agency, or (3) the maximum interest rate established by the Secretary for the applicable program and in effect at the time the increase is approved by the Commissioner.

§ 250.124 Maturity.

The mortgage shall have a maturity satisfactory to the agency, not in excess of 40 years from commencement of amortization or for such longer term as may be approved by the Commissioner.

§ 250.125 Payment requirements.

(a) *Method of Payment.* The mortgage shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with an amortization plan as agreed upon by the mortgagor, the agency and the Commissioner.

(b) *Date of first payment to principal.* The agency shall estimate the time necessary to complete the project and shall establish pursuant to standards adopted by the agency the date of the first payment to principal so that the lapse of time between completion of the project and commencement of amortization will not be longer than that deemed necessary and appropriate by the agency to obtain sustaining occupancy.

§ 250.126 Application of mortgage payments.

(a) The mortgage shall provide that all monthly payments being made by the mortgagor to the agency shall be added together and the aggregate thereof shall be paid by the mortgagor upon each monthly payment date in a single payment. The agency shall apply all payments received from the mortgagor or for the account of the mortgagor to the following items in the order set forth:

(1) Premium charges under the contract of insurance, where applicable.

(2) Ground rents, taxes, special assessments and fire and other hazard insurance premiums.

(3) Interest on the mortgage.

(4) Amortization of the principal of the mortgage.

(b) The mortgage shall provide for payments by the mortgagor to the agency on each interest payment date of an amount sufficient to accumulate in the hands of the agency one payment period prior to its due date, the next annual mortgage insurance premium. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(c) The mortgage shall provide for such equal monthly payments by the mortgagor to the agency as will pay the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become due. The mortgage must also make provision for adjustments, in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

§ 250.127 Prepayment privileges.

Where the mortgage is given to secure a loan made by an agency which has obtained the funds for such loan by the issuance and sale of obligations of the agency or from other agency sources, the mortgage may contain a provision that the mortgage indebtedness may not be prepaid in whole or in part without the prior written consent of the agency and the Commissioner on a form or forms approved by the Commissioner. The consent of the agency to prepay the debt, in whole or in part, may be conditioned upon payment to the agency by the mortgagor of such fees and charges which are reasonable as determined by the Commissioner and which are related to the agency's cost of redeeming the obligations issued to finance the loan.

§ 250.128 Late charge.

The mortgage may provide for the collection by the agency of a late charge, not to exceed two cents for each dollar of each payment to interest and principal more than 15 days in arrears, or such other charges as may be agreed to by the agency and the mortgagor, to cover the extra expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

§ 250.129 Amount of mortgage insurance premium (MIP).

The agency's application for participation in the coinsurance program, shall state the percentage of risk to be assumed by HUD and the agency respectively. The percentage shall be one of the steps in the table in this Section. The percentage shall be the same for all projects financed by the agency under this part, unless the agency requests and the Commissioner approves a change. The MIP, for both first mortgages and operating loss loans, shall be one-half of one percent per annum of the average outstanding principal balance of the mortgage without regard to any delinquent payment or prepayment, multiplied by HUD's percentage of risk. The MIP is shown in the following table.

Percentage share of coinsurance risk		MIP, as percentage of principal balance per annum
HUD	Agency	
90	10	.45
80	20	.4
60	40	.3
50	50	.25
40	60	.2
20	80	.1
10	90	.05

The mortgagor shall pay the monies for the MIP in cash in advance, as set forth in § 250.126. The agency shall pay the MIP to HUD as set forth in § 250.130. An agency may charge and retain a premium with respect to the agency's share of risk, in the agency's discretion except as provided in this Section. The agency's application for participation in the coinsurance program shall indicate the premium which the agency intends to charge. The Commissioner shall require justification if the agency intends to charge more than the difference between one-half of one percent and the MIP. The Commissioner may not approve an agency premium which exceeds the difference between one percent and the MIP. The application for commitment, the commitment, the request for issuance of a mortgage insurance certificate and the mortgage insurance certificate shall state HUD's percentage share of risk, the MIP, and the premium, if any, with respect to the agency's share of risk. The Commissioner may require justification of an agency premium for a particular mortgage which is higher than indicated in the application for participation in the program. An agency may insure or reinsure its share of risk with any public or private insurer or agency, other than FHA.

§ 250.130 Annual payment of MIP on a level percentage of the declining principal balance.

With respect to first mortgages and operating loss loans, the agency shall pay in cash to the Commissioner, with the agency's request for issuance of a mortgage insurance certificate as evidence of the contract of coinsurance, a first mortgage insurance premium equal to the percentage set forth in § 250.129 of the face amount of the mortgage. On the date of the first principal payment, the agency shall pay to the Commissioner a second premium equal to the prescribed percentage of the average outstanding principal obligations of the mortgage for the year following such first principal payment date which shall be adjusted so that the aggregate of the said two premiums shall be equal to the prescribed percentage of the average outstanding principal obligation of the mortgage without taking into account delinquent payments or prepayments from the effective date of the coinsurance contract to one year following the date of the first principal payment. Until the mortgage is paid in full or until receipt by the Commissioner of an application for insurance benefits or until the contract of coinsurance is otherwise terminated with the consent of the Commissioner, the mortgagee on each anniversary of the date of the first principal payment, shall pay to the Commissioner an annual mortgage insurance premium equal to the prescribed percentage of the average outstanding principal obligation of the mortgage for the year following the date on which the premium becomes payable. The premiums payable to the Commissioner on and after the date of the first principal payment shall be calculated in accordance with the amortization schedule issued in conjunction with final closing and the prescribed percentage as set forth in § 250.129 without taking into account delinquent payments or prepayments. All premiums are payable in advance and no refund can be made of any portion thereof except as hereinafter provided in this subpart. Mortgage insurance premiums which are paid to the Commissioner more than 15 days after the billing date or due date, whichever is later, shall include a late charge of 4 percent of the amount of the payment due, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing.

§ 250.131 Duration of MIP.

The MIP required under § 250.130 shall continue annually in advance until the earliest date on which one of the following occurs:

(a) The mortgage is paid in full.

(b) A deed to the agency if filed for record, or

(c) The contract of coinsurance is terminated in accordance with § 250.407, § 250.408 or § 250.409.

§ 250.132 Applicability of prevailing wage requirements.

(a) *In general.* Prevailing wage requirements shall be applicable to a mortgage insured under this part, except those specified in paragraph (b) of this section, and compliance with such

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requirements shall be evidenced at such time and in such manner as the Commissioner may prescribe, as follows:

(1) *Labor standards.* Any contract, subcontract, or building loan agreement executed for the performance of construction or rehabilitation of the project shall comply with all applicable labor standards and provisions of the regulations of the Secretary of Labor, 29 CFR 5.1–5.12.

(2) *Ineligible contractors.* No construction or rehabilitation contract shall be entered into with a general contractor or any subcontractor if such contractor or any such subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest is included on the ineligible list of contractors or subcontractors established and maintained by the Comptroller General pursuant to § 5.6(b) of the regulations of the Secretary of Labor, 29 CFR 5.6(b).

(b) *Excepted transactions.* The requirements of paragraph (a) of this section shall not be applicable to a project involving a cooperative where the agency and the Commissioner have waived the requirements and each of the following circumstances occurs.

(1) The laborers or mechanics not otherwise employed in the construction or rehabilitation of such project are to voluntarily donate their services without compensation for the purpose of lowering their housing costs in the project.

(2) The mortgagor establishes to the satisfaction of the agency and the Commissioner that amounts saved by the donated services will be credited to the account of the mortgagor.

§ 250.133 Discrimination prohibited.

Any contract or subcontract executed for the performance of construction or rehabilitation of the project shall contain a provision that there shall be no discrimination against any employee, or applicant for employment because of race, color, sex, creed, or national origin. When the mortgagor is the general contractor, the building loan agreement shall contain the above provision.

§ 250.134 Environmental review.

The National Environmental Policy Act of 1969, as amended, is applicable to major Federal actions proposed pursuant to this part. The Secretary may make appropriate provisions for the delegation to a State agency of the preparation of any detailed statement required pursuant to Section 102 of that statute. However, final responsibility for making determinations which are not delegable under the National Environmental Policy Act of 1969 has been retained by the Department of Housing and Urban Development.

§ 250.135 Mortgagor's certificate of non-discrimination and mortgage covenant regarding use of property.

(a) The mortgagor shall certify to the agency as to each of the following points:

(1) That neither it, nor anyone authorized to act for it, will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny any part of the property covered by the mortgage to any person because of race, color, sex, religion, or national origin.

(2) That any restrictive covenant on such property relating to race, color, sex, religion, or national origin is recognized as being illegal and void and is hereby specifically disclaimed.

(3) That civil action for preventative relief may be brought by the Attorney General in any appropriate U.S. District Court against any person responsible for a violation of this certification.

(b) The mortgage shall contain a covenant prohibiting the use of the property covered thereby for any purpose other than that for which it was intended on the date the mortgage was executed.

Subpart C—Certification of Agencies for Approval

§ 250.201 Review and certification of agency.

Certification of a State Housing Agency as an approved agency, eligible to underwrite and service mortgages on multifamily projects for coinsurance, may be made only after a review of the agency's application for participation in the coinsurance program and an on-site review of the agency's operation by HUD. These reviews must cover the adequacy of the agency's technical staff, procedures for screening and processing applications for mortgage insurance, and the agency's capability to service such mortgages and supervise project management and the agency's ability to meet Federal fair housing and equal opportunity requirements with respect to processing of individual applications and project operations. Underwriting systems for approved agencies must conform to all Federal statutory requirements and any additional requirements which the Commissioner determines are in the best interest of the Secretary. Agencies shall promptly notify the Commissioner of any changes in their processing procedures which occur after their certification as an approved agency and shall rescind any such changes which the Commissioner determines are inconsistent with the requirements of this part.

§ 250.202 Withdrawal of approval.

The Commissioner may refrain from issuing a commitment for mortgage insurance authorized by this part with respect to any project proposed for coinsurance by an agency which has been given written notice by the Commissioner that its certfication as an approved agency under this part may be suspended or withdrawn. Certification as an approved agency under this part may be suspended or withdrawn pursuant to the provisions of Part 24 of this title as a result of withdrawal of mortgagee approval pursuant to § 203.7 of this title or for any of the following causes:

(a) Failure to maintain satisfactory capital funds or structure as related to mortgagee approval under § 203.1 of this title or failure to meet financial obligations under the coinsurance program.

(b) Failure to perform underwriting, servicing, or property disposition functions consistent with the requirements of this part.

(c) Failure to discharge responsibilities under a contract for coinsurance.

(d) Transfer of a coinsurance mortgage to any entity without the advance written approval of the Commissioner.

(e) Failure to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments, mortgage insurance premiums, and premiums for hazard insurance to deposit such funds into a special account or accounts.

(f) The use of escrow funds for any purpose other than that for which they were received.

(g) The payment by the agency of any fee, kickback or other consideration, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person including an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder, or real estate agent if such person has received any other consideration from the mortgagor, the seller, the builder, or any other persons for services related to such transaction or transactions or from or related to the purchase or sale of the mortgaged property, except that compensation may be paid for the actual performance of such services as may be approved by the Commissioner.

(h) Withdrawal of approval as a mortgagee pursuant to § 203.7 of this title

(i) Such other reasons as the Commissioner may determine.

§ 250.203 Effect of withdrawal of certification as an approved agency on insurance commitments made while it was approved.

Withdrawal or termination or a State Housing Agency's certification as an approved agency under this part will not affect any mortgage insurance commitment issued while the agency was an approved agency or the insurance on mortgages accepted for insurance while the agency was an approved agency.

§ 250.204 Mortgage servicing during coinsurance period.

Servicing functions during the period when the Commissioner is a coinsurer of the mortgage shall be performed only by the agency, except that the agency may elect to delegate servicing to another entity acceptable to the Commissioner if the agency retains its obligations under this part.

Subpart D—Processing and Commitment

§ 250.301 Application.

The application for a commitment to make a coinsured mortgage on a project shall be submitted to the agency by the sponsor of such project, accompanied by such exhibits as may be required by the agency to enable the agency to comply with requirements for coinsurance of the mortgage established under this part and as may be required to meet any additional requirements of the agency which are not in conflict with HUD requirements.

§ 250.302 Processing.

(a) The agency shall perform all of the processing and make all of the determinations of the eligibility of a mortgage for coinsurance under this part except for (1) the required determinations related to environmental impact which cannot be delegated under the National Environmental Policy Act of 1969, (2) those determinations related to previous participation in HUD housing programs of principals of the mortgagor, and (3) fair housing and equal opportunity determinations, all of which must be made by HUD. Upon completion of processing and satisfactory determinations by the agency and upon satisfactory determinations by HUD with respect to the above three disciplines, the agency may submit to the Commissioner a request for issuance of a commitment for mortgage insurance. The Agency must submit a certification with the request for a commitment that the mortgagor's application has been reviewed and approved in accordance with the underwriting procedures approved by the Commissioner. Any application shall be acted upon by the Commissioner and returned to the agency promptly. A commitment to insure, issued by the Commissioner, shall be based upon certifications made by the agency as to its compliance with the requirements of this part, Section 244 of the Act and appropriate HUD Handbooks. A commitment to insure shall be effective for a designated term within which period the mortgagor is required to begin construction or rehabilitation. If construction or rehabilitation is begun as required, the commitment shall be extended for such additional period as determined by the agency, but in no event shall this period exceed the estimated time required for construction of the project plus six months. The commitment may be amended or further extended by the agency only with the prior written permission of the Commissioner. Any application for an extension or amendment shall be acted upon by the Commissioner and returned to the agency promptly. An expired commitment may be reopened if a request for reopening is received by the Commissioner from the agency within 90 days of the expiration of the commitment. Upon completion of construction or rehabilitation and receipt by the Commissioner of the agency's certification that the terms and conditions of the commitment for coinsurance have been satisfied, the Commissioner shall, promptly after receipt of the application, indicate his insurance of the mortgage by issuance of a mortgage insurance certificate which, among other things, identifies the section of the Act and the regulations under which the mortgage is insured, the percentage of risk assumed by the agency and the Commissioner, and which sets the date of insurance. The mortgage insurance certificate shall be effective as of the date the project mortgage loan is finally closed by the agency. All agency submissions must include certifications of compliance by the agency with such environmental, fair housing and equal opportunity and previous participation clearance requirements and procedures as may be established by HUD. Evidence that these requirements and procedures have been met shall be written HUD approvals in each of the three areas.

(b) For the first five commitments to insure issued by the Commissioner to any one agency, the agency must submit to the Commissioner the complete case file with the application and certifications so that he may ascertain that the agency is processing applications in full compliance with the requirements of the program.

(c) Projects with mortgages coinsured under this part for which Section 8 assistance has been requested must be processed in accordance with, and shall be subject to the provisions of Subpart D of Part 883 of this title. The application for coinsurance relating to a project to which subsidies are assigned under Part 883 of this title must be submitted prior to the start of construction as determined by the Commissioner and not later than the date on which the Housing Assistance Payments Agreement is submitted for approval.

(d) All requests for issuance of a mortgage insurance certificate must include a certification by the agency that all final closing requirements and conditions established by the Commissioner have been met.

§ 250.303 Financing and processing fees.

The agency may collect from the mortgagor such application fees, inspection fees, and initial service charges as it may require to be reimbursed for the cost of processing an application, conducting inspections and closing a mortgage transaction, provided the total of such fees and charges does not exceed the maximum amount allowable under the applicable full insurance program, i.e., Sections 221(d)(3) or (d)(4) of the Act.

§ 250.304 Inspections during construction.

The inspection of construction projects covered by mortgages approved for coinsurance prior to the beginning of construction under this Part shall be conducted in accordance with the standards and criteria set forth in Subpart S of Part 200 of this title and used with respect to dwellings or projects approved for mortgage insurance under the provisions of Title II of the Act other than Section 244.

§ 250.305 Certification of cost requirements.

(a) Prior to endorsement of the mortgage for insurance, the agency shall enter into an agreement with the mortgagor in a form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory limitations. Under this agreement, the mortgagor shall disclose its relationship with the builder, including any collateral agreement, and shall agree:

(1) To enter into a construction contract in a form meeting the requirements of § 250.105 of this Part.

(2) To execute a certificate of actual construction costs, upon completion of all physical improvements on the mortgaged property.

(3) To apply in reduction of the principal of the outstanding balance of the mortgage any excess of mortgage proceeds over 90 percent of actual costs, unless the mortgagor is a nonprofit or cooperative entity utilizing the provisions of Section 221(d)(3) of the Act, in which case 100 percent of such costs shall apply.

(b) The provisions of paragraph (a) of this section relating to disclosure and the requirement for a construction contract shall not apply where the mortgagor is the general contractor.

§ 250.306 Certificate as to subcontracts.

If it is determined by the agency that the mortgagor, its officers, directors or stockholders, have any interest, financial or otherwise, in any subcontractor or material supplier of the general contractor, the mortgagor must certify to the agency prior to execution of a subcontract or a contract for the supply of materials that the amounts to be paid to such subcontractor or material supplier are not more than the rate prevailing in the locality for similar type labor and materials. If the determination of financial interest is made by the agency after the work is performed or materials supplied under such contracts, the certificate of the mortgagor shall be executed prior to issuance of a mortgage insurance certificate by the Commissioner.

§ 250.307 Requisites of agreement and certification.

Any agreement, undertaking, statement or certification required by § 250.305 shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the Commissioner, and may be relied upon by the Commissioner and the agency as a true statement of the facts contained therein.

§ 250.308 Records.

The mortgagor shall keep and maintain adequate records of all costs of any construction or other cost items not representing work under the general contract and, in the case of a fixed fee contract, shall require the builder to keep similar records and, upon request by the agency, the Commissioner, or the General Accounting Office shall make available for examination such records including any collateral agreements.

§ 250.309 Certificate of actual cost—contents in general.

(a) *Submission of certificate.* The mortgagor's certificate of actual cost, in a form approved by the Commissioner, shall be submitted prior to endorsement and upon completion of the improvements to the satisfaction of the agency.

(b) *Items to be included.* The certificate shall show the actual cost to the mortgagor of:

(1) The cost-plus construction contract, including the builder's fee actually paid and approved by the agency; or the lump sum construction contract; or the cost of the construction of the project, where the mortgagor also acts as the general contractor and no construction contract is executed.

(2) The architect's fee.

(3) The off-site public utilities and streets not included in subparagraph (1) of this paragraph.

(4) The organizational and legal expenses.

(5) The other items of expense approved by the Commissioner.

(c) *Items not to be included.* The certificate shall not include as actual cost, any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or any of its officers, directors, stockholders or partners. Any such payments, if included, shall be deducted from the cost determined under paragraph (b) of this section.

(d) The Secretary hereby delegates to the agencies the authority to review and approve cost certifications for all projects covered by mortgages which are insured under this part.

§ 250.310 Certificate of actual cost—builder's and sponsor's profit and risk allowance.

(a) *In general.* The mortgagor's certificate of actual cost shall include (except in a case involving a nonprofit or a cooperative mortgagor) an allowance for builder's and sponsor's profit and risk. The amount of the allowance shall be dependent upon a determination by the agency as to whether or not there exists an identity of interest between the mortgagor or any of its officers, directors, stockholders, or partners and the general contractor.

(b) *Identity of interest cases.* Where an identity of interest exists, a builder's and sponsor's profit and risk allowance shall be included in lieu of the builder's fee provided for in § 250.309(b)(1). This allowance shall be 10 percent of the actual cost, or such lesser amount as may be determined by the Commissioner. Actual costs shall be computed in accordance with § 250.309, excluding the following items:

(1) Any builder's fee actually paid and approved by the agency. (This fee shall be paid out of the builder's and sponsor's profit and risk allowance.)

(2) The cost of the land or any amount paid for a leasehold.

(3) The value of the land and improvements prior to repair or rehabilitation plus the amount of mortgage proceeds used to refinance any outstanding indebtedness on the property where the property involves the financing of repair or rehabilitation.

(c) *Non-identity of interest cases.* Where no identity of interest exists, a sponsor's profit and risk allowance shall be included. This allowance shall be 10 percent of the actual cost or such lesser amount as the Commissioner shall specify, computed in accordance with § 250.309, excluding the following items:

(1) The amounts paid by the mortgagor under the construction contract.

(2) The cost of the land or any amount paid for a leasehold.

(3) The value of the land and improvements prior to repair or rehabilitation plus the amount of the mortgage proceeds used to refinance any outstanding indebtedness on the property where the mortgage involves the refinancing of repair or rehabilitation.

§ 250.311 Certificate of public accountant.

In all projects, the Certificate of Actual Cost shall be certified to accuracy by an independent Certified Public Accountant or licensed independent public accountant who was licensed on or before December 31, 1970 which shall include a statement that the accounts, records and supporting documents have been examined in accordance with generally accepted audit standards to the extent deemed necessary to verify the actual costs and in accordance with the standards of the U.S. General Accounting Office.

§ 250.312 Certification of actual cost—land value.

Upon receipt of the mortgagor's certification of actual cost, there shall be added to the total amount thereof the agency's estimate of the fair market value of any land included in the mortgage security and owned by the mortgagor in fee, such value being prior to demolition and to construction of the proposed on-site improvements. In the event the land is held under a leasehold or other interest less than a fee, the cost, if any, of acquiring the leasehold or other interest is considered an allowable expense which may be added to actual cost, provided that in no event such amount is in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.

§ 250.313 Contractor's certification.

(a) *Certification by general contractor.* Where a cost-plus form of contract is used by a cooperative mortgagor or where any other type of mortgagor is required by the agency to use such contract, the mortgagor shall submit along with its certificate of actual cost a certification of the general contractor, in a form approved by the Commissioner, as to all actual costs paid for labor, materials and subcontract work under the general contract exclusive of the builder's fee and any kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders or partners.

(b) *Certification by subcontractors.* Where it is determined by the agency that an identity of interest exists between the mortgagor or any of its officers, directors, stockholders or partners and any subcontractor, material supplier, or equipment lessor, the mortgagor may be required by the agency to submit a certification of actual cost by such subcontractor, material supplier, or equipment lessor, in a form prescribed by the Commissioner, as to all actual costs paid for labor, materials, subcontractors, and overhead exclusive of any kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor or any of its officers, directors, stockholders or partners. Where the use of a cost-plus form of contract is required by the Commissioner or the agency, and it is determined by the agency that an identity of interest exists between the general contractor, any subcontractor, material supplier, or equipment lessor, the mortgagor may be required by the Commissioner or the agency to submit a certification of actual cost by such subcontractor, material supplier, or equipment lessor.

§ 250.314 Reduction in mortgage amount—new construction.

If the principal obligation of the mortgage exceeds 90 percent of the total amount as shown by the certificate of actual cost plus the value of the land, the mortgage shall be reduced by the amount of such excess, subject to the 100 percent limitation set forth at § 250.305(a)(3).

§ 250.315 Reduction in mortgage amount—rehabilitation.

In the event the mortgage is to finance repair or rehabilitation, the mortgagor's actual cost of such repair or rehabilitation may include the items of expense permitted for new construction in accordance with § 250.309 and the applicable reduction in mortgage amount will be required; such mortgage shall also be subject to the following limitations:

(a) *Property held in fee.* If no part of the proceeds is to be used to finance the purchase of the land or structures involved, the mortgage shall be reduced to an amount not to exceed 100 percent of the approved cost of the completed repair or rehabilitation.

(b) *Property subject to existing mortgage.* If the insured mortgage is to include the cost of refinancing an existing mortgage acceptable to the agency, the amount of the existing mortgage or 90 percent, subject to the 100 percent limitation set forth at § 250.305(a)(3) of the agency's estimate of the fair market value of the land and existing improvements prior to repair and rehabilitation, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds the total amount thus obtained, the mortgage shall be reduced by the amount of such excess.

(c) *Property to be acquired.* If the mortgage is to include the cost of the land and improvements, and the purchase price thereof is to be financed with part of the mortgage proceeds, the purchase price, or the agency's estimate of the fair market value of the land and existing improvements prior to repair or rehabilitation, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds 90 percent, subject to the 100 percent limitation set forth at § 250.305(a)(3), the total amount thus obtained, the mortgage shall be reduced by the amount of such excess.

§ 250.316 Cost certification incontestable.

Upon the agency's approval of the mortgagor's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

§ 250.317 Loans to cover two year operating loss.

(a) *Operating loss determination.* When the agency determines that an operating loss has occurred during the first two full years following completion of the project, it may, in its discretion, make a loan to cover such loss which shall be eligible for insurance under this part. For purposes of this section, an operating loss shall occur when the agency determines that the total of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project (excluding depreciation) exceeds the project income.

(b) *Security instrument.* The loan shall be secured by an instrument in a form approved by the Commissioner for use in the jurisdiction in which the project is located. A provision requiring full prepayment of the operating loss loan in the event the coinsured first mortgage is prepaid prior to maturity, must be included.

(c) *Maximum interest rate.* The loan may bear interest at such rate as may be agreed upon by the agency and the mortgagor, but in no case shall such rate exceed the percentage per annum currently permitted on the date the commitment is issued for mortgages insured under the section of the Act under which the loan is to be insured. Interest shall be payable in monthly installments on the principal then outstanding.

(d) *Maximum maturity.* The loan shall be limited to a term not exceeding the unexpired term of the mortgage.

(e) *Default.* In the event of a failure of the borrower to make any payment due under such loan or under the original mortgage, both the loan and the original mortgage shall be considered in default and if such default continues for a period of thirty days, the agency shall be entitled to insurance benefits computed in the same manner as for the original mortgage.

(f) *Terminations.* In the event that coinsurance of the first mortgage is terminated pursuant to § 250.407, § 250.408 or § 250.409, coinsurance of the operating loss loan shall also be terminated.

Subpart E—Defaults Under a Mortgage

§ 250.401 Definition of default.

The following shall be considered a default under this subpart:

(a) Failure of the mortgagor to make any payment due under the mortgage;

(b) Failure of the mortgagor to perform any other convenant under the provisions of the mortgage, if the agency, because of such failure has accelerated the debt; or

(c) In the case of an operating loss loan, the failure of the mortgagor to make any payments due under such loan or under the original mortgage, which shall be considered a default

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under both the loan and the original mortgage.

§ 250.402 Date of default.

For the purpose of this subpart, the date of default shall be considered as 30 days after:

(a) The first uncorrected failure to perform any obligation under the mortgage; or

(b) The first failure to make a monthly payment which is not covered by subsequent payments made by the mortgagor when such subsequent payments are applied to the overdue monthly payments in the order in which they became due.

§ 250.403 Notice of default and intent to file an insurance claim.

The agency shall, within 30 days after the date of default, give written notice thereof to the Commissioner on a form prescribed by him, unless such default has been cured or unless the Commissioner has been notified of a previous default which remains uncured. Within 60 days of the date of default, unless cured, the agency shall give HUD notice of its intent to acquire title and to file an insurance claim.

§ 250.404 Reinstatement of defaulted mortgage.

If after default and prior to the completion of foreclosure proceedings the mortgagor shall cure the default, the insurance shall continue as if a default had not occurred. The mortgagor shall pay to the agency such expenses as the agency has incurred in connection with the foreclosure proceedings and the agency shall give written notice of reinstatement to the Commissioner.

§ 250.405 Forbearance relief.

(a) Where the mortgage is in default, the agency and mortgagor, with the written approval of the Commissioner, may enter into a forbearance agreement for the reduction or suspension of regular mortgage payments for a specified time, not to exceed one year. The forbearance agreement may provide for the treatment of any arrears existing at the time it is made. The Commissioner's approval shall be based on the agency's determination and the Commissioner's concurrence that the default is due to circumstances beyond the control of the mortgagor, and that the mortgage will probably be restored to good standing within a reasonable period of time. The forbearance agreement may impose any lawful restrictions or obligations upon the mortgagor, and shall prohibit any dividends or other distributions to the owner from project revenues until the mortgage is restored to good standing. The forbearance agreement shall provide for status reports by the agency to the Commissioner until the mortgage is restored to good standing.

(b) A forbearance agreement does not cure a default, but the notice and reporting provisions of § 250.403 shall apply to any further default under the forbearance agreement.

§ 250.406 Advances to the agency.

(a) In conjunction with a forbearance agreement, the Commissioner may at his option agree with the agency to make advance payments to the agency to assist the agency in meeting debt service on its bonds issued to finance the mortgage. The amount and timing of the payments shall be as agreed, but a payment with respect to any month may not exceed 0.80 times HUD's percentage of coinsurance risk times the amount of the mortgage payment shortfall for that month.

(b) The agency's obligation to repay or credit the amount of advances shall be evidenced by a note payable by the agency to the Commissioner for each advance, bearing interest at an agreed rate.

(c) The note shall also provide that:

(1) If the agency makes a claim for insurance benefits on account of a loss sustained with respect to a mortgage which has been the subject of a forbearance agreement, the Commissioner will reduce that claim by the amount of any advances made on account of that mortgage (pursuant to that agreement) which have not been repaid plus the accrued interest.

(2) If the default in a mortgage is cured, the agency will repay the advance plus interest to the Commissioner over a period of time not to exceed the remaining term of the mortgage.

(3) Any payments made by a mortgagor under a forbearance agreement to bring a mortgage which has been the subject of an advance or advances into good standing will be applied first to arrears due the agency (after taking account of the advances), and then to the repayment by the agency of the advances, until they are repaid with interest in full.

(4) If the contract of coinsurance for the mortgage on which the advance was made is terminated in accordance with § 250.408 through § 250.410, the advance will be repaid by the agency in cash within 30 days after termination.

Termination

§ 250.407 Termination of contract of coinsurance.

The contract of coinsurance for each individual mortgage shall be terminated if:

(a) The mortgage is paid in full.

(b) The agency acquires the mortgaged property and notifies the Commissioner that no claim for insurance benefits will be made;

(c) After completion of foreclosure proceedings the property is redeemed by payment of the total outstanding mortgage indebtedness in full;

(d) The property is acquired at foreclosure sale by a party other than the agency;

(e) The mortgagor and agency jointly request termination and that request is approved by the Commissioner; or

(f) The mortgage is transferred to another entity without the prior written approval of the Commissioner.

§ 250.408 Termination of contract of coinsurance by prepayment and voluntary termination.

All rights under the contract of coinsurance and all obligations to pay future insurance premiums shall terminate on the following conditions:

(a) Termination by prepayment: Notice of the prepayment in full of the mortgage or loan shall be given to the Commissioner on a form prescribed by the Commissioner within 30 days from the date of prepayment. The contract of coinsurance shall terminate effective as of the date of prepayment.

(b) Termination by voluntary agreement: Receipt by the Commissioner of a written request by the agency on a form prescribed by the Commissioner accompanied by the original mortgage insurance certificate for cancellation of the insurance endorsement and the remittance of all sums to which the Commissioner is entitled. The termination shall become effective as of the date these requirements are met.

(c) Upon termination of the mortgage or loan contract by a payment in full or by a voluntary termination, the Commissioner shall refund to the agency for the account of the mortgagor an amount equal to the pro rata portion of the prescribed percentage of the current annual mortgage insurance premium which is applicable to (1) the date of the prepayment, or (2) the effective date of the voluntary termination of the contract of coinsurance.

§ 250.409 Termination of contract of coinsurance for other reasons.

(a) *Reason for Terminations.* The happening of any of the following events shall constitute an additional reason for terminating the contract of coinsurance in cases where the mortgagee has elected to file a claim for insurance benefits:

(1) The agency acquires the mortgaged property and notifies the Commissioner that no claim for insurance benefits will be made,

(2) The acquisition of the property at the foreclosure sale by a party other than the mortgagee,

(3) The redemption of the property after foreclosure,

(4) The mortgagor and agency jointly request termination and that request is approved by the Commissioner,

(5) The mortgage is transferred to another entity without the prior written consent of the Commissioner, or

(6) The mortgage is paid in full prior to or at maturity.

(b) *Notice of termination.* No contract of coinsurance shall be terminated by the agency until the agency has given written notice thereof to the Commissioner within 30 days from the happening of any one of the events set forth in paragraph (a) of this section occur.

(c) *Effective termination date.* The Commissioner shall notify the agency that the contract of coinsurance has been terminated and the effective termination date. The termination shall be effective as of the date any one of the events set forth in paragraph (a) of this section occur.

(d) *Effect of Termination.* Upon termination of the contract of coinsurance, the obligation to pay any subsequent MIP shall cease and all rights of the mortgagor and agency shall be terminated.

Claim Procedure

§ 250.410 Acquisition of property.

Within 30 days after the agency has given written notice to the Commissioner of its election to acquire title and to file an insurance claim pursuant to § 250.403 of this Part, the agency shall (if no other eligible entity has assumed the obligations of the mortgagor) either (a) commence foreclosure of the mortgage; or (b) acquire possession of and title to the mortgaged property by means other than foreclosure. If the laws of the state where the property is located do not permit the commencement of foreclosure action within such 30 day period, foreclosure shall be commenced within 30 days of the date such action can be taken.

§ 250.411 Deed in lieu of foreclosure.

In lieu of instituting or completing a foreclosure, the agency may acquire the property by voluntary conveyance from the mortgagor. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(a) The mortgagor is in default at the time the deed is executed and delivered;

(b) If there is a non-recourse instrument, it shall be cancelled and surrendered to the mortgagor. If there is a recourse or guarantee instrument, the agency may seek realization under the instrument or guaranty and any funds realized shall be shared by HUD and the agency in direct proportion to the coinsured risk.

(c) The mortgage is satisfied on record as a part of the consideration for such conveyance; and

(d) The deed from the mortgagor contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him and conveys good marketable title.

§ 250.412 Filing of initial claim.

Within 30 days following the date on which the agency acquires legal title to the property, (not subject to divestment by redemption), it shall give written notice to the Commissioner of the acquisition of legal title and shall submit its application for payment of initial insurance benefits.

Payment of Insurance Benefits

§ 250.413 Method of payment.

Payment of all insurance claims shall be made in cash from the General Insurance Fund unless the agency files a written request for payment in debentures.

§ 250.414 Amount of payment.

(a) Initial payment of a claim shall be in an amount equal to the percentage of risk assumed by HUD in accordance with § 250.129 and as indicated in the commitment and mortgage insurance certificate multiplied by 75 percent of the difference between the unpaid principal balance of the mortgage on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default and the appraised value of the property obtained in accordance with § 250.415(a). If the appraised value exceeds the unpaid principal balance, there shall be no initial payment of insurance benefits.

(b) Within 45 days following the earlier of disposition of the property or expiration of twelve (12) months from the date of acquisition of the property, the agency shall file a claim for the final payment of insurance benefits. Such payment shall be in an amount which, when added to the amount of the initial payment computed pursuant to paragraph (a) of this section will equal the total amount of insurance benefits computed pursuant to paragraph (d) of this section. If the total benefits exceed the initial payment, the Commissioner will make a payment to the agency for the difference. If the initial payment exceeds the total benefits, the Commissioner will bill the agency for the difference. If the initial payment equals the total benefits, neither payment nor a bill will be sent to the agency.

(c) The base amount for the computation of total insurance benefits shall be the sum of the unpaid principal balance of the mortgage on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, plus the sum of all of the items set forth in § 250.416, less the sum of all of the items set forth in § 250.417.

(d) The total amount of insurance benefits shall be equal to the percentage of risk assumed by HUD as cited in paragraph (a) of this section multiplied by the base amount computed pursuant to paragraph (c) of this section, such product to be reduced by any balance of principal and/or interest due on a note from the agency on a defaulted mortgage pursuant to § 250.406. In no case, however, may the total amount of insurance benefits exceed the Commissioner's share of coinsurance liability times the total of the outstanding principal balance at the time of default, plus the items added to principal pursuant to § 250.416, less the items deducted from principal pursuant to § 250.417.

§ 250.415 Disposition of property.

(a) Upon the acquisition of title to the property securing a defaulted mortgage in accordance with § 250.410 the agency shall obtain an appraisal of the property by an independent appraiser selected by the agency and approved by the Commissioner. The apprisal shall reflect the market value of the property, as of the date of acquisition, for use for the market originally intended.

(b) Within 45 days after the date on which the agency sells the property, or after the expiration of 12 months from the date the agency acquires legal title to the property, whichever comes first, the agency shall file a claim for the final payment of insurance benefits, pursuant to § 250.414(b).

(c) The claim for the final payment of insurance benefits shall be on a form approved by the Commissioner and shall give notice of the sale of the property, the sale price, and income and expenses incurred in connection with the acqusition, repair, operation and sale of the property, and shall assign to the Commissioner, without recourse or warranty, any and all claims (other than the mortgage financing such sale) which the agency has acquired in connection with the transaction.

(d) If disposition of the property has not occurred by the date of the agency's claim for final payment, the agency shall utilize, in preparing such claim, the appraised value of the property obtained pursuant to paragraph (a) of this section, in lieu of the net sale proceeds required by § 250.417(f).

§ 250.416 Items added to principal in computing claim payment.

The sum of the following items shall be added to the unpaid mortgage principal in computing the base amount for the computation of insurance benefits, pursuant to § 250.414(c).

(a) The amount of all payments made by the agency for taxes, special assessments and water rates which are liens prior to the mortgae; for fire and hazard insurance on the property; and for any mortgage insurance premiums paid after default.

(b) For cash settlements, an amount equivalent to debenture interest at the rate established pursuant to § 250.418 on the principal of the mortgage unpaid on the date of the institution of foreclosure proceedings or on the date of the acquisition of the property otherwise after default, from the date of default to the date of acqusition of title; except that debenture interest shall not be payable for any period for which the agency receives mortgage interest during a forbearance agreement as provided in paragraph (c) of this section. If the agency fails to meet the requirements of §§ 250.403, 250.410, 250.412 or 250.415(b) within the specified time or within such further time as the Commissioner may approve in writing, the interest allowance in such cash payment shall be computed only to the date on which the required actions should have been taken.

(c) The amount of the unpaid mortgage interest computed from the date of default to the date of acquisition of title in those cases where a forbearance agreement in accordance with § 250.405 has been executed.

(d) For cash settlements, an amount equivalent to mortgage interest on the difference between the principal of the mortgage unpaid on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, and the amount included in the initial payment of insurance benefits made pursuant to § 250.414(a) from the date of acquisition of title to the date of final payment of insurance benefits. Except that when the agency fails to meet the requirements of § 250.415(b) within the specified time, or within such further time as the Commissioner may approve in writing, the interest allowance on such cash payment shall be computed only to the date on which the required action should have been taken.

(e) Foreclosure costs or costs of acquiring the property otherwise actually paid by the agency and approved by the Commissioner, in an amount not in excess of two-thirds of such costs.

(f) Reasonable payments made by the agency for:

(1) Preservation, operation, and maintenance of the property;

(2) Repairs necessary to meet the objectives of the HUD Minimum Property Standards, those required by local law, and such additional repairs as may be specifically approved in advance by the Commissioner; and

(3) Expenses in connection with the sale of the property.

§ 250.417 Claim payment deductions.

The sum of the following items shall be deducted from the sum of the unpaid mortgage principal and any items added pursuant to § 250.416 of this Part in computing the base amount for the computation of insurance benefits; pursuant to § 250.414(c).

(a) All amounts received by the agency on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property by direct conveyance or otherwise after default.

(b) All cash held by the agency or its agent or to which it is entitled, including deposits made for the account of the mortgagor.

(c) All funds held by the agency for the account of the mortgagor received pursuant to any other agreement.

(d) The amount of any undrawn balance under a letter of credit accepted by the agency in lieu of a cash deposit for an escrow agreement.

(e) Any net income received by the agency from the property securing the mortgage after the date of default.

(f) The net proceeds from the sale of the project, except that if the agency sells the project for an amount less than the appraised value on a negotiated sale the amount to be deducted will be the appraised value. If the property is sold on the basis of a competitive bidding procedure approved by the Commissioner, the net sale proceeds will be deducted, notwithstanding that it is lower than the appraised value. If the property has not been disposed of within 12 months from the date of acquisition, the agency shall substitute the appraised value of the property for the net sale proceeds in preparing the claim for final payment of insurance benefits, pursuant to § 250.415(d).

§ 250.418 Debentures.

All of the provisions of § 207.259(e) of this title shall apply to mortgages coinsured under this part.

§ 250.419 Rights in housing fund.

Neither the agency nor the mortgagor shall have any vested or other right in the General Insurance Fund.

Amendments

§ 250.420 Effect of amendments.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interests of an agency under the contract of coinsurance on any mortgage already coinsured and shall not adversely affect the interest of an agency on any mortgage to be coinsured on which the Commissioner has made a commitment to insure.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D. C., September 4, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

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Wednesday
September 10, 1980

Part VIII

Department of Energy

Policy on Disclosure of Individually Identifiable Energy Information in the Possession of the Energy Information Administration

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DEPARTMENT OF ENERGY

DOE Policy on Disclosure of Individually Identifiable Energy Information in the Possession of the Energy Information Administration

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In order to fulfill its legal responsibilities, the Energy Information Administration (EIA) collects information from individual respondents in various parts of the public and business communities. The EIA receives many requests for the energy information produced in these collection efforts. Such requests are normally honored by the EIA when they can be answered with aggregated information. Occasionally, requests are made for information concerning individual respondents. Current laws and regulations provide specific guidance to the EIA on the disclosure of this individually identifiable energy information to the public, the Congress, the General Accounting Office (GAO), and other offices in the Department of Energy (DOE). However, with respect to disclosure to other Federal agencies and the States, more discretion is generally allowed.

This policy is intended to guide the EIA and other DOE offices concerning the conditions and terms under which individual respondent information will be shared with other DOE components, the Congress, the GAO, other Federal agencies, and the States. It also addresses the disclosure of information collected or maintained by the EIA on behalf of the Federal Energy Regulatory Commission. The policy is a DOE policy—as opposed to an EIA policy—because, by law, other DOE offices have access to any information in the possession of the EIA, and thus, disclosure of EIA-collected data is a matter of Departmental concern.

FOR FURTHER INFORMATION CONTACT: John H. Weiner, Energy Information Administration, Room 6149, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. (202) 633-8696.

SUPPLEMENTARY INFORMATION: A comprehensive disclosure policy statement has been under development since late 1977. There has been substantial review of, and comment on, various drafts of the statement from offices in DOE, other Federal agencies, members of Congress, and the public. An interagency meeting to discuss the development of the policy was held on November 30, 1977. A public hearing was held on February 9, 1978, following the publication in the **Federal Register** of a notice describing a series of proposed alternatives for a disclosure policy (see FR 2653, January 18, 1978). The draft policy has also been discussed at public meetings between the EIA and the American Statistical Association Ad Hoc Committee on Energy Statistics.

Both the 1978 proposal and the policy as adopted center around the issue of the extent to which individual identifiable energy information should be disclosed outside the DOE, particularly to other Federal agencies, and the appropriate purposes for such disclosure. Subissues include the distinction to be made between information collected for statistical and for regulatory purposes; whether and how the providers of information will be notifed of disclosures; the kind and amount of information that will be disclosed; the limitations to be placed on redisclosure; and the safeguarding of information.

In response to the **Federal Register** notice, 76 comments were received from the public, the Congress, and other Federal agencies. Most of the comments were from energy-related companies and other corporations, and from trade associations, including energy-related trade associations. A few comments were received from the Congress, most notably the energy and Power Subcommittee of the House Committee on Interstate and Foreign Commerce, and the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee. In addition, there were some comments from individuals in universities and elsewhere.

The comments tended to focus on the basic issue of whether information should be disclosed to other Federal agencies, and the appropriate purposes for which it might be disclosed rather than on the subissues described above. The general pattern of the comments reflected a dichotomy between a "pro-disclosure" and an "anti-disclosure" view. In general, the users of information, including the Congress and other government agencies, favored increased availability of energy information. These comments cited the need to have data available for purposes such as additional legislation, monitoring of existing programs, and the enforcement of energy laws. The providers of information, on the other hand, tended to oppose wider disclosure of energy information, asserting that widespread disclosure could place them at a competitive disadvantage. Further, the "anti-disclosure" commenters expressed the view that information collected for statistical purposes should not, in fairness be used for regulatory purposes. In addition to the fairness question, the difficulty in distinguishing between statistical and regulatory data was noted, as was the difficulty of safeguarding and preserving the confidentiality of sensitive corporate information.

The case against wider disclosure of energy information rests on a concern for EIA's ability to obtain credible energy information, as required by the DOE Organization Act (see section 205, DOE Act, Pub. L. No. 95-91), and on the concept of fair information practices. Somewhat ironically, the latter can work against the former: it is considered a matter of good practice to inform the providers of information of its intended uses, whether statistical or regulatory, and the potential interagency disclosures. Yet, informing respondents that their replies may be made available to an enforcement agency, with possible punitive or adverse consequences, can make the respondents reluctant to provide information, and thus adversely affect its validity or availability. Making information collected for statistical purposes available for enforcement and regulatory purposes thus can pose a threat to the accurate and timely reporting of information vitally needed by the Congress, the Administration, and the public to understand the current energy situation and policy issues.

The principle that the defensively-oriented respondent produces poorer data is uniformly accepted in the statistical profession, both within and without the Government. Therefore, in order to preserve the integrity of statistical data, Federal statistical agencies such as the Census Bureau and the Bureau of Labor Statistics are constrained by law or regulation from disclosing individual respondent data.

There are, however, compelling arguments to support a case for fuller interagency disclosure. Under the DOE Organization Act, the EIA has broader obligations than do the purely statistical Federal agencies. DOE is mandated to foster competition in the energy industries and to assure compliance with laws within DOE's enforcement jurisdication. While DOE was given these responsibilities, much of the enforcement authority rests with the Department of Justice and the Federal Trade Commission. The DOE and the EIA can contribute to fulfilling these obligations by collecting and maintaining energy information that can be used in responding to requests from enforcement agencies for energy information. Failure to do so might lead to a feeling that the interests of consumers and the general public are not being fully represented. To counter the argument that adequate information will not be provided, it is noted that the DOE's statutes empower DOE to require the submission of data, and give DOE means to enforce that requirement. Thus, regardless of the uses to which information will be put, respondents must provide it under the law. The enforcement of data collection requirements, however, is cumbersome and time consuming, and thus can potentially reduce the timeliness and quality of the reported information.

The disclosure policy, as adopted, is intended to strike a balance between the conflicting goals of maintaining the statistical integrity of the EIA data base and serving the legitimate needs of enforcement officials. The policy is intended to balance the competing goals by providing for disclosure only under enumerated conditions, with limitations on the redisclosure of information by those to whom it is provided. Notification to respondents, on data collection instruments and, in some cases prior to actual disclosure, is also provided.

Briefly, data will be disclosed—

- To the public to the extent required by the Freedom of Information Act (5 U.S.C. 552).
- To the Congress and to the General Accounting Office, as required by statute.
- To other components of the DOE, as required by the DOE Organization Act, although in order to protect the integrity of statistical data, components will in general not request information that is part of a statistical sample, or information on individuals, families, and households.
- To other Federal agencies and to States if—
  - —The data are available to the public;
  - —Disclosure is required by the terms of the statute under which the information was collected;
  - —The data were collected for regulatory purposes;
  - —Notice has been given to the provider;
  - —The data, whether regulatory or statistical, will be used for statistical purposes only;
  - —The provider has consented to the disclosure;
  - —A court has ordered the disclosure; or
  - —The President has directed the disclosure.

This brief summary does not, of course, include all of the detailed provisions of the policy, and reader are therefore urged to read carefully its full text, which is set forth below.

Doe Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA

This Department of Energy (DOE) policy applies to all components of the DOE with respect to the disclosure, and the conditions which attach to such disclosure, of Individually Identifiable Energy Information in the possession of the Energy Information Administration (EIA). Specifically, the policy addresses disclosures which may be made (1) to the public, (2) pursuant to a Court Order, (3) to the General Accounting Office (GOA), the Congress or any duly established Committee of the Congress, (4) to other components of the DOE, and (5) to other agencies and organizations. Individually Identifiable Energy Information known by the EIA and the affected respondents to be already publicly available shall be made available to any party upon request and will not be subject to any of the provisions which follow. Part I of the policy addresses information in the possession of the EIA other than that which is collected or maintained on behalf of the Federal Energy Regulatory Commission (FERC). Part II addresses information collected and maintained by the EIA on behalf of the FERC. Definitions of key terms are contained in the Appendix.

I. Information in the possession of the EIA (not collected or maintained on behalf of the FERC)

A. Disclosure to the Public

1. If any member of the public requests in writing, whether under the Freedom of Information Act (FOIA) or otherwise, disclosure of Individually Identifiable Energy Information in the possession of the EIA, the EIA will disclose such information when (a) the requested information is known by the EIA to be already publicly avaiable; (b) disclosure would be in the public interest as determined by the EIA and the information is not prohibited from being disclosed by statute, Executive Order or regulation; or (c) required to do so by the FOIA and DOE implementing regulations or by another statute.
2. For Individually Identifiable Energy Information collected or maintained by the EIA on behalf of another component of the DOE, that other component will determine, in consultation with the EIA, whether to make public disclosure of the information and will respond to the request.
3. Specific written notice of any intended public disclosure shall be provided to all affected respondents in accordance with the terms of the DOE FOIA implementing regulations.

B. Disclosure Pursuant to a Court Order

1. The EIA shall disclose Individually Identifiable Energy Information in its possession when required to do so by the Order of a Court of competent jurisdiction, and shall advise the Court, as appropriate, that the information may be confidential information which is prohibited from disclosure to the public by 18 U.S.C. 1905.
2. For information collected or maintained by the EIA on behalf of another component of the DOE, the EIA shall consult with such component prior to making such a disclosure.
3. Specific written notice of any such intended or actual disclosure shall be provided to all affected respondents at the earliest practicable time.

C. Disclosure to the GAO and Congress

1. Except as otherwise authorized by law, the EIA shall disclose any Individually Identifiable Energy Information in its possession, upon written request, to the GAO, the Congress or any duly established Committee of the Congress and shall advise them with respect to the DOE policy regarding disclosure of such information and, as appropriate, that the information may be confidential information which is prohibited from disclosure to the public by 18 U.S.C. 1905.
2. For information collected or maintained by the EIA on behalf of another component of the DOE, the EIA shall consult with such component prior to responding to such a request.
3. Henceforth, the EIA shall inform affected respondents, prior to collection, that the information they submit will be disclosed, upon request, to the GAO, the Congress, or any duly established Committee of Congress.
4. Subsequent disclosures of such information will be subject to the applicable rules and laws governing the GAO, the Congress, or the Committee of Congress.

D. Disclosure to Other Components of the DOE

1. Except as otherwise authorized by law, the EIA shall disclose to any other component of the DOE, upon written request, any Individually Identifiable Energy Information which such component determines to be related to its functions. The

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EIA shall advise such component, as appropriate, that the information may be confidential information which is prohibited from public disclosure by 18 U.S.C. 1905.

2. Other components of the DOE will not ordinarily request, for other than statistical purposes, Individually Identifiable Energy Information which relates to individuals, families, or households, or which has been collected on a sample basis from a particular group of respondents.
3. For information collected or maintained by the EIA on behalf of another component of the DOE, the EIA shall consult with such component prior to responding to a request from any other component of the DOE.
4. Henceforth, the EIA shall inform affected respondents, prior to collection, that the information they submit will be disclosed, upon request, to other components of the DOE.
5. With regard to subsequent disclosure, any component of the DOE that has obtained Individually Identifiable Energy Information from the EIA:

a. shall not make any public disclosure of such information without obtaining the concurrence of the EIA, except that such component may, after consultation with the EIA, make public disclosure of such information (i) in the course of an administrative or judicial proceeding sponsored by such component or to which such component is a legal party, (ii) in response to an FOIA request when the request is for information collected or maintained by the EIA on behalf of that component, or (iii) when required to do so upon the Order of a Court of competent jurisdiction. Under this subsection, public disclosure does not include disclosure to public officials assisting the DOE in administrative or judicial proceedings sponsored by the DOE or to which the DOE is a party. The DOE component shall give all affected respondents (i) not less than seven calendar days written notice of any intended public disclosure, except when disclosure is required pursuant to the Order of a Court of competent jurisdiction, and (ii) written notice at the earliest practicable time of intended or actual public disclosure required pursuant to the Order of a Court of competent jurisdiction.

b. shall refer to the EIA, or to that component of the DOE on whose behalf the EIA collects or maintains the information, for response, in accordance with the provisions of Section I.A, that portion of any FOIA request encompassing such information. This subsection does not apply in the case of Individually Identifiable Energy Information which has been incorporated into an agency record (within the meaning of the FOIA) of the FERC, in which case the FERC may respond to such FOIA requests, after consultation with the EIA.

c. shall consult with the EIA prior to responding to any request for such information from the GAO, the Congress, or any duly established Committee of Congress.

d. shall refer to the EIA for response any request for such information from another agency of the Federal government, from another component of DOE or from a State, except where EIA has authorized such disclosure in advance.

E. Disclosure to Other Agencies of the Federal Government or to a State

1. Except as otherwise authorized by law, Individually Identifiable Energy Information in the possession of the EIA shall be liable to disclosure to another agency of the Federal Government or to the chief executive officer of a State:

a. if the information would be disclosed to the public under the provisions of Section I.A.1.; or

b. if the information was collected under the authority of any law which provides by its own terms for disclosure of information collected under that law to named agencies, in which case disclosure shall be made in accordance with the terms of that law; or

c. if the information, as determined by the EIA and the component on whose behalf the information was collected and maintained in their discretion, was collected primarily for compliance/enforcement or benefit/action purposes; or

d. if notice of intended interagency or State disclosure was provided to affected respondents prior to the collection of information; or

e. if the requesting agency or State provides effective assurance in writing that the information is to be used by that agency or State for statistical purposes only; or

f. if the consent of the affected respondent has been received by the EIA; or

g. if required to do so upon the Order of a Court of competent jurisdiction; or

h. if required to do so at the direction of the President.

2. The determination whether notice will be given so that information collected for other than compliance/enforcement or benefit/action purposes may be liable to interagency or State disclosure pursuant to section I.E.1.d. above will be made as follows: The EIA will provide other interested components of the DOE, including, but not limited to, the Office of the General Counsel and the Economic Regulatory Administration, the opportunity to review proposed data collections. The components will advise the EIA if they believe there is a demonstrable need to disclose the information to other Federal agencies or States. If so, the components will request that notice to that effect be given on the data collection form. If the EIA denies the request, the other components may request that the Deputy Secretary consider the EIA decision. This consultation will be made prior to the final approval of new or revised data collection forms. This procedure will not be applicable for data collection forms which relate to individuals, families, or households, or which will collect information on a sample basis from a particular group of respondents.
3. Except as provided in I.E.1. above, Individually Identifiable Energy Information shall not ordinarily be liable to disclosure to another agency of the Federal government or the chief executive officer of a State.
4. For Individually Identifiable Energy Information collected or maintained on behalf of another component of the DOE, the EIA shall consult with that component prior to making such a disclosure. If the EIA and the other component of the DOE do not agree on whether the data should be disclosed, the matter shall be resolved by the Deputy Secretary.
5. The EIA shall advise the recipient agency or State, as appropriate, that the information may be confidential information which is prohibited from public disclosure by 18 U.S.C. 1905.
6. Respondents will be notified of potential or actual interagency or State disclosures as follows:

a. Henceforth, the EIA will inform affected respondents, prior to the collection of information, as to whether, and the conditions under which, the information to be collected is liable to interagency or State disclosure.

b. In all instances of actual interagency or State requests to the EIA for the disclosure of Individually Identifiable Energy Information where the EIA determines that the requested information will be disclosed, the EIA shall specifically notify all affected respondents, in writing to their last known address, not less than seven calendar days prior to each such proposed disclosure except that (i) notice need not be given where respondents have already been provided notice of the possibility of actual disclosure, or where the requesting agency or State has provided effective assurance that the information will be used for statistical purposes only; and (ii) notice will not be given where the information was collected for compliance/enforcement or benefit/action purposes, and the requesting Federal agency is undertaking the prosecution of a specific person for a probable violation of a law within DOE's enforcement jurisdiction, unless otherwise provided by the terms of the data collection.

c. When interagency or state disclosure is required pursuant to the Order of a Court of competent jurisdiction or at the direction of the President, the EIA shall notify all affected respondents of the intended or actual disclosure in writing at the earliest practicable time.

7. Where one or more of the conditions under Section I.E.1. is applicable, the EIA may disclose Individually Identifiable Energy Information to another Federal agency pursuant to a written request which meets the conditions set forth below.

a. the request shall stipulate that the information requested is necessary to the requesting agency in carrying out its lawful duties and responsibilities;

b. the requesting agency shall agree to make no subsequent disclosure of such information except (i) in response to an FOIA request, (ii) in response to a written request from the GAO or from the Congress or any duly established Committee of Congress, (iii) when considered to be essential in the course of an administrative or judicial proceeding sponsored by the requesting agency or to which the requesting agency is a legal party, or (iv) when required to do so upon the Order of a Court of competent jurisdiction;

c. the requesting agency, in responding to an FOIA request for such information (i) will consult with and give great deference to the views of the EIA in determining whether such information falls within one or more of the FOIA exemptions from mandatory disclosure; provided, however, that where the pertinent regulations of the requesting agency permit the referral of an FOIA request for records or information originating in another agency to the originating agency, the reqeusting agency shall refer any request for such records or information to the EIA for response; and (ii) will not make a public release of any information which falls within an exemption from mandatory disclosure;

d. the requesting agency shall (i) in the case of disclosure pursuant to an FOIA request or in connection with any proceeding, give the EIA and the original respondent not less than seven calendar days written notice of the intended disclosure, (ii) in the case of the Order of a Court of competent jurisdiction, give the EIA and the original respondent of such information written notice of the intended or actual disclosure at the earliest practicable time, and (iii) in the case of intended disclosure to the GAO, the Congress, or any duly established committee of Congress, notify the EIA in writing prior to the intended disclosure; and

e. the requesting agency shall refer any other request for such information to the EIA for response.

8. Where one or more of the conditions under Section I.E.1. is applicable, the EIA may disclose Individually Identifiable Energy Information to a State pursuant to a request which meets the conditions set forth below. Such requests must be made in writing by the chief executive officer of the State. Normally, responses to such requests will be limited to information concerning activities within the State which has requested the information. The State must:

a. stipulate that the information requested is necessary to the requesting State in carrying out its lawful duties and responsibilities;

b. agree to make no subsequent disclosure of the information except as authorized in advance by the EIA;

c. agree to refer to the EIA for response any request for disclosure of such information that the EIA has not authorized in advance;

d. provide assurance that State law and regulations will not require the disclosure of information which is determined by the EIA not to be publicly available; and

e. agree to return to the EIA all such information prior to the effective date of any subsequently adopted law or regulation which would be in conflict with these conditions.

F. Security Measures

Any party requesting Individually Identifiable Energy Information shall certify in writing that appropriate administrative, technical, and physical security measures to protect such information from unauthorized disclosure will be in place prior to any transfer of such information

G. Authorization to disclose information collected or maintained by the EIA on behalf of another component.

For Individually Identifiable Energy Information which was collected or is maintained by the EIA on behalf of another component, that component is authorized to disclose such information after consultation with the EIA and in accordance with the procedures of Section I.A. through I.F. above.

II. Information Collected or Maintained by the EIA on Behalf of the FERC

A. Disclosure to the Public

The EIA shall refer to the FERC, to the extent permissible by the FOIA and DOE's implementing regulations, any requests by a member of the public for Individually Identifiable Energy Information collected or maintained by the EIA on behalf of the FERC. The FERC shall respond directly to such requests after consultation with the EIA.

B. Disclosure Pursuant to a Court Order

The EIA shall disclose Individually Identifiable Energy Information collected or maintained by the EIA on behalf of the FERC when required to do so pursuant to the Order of a Court of competent jurisdiction. The EIA shall consult with the FERC prior to making such a disclosure and notify all affected respondents of any such intended or actual disclosure in writing at the earliest practicable time.

C. Disclosure to GAO and Congress

The EIA shall consult with the FERC prior to responding to a request from the GAO, the Congress, or any duly established Committee of Congress for any Individually Identifiable Energy Information collected or maintained by the EIA on behalf of the FERC.

D. Disclosure to Other Components of DOE

The EIA shall disclose any Individually Identifiable Energy Information collected or maintained by the EIA on behalf of the FERC, upon request, to any other component of the DOE. The EIA shall consult with the FERC prior to making any such disclosure. However, other components of DOE will ordinarily request such information directly from the FERC. No component of DOE shall make any subsequent disclosure of such information until it has consulted with and obtained the concurrence of the FERC, as appropriate, prior to such disclosure.

E. Disclosure to Other Agencies of the Federal Government or to States

The EIA shall refer to the FERC any requests by another agency of the Federal government or a State for Individually Identifiable Energy

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Information collected or maintained by the EIA on behalf of the FERC. The FERC shall respond directly to such requests.

F. Security Measures

Any party requesting Individually Identifiable Energy Information collected or maintained by the EIA on behalf of the FERC shall certify, in writing, that appropriate administrative, technical, and physical security measures to protect such information from unauthorized disclosure will be in place prior to any transfer of such information.

G. Authorization to Disclose Information Collected or Maintained by the EIA on behalf of the FERC

For Individually Identifiable Energy Information which was collected or is maintained by the EIA on behalf of the FERC, the FERC is authorized to disclose such information after consultation with the EIA.

Appendix—Definitions

1. Energy Information: All information in whatever form on (1) fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located; (2) production, distribution, and consumption of energy and fuels wherever carried on; and (3) matters relating to energy and fuels, such as corporate structure and proprietary relationships, costs, prices, capital investments, and assets, and other matters directly related thereto, wherever they exist.

2. Individually Identifiable Energy Information: any individual record or portion of a record or aggregated data containing energy information about a person or persons obtained from any source, the disclosure of which could reasonably be expected to reveal information about a specific person. Information provided to EIA by a unit of Federal, State, local or foreign government will be included on this definition if such information would qualify for exemption from mandatory disclosure under the Freedom of Information Act.

3. Person: any individual, family, household, proprietorship, partnership, corporation, association, business, institution, establishment, religious body or organization of any nature whatsoever, including departments, agencies and establishments of the United States and local governments, and foreign governments.

4. Energy information in the possession of EIA: all energy information collected or maintained by the EIA (whether collected or maintained for its own use or on behalf of any other component of the Department) and accessible by the EIA. This definition excludes and the policy is not applicable to energy-related information solely in the possession of another component of the DOE which was collected or obtained pursuant to (a) authority vested in that component by statute, (b) a delegation of authority from the Secretary of Energy, or (c) a redelegation of authority from the EIA Administrator.

5. Compliance/enforcement purpose: use of energy information gathered from a person for the purpose of assessing or enforcing the complaince of that person with a law, including regulations.

6. Benefit/action purpose: use of energy information submitted by a person seeking a benefit from, or action on the part of, the DOE.

7. Statistical purpose: use of energy information for the purpose of developing or reporting aggregate or anonymous information not intended to be used, in whole or in part, in any way in which the specific identity of any person is material to the intended use of the information. Included in this definition are the development of lists to be used in the conduct of a project with an exclusively statistical purpose and the pretesting and evaluation of procedures in such projects.

8. Other purpose: use of energy information for other than compliance/enforcement and benefit/action purposes, including, but not limited to, use of energy information for statistical purposes.

9. Respondent: a person who originally submitted information in response to a survey, data collection form, or any other data gathering effort.

10. Energy information collected or maintained by the EIA on the behalf of another component of the DOE: any energy information in the possession of the EIA which was either gathered by or submitted to the EIA at the specific request of the other component.

11. Energy Information collected or maintained by the EIA on behalf of the FERC: any energy information in the possession of the EIA which was either gathered by or submitted to the Federal Power Commission (FPC) or the FERC and subsequently transferred to the EIA, or gathered by or submitted to the EIA at the specific request of the FERC.

12. Component of the DOE: DOE principals (Secretary, Deputy Secretary, Under Secretary) and those DOE offices which report directly to the DOE principals, including the Special Assistant, the Executive Assistant, the Assistant to the Secretary (Public Affairs), the Assistant to the Secretary (Legislative Affairs), the Assistant Secretaries, the Chairman of the Board of Contract Appeals, the Inspector General, the General Counsel, the Director of the Office of Hearings and Appeals, the Chief Financial Officer, the Director of the Office of Minority Impact, the Director of Energy Research, the Economic Regulatory Administrator, the Director of the Office of Consumer Affairs, the Director of the Office of Intergovernmental Affairs, and the DOE Regional Representatives. The Federal Energy Regulatory Commission is also considered to be a DOE component.

13. State: the various States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

Issued at Washington, D.C., on September 5, 1980.

Charles W. Duncan, Jr.,

Secretary.

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September 10, 1980

Part IX

Department of Energy

Economic Regulatory Administration

Puerto Rican Naphtha Entitlements

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-31]

Puerto Rican Naphtha Entitlements

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes alternative amendments to the Entitlements Program regulations, 10 CFR § 211.67, modifying the entitlement benefit accorded naphtha imported into Puerto Rico and used as a petrochemical feedstock. ERA has tentatively determined that the proposed amendments are necessary because the current provisions of the naphtha entitlements program do not adequately equalize the cost of naphtha feedstocks of the Puerto Rico petrochemical producers, which are dependent on high-priced imported naphtha, with their U.S. mainland competitors, which have access to lower cost naphtha produced by domestic refiners.

DATES: Written comments by November 10, 1980, 4:30 p.m. Hearing date: San Juan, Puerto Rico, September 25, 1980. Requests to speak at the hearing by 4:30 p.m., September 18, 1980.

ADDRESSES: All written comments should be submitted to the Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-31, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak at the public hearing should be submitted to: Energy Office, Government of Puerto Rico, Attn: Frank Irizarry, P.O. Box 41089, Minillas Station, Santurce, Puerto Rico 00940. Tel: AC 809/726-4740.

Hearing location: Bureau of Budget Auditorium, Budget Building, Second Floor, Calle Tetuan, Corner of DELACRUZ, San Juan, Puerto Rico.

FOR FURTHER INFORMATION CONTACT:

Karen Walker, Hearing Procedures, Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461. (202) 653-4055.

Cynthia Ford (Hearing Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461. (202) 653-3971.

David A. Welsh (Office of Petroleum Operations), Economic Regulatory Administration, Room 6212-A, 2000 M Street, NW., Washington, D.C. 20461. (202) 653-3475.

John W. Glynn (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461. (202) 653-3274.

William Funk or Christopher M. Was (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-6736 or 252-6744.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Situation and Problem
III. Proposed Amendments
A. First Alternative Proposal
B. Second Alternative Proposal
C. Third Alternative Proposal
IV. Specific Comments Requested
V. Procedural Requirements
VI. Written Comment and Public Hearing Procedures

I. Background

The DOE Puerto Rican Naphtha Entitlements Program was adopted effective July 20, 1976 and was designed:

> to alleviate the current competitive disadvantage of the Puerto Rican petrochemical industry by permitting Puerto Rican petrochemical producers to receive entitlement benefits for imported naphtha utilized as a feedstock. The intent of the proposal was to render the Puerto Rican petrochemical industry more competitive with other domestic petrochemical producers located on the mainland. 41 FR 30321 (July 23, 1976).

The circumstances giving rise to this program are detailed in the preambles to the notice of proposed rulemaking (41FR 21936, May 28, 1976) and the final rule (excerpted above). Briefly, in the 1950's and 1960's, the Government of Puerto Rico and the Federal Government instituted a series of economic incentives to encourage industrial development and, in particular, the development of refining and petrochemical industries, in Puerto Rico. For the petrochemical industry, the program was premised on the availability of low-cost feedstock, particularly naphtha from Caribbean refineries, to provide a feedstock cost advantage over mainland petrochemical producers. Such a cost advantage was considered necessary to offset higher shipping and other costs (including necessary investments) associated with commencing operations in the relatively underdeveloped Puerto Rican economy. To ensure low-cost feedstocks for Puerto Rico, in 1965 the Federal Government exempted the Puerto Rican petroleum industry from the restrictions imposed by the Mandatory Oil Import Program on the use of then lower-cost crude oil and naphtha feedstocks. As a result of all these efforts the petrochemnical industry in Puerto Rico has grown to the extent that it now comprises an important segment of total domestic petrochemical capacity.

The 1973 Arab oil embargo and the consequent increases in world crude prices dramatrically increased feedstock costs for the entire Puerto Rican petrochemical industry. While world prices were rising, however, the imposition of price controls on domestic crude oil production kept the overall feedstock costs of domestic firms much lower than those of Puerto Rican firms dependent on high-priced imports and placed these firms at a severe competitive disadvantage.

Under the provisions of the Puerto Rican Naphtha Entitlements Program, by which the Federal Energy Administration (FEA) sought to alleviate this competitve disadvantage, Puerto Rican firms are eligible to receive an entitlement benefit for each barrel of naphtha imported for use as a petrochemical feedstock. The maximum value of the per barrel naphtha entitlement for any month cannot exceed the value of a single crude oil runs credit.[1] When world naphtha prices are such that Puerto Rican firms are not eligible for a full crude oil runs credit, the value of the naphtha entitlement is calculated by applying the ratio of the difference between the weighted average cost per barrel of imported naphtha reported by Puerto Rican petrochemical firms and the imputed cost of domestically-produced naphtha, divided by a modified crude oil runs credit (calculated by excluding the small refiner bias benefits under § 211.67(e) and the adjustment for residual fuel oil transported in foreign flag tankers for sale on the East Coast under § 211.67(d)(4)).

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[1] A "runs credit" for a month is that fraction of an entitlement derived by multiplying the National Domestic Crude Oil Supply Ratio (DOSR) for that month, *see* § 211.62, by the price of an entitlement for that month.

It is necessary to calculate an imputed cost for domestically-produced naphtha since most of it is used for gasoline production in the refineries where it is produced, and thus it would be difficult to obtain a representative sample of arm's length sales on which to base an accurated domestic price. The imputed cost of domestic naphtha is calculated by applying a factor of 108 percent to the weighted average cost per barrel of crude oil for all domestic refiners in a month. The factor represents a naphtha-to-crude oil price ratio and is premised upon the existence of a parallel relationship between uncontrolled world market prices for naphtha (based on Rotterdam postings) and crude oil costs (based on estimated delevered costs of crude oil to Rotterdam). The current factor, which has been in use since December 1977, was derived by comparing Rotterdam naphtha postings with the estimated delivered cost of a mix of crude oils to Rotterdam during the first six months of 1977. *See* 42 FR 61853 (December 7, 1977).[2]

II. Current Situation and Problem

For more than a year the Puerto Rican Naphtha Entitlements Program has not been able to equalize the cost of naphtha feedstocks of the Puerto Rican petrochemical producers with their U.S. mainland competitors. One principal reason for the Program's recent ineffectiveness is that imported naphtha prices no longer track world market crude oil prices, which historically had been the case. Starting with the second quarter of 1978, imported naphtha prices have fluctuated disproportionately in comparison with crude oil prices. In this period, increases in the price for imported naphtha have been more rapid and steeper than crude oil price increases. These market conditions suggest that the underlying premise of the Puerto Rican Naphtha Entitlements Program that a constant relationship exists between naphtha prices and crude oil prices may no longer be valid.

There are several factors that have contributed to the extreme volatility of the world market for naphtha. These factors include: increased demand for petrochemical and light-end petroleum products (prior to 1980); the heavy reliance of European refiners, which lack the facilities to use lower quality crudes, on naphtha as a feedstock; a relative scarcity of light crude oils with high naphtha yields; and a low demand for residual fuel oil, which is often produced with naphtha from crude oil. Finally, higher prices for high quality crude oils also appear to have contributed to higher prices for naphtha, a high quality feedstock.

The following table sets forth the naphtha-to-crude oil price ratios from January 1978 through May 1980, using the weighted average contract price of the six largest importers of crude oil into the Rotterdam area and the average tanker naphtha price during this time period. The data demonstrate the lack of any constant relationship between naphtha and crude oil prices over the past two years that would have provided a reliable basis for calculating an imputed valued for domestic naphtha.

Comparison of Rotterdam Naphtha/Crude Oil Price Ratios

Month and year	Dollars per barrel		Naphtha/crude ratio
	Naphtha [1]	Crude oil mix [2]	
1978			
January	13.81	13.42	1.03
February	14.12	13.35	1.06
March	14.64	13.37	1.09
April	14.90	13.37	1.11
May	14.40	13.37	1.08
June	14.99	13.34	1.12
July	16.17	13.66	1.18
August	17.87	13.80	1.29
September	18.00	13.66	1.32
October	19.35	13.88	1.39
November	21.77	13.71	1.59
December	20.56	13.70	1.50
1979			
January	22.75	14.35	1.59
February	32.22	14.81	2.18
March	30.13	14.79	2.04
April	29.66	17.25	1.72
May	34.07	17.98	1.89
June	38.51	20.00	1.93
July	39.48	21.74	1.82
August	38.45	21.84	1.76
September	40.62	21.22	1.91
October	38.46	22.28	1.73
November	42.24	26.23	1.61
December	45.11	27.75	1.63
1980			
January	43.74	29.13	1.50
February	39.54	30.32	1.30
March	39.08	30.36	1.29
April	38.65	31.72	1.22
May	42.36	32.31	1.31

[1] Average tanker price, using 8.75 barrel per metric ton conversion factor. (Source: *Platts Oilgram.*)

[2] Estimated weighted average contract price of six largest sources of imported crudes, including transportation costs. (Source: *Oil & Energy Trends*, Energy Economics Research Limited and *Platts Oilgram.*)

The disproportionately rapid rise in imported naphtha prices and resulting deterioration of a relatively stable naptha/crude oil price ratio have had two principal impacts on the operation of the existing Puerto Rican Naptha Entitlements Program. First, as evidenced by the market data set forth in the table above, the current 108 percent naphtha/crude oil price ratio factor does not reflect the increased value of naphtha compared with crude oil. Therefore, the current methodology for calculating an imputed domestic naphtha cost based on application of a naphtha/crude oil price ratio may no longer yield a reasonable market value for domestic naphtha because it does not account for changed market conditions. This in turn affects the determination of the appropriate naphtha entitlement value.

Second, and perhaps even more significant from the standpoint of equalizing the feedstock costs of Puerto Rican petrochemical firms, as the price of imported naphtha has risen disproportionately to increases in the weighted average cost per barrel of uncontrolled crude oil, the limitation on the value of the naptha entitlement benefit to a single runs credit is no longer adequate. The dramatic increases in prices for imported naphtha have caused the difference between the cost of naphtha feedstocks imported into Puerto Rico and the imputed cost of domestic naphtha to exceed the value of a single runs credit. The single runs credit limitation on the imported naphtha entitlement benefit prevents equalization of costs to the extent that the cost differential between imported and domestic naphtha exceeds the runs credit. When the single runs credit "cap" was adopted, it was not anticipated that the price of naphtha would increase disproportionately to crude oil prices. Thus, while the single runs credit limitation was reaasonable when naptha prices tracked crude oil prices, it no longer appears to be reasonable in light of market conditions over the last two years.

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[2] When the Naphtha Entitlements Program was originally adopted the factor was 120 percent. FEA determined in the December 1977 rulemaking that this factor was too high and that, as a result of the discrepancy of the 120 percent factor and the naphtha-to-crude oil price ratio for the first eight months of 1977, Puerto Rican petrochemical producers were not receiving sufficient entitlement value for the naphtha they imported, thus creating a relative competitive disadvantage for them compared with mainland firms.

As a result of the inability of the existing Program to respond to the changed market conditions, the objective of eliminating the naphtha feedstock cost disadvantage suffered by Puerto Rican petrochemical producers is not being achieved. Specifically, as prices for imported naphtha feedstocks have skyrocketed, Puerto Rican petrochemical firms have been left, after entitlements, with significantly higher feedstock costs than their mainland competitors. The data in the following table reflect the failure of the existing Entitlements Program to equalize the cost of naphtha feedstock imported into Puerto Rico with the imputed cost of domestic naphtha:

Post-Entitlements Position of Puerto Rican Petrochemical Industry

	Weighted average crude oil costs	Existing method imputed domestic naphtha	Weighted average cost of naphtha imported Puerto Rico	Naphtha cost differential	Crude oil entitlement value limitation (runs credit)	Under equalization
1978:						
January	12.12	13.10	14.81	1.71	2.07	
February	12.19	13.17	14.63	1.46	1.95	
March	12.23	13.21	14.66	1.45	1.91	
April	12.20	13.18	15.11	1.93	1.82	0.11
May	12.35	13.34	15.65	2.31	1.63	.68
June	12.48	13.48	15.52	2.04	1.56	.48
July	12.45	13.45	15.33	1.88	1.50	.38
August	12.46	13.46	16.08	2.62	1.33	1.29
September	12.57	13.58	16.56	2.98	1.42	1.56
October	12.62	13.63	17.38	3.75	1.44	2.31
November	12.78	13.78	18.17	4.39	1.35	3.04
December	12.93	13.96	19.94	5.98	1.27	4.71
1979:						
January	13.11	14.16	19.67	5.51	1.55	3.96
February	13.42	14.49	21.83	7.34	1.67	5.67
March	13.70	14.80	23.28	8.48	1.79	6.69
April	14.52	15.68	28.90	13.22	2.07	11.15
May	15.40	16.63	28.17	11.54	2.44	9.10
June	17.00	18.36	33.44	15.08	3.01	12.07
July	18.58	20.07	34.36	14.29	3.54	10.75
August	19.75	21.33	36.17	15.38	3.78	11.60
September	20.14	21.75	35.52	13.77	3.91	9.86
October	20.68	22.33	35.93	13.60	4.00	9.60
November	22.04	23.80	38.21	14.41	4.39	10.02
December	23.63	25.52	39.20	13.68	4.70	8.98
1980:						
January	24.81	26.79	43.84	17.05	5.28	11.77
February	26.11	28.20	42.61	14.41	5.13	9.28
March	26.88	29.03	39.98	10.95	5.05	5.90
April	27.09	29.26	39.15	9.89	5.09	4.80
May	27.85	30.08	39.08	9.00	6.22	2.78

The inability of the Program to respond to changed market conditions and the resulting "under-equalization" of Puerto Rican imported naphtha feedstock costs jeopardizes the competitive viability of the Puerto Rican petrochemical industry. The Puerto Rican petrochemical industry maintains that if no regulatory changes are made to equalize their naphtha feedstock costs with those operating on the mainland, they will eventually be forced either to curtail their operations or incur significant operating losses. Although it appears that there is some movement back to a more normal naphtha/crude oil price relationship during the past few months, this may be only a temporary trend as a result of the combination of current high petroleum stock levels and economic recession. As a result, ERA tentatively concludes that it is necessary to amend the Puerto Rican Naphtha Entitlements Program to incorporate a mechanism that is more responsive to changed market conditions and that will alleviate the feedstock cost disadvantage experienced by the Puerto Rican firms.

III. Proposed Amendments

The proposed amendments to the Puerto Rican Naphtha Entitlements Program are intended to achieve the following objectives:

1. The amendments should reduce the existing competitive disadvantage suffered by the Puerto Rican petrochemical industry as a result of its reliance on higher-cost imported naphtha feedstocks by more nearly equalizing their naphtha feedstock costs with those of mainland petrochemical producers. An amendment to the regulations which achieves this objective will promote the goal expressed in section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as amended, of preserving competition in the petrochemical industry.
2. The amendments to the regulations should not overcorrect for the competitive disadvantage which exists and result in subsidization of the acquisition of unreasonably high-priced imported naphtha feedstocks by Puerto Rican petrochemical firms. The amendments should encourage the Puerto Rican petrochemical industry to seek the most competitively priced imported naphtha supplies.
3. The amendments should be responsive to future fluctuation in the markets for naphtha and the products produced from naphtha.
4. The amendments should be straightforward and reflect industry practice to the maximum extent possible.

We propose three alternative amendments to the existing Puerto Rican Naphtha Entitlements Program in order to achieve these objectives.

A. First Alternative Proposal

The first alternative proposal would calculate an imputed cost of domestic naphtha on the basis of the value of naphtha used by domestic refiners in gasoline production, determined by a formula derived by DOE. The value of naphtha used in gasoline production was chosen as the basis for imputing a cost of domestic naphtha because most domestic naphtha is used by refiners in the production of motor gasoline. As discussed in greater detail in the accompanying Draft Regulatory Analysis, approximately 85 percent of all domestically produced naphtha is used in the refinery to make petroleum products. The remaining 15 percent of domestic naphtha production is used as petrochemical feedstocks or for SNG feedstock. Of the refinery uses, about 80 percent of domestic naphtha production enters the gasoline pool directly or through octane upgrading.

The costs associated with processing naphtha into gasoline thus provide a basis for imputing a price of naphtha used as a petrochemical feedstock. Our preliminary analysis indicates that refiners make refinery yield decisions in order to maximize the profitability of their refinery operations. A refiner will decide between utilizing its naphtha for the alternative uses of motor gasoline production or petrochemicals based on the prevailing market conditions. In the case of a petrochemical plant associated with a refinery, a refiner compares the profits it can receive for naphtha if it is reformed and blended to produce gasoline with the profits realized if it is routed to downstream petrochemical operations. The price which a refiner can obtain for gasoline, less downstream naphtha processing costs and a reasonable return on investment, can be imputed to be the cost of naphtha used as petrochemical feedstock.

Naphtha prices historically have been closely related to the wholesale price of gasoline in uncontrolled world markets. As discussed in greater detail in the Draft Regulatory Analysis, the ratio of naphtha to regular motor gasoline prices in the Rotterdam market has remained remarkably constant, even during the recent period of volatility in the naphtha market when the naphtha/crude oil price ratio fluctuated considerably. Accordingly, we believe that our proposal to impute a cost for domestic naphtha based on its value as a component in gasoline production will yield a more accurate estimate of its market value. We also believe the proposal will be more flexible than the current regulations in responding to changed market conditions in the future.

For purposes of determining the value of a naphtha entitlement, we have derived a formula for imputing a cost of domestic naphtha based on the wholesale price of unleaded regular gasoline. The wholesale price of unleaded regular gasoline was selected as the reference product because a large percentage of processed naphtha is used in its production and it represents an increasing share of the motor gasoline market.

The assumptions and methodology used to derive the formula are discussed in detail in the Draft Regulatory Analysis. The basic methodology and major assumptions are briefly summarized here.

To establish the cost of naphtha used to produce unleaded regular gasoline, we analyzed production costs and revenues for a hypothetical plant which produces unleaded gasoline by hydrotreating and catalytically reforming 20,000 barrels per day (B/D) of naphtha. The output of these processes is 16,000 B/D of reformate, which is then blended with 4,966 B/D of additional naphtha to produce 20,966 B/D of unlead gasoline. In the process, 2,840 B/D of refinery gas byproduct is produced (primarily hydrogen and LPG), which may be used for refinery fuel and credited at a cost for fuel oil equivalent (FOE). We believe the equivalent fuel oil is No. 6 fuel oil having 0.3–1.0 percent sulfur content.

The total processing cost (assuming a 90 percent operating factor) is estimated at $1.99 per barrel of naphtha input, consisting of $1.29 per barrel of naphtha feedstock for operating costs and $0.70 per barrel of naphtha for capital recovery. For purposes of this analysis, a reasonable return on investment was determined to be a 15 percent discounted cash flow of return for 16 years on an initial $20.14 million investment in January 1979 dollars.

Total cost of the naphtha that is processed and blended to produce gasoline, total processing costs, and a reasonable return on investment should equal total revenues or the average wholesale price of unleaded regular gasoline plus the fuel oil equivalent value of the refinery gas byproducts. Dividing each of the terms of the equation by the ratio of barrels associated with the particular cost or revenue to barrels of unleaded gasoline produced yields a value per barrel of gasoline production. The balance of costs and revenues per barrel of gasoline production is summarized in the following table:

Imputed Price of Naphtha

Term	Ratio	Unit price or cost	Value per barrel of gasoline produced
Costs:			
1. Naphtha (20,000 bbls. for hydrotreating and reforming, and 4,966 bbls. for blending).	$\frac{24,966}{20,966}$	INP	$1.19 INP
2. Total processing cost	$\frac{20,000}{20,966}$	$1.99	$1.90
Revenues or credits:			
1. Unleaded regular gasoline	1	UNL	UNL
2. Refinery gas byproducts (at FOE)	$\frac{2,840}{20,966}$	FOE	$.136 FOE

[1] Dollars per barrel.

Key

INP = Imputed wholesale naphtha price.
UNL = Average wholesale unleaded regular gasoline price based on data reported by refiners to DOE.
FOE = Wholesale price of equivalent residual fuel oil (No. 6 fuel oil, 0.3–1.0 percent sulfur) as reported to DOE.

Setting total costs (including return on investment) equal to total revenues and solving for the imputed naphtha price, the following formula for the imputed price per barrel of naphtha used in gasoline production is obtained:

$$INP = \frac{UNL + (0.136)\,FOE - 1.90}{1.19}$$

Where:

INP = Imputed wholesale naphtha price ($/Bbl.).
UNL = Average wholesale unleaded regular gasoline price reported to DOE ($/Bbl.).
FOE = Wholesale price of equivalent residual fuel oil (No. 6 fuel oil, 0.3–1% sulfur) reported to DOE.

An imputed cost of domestic naphtha pursuant to the formula would be calculated on a monthly basis beginning with October 1980. In making the calculation, DOE would calculate a national weighted average wholesale price of unleaded regular gasoline and No. 6 fuel oil (0.3–1.0 percent sulfur content) based on data reported by refiners to DOE on form FEA–P302–M–1, Petroleum Industry Monthly Report for Product Prices.

There may be delays in obtaining reliable pricing data needed for the computations required under the formula. ERA intends to use the most recent final pricing data reported by refiners to DOE for each month.

Finally, we also propose to increase the limitation on the maximum value of the naphtha entitlement benefit to twice the runs credit. When world naphtha prices are such that Puerto Rican petrochemical firms are not eligible for the double runs credit, the ratio proposed to be used to calculate the value of a naphtha entitlement is revised so that it is based on the actual crude oil runs credit (as opposed to the modified runs credit used in the current reduction factor which excludes the small refiner bias benefits and the adjustment for residual fuel oil transported in foreign flag tankers for sale on the East Coast). We believe the elimination of the

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modified runs credit will simplify the regulations.

We believe that the increase in the cap is necessary to take into account the significant feedstock cost disadvantage suffered by Puerto Rican petrochemical firms as a result of the dramatic and disproportionate increases in prices for imported naphtha. By increasing the entitlement "cap," the Entitlements Program will be able to operate more effectively to make an appropriate adjustement while prices for imported naphtha remain disproportionately high. In the event that prices for imported naphtha feedstocks decrease so that the price differential between imported naphtha and domestic naphtha is less than the double runs credit, the naphtha entitlement benefit will be no more than that differential. However, we have not proposed to eliminate the "cap" on the maximum naphtha entitlement value because we do not want to isolate Puerto Rican petrochemical producers from the marketplace or to reduce their incentives to seek the lowest priced naphtha supplies.

B. Second Alternative Proposal

The second alternative, which is a variation of the first alternative, is designed to simplify the monthly calculation of an imputed cost of domestic naphtha by reducing the variables involved.

A monthly imputed cost of domestic naphtha would be obtained by subtracting a fixed adjustment from the wholesale price of unleaded gasoline. The fixed adjustment would be determined in the following manner. First, the imputed cost of domestic naphtha during the most recent 12 month period for which data are available would be calculated using the formula derived by DOE that is discussed in the first alternative proposal. Next, the imputed domestic naphtha cost would be compared with the wholesale price of unleaded regular gasoline over the same 12 month period to establish an *average* cost differential. The *average* cost differential calculated for this period of reference would become the per barrel fixed adjustment. It would be subtracted from the monthly weighted average wholesale price for unleaded regular gasoline to obtain the imputed cost of domestic naphtha. Since by the time a final rule is promulgated less than a year will remain before the expiration of the President's authority to impose allocation and price controls, it is anticipated that the fixed adjustment, once established, will remain unchanged for the duration of the Program.

For example, if the 12 month period from May 1979 to April 1980 is used as the reference period under this second alternative proposal, the calculations to arrive at the fixed adjustment are reflected in the following table:

Calculation of Fixed Adjustment by Comparison of Unleaded Regular Gasoline/Naphtha Values

	Wholesale price of unleaded regular gasoline (dollars per barrel	Imputed cost of naphtha[1] (dollars per barrel)	Cost differential	
			Dollars per barrel	Cents per gallon
Month:				
May 1979	$24.82	$21.06	$3.76	8.95
June 1979	27.05	23.20	3.85	9.17
July 1979	27.89	24.27	3.62	8.62
August 1979	30.74	26.46	4.28	10.19
September 1979	30.74	26.64	4.10	9.76
October 1979	31.42	27.43	3.99	9.50
November 1979	32.47	28.44	4.03	9.60
December 1979	33.52	29.52	4.00	9.52
January 1980	35.49	31.22	4.27	10.17
February 1980	38.05	33.33	4.72	11.24
March 1980	39.31	34.04	5.27	12.55
April 1980	41.39	35.50	5.89	14.02
Average cost differential			4.31	10.27

[1] Calculated on a monthly basis using the formula set forth in the First Alternative Proposal.

Thus, if this 12 month period were selected as the reference period, the average per barrel cost differential would be $4.31. This fixed adjustment would be a constant factor subtracted from the average of monthly reported wholesale prices of unleaded regular gasoline to obtain the imputed cost of domestic naphtha.

We intend to use the most recent 12 month period for which final unleaded gasoline and fuel oil wholesale price data are available at the time of promulgation of a final rule as the reference period for calculating the fixed adjustment. However, we solicit comments concerning an appropriate reference period to be used to calculate the fixed adjustment. We also solicit comments concerning whether this fixed adjustment, once established, should remain constant for the duration of controls or whether it should be updated periodically and, if so, on what basis.

C. Third Alternative Proposal

An alternative to calculating an imputed cost of domestic naphtha on the basis of its value as a component in gasoline production is to retain the current method of calculation on the basis of a naphtha/crude oil price ratio, while doubling the crude oil entitlement cap on the value of a naphtha entitlement. An imputed cost of domestic naphtha would continue to be calculated by applying a factor of 108 percent to the weighted average cost per barrel of crude oil for all domestic refiners in a given month. Consistent with the other proposed alternatives, the limitation on the value of the naphtha entitlement would be increased to a maximum of twice the value of a crude oil entitlement.

We solicit comments, however, concerning (1) whether we should retain the naphtha/crude oil price ratio methodology for arriving at an imputed price for domestic naphtha, and (2) if we do, whether the current 108 percent factor should be revised in light of changed market conditions and, if so, what is the appropriate basis for revising the factor.

IV. Specific Comments Requested

We invite comments on the following matters in connection with the amendments proposed in this rulemaking.

1. Should we adopt the proposed methodology for calculating an imputed cost for domestic naphtha based on its value as a component in gasoline production, in light of the opposition expressed to a similar approach proposed in the prior Puerto Rican Naphtha Entitlements rulemaking which amended the naphtha/crude oil price ratio factor applied under the current regulations? *See* 42 FR 61853 (December 7, 1977). In that rulemaking, a method of imputing the cost of domestically produced naphtha by "determining the value of naphtha as a feedstock for gasoline by subtracting from an appropriate price for gasoline the cost of reforming naphtha into gasoline" was rejected because:

> The majority of comments expressed the view that it would be difficult to impute the cost of domestically produced naphtha by determining the value of naphtha as a gasoline feedstock because of the variation in refining and reforming costs among refiners, the problem of deciding what would constitute an appropriate return on investment for reforming capacity, and the administrative complexity of such a methodology.

We solicit comments concerning whether those criticisms are still valid today, or whether the *specific* formula which we have proposed in this rulemaking will yield a more accurate estimation of the value of domestic naphtha, in light of the changed market conditions which exist today?

2. We solicit comments concerning the validity of the underlying assumptions concerning the costs and credits involved in hydrotreating, reforming and blending naphtha into unleaded gasoline relied on to arrive at the proposed formula for an imputed price of domestic naphtha, including plant size, capital investment costs, operating costs, the value of by-product hydrogen and light hydrocarbons, and the plant efficiency and output factors applicable to the naphtha reforming process.

3. Does an adequate market for sales of domestic naphtha (most of which is not sold in the marketplace but used for gasoline production in the refineries where it is produced) exist on the basis of which a value can be assigned for purposes of determining the value of a naphtha entitlement?

4. Has the decision to reimpose U.S. Customs Duties and the decision to continue the suspension of Mandatory Oil Import Program fees on imports for six months as of July 1, 1980, adversely affected the Puerto Rican refining and petrochemical industries or disproportionately affected Puerto Rican end-users relative to continental U.S. firms or end-users?

5. What would be the impact of the alternative proposals on the world price of naphtha?

V. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (the DOE Act), we have referred this proposed rule to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the close of the public comment period to make this determination.

B. Section 7 of the FEA Act and NEPA Considerations

Pursuant to section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. No. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator indicated that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

The Assistant Secretary for Environment has determined, after consultation with the Office of the General Counsel, that these amendments would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*). Therefore, neither an environmental assessment nor an environmental impact statement will be necessary.

Executive Order 12044

In accordance with Executive Order No. 12044 "Improving Government Regulations" (43 FR 12661, March 24, 1978) and DOE's implementing Order 2030.1, "Procedures for the Development and Analysis of Regulations, Standards, and Guidelines" (44 FR 1032, January 3, 1979), a Draft Regulatory Analysis has been prepared which examines the impacts of the proposals set forth above. A summary of the Draft Regulatory Analysis is attached as an appendix to this notice. Copies of the entire Draft Regulatory Analysis are available for public inspection at Room B–110 of the Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461. Copies may be picked up in person between the hours of 8:00 a.m. and 4:30 p.m. weekdays, Monday thru Friday. Copies may also be mailed to interested parties upon request to the above office.

You are invited to provide comments on the Draft Regulatory Analysis at the same time you submit comments on the proposed rule. The comments will be taken into account before the preparation of a Final Regulatory Analysis or any final rule that may be adopted.

VI. Written Comments and Public Hearings Procedure

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters set forth in this notice. All comments should be submitted by 4:30 p.m., E.S.T., on the date set forth in the "Dates" section of this notice. Comments should be submitted to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Puerto Rican Naphtha Entitlements," Docket No. ERA–R–80——. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for request to make oral presentation.* The time and place for the hearing is indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the next business day following the first day of each hearing.

You may make a written request for an opportunity to make an oral presentation at the hearing. The requests should contain a telephone number where you may be contacted during the day before the particular hearing at which you will speak.

If you are selected to be heard at the San Juan hearing, we will notify you before 4:30 p.m., September 22, 1980. You will be required to submit 100 copies of your statement on the morning of the hearing at the hearing location.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to

establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the numbers of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. These will not be judicial or evidentiary type hearings. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements have been made and will be subject to time limitatioins.

You may also submit questions to be asked by the presiding officer of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m. on the day before the hearing. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

First Alternative Proposal—Monthly Calculation of an Imputed Cost of Domestic Naphtha Using Production Costs and Revenues Formula for Reforming and Blending Naphtha Into Unleaded Gasoline

10 CFR Part 211 is amended as follows:

1. Subparagraph 211.67(d)(5) is amended by revising subdivision (i), deleting former subdivision (iii), revising and renumbering former subdivision (iv), deleting former subdivision (v), and renumbering former subdivision (vi) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(5)(i) The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the number of barrels of naphthas which are imported into Puerto Rico (other than imports from the U.S. Virgin Islands and other than naphthas imported into Puerto Rico which are acquired pursuant to an exchange or similar matching purchase and sale transaction for naphthas produced by a refinery located in the United States) and are utilized in that month as a petrochemical feedstock at a petrochemical plant owned or operated by that refiner in Puerto Rico, as reduced in subdivision (ii) of this subparagraph. The number of eligible barrels of naphthas for a particular month further shall be multiplied by a fraction the numerator of which is equal to the weighted average per barrel cost of all naphthas imported into Puerto Rico for that month as to which entitlement issuances are sought less the imputed per barrel cost of domestically produced naphthas for that month, and the denominator of which is the entitlement value for a barrerl of crude oil included in the volume of a refiner's crude oil runs to stills for that month. In no case shall the fraction exceed two (2.0). For purposes of this subdivision (5)(i), the imputed per barrel cost of domestically produced naphthas for a particular month, commencing with October, 1980, shall be calculated by the application of the following formula:

$$INP = \frac{UNL + (0.136)\,FOE - 1.90}{1.19}$$

where:

INP = Imputed wholesale naphtha price ($/Bbl.)

UNL = National average wholesale unleaded regular gasoline price reported to DOE ($/Bbl.)

FOE = National average wholesale price of residual fuel oil (No. 6 fuel oil, 0.3–1% sulfur) reported to DOE.

For purposes of calculating the imputed price of domestic naphtha pursuant to this formula, the most recent wholesale price data available for No. 6 Fuel oil (0.3–1% sulfur content) and unleaded regular motor gasoline will be used.

(ii) The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills in a particular month under subdivision (i) of this subparagraph shall be reduced by the volume of export sales (under § 212.53 of Part 212 of this chapter, including sales to a purchaser which certifies it or an entity affiliated with that purchaser will export the product so purchased) for that month of pruducts produced at the petrochemical plant that has processed the imported naphthas.

(iii) Notwithstanding any other provisions of this section, a firm other than a refiner that owns a petrochemical plant in Puerto Rico shall be eligible to receive entitlements with respect to naphthas processed at such a plant on the same basis as is provided for refiners in subdivisions (i) and (ii) of this subparagraph, except that such a firm shall not be eligible for any additional entitlements under the provisions of paragraph (e) of this section. Any such firm shall file reports under § 211.66 on the same basis as a refiner.

(iv) Any firm that is eligible for entitlement issuances under this subparagraph shall obtain appropriate certifications from any other firm to which it sells products produced at a petrochemical plant located in Puerto Rico. Such certification shall set forth whether or to what extent the products so purchased will be sold (whether directly by that other firm or indirectly through any firm affiliated with that other firm) in transactions that constitute export sales under § 212.53 of Part 212 of this chapter. Any firm purchasing products produced at a petrochemical plant located in Puerto Rico shall, upon the request of the owner or operator of that facility, certify to that owner or operator as to whether or what extent the further sale of those products by that firm (or any affiliate thereof) will constitute export sales under § 212.53.

* * * * *

Second Alternative Proposal—Monthly Calculation of Imputed Cost of Domestic Naphtha by Subtracting Fixed Adjustment From the Average Wholesale Price of Unleaded Regular Gasoline

10 CFR Part 211 is amended as follows:

1. Subparagraph 211.67(d)(5) is amended by revising subdivision (i), deleting former subdivision (iii), revising and renumbering former subdivision (iv), deleting former subdivision (v), and renumbering former subdivision (vi) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(5) (i) The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the number of barrels of naphthas which are imported into Puerto Rico (other than imports from the U.S. Virgin Islands and other than naphthas imported into Puerto Rico which are acquired pursuant to an exchange or similar matching purchase and sale transaction for naphthas produced by a refinery located in the the United States) and are utilized in that month as a petrochemical feedstock at a petrochemical plant owned or operated by that refiner in Puerto Rico, as reduced in subdivision (ii) of this subparagraph. The number of eligible barrels of naphthas for a particular month further shall be multiplied by a fraction the numerator of which is equal to the weighted average per barrel cost of all naphthas imported into Puerto Rico for that month as to which entitlement issuances are sought less the imputed per barrel cost of domestically produced naphthas for that month, and the denominator of which is the entitlement value for a barrel of crude oil included in the volume of a refiner's crude oil runs to stills for that month. In no case shall the fraction exceed two (2.0). For purposes of this subdivision (5)(i), the imputed per barrel cost of domestically produced naphthas for a particular month, commencing with October, 1980, shall be calculated by the application of the following formula:

INP=UNL—[average fixed per barrel cost differential between wholesale unleaded regular gasoline and the imputed cost of domestic naphtha calculated pursuant to the formula based on its use in gasoline production for the most recent 12 month period for which final data are available at the time of promulgation of a final rule]

where:

INP=Imputed wholesale naphtha price ($/Bbl.)
UNL=National average wholesale unleaded regular gasoline price reported to DOE ($/Bbl.)

For purposes of calculating the imputed price of domestic naphtha pursuant to this formula, the most recent wholesale price data available for unleaded regular motor gasoline will be used.

(ii) The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills in a particular month under subdivision (i) of this subparagraph shall be reduced by the volume of export sales (under $212.53 of Part 212 of this chapter, including sales to a purchaser which certifies it or an entity affiliated with that purchaser will export the product so purchased) for that month of products produced at the petrochemical plant that has processed the imported naphthas.

(iii) Notwithstanding any other provisions of this section, a firm other than a refiner that owns a petrochemical plant in Puerto Rico shall be eligible to receive entitlements with respect to naphthas processed at such a plant on the same basis as is provided for refiners in subdivisions (i) and (ii) of this subparagraph, except that such a firm shall not be eligible for any additional entitlements under the provisions of paragraph (e) of this section. Any such firm shall file reports under § 211.66 on the same basis as a refiner.

(iv) Any firm that is eligible for entitlement issuances under this subparagraph shall obtain appropriate certifications from any other firm to which it sells products produced at a petrochemical plant located in Puerto Rico. Such certification shall set forth whether or to what extent the products so purchased will be sold (whether directly by that other firm or indirectly through any firm affiliated with that other firm) in transactions that constitute export sales under § 212.53 of Part 212 of this chapter. Any firm purchasing products produced at a petrochemical plant located in Puerto Rico shall, upon the request of the owner or operator of that facility, certify to that owner or operator as to whether or what extent the further sale of those products by that firm (or any affiliate thereof) will constitute export sales under § 212.53.

* * * * *

Third Alternative Proposal—Continuation of the Calculation of an Imputed Cost of Domestic Naphtha Based on Naphtha/Crude Oil Price Ratio

10 CFR Part 211 is amended as follows:

1. Subparagraph 211.67(d)(5) is amended by revising subdivision (i), deleting former subdivision (iii), revising and renumbering former subdivision (iv), deleting former subdivision (v), and renumbering former subdivision (vi) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(5) (i) The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the number of barrels of naphthas which are imported into Puerto Rico (other than imports from the U.S. Virgin Islands and other than naphthas imported into Puerto Rico which are acquired pursuant to an exchange or similar matching purchase and sale transaction for naphthas produced by a refinery located in the United States) and are utilized in that month as a petrochemical feedstock at a petrochemical plant owned or operated by that refiner in Puerto Rico, as reduced in subdivision (ii) of this subparagraph. The number of eligible barrels of naphthas for a particular month further shall be multiplied by a fraction the numerator of which is equal to the weighted average per barrel cost of all naphthas imported into Puerto Rico for that month as to which entitlement issuances are sought less the imputed per barrel cost of domestically produced naphthas for that month, and the denominator of which is the entitlement value for a barrel of crude oil included in the volume of a refiner's crude oil runs to stills for that month. In no case shall the fraction exceed two (2.0). For purposes of this subdivision (5)(i), the imputed per barrel cost of domestically produced naphthas for a particular month, commencing with October, 1980, shall be equal to 108 percent [or — percent, if the naphtha/crude oil price ratio factor is revised in this rulemaking] of the weighted average per barrel cost of all the crude oil receipts for all domestic refiners for that month.

(ii) The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills in a particular month under subdivision (i) of this subparagraph shall be reduced by the volume of export sales (under § 212.53 of Part 212 of this chapter, including sales to a purchaser which certifies it or an entity affiliated with that purchaser will export the product so purchased), for that month of products produced at the petrochemical plant that has processed the imported naphthas.

(iii) Notwithstanding any other provisions of this secton, a firm other than a refiner that owns a petrochemical plant in Puerto Rico shall be eligible to receive entitlements with respect to naphthas processed at such a plant on the same basis as is provided for refiners in subdivisions (i) and (ii) of this subparagraph, except that such a firm shall not be eligible for any additional entitlements under the provisions of paragraph (e) of this section. Any such firm shall file reports under § 211.66 on the same basis as a refiner.

(iv) Any firm that is eligible for entitlement issuances under this subparagraph shall obtain appropriate certifications from any other firm to which it sells products produced at a petrochemical plant located in Puerto Rico. Such certification shall set forth whether or to what extent the products so purchased will be sold (whether directly by that other firm or indirectly through any firm affiliated with that other firm) in transactions that constitute export sales under § 212.53 of Part 212 of this chapter. Any firm purchasing products produced at a petrochemical plant located in Puerto Rico shall, upon the request of the owner or operator of that facility, certify to that owner or operator as to whether or what extent the further sale of those products by that firm (or any affiliate thereof) will constitute export sales under § 212.53.

* * * * *

Appendix—Summary of Draft Regulatory Analysis

The proposed revisions to the Puerto Rican Naphtha Entitlements Program were prompted by the accumulating evidence that the Puerto Rican petrochemical industry has suffered a significant feedstock cost disadvantage for more than a year. The increased feedstock costs of Puerto Rican petrochemical producers, which are reliant upon imported naphtha, are the result of the unprecedented rise in world naphtha prices over the past year and a half. The structure of the existing Program has been unable to take into account the disproportionate increases in prices for imported naphtha, and therefore has not equalized the feedstock costs of Puerto Rican petrochemical firms with their competitors on the U.S. mainland.

The purpose of the proposed amendments is to reduce the naphtha feedstock cost differentials between Puerto Rican petrochemical producers and their mainland competitors. The lower feedstock costs of mainland petrochemical producers are due in large part to the existence of domestic crude oil price controls.

The DOE Entitlements Program is designed to accord regulatory benefits in a manner which achieves the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). The data reflects that Puerto Rican petrochemical firms have been adversely affected by price increases for imported naphtha because the operation of the current Program has not provided them with sufficient benefits to offset the increased cost of their feedstocks.

During 1979, for example, the feedstock cost disadvantage suffered by Puerto Rican petrochemical firms averaged about $9.00 per barrel. This situation has placed Puerto Rican petrochmical producers at a severe competitive disadvantage and created an undesirable economic climate for the petrochemical industry on the island. The industry has been able to withstand this disadvantage by obtaining exception relief from Office of Hearings and Appeals, and because the petrochemicals market has been strong during this period.

The regulations are not promoting the goal expressed in section 4(b)(1)(D) of the EPAA of preserving ". . . an economically sound and competitive petroleum industry . . . including the priority needs to restore and foster competition in the . . . petrochemical sectors of such industry . . ." The proposed amendments are intended to more nearly equalize the feedstock costs of Puerto Rican and mainland petrochemical firms. In periods such as experienced during the past year and a half when there existed a wide differential between prices for imported and domestic naphtha, the naphtha entitlement benefit will be allowed to increase to a level which will permit the Puerto Rican petrochemical industry to remain competitive with the mainland firms.

The proposed amendments are intended to achieve the following objectives:

- Removal of the competitive disadvantage suffered by the Puerto Rican petrochemical industry as a result of the combination of higher prices for imported naphtha and the application of Department of Energy regulations.
- Retention of incentives for the Puerto Rican petrochemical industry to seek the lowest cost imported naphtha feedstocks.
- Responsiveness to future fluctuations in the markets for naphtha and products produced from naphtha, as well as any future changes in Department of Energy regulations, including phase-out of crude oil price controls.
- Administration simplicity.

Aside from retaining the existing program (no action), the alternatives evaluated in the regulatory analysis with respect to the objectives of this rulemaking are:

- One alternative would retain the existing program but increase the limitation on the maximum naphtha entitlements benefit from a single crude oil entitlement to twice the value of a crude oil entitlement.
- Two alternatives would revise the method of calculating an imputed price of domestically produced naphtha based on its value as a component in gasoline production for purposes of determining the naphtha cost differential. The first alternative would calculate an imputed cost of domestic naphtha determined by a formula derived by DOE. The imputed cost of domestic naphtha would be calculated monthly and subtracted from the weighted average cost of naphtha feedstocks imported into Puerto Rico to determine the naphtha cost differential. The maximum value of a naphtha entitlement would be increased to twice the value of a crude oil entitlement. The second alternative would calculate an imputed price for domestic naphtha by subtracting a fixed adjustment from the average wholesale price of unleaded regular gasoline. The adjustment would be derived from the average cost differential between wholesale unleaded regular gasoline and imputed domestic naphtha prices during a recent reference period. The imputed domestic naphtha prices during the reference period would be calculated pursuant to the formula based on naphtha use in gasoline production.

The economic impacts of the first, third and fourth alternatives during the periods from January 1977 through March 1980 and 1979 alone were calculated and compared. In addition, the following table reflects the effects of each alternative on the average value of a naphtha entitlements benefit during calendar year 1979 for Puerto Rican petrochemical producers:

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TABLE 1

	January 1977 - March 1980		1979	
Alternative	Average Naphtha Entitlement ($/Bbl.)	Percent of Composite Puerto Rican Feedstock Cost	Average Naphtha Entitlement ($/Bbl.)	Percent of Composite Puerto Rican Feedstock Cost
Imputed Naphtha Price Calculated On Basis of Wholesale Prices of Unleaded Gasoline and Fuel Oil Using Formula, Cap Increased to 2x Crude Oil Entitlement	3.32	14.7	6.12	19.6
Imputed Naphtha Price Calculated By Subtracting Fixed Adjustment from Wholesale Price of Unleaded Gasoline, Cap Increased to 2x Crude Oil Entitlement	*	*	6.14	19.6
Retain Naphtha/Crude Oil Price Ratio Factor, Increase Naphtha Entitlement Cap to 2x Crude Oil Entitlement	4.14	18.3	6.14	19.6
No Action	2.49	11.0	3.07	9.8

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*/ This alternative uses a recent 12 month reference period to determine an average cost differential between wholesale unleaded gasoline and naphtha. Estimating its effect over a longer historical period produces anomalous results. However, its effects are likely to be similar to alternative 1, provided that the cost differential is updated periodically.

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Assuming an average annual rate of naphtha imports into Puerto Rico of 33 million barrels per year, the *average annual* increase in entitlements benefits provided to the Puerto Rican petrochemical industry as compared with the No Action case during the January 1977 through March 1980 period and 1979 would have been as follows:

Table 2

Alternative	Million dollars/year	
	*1/77-3/80	1979
Imputed Naphtha Price Calculated On Basis of Wholesale Prices of Unleaded Gasoline and Fuel Oil Using Formula, Cap Increased to 2x Crude Oil Entitlement	+27	+101
Imputed Naphtha Price Calculated By Subtracting Fixed Adjustment from Wholesale Price of Unleaded Gasoline, Cap Increased to 2x Crude Oil Entitlement	**	+101
Retain Naphtha/Crude Oil Price Ratio Factor, Increase Naphtha Entitlement Cap to 2x Crude Oil Entitlement	+54	+101
No Action	0	0

* Based on the increase in the average naphtha entitlement during this period over the "No Action" case.

** See footnote to Table 1.

The "cost" of the entitlement benefits accorded naphtha imported by the Puerto Rican petrochemical industry is borne by the refiners of price-controlled domestic crude oil. The ratio of price-controlled domestic crude oil refinery runs to Puerto Rican naphtha imports is approximately 47 to 1. Accordingly, the added costs of increased entitlement benefits accorded the smaller volume of Puerto Rican naphtha imports is spread over the much larger volume of price-controlled domestic crude oil refinery runs. The increase in crude oil entitlements costs per barrel of price-controlled domestic crude oil (on average) for the period January 1977 through March 1980 is estimated as follows:

Table 3

Alternative	Increase in crude oil entitlements cost ($/bbl)
Imputed Naphtha Price Calculated On Basis of Wholesale Prices of Unleaded Gasoline and Fuel Oil Using Formula, Cap Increased to 2x Crude Oil Entitlement	0.018
Imputed Naphtha Price Calculated By Subtracting Fixed Adjustment from Wholesale Price of Unleaded Gasoline, Cap Increased to 2x Crude Oil Entitlement	*
Retain Naphtha/Crude Oil Price Ratio Factor, Increase Naphtha Entitlement Cap to 2x Crude Oil Entitlement	0.035
No Action	0

* See footnote to Table 1.

Of the alternatives evaluated, the proposal which revises the method of calculating an imputed price of domestic naphtha based on its value as a component in gasoline production and which increases the "cap" to twice the crude oil entitlement value is preferred for several reasons. It results in the lowest levels of under-equalization of feedstock costs when applied to the period since January 1977. The period of under-equalization is also the shortest of the three action alternatives. These conclusions are confirmed by the data in the following table:

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TABLE 4 ($ (barrel)

COMPARISON OF ALTERNATIVES—NAPHTHA ENTITLEMENT AND UNDER EQUALIZATION

	Alternative 1		Alternative 2		Alternative 3		Current Rule	
	Opportunity Cost Method (Double Cap)		Ratio Method ** (Double Cap)		Current Method (Double Cap)		No Action (Single Cap)	
	Imputed Naphtha Price Based on Use In Unleaded Gasoline Production, 2x Crude Oil Entitlement Cap		Constant Factor Subtracted from Price of Unleaded Regular Gasoline, 2x Crude Oil Entitlement Cap		Retail Naphtha/Crude Oil Price Ratio Factor, 2x Crude Oil Entitlement Cap		Current Method With 1-run Credit Cap	
Month	Naphtha Entitlement	Under Equalization	Naphtha Entitlement	Under Equalization	Naphtha Entitlement	Under Equalization	Naphtha Entitlement	Under Equalization
'77 1	1.87 *	— *			2.29 *	— *	2.21	0.08
2	1.34 *	— *			2.07 *	— *	2.07 *	— *
3	2.01 *	— *			2.24 *	— *	2.24 *	— *
4	1.05 *	— *			2.44 *	— *	2.44 *	— *
5	1.44 *	— *			2.79 *	— *	2.46	0.33
6	1.15 *	— *			2.62 *	— *	2.36	0.26
7	1.60 *	— *			3.07 *	— *	2.24	0.83
8	1.76 *	— *			3.05 *	— *	2.33	0.72
9	1.88 *	— *			3.10 *	— *	2.19	0.91
10	1.42 *	— *			2.47 *	— *	2.20	0.27
11	1.41 *	— *			2.36 *	— *	2.06	0.30
12	1.39 *	— *			2.07 *	— *	2.02	0.15
'78 1	0.82 *	— *			1.71 *	— *	1.71 *	— *
2	0.71 *	— *			1.46 *	— *	1.46 *	— *
3	0.71 *	— *			1.45 *	— *	1.45 *	— *
4	1.12 *	— *			1.93 *	— *	1.82	0.11
5	1.16 *	— *			2.31 *	— *	1.63	0.68
6	0.73 *	— *			2.04 *	— *	1.56	0.48
7	0.27 *	— *			1.88 *	— *	1.50	0.38
8	0.65 *	— *			2.62 *	— *	1.33	1.29
9	0.90 *	— *			2.82	0.16	1.42	1.56
10	1.68 *	— *			2.88	0.87	1.44	2.31
11	1.91 *	— *			2.70	1.69	1.35	3.04
12	2.54	0.69			2.54	3.44	1.27	4.71
'79 1	2.94 *	— *			3.10	2.41	1.55	3.96
2	3.34	1.01			3.34	4.00	1.67	5.67
3	3.59	1.29			3.58	4.90	1.79	6.69
4	4.14	5.11			4.14	9.13	2.07	11.15
5	4.80	2.31	4.88	2.78	4.88	6.66	2.44	9.10
6	6.02	4.22	6.02	4.68	6.02	9.06	3.01	12.07
7	7.08	3.01	7.08	3.70	7.08	7.21	3.54	10.75
8	7.56	2.69	7.56	2.72	7.56	7.82	3.78	11.60
9	7.82	1.06	7.82	1.27	7.82	5.95	3.91	9.86
10	8.00	0.50	8.00	0.82	8.00	5.60	4.00	9.60
11	8.79	0.98	8.78	1.27	8.78	5.63	4.39	10.02
12	9.40	0.28	9.40	0.59	9.40	4.28	4.70	8.98
'80 1	10.56	2.06	10.56	2.10	10.56	6.49	5.28	11.77
2	9.28 *	— *	8.87 *	— *	10.26	4.15	5.13	9.28
3	5.94 *	— *	4.98 *	— *	10.10	0.85	5.05	5.90
4	3.65 *	— *	2.07 *	— *	9.89 *	— *	5.09	4.80
Average 5/79 thru 4/80	7.41	1.43	7.17	1.66	8.36	5.31	4.19	9.47

*Indicates that the entitlement value is below the cap.

**Estimating the net effect of this alternative over a historical period, using a recent reference period in determining an average cost differential between wholesale unleaded regular gasoline and naphtha, would result in anomalous results. However, the net effect would likely be similar to alternative I, provided the average cost differential was updated periodically.

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In addition, based on the data reflected in Table 2, the first and second alternatives would not have awarded the highest total benefits to the Puerto Rican industry; larger benefits would have resulted if the alternative providing for simple doubling of the crude oil entitlement cap had been in effect. This is so because those alternatives reflect a more accurate value for the imputed price of domestic naphtha in calculating the naphtha entitlements value, and are more responsive to fluctuations in the market for imported naphtha.

The Draft Regulatory Analysis finds that the Puerto Rican petrochemical industry is significant to the economy of the Commonwealth and is a major source of supply for petrochemical intermediate products on the U.S. mainland. All of the alternatives to the current method of calculating entitlement benefits would enhance the ability of the Puerto Rican petrochemical industry to compete by more nearly equalizing their feedstock costs with mainland petrochemical producers. By reducing the competitive disadvantage suffered by petrochemical firms on the island, the action alternatives would have a direct positive effect on Puerto Rico's entire economy.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

53136 8–11–80 / Alabama State Implementation Plan; revision of emergency episode plan and oxidant alert level

53145 8–11–80 / Arizona State Implementation Plan; revision of motor vehicle emission control inspection and maintenance program

53136 8–11–80 / California State Implementation Plan; revision of six administrative chapters

53145 8–11–80 / Revision of California State Implementation Plan

FEDERAL COMMUNICATIONS COMMISSION

52152 8–6–80 / Television table of assignments; Lansing and Saginaw, Mich., Newark, Sandusky, and Toledo, Ohio

FEDERAL EMERGENCY MANAGEMENT AGENCY

53334 8–11–80 / Disaster assistance program standards

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Assistant Secretary for Housing Office—

50559 7–30–80 / Increased mobile home loan limits

50560 7–30–80 / Mortgage and loan insurance programs; requirements for mortgage approval

TRANSPORTATION DEPARTMENT

Coast Guard—

52386 8–7–80 / Dangerous cargoes; revisions to list of flammable and combustible bulk cargoes transported in certified tank vessels

Federal Aviation Administration—

47837 7–17–80 / Director of Airworthiness and Director of Flight Operations; redelegation of authority

Deadlines for Comments on Proposed Rules for the Week of September 14 through September 20, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

55213 8–19–80 / Handling of milk in Nebraska-Western Iowa marketing area; exceptions to revised recommended decision; comment by 9–15–80

Agricultural Stabilization and Conservation Service—

48151 7–18–80 / Feed grain, upland cotton, wheat and rice programs for crop years 1978–1981; charging interest on refunds of overpayments; comments by 9–16–80

Farmers Home Administration—

47654 7–16–80 / Farm Labor Housing (LH) loan and grant policies, procedures, and authorities; comments by 9–15–80

CIVIL AERONAUTICS BOARD

47698 7–16–80 / Information submitted in section 408 merger applications; comments by 9–15–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

51254 8–1–80 / Atlantic squid fishing; fishery conservation and management; comments by 9–14–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

53488 8–12–80 / Energy efficiency standards for nine types of consumer products; comments by 9–15–80

Economic Regulatory Administration—

54662 8–15–80 / Obtaining crude oil for the Strategic Petroleum Reserve by exchange of Naval Petroleum Reserves crude oil and other means; comments by 9–15–80

48646 7–21–80 / Synthetic natural gas (SNG) feedstock allocation; price-controlled naphtha exemption and removal of restrictive criteria on propane; comments by 9–19–80

ENVIRONMENTAL PROTECTION AGENCY

54772 8–18–80 / Additional revisions to Washington State Implementation Plan; comments by 9–17–80

55198 8–19–80 / Certain inert ingredients in pesticide formations; comments by 9–18–80

55480 8–20–80 / Delaware state implementation plan; comments by 9–19–80

5523 8–19–80 / Designation of areas for air quality planning purposes; attainment status designation—California; comments by 9–18–80

58496 9–3–80 / Glyphosate; proposed feed additive tolerance; comments by 9–18–80

58494 9–3–80 / Glyphosate; proposed food additive tolerances; comments by 9–18–80

58499 9–3–80 / Glyphosate; proposed tolerance; comments by 9–18–80

47832 7–16–80 / Identification and listing of hazardous waste; additions; comments by 9–15–80

47835 7–16–80 / Identification and listing of hazardous waste; additions; comments by 9–15–80

48812 7–21–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act, as amended; comments by 9–19–80

54773 8–18–80 / Proposed approval of revisions to Delaware's State Implementation Plan; comments by 9–17–80

54773 8–18–80 / Proposed approval of revisions to District of Columbia's Implementation Plan; comments by 9–17–80

54773 8–18–80 / Proposed approval of revisions to Maryland's State Implementation Plan; comments by 9–17–80

55199 8–10–80 / Tolerances for pesticide chemicals in or on raw agricultural commodities; Oxalic acid; comments by 9–19–80

55228 8–19–80 / Virginia; approval and promulgation of implementation plans; comments by 9–18–80

54088, 54089 8–14–80 / West Virginia Air Quality Implementation Plan; comments by 9–15–80 (2 documents)

55230 8–19–80 / Wisconsin; Approval and promulgation of implementation plan; comments by 9–18–80

FEDERAL COMMUNICATIONS COMMISSION

43441 6–27–80 / Authorizing the Communications Satellite Corporation to provide international satellite communications services directly to the public; order extending time for filing comments and reply comments; reply comments by 9–19–80

[*See also* 45 FR 33662, 5–20–80]

53844 8–13–80 / Biomedical telemetry operations; amendments; comments by 9–15–80

35370 5–27–80 / FCC Form 324 Annual Financial Report of Broadcast Stations; comments by 9–15–80

46452 7–10–80 / FM broadcast station in Jacksonville, Fla.; channel assignment; reply comments by 9–15–80

51624 8–4–80 / FM broadcast stations in Naples, Fla., changes in table of assignments; comments by 9–19–80

50373 7–29–80 / FM Broadcast Stations in Uvalde, Crystal City and Pearsall, Tex.; changes in Table of assignments; comments by 9–15–80

46455 7–10–80 / FM broadcast stations in Wichita and Winfield, Kans.; table of assignments; reply by 9–15–80

42753 6–25–80 / TV broadcast stations in Santa Barbara, Calif.; table of assignments; comments by 9–15–80

[*See* 45 FR 28770, 4–30–80]

51251 8–1–80 / Verification and methods of measurement of computing devices; reply comments extended to 9–19–80

[*See also* 45 FR 42347, 6–24–80]

FEDERAL RESERVE SYSTEM

54070 8–14–80 / Electronic fund transfers; proposed official staff interpretation; comments by 9–15–80

FEDERAL TRADE COMMISSION

55223 8–19–80 / Deceptive advertising and labeling of previously used lubricating oil; comments by 9–18–80

44322 7–1–80 / Tingley Rubber Corp.; consent agreement with analysis to aid public comments; comments by 9–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

48160 7–18–80 / Probenecid proposed bioequivalence requirement; comments by 9–16–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of the Assistant Secretary for Housing—

58375 9–3–80 / Fair market rents for new construction and substantial rehabilitation Sec. 8 projects; Battle Creek, Mich.; comments by 9–18–80

Office of the Secretary—

48654 7–21–80 / Privacy Act of 1974; revision of regulations; comments by 9–19–80

INTERIOR DEPARTMENT

Geological Survey—

56081 8–22–80 / Coal mining operating rules on Federal lands; comments accepted from 9–15 through 9–29–80

[*See also* 45 FR 32715, 5–19–80]

Land Management Bureau—

48054 7–17–80 / Wildfire prevention procedures; comments by 9–15–80

National Park Service—

54771 8–18–80 / National Park System rights-of-way provisions; comments by 9–17–80

Surface Mining Reclamation and Enforcement Office—

57149 8–27–80 / Mining and mineral resources, institutes and mineral research projects; grants; comments by 9–15–80

INTERNATIONAL TRADE COMMISSION

54086 8–14–80 / Investigations to review outstanding antidumping and countervailing duty determinations and suspension agreement; comments by 9–15–80

INTERSTATE COMMERCE COMMISSION

54385 8–15–80 / Change of policy, railroad contract rates; comments extended to 9–15–80

53846 8–13–80 / Cost Standards for railroad rates; revised interpretation; comment period extended to 9–19–80

[*See also* 45 FR 48676, 7–21–80]

55465 8–20–80 / Household goods transportation; storage-in-transit charges; comments by 9–18–80

JUSTICE DEPARTMENT

54770 8–18–80 / Federal financial assistance; nondiscrimination on basis of sex in education programs; comment period extended to 9–19–80

[*See also* 45 FR 41001, 6–17–80]

Attorney General—

52183 8–6–80 / Open judicial proceedings policy; comments by 9–15–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

54355 8–15–80 / Basic program elements for Federal employee occupational safety and health programs; comments by 9–15–80

41012 8–6—8–17–80 / Standard for locking out and tagging machines, equipment, systems and processes; comments by 9–15–80

LIBRARY OF CONGRESS

Copyright Office—

50823 7–31–80 / Unauthorized use of certain works transmitted "live" and simultaneously being fixed in tangible form; reply comments by 9–15–80

NATIONAL CREDIT UNION ADMINISTRATION

55214 8–19–80 / Month-end financial statements for credit unions; comments by 9–15–80

TRANSPORTATION DEPARTMENT

Coast Guard—

56376 8–25–80 / Provisions for command barges carrying certain bulk dangerous cargoes; comment period extended to 9–19–80

[*See also* 45 FR 45327, 7–3–80]

Federal Aviation Administration—

41596 6–19–80 / Operations review program; reply comments by 9–17–80

Materials Transportation Bureau—

48671 7–21–80 / Shippers; specifications for tank cars; comments by 9–18–80

[Corrected at 45 FR 7–31–80]

National Highway Traffic Safety Administration—

51626 8–4–80 / Amendment of seat belt assemblies safety standards; comments by 9–18–80

TREASURY DEPARTMENT

Customs Service—

48817 7–21–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act; comments by 9–19–80

54085 8–14–80 / Ornamental wearing apparel classification; comments by 9–15–80

Internal Revenue Service—

47871 7–17–80 / Voluntary employee's beneficiary associations; comments by 9–15–80

VETERANS ADMINISTRATION

55716 8–21–80 / Medical benefits; community-based treatment facilities for alcohol and drug dependence; comments by 9–19–80

WATER RESOURCES COUNCIL

47866 7–17–80 / Floodplain management and wetlands protection; comments by 9–15–80

Deadlines for Comments on Proposed Rules for the Week of September 21 through September 27, 1980

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

48905 7–22–80 / Foreign quarantine notices; flag smut (foreign strains) comments by 9–23–80

49503 7–25–80 / Nursery stock, plants, roots, bulbs, seeds, and other plant products, certain seeds imported from Brazil; comments by 9–23–80

Agricultural Stabilization and Conservation Service—

56067 8–22–80 / Tobacco (burley); Marketing quotas and acreage allotments; Reporting and record keeping requirements; comments by 9–22–80

Food and Nutrition Service—

56817 8–26–80 / Food distribution program; comments by 9–25–80

Office of the Secretary—

49275 7–24–80 / Community facility loans; small-scale hydroelectric generating systems; comments by 9–22–80

Rural Electrification Administration—

49585 7–25–80 / Proposed revision of REA Bulletin 181–3, accounting interpretations for rural electric borrowers; comments by 9–23–80

CENTRAL INTELLIGENCE AGENCY

49296 7–24–80 / Freedom of information and declassification requests; fees for records services; comments by 9–22–80

CIVIL AERONAUTICS BOARD

52820 8–8–80 / Actual notice to passengers about the terms of the contract of carriage, airlines requirement; reply comments by 9–23–80

57435 8–28–80 / Intermodal cargo services, domestic and foreign air carriers; liberalized regulations; denial of extension of time; reply comments by 9–22–80

42318 6–24–80 / Intermodal services of air carriers and foreign air carriers; liberalize regulation; comments by 9–22–80

COMMODITY FUTURES TRADING COMMISSION

42633 6–25–80 / Minimum financial and related reporting requirements; comments by 9–23–80

[Corrected at 45 FR 44965, 7–2–80]

ENERGY DEPARTMENT

54082 8–14–80 / Natural gas pipelines; annual gas supply report; Revised From No. 15; comments by 9–26–80

Federal Energy Regulatory Commission—

55761 8–21–80 / Tax normalization for timing difference transactions; computation for ratemaking and income tax purposes of expenses or revenues; reply comments by 9–26–80

ENVIRONMENTAL PROTECTION AGENCY

49115 7–23–80 / Air plans; approval and promulgation of State plan for designated facilities and pollutants; comments by 9–22–80

56104 8–22–80 / Air quality; Section 107—Proposed designations of attainment Status-Areas East of the Mississippi River—Ozone; comments by 9–22–80

49298 7–24–80 / Approval and promulgation of implementation plans; Utah SO_2 control strategy; comments extended to 9–27–80

[*See also* 45 FR 40169, June 13, 1980]

54385 8–15–80 / Alternate Method 1 to Reference Method 9 of Appendix A—determination of the opacity of emissions from stationary sources remotely by lidar; comments extended to 9–25–80

[*See also* 45 FR 44329, 7–1–80]

56847 8–26–80 / Approval and promulgation of State Implementation Plans; Colorado; comments by 9–25–80

56848 8–26–80 / Designation of areas for air quality planning purposes; Texas; comments by 9–25–80

49450 7–24–80 / Inorganic chemicals manufacturing point source category effluent limitations guidelines, pretreatment standards, and new source performance standards; comments by 9–22–80

57459 8–28–80 / Massachusetts air quality implementation plans; approval and promulgation; comments by 9–29–80

26660 4–18–80 / National emission standard for benzene from maleic anhydride plants; comments by 9–22–80

[Comment period extended at 45 FR 49298, 7–24–80]

49117 7–23–80 / New Mexico; designation of areas for air quality planning purposes; comments by 9–22–80

49110 7–23–80 / Visibility protection for Federal Class I areas; guidelines availability; reply comments by 9–24–80

FEDERAL COMMUNICATIONS COMMISSION

51252 8–1–80 / Amending rules regarding the multipoint distribution service; comments extended to 9–26–80

54784 8–18–80 / Amendment of computing devices rules clarifying which electronic games are exempted from commission certification; comments by 9–22–80

56115 8–22–80 / Authorizing the Communications Satellite Corporation to provide International Satellite Communications services directly to the public; reply comments extended to 9–23–80

[*See also* 45 FR 43441, 6–27–80]

57466 8–28–80 / FM broadcast station in Minnesota; table of assignments; extension of time; reply comments by 9–25–80

40192 6–13–80 / Permitting facsimile and television transmission in additional frequency band; comments by 9–22–80

55775 8–21–80 / Radio services, special; microwave device, new low power, unlicensed class and low power, limited coverage systems operation; comments by 9–26–80

FEDERAL ELECTION COMMISSION

56349 8–25–80 / Nonpartisan communications by corporations or labor organizations; comments by 9–24–80

FEDERAL EMERGENCY MANAGEMENT AGENCY

49299 7–24–80 / Advisory committees; policies and procedures, comments by 9–22–80

FEDERAL TRADE COMMISSION

50357 7–29–80 / Mentholatum Co.; consent agreement with analysis to aid public comments; comments by 9–26–80

53340 8–11–80 / Provisions for use of energy cost and consumption information in labeling and advertising of consumer appliances under the energy policy and conservation act; comments by 9–25–80

GENERAL SERVICES ADMINISTRATION

Public Buildings Service—

52842 8–8–80 / Improved use of Federal facilities and space; comments by 9–22–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

35576 5–27–80 / Anorectal drug products for OTC human use; establishment of a monograph; reply comments by 9–24–80

56796 8–26–80 / Antistatic and/or antifogging agents in food-packaging materials; objections by 9–25–80

56052 8–22–80 / Dipropylene glycol dibenzoate; objections by 9–22–80

56051 8–22–80 / Glycerol ester of tall oil rosin, food additives permitted for direct addition to food for human consumption; objections by 9–22–80

48918 7–22–80 / Human and veterinary drugs; current good manufacturing practice for drug products, exemption from expiration dating and stability testing requirements for allergenic extracts; comments by 9–22–80

56796 8–26–80 / Indirect food additiives; adhesives coatings and components; objections by 9–25–80

Health Care Financing Administration—

50268 7–28–80 / Medicare and medicaid; automatic extinguishment systems for new long-term care facilities; comments by 9–26–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

49595 7–25–80 / Minimum property standards (MPS) for one- and two-family dwellings and for multifamily housing; comments by 9–23–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

49854 7–25–80 / Proposal to determine *eriogonum gypsophilum* (Gypsum wild buckwheat) to be a threatened species and to determine its critical habitat; comments by 9–23–80

49844 7–25–80 / Proposed endangered status for U.S. populations of five species; comments by 9–23–80

49858 7–25–80 / Proposed rule to determine *Hedeoma todsenii* (Todsens penneyroyal), to be an endangered species and to determine its critical habitat; comments by 9–23–80

49850 7–25–80 / Reproposal of endangered status for *Stygobromus hayi*, (Hay's Spring Amphipod); comments by 9–23–80

LABOR DEPARTMENT

Employment and Training Administration—

56074 8–22–80 / Labor certification process for the temporary employment of aliens in agriculture; Requirements as to the provision of meals; comments by 9–22–80

Wage and Hour Division, Employment Standards Administration—

49628 7–25–80 / Service Contract Act; labor standards for Federal service contracts; comments extended to 9–23–80

[*See also* 44 FR 77036, 12–28–79; 45 FR 34877, 5–23–80; 45 FR 42332, 6–24–80]

PERSONNEL MANAGEMENT OFFICE

49580 7–25–80 / Federal pay administration under the Fair Labor Standards Act; comments by 9–23–80

48904 7–22–80 / Reduction in force; comments by 9–22–80

POSTAL SERVICE

56367 8–25–80 / Amendment of controlled circulation application procedures; comments by 9–24–80

SECURITIES AND EXCHANGE COMMISSION

57436 8–28–80 / Public Utility Holding Company Act; Non-utility subsidiaries, exemption; comments by 9–26–80

SMALL BUSINESS ADMINISTRATION

48916 7–22–80 / Small Business Investment Companies; Limited Partnership SBIC; definition of "Associate of a Licensee": comments by 9–22–80

TREASURY DEPARTMENT

Comptroller of Currency—

49276 7–24–80 / National banks; definitions of capital; comments by 9–22–80

49239 7–24–80 / Ownership of stock necessary to qualify as Director of a national bank; interpretive ruling; comments by 9–22–80

Internal Revenue Service—

48921 7–22–80 / Income of foreign governments; comments by 9–22–80

48922 7–22–80 / Qualified disclaimers; comments by 9–22–80

VETERANS ADMINISTRATION

56093 8–22–80 / Rules of practice; appeals regulations; comments by 9–22–80

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

58173 9–2–80 / Licensing and Authorizations Committee, Washington, D.C. (open), 9–19–80

AGRICULTURE DEPARTMENT

Forest Service—

47717 7–16–80 / Coronado National Forest Grazing Advisory Board, Tucson, Ariz. (open), 9–16–80

51863 8–5–80 / Lewis and Clark National Forest Grazing Advisory Board, White Sulphur Springs, Montana (open), 9–18–80

54386 8–15–80 / Tri-State Project, Rawlings, Wyo., 9–15–80; Buffalo, Wyo., 9–16–80; Douglas, Wyo., 9–17–80; Hemingford, Nebr., 9–18–80

ARTS AND HUMANITIES NATIONAL FOUNDATION

54911 8–18–80 / Humanities Panel, Washington, D.C. (closed), 9–15 through 9–19–80

54912 8–18–80 / Humanities Panel, Washington, D.C. (closed), 9–15 through 9–19–80

56475 8–25–80 / Humanities Panel, Washington, D.C. (closed), 9–18 and 9–19–80

55300 8–19–80 / Museum Panel (Catalog and Utilization), Washington, D.C. (open), 9–15 and 9–16–80

CIVIL RIGHTS COMMISSION

54718 8–18–80 / Connecticut Advisory Committee, Cromwell, Conn. (open), 9–18–80

49310 7–24–80 / Maryland Advisory Committee, Rockville, Md. (open), 9–17–80

47717 7–16–80 / Massachusetts Advisory Committee, Boston, Mass. (open), 9–15–80

53192 8–11–80 / Nebraska Advisory Committee, Omaha, Nebr. (open), 9–15–80

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56378 8-25-80 / New Hampshire Advisory Committee, Manchester, N.H. (open), 9-16-80

57162 8-27-80 / New Jersey Advisory Committee, New Brunswick, N.J., 9-18-80

55502 8-20-80 / North Dakota Advisory Committee, Bismarck, N. Dak. (open), 9-19 and 9-20-80

56379 8-25-80 / Oregon Advisory Committee, Portland, Oreg. (open), 9-19-80

56379 8-25-80 / Vermont Advisory Committee, Burlington, Vt. (open), 9-17-80

COMMERCE DEPARTMENT

International Trade Administration—

55796 8-21-80 / President's Export Council, Washington, D.C. (open), 9-15-80

National Telecommunications and Information Administration—

58181 9-2-80 / Frequency Management Advisory Council, Washington, D.C. (open), 9-19-80

DEFENSE DEPARTMENT

Corps of Engineers, Army Department—

54123 8-14-80 / Draft environmental impact statement for Palo Blanco and Cibolo Creeks, Falfurrias, Tex., 9-18-80

Office of the Secretary—

57162 8-27-80 / Armed Forces Epidemiological Board, Kent Island, Md. (open), 9-19 and 9-20-80

51890 8-5-80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 9-16 and 9-17-80

56381 8-25-80 / DOD Science Board Review Panel on ASW, Washington, D.C. (closed), 9-16-80

49321 7-24-80 / DOD Wage Committee, Washington, D.C. (closed), 9-16-80

EDUCATION DEPARTMENT

56124 8-22-80 / Adult Education National Advisory Council, Anchorage, Alaska (open), Boise, Idaho (open), Salem, Oreg. (open), Seattle, Wash. (open), 9-15-80

55517 8-20-80 / Black Higher Education and Black Colleges and Universities National Advisory Committee, Washington, D.C. (open), 9-18 and 9-19-80

54792 8-18-80 / Commission on the review of the Federal Impact Aid Program, Washington, D.C. (open), 9-18 and 9-19-80

56381 8-25-80 / National Advisory Council on the Education of Disadvantaged Children, Washington, D.C. (open), 9-18-80

ENVIRONMENTAL PROTECTION AGENCY

57171 8-27-80 / California State Motor Vehicle Pollution standards, San Francisco, Calif., 9-16-80

55813 8-21-80 / Science Advisory Board, Health Risk Assessment Subcommittee, Research Triangle Park, N.C. (open), 9-15 and 9-16-80

FEDERAL COMMUNICATIONS COMMISSION

56189 8-22-80 / Radio Technical Commission for Marine Services, Executive Committee, Washington, D.C. (open), 9-18-80

56189 8-22-80 / Radio Technical Commission for Marine Services, Special Committee No. 74, Washington, D.C. (open), 9-16 and 9-17-80

56189 8-22-80 / Radio Technical Commission for Marine Services, Special Committee No. 75, Washington, D.C. (open), 9-19-80

56189 8-22-80 / Radio Technical Commission for Marine Services, Special Committee No. 76, Washington, D.C. (open), 9-15-80

56189 8-22-80 / Radio Technical Commission for Marine Services, Special Committee No. 77, Washington, D.C. (open), 9-17-80

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List of Public Laws

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This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2055 / Pub. L. 96–340 To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon. (Sept. 4, 1980; 94 Stat. 1072) Price: $1.

Documents Relating to Federal Grant Programs

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federal register

Book 1 of 2 Books
Thursday, September 11, 1980

Highlights

60362 **Alaska Natural Gas** Office of the Federal Inspector for the Alaska Natural Gas Transportation System and EEOC proposes equal opportunity regulations, issues affirmative action plans, proposed memorandum of understanding, and employee standards of conduct; comments on proposed rule by 10–10–80, rules effective 9–2–80 (4 documents) (Part V of this issue)

60394 **Utilities** HUD establishes new procedures for calculating allowable utilities consumption level by Public Housing Agency; effective 10–1–80 (Part VIII of this issue)

60390 **Low and Moderate Income Housing** HUD/FHC develops demonstration project for condominium ownership mortgage insurance; comments by 11–10–80; effective 10–14–80 (Part VII of this issue)

59868 **Grant Programs—Community Development Block Grants** HUD/CPD consolidates grants and planning assistance to certain Insular Areas; effective 10–1–80

59867 **Mobile Homes** HUD/FHC provides for insurance of financial institutions which make or purchase improvement loans; effective 10–1–80

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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60018 **Grant Programs—Health Care** HHS/HSA accepts project grant applications from public and nonprofit private entities to support development of jointly funded community and migrant health center projects in Idaho; apply by 11-1-80

60382 **Refugees** ED proposes regulations to implement the transition program for refugee children; comments by 10-27-80 (Part VI of this issue)

59909 **Endangered Plants** Interior/FWS proposes to determine *Isotria medeoloides* (small whorled pogonia) to be an endangered species; public comments by 11-10-80; comments from States by 12-10-80

60306 **Grant Programs—Mass Transportation** DOT/UMTA proposes guidelines for grant-in-aid recipients in the management of their projects; comments by 12-8-80 (Part IV of this issue)

59840 **Securities** SEC issues interpretation of requirements and minimum performance standards for registered transfer agents

60186 **Cable Television** FCC relaxes distant signal carriage restrictions; effective 10-14-80 (Part III of this issue)

60871 **Postal Service** PS amends "Private Express" regulations; effective 10-10-80

59870 **Prisoners** Justice/PC establishes penalty for violation of rules or commission of new crime pending parole; effective 10-5-80

60154 **Airworthiness Directives and Standards** DOT/FAA updates and improves standards applicable to the type certification of aircraft, engines, propellers, related operating rules and procedural requirements; effective 10-14-80 (Part II of this issue)

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Rules and Regulations

Federal Register
Vol. 45, No. 178
Thursday, September 11, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 662, Amdt. 1; Valencia Orange Reg. 663]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 12–September 18, 1980, and increases the quantity of such oranges that may be so shipped during the period September 5–September 11, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective September 12, 1980, and the amendment is effective for the period September 5–September 11, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on September 9, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is strong.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 908.963 is added as follows:

§ 908.963 Valencia Orange Regulation 663.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 12, 1980, through September 18, 1980, are established as follows:

(1) District 1: 396,000 cartons;
(2) District 2: 504,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) in § 908.962 Valencia Orange Regulation 662 (45 FR 58509), is hereby amended to read:

§ 908.962 Valencia Orange Regulation 662.

(a) * * *
(1) District 1: 484,000 cartons;
(2) District 2: 616,000 cartons;
(3) District 3: Open Movement.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 10, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–28263 Filed 9–10–80; 11:40 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

14 CFR Part 1427

[CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops]

Cotton Loan Program Regulations; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correction of References.

SUMMARY: This document corrects references in FR Doc. 80–19738 appearing at page 44293 in the **Federal Register** issued Tuesday, July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Carolyn Cozart, Price Support and Loan Division, (202) 447–6611.

SUPPLEMENTARY INFORMATION: The reference to Parts in the Supplementary Information, page 44294, first column, thirty-second line, should read "7 CFR 1427.1–.25." The reference to Parts appearing at page 44295, at § 1427.5, second column, paragraph (a), eighth line, should read "713, 718, 791 and 792."

Signed at Washington, D.C., on September 2, 1980.

John W. Goodwin,

Acting Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 80–27578 Filed 9–10–80; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

V 45 SE 11 80 UMI

SUMMARY: These amendments add the county of Greene in Tennessee, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county qualifies only as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area. These amendments will also add the county of Vernon in Missouri to the list of Noncertified Areas and delete it from the list of Modified Certified Brucellosis Areas because it has been determined that this county now qualifies only as a Noncertified Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: September 11, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (45 FR 44253–44256) effective July 1, 1980. These amendments add the county of Greene in Tennessee to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in §78.1(m) of the regulations. These amendments add the county of Vernon in Missouri to the list of Noncertified Areas in § 78.22 and delete this county from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that it now qualifies only as a Noncertified Area as defined in § 78.1(n) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by deleting: *Tennessee.* Greene.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by adding: *Tennessee.* Greene, and by deleting: *Missouri.* Vernon.

§ 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by adding: *Missouri.* Vernon.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments designating areas as Modified Certified Brucellosis Areas and Noncertified Areas impose restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary to prevent the spread of brucellosis from such areas.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 4th day of September 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80–27846 Filed 9–10–80; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–CE–27–AD; Amdt. 39–3902]

Airworthiness Directives; Cessna Model 172RG Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Cessna Model 172RG airplanes. It requires that the fuel mixture control connection at the engine carburetor be inspected to assure that it is correctly assembled and torqued. This action is necessary because, if the connection is not properly assembled or torqued to a minimum value, slippage of the fuel mixture control at this connection could occur. This may result in an engine power loss due to a lean fuel/air mixture.

EFFECTIVE DATE: September 15, 1980.

COMPLIANCE: Within the next 25 hours time-in-service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–7927.

SUPPLEMENTARY INFORMATION: A Cessna Model 172RG airplane has recently been involved in an accident following engine power loss attributed to a loose mixture control connection. Additional reports of mixture control slippage have been received. Investigation has disclosed that on some Cessna Model 172RG airplanes the carburetor mixture control wire was incorrectly assembled to the carburetor mixture control arm. Specifically, the position of correct AN960–10 and –10L washers was reversed or an AN960–10L washer was substituted for an AN960–10 washer and, in both instances, inadequate torque may have been applied to the mixture control connection. These conditions could permit slippage of the carburetor mixture control wire at this connection, which may result in an engine power loss due to a lean fuel/air mixture. The airplane manufacturer has changed engineering design and production procedures to preclude these conditions on subsequent production airplanes. Since the conditions described herein may exist on other in-service airplanes of the same type design, the FAA is issuing an AD, applicable to Cessna Model 172RG airplanes, requiring a visual inspection of the mixture control connection to the carburetor arm to assure the installation of the correct hardware and its positioning and a torque check of the securing nut.

Since a situation exists that requires the immediate adoption of this regulation, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to be by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to Model 172RG (S/N 172RG0001 through 172RG0573) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To preclude slippage of the mixture control wire at the carburetor fuel mixture control arm and resultant power loss due to a lean fuel/air mixture, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Visually inspect the mixture control connection on the right side of the carburetor for correct assembly. Assure that (1) Cessna Part Number (P/N) 9862010–9 mixture control assembly wire is secured to the Cessna P/N S2323–11 clamp at the carburetor mixture control arm with an AN960–10 (approximately .063 inch thick) washer installed between the mixture control wire and the MS20365–1032C nut and (2) an AN960–10L (approximately .032 inch thick) washer is installed between the mixture control wire and the mixture control arm.

(B) If the parts are assembled per Paragraph A), check to assure that the minimum torque on the MS20365–1032C nut is 15 inch-pounds and that the Cessna P/N S2323–11 clamp will swivel in the mixture control arm. Make the prescribed entry in the aircraft maintenance records indicating compliance with this AD and no further action is required.

(C) If the parts are not assembled per Paragraph A) remove and discard the MS20365–1032C nut. Install washers in the positions specified by Paragraph A) and install a new MS20365–1032C nut. Torque the nut to 15 inch-pounds minimum and assure that the Cessna P/N S2323–11 clamp will swivel in the mixture control arm.

(D) Airplanes may be flown in accordance with FAR 21.197 to a location where the inspection required by Paragraph A) may be accomplished.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4285.

This amendment becomes effective September 15, 1980.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 29, 1980.

Paul J. Baker,
Director, Central Region.

[FR Doc. 80-27681 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket Number 80–CE–29–AD; Amdt. 39–3912]

Airworthiness Directives; Cessna Model P210N Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Cessna Model P210N airplanes. It requires installation of a placard and revision to the limitations section of the Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM). The placard and revised limitations require that specific minimum fuel flows be maintained at various power settings and prohibit fuel flow adjustments that produce peak exhaust gas temperature about 60 percent power. In addition, a check and/or adjustment of the unmetered fuel pressure is required. This action is necessary because operation at some recommended power settings and fuel flows may induce engine detonation and cause failed engine pistons and/or cylinders. This has resulted in engine power loss, loss of engine oil and an in-flight fire.

EFFECTIVE DATE: September 15, 1980.

COMPLIANCE: Within the next 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information Letter SE80–80, dated August 26, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-continent Airport, Wichita, Kansas 67209; Telephone (316) 942–7927.

SUPPLEMENTARY INFORMATION: Two Cessna Model P210N airplanes have recently been involved in accidents following power loss attributed to engine detonation causing failure of engine pistons and cylinder heads. In addition, 19 engines in Model P210N airplanes have been reported to have burned pistons, burned cylinders, and/or loose exhaust valve seats which also are believed to have been caused by engine detonation. The detonation condition is related to engine operation at excessively lean fuel/air ratios. Operation at some recommended power and fuel flow settings contained in the cruise performance charts of the airplane manufacturer's POH/AFM may cause engine detonation. Investigations have established that unmetered fuel pressure on some Cessna Model P210N airplanes may not be adjusted in accordance with the engine manufacturer's specifications. This condition may make it impossible to obtain minimum required fuel flows at some power settings. Either one or combinations of the above conditions could cause engine detonation, engine damage and power loss. Accompanying loss or release of engine oil has resulted in loss of forward visibility from oil on the windshield and an in-flight fire in the powerplant compartment.

To correct the above conditions, the airplane manufacturer has issued Cessna Single Engine Customer Care Service Information Letter SE80–80 dated August 26, 1980, which provides a placard, temporary engine operating instructions and instructions for checking engine-driven fuel pump unmetered pressure. These provisions have been incorporated in Cessna Model P210N airplanes commencing with S/N P21000577.

Since the conditions described herein are likely to exist in other airplanes of the same type design now in service, the FAA is issuing an AD applicable to Cessna Model P210N airplanes. This AD will require incorporation of the above-mentioned placard and POH/AFM revisions in the airplane and a check of the engine fuel pump unmetered pressure.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Cessna: Applies to Model P210N (S/Ns P21000001 through P21000576) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To reduce the possibility of engine detonation and resultant power loss, loss of engine oil and in-flight fires within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Install Cessna P/N 2105026-1 placard next to the fuel flow indicator which reads as follows:

"Set fuel flow per limitations section of POH/AFM.

Do not lean to "peak EGT" above 60% power." and operate the airplane in accordance with this limitation.

(B) Revise the limitations sections of the Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM) by inserting the applicable revision specified below:

Airplane serial No.	Revision	Cessna part No.
P21000001 through P21000150	Rev. 3, Aug. 20, 1980	D1124R3-13PH
P21000151 through P21000385	Rev. 4, Aug. 20, 1980	D1153R4-13PH
P21000386 through P21000576	Rev. 4, Aug. 20, 1980	D1188R4-13PH

The revised limitations read as follows and the airplane must be operated in accordance with these limitations:

"Takeoff manifold pressure and fuel flow must be adjusted per Section 4 of the Pilot's Operating Handbook (POH) under "Takeoff Power Check."

During maximum continuous power operation, maintain fuel flow at not less than 162 pounds per hour (PPH). (Top of the white arc).

For maximum cruise power (33" MP/2500 RPM), do not lean below 125 PPH.

At 60% power or less as defined by the POH, normal fuel flow settings or normal leaning with the exhaust gas temperature (EGT) may be used in accordance with the POH.

Above 60% power, do not lean to "peak EGT" at any time.

Between 60% and 80% power, do not lean unless an EGT indicator is installed. If an EGT indicator is installed, do not lean EGT above that EGT needle position established during engine operation at 33" MP, 2500 RPM and 125 PPH fuel flow."

(C) Check and, if required, adjust the unmetered fuel pressure per the procedures defined by the Model P210 Series Service Manual, Paragraph 12-65, Revision 1 or later. Set the unmetered fuel pressure at 33 to 37 pounds per square inch at 2700 revolutions per minute.

(D) Airplanes may be flown in accordance with FAR 21.197 to a location where the check required by Paragraph C may be accomplished.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67201; Telephone (316) 942-4285.

Cessna Single Engine Customer Care Service Information Letter SE80-80, dated August 26, 1980, pertains to the subject matter of this AD.

This amendment becomes effective September 15, 1980.

(Secs. 313(a) 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Mo., on August 29, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-27687 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-28-AD; Amendemt 39-3913]

Airworthiness Directives; Gates Learjet 23, 24, 25, 28, 29, 35 amd 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, superseding existing Airworthiness Directive (AD).

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 80-09-06, (Amendment 39-3764) and adopts a new AD applicable to Gates Learjet Model 23 airplanes equipped with jet pumps and all Gates Learjet Models 24, 25, 28, 29, 35 and 36 series airplanes. AD 80-09-06 required a one-time inspection of the tailcone service area and revision of the Airplane Flight Manual by the addition of a supplement requiring post-flight inspection of this same area. This superseding AD incorporates and continues the provisions of AD 80-09-06 until the motive flow shutoff valve is shrouded and drained per Gates Learjet Corporation Modification Kit No. AMK 80-7. In addition, the new AD prohibits field servicing of the motive flow shutoff valve and requires installation of the kit by December 15, 1980. This action is necessary to further reduce the potential of leaking fuel from contacting possible ignition sources in the tailcone area. Such a situation could result in an explosion and/or fire in this area.

EFFECTIVE DATE: September 15, 1980.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: C. A. Hughes, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: As a result of reported P/N AV16E1182 motive flow shutoff valve o-ring seal leakage and fuel contamination of the tailcone service area of certain Gates Learjet airplanes, the FAA issued AD 80-09-06, Amendment 39-3764, effective May 8, 1980. This AD, applicable to Gates Learjet Models 23, 24, 25, 28, 29, 35 and 36 series airplanes, required a one-time inspection of the tailcone service area for leaks, integrity of fuel and hydraulic lines and of battery and electrical equipment for possible ignition sources. In addition, it provided for installation of a temporary Airplane Flight Manual Supplement specifying a post-flight inspection of the motive flow valves and tailcone service area for fuel leakage and drain blockage. Subsequent to the issuance of AD 80-09-06 several additional reports of motive flow shutoff valve leakage were received. Additional investigations determined that 42 out of 167 valves returned to the valve manufacturer for various reasons leaked. Also, investigations and tests established that field disassembly and improper reassembly of the valve can cause severe damage and cuts of one or both o-rings with resultant fuel leakage. The airplane manufacturer has revised its maintenance manuals to remove therefrom the approved repairs for motive flow valves.

To prevent any possibility of fuel leakage from a motive flow shutoff valve contaminating the tailcone service area, the airplane manufacturer has developed and is making available Airplane Modification Kit No. AMK 80–7. This kit provides parts and instructions for installation of motive flow shutoff valve shrouds and drain lines.

Since the conditions described herein are likely to exist or develop in other airplanes of the same type design, the FAA is issuing a new AD superseding AD 80–09–06 which is applicable to Gates Learjet Model 23 airplanes equipped with jet pumps and all Gates Learjet Models 24, 25, 28, 29, 35 and 36 series airplanes. This new AD incorporates and continues the provisions of AD 80–09–06 until the motive flow shutoff valve is shrouded and drained per Gates Learjet Corporation Modification Kit No. AMK 80–7. In addition, the new AD prohibits field servicing of the motive flow shutoff valve and requires installation of the aforementioned kit by December 15, 1980.

This regulation is in part relieving in nature. In addition, the FAA has determined that there is an immediate need for this regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Gates Learjet: Applies to the following Model 23, 24, 25, 28, 29, 35 and 36 series airplanes certificated in all categories:

Model and Serial Numbers

*23 (equipped with jet pumps)—23–003 thru 23–099.

*Note.—Model 23 airplanes were not equipped with jet pumps when manufactured. Model 23 airplanes which have been retrofitted with jet pumps in the field will be so identified on the title page of the Airplane Flight Manual.

24—24–100 thru 24–357.
25—25–003 thru 25–319.
28—28–001 thru 28–005.
29—29–001 thru 29–002.
35—35–001 thru 35–348.
36—36–001 thru 36–045.

Compliance: Required as indicated unless already accomplished. To reduce the possibility of fuel contamination and/or the presence of ignition sources in the tailcone service area, accomplish the following:

(A) Within the next 25 hours time-in-service after May 8, 1980:

1. Run each engine to takeoff thrust momentarily, shut down and immediately open the access cover under the tailcone service area and make the following visual inspections:

a. Inspect the fuel and hydraulic system components for deterioration or damage, leakage and stains indicating leakage, paying particular attention to the exterior of the P/N AV16E1182 motive flow shutoff values.

b. Inspect the batteries and electrical equipment for deterioration or damage and conditions which may cause arcing.

c. Inspect all vents and drains for obstruction or blockage.

d. Before further flight, correct any of the above-noted unsatisfactory conditions. Do not disassemble or reassemble motive flow shutoff valves in the field. Replace leaking valves with a new or factory rebuilt part.

2. Remove the Temporary Airplane Flight Manual Supplement, included in AD 80–09–06 as Figure 1, in the existing Airplane Flight Manual and in place thereof, install Temporary Airplane Flight Manual Supplement, included in this AD as Figure 1A, and comply with its instructions.

(B) On or before December 15, 1980, install Gates Learjet motive flow valve shrouds and drain lines per Modification Kit No. AMK 80–7. After accomplishing this modification, remove the Temporary Airplane Flight Manual Supplement required by Paragraph (A)2.

(C) Airplanes may be flown in accordance with FAR 21.197 to a location where the provisions of this AD can be accomplished.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4285.

This AD supersedes ASD 80–09–06, Amendment 39–3764.

This amendment becomes effective September 15, 1980.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended. (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 29, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-27688 Filed 9–10–80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-39-AD; Amdt. 39-3909]

Airworthiness Directives; Lockheed Model L-1011 Series Airplane

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and installation of intercostals on certain Lockheed Model L–1011 series airplanes. The AD is prompted by a report of two missing intercostals which could result in reduction of fatigue life of adjacent structure.

DATES: Effective September 15, 1980. Compliance schedule—Initial compliance required within 100 hours' time in service from the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U33, B–1.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: There has been a report that certain Lockheed Model L-1011 aircraft have been delivered with two intercostals missing between Fuselage Station 1725 and Fuselage Station 1745. The FAA has determined that the aircraft structure, with the two intercostal members missing, has a reduced fatigue life although capable of reacting ultimate loads. Since this condition is likely to exist or to develop on other airplanes of the same type design, an airworthiness directive is being issued which requires inspection, repair if necessary, and installation of intercostals on certain Lockheed Model L-1011 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Lockheed California: Applies to Model L-1011-385-1, -385-1-15, -385-3 airplanes, serial numbers listed below:

193G-1179, 193K-1024, 193K-1032, 193N-1083, 193N-1093, 193N-1094, 193N-1011, 193N-1102, 193N-1106, 193N-1132, 193N-1145, 193N-1146, 193N-1178, 193N-1182, 193V-1157, 193V-1159, 193V-1164, 193V-1165, 193V-1168, 193V-1174, 193W-1166, 193W-1172.

Compliance required as indicated, unless already accomplished.

To prevent fatigue damage to fuselage structure adjacent to C-3 cargo door accomplish the following:

(a) Within 100 hours' time in service from the effective date of this AD, inspect the airplane structure adjacent to aft side of the C-3 cargo door for the presence of intercostals P/N 1551612-131 and 1551612-119 in accordance with paragraph 2.A and 2.B of Lockheed Alert Service Bulletin 093-53-A190 dated August 1, 1980.

(b) If intercostals are missing, conduct a visual daily inspection of the aircraft adjacent structure in accordance with paragraph 2.C and 2.D of Lockheed Alert Service Bulletin 093-53-A190 dated August 1, 1980 until intercostals are installed.

(c) If cracks are found during inspection per paragraph (b) above, repair in a manner approved by Chief, Aircraft Engineering Division, FAA Western Region.

(d) Install intercostals P/N 1551612-131 and -119 within the next 800 flights from the effective date of this AD in accordance with paragraph 2.A of Lockheed Service Bulletin 093-53-190 dated August 8, 1980.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of repairs required by this AD.

(f) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Los Angeles, California on August 26, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80-27682 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NE-12; Amdt. 39-3911]

Airworthiness Directives; Pratt & Whitney Aircraft JT3D Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires removal from service of fifth stage compressor disks, P/N 426505, on Pratt & Whitney Aircraft JT3D-1MC7 turbofan engines. The AD is needed to prevent fatigue cracks which could result in disk fracture.

DATES: Effective—October 7, 1980. Compliance required not later than December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel P. Salvano, Engine Standards Section (ANE-215), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring removal from service all fifth stage compressor disks, P/N 426505, on Pratt & Whitney Aircraft JT3D-1MC7 turbofan engines was published in the **Federal Register** at 44 FR 57105, October 4, 1979. The proposal was prompted by five instances of cracks found in fifth stage compressor disks which could result in fracture.

Interested persons have been afforded the opportunity to participate in the making of the amendment. The Civil Aviation Authority (CAA) of the United Kingdom submitted its recommendation that the compliance date should be extended to allow operators 1 year rather than 6 months as proposed in the notice of proposed rulemaking (NPRM). CAA's position is that the 1 year compliance date would be compatible with the level of risk involved and would be more proportionate to the length of time the problem is known to have existed. Airline Engineering Limited of the United Kingdom also commented that a compliance date of July 1, 1980, would cause a serious disruption to its program plan concerning engine removals, spares procurement, and down time of aircraft. FAA concurs with the commentators that the July 1, 1980, compliance date proposed in the NPRM would have been unnecessarily restrictive and that extension of the compliance date to December 31, 1980, would not significantly affect the level of airworthiness.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pratt & Whitney Aircraft. Applies to all Pratt & Whitney Aircraft JT3D-1-MC7 turbofan engine models.

Compliance required not later than December 31, 1980.

To preclude high cycle fatigue cracking of fifth stage compressor disks which could result in disk fracture, retire from service all fifth stage compressor disks, P/N 426505, and replace with either disk P/N 697105 or P/N 749605.

Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch, New England Region, may adjust the compliance date.

A historical file on this AD is maintained in full by the FAA at its headquarters in Washington, D.C., and at the New England Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on August 28, 1980.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 80-27683 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

V 45 SE 11 80 UMI

14 CFR Part 71

[Airspace Docket No. 80–CE–11]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Newton, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Newton, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Newton, Iowa Airport, utilizing the Newton, Iowa VOR as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Newton, Iowa Airport is being established utilizing the Newton, Iowa VOR as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Newton, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 45310 of the **Federal Register** dated July 3, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Newton, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT, October 30, 1980, by altering the following transition area:

Newton, Iowa

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Newton, Iowa Airport (Latitude 41° 40′ 04″ N, Longitude 93° 01′ 25″ W).

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 28, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80–27689 Filed 9–10–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–CE–12]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Excelsior Springs, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Excelsior Springs, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Excelsior Springs, Missouri Memorial Airport, utilizing the Napoleon OMNI directional range as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Charles A. Sears, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Excelsior Springs Memorial Airport, Excelsior Springs, Missouri, is being established utilizing the Napoleon OMNI directional range as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Excelsior Springs, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 48652 and 48653 of the **Federal Register** dated July 21, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Excelsior Springs, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. Three comments were received. The Aircraft Owners and Pilots Association and the Director of Aviation, Kansas City, Missouri, offered no objections to the proposal. The President of Missouri Aviation, Inc., offered no objection to the designation of the transition area; however, he was concerned that the DME requirement would exclude many of the locally-based aircraft from use of the approach since many are not DME equipped. He suggested the approach be established and published showing DME minimums as well as VOR minimums for use by non-DME equipped aircraft. The FAA concurs with, and will follow, this suggestion.

Accordingly, subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT, October 30, 1980, by adding the following new transition area:

Excelsior Springs, Mo.

That airspace extending upward from 700′ above the surface within a 5-mile radius of the Excelsior Springs Memorial Airport (Latitude 39° 20′ 14″ N, Longitude 94° 11′ 51″ W) and within 3 miles each side of the Napoleon, Missouri VORTAC R348°

extending from the 5-mile radius area to 13 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them opperationally current and promote safe flight operations, the aniticpated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 28, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-27690 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-CE-16]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—El Dorado, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at El Dorado, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to El Dorado, Kansas Municipal Airport, based on the El Dorado, Kansas, Non-Directional Radio Beacon (NDB), a navigational aid. The intended effect of this section is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Charles A. Sears, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the El Dorado Municipal Airport, El Dorado, Kansas, is being established based on the El Dorado Non-Directional Radio Beacon (NDB), a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at El Dorado, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 48651 and 48652 of the **Federal Register** dated July 21, 1980, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at El Dorado, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445), is amended effective 0901 GMT, October 30, 1980, by adding the following new transition area:

El Dorado, Kans.

That airspace extending upwards from 700′ above the surface within a 5-mile radius of the El Dorado Municipal Airport (Latitude 37°46′32″ N, Longitude 96°48′58″ W), and within 3 miles each side of the El Dorado NDB (Latitude 37°46′46″ N, Longitude 96°48′58″ W) 217° bearing, extending from the 5-mile radius area to 8.5 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 28, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-27691 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-53]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Naples, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule redesignates extensions in the Naples, Florida, Transition Area. This action is required to protect instrument flight operations at the Naples Municipal Airport.

EFFECTIVE DATE: 0901 GMT, October 12, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Naples, Florida, Transition Area described in § 71.181 (45 FR 445) extensions were designated on the 051° and 221° bearings from the Naples RBN to provide controlled airspace for aircraft executing the NDB RWY 4 and 22 standard instrument approach procedures at the Naples Municipal Airport. The final approach course bearings have changed to 049° and 220°. The newly established Collier County TVOR, located near the RBN, will support the VOR RWY 4 and 22 approach procedures.

In the interest of flight safety, it is necessary to correct the extension designations. This action requires no additional airspace, but does incorporate adequate protection for the VOR procedures. Therefore, notice and public procedure hereon are impracticable and contrary to the public interest.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, October 12, 1980, as follows:

V 45 SE 11 80 UMI

Naples, Fla.

“* * * 051° and 221° * * *” is deleted and “* * * 049° and 220° * * *” is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 29, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-27692 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80 ARM-08]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Alteration of Control Zone and Establishment of 700′ and 1,200′ Transition Areas

AGENCY: Federal Aviation Adminsitration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Eagle, Colorado control zone, 1,200′ transition area and establishes a 700′ transition area to provide additional controlled airspace for aircraft executing the new localizer-type directional aid (LDA) nondirectional radio beacon (NDB) “A” (LDA/NDB-“A”) standard instrument approach procedure developed for the Eagle County Airport, Eagle, Colorado.

EFFECTIVE DATE: 0901 GMT October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; Telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Monday, July 21, 1980, the FAA published, for comment (45 FR 48651), a proposal to alter the present control zone, establish a 700′ transition area and amend the present 1,200′ transition area at the Eagle County Airport, Eagle, Colorado. The only comments received as a result of the circular expressed no objection.

Rule

This amendment to Part 71 of the Federal Aviation Regulation (FAR's) alters the Eagle, Colorado control zone, 1,200′ transition area and establishes a 700′ transition area to provide additional controlled airspace for aircraft executing the new localizer-type directional aid (LDA) nondirectional radio beacon (NDB) “A” (LDA/NDB-“A”) standard instrument approach procedure developed for the Eagle County Airport, Eagle, Colorado.

Drafting Information

The principal authors of this document are Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, October 30, 1980, as follows:

By amending subpart F, § 71.171 (45 FR 356) so as to establish the following control zone:

Eagle, Colo.

Within a 5-mile radius of the Eagle County Airport (latitude 39°38′42″ N., longitude 106°54′43″ W.); within 3 miles each side of 072° and 252° bearings from the Wolcott NDB (latitude 39°40′33″ N., longitude 106°45′34″ W.); extending from the 5-mile radius area to 13 miles northeast of the Wolcott NDB.

By amending subpart G, § 71.181 (45 FR 445) so as to establish the following transition areas:

Eagle, Colo.

That airspace extending upward from 700′ above the surface within a 9-mile radius of the Eagle County Airport (latitude 39°38′42″ N., longitude 106°54′43″ W.); within 3.5 miles each side of the 072° bearing from the Wolcott NDB (latitude 39°40′33″ N., longitude 106°45′34″ W.) extending from the 9-mile radius area to 10 miles northeast of the Wolcott NDB; and that airspace extending upward from 1,200′ above the surface within the area bounded by a line beginning at latitude 40°01′30″ N., longitude 106°34′00″ W.; to latitude 39°35′15″ N., Longitude 106°10′30″ W.; to latitude 39°34′00″ N., longitude 106°35′40″ W.; to latitude 39°25′00″ N., longitude 107°07′10″ W.; to latitude 39°45′45″ N., longitude 107°15′45″; thence to point of beginning.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on August 26, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80-27693 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AAL-11]

Alteration of Transition Area, Kenai, Alaska, and Revocation of Transition Area, Soldotna, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the Kenai, Alaska, transition area by expanding the 700-foot AGL transition area and will revoke the Soldotna, Alaska, 700-foot AGL transition area. The need for this action was created when the Kenai VOR runway 19 and ILS runway 19 approaches were amended by establishing an 8-mile DME arc northeast of the Kenai VORTAC with a minimum altitude of 1,900 feet MSL. The alteration will provide additional controlled airspace for aircraft which utilize the Kenai VORTAC 8 DME arc while transitioning to the final approach course for these approaches. The expanded Kenai transition area will encompass the present Soldotna 700-foot AGL transition area, thereby eliminating the need for the Soldotna, Alaska, transition area.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

History

On July 7, 1980, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71)

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by altering the Kenai, Alaska, transition area by adding additional controlled airspace to protect IFR aircraft utilizing the Kenai VORTAC 8 DME arc to transition to the final approach course for the ILS runway 19 or VOR runway 19 approaches to Kenai. The additional controlled airspace would encompass the present Soldotna, Alaska, transition area and therefore the need for a separate Soldotna transition area no longer exists. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objections.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT, December 25, 1980, as follows:

Under § 71.181—Kenai, Alaska, the text is deleted and "That airspace extending upward from 700 feet above the surface within an 17.5-mile radius of the Kenai Municipal Airport (latitude 60°34′21″N., longitude 115°14′44″W.), extending clockwise from the 007° to the 290° bearing from the airport" is substituted therefor.

Soldotna, Alaska, the text is deleted.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on August 28, 1980.

Robert L. Faith,

Director, Alaska Region.

[FR Doc. 80-27761 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-17111]

Regulation of Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Interpretations of rules.

SUMMARY: The Commission has authorized the issuance of a release that sets forth in a summary manner the interpretations of its staff regarding rules that establish minimum performance standards and other requirements for all registered transfer agents. The purposes of the release are to aid interested persons in understanding how these rules have been interpreted, to resolve certain recurring issues that have arisen under these rules, and to provide uniform interpretations of these rules for the benefit of those persons subject to their requirements.

DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lisa Gessow Michelson, Branch Chief, or Thomas V. Sjoblom, Staff Attorney, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2895, or (202) 272-2910, respectively.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission, in order to facilitate the establishment of a national system for the clearance and settlement of transactions in securities under Section 17A of the Securities Exchange Act of 1934 (the "Act"), adopted Rules 17Ad-1 to 17Ad-7 (17 CFR 240.17Ad-1 to 17Ad-7) (the "turnaround rules"), which, among other things, establish minimum performance standards and recordkeeping requirements for all registered transfer agents.[1] Numerous oral and written requests for interpretations of the turnaround rules have been presented to the Commission's staff. To provide guidance on the subjects and problems raised by such requests and on other significant recurring issues under those rules, the Commission has authorized the issuance of this release, which sets forth the views of its Division of Market Regulation.

Although many of the issues which have arisen under the turnaround rules have previously been addressed by the staff in interpretive and no-action letters that are publicly available, the staff has further clarified, and in certain instances revised, some of the positions expressed in those letters. Attention in this regard is directed particularly to Questions (4), (8), (9), (14), (26), (34), (40), (41) and (100) herein. To the extent that views expressed in previously issued interpretive and no-action letters are not discussed in this release, those views may still be considered to represent the staff's position on the question raised therein.

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[1] Securities Exchange Act Release No. 13636 (June 16, 1977) (hereinafter cited as "Release No. 13636") (42 FR 32404) (Vol. 12, No. 9 SEC Docket 853 (June 28, 1977) (hereinafter cited as "SEC Docket")).

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I. Rule 17Ad–1: Definitions [2]

A. *Item—Rule 17Ad–1(a):* The term "item" means (1) a certificate or certificates of the same issue of securities covered by on ticket (or, if there is no ticket, presented by one presentor) presented for transfer, or (2) an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities. (3) In the case of an outside registrar, each certificate to be countersigned is an item.

(1) *Question:* Does the term "item," as the basic unit upon which performance standards and other requirements are formulated, apply only to securities registered under Section 12 of the Act?

Answer: No. Under Section 17A(c)(1) of the Act, a transfer agent must be registered with its appropriate regulatory agency if it uses the mails or any means or instrumentality of interstate commerce to perform any transfer agent function with respect to any security either registered under Section 12 of the Act,[3] or which would be required to be registered except for the exemptions provided by Sections 12(g)(2)(B) (securities issued by registered investment companies) or 12(g)(2)(G) (securities issued by certain insurance companies) of the Act ("qualifying securities"). Once a transfer agent is registered, the turnaround rules apply to all securities, including securities which are not qualifying securities, for which the registered transfer agent performs transfer agent functions. Accordingly, the term "item," and the use of the word "securities" in defining an "item," refers to *all* securities for which a registered transfer agent performs transfer agent functions, whether or not all such securities are qualifying securities.

Illustration (a): Facts: A registered transfer agent performs transfer agent functions for an issue of qualifying securities. It also performs transfer agent functions for nine other issues of securities which are not qualifying securities. Interpretation: The turnaround rules apply to all ten issues of securities.

Illustration (b): Facts: A registered bank transfer agent performs transfer agent functions for the securities of an open-end, management company registered under the Investment Company Act of 1940 ("mutual fund shares") and for its own shares which are not qualifying securities. Interpretation: The certificates and instructions for transfer pertaining to the bank's own shares and the mutual fund shares are "items" for purposes of the turnaround rules. Accordingly, the turnaround rules apply to the bank's own shares even though the bank's shares are not qualifying securities. In addition, except as provided in Rule 17Ad–4(a), the turnaround rules apply to the mutual fund shares.

(2) *Question:* What are the essential elements in determining whether an "item" has been received by the transfer agent?

Answer: In addition to certificates to be countersigned by an outside registrar, Rule 17Ad–1(a) refers to two general categories of "items": certificates and instructions.

The first part of the definition of "item" refers to *certificates.* An "item" exists for purposes of the turnaround rules if the certificates are (i) of the *same issue* of securities, (ii) covered by *one ticket, or* if there is no ticket, presented by *one presentor, and* (iii) presented for *transfer,* as defined in Rule 17Ad–1(d).

The second part of the definition of "item" concerns *instructions.* An "item" exists if the instruction requests a transfer agent (i) that holds securities registered in the name of the presentor, (ii) to *transfer* (as defined in Rule 17Ad–1(d)) *or* to *make available* (as defined in Rule 17Ad–1(c)), (iii) all or a portion of the securities held in its possession or custody. For example, a shipment control list ("SCL") containing instructions from a depository to a transfer agent holding, under a transfer agent custodian or other arrangement, a balance certificate registered in the name of the depository's nominee to withdraw by transfer under the Fast Automated Securities Transfer ("FAST") program some of those securities and to make them available to the depository would constitute an "item." [4]

(3) *Question:* If a registered transfer agent is requested to replace a lost certificate, is the request an "item" presented for transfer?

Answer: No. In this instance, the transfer agent replaces a lost certificate upon receipt of an indemnity bond. No certificate has been presented for transfer, and the transfer agent is not making available any securities which are registered in the name of the presentor and are being held by the transfer agent.

(4) *Question:* When several certificates of the same issue of securities have been presented for transfer on several occasions during the same day by the same presentor, has only one item been presented for transfer?

Answer: No. Each time a single certificate is presented for transfer by one presentor, one item has been presented for transfer. Similarly, when there is no ticket, each time certificates of the same issue of securities are presented for transfer at the same time by one presentor, one item has been presented for transfer. In the latter case, certificates presented at different times must not be aggregated as one item, even though all certificates are of the same issue of securities and even though the same person was the presentor.

Illustration: Facts: At 2:00 p.m. on a business day, a messenger for a broker-dealer presents at the "window" of the transfer agent's premises two 10 share certificates of Company A's Class A common stock. At 10:30 a.m. on the next business day, the same messenger from the same broker-dealer presents at the "window" of the transfer agent's premises two more 10 share certificates of Company A's Class A common stock. Interpretation: Pursuant to Rule 17Ad–2(a), both presentments were received on the same business day. However, two items were presented for transfer because the presentments occurred at different times, even though the certificates were of the same issue of securities and even though the presentor was the same in both instances.

(5) *Question:* Is there a maximum number of certificates of the same issue of securities which may be presented for transfer at a single time and still be considered a single "item"?

Answer: No. Only one item is presented for transfer, regardless of the number of certificates, as long as all the certificates presented at the same time are (a) of the same issue of securities, and (b) covered by one ticket, or if there is no ticket, presented by one presentor.

(6) *Question:* How many certificates of the same issue of securities may be "covered by one ticket"?

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[2] The captions used hereinafter are not intended and must not be construed as interpretations of the substance of each rule. The captions are used for reference only.

[3] *See generally* Sections 12(a), 12(b) and 12(g)(1) of the Act.

[4] *See* Release No. 13636. (SEC Docket, at 855.)

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Answer: If all certificates are of the same issue of securities, there is no limit to the number of certificates which may be covered by one ticket.

(7) *Question:* When the presentor includes certificates representing securities of nine different issues under one ticket, to be registered in the name of the presentor's nominee, how many items have been presented for transfer?

Answer: Nine. Since the certificates represent nine different issues, nine items have been presented for transfer.

(8) *Question:* Is each broker-originated-window-ticket contained in or attached to an SCL a separate item?

Answer: No. An SCL, not each broker-originated-window-ticket attached thereto, is a separate item.

(9) *Question:* Is the entire SCL one item or is each line on an SCL considered a separate item?

Answer: The entire SCL, and not each line thereon, is a single "item." [5]

(10) *Question:* When a transfer agent receives certificates covered by one instruction from one presentor to transfer the shares to a number of shareholders, resulting in the issuance of a greater number of separate certificates, how many items have been presented for transfer?

Answer: Assuming that all certificates presented for transfer are of the same issue of securities, only one item has been presented for transfer since there is only one presentor.

Illustration: Facts: A transfer agent receives five certificates from one broker under one transmittal letter requesting that the total amount of shares be transferred to ten shareholders in 20 separate certificates. Interpretation: There is only one presentor. Therefore, assuming all five certificates are of the same issue of securities, only one item has been presented for transfer.

(11) *Question:* Do either of the following constitute an "item" presented for transfer:

(a) A bond called for partial reduction only?

Answer: No. If there is only a partial reduction of the bond, *i.e.*, the bond is subject to a series of partial cash redemptions and has been presented for one of them, the bond is not an "item" subject to the turnaround rules. As stated in Question (2) above, one of the elements of an "item," when a certificate is involved, is that the certificate be "presented for transfer." "Transfer" is defined in Rule 17Ad–1(d) to include, among other things, cancellation of a certificate and issuance of a new one. However, when a bond is presented for partial redemption only, the certificate presented is not cancelled and a new certificate is not issued. Accordingly, since there is no "transfer," the certificate has not been "presented for transfer" as required by Rule 17Ad–1(a) and, therefore, is not an "item."

(b) A bond called for partial reduction and transfer?

Answer: Yes. If the bond has been presented for both partial reduction and transfer, then it is an "item." [6]

(12) *Question:* Does an issuer's instruction to effect a stock dividend payable from previously authorized but unissued shares constitute an "item"?

Answer: No. Since no certificates are presented for transfer, and since the transfer agent does not hold the securities as registered in the name of the issuer-presentor, a stock dividend issued from previously authorized but unissued shares (*i.e.*, original issue securities) is not an item.

(13) *Question:* Is an issuer's instruction to a registered transfer agent to issue shares pursuant to the company's stock purchase plan considered an "item" subject to the turnaround rules?

Answer: If the shares issued pursuant to a stock purchase plan are original issue securities, the instruction to issue certificates for those shares is not an "item," since no certificates are presented for transfer and since the instruction does not relate to securities registered in the name of the issuer-presentor and already in the transfer agent's possession.

However, if treasury shares are used, the instruction relates to securities held by the transfer agent and registered in the name of the presentor-company. Accordingly, the instruction constitutes an item subject to the turnaround rules.[7]

(14) *Question:* When the transfer agent, pursuant to a transfer agent custodian or other arrangement, holds a balance certificate registered in the name of the depository's nominee, do deposits of certificates by a depository, and do fanfold instructions attached to an SCL to withdraw by transfer under the FAST program any shares and to reduce the balance certificate constitute "items"?

Answer: Yes. Under the first part of the definition of an "item," [8] certificates deposited by the depository constitute items. The third element—"presented for transfer"—is met because "transfer," as defined in Rule 17Ad–1(d), includes registration of the change of ownership without the physical issuance of certificates.

Under the second part of the definition of an "item," [9] if the transfer agent receives an SCL with fanfold instructions from the depository to withdraw by transfer under the FAST program any shares and effects transfer by reducing the balance certificate and by issuing certificates, the SCL with such instructions would also constitute an "item."

B. *Outside Registrar—Rule 17Ad–1(b):* The term "outside registrar" with respect to a transfer item means a transfer agent which performs only the registrar function for the certificate or certificates presented for transfer and includes the persons performing similar functions with respect to debt issues.

(15) *Question:* Do the federal securities laws prohibit a registered transfer agent from performing the functions of both a transfer agent and a registrar?

Answer: No. The federal securities laws do not prohibit a single transfer agent from performing both functions, nor do the federal securities laws require an issuer to engage two separate entities for purposes of performing transfer agent and registrar functions.[10]

C. *Made Available—Rule 17Ad–1(c):* An item is "made available" when (1) In the case of an item for which the services of an outside registrar are not required, or which has been received from an outside registrar after processing, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the presentor or a person designated by the presentor, or (2) In the case of an item for which the services of an outside registrar are required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the outside registrar, or (3) In the case of an item for which an outside registrar has completed processing, the outside registrar dispatches or mails the item to, or the item is awaiting pick-up by, the presenting transfer agent.

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[5] The entire SCL is a single item, regardless of whether some certificates or instructions pertaining to any line on an SCL may be classified as "routine," and other certificates or instructions attached to the SCL may be classified as "non-routine." *See* Question (34) and note 29 *infra.*

[6] However, because the transaction includes a partial redemption, the item is "non-routine" under Rule 17Ad–1(i)(5). *Cf.* Question (43) *Infra.*

[7] When any additional instruction is necessary before transfer can be effected, the item is considered non-routine under Rule 17Ad–1(i)(3). *See* Question (38) *infra.*

[8] *See* Rule 17Ad–1(a) and Question (2) *supra*, and Release No. 13636. (SEC Docket, at 855).

[9] *Id.*

[10] This matter is largely governed by state law. In addition, the various national securites exchanges may require separte entities. *See e.g.*, NYSE Company Manual, Section A1, Agencies, at A–5.

(16) *Question:* What is the meaning of "dispatched" for purposes of Rule 17Ad-1(c)?

Answer: An item is considered "dispatched" when it leaves the premises where transfer agent functions are performed *and* is sent to the receiving party or to a location from which it is picked up by the receiving party.[11]

(17) *Question:* When is an item considered "mailed" for purposes of Rule 17Ad-1(c)?

Answer: An item is considered "mailed" either when it is delivered to a location from which it is collected by the U.S. Postal Service or when it is being delivered to the U.S. Postal Service.[12]

(18) *Question:* When a transfer agent, after completing its performance of both the transfer and registrar functions, delivers *by noon* on the third business day a completed item in a properly addressed envelope to its on-premises mail room from which the mail is picked up daily at 5:30 p.m. by the U.S. Postal Service, is the item considered to have been made available when it reaches the mail room?

Answer: Yes. Rule 17Ad-1(c)(1) indicates that an item is "made available" when the transfer agent "mails" the item to the presentor or a person designated by the presentor. In this instance, the mail room serves as a designated drop area from which the U.S. Postal Service makes daily pickups. More importantly, since the completed item was delivered to the mail room *by noon* of the third business day as required by Rule 17Ad-2(a),[13] the item is considered to have been mailed[14] and, accordingly, "made available."

(19) *Question:* After the transfer agent completes transfer, the items are placed into an outgoing mail basket from which they are picked-up by an in-house mail carrier. The carrier then delivers the items to the transfer agent's central mail facility, located several miles away, which, in turn, delivers the items to the U.S. Postal Service. When are the items "made available"?

Answer: The transfer agent makes the items available when the central mail facility "mails the item[s] to * * * the presentor." Thus, in this instance, the items are "made available" when they are being delivered to the U.S. Postal Service.[15]

D. *Transfer—Rule 17Ad-1(d):* (There are two parts to, or methods which describe, the definition of "transfer.") The "transfer" of an item is accomplished (1) when, in accordance with the presentor's instructions, all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates, including the performance of the registrar function, are completed and the item is made available to the presentor by the transfer agent, or (2) when, in accordance with the presentor's instructions, a transfer agent which holds securities registered in the name of the presentor (a) completes all acts necessary to issue a new certificate or certificates representing all or a portion of those securities and makes available the new certificate or certificates to the presentor or a person designated by the presentor, or (b) with respect to those transfers of record ownership to be accomplished without the physical issuance of certificates, completes registration of change in ownership of all or a portion of those securities.

(20) *Question:* What is the status of an item rejected at the window of the transfer agent's premises?

Answer: Items presented for transfer but rejected at the window are not received for transfer and, accordingly, are not subject to the turnaround rules.[16]

(21) *Question:* How should a transfer agent treat an item which, after some internal circulation and review, is rejected as unacceptable for transfer?

Answer: The item should be considered as rejected. Since the transfer agent, pursuant to Rule 17Ad-6(a)(1), made a record showing the date the item was received from the presentor, that record should indicate that the item was subsequently rejected, so that the item does not appear as an "open" item on the transfer agent's records. In addition, if an internal control ticket was prepared prior to the time of rejection, the ticket must be traceable to any rejection notice sent to the presentor.

The item should not be considered non-routine under Rule 17Ad-1(i)(3) and should not be logged in as a non-routine item under Rule 17Ad-6(a)(2)(iv).

Finally, since these items are considered rejected, they are not included in the records required by Rule 17Ad-6(a)(2) and (a)(4) used to compute the number of items turned around pursuant to Rule 17Ad-2(a).

(22) *Question:* When a transfer agent, pursuant to a transfer agent custodian or other arrangment, holds a balance certificate representing securities registered in the name of a depository's nominee, does "transfer" occur when the transfer agent either (a) issues new certificates representing a portion of those securities and makes the certificates available to the depository, or (b) registers a change in ownership from the name of a participant in a depository to the name of the depository's nominee without a physical issuance of securities?

Answer: In either case, such transfers fall within the second method of "transfer." Thus, although a "transfer" usually will involve cancelling old certificates and issuing new certificates, no physical issuance of certificates need occur—*e.g.,* when a depository is the presentor and it requests the transfer agent, which holds a balance certificate, to complete registration of a change of ownership from the name of the depositor's participant to the name of the depository's nominee.[17]

E. *Turnaround—Rule 17Ad-1(e):* The "turnaround" of an item is completed (1) when transfer is acomplished, or (2) when an outside registrar is involved, the transfer agent in accordance with the presentor's instructions completes all acts necessary to cancel the certificate or certificate presented for transfer and to issue a new certificate or certificates, and the item is made available to an outside registrar.

(23) *Question:* If an outside registrar is involved, when is turnaround completed?

Answer: Turnround is completed when the item is made available to the outside registrar after the transfer agent has cancelled the old certificate and has issued the new certificate in accordance with the presentor's instructions.

(24) *Question;* Is turnaround completed when the transfer agent makes the item available to an outside registrar, even if the outside registrar performs its function on the transfer agent's own premises?

Answer: Yes. Rule 17Ad-1(c)(2), in describing how an item is "made available" to an outside registrar, does not specify *where* the transfer agent must dispatch or mail the item. In addition, Rule 17Ad-1(b) does not specify *where* an outside registrar must perform its function. Thus, turnaround is completed when a transfer agent makes the item available to an outside registrar, regardless of whether the registrar performs its function on or off the transfer agent's premises.[18]

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[11] *See* Release No. 13636. (SEC Docket, at 855).

[12] *Id.*

[13] The result would be different if the item is not delivered to the mail room by noon on the third business day as required by Rule 17Ad-2(a).

[14] *See* note 12 *supra* and Question (17).

[15] *Id.* Any delay occurring before the item reaches the U.S. Postal Service must be recorded on the record maintained under Rule 17Ad-6(a)(1).

[16] *See* Release No. 13636. (SEC Docket, at 856).

[17] *Id.*

[18] However, the transfer agent must maintain, pursuant to Rule 17Ad-6(a)(1)(ii), records showing clearly when the item was made available to the outside registrar.

Illustration: Facts: A New York transfer agent has a subsidiary transfer agent operation located in Chicago, which receives the items for transfer. The cancelled certificate is forwarded to the New York transfer agent for issuance of the new certificate. A bank in New York, acting as outside registrar, daily performs its functions on the New York transfer agent's premises. Interpretation: The New York transfer agent completes "turnaround" when the new certificate is made available to the ouside registrar's employees on the New York transfer agent's premises.

(25) *Question:* Is an item made available and, therefore, turnaround completed, when, after the old certificate is cancelled and the new one issued, the item is placed by noon on the third business day following its receipt in the mail room of the transfer premises for the only daily pick-up at 5:30 p.m. by the U.S. Postal Service?

Answer: Yes. Turnaround is completed either (a) when transfer is accomplished in accordance with Rule 17Ad–1(d), which requires as the last step in the transfer of the item making it available to the presentor (or a person designated by the presentor), or (b) when an outside registrar is involved, the item is made available to the outside registrar.

Under Rule 17Ad–1(c), an item is "made available" when, among other things, the transfer agent "mails" the item. The item is considered mailed when it is placed by noon of the third business day following its receipt in the mail room on the transfer premises from which it is collected by the U.S. Postal Service.[19]

F. *Receipt—Rule 17Ad–1(g):* The "receipt" of an item or a written inquiry or request occurs when the item or written inquiry or request arrives at the premises at which the transfer agent performs transfer agent functions, as defined in Section 3(a)(25) of the Act.

(26) *Question:* Are the following considered items received for transfer and, accordingly, subject to the turnaround rules:

(a) Items addressed to another transfer agent but inadvertently delivered to the subject transfer agent?

Answer: No. The transfer agent does not perform transfer agent functions for such items.

(b) Items addressed to the subject transfer agent, but for which the transfer agent does not perform transfer agent functions?

Answer: No, since the transfer agent does not perform transfer agent functions for such items.

(c) Items for which the transfer agent is the appropriate transfer agent but, because of nonpayment of fees, refuses to transfer such securities?

Answer: If these items are promptly returned to the presentor, they would not be considered received for transfer.[20]

(27) *Question:* Has "receipt" occurred when the item arrives in the mail room at the transfer premises?

Answer: Yes. Since the item arrived at the premises at which the transfer agent performs transfer agent functions, receipt has occurred for purposes of the turnaround rules.[21] The fact that the item was received in the mail room instead of the actual office or department where transfer agent functions are performed is immaterial. Thus, when the mail room is located in the *same* building as, or in a building connected to, the transfer premises, receipt occurs when the item arrives at the mail room. In this connection, the transfer agent must minimize delays which are subject to its control. It will be in the transfer agent's interest, therefore, to ensure that a received item is promptly forwarded from the mail room to the transfer department.[22]

(28) *Question:* Has "receipt" occurred when items arrive at a "drop" located a significant distance from the transfer premises?

Answer: No. The items have not been received, for purposes of the turnaround rules, until they arrive at the actual premises where transfer agent functions are performed. Thus, since the items have not arrived at the actual transfer premises when they arrive at such a "drop," they are not considered as having been received under Rule 17Ad–1(g).[23] However, when items are received at a "drop," a registered transfer agent must have, pursuant to Rule 17Ad–2(f), appropriate procedures to assure, and must assure, that items are promptly forwarded to the actual transfer premises.

(29) *Question:* In those cases where the named transfer agent for an issue contracts with a service bureau,[24] which also is a registered transfer agent, to perform the transfer agent functions for the issue, including transferring the certificates and maintaining the security holder records, does receipt of an item occur when it arrives at the premises of the named transfer agent?

Answer: No. An item is "received" when it arrives at the premises of the transfer agent that actually performs the transfer agent functions. Under the facts as presented, the named transfer agent does not perform the transfer agent functions; rather, those activities are performed at the premises of the service bureau. Accordingly, for purposes of the turnaround rules, receipt of the item occurs when it arrives at the service bureau's premises.

However, pursuant to Rule 17Ad–2(f), both the service bureau and named transfer agent must have appropriate procedures to assure, and must assure, that items are promptly forwarded to the premises of the service bureau.

Illustration: Facts: Both Company A and Company B are registered with their appropriate regulatory agency as transfer agents. Company A is the named transfer agent for an issue. Company A has contracted with Company B, a service bureau, to perform on behalf of Company A the transfer agent activities for that issue. Company A does not maintain or update the securityholder records. When an item is presented for transfer to Company A, Company A promptly forwards the item to Company B. Company B date-stamps the item upon receipt, completes turnaround, and makes the item available directly to the presentor. Company B daily sends to Company A a print-out of transfers completed by Company B. Interpretation: Company A and B must have appropriate procedures to assure, and must assure, that the item is promptly forwarded to Company B's premises. Receipt occurs, for the purposes of the turnaround rules, when the item arrives at Company B's premises. In addition, Company B must maintain the appropriate records[25] and meet the required turnaround performance.

G. *Business Day—Rule 17Ad–1(h):* A "business day" is any day during which the transfer agent is normally open for business and excludes Saturdays, Sundays and legal holidays or other holidays normally observed by the transfer agent.

(30) *Question:* Would any of the following circumstances give rise to a determination that a given day not be considered a "business day" for purposes of the turnaround rules:

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[19] *See* Question (17) *supra.*

[20] If the transfer agent *retains* the item, it must be considered "received" for transfer but may be classified as "non-routine." *See* Question (40) *infra.*

[21] *See* Release No. 13636. (SEC Docket, at 856).

[22] *Id.*

[23] *Id.*

[24] As used in this release, the terms "named transfer agent" and "appointed transfer agent" refer to the registered transfer agent engaged by the issuer to perform the transfer agent functions for an issue of securities. Except where the term "outside service bureau" is used, the term "service bureau" refers to an entity that performs the transfer agent functions for that issue for the named transfer agent and is a registered transfer agent. A service bureau arrangement is sometimes also referred to as a "private label service."

[25] *See* Rules 17Ad–6 and 17Ad–7.

(a) Days when, because of severe inclement weather, city government and other businesses are forced to close down, virtually all forms of transportation are not available and ordinary commerce is suspended, but a bank transfer agent nevertheless opens its transfer department with a skeleton staff only?

Answer: Yes. Such days are not considered "business days" for purposes of the turnaround rules.

(b) Days when various public transportation systems have ceased to operate because of union or other strikes?

Answer: No. In these circumstances, most businesses, including transfer agents, are still "normally open for business." Transit strikes do not terminate basic business operations, even though it may be more difficult for employees to get to work.[26]

(c) Days when businesses are requested or required to close by order of a city, municipal or state government?

Answer: Yes. Such days would not be considered business days for purposes of the turnaround rules, since most, if not all, businesses would not normally be open.

H. *Routine—Rule 17Ad–1(i):* [The definition of a "routine" item is stated in the negative—*i.e.*, an item received for transfer will be deemed routine unless it falls within the specified exceptions enumerated in Rule 17Ad–1(i)(1)–(8).][27]

(31) *Question:* When should a transfer agent classify an item as "routine" or "non-routine"?

Answer: The decision that an item is routine or non-routine must be made as soon as the item is reviewed upon receipt at the transfer premises. Once a transfer agent determines that an item is "routine," the item generally retains that classification throughout the completion of turnaround. Thus, an otherwise routine item does not become non-routine by virtue of internal delays in the turnaround of the item.

(32) *Question:* Once an item is determined to be "non-routine," does it remain so, even after additional documentation has been received and reviewed and the item can be transferred?

Answer: Yes. An item that is determined to be "non-routine" retains that classification until turnaround is completed.

(33) *Question:* What is the effect under the turnaround rules when an item is classified as non-routine?

Answer: Some of the turnaround rules apply only to routine items. For example, the three business day turnaround requirement in Rule 17Ad–2(a) applies only to routine items. If the item is non-routine, Rule 17Ad–2(e) requires that the item receive "diligent and continuous attention" and must be turned around "as soon as possible."

Other rules, while applying to both routine and non-routine items, distinguish between the two. For example, the recordkeeping rules in Rule 17Ad–6 contain separare requirements depending on whether the item is routine or non-routine.

Thus, every transfer agent is encouraged to examine carefully each turnaround rule.

(34) *Question:* Is an SCL which has attached thereto some certificates or instructions that might be denominated non-routine treated partially as a non-routine item?

Answer: No. An SCL is a single,[28] routine item, regardless of whether some of the certificates or instructions attached thereto pertain to a line on the SCL that may be classified as non-routine.[29]

1. *Requisitioning Certificates—Rule 17Ad–1(i)(1):* An item is "routine" if it does not require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates.

(35) *Question:* May a registered transfer agent, which, under the terms of its agency, is obligated to maintain a supply of certificates for an issue of securities, treat as "non-routine" items received for transfer if the transfer agent has exhausted its supply of certificates for that issue?

Answer: No. A transfer agent, which is required to maintain under the terms of its agency a working supply of unissued certificates, must treat items received for transfer as "routine," even though it must requisition additional certificates from the issuer or another source before transfer may be effected. There is no exception from the definition of "routine" in such cases, even if the transfer agent had earlier made a timely request for more certificates and they were not forthcoming, or even if there was an unusually large volume of trading and resulting transfers that exhausted its supply of certificates earlier than anticipated. The absence of such an exception encourages the implementation of effective inventory control and efficient reorder procedures.[30]

2. *No Additional Documents, Explanations or Endorsements Required—Rule 17Ad–1(i)(3):* An item is "routine" if it does not require any additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations or opinions of counsel before transfer may be effected.

(36) *Question:* A bond is presented for transfer to the trustee. The trustee subsequently forwards to the bond registrar the bond, a bond transfer sheet and instructions to prepare and execute the bond as shown on the bond transfer sheet. Is the bond a non-routine item?

Answer: No. The bond registrar is not required to perform any additional act in effecting the transfer of the bond which it would not otherwise perform had the bond been presented directly to the bond registrar. The bond is not transformed into a "non-routine" item merely because it is first presented to the bond trustee. Thus, unless the item otherwise qualifies as non-routine under Rule 17Ad–1(i), it is a routine item for purposes of the turnaround rules.

(37) *Question:* When the registered transfer agent, as trustee and authenticating agent for a bond issue, must forward, pursuant to the Indenture Agreement, the bonds to the issuer for signature by an officer in his corporate capacity before the certificate may be

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[26] A 10% margin in the turnaround and processing standards exists in Rule 17Ad–2 (a) and (b). If, despite this margin, a transfer agent still fails to meet the turnaround or processing requirement, it should explain the circumstances in its notice of non-compliance filed pursuant to Rule 17Ad–2 or (d).

[27] The various subparagraphs of Rule 17Ad–1(i) are set forth below preceding the interpretations thereunder.

[28] *See* note 5 *supra* and Question (9).

[29] Generally, before the SCL is presented to the transfer agent, securities depositories review the certificates and instructions and retain those items which are non-routine. In those instances where an SCL does contain both routine and non-routine certificates or instructions, transfer agents might consider using the following procedure: Notify the depository; photocopy the SCL; transfer those certificates, and effect transfers pursuant to those instructions, capable of being transferred, and make them available to the depository together with the SCL and a memorandum containing information as to why non-routine certificates or instructions were not transferred; and return to the depository in a separate envelope all non-routine certificates or instructions not transferred, unless the depository instructs otherwise. This is merely a suggested procedure; other procedures may be used. However, this procedure does not suggest or imply that the SCL, as a single routine item, has now been broken down into several items—some routine and some non-routine; the SCL remains a single, routine item in all respects.

In all cases, appropriate documentation satisfying Rule 17Ad–6 must be prepared and maintained. If the transfer agent returns any certificates or instructions because they are non-routine and cannot be transferred, the record required by Rule 17Ad–6(a)(1)(i) for the SCL should contain either a notation for that line, such as "returned to presentor," or an indication of the number of lines not transferred, such as "3 lines returned to presentor."

[30] *See* Release No. 13636. (SEC Docket, at 856–57).

made available to the presentor, is the item non-routine?

Answer: Yes. Such items may be treated as non-routine because the trustee, in order to effect transfer, must obtain additional signatures from the corporate officer.

(38) *Question:* A transfer agent receives an instruction from the issuer-presentor to use treasury shares, which are registered in the name of the issuer and being held by the transfer agent, to issue certificates under the issuer's stock purchase plan. However, transfer can be accomplish only after an authorization letter is received from the issuer. Is such an instruction a non-routine item?

Answer: Yes. If the transfer agent must await the receipt of an authorization letter from the issuer-presentor before accomplishing transfer, the instruction qualifies as a non-routine item, since additional instructions must first be obtained from the issuer.

Illustration: Facts: A company submits stock certificate transmittal forms to its transfer agent. These forms supply information necessary to issue one certificate per form and designate participants eligible to receive shares of the company pursuant to its stock purchase plan. Three days later, the transfer agent receives a general transmittal letter confirming the number of stock certificate transmittal forms previously sent and indicating the number of shares to be issued. The transfer agent thereafter receives an authorization letter, signed by an officer of the company, instructing the transfer agent to draw against treasury shares, which are registered in the name of the company and are being held by the transfer agent, to fulfill the transmittal forms. Although the transfer agent begins issuing the new certificates as soon as it receives the stock certificate transmittal forms, transfer can be accomplished only after the authorization letter is received. Interpretation: Since the transfer agent must await additional instructions from the company via the authorization letter before transfer can be accomplished, the instruction is a non-routine item.

(39) *Question:* May a service bureau, which is a registered transfer agent, classify items that are received from and subsequently returned to the named transfer agent for performance of the registrar function as non-routine?

Answer: No. The service bureau must classify the items as routine, even though two separate entities perform part of the transfer function—the transfer activity by the service bureau and the registrar activity by the named transfer agent. No additional documents or endorsements of the type contemplated by Rule 17Ad–1(i)(3) are required. This example is similar to any other situation where both a transfer agent and outside registrar are involved.

Illustration: Facts: The named transfer agent for an issue receives the certificates, totals and logs them. The certificates are then forwarded to the service bureau, which issues new certificates and creates transfer journals. Thereafter, the certificates are returned to the named transfer agent, which performs the registrar function, countersigns the certificates and makes them available to the presentor. Interpretation: the service bureau must consider these items as routine.

(40) *Question:* If a transfer agent retains items received for transfer pending receipt of payment of transfer fees rather than returning them to the presentor for non-payment, may such items be classified as non-routine?

Answer: Yes. If the transfer agent decides to retain items at it premises even though transfer fees for such items have not been paid, the items have been "received."[31] However, such items may be classified as "non-routine" because the transfer agent must await additional instruments by which payment of transfer fees is to be effected. In such cases, pursuant to Rule 17Ad–2(e), the transfer agent is then obligated both to give such non-routine items "diligent and continuous attention," which includes, among other things, frequent and assiduous notification to the presentor that the item is being retained pending receipt of transfer fees, and, after receipt of payment, to turn around such items "as soon as possible."

(41) *Question:* May an item presented for transfer be classified as "non-routine" when, in the course of effecting transfer, the transfer agent is required to compute its transfer fee and fill in several blank checks attached to the item with the appropriate amount?

Answer: No. When a blank check is attached to the item and the transfer agent can compute its transfer fee and enter the appropriate amount on the check, the item must be classified as "routine." Thus, if a single certificate is presented for transfer with a blank check attached, the item is routine. Similarly, if several certificates of the same issue under one ticket are presented for transfer with blank checks attached, the item is routine. And, if an SCL is submitted with several vouchers attached, the item (*i.e.*, the SCL) is routine. The transfer agent need not obtain any further documentation or endorsements, within the meaning of Rule 17Ad–1(i)(3), which would transform such routine items into non-routine items.

3. *No Review of Certain Supporting Documentation Required-Rule 17Ad–1(i)(4):* An item is "routine" if it does not require review of supporting documentation other than assignments, endorsements, stock powers, certified corporate resolutions, signature or other common and ordinary guarantees or appropriate tax or tax waivers.

(42) *Question:* Are all items referred to counsel for review considered non-routine?

Answer: No. Items referred to counsel are not automatically non-routine under Rule 17Ad–1(i)(4). If the item requires no more than a review by counsel of the documents listed in Rule 17Ad–1(i)(4), the item is considered routine. If that review, however, requires counsel to examine other documentation, to obtain the information listed in Rule 17Ad–1(i)(3), or to render a legal opinion, the item would be considered non-routine.

4. *Transfers Not in Connection with Reorganization, Tender Offer, Exchange, Redemption or Liquidation-Rule 17Ad–1(i)(5):* An item is "routine" if it does not involve a transfer in connection with a reorganization, tender offer, exchange, redemption or liquidation.

(43) *Question:* When a portion of a registered bond issue is called, and the bond registrar remits new bonds and cash to the bondholder as well as pays on uncashed coupons, is the item non-routine?

Answer: Yes. Under rule 17Ad–1(i)(5), the item involves a partial cash redemption and, accordingly, is not routine.

5. *Recent Registered Public Offerings Not of a Continuing Nature-Rule 17Ad–1(i)(8):* An item is "routine" if it does not include a security of an issue which within the previous 15 business days was offered to the public, pursuant to a registration statement effective under the Securities Act of 1933, in an offering not of a continuing nature.

(44) *Question:* When does the 15 business day period start to run?

Answer: For purposes of determining whether an item is non-routine under this exception, the 15 business day period begins from the closing date of the public offering, *i.e.*, the date on which the securities are delivered to the underwriter for the issue.

(45) *Question:* Pursuant to a registration statement effective under the Securities Act of 1933, securities are sold to the public in an offering not of a continuing nature. Thirty to forty-five days elapse before the certificates are presented for transfer, and they are

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[31] *Compare* note 20 *with* Question (28)(c) *supra.*

presented in large quantities. May the transfer agent treat such certificates as "non-routine" items?

Answer: No. The securities were not offered to the public within the previous 15 business days, and the offering was not of a continuing nature. Thus, any such items received for transfer are "routine." The increase in the volume of transfers, because of both the offering and the quantity of certificates presented, does not entitle the transfer agent to treat such items as non-routine.

(46) *Question:* Would the answer to Question (45) be different if the securities are initially registered in the name of nominees that, more than 15 business days later, present in large quantities certificates for breakdown and transfer to individual securityholders?

Answer: No. If more than 15 business days have elapsed since the securities were initially offered to the public in an offering not of a continuing nature, the items remain routine. The classification of items is not altered merely because the securities were initially registered in nominee name or were presented in large quantity for breakdown and transfer to individual holders.

II. Rule 17Ad-2: Turnaround, Processing and Forwarding of Items.

A. *General.*[32]

(47) *Question:* Must a registered transfer agent report to its appropriate regulatory agency that it is meeting the turnaround or processing requirements of Rule 17Ad-2?

Answer: No. Rule 17Ad-2 (a) and (b) does not require that a transfer agent report its compliance with the performance standards of that rule.

(48) *Question:* Is there an exemption from the turnaround, processing and forwarding requirements of Rule 17Ad-2 when a registered transfer agent converts its transfer operations to an "on-line" [33] system?

Answer: No. No exemption from the requirements of Rule 17Ad-2 is provided for a registered transfer agent that converts from a "batch" [34] system to an "on-line" system. There are several reasons for reaching this conclusion. First, in order to protect investors, it is important that transfer agents meet the performance standards in Rule 17Ad-2 (a) and (b) to avoid any lag in the transfer and processing of securities transactions and to prevent any backlog from occurring. Second, Rule 17Ad-6 imposes requirements that recordkeeping be "current." If transfer operations are shut down to allow for conversion from one system to another, potential problems in maintaining "current" records may occur. Finally, Rule 17Ad-2 provides a 10% margin for turnaround and processing of items. Accordingly, a registered transfer agent must comply with the turnaround rules when converting from the "batch" method to an "on-line" system, and all performance standards of Rule 17Ad-2 must still be met.

(49) *Question:* A registered transfer agent has located in several cities satellite offices performing various transfer agent functions. May such transfer agent separately compute the performance statistics for each satellite office?

Answer: No. The transfer agent must aggregate figures from all of its operations when calculating turnaround and processing performance statistics for purposes of determining compliance with Rule 17Ad-2 and for purposes of recordkeeping under Rule 17Ad-6. In addition, aggregate figures must be used in computing volume when determining the availability of the exemption in Rule 17Ad-4(b).

(50) *Question:* How should a registered transfer agent that accepts a new appointment treat items that are received for transfer between the effective date of the appointment and the date on which the shareholder records and stop files are received?

Answer: Once the appointment is effective, a registered transfer agent is obligated to perform its contracted transfer agent activities for those new issues in compliance with the Act and the rules thereunder. Hence, all items arriving after the effective date of the appointment, regardless of whether the transfer agent has all the necessary books and records to effect transfer or processing, are treated as items received for transfer subject to the turnaround rules. Accordingly, a registered transfer agent should not make its appointment effective under its agency agreement until it has custody and possession of all shareholder records, stop files, unissued blank certificates and other materials necessary to effect transfer or processing. To avoid the possibility of a transfer agent falling into noncompliance with the turnaround rules, it is recommended that registered transfer agents remind issuers and others from whom transfer agents receive such records of the obligations imposed upon transfer agents by the turnaround rules.[35]

(51) *Question:* Does a transfer agent satisfy the 90% standard in Rule 17Ad-2(a) and (b) by applying that standard cumulatively to a 12 month period, *i.e.,* by turning around or processing 90% of all items received for the year by the end of that year?

Answer: No. The 90% standard in Rule 17Ad-2(a) and (b) must be applied to *each month* separately. A transfer agent is not permitted to aggregate the percentage of items turned around or processed for each 12 consecutive months to arrive at an *annual* percentage rate of 90% to establish compliance with that rule.

B. *Turnaround Requirement for Registered Transfer Agents—Rule 17Ad-2(a)*: Every registered transfer agent (except when acting as an outside registrar) shall turnaround within three business days of receipt at least 90 percent of all routine items received for transfer during a month. For the purposes of Rule 17Ad-2(a), items received at or before noon on a business day shall be deemed to have been received at noon on that day, and items received after noon on a business day or received on a day not a business day shall be deemed to have been received at noon on the next business day.

(52) *Question:* Does a bond registrar comply with the turnaround rules if it transfers a registered bond within three business days of receipt?

Answer: Yes. The person who performs the transfer function for a bond issue is called a "bond registrar." Since it performs the "transfer" function for the bond issue, a bond registrar is treated the same as any other registered transfer agent for purposes of the turnaround rules, including Rule 17Ad-2(a).[36] Accordingly, the transfer of bonds by a bond registrar is subject to the three business day turnaround requirement of Rule 17Ad-2(a).

(53) *Question:* May a transfer agent that uses an outside registrar choose to calculate its turnaround performance as if it performed the registrar function, *i.e.,* by recording the dates on which each item is received from and made available to the *presentor* (rather than by recording the date on which each item is made available to the outside

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[32] The following questions and answers have general application to some or all provisions in Rule 17Ad-2. The text of various paragraphs in Rule 17Ad-2 is set forth below preceding the interpretations thereunder.

[33] When a transfer agent uses an "on-line" system, the master shareholder files and records are updated immediately upon transfer.

[34] Under the "batch" method of updating the shareholder records, changes to the master files are not entered until after close of the normal business day, when all items transferred that day are inputed into the books and records.

[35] *See generally* Release No. 13636. (SEC Docket, at 857).

[36] A bond registrar is not an "outside registrar," which is defined in Rule 17Ad-1(b) as a transfer agent that performs only the registrar function or similar functions with respect to debt issues and which must process items within one business day under Rule 17Ad-2(b).

registrar, as contemplated by Rule 17Ad–1(c)(2) and required by Rule 17Ad–6(a)(1)(ii))?

Answer: Yes. The effect of this election is to treat the outside registrar as if the registrar function were performed in-house. Generally, when an outside registrar is involved, a registered transfer agent has three business days under Rule 17Ad–2(a) to "turnaround" the item, which is defined under Rule 17Ad–1(e) to include making the item available to the outside registrar pursuant to Rule 17Ad–1(c)(2). The outside registrar, pursuant to Rule 17Ad–2(b), then has one business day to "process" the item, which, under Rule 17Ad–1(f), is defined as performing the registrar function and making the item available to the presenting transfer agent pursuant to Rule 17Ad–1(c)(3). The transfer agent, in turn, must make the item available to the presentor, as required by Rule 17Ad–1(c)(1). Thus, the entire procedure, from the time of receipt by the transfer agent until the item is made available to the presentor, normally takes four business days.

However, if the transfer agent elects to treat the outside registrar as an in-house registrar, the item must be made available to the presentor within three business days. When an outside registrar is not involved, "turnaround" of an item is completed, under Rule 17Ad–1(e), when "transfer" is accomplished. "Transfer," by definition under Rule 17Ad–1(d), includes performing the registrar function as well as making the item available to the presentor. Thus, turnaround of an item does not involve the additional business day which would otherwise occur.

If the requirements of Rules 17Ad–2(a) (turnaround within three business days), 17Ad–1(e) (completing turnaround by accomplishing transfer), 17Ad–1(d) (transfer, including the registrar function), and 17Ad–1(c)(1) (making the item available to the presentor) are met, the transfer agent is required under Rule 17Ad–6(a)(1) to prepare records showing the business days on which each item is received from and made available only to the presentor.

The transfer agent's election to comply with the turnaround rules and to calculate its turnaround performance under Rule 17Ad–6(a) in this manner must be set forth in a written undertaking and sent to the Commission and the transfer agent's appropriate regulatory agency. In addition, the written undertaking must provide that a failure to comply with the turnaround performance standards under Rule 17Ad–2(a) will be charged to the transfer agent, irrespective of whether the delays were caused by the transfer agent or by the outside registrar.

(54) *Question:* What is the effect of the noon cut-off provision when an item is received before noon in the transfer agent's mail room but not forwarded until after noon to the transfer department where dating of the item occurs?

Answer: Items received in the transfer agent's mail room, located on the premises where the transfer activities are actually performed, are considered "received" under Rule 17Ad–1(g).[37] Thus, under Rule 17Ad–2(a), items received in the mail room at or before noon on a business day are deemed received by the transfer agent at noon on that same business day, even though the items may not be forwarded until after noon to the transfer department.

When the items are dated by the transfer department and not by the mail room, the transfer agent first must determine the cut-off time by which all items received at or before noon in the mail room will be forwarded to the transfer department. Then the transfer agent must observe this cut-off time for date-stamping items received in the transfer department. To implement this procedure, the transfer department must receive a commitment from the mail room that all items received at or before noon by the mail room will be forwarded by that specified cut-off time to the transfer department. Finally, the transfer agent must periodically check to ensure that the mail room is meeting its commitment.

Illustration: Facts: An item is received by the mail room at the transfer premises at 11:45 a.m. on Monday, a business day. The item is not date or time-stamped at that time by the mail room. By 2:00 p.m. on Monday, all items received by the mail room at or before noon (including the item received at 11:45 a.m.) are brought to the transfer department where they are date-stamped. Interpretation: The item was received before noon and must be date-stamped accordingly. In addition, since the item was received before noon on a business day, it must be turned around by noon on Thursday, the third next business day.

(55) *Question:* When, due to inclement weather, airports close for several days suspending the delivery of items, is an exemption from the requirements of Rule 17Ad–2(a) available to a transfer agent for the large quantity of back items received after the airports reopen and deliveries recommence?

Answer: No. The turnaround rules do not provide automatic exemptions for inclement weather or other acts of God. A transfer agent is required to meet the turnaround requirements for all items received, even if an unusually large quantity of items is presented on a given day. This question illustrates why Rule 17Ad–2 (a) and (b) provides a 10% margin. Nevertheless, if a transfer agent is unable to meet the turnaround or processing requirements of Rule 17Ad–2 (a) or (b) because of weather conditions, the notice required to be filed by Rule 17Ad–2 (c) or (d) should state such circumstances.

(56) *Question:* When must the remaining 10% of routine items presented and received for transfer be turned around?

Answer: Rule 17Ad–2(e) requires that routine items not turned around within three business days of receipt must be turned around "promptly," which, under usual circumstances, means within one additional business day.[38]

C. *Processing Requirement for Outside Registrars—Rule 17Ad–2(b):* Every registered transfer agent acting as an outside registrar shall process[39] at least 90 percent of all items received during a month (1) by the opening of business on the next business day, in the case of items received at or before noon on a business day, and (2) by noon of the next business day, in the case of items received after noon on a business day. For the purposes of paragraphs (b) and (d) of Rule 17Ad–2, "items received" shall not include any item enumerated in Rule 17Ad–1(i) (5), (6), (7) or (8) or any item which is not accompanied by a debit or cancelled certificate. For the purposes of this paragraph, items received on a day not a business day shall be deemed to have been received before noon on the next business day.

(57) *Question:* If the transfer agent and outside registrar have so agreed, may an outside registrar satisfy the processing requirements of Rule 17Ad–2(b) by notifying the presenting transfer agent that an item is available for pick-up, if the item is in fact available for pick-up?

Answer: Yes. To accomplish processing, which is defined in Rule 17Ad–1(f),[40] the outside registrar is required to perform the registrar function and to make available to the presenting transfer agent the completed certificate or certificates.

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[37] *See* Question (27) *supra*, and Release No. 13636. (SEC Docket, at 856).

[38] *See* Release No. 13636. (SEC Docket, at 859).

[39] Rule 17Ad–1(f) provides: "The term 'process' means the accomplishing by an outside registrar of all acts necessary (1) to perform the registrar function and to make available to the presenting transfer agent the completed certificate or certificates or (2) to advise the presenting transfer agent, orally or in writing, why performance of the registrar function is delayed or may not be completed."

[40] *Id.*

Rule 17Ad–1(c)(3) provides that an item is "made available," in the case of an item for which an outside registrar has completed processing, when "the outside registrar dispatches or mails the item to, or the item is awaiting pick-up by, the presenting transfer agent." The understanding between the outside registrar and the presenting transfer agent will govern which of the alternative methods permitted by Rule 17Ad–1(c)(3) will be used. If the parties have agreed that the presenting transfer agent will "pick-up" the processed item and that the outside registrar will notify the transfer agent when the item is available for pick-up, then the item is processed when the outside registrar completes the registrar function and notifies the presenting transfer agent that the completed certificate is in fact awaiting pick-up.

The outside registrar must be consistent in clocking the completion of its processing with the alternative agreed upon—in this case, notification that the item is awaiting pick-up. To accomplish processing, notification that an item is awaiting pick-up must be given to and received by the presenting transfer agent no later than the time period within which processing must be accomplished under Rule 17Ad–2(b). Thus, in the case of an item received at or before noon on a business day, notification that the item is awaiting pick-up must be given by the opening of business on the next business day; and, in the case of an item received after noon on a business day, by noon of the next business day.

(58) *Question:* Within what time period must the remaining 10% of items be processed?

Answer: Rule 17Ad–2(e) requires that items not processed within the periods prescribed by Rule 17Ad–2(b) shall be processed "promptly," which in usual circumstances means by the end of the business day following the day of receipt.[41]

D. *Notice of Non-Compliance—Rule 17Ad–2(c):* Any registered transfer agent which fails to comply with paragraph (a) of Rule 17Ad–2 with respect to any month shall, within ten business days following the end of such month, file with the Commission and the transfer agent's appropriate regulatory agency, if it is not the Commission, a written notice in accordance with paragraph (h) of Rule 17Ad–2. Such notice shall state the number of routine items and the number of non-routine items received for transfer during the month, the number of routine items which the registered transfer agent failed to turn around in accordance with the requirements of paragraph (a) of Rule 17Ad–2, the percentage that such routine items represent of all routine items received during the month, the reasons for such failure, the steps which have been taken, are being taken or will be taken to prevent a future failure, and the number of routine items, aged in increments of one business day, which as of the close of business on the last business day of the month have been in its possession for more than four business days and have not been turned around.

(59) *Question:* For purposes of the notice requirement, must routine items not turned around within the prescribed time period and in a transfer agent's possession be reported only in the month they were received, or must they be reported on a cumulative basis?

Answer: Rule 17Ad–2(c) requires a registered transfer agent that does not comply with Rule 17Ad–2(a) with respect to any month to file a written notice stating, among other things, "the number of routine items which the registered transfer agent failed to turn around" in accordance with Rule 17Ad–2(a). This requirement applies only to routine items received for transfer during that particular month which were not turned around in three business days; it does not refer to all outstanding items, regardless of the month in which they were received.

However, Rule 17Ad–2(c) also requires that the notice state "the number of routine items, aged in increments of one business day, which as of the close of business on the last business day of the month, have been in (the transfer agent's) possession for more than four business days and have not been turned around."[42] If routine items received for transfer in a previous month and not turned around within three business days are still in the transfer agent's possession as of the close of business on the last business day of the current month,[43] those items must be included in the current month's notice of non-compliance. Accordingly, this aspect of the notice is cumulative.

Illustration: Facts: Ten routine items are received for transfer in January. Eight of those items are turned around within three business days.
Interpretation: A written notice, reporting the two items, is required to be filed for the month of January.

Facts: In February, ten routine items are received for transfer. Eight of those items are turned around within three busines days. However, as of the close of business on the last business day in February, the transfer agent had not turned around within three business days the remaining two items received in February, and, when aged in increments of one business day, had them in its possession for more than four business days. In addition, the transfer agent had not yet turned around the two items received in January.
Interpretation: The transfer agent has not met turnaround under Rule 17Ad–2(a) and must file for the month of February a notice of non-compliance which will include the two outstanding routine items for February. In addition, the notice of non-compliance filed for the month of February must include, as aged items, the two items received in January but not yet turned around. In such a case, however, the transfer agent has violated Rule 17Ad–2(e).[44]

E. *Turnaround and Processing of Remaining Routine and All Non-Routine Items—Rule 17Ad–2(e):* All routine items not turned around within three business days of receipt and all items not processed within the periods prescribed by paragraph (b) of Rule 17Ad–2 shall be turned around or processed promptly, and all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

(60) *Question:* What are the time requirements regarding the turnaround of "non-routine" items?

Answer: The turnaround rules do not impose a specific time period within which turnaround of non-routine items must occur. However, Rule 17Ad–2(e) requires that all "non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible." This is a flexible standard dependent on the facts and circumstances of each case. If experience indicates that a specific standard is necessary, the Commission will consider proposing such a requirement.

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[41] *See* Release No. 13636. (SEC Docket, at 859).

[42] This requirement of Rule 17Ad–2(c) should be read in conjunction with Rule 17Ad–6(a)(2)(vi), which requires a registered transfer agent to make and keep current a record showing for each month "the number of routine items that, as of the close of business on the last business day of each month, have been in such registered transfer agent's possession for more than four business days, aged in increments of one business day (beginning on the fifth business day)." In this case, a *cumulative* record of aged items must be made of all routine items not turned around within three business days during *all* months in which those items were outstanding. *See* Release No. 13636, n. 18. (SEC Docket, at 864 n. 18).

[43] It should be noted, however, that Rule 17Ad–2(e) requires all routine items not turned around within three business days of receipt to be turned around "promptly," which, in the usual case, means within one additional business day. Accordingly, routine items received in the previous month must be given precedence over, and turned around before, items received in the current month.

F. *Receipt of Items Off the Transfer Premises—Rule 17Ad–2(f):* A registered transfer agent which receives items at locations other than the premises at which it performs transfer agent functions shall have appropriate procedures to assure, and shall assure, that items are forwarded to such premises promptly.

(61) *Question:* When the named transfer agent for an issue contracts with a service bureau, which is also a registered transfer agent, to perform for it the transfer agency functions, when is the item considered received for transfer?

Answer: Items are received for transfer when they arrive at the premises of the service bureau, even if the items were first sent to the named transfer agent. However, both the named transfer agent and the service bureau, as registered transfer agents, must have appropriate procedures to assure that items which are received by the named transfer agent are forwarded promptly to the service bureau.

III. Rule 17Ad–4: Exemptions From Certain Turnaround Rules.

A. *Exempt Transfers—Rule 17Ad–4(a):* Rules 17Ad–2, 17Ad–3 and 17Ad–6(a) (1) through (7) and (11) shall not apply to interests in limited partnerships, to redeemable securities of investment companies registered under Section 8 of the Investment Company Act of 1940, or to interests in dividend reinvestment programs.

(62) *Question:* If the issuer acts as its own transfer agent for its only issue of securities, which are interests in joint ventures, are transfers of those interests exempt from the turnaround rules under Rule 17Ad–4(a)?

Answer: Yes. Rules 17Ad–2, 17Ad–3 and 17Ad–6(a) (1) through (7) and (11) do not apply to the transfer of interests in joint ventures; provided that the certificates are legended and there are restrictions on transferability, such as the existence of stop transfer instructions on the shareholder records and the requirement of consent by the issuer or other authorized person before transfer can be effected, so that no such item would be routine as defined in Rule 17Ad–1(i); and provided that the securities are neither traded on any securities exchange or in the over-the-counter market nor the subject of market-making activity by any broker-dealer. However, transfers of interests in joint ventures remain subject to Rules 17Ad–1; 17Ad–4; 17Ad–5; 17Ad–6(a) (8), (9) and (10); 17Ad–6 (b) and (c); and 17Ad–7.[45]

(63) *Question:* Does the issuance, redemption or transfer of interests in a unit investment trust registered under Section 8 of the Investment Company Act of 1940 fall within the exemption provided in Rule 17Ad–4(a)?

Answer: Yes. The exemption contained in Rule 17Ad–4(a) includes the issuance, redemption or transfer of redeemable securities of registered unit investment trusts.[46]

B. *Exempt Transfer Agents—Rule 17Ad–4(b):* Except as provided in paragraph (c) of Rule 17Ad–4, Rules 17Ad–2 (a), (b), (c), (d) and (h), 17Ad–3 and 17Ad–6(a)(2) through (7) and (11) shall not apply to any registered transfer agent (1) which during any six consecutive months shall have received fewer than 500 items for transfer and fewer than 500 items for processing and (2) which, within ten business days following the close of the sixth such consecutive month, shall have filed with its appropriate regulatory agency[47] a notice certifying to that effect (hereinafter an "exempt transfer agent").

(64) *Question:* Based on the number of *Certificates* received for transfer, may a registered transfer agent for an issue obtain an exemption under Rule 17Ad–4(b), even though the outside registrar for that same issue remains ineligible for the exemption?

Answer: Yes. To qualify for an exemption, a transfer agent must receive fewer than 500 items for transfer and fewer than 500 items for processing. An "item" with respect to an outside registrar is defined in Rule 17Ad–1(a) as "each certificate to be countersigned." An "item" with respect to a transfer agent that performs transfer activities, however, is defined, in pertinent part, as "a certificate or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presentor) presented for transfer * * *." Consequently, in order to qualify for an exemption under Rule 17Ad–4(b), an outside registrar must receive *fewer* than 500 *certificates* for countersigning and for processing during any consecutive six month period. However, the transfer agent for the same issue may have received *fewer* than 500 *items* covering more than 500 certificates during the consecutive six month period and, accordingly, qualify for the exemption.

(65) *Question:* May a registered transfer agent qualify as an "exempt transfer agent" when it performs both the transfer agent activities for some issues and the processing activities as an outside registrar for other issues?

Answer: Yes. If, during any consecutive six month period, a transfer agent receives fewer than 500 items for transfer for those issues for which it performs transfer activities and fewer than 500 certificates for countersigning and processing for those issues for which it acts as an outside registrar, it will qualify as an "exempt transfer agent."

(66) *Question:* May a transfer agent that has recently assumed the transfer agent functions for an issue be eligible for an exemption under Rule 17Ad–4(b), even though it has not performed the transfer agent functions for the requisite six month period, by tacking onto its period of performance the performance by the prior transfer agent for that issue?

Answer: Yes. The new transfer agent qualifies as an exempt transfer agent under Rule 17Ad–4(b), provided it can demonstrate, through appropriate records and documentation, that the previous transfer agent in fact received fewer than 500 items for transfer and fewer than 500 items for processing during the immediately preceding six consecutive months.[48]

Illustration: Facts: For the period December 1 through May 31, an issuer's transfer agent received 60 items for transfer. On June 1, after its registration as a transfer agent became effective, the issuer assumed the transfer agent functions for its securities. On June 7, the issuer-transfer agent filed with the Commission a notice certifying that it received fewer than 500 items for transfer and fewer than 500 items for processing for the six consecutive months ending May 31 and, accordingly, that the issuer qualified as an exempt transfer agent. Interpretation: Since the previous transfer agent received fewer than 500 items for transfer and fewer than 500 items for processing during the preceding six month period, the issuer qualifies as an exempt transfer agent under Rule 17Ad–4(b), provided it can demonstrate through appropriate records and documentation that the prior transfer agent received, in fact, fewer than 500 items for transfer during December 1, through May 31.

(67) *Question:* In order not to exceed the requirement in Rule 17Ad–4(b) that the transfer agent receive fewer than 500

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[45] *See generally* Release No. 13636. (SEC Docket, at 855 and 862).

[46] *See* Release No. 13636. (SEC Docket, at 861).

[47] Rule 17Ad–2(h) states with which regulatory agency the notice must be filed.

[48] Although such tacking is permitted, if the number of items received for transfer by the transfer agent seeking to qualify as an exempt transfer agent together with the number of items received by the prior transfer agent *exceeds 500* for the preceding six consecutive month period, exempt status would not be available.

items for transfer and processing, may a transfer agent combine several items of the same issue received from several presentors in order to qualify as an exempt transfer agent?

Answer: No. If there is no ticket, an "item" is defined by Rule 17Ad–1(a) to mean certificates of the same issue of securities presented for transfer at the same time by *one presentor.* Thus, certificates of the same issue presented by several presentors must be treated as separate items and must not be combined when determining the availability of the exemption under Rule 17Ad–4(b), even though all certificates relate to the same issue of securities.

(68) *Question:* For purposes of determining whether a transfer agent qualifies as an exempt transfer agent, must a transfer agent, which has satellite offices located throughout the country, aggregate the total number of items received for transfer and for processing by all of its offices, even if one or more satellite offices perform transfer agent or registrar activities only for securities which are not qualifying securities?

Answer: Yes. A transfer agent must aggregate the total number of items received by all of its offices when computing volume for purposes of Rule 17Ad–4(b).[49] Once a transfer agent becomes registered with its appropriate regulatory agency, the turnaround rules apply to all of its transfer and processing activities, including those involving non-qualifying securities. Accordingly, the term "item" includes both qualifying and non-qualifying securities.[50] Thus, a registered transfer agent must aggregate the total number of items (including both qualifying securities and non-qualifying securities) received by it and its satellite offices for purposes of determining whether it qualifies as an "exempt transfer agent."

C. *Loss of Exempt Transfer Agent Status—Rule 17Ad–4(c):* Within five business days following the close of each month, every exempt transfer agent shall calculate the number of items which it received during the preceding six months. Whenever any exempt transfer agent receives 500 or more items for transfer or 500 or more items for processing during any six consecutive months, it shall, within ten business days after the end of such month, file with its appropriate regulatory agency a notice to that effect. Thereafter, beginning with the first month following the month in which such notice is required to be filed, the registered transfer agent shall no longer be exempt under paragraph (b) of Rule 17Ad–4 from the requirements of Rules 17Ad–2 (a), (b), (c), (d), and (h), 17Ad–3 and 17Ad–6(a) (2) through (7) and (11). Any registered transfer agent which has ceased to be an exempt transfer agent shall not qualify again for exemption until it has conducted its transfer agent operations pursuant to the foregoing rules for six consecutive months following the month in which it filed the notice required by this paragraph.

(69) *Question:* Must a registered transfer agent, which has filed the appropriate notice certifying that it is an exempt transfer agent under Rule 17Ad–4(b), file on a monthly basis additional notices to retain its exempt status?

Answer: No. A transfer agent that has filed a notice certifying its exempt status under Rule 17Ad–4(b) should not file any additional exemption notices, as long as it continues to receive fewer than 500 items for transfer and fewer than 500 items for processing during any consecutive six-month period.

However, Rule 17Ad–4(c) requires every exempt transfer agent to test continuously for the availability of the exemption by determining, within the first five business days of each month, the number of items received for transfer and the number of items received for processing during the immediately preceding six months. Whenever any exempt transfer agent has received 500 or more items for transfer *or* 500 or more items for processing during any six consecutive months, Rule 17Ad–4(c) requires it to file a notice to that effect within ten business days after the end of the sixth month. Thereafter, beginning with the first month following the month in which such notice is required to be filed, the transfer agent no longer is exempt.

Illustration: A transfer agent that has submitted by July 15, 1980 (the tenth business day in July) an exemption notice based upon its operations from January 1st through June 30th, must determine by August 7th (the fifth business day in August) the number of items received for transfer *and* the number of items received for processing for the period February 1st through July 31st; and by September 8th (the fifth business day in September), it must make the same determination for the period March 1st through August 31st; and so on.

If the calculation performed by August 7th demonstrates that the transfer agent received during the six-month period, from February 1st through July 31st, 500 or more items for transfer *or* 500 or more items for processing, the transfer agent would be required to file the requisite notice by August 14th (the tenth business day after July 31st). Finally, its exempt status would terminate as of the close of business on August 31st.

(70) *Question:* What is the definition of "item" for purposes of determining under Rule 17Ad–4(c) the continuing availability of the Rule 17Ad–4(b) exemption to a transfer agent that does not act as an outside registrar?

Answer: A transfer agent that does not act as an outside registrar does not receive items for "processing," as that term is defined in Rule 17Ad–1(f). Accordingly, for purposes of determining the continuing availability of exempt transfer agent status under Rules 17Ad–4 (b) and (c), such a transfer agent need only compute whether fewer than 500 items have been received for *transfer* during the preceding six consecutive months.

(71) *Question:* Does an exempt transfer agent lose its exempt status by issuing a stock dividend of original issue securities, if the additional certificates issued increase the number of items to more than 500 for a six consecutive month period?

Answer: No. Since stock dividends of original issue securities are not items received for transfer,[51] the issuance of the new certificates is not included in the calculation of items transferred and processed for purposes of Rule 17Ad–4(c).

IV. Rule 17Ad–5: Written Inquiries and Requests.

A. *General.*[52]

(72) *Question:* If a co-transfer agent receives a written inquiry or request subject to Rule 17Ad–5 to which the principal transfer agent is responsible for responding, and the co-transfer agent promptly forwards such communication to the principal transfer agent, when is the inquiry or request considered "received"?

Answer: For purposes of determining the required time period within which a response must be made under the various paragraphs of Rule 17Ad–5, a written inquiry or request is "received," under Rule 17Ad–1(g), when it arrives at the premises of the transfer agent responsible for making the response[53]—in this case, the principal transfer agent.

(73) *Question:* If a transfer agent, which is not the issuer, receives a written inquiry subject to Rule 17Ad–5 and refers the inquiry to one of its special departments or to the issuer for

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[49] *See* Question (49) *supra.*

[50] *See* Question (1) *supra.*

[51] *See* Question (12) *supra.*

[52] The following questions and answers have general application to some or all of the provisions in Rule 17Ad–5. The various paragraphs in Rule 17Ad–5 are set forth below preceding the interpretations thereunder.

[53] *See also* Questions 28 and 29 *supra.*

response, has the transfer agent met its obligations under Rule 17Ad–5?

Answer: No. A response has not been made and the requirements of Rule 17Ad–5 have not been satisfied, when the transfer agent sends, in accordance with its internal procedures, the inquiry out of the transfer department to another department or to the issuer for response. Rather, the transfer agent still must make the required response within the time periods specified in Rule 17Ad–5.

(74) *Question:* In counting the number of business days in which a transfer agent is required to respond to written inquiries and requests under Rule 17Ad–5, should the transfer agent treat inquiries received at or before noon on a business day as having been received at noon on that day, and treat inquiries received after noon on a business day or received on a non-business day as having been received at noon on the next business day?

Answer: No. The noon-to-noon cut-off applicable for computing turnaround under Rule 17Ad–2 is not relevant to the calculation of time periods under Rule 17Ad–5. Rather, timely compliance is measured in terms of business days, as defined in Rule 17Ad–1(h).

(75) *Question:* If an inquiry relates to activities of a prior transfer agent whose duties have recently been assumed by the successor transfer agent, and if the successor transfer agent is unable to respond because it does not have the necessary records, how can it comply with Rule 17Ad–5?

Answer: The successor transfer agent complies with Rule 17Ad–5 when it responds, within the required time period, that it has recently been appointed the transfer agent for the issue and that additional time is necessary to research and answer the question. Once the transfer agent is able to respond, it must do so as promptly as possible.[54]

However, registered transfer agents are immediately subject to the turnaround rules upon appointment and should remind others of the obligations imposed on them by these rules. Accordingly, appointment should not be made effective until the transfer agent has possession of all necessary records.[55]

B. *Requests Regarding Status of Items Presented for Transfer—Rule 17Ad–5(a):* When any person makes a written inquiry to a registered transfer agent concerning the status of an item presented for transfer during the preceding six months by such person or anyone acting on his behalf, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security) presented, the approximate date of presentment and the name in which it is registered, the registered transfer agent shall, within five business days following receipt of the inquiry, respond, stating whether the item has been received; if received, whether it has been transferred; if received and not transferred, the reason for the delay and what additional matter, if any, is necessary before transfer may be effected; and, if received and transferred, the date and manner in which the completed item was made available, the addressee and address to which it was made available and the number of any new certificate which was registered and the name in which it was registered. If a new certificate is dispatched or mailed to the presentor within five business days following receipt of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(76) *Question:* When a registered transfer agent does not know why transfer of an item has been delayed, may it respond by stating that it will research the question and respond after an answer can be determined?

Answer: No. Such a response does not satisfy the requirements of Rule 17Ad–5(a), which requires, in the case of an item received but not transferred, a statement of "the reason for the delay and what additional matter, if any, is necessary before transfer may be effected * * *." However, if the transfer agent, after a good faith and diligent effort to research the question, must respond in order to meet the time requiremenet of five business days, no violation of the rule will occur from the *occasional* response that further research is necessary; provided, the transfer agent does, in fact, send within a reasonable time follow-up correspondence containing an appropriate and complete response; and further provided, this is not a recurring practice of the transfer agent.

C. *Certain Broker-Dealer Requests—Rule 17Ad–5(b):* When any broker-dealer requests in writing that a registered transfer agent acknowledge the transfer instructions and the possession of a security presented for transfer by such broker-dealer or revalidate a window ticket[56] with respect to such security and th request identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the certificate number and the name in which it is registered, every registered transfer agent shall within five business days following receipt of the request, in writing, confirm or deny possession of the security, and, if the registered transfer agent has possession, (1) acknowledge the transfer instructions or (2) revalidate the window ticket. If a new certificate is dispatched or mailed to the presentor within five business days following receipt of a request pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(77) *Question:* Does Rule 17Ad–5(b) apply to a *bank* which submits a written inquiry requesting the transfer agent either to acknowledge the transfer instructions and the possession of a security presented for transfer or to revalidate a window ticket with respect to that security?

Answer: No. Rule 17Ad–5(b) is limited to written requests received specifically from broker-dealers. However, Rule 17Ad–5(a) covers the type of inquiry in question; it applies to "any person," including a bank.

(78) *Question:* Must a registered transfer agent respond in writing within five business days following receipt of a broker-dealer's request to acknowledge transfer instructions and possession of a security or to revalidate a window ticket, regardless of the fee arrangement between the transfer agent and the broker-dealer for providing such information?

Answer: Yes. Rule 17Ad–5(b) does not authorize a registered transfer agent either to charge a fee or to condition its response upon receipt or assurance of payment of a fee.[57] Thus, a registered transfer agent must make a timely written response whether or not it has charged or received a fee.[58]

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[54] *See also* Question (76) *infra.*

[55] *See* Question (50) *supra.*

[56] The Commission understands that the phrase "revalidate a window ticket" has a generally accepted meaning in the industry. "A transfer agent is requested to 'revalidate a window ticket' when the presentor desires acknowledgment in some fashion (*e.g.*, by time-stamping again a copy of the window ticket) that the item is in the transfer agent's possession pursuant to the presentor's transfer instructions." Release No. 13636, n. 17. (SEC Docket, at 863 n. 17).

[57] References to a fee appear in Rule 17Ad–5(c) and (d) (17 CFR 240.17Ad–5(c) and (d)). *See also* Release No. 13636. (SEC Docket, at 863).

[58] Registered transfer agents should be aware of a broker-dealer's obligations under Rule 15c3–3(c)(3) 17 CFR 240.15c3–3(c)(3)), regarding a broker-dealer's control of customer securities, and Rule 17a–13(b)(3) 17 CFR 240.17a–13(b)(3)), regarding quarterly security counts by broker-dealers. Rule 17Ad–5(b) was written to complement those rules.

D. *Inquiries or Requests Which May Not Meet Rule 17Ad–5(a) through (d)—Rule 17Ad–5(e):* When any person makes a written inquiry or request which would qualify under paragraph (a), (b), (c) or (d) of Rule 17Ad–5 except that it fails to provide all of the information specified in those paragraphs, or requests information which refers to a time earlier than the time periods specified in those paragraphs, a registered transfer agent shall confirm promptly receipt of the inquiry or request and shall respond to it as soon as possible.[59]

(79) *Question:* Does Rule 17Ad–5(e) apply to a written inquiry or request that would otherwise satisfy the requirements of a particular paragraph of Rule 17Ad–5, but concerns an issue for which the entity no longer acts as transfer agent?

Answer: Yes. In these cases, Rule 17Ad–5(e) requires that the registered transfer agent promptly confirm receipt of the inquiry or request and respond as soon as possible that it no longer acts as transfer agent for the issue.

V. Rule 17Ad–6: Recordkeeping.

A. *Certain Records Required to Monitor Compliance—Rule 17Ad–6(a):* (Every registered transfer agent is required by Rule 17Ad–6(a) to "make and keep current" the records enumerated in subparagraphs (1)–(11)).

(80) *Question:* What types of recordkeeping system and forms are required under Rule 17Ad–6?

Answer: No specific type of system and no particular forms are required,[60] as long as all the information required under Rule 17Ad–6 is captured. Thus, each registered transfer agent may adopt a recordkeeping and record retention system suitable to its own operations, provided that the records contain the requisite information.

(81) *Question:* May a registered transfer agent that acts in its own name as a transfer agent on behalf of issuers and that also performs contractual services for other transfer agents maintain separate records of its performance for each contractual arrangement?

Answer: No. The records and performance statistics of a registered transfer agent, whether acting in its own name or under contract (*e.g.*, a "private label service"), must be aggregated for all purposes under the turnaround rules.

(82) *Question:* Does Rule 17Ad–6 require a registered transfer agent to file any notice with its appropriate regulatory authority that it is fulfilling its obligations under the turnaround rules?

Answer: No. Rule 17Ad–6 does not require a registered transfer agent to file any notice stating, or any records showing, that it is complying with the turnaround rules.

1. *Records Showing Date of Receipt and Availability of Items—Rule 17Ad–6(a)(1):* Every registered transfer agent shall make and keep current a receipt, ticket, schedule, log or other record showing the business day each routine item and each non-routine item is (i) received from the presentor and, if applicable, from the outside registrar and (ii) made available to the presentor and, if applicable, to the outside registrar.

(83) *Question:* What type of receipt or ticket is required?

Answer: No particular form of receipt or ticket is required, provided the ticket identifies the item involved and the relevant business day (*i.e.*, the year, month, and day, as determined under Rule 17Ad–1(h)) the item was received and made available. A transfer agent that uses a batch method for handling transfer items would use an "other record" by recording the required information for each batch of items.[61]

(84) *Question:* Does Rule 17Ad–6(a)(1) require that a registered transfer agent be able to identify the specific dates on which a particular item is received and made available?

Answer: Yes. A transfer agent's records must show the business day each item is received from and made available to the presentor and the outside registrar, if applicable, and the entries on such records must be traceable to the specific item.

(85) *Question:* How many dates must be recorded on a Rule 17Ad–6(a)(1) record when an outside registrar is involved?

Answer: Four, in the usual case.[62] The record must state the business day each item was (i) received from the presentor, (ii) made available to the outside registrar, (iii) received from the outside registrar and (iv) made available to the presentor.

(86) *Question:* How should a transfer agent indicate on its Rule 17Ad–6(a)(1) records receipt of items tendered in connection with a record date?

Answer: In order to record accurately receipt of an item under Rule 17Ad–6(a)(1)(i) while still complying with record date requirements, the ticket, receipt or other record should include the calendar date and time the item was actually received.

(87) *Question:* May the records required by Rule 17Ad–6(a)(1) be maintained in a fragmentary manner—for example, partially in a log and partially on tickets?

Answer: No. Either all the information for a particular item should be compiled in one record or all the pieces of paper capturing the required information should be attached together. Thus, even though Rule 17Ad–6 neither requires a particular recordkeeping system nor prescribes a particular form of records, a registered transfer agent must establish a recordkeeping system and develop forms of records that integrate and centrally locate all the information required by Rule 17Ad–6.

2. *Monthly Records Relating to Transfer Agent Turnaround—Rule 17Ad–6(a)(2):* Every registered transfer agent must make and keep current a log, tally, journal, schedule or other record showing for each month:

(i) The number of routine items received;

(ii) The number of routine items received during the month that were turned around within three business days of receipt;

(iii) The number of routine items received during the month that were not turned around within three business days of receipt;

(iv) The number of non-routine items received during the month;

(v) The number of non-routine items received during the month that were turned around;

(vi) The number of routine items that, as of the close of business on the last business day of each month, have been in such registered transfer agent's possession for more than four business days, aged in increments of one business day (beginning on the fifth business day); and

(vii) The number of non-routine items in such registered transfer agent's possession of the close of business on the last business day of each month.

(88) *Question:* Are the records required by Rule 17Ad–6 (a)(2)(vi) and (a)(2)(vii) cumulative in nature?

Answer: Yes. These records contain cumulative information. Thus, any item recorded on the previous month's log that is still in the transfer agent's possession as of the last business day of the current month must be shown on the current month's log.[63]

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[59] Rule 17Ad–5(e) was adopted by the Commission in Securities Exchange Act Release No. 14219 (December 1, 1977) (42 FR 62129).

[60] *See* Release No. 13636. (SEC Docket, at 863).

[61] Release No. 13636. (SEC Docket, at 863).

[62] *But see* Question (53) *supra.*

[63] *See* Release No. 13636, n. 18. (SEC Docket, at 864 n. 18). Footnote 18 in Release No. 13636 contains two typographical errors; the referenced paragraphs should be (a)(2)(vi) and (a)(2)(vii). *See also* Question (59) *supra.*

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(89) *Question:* Does Rule 17Ad–6(a)(2)(vii) require aging of non-routine items in a transfer agent's possession?

Answer: No. Rule 17Ad–6(a)(2)(vii) requires only that the number and not the age of such items be recorded.[64]

3. *Records of Outside Registrar-Rule 17Ad–6(a)(3):* Every registered transfer agent shall make and keep current, with respect to items for which it acts as an outside registrar:

(i) A receipt, ticket, schedule, log or other record showing the date and time:

(A) Each item is (1) received from the presenting transfer agent and (2) made available to the presenting transfer agent;

(B) Each written or oral notice of refusal to perform the registrar function is made available to the presenting transfer agent (and the substance of the notice); and

(ii) A log, tally, journal, schedule or other record showing for each month:

(A) The number of items received;

(B) The number of items processed within the time required by Rule 17Ad–2(b); and

(C) The number of items not processed within the time required by Rule 17Ad–2(b).

(90) *Question:* Must items processed within one-half day of receipt be recorded on the records required to be maintained by Rule 17Ad–6(a)(3)(ii)(B)?

Answer: Yes. The record required by Rule 17Ad–6(a)(3)(ii)(B) includes the number of items processed within the time periods specified in Rule 17Ad–2(b), including items processed in a shorter period of time. That is, Rule 17Ad–2(b) prescribes a maximum period within which items must be processed.

(91) *Question:* Where are items processed more quickly than required by Rule 17Ad–2(b) recorded?

Answer: In addition to the record required by Rule 17Ad–6(a)(3)(ii)(B), such items are recorded on the records required to be maintained by Rule 17Ad–6(a)(4) regarding calculations of processing performance under Rule 17Ad–2(b).

4. *Calculations of Performance-Rule 17Ad–6(a)(4):* Every registered transfer agent shall make and keep current a record of calculations demonstrating the registered transfer agent's monitoring of its performance under Rule 17Ad–2 (a) and (b).

(92) *Question:* Is there any particular form which must be used to record calculations of turnaround or processing performance?

Answer: No. No specific form of record is required, provided the calculations monitoring performance are actually shown.[65] For example, a record indicating the total number of routine items received in a month and turned around within three business days of receipt divided by the total number of routine items received in that month is sufficient.[66]

5. *Written Inquiries—Rule 17Ad–6(a)(6):* Every registered transfer agent shall make and keep current any written inquiry or request, including those not subject to the requirements of Rule 17Ad–5, concerning an item, showing the date received; a copy of any written response to an inquiry or request, showing the date dispatched or mailed to the presentor; if no response to an inquiry or request was made, the date the certificate involved was made available to the presentor; or, in the case of an inquiry or request under Rule 17Ad–5(a) responded to by telephone, a telephone log or memorandum showing the date and substance of any telephone response to the inquiry.

(93) *Question:* Under Rule 17Ad–6(a)(6), is a transfer agent required to keep only those inquiries subject to Rule 17Ad–5?

Answer: No. Rule 17Ad–6(a)(6) specifically requires that a transfer agent keep all written inquiries or requests received concerning an item, regardless of whether the inquiry falls within the parameters of Rule 17Ad–5.

(94) *Question:* Does Rule 17Ad–6(a)(6) require a named transfer agent that utilizes a service bureau, which is a registered transfer agent, to keep a copy of all written inquiries or requests?

Answer: Yes. The named transfer agent must keep a copy of all written inquiries and requests received, including those not subject to the requirements of Rule 17Ad–5, even though it forwards such requests and inquiries to a service bureau for response.

6. *Records Concerning the Appointment of a Transfer Agent—Rule 17Ad–6(a)(8):* Every registered transfer agent shall make and keep current any document, resolution, contract, appointment or other writing, and any supporting document, concerning the appointment and the termination of such appointment of such registered transfer agent to act in any capacity for any issue on behalf of the issuer, on behalf of itself as the issuer or on behalf of any person who was engaged by the issuer to act on behalf of the issuer.

(95) *Question:* Must an issuer that only maintains the official securityholder records and, accordingly, is a registered transfer agent make and keep current the records required by Rule 17Ad–6(a)(8)?

Answer: Yes. Rule 17Ad–6(a)(8) specifically applies to a registered transfer agent acting "on behalf of itself as the issuer." An issuer that maintains the official securityholder records is acting on its own behalf. Therefore, it must make and keep current the records required by Rule 17Ad–6(a)(8).

7. *Records of Restrictions on Transfer—Rule 17Ad–6(a)(9):* Every registered transfer agent shall make and keep current any record of an active (*i.e.*, unreleased) stop order, notice of adverse claim or any other restriction on transfer.

(96) *Question:* May a registered transfer agent remove, on instruction from the issuer, stops or other restrictions on transfer of a security merely because the security has a *de minimus* market value?

Answer: No. The market value of a security subject to a stop is not a decisive factor in determining whether to permit removal thereof. A stop or other restriction on transfer remains active until a transfer agent receives instructions from an authorized person to release it.[67]

8. *Journals—Rule 17Ad–6(a)(10):* Every registered transfer agent shall make and keep current a copy of any transfer journal and registrar journal prepared by such registered transfer agent.

(97) *Question:* Is a registered transfer agent required, under Rule 17Ad–6(a)(10), to prepare a transfer or registrar journal?

Answer: No. Rule 17Ad–6(a)(10) does not require that a registered transfer agent prepare any transfer or registrar journal. However, if a registered transfer agent, in fact, maintains such a journal, Rule 17Ad–6(a) requires that it be kept current.

9. *Special Event Documentation—Rule 17Ad–6(a)(11):* Every registered transfer agent shall make and keep current any document upon which the transfer agent bases its determination that an item received for transfer was received in connection with a reorganization, tender offer, exchange, redemption, liquidation, conversion or the sale of securities registered pursuant to the Securities Act of 1933 and, accordingly, was not routine under Rule 17Ad–1(i)(5) or (6).

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[64] *See* Release No. 13636. (SEC Docket, at 864).

[65] *See* Release No. 13636 (SEC Docket, at 863) and Question (80) *supra.*

[66] *See* Release No. 13636 (SEC Docket, at 864).

[67] An unauthorized removal of a restrictive legend could lead to a violation of the Securities Act of 1933 and could expose the transfer agent to further liability. Also, an unauthorized removal of a stop transfer instruction could be inconsistent with the Commission's Lost and Stolen Securities Program. *See* Rule 17f–1 (17 CFR 240.17f–1).

(98) *Question:* Does Rule 17Ad–6(a)(11) require that the documents, upon which the determination is made that an item received for transfer is non-routine under Rule 17Ad–1(i)(5) or (8), be traceable to the particular certificates involved?

Answer: Yes. The documents required by Rule 17Ad–6(a)(11) must be traceable to the particular item received for transfer. Although the transfer agent need not explain on the certificate why the item has been determined to be non-routine, two suggested methods for complying with Rule 17Ad–6(a)(11) are: (1) Attaching the ticket and any appropriate documentation (*e.g.,* shareholder transmittal form) to the item; or (2) referring directly on the ticket to the document which served as the basis for a determination that the item was non-routine.

Illustration: Facts: An issuer engages in a registered exchange offer. Shareholders tender their certificates together with a letter of transmittal to the issuer's exchange agent, a registered transfer agent. Based on the letter of transmittal, the transfer agent determines that the item is non-routine under Rule 17Ad–1(i)(5). Interpretation: To ensure proper accountability under Rule 17Ad–6(a)(11), the transfer agent should leave the letter of transmittal attached to the certificates tendered and subsequently cancelled.

B. *Records Regarding Control Logs for Each Issue—Rule 17Ad–6(b):* Every registered transfer agent which, under the terms of its agency, maintains security-holder records for an issue or which acts as a registrar for an issue shall, with respect to such issue, obtain from the issuer or its transfer agent and retain documentation setting forth (1) the total number of shares or principal amount of debt securities or total number of units if relating to any other kind of security authorized and (2) the total issued and outstanding pursuant to issuer authorization.

(99) *Question:* Where the issuer as a registered transfer agent maintains securityholder records only, and the service bureau, which also is a registered transfer agent, cancels and issues certificates as well as performs the registrar function, must the issuer-transfer agent retain the documentation required by Rule 17Ad–6(b) and (c)?

Answer: Yes. However, *for purposes of the turnaround rules,* the issuer need not keep *documents* (*e.g.,* certificate of incorporation or amendments thereto) concerning the matters covered by Rule 17Ad–6(b).[68] Instead, the issuer must retain a *record* setting forth the total number of securities authorized, issued and outstanding, as well as copies of each cancelled registered security referred to in Rule 17Ad–6(c) with accompanying documentation (except legal papers returned to the presentor).

C. *Cancelled Registered Certificates and Accompanying Documentation—Rule 17Ad–6(c):* Every registered transfer agent which, under the terms of its agency, maintains securityholder records for an issue shall, with respect to such issue, retain (1) each cancelled registered bond, debenture, share, warrant or right, other registered evidence of indebtedness, or other certificate of ownership and (2) all accompanying documentation, except legal papers returned to the presentor.

(100) *Question:* Does Rule 17Ad–6(c) apply only to *registered* bonds, debentures, shares, warrants, rights, other evidences of indebtedness and other certificates of ownership, which have been cancelled?

Answer: Yes. Rule 17Ad–6(c) specifically applies to "registered" securities; the word "registered" does not modify the word "bond" only.

VI. Rule 17Ad–7: Record Retention.

A. *Retention Periods for Records Regarding Transfer Agent's Appointment, Stops, Journals, and Control Logs—Rule 17Ad–7(c):* The records required by Rule 17Ad–6(a)(8), (9) and (10) and 17Ad–6(b) shall be maintained in an easily accessible place during the continuance of the transfer agency and shall be maintained for one year after termination of the transfer agency.

(101) *Question:* Does the language "continuance of the transfer agency and * * * one year after termination of the transfer agency" refer to the transfer agent's period of appointment for a particular issue of securities?

Answer. Yes. This language refers to the period of time during which a transfer agent is appointed to perform transfer agent activities for a *particular issue.* The rule does not refer to the period of time during which a transfer agent is registered with its appropriate regulatory agency.

B. *Retention Periods for Cancelled Certificates and Accompanying Documentation—Rule 17Ad–7(d):* The records required by Rule 17Ad–6(c) shall be maintained for a period of not less than six years, the first six months in an easily accessible place.

(102) *Question:* May a registered transfer agent destroy cancelled share certificates after they have been retained for a period of six years?

Answer: Rule 17Ad–7(d) establishes a *minimum* retention period of six years under the federal securities laws. Rule 17Ad–7(d) does not grant a registered transfer agent the right to destroy cancelled certificates after they have been retained for six years. Varying circumstances, other federal and state statutory provisions, as well as the by-laws of the issuing corporation, may require retention of cancelled certificates beyond six years.

C. *Microfilming of Records—Rule 17Ad–7(f):* The records required to be maintained pursuant to Rule 17Ad–6 may be produced or reproduced on microfilm and be preserved in that form for the time required by Rule 17Ad–7. If such microfilm substitution for hard copy is made by a registered transfer agent, it shall:

(1) At all times have available for examination by the Commission and the appropriate regulatory agency for such transfer agent, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record;

(3) Be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission and the appropriate regulatory agency by their examiners or other representatives may request; and

(4) For the period for which the microfilmed records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(103) *Question:* Has a registered transfer agent complied with Rules 17Ad–6(c) and 17Ad–7(d) when it releases cancelled certificates if it maintains microfilm substitution for hard copies of the cancelled certificates in compliance with Rule 17Ad–7(f)?

Answer: Yes. Rule 17Ad–6(c) requires that the transfer agent retain cancelled certificates for which it maintains securityholder records under its agency agreement, and Rule 17Ad–7(d) requires that such certificates be maintained for a period of at least six years, the first six months in an easily accessible place. However, Rule 17Ad–7(f) provides that records, which must be maintained pursuant to Rule 17Ad–6 (*e.g.,* cancelled certificates), may be microfilmed and preserved in that form for the appropriate period under Rule 17Ad–7, provided all four conditions of rule 17Ad–7(f) (1)–(4) are met. Thus, microfilm substitution for hard copy of the cancelled certificates, if all conditions of Rule 17Ad–7(f) are met, satisfies the recordkeeping requirement of Rule 17Ad–6(c) and, if preserved in

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[68] *See* Release No. 13636. (SEC Docket, at 864–65).

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that form for at least six years, satisfies Rule 17Ad–7(d).

(104) *Question:* Does Rule 17Ad–7(f)(4) require that a transfer agent keep the copy of microfilm records on premises that are physically separated from the location of the original microfilm records?

Answer: No. The rationale for requiring separate storage for the two sets of microfilm records is to minimize the possibility that a localized fire or other occurrence might destroy both sets of microfilm records. Consequently, compliance with Rule 17Ad–7(f)(4) depends upon the design and safeguards of the particular premises involved. If a separate building is available, the original and the copy of microfilm records should be stored in separate buildings. If there is only one building, such records should be stored on separate floors or in separate parts of the building.

D. *Records Maintained by a Third Party on Behalf of a Transfer Agent—Rule 17Ad–7(g):* If the records required to be maintained and preserved by a registered transfer agent pursuant to the requirements of Rules 17Ad–6 and 17Ad–7 are maintained and preserved on behalf of the registered transfer agent by an outside service bureau, other recordkeeping service or the issuer, the registered transfer agent shall obtain, from such outside service bureau, other recordkeeping service or the issuer, an agreement, in writing, to the effect that:

(1) Such records are subject at any time, or from time to time, to reasonable periodic, special or other examinations by representatives of the Commission and the appropriate regulatory agency for such registered transfer agent, if it is not the Commission; and

(2) The outside service bureau, recordkeeping service or issuer will furnish to the Commission and the appropriate regulatory agency, upon demand, at either the principal office or at any regional office, complete, correct and current hard copies of any and all such records.

(105) *Question:* When certain records are maintained and preserved on behalf of the registered transfer agent by an outside service bureau, other recordkeeping service or the issuer, does the production and furnishing by such entity of an easily readable facsimile enlargement in paper copy form, which is reproduced from microfilm as permitted by Rule 17Ad–7(f), violate the "hard copy" requirement of Rule 17Ad–7(g)(2)?

Answer: No. Rule 17Ad–7(f) provides that records required to be maintained under Rule 17Ad–6 by a transfer agent may be reproduced on microfilm and preserved in that form for the time period required by Rule 17Ad–7, provided that, among other things, easily readable facsimile enlargements are producible therefrom.

Pursuant to Rule 17Ad–7(g)(2), the registered transfer agent must obtain a written agreement from such entity that it will furnish, upon demand, "complete, correct and current hard copies of any and all such records." The purpose of Rule 17Ad–7(g) is to extend the record retention requirements of registered transfer agents to entities maintaining and preserving records on behalf of the registered transfer agent. The words "hard copy" in Rule 17Ad–7(g)(2) neither expand upon that responsibility nor increase the requirements of Rule 17Ad–7(f). Thus, an easily readable facsimile enlargement of records in paper copy form, which is reproduced from microfilm in accordance with Rule 17Ad–7(f) by an outside service bureau, other recordkeeping service or the issuer, satisfies Rule 17Ad–(g)(2).

Illustration: Facts: Pursuant to an agreement with the issuer, the registered transfer agent forwards, six months or more after cancellation, cancelled share certificates to the issuer. Upon receipt of the cancelled certificates, the issuer microfilms and then destroys the certificates. The issuer retains the microfilm copy for a period of not less than six years, as required under Rules 17Ad–6(c) and 17Ad–7(d). If the Commission or the transfer agent's appropriate regulatory agency requests a hard copy of a destroyed cancelled certificate, the issuer has agreed in writing to reproduce a paper copy thereof from the microfilm. Interpretation: This paper copy will satisfy the "hard copy" requirement of Rule 17Ad–7(g)(2).

E. *Transfer Agents that Cease to Perform Transfer Agent Functions—Rule 17Ad–7(h):* When a registered transfer agent ceases to perform transfer agent functions for an issue, the responsibility of such transfer agent under Rule 17Ad–7 to retain the records required to be made and kept current under Rule 17Ad–6(a) (1), (6), (9), (10) and (11), (b) and (c) shall end upon the delivery of such records to the successor transfer agent.

(106) *Question:* What are the record retention requirements for a registered transfer agent that is in the process of terminating all of its stock transfer activities but has not yet withdrawn from registration as a transfer agent with its appropriate regulatory agency?

Answer: Rules 17Ad–6 and 17Ad–7 set forth, respectively, the recordkeeping and record retention requirements for registered transfer agents. In addition, Rule 17b–1(g) prescribes record retention requirements in connection with the Commission's Lost and Stolen Securities Program. A registered transfer agent that is ceasing to perform transfer agent functions for either a particular issue or entirely may fulfill its obligations by delivering, pursuant to Rule 17Ad–7(g) or 17Ad–7(h), the records required to be maintained by the above rules to the issuer for which it was a transfer agent, to an outside service bureau, or to a successor transfer agent. If a transfer agent determines to fulfill its obligations by delivering such records to the issuer or an outside service bureau, it must obtain a written agreement from the issuer or the outside service bureau stating that the records will be retained for the required time periods and will be made available to the Commission and the appropriate regulatory agency for examination in accordance with Rule 17Ad–7(g). If the records are delivered to a successor transfer agent, however, no such written agreement is required by Rule 17Ad–7(h).

(107) *Question:* What obligations are imposed by the federal securities laws on transfer agents to retain transfer agent records after a transfer agent's withdrawal from registration with the Commission has become effective?

Answer: Rule 17Ac3–1 [69] and related Form TA–W [70] presribe the procedure to be followed by transfer agents withdrawing from registration as transfer agents with the Commission. Pursuant to the terms of withdrawal stated therein, the withdrawing transfer agent undertakes to preserve those records which it would otherwise be required to make and keep pursuant to Rules 17Ad–6 and 17f–2 for the remainder of the time periods specified in Rule 17Ad–7.

Illustration: Facts: A transfer agent, whose withdrawal from registration with the Commission has become effective, is storing cancelled certificates, transmittal letters and transfer journals. How long must the transfer agent continue to store these records? Interpretation: Pursuant to Rule 17Ad–7(d), cancelled certificates and transmittal letters are required to be retained for six years. Accordingly, the transfer agent must retain these records for the remainder of the six year period. Pursuant to Rule 17Ad–7(c), transfer journals must be retained during the continuance of the transfer agency and for one year after termination thereof. Accordingly, the transfer agent must retain its transfer journals for one year from the date of termination of its transfer agency with respect to that issue of securities.

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[69] *See* 17 CFR 240.17Ac3–1.

[70] *See* 17 CFR 249b.101.

(108) *Question:* After a transfer agent's withdrawal from registration with the Commission becomes effective, what records may be delivered to the issuer or the successor transfer agent?

Answer: Any records enumerated in Rules 17Ad-6 and 17Ad-7 may be delivered to the issuer pursuant to Rule 17Ad-7(g) or to the successor transfer agent pursuant to Rule 17Ad-7(h).

If the transfer agent chooses to deliver these records to the issuer, it should obtain a written agreement, in accordance with the transfer agent's undertaking in Form TA-W, that the issuer will retain the records for the applicable time periods and make them available to the Commission.

Accordingly, 17 CFR Part 241 is amended by adding thereto this interpretative release, Regulation of Transfer Agents.

By the Commission.

George A. Fitzsimmons,
Secretary.
September 2, 1980.

[FR Doc. 80-27812 Filed 9-10-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-48; Order No. 96]

Section 206(d) Exemption for Small Industrial Boiler Fuel Facilities From the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Correction

September 3, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Correction notice to final rule.

SUMMARY: This notice contains a correction to the final regulations promulgated in Order No. 96, issued July 29, 1980 (45 FR 52359, August 7, 1980) which exempts certain small industrial boiler fuel facilities from incremental pricing.

EFFECTIVE DATE: September 5, 1980, or such later date as represents the first day following 30 days of continuous session of the Congress, if not disapproved by either House.

FOR FURTHER INFORMATION CONTACT:

Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, (202) 357-9095, or

Carol M. Lane, Office of the General Counsel, Federal Energy Regulatory, Commission, 825 North Capitol Street NE, Washington, D.C. 20426, (202) 357-8114.

Kenneth F. Plumb,
Secretary.

On mimeo page 18, 45 CFR 52363, in the first column, change § 282.203(a)(2) from: "(2) all gas used for an agricultural use;"
to: "(2) all gas consumed in an agricultural use unless by rule or order the Commission determines that there is an alternative fuel; or feedstock for the agricultural use that is economically practicable and reasonably available;"

[FR Doc. 80-27574 Filed 9-10-80; 8:45]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-633]

Revision to Thermal Requirements for HUD Minimum Property Standards (MPS) for One- and Two-Family Dwellings

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule incorporates modified interim regulations for thermal requirements into the HUD MPS for One- and Two-Family Dwellings, 4900.1. This rule modifies the thermal requirements published in 44 FR 22444, April 16, 1979, effective as an Interim Rule May 16, 1979. These modifications are in response to a legislative mandate contained in House of Representatives Report No. 96-706, December 13, 1979, accompanying H.R. 3875, enacted as Section 322 of the Housing and Community Development Amendments of 1979, Public Law 96-153, December 21, 1979, and other comments made on the Interim Rule.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Mervin Dizenfeld, Office of Architecture and Engineering Standards, Room 6170, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-6590. (This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in Handbooks, MPS for One- and Two-Family Dwellings 4900.1, MPS for Multifamily Housing 4910.1, and MPS for Care-Type Housing 4920.1. The MPS are the standards for all new construction in HUD associated programs. The MPS are incorporated by reference into 24 CFR 200.919.

All substantive changes in the MPS are required by 24 CFR 200.933 to be published in the **Federal Register** using the same procedure as for the publication of regulations. The MPS for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of the Headquarters at the above address during business hours.

On April 16, 1979 (44 FR 22444) HUD published Increases in Thermal Requirements for HUD Minimum Property Standards. Interested persons were given until June 15, 1979 to comment on the amendment. House of Representatives Report No. 96-706 of December 13, 1979 accompanying H.R. 3875 contained a disapproval of the thermal standards as applied to masonry and included the following:

> The objective of the provision is not to exempt the masonry components of construction from increased thermal energy requirements. Rather, the conferees expect the Secretary of HUD, after consulting with the Farmers Home Administration and the Department of Energy, and after carefully reviewing data that has become available since the interim rule was published, and other data developed pursuant to the recent National Bureau of Standards cost-benefit analysis, to move immediately to issue final thermal standards for the masonry components of construction no later than one month after enactment of this Act. During the interim period and prior to the issuance of the revised standards, masonry components shall comply with those thermal requirements existing prior to April 16, 1979, except that any local acceptable standard exemptions granted by HUD as of June 8, 1979, may remain in effect until the revised standards become final.
>
> The conferees believe that the three agencies involved in developing conservation standards for new and rehabilitated residential construction—the Department of Housing and Urban Development, the Farmers Home Administration and the Department of Energy—should develop standards for various programs that are consistent. In order for the Federal Government to develop a rational and consistent approach to energy conservation, these three agencies should work closely together and reach a consensus on the assumptions and data used in various residential conservation standards.

Forty-one comments were received from other sources. These comments dealt with the requirement for an external source of combustion air for furnaces, boilers, domestic water heaters and site-built masonry fireplaces. A second subject of commentary was the development of exceptions to requirements for electric resistance heating insulation levels for heat pumps in areas above 5000 heating degree days. Research and coordination of information in all of these areas has resulted in standards which (1) provide alternates to insulation standards for areas of 3000 heating degree days and less, based on recently available technical data, which is acceptable to the Farmers Home Administration (FmHA); (2) clarify the external air supply required for fireplaces in terms of combustion needs; (3) modify the requirement for external source of combustion air for furnaces and water heaters; (4) establish acceptable heat pump systems resulting from recent technology which relieve the requirement in areas over 5000 heating degree days for complying with insulation levels for electric resistance heating.

Discussion of Major Comments:

Masonry Construction

The legislative mandate in House of Representatives Report No. 96–706 quoted above was the basis for considerable reanalysis. HUD has consulted with both FmHA and the Department of Energy (DOE). Results from these discussions, particularly the development of unified energy conservation standards, are based upon analysis of data that was not in final form at the time the interim rule was prepared.

Prior to the above report, on November 15, 1979 HUD met with representatives of the National Concrete Masonry Association, the Brick Institute of America, the Portland Cement Association, DOE, FmHA, the Veterans Administration and the National Bureau of Standards (NBS). Test data on the thermal performance of six masonry and wood frame walls was presented and discussed. The results of the tests were represented as an initial effort to experimentally evaluate thermal response of building envelopes under dynamic as well as steady-state conditions. Additional tests of different wall configurations and different temperature cycles were recommended. The data submitted was insufficient to support a change to the HUD standards. Also submitted were tables for ten cities with reduced masonry wall R-values purported to be equivalent to the values in the HUD standards. However, these tables were derived from a study of low-rise apartment buildings, not one- and two-family dwellings, to which the HUD standards apply. The HUD standards were not developed on a steady-state basis, but were based upon the National Bureau of Standards Load Determination (NBSLD) program, using weather tapes and projected data for cities with various climatic conditions. Research, partially funded by HUD and DOE, is now in progress at NBS to refine basic values of various types of walls for use in such computer programs. The presentation of component description by U values in Table 6–7.1 of the HUD standards is consistent with the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbook of Fundamentals and with the National Concrete Masonry Association publication "NCMA–TEK 12, Estimating U-Factors for Concrete Masonry Construction."

HUD reviewed National Bureau of Standards Interagency Report (NBSIR) 79–1789, an Economic Analysis of Insulation in Selected Masonry and Wood-Frame Walls, prepared for HUD by NBS. The report included projected comparative annual heating and cooling requirements for wood-frame and masonry walls, normalized to the same U value, for eight cities in various climatic areas. Masonry walls performed only slightly better then wood-frame walls in the comparison. In areas where heating rather than cooling is the dominant form of energy consumption, the masonry performance ranged from 0.5 percent to 1.3 percent better than the wood-frame walls. In areas where cooling is the critical load, the masonry wall energy consumption ranged from 0.7 percent to 4.9 percent less than the wood-frame wall. The maximum difference of 4.9 percent translates to 860,000 Btu, or approximately 250 kWh per year. When the NBS draft report on the performance of additional masonry walls is issued in final form, the performance graphs comparing masonry and wood frame walls from this report and from NBSIR 79–1789 will be incorporated into the HUD Manual of Acceptable Practices. This will assist users of the MPS in determining alternate approaches to conformance to the standards. The following statement is included in NBSIR 79–1789: "Although the energy savings due to an equivalent decrease in U-value for masonry walls are nearly the same as those for wood-frame walls, the maximum economic level of insulation is significantly lower for the masonry walls. This is due to the fact that the insulation of masonry walls is significantly more expensive than insulation in wood-frame walls, thereby reducing the cost-effectiveness of the insulation."

Technical support documents for the DOE Energy Performance Standards for New Buildings (BEPS) were also reviewed for applicability. The Economic Analysis for these standards, Appendix I. 3, Exterior Masonry Houses and the Residential Energy Budgets, discusses the problems that masonry houses present in terms of meeting the energy budget "optima" as follows: "Two questions are addressed:

1. How can masonry houses conform to the "optimum" energy budgets?

2. What are the energy budgets that minimize life-cycle cost for masonry houses?

The analysis is performed by using the DOE–2 computer program to model a prototype masonry house in several climates. The prototype resembles the Lawrence Berkley Laboratory (LBL) single-story house, except that the walls are made of concrete block. DOE used the same specifications for the concrete block as Petersen (1979) (NBSIR 79–1789). DOE assumed that partition walls are also made of masonry and that a slab-on-grade floor is used. The results can be summarized by the answers to the two questions posed above. First, to conform with the "optimum" energy budgets, masonry walls must be insulated to almost as large an R-value as frame walls. Thus, if the optimal house has R–19 walls, the masonry house will require almost (but not fully) R–19 insulation. Since the optima always involve at least R–11 insulation, masonry walls must also be insulated to meet the same standard. If further appears that insulating masonry houses to these levels is cost-effective even in warm climates such as Ft. Worth and Phoenix. Insulation techniques which involve interior furring and ordinary mineral wool insulation are the cheapest, given the cost data used. Second, the optima for a masonry prototype would be comparable to those in a frame house. For most climates, the masonry optima are slightly lower (in energy use) than the frame optima because the same R-value of insulation is used, but masonry buildings use slightly less energy for a given insulation level than frame houses. DOE concludes that, since the difference in energy performance between frame and masonry buildings is not large, there is no reason to establish a separate energy budget for masonry buildings. If masonry buildings are designed to meet the ordinary "optimum" budgets, they will be close to their own life-cycle cost minima. Even if the difference were larger, one could still argue that separate energy budgets are not needed. The essence of the performance standard concept is that all houses must meet the same energy standard for a given size of house. This uniform energy standard will not, in general, correspond to the cost-minimizing configuration for any given house. It is only when the departures from cost-minimization become large that special exemptions from the general performance standard are advisable. Otherwise, every home which did not exactly follow the prototype specifications (e.g., house without southern exposure, houses with large view windows, houses with open-beam ceilings, etc.) would seek exemptions; and the standard would become more arbitrary and difficult to enforce. This is not the case with masonry. Both these results and those of Petersen (1979) show that masonry walls of a given U-value perform only a few percentage points better than frame walls of the same U-value. (Petersen shows that insulated masonry is generally not cost effective, but his report confines itself to insulation strategies which are expensive compared to interior furring and fiberglass insulation.)"

On March 6–7, 1980, HUD representatives attended a two-day meeting with DOE personnel and DOE contractors. The purpose of the meeting was to hear and discuss the status of BEPS as they would apply to residential construction and the comparison of these standards and HUD standards. While the assumptions, supporting the DOE proposed standards were reviewed, no attempt has been made to increase the levels of protection to that proposed therein. We are aware that public hearings on the DOE program have recently been completed. When the final DOE standards are developed further correlation of HUD Minimum Property Standards is contemplated. The following list indicates the major items of data reviewed in preparation of the Final Rule:

1. *Economic Analysis of Insulation in Selected Masonry and Wood-Frame Walls.* National Bureau of Standards (NBS) NBSIR 79–1789.
2. *Thermal Performance of Masonry Walls.* Fiorato and Cruz for the Portland Cement Association (PCA), the Brick Institute of America (BIA) and the National Concrete Masonry Association (NCMA).
3. *Effect of the Thermal Mass on the Heating and Cooling Loads in Residences.* Rudoy and Dougall for the National Forest Products Association.
4. *Avoid Tunnel Vision in Implementation of Energy Conservation Building Standards.* W. J. van der Meer for NBS Special Publication 473, Research and Innovation in the Building Regulatory Process.
5. *Thermal Inertia in Architectural Walls.* F. N. Arumi for ERDA and NCMA.
6. *Energy Conservation Guidelines for Including Mass and Insulation Building Walls.* Paper by M. E. Dexter for presentation at DOE seminar.
7. *The "M" Factor.* Masonry Industry Committee.
8. *New Insights into Energy Use and Conservation in Structures.* NCMA.
9. *A Comparison of Very Lightweight Walls of Wood, Metal and Glass Versus Concrete Masonry in Energy Conservation.* NCMA.
10. *Estimating U-Factors for Concrete Masonry Construction.* NCMA TEK 12.
11. *Thermal Comfort in Housing with Concrete Masonry Units.* NCMA TEK 26.
12. *Thermal Insulation of Concrete Masonry Walls.* NCMA TEK 38.
13. *Energy Conservation with Concrete Masonry.* NCMA TEK 58.
14. *Tables of U-Values for Concrete Masonry Walls.* NCMA TEK 67.
15. *New Findings on Energy Conservation with Concrete Masonry.* NCMA TEK 68.
16. *Energy Conscious Design for Buildings.* NCMA TEK 82.
17. *Dynamic Thermal Properties of an Experimental Masonry Building.* BSS 45, NBS.
18. Various *Technical Notes on Brick Construction.* BIA.
19. Excerpts from *PCA Studies on Low Rise Apartment Building*—Author Unknown.
20. Technical Support Documents for DOE NOPR on Building Energy Performance Standards.
21. Computer analysis comparison of frame and masonry houses by NBS for FmHA.
22. *Single-Family Housing Energy Study, One House-Two Cities-Three Walls.* BIA Research Report 19.
23. *An Appraisal of the "M" factor and the Role of Building Thermal Mass in Energy Conservation,* K. W. Childs, Oak Ridge National Laboratory.

On May 5 and May 19, 1980 meetings were held with FmHA to discuss the standards of the two agencies and to attempt to resolve the differences. Original assumptions upon which both FmHA and HUD standards were based were reanalyzed and economic information on which the original revision of the standards was based were reviewed in light of the energy costs which have escalated beyond those projected at the time of the revision. The resulting standard is based on the latest information available and the most liberal assumption regarding other energy conserving features. Since the Conference Report stated that it was not intended to exempt masonry construction from increased requirements, we have amended Table 6–7.1 to provide equivalent energy conservation through increased insulation requirements in ceilings to compensate for reduced levels of insulation in walls of all construction types. We believe this is a rational requirement which is responsive to the legislative mandate. This change appears as Note 2 to Table 6–7.1. We are aware that a low-pitched roof is the historical design preference in several geographic areas covered by this amendment. It is not cost-effective to mandate a change in roof structure merely to achieve limited additional cavity space to receive insulation. Therefore, the reduced thickness of ceiling insulation, adjacent to walls supporting the roof structure, will not be considered when determining conformance to the transmission values of Table 6–7.1 or Footnote 2.

Local Acceptable Standards now in effect in areas of 2000 Heating Degree Days or less will remain in effect until 120 days after the effective date of this Final Rule. The Department is aware that an amendment accepted by the House of Representatives during consideration of H.R. 7262 would continue Local Acceptable Standards for masonry construction, which were in effect on June 8, 1979, until the implementation of the building energy performance standards. If this amendment is incorporated into the Housing and Community Development Act of 1980, the Department will accede to the wishes of Congress.

Storm Sash

We have received several comments inquiring about the use of storm sash in lieu of insulating frames for metal frame windows in areas subject to a winter design temperature of 10 F or lower. Paragraph 508–5.1 has been modified to clarify our intent on this subject.

Fireplaces

Several comments were received concerning requirements for external combustion air for fireplaces. As a result we have conferred with knowledgeable people in this area and have discussed their experiences. The basic question centered on the amount of air needed to maintain the fire without undue depletion of conditioned air in the home. The requirement for an air source no smaller than the smoke pipe or the flue pipe has been replaced by a general statement, requiring an air supply sized for proper combustion. Guidance material will be developed for the Manual of Acceptable Practices. Based upon comments from HUD Field Offices, an operable window has been determined to be acceptable for combustion air supply when located to avoid drafts. A glass fire screen is required to allow the reduction of combustion air when desired.

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Combustion and Ventilation Air

Many comments were received concerning the requirement of combustion air for fossil fuel heating systems. The commenters point out that no energy may be saved with this requirement. The intent of this requirement was not for energy conservation but for life safety. This decision was based on the understanding that quality builders were building a tighter house with a drastically reduced infiltration rate. We again refer to the National Fire Protection Association which has required outside air for combustion when fossil fuel burning units are located in confined areas with insufficient combustion air. This change is made in paragraph 615–2.5, Combustion Air. The American National Standards Institute Z223 Committee is presently circulating a proposed revision to the Standard which deals with required combustion and ventilation air in tightly constructed buildings. This consensus standard will be considered for inclusion in our standards. The proposed revision to Z223 contains definitions of confined and unconfined spaces in which appliances are located and the adequacy of these spaces to support combustion. Pending the outcome, the requirements for heating systems have now been reworded in an attempt to clarify the needs for a newer house without expensive controls to monitor combustion air.

Heat Pump

Several comments were received debating the need for insulating houses served by heat pumps, to the same level as houses having electric resistance heating in areas of more than 5000 heating degree days. The argument was also made that such a requirement discouraged the use of more efficient equipment. Reports later than those upon which the standard was based were presented.

As a result, Note 1 of Table 6–7.1 has been amended to provide exceptions to the standard when various specific types of heat pumps are proposed for use in areas of more than 5000 Heating Degree Days.

Several commenters pointed out that the graph, Figure 2, Gross Ceiling Area did not conform to Table 6–7.1. The graph has been corrected accordingly.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12221.

For information and clarity the full text of the Final Rule, for the thermal revision to Handbook 4900.1, Minimum Property Standards for One- and Two-Family Dwellings, incorporated by reference in 24 CFR 200.933 as revised is published below. Paragraphs that have been changed as a result of comments on the Interim Rule are marked with an asterisk.

507–3.4 *Conditions of Use*

a. Foam plastic insulation surfaces shall have a flame spread rating of 0–75 tested in accordance with ASTM E–84. In all habitable rooms and in nonhabitable areas such as utility rooms, garages and basements using foam plastic for insulation, the insulation shall be installed within the cavity or on the exterior of a masonry wall or shall be separated from the building interior by a material having a finish rating of at least 15 minutes such as ½ in. gypsum wall board.

b. When installing insulation in attics, and eave vents are provided, a one in. clearance under the roof deck must be allowed to permit the upward flow of the incoming air above the surface of the insulation. To insure that the clearance is provided when blown or poured type insulation is used, baffles of durable material shall be installed prior to the insulation.

c. Vermiculite and perlite used as a fill insulation in masonry walls shall be of the water repellent type.

d. Loose fill cellulosic insulation pneumatically installed in wall cavities shall (1) be blown-in dry in accordance with the manufacturer's written instructions and shall comply with FS HH–I–515D as amended for conformance with Pub. L. 95–319 and (2) the R value shall be based on an installed density (ID) of not less than 3.5 lb/cf. ID is the ratio of the weight of the installed material (w) divided by the volume (v) of the wall cavity and shall equal or exceed 3.5 lb/cf.

*508–5.1 *General*

When metal windows or sliding glass doors are proposed in areas subject to a winter design temperature of 10 F or lower, insulating frames shall be provided. Criteria shall be as set forth in AAMA 1502.6, Voluntary Standards and Tests of Thermal Performance of Residential Insulating Windows and Sliding Glass Doors. Where wood is used as the insulator, it shall be water repellent preservative treated. Storm sash are acceptable to serve this purpose when a thermal separation is provided between the prime and the storm window where both window frames are metal.

*604–7.1 *General*

Fireplace construction shall be safe, durable and suitable for its intended use. All site-built fireplaces, solid fuel or gas burning, shall be provided with a source of combustion air from outside the conditioned atmosphere of the house. The air shall be ducted into the combustion chamber proper or located along the same wall or floor close to the fireplace. This supply of air shall be sized for the flow of air needed for proper combustion, independent of infiltration through the structure, and it shall be equipped with insect screening and tightly closing damper. An operable window in the same room may be considered as the source of air when located to assure draft-free comfort for occupants and a glass firescreen is installed.

607–3.2 *Overall Coefficient of Heat Transmission*

a. All buildings which are heated or cooled mechanically shall be constructed to comply with the U values shown in Table 6–7.1. U values shown do not include adjustments for framing in walls, ceilings or floors, nor for the sash frame in windows or glass doors.

*b. Where the stated U value of any one component of roof deck, ceiling, wall or floor cannot be practically obtained, such U value may be increased to the min. figure attainable and the U value for other components decreased until the overall heat gain or heat loss does not exceed the total resulting from conformance to the stated U values. (See Note 2, Table 6–7.1).

607–3.3 *Component Coefficient Values*

For ceilings, walls, floors and openings, U values shall not exceed those shown in Table 6–7–1.

TABLE 6-7.1*

Maximum U Values for Ceiling, Wall and Floor Sections for Electric Resistance Heat (E.R.) and Heat Pump or Fossil Fuel Heat (F.F.) (1)

Heating Degree Days (65 F Base)	Ceilings (2) (3)		Walls (2)		Floors (4)		Windows (5)		Sliding Glass Doors (5)		Storm Doors (6)	
	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.
0 - 1000	.05	.05	.08	.08	--	--	1.13	1.13	1.13	1.13	No	No
1001 - 2500	.04	.05	.07	.08	--	--	.69	1.13	.69	1.13	No (7)	No
2501 - 3500	.03	.04	.05	.08	.07	--	.69	1.13	.69	1.13	No (7)	No
3501 - 4500	.03	.03	.05	.07	.05	.07	.69	.69	.69	.69	No (7)	No (7)
4501 - 6000	.03	.03	.05	.07	.05	.07	.47	.69	.69	.69	Yes	No (7)
6001 - 7000	.026	.03	.05	.07	.05	.07	.47	.69	.69	.69	Yes	No (7)
7001 +	.026	.026	.05	.05	.05	.05	.47	.47	.69	.69	Yes	Yes

Notes to Table 6-7.1

*(1) For areas of 5000 heating degree days (HDD) or less, houses using heat pumps may be insulated to levels required for fossil fuels. In areas above 5000 HDD, houses using air-to-air heat pumps shall be insulated to levels required for electric resistance (ER) heating. The following exceptions to this requirement are:

a. Water source heat pumps.

b. Fossil fuel supplemented heat pumps.

c. Units with multiple capacity.

(1) Dual compressors

(2) Modulating compressor speed

(3) Dual speed compressor

d. Uni-directional (such as annual cycle energy systems (ACES)).

e. Systems with balanced heating and cooling load.

*(2) The following combinations of wall and ceiling transmission U values are considered to provide annual heating and cooling consumption comparable to that predicted for values in Table 6-7.1 and may be substituted accordingly. Other components shall conform to the U values shown for the specific heating degree day:

HDD (65F)	ER		FF	
	CLG	WALL	CLG	WALL
0 - 1000	.04	.14	.04	.14
	.03	.15	.03	.15
	.026	.16	.026	.16
1001 - 1500	+	+	.04	.13
	.03	.13	.03	.14
	.026	.14	.026	.16
1501 - 2500	+	+	.04	.12
	.03	.11	.03	.13
	.026	.12	.026	.14
2501 - 3000	+	+	.03	.12
	.026	.07	.026	.13

+ See Table 6-7.1

(3) Includes roof/ceiling assemblies, in which the finished ceiling is the underside of the roof deck.

*(4) For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces. A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50° F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space." Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

*(5) Maximum glass area shall not exceed 15 percent of the gross area of all exterior walls enclosing heated spaces, except when demonstrated that the winter daily solar heat gain exceeds the 24 hour heat loss and the glass area is properly screened from summer solar heat gain. In areas where cooling is the predominant load and the heating load is insignificant (as an example, 2000 or more cooling hours and 2000 or less heating degree days), the maximum glazing area stated above may be waived when glass area is properly screened from solar heat gain. Any additional glass area shall have a significant portion of operable sash in order to provide natural ventilation.

(6) A 1¾ inch metal faced door system with an insulated core and durable weatherstripping providing a U value equal or better than 0.32, and an infiltration rate of no greater than .50 cfm per foot of crack length, tested according to ASTM E–283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All exterior doors shall be weatherstripped.

*(7) In areas with 1501 or more heating degree days, a storm door is required when the primary door is a hollow core door or is over 25% glass.

*607–3.4 *Alternate Performance Criteria*

a. As an alternative to conformance with Table 6–7.1, dwellings which conform to the performance criteria of this section shall be considered acceptable.

b. U_o (gross wall)—Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.

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GROSS WALLS - FIGURE 1

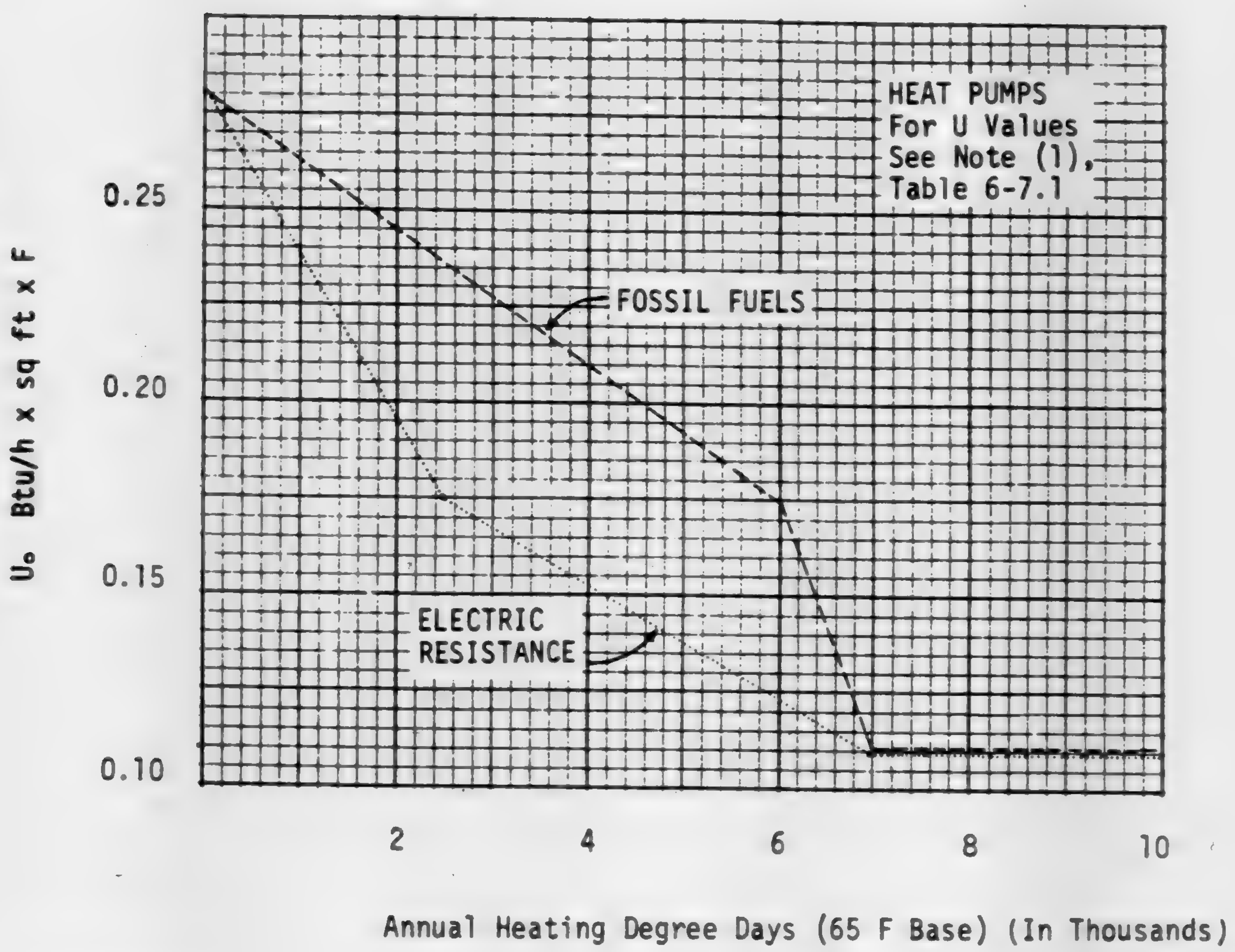

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Equation 1 Formula for Determining Combinations (See Figure 1)

$$U_o=(U_{wall}A_{wall}+U_{window}A_{window}+U_{door}A_{door})/A_o$$

where:

U_o = the average thermal transmittance of the gross wall area, Btu/(h x sq ft x F)
A_o = the gross area of all exterior walls enclosing heated spaces, sq ft
U_{wall} = the thermal transmittance of all elements of the opaque wall area, Btu/(h x sq ft x F)
A_{wall} = opaque wall area enclosing heated spaces, sq ft
U_{window} = the thermal transmittance of the window area, Btu/(h x sq ft x F)
A_{window} = window area (including sash), sq ft
U_{door} = the thermal transmittance of the door area, Btu/(h x sq ft x F)
A_{door} = door area (including sash), sq ft

Note.—Where more than one type of wall, window and/or door is used, the U x A term for that exposure shall be expanded into its sub-elements, as:

$U_{wall_1}A_{wall_1}+U_{wall_2}A_{wall_2}$, etc.

c. U_o (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of Figure 2.

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GROSS CEILING - FIGURE 2*

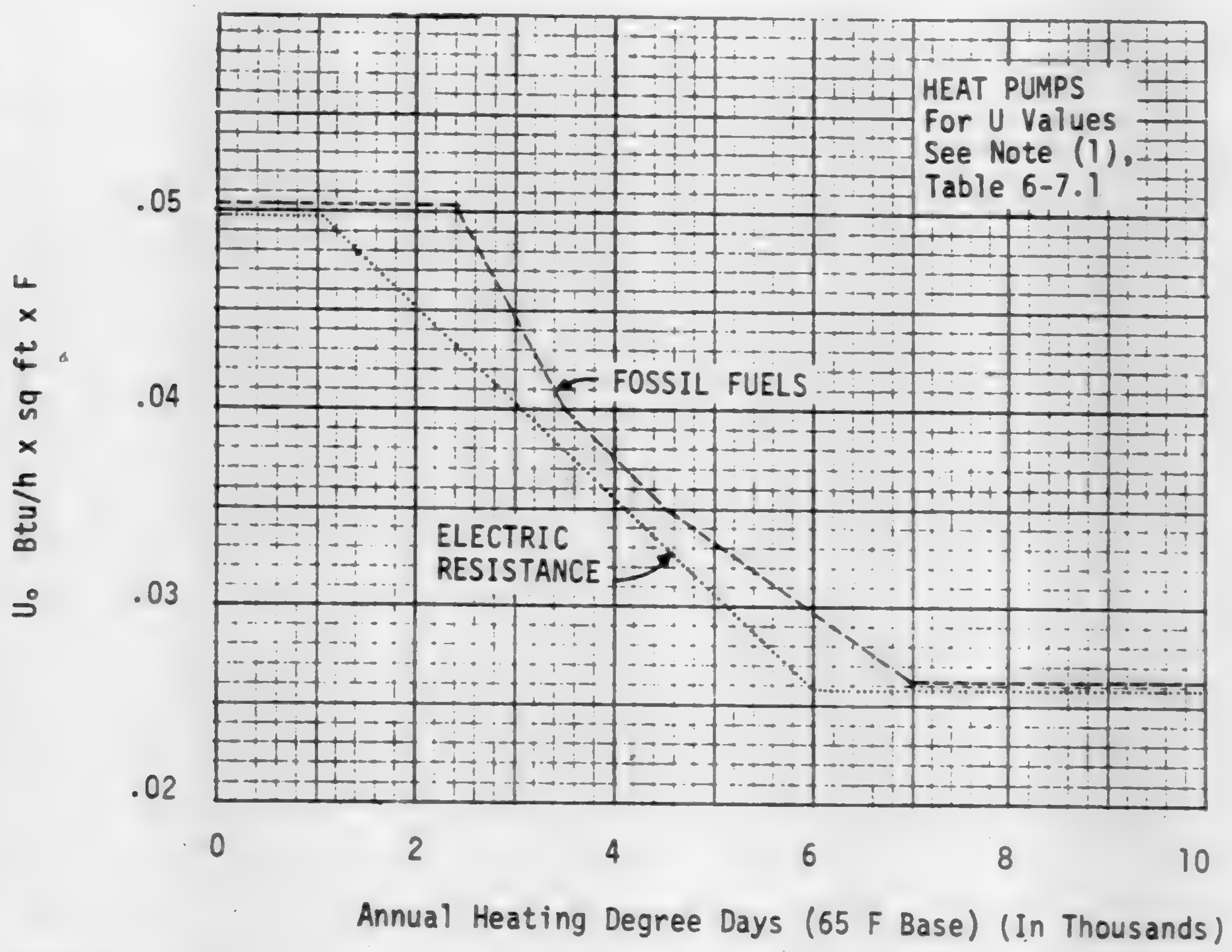

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Equation 2 Formula for Determining Roof/Ceiling Combinations

$U_o = (U_{roof}A_{roof} + U_{skylight}A_{skylight})/A_o$

where:

U_o = the average thermal transmittance of the gross roof/ceiling area, Btu/(h x sq ft x F)

A_o = the gross area of a roof/ceiling assembly, sq ft

U_{roof} = the thermal transmittance of all elements of the opaque roof/ceiling area, Btu/(h x sq ft x F)

A_{roof} = opaque roof/ceiling area, sq ft

$U_{skylight}$ = the thermal transmittance of all skylight elements in the roof/ceiling assembly, Btu/(h x sq ft x F)

$A_{skylight}$ = skylight area (including frame), sq ft

Note.—Where more than one type of roof/ceiling and/or skylight is used, the U x A term for that exposure shall be expanded into its sub-elements, as:

$U_{roof}\ A_{roof}\ + U_{roof}\ A_{roof}$, etc.

607–3.5 *Overall Structure Performance Alternative*

Structures which can be shown by accepted engineering practice to have energy consumption equal to or less than that which would be obtained by conformance to the criteria of 607–3.3 or 607–3.4 shall be considered acceptable. The contribution of passive solar energy and the related storage and reradiation capacity of masonry, water and other mass may be recognized in computing energy consumption under this alternate method. The following requirements shall govern in determining comparability:

a. The methodology shall be cost effective to the energy consumer.

b. The methodology shall not adversely affect the structural capacity, durability, or safety aspects of the structure.

c. All data and calculating must show valid performance comparisons between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with 607–3.3 or 607–3.4.

607–3.6 *Basement or Crawl Space Foundation Walls*

Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. Foundation walls of heated areas below grade need not be insulated except where recreation or similar use rooms or habitable rooms are provided or where more than 50 percent of the wall is exposed to outside air. The U value of foundation wall sections shall not exceed the value shown in Table 6–7.2 except where the alternative methods shown in 607–3.4 or 607–3.5 are employed and foundation walls are included in the determination of the average thermal transmittance of the gross wall area.

TABLE 6-7.2*

Maximum U Values of the Foundation Wall Sections of Heated Basement or Heated Crawl Space

Heating Degree Days (65 F Base)	Maximum U Value
2500 or less	No Requirement
2501 to 4500	0.17
4501 or more	0.10

607–4 *Caulking*

Caulk, provide gasket(s) or otherwise seal around all openings in the exterior envelope of the conditioned atmosphere of the home, at all joints between dissimilar materials and at junctions of major components such as wall-to-floor, etc. Caulking shall be silicone rubber base or butyl rubber base, conforming to Federal Specifications TT–S–1543 and TT–S–1657 respectively, or materials demonstrating equivalent performance in resilience and durability.

610–1 *Factory-Built Fireplaces and Fireplace Stoves*

*610–1.1 *General*

All factory-built fireplaces, fireplace stoves and other devices and appliances burning solid fuels shall be provided with a source of combustion air from outside the conditioned atmosphere of the home, directed (1) into the combustion chamber proper, or (2) into the room and along the same wall in close proximity to where the appliance is located. The combustion air supply duct shall be sized for the flow of air needed by the appliance independent of infiltration through the structure. An operable window in the same room may be considered as a source of air when located to assure draft-free comfort for occupants and a glass firescreen is installed. Any duct supplying air into the combustion chamber shall be equipped with rodent screening and a tightly closing damper.

*615–2.5 *Combustion Air*

Furnances, boilers and domestic water heaters energized by fossil fuels shall be installed in a location in which the facilities for ventilation permit satisfactory combustion, proper venting and the maintenance of ambient temperature at safe limits. When normal infiltration does not provide the necessary air, outside air shall be introduced. Operation of exhaust fans, clothes dryers, or fireplaces will reduce the available air in a well constructed house and a source of air from outside the conditioned space should be considered in accordance with the requirements of NFPA Standards 31 and 54.

Appendix C

507–3 *Building Insulation*

*Cork Board	FS HH–I–525
Cellular Glass	FS HH–I–551
Cellulose, Vegetable or Wood Fiber	FS HH–I–515

Expanded Polystyrene Insulation Board	FS HH–I–524
Fiberboard	FS LLL–I–535
Class C or E or ASTM C–209	
Insulation Board (Urethane)	FS HH–I–530
Mineral Fiber, Board (Roof)	FS HH–I–526
Mineral Fiber, Insulation Blanket	FS HH–I–521
Mineral Fiber, Pneumatic or Poured	FS HH–I–1030
Perimeter Insulation	FS HH–I–524
Type II	
FS HH–I–558, Form A, Class 1 or 2	
Perlite	FS HH–I–574 or ASTM C–549
Reflective, Thermal	FS HH–I–1252
Structural Fiberboard Insulating Roof Deck	AIMA IB
Spec. No. 1	
Urea-Based Foam	UM–74
Vermiculite (used as masonry wall filler)	FS HH–I–585
Class 2	
(for other uses)	ASTM C–516

*510 *Specialties*

Factory-Built Fireplaces	UL 127
Fireplace Stoves	UL 737

*515–3 *Heating*

Solid Fuel Type Room Heaters	UL 1482

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. on September 4, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80–27981 Filed 9–10–80; 8:45 am]

BILLING CODE 4210–01–M

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24 CFR Part 201

[Docket No. R–80–621]

Mobile Home Improvement Loans

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This amendment provides for the insurance of financial institutions which make or purchase loans for the improvement of mobile homes. The purpose of the amendment is to encourage various mobile home improvements (including expandable or add-on modules), many of which should therefore result in insulation and other conservation improvements.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 14, 1979, the Secretary of Housing and Urban Development published a Notice of Proposed Rulemaking (44 FR 9597) to amend 24 CFR Part 201, § 201.12. At present, there are no provisions set forth allowing for Title I mobile home improvements. Therefore, this amendment will enable mobile home owners, many of whom cannot pay cash, to borrow and improve their mobile homes, by means of alteration and repair. Among various other improvements, it is expected that many of these loans will be made for insulation and other energy conservation improvements. Comments on the Proposed Rule were invited until April 14, 1979. A total of six comments were received. Three of these comments were in complete agreement with the proposed amendment. The other three basically agreed with it and suggested some modifications. Two commenters expressed concern that "expandable or add-on modules" were not specifically mentioned in either the summary or in § 201.1740—"Use of Loan Proceeds". Another commenter proposed that this program be available to mobile home owners who rent their units.

The Final Rule reflects the fact that expandable or add-on modules are permitted as improvements. The National Housing Act limits the purchase of mobile homes to borrowers intending their homes to be their principal residences. To maintain continuity, non-owner occupied homes will not be added to the amendment at this time.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures and was submitted with the Proposed Rule. A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, Title 24, Chapter II, § 201.12(b) is amended as follows:

§ 201.12 Insurance reserve.

* * * * *

(b) There shall be maintained for each insured a general insurance reserve which shall equal 10 percent of the aggregate amount advanced on all eligible loans originated by such insured pursuant to the provisions of the regulations in Subparts A, B, C, D, E, and F of this part on or after March 1, 1950, and prior to the expiration of the Commissioner's authority to insure under the provisions of this Act, less the amount of all claims approved for payment in connection with such loans and less the amount of any adjustment made pursuant to paragraph (c) of this section.

* * * * *

2. In Part 201 a new Subpart F is added as follows:

Subpart F—Improvements to Mobile Homes

Sec.	
201.1700	Purpose.
201.1701	Incorporation by reference.
201.1702	Definitions.
201.1703	Maximum loan amount and terms.
201.1704	Use of proceeds.

Authority: Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)); Sec. 2, 48 Stat. 1246 (12 U.S.C. 1703), as amended.

Subpart F—Improvements to Mobile Homes

§ 201.1700 Purpose.

This subpart permits approved Title I lenders to make or purchase loans to finance improvements to mobile homes.

§ 201.1701 Incorporation by reference.

All of the provisions of Subpart A of this part concerning insurance of institutions making or purchasing property improvement loans shall be applicable to the insurance of institutions making or purchasing mobile home improvement loans pursuant to this subpart except the following provisions:

Sec.	
201.1	(i), (j), (k), (l), (m), (n), (o), (p) Definitions.
201.2(d)	(2) Eligible notes.
201.3(a), (b) and (c)	Maximum amounts of loans.
201.5(h)	Credits and collections.
201.6(b), (d), (e) and (f)	Eligible loans.

§ 201.1702 Definitions.

As used in the regulations in this subpart the term—

(a) "Borrower" means an individual who is a mobile home owner and who applies for and received a loan for the improvement of a mobile home that is his principal residence which the borrower has occupied at least 90 days before applying for the Title I improvement loan.

(b) "Principal residence" means that place where the borrower expects to live at least nine (9) months of the year.

(c) "Mobile home owner" means a borrower who has title to at least one-half (½) interest in the mobile home.

(d) "Mobile home" means a structure, transportable in one or more sections,

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which is 8 body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

§ 201.1703 Maximum loan amount and terms.

The maximum loan amount shall not exceed $5,000. The maximum maturity of a loan shall not exceed twelve (12) years and thirty-two (32) days.

§ 201.1704 Use of loan proceeds.

The proceeds of a loan shall be used by a mobile home owner to finance alterations, repairs and improvements of a mobile home owned by the borrower which mobile home is the principal residence of the borrower. The proceeds shall be used solely for the purposes indicated. Alterations, repairs and improvements (including expandable or add-on modules) shall substantially protect or improve the basic livability or utility of the mobile home and must be commenced in reliance upon the credit facilities afforded by Title I of the Act. Moveable furniture, free-standing appliances, and other items not part of the structure of the mobile home, shall not be eligible for financing.

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); Sec. 2, 48 Stat. 1246 (12 U.S.C. 1703) as amended.)

Issued at Washington, D.C., September 4, 1980.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner

[FR Doc. 80-27971 Filed 9-10-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Parts 570 and 600

[Docket No. R-80-735]

Community Development Block Grants and Comprehensive Planning Assistance; Consolidation of Grants for Certain Insular Areas

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule revises Part 570, Subpart E of the regulations governing the Community Development Block Grant program under Title I of the Housing and Community Development Act of 1974, as amended, and Part 600, the regulations governing the Comprehensive Planning Assistance program under Section 701 of the Housing Act of 1954 as amended, to permit certain Insular Areas to: (1) apply for and receive a consolidated grant covering both their community development and comprehensive planning activities, (2) use a simplified application and reporting process for grants, and (3) be excused from the necessity of providing a non-Federal share in order to receive the comprehensive planning assistance portions of the consolidated grants.

EFFECTIVE DATE: October 1,1980.

FOR FURTHER INFORMATION CONTACT: Bernard Manheimer, Program Coordination Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6201.

SUPPLEMENTARY INFORMATION: Title V of the Omnibus Territories Act of 1977 (Public Law 95-134) as amended by the Omnibus Territories Act of 1978 (Public Law 95-348) permits any Federal agency making grants to the Insular Areas, including the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands to consolidate any or all of its grants to an Insular Area. Each agency may also, notwithstanding any other statutory provisions, waive any requirements for matching funds from Insular Area consolidated grant recipients.

The Department has ascertained that consolidating its grants to the Insular Areas under the Community Development Block Grant and the Comprehensive Planning Assistance Programs will serve the purpose of the Act which is "to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs" and will permit the Insular Areas to better coordinate their community planning and community development activities.

Accordingly, the Department is amending regulations governing grants to the Insular Areas of (1) Community development funds from the Secretary's Discretionary Fund by amending § 570.405, and (2) Comprehensive Planning Assistance funds by creating a new § 600.38, to permit the Insular Areas to make single applications for both grants, and to permit single reports on the grants.

The Department has also ascertained that waiving local matching requirements for the Insular Area will alleviate a hardship for them because of the paucity of local revenues and the great need to use those revenues for various crucial governmental purposes.

Accordingly, the Department is herein including in § 600.38 an exception for the Insular Areas from the necessity of providing a non-Federal share as a condition for receiving a Comprehensive Planning Assistance grant as part of a consolidated grant.

The Department is modifying the application and reporting requirement for the Insular Areas by simplifying application requirements for community development funds, and permitting joint reporting for community development and comprehensive planning activities. Applications for the community development funds will be simplified by permitting the Insular Areas to file applications similar to those required for small city single purpose funds rather entitlement funds.

Title V of the Act provides that the Insular Areas shall expend funds received under a consolidated grant "in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, * * * but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes."

The Department is retaining authority to assure that the consolidated applications from the Insular Areas contain an adequate balance of planning and community development activities, by requiring that such a balance be present in the application before a consolidated grant application is funded.

HUD published a proposed rule on March 24, 1980 for public comment (45 FR 18955). Only one comment was received and that comment favored adoption of the proposed rule as published. However, the Department has ascertained the need for minor clarifications and corrections of the proposed rule since it was published, and for two changes to the rule as originally proposed. These changes are discussed below.

Paragraph (c)(3) in § 570.405 of the proposed rule provided that the community development portion of the application shall meet the requirements of Subpart F § 570.430 relating to small cities single purpose grants for applicants with a population of 25,000 or more. The population stipulation was included to necessitate preparation of a three year community development plan. Since the proposed rule was published, the requirement for single purpose applicants with populations of 25,000 or more to prepare a three year plan was dropped from Subpart F.

Therefore § 570.405(c)(3) of this rule omits the population provision and a requirement for a three year plan has been added.

Section 600.38 is amended by inserting a new paragraph (c) excusing the Commonwealth of the Northern Mariana Islands and American Samoa from the necessity of providing local matching funds under $100,000 in order to receive Comprehensive Planning Assistance funds regardless of whether or not they are part of a comprehensive grant. This waiver is mandated by a 1980 amendment to the Omnibus Territories Act—Title VI, Section 601 of Pub. L. 96–205.

The Department has determined that an environmental impact statement is not required with this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

In order to effect the above changes, the Department makes the following revisions to Title 24 CFR, Part 570, Subpart E, the Secretary's Fund portion of its community development regulations and to its Title 24 CFR, Part 600 Comprehensive Planning Assistance Program regulations.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart E—Secretary's Fund

In Subpart E, § 570.405 is revised to read as follows:

§ 570.405 The Insular areas—Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(a) *Eligible applicants.* Eligible applicants are the Insular Areas—Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) *Criteria for funding.* Applicants may submit applications not later than 75 days prior to the end of the current program year for discretionary community development grants for the full range of eligible activities described in Subpart C. The application may be consolidated with one for Comprehensive Planning Assistance funds under Section 701 of the Housing Act of 1954, as amended. The Secretary will establish for each fiscal year an amount for community development for which each eligible applicant may apply, taking into account the applicant's community development needs and administrative capacity.

(c) *Application, performance and reporting requirements.* Application, performance and reporting requirements are as follows:

(1) Each Insular Area may file separate applications for community development funds under this Subpart, and Comprehensive Planning Assistance Program funds under Part 600, § 600.38, or it may file, if it will be receiving both types of funding, a single application for a consolidated grant that includes both programs.

(2) An applicant need not file a preapplication for a Community Development grant or for a consolidated grant.

(3) For the community development grant or the community development portion of a consolidated grant, applicants shall meet the application requirements in Subpart F, § 570.430 relating to small city single purpose grants. In addition, a three year community development plan is required in a format to be specified by the HUD Area Office having jurisdiction.

(4) For the comprehensive planning portion of a consolidated grant application, applicants shall meet the requirements of § 600.100 but need not repeat assurances or other material provided under paragraph (c)(3) of this section.

(5) Area Offices having jurisdiction will assist Insular Areas preparing consolidated applications with a format appropriate to the needs of each Area and consistent with Federal statutory requirements.

(6) Consolidated grant applications must provide for an adequate balance of Section 701 comprehensive planning activities and community development activities. Therefore, within the discretion of each Insular Area, no less than half, nor more than one-and-a-half times the amount of funds provided from Section 701 Comprehensive Planning funds shall be used for planning activities authorized by Section 701. In no event shall more than 20% of the Community Development Block Grant funds provided be spent in total for planning, including comprehensive planning, as defined in Subpart C, § 570.205, and administration, as defined in § 570.206.

(7) Activities supported by a consolidated grant shall be carried out in accordance with instructions in this Part for community development and in Part 600 for comprehensive planning. The Department strongly encourages that a substantive relationship be demonstrated between the planning and community development activities to be supported.

(8) A consolidated final report shall be provided for a consolidated grant. Area Offices having jurisdiction will specify required contents of the report consistent with Federal statutory requirements.

(d) Grant and audit procedures. Where a consolidated grant application is approved for an Insular Area, the following shall occur.

(1) A single grant shall be awarded encompassing community development and comprehensive planning funds. The grant will specify separate amounts with separate identification numbers for the Community Development Block Grant and the comprehensive planning fund portions.

(2) Insular Areas receiving consolidated grants are responsible for carrying out the work program in accordance with the funding as specified in the grant, except as noted in paragraph (c)(6) of this section. Each Area shall establish accounting procedures which will permit the identification of all charges both direct and indirect to the individual programs, and in all requests for funding shall specify the proper identification number for the program form which payment is being sought.

(3) When an Insular Area receiving a consolidated grant chooses, per paragraph (c)(6) of this section, to use a portion of its comprehensive planning funding for community development activity, the comprehensive planning identification number shall be used for draw down of funds and the community development activities recorded against it. Community Development Block Grant funds used for comprehensive planning purposes will similarly be identified.

(4) Combined audits shall be performed.

(Title, I. Housing Community Development Act of 1974, as amended (42 U.S.C. 5301, et seq.); sec. 7(d), Department of the Housing and Urban Development Act (42 U.S.C. 3535(d)).)

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

Part 600 is amended by the addition of § 600.38, as follows:

§ 600.38 Grants for the Insular areas—the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

In all respects, the Insular Areas, including the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, shall file applications pursuant to § 600.100 except as follows:

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(a) An Insular Area applicant may choose to file an application for a consolidated grant that includes comprehensive planning funds under this Part, and community development funds under Part 570, Subpart E, § 570.405—Secretary's Fund. The Insular Areas. Applications shall be in accordance with the Parts cited, but assurances and other material called for in both programs need not be duplicated.

(b) Notwithstanding any other provisions of this Part, the Insular Areas need not provide a local match in order to receive the comprehensive planning assistance portion of a consolidated grant.

(c) Notwithstanding any other provisions of this part, and irrespective of whether grants are consolidated or not, the Commonwealth of the Northern Mariana Islands and American Samoa need not provide local matching funds, where such funds are $100,000 or less, in order to receive Comprehensive Planning Assistance grants.

(d) Consolidated grant applications must provide for an adequate balance of Section 701 comprehensive planning activities and community development activities. Therefore, within the discretion of each Insular Area, no less than half, nor more than one-and-a-half times the amount of funds provided from Section 701 Comprehensive Planning funds shall be used for planning activities authorized by Section 701. In no event shall more than 20% of the Community Development Block Grant funds provided be spent in total for planning, including comprehensive planning, as defined in Subpart C, § 570.205, and administration, as defined in § 570.206.

(e) Activities supported by a consolidated grant shall be carried out in accordance with instructions in this Part for comprehensive planning and in Part 570 for community development. The Department strongly encourages that a substantive relationship be demonstrated between the planning and community development activities to be supported.

(f) A consolidated final report shall be provided for a consolidated grant.

(g) Where a consolidated grant application is approved for an Insular Area, the following grant and audit procedures will occur.

(1) A single grant will be awarded encompassing community development and comprehensive planning funds.

(2) The Insular Area recipient shall maintain records that will permit discrimination between expenditures for community development and comprehensive planning funded activities.

(3) Combined audits will be performed.

(Sec. 701, Housing Act of 1954, 63 Stat. 640 (40 U.S.C. 481); Sec. 7(d), Department of Housing and Urban Development Act. (42 U.S.C. 3535(d)))

Issued at Washington, D.C.

Robert C. Embry, Jr.

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-27970 Filed 9-10-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is publishing a final rule that sets standards for the penalty to be imposed when a prisoner given a parole date has violated institutional rules or committed a new crime before actual release on parole. This rule is designed to assist the Commission in making these decisions with greater precision and uniformity. With respect to new criminal behavior, the rule distinguishes between crimes on the basis of whether the new crime occurred in a prison facility or in the community. New criminal behavior in the community (on furlough, escape, etc.) will be more severely sanctioned than new criminal behavior in a prison facility. Sanctions for all new misconduct will be determined under the appropriate guidelines, and then added to the time required to be served by the original presumptive or effective parole date.

EFFECTIVE DATE: October 5, 1980.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of General Counsel, 320 First Street, N.W., Washington, D.C. 20537. Telephone: (202) 724-7567.

SUPPLEMENTARY INFORMATION: On Tuesday, January 16, 1979, the United States Parole Commission published at 44 FR 3405 an interim/proposed rule on rescission of parole. The Commission is now publishing as a final rule those sections of the interim/proposed rule that establish the sanctions to be applied when a parole date is rescinded.

The final rule departs from the proposed/interim rule in that it changes the method of computing penalties for new criminal behavior. A year's experience has shown the desirability of this revised method. The sanctions imposed in the final rule for administrative infractions and escapes remain substantially the same as those prescribed in the interim rule. The procedural sections will remain as an interim/proposed rule.

The final rule distinguishes between new criminal behavior in a prison facility and new criminal behavior while the prisoner is in the community (e.g., on pass, furlough, work release, or escape). The Commission has made this distinction because it believes that new acts of criminality in the community violate the trust placed in a prisoner by community release (or compound the offense of escape) and should therefore be more severely sanctioned than new criminal acts within the confines of a prison facility.

New criminal behavior in the community will be sanctioned in the same way as violations by parolees who are also in a position of trust. The severity of the infraction behavior will be rated according to the Paroling Policy Guidelines (see 28 CFR §§ 2.20, 2.21), and the salient factor score will be recalculated for a new assessment of parole prognosis (treating the original offense as a prior record item).

Sanctions for infractions which constitute new criminal behavior in a prison facility will be determined by first rating the severity of the infraction according to the severity scale of the Paroling Policy Guidelines (see 28 CFR § 2.20). The customary range of months by which the infraction will be sanctioned will then be determined by reference to section (a)(2)(B) of this rule. These guidelines are intended to produce accountability for the new criminal behavior, but do not call for a redetermination of a prisoner's salient factor score (unlike the guideline for new crimes in the community).

The final rule requires that the amount of time to be served for all infractions under the guidelines set forth above will be added to the time required to be served by the original presumptive or effective parole date. Under the interim rule, infractions constituting new criminal behavior were treated as "aggravating factors" in a complete reassessment of the severity rating. This could result in different sanctions for similar infractions depending on the severity of the original offense.

§ 2.34 [Amended]

§ 2.35 [Amended]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28 Code of Federal Regulations, the text of § 2.36 is moved to § 2.35(b), interim rule § 2.34(g) is deleted, § 2.34(a)–(f) remains in effect as an interim/proposed rule and § 2.36 is revised as set forth below and § 2.20(i) is added as set forth below.

§ 2.36 Rescission guidelines.

(a) The following guidelines shall apply to the sanctioning of disciplinary infractions or new criminal behavior committed by a prisoner subsequent to the commencement of his sentence and prior to his release on parole. These guidelines specify the customary time to be served for such behavior which shall be added to the time required by the original presumptive or effective date. Credit shall be given towards service of these guidelines for any time spent in custody on a new offense that has not been credited towards service of the original presumptive or effective date. If a new concurrent or consecutive sentence is imposed for such behavior, these guidelines shall also be applied at the initial hearing on such term.

(1) *Administrative Rule Infraction(s)* (including drug/alcohol abuse) normally can be adequately sanctioned by postponing a presumptive or effective date by 0–60 days per instance of misconduct. Escape or other new criminal conduct shall be considered in accordance with the guidelines set forth below.

(2) *Escape/New Criminal Behavior in a Prison Facility* (including a Community Treatment Center). The time required pursuant to the guidelines set forth in (A) and (B) below shall be added to the time required by the original presumptive or effective date.

(i) *Escape or Attempted Escape Without Force or Threat:*

(A) Non-Secure Facility or Program (absent less than 7 days): 3–6 months.

(B) Secure Facility (no force or threat used); or Non-Secure Facility or Program (absent 7 days or more): 6–12 months.

Notes.—(1) If other criminal conduct is committed during the escape or during time spent in escape status, then time to be served for the escape/attempted escape shall be added to that assessed for the other new criminal conduct.

(2) Time in escape status shall not be credited.

(ii) *Other New Criminal Behavior in a Prison Facility:*

Severity rating of the new criminal behavior (from § 2.20)	Adult cases	Youth/NARA cases
Low	<6 months	<6 months.
Low moderate	<8	<8.
Moderate	10–14	8–12.
High	14–20	12–16.
Very high	24–36	20–26.
Greatest I	40–52	30–40.
Greatest II	52+	40+.

(3) *New Criminal Behavior in the Community* (e.g., while on pass, furlough, work release, or on escape). In such cases, the guidelines applicable to reparole violators under § 2.21 shall be applied, using the new offense severity (from § 2.20) and recalculated salient factor score (such score shall be recalculated as if the prisoner had been on parole at the time of the new criminal behavior). The time required pursuant to these guidelines shall be added to the time required by the original presumptive or effective date.

(b) The above are merely guidelines. Where the circumstances warrant, a decision outside the guidelines (above or below) may be rendered provided specific reasons are given. For example, a substantial period of good conduct since the last disciplinary infraction in cases not involving new criminal conduct may be treated as a mitigating circumstance.

§ 2.20 Paroling policy guidelines; statement of general policy.

* * * * *

(i) For criminal behavior committed while in confinement see § 2.36 (Rescission guidelines).

* * * * *

Dated: August 28, 1980.

Cecil C. McCall,

Chairman, U.S. Parole Commission.

[FR Doc. 80–27966 Filed 9–10–80; 8:45 am]

BILLING CODE 4410–01–M

POSTAL SERVICE

39 CFR Parts 310 and 320

Enforcement and Suspension of the Private Express Statutes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Private Express regulations as follows: (1) Messages are considered to be addressed if marked for delivery to a specific person or place or if delivered in accordance with a "selective delivery" plan, even if intended by the sender to be read or used by someone other than or in addition to the addressee. (2) A suspension is adopted for advertisements which accompany addressed merchandise or periodicals. (3) The exclusion of books and catalogs from the definition of "letter" specifies the factors used to determine whether an item is in fact a book or catalog. (4) The exception for carriage prior or subsequent to mailing is modified to prevent its use as a means of avoiding payment of full postage. (5) Technical amendments are made in the regulation dealing with the issuance of Private Express Advisory Opinions.

In addition, the Postal Service is withdrawing a proposed definition of "telegram" and a proposed amendment to the existing regulations dealing with administrative appeals by persons alleged to have violated the Private Express Statutes and regulations.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Belenker (202) 245–4584.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Postal Service announced (44 FR 40899) its intention to conduct a "second round" of proposed rulemaking on certain amendments to the Private Express regulations which had been published in the **Federal Register** on December 28, 1978 (43 FR 60615). This procedure began with the publication on January 7, 1980 (45 FR 1427) of proposals on addressing, selective delivery plans, and advertisements enclosed with or accompanying merchandise. We are adopting modified versions of these proposals.

We have concluded that a "second round" of rulemaking is not needed to complete action on the remaining proposals. Three of the proposals (the definition of books and catalogs; the exception for carriage prior or subsequent to mailing; and the provision on Advisory Opinions) are primarily clarifying in nature, and are now adopted substantially as proposed. The other two proposals (defining the term "telegram", and establishing the scope of administrative appeals from formal demands for payment of postage) are withdrawn.

Definition of Letter

Section 310.1 of Title 39 CFR defines "letter" as "a message *directed to a specific person or address* and recorded in or on a tangible object * * *." (Emphasis added.) We proposed to specify that a message is "directed to" a specific person or address not only when the message or its container bears markings as to its destination, but also when the destination is specified by such means as detached address labels or cards, address lists, or memorized groups of addresses, or when the

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message is "piggy-backed" for delivery with addressed merchandise, publications, or other items. We also proposed to specify that a message "bearing the name or address of a specific person, organization, or location is a letter even if it is intended by the sender to be read or otherwise used by some person or persons other than or in addition to the addressee."

The major thrust of comments on the proposal to amend the definition of "letter" was that it constituted an unwarranted expansion of that word. Some comments challenged the idea that an item is a letter if addressed only to a location or if intended to be read by persons other than the addressee. It remains the view of the Postal Service, after careful consideration of the comments, that the means by which a message is directed to a specific person or place may include those which were specified in the proposal. We believe that a contrary conclusion would be logically inconsistent with the existing definition and idea of "letter." Moreover, treating the presence of written markings as the *exclusive* addressing test would, paradoxically, enable the Private Express Statutes to be avoided by using means of addressing which are acceptable on materials delivered by the Postal Service itself. For example, delivery of certain third-class items is done by means of detached address labels under prescribed conditions. *Domestic Mail Manual*, § 661.3. We also believe it valid to conclude, as a general matter, that an item is a letter even though it is read or used by parties other than or in addition to the designated addressee.

Suspension for "Piggy-Backing" of Advertisements in Parcels and Periodicals

While the addressing proposal treats advertisements enclosed in addressed parcels as letters, a companion proposal would have suspended the Private Express Statutes for advertisements of manufacturers or shippers of accompanying merchandise. The proposal would not, however, have suspended the Private Express Statutes for advertisements furnished by other parties. The most frequent comment was that the inclusion of advertisements furnished by parties other than the manufacturer or shipper of the accompanying merchandise is an established practice which contributes to the profitability—and indeed to the survival—of many shippers. The practice was said to provide firms, including small ones, with a relatively cheap form of advertising which would not be cost effective if postage had to be paid as a condition of private carriage. It was also stated that the practice benefits the Postal Service because customer responses add to mail volume and postal revenues. The proposed limitation of the suspension to advertisements which relate to the same general line of products as the merchandise which they accompany was said to be arbitrary.

Commenters criticized the proposal for not permitting "piggy-backed" delivery of advertising circulars with magazines sent outside the mails. Some said the result would be discriminatory since privately delivered newspapers may include similar advertising materials. Comments suggested that delivering circulars with magazines serves to reduce delivery costs because of rebates given by the distributors to publishers.

We conclude that the record supports a suspension of the Private Express Statutes for advertisements (not marked with the names or addresses of the recipients) which accompany parcels or periodicals, without regard to the source of the advertisements. The suspension will apply only to advertisements which are incidental to the shipment of the merchandise or periodicals and which are not the primary reason for the shipment.

Definition of Books and Catalogs

Our proposed definition of "books and catalogs" contained a number of factors which determine whether a given item is, in fact, a book or catalog. These included number of pages; visual similarity of the parts; time and manner of binding and the reason for it; intended users of the item; contents; and extent of distribution. Although some parties stated that the proposed definition was vague, we believe it to be as precise a formulation as can reasonably be attained for purposes of the pertinent exclusion.

We consider totally inaccurate a comment that we are attempting to exercise control over the contents of books. Our view is that contents are relevant for the purpose of determining whether an item is a book or a lengthy letter. For example, comments on our various proposals ranged in length from one page to more than 70 pages. The 70 page letter was bound and was presumably distributed to a number of parties in addition to the Postal Service. We doubt, however, that many people would call it, despite its length, a "book." Recognizing it to be a letter, rather than a book, is not an attempt to control its contents.

Some comments opposed the present general rule, which we proposed to retain, that the book and catalog exclusion applies only to items with 24 or more bound pages with at least 22 printed. While the precise number of pages might have been set at some other figure, higher or lower, this would be true for any specific number we might set. One United States Court of Appeals recently noted that "* * * any definition (of letter) is likely to appear arbitrary from some perspective for the simple reason that definitions draw lines—they exclude some matters and include others despite similarities between the two classes." *Associated Third Class Mail Users* v. *United States Postal Service*, 660 F. 2d 824 (D.C. Cir. 1979), *cert. den.* 48 U.S.L.W. 3187.

For the reasons indicated, we are adopting a definition of "books and catalogs" that is substantially the same as the one proposed on December 28, 1978.

Carriage of Letters Before or After Mailing

The proposed amendment concerning the carriage of letters before or after mailing was intended to avoid abuses of this exception. Our concern may be illustrated by the case of someone who places letters intended for 50 locations in one envelope and mails it to a private courier who subsequently opens the envelope and delivers each letter to its addressee. If each letter were mailed directly to the addressee and weighed one ounce or less, a total of $7.50 in postage would be paid. When the envelope is mailed to the courier at first-class rates, however, the postage paid, based upon the overall weight of the 50 letters, would be computed at 15 cents for the first ounce and 13 cents for each additional ounce. The Postal Service would lose revenue as a result of this practice.

Since the intent of the exception is to permit private carriage that is only incidental to the transmission of letters through the mails, it should apply only to letters which have been carried, or will be carried, by the Postal Service for at least the minimum rate of postage that would be required for delivery from the senders to the addressees. The proposed regulation would not restrict the private carriage of letters prior or subsequent to mailing but would prevent the use of the exception as a means of avoiding the full postage to which the Postal Service is entitled under the Private Express Statutes.

Because some multi-location firms and organizations have consolidated mailrooms, we have added language specifying that carriage to a consolidated mailroom for preparation of letters which will be carried by the

Postal Service, and carriage from a central delivery point to the facilities served by that delivery point, are both permissible under the exception.

Definition of Telegram

We proposed a new definition to spell out our understanding of the longstanding exclusion from "letter" of the type of publicly available communication sent in the past under the designation of "telegram." We noted that the exclusion was based upon historical considerations, and that it should not extend to additional types of messages recorded in or on tangible objects simply because they are preceded by electronic transmission.

Some commenters asserted that all electronically generated "hard copy" should be excluded from the definition of letter; that the proposed definition of "telegram" was technologically obsolete; and that the definition should be determined by the Federal Communications Commission. Some alleged that the Postal Service was attempting to inhibit competitors of its proposed E-COM (Electronic Computer Originated Mail) service, and that all firms offering public message telegraph services should be given the benefit of the exclusion for telegrams. Some parties described the proposal as an effort to assert that the Private Express Statutes are applicable to the electronic transmission process itself.

The proposed definition of "telegram" did not signify any thought that the Private Express Statutes could be extended to the electronic transmission process. The comments, however, have caused us to conclude that little good would result from adopting a formal definition of "telegram" at this time. We will administer the existing exclusion in a manner which indicates that it is not an "open door" to the delivery over post roads of all letters which are preceded by electronic transmission.

Scope of Appeal Available to Persons Alleged To Have Violated the Private Express Statutes

Our proposal provided that hearings requested by persons served with formal demands for postage on letters carried out of the mails would deal only with the correctness of the methods used to compute the numbers of letters and the amount of postage payable. We withdraw the proposal and retain the existing regulations on appeals, as set out in 39 CFR 310.5(a)–(d) and 39 CFR Part 959.

Advisory Opinions

Technical amendments are made which provide that requests for Advisory Opinions may be directed to the Law Department, rather than any specific division, and which clarify the procedures for inspecting and receiving copies.

In consideration of the foregoing, Parts 310 and 320 in Chapter I of Title 39, Code of Federal Regulations, are amended as follows:

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

1. In § 310.1., paragraphs (a)(3) and (a)(7)(v) are revised to read as follows:

§ 310.1 Definitions.

(a) * * *

(3) A message is directed to a "specific person or address" when, for example, it, or the container in which it is carried, singly or with other messages, identical or different, is marked for delivery to a specific person or place, or is delivered to a specific person or place in accordance with a selective delivery plan. Selective delivery plans include delivery to particular persons or addresses by use of detached address labels or cards; address lists; memorized groups of addresses; or "piggy-backed" delivery with addressed articles of merchandise, publications, or other items. Selective delivery plans do not include distributions of materials without written addresses to passersby on a particular street corner, or to all residents or randomly selected residents of an area. A message bearing the name or address of a specific person or place is a letter even if it is intended by the sender to be read or otherwise used by some person or persons other than or in addition to the addressee.

* * * * *

(7) * * *

(v) Books and catalogs consisting of 24 or more bound pages with at least 22 printed, and telephone directories. Separate letters of less than 24 bound and 22 printed pages bound to other material do not qualify for this exclusion. In determining whether separate letters have been bound to other material, the following factors will be considered, along with any other relevant factors: Whether the parts are visually similar; whether the parts were printed and bound together at the same time and by the same process; whether the binding serves an important purpose and has been a longstanding practice; and whether the same individual reads all parts of the bound document. Ordinarily, books and catalogs deal with matters of interest to, and are intended for, a substantial number of recipients. In addition, books generally contain a substantial number of pages. Accordingly, this exclusion will not apply when the nature of the message conveyed, the limited numbers of published copies and of recipients, the limited number of pages, or other relevant factors suggest that it is not appropriate to treat the material as a book or catalog. An item distributed privately, or privately and by mail, to fewer than 25 separate persons or places will generally not be treated as a book or catalog falling within this exclusion.

* * * * *

2. In § 310.3, paragraph (e) is revised to read as follows:

§ 310.3 Exceptions.

* * * * *

(e) *Carriage prior or subsequent to mailing.* (1) The private carriage of letters which enter the mail stream at some point between their origin and their destination is permissible. Except as provided in paragraph (e)(3) of this section, however, the carriage of letters from a place where they have been opened, read, separated, or otherwise utilized, does not fall within this exception even though such letters had previously been in the mail stream. Similarly, the carriage of letters to a place where they will be consolidated or otherwise utilized does not fall within this exception even though they will subsequently enter the mail stream.

(2) Examples of permitted activities are the pickup and carriage of letters which are delivered to post offices for mailing; the pickup and carriage of letters at post offices for delivery to addressees; and the bulk shipment of individually addressed letters ultimately carried by the Postal Service.

(3) The private carriage of letters from branches of an organization to a location for preparation for mailing does not constitute a consolidation. The private carriage of letters from an organization's point of mail delivery to its branches in the locality does not constitute a separation.

3. Section 310.6 is revised to read as follows:

§ 310.6 Advisory opinions.

An advisory opinion on any question arising under this part and Part 320 of this chapter may be obtained by writing the Law Department, U.S. Postal Service, Washington, D.C. 20260. A numbered series of advisory opinions is available for inspection by the public in the Library of the United States Postal Service, and copies of individual opinions may be obtained upon payment of charges for duplicating services.

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PART 320—SUSPENSION OF THE PRIVATE EXPRESS STATUTES

4. New § 320.7 is added reading as follows:

§ 320.7 Suspension for advertisements accompanying parcels or periodicals.

(a) The operation of 39 U.S.C. 601(a) (1) through (6) and § 310.2(b) (1) through (6) of this chapter is suspended on all post routes for advertisements enclosed with merchandise in parcels or accompanying periodicals under the following circumstances:

(1) The advertisements must not be marked with the names or addresses of the intended recipients.

(2) The advertisements must be incidental to the shipment of the merchandise or the periodical.

(i) An advertisement is incidental to the shipment of the accompanying merchandise or the periodical when the merchandise or the periodical has been ordered by or would otherwise be sent to the recipient even without the accompanying advertisement.

(ii) Notwithstanding § 320.7(a)(2)(i), an advertisement is not incidental to the merchandise when the pertinent circumstances, such as the nominal value of the merchandise, its shipment on an unsolicited basis, or its status as a sample, reasonably indicate that the shipper's primary purpose is the conveyance of the advertisement itself and that the merchandise is merely an adjunct to the advertisement.

(b) An item is an advertisement if its primary purpose is to cause or induce the purchase of goods or services from the shipper or others.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,

Associate General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 1595-3]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Emission Offset Interpretative Ruling

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action makes certain revisions to EPA's Emission Offset Interpretative Ruling of January 16, 1979, 44 FR 3274, as revised on May 13, 1980, 45 FR 31307, and August 7, 1980, 45 FR 52676. That Ruling describes the requirements for preconstruction review which apply to large new or modified air pollution sources affecting areas with air quality worse than the levels set to protect the public health and welfare. The revisions made today are in response to EPA's request for comments on certain issues related to the Ruling (*see* 44 FR 3298). Although the Ruling generally expired as of July 1, 1979 (*see* 44 FR 38471, July 2, 1979), it continues to apply to permits applied for before July 1, 1979, and in certain other situations. The changes made today are primarily non-substantive changes. Substantive changes affecting source applicability were proposed September 5, 1979 (44 FR 51924) and final regulations were promulgated on August 7, 1980 in response to the comments received on that proposal. 45 FR 52676.

DATES: These changes are applicable to permits applied for on or after September 11, 1980..

ADDRESS: EPA has established a docket for this rulemaking, designated Docket No. A–80–43. The docket is an organized and complete file of all information submitted to or otherwise considered by EPA during this rulemaking. The docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, A–130, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Kirt Cox, Office of Air Quality Planning and Standards, Environmental Protection Agency, MD–15, Research Triangle Park, North Carolina 27711, Phone: (919)541–5497.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 1976, EPA issued an Emission Offset Interpretative Ruling (Offset Ruling) addressing the issue of the extent to which National Ambient Air Quality Standards (NAAQS) established under the Clean Air Act may restrict construction of major new or modified stationary air pollution sources. 41 FR 55524. The Ruling provided, in general, that a proposed major new source, which would emit pollutants in excess of specified amounts and would otherwise contribute to an existing violation of a national standard, could be constructed only if stringent conditions were met. These conditions were designed to ensure that the new source's emissions would be controlled to the greatest degree possible, that more than equivalent offsetting emission reductions ("emission offsets") would be obtained from existing sources, and that there would be progress toward achievement of the NAAQS.

Since the issuance of the December 21, 1976 Offset Ruling, the Agency's programs for preconstruction review of major new sources and major source modifications have been the subject of considerable legislative and regulatory change. Pertinent **Federal Register** actions incorporating these changes are noted below.

The Clean Air Amendments of 1977 (1977 Amendments) ratified the Agency's Offset Ruling, Section 129 of Pub. L. No. 95–95, 91 Stat. 685, note under 42 U.S.C. 7502. The amendments also established definitions for "major" sources. The issues of what size source and the circumstances under which a source should be subject to review were first addressed in the Agency's June 19, 1978 regulatory amendments to the New Source Review Program for the Prevention of Significant Deterioration (PSD) of air quality. 44 FR 26388.

After promulgating the PSD regulations, the Agency turned its attention to the Offset Ruling. As a result of comments received in amending the PSD regulations (43 FR 26380), comments on the original Offset Ruling (41 FR 55524), and the unambiguous language of the 1977 Amendments, the Agency published revisions to the Offset Ruling on January 16, 1979. 44 FR 3274. Most of the revisions were made final at that time, rather than proposed again for comment. Certain issues were proposed as interim policy and comment was solicited on these issues. 44 FR 3298.

On July 2, 1979, the Agency published regulations restricting the construction of major sources, as required by the 1977 Amendments, wherever State plans to attain and maintain NAAQS have not been approved by July 1, 1979. 44 FR 38471. For those areas, the Offset Ruling—which allows sources to "offset" their pollution and still construct—is superseded by the Act's restrictions against construction.

Additional action, primarily dealing with PSD but also affecting the scope of preconstruction review of new sources under the Offset Ruling, was proposed on September 5, 1979 (44 FR 51924) and promulgated on August 7, 1980. 45 FR 52675. That promulgation brought significant changes to the Agency's rules and regulations for preconstruction review, in response to a court interpretation of EPA's preconstruction review regulations for PSD. *Alabama Power Company* v. *Costle,* 13 ERC 1993

(D.C. Cir., 1979). This action does not address the issues dealt with in the August 7, 1980 promulgation.

Also, on May 13, 1980, (45 FR 31307) EPA took final action on certain of the changes to the Offset Ruling proposed on September 5, 1979. At that time, EPA eliminated the "clean spot" exemption from the Offset Ruling and gave guidance for State new source review permit programs adopted pursuant to Section 110(a)(2)(D) of the Clean Air Act. It also provided that the Offset Ruling will continue to apply to sources locating outside of nonattainment areas, but causing or contributing to a violation of ambient standards, until the State's permit or equivalent program under Section 110(a)(2)(D), providing for review of such sources to assure attainment and maintenance of the NAAQS, is approved by EPA.

As a result of the above actions, the Offset Ruling continues to apply to the following situations: (a) To proposed major sources in one State that would contribute to a violation of a NAAQS only in another State, (b) during the time allowed for the development and approval of a revised State Implementation Plan (SIP) in an area that is designated as nonattainment after March 3, 1978, (c) during any extended time allowed under Section 110(b) for development of a SIP revision for an area that violates the secondary NAAQS (and for which a plan for the primary NAAQS is either approved or not required) for a pollutant, and (d) proposed major sources locating outside of nonattainment areas but causing or contributing to a nonattainment problem until the State's permit or equivalent program is approved by EPA.

As noted, when the Agency published the January 16, 1979 Offset Ruling, it requested comments on certain issues contained therein. 44 FR 3274, 44 FR 3298. In this **Federal Register** action, the Agency is responding to comments made in response to that notice. Clarifications are made to the Offset Ruling with regard to technology transfer in determining LAER and the permissible area of offsets for NO_x sources. LAER requirements for secondary emissions are changed. Also, supplemental guidance is given on issues concerning the offset credit for meeting NSPS, the baseline for offsets, source compliance certification, fugitive dust, ownership, and banking. Certain issues on which the Agency solicited comments on January 16, 1979 were addressed by the August 7, 1980 promulgation and therefore are not discussed here. Those issues include those involved in the definitions of "potential to emit," "source," and "modification," the 50-ton exemption, rules relating to fugitive dust, and the geographic applicability of the Offset Ruling to major sources of volatile organic compounds.

In addition to the discussion of issues found in the August 7, 1980 **Federal Register** and in the supplementary information given below, the Agency has also responded to a number of issues in a separate document entitled, "Supplemental Discussion of Comments Received on Revised Emission Offset Ruling" (44 FR 3274, January 16, 1979, Office of Air, Noise, and Radiation, June 1980). The supplementary discussion document, as well as all the comments received in response to the January 16, 1979 Offset Ruling, are available for public inspection and copying during normal business hours at: Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The discussions in that document relate to issues raised by comments which did not result in changes to the Offset Ruling and did not require further clarification as to EPA's policy or intent. Furthermore, none of the issues discussed in that document are issues on which the Agency solicited comment. 44 FR 3298.

II. Technology Transfer in LAER

A number of industrial commenters argued that there is no statutory authority to consider transfer of technology from one source type to another in determining the lowest achievable emission rate (LAER). The Agency affirms that the requirements for technology transfer appropriately incorporate Congressional intent, as discussed in the supplemental information to the January 16, 1979 ruling. There is considerable precedent for this approach. Technology transfer is authorized with regard to determining best available control technology for purposes of the New Source Performance Standards under Section 111 of the Clean Air Act. This approach is also supported by the fact that consideration of technology transfer has been found appropriate in determining effluent emission limits for water pollution control cases. *See, e.g., California and Hawaiian Sugar Co. v. EPA*, 553 F. 2nd 280, 285–289 (2nd Cir. 1977).

Many of these commenters went on to indicate that EPA's policy on technology transfer would be acceptable if implemented "reasonably," *i.e.*, that technological and economic feasibility be considered, that there be a reasonable degree of certainty that the transferred technology would work for the *specific* application under consideration, and that pilot studies or other appropriate techniques be used to verify transferability. In short, the commenters requested that good engineering judgment be used in determining whether technology transfer is applicable and feasible in a particular situation and what the effectiveness of such technology would be. EPA agrees and believes that considerations of feasibility are appropriate in using technology transfer in determining LAER. But EPA maintains that consideration of the transfer of technology from one source type to another is appropriate in determining LAER. Technology transfer which would cause an unduly severe economic penalty or would be technologically infeasible for the specific application under consideration need not be included in establishing the lowest achievable emission rate.

The Agency does not intend, in this statement of policy, to establish separate economic criteria for LAER for technology transfer. Consideration of economic feasibility is the same under LAER regardless of whether technology transfer is involved.

III. Nitrogen Oxides Issues

The January 16 revision to the Offset Ruling indicates that, due to the generally area-wide nature of NO_2 problems, offsets for NO_x sources may be obtained from "within the broad area of nonattainment." One commenter interpreted this language to mean that NO_x offsets must be obtained from within the designated nonattainment area for NO_2. EPA did not intend such a restrictive interpretation regarding the location of NO_x offsets. Section IV.D. is hereby amended to clarify that volatile organic compounds and NO_x should be treated consistently and, therefore, that NO_x offsets may come from nearby attainment or unclassifiable areas as well as from a designated nonattainment area.

Several commenters indicated that there is no basis for the assumption in Section III.C. (as amended, May 13, 1980, 45 FR 31307, 31311) that all NO_x emitted from a source is converted to NO_2 by the time the plume reaches the ground. This assumption is only intended as a screening technique; if the source would not significantly contribute to an NO_2 nonattainment problem under this "worst case" assumption, no further requirements under the Ruling would apply. However, if a potential problem is indicated by this screening technique, a more refined analysis will be necessary.

IV. Offset Credits

The Agency does not, at this time, make any changes to Section IV.C. of the Offset Ruling in response to comments received regarding the baseline for offsets. The Agency has recently promulgated somewhat different rules for determining when intra-source offsets may be used to avoid a preconstruction permit review (*e.g.* under the Offset Ruling for a modification that would otherwise be subject to full permit review and requirements. 45 FR 52675 (August 7, 1980)). The baseline for offset credits that is discussed below refers to sources that are subject to the Offset Ruling and must find sufficient emission offsets to meet the requirements of Conditions 3 and 4 of the rule, *i.e.*, sufficient emission offsets to represent reasonable further progress toward attainment, and to provide for a net air quality benefit in the area affected by the new source or modification.

The Clean Air Act Amendments of 1977 required that the baseline for determining emission offset credit, under the Offset Ruling, was to be the SIP emission limitations in effect at the time of the permit application. In the January 16, 1979 Offset Ruling changes, the Agency amended the Ruling to incorporate this legislative requirement. Thus, Section IV.C. of the Offset Ruling provides that if, for example, a SIP allows SO_2 emissions of 3.0 lb/10^6 Btu for all fuels, an existing source burning fuel oil with SO_2 emission of 1.0 lb/10^6 Btu could use the difference between 3.0 and 1.0 lb/10^6 Btu as offset credit.

Thus, in such a case, if the source agreed to the imposition of a legal obligation to maintain SO_2 emissions below SIP levels, the source could obtain offset credit.[*]

However, the Agency has retained its Section IV.C.1. requirement that where the SIP emission limit is higher than the source could emit without any controls, then the uncontrolled emission rate itself establishes its offset baseline for the source. The wording in Section IV.C.1. is changed to assure that the uncontrolled emission rate remains the offset baseline. In that section, the word "potential" is changed to "uncontrolled." This is being done now because the definition of "potential to emit" now looks to the source's controlled emissions.

Specific clarification on Section IV.C.1. was sought regarding sources burning natural gas, where the maximum uncontrolled emissions for natural gas combustion are in the neighborhood of .0006 lb/10^6 Btu. To allow offset credits for emissions up to a general SO_2 emission limit in the SIP of 3.0 lb/10^6 Btu, would allow credit far beyond what Congress intended in the 1977 Amendments. In such a case, the uncontrolled emission rate establishes the offset baseline for the source.

Similar clarification is now offered regarding offset credit for meeting NSPS and NESHAPS requirements. The baseline discussion in the preamble to the January 16, 1979 ruling (44 FR 3274–3275) indicated that EPA does not interpret the Ruling to permit offset credit for tightening SIP requirements down to the levels required by an applicable new source performance standard (NSPS) or national emission standard for hazardous air pollutants (NESHAPS), *i.e.*, requirements under Sections 111 and 112, respectively, of the Act. Comments reflected considerable misunderstanding and uncertainty as to EPA's policy on this issue, especially where an NSPS was concerned. EPA's intent was that, where a source is *subject* to an NSPS or NESHAPS emission limitation that is more stringent than the otherwise applicable SIP, the difference in emissions between the SIP and the NSPS or NESHAPS for such source may not be used as offset credit. As discussed in the January 16, 1979 preamble, any other approach would allow offset credit for "paper" reductions, where the SIP is adjusted but no actual tightening of requirements under the act occurs. However, if a source were not subject to an NSPS, for example if it were constructed *before* an NSPS was proposed for that source category, offset credit could be permitted for tightening the SIP to the NSPS level for such source. The general philosophy here is to permit offset credit only for controls that go beyond applicable State or federal emission limitations in effect for existing sources at the time an application for a new source permit is applied. A new Section IV.C.6. is added to the Offset Ruling to remove any uncertainty on this issue. Although one commenter recommended that this policy not be made applicable before January 16, 1979, EPA believes that the policy is fully consistent with the philosophy and intent of the original Ruling and thus should apply to all permits issued under it.

Several commenters also argued that a January 16, 1979 clarification in Section IV.C. as to how to calculate offset credits in terms of tons per year was a major change to the Ruling and should have been proposed for public comment prior to making the change. Specifically, these commenters felt that EPA's use of actual annual operating hours for the previous one or two year period (in conjunction with the SIP emission limit) was inconsistent with Section 129 of the 1977 Amendments. They felt that if there were no SIP requirements limiting the operating hours for an existing source, the baseline emissions for calculating offset credits available from such a source should be based on the maximum possible operating hours in a year. EPA does not believe that Section 129 of the 1977 Amendments, which specifies that the applicable SIP is to be used as the baseline for determining offset credit, requires that the maximum possible operating hours be used when determining creditable offsets in tons per year. Such an interpretation would create massive amounts of "paper offsets" which bear no relationship to the actual amount of offsets being obtained. EPA believes it is more realistic and consistent with Congressional intent to use the applicable SIP emission limit in conjunction with the *actual* number of annual operating hours for the prior one or two year period. Furthermore, the clarification contained in the revised Ruling is fully consistent with the intent and specific language of the original Ruling. For example, Section IV.C.3 of the original Ruling provides that "[a] source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours *below that which existed at the time the new source permit was submitted* * * *" (emphasis added). The original Ruling has been applied consistently with the clarification contained in the revised Ruling.

Several commenters indicated that credit for source shutdowns occurring *prior* to the date a new source permit is filed should not be limited to only replacement facilities. Credit is limited in that fashion by Section IV.C.3. and footnote 6. The Agency is retaining this approach. EPA responded in this manner because it is preparing comprehensive regulations regarding banking of emissions reductions to allow for future new source growth. These are a variety of interrelated issues involved in this matter and the Agency believes that this offset requirement would be best addressed in the banking rulemaking.

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[*] This approach is somewhat different from that used in 40 CFR 51.18 (j). There, the emission offset baseline, while it ordinarily will be calculated on the basis of allowable emissions, may look to actual emissions if the State's demonstration of reasonable further progress (RFP) is based on actual emissions. This difference in approach is due to the fact that Congress required the baseline to be allowable emissions for the Offset Ruling, *see* Section 129(a)(1) of the 1977 Amendments, whereas under Section 173, offsets must be consistent with RFP and so the baseline may be either actual or allowable emissions, depending on the nature of the RFP demonstration.

Finally, one commenter recommended that a major new source be allowed to secure offsets from small sources, mobile sources, and nonpoint sources. There is nothing in the Ruling that precludes such offsets, as long as all the other requirements of the Ruling are met. Offset credit is not permitted for reductions in mobile source emissions achieved by the Federal Motor Vehicle Control Program. Offset credit may be obtained by reducing mobile source emissions by other means, *e.g.*, inspection and maintenance programs or transportation controls that are not required by the SIP at the time the new source permit is applied for. It is clear that special problems of enforceability exist with regard to such offsets. For this reason it is emphasized that close scrutiny of the enforceability of such offsets must be given.

V. Certification of Compliance Under Condition 2

Several commenters raised issues relating to Condition 2 of Section IV.A. which requires a new source applicant to certify that all existing major sources in the same State owned or operated by the applicant are in compliance with all applicable standards under the Act, or are on federally enforceable compliance schedules.

One commenter argued that under the Clean Air Act, a source owner does not bear the responsibility of reporting violations discovered through continuous self-monitoring and that the burden of identifying violations is on EPA. Others claimed that a source owner may have a good faith belief, yet lack information to be able to certify that Condition 2 is being met. It was suggested that sources should be deemed in compliance unless a source has received a Notice of Violation and judicial proceedings have actually been commenced. Another commenter urged that the Ruling specify that only established noncompliance need be considered during certification. One industry association suggested that Condition 2 would be satisfied by certifying that existing major sources in the same State owned or operated by the applicant are not currently subject to any final civil or criminal judgment of noncompliance by any State court or Federal court.

It is not correct that under the Clean Air Act the sole responsibility for determining compliance with regulations adopted pursuant to the Act rests with EPA or State and local agencies. In most cases, sources are not required by regulation to report their noncompliance; however, the lack of a requirement to report violations in no way excuses the source from the requirement to comply at all times and to employ specified methods and procedures for assessing compliance status. The burden is clearly on the source to do whatever is necessary to assure compliance. The duty to comply clearly includes the duty to ascertain compliance status. Furthermore, Section 173(3) of the Clean Air Act provides that permits to construct and operate may be issued only if:

> * * * the owner or operator of the proposed new or modified source *has demonstrated* that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in such State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this Act. (emphasis added)

In order to demonstrate that Condition 2 is being met, an owner or operator should certify that its sources are in compliance and provide supporting evidence. Types of evidence could include performance test results, continuous monitoring results, if such a system is used, a demonstration that required control devices are in place and operating at design efficiency, and a demonstration that required operating and maintenance procedures are being followed. Where compliance is based on the use of a certain type or sulfur content of a fuel, the use of the type or sulfur content fuel must be documented.

Industry suggested that the absence of criminal or civil legal action against the source should be accepted as a sufficient indication of compliance. This is not only without legal support, but also unworkable. While EPA and the States have undertaken an accelerated enforcement effort, many sources remain in violation which have not yet been the subject of judicial action under the Clean Air Act. If this suggestion were implemented, EPA and the States would have to postpone action on a permit application until all cases of suspected noncompliance by sources owned or operated by the applicant were adjudicated. The result would be long delays in the permitting process, a loss by the States and EPA of control over judicial enforcement priorities, and an inappropriate shift of the burden of demonstrating compliance from the source to EPA and the States.

VI. Fugitive Dust

By its August 7, 1980 rulemaking, the Agency deleted the provisions which embody the exemption of fugitive dust from air quality analyses performed pursuant to the Offset Ruling and the definition of fugitive dust (emissions from haul roads, storage piles, etc.). 45 FR 52675, 52693 and 52741.

The requirements for offsets and LAER for fugitive dust emissions associated with a major source remain unchanged. Many industrial comments received on the January 16, 1979 changes to the Offset Ruling opposed subjecting fugitive dust associated with a major source to the requirements of the Ruling, citing the following reasons:

1. Fugitive dust emissions are difficult to quantify.
2. Fugitive dust is different (i.e., coarser) than other particles.
3. Only a portion of the fugitive dust emissions remains airborne.
4. Offsets for particulate matter are hard to find.

EPA believes that none of these reasons provides a basis for totally exempting fugitive dust from the Ruling. EPA recognizes that some problems exist in quantifying fugitive dust emissions, and in fact has and will continue to devote significant resources to improving emission factors for fugitive dust sources. However, EPA believes that reasonable quantification of fugitive dust emissions can be made for most sources on the basis of available data, and thus those sources should be covered by the Ruling. Determinations made on a case-by-case basis will indicate those instances in which fugitive dust cannot be quantified and would, therefore, not be considered. Under the regulations promulgated August 7, 1980, fugitive dust emissions (haul roads, storage piles, etc.) and fugitive process emissions of certain designated source categories are to be included in determining whether or not specified source categories are subject to review. 45 FR 52675, 52690–3.

One commenter sought clarification on the use of high volume sampling methods used to determine the need for fugitive dust offsets. Although fugitive dust is generally coarser than other particulate emissions, much of the fugitive dust is still in the particle size range measured by the high volume sampler. It is not EPA's intent that offsets be required for those very large fugitive dust particles which are not generally captured by the high volume sampler. In fact, most fugitive dust emission factors do not include these large particles and no special adjustments to the emission rates would normally be necessary to implement this policy.

Several commenters contended that LAER could not be defined for fugitive dust sources. Paradoxically, one of these commenters went on to recommend that only BACT be required for fugitive dust sources. EPA sees no reason why LAER could not be defined for fugitive dust sources although in most cases it will take the form of operating or equipment standards rather than a numerical emission rate.

VII. Definition of Control

A permit issuing authority must determine when one business is in "control" of another, for three purposes under the Ruling. First, a stationary source is defined as embracing a grouping of industrial activities on contiguous or adjacent properties owned or operated by the same person or by persons "under common control." Second, the State-wide compliance requirement of Condition 2 applies to major sources owned by the applicant or by any entity "controlling, controlled by, or under common control with" the applicant. Third, secondary emissions that are not under the control of the permit applicant are not subject to the State-wide compliance requirement of Condition 2.

Control can be a difficult factual determination, involving the power of one business entity to affect the construction decisions or pollution control decisions of another business entity. EPA thought that a simplifying test of control, such as some specified voting share, would serve the interest of the business community, by providing clarity and predictability. Comments on this issue were solicited and suggestions were received. Upon receiving the comments, the Agency did not find a convincing argument in favor of any particular, simplified test of control. Some commenters seemed to favor unfettered inquiry into control in each case. Therefore, the Agency has decided that determinations of control will be made case-by-case, without benefit of a voting-share test or other simplifying test. However, the Agency will be guided by the general definition of control used by the Securities and Exchange Commission. In SEC considerations of control, control "means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person (or organization or association) whether through the ownership of voting shares, contract, or otherwise." 17 CFR 210.1–02(g). This definition is similar to a suggestion made by a commenter.

VIII. Banking

EPA has received many comments on banking. Most commenters view banking favorably, citing a number of advantages for it. Some commenters questioned the limitation in Section IV.C.5. which restricts banking to permits issued after January 16, 1979. Allowing retroactive application of banking would result in previously issued permits being reopened and excess offsets being banked for future use. The Agency is not changing this aspect of the Offset Ruling.

Under the Clean Air Act Amendments, States may, as part of their SIPs, allow emissions reduction banking and trading as long as care is taken to assure that use of banked emissions is enforceable, does not violate reasonable further progress requirements of Part D of the Act and does not block ultimate attainment. Only emissions reductions not needed for and not included in the SIP attainment demonstration could be used in permit applications.

EPA is now studying alternative approaches to banking emissions and will provide information and assistance where this is requested. The specific issues to be addressed will include the creation and use of banked emission reductions as well as the development of safeguard measures to assure the integrity of the SIP.

Since EPA considers economic efficiency and the accommodation of growth in nonattainment areas to be important national goals, it is also devoting resources to the development of "prototype" emission reductions banking and trading systems which States and local areas have the option of adopting in whole or in part. Technical information, management systems, workshops, and published manuals are being developed as part of this work. EPA work in these areas is being coordinated through the Division of Policy Planning in the Office of Planning and Evaluation which is part of the Office of Planning and Management. Parties seeking further information or assistance are invited to contact John S. Hoffman, Project Manager, PM–221, 401 M Street, S.W., Washington, D.C. 20460.

IX. Secondary Emissions

The Agency, on August 7, 1980, promulgated into the PSD regulations the same definition of secondary emissions as is now found in the Offset Ruling. 45 FR 52675, 52728. The Agency also promulgated its proposal that best available control technology (BACT) not be required for any secondary emissions subject to review under the PSD regulations. Consequently, secondary emissions will only be considered in, and subject to, the air quality impact analysis requirements in the PSD preconstruction review. Thus, if a source's secondary emissions would cause an increment violation, they would have to be controlled or offset before a permit could be issued, but BACT will not be required for the secondary emissions.

Commenters have stated, both before and in response to the January 16, 1979 rulemaking, that sources of secondary emissions should not be subject to LAER. The Agency has reconsidered its policy and has decided to take an approach parallel to the one adopted in the PSD regulations. This policy was noted in the preamble to the August 7, 1980 rulemaking, *See* 45 FR 52676, 52689, but the Agency neglected to make the corresponding change in the regulation. Therefore, this requirement for application of LAER to sources of secondary emissions is being deleted at this time.

X. Miscellaneous

Due to a typographical error in the January 16, 1979 **Federal Register,** the reference to footnote 3 (which was designated as footnote 5 prior to the August 7, 1980 promulgation) in Section IV.A. was incorrectly placed in Condition 2 rather than Condition 3. This is corrected in the amendment of the Offset Ruling set forth below.

XI. Authority

The Administrator has determined that this rulemaking is nationally applicable and is based on determinations of nationwide scope and effect. This rulemaking is issued under Section 129(a) of the Clean Air Act Amendments of 1977, Pub. L. 9595, 91 Stat. 745, August 7, 1977 (note under 42 U.S.C. 7502 and Section 301 of the Clean Air Act (42 U.S.C. 7601)).

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

By this notice, EPA advises prospective petitioners, as well as those who may seek review of EPA's promulgation on August 7, 1980 (45 FR 52675), that a court order governs petitions for review of today's action and the nonattainment petitions of the August 7 rulemaking. This order was entered in *Manufacturing Chemists Association* v. *EPA*, No. 79–1112, and consolidated cases Nos. 79–1251, 79–1257, 79–1283, 79–1291, 79–1295, 80–1770, and 80–1777 (D.C. Cir.). The court order states that "regardless of when they file petitions for review, prospective petitioners are to file their opening briefs in accordance with [the following briefing] schedule, and to join with other petitioners raising identical or similar issues in common briefs * * * ." The schedule is as follows:

Supplemental index to the record.	30 days after the date of this **Federal Register** notice
Petitioners' brief	45 days after the filing of the supplemental index
Respondent's brief	40 days after the filing of petitioners' briefs
Petitioners' reply briefs	25 days after filing of respondent's brief
Joint appendix	7 days after the filing of reply briefs
Final printed briefs	14 days after the filing of the joint appendix

The order was entered on September 10, 1979.

The Administrator has also determined that there is good cause to make this promulgation immediately effective because the changes are either non-substantive in nature or constitute clarification.

Dated: September 5, 1980.

Douglas M. Costle,
Administrator.

The Emission Offset Interpretative Ruling, 40 CFR Part 51 Appendix S, as revised 44 FR 3274 (January 16, 1979), 45 FR 31307 (May 13, 1980) and 45 FR 52676 (August 7, 1980) is amended as follows:

1. In Section II.G. the third sentence is changed to read as follows:

G. *Secondary emissions.*

* * * * *

However, secondary emissions may be exempt from Conditions 1 and 2 of Section IV.

* * * * *

2. In Section IV.A., the reference to footnote 3 (which was designated as footnote 5 prior to the August 7, 1980 promulgation) is removed from Condition 2 and is inserted in Condition 3 following the word "sources."

3. In Section IV.C.1 the word "potential," which appears twice in the second paragraph is changed in both places to read "uncontrolled."

4. In Section IV.C., a new subsection 6 is added as follows:

IV. Sources That Would Contribute to Concentrations That Would Exceed a NAAQS

* * * * *

C. *Baseline for determining credit for emission and air quality offsets.*

* * * * *

6. *Offset credit for meeting NSPS or NESHAPS.* Where a source is subject to an emission limitation established in a New Source Performance Standard (NSPS) or a National Emission Standard for Hazardous Air Pollutants (NESHAPS), (*i.e.*, requirements under Sections 111 and 112, respectively, of the Act), and a different SIP limitation, the more stringent limitation shall be used as the baseline for determining credit for emission and air quality offsets. The difference in emissions between the SIP and the NSPS or NESHAPS, for such source may not be used as offset credit. However, if a source were not subject to an NSPS or NESHAPS, for example if its construction had commenced prior to the proposal of an NSPS or NESHAPS for that source category, offset credit can be permitted for tightening the SIP to the NSPS or NESHAPS level for such source.

5. In section IV.D., the second paragraph is amended by changing the first sentence of that paragraph to read as follows:

D. *Location of offsetting emissions.*

* * * * *

Offsets for NO_x sources may also be obtained within the broad vicinity of the proposed new source.

* * * * *

[FR Doc. 80–28070 Filed 9–10–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[Circular No. 2475]

Rights-of-Way Under the Mineral Leasing Act; Amendment to the Definitions Section

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This amendment to the definitions section will clear up a procedural conflict between the Bureau of Land Management and the U.S. Geological Survey as to which agency handles the issuance of permits for those pipelines and related facilities owned by the lessee or lessee's operator which are located on the lease area and which are used for the sole benefit of the lessee or lessee's operator's production, collection or processing of oil and gas produced on the lease.

EFFECTIVE DATE: October 14, 1980.

ADDRESS: Any inquiries or suggestions should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Orval L. Hadley, 202 343–5537.

SUPPLEMENTARY INFORMATION: After publication of the final rulemaking on the subject of Rights-of-way Under the Mineral Leasing Act in the **Federal Register** on October 9, 1979 (44 FR 56126), questions were raised about the issuance of permits for those pipelines and other related facilities owned by the lessee or lessee's operator which are located on the lease area and which are used for the sole benefit of the lessee or lessee's operator's production, collection and processing of oil and gas produced on the lease. These questions were the result of several comments received during the comment period questioning the inclusion of gathering lines in the definition of the term "pipeline." The final rulemaking gave this responsibility to the Bureau of Land Management, although the U.S. Geological Survey had exercised the responsibility in the past. It was thought at the time that the change in responsibility was required by amendments to the Mineral Leasing Act. This change in the regulations caused concern on the part of members of the public who felt that the new system might cause delays in the development of oil and gas leases. This concern caused the Office of the Solicitor to carefully research the Mineral Leasing Act, as amended, to determine if the definition for the term "pipeline" as set forth in the final rulemaking was correct, or whether the term should be defined otherwise. The Office of the Solicitor issued an opinion on June 19, 1980, in which it was concluded that "* * * section 28 of the Mineral Land Leasing Act does not apply to on-lease production facilities which are included in a surface use and operations plan, and which are authorized by the approval of an application to conduct leasehold operations or construction activities. We believe that a reasonable dividing point between 'production' and 'transportation' is the point at which the lease operator completes his final processing or storage of the product, or in the case of gas, the point of delivery to the transportation pipeline." The opinion then went on to state "(O)ff-lease facilities, regardless of their nature, on-lease oil and gas transportation facilities, and on-lease 'commercial' facilities * * * can be authorized only by an appropriate right-of-way grant".

The regulations issued on October contained a provision including "gathering lines" in the definition of "pipeline" only because it was believed

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that this was required by statute. Thus, a decision was made to amend the regulations in the form now being published as soon as we learned that there was in fact no such statutory requirement. The subject of this amendment was an issue in the October rulemaking. There was a full 60-day comment period prior to the issuance of that final rulemaking. This amendment is in response to comments received during the comment period. For these reasons, it has been determined that publication of this amendment in proposed form, with an additional comment period, is unnecessary. In addition, the procedure set forth in the October 9, 1979, regulations has not yet been widely implemented in the field. The procedure which the October regulations replaced, and which is reinstated by this amendment, has been in use for a number of years by the Department of the Interior. For this reason, this amendment is a procedural change which should have no significant impact on the public.

It is determined that publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Depatrment of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Section 2880.0-5, Subpart 2880, Part 2880, Group 2800, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

James W. Curlin,

Acting Assistant Secretary of the Interior.

September 5, 1980.

1. Section 2800.0-5 is amended by revising existing paragraphs (i) and (k), inserting a new paragraph (l), and renumbering existing paragraphs (l) through (n) as paragraphs (m) through (o) respectively.

§ 2880.0-5 Definitions.

As used in this part, the term:

* * * * *

(i) "Pipeline" means a line of traversing Federal lands for transportation of oil or gas. The term includes feeder lines, trunk lines, and related facilities, but does not include a lessee's or lease operator's production facilities located on his lease.

* * * * *

(k) "Production facilities" means a lessee's or lease operator's pipes and equipment used on his lease solely to aid in his extraction, storage, and processing of oil and gas. The term includes storage tanks and processing equipment, and gathering lines upstream from such tanks and equipment, or in the case of gas, upstream from the point of delivery. The term also includes pipes and equipment, such as water and gas injection lines, used in the production process for purposes other than carrying oil and gas downstream from the wellhead.

(l) "Related facilities" means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of a pipeline, which are located on Federal lands, and which are authorized under the Act, including but not limited to: supporting structures; airstrips; roads; campsites; pump stations, including associated heliports, structures, yards, and fences; valves, and other control devices; surge and storage tanks; bridges; monitoring and communication devices and structures housing them; terminals, including structures, yards, docks, fences, and storage tank facilities; retaining walls, berms, dikes, ditches, cuts, and fills; structures and areas for storing supplies and equipment. Related facilities may be connected or nonconnected or contiguous or noncontiguous to the pipe.

* * * * *

[FR Doc. 80-27948 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 311

Uniform Identification System for Federal Employees Performing Essential Duties During Emergencies; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Correction to final rule.

SUMMARY: This action provides a correction to the FEMA regulations on uniform identification system for certain Federal employees which was published in the **Federal Register** on June 26, 1980, 45 FR 43199.

FOR FURTHER INFORMATION CONTACT: Dennis R. DeWalt, (202) 566-0517

Correction:

§ 311.4 [Corrected]

1. On page 43200, § 311.4, Authorized Agencies, third column, "Department of Health and Human Resources", should read "Department of Health and Human Services".

§ 311.9 [Corrected]

2. On page 43201, § 311.9, Exceptions from coverage, third column, a comma should be added in the first line of the section between the words "military", and "Coast".

Dated: September 2, 1980.

Donald P. Young,

Acting General Counsel.

[FR Doc. 80-28061 Filed 9-10-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 90

[PR Docket No. 79-338; RM-3470]

Amending the Commission's Rules and Regulations To Implement a System of Temporary Licensing for Multiple Licensed Mobile Relay Systems Operating in the Business Radio Service in the 450-470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The FCC adopts a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service. The new procedure will enable eligibles in the Business Radio Service who wish to be licensed to an existing community repeater to begin operations under certain conditions prior to the receipt of a formal authorization from the Commission.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

DATE: Effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Gay Ludington, Private Radio Bureau (202) 634-2443.

In the matter of amendment of Parts 1, 2, and 90 of the Commission's rules and regulations to implement a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service in the 450-470 MHz band; PR Docket 79-338, RM-3470.

Report and Order

Adopted: August 1, 1980.

Released: September 4, 1980.

1. We have before us our proposal [1] released January 8, 1980, to implement a system of temporary licensing for "add on" users of multiple licensed mobile relay stations (also known as "community repeaters") in the Business Radio Service operating in the 450–470 MHz band.

Introduction

2. Under the system we have proposed, an applicant could mail to the Commission an application for a radio station authorization on the usual application form,[2] together with evidence of frequency coordination [3] if required. At the same time, the applicant would complete a second form verifying:

—His or her eligibility for temporary licensing (i.e. that he or she is a subsequent user of a multiple licensed shared facility).
—His or her eligibility in the Business Radio Service;[4]
—That the applicant is not a representative of a foreign government;
—That a formal application has been completed and mailed to the Commission.

Once the application is mailed or otherwise submitted to the Commission, the second form would be posted at the applicant's control point and would constitute a valid temporary authorization. The applicant could then begin operating his radio facilities using a temporary call sign made up of the prefix "WT" plus the applicant's local seven digit business telephone number. This authority would continue until the Commission acts on the application or up to 180 days.

Comments

3. Comments and reply comments on the proposal were received from 115 parties. The overwhelming majority supported the proposal, citing the numerous public service benefits it provides. Stevenson Communications, for example, notes that the delay in the Commission's present procedure [5] discourages applicants and provokes a variety of reactions: "* * * (a) customer gets tired of waiting and cancels order before delivery; (b) customer receives equipment, then doesn't want to pay for it until he can legally use said equipment; (c) customer gets fed up with the waiting and tries to return equipment and forgets the whole thing." Others who commented pointed out that seasonal businesses such as farming are especially affected by licensing delays. Teton Communications (Idaho Falls, Idaho) states, "The farmer just cannot wait 10 or 11 weeks for a license when his crops are due to be harvested or watered * * *." Other parties point out that temporary licensing in this Service would go far to eliminating delay-generated contract breaches and repudiations and note that the Commission itself would directly benefit through elimination of requests for time consuming application status checks and through a decrease in the need for investigations for unlicensed operations. The California Mobile Relay Association (CMRA) suggested that temporary licensing should be implemented for other shared radio facilities in the Business Radio Service in other bands. General Electric (GE) supported the proposal, but was apprehensive that the forward shift in the time frame for equipment delivery might have some adverse repercussions on its existing radio equipment distribution system.

4. Parties opposing the procedure argued that the proposed rule amendments would lead to "paper loading," [6] and would necessitate expensive equipment stocking by retailers, and that there is no need for the procedure. Telocator Network of America (Telocator) questions whether the temporary licensing procedure would meet the statutory requirements of Sections 301, 308, and 309 of the Communications Act of 1934, as amended.[7]

Decision.

5. We have considered the comments and reply comments carefully and have decided to adopt the rules substantially as proposed. We have also decided to extend the approach to cover other kinds of multiple licensed arrangements in the bands allocated to the Business Radio Service below 470 MHz.[8] We feel that issues which some raised regarding difficulties with equipment inventories and paper loading can be most efficiently addressed by the industry itself, and do not outweight the clear public benefits which temporary licensing of add-on users of shared facilities provides. As we pointed out in our Notice of Proposed Rule Making, this approach is consistent with our previous action implementing temporary licensing in the Personal and Marine Radio Services.[9] Furthermore it will enhance our public service without diminishing our regulatory responsibilities. There is little or no likelihood that these subsequent users of shared facilities will cause interference to other users, because they are merely increasing mobile loading on systems already in operation. Also, these systems will already have gone through frequency coordination or completed the necessary field study reports.[10] Additionally, the antenna structures involved will already have received Federal Aviation Administration clearance. Finally, the eligibility requirement in the Business Radio Service is broad and most applicants engaged in a business activity will be found eligible.

6. Telocator argues that a temporary licensing procedure contravenes statutory limitations imposed by the Communications Act; that it would compound difficulties the Commission has identified with the community repeater concept; and that the changes proposed do not correlate with the reasons given for them.[11]

7. We have considered Telocator's comments, and we do not find that this approach to issuing temporary operating authority is contrary to Sections 301, 308 or 309 of the Communications Act of 1934, as amended. Telocator's reading of the Communications Act eliminates our ability to interpret the Act with the degree of flexibility required to fully and

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[1] *See Notice of Proposed Rule Making*, PR Docket 79–338, 45 FR 3349 (January 17, 1980).

[2] FCC Form 400; *c.f.* 47 CFR 1.922, 90.119.

[3] *See* 47 CFR Section 90.175(a) for coordination and survey requirements.

[4] Eligibility requirements for the Business Radio Service are set out at 47 CFR 90.75(a).

§ 90.75 Business Radio Service

(a) Eligibility. Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Business Radio Service to operate stations for transmission of communications necessary to such activities of the licensees:

(1) The operation of a commercial activity.

(2) The operation of educational, philanthropic, or ecclesiastical institutions.

(3) Clergymen activities.

(4) The operation of hospitals, clinics, or medical associations.

[5] Under present procedures an applicant completes and mails his application and waits until the Commission acts on his request before commencing operation.

[6] This situation could arise where a community repeater operator artificially inflates the number of licensees operating on a particular channel, to avoid having it loaded above a certain user count. This results in inaccuracies in the frequency coordinator's data base, and inefficient use of scarce spectrum.

[7] 47 U.S.C. 301, 308, 309.

[8] Specialized restrictions still apply to users along the U.S.-Canada border. In order to fulfill our international commitments with Canada, the addition of stations (other than mobile stations) to existing radio systems authorized to operate in the frequency coordination zone along the United States-Canada border will be limited to stations with a maximum of 5 watts effective radiated power and an antenna height of 6.1 meters above average terrain until the necessary clearance is obtained from the Canadian administration.

[9] Cf. Order, FCC 76–320, (1976); Order FCC 78–846 (1979).

[10] *See* 47 CFR 90.175.

[11] Telocator's interest in this proceeding derives from its concern that "relaxation" of private radio eligibility rules might lead to illegal use of the Business Radio Service and loss of customers for services offered by radio common carriers.

responsively serve the public interest. We do not view our authority and flexibility as narrowly as Telocator would have us do [12] and we believe we have ample authority to prescribe appropriate procedures for fulfilling our mandated tasks. Pursuant to Section 303(g) of the Communications Act, the Commission has a statutory obligation to encourage "larger and more effective use of radio in the public interest," [13] and to accomplish this we possess extensive rule making authority under the Communications Act. *See e.g.* Sections 303(r) and 4(i). The statute broadly authorizes the Commission to "* * * perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." [14] The rules we adopt here will help us execute our functions in a more effective and efficient manner consistent with our responsibilities under the statute.[15]

8. Telocator argues that our plan contravenes the Act which permits us to make grants of licenses or temporary authorizations, "only upon written application therefore received," [16] and only upon a showing that the "public interest, convenience and necessity will be served by granting of such application." [17] At issue is our ability to specify what constitutes receipt of an application. We believe the approach we have proposed (i.e., that receipt occurs when an individual delivers his application to the U.S. mail) is desirable in furthering a rapid, efficient radio communications service for eligible members of the public, and is not a new or novel definition of receipt.[18]

9. Further, because of the broad nature of the eligibility requirements in the Business Radio Service, there should be no major issues before us concerning an applicant at the time of application mailing.[19] Any potential interference problems with other facilities on the same or on other frequencies which might conceivably eventuate will have been addressed at the time the initial license for the shared facility was granted. Antenna site and height, environmental issues, if any, and aeronautical hazards will also have been resolved. It is only after this work has been done that the new (second, third, etc.) user of the shared facility would be permitted to operate under the temporary authorization, and then only for a relatively short period of time, that is, until we act on his or her application for regular authorization. Thus, the risks for allowing an unqualified person to operate are rather minimal, especially when weighed against the public benefit generally resulting from immediate implementation of needed radio communications systems. Telocator's arguments must be considered in this light. Furthermore, under this temporary licensing procedure, the Commission will continue to grant permanent authorizations only after evaluation of written applications, and after the requisite public interest determination have been made. We therefore reject Telocator's argument that we lack the necessary power to adopt a temporary licensing procedure and we conclude, consistent with Sections 301, 308 and 309, that we may implement this procedure for temporary licensing.

10. We also reject Telocator's other objections that action on this measure at this time is inappropriate and that there is no need for the temporary authorization procedure, either at present or in the future. Telocator argues that since in our on-going proceeding in PR Docket No. 79-107 [20] we are re-evaluating licensing procedures of community repeaters in the 800 MHz band, that it is "unreasonable" and "irrational" to propose these temporary licensing rules for community repeaters at this time. Our answer to this point, in short, is that the above proceeding deals with multiple licensing at 800 MHz and has nothing to do with licensing practices below 800 MHz.[21]. Although Telocator is correct in its observation that the processing delay time for these systems has been reduced in recent months, these rules represent a more permanent solution to the delay problem.

11. We turn now to comments asking modification in the proposed procedure. CMRA, while approving of the temporary licensing scheme, asked that we include all multiple licensed shared base station facilities, whether radio or wireline controlled, which operate in the Business Radio Service in the frequency bands 30–50 MHz and 150–170 MHz as well as 450–470 MHz. We have considered CMRA's request and we conclude that it is consistent with our overall objectives in this proceeding. The same considerations which permit the temporary licensing approach for mobile relay systems [22] apply equally to these other shared facilities. We conclude, therefore, that the public interest will be served by including these facilities in this approach and we are expanding temporary licensing to include these systems.

12. The General Electric Company (GE) has expressed concern that the proposed change will have adverse repercussions on the highly competitive equipment marketplace, because it will necessitate major changes in the way GE and some other radio equipment manufacturers market their products. GE contends that most dealers presently do not maintain an inventory and sell radio equipment off the shelf. Instead, the dealer orders the necessary radio equipment from the manufacturer who then assembles and delivers it to the dealer. Arrangements are usually made to have the equipment delivered to the

---

[12] *See National Broadcasting Company* v. *United States* 319 U.S. 190 (1942), *Federal Communications Commission* v. *Pottsville Broadcasting Co.,* 309 U.S. 134 (1940); *United States* v. *Storer Broadcasting Co.,* 351 U.S. 192 (1956).

[13] 47 U.S.C. 303(g).

[14] 47 U.S.C. 154(i).

[15] The courts have consistently held that the Act must be read as granting the Commission "a comprehensive mandate" with "not niggardly but expansive powers." *National Broadcasting Co.* v. *United States, supra* at 219. *See also United States* v. *Southwestern Cable Co.* 392 U.S. 157 (1968); *Philadelphia Television Broadcasting Co.* v. *FCC 359 F. 2d 282 (1966).*

[16] 47 U.S.C. 308(a).

[17] 47 U.S.C. 309(a).

[18] The administrative designation of "receipt" as the date of mailing is most familiar to us under the Internal Revenue Service practice of deeming the date of mailing as the date of receipt, and Congress has specifically codified this practice at 26 U.S.C. 7502 (timely mailing treated as timely filing): "(a)(1) Date of Delivery—If any return, claim, statement or other document required to be filed * * * is * * * delivered by United States mail to the agency, the date of the United States postmark * * * shall be deemed to be the date of delivery or the date of payment * * *"

[19] Telocator's citation of *Folkways Broadcasting Company* v. *Federal Communications Commission,* 379 F. 2d 447(1967) and other common carrier cases is inappropriate. In *Folkways,* the court required the Commission to institute evidentiary proceedings to deal with public interest considerations which had *already* been raised. In the instant situation, unlike *Folkways,* (where adverse findings had already been made), there will be no issue as to character qualifications at the time of grant of the temporary permit in the overwhelming majority of cases because of the broad eligibility standards in the Business Radio Service. We would point out that the eligibility criteria to be met at the outset by radio common carriers (and other types of Commission licensees, *e.g.* broadcasters), and by Business Radio Service licensees are very different standards. The Commission does not measure the eligibility of a Business Radio Service applicant by radio common carrier standards. There is, in the instant situation, no reason not to issue a temporary authorization once the application is mailed. The issue of a temporary permit does not prejudge the issue of character when the permanent authorization is made. *See in Re Application Voice of Reason,* Inc. 37 FCC 2d 686 (1972).

[20] PR Docket 79-107, 71 FCC 2d 1391, released May 16, 1979.

[21] Telocator also makes an additional argument regarding the need for frequency coordination. However, the issue of the need for frequency coordination for add-on users of multiple licensed mobile relay facilities is presently pending in RM-3448. We think it more appropriate to address the comments of Telocator and others on point in that proceeding.

[22] I.e. FAA clearance, little likehood of interference, prior frequency coordination and broad eligibility criteria.

dealer about the same time that a license is issued to the user. The new licensing procedure will eliminate this delay. Dealers will be faced with a demand from customers to purchase and install equipment immediately. Such a change in customer demand characteristics will require dealers to stock inventory in order to remain competitive. This in turn may require local dealers to procure financing to purchase equipment, to rent storage space, to procure insurance, etc. GE therefore requests we delay implementation of our new rules to provide a period of time for manufacturers and dealers to alter or adjust their marketing procedures to assimilate this change.

13. We have considered these points and decided to delay implementation of the new rules until January 1, 1981. While we point out that our new procedure does not require any dealer to change his current method of doing business, we can understand that market forces may compel manufacturers to change their present operating procedures. We believe, however, that prompt implementation of this new procedure would most serve the public interest. January 1, 1981, was chosen to allow for sufficient time to have the temporary licensing forms printed and distributed, and we believe that GE can accomplish whatever marketing changes they wish to make within that time.

14. The Special Industrial Radio Service Association (SIRSA) asks that the concept of temporary licensing be extended to mobile relay systems operating in the Special Industrial Radio Service. It maintains that the advantges to be gained are substantially the same as those in the Business Radio Service. However, determining eligibility in the Special Industrial Radio Service represents a much more serious problem than in the Business Radio Service.[23] Additionally, SIRSA's request is beyond the scope of this proceeding. We are, therefore, declining to adopt this suggestion.

15. Finally, the National Association of Business and Educational Radio, Inc. (NABER) expressed its concern with the issuing of "John Doe" [24] coordinations. Specifically NABER is concerned about the potential for artificial inflation of its data base, and it therefore asks the Commission to place "guidelines" on the use of "John Doe" coordination letters.[25]

16. In the Notice of Proposed Rule Making the Commission did not specifically mandate the issuance of "John Doe' coordination letters, and we believe that the concerns which NABER expresses with regard to the integrity of its data base have some merit. Therefore, NABER may issue coordination letters in the manner it has indicated. We decline, however, to undertake to notify NABER when a coordination letter is used. We believe this is something NABER can best work out as part of its own procedure for providing coordination letters.[26]

Conclusion

17. In view of the foregoing, the Commission concludes that adoption of a temporary licensing procedure for shared Business Radio Service systems operating in the 30–50 MHz, 150–170 MHz, and 450–470 MHz bands will serve the public interest, convenience and necessity and we are adopting the rules set out in Appendices A and B. This system of licensing will benefit radio users by enabling them to begin operations more quickly than heretofore, and will not in any way lessen the Commission's ability to determine whether the applicant is eligible and possesses the necessary qualifications to be permanently licensed in the Business Radio Service.

18. The new form for temporary licensing and the posting requirement is adopted subject to General Accounting Office clearance. Sufficient supplies of it must be obtained to cover at least initial demand. Unless the public is advised, to the contrary, the rules we here adopt will be effective January 1, 1981.

19. Accordingly, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is ordered, that effective January 1, 1981, Parts 1, 2, and 90 of the Commission's rules are amended as set forth in Appendix A below.

20. It is further ordered that this proceeding is terminated.

21. It is further ordered That the Secretary shall cause this Report and Order to be published in the **Federal Register.**

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parts 1, 2, and 90 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. In § 1.922 a new FCC Form and Title are added to read as follows:

§ 1.922 Forms to be used.

FCC form	Title
572	Temporary Permit to Operate a Business Radio Station.

* * * * *

2. In § 1.925 a new paragraph (g) is added to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, or interim amateur permit.

* * * * *

(g) An applicant for a Business radio station license utilizing an already authorized facility may operate the radio station for a period of 180 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 572, after the mailing of a formal application for station license together with evidence of frequency coordination, if required, to the Commission. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 Watts effective radiated power and a maximum antenna height of 6.1 meters above average terrain.

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[23] To be eligible in the Special Industrial Radio Service the applicant must meet the stringent eligibility requirements set out at Rule Section 90.73(a). The criteria are quite detailed and require considerably more of a showing than required of applicants in the Business Radio Service. See 47 CFR 90.73(a).

[24] Frequency recommendation letters contain coordination information for a given transmitter location, and such lettters must be submitted with the application in lieu of a field study in the Business Radio Service for frequencies below 470 MHz. *See* CFR 90.175. In the case of a community repeater the coordination information is the same for every add-on-user. Nameless or "John Doe" coordination letters could be issued by NABER to the community repeater operator and could be used to accommodate unexpected applicants who need immediate radio service. The community repeater operator would fill in the name of the applicant, who would then attach the coordination form to his application for submission to the Commission.

[25] The guidelines NABER wishes us to implement are as follows:

—The recommendation letter to remain valid for a period not to exceed 60 days, with the possibility of another 60 day extension, upon notification of need;

—Notification that an applicant has used the recommendation and applied to the Commission for a Business Radio Service authorization;

—A restriction on the number of coordination letters which may be issued to any one shared facility;

—A restriction on the number of mobile stations (5) for which the coordination letter may be used.

[26] For example, a franked return envelope for submission of a stub from the coordination letter which will permit NABER to identify each coordination letter when it is used.

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PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. In § 2.302, a new class of station, composition of call sign, and call sign block are added to the table of call signs, to read as follows:

§ 2.302 Call signs.

* * * * *

Class of station	Composition of call sign	Call sign blocks
* * *	* *	* *
Business radio temporary permit	2 letters, 7 digits	WT plus local telephone number.
* * *	* *	* *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

4. Subpart G of Part 90 is amended by the addition of new rule § 90.159 to read as follows:

§ 90.159 Temporary permit.

An applicant for a Business radio station license utilizing an already authorized facility may operate the radio station for a period of up to 180 days, under a temporary permit evidenced by a properly executed certification made of FCC Form 572 after the mailing of a formal application for station license, together with evidence of frequency coordination, if required, to the Commission. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 Watts effective radiated power and a maximum antenna height of 6.1 meters above average terrain.

5. In § 90.119, a new paragraph (e) is added to read as follows:

§ 90.119 Application forms.

* * * * *

(e) Form 572, Temporary Permit to Operate a Business Radio Station, should be properly executed, if applicant is eligible and desires to operate his station pending the processing of his formal application (See also § 90.159).

6. In § 90.437, a new paragraph (c) is added to read as follows:

§ 90.437 Posting station licenses.

* * * * *

(c) Entities operating under a temporary permit authorized in accordance with § 90.159 should post an executed copy of FCC Form 572, at every control point of the system.

BILLING CODE 6712-01-M

APPENDIX B

TEMPORARY PERMIT TO OPERATE A BUSINESS RADIO STATION

DO NOT MAIL THIS FORM TO THE COMMISSION

I

Use this form only if you want a temporary permit in the Business Radio Service to operate on an existing licensed facility in the 30-50 MHz, 150-170 MHz and 450-470 MHz bands while your regular application Form 400 is being processed by the FCC.

Do not use this form if you operate an individual non-shared Mobile Relay station.

Do not use this form until you comply with frequency coordination requirements under Section 90.175 of the FCC Rules

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II

I hereby certify that:

I am not the representative of a foreign government.

I am eligible in the Business Radio Service under Section 90.75.

I have not been denied a license or had a license revoked by the FCC.

I am not subject to any other legal action concerning the operation of radio station.

I have complied with frequency coordination requirements under Section 90.175 of the FCC Rules and attached evidence of coordination with my regular application(s).

I have mailed my FCC Form 400 on , 19 .

Applicant Name

Applicant Mailing Address

____
Signature of person responsible for the operation of this Radio Facility.

If you cannot certify to the above, you are not eligible for a temporary permit. Willful false statements void this permit and are punishable by fine and/or imprisonment.

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III

- Location of Shared Mobile Relay station.

Address

City County State

- Location of control station(s)

- Number of Mobile Units

Provide the name and call sign of a licensee presently operating on the shared facility.

Licensee call sign ☐☐☐☐☐☐☐☐☐

Licensee Name ______________________________

____

IV

Complete the block as indicated

Use this temporary call sign until a call sign is given by the Federal Communications Commission.

W T ☐☐☐☐☐☐☐
Local Telephone Number

(Required ID is WT plus local business telephone number)

V

Your authority under this permit is subject to all applicable laws, treaties and regulations and is subject to the right of use or control by the Government of the United States. This permit is valid for 180 days from the date the Form 400 is mailed to the FCC.

You must have a temporary permit or a license from the FCC to operate your Land Mobile radio transmitters.

VI Post this form or a photocopy of this form at your system's control point.

[FR Doc. 80-27989 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-C

47 CFR Part 73

[BC Docket No. 80-51; RM-3218]

FM Broadcast Station in Chatham, Mass.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class B FM channel to Chatham, Massachusetts, as its first FM channel assignment, in response to a petition filed by Rosemary D. Nelson. The assignment is consistent with other assignments made in the Cape Cod area.

EFFECTIVE DATE: October 9, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and order (Proceeding Terminated)

Adopted: August 22, 1980.

Released: September 4, 1980.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a proposal for the assignment of Class B FM Channel 298 to Chatham, Massachusetts, as that community's first FM assignment. This proceeding was initiated by a *Notice of Proposed Rule Making*, adopted February 6, 1980, 45 FR 12454, published February 26, 1980, based on a petition filed by Rosemary D. Nelson ("petitioner"). Supporting comments were filed by petitioner in which she reaffirmed her intent to file for the channel, if assigned. Oppositions were filed by Harbinger Broadcasting Co., Inc., licensee of Station WCOD–FM, Hyannis, Massachusetts; Seashore Broadcasting Co. ("Seashore"), licensee of Stations WVLC(AM), and WLOM(FM), Orleans, Massachusetts; and Central Vermont Radio Corporation ("Central Vermont"), licensee of Stations WOCB(AM) and WSOX(FM), West Yarmouth, Massachusetts, to which petitioner responded.

2. Chatham (pop. 4,554)[1] is located in Barnstable County (pop. 96,656), on Cape Cod, approximately 110 kilometers (70 miles) from Boston. Petitioner states that a Class B channel would better serve the special local needs and interests of Chatham and lower Cape area.

3. In opposition, Central Vermont, Seashore and Harbinger contend that although there are no aural services licensed to the community, Chatham is served by a multiplicity of radio broadcast services, unlike the situation relied on by the Commission in *Cape Charles, Virginia*, 43 FR 6606 (1978). The assignment of a Class B radio station in Chatham would allegedly fractionalize the existing stations' audiences, thereby reducing the revenue to each of the stations. They maintain that a Class A frequency will serve the needs of Chatham.

4. Petitioner in reply, states that the parties in opposition have not advanced any substantial public interest basis for rejection of the proposed assignment. She further states that since five Cape Cod communities with similar populations (two even smaller) have already been assigned Class B channels, a Class A channel in Chatham has very little chance of economic survival. Petitioner states that Chatham's growth pattern (a 32% increase to 6,027 from 1970 to 1975), a tourist population of 25,000 during the summer months, fulfillment of the Commission's technical requirements without precluding FM service to any other locality, and the Commission's past practice of allocating Class B channels to Cape Cod's major communities to insure effective service justify the assignment of a Class B channel to Chatham.

5. It appears that the opposition's comments are more concerned with the competitive impact of another Class B station in the market, but that is not the issue we need to consider here. This issue can more adequately be resolved within the context of the application processing and further consideration shall be deferred until that stage. Although there are factual differences in the *Cape Charles, Virginia*, proceeding, the pattern of assignments in that area are similar to the situation here. All of the major communities (West Yarmouth (pop. 3,699), Orleans (pop. 3,055), Hyannis (pop. 6,847), Barnstable (pop. 1,202) and Falmouth (pop. 5,806)), have Class B assignments. It would be inconsistent in our opinion to deviate from this distribution particularly where a need based on growth and tourism has been established. Accordingly, the Commission believes the public interest would be served by assigning Channel 298 to Chatham.

6. In view of the foregoing, IT IS ORDERED, that effective October 9, 1980, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) IS AMENDED with regard to the following community:

City	Channel No.
Chatham, Mass	298

7. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. It is further ordered, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–28093 Filed 9–10–80; 8:45 am]

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[1] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 178

[Docket No. HM-166C; Amdt. Nos. 173-14, 178-62]

Termination of Certain Regulations; Obsolete Packaging Specifications

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Department's Hazardous Materials Regulations is to remove certain specification packagings that are no longer being manufactured or are not in general use. This action is in keeping with Executive Order 12221 on "Improving Government Regulations". These amendments will result in fewer, simpler and less burdensome regulations.

EFFECTIVE DATE: September 11, 1980.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, 400 7th Street SW., Washington, D.C. 20590, (202) 472–2726.

SUPPLEMENTARY INFORMATION: On October 18, 1979, the MTB published a Notice of Proposed Rulemaking, Docket HM–166C; Notice No. 79–13; (44 FR 60112) which proposed to eliminate 27 DOT specification packagings from 49 CFR. The principal purpose of this

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action is the termination of unnecessary regulations. The elimination of 20 packaging specifications will result in a reduction of 49 CFR by approximately 48 pages.

The Bureau received seventeen comments on Notice 79–13.

The most significant difference between the final rule and the proposed rulemaking is that DOT Specifications 3B seamless steel cylinders, 5L steel barrels or drums, 5P lagged steel drums, 6C steel barrels or drums, 37K steel drums, 23F and 23H fiberboard boxes are retained in this rulemaking. According to the comments received, these specific packagings are still being manufactured and are in general use. Steel cylinder Specifications 3C, 3D, 3A480X, 4, 4A, and 4C will continue to be authorized for use as packagings for materials listed in Part 173. However, new construction is not authorized and their specifications have been removed from Part 178.

Specification 2A inside containers, metal can, pails and kits, steel barrels or drum Specifications 5D, 5F, 5H, 5X, 6A, 6K, 17X, metal kegs Specification 13, and aluminum barrels or drum Specifications 42C, 42E, 42F, 42G and 42H have all been deleted from Parts 173 and 178.

One commenter recommended that DOT Specification 42D aluminum drums also be eliminated. Since Specification 42D was not included in Notice No. 79–13, it has not been included in this rulemaking. However, it will be included in a notice of proposed rulemaking in the near future. Any person having knowledge of other specifications that are no longer necessary should contact Mr. Raines at the address or phone number shown earlier in this preamble.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In consideration of the foregoing, Parts 173 and 178 of 49 CFR are amended as follows:

1. In § 173.60, paragraphs (a)(2) and (a)(3) are deleted; paragraph (a)(4) is revised as follows:

§ 173.60 Black powder and low explosives.

(a) * * *

(2) [Reserved]

(3) [Reserved]

(4) Specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter). Wooden boxes with inside fiber or metal containers not over 1½ pounds capacity each, or cotton bags of at least 4 ounce cotton duck not over 25 pounds capacity each. The gross weight of Specification 14 boxes may not exceed 140 pounds and the gross weight of Specification 15A or 16A boxes may not exceed 200 pounds.

* * * * *

2. In § 173.93, paragraphs (a)(2), (a)(3), and (a)(7) are deleted; paragraphs (a)(9), (b)(1), (d)(1), and (e)(2) are revised as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) * * *

(2) [Reserved]

(3) [Reserved]

* * * * *

(7) [Reserved]

* * * * *

(9) Specification 14, 15A, 15B or 15C (§§ 178.165, 178.168, 178.169, 178.170 of this subchapter) wooden boxes, or Specification 23F or 23H (§§ 178.214, 178.219 of this subchapter) fiberboard boxes, with not more than four strong inside tight metal containers of not more than 25 pounds each. The gross weight in fiberboard boxes may not exceed 65 pounds.

* * * * *

(b) * * *

(1) Specification 5, 5A, 5B, 6B, or 6C (§§ 178.80, 178.81, 178.82, 178.98, or 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(d) * * *

(1) Specification 5, 5A, 5B, 6B, or 6C (§§ 178.80, 178.81, 178.82, 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(e) * * *

* * * * *

(2) Specification 5B, 6B, 6C, 6D; also 17C or 17H (single-trip) containers (§§ 178.82, 178.98, 178.99, 178.102, 178.115, 178.118 of this subchapter). Metal barrel, drum, or cylindrical steel overpack, with inside Specification 2S (§ 178.35 of this subchapter) polyethylene container, packed inside a strong, tight metal drum. Inside steel drum must be surrounded on all sides with at least 2 inches of incombustible absorbent cushioning material uniformly distributed. Polyethylene containers are authorized only for liquids that will not react dangerously with the plastic or result in container failure.

* * * * *

3. In § 173.119, paragraphs (a)(10), and (k)(2) are revised; paragraphs (a)(15), (b)(6) and (k)(4) are deleted as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) * * *

(10) Specification 42B, (§ 178.107 of this subchapter). Aluminum drums.

* * * * *

(15) [Reserved]

* * * * *

(b) * * *

(6) [Reserved]

* * * * *

(k) * * *

(2) Specification 6B, or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(4) [Reserved]

* * * * *

4. In § 173.121, paragraph (a)(3) is revised as follows:

§ 173.121 Carbon bisulfide (disulfide).

(a) * * *

(3) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with strong inside metal containers or with inside glass or earthenware containers not over 5 pints capacity each.

* * * * *

5. In § 173.122, paragraph (a)(2) is revised as follows:

§ 173.122 Acrolein, inhibited.

(a) * * *

(2) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with strong inside tight metal containers not over 5 gallons capacity each.

* * * * *

6. In § 173.127, paragraph (a)(2) is revised; paragraph (a)(3) is deleted as follows:

§ 173.127 Nitrocellulose or collodion cotton, fibrous or nitrostarch, wet; nitrocellulose flakes; colloided nitrocellulose, granular, flake, or block, and lacquer base or lacquer chips, wet.

(a) * * *

(2) Specification 6B, 6C, or 6J (§§ 178.98, 178.99, 178.100 of this subchapter). Metal barrels or drums not over 55 gallons capacity. Specification 6J (§ 178.100 of this subchapter) drums must have removable heads of 14 gauge metal or 16 gauge metal with one or more corrugations near the periphery and heads must have a minimum convexity of ⅜ inch; each drum must have three rolled or swedged-in hoops, one of which shall be in the body near the curl.

(3) [Reserved]

* * * * *

7. In § 173.134, paragraph (a)(2) is revised as follows:

§ 173.134 Pyroforic liquids, n.o.s.

(a) * * *

(2) Specification 15A, 15B, or 15C (§§ 178.168, 178.169, 178.170 of this subchapter) wooden boxes or Specification 12B (§ 178.205 of this subchapter) fiberboard boxes enclosing not more than four strong tight metal cans with inside containers of glass or metal, not over one quart capacity each, having positive screwcap closures adequately gasketed ahead of the threads. Inside containers must be cushioned on all sides with dry, absorbent, incombustible material in a quantity sufficient to absorb the entire contents. The strong tight metal cans must be closed by positive means, not by friction.

* * * * *

8. In § 173.135, paragraph (a)(4) is deleted as follows:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *

(4) [Reserved]

* * * * *

9. In § 173.136, paragraph (a)(4) is deleted as follows:

§ 173.136 Methyl dichlorosilane and trichlorosilane.

(a) * * *

(4) [Revised]

* * * * *

10. In § 173.137, paragraph (a)(2) is revised as follows:

§ 173.137 Lithium aluminum hydride, ethereal.

(a) * * *

(2) Specification 6B, 6C, or 17H (single-trip) (§§ 178.98, 178.99, 178.118 of this subchapter). Metal barrels or drums with not more than one inside glass container not exceeding 2 gallons capacity. The inside container must be completely cushioned in sufficient incombustible cushioning material to completely absorb the contents in event of breakage.

* * * * *

11. In § 173.139, paragraph (a)(3) is revised as follows:

§ 173.139 Ethylene imine, inhibited, and propylene imine, inhibited.

(a) * * *

(3) Specification 6B, 6C, or 6J (§§ 178.98, 178.99, 178.100 of this subchapter). Metal barrels or drums, with one inside Specification 17E (§ 178.116 of this subchapter) metal drum not over 30 gallons capacity. Inside drum must be completely surrounded with incombustible cushioning material.

* * * * *

12. In § 173.154, paragraph (a)(1) is revised as follows:

§ 173.154 Flammable solids, organic peroxide solids and oxidizers not specifically provided for.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

13. In § 173.156, paragraph (a)(2) is deleted as follows:

§ 173.156 Barium peroxide and calcium peroxide.

(a) * * *

(2) [Reserved]

* * * * *

14. In § 173.160, paragraph (a)(2) is revised as follows:

§ 173.160 Calcium chlorite and sodium chlorite.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

15. In § 173.161, paragraph (a)(2) is revised as follows:

§ 173.161 Calcium phosphide.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

16. In § 173.163, paragraph (a)(1) is revised as follows:

§ 173.163 Chlorate of soda, chlorate of potash, and other chlorates.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

17. In § 173.164, paragraph (a)(1) is revised as follows:

§ 173.164 Chromic acid or chromic acid mixture, dry.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

18. In § 173.166, paragraph (a)(1) is revised as follows:

§ 173.166 Cobalt resinate, precipitated, calcium resinate, and calcium resinate fused.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

19. In § 173.175, paragraph (a)(2) is revised as follows:

§ 173.175 Lacquer base, or lacquer chips, dry.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

20. In § 173.184, paragraph (a)(3) is revised; paragraph (a)(6) is deleted as follows:

§ 173.184 Nitrocellulose or collodion cotton, wet, or nitrocellulose, colloided, granular, or flake, wet, or nitrostarch, wet, or nitroguanidine, wet.

(a) * * *

(3) Specification 6B, 6C, or 6J (§§ 178.98, 178.99, 178.100 of this subchapter). Metal barrels or drums not over 55 gallons capacity. Specification 6J (§ 178.100 of this subchapter) drums must have removable heads of 14 gauge metal or 16 gauge metal with one or more corrugations near the periphery and the heads must have a minimum convexity of ⅜ inch; each drum must have three rolled or swedged-in hoops, one of which shall be in the body near the top curl.

* * * * *

(6) [Reserved]

* * * * *

21. In § 173.187, paragraph (a)(2) is revised as follows:

§ 173.187 Peroxide of sodium.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

22. In § 173.188, paragraph (a)(2) is revised; paragraph (a)(4) is deleted as follows:

§ 173.188 Phosphoric anhydride.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(4) [Reserved]

* * * * *

23. In § 173.189, paragraph (a)(2) is revised as follows:

§ 173.189 Phosphorus, amorphous, red.

(a) * * *

(2) Specification 6B; also 37A or 37B (single-trip containers) (§§ 178.98, 178.131, 178.130 of this subchapter).

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Metal barrels or drums. Gross weight not to exceed 160 pounds.

* * * * *

24. In § 173.190, paragraphs (b)(2) and (d)(1) are revised as follows:

§ 173.190 Phosphorous, white or yellow.

* * * * *

(b) * * *

(2) Specification 5A or 6B (§§ 178.81, 178.98 of this subchapter). Metal barrels or drums, not over 30 gallons capacity each.

* * * * *

(d) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums, not over 30 gallons capacity each.

* * * * *

25. In § 173.191, paragraph (a)(2) is revised as follows:

§ 173.191 Phosphorous pentachloride.

(a) * * *

(2) Specification 6B or 6C; also 37A or 37B (single-trip containers) (§§ 178.98, 178.99, 178.131, 178.132 of this subchapter). "Black iron" metal barrels or durms.

* * * * *

26. In § 173.195, paragraphs (a)(2) and (b)(1) are revised as follows:

§ 173.195 Pyroxylin plastic scrap.

(a) * * *

(2) Specification 6B, 6C, or 6J; also 17H, 37A, or 37B (single-trip containers) (§§ 178.98, 178.99, 178.100, 178.118, 178.131, 178.132 of this subchapter). Metal barrels or drums.

* * * * *

(b) * * *

(1) Specification 6B or 6C; or 17H (single-trip) (§§ 178.98, 178.99, 178.118 of this subchapter). Metal barrels or drums.

* * * * *

27. In § 173.201, paragraph (a)(1) is revised as follows:

§ 173.201 Rubber scrap, rubber buffings, reclaimed rubber, or regenerated rubber.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

28. In § 173.203, paragraph (a)(2) is revised as follows:

§ 173.203 Tetranitromethane.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums, with an inside stainless steel or aluminum drum(s). The inside drum may have no opening larger than 2.5 inches in diameter and must be securely closed by a gasketed screw type device. Gaskets must be made of materials that will not deteriorate upon contact with the contents. The inside drum(s) must be cushioned with not less than 2 inches of absorbent incombustible cushioning material. Each inside drum shall be of not less than 20 gauge metal and shall be tested for leakage before packing in the outside drum.

29. In § 173.204, paragraph (a)(2) is revised as follows:

§ 173. 204 Sodium hydrosulfite.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

30. In § 173.206, paragraph (a)(2) is revised as follows:

§ 173.206 Sodium or potassium, metallic; sodium amide; sodium potassium alloys; sodium aluminum hydride; lithium metal; lithium silicon; lithium ferro silicon; lithium hydride; lithium borohydride; lithium aluminum hydride; lithium acetylide-ethylene diamine complex; aluminum hydride; cesium metal; rubidium metal; zirconium hydride, powdered.

(a) * * *

(2) Specification 5, 5C, 6B, or 6C (§§ 178.80, 178.83, 178.98, 178.99 of this subchapter). Metal barrels or drums. Not authorized for lithium aluminum hydride or aluminum hydride.

* * * * *

31. In § 173.207, paragraphs (a)(2) and (b)(4) are revised as follows:

§ 173.207 Sulfide of sodium or sulfide of potassium, fused or concentrated, when ground.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(b) * * *

(4) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

32. In § 173.214, paragraphs (a)(1), (b)(1), (c)(1), and (d)(1) are revised as follows:

§ 173.214 Hafnium metal or zirconium metal, wet, minimum 25 percent water by weight, mechanically produced, finer than 270 mesh particle size; hafnium metal or zirconium metal, dry, in an atmosphere of inert gas, mechanically produced, finer than 270 mesh particle size; hafnium metal or zirconium metal, wet, minimum 25 percent water by weight, chemically produced (see Note 1), finer than 20 mesh particle size; hafnium metal or zirconium metal, dry, in an atmosphere of inert gas, chemically produced (see Note 1), finer than 20 mesh particle size.

(a) * * *

(1) Specification 15A or 15B (§§ 178.168, 178.169 of this subchapter) wooden boxes or Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter) metal drums with inside containers of glass or non-carbon polyethylene having net weight of not over 10 pounds each. Inside glass containers must be equipped with positive type clamp-on closures equipped with rubber gaskets. Inside polyethylene containers must have screw-cap closures equipped with gaskets ahead of thread and shall be of material which will not react with or be decomposed when in contact with contents. Screw-cap closures must be secured in place by suitable tape. Each glass or polyethylene container must be surrounded on all sides with not less than 1-inch of incombustible cushioning material and in an amount sufficient to completely absorb the entire liquid contents of the containers. Each inside glass or polyethylene container must be placed in a strong tight metal can closed with push-in cover held in place by soldering or crimping at least four points. The authorized net weight of hafnium in one outside container shall not exceed 40 pounds for wooden boxes and shall not exceed 150 pounds for steel drums.

(b) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter) or spec. 17C, 17H, or 37A (single-trip containers) (§§ 178.115, 178.118, 178.131 of this subchapter). Metal barrels or drums with inside non-carbon polyethylene bottles having positive type clamp on closures equipped with rubber gaskets, or with screw-cap closures having not less than three continuous threads and equipped with gaskets ahead of threads, not over 5 pounds net weight capacity each. Screw-cap closures must be secured in place by suitable tape. Each bottle must be placed in a Specification 2R (§ 178.34 of this subchapter) metal container having a wall thickness of one-fourth inch and be completely surrounded by cushioning material. Specification 2R containers must be separated from one another by incombustible cushioning material. The authorized net weight of metal in one

outside container shall not exceed 150 pounds.

(c) * * *

(1) Specification 15A or 15B (§§ 178.168, 178.169 of this subchapter) wooden boxes or Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter) or 17C or 17H (single-trip containers) (§§ 178.115, 178.118 of this subchapter) metal drums with inside containers of glass or non-carbon polyethylene having net weight of not over 10 pounds each. Inside glass containers must be equipped with positive type clamp-on closures equipped with rubber gaskets. Inside polyethylene containers must have screw-cap closures equipped with gaskets ahead of the thread and shall be of material which will not react with or be decomposed when in contact with contents. Screw-cap closures must be secured in place by suitable tape. Each glass or polyethylene container must be surrounded on all sides with not less than 1-inch of incombustible cushioning material and in an amount sufficient to completely absorb the entire liquid contents of the containers. Each inside glass or polyethylene container must be placed in a strong metal can closed with push-in cover held in place by soldering or crimping at at least four points. The authorized net weight or zirconium in one outside container shall not exceed 40 pounds in wooden boxes and 150 pounds in steel drums.

* * * * *

(d) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter) or Specification 17C, 17H, or 37A (single-trip containers) (§§ 178.115, 178.118, 178.131 of this subchapter). Metal barrels or drums with inside non-carbon polyethylene bottles having positive type clamp-on closures equipped with rubber gaskets, or with screw-cap closures having not less than three continuous threads and equipped with gaskets ahead of threads, not over 5 pounds net weight capacity each. Screw-cap closures must be secured in place by suitable tape. Each bottle must be placed in a Specification 2R (§ 178.34 of this subchapter) metal container having a wall thickness of one-fourth inch and be completely surrounded by cushioning material. Specification 2R containers must be separated from one another by incombustible cushioning material. The authorized net weight of metal in one outside container shall not exceed 150 pounds.

* * * * *

33. In § 173.217, paragraph (a)(1) is revised as follows:

§ 173.217 Calcium hypochlorite mixture, dry; lithium hypochlorite mixture, dry; mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry; potassium dichloro-s-triazinetrione, dry; sodium dichloro-s-triazinetrione, dry; trichloro-s-triazinetrione, dry.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

34. In § 173.225, paragraph (a)(2) is revised as follows:

§ 173.225 Phosphorus trisulfide; phosphorus sesquisulfide; phosphorous heptasulfide, and phosphorus pentasulfide.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums, not over 30 gallons capacity each.

* * * * *

35. In § 173.228, paragraph (a)(1) is revised as follows:

§ 173.228 Zinc ammonium nitrite.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

36. In § 173.231, paragraph (a)(2) is revised as follows:

§ 173.231 Calcium, metallic, crystalline.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums, gross weight not over 350 pounds.

* * * * *

37. In § 173.233, paragraph (a)(3) is revised as follows:

§ 173.233 Nickel catalyst, finely divided, activated or spent.

(a) * * *

(3) Specification 5, 6B, or 6C (§§ 178.80, 178.98, 178.99 of this subchapter). Metal barrels or drums, not over 55 gallons capacity each.

* * * * *

38. In § 173.236, paragraph (a)(1) is revised as follows:

§ 173.236 Decaborane.

(a) * * *

(1) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

39. In § 173.245, paragraphs (a)(9) and (a)(10) are deleted as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(9) [Reserved]

(10) [Reserved]

* * * * *

40. In § 173.252, paragraph (a)(2) is deleted as follows:

§ 173.252 Bromine.

(a) * * *

(2) [Reserved]

* * * * *

41. In § 173.253, paragraph (a)(3) is deleted as follows:

§ 173.253 Chloracetyl chloride.

(a) * * *

(3) [Reserved]

* * * * *

42. In § 173.263, paragraph (a)(2) is deleted as follows:

§ 173.263 Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid mixtures; hydrochloric (muriatic) acid solution; inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquids, containing hydrochloric (muriatic) acid.

(a) * * *

(2) [Reserved]

* * * * *

43. In § 173.264, paragraph (a)(10) and Notes 1, 2, and 3 are deleted as follows:

§ 173.264 Hydrofluoric acid; White acid.

(a) * * *

(10) [Reserved]

Note 1: [Deleted]

Note 2: [Deleted]

Note 3: [Deleted]

* * * * *

44. In § 173.265, paragraph (b)(1) is deleted as follows:

§ 173.265 Hydrofluosilicic acid.

* * * * *

(b) * * *

(1) [Reserved]

* * * * *

45. In § 173.266, paragraph (b)(4) is deleted as follows:

§ 173.266 Hydrogen peroxide solution in water.

* * * * *

(b) * * *

(4) [Reserved]

* * * * *

46. In § 173.268, paragraph (c)(1) is revised as follows:

§ 173.268 Nitric acid.

* * * * *

(c) * * *

(1) Specification 42B (§ 178.107 of this subchapter). Aluminum drums.

* * * * *

47. Section 173.270 is revised as follows:

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§ 173.270 Phosphorus tribromide.

(a) Phosphorus tribromide must be packed in specification containers as follows:

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside glass or earthenware containers not over 1 gallon each, except that inside containers up to 3 gallons each are authorized when only one container is packed in an outside packaging.

(2) Specification 5K or 5M (§§ 178.88, 178.90 of this subchapter). Nickel or monel drums not over 10 gallons capacity each.

48. In § 173.271, paragraph (a)(1) is deleted as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) * * *

(1) [Reserved]

* * * * *

49. In § 173.272, paragraph (c) is revised; paragraph (i)(23) is deleted as follows:

§ 173.272 Sulfuric acid.

* * * * *

(c) *Sulfuric acid concentration of 51 percent or less:* Authorized packaging is described in paragraphs (1) through (16) and (24) through (26) of paragraph (i) of this section.

* * * * *

(i) * * *

(23) [Reserved]

* * * * *

50. In § 173.275, paragraph (a)(2) is revised as follows:

§ 173.275 Difluorophosphoric acid, anhydrous, monofluorophosphoric acid, anhydrous, hexafluorophosphoric acid, and mixtures thereof.

(a) * * *

(2) Specification 42B or 42D (§§ 178.107, 178.109 of this subchapter). Aluminum drums not over 55 gallons capacity.

* * * * *

51. In § 173.276, paragraph (a)(8) is revised as follows:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) * * *

(8) Specification 42B or 42D (§§ 178.107, 178.109 of this subchapter). Aluminum drums. Authorized for anhydrous hydrazine only.

* * * * *

52. In § 173.280, paragraph (a)(4) is deleted as follows:

§ 173.280 Trichlorosilanes.

(a) * * *

(4) [Reserved]

* * * * *

53. In § 173.288, paragraph (b) is deleted as follows:

§ 173.288 Chloroformates.

* * * * *

(b) [Reserved]

* * * * *

54. In § 173.295, paragraph (a)(7) is deleted as follows:

§ 173.295 Benzyl chloride.

(a) * * *

(7) [Reserved]

* * * * *

55. In § 173.302, paragraph (a)(1) is revised as follows:

§ 173.302 Charging of cylinders with nonliquefied compressed gases.

(a) * * *

(1) Specification 3,[1] 3A, 3AA, 3B, 3C,[1] 3D,[1] 3E, 4,[1] 4A,[1] 4B, 4BA, 4BW, 4C,[1] 25,[1] 26,[1] 33,[1] or 38,[1] (§§ 178.36, 178.37, 178.38, 178.42, 178.50, 178.51, 178.61 of this subchapter). See §§ 173.34 and 173.301(e).).

Note 1.—Authorized cylinders containing oxygen which is continuously fedt to tanks containing live fish may be shipped irrespective of the provisions of § 173.24.

* * * * *

56. In § 173.304, paragraphs (a)(1) and (d)(3)(i) are revised as follows:

§ 173.304 Charging of cylinders with liquefied compressed gases.

(a) * * *

(1) Specification 3,[1] 3A, 3AA, 3B, 3BN, 3D[1] 3E, 4,[1] 4A,[1] 4B, 4BA, 4B–ET, 4BW, 4E, 9,[1] 25,[1] 26,[1] 38,[1] 39, 40,[1] or 41,[1] (§§ 178.36, 178.37, 178.38, 178.39, 178.42, 178.50, 178.51, 178.55, 178.61, 178.65, 178.68 of this subchapter), except that no Specification 4E, 9, 39, 40, 41 packaging may be charged and shipped with a mixture containing a pyroforic liquid, carbon bisulfide (disulfide), ethyl chloride, ethylene oxide, nickel carbonyl, spirits of nitroglycerin, or poisonous material (class A, B, or irritating material), unless specifically authorized in this part.

* * * * *

(d) * * *

(3) * * *

(i) Specification 3,[1] 3A, 3AA, 3B, 3E, 4A,[1] 4B, 4BA, 4B240ET, 4BW, 4B240X,[1] 4B240FLW, 4E, 4,[1] 9,[1] 25,[1] 26,[1] 38,[1] 39, or 41[1] (§§ 178.36. 178.37, 178.38, 178.42, 178.50, 178.51, 178.55, 178.61, 178.54, 178.68, 178.48, 178.63, 178.65, 178.67 of this subchapter). The internal volume of a Specification 39 cylinder must not exceed 75 cubic inches.

* * * * *

57. In § 173.328, paragraph (a)(1) is revised as follows:

§ 173.328 Poison A material not specifically provided for.

(a) * * *

(1) Specification 33[1] or 3D[1] metal cylinders of not over 125 pounds water capacity (nominal). Gaskets if used between the protection cap and neck of cylinder must be renewed for each shipment. Cylinders not fitted with valve protection extension ring must be packed in wooden boxes complying with the construction, marking, and labeling requirements of § 173.25.

* * * * *

58. In § 173.329, paragraphs (b)(1) and (c)(1) are revised; footnote[1] is added as follows:

§ 173.329 Bromacetone; chlorpicrin and methyl chloride mixtures; chlorpicrin and nonflammable, nonliquefied compressed gas mixtures.

* * * * *

(b) * * *

(1) Specification 3A, 3AA, 3B, 3C,[1] 3E, 4A,[1] 4B, 4BA, 4BW, or 4C[1] (§§ 178.36, 178.37, 178.38, 178.42, 178.50, 178.51, 178.61, of this subchapter). Cylinders having not over 250 pounds water capacity (nominal). Valves or other closing devices must be protected to prevent damage in transit, by screw-on metal caps or by packing the cylinders in strong boxes or crates. Cylinders having a wall thickness of less than 0.10 inch must be packed in boxes or crates complying with the construction, marking, and labeling requirements of § 173.25.

(c) * * *

(1) Specification 3A, 3AA, 3B, 3C,[1] 3E, 4A,[1] 4B, 4BA, 4BW, or 4C,[1] (§§ 178.36, 178.37, 178.38, 178.42, 178.50, 178.51, 178.61, of this subchapter). Cylinders having not over 250 pounds water capacity (nominal). Valves or other closing devices must be protected to prevent damage in transit, by screw-on metal caps or by packing the cylinders in strong boxes or crates. Cylinders having a wall thickness of less than 0.10 inch must be packed in boxes or crates complying with the construction, marking, and labeling requirements of § 173.25.

59. In § 173.332, paragraph (a)(2) is revised; footnote[1] is added as follows:

§ 173.332 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.

(a) * * *

---

[1] Use of existing cylinders authorized, but new construction not authorized.

Specification 3A480, 3AA480, or 3A480X[1] (§§ 178.36, 178.37, of this subchapter). Metal cylinders of not over 278 pounds water capacity (nominal); a valve protection cap must be used and be at least 3/16 inch thick, gas-tight, with 3/16 inch faced seat for gasket and with a United States standard form thread; the cap must be capable of preventing injury or distortion of the valve when it is subjected to an impact caused by allowing cylinder, prepared as for shipment, to fall from an upright position with side of cap striking a solid steel object projecting not more than 6 inches above floor level.

* * * * *

60. In § 173.346, paragraph (a)(16) is revised; paragraph (a)(17) and (a)(23) are deleted as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(16) Specification 42B or 42D (§§ 178.107, 178.109 of this subchapter). Aluminum drums.

(17) [Reserved]

* * * * *

(23) [Reserved]

* * * * *

61. In § 173.353, paragraph (a)(3) and footnote[1] are revised as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

(a) * * *

(3) Specification 3A225, 3AA225, 3B225, 3E1800, 4A225,[1] 4B225, 4BA225, or 4BW225 (§§ 178.36, 178.37, 178.38, 178.42, 178.50, 178.51, 178.61 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit, by screw-on metal caps or by packing the cylinders in strong boxes or crates. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates (see § 173.25).

* * * * *

62. In § 173.354, paragraph (a)(1) is revised as follows:

§ 173.354 Motor fuel antiknock compound or tetraethyl lead.

(a) * * *

(1) Specification 15A (§ 178.168 of this subchapter). Wooden boxes with inside glass or earthenware containers of not over 1-pint capacity each, or metal cans, inclosed in hermetically sealed (soldered) strong metal cans.

* * * * *

63. In § 173.357, paragraph (b)(1) is revised; footnote[1] is added as follows:

§ 173.357 Chloropicrin and chloropicrin mixtures containing no compressed gas or Poison A liquid.

* * * * *

(b) * * *

(1) Specification 3A, 3AA, 3B, 3C,[1] 3D,[1] 3E, 4A,[1] 4B, 4BA, 4BW, or 4C[1] (§§ 178.36, 178.37, 178.38, 178.42, 178.50, 178.51, 178.61, of this subchapter). Metal cylinder. Valves or other closing devices must be protected by screw-on metal caps, or by packaging the cylinders in boxes or crates, to protect the valves from damage during transportation. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packaged in boxes or crates. Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g., unless the specification requires a higher minimum design pressure.

* * * * *

64. In § 173.360, paragraph (a)(3) is deleted as follows:

§ 173.360 Perchloro-methyl-mercaptan.

(a) * * *

(3) [Reserved]

* * * * *

65. In § 173.361, paragraph (a)(2) is revised as follows:

§ 173.361 Aldrin mixtures, liquid, with more than 60 percent aldrin.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums. Authorized only for viscous mixtures or those which may become partially solid.

* * * * *

66. In § 173.362, paragraph (a)(4) is revised as follows:

§ 173.362 4-Chloro-o-toluidine hydrochloride.

(a) * * *

(4) Specification 6B or 6C (§§ 178.98 or 178.99 of this subchapter). Metal barrels or drums.

67. In § 173.365, paragraph (a)(1) is revised as follows:

§ 173.365 Poison B solids not specifically provided for.

(a) * * *

(1) Specification 5, 5A, 5B, 6B, or 6C (§§ 178.80, 178.81, 178.82, 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

68. In § 173.369, paragraphs (a)(1) and (a)(12) are revised as follows:

§ 173.369 Carbolic acid (phenol), not liquid.

(a) * * *

(1) Specification 5, 5A, 5B, 5C, 6B, or 6C (§§ 178.80, 178.81, 178.82, 178.83, 178.98, or 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(12) Specification 42B (§ 178.107 of this subchapter). Aluminum drums.

* * * * *

69. In § 173.370, paragraph (a)(4) is revised as follows:

§ 173.370 Cyanides and cyanide mixtures, dry.

(a) * * *

(4) Specification 5, 5A, 5B, 6B, or 6C (§§ 178.80, 178.81, 178.82, 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

70. In § 173.377, paragraphs (a)(3) and (b)(3) are revised as follows:

§ 173.377 Hexaethyl tetraphosphate mixtures; methyl parathion mixtures; organic phosphorus compound mixtures, organic phosphate compound mixtures; parathion mixtures; tetraethyl dithio pyrophosphate mixtures; and tetraethyl pyrophosphate mixtures, dry.

(a) * * *

(3) Specification 5, 5B or 6C (§§ 178.80, 178.82, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

(b) * * *

(3) Specification 5, 5B or 6C (§§ 178.80, 178.82, or 178.99 of this subchapter). Metal barrels or drums.

* * * * *

71. In § 173.382, paragraph (a)(2) is revised as follows:

§ 173.382 Irritating materials, not specifically provided for.

(a) * * *

(2) Specification 6B or 6C (§§ 178.98, 178.99 of this subchapter). Metal barrels or drums.

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

§§ 178.20, 178.40, 178.41, 178.43, 178.48, 178.49, 178.52, 178.84, 178.85, 178.87, 178.91, 178.97, 178.101, 178.108, 178.110, 178.111, 178.112, 178.119, 178.136 and 178.140 [Deleted]

72. In Part 178, §§ 178.20, 178.40, 178.41, 178.43, 178.48, 178.49, 178.52, 178.84, 178.85, 178.87, 178.91, 178.97, 178.101, 178.108, 178.110, 178.111, 178.112, 178.119, 178.136 and 178.140 are deleted.

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[1] Use of cylinders authorized, but new construction not authorized.

[1] Use of existing cylinders authorized, but new construction not authorized.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on September 3, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-27979 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 78-6; Notice 3]

Lamps, Reflective Devices and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a typographical error in the amendment published on July 28, 1980, (45 FR 49941). The error appears in the amendment to Paragraph S5.1 in which a reference to SAE Standard J579c appeared as J579b. It is, therefore, necessary to correct the error.

FOR FURTHER INFORMATION CONTACT: John Simeroth, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. (202-426-2705).

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

The reference to "J579b" in the third sentence of S5.1 of Title 49 Code of Federal Regulations, § 571.108 is amended to read: "J579c"

The lawyer and program official principally responsible for this correction are Z. Taylor Vinson and John Simeroth respectively.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 2, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-27808 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-59-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: By this revision the National Transportation Safety Board (Board) changes the definition of the term "fatal injury" and adds a definition for the term "incident" to Part 830, concerning aviation accident reporting requirements, to conform to the definitions of those terms that are found in Annex 13 to the Convention on International Civil Aviation (Fifth Edition—1979).

EFFECTIVE DATE: September 11, 1980.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, 202-472-6034.

SUPPLEMENTARY INFORMATION: This revision is based on a notice of proposed rulemaking published in the **Federal Register** on May 3, 1979 (44 FR 25889). In that notice, the Board proposed to: (1) Delete the requirement for the reporting of aircraft accidents and incidents and certain other occurrences in the operation of aircraft when they occur outside the United States; (2) provide a definition for the term "incident" and redefine the term "fatal injury"; and (3) add five additional types of incidents to the current list of five incidents that require immediate notification to the Board.

A total of 11 comments were received in response to the notice. The majority opposed the proposal to delete the requirement for the reporting of accidents involving U.S. registered aircraft when they occur outside the United States. In making that proposal, the Board assumed that the Accident Data Reporting System (ADREP System) maintained by the International Civil Aviation Organization (ICAO) would make the reporting of accidents to the Board unnecessary. It now appears, however, that ICAO's ADREP System does not yet satisfy the need of the Board to identify accidents occurring in foreign states, particularly those accidents involving small aircraft. Until it does, the Board finds that it must delay the proposal to ease the existing reporting requirement. The Board therefore will not proceed at this time to amend § 830.1 as was proposed in the notice.

A majority of those who commented on the proposal to add five additional types of incidents to the current list were opposed to the addition for a variety of reasons, including the reason that incidents are already being reported to either the Federal Aviation Administration (FAA) or to the National Aeronautics and Space Administration (NASA) under a variety of programs as discussed in the notice. For example, near midair collisions are being reported to NASA under the Aviation Safety Reporting System on a voluntary basis. In reviewing the comments, the question of how the proposal would affect other reporting systems was given careful attention. Although the proposal involves notification as opposed to reporting, the Board recognizes that every effort should be made to minimize requirements to avoid duplication. The FAA is currently conducting a review of its incident reporting system with the distinct possibility that changes will be made in the reporting of various kinds of occurrences. The Board now believes that its proposed action should be delayed until the relationship of its needs to the anticipated changes to the FAA system becomes clearer and § 830.5 will therefore not be amended as proposed. In the meantime, most of the kinds of incidents proposed for addition to Part 830 are coming to the Board's attention in sufficient time to permit the Board to undertake an investigation, when necessary.

Although it was explained in the notice of proposed rulemaking that the Board does not intend to undertake any new incident-reporting system, both because of the existing systems available and the absence of funds, four commentators urged the Board to consider the potential benefits to safety that would accrue from a broad-based incident data reporting system. As was pointed out in the notice, and as explained above, the Board does intend to work in cooperation with the FAA in its review of aviation safety data needs in the various areas of incident reporting.

One commentator objected to the increase from 7 to 30 days for fatal injury determinations in the definition of "fatal injury" that was proposed in order to conform to the ICAO definition since he believes that it will be difficult to administer and will not advance the cause of accident prevention. The Board believes, however, that compatibility of standards among ICAO member states is an important goal and will contribute to further development of a common reporting system. With respect to the addition of definition of the term "incident" to conform to the ICAO definition, there were no significant objections. In the interest of Board uniformity with ICAO member states, the Board has adopted the two definitions as proposed.

Certain other clarifying language changes set forth in the proposal are reflected in this final rule.

Accordingly, Part 830 of Title 49 of the Code of Federal Regulations is revised to read as follows:

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

Subpart A—General

Sec.
830.1 Applicability.
830.2 Definitions.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

830.5 Immediate notification.
830.6 Information to be given in notification.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Records

830.10 Preservation of aircraft wreckage, mail, cargo, and records.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

830.15 Reports and statement to be filed.

Authority: Title VII, Federal Aviation Act of 1958, as amended, 72 Stat. 781, as amended by 76 Stat. 921 (49 U.S.C. 1441 et seq.), and the Independent Safety Board Act of 1974, Pub. L. 93–633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

Subpart A—General

§ 830.1 Applicability.

This part contains rules pertaining to:

(a) Notification and reporting aircraft accidents and incidents and certain other occurrences in the operation of aircraft when they involve civil aircraft of the United States wherever they occur, or foreign civil aircraft when such events occur in the United States, its territories or possessions.

(b) Preservation of aircraft wreckage, mail, cargo, and records involving all civil aircraft in the United States, its territories or possessions.

§ 830.2 Definitions.

As used in this part the following words or phrases are defined as follows:

"Aircraft accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.

"Fatal injury" means any injury which results in death within 30 days of the accident.

"Incident" means an occurrence other than an accident, associated with the operation of an aircraft, which affects or could affect the safety of operations.

"Operator" means any person who causes or authorizes the operation of an aircraft, such as the owner, lessee, or bailee of an aircraft.

"Serious injury" means any injury which (1) requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); (3) causes severe hemorrhages, nerve, muscle, or tendon damage; (4) involves any internal organ; or (5) involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.

"Substantial damage" means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered "substantial damage" for the purpose of this part.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.5 Immediate notification.

The operator of an aircraft shall immediately, and by the most expeditious means available, notify the nearest National Transportation Safety Board (Board), field office [1] when:

(a) An aircraft accident or any of the following listed incidents occur:

(1) Flight control system malfunction or failure;

(2) Inability of any required flight crewmember to perform normal flight duties as a result of injury or illness;

(3) Failure of structural components of a turbine engine excluding compressor and turbine blades and vanes;

(4) In-flight fire; or

(5) Aircraft collide in flight.

(b) An aircraft is overdue and is believed to have been involved in an accident.

§ 830.6 Information to be given in notification.

The notification required in § 830.5 shall contain the following information, if available:

(a) Type, nationality, and registration marks of the aircraft;

(b) Name of owner, and operator of the aircraft;

(c) Name of the pilot-in-command;

(d) Date and time of the accident;

(e) Last point of departure and point of intended landing of the aircraft;

(f) Position of the aircraft with reference to some easily defined geographical point;

(g) Number of persons aboard, number killed, and number seriously injured;

(h) Nature of the accident, the weather and the extent of damage to the aircraft, so far as is known; and

(i) A description of any explosives, radioactive materials, or other dangerous articles carried.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Record

§ 830.10 Preservation of aircraft wreckage, mail, cargo, and records.

(a) The operator of an aircraft involved in an accident or incident for which notification must be given is responsible for preserving to the extent possible any aircraft wreckage, cargo, and mail aboard the aircraft, and all records, including all recording mediums of flight, maintenance, and voice recorders, pertaining to the operation and maintenance of the aircraft and to the airmen until the Board takes custody thereof or a release is granted pursuant to § 831.10(b).

(b) Prior to the time the Board or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail, or cargo may not be disturbed or moved except to the extent necessary:

(1) To remove persons injured or trapped;

(2) To protect the wreckage from further damage; or

(3) To protect the public from injury.

(c) Where it is necessary to move aircraft wreckage, mail or cargo, sketches, descriptive notes, and

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[1] The National Transportation Safety Board field offices are listed under U.S. Government in the telephone directories in the following cities: Anchorage, Alaska; Chicago, Ill.; Denver, Colo.; Fort Worth, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Miami, Fla.; New York, N.Y.; Seattle, Wash.; Washington, D.C.

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photographs shall be made, if possible, of the original position and condition of the wreckage and any significant impact marks.

(d) The operator of an aircraft involved in an accident or incident shall retain all records, reports, internal documents, and memoranda dealing with the accident or incident, until authorized by the Board to the contrary.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report on Board Form 6120.1 or Board Form 6120.2 [2] within 10 days after an accident, or after 7 days if an overdue aircraft is still missing. A report on an incident for which notification is required by § 830.5(a) shall be filed only as requested by an authorized representative of the Board.

(b) *Crewmember statement.* Each crewmember, if physically able at the time the report is submitted, shall attach a statement setting forth the facts, conditions, and circumstances relating to the accident or incident as they appear to him. If the crewmember is incapacitated, he shall submit the statement as soon as he is physically able.

(c) *Where to file the reports.* The operator of an aircraft shall file any report with the field office of the Board nearest the accident or incident.

Note.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Report Act of 1942.

Signed at Washington, D.C., on September 4, 1980.

James B. King,
Chairman.

[FR Doc. 80-27741 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-58-M

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[2] Forms are obtainable from the Board field offices (see footnote 1), the National Transportation Safety Board, Washington, D.C. 20594, and the Federal Aviation Administration, Flight Standards District Office.

Proposed Rules

Federal Register
Vol. 45, No. 178
Thursday, September 11, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Petition Notice No. PR 80-12; Docket No. 20200, Notice No. 80-5]

Petitions for Rulemaking; National and Dulles International Airports; Solicitation and Leafletting Procedures

AGENCY: Federal Aviation Administration.

ACTION: Publication of petitions for rulemaking: request for comments.

SUMMARY: In 45 FR 35314–35321, May 27, 1980, FAA amended the regulations pertaining to National Capital Airports to provide for the regulation of charitable, religious, and political leafletting and soliciting at National and Dulles Airports, in accordance with Title V of Public Law 96–193 enacted February 18, 1980. Three petitions for reconsideration of the final rule have been received since May 27. This notice publishes those petitions.

DATES: Comments must be received before November 10, 1980.

ADDRESS: Send comments on the petition in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket, AGC–204, Room 916, Docket No. 20200, 800 Independence Avenue, S.W., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Edward Faggen, Legal Counsel, AMA–7, Metropolitan Washington Airports, Washington, DC 20001, Telephone: (703) 557–8123.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition of rulemaking as they desire. Communications should identify the regulatory docket number of petition notice number and be submitted in duplicate to the address specified above will be considered by the Administrator before taking action on the petition for rulemaking. The final rule, the petition, any comment received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background Information

On May 20, 1980, FAA issued a final rule amending 14 CFR Part 159, National Capital Airports, to provide for regulation of solicitation and leafletting by noncommercial organizations at National and Dulles Airports. (45 FR 35314, May 27, 1980.) Subsequent to publication of the final rule, the original effective date of July 28, 1980, was deferred 90 days to October 26, 1980, to permit completion of various administrative requirements associated with implementation of the rule. (45 FR 49917, July 28, 1980.) Since the final rule was issued, FAA has received petitions for reconsideration of the rule from the following organizations:

Aviation Consumer Action Project
Alliance for Preservation of Religious Liberty
American Civil Liberties Union Fund of the National Capital Area

These petitions are in accordance with 14 CFR 11.25 requests to either amend or repeal portions of Amendment 159–18. Therefore, pursuant to 14 CFR 11.27, the petitions must be published in the **Federal Register** for public comment. The FAA is, however, reviewing the information submitted in accordance with these petitions and may amend the rule, in accordance with applicable statue and regulation, after completion of this review. The petitions are published verbatim rather than in summary form in consideration of the number and complexity of issues raised.

The Petition

The Federal Aviation Administration published verbatim the petitions of Aviation Consumer Action Project, dated June 10, 1980; Alliance for the Preservation of Religious Liberty, dated July 1, 1980; and American Civil Liberties Union Fund of the National Capital Area, dated August 5, 1980.

Issued in Washington, D.C. on September 5, 1980.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petition for Reconsideration

On May 27, 1980 the Federal Aviation Administration (FAA) published a final rule entitled "Solicitation and Leafletting Procedures at National and Dulles Airports," 45 FR 35314. The Aviation Consumer Action Project (ACAP) hereby petitions the FAA to reconsider that rule before it takes effect on July 28, 1980. If the FAA is unable to consider and dispose of this motion by that time, ACAP requests a stay of the effective date until the agency has completed action on the instant motion.

This petition should be granted because: (1) the final rule, like the proposed rule, continues to compromise First Amendment rights in several crucial respects, and (2) the FAA has failed to consider substantive objections which seriously undercut the basis for the rule.

ACAP is a non-profit consumer advocacy group which has engaged in and intends to continue to engage in protected First Amendment activities at National and Dulles Airports.[1] In particular, ACAP intends in the near future to distribute solicitation material and literature about air fares, passenger rights and other aviation issues at airport locations.

ACAP believes that its activities and the protected First Amendment activities of other groups, including religious and charitable groups, will be unconstitutionally discouraged, limited and in some cases prohibited by certain unjustified provisions in the rule. As ACAP noted in its comments, a provision restricting First Amendment liberties is not justified when it does not purport to serve a compelling state interest, does not actually advance that interest, or is not the least restrictive way of advancing that compelling state interest.

This petition analyzes only the gravest deficiencies in the rule and the failure of the FAA to address the criticisms of those deficiencies that were raised in the comment period.[2] Those deficiencies are: (1) the restrictions on the numbers of persons distributing literature or soliciting funds have not been justified; (2) the restrictions on the places where those distributing or selling literature or soliciting funds can engage in those activities have not been justified; (3) the extensive information and statements required as a prerequisite to receiving a permit have not been justified; (4) the rule is vague; and (5) the rule lacks due process.

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[1] *See Aviation Consumer Action Project* v. *Butterfield*, Civ. No. 2085–73 (D.D.C. 1974).

I. The Restrictions on the Number of Persons Distributing Literature or Soliciting Funds Have Not Been Justified

The final rule incorporates the proposed rule's limitations on eight solicitors at National at any one time and seven at Dulles during peak hours without addressing the criticisms from a variety of commenters that the consultant study[3] which purports to justify these restrictions suffers from serious methodological and analytical flaws. Among other things, the FAA fails to address evidence and arguments submitted by commenters that: (1) the numerical limits on solicitors in the study were designed to promote "pedestrian convenience" and were not geared to "absolute capacity" or the compelling state interest of "pedestrian safety;" (2) neither the FAA nor the study demonstrated that public safety has been adversely affected by airport solicitors, or that solicitors have significantly contributed to airport congestion; (3) the FAA and the study failed to explain adequately how the study derived the particular number of solicitors allowed in each location; (4) the FAA study was unscientific, self-impeaching and arbitrary;[4] and (5) the FAA failed to show why the numbers chosen represented the least restrictive alternative possible.[5]

These substantive objections completely undermine the justification which the FAA has advanced to support the final rule's numerical restrictions, and the FAA should therefore reconsider its restrictions and perform a new study, particularly in light of the offer from one expeienced commenter to provide more reliable pedestrian data flow. In the alternative, since the FAA lacks evidence that solicitors and leafletters contribute materially to congestion in airports through which 18 million people pass safely each year, the FAA should drop its number restrictions entirely.

II. The Restrictions on the Places Where Those Distributing or Selling Literature or Soliciting Funds Can Engage in Their Activities Have Not Been Justified

The final rule incorporates the proposed rule's prohibitions on solicitation and distribution of literature in the following places: (1) any place outside of nine general areas at National and Dulles airports; (2) waiting areas and lounges; (3) certain areas near ticket counters and baggage claim areas; (4) areas within ten feet of ten airport structures and premises, such as premises leased to concessionaires; and (5) areas within ten feet of any line going into those ten structures and premises.

In incorporating these substantial "place" restrictions into the final rule, the FAA ignored substantive criticisms raised by several commenters that seriously undermine the rule's constitutional validity. In particular, (1) the FAA failed to explain why it allowed soliciting or distribution of lieterature in some, but not other general areas; (2) the FAA failed to explain why the ten structures and premises it placed off bounds were essential to the operation of the airport, or how soliciting within ten feet of such structures hampered essential operations;[6] (3) the FAA failed to explain adequately why prohibiting solicitation within ten feet of a line was either necessary to prevent undue congestion at the airport; and (4) the FAA, as noted in Section I of this petition, failed to show generally that solicitors had ever adversely affected the safe operation of the airports or materially increased congestion.

Although the FAA briefly discussed the criticism that its prohibitions on approaching persons in lounges and waiting areas was based on an impermissible "captive audience" theory, the FAA's discussion only served to weaken its argument by raising doubts that persons in lounges are captive at all. 45 FR 35319. Moreover, the FAA failed to discuss at all the criticisms that no compelling state interest was being served by its restrictions,[7] and that even if protecting a "captive audience" was such an interest, the prohibition in the rule was not the least restrictive way of serving it. Several commenters pointed out that the rule's restriction on repeat solicitation of persons who indicate that they wish to be left alone was adequate and was the least restrictive way of serving any legitimate interest that might exist, but the FAA completely ignored this suggestion in its discussion of the final rule.[8]

The FAA's failure to grapple with these critical objections leaves the extensive restrictions on "place" constitutionally deficient and in need of reconsideration.

III. The Extensive Information and Statements Required as a Prerequisite To Receiving a Permit Have Not Been Justified

The final rule retains most of the proposed rule's extensive permit application procedures and requires ten separate statements and pieces of information as a prerequisite to obtaining a permit.[9] In so requiring, the FAA ignored arguments raised by several commenters that:

(1) the requirements went far beyond *Cantwell* v. *Connecticut,* 310 U.S. 296,

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[2] A discussion of other deficiencies can be found in the Joint comments of ACAP and the American Civil Liberties Union submitted to this docket on May 12, 1980.

[3] "DCA–IAD Pedestrian Survey Study," Howard, Needles, Tammen & Bergendoff, March 1980 (hereinafter "Study").

[4] For example, the pictures in the study often showing large open areas argue against, not for, the restrictions in the proposed rule, and the sharp contrast between the limitation to seven solicitors at Dulles between four and eight p.m., while allowing an unlimited number at other times, shows the rough and inexact way that the study approached First Amendment rights.

[5] The only criticism addressed by the FAA in the discussion accompanying the final rule was that the FAA had arbitrarily decided upon different levels of congestion (levels of service) that would be allowed at each airport. The FAA responded that it "does not believe that either of the present service levels at National or Dulles should be lowered to the next lowest level by increasing the number in the Final Rule." 45 FR 35319. This response simply reasserts the arbitrary choice of maintaining two different service levels at the airport, while failing to show the effect of different numbers of solicitors on that service level.

[6] *See ISKCON* v. *Griffin,* 437 F. Supp. 666 (W.D. Pa. 1977). In that case the Court overturned a prohibition on approaching within ten feet of leased areas because "interference with the operation of the airport should be the standard by which regulations are measured, rather than arbitrary physical distance from specific airport areas." *Id.* at 672. Arbitrary distances are particularly unjustified in the present case since the FAA has demonstrated that it has the capability of trying to determine variable distances from structures based on pedestrian flow.

[7] The Supreme Court cases discussing captive audiences are either not analogous to the situation at hand, or indicate that outside of the home only the most substantial privacy interests being invaded in an essentially intolerable manner will justify restrictions on speech. *See Cohen* v. *California,* 403 U.S. 15, 21 (1971).

[8] To the extent that the FAA justifies its restrictions on approaching within ten feet of a line on the "captive audience" theory, such a justification is similarly without merit, as ACAP demonstrated in its earlier comments.

[9] The changes in the final rule are: (1) a person simply distributing literature, but not selling it, would not have to go through the lengthy application process, although a permit would still be required, and (2) a charitable solicitor is required to simply state that his organization is tax exempt, rather than having to bring in a letter to that effect from the IRS.

306 (1940), which allows a state to "protect its citizens from fraudulent solicitation by requiring a stranger * * * to establish his identity and his authority to act for the cause he purports to represent";

(2) the FAA provides little concrete evidence that fraud is a significant problem at the airports;

(3) the FAA failed to indicate how each requirement would prevent fraud or why the requirements were the least restrictive necessary to prevent fraud, particularly in light of existing penal laws (*Village of Schaumburg* v. *Citizens for a Better Environment*, 48 U.S.L.W. 4162, 4166 (Feb. 20, 1980)); and

(4) the permit application process and the requirement of wearing a badge were overbroad when applied to the noncommercial (e.g., religious and political) sale of literature (*Murdock* v. *Pennsylvania*, 319 U.S. 105, 111 (1943); *ISKCON* v. *Lentini*, 461 F. Supp. 49, 53 (E.D.La. 1978); *Wulp* v. *Corcoran*, 454 F.2d 826 (1st Cir. 1972); *Strasser* v. *Doorley*, 432 F.2d 567 (1st Cir. 1970); *Talley* v. *California*, 362 U.S. 60 (1960); *Bates* v. *Little Rock*, 361 U.S. 516 (1960); *NAACP* v. *Alabama*, 357 U.S. 449 (1958)).

The only discussion by the FAA of these challenges is brief and conclusory. The final rule states that: (1) requiring a person to submit a letter stating that he or she is authorized to solicit on the organization's behalf is a non-burdensome "minimal requirement" which is "less objectionable" than an FAA investigation into whether a person actually represents the group; (2) the requirement that a person name a supervisor is not vague; and (3) requiring a person to sign a statement that his or her organization is tax exempt was not precluded by the decision in *Village of Schaumburg, supra*, 45 FR 35318. These arguments either ignore or fail to adequately address the constitutional criticisms raised with regard to them.

With regard to the first argument, the FAA's statement that it would be "less objectionable" for the FAA to require a letter of authorization than to use existing penal laws to punish frauds is an arbitrary factual conclusion in direct conflict with the clear legal conclusion that use of existing laws is "less restrictive." Moreover, bringing in a letter to the FAA from a third party is not a "minimal requirement" compared to simply providing information. And while some of the requirements in the final rule may be minimal, taken together they are very burdensome.

With regard to the second argument, the FAA's contention that the requirement that the leafletter or solicitor name a supervisor is not "vague" ignores the more fundamental problem that the FAA has failed to show why the provision is necessary or why it is the least restrictive provision available.[10]

With regard to the third argument, the FAA may be correct that *Village of Schaumburg* implied that tax-exempt status can be used as a criterion for determining eligibility for solicitation in certain circumstances. However, citing such *dicta* is a far cry from proving that there is evidence of fraud at National and Dulles, and that requiring persons to obtain tax-exempt status and to state that their organizations are tax-exempt as part of a permit application process will either prevent such fraud, or is the least restrictive way of preventing such fraud.

The evidence on the rulemaking record from a variety of commenters is that the permit application requirements are burdensome and unnecessary. The FAA should reconsider these requirements in light of its failure to provide them with a firm constitutional basis in the final rule.

IV. *The Rule Is Vague*

Although the final rule made some efforts to clear up ambiguities in the proposed rule, the final rule contains over half a dozen unclear sections which not only deny due process, but will have a chilling effect on First Amendment activities, including:

(1) the failure of the rule to reconcile the definition of non-commercial activity in § 159.93(a)(3), and the implied definition of such activity in § 159.93(c)(2)(v)(A)–(E);[11]

(2) the failure of the FAA to provide clarity in its new and unconstitutional restriction on the sale of literature to "religious solicitors" in § 159.93(a)(3), which refers to a non-existent section (c)(2)(e)(1);[12]

(3) the failure of § 159.93(a)(3) to answer the question raised in 45 FR 35317 as to whether items with message value can be distributed at the airport;[13]

(4) the failure of the rule to distinguish between written and verbal solicitations;

(5) the failure of the rule to reconcile the implication in § 159.93(c)(2)(ii) that a person need not represent a group to solicit or sell literature, and the implication in § 159.9(c)(2)(v) that only persons soliciting or selling literature for a religion but not a religious group need not be associated with a group;[14]

(6) the failure of the rule to reconcile the contradictory requirements for persons distributing, but not selling, literature in § 159.93(c)(1) and § 159.93(c)(2);

(7) the failure of the rule to explain how a person selling literature under § 159.93(c)(2) can sign a statement that he or she is soliciting funds under § 159.93(c)(2)(v) (A) and (B) when the FAA distinguished between "sale" and "solicitation" throughout the rule; and

(8) the failure of the rule to define what "primary function" means in the definition of political activity in §§ 159.93(c) 159.93(c)(2)(v)(B).[15]

This lengthy list of vague provisions is enough to cast serious doubt on the rule's constitutionality and merits reconsideration by the FAA.

V. *The Rule Lacks Due Process*

Both the final rule and the authorizing statute (which is printed at 45 FR 35314) fail to provide for any administrative or judicial review of a permit denial. The rule continues, therefore, to deny the rights of due process and should be reconsidered. *Freedman* v. *Maryland*, 380 U.S. 51 (1965); *Southeastern Promotions, Ltd.* v. *Conrad*, 420 U.S. 546 (1975). In these cases, the Supreme Court held that a system of prior restraints runs afoul of the First Amendment if it lacks certain safeguards:

> *First*, the burden of instituting judicial proceedings, and of proving that the material

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[10] *See ISKCON* v. *Kearnes*, 454 F. Supp. 116 (E.D. Cal. 1978) (permit system to prevent fraud void as a prior restraint since information requested did not bear on the question of whether the applicant was likely to pursue a fraudulent course of behavior); and *Westfall* v. *Board of Com'rs of Clayton City*, 477 F. Supp. 862 (N.D. Ga. (1979) (solicitation statute overturned because sity required "double dose" of information identifying solicitor).

[11] This problem could be avoided by simply dropping the requirements in § 159.93(c)(2)(v), thus avoiding the flaw of requiring more information than what was allowed in *Cantwell* v. *Connecticut, supra*, and avoiding the more serious flaw that the FAA's definitions of political, charitable and religious groups prohibit certain protected groups from exercising their First Amendment rights at all.

[12] Other non-commercial speech is also protected, such as the "pamphlets of Thomas Paine." *Murdock* v. *Pennsylvania, supra*, 319 U.S. at 111.

[13] Although the final rule offers a new explanation for its prohibition on the distribution or sale of objects, it has long been held that the prevention of litter does not justify First Amendment restrictions. *Schneider* v. *State*, 308 U.S. 147 (1939). Moreover, while certain objects may not have any message value, their sale may be intimately tied in with the free exercise of religion. *See United States* v. *Silberman*, 464 F. Supp. 866, 870 (M.D. Fla. 1979).

[14] If § 159.95(c)(2)(v) is the guiding section, it is unconstitutional since it would prohibit a person from selling literature on his own. Surely, many great ideas and movements start with one individual.

[15] As stated in footnote 11, this requirement should be deleted entirely, or at least the word "primary" should be dropped to ensure that protected activity on the part of a group that engages in some, but not a great deal, of political activity is not excluded by definition.

> is unprotected, must rest on the censor. *Second,* any restraint prior to judicial review can be imposed only for a specific brief period and only for the purpose of preserving the status quo. *Third,* a prompt final judicial determination must be assured.

420 U.S. at 560.

The FAA argues in its final rule that a permit will only be denied if an application form is incomplete, 45 FR 35318, implying that it has therefore removed from the airport manager all possible discretion and the need for due process. Such an argument is deficient for two reasons. First, because the rule is so vague and includes so many requirements in the registration process, legitimate disputes may arise as to whether a permit form has been "completed." To cite just one example, § 159.93(c)(2)(iii) requires the applicant to provide "the name and title of the person in the organization who will have supervision over and responsibility for the activity at the airport, *if applicable*" (emphasis supplied). Clearly, the airport manager will have to exercise some discretion in determining whether this requirement is "applicable" in any particular case.[16]

Second, even if the rule left no discretion to the airport manager, some form of administrative or judicial review would be required. In *ISKCON* v. *Rochford,* 585 F.2d 263 (7th Cir. 1978), a case involving solicitation at airports, the Court held, citing *Freedman* v. *Maryland, supra,* that:

> Even if the officials had no discretion in administering these regulations, due process would still require the inclusion of procedural safeguards.

Id. at 272.[17] Due process thus requires some form of administrative or judicial review of the airport manager's decisions on granting or denying permits, and the FAA should reconsider its proposed rule because it fails to contain any such proposed review.

Conclusion

For the foregoing reasons, ACAP respectfully requests that the FAA grant this petition for reconsideration. If the FAA is unable to complete action on this petition by the July 28 effective date, ACAP requests a stay of the effective date pending such final action.

Respectfully submitted,

Cornish F. Hitchcock,
Asociate Director.

Matthew H. Finucane,
Staff Attorney.

Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036, (202) 223–4498.

June 10, 1980.

Supplement to Petition for Reconsideration of Aviation Consumer Action Project

All communications with respect to this document should be addressed to: Matthew H. Finucane, Staff Attorney, Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036 (202) 223–4498.

July 21, 1980.

The Aviation Consumer Action Project (ACAP) hereby submits this supplement to its June 10, 1980 petition for reconsideration of the FAA's final rule entitled "Solicitation and Leafletting Procedures at National and Dulles Airports," 45 FR 35314 (May 27, 1980).[1] This supplement is based on new information received by ACAP from the FAA pursuant to the Freedom of Information Act.[2]

ACAP argued in its petition for reconsideration that the rule's lengthy and burdensome permit application process, which requires ten separate statements and documents as a prerequisite to receiving a permit, violated the First Amendment because the FAA had provided little concrete evidence that fraud was a problem at the airports; had failed to show how each required statement or document would help prevent fraud; and had failed to explain why each of the requirements was the least restrictive method of preventing fraud.

A preliminary analysis of all complaints received by the FAA concerning soliciting and leafletting confirms the argument that fraud is not a problem at National and Dulles Airports. In over five years, the FAA has received less than a dozen letters questioning whether solicitors actually represent the cause or organization they claim to represent, whether the recipient actually does what he or she claims to do with the money, or whether the orgainzation soliciting funds is a bona fide religion or charity. Only a handful of letters allege that the complainant was actually misled, and the amount of money involved in these complaints totals $4.35. None of the complaints were ever proven, and some of the complaints appear on their face to be unfounded.[3]

As a result of an alleged loss of $4.35 at two airports in over five years, the FAA intends to require those exercising their First Amendment rights to wear badges, to provide the name of a supervisor, and to provide personal and organizational identification to the FAA. While such regulatory overkill is to be avoided in any context, it is particularly undesirable when constitutional rights are involved, as here.

Respectfully submitted,

Matthew H. Finucane,
Staff Attorney.

July 21, 1980.

Alliance for the Preservation of Religious Liberty
July 1, 1980.

Federal Aviation Administration, Office of the Chief Counsel,
Attention: Rules Docket AGC–204, Docket No. 20200, Washington, D.C.

Dear Sir: This is in regards to the final rule published on May 27, 1980 by the Federal Administration (FAA) entitled "Solicitation and Leafletting Procedures at National and Dulles Airport," 45 Fed. Reg. 35314.

The Aviation Consumer Action Project (ACAP) has petitioned the FAA to reconsider the final rule of May 27, 1980 before it takes effect on July 28, 1980. Additionally, the ACAP has requested a stay of the effective date of the final rule until the FAA has completed action on that petition, in the event that the FAA is unable to consider and dispose of the matter by that time.

ACAP states in its petition that it should be granted because the final rule of the FAA compromises First Amendment Rights and the FAA has failed to consider the substantive objections which were communicated to the FAA during the comment period on the proposed rule.

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[16] The discussion of comments in the final rule states that the phrase "if applicable" was added because in "some instances there may not be a supervisor." 45 FR 35318. But what instances are these? A religious person not associated with a group? Or a person associated with a group where there are no formal supervisors? The discussion of comments also states that "an applicant for a permit will not be denied on the basis of the failure to provide a name." 45 FR 35318. However, the clear language of the regulation states that "Failure to submit the information required . . . shall result in denial of a permit." Section 159.93(d). Surely, the airport manager is going to have to exercise some judgement in determining whether to be guided by the regulation or the "discussion" accompanying the regulation.

[17] Although *Liberman* v. *Schesventer,* 447 F. Supp. 1355 (M.D. Fla. 1978), a case involving solicitation on federal property, held to the contrary on this issue, its applicability to the instant issue was subsequently questioned by the Court in *United States* v. *Silberman,* 464 F. Supp. 866 (M.D. Fla. 1979), also a case involving solicitation on federal property. In *Silberman* the Court noted, *inter alia,* that: "prompt notice and review proceedings must be included" in any restriction or restraint; "[w]hile procedural due process is flexible and variable in different situations, the complete absence of any due process at all cannot be justified under the guise of flexibility," and "mere written notice of the face of denial of permit . . . is not constitutionally adequate." *Id.* at 873 n.4, *citing Memphis Light, Gas and Water Div.* v. *Craft,* 436 U.S. 1, 14 (1978). The *Silberman* court added that "[t]he Supreme Court has emphatically rejected the view that litigation by an adversely affected individual is 'an adequate substitute' for an administrative remedy." *Id.* at 873 n.4. Similarly in *ISKCON* v. *Griffin,* 437 F. Supp. 666, 670 (W.D. Pa. 1977), a case involving airport solicitation, the Court held that the County must either issue a permit or go to court, citing *Freedman* v. *Maryland, supra.*

[1] ACAP is a non-profit consumer advocacy group which has distributed literature and solicited support at National Airport, most recently around the Fourth of July weekend, and which plans to continue these activities in the future.

[2] In proposing its solicitation and leafletting rule, the FAA stated that it had received numerous complaints about soliciting and leafletting at National and Dulles Airports. These complaints were not included in the rulemaking docket, and ACAP made a request for copies under the Freedom of Information Act in order to obtain notice as to the basis of the FAA rulemaking. The request was made on May 9, 1980, and copies of the complaints were not received until July 11, 1980, over two months later. This supplement is based on a preliminary analysis of those complaints, after categorizing them on the basis of the primary reason for the complaint.

[3] In contrast over 85 percent of the letters received by the FAA concerned *the manner* in which money is solicited, not *who* is soliciting, e.g., alleged obscene, abusive, embarrassing or harassing remarks, pinning flowers, or failure to make change.

The Alliance for the Preservation of Religious Liberty (APRL) fully concurs with the statements made by the ACAP in their Petition for Reconsideration and joins in the appeal to the FAA for a reconsideration of the final rule prior to its effective date.

Sincerely,

John Spagnola,

Legislative Director.

American Civil Liberties Union Fund of the National Capital Area,

Washington, D.C., August 5, 1980.

Re: Final Rule on "Solicitation and Leafletting Procedures at National and Dulles International Airports", 45 Fed. Reg. 35314 (May 27, 1980).

Office of the General Counsel, Federal Aviation Administration,

Attn: Rules Docket (AGC—204) Docket No. 20200, Washington, D.C.

Gentlepeople:

The American Civil Liberties Union Fund of the National Capital Area requests that you reconsider your final rule governing solicitation and leafletting at National and Dulles Airports. Although the final rule represents some improvement over the proposed rule, it is still seriously flawed under the First Amendment.

Without reiterating our objections at length, we believe that the rule's area and numerical limitations on the exercise of activities protected by the First Amendment have not been shown to be necessary. We note in this respect that the FAA has recently proposed allowing an additional three million passengers to use National Airport each year. *See* 45 Fed. Reg. 4313 (January 21, 1980). We fail to see how the public areas of National Airport can accomodate an additional 8,000 persons a day, but cannot accomodate more than 8 persons exercising their First Amendment rights.

It is also our view that the permit application procedures and requirements established by the final rule go beyond what is necessary or constitutionally permissable. And in view of the Supreme Court's recent decisions on "corporate free speech," handed down subsequent to the publication of the final rule, the validity of the rule's requirement of religious, political, or non-profit status may also be open to serious question. *See Consolidated Edison Co. V. Public Service Comm'n,* 48 U.S.L.W. 4776 (June 20, 1980); *Central Hudson Gas & Electric Corp. v. Public Service Comm'n, 48 U.S.L.W. 4783 (June 20, 1980).*

In light of the fact that the effective date of the final rule has already been postponed until October 26, 1980, *see* 45 Fed. Reg. 49917 (July 28, 1980), it appears that nothing would be lost by reopening the rule for further comments and reconsideration at this time. And much might be gained from a constitutional standpoint. We urge you to reopen the rulemaking and reconsider the rule.

Sincerely yours,

Arthur B. Spitzer,

Legal Director.

[FR Doc. 80-28000 Filed 9-10-80; 8:45 am]

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14 CFR Part 39

[Docket No. 80-NW-40-AD]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This proposed rule would amend Airworthiness Directive (AD) 79-04-01 (Amendment 39-3410, 44 FR 9735, as amended by Amendment 39-3577, 44 FR 56318, and Amendment 39-3889, 45 FR 55705) by decreasing the initial inspection threshold of the main landing gear downlock cranks on Boeing Model 727 series airplanes from 68,000 landings to 25,000 landings. Cracks have been detected in two downlock cranks which had accumulated approximately 26,000 landings. Complete failure of a crank can cause missequencing of the landing gear operation and subsequent jamming of the landing gear and wheel well door which, in turn, can result in a gear-up landing.

DATES: Comments must be received on or before November 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-40-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Airworthiness Directive 79-04-01, requires inspections or replacement of certain Boeing Model 727 series airplane main landing gear lock system components whose failure can or has resulted in missequencing of the landing gear operation and subsequent jamming of the gear and wheel well door. Nine jamming incidents have resulted in gear-up landings.

AD 79-04-01 requires an initial inspection of the downlock crank at 68,000 landings. Two recent reports of cracks at approximately 26,000 landings indicate the need to lower the time for initial inspection. This proposed rule would amend AD 79-04-01 by decreasing the initial inspection for the main landing gear downlock cranks from 68,000 to 25,000 landings.

Boeing has designed a replacement for the existing downlock crank which has improved fatigue characteristics. Since this crank has an estimated life in excess of one million landing cycles, this proposed rule would also amend AD 79-04-01 to include the incorporation of this crank, or an equivalent, as a terminating action for the downlock crank inspection requirements in paragraph A.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80-NW-40-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Airworthiness Directive 79-04-01, Amendment 39-3410 (44 FR 9735), as amended by Amendment 39-3577 (44 FR 56318) and Amendment 39-3889 (45 FR 55705) by revising the table in Paragraph A.

Note.—Only the portion of the table pertaining to the downlock crank is affected as follows:

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Component	Part No.	Replacement or Initial Inspection Threshold (landings)	Repeat Inspection Interval not to exceed (landings)
Downlock Torque Shaft	65-78698-1,-2 -5,-6 -7,-8	35,000	3,000
Downlock Rod Assy.	69-20527-2 69-33654-1 69-33654-2 69-33654-3 69-33654-4	12,000	◁1
	69-33654-5	35,000	3,000
Downlock Torque Tube Assy.	65-26921-17 65-26921-18	37,000	3,000
Uplock Universal Block	65-24488-1	10,000 flt hrs or 4 years, whichever occurs first.	1,500
	-4	48,000 landings	3,000
Uplock Universal Bolt	NAS 1106-44D 69-47743-1	11,000	to be replaced
Uplock Upper Shaft Assy.	65-25851-1 65-25851-2 65-25851-5 65-25851-6	46,000	3,000
Uplock Lower Crank	65-49325-1,-2, 65-49325-5,-6, 65-49325-7,-8	3,000	1,500
Downlock Crank ◁2	69-20528-1 -2 -3 -4	25,000	1,500

◁1 Within 1500 landings from the last inspection or within 1500 landings from October 9, 1979, whichever occurs first, thereafter not to exceed 500 landings.

◁2 Initially inspect or replace prior to accumulation of 25,000 landings or within 750 landings from the effective date of this amendment, whichever occurs later. Replacement with steel downlock crank, Boeing Part Number 69-20528-5 or -6 or an equivalent approved by the Chief, Engineering and Manufacturing Branch, Northwest Region, terminates the downlock crank inspection requirement of this table.

Component	Part No.	Replacement or Initial Inspection Threshold (landings)	Repeat Inspection Interval not to exceed (landings)
Uplock Lower Crank Bolt	NAS 1105-28	7,000	To be replaced
	BACP18T5-( )	7,000	
	MS20392-5C( ) (oversize option)	12,000	
	MS20392-6C( ) (oversize option)	50,000	
Downlock Rod Bolt (Inboard)	NAS 1105-13DW	20,000	To be replaced
	BACB30LJ5U13 Optional Bolts: BACB30NE5-13 BACB30GE5-14 NAS 1105-14	20,000	To be replaced
	BACB30NE5-15 Optional Bolts: BACB30LJ5U15 BACB30LJ5-16 BACB30GE5-16	20,000	To be replaced
Downlock Rod Bolt (Outboard)	NAS 1105-13DW	20,000	To be replaced
	BACB30LM5DU12 Optional Bolts: BACB30NE5D12 BACB30GE5D12 NAS 1305-12D	20,000	To be replaced

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(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 28, 1980.

Charles R. Foster,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-27685 Filed 9-10-80; 8:45 am]

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14 CFR Part 39

[Docket No. 80-WE-41-AD]

Airworthiness Directives; Puritan-Bennett Aero Systems Co.; P/N 174039, 174010-01, 174010-03 and ZMR100 Series Oxygen Masks

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require replacement of a regulator diaphragm on Puritan-Bennett Aero Systems Company (PBASCo) oxygen masks. The proposed AD is needed to prevent the regulator inlet valve from either leaking causing depletion of the oxygen supply or developing positve pressure within the facecone making it difficult to breathe.

DATES: Comments must be received on or before November 13, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009.

The applicable service information may be obtained from: Puritan-Bennett Aero Systems Company, 111 Penn Street, El Segundo, California 90245.

FOR FURTHER INFORMATION CONTACT: Robert Razzeto, Executive Secretary Airworthiness, Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that certain regulators on PBASCo oxygen masks P/N 174039, 174010–01, 174010–03 and ZMR100 series contain oversize diaphragms. Under Certain conditions, an oversize diaphragm can cause the regulator inlet valve either to leak or to develop positive pressure within the facecone. Although the regulator may work properly in normal usage, it can develop one of the above conditions without warning. There is no reliable field test method for determining when or where the mask will develop problems. Since this condition is likely to exist or develop on other oxygen masks of the same type design, the proposed AD would require replacement of the oversize diaphragm in certain PBASCo oxygen masks P/N 174039, 174010–01, 174010–03 and ZMR100 series.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Puritan-Bennett Aero Systems Company: Applies to Puritan-Bennett Aero Systems Company oxygen masks P/N 174039, 174010–01, 174010–03 and ZMR100, series as listed below.

S/N for P/N 174039
  0001 through 0012
S/N for P/N 174010–01 and 174010–03
  00100 through 00144
  146, 147, 149,
  00150 through 00194
  195 through 259
  261 through 273
  275 through 292
S/N for P/N ZMR100 series
  6603 through 7234

Compliance required as indicated, unless already accomplished.

To prevent the regular inlet valve from causing either leakage or positive pressure within the facecone, accomplish the following:

(a) Within 120 days from the effective date of this Airworthiness Directive, remove diaphragm assembly P/N F334–1001–1 and install diaphragm assembly P/N F334–1001–1 modified to include diaphragm and plate assembly P/N F334–1003–1, Revision E.

(b) After modification per paragraph (a) of this AD, permanently mark letter "M" at the end of or beneath the mask serial number. This serial number is located under the face cushion on the left-hand side of the hardshell on the 174039 and ZMR100 series masks and on the back surface of the head harness on the 174010–01 and 174010–03 masks.

(c) The modified diaphragm replacement of paragraph (a) of this AD in the ZMR100 series masks may be accomplished by returning the mask to Puritan-Bennett Aero Systems Company, 111 Penn Street, El Segundo, California 90245 or in accordance with the following Puritan-Bennett Aero Systems ATA Component Maintenance Manuals:

35–10–25 for the ZMR160 mask
35–10–27 for the ZMR129 mask
35–10–28 for the ZMR129–1 mask
35–10–29 for the ZMR118 mask

Note.—This replacement in the 174039, 174010–01, 174010–03 and other ZMR100 series masks may be accomplished by returning the mask to Puritan-Bennett Aero Systems Company, 111 Penn Street, El Segundo, California 90245.

Note.—Puritan-Bennett Aero Systems Company Service Bulletin No. 1 dated April 15, 1980, pertains to the subject of this Airworthiness Directive.

(d) Alternate inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on August 27, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-27686 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 121

[Docket No. 20331; Petition Notice No. PR 80-11]

Petition for Rulemaking of the Air Transport Association of America

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rulemaking; request for comments.

SUMMARY: This notice publishes for public comment the petition of the Air Transport Association (ATA) of America, of April 30, 1980, to amend § 121.220(d) of the Federal Aviation Regulations (FAR). In particular, ATA proposes amendments to § 121.220(d), which would exempt the operations of current freighter aircraft, narrow-body two-engine and three-engine passenger aircraft, and align the schedule of four-engine passenger aircraft ozone retrofit with the U.S. noise retrofit requirements for those airplanes by an amendment to affected carriers' operations specifications. This notice does not propose regulations for adoption or represent an FAA position on the merits of the petition.

DATES: Comments must be received on or before November 10, 1980.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 20331, 800 Independence Avenue, SW., Washington, D.C. 20591;

or delivered in duplicate to:

Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Chief, Regulatory Project Branch, AVS-24, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rulemaking as they desire. Communications should identify the regulatory docket or petition notice number and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket No. 20331 (AGC-204), 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the petition for rulemaking. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background Information

On April 30, 1980, the ATA submitted a petition for rulemaking, in accordance with Part 11 of the FAR, to amend § 121.220(d) of the FAR. This petition is published in its entirety as part of this notice.

Section 121.220 requires a certificate holder to successfully demonstrate that ozone concentration in the cabin will not exceed established maximums. Section 121.220(d) provides that a certificate holder may obtain an authorization to deviate from these requirements by amending its operations specifications if it shows that due to circumstances beyone its control or to unreasonable economic burden it cannot comply for a specified period of time and it has submitted a plan acceptable to the Administrator to effect compliance to the extent possible. As clearly stated in the preamble to the final rule upon its publication, it is FAA's present intent to authorize such deviations only "* * * in circumstances such as equipment delivery delays or short-term use of aircraft, *when the certificate holder shows that through flight planning or other means it will attempt to avoid areas of high ozone concentrations* * * *." (45 FR 3882, January 2, 1980, emphasis added.)

The petitioner alleges that a close examination of alternative compliance methods discloses that the rule as written cannot be complied with by any practical method before the specified deadline. Petitioner proposes that § 121.220(d) be amended to exempt the operations of current freighter aircraft and narrow-body two-engine and three-engine aircraft, and to align the schedule of four-engine passenger aircraft ozone retrofit with the U.S. noise retrofit requirements for those airplanes. The absence of any discussion of means which would be taken to minimize ozone concentrations in the specified aircraft operated by carriers who would exercise the proposed deviation authority, coupled with the discussion contained elsewhere in the petition, appears to be indicative of petitioner's intent to eliminate any requirements for such considerations.

Although this notice sets forth the contents of the ATA petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing the processing of petitions for rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and to reach a conclusion on the merits of the ATA proposal after it has had an opportunity to carefully evaluate them in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking procedures on the ATA petition, the appropriate rulemaking action will be proposed by the FAA including its evaluation of the proposal.

The ATA Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rulemaking of the Air Transport Association of America, dated April 30, 1980:

Issued in Washington, D.C., on September 5, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Air Transport Association of America,
1709 New York Avenue, N.W.,
Washington, D.C.
April 30, 1980.

Hon. Langhorne M. Bond,
The Administrator, Federal Aviation Administration, Washington, D.C.

Dear Mr. Bond: This is in regard to 14 CFR Part 121, Amendment 121-154 prohibiting air carriers from flying above Flight Level 180 unless it is shown that specified ozone concentration limits are not exceeded. Although this amendment portends to offer Part 121 operators a number of alternative compliance methods, close examination of those alternatives discloses that the rule as written cannot be complied with by any practical method before the specified deadline. Accordingly, and in accordance with 14 CFR Part 11, Section 11.25, the Air Transport Association of America (ATA) on behalf of its member airlines respectfully petitions that Part 121 Section 121.220(d) be amended as follows:

"(d) A certificate holder may obtain an authorization to deviate from the requirements of paragraph (b) of this section, by amendment to its operations specifications, if—

(1) with respect to its two-engine airplanes, the fuel load is limited to a maximum of 7,500 U.S. gallons; or

(2) with respect to its three-engine airplanes, the fuel load is limited to a maximum of 10,000 U.S. gallons; or

(3) with respect to its four-engine airplanes, the fuel load is limited to a maximum of 15,000 U.S. gallons, or the airplane is

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scheduled for re-engining or retirement or replacement to satisfy Part 91 Subpart E and until such re-engining, retirement or replacement occurs; or

(4) the airplane carries no passengers other than company employees and cargo attendants; or

(5) it shows that due to circumstances beyond its control or to unreasonable economic burden it cannot comply for a specified period of time, and it has submitted a plan acceptable to the Administrator to effect compliance to the extent possible."

The effect of the adoption of this petition would be to exempt the operations of current freighter aircraft and narrow-body two-engine and three-engine passenger aircraft, and to align the schedule of four-engine passenger aircraft ozone retrofit with the U.S. noise retrofit requirements for those airplanes. Freighter aircraft should be exempted based on (a) the obvious absence of impact on passengers and flight attendants, (b) the absence of any service reports of deleterious effects of ozone on flight deck personnel, and (c) equal treatment with non-Part 121 operators. As will be shown, the twinjet and trijet narrow-body passenger aircraft should be exempted based on the record of the previous rulemaking docket and new information, plus the apparent intent of the FAA to exclude these aircraft, anyway. The previous docket established the severe fuel penalty incurred in restraining flight to altitudes below Flight Level 180 and the absence of essential information regarding aircraft ozone attenuation characteristics for other than B–747 aircraft types; new information is provided with regard to current cost prognostications and retrofit hardware availability; and FAA's cost analysis in the previous rulemaking, as published in the preamble to the subject amendment, shows either a gross mistake or a clear intent not to regulate to the extent manifested by Amendment 121–154.

With regard to the four-engine narrow-body aircraft, it will be shown that it is not practical to meet the ozone requirements except by installing filters, and that the production of such installations cannot be completed on a schedule meaningful in advance of the re-engining schedules, and that logically the two modifications should be performed simultaneously.

This petition is being made for the airlines collectively in order to avoid the costs that would attend separate application by each operator to its regional FAA office.

The intent of this petition, with regard to passenger aircraft, is to exempt the narrow-body, short-to-medium range aircraft and to revise the compliance date for narrow-body quadjets to a realistic schedule. The use of fuel quantities to establish the dividing line between narrow-body and wide-body aircraft, while only one workable method, offers simplicity of administration.

Part 121, Section 121.220 presents several alternatives for compliance which are listed as five options for the purposes of this discussion.

(1) *Conduct all flights below Flight Level 180.* While this option may appear to be viable for a number of very short flight segments, it is not an option that an operator could apply to categorically establish compliance for its entire fleet of, for example, two-engine aircraft. In hub-and-spoke operations, an aircraft flying a short distance on one segment often flies a long distance on a sequel segment. Only in dense commuter markets is it conceivable to lock certain aircraft into rotations where high altitude flight would not be required, and even in these circumstances it is improbable that aircraft could be thus constrained for the reminder of their useful lives.

Artificially restricting flights to altitudes of FL 180 and lower is patently objectionable because (a) it crowds airplanes into less airspace than they presently fly in for the enroute segment, and would increase the mix of IFR and VFR traffic at lower altitudes, thus increasing air traffic separation burdens; (b) it disturbs passenger comfort and it hampers flight attendant activity by preventing flight above turbulent weather which prevails at the lower altitudes, and (c) it is wasteful of precious fuel, as more fully documented in ATA's comments to FAA dated January 5, 1979, regarding Docket No. 16854 on this subject.

(2) *Probabilistic analysis of historical ozone data.* The data base of historical ozone concentrations at various locations and altitudes is sketchy, but does indicate that the short-range aircraft could during the peak season at northernmost latitudes encounter ozone concentrations above the 0.25 parts per million limit. At this point in time, due to the fact that aircraft outside-to-inside ozone attenuation characteristics have not been determined (except B–747's), operators must conservatively assume that *no* attenuation takes place. It is quite possible that sufficient attenuation exists to virtually eliminate this concern for short-range aircraft, but the wrought result by Amendment 121–154 is that virtually thousands of short-range flights must be microscopically examined to preclude even the briefest exceedance of an ozone level that is not known to cause more than a temporary effect on human comfort. This analysis must be conducted every month for each schedule change and for each of several flight tracks that an operator might select in order to fly the smoothest and most fuel-efficient weather.

The administrative burden of compliance by analysis is difficult to estimate. The average trunk airline could, however, probably justify the addition of two analysts at a cost of $50,000 per year or one analyst plus a one-time $100,000 computer program modification. Such an expenditure is clearly not justified when there has been no authentic complaint about ozone on aircraft in this class.

If analysis shows that the ozone limit might be exceeded on one or more flights, another alternative would have to be exercised. We have already seen that an altitude restriction is a most burdensome option. Circumnavigation is equally burdensome due to the fact that ozone "pockets" tend to be quite large, and the extra fuel burned and time consumed offend today's emphasis on resource conservation. This leaves the option of installing a filter or converter, which, as we will show below, cannot be installed at a reasonable cost nor on a responsive schedule.

(3) Forecasting and circumnavigating ozone concentrations. Where the historical average ozone levels indicate too high a level for a given flight, the option exists for making a real-time forecast of ozone concentration, and, if less limiting than indicated by the historical data, preparing a flight plan to circumnavigate the prohibited concentrations. At this time there is not a concensus among meteorological experts in the industry that ozone can be forecasted with sufficient accuracy for this purpose, and this method has the same drawbacks as the method employing only historical data.

(4) *Applying a meter on board the aircraft.* It has been suggested that it would be possible to install a meter onboard an aircraft, and fly the airplane under or around any concentrations that make the meter indicate an exceedance. This is not a feasible alternative because there is no way to plan for the amount of extra fuel required for an altitude or track excursion made to avoid high ozone. FAR's require such fuel requirements to be accounted for in advance.

(5) *Installing a filter or converter.* It is impossible to install an ozone filter or converter on the narrow-body twinjet and trijets in the time frame contemplated because no such installation has been designed by the airframe manufacturers. Because of the need to integrate ozone control systems with the existing environmental control systems, it is fundamental that the airframe manufacturers are the foremost authorities on what such designs must entail, how and when they can be installed. The Boeing Company and McDonnel Douglas Corporation, who manufacture most of the aircraft in the narrow twinjet and trijet category, unequivocally advise that the designs for such systems cannot be readied by February, 1981, and, in fact, indicate that February, 1983 would be a more realistic date.

Since detailed designs for these installations have not been completed, costs can only be roughly approximated based on what has been done on B–747 aircraft. Estimates vary from $20,000 to $30,000 per aircraft for kit installation, plus $1,000 to $2,500 per aircraft per year additional operating cost, based on fuel at $1.00 per gallon. As many as 1500 of these aircraft are affected, indicating a total for the twinjet/trijet narrow-body fleet of $30,000,000 to $45,000,000 initially, plus $1,500,000 to $5,750,000 per year thereafter.

Since FAA's cost analysis in the preamble to the ozone rule only included the long-range aircraft, the B–747, B–707, DC–8, DC–10 and L–1011, and actually only 60 percent of that fleet, it is obvious that the FAA did not intend to regulate in the category of narrow-body twinjets and trijets, i.e., DC–9, BAC 1–11, B–737 and B–727. The above figures, in fact, which exclude the costs of modifying the long-range aircraft, *quadruple* the costs contemplated by FAA for the entire air carrier fleet; thus there remains no justifiable basis for applying the ozone concentration limits to short-range aircraft as described.

Four-engine narrow-body jets. Because of the long-range capability of the narrow quadjets, and because the other compliance options are too penalizing, most operators have indicated that cabin ozone filtration or conversion systems are the most likely compliance options. The problem is that the designs of such systems for these aircraft are still embryonic. Manufacturers are estimating a 30-month requirement to design, test, certify, and fabricate such systems. The airlines will need an additional six to twelve months to schedule their aircraft into the major overhaul facilities for the installation of these systems. Therefore, a compliance date of mid-1983 is more realistic than early 1981.

Installations in the 1983 time period, moreover, are commensurate with the re-engining of certain of these four-engine aircraft required by Part 91, Subpart E, the noise retrofit rule. Since the installation of a substantially different powerplant will entail large changes in the various aircraft systems powered by the engines, and these usually include the cabin environmental control system, it is only sensible to incorporate new cabin ozone control systems into the basic redesign of systems entailed by the re-engining effort. Otherwise, the $25,000 or so per aircraft expended for an ozone filter design, plus $800 per year higher operating costs and loss of cargo space, would be wasted due to incompatibility between the new engine and the old ozone filter design. The FAA has a duty to regulate in such fashion as to conserve these resources.

The exemption for four-engine jets should not be limited to those aircraft that are being re-engined. FAR 91 Subpart E permits such an airplane to be operated until December 31, 1984 without modification provided it is replaced or removed from service, or is operated in foreign commerce. A stark injustice is worked when an operator is required to modify his aircraft to install ozone filters, and such filters cannot be made available for such installation until just 1½ years prior to the retirement of that aircraft.

Benefit to the public; effects on safety. Granting of this petition will have no adverse impact on passenger or crew health or safety. The retrofit of long-range, high-altitude aircraft—those usually exposed to the ozone levels of concern—to install ozone filters or converters will not be affected, except for DC–8 and B–707 aircraft which are scheduled for early retirement or re-engining (and this petition proposes an ozone retrofit concurrent with such re-engining) pursuant to noise regulations in FAR 91 Subpart E.

This petition offers the additional benefits of avoiding inflationary expenditures, i.e., expenditures with no productivity gains, that must ultimately be borne by air transport consumers. This petition would avoid the necessity of compressing all narrow-body jet traffic below Flight Level 180 during peak ozone exposure periods, thereby reducing the problem of mixing VFR and IFR traffic and reducing exposure to the relatively greater air turbulence at the lower altitudes.

The ATA is grateful for the opportunity to present this petition to the Administrator. A brief summary is attached for your convenience. Your expedited handling of this request is urged.

Sincerely,

Clifton F. von Kann,

Senior Vice President, Operations and Airports.

Attachment

Summary of Air Transport Association Petition for Changes to FAR 121 Section 220, Cabin Ozone Concentration

Petitioner: Air Transport Association on behalf of its member airlines.

Regulations affected and changes requested:

14 CFR 121 Section 220(d) is requested to be changed so that (1) freighter operations are exempted, (2) narrow-body twinjet and trijet passenger aircraft are exempted, and (3) narrow-body quadjet aircraft are regulated by the same compliance schedule that applies to these aircraft under 14 CFR Part 91 Subpart E for noise retrofit or retirement.

Justification:

Granting of the petition will have no public disbenefits and will not affect aviation safety. The present rule as written cannot be complied with by any practicable means, and the expenditure of tens of millions of dollars not contemplated by FAA in its enactment of § 121.220 would be averted.

[FR Doc. 80–27999 Filed 9–10–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 430

[Docket No. R–80–866]

Multifamily Housing Projects; Mortgagor Relationship to Tenant Activities; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This proposed rule would amend 24 CFR to add a new Part 430 which would prohibit certain multifamily housing project owners from taking actions that would frustrate tenants' efforts to obtain rental subsidies or impede tenants' efforts to organize.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 430—Mortgagor Relationship to Tenant Activities.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., September 4, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–28066 Filed 9–10–80; 8:45 am]

BILLING CODE 4210–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 116 and 117

[FRL 1603–3]

Hazardous Substances; and Determination of Reportable Quantities; Addition of Carcinogens; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period.

SUMMARY: The date for the close of the comment period on proposed Part 116 and 117 hazardous substances carcinogen regulations is hereby extended by 30 days from September 8, 1980 to October 8, 1980.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Krivak, Director, Criteria & Standards Division (WH–585), Office of Water Planning & Standards, 401 M Street, S.W., Washington, D.C. 20460 (202) 755–0100.

SUPPLEMENTARY INFORMATION: On July 9, 1980, (45 FR 46094 and 46097) the Environmental Protection Agency published proposed rules that would (1) amend the Part 116 Designation of Hazardous substances regulation to add 14 new substances based on carcinogenic effects and (2) amend the Part 117 Determination of Reportable Quantities regulation to establish reportable quantities for the substances proposed to be designated and change the reportable quantities for six

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substances previously designated on the basis of acute aquatic toxicity. A 60-day comment period was provided that began on July 9, 1980 and was to have ended on September 8, 1980.

Several commenters have made written requests to the agency to ask for additional time to complete their comments because of the complexity of the scientific and technical issues related to the regulation of carcinogens under the section 311 hazardous substance program.

Accordingly, the agency has decided to extend the official comment period from its closing date of September 8, 1980 to October 8, 1980.

Dated: September 5, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-28001 Filed 9-10-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-540; RM-3476]

FM Broadcast Stations in Kennewick and Richland, Wash.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to substitute Channel 293 for Channel 292A at Richland, Washington, and to modify the license of Station KXDD on Channel 292A to specify the Class C channel in response to a petition filed by KUTI Communications, Inc. A request to further modify the license of Station KXDD to specify a new community, Kennewick, Washington, has not been proposed.

DATE: Comments must be filed on or before October 24, 1980, and reply comments on or before November 13, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 22, 1980.

Released: September 4, 1980.

By the Chief, Policy and Rules Division:

1. KUTI Communicators, Inc. ("KUTI"), licensee of Station KXDD (Channel 292A), Richland, Washington, has filed a petition for rule making seeking substitution of Channel 293 for its existing assignment.[1] It asks, in addition, that Kennewick, Washington, rather than Richland, be specified as the community of license purportedly to reflect petitioner's actual use of the channel. According to KUATI, Station KXDD is not the only Class A facility in the contiguous cities of Kennewick (1970 U.S. Census pop. 15,212), Pasco (1970 pop. 13,920) and Richland (1970 pop. 26,290), known collective in southeastern Washington as the Tri-Cities.[2] A Class C assignment would place Station KXDD in a more competitive position, petitioner asserts, while at the same time eliminating undersirable intermixture.

2. Substitution of Channel 293 for Channel 292A would cause new preclusion to eight communities with populations exceeding 1,000 and no present local aural service: *Washington:* Goldendale, Odessa, Soap Lake, Union Gap; *Oregon:* Elgin, Heppner, May Park and Union City. Petitioner lists alternative channels for all of these communities.

3. No first or second service would be provided by a Class C facility at Station KXDD's present site. KUTI states. It intends, however, to move to a site 42 kilometers (26 miles) northeast of Kennewick, from which point staff estimated indicate that a first nighttime service would be provided to approximately 1,700 persons in an area of 1,036 square kilometers (400 square miles).

4. KUTI owns, in addition to KXDD, Station KUEZ (Channel 281) at Yakima, Washington. KUEZ presently operates with 61 kW of power and an antenna height of 780 feet; petitioner proposed to operate KXDD at its new site with a power of 100 kW and antenna height of 750 feet. In order to avoid prohibited 1mV/m contour overlap, both of these Class C assignments would be limited to present or proposed facilities with no possibility of future expansion.

5. Pursuant to our decision in *Cheyenne, Wyoming,* 62 F.C.C. 2d 63, 38 R.R. 2d 1655 (1976), we would consider modification of Station KXDD's license to specify the proposed Class C assignment only if no other interest in the channel is expressed during the comment phase of this proceeding. If interest is shown, petitioner would be free to withdraw its request since, as adjacent channels, the Class C channel could not be assigned without the deletion of the Class A assignment. *Statesboro, Georgia,* Mimeo No. 82040, 40 R.R. 2d 1021 (1977). However, we will not propose to modify petitioner's license to specify a different city as it has requested.

6. Although petitioner alleges that its station is actually a Kennewick operation, it is licensed to serve Richland and the Commission assumes the station is operating to serve Richland. A new assignment to a community, as opposed to a substitution of a Class B/C channel for a Class A channel in the same community, has never been held to fall under our authority to modify. See *Riverside and Santa Ana, California,* 65 F.C.C. 2d 920 (1970) and cases cited therein. This refusal to modify the city of license has applied even in situations where the 10 or 15 mile rule would be applicable. See Section 73.203(b) of the Commission's Rules.[3] In the present case, not even the 15 mile rule would be of assistance since Kennewick is already a listed city. Our consistent holding has been to leave open for application a channel newly assigned to a community. Petitioner may wish to comment on this matter and to demonstrate why we should act differently here. We shall, then, propose modification of the license for Station KXDD for the channel change (Channel 292A to Channel 293) at Richland, only. An *Order to Show Cause* is not necessary since consent to the modification is implied by virtue of the request.

7. Since the requested assignment is within 402 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

8. In view of the foregoing, we find it in the public interest to explore the following amendment to the FM Table of Assignments, Section 73.202(b) of the Commission's Rules:

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[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[2] Channels 235, 274 and 292A are assigned and licensed to Richland though Channel 292A is being used by petitioner at a site closer to Kennewick. Channel 287 is assigned to Kennewick.

[3] In *Warner Robins and Hawkinsville, Georgia* (Docket 17924), 12 R.R. 2d 1576 (1968), *recons. den.,* 12 F.C.C. 2d 885 (1968), a channel assigned at Hawkinsville, Georgia, and reassigned to Warner Robins was opened up for competing applications even though an applicant had already received cut-off protection at Hawkinsville. The distance between the two communities was close enough to make Section 73.203(b) applicable. The same theory applied, that is, a newly assigned channel made available for the first time in a particular community should be open for all interested persons to apply.

City	Channel No.	
	Present	Proposed
Richland, Washington	235, 274, 292A	235, 274, 293

9. Authority to instituted rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before October 24, 1980, and reply comments on or before November 13, 1980.

11. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponents of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments on the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an orginal and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-28092 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1080

[Ex Parte No. 364 (Sub-1)]

Freight Forwarder Contract Rates—Implementation of Pub. L. 96-296

AGENCY: Interstate Commerce Commissioner.

ACTION: Extension of time to notice of proposed rulemaking.

SUMMARY: The Commission proposed, by notice at 45 FR 53190, August 11, 1980, to modify existing rules to allow the filing of contract rates between freight forwarders and rail and water carriers. The notice of proposed rulemaking set September 10, 1980 as the due date for comments. A 30-day extension has been requested on behalf of various ocean carriers and ocean ratemaking conferences. While the changes accomplished in Pub. L. 96-296 are straightforward, there appear to be some complications regarding the impact and implementation of this statutory change, notably, with respect to water carriers subject to the Shipping Act of 1916. We will grant the 30-day extension. In view of the 180-day time limit, no further extensions will be authorized.

DATES: The comment period is extended until October 10, 1980.

ADDRESS: Send comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275-7693, or Jane Mackall, (202) 275-7656.

(49 U.S.C. 10321, 10703(a)(4)(E), 10749, and 10766(b), 5 U.S.C. 553)

Decided: August 26, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27866 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine "Isotria medeoloides" (Small Whorled Pogonia) to be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposal.

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SUMMARY: The U.S. Fish and Wildlife Service proposes to determine a plant, *Isotria medeoloides* (small whorled pogonia), to be an Endangered species under the authority contained in the Endangered Species Act of 1973. Historically, this plant has been known to occur in 49 counties in 17 eastern States and Canada. In 1979, it was known to occur in 12 counties in 11 different States and one county in Ontario, Canada. The continued existence of this species is endangered by taking of the plants and the loss of habitat. A determination of *Isotria medeoloides* to be an Endangered species would implement the protection provided by the Endangered Species Act of 1973 as amended.

DATES: Comments from the public must be received by November 10, 1980. Comments from the Governors of affected States must be received by December 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Dyer, U.S. Fish and Wildlife Service, Department of the Interior, One Gateway Center, Suite 700, Newton Corner, MA 02158.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, MA 02158. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species at the above address.

SUPPLEMENTARY INFORMATION: *Isotria medeoloides* (small whorled pogonia) is often referred to as the rarest orchid in America. There are only 16 known populations in the eastern United States and Canada. Approximately 150–175 individual plants occur at these 16 sites. The plant can be found in a variety of forest types but is most often associated with relatively open areas in deciduous hardwoods; either beech-birch-maple or oak-hickory. The spectrum of habitats includes dry, rocky, wooded slopes to moist streambanks.

One or two yellowish-green flowers appear from mid-May in the south to mid-June in the north above a whorl of 5 or 6 light green, elliptic, somewhat pointed leaves. The sepals are up to 2.5 cm long and help distinguish this species from the other member of the genus, *Isotria verticillata*. At maturity the plants are 9.5—25 cm tall.

The continued existence of this plant is being threatened by the inadvertent loss of populations to habitat alteration, such as golf courses, housing complexes etc., and taking by collectors for other than commercial purposes. Today there are nearly as many, if not more, dried specimens of *Isotria medeoloides* in herbaria than are known to exist in the wild. This rule proposes to determine *Isotria medeoloides* to be Endangered, and implements the protection provided by the Endangered Species Act of 1973. Critical Habitat is not being proposed. The following paragraphs further discuss the sections to date involving this plant, the threats to the plant, and effects of the proposed action.

The United States placed this species on a provisional list in the Annex to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (CNPWP) during a conference held in Mar del Plata, Argentina, 18–22 October, 1965. Sections 2 and 8 of the Endangered Species Act of 1973 as amended, provide the U.S. implementing legislation of this Convention. The President, by Executive Order 11911 (41 FR 15683–15684), designated the Secretary of the Interior to act on behalf of and to represent the U.S. in all regards as required by the CNPWP, and required that he consult with other departments and agencies as required.

This species was placed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) at the original plenipotentiary conference in Washington, D.C. in February and March, 1973.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Isotria medeoloides* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal.

Following the June 16, 1976, proposal, hundreds of comments were received from individuals, conservation organizations, botanical groups, business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of endangered plants and their protection and regulation. These comments are summarized in the April 26, 1978, **Federal Register** publication of a final rule which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909–17916). Additional comments which are received during the comment period for this proposal will be summarized in the final rule.

In the June 24, 1977 **Federal Register** (42 FR 32373–32381), the Service published a final rule detailing the regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exceptions, under certain circumstances, to the prohibitions.

The Endangered Species Act Amendments of 1978 require that all proposals over two years old be withdrawn. A one year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal along with four other proposals which had expired. The Service now has sufficient new information to warrant reproposing *Isotria medeoloides.*

Critical Habitat is not being proposed for *Isotria medeoloides* primarily because of the history of taking of this species and the lack of taking prohibitions in the Act. Bringing further general public attention to existing populations via Critical Habitat designation would in itself be a threat to the plant.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Factors Affecting the Species

Section 4(a) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a) of the Act. These factors and their application to *Isotria medeoloides* (small whorled pogonia) are as follows:

Isotria medeoloides

(1) *Present or threatened destruction, modification or curtailment of its habitat or range. Isotria medeoloides* has historically been known to occur in 49 counties in 17 eastern States and Canada. Today it is known to exist in 12 counties in 11 different States and one county in Ontario, Canada as noted in Table 1.

Table 1.—*Distribution of Isotria Medeoloides (Small Whorled Pogonia)*

State	County	Town
Connecticut	Hartford	Middletown.
	Litchfield	Brookfield.
	New Haven	New Haven.
	New London	Stratford.
	New London	Ledyard.
	New London	Lyme.
	New London	Waterford.
	Windham	Pomfret.
Georgia	Rabun[1]	Chatahoochee National Forest.
	Habersham	Chatahoochee National Forest.
Ilinois	Randolph[1]	
Massachusetts	Hampshire	East Hadley.
Michigan	Berrien[1]	Harbert.
Missouri	Bollinger	Glen Allen.
New Hampshire	Belknap	Alton.
	Belknap	Meredith.
	Strafford	Madbury.
	Strafford	Milton.
	Strafford	Barrington.
	Merrimack[1]	Epsom.
	Grafton	Squam Lake.
	Carroll	Brookfield.
	Carroll[1]	Madison.
New Jersey	Bergen	Franklin Lakes.
	Bergen	Closter
	Mercer	Trenton.
	Sussex[1]	Montague.
	Sussex	Sparta.
New York	Nassau	Hampstead.
	Onondaga	Manlius.
	Rockland	Tappantown.
	Suffolk	Wyandanck.
	Ulster	Olive.
	Washington	Fort Edward.
Maine	Kennebec[1]	Kent's Hill.
	Cumberland	North Sebago.
	Oxford	Norway.
Maryland	Montgomery	North Chevy Chase.
	Montgomery	Bethesda.
North Carolina	Macon[1]	Nantahala National Forest.
	Harnett	Unknown.
	Henderson	Hendersonville.
	Surry	Mount Airy.
Pennsylvania	Centre[1]	Port Matilda.
	Green	Rogersville.
	Montgomery	Willow Grove.
	Berks	Reading.
	Philadelphia	Philadelphia.
	Chester	West chester.
	Monroe	East Stroudsburg.
Rhode Island	Providence[1]	Glocester.
	Kent	West Greenwich.
South Carolina	Oconee[1]	Sumter National Forest.
Vermont	Chittenden	Burlington.
Virginia	Buckingham	Unknown.
	Gloucester[1]	White Marsh.
	James City	Williamsburg.
	New Kent	Unknown.
Canada	Elgin[1]	Mount Salem.

[1] Extent populations in 1979/1980.

A short assessment of the species status in Canada and by state is as follows:

Connecticut: Historically, *Isotria medeoloides* has been collected from eight towns in the State (Mehrhoff, 1978). There is only one plant now known to exist and that is on private land in the town of Mystic. This plant has not flowered in recent years and was transplanted from the wild. Thus it is not listed in Table 1. Although the vitality of this plant is questionable it is the only known "successful" transplantation.

Georgia: Previous to this rule there has never been a record of occurrence for *Isotria medeoloides* in Georgia. Three populations are now known to have occurred although only one population of five plants was extant in 1979. This population formerly consisted of 15–22 plants when first discovered in the late 1960's. All three sites are on the Chatahoochee National Forest, however, one of the three sites was recently eradicated by road expansion.

Illinois: The Randolph County population is the only known station in the State. In 1979 there was one plant found at this site. A report of a Pope County population is erroneous.

Maine: The North Sebago population formerly consisted of six or seven plants when first discovered in 1954. One plant was seen in 1976 and none have appeared since. The site is on privately owned land and has not been disturbed (Eastman, 1978). The Norway population has not been relocated nor is it now known to exist. In 1923 approximately 35 plants were counted at the Norway site in a partly open woodland of beech and red maple (Eames, 1926). The largest known population occurs in Kent's Hill, Kennebec County. An estimated 50–75 plants were discovered at this site in 1980.

Maryland: This species has not been collected in Maryland since 1930. The former localities in North Chevy Chase and Bethesda have been absorbed by the expanding suburban sprawl of Washington, D.C. *Isotria medeoloides* is believed to be extirpated in the State (Broome, et al., 1979).

Massachusetts: There is one old record of occurrence for this plant in East Hadley, MA. It has not been recorded in the State since 1899 and efforts to find individuals knowledgeable of its existence in Massachusetts have been unsuccessful (Coddington and Field, 1978).

Michigan: Isotria medeoloides is protected under State law as an endangered species. The Berrien County site consisted of two plants in 1979. Twelve plants were known to occur in 1969 and seven plants in 1970 (Case and Schwab, 1971). The area is being slowly developed, further endangering the only known colony in Michigan.

Missouri: There is one old 1897 record for this species on a wooded limestone hill near Glen Allen. This population has not been rediscovered after several searches (Steyermark, 1963). There is some question about its original occurrence in the State.

New Hampshire: Historically, *Isotria medeoloides* has been collected from eight towns in central New Hampshire. There are two extant populations in the State, one in the town of Epsom that has been watched by local botanists for several years, the other, discovered in 1980, in the town of Madison. In 1979, 12 plants were extant at the Epsom site. Fourteen plants were noted at the Madison site, with three additional plants about one quarter of a mile away. Both areas are on private land, however, ownership of the land and the potential for development are unknown.

New Jersey: Approximately eight plants were observed in the town of Montague in 1979. The plants are on privately owned land and there is no known threat to the population. Other than this locality the most recent record for the State was near Franklin Lakes where approximately 30 plants were noted in 1935. None are now known to exist at this site. The other reported localities are of ancient vintage and no longer believed to exist.

New York: There are six historical records for the small whorled pogonia in the State. Most of the records are from the late 1800's thru the early 1900's with precise localities unknown. The Manlius population was originally discovered in 1961 when several plants were noted. In recent years only one plant has been seen at this site with the last appearance in 1976. There are no known extant populations (Mitchell, et al., 1980).

North Carolina: The second largest known population of 27 plants occurs on the Nantahala National Forest. The Forest Service is aware of the locality and has modified timber management practices within a small area to protect the plants. There is only a very slight economic impact resulting from protecting the area. The Forest Service has been most conscientious in carrying out their responsibilities under the Endangered Species Act. Field personnel and timber markers have been trained in identification and are aware of the need to protect the plants. No other populations are known to exist in the State.

Isotria medeoloides is listed as an endangered plant in North Carolina. The legislation protecting endangered plants in the State prohibits their removal from private property without the landowner's permission, and prohibits commerce in the species. In addition, when a State listed species occurs on

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lands administered by the U.S. Forest Service, as is the case for *Isotria medeoloides* in North Carolina, the Forest Service will protect the species as though it were Federally listed.

Pennsylvania: There are six historical and one presently known locality of *Isotria medeoloides* in Pennsylvania. There are two extant populations in Port Matilda which were seen in 1979. One site contained three plants and the other contained two. The plants are on private land and logging operations have been voluntarily restricted at the specific sites. The other locality records for the plant are a minimum of 50 years old and the orchid's continued existence at these sites is doubtful (Wiegman, 1979).

Rhode Island: Twelve plants in Glocester, Rhode Island, were known to exist in 1979. This population has been monitored since 1947 and has shown a gradual decline of individual plants. The site is on privately owned land and adjacent lots have been cleared for houses. A national conservation organization is presently pursuing acquisition of this site. A second population in West Greenwich, Rhode Island has also been monitored since 1957 when 23 plants were noted. In 1961 there were 15 plants at this site, in 1973, four plants. In 1978 no plants were found and none have been seen since (Church and Champlin, 1978).

South Carolina: Three plants were seen in 1979, on the Sumter National Forest. Previous to the preparation of the proposed rulemaking the Forest Service was not aware of the plants at this site. Compliance with Forest Service policies as stated in the January 1980 Manual on Wildlife and Fish Management, Amendment No. 136 should help insure the protection of this population. No other populations are known to exist in the State.

Vermont: The Burlington, Vermont locality was found in 1902. A golf course now occupies the site. The referenced habitat of "hemlock woods" appears to be an exception to the general rule of deciduous hardwoods. No other localities are known (Countryman, 1978).

Virginia: The Williamsburg, Virginia population appears to be one of the most well known sites of *Isotria medeoloides.* In 1921 the late E. J. Grimes described the area and noted 15 plants (Grimes, 1921). In 1979, only one plant was known to occur at what is believed to be the same area. The habitat for the species still exists but is being threatened by residential development. There are no other known extant populations in the State.

Canada: There is only one record of occurrence in Canada. Two populations of two plants each were found near Mount Salem in 1977 (Stewart, 1977). The status of this population has not chnged.

A summary of the species' status shows that approximately 150–175 plants at 16 different sites were known to exist in the eastern United States and Canada at the end of the 1979–1980 field seasons. Three of these sites are located on U.S. Forest Service land. The remainder are believed to be on privately owned land.

Many people feel that the disclosure of specific localities will further endanger the species' continued existence. Due to the documented history of taking for scientific purposes those fears are not unfounded. On the other hand, many former localities, some dating back to the late 1800's, have been inadvertently lost to habitat alteration. Based on herbaria label data and recent field checks of these sites, shopping malls, housing developments, and golf courses now mark the localities of historical populations. Any conservation program for the species must balance these two somewhat opposing factors.

Other reasons for the species' disappearance throughout its range are not so clear. Some populations such as the one in Glocester, Rhode Island, have been monitored for a period of years and there has been a gradual decline in the number of individual plants from 28 in 1947 to four in 1978. However, in 1979, 12 plants were seen. Other known populations have displayed similar characteristics. One popular source (Correll, 1950) states that the species may remain dormant for up to 20 years, however, this has not been substantiated from available scientific evidence.

Except for the three populations on Forest Service land, the remaining extant localities occur on private lands where specific ownership has not yet been determined. In certain instances, lands adjacent to these known localities are being cleared for house lots, further endangering the continued existence of the species.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Collecting for scientific purposes has contributed to the loss of many plants. There are specimens of *Isotria medeoloides* in all major eastern institutional herbaria and many private collections. In several instances the available literature documents the removal of specimens for "the scientific record." Wildflower garden enthusiasts are known to have taken this species from the wild and attempted transplantation to a more convenient locality. The rarity of this orchid makes it the object of interest by professionals and amateurs alike.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* There is no provision in the Endangered Species Act which would offer the species protecton from collectors or private actions. Only the States of Michigan and North Carolina have officially listed *Isotria medeoloides* as an endangered plant. Michigan legislation provides prohibition against "taking" of the orchid. Also under Michigan Public Act No. 203, the Department of Natural Resources has been given responsibility for conducting "investigations on fish, plants, and wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully." The key in this State program is the indentification and protection of habitats using available State laws and regulations.

The legislation protecting Endangered plants in North Carolina prohibits their removal from private property without the landowner's permission, and prevents commerce in the species. In addition, when a State listed species occurs on lands administered by the U.S. Forest Service, as is the case for *Isotria medeoloides* in North Carolina, the Forest Service will protect the species as though it were Federally listed.

The Forest Service's regulations prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare, or unique species (42 FR 2956–2962). These regulations, however, may be difficult to enforce, and do not provide all of the protection and funding mechanisms furnished by the Endangered Species Act.

Official listing under the Endangered Species Act of 1973, as amended, will provide a means by which various conservation and recovery actions can be implemented to insure the continued existence of this plant throughout its range.

(5) *Other natural or man-made factors affecting its continued existence.* The species' biology is not well understood but there is evidence of continuing decline in several known populations. The limited number and size of existing populations are cause for concern as natural factors could lead to the extinction of the species.

Although populations lost by habitat alteration are obvious, the habitats of some declining populations have not "significantly" changed over the period of observance. Many theories could be advanced in attempts to explain the species' apparent natural decline. What is apparent may be due to no one factor but a number of factors acting interdependently. Natural successional changes, microclimatic parameters and failure or success in reproductive mechanisms are but a few of the unknown aspects of the species' biology that need to be understood before the reasons for the decline can be understood and hopefully reversed.

Critical Habitat

Critical Habitat is not being proposed for *Isotria medeoloides*, due to the extreme rarity of this orchid, the documented history of taking, and the great interest in this species by many botanists and wildflower enthusiasts. It would not be prudent or in the best interest of the species to bring further attention to site specific areas via Critical Habitat designation.

Effects of This Proposal if Published as a Final Rule

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977 **Federal Register** set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. The regulations referred to above, which pertain to Endangered plants, are found at § 17.61 of 50 CFR and are summarized below.

With respect to *Isotria medeoloides*, all prohibitions of section 9(a)(2) of the Act, as implemented by Section 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions could apply to agents of the Service and State conservation agencies. The Act and Section 17.62 of the regulation also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances.

Section 7(a) of the Act provides that each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under Section 4. Section 7(a) of the Act also requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered or Threatened. This protection would accrue to *Isotria medeoloides* if it is later determined to be Endangered as a result of this proposal.

Provisions for Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of *Isotria medeoloides*. The Critical Habitat clause would not be applicable since Critical Habitat is not being officially designated.

Since populations of *Isotria medeoloides* are known to occur on U.S. Forest Service lands in North Carolina and South Carolina, the Forest Service would be required to carry out programs for the species' conservation, and to insure that its actions are not likely to jeopardize the species' continued existence. The Forest Service's regulations prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare, or unique species (36 CFR 261.9(b)), and are consistent with the purposes of the Act. No other impact on Federal activities is foreseen.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file at the Service's Regional Office, One Gateway Center, Suite 700, Newton Corner, MA 02158, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Public Comments Solicited

The Director intends that if a rule is finally adopted it will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) Additional information concerning the range and distribution of this species;

(3) Current or planned activities in the subject areas.

If promulgated, the regulations on *Isotria medeoloides* will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

This proposal is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884). The primary author of this proposed rule is Mr. Richard Dyer, U.S. Fish and Wildlife Service, Department of the Interior, One Gateway Center, Suite 700, Newton Corner, MA 02158 (617/829-9318).

Literature Cited

Broome, C. R., A. O. Tucker, J. L. Reveal and N. H. Dill. 1979. Rare and endangered vascular plant species in Maryland. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Case, F. W., and W. Schwab. 1971. *Isotria medeoloides*, the small whorled pogonia in Michigan. The Michigan Botanist, volume 10, No. 1.

Church, G.L. and R. L. Champlin. 1978. Rare and endangered vascular plant species in Rhode Island. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Coddington, J. and K. G. Field. 1978. Rare and endangered vascular plant species in Massachusetts. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Correll, D. S. 1950. Native orchids of North America north of Mexico. Chronica Botanica Company, Waltham, MA.

Countryman, W. D. 1978. Rare and endangered vascular plant species in Vermont. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Eames, E. G. 1926. *Pogonia affinis* in Maine. Rhodora 28: 31–34.

Eastman, L. M. 1978. Rare and endangered vascular plant species in Maine. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Grimes, E. J. 1921. A new station for *Pogonia affinis*. Rhodora 28:31–34.

Mehrhoff, L. J. 1978. Rare and endangered vascular plant species in Connecticut. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Mitchell, R. C., C. J. Sheviak and J. K. Dean. 1980. Rare and endangered vascular plant species in New York. U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Stewart, W. T. 1977. The smaller whorled pogonia, an orchid new to Canada. Ont. Field. Biol. 31:56–58.

Steyermark, J. A. 1963. Flora of Missouri. The Iowa State University Press. Ames, Iowa.

Wiegman, P. G. 1979. Rare and endangered vascular plant species in Pennsylvania.

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U.S. Fish and Wildlife Service, Region 5, Newton Corner, MA.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.12 by adding, in alphabetical order, the following to the list of plants;

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Orchidaceae: *Isotria medeoloides*..	Orchid family: Small whorled pogonia.	Canada and U.S.A. (CT, GA, IL, MA, MD, ME, MI, MO, NH, NJ, NY, NC, PA, RI, SC, VA, and VT)	E	....	NA	NA

Dated: September 3, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-27857 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 80

Federal Aid in Fish and Wildlife Restoration

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction, proposed revisions to regulations applicable to the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act.

SUMMARY: In FR 80-26250 appearing at page 57471 in the **Federal Register** of August 28, 1980, a portion of the proposed rules was inadvertently omitted. This notice publishes the omitted text.

DATES: The original date for receipt of comments is extended to October 31, 1980.

ADDRESSES: Any comments on the proposed requirements should be submitted to the Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-1526.

SUPPLEMENTARY INFORMATION: On page 57471, the following should be added as § 80.1 (d) through (j):

§ 80.1 Definitions.

* * * * *

(d) *Secretary.* The Secretary of the Interior or his designated representative.

(e) *Director.* The Director of the U.S. Fish and Wildlife Service, or his designated representative. The Director serves as the Secretary's representative in matters relating to the administration and execution of the Federal Aid Acts.

(f) *Regional Director.* The Regional Director of the U.S. Fish and Wildlife Service, or his designated representative.

(g) *Federal Aid Manual.* The publication of the U.S. Fish and Wildlife Service which contains policies, standards and procedures required for participation in the benefits of the Acts.

(h) *Project.* A program of related undertakings necessary to fulfill a defined need which is consistent with the purposes of the Act.

(i) *Comprehensive fish and wildlife management plan.* A document describing the State's plan for meeting the long-range needs of the public for fish and wildlife resources, and the system for managing the plan.

(j) *Federal Aid Funds.* Funds provided under Federal Aid Acts.

Section 80.2 is added as follows:

§ 80.2 Eligibility.

Participation in the benefits of the Acts is limited to State fish and wildlife agencies as specified below:

(a) Federal Aid in Sport Fish Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(b) Federal Aid in Wildlife Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, except that the benefits afforded by Section 4(b) of the Act relating to hunter education projects are limited to the 50 States.

Dated: September 8, 1980.

M. J. Spear,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-27856 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska: Approval of Fishery Management Plan Amendment; Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Notice of approval of part of fishery management plan amendment; proposed rulemaking.

SUMMARY: Part of amendment number 8 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska, submitted by the North Pacific Fishery Management Council (Council), is approved. The amendment submitted by the Council contains seven subparts, including the change of the management year to conform to the calendar year, and the elimination of any plan expiration date. Six subparts are approved. The seventh is still being reviewed by the Secretary of Commerce (Secretary). Regulations to implement the approved portions of the amendment are proposed for public comment.

DATE: Written comments are invited until October 20, 1980.

ADDRESS: Comments should be sent to: Denton R. Moore, Chief, Permits and Regulations Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634-7432.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries

Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION: On April 21, 1978, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), which was prepared by the North Pacific Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended (the FCMA). The FMP was published on April 21, 1978, (43 FR 17242). Since that time, the Assistant Administrator had approved seven amendments to the FMP: 43 FR 34825; 43 FR 47222; 43 FR 46349; 44 FR 40099; 44 FR 42738; 44 FR 46904; 44 FR 64410. Looseleaf copies of the FMP, as amended, may be obtained upon request from the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, telephone 907-274-4563.

Amendment 8 to the FMP was received by the Assistant Administrator on July 1, 1980. It consists of the seven parts listed below.

(1) Change the plan's management year to conform to the calendar year, and eliminate any predetermined plan expiration date. The previous management year of November 1-October 31 hampered coordination of the management of the groundfish fishery of the Gulf of Alaska and that of the Bering Sea and Aleutian Islands, which is managed on the basis of the calendar year. An artificial deadline to revise the FMP every 365 days bears no relationship to the availability of new scientific information and may interfere with sound management.

(2) Express the optimum yield (OY) for squid, thornyhead rockfish, other rockfish, and other species on a Gulf-wide basis, rather than allocating them among the three regulatory areas. The Council concluded that there is insufficient information on these species to justify the administrative burden of managing these species in three separate areas—particularly the requirement that all groundfish operations in an area be terminated when the allocation of one of these species for that area has been reached.

(3) Establish the following four species categories: unallocated species, target species, other species, and nonspecified species. This categorization, which has already been adopted for the Bering Sea and Aleutian Islands, fosters timely management by allowing more flexible treatment of species that are caught incidentally to the target species.

(4) Divide the Eastern regulatory area of the Gulf of Alaska into the following three regulatory districts for purposes of sablefish fishing: Yakutat; Southeast Inside; and Southeast Outside. Separate sablefish allowable catch figures are assigned to each of these districts. This measure is intended to encourage United States fishermen to fish for sablefish over a broader area.

(5) Specify the authority of the Director, Alaska Region, National Marine Fisheries Service (NMFS) to issue field orders imposing time/area restrictions upon foreign fishing operations so that conflicts with domestic fixed gear will be avoided. This measure is necessary as a result of conflicts that arose in 1979. No such restrictions are permitted to interfere with the attainment of OY, or of foreign national allocations of TALFF, in the absence of further amendments to the FMP. This subpart has not been approved but is still being reviewed by the Secretary.

(6) Specify a schedule to: apportion Reserves to the estimated domestic annual harvest (DAH) and the total allowable level of foreign fishing (TALFF); and transfer DAH to TALFF. The new schedule provides for apportionments as follows: April, 80 percent; June, 40 percent; and August, 20 percent. In contrast with the current schedule, the new schedule will postpone the first Reserve release until the United States fishery is fully under way and its progress can be assessed. The initial apportionments will be authorized at a level high enough to allow foreign and domestic fishermen to plan their activities for the rest of the year far in advance. Additionally, unscheduled apportionments to DAH of any Reserve amounts are authorized.

(7) Require biodegradable escape panels on sablefish pots. This measure would reduce ghost fishing—the continued capture of fish by lost pots.

It is important to note the following matters related to the proposed regulations.

(1) Specifications of OY's, DAH's Reserves, and TALFF's have been increased by ⅙ (two months) to reflect the "one-time only" transition from the plan's management year to the calendar year. Thus, a 14-month quota is proposed for the period November 1, 1980-December 31, 1981.

(2) Even though certain OY's are now Gulf-wide, reporting is still by fishing area.

(3) Although the amendment specifies an OY for the Southeast Inside district, and this OY is part of the plan, it is not reflected in the regulations because the Southeast Inside district is not in the fishery conservation zone.

(4) The specifications of TALFF's, Reserves, Domestic Annual Processing (DAP's), and Joint Vesture Processing (JVP's) in the foreign fishing regulations have been moved to Appendix 1 of § 611.20. This will facilitate the publication of Reserve releases and the codification of the regulations.

(5) The unallocated species concept is not applied to domestic fishermen. The reader is reminded, however, that other statutes prohibit the retention of certain species by domestic trawl fishermen.

(6) The regulations allow the Regional Director to undertake an unscheduled release, from Reserve to DAH. The current foreign fishing regulations (§ 611.92(b)(1)(ii)(C)(*4*))require appropriate notice and a comment period prior to the effective date of any such release.

(7) The annual reporting requirements have been slightly modified to require a one-time report for November-December, 1980.

The Assistant Administrator has determined that this amendment to the FMP is necessary and appropriate to the conservation and management of Gulf of Alaska groundfish, and that it is consistent with the National Standards of section 301 of the FCMA, other provisions of the FCMA, and other applicable law. He has, therefore, approved the amendment pursuant to section 304 of the FCMA, and proposed regulations to implement the amendment. Those proposed regulations follow the amendment, pursuant to section 305 of the FCMA.

The Assistant Administrator has determined that promulgation of the amendment and the proposed implementing regulations does not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act, and that it does not constitute a significant regulation requiring the preparation of a regulatory analysis under Executive Order 12044. He has further determined that the amendment and regulations will be carried out in a manner that is consistent, to the maximum extent practicable, with the Alaska Coastal Management Program.

(16 U.S.C. 1801 *et seq.*)

Signed in Washington, D.C., this the 5th day of September, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

A. the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska is amended as follows:

Summary. Delete recommendation 4 at the end and substitute the following: "4. Distribute the OY through the three regulatory areas of the Gulf of Alaska proportional to the biomass of the stocks found in those areas except for thornyhead rockfish, squid, other species, and other rockfish, for which Gulf-wide OY's apply. This provision applies to both United States and foreign fishermen."

1.0 Table of Contents. Add to the list of figures, "figure 1b 'districts of the Eastern Regulatory Area'." Add to 11.0—Appendices, "11.2 'Categories of Species Involved in the Gulf of Alaska Groundfish Fishery.' "

2.0 Introduction. Add the following paragraph after the third paragraph: "For the first two years of its implementation, the Plan provided for a management year extending from November 1 to October 31, and was considered to expire at the end of each management year. This Plan now incorporates a management year that corresponds to the calendar year, in the interest of administrative convenience and reduction of cost. Based upon two years of experience in the implementation of the Plan, the Council concluded in 1980 that its provisions should remain in effect until specifically rescinded or modified. Thus, this Plan has no expiration date, and its provisions will be changed as new scientific information on the Gulf of Alaska groundfish fishery is gathered and considered by the Council."

3.1 Areas and Stocks Involved. Add after the first sentence: "For sablefish, the Eastern regulatory area is further divided into the Yakutat, Southeast Inside, and Southeast Outside districts (Figure 1b)."

Figure 1b. Add Figure 1b, depicting the Yakutat, Southeast Inside, and Southeast Outside districts.

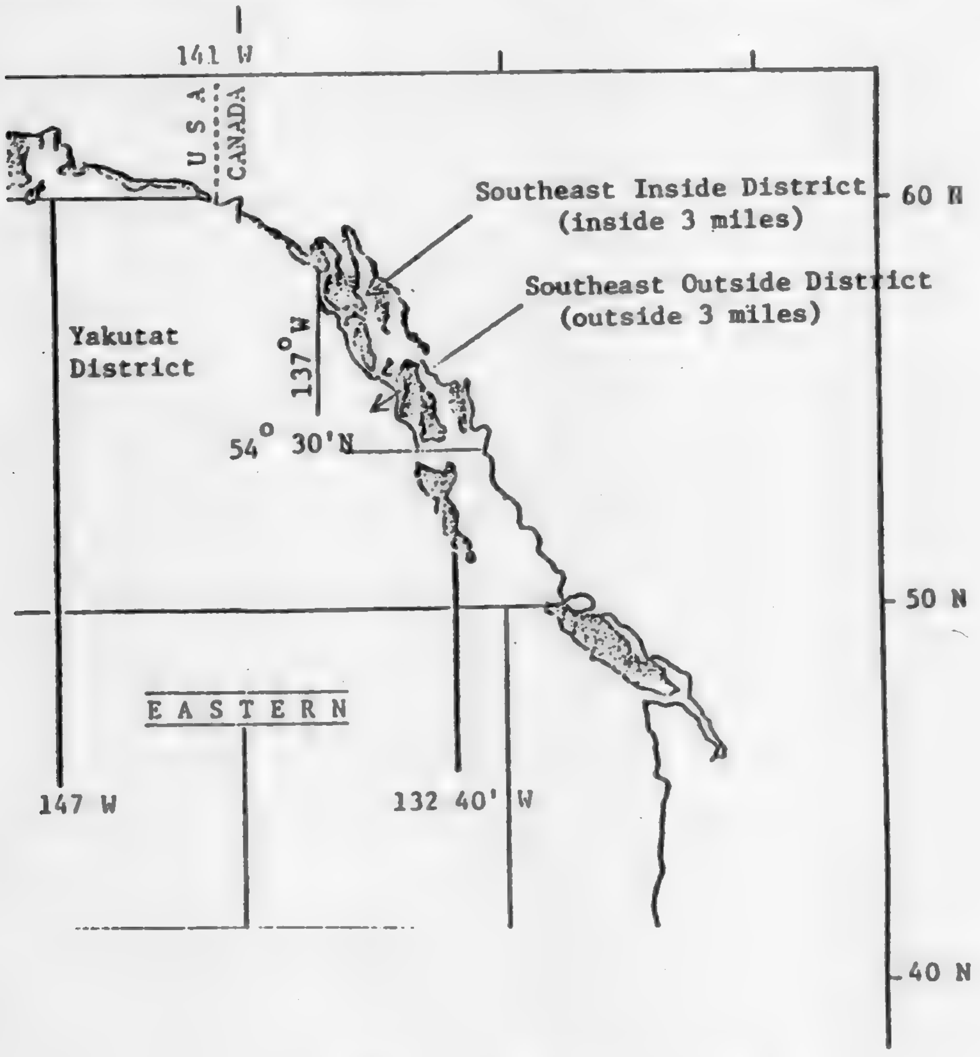

Figure 1b. Districts of the Eastern Regulatory Area

Table 58. Replace with a new Table 58 eliminating the area breakdown for squid, other species, and other rockfish. Include a new footnote 6 under OY for sablefish in the Eastern area, setting forth the following OY's for the three new districts: Yakutat—3,400 metric tons; Southeast Outside—3,000 metric tons; Southeast Inside—700 metric tons. Delete all references to rattails.

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Table 58 -- The Derivation of Optimum Yield (OY) for Gulf of Alaska Groundfish Resources (1,000s mt)

	SPECIES	WESTERN	CENTRAL	EASTERN	TOTAL
Exploitable biomass	Pollock	357 - 713	595 -1191	103 - 206	1055 - 2110
	Pacific cod	40 - 79	82 - 161	23.9 - 48	368 - 736
	Flounders	220	346	206	772
	Pacific Ocean Perch		-Unknown-		
	Other Rockfish		-Unknown-		
	Sablefish		-Unknown-		
	Atka Mackerel				
	Squid				(110) 1/
	Thornyhead Rockfish		-Unknown-		
Maximum Sustainable Yield (MSY)	Pollock				169 - 338
	Pacific Cod				88 - 177
	Flounders				67
	Pacific Ocean Perch				125 - 150
	Other rockfish				7.6 - 10
	Sablefish				22 - 25
	Atka Mackerel				(33) 1/
	Squid				5.0
	Thornyhead Rockfish				3.75
Equilibrium Yield (EY) When stock incapable of producing MSY	Pollock				N/A
	Pacific Cod				N/A
	Flounders				N/A
	Pacific Ocean Perch				50
	Other Rockfish				N/A
	Sablefish				17.4 - 19.8
	Atka Mackerel				N/A
	Thornyhead Rockfish				N/A
Allowable Biological Catch (ABC)	Pollock 2/	57.0	95.2	16.6	168.8
	Pacific Cod 2/	16.5	33.5	10.0	60.0
	Flounders 2/	20.8	30.6	16.6	67.0
	Pacific Ocean Perch 3/	5.3	15.7	29.0	50.0
	Other Rockfish 3/				7.6
	Sablefish 3/	2.8	5.1	10.6	17.4
	Atka Mackerel 4/	4.7	20.8	3.2	28.7
	Squid 5/				5.0
	Thornyhead Rockfish				3.75
	Other Species				16.2
Optimum Yield (OY)	Pollock	57.0	95.2	16.6	168.8
	Pacific Cod	16.6	33.5	9.9	60.0
	Flounders	10.4	14.7	8.4	33.5
	Pacific Ocean Perch	2.7	7.9	14.4	25.0
	Other Rockfish		(OY apportioned Gulf-wide)		7.6
	Sablefish	2.1	3.8	7.1 6/	13.0
	Atka Mackerel	4.7	20.8	3.2	28.7
	Squid		(OY apportioned Gulf-wide)		5.0
	Thornyhead Rockfish		(OY apportioned Gulf-wide)		3.75
	Other Species		(OY apportioned Gulf-wide)		16.2
	TOTAL	93.5	175.9	59.6	361.55

1/ From unsubstantiated Soviet reports.
2/ Apportioned on basis of trawl survey data.
3/ Apportioned on basis of 1973-75 Japanese Catch.
4/ Apportioned on basis of 1973-75 soviet catch and 1978 Japanese catch.
5/ Apportioned equally to each INPFC area.
6/ Apportioned as follows: Yakutat District - 3400 metric tons
Southeast Outside - 3000 metric tons
Southeast Inside - 700 metric tons.

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4.7.6.1 Maximum Sustainable Yield [Sablefish]. Add after the last sentence: "It is generally accepted that, although separate stocks of sablefish have not been identified, interchange among areas occurs at a slow rate. Within the Eastern regulatory area, domestic fishing is concentrated in grounds that are close to shore, whereas foreign fishing is dispersed. In order to help distribute the domestic harvest, the Eastern regulatory area has been subdivided into the Yakutat, Southeast Inside, and Southeast Outside districts."

Table 61. Replace with a new Table 61 that deletes all references to rattails.

Table 61.—*Expected Domestic Annual Harvest (DAH) of Groundfish From the Gulf of Alaska*

[In metric tons]

Species	Metric tons
Pollock	21,310
Pacific cod	10,000
Flounders	3,180
Pacific Ocean perch	2,915
Other rockfish	900
Sablefish	6,480
Atka mackerel	2,070
Squid	150
Thornyhead rockfish	6
Other species	1,720
Total	48,731

6.1 Departure from MSY to ABC for Biological Reasons. At the end of the section add: "In the case of sablefish, where interchange among areas is slow, over- and under-exploitation of different portions of the resource within the Eastern regulatory area is probably the result of recent patterns of fishing by domestic and foreign fishermen. This area has, therefore, been subdivided into the Yakutat, Southeast Inside, and Southeast Outside districts."

6.2 Departure from ABC for Socioeconomic Reasons:

Sablefish. At the end of the paragraph, add: "OY's for the districts within the Eastern regulatory area are as follows: Yakutat—3,400 metric tons; Southeast Outside—3,000 metric tons; Southeast Inside—700 metric tons. These district OY's are based on historical domestic and foreign catch statistics and on biomass estimates."

6.3 Optimum Yield (OY). Add at the end of the section: "The optimum yield concept is applied in a different manner to each of four categories of species and species groups that are taken by the groundfish fishery.

1. *Unallocated Species.* Except to the extent that their harvest is authorized under other regulations, the taking of these species must be avoided and, when they are taken, they must be returned to the sea immediately. These species include shrimps, scallops, snails, Pacific herring, Pacific halibut, salmonids, king crab, Tanner crab, Dungeness crab, corals, surf clam, horsehair crab, and lyre crab.

2. *Target Species.* These are the species, discussed above, which are commercially important and are generally targeted upon by the groundfish fishery. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species must be kept. These species include pollock, Pacific cod, flounders, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead rockfish.

3. *Other Species.* These are species currently having only slight economic value and are not generally targeted upon, but which either are significant components of the ecosystem or have economic potential. While insufficient data exist for the management of each species on a separate basis, there is a high degree of confidence that the MSY for these species is not less than 5 percent of the combined OY's for target species, and the OY for 'other species' is set at that figure. Records of the catch of 'other species' must be kept. These species include sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

4. *Nonspecified Species.* This is a residual category of species and species groups of no current or foreseeable economic value or ecological importance, which are taken in the groundfish fishery as an accidental by-catch and are in no apparent danger of depletion. This category includes rattails, which was formerly treated as a separate species. Little significant research has been done on these species. There is, however, a high degree of confidence that the MSY of these species is larger than the amount of them that is likely to be taken incidentally to groundfish operations under the Plan, and the OY for this category is so expressed. These species may be either retained or discarded, and only records of the total amount retained, if any, must be kept. If observer or enforcement records were to indicate either the development of a target fishery for any of these species or a reduction in their abundance, it is the Council's intent that this Plan be amended promptly to reclassify the species in question."

6.4 Reserves. (new section). Add a new 6.4 as follows: "*6.4 Reserves.* The Reserve, which equals 20 percent of OY, except for sablefish in the Southeast Inside and Southeast Outside districts of the Eastern regulatory area where there is no reserve, is to be apportioned to domestic or foreign fisheries as the season progresses, on the basis of cumulative appraisals of DAH. The figures for OY, Reserve, DAH, and TALFF for the Gulf of Alaska are set forth in table 62. For certain species categories, these figures are apportioned among the three regulatory areas of the Gulf of Alaska, as set forth in Table 64.

As soon as practicable after the first day of the following months and after consultation with the Council, the Regional Director may apportion to TALFF all or part of the following amounts of each reserve: April—40 percent; June—40 percent; August—20 percent.

As soon as practicable after the first day of August, the Regional director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the year.

As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may reassess the DAH and apportion to DAH any amounts of any Reserve that he determines are needed to supplement DAH: April, June, and August."

Table 61a. Replace with a new table 61a, which deletes all references to rattails and eliminates the regulatory area quotas for squid, thornyhead rockfish, other rockfish, and other species.

Table 61-a

Revised DAH by Species by Area (Metric Tons)

Species	Area	Western	Central	Eastern	Total
Pollock		5,775	13,320	2,215	21,310
Pacific Cod		1,880	6,050	2,070	10,000
Flounder		700	1,120	1,360	3,180
Pacific Ocean Perch		345	1,255	1,315	2,915
Other Rockfish			Gulf-wide OY		900
Sablefish		270	1,220	4,990	6,480
Atka Mackerel		290	1,080	700	2,070
Squid			Gulf-wide OY		150
Thornyhead Rockfish			Gulf-wide OY		6
Other Species			Gulf-wide OY		1,720

Table 62. Replace with a new Table 62, which deletes all references to rattails.

Table 62.—*Gulf of Alaska TALFF*

[In thousands of metric tons]

Species	Oy	Reserve	DAH	TALFF [1]
Pollock	168.8	33.76	21.31	113.73
Pacific cod	60.0	12.0	10.0	38.00
Flounders	33.5	6.7	3.18	23.62
Pacific Ocean perch	25.0	5.0	2.915	17.085
Other rockfish	7.6	1.52	0.9	5.18
Sablefish	13.0	2.6	6.48	3.92
Atka mackerel	28.7	5.74	2.07	20.89
Squid	5.0	1.0	.15	3.85
Thornyhead rockfish	3.75	.75	.006	2.994
Other species	16.2	3.24	1.72	11.24
Total	361.55	71.57	48.731	241.249

[1] (Initial) TALFF: May be increased as reserve and/or DAH is apportioned during the year.

Table 63. Replace with a new Table 63 which eliminates the breakdown by regulatory area of quotas for squid, other species, thornyhead rockfish, and other rockfish, and deletes all references to rattails.

Table 63 -- Percentages of OY Apportioned to GOA Regulatory Areas

Species	Western	Central	Eastern	Total
Pollock	33.8	56.4	9.8	100
Pacific Cod	27.6	55.9	16.5	100
Flounders	31.0	44.0	25.0	100
Pacific Ocean Perch	10.8	31.4	57.8	100
Other Rockfish		Gulf-wide OY		100
Sablefish	16.0	29.0	55.0	100
Atka Mackerel	16.3	72.6	11.1	100
Squid		Gulf-wide OY		100
Thornyhead Rockfish		Gulf-wide OY		100
Other Species		Gulf-wide OY		100

Table. 64. Replace with a new Table 64 which eliminates the area breakdown of quotas for squid, thornyhead rockfish, other species, and other rockfish; deletes all references to rattails; and adds a new footnote 2 to the sablefish figures for the Eastern regulatory area, as follows: "[2] See Table 65 for Sablefish OY–DAH–DAP–JVP–Reserve–TALFF within the Eastern regulatory area."

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TABLE 64

OY--DAH--DAP--DNP--JVP--Reserve--and TALFF by Area (1000s mt)

SPECIES		WESTERN	CENTRAL	EASTERN	TOTAL
Pollock	1. OY	57.0	95.2	16.3	168.8
	2. DAH				21.31
	3. ...DAP	0.025	5.38	0.695	
	4. ...JVP	5.75	7.94	1.52	
	5. RESERVE	11.4	19.04	3.32	33.76
	6. TALFF	39.825	62.84	11.065	113.73
Pacific Cod	1. OY	16.56	33.54	9.9	60.0
	2. DAH				10.00
	3. ...DAP	0.24	3.48	0.280	
	4. ...DNP[1]	0.60	1.200	1.200	
	5. ...JVP	1.04	1.37	0.59	
	6. Reserve	3.312	6.708	1.980	12.0
	7. TALFF	11.368	20.782	5.850	38.0
Flounders	1. OY	10.4	14.7	8.4	33.5
	2. DAH				3.18
	3. ...DAP	0.1	0.3	0.9	
	4. ...JVP	0.6	0.82	0.46	
	5. RESERVE	2.08	2.94	1.68	6.7
	6. TALFF	7.62	10.64	5.36	23.62
Pacific Ocean Perch	1. OY	2.7	7.9	14.4	25.0
	2. DAH				2.915
	3. ...DAP	0.025	0.295	0.08	
	4. ...JVP	0.32	0.96	1.235	
	5. RESERVE	0.54	1.58	2.88	5.0
	6. TALFF	1.815	5.065	10.205	17.085
Other Rockfish	1. OY				7.6
	2. DAH				0.9
	3. ...DAP		Gulf-wide OY		
	4. ...JVP				
	5. RESERVE				1.52
	6. TALFF				5.18
Sablefish	1. OY	2.1	3.8	7.1[2]	13.0
	2. DAH				6.48
	3. ...DAP	0.1	1.00	4.70[2]	
	4. ...JVP	0.17	0.22	0.29[2]	
	5. RESERVE	0.42	0.76	1.42[2]	2.6
	6. TALFF	1.41	1.82	0.69[2]	3.92

SPECIES		WESTERN	CENTRAL	EASTERN	TOTAL
Atka Mackerel	1. OY	4.678	20.836	3.186	28.7
	2. DAH				2.07
	3. ...DAP	0	0	0	
	4. ...JVP	0.290	1.080	0.70	
	5. RESERVE	0.936	4.167	0.637	5.740
	6. TALFF	3.452	15.589	1.849	20.89
Squid	1. OY				5.0
	2. DAH				0.15
	3. ...DAP	Gulf-wide OY			
	4. ...JVP				
	5. RESERVE				1.0
	6. TALFF				3.85
Thornyhead Rockfish (Sebastolobus)	1. OY				3.75
	2. DAH				0.006
	3. ...DAP	Gulf-wide OY			
	4. ...JVP				
	5. RESERVE				0.75
	6. TALFF				2.994
Other Species	1. OY				16.2
	2. DAH				1.72
	3. ...DAP	Gulf-wide OY			
	4. ...JVP				
	5. RESERVE				3.24
	6. TALFF				11.24

1/ DNP estimate is based on longline and crab bait trends.

2/ See Table 65 for Sablefish OY-DAH-DAP-JVP-Reserve-TALFF within the Eastern Area.

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Table 65. Add a new Table 65, "Sablefish OY–DAH–DAP–JVP–Reserve–TALFF for districts within the Eastern Regulatory Area (metric tons)."

Table 65.—*Sablefish OY–DAH–DAP–JVP–Reserve–TALFF for Districts Within the Eastern Regulatory Area*

[In metric tons]

	Yakutat district	Southeast inside district	Southeast outside district	Total
OY	3,400	700	3,000	7,100
DAH	1,380	700	2,910	4,990
DAP	1,180	700	2,820	4,700
JVP	200	0	90	290
Reserve	1,420	0	0	1,420
TALFF	600	0	90	690

8.3.1(E) Domestic Gear Restrictions. Add to the section: "Sablefish pots must contain biodegradable escape panels in order that lost pots do not continue fishing."; strike "none."

11.2 Appendix. Add a new Appendix 11.2, "Categories of Species Involved in the Gulf of Alaska Groundfish Fishery."

Appendix 11.2.—*Categories of Species Involved in the Gulf of Alaska Groundfish Fishery*

Unallocated species [1]	Target species [2]	"Other" species [3]	Nonspecified species [4]
Salmonids, halibut, herring, king crab, Tanner crab, coral shrimp, clams, horsehair crab, lyre crab, scallops, snails, Dungeness crab, and surf clams.	Pollock, cod, flounders, Atka mackerel, sablefish, Pacific Ocean perch, thornyhead rockfish, other rockfish, and squid.	Sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.	All species not included in other three categories.

[1] Must be returned to the sea, records must be maintained.

[2] Commercially important; sufficient data base to allow management based on biological, social, economic and ecological characteristics; specific OY applies to each species; records must be maintained.

[3] Slight economic value, greater economic potential or important ecosystem component, but insufficient data to allow discrete species management; records must be maintained of the aggregate catches.

[4] No current economic value, may be discarded or retained, but if retained records must be maintained of the aggregate retained catches.

PART 611—FOREIGN FISHING

§ 611.20 Appendix I [Amended]

B. It is proposed to amend 50 CFR 611.20, Appendix I, by inserting the following:

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Appendix 1, Section 611.20 (continued)

	Species	Species Code	Areas	OY	DAH	DAP	JVP= (DAH - DAP)	DNP	Reserve	TALFF
4. Alaska Fisheries:										
E. Gulf of Alaska Groundfish Fishery.	Pollock	701	Western[5]	66,500	6,737	29	6,708		13,300	46,463
			Central[5]	111,066	15,540	6,277	9,263		22,213	73,313
			Eastern[5]	19,367	2,584	811	1,773		3,874	12,909
			TOTAL	196,933	24,861				39,387	132,685
	Pacific Cod	702	Western	19,320	2,193	280	1,213	700	3,864	13,263
			Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246
			Eastern	11,550	2,415	327	688	1,400	2,310	6,825
			TOTAL	70,000	11,666				14,000	44,334
	Flounders	129	Western	12,133	816	116	700		2,427	8,890
			Central	17,150	1,307	350	957		3,430	12,413
			Eastern	9,800	1,587	1,050	537		1,960	6,253
			TOTAL	39,083	3,710				7,817	27,556
	Pacific Ocean Perch[4]	780	Western	3,150	402	29	373		630	2,118
			Central	9,217	1,465	344	1,121		1,843	5,909
			Eastern	16,800	1,534	93	1,441		3,360	11,906
			TOTAL	29,167	3,401				5,833	19,933
	Other Rockfish[6]	849	TOTAL	8,867	1,050				1,773	6,044
	Sablefish[7]	703	Western	2,450	315	117	198		490	1,645
			Central	4,433	1,423	1,167	256		887	2,123
			Yakutat District[5]	3,966	1,610	1,377	233		1,656	700
			Southeast Outside[5]	3,500	3,395	3,290	105		0	105
			TOTAL	14,349	6,743				3,033	4,573
	Atka mackerel	207	Western	5,458	338	0	338		1,092	4,028
			Central	24,309	1,260	0	1,260		4,862	18,187
			Eastern	3,717	817	0	817		743	2,157
			TOTAL	33,484	2,415				6,697	24,372
	Squid	509	TOTAL	5,833	175				1,167	4,491
	Other species[8]	499	TOTAL	18,900	2,007				3,780	13,113
	Thornyhead rockfish	749	TOTAL	4,375	7				875	3,493

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5. See figures 1 and 2 of section 611.92(a) for description of regulatory areas.

6. The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above and "Thornyhead rockfish," *Sebastolobus*.

7. Excludes values for the Southeast Inside District, which is not governed by these regulations.

8. The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

§ 611.92 [Amended]

C. It is proposed to amend 50 CFR 611.92 as follows:

(1) Amend paragraph (a)(3) to read:

(a) * * *

(3) The specifications of total allowable levels of foreign fishing (TALFF's) and reserves in Appendix 1 to § 611.20 are effective from November 1, 1980, through December 31, 1981, unless amended. After December 1, 1981, TALFF's and reserves shall be specified on a calendar year basis."

* * * * *

(2) Reletter paragraphs (b), (c), (d), (e), and (f) as paragraphs (c), (d), (e), (f), and (g), respectively. Throughout § 611.92, all references to paragraphs (b), (c), (d), (e), and (f) are changed to (c), (d), (e), (f), and (g), respectively.

(3) Insert a new paragraph (b) as follows:

* * * * *

(b) *Categories of Species.* Four categories of species are recognized for regulatory purpose in this fishery.

(1) "Unallocated species" include shrimps, scallops, snails, Pacific herring, Pacific halibut, salmonids, king crab, Tanner crab, Dungeness crab, corals, surf clam, horsehair crab, and lyre crab. Except to the extent that their harvest is authorized under other regulations, the taking of these species must be avoided and, when they are taken, they must be returned to the sea immediately, in accordance with 50 CFR 611.13.

(2) "Target species" are the species that are commercially important and are generally targeted upon by the groundfish fishery. They include pollock, Pacific cod, flounders, Pacific Ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept.

(3) "Other species" are species currently having only slight economic value and not generally targeted upon, but which either are significant components of the ecosystem or have economic potential. These species include sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The optimum yield for these species as a category is set at 5 percent of the combined optimum yields of the target species. Records of the catch of other species must be kept.

(4) "Nonspecified species" include all fish other than those specifically listed in paragraphs (b)(1), (2), and (3) of this section. It is thus a residual category of species of no current or foreseeable economic value or ecological importance which are taken by the groundfish fishery as an accidental bycatch and are in no apparent danger of depletion. Nonspecified species may be either retained or discarded, and only records of the total amount retained, if any, must be kept.

These species categories and the species and species groups of which they are composed are set forth in Table I.

(4) Add Table I, which sets forth the four species categories.

Table I.—*Categories of Species Involved in the Gulf of Alaska Groundfish Fishery*

Unallocated species[1]	Target species[2]	"Other" species[3]	Non-specified species[4]
Salmonids, halibut, herring, king crab, Tanner crab, coral, shrimp, clams, horsehair crab, lyre crab, scallops, snails, Dungeness crab, and surf clams.	Pollock, cod, flounders, Atka mackerel, sablefish, Pacific Ocean perch, thornyhead rockfish, other rockfish, and squid.	Sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.	All species not included in other three categories.

[1] Must be returned to the sea, records must be maintained.

[2] Commercially important; sufficient data base to allow management based on biological, social, economic and ecological characteristics; specific OY applies to each species; records must be maintained.

[3] Slight economic value, greater economic potential or important ecosystem component, but insufficient data to allow discrete species management; records must be maintained of the aggregate catches.

[4] No current economic value, may be discarded or retained, but if retained records must be maintained of the aggregate retained catches.

(5) Position a new Figure 2, which illustrates the three regulatory districts of the Eastern regulatory area, next to Figure 1.

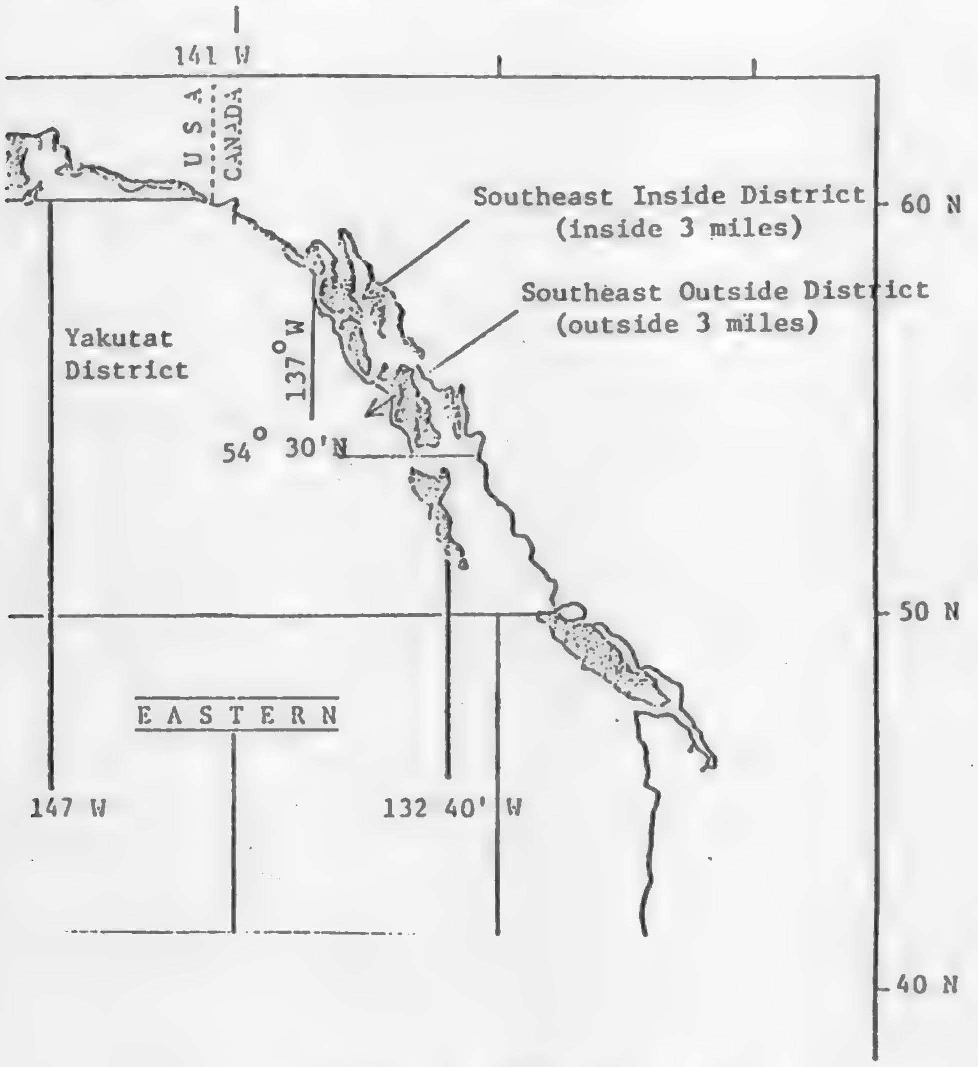

Figure 2. Districts of the Eastern Regulatory Area

(6) Amend the newly lettered paragraph (c)(1)(i) to read:

* * * * *

(c) * * *
(1) * * *

(i) The specifications of optimum yield (OY), estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and TALFF's and Reserves are set forth in Appendix 1 to § 611.20. Species listed in paragraph (b)(1) and Table I of this section as "unallocated species," or for which the TALFF listed in Appendix 1 to § 611.20 is zero, shall be treated as prohibited species in accordance with 50 CFR 611.13.

* * * * *

(7) Amend the newly lettered paragraph (c)(1)(ii)(A) to read:

* * * * *

(c) * * *
(1) * * *
(ii) * * *

(A) *Apportionment of Reserves.* (*1*) As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(1)(ii)(C) of this section, all or part of the following amounts of each Reserve: April—40 percent; June—40 percent; August—20 percent.

(*2*) As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may apportion to DAH, in accordance with paragraph (c)(1)(iii) of this section, any amounts of any Reserve that he determines to be needed to supplement DAH: April, June, and August.

* * * * *

(8) Amend newly lettered paragraph (c)(1)(ii)(B) to read:

* * * * *

(c) * * *
(1) * * *
(ii) * * *

"(B) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the year."

* * * * *

(9) Amend newly lettered paragraph (c)(2)(ii) by changing the words "species group" wherever they appear to "species category," and to delete all references to rattails.

(10) Amend the first paragraph of newly lettered paragraph (g) to read:

* * * * *

(g) In addition to the requirements of § 611.9, each nation whose fishing vessels fish subject to this section shall submit a written annual report to the Regional Director setting forth catch and effort statistics regarding fishing activities conducted under this section from January 1 through December 31 by May 31 of the following year. A two-month report will be required by May 31, 1981, for the period November 1 through December 1, 1980.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

D. It is proposed to Amend 50 CFR Part 672 as follows:

§ 672.2 [Amended]

(1) Amend 50 CFR Part 672.2 by inserting the following before the definition of "Fishing vessel:" "Regulatory district means any of three districts of the Eastern regulatory area as follows: Southeast Outside district: All waters of the FCZ east of 137° West longitude. Southeast Inside district: All waters of the territorial sea (within three miles) east of 137° West longitude and north of 54°30′ North latitude. Yakutat district: All other portions of the Eastern regulatory area."

(2) Replace the former Table I with a new Table I, which eliminates (1) all reference to rattails, and (2) the area breakdown for squid, thornyhead rockfish, other rockfish, and other species.

BILLING CODE 3510-22-M

Table I: OY, DAH, DAP, DNP, JVP, Reserve, and TALFF by Regulatory Area[1]

Species	Species Code	Areas	OY	DAH	DAP	JVP= (DAH - DAP)	DNP	Reserve	TALFF
Pollock	701	Western	66,500	6,737	29	6,708		13,300	46,463
		Central	111,066	15,540	6,277	9,263		22,213	73,313
		Eastern	19,367	2,584	811	1,773		3,874	12,909
		TOTAL	196,933	24,861				39,387	132,685
Pacific Cod	702	Western	19,320	2,193	280	1,213	700	3,864	13,263
		Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246
		Eastern	11,550	2,415	327	688	1,400	2,310	6,825
		TOTAL	70,000	11,666				14,000	44,334
Flounders	129	Western	12,133	816	116	700		2,427	8,890
		Central	17,150	1,307	350	957		3,430	12,413
		Eastern	9,800	1,587	1,050	537		1,960	6,253
		TOTAL	39,083	3,710				7,817	27,556
Pacific Ocean Perch[2]	780	Western	3,150	402	29	373		630	2,118
		Central	9,217	1,465	344	1,121		1,843	5,909
		Eastern	16,800	1,534	93	1,441		3,360	11,906
		TOTAL	29,167	3,401				5,833	19,933
Other Rockfish[3]	849	TOTAL	8,867	1,050				1,773	6,044
Sablefish	703	Western	2,450	315	117	198		490	1,645
		Central	4,433	1,423	1,167	256		887	2,123
		Yakutat District[4]	3,966	1,610	1,377	233		1,656	700
		Southeast Outside[4]	3,500	3,395	3,290	105		0	105
		TOTAL	14,349	6,743				3,033	4,573
Atka mackerel	207	Western	5,458	338	0	338		1,092	4,028
		Central	24,309	1,260	0	1,260		4,862	18,187
		Eastern	3,717	817	0	817		743	2,157
		TOTAL	33,484	2,415				6,697	24,372
Squid	509	TOTAL	5,833	175				1,167	4,491
Other species[5]	499	TOTAL	18,900	2,007				3,780	13,113
Thornyhead rockfish	749	TOTAL	4,375	7				875	3,493

1/ See 672.2 for a description of Regulatory Areas and Districts.

2/ The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

3/ The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above and "Thornyhead Rockfish", *Sebastolobus*.

4/ Excludes values for the Southeast Inside District, which is not governed by these regulations.

5/ The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

BILLING CODE 3510-22-C

§ 672.20 [Amended]

(3) Amend 50 CFR § 672.20(a) to read: (a) The specifications of optimum yield (OY), Reserves, estimates of domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for species regulated under this part are set forth in Table I. These specifications are effective from November 1, 1980, through December 31, 1981, unless amended. After December 31, 1981, these specifications shall be on a calendar year basis. When the combined catch by foreign and United States vessels reaches the OY amount for a species or species category, further fishing for all species shall be prohibited in the applicable regulatory area for the remainder of the year, except that fishing for sablefish by fishing vessels of the United States using longline gear shall not be prohibited unless the OY for sablefish in that fishing area or district has been reached.

* * * * *

(4) Change the title of newly lettered paragraph (c) to read:

* * * * *

(c) *Apportionment of Reserves and Initial DAH.*

* * * * *

5. Amend newly lettered paragraph (c)(1) to read:

* * * * *

(c) * * *

(1) *Apportionment of Reserves.* (i) As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(3) of this section, all or part of the following amounts of each reserve: April—40 percent; June—40 percent; August—20 percent.

(ii) As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may apportion to DAH, in accordance with paragraph (c)(3) of this section, any amounts of any reserve that he determines to be needed to supplement DAH: April, June, and August.

* * * * *

(6) Amend paragraph (c)(2) to read:

* * * * *

(c) * * *

(2) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the fishing year.

* * * * *

(7) Amend § 672.24 to read:

§ 672.24 Biodegradable escape panels required for all sablefish pots.

Each sablefish pot used in fishing under these regulations shall have a biodegradable panel. This panel shall consist of an opening in the webbing of the pot which has been laced, sewn, or secured by untreated cotton twine or other natural fiber no larger than 120 thread which, upon deterioration, produces an opening in the web with a perimeter equal to the perimeter of the tunnel eye opening.

[FR Doc. 80-27811 Filed 9-10-80; 8:45 am]

BILLING CODE 3510-22-M

V 45 SE 11 80 UMI

Notices

Federal Register
Vol. 45, No. 178
Thursday, September 11, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Challis National Forest Grazing Advisory Board; Meeting

The Challis National Forest Advisory Board will meet at 1:00 p.m. MDT, on October 21, 1980 at the Challis National Forest Supervisor's Office, Challis, Idaho. The purpose of this meeting is to discuss, and receive advice and recommendations for, the utilization of range betterment funds, and development of allotment management plans for FY 1983.

The meeting will be open to the public. Persons who wish to attend should notify Ralph Jenkins at the Challis National Forest Supervisor's Office, Challis, Idaho. Written statements may be filed with the committee before or after the meeting.

Jack E. Bills,

Forest Supervisor.

[FR Doc. 80-28064 Filed 9-10-80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Cooperative Forestry Reseach Advisory Board; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Cooperative Forestry Research Advisory Board.
Time: October 2, 1980, 7:00 p.m.
Place: 3rd Floor Meeting Facility, Spokane Sheraton Hotel, Spokane, Washington.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: Written statements may be filed with the Board before or after the meeting with the contact person listed below and names of Board members may be obtained from the contact person.
Purpose: The Advisory Board will review new proposals on the structure of the formula for the allocation of funds appropriated for the McIntire-Stennis program.
Contact person for agenda and more information: W. I. Thomas, Executive Secretary of the Board, Science and Education Administration, Cooperative Research, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-4423.

Done at Washington, D.C., this 28th day of August, 1980.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc.80-28056 Filed 9-10-80; 8:45 am]

BILLING CODE 3410-22-M

Soil Conservation Service

Batupan Bogue Creek Watershed, Mississippi; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone number (601) 960-4335.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the construction of one floodwater retarding structure in Batupan Bogue Creek Watershed, Grenada County, Mississippi.

The environmental assessment of this federally assisted action indicates this project will not cause significant local, regional, or national impacts to the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns the construction of one floodwater retarding structure. The floodwater retarding structure will be of the drop inlet type and will consist of an earthen embankment, concrete principal spillway with draw-down capability for fish and wildlife, and a vegetated earth emergency spillway.

The project will result in the conversion of approximately 7 acres of hardwood timber and 10 acres of abandoned open fields to the sediment pool of the proposed floodwater retarding structure. An additional 30 acres of hardwood forest and 4 acres of abandoned fields will be situated in the flood pool. The borrow area, emergency spillway, and levee will consist of approximately 4 acres of mixed pine-hardwood forest and 6 acres of abandoned open field.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard. An environmental assessment report has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment report are available to fill single copy requests at the above address.

No administrative action or implementation of the proposal will be taken until October 14, 1980.

Dated: August 28, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-27881 Filed 9-10-80; 8:45 am]

BILLING CODE 3410-16-M

Buffalo Elementary School Land Drainage R. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304-599-7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buffalo Elementary School Land Drainage R. C. & D. Measure, Wayne County, West Virginia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a subsurface drainage system totaling 1,180 feet of 4-inch flexible plastic pipe to correct internal drainage problems. These drains will be backfilled with gravel to the ground surface. This will improve infiltration and also provide suitable bedding for the tile.

The Notice of a Finding of No Significant Impact (FNSI) has data forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 14, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 28, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-27877 Filed 9-10-80; 8:45 am]

BILLING CODE 3410-16-M

North Bay Shoreline Stablization R.C. & D. Measure; Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Bay Shoreline Stablization RC&D Measure, Presque Isle County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include critical area planting, vehicle barriers, fencing, sodding, and tree and shrub planting. Total construction cost is estimated to be $7,200; $5,100 RC&D funds and $2,100 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 14, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 28, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resources Projects.

[FR Doc. 80-27884 Filed 9-10-80; 8:45 am]

BILLING CODE 3410-16-M

Ritter Park Land Drainage R.C. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agricuture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304-599-7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guildelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared from the Ritter Park Land Drainage R.C. & D. Measure, Cabell County, West Virginia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of subsurface drainage system totaling 3,740 feet of 4- and 6-inch flexible plastic pipe to correct internal drainage problems. These drains will be backfilled with gravel to the ground surface. This will improve infiltration and also provide suitable bedding for the tile.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 14, 1980.

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Dated: August 28, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–27883 Filed 9–10–80; 8:45 am]

BILLING CODE 3410–16–M

Riverview Beach Park Recreational Development R.C. & D. Measure, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201–246–1205.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Riverview Beach Park Recreational Development RC&D Measure, Salem County, New Jersey.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Plater T. Campbell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of water-based recreational facilities within the Riverview Beach Park. The planned works of improvement include picnic areas with shelters, a boat ramp, a fishing pier on the Delaware River, and associated comfort stations, parking lots, and utilities.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Plater T. Campbell. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementatioan of the proposal will not be initiated until October 14, 1980.

Dated: August 28, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–27885 Filed 9–10–80; 8:45 am]

BILLING CODE 3410–16–M

Rotary Park Critical Area Treatment R.C. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rotary Park Critical Area Treatment R.C. & D. Measure, Cabell County, West Virginia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure is designed to stabilize and revegetate about 2 acres of land that is now subject to accelerated erosion. Included in the planned works of improvement are land smoothing, water bars, and revegetation. Revegetation of all disturbed areas will consist of seedbed preparation, lime and fertilizer, seed, mulching, and shrubs. The installation of this measure will reduce the erosion and improve the aesthetics of the area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 14, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 28, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–27882 Filed 9–10–80; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Dockets 33362, 38175, and 38176]

Former Large Irregular Air Service Investigation and Applications of Flight Transportation Corp.; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding assigned to be held on September 17, 1980 at 10:00 a.m. (45 FR 58636, September 4, 1980) is postponed until September 18, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., September 8, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80–28007 Filed 9–10–80; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the rules and regulations of the U.S. Commission on Civil Rights that a press conference of the California Advisory Committee will convene at 10:30 a.m. and will end at 11:30 a.m., on September 25, 1980, at Greater Los Angeles Press

Club, 600 North Vermont, Los Angeles, California.

The purpose of this press conference is to release California State Advisory Committee report entitled, "California State Employment."

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Herman Sillas, Jr., U.S. Courthouse Bldg., 658 Capitol Mall, Sacramento, California 95814, 916/440-2331, or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, 213/688-3437.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 5, 1930.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-28086 Filed 9-10-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Calcium Pantothenate From Japan; results of administrative review of antidumping finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Results of Administrative Review of Antidumping Finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antidumping finding on calcium pantothenate from Japan. The scope of the review covers all known producers, exporters and transshippers of this merchandise, with the exception of Fuji Chemical Industries Ltd., which was excluded from the finding, Daiichi Seiyaku Co., Ltd., for which a revocation became effective on July 28, 1980, and Takeda Chemical Industries Ltd., which was exempted from the finding on September 21, 1979. The review covers separate time periods for each exporter up to December 31, 1979. This review indicates margins in particular periods for certain manufacturers and exporters. As a result of this review, the Department has preliminarily decided to assess dumping duties for individual exporters equal to the calculated margins on their shipments occurring during the periods for which margins have been found. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: September 11, 1980.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4033).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 17, 1974, a dumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury Decision 74-34 (39 Fed. Reg. 2086). On January 1, 1980, the provisions of Title I of the Trade Agreement Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce (hereinafter referred to as "the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 Fed. Reg. 20511-12) a notice of intent to conduct administrative review of all outstanding dumping findings. As required by Section 751 of the Tariff Act of 1930 (hereinafter referred to as the "Act"), the Department has conducted an administrative review of the finding on calcium pantothenate from Japan.

Scope of the Review

Imports covered by this review are shipments of calcium pantothenate, a member of the B-complex vitamin family, which is produced in two grades: D-Cal Pan (USP grade which is used for human nutrition in the form of multi-vitamin tablets) and DL-Cal Pan (feed grade which is used as a food supplement for swine & poultry). They are provided for in item 437.82 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 40 manufacturers, shippers and transshippers of Japanese calcium pantothenate to the United States. Two of the manufacturers are not covered by this review: Fuji Chemical Industries Ltd., which was excluded from the finding, and Daiichi Seiyaku Co., Ltd., for which a revocation was published in the **Federal Register** on June 23, 1980 (45 Fed. Reg. 41995) that became effective on July 28, 1980. In addition, one shipper, Takeda Chemical Industries Ltd., whose sole supplier is Fuji Chemical Industries Ltd., was exempted from the finding in Customs Information Exchange N-534/72, supplement #24, dated September 21, 1979. The remaining 37 are listed below.

This review covers all time periods for which information is available, that is, all periods up to December 31, 1979, during which shipments of calcium pantothenate may have been made to the United States and for which master lists have not been issued. Different time periods are involved for different companies. For certain exporters the period covered is from June 8, 1973, the date liquidation was suspended, through December 31, 1979. For the remaining exporters the time frames vary depending on the last periods covered by master lists issued prior to January 1, 1980. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by such master lists, is under review. Liquidation has been suspended pending disposition of the issue.

There are two manufacturers covered by this review. The time periods for each are:

Firm and Period

Alps Pharmaceutical Co., Ltd.—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
Nippon Roche K.K.—April 1, 1979—December 31, 1979

The Department's records indicate that there are 25 Japanese shippers:

Firm and Period

Agropol Limited—June 8, 1973—December 31, 1979
Byron Chemical Co.—April 1, 1979—December 31, 1979
Chugai Boyeki Co.—June 8, 1978—December 31, 1979
Eisai Co., Ltd.—June 8, 1973—December 31, 1979
Fallek Chemicals—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
First Enterprise Inc.—June 8, 1973—December 31, 1979
Fututakan Sangyo—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
Helm Japan—June 8, 1973—December 31, 1979
Isho Inc.—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
Iwaki—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
Kamiyama Corp.—April 1, 1979—December 31, 1979
Kishimoto Trading Co.—April 1, 1979—March 31, 1979; April 1, 1979—December 31, 1979
Kowa—April 1, 1979—December 31, 1979
Marubeni Corp.—June 8, 1973—December 31, 1979
Maruzen Chemicals Co.—June 8, 1973—December 31, 1979
Mitsubishi Corp.—April 1, 1978—December 31, 1979
Mitsui & Co.—April 1, 1978—March 31, 1979; April 1, 1978—December 31, 1979
Sankei Pharmaceutical Co., Ltd.—June 8, 1973—December 31, 1979
Sankyo Co., Ltd.—June 8, 1973—December 31, 1979

V 45 SE 11 80 UMI

Shinonogi Seiyaku—April 1, 1978—March 31, 1979; April 1, 1979—December 31, 1979
Tanabe Seiyaku Co.—June 8, 1973—December 31, 1979
Tass International Inc.—June 8, 1973—December 31, 1979
Toho Bussan Co.—June 8, 1973—December 31, 1979
Tomen—April 1, 1979—December 31, 1979
Toyo Menka Kaisha—June 8, 1973—December 31, 1979

In addition, there are 10 non-Japanese foreign companies identified as shippers of Japanese calcium pantothenate. The Department has determined that for dumping purposes transshipped merchandise is within the scope of the finding, unless the marchandise has undergone substantial transformation or reprocessing which results in a product with a new character or use. In such a case the Department will consider the intermediate country as the country of origin. No such transformation has occurred here. Our review for all 10 companies covered shipments during the period June 8, 1973–December 31, 1979. These non-Japanese foregin companies are:

Company and Country

Chemeta B.V.—Netherlands
Chemical & Feeds Ltd.—United Kingdom
Chemical & Feeds Ltd.—W. Germany
Deutsch Norwegische GMBH—W. Germany
M. Gurvey & Berry—Canada
Helm—W. Germany
Lenk Chemicals Co.—Netherlands
Marsing—W. Germany
Siemsgluss & Sohn—W. Germany
Siemsgluss A.G.—Switzerland

The Department's records show that Alps also shipped to the United States through 14 of the 25 shippers. Our calculated margins for shipments through these companies are so designated in the *Results of the Review* below. Among the exporters, Mitsubishi Corporation's sole supplier was Daiichi Seiyaku Co., Ltd., and Tanabe's sole supplier was Fuji Chemical Industries Ltd. Accordingly, these two are excluded from the finding. Marubeni Corporation and Sankyo Co., Ltd. indicated they have not shipped calcium pantothenate to the United States since the suspension of liquidation. For these two, the Department used the margin calculated at the time of the fair value determination. Finally, eight exporters—Chugai Boyeki Co., Eisai Co., First Enterprise Inc., Isho Inc. (for the most recent period), Kamiyama Corp., Sakei Pharmaceutical Co., Ltd., Tass International Inc. & Toho Bussan Co.—did not respond or furnished inadequate responses to the Department's questionnaire. For these eight firms, the Department used the higher of the margins calculated for the two covered manufacturers for the most recent period as the best information available.

The transshippers, with the exception of M. Gurvey & Berry, Canada, provided either inadequate or no responses. For all but Gurvey & Berry the Department used the higher of the margins calculated for the two covered manufacturers for the most recent period as the best information available.

United States Price

In calculating United States price the Department used purchase price, as defined in Section 772(b) of the Act, since all sales were made to unrelated purchasers. Purchase price was calculated on the basis of the F.O.B. or C.I.F., packed price, to an unrelated purchaser in the United States or to an unrelated Japanese trading company for export to the United States, as appropriate. Where applicable, we deducted from this price ocean freight, insurance, postage, shipping charges, commissions, inland freight, brokerage charges and U.S. duty.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in Section 773(a)(1)(A) of the Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Both manufacturers sold over 15% of their total production in Japan. The home market prices are based upon the delivered price with adjustment for inland freight and interest charges, where applicable. No other adjustments were made or claimed.

Results of the Review

As a result of our comparison of United States price to foreign market value, I preliminarily determine that the following margins exist:

A. Japanese Co.

Exporter/Manufacturer	Time period	Percent margin
1. Agropol Limited/Alps	6/1/73–12/31/79	4.27
2. Alps Pharmaceutical Co., Ltd	4/1/78– 3/31/79	14.42
	4/1/79–12/31/79	0
3. Byron Chemical Co./Alps	4/1/79–12/31/79	6.6
4. Chugai Boyeki Company	6/8/73–12/31/79	11.52
5. Eisai Co., Ltd	6/8/73–12/31/79	11.52
6. Fallek Chemical/Alps	4/1/78– 3/31/79	
	4/1/79–12/31/79	25.13 (1)
7. First Enterprise Inc	6/8/73–12/31/73	11.52
8. Fukutaken Sangyo/Alps	4/1/79–12/31/79	6.6
9. Helm/Alps	6/8/73–12/31/79	1.78
10. Isho Inc./Alps	4/1/78– 3/31/79	0.642
	4/1/79–12/31/79	11.52
11. Iwaki/Alps	4/1/78– 3/31/79	
	4/1/79–12/31/79	0 (1)
12. Kamiyama Corp	4/1/79–12/31/79	11.52
13. Kishimoto Trading Co./Alps	4/1/79–12/31/79	3.02
14. Kowa/Alps	4/1/79–12/31/79	1.87
15. Marubeni Corp	4/1/79–12/31/79	(1)
16. Maruzen Chemicals Co/Alps	6/8/73–12/31/79	9.57
17. Mitsubishi Corporation/Daiichi Seiyaku Co., Ltd	4/1/79–12/31/79	(2)
18. Mitsui & Co./Alps	4/1/78– 3/31/79	24.54
	4/1/79–12/31/79	18.87
19. Nippon Roche K.K	4/1/79–12/31/79	11.52
20. Sankei Pharmaceutical Co., Ltd	6/8/73–12/31/79	11.52
21. Sankyo Co., Ltd	4/1/79–12/31/79	(1)
22. Shinonogi Seiyaku/Alps	4/1/78– 3/31/79	
	4/1/79–12/31/79	11.91 (1)
23. Tanabe Seiyaku Co/Fuji Chemical Industries Ltd	6/8/73–12/31/79	(2)
24. Tass International Inc	6/8/73–12/31/79	11.52
25. Toho Bussan Co	6/8/73–12/31/79	11.52
26. Tomen/Alps	4/1/79–12/31/79	0
27. Toyo Menka Kaisha/Alps	6/8/73–12/31/79	1.87

[1] No shipments.
[2] Excluding from finding.

B. Transshippers

Company and country	Time period	Percent margin
1. Chemeta B.V./Netherlands	6/8/73–12/31/79	11.52
2. Chemical & Feeds Ltd./United Kingdom	6/8/73–12/31/79	11.52
3. Chemical & Feeds/W. Germany	6/8/73–12/31/79	11.52
4. Deutsch Norwegische GMBH/W. Germany	6/8/73–12/31/79	11.52
5. Gurvey & Berry/Canada	6/8/73–12/31/79	0
6. Helm/W. Germany	6/8/73–12/31/79	11.52
7. Lenk Chemicals Corp./Netherlands	6/8/73–12/31/79	11.52
8. Marsing/W. Germany	6/8/73–12/31/79	11.52
9. Siemsgluss & Sohn/W. Germany	6/8/73–12/31/79	11.52
10. Siemsgluss A.G./Switzerland	6/8/73–12/31/79	11.52

Interested parties may submit written comments on this preliminary determination on or before October 14, 1980 and may request disclosure and/or a hearing on such determination on or before September 26, 1980. The Department will publish the results of its analysis of any such comments or hearing. Absent any comment, this determination will be made final 35 days from the date of publication of this notice. We will publish a notice of final determination at that time.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made during the time periods involved. Individual statutory values may vary from the percent stated above. The Department will issue appraisement instructions separately on each shipper directly to the Customs Service. Further, as required by Section 353.48(b) of Commerce Regulations, a cash deposit based upon the margin on the last known shipments, that is, the above margin amounts, will be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of the final determination. In those instances where an exporter covered by this review does not identify the manufacturer of merchandise being entered, the above margins will be the basis for the cash deposit until the exporter provides the appropriate identification. For Marubeni Corporation and Sankyo Co., Ltd., the two companies that have not shipped since suspension of liquidation, the fair value margin of 3.98% will be required. This requirement shall remain in effect until publication of the results of the next administrative review.

This administrative review and notice are in accordance with Section 751(a)(1) of the Act (93 Stat. 175, 19 U.S.C. 1675(a)(1)) and Section 353.53 of Commerce Regulations (19 CFR 353, 45 Fed. Reg. 8205).

John Greenwald,

Deputy Assistant Secretary, Import Administration.

September 8, 1980.

[FR Doc. 80-27974 Filed 9-10-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Merchant Marine Academy Advisory Board; Public Meeting

Notice is hereby given of a meeting of the Advisory Board to the U.S. Merchant Marine Academy (the Board) on October 3, 1980 at 1:00 p.m., in Wiley Hall, U.S. Merchant Marine Academy, Kings Point, New York.

The Advisory Board was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce selected from segments of the maritime industry, labor, educational institutions and other fields relating to the purposes of the Academy.

The Agenda for the meeting is:

1. Call meeting to order;
2. Opening Remarks by the Superintendent;
3. Approval of minutes of the last meeting;
4. Report of Board members on Assignments;
5. Status Report on the placements of the Class of 1980;
6. Status Report on Composition of the Class of 1984;
7. Status Report on H.R. 5451;
8. Report on Plans for the Middle States Accreditation visit;
9. Report on Faculty/Midshipmen Review of the Honor Code and Midshipman Pub Operations;
10. Regimental Commander's Report on the Plebe Indoctrination Program;
11. Sea-year Program
   (a) Present Program
   (b) Midshipmen Report on Sea Year
   (c) Impact of Proposed IMCO Requirements
12. Setting of date of next meeting.

This meeting is open to public observation and comment. Approximately 40 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Committee Control Officer, Arthur W. Friedberg, Director, Office of Maritime Labor and Training, Room 3069A, Department of Commerce Building, Washington, D.C. 20230, telephone A/C 202/377-3018.

Dated: September 2, 1980.

So Ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

Robert J. Patton,

Secretary.

[FR Doc. 80-27975 Filed 9-10-80, 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will hold its 31st regular meeting to consider: (1) status reports on fishery management plans (FMP's) under development; (2) draft framework FMP for shallow-water Reef Fishes; (3) interim draft document on the Coastal Migratory Pelagics FMP; (4) National Marine Fisheries Service's policy on joint preparation of FMP's; (5) next Chairmen and Executive Directors' meeting; (6) progress report on the preparation of a color slide-narrated presentation; and (7) administrative matters as well as other Council business.

DATES: The meetings, which are open to the public, will convene on Tuesday, September 30, 1980, at approximately 1:30 p.m., and will adjourn on Thursday, October 2, 1980, at approximately 12 noon.

ADDRESS: The meetings will take place at the Conference Room, Federal Building, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, telephone: (809) 753-4926.

Dated: September 8, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-28096 Filed 9-10-80; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: Natinal Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee, which will meet to discuss amendment #3 to the Surf Clam and Ocean Quahog Fishery Management Plan (FMP); Scup and Black Sea Bass FMP, as well as other fishery matters.

DATES: The meeting, which is open to the public, will convene on Wednesday, October 1, 1980, at approximately 10:30 a.m., and will adjourn at approximately 3:30 p.m.

ADDRESS: The meeting will take place at the Holiday Inn, Philadelphia Airport-South, 45 Industrial Highway, Essington, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: September 8, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-28097 Filed 9-10-80; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will meet to discuss groundfish—interim plan and amendment No. 5; lobster—report of oversight committee; scallops; herring—status of the fishery; Council operations, as well as other business.

DATE: The meetings, which are open to the public, will convene on Wednesday, September 24, and Thursday, September 25, 1980, at approximately 10 a.m., and will adjourn at 5 p.m., both days. The meetings may be lengthened, or agenda items rearranged, depending on progress on the agenda.

ADDRESS: The meetings will take place at King's Grant Inn, Route 128 at Trask Lane, Denvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway, Route One, Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: September 5, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–28098 Filed 9–10–80; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Agriculture Program Agreements and Pat. Branch Admin. Ser. Div. Federal Bldg. Science and Education Admin. Hyattsville, Md 20782

Patent Application 6–110, 860: Controlled Release of Bioactive Materials using Alginate Gel Beads; Filed Jan. 9, 1980.

Patent Application 6–140, 911: Anti-Feedant for Boll Weevils. Filed Apr. 16, 1980.

Patent 4,203,892: Method of Protecting Proteins for Animal Feed. Filed Apr. 17, 1978, patented May 20, 1980. Not available NTIS.

Patent 4,204,008: Preparation of Protein Concentrates from Whey and Seed Products. Filed Dec. 28, 1978, patented May 20, 1980; not available NTIS.

Patent 4,204,043: Method of Removing Pigment from Annatto Seed. Filed Apr. 4, 1978; patented May 20, 1980; not available NTIS.

Patent 4,205,602: Apparatus for Tying Cauliflower. Filed Dec. 19, 1978, patented June 3, 1980; not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md 20205

Patent 4,178,285; Separation of Active Acid α1 Glycoprotein and Utilization in the Lipoprotein Lipase Enzyme System. Filed Dec. 20, 1978; patented Dec. 11, 1979; not available NTIS.

Patent 4,183,864: Cobalt Catalyzed Steroid Synthesis. Filed Feb. 21, 1978, patented Jan. 15, 1980; not available NTIS.

Patent 4,200,806: Scanning Flow Indicator for Rotameters. Filed Apr. 25, 1978; patented Apr. 29, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va 22217

Patent Application 6–086, 213: Diamond Supported Helix Assembly and Method. Filed Oct. 18, 1979.

Patent Application 6–091, 224: Automatic Parachute Release System. Filed Nov. 6, 1979.

Patent Application 6–116, 351: A New Method for Preparing Pentanitroanline and Triaminotrinitrobenzenes from Trinitrotoluene. Filed Jan. 28, 1980.

Patent Application 6–121, 550: Transducer Array Release and Pressure Compensation System. Filed Feb. 14, 1980.

Patent Application 6–130, 804: A Simplified Multilayer Circuit Board; filed Mar. 17, 1980.

Patent Application 6–133, 753: Electric Connector Receptacle Assembly; filed Mar. 25, 1980.

Patent Application 6–135, 563: Bonding Agent for HMX (Cyclotetromethylenetetranitramine). Filed Mar. 31, 1980.

Patent Application 6–137, 226: Portable Battery Operated Smoke Generator; filed Apr. 4, 1980.

Patent Application 6–137, 227: Nontoxic Smoke Generator. Filed Apr. 4, 1980.

Patent Application 6–141, 703: Apparatus and Method for Radio Channel Selection. Filed Apr. 18, 1980.

Patent Application 6–143, 079: Automatic Temperature Control System for Diver Heating System. Filed Apr. 4, 1980.

Patent Application 6–143, 707: Dynamics Parachute Four-Line Release Simulator. Filed Apr. 25, 1980.

Nat. Aeronautics and Space Admin., Assist. Gen. Couns. for Pat. Matters, NASA Code GP–2, Washington, DC 20546

Patent 4,193,435: Floating Nut Retention System. Filed Aug. 31, 1978; patented Mar. 18, 1980; not available NTIS.

Patent 4,195,666: Quartz Ball Valve. Filed Aug. 31, 1978; patented Apr. 1, 1980; not available NTIS.

Patent 4,199,764: Dual Band Combiner for Horn Antenna. Filed Jan. 31, 1979; patented Apr. 22, 1980; not available NTIS.

[FR Doc. 80–27888 Filed 9–10–80; 8:45 am]

BILLING CODE 3510–04–M

Office of the Secretary

Scientific and Technical Information Policy Subcommittee; Commerce Technical Advisory Board

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Meeting.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Scientific and Technical Information Policy Subcommittee of the Commerce Technical Advisory Board will hold a meeting on Tuesday, September 16, 1980 from 1:30 p.m. to 4:30 p.m. in room 3868 in the main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The subcommittee was established to advise on matters pertinent to the Department's responsibilities on the economics and pricing of scientific and technical information, the National Technical Information Service and international issues related to those above.

Tentative agenda items include the review of draft documents prepared by the subcommittee's membership.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and the press on a first-come, first-serve basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Michael R. Rubin, Room 3877, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377–2388.

Dated: September 8, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80–28085 Filed 9–10–80; 8:45 am]

BILLING CODE 3510–17–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Environmental Impact Statements; Notice of Intent; City of Durham, N.C.

To prepare a Draft Environmental Impact Statement (DEIS) for a regulatory permit action involving a water supply reservoir proposed by the City of Durham on Little River near the community of Orange Factory in Durham County, North Carolina.

Lead Agency: U.S. Army Corps of Engineers, Wilmington District, North Carolina.

Action: Notice of Intent to Prepare a Draft Environmental Impact Statement.

Summary: The City of Durham's current raw water demand (1978) averaged 17.5 million gallons per day (mgd) and the safe yield of the present 4.2 billion gallons (BG) Lake Michie reservoir on Flat River is 21 mgd. By 1985, predictions indicate that this safe yield will be equalled or exceeded by the demand and by 2015 an additional 24 mgd will be needed. There is also a need for over 800 acres of city-wide or urban park area.

The proposed project would meet this project water demand and would also provide 214 acres of park area.

This reservoir would impound 528 acres. Construction would include a war water pump station and about 10,000 feet of 54-inch diameter raw water main to the water filtration plant.

The three alternatives under consideration are: (1) the construction of a new dam 2000 feet downstream of the existing water source, Lake Michie, on the Flat River, (2) a dam and reservoir on Flat River at SR 1471 upstream of Lake Michie, and, (3) using the water from the B. Everett Jordan Federal multi-purpose reservoir.

No scoping meeting is planned. However, there has been close coordination with the City of Durham, agencies, and opponents. There have been several meetings with the City and agencies and meetings are planned with opponents. Consultation under Section 7 of the Endangered Species Act will not be required. However, the Orange Factory site within the proposed reservoir limits may be eligible for inclusion in the National Register of Historic Places.

The DEIS is expected to be made available to the public in January 1981.

The significant issues to be analyzed in depth in the DEIS will probably be cultural resources, socio-economics, and the extent of the area's needs met by the project.

Questions about the proposed action and DEIS can be answered by Mr. Frank Yelverton, Special Projects Manager, Regulatory Functions Branch, Wilmington District Corps of Engineers, P.O. Box 1890, Wilmington, North Carolina 28402, telephone (919) 343–4640, (FTS) 671–4640.

A. A. Kopcsak, Jr.,

LTC, Corps of Engineers, Deputy District Engineer.

[FR Doc. 80–28071 Filed 9–10–80; 8:45 am]

BILLING CODE 3710–GN–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Beach Nourishment of Revere Beach in Revere, Mass.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Description of the Action: The proposal calls for placing approximately one million cubic yards of sand along 13,000 feet of beach to a general backshore elevation of 18-feet above mean low water and with a width of about 185-feet shoreward of the mean high waterline. The beach would require periodic nourishment; this is anticipated to require about 20,000 cubic yards annually. The Corps would participate in this action for the first 10 years, but after this it would become a local requirement. Beach nourishment would protect the existing shoreside structures, and would create additional areas for recreation.

2. Alternatives to be considered: These include:

a. Beach nourishment with periodic re-nourishment;

b. Beach nourishment along with groins to stabilize portions of the beach and periodic re-nourishment;

c. Beach nourishment with stabilization by beach vegetation and limited access;

d. No action.

3. Environmental Review and Public Involvement: As the study progresses, scoping meetings will be held. The date and location will be announced through Public Notice procedures. Consultation with the State Historic Officer and the U.S. Heritage Conservation and Recreation Service will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning will be coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978. In addition close coordination will be maintained with other various Federal, State, and local resource agencies and groups.

4. Significant Issues: Significant issues the EIS will address include:

a. Borrow site locations—both aquatic and upland;

b. Habitat loss from borrow operations—primarily aquatic;

c. Turbidity generated if aquatic borrow operations occur;

d. Change in hydraulic conditions from aquatic borrow operations;

e. High volume truck traffic should an upland borrow site be selected;

f. Reduced beach use during nourishment operations;

g. Any other issue that surfaces through coordination.

5. Availability: The Draft EIS is expected to be available in mid-1981.

ADDRESS: Questions about this proposed action and DEIS can be addressed to: Mr. Bill Coleman, Engineering Division, or Mr. Del Kidd, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, MA 02254, at (617) 894–2400.

Dated: September 3, 1980.

Max B. Scheider,

Colonel, Corps of Engineers Division Engineer.

[FR Doc. 80–27866 Filed 9–10–80; 8:45 am]

BILLING CODE 3710–GT–M

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Snettisham Hydroelectric Project Near Juneau, Alaska.

AGENCY: U.S. Army Corps of Engineers, DOD.

V 45 5 SE 11 1 80 UMI

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement.

SUMMARY: 1. The Corps of Engineers filed a final Environmental Impact Statement (EIS) addressing construction of the Long Lake phase of the Snettisham Project with the President's Council on Environmental Quality during 1970. A draft supplement to that EIS will be prepared by the Corps of Engineers to address the construction of a second phase of the project at Crater Lake.

2. The Snettisham Project was designed to generate electricity for the Juneau power market from hydropower from Long Lake and Crater Lake, both located approximately 23 miles east-southeast of Juneau. The project was planned for construction in two stages to meet the demand for electricity by the Juneau power market as it expanded. The first stage would tap the existing capacity of Long Lake and Crater Lake for hydropower. The second stage woud increase the hydropower potential by damming both lake outlets to increase the storage capacity. Construction of the Long Lake phase of the first stage was begun during 1967 and completed in 1974. Since the completion of the Long Lake phase, the market for electrical power in Juneau has continued to expand until demand now requires that the Crater Lake phase of the project be constructed.

3. Crater Lake is a 503-acre, glacier fed lake with a total drainage basin of 11.4 square miles and a capacity of 121,000 acre feet. Its surface is 1,022 feet above sea level, but less than a mile from the estaurine waters of Speel Arm. Crater Lake does not contain a fish population and, because of its turbidity and low productivity, is not considered a good candidate for artificial stocking. Crater Creek, the lakes' outlet, is too steep to support a fish population, but there is a small estuarine area of potential salmon spawning habitat at the mouth of the creek.

4. The Crater Lake phase would require the construction of a 7,800-foot tunnel and penstock from the existing powerhouse to the floor of Crater Lake and an access road approximately 1 mile long from the powerhouse to Crater Lake. The completed Crater Lake phase would add 27,000 kilowatts to the Snettisham project generating capacity. Two alternatives for road access and alternative lake diversion methods will be addressed in the supplemental EIS. No significant impacts to important biota or habitats have been identified for the Crater Lake phase construction.

5. Operation of the Snettisham project after completion will impact fish populations and fish spawning in Long River, Indian Lake, and possibly in Crater Cove. Impacts from the existing Long Lake phase and potential impacts from the Crater Lake phase are being studied. The results of these and other studies were presented to the people of Juneau at a public meeting during the summer of 1980 and will be presented to other concerned parties by mail. Opportunities for agencies and the public to identify environmental and community concerns and to make significant contributions to the scoping of the supplemental EIS will be provided by mail and at a public meeting(s) during 1980. The Corps of Engineers expects to file the final supplemental EIS in April 1981. A second supplemental EIS would be prepared at a future date if the second stage of construction at Snettisham eventually was required to meet Juneau power demands.

6. Interested persons, agencies, and organizations are invited to submit comments or suggestions for consideration in connection with the scoping and preparation of the draft supplemental EIS. The draft supplemental EIS is expected to be available for public review and comment in November 1980.

ADDRESS: Questions regarding the proposed action and the draft supplemental EIS should be addressed to: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: September 3, 1980.

Lee R. Nunn,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 80-27899 Filed 9-10-80; 8:45 am]

BILLING CODE 3710-NL-M

Department of the Navy

Privacy Act of 1974; Notice of Amendment of System of Records; Corrections

In FR Doc 80-15427, appearing at page 33679, in the issue for Tuesday, May 20, 1980, the following changes should be made: a. On page 33682, in the first column immediately preceding the bold face heading "SYSTEM MANAGER(S) AND ADDRESS," the following category should be inserted: "RETENTION AND DISPOSAL. Delete the entire entry and substitute with the following: Records are retained for three years after settlement and then retired to the Federal Records Center, St. Louis, MO."

b. On page 33682, in the second column, the second sentence under the bold face heading "SYSTEM MANAGER(S) AND ADDRESS," should be deleted.

c. On page 33682, in the second column, immediately preceding the category "RECORD ACCESS PROCEDURES," the following category should be inserted: "NOTIFICATION PROCEDURES. In the initial inquiry, the requester must provide full name, payroll or military service number and activity where he/she had dealings. A list of other offices the requester may visit will be provided after initial contact at the office above. At the time of a personal visit, requester must provide proof of identity containing the requester's signature."

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 8, 1980.

[FR Doc. 80-27978 Filed 9-10-80; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on 9-10 October 1980 at Naval Research Laboratory, 4555 Overlook Avenue, S.W., Washington, D.C. 20375.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C.

§ 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 5, 1980.

[FR Doc. 80-27976 Filed 9-10-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session on October 10, 1980 at the Palisades Institute for Research Services, Inc., 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 5, 1980.

[FR Doc. 80-27983 Filed 9-10-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Advisory Council on Developing Institutions; Meeting

AGENCY: Advisory Council on Developing Institutions.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Developing Institutions. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: September 26, 1980, 9 a.m. to 5 p.m.

ADDRESS: F.O.B. 6, Room 5141, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Paul H. Carnell, Executive Director, Advisory Council on Developing Institutions, Regional Office Building 3, (202) 245-2455, 7th and D Streets, S.W., Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The Advisory Council on Developing Institutions is established under section 303 of the Higher Education Act of 1965, as amended (20 U.S.C. 1051-1056), unless otherwise noted. The Council is established to—

Identify developing institutions through which the purposes of this title may be achieved; and establish the priorities and criteria to be used in making grants under section 304(a).

The meeting of the Council shall be open to the public.

The proposed agenda includes:

1. Title III—"Where Are We Going"—Dr. Richard L. Fairley. Deputy Assistant Secretary, Office of Institutional Support.
2. Title III Legislation.
3. Request for Proposal—"A Study of the Strengthening Developing Institutions Program"
4. The Professor Emeritus Program

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Executive Director of the Advisory Council on Developing Institutions, Room 3068, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on September 8, 1980.

Paul H. Carnell,

Executive Director,, Advisory Council on Developing Institutions.

[FR Doc. 80-27943 Filed 9-10-80; 8:45 am]

BILLING CODE 4000-01-M

Intergovernmental Advisory Council on Education; Meeting

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of the Intergovernmental Advisory Council on Education. This notice also describes the functions of the council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 30, 1980.

ADDRESS: George Washington University, Gilman Library, Conference Room 202, 22nd & H Street, N.W., Washington, D.C. 20052.

FOR FURTHER INFORMATION CONTACT: Donna Rhodes, Office of the Deputy Under Secretary for Intergovernmental Affairs, Department of Education, 400 Maryland Ave., S.W., Washington, D.C. 20202 (202) 245-7904.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under section 213 of the Department of Education Organization Act. The council advises the Secretary of the Department of Education and the President concerning intergovernmental policies relating to education.

The meeting of the Council is open to the public. The proposed agenda includes:

1. Introductory remarks by the Secretary, Under Secretary, and Chairman
2. Background about the Council
3. Identification of intergovernmental problems and policies by Council members
4. Council organization and selection of search committee for Council staff
5. Organization of the Department

Records are kept of all Council proceedings and are available for public inspection at the Office of the Deputy Under Secretary for Intergovernmental Affairs between the hours of 8:30 a.m. and 3:00 p.m. at the Department of Education, 400 Maryland Ave., S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on September 5, 1980.

Michael J. Bakalis,

Deputy Under Secretary for Intergovernmental Affairs.

[FR Doc. 80-28099 Filed 9-10-80; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Vocational Education

Meeting of Executive Committee.

AGENCY: National Advisory Council on Vocational Education.

ACTION: Amendment to notice of meeting of Executive Committee.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Vocational Education, and amends the date and location of the meeting as published on September 5, 1980, 45 FR 58935 from September 17, 1980 in Washington, DC to September 26, 1980, in Des Moines, Iowa. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the General public of its opportunity to attend.

DATE: September 26, 1980, 8:30 a.m.

ADDRESS: Howard Johnson's North, 4800 Merle Hay Road, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425—13th Street NW, Suite 412, Washington, DC (Tel: 202/376–8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, P.L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Executive Committee is open to the public, and the proposed agenda includes: Review of Work Plan for FY '81–'82, Review Budgeting Process, Review Practices and Policies.

Records are kept of all Committee proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education, 425—13th Street NW, Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C., on September 8, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80–27946 Filed 9–10–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources will meet in October 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The meeting will be on Friday, October 3, 1980, to convene immediately following the adjournment of the October 3, 1980, meeting of the Committee on Arctic Oil and Gas Resources (approximately 11:00 a.m.), in the Conference Room of the National Petroleum Council, 1625 K Street, N.W., Washington, D.C.

The tentative agenda for the meeting follows:

1. Review assignments from the NPC Committee on Arctic Oil and Gas Resources.
2. Discuss study assignments for the task groups.
3. Discuss schedule of Subcommittee and task group activities.
4. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform R. D. Langenkamp, Deputy Assistant Secretary, Resource Development and Operations, Office of Resource Applications, 202/633–8400, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA–152, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 29, 1980.

R. D. Langenkamp,

Deputy Assistant Administrator Resource Development and Operations.

[FR Doc. 80–27944 Filed 9–10–80; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources will meet in September 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The meeting will be on Wednesday, September 17, 1980, starting at 10:00 a.m., in Room 1283, Arco Oil and Gas Company's office, Energy Center One, 717 Seventeenth Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Review the proposal for the scope, organization, and timetable of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on Arctic oil and gas resources.
2. Discuss membership of proposed task groups for the study.
3. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Coordinating

Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform R. D. Langenkamp, Deputy Assistant Secretary, Resource Development and Operations, Office of Resource Applications, 202/633–8400, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA–152, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 29, 1980.

R. D. Langenkamp,

Deputy Assistant Administrator, Resource Development and Operations.

[FR Doc. 80–27945 Filed 9–10–80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case No. 50154-6010-01-82, 50154-6010-02-82]

Baltimore Gas & Electric Co.; Intention To Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of its intention to proceed with the pending prohibition order proceedings relating to two powerplants, Brandon Shores 1 and 2, owned by Baltimore Gas and Electric Company (BG&E) and located in Anne Arundel County, Maryland.

Pursuant to Sections 301 (b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, proposed prohibition orders for Brandon Shores 1 and 2 were issued by ERA on October 9, 1979 and published in the **Federal Register** on October 15, 1979 (44 FR 200).

Description of Prohibition Order Proceedings

In accordance with Section 501.51 of the implementing FUA regulations applicable to existing powerplants (Regulations), 10 CFR Part 501, the proposed prohibition orders commenced an initial public comment period, during which period BG&E was given an opportunity to challenge ERA's initial finding that Brandon Shores 1 and 2 have the technical capability to burn an alternate fuel (coal) as a primary energy source. During this period the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of a final prohibition order. The utility must also identify, during this period, any exemptions for which the powerplants may qualify, but the recipient of a proposed order need not, during this period, submit evidence attempting to demonstrate entitlement to an exemption.

The publication of this notice of intention to proceed commences a second comment period during which BG&E may present evidence to demonstrate that the powerplants would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second comment period ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a tentative staff decision concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by Section 301(b) of FUA, are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and Section 501.33 of the Regulations afford any interested person an opportunity to request a public hearing on a proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, the hearing will be held in accordance with subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued, based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Orders

During the initial comment period, neither BG&E nor the other interested person submitted any comments expressing approval or disapproval of the proposed conversion of Brandon Shores 1 and 2 or any information contrary to ERA's initial finding that Brandon Shores 1 and 2 have the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with § 501.51 of the Regulations, BG&E also submitted evidence relating to the other findings that ERA is required to make under Section 301(b) of FUA, and identified the temporary public interest exemption in Section 311(e) of FUA as an exemption for which Brandon Shores 1 may qualify.

For further information contact:

Wiliam L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 653–4055.

Elmer Lee, Existing Powerplants Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3302D, Washington, DC. 20461, (202) 653–4201.

Edward L. Lublin, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C. September 5, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–28080 Filed 9–10–80; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account

established pursuant to the Consent Order.

DATES: Effective Date: September 3, 1980.

COMMENTS BY: October 14, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On September 3, 1980, the Office of Enforcement of the ERA executed a Consent Order with El Paso Natural Gas Company of El Paso, Texas. Under 10 CFR 205.199J(b), the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

El Paso Natural Gas Company, with its office located in El Paso, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and El Paso Natural Gas Company, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1977 through September 30, 1978, and it included all sales of crude oil which were made during that period.
2. El Paso Natural Gas Company allegedly misapplied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.
3. In order to expedite resolution of the disputes involved, the DOE and El Paso Natural Gas have agreed to a settlement in the amount of $430,100.00. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and El Paso Natural Gas Company.
4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with the Consent Order.
5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, El Paso Natural Gas Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $430,100.00 to be made payable within twelve (12) months from the effective date of this Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on El Paso Natural Gas Company Consent Order." We will consider all comments we received by 4:30 p.m., local time, on October 3, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 3rd day of September, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement Economic Regulatory Administration.

[FR Doc. 80-28078 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order; Traders Oil & Royalty

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Traders Oil & Royalty (Traders), Post Office Box 188, Seguin, Texas, 78155. This Proposed Remedial Order charges Traders with pricing violations in the amount of $340,849.31 connected with the sale of crude oil during the time period September 1, 1973, through March 31, 1977, in the State of Texas.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas, 75235, phone (214) 767-7745. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Dallas, Texas, on the 3rd day of September, 1980.

Wayne I. Tucker,

District Manager for Enforcement, Southwest District Economic Regulatory Administration.

[FR Doc. 80-28077 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-01-M

West Ashley Exxon; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to West Ashley Exxon, Charleston, S.C., on August 11, 1980.

This PRO charges West Ashley Exxon with selling gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR 212.93. It was determined that West Ashley Exxon violated the Federal Energy pricing guidelines by selling above the maximum lawful selling price in the amount of 1.3¢ for Premium Leaded.

Pursuant to 10 CFR 205.192, West Ashley Exxon is required by the PRO to reduce its prices at the pump to the maximum lawful selling price for this grade to be in compliance with the Federal Energy pricing regulations.

A copy of the PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone number (404) 881-2396. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 29th day of August 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-28076 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 262]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 25, 1980.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 26, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

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JD NO     JA DKT       API NO      SEC D WELL NAME                         FIELD NAME                    PROD   PURCHASER
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***************************************************************************
   NORTH DAKOTA GEOLOGICAL SURVEY
***************************************************************************
-ENERGETICS INC                             RECEIVED: 07/24/80  JA: ND
 8048939   245         3305300658 103  INGA GILBERTSON 44-12               UNION CENTER                  14,1 MONTANA-DAKOTA UTILIT
-GULF OIL CORPORATION                       RECEIVED: 07/24/80  JA: ND
 8048942   252         3300700367 102  IAN HOUGHTON 1-1-2A                 LITTLE KNIFE                   3,0 MONTANA-DAKOTA UTILI
 8048940   253         3302500139 102  LEONARD KOSTELNAK 3-29-2D           LITTLE KNIFE                  20,0 MONTANA-DAKOTA UTILI
 8048941   251         3300700337 102  TEDROW 4-11-3A                      LITTLE KNIFE                   7,0 MONTANA-DAKOTA UTILI
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   OKLAHOMA CORPORATION COMMISSION
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-AL MCCORD INC                              RECEIVED: 07/23/80  JA: OK
 8048799   03551       3507321987 103  ENGLEKING 1                         EAST LOYAL                   165,0 CITIES SERVICE GAS C
-AMERICAN PUBLIC ENERGY CO                  RECEIVED: 07/23/80  JA: OK
 8048804   03760       3513921110 103  ROLLINS #1                          WEST DUMBEY                   50,0 WESTERN GAS INTERSTA
-AMOCO PRODUCTION CO                        RECEIVED: 07/23/80  JA: OK
 8048831   01155       3509321523 103  BUTTEL UNIT C #2                    NE CEDARDALE                 365,0 MICHIGAN WISCONSIN P
 8048828   04644       3504552017 108  K L MITCHELL #1                     CATESBY NE                    15,8 MICHIGAN WISCONSIN P
 8048899   04089       3504520714 103  MASSEY UNIT #1                      NORTH CHANEY                 300,0 MICHIGAN WISCONSIN P
 8048781   01307       3500721547 103  MOREAU GAS UNIT #3                  MOCANE-LAVERNE GAS AREA       48,0 PANHANDLE EASTERN PI
 8048874   04510       3505920132 108  STAATS UNIT #2                      MOCANE-LAVERNE                13,5 MICHIGAN WISCONSIN P
-ANSON CORPORATION                          RECEIVED: 07/23/80  JA: OK
 8048926   04661       3501520825 102  RUTH #1-23                          S EAKLY                      183,0 DELHI GAS PIPELINE
-ANDOVER OIL COMPANY                        RECEIVED: 07/23/80  JA: OK
 8048918   04631       3501721177 102  WALTER G CLOUSE #5-1                WILDCAT                      180,0 DELHI GAS PIPELINE C
-ARCO OIL AND GAS COMPANY                   RECEIVED: 07/23/80  JA: OK
 8048933   03711       3505920799 103  CANFIELD GAS UNIT #4                NORTHWEST LOVEDALE            73,0 CITIES SERVICE GAS C
 8048868   01138       3509321284 103  HELEN BLOOMER WELL NO 2             N E CEDARDALE                182,5 MICHIGAN WISCONSIN P
 8048928   03114       3504900000 108  I L MCDANIEL #4                     GOLDEN TREND                   0,5 WARREN PETROLEUM CO
 8048882   03223       3509321516 103  KEPNER UNIT WELL NO 3               N E CEDARDALE                 73,0 MICHIGAN WISCONSIN P
 8048930   03710       3505920809 103  MCCLUNG UNIT #3-X                   LAVERNE                      182,5 MICHIGAN WISCONSIN P
 8048858   03600       3515120516 108  MERLIN CAMP UNIT #2-10 NC/CH/       NE WAYNOKA                    16,1 PANHANDLE EASTERN PI
 8048869   01156       3509321495 103  PARKER E BLOOMER WELL NO 2          N/E CEDARDALE                182,5 MICHIGAN WISCONSIN P
 8048859   03668       3505920732 103  R R BAKER #2                        LAVERNE                      183,0 MICHIGAN WISCONSIN P
 8048805   01091       3504320811 103  VANDERWORK WELL NO 3                PUTNAM                        45,6 MICHIGAN WISCONSIN P
-BLAIR OIL COMPANY                          RECEIVED: 07/23/80  JA: OK
 8048891   04564       3504721977 103  WOOD #2                             SOONER TREND                  63,0 CHAMPLIN PETROLEUM C
-BRIDGER PETROLEUM CORPORATION              RECEIVED: 07/23/80  JA: OK
*8048802   01291       3500721427 103  BENNETT #1                          MOCANE-LAVERNE               122,0 NORTHERN NATURAL GAS
-CABOT CORPORATION                          RECEIVED: 07/23/80  JA: OK
 8048863   04673       3500721676 103  BARBY RANCH 2-56                    LAVERNE MORROW               225,0 NORTHERN NATURAL GAS
 8048862   04669       3513921211 103  CALVERT #6                          UNALLOCATED GAS WELL         128,0 KOKOMO GAS & FUEL CO
-CHAMPLIN PETROLEUM COMPANY                 RECEIVED: 07/23/80  JA: OK
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DC-B-28

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                                                                                   VOLUME  202          PAGE  002
 JD NO     JA DKT          API NO     SEC D WELL NAME                               FIELD NAME                  PROD    PURCHASER
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 8048886    04569          3500300000 108   CLAUDE C CLARK #1                       E CHANEY DELL                5.0 CHAMPLIN PETROLEUM C
 8048885    04568          3509300000 108   E E ROBERTSON NO 1-27                   E CHANEY DELL                7.0 CHAMPLIN PETROLEUM C
 8048883    04566          3509300000 108   E F SEMRAY #1                           E CHANEY DELL                7.0 CHAMPLIN PETROLEUM C
 8048845    04554          3507300000 108   FANNIE MCCANDELESS NO 1                 DOVER-HENNESSEY              6.0 EXXON CORP
 8048837    04572          3500300000 108   FORSYTHE - VORBEES #1                   E CHANEY DELL                4.0 UNION TEXAS PETRULEU
 8048840    04576          3509300000 108   HARRY C EBERHERT NO 1                   CHANEY DELL                  7.0 CHAMPLIN PETROLEUM C
 8048846    04555          3507300000 108   INEY JONES A NO 1                       DOVER-HENNESSEY              6.0 EXXON CORP
 8048844    04553          3507300000 108   INEY JONES NO 1                         DEVER-HENNESSEY              5.0 EXXON CORP
 8048842    04577          3509300000 108   J L SCHULTY NO 1                        E CHANEY DELL                7.0 CHAMPLIN PETROLEUM C
 8048850    04563          3509300000 108   JACOB J JANTZEN NO 1                    E CHANEY DELL               11.0 CHAMPLIN PETROLEUM C
 8048898    04571          3509300000 108   JANTYEN-VNRUK NO 1                      E CHANEY DELL                8.0 CHAMPLIN PETROLEUM C
 8048839    04575          3500300000 108   MARJORIE M MC GILL A #1                 E CHANEY DELL                5.0 CHAMPLIN PETROLEUM C
 8048849    04562          3509300000 108   MATA KEELN NO 1                         E CHANEY DELL                3.6 UNION TEXAS PETRULEU
 8048843    04578          3505300000 108   PAUL SCHULKE UNIT NO 1                  EUREKA                       7.0 SUNISY DX OIL CO
 8048851    04558          3507300000 108   R V STURGEON UNIT NO 1                  SOONER TREND                10.0 PHILLIPS PETROLEUM C
 8048852    04559          3507300000 108   ROY RATHMIRE NO 1                       SOONERS TREND               15.0 PHILLIPS PETROLEUM C
 8048838    04574          3500300000 108   SUSIE K LEIERER A-1                     E CHANEY DELL                5.0 CHAMPLIN PETROLEUM
 8048853    04560          3507300000 108   T C BLUDGETT UNIT NO 1                  SOONER TREND                10.0 PHILLIPS PETROLEUM C
 8048887    04547          3508700000 108   TED R LAMAR #1                          WASHINGTON AREA             16.0 SUN RAY DX
 8048884    04567          3509300000 108   V C MARSH NO 1                          E CHANEY DELL                4.0 CHAMPLIN PETROLEUM
 8048847    04557          3507300000 108   VERNAN I SWART NO 1                     SOONER TREND                15.0 PHILLIPS PETROLEUM C

-CHARLES B WILSON JR LTD                      RECEIVED: 07/23/80  JA: OK
 8048896    03835          3502500000 108 D ROSA B NEFF #1-1                        KEYES                       18.0 COLORADO INTERSTATE
-CHASE EXPLORATION CORP                       RECEIVED: 07/23/80  JA: OK
*8048888    04542          3507121173 103   WOOD #1-31                              UNNAMED                     15.0 CITIES SERVICE GAS C
*8048835    04544          3507121639 103   WOOD #2-31                              UNNAMED                     20.1 CITIES SERVICE GAS C
*8048836    04545          3507121488 103   WRIGHT #1-31                            UNNAMED                     11.5 CITIES SERVICE GAS C
*8048834    04543          3507100000 108   WRIGHT #2-31                            UNNAMED                     14.2 CITIES SERVICE GAS C
-CIMARRON PETROLEUM CORPORATION               RECEIVED: 07/23/80  JA: OK
 8048904    04706          3500721646 103   WILSON CPC #120                         IVANHOE                    219.0 NORTHERN NATURAL GAS
-CONOCO INC                              RECEIVED: 07/23/80  JA: OK
 8048897    01209          3500300000 108   P J SYMNS NO 1                          N E CHEROKEE                 5.2 OKLAHOMA NATURAL GAS
-COTTON PETROLEUM CORPORATION                 RECEIVED: 07/23/80  JA: OK
 8048815    04620          3501120952 103   LOLA NO 1                               ELM GROVE                  365.0 TRANSOK PIPE LINE CO
 8048818    04312          3501520803 103   PATTERSON NO 1                          BINGER                     700.0 TRANSOK PIPE LINE CO
 8048789    04621          3501120970 103   SEIGMAN NO 1                            FLATHEAD                   365.0 TRANSOK PIPE LINE CO
-CROUCH PETROLEUM COMPANY                     RECEIVED: 07/23/80  JA: OK
 8048894    01495          3505500000 103 D FROST #1                                SOUTH BLOOMINGTON            8.8 EL PASO NATURAL GAS
-DAMSON OIL CORPORATION                       RECEIVED: 07/23/80  JA: OK
 8048931    02880          3505520065 108   GRIFFIS #1                              SOUTH BLOOMINGTON            6.0 ARKANSAS LOUISIANA G
 8048912    07562          3505520179 108   GRIFFIS #2                              SOUTH BLOOMINGTON            6.0 ARKANSAS LOUISIANA G
 8048936    02893          3505500000 108   HEFFEL 1-A                              SOUTH BLOOMINGTON            1.0 EL PASO NATURAL GAS
-DAVIS OIL COMPANY                            RECEIVED: 07/23/80  JA: OK
 8048784    04625          3503920297 103   CRALL #1                                SOUTH THOMAS               450.0 PUBLIC SERVICE CO OF
-EAGLE PETROLEUM CORP                         RECEIVED: 07/23/80  JA: OK
 8048861    04196          3504721648 103   TEFFT #1                                NORTH ENID                  54.8 UNION OF TEXAS OIL C
-EL PASO NATURAL GAS COMPANY                  RECEIVED: 07/23/80  JA: OK
 8048867    07681          3514920055 107   EASLEY #1A                              ELK CITY SPRINGER          140.0 EL PASO NATURAL GAS
-EXXON CORPORATION                            RECEIVED: 07/23/80  JA: OK
 8048893    04611          3500700000 108   BALDWIN UNIT #1                         COMO                        20.0 NORTHERN NATURAL GAS
-F M BUXTON                                   RECEIVED: 07/23/80  JA: OK
 8048811    04537          3508300000 103   RECTOR NO 1                             SOONER TREND               110.0 CONOCO INC
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                                                                          VOLUME  262           PAGE  003
 JD NO     JA DKT         API NO      SEC D WELL NAME                    FIELD NAME                PROD    PURCHASER
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-GASANADARKO LTD                           RECEIVED:  07/23/80  JA: OK
 8048816   01172          3515300000 108    BOOTH 1-28 153-50126         S E ALABASTER                6.4 CITIES SERVICE GAS C
-GULF OIL CORPORATION                      RECEIVED:  07/23/80  JA: OK
 8048795   04610          3513722012 103    C QUINN #11-26               VELMA                      400.0
 8048821   04535          3501721209 103    JOHN F KASTL NU 2-14         YUKON W-HUNTON UPPER-HUN   200.0 PHILLIPS PETROLEUM C
 8048810   04536          3501721208 103    KASTL JOHN F #1-14           YUKON W-MISSISSIPPI-HUNT   223.0 PHILLIPS PETROLEUM C
 8048796   04606          3509321566 103    PHILLIPS M L #1-17           CHEYENNE VALLEY (MISS &    286.0 PUBLIC SERVICE CO OF
 8048822   04602          3501721210 103    T A DOBRY NO 1-23            YUKON WEST/MISSISSIPPI U   336.0 PHILLIPS PETROLEUM C
 8048798   04603          3501721163 103    YECK FRED B 1-23             NORTH YUKON                 43.0 PHILLIPS PETROLEUM C
-H & L OPERATING COMPANY                   RECEIVED:  07/23/80  JA: OK
 8048914   03573          3513921055 103    PHILLIPS #1 139-56093        GUYMON-HUGOTON              30.0 KANSAS-NEBRASKA NATU
-HADSON PETROLEUM CORP                     RECEIVED:  07/23/80  JA: OK
 8048865   04546          3505120771 103    WINHAM #1-23                 PLEASANTVIEW               125.0 MOBIL OIL CORP
-HAMILTON BROTHERS OIL CO                  RECEIVED:  07/23/80  JA: OK
 8048879   04671          3513921215 103    JEFFUS NO 1-5                WILDCAT                    360.0 NORTHERN NATURAL GAS
-HARPER OIL COMPANY                        RECEIVED:  07/23/80  JA: OK
 8048788   04622          3501120975 103    HELEN WALKER #1              SQUAW CREEK                 36.0 TRANSOK PIPE LINE CO
 8048783   04529          3508321202 103    KINDSCHI #1                  S LUCIEN                    55.0 EASON OIL CO
 8048786   04624          3501120862 103    REGINA #1                    SQUAW CREEK                 20.0 TRANSOK PIPE LINE CO
*8048785   04626          3507322238 103    SYDENA #1                    SOONER TREND                18.0 CITIES SERVICE GAS C
 8048794   01148          3504721563 103  D TOM HAYES #3                 SOONER TREND                33.0 ARKANSAS LOUISIANA G
 8048787   04623          3501120798 103    WEYGANDT #1                  E FAY                       37.0 TRANSOK PIPE LINE CO
-HB OIL & GAS INC                          RECEIVED:  07/23/80  JA: OK
 8048872   04020          3511920779 103    SANTA FE #1                  MARCH                      123.0 SUN GAS CO
-HOOVER & BRACKEN ENERGIES                 RECEIVED:  07/23/80  JA: OK
 8048797   04605          3501121004 103    ACRE 1-20                    SW CANTON                  365.0
-JACK BOWLES                               RECEIVED:  07/23/80  JA: OK
 8048813   04616          3504721679 103    JOHNSON NO 1                 E KREMLIN                   72.0
-JET OIL COMPANY                           RECEIVED:  07/23/80  JA: OK

*8048791   01895          3509321239 103    LIEBRAND #1                  RINGWOOD                    10.0 UNION TEXAS PETROLEU
 8048934   01374          3508120325 108    MARATHON #1                  N WELLSTON                  15.0 OKLAHOMA GAS & ELECT
-JICO INC STE 102G                         RECEIVED:  07/23/80  JA: OK
 8048800   00988          3502520339 103    MARRYMAN #1                  KEYES                      259.0 PANHANDLE EASTERN PI
-JONES & PELLOW OIL CO                     RECEIVED:  07/23/80  JA: OK
 8048907   04101          3501921900 103    STRINGER #32-1                                           40.0 AMINOIL USA INC
-K P EXPLORATION INC                       RECEIVED:  07/23/80  JA: OK
 8048915   00998          3513921114 102    DAVIS NO 2-22                S E DAGUE                  360.0 NATURAL GAS PIPELINE
-KEITH F WALKER                            RECEIVED:  07/23/80  JA: OK
 8048808   03980          3501900000 103    COLEMAN                      OIL CITY                    73.0 MOBIL OIL CORP
-KERR-MCGEE CORPORATION                    RECEIVED:  07/23/80  JA: OK
 8048803   04612          3512120665 103    BASDEN WELL NO 1             RUSSELLVILLE                 0.0 SOUTHEAST TRANSMISSI
-KETAL OIL PRODUCING CO                    RECEIVED:  07/23/80  JA: OK
 8048870   03575          3511920995 103    DUTTER #3                    LOST CREEK                   7.0 SUN GAS CO
-LADD PETROLEUM CORPORATION                RECEIVED:  07/23/80  JA: OK
 8048855   00583          3509300000 108    LAW #2 (MISS)                RINGWOOD                    10.0 OKLAHOMA NATURAL GAS
-LUBELL OIL CO                             RECEIVED:  07/23/80  JA: OK
 8048871   03959          3512120670 103    LUBELL NO 1-13 COX           ULAN                        30.0
-MACKELLAR INC                             RECEIVED:  07/23/80  JA: OK
 8048856   04615          3510320882 103    MARVIN #1                    NORTH LUCIEN                36.0 ARCO OIL & GAS
-MICHIGAN WISCONSIN PIPE LINE CO           RECEIVED:  07/23/80  JA: OK
 8048877   04531          3509321645 103    KLUCKNER #1                  SOUTH CEDAR SPRINGS        150.0 PANHANDLE EASTERN PI
-MONSANTO COMPANY                          RECEIVED:  07/23/80  JA: OK
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JD NO     JA DKT          API NO     SEC D WELL NAME                          FIELD NAME                  PROD   PURCHASER
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8048878   04651           3515320276 108   FERGUSON NO 1                      NORTH WOODWARD              21.0 TRANSWESTERN PIPELIN
-N W GLADE                                RECEIVED:  07/23/80  JA: OK
8048909   04397           3511900000 103   EATON #1                           INGALLS                      0.0 COLORADO GAS COMPRES
-NORTHWEST OIL CO                         RECEIVED:  07/23/80  JA: OK
8048801   04614           3502720330 103   BERRY NO 1                         NORTHWEST NORMAN            70.0 SUN GAS CO
-NOVA ENERGY CORPORATION                  RECEIVED:  07/23/80  JA: OK
8048917   04659           3505120664 102   MCGAUGHEY NO 1-14                                          90.0 TRANSOK PIPE LINE CO
-PARKFORD PETROLEUM INC                   RECEIVED:  07/23/80  JA: OK
8048832   01415           3511920851 102   LOZIER NO 1                        BUTCHER FIELD                5.0 COLORADO GAS COMPRES
8048833   01416           3511900000 102   LOZIER NO 2                        NW AGRA FIELD               55.0 COLORADO GAS COMPRES
-PELICAN PRODUCTION CORP                  RECEIVED:  07/23/80  JA: OK
8048807   03705           3508300000 102   MULLINS #1                         WILDCAT                     30.0 CITIES SERVICE GAS C
-PHILLIPS PETROLEUM COMPANY               RECEIVED:  07/23/80  JA: OK
8048875   04514           3513900000 108   BACKHOUSE NO 1                     GUYMON HUGOTON              18.0 PANHANDLE EASTERN PI
8048827   04634           3513900000 108   CRESSWELL NO 1                     GUYMON HUGOTON              20.0 PANHANDLE EASTERN PI
8048790   01088           3508350056 108   HASKELL - A #1                     N CASHION                   11.5 CHAMPLIN PETROLEUM C
8048782   04628           3500700000 108   LOESCH A NO 3                      COMO - SE - TONKAWA          5.9 EL PASO NATURAL GAS
8048876   04515           3500700000 108   MERCER A NO 1                      S E COMO                     1.0 EL PASO NATURAL GAS
-PHOENIX RESOURCES COMPANY                RECEIVED:  07/23/80  JA: OK
8048817   01923           3504520175 108   FEERER #1-32                       FARGO                        2.0 NORTHERN NATURAL GAS
8048920   01267           3500735585 108 D NOE NO 1                           DOWER                       21.0 NORTHERN NATURAL GAS
-POTTS-STEPHENSON EXPLORATION CO          RECEIVED:  07/23/80  JA: OK
8048860   03735           3507920327 103   WHITE NO 1-36                      KINTA                        0.0
-R & N ASSOCIATES - G M NEUBERT AGT       RECEIVED:  07/23/80  JA: OK
8048913   07682           3508300000 108   HARMAN NO 1                        CASHION                     16.8 SWAB CORPORATION
-READING & BATES PETROLEUM CO             RECEIVED:  07/23/80  JA: OK
8048825   04632           3507300000 108   HLADIK NO 1                        WEST HENNESSEY               7.5 EXXON CO USA
8048826   04633           3507300000 108   JOE MALY JR NO 1                   WEST BISON                   2.2 EXXON CO USA
-REPUBLIC GAS GATHERING SYSTEMS INC       RECEIVED:  07/23/80  JA: OK
8048819   04347           3500721731 103   HENNIGH #1                         MOCANE-LAVERNE             400.0 EL PASO NATURAL GAS
-RESERVE OIL INC                          RECEIVED:  07/23/80  JA: OK
8048806   01544           3507920251 102   TULBERT #21-1T                     KINTA                      365.0 ARKANSAS LOUISIANA G
-RICK BUCK                                RECEIVED:  07/23/80  JA: OK
8048890   04551           3501721015 103   AKINS NO 1-3                       N YUKON                     50.0 PHILLIPS PETROLEUM C
8048892   04548           3501721336 103   CURTSINGER NO 1-3                  N YUKON                     75.0 PHILLIPS PETROLEUM C
8048906   04550           3501721150 103   KOUBA NO 1-30                      S YUKON                    120.0 PHILLIPS PETROLEUM C
-SABINE CORP                              RECEIVED:  07/23/80  JA: OK

8048929   03805           3504500000 108   LATTA UNIT #1-10                   N E GAGE                    15.1 NORTHERN NATURAL GAS
8048916   01102           3504500000 108   MCCARTOR NO 1-11                   S E ARNETT                  19.7 NORTHERN NATURAL GAS
8048919   01526           3501700000 102   PETREE NO 1-18                     S W EL RENO                 10.9 MICHIGAN WISCONSIN P
8048848   01069           3501720919 102   PETREE NO 1-9                      SW EL RENO                 270.8 MICHIGAN WISCONSIN P
-SCARTH OIL & GAS CO                      RECEIVED:  07/23/80  JA: OK
8048792   04635           3500721538 103   DONDELINGER NO 1                   MOCANE-LAVERN FIELD        204.0 PANHANDLE EASTERN PI
-SEARCH DRILLING CO                       RECEIVED:  07/23/80  JA: OK
8048793   04635           3500721720 103   BARBY #1-36                        S W GATE                    94.0 NORTHERN NATURAL GAS
8048814   04619           3500721634 103   BEARD #1                           MOCANE-LAVERNE             250.0 PANHANDLE EASTERN PI
-SERVICE DRILLING CO                      RECEIVED:  07/23/80  JA: OK
8048905   04398           3513120917 103   ANTHIS #1                                                       3.6 DIAMOND S GAS SYSTEM
-SOUTHLAND ROYALTY CO                     RECEIVED:  07/23/80  JA: OK
8048937   03970           3513921197 103   BECKER #1-9                        CAPLE                      150.0 NORTHERN NATURAL GAS
8048881   02234           3515120845 103   MOONEYHAM 1-5                      AVARD SW                   225.0 PANHANDLE EASTERN PI
-SOVEREIGN EXPLORATION CO                 RECEIVED:  07/23/80  JA: OK
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                                                                               VOLUME  262           PAGE  005
 JD NO     JA DKT        API NO     SEC D WELL NAME                            FIELD NAME            PROD   PURCHASER
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 8048880   00150         3500721498 103   SOVEREIGN NO 1 JETT                  IVANHOE              150,0 NORTHERN NATURAL GAS
*SUN OIL COMPANY (DELAWARE)                RECEIVED:  07/23/80  JA: OK
 8048873   04501         3501120925 103   CRUMP UNIT NO 1                      N GEARY              365,0 OKLAHOMA GAS & ELECT
*TEEL PRODUCTION COMPANY                   RECEIVED:  07/23/80  JA: OK
 8048932   01343         3512100000 108 D F C SMITH #3                         WIRTH                  0,0 PUBLIC SERVICE CO
*TENNECO OIL COMPANY                       RECEIVED:  07/23/80  JA: OK
 8048935   02634         3502960048 108   MAYER SISTERS #1                     CENTRAHOMA           225,7 ARKANSAS LOUISIANA G
*TEXACO INC                                RECEIVED:  07/23/80  JA: OK
 8048780   01167         3515120804 103   E P BUELL NO 2                       WAYNOKA NE           382,0 CITIES SERVICE GAS C
 8048910   02749         3507350197 108   LINCOLN NORTH UNIT TR 115 WELL NO 1  SOONER TREND           5,0 EXXON COMPANY USA
 8048854   02758         3507320029 108   LINCOLN NORTH UNIT TR 14 WELL NO 2   SOONER TREND          11,0 EXXON COMPANY USA
 8048903   02770         3507320292 108   LINCOLN NORTH UNIT TR 25 WELL NO 1   SOONER TREND           7,0 EXXON COMPANY USA
 8048902   02771         3507320187 108   LINCOLN NORTH UNIT TR 28 WELL NO 1   SOONER TREND           7,0 EXXON COMPANY USA
 8048901   02766         3507350307 108   LINCOLN NORTH UNIT TR 58 WELL NO 1   SOONER TREND           7,0 EXXON COMPANY USA
 8048911   02750         3507350173 108   LINCOLN NORTH UNIT TR 76 WELL NO 1   SOONER TREND           8,0 EXXON COMPANY USA
*TEXAS OIL & GAS CORP                      RECEIVED:  07/23/80  JA: OK
 8048889   04516         3507720190 103   GALLAGHER #1                                              150,7
 8048895   01956         3515120475 108   GOVERNMENT #19-1                     N E WAYNOKA            8,0 DELHI GAS PIPELINE C
 8048809   04532         3504721894 103   INGHAM A #1                          N W HUNTER           312,0
 8048900   01832         3509320848 108   SMITH B #1                           S W FAIRVIEW           8,2 DELHI GAS PIPELINE C
 8048866   04583         3512120660 103   TURNEY A #1                                               124,5 DELHI GAS PIPELINE C
*TRIGG DRILLING COMPANY INC                RECEIVED:  07/23/80  JA: OK
 8048927   03606         3512900000 102   DAVIS NO 1-30                                             365,0 MICHIGAN WISCONSIN P
 8048841   06829         3514920066 107   J C WALTER #1-19                     ELK CITY               3,6 MICH WISC PIPELINE C
*UNION OIL COMPANY OF CALIF                RECEIVED:  07/23/80  JA: OK
 8048829   02303         3503721985 103   R P RICHARDS #27                     CUSHING                3,0 ATLANTIC RICHFIELD C
 8048830   02302         3503721986 103   R P RICHARDS #28                     CUSHING                1,0 ARCO OIL & GAS CO
*US MINERAL & ROYALTY CORP                 RECEIVED:  07/23/80  JA: OK
 8048923   02358         3512720008 102   BRAME #1-13                          SOUTHWEST MOYERS      18,0 U S GAS GATHERING CO
 8048924   02362         3512720010 102   MACKEY #1-22                         SOUTHWEST MOYERS       1,8 US GAS GATHERING CO
 8048925   02359         3512720009 102   STEPHENSON #1-10                     SOUTHWEST MOYERS      18,0 US GAS GATHERING CO
 8048922   02294         3500520050 102   WYRICK #1-26                         DAISY                  0,0
*VULCAN ENERGY CORP                        RECEIVED:  07/23/80  JA: OK
 8048857   03537         3507322169 103   SHAFENBERG #1                        SOONER TREND         100,0 PHILLIPS PETROLEUM
*WAGNER & BROWN                            RECEIVED:  07/23/80  JA: OK
 8048820   04528         3512920369 103   STATE OF OKLAHOMA #1                 REYDON               128,0 EL PASO NATURAL GAS
*WALLACE OIL & GAS INC                     RECEIVED:  07/23/80  JA: OK
 8048908   04653         3502520396 103   WALLACE OIL & GAS INC #1 WELLS       S E GRIGGS             0,0 TRANSWESTERN PIPELIN
*WALTER A KELLY JR                         RECEIVED:  07/23/80  JA: OK
 8048864   04235         3511900000 103   AMERADA #1A                          NORTH MARCH            0,0 COLORADO GAS COMPRES
*WARREN DRILLING CO INC                    RECEIVED:  07/23/80  JA: OK
 8048812   04538         3509300000 103   OLSON #1                             RINGWOOD               0,0 PHILLIPS PETROLEUM C
*WILLIAM MOSS PROPERTIES INC               RECEIVED:  07/23/80  JA: OK
 8048823   04608         3500302066 103   STATE 16 WELL NO 1                   SOONER TREND          73,0 PANHANDLE EASTERN PI

 8048824   04609         3500320680 103   STATE 16 WELL NO 2                   SOONER TREND          73,0 PANHANDLE EASTERN PI
*WORLD EXPLORATION CORP                    RECEIVED:  07/23/80  JA: OK
 8048921   02094         3511100000 108 D BENNETT #1                           N BEGGS                0,0
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   PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES
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*BAKER GAS INC                             RECEIVED:  07/24/80  JA: PA
 8049177   5184          3700500000 108   J A KLINGENSMITH #3                  MATEER                 6,4 APOLLO GAS CO
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049178	5185	3700520546	108		J A KLINGENSMITH #4	MATEER	6,5	APOLLO GAS CO
8049170	5186	3700520681	108		J A KLINGENSMITH #5	MATEER	5,3	APOLLO GAS CO
-BOYD & SHRIVER					RECEIVED: 07/24/80 JA: PA			
8049174	5178	3706500000	108		169-REESMAN	PORTER	15,2	T W PHILLIPS GAS AND
8049155	2136	3706321726	108		408-HAMILTON	E MAHONING	11,0	CONSOLIDATED GAS SUP
8049154	2128	3706321735	108		409-WALRATH	E MAHONING	19,7	CONSOLIDATED GAS SUP
8049152	2027	3706321848	108		411-STIVER	GRANT	7,9	CONSOLIDATED GAS SUP
8049151	2026	3706321869	108		412-CARPENTER	E MAHONING	17,6	CONSOLIDATED GAS SUP
8049153	2095	3706321859	108		413-OBERLIN	E MAHONING	16,3	CONSOLIDATED GAS SUP
8049147	2014	3706321868	108		414-BAUN	E MAHONING	17,2	CONSOLIDATED GAS SUP
8049150	2022	3706322049	108		418-HAMILTON	E MAHONING	12,8	CONSOLIDATED GAS SUP
8049149	2018	3706322239	108		422-BROTHERS	E MAHONING	8,2	CONSOLIDATED GAS SUP
8049148	2016	3706322402	108		424-JULOCK	GRANT	5,3	CONSOLIDATED GAS SUP
8049165	5170	3706323928	103		469-BROWN	GRANT	36,3	CONSOLIDATED GAS SUP
8049175	5179	3706324390	103		475-MCISAAC	N MAHONING	73,3	T W PHILLIPS GAS & O
8049168	5173	3706324159	103		488-LOWMAN HEIRS	GRANT	46,9	T W PHILLIPS GAS & O
8049176	5181	3706324148	103		489-LOWMAN HEIRS	GRANT	46,9	T W PHILLIPS GAS & O
8049171	5175	3706324365	103		492-DUTY	ROCHESTER MILLS	59,9	CONSOLIDATED GAS SUP
8049169	5174	3706324373	103		493-DUTY	GRANT	59,9	CONSOLIDATED GAS SUP
8049166	5171	3706324571	108		502 - B HAMILTON	N MAHONING TOWNSHIP	54,0	CONSOLIDATED GAS SUP
8049163	5168	3706324581	103		503 - R NEVLING	E MAHONING TOWNSHIP	14,0	PEOPLES NATURAL GAS
8049173	5177	3706324584	103		504-LEASURE	E MAHONING	57,2	T W PHILLIPS GAS AND
8049172	5176	3706521819	103		505-HETRICK	BEAVER	389,0	T W PHILLIPS GAS & O
8049162	5167	3700522309	103		506-WEAVER	REDBANK	70,7	PEOPLES NATURAL GAS
8049164	5169	3706521879	103		510-GEARHART	PORTER	14,2	PEOPLES NATURAL GAS
8049167	5172	3706324909	103		514-GERALD MOORE	GRANT	30,3	T W PHILLIPS GAS & O
-CASTLE GAS CO INC					RECEIVED: 07/24/80 JA: PA			
8048944	728	3706323313	108		A C EDWARDS #1 C-310 IND-23313	EAST MAHONING TWP	16,0	PEOPLES NATURAL GAS
8048950	741	3700521496	108		A E BOARTS #1 (C-65) ARM21496	COWANSHANNOCK	5,0	PEOPLES NATURAL GAS
8048951	742	3700521497	108		A F BOARTS #2 (C-66) ARM-21497	COWANSHANNOCK	5,0	PEOPLES NATURAL GAS
8049014	830	3706322339	108		A F LAVEEN #1 (C-154) IND-22339	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049015	831	3706322340	108		A F LAVEEN #2 (C-155) IND-22340	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8048955	746	3700521505	108		A GOTTSCHALK #2 C-69 ARM-21505	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8049120	998	3712922677	108		A J RUFFNER #2 (C-185) WES-22677	DERRY TOWNSHIP	14,0	PEOPLES NATURAL GAS
8049090	951	3706321902	108		A R POTTS #1 (C-31) IND-21902	WASHINGTON TWP	11,0	PEOPLES NATURAL GAS
8048946	732	3706322681	108		A SIMPSON #2 (C-232) IND-22681	EAST MAHONING TOWNSHIP	16,0	PEOPLES NATURAL GAS
8048947	733	3706322072	108		A SIMPSON #3 (C-233) IND-22072	EAST MAHONING TOWNSHIP	16,0	PEOPLES NATURAL GAS
8049119	997	3712922676	108		A T RUFFNER #1 (C-184) WES-22676	DERRY TOWNSHIP	14,0	PEOPLES NATURAL GAS
8048964	755	3700521468	108		A YARRUS #1 (C-39) ARM-21468	COWANSHANNOCK TOWNSHIP	5,0	PEOPLES NATURAL GAS
8048965	756	3700521469	108		A YARRUS #2 (C-40) ARM-21469	COWANSHANNOCK TOWNSHIP	5,0	PEOPLES NATURAL GAS
8049077	904	3706322829	108		B CUNNINGHAM #1 (C-256) IND-22829	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049078	905	3706322828	108		B CUNNINGHAM #2 C-257 IND-22828	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049079	906	3706322827	108		B CUNNINGHAM #3 C-258 IND-22827	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049124	1003	3706321750	108		B&S COAL #1 (22A) C-19 IND-21750	SOUTH MAHONING	19,0	EQUITABLE GAS CO
8049125	1004	3706321708	108		B&S COAL #1 (44A) C-12 IND-21708	SOUTH MAHONING TWP	17,0	EQUITABLE GAS CO
8049049	869	3706322055	108		BERT ORR #2 (C-97) IND-22055	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049050	870	3706322051	108		BERT ORR #3 (C-98) IND-22051	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049071	895	3706321956	108		C A REARIC #2 (C-55) IND-21956	ARMSTRONG TOWNSHIP	11,0	PEOPLES NATURAL GAS
8049099	960	3712920739	108		C ACKERMAN #1 C-252 WES-20739	DERRY TWP	14,0	PEOPLES NATURAL GAS
8049100	961	3712920740	108		C ACKERMAN #2 C-253 WES-20740	DERRY TWP	14,0	PEOPLES NATURAL GAS
8049129	1011	3706322074	108		C L LEARN #1 (C-101) IND-22074	SOUTH MAHONING TWP	19,0	EQUITABLE GAS CO
8049059	879	3706322100	108		C L WARREN #1 (C-109) IND-22100	SOUTH MAHONING TOWNSHIP	6,0	PEOPLES NATURAL GAS
8048977	771	3706321865	108		C L WARREN #2 (C-36) IND-21865	SOUTH MAHONING TOWNSHIP	12,0	PEOPLES NATURAL GAS

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JD NO.	JA UNI	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8048978	772	3706321867	108		C L WARREN #4 (C-38) IND-21867	SOUTH MAHONING TOWNSHIP	2,0	PEOPLES NATURAL GAS
8049127	1009	3700521478	108		CAROLINE FISCHER #2 C-52 ARM-21478	COWANSHANNOCK TWP	14,0	EQUITABLE GAS CO
8049128	1010	3700521479	108		CAROLINE FISCHER #3 C-53 ARM-21479	COWANSHANNOCK TWP	14,0	EQUITABLE GAS CO
8048975	766	3706323057	108		CHARLES F SUNDBURG #2(C-302)	WHITE TOWNSHIP	16,0	PEOPLES NATURAL GAS
8049146	1036	3700521388	108		CHRIST RUPP LUTHERAN CHURCH #1	KITTANNING TOWNSHIP	3,0	APOLLO GAS CO
8049102	964	3712920769	108		D AMMON #1 C-289 WES-20769	DERRY TWP	14,0	PEOPLES NATURAL GAS
8048995	806	3706323566	108		D F MCHENRY #1 (C-344) IND-23566	RAYNE TWP	14,0	COLUMBIA GAS TRANSMI
8048996	807	3706323567	108		D F MCHENRY #2 (C-345) IND-23567	RAYNE TWP	14,0	COLUMBIA GAS TRANSMI
8048997	808	3706323568	108		D F MCHENRY #3 (C-395) IND-23568	RAYNE TWP	14,0	COLUMBIA GAS TRANSMI
8049006	821	3706322132	108		D M CLAWSON #1 C-116 IND-22132	YOUNG	7,0	COLUMBIA GAS TRANSMI
8049007	822	3706322345	108		D M CLAWSON #2 C-148 IND-22345	YOUNG	7,0	COLUMBIA GAS TRANSMI
8048959	750	3700521508	108		D MCCAUSLAND #2 (C-74) ARM21508	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8048960	751	3700521507	108		D MCCAUSLAND #3 (C-73) ARM-21507	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8048943	323	3706324375	103		DC LEASURE #1 (182A)(C-427)	WASHINGTON TOWNSHIP	25,0	COLUMBIA GAS TRANSMI
8049139	1022	3706323260	108		DUKE #1 (C-335) IND-23260	NORTH MAHONING TWP	13,0	T W PHILLIPS GAS & O
8049008	823	3706322131	108		E J FAILS #1 C-118 IND-22131	BLACKLICK TWP	7,0	COLUMBIA GAS TRANSMI
8049009	824	3706322272	108		E J FAILS #2 C-142 IND-22272	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049010	825	3706322314	108		E J FAILS #3 C-147 IND-22314	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049086	920	3712920738	108		E LIEBEL #3 (C-219) WES-20738	DERRY TWP	21,0	PEOPLES NATURAL GAS
8049060	880	3706321917	108		E M CARNAHAN #1 C-45 IND-21917	ARMSTRONG	11,0	PEOPLES NATURAL GAS
8049061	881	3706321918	108		E M CARNAHAN #2 C-46 IND-21918	ARMSTRONG	11,0	PEOPLES NATURAL GAS
8049087	940	3706321710	108		EARL BEATTY #1 (C-15) IND-21710	SOUTH MAHONING TWP	11,0	PEOPLES NATURAL GAS
8049051	871	3706322070	108		EDWARD R SIMPSON #1 (C-102)	SOUTH MAHONING TOWNSHIP	6,0	PEOPLES NATURAL GAS
8049052	872	3706322107	108		EDWARD R SIMPSON #2 (C-110)	SOUTH MAHONING TOWNSHIP	6,0	PEOPLES NATURAL GAS
8048983	788	3706322229	108		EMMA LEARN #2(C-136) IND-22229	ARMSTRONG TWP	7,0	COLUMBIA GAS TRANSMI
8049144	1033	3706321312	108		ETHEL E WHEELER #1 IND-21312-R	NORTH MAHONING TOWNSHIP	13,0	T W PHILLIPS GAS & O
8048952	743	3700521377	108		EUGENE FRAILEY #2 (C-10) ARM-21377	COWANSHANNOCK TOWNSHIP	5,0	PEOPLES NATURAL GAS
8048954	745	3700521495	108		EUGENE FRAILEY #4 C-42 ARM-21495	COWANSHANNOCK	5,0	PEOPLES NATURAL GAS
8048953	744	3700521494	108		EUGENE FRALLEY #3 C-41 ARM-21494	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8049142	1031	3706321199	108		FRED MUSSER #2 IND-21199	SOUTH MAHONING TWP	45,0	T W PHILLIPS GAS & O
8049143	1032	3706321375	108		FRED MUSSER #3 IND-21375	SOUTH MAHONING TWP	45,0	T W PHILLIPS GAS & O
8049093	954	3706321719	108		FREDERICK J TOST #1 (C-13)	SOUTH MAHONING TOWNSHIP	11,0	PEOPLES NATURAL GAS
8049094	955	3706321720	108		FREDERICK J TOST #2 (C-17)	SOUTH MAHONING TWP	11,0	PEOPLES NATURAL GAS
8049095	956	3706321754	108		FREDERICK J TOST #3 (C-22)	SOUTH MAHONING TOWNSHIP	11,0	PEOPLES NATURAL GAS
8049096	957	3706322007	108		FREDERICK T TOST #4 (C-81)	BOROUGH OF PLUMVILLE	11,0	PEOPLES NATURAL GAS
8049108	970	3706320776	108		G A COATI JR #3 C-267 IND-20776	DERRY TWP	14,0	PEOPLES NATURAL GAS
8049106	968	3706320744	108		G A CONTI JR #1 C-265 IND-20744	DERRY TWP	14,0	PEOPLES NATURAL GAS
8049107	969	3706320745	108		G A CONTI JR #2 C-266 IND-20745	DERRY TWP	14,0	PEOPLES NATURAL GAS
8048980	782	3706322360	108		G FOUSE #1 C-161 IND-22360	SOUTH MAHONING TWP	8,0	PEOPLES NATURAL GAS
8049130	1012	3706321755	108		G MAXTON #1 (C-18) IND-21755	SOUTH MAHONING TWP	10,0	EQUITABLE GAS CO
8049134	1016	3700521313	108		G W SHELTZER #5 (C-1) ARM21313	COWANSHANNOCK TOWNSHIP	7,0	EQUITABLE GAS CO
8049029	847	3706322346	108		M G REEGER #1(C-151) IND-22346	YOUNG TOWNSHIP	7,0	COLUMBIA GAS TRANSMI
8049030	848	3706322347	108		M G REEGER #2 (C-152) IND-22347	YOUNG TOWNSHIP	7,0	COLUMBIA GAS TRANSMI
8049062	886	3706322010	108		M L GEORGE #3 (150A) C-78 IND-22010	ARMSTRONG TWP	11,0	PEOPLES NATURAL GAS
8049063	887	3706322400	108		M L GEORGE #4 (150A) C-168	ARMSTRONG TWP	11,0	PEOPLES NATURAL GAS
8049064	888	3706322397	108		M L GEORGE #5 (150A) C-169	ARMSTRONG TWP	11,0	PEOPLES NATURAL GAS
8049041	860	3706322431	108		M W FOLTS #1 C-173 IND-22431	SOUTH MAHONING TWP	6,0	PEOPLE NATURAL GAS C
8049042	861	3706322428	108		M W FOLTZ #2 C-174 IND-22428	EAST MAHONING TWP	6,0	PEOPLES NATURAL GAS
8048969	760	3706323178	108		HARRY D HILL #1 (C-315) IND-23178	WHITE TWP	10,0	PEOPLES NATURAL GAS
8048970	761	3706323230	108		HARRY D HILL #2 (C-321) IND-23230	WHITE TWP	16,0	PEOPLES NATURAL GAS
8048971	762	3706323231	108		HARRY D HILL #3 (C-322) IND-23231	WHITE TWP	16,0	PEOPLES NATURAL GAS
8048972	763	3706323232	108		HARRY D HILL #4 (C-323) IND-23232	WHITE TWP	16,0	PEOPLES NATURAL GAS

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049040	859	3706322035	108	I D DE HAVEN #3 C=91 IND=22035	SOUTH MAHONING TWP	6.0	PEOPLES NATURAL GAS
8048999	810	3706323569	108	J & S MCKEE #1 (C=396) IND=23569	WHITE TOWNSHIP	14.0	COLUMBIA GAS TRANSMI
8049000	811	3706323611	108	J & S MCKEE #2 (C=401) IND=23611	WHITE TOWNSHIP	14.0	COLUMBIA GAS TRANSMI
8049001	812	3706323612	108	J & S MCKEE #3 (C=402) IND=23612	WHITE TOWNSHIP	14.0	COLUMBIA GAS TRANSMI
8049016	832	3706322133	108	J A MCKELVEY #1 (C=117) IND=22133	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049017	833	3706322134	108	J A MCKELVEY #2 (C=120) IND=22134	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049018	834	3706322147	108	J A MCKELVEY #3 (C=121) IND=22147	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049048	868	3706322651	108	J B LAPSLEY #3(C=198) IND=22651	EAST MAHONING TWP	6.0	PEOPLES NATURAL GAS
8049133	1015	3706321705	108	J B POTTS #3 (C=10) IND=21705	WASHINGTON TOWNSHIP	8.0	EQUITABLE GAS CO
8049038	857	3706322036	108	J DANKMEYER #1 C=87 IND=22036	EAST MAHONING TWP	6.0	PEOPLES NATURAL GAS
8049057	877	3706322039	108	J E WALKER #1 (C=88) IND=22039	EAST MAHONING TOWNSHIP	6.0	PEOPLES NATURAL GAS
8049058	878	3706322040	108	J E WALKER #2 (C=90) IND=22040	EAST MAHONING TOWNSHIP	6.0	PEOPLES NATURAL GAS
8048945	729	3706323179	108	J HASTINGS #1 C=318 IND=23179	EAST MAHONING	16.0	PEOPLES NATURAL GAS
8049031	849	3706322338	108	J L REEGER #1 (C=153) IND=22338	YOUNG TOWNSHIP	7.0	COLUMBIA GAS TRANSMI
8049135	1018	3706323518	108	J LUKEHART #2 (C=387) IND=23518	SOUTH MAHONING	30.0	T W PHILLIPS GAS & O
8048949	739	3706321913	108	J M CARBAUGH #1 C=47 IND=21913	RAYNE TWP	2.0	PEOPLES NATURAL GAS
8049110	986	3712920746	108	J PIGNUCCO #1 (C=273) WES=20746	DERRY TOWNSHIP	14.0	PEOPLES NATURAL GAS
8049111	989	3712920761	108	J PIGNUCCO #2(C=275) WES=20761	DERRY TOWNSHIP	14.0	PEOPLES NATURAL GAS
8049112	990	3712920762	108	J PIGNUCCO #3 (C=276) WES=20762	DERRY TOWNSHIP	14.0	PEOPLES NATURAL GAS
8049073	900	3706323028	108	J W ARMBRUST #4(C=298) IND=23028	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049033	851	3706322555	108	J YOUNG #1 (C=212) IND=22555	YOUNG TOWNSHIP	7.0	COLUMBIA GAS TRANSMI
8049019	837	3706322348	108	JAMES MCKEE #2(C=157) IND=22348	YOUNG TWP	7.0	COLUMBIA GAS TRANSMI
8049020	838	3706322349	108	JAMES MCKEE #3(C=158) IND=22349	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049021	839	3706322461	108	JAMES MCKEE #4(C=105) IND=22461	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049022	840	3706322398	108	JAMES MCKEE #5(C=166) IND=22398	YOUNG TWP	7.0	COLUMBIA GAS TRANSMI
8049136	1019	3706323565	108	JANE LUKEHART #3 (C=394) IND=23565	SOUTH MAHONING TWP	30.0	T W PHILLIPS GAS & O
8048963	754	3700521504	108	JANE M STRICKLER #2 (C=68)	COWANSHANNOCK TOWNSHIP	5.0	PEOPLES NATURAL GAS
8049035	853	3712920866	108	KEYSTONE PARK ESTATES #1 (C=341)	DERRY TOWNSHIP	22.0	PEOPLES NATURAL GAS
8049036	854	3712920867	108	KEYSTONE PARK ESTATES #2(C=342)	DERRY TWP	22.0	PEOPLES NATURAL GAS
8048961	752	3700521433	108	L C SHELLHAMMER #1 (C=27) ARM=21433	COWANSHANNOCK TOWNSHIP	5.0	PEOPLES NATURAL GAS
8048962	753	3700521434	108	L C SHELLHAMMER #2 (C=28) ARM=21434	COWANSHANNOCK TOWNSHIP	5.0	PEOPLES NATURAL GAS
8049039	858	3706322034	108	L D DE HAVEN #2 C=89 IND=22034	SOUTH MAHONING TWP	6.0	PEOPLES NATURAL GAS
8049103	965	3712920747	108	LEE A BARNHART #1 C=268 WES=20747	DERRY TWP	14.0	PEOPLES NATURAL GAS
8049104	966	3712920748	108	LEE A BARNHART #2 C=269 WES=20748	DERRY TWP	14.0	PEOPLES NATURAL GAS
8049105	967	3712920749	108	LEE A BARNHART #3 C=270 WES=20749	DERRY TWP	14.0	PEOPLES NATURAL GAS
8049140	1027	3706321819	108	LESLIE MILTY #1 (C=34) IND=21819	ARMSTRONG TWP	27.0	T W PHILLIPS GAS & O
8049141	1028	3706322112	108	LESLIE MILTY #2 (C=112) IND=22112	ARMSTRONG TWP	27.0	T W PHILLIPS GAS & O
8048976	767	3706322249	108	LESLIE P BERESNYAK #1(C=138)	SOUTH MAHONING TWP	2.0	PEOPLES NATURAL GAS
8048967	758	3706323054	108	M F DILLS #1 C=299 IND=23054	WHITE TWP	16.0	PEOPLES NATURAL GAS
8048968	759	3706323055	108	M F DILLS #2 C=300 IND=23055	WHITE TWP	16.0	PEOPLES NATURAL GAS
8049013	829	3706322337	108	M J JACK #1 (C=150) IND=22337	BLACKLICK TWP	7.0	COLUMBIA GAS TRANSMI
8049097	958	3706322014	108	M WHITESELL #1 (C=7) IND=22014=R	SOUTH MAHONING TOWNSHIP	11.0	PEOPLES NATURAL GAS
8049137	1020	3706321346	108	MARK ANTHONY #1 IND=21346	NORTH MAHONING TWP	27.0	T W PHILLIPS GAS & O
8049138	1021	3706321383	108	MARK ANTHONY #2 IND=21383	NORTH MAHONING TWP	27.0	T W PHILLIPS GAS & O
8049080	907	3706322850	108	MARY MART RINN #1 (C=260) IND=22850	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049081	908	3706322851	108	MARY MART RINN #2 (C=261) IND=22851	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049082	909	3706322852	108	MARY MART RINN #3 (C=262) IND=22852	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049083	910	3706322853	108	MARY MART RINN #4 (C=263) IND=22853	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049084	911	3706322854	108	MARY MART RINN #5 (C=264) IND=22854	YOUNG TOWNSHIP	16.0	PEOPLES NATURAL GAS
8049011	827	3706322519	108	MARY J IRWIN #2 (C=208) IND=22519	YOUNG TWP	7.0	COLUMBIA GAS TRANSMI
8049012	828	3706322520	108	MARY J IRWIN #3 (C=209) IND=22520	YOUNG TWP	7.0	COLUMBIA GAS TRANSMI
8049088	949	3706321756	108	MATTHEW L ORR #1 (C=25) IND 21756	WASHINGTON TWP	11.0	PEOPLES NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049089	950	3706321757	108		MATTHEW ORR #2 (C-26) IND-21757	WASHINGTON TWP	11,0	PEOPLES NATURAL GAS
8049098	959	3706321663	108		MAX WHITESELL #2 (C-8) IND-21663	SOUTH MAHONING TOWNSHIP	11,0	PEOPLES NATURAL GAS
8049068	892	3706321248	108		N E MCINTIRE #1 (C-76) IND-21248-R	CENTER TWP	11,0	PEOPLES NATURAL GAS
8049023	841	3706322275	108		N MEANS #1(C-139) IND-22275	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049025	843	3706322146	108		N MEANS #1(194-A) (C-117) IND-22146	BLACKLICK TWP	7,0	COLUMBIA GAS TRANSMI
8049024	842	3706322274	108		N MEANS #2(C-140) IND-22274	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049026	844	3706322269	108		N MEANS #2(194-A) (C-141) IND-22269	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049027	845	3706322282	108		N MEANS #3 194-A (C-146) IND-22282	YOUNG TWP	7,0	COLUMBIA GAS TRANSMI
8049028	846	3706322336	108		N MEANS #4 194-A (C-149) IND-22336	BLACKLICK TWP	7,0	COLUMBIA GAS TRANSMI
8048973	764	3706323167	108		O F HILL #1(34-A) (C-314) IND-23167	WHITE TWP	16,0	PEOPLES NATURAL GAS
8048974	765	3706323056	108		O F HILL #1(40-A) (C-301)IND-23056	WHITE TWP	16,0	PEOPLES NATURAL GAS
8049122	1001	3706321049	108		OLIN M BOYER #1 (C-) IND-21049	SOUTH MAHONING	21,0	EQUITABLE GAS CO
8049123	1002	3706321197	108		OLIN M BOYER #2 IND-21197	SOUTH MAHONING	21,0	EQUITABLE GAS CO
8049072	896	3706322446	108		ORVILLE WATSON #2 (C-176) IND-22446	ARMSTRONG TOWNSHIP	11,0	PEOPLES NATURAL GAS
8049121	999	3706321602	108		P BLATTENBERGER #2 C-3 IND-21602	SOUTH MAHONING TWP	9,0	EQUITABLE GAS CO
8049002	813	3706323622	108		P F RHOADS #2 (C-405) IND-23622	RAYNE TOWNSHIP	14,0	COLUMBIA GAS TRANSMI
8049003	815	3706323624	108		P F RHOADS #4 (C-407) IND-23624	RAYNE TOWNSHIP	14,0	COLUMBIA GAS TRANSMI
8049004	816	3706323625	108		P F RHOADS #5 (C-408) IND-23625	RAYNE TOWNSHIP	14,0	COLUMBIA GAS TRANSMI
8049005	817	3706323626	108		P F RHOADS #6 (C-409) IND-23626	RAYNE TOWNSHIP	14,0	COLUMBIA GAS TRANSMI
8048979	781	3706323401	108		PAUL A STEWART #2 (C-374) IND-23401	EAST MAHONING TWP	18,0	PEOPLES NATURAL GAS
8049157	4364	3706324520	103	D	R & P COAL CO A W COCHRAN #1	WHITE TOWNSHIP	70,0	COLUMBIA GAS TRANSMI
8049074	901	3706320053	108		R BELLA #1 C-326 IND-53-R	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049075	902	3706322830	108		R BELLA #2 C-254 IND-22830	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049076	903	3706322831	108		R BELLA #3 C-255 IND-22831	YOUNG TWP	16,0	PEOPLES NATURAL GAS
8049156	4336	3706322358	108		R BERESNYAK #1 (C-159) IND-22358	SOUTH MAHONING TWP	8,0	PEOPLES NATURAL GAS
8048984	791	3706322280	108		R CUNNINGHAM #1 C-144 IND-22280	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8048985	792	3706322281	108		R CUNNINGHAM #2 C-145 IND-22281	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8049069	893	3706321920	108		R E MILLEN #1(C-43) IND-21920	ARMSTRONG TWP	11,0	PEOPLES NATURAL GAS
8049034	852	3712920832	108		R HUESSENER #1 (C-308) WES-20832	DERRY TWP	9,0	PEOPLES NATURAL GAS
8049101	963	3712920873	108		R J ACKERMAN #1 C-359 WES-20873	DERRY TWP	14,0	PEOPLES NAT GAS CO
8049046	866	3706322071	108		R M HERMAN #1 C-103 IND-2071	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049047	867	3706322101	108		R M HERMAN #2 C-106 IND-2101	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049109	985	3712920808	108		R PEARSON #1 (C-307) WES-20808	DERRY TOWNSHIP	14,0	PEOPLES NATURAL GAS
8048986	794	3706322930	108		R S HENRY #1 C-179 IND-22930	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8048987	795	3706322444	108		R S HENRY #2 C-180 IND-22444	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8048988	796	3706322931	108		R S HENRY #3 C-181 IND-22931	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8049158	4389	3706324389	103		R&P COAL CO (FMLY J W BRADLEY) #1	RAYNE TOWNSHIP	65,0	COLUMBIA GAS TRANSMI
8048994	805	3706302165	108		R&P COAL CO G L STEWART #4 (C-128)	YOUNG TOWNSHIP	6,0	COLUMBIA GAS TRANSMI
8049126	1008	3706321665	108		RAFFAELA FARRAND #2 C-6 IND-21665	SOUTH MAHONING TWP	8,0	EQUITABLE GAS CO
8049131	1013	3706321601	108		RALPH PISANI #1 (C-4) IND-21601-R	SOUTH MAHONING TOWNSHIP	11,0	EQUITABLE GAS CO
8049132	1014	3706321558	108		RALPH PISANI #2 (C-2) IND-21558	SOUTH MAHONING TOWNSHIP	8,0	EQUITABLE GAS CO
8048989	797	3706322156	108		S BELLE JEWELL #1 (C-124) IND-22156	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8048990	798	3706322187	108		S BELLE JEWELL #3 (C-130) IND-22187	YOUNG TWP	6,0	COLUMBIA GAS TRANSMI
8049032	850	3706322471	108		S F STAHL #1 (C-194) IND-2471	YOUNG TOWNSHIP	7,0	COLUMBIA GAS TRANSMI
8049043	862	3706322018	108		S G HAMBRIGE #2 C-82 IND-22018	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049044	863	3706322032	108		S G HAMBRIGE #3 C-83 IND-22032	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049045	865	3706322020	108		S G HAMBRIGE #5 C-85 IND-22020	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8048957	748	3700521492	108		S MATTILIO #1 (C-71) ARM-21492	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8048958	749	3700521506	108		S MATTILIO #2 (C-70) ARM-21506	COWANSHANNOCK TWP	5,0	PEOPLES NATURAL GAS
8048998	809	3706323628	108		S MCHENRY #1 (C-411) IND-23628	RAYNE TWP	14,0	COLUMBIA GAS TRANSMI
8049037	856	3706322059	108		T S BARBOR #3 C-99 IND-22059	SOUTH MAHONING TWP	6,0	PEOPLES NATURAL GAS
8049113	991	3712920868	108		T SCHUIT ROBINSON #1 (C-360)	DERRY TOWNSHIP	14,0	PEOPLES NATURAL GAS

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                                                                        VOLUME  262          . PAGE  010
 JD NO     JA DKT       API NO     SEC D WELL NAME                           FIELD NAME                  PROD   PURCHASER
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 8049114   992          3712920869 108   T SCHUTT RUBINSON #2 (C-361)        DERRY TOWNSHIP              14,0 PEOPLES NATURAL GAS
 8049115   993          3712920884 108   T SCHUTT RUBINSON #3 (C-366)        DERRY TOWNSHIP              14,0 PEOPLES NATURAL GAS
 8049116   994          3712920888 108   T SCHOTT RUBINSON #4 (C-368)        DERRY TOWNSHIP              14,0 PEOPLES NATURAL GAS
 8049053   873          3706322404 108   T SIMPSON #1 (C-170) IND-22404-R    SOUTH MAHONING TOWNSHIP      6,0 PEOPLES NATURAL GAS
 8049054   874          3706322033 108   T SIMPSUN #2 (C-86) IND-22033       SOUTH MAHONING TOWNSHIP      6,0 PEOPLES NATURAL GAS
 8049065   889          3706321943 108   W H GEURGE #3 C-51 IND-21943        ARMSTRUNG TWP               11,0 PEOPLES NATURAL GAS
 8049066   890          3706322006 108   W H GEURGE #5 C-80 IND-22006        ARMSTRUNG                   11,0 PEOPLES NATURAL GAS
 8049067   891          3706322440 108   W H GEURGE #6 C-175 IND-22440       ARMSTRUNG TWP               11,0 PEOPLES NATURAL GAS
 8048991   799          3706322154 108   W H MARTIN #1 (C-123) IND-22154     YOUNG TWP                    6,0 COLUMBIA GAS TRANSMI
 8048992   800          3706322162 108   W H MARTIN #2 (C-125) IND-22162     YOUNG TWP                    6,0 COLUMBIA GAS TRANSMI
 8048993   801          3706322165 108   W H MARTIN #4 (C-126) IND-22165     YOUNG TWP                    6,0 COLUMBIA GAS TRANSMI
 8048966   757          3706323242 108   W L CRAMER #1 (C-327) IND-23242     WHITE TWP                   16,0 PEOPLES NATURAL GAS
 8049145   1034         3706320083 108   W O MOOREHEAD #1 (L-4477) IND-83    BRUSHVALLEY TOWNSHIP         8,0 T W PHILLIPS GAS & O
 8049085   912          3706323304 108   W P SHUSTER #1 (C-248) IND-23304    YOUNG TOWNSHIP              16,0 PEOPLES NATURAL GAS
 8048981   786          3706322363 108   W R MARSHALL #1(C-164) IND-22363    SOUTH MAHONING TWP           8,0 PEOPLES NATURAL GAS
 8048982   787          3706322429 108   W R MARSHALL #2(C-171) IND-22429    SOUTH MAHONING TWP           8,0 PEOPLES NATURAL GAS
 8049117   995          3712920689 108 D W ROCKWELL #1 (C-205) WES-20689     DERRY TOWNSHIP              14,0 PEOPLES NAT GAS CO
 8049118   996          3712920690 108   W ROCKWELL #2 (C-206) WES-20690     DERRY TOWNSHIP              14,0 PEOPLES NATURAL GAS
 8049055   875          3706322046 108   W SIMPSON #1 (C-94) IND-22046       SOUTH MAHONING TOWNSHIP      6,0 PEOPLES NATURAL GAS
 8049056   876          3706322044 108   W SIMPSON #2 (C-95) IND-22044       SOUTH MAHONING TOWNSHIP      6,0 PEOPLES NATURAL GAS
 8048948   736          3706322671 108   W SMITH #3 (C-234) IND-22671        EAST MAHONING TOWNSHIP      16,0 PEOPLES NATURAL GAS
 8049091   952          3706321884 108   WAYNE E STEAR #1 (C-29) IND-1884    SOUTH MAHONING TOWNSHIP     11,0 PEOPLES NATURAL GAS
 8049092   953          3706301901 108   WAYNE E STEAR #2 (C-30) IND-1901    WASHINGTON TOWNSHIP         11,0 PEOPLES NATURAL GAS
 8048956   747          3700521509 108   WILLIAM HILL #1 (C-72) ARM-21509    COWANSHANNOCK TWP            5,0 PEOPLES NATURAL GAS
 8049070   894          3706222081 108   WOODROW PYMIRE #1 (23A)(C-106)      ARMSTRUNG TWP               11,0 PEOPLES NATURAL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION   RECEIVED: 07/24/80  JA: PA

 8049159   4571         3703320861 108   ARMAND D ELLINGER WN-1749           SALEM 625030                14,0 GENERAL SYSTEM PURCH
-FRED J RUSSELL DBA LOUDEN PROPERTIE   RECEIVED: 07/24/80  JA: PA
 8049160   4901         3701900000 108   LERNER 1064-T1                      WINFIELD                     0,4 CRUCIBLE INC
-QUAKER STATE OIL REFINING CORP        RECEIVED: 07/24/80  JA: PA
 8049161   5142         3712327546 103   01 BONANZA (LOT 689)                KLONDIKE POOL                3,7 NATIONAL FUEL GAS CO
****************************************************************************
   VIRGINIA DEPARTMENT OF LABOR & INDUSTRY
****************************************************************************
-JAMES F SCOTT                         RECEIVED: 04/22/80  JA: VA
 8044599                4516519698 102   R J WHETZEL #1                      BERGTON - CRAB RUN          27,0 COLUMBIA GAS TRANSMI
 8042132                4516519693 102   S L MOYERS #1                       BERGTON - CRAB RUN          27,0 COLUMBIA GAS TRANSMI
****************************************************************************
   WEST VIRGINIA DEPARTMENT OF MINES
****************************************************************************
-TRIO PETROLEUM CORP                   RECEIVED: 08/01/80  JA: WV
 8048212                4702102875 108   MCPHERSON A NO 1                    GLENVILLE SOUTH             14,6 CONSOLIDATED GAS SUP

   OTHER PURCHASERS
   ----------------

  8048785     CITIES SERVICE CO
  8048791     OKLAHOMA GAS & ELEC CO
  8048802     COLORADO INTERSTATE GAS CO
  8048838     CHASE GATHERING SYSTEM INC
  8048845     CHASE GATHERING SYSTEM INC
  8048846     CHASE GATHERING SYSTEM INC
  8048857     CHASE GATH SYSTEM INC
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[FR Doc. 80-27862 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-C

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[Volume 263]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 25, 1980.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 26, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

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JD NO      JA DKT       API NO       SEC D WELL NAME                          FIELD NAME                 PROD      PURCHASER
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**********************************************************************************
   MISSISSIPPI OIL & GAS BOARD
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-ENSERCH EXPLORATION INC                    RECEIVED:  07/25/80  JA: MS
 8049201   67-79-224    2304520042 102   GEX NO 1                             WAVELAND                    28.0 UNITED GAS PIPE LINE
-GULF OIL CORPORATION                       RECEIVED:  07/25/80  JA: MS
 8049198   58-80-11     2307320189 103   J M ANDREW NO 72                     BAXTERVILLE                 14.0 UNITED GAS PIPE LINE
-MARION CORPORATION                         RECEIVED:  07/25/80  JA: MS
 8049195   51-80-372    2312720042 103   BERRY ESTATE WELL #1                 OAK GROVE FIELD            216.0 MISSISSIPPI POWER &
-PURSUE ENERGY CORP                         RECEIVED:  07/25/80  JA: MS
 8049202   55-80-310    2312120063 107   D LO ROYALTIES UNIT #1               THOMASVILLE/SMACKOVER     3650.0 SOUTHERN NATURAL GAS
 8049199   56-80-310    2312100000 107   D LO ROYALTIES UNIT #2               THOMASVILLE/SMACKOVER       36.5 SOUTHERN NATURAL GAS
 8049194   53-80-310    2312100000 107   KENNEDY UNIT #1                      THOMASVILLE/SMACKOVER       36.5 SOUTHERN NATURAL GAS
 8049200   54-80-310    2312100000 107   SCHUSTER UNIT #1                     THOMASVILLE/SMACKOVER       36.5 SOUTHERN NATURAL GAS
-SHELL OIL CO                               RECEIVED:  07/25/80  JA: MS
 8049196   50-80-494    2302520020 102   JAMES C FOSTER 29-5                  WEST POINT                 788.0 TEXAS EASTERN TRANSM
-SYSTEM FUELS INC                           RECEIVED:  07/25/80  JA: MS
 8049197   49-80-420    2306520138 107   A M SPEIGHTS 30-13 NO 1 WELL         HOLIDAY CREEK FIELD         73.0 SYSTEM FUELS INC
**********************************************************************************
   NORTH DAKOTA GEOLOGICAL SURVEY
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-AMERADA HESS CORPORATION                   RECEIVED:  07/25/80  JA: ND
 8049182   265          3310500000 108 D BEAVER LODGE MADISON UNIT #P024    BEAVER LODGE                 0.3 MONTANA DAKOTA UTILI
 8049181   264          3310500000 108 D BEAVER LODGE MADISON UNIT #0015    BEAVER LODGE                 7.9 MONTANA DAKOTA UTILI
 8049180   263          3305300000 108 D HAWKEYE MADISON UNIT #D610         HAWKEYE                      1.1 MONTANA DAKOTA UTILI
-DOME PETROLEUM CORP                        RECEIVED:  07/25/80  JA: ND
 8049191   248          3305300880 102   BURNS 1-34                           MONDAK                       0.0 SHELL OIL
 8049193   250          3305300960 102   BURNS 1-35                           MON - DAK                   34.7 SHELL OIL CO
-KERR-MCGEE CORPORATION                     RECEIVED:  07/25/80  JA: ND
 8049183   254          3305300976 102   BURNS WELL NO 2-29                   MONDAK                       2.0 SHELL OIL CO
 8049185   256          3305300977 102   BURNS WELL NO 3-20                   MONDAK                       2.9 SHELL OIL CO
 8049188   259          3305300978 102   BURNS WELL NO 3-29                   MONDAK                       2.5 SHELL OIL CO
 8049187   258          3305300993 102   CHRIS NO 3-28                        MONDAK                       1.0 SHELL OIL CO
 8049186   257          3305300994 102   RAU WELL NO 1-32                     MONDAK                       4.0 SHELL OIL CO
 8049184   255          3305300992 102   RAU WELL NO 1-33                     MONDAK                       4.0 SHELL OIL CO
-SHELL OIL CO                               RECEIVED:  07/25/80  JA: ND
 8049192   249          3305300891 102   STATE 24-36                          BICENTENNIAL                10.0 MONTANA DAKOTA UTILI
-TEXACO INC                                 RECEIVED:  07/25/80  JA: ND
 8049190   247          3305300940 102   C LOVAAS (NCT-1) NO 5                BLUE BUTTES                184.0 MONTANA DAKOTA UTILI
 8049189   246          3305300910 102   SILURIAN UNIT 8 WELL NO 1            CHARLSON                   296.0 MONTANA DAKOTA UTILI
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   NEW MEXICO DEPARTMENT OF ENERGY & MINERALS
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-AMERADA HESS CORPORATION                   RECEIVED:  07/25/80  JA: NM
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 JD NO     JA DKT          API NO      SEC D WELL NAME                         FIELD NAME                 PROD    PURCHASER
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 8049208                   3002510394  108   E WOOD #9                         EUNICE                     18,7 NORTHERN NATURAL GAS
 8049207                   3002520139  108   I WIMBERLEY #16 (DUAL - O & G)    JUSTIS                     17,8 EL PASO NATURAL GAS
-AMOCO PRODUCTION CO                       RECEIVED: 07/25/80  JA: NM
 8049215                   3004507821  108   ABRAMS GAS COM A #1               AZTEC - PICTURED CLIFFS    21,0 EL PASO NATURAL GAS
 8049216                   3004523756  103   BERGIN GAS COM WELL #1E           BASIN DAKOTA               74,0 EL PASO NATURAL GAS
*8049224                   3002526647  103   BYERS B #35                       UND HOBBS DRINKARD          9,9 PHILLIPS PETROLEUM C
 8049219                   3004523724  103   CHAVEZ GAS COM D WELL #1E         BASIN DAKOTA               31,0 EL PASO NATURAL GAS
 8049252                   3004524011  103   CRAWFORD GAS COM B WELL #1E       BASIN DAKOTA              103,0 EL PASO NATURAL GAS
 8049243                   3001522543  103   EMPIRE SOUTH DEEP UNIT #19        UND SOUTH EMPIRE MORROW    24,7 EL PASO NATURAL GAS
 8049223                   3004523752  103   GUTIERREZ GAS COM B WELL #1E      BASIN DAKOTA               74,0 EL PASO NATURAL GAS
 8049217                   3004523726  103   HEATH GAS COM J WELL #1E          BASIN DAKOTA               92,0 EL PASO NATURAL GAS
 8049209                   3004508699  108   JAQUEZ GAS COM D #1 (2ND FILING)  BASIN DAKOTA               20,0 EL PASO NATURAL GAS
 8049218                   3004523855  103   MCDANIEL GAS COM B WELL #1E       BASIN DAKOTA               57,0 EL PASO NATURAL GAS
*8049254                   3002526623  103   STATE A #37                       HOBBS DRINKARD             61,3 PHILLIPS PETROLEUM C
*8049221                   3002526109  103   STATE C TRACT 11 #9               UND BLINEBRY                3,6 GETTY OIL CO
 8049251                   3004524083  103   SULLIVAN GAS COM D WELL #1E       BASIN DAKOTA              118,0 EL PASO NATURAL GAS
-ARCO OIL AND GAS COMPANY                  RECEIVED: 07/25/80  JA: NM
 8049253                   3002526487  103   FREDERICK H CORRY WN #2           LANGLIE MATTIX             80,0 EL PASO NATURAL GAS
 8049228                   3002526659  103   STATE 157 O WELL #14              DRINKARD                   40,0 WARREN PETROLEUM CO
-BASS ENTERPRISES PRODUCTION CO            RECEIVED: 07/25/80  JA: NM
 8049242                   3002526337  103   BASS STATE 36 NO 1                TOWNSEND WOLFCAMP          14,7 TIPPERARY CORP
-BETA DEVELOPMENT CO                       RECEIVED: 07/25/80  JA: NM
 8049210                   3004300000  108   CHARLES HUTTON #1                 BASIN DAKOTA               20,0 EL PASO NATURAL GAS
*8049211                   3004509606  108   GLEN SWIRE #1                     BASIN DAKOTA               21,0 EL PASO NATURAL GAS

-C & E OPERATORS INC                       RECEIVED: 07/25/80  JA: NM
 8049213                   3004500000  108   JONES #1                          AZTEC PICTURED CLIFFS      15,0 EL PASO NATURAL GAS
-CONOCO INC                                RECEIVED: 07/25/80  JA: NM
 8049203                   3002500000  108   STATE F-1 NO 6(ENH. REC.)         ARROWHEAD E-M-E            31,0 EL PASO NATURAL GAS
 8049204                   3002500000  108   STATE F-1 NO 6                    ARROWHEAD E-M-E            16,0 EL PASO NATURAL GAS
 8049220                   3002526277  103   STATE KN-12 NO 7                  EUMONT - MONUMENT         215,0 EL PASO NATURAL GAS
-CONSOLIDATED OIL & GAS INC                RECEIVED: 07/25/80  JA: NM
 8049248                   3004524198  103   PHILLIPS 1-E(MV)                  BLANCO MESAVERDE            0,0 SOUTHERN UNION GATHE
 8049249                   3004524198  103   PHILLIPS 1-E(DK)                  BASIN-DAKOTA                0,0 SOUTHERN UNION GATHE
 8049256                   3004523414  103   RIPLEY 2-A(MV)                    BLANCO MESAVERDE            0,0 SOUTHERN UNION GATHE
 8049257                   3004523414  103   RIPLEY 2-A(DK)                    BASIN-DAKOTA                0,0 SOUTHERN UNION GATHE
-DOYLE HARTMAN OIL OPERATOR                RECEIVED: 07/25/80  JA: NM
 8049255                   3002526739  103   R H HUSTON JR NO 4                EUNICE-MONUMENT            90,0 EL PASO NATURAL GAS
-EL PASO NATURAL GAS COMPANY               RECEIVED: 07/25/80  JA: NM
 8049212                   3004521319  108   ALLISON UNIT #18                  BASIN-DAKOTA GAS           21,0 EL PASO NATURAL GAS
 8049206                   3003700000  108   SAN JUAN 30-6 UNIT #41            BLANCO-MESAVERDE GAS       15,0 EL PASO NATURAL GAS
 8049250                   3004523557  103   SCHULTZ #2R                       BLANCO SOUTH PICTURED CL   40,0 EL PASO NATURAL GAS
-GULF OIL CORPORATION                      RECEIVED: 07/25/80  JA: NM
 8049246                   3002526757  103   ARNOTT RAMSAY (NCT-B) WELL NO 9   LANGLIE MATTIX              0,0 EL PASO NATURAL GAS
-JAKE L HAMON                              RECEIVED: 07/25/80  JA: NM
 8049244                   3001300000  103   STATE LG-2985 #1                  TURKEY TRACK NORTH MORRO  830,0 LLANO INC
-MARALO INC                                RECEIVED: 07/25/80  JA: NM
 8049227                   3002500000  103   JALMAT YATES UNIT #25             JALMAT                    110,0 EL PASO NATURAL GAS
 8049222                   3002500000  103   MARALO 16 STATE #7                SIOUX YATES POOL          113,7 EL PASO NATURAL GAS
 8049247                   3002500000  103   MARALO 16 STATE #8                SIOUX YATES POOL           68,4 EL PASO NATURAL GAS
-MILLARD DECK                              RECEIVED: 07/25/80  JA: NM
*8049245                   3002526760  103   POSSM NO 1                        LANGLIE MATTIX             73,0 EL PASO NATURAL GAS
-MOBIL PROD TEXAS & NEW MEXICO INC         RECEIVED: 07/25/80  JA: NM
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JD NO     JA DKT        API NO      SEC (1) WELL NAME                      FIELD NAME                  PROD   PURCHASER
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*8049205                3002500000 108   GENERAL G STATE 1-C & 1-T         EUMONT QUEEN (GAS)           11.0 NORTHERN NATURAL GAS
 8049214                3001521488 108   STATE SS WELL NO 2                SOUTH CARLSBAD MORROW         3.4 LLANO INC
-PHILLIPS PETROLEUM COMPANY            RECEIVED:  07/25/80  JA: NM
 8049258                3002511477 108   C D WOOLWORTH GROUP 3 NO 1        JALMAT-GAS                   17.0 EL PASO NATURAL GAS
-SUMMIT ENERGY INC                     RECEIVED:  07/25/80  JA: NM
 8049225                3002500000 103   AMANDA SIMS NO 2                  WANTZ GRANITE WASH           50.0 GETTY OIL CO
-TENNECO OIL COMPANY                   RECEIVED:  07/25/80  JA: NM
 8049229                3001523203 103   CATCLAW DRAW UNIT #13             CATCLAW DRAW MORROW         360.0 TUCO INC
-WARREN PETR CO A DIV OF GULF OIL CO   RECEIVED:  07/25/80  JA: NM
 8049226                3002526687 103   LEA YH STATE WELL NO 4            AIRSTRIP UPPER BONE SPRI      0.0 EL PASO NATURAL GAS
-YATES PETROLEUM CORPORATION           RECEIVED:  07/25/80  JA: NM
 8049239                3001523182 103   DOWELL MV NO 2                    ATOKA-YESO                    0.0 TRANSWESTERN PIPELIN
 8049236                3001523163 103   EDDIE NE NO 1                     ATOKA-YESO                    0.0 TRANSWESTERN PIPELIN
 8049241                3001523297 103   GREASEWOOD BD STATE NO 9          PENASCO DRAW SA YESO          0.0 TRANSWESTERN PIPELIN
 8049230                3001523257 103   IRISH HILLS YESO JE STATE NO 3    PENASCO DRAW SA YESO          0.0 TRANSWESTERN PIPELIN
 8049237                3001523258 103   IRISH HILLS YESO JE STATE NO 4    PENASCO DRAW SA YESO          0.0 TRANSWESTERN PIPELIN
 8049238                3001523154 103   JACKSON ESTATE BY NO 9            EAST EAGLE CREEK ATOKA M      0.0 TRANSWESTERN PIPELIN
 8049234                3001520692 103   LOVELESS STATE LW NO 1            TOM-TOM                       0.0
 8049231                3001560665 103   NINE MILES LV STATE COM NO 1      BUFFALO VALLEY PENN           0.0 TRANSWESTERN PIPELIN
 8049233                3000500000 103   PAUL LR NO 1                      TOM-TOM                       0.0
 8049240                3001523237 103   PENASCO IW SHALLOW NO 3           PENASCO DRAW SA YESO          0.0 TRANSWESTERN PIPELIN
 8049232                3001523227 103   RIO PENASCO KD COM NO 1           BOYD MORROW                   0.0 TRANSWESTERN PIPELIN
 8049235                3001523149 103   SRC STATE KZ NO 6                 PENASCO DRAW MORROW           0.0 TRANSWESTERN PIPELIN
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   WEST VIRGINIA DEPARTMENT OF MINES
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-A A PURSLEY                           RECEIVED:  07/28/80  JA: WV
 8049379                4704121222 108   S B MULLINEX #1-A                 CANOE RUN (COLLINS SETTL      1.4 CONSOLIDATED GAS SUP
-ALLEGHENY & WESTERN ENERGY CORP       RECEIVED:  07/28/80  JA: WV
 8049452                4703903369 108   IMPERIAL COAL #10                 CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049453                4703903370 108   IMPERIAL COAL #11                 CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049478                4703903360 108   IMPERIAL COAL #5-R                CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049449                4703903362 108   IMPERIAL COAL #6                  CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049450                4703903363 108   IMPERIAL COAL #7                  CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049451                4703903368 108   IMPERIAL COAL #9                  CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI

 8049432                4703501484 103   JOHN J PFOST FARM #9              WASHINGTON                    8.0 COLUMBIA GAS TRANSMI
 8049436                4703501473 103   JOHN J PFOST FARM NO 1            WASHINGTON                   18.0
 8049434                4703501474 103   JOHN J PFOST FARM NO 2            WASHINGTON                   18.0
 8049431                4703501477 103   JOHN J PFOST FARM NO 3            WASHINGTON                   18.0
 8049435                4703501478 103   JOHN J PFOST FARM NO 4            WASHINGTON                   18.0
 8049430                4703501482 103   JOHN J PFOST FARM NO 7            WASHINGTON                   18.0 COLUMBIA GAS TRANSMI
 8049433                4703501483 103   JOHN J PFOST FARM NO 8            WASHINGTON                   18.0 COLUMBIA GAS TRANSMI
 8049454                4703903371 108   OHLEY TRUST #1                    CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049455                4703903372 108   OHLEY TRUST #2                    CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049456                4703903376 108   OHLEY TRUST #3                    CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049457                4703903378 108   OHLEY TRUST #4                    CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
 8049458                4703903379 108   OHLEY TRUST #5                    CABIN CREEK                  12.0 COLUMBIA GAS TRANSMI
-ALLEGHENY LAND & MINERAL COMPANY      RECEIVED:  07/25/80  JA: WV
 8049263                4701702621 108   A-2                               SOUTHWEST DISTRICT            4.8 CONSOLIDATED GAS SUP
 8049264                4708501874 108   A-7                               UNION                         2.6 CONSOLIDATED GAS SUP
-ALLEGHENY LAND & MINERAL COMPANY      RECEIVED:  07/28/80  JA: WV
 8049469                4709702054 103   A-860                             WASHINGTON DISTRICT           0.0 COLUMBIA GAS TRANSMI
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 8049468                  4709702029 103   A-865                                  WASHINGTON DISTRICT          0.0 CONSOLIDATED GAS SUP
 8049470                  4709702059 103   A-883                                  WASHINGTON DISTRICT          0.0 CONSOLIDATED GAS SUP
 8049380                  4708501892 108   A-9                                    UNION DISTRICT               1.8 CONSOLIDATED GAS SUP
*ALLERTON MILLER                         RECEIVED:  07/28/80  JA: WV
 8049404                  4704101065 108   JEROME KHUNGOLD #2 M-315               SKIN CREEK DISTRICT         11.8 COLUMBIA GAS TRANS C
*APPALACHIAN ENERGY INC                  RECEIVED:  07/28/80  JA: WV
 8049439                  4706120579 103   HILLMAN COAL CO #1 A-E-7               UNION                       30.0 CONSOLIDATED GAS SUP
*APPALACHIAN EXPLORATION & DEVEL INC     RECEIVED:  07/25/80  JA: WV
 8049276                  4708100513 103   BROWN PAYNE #1                         TOWN                        25.0 COLUMBIA GAS TRANSMI
*APPALACHIAN EXPLORATION & DEVEL INC     RECEIVED:  07/28/80  JA: WV
 8049429                  4706700459 102   A B KOUNTZ #1                          GRANT                      106.2 EQUITABLE GAS CO
*B & L OIL CO                            RECEIVED:  07/28/80  JA: WV
 8049383                  4703501520 108   T I HARTLEY #1 PEM-12-30-20 234A       LIVERPOOL                    1.9 PENNZOIL CO
*BLUE CREEK GAS COMPANY                  RECEIVED:  07/28/80  JA: WV
 8049519                  4700700907 108   SINGLETON 49 ACRES                     SALT LICK DISTRICT           6.0 EQUITABLE GAS CO
*C S MAXWELL GAS CO                      RECEIVED:  07/28/80  JA: WV
 8049381                  4702101011 108   C S MAXWELL GAS CO #1                  GRASS RUN DEKALB DISTRIC     1.0 CARNEGIE NATURAL GAS
*CARL E WALTERS ETAL                     RECEIVED:  07/25/80  JA: WV
 8049269                  4709500072 108   ANDREW MATTHEWS NO 3                   STRINGTOWN                   5.5 PENNZOIL
*CITIES SERVICE COMPANY                  RECEIVED:  07/28/80  JA: WV
 8049384                  4709300038 102   MULLENAX A-1                           LEADMINE                   569.0 COLUMBIA GAS TRANSMI
*CLYDE P LAW                             RECEIVED:  07/28/80  JA: WV
 8049447                  4708504844 108   GOLDEN #10                             OXBOW                        0.9 CONSOLIDATED GAS SUP
 8049448                  4708504845 108   GOLDEN #11                             OXBOW                        0.9 CONSOLIDATED GAS SUP
 8049480                  4708548841 108   GOLDEN #6                              OXBOW                        0.9 CONSOLIDATED GAS SUP
 8049488                  4708501842 108   GOLDEN #8                              OXBOW                        0.9 CONSOLIDATED GAS SUP
 8049446                  4708500000 108   GOLDEN #9                              OXBOW                        0.9 CONSOLIDATED GAS SUP
*COLUMBIA GAS TRANSMISSION CORP          RECEIVED:  07/28/80  JA: WV
 8049472                  4703902449 108   CLYDA F RUSS NO 1 809736               ROCKY FORK                   4.0 COLUMBIA GAS TRANS C
 8049417                  4709901658 108   COLUMBIA COAL GASIF 809809             FIELD AREA B                 2.8 COLUMBIA GAS TRANS C
 8049416                  4709901660 108   COLUMBIA COAL GASIF 809811             FIELD AREA B                 1.3 COLUMBIA GAS TRANS C
 8049415                  4709901661 108   COLUMBIA COAL GASIF 809812             FIELD AREA B                 3.2 COLUMBIA GAS TRANS C
 8049473                  4704500922 108   DINGESS RUM COAL CO 809776             FIELD AREA B                 2.2 COLUMBIA GAS TRANS C
 8049474                  4704500925 108   DINGESS RUM COAL CO 809777             FIELD AREA B                 1.0 COLUMBIA GAS TRANS C
 8049475                  4704500937 108   DINGESS RUM COAL COMPANY 820032        FIELD AREA B                 0.5 COLUMBIA GAS TRANS C
 8049471                  4703900504 108   S S BEANE 820361                       ROCKY FORK                   0.8 COLUMBIA GAS TRANS C
*CONSOLIDATED GAS SUPPLY CORPORATION     RECEIVED:  07/25/80  JA: WV
 8049265                  4704102550 103   JAMES BURNS 12448                      W VA OTHER A83772           24.0 GENERAL SYSTEM PURCH
*CONSOLIDATED GAS SUPPLY CORPORATION     RECEIVED:  07/28/80  JA: WV
 8049461                  4700501063 108   CHARLESTON NATIONAL BANK 12348         PINEVILLE A59442            20.0 GENERAL SYSTEM PURCH
 8049463                  4700101228 103   CORA D NESTOR 12621                    WEST VIRGINIA OTHER A857    30.0 GENERAL SYSTEM PURCH

 8049382                  4703301700 108   J C NICHOLS 12306                      WEST VIRGINIA OTHER A857     6.0 GENERAL SYSTEM PURCH
 8049467                  4703300861 108   L RAYMOND 11857                        W VA OTHER A83772           11.0 GENERAL SYSTEM PURCH
 8049460                  4700100986 108   LUCILLE CHESSEN 12535                  WEST VIRGINIA OTHER A857     7.0 GENERAL SYSTEM PURCH
 8049462                  4700101168 103   O C RIGGS 12596                        WEST VIRGINIA OTHER 1259    30.0 GENERAL SYSTEM PURCH
 8049459                  4700100752 108   WM T CARDER 12108                      WEST VIRGINIA OTHER A857    12.0 GENERAL SYSTEM PURCH
*CUMBERLAND GAS COMPANY                  RECEIVED:  07/28/80  JA: WV
 8049517                  4704320241 108   E L ADKINS #BH-30                      UNION                        0.2 COLUMBIA GAS TRANS C
*DORAN & ASSOCIATES INC                  RECEIVED:  07/25/80  JA: WV
 8049278                  4704920658 103   R LUCAS #1 K-L-118                     MANNINGTON DIST             30.0 CONSOLIDATED GAS SUP
*DOTSON BRANCH GAS CO                    RECEIVED:  07/25/80  JA: WV
 8049279                  4704322357 108   HUNTINGTON DEV & GAS CO #3             LAUREL HILL DISTRICT         9.9 COLUMBIA GAS TRANSMI
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-EAGLE GAS CO					RECEIVED: 07/25/80 JA: WV			
8049271		4703320133	108		FANNIE E DAWSON #2 NO 70	EAGLE DISTRICT	9.0	LUMBERPORT-SHINNSTON
-ELAMS GAS CO					RECEIVED: 07/28/80 JA: WV			
8049377		4709901695	103		JARRELL VINSON #1	LINCOLN DISTRICT	18.0	COLUMBIA GAS TRANSMI
-FRANKLIN ADKINS					RECEIVED: 07/25/80 JA: WV			
8049274		4709921590	108		HUMANS #1	LINCOLN	14.0	COLUMBIA GAS TRANS
-FUEL RESOURCES DEVELOPMENT CO					RECEIVED: 07/28/80 JA: WV			
*8049444		4700120636	108		C CATHELL #1	VALLEY DISTRICT	18.0	CONSOLIDATED GAS SUP
*8049443		4700120814	108		C WHITE #1	VALLEY DISTRICT	21.0	CONSOLIDATED GAS SUP
*8049445		4700120643	108		H ESSEG #1	VALLEY DISTRICT	20.0	CONSOLIDATED GAS SUP
*8049490		4700120858	108		J REEL MRS #1	VALLEY DISTRICT	20.0	CONSOLIDATED GAS SUP
*8049492		4700120869	108		J RICUTELLI #1	VALLEY DISTRICT	28.0	CONSOLIDATED GAS SUP
*8049442		4700120847	108		N TALLMAN #1	VALLEY DISTRICT	27.8	CONSOLIDATED GAS SUP
*8049491		4700120863	108		V ZIRKLE #1	VALLEY DISTRICT	16.0	CONSOLIDATED GAS SUP
*8049489		4700120857	108		W R KING #1	VALLEY DISTRICT	20.0	CONSOLIDATED GAS SUP
-GARNER & GAWTHROP INC					RECEIVED: 07/25/80 JA: WV			
8049266		4703302284	108		ASHBY RICE	ASHBY RICE	2.3	PENNZOIL CO
8049267		4703302346	108		J W MONROE #4	J W MONROE	8.4	PENNZOIL CO
-GENE STALNAKER INC					RECEIVED: 07/28/80 JA: WV			
8049357		4702102986	108		E C PICKENS #1	GLENVILLE	2.8	CARNEGIE NATURAL GAS
8049364		4702103236	108		JOHN KILLINGSWORTH #6	GLENVILLE FIELD	0.0	EQUITABLE GAS CO
8049363		4702103021	108		OBRIEN HEIRS #1	GLENVILLE FIELD	2.4	CARNEGIE NATURAL GAS
-GILCO GAS CO					RECEIVED: 07/28/80 JA: WV			
8049440		4700701489	103		LUCY F WAUGH #1	PIPERS FORK OF CROOKED F	25.0	
-GLENN W JOHNSON DBA JOHNSON PRODUCI					RECEIVED: 07/25/80 JA: WV			
8049323		4709702212	108		A M GOULD #2	MEADE	0.3	EQUITABLE GAS CO
8049329		4709702705	108		B C FREEMAN #2	MEADE	2.0	EQUITABLE GAS CO
8049326		4709721944	108		E C ALLMAN #3	BUCKHANNON	5.0	EQUITABLE GAS CO
8049331		4702121774	108		E D FULTON #1 7A	GLENVILLE	1.4	EQUITABLE GAS CO
8049322		4702121766	108		E D FULTON #2 4-A	GLENVILLE	2.4	EQUITABLE GAS CO
8049321		4702121763	108		E D FULTON #3 3-A	GLENVILLE	1.3	EQUITABLE GAS CO
8049327		4709702763	108		E D WILSON #2	BANKS	2.8	EQUITABLE GAS CO
8049328		4709702752	108		J E GREENE #1	MEADE	3.3	EQUITABLE GAS CO
8049330		4709702642	108		J KELLEY #1	MEADE	9.5	EQUITABLE GAS CO
8049325		4709702266	108		O G MCCUE #2	MEADE	4.1	EQUITABLE GAS CO
8049324		4709702622	108		O L HARDMAN #1	MEADE	3.1	EQUITABLE GAS CO
8049320		4709702014	108		TALBOTT #1	MEADE	40.0	EQUITABLE GAS CO
8049319		4709700226	108		W J GOULD #1	MEADE	0.3	EQUITABLE GAS CO
-GLOVER GAS CO					RECEIVED: 07/28/80 JA: WV			
8049477		4703903629	108		BONER #1	ELK & BIG SANDY DISTRICT	3.2	COLUMBIA GAS TRANSMI
8049476		4703903628	108		BONER #2	ELK & BIG SANDY DISTRICT	3.2	COLUMBIA GAS TRANSMI
8049466		4703903630	108		BONER #3	ELK & BIG SANDY DISTRICT	3.2	COLUMBIA GAS TRANSMI
-GO DISTRIBUTION CO INC					RECEIVED: 07/28/80 JA: WV			
8049514		4708523102	108		KEISTER #2	UNION	1.0	EQUITABLE GAS CO
8049513		4708523260	108		KEISTER #3	UNION	1.2	EQUITABLE GAS CO
8049515		4708522719	108		SHIELDS #2	GRANT	0.1	CONSOLIDATED GAS SUP
8049512		4708522680	108		SHIELDS #3	GRANT	0.1	CONSOLIDATED GAS SUP
-GULF OIL CORPORATION					RECEIVED: 07/28/80 JA: WV			
8049464		4702100078	108		GAINER HEIRS #4	HENRIETTA DE CALB	1.8	CONSOLIDATED GAS SUP
8049465		4702100082	108		GAINER HEIRS #5	HENRIETTA DE CALB	1.8	CONSOLIDATED GAS SUP
-H C BUZZARD GAS CO					RECEIVED: 07/28/80 JA: WV			
8049360		4708521087	108		H C BUZZARD GAS CO #1218 NO 1	MURPHY DISTRICT	0.3	HOPE NATURAL GAS CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049361		4708501120	108		M C BUZZARD GAS CO #1218 WELL #2	MURPHY DISTRICT	0.3	HOPE NATURAL GAS CO
-M M DEEM					RECEIVED: 07/25/80 JA: WV			
8049273		4708524596	108		M DEEM	M DEEM	10.0	CONSUMERS GAS UTILIT
-HUGH SPENCER					RECEIVED: 07/28/80 JA: WV			
8049426		4703302387	108		B L GAWTHROP #1	CLARK DISTRICT	1.0	CONSOLIDATED GAS SUP
8049441		4701702745	108		GATTRELL #1	SOUTHWEST	1.5	EQUITABLE GAS CO
8049427		4703302386	108		L E BARNETT #1	CLARK DISTRICT	0.2	CONSOLIDATED GAS SUP
8049413		4703302542	108		MARY V PECK #1	UNION DISTRICT	0.3	CONSOLIDATED GAS SUP
8049428		4704102919	108		R A KRAUSE 1-A	FREEMANS CREEK DISTRICT	2.3	CARNEGIE NATURAL GAS
8049414		4701702746	108		R H ROBINSON #1	MCCLELLAN DISTRICT	6.5	CONSOLIDATED GAS SUP
-HUNTER RUN OIL & GAS CO					RECEIVED: 07/25/80 JA: WV			
8049272		4707300834	108		S L SHULTZ #1	ST MARYS	0.0	CONSOLIDATED GAS SUP
-J & J ENTERPRISES INC					RECEIVED: 07/28/80 JA: WV			
8049421		4700100948	103		B-103	UNION	50.0	CONSOLIDATED GAS SUP
8049420		4700101034	103		B-162	PHILIPPI	50.0	CONSOLIDATED GAS SUP
8049419		4700101091	103		B-250	PHILIPPI	50.0	CONSOLIDATED GAS SUP
8049418		4703302190	103		B-296	SARDIS	50.0	CONSOLIDATED GAS SUP
-JACKSON GAS CO					RECEIVED: 07/25/80 JA: WV			
8049277		4704320353	108		RICHARD MILLER #1	JEFFERSON	2.9	PENNZOIL CO
8049259		4704320369	108		WILLARD MILLER #1	JEFFERSON	0.2	PENNZOIL CO
-LAUDERMAN OIL & GAS DRILLING					RECEIVED: 07/28/80 JA: WV			
8049479		4707300759	103		A P ALLEN HEIRS #2	UNION	18.3	UNION CARBIDE CORP
8049482		4707300760	103		A P ALLEN HEIRS #3	UNION	18.3	UNION CARBIDE CORP
8049486		4709500725	103		CHARLES SHEPHERD #1	MEADE	18.3	UNION CARBIDE CORP
8049483		4707300761	103		GENE CARR #1	UNION	365.0	UNION CARBIDE CORP
8049484		4707300762	103		GENE CARR #2	UNION	36.0	UNION CARBIDE CORP
8049487		4709500732	103		RALPH HAUGHT #1	UNION	365.0	UNION CARBIDE CORP
8049485		4709500720	103		ROBERT WETZEL #2	UNION	36.5	UNION CARBIDE CORP
-LELAND PETROLEUM PRODUCTION INC					RECEIVED: 07/28/80 JA: WV			
*8049335		4701501268	108		MARBLE BROWN #2	MIDDLE SYCAMORE	10.0	SOUTHEASTERN GAS CO
*8049334		4701501270	108		T H NEAL #3	MIDDLE SYCAMORE	10.0	SOUTHEASTERN GAS CO
-LOCK 3 OIL COAL & DOCK COMPANY					RECEIVED: 07/28/80 JA: WV			
8049438		4700100489	108		CHAPMAN #1	ELK CREEK - OVERFIELD	9.5	CONSOLIDATED GAS SUP
-MORGANTOWN GAS CO					RECEIVED: 07/25/80 JA: WV			
8049275		4706100233	108		#1 DAVIDSON	MORGANTOWN	2.0	CONSOLIDATED GAS SUP
-MILTON CAIN OWNER					RECEIVED: 07/28/80 JA: WV			
8049481		4701320351	108		MOLLIE CAIN NO 1	SHERIDAN DISTRICT	10.2	CABOT CORP
-OPPENHEIMER OIL & GAS CO					RECEIVED: 07/28/80 JA: WV			
8049378		4706504124	103		ERNEST GOFF H-637	MURPHY	0.0	CABOT CORP
-ORLAN FREDERICK GAS CO					RECEIVED: 07/28/80 JA: WV			
8049362		4708522126	108		ORLAN FREDERICK GAS CO #2113	MURPHY DISTRICT	1.6	HOPE NATURAL GAS CO
-PENNZOIL COMPANY					RECEIVED: 07/25/80 JA: WV			
8049289		4703301862	108		A J WILLIAMS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049295		4703301864	108		A J WILLIAMS #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049294		4703301866	108		A J WILLIAMS #6	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049297		4703301867	108		A J WILLIAMS #7	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049303		4704102515	108		ALICE WHITE #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049284		4703301684	108		B M BROWN #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049299		4703301737	108		B M BROWN #12	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049285		4703301724	108		B M BROWN #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049282		4703301742	108		E M ESTLACK #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049298		4701702247	108		E S SLUSSAR #6	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049287		4701701289	108		EDITH A STOUT #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP

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JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8049288		4701701288	108	EDITH A STOUT #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049286		4701701357	108	EDITH A STOUT #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049293		4703301761	108	J T GOODWIN #10	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049318		4703301869	108	J T WILLIAMS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049300		4703301870	108	J T WILLIAMS #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049301		4703301872	108	J T WILLIAMS #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049283		4703301738	108	J W DENNISON #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049291		4703301854	108	JESSE SPROUT #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049302		4703301904	108	L RAYMOND #23	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049280		4701702278	108	M T WILLIAMS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049281		4703301756	108	NATHAN GOFF #23	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049292		4703301808	108	SANFORD NUZUM #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049290		4703301729	108	W B CARPENTER #8	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049296		4701702248	108	W L SLUSSAR #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
-PENNZOIL COMPANY				RECEIVED: 07/28/80 JA: WV			
8049501		4703302678	108	A C BAILEY #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049507		4703301663	108	B H BROWN #4	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049508		4703301725	108	B H BROWN #8	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049509		4703301735	108	B W CUNNINGHAM #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049511		4703301740	108	E A DUNCAN #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049494		4703301759	108	J T GOODWIN #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049495		4703301875	108	J T WILLIAMS #11	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049502		4701701356	108	L E WILLIAMS #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049505		4701702245	108	L F RANDOLPH #3	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049510		4703301736	108	M T CUNNINGHAM #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049503		4701701371	108	M T WILLIAMS #15	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049499		4703302383	108	NATHAN GOFF #40	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049500		4703302384	108	NATHAN GOFF #43	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049496		4703301877	108	P C WILLIAMS #1	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049497		4703301878	108	P C WILLIAMS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049498		4703301883	108	P C WILLIAMS #9	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049504		4701702200	108	R R CHIPPS #2	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049506		4703301550	108	RANDOLPH VARNER #5	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
8049493		4703301744	108	SILAS FITTRO #6	WOLF SUMMIT	0.0	CONSOLIDATED GAS SUP
-PERKINS OIL & GAS INC				RECEIVED: 07/25/80 JA: WV			
8049270		4701302418	108	BENNETT WELL NO 42	BENNETT	2.5	CONSOLIDATED GAS SUP
-PERKINS OIL & GAS INC				RECEIVED: 07/28/80 JA: WV			
8049521		4708504309	108	CREED COLLINS #1-4342	BONDS CREEK	3.0	EQUITABLE GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED: 07/25/80 JA: WV			
8049309		4700120930	108	A STOUT #3	ELK CREEK	0.0	CONSOLIDATED GAS SUP
8049308		4700120927	108	ABNER STOUT #2	ELK CREEK	0.0	CONSOLIDATED GAS SUP
8049307		4700120907	108	D C MCBEE #1	CLEMTOWN	0.0	CONSOLIDATED GAS SUP
8049313		4703321115	108	FARIS HEIRS #9	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP
8049310		4700120947	108	G A LODGE #1	ELK CREEK	0.0	CONSOLIDATED GAS SUP
8049316		4703321171	108	J J MORNER #2	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP
8049311		4703321017	108	JOHN SNIDER ET AL #2	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP
8049314		4703321139	108	JOHNSON - LANG #2	GLADE RUN	0.0	CONSOLIDATED GAS SUP
8049305		4700120848	108	NAOMI MCVICKER #1	CLEMTOWN	0.0	CONSOLIDATED GAS SUP
8049317		4703321183	108	NOAH D PARKS #3	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP
8049333		4703321016	108	O CARL MORRIS #2	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP
8049315		4703321140	108	PATTON-LANG #2	GLADE RUN	0.0	CONSOLIDATED GAS SUP
8049312		4703321065	108	PHOEBE TYSON #1	BRIDGEPORT	0.0	CONSOLIDATED GAS SUP

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JD NO    JA DKT        API NO      SEC D WELL NAME                      FIELD NAME            PROD   PURCHASER
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 8049304               4701722294 103   ROY FERREBEE #1                 ASHLEY                  0.1 CARNEGIE NATURAL GAS
 8049306               4700120904 108   T WOODFORD #1                   TAYLOR DRAIN            0.0 CONSOLIDATED GAS SUP
-QUAKER STATE OIL REFINING CORP        RECEIVED:  07/28/80  JA: WV
 8049406               4701720170 108   ALVADORE SMITH 61273-1          GRANT DISTRICT          1.4 CONSOLIDATED GAS SUP
 8049408               4701721401 108   BLANCHE PEARCY 61240-1          NEW MILTON DISTRICT     1.6 CONSOLIDATED GAS SUP
 8049412               4708721673 108   C P LOONEY #1                   SMITHFIELD DISTRICT     1.7 COLUMBIA GAS TRANS C
 8049411               4701720059 108   DALLAS POWELL 61273             GRANT DISTRICT          2.7 PENNZOIL CO
 8049405               4701302353 108   DESPARD HEIRS #1 61250-1        LEE DISTRICT            7.1 CONSOLIDATED GAS SUP
 8049407               4701720174 108   F M UNDERWOOD 61273-1           GRANT DISTRICT          3.9 CONSOLIDATED GAS SUP
 8049409               4703320429 108   LEEMAN MAXWELL #1 61245-1       TEN MILE DISTRICT      20.8 CONSOLIDATED GAS SUP
 8049410               4709520414 108   M MESLIP 61053-1                LINCOLN DISTRICT        2.5 CONSOLIDATED GAS SUP
-RHOADES MINING CORP                   RECEIVED:  07/25/80  JA: WV

 8049268               4709700331 108   DENISON #1                                              4.5 COLUMBIA GAS TRANSMI
-ROBERT WEEKS                          RECEIVED:  07/28/80  JA: WV
 8049358               4701701457 108   BURTON NO 1                     AUBURN                  0.2 EQUITABLE GAS SUPPLY
-SALVAGE OIL & GAS CORP                RECEIVED:  07/28/80  JA: WV
 8049359               4708503871 108   FRED WOLFE #1                   MURPHY                  0.0 CONSOLIDATED GAS SUP
 8049516               4708503005 108   WM BAKER #1                     MURPHY                  2.7 CONSOLIDATED GAS SUP
-STERLING DRILLING & PROD CO INC       RECEIVED:  07/25/80  JA: WV
 8049260               4701501685 103   ALOI #25 SUP #185               BUFFALO DISTRICT        7.2 EQUITABLE GAS CO
-STONESTREET LANDS CO                  RECEIVED:  07/28/80  JA: WV
 8049387               4700701417 103   ADA GIBSON #1-S-19              ELMIRA                 39.0 COLUMBIA GAS TRANSMI
 8049393               4701500617 103   ALMA ARNOLD #1-S-15             ELMIRA                 44.0 COLUMBIA GAS TRANSMI
 8049402               4701501648 103   BRAXTON DAVENPORT #1-S-34       ELMIRA                 47.0 COLUMBIA GAS TRANSMI
 8049396               4701501627 103   C J HALL #1-S-24                ELMIRA                 44.0 COLUMBIA GAS TRANSMI
 8049397               4701501631 103   C M SIERS - P VAUGHN #1-S-13    ELMIRA                 42.0 COLUMBIA GAS TRANSMI
 8049385               4700701406 103   C W CHENOWETH #2-S-9            ELMIRA                 33.0 COLUMBIA GAS TRANSMI
 8049398               4701501632 103   H NICHOLS #1-S-12               ELMIRA                 42.5 COLUMBIA GAS TRANSMI
 8049389               4701302960 103   J A DYE #1-S-11                 ELMIRA                 46.0 COLUMBIA GAS TRANSMI
 8049388               4701302890 103   J A DYE #2-S-10                 ELMIRA                 50.0 COLUMBIA GAS TRANSMI
 8049390               4701302964 103   J A DYE #3-S-21                 ELMIRA                 34.0 COLUMBIA GAS TRANSMI
 8049386               4700701416 103   J A JARVIS #1-S-32              ELMIRA                 30.0 COLUMBIA GAS TRANSMI
 8049401               4701501647 103   J E YOUNG 1-S-33                ELMIRA                 34.0 COLUMBIA GAS TRANSMI
 8049399               4701501633 103   J L SIERS #1-S-17               ELMIRA                 49.0 COLUMBIA GAS TRANSMI
 8049391               4701501611 103   ORLA SIERS #1-S-35              ELMIRA                 42.0 COLUMBIA GAS TRANSMI
 8049392               4701501614 103   ORLA SIERS #2-S-46              ELMIRA                 48.0 COLUMBIA GAS TRANSMI
 8049403               4700701467 103   P M MORRIS #1-S-16              ELMIRA                 24.0 COLUMBIA GAS TRANSMI
 8049400               4701501635 103   SIERS - SAMPSON #1-S-27         ELMIRA                 30.0 COLUMBIA GAS TRANSMI
 8049395               4701501619 103   T DOWNEY #2-S-22                ELMIRA                 30.0 COLUMBIA GAS TRANSMI
 8049394               4701501618 103   TOM DOWNEY #1-S-14              ELMIRA                 43.0 COLUMBIA GAS TRANSMI
-SWIFT ENERGY CO                       RECEIVED:  07/28/80  JA: WV
 8049437               4702103569 103   SANDY #1-A                      GLENVILLE NORTH        50.0 COLUMBIA GAS TRANSMI
-TRI-COUNTY OIL & GAS INC              RECEIVED:  07/28/80  JA: WV
 8049424               4710301179 108   ENOCH ANDERSON #1               CLAY DISTRICT           6.2 COLUMBIA GAS TRANSMI
 8049425               4704900674 108   EVA NEPTUNE #1                  LINCOLN DISTRICT        1.1 CARNEGIE NATURAL GAS
 8049422               4710301181 108   J S TAYLOR #1                   CHURCH DISTRICT         2.7 EQUITABLE GAS CO
 8049423               4710301180 108   W P HUBBARD #1                  CLAY DISTRICT           8.4 CARNEGIE NATURAL GAS
-TRIO PETROLEUM CORP                   RECEIVED:  07/28/80  JA: WV
 8049520               4700700352 108   RAYMOND NO 1                    GLENVILLE SOUTH         2.7 EQUITABLE GAS CO
-VA ROY HILDRETH                       RECEIVED:  07/25/80  JA: WV
 8049261               4701322364 108   D BRANNON - #5                  LEE DISTRICT            3.0 CABOT CORP
 8049332               4701323131 108   D BRANNON #1                    LEE DISTRICT            2.9 CABOT CORP
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 JD NO     JA DKT        API NO      SEC D WELL NAME                      FIELD NAME                 PROD     PURCHASER
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 8049262                 4701323132 108   D BRANNON #2                    LEE DISTRICT                 2,9 CABOT CORP
*W & M OIL & GAS CO                      RECEIVED:  07/28/80  JA: WV
 8049518                 4701701543 108   BERLIN SPURGEON #2              AUBURN                       1,0 EQUITABLE GAS CO
*W H MOSSOR                              RECEIVED:  07/28/80  JA: WV
 8049352                 4702121544 108   BUD MOORE #1                    DOC MOORE                    0,2 CONSOLIDATED GAS SUP
 8049373                 4704121094 108   CHAPMAN #1                      D D CHAPMAN FARM             5,0 CONSOLIDATED GAS SUP
 8049354                 4704120710 108   DAWSON #1                       DAWSON OIL & GAS CO          1,0 EQUITABLE GAS CO
 8049340                 4704121066 108   DAWSON #2                       DAWSON #2 OIL AND GAS        1,0 EQUITABLE GAS CO
 8049339                 4704121362 108   DAWSON #3                       DAWSON #3 OIL & GAS CO       1,0 EQUITABLE GAS CO
 8049337                 4704121515 108   DAWSON #4                       DAWSON #4 OIL AND GAS        1,0 EQUITABLE GAS CO
 8049375                 4704121006 108   DENNISON #1                     DENNISON OIL & GAS CO        0,2 CONSOLIDATED GAS SUP
 8049372                 4708522061 108   EVANS #1                        EVANS OIL & GAS CO           0,9 CONSOLIDATED GAS SUP
 8049351                 4701321657 108   FLUHARTY #1                     FLUHARTY OIL CO              4,5 COLUMBIA GAS TRANSMI
 8049341                 4704102843 108   HARLAN Z                        HARLAN Z OIL AND GAS CO      1,0 EQUITABLE GAS CO
 8049338                 4704121486 108   HARLAN Z-3                      HARLAN Z-3 OIL & GAS CO      1,0 EQUITABLE GAS CO
 8049366                 4708521152 108   HOLSTINE #1                     J T JOHNSON                  0,5 CONSOLIDATED GAS SUP
 8049376                 4704120844 108   HURST #2                        HURST 3 OIL AND GAS CO       0,2 CONSOLIDATED GAS SUP
 8049371                 4704121205 108   HURST #3                        HURST #3 OIL & GAS CO        0,2 CONSOLIDATED GAS SUP
 8049370                 4704121206 108   HURST #4                        HURST 4 OIL AND GAS CO       0,3 CONSOLIDATED GAS SUP
 8049353                 4704120709 108   HURST #1                        HURST I OIL & GAS CO         0,2 CONSOLIDATED GAS SUP
 8049347                 4708522067 108   JOHNSON #1                      A M JOHNSON                  1,0 CONSOLIDATED GAS SUP
 8049367                 4707320496 108   LAMP #1                         S K LAMP                     2,5 CONSOLIDATED GAS SUP

 8049350                 4708521949 108   MAXSON #1                       GLENN MAXSON FARM            0,1 EQUITABLE GAS CO
 8049343                 4708521955 108   OVERFIELD #1                    HATTIE OVER FIELD FARM       1,0 CONSOLIDATED GAS SUP
 8049345                 4704120948 108   PERTZ #1                        JASON BAILEY FARM            0,2 CONSOLIDATED GAS SUP
 8049336                 4708522097 108   PIERCE #1                       B M PIERCE FARM              2,3 EQUITABLE GAS CO
 8049368                 4704121517 108   RALSTON #2                      RALSTON #1 OIL & GAS CO      0,2 CONSOLIDATED GAS SUP
 8049344                 4704120848 108   RALSTON 1                       RALSTON 1 OIL AND GAS CO     0,2 CONSOLIDATED GAS SUP
 8049356                 4704120795 108   RINEHART #1                     H D RINEHART FARM            0,2 CONSOLIDATED GAS SUP
 8049374                 4704121024 108   RINEHART #2                     H D RINEHART FARM            0,2 CONSOLIDATED GAS SUP
 8049342                 4708522109 108   RUBY DAVISSON                   DAVISSON OIL & GAS CO       20,0 CONSOLIDATED GAS SUP
 8049346                 4704121028 108   STARCHER #2                     W R STARCHER FARM            0,2 CONSOLIDATED GAS SUP
 8049369                 4704121516 108   STARCHER #3                     W R STARCHER FARM            0,1 CONSOLIDATED GAS SUP
 8049365                 4704120845 108   TYSON #1                        MAUDIE TYSON FARM            0,1 CONSOLIDATED GAS SUP
 8049355                 4704120716 108   W H STARCHER #1                 W R STARCHER FARM            0,6 CONSOLIDATED GAS SUP
 8049349                 4708521429 108   WILSON #1                       BARR WILSON                  1,5 EQUITABLE GAS CO
 8049348                 4704120681 108   WISEMAN #1                      WISEMAN OIL AND GAS CO       0,1 EQUITABLE GAS CO
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** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM
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*SUPRON ENERGY CORPORATION               RECEIVED:  07/25/80  JA: NM  4
 8048938   NM-0437-80    3004505708 108 D NICKSON #8                      BALLARD PICTURE CLIFFS       7,0 GAS CO OF NEW MEXICO
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OTHER PURCHASERS

8009205	WARREN PETROLEUM CO
8009211	EL PASO NATURAL GAS CO
8009221	EL PASO NATURAL GAS COMPANY
8009224	EL PASO NATURAL GAS COMPANY
8009245	EL PASO NATURAL GAS COMPANY
8009254	EL PASO NATURAL GAS CO
8009334	CONSOLIDATED GAS SUPPLY CORP
8009335	CONSOLIDATED GAS SUPPLY CORP
8009442	BROOKLYN UNION GAS CO
8009443	BROOKLYN UNION GAS CO
8009444	BROOKLYN UNION GAS CO
8009445	BROOKLYN UNION GAS CO
8009489	BROOKLYN UNION GAS CO
8009490	BROOKLYN UNION GAS CO
8009491	BROOKLYN UNION GAS CO
8009492	BROOKLYN UNION GAS CO

[FR Doc. 80-28863 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-C

[Volume 264]

Determinations by Jursidictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 25, 1980.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 26, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

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JD NO      JA DKT        API NO       SEC D WELL NAME                          FIELD NAME                 PROD    PURCHASER
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****************************************************************************************
  KANSAS CORPORATION COMMISSION
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-A SCOTT RITCHIE                                  RECEIVED: 07/28/80  JA: KS
 8049561   K-80-0233    1511920367 102   #1 CROOKED L RANCH UNIT          WILDCAT                    160,0
-ANADARKO PRODUCTION COMPANY                      RECEIVED: 07/28/80  JA: KS
 8049540   K-80-0354    1517520431 102   HITCH I NO 1                     SHUCK                      229,0 CIMARRON-QUINQUE
-BRADEN OIL CO                                    RECEIVED: 07/28/80  JA: KS
 8049550   K-80-0390    1500720826 102   SCHIPSICK #1                     MCGUIRE-GOEMANN TWP 32 S    25,0
-CACTUS CORP                                      RECEIVED: 07/28/80  JA: KS
 8049543   K-80-0269    1509520864 102   NO 1 SWANDER ET AL               CUNNINGHAM                  50,0 KANSAS GAS SUPPLY CO
-CITIES SERVICE COMPANY                           RECEIVED: 07/28/80  JA: KS
 8049547   K-80-0264    1512920386 103   DUGAN A-1                        N TALUGA                   150,0 COLORADO INTERSTATE
-CONTINENTAL ENERGY                               RECEIVED: 07/28/80  JA: KS
 8049558   K-80-0391    1505520352 103   BEACH #1                         HUGOTON                     62,0 NORTHERN NATURAL GAS
 8049555   K-80-0395    1514300000 108   HALL #1                          BENSON                       5,9 KANSAS-NEBRASKA NATU
 8049556   K-80-0393    1509320628 103   MANNING #2                       HUGOTON                    620,0 NORTHERN NATURAL GAS
 8049557   K-80-0392    1505520391 103   RENICK #1                        HUGOTON                    720,0 NORTHERN NATURAL GAS
-DOME PETROLEUM CORP                              RECEIVED: 07/28/80  JA: KS
 8049554   K-80-0396    1507520306 103   LEVENS #2                        BRADSHAW                   155,8 SUNFLOWER ELECTRIC C
-EDMISTON OIL CO INC                              RECEIVED: 07/28/80  JA: KS
 8049526   K-80-0385    1500720563 103   GREEN #1                         SPIVEY-GRABS                12,0
 8049560   K-80-0386    1500720581 103   MUIR B #1                        SPIVEY-GRABS                12,0
-F G HOLL                                         RECEIVED: 07/28/80  JA: KS
 8049533   K-80-0262    1504720124 108   ENLOW NO 3                       WIL                         13,0 NORTHERN NATURAL GAS
-GEORGE R JONES                                   RECEIVED: 07/28/80  JA: KS
 8049552   K-80-0267    1500720727 102   HERNDON NO 1                     WILDCAT                     18,0 KANSAS GAS SUPPLY CO
-GETTY OIL COMPANY                                RECEIVED: 07/28/80  JA: KS
 8049553   K-80-0398    1511520219 108   E A BARTEL NO 1                  FRENCH CREEK                12,8 CLOVER PIPELINE CORP
-GRAVES DRILLING CO INC                           RECEIVED: 07/28/80  JA: KS
 8049527   K-80-0384    1500720799 103   WISCAVER NO 1                    BLOOM NORTH SW NE SW SEC    21,6 KANSAS POWER & LIGHT
-IMPERIAL OIL COMPANY                             RECEIVED: 07/28/80  JA: KS
 8049541   K-80-0271    1504720427 102   MCLEAN #1-9                      WC                         110,0 KANSAS-NEBRASKA NATU
 8049549   K-80-0272    1504720514 102   MUNDHENKE #1-5                   WC                          75,0 KANSAS-NEBRASKA NATU
-INCA OIL CO                                      RECEIVED: 07/28/80  JA: KS

 8049537   K-80-0240    1517520368 103   DAVIES #2                        WILDCAT                    182,5 ANADARKO PRODUCTION
 8049551   K-80-0238    1517520146 102   HITTLE #1                        WILDCAT                     98,9 PANHANDLE EASTERN PI
 8049538   K-80-0239    1517520430 103   WHITE #1                         WILDCAT                    246,3 PANHANDLE EASTERN PI
-LEAR PETROLEUM CORPORATION                       RECEIVED: 07/28/80  JA: KS
 8049546   K-80-0266    1503320324 102   ZIELKE #1                        WILDCAT                    120,0
-LEITH OPERATIONS                                 RECEIVED: 07/28/80  JA: KS
 8049534   K-80-0261    1509520834 103   REIDA NO 1                       REIDA                       55,0 KANSAS GAS SUPPLY CO
-LINDELL R CHURCH                                 RECEIVED: 07/28/80  JA: KS
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DC-B-30

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                                                                                VOLUME 204            PAGE 002
JD NO     JA DKT       API NO     SEC D WELL NAME                          FIELD NAME                 PROD     PURCHASER
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8049532   K-80-0376    1509921108 102   C RUTTGEN #3                       BARTLETT                     0.0 CITIES SERVICE GAS C
8049531   K-80-0377    1509921111 102   C RUTTGEN #6                       BARTLETT                     0.0 CITIES SERVICE GAS C
8049528   K-80-0380    1509921072 102   HART #4                            BARTLETT                    36.0 CITIES SERVICE GAS C
8049530   K-80-0378    1509921068 102   HENDRICKSON #4                     BARTLETT                    36.0 CITIES SERVICE GAS C
8049529   K-80-0379    1509921069 102   HENDRICKSON #5                     BARTLETT                    36.0 CITIES SERVICE GAS C
-MOBIL OIL CORP                       RECEIVED: 07/28/80  JA: KS
8049559   K-80-0389    1518920494 103   COBB NO 1 UNIT NO 2                PANOMA                      70.0 NORTHERN NATURAL GAS
8049536   K-80-0260    1500700000 108   ROBERT B COOK B #1                 HARDTNER                    12.4 CITIES SERVICE GAS C
-NORTHERN NATURAL GAS PRODUCING CO    RECEIVED: 07/28/80  JA: KS
8049539   K-80-0235    1518920489 103   DOWNING NO 1-B UNIT NO 2           HUGOTON                     50.0 NORTHERN NATURAL GAS
-OIL PROPERTIES CO INC                RECEIVED: 07/28/80  JA: KS
8049544   K-80-0268    1504720577 103   ZUERCHER NO 3                      WIL                         73.0 NORTHERN NATURAL GAS
-PETROLEUM INC                        RECEIVED: 07/28/80  JA: KS
8049542   K-80-0270    1518700000 108   HERRICK GAS UNIT #1                HUGOTON                     12.0 CITIES SERVICE GAS C
-RANGE OIL COMPANY INC                RECEIVED: 07/28/80  JA: KS
8049548   K-80-0337    1503522199 102   #1 DUNCAN                          WALNUT BEND                 29.2 COLONIAL CORP
-TEMA OIL CO                          RECEIVED: 07/28/80  JA: KS
8049535   K-80-0256    1508120177 103   MOSSBARGER 3-23                    PANOMA COUNCIL GROVE       180.0 CITIES SERVICE GAS C
-TEXAS OIL & GAS CORP                 RECEIVED: 07/28/80  JA: KS
8049545   K-80-0265    1509720573 103   EINSEL G #1                        MARTIN-POOL                365.0 KANSAS-NEBRASKA NATU
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   MISSISSIPPI OIL & GAS BOARD
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-TOMLINSON INTERESTS INC              RECEIVED: 07/28/80  JA: MS
8049525   57-80-467    2309120091 107   CLINTON V MORGAN NO 1              EAST MORGANTOWN           1460.0 TRANSCONTINENTAL GAS
**********************************************************************
   MONTANA BOARD OF OIL & GAS CONSERVATION
**********************************************************************
-MIDLANDS GAS CORPORATION             RECEIVED: 07/28/80  JA: MT
*8049522  6-80-132     2510521143 102   1707 STROMMEN                      WILDCAT                      3.0 KANSAS-NEBRASKA NATU
*8049524  6-80-130     2510521144 102   3406 PURTEEN                       WILDCAT                     91.0 KANSAS-NEBRASKA NATU
*8049523  6-80-134     2510521111 102   3606 #1 STATE                      WILDCAT                     34.0 KANSAS-NEBRASKA NATU
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   OKLAHOMA CORPORATION COMMISSION
**********************************************************************
-AN-SON CORPORATION                   RECEIVED: 07/28/80  JA: OK
8049592   03060        3501120923 103   VIERSEN #1-20                      VIERSEN #1-20              109.5 ARKANSAS-LOUISIANA
-ARKANSAS WESTERN PRODUCTION CO       RECEIVED: 07/28/80  JA: OK
8049605   01889        3509321488 108   #1 NOLTING                         RINGWOOD                     6.2 OKLAHOMA GAS & ELEC
-ARKOMA GAS CO                        RECEIVED: 07/28/80  JA: OK
8049603   03823        3512120496 102   L M NULL GAS UNIT #1-19            N W CABANISS                20.0 ARKLA GAS CO
8049602   03822        3512120481 102   W J HILSEWECK #1-8                 NW CABANISS                  0.0 ARKLA GAS CO
8049604   03824        3512120482 102   W J HILSEWECK #1-9                 N W CABANISS                 0.0 ARKLA GAS CO
8049601   03821        3512120483 102   W J HILSEWECK 1-15                 CABANISS NORTH WEST          0.0 ARKLA GAS CO
-BOSWELL ENERGY CORP                  RECEIVED: 07/28/80  JA: OK
8049563   03969        3515120943 102   PARKER 1-24                        NE LOOKOUT                 365.0
-BRIDGER PETROLEUM CORPORATION        RECEIVED: 07/28/80  JA: OK
*8049598  01824        3509321216 103   HAYS MG 8                          RINGWOOD                    96.0 OKLAHOMA NAT GAS GAT
-CABOT CORPORATION                    RECEIVED: 07/28/80  JA: OK
8049574   04674        3500736115 108   LEON ALLEN #5                      LAVERNE CHESTER             16.0 NORTHERN NATURAL GAS
-CENTEX OIL & GAS INC                 RECEIVED: 07/28/80  JA: OK
8049564   03993        3504320931 102   SHAW NO 2                          S E OAKWOOD AREA (CHESTE     0.0 ARKANSAS LOUISIANA G
-CHAMPLIN EXPLORATION INC             RECEIVED: 07/28/80  JA: OK
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                                                                      VOLUME  264           PAGE  003
 JD NO     JA DKT        API NO     SEC D WELL NAME                    FIELD NAME              PROD      PURCHASER
 -----     ------        ------     --- - ---------                    ----------              ----      ---------
 8049597   01856       3509321268 108   BULLER NO 3                    ORIENTA                    4,2 UNION TEXAS PETROLEU
*COTTON PETROLEUM CORPORATION         RECEIVED:  07/28/80  JA: OK
 8049593   03544       3512920321 103   NEWELL NO 1                    SOUTH BISHOP             329,0 CITIES SERVICE GAS C
*DONALD C SLAWSON                     RECEIVED:  07/28/80  JA: OK
 8049600   04075       3501720760 102   #1 HALL B UNIT                 WATONGA TREND             20,0 CITIES SERVICE GAS C
 8049576   04314       3501721181 102   #1 SHELBY UNIT                 WATONGA TREND            220,0 CITIES SERVICE GAS C
*ELDER & VAUGHN                       RECEIVED:  07/28/80  JA: OK
 8049578   01017       3500721462 103   VERDEEN #1                     MOCANE                     0,0 PANHANDLE EASTERN PI

*H & L OPERATING COMPANY              RECEIVED:  07/28/80  JA: OK
 8049570   03412       3502520365 103   CAVIS #1                       SAMPSEL NORTHEAST        182,0 PANHANDLE EASTERN PI
 8049571   03732       3513921051 103   HITCH TRUST #1                 GUYMON-HUGOTON            25,0 NORTHERN NATURAL GAS
*HANOVER MANAGEMENT CO                RECEIVED:  07/28/80  JA: OK
 8049580   07771       3503920340 107   BELL #2                        SIMPSON                  730,0 TRANSWESTERN PIPELIN
*HB OIL & GAS INC                     RECEIVED:  07/28/80  JA: OK
 8049562   04020       3511920779 102   SANTA FE #1                    MARCH                    123,0 SUN GAS CO
*HOOVER & BRACKEN ENERGIES            RECEIVED:  07/28/80  JA: OK
 8049577   04719     ← 3503920249 102   INDIAN #1-17                   NORTH WEATHERFORD         73,0 MICHIGAN WISCONSIN P
*LPCX CORPORATION                     RECEIVED:  07/28/80  JA: OK
 8049599   01469       3505120621 103   TAYLOR NO 1                    NORTH ALEX                36,0 MOBIL OIL CORP
*MAYLON ENERGY                        RECEIVED:  07/28/80  JA: OK
 8049586   01438       3503520119 108   METZEN #2 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049568   01444       3503520120 108   METZEN #3 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049565   01440       3503520122 108   METZEN #5 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049583   01433       3503520124 108   METZEN #7 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049585   01437       3503520135 108   METZEN #8 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049567   01442       3503520126 108   METZEN #9 OTC NO 03553781      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049584   01434       3503520219 108   WALKER #1 OTC NO 03553782      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049582   01431       3503520128 108   WALKER #2 OTC NO 03553782      NW WELCH                   0,0 CITIES SERVICE GAS C
 8049566   01441       3503520129 108   WALKER #3 OTC NO 03553782      NW WELCH                   0,0 CITIES SERVICE GAS C
*PAN PETROLEUM INC                    RECEIVED:  07/28/80  JA: OK
 8049573   04672       3513920964 108   MIRES #1                       W DOMBY                   16,0 PANHANDLE EASTERN PI
*PHILLIPS PETROLEUM COMPANY           RECEIVED:  07/28/80  JA: OK
 8049572   04670       3500700000 108   VERNON A NO 1                  LAVERNE HOOVER            20,0 MICHIGAN WISCONSIN P
*SOUTHPORT EXPLORATION INC            RECEIVED:  07/28/80  JA: OK
 8049581   03025       3505100000 102   W H PRITCHETT NO 1             EAST ALEX                237,0
*TEXACO INC                           RECEIVED:  07/28/80  JA: OK
 8049591   02778       3504730483 108   A KOKOJAN B NO 1               SOONER TREND              12,0 EXXON CO USA
 8049569   02799       3515120908 103   DUNCAN-BIXLER UNIT NO 3        WAYNOKA                   36,0 CITIES SERVICE GAS C
 8049588   02753       3507350198 108   LINCOLN NORTH TR 114 NO 1      SOONER TREND               5,0 EXXON COMPANY USA
 8049589   02762       3507350247 108   LINCOLN NORTH TR 56 NO 1 (KINSLOW)  SOONER TREND          5,0 EXXON COMPANY USA
 8049590   02774       3507300000 108   Z BURROWS NO 1                 SOONER TREND              10,0 EXXON CO USA
*TEXAS OIL & GAS CORP                 RECEIVED:  07/28/80  JA: OK
 8049579   01963       3505920254 108   EASTERWOOD #1                  E MAY                     12,8 DELMI GAS PIPELINE C
*UNIVERSAL RESOURCES CORPORATION      RECEIVED:  07/28/80  JA: OK
 8049575   02901       3501720822 103   MCLAIN #3-20                   RICHLAND N                65,0 PUBLIC SERVICE CO OF
*WESSELY ENERGY CORPORATION           RECEIVED:  07/28/80  JA: OK
 8049587   04508       3504300000 103   #1-26 ELLINGTON                PUTNAM                   116,0 DELHI GAS PIPELINE C
 8049596   04505       3504300000 103   #1-31 COURSEY                  PUTNAM                   104,0 DELHI GAS PIPELINE C
 8049606   04507       3504300000 103   #1-35 ELLINGTON                PUTNAM                   434,0 DELHI GAS PIPELINE C
 8049595   04503       3504300000 103   #2-2 FARRIS                    PUTNAM                   292,0 DELHI GAS PIPELINE C
 8049594   04502       3504300000 103   #2-7 FARRIS                    PUTNAM                   255,0 DELHI GAS PIPELINE C
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   TEXAS RAILROAD COMMISSION
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*(HUNTER OIL) CORP                    RECEIVED:  07/28/80  JA: TX
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049628	04727	4223300000	108		BETTY 25237	PANHANDLE WEST	2,5	PHILLIPS PETROLEUM C
8049627	04707	4223300000	108		BILL 25238	PANHANDLE WEST	7,0	PHILLIPS PETROLEUM C
8049626	04666	4223300000	108		LEON 25242	PANHANDLE WEST	0,0	PHILLIPS PETROLEUM C
*AMERICAN PETROFINA COMPANY OF TEXAS					RECEIVED: 07/28/80 JA: TX			
8049728	15975	4242330354	103		ARNOLD GAS UNIT NO 1	OVERTON (COTTON VALLEY S	253,0	UNITED GAS PIPE LINE
*AMOCO PRODUCTION CO								
					RECEIVED: 07/28/80 JA: TX			
8049785	16939	4216930305	103		ANTON IRISH CLEARFORK UNIT #414	ANTON IRISH	5,1	PIONEER NATURAL GAS
8049799	17173	4230330483	103		ANTON IRISH CLEARFORK UNIT #420	ANTON IRISH	1,0	PIONEER NATURAL GAS
8049800	17177	4216930317	103		ANTON IRISH CLEARFORK UNIT #426	ANTON IRISH	1,0	PIONEER NATURAL GAS
8049788	16942	4222731506	103		CORA LEE ECHOLS /A/ #10	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049787	16941	4222731596	103		CORA LEE ECHOLS /A/ #11	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049790	16944	4222731597	103		CORA LEE ECHOLS /A/ #12	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049786	16940	4222731598	103		CORA LEE ECHOLS /A/ #13	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049765	16828	4222731737	103		CORA LEE ECHOLS /A/ #17	IATAN EAST/HOWARD/	1,4	GETTY OIL COMPANY
8049767	16830	4222731793	103		CORA LEE ECHOLS /A/ #18	IATAN EAST/HOWARD/	1,4	GETTY OIL COMPANY
8049789	16943	4222731505	103		CORA LEE ECHOLS /A/ #9	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049763	16824	4222731789	103		CORA LEE ECHOLS/B/ #13	IATAN EAST /HOWARD/	1,4	GETTY OIL CO
8049764	16827	4222731788	103		CORA LEE ECHOLS/B/ #16	IATAN EAST /HOWARD/	1,4	GETTY OIL COMPANY
8049766	16829	4222731787	103		CORA LEE ECHOLS/B/ #17	IATAN EAST /HOWARD/	1,4	GETTY OIL COMPANY
8049762	16819	4222731594	103		CORA LEE ECHOLS/B/ #2	IATAN EAST /HOWARD/	1,4	GETTY OIL CO
8049842	17448	4221130906	108		GEORGE UNIT #1-11	BUFFALO WALLOW	14,6	PIONEER NATURAL GAS
8049793	16948	4222731601	103		JOHN W DAVIS #4	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049768	16831	4222731745	103		JOHN W DAVIS #5	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049769	16832	4222731734	103		JOHN W DAVIS #6	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049801	17178	4221932681	103		LEVELLAND UNIT #746	LEVELLAND	1,0	EL PASO NATURAL GAS
8049843	17449	4239300000	108		LIPS RANCH A #6	LIPS-MORROW	21,0	NORTHERN NATURAL GAS
8049770	16834	4241330795	103		ROUSSELOT DORIS MAYER B #2	SAWYER/CANYON	36,5	LONE STAR GAS CO
8049682	13281	4221932551	103		SLAUGHTER ESTATE UNIT #2-129	SLAUGHTER	3,0	EL PASO NATURAL GAS
8049792	16947	4222731847	103		TEX LAND/MTGE CO /A/ R/A /A/ #54	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049775	16839	4222731747	103		TEX LAND/MTGE CO /A/ R/A /A/ #55	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049791	16946	4222731709	103		TEX LAND/MTGE CO /A/ R/A /A/ #90	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049771	16835	4222731177	103		TEX LAND/MTGE CO /A/ R/A /B/ #33	IATAN EAST/HOWARD/	1,4	GETTY OIL COMPANY
8049772	16836	4222731839	103		TEX LAND/MTGE CO /A/ R/A /B/ #42	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049773	16837	4222731731	103		TEX LAND/MTGE CO /A/ R/A /B/ #51	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049774	16838	4222731837	103		TEX LAND/MTGE CO /A/ R/A /B/ #53	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049761	16794	4222731771	103		TEX LAND/MTGE CO /A/ R/A /B/ #95	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049776	16840	4222731733	103		TEX LAND/MTGE CO /A/R/A/A/ #56	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049777	16841	4222731748	103		TEX LAND/MTGE CO /A/R/A/A/ #65	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
8049778	16843	4222731843	103		TEX LAND/MTGE CO /A/R/A/A/ #81	IATAN EAST/HOWARD/	1,4	GETTY OIL COMPANY
8049779	16845	4222731770	103		TEX LAND/MTGE CO /A/R/A/A/ #97	IATAN EAST/HOWARD/	1,4	GETTY OIL CO
*ARCO OIL AND GAS COMPANY					RECEIVED: 07/28/80 JA: TX			
*8049727	15966	4207901170	108		BUCKSHOT UNIT #323	BUCKSHOT 4950 SAND	1,0	WARREN PETROLEUM CO
8049735	16022	4200331926	103		EMMA COWDEN #62	EMMA	6,5	EL PASO NATURAL GAS
8049683	13445	4200310840	108		GOLDSMITH NSA CONSOLIDATED UNIT #14	NORTH GOLDSMITH CONSOLID	0,9	PHILLIPS PETROLEUM C
8049634	06256	4213533049	103		GOLDSMITH-CUMMINS S A UNIT NO 218	GOLDSMITH	27,0	PHILLIPS PETROLEUM C
8049633	06232	4210530750	108		RUBY HELBING 26 NO 1-L	HUNT-BAGGETT (STRAWN)	13,1	NORTHERN NATURAL GAS
8049736	16028	4200300515	108		SOUTH MCFARLAND QUEEN UNIT #16	MCFARLAND	0,4	PHILLIPS PETROLEUM C
8049737	16029	4223500032	108		W M NOELKE ESTATE #10	MERTZON	0,6	NORTHERN NATURAL GAS
8049738	16030	4223500034	108		W M NOELKE ESTATE #12	MERTZON	0,3	NORTHERN NATURAL GAS
8049739	16031	4223500053	108		W M NOELKE ESTATE #31	MERTZON	0,5	NORTHERN NATURAL GAS
8049740	16032	4223500055	108		W M NOELKE ESTATE #33	MERTZON	1,0	NORTHERN NATURAL GAS
8049741	16033	4223510285	108		W M NOELKE ESTATE #36	MERTZON	10,0	NORTHERN NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049742	16035	4223510289	108		W M NOELKE ESTATE #41	MERTZON	5,0	NORTHERN NATURAL GAS
8049743	16037	4223530384	108		W M NOELKE ESTATE #48	MERTZON	0,3	NORTHERN NATURAL GAS
8049744	16038	4223530520	108		W M NOELKE ESTATE #49	MERTZON	0,3	NORTHERN NATURAL GAS
8049745	16039	4223530518	108		W M NOELKE ESTATE #51	MERTZON	0,3	NORTHERN NATURAL GAS
-ATAPCO					RECEIVED: 07/28/80 JA: TX			
8049671	12126	4249700000	108		E E KELLER #1 (32335)	ALVORD CADDO CONGLOMERAT	3,6	CITIES SERVICE CO
8049809	17300	4247531861	103		F M SCOTT #2 25366	SCOTT (DELAWARE)	62,0	TRANSWESTERN PIPELIN
8049810	17301	4247531862	103		F M SCOTT #3 25366	SCOTT (DELAWARE)	62,0	TRANSWESTERN PIPELIN
-B & M OPERATING CO INC					RECEIVED: 07/28/80 JA: TX			
8049616	01368	4235130313	102		HARTBURG LUMBER CO NO 1 ID 80192	GIST (HACKBERRY 7100)	290,0	TEXAS EASTERN TRANSM
-BELCO PETROLEUM CORPORATION					RECEIVED: 07/28/80 JA: TX			
8049804	17238	4239130308	108		TATTON B 1 ID 58524	TWIN CREEK (MARG)	11,0	TEXAS EASTERN TRANSM
-BILL FORNEY INC					RECEIVED: 07/28/80 JA: TX			
8049684	13453	4229731854	102		A M STEINMEYER 1A-L	CHARLINE (FORNEY 6) FIEL	550,0	TRANSCONTINENTAL GAS
-C & K PETROLEUM INC					RECEIVED: 07/28/80 JA: TX			
8049794	16953	4233531487	103		V T MCCABE WELL NO 1	JAMESON NORTH (STRAWN)	30,0	SUN GAS CO
-CANUS PETROLEUM INC					RECEIVED: 07/28/80 JA: TX			
*8049677	12660	4235500000	102		#1 JOHNNY C WILSON UNIT 75855	CORPUS CHRISTI WEST (AND	365,0	UNITED GAS PIPELINE
-CARMICHAEL OIL CO INC					RECEIVED: 07/28/80 JA: TX			
8049811	17302	4208331675	103		W M HENDERSON #2	BURKETT SW (DUFFER GAS)	72,5	UNION TEXAS PETROLEU
-CHAMPLIN PETROLEUM COMPANY					RECEIVED: 07/28/80 JA: TX			
8049754	16470	4245130496	103		A M DUFF ESTATE NO 2	DOVE CREEK (CANYON D)	182,0	NORTHERN NATURAL GAS
-CHEVRON U S A INC					RECEIVED: 07/28/80 JA: TX			
8049635	06412	4241530880	103		SACROC UNIT 262 A-8	KELLY-SNYDER	30,0	EL PASO NATURAL GAS
-CITIES SERVICE COMPANY					RECEIVED: 07/28/80 JA: TX			
8049816	17368	4210532381	103		UNIVERSITY BW #1	HOWARDS CREEK (PENN)	18,0	
8049815	17367	4210532392	103		UNIVERSITY BX #1	HOWARDS CREEK (PENN)	14,0	
-CONSOLIDATED OIL & GAS INC					RECEIVED: 07/28/80 JA: TX			
8049780	16872	4248300000	108		DAMRON NO 1	PANHANDLE EAST	3,5	EL PASO NATURAL GAS
-CONOCO INC					RECEIVED: 07/28/80 JA: TX			
8049882	17729	4222700000	108		H R CLAY A #31 ID #02691	HOWARD GLASSCOCK	0,1	PHILLIPS PET CO
8049883	17731	4222700000	108		H H CLAY E #7 ID #02692	HOWARD GLASSCOCK	1,1	PHILLIPS PET CO
8049632	05948	4250530964	102		J G HATHMELL B NO 1 76925	HUNDIDO (LOBO)	90,8	HOUSTON PIPELINE CO
8049678	12699	4232330381	108		N J CHITTIM NO 6538 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8049679	12703	4232330427	108		N J CHITTIM NO 6634 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8049833	17405	4250531078	103		SANCHEZ-MCMURREY NO 2 85037	HUNDIDO (LOBO)	43,8	E I DUPONT DE NEMOUR
8049836	17430	4203301923	103		W T FORD #56 ID #01665	FUHRMAN-MASCHO	12,8	PHILLIPS PETROLEUM C
-CORPUS CHRISTI OIL AND GAS CO					RECEIVED: 07/28/80 JA: TX			
8049746	16091	4270330124	102		STATE TRACT 596-L NE/4 NO 3-LT	SHERMAN OFFSHORE SW (395	0,0	HOUSTON PIPE LINE CO
8049662	09384	4242731254	102		SURVEY 287 GAS UNIT NO 2	ARKANSAS CITY N (5500)	100,0	LOVACA GATHERING CO
-COTTON PETROLEUM CORPORATION					RECEIVED: 07/28/80 JA: TX			
8049694	15198	4229530533	103		BRADFORD B NO 2	BRADFORD (CLEVELAND)	18,0	TRANSWESTERN PIPELIN
8049817	17369	4243130753	103		FOSTER A-1	CONGER (PENN)	17,5	ESPERANZA PIPELINE C
8049812	17304	4249530900	103		UNIVERSITY 38 #1	WINK SOUTH	20,0	WARREN PETROLEUM CO
-D L BISHOP					RECEIVED: 07/28/80 JA: TX			
8049802	17184	4238331400	103		UNIVERSITY 24-A #1 (RRC #08015)	FARMER (SAN ANDRES)	3,6	BIG LAKE GASOLINE PL
-DIAMOND SHAMROCK CORPORATION					RECEIVED: 07/28/80 JA: TX			
8049685	13659	4216100000	102		BAUM A NO 1	SIMSBORO N	40,0	UNITED TEXAS TRANSMI
8049795	16955	4235730922	103		DREW ELLIS B NO 3	ELLIS RANCH	90,0	NATURAL GAS PIPELINE
8049818	17372	4236731669	103		JAMES L WARREN NO 1	RENO	21,9	
8049819	17373	4236731681	103		JAMES W GREGORY NO 1	RENO	36,1	
-DILLEY PRODUCTION CO					RECEIVED: 07/28/80 JA: TX			

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                                                                          VOLUME  264          PAGE  006
JD NO      JA DKT       API NO      SEC D WELL NAME                       FIELD NAME                  PROD   PURCHASER
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 8049668    10901       4232331260 102   LAS VEGAS RANCH NO 2             LOS CUATROS (GLEN ROSE)      250.0 TEXCOL GAS SERVICES
-DINERO OIL CO                          RECEIVED: 07/28/80  JA: TX
 8049734    16014       4250731201 103   R B WILLOUGHBY #1                LEONA (ELAINE)               200.0 LO VACA GATHERING CO
-DONALD C SLAWSON                       RECEIVED: 07/28/80  JA: TX
 8049747    16093       4221131069 103   FLOWERS #1-1                     CANADIAN SW (MORROW UPPE    1500.0 NORTHERN NATURAL GAS
-ENSERCH EXPLORATION INC                RECEIVED: 07/28/80  JA: TX
 8049837    17431       4249700000 108   C H ADMIRE NO 1-T                MORRIS                         5.0 LONE STAR GAS CO
 8049813    17305       4232130862 103   STATE TRACT 181 NO 2-L           MATAGORDA BAY                 69.6 LONE STAR GAS CO
-ESTATE OIL & GAS CORP                  RECEIVED: 07/28/80  JA: TX
 8049866    18190       4220330604 102   HENRY PITTS GAS UNIT NO 1 81010  LANSING NORTH (TRAVIS-PE     400.0 TEJAS GAS CORP
-EXPANDO PRODUCTION CO                  RECEIVED: 07/28/80  JA: TX
 8049757    16499       4239100000 108   O H DAVENPORT #15                MISSION RIVER 5300            19.8 UNITED GAS PIPE LINE
 8049758    16501       4239100000 108   O H DAVENPORT #8                 REFUGIO HEARD 5700             0.8 UNITED GAS PIPE LINE
-EXXON CORPORATION                      RECEIVED: 07/28/80  JA: TX
*8049820    17378       4247330308 103   KATY GAS FIELD UNIT II W-50      KATY (FIRST WILCOX)           60.0 AMOCO GAS
 8049759    16549       4247330305 103   KATY GAS FLD CONSOL UNIT #404-D  KATY (IV)                   2117.0 UNITED TEXAS TRANSMI
 8049805    17250       4204730741 103   SANTA FE RANCH 45-D (84336)      SANTA FE EAST (M-89)         365.0 NATURAL GAS PIPELINE
-FROST OIL CO INC                       RECEIVED: 07/28/80  JA: TX
 8049729    15988       4245930424 103   M J TRAMMELL GAS UNIT #1         GILMER                       730.0
-G C HERRMANN CO                        RECEIVED: 07/28/80  JA: TX
 8049798    17160       4217930674 103   MCCONNELL B NO 1                 PANHANDLE                   6826.0 GETTY OIL CO
-GAS PRODUCING ENTERPRISES INC          RECEIVED: 07/28/80  JA: TX
 8049665    10316       4232331226 102   J F CUNNINGHAM #1                LOS CUATROS (LOWER CRETA     200.0 TEXCOL GAS SERVICES
-GEODYNAMICS OIL & GAS INC              RECEIVED: 07/28/80  JA: TX
 8049814    17309       4205130551 102   JOE VYCHOPEN #1                  CALDWELL (AUSTIN CHALK)      107.0 UNI OIL INC
-GETTY OIL COMPANY                      RECEIVED: 07/28/80  JA: TX
 8049717    15717       4243330935 103   FLOWERS CANYON SAND UNIT #160    FLOWERS (CANYON SAND)          5.0 CITIES SERVICE CO
 8049725    15932       4235531380 103   T S T NO 6                       REDFISH BAY                  405.0 UNITED GAS PIPELINE
 8049722    15850       4236500000 103   WERNER-LEWIN NO 3                CARTHAGE (COTTON VALLEY)      50.0 DELHI GAS PIPELINE C
-GREAT BASINS PETROLEUM CO              RECEIVED: 07/28/80  JA: TX
 8049821    17379       4221530889 103   E E GUERRA #1                    SCHMIDT                       12.5 SOUTH TEXAS NATURAL
-GULF OIL CORPORATION                   RECEIVED: 07/28/80  JA: TX

 8049864    17587       4223300000 108   CHRISTIAN ET AL GPC FEE /A/ NO 1  PANHANDLE HUTCHINSON          1.3 PHILLIPS PETROLEUM C
 8049862    17589       4223300000 108   CHRISTIAN ET AL GPC FEE /D/ NO 4  PANHANDLE HUTCHINSON          1.4 PHILLIPS PETROLEUM C
 8049863    17588       4223300000 108   CHRISTIAN ET AL GPC FEE /E/ NO 2  PANHANDLE HUTCHINSON          1.8 PHILLIPS PETROLEUM C
 8049861    17590       4223300000 108   CHRISTIAN ET AL GPC FEE /E/ NO 5  PANHANDLE HUTCHINSON          1.4 PHILLIPS PETROLEUM C
 8049846    17515       4223300000 108   LEWIS /A/ #1                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049847    17516       4223300000 108   LEWIS /A/ #2                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049848    17517       4223300000 108   LEWIS /A/ #3                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049849    17518       4223300000 108   LEWIS /A/ #4                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049850    17519       4223300000 108   LEWIS /A/ #5                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049851    17520       4223300000 108   LEWIS /A/ #6                      PANHANDLE HUTCHINSON          0.8 GETTY OIL CO
 8049721    15779       4232900000 108   MCCLINTIC C A ET AL NO 10         SPRABERRY (TREND AREA)        1.9 PECOS CO
 8049719    15777       4232900000 108   MCCLINTIC C A ET AL NO 2          SPRABERRY (TREND AREA)        2.7 PECOS CO
 8049720    15778       4232900000 108   MCCLINTIC C A ET AL NO 8          SPRABERRY (TREND AREA)        5.4 PECOS CO
 8049852    17521       4223300000 108   MOORE J W #1                      PANHANDLE HUTCHINSON          1.2 GETTY OIL CO
 8049853    17522       4223300000 108   MOORE J W #2                      PANHANDLE HUTCHINSON          1.2 GETTY OIL CO
 8049854    17523       4223300000 108   MOORE J W #5                      PANHANDLE HUTCHINSON          1.2 GETTY OIL CO
 8049855    17524       4223300000 108   MOORE J W #6                      PANHANDLE HUTCHINSON          1.2 GETTY OIL CO
 8049856    17525       4223300000 108   MOORE J W #7                      PANHANDLE HUTCHINSON          1.2 GETTY OIL CO
 8049698    15379       4238331156 103   STATE WP NO 1                     AMIGO (SAN ANDRES)            3.0 NORTHERN NATURAL GAS
 8049699    15380       4238331190 103   STATE WP NO 2                     AMIGO (SAN ANDRES)            3.5 NORTHERN NATURAL GAS
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049700	15381	4238331191	103		STATE WW NO 1	AMIGO (SAN ANDRES)	12.0	NORTHERN NATURAL GAS
8049857	17527	4223300000	108		TIMMS #2	PANHANDLE HUTCHINSON	0.1	GETTY OIL CO
8049858	17528	4223300000	108		TIMMS #4	PANHANDLE HUTCHINSON	0.1	GETTY OIL CO
8049859	17529	4223300000	108		TIMMS #7	PANHANDLE HUTCHINSON	0.1	GETTY OIL CO
8049860	17530	4223300000	108		TIMMS #8	PANHANDLE HUTCHINSON	0.1	GETTY OIL CO
*H V RIBIEN					RECEIVED: 07/28/80 JA: TX			
8049644	07219	4224930866	102		GARCIA-PENA #1	MAGNOLIA CITY FIELD	100.0	TENNESSEE GAS TRANSM
*HAROLD D COURSON					RECEIVED: 07/28/80 JA: TX			
8049884	17963	4235730781	102		SCHROEDER #1	MARSH (DOUGLAS)	250.0	PHILLIPS PETROLEUM C
*HARRISON INTERESTS LTD					RECEIVED: 07/28/80 JA: TX			
8049730	16004	4210532363	102		NO 14 UNIVERSITY LAND 4-32	HOWARDS CREEK (PENN)	110.0	
*HEWIT & DOUGHERTY					RECEIVED: 07/28/80 JA: TX			
8049695	15202	4235531173	103		CULLEN C WRIGHT NO 3 79877	RIVERSIDE EAST (6100)	275.0	TENNESSEE GAS PIPELI
*HNG OIL COMPANY					RECEIVED: 07/28/80 JA: TX			
8049870	17598	4243530037	108		ALLISON 54 #1 52979	SAWYER (CANYON)	23.0	INTRATEX GAS CO
8049874	17604	4243530158	108		ESPY 33 #1 52997	SAWYER (CANYON)	13.0	INTRATEX GAS CO
8049880	17612	4243531968	108		FIELDS 19 #3 74479	SAWYER (CANYON)	17.0	INTRATEX GAS CO
8049879	17611	4243531990	108		FIELDS 20 #3 75096	SAWYER (CANYON)	5.0	INTRATEX GAS CO
8049876	17607	4243530124	108		FRIESS 8 #1-C 55269	SAWYER (WOLFCAMP)	14.0	INTRATEX GAS CO
8049866	17591	4243531121	108		JONES 120 #4-A 63986	SAWYER (CANYON)	19.0	INTRATEX GAS CO
8049875	17605	4243530257	108		MAYFIELD 45 #1 57365	SAWYER (CANYON)	17.0	INTRATEX GAS CO
8049868	17593	4241330322	108		MEADOR 65 #1 65787	SAWYER (CANYON)	18.0	INTRATEX GAS CO
8049869	17594	4243530233	108		PFLUGER 103 #1-A 55048	SAWYER (CANYON)	20.0	INTRATEX GAS CO
8049873	17603	4243530766	108		PFLUGER 84 #4 59424	SAWYER (CANYON)	16.0	INTRATEX GAS CO
8049867	17592	4243531441	108		PFLUGER 86 #4 71980	SAWYER (CANYON)	5.0	INTRATEX GAS CO
8049877	17608	4243530999	108		REED 100 #4 62250	SAWYER (CANYON)	17.0	INTRATEX GAS CO
8049871	17599	4243530940	108		SAWYER 112 #3 61390	SAWYER (CANYON)	14.0	INTRATEX GAS CO
8049872	17602	4243530923	108		STEWART 6 #1 60853	SAWYER (CANYON)	15.0	INTRATEX GAS CO
8049731	16000	4250530590	103		SULLIVAN-HEIN #3 73796	LA PERLA (WILCOX FIRST)	28.0	HOUSTON PIPE LINE CO
8049826	17391	4249531049	103		UNIVERSITY BLK 21 GU #142-U 84131	APOLLO (FUSSELMAN)	204.4	INTRATEX GAS CO
8049825	17390	4249531049	103		UNIVERSITY BLOCK 21 GU #142-L 84132	APOLLO (ELLENBURGER)	95.0	INTRATEX GAS CO
8049878	17609	4243530067	108		VANDERSTUCKEN 49 #1 52972	SAWYER (CANYON)	19.0	INTRATEX GAS CO
*HAWN BROS & VENUS OIL CO					RECEIVED: 07/28/80 JA: TX			
8049638	06860	4247900000	102		ROSA V DE BENAVIDES ID 78666	COLE WEST (1260)	0.0	AMISTAD GATHERING CO
8049639	06861	4247900000	102		ROSA V DE BENAVIDES WELL #25	COLE WEST (1260)	0.0	AMISTAD GATHERING CO
*HOOKS BROTHERS OIL CO					RECEIVED: 07/28/80 JA: TX			
8049646	08353	4223300000	108		SMITH #6	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8049647	08357	4223300000	108		SMITH #8	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8049645	08330	4223300000	108		SMITH T #3	PANHANDLE	1.7	PHILLIPS PETROLEUM C
*HYDROC OIL CO					RECEIVED: 07/28/80 JA: TX			
8049666	10860	4206500000	108		MCCRAY #7 WELL	WEST PANHANDLE FIELD	29.0	DIAMOND SHAMROCK COR
8049667	10862	4206500000	108		MCCRAY #9 WELL	WEST PANHANDLE FIELD	29.0	DIAMOND SHAMROCK COR
*JOSEPH G GIBSON					RECEIVED: 07/28/80 JA: TX			
8049672	12185	4224730852	102		A K EAST FEE NO 10	BLACK DIAMOND	5.0	
*JOHN L COX					RECEIVED: 07/28/80 JA: TX			
8049655	08952	4232930780	103		BRAUN B NO 1 RRC #24859	PARKS (PENNSYLVANIAN)	16.0	MOBIL OIL CORP
8049656	08953	4232930768	103		BRAUN NO 1 RRC #24736	PARKS (SPRABERRY)	5.0	MOBIL OIL CORP
8049658	08958	4217330449	103		COLE NO 1 RRC #24510	CLYDE REYNOLDS (WOLFCAMP	12.0	PHILLIPS PETROLEUM C
8049659	08964	4246131284	103		CRAVENS 31 NO 1 RRC #07456	SPRABERRY (TREND AREA)	26.0	PHILLIPS PETROLEUM C
8049652	08925	4246131266	103		DUFF NO 1 RRC #07417	SPRABERRY (TREND AREA)	21.0	PHILLIPS PETROLEUM C
8049653	08948	4246131334	103		HALFF ESTATE B NO 1 RRC #07647	OLD UPLAND (BEND)	50.0	PHILLIPS PETROLEUM C
8049654	08951	4246131370	103		LYNCH NO 1 RRC #07730	OLD UPLAND (WOLFCAMP)	10.0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8049660	08965	4246131330	103		MORGAN NO 3 RRC #07412	SPRABERRY (TREND AREA)	16,0	PHILLIPS PETROLEUM C
8049657	08957	4217330892	103		REYNOLDS #3 RRC #23752	CLYDE REYNOLDS (WOLFCAMP	7,0	PHILLIPS PETROLEUM C
-JOHN L HADA JR					RECEIVED: 07/28/80 JA: TX			
8049688	13955	4235531370	103		CARVER NO 1	AGUA DULCE - (8400)	700,0	LO-VACA GATHERING CO
-JOHN R THOMPSON OPERATING INC					RECEIVED: 07/28/80 JA: TX			
8049760	16559	4212330982	103		A M N VAUGHN NO B-1 WELL	AMADOR (1000 MIOCENE)	0,0	LOVACA GATHERING CO
-JOSEPH F CORPENING					RECEIVED: 07/28/80 JA: TX			
8049838	17434	4223732622	103		COUNTS #1 WELL	JACK COUNTY REGULAR	18,0	LONE STAR GAS CO
-KEN PETROLEUM CORP					RECEIVED: 07/28/80 JA: TX			
8049755	16474	4223931435	103		LORENZEN WELL NO 1	EL TORO (FRIO 5960)	0,0	UNITED TEXAS TRANSMI
-KERR-MCGEE CORPORATION					RECEIVED: 07/28/80 JA: TX			
8049796	17148	4234130562	103		EMMA MC DOWELL WELL NO 5	PANHANDLE MOORE	40,8	PHILLIPS PETROLEUM C
8049797	17149	4234130563	103		EMMA MCDOWELL NO 6	PANHANDLE-MOORE FIELD	38,6	PHILLIPS PETROLEUM C
-KEY PRODUCTION COMPANY					RECEIVED: 07/28/80 JA: TX			
8049669	11034	4220330587	102		L N SKIPPER 81516	ALPINE (TRAVIS PEAK) FIE	0,0	ARKANSAS LOUISIANA G
-KILROY COMPANY OF TEXAS INC					RECEIVED: 07/28/80 JA: TX			
8049649	08552	4231130581	102		HAYS & EZZELL NO 1-T	SAN CAJA (BLOCK 85 SD)	180,0	NATURAL GAS PIPELINE
8049650	08553	4231130581	102		HAYS & EZZELL NO 1-C	SAN CAJA (BLOCK 85 SD)	180,0	NATURAL GAS PIPELINE
8049651	08555	4231120894	102		HAYS & EZZELL NO 2-T	SAN CAJA (BLOCK 86 SD)	180,0	NATURAL GAS PIPELINE
-KNOX INDUSTRIES INC					RECEIVED: 07/28/80 JA: TX			
8049834	17413	4238331402	103		TURNER C-1	SPRABERRY	0,0	
-KOMANCHE OIL & GAS					RECEIVED: 07/28/80 JA: TX			
8049637	06492	4217900000	108		SOUTH JACKSON 00549 WELL #2	WEST PANHANDLE	14,6	PHILLIPS PETROLEUM C
-L JACK GROSS PRODUCTION					RECEIVED: 07/28/80 JA: TX			
8049692	15094	4206500000	108		BURNETT G-4	PANHANDLE (CARBON)	0,0	PHILLIPS PETROLEUM C
-LAGUNA PETROLEUM CO					RECEIVED: 07/28/80 JA: TX			
*8049839	17435	4246131390	103		FULMER B #1	SPRAYBERRY TREND AREA	32,4	PHILLIPS PETROLEUM C
-MACDONALD EXPLORATIONS INC					RECEIVED: 07/28/80 JA: TX			
8049670	11132	4239330642	102		H L LEDRICK #1 WELL	LEDRICK RANCH (MORROW UP	35,0	TRANSWESTERN PIPELIN
-MARATHON OIL COMPANY					RECEIVED: 07/28/80 JA: TX			
8049703	15477	4226330647	103		R R CHISUM NO 4	CLAIREMONT (LOWER PENN)	25,0	SUN OIL CO
-MAURICE L BROWN CO					RECEIVED: 07/28/80 JA: TX			
8049705	15539	4220300000	108		LAWLESS GAS UNIT #1	BETHANY	5,0	TENNESSEE GAS PIPELI
-MAY PETROLEUM INC					RECEIVED: 07/28/80 JA: TX			
8049693	15097	4229530648	102		DUKE A NO 1 (83279)	MAY (BASAL MORROW)	1460,0	NORTHERN NATURAL GAS
-MCCOMMONS OIL COMPANY					RECEIVED: 07/28/80 JA: TX			
8049726	15935	4249700000	108		#1 J B MASSEY	BOUNSVILLE (BEND CONG)	11,5	NATURAL GAS PIPELINE
-MCMORAN EXPLORATION CO					RECEIVED: 07/28/80 JA: TX			
8049676	12543	4235531393	102		STATE TRACT 342 WELL NO 2	RED FISH BAY N (K-2) (PR	1400,0	UNITED GAS PIPELINE
-MEWBOURNE OIL COMPANY					RECEIVED: 07/28/80 JA: TX			
8049827	17393	4219500000	103		COLLARD 1-A ID #84010	SHAPLEY (MORROW)	50,0	
8049828	17395	4229530683	103		PEERY #3 ID #04432	PEERY (MARMATON)	36,0	TRANSWESTERN PIPELIN
-MGU DEVELOPMENT CO					RECEIVED: 07/28/80 JA: TX			
8049663	09885	4213213080	102		ROSENTHAL-CROOKER NO A1-L	HAMMAN (ROSENTHAL) FIELD	180,0	TENNESSEE GAS PIPELI
8049664	09886	4232130837	102		ROSENTHAL-SLONE NO 1-L	HAMMAN (-V- SAND) FIELD	180,0	TENNESSEE GAS PIPELI
-MITCHELL ENERGY CORPORATION					RECEIVED: 07/28/80 JA: TX			
8049630	04974	4249731320	103		CARL R JONES #1 79376	BOUNSVILLE (BEND CONGL G	182,5	NATURAL GAS PIPELINE
8049631	05059	4249731282	103		MARGARET YOUNG #2 80343	BOUNSVILLE (BEND CONGL G	20,0	NATURAL GAS PIPELINE
8049753	16191	4249731533	103		TELLIE WRIGHT #2	BOUNSVILLE (BEND CONGL G	150,0	NATURAL GAS PIPELINE
8049689	14833	4236731562	103		W H SPRINGFIELD #1 82424	BOUNSVILLE (BEND CONGL G	42,0	NATURAL GAS PIPELINE
-MOBIL OIL CORP					RECEIVED: 07/28/80 JA: TX			
*8049822	17381	4237132759	103		EFFIE POTTS SIBLEY B NO 3	COYANOSA NO (DELAWARE)	31,0	EL PASO NATURAL GAS
8049830	17398	4200331924	103		J W KUYKENDALL-HUMBLE #13	FUHRMAN-MASCHO	10,5	PHILLIPS PET CO

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JD NO	JA DKT	API NO	SEC	U	WELL NAME	FIELD NAME	PROD	PURCHASER
*8049841	17438	4237132860	103		JAMES U NEAL NO 10	CUYANOSA N (DELAWARE)	92,0	EL PASO NATURAL GAS
*8049840	17437	4237132859	103		JAMES U NEAL NO 7	CUYANOSA N (DELAWARE)	92,0	EL PASO NATURAL GAS
8049823	17385	4221932627	103		MALLETT C NO 13	SLAUGHTER	2,5	AMOCO PRODUCTION CO
8049824	17386	4221932670	103		MAPLE WILSON NO 77	SLAUGHTER	156,5	AMOCO PRODUCTION CO
8049829	17397	4221932702	103		MAPLE WILSON NO 81	SLAUGHTER	41,5	AMOCO PRODUCTION CO
8049831	17399	4216531648	103		PATRICK J DONAHUE NO 4	MOMANN (SAN ANDRES)	3,6	PHILLIPS PET CO
-MONSANTO COMPANY					RECEIVED: 07/28/80 JA: TX			
8049615	01316	4221130982	103		STUDER NO 3 #78339	HUMPHREYS (DOUGLAS)	560,0	CITIES SERVICE OIL C
-MORAN EXPLORATION INC					RECEIVED: 07/28/80 JA: TX			
8049706	15657	4223530361	108		ROCKER B N NO 6	SPRABERRY (TREND AREA)	2,6	NORTHERN NATURAL GAS
8049707	15658	4223530328	108		ROCKER B N NO 7	SPRABERRY (TREND AREA)	2,6	NORTHERN NATURAL GAS
8049708	15659	4223530355	108		ROCKER B O #1	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049714	15666	4223530350	108		ROCKER B O #10	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049715	15667	4223530332	108		ROCKER B O #11	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049716	15668	4223530340	108		ROCKER B O #12	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049709	15660	4223530356	108		ROCKER B O #2	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049710	15661	4223530323	108		ROCKER B O #3	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049711	15662	4223530353	108		ROCKER B O #5	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049712	15663	4223530352	108		ROCKER B O #6	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
8049713	15664	4223530339	108		ROCKER B O #7	SPRABERRY (TREND AREA)	3,7	NORTHERN NATURAL GAS
-MORMAC OIL & GAS CO					RECEIVED: 07/28/80 JA: TX			
8049885	18167	4212731854	102		STUMBERG RANCH NO 1	STUMBERG (OLMOS 4150)	40,0	LOVACA GATHERING CO
-MURPHY H BAXTER					RECEIVED: 07/28/80 JA: TX			
8049887	18407	4223931433	102		STANFORD NO 1 RRC NO 85052	STANFORD (FRIO 6800) FIE	200,0	UNITED TEXAS TRANSMI
-MUSTANG EXPLORATION CO INC					RECEIVED: 07/28/80 JA: TX			
8049691	14927	4246931426	102		KRUEGER #3 83031	NURSERY (3150)	140,0	SUNBURST ENERGIES IN
8049733	16007	4246931432	102		KRUEGER #4	NURSERY (3000)	140,0	SUNBURST ENERGIES IN
-N D STOVALL & SON					RECEIVED: 07/28/80 JA: TX			
8049704	15524	4236332067	103		STOVALL FEE W NO 1	PALO PINTO REGULAR GAS	73,0	BRAZOS FUEL CO INC
-NARBO FARMS					RECEIVED: 07/28/80 JA: TX			
8049680	12867	4230100000	108		HAMILL ELLIS WELL #1	WHEAT	6,0	PHILLIPS PETROLEUM C
-NATIONAL EXPLORATION COMPANY					RECEIVED: 07/28/80 JA: TX			
8049718	15756	4246530305	103		BLEDSOE NO B-2	DEVILS RIVER (STRAWN)	0,0	LOVACA GATHERING CO
-PAR PRODUCING CO					RECEIVED: 07/28/80 JA: TX			
8049618	02909	4208130715	103		W C HENDRY A NO 1	JAMESON (STRAWN)	20,0	SUN OIL CO
-PARAFFINE OIL CORP					RECEIVED: 07/28/80 JA: TX			
8049696	15234	4205730920	102		P H WELDER B NO 4-C	KATIE WELDER (N-8)	365,0	FLORIDA GAS TRANSMIS
8049697	15235	4205730920	102		P H WELDER B NO 4T	KATIE WELDER (N-8)	365,0	FLORIDA GAS TRANSMIS
-PARKER & PARSLEY INC					RECEIVED: 07/28/80 JA: TX			
8049781	16893	4246131457	103		MORGAN B WELL NO 1	SPRABERRY (TREND AREA)	15,0	PHILLIPS PETROLEUM C
-PENNZOIL PRODUCING COMPANY					RECEIVED: 07/28/80 JA: TX			
8049607	00078	4236530577	103		CHADWICK UNIT NO 3C	CARTHAGE/TRAVIS PEAK-CHA	180,0	UNITED GAS PIPE LINE
-PETRO-SEARCH INC					RECEIVED: 07/28/80 JA: TX			
8049640	07008	4217900000	108		READ #1 (1-090-02709-3)	PANHANDLE	7,5	DORCHESTER GAS PRODU
-PHILLIPS PETROLEUM COMPANY					RECEIVED: 07/28/80 JA: TX			
8049845	17504	4249503439	108		(03335) JENKINS NO 1	KEYSTONE (DEVONIAN)	2,0	SID RICHARDSON GASOL
8049835	17419	4200304621	108		(05496) TEXAS UNIV-T NO 1	SHAFTER LAKE (CLEARFORK)	0,5	EL PASO NATURAL GAS
8049844	17503	4213503765	108		(18713) GOLDSMITH ADOBE UNIT NO 17	GOLDSMITH (5600)	0,4	EL PASO NATURAL GAS
8049686	13738	4213531301	108		(19297) S COWDEN UNIT NO 08-15	COWDEN S (GRAYBURG)	2,0	ODESSA NATURAL GAS C
8049803	17209	4221100000	103		BOWERS B NO 3	WASHITA CREEK	1000,0	NATURAL GAS PIPELINE
8049865	17542	4229500000	108		DUKE E NO 1	KIOWA CREEK	4,0	PANHANDLE EASTERN PI
8049806	17283	4213504353	108		NOBLES NO 4 (34958)	GOLDSMITH N (SAN ANDRES	19,0	EL PASO NATURAL GAS

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                                                                              VOLUME  264                PAGE  010
 JD NO      JA DKT          API NO     SEC D WELL NAME                        FIELD NAME                   PROD   PURCHASER
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 8049687    13800           4237103785 108   ODOM-D NO 2 (20644)              PUCKETT (ELLENBURGER)          19.5 NORTHERN NATURAL GAS
-R LACY INC                                RECEIVED:  07/28/80  JA: TX
 8049608    00449           4236500000 108   BURNETT BRUS #2-C ID 29742       CARTHAGE (UPPER PETTIT)        11.0 NATURAL GAS PIPELINE
 8049612    00454           4236500000 108   BURNETT BRUS #7 ID 29743         CARTHAGE (TRAVIS PEAK)          8.0 NATURAL GAS PIPELINE
 8049613    00455           4236500000 108   BURNETT BRUS #9 ID 29745         CARTHAGE (UPPER PETTIT)        18.0 NATURAL GAS PIPELINE
 8049611    00452           4236500000 108   CAMERON LBR CO #2-C ID 29748     CARTHAGE (UPPER PETTIT)        10.0 NATURAL GAS PIPELINE
 8049610    00451           4236500000 108   CAMERON UNIT #3 WELL #3-A ID 40651 CARTHAGE N (GLEN ROSE 37     12.0 NATURAL GAS PIPELINE
 8049609    00450           4236500000 108   J W COOKE UNIT 2 WELL #2-A ID 39404 CARTHAGE N (GLEN ROSE 37     9.0 NATURAL GAS PIPELINE

 8049614    00456           4236500000 108   RICHARDSON #2 ID 39451           CARTHAGE N (GLEN ROSE 37       11.0 NATURAL GAS PIPELINE
-R-R OIL CO                                RECEIVED:  07/28/80  JA: TX
 8049674    12256           4217900000 108   WORL #1                          PANHANDLE                      10.8 PHILLIPS PETROLEUM C
-ROGER M WHEELER                           RECEIVED:  07/28/80  JA: TX
 8049724    15897           4235700000 108   BUZZARD #1 RRC #40117            ELLIS RANCH                    10.0 NORTHERN NATURAL GAS
 8049723    15896           4235700000 108   BUZZARD #2 RRC #03448            FARNSWORTH                      0.0 PHILLIPS PETROLEUM C
-SHELL OIL CO                              RECEIVED:  07/28/80  JA: TX
 8049782    F-04-016900     4242731312 103   BENTSEN BRUS B NO 11             LACOPITA (VICKSBURG Z SW       64.0 TENNESSEE GAS PIPELI
*8049661    09258           4208930997 103   SHERIDAN GAS UNIT NO 79          SHERIDAN (WILCOX)             200.0 NATIONAL FUEL GAS SU
-SIMPSON-MANN OIL PRODUCERS                RECEIVED:  07/28/80  JA: TX
 8049732    23050           4223531354 103   WINTERBOTHAM #1-785              DOVE CREEK (CISCO)            180.0 NORTHERN NATURAL GAS
-SOVEREIGN EXPLORATION CO                  RECEIVED:  07/28/80  JA: TX
 8049807    17286           4246931491 103   SOVEREIGN #1 PANTEL              EBEN HABEN (3350)             300.0 LOVACA GATHERING CO
 8049643    07419           4202530953 102   SOVEREIGN NO 1 ELLA MAY          BLANCONIA (2900)               55.0 UNITED GAS PIPELINE
-SUN OIL COMPANY (DELAWARE)                RECEIVED:  07/28/80  JA: TX
 8049783    16902           4207130947 103   R M WHITE NO 29                  ANAHUAC                        68.0 HOUSTON PIPE LINE CO
-TENNECO OIL COMPANY                       RECEIVED:  07/28/80  JA: TX
 8049648    08456           4217930620 103   WURLEY NU 89                     PANHANDLE GRAY COUNTY           2.0 PHILLIPS PETROLEUM C
-TEXACO INC                                RECEIVED:  07/28/80  JA: TX
 8049881    17630           4217502053 108   WILSON DEEP GAS UNIT WELL #1     DALLAS HUSKY (WILCOX 900        0.0 TEXAS EASTERN TRANSM
-TEXAS OIL & GAS CORP                      RECEIVED:  07/28/80  JA: TX
 8049748    16104           4223500000 103   JONES K #1                       DOVE CREEK (CANYON D)         220.0 COLUMBIA GAS TRANSMI
 8049832    17403           4248131862 103   KNIPLING G U #2                  WHARCO-SHILLING                15.0 DELHI GAS PIPELINE
 8049749    16107           4219500000 103   LANDIS A #1(MISS)                HANSFORD(MISSISSIP) HANS      310.0 NORTHERN NATURAL GAS
 8049750    16108           4219500000 103   LANDIS A #1(CLEVE)               HORIZON (CLEVELAND)           310.0 NORTHERN NATURAL GAS
 8049751    16109           4219500000 103   LANDIS A #1(MORROW)              HANSFORD (MORROW LOWER)       310.0 NORTHERN NATURAL GAS
 8049690    14863           4223931359 102   MILLER U #1                      MORALES (4390) PROPOSED       135.0 TENNESSEE GAS PIPELI
 8049808    17288           4220330669 103   SAUNDERS #1                      SCOTTSVILLE N (PETTIT LO        0.0 UNITED GAS PIPE LINE
-TEXAS PACIFIC OIL COMPANY INC             RECEIVED:  07/28/80  JA: TX
 8049701    15435           4221932507 103   NORTHEAST LEVELLAND UNIT #19     LEVELLAND                       9.7 AMOCO PRODUCTION CO
 8049702    15436           4221932506 103   NORTHEAST LEVELLAND UNIT #20     LEVELLAND                       5.7 AMOCO PRODUCTION CO
 8049756    16488           4221932703 103   SOUTHEAST LEVELLAND UNIT WELL NO 2 LEVELLAND/SAN ANDRES         12.3 AMOCO PRODUCTION CO
-THE SUPERIOR OIL COMPANY                  RECEIVED:  07/28/80  JA: TX
 8049673    12199           4228531234 102   FANNIE V MATTHEW 1               WILD CAT                        0.0
-THOMAS C CANAN                            RECEIVED:  07/28/80  JA: TX
 8049617    01770           4242931569 108   RAGLIN NO 1 72968                STEPHENS COUNTY REGULAR         5.0 WARREN PETROLEUM CO
-THOMAS D CUFFMAN                          RECEIVED:  07/28/80  JA: TX
 8049641    07136           4228730206 103   PRAIRIE #1                       GIDDINGS (AUSTIN CHALK/B       10.0 PGP GAS PRODUCTS INC
-THREE-B OIL CO                            RECEIVED:  07/28/80  JA: TX
 8049752    16160           4237132785 103   ARCO CURDZ NO 1 049329           PAYTON                         36.5 EL PASO NATURAL GAS
-TRAVELERS OIL CO G-V PROJECT              RECEIVED:  07/28/80  JA: TX
 8049636    06459           4217900000 108   OBRIEN #1 04065                  PANHANDLE-GRAY COUNTY           6.1 PHILLIPS PETROLEUM C
-TUCKER DRILLING COMPANY INC               RECEIVED:  07/28/80  JA: TX
 8049784    16906           4241330745 103   GLASS 50-1                       REG (LIME 5900)                54.0 NORTHERN NATURAL GAS
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                                                                       VOLUME  264          PAGE  011
JD NO      JA DKT         API NO     SEC D WELL NAME                   FIELD NAME                PROD     PURCHASER
-----      ------         ------     --- - ---------                   ----------                ----     ---------
*UNION TEXAS PETROLEUM               RECEIVED:  07/28/80  JA: TX
 8049681    12869         4214930292 102   H A BERGMANN NO 1           WINEDALE                     3,0 SHELCO INC
*W A MONCRIEF JR                     RECEIVED:  07/28/80  JA: TX
 8049642    07200         4203931188 103   LETA HUGHEY #3              HASTINGS WEST               19,0 AMOCO PRODUCTION CO
*W B D OIL & GAS CO                  RECEIVED:  07/28/80  JA: TX
 8049624    04414         4234100000 108   BOX #1 RRC #03537           PANHANDLE                   23,3 PHILLIPS PETROLEUM C
 8049621    04411         4234100000 108   BOX LEASE WELL #2 RRC #03537 PANHANDLE                  23,3 PHILLIPS PETROLEUM C
 8049619    03500         4234100000 108   BOX LEASE WELL #4 RRC #03537 PANHANDLE FIELD            23,3 PHILLIPS PETROLEUM C
*W L BRUCE OPERATOR                  RECEIVED:  07/28/80  JA: TX
 8049622    04412         4234100000 108   BOX #3 RRC 0537             PANHANDLE                   23,3 PHILLIPS PETROLEUM C
 8049623    04413         4217900000 108   BOX #5 RRC 03537            PANHANDLE FIELD             23,3 PHILLIPS PETROLEUM C
 8049625    04415         4217900000 108   BOX #7 RRC                  PANHANDLE                   23,3 PHILLIPS PETROLEUM C

*WARREN PETR CO A DIV OF GULF OIL CO RECEIVED:  07/28/80  JA: TX
 8049675    12383         4210331180 108   C-BAR SAN ANDRES UNIT NO G-15 C-BAR SAN ANDRES           1,0 EL PASO NATURAL GAS
 8049629    04779         4210331952 103   P J LEA ET AL #72           LEA (SAN ANDRES)            10,0 EL PASO NATURAL GAS
 8049620    03968         4210331927 103   P J LEA ET AL #75           LEA (SAN ANDRES)            16,0 EL PASO NATURAL GAS

   OTHER PURCHASERS
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 8049522      MONTANA-DAKOTA UTILITIES CO
 8049523      MONTANA-DAKOTA UTILITIES CO
 8049524      MONTANA-DAKOTA UTILITIES CO
 8049598      PIONEER GAS PRODUCTS CO
 8049661      HOUSTON PIPE LINE CO
 8049677      TENNGAS CO GAS GATHERING CO
 8049727      CITIES SERVICE CO
 8049820      TENNECAS CO GAS GATH CO
 8049822      DELHI GAS P L CORP
 8049839      NORTHERN NAT GAS CO
 8049840      PIONEER NAT GAS CO
 8049841      PIONEER NAT GAS CO
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[FR Doc. 80-28884 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-C

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[Volume 265]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 25, 1980.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 26, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

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JD NO    JA DKT      API NO     SEC D WELL NAME                             FIELD NAME                  PROD   PURCHASER
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*****************************************************************************************
  KANSAS CORPORATION COMMISSION
*****************************************************************************************
-AMOCO PRODUCTION CO                       RECEIVED: 07/30/80  JA: KS
 8049990   K-80-0128   1512920390 103  OSBORNE GAS UNIT B WELL #3    KINSLER                     550.0 CITIES SERVICE GAS C
-ANADARKO PRODUCTION COMPANY               RECEIVED: 07/29/80  JA: KS
 8049957   K-80-0276   1512920399 103  KNELLER B NO 1                WILBURTON NORTH             150.0 PANHANDLE EASTERN PI
-ARROWHEAD PETROLEUM INC                   RECEIVED: 07/29/80  JA: KS
 8049951   K-80-0287   1518520992 103  GRAYBILL #1                   FARMINGTON                    0.0 CENTRAL STATES GAS C
-BENSON MINERAL GROUP                      RECEIVED: 07/29/80  JA: KS
 8049928   K-80-0315   1504720612 102  GALLUP #1-4                   WIL                           0.0 PANHANDLE EASTERN PI
 8049939   K-80-0319   1504720314 103  GIBSON #2                     WIL                          10.8 PANHANDLE EASTERN PI
 8049926   K-80-0317   1504720344 103  GIBSON #3                     WIL                          10.8 PANHANDLE EASTERN PI
 8049940   K-80-0318   1504720474 103  SCHULTZ A-3                   WIL                          36.4 PANHANDLE EASTERN PI
-BENSON MINERAL GROUP                      RECEIVED: 07/30/80  JA: KS
 8049981   K-79-1854   1514520427 108  BAUER #1                      BRYANT SE                    13.1 NORTHERN NATURAL GAS
 8049993   K-80-0046   1512522191 103  BOLTE #1-5                    JEFFERSON-SYCAMORE           13.9 UNION GAS SYSTEMS IN
 8049982   K-79-1853   1514520488 108  STEFFEN #1                    STEFFEN SOUTH                 0.3 NORTHERN NATURAL GAS
-BEREN CORPORATION                         RECEIVED: 07/30/80  JA: KS
 8049984   K-79-1730   1518720301 103  RAMSEY #1                     HUGOTON                     110.0 COLORADO INTERSTATE
 8049983   K-79-1731   1518720302 103  RAMSEY A #1                   HUGOTON                      30.0 COLORADO INTERSTATE
-BRADEN-DEEM INC                           RECEIVED: 07/30/80  JA: KS
 8049992   K-80-0070   1500700000 108  WHEAT #1                      AETNA                        15.0 KANSAS POWER & LIGHT
-BUTTONWOOD PETROLEUM INC                  RECEIVED: 07/29/80  JA: KS
 8049948   K-80-0336   1511920374 103  RICHARDSON #1                 STEVENS                     182.5 PANHANDLE EASTERN PI
-CITIES SERVICE COMPANY                    RECEIVED: 07/29/80  JA: KS
 8049930   K-80-0313   1515520622 103  HEYLMUN D #1                  PLEVNA NORTH                 97.7 PEOPLES NATURAL GAS
-COURSON OIL & GAS INC                     RECEIVED: 07/30/80  JA: KS
 8049961   K-80-0404   1511920135 108  BERRYMAN A #1                 HOCKETT                      10.0 NORTHERN NATURAL GAS
-D R LAUCK OIL CO INC                      RECEIVED: 07/30/80  JA: KS
 8049972   K-80-0299   1504720610 103  BREITENBACH D #1              EMBRY                        72.0 NORTHERN NATURAL GAS
-DIAMOND SHAMROCK CORPORATION              RECEIVED: 07/29/80  JA: KS
 8049927   K-80-0316   1511920387 103  OTTO FELDMAN NO 2             UNDESIGNATED                 15.0 PANHANDLE EASTERN PI
-DIETRICH PETROLEUM CORP                   RECEIVED: 07/30/80  JA: KS
 8049994   K-80-0043   1507520313 103  TATE #34-41                   BRADSHAW                     40.0 KANSAS-NEBRASKA NATU
-E K LOEWEN                                RECEIVED: 07/29/80  JA: KS
 8049947   K-80-0338   1511300000 103  CHAVEZ #2                     GRABER                        7.3 PEOPLES NATURAL GAS
-ENERGY EXPLORATION & PRODUCTION INC       RECEIVED: 07/29/80  JA: KS
 8049945   K-80-0341   1505520358 103  HIBBERT #1                    HUGOTON                       0.0 NORTHERN NATURAL GAS
-ENERGY EXPLORATION INC                    RECEIVED: 07/30/80  JA: KS
 8049985   K-80-0216   1515520614 103  HARLEY #1                     HUNTSVILLE TOWNSHIP         365.0 PEOPLES NATURAL GS D
 8049986   K-80-0215   1515520615 103  HESTER #1                     HUNTSVILLE TOWNSHIP         273.0 PEOPLES NATURAL GAS
-EXCALIBUR PRODUCTION CO INC               RECEIVED: 07/30/80  JA: KS
 8049980   K-79-2009   1507920356 103  TED JONES #1                  BURRTON                      30.0 PEOPLES NATURAL GAS
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-F & M OIL CO INC					RECEIVED: 07/29/80 JA: KS			
8049956	K-80-0282	1504720626	103		#1 RIEKENBURG	MCCARTNEY NE	91250,0	CENTRAL STATES GAS C
-F G HOLL					RECEIVED: 07/29/80 JA: KS			
8049929	K-80-0314	1514520643	102		HOAR B NO 1 - 31	GARFIELD SW	350,0	KANSAS-NEBRASKA NATU
-FERGUSON OIL & GAS COMPANY INC					RECEIVED: 07/30/80 JA: KS			
8049991	K-80-0113	1500720783	103		STONE B NO 2	N HARBAUGH	0,0	PANHANDLE EASTERN PI
-GETTY OIL COMPANY					RECEIVED: 07/30/80 JA: KS			
8049966	K-80-0399	1511520459	108		E A BARTEL NO 12-9	FRENCH CREEK	7,3	CLOVER PIPELINE CORP
-GRAHAM-MICHAELIS CORP					RECEIVED: 07/30/80 JA: KS			
8049973	K-80-0298	1518700000	108		DEWELL #1-32	E SPARKS	10,0	COLORADO INTERSTATE
*8049974	K-80-0296	1509300000	108		LOWE #1	HUGOTON FIELD	14,0	CITIES SERVICE CO
8049976	K-80-0293	1518700000	108		PLUMMER C #1	HUGOTON	19,0	COLORADO INTERSTATE
8049975	K-80-0295	1517500000	108		PRINTZ #1	HUGOTON	20,0	NORTHERN NATURAL GAS
-GRAVES DRILLING CO INC					RECEIVED: 07/29/80 JA: KS			
8049946	K-80-0339	1509520165	108		MORISSE NO 1	ALMA EXT	9,4	PEOPLES NATURAL GAS
-GRAVES DRILLING CO INC					RECEIVED: 07/30/80 JA: KS			
8049968	K-80-0304	1500720718	103		KNOX NO 1	BLOOM NO C W/2 SE SW SEC	22,2	KANSAS POWER & LIGHT
8050002	K-80-0327	1500720643	103		KREHBIEL NO 1	BLOOM NORTH NW NE NW SEC	18,1	KANSAS POWER & LIGHT
-GULF OIL CORPORATION					RECEIVED: 07/29/80 JA: KS			
8049944	K-80-0342	1500700000	108		INSLEE /A/ NO 1	RHODES/MISSISSIPPI	7,9	CITIES SERVICE GAS C
8049950	K-80-0334	1500700000	108		VERNON G COLEMAN NO 1	RHODES NE	17,0	CITIES SERVICE GAS C
-HELMERICH & PAYNE INC					RECEIVED: 07/29/80 JA: KS			
8049958	K-80-0275	1505500000	103		RIGGS A NO 1	PANOMA GAS AREA 538159	110,0	COLORADO INTERSTATE
-HINKLE OIL COMPANY					RECEIVED: 07/30/80 JA: KS			
8050001	K-80-0328	1514520660	102		#1-A SPENCE	GATTERMAN SEC 35-23S-18W	180,0	NATURAL GAS PIPELINE
8050004	K-80-0325	1500720885	103		SHRIVER #2	JEM SW 440 FNL 440 FEL N	36,5	CENTRAL STATES GAS C
-HITCH ENERGY CORP					RECEIVED: 07/29/80 JA: KS			
8049937	K-80-0321	1515520585	103		CULVER NO 1	WISBY	11,0	GARFIELD GAS GATHERI
8049938	K-80-0320	1515520588	103		DRAKE G NO 2	WISBY	8,0	GARFIELD GAS GATHERI
8049935	K-80-0323	1515520424	103		DRAKE NO 1	WISBY	10,0	GARFIELD GAS GATHERI
8049936	K-80-0322	1515520600	103		KEY NO 1	WISBY	10,0	GARFIELD GAS GATHERI
-IMPERIAL OIL COMPANY					RECEIVED: 07/29/80 JA: KS			
8049943	K-80-0343	1509720602	103		LIGHT-WOOTTON #1-3	WELLSFORD NE	116,4	PANHANDLE EASTERN PI
8049941	K-80-0345	1509720614	103		RINKEL A #2-11	WELLSFORD NE	124,0	PANHANDLE EASTERN PI
8049942	K-80-0344	1509720598	103		RINKEL W #1-11	WELLSFORD NE	66,7	PANHANDLE EASTERN PI
-KANSAS NATURAL GAS INC					RECEIVED: 07/29/80 JA: KS			
8049934	K-80-0306	1509320654	103		CAMPBELL #2	PANOMA - COUNCIL GROVE	100,0	KANSAS-NEBRASKA NATU
-KANSAS NATURAL GAS INC					RECEIVED: 07/30/80 JA: KS			
8049967	K-80-0305	1509320655	103		TATE #2	PANOMA - COUNCIL GROVE	100,0	KANSAS-NEBRASKA NATU
-KANSAS-NEBRASKA NATURAL GAS CO INC					RECEIVED: 07/30/80 JA: KS			
8049988	K-80-0175	1502320044	102		HOLZWARTH 1-1	BENKLEMAN	69,0	
-LEAR PETROLEUM EXPLORATION INC					RECEIVED: 07/29/80 JA: KS			
8049931	K-80-0311	1503320307	103		LEMON #1	WILDCAT	250,0	
-MCCOY PETROLEUM CORP					RECEIVED: 07/30/80 JA: KS			
8049970	K-80-0302	1509520249	108		DUMARS UNIT #3	SPIVEY-GRABS	12,0	NORTHERN NATURAL GAS
8049989	K-80-0169	1507720544	103		LEEPER D #1	SPIVEY-GRABS EAST	6,0	
-MOBIL OIL CORP					RECEIVED: 07/29/80 JA: KS			
8049932	K-80-0309	1512920419	103		ELIJAH D THOMPSON UNIT NO 2	PANOMA	70,0	NORTHERN NATURAL GAS
8049933	K-80-0307	1505520398	103		JENNIE BARKER NO 2 WELL	PANOMA	70,0	CITIES SERVICE GAS C
-MOBIL OIL CORP					RECEIVED: 07/30/80 JA: KS			
8049977	K-79-0559	1506720534	103		JOHN MICKEY UNIT NO 2	PANOMA	70,0	CITIES SERVICE GAS C
-MORAN OIL COMPANY					RECEIVED: 07/30/80 JA: KS			

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JD NO     JA DKT       API NO     SEC D WELL NAME                                 FIELD NAME                   PROD    PURCHASER
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8049979   K-80-0037    1503522291 102   MURET B #2                                POSEY                          27,5 COLONIAL CORP
8049978   K-80-0038    1503522284 102   MURET B #3                                POSEY                          27,5 COLONIAL CORP
-NATIONAL OIL COMPANY                  RECEIVED: 07/29/80  JA: KS
8049952   K-80-0286    1504720600 103   #2 MOORE                                  BRITTON                        36,0 KANSAS-NEBRASKA NATU
-PAR PETROLEUM INC                     RECEIVED: 07/30/80  JA: KS
8049965   K-80-0400    1515120684 103   HENSLEY #1                                MOORE SW                       18,3 CENTRAL STATES GAS C
-PETROLEUM MANAGEMENT INC              RECEIVED: 07/29/80  JA: KS
8049955   K-80-0283    1517500000 108   COOK #1 P01808000                         LIBERAL SE                      8,4 PANHANDLE EASTERN PI
-PHILLIPS PETROLEUM COMPANY            RECEIVED: 07/29/80  JA: KS
8049954   K-80-0284    1509500000 108   ALDRICH - AB NO 3                         SPIDEY-GRABS                    0,0 KANSAS POWER & LIGHT
8049953   K-80-0285    1509500000 108   ALDRICH - BB NO 4                         SPIVEY GRABS                    0,0 KANSAS POWER & LIGHT
-PICKRELL DRILLING COMPANY             RECEIVED: 07/29/80  JA: KS
8049960   K-80-0273    1509720589 103   EDMONSTON D #1                                                           36,5
8049959   K-80-0274    1502520304 103   SHATTUCK A #3                             GRANGER CREEK NW               27,3 KANSAS POWER AND LIG
-PICKRELL DRILLING COMPANY             RECEIVED: 07/30/80  JA: KS
8050005   K-80-0324    1502520323 103   BARBY-HARPER A #1                         HARPER RANCH                   65,7 NORTHERN NATURAL GAS
-RAMOIL                                RECEIVED: 07/30/80  JA: KS
8049995   K-80-0040    1503522212 102   ALBRIGHT #1                               POSEY                          36,0 COLONIAL CORP
-ROBERT F WHITE                        RECEIVED: 07/30/80  JA: KS
8049971   K-80-0300    1511520523 103   CARLSON #1                                EAST ANTELOPE FIELD            30,0 CLOVER PIPELINE CORP
-SILVER CREEK PRODUCTION CO INC        RECEIVED: 07/30/80  JA: KS
8049987   K-80-0190    1503522417 103   MCCULLUM B 2                              TISDALE GAS AREA                4,6 CITIES SERVICE GAS C

-STELBAR OIL CORP INC                  RECEIVED: 07/30/80  JA: KS
8049969   K-80-0303    1519120890 102   JORDAN TRUST #1                           STUHLSATZ                     190,0 DELHI GAS PIPELINE C
-STERLING DRILLING & PROD CO INC       RECEIVED: 07/30/80  JA: KS
8049962   K-80-0403    1504700000 108   MITCHELL #1                               ENLOW EXTENSION                 6,0 KANSAS NEBRASKA NATU
-TEMA OIL CO                           RECEIVED: 07/30/80  JA: KS
8049964   K-80-0401    1508120180 103   HUXMAN #11-14 MARAMATON                   PANOMA MARMATON               114,0 PANHANDLE EASTERN PI
8049963   K-80-0402    1508120180 103   HUXMAN 11-14 MORROW                       PANOMA MORROW 80/0402         260,0 PANHANDLE EASTERN PI
-TEXAS ENERGIES INC                    RECEIVED: 07/29/80  JA: KS
8049949   K-80-0335    1515120722 103   SHAW NO 2                                 HOPEWELL EXTENSION            292,0 CENTRAL STATES GAS C
-TEXAS ENERGIES INC                    RECEIVED: 07/30/80  JA: KS
8050003   K-80-0326    1515120673 103   NEWBY 1-14                                CARVER-ROBBINS                111,3 PANHANDLE EASTERN PI
-THE SUPERIOR OIL COMPANY              RECEIVED: 07/30/80  JA: KS
8050000   K-80-0329    1512900000 108   BOYD UNIT NO 1                            GREENWOOD                      18,0 COLORADO INTERSTATE
8049998   K-80-0331    1500700000 108   GRAVES UNIT #1                            HARDTNER                       18,0 CITIES SERVICE GAS C
8049999   K-80-0330    1512900000 108   HANNA UNIT NO 1                           GREENWOOD                       9,0 COLORADO INTERSTATE
8049997   K-80-0332    1500700000 108   HOLMES #2                                 DRIFTWOOD                       6,0 CITIES SERVICE GAS C
8049996   K-80-0333    1500700000 108   STERLING A #1                             HARDTNER                       19,5 CITIES SERVICE GAS C
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   NORTH DAKOTA GEOLOGICAL SURVEY
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-DOME PETROLEUM CORP                   RECEIVED: 07/29/80  JA: ND
8049889   262          3310500815 103   JOYCE 1-2                                 TIOGA                          56,9 AMINOIL USA INC
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   WEST VIRGINIA DEPARTMENT OF MINES
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-ADKINS DRILLING CO                    RECEIVED: 07/29/80  JA: WV
8049901                4709901704 108   EPLIN #2                                  STONEWALL                       1,6 DEVON CORP
-BOWSER GAS & OIL CO                   RECEIVED: 07/29/80  JA: WV
8049902                4708501974 108   PRUNTY HEIRS #2                           MURPHY DISTRICT                 1,2 CONSOLIDATED GAS SUP
-CLYDE P LAW                           RECEIVED: 07/29/80  JA: WV
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 8049913                  4701302433 108   MALLOHAN #3                     BIG BEND                          1.9 CONSOLIDATED GAS SUP
 8049914                  4701302445 108   MALLOHAN #4                     BIG BEND                          1.9 CONSOLIDATED GAS SUP
*CONSOLIDATED GAS SUPPLY CORPORATION     RECEIVED:  07/29/80  JA: WV
 8049897                  4710300721 108   BARR TRACT 7145                 GRANT DISTRICT                    3.0 GENERAL SYSTEM PURCH
 8049915                  4706700355 108   FITZWATER-BARKUS 11923          WEST VIRGINIA OTHER A-85          8.0 GENERAL SYSTEM PURCH
 8049898                  4710500754 108   LUCINDA BUSH 5717               WEST VIRGINIA OTHER A-85          5.0 GENERAL SYSTEM PURCH
*DAVIS & POWELL                          RECEIVED:  07/29/80  JA: WV
 8049904                  4701702613 108   D HUFF                          DAVIS & POWELL .                  0.0 CONSOLODTED GAS SUPP
*GARNER & GAWTHROP INC                   RECEIVED:  07/29/80  JA: WV
 8049899                  4703302345 108   FURNER #2                       JOHN H FURNER                     8.4 CONSOLIDATED GAS SUP
 8049900                  4703302401 108   FURNER #4                       JOHN H FURNER                     8.4 CONSOLIDATED GAS SUP
*GO DISTRIBUTION CO INC                  RECEIVED:  07/29/80  JA: WV
 8049893                  4708522877 108   BECK MRS #1                     UNION                             0.4 EQUITABLE GAS CO
 8049892                  4708523049 108   EDW PIERCE #2                   UNION                             1.7 EQUITABLE GAS CO
 8049891                  4708523083 108   KEISTER #1                      UNION                             1.2 EQUITABLE GAS CO
 8049896                  4708522585 108   PRIMM #1                        CLAY                              1.5 EQUITABLE GAS CO
 8049894                  4708522677 108   PRIMM #2                        CLAY                              1.5 EQUITABLE GAS CO
 8049895                  4708522627 108   SHIELDS #2                      GRANT                             0.1 CONSOLIDATED GAS SUP
*GULF OIL CORPORATION                    RECEIVED:  07/29/80  JA: WV
 8049907                  4701302261 108   D A RULEY #5                    HENRIETTA DE CALB               - 0.9 CONSOLIDATION GAS SU
*GUYL MEABON H E & VIRGINIA              RECEIVED:  07/29/80  JA: WV
 8049903                  4704302463 108   GOYL MEABON H E & VIRGINIA BURNS  BEREA                           4.8 COLUMBIA GAS TRANSMI
*MORRIS & PERRILL                        RECEIVED:  07/29/80  JA: WV
 8049912                  4702101541 108   TIMMA MICK #2                   HEATERS FORK                      2.0 CONSOLIDATED GAS SUP
*P & S OIL AND GAS CORPORATION           RECEIVED:  07/29/80  JA: WV
 8049908                  4704500135 108   W B PHIPPS                      CHAPMANVILLE DIST                 2.0 CONSOLIDATED GAS SUP
*QUAKER STATE OIL REFINING CORP          RECEIVED:  07/29/80  JA: WV
 8049906                  4701702756 108   JOSEPH SMITH #1                 WEST UNION DISTRICT               1.1 PENNZOIL CO
*R & S GAS COMPANY                       RECEIVED:  07/29/80  JA: WV
 8049905                  4708520360 108   ELIZABETH CAMPBELL NO 1         MURPHY DISTRICT                   4.0 CABOT CORP
*RIDDLE & FLANAGAN                       RECEIVED:  07/29/80  JA: WV
 8049909                  4708501435 108   S OF SATTER FIELD WELL #1       D W SATTERFIELD WELL #1           4.7 CONSUMERS GAS UTILIT
*W H MOSSOR                              RECEIVED:  07/29/80  JA: WV
 8049911                  4708522068 108   HAYES #1                        SHIRLEY GOFF                      9.0 EQUITABLE GAS CO

*WACO OIL AND GAS CO INC                 RECEIVED:  07/29/80  JA: WV
 8049910                  4702101631 108   ASA COLLINS #1                  JERSEY WOOD RUN                   3.0 CONSOLIDATED GAS SUP
 8049919                  4702101892 108   C P SNIDER #1                   GLENVILLE DISTRICT               15.0 EQUITABLE GAS CO
 8049920                  4702101425 108   D J BLACK HEIRS #1              ELLIS                            10.0 EQUITABLE GAS CO
 8049917                  4702102371 108   GRANVILLE COLLINS #2            GLENVILLE DISTRICT               12.0 EQUITABLE GAS CO
 8049922                  4702101354 108   JOHN WALDECK #1                 BULL RUN                          0.0 EQUITABLE GAS CO
 8049921                  4702102161 108   JOHN WALDECK #1A                BULL RUN                          0.0 EQUITABLE GAS CO
 8049925                  4700700987 108   JOHN WALDECK #2A                OTTER DISTRICT                   12.0 EQUITABLE GAS CO
 8049924                  4700700989 108   JOHN WALDECK #3A                OTTER DISTRICT                   10.0 EQUITABLE GAS CO
 8049923                  4700700990 108   JOHN WALDECK #4A                OTTER DISTRICT                   10.0 EQUITABLE GAS CO
 8049916                  4702102358 108   M E LYNCH #1                    GLENVILLE DISTRICT               12.0 EQUITABLE GAS CO
 8049918                  4702102270 108   MARSHALL T WIANT #1             SAND FORK                        20.0 EQUITABLE GAS CO
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** U.S. GEOLOGICAL SURVEY - METAIRIE,LA
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*ARCO OIL AND GAS COMPANY                RECEIVED:  07/29/80  JA: LA  3
 8049890   GO-1234      1770040218 102   OCS-G-2834 #A-1                 WEST CAMERON BLOCK             5000.0 NORTHERN NATURAL GAS
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** U.S. GEOLOGICAL SURVEY - CASPER,WY
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*PROVIDENT RESOURCES INC                 RECEIVED:  07/30/80  JA: CO  5
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 JD NO     JA DKT          API NO      SEC D WELL NAME                 FIELD NAME                PROD     PURCHASER
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 8050021   CC-1329-9       0504506019 108   GOVERNMENT 1-14            ROCK CANYON                15,0 NORTHWEST PIPELINE C
-FALCON-COLORADO EXPLORATION INC       RECEIVED:  07/30/80  JA: MT  5
 8050011   M-1334-9        2510521169 102   1-29 KILROY                SWANSON CREEK               0,1 MONTANA-DAKOTA UTILI
-MIDLANDS GAS CORPORATION              RECEIVED:  07/30/80  JA: MT  5
*8050023   M-1347-9        2507121200 108 D 1913 FEDERAL #1            BOWDOIN                     2,1 KANSAS-NEBRASKA NATU
*8050010   M-1333-9        2507121167 103   2812 FEDERAL #1            BOWDOIN                    79,0 KANSAS-NEBRASKA NATU
-SOUTHLAND ROYALTY CO                  RECEIVED:  07/30/80  JA: MT  5
 8050015   M-1347-9        2507121701 103   FEDERAL 1-17-25NE          BOWDOIN-SWANSON CREEK      36,0 KANSAS NEBRASKA NATU
-BROWNLIE WALLACE ARMSTRONG & BANDER   RECEIVED:  07/30/80  JA: ND  5
 8050009   ND1304-9        3305300845 102   ALLEN FEDERAL #12-21       MONDAK                      7,5 MONTANA-DAKOTA UTILI
 8050008   ND 1301-9       3305300878 102   FEDERAL 3-22               MONDAK                     15,0 MONTANA-DAKOTA UTILI
-GETTY OIL COMPANY                     RECEIVED:  07/30/80  JA: ND  5
*8050025   ND-1332-9       3300700375 102   MYSTERY CREEK B WELL NO 6-5 T R FIELD                 36,0 KOCH HYDROCARBON CO
 8050024   ND 1331-9       3300700314 102   MYSTERY CREEK WELL NO 1-1  T R                        12,0 WESTERN GAS PROCESSO
-GAS PRODUCING ENTERPRISES INC         RECEIVED:  07/30/80  JA: UT  5
 8050006   UC 1351-9       4304730480 103   NBU 56-118 30480           NATURAL BUTTES UNIT        42,0 COLORADO INTERSTATE
 8050017   UC 1352-9       4304730466 103   NBU 63-128 30466           NATURAL BUTTES UNIT        45,6 COLORADO INTERSTATE
 8050019   UC1310-9        4304730463 103   NBU 57-128 30463           NATURAL BUTTES UNIT        16,5 COLORADO INTERSTATE
-GRACE PETROLEUM CORPORATION           RECEIVED:  07/30/80  JA: UT  5
 8050016   UC11219         4301915647 108   FEDERAL #1                 WESTWATER                   7,0 NORTHWEST PIPELINE C
-J C THOMPSON                          RECEIVED:  07/30/80  JA: UT  5
 8050018   UC1111-9        4301915656 108   D-2 (CASTLEGATE)           WESTWATER                   1,6 NORTHWEST PIPELINE C
-DAVIS OIL COMPANY                     RECEIVED:  07/30/80  JA: WY  5
 8050012   W1337-9         4903721104 103   FARSON CUTOFF NO 1         STORM SHELTER              22,0 PANHANDLE EASTERN PI
 8050022   W-1330-9        4903721502 102   J T FEDERAL #1-A           HAY RESERVOIR             578,0 PANHANDLE EASTERN PI
-EQUITY OIL COMPANY                    RECEIVED:  07/30/80  JA: WY  5
 8050014   W-1182-9        4903721236 103   SIBERIA RIDGE NO 11        SIBERIA RIDGE              23,7 COLORADO INTERSTATE
-INEXCO OIL COMPANY                    RECEIVED:  07/30/80  JA: WY  5
 8050013   W-1336-9        4900921540 103   WEBER FEDERAL 1-32         SCOTT                      18,0 CHINOOK CONSTRUCTION
-SINCLAIR OIL CORPORATION              RECEIVED:  07/30/80  JA: WY  5
 8050007   W-1348-9        4900720425 103   BAUMGARTNER FEDERAL 1-6-1892 STANDARD DRAW            65,6 COLORADO INTERSTATE
-UNIVERSAL RESOURCES CORPORATION       RECEIVED:  07/30/80  JA: WY  5
 8050020   W1311 9         4902320325 103   LAWLER FEDERAL 1-32        BRUFF                      10,0 NORTHWEST PIPELINE C

  OTHER PURCHASERS
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 [illegible]     [illegible]
 8050010     MONTANA DAKOTA UTILITIES CO
 8050023     MONTANA DAKOTA UTILITIES CO
 8050025     WESTERN GAS PROCESSORS LTD
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[FR Doc. 80-26865 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-C

[Project No. 2146]

Alabama Power Co.; Applications for Approval of Change in Land Rights

September 4, 1980.

Take notice that two applications were filed under the Federal Power Act, 16 U.S.C 791(a)—825(r), by the Alabama Power Company (Applicant) for changes in land rights, described below, concerning the H. Neely Henry Development of the Coosa River Project No. 2146 in Etowah County, Alabama, near the City of Gadsden. Correspondence with the Applicant should be directed to: Mr. R. P. McDonald, Vice President, Alabama Power Company, P.O. Box 2641, Birmingham, Alabama 35291.

Applicant Filed on October 1, 1979—Applicant proposes to modify the project boundary by removing approximately 3.9 acres of land from the project. The land does not abut the project reservoir. Applicant proposes to sell 2.9 acres of land to Global Sports, Inc., for the development of public racquet ball courts, a miniature golf course, and tennis courts. Removal of the 2.9 acres from the project, and the subsequent development, would isolate an additional one acre of project land. Applicant proposes that the remaining one acre also be removed from the project to correct a past error in survey of the boundary. Applicant states that removal of the land from the project would not affect project operations, as the land lies above the normal maximum reservoir elevation.

Application Filed on October 19, 1979—Applicant proposes to modify the project boundary by removing 25 acres of land from the project for the purpose of maintaining and operating a previously constructed extension to an existing ash disposal pond. According to the application, the extension was necessary to ensure adequate ash disposal facilities for the Gadsden Steam Electric Generating Plant owned and operated by the Applicant, and located directly across the Coosa River from the ash pond. The ash pond extension covers approximately 45 acres in total, of which 25 acres is project land. Applicant states the removal of the lands would not affect the recreational use of the reservoir because the surrounding industrialized and commercialized areas are unsuitable for recreational use.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 20, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27898 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-713]

Arkansas Power & Light Co., Filing

September 4, 1980.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L), on August 28, 1980, tendered for filing proposed changes in its rates and charges to five municipalities, as reflected in proposed Rate Schedule WM3, and one rural electric cooperative, as reflected in proposed Rate Schedule WC3. The proposed changes would increase revenues from jurisdictional sales and services to these customers by $9,970,000, based on billing determinants for the 12 month period ending August 31, 1979.

AP&L states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its affected jurisdictional customers. The Company states that the proposed rates for service to the municipal and cooperative customers have been prepared in accordance with the provisions of the August 8, 1980 Settlement Agreement between the Company and those customers, which is enclosed with the Company's filing. AP&L requests approval of the August 8, 1980 Settlement Agreement.

Copies of the proposed rate schedules and statements comparing the sales and revenues therefrom were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27899 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-707]

Central Vermont Public Service Corp.; Proposed Tariff Change

September 4, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980, tendered for filing proposed changes in its FERC Electric Service Rate No. 99. The proposed changes would decrease revenues from jurisdictional sales and service by $80 for the 10 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with the Village of Hyde Park Water and Light Department which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Village of Hyde Park Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR

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1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27900 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-709]

Central Vermont Public Service Corp.; Proposed Tariff Change

September 4, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on Augurst 27, 1980, tendered for filing proposed changes in its FERC Electric Service Rate No. 102. The proposed changes would decrease revenues from jurisdictional sales and service by $110 for the 10 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with the Rochester Electric Light and Power Company which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Rochester Electric Light and Power Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the commission in determining the apprropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27901 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-708]

Central Vermont Public Service Corp.; Proposed Tariff Change

September 4, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980, tendered for filing proposed changes in its FERC Electric Service Rate No. 101. The proposed changes would decrease revenues from jurisdictional sales and service by $280 for the 10 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the company's transmission service agreement with the Allied Power and Light Company which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filng were served upon the Allied Power and Light Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27902 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-710]

Central Vermont Public Service Corp., Proposed Tariff Change

September 4, 1980.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 27, 1980, tendered for filing proposed changes in its FERC Electric Service Rate No. 103. The proposed changes would decrease revenues from jurisdictional sales and service by $110 for the 10 month period ending October 31, 1980.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with the Village of Johnson Water and Light Department which provides that charges will be updated to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Village of Johnson Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27903 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. CP79-436, CP80-32, CP80-149, CP80-243, and CP80-290]

Columbia Gas Transmission Corp.; Petition To Amend

September 4, 1980.

Take notice that on August 15, 1980, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket Nos. CP79-436, *et al.* a petition to amend the orders issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize delivery of natural gas to Dayton Power & Light Company (Dayton Power) rather than Columbia Gas of Ohio, Inc. (Columbia Ohio), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in each of Docket Nos. CP79-436, CP80-32, CP80-149, CP80-243, and CP80-290 authorization requested for delivery of natural gas to Columbia Ohio should have been requested for Dayton Power. In each instance Petitioner proposes to establish a new delivery point to deliver natural gas for use by a customer of Dayton Power rather than Columbia Ohio. It is stated that Dayton Power has indicated that it has received authorization from the appropriate state regulatory agency to attach new customers and that it would serve these customers under its existing contract demand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27904 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP76-474]

Columbia Gas Transmission Corp.; Amendment to Application

September 4, 1980.

Take notice that on August 14, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP76-474, an amendment to its application filed pursuant to Section 7(b) of the Natural Gas Act on August 11, 1976,[1] in the instant docket so as to request permission and approval to abandon certain pipeline and related facilities without terminating service to 19 residential consumers supplied by these facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its original application it requested permission and approval to abandon 7.0 miles of its Line 8059 in Randolph and Barbour Counties, West Virginia, because of the age and deteriorating condition of this segment and because it was no longer useful in Applicant's transmission operations. The proposed abandonment would have resulted in the discontinuance of service to an affiliate, Columbia Gas of West Virginia, Inc. (Columbia W. Va.), at 19 points of delivery from which Columbia W. Va. serves a like number of residential consumers. It is stated that Columbia W. Va. filed an application on September 15, 1976, with the Public Service Commission of West Virginia (PSCWV) seeking permission to abandon service to the affected residential consumers and that the PSCWV denied this request by order issued July 1, 1977, in Case No. 8802. As a result of this action by the PSCWV, Applicant has revised its plans so as to assure continued service to the 19 residential consumers served by Line 8059.

Applicant now proposes to retain in operation 1.3 miles of Line 8059 extending in a southerly direction from the Bellington area in Barbour County, West Virginia. This northern section of the line would be kept in operation in order to continue service to six residential consumers and for potential utilization in gathering local production in the area.

Applicant now proposes to abandon approximately 6.0 miles of 6-inch Line 8059, as well as approximately 0.2 mile of 3-inch Line 8065 and related measuring and regulating facilities. Applicant states that it would abandon by sale to Columbia W. Va. approximately 3.6 miles of Line 8059 in Randolph County, West Virginia, to be operated and maintained by Columbia W. Va. in order to continue service to the remaining 13 residential consumers. Applicant also proposes to abandon by sale to Columbia W. Va. 0.2 mile of 3-inch line in Randolph County, West Virginia, which is currently used to supply a point of delivery to Columbia W. Va. from a point on Line 8059.

It is asserted that the proposed abandonment by sale to Columbia W. Va. would not result in the termination of natural gas service to any residential consumers. Applicant states that it has been advised by Columbia W. Va. that the facilities transferred to Columbia W. Va. would be connected to Columbia W. Va.'s existing distribution system in the area which is supplied by Applicant via an existing point of delivery from Applicant's Line 8224 south of the interconnection of Lines 8059 and 8065. The level of deliveries from Applicant to Columbia W. Va. in this area would remain unchanged, it is stated.

Applicant notes that the sale of Line 8065 to Columbia W. Va. would render unnecessary the existing point of delivery to Columbia W. Va. on Line 8065. Applicant, therefore, proposes to abandon said point of delivery and related measuring and regulating facilities. Applicant also proposes to abandon the central segment of Line 8059 which extends approximately 2.4 miles over Laurel Mountain in Randolph and Barbour Counties, West Virginia, because it does not serve a useful transmission function or supply any points of delivery to Columbia W. Va.

It is stated that the consideration for the transfer of pipeline and related facilities from Applicant to Columbia W. Va. would be the net depreciated original cost of such facilities at the time of transfer. According to Applicant, this value as of July 31, 1980, was $14,360.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27905 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-511]

Consolidated System LNG Co.; Application

September 4, 1980.

Take notice that on August 20, 1980, Consolidated System LNG Company (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-511 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the

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[1] The proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing August 15, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $300,000 for the period commencing August 15, 1980, and thereafter $300,000 per calendar year. The cost of the proposed facilities would be financed in part from funds on hand and in part from funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application of no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27906 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-414]

Delmarva Power & Light Co.; Filing

September 4, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, Delmarva Power and Light Company submitted for filing a compliance report pursuant to the Commission's letter order issued on July 17, 1980, in the above referenced proceeding.

A copy of this filing has been sent to the Board of Public Works of Lewes, Delaware and to the Delaware Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before September 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27907 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-481]

Florida Gas Transmission Co. and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

September 4, 1980.

Take notice that on August 4, 1980, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee Gas), P.O. Box 254, Houston, Texas 77002, filed in Docket No. CP80-481 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities extending from the Sabine Pass Area, offshore Texas and Louisiana, to points of interconnection with Applicants' respective pipeline facilities in Calcasieu Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Florida Gas has executed a gas purchase contract with Shell Oil Company for the purchase of approximately 60 percent of the production from Sabine Pass Blocks 10 and 17, offshore Texas and Louisiana, and is presently negotiating with producers holding the majority of the remaining interests in the subject blocks for the purchase of their share of the production therefrom. It is also stated that Tennessee Gas is negotiating gas purchase contracts with its affiliate, Tenneco Oil Company, for its share of the production from Sabine Pass Blocks 8, 11, 13 and 18 and with Gulf Oil Corporation for its share of the production from Sabine Pass Block 13. In order to receive the gas that would be made available from the subject blocks, Applicants propose to construct the following:

Offshore

Jointly Owned Facilities

1. 20.2 miles of 30-inch pipeline from the proposed central gathering platform in Sabine Pass Block 18 to a point onshore in Cameron Parish, Louisiana, at the site of a proposed 1,100 horsepower compressor station and dehydration plant.
2. 4.2 miles of 24-inch pipeline extending from a subsea connection in Sabine Pass Block 10 to the proposed central gathering platform in Sabine Pass Block 18.
3. A central gathering platform located in Sabine Pass Block 18.

Florida Gas Facilities

1. Metering facilities on the producer-owned platforms in Sabine Pass Blocks 10 and 17.
2. 3.0 miles of 10-inch pipeline extending from the Sabine Pass Block 17 platform to the Sabine Pass Block 10 platform.
3. Two 1,300 horsepower compressors on Sabine Pass Block 10.
4. 0.2 mile of 24-inch pipeline extending from the Sabine Pass Block 10

platform to a subsea connection with the 4.2 miles of 24-inch pipeline described above.

Tennessee Gas Facilities

1. Meter stations on the producer owned production platforms in Sabine Pass Blocks 11, 13 and 18.

2. 0.5 mile of 16-inch pipeline from Platform 18–A to the proposed pipeline junction platform in Sabine Pass Block 18.

3. 2.2 miles of 12-inch pipeline from Platform 11–A to a subsea tie-in with 9.7 miles of 16-inch pipeline extending from the Sabine Pass Block 13–A platform.

Onshore

Jointly Owned Facilities

34.2 miles of 30-inch pipeline from the 1,100 horsepower compressor station and dehydration plant site proposed to be located at a point onshore in Cameron Parish, Louisiana, to a point of interconnection with Florida Gas's mainline near Vinton, Calcasieu Parish, Louisiana.

Tennessee Gas Facilities

4.5 miles of 30-inch pipeline extending from Florida Gas's existing 24-inch mainline to Tennessee Gas's existing 30-inch mainline near Vinton, Calcasieu Parish, Louisiana, together with metering facilities.

Florida Gas Facilities

Metering facilities at the point where the joint facilities would interconnect with Florida Gas's 24-inch mainline in Calcasieu Parish, Louisiana.

Applicants estimate that total recoverable reserves of 494,000,000 Mcf are contained within Sabine Pass Blocks 8, 10, 11, 13, 17 and 18. It is projected that these reserves would yield an annual average daily deliverability in 1984 of approximately 253,500 Mcf, with initial deliveries scheduled to commence in early 1981.

Applicants estimate the total cost of the proposed facilities to be $101,137,000 and the cost of the jointly-owned facilities alone to be $74,570,000. It is stated that Florida Gas would contribute 28.7 percent of the cost of the jointly owned facilities or approximately $21,400,000 while Tennessee Gas would contribute 71.3 percent of the cost or approximately $53,200,000. Applicants indicate that each party would own an undivided interest in the jointly-owned facilities equal to its contribution as a percentage of the cost. The proposed facilities would be financed initially from internally generated funds. Applicants state that to the extent permanent financing is required, it would be done as part of Applicants' long-term financing programs.

Tennessee, it is further stated, would be operator of the proposed project.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27908 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP62–251]

Florida Gas Transmission Co.; Petition To Amend

September 4, 1980.

Take notice that on August 11, 1980, Florida Gas Transmission Company (Petition), P.O. Box 44, Winter Part, Florida 32790, filed in Docket No. CP62–251 a petition to amend the order issued in the instant docket on November 19, 1962,[1] pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of a tap and valve in order to provide a new delivery point for W.R. Grace, Inc. (Grace), an existing direct sale customer, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of November 19, 1962, Petitioner was authorized to construct and operate certain facilities in order to sell natural gas to Grace for use in its Ridgwood dry mill and superphospate plant near Bartow, Polk County, Florida, it is said. Petitioner states that it has been advised by Grace that Grace intends to raze its existing plant and utilize the gas that had been previously utilized therein in a new fertilizer plant which would be located approximately 1.1 miles from the old plant site. In order to deliver gas to the contemplated facility Petitioner proposed to tap its pipeline and install a valve, and Grace would construct or cause to be constructed a pipeline connecting Petitioner's facilities with the proposed fertilizer plant.

Petitioner states that the estimated cost of the tap and valve is $3,000 for which Grace has agreed to reimburse Petitioner.

The proposed modification would not change Grace's volumetric entitlement, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27909 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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[Docket No. ER80-694]

Idaho Power Co.; Filing

September 4, 1980.

Take notice that Idaho Power Company (Idaho) on August 21, 1980, tendered for filing 2nd Revised Sheet No. 1 (supersedes 1st Revised Sheet No. 1) and 1st Revised Sheet No. 9 (supersedes Original Sheet No. 9) of Idaho's 1st Revised FERC Electric Tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27910 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-712]

Indianapolis Power & Light Co.; Filing

September 4, 1980.

The filing Company submits the following:

Take notice that Indianapolis Power & Light Company tendered for filing on August 27, 1980, A Supplement A to the Federal Energy Regulatory Commission Rate Schedules No. 1, 6 and 8, which represent, respectively, Interconnection Agreements with Indiana & Michigan Electric Company and Southern Indiana Gas & Electric Company and the Kentucky-Indiana Pool Planning and Operating Agreement with Public Service Company of Indiana, Inc., Kentucky Utilities Company and East Kentucky Power Cooperative Inc. This proposed Supplement is stated to be an interim filing in compliance with Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980 as modified by Order No. 84-B issued August 11, 1980. Copies of this filing were sent to all parties involved.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27911 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3272]

Joseph M. Keating; Application for Preliminary Permit

September 4, 1980.

Take notice that Joseph M. Keating (Applicant) filed on July 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3272 to be known as the Leggett Project located on Lee Vining Creek in Mono County, California. The proposed project would affect U.S. lands under the administration of the Inyo National Forest. Correspondence with the Applicant should be directed to: Mr. Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

Project Decription—The proposed project would consist of: (1) an 8-foot high concrete gravity diversion dam; (2) an intake structure; (3) a 1.8-mile long buried pipeline; (4) a powerhouse containing a generating unit rated at 1,500 kW; (5) a 600-foot long transmission line; and (6) appurtenant facilities. The average annual energy generation is estimated to be 3,750 MWh and would be based on water discharges from the Southern California Edison Company's Poole Powerhouse.

Purpose of Project—The power output of the project would be sold to the Southern California Edison Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 12 months, during which time it would conduct engineering studies and surveys, perform preliminary designs and do a feasibility analysis, prepare an environmental report, make a historical review, and prepare an FERC license application. No new roads are required to conduct the studies. Applicant has filed a work plan for the studies for the new dam construction. The field studies to be conducted are line surveys, visual inspections, and seismic surveys.

The estimated cost of the work to be performed under the preliminary permit is $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 10, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 10, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27912 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-488]

Louisiana-Nevada Transit Co.; Application.

September 4, 1980

Take notice that on August 7, 1980, Louisiana-Nevada Transit Company (Applicant), P.O. Box 8789, Denver, Colorado 80201, filed in Docket No. CP80-488 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to sell natural gas to United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on August 25, 1978, it and United entered into a ten-year contract under which United receives gas to which Applicant is contractually entitled at the tailgate of the Beacon Gasoline Plant in Webster Parish, Louisiana. In turn, equivalent volumes of gas to which United is contractually entitled were to be delivered to Applicant at the outer side of the Cotton Valley Operators Committee (CVOC) Plant in Webster Parish. Applicant states that this arrangement is a gas-for-gas exchange.

Applicant asserts that in the course of the authorized exchange it has become apparent that the operator of the CVOC plant does not have facilities available to deliver consistently sufficient volumes of gas to United for redelivery to Applicant at the outlet of said plant and there are no acceptable alternatives for such redelivery. Applicant submits that this has resulted in an imbalance in exchange gas. Additionally, Applicant states, from time to time it has available at its facilities located at the sites of the Beacon and CVOC plants supplies of gas in excess of the requirements and capacity of its pipeline system and that through the use of the existing facilities of the Beacon and CVOC plants, it could deliver such excess supplies of gas to United.

Accordingly, Applicant seeks authorization to implement the terms of a two-year contract between it and United dated August 5, 1980, under which Applicant would sell to United the imbalance gas, estimated to be 200,000 Mcf as of November 1, 1979, and such further volumes of gas as Applicant may have available from time to time at the outlet of the Beacon Plant up to a daily volume of 2,000 Mcf, or at the outlet of the CVOC plant up to a daily volume of 10,000 Mcf.

The base price per Mcf which Applicant would charge United for said imbalance gas would be the rate after deferred cost and current adjustments then in effect under Applicant's Rate Schedule PGA-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27913 Filed 9-10-80; 8:45 am]

BILLING CODE 6450 6450-85-M

[Docket No. ST80-277]

Louisiana Resources Co., Application for Approval of Rates

September 4, 1980.

Take notice that on August 4, 1980, Louisiana Resources Company (Applicant) P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. ST80-277 an application pursuant to Section 284.123 of the Commission's Regulations for approval of rates for transportation services to be provided by Applicant on behalf of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas transportation agreement dated July 22, 1980, with Transco to transport by exchange on behalf of Transco up to 20,000 million Btu equivalent of gas per day. It is stated that this agreement provides for a transportation charge of 22.25 cents per million Btu. Applicant asserts that this is a fair and equitable rate because

(1) the Louisiana Commissioner of Conservation has determined that it is comparable to the average rate that Applicant is allowed to charge its intrastate customers for similar transportation services,

(2) the Louisiana Commissioner of Conservation has determined that it would result in revenues which are "reasonable, necessary and proper and are not more than is required to enable Applicant to serve its existing customers," and

(3) it is the same rate approved by the Commission on July 10, 1980, in Docket Nos. ST79-26 and ST80-153.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person

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wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27914 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-665]

Madison Gas & Electric Co.; Filing

September 4, 1980.

Take notice that on August 26, 1980, Madison Gas and Electric Company (Madison) tendered for filing a Certificate of Concurrence to the August 10, 1980, Amendment to Interconnection Agreement dated June 3, 1965, between Wisconsin Electric Power Company and Madison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27915 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-508]

Michigan Gas Storage Co.; Application

September 4, 1980.

Take notice that on August 18, 1980, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP80-508 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its Winterfield 12-inch Lateral South and appurtenant facilities located in Winterfield Township, Clare County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon approximately 3 miles of 12-inch pipeline and appurtenant facilities (Winterfield 12-inch Lateral South). It is stated that these facilities have, since their construction in 1946, been used as part of Applicant's storage and transmission system.

Applicant states that the Winterfield 12-inch Lateral South has not been used since January 8, 1980, when it failed in two places due to an accidental overpressuring. It is asserted that the cost of returning said facility to service is estimated to be more than $500,000. Applicant further asserts that the proposed abandonment would relieve it of the cost of repairing and maintaining the subject facilities yet would not adversely affect its gas storage and transmission operations in that the gas that flowed through the Winterfield 12-inch Lateral South of Applicant's Muskegon River Compressor Station can and now does arrive at the same plant by the alternate means of flowing through the Winterfield 24-inch line into the Winterfield 20-inch line.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27916 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-135]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

September 3, 1980.

Take notice that on August 29, 1980, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its FERC Gas Tariff to be effective September 30, 1980.

Original Volume No. 1

Seventh Revised Sheet No. 36 Superseding Sixth Revised Sheet No. 36

Fourth Revised Sheet No. 36A Superseding Third Revised Sheet No. 36A

First Revised Sheet No. 36B Superseding Original Sheet No. 36B

First Revised Sheet No. 36C Superseding Original Sheet No. 36C

First Revised Sheet No. 36D Superseding Original Sheet No. 36D

These proposed tariff sheets provide for the flow-through of supplier refunds in a lump-sum in lieu of rate reductions through Account 191 as presently provided. The proposed tariff changes apply to non-exempt industrial boiler fuel facilities prior to January 1, 1980, as required by Section 282.506 of the Commission's Regulations, as well as other supplier refunds. National Fuel states that the proposed method of flow-through is the most practical method and is more equitable as it is based upon actual rather than estimated sales patterns as currently required by Section 154.38 of the Commission's Regulations.

A copy of this filing was served on all of National Fuel's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27917 Filed 9–10–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RP80–11]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC GAS Tariff

September 3, 1980.

Take notice that on August 29, 1980 Natural Gas Pipeline Company of America (Natural) tendered for filing Substitute Original Sheet No. 154 to its FERC GAS Tariff, Third Revised Volume No. 1.

Natural states the purpose of the filing is to incorporate minor changes in the supplier refund plan filed on June 27, 1980. The changes result from an informal conference held on August 20, 1980 between Natural, the Commission Staff and Natural's customers. The substitute tariff sheet reflects changes to report on a quarterly basis and clarifies that interest on refunds held in excess of thirty days would be calculated from the date of receipt until the date of payment. Natural has requested waiver of the notice requirements and a short intervention period because the changes to the plan submitted on June 27 are minor in nature, several of its customers have filed statements supporting the plan and approval will permit the expeditious flow through of nearly $7 million of supplier refunds currently being held by Natural.

Natural also requested the Commission to remove the conditional acceptance of its incremental pricing tariff sheets filed in Docket No. RP80–11 as revised to reflect the supplier refund proposal.

Copies of this filing were served upon the company's customers, interested state commissions, and intervenors in Docket No. RP80–11.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition in intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27918 Filed 9–10–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP61–139]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

September 4, 1980.

Take notice that on August 7, 1980, Northern Natural Gas Company, Division of InterNorth, Inc., (Petitioner) Omaha, Nebraska 68102, filed in Docket No. CP1–139 a petition to amend the order issued January 11, 1965,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the establishment of an additional point of receipt of exchange gas from El Paso Natural Gas Company (El Paso), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to an August 17, 1962, service agreement, Petitioner and El Paso were authorized to construct and operate facilities for the delivery, receipt, transportation and exchange of natural gas. Petitioner further states that El Paso has contracted to purchase 33.80 percent interest in the production of Abraham Unit No. 1 well in Roger Mills County, Oklahoma, of which Petitioner has a 64.80 percent interest and that El Paso has advised Petitioner of its desire to make the gas available to Petitioner as part of the exchange agreement. Petitioner states that El Paso would deliver the gas to Petitioner at the well commingled with gas purchased by and delivered into Petitioner's system through common measurement facilities.

Petitioner asserts that since it is already connected to the well it has agreed to accept volumes of gas from El Paso's share of the production of Abraham Unit No. 1 well thereby obviating the necessity for construction by El Paso of duplicate facilities.

Petitioner further asserts that the additional point of exchange would not increase the presently authorized total daily exchange of volumes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–27927 Filed 9–10–80; 8:45 am]

BILLING CODE 6450–85–M

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Project No. 3139]

Northern Wasco County People's Utility District; Granting Intervention

September 4, 1980.

On May 14, 1980 Northern Wasco County People's Utility District (Applicant) filed an application for a preliminary permit for proposed Project No. 3139 located on the White River in Wasco County, Oregon. That application was filed as a competing preliminary permit application to the proposed Tygh Valley Power Plant Project, Project No. 3005.

The Public Utility Commission of Oregon, having jurisdiction to regulate rates and charges for the sale of electric energy and natural gas to consumers within the state of Oregon, filed a petition to intervene. No response to the petition has been received.

Intervention by the petitioners appears to be in the public interest.

Pursuant to § 375.302 of the Commission's regulations, 45 FR 21216 (1980), amending 18 CFR 3.5(a) 1979, as promulgated by Federal Energy Regulatory Commission rulemaking RM78–19 (issued August 14, 1978), the Petitioner is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)–825(r). Participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27928 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-277]

Northwest Pipeline Corp., Amendment to Application

September 4, 1980.

Take notice that on August 6, 1980, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-277 an amendment to its application for a certificate of public convenience and necessity pending in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize service in excess of that initially proposed to be rendered pursuant to its Rate Schedule WS-1, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it initially proposed to initiate a new winter gas service to certain of its existing customers utilizing the storage capability of the Clay Basin Storage Field in Daggett County, Utah, only through the 1981-82 heating season because gas purchases at the Kingsgate import point were scheduled to expire on December 31, 1981. It is stated that the extension of the gas export license of one of Applicant's gas suppliers, Westcoast Transmission Company (Westcoast), along with the addition of new domestic supplies from Wyoming, Colorado, and New Mexico have permitted Applicant to offer expanded winter service and to extend the term of the service.

Applicant herein proposes revised service under its Rate Schedule WS-1 during the 1980-81 and 1981-82 seasons and the sale and delivery of natural gas under Rate Schedule WS-1 for the 1982-83 season through 1988-89 season as set forth below:

Customer	Volume (Mcf at 14.73 psia)	
	Daily	Seasonal
1980-81 season:		
Colorado Interstate Gas Company (CIG)	45,000	4,500,000
Southwest Gas Corporation (Southwest)	15,000	1,500,000
Washington Natural Gas Company (Washington)	15,000	1,500,000
Mountain Fuel Supply Company (Mountain Fuel)	25,000	2,500,000
Total	100,000	10,000,000
1981-82 season:		
CIG	135,000	20,250,000
Washington	15,000	1,500,000
Mountain Fuel	25,000	2,500,000
Total	175,000	24,250,000
1982-83 through 1988-89 seasons:		
CIG	135,000	20,250,000
Washington	15,000	1,500,000
Mountain Fuel		
Total	150,000	21,750,000

Applicant states that CIG may require additional facilities on its Wyoming main transmission system prior to the 1981-82 heating season to accommodate the increased level of service but that CIG has sufficient mainline capacity to transport the 45,000 Mcf of winter service volumes available to CIG during the forthcoming heating season.

Applicant asserts that is has sufficient gas supply and storage capacity to meet the peak day requirements of its customers and has dedicated a portion of the capacity available to it from the Clay Basin Storage Field as assurance that it can meet its contract obligations. Applicant further states that El Paso Natural Gas Company is proposing to phase down its utilization of Clay Basin storage thereby increasing the Clay Basin capacity available to Applicant for base load storage and for winter storage.

It is stated that Applicant, along with Mountain Fuel Resources, Inc., is currently authorized to operate the Clay Basin Storage Field so as to store gas in amounts up to 250,000 Mcf per day and 20,000,000 Mcf during a heating season. Applicant asserts that such authorizations are sufficient to enable it to provide the level of winter service proposed for the 1981-82 and subsequent heating seasons and that it proposes to utilize the Clay Basin storage as follows:

	Daily (Mcf/day)	Seasonal (Mcf)
1980-81 heating season:		
Winter Service	100,000	10,000,000
Contract Demand Protection	50,000	7,500,000
Total	150,000	17,500,000
1981-82 heating season:		
Winter Service	175,000	24,250,000
Contact Demand Protection	75,000	10,000,000
Total	250,000	34,250,000
1982-83 through the 1988-89 heating seasons:		
Winter Service	150,000	21,750,000
Contract Demand Protection	75,000	10,000,000
Total	225,000	31,750,000

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27929 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ERP80-695]

Public Service Co. of Oklahoma; Cancellation

September 4, 1980.

Take notice that the Public Service Company of Oklahoma (PSCo) on August 26, 1980 tendered to FERC Rate Schedule No. 118, dated May 28, 1980.

PSCo indicates that this cancellation is to be effective as of October 4, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27930 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-700]

Puget Spund Power & Light Co.; Rate Schedule Filing

September 4, 1980.

The filing Company submits the following:

Take notice that Puget Sound Power & Light Company (Puget) on August 27, 1980, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, Contract No. 14-03-39215 dated February 6, 1973 and Amendatory Agreement No. 1 to Contract No. 14-03-39215 dated May 31, 1974 executed by the Bonneville Power Administration (BPA), Washington Public Power Supply System (WPPSS), and Puget providing for power exchange.

Puget requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 1, 1980, which is the date of commencement of service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27931 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

Docket No. ER80-235]

Public Service Co. of New Mexico; Order Denying Request for Waiver of Notice Requirements, Deferring Action on Rate Filing, and Granting Interventions

September 4, 1980.

On February 12, 1980, Public Service Company of New Mexico (PSNM) submitted for filing an executed Contingent Capacity Sales Agreement between PSNM and San Diego Gas and Electric Company (SDGE). Pursuant to the agreement, PSNM would sell to SDGE 236 MW of capacity and associated energy from PSNM's coal-fired San Juan Unit No. 4. According to PSNM, the sale is intended to commence with commercial operation of the unit—currently expected to be May 1, 1982—and will extend until April 30, 1988. PSNM states that the sale would allow SDGE to reduce oil consumption in its generation. PSNM requests waiver of the 120 day notice requirement[1] in order to facilitate long-range resources planning.

The rate for the proposed sale consists of a demand charge ranging from $20.50 per kw/month during the first year of operation to $15.25 per kw/month in year six. These charges were developed on the basis of a depreciating plant investment base. The rate of return is to remain constant throughout the life of the agreement at 10.24 percent overall, with 14.6 percent on common equity. In addition to the demand charge, the agreement proposes a monthly energy charge equal to the average cost per kWh at the San Juan station for fuel, operations and maintenance (O&M), other taxes, and allocable administrative and general (A&G) expenses.

Notice of this filing was issued on February 22, 1980[2] with petitions to intervene due on or before March 7, 1980. On March 5, 1980 the New Mexico Public Service Commission (NPSC) filed a Notice of Intervention in which it requested an opportunity to participate in any proceeding that might be initiated. On June 30, 1980, NPSC supplemented its earlier filing. In its supplement, NPSC states that it has the authority to regulate the rates charged by PSNM to ultimate ratepayers in New Mexico, and to assure that New Mexico ratepayers receive adequate and efficient service.[3] Furthermore, NPSC states that the proposed sale concerns a contingency which, in accordance with an NPSC Certificate of Public Convenience and Necessity issued to PNM,[4] requires NPSC action prior to the sale. Specifically, NPSC claims that it must first determine (1) that PSNM has the necessary excess capacity, (2) that sale of the excess capacity will meet certain minimum conditions, and (3) that the sale would not harm New Mexico consumers. Accordingly, NPSC requests that we not approve the sale until it has reached its determination on the aforementioned issues. Moreover, NPSC also requests that a complete investigation be initiated by this Commission one year prior to the proposed in-service date of San Juan Unit No. 4.

On April 15, 1980, the Attorney General of the state of New Mexico requested intervention in this proceeding. The Attorney General's untimely petition expressed concern with respect to the impact of the proposed sale on PSNM's retail customers.

Discussion

Since NPSC has jurisdiction to regulate charges for retail sale of electric energy within the State of New Mexico, its timely filing of a Notice of Intervention is sufficient to initiate its participation in this proceeding.[5] Furthermore, we find that good cause exists to permit the Attorney General of New Mexico to intervene out of time. Accordingly, the petition to intervene will be granted.

As support for its proposed charges, PSNM has submitted actual data through August, 1979, and projected balances through May, 1982. Approximately 67 percent of PSNM's claimed San Juan plant investment is based on estimated data. Furthermore, similar estimates are provided in support of general plant, working capital, depreciation, and deferred tax balances.

Although our preliminary analysis indicates that the method employed by PSNM in developing its demand charges appears reasonable, the magnitude (67 percent) of the cost projections in relation to total plant investment and the fact that the estimates are for three years into the future, indicates that there is not an adequate basis for definitive analysis. While long-range power planning is a desirable objective, we are unable to conclude on the basis of the cost support currently available that the rates proposed to become effective in 1982 or later would be just and reasonable. This is particularly true in light of the objections raised to PSNM's submittal. Accordingly, we shall deny PSNM's request for waiver of the 120 day filing requirements at this time and we shall defer further action on the filing. We note, however, that this action is without prejudice to a renewed request for waiver of the filing requirements one year prior to the expected commercial operation date of San Juan Unit No. 4, if that request is accompanied by updated cost support and a request to revive the instant filing. At that time, the Commission would consider the need for further investigation of the proposed rates and the designation of an appropriate effective date. In the interim, our deferral of action with respect to the proposed agreement should allow the intervenors an opportunity to conduct such inquiries or investigations as they consider necessary.

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[1] *See* 18 CFR § 35.3(a).

[2] 45 FR 14098 (1980).

[3] N.M. Stat. Ann. §§ 62-8-1, 62-8-2 (1978).

[4] The Certificate of Public Convenience and Necessity was issued on January 16, 1979, in order to enable PSNM to purchase the 236 MW interest in San Juan Unit No. 4 from Tucson Gas and Electric Company.

[5] 18 CFR § 1.8(a)(1). As to NPSC's jurisdiction, see note 4, *supra*.

The Commission orders:

(A) Waiver of the 120 day notice provision of section 35.3 of the Commission's regulations is hereby denied, without prejudice.

(B) Further action with respect to PSNM's submittal is hereby deferred. This docket shall be held in abeyance, without prejudice to reopening the proceedings one year in advance of the expected in-service date of San Juan Unit No. 4, upon request by PSNM accompanied by updated cost support for the proposed rates.

(C) All petitions to intervene are granted subject to the rules and regulations of the Commission: *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Holden concurring filed a separate statement appended hereto.

Kenneth F. Plumb,
Secretary.

Holden, Commissioner, *Concurring:*

Issued September 4, 1980.

I agree with the Commission's action in denying the request to waive the Notice requirements, to defer action on the rate filing, and to grant the interventions of the New Mexico Public Service Commission of the Attorney General of the State of New Mexico. I would take the occasion merely to accentuate the area of potential legal and policy difficultly which makes the Commission's action particularly appropriate.

The Federal Energy Regulatory Commission has jurisdiction over wholesale electric rates. The state utility commissions exercise jurisdiction over retail electric rates and, in cases such as that of New Mexico, also have jurisdiction over certificates of convenience and necessary issued to electric companies. The potential area of difficultly is that the FERC might, unintentionally, so exercise its rate jurisdiction as to impede the State's exercise of its certificate jurisdiction. I do not judge whether the New Mexico Public Service Commission's arguments are sound or not, but they raise the possibility of a conflict between the Federal rate jurisdiction and the state certificate jurisdiction. The present order provides the best opportunity to disentangle those two sets of relationships, without pre-determining the final result.

It would be my hope that when the matter is once more before the Commission, we will have sufficient legal exposition and factual recitation as will minimize the chance of blind collision.

Matthew Holden, Jr.,
Commissioner.

[FR Doc. 80-27932 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3062]

Schneider Lift Translator Corp.; Approval by Operation of Law

September 3, 1980.

Take notice that the Commission has agreed to take no action on the application for an exemption from licensing for the Richvale Irrigation District Power Plant Project No. 3062, filed on February 8, 1980, by the Schneider Lift Translator Corp.

Accordingly, the exemption is deemed granted by operation of law under § 4.93(d) of the Commission's regulations [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in § 4.94 of the Commission's regulations [18 CFR 4.94].

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27933 Filed 9-10-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. EL78-23]

Sierra Pacific Power Co., v. Utah Power & Light Co.; Order Denying Rehearing

September 3, 1980.

Background

On August 4, 1980, The Utah Public Service Commission, the State of Utah, the Division of Public Utilities of the Department of Business Regulation of the State of Utah, and the Committee of Consumer Services of the State of Utah (governmental intervenors) filed an application for rehearing of the Commission's Order Granting in Part and Denying in Part Petition for Declaratory Order issued in this docket on July 3, 1980. A complete restatement of the facts is unnecessary because they have already been set forth in the provious order. However, to put the present application for rehearing in context, we will briefly summarize the relevant facts.

Sierra Pacific Power Company (Sierra Pacific) purchases firm power service from Utah Power & Light Company (Utah P&L) pursuant to an interconnection agreement on file with this Commission as part of Utah P&L's filed rate schedule. The Utah Public Service Commission (state commission) has orderd Utah P&L to terminate service to Sierra Pacific on December 31, 1984, unless the rate for such service is modified and approved by the state commission. On May 12, 1978, Sierra Pacific filed a petition seeking a declaration from this Commission that (1) the service agreement between Utah P&L and Sierra Pacific is subject to the FERC's exclusive jurisdication, (2) the order of the Utah Public Service Commission is an unlawful interference with the jurisdiction of the FERC and is to be disregarded by Utah P&L, and (3) Utah P&L be required to comply with the terms of the service agreement, the Federal Power Act, and this Commission's rules and regulations.

Petition for Rehearing

The instant petition for rehearing arises out of the Commission's order issued July 3, 1980, (Declaratory Order) granting in part and denying in part Sierra Pacific's request. The petitioners' take seven exceptions to the Commissioner's order. They allege:

1. The Commission erred in its apparent conclusion that, other than rates, it has exclusive jurisdiction to determine whether service will be provided and over all terms of such service under the wholesale power contracts in question.

2. The Commission erred in concluding that the Utah Public Service Commission has no jurisdiction to approve the terms of wholesale power contracts which require utilities to construct generating facilities and which make use of local transmission facilities.

3. The Commission erred in not holding hearings to determine whether and to what extent service under the contract in question was provided by generation facilities and transmission facilities used in local distribution.

4. The Commission erred in requiring Utah Power to honor the terms of service under the contracts in question because such order indirectly requires Utah Power to construct and to dedicate generation facilities to provide such service and thus indirectly extends FERC jurisdiction over such generating facilities in excess of its authority under the Federal Power Act.

5. The Commission erred in concluding that the Utah Public Service Commission should have intervened in Docket No. ER77–587 to modify the contract because the contract itself was never valid, its terms being specifically conditioned upon the prior approval of all "regulatory authorities having jurisdiction," and approval of the Utah Public Service Commission pursuant to its jurisdiction never having been obtained.

6. The Commission erred in its apparent failure to consider that the contract provision conditioning it upon approval of regulatory bodies "having jurisdiction" did not of necessity mean "jurisdiction under the Federal Power Act," and failure to receive evidence as to the intention of the parties as to this contract clause was also in error.

7. The Commission erred in refusing to hold hearings while at the same time arriving at its conclusion from facts not in the record in this proceeding and which the Utah intervenors has no opportunity to examine and respond to, in violation of the parties' rights to procedural fairness and due process.

Discussion

The order issued July 3, 1980, addressed the first four allegations raised in the petition for rehearing. Briefly summarized, the declaratory order pointed out that the state commission's order calling for the termination of service between two jurisdictional utilities, unless the rate for such service is modified, was in effect a collateral attack upon a rate schedule filed with this Commission. The order found that the rate and all terms of service contained in the rate schedule are subject to the FERC's exclusive jurisdiction under *Attleboro* [1] and the Federal Power Act. Therefore, the service agreement as part of the filed rate schedule could not be ordered modified or terminated by a state commission in a manner inconsistent with the Federal Power Act. The order further pointed out that any party aggrieved by the rates or terms of service could seek appropriate relief before this Commission under the applicable standards of the Federal Power Act.[2]

The order was limited to the issue of the jurisdiction over rate schedules filed with the FERC by jurisdictional utilities. It did not direct Utah P&L to install generating facilities nor did it speculate as to how Utah P&L would supply the service under the contract in question. The Commission directed Utah P&L to comply with the terms of its filed rate schedule unless and until modified in a manner consistent with the Federal Power Act.

Over the Utah governmental intervenors' objection, the order granted Sierra Pacific's request for summary disposition. Summary disposition was found to be appropriate because the sole issue raised was one of law and none of the pleadings raised a material issue of fact. The order did not grant Sierra Pacific's request to instruct Utah P&L to disregard the state commission's order, to the extent that this request was not implicitly granted by our finding of exclusive jurisdiction over the service and contract.

The petitioners raise for the first time on rehearing the remaining allegations numbered five, six and seven. The governmental intervenors maintain in allegation number five that the interconnection agreement contains a condition precedent which requires the approval of the Utah Public Service Commission in order to bind the parties to the terms of the contract. The agreement contains a provision which reads: "This agreement is subject to the approval of regulatory authorities having jurisdiction." The petitioners interpret this clause to mean that in order to have a valid contract, fulfillment of the condition precedent required the procurement of approval from all regulatory authorities having jurisdiction over the contract.

Petitioners contend that under Utah law the Public Service Commission has plenary power over all business conducted by every public utility in the state.[3] Furthermore, the petition cites a state commission order[4] which requires utilities entering into contracts for the slae of power to any customers, either in or out of the State of Utah, to seek prior approval of the Public Service Commission. The governmental intervenors conclude that the state commission has concurrent jurisdiction with the FERC over the contract and therefore both commissions must approve the contract before it will bind the parties.

We disagree with the petitioners' interpretation of the above-quoted provision. While we agree that the clause clearly refers to regulatory "authorities" having jurisdiction over the contract, we disagree with the state commission's assertion of jurisdiction over the service in question. We have determined in our previous order that the subject of the contract is the sale of electricity for resale in interstate commerce. As such, the sale falls within our exclusive grant of jurisdiction under the Federal Power Act. Although the state commission maintains jurisdiction over certain aspects of Utah P&L's activities, it is beyond the state agency's authority to control sales in interstate commerce. Therefore, the clause referring to authorities having jurisdiction over the contract cannot refer to the Utah Public Service Commission. Consequently, the state commission cannot deny the binding effect of the contract by withholding its approval.

In exception number 6 the intervenors contend that even if the state commission is without jurisdiction over the contract sale, the parties intended the clause "authorities having jurisdiction" to include the Utah Public Service Commission in light of the order issued by that commission on August 4, 1974, cited above.[5] The record does not contain any evidence of the parties agreeing to such an interpretation. Moreover, there is no claim by either party that there is a dispute as to the interpretation of the contract language. Utah P&L, in its pleadings, has not interpreted this clause to include authorities lacking jurisdiction over the contract. According to the pleadings of Sierra Pacific, whose factual assertions are uncontested by Utah P&L, the parties did not intend that the withholding of approval by the state commission would void the contract unless the state commission had jurisdiction over the contract. Prior to filing the agreement, the parties disagreed as to the state commission's jurisdiction. Utah P&L contended that although this Commission has paramount authority over the rates for sales in interstate commerce, approval of the state commission was required because of the above cited order. In discussions with Utah P&L, Sierra Pacific maintained that this Commission has exclusive jurisdiction over the transaction and that the state commission's actions would have no effect on the validity of the contract. The parties therefore agreed only as to this Commission's jurisdiction, and disagreed only as to whether this jurisdiction is exclusive. Consequently, there was no agreement that the state commission's approval be required under the contract.

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[1] *Public Utilities Commission of Rhode Island* v. *Attleboro Steam and Electric Company*, 273 U.S. 83 (1926).

[2] The contract is for a fixed term subject to early termination by Sierra Pacific only. Therefore, a party other than Sierra Pacific seeking to prematurely terminate service under the contract would have to meet the so-called *Sierra* burden of proving that the term of the contract adversely affects the public interest. See *FPC* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956). The question of how Utah P&L may change its rates under the contract is currently before the Commission on exceptions to the "Initial Decision on Increased Rate Filing," in Docket No. ER79–121, issued May 7, 1980.

[3] Utah Code Ann., § 54–4–1, provides that the Utah Public Service Commission "is vested with the power and jurisdiction to * * * supervise all of the business of every * * * public utility in this state, and to do all things, whether berein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction. * * *"

[4] Utah Public Service Commission Order, issued August 13, 1974, in Case No. 6978.

[5] We note that virtually identical language is contained in Service Schedule C–1; "This Service Schedule C–1 is subject to approval of regulatory authorities having jurisdiction." That contract was executed May 19, 1971, and provides for the sale of firm power and energy between the parties. The parties could not have intended this similar language to reflect the state commission's order three years before it was issued.

With respect to point number seven, petitioners allege that the parties had a right to prior notice and the ability to respond to all documents relied upon by the Commission. The July 3 order was based solely upon the pleadings, the contract itself, Commission orders and regulations, published case law, and statutes. All of these materials are available to the public and were properly the subject of official notice.

In view of the fact that no new significant issues of fact or law are raised in the application for rehearing, we shall deny rehearing.

The Commission orders:

(A) The Governmental Intervenors application for rehearing is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27935 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-75]

Southern Natural Gas Co.; Compliance Filing

September 3, 1980.

Take notice that in accordance with Ordering Paragraph (A) of the Commission's Order Granting Rehearing for Purposes of Futher Consideration issued in this docket on July 30, 1980, Souther Natural Gas Company (Southern) has filed documentation intended to support its contention that it received certain refunds from United Gas Pipe Line Company on December 31, 1979, rather than December 28, 1979. This documentation consists of an affidavit of Mr. Robert C. Sims, Manager-Gas Accounting for Southern, a photocopy of a check from United Gas Pipe Line Company dated, December 28, 1979 bearing a date stamp bearing the initials of Mr. Sims and the date of December 31, 1979, and a copy of the transmittal letter from United Gas Pipe Line Company Dated December 28, 1979.

Any person wishing to protest the filing of this documentation or to dispute the facts alleged therein should do so by filing a protest or petition to intervene in accordance with the Commission's Rules of Practice and Procedure (18 CFR § 1.10 or 1.18) with the federal Energy Regulatory Commission on or before September 17, 1980. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accorance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27936 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. FP80-20]

Tennessee Gas Pipeline Co.; Third Party Protest[1]

September 4, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B[2] and "Order on Rehearing of Order No. 23-B,"[3] the Associated Gas Distributors (AGD) protested on August 12, 1980, the assertion by the Tennesee Gas Pipeline Company (Tennesee) and certain producers that the contracts identified in it protests constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

AGD stated that the language of the following contracts does not constitute authority for the producer to increase prices to the extent claimed by Tennessee in its evidentiary submission:

Seller	Rate schedule No.	Date
First National Bank of Shreveport, Trustee of the Ed. E. & Gladys Hurley Foundation (PIS to Getty Oil Co.).	CS 71-1063	
American Petrofina Co. of Texas.	72	Nov. 1, 1974. Jan. 12, 1979.
Wainoco Oil & Gas Co. (PIS to Highland Resources, Inc.).	CS 73-135	
Tenneco Oil Co	16	Nov. 1, 1961.
Lyons Petroleum Inc., *et al.*	CS 72-660	
Gulf Oil Corp	170	
Shell Oil Co	216	June 26, 1959. Nov. 1 1979.
Exxon Corp	241	Dec. 30, 1959 Oct. 11, 1979.
Bert Fields, Jr	CS 71-297	June 1, 1954 Nov. 26, 1979.
Jeanne Fields Shelby	CS 71-297	June 1, 1954. Dec. 7, 1979.
Gulf Oil Corp	498	
Terra Resources Inc	12	Oct. 3, 1968.
Amoco Production Co	284	Dec. 29, 1959. Nov. 1, 1979.
Amoco Production Co	811	Aug. 16, 1979.
A. Nelson McCarter, Inc.	CS 77-525	
Tenneco Oil Co	417	July 23, 1979.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before September 19, 1980, a petiton to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27919 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-501]

Texas Gas Transmission Corp.; Application

September 4, 1980.

Take notice that on August 15, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-501 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction, during a 36-month period commencing February 10, 1980, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

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[1] Term "third party protest" refers to a protest filed by a party who is not a party to the contact which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant proposes to investigate the more promising structures through the acquisition of surface and subsurface rights that may be necessary or convenient for testing operations, drill structure test holes and wells and run pump tests to determine relevant reservoir characteristics.

Applicant further proposes to make gas injections and withdrawals in additional underground storage reservoirs as they are located in order to test and develop only those reservoirs anticipated to respond favorably to development as usable storage facilities. Applicant states that in this regard it would drill injection and withdrawal wells and construct and operate compressor, pipeline and appurtenant facilities as may be required to effectuate the proposed injections and withdrawals of gas to test properly and develop such potential storage reservoirs.

Applicant states that the total volume of natural gas to be injected into the prospective storage fields would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed 36-month project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from funds on hand.

Applicant states that upon successful completion of the testing and development of any underground storage reservoir. Applicant would file an application for authorization to utilize said storage reservoir as an integral part of its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before Septebmer 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kennethg F. Plumb,

Secretary.

[FR Doc. 80–27920 Filed 9–10–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–492]

Texas Gas Transmission Corp.; Application

September 4, 1980.

Take notice that on August 8, 1980, Texas Gas Transmission Coporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80–492 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new sales meter station and for permission and approval to abandon certain facilities used to serve Western Kentucky Gas Company (Western Kentucky), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and remove the Robards Sales Meter Station located approximately one-fourth of a mile south of Robards, Henderson County, Kentucky. It is stated that such station is presently used as a point of delivery to Western Kentucky, an existing resale customer of Applicant. Applicant also proposes to abandon by sale to Western Kentucky approximately 750 feet of 2-inch pipeline located between Applicant's Dixie 12-inch and 16-inch pipelines and the Robards Sales Meter Station together with all land, rights of way, and easements appurtenant thereto. Such facilities to be sold to Western Kentucky are presently used exclusively to serve Western Kentucky, Applicant asserts.

Additionally, Applicant proposes to construct and operate a new sales meter station and related facilities on its Dixie Tributary lines at milepost 1.26 Henderson County, Kentucky. The cost of the construction of these facilities is estimated to be $32,000, it is said. Applicant would be reimbursed by Western Kentucky for such costs, but title would remain with Applicant.

Applicant submits that the abandonment of the 2-inch pipeline and the relocation of the Robards Sales Meter Station would provide Western Kentucky with the ability to receive additional volumes of natural gas so as to enable it better to accommodate future residential, commercial, and industrial customers. It is further submitted that the relocation of the sales meter station would not result in an increase in Western Kentucky's existing contract demand and quantity entitlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

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certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27921 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-485]

Transcontinental Gas Pipe Line Corp.; Application

September 4, 1980.

Take notice that on August 7, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-485 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline taps and appurtenant facilities necessary for the injection of propane or other liquid petroleum gas (LPG) to enrich the Btu content of Applicant's gas supply during the winter heating season, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its Btu enrichment project is designed to augment Applicant's total gas supply available to its customers. In that connection, Applicant projects a substantial decline in gas supply available from its presently committed sources. Applicant states that while it expects to be able to offset partially such decline by purchasing new gas reserves in its traditional supply area, it is also actively seeking to augment its traditional sources of gas with supplies from non-traditional sources. Applicant further states that its Btu enrichment project could be brought onstream by the 1981-82 winter season or substantially sooner than other non-traditional supplemental supplies, that the project would increase significantly the winter delivery capability of its system in terms of total energy transported, and that the pipeline injection process is one which has been employed successfully by Applicant and others.

Applicant proposes to locate two Btu enrichment sites each consisting of pipeline taps and appurtenant facilities on its mainline at Station No. 80 near Sandersville, Mississippi, and at Station No. 145 near Grover, North Carolina. Btu monitoring facilities would be installed at Station No. 100 near Billingsley, Alabama, and at Station No. 150 near Davidson, North Carolina, it is stated.

It is estimated that these facilities would cost $3,310,000. Applicant states that the cost of these facilities would be financed initially through short-term loans and available cash with permanent financing to be undertaken as a part of an overall long-term financing program at a later date.

Applicant states that its Btu enrichment project is intended to become operational during the 1981-82 winter and is planned to be terminated at the conclusion of the 1986-87 winter although it would retain the option, subject to Commission approval, to extend the project as required by the supply and marketing conditions existing at that time. Applicant contemplates purchasing on an annual basis up to about 8.8 million barrels of propane which contains the Btu equivalent of about 32 million dt net of fuel on Applicant's system or an average of more than 200,000 dt per day of Applicant's pipeline supply throughout the winter period, it is stated. Under normal operating conditions, Applicant plans to inject up to about 7.5 million barrels of this total at Station No. 80 and up to about 1.3 million barrels at Station No. 145 in order to maximize the amount of additional energy into the system at the lowest unit cost. Applicant anticipates that during the first winter of operation propane would be utilized at about 50 percent of the maximum amounts to be purchased during the subsequent years of operation. Applicant further states that most of the operations and services required to deliver propane to Station Nos. 80 and 105 would involve the use of existing propane pipelines and storage facilities. Applicant expects that in view of the expected worldwide surplus of LPG during the period in question it would encounter no difficulties in obtaining the required propane supplies under a combination of long-term and spot or short-term contracts.

Applicant states that it proposes to utilize the injected propane primarily as additional system gas supply and proposes that the costs thereof be included as a part of system gas supply costs. During the proposed term of the Btu enrichment project, it is Applicant's goal to supply from all sources at least 720 million each year to its customers under its Rate Schedules CD and ACQ.

According to Applicant, if the combination of Applicant's other gas supplies and propane results in estimated supplies available to these customers in excess of 720 million dt per year, Applicant would offer its customers the opportunity to purchase for a one-year period and on an incremental basis quantities related to injected propane. Applicant states that any requests for authority to render such incremental winter season service would be the subject of a separate application to be filed with the Commission. However, if and to the extent that Applicant has arranged for propane supplies on a firm contract basis and its customers do not elect to purchase such propane-related supplies in excess of the 720 million dt system supply level on an incremental basis, Applicant says that it would treat such quantities as additional system gas supply.

Applicant states that propane to be used for the Btu enrichment project would be purchased by Applicant from an affiliate on a cost of service basis and that the cost of propane delivered to its mainline would include the cost of the propane as well as any import and handling fees, terminalling fees, transportation and storage charges, and the costs of service related to facilities installed specifically to handle Applicant's propane purchases. Each of these costs would be established either by published rates or tariffs or by contracts entered into at arms length with unaffiliated parties. Applicant requests waiver of the requirements of Section 154.38(d)(4)(iv)(a) of the Regulations so that Applicant may include LPG costs in its semi-annual purchased gas adjustment filing to be effective September 1, 1981, two months in advance of the initial injection.

Any person desiring to be heard or to make any protest with reference to said application should on or before Septermber 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27922 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-322]

Transcontinental Gas Pipe Line Corp., et al.; Petition To Amend

September 4, 1980.

Take notice that on July 31, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, and Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-322 a joint petition to amend the order of December 10, 1979, issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Northern and Mich Wis to own and operate jointly with Transco, Columbia Gulf, and Texas Gas certain offshore pipeline and related facilities and to authorize Northern to increase its current interest in certain of such facilities authorized by the order of December 10, 1979, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioners state that the order of December 10, 1979, authorized Transco, Columbia Gulf, Northern, and Texas Gas to construct and operate the following facilities, known collectively as Project HI-531:

1. Approximately 5.40 miles of 16-inch pipeline and appurtenant facilities, such pipeline extending from a proposed underwater connection in Galveston Area Block A-157 (Block A-157) to the producer-owned platform in Galveston Area Block A-131 (Block A-131), offshore Texas, together with a meter and regulator station on such Block A-131 platform.
2. Approximately 0.38 mile of 12-inch pipeline and appurtenant facilities, such pipeline extending from a proposed underwater connection in Block A-157 to the producer-owned platform in Block A-157 together with a meter and regulator station on such A-157 platform.
3. Approximately 13.53 miles of 16-inch pipeline and other appurtenant facilities, such pipeline extending from a proposed underwater connection in Block A-157 to proposed underwater connection in High Island Area Block A-531 (Block A-531), offshore Texas.
4. Approximately 3.06 miles of 20-inch pipeline and other appurtenant facilities, such pipeline extending from a proposed underwater connection in High Island Area Block 537 (Block A-537), offshore Texas, to a proposed underwater connection in Block A-531.
5. Approximately 5.43 miles of 20-inch pipeline and appurtenant facilities, such pipeline extending from a proposed underwater connection with High Island Offshore System in High Island Area Block A-555 (Block A-555), offshore Texas, to a proposed underwater connection in Block A-537.

It is stated that the distribution of associated cost, ownership and capacity was based on the assumption that Transco would contract for all of Kerr-McGee Corporation, *et al.*'s 25 percent interest in Blocks A-131 and A-157.

Pursuant to a gas purchase contract dated January 8, 1980, Mich Wis has acquired the right to purhase the gas reserves attributable to a 4.1667 percent interest of Cabot Corporation in Blocks A-131 and A-157, it is stated. Mich Wis projects the deliverability attributable to this interest to be approximately 2,900 Mcf of natural gas per day.

It is stated that pursuant to various gas purchase contracts, Northern has acquired the right to purchase the gas reserves attributable to an aggregate of 20 percent interest in Blocks A-131 and A-157. The deliverability attributable to this interest is projected by Northern to be approximately 14,000 Mcf of natural gas per day. Petitioners state that the following list indicates the producers with which Northern has contracted to purchase gas, the respective interest in the block dedicated to Northern and the docket numbers at which the producers have received authority for the sale of their interest in Blocks A-131 and A-157 to Northern.

Producer	Block	Percentage interest	FERC docket No.
Kerr-McGee Corporation	A-131	14.5834	CI80-143
Kerr-McGee Corporation	A-157	14.5834	CI80-145
Norse Petroleum (US) Inc.	A-131	2.5000	CS79-148
Norse Petroleum (US) Inc.	A-157	2.5000	CS79-148
Case-Pomery Oil Corporation	A-131	0.5833	CI80-228
Case-Pomery Oil Corporation	A-157	0.5833	CI80-227
Filmont Oil Corporation	A-131	2.3333	CI80-230
Filmont Oil Corporation	A-157	2.3333	CI80-229

Transco, Columbia Gulf, and Texas Gas state that they have agreed to permit Northern and Mich Wis to share in the ownership and operation of the Project HI-531 facilities in order to assist Northern and Mich Wis in receiving gas from Blocks A-131 and A-157. In the case of those Project HI-531 facilities described in 4 and 5 above Northern would increase its authorized ownership interest. Petitioners state that in accordance with the terms and conditions of a construction and ownership agreement date May 3, 1979, as amended January 16, 1980, among Petitioners the individual ownership percentages in the Project HI-531 facilities would be as follows:

1. 5.40 miles of 16-inch pipeline, 0.38 mile of 12-inch pipeline, 13.53 miles of 16-inch pipeline, meter and regulator stations on Blocks A-131 and A-157, and appurtenant facilities

Transco	45.830%
Columbia Gulf	30.000%
Northern	20.000%
Mich Wis	4.170%

2. 2.29 miles of 12-inch pipeline, 0.30 mile of 20-inch pipeline, 0.07 mile of 12-inch pipeline, meter and regulator stations on Blocks A-536, A-531, and A-537, and appurtenant facilities

Transco	35.000%
Northern	50.000%
Texas Gas	15.000%

3. 3.06 miles of 20-inch pipeline and appurtenant facilities

Transco	39.829%
Columbia Gulf	13.376%
Northern	36.624%
Texas Gas	8.312%
Mich Wis	1.859%

4. 5.43 miles of 20-inch pipeline and other appurtenant facilities

Transco	38.698%
Columbia Gulf	10.244%
Northern	39.756%
Texas Gas	9.878%
Mich Wis	1.424%

Transco would relinquish enough of its ownership interest in the various facilities to allow the participation by Northern and Mich Wis set forth above, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27923 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-490]

United Gas Pipe Line Co.; Application

September 4, 1980.

Take notice that on August 8, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-490 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation of a tap to enable Entex, Inc. (Entex) to provide gas service in Hinds County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Specifically, Applicant requests authorization to install a 2-inch tap on its existing Griffin 2-inch lateral located in Hinds County, Mississippi.

Applicant states that pursuant to an existing service agreement between it and Entex, it delivers gas to Entex, a local distributor, for its various distribution systems in the State of Mississippi including the supply which is provided through taps on Applicants McComb 6-inch line in the the McComb Summit Service Area in Hinds County, Mississippi. Applicant further states that it has been informed by Entex by letter dated June 17, 1980, that due to a load shift on its system the proposed 2-inch tap would be required to enable Entex to receive a portion of its supply from Applicant on the east rather than the west side of the McComb 6-inch line.

The proposed tap is estimated to Cost $1,200 which would be financed with funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-27924 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3222]

Water Power Development Corp., Application for Preliminary Permit

September 3, 1980.

Take notice that the Water Power Development Corporation (Applicant) filed on June 20, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3222 to be known as the South Milton Project located on the Salmon Falls River in Strafford County, New Hampshire, and York County, Maine. Correspondence with the Applicant should be directed to: Mr. Kenneth E. Mayo, President, Water Power Development Corporation, 23 Temple St., Nashua, New Hampshire.

Project Description—The proposed project would consist of the following existing works: (1) a 240-foot long stone dam having a height of 17 feet; (2) a 35 acre reservoir having a negligible storage capacity; (3) two mill buildings containing turbine and generators with a total capacity of 700 kW; and (4) appurtenant facilities. The Applicant proposes to redevelop the project so as to give it a total installed capacity of 2,400 kW. It is estimated that the average annual energy output would be 10,000,000 kWh.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate the engineering, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for license. Applicant estimates the cost of studies under the permit would be $50,000.

Purpose of a Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 7, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. to become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 7, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27925 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-663]

Wisconsin Public Service Corp.; Filing

September 4, 1980.

Take notice that on August 26, 1980, the Wisconsin Public Service Corporation (WPS) tendered for filing a Certificate of Concurrence concurring to the Amendment to the Interconnection Agreement between Wisconsin Electric Power Company and WPS which WPS has filed by letter dated August 8, 1980.

WPS states that this filing is in compliance with Order No. 84 issued on May 7, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27926 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-85-M

Office of the Special Counsel for Compliance

Proposed Consent Order, Tenneco Oil Co.

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it entered into a consent order with Tenneco Oil Company (Tenneco) on August 21, 1980. The consent order resolves all issues of compliance with the DOE Petroleum Price Regulations for the period August 19, 1973, through February 29, 1980, as applied to Tenneco's calculation of its May 1973 per gallon cost of purchased motor gasoline. To remedy any overcharges that may have occurred during the period, Tenneco agrees to $22.26 million in remedies.

As required by the regulation cited above, OSC will receive comments on the consent order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the consent order final. Although the consent order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the consent order and attempt to obtain a modification of the consent order or issue the consent order as proposed.

COMMENTS: Comments must be received by 5:00 p.m. October 14, 1980 to be considered.

ADDRESS: Address comments to: Tenneco Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 2140, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: George Kielman, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 2140, Washington, D.C. 20461, 202-633-9557.

Copies of the consent order may be received free of charge by written request to: Tenneco Oil Company, Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 2140, Washington, D.C. 20461.

Copies may also be obtained in person in room 3109 of the same street address noted above or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 5B-180, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: Tenneco Oil Company is one of the 34 major refiners presently subject to audit by the Office of Special Counsel to determine compliance with the DOE Petroleum Price Regulations (Regulations). Tenneco engages in, among other things, the refining and marketing, and purchasing and reselling of motor gasoline. The instant audit concerned the propriety of Tenneco's calculation of its May 1973 purchase motor gasoline cost for purposes of compliance with the Regulations. The audit was initiated by the Department's predecessors. Responsibility for the audit was assumed by the Office of Special Counsel for Compliance in October 1977. During the audit, questions and issues were raised and enforcement documents were issued, including a Remedial Order issued on February 2, 1977 and a Revised Remedial Order issued on February 15, 1978. Tenneco subsequently challenged those orders as upheld by the Department's Office of Hearings and Appeals, in the District Court for the District of Delaware (C.A. No. 77-486), and the United States conterclaimed to enforce the Orders, as upheld, for the period stated therein and to enforce compliance with the Regulations for the follow-on period. This consent order resolves all issues not previously resolved concerning the

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computation of Tenneco's May 1973 per gallon cost of purchased product for purposes of compliance with the Regulations for the period through February 29, 1980.

Neither OSC nor Tenneco has disavowed positions taken previously on the issues addressed by this consent order and each believes that its position on these issues is meritorious. Notwithstanding DOE's position to the contrary, Tenneco maintains that it has calculated its cost of purchased motor gasoline and determined its maximum allowable prices in accordance with applicable statutes and regulations. The parties desire, however, to resolve the issues raised without continued resort to complex, lengthy and expensive litigation. OSC believes that the terms and conditions of this consent order provide a satisfactory resolution of disputed issues and an appropriate remedy for possible overcharges, and thus the consent order is in the best interests of the United States.

Terms and Conditions of the Consent Order

Tenneco has agreed to undertake certain actions totalling $22.26 million. The settlement consists of three major components: a refund of $1,244,100 to existing wholesale purchasers who purchased from Tenneco in June 1974; a cash payment of $1,017,900, for disposition by the Department; and a reduciton to Tenneco's current motor gasoline bank of $20,000,000.

1. The $1,244,100 refund shall be implemented as follows. Tenneco shall prepare a list of wholesale customers who purchased motor gasoline from it in June 1974, along with the amount to be refunded to each. Upon review and approval by OSC, and within forty five (45) days of the effective date of the Consent Order, Tenneco shall refund such amounts to such customers by check or credit memorandum. If any portion of the $1,244,100 is not acutally refunded to Tenneco's wholesale customers, due to failure of any such customers to accept such refund, such portion shall be added to the cash payment discussed below.

2. The cash payment of $1,017,900 shall be paid within fourteen (14) days of the effective date of the Consent Order, made payable to the United States Department of Energy and under its exclusive control.

3. As of the effective date of the Consent Order, Tenneco shall reduce its then-current bank of unrecovered increased costs attributable to motor gasoline by the sum of $20,000,000. These reductions shall be evidenced in Tenneco's form EIA-14 filed for the month in which this Consent Order becomes effective.

The Consent Order provides that Tenneco shall maintain records to demonstrate compliance with its terms and that the OSC shall have access to such information as may be required to audit Tenneco's performance of its commitments pursuant to the consent order. The consent order provides details regarding procedures concerning enforcement of the provisions of the consent order. Upon becoming final after consideration of public comments, the order will be a final order of DOE to which Tenneco has waived its right to an administrative or judicial appeal.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this consent order to the address noted above. All comments received by 5:00 p.m. on October 14, 1980, will be considered by OSC before determining whether to adopt the consent order as a final order. Modifications of the consent order which, in the opinion of OSC, significantly change the terms or impact of the consent order will be published for comment.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C. September 4, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-28079 Filed 9-10-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP 50500; FRL 1603-01]

Pesticides; Extension of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued extensions of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

1471–EUP–43. Elanco Products Co., PO Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 66,500 pounds of the herbicide tebuthiuron (N-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2–yl]-*N,N'*dimethylurea) on rangelands and pasturelands to evaluate control of brush. A total of 4,989 acres are involved. The program is authorized in the 48 contiguous States, except Oklahoma and Texas. The experimental use program is effective from July 9, 1980 to July 9, 1981. A temporary tolerance for the residues of the active ingredient on pasture grasses and grass hay has been extended. (PM 25, Robert J. Taylor, Rm. E–359, 202–755–2196)

707—EUP–95. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 2,036 pounds of the hybridizing agent postassium (1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylic acid on wheat to evaluate hybridizing. A total of 1,018 acres are involved. The program is authorized only in the States of Colorado, Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, and Pennsylvania. The permit is issued with the limitation that all treated crops destroyed or used for research purposes only. The program is effective from October 18, 1980 to October 18, 1981. (PM 25, Robert J. Taylor, Rm. E–359, 202–755–2196)

1021–EUP–26. McLaughlin Gormley King Co., 8810 Tenth Avenue North, Minneapolis, MN 55427. This experimental use permit allows the use of the remaining quanitity of 122 pounds of the insecticide permethrin (3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate on swamps to evaluate its control as a mosquito adulticide. A total of 500 acres are involved. The program is authorized only in the States of California, Florida, Maryland, Minnesota, and New Jersey. The permit is issued with the limitation permethrin will not enter the food chain. The program is effective from August 8, 1980 to August 8, 1981. (PM 17, Franklin D.R. Gee, Rm. E–341, 202–426–9417)

Persons wishing to review the experimental, use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding this permit should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m. Monday through Friday, exclusing holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: September 5, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-28008 Filed 9-10-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 50498; FRL 1603-2]

Pesticides; Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

43382–EUP–1. Biochem Products, PO Box 264, Montchanin, DE 19710. This experimental use permit allows the use of 1,000 pounds of Bacillus Thuringiensis, Israelensis on bodies of water to control mosquito and black fly larvae. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia; and Puerto Rico. The permit is being issued under the limitation that none of the treated area will enter into the food chain. The program is effective from July 21, 1980 to July 21, 1981. (PM 17, Fanklin D. R. Gee, Rm. E–341, 202–426–9417)

1529–EUP–2. GAF Corp., 140 W. 51st St., NY, NY 10020. This experimental use permit allows the use of 2,000 pounds of the plant growth regulator ethephon [(2-chloroethyl) phosphionic acid] on cotton to evaluate hastening effect on the opening of mature cotton bolls. A total of 795 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas.

1529–EUP–3. GAF Corp., 51st St., NY, NY 10020. This experimental use permit allows the use of 2,000 pounds of the plant growth regulator ethephon on cotton to evaluate hastening effects on opening of mature cotton bolls. A total 795 acres are involved. This program is authorized in the same States as the permit above. Both programs are effective from July 22, 1980 to July 22, 1981. These permits are being issued with the limitation that all treated crops are destroyed or used for experimental purposes only. (PM 25, Robert J. Taylor, Rm. E–359, 202–755–2196)

Person wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above.

Interested persons should call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, Stat. 819 as amended (7 U.S.C. 136))

Dated: September 5, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-28009 Filed 9-10-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS–51122; FRL 1603–4]

Certain Chemicals; Toxic Substances Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of seven PMN's and provides a summary of each.

DATE: Written comments by October 7, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: George Bagley, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances; Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before October 7, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51122]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 5, 1980

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-199.

Close of Review Period. November 6, 1980.

Importer's Identity. Claimed confidential. Generic information provided: Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: Methyl aminoheteropolycycle.

The following summary is taken from data submitted by the importer in the PMN.

Use. Claimed confidential. The importer states that the PMN substance will be used in a contained use that will release more than 50 kilograms but less than 5,000 to the environment per year.

Import Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	10,000
2d year	1,000	10,000
3d year	1,000	10,000

Physical/Chemical Properties.

Sublimation point—Between 100°C and 200°C.

Water solubility—Between .01 and 1.0 g/l at 25°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Processing (2 sites)	Dermal inhalation.	30-150	24	250-335	0-1	0-1
Disposal (1 site)	Dermal inhalation.	4	24	335	0-1	0-1

Environmental Release/Disposal.

Media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Water—10 to 1,000.
Land—10 to 100.

Particulate filters are used at weighbooths and mix vessel to abate air emissions. All liquid and solid wastes will either be destroyed in a thermal oxidize with appropriate emission controls or will be disposed of in an approved secure chemical landfill apart from those wastewater streams which are compatible with the publicly owned treatment works facility.

PMN 80-200.

Close of Review Period. November 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: 1-Substituted-1-(p-substitutedphenyl) ethane.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Production Estimates. The submitter states that between 20 to 800 kilograms (kg) of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point: 50–100°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	number exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal inhalation.	Site dependent.	Site dependent		0-1	0-1
Processing	Dermal inhalation.	Site dependent.	Site dependent		0-1	0-1

Environmental Release/Disposal.

Manufacturing media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Water—Less than 10.
Land—10–100.

All liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

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PMN 80–200.

Close of Review Period. November 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: 1-Substituted-1-(4-(substituted-heteromonocyclic) phenyl) ethane.

The following summary is taken from data submitted by the manufacturer in the PMN.

Exposure.

Use. Chemical intermediate.

Production Estimates. The submitter states that between 20 to 800 of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting points—>100°C.
Solubility—>10 g/l in water at 60°C.

Toxicity Data. No data were submitted.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m³)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal inhalation	Site dependent.	Site dependent.		0–1	0–1
Processing	Dermal inhalation	Site dependent.	Site dependent.		0–1	0–1

Environmental Release/Disposal.

Manufacturing Media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Water—Less than 10.
Land—10–100.

All liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

PMN 80–202.

Close of Review Period. November 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: 1-Substituted-1-(4-(substitutedheteromonocyclic)phenyl)ethane.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production Estimates. The submitter states that between 20 to 800 kg of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point>100°C.
Solubility—10 g/l in water at 60°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m³)	
			Hour/day	Day/year	Average	Peak
Submitter's site:						
Manufacture	Dermal inhalation.	(1)	(1)	(1)	0–1	0–1
Processing	Dermal inhalation.	150	24	335	0–1	0–1
Submitter's site: Processing	Dermal inhalation	30	24	250	0–1	0–1

[1] Site dependent.

Environmental Release/Disposal. The manufacturer states that between 50 and 5,000 kg of the substance will be released to the environment per year at the maximum production rates.

At the manufacturer's site where both manufacturing and processing of the substances are involved, all liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

In the manufacturer's site where only processing of the substance is involved, particulate filters are used at weighbooths and mix vessels to abate air emissions. All liquid and solid wastes will either be destroyed in a thermal oxidizer with appropriate emission controls in compliance with local and federal standards, or will be disposed of in an approved secure chemical landfill apart from those wastewater streams which are compatible with the POTW. Recycle and recovery operations will be initiated wherever feasible.

PMN 80–203.

Close of Review Period. November 6, 1980.

Manufaturer's Identity. Claimed confidential. Generic information provided: Annual sales—In excess of $500 million.

Specific Chemical Identify. Claimed confidential. Generic name provided: *p*-(Methylsubstituted) (substitutedbenzene), triethylammonium salt.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Production Estimtes. The submitter states that between 20 to 800 kg of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point—50–100°C.
Solubility—>10 g/l in water at 60°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1
Processing	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1

Environmental Release/Disposal.

Manufacturing Media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Water—Less than 10.
Land—10–100.

All liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

PMN 80–204.

Close of Review Period. November 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: 1-Substituted-4-(methylsubstituted) benzene.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Production Estimates. The submitter states that between 20 to 800 kg of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Vapor pressure—10–100 torr at 167°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacture	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1
Processing	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1

Environmental/Release/Disposal.

Manufacturing Media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Land—10–100.

All liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

PMN 80–205.

Close of Review Period. November 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—In excess of $500 million.

Specific Chemical Identity. Claimed confidential. Generic name provided: 1-(Methylsubstituted)-4-(substitutedheteromonocyclic) benzene.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Production Estimates. The submitter states that between 20 to 800 kg of the PMN substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point—≤100°C.
Solubility—≤10 g/l in water at 60°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum numbers exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacturer	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1
Processing	Dermal inhalation.	Site dependent.	Site dependent		0–1	0–1

Environmental Release/Disposal.

Manufacturing Media—Amount of Chemical Release (kg/yr).
Air—Less than 10.
Land—10–100.

All liquid and solid wastes, apart from those wastewater streams which are approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill. Air emissions will be scrubbed prior to release.

[FR Doc. 80–28010 Filed 9–10–80; 8:45 am]
BILLING CODE 6560–01–M

[OPTS–51125; FRL 1603–5]

Certain Chemicals; Toxic substances Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemcial substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) reqires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATE: Written comments by October 12, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances; Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemcial substance is any substance that is not on the Inventory of existing substances complied by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or uses(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substances unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before October 12, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-5112S]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 5, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-209.

Close of Review Period. November 11, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Bis(1-polyamino-2-alkyl imidazoline).

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Adhesive.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. None submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacturing—Claimed confidential.						
Use	Dermal, inhalation	2	0.5	15	0-1	1-10

Environmental Release/Disposal. The manufacturer states that between 1,000 to 10,000 kilograms (kg) of the PMN substance will be released into the environment (land) per year. Disposal of waste material will be by incineration in accordance with Resource Conservation Recovery Act (RCRA) regulations for ignitable materials.

PNM 80-210.

Close of Review Period. November 11, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Bis(1-polyamino-2-alkyl imidazolene).

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Adhesive.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Claimed confidential.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m^3)	
			Hour/day	Day/year	Average	Peak
Manufacturing—Claimed confidential.						
Use	Dermal, inhalation.	2	0.50	15	0-1	0-1

Environmental Release/Disposal. The manufacturer states that between 1,000 to 10,000 kg of the PMN substance will be released into the environment (land) per year. Disposal of waste material will be by incineration in accordance with RCRA regulations for ignitable materials. The manufacturer further states that no waste water will be discharged to the local sewage treatment plant and that there is probably a slight atmospheric emission from the vacumn pumps although all vapors pass through the condenser.

PNM 80–211.

Close of Review Period. November 11, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polytetramethylene glycol, aliphatic polyglycol, and alkyl diisocyanate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Forming material.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. None. submitted.

Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

PMN 80–212.

Close of Review Period. November 11, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Adduct of polytetramethylene glycol, aliphatic polyglycol, aliphatic diisocyanate, and an alkyl diisocyanate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Forming material.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Claimed confidential.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacturing—Claimed confidential.						
Use	Dermal inhalation	2	6	20	0–1	

Environmental Release/Disposal.

Media—Amount/Duration of Chemical Release (kg/yr).
Air—Less than 10. 6 hr/da: 20 da/yr.
Water—None.
Land—Less than 10.

The manufacturer states that disposal of waste materials will be by incineration in accordance with RCRA regulations for ignitable materials.

[FR Doc. 80–28011 Filed 9–10–80: 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51128; FRL 1603–6]

Halogenated Copolyester Resin; Toxic Substances Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by October 17, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information

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submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before October 17, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51128]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 5, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-213.

Close of Review Period. November 16, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—East-north central region, U.S.

Standard Industrial Classification Code—282.

Specific Chemical Identity. Claimed confidential. Generic name provided: Halogenated copolyester resin.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Ingredient for insulating structural foam.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Viscosity—Approximately 120,000 cps at 77° F.

Hydroxyl value—435.

Acid value—Less than 1.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacturer	Dermal	2	1	18	0-1	
Processing	Dermal	2	1	18	0-1	
Use	Dermal	1-2	1	200	0-1	

Environmental Release/Disposal.

Media/Activity—Amount/Duration of Chemical Release (kg/yr).
Air/Manufacture—Less than 10. 24 hr/da; 18 da/yr.
Air/Use—Less than 10. 1-2 hr/da; 200 da/yr.

[FR Doc. 80-28012 Filed 9-10-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51124; FRL 1603-7]

Polester; Toxic Substances Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacturer notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by October 17, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Rick Green, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations,

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however, are not yet in effect. Intersted persons should consult the Agency's Interim Policy published in the **Federal Register**. of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this informaton is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before October 17, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51124]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 5, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–214.

Close of Review Period. November 16, 1980.

Manufacturer's Identity. Claimed confidential. Generic information Provided:

Annual sales—Between $10 million and $99 million.

Manufacturing site—North central region, U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polyester of aliphatic polyols and aromatic diacids.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Foam polyol.

Production Estimates.

	Pounds per year	
	Minimum	Maximum
1 year	1,000,000	3,000,000
2 year	3,000,000	5,000,000
3 year	7,000,000	10,000,000

Physical/Chemical Properties.

Viscosity—42,000–47,000 cps.
Non-volatile—99±1
Acid number—6 Max.
Color—18+
Weight/gallon—10.45 lb.

Toxicity Data. No data were submitted.

Occupational exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (PPM)	
			Hour/day	Day/year	Average	Peak
Manufacture	Inhalation	2	1	251		1-10
Processing	Inhalation	1	1	251		1-10
Use	Inhalation	3(?)	8	251		1-10
Dispsal	Inhalation	2	8	251		1-10

Environmental Release/Disposal. The manufacturer states that less than 10 pounds of the PMN substance will be released into the environment per year and that wastewater (water of esterification) will be disposed of through a sanitary sewer and methyl alcohol will be reclaimed as solvent.

[FR Doc. 80–28013 Filed 9–10–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1602–8]

Ground Water System of the Quaternary Wisconsin Stratified Drift Deposits in the Upper Rockaway Basin Municipalities, Rockaway, N.J.; Request for EPA Determination Regarding an Aquifer

A petition has been submitted by the Upper Rockaway River Watershed Association, Denville, New Jersey, pursuant to Section 1424(e) of the Safe Drinking Water Act, P.L. 93–523, requesting the administrator of the Environmental Protection Agency to make a determination that the aquifer underlying the Upper Rockaway Basin New Jersey is the sole or principal drinking water source for many municipalities in Morris County, New Jersey, which if contaminated, would create a significant hazard to public health.

This petition is reprinted in full below:

Petition

Under Section 1424 (e) of the Safe Drinking Water Act of 1974, the Upper Rockaway River Watershed Association petitions the U.S. Environmental Protection Agency Administrator Douglas Costle and the U.S. Environmental Protection Agency Region II Acting Regional Administrator Richard T. Dewling to designate the Quaternary Wisconsin Stratified Drift deposits in the Upper Rockaway Basin municipalities as a sole or principal source aquifer which if contaminated, would create a significant hazard to public health.

The petition is submitted in conformance with the EPA's proposed Rule for Sole or Principal Source Aquifer Areas, **Federal Register**, September 29, 1977, Subpart B, 148.10 Submission of Petitions.

1. The Upper Rockaway River Watershed Association is a non-profit organization incorporated in 1978. This corporation was formed to protect and conserve our supplies of potable water, reduce and control polluting elements in the surface and ground waters and to do all things suitable and appropriate to protect and improve the water quality of the area within the Rockaway watershed. The Board of Trustees of the Association consists of representatives from member municipalities and trustees elected from the general membership.

2. Contamination of the aquifer would result in significant hazard to public health because public water supply systems, as well as many private wells, depend upon this aquifer as a sole or principal source of drinking water. Chlorination is the principal method of treatment for municipal water systems. The majority of private wells do not need chlorination or treatment. The 300,000 people who receive their water from the Boonton Reservoir, owned by Jersey City, are also threatened with health hazards in the event of contamination of the aquifer with materials that cannot be removed in the treatment process utilized by the Jersey City water system. At the present time ground water quality meets federal drinking water standards. Surface water quality is generally good and meets New Jersey FW-2 criteria except for sporadic violations of Fecal coliform levels.

3. The Quaternary Wisconsin stratified drift deposits form the mineral framework for the most highly developed ground-water reservoir in the basin. All of the public supply ground water withdrawals from the area come from wells screened in stratified drift. These deposits consist of clay and sand layers mixed with gravelly sand zones. The discontinuous nature of the sand layers is due to deposition by melt water streams. Both confined and unconfined deposits occur in the area. The stratified drift deposits occur, principally, north of the terminal moraine of the Wisconsin glaciation and in buried channels under the terminal moraine, and are closely associated with the Rockaway River drainage network. As can be seen from the mapping which accompanies this petition, the areal extent of the aquifer is relatively small in relation to the size of the basin.

4. The Wisconsin stratified drift deposits are the sole or principal source of drinking water for many municipalities in Morris County (listed below). In addition, the aquifer is an important source of stream flow for the Rockaway River. The Boonton Reservoir, owned by Jersey City, is an impoundment of the Rockaway River. Thus, the municipalities and customers in Hudson, Essex and Bergen Counties served by the Jersey City Water Department, whose sold supply is the Boonton Reservoir, are also dependent upon the aquifer.

Estimated 1978 Population—New Jersey Department of Labor and Industry

Morris County municipalities:	
Boonton Town	8,788
Boonton Township	3,065
Denville	13,873
Dover	14,465
Jefferson	15,308
Mine Hill	3,429
Mountain Lakes	4,403
Randolph	18,458
Rockaway Borough	6,648
Rockaway Township	19,975
Roxbury	17,805
Victory Gardens	1,208
Wharton	5,758
Total	133,183
Municipalities served by Jersey City Water Dept.:	
Jersey City	227,521
Hoboken	40,571
Lyndhurst	20,641
West Caldwell	11,425
Total	300,158

5. Public water supply systems drawing from the aquifer supply an estimated 89,387 people in the above listed 13 municipalities in Morris County. In addition to those served by public water supply wells drawing from the stratified drift deposits, there are an estimated 30,000 people (Tetra Tech) served by individual wells drawing from the glacial deposits and the Precambrian and Paleozoic rock aquifers. The glacial deposits supply over 67% of the public drinking water for the area. The Paleozoic aquifers, while supplying water to rural areas, have poor water-bearing properties and are capable of sustaining only small domestic supplies (Gill & Vecchioli). Precambrian aquifers which underlie the area are usually reliable sources of ground water for domestic use. Industrial and public supply wells in Precambrian crystalline rocks have been only moderately successful in New Jersey, according to the N.J. Bureau of Geology. Reported yields of over 1,000 domestic wells in the Precambrian aquifer show a median yield of 8 gallons per minute, but 46% yield 5 gallons per minute or less (Bureau of Geology Bulletin No. 73). According to Special Bulletin No. 25, the hydraulic characteristics of Precambrian rocks indicate that extreme care must be taken in developing new supplies near existing ones. Wells should be located to provide the least practical amount of mutual interference. Well pollution is most apt to occur in rock wells which intersect large open fractures. Open fractures have little filtration capability and act as open conduits. Historically, when areas of well pollution occur in bedrock zones, municipalities have had to extend public water service to the areas. This emphasizes the importance of the stratified drift areas as the alternative water supply for developed areas presently drawing from Precambrian and Paleozoic aquifers.

6. There are no alternative sources of drinking water available which are sufficient to supply the needs of the Basin. The Town of Boonton has a small reservoir (125 million gallons) located within the basin. The reservoir water is of poor quality and has been used principally to supply industrial customers. The Town has recently constructed a water treatment plant in order to meet potable water standards for the reservoir water. With the exception of this reservoir, all other surface water supplies which have been developed in the basin have been for consumers outside of the basin who are served by the Jersey City Water Department. Alternative sources of drinking water are available to Jersey City and its customers through system interconnections during shortages and other emergencies. But at best, the availability is of a temporary nature and cannot be depended upon in times of severe drought when all surface supply systems will be impacted. During the dry years of 1965–1966, the Jersey City Water Department's Rockaway supplies delivered 4,312 million gallons of water to the Hackensack, Bayonne and Newark systems. The Jersey City system is presently drawing more than the safe yield of their reservoir based on the record drought. The safe yield of Jersey City's water supply reservoir is 57.5 million gallons daily based on the 1961–1966 drought. This safe yield allows for a release of 7.5 million gallons daily from the Boonton Reservoir. During years of normal rainfall, the yield of the City's system is estimated to be over 80 million gallons daily. Stream flows are recorded at the U.S. Geological Survey's gauging station near the inlet to the Boonton Reservoir. Average discharge between 1960 and 1977 was 129 million gallons daily. During the record drought of 1964 flow averaged 63.3 million gallons daily.

7. The unconfined aquifer is recharged directly from precipitation on the outcrop areas of the stratified drift (Gill & Vecchioli, 1965). Thus, the aquifer recharge zones are primarily the soils overlying the aquifer. These soils are associated with the stratified drift deposits of the Wisconsin glaciation. The location of the zones of prime recharge have been identified in several recent studies conducted by governmental agencies. Excerpts from these studies are attached (attachment No. 1.). The investigations have shown that the majority of the large yielding wells drawing from the stratified drift aquifer are located adjacent to the bed of the Rockaway River and some are in hydraulic continuity with it. The aquifer system provides base flow to the Rockaway River; while the Rockaway River and its tributaries flowing through stratified areas provide recharge to the aquifer during high flow conditions. It is thought that recharge from the Precambrian rocks underlying the drift deposits is very small because of the poor transmissivities of Precambrian rock.

8. The shallow nature of the aquifer and the permeability of the overlying soils make the aquifer readily conducive to contamination. In 1979 two public supply wells in Wharton and Dover have been found to be

contaminated with Xylene attributed to an upstream industrial source. Traces of pesticides and other toxic chemicals and metals not natural to ground water have been detected in public and private wells tested by the New Jersey Department of Environmental Protection during 1978–1979. At the present time, however, the quality of water obtained from the majority of wells in the Quaternary aquifer is high and levels of chemical constituents do not violate water quality standards. Major interstate and local highways are situated adjacent to and over the stratified drift deposits. Present development impacts on the aquifer in many locations. Nonpoint pollution is a major threat to the purity of the water in the aquifer due to its porous nature. The Rockaway Valley Regional Sewerage Authority has recently constructed an interceptor sewer line which has been placed in the aquifer and is in close proximity to many public wells. Future projects for additional sewer service lines may be proposed to be located in the aquifer zones. If not properly constructed and wisely located, these projects might contaminate the aquifer through the recharge zones.

9. 1976 groundwater withdrawals for public supply were 9.41 million gallons daily. Water treatment consists mainly of chlorination with some filtration, iron removal and Ph adjustment. The following public supply systems utilize water from the aquifer:

Water Departments of; and estimated population served.	
Town of Boonton (serves portions of Boonton Twp.)	9,469
Denville (serves portions of Randolph, Boonton Twp.)	15,059
Dover (serves Victory Gardens, portions of Randolph, Rockaway Twp., Wharton, Mine Hill)	[1]22,416
Jefferson	773
Mountain Lakes (serves portion of Boonton Twp.)	5,102
Rockaway Borough (serves portion of Rockaway Twp.)	6,604
Rockaway Township	13,496
Roxbury	1,561
Wharton	6,000
Morris County Municipal Utilities Authority (serves portions of Randolph and Mine Hill)	8,907
Total	89,387

[1] Draft State Water Master Plan, 4C–10.

Source: "Determination of Available Water Supply in the Rockaway Valley Regional Sewerage Authority Service Area" Tetra Tech, Inc., June, 1978.

10. Mapping showing the location and boundaries of the aquifer and the areas underlain by the aquifer is attached (Attachment No. 2).

We, therefore, conclude that the Quaternary Wisconsin Stratified Drift Aquifer is the sole or principal source of drinking water in the region, and contamination of this aquifer would create a significant hazard to public health. Therefore, we respectfully request that the Administrator and the Acting Regional Administrator of the U.S. Environmental Protection Agency determine that the Quaternary Wisconsin Stratified Drift Aquifer in the Upper Rockaway Basin municipalities be designated as the sole or principal drinking water-source for the area and that this determination be printed in the **Federal Register** as required by Section 1424 (3) of the Safe Drinking Water Act of 1974.

Respectively submitted,

Constance Stroh,

President, Board of Trustees.

Upper Rockaway River Watershed Association
95 East Main Street
Denville, New Jersey 07834
Area Code: 201 627–8900 Ex. 29 or 263–0102.

November 30, 1979

EPA intends to deicde whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Upper Rockaway Basin, the boundaries of the aquifer and its recharge areas. In addition, EPA request information concerning the area or areas dependent upon the aquifer the drinking water, the significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice should be submitted in writing to Charles Warren, Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, NY 10278, attention: Upper Rockaway Aquifer; within 60 days of this Notice. Information and maps submitted by the Upper Rockaway River Watershed Association concerning the Upper Rockaway Basin Aquifer system will be available for inspection in the Water Supply Branch office at the above address.

In addition to considering public comments sent to EPA, the agency will hold a Public Hearing on the evening (7:00 pm to 10:00 pm) of Wednesday October 15, 1980, at the Municipal Building, Council Chambers (second floor) 95 E. Main Street, Denville, New Jersey.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Ms. Eileen Reilly/Wiedow, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York NY 10278, 212–264–1332. Written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: August 28, 1980.

Charles Warren,

Regional Administrator.

[FR Doc. 80–28002 Filed 9–10–80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80–465; BC Docket No. 80–434, File No. BRET–31; BC Docket No. 80–435, File No. BPET–549]

Board of Education of Jefferson County, Ky.; for Renewal of License of Station WKPC-TV, Louisville, Ky., and Metropolitan Louisville Public Television, Inc., Louisville, Ky.; for Construction Permit; Memorandum Opinion and Order

Adopted: July 31, 1980.

Released: September 9, 1980.

By the Commission: Commissioner Quello concurring in the result.

1. The Commission has before it for consideration the renewal application of the Board of Education of Jefferson County, Kentucky (Board) for noncommercial television station WKPC–TV, Louisville, Kentucky, and the application for a construction permit for a noncommercial television station for Channel 15, Louisville, Kentucky, filed by Metropolitan Louisville Public Television, Inc. (MLPTV). The applications are mutually exclusive and must be designated for a comparative hearing.

2. *The MLPTV Application.* New applicants are required to give local public notice upon the filing of their applications, pursuant to § 73.3580(f) of the Commission's rules.[1] They must then file with the Commission the statement described in § 73.3580(h) of the rules. There is no evidence in the file that MLPTV published the required notice. To remedy this deficiency, MLPTV will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. Corporate applicants must file with their applications a copy of their articles of incorporation and by-laws, certified by the Secretary of State or other appropriate official (FCC Form 340, Section II, Paragraph 3(a)). MLPTV did submit a copy of its articles of incorporation and by-laws (Exhibits II–A and II–B). However, neither document

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[1] Formerly, § 1.580.

appears to be certified by the Kentucky Secretary of State or other appropriate official. Accordingly, MLPTV will be required to submit a certified copy of its articles of incorporation and by-laws.

4. The channels reserved for educational use are intended to serve the educational and cultural broadcast needs of the entire community to which they are assigned. *Fostering Expanded Use of UHF Television Channels,* 2 FCC 2d 527 at 542 (1965). Therefore, noncommercial television applicants which are non-profit organizations are required to show that their officers, directors and governing board are broadly representative of the educational, cultural and civic groups in the community (FCC Form 340, Section II, Paragraph 11(a)). MLPTV's current officers—a physician, two businessmen and a housewife—do not appear to be representative of such groups in the community. Accordingly, an issue will be specified.

5. Moreover, these individuals are only the "Initial Members" of the applicant corporation. MLPTV's by-laws state that the initial members will hold a first annual meeting at an undetermined date and elect 27 persons to a "broadly representative" board of directors which will take over the business, property and affairs of the applicant. In addition, MLPTV has submitted a proposed agreement with the University of Louisville which gives the University the right to become a member of the corporation and the power to appoint one-half of the directors. As a result, the Commission has no information regarding the identity of the individuals who will govern the station as its board of directors and whether they meet the Commission's legal qualification requirements as set forth in Section II of the application. Moreover, working control and the right to determine MLPTV's policies and manner of operation may actually reside in an entity other than the applicant, i.e., the University of Louisville. Accordingly, an inquiry is necessitated and an appropriate issue will be specified.

6. MLPTV's application reveals the following estimated costs for construction and three months' operation:

Transmitter	$174,900
Antenna system	156,765
Frequency and modulation monitors	27,700
Studio technical equipment	181,350
Lease of Land	1
Buildings	38,000
Total construction costs	578,716
Operting costs (three months)	[2] 104,275
Total	$682,991

MLPTV submits a proposed agreement (Exhibit II–C) with the University of Louisville under which each party will provide certain facilities and equipment. MLPTV's costs under this arrangement (for its provision of equipment and for reimbursement to the University) are not specified in the agreement. Nor has MLPTV submitted a sales contract or other written basis for the estimated equipment costs. Finally, MLPTV has not provided for installation costs and legal fees. Accordingly, an inquiry is warranted.

7. Further, assuming arguendo the validity of its cost estimates, MLPTV has not shown the availability of sufficient funds to construct and operate as proposed. It appears that MLPTV has improperly listed certain of the same figures twice. For example, a $250,000 Corporation for Public Broadcasting grant and $125,000 in donations are applied to both construction and operating funds. New capital for construction in the amount of $70,000 is listed again under operating funds as civic group donations. Equipment rentals valued at $20,000 under construction funds reappear under operating funds as project income. As a result, it is impossible to determine MLPTV's estimate of available construction and operating funds. Moreover, MLPTV has not provided documentation to substantiate any of the financial data, other than $1000 cash. Therefore, a general financial issue will be specified.

8. When MLPTV filed its application, noncommercial applicants and licensees were not required to submit documentation regarding efforts to ascertain community problems and needs. *Ascertainment of Community Problems,* 58 FCC 2d 526, 543 (1976). However, even though *formal* ascertainment procedures were not then in effect for noncommercial broadcasters, it was firmly established Commission policy that noncommercial licensees must ascertain the needs and interests of their communities and program to meet those needs. *Alabama Educational Television Commission,* 50 FCC 2d 461 (1975). Formal ascertainment rules for non-commercial applicants have been in effect now for more than three years. The question, therefore, is what showing should be made by MLPTV. The Commission can not make a finding that grant of MLPTV's application is in the public interest without a demonstration by MLPTV that it has ascertained its community's problems and prepared programs to address those problems. Moreover, we note that the Board complied with our ascertainment rules in its 1979 supplemental renewal application. Accordingly, we believe that the public interest, as well as the equities of the comparative situation, will be best served by requiring MLPTV to amend its application to demonstrate compliance with our current ascertainment rules. (*See,* Section IV, Paragraphs 7, 8 and 9, FCC Form 340, July 1979 edition).

9. MLPTV proposes to use the existing transmitter site of station WKPC–TV and therefore would be short-spaced to station WTIU in Bloomington, Indiana. Since this would be a continuation of the present situation, good cause exists for a waiver of § 73.610 of the rules (minimum distance separations between stations).

10. *The Board's Renewal Application.* Examination of the Board's application indicates that it is legally, financially and technically qualified to operate as proposed. However, since its application is mutually exclusive with that of MLPTV, both applications must be designated for hearing as specified below.

11. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine with respect to Metropolitan Louisville Public Television, Inc.:

(i) Whether its current officers, directors, and members of the governing board are broadly representative of the educational, cultural and civic groups in the community.

(ii) The facts and circumstances concerning its proposed election of directors and proposed agreement with the University of Louisville relating to appointment of directors; and the effect of these proposals on its structure and control;

(iii) The effect of the evidence adduced pursuant to issues (i) and (ii) above on its basic and/or comparative qualifications.

(b) To determine with respect to Metropolitan Louisville Public Television, Inc., the funds necessary to construct and operate the proposed station; the funds available to meet these costs; and, in light of the above, whether the applicant is financially qualified.

(c) To determine (i) the extent to which the past and proposed operation of the Board of Education of Jefferson County, Kentucky and the proposed operation of Metropolitan Louisville

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[2] MLPTV estimated cost of operation for one year as $417,100.

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Public Television, Inc., will be integrated into the overall cultural and educational objectives of the respective applicants, (ii) the manner in which the past and proposed operation of the Board of Education of Jefferson County, Kentucky and the proposed operation of Metropolitan Louisville Public Television, Inc., meet the needs of the community to be served, and (iii) whether these factors demonstrate that one applicant will provide a superior noncommercial television broadcast service; and

(d) In light of the evidence adduced pursuant to the foregoing issues, to determine which of the applications should be granted.

12. It is further ordered, That MLPTV shall publish local public notice of its application and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this Order is published in the **Federal Register**.

13. It is further ordered, That MLPTV shall file a properly certified copy of its articles of incorporation and by-laws with the presiding Administrative Law Judge within 40 days after this Order is published in the **Federal Register**.

14. It is further ordered, That MLPTV shall amend its application to comply with the Commission's noncommercial television ascertainment procedures and shall file such amendment with the presiding Administrative Law Judge within 60 days after this Order is published in the **Federal Register**, or within such time as the presiding judge directs.

15. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly) within the time and manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

17. It is further ordered, That the Secretary of the Commission shall mail to the parties herein, a copy of this Memorandum Opinion and Order by Certified Mail, Return Receipt Requested.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-27953 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1247]

Petitions for Reconsideration of Actions in Rule Making Proceedings

September 4, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 C.F.R. § 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Request to require the broadcasting of public service announcements regarding the existence and available services of the Consumer Assistance Office. (RM-3632)

Rule Section: 73.

Filed By: Nolan A. Bowie, Attorney for Citizens Communications Center on 8-25-80.

Subject: Establishment of Policies and Procedures for Consideration of Applications to Provide Specialized Common Carrier Services in the Domestic Public Point-to-Point Microwave Radio Service and Proposed Amendments to Parts 21, 43 and 61 of the Commission's Rules. (Docket No. 18920)

Filed By: Victor J. Toth and Mary F. Dominiak, Attorneys for The Rolm Corporation on 8-15-80.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-27952 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-M

[FCC 80-501]

Emergency Broadcast System; During the Week of September 15, 1980

September 3, 1980.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of September 15, 1980. Only ABC, MBS, NPR, AP Radio, CBS, IMN NBC, and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuity Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about 1 month after the test.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission August 28, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 80-27951 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services

The meeting of Special Committee 75, "MPS—Automatic Coordinate Conversion Systems," previously announced for 9:00 a.m., September 19 (45 FR 56189, August 22, 1980) has been rescheduled for 9:00 a.m. on Tuesday, September 30. The site and agenda are not changed. For questions concerning this meeting, contact the Executive Secretary, RTCM, at (202) 632-6490.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-27950 Filed 9-10-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Allied Bancshares, Inc.; Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of First Bank of Edna, Edna, Texas. The factors that are considerd in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27987 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Allied Bancshares, Inc.; Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Security National Bank, Houston, Texas. The factors that are considerd in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27989 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Antioch Holding Co.; Formation of Bank Holding Company

Antioch Holding Company, Antioch, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Antioch, Antioch, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27988 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Chase Manhattan Corp.; Proposed Issuance and Sale of Travelers Checks

The Chase Manhattan Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage *de novo* in the issuance and sale of travelers checks.

These activites would be performed from offices of financial and non-financial selling agents, and the geographic area to be served is worldwide. The activity of issuing traveler's checks has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies but the Board has approved the activity by order. The activity of selling travelers checks has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors of at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 3, 1980.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27986 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Duroc Investment Co.; Proposed Retention of Commercial Finance Activities

Duroc Investment Company, Table Rock, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Y Regulation (12 CFR § 225.4(b)(2), for permission to retain its commercial finance activities.

Applicant states that it would continue to engage in the activity of purchasing participations in commercial loans made by affiliated banks. These activities would be performed from Applicant's offices in Table Rock, Nebraska, and the geographic area to be served is the area surrounding Table Rock, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 6, 1980.

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Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27991 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

First City Bancorp. Inc.; Formation of Bank Holding Company

First City Bancorp. Inc., Marietta, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Cobb County, Marietta, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27997 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

First Keyes Bancshares, Inc.; Formation of Bank Holding Company

First Keyes Bancshares, Inc., Keyes, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First State Bank, Keyes, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than Octoberr 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27996 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares of Louisiana, Inc.; Formation of Bank Holding Company

First National Bancshares of Louisiana, Inc., Alexandria, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90.34 per cent of the voting shares of Security First National Bank, Alexandira, Louisiana, thus increassing its interest in the bank's voting shared to 100 per cent. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27985 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Gwinnett Holding Co.; Formation of Bank Holding Company

Gwinnett Holding Company, Snellville, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Gwinnett County Bank, Snellville, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27995 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Lumbermans Mutual Casualty Co. and Kemper Corp.; Nonbanking Activities

Lumbermans Mutual Casualty Company and its subsidiary, Kemper Corporation, both of Long Grove, Illinois, has applied, pursuant to Section 4(d) of the Bank Holding Company Act (12 U.S.C. 1843(d)), for an exemption from the provisions of the Act limiting the nonbanking activities of a bank holding company. Applicant controls Bank of Chicago, Chicago, Illinois.

Under Section 4(d), the exemption may be granted "(1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forceds ales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desired to further the holding company's other interests."

Interested persons may express their views on this matter. The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any request for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 3, 1980.

Board of Governors of the Federal Reserve system, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27992 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Marsh Investments, N.V., et al.; Acquisition of Bank

Marsh Investments, N.V., Curacao, Netherlands Antilles; Marsh Investments, B.V., Rotterdam, The Netherlands; and M.F.G. Investments, Inc., Hialeah, Florida, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 31 percent or more of the voting shares of Deerfield Beach State Bank, Deerfield Beach, Florida. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27990 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Western Bancshares of Truth or Consequences, Inc.; Formation of Bank Holding Company

Western Bancshares of Truth or Consequences, Inc., Truth or Consequences, New Mexico, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Western Bank, Truth or Consequences, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27994 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

Wyoming Bancorporation; Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98 per cent or more of the voting shares of First Wyoming Bank-Wright, Wright, Wyoming, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27993 Filed 9-10-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on September 5, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 29, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of revisions to 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities, to: (1) require applicant/licensee to submit emergency plans, as well as State and local government response plans to NRC, (2) require that emergency planning considerations be extended to "Emergency Planning Zones" (EPZs) as identified in NUREG-0396, and (3) upgrade 10 CFR 50, Appendix E. The Commission's interest in emergency planning is focused primarily on situations that may cause or may threaten to cause radiological risks affecting the health and safety of workers or the public. The NRC and the public have recognized the increasing importance of emergency planning. Emergency plans should be directed toward mitigating the consequences of the emergencies and should provide reasonable assurance that appropriate measures can and will be taken to protect the public health and safety in the event of an emergency. Although it is not possible to develop a completely detailed plan encompassing every conceivable type of emergency, advance planning can create a high order of preparedness (including provisions of necessary equipment, supplies, and services) and ensure an orderly and timely decisionmaking process at times of stress. The specific sections that are amended are as follows: paragraph (g) of section 50.33; a new section 50.47;

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new paragraphs (q), (r), (s), (t) and (u) of section 50.54; and Appendix E is amended. The NRC estimates that approximately 200 licensees are subject to these regulations and that reporting burden will average 4,160 hours per licensee.

The NRC requests clearance for the application and reporting requirements contained in new section 70.32(i) of 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The Commission is amending this part of its regulations to require certain Special Nuclear Material licensees (those licensees engaged in fuel processing and fabrication, scrap recovery or conversion of uranium hexafluroide) to maintain their emergency plans up to date. Section 70.32(i) states that licensees required to submit emergency plans in accordance with section 70.22(i) shall follow and maintain in effect, an emergency plan approved by the Commission. Licensees may make changes to the approved plan without Commission approval only if such changes do not decrease the effectiveness of the plan and the plan as changed continues to meet the requirements of Appendix E, Section IV, of 10 CFR Part 50. Licensees are required to submit a report to the NRC which describes each change made to the plan within six months after the change is made. Proposed changes that would decrease the effectiveness of the approved emergency plan may not be implemented without application to and approval by the Commission. The NRC estimates the number of licensees subject to these requirements are 30 and that annually approximately 4 licensees will file reports involving insignificant changes to plans which will average 4 hours per report, and one licensee will file a report involving significant changes to the plan which will average 2,080 per report.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-28095 Filed 9-10-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[D-80-5]

Delegation of Authority to the Director of Central Intelligence

1. *Purpose.* This delegation authorizes the Director of Central Intelligence to lease office space for the domestic field offices of the Central Intelligence Agency.

2. *Effective date.* This delegation is effective immediately.

3. *Expiration date.* This delegation shall remain in effect until revoked.

4. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is hereby delegated to the Director of Central Intelligence to perform all functions in connection with the leasing of office space, up to 5,000 square feet per field office, to meet the requirements of the Central Intelligence Agency domestic field offices.

b. This delegation shall extend to leasing space under authority in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)).

c. The Director of Central Intelligence may redelegate this authority to any official or employee of the Central Intelligence Agency.

d. This authority shall be exercised in accordance with the applicable limitations and requirements of the above-cited act; section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended; other applicable statutes; and regulations, policies, procedures, and controls prescribed by the General Services Administration.

Dated: August 29, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-27876 Filed 9-10-80; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Services Administration

Community Health Center and Migrant Health Center Projects in Certain Areas in Idaho; Announcement of Availability of Grants

The Health Services Administration announces that the Regional Office, Region X, Seattle, Washington, will accept applications from public and nonprofit private entities for project grants in fiscal year 1981 to support the development and operation of jointly funded community health center and migrant health center projects in the Caldwell, Payette, Burley, Twin Falls, and Blackfoot, Idaho areas. An application may be for any one or combination of these sites. The Region intends, where feasible and appropriate, to integrate the grant resources of the Community Health Centers program (authorized by section 330 of the Public Health Service Act), the Migrant Health Centers program (authorized by section 329 of the PHS Act), and the health manpower resources of the National Health Service Corps (authorized by sections 331–338 of the Act) to support these projects. The approximate amounts of the grants for these projects in fiscal year 1981 are expected to be:

Caldwell—$250,000
Payette—$250,000
Burley—$250,000
Twin Falls—$250,000
Blackfoot—$200,000

Program descriptions appear at 13.224, 13.246, and 13.258 in the *Catalogue of Federal Domestic Assistance.*

Program guidance material, application forms, instructions, consultation and technical assistance regarding development of an application may be requested from: Ms. Berykl Cochran, Regional Program Consultant for Community Health Centers, Department of Health and Human Services, Public Health Service, Region X, 1321 Second Avenue M/S 835, Seattle, Washington 98101, Telephone: (206) 442-0513.

Applications must be received in the Regional Office postmarked by November 1, 1980, to be considered for funding, and will be subject to competitive, objective review, taking into account the criteria set forth in the community health services regulations at 42 CFR 51c.204, 51c.305, 56.204, and 56.305. Applications must be submitted to the appropriate Health Systems Agency for review according to the instructions provided by the Regional Office.

Dated: August 28, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80-27880 Filed 9-10-80; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-80-615]

Designation of General Deputy Assistant Secretary for Policy Development and Research

David F. Garrison is hereby designated General Deputy Assistant Secretary for Policy Development and Research and is authorized to exercise all the authority vested in the Assistant Secretary for Policy Development and Research.

Effective date: This designation shall be effective immediately.

Moon Landrieu,

Secretary of Housing and Urban Development.

[FR Doc. 80-27973 Filed 9-10-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-80-1020]

Privacy Act of 1974; Deletion of Systems of Records.

AGENCY: Department of Housing and Urban Development.

ACTION: Deletion of systems of records.

SUMMARY: Notice is given that seven Privacy Act Systems of records are deleted.

EFFECTIVE DATE: September 11, 1980.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On December 13, 1979, the Department published in the **Federal Register** (44 FR 72288-72308) an annual notice of the Privacy Act systems of records it maintains. The seven record systems being deleted were described in that notice. The systems are HUD/DEPT-59, Disaster Assistance Personnel Reserve Files; HUD/FIA-1, Federal Crime Insurance; HUD/FIA-2, The National Insurance Application and Related Documents Files; HUD/FDAA-1, Disaster Recovery Assistance Files; HUD-H-2, HUD Temporary Housing File; HUD/DEPT-35, Personnel Medical Records; and HUD/H-4, Mortgage Activities Review System. This notice deletes the systems of records for the following reasons: HUD/DEPT-59, HUD/FIA-1, HUD/FIA-2, HUD/FDAA-1, and HUD/H-2 have been transferred to the Federal Emergency Management Agency. HUD/DEPT-35 has been subsumed by OPM/GOVT-1, General Personnel Records, published by the Office of Personnel Management. HUD/H-4 is deleted because the records are organized by firms applying to become HUD-approved mortgages, and information is not retrieved by individual name or identifier, but rather by the firm identifier.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 3, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-28062 Filed 9-10-80, 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-80-1021]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: The system shall become effective without further notice October 11, 1980, unless comments are received on or berfore that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy, Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The system is Grievance Records (HUD/DEPT-66). The system will contain records of grievances filed by HUD employees. This system was previously published by the Office of Personnel Management as Grievance Records (OPM/GOVT-2). The Office of Personnel Management has indicated that it plans to cancel OPM/GOVT-2. Therefore HUD is publishing HUD/DEPT-66 to ensure coverage for records maintained on employee grievances. This notice duplicates information in the Office of Personnel Management notice, except for making the notice specific to the Department of Housing and Urban Development. Therefore, no report on a new system of records has been submitted. Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979) and supplemented at 45 FR 6479 (January 28, 1980).

HUD/DEPT-66

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete list of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former HUD employees who have submitted grievances in accordance with part 771 of OPM regulations (5 CFR 771), HUD regulations, or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that HUD may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218, EO 10987, 3 CFR 1959-1963 Comp., p. 519.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

c. To disclose information to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. By the agency maintaining the records or the OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Employee Relations and Equal Opportunity Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accorance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed an individual may request access to the official copy of the grievance file.

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding. The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided: a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 3, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-28063 Filed 9-10-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on Management of River Flows To Mitigate Loss of Anadromous Fishery of Trinity River, Calif.; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a draft Environmental Impact Statement on the management of flow releases to the Trinity River to protect and restore declining fishery resources is available for public review and that a public meeting has been scheduled to receive comments. Comments and suggestions are requested.

The U.S. Department of the Interior proposes to increase flows on the Trinity River in northern California for the primary purpose of protecting and restoring chinook salmon and steelhead trout populations. Increasing flows for fishery conservation purposes would reduce economic benefits associated with agricultural irrigation and hydroelectric power generation; increase economic benefits associated with commercial, sport and Indian harvest of fish; enhance water quality on the Trinity; reduce the availability of water for meeting other needs of the Central Valley of California; and enhance water-dependent recreational opportunities on the Trinity.

DATES: Public Meeting beginning 9 a.m., September 23, 1980. Written comments are requested by October 17, 1980.

ADDRESSES: Oral comments should be presented at the Public Meeting: Resources Agency, Auditorium, Main Floor, 1416 Ninth Street, Sacramento, California.

Written comments should be addressed to: Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Jody Hoffman, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2727, Sacramento, California 95825, (916) 484-4731.

Copies of the EIS have been distributed to all participants in the scoping process, those who have already requested copies, identified agencies and organizations representing interested user groups, and central libraries within the following counties: Fresno, Humboldt, Santa Clara, Shasta, Sacramento, and Trinity. Anyone requiring a copy of the EIS for review should immediately contact the above individual.

SUPPLEMENTAL INFORMATION: The U.S. Department of the Interior proposes to increase streamflows on the Trinity River in Northern California for the purpose of protecting and restoring chinook salmon and steelhead trout populations. Three agencies within the Interior Department are involved in the proposal—the U.S. Fish and Wildlife Service (FWS), the U.S. Water and Power Resources Service (WPRS), and the U.S. Bureau of Indian Affairs (BIA). The Secretary of the Interior has designated FWS as the lead agency because the proposal directly addresses problems associated with declining populations of anadromous salmonid resources. Because the proposal would also impact operation of a Federal water resource project and Indian utilization of the fishery resource, both WPRS and BIA have been designated as cooperating agencies in the preparation of the EIS.

Pre-project (and general restoration goals) versus post-project (present) runs of adult chinook salmon and steelhead trout into the Trinity River above the North Fork are estimated as follows:

	Preproject (goal)	Postproject (present)
Chinook salmon	50,000	11,000
Steelhead trout	24,000	10,000

The Secretary of the Interior has authority under the authorizing legislation for the Trinity River Division (69 Stat. 719) to increase flow releases from Lewiston Dam. Under Section 2 of the Trinity River Act (Pub. L. 84–386) the Secretary is "* * * authorized and directed to adopt appropriate measures to insure the preservation and propogation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below the diversion point at not less than 150 feet per second for the months of July through November * * *"

Eight flow release alternatives are presented in the EIS. They span a range of flows varying from a low of 120,500 acre-feet per year (the minimum release level established by prior agreement between WPRS and the California Department of Fish and Game) to a high of 340,000 acre-feet per year. An intermediate level of 215,000 acre-feet reflects the recommendations contained in a draft proposed fish and wildlife management program for the Trinity Basin, prepared by a private consultant. A second intermediate level alternative of 287,000 acre-feet represents the FWS minimum release alternative to maintain and prevent further degradation of existing habitat.

Alt. 1—120,500 acre-feet annual releases in all years (no action alternative)

Alt. 2—215,000 acre-feet annual releases in all years

Alt. 3a—287,000 acre-feet annual releases in all years

Alt. 3b—287,000 acre-feet annual releases in normal water years with reduction to 12,500 acre-feet in dry and critically dry years

Alt. 4a—340,000 acre-feet release in all years

Alt. 4b—340,000 acre-feet release in normal water years with reduction to 120,500 acre-feet in dry and critically dry years

Alt. 4c—340,000 acre-feet annual release in normal years; 220,00 acre-feet dry years; 120,500 acre-feet critically dry years

Alt. 4d—340,000 acre-feet annual release in all years until "interim water" is exhausted; thereafter, same release as Alternative 4c

All alternatives, with the exception of Alternative 1, would be accompanied by An intensive streambed management program that could include sediment removal, erosion control, provisions of instream cover and removal of encroaching riparian vegetation. Increased flows combined with an intensive management program, would improve and maintain fish habitat over existing conditions which is expected to lead to restoration of fish populations.

The economic consequences of increasing flow releases to the Trinity River are discussed in terms of how such releases would impact the operations of the vast Central Valley Project (CVP), a major WPRS water resource development project which transports water from Northern California to the Sacramento Valley and to water deficient areas in the San Joaquin Valley and Tulare Lake Basin to the south for agricultural production.

The CVP also contracts for the sale of hydroelectric power to municipal utility districts in central and northern California and to the Pacific Gas and Electric Company. The ability of the CVP to meet existing and future power generation needs would be affected by a decision to increase flow releases down the Trinity River.

Another potential impact associated with increased flow releases on the Trinity would be reduced availability of water for other CVP needs, including possibly the need to meet water quality standards in the Sacramento/San Joaquin Delta. Water quality conditions in the Delta are directly related to the volume of freshwater Delta inflow, which helps to repel salt water intrusions. Meeting the more stringent standards under the new D–1485 standards established by the California State Water Resources Control Board, could require up to 800,000 acre-feet of CVP water annually. As upstream project uses and project exports increase, the ability of the CVP to maintain Delta water quality is reduced.

Flow increases on the Trinity would be expected to result in a stimulative effect on recreational use. The river currently receives heavy use from recreationists and is considered a major recreational attraction in Northern California. In addition to sport fishing, the river also receives about 250,000 visitor days spent in swimming, picnicking, sightseeing, and camping activities. Water dependent uses such as canoeing and white water rafting are particularly popular during the summer months. Recreational uses are expected to increase in the future, assuming continued increases in disposable income and leisure time. The degree to which flow increases on the Trinity would further stimulate and enhance recreational uses in and along the river has not been quantified. Also unquantified are the spin-off economic benefits associated with increased recreational use. Generally, however, it is expected that with more water available during the high use summer months, water dependent uses in particular would see some expansion above and beyond normal increases in recreational use.

Of particular concern in this EIS is the relationship of the Indian fishery to proposed increases in streamflow releases. With sufficient flows and an intensive streambed and watershed rehabilitation program, indications are that fish runs on the Trinity River could be restored. Restoration of the Trinity fish runs would have significant economic effects on the Indian fishery. Generations of Hupa and Yurok Indians have resided on the Klamath and Trinity Rivers below the present Lewiston Dam site. They have depended upon the salmon and steelhead fisheries for subsistence, ceremonial and economic needs. The fisheries have historically provided the mainstay of the Indian Economy in the area. The decline of the fisheries preempted opportunities to achieve status and wealth; and greatly reduced opportunities for employment and dollar revenue.

Dated: September 8, 1980.

Michael J. Spear,

Acting Director, U.S. Fish and Wildlife.

[FR Doc. 80-28101 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-55-M

National Fish and Wildlife Laboratory, Washington, D.C.; Issuance of Permit for Marine Mammals

On July 3, 1980 a notice was published in the **Federal Register** (45 FR No. 80-20489), that an application had been filed with the Fish and Wildlife Service by the National Fish and Wildlife Laboratory, Washington, D.C. for a permit to take 35 sea otters (*Enhydra lutris*) per year for the purpose of marking and release for future observation.

Notice is hereby given that on August 25, 1980, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-6669), to the National Fish and Wildlife Laboratory subject to certain conditions set forth therein.

The permit is available for public inspection during normal busines hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

Dated: September 4, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 80-27872 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Woodland Park Zoological Garden, 5500 Phinney Ave. N., Seattle, Washington 98103.

The applicant requests a permit to export one captive-bred male snow leopard (*Panthera uncia*) to the Jersey Wildlife Preservation Trust in the British Isles and to import one captive-bred male snow leopard from Zoo Zurich in Switzerland for the purpose of enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6949. Interested persons may comment on this application on or before October 14, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: September 5, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-27873 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production Plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3383, Block 459, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 4, 1980.

E. A. Marsh,

Staff Assistant, for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-27878 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1069, Block 35, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 4, 1980.

E. A. Marsh

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-27879 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Canon City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Cannon City District Grazing

Advisory Board will be held on October 22, 1980.

The meeting will begin at 10:00 a.m. at the San Luis Resource Area Office of the Bureau of Land Management at 1921 State Avenue, Alamosa, Colorado 81101.

The agenda for the meeting will include: (1) expenditure of range betterment funds for proposed range improvements; (2) a review of Allotment Management Plan implementation in the San Luis Valley; (3) Review of Allotment Management Plans proposed in the Royal Gorge Resource Area and; (4) reports on old business.

The meeting is opened to the public. Interested persons may make oral statements to the board between 10:00 a.m. and 12:00 noon on October 22, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212 or the Area Manager, San Luis Resource Area, Bureau of Land Management, 1921 State Avenue, Alamosa, Colorado 81101, by October 10, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office at Canon City and be available for public inspection and reproduction during regular business hours (Monday through Friday, 7:45 a.m.–4:30 p.m.) within 30 days following the meeting.

Melvin D. Clausen,

District Manager.

[FR Doc. 80-27892 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

Canon City District Advisory Council; Meeting

AGENCY: Bureau of Land Management

ACTION: Canon City District Advisory Council Meeting

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that a meeting of the Canon City District Advisory Council will be held on Thursday, October 9, 1980.

The meeting will begin at 10:00 a.m. in the conference room of the Ramada Inn, Hwy. 50 and Dozier, Canon City, Colorado.

The agenda of the meeting will include:

(1) Introductions

(2) Role of the Advisory Council

(3) Summary of FY 81 Annual Work Plan with emphasis on major priority programs

(4) Election of Officers

(5) Discussion of need for bylaws

(6) Establishment of next meeting date and possible agenda

(7) Instructions for filling out travel vouchers

(8) Questions and answers

The meeting will be open to the public and interested persons may make oral statements to the council during allotted time period beginning at 2:00 p.m. and lasting at least one-half hour. The District Manager may establish a time limit for oral statements depending on the number of people wishing to speak.

EFFECTIVE DATE: August 27, 1980.

ADDRESS: Anyone wishing to address the council must notify the District Manager, Bureau of Land Management, 3080 East Main, (P.O. Box 311), Canon City, Colorado 81212 by October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mel Calusen, District Manager, Canon City District, Canon City, Colorado 81212.

SUPPLEMENTARY INFORMATION: Summary minutes of the council meeting will be maintained in the Canon City BLM District Office and will be available for public inspections and reproduction (during regular business hours).

Mel Clausen,

District Manager.

August 25, 1980.

[FR Doc. 80-27947 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

[OR 19006]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes to continue an existing withdrawal of land for a public water reserve for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land was withdrawn by Executive Order 8009 dated November 18, 1938, which withdrew lands in several states for Public Water Reserve No. 160. The withdrawn land located in Oregon is included in this proposed continuation. The land is described as follows:

Willamette Meridian

T. 9 S., R. 23 E.,
Sec. 18, NE¼SW¼.

Containing 40 acres in Wheeler County, Oregon.

The land is currently segregated from location and entry under the public land laws generally, including location under the mining laws for non-metalliferous mining. The land is otherwise open to the mining and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before October 20, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before October 20, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 2, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-27893 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

V 45 5 SE 11 1 80 UMI

[OR 18994, OR 19000, OR 20234-B, 20242]

Oregon; Proposed Continuation of Withdrawls

The Bureau of Land Management, U.S. Department of the Interior, proposes to continue four existing withdrawals of land for public water reserves for a period of 20 years, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described lands are included in the proposed continuations:

Willamette Meridan

(OR 18994)

Public Water Reserve No. 118, Executive Order of February 13, 1929 (as to lands in Crook County).

T. 17 S., R. 20 E.,
Sec. 12, NE¼NE¼.
T. 17 S., R. 21 E.,
Sec. 6, Lot 7 and SE¼SW¼.
Aggregating 119.90 acres.

(OR 19000)

Public Water Reserve No. 142, Executive Order 5650 dated June 18, 1931, (in its entirety).

T. 19 S., R. 18 E.,
Sec. 18, Lot 7, 8, 9, and 10, SW¼NE¼.
Containing 200 acres.

(OR 20234-B)

Public Water Reserve No. 87, Executive Order of November 9, 1923 (as to lands in Crook County).

T. 16 S., R. 25 E.,
Sec. 1, NW¼SW¼;
Sec. 2, SW¼SW¼.
Containing 80 acres.

(OR 20242)

Public Water Reserve No. 110, Executive Order of September 20, 1927 (in its entirety).

T. 20 S., R. E.,
Sec. 13, SW¼SW¼.
Containing 40 acres.

The areas described aggregate 439.90 acres in Crook County, Oregon.

The lands are currently segregated from location and entry under the public land laws generally, including location under the mining laws for non-metalliferous minerals. The lands are otherwise open to the mining and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to undersigned on or before October 20, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuations may be filed with the undersigned officer on or before October 20, 1980.

The authorized officer of the Bueau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will review the withdrawal rejustifications to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for; and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and is so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with these proposed withdrawal continuations should be addressed to the undesigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 2, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-27894 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

Status of Wilderness Review of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Status of Wilderness Review of Public Lands.

SUMMARY: This notice summarizes the present status of the wilderness review of roadless public lands and islands required by the Federal Land Policy and Management Act, section 603(a). The purposes of this notice and calendar of events are to provide (1) one source of information summarizing current wilderness review activities, and (2) advance notice of upcoming decisions and public review periods.

DATE: All information in this notice is current through September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Gary G. Marsh, Bureau of Land Management, Division of Wilderness and Environmental Areas, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone: (202) 343-6064.

SUPPLEMENTARY INFORMATION: This calendar of events is the eighth of a series whose last notice appeared in the **Federal Register** August 7, 1980, (p. 52462). The calendar of events focuses only on the current status of all ongoing wilderness review activities. Those inventories whose final decisions are in effect, as well as studies of reports not yet initiated, are not reported in this notice. For detailed information regarding each specific activity, reference is made either to the appropriate notice previously appearing in the **Federal Register**, or to notices which are anticipated to be published in the upcoming 30 days. It must be noted that "anticipated" dates are projected only, and thus are subject to change.

The Bureau of Land Management wilderness review includes (1) an inventory of public lands to identify roadless lands and islands having wilderness characteristics; (2) a study of those areas found to have wilderness characteristics (wilderness study areas or "WSA's"); and (3) a report from the Secretary of the Interior to the President as to whether each WSA is more suitable for wilderness or other resource uses. The President will send his recommendations to Congress. Only Congress can actually designate an area as wilderness.

The inventory process has two stages: (1) an initial inventory designed to quickly identify and release from wilderness review those lands which clearly and obviously lack wilderness characteristics; and (2) an intensive inventory for those lands which may possess wilderness characteristics. The initial inventory process was completed in the contiguous Western States by October 1, 1979. In instances where important resource use decisions are pending, the inventory process may be accelerated in order to reach final decisions as quickly as possible. Such inventories are referred to as "special project inventories" or "accelerated intensive inventories."

The Federal Land Policy and Management Act (FLPMA) also requires early study of 55 natural and primitive areas which were formally identified by the Secretary of the Interior prior to November 1, 1975. They are referred to as "instant study areas" (ISA's). As of September 1, 1980, the reports are under administrative review.

The wilderness inventory deadline for the contiguous Western States has been extended to November 15, 1980, as announced in the **Federal Register** on June 17, 1980 (p. 41074).

The statistical summary table reflects both proposed and final intensive inventory decisions in the contiguous Western States, Minnesota, and a special Nonwilderness Assessment in Alaska related to the Alaska Natural Gas Transportation System route. All acreages are presented by State political boundaries and not BLM administrative boundaries. Some final decisions listed under the "inventory completed" column may be under protest or appeal. In those instances, decisions are not yet in effect and are subject to interim management requirements as required by the FLPMA, section 603(c). Any appeals of the State Directors' intensive inventory decisions will be subject to the procedures as outlined in Title 43 *Code of Federal Regulations*, Part 4. This regulation identifies the Interior Board of Land Appeals as the office to hear and evaluate such appeals.

Dated: September 8, 1980.

James W. Monroe,
Assistant Director.

Calendar of Events

Alaska

Accelerated Nonwilderness Assessment

—Final decision on the Nonwilderness Assessment of the Alaska natural Gas Transportation System Route as announced in the **Federal Register** June 2, 1980 (p. 37304) is in effect due to no appeals filed, as announced in **Federal Register** August 1, 1980 (p. 51289).

Arizona

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** May 30, 1980 (p. 36525); supplemental information published in **Federal Register** July 24, 1980 (p. 49364); 90-day public comment period ended August 28, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—Hualapai-Aquarius final decision anticipated October 1980. Affects units 2–37, 2–43, 2–46, 2–48, 2–50, 2–51 to 2–54, 2–56 to 2–63, 2–65, 2–67.

—State Director's decision on protests for the Overthrust Belt anticipated October 1980. Affects units: 1–105 to 1–109, 1–112 to 1–115, 1–119 to 1–124, 1–127 to 1–130, 1–134, 1–135.

—Safford District units contiguous to Coronado National Forest—final decision announced in **Federal Register** July 11, 1980 (p. 46913); initiating protest period which ended August 18, 1980, without protest. Affects units 4–66, 4–70, 4–72, 4–73, 4–79, 4–80, 4–81.

Study/Reporting

—Aravaipa Canyon Instant Study Area final environmental impact statement and suitability report complete; under administrative review.

—Paiute, Paria, and Vermillion Cliffs ISA's draft suitability report and draft environmental impact statement availability announced in **Federal Register** April 22, 1980 (p. 27022); public comment period will start 30 days after the U.S. Geological Survey and Bureau of Mines reports are made available to the public, as announced in **Federal Register** May 8, 1980 (p. 30547). Availability of reports anticipated October 1980.

California

Statewide Intensive Inventory

—State Director's announcement of decision on protests for 93 units announced in **Federal Register** August 28, 1980 (p. 57549); this initiated a 30-day appeal period ending Septemer 26, 1980, for only nine non-CDCA units: 010–064, 075; 020–211, 609, 1013; 030–402, 501, 504; 060–026.

—Proposed decision for Oregon-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 25, 1980.

—Proposed decision for Nevada-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 30, 1980.

Units Under Appeal to IBLA

—Notices of appeal announced in **Federal Register** January 7, 1980 (p. 1456). Affects CDCA intensive inventory units: 117, 131, 136, 137A, 143, 150, 156, 158, 172, 217, 221, 222, 227, 242, 263, 264, 265, 266, 271, 299, 305, 321, 325, 334, 343, 348, 376. Appeal on units 207, 251, and 251A dismissed by IBLA August 5, 1980, due to appellant's failure to file statement of reasons in accordance with 43 CFR 4.

—Notice of appeal announced in **Federal Register** January 7, 1980 (p. 1457). Affects non-CDCA initial inventory units: 010–031, 033, 047, 069, 087, 101; 020–701, 901, 1001; 030–300, 400, 500.

—Notice of appeal announced in **Federal Register** August 28, 1980 (p. 57549). Affects non-CDCA intensive inventory units 010–040, 060, 063, 065, 068; 050–131, 134, 135, 211.

Study/Reporting

—Proposed CDCA plan expected to be released September 30, 1980.

Colorado

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** February 1, 1980 (p. 7312); 90-day public comment period ended April 30, 1980; public comments being analyzed prior to final decision.

Units Under Appeal to IBLA

—Notice of appeal filed January 21, 1980. Affects initial inventory unit 070–031.

Study/Reporting

—Powerhorn ISA draft environmental impact statement and draft suitability report availability announced in **Federal Register** May 7, 1980 (p. 30141); public comment period ended July 1, 1980.

Eastern States

Statewide Intensive Inventory (Minnesota Only)

—Proposed decision on remaining 174 islands announced in **Federal Register** May 20, 1980 (p. 33730); 90-day public comment period ended August 18, 1980; public comments being analyzed prior to final decision.

Idaho

Statewide Initial Inventory

—State Director's proposed intensive inventory decision on unit 23–1 announced in **Federal Register** June 4, 1980 (p. 37738) initiating 90-day comment period, which ended September 2, 1980; public comments being anlyzed prior to final decision.

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** April 3, 1980 (p. 22195); 90-day public comment period ended July 3, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of decision on protests for Owyhee Planning Area anticipated October 1980. Affects units 16–26, 16–28, 16–36, 16–40, to 16–42, 16–44, 16–45, 16–47, 16–49 a, b, d, e, 16–52.

Study/Reporting

—Great Rift (Grassland Kipuka) ISA draft environmental impact statement availability announced in **Federal Register** March 5, 1980 (p. 14251); public comment period ended May 27, 1980; under administrative review.

V 45 SE 11 1 80 UMI

Units Under Appeal to IBLA

—Notice of appeal filed April 11, 1980, affecting stateline initial inventory units 16–48 a, b, and c, 16–53, 16–56a, 16–59, 16–70e, 17–19, 17–21, 17–26, 22–1.

—Two notices of appeal filed April 11, 1980, affecting Challis Planning Area intensive inventory units 46–11, 46–13, 46–14, 46–14a.

—Notice of appeal filed July 30, 1980, affecting initial inventory units 35–3, 35–4, 35–5.

Montana

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** March 28, 1980 (p. 20570); public comment period extended from June 30 to August 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—Bitter Creek (064–356) as affected by proposed Alaska Natural Gas Transportation System final decision announced in **Federal Register** April 9, 1980 (p. 24254); protest period ended May 9, 1980; protests received.

—State Director's Overthurst Belt decision on protests announced in **Federal Register** August 7, 1980 (p. 52465), initiating a 30-day appeal period. Affects units 074–151 a and b, 155; 075–102, 105 to 107, 110, 114, 115, 123, 133, 138; 076–001, 003, 006 to 008, 011, 015, 022, 025, 029, 033, 034, 059, 063, 069, 070, 079. Protest period extended until September 15, 1980, for three Overthrust Belt units adjusted as a result of new information received. Affects units 076–002, 026, 028.

Units Under Appeal to IBLA

—Notice of appeal filed June 11, 1980. Affects intensive inventory unit 076–026.

—Notice of appeal filed July 27, 1980. Affects accelerated intensive inventory units 075–123; 076–003, 011, 025.

Study/Reporting

—Humbug Spires and Bear Trap Canyon ISA's draft environmental impact statements and draft suitability reports availability announced in **Federal Register** April 18, 1980 (p. 26477) and April 30, 1980 (p. 28823); public comment period ended June 17, 1980.

Nevada

Statewise Intensive Inventory

—Proposed decision announced in **Federal Register** April 1, 1980 (p. 21356); 90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of Overthrust Belt decision on protests announced in **Federal Register** July 31, 1980 (p. 50942); appeals period ended August 31, 1980, no appeals received; protest decision in effect for units 0161, 0231, 0233, 0235, 0236, 0238, 0411, 0412, 0423, 0438, 04R–15.

New Mexico

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** March 28, 1980 (p. 20572); corrections announced in **Federal Register** May 2, 1980 (p. 29417); public comment period extended from June 30 to July 21, 1980, as announced in **Federal Register** June 27, 1980 (p. 43477); public comments being analyzed prior to final decision.

Oregon

Statewide Intensive Inventory (includes Washington)

—Proposed decision announced in **Federal Register** March 27, 1980 (p. 20167); 90-day public comment period ended June 25, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's decision on protests announced in **Federal Register** August 5, 1980 (p. 51925), initiating appeal period ending September 4, 1980. Affects units: 1–76, 1–77, 1–105; 2–1, 2–11, 2–23E, 2–26, 2–74E, 2–74N, 2–81L, 2–82H, 3–154, 5–14.

Units Under Appeal to IBLA

—Notice of appeal announced in **Federal Register** November 29, 1979 (p. 68526); affects initial inventory unit 11–6.

Utah

Statwide Intensive Inventory

—90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—Protests received as announced in **Federal Register** June 18, 1980 (p. 41223), on Devil's Garden and Link Flats ISA's.

Units Under Appeal to IBLA

—Notice of appeal filed January 24, 1980. Affects accelerated inventory units 050–233; 060–007, 011, 012.

—Notice of appeal announced in **Federal Register** July 17, 1980 (p. 47936). Affects accelerated intensive inventory unit 050–236.

Wyoming

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** April 4, 1980 (p. 23073); public comment period extended as announced in **Federal Register** on June 5, 1980 (p. 37894); supplemental information amending proposed intensive inventory decision unit (040–406) published in **Federal Register** August 14, 1980 (p. 54147); public comment period ended August 19, 1980; comments being analyzed prior to final decision.

Units Under Appeal to IBLA

—Three notices of appeal filed April 14, 1980. Affects accelerated intensive inventory units 040–110, 221, 222, 223.

BILLING CODE 4310–84–M

STATISTICAL SUMMARY TABLE

BLM Wilderness Inventory Results (Shown in Acres) as of September 1, 1980

Contiguous Western States	Public lands subject to wilderness inventory	Proposed Intensive Inventory Decisions			Inventory Completed Final Decisions Announced	
			Announced Subject to Public Review			
		Not yet announced	Lacking wilderness characteristics	With wilderness characteristics	Lacking wilderness characteristics	Wilderness study areas
AZ	12,596,000	0	2,705,000	2,164,000	7,210,000	517,000
CA	16,585,000	0	120,000	9,000	10,118,000	6,338,000
CO	7,996,000	0	491,000	765,000	6,690,000	50,000
ID	11,949,000	252,000	1,090,000	804,000	8,983,000	820,000
MT	8,140,000	0	1,357,000	475,000	6,000,000	308,000
NV	49,118,000	17,000	11,319,000	3,079,000	33,077,000	1,626,000
NM	12,847,000	0	1,327,000	886,000	10,486,000	148,000
ND	68,000	0	0	0	68,000	0
OK	7,000	0	0	0	7,000	0
OR	13,965,000*	0	4,192,000	1,750,000	7,584,000	439,000
SD	277,000	0	5,000	0	272,000	0
UT	22,076,000	0	3,190,000	1,752,000	16,707,000	427,000
WA	310,000	0	14,000	15	296,000	0
WY	17,793,000	0	562,000	497,000	16,678,000	56,000
Subtotal	173,727,000	269,000	26,372,000	12,181,000	124,176,000	10,729,000
Eastern States						
MN	45,000**	0	701	0	44,299	0

Alaska -- Nonwilderness Assessment of the Alaska Natural Gas Transportation System route reviewed 2,482,000 acres of public land, of which 1,474,000 acres were removed from wilderness review and interim management policy (IMP) constraints and 1,008,000 acres are subject to the IMP and further inventory at a later date. Final decision in Federal Register, June 2, 1980 (p. 37304).

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* Does not include 1,759,200 acres of Oregon and California Grant Lands which are exempt from wilderness review.

** Includes an estimated 2,000 acres of unsurveyed islands.

[FR Doc. 80-27912 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-C

V 45 5 SE 11 80 UMI

Worland District Multiple Use Advisory Council; Meeting

September 4, 1980.

Notice is hereby given, in accordance with Public Law 94–579 and 43 CFR Part 1780, that a meeting of the Worland District Multiple Use Advisory Council will be held on Wednesday, November 12, 1980, at 9:00 A.M., at the Bureau of Land Management Office Annex, 1701 Robertson Avenue, Worland, Wyoming 82401.

Agenda for the meeting will include:

1. Briefings and discussions of Worland District programs to include, but not limited to, the Grass Creek Planning Program, Wilderness Program, Access, and Environmental Assessments (EA's).
2. Presentation on the "Sagebrush Rebellion."
3. Establishment of committees.
4. Agenda and arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:00 P.M., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address on or before Friday, November 7, 1980. Written statements must be received by close of business, Monday, November 10, 1980, (Tuesday, November 11, is a holiday). Depending on the number of persons who wish to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

John A. Kwiatkowski,

District Manager.

[FR Doc. 80–27891 Filed 9–10–80; 8:45 am]

BILLING CODE 4310–84–M

[AR-034684]

Arizona: Order Providing for Opening of Public Lands and National Forest Lands

1. By order dated May 6, 1976, the Federal Power Commission (now the Federal Energy Regulatory Commission) vacated the land withdrawal in its entirety for Power Project No. 150 of May 16, 1921, as supplemented August 23, 1921, as to the following described lands:

Gila and Salt River Meridian, Arizona

All portions of the following tracts lying within 20 feet of the center line of the transmission line location shown on maps designated as Exhibit J (1), sheets 1 to 8, inclusive, and entitled "Map of Location of Transmission Line of the Pacific Gas and Electric Company," and filed in the office of the Federal Power Commission on May 16, 1921:

T. 5 N., R. 2 E.,
  Sec. 35, SW¼NE¼, N½SE¼, SE¼SE¼.
T. 6 N., R. 2 E.,
  Sec. 3 Lots 1, 2, S½NE¼, W½SE¼;
  Sec. 10, W½NE¼, SE¼NW¼, E½SW¼;
  Sec. 15, N½NW¼, SW¼NW¼, W½SW¼;
  Sec. 22, NW¼NW¼, W½SW¼, SE¼SW¼;
  Sec. 27, E½E½;
  Sec. 34, Lots 3, 4, E½NW¼, NE¼SW¼, NW¼SE¼.
T. 7 N., R. 2 E.,
  Sec. 3, Lots 2, 3, S½NE¼, NE¼SE¼;
  Sec. 11, E½W½;
  Sec. 14, W½NE¼, E½NW¼, W½SE¼;
  Sec. 23, Lot 2, SW¼NE¼, SE¼SW¼, W½SE¼;
  Sec. 26, Lots 4, 5, 6, Lots 11 and 12 now described as Lots 35 and 36, Lots 22, 23, 25, 26, E½NW¼ now described as Lots 55, 56 and 58, NE¼NW¼, N½NE¼, SE¼NW¼, S½SW¼SE¼NW¼;
  Sec. 34, Lots 8, 9, 10, Lots 15 and 16 now described as Lots 59 and 60, Lot 18 now described as part of Lots 61 and 62, Lots 19, 30, 31, 35, 36, 53, and 54.
T. 8 N., R. 2 E.,
  Sec. 10, E½NW¼, N½SW¼, SW¼SW¼;
  Sec. 15, W½;
  Sec. 22, NW¼, NW¼SW¼;
  Sec. 27, SW¼NW¼;
  Sec. 34, E½NW¼, SW¼.
T. 9 N., R. 2 E.,
  Sec. 25, NE¼SE¼.
T. 9 N. R. 3 E.,
  Sec. 20, SW¼NE¼, NW¼SE¼;
  Sec. 30, Lots 2, 3, N½NE¼, E½NW¼, and that portion of the township which is unsurveyed.
T. 9½ N., R. 3 E.,
  Sec. 25, E½NE¼, NE¼SE¼, S½SE¼;
  Sec. 36, W½NE¼, E½SW¼, NW¼SE¼.
T. 9½ N., R. 4 E.,
  Sec. 19, Lots 1, 2, 5, 6;
  Sec. 30, Lot 1.
T. 10 N., R. 4 E.,
  Sec. 5, Lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼;
  Sec. 8, E½W½, SW¼SW¼;
  Sec. 17, N½NW¼, SW¼NW¼;
  Sec. 18, E½NE¼, SW¼SE¼, E½SE¼;
  Sec. 19, NE¼, E½SW¼, W½SE¼;
  Sec. 30, Lots 2, 3, 4, E½NW¼, NE¼SW¼, SE¼SW¼, SW¼SE¼;
  Sec. 31, Lots 1, 2.
T. 11 N., R. 4 E.,
  Sec. 5, SW¼NE¼, NW¼SE¼, S½SE¼;
  Sec. 8, NE¼NE¼;
  Sec. 9, W½NW¼, N½SW¼, SE¼SW¼;
  Sec. 16, E½W½;
  Sec. 21, E½NW¼, NE¼SW¼, S½SW¼, and that portion of the township which is unsurveyed.

The areas described contain approximately 200 acres in Maricopa and Yavapai Counties.

Some of the lands are public lands and some are patented with a mineral reservation to the United States under the jurisdiction of Bureau of Land Management; the remainder is National Forest land under the jurisdiction of the Department of Agriculture. The status of any tract of land may be ascertained by inquiry to the Bureau of Land Management, 2400 Valley Bank Center, 201 North Central, Phoenix, Arizona 85073; (602) 261–3706.

2. The State of Arizona has waived its preference right of application for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered that at 10:00 a.m. on November 1, 1980, the public lands and those lands having mineral interests reserved to the United States, under the jurisdiction of the Bureau of Land Management, are hereby opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10:00 a.m. on November 1, 1980 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10:00 a.m. November 1, 1980, the National Forest lands shall be open to such forms of disposition as may by law be made of National Forest lands, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

5. The lands described in paragraph 1 have been and remain open to applications and offers under the mineral leasing laws.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

September 2, 1980.

[FR Doc. 80–27949 Filed 9–10–80; 8:45 am]

BILLING CODE 4310–84–M

Miles City District Advisory Council Meeting

Notice is hereby given, in accordance with Public Law 94–579 and 43 CFR Part 1780, that a meeting of the Miles City District Advisory Council will be held on Thursday, October 16, 1980, at 10:00 a.m. in the Bureau of Land Management District Office, West Highway 10–12, Miles City, Montana.

Agenda for the meeting will include:

1. Presentation and background of District projects for Council consideration.
2. Selection of projects by the Council.

3. Discussion of priority projects and Council consideration.
4. Council recommendations.
5. Arrangements for the next meeting.

This meeting is open to the public. The public may make oral statements before the Council or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Miles City District Office, BLM, P.O. Box 940. Miles City, Montana 59301, by October 10, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 80-28067 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

[Coal Exploration License Application M 48587]

Montana; Invitation

September 3, 1980.

Members of the public are hereby invited to participate with Tenneco Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Wibaux County, Montana,

T. 13 N., R. 60 E., P.M.M.,
  Sec. 2, Lots, 1, 2, S½NE¼;
  Sec. 10, NW¼;
  Sec. 12, N½, SW¼;
  Sec. 14, NE¼, SW¼;
  Sec. 18, Lots 1, 2, E½NW¼;
  Sec. 24, NW¼.
T. 14 N., R. 60 E., P.M.M.,
  Sec. 2, SE¼;
  Sec. 10, N½NE¼, SE¼NE¼, NW¼SW¼;
  Sec. 12, SW¼;
  Sec. 14, SW¼;
  Sec. 22, E½;
  Sec. 24, NW¼SW¼, SE¼;
  Sec. 26, NW¼, SE¼;
  Sec. 28, S½;
  Sec. 34, SW¼.
T. 15 N., R. 60 E., P.M.M.,
  Sec. 26, SW¼;
  Sec. 34, NW¼SW¼, S½SW¼.
T. 13 N., R. 61 E., P.M.M.,
  Sec. 6, Lots 3, 4;
  Sec. 18, Lots 2, 3.
T. 14 N., R. 61 E., P.M.M.,
  Sec. 30, Lots 1, 2.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Tenneco Coal Company, P.O. Box 2511, Houston, Texas 77001. Such written notice must refer to serial number M 48587 and be received no later than 30 calendar days after publication of this notice in the **Federal Register** or 10 calendar days after the last publication in this newspaper, whichever is later. This Notice will be published for two consecutive weeks. The proposed exploration plan is fully described and will be conducted pursuant to an exploration plan to be approved by U.S. Geological Survey and the Bureau of Land Management. Copies of the exploration plan as submitted by Tenneco Coal Company may be examined during normal business hours at the Bureau of Land Management State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-28081 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

[DES 80-56]

Proposed 10-Year Timber Management, Sustained Yield Unit 13 (SYU-13); Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Ukiah District, Bureau of Land Management, Department of the Interior has prepared a draft environmental impact statement for a proposed 10-year timber management program on 48,600 acres of public land.

Most of the public lands in SYU-13 lie in a scattered ownership configuration intermixed with privately owned lands in Mendocino, Humboldt, Sonoma, and Trinity Counties, California. The statement analysis excludes the King Range Conservation Area Sustained Yield Unit 8 (SYU-8).

Six timber management alternatives including the proposed action are presented for consideration and are analyzed in terms of their potential environmental effects.

The proposed action alternative assessed in the DEIS calls for a 10-year allowable cut of 97 million board feet (MMBF) (Scribner log rule). The five other alternatives assessed in this analyis have differing harvest levels and degrees of management intensity. They are:

1. No Action—essentially a continuance of past harvest levels and intensity of management with a 10-year harvest level of 78 MMBF.
2. Limited Investment—timber production on a natural stand basis, limiting investments to those associated with harvest and artificial reforestation. The 10-year allowable cut would be 65 MMBF.
3. Accelerated Harvest No. 1—accelerated rate of harvest of 105 MMBF for the 10-year period.
4. Accelerated Harvest No. 2—accelerated harvest for the 10-year period of 146 MMBF.
5. Managed Old-Growth—an intensive timber management alternative similar to the proposal, but calling for a unit-wide retention of 12 trees per acre over two rotations. The harvest level for this alternative would be 85 MMBF for the 10-year period.

Written comments on the draft are being solicited from public agencies and interest citizens. Comments should be addressed to the District Manager, Ukiah District Office, Bureau of Land Management, P.O. Box 940, Ukiah, California 95482. Comments should be received by November 25, 1980.

A limited number of copies of the DEIS are available upon request to the District Manager at the above address. Public reading copies will be available for review at the following locations: Bureau of Land Management, Office of Public Affairs, 18th and C Streets, N.W., Washington, D.C. 20240, Phone: (202) 343-4151; Bureau of Land Management, California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825; Bureau of Land Management, Ukiah District Office, 555 Leslie Street, Ukiah, California 95482.

Dated: September 8, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-28100 Filed 9-10-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Exparte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided September 3, 1980.

In our decision of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, 12, 19, and 26, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m. September 5, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioners Clapp and Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix—*Fuel Surcharge*

Base date and price per gallon (including tax)

January 1, 1979 .... 63.5¢

Date of current price measurement and price per gallon (including tax)

September 2, 1980 .... 113.9¢

	Transportation performed by—			
	Owner operator (1)	Other (2)	Bus carrier (3)	UPS (4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3D3.3	
Percent surcharge developed	13.4	2.3	5.0	[1] 2.1
Percent surcharge allowed	13.0	2.3	5.0	[2] 1.3

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80-27957 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 22F)]

Missouri Pacific Railroad Co.—Abandonment—Between Spaulding, Rio Grande City, and Hidalgo, Tex.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided July 10, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of 2 segments of a rail line known as the Mission Subdivision: (1) the Spaulding/Rio Grande segment; and (2) the Hidalgo segment. The Spaulding/Rio Grande segment extends from railroad milepost 56.5 near Spaulding, TX, to milepost 73.6 at Rio Grande City, TX, a distance of 17.1 miles located in Hidalgo and Starr Counties, TX. The Hidalgo segment extends from milepost 3.1 near Hidalgo, TX, to the end of the line at Hidalgo, a distance of 3.1 miles located in Hidalgo County, TX, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Missouri Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed and served no later than 15 days after publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railraod and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27955 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29455F]

Norfolk & Western Railway Co.—Purchase—Illinois Terminal Railroad Co.; Notice of Intent

Norfolk and Western Railway Company (NW) and Illinois Terminal Railroad Company (IT) hereby give notice that they will file with the Interstate Commerce Commission on or about December 1, 1980, a joint application under 49 U.S.C. 11343 seeking approval and authorization of the acquisition by NW of the equipment and principal assets of IT.

NW and IT also intend to file on or about December 1, 1980, an application directly related to the purchase application, seeking authorization under 49 U.S.C. 11301 to issue securities and assume obligations.

NW and IT intend to prepare a rail traffic diversion study for purposes of their purchase application. This study will be based upon traffic for the 1979 calendar year. This application will be filed under the requirements of 49 CFR Part 1111 relating to major transactions.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27956 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-96 (Sub-5)]

Passenger Broker "Tauck" Conditions

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission is adopting a policy to allow passenger brokers to collect commissions form motor carriers of passengers in all circumstances.

Further, the Commission is eliminating a requirement that tour patrons designate the broker as agent for the group, and that the transportation contract reflect this fact.

The Commission is adopting this change in policy because the former policy had ceased to serve a useful purpose.

DATE: This policy is effective September 11, 1980.

FOR FURTHER INFORMATION: Peter Metrinko, 202-275-7805 or Edward E. Guthrie, 202-275-7691.

SUPPLEMENTARY INFORMATION: The notice of proposed policy statement in this proceeding was published in the **Federal Register** of June 5, 1980, at 45 FR 37911.

Public comment was unanimous in favor of the proposal.

The reasons for the change in policy were fully stated in the previous notice, and it is not necessary to expand those reasons.

Accordingly, we adopt the policy statement as it appeared in the previous notice:

The Commission has in the past issued passenger broker decisions and licenses with admonitions or express conditions that the holder observe the *Tauck* conditions, referring to *Tauck Tours, Inc., Extension-New York, N.Y.*, 54 M.C.C. 291 (1952). Passenger brokers need no longer abide by those conditions, and they will not be imposed in the future. It is sufficient for a passenger broker employing a motor carrier with charter operations authority to be conducting a bona fide tour and to pay the carrier its full published charter fare. If the carrier expressly agrees, the broker may deduct a commission from the fare charged.

This proceeding is not a major Federal action significantly affecting the quality of the human environment or energy consumption.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

Decided: August 28, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham. Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27962 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-034]

Permanent Authority Decisions; Decision-Notice

Decided: August 28, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect adminstrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under Energey Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the

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Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before October 14, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before October 14, 1980, or the application shall stand denied.

By the Commission, Review Board Number 1. Members Carleton, Joyce, and Jones. Member Jones not participating.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Agatha L. Mergenovich,
Secretary.

MC 120477 (Sub-3F), filed June 10, 1980. Applicant: INTERNATIONAL TRANSPORT, INC., 432 C St., Boston, MA 02210. Representative: William J. Lippman, 50 South Steele St., Suite 330, Denver, CO 80209. Transporting *general commodities* (except classes A and B explosives), between points in commercial zone of New York, NY, restricted to traffic having a prior or subsequent movement by water.

[FR Doc. 80-27965 Filed 9-10-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminary and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before October 14, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 28, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams (member Williams not participating).

MC-F-14085F, CRST, INC.—Purchase (Portion)—WESTERN TRANSPORTATION COMPANY, filed July 17, 1979. Representative: Robert E. Konchar, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, IA 52406. The above application was granted by the Commission, Review Board Number 5, by decision dated March 28, 1980. In a supplemental decision dated June 24, 1980, Review Board Number 5 authorized the purchase of the following additional authority, which was intended to be transferred but was omitted from the initial publication of the authority involved in the application on August 29, 1970 at 44 FR 50680. To transport *general commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), in interstate or foreign commerce, over regular routes, (1) serving the Sears Roebuck and Co. retail Store at Washington, IA as an off-route point in connection with carrier's presently authorized regular-route operations between Chicago, IL and points in Iowa and (2) serving the facilities of Minnesota Mining and Manufacturing Company at or near Knoxville, IA as an off-route point in connection with carrier's otherwise authorized regular-route operations. Protests to the transfer of the above authority should be filed within 30 days of the date of publication.

MC–F–14352F, filed March 25, 1980. MERCHANTS HOME DELIVERY SERVICE, INC. (Merchants) (P.O. Box 5067, Oxnard, CA 93030)—Control through management—MERCHANTS HOME DELIVERY SERVICE OF TEXAS, INC. (Merchants of Texas) (2400 Latigo Avenue, Oxnard, CA, 93031). Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Merchants seeks authority to acquire control through management of Merchants of Texas. Robert L. Hays, the majority stockholder of Merchants, seeks authority to acquire control of Merchants of Texas through the transaction. Merchants of Texas presently holds only temporary authority from the Commission. However, it has been granted authority to operate as a motor common carrier in MC–145782 (Sub-Nos. 1F and 2F), and is presently awaiting the issuance of certificates. Also, under in MC–F–1435/F, filed concurrently with this application, Merchants of Texas, Inc., seeks authority to purchase a portion of the interstate operating rights of Merchants. Merchants is a motor common carrier pursuant to authority issued in MC–143503 and sub-numbers thereunder. (Hearing site: Oxnard, CA, or Los Angeles, CA.)

MC–F–14432, filed June 20, 1980. KENAN TRANSPORT COMPANY (Kenan) (P.O. Box 2729, Chapel Hill, NC 27514)—Purchase (Portion)—FLEET TRANSPORT COMPANY, INC. (Fleet), 934 44th Ave. North, Nashville, TN 37209. Representative: Francis W. McInerny, 100 16th St., N.W., Washington, D.C. 20026. Kenan seeks authority to purchase a portion of the interstate operating rights of Fleet. Frank H. Kenan, the majority stockholder of Kenan, also seeks authority to acquire control of said rights through the transaction. Kenan is purchasing that portion of Fleet's operating rights in MC–103051, and Sub-No. 149 thereunder, which authorizes the transportation, as a motor common carrier, over irregular routes, as follows: *liquefied petroleum gas,* (a) from the facilities of the Dixie Pipe Line Company near Griffin, GA, to points in Alabama on and east of a line beginning at the Tennessee-Alabama state line and extending along U.S. Hwy 31 to Birmingham, AL, then along U.S. Hwy 280 to the Alabama-Georgia state line, and to points in Hamilton County, TN, and (b) from the facilities of the Dixie Pipe Line Company near Opelika, AL, to points in Georgia; *propane and butane,* (a) from the facilities of Trans-Southern pipeline, at or near Anderson, SC, to points in Georgia on and east of a line beginning at the Georgia-North Carolina state line just north of Ivy Log, GA, and extending along U.S. Hwy 129 to Athens, GA, then along U.S. Hwy 78 to Thomson, GA, then along Georgia Hwy 17 to junction U.S. Hwy 1 near Wrens, GA, and then along U.S. Hwy 1 to the Georgia-Florida state line just south of Folkston, GA, and (b) from the facilities of Trans-Southern pipeline, at or near Jonesboro, GA, to points in Alabama on and east of a line beginning at the Alabama-Tennessee state line, near Elkmont Springs, TN, and extending along U.S. Hwy 31 to Birmingham, AL, then along U.S. Hwy 280 via Sylacauga and Opelika, AL, to the Alabama-Georgia state line, at Phenix City, AL, and to points in Hamilton County, TN; and *liquefied petroleum gases,* from the facilities of Dixie Pipeline Company, at or near Albany, and at or near Alma, GA, to points in Florida, Georgia, and Alabama (except to points in Barbour, Bullock, Coffee, Dale, Geneva, Henry, Houston, Lee, Macon, Pike and Russell Counties, AL). Kenan is authorized to operate as a common carrier in interstate and foreign commerce, over irreguar routes, pursuant to certificates issued in MC–124306 and subnumbers thereunder. Fleet will not retain authority duplicating that sought in the application.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–27958 Filed 9–10–80; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349.* Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed on or before October 27, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

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Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 29, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams. (Member Williams not participating).

MC–F–14464F, filed August 22, 1980. ASHCRAFT TRUCKING, INC. (Ashcraft) (125–127 East Franklin Street, Shelbyville, IN 46176)—purchase—LEE MOTOR LINES, INC. (Lee) (4319 S. Madison, Muncie, IN). Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. Ashcraft seeks authority to purchase the interstate operating rights of Lee. Glyndon Ashcraft, the sole stockholder of Ashcraft, did not join in the application to seek authority to acquire control of said rights through this transaction. Such request for joinder will be required as condition to this approval. Ashcraft is purchasing the interstate operating rights of Lee evidenced by certificate No. MC–109612 and (Sub-Nos. 2, 5, 7, 12, 13, 14, 20, 27, 29, 30, 31, 34, 35, 38, 39, 40, and 41), which authorize the transportation, as a motor common carrier of (A) Regular routes, (1) *roofing materials, building insulation, and* binder twine, from Chicago, IL, to Lafayette, IN, serving no intermediate points; from Chicago over U.S. Hwy 41 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Lafayette; and from Chicago over IL Hwy 1A to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 41, then to Lafayette, as specified above, (2) *hides, animal greases, and burlap, and cotton bags,* from Lafayette, IN, to Chicago, IL, serving no intermediate points; from Lafayette over the above-specified routes, to Chicago, (3) *petroleum products,* in containers, from Robinson, IL, to Lafayette, IN, serving the intermediate point of Greencastle, IN, and the off-route points of Bainbridge, Ladoga, Colfax, Wingate, and Russellville, IN, restricted to delivery only; from Robinson over IL Hwy 33 to junction IL Hwy 1, then over IL Hwy 1 to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction U.S. Hwy 231, and then over U.S. Hwy 231 to Lafayette, (4) *empty petroleum products containers,* from Lafayette, IN, to Robinson, IL serving the intermediate point of Greencastle, IN, and the off-route points of Bainbridge, Ladoga, Colfax, Wingate, and Russellville, IN, restricted to pick-up only, from Lafayette over the route specified immediately above to Robinson, (5) *petroleum products in containers, and hard green soap,* from Cincinnati, OH, to Frankfort, IN, serving no intermediate points; from Cincinnati over U.S. Hwy 52 to Lebanon, IN, then over IN Hwy 39 to Frankfort, and return over the same route, (B) Irregular routes, (1) *rostone building materials, and materials* used in its erection, from Lafayette, IN, to points in IL, (2) *rosite, rostone, and materials* used in the erection of rostone, from Lafayette, IN, to points in OH, and MI, (3) *metal track or strips,* used in the erection of rostone, from Harvey, IL, and Kalamazoo, MI, to Lafayette, IN, (4) *rosite products,* from Lafayette, IN, to Beaver and Pittsburgh, PA, (5) *rostone building material and articles and materials* used in its erection, from Lafayette, IN, to points in WI, (6) *used cardboard cartons,* and *cardboard separators,* from points in OH, and points in the southern peninsula of MI, to Lafayette, IN, (7) *lime,* in bags, from Ste. Genevieve, MO, to Lafayette, IN, (8) *coloring materials,* from St. Louis, MO, to Lafayette, IN, (9) *asbestos,* from Cincinnati, OH, to Lafayette, IN, (10) *vinegar,* in bulk, in tank vehicles, from Cincinnati, OH, Chicago, IL, and Benton Harbor, MI, to Terre Haute, IN, (11) *rostone products and materials* used in the application or erection of rostone products, from Lafayette, IN, to points in MO which are on the Mississippi River, points in KY which are on the Ohio River, and points in IA, (12) *milk, cream and liquid products,* in bulk in tank vehicles, and *liquid cream, frozen cream, and dried, powdered, flaked or condensed milk,* in packages or containers, from Lafayette, IN, to Boston, Baltimore, MD, Norfolk, VA, and points in OH, PA, and DC, (13) *empty containers* used in the transportation of the commodities specified immediately above, from Boston, MA, Baltimore, MD, Norfolk, VA, and points in OH, PA, and DC, to Lafayette, IN, (14) *glass containers, caps, lids and covers,* from the plant site and warehouse facilities of Anchor Hocking Glass Corporation at or near Gurnee, IL, to St. Louis, MO, Owensboro, Henderson, and Paducah, KY, and points in IN, OH, and the Lower Peninsula of MI (except Detroit), (15) *return shipments* of the above specified commodities, from St. Louis, MO, Owensboro, Henderson, and Paducah, KY, and points in IN, OH, and the Lower Peninsula of MI, (except Detroit) to the plant site and warehouse facilities of Anchor Hocking Glass Corporation at or near Gurnee, IL, (16) *Fly ash,* in bags, from Trenton, MI, to Lafayette, and Spencer, IN, (17) *Malt beverages,* from Oshkosh, WI, to Muncie, IN, (18) *Glass containers, container closures, labels, and knocked-down paper cartons,* (a) from Muncie, IN, to points in that part of IL south of U.S. Hwy. 50; and (b) from Muncie, IN to points in that part of IL, on and north of U.S. Hwy. 50, (19) *returned shipments* of the above described commodities, (a) from points in that part of IL south of U.S. Hwy. 50 to Muncie, IN, and (b) from points in that part of IL on and north of U.S. Hwy. 50 to Muncie, IN, (20) *Glass containers, container closures, labels, and cartons,* from the plant sites and warehouses of Anchor Hocking Glass Corporation at Winchester and Richmond, IN, to points in IL, St. Louis, MO and Milwaukee, WI, (21) *Returned shipments, empty pallets and skids,* from points in IL, St. Louis, MO, and Milwaukee, WI, to the plant sites and warehouses of Anchor Hocking Glass Corporation at Winchester and Richmond, IN, (22) *Glass containers, container closures, and materials and supplies* used in their manufacture (except such commodities in bulk) (a) between Chicago, Joliet, and Mundelein, IL., on the one hand, and on the other, points in IN, (except Terre Haute); (b) between Muncie, IN, on the one hand, and on the other, points in IL, restricted to traffic originating at or destined to a plant site or warehouse of the Ball Bros. Company, (23) *Glass containers,* from the plant site of Anchor Hocking Glass Corporation at Winchester, IN, to Oconomotoc and Racine, WI, (24) *returned shipments* of the above described commodities from Oconomowoc and Racine, WI to the plant site of Anchor Hocking Glass Corporation at Winchester, IN, (25) *Glass containers,* from Oconomotoc and Racine, WI, to Gurnee, IL, (26) *Glass containers,* from Marion, Dunkirk, and Lawrenceburg, IN, to Chicago, IL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destination; from the plant site of Metro Glass, a division of National Dairy Products Corp., Dalton, IL, to Cincinnati, OH, and points in MI, on and south of a line beginning at the intersection of Interstate Hwy. 94 and the IN–MI State Line to its junction with MI Hwy. 78, then to the junction of MI Hwy. 78 and Interstate Hwy. 96 to Detroit, MI (except Battle Creek and Kalamazoo), restricted to traffic originating at such plant site and destined to the indicated destinations; from Alton and Streator, IL, to Evansville, IN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations; (27) *caps, covers, and discs for bottles and jars,* from Muncie, IN, to points in KY, IL, (except the commercial zone of Chicago) OH, and points in MI on and south of a line beginning at the intersection of Interstate Hwy. 94 and the IN–MI state line to its junction with MI Hwy. 78, thence to the junction of MI Hwy. 78 and Interstate Hwy. 95 to Detroit, MI, (Except Battle Creek and Kalamazoo), restricted to traffic originating at the named origin and destined to the indicated destinations, (28) *zinc battery shells, engravers, and lithographers' plates,* from Muncie, IN, to points in KY, IL, OH, and points in MI., on and south of a line beginning at the intersection of Interstate Hwy. 94 and the IN–MI state line to its junction with MI Hwy. 78, then to the junction of MI Hwy. 78 and Interstate 96 to Detroit, MI (except Battle Creek and Kalamazoo), and (29) *paper packaging materials,* from Monroe, MI to Cook County, IL, and Muncie and Winchester, IN, restricted to traffic originating at the named origin and destined to the indicated destinations, (30) *Glass containers, and closures, caps, and covers for glass containers,* from the plant site and warehouse facilities of Anchor Hocking Glass Corporation at Winchester, IN to points in KY, MI, and OH, (31) *Glass containers, and enclosures* therefor, from the plant site of Kerr Glass Manufacturing Corporation at Dunkirk, IN, to St. Louis, MO, Watertown and Clyman, WI., points in IL, and those points in that part of WI on and south of U.S. Hwy. 18, restricted to traffic originating at the said plant site, (32) *Glass containers and closures therefor, paper boxes, and partitions,* from the plant site of Thatcher Glass Manufacturing Company at Streator, IL, to Lawrenceburg, IN, and points in KY (except points in the Commercial Zone of Cincinnati, OH), restricted to traffic originating at the plant site of Thatcher Glass Manufacturing Company at Streator, IL, (33) *Tin cans,* from Chicago, IL, to Muncie, IN, restricted to traffic destined to the plant sites and storage facilities of Marhoefer Packing Co., Inc., (34) *Returned shipments of glass containers, pallets, skids and returned cartons,* from Milwaukee, Racine, and Oconomotoc, WI, to the plant and warehouse sites of Anchor Hocking Glass Corporation at Gurnee, IL, (35) *Glassware and closures for glass containers,* from Dunkirk, IN, to points in KY, and TN, from Fort Wayne, Muncie, and Anderson, IN to St. Louis, MO, Watertown and Clyman, WI, and points in IL, KY, TN, and that part of WI on and south of U.S. Hwy. 18, (36) *Glass containers and closures therefor,* from Terre Haute, IN to points in IL, OH, (except Cincinnati, OH), Lower Peninsula of MI and points in that part of WI on and south of U.S. Hwy. 18, restricted to shipments originating at Terre Haute, IN and destined to the above named destination points, (37) *Paper products,* from Hartford City, IN to Frankfort and Louisville, KY., Battle Creek, Coloma, Constantine, and Niles, MI, St. Louis, MO, and point in IL and OH, (38) *Corrugated and fiberboard boxes and paper products,* from Hartford City, IN, to points in MI, on and south of a line beginning at Benton Harbor, MI, and extending along Interstate Hwy. 94 (portion formerly U.S. Hwy. 12) to Battle Creek, MI, then along MI Hwy 78 to Flint, MI, thence along MI Hwy. 21 to junction MI Hwy. 19, and on and west of a line beginning at junction MI Hwys. 21 and 19 and extending along MI Hwy 19 to junction U.S. Hwy. 23, then along U.S. Hwy. 25 to junction Interstate Hwy. 94 (portion formerly MI Hwy. 29), and thence along Interstate Hwy. 94 to Grosse Pointe, MI, (except Battle Creek, Colome, Constantine, and Niles, MI), (39) *Structural steel,* which because of size or weight requires the use of special equipment or special handling, from the plant sites of Baystone Construction, IN, and Baystone Steel, IN, located in Muncie, IN to points in IL, IN, OH, KY, MI, WI, and TN, restricted to traffic originating at the facilities named above and destined to the above named points, (40) *Glass containers and closures therefor,* from Terre Haute, IN, to points in TN, and KY (except those points in KY within the Commercial Zone of Cincinnati, OH), (41) *Glass containers and closures therefor,* from Lapel, IN, to points in IL, KY, points in that part of WI, on and south of U.S. Hwy. 18, and the lower peninsula of MI, (42) *Glass containers, caps and closures for glass containers and corrugated boxes,* from the facilities of Universal Glass Products, Star City Glass Division of National Bottle Corp., at Joliet, IL, to Louisville, KY, (43) *Glass containers and caps, and closures therefor,* and *corrugated boxes, knocked down,* from the facilities of Universal Glass Products, Star City Division of National Bottle Corp. at or near Joliet, IL to Bardstown, Clairmont, Owensboro, Frankfort, Lexington and Stanley, KY, (44) *Plastic containers and plastic articles,* (except in bulk) from Seymour, IN to points in IL, OH, and WI, (45) *Glass containers and paper cartons,* from the facilities used by Thatcher Glass Mfg. Co., Division of Dart Industries, Inc. at Streator, IL, to points in OH, and the lower Peninsula of MI, and from Lawrenceburg, IN and the facilities of Thatcher Glass Mfg. Co., Division of Dart Industries, Inc. at Cincinnati, OH to points in the above named states, restricted to traffic originating at the named origins and destined to the named destinations. Ashcraft is authorized to operate as a common carrier pursuant to certificates issued in MC–135052 and sub-numbers thereunder. Impediment: Authorization and approval of this transaction is conditioned upon the prior receipt by the Commission of an affidavit from Glyndon Ashcraft, the sole stockholder of Ashcraft, stating that he is the person in control of applicant and that he joins in this application. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–27959 Filed 9–10–80; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 28]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Peitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement or terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

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Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirments as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 30374 (M1F) and MC 30374 (Sub-21) (M1F), notice of filing of petition to modify certificates, filed June 23, 1980. Petitioner: TRI-STATE TRANSPORTATION CO., INC., P.O. Box 488, Bellmawr, NJ 08031. Represetive: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds motor *common carrier* authority in MC 30374 and MC 30374 (Sub-21), served November 19, 1963 and September 27, 1974, respectively. MC 30374 authorizes over regular routes, the transportation of *men's and women's garments*, and *materials, supplies, equipment, and machinery* used in the manufacture or such garments, between Philadelphia, PA, and New York, NY, and Bordentown, NJ, serving the intermediate points of Minotola, Hammonton, Camden, and Vineland, NJ, and the off-route points of Richland, Mizpah, Mays Landing, Egg Harbor City, Millville, Bridgeton, and New Brunswick, NJ, over specified routes, and *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Woodbine, NJ, and Philadelphia, PA, serving all intermediate points, and the off-route points of Dorchester, Leesburg, and Dennisville, NJ, over specified routes. Over Irregular Routes, transporting *general commodities*, with the usual exceptions, between Egg Harbor City, NJ, and points within 20 miles thereof, on the one hand, and, on the other, New York, NY, *Men's garments*, on hangers, *pants, and vests*, and *materials and supplies* used in the manufacture of men's garments, between Boston, MA, and Woodbine, NJ, with restriction, *clothing and hatters' supplies*, from Woodbine, NJ, to New York, NY, and *Materials and supplies* used in the manufacture of clothing, from New York, NY, to Woodbine, NJ, *Rubber heels*, from Woodbine, NJ, to New York, NY, and Marlboro, MA, and *Rubber cement*, from Woodbine, NJ, to New York, NY, *Rejected shipments* of the four next above-specified commodities, from the four next above-specified destination points, to Woodbine, NJ, *Materials and supplies* used in the manufacture of shoes, and *rejected shipments* thereof, between Woodbine, NJ, on the one hand, and, on the other, New York, NY, and Marlboro, MA, and *Clothing and wearing apparel*, on hangers, and *component parts* used in the manufacture of such garments, as described in Appendix X to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, between points in Cumberland and Atlantic Counties, NJ, on the one hand, and, on the other, Martinsburg, WV. MC 30374 (Sub-21) authorizes over irregular routes, the transportation of (a) *general commodities*, with the usual exception, between New York, NY, and Philadelphia, PA, and (b) *wearing apparel*, and *materials and supplies and equipment* used in the manufacture of wearing apparel, (except commodities in bulk), between points in Hudson, Passaic, Bergen, and Essex Counties, NJ, on the one hand, and, on the other, Philadelphia, PA, with a specific restriction. By the instant petition, petitioner seeks to modify the above authority to include the following: "(1) *wearing apparel*, on hangers and in cartons, (2) *materials, supplies and equipment* used in the manufacture of wearing apparel and (3) *department store merchandise* moving in mixed loads with (1) and (2), over regular routes, (1A) (i) between Philadelphia, PA, and New York, NY, and Bordentown, NJ, serving all intermediate points, and serving points in NJ as off-route points, from Philadelphia across the Delaware River to Camden, NJ, then over NJ Hwy 45 to junction NJ Hwy 47, then over NJ Hwy 47 to junction NJ Hwy 540 via Vineland, NJ, to junction unnumbered hwy, then over unnumbered hwy via Minotola, NJ, to junction NJ Hwy 54, then over NJ Hwy 54 to junction U.S. Hwy 206, then over U.S. Hwy 206 to junction U.S. Hwy 130, then over U.S. Hwy 130 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to New York, and return over the same route, and (ii) from Philadelphia across the Delaware River to Camden, NJ, then over U.S. Hwy 130 to junction unnumbered hwy near Bordentown, NJ, and then over unnumbered hwy to Bordentown, and return over the same route, (1B) between Woodbine, NJ, and Philadelphia, PA, serving all intermediate points, and serving points in NJ as off-route points, from Woodbine, over NJ Secondary Hwy 557 to Marshallville, NJ, then return over NJ Secondary Hwy 557 to junction NJ Hwy 47, then over Hwy 47 via Millville, NJ to Fairview, NJ, then over NJ Hwy 41 to Runnemede, NJ, then over NJ Hwy 168 to Camden, NJ, and then across the Delaware River to Philadelphia; and, return from Philadelphia to Millville, NJ, as specified above, then over NJ Hwy 49 to junction NJ Secondary Hwy 557, and then over NJ Secondary Hwy 557 to Woodbine, and (C) between Philadelphia, PA, and Egg Harbor City, NJ, serving all intermediate points, and serving points in NJ as off-route points, over U.S. Hwy 30.

MC 44932 (M1F) (notice of petition for modification of certificate), filed May 5, 1980. Petitioner: W. W. YOUNG & SON, INC., 11861 South Cottage Grove Avenue, Chicago, IL 60628. Representative: William H. Shawn, Suite 501, 1730 M St., NW., Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC 44932 issued March 18, 1942 (in part) authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the Chicago, IL, commercial zone, as defined by the Commission in 1 M.C.C. 673. By the instant petition, petitioner seeks to modify the authority above by authorizing transportation of the commodities between points within a 200-mile radius of the Chicago, IL commerical zone.

MC 115212 (M1F) (Notice of petition for modification of permit), filed June 3, 1980. Petitioner: H.M.H. MOTOR SERVICE, a corporation, Route 130, Cranbury, NJ 08512. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Petitioner holds a *contract carrier* permit in MC 115212, issued May 25, 1978, authorizing transportation in interstate or foreign commerce over irregular route, transporting: *Such* *commodities* as are dealt in by retail women's and children's ready-to-wear apparel stores, and, in connection therewith, supplies and equipment used in the conduct of such businesses, between New York, NY, on the one hand, and, on the other, points in IN, OH, MI, WI, IL, and MI, between North Bergen, NJ, on the one hand, and on the other, points in VA, NC, GA, FL, AL, MS, KY, TN WV, IN OH, MI, WI, IL, PA and MN, between North Bergen, NJ, on the one hand, and, on the other, Elmont, NY. Restriction: The operations authorized herein above are limited to a transportation service to be performed under a continuing contract, or contracts, with Diana Stores Corporation, of New York, NY, and Daylin, Inc., of North Bergen, NJ, between North Bergen, NJ, on the one hand, and, on the other, points in OK, TX, LA, NE, and NM, between North Bergen, NJ, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IA, KS, MD, MO, MT, NV, ND, OR, SD, WA, and WY. Restriction: The operations authorized in the 2 route descriptions next-above are limited to a transportation service to be performed, under a continuing contract(s) with Diana Stores Corporation, and Daylin, Inc., of North Bergen, NJ. *Women's and children's wearing apparel* (except millinery and shoes), and *supplies and equipment used in retail women's and children's ready-to-wear apparel stores,* between New York, NY, on the one hand, and, on the other, points in KY, TN, and WV. Restriction: The operations in the route description next-above are limited to a transportation service to be performed, under a continuing contract(s) with Diana Stores Corporation, of New York, NY, and Daylin, Inc., of North Bergen, NJ. *Clothing, such as is dealt in by discount department stores,* between the New York, NY, commercial zone, as defined in *Commercial Zones and Terminal Areas,* 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt zone"), on the one hand, and, on the other, points in ME, VT, NH, MA, NC, RI, CT, NY, SC, PA, NJ, DE, VA, MD, and DC. Restriction: The operations authorized in the route description next-above are limited to a transportation service to be performed under a continuing contract(s), with Mammoth Mart, Inc., of West Bridgewater, Mass. *Such commodities as are dealt in by retail women's and children's ready-to-wear apparel stores, and in connection therewith, supplies and equipment used in the conduct of such business,* between New York, NY, and those points in New Jersey within 5 miles of New York, NY, and all of any New Jersey municipality any part of which is within 5 miles of New York, N.Y, on the one hand, and, on the other, points in VA, NC, SC, GA, FL, and AL, between New York NY, and points in AL, FL, GA, NC, SC, and VA. Restriction: The operations authorized in the route description next-above are limited to a transportation service to be performed under a continuing contract(s) with Diana Stores Corporation and Daylin, Inc., both of North Bergen, NJ. By the instant petition, petitioner seeks to modify the permit as follows: Add K Mart Apparel Corp. of North Bergen, NJ, as a new contracting shipper.

MC 138512 (Sub-35F) (M1F) (notice of petition for modification of permit), filed June 13, 1980. Petitioner: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 656, Cudahy, WI 53110. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53202. Petitioner holds *contract carrier* permit in MC-138512 (Sub-35F), issued October 3, 1979, authorizing transportation over irregular routes of *foodstuffs, and equipment, materials, and supplies* used in the manufacture of foodstuffs (except commodities in bulk), between Carthage and Monett, MO, Logan, UT, and points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with L. D. Schreiber Cheese Co., Inc., of Green Bay, WI. By the instant petition petitioner seeks to be authorized to serve as additional contracting shippers for Swiss Colony, Inc., and Swiss Colony Stores, Inc., of Monroe, WI.

MC 142710 (Sub-1) (M1F) (notice of filing of petition to modify certificate) filed August 14, 1979. Petitioner: NOMADIC ENTERPRISES, INC., d.b.a. AMERIKAMP OVERLAND ADVENTURE TOURS, 40 Highland Ave., Easthampton, MA 01027. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Petitioner holds motor *common carrier* certificate in MC 142710 Sub 1 authorizing the transportation, over irregular routes, of *passengers and their baggage and camping equipment,* in special operations, in camping tours, between Portland, ME, Portsmouth, NH, New Haven, Hartford, Storrs, Fairfield, New London, and Bradley International Airport, CT, Providence, RI, Los Angeles, Berkeley, and San Francisco International Airport, CA, Syracuse, Albany, Buffalo, Hamilton and Plattsburgh, NY, Logan International Airport, MA, points in Worcester, Hampden, Hampshire, Franklin, and Berkshire Counties, MA, Red Bank and Asbury Park, NJ, Washington, DC, Atlanta, GA, Miami, Orlando, Tampa, and Daytona Beach, FL, New Orleans, LA, Houston, Austin, and Dallas, TX, Ann Arbor, Kalamazoo, and Detroit, MI, Durango and Boulder, CO, Seattle, Tacoma, and Bellingham, WA, St. Paul, MN, Portland and Eugene, OR, Anchorage, AK, and Albuquerque, NM, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI), with service at Logan International Airport restricted to the transportation of passengers having a prior or subsequent movement by air in foreign commerce, and service at San Francisco International Airport, restricted to the transportation of passengers having a prior or subsequent movement by air. By the instant petition, petitioner seeks to modify the territorial description by adding New York, NY as an additional origin point and by eliminating the restriction on the transportation of passengers having a prior or subsequent movement by air at San Francisco International Airport.

Permanent Authority Decisions Volume; Decision-Notice

Decided: September 5, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the

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requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 130871F, filed April 21, 1980. Applicant: FRANK E. QUINN, 2255 South Highland Ave., Lombard, IL 60148. Representative: Frank E. Quinn (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Lombard, IL in arranging for the transportation, by motor vehicle, of *household goods*, between points in the U.S. (including AK and HI).

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 10343 (Deviation No. 28), CHURCHILL TRUCK LINES, INC., Highway 36 West, Chillicothe, MO 64601, filed August 18, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Rockford, IL over IL Hwy 2 to junction IL Hwy 75, then over IL Hwy 75 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, MN, (2) From Rockford, IL over US Hwy 20 to Dubuque, IA, (3) From Milwaukee, WI over Interstate Hwy 94 to Minneapolis, MN and (4) From Chicago, IL over Interstate Hwy 94 to Milwaukee, WI and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Rockford, IL over IL Hwy 2 to junction unnumbered Hwy (formerly portion IL Hwy 2), near Dixon, IL, then over unnumbered Hwy via Palmyra, IL to junction IL Hwy 2 near Sterling, IL, then over IL Hwy 2 to Silvis, IL, then over IL Hwy 92 (formerly shown as portion US Hwy 6) to junction US Hwy 6, then over US Hwy 6 to Davenport, IA, then over US Hwy 61 to junction US Hwy 52, then over US Hwy 52 to Minneapolis, MN, (2) From Milwaukee, WI over WI Hwy 15 to the WI–IL State line near Beloit, WI, then over IL Hwy 2 to Rockford, IL, then over the specified route in (1) above to Minneapolis, MN, and (3) From Chicago, IL over US Hwy 20 to Rockford, IL, then over the specified route in (2) above to Milwaukee, WI and return over the same routes.

MC 95540 (Deviation No. 7), WATKINS MOTOR LINES, INC., 1144 W. Griffin Road, P.O. Box 1636, Lakeland, FL 33802, filed August 25, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Hwy 1 and FL Hwy 100 near Bunnell, FL over FL Hwy 100 to junction U.S. Hwy 90 near Lake City, FL, (2) From junction U.S. Hwy 29 and U.S. Hwy 441 near Athens, GA, over U.S. Hwy 29 to junction GA Hwy 120, then over GA Hwy 120 to junction GA Hwy 316, then over GA Hwy 316 to junction Interstate Hwy 85, (3) From junction U.S. Hwy 1 and U.S. Hwy 70 near Raleigh, NC over U.S. Hwy 1 to junction Interstate Hwy 85 near Henderson, NC, (4) From junction Interstate Hwy 95 and NC Hwy 87 near Fayetteville, NC over NC Hwy 87 to junction U.S. Hwy 421 near Sanford, NC, then over U.S. Hwy 421 to junction Interstate Hwy 85 near Greensboro, NC, and (5) From junction U.S. Hwy 231 and AL Hwy 52 near Dothan, AL over AL Hwy 52 to the AL/GA State line, then over GA Hwy 62 to junction U.S. Hwy 82 near Albany, GA and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From junction U.S. Hwy 1 and FL Hwy 100 near Bunnell, FL over U.S. Hwy 1 to junction U.S. Hwy 90 near Jacksonville, FL, then over U.S. Hwy 90 to junction FL Hwy 100 near Lake City, FL, (2) From junction U.S. Hwy 29 and U.S. Hwy 441 near Athens, GA, over U.S. Hwy 441 to junction Interstate Hwy 85 near Commerce, GA, then over Interstate Hwy 85 to junction GA Hwy 316 near Atlanta, GA, (3) From junction U.S. Hwy 70 and U.S. Hwy 1 near Raleigh, NC over U.S. Hwy 70 to junction Interstate Hwy 85 near Durham, NC, then over Interstate Hwy 85 to junction U.S. Hwy 1 near Henderson, NC, (4) From junction Interstate Hwy 95 and NC Hwy 87 near Fayetteville, NC over Interstate Hwy 95 to junction U.S. Hwy 70 near Smithfield, NC, then over U.S. Hwy 70 to junction Interstate Hwy 85 near Durham, NC, then over Interstate Hwy 85 to junction U.S. Hwy 421 near Greensboro, NC, and (5) From junction U.S. Hwy 84 and AL Hwy 52 near Dothan, AL over U.S. Hwy 84 to junctions U.S. Hwy 19 near Thomasville, GA, then over U.S. Hwy 19 to junction U.S. Hwy 82 and GA Hwy 62 near Albany, GA and return over the same routes.

Permanent Authority Notices Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the applicant's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 135082 Sub 86F, filed May 23, 1979 and published in the **Federal Register** April 15, 1980 and republished as corrected this issue. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 4100 Edith Blvd, NE, Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, wood products, and millwork,* (except commodities in bulk, in tank vehicles), between points in AR, AZ, CA, CO, ID, KS, LA, MO, OK, MI, NM, NV, OR, TX, UT, WA, and WY. (Hearing site: Albuquerque, NM.) The purpose of this correctly show "KA" to read "LA" and "MT" to read "MI".

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

Permanent Authority Decisions, Decision-Notice, Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions,

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and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 113908 (Sub-507F), filed June 2, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, from points in IL to points in AR, AZ, CA, CO, MO, MT, NV, OK, OR, TX, and UT.

Note.—The sole purpose of this application is to substitute single-line for joint line operations.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 113908 (Sub-E217, E220, E224, E233, E241, E349, E352) filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, MO 65804. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. (E217 *Vinegar and vinegar stock*, in tank vehicles, from points in MI on and north of I Hwy. 94, to Hutchinson, KS (Oklahoma City, OK*). (E220) *Vinegar*, in tank vehicles, from Chicago, IL, to points in CA on and south of a line by connecting US Hwy 50 with I Hwy 80 (Memphis, TN*). (E224) *Vinegar*, in tank vehicles, from Kansas City and Springfield, MO, to points in CA on and south of a line by connecting US Hwy 50 with I Hwy 80 (Paris, TX*). (E233) *Vinegar*, in tank vehicles, from Yakima, WA, to points in OK east of US Hwy 81 and points in AR. (Marionville, MO*). (E241) *Vinegar*, in tank vehicles, from Hutchinson and Wichita, KS, to points in CA in and north of I Hwys 40 and 15 (Dallas, TX*). (E349) *Vinegar and vinegar stock*, and *apple juice*, in tank vehicles, from St. Paul, MN, to points in GA, AL, points in LA on and south of US Hwy 84, and points in MS on and south of US Hwy 98 (Belding, MI*). (E352) *Vinegar, vinegar stock*, and *apple juice*, in tank vehicles, from Chicago, IL, to points in CO and points in NE in and west of NE Hwy 61 (Belding, MI*). (Gateways eliminated: asterisked)

MC 113908 (Sub-E268, E338) filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, MO 65804. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. (E268) *Vinegar*, in tank vehicles, from Kansas City, MO, to points in CA south of US Hwys. 80 and 20 and in and north of Santa Cruz, Santa Clara, Merced, Marera, Fresno, and Inyo Counties. (Gateway eliminated: Memphis, TN) (E338) *Vinegar*, in tank vehicles, from Wenatchee and Yakima, WA, to points in OK, AR, MO, points in IA on and east of US Hwy. 61 between the IA–MO State line and Rock Island, points in IL on and south of I Hwy. 80, and points in TX on and east of a line beginning at the TX–NM State line extending along US Hwy. 180 to junction US Hwy. 87, then along US Hwy. 87 to junction US Hwy. 277, then along US Hwy. 277 to the US—MX International Boundary line. (Gateway eliminated: Wichita, KS.)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27960 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 55 (Sub-47)]

Policy on Transfer of Certificates of Registration to Multi-State Carrier

AGENCY: Interstate Commerce Commission.

ACTION: Final policy statement.

SUMMARY: The Commission adopts a final policy statement directing a multi-state carrier seeking to acquire a Certificate of Registration to file concurrently, as a directly related matter, a transfer application under 49 U.S.C. 10926 along with a conversion application under 49 U.S.C. 10922 or 10923, when the transaction is not subject to 49 U.S.C. 11343–11344. In these circumstances, only the filing fee for a transfer application need be paid. Procedurally, the Commission will handle these cases on a consolidated basis with the transfer application as the lead proceeding.

EFFECTIVE DATE: SEPTEMBER 11, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Kelly (202-275-7564).

Les Miller (202-275-7266).

SUPPLEMENTARY INFORMATION: Multi-state carriers acquiring Certificates of Registration are required to file only a conversion application under 49 U.S.C. 10922 or 10923 if the transaction was not subject to 49 U.S.C. 11343-11344. The procedure to be followed was set forth in *Las Vegas Tank Lines, Inc., Extension*, 107 M.C.C. 589, 596 (1968), and in footnote 2 to 49 C.F.R. 1132.1(b). Recent changes in statutes and rules make revision of this policy appropriate.

The modification of the transfer regulations in Ex Parte No. MC-111, served June 27, 1979, deleted footnote 2. The Motor Carrier Act of 1980 raised the jurisdictional exemption in 49 U.S.C. 11343(d)(1) from $300,000 to $2,000,000 which will increase the number of filings under section 10926. Finally, jurisdiction over transfer function was shifted from the Motor Carrier Board to the Review Boards in Ex Parte No. MC-67 (Sub-No. 9), published in the **Federal Register** issue of July 3, 1980 at 45 FR 45525. Unlike the Motor Carrier Board, the Review Boards have authority to decide conversion applications directly related to proposed transfers.

In the future, multi-state carriers purchasing Certificates of Registration must concurrently file both a transfer application under 49 U.S.C. 10926 (unless 49 U.S.C. 11343-11344 apply) and a directly related conversion application under 49 U.S.C. 10922 or 10923. This will provide guidance to carriers, and to establish uniform treatment of these transaction under both 49 U.S.C. 10926 and 11343-11344, and will reflect more accurately the actual intent of the parties.

The additional evidentiary burden imposed on affected carriers should be minimal, since Ex Parte No. MC-111 simplified and shortened the transfer application form. Applicants will benefit from paying only the basic fee for the transfer application (currently $100) rather than the $350 presently required for applications under 49 U.S.C. 10922 or 10923. See 49 CFR 1002.2(c).

This statement interprets Commission rules and modifies other rules relating to agency practice and procedure. Therefore, the final rule is being adopted without prior notice or public proceedings, in accordance with the provisions of 5 U.S.C. 553(b)(A).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This document is promulgated under the authority contained in 49 U.S.C. 10321(a) and 5 U.S.C. 553 and 559.

Decided: August 29, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27961 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 27, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operation right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4-032

Decided: August 28, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Jones not participating.

MC 5117 (Sub-15F), filed August 26, 1980. Applicant: VAN SOMEREN TRANSFER, INC., Baldwin, WI 54002. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, on the one hand, and, on the other, River Falls and Woodville, WI.

MC 129387 (Sub-115F), filed August 26, 1980. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). Transporting *cleaning, washing, buffing or polishing compounds, textile, softeners, lubricating oil or grease, and deodorants and disinfectants,* (except commodities in bulk), from South Holland, IL, to points in CA, CO, IA, MO, NE, ND, and SD.

MC 144416 (Sub-6F), filed August 26, 1980. Applicant: C. F. MCGRAW, P.O. Box 498, Garden City, KS 67846. Representative: Herbert Alan Dubin, 818 Connecticut Ave., N.W., Washington, DC 20006. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk and hides), between points in Finney County, KS, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, OK, AR, and LA.

MC 148127 (Sub-13F), filed August 26, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). Transporting *plastic film,*

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sheeting, and bags, and *plastic articles,* between points in the U.S., restricted to traffic originating at or destined to the facilities of Mobil Chemical Co.

MC 148827 (Sub-1F), filed August 25, 1980. Applicant: DAVID ALGER, d.b.a. D & C TRANSPORTATION, 2 Chandler Ave., Ext., Orleans, VT 05860. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Transporting *petroleum and petroleum products,* in tank vehicles, from Portland, ME, to points in Orleans County, VT.

Volume No. OP4–035

Decided: August 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 130997F, filed August 26, 1980. Applicant: AMERICAN AUTOMOBILE ASSOCIATION, INC., d.b.a. AAA WORLD WIDE TRAVEL AGENCY, 433 W. Washington Ave., Madison, WI 53703. Representative: Edward M. Amsdell (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Madison, WI, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in charter operations, between points in the U.S., including AK and HI.

MC 134467 (Sub-68F), filed April 27, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting (1) *foodstuffs* (except in bulk), and (2) *materials, equipment, and supplies* used by restaurants or restaurant suppliers, between points in the U.S., restricted to traffic destined to the facilities of Franchise Services, Inc.

MC 135326 (Sub-28F), filed August 27, 1980. Applicant: SOUTHERN GULF TRANSPORT, INC., P.O. Box 7959, Shreveport, LA 71107. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *fertilizer,* in bulk, from Tyler, TX, to points in OK, AR, and LA.

MC 139966 (Sub-3F), filed August 27, 1980. Applicant: FAIRPORT TRUCKING COMPANY, a corporation, P.O. Box 217, Williams St., Grand River, OH 44045. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *cement,* in bulk, (1) from Wampum and Bessemer, PA, to points in OH, and (2) from Ashtabula, OH, to points in OH and PA.

MC 145557 (Sub-12), filed August 27, 1980. Applicant: LIBERTY TRANSPORT, INC., P.O. Box 9182, Kansas City. MO 64168. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S.

MC 146166 (Sub-2F), filed August 27, 1980. Applicant: TRIANGLE TRANSPORT CO., INC., 74 Sulyma St., Cumberland, RI 02864. Representative: William F. Poole, 41 Bea Dr., North Kingstown, RI 02852. Transporting (1) *soaps and soap by-products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Original Bradford Soap Works, Inc., of West Warwick, RI.

MC 149536F, filed August 26, 1980. Applicant: RODCO LEASING, INC., 380 Union St., West Springfield, MA 01089. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting (1) *office and school supplies and equipment,* and (2) *materials* used in the manufacture and distribution of the commodities in (1) above, (3) *paper and paper articles,* and (4) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles, between points in the U.S.

MC 150607 (Sub-1F), filed August 27, 1980. Applicant: B & B TRUCKING, INC., 240 West 13th St., Williston, ND 58801. Representative: Todd W. Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *dry drilling fluid additives,* and (2) *storage houses and vans* for the commodities in (1) above, between points in ND, on the one hand, and, on the other, points in SD, WY, and MT.

MC 151656F, filed August 25, 1980. Applicant: F.M.R. LEASING CO., INC., 115 Jacobus Ave., South Kearny, NJ 07032. Representative: James A. Fagan (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery, drug and food business houses, between New York, NY, on the one hand, and, on the other, points in CT, MA, MD, NY, NJ, and PA.

MC 151657F, filed August 25, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Box 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carriers Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), between points in the U.S., under continuing contract(s) with National Beef Packing Co., Inc., of Liberal, KS.

Volume No. OP4–036

Decided: September 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Jones not participating.

MC 118866 (Sub-15F), filed August 28, 1980. Applicant: PAUL L. ZAMBERLAN & SONS, INC., P.O. Box 15, Lewis Run, PA 16738. Representative: Chester A. Zyblut, 366 Exectutive Bldg., 1030 15th St., N.W., Washington, DC 20005. Transporting (1) *clay products* and (2) *materials equipment, and supplies* used in the manufacture and distribution of clay products, (except commodities in bulk), between Lewis Run, PA, on the one hand, and, on the other, points in the U.S. (except AK, HI, CT, MA, VT, NJ, DE, MD, VA, WV, OH, MI, IN, IL, NC, SC, and WI.)

MC 120077 (Sub-2F), filed August 28, 1980. Applicant: CLETUS CASEY, d.b.a. HOLMEN–LA CROSSE TRUCK LINE, 115 West 3rd St., Ettrick, WI 54627. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1567, La Crosse, WI 54601. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Galesville and Whitehall, WI, over U.S. Hwy 53, serving the intermediate points of Balir and Ettrick, WI.

MC 123476 (Sub-58F), filed August 28, 1980. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). Transporting (1) *paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper products, between points in St. Claire County, IL and Elkhart County, IN, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 135306 (Sub-5F), filed August 28, 1980. Applicant: DAN'S TRANSIT, INC., 1254 Median Rd., Medina, OH 44256. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *iron and steel articles,* and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in OH, IN, IL, MI, WV, and PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, MD, MA, MS, ME, NH, NC, RI, SC, TN, TX, VT, and VA.

MC 146886 (Sub-5F), filed August 28, 1980. Applicant: CONLAN TRUCK LINES, INC., 6160 South 116th St., Hales Corner, WI 53130. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *such commodities* as are dealt in by distributors of household products, between points in Dubuque and Polk Counties, IA, La Crosse County WI, and Brown County, SD, on the one hand, and, on the other, points in MN, ND, and SD.

MC 151316 (Sub-1F), filed August 28, 1980. Applicant: AERO DISTRIBUTING CO., INC., 4814 Fulton Industrial Blvd., Atlanta, GA 30301. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *waste or scrap materials,* and (2) *plastic articles,* between points in Fulton County, GA, on the one hand, and, on the other, points in TX, OK, AR, LA, MO, KY, MS, TN, FL, IL, AL, WV, VA, NC, SC, and GA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27963 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 27, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-036

Decided: September 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 59332 (Sub-11F), filed August 25, 1980. Applicant: TAYLOR'S EXPRESS, INC., 425 North 37th St., Pennsauken, NJ 08110. Representative: Micheal R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 71593 (Sub-75F), filed September 2, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 115092 (Sub-111F), filed August 25, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151613F, filed August 20, 1980. Applicant: LEWIS C. HARVEY, Rt. 2, P.O. Box 118, Arlington, VA 22922. Representative: Lewis C. Harvey (same as applicant). Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP3-015

Decided Sept. 2, 1980.

By the Commission, Review Board Number 3, Members Parker Fortier, and Hill. Member Fortier not participating.

MC 9644 (Sub-7F), filed August 22, 1980. Applicant: B.T.L., INCORPORATED, P.O. Box 4060, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 130995F, filed August 21, 1980. Applicant: WESTERN FREIGHT EXCHANGE, INC., 1328 Burton Ave., Bldg. B, N. 8, Salinas, CA 93901. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 North Phillips Ave. (Suite 210), Sioux Falls, SD 57101. As a *broker,* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4-033

Decided: August 28, 1980.

By the Commission, Review Board Number 1, three Members Carleton, Joyce, and Jones. Members Jones not participating.

MC 109847 (Sub-32F), filed August 12, 1980. Applicant: BOSS-LINCO LINES, INC., 3909 Genesee St., Cheektowaga, NY 14225. Representative: Harold G. Hernley, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *general commodities* (except used

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household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 117676 (Sub-23F), filed August 25, 1980. Applicant: HERMS TRUCKING, INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 144667 (Sub-19F), filed August 26, 1980. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Linclon, NE 68501. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP4-037

Decided: September 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Jones not participating.

MC 150896 (Sub-1F), filed August 28, 1980. Applicant: HUMCO, INC., Suite TC-106, East Furnace Branch Road, Glen Burnie, MD 21061. Representative: Richard P. Taylor, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27984 Filed 9-10-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-23333, appearing at page 51960 in the issue of Tuesday, August 5, 1980, please make the following correction:

On page 51961, first column, the MC designation for Associated Air Freight Inc., in the first line of the last paragraph, now reading "MC 151219 (Sub-9F)", should read "MC-151219F".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacture of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 28, 1979, Warner-Lambert Company, 188 Howard Avenue, Holland, Michigan 49423 made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug and Schedule	
Oxycodone	II
Methylphenidate	II
Methaqualone	II
Pentabarbital	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than October 13, 1980.

Dated: September 4, 1980.

Frederick A. Rody,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-28090 Filed 9-10-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 26, 1980, Penick Corporation, 530 New York Avenue, Lyndhurst, New Jersey 07071, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

	Schedule
Drug:	
LAAM	I
Diphenoxylate	II
Methadone	II
Methadone-Intermediate	II
Conc. of Poppy Straw	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than October 13, 1980.

Dated: September 4, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-28091 Filed 9-10-80; 8:45 am]

BILLING CODE 4410-09-M

Antitrust Division

[Civil Action No. 79-0962-T]

United States v. Merck & Co., Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of California in *United States of America v. Merck & Co., Inc.,* Civil Action No. 79-0962-T. The Complaint in this case alleged that the acquisition of Alginate Industries Limited, a United Kingdom corporation that is the largest producer of alginate in the world, by defendant, whose Kelco Division is the largest producer of alginate in the United States and the second largest producer in the world, was in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2. Six alginate uses were alleged as areas in which to measure the competitive impact of the acquisition. The proposed Final Judgment requires the defendant to divest itself of Scotia Marine Products Limited, its wholly-owned Canadian subsidiary that produces alginate in Nova Scotia, and to furnish the purchaser information and assistance that should allow the purchaser to use

Scotia Marine Products Limited to compete effectively in the sale of alginate in the United States for the six alginate uses. The proposed Judgment further enjoins defendant for a period of ten years from the date of entry of the Judgment from acquiring, other than through a corporate reorganization or with the consent of the United States, all or any part of the voting securities of any producer, distributor, or seller of alginate, or the assets of such a company used in production, distribution, or sale or alginate, unless the assets are acquired in the normal course of business.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Roger B. Andewelt, Assistant Chief, Intellectual Property Section, Antitrust Division (Safe–704), United States Department of Justice, Washington, D.C. 20530 (telephone: 202/724–7966).

Joseph H. Widmar,
Director of Operations.

P. Terry Lubeck, Andrew L. Pringle, Sanford M. Adler, Antitrust Division, United States Department of Justice, Washington, DC 20530, Telephone: 202/724–7974; Robert E. Noel, Assistant United States Attorney, United States Courthouse, 940 Front Street, San Diego, CA 92189, Telephone: 714/293–5662, *Attorneys for Plaintiff.*

Robert J. Sisk, Hughes Hubbard & Reed, One Wall Street, New York, NY 10005, Telephone: 212/943–6500; Jack W. Crumley, Luce, Forward, Hamilton & Scripps, The Bank of California Plaza, 110 West A Street, San Diego, CA 92101, Telephone: 714/236–1414, *Attorneys for Defendant.*

U.S. District Court, Southern District of California

United States of America Plaintiff, v. *Merck & Co., Inc.,* Defendant.

Civil Action No. 79–0962–T.

Filed: September 2, 1980.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff: Sanford M. Litwack, *Assistant Attorney General;* Joseph H. Widmar, Charles F. B. McAleer, *Attorneys, Department of Justice.*

For the Defendant: Hughes Hubbard & Reed, By: Robert J. Sisk, *A Member of the Firm,* Luce, Forward, Hamilton & Scripps, By: Jack W. Crumley, *A Member of the Firm;* P. Terry Lubeck, Andrew L. Pringle, Sanford M. Adler, *Attorneys, Department of Justice, Antitrust Division, Department of Justice, Washington, DC 20530.*

It is so ordered:

Dated:

Howard B. Turrentine,
Judge of the District Court.

P. Terry Lubeck, Andrew L Pringle, Sanford M. Adler, Antitrust Division, United States Department of Justice, Washington, DC 20530, Telephone: 202/724–7974; Robert E. Noel, Assistant United States Attorney, United States Courthouse, 940 Front Street, San Diego, CA 92189, Telephone: 714/293–5662, Attorneys for Plaintiff.

Robert J. Sisk, Hughes Hubbard & Reed, One Wall Street, New York, NY 10005, Telephone: 212/943–6500; Jack W. Crumley, Luce, Forward, Hamilton & Scripps, The Bank of California Plaza, 110 West A Street, San Diego, CA 92101, Telephone: 714/236–1414, Attorneys for Defendant.

U.S. District Court, Southern District of California

United States of America, Plaintiff, v. *Merck & Co., Inc.,* Defendant.

Civil Action No. 79–0962–T

Final Judgment

Filed: September 2, 1980.

Plaintiff, United States of America, having filed its complaint herein on August 17, 1979, defendant having filed its answer thereto, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The complaint states a claim upon which relief may be granted against defendant under Section 7 of the Clayton Act (15 U.S.C. § 18).

II

As used in this Final Judgment:

(A) "Alginate" means alginic acid derived from Seaweed; its various salts, such as sodium alginate, potassium alginate, and ammonium alginate; and its esters, such as PGA.

(B) "Alginate Industries" means Alginate Industries Limited, an indirect wholly-owned subsidiary of defendant, organized and existing under the laws of the United Kingdom; and any subdivision, subsidiary, or affiliate thereof.

(C) "Antimigrant" means a substance added to a bath containing dye or pigment for coloring textiles that prevents or retards movement of the dye or the pigment.

(D) "Buttered Syrup" means any and/or all Table Syrups containing at least two (2) percent butter by weight of the syrup.

(E) "Dental Impression Material" means any type of material that is used to register or make a negative form or impression of a part of the oral cavity, including some or all of the oral tissues in an edentulous mouth and some or all of the oral tissues and/or teeth in other mouths.

(F) "Emulsifier" means a substance that facilitates or assists in the formation of an Emulsion.

(G) "Emulsion" means an intimate mixture of two immiscible liquids, such as oil and water, in which one liquid phase is dispersed throughout the other in the form of small discrete droplets.

(H) "Foam Stabilizer" means a substance or combination of substances that helps protect or maintain foam on a Malted Beverage.

(I) "Kelco" means the Kelco Division of Merck.

(J) "Malted Beverage" means a "malt beverage" as that term is defined in 27 C.F.R. § 7.10 and includes such products as beer, ale, malt liquor, porter, stout, lager, or lager beer.

(K) "Merck" means defendant, Merck & Co., Inc., a corporation organized and existing under the laws of the State of New Jersey; and any subdivision, subsidiary, or affiliate thereof.

(L) "Person" means any individual, partnership, association, firm, corporation, proprietorship, joint venture, or other legal or business entity.

(M) "PGA" means propylene glycol alginate.

(N) "Pourable Dressing" means a liquid food that is used to flavor salads and that is prepared from, among other things, oil, water, vinegar, lemon juice, lime juice, sugar, and/or flavoring agents, or from a combination of dry ingredients to which oil, water, vinegar, or another liquid is added.

(O) "Print Paste Thickener" means a substance added to a print paste for printing textiles to increase viscosity.

(P) "Purchaser" means one or more Persons acquiring all the stock of Scotia Marine or all the business and assets of Scotia Marine pursuant to this Final Judgment.

(Q) "Sale of Scotia Marine" means the sale of all the stock of Scotia Marine or all the business and assets of Scotia Marine pursuant to this Final Judgment.

(R) "Scotia Marine" means Scotia Marine Products Limited, a wholly-owned subsidiary

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of defendant, organized and existing under the laws of Nova Scotia, Canada.

(S) "Seaweed" means all seaweed containing alginic acid, other than seaweed of the genus Macrocystis and seaweed of the genera and species Durvillea potatorum and Lessonia flavicans.

(T) "Specified Function" means to serve as a Stabilizer, Emulsifier, or Thickener in a Pourable Dressing; as a gelling agent in a Dental Impression Material; as a Foam Stablizer in a Malted Beverage; as a foaming or gelling agent in antacids; as a Stabilizer, Emulsifier, or Thickener in a Buttered Syrup: or as an Antimigrant or a Print Paste Thickener.

(U) "Specified Product" means, for each Alginate product offered for sale by Kelco for one or more Specified Functions within two (2) years preceding the date of entry of this Final Judgement, the Alginate Product produced by Alginate Industries during that period that is the closest functional equivalent of that Kelco Alginate product.

(V) "Stabilizer" means a substance that helps protect and maintain an Emulsion or a Suspension.

(W) "Suspension" means a system in which solid particles are dispersed throughout a continuous liquid phase.

(X) "Table Syrup" means any type or kind of syrup defined or described in 21 C.F.R. § 168.180.

(Y) "Thickener" means a substance that increases viscosity.

III

This Final Judgment applies to defendant and to its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other Persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall apply to Scotia Marine until it is sold pursuant to this Final Judgment, and the Purchaser shall not solely by virtue of its purchase of Scotia Marine be considered a successor or assign of defendant.

IV

Any Sale of Scotia Marine shall be to a Purchaser who has the ability to operate Scotia Marine as a single ongoing business; provided, however, that a producer of Alginate may not purchase Scotia Marine pursuant to this Final Judgment unless plaintiff furnishes prior written approval of the sale.

V

Merck is ordered and directed to complete the Sale of Scotia Marine. Upon request of any bona fide prospective Purchaser, but subject to Sections XI and XII, Merck shall furnish on an equal and nondiscriminatory basis information regarding Scotia Marine and the assistance Merck shall provide pursuant to Sections XIX through XXIV to enable the prospective Purchaser to decide whether to purchase Scotia Marine and shall permit the prospective Purchaser to inspect Scotia Marine solely for that purpose. If within sixty (60) days from the date of entry of this Final Judgment Merck has not entered into a contract for Sale of Scotia Marine, upon written request of plaintiff thereafter, Merck shall:

(A) Prepare a brochure describing Scotia Marine and the assistance Merck shall provide the Purchaser pursuant to Sections XIX through XXIV.

(B) Forward the brochure along with a copy of this Final Judgment to each Person requesting the brochure, to each prospective Purchaser known to Merck, and to each Person to whom plaintiff requests Merck to send the brochure.

(C) Direct a Person holding a middle management position with Merck to devote his or her best efforts and a substantial portion of his or her time to promote and complete the Sale of Scotia Marine.

VI

Sixty (60) days before the date when plaintiff may be able to petition this Court to appoint a trustee, Merck shall promptly notify this Court and plaintiff. Within thirty (30) days of the giving of the notice, each party shall exchange with the other party a written list of the names and qualifications of not more than three (3) Persons that the party nominates for the position of trustee for the Sale of Scotia Marine. The parties shall attempt to agree upon one of the nominees to serve as the trustee. Within thirty (30) days of the exchange of lists, Merck shall furnish this Court copies of the written lists and shall notify this Court whether the parties were able to agree and, if so, upon whom the parties agreed. This Court may hear the parties as to the qualifications of the nominees and shall select a trustee.

VII

(A) If within one (1) year following the date of entry of this Final Judgment Merck has not entered into a contract for Sale of Scotia Marine approved pursuant to Subsection XIV(B) and Subsection XV(A), Merck shall notify this Court and plaintiff. Upon petition by plaintiff thereafter, with prior written notice to Merck, this Court shall appoint for a period of two (2) years the trustee selected pursuant to Section VI to secure a Purchaser.

(B) The term of the trusteeship shall be tolled from the date the trustee first submits to plaintiff or to Merck a copy of the proposed contract for Sale of Scotia Marine to and including the date on which it is finally determined, either by plaintiff pursuant to Subsection XIV(B), by this Court pursuant to Section IX or Subsection XIV(B), or by the Canadian government pursuant to Subsection XV(A), that the proposed sale may not be consummated.

(C) Upon appointment of the trustee, Merck shall no longer attempt to sell Scotia Marine, but shall utilize its best efforts to assist the trustee to accomplish the purpose of the trust.

(D) If at the conclusion of the two (2) years for which the trustee is appointed pursuant to Subsection VII(A) as tolled pursuant to Subsection VII(B) there has not been a Sale of Scotia Marine, Merck shall have the right to petiton the Court which may, upon a proper showing, relieve Merck of its obligation to complete the Sale of Scotia Marine.

VIII

The purpose of the trust shall be prompt Sale of Scotia Marine. The trustee shall have all powers necessary and proper to accomplish the purpose of the trust. In exercising these powers, the trustee may, without limitation:

(A) Subject to Sections XI and XII, inspect and copy any records, including financial, accounting, production, and customer records, relating to Alginate production, distribution, or sale in the possession or under the control of Scotia Marine that the trustee may deem necessary to accomplishing the purpose of the trust.

(B) Permit inspection of Scotia Marine by a prospective Purchaser and accompany the prospective Purchaser during the inspection.

(C) Engage investment bankers, business opportunity brokers, accountants, appraisers, consultants, attorneys, and any other Persons as may be reasonably necessary to help the trustee accomplish the purpose of the trust.

IX

(A) When the trustee has reached agreement with a prospective Purchaser on a proposed contract for Sale of Scotia Marine, the trustee shall promptly submit to plaintiff and to Merck a copy of the proposed contract and all other pertinent information respecting the proposed sale. Within twenty (20) days after receipt of the submission, both Merck and plaintiff may request information from the trustee and plaintiff may request information from Merck. The trustee shall promptly furnish to Merck and to plaintiff, and Merck shall promptly furnish to plaintiff, all requested information that it can along with a statement identifying the requested information not furnished and the reasons the information was not furnished.

(B) Within thirty (30) days after the trustee submits to Merck a copy of a proposed contract for Sale of Scotia Marine or, if Merck has requested additional information, within thirty (30) days after it has received all requested information and statements to be submitted, Merck shall either enter into the proposed contract or object to the proposed sale and petition the Court for review of the price, terms, or conditions. If Merck withdraws the petition, Merck shall promptly enter into the contract for Sale of Scotia Marine.

X

The trustee shall perform at the expense of Merck under a court-approved schedule of costs, fees, and incentive compensation for prompt accomplishment of the purpose of the trust. The schedule shall be fixed at the time of the trustee's appointment; however, the trustee shall have the right at any time to petition this Court, with prior written notice thereof to the parties, for further costs, fees, or incentive compensation.

XI

(A) Prior to providing information to a prospective Purchaser and to the trustee, Merck shall designate "confidential" any information that it in good faith believes constitutes trade secrets or other confidential research, development, or commercial information, as such terms are used in Fed. R.

Civ. P. 26(c)(7), of Scotia Marine. Prior to providing to a prospective Purchaser information designated "confidential" my Merck, the trustee shall assure that the information is designated "confidential."

(B) Merck and the trustee shall not permit any inspection of Scotia Marine or submit to a prospective Purchaser any information designated "confidential" unless and until the prospective Purchaser enters into a reasonable confidentiality agreement with Scotia Marine and, if requested by Merck, a reasonable confidentiality agreement with Merck that at least shall require the prospective Purchaser unless and until obtaining the information by other means (including purchase of Scotia Marine pursuant to this Final Judgment) not to disclose to any other Person any information obtained through inspection of Scotia Marine or any "confidential" information submitted, not to use any of the information for any purpose other than deciding whether to purchase Scotia Marine and, in the event the prospective Purchaser does not purchase Scotia Marine, to destroy all material containing any of the information.

(C) At the time of Sale of Scotia Marine, at the Purchaser's option, Merck shall enter into a reasonable confidentiality agreement with the Purchaser prohibiting disclosure to Persons other than Merck of information of Scotia Marine that Merck possesses and information about Scotia Marine or the Purchaser that Merck may obtain in connection with furnishing assistance pursuant to Sections XIX through XXIII.

XII

(A) Prior to providing information to a prospective Purchaser and to the trustee, Merck shall have the right to designate "secret" any information that it in good faith believes constitutes trade secrets or other confidential research, development, or commercial information, as such terms are used in Fed. R. Civ. P. 26(c)(7), of Merck, so long as the trade secrets or other confidential information are not solely those of Scotia Marine. Prior to providing to a prospective Purchaser information designated "secret" by Merck, the trustee shall assure that the information is designated "secret."

(B) Prior to providing to a prospective Purchaser information designated "secret" by Merck, the trustee shall give written notice to the parties identifying the information and to whom it is to be disclosed. Merck shall have ten (10) days from receipt of the notice within which to object to disclosure and to petition this Court to review the intended disclosure. The trustee shall not disclose the information during that ten (10) day period and, if Merck objects during that period, until this Court rules on the intended disclosure or Merck withdraws its objection.

(C) Merck need not and the trustee shall not submit to a prospective Purchaser any information designated "secret" unless and until the prospective Purchaser enters into a reasonable confidentiality agreement with Merck that at least shall require the prospective Purchaser unless and until obtaining the information by other means (including being furnished assistance pursuant to this Final Judgment) not to disclose to any other Person any "secret" information submitted, not to use any of the information for any purpose other than deciding whether to purchase Scotia Marine and, in the event the prospective Purchaser does not purchase Scotia Marine, to destroy all material containing any of the information.

XIII

Ninety (90) days after the date of entry of this Final Judgment and every ninety (90) days thereafter during the term of the trusteeship until the Sale of Scotia Marine, Merck and the trustee shall serve upon plaintiff an affidavit describing in detail for the preceding ninety (90) day period each offer for Scotia Marine received and the efforts made to promote and complete the Sale of Scotia Marine. The trustee shall serve its affidavit upon Merck, and Merck shall serve its affidavit upon the trustee. Merck and the trustee shall promptly supplement the affidavit with any additional information requested.

XIV

(A) When a contract for Sale of Scotia Marine has been entered into, Merck shall promptly submit to plaintiff a copy of the contract for Sale of Scotia Marine and all other pertinent information respecting the proposed sale. Within twenty (20) days after receipt of the submission, plaintiff may request additional information from Merck and from the trustee. Merck shall promptly furnish to plaintiff, and the trustee shall promptly furnish to plaintiff and to Merck, all requested information that it can along with a statement identifying the requested information not furnished and the reasons the information was not furnished.

(B) Subject to Subsection XV(B), within thirty (30) days after plaintiff has received the submission, or if plaintiff has requested additional information, within thirty (30) days after plaintiff has received all requested information and statements to be furnished, plaintiff shall advise Merck and the trustee in writing of plaintiff's approval or plaintiff's objection to the proposed sale. No contract for Sale of Scotia Marine shall be consummated unless and until plaintiff furnishes Merck written approval of the proposed sale or this Court approves the proposed sale after a hearing at which Merck shall have the burden of proving that the sale is consistent with this Final Judgment. In deciding whether to approve a proposed Sale of Scotia Marine to which plaintiff has objected, this Court shall consider, among other relevant factors, the ability of the prospective Purchaser to use Scotia Marine and Merck's assistance to be provided pursuant to Sections XIX through XXIV to compete effectively in the sale of Alginate in the United States for Specified Functions.

(C) The one (1) year time period set forth in Subsection VII(A) shall be tolled from the date Merck first submits to plaintiff a copy of the contract for Sale of Scotia Marine to and including the date on which it is finally determined, either by plaintiff or this Court pursuant to Subsection XIV(B), or by the Canadian government pursuant to Subsection XV(A), that the proposed sale may not be consummated. If that time period is tolled pursuant to this Subsection XIV(D), plaintiff shall not petition to have a trustee appointed until the tolled time period expires or sixty (60) days after it has finally been determined that the proposed sale may not be consummated, whichever occurs later. The tolling provided for in this Subsection XIV(D) shall apply only to the first contract for Sale of Scotia Marine that Merck submits to plaintiff.

XV

(A) Merck shall use its best efforts to obtain promptly any necessary approval by the Canadian government, including any necessary approval under the Foreign Investment Review Act, for the Sale of Scotia Marine. Copies of all submissions made by Merck to the Canadian government with regard to the proposed sale shall be furnished to plaintiff. Merck shall promptly notify plaintiff and the trustee in writing of each decision reached by the Canadian government with regard to the proposed sale and shall submit with the notice a copy of the decision. The notice shall describe any conditions to the proposed sale imposed by the Canadian government. If additional information is requested by plaintiff within ten (10) days after receipt of the notice, Merck shall promptly supplement the notice with all requested information that it can along with a statement identifying the requested information not furnished and the reasons the information was not furnished.

(B) In the event that approval by the Canadian government is conditional, if plaintiff has not approved or objected to the proposed sale pursuant to Subsection XIV(B), plaintiff shall have the greater of the time provided in Subsection XIV(B) for plaintiff to approve or object or thirty (30) days after receipt of the notice and all requested information and statements to be submitted pursuant to Subsection XV(A), in which to approve or object, and if plaintiff has approved the proposed sale pursuant to Subsection XIV(B), plaintiff shall have twenty (20) days after receipt of the notice and all requested information and statements to be submitted pursuant to Subsection XV(A) in which to reconsider its prior approval.

XVI

Any contract for Sale of Scotia Marine shall require the Purchaser to file with this Court and serve upon plantiff and Merck, prior to the anticipated date of Sale of Scotia Marine, an affidavit in which the Purchaser represents that it intends to use Scotia Marine, or its assets, and the assistance Merck shall provide the Purchaser pursuant to Section XIX through XXIV to compete effectively in the sale of Alginate in the United States for Specified Functions.

XVII

(A) The Sale of Scotia Marine ordered and directed by this Final Judgment shall be made in good faith and shall be absolute and unqualified; however, noting in this Final Judgment shall prohibit Merck from securing full payment for the stock or assets of Scotia Marine by retaining, accepting, enforcing, and settling a bona fide lien, mortgage, deed of

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trust, or other form of security on the stock or assets. If, after Sale of Scotia Marine, Merck by enforcement or settlement of a bona fide lien, mortgage, deed of trust, or other form of security regains ownership or control of any stock or assets of Scotia Marine, Merck shall sell or, if a trustee shall be appointed, the trustee shall secure a Purchaser for the regained stock or assets pursuant to the provisions of this Final Judgment (including Sections IV, VII, and XIX through XXIV) and within the times specified therein measured from the date Merck regained the stock or assets. Merck shall take no action that will impair or impede the Sale of Scotia Marine or the furnishing of assistance pursuant to Sections XIX through XXIV.

(B) The choice whether to purchase all the stock of Scotia Marine or all the business and assets of Scotia Marine shall lie solely with the Purchaser.

XVIII

The Hold Separate Order entered in this action on September 13, 1979, is hereby dissolved.

XIX

(A) Upon request of the Purchaser within three (3) months following the date of Sale of Scotia Marine, Merck shall use its best efforts expeditiously to furnish the Purchaser within three (3) months and at no charge all information and know-how in the possession or under the control of Merck on the date of the request concerning analyzing and harvesting Seaweed; drying, milling, baling, storing, or otherwise preparing Seaweed for use in producing Alginate; and locating supplies and suppliers of Seaweed.

(B) Upon request of the Purchaser within three (3) months following the date of Sale of Scotia Marine, Merck shall use its best efforts expeditiously to furnish the Purchaser within six (6) months and at no charge such information and know-how in the possession or under the control or Merck on the date of the request that is related to the production methods used by Alginate Industries and that may be reasonably necessary for Scotia Marine to produce economically and efficiently all Specified Products that do not contain PGA and/or their functional equivalents.

(C) Upon request of the Purchaser within three (3) months following the date of Sale of Scotia Marine, Merck shall use its best efforts expeditiously to furnish the Purchaser within three (3) months and at no charge such information and know-how in the possession or under the control of Merck on the date of the request as may be reasonably necessary for the Purchaser to decide whether to produce PGA. If, within six (6) months following receipt of the information, or one (1) year following the date of Sale of Scotia Marine, whichever occurs later, the Purchaser states that it intends to build a production line capable of producing PGA, Merck shall use its best efforts expeditiously to furnish the Purchaser within six (6) months following the statement and at no charge such information and know-how, including design and engineering data, in the possession or under the control of Merck on the date of the statement or three (3) months following the date of Sale of Scotia Marine, whichever occurs earlier, as may be reasonably necessary for Scotia Marine to produce economically and efficiently all Specified Products that contain PGA and/or their functional equivalents.

(D) Upon request of the Purchaser within three (3) months following the date of Sale of Scotia Marine, Merck shall use its best efforts to furnish the Purchaser within three (3) months and at no charge all information in the possession or under the control of Merck on the date of the request with respect to research and development of Alginate Industries concerning new Alginate products for and use of Alginate in the Specified Functions.

XX

(A) Upon request of the Purchaser, Merck shall use its best efforts to make available, at a reasonable time and place and for a period not to exceed one (1) year from the date of Sale of Scotia Marine, qualified technical personnel to assist the Purchaser to design a laboratory for research and development with respect to Alginate, and to hire and train a sales and technical support staff for marketing Alginate for Specified Functions.

(B) If the Purchaser requests information from Merck pursuant to Subsection XIX(A), upon further request of the Purchaser, Merck shall use its best efforts to make available, at a reasonable time and place and for a period not to exceed eighteen (18) monthts from the date the information is provided, qualified technical personnel to advise the Purchaser on harvesting in Nova Scotia Seaweed of the genus Laminaria and on producing Specified Products from that Seaweed.

(C) If the Purchaser requests information from Merck pursuant to Subsection XIX(B), upon further request of the Purchaser, Merck shall use its best efforts to make available, at a reasonable time and place and for a period not to exceed one (1) year from the date the information is provided, qualified technical personnel to advise the Purchaser on producing Specified Products that do not contain PGA.

(D) If the Purchaser pursuant to Subsection XIX(C) states that it intends to build a production line capable of producing PGA, upon request of the Purchaser, Merck shall use its best efforts to make available, at a reasonable time and place and until six (6) months following the completion of the production line, qualified technical personnel to advise the Purchaser on constructing the production line and producing on that line Specified Products that contain PGA and other Alginate products for the Specified Functions that may be produced using that line.

(E) All assistance and advice made available pursuant to this Section XX shall be made available at cost (salary, benefits, and out-of-pocket expenses), determined in accordance with generally accepted accounting principles. Any controversy concerning the cost of the assistance and advice shall be settled by arbitration.

XXI

(A) At the time of the Sale of Scotia Marine, Merck shall cause Alginate Industries to grant to the Purchaser an option for a period of one (1) year to purchase from Alginate Industries its facility for drying and milling Seaweed at Keose, on the Isle of Lewis, Outer Hebrides, Scotland. In the event the option is exercised, Merck shall not within two (2) years following the date of the purchase construct on the Isle of Lewis a new facility for the drying and milling of Seaweed.

(B) The purchase price of the facility under the option shall be the book value (cost less depreciation) of the facility at the time of purchase, determined in accordance with generally accepted accounting principles. The option shall be nonassignable and shall provide that in the event the option is exercised, the Purchaser shall not within one (1) year following the date of the purchase sell the facility. Any controversy concerning the book value of the facility shall be settled by arbitration.

XXII

(A) Upon request of the Purchaser at the time of Sale of Scotia Marine, Merck shall enter into a supply contract pursuant to which it will supply to the Purchaser for a period of one (1) year from the date of Sale of Scotia Marine, at the option of the Purchaser, Specified Products and/or Kelco products that are the closest functional equivalents of Specified Products. Merck shall not be required to supply more than 100,000 pounds of such products pursuant to the supply contract in any period of six (6) months. In the case of Kelco products, the supply contract shall provide for seles prices equal to Kelco's retail price, less a reasonable distributorship discount, and such other terms and conditions of sale as are reasonable. In the case of Specified Products, the supply contract shall provide for sales prices (FOB British port) and other terms and conditions that are no less favorable to the Purchaser than the lowest prices and the best terms and conditions at or upon which such products are then being sold by Alginate Industries to independent third party distributors, plus any commission which Alginate Industries may be obligated to pay an existing distributor. Any controversy concerning sales prices or other terms and conditions of sale shall be settled by arbitration.

(B) If the Purchaser, within the time period specified in Subsection XIX(C), states that it intends to build a production line capable of producing PGA, the term of any supply contract shall be extended at the request of the Purchaser to a date two (2) years following the statement or to the date the production line is commercially operational, whichever occurs first. During the term of the extension, Merck shall be required to supply only products containing PGA and other Alginate products for the Specified Functions that may be produced using the production line.

XXIII

At the time of Sale of Scotia Marine, Merck shall furnish to the Purchaser at no charge a list, based on information in the possession of Kelco and not acquired from Alginate Industries, of: the names and addresses of Persons in the United States or Canada who, at any time during the two (2) years preceding the date of Sale of Scotia Marine, purchased any Alginate product sold by Kelco for use in one or more Specified Functions; the names and addresses of Persons in the United States or Canada who, at any time during the two (2) years preceding the date of Sale of Scotia Marine, purchased any Alginate product produced by Alginate Industries; the names and addresses of Persons who, at any time during the two (2) years preceding the date of Sale of Scotia Marine, purchased any Alginate product produced by Scotia Marine; and for each Person listed, the Alginate product purchased by the Person and the products in which the Person used the Alginate product.

XXIV

At the time of Sale of Scotia Marine, Merck shall grant and cause Alginate Industries to grant to Scotia Marine nonexclusive, royalty-free licenses to all patents owned by Merck that are issued on applications filed prior to the date of Sale of Scotia Marine and that are necessary for Scotia Marine to harvest and process Seaweed and to produce and sell in the United States and Canada Specified Products or their functional equivalents and any other Alginate products that Scotia Marine produced during the two (2) years preceding the date of Sale of Scotia Marine. The licenses shall be for the life of the patents and may provide that the rights granted thereby may not be transferred by assignment, sublicense, or otherwise, except in connection with a sale of all or substantially all of the assets of Scotia Marine.

XXV

Merck shall not be required to furnish any information to the Purchaser pursuant to Sections XIX or XX, unless the Purchaser enters into a reasonable confidentiality agreement with Merck concerning the information that at least shall require the Purchaser unless and until obtaining the information by other means not to disclose the information to any other Person except in connection with a sale of Scotia Marine or of all or substantially all of the assets of Scotia Marine and an agreement to return to Merck all such information received pursuant to Subsection XIX(C) and Subsection XX(D) in the event that the Purchaser does not build a production line capable of producing PGA.

XXVI

At the time of Sale of Scotia Marine, Merck shall enter into a reasonable arbitration agreement with the Purchaser concerning controversies to be settled by arbitration pursuant to this Final Judgment. When any controversy is submitted to arbitration, Merck shall promptly notify plaintiff in writing of the controversy being arbitrated and shall promptly serve a copy of the final award on plaintiff.

XXVII

No license or right to use any trademark or company name or trade name of defendant, Kelco, or Alginate Industries shall be granted or implied in connection with any transaction pursuant to this Final Judgment, and the Purchaser of Scotia Marine shall have no right to use any such trademark, company name, or trade name.

XXVIII

(A) Merck is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring, without the prior written consent of the plaintiff, all or any part of the assets used in production, distribution, or sale of Alginate (other than in the normal course of business) or voting securities of any producer, distributor, or seller of Alginate. Merck is not, however, enjoined from the acquisition of all or part of the securities or assets of any of its subsidiaries and the formation of subsidiaries by the transfer thereto of assets of Merck or of other subsidiaries.

(B) Merck is further enjoined and restrained for a period of five (5) years from the date of entry of this Final Judgment from entering into any contract for a term longer than one (1) year for the sale of Alginate to a purchaser other than a distributor.

XXIX

Merck shall acquire, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the production, distribution, and sale of Alginate, other than those of Scotia Marine, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with this Court.

XXX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees and agents of defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section XXX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as othewise required by law.

(C) If at the time information or documents are furnished by Merck to plaintiff, Merck represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Merck marks each pertinent page of such material, "Subject to claim of protection under Rule 26 (c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to Merck prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Merck is not a party.

XXXI

This Final Judgment will expire on the tenth anniversary of its date of entry.

XXXII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XXXIII

Entry of this Final Judgment is in the public interest.

Dated:

Howard B. Turrentine,
Judge of the Disrict Court.

P. Terry Lubeck, Andrew L. Pringle, Sanford M. Adler, Antitrust Division, United States Department of Justice, Washington, DC 20530, Telephone: 202/724–7974; Robert E. Noel, Assistant United States Attorney, United States Courthouse, 940 Front Street, San Diego, CA 92189, Telephone: 714/293–5662, Attorneys for Plaintiff.

U.S. District Court, Southern District of California

United States of America, Plaintiff, v. *Merck & Co., Inc.,* Defendant.

Civil Action No. 79–0962–T.

Filed: September 2, 1980.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

This civil action began on August 17, 1979, when the United States filed a Complaint challenging the acquisition of alginate Industries Ltd. of England ("AIL") by Merck & Co., Inc. ("Merck") as a violation of Section 7 of the Clayton Act (15 U.S.C. § 18) and Sections 1 and 2 of the Sherman Act (15

U.S.C. §§ 1, 2). The complaint alleges that by acquiring AIL, Merck would substantially lessen actual and potential competition, unreasonably restrain trade, and tend to create a monopoly in the United States in sales of alginate for several specified uses. The Complaint requests that Merck be prevented from owning any interest in AIL. A Stipulated Order of the Court requires Merck until final resolution of the case, to maintain AIL as an economically viable business, with separate assets and operations, and prohibits Merck from using any of AIL's confidetial manufacturing technology.

The United States and Merck have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalities Act. Entry of the proposed Judgment will terminate the action, except the Court will retain jruisdiction to construe, modify, or enforce the proposed Judgment, and to punish violations of the proposed Judgment. The Stipulated Order will be dissolved upon entry of the proposed Judgment.

II

Events Giving Rise to the Alleged Violation

In August 1979, Merck acquired AIL, a United Kingdom corporation primarily engaged in the production and sale of alginate. Alginate, a seaweed extract, is used to control water-based systems by thickening, stabilizing, suspending, film-forming, emulsifying, or gelling. Alginate is sold in several forms: alginic acid, its various salts, and its ester propylene glycol alginate ("PGA").

The Kelco Company ("Kelco"), a division of Merck primarily engaged in the production of alginate and xanthan gum, is the largest alginate producer in the United States and the second largest in the world. AIL is the largest alginate producer in the world. In 1978, Kelco and AIL together produced approximately 62 percent of the worldwide alginate supply; Kelco produced approximately 80 percent of all alginate sold in the United States, and AIL produced approximately 75 percent of all alginate imported into the United States. Kelco is the only producer of PGA in the United States, and AIL is the only other significant producer of PGA in the world.

Alginate has many commercially significant uses. In particular, PGA is superior to other beer foam stabilizers and buttered syrup emulsifiers, and except for xanthan gum, to other pourable salad dressing stabilizers. Alginate's special properties make it unique for use as a gelling agent in some dental impression materials and as a foaming agent in some antacids. Alginate has distinct advantage over other antimigrants in dyeing textiles and print paste thickeners in printing textiles. The Complaint alleges the acquisition would impair competition in sales of alginate for these particular uses.

In 1978, sales of Kelco-brand alginate and xanthan gum accounted for a significant share of all pourable dressing stabilizers sold in the United States, and sales of Kelco-brand alginate accounted for a significant share of United States sales of products for the other uses. The following table lists the approximate share of sales accounted for by Kelco-brand products, along with the approximate, corresponding share accounted for by AIL-brand alginate.

1978 Market Shares

	Kelco share	AIL share
All pourable salad dressing stabilizers	80	1
All beer foam stabilizers	80	0
All buttered syrup emulsifiers	93	7
Alginate impression material gelling agent	80	3
Alginate Antacid foaming agent	91	9
Alginate antimigrant and print paste thickener	50	40

III

Explanation of the Proposed Final Judgment and Its Anticipated Effects on Competition

The United States brought this case because Merck's acquisition of AIL eliminated a competitive source of alginate for the United States. The anticompetitive effects of Merck's ownership of AIL would be eliminated if the actual and potential competition AIL provided is replaced. The object of the proposed Final Judgment is to create a new competitive source of alginate to replace AIL. The proposed Judgment requires Merck to sell Scotia Marine Products Limited ("Scotia Marine"), a wholly-owned Canadian subsidiary of Merck which manufactures alginate in Nova Scotia, Canada. The United States may have a trustee appointed to sell Scotia Marine if Merck does not. Merck is also obligated to furnish the purchaser of Scotia Marine certain information and assistance that should enable the purchaser to compete effectively in the United States in sales of alginate for the particular alginate uses that were the focus of the Complaint.

Scotia Marine currently produces alginate products that Merck sells in the United States, Canada, and elsewhere. In 1979, Scotia Marine's alginate was sold under the Kelco brand for use in various industries, including the textile, paper, and food industries. Scotia Marine employs a manufacturing process similar to the one used by AIL. This process uses significantly less energy than the energy-intensive process employed by Kelco in San Diego. Scotia Marine has a production capacity of about two million pounds per year, and is able to produce the complete line of sodium alginate products sold by Merck under its Keltex and Kelgin trademarks. Scotia Marine lacks equipment needed to produce PGA.

One goal of the proposed Final Judgment is to provide Scotia Marine with the ability to produce economically and efficiently a full line of alginate products of the type sold by Kelco in the United States for the particular uses. The proposed Judgment sets as a standard of quality for the Scotia Marine products the corresponding alginate products produced by AIL. It obligates Merck to furnish the purchaser information and know-how relating to the production methods of AIL that may be reasonably necessary for Scotia Marine to produce the products economically and efficiently. The obligation includes furnishing data on constructing a production line capable of producing PGA. Moreover, Merck must make available qualified technical personnel to advise the purchaser on producing all of the products. With Merck's information, know-how, and advice, Scotia Marine should be able to produce all of the products, using AIL technology where needed to minimize production costs.

Since Scotia Marine will not be able immediately to produce all of the products, the proposed Judgment requires Merck to enter a contract to supply them to the purchaser. The purchaser may select whatever mixture of AIL products and Kelco products the purchaser wants, up to a maximum of 100,000 pounds in any six-month period. The purchaser may resell these products in the United States. The initial term of the supply contract is one year from the date of sale of Scotia Marine. Before the end of this one-year period, Scotia Marine should be able to produce all of the products that do not contain PGA. The term of the supply contract may be extended. During the extension, the purchaser's selection is limited to the products that contain PGA or that may be produced using a PGA production line. The supply contract will allow Scotia Marine, while it develops the ability to produce the products, both to compete for sales of them and to develop business contacts in preparation for the day when it can produce them.

Another goal of the proposed Judgment is to assure that Scotia Marine has access to sufficient seaweed to allow it to produce substantial amounts of alginate. Scotia Marine produces alginate primarily from a type of seaweed known as Ascophyllum, which it mechanically harvests from nearby tidal waters. Scotia Marine has exclusive, long-term rights to substantial amounts of Ascophyllum. Significantly more Ascophyllum is available in nearby tidal waters not leased by Scotia Marine.

In addition, Laminaria, another type of seaweed, grows in abundance beyond the tidal waters. Scotia Marine does not have the ability either to harvest this seaweed mechanically or to produce alginate from it, but AIL does. The proposed Judgement requires Merck to provide information and know-how and to advise the purchaser on harvesting Laminaria mechnically and producing alginate from it.

Scotia Marine will have available other sources of seaweed. The proposed Judgment requires Merck to have AIL grant to the purchaser an option for a period of one year to purchase the AIL facility for drying and milling seaweed at Keose, on the Isle of Lewis, Outer Hebrides, Scotland. This facility processes Ascophyllum gathered from the shores of the island. In addition, there are a number of companies that sell dried seaweed. In the past, Scotia Marine has obtained some seaweed from one of these companies. To help Scotia Marine compete for this dried seaweed if the need arises, the proposed Judgment requires Merck to provide information and know-how useful in obtaining dry seaweed.

Further goals of the proposed Judgment are to enable the purchaser to distribute its alginate for the particular uses and to conduct alginate research and development. To this end, among other things, Merck must assist the purchaser to hire and train for the particular uses and alginate sales staff and a technical support staff. Merck must also assist the purchaser to design a laboratory for alginate research and development and furnish the purchaser all information Merck has regarding current AIL research and development on alginate and the particular uses.

The selection of the purchaser of Scotia Marine is an important aspect of the proposed Judgment. A suitable purchaser must have the ability to operate Scotia Marine as a single ongoing business and the intent to use Scotia Marine and Merck's aid to compete effectively in the United States in the sale of alginate for the particular uses. Merck cannot sell Scotia Marine to a firm that produces alginate, unless the United States approves the sale. If the United States objects to any other proposed purchaser, Merck may complete the sale if it demonstrates to the Court that the proposed sale is consistent with the proposed Judgment.

The divestiture of Scotia Marine should provide a replacement for AIL as a competitive source of alginate for the United States. Scotia Marine's current capacity of two million pounds of alginate per year is more than twice the amount of AIL-brand alginate sold in the United States in 1978. As a result of the substantial seaweed available and the information to be transferred, the purchaser should be able to expand significantly Scotia Marine's capacity and the line of alginate products it produces. With the combination of its own technology and AIL technology to be transferred, Scotia Marine should have production costs comparable to AIL's costs. In addition, since Scotia Marine's manufacturing plant is much closer to the United States than AIL's plant, Scotia Marine will have lower shipping costs in competing in the United States.

IV

Remedies Available to Potential Private Litigants

Section 4 of Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against the defendant.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States and defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Judgment is in the public interest.

The Act provides a period of at least sixty (60) days preceding the effective date of the proposed Judgment within which any person may submit to the government written comments regarding the proposed Judgment. Any person who wants to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the court and published in the **Federal Register.**

Written comments should be submitted to: Roger B. Andewelt, Assistant Chief, Intellectual Property Section, Antitrust Division (SAFE-704), U.S. Department of Justice, Washington, DC 20530.

VI

Alternatives to the Proposed Final Judgment

The United States actually considered only one alternative to divestiture of Scotia Marine, divestiture of AIL. The proposed Final Judgment is considered superior for several reasons to seeking divestiture of AIL via a trial on the merits.

Scotia Marine may prove to be a superior competitor in the United States. While Scotia Marine's production costs parallel those of AIL, Scotia Marine's shipping costs are lower because it is closer to the United States than AIL. AIL does not have its own United States distribution force, but with Merck's aid, the purchaser of Scotia Marine will be able to develop an effective United States distribution force. Many potential purchasers of Scotia Marine have existing United States marketing forces selling related products. Such a firm would be able economically to add alginate to the products it markets in the United States.

Next, the proposed Judgment has the benefit of protecting competition in the United States without interfering with Merck's efforts to improve its competitive position in foreign markets.

Litigation of case would be lengthy and expensive. Even if the United States were to prevail after a trial on the merits, and there is some risk it may not, the Court may order Merck to sell Scotia Marine, rather than AIL, because Scotia Marine should be a sufficient replacement for AIL as a competitive source of alginate for the United States.

Under the circumstances, the United States believes that on balance, the proposed Final Judgment is in the public interest.

VII

Other Materials

During the course of settlement discussions, Merck furnished to the United States materials that caused it to change its view on relief in the case. In the Complaint, the United States requested that Merck sell AIL; after reviewing these materials, the United States determined that proposed Final Judgment was in the public interest. These materials include Merck written representations and transcripts of depositions the United States took of Merck personnel regarding Scotia Marine. These materials contain commercially sensitive business information, and a Court Protective Order prohibits their disclosure to the public.

Dated: August 25, 1980.

Respectfully Submitted,

Roger B. Andewelt, *Attorney, U.S. Department of Justice;* P. Terry Lubeck, Andrew L. Pringle, Sanford M. Adler, *Attorneys, U.S. Department of Justice.*

[FR Doc. 80-27887 Filed 9-10-80; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-59)]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC-STAAC will meet in Room 226A of Federal Building 10B at the National Aeronautics and Space Administration in Washington D.C., from 9:30 a.m. to 3:30 p.m. on September 26, 1980.

The Subcommittee will first discuss management interfaces between Headquarters and NASA Centers and staffing status in the Headquarters program office. The second area of discussion will concern the program philosophy concerning simple, inexpensive, and easily available experimental capabilities for both ground and space operations. Thirdly, the status and rationale for new program elements, cloud physics, combustion science, and vacuum science will be presented and discussed.

The approved agenda for the meeting is as follows:

September 26, 1980

Time and Topic

9:30 a.m. Introductory Remarks
10:00 a.m. Management Interfaces and Headquarters staffing
11:30 a.m. Experiment Operations Philosophy
1:30 p.m. New Program Elements
2:30 p.m. Adjourn

At 2:30 p.m., the Subcommittee will reconvene to recommend candidates for membership on its own Subcommittee and on an ad hoc review panel to perform scientific evaluations of technical proposals received by the program. In these discussions, the areas of expertise of the candidates and the need to avoid conflicts of interest on the part of the investigators who are known to be associated with the program or who are known to be preparing proposals will be considered. Public discussion of the professional qualifications of candidates for membership in the panel would invade the privacy of these scientists and other individuals associated with their research. Since the afternoon session of the Subcommittee meeting will be concerned throughout with the matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that this session should be closed to the public.

The STAAC ad hoc Informal Advisory Subcommittee was established to advise NASA on the Materials Processing in Space program's accomplishments, ongoing research, and long range plans. The Subcommittee has six members representing the scientific and industrial communities and is chaired by Dr. Martin Glicksman. For further information, contact Dr. John R. Carruthers, Executive Secretary of the NAC–STAAC ad hoc Informal Advisory Subcommittee on Materials Processing in Space, Code EM–7, NASA Headquarters, Washington, D.C., 20546 (202/755–2070).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

September 3, 1980.

[FR Doc. 80–27874 Filed 9–10–80; 8:45 am]

BILLING CODE 7510–01–M

[Notice (80–60)]

NASA Advisory Council (NAC) Life Sciences Advisory Committee; Meeting

The NAC Life Sciences Advisory Committee (LSAC) will meet on October 11, 1980. The meeting will take place from 8:30 a.m. to 5:00 p.m. on October 11 at the Endicott House of the Massachusetts Institute of Technology, 80 Haven Street, Dedham, Massachusetts 02026. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including 11 Committee members and participants). Visitors will be requested to sign a visitor's register.

The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Science's Programs. These programs bear on the health and well-being of all who travel aboard U.S. spacecraft. As such, they encompass the practice of space medicine, research into the effects of space flight on the human organism and research into systems by which life can be protected and supported in space. The programs also concern the possible use of space flight to enhance understanding of biological processes and they seek to understand how life originated on Earth and whether it occurs elsewhere. The Committee is chaired by Dr. Richard Wurtman. Following is the approved agenda for the meeting:

Agenda

October 11, 1980

8:30 a.m. Introductory Remarks
9:00 a.m. Life Sciences Flight Experiment Program Overview
10:00 a.m. Payload Selection Process
11:00 a.m. Discussion
1:30 p.m. Peer Review Procedures
2:30 p.m. New Research Directions
4:00 p.m. Shuttle Medical Operations Preparedness
5:00 p.m. Adjourn

For further information please contact Dr. Paul Rambaut, Executive Secretary of the Committee, Code SBR–3, National Aeronautics and Space Administration, Washington, DC 20546. Telephone (202) 755–3723.

Gerald Griffin,

Acting Associate Administrator for External Relations.

September 3, 1980.

[FR Doc. 80–27875 Filed 9–10–80; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Joint Meeting of the Media Arts and Design Arts Panels; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a JOINT meeting of the Media Arts and Design Arts panels to the National Council on the Arts will be held September 29, 1980 from 9:00 a.m. to 5:30 p.m. and September 30, 1980 from 9:00 a.m. to 5:30 p.m. in the AFI Screening Room, Kennedy Center, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 4, 1980.

[FR Doc. 80–27896 Filed 9–10–80; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Panel (Policy); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a meeting of the Visual Arts Panel (Policy) to the National Council on the Arts will be held September 29, 1980 from 9:00 a.m. to 5:30 p.m. September 30, 1980, 9:00 a.m. to 5:30 p.m., and October 1, 1980, 9:00 a.m. to 5:30 p.m. in Room 1340, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy and guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 4, 1980.

[FR Doc. 80–27897 Filed 9–10–80; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 80–37]

Safety Recommendations, Responses, and Closeouts; Availability

Aviation Safety Recommendation Letter

A–80–85 to the Federal Aviation Administration, August 28, 1980.—A "Class I, Urgent Action" recommendation has been issued by the National Transportation Safety Board as a result of investigation of an incident which occurred August 26 involving an Aerospatiale helicopter. The helicopter, N3596N, owned and operated by Petroleum Helicopters, Inc., of Lafayette, Louisiana, was inbound to Quonset Point, Rhode Island, with a crew of two and seven passengers when, about 2 miles east-southeast of Quonset, the crew reported a fire in the passenger compartment. The onboard fire extinguishers were used to put out the fire, and the helicopter landed without further incident.

The continuing investigation of this incident has determined that wire number 1XP2BF contacted or shorted, and burned through hydraulic line 330A75 5311 02 causing a high-pressure hydraulic leak and fire. The Safety Board believes that a similar incident occurred with a like model helicopter belonging to Petroleum Helicopters, Inc., about 2 years ago, causing extensive damage.

To prevent a fire that might result from friction between electrical wires and hydraulic cables on the Aerospatiale SA-330 helicopter, the Safety Board recommends that FAA:

> Issue an emergency Airworthiness Directive for all Aerospatiale helicopter models SA-330 to inspect, separate, and secure electrical wires that are near hydraulic lines between fuselage stations 5295 and 5600. (A-80-85)

Responses to Safety Recommendations

Aviation

A-78-4, from the Federal Aviation Administration, August 27, 1980.—Letter is in response to the Safety Board's request of May 5, 1980, that FAA reevaluate this recommendation, issued February 16, 1978, following investigation of the crash of a Piper PA-31 Navajo shortly after takeoff from Lake Minchumina, Alaska. The accident occurred September 24, 1977. The recommendation asked FAA to issue an Airworthiness Directive applicable to Piper Cheyenne, Navajo, and Aztec airplanes to require a periodic inspection of the forward baggage door locks, and to establish an inspection procedure and repair or replacement requirements; this inspection should insure that the baggage door lock tang will not disengage from the door handle and that the latching load imposed during handle operation is a specified minimum consistent with dynamic loads which can be encountered during all ground and flight operations. (See 43 FR 8600, March 2, 1978.)

The Safety Board's May 5 letter notes that in FAA's initial response of May 5, 1978 (43 FR 25889, June 15, 1978) it was indicated that FAA had reviewed the design and had physically examined the latch and lock mechanisms of the door. FAA did not believe that the door, in good condition, would open in flight if it had been properly latched and locked. The Board said the key words here are *in good condition* and reflect the essential concern of the Safety Board to insure that the locks are in good condition. This is precisely why the Board recommended that they be inspected and repaired or replaced as necessary.

The Board further noted that on June 9, 1978, the Piper Aircraft Corporation issued Service Bulletin No. 604 dealing with modification of the forward baggage door locking systems installed on the above-mentioned airplanes. Also, on June 8, 1979, Piper issued Service Bulletin No. 604A which superseded Bulletin No. 604. The new bulletin revised serial numbers of the affected aircraft models, added kit information, and provided for modification of the door locking system as well as an inspection of the door lock arm assembly. Compliance with this bulletin to insure that the door is in good condition requires the installation of one or more kits, the availability of lock engagement tolerance data, and the nonroutine removal of the baggage door lock arm assemblies. In connection with the purpose of Bulletin 604A, Piper states in part that:

> . . . It is possible to close the door and turn the lock to the locked position without the lock tang actually engaging the door handle. As a result, the door would not be properly secured and could possibly come open in flight; this could adversely affect the flight characteristics of the airplane.

In response to the Safety Board's recent comments, FAA's August 27 letter indicates that the FAA central Region, the lead region for certification of small aircraft, has initiated a study to evaluate the problems associated with the nose baggage door locking mechanisms of all small multiengine aircraft. FAA will ensure a reassessment of the door lock problems associated with the Piper Cheyenne, Navajo, and Aztec airplanes. FAA will inform the Board of the results of the study and subsequent action.

A-79-80 and -81, from the Federal Aviation Administration, August 27, 1980.—Letter is in response to letters forwarded by the Safety Board on February 7 (commenting on FAA's response of January 15 (45 FR 7019, January 31, 1980)) and on July 9 (requesting a progress report). The recommendations were issued last October 17 following the Safety Board's investigation of several commuter air carrier accidents.

Recommendation A-79-80 asked FAA to require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certificated gross weight or to the limits of their c.g. envelope, or both. FAA now reports that Amendment No. 135-3 to Part 135, issued January 30 requiring additional operating experience for commuter pilots-in-command, was effective March 1. A notice providing specific flight testing standards for Part 135 pilots was issued on January 14 and should result in pilots being more knowledgeable about their aircraft and its limitations, FAA stated.

FAA notes that revised Part 135 provides training in weight and balance, runway limitations for takeoff and landing, aircraft performance data, and operating limitations during initial, transition, and upgrade ground training for pilots. In April 1979, increased Part 135 surveillance requirements were initiated which involved additional en route inspections and other FAA emphasis items. Crewmembers demonstrated their knowledge of weight and balance procedures and aircraft performance as part of the surveillance. Further, FAA notes that the revised training and testing requirements and the exposure to various weight and loading conditions that the pilot will receive during the acquisition of operating experience now required in Amendment No. 135 will provide the needed additional familiarization and knowledge of aircraft performance deficiencies.

In response to recommendation A-79-81, which asked FAA to expedite rulemaking which would make the flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air carrier crewmembers under 14 CFR Part 121, FAA reports that on August 4, 1980, a supplemental notice of proposed rulemaking, No. 78-3B, Docket No. 17669, was issued. The proposal would revise the flight and duty time limitations and rest requirements for flight crewmembers utilized by domestic, flag, and supplemental air carriers, commercial operators, and air taxi operators.

A-80-44, from the Federal Aviation Administration, August 26, 1980.—Response is to a recommendation issued May 28 following Safety Board investigation of a bird strike to a Royale Airlines Beech B-99 at Lafayette, La., on April 5, 1979. The recommendation called on FAA to conduct a study to determine whether the structural characteristics of general aviation aircraft windscreens equipped with heating elements are enhanced by the use of such elements and apprise operators of optimal procedures through inclusion in appropriate flight manuals or issuance of an advisory circular. (See 45 FR 37918, June 5, 1980.)

FAA reports that it is initiating a study of general aviation and commuter airplane accidents to evaluate bird strike history. As a part of the effort, FAA is reviewing windshield designs to determine the feasibility of developing guidelines for heating general aviation airplane windshields. Progress in this effort will be reported in January 1981.

Highway

H–77–6, from the Federal Highway Administration, August 19, 1980.—Letter concerns a recommendation issued by the Safety Board on May 27, 1977, to FHWA's Bureau of Motor Carrier Safety calling for issuance of an ON-GUARD bulletin to warn the drivers of cargo tank trucks and of tractors hauling cargo tank semitrailers of the hazard of lateral surge of liquid cargoes, and to inform the drivers of the correct operating procedures to use whenever the tank is partially loaded. (See 42 FR 28195, June 2, 1977.)

FHWA notes that during the safety recommendations review meeting last March 24 FHWA representatives indicated that an ON GUARD was being considered to discuss the effects of cargo shifting on vehicle handling. This ON GUARD is directly concerned with recommendation H–77–6 and is titled, "Anything Other Than Full or Empty" (Volume 11, No. 2, June 1980). Copies were provided to the Safety Board.

H–80–2 through –4, from the Federal Highway Administration, August 25, 1980.—Response is to recommendations issued last January 10 following investigation of the tractor-semitrailer accident which occurred February 7, 1979, on I–70 at New Stanton, Pa. (See 45 FR 5852, January 24, 1980.)

In response to recommendation H–80–2, which asked FHWA to require the States to establish a program which will assure prompt identification, reporting and corrections of hazardous highway conditions, FHWA notes that a statement of national policy addressing this need is contained in Highway Safety Program Standard 12 and is supplemented with guidance in Highway Safety Program Manual Volume 12. FHWA states that currently all States have procedures for identifying maintenance work and potentially hazardous conditions, and FHWA does not agree that additional Federal regulatory action would be an effective way to significantly improve existing State procedures. FHWA believes that training for maintenance personnel is desirable and can be a very effective way to improve State practices. A training course that is directly related to recommendation H–80–2 is being developed for release in mid-1980; entitled "Functional Requirements of Highway Safety Features," this training course includes identification of safety problems and solutions.

FHWA states that it fully supports the intent of recommendation H–80–3, which called for development of a course for use by the State and local highway officials to train maintenance personnel to recognize hazardous conditions and the need to report them. Actions already taken by FHWA in this area include:

> The "Maintenance and Highway Safety Handbook," originally published by the Highway Users Federation for Safety and Mobility in 1970, updated in 1977 by FHWA and over 30,000 copies distributed. The FHWA Maintenance Inspection Review Manual is available at most highway agencies and identifies many potentially hazardous situations by description and photographs.
>
> A maintenance Aid Digest, MAD–21, published in February 1979 by the American Association of State Highway and Transportation Officials (AASHTO), with FHWA assistance; contains descriptions of maintenance training materials currently available, many of the listed training courses directly addressing identification of safety needs and corrective or preventive actions. These State safety training materials apply to maintenance crew training and are prepared and offered for exchange between highway agencies.
>
> Highway safety courses offered by the National Highway Institute; some apply to maintenance, and some course descriptions specifically state that problem identification and resolution are part of the course objective.
>
> A training course entitled "Functional Requirements of Highway Safety Features," now being developed by FHWA. This course is in the "pilot" or final stage of development. A discussion of proper reporting and documenting of potential hazards will be included. This 1- to 2-day course, aimed at personnel involved in construction, operation, and maintenance, is made up of 1–1½ hour modules including slide-tape presentations, to be given with or without instructors. Each is to be suitable for presentation independently or in combinations appropriate to the participants, and will discuss the purpose and performance requirements of highway features, how they function, what can go wrong, and how to recognize and correct problems. Corrective action may require upgrading of existing or the installation of new features.

With respect to recommendation H–80–4, which asked FHWA to require the States to include in their annual Interstate maintenance program a description of the planned training for maintenance personnel, FHWA states that it encourages all types of maintenance and safety training and finds that most States are providing training for maintenance and safety practices. FHWA also states, "The *requiring* of such training is not related to the Interstate Maintenance Guidelines and, therefore, cannot be made a mandatory part of that regulation." During the development of the State's Interstate maintenance programs, FHWA says it will consult and consider each State's safety training and discuss improvements that are needed.

Marine

M–78–16 through –30, from the United States Coast Guard, August 6, 1980.—Letter is in response to the Safety Board's comments forwarded January 30, 1979, with reference to Coast Guard's initial response of October 12, 1978 (43 FR 53515, November 16, 1978). The recommendations were issued June 1, 1978, following investigation of the sinking of the Great Lakes bulk cargo vessel SS Edmund Fitzgerald in eastern Lake Superior on November 10, 1975.

With respect to recommendation M–78–16, the Safety Board's January 30, 1979, letter stated that Coast Guard's determination that reduced freeboard will increase the probability of flooding through inadequate hatch covers satisfies the intent of the recommendation, and the Board considers it as "Closed—Acceptable Action." The Board agreed that the solution to the problem is through improvement in the weathertightness of the hatches.

Recommendation M–78–17 asked Coast Guard to initiate a design study to improve the current weathertight hatch cover and clamp designs used on Great Lakes bulk cargo vessels with a view toward requiring a more effective means of closure of such fittings. The Safety Board noted that Coast Guard's proposed study to evaluate hatch cover designs and clamps is an encouraging step toward solving the problem of nonweathertight hatch covers. Coast Guard's August 6 letter informs that the contract for phase one of the study to evaluate hatch cover designs and clamps was awarded in June 1979, and that two more phases of this study are planned. A Statement of Work containing a work schedule for phase two is attached to Coast Guard's letter. The contract for this phase is now being negotiated, and Coast Guard says completion of the study is expected in September 1981.

Referring to recommendation M–78–18, the Safety Board expressed concern about the statement that during the 1973–74 period, every Great Lakes bulk cargo vessel was required to produce a loading manual that included information on sequencing. Board investigation showed that the loading information about the Fitzgerald on November 10, 1975, did not contain information on intermediate stress during the loading sequence and did not contain any information on any aspect of unloading. The Fitzgerald contained no information on ballasting and deballasting in conjunction with loading and unloading. The Board further noted that the Commandant's action on the recommendations made by the Marine Board of Investigation for the Fitzgerald (recommendation 9, page viii) states that the Coast Guard will develop performance criteria for loading manuals to include details on sequencing. This action is dated July 26, 1977. The Safety Board expressed confusion as to the apparent discrepancy between the manuals produced in 1973–74 and the proposed performance criteria, and requested further information.

Coast Guard's August 6 letter with respect to recommendation M–78–18 corrects statements made in the October 12, 1978, response. Coast Guard states that not all Great Lakes bulk carriers have loading manuals as a result of the 1973 load line regulations. Of the 123 certified dry bulk carriers, 95 have approved loading manuals. The 28 vessels that do not have manuals are older and smaller vessels. Coast Guard says that the necessity for loading manuals on older and smaller vessels was considered by the joint U.S. Canadian Technical Committee subsequent to the loss of the Daniel J. Morrell (November 29, 1966). Based on decades of satisfactory operation and the lesser sensitivity to loading than the longer and more deeply loaded vessels, the Coast Guard has concluded that the lack of loading manuals is not a problem and does not intend to make such a requirement. Coast Guard has decided not to proceed with the development of performance criteria for loading manuals as previously stated in the Commandant's action on Coast Guard recommendation 9 from the Fitzgerald Marine Board of Investigation for these reasons: (1) Loading manual performances criteria for operations alongside the dock are not needed, and there is no significant casualty history to suggest that the existing practice is improper; and (2) the concern is primarily with insuring that vessels are loaded as outlined in the manuals. Coast Guard will continue to study the loading situation on Great Lakes bulk vessels to determine if the variability of loading is a safety problem. The study was to start in July 1980 and be completed by July 1981, and further action will be based on the resuts of this study.

The Safety Board withheld comment on Coast Guard's initial response to recommendation M–78–19 pending receipt of an amended response. Coast Guard's August 6 letter notes that regulations currently allow existing ships (built prior to 1973) the option of retaining old freeboards and of not meeting all of the new regulations including the requirements for loading information. Most of the bulk carriers are already equipped with loading manuals. The number of nonbulk carriers is few in number by comparison. There are less than 15 existing cargo vessels over 150 gross tons and not in bulk cargo. None of these requires special ballasting. In size, they range from moderate length of 400 feet down to about 100 feet. Because of their size and service, the opportunity for overstressing is limited. Since there is no significant casualty record, Coast Guard does not believe the loading manuals would materially increase the level of safety for these vessels. Therefore, no further response is considered necessary.

In response to the Safety Board's request for information about the progress made by the Coast Guard and the Maritime Administration (MARAD) in reviewing the results of the MARAD study, as indicated in Coast Guard's initial response to recommendation M–78–20, Coast Guard now reports receipt of the MARAD study and is proceeding with a regulation project on subsidization for Great Lakes cargo vessels. The work plan and schedule for regulatory action is now under development; an advance notice of proposed rulemaking for the project was published on March 16, 1978. Coast Guard will update the progress of the project with a supplemental advance notice of proposed rulemaking, expected to be published in the summer of 1980.

With respect to recommendation M–78–21, the Safety Board's January 30, 1979, letter notes that Coast Guard's Marine Board of Investigation stated that a contributing factor to the loss of the Fitzgerald was that "The cargo hold was not fitted with a system of sounding tubes or other devices to detect the presence of flooding water," (p. 94). The Marine Board recommended that "any subsequent amendments to the Great Lakes Load Line Regulations . . . reflect full consideration of the necessity for a means of detecting and removing flooding water from the cargo hold . . ." (p. 105). The Board said it is aware of problems associated with measuring water in the cargo holds of Great Lakes bulk cargo vessels, and urged Coast Guard to more actively participate in solving the technical problems rather than the action "to monitor equipment development for application," as described in Coast Guard's initial response. The Board asked if there was ongoing research that could be expedited.

In response to the Board's comments on recommendation M–78–21, Coast Guard says it does not consider the use of water-level detection a viable approach to the problem of unwanted water in cargo holds. This view is due to unreliability of current equipment. As an alternate approach, Coast Guard has chosen to nearly eliminate the possibility of flooding by ensuring weathertight integrity of all hatch covers and the soundness of hatch cover fasteners. Coast Guard notes that there has been a serious lack of concern for weathertightness but it believes that efforts to ensure weathertightness and to reeducate the crews to the importance of preventing water entrance to cargo holds meets the intent of this recommendation.

The Safety Board's January 30, 1979, letter commenting on Coast Guard's initial response to recommendation M–78–22 notes that the Commandant's action on Coast Guard's Marine Board of Investigation states: "The most probable cause of the sinking was the loss of buoyancy resulting from massive flooding of the cargo hold. . . . The flooding was probably concentrated forward." The Safety Board agrees that the present bilge system on Great Lakes bulk cargo vessels does not permit bilge pumping as a viable survival factor, and believes that bilge pumping should be made a viable survival factor as required by 46 CFR 56.50–50. Even when subdivision requirements are defined, the problems of clogged suctions and trim by the bow still need to be addressed. The Board believes that the Coast Guard should include a study of dewatering bulk cargo compartments as a part of the subdivision study discussed in response to M–78–20. In response to these comments reference M–78–22, the Coast Guard says that its subdivision study and regulation project will address dewatering of cargo holds including problems of trim by the bow and listing. Coast Guard holds that the first line of defense (as in recommendation M–78–21), is to prevent water from entering in the first place.

With respect to recommendation M–78–23, the Safety Board noted that there are currently no heel or trim measuring instruments required on Great Lakes bulk cargo vessels. The Board said it would consider an inclinometer as meeting the requirements for heel detection. The Board believes that these should be required even though they are now considered as standard equipment in the industry. Further, the Board said it would require a large weight shift or addition on this type of vessel in order for trim to be discernible by visual means. The Board is interested in the detection of relatively small quantities of water or cargo movement during the early stages of flooding. These small weight changes can only be detected by means of instruments which are sensitive enough to gauge small changes in trim angle. Coast Guard's response points out that the Safety Board and the Coast Guard are in agreement that some form of inclinometer is standard equipment on board Great Lakes bulk cargo vessels. Coast Guard, referring to Executive Order 12044 concerning curtailing unneeded regulations, states there is no "need" to require a device which is already considered standard equipment aboard Great Lakes bulk carriers. Coast Guard points out further that the average pitching motion is 6 times greater than a trim change from 200 tons of water in the #1 hold. A small weight change can be masked in moderate seaway motion. Coast Guard does not believe that requirements for inclinometers or trim gauges would significantly improve safety on cargo ships.

The Safety Board's January 30, 1979, letter noted that Coast Guard would consider requiring a master to have information on the ability of his vessel to survive flooding as part of the regulation package on subdivision. Coast Guard's August 6 letter does not address this recommendation, No. M–78–24, or the Board's comments thereon.

In connection with recommendation M–78–25, the Safety Board said it looked forward to the final rulemaking on Emergency Position Indicating Radio Beacons (EPIRB's) for Great Lakes vesels, and asked to be provided with a schedule for Coast Guard's entire EPIRB regulatory activity. Coast Guard's August 6 response notes that current Federal Communications Commission rules authorize the voluntary use of Class C EPIRB's. Coast Guard has initiated a regulation project in cooperation with the FCC that will adopt the Class C EPIRB for use on survival craft and will require their carriage on Great Lakes vessels. This regulatory project is scheduled for proposed rulemaking in January 1981 and final rule in December 1981, with full operation by September 1983.

With reference to recommendations M–78–26 and –27, the Safety Board's letter commenting on Coast Guard's initial response notes that Great Lakes bulk cargo vessels are built to a structural standard significantly less than similar vessels in ocean service. The reason for this difference is that the maximum wave heights and wave lengths encountered on the Great Lakes are considerably less than those encountered on the open ocean. The American Bureau of Shipping Technical Report RD–78010, dated September 1978, states that the maximum low-frequency, wave-induced bending moments, used in the structural standard adopted by Coast Guard, were derived from wave data up to a significant wave height of 28 feet. From this, the Safety Board believes that Coast Guard can determine the maximum sea state applicable to the longitudinal strength of Great Lakes bulk cargo vessels. It is the Board's understanding that a vessel is subjected to a number of forces and that there is a need for the master to exercise his expertise. However, in order to properly exercise this expertise, the master must know the design limits of his vessel. The Board submits further that without this design limit knowledge, the master's expertise would be incomplete.

In addressing recommendation M–78–26, Coast Guard in its August 6 letter reaffirms its response of October 12, 1978, with the points that wave height or sea spectra used in design only approximate actual conditions and in a given sea state the loading on a vessel can vary greatly due to factors like speed, heading, vessel motion and trim. Coast Guard further contends that to write down all of the factors which determine a master's action would essentially be describing the art of seamanship. Coast Guard does not believe that words suitable for a loading or operations manual can be developed along these lines. With reference to recommendation M–78–27, Coast Guard states that based on the information provided in response to recommendation M–78–26, wave height cannot be used as a means of prohibiting ships from sailing the Great Lakes; therefore, no further response is considered necessary.

The Safety Board's January 30, 1979, letter reference recommendation M–78–28 refers to comments on M–78–17 of the same date. Coast Guard's letter indicates that its response to M–78–17, related to the hatch cover design study, is responsive to M–78–28.

Recommendation M–78–29 asked Coast Guard to require that all Great Lakes bulk cargo vessels have a fathometer. Coast Guard's October 12, 1978, response indicated that 33 CFR 164.35(h) and (i) as promulgated on January 31, 1977, now requires a fathometer and recording device on all self-propelled Great Lakes vessels of 1,600 gross tons and over. The Safety Board's January 30, 1979, letter states that the regulation cited satisfies the intent of this recommendation, which is now designated "Closed—Acceptable Action."

Also, the Safety Board's January 30, 1979, letter indicates that the level of effort expended in increasing the coverage of the Great Lakes by greater search and rescue activity satisfies the intent of recommendation M–78–30 and that recommendation has been designated "Closed—Acceptable Action."

Highway Safety Recommendations Closeouts

During the 18-month period January 1979 through June 1980, the Safety Board forwarded letters advising that the recommendations listed below have been classified as "Closed." The name of the addressee, the date of the last response, the date of the Safety Board letter, and the type of closeout action applied are shown in parentheses.

H–74–9: Performance criteria for crash cushions. (Federal Highway Administration (FHWA), October 10, 1979; NTSB, November 8, 1979; "Acceptable Action.")

H–74–36: Medical examinations for detection of health problems and possible sudden incapacitation of drivers. (FHWA, July 6, 1979; NTSB, November 19, 1979; "Closed—Reconsidered.")

H–75–18 through –21: Signing information on long/steep grades and runaway truck escape ramp design. (FHWA, February 9, 1978; NTSB, March 13, 1980; "Acceptable Action.")

H–75–23: Placement of warning devices when parked alongside the highway. (FHWA, July 6, 1979; NTSB, November 19, 1979; "Closed—Reconsidered.")

H–75–24: Highway design and operational practices related to highway safety. (FHWA, October 29, 1975; NTSB, March 21, 1980; "Closed—Reconsidered.")

H–75–45: Flexible hose for bus fire extinguisher. (FHWA, August 21, 1979; NTSB, November 8, 1979; "Unacceptable Action.")

H–76–16: Fifth-wheel separation during tractor-semitrailer accidents. (FHWA, July 6, 1979; NTSB, November 19, 1979; "Acceptable Alternate Action.")

H–76–20 and –27: Installation of flashing lights activated by wet pavement conditions to complement "slippery when wet" sign, and increase in superelevation of curve at accident site and resurfacing. (Maryland State Highway Administration, staff contacts, June 1979; NTSB, July 9, 1979; H–76–20, "No Longer Applicable," H–76–27, "Acceptable Action.")

H–76–31 and –32: Development and publication of models, formulae, and criteria for determining need for upgrading, consolidation or closure of rail/highway grade crossings. (FHWA, April 22, 1977; NTSB, April 17, 1979; H–76–31, "Acceptable Alternate Action," H–76–32, "Acceptable Action.")

H–77–1: Upgrading highway appurtenances. (FHWA, review by Safety Board of FHWA notice N–7560.4 and "Maintenance and Highway Safety Handbood"; NTSB, October 29, 1979; "Acceptable Alternate Action.")

H–77–23: Guardrail standards. (Colorado State Department of Highways, December 4, 1978; NTSB, January 17, 1979; "Acceptable Action.")

H–77–25: "Operation Lifesaver" rail/highway grade crossing safety program. (National Safety Council (NSC), April 23, 1979; NTSB, May 29, 1979; "Acceptable Action.")

H–77–26: Operation Lifesaver" rail/highway grade crossing safety program. (Association of American Railroads (AAR), review by Safety Board of NSC documents showing AAR commitment to the program; NTSB, June 19, 1979; "Acceptable Action.")

H–77–29: "Operation Lifesaver" rail/highway grade crossing safety program. (Federal Railroad Administration (FRA), review by Safety Board of NSC documents showing FRA commitment to the program; NTSB, June 19, 1979; "Acceptable Action.")

H–78–10: Schoolbus pop-out windshields. (National Highway Traffic Safety Administration (NHTSA), September 18, 1979; NTSB, November 13, 1979; "Acceptable Alternate Action.)

H–78–12: Policy statement relating to enforcement of the Federal Motor Carrier Safety Regulations. (FHWA, November 8, 1979; NTSB, December 18, 1979; "Acceptable Action.")

H–78–20: Safety-related information collection procedures. (FHWA, July 24, 1979; NTSB, September 27, 1979, "Acceptable Action.")

H–78–31 and –32: Accident surveillance and signing improvements at intersection of U.S. Route 206 and County Road 616 near Vincetown, N.J. (New Jersey State Department of Transportation, January 31, 1979; NTSB, March 1, 1979; "Acceptable Action.")

H–78–43: Special funding programs for truck escape ramps on steep grades. (FHWA, August 15, 1979; NTSB, October 25, 1979; "Acceptable Alternate Action.")

H–78–44: Emergency escape ramps. (FHWA, August 15, 1979; NTSB, September 18, 1979; "Acceptable Action.")

H–78–57, –59, and –60: Analyze and investigate the feasibility of green interval settings and multipoint detection and application of these principles on a State-wide basis. (Virginia State Deartment of Highways and Transportation, December 13, 1978; NTSB, February 5, 1979; "Acceptable Action.")

H–78–61: Need for increased oversight of the Georgia State Department of Transportation work zone safety program. (FHWA, May 8, 1979; NTSB, May 25, 1979; "Acceptable Action.")

H–78–63: Special roadside inspections. (FHWA, October 10, 1979; NTSB, November 8, 1979; "Acceptable Action.")

H–78–67 and –68: Guardrail installation feasibility study, and pavement markings. (Secretary of Transportation, State of North Carolina, December 12, 1978; NTSB, February 1, 1979; "Acceptable Action.")

H–78–69: Reduction in effectiveness of highway safety appurtenances due to build up of debris, surfacing materials, slope erosion, etc. (FHWA, January 5, 1979; NTSB, February 1, 1979; "Acceptable Alternate Action.")

H–78–70: Brake adjustment maintenance program. (Ryder Truck Rental of Miami, Fla.; October 11, 1978; NTSB, December 7, 1978; "Acceptable Action.)"

H–78–71: Cooperative effort of FHWA, FRA, National Railroad Passenger Corporation, Seaboard Coast Line Railroad, and Florida Department of Transportation to reduce the high frequency of accidents along the Jacksonville Tampa, Fla., Amtrak corridor. (FHWA, May 8, 1979; NTSB, October 25, 1979; "Acceptable Action.")

H–79–15: Comprehensive planning of highway transportation facilities to include operational safety. (FHWA, August 12, 1979; NTSB, May 28, 1980; "Acceptable Action.")

H–79–37: Replacement of crash-damaged guardrail. (California Department of Transportation, April 22, 1980; NTSB, May 28, 1980; "Unacceptable Action.")

H–79–38: Updating of crash-damaged bridgerail, contract award. (California Department of Transportation, January 11, 1980; NTSB, February 7, 1980; Acceptable Action.")

H–79–51: Survey of traffic records program for State of New York and overseeing progress of New York State Traffic Records System updating to include property damage accident reports from the local governments. (NHTSA, April 2, 1980; NTSB; May 21, 1980; "Acceptable Action.")

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 80–28102 Filed 9–10–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Co.; Order for Modification of License

I

Carolina Power and Light Company (the licensee) is the holder of License No. DPR–23, which authorizes the operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 at steady state reactor power levels not in excess of 2300 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Darlington County, South Carolina.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulleting 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to be Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarificaton was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–23 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28018 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Consumers Power Co.; Order for Modification of License

I

Consumers Power Company (the licensee) is the holder of Provisional Operating License No. DPR–20, which authorizes operation of the Palisades Plant at steady-state reactor power levels not in excess of 2530 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Covert Township, Van Buren County, Michigan.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by

Bulletin 79-01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR-20 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered the the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order. Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28022 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-321 and 50-366]

Georgia Power Co., et al.; Order for Modification of License

I

Georgia Power Company (licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-57 and NPF-5, which authorize the operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power) for each unit. The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980, to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating Licenses Nos. DPR–57 and NPF–5 are hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing, by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28021 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–315 and 50–316]

Indiana and Michigan Electric Co.; Order for Modification of License

I

Indiana and Michigan Electric Company (the licensee) is the holder of License Nos. DPR–58 and DPR–74, which authorizes the operation of the Donald C. Cook Nuclear Power Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 3250 and 3391 megawatts thermal (rated power), respectively. The facilities consists of two pressurized water reactors located at the licensee's site in Berrien County, Michigan.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualfication of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adquate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the liensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR–58 and DPR–74 are hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Divsion of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28019 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

Metropolitan Edison Co., et al.; Order for Modification of License

I

Metropolitan Edison Company (licensee) and two other co-owners are the holders of Facility Operating License No. DPR–50, which authorizes the operation of the Three Mile Island Nuclear Station, Unit No. 1 at steady state reactor power levels not in excess of 2535 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site near Harrisburg, Pennsylvania.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–50 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28020 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Order for Modification of License

I

Philadelphia Electric Company (licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-44 and DPR-56, which authorize the operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power) for each unit. The facilities are boiling water reactors located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: Fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation. The prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B of January 14, 1980, to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's responses, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the Staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Facility Operating Licenses Nos. DPR-44 and DPR-56 are hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing, by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW, Washington, DC 20006, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV. of the Order.

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28017 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment deletes satisfied license condition 2.C.(3)(r) regarding the submittal of a seismic reanalysis.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 4, 1980, (2) Amendment No. 30 to License No. NPF-3, and (3) the commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-28015 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-502]

Wisconsin Electric Power Co., Wisconsin Power & Light Co. and Wisconsin Public Service Corp.; Withdrawal of Application for Construction Permit

By letter, dated May 17, 1980, Wisconsin Electric Power Company, et al. (Applicants) withdrew their application to construct and operate the Haven Nuclear Plant. The site was located approximately 5 miles north of Sheboygan, Wisconsin, on the western shore of Lake Michigan. On July 30, 1980, the NRC Atomic Safety and Licensing Board granted the Applicant's May 17, 1980 request to terminate the construction permit proceeding in its "Order Dismissing the Proceeding."

Accordingly, the Commission considers the Haven construction permit application to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. In addition, correspondence concerning this application will be maintained for at least the next six months at the Madison Public Library, Business and Science Division, 201 West Mifflin Street, Madison, Wisconsin 53703 and at the Mead Public Library, 710 North Eighth Street, Sheboygan, Wisconsin 53081.

Dated at Bethesda, Maryland, this 3rd day of September, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-28016 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-348]

Alabama Power Co. (Joseph M. Farley Nuclear Plant, Unit No. 1); Order for Modification of License

I

Alabama Power Company, (the licensee) is the holder of License No. NPF-2, which authorizes the operation of the Joseph M. Farley Nuclear Power Plant, Unit No. 1 at steady state reactor power levels not in excess of 2652 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Houston County near the City of Dothan, Alabama.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by

Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide by-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualfication of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–2 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order. Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980
Bethesda, Maryland.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing.

[FR Doc. 80–28033 Filed 9–10–80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–10]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit No. 1); Order for Modification of License

I

Commonwealth Edison Company (the licensee) is the holder of Facility Operating License No. DPR–2, which authorizes the operation of the Dresden Nuclear Power Station, Unit No. 1 at steady-state reactor power levels not in excess of 700 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) are NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by Febraury 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–2 is hereby amended to add the following provisions:

> Information which fully and completely responds the the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier reponse is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Linclon & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980.

Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28024 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–237]

Commonwealth Edison Co., Dresden Nuclear Power Station, Unit No. 2; Order for Modification of License

I

Commonwealth Edison Company (the licensee) is the holder of Provisional Operating License No. DPR–19, which authorizes the operation of the Dresden Nuclear Power Station, Unit No. 2 at steady-state reactor power levels not in excess of 2527 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I hae concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR–19 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. Of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28025 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–295 and 50–304]

Commonwealth Edison Co. (Zion Station, Unit Nos. 1 and 2; Order for Modification of License

I

Commonwealth Edison Company, (the licensee) is the holder of License Nos. DPR–39 and DPR–48, which authorizes the operation of the Zion Station, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 3250 megawatts thermal (rated power). Each facility consists of a pressurized water reactor located at the licensee's site in Zion, Illinois.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 5, 1980, as modified by our letter of March 20, 1980 to provide information on emergency procedures and safety-related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR–39 and DPR–48 are hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Phillip P. Steptoe, Esquire, Isham, Lincoln and Beale, Suite 4200, First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV of the order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980.
Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,
Director, Division of Licensing.

[FR Doc. 80–28034 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co., Haddam Neck Plant; Order for Modification of License

I

Connecticut Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR–61, which authorizes the operation of the Haddam Neck Plant at steady state reactor power levels not in excess of 1825 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Middlesex County, Connecticut.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–61 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order. Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28026 Filed 9–10–80, 8:45 am]

BILLING CODE 7590–01–M

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the Staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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[Docket No. 50-245]

Connecticut Light & Power, et al.; Order for Modification of License

I

In the Matter of Connecticut Light and Power, The Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company, Millstone Nuclear Power Station Unit No. 1.

Connecticut Light and Power, the Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees) are the holders of Provisional Operating License No. DPR–21, which authorizes operation of the Millstone Nuclear Power Station, Unit No. 1 at steady-state reactor power levels not in excess of 2011 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Waterford, Connecticut.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0568, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection Northeast Nuclear Energy Company was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment andf timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR–21 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy,

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28023 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Plant; Order for Modification of License

Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6, which authorizes the operation of the Big Rock Point Plant at steady-state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of a boiling water reactor located in Charlevoix County, Michigan.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG—0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety , and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-6 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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request a hearing within 20 days of the date of this Order. Any request for a hearing will no stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28027 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc., Indian Point, Unit No. 2; Order for Modification of License

Consolidated Edison Company of New York, Inc. (the licensee) is the holder of License No. DPR-26, which authorizes the operation of the Indian Point, Unit No. 2 nuclear power plant at steady state reactor power levels not in excess of 2758 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Westchester County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qaulification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 5, 1980, as modified by our letter of March 20, 1980 to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the Staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-26 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Divsion of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Brent L. Brandenburg, Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10019, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28029 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Beaver Valley Station, Unit No. 1; Order for Modification of License

I

The Duquesne Light Company (the licensee) is the holder of License No. DPR-66, which authorizes the operation of the Beaver Valley Power Station, Unit No. 1 at steady state reactor power levels not in excess of 2652 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Beaver County, Pennsylvania.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate the environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide by-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable to staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by Bulletin 79-01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.1The Commission further directred the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-66 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980.

Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eishenhut,

Director of Division of Licensing.

[FR Doc. 80-28030 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-250 and 50-251]

Florida Power & Light Co., Turkey Point, Units Nos. 3 and 4); Order for Modification of License

I

The Florida Power and Light Company (the licensee) is the holder of License Nos. DPR-31 and DPR-41, which authorize the operation of the Turkey Point Plant Unit Nos. 3 and 4 at steady state reactor power levels not in excess of 2200 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Dade County near Miami, Florida.

II

On November 4, 1977, the Union of Concerned Scientists (USC) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. USC filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide by-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR-31 and DPR-41 are hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Robert Lowenstein, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28035 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Order for Modification of License

I

Jersey Central Power & Light Company (the licensee) is the holder of the Provisional Operating License No. DPR-16, which authorizes operation of the Oyster Creek Nuclear Generating Station at steady-state reactor power levels not in excess of 1930 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Ocean County, New Jersey.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOE Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effectively immediately Provisional Operating License No. DPR–16 is hereby amended to add the following provision:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28028 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–272]

Public Service Electric & Gas Co., Salem Nuclear Generating Station, Unit No. 1; Order for Modification of License

I

Public Service Electric and Gas Company (the licensee) is the holder of License No. DPR–70, which authorizes the operation of the Salem Nuclear Generating Station, Unit No. 1 at steady state reactor power levels not in excess of 3338 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Salem County, New Jersey.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by IE Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–70 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mark J. Wetterhahn, Esquire, Conner, Moore and Corber, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28032 Filed 9–10–80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–280 and 50–281]

Virginia Electric & Power Co., Surry Power Station, Unit Nos. 1 and 2; Order for Modification of License

I

Virginia Electric and Power Company (the licensee) is the holder of License Nos. DPR–32 and DPR–37, which authorize the operation of the Surry Power Station, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 2441 megawatts thermal (rated power). Each facility consists of a pressurized water reactor located at the licensee's site in Surry County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR–32 and DPR–37 are hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28031 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–368]

Arkansas Power & Light Co. (Arkansas Nuclear One—Unit 2); Order for Modification of License

I

Arkansas Power and Light Company (licensee) is the holder of License No. NPF–6, which authorizes the operation of the Arkansas Nuclear One—Unit 2 nuclear power plant at steady state reactor power levels not in excess of 2815 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Pope County, Arkansas.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by

Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by not later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–6 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request for a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nick Reynolds, Esq., DeBevoise & Liberman, 1200 Seventeenth Street, N.W., Washington D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28042 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–317 and 50–318]

Baltimore Gas & Electric Co. (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2); Order for Modification of Licenses

I

Baltimore Gas and Electric Company (licensee) is the holder of License Nos. DPR–53 and DPR–64 which authorize the operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 2700 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site in Calvert County, Maryland.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significiant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR–53 and DPR–69 are hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28047 Filed 9–10–80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (LaCrosse Boiling Water Reactor); Order for Modification of License

I

Dairyland Power Cooperative (the licensee) is the holder of the Provisional Operating License No. DPR–45, which authorizes operation of the LaCrosse Boiling Water Reactor at steady-state reactor power levels not in excess of 165 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Vernon County, Wisconsin.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR–45 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date. August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28051 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335]

Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit. No. 1); Order for Modification of License

I

Florida Power and Light Company (licensee) is the holder of License No. DPR–67, which authorizes the operation of the St. Lucie Nuclear Power Plant Unit 1 at steady state reactor power levels not in excess of 2560 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in St. Lucie County, Florida.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588 "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts on operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualifications of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during the proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluation, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods of justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–67 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regualtory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esq., Lowenstein, Newman, Reis and Alexrad, 1025 Connecticut Avenue, N.W., Wahington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28050 Filed 9–10–80; 8:45 am]

BILLING CODE 7590-01-M

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulleting 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station; Order for Modification of License

I

Maine Yankee Atomic Power Company (licensee) is the holder of License No. DPR-36, which authorizes the operation of the Maine Yankee Atomic Power Station at steady state reactor power levels not in excess of 2630 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site near Wiscasset, Maine.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." the Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add cetain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A sigificant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifiations of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primay containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modification by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-36 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meeting during months of February and March, 1980.

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submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28055 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Power Station); Order for Modification of License

I

The Nebraska Public Power District (licensee) is the holder of Facility Operating License No. DPR-46 which authorizes the operation of the Cooper Nuclear Power Station at steady state reactor power levels not in excess of 2381 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposes a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promply."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG- 0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognized all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-46 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S.

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meeting during the months of February and March, 1980.

Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arthur C. Gehr, Attorney, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28043 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station, Unit 1); Order for Modification of License

I

The Niagara Mohawk Power Corporation (licensee) is the holder of Facility Operating license No. DPR-63 which authorizes the operation of the Nine Mile Point Nuclear Station, Unit 1 at power levels up to 1850 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Oswego County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B of January 14, 1980, to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Facility Operating License No. DPR-63 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director,

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Eugene B. Thomas, Jr., Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28041 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al. (Millstone Nuclear Power Station Unit No. 2) Order for Modification of License

I

In the Matter of Northeast Nuclear Energy Company, Connecticut Light and Power Company, Hartford Electric Light Company, Western Massachusetts Electric Company (Millstone Nuclear Power Station Unit No. 2).

Northeast Nuclear Energy Company, et al. (licensee) is the holder of License No. DPR-65, which authorizes the operation of the Millstone Nuclear Power Station, Unit No. 2 at Steady state reactor power levels not in excess of 2700 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the lincensee's site in the Town of Waterford, Connecticut.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Energency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NURGE–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff and add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of enironmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the informaiton previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended and the Commission's regulations in 10 CFR Parts 2 and 50, It Is Ordered That Effective Immediately Facility Operating License No. DPR–65 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of their safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy, Esq., Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28037 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-263]

Northern States Power Co. (Monticello Nuclear Generating Plant); Order for Modification of License

I

The Northern States Power Company (the licensee) is the holder of Provisional Operating License No. DPR–22 which authorizes the operation of the Monticello Nuclear Generating Plant at steady state reactor power levels not in excess of 1670 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Wright County, Minnesota.

84II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Provisional Operating License No. DPR-22 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28045 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2); Order for Modification of Licenses

I

Northern States Power Company (licensee) is the holder of License Nos. DPR-42 and DPR-60 which authorize the operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 1650 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site in Goodhue County, Minnesota.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualification of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR–42 and DPR–60 are hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in section IV of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date. August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28038 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Omaha Public Power District (Fort Calhoun Station, Unit No. 1); Order for Modification of License

I

Omaha Public Power District (licensee) is the holder of License No. DPR–40, which authorizes the operation of the Fort Calhoun Station, Unit No. 1 at steady state reactor power levels not in excess of 1500 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Washington County, Nebraska.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–40 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Marilyn A. Tebor, Esq., LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28048 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–344]

Portland General Electric Co., et al. (Trojan Nuclear Plant); Order for Modification of License

I

In the Matter of Portland General Electric Company. The City of Eugene, Oregon, Pacific Power and Light Company (Trojan Nuclear Plant).

Portland General Electric Company, et al. (licensee) is the holder of License No. NPF–1, which authorizes the operation of the Trojan Nuclear Plant at steady state reactor power levels not in excess of 3,411 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site near Rainier, Oregon.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electric cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—The Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its reviews of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of the environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meeting during the months of February and March, 1980.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee form the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety—related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electircal equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It Is Ordered That Effective Immediately Facility Operating License No. NPF–1 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A Copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. W. Durham, Esq., Vice President and Corporate Counsel, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980.

Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80–28040 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267]

Public Service Co. of Colorado (Fort St. Vrain Nuclear Generating Station); Order for Modification of License

I

The Public Service Company of Colorado (licensee) is the holder of License No. DPR–34 which authorizes the operation of the Fort St. Vrain Nuclear Generating Station at steady state reactor power levels not in excess of 842 megawatts thermal (rated power) with a current hold at 70%. The facility consists of a Gas-Cooled reactor located at the licensee's site in Weld County, Colorado:

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by

Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Facility Operating License No. DPR–34 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bryant O'Donnell, Esq., Kelly, Stansfield and O'Donnell, 990 Public Service Company Building, Denver, Colorado 80202, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980.
Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80–28046 Filed 9–10–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–244]

Rochester Gas & Electric Co. (R. E. Ginna Nuclear Power Plant;) Order for Modification of License

I

Rochester Gas & Electric Company (the licensee) is the holder of Provisional Operating License No. DPR–18, which authorizes the operation of the R. E. Ginna Nuclear Power Plant at steady-state reactor power levels not in excess of 1520 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Wayne County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile enviornment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Provisional Operating License No. DPR-18 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C., attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28053 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Unit 1); Order for Modification of License

I

Southern California Edison Company and San Diego Gas and Electric Company (the licensees) are the holders of Provisional Operating License No. DPR-13, which authorizes operation of the San Onofre Nuclear Generating Station at steady-state reactor power levels not in excess of 1347 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in San Diego County, California.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors' (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Provisional Operating License No. DPR-13 is hereby amended to add the following provisions:

> "Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980."

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing within on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles L. Kocher, Assistant General Counsel, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980. Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28052 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Plant); Order for Modification of License

I

The Vermont Yankee Nuclear Power Corporation (licensee) is the holder of Facility Operating License No. DPR-28 which authorizes the operation of the Vermont Yankee Nuclear Power Plant at steady state reactor power levels not in excess of 1593 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Windham County, Vermont.

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Facility Operating License No. DPR–28 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of their safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 01581, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28044 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-338]

Virginia Electric & Power Co. (North Anna Power Station, Unit No. 1); Order for Modification of License

I

Virginia Electric and Power Company (licensee) is the holder of License No. NPF-4, which authorizes the operation of the North Anna Power Station Unit No. 1 at steady state reactor power levels not in excess of 2775 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Louisa County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG–0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG–0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79–01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–4 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order. Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28036 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Unit Nos. 1 and 2); Order for Modification of Licenses

I

Wisconsin Electric Power Company (licensee) is the holder of License Nos. DPR-24 and DPR-27 which authorize the operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 1518 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site at Two Creeks, Wisconsin.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualifed to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a license from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines of NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B dated January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required by function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is ordered that effective immediately Facility Operating License Nos. DPR-24 and DPR-27 are hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bruce Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street N.W., Washington, D.C. 20036, attorney for the licensee.

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licenses should be modified to require submission of information as set forth in Section IV. of the Order.

Operating of the facilities on terms consistent with this Order is not stayed by the pendency of any proceeding on the Order.

Effective Date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28039 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et al. (Kewaunee Nuclear Power Plant); Order for Modification of License

I

Wisconsin Public Service Corporation, et al (the licensee) is the holder of License No. DPR-43 which authorizes the operation of the Kewaunee nuclear power plant at steady state reactor power levels not in excess of 1650 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Kewaunee County, Wisconsin.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed liensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's Order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by I&E Bulletin 79-01B of January 14, 1980 to provide a detailed review of the environmental qualification of Class 1E electrical equipment. This review was to include all equipment required to function under postulated accident conditions, both inside and outside the primary containment, and recognize all conditions specified in the bulletin. Evidence of qualification together with methods and justification, was requested.

Clarification was provided by supplemental information, briefings, and in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest require that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-43 is hereby amended to add the following provisions:

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Foley & Lardner, First Wisconsin Center, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing

[FR Doc. 80-28054 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co. [Yankee Nuclear Power Station (Yankee Rowe)]; Order for Modification of License

I

Yankee Atomic Electric Company (the licensee) is the holder of Facility Operating License No. DPR-3, which authorizes the operation of the Yankee Nuclear Power Station (Yankee Rowe) at steady-state reactor power levels not in excess of 600 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Franklin County, Rowe, Massachusetts.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982, all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public appraised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed the staff to add certain documentation requirements to each license after the specific requirements were approved by the Commission. The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The information developed during this proceeding emphasizes the importance of adequate documentation, the prompt completion of the review of environmental qualification of safety-related electrical equipment, and the prompt completion of any plant modification needed to assure conformance with the DOR Guidelines or NUREG-0588. A significant aspect of this review is the timely submittal of environmental qualification information by the operating plant licensees to enable the staff to complete its review in accordance with the Commission's order. The staff has a program presently underway to reevaluate, using the DOR Guidelines and NUREG-0588, the qualifications of safety-related electrical equipment exposed to environments that may exist following postulated accidents. These accidents are Loss of Coolant Accident and Main Steam Line Break inside containment, and High Energy Line Breaks inside and outside containment.

In this connection the licensee was requested by our letter of March 6, 1980, as modified by our letter of March 28, 1980, to provide information on emergency procedures and safety related systems. The licensee was requested to define and provide the basis for the hostile environment, inside and outside containment. This hostile environment would then be used, by the licensee, in the determination of unqualified equipment. A complete package, including justification for methods used, was requested.

Clarification was provided by supplemental information, briefings, and, in some cases, meetings with the licensee. Timely completion of the staff's review of environmental qualification of electrical equipment and timely completion of needed modifications by the licensee is required to provide continuing reasonable

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[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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assurance of public health and safety. Such completion is dependent on the prompt receipt of a complete response by the licensee to the staff's requests for information. However, the licensee's response, to date, is incomplete.

Therefore, I have concluded that the public health, safety, and interest required that a firm schedule for the timely submission of all the information previously requested by the staff should be established by Order effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-3 is hereby amended to add the following provisions:

> Information which fully and completely responds to the staff's request as specified above, shall be submitted to the Director, Division of Licensing by the licensee not later than November 1, 1980.

An earlier response is encouraged to facilitate staff review and issuance of the safety evaluation report. The licensee or any person whose interest may be affected by this Order may request a hearing on or before October 1, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Frederic Greenmond, Esquire, New England Electric System, 20 Turnpike Road, Westboro, Massachusetts 01581, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should be modified to require submission of information as set forth in Section IV of the Order.

Operating of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: August 29, 1980, Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 80-28049 Filed 9-10-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

September 4, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is herby given for a meeting of the staff of Panel V (Policies and Priorities for the Metropolitan and Non-Metropolitan Areas) of The President's Commission for a National Agenda for the Eighties with the State and Local Government Advisory Board. The meeting will be held from 9:00 a.m.-12:00 p.m. on September 26, 1980, at the University of Houston Hotel, Houston, Texas.

The purpose of the meeting will be to discuss the panel's draft report.

The meeting is open to the public.

Seats are available on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-28082 Filed 9-10-80; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

September 4, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of the staff of Panel VI (Government and the Regulation of Individual and Corporate Decisions) of The President's Commission for a National Agenda for the Eighties. The meeting will be held from 9:00 a.m.-4:00 p.m. on October 3, 1980, at the New Executive Office Building, Room 10104, Washington, D.C.

The purpose of the meeting will be to discuss the panel's draft report.

The meeting is open to the public.

Seats are available on a first-come basis.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-28083 Filed 9-10-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 17123; SR-NSCC-80-16]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

September 5, 1980.

On May 12, 1980, NSCC filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, a proposed rule change establishing a "Demand As Of" service to assist in the resolution of uncompared trades in the over the counter market.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16825, May 22, 1980) and by publication in the **Federal Register** (45 FR 36245, May 29, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-28058 Filed 9-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17124; SR-OCC-79-4]

Options Clearing Corp. ("OCC"); Order Approving Proposed Rule Change

September 5, 1980.

On July 9, 1979, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, a proposed rule change establishing procudures to follow when it determines that an imminent or pending tender offer, exchange offer, suspension of trading, or other event in an underlying security threatens to reduce the available supply of that security to a level insufficient to permit the performance of the obligations under option contracts written on that security.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16014, August 3, 1979) and by publication in the **Federal Register** (44 FR 47424, August 13, 1979). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-28057 Filed 9-10-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/321]

Advisory Committee to the U.S. National Section of the Inter-American Tropical Tuna Commission; Notice of Meeting

Notice is hereby given, pursuant to the provisions of Public Law 92-463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission will be held on September 25, 1980 from 8:30 a.m. to 11:30 a.m., in the auditorium of the Southwest Fisheries Center of the National Marine Fisheries Service at 8604 La Jolla Shores Drive, La Jolla, California.

The meeting will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chairman. Subjects to be discussed include an evaluation of the 1980 fishery experience, a preliminary outlook for the 1981 fishery and U.S. views on the overall quota and other aspects of the management program.

Requests for further information on the meeting should be directed to Brian Hallman, OES/OFA, Room 5806, Department of State. He may be reached by telephone on (202) 632-1073.

Dated: September 4, 1980.

Morris D. Busby,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 80-27982 Filed 9-10-80; 8:45 am]

BILLING CODE 4710-09-M

TENNESSEE VALLEY AUTHORITY

Proposed Development of a Coal Gasification Demonstration Plant; Public Hearing on Draft Environmental Impact Statement and Invitation for Public Comment

AGENCY: Tennessee Valley Authority.

ACTION: Notice is given that the Tennessee Valley Authority (TVA) will conduct a public hearing to receive comments on TVA's Draft Environmental Impact Statement (DEIS) issued August 1, 1980, for its proposed coal gasification plant. The draft assessed the environmental consequences of constructing and operating a commercial-scale coal gasification demonsration plant capable of processing approximately 20,000 tons of coal per day into medium-Btu gas. Of the alternative sites evaluated for the facility, the TVA-owned Murphy Hill site in Marshall County, Alabama, at Tennessee river mile (TRM) 370L approximately 11 miles northeast of Guntersville, Alabama, is considered to be preferable.

COMMENTS AND PUBLIC HEARING: TVA invites interested persons and agencies to attend this public hearing in order to give oral comments on the DEIS. Comments received at this meeting will be accorded the same weight as written comments. Written comments on the DEIS should be sent to Dr. Mohamed T. El-Ashry at the address provided below and must be received by October 1, 1980. the meeting will be held on September 23, 1980, at 7:00 p.m. CST at the Lake Guntersville State Park Lodge and Convention Center, Guntersville, Alabama 35976. A transcript of this hearing will be made by TVA and will be available at the following libraries: Guntersville Public Library, 1299 O'Brig Avenue, Guntersville, Alabama; Huntsville-Madison Library, 108 Fountain, Huntsville, Alabama; Muscle Shoals Regional Public Library, 1010 East Avalon, Muscle Shoals, Alabama; Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama; Tennessee Valley Authority Technical Libraries in Knoxville and Chattanooga, Tennessee, and in Muscle Shoals, Alabama; and Wheeler Basin Regional Library, 504 Cherry NE., Decatur, Alabama. Copies of the DEIS have been placed in these same libraries for public use. Individual copies may be obtained by calling the TVA Citizen Action Lines at the numbers given below.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed T. El-Ashry, Director of the Environmental Quality Staff, Office of Natural Resources, Forestry Building, Norris, Tennessee 37828, or call TVA's Citizen Action Office toll free: 1-800-362-9250 (in Tennessee) or 1-800-251-9242 (in Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia).

Dated: September 4, 1980.

W. F. Willis,

General Manager.

[FR Doc. 80-27890 Filed 9-10-80; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-102]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Termination of approval notice.

1. Certain laws and regulations (46 CFR Chapter 1) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artifical islands and fixed structures on the outer Continental Shelf be of the types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from 14 May 1980 to 17 June 1980 (List No. 3-80). These actions were taken in accordance with the procedures set forth in 49 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard, for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

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3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

Lifeboat Davit

Approval No. 160.032/185/0, Type 20–200 survival capsule launching system (winch type); approved as an alternate to a lifeboat davit for a maximum working load of 11,000 lbs. on a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, approval was terminated effective 3 June 1980.

Approval No. 160.032/206/1, Type SS 5001, 50 person survival capsule launching system (winch type); approved as an alternate to a lifeboat davit for a maximum working load of 17,000 lbs. on a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, approval was terminated effective 21 May 1980.

Lifeboat

Approval No. 160.035/460/0, 26.0′ x 9.0′ x 3.83′ fibrous glass reinforced plastic (FRP), motor-propelled Class 1 lifeboat, 48-person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, approval was terminated effective 2 June 1980.

Marine Buoyant Device

Approval No. 160.064/121/1, Adult Small, Model No. 63262 SML, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/122/1, Adult Medium, Model No. 63262 MED, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/123/1, Adult Large, Model No. 63262 LGE, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/190/1, Adult X-Small, Model No. 63262 XSML, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/278/2, Adult Small, Model No. 63272 SML, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/279/2, Adult Medium, Model No. 63272 MED, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/280/2, Adult Large, Model No. 63272 LGE, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/406/1, Child Medium, Model No. 63261, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/407/1, Adult X-Large, Model No. 63262, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/778/0, Child Small, Model No. 3985, Type III PFD, manufactured by Ero Industries, Inc., 189 West Madison Street, Chicago, IL 60602, approval was terminated effective 14 May 1980.

Approval No. 160.064/785/0, Child Small, Model No. 63261, Type III PFD, manufactured by Ero Industries, Inc. for Sears, Roebuck and Co., Dept. 606, Sears Tower, Chicago, IL 60684, approval was terminated effective 17 June 1980.

Approval No. 160.064/825/0, Adult, Model No. 3500, Type III PFD, manufactured by Ero Industries, Inc., 189 West Madison Street, Chicago, IL 60602, approval was terminated effective 14 May 1980.

Approval No. 160.064/1114/1, Child, Model No. 6038, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Approval No. 160.064/1115/1, Youth, Model No. 6138, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Approval No. 160.064/1116/1, Adult Small, Model No. 6538, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Approval No. 160.064/1117/1, Adult Medium, Model No. 6638, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Approval No. 160.064/1118/1, Adult Large, Model No. 6738, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Approval No. 160.064/1119/1, Adult X-Large, Model No. 6836, Type III PFD, manufactured by Kent Sporting Goods Co. for Bass Pro Shops, 2023 South Glenstone, Springfield, MO 65804, approval was terminated effective 17 June 1980.

Bulkhead Panel

Approval No. 164.008/60/0, Dansk Eternit-Fabrik A/S, bulkhead panel "Navilite 36 Type V-22", manufactured by Dansk Eternit-Fabrik A/S, DK–9100, Alborg, Denmark, approval was terminated effective 3 June 1980.

Approval No. 164.008/65/0, Dansk Eternit-Fabrik A/S, bulkhead panel "Navilite 36 Type Z–22", manufactured by Dansk Eternit-Fabrik A/S, DK–9100, Alborg, Denmark, approval was terminated effective 3 June 1980.

Incombustible Material

Approval No. 164.009/86/0, Porter Style CGAG woven combination Grade AAA asbestos and fibrous glass cloth type incombustible material, manufactured by H. K. Porter Co., Inc., Thermoid Div., 1250 Porter Bldg., Pittsburgh, PA 15219, approval was terminated effective 3 June 1980.

Approval No. 164.009/179/0, "Ultrafine CG No. 8" fibrous glass type incombustible hull board, manufactured by Certain-Teed Products Corp., Old Route 202, Eagle School Road, Valley Forge, PA 19481, approval was terminated effective 3 June 1980.

Approval No. 164.009/181/0, "Frigitemp Marine Acoustic Board" fibrous glass type incombustible material, manufactured by Frigitemp Marine, 585 Washington Street, New York, NY 10014, approval was terminated effective 3 June 1980.

Approval No. 164.009/182/0, "Frigitemp Marine Insulation Board" fibrous glass type incombustible material, manufactured by Frigitemp Marine, 585 Washington Street, New

York, NY 10014, approval was terminated effective 3 June 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

September 4, 1980.

[FR Doc. 80-28075 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement; Houston Intercontinental Airport Proposed Expansion, Houston, Tex.

The Federal Aviation Administration intends to prepare an Environmental Impact Statement for the proposed expansion of Houston Intercontinental Airport. Major development items proposed are: 1) New east/west parallel air carrier runway with full instrumentation, 2) new passenger terminal, and 3) relocation and expansion of access roadway system.

Alternatives to the proposed development include: 1) Not building the runway or terminal, 2) construction of a new runway in various locations, or 3) construction of a new terminal in several locations with various roadway systems.

The FAA intends to consult and coordinate with Federal, State and local agencies who have jurisdiction by law or who have special expertise with respect to any environmental impacts associated with the proposed project. To solicit input, a scoping meeting is scheduled in the Houston Airports District Office, 8800 Paul B. Koonce Drive, Room 225, Houston, Texas on September 25, 1980, at 1:00 p.m.

The purpose of this meeting is to determine the significant issues to be analyzed in depth in the environmental impact statement. Persons interested in attending the meeting or those who which further information should contact Bonnie Smith at 713-643-0661 (FTS 521-3173) in Houston, Texas.

Dated: September 2, 1980.

Gene Faulkner,

Chief, Planning and Programming—ASW 610.

[FR Doc. 80-27735 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. I), notice is hereby given of a change in time of the Minority Business Resource Center Advisory Committee meeting published in the **Federal Register** on August 21, 1980. Vol. 45 FR 55890.

The time has been changed from 10:00 am to 2:00 pm.

Issued in Washington, D.C. on September 2, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 80-27701 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Highway Safety Program; Amendment of Qualified Products List of Evidential Breath Measurement Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Qualified Products List for devices which have been found to qualify under the Standard for Devices to Measure Breath Alcohol (38 FR 30459).

EFFECTIVE DATE: September 11, 1980.

ADDRESS: Administrator, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: John Moulden, Office of Driver and Pedestrian Programs, Traffic Safety Programs, NHTSA, Washington, D.C. 20590, 202-426-2180.

SUPPLEMENTARY INFORMATION: The Qualified Products List of Evidential Breath Measurement Devices was initially issued November 21, 1974 (39 FR 41399), and was most recently amended July 7, 1979 (44 FR 3261). Devices on the list may be purchased with Federal funds under the Highway Safety Act, Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 402, 403.

In accordance with the Breath Measurement Standard, semi-annual testing of devices was conducted during November and December 1979. At this testing four devices, not previously on the Qualified Products List, the Atalmeter, the Intoxilyzer 4011 AS-A, Intoximeter 3000, and the Auto-Alcolmeter met all performance requirements excluding those for Mobile Evidential Breath Testers.

The Qualified Products List is therefore amended as follows:

Qualified Products List

The qualified products meeting all performance requirements, including those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

Device and Manufacturer

1. Alert J3AD Breath Tester (battery powered), Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
2. Alert J3AC, Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
3. S-11 Breath Tester, Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
4. Intoxilyzer Model 4011, CMI, Inc., Minturn, Colorado.
5. Intoxilyzer 4011A, CMI, Inc., Minturn, Colorado.
6. Intoxilyzer 4011A 27-10100, CMI, Inc., Minturn, Colorado.
7. Intoxilyzer 4011A 27-10100 with fixed filter calibration option, CMI, Inc., Minturn, Colorado.
8. Intoxilyzer 4011AS, CMI, Inc., Minturn, Colorado.
9. Alco-limiter, Energetics Science, Inc., Elmsford, New York.
10. Auto-Intoximeter AI-1000, Intoximeters, Inc., St. Louis, Missouri.
11. Gas Chromatograph Intoximeter Mark IV, Intoximeters, Inc., St. Louis, Missouri.
12. Gas Chromatograph Mark IV A, Intoximeters, Inc., St. Louis, Missouri.
13. Mark II Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri.
14. Alcolmeter AE-D1, Lion Laboratories, Ltd., Cardiff, Wales, United Kingdom.
15. Intoxilyzer Model 4011, Omicron Systems Corp., Palo Alto, California.
16. Breathalyzer Models 900A, 1000, Smith & Wesson Electronics Co., Springfield, Massachusetts.
17. Roadside Breath Tester, U.S. Department of Transportation, Washington, D.C.

The qualified products meeting all performance requirements, excluding those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

1. Atalmeter, BDT, c/o Federal American Research Corp., Portsmouth, New Hampshire.
2. Intoxilyzer Model 4011 AS-A, CMI, Inc., Minturn, Colorado.
3. Alco-Tector Model 500, Decatur Electronics, Decatur, Illinois.
4. Auto-Intoximeter AI 1, Intoximeters, Inc., St. Louis, Missouri.
5. Intoximeter Model 3000, Intoximeters, Inc., St. Louis, Missouri.
6. Photo-Electronics Intoximeter, Intoximeters, Inc., St. Louis, Missouri.
7. Auto-Alcometer, Lion Laboratories, Cardiff, Wales, United Kingdom.

V 45 SE 11 80 UMI

8. Alco-Analyzer Model 1000, Luckey Laboratories, Inc., San Bernardino, California.

Issued on September 4, 1980.

Charles F. Livingston,

Associate Administrator, Traffic Safety Programs.

[FR Doc. 80-27677 Filed 9-10-80; 8:45 am]

BILLING CODE 4110-59-M

[Docket No. EX80-2; Notice 1]

Model A and Model T Motor Car Reproduction Corp.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

The Model A and Model T Motor Car Reproduction Corporation of Detroit, Michigan ("Model A" herein) has petitioned for a temporary exemption of three years for its "Shay Reproduction 55 Bird" replica passenger car from Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity*, on grounds of substantial economic hardship.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The Shay Reproduction 55 Bird is a replica of the 1955 Ford Thunderbird. Petitioner believes that production models will conform to all applicable Federal motor vehicle safety standards including Standard No. 301 but avers that it lacks funds to conduct all tests necessary to demonstrate compliance. The fuel system in the engine compartment is one used by Ford Motor Company on certain of its 1980 model year vehicles. The remaining part of the system employs fuel and vapor lines of current production materials and a fuel tank of 13 gauge aluminum material seam welded, similar in configuration to tanks used in most of today's passenger cars. Petitioner states that it would cost $240,000 to verify compliance with Standard 301, which would be burdensome since its pre-tax loss in the fiscal year ending March 31, 1980, was $300,000. The company manufactured 2000 of its other product, a Model A replica, in the year preceding filing of the petition.

In support of its petition, Model A argues that an exemption would be in the public interest since 290 employees would lose their jobs if the company has to cease operations (46% of these employees have been beneficiaries of Federal and State employment programs). The company's factory is located around Battle Creek, Michigan which has been designated as an area of economic hardship. The petitioner argues that denial would have unfortunate consequences both for the company and for its vendors.

Interested persons are invited to submit comments on the petition of Model A and Model T Motor Car Reproduction Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date will also be filed and will be considered to the extent possible. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 13, 1980.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 2, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-27815 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Privacy Act of 1974; Proposed Notices of System of Records

The Department of Transportation herewith publishes four new notices of systems of records and deletes one system notice which is no longer in operation.

Any person or agency may submit written comments on the proposed systems to the Privacy Act Officer (M-30), Room 7109 U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments must be received by October 20, 1980 to be considered.

If no comments are received, the proposed new systems will become effective on October 26, 1980. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C. on September 8, 1980.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

Cancellation Notice

DOT/OST 60 "Medical Records of Participants in Study of Health Effects of Bicycling in Polluted Air" was dropped from the DOT Annual publication of Systems of Records February 21, 1980, in the **Federal Register** Vol 45, No 36, pages 11686-11788 because the project was completed by late 1979. The deletion announcement of DOT/OST 60 was inadvertently omitted; however, cancellation is official.

New Systems Proposed

The following four systems should be added to the Annual Publication referenced above when they become effective: DOT/OST 062, DOT/FAA 845 and 846, and DOT/NHTSA 470. Proposed systems notices are as follows:

DOT/OST 062

SYSTEM NAME:

Biographies of Key Officials Book DOT/OST.

SYSTEM LOCATION:

Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains information regarding DOT key officials. The key officials included in the book are subject to change because of personnel changes or at the request of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record contains basic biographical information and pictures of persons holding key positions within the Department of Transportation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide the Secretary with the professional experience and educational background of his/her key executives, which allows him/her to become more familiar with top executives.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in locked file cabinets in a locked room.

RETRIEVABILITY:

The book is indexed first by organization, then position title and name.

SAFEGUARDS:

Access to and use of this record is limited to the Secretary and to those persons whose official duties require such access. (Not releasable under the Freedom of Information Act without the permission of those individuals in the book.)

RETENTION AND DISPOSAL:

These records are destroyed one year after the person has left the covered position.

SYSTEM MANAGER(S) AND ADDRESS:

Mail Address: Department of Transportation, Office of the Secretary, Executive Personnel Management Division (M-13), 400 7th Street, S.W., Washington, D.C. 20590, Office Location: Nassif Building, Room 9103.

RECORD ACCESS PROCEDURE:

Employees who wish to gain access or contest their records should contact the System Manager(s).

NOTIFICATION PROCEDURES:

Contact System Manager.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

DOT/FAA 845

SYSTEM NAME:

Correspondence Control and Information System, DOT/FAA

SYSTEM LOCATION:

Federal Aviation Administration, Office of the Administrator, Administrative Staff, 800 Independence Ave, S.W., Washington, D.C. 20591.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who write, or are referred in writing by a second party, to the Administrator, to the Deputy Administrator, and their immediate offices; individuals who write, or are referred in writng by a second party to the Secretary, to the Deputy Secretary, to the Deputy Under Secretary and their immediate offices and the correspondence which has been referred to the Federal Aviation Administration; individuals who are the subject of an action requiring approval or action by one of the forenamed, such as appeals, actions, training, awards, foreign travel, promotions, selections, grievances, description, application of waivers from the Federal Aviation Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence submitted by, or on behalf of, an individual, including resumes, letters of reference, etc; responses to such correspondence; staff recommendations on actions requiring approval or action by the Administrator, the Deputy Administrator, the Secretary, the Deputy Secretary, and the Deputy Under Secretary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to the appropriate action office within or outside the Department or agency for preparation of a response.

Referral to the appropriate agency for actions involving matters of law, or regulations beyond the responsibility of the agency or Department such as the Department of Justice in matters of law enforcement.

As a data source for management information, such as briefing material on hearings, trend analysis, responsiveness, etc.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Computer Magnetic disk.

RETRIEVABILITY:

Access is by suspense date, correspondence date, subject matter, senders name, referring individual, action office, and type.

SAFEGUARDS:

Terminal access through the system's software is limited to the Administrator's Administrative Staff.

RETENTION AND DISPOSAL:

Hard-copy records are transferred to the Federal Records Center when three years old to be destroyed when ten years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Staff, Office of the Administrator, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator, or his delegate, at the following address: Federal Aviation Administration, Office of the Administrator, 800 Independence Avenue, S.W., Washington, D.C. 20591.

RECORD SOURCE CATEGORIES:

Correspondence from individuals, their representatives, or sponsors. Response to incoming correspondence. Related material for background as appropriate.

DOT/FAA 846

SYSTEM NAME:

Airport Solicitation Permit Application File, DOT/FAA

SYSTEM LOCATION:

Federal Aviation Administration, Operations Office, Washington National Airport, Washington, D.C. 20001.

Federal Aviation Administration, Operations Office, Dulles International Airport, Washington, D.C. 20041.

CATEGORIES OF RECORDS IN THE SYSTEM:

Completed applications for Airport Solicitation Permits; documentation of each solicitor's authority to represent the organization for which he or she claims to be soliciting.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the operation of this system is Public Law 96-193, enacted February 18, 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Preparation and issuance of Airport Solicitation Permits, which indicate the solicitor's name and the organization for which he is soliciting. Permits will be issued by airport operations personnel.

Disclosure to members of the public upon request, to permit the public to be informed as to who is soliciting at the airport and for what cause.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Application forms and any attached documentation are retained at the Operations Offices of National and Dulles Airports.

RETRIEVABILITY:

Applications are maintained in chronological order, not by name. There is no means for retrieval of records pertaining to a particular individual other than manual search of the entire file.

SAFEGUARDS:

The file is in the custody of the Duty Operations Officer.

RETENTION AND DISPOSAL:

Applications will normally be destroyed within 60 days of the date submitted.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operations Division, Washington National Airport, Federal Aviation Administration, Washington National Airport, Washington, D.C. 20001.

Chief, Operations Division, Dulles International Airport, Federal Aviation Administration, Dulles International Airport, Washington, D.C. 20041.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as "Record access procedures."

RECORD SOURCE CATEGORIES:

Application forms and related documentation furnished by airport solicitors.

DOT/NHTSA 470

SYSTEM NAME:

Unreported Accident Survey, DOT/NHTSA.

SYSTEM LOCATION:

Westat, Inc., 11600 Nebel Street, Rockville, Maryland 20852.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Licensed drivers living in households with telephones.

CATEGORY OF RECORDS IN THE SYSTEM:

Characteristics of drivers and motor vehicles involved in unreported accidents, including the environmental, vehicle and driver condition, and their severity in terms of injury and damage.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The data will be used by the contractor to develop estimates of the frequency and severity of injury and property damage resulting from unreported accidents nationwide. The records will also be used to determine the need for periodic surveys of unreported accidents by comparing their characteristics with those reported accidents. If the data vary significantly, additional analysis will be necessary to ensure the continuing validity of agency records. Personal identifiers will be used initially to perform a quality control review of the data. Following completion of the interview stage (approximately three months), identifiers will be deleted and information will be maintained in a sanitized file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Responses will be maintained initially on hard copy files, then on magnetic tape after personal identifiers have been removed.

RETRIEVABILITY:

Personal name with an assigned sequence number.

SAFEGUARDS:

Files are stored in locked cabinets within a secured area. Only individuals with the "need to know" are allowed access to this file.

RETENTION AND DISPOSAL:

File will be retrievable by personal name for approximately three months after the interview stage. After that, the sanitized file will be maintained for duration of the contract (about two years) and destroyed following contract completion.

SYSTEM MANGER(S) AND ADDRESS:

Chief, Information Systems Division, NRD–33, National Center for Statistics and Analysis, Room 6117, 400 7th Street, S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Apply to System Manager.

RECORD ACCESS PROCEDURES:

Apply to System Manager.

CONTESTING RECORD PROCEDURES:

Apply to System Manager.

RECORD SOURCE CATEGORIES:

Responses of household members to telephone inquiries.

[FR Doc. 80-28003 Filed 9-10-80; 8:45 am]

BILLING CODE 4910-62-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 15, 1980, at 10:00 a.m., the Veterans Administration Regional Office, Columbia, South Carolina Station Committee on Educational Allowances shall at Room 531, Conference Room, Fifth Floor, VA Regional Office, 1801 Assembly Street, Columbia, South Carolina, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Patterson's School of Barbering, 2353 Stark Street, Columbia, South Carolina, 29205, should be discontinued as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: September 2, 1980.

R. Stedman Sloan, Jr.,

Director, VA Regional Office.

[FR Doc. 80-27895 Filed 9-10-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 178
Thursday, September 11, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, September 15, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Conforming Amendments to Part 335 of the Corporation's rules and regulations (Required by Section 12(i) of the Securities Exchange Act of 1934).

Memorandum and Resolution re: Delegations of Authority—Division of Liquidation.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 8, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1676-80 Filed 9-9-80; 11:09 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provsions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, September 15, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4),(c)(6), (c)(8),(c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Cape Cod Five Cents Savings Bank, an operating noninsured mutual savings bank, located in Harwich Port, Massachusetts, for Federal deposit insurance.

Gotham Bank of New York, a proposed new bank, to be located at 1412 Broadway, New York (Manhattan), New York, for Federal deposit insurance.

Stewardship Bank of Oregon, a proposed new bank, to be located at 1918 N.E. 181st Avenue, Multnomah County (P.O. Portland), Oregon, for Federal deposit insurance.

Empire State Bank of Layton, a proposed new bank, to be located at 1275 North Hill Field Road, Layton, Utah, for Federal deposity insurance.

Request for consent to retan assets at branch:

National Bank of Greece, S.A., Chicago, Illinois.

Notice of acquisition of control:

Pioner Bank, Salt Lake City, Utah.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44-439-SR (Amended)—Citizens State Bank, Carrizo Springs, Texas.

Case No. 44,451-SR—American Bank & Trust Company, New York, New York.

Case No. 44,459-SR—Bank of Lake Helen, Lake Helen, Florida.

Case No. 44,460-VR—United States National Bank, San Diego, Calif.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the Sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to the Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 8, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1677-80 Filed 9-9-80; 11:10 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11:30 a.m. on Monday, September 8, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the

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Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of assets acquired by the Corporation from The Mission State Bank and Trust Company, Mission, Kansas (Case No. 44,463-L).
Recommendations regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

The Board further determined, by that same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).

Dated: September 8, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1678-80 Filed 9-9-80; 11:13 am]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, September 16, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel, Litigation, Audits, Audit and Complaince Thresholds.

DATE AND TIME: Wednesday, September 17, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on September 16, 1980.

DATE AND TIME: Thursday, September 18, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications
Advisory Opinions:
Draft AO 1980-94—John W. Kerr, Jr., Treasurer, Whitehurst for Congress Committee.
Draft AO 1980-95—Daniel L. Murphy, President, First National Bank of Florida.
Draft AO 1980-100—William B. Deyo, Jr., Revere Sugar Corporation.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1681-80 Filed 9-9-80; 11:09 am]

BILLING CODE 6714-01-M

5

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 582967, September 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, September 9, 1980.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 C.F.R. 201.36(b)(4), Commissioners Alberger, Calhoun, Moore, Bedell, and Stern voted by action jacket OPZ-80-143 to hold the briefing with respect to Item No. 5 [Investigation 303-TA-14 [Preliminary] (Animal Identification Tags from New Zealand)—briefing and vote] in closed session.

Commissioners Alberger, Calhoun, Moore, Bedell, and Stern also determined, pursuant to 19 C.F.R. 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth M. Mason, Secretary (202) 523-0161.

[S-1675-80 Filed 9-9-80; 9:55 am]

BILLING CODE 7020-02-M

6

NUCLEAR REGULATORY COMMISSION.

DATE: Monday, September 8, 1980.

PLACE: Commissioner's conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

4 p.m.

1. Discussion of Commission Program to Review Operating License Applications (approximately 2 hours, public meeting).

ADDITIONAL INFORMATION: By vote of 3-0 (Commissioner Gilinsky not present) on September 8, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that the above agenda item be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

[S-1680-80 Filed 9-9-80; 2:37 am]

BILLING CODE 7590-01-M

Reader Aids

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Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

53714 8–12–80 / Energy conservation; test procedures for furnaces

HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

50731 7–31–80 / Mortgage and loan insurance programs; amendments to make section 8 replacement reserve provisions applicable to HUD-insured section 8 projects

50731, 51771 7–31–80 / Mortgage and loan insurance programs; section 8 replacement reserve provisions applicable to HUD-insured section 8 projects

50732 7–31–80 / Mortgage and loan insurance programs; limitation on distributions provisions applicable to HUD-insured section 8 projects

50734 7–31–80 / Mortgage insurance and interest reduction payment for rental projects; rental assistance payments, non-insured 236 projects

Government National Mortgage Association—

50734 7–31–80 / Combination mobile home and lot loans; mortgage-backed securities program

40556 6–13–80 / Guaranty of mortgage-backed securities; issuers' securities marketing and trading activities

List of Public Laws

Last Listing September 10, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal Laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 8010 / Pub. L. 96–341 To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center". (Sept. 8, 1980; 94 Stat. 1076) Price: $1.

H.R. 6974 / Pub. L. 96–342 Department of Defense Authorization Act, 1981 (Sept. 8, 1980; 94 Stat. 1077) Price: $2.25.

H.R. 5168 / Pub. L. 96–343 Military Personnel and Compensation Amendments of 1980 (Sept. 8, 1980; 94 Stat. 1123) Price: $1.25.

S. 2680 / Pub. L. 96–344 To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666) (Sept. 8, 1980; 94 Stat. 1133) Price: $1.

H.R. 5892 / Pub. L. 96–345 Wind Energy Systems Act of 1980 (Sept. 8, 1980; 94 Stat. 1139) Price: $1.25.

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60186 **Part III—FCC:** Cable Television Syndicated Program Exclusivity Rules

60306 **Part IV—DOT/UMTA:** Project Management Procedures for Grantees

60362 **Part V:** Office of the Federal Inspector for the Alaska Natural Gas Transportation System and Equal Employment Opportunity Commission: Equal Opportunity Regulations; Affirmative Action Plans; Employment Discrimination—Memorandum of Understanding; and Employee Standards of Conduct

60382 **Part VI—ED:** Bilingual Education and Minority Language Affairs; Transition Program for Refugee Children

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Part II

Department of Transportation

Federal Aviation Administration

Airworthiness Review Program; Amendment No. 8A: Aircraft, Engine, and Propeller Airworthiness, and Procedural Amendments

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, 23, 25, 27, 29, 31, 33, 35, 43, 45, and 91

[Docket Nos. 14779 and 14324; Amendments Nos. 11-20; 21-51; 23-26; 25-54; 27-18; 29-20; 31-4; 33-9; 35-5; 43-20; 45-12; and 91-167]

Airworthiness Review Program; Amendment No. 8A: Aircraft, Engine, and Propeller Airworthiness, and Procedural Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to the Federal Aviation Regulations update and improve the airworthiness standards applicable to the type certification of aircraft, engines, propellers, related operating rules, and procedural requirements. These amendments are part of the Airworthiness Review Program.

EFFECTIVE DATE: October 14, 1980.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION: These amendments are the ninth and last in a series of amendments issued as part of the Airworthiness Review Program.

The following amendments have previously been issued as part of this program:

Title and Federal Register (FR) Citation

Amendment No. 1: Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975)

Amendment No. 2: Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976)

Amendment No. 3: Miscellaneous Amendments (41 FR 55454; Dec. 20, 1976)

Amendment No. 4: Powerplant Amendments (42 FR 15034; March 17, 1977)

Amendment No. 5: Equipment and Systems Amendments (42 FR 36960; July 18, 1977)

Amendment No. 6: Flight Amendments (43 FR 2302; Jan. 16, 1978)

Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978)

Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; Feb. 4, 1980)

These amendments are for the most part based on Notice 75-31 which was published in the **Federal Register** on July 11, 1975 (40 FR 29410), as well as a number of proposals contained in the following notices of proposed rule making: Notice 75-10 (40 FR 10802; March 7, 1975); Notice 75-19 (40 FR 21866; May 19, 1975); and Notice 75-26 (40 FR 24802; June 10, 1975). Amendments based on the latter three notices have already been issued as a part of the Airworthiness Review Program, specifically those titled Miscellaneous Amendments, Powerplant Amendments, and Airframe Amendments, respectively. Final action on certain of the proposals was deferred, however, at the time the amendments were issued as further consideration and review of these proposals was considered necessary. In other cases, final action was deferred so that they could be considered together with related proposals contained in other notices.

Certain proposals identified as Group 2 in Appendix I to Notice 75-31 were deferred to be dealt with in a later notice as a part of the Airworthiness Review Program. These proposals all addressed the concept of periodically updating the certification basis of airplane models in long-term production. Such recertification every five or ten years would be intended to ensure that the level of safety of all airplanes in service keep pace with the current level of safety expectations. The FAA has now determined that these proposals more appropriately should be examined as a separate issue in a future regulatory action. Accordingly, the proposals identified as Group 2 in Appendix 1 to Notice 75-31 are being dropped from the Airworthiness Review Program.

Proposals relating to cabin safety and flight attendants, which are identified in this amendment, were extracted from Notice 75-31 (40 FR 29410; July 11, 1975) and handled on an expedited basis. Those rules were published in the Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. The proposals and comments are discussed below. Substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and further review within the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and the reasons for them are the same as those contained in Notices 75-10, 75-19, 75-26, and 75-31.

Discussion of Comments

The following discussions are keyed to the like-numbered proposals contained in Notices 75-10, 75-19, 75-26, and 75-31, and are presented in the same order as the corresponding amendments found in the rules portion of this document.

Proposal 8-1. The proposal to amend § 1.1 in order to transfer the definitions for rated power and thrust to a new § 33.6 is withdrawn. It is considered that such a change may introduce confusion in the administration of aircraft certification rules. See also Proposal 8-94.

Proposal 8-2. Several commenters object to proposed § 21.16(a) which would delete reference to a "novel and unusual design feature" as a necessary condition for the Administrator to issue special conditions. Special conditions become a part of the designated applicable regulations for type certification of a particular product (aircraft, aircraft engine, or propeller).

One commenter indicates that the proposed revision is unjustified and would lead to indiscriminate rule making, and that instead of simplifying the administration of the requirements it would introduce complexity. Another commenter claims that adoption of proposed § 21.16(a) would introduce uncertainty into design requirements.

One commenter suggests that in lieu of revising § 21.16, the FAA should perform a study of § 21.21(b)(2). (Section 21.21(b)(2) provides for denial of a type certificate if an unsafe feature or characteristic exists in the design under consideration. Before adoption of § 21.16, FAA used § 21.21(b)(2) to issue special conditions in letter form.) This commenter suggests that if § 21.21(b)(2) were to continue to be used to issue special conditions to cover an unsafe design feature or characteristic that is not "novel or unusual," it must be equally applicable to a condition that exists on more than one (earlier certificated) product, further stating that the other product or products must then have been type certificated using existing rules which did not adequately cover the unsafe design feature or characteristic. On this premise, the same commenter asks several relevant questions. When § 21.21(b)(2) is applied, does the FAA make it retroactive to the other involved models? Are Airworthiness Directives (Part 39) issued? Why wasn't a special condition issued against the first applicant when the condition was, in fact, novel or unusual? Why was this not followed by a notice of proposed rule making for future application?

These comments and questions caused the FAA to completely reevaluate its practices in designating the applicable regulations for type certification under § 21.17(a), commonly referred to as defining a "type certification basis."

After further consideration of the comments received as well as FAA practice in designating the applicable regulations, and the objectives of proposed § 21.16, the FAA agrees that this proposal should be withdrawn because of the potential for possible abuse of general rulemaking procedures, of the requirements of the Administrative Procedure Act, and the intent of Executive Order 12044. As explained below, the objectives of proposed § 21.16 will be satisfied by the application of a new FAA policy affecting the designation of applicable regulations for the type certification of new aircraft, aircraft engines, and propeller designs. These future practices are consistent with the FAA General Rule-Making Procedures of Part 11, the Administrative Procedure Act, and Executive Order 12044.

Section 21.16 is one paragraph of a number of paragraphs used to define the type certification basis of a new product. Companion paragraphs of importance to this discussion include §§ 21.17 and 21.21. Section 21.17(a) provides that the applicable airworthiness standards are (1) those requirements of this subchapter that are effective on the date of application for a type certificate, unless otherwise specified by the Administrator or unless compliance with later effective amendments is elected by the applicant or required by special retroactive regulations (e.g., § 25.2), and (2) any special conditions prescribed by the Administrator in accordance with § 21.16. Section 21.16 provides for the issuance of special conditions when the Administrator finds that the existing airworthiness standards do not contain adequate or appropriate safety standards *because of novel or unusual design features* of the product to be type certificated. Section 21.21(b)(1) permits noncompliance with specific provisions of the airworthiness standards when there are compensating factors that provide an equivalent level of safety. Such determinations are commonly referred to as "equivalent safety findings." Section 21.21(b)(2) provides for the denial of a type certificate, notwithstanding a showing of compliance with the applicable airworthiness standards designated in accordance with § 21.17, if the Administrator finds an unsafe feature or characteristic or the product for the category in which certification is requested.

Sections 21.16, 21.17, and 21.21, taken together with FAA policy in designating the applicable regulations must recognize and balance four important considerations: (1) The FAA has an obligation under Section 601 of the Federal Aviation Act of 1958 to keep the airworthiness standards of this subchapter (i.e., FARs 23, 25, 27, 29, 31, 33, and 35) as current as practicable; (2) the type certificate applicant has a right and a need to know, in very specific terms, what the applicable airworthiness standards will be in order to finalize the detail design of its product and to enable the applicant to make reasonable performance guarantees to its potential customers; (3) in the interests of safety, rapid technological advances presently being made by the civil aircraft industry require that the FAA be able to issue special conditions to address truly novel or unusual design features that it has, as yet, not had an adequate opportunity to envisage in the airworthiness standards through the general rulemaking process; and (4) because the airworthiness standards of this subchapter are intentionally objective in nature to allow flexibility in design, the FAA must retain the prerogatives both to make equivalent safety findings and to deny a type certificate whenever an unsafe design feature or characteristic is found during the type certification process.

The phrase "novel or unusual" as used in § 21.16 is a very relative term. As used hereafter in applying § 21.16 to justify the issuance of special conditions, "novel or unusual" will be taken with respect to the state of technology envisaged by the applicable airworthiness standards of this subchapter. It must be recognized that in some areas which will vary from time to time the state of the regulations may somewhat lag the state of the art in new design because of the rapidity in which the state of the art is advancing in civil aeronautical design and because of the time required to develop the experience base needed by the FAA to proceed with general rule making. Applicants for type certification of a new design have the opportunity to mitigate the impact of not knowing the precise airworthiness standards to be applied for "novel or unusual design features" by consulting with the FAA early in their certification planning when such features are suspected or known by the applicant to exist. It should also be recognized that, because of the intentional objective nature of the airworthiness standards of this subchapter, many new design features which might be thought of as "novel or unusual design features" may already be adequately covered by existing regulations, thus obviating the need to issue special conditions.

Henceforth, the special condition will not be issued for general upgrading of the applicable airworthiness standards when novel or unusual design features are not involved. Whenever the FAA determines that an upgrading of the airworthiness standards of this subchapter is warranted, the upgrading will be promulgated as an amendment to this subchapter consistent with the general rulemaking procedures of FAR Part 11, the Administrative Procedure Act, and Executive Order 12044. Should the FAA conclude that there is a compelling safety need to apply a proposed amendment retroactively to designs already type certificated or to designs for which a type certificate application is in progress, the retroactive aspects of the proposed amendment, if supportable by a regulatory analysis completed in accordance with Executive Order 12044, will be announced in the notice of proposed rule making for that amendment. Public comments on the proposed retroactive aspects will be considered in determining the applicability of the adopted rule.

A number of products for which special conditions have not as yet been issued are undergoing type certification at the time of this amendment. Should the FAA conclude that recent or future amendments to this subchapter should be applied to these products that would not otherwise be applicable under § 21.17 (a) (1) then an amendment to require retroactive application will be proposed and acted upon through the general rulemaking process explained above, in lieu of issuing special conditions under § 21.16.

Also, the provisions of § 21.21(b)(2) will no longer be used to justify the issuance of special conditions. However, just as an Airworthiness Directive may be issued under Part 39 to require the correction of an unsafe condition that is likely to exist or develop in a product of the same type design, notwithstanding a showing of compliance with the applicable airworthiness standards, § 21.21(b)(2) may continue to be used to deny issuance of a type certificate if a similar unsafe feature or characteristic

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is found during the type certification process, notwithstanding a showing of compliance with requirements designated by § 21.17. The unsafe features and characteristics envisaged by § 21.21 (b) (2) are those related to specific design configuration or product characteristics of a particular design, that one would not normally expect the applicable airworthiness standards to specifically preclude because of their intentionally objective nature.

It is the practice of the FAA to develop and publish a Type Certificate Data Sheet as an integral part of each type certificate. The type certification basis is recorded on the Type Certificate Data Sheet for public information. In the future the type certification basis statement will indentify not only the applicable regulation, including special conditions, but also will identify all exemptions issued pursuant to Part 11, together with "equivalent safety findings" made in accordance with § 21.21 (b) (1).

For the above reasons, Proposal 8–2 is withdrawn.

In considering its disposition of the proposal to amend § 21.16 (a), the FAA realizes that a "novel or unusual design feature" today may become a common design feature of the future. The issuance of a like special condition for several product designs will most likely compel general rule making on that subject and the history of that special condition could have a very strong influence on thinking when general rule making is initiated. Also, although special conditions are regulations on particular product applicability, they are issued only in the interest of public safety. For these reasons, Part 11, and § 21.16 of Part 21 are amended to require special conditions to be issued in accordance with the existing general rule-making procedures. As is now the case, a docket will continue to be maintained for each set of special conditions, and all material in the docket will continue to be available for public review.

Proposal 8–3. This proposal is one of a group of proposals dealing with the establishment of Instructions for Continued Airworthiness and the responsibilities of maintenance personnel and aircraft operators with respect to those instructions. The group is made up of the following proposals: 8–3, 8–5, 8–21, 8–25, 8–58, 8–62, 8–64, 8–67, 8–77, 8–80, 8–89, 8–91, 8–92, 8–93, 8–97, 8–98, 8–99, 8–104, 8–106, 8–107, 8–110, and 8–111.

A commenter representing a number of scheduled air carriers objects to the requirement in § 21.31(c) that the type design include the Airworthiness Limitations section of the Instructions for Continued Airworthiness because of the information to be included in that section. Although this commenter does not object to including mandatory replacement times for life-limited parts in the Airworthiness Limitations section, the commenter strongly objects to including inspection intervals and related procedures. Under proposed §§ 43.16 and 91.163(c), the commenter points out, air carriers would be required to comply with these maintenance-related airworthiness limitations. The FAA does not agree that inspection intervals and related procedures can be omitted from the Airworthiness Limitations section of the Instructions for Continued Airworthiness. For example, the proposed Airworthiness Limitations section on a transport category airplane must contain mandatory inspection intervals and related procedures because the damage-tolerance concept described in § 25.571 is predicated upon the use of such inspections to detect initial cracks in principal structural elements before crack growth under repeated loads could progress to a degree which would cause catastrophic failure of the ariplane. However, the FAA does agree that §§ 43.16 and 91.163(c) should permit modification of these intervals and procedures by other FAA approved methods. Accordingly, inspection programs approved under §§ 121.25(b), 121.45, 121.367, 123.21(b), 127.13(b), 127.133, 135.5, 135.17, 135.419, 135.421, and 135.425, as defined by approved operations specifications, or an inspection program approved under § 91.217(e) constitute acceptable alternatives. The appendices to Parts 23, 25, 29, 31, 33, and 35 as adopted in this amendment require the applicant to specify (in the Airworthiness Limitations section) mandatory replacement times, inspection intervals, and related procedures. Sections 43.16 and 91.163(c) have been revised to show that only the inspection times and procedures may be adjusted under approved alternative programs.

A commenter objects to § 21.31(c), which in general is applicable to manufacturers, since continued airworthiness, which is covered in the paragraph, is the responsibility of the operator. Because this comment pertains more directly to § 21.50, it is dealt with in conjunction with Proposal 8–5.

In addition to comments relating to the Instructions for Continued Airworthiness, a commenter objects to § 21.31(a) because the proposal to include a list of drawings and specifications in the type design was not mentioned at the Airworthiness Review Conference. In fact, this proposal did appear as an FAA comment on Proposal No. 565 in the Committee I Workbook (titled "Procedures and Special Subjects") made available to all participants at the conference, and may be found in the docket.

Several commenters object to § 21.31(d) because including analyses in the type design— (1) would be redundant, since it is already required as part of the substantiating data; (2) is unnecessary, since the drawings and specifications required under current § 21.31(a) provide the general information needed by the FAA; and (3) introduces the possibility that the FAA would require the manufacturer to provide any and all data used to prepare the drawings and specifications, thereby delaying type certification. The FAA agrees that proposed § 21.31(d) would serve no useful purpose and it is withdrawn.

Proposal 8–4. A commenter objects that § 21.35(b)(2) eliminates flight testing for reliability, contending that analysis and ground test are not dependable as a basis for certification. In the light of this comment, and after further consideration and experience, the FAA has determined that flight testing for reliability does provide safety information not necessarily obtainable from analysis and ground test. Accordingly, the proposal to delete the reference to reliability in § 21.35(b)(2) is withdrawn.

No adverse comment was received on the proposal to replace the word "airplanes" in § 21.35(b)(2) with the word "aircraft" and this amendment to § 21.35(b)(2) is adopted without change.

Proposal 8–5. A commenter objects to the continued airworthiness provisions of § 21.50(b) (and also proposed § 21.31(c)) contending that—(1) continued airworthiness is the responsibility of the operator/owner; (2) current regulations in Parts 23 and 25 already require manufacturers to make available recommended maintenance procedures for the product at the time of its delivery; (3) current operating rules require the operator/owner to establish and comply with a maintenance program; and (4) with respect to transport airplanes, the present FAA Maintenance Review Board (MRB) system is an entirely satisfactory way of establishing the means for maintaining airworthiness. Current FAA practice allows operators of new transport category airplanes to utilize FAA MRB recommendations (reference FAA Advisory Circular No. AC 121–22) for starting their maintenance programs, and then vary them with FAA approval as experience and operating conditions dictate. The commenter points out that, contrary to that practice, the amendment will require the manufacturer to obtain FAA approval of its recommended maintenance procedures before the airplane is type certificated, and to obtain FAA approval of revisions to those procedures (necessitated by any improvement change in the airplane) before approval of the change itself. This, the commenter states, will impose a severe and unnecessary hardship on the manufacturer.

On the first and second points, although the operator/owner does have responsibility for continued airworthiness, the FAA has found that the recommended maintenance procedures made available under current regulations are frequently inadequate in scope and content, and often do not provide a sound basis for the operator/owner to maintain the airworthiness of the aircraft. The FAA has concluded that the lack of such recommended maintenance procedures can best be remedied by requiring that they be made available to owners and operators by the type certificate or supplemental type certificate holder. On the third point, while it is true that not all operators/owners are required to establish and comply with a continuous airworthiness program, those that voluntarily wish to set up such a program are often handicapped by the lack of comprehensive instructions, which would be remedied by § 21.50(b). On the other hand, those required to establish a program will benefit from the more detailed and comprehensive instructions made available to them under § 21.50(b). On the fourth point, which is directed toward aircraft that will be maintained in accordance with an FAA approved operations specification and maintenance program under Parts 121, 123, 127, 135, or an approved inspection program under § 91.217(e), the FAA recognizes that these procedures for maintaining airworthiness of the products have functioned satisfactorily. In this regard, the FAA expects that operating segments of the air transportation industry would continue to work with type certification applicants in defining adequate maintenance instructions prior to type certification. The FAA MRB document, which is a product of contributions made by both the operators and manufacturer, could be picked up by the type design holder and included as a part of the required Instructions for Continued Airworthiness, thus continuing the usefulness of the existing MRB practices for the original entry into service of new product designs. Likewise, the additional maintenance instructions that would be required and which are not typical to MRB documents, but are presently required in air carrier operators' FAA approved maintenance programs, could also be picked up by the type design holder. Therefore, the screening process that would be utilized by the FAA in reviewing such maintenance documents would not unnecessarily delay type certification or approval of design changes after certification. See also the discussion under Proposal 8–3.

A commenter questions the need for the provision in § 21.50(b) requiring that the Airworthiness Limitations section of the Instructions for Continued Airworthiness be furnished with each aircraft, engine, or propeller. The FAA agrees that this provision is unnecessary, as the type certificate holder must make the manual available, and the operator/owner must comply. To require a manual to be furnished with each equipment would be redundant, and in some instances, would be unnecessary. Accordingly, the requirement that the Airworthiness Limitations section be furnished with each airplane or product is revised to require that the section be furnished to each owner of the type.

A commenter objects to § 21.50(b) insofar as it applies to rotorcraft type certificated under Parts 27 and 29, contending that the manufacturer is already required under those parts to furnish a maintenance manual, which has allegedly been proven adequate. The FAA does not agree. The proposed Instructions for Continued Airworthiness, which are broader in scope and more detailed than the maintenance manual currently required under Parts 27 and 29, would provide the operator/owner with the minimum amount of information needed to maintain the airworthiness of increasingly complex rotorcraft currently being designed.

A commenter suggests that § 21.50(b) be revised to make it clear that an aircraft manufacturer need not supply Instructions for Continued Airworthiness pertaining to engines and propellers until the complete aircraft is delivered to the first retail purchaser. The continued airworthiness instructions for propellers and engines should be provided to the aircraft manufacturer to facilitate transmittal to purchasers of the aircraft.

A commenter notes that § 21.50(b) would require an aircraft manufacturer to make the Instructions for Continued Airworthiness available to the owner upon delivery of the aircraft and to any other person required to comply with any of the terms of those instructions *upon request.* Since such a request could be made before the first aircraft delivery, it could impose an unnecessary burden on the aircraft manufacturer. The commenter suggests that § 21.50(b) be revised so that such a request need not be filled until after delivery of an aircraft to the first owner. The FAA agrees that an early request for the Instructions for Continued Airworthiness could impose an unnecessary burden on the manufacturer. Additionally, the FAA notes that airplanes can be delivered to an operator, prior to full type certification, with a provisional airworthiness certificate to allow activities such as crew training, and therefore prior to the approval of the Airworthiness Limitations section. Accordingly, the phrase "upon request" has been deleted from § 21.50(b) and the language has been revised to require that at least one set of the complete Instructions for Continued Airworthiness be furnished upon delivery to the customer, or subsequent to issuance of the first standard certificate of airworthiness, whichever occurs later.

Proposal 8–6. Commenters object to the proposal to make § 21.97(b) applicable to all products rather than to engines only because—(1) the volume of paperwork would increase out of proportion to any benefits that might be gained; (2) the applications for supplemental type certificates would be significantly more complex, since there are frequently many configuration variations within an aircraft model and a fleet operator would have to list all of the configurations or make separate application for each; and (3) the term "specific configuration" must be defined if the proposal is to be properly administered. In light of these comments and after further consideration, the FAA concludes that this proposal requires additional study and it is withdrawn.

Proposal 8–7. No unfavorable comment was received on the proposal to amend § 21.123 to require a manufacturer to submit a manual describing its production inspection system and means for controlling materials and parts. Accordingly, the proposal is adopted without substantive change.

Proposal 8–8. A commenter objects to § 21.143(a)(2) contending that substitution of the word "supplier" for "subsidiary" introduces a major change to the requirements, involving increased

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paperwork and costs. The FAA does not agree. The FAA has consistently administered § 21.143(a)(2) as applying to *all* raw materials, purchased items, parts, and assemblies supplied to the prime manufacturer. The change does not involve increased paperwork or costs because it is a semantic change which clarifies the definition of persons or entities subject to the quality control data requirements of § 21.143, without expanding any of those requirements. The use of the term "subsidiary" is unclear because it implies that there must be a corporate connection between the prime manufacturer and his supplier. Accordingly, the language has been revised to reflect the FAA's intent that the quality control data requirements of § 21.143(a)(2) apply to all "suppliers" of each prime manufacturer. For similar reasons and for internal consistency, § 21.143(b) is revised to replace the term "subsidiary manufacturers" with the term "suppliers".

Proposal 8–9. No unfavorable comment was received on the proposal to amend § 21.182 to ensure that the proposed new § 45.11(c) is cross referenced. Accordingly, the proposal is adopted without substantive change.

Proposal 8–10. A commenter raises the question whether a special flight permit issued under § 21.197(a)(3) would serve as a certificate of airworthiness for international flights. The FAA notes that international flights cannot be conducted under special flight permits issued under § 21.197 unless specifically authorized by the foreign authorities concerned.

Another commenter objects to § 21.197(a)(3)(ii) because as worded, the individual aircraft would have to be flown for at least 50 hours, thereby defeating the purpose of the original proposal (as submitted for the Airworthiness Review) which aimed at eliminating unnecessary delays in obtaining FAA approval of customer demonstration flights. The commenter suggests that this provision be changed to stipulate that the aircraft type must have been flown for at least 50 hours. The FAA agrees that since the proposal concerns aircraft manufactured under a production certificate, and since the aircraft type would have been flown for at least 50 hours during the type certification program, the 50 hours of flight provision is not necessary. However, the FAA does not agree with the commenter's suggested revision. It is necessary to require that production flight tests for the individual aircraft involved be satifactorily completed before the aircraft is flown on customer demonstration flights. Accordingly, § 21.197(a)(5) is added to perscribe this condition in place of the 50 hours of flight provision.

The same commenter also suggests that § 21.197(a)(3)(ii) should be made applicable to aircraft produced under a type certificate only, since such aircraft received close production surveillance by the FAA. The FAA agrees that a production certificate should not be the limiting factor in obtaining FAA approval of customer demonstration flights. If the aircraft has been demonstrated to otherwise meet all the safety requirements for a standard airworthiness certificate, then customer demonstration flights could be permitted. This proposal is adopted by the addition of § 21.197(a)(5).

In addition, the commenter suggests that proposed § 21.197(a)(3)(ii) be amended with a reference to the maintenance and inspection programs called for under § 21.195 for Experimental and Subpart C Provisional Type Certificates. Such procedures would unnecessarily complicate the issuance of permits for customer demonstration flights and would in effect nullify the original proposal. The portion of the proposal calling for maintenance and inspection programs in these instances is therefore withdrawn.

Proposal 8–11. No unfavorable comments were received on the proposal to amend § 23.253(b)(3) to ensure that high speed buffeting does not become severe enough to prevent the pilot from reading the instruments or controlling the airplane. Accordingly, the proposal is adopted without substantive change. Also see Proposal 8–28.

Proposal 8–12. No unfavorable comments were received on the proposal to amend § 23.361 to redefine the limit engine torque load conditions to be considered for turbine engine installations and to make other clarifying changes. Accordingly, the proposal is adopted without substantive change.

Proposal 8–13. The FAA does not agree with a commenter who suggests that the lead-in of § 23.371 be revised to make the gyroscopic load requirements applicable to piston as well as turbine engines. The FAA has no information to indicate a need for coverage of piston engines in this regulation, nor was any submitted by the commenter.

Another commenter concurs with § 23.371, assuming that a rational analysis of loads under § 23.371(a) is an alternate to the loads specified in § 23.371(b). This assumption is correct. No change to § 23.371 was proposed in this regard. Section 23.371 is adopted without substantive change.

Proposal 8–14. A commenter suggests that the word "operated" in § 23.729(c) be replaced by the word "lowered". The commenter states that the intent of the rule is to ensure that the gear can be lowered in an emergency. The FAA concurs, but the word "extended" is used to preserve the internal consistency of the section. Section 23.729(c) is revised accordingly.

This commenter also questions whether § 23.729(e) would require an "up lock". The commenter is evidently referring to a "lock" in the sense of a positive means other than hydraulic pressure, as required to keep the gear extended by § 23.729(b). Section 23.729(e) contains no such requirement.

Another commenter suggests that the second sentence of § 23.729(e) be revised to add the words "and secured" after the words "fully extended" and "fully retracted" in order to clarify what functions the lights would indicate to the pilot. The first sentence of the paragraph clearly states that the indicators should inform the pilot that the gear is secured in the extended or retracted position.

A commenter states that the proposal is redundant since the requirement is already in effect. The FAA does not agree. This is one of several new provisions being incorporated into the current regulations to assure the reliability of small land-plane landing gear systems.

After further review, the FAA has determined that the words "and warning device" should be removed from the heading of § 23.729(e) to preclude confusion between the requirements of this paragraph and those of § 23.729(f). Section 23.729 is adopted with editorial changes and the revisions discussed.

Proposal 8–15. A commenter objects to §23.903(f) on the grounds that it imposes new and unjustified criteria for restart capability of reciprocating engine powered airplanes. The FAA believes the requirement to be fully justified. Accidents have occurred with multiengine reciprocating powered, as well as turbine powered airplanes because pilots have not been adequately apprised of the engine restart envelope for their airplane. Therefore, the requirement must apply to both types of engine installations.

This commenter further states that §23.903(g) is acceptable provided that the "restart requirement is understood to be within the restart envelope for the aircraft (if one is approved for the aircraft)." Present §23.903(e)(3), as applicable to turbine engine powered small airplanes, states that it must be possible to restart an engine in flight, and §23.903(f) requires that an approved restart envelope be established.

Therefore, development of a restart envelope would be required for the approval of each turbine engine powered small airplane. As adopted, §23.903(g) requires that, following in-flight shutdown of all engines, electrical power for ignition exists throughout the approved restart envelope.

Another commenter states that it seems inconsistent to require that electrical power be provided for ignition but not for rotational capability sufficient for an engine start. The FAA does not agree. As adopted, the rule provides for those circumstances where engine windmilling speed is sufficient for restarting but insufficient to provide electrical power for ignition.

The proposal is adopted without substantive change. However §23.903(f) is revised to make it clear that the specified in-flight engine restart capability is required throughout the required altitude and airspeed envelope.

Proposal 8–16. No unfavorable comment was received on adding a new §23.905(d) referencing propeller blade pitch control system durability requirements. Accordingly, §23.905(d) is adopted without substantive change. For discussion of a related proposal to add a new § 35.42, see the discussion under Proposal 8–103

Proposal 8–17. A commenter suggests that since the requirement for fuel tanks to retain fuel during a landing with landing gear retracted or collapsed may be subject to individual interpretation, advisory material on compliance methods should be reviewed with industry prior to implementation of the rule. The FAA does not agree. The revision merely clarifies an existing requirement. Section 23.967 is adopted without substantive change.

Proposal 8–18. A commenter recommends that the Proposal to add a new §23.991(d) which requires that operation of any fuel pump does not adversely affect continuous engine operation, be withdrawn or its adoption delayed while the compatibility of engine and airplane fuel systems is studied. The compatibility between these systems must be established in the design process, and the relevant design considerations are well known. Delaying the requirement in favor of additional study is not warranted.

Another commenter contends that the requirement is beyond the needs of safety. The FAA agrees that the proposal requirement is too restrictive and §23.991 (d) is revised to provide that the operation of any fuel pump may not affect engine operation so as to create a hazard.

Two commenters disagree with adding a new § 23.991(d), contending that it eliminates present fuel system designs. The FAA has no information to suggest that compliance with the revised section, as discussed above, would be impossible using present fuel system designs, nor was any presented by the commenter.

The proposal is adopted with the revision discussed above.

Proposal 8–19. No unfavorable comments were received on the proposal to amend §23.1305(n) to permit movement of the propeller blade up to 8° below the flight low pitch position before an indication of the movement is required for the flight crew. Accordingly, the proposal is adopted without substantive change.

Proposal 8–20. For comments related to withdrawal of the proposal to revise § 23.1521(a), see Proposal 8–94.

Proposal 8–21. Since the proposal for § 23.1529 is substantively identical to those for §§ 25.1529 (Proposal 8–58), 27.1529 (Proposal 8–64), and 29.1529 (Proposal 8–77), all comments on these proposals are considered here.

A commenter notes that although the explanation for § 23.1529 makes it clear that the Instructions for Continued Airworthiness need not be finalized until delivery of the first airplane, the proposal itself seems to require that they be finalized before type certification. The commenter suggests that this point be clarified. The FAA agrees, and §§ 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.4, are revised accordingly.

In response to a commenter representing a group of scheduled air carriers, the FAA notes that, except for the Airworthiness Limitations section, there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in §§ 23.1529, 25.1529, 27.1529 and 29.1529. Moreover, the new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under current Parts 121, 123, 127, and 135, or an inspection program approved under current § 91.217(e), would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to § 25.1529 to make it clear that alternatives to the Instructions for Continued Airworthiness (except the Airworthiness Limitations section) may be used. This suggestion was not adopted because §§ 43.16 and 91.163(c) make this provision sufficiently clear.

Proposals 8–22, 8–23, and 8–24. Final action on Proposals 8–22, 8–23, and 8–24 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–25. The proposals to add an appendix to Parts 23, 25, 27, and 29 (Proposals 8–62, 8–67, and 8–80) setting forth Instructions for Continued Airworthiness are substantively identical and are discussed below. Unless otherwise stated, the discussion refers to the designated sections in each of the appendices mentioned above.

§ *XX.1(a).* A commenter objects to the concept of specifying requirements (as opposed to providing guidance) for the preparation of Instructions for Continued Airworthiness, contending that such requirements would lead to time-consuming negotiations between the manufacturer and the FAA, and that some flexibility in providing the instructions is necessary. The appendix sets forth, in broad objective terms, the *kinds* of information the Instructions for Continued Airworthiness must contain. Within this framework, the manufacturer would be free to develop detailed instructions appropriate to its aircraft. The FAA is confident that the appendix provides a reasonable measure of flexibility, and anticipates no difficulties or delays in determining the acceptability of the Instructions developed by the manufacturer.

§ *XX.1(b).* A commenter objects to the requirement that Instructions for Continued Airworthiness be provided for appliances, contending that—(1) this information is often not available from the appliance manufacturer; (2) even when available, the information sometimes has to be revised for the particular application in a manner not approved or intended by the appliance manufacturer; and (3) the information necessary for customized equipment installations would be unreasonably costly to develop. The FAA does not agree. Such information, which is essential to the continued airworthiness of the aircraft, should be provided for each required product. Accordingly, the language of § XX.1(b) is revised to make it clear that if the aircraft manufacturer does not supply continued airworthiness instructions for the product, the Instructions for Continued Airworthiness for the aircraft must include this information. See also the discussion under § XX.3(a)(5)(i).

A commenter objects to the proposal to include information on engines and all appliances in the Instructions for Continued Airworthiness, contending that—(1) such information should be furnished by the engine or appliance manufacturer; and (2) with respect to appliances, only those for which standards have been established by FAA should be covered. On the first

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point, manufacturers of new engine designs are required to supply the information for their products under new § 33.4. Manufacturers of new aircraft using currently certificated engines are required by § XX.1(b) to provide the information for the engine in their Instructions for Continued Airworthiness for the aircraft. In practice, the FAA expects this information to be developed and supplied by the engine manufacturer. A similar requirement for appliances would be administratively impracticable because of the large number involved. On the second point, it should be noted that specific performance and safety standards have not been established for all essential appliances. However, upon further review, the FAA concludes that it would be unreasonable to require the aircraft manufacturer to cover appliances other than those required in applicable regulations. Accordingly, § XX.1(b), as adopted, refers only to appliances "required by this chapter."

§ *XX.2.* A commenter suggests a revision of this section to make clear that the Instructions for Continued Airworthiness may consist of a series of volumes, or may be supplied in other than book form, such as on microfilm or microfiche. The language in § XX.2 is sufficiently broad to cover these acceptable alternatives. Reference to the Air Transportation Association of America Specification No. 100 (where it appeared) is deleted from § XX.2(b) because it is nonregulatory.

§ *XX.3, lead-in-paragraph.* A commenter objects to the requirement that the contents of the manual "be prepared to be understood by the person who will be responsible for maintaining" the aircraft or product, contending that—(1) it would impose a subjective standard that would be impossible to meet; and (2) it could be interpreted to mean that, in some circumstances, manuals for aircraft to be exported must be prepared in the language of the country of export. In light of these comments, the first sentence of the lead-in paragraph of § XX.3, is revised to read as follows: "The contents of the manual or manuals must be prepared in the English language." This conveys the intent of the original proposal. A commenter points out that there may be different levels of maintenance instructions, directed at different classes of operators. For example, the maintenance instructions provided to a fleet operator or commuter airline may be more comprehensive than those provided to a fixed base operator. Any level of maintenance instructions considered appropriate by the manufacturer may be submitted, provided that those instructions comply with the minimum standards in the appendix.

§ *XX.3(a)(2).* A commenter recommends that the requirement for complete descriptions be limited in scope to the "standard" aircraft and "quantity-installed" optional equipment, contending that it would be virtually impossible to devise "custom" maintenance manuals for each product because of the many combinations of equipment that may be ordered by the purchaser. In addition, the commenter states that a manual containing all of these combinations would be difficult to use. The FAA does not agree. To achieve its purpose, the Instructions for Continued Airworthiness must contain information on each item of equipment required by regulation to be installed on the aircraft. The FAA notes that supplemental type certificates (STC's) are required for installation of equipment not a part of the type certificate, and that this maintenance manual requirement is equally applicable to the STC applicant.

§ *XX.3(a)(3).* A commenter recommends that since maintenance personnel have no need for the kind of operating information provided in a Pilot's Operating Handbook, the paragraph be revised to require only *basic* principles of equipment control and operation. The FAA agrees, and § XX.3(a)(3) now refers to "basic control and operation information."

§ *XX.3(a)(5)(i).* A commenter recommends that applicants be allowed to refer to a component manufacturer as a source of information instead of including the information in the Instructions for Continued Airworthiness. The commenter argues that many component manufacturers prefer to maintain control of their maintenance information to ensure that it is up to date. In other cases, maintenance at the factory may be required because of the complexity of the equipment. The FAA recognizes that some accessories, instruments, and equipment have an exceptionally high degree of complexity, requiring specialized maintenance techniques, test equipment, or expertise. In such cases, it would be in the interest of safety to allow the applicant to refer to the appropriate manufacturer in the maintenance instructions. The FAA does not agree, however, that such reference should be allowed in other circumstances. Section XX.3(a)(5)(i) (redesignated § XX.3(b)(1)) is revised accordingly.

A commenter recommends that the last sentence of § XX.3(a)(5)(i), be revised to allow reference to a separate inspection program, rather than include it in the maintenance instructions, so that the inspection program could be better kept current and also tailored to an individual operator's needs. The FAA does not agree. The inspection program must be set forth in the Instructions for Continued Airworthiness to ensure its availability to those who will benefit from it.

The FAA, after further study of § XX.3(a)(5)(i), has decided that the provision should specifically require a description of applicable maintenance or wear tolerances. Section XX.3(a)(5)(i) (redesignated § XX.3(b)(1)) is clarified in this regard.

§ *XX.3(a)(5)(ii).* A commenter objects to the words "could occur" in this paragraph because it encompasses everything within the realm of possibility, thereby unnecessarily increasing the volume of the maintenance instructions. The phrase "probable malfunctions" replaces the phrase "typical malfunctions that could occur" in § XX.3(a)(5)(ii) (redesignated § XX.3(b)(2)).

§ *XX.3(a)(5)(iii).* A commenter suggests that this paragraph would be clearer if the first three words and the last five words are deleted. Section XX.3(a)(5)(iii) (redesignated § XX.3(b)(3)) is revised accordingly.

§ *XX.3(a)(5)(iv).* A commenter suggests revision of this paragraph to make it clear that the overweight landing check refers to the condition in which a certificated landing weight is lower than certificated takeoff weight, since the aircraft manufacturer cannot speculate what damage might be done to an aircraft that takes off and must immediately land at a weight near the certificated takeoff weight. This comment may have merit for certain aircraft. Moreover, since an overweight landing is but one of several occurrences which would necessitate a check to determine aircraft damage, to single out one occurrence would imply that the others need not be covered in the maintenance instructions. Accordingly, the words "checks after an overweight landing" are deleted from § XX.3(a)(5)(iv) (redesignated § XX.3(b)(4)).

§ *XX.3(b).* A commenter recommends deletion of the requirement for an overhaul manual or section, contending that—(1) there are many products that, for safety reasons, should not to be overhauled; and (2) the manufacturer must make the technical assessment as to whether a product can be safely overhauled. In the light of these comments, and after further consideration, the FAA finds that those portions of § XX.3(b) that provide for overhaul information only (except for engines), should not be required in the Instructions for Continued Airworthiness. Accordingly, §§ XX.3(b)(1)(i), XX.3(b)(1)(ii), XX.3(b)(1)(iv), XX.3(b)(1)(viii), and XX.3(b)(3), are withdrawn. The other provisions of § XX.3(b) specify information that is needed for purposes other than overhaul.

§ *XX.3(b)(1)(iii).* No adverse comment was received on this proposal to require structural access plate information. Accordingly, it is adopted as proposed, but redesignated § XX.3(c).

§ *XX.3(b)(1)(v).* No adverse comment was received on this proposal to require instructions on special inspection techniques. Accordingly, it is adopted as proposed, but redesignated § XX.3(d).

§ *XX.3(b)(1)(vi).* A commenter points out that no part can be restored to its original condition by protective coatings or treatments. The FAA agrees, and § XX.3(b)(1)(vi) (redesignated § XX.3(e)) is revised to make this clear and to require only the information necessary to apply protective treatments to the structure after inspection.

§ *XX.3(b)(1)(vii).* No adverse comment was received on this proposal to require data on structural fasteners. Accordingly, it is adopted as proposed, but redesignated § XX.3(f).

§ *XX.3(b)(1)(ix).* No adverse comment was received on the proposal to require a list of special tools. Accordingly, it is adopted as proposed, but redesignated § XX.3(g).

§ *XX.3(c).* Three commenters object to the concept of supplying generalized repair data. One contended that—(1) the nature of the damage may not be known in a particular case, though it may appear to fall under a general repair "fix"; (2) the safety of the product may be seriously impaired by repairs made in such instances; and (3) the manufacturer can provide alternate means for a mechanic to obtain repair data. In the light of these comments, the FAA agrees that it is not necessary to include the repair information in the Instructions for Continued Airworthiness as proposed. Accordingly, proposed § XX.3(c) is withdrawn.

§ *XX.4.* A commenter suggests that the manufacturer should be allowed to list items in the Airworthiness Limitations section that it deems necessary to maintain structural integrity, where such items are not called out in the applicable airworthiness standards. Another commenter, representiang the scheduled airlines, objects to the inclusion, in the Airworthiness Limitations section, of mandatory replacement times for parts other than life-limited parts and of mandatory inspection intervals. The resolution of these comments is discussed under Proposal 8–3. The language proposed for the Airworthiness Limitations sections of the appendices to Parts 23, 25, 27, and 29 is being retained, except that the mandatory replacement times, mandatory inspection intervals, and related procedures are specified as those associated with structural integrity—including those approved under current § XX.571. It also is made clear that FAA approved alternative programs may be used. To avoid unnecessary restriction being placed on operation, only these items are listed in the pertinent Airworthiness Limitations section. Other items can of course be listed in other sections of the Instructions for Continued Airworthiness.

Proposal 8–26. The addition of new §§ 25.101(i) and (j) would set forth requirements for automatic systems that affect performance, including automatic takeoff thrust control systems (ATTCS). In view of the evolving technology of automatic systems, the special features and functions of each design, and the complex interrelationships with other systems, the FAA has concluded that specific regulations are premature and that safety considerations can be more advantageously addressed in special conditions for specific systems. Accordingly, Proposal 8–26 and related Proposals 8–34, 8–48, and the § 25.1305(c)(9) portion of 8–50 are withdrawn.

Proposal 8–27. The revision of § 25.111(c)(4) will permit changes in power or thrust by an automatic takeoff thrust system but prohibit any change requiring action by the pilot when determining the takeoff path. Although specific proposals relating to criteria for automatic takeoff thrust systems have been withdrawn, the FAA believes that this proposal should be retained as it standardizes the procedure for determining the takeoff path, and is consistent with current practice.

One commenter implies that this rule change will add the task of monitoring conditions and instruments and thereby increase the pilot workload. Other commenters suggest that a limited provision for manual throttle setting be included, or are opposed to the proposal completely on the grounds that safety will be compromised in service. Since the rule will apply in the context of a determination of performance rather than an operating requirement, the proposal is adopted without change.

Proposal 8–28. A commenter suggests that the term "impair" in § 25.253(a)(2)(iii) be changed to "significantly impair". The FAA does not agree. In present high altitude, high Mach number jet airplanes, any recovery from upset or speed anomaly must be done essentially by reference to flight instruments. Therefore, any buffet or vibration condition which would in any way impair the pilot's ability to accurately interpret instrument information cannot be tolerated. The same commenter stated that some interpretative material on vibrational frequencies and levels of acceleration would be useful. Use of interpretative material would divert attention from the primary consideration, impairment of pilot ability, which is qualitative. Proposed § 25.253(a)(2)(iii) is adopted without substantive change.

Proposal 7–17. Although no unfavorable comment was received on the proposal to amend § 25.305(d), two commenters state that their agreement was with the understanding that both the discrete gust and the continuous turbulence analyses are required. Present § 25.341(a) requires that limit load factors be established by reference to a discrete gust encounter. Present § 25.305(d) specifies that the dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. Both analyses are required.

Two commenters recommend that present § 25.341 be amended to require dynamic loads analysis by reference to discrete gusts having varying gust gradient distances. The FAA does not agree. The combination of discrete gust analysis under § 25.341 and continuous turbulence analysis under § 25.305 is less complex than the method described by these commenters and provides sufficient substantiation of strength. The proposal is adopted without substantive changes.

Proposal 8–29. Many negative comments were received on the proposal to revise § 25.307(a) to require ultimate load tests for each normal and failsafe critical load condition. Three commenters indicate that the proposed regulation would add to the cost and time required for certification although present airplane safety records do not support the need for a change. One commenter points out that the design philosophy used for commercial transports, due to the dominant influence of the economic requirement for long life without structural fatigue problems, often produces reserve margins of safety. Another commenter proposes that ultimate load tests be limited to structures such as composites, which substantially differ from conventional structure. The FAA agrees

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that to conduct ultimate load tests for all critical load conditions would greatly increase the amount of testing required, which is not warranted by the safety record since there have been no service features which indicate that present methods of substantiation are inadequate. In many cases failures in service result from conditions such as fatigue or corrosion which are not covered by ultimate load tests. The proposal to require ultimate testing of all structural components therefore is deleted. In some cases, however, analysis must be supplemented by limit and/or ultimate load tests. The amendment, as adopted, is revised accordingly.

Proposal 8–30. Several negative comments were received on §§ 25.365 (e) and (f), requiring airplane designers to consider pressure vessel decompression resulting from the loss of any nonplug door, detonation of a bomb within the cabin at all probable locations, and engine disintegration. Several commenters oppose designing for the loss of a nonplug door, stating that there is no reason why nonplug doors cannot be designed to be as safe as plug doors. These commenters suggest that the door design criteria be upgraded to improve door integrity. The FAA agrees that door integrity should be improved to the extent that design for their loss is not justified. Therefore § 25.783 is revised in response to Proposal 8–35 to require this improved level and § 25.365(e)(1) is withdrawn.

Many commenters object to designing for all possible bomb detonations and probable bomb locations. A commenter points out that airworthiness requirements in the past have attempted to safeguard aircraft against structural and mechanical failure, human error, natural hazards, etc. They note that no one has attempted to incorporate into airworthiness requirements the consequences of homicidal or suicidal tendencies. Another commenter states that the aircraft industry has to accept responsibility for compensating the public for loss or injuries resulting from defects in its products, and the inclusion of a bomb damage requirement in Part 25 could significantly extend the grounds of possible product liability actions, particularly with the imprecise requirements of § 25.365(e). Many commenters state that the wording of § 25.365(e)(3) is so vague as to make its implementation impossible. The FAA notes that, ultimately, minimizing the loss of airplanes as a result of bomb explosions is a ground security problem.

A commenter suggests an alternative to § 25.365(e)(3) which would establish a relationship between the design maximum opening and the cross-sectional area of the pressurized shell. The FAA agrees that the proposed relationship provides an acceptable method for determining hole size. The FAA has determined that the maximum hole size required should be 20 square feet, a value contained in Airworthiness Directive 75–15–05 (August 11, 1975) pertaining to openings in wide-body transports. Section 25.365(e)(3) is revised to allow the maximum opening to vary as a function of the cross-sectional area of the pressurized shell to account for the differences in size between narrow and wide-body transports and is redesignated and adopted as § 25.365(e)(2).

The FAA finds that the maximum opening specified in adopted § 25.365(e)(2) will exceed the opening that would result from causes other than bomb explosions or engine disintegration, and that a probability safety analysis to determine hole size in passenger or cargo areas resulting from other causes is not needed. Thus, proposed § 25.365(f) is withdrawn.

In light of the comments received on proposed § 25.365(e)(4), and after further consideration, the FAA concludes that openings caused by airplane or equipment failures can occur in any compartment, and that partitions, bulkheads, and floors should be designed for openings from these causes. Thus, proposed § 25.365(e)(4) is revised accordingly, redesignated, and adopted as § 25.365(e)(3).

No adverse comments were received on proposed § 25.365(e)(2) to require design to withstand penetration of the cabin by a portion of an engine following engine disintegration and the proposal is redesignated § 25.365(e)(1) and adopted without substantive change.

Amendment to § 25.571(a)(3). Because of the change to § 25.1529 adopted in this amendment, the reference to the "maintenance manual" in § 25.571(a)(3) is no longer appropriate. For consistency, § 25.571(a)(3) references the Airworthiness Limitations section of the Instructions for Continued Airworthiness.

Proposal 8–31. Numerous unfavorable comments were received on the proposal to add a new § 25.633 requiring that essential systems be designed to minimize damage caused by detonation of a bomb in the airplane. Most commenters contend that there is no means to protect essential systems from all possible bomb detonations and that bomb size and location cannot be rationally defined. Several commenters indicate that the separation of essential systems on modern airplanes presently provides a measure of protection and that the proposed requirements of § 25.633 are beyond the state of the art.

The FAA agrees that rational means of determining and defining all possible bomb size/location combinations which would damage essential systems does not exist. Therefore, the proposal is withdrawn.

Proposal 8–32. Several commenters object to the proposed horizontal stabilizer "trim-in-motion" aural warning requirement of § 25.677(e) on the grounds that the aural environment in today's cockpits is already cluttered and that finding new and distinctive aural warnings is becoming difficult. They further suggest that small increments of trim change should not cause aural warning, and that warnings should be given only when a safety-of-flight hazard exists. One commenter suggests that there is no need for separate aural warning on aircraft having direct trim control wheels in the cockpit.

The FAA agrees with the comments and upon further review concludes that the proposal is premature and unworkable. Accordingly, it is withdrawn for further study.

Proposal 8–33. Several adverse and supporting comments were received on the proposal to add a new § 25.685(e) requiring arrangement of control systems to provide an airplane with the capability of continued safe flight and landing in the event of an inflight localized structural failure. Several commenters agree with the intent of the proposal and propose minor changes. One commenter agrees with the intent of the proposal, but believes that only failures which have not been shown to be extremely improbable need be considered. Commenters state that the intent of the proposed rule change is already encompassed by § 25.365(e) which would require that floor failure resulting from rapid decompression be shown to be extremely improbable.

A commenter further states that present § 25.671(c) requires control systems to be designed to be tolerant of failures, and that control system damage is more likely from other sources. The commenter claims that service experience and rational analysis show that the floor structure provides the best available protection for the control system from damage from these other sources.

After further study the FAA agrees with the commenters that the primary objectives of this proposal are adequately covered by several existing sections of FAR 25. For example: § 25.365(e) requires that the floor be designed for pressure vessel opening which is a function of the cross-sectional area of the fuselage; § 25.571 requires all structure to be damage tolerant where practical; § 25.671 requires that control systems be tolerant of failures, including exterior damage; § 25.629 requires freedom from flutter under failure conditions; § 25.631 requires protection of controls in the empennage structure from bird strikes; and § 25.901(d) requires design precautions be taken to minimize the hazards to the airplane, including control systems, in the event of an engine rotor failure. The proposal therefore is withdrawn.

Proposal 8–34. For an explanation of the withdrawal of the proposals concerning automatic systems that affect airplane performance, one of which is the proposal to add a new § 25.705, see Proposal 8–26.

Proposals 8–35 and 2–59. Several commenters object to the requirement in § 25.783(e) that provisions for the inspection of door locking mechanisms must be discernable under all possible lighting conditions. The commenters state that allowance should be made for use of supplemental lighting such as a flashlight to aid in the inspection. The FAA agrees and the section is revised accordingly.

A commenter states that direct visual inspection is only needed for external doors for which the initial opening movement is not inward and which are pressurized or for which an inadvertent opening could prevent continued safe flight and landing. Although these comments have merit, they go beyond the scope of Proposal 8–35 and interested parties have not had an opportunity to comment on these changes. No change to the section is being made based on these comments. Several commenters object to the redundancy of a dual warning system requirement and state that in lieu of redundancy, a reliability level should be specified. Further comments state that all external doors do not require this level of reliability. The FAA agrees that this reliability level could be specified and should apply only to external doors for which initial movement is not inward, and the section is changed accordingly. The present language defining where door warning systems are required is retained, as no change in present practice is intended.

A commenter suggests that § 25.783(e) should specify several good design practices. These design practices are desirable but are not essential, since the necessary level of safety can be obtained by alternate means under § 25.783.

Several commenters object to new § 25.783(f), suggesting that it apply only to nonplug type doors and doors whose loss would present a probable hazard. The FAA agrees that provisions to prevent unsafe pressurization can be limited to doors whose loss would present a portable hazard. However, the FAA does not agree that it should be limited to nonplug type doors because a plug door is defined as one whose initial opening is inward and this feature does not necessarily provide complete assurance that an unsafe pressurization will not occur with subsequent opening of the door in flight. The clarifying phrase "to an unsafe level" has been added to § 25.783(f). The intent is to prevent pressurization to a level which would be hazardous if an unlocked external door inadvertently opened.

Several commenters object to proposed new § 25.783(g) (Proposal 8–25), stating that it would unnecessarily preclude the use of nonplug type doors above 45,000 ft. The FAA agrees that nonplug type doors can safely be used at altitudes above 45,000 ft., since adequate warning systems and door integrity are provided by § 25.783(e). Proposed new § 25.783(g) is withdrawn.

A commenter proposes that for the door whose opening would be a hazard, the door and immediate surrounding fuselage, door mechanisms, and warning system be design for any combination of failures (including improper operation) not shown to be extremely improbable. The FAA agrees. In place of the proposals in 8–30, with regard to §§ 25.365(e) (1), (3), and (4), a rule is included to require determination by safety analysis that inadvertent opening of doors which could prevent continued safe flight and landing is extremely improbable.

Two commenters state that the criteria for passenger egress in the revision to the second sentence of § 25.783(g) (Proposal 2–59 of Notice 75–10) should be evacuation time, and not the rate of passenger egress through a given exit. The FAA agrees. Revision of the second sentence of § 25.783(g) is redesignated as § 25.783(i) and the reference to § 25.561(a)(3) in the proposal is corrected to reference § 25.561(b)(3).

Numerous negative comments concern proposed new § 25.783(j), which requires that lavatory doors open into the cabin to preclude anyone from being trapped in the lavatory. The commenters state that this requirement is overly restrictive on design and that an outward opening door could have an adverse effect on aisle width and emergency evacuation capabilities if such a door jammed open. The FAA agrees that inward opening doors can be designed to prevent anyone being trapped in a lavatory in cases of incapacitation or for other reasons. Thus, new § 25.783(j) is revised to delete the requirement that lavatory doors open into the cabin.

Proposals 8–36, 2–60, and 8–37. Final action on Proposals 8–36, 2–60, and 8–37 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–38. One commenter objects to adding a new § 25.792 to require a sign indicating whether lavatories are occupied, asserting that it would be inappropriate for general aviation aircraft certificated under Part 25. Two commenters doubt that the proposed rule would achieve the objective of preventing aisle congestion near lavatories. They point out that many existing aircraft have similar signs which have not prevented people from "standing in line" for lavatories. Also, passengers can cause congestion in aisles for other reasons. One of the commenters states that lighted signs in a darkened cabin; i.e., during movies or rest periods, would annoy passengers, and that the rule might foster a proliferation of signs throughout the cabin. Finally, one commenter is concerned that any increase in the number of lighted signs might distract the passengers' attention from more essential notices.

Based on the comments and upon further review, the FAA finds that the proposed requirement would not achieve the objective sought. Accordingly, the proposal is withdrawn.

Proposal 8–39. Final action on Proposal 8–39 was taken in Airworthiness Review Program Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–40. Final action on Proposal 8–40 was taken in Operations Review Program Amendment No. 8 (45 FR 41586; June 19, 1980).

Proposal 8–41. A commenter suggests that new § 25.851(a)(5), which replaces current § 25.853(f), be expanded to prescribe four fire extinguishers for a passenger capacity of 100 or more, and to require at least one CO_2, dry chemical, or all-purpose fire extinguisher near lavatory and galley areas. These suggested changes are beyond the scope of the notice. However, changes in these requirements are appropriate and the FAA is conducting a research program to establish comprehensive standards and guidance information pertaining to the

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selection of portable fire extinguishers, taking into consideration types and quantities of extinguisher agents, extinguisher performance, and other factors. Regulatory changes based on the findings of this research program will be proposed in the next airworthiness standards review.

Sections 25.851 (a)(5) and (a)(6), which consolidate hand fire extinguisher requirements, are adopted without substantive change.

Proposals 8–42, 2–18, 2–65, 2–114, and 2–160. Final action on Proposals 8–42, 2–18, 2–65, 2–114, and 2–160 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–43. Final action on Proposal 8–43 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–44. For a discussion of proposed § 25.905(c), see the discussion under Proposal 8–103. The proposal to add a new § 25.905(c) is adopted without substantive change.

Proposals 8–45 and 8–96. The proposed amendments to §§ 25.939 and 33.65 are being deferred for consideration in a forthcoming notice of proposed rule making of the Aircraft Engine Regulatory Review Program.

Proposals 8–46, 3–35, and 8–47. Final action on Proposals 8–46, 3–35, and 8–47 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–48. For an explanation of the withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the proposal to add a new § 25.1143(f), see Proposal 8–26.

Proposals 8–49 and 3–41. Final action on Proposals 8–49 and 3–41 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–50. For an explanation of withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the addition of a new § 25.1305(c)(9), see Proposal 8–26.

One commenter objects to revising § 25.1305(d)(1), stating that significant aerodynamic forces acting on the powerplant nacelle make the direct measurement of thrust impractical. The FAA agrees that such forces may be significant. This commenter further objects to the revision, stating that it is beyond the state of the art to prohibit a parameter from being used if the accuracy of the indication will be adversely affected by any engine malfunction or damage. The FAA agrees that precise values of thrust provided by a malfunctioning, damaged, or deteriorated engine are unnecessary, provided that any changes in thrust due to engine malfunction, damage, or deterioration are indicated to the pilot. The paragraph is revised to require that the indication must be based on the direct measurement of thrust or of parameters that are directly related to thrust.

Although concurring with § 25.1305(d)(1), one commenter states that he would prefer to retain the existing requirements and delete the words ", or to indicate a gas stream pressure that can be related to thrust,". The FAA does not agree. The change suggested by this commenter would eliminate the requirement for thrust information and would retain the requirement for change-of-thrust information only. It also would provide a lower level of safety than the adopted paragraph.

This commenter also states that § 25.1305(d)(1) should be complementary to a similar requirement in Part 33 of this chapter. The FAA does not agree. In current practice, the airframe manufacturer determines how performance should be met. The choice of a means to indicate thrust is negotiated between the airplane manufacturer and the engine manufacturer. The factors which influence the final choice are substantial and may vary among airplane designs. These factors may not be known to the engine manufacturer at the time of engine type certification. Another commenter states that the need for an actual value of thrust is not obvious, whereas indication of a loss of thrust would satisfy the original proposal. The FAA agrees that the actual value of thrust is of little value to the pilot. Section 25.1305(d)(1) is revised to specify that the indicator indicate thrust, or a parameter related to thrust, to the pilot.

Proposal 8–51. No unfavorable comments were received on the proposal to change the reference in § 25.1307(h) for fire extinquishers in connection with Proposal 8–41. Accordingly, the proposal is adopted without substantive change.

Proposal 8–52. Final action on Proposal 8–52 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–53. Several commenters point out a number of service deficiencies with proposed § 25.1421 which defines the requirements for cargo compartment fire detection systems. They contend that the requirement for the detection system to actuate a warning within one minute of the start of a fire is too restrictive. One commenter cites the results of FAA tests which show average fire detection times to be from 1.75 to 5 minutes. The commenters also suggest that the tests necessary to show compliance with the warning requirements are not clearly defined. Finally, one commenter points out that fires in baggage containers and other enclosed containers can burn for a considerable time before detection is likely by fire detectors in the cargo compartment.

The FAA does not concur that the one-minute requirement is too restrictive. A survey of fire detection technology has indicated that the state of the art permits detection of a fire in less than one minute after inception. In addition, current standards do not define the test procedures necessary to show compliance with warning requirements. The new one-minute requirement is intended to improve the standards in this regard.

The proposal is adopted without substantive change.

Note.—This proposal has been carried erroneously under § 25.1421 which pertains to megaphones. It will be included in the amendment as a new § 25.858.

Proposal 8–54. Comments received from several commenters reflected confusion over the intent of proposed § 25.1439(c). It was noted that much of what was intended by proposed § 25.1439(c) is included in existing § 25.1439(a) as amended by Amendment 25–38 (40 FR 55454; 12/20/76), provided that the portable oxygen equipment requirements of § 25.1447(c)(4) are retained. Amendment 25–38 emanated from Airworthiness Review Program Notice No. 2 (40 FR 10813; 3/7/75), and was adopted (41 FR 55468; 12/20/76) after publication of Airworthiness Review Program Notice No. 8 (40 FR 29420; 7/11/75) which contained proposals 8–54 and 8–55. The FAA agrees that the existing regulations require much of what was intended by proposal 8–54, provided that proposal 8–55 is withdrawn. The FAA further agrees that additional clarifications are needed before further amendments are made to § 25.1439. Therefore the FAA withdraws both proposals 8–54 and 8–55. The subject of protective breathing equipment will be addressed in a forthcoming notice of proposed rule making.

Proposal 8–55. The proposal to delete § 25.1447(c)(4) is withdrawn for the reasons stated for withdrawal of Proposal 8–54.

Proposal 8–56. For comments related to the proposal to revise § 25.1521(a), and for the withdrawal of that proposal, see Proposal 8–94.

Proposal 8–57. Final action on Proposal 8–57 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–58. For comments related to the proposal to amend § 25.1529, see Proposal 8–21.

Proposal 8–59. A commenter objects to the proposed new § 25.1557(e), calling for a placard on each flight attendant seat to indicate that it may be occupied by a flight attendant, asserting that such placarding is redundant and that a proliferation of placards in the aircraft will only serve to confuse the passengers and make all placards less effective. The commenter also states that the proposal would prohibit non-flight attendant airline personnel who are cognizant of emergency procedures from occupying flight attendant seats when the aircraft is full. The FAA concludes that a new aircraft certification rule is unnecessary to achieve this result and the proposal is withdrawn.

Proposals 8–60 and 8–61. Final action on Proposals 8–60 and 8–61 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 7–55. A commenter recommends that discrete gusts with varying gradient distances be added as a supplement to Appendix G to Part 25. The FAA disagrees because past experience with the use of discrete gusts with varying gust gradient distances has indicated that knowledge with regard to how gust intensity varies with gust gradient distance is not currently available to the designer. The research and development work accomplished in the area of dynamic response to continuous turbulence has indicated that the continuous turbulence criteria of Appendix G to Part 25 is the most rational approach currently available which gives consistent strength levels for airplanes of different characteristics and missions.

A commenter recommends that paragraph (a) of Appendix G be revised to delete the requirement for considering combined stresses based on both vertical and lateral components of turbulence. The commenter states that the current practice of combining root-mean-square stresses (shear, moment, and torsion) resulting from gust calculations involving only purely vertical or lateral components of turbulence is a realistic, practical method for combining stress. The commenter contends that the methods for realistically combining statistical load quantities involving both vertical and lateral components of turbulence have not been satisfactorily developed in the current state of the art. After further review the FAA agrees. Paragraph (a) of Appendix G is revised to delete the requirement for considering the combined stresses resulting from the vertical and lateral components of turbulence.

A commenter recommends that paragraph (b)(3)(i) of Appendix G be revised to require a gust intensity of U =75 fps gust velocity in the interval 0 to 20,000 ft. altitude with a linear decrease to 30 fps at 80,000 ft. altitude. This recommendation would obviate the need to do mission analysis to justify lower levels of loads than those required to meet the design envelope gust intensity factor of 85 fps for new airplanes whose characteristics are similar to previous designs which have been shown to be adequate for the lower level of gust intensity being proposed. There is no technical need for new aircraft which are similar to existing aircraft with regard to response characteristics and basic mission profiles to make extension mission analysis computations in order to establish their adequacy with regard to loads resulting from encounters with continuous turbulence if they are designed for the gust intensity shown to be adequate for the existing design. Therefore, it is acceptable to use a gust intensity value of 75 fps from 0 to 20,000 ft. altitude, and a linear reduction from 75 fps at 20,000 ft. to 30 fps at 80,000 ft., provided the new design is comparable to a similar design with extensive satisfactory service experience. These criteria, which have been under discussion between FAA and industry for over 10 years, are proposed as new rules rather than acceptable means of complying with existing rules. Paragraph (b)(3)(i) is revised accordingly. The commenter also recommends that paragraph (d)(1) be revised to require a gust intensity of U =60 fps on the interval 0 to 20,000 ft. altitude and be linearly decreased to 23 fps at 80,000 ft. altitude. The FAA disagrees. The gust intensities in paragraph (d)(1) are based on the distribution of gust intensity with altitude which were developed in the basic research for the development of continuous turbulence criteria and are, therefore, considered reasonable as a lower design envelope limit for mission analysis. A cost analysis was provided by the commenter to justify the lower gust intensities, but the FAA finds that this cost analysis was based on "design envelope analysis" alone. Paragraph (c), which is an alternative to paragraph (b), provides for a "mission analysis". Actual experience has shown that "mission analysis," which considers airplane operational characteristics, has been used in the past in lieu of the 85 fps intensities to prevent weight and cost penalties. Paragraphs (c) and (d) of Appendix G are adopted without substantive change.

A commenter recommends that paragraph (d) of Appendix G be revised to delete the reference to "fail-safe loads" since such loads are not provided in Appendix G. The FAA agrees. Paragraph (d) of Appendix G is revised accordingly.

A commenter recommends that proposed paragraph (e) of Appendix G be deleted since acceleration levels measured at the pilot station on current conventional aircraft can be established by flight demonstration much more easily and with less cost than by use of an expensive analysis considering response to continuous turbulence. Upon further review, the FAA has determined that it lacks sufficient information to specify the right combination of analysis and flight test to determine the acceleration levels at the pilot's station during continuous turbulence. Accordingly, proposed paragraph (e) of Appendix G is withdrawn. The current requirements related to operation in turbulence are adequate to determine the response at the pilot's station during continuous turbulence.

Proposal 8–62. For comments related to the proposal to add a new Appendix G to Part 25, see Proposal 8–25. Appendix G (redesignated Appendix H) to Part 25 is adopted with the changes discussed in Proposal 8–25.

Proposal 8–63. Final action on Proposal 8–63 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Amendment to § 27.571. Because of the change to § 27.1529 adopted in this amendment, the reference to § 27.1529(a)(2) in §§ 27.571 (b), (c), (d)(1), (d)(3), and (e) is no longer appropriate. The reference is changed to "§ A27.4 of Appendix A". This discrepancy was overlooked in Notice 75–31 (40 FR 29410; July 11, 1975). Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

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Proposal 8–64. For comments related to the proposal to amend § 27.1529, see Proposal 8–21.

Proposals 8–65 and 8–66. Final action on Proposals 8–65 and 8–66 was taken in Airworthiness Review Program. Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–67. For comments related to the proposal to add a new Appendix A to Part 27, see Proposal 8–25. Additional comments on this proposal, and on the proposal to add a new Appendix A to Part 29, are discussed here.

A commenter suggests that the wording of Appendix A be adjusted to take into account the differences between airplanes and rotorcraft. The FAA agrees. The appendix, as proposed, is generally equally applicable to airplanes and rotorcraft. However, several minor changes have been made to the appendix to provide for rotorcraft differences, primarily to cover rotors and differing fatigue standards.

A commenter objects to Appendix A, contending that: (1) The standards in current §§ 27.1529 and 29.1529 have been adequate in service, and (2) the proposal is excessive in scope and would create an undue burden. The FAA does not agree, having found that recommended maintenance procedures made available to operators/owners in the past were frequently inadequate in scope and content, providing no sound basis for maintaining the airworthiness of the rotorcraft. Appendix A, with the revisions and deletions discussed above and under Proposal 8–25, would not create an undue burden on the type certificate applicant.

One commenter expresses concern that certain inspection provisions in current § 91.217 might be applied to rotorcraft. The appendix contains no such requirement. Current § 91.217 applies only to certain airplanes.

Amendment to § 29.571. Because of the change to § 29.1529 adopted in this amendment, the reference to "§ 29.1529(a)(2)" in §§ 29.571 (b), (c), (d)(1), (d)(3), and (e) is no longer appropriate. For consistency, the reference is changed to "§ A29.4 of Appendix A required by § 29.1529". This change was overlooked in Notice 75–31 (40 FR 29410; July 11, 1975). Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 2–154. For a discussion directly related to proposed new § 29.783(g), see the discussion under Proposal 8–35 for § 25.783(g) (Proposal 2–59 of Notice 75–10). Section 29.783(g) is adopted without substantive change.

Proposals 8–68 through 8–76 and 2–164. Final action on Proposals 8–68, 8–69, 8–70, 8–71, 8–72, 8–73, 8–74, 8–75, 8–76, and 2–164 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–77. For comments related to the proposal to amend § 29.1529, see Proposal 8–21.

Proposals 8–78 and 8–79. Final action on Proposals 8–78 and 8–79 was taken in Airworthiness Review Program. Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–80. For comments related to the proposal to add a new Appendix A to Part 29, see Proposals 8–25 and 8–67.

Proposal 8–81. No unfavorable comments were received on adding a new § 31.12 Providing for standardized application of the airworthiness requirements for balloons. Accordingly, § 31.12 is adopted without substantive change.

Proposal 8–82. No unfavorable comments were received on adding a new § 31.16 requiring that balloon empty weight be determined. Accordingly, § 31.16 is adopted without substantive change.

Proposal 8–83. No unfavorable comments were received on the intent of new § 31.17 which specifies performance in terms of an initial minimum rate of climb. However, a commenter raises the question whether compliance with proposed § 31.17(a) could be shown by testing at several altitudes and ambient temperatures and then extrapolating, by appropriate analysis, to the other values in the range for which approval is sought. The FAA considers that such extrapolation by analysis is an acceptable means of complying with proposed § 31.17(a), because the climb performance of balloons is based on fundamental principles and, therefore, can be predicted with sufficient accuracy from established test points.

The FAA notes that the 300 fpm climb rate requirement in § 31.17(a) was intended as a minimum standard. To make this clear, § 31.17 as adopted is revised by inserting the words "at least" before the number "300" in the first sentence of § 31.17(a).

Proposal 8–84. A commenter, referring to new § 31.19(a) governing critical uncontrolled descent, suggests that it would be difficult and time-consuming to determine which tear is the most critical single tear in the balloon envelope between tear stoppers. The FAA does not agree. An analysis, or a combination of test and analysis, would be an acceptable means of determining the most critical single tear. It would not be necessary to test each kind of tear. No other unfavorable comments were received on the proposal to add a new § 31.19. Accordingly, § 31.19 is adopted without substantive change.

Proposal 8–85. No unfavorable comments were received on the proposal to amend § 31.27(c) to be consistent with new § 31.19, Performance: Uncontrolled descent. Accordingly, the proposal is adopted without substantive change.

Proposal 8–86. No unfavorable comments were received on the proposal to amend § 31.65 updating the position light standards and expressing them in language consistent with related standards in other airworthiness parts. However, the FAA finds that the use of a cross reference to § 23.1397 as proposed in § 31.65(e) may be inconvenient for those governed by Part 31. Accordingly, § 31.65, as adopted, sets forth the chromaticity coordinates for aviation red and aviation white as currently prescribed in § 23.1397.

Proposal 8–87. No unfavorable comments were received on the proposal to amend § 31.71. However, after further consideration, the FAA concludes that proposed § 31.71(a)(2) is unnecessarily restrictive in that it would, in all cases, require marking the equipment as to its identification, function, *and* operating limitations. Marking of the equipment as to its identification, function, *or* operating limitations, or any applicable combination of those factors is sufficient. This is also the language used in corresponding sections of other aircraft airworthiness regulations. Section 31.71, as adopted, is revised accordingly.

Proposal 8–88. No unfavorable comments were received on the proposal to amend § 31.81 to detail operating limitations and information. The FAA notes, however, that proposed § 31.81(b) is not clear as to which "operating limitations and other information necessary for safe operation" must be furnished. The FAA's intent, as stated in the explanation, is to require that the information established under § 31.81(a) be furnished. Section 31.81(b) is revised accordingly. Section 31.81(a) is adopted without substantive change.

Proposal 8–89. A commenter is concerned that proposed § 31.82 might require balloon manufacturers to prepare two overlapping maintenance documents—the maintenance manual currently supplied to operators/owners.

and the proposed Instructions for Continued Airworthiness. The FAA notes that under §§ 31.82 and 21.50(b), balloon manufacturers would be required to prepare and furnish only the Instructions for Continued Airworthiness.

The FAA notes further (as discussed under Proposal 8–21) that the Instructions for Continued Airworthiness need not be finalized until delivery of the first balloon, while § 31.82, as proposed, could be interpreted to require that they be finalized before type certification. This point is clarified in § 31.82, as adopted, consistent with the corresponding requirement in Parts 23, 25, 27, and 29.

Proposal 8–90. No unfavorable comments were received on the proposal to amend § 31.85(b)(1). However, a commenter questions whether percentage figures on the required fuel quantity gauge would be acceptable. The FAA has determined that, in the particular case of balloons (for which the fuel quantity information is to an extent less important to safety than for other classes of aircraft), calibration of the fuel quantity gauge in percent of fuel cell capacity is an acceptable means of complying with the last sentence of § 31.85(b)(1). Section 31.85(b)(1), as adopted, is revised to make this clear.

Proposal 8–91. No adverse comments were received on the proposal to add a new Appendix A to Part 31. However, comments received on the proposals to add a similar appendix to Parts 23, 25, 27, and 29 (Proposal 8–25), were equally valid with respect to this proposal. Accordingly, Appendix A to Part 31, as adopted, is revised in substance as applicable.

Regarding the proposals to require generalized repair data in the Instructions for Continued Airworthiness, it is more appropriate, as well as necessary and practicable, to include specific instructions for repair of the key elements of a balloon—the balloon envelope and its basket or trapeze. This information is incorporated in paragraph A31.3(i) as revised.

Proposal 8–92. A commenter objects to § 33.4 insofar as it would require completion of the Instructions for Continued Airworthiness before the type certificate is issued, contending that a significant portion of the data and other material called for is typically not compiled until 6 months or longer after type certification. The commenter suggests that manufacturers be allowed to prepare and make available the Instructions for Continued Airworthiness before the first aircraft equipped with the subject engine is put into service, which, it claims, is the earliest such instructions would be needed. Requiring the engine manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. However, the FAA considers that they must be made available, and furnished, upon delivery of the first engine on an aircraft or issuance of a standard certificate of airworthiness for the aircraft, whichever occurs later. This would be consistent with corresponding requirements proposed for other products. See Proposals 8–5 and 8–21. Section 33.4 is revised and adopted accordingly.

Proposal 8–93. A commenter observes that § 33.5 requires that the instruction manual for installing and operating the engine be "approved," whereas proposed § 33.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, whereas the term "approved" is more frequently used in FAR Parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that such consistency is essential. Accordingly, § 33.5 is adopted as proposed.

Proposal 8–94. Several commenters object to proposed §§ 33.6 (e) and (f), and to proposed §§ 23.1521(a) and 25.1521(a) (Proposals 8–20 and 8–56, respectively) on the grounds that the use of rated takeoff power or thrust for 10 minutes with one engine inoperative should be limited to "the extent that the utilization is necessary for the airplane to avoid, without necessitating turning maneuvers, obstacles beneath the flight path intended for the airplane prior to the loss of the engine." In light of these comments and after further review, the FAA concludes that these proposals are premature and they are withdrawn.

In addition, the proposed transfer of the definitions for rated power and thrust from § 1.1 to proposed new § 33.6, Proposal 8–1, is withdrawn since the transfer may cause confusion in the administration of the aircraft certification requirements. Accordingly, Proposals 8–1, 8–20, 8–56, and 8–94 are withdrawn.

Proposal 8–95. For discussion of proposed § 33.19(b) see the discussion under Proposal 8–103. Revised § 33.19 is adopted without substantive change.

Amendment to §§ 33.55(c), 33.57(b), 33.93(b), and 33.99(b). Because of the deletion of §§ 33.5 (c), (d), and (e), and the addition of a new § 33.4, the reference to "§ 33.5" in §§ 33.55(c), 33.57(b), 33.93(b), and 33.99(b) is no longer appropriate. For consistency, the reference is "§ 33.4." This change was inadvertently overlooked and was not proposed in Notice 75–31 (40 FR 29410; July 11, 1975). This editorial change corrects that discrepancy. Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 8–97. A commenter recommends that § A33.3(a)(6) of Appendix A to Part 33 be revised by adding the words "requiring periodic attention" so as to make it clear that scheduling information is required solely for parts that require such attention. The language in this section is adequate. For parts not needing periodic attention, the applicant has only to state that parts not scheduled need not be serviced.

A commenter infers incorrectly that proposed §§ 43.16 and 91.163(c) apply only to rotorcraft. These regulations with the revision proposed also affect other classes of aircraft, as well as engines and propellers.

Some comments received on the proposed appendices for Parts 23, 25, 27, and 29 (Proposal 8–25) were equally vaild with respect to proposed Appendix A to both Parts 33 and 35. Accordingly, the appendices to Parts 33 and 35 are revised in substance as applicable.

Proposal 8–98. For a discussion related to proposed § 35.3 see Proposal 8–93. A commenter observes that § 35.3 requires that the instruction manual for installing and operating the propeller be "approved," whereas § 35.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, while the term "approved" is more frequently used in FAR parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that consistency is required in this instance. Accordingly, § 35.3 is adopted as proposed.

Proposal 8–99. In response to the concern of a commenter representing a number of Part 121 operators, the FAA notes that there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in proposed § 35.4. The new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under Parts 121, 123, 127, and 135, or an inspection program approved under § 91.217(e), would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to proposed § 35.4 to make it clear that such alternatives may be used. The FAA agrees. The language in §§ 43.16 and 91.163(c) is revised accordingly.

Consistent with the discussion on proposed § 33.4 dealing with engines (see Proposal 8–92), the FAA finds that requiring the propeller manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. Accordingly, § 35.4, as adopted, requires that those instructions be made available and furnished upon delivery of the first aircraft with the propeller installed, or upon issuance of a standard certificate of airworthiness for an aircraft with the propeller installed, whichever occurs later.

Proposal 8–100. No unfavorable comments were received on the proposal to amend § 35.5 to more clearly indicate the basis for operating limitations and where they are listed. Accordingly, § 35.5 is adopted without substantive change.

Proposal 8–101. No unfavorable comments were recieved on the proposal to amend § 35.23 to provide an extreme low pitch indication. Accordingly, § 35.23 is adopted without substantive change.

Proposal 8–102. A commenter does not concur with the proposal to revise § 35.37 to require fatigue evaluation of metallic hubs and blades, stating that the words "must", "all", and "reasonably foreseeable" in the second sentence imply responsibility beyond current knowledge and the state of the art. The FAA does not agree. These terms are used in the current rule and the current state of the art defines the limits of the provision.

The same commenter recommends that § 35.37 be revised to apply to consideration of "normal and reasonably foreseeable load patterns," to account for the fact that only normal operations will or should be considered. The FAA does not agree. Load patterns which are reasonably foreseeable are critical and should be investigated even if they are not normal.

The same commenter also indicates that the third sentence should be revised to eliminate the term "reduction factors," since reduction factors are identified with only one particular method of presentation. The FAA agrees and the section is revised accordingly. This commenter finally states that the explanation implies that manufacturers have not taken permissible damage and material variation into account. This implication is not intended. It is the FAA's view that the fatigue evaluation should consider the occurrence of typical service damage and variation in material properties and the rule would provide for such an evaluation.

Another commenter suggests that the section be revised by adding certain technical requirements that are related to infinite component life. It is not necessary to specify technical requirements concerning infinite component life, since they are considered a normal part of propeller fatigue testing.

Section 35.37 is adopted as revised.

Proposal 8–103. A commenter objects to the proposal to add a new § 35.42 to define durability requirements for propeller blade pitch control system components, stating that the term "bench tests" in §§ 35.42 (a) and (b) is too descriptive and restrictive. The FAA agrees that a reference to "bench tests" may be too restrictive. Other test methods may be equally acceptable in providing the necessary data. Accordingly, §§ 35.42 (a) and (b) are revised to eliminate the specific reference to "bench."

The commenter also suggests that the words "in frequency and amplitude" be eliminated from § 35.42(a) since the words "cyclic testing" are fully descriptive. The FAA believes that these words are needed to prescribe key elements in the required test.

The commenter further suggests that the proposed testing to the equivalent of 1,000 hours of propeller operation is too restrictive in the case of a propeller with an overhaul period of less than 1,000 hours. The FAA considers the specific testing to be the minimum necessary to provide an acceptable safety level in service. The rule does not, however, prevent the selection of overhaul intervals of less than 1,000 hours.

Finally, the commenter suggests that the rule should permit an alternate of acceptance based upon service experience. The FAA recognizes that service experience can provide a statistical basis for determining component reliability. Its applicability, however, may vary according to such considerations as type of operation, the nature of the article under consideration, the degree of similarity between the reference article and the certification article, and the completeness of service records. Since it is dependent on such a variety of factors, the FAA does not agree that a specific alternative based on service experience should be included.

The proposal to add a new § 35.42, therefore, is adopted with the change discussed above. No adverse comments were received on the related proposed revisions to §§ 23.905, 25.905, and 33.19 to add the reference to new § 35.42, and the revisions are adopted.

Proposal 8–104. For comments related to the proposal to add a new Appendix A to Part 35, see Proposals 8–25 and 8–97.

A commenter objects to proposed § A35.1(c) of the appendix because the propeller owner (aircraft operator) would be wastefully provided with instructions and data that the propeller owner has no authority to use. The FAA does not agree. The Instructions for Continued Airworthiness must be furnished to the aircraft owner/operator who is the person responsible for maintaining the aircraft (including the propeller). The owner/operator may not be authorized to maintain the propeller, but the owner/operator can place the instructions in the hands of persons who are authorized.

The new Appendix A to Part 35, as adopted, is revised in accordance with comments discussed in Proposal 8–97.

Proposal 8–105. The proposed revision of § 43.9(a)(4) is being deferred for consideration in a forthcoming notice of proposed rule making of the Operations Review Program.

Proposal 8–106. A commenter representing a number of scheduled air carriers is concerned that the use of maintenance manuals and continued airworthiness programs developed under current § 121.133 and Subpart L of Part 121 (generally via Maintenance Review Board procedures), or under similar provisions of Parts 127 and 135, might not be acceptable as "other methods, techniques, and practices" under the terms of proposed § 43.13(a). This commenter suggests that language be added to proposed § 43.13(a) to make this clear. The FAA does not agree. The proposed language states that the use of such manuals and continued airworthiness programs is acceptable.

Proposal 8–107. A commenter representing a number of scheduled air carriers recommends that the Airworthiness Limitations section referred to in proposed § 43.16 include life limitations only and not inspections or other maintenance items. As discussed under Proposal 8–3, the FAA does not agree.

A commenter suggests that the words "or other methods, techniques; and practices acceptable to the Administrator" be added at the end of proposed § 43.16 to make it consistent with proposed § 43.13(a). The Airworthiness Limitations section contains specific mandatory replacement times and inspection intervals (with related procedures) that must be complied with, unless it can be shown by an operator with an approved maintenance program that these times are inappropriate for his operation. The use of alternatives not covered in the Airworthiness Limitations section would be allowed if approved by the Administrator. Section 43.16 is revised to specifically state the alternatives to compliance with the Airworthiness Limitations section.

Proposal 8–108. No unfavorable comments were received on the proposal to amend § 45.11 to qualify, with respect to manned free balloons, the requirements in § 45.11(a) that deal with the location of the identification plate. Accordingly, the proposal is adopted without substantive change.

Proposal 8–109. No unfavorable comments were received on the proposal to amend § 45.13 to correctly reference §§ 45.11 (a) and (b) with regard to identification plate requirements. Accordingly, the proposal is adopted without substantive change.

Proposal 8–110. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 45.14. The supporting rationale is the same as submitted by this commenter concerning Proposal 8–3 to amend § 21.31(c). As discussed under Proposal 8–3, the FAA disagrees.

The language in § 45.14 covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" is changed to "Manufacturer's."

Two commenters object to proposed § 45.14 on the grounds that it would be impracticable to mark small parts with a part and serial number. The FAA is not aware that the marking of small parts under current § 45.14 has presented a problem. In any event, the rule allows markings that are equivalent to part and serial numbers, such as symbols enabling the identification of the part as one for which a replacement time, inspection interval, or related procedure is specified in an Airworthiness Limitations section. Identification of such parts is clearly essential for safety. Accordingly, § 45.14 is adopted as revised.

Proposal 8–111. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 91.163(c). The supporting rationale is the same as that submitted by this commenter concerning Proposal 8–3 to amend § 21.31(c). As discussed under Proposal 8–3, the FAA disagrees. However, § 91.163(c) is revised to specifically identify the acceptable alternatives to compliance with the "Airworthiness Limitations" section.

The language in proposed § 91.163(c) covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" in § 91.163(c) has been changed to "Manufacturer's", and a statement has been added that operations specifications approved by the Administrator may be used in lieu of the Instructions for Continued Airworthiness. Section 91.163(c) is adopted as revised.

Proposal 8–112. No unfavorable comment was received on the proposal to amend § 91.165 to clarify maintenance personnel entries in maintenance records. Accordingly, the proposal is adopted without substantive change.

Proposal 8–113. Several commenters object to §§ 91.173(a)(2) (i) and (iii). A commenter states that adoption of the proposal would result in an inconsistency between § 91.173 and § 121.380, which contains the recordkeeping requirements for aircraft maintained under Part 121. The commenter also states that this inconsistency would cause great difficulty and economic hardship whenever an aircraft is sold by a Part 121 operator to a Part 91 operator and the Part 91 aircraft is maintained by a Part 121 operator under its repair station certificate. According to the commenter, the economic hardship would occur to both the Part 91 operator and the repair station. The same commenter contends that reliability information accumulated in recent years on transport category airplanes shows that there is no need for individualized total time records on equipment and components. Another commenter states that proposed requirements would result in large increases in maintenance costs for Part 91 operators and that only those components that are life-limited should have to carry total times.

The FAA concludes, however, that revision of § 91.173(a)(2)(i) would contribute significantly to safety with little burden on those affected. The currently prescribed record of total time in service for the airframe does not generally apply to the aircraft's engines or propellers, since these components are frequently overhauled (or replaced) at different times. As a practical matter, it is known that operators of such aircraft normally keep records from which the total time in service of engines and propellers can be derived. Therefore, the FAA does not agree that the requirement to keep total times on engines and propellers would be a hardship and burden upon the operators. Accordingly, § 91.173(a)(2)(i) is adopted without change.

In light of the comment on proposed § 91.173(a)(2)(iii), the FAA has given further review of the proposal and has concluded that existing requirements satisfy the objective of the proposal. Accordingly proposed § 91.173(a)(2)(iii) is withdrawn.

The reporting and recordkeeping requirements contained in § 91.173 have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Proposal 8–114. Several commenters agree with the intent of proposed § 91.193(c)(4) but suggest changes. A commenter suggests that the proposed installation instructions for hand fire extinguishers would be more appropriately placed in the type certification rules. The FAA does not agree. New type certification rules do not apply to aircraft already in service.

A commenter suggests that the words "unless obvious" be added to clarify when the hand fire extinguisher stowage provisions must be properly identified. The FAA agrees. Proposed § 91.193(c)(4) is revised and adopted accordingly.

Proposal 8–115. One commenter objects to the proposal to revise § 91.197(a) to require passenger information signs to meet the requirements of § 25.791. The commenter states that it is unnecessary, in many small general aviation aircraft operating under Subpart D of Part 91, to have such signs just for the sake of uniformity. The commenter also states that "nonstandard" signs now in use are wholly adequate to meet the needs of the type of operation. Finally, the commenter points out that installation costs for aircraft not currently having signs would be high and the pilot could just as easily announce the information as he could activate the signs.

Based on these comments and considering the type of operation involved, the FAA finds that the benefits associated with the proposal do not warrant its adoption. The proposal to revise § 91.197(a) is withdrawn.

Proposals 8–116, 8–117, 8–118, and 8–119. Final action on Proposals 8–116, 8–117, 8–118, and 8–119 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and

Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–120. In light of the need to conduct further testing of protective breathing equipment, the FAA withdraws its proposal to amend § 121.337, which will be addressed in an upcoming notice of proposed rule making.

Adoption of the Amendment

Accordingly, Parts 11, 21, 23, 25, 27, 29, 31, 33, 35, 43, 45, and 91 of the Federal Aviation Regulations are amended as follows, effective October 14, 1980.

PART 11—GENERAL RULE-MAKING PROCEDURES

1. By redesignating §§ 11.11 (k), (l), and (m) as §§ 11.11 (m), (n), and (o), respectively, and adding new §§ 11.11(k) and (l) to read as follows:

§ 11.11 Docket.

* * * * *

(k) Special conditions required, as prescribed under § 21.16 or § 21.101(b)(2),

(l) Written material received in response to published special conditions,

* * * * *

2. By adding a new § 11.28 to read as follows:

§ 11.28 Action on special conditions.

(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a special condition established by the Administrator.

(b) *Procedures.* This subpart and Subpart C apply to the issue, amendment, and repeal of special conditions under Part 21. In addition to the information required by § 11.29(b), each notice will include—

(1) The name and address of the applicant;

(2) The model designation and a summary description of the affected product;

(3) The applicable type design approval regulations designated in accordance with § 21.17 or § 21.101 of Part 21; and

(4) A summary description of the novel or unusual design features that make the issue or amendment of special conditions necessary.

3. By adding a new § 11.49(b)(4) to read as follows:

§ 11.49 Adoption of final rules.

* * * * *

(b) * * *

(4) Special conditions under Part 21 of this chapter to the Director of Airworthiness.

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

§ 21.16 [Amended]

3a. By deleting § 21.16(b), redesignating § 21.16(a) as § 21.16, and by replacing the phrase "paragraph (b) of this section" in the second sentence of the paragraph with "Part 11 of this chapter".

3b. By deleting the word "and" from the end of § 21.31(b), redesignating § 21.31(c) as § 21.31(d), and revising § 21.31(a) and adding a new § 21.31(c) to read as follows:

§ 21.31 Type design.

* * * * *

(a) The drawings and specifications, and a listing of those drawings and specifications, necessary to define the configuration and the design features of the product shown to comply with the requirements of that part of this subchapter applicable to the product;

* * * * *

(c) The Airworthiness Limitations section of the Instructions for Continued Airworthiness as required by Parts 23, 25, 27, 29, 31, 33, and 35 of this chapter; and

* * * * *

§ 21.35 [Amended]

4. By amending § 21.35(b) (2) by deleting the word "airplane" near the end of the sentence and inserting in its place the word "aircraft".

5. By redesignating § 21.50 as § 21.50(a), and by revising the heading of § 21.50 and adding a new § 21.50(b) to read as follows:

§ 21.50 Instructions for continued airworthiess and manufacturer's maintenance manuals having airworthiness limitations sections.

* * * * *

(b) The holder of design approval, including either the type certificate or supplemental type certificate for an aircraft, aircraft engine, or propeller for which application was made after October 14, 1981, shall furnish at least one set of complete Instructions for Continued Airworthiness, prepared in accordance with §§ 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, or 35.4 of this chapter, as applicable, to the owner of each type aircraft, aircraft engine, or propeller upon its delivery, or upon issuance of the first standard certificate of airworthiness for the affected aircraft, whichever occurs later, and thereafter make available those instructions to any other person required by this chapter to comply with any of the terms of those instructions. In addition, changes to the Instructions for Continued Airworthiness shall be made available to any person required by this chapter to comply with any of those instructions.

6. By deleting from § 21.123(b) the word "and" following the semicolon, inserting at the end of § 21.123(c) a semicolon and the word "and" in place of the period, and adding a new § 21.123(d) to read as follows:

§ 21.123 Production under type certificate.

* * * * *

(d) Upon the establishment of the approved production inspection system (as required by paragraph (c) of this section) submit to the Administrator a manual that describes that system and the means for making the determinations required by § 21.125(b).

§ 21.143 [Amended]

7. By deleting from § 21.143(a) (2) the phrase "subsidiary manufacturers" and replacing it with the phrase "manufacturers' suppliers" and by deleting from § 21.143(f) the phrase "subsidiary manufacturers" and replacing it with the word "suppliers".

§ 21.182 [Amended]

8. By deleting the reference to "§ 45.11(a)" in §§ 21.182 (a) and (b)(3) and inserting "§ 45.11" in its place.

9. By revising § 21.197 by deleting the phrase "the purpose of—" from the lead in of § 21.197(a) and inserting the phrase "the following purposes:" in its place; by replacing the semicolons in §§ 21.197(a) (1) and (2) with periods; by replacing the semicolon and the word "and" at the end of § 21.197(a) (3) with a period; and by adding a new § 21.197(a) (5) to read as follows:

§ 21.197 Special flight permits.

(a)* * *

(5) Conducting customer demonstration flights in new production aircraft that have satisfactorily completed production flight tests.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

10. By revising § 23.253(b)(3) to read as follows:

§ 23.253 High-speed characteristics.

* * * * *

(b) * * *

(3) Buffeting that would impair the pilot's ability to read the instruments or to control the airplane for recovery.

11. By revising § 23.361 to read as follows:

§ 23.361 Engine torque.

(a) Each engine mount and its supporting structure must be designed for the effects of—

(1) A limit engine torque corresponding to takeoff power and propeller speed acting simultaneously with 75 percent of the limit loads from flight condition A of § 23.333(d);

(2) The limit engine torque as specified in § 23.361(c) acting simultaneously with the time loads from flight condition A of § 23.333(d); and

(3) For turbopropeller installations, in addition to the conditions specified in paragraphs (a)(1) and (a)(2) of this section, a limit engine torque corresponding to takeoff power and propeller speed, multiplied by a factor accounting for propeller control system malfunction, including quick feathering, acting simultaneously with lg level flight loads. In the absence of a rational analysis, a factor of 1.6 must be used.

(b) For turbine engine installations, the engine mounts and supporting structure must be designed to withstand each of the following:

(1) A limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming).

(2) A limit engine torque load imposed by the maximum acceleration of the engine.

(c) The limit engine torque to be considered under paragraph (a)(2) of this section must be obtained by multiplying the mean torque for maximum continuous power by a factor of—

(1) 1.25 for turbopropeller installations;

(2) 1.33 for engines with five or more cylinders; and

(3) Two, three, or four, for engines with four, three, or two cylinders, respectively.

§ 23.371 [Amended]

12. By deleting the word "turbopropeller" in the lead-in of § 23.371 and inserting the word "turbine" in its place.

13. By revising the heading of § 23.729 and §§ 23.729 (c) and (e) to read as follows:

§ 23.729 Landing gear extension and retraction system.

* * * * *

(c) *Emergency operation.* For a landplane having retractable landing gear that cannot be extended manually, there must be means to extend the landing gear in the event of either—

(1) Any reasonably probable failure in the normal landing gear operation system; or

(2) Any reasonably probable failure in a power source that would prevent the operation of the normal landing gear operation system.

* * * * *

(e) *Position indicator.* If a retractable landing gear is used, there must be a landing gear position indicator (as well as necessary switches to actuate the indicator) or other means to inform the pilot that the gear is secured in the extended (or retracted) position. If switches are used, they must be located and coupled to the landing gear mechanical system in a manner that prevents an erroneous indication of either "down and locked" if the landing gear is not in a fully extended position, or of "up and locked" if the landing gear is not in the fully retracted position. The switches may be located where they are operated by the actual landing gear locking latch or device.

* * * * *

14. By adding new §§ 23.903 (f) and (g) to read as follows:

§ 23.903 Engines.

* * * * *

(f) *Restart capability.* An altitude and airspeed envelope must be established for the airplane for in-flight engine restarting and each installed engine must have a restart capability within that envelope.

(g) For turbine engine powered airplanes, if the minimum windmilling speed of the engines, following the in-flight shutdown of all engines, is insufficient to provide the necessary electrical power for engine ignition, a power source independent of the engine-driven electrical power generating system must be provided to permit in-flight engine ignition for restarting.

15. By adding a new § 23.905(d) to read as follows:

§ 23.905 Propellers.

* * * * *

(d) Each component of the propeller blade pitch control system must meet the requirements of § 35.42 of this chapter.

16. By revising § 23.967(e)(2) and adding a flush paragraph at the end of § 23.967(e) to read as follows:

§ 23.967 Fuel tank installations.

* * * * *

(e) * * *

(2) Under conditions likely to occur when the airplane lands on a paved runway at a normal landing speed under each of the following conditions:

(i) The airplane in a normal landing attitude and its landing gear retracted.

(ii) The most critical landing gear leg collapsed and the other landing gear legs extended.

In showing compliance with paragraph (e)(2) of this section, the tearing away of an engine mount must be considered unless all the engines are installed above the wing or on the tail or fuselage of the airplane.

17. By adding a new § 23.991(d) to read as follows:

§ 23.991 Fuel pumps.

* * * * *

(d) Operation of any fuel pump may not effect engine operation so as to create a hazard, regardless of the engine power or thrust setting or the functional status of any other fuel pump.

18. By revising § 23.1305(n) to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(n) A blade position indicating means for each turbopropeller engine propeller to provide an indication to the flight crew when the propeller blade angle is below the flight low pitch position. The required indicator must begin indicating before the blade moves more than 8° below the flight low pitch stop. The source of indication must directly sense the blade position.

* * * * *

19. By revising § 23.1529, including its heading, to read as follows:

§ 23.1529 Instructions for Continued Airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix G to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first airplane or issuance of a standard certificate of airworthiness, whichever occurs later.

20. By adding a new Appendix G to Part 23 to read as follows:

Appendix G—Instructions for Continued Airworthiness

G23.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 23.1529.

(b) The Instructions for Continued Airworthiness for each airplane must include the Instructions for Continued Airworthiness for each engine and propeller (hereinafter designated 'products'), for each appliance required by this chapter, and any required information relating to the interface of those

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appliances and products with the airplane. If Instructions for Continued Airworthiness are not supplied by the manufacturer of an appliance or product installed in the airplane, the Instructions for Continued Airworthiness for the airplane must include the information essential to the continued airworthiness of the airplane.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of products and appliances installed in the airplane will be distributed.

G23.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

G23.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following manuals or sections, as appropriate, and information:

(a) *Airplane maintenance manual or section.*

(1) Introduction information that includes an explanation of the airplane's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A description of the airplane and its systems and installations including its engines, propellers, and appliances.

(3) Basic control and operation information describing how the airplane components and systems are controlled and how they operate, including any special procedures and limitations that apply.

(4) Servicing information that covers details regarding servicing points, capacities of tanks, reservoirs, types of fluids to be used, pressures applicable to the various systems, location of access panels for inspection and servicing, locations of lubrication points, lubricants to be used, equipment required for servicing, tow instructions and limitations, mooring, jacking, and leveling information.

(b) *Maintenance Instructions.*

(1) Scheduling information for each part of the airplane and its engine auxiliary power units, propellers, accessories, instruments, and equipment that provides the recommended periods at which they should be cleaned, inspected, adjusted, tested, and lubricated, and the degree of inspection, the appliable wear tolerances, and work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross reference to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the airplane.

(2) Troubleshooting information describing probable malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(3) Information describing the order and method of removing and replacing products and parts with any necessary precautions to be taken.

(4) Other general procedural instructions including procedures for system testing during ground running, symmetry checks, weighing and determining the center of gravity, lifting and shoring, and storage limitations.

(c) Diagrams of structural access plates and information needed to gain access for inspections when access plates are not provided.

(d) Details for the application of special inspection techniques including radiographic and ultrasonic testing where such processes are specified.

(e) Information needed to apply protective treatments to the structure after inspection.

(f) All data relative to structural fasteners such as identification, discard recommendations, and torque values.

(g) A list of special tools needed.

G23.4 *Airworthiness Limitations section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure required for type certification. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

21. By revising § 25.111(c)(4) to read as follows:

§ 25.111 Takeoff path.

* * * * *

(c) * * *

(4) Except for gear retraction and propeller feathering, the airplane configuration may not be changed, and no change in power or thrust that requires action by the pilot may be made, until the airplane is 400 feet above the takeoff surface.

* * * * *

22. By revising § 25.253(a)(2)(iii) to read as follows:

§ 25.253 High-speed characteristics.

(a) * * *

(2) * * *

(iii) Buffeting that would impair the pilot's ability to read the instruments or control the airplane for recovery.

* * * * *

23. By revising § 25.305(d) to read as follows:

§ 25.305 Strength and deformation.

* * * * *

(d) The dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. The continuous gust design criteria of Appendix G of this part must be used to establish the dynamic response unless more rational criteria are shown.

24. By revising § 25.307(a) to read as follows:

§ 25.307 Proof of structure.

(a) Compliance with the strength and deformation requirements of this subpart must be shown for each critical loading condition. Structural analysis may be used only if the structure conforms to that for which experience has shown this method to be reliable. The Administrator may require ultimate load tests in cases where limit load tests may be inadequate.

* * * * *

25. By revising § 25.365(e) to read as follows:

§ 25.365 Pressurized cabin loads.

* * * * *

(e) Partitions, bulkheads, and floors in pressurized cabins must be designed to withstand the effects of a sudden release of pressure through an opening in any compartment at any approved operating altitude resulting from any of the following conditions (to be considered as ultimate conditions):

(1) The penetration of the cabin by a portion of an engine following an engine disintegration;

(2) An opening in any passenger or cargo compartment given by the equation—

$H_o = PA_s$

where,

H_o = maximum opening in square feet, not to exceed 20 square feet.

$$P = \frac{A_s}{6.240} + 024$$

A_s = maximum cross sectional area of pressurized shell normal to the longitudinal axis, in square feet; and

(3) The maximum opening caused by airplane or equipment failures not shown to be extremely improbable.

* * * * *

§ 25.571 [Amended]

26. By deleting the phrase "maintenance manual" from § 25.571(a)(3) and inserting the phrase "Airworthiness Limitations section of the Instructions for Continued Airworthiness" in its place.

27. By redesignating § 25.783(f) and the first sentence of § 25.783(g) as §§ 25.783 (g) and (h), respectively; by redesignating the second sentence of § 25.783(g) as § 25.783(i); by inserting the phrase "either during or after closure" following the phrase "single structural element" within the parenthetical expression in § 25.783(b); and by revising § 25.783(e) and new § 25.783(i) and adding new §§ 25.783 (f) and (j) to read as follows:

§ 25.783 Doors.

* * * * *

(e) There must be a provision for direct visual inspection of the locking mechanism to determine if external doors, for which the initial opening movement is not inward (including passenger, crew, service, and cargo doors), are fully closed and locked. The provision must be discernible under operational lighting conditions by appropriate crewmembers using a flashlight or equivalent lighting source. In addition, there must be a visual warning means to signal the appropriate flight crewmembers if any external door is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable for doors for which the initial opening movement is not inward.

(f) External doors must have provisions to prevent the initiation of pressurization of the airplane to an unsafe level if the door is not fully closed and locked. In addition, it must be shown by safety analysis that inadvertent opening is extemely improbable.

* * * * *

(i) If an integral stair is installed in a passenger entry door that is qualified as a passenger emergency exit, the stair must be designed so that under the following conditions the effectiveness of passenger emergency egress will not be impaired:

(1) The door, integral stair, and operating mechanism have been subjected to the inertia forces specified in § 25.561(b)(3), acting separately relative to the surrounding structure.

(2) The airplane is in the normal ground attitude and in each of the attitudes corresponding to collapse of one or more legs of the landing gear.

(j) All lavatory doors must be designed to preclude anyone from becoming trapped inside the lavatory, and if a locking mechanism is installed, it be capable of being unlocked from the outside without the aid of special tools.

28. By adding new §§ 25.851 (a)(5) and (a)(6) to read as follows:

§ 25.851 Fire extinguishers.

(a) * * *

(5) There must be at least the following number of hand fire extinguishers conveniently located in passenger compartments:

Minimum Number of Hand Fire Extinguishers

Passenger capacity:	
7 through 30	1
31 through 60	2
61 or more	3

(6) There must be at least one hand fire extinguisher conveniently located in the pilot compartment.

* * * * *

29. By adding a new § 25.858 to read as follows:

§ 25.858 Cargo compartment fire detection systems.

If certification with cargo compartment fire detection provisions is requested, the following must be met for each cargo compartment with those provisions:

(a) The detection system must provide a visual indication to the flight crew within one minute after the start of a fire.

(b) The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased.

(c) There must be means to allow the crew to check in flight, the functioning of each fire detector circuit.

(d) The effectiveness of the detection system must be shown for all approved operating configurations and conditions.

30. By adding a new § 25.905(c) to read as follows:

§ 25.905 Propellers.

* * * * *

(c) Each component of the propeller blade pitch control system must meet the requirements of § 35.42 of this chapter.

31. By revising § 25.1305(d)(1) to read as follows:

§ 25.1305 Powerplant instruments.

* * * * *

(d) * * *

(1) An indicator to indicate thrust, or a parameter that is directly related to thrust, to the pilot. The indication must be based on the direct measurement of thrust or of parameters that are directly related to thrust. The indicator must indicate a change in thrust resulting from any engine malfunction, damage, or deterioration.

* * * * *

32. By revising § 25.1307(h) to read as follows:

§ 25.1307 Miscellaneous equipment.

* * * * *

(h) Portable fire extinguishers as prescribed in §§ 25.851 (a)(5) and (a)(6).

33. By revising § 25.1529, including its heading, to read as follows:

§ 25.1529 Instructions for continued airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix H to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first airplane or issuance of a standard certificate of airworthiness, whichever occurs later.

34. By adding a new Appendix G to Part 25 to read as follows:

Appendix G—Continous Gust Design Criteria

The continuous gust design criteria in this appendix must be used in establishing the dynamic response of the airplane to vertical and lateral continuous turbulence unless a more rational criteria is used. The following gust load requirements apply to mission analysis and design envelope analysis:

(a) The limit gust loads utilizing the continuous turbulence concept must be determined in accordance with the provisions of either paragraph (b) or paragraphs (c) and (d) of this appendix.

(b) *Design envelope analysis.* The limit loads must be determined in accordance with the following:

(1) All critical altitudes, weights, and weight distributions, as specified in § 25.321(b), and all critical speeds within the ranges indicated in paragraph (b)(3) of this appendix must be considered.

(2) Values of $\bar{A}$ (ratio of root-mean-square incremental load root-mean-square gust velocity) must be determined by dynamic analysis. The power spectral density of the atmospheric turbulence must be as given by the equation—

$$\phi(\Omega) = \frac{\sigma^2 L}{\pi} \frac{1 + \frac{8}{3}(1.339\ L\Omega)^2}{[1 + (1.339\ L\Omega)^2]^{11/6}}$$

where:

ϕ = power-spectral density (ft./sec.)^2/rad./ft.

σ = root-mean-square gust velocity, ft./sec.

Ω = reduced frequency, radians per foot.

L = 2,500 ft.

(3) The limit loads must be obtained by multiplying the Ā values determined by the dynamic analysis by the following values of the gust velocity $U\sigma$:

(i) At speed V_c: $U\sigma$ = 85 fps true gust velocity in the interval 0 to 30,000 ft. altitude and is linearly decreased to 30 fps true gust velocity at 80,000 ft. altitude. Where the Administrator finds that a design is comparable to a similar design with extensive satisfactory service experience, it will be acceptable to select $U\sigma$ at V_c less than 85 fps, but not less than 75 fps, with linear decrease from that value at 20,000 feet to 30 fps at 80,000 feet. The following factors will be taken into account when assessing comparability to a similar design:

(1) The transfer function of the new design should exhibit no unusual characteristics as compared to the similar design which will significantly affect response to turbulence; e.g., coalescence of modal response in the frequency regime which can result in a significant increase of loads.

(2) The typical mission of the new airplane is substantially equivalent to that of the similar design.

(3) The similar design should demonstrate the adequacy of the $U\sigma$ selected.

(ii) At speed V_B: $U\sigma$ is equal to 1.32 times the values obtained under paragraph (b)(3)(i) of this appendix.

(iii) At speed V_D: $U\sigma$ is equal to ½ the values obtained under paragraph (b)(3)(i) of this appendix.

(iv) At speeds between V_B and V_c and between V_c and V_D: $U\sigma$ is equal to a value obtained by linear interpolation.

(4) When a stability augmentation system is included in the analysis, the effect of system nonlinearities on loads at the limit load level must be realistically or conservatively accounted for.

(c) *Mission analysis.* Limit loads must be determined in accordance with the following:

(1) The expected utilization of the airplane must be represented by one or more flight profiles in which the load distribution and the variation with time of speed, altitude, gross weight, and center of gravity position are defined. These profiles must be divided into mission segments or blocks, for analysis, and average or effective values of the pertinent parameters defined for each segment.

(2) For each of the mission segments defined under paragraph (c)(1) of this appendix, values of Ā and N_o must be determined by analysis. Ā is defined as the ratio of root-mean-square incremental load to root-mean-square gust velocity and N_o is the radius of gyration of the load power spectral density function about zero frequency. The power spectral density of the atmospheric turbulence must be given by the equation set forth in paragraph (b)(2) of this appendix.

(3) For each of the load and stress quantities selected, the frequency of exceedance must be determined as a function of load level by means of the equation—

$$N_{(y)} = \Sigma t N_o \left[P_1 \exp\left(-\frac{|y - y_{one\text{-}g}|}{b_1 \bar{A}}\right) + P_2 \exp\left(-\frac{|y - y_{one\text{-}g}|}{b_2 \bar{A}}\right)\right]$$

where—

t = selected time interval.

y = net value of the load or stress.

$Y_{one\text{-}g}$ = value of the load or stress in one-g level flight.

N(y) = average number of exceedances of the indicated value of the load or stress in unit time.

Σ = symbol denoting summation over all mission segments.

N_o, Ā = parameters determined by dynamic analysis as defined in paragraph (c)(2) of this appendix.

P_1, P_2, b_1, b_2 = parameters defining the probability distributions of root-mean-square gust velocity, to be read from Figures 1 and 2 of this appendix.

The limit gust loads must be read from the frequency of exceedance curves at a frequency of exceedance of 2×10^{-5} exceedances per hour. Both positive and negative load directions must be considered in determining the limit loads.

(4) If a stability augmentation system is utilized to reduce the gust loads, consideration must be given to the fraction of flight time that the system may be inoperative. The flight profiles of paragraph (c)(1) of this appendix must include flight with the system inoperative for this fraction of the flight time. When a stability augmentation system is included in the analysis, the effect of system nonlinearities on loads at the limit load level must be conservatively accounted for.

(d) *Supplementary design envelope analysis.* In addition to the limit loads defined by paragraph (c) of this appendix, limit loads must also be determined in accordance with paragraph (b) of this appendix, except that—

(1) In paragraph (b)(3)(i) of this appendix, the value of $U\sigma$ = 85 fps true gust velocity is replaced by $U\sigma$ = 60 fps true gust velocity on the interval 0 to 30,000 ft. altitude, and is linearly decreased to 25 fps true gust velocity at 80,000 ft. altitude; and

(2) In paragraph (b) of this appendix, the reference to paragraphs (b)(3)(i) through (b)(3)(iii) of this appendix is to be understood as referring to the paragraph as modified by paragraph (d)(1).

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Part 25 App. G.

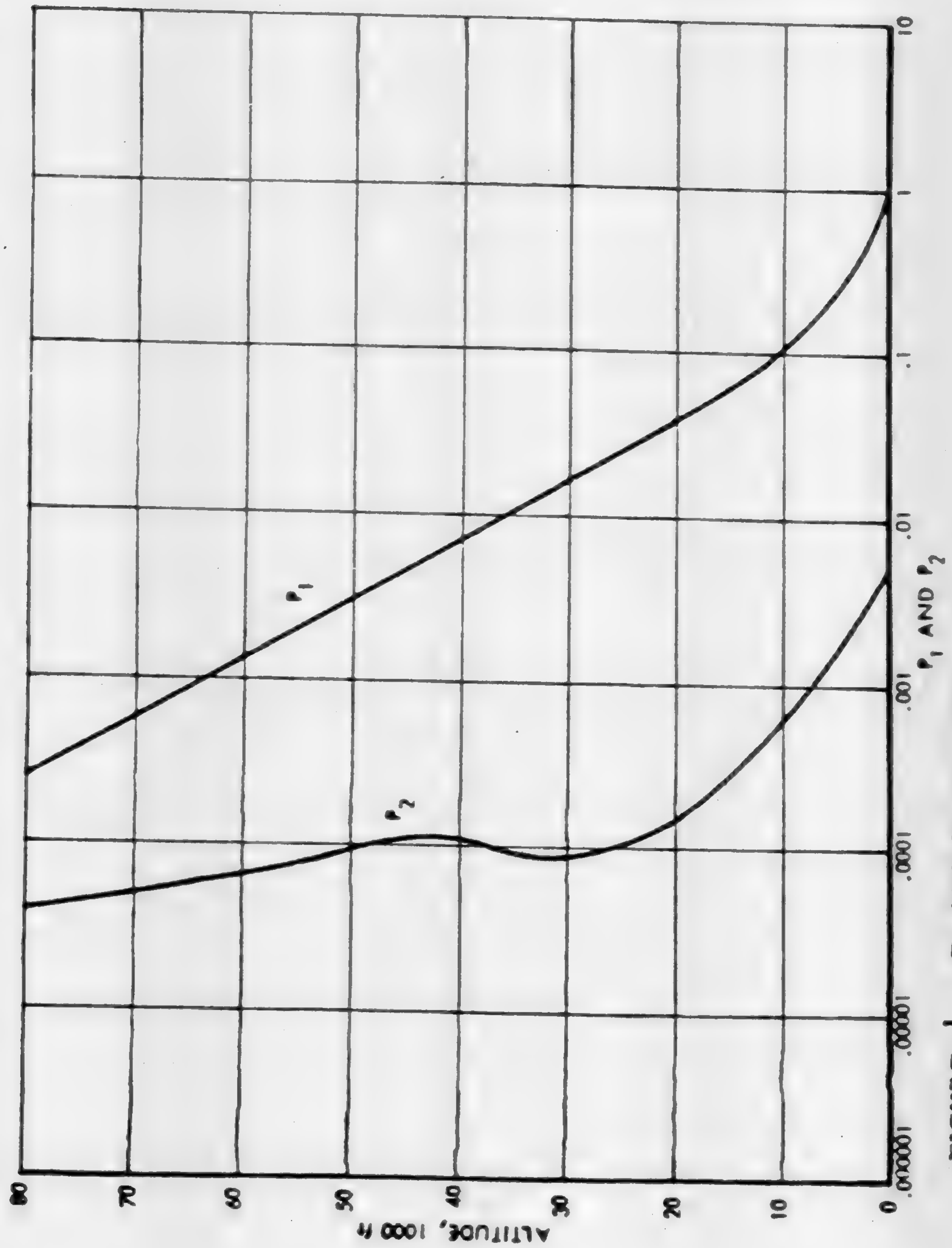

FIGURE 1 P$_1$ AND P$_2$ VALUES

Part 25 App. G.

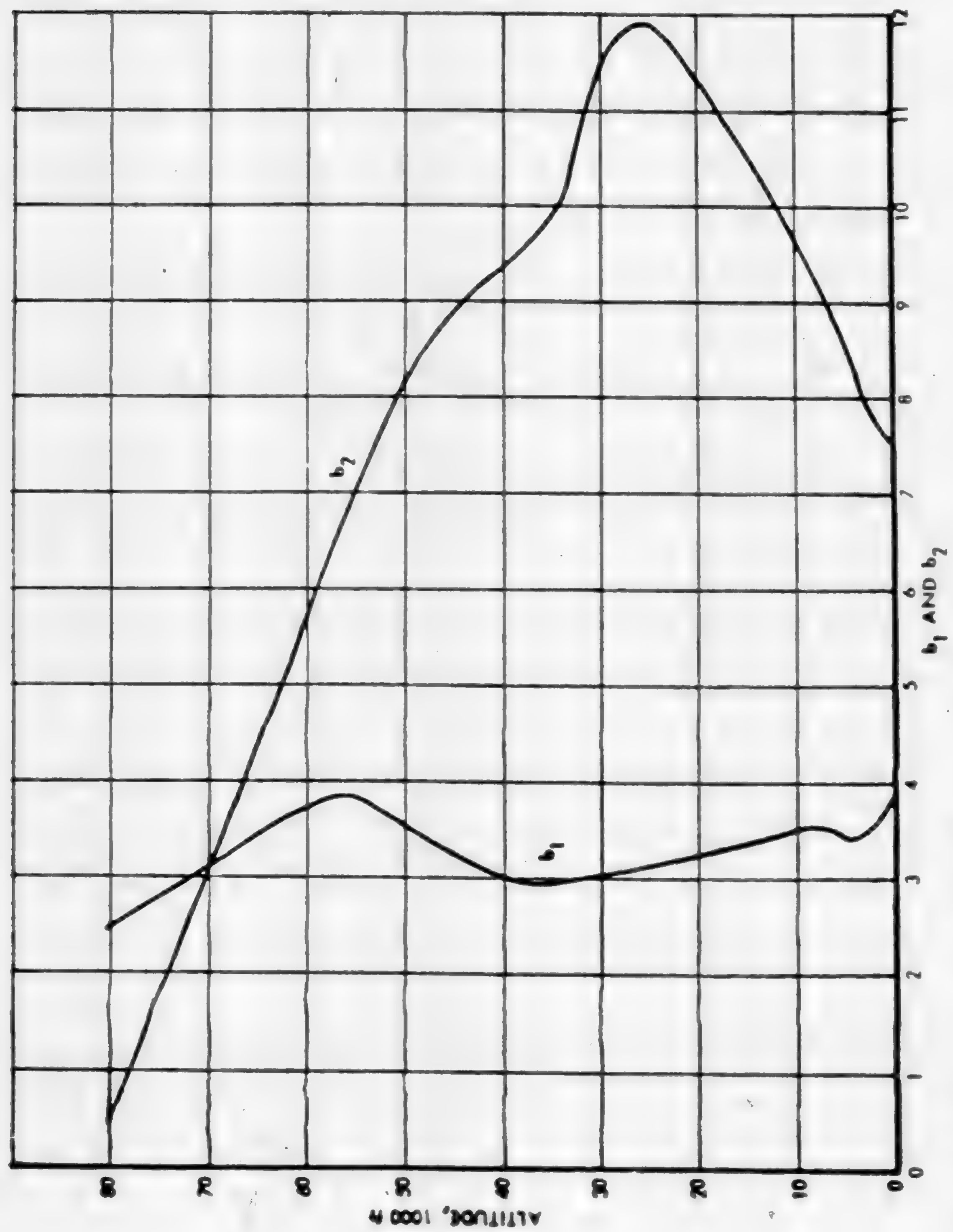

b_1 AND b_2 VALUES

FIGURE 2

BILLING CODE 4910-13-C

35. By adding a new Appendix H to Part 25 to read as follows:

Appendix H—Instructions for Continued Airworthiness

H25.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 25.1529.

(b) The Instructions for Continued Airworthiness for each airplane must include the Instructions for Continued Airworthiness for each engine and propeller (hereinafter designated "products"), for each appliance required by this chapter, and any required information relating to the interface of those appliances and products with the airplane. If Instructions for Continued Airworthiness are not supplied by the manufacturer of an appliance or product installed in the airplane, the Instructions for Continued Airworthiness for the airplane must include the information essential to the continued airworthiness of the airplane.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers or products and appliances installed in the airplane will be distributed.

H25.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

H25.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following manuals or sections, as appropriate, and information:

(a) *Airplane maintenance manual or section.*

(1) Introduction information that includes an explanation of the airplane's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A description of the airplane and its systems and installations including its engines, propellers, and appliances.

(3) Basic control and operation information describing how the airplane components and systems are controlled and how they operate, including any special procedures and limitations that apply.

(4) Servicing information that covers details regarding servicing points, capacities of tanks, reservoirs, types of fluids to be used, pressures applicable to the various systems, location of access panels for inspection and servicing, locations of lubrication points, lubricants to be used, equipment required for servicing, tow instructions and limitations, mooring, jacking, and leveling information.

(b) *Maintenance Instructions.*

(1) Scheduling information for each part of the airplane and its engines, auxiliary power units, propellers, accessories, instruments, and equipment that provides the recommended periods at which they should be cleaned, inspected, adjusted, tested, and lubricated, and the degree of inspection, the applicable wear tolerances, and work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the airplane.

(2) Troubleshooting information describing probable malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(3) Information describing the order and method of removing and replacing products and parts with any necessary precautions to be taken.

(4) Other general procedural instructions including procedures for system testing during ground running, symmetry checks, weighing and determining the center of gravity, lifting and shoring, and storage limitations.

(c) Diagrams of structural access plates and information needed to gain access for inspections when access plates are not provided.

(d) Details for the application of special inspection techniques including radiographic and ultrasonic testing where such processes are specified.

(e) Information needed to apply protective treatments to the structure after inspection.

(f) All data relative to structural fasteners such as identification, discard recommendations, and torque values.

(g) A list of special tools needed.

H25.4 *Airworthiness Limitations section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure approved under § 25.571. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

§ 27.571 [Amended]

36. By deleting the reference to "§ 27.1529(a)(2)" in §§ 27.571 (b), (c), (d)(1), (d)(3), and (e) and replacing it with "§ A27.4 of Appendix A."

37. By revising § 27.1529, including its heading, to read as follows:

§ 27.1529 Instructions for continued airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix A to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first rotorcraft or issuance of a standard certificate of airworthiness, whichever occurs later.

38. By adding a new Appendix A to Part 27 to read as follows:

Appendix A—Instructions for Continued Airworthiness

A27.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 27.1529.

(b) The Instructions for Continued Airworthiness for each rotorcraft must include the Instructions for Continued Airworthiness for each engine and rotor (hereinafter designated 'products'), for each appliance required by this chapter, and any required information relating to the interface of those appliances and products with the rotorcraft. If Instructions for Continued Airworthiness are not supplied by the manufacturer of an appliance or product installed in the rotorcraft, the Instructions for Continued Airworthiness for the rotorcraft must include the information essential to the continued airworthiness of the rotorcraft.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of products and appliances installed in the rotorcraft will be distributed.

A27.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

A27.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following manuals or sections, as appropriate, and information:

(a) *Rotorcraft maintenance manual or section.*

(1) Introduction information that includes an explanation of the rotorcraft's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A description of the rotorcraft and its systems and installations including its engines, rotors, and appliances.

(3) Basic control and operation information describing how the rotorcraft components and systems are controlled and how they operate, including any special procedures and limitations that apply.

(4) Servicing information that covers details regarding servicing points, capacities of tanks, reservoirs, types of fluids to be used, pressures applicable to the various systems, location of access panels for inspection and servicing, locations of lubrication points, the lubricants to be used, equipment required for servicing, tow instructions and limitations, mooring, jacking, and leveling information.

(B) *Maintenance instructions.*

(1) Scheduling information for each part of the rotorcraft and its engines, auxiliary power units, rotors, accessories, instruments and equipment that provides the recommended periods at which they should be cleaned, inspected, adjusted, tested, and lubricated, and the degree of inspection, the applicable wear tolerances, and work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the rotorcraft.

(2) Troubleshooting information describing problem malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(3) Information describing the order and method of removing and replacing products and parts with any necessary precautions to be taken.

(4) Other general procedural instructions including procedures for system testing during ground running, symmetry checks, weighing and determining the center of gravity, lifting and shoring, and storage limitations.

(c) Diagrams of structural access plates and information needed to gain access for inspections when access plates are not provided.

(d) Details for the application of special inspection techniques including radiographic and ultrasonic testing where such processes are specified.

(e) Information needed to apply protective treatments to the structure after inspection.

(f) All data relative to structural fasteners such as identification, discarded recommendations, and torque values.

(g) A list of special tools needed.

A27.4 *Airworthiness Limitations section.*

The Instructions for Continued Airworthiness must contain a section, titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure approved under § 27.571. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies inspections and other maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

§ 29.571 [Amended]

39. By deleting the reference to "§ 29.1529(a) (2)" in §§ 29.571 (b), (c), (d) (1), (d) (3), and (e) and replacing it with "§A29.4 of Appendix A".

40. By adding a new § 29.783(g) to read as follows:

§ 29.783 Doors.

* * * * *

(g) If an integral stair is installed in a passenger entry door that is qualified as a passenger emergency exit, the stair must be designed so that under the following conditions the effectiveness of passenger emergency egress will not be impaired:

(1) The door, integral stair, and operating mechanism have been subjected to the inertia forces specified in § 29.561(b)(3), acting separately relative to the surrounding structure.

(2) The rotorcraft is in the normal ground attitude and in each of the attitudes corresponding to collapse of one or more legs, or primary members, as applicable, of the landing gear.

41. By revising § 29.1529, including its heading, to read as follows:

§ 29.1529 Instructions for continued airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix A to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first rotorcraft or issuance of a standard certificate of airworthiness, whichever occurs later.

42. By adding a new Appendix A to Part 29 to read as follows:

Appendix A—Instructions for Continued Airworthiness

A29.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 29.1529.

(b) The Instructions for Continued Airworthiness for each rotorcraft must include the Instructions for Continued Airworthiness for each engine and rotor (hereinafter designated "products"), for each applicance required by this chapter, and any required information relating to the interface of those appliances and products with the rotorcraft. If Instructions for Continued Airworthiness are not supplied by the manufacturer of an appliance or product installed in the rotorcraft, the Instructions for Continued Airworthiness for the rotorcraft must include the information essential to the continued airworthiness of the rotorcraft.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of products and appliances installed in the rotorcraft will be distributed.

A29.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

A29.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following manuals or sections, as appropriate, and information:

(a) *Rotorcraft maintenance manual or section.* (1) Introduction information that includes an explanation of the rotorcraft's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A description of the rotorcraft and its systems and installations including its engines, rotors, and applicances.

(3) Basic control and operation information describing how the rotorcraft components and systems are controlled and how they operate, including any special procedures and limitations that apply.

(4) Servicing information that covers details regarding servicing points, capacities of tanks, reservoirs, types of fluids to be used, pressures applicable to the various systems, location of access panels for inspection and servicing, locations of lubrication points, the lubricants to be used, equipment required for servicing, tow instructions and limitations, mooring, jacking, and leveling information.

(b) *Maintenance Instructions.* (1) Scheduling information for each part of the rotorcraft and its engines, auxiliary power units, rotors, accessories, instruments, and equipment that provides the recommended periods at which they should be cleaned, inspected, adjusted, tested, and lubricated, and the degree of inspection, the applicable wear tolerances, and work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the rotorcraft.

(2) Troubleshooting information describing probable malfunctions, how to recognize

those malfunctions, and the remedial action for those malfunctions.

(3) Information describing the order and method of removing and replacing products and parts with any necessary precautions to be taken.

(4) Other general procedural instructions including procedures for system testing during ground running, symmetry checks, weighing and determining the center of gravity, lifting and shoring, and storage limitations.

(c) Diagrams of structural access plates and information needed to gain access for inspections when access plates are not provided.

(d) Details for the application of special inspection techniques including radiographic and ultrasonic testing where such processes are specified.

(e) Information needed to apply protective treatments to the structure after inspection.

(f) All data relative to structural fasteners such as identification, discard recommendations, and torque values.

(g) A list of special tools needed.

A29.4 *Airworthiness Limitations Section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure approved under § 29.571. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 31—AIRWORTHINESS STANDARDS: MANNED FREE BALLOONS

43. By adding a new § 31.12 to read as follows:

§ 31.12 Proof of compliance.

(a) Each requirement of this subpart must be met at each weight within the range of loading conditions for which certification is requested. This must be shown by—

(1) Tests upon a balloon of the type for which certification is requested or by calculations based on, and equal in accuracy to, the results of testing; and

(2) Systematic investigation of each weight if compliance cannot be reasonably inferred from the weights investigated.

(b) Except as provided in § 31.17(b), allowable weight tolerances during flight testing are +5 percent and −10 percent.

44. By adding a new § 31.16 to read as follows:

§ 31.16 Empty weight.

The empty weight must be determined by weighing the balloon with installed equipment but without lifting gas or heater fuel.

45. By adding a new § 31.17 to read as follows:

§ 31.17 Performance: Climb.

(a) Each balloon must be capable of climbing at least 300 feet in the first minute after takeoff with a steady rate of climb. Compliance with the requirements of this section must be shown at each altitude and ambient temperature for which approval is sought.

(b) Compliance with the requirements of paragraph (a) of this section must be shown at the maximum weight with a weight tolerance of +5 percent.

46. By adding a new § 31.19 to read as follows:

§ 31.19 Performance: Uncontrolled descent.

(a) The following must be determined for the most critical uncontrolled descent that can result from any single failure of the heater assembly, fuel cell system, gas value system, or maneuerering vent system, or from any single tear in the ballon envelope between tear stoppers:

(1) The maximum vertical velocity attained.

(2) The altitude loss from the point of failure to the point at which maximum vertical velocity is attained.

(3) The altitude required to achieve level flight after corrective action is inititated, with the balloon descending at the maximum vertical velocity determined in paragraph (a)(1) of this section.

(b) Procedures must be established for landing at the maximum vertical velocity determined in paragraph (a)(1) of this section and for arresting that descent rate in accordance with paragraph (a)(3) of this section.

§ 31.27 [Amended]

47. By amending § 31.27(c) by deleting the second sentence, by deleting the word "concrete" in the third sentence, and by deleting the last sentence and inserting the following in place thereof: "A drop test height of 36 inches, or a drop test height that produces, upon impact, a velocity equal to the maximum vertical velocity determined in accordance with § 31.19, whichever is higher, must be used."

48. By revising §§ 31.65(a), (b), and (c) and adding a new § 31.65(e) to read as follows:

§ 31.65 Position lights.

(a) If position lights are installed, there must be one steady aviation white position light and one flashing aviation red (or flashing aviation white) position light with an effective flash frequency of at least 40, but not more than 100, cycles per minute.

(b) Each light must provide 360° horizontal coverage at the intensities prescribed in this paragraph. The following light intensities must be determined with the light source operating at a steady state and with all light covers and color filters in place and at the manufacturer's rated mimimum voltage. For the flashing aviation red light, the measured values must be adjusted to correspond to a red filter temperature of at least 130° F:

(1) The intensities in the horizontal plane passing through the light unit must equal or exceed the following values:

Position light	Minimum intensity (candles)
Steady white	20
Flashing red or white	40

(2) The intensities in vertical planes must equal or exceed the following values. An intensity of one unit corresponds to the applicable horizontal plane intensity specified in paragraph (b)(1) of this section.

Angles above and below the horizontal in any vertical plane (degrees)	Minimum intensity (units)
0	1.00
0 to 5	0.90
5 to 10	0.80
10 to 15	0.70
15 to 20	0.50
20 to 30	0.30
30 to 40	0.10
40 to 60	0.05

(c) The steady white light must be located not more than 20 feet below the basket, trapeze, or other means for carrying occupants. The flashing red or white light must be located not less than 7, nor more than 10, feet below the steady white light.

* * * * *

(e) Each position light color must have the applicable International Commission on Illumination chromaticity coordinates as follows:

(1) *Aviation red*—

"y" is not greater than 0.335; and "z" is not greater than 0.002.

(2) *Aviation white*—

"x" is not less than 0.300 and not greater than 0.540;

"y" is not less than "x"−0.040" or "y_o−0.010", whichever is the smaller; and

"y" is not greater than "x+0.020" nor "0.636−0.0400 x";

Where "y_o" is the "y" coordinate of the Planckian radiator for the value of "x" considered.

49. By revising § 31.71 to read as follows:

§ 31.71 Function and installation.

(a) Each item of installed equipment must—

(1) Be of a kind and design appropriate to its intended function;

(2) Be permanently and legibly marked or, if the item is too small to mark, tagged as to its identification, function, or operating limitations, or any applicable combination of those factors;

(3) Be installed according to limitations specified for that equipment; and

(4) Function properly when installed.

(b) No item of installed equipment, when performing its function, may affect the function of any other equipment so as to create an unsafe condition.

(c) The equipment, systems, and installations must be designed to prevent hazards to the balloon in the event of a probable malfunction or failure.

50. By revising § 31.81 to read as follows:

§ 31.81 General.

(a) The following information must be established:

(1) Each operating limitation, including the maximum weight determined under § 31.14.

(2) The normal and emergency procedures.

(3) Other information necessary for safe operation, including—

(i) The empty weight determined under § 31.16;

(ii) The rate of climb determined under § 31.17, and the procedures and conditions used to determine performance;

(iii) The maximum vertical velocity, the altitude drop required to attain that velocity, and altitude drop required to recover from a descent at that velocity, determined under § 31.19, and the procedures and conditions used to determine performance; and

(iv) Pertinent information peculiar to the balloon's operating characteristics.

(b) The information established in compliance with paragraph (a) of this section must be furnished by means of—

(1) A Balloon Flight Manual; or

(2) A placard on the balloon that is clearly visible to the pilot.

51. By adding a new § 31.82 to read as follows:

§ 31.82 Instructions for Continued Airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix A to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first balloon or issuance of a standard certificate of airworthiness, whichever occurs later.

52. By revising § 31.85(b)(1) to read as follows:

§ 31.85 Required basic equipment.

* * * * *

(b) * * *

(1) A fuel quantity gauge. If fuel cells are used, means must be incorporated to indicate to the crew the quantity of fuel in each cell during flight. The means must be calibrated in appropriate units or in percent of fuel cell capacity.

* * * * *

53. By adding a new Appendix A to Part 31 to read as follows:

Appendix A—Instructions for Continued Airworthiness

A31.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 31.82.

(b) The Instructions for Continued Airworthiness for each balloon must include the Instructions for Continued Airworthiness for all balloon parts required by this chapter and any required information relating to the interface of those parts with the balloon. If Instructions for Continued Airworthiness are not supplied by the part manufacturer for a balloon part, the Instructions for Continued Airworthiness for the balloon must include the information essential to the continued airworthiness of the balloon.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of balloon parts will be distributed.

A31.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

A31.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following information:

(a) Introduction information that includes an explanation of the balloon's features and data to the extent necessary for maintenance or preventive maintenance.

(b) A description of the balloon and its systems and installations.

(c) Basic control and operation information for the balloon and its components and systems.

(d) Servicing information that covers details regarding servicing of balloon components, including burner nozzles, fuel tanks, and valves during operations.

(e) Maintenance information for each part of the balloon and its envelope, controls, rigging, basket structure, fuel systems, instruments, and heater assembly that provides the recommended periods at which they should be cleaned, adjusted, tested, and lubricated, the applicable wear tolerances, and the degree of work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the balloon.

(f) Troubleshooting information describing probable malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(g) Details of what, and how, to inspect after a hard landing.

(h) Instructions for storage preparation including any storage limits.

(i) Instructions for repair on the balloon envelope and its basket or trapeze.

A31.4 *Airworthiness Limitations Section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure, including envelope structural integrity, required for type certification. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations."

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

54. By adding a new § 33.4 to read as follows:

§ 33.4 Instructions for Continued Airworthiness.

The applicant must prepare Instructions for Continued Airworthiness in accordance with Appendix A to this part that are acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first aircraft with the engine installed, or upon issuance of a standard certificate of airworthiness for the aircraft with the engine installed, whichever occurs later.

55. By deleting §§ 33.5 (c), (d), and (e) and revising the lead in and heading of § 33.5 to read as follows:

§ 33.5 Instruction manual for installing and operating the engine.

Each applicant must prepare and make available to the Administrator prior to the issuance of the type certificate, and to the owner at the time of delivery of the engine, approved instructions for installing and operating the engine. The instructions must include at least the following:

* * * * *

56. By redesignating § 33.19 as § 33.19(a) and adding a new § 33.19(b) to read as follows:

§ 33.19 Durability.

* * * * *

(b) Each component of the propeller blade pitch control system which is a part of the engine type design must meet the requirements of § 35.42 of this chapter.

§ 33.55 [Amended]

57. By deleting the reference to "§ 33.5(e)" in § 33.55(c) and replacing it with "§ 33.4".

§ 33.57 [Amended]

58. By deleting the reference to "§ 33.5" in § 33.57(b) and replacing it with "§ 33.4".

§ 33.93 [Amended]

59. By deleting the reference to "§ 33.5" in § 33.93(b) and replacing it with "§ 33.4".

§ 33.99 [Amended]

60. By deleting the reference to "§ 33.5" in § 33.99(b) and replacing it with "§ 33.4".

61. By adding a new Appendix A to Part 33 to read as follows:

Appendix A—Instructions for Continued Airworthiness

A33.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 33.4.

(b) The Instructions for Continued Airworthiness for each engine must include the Instructions for Continued Airworthiness for all engine parts. If Instructions for Continued Airworthiness are not supplied by the engine part manufacturer for an engine part, the Instructions for Continued Airworthiness for the engine must include the information essential to the continued airworthiness of the engine.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of engine parts will be distributed.

A33.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

A33.3 *Content.*

The contents of the manual or manuals must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following manuals or sections, as appropriate, and information:

(a) *Engine Maintenance Manual or Section.* (1) Introduction information that includes an explanation of the engine's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A detailed description of the engine and its components, systems, and installations.

(3) Installation instructions, including proper procedures for uncrating, deinhibiting, acceptance checking, lifting, and attaching accessories, with any necessary checks.

(4) Basic control and operating information describing how the engine components, systems, and installations operate, and information describing the methods of starting, running, testing, and stopping the engine and its parts including any special procedures and limitations that apply.

(5) Servicing information that covers details regarding servicing points, capacities of tanks, reservoirs, types of fluids to be used, pressures applicable to the various systems, locations of lubrication points, lubricants to be used, and equipment required for servicing.

(6) Scheduling information for each part of the engine that provides the recommended periods at which it should be cleaned, inspected, adjusted, tested, and lubricated, and the degree of inspection the applicable wear tolerances, and work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if the applicant shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the engine.

(7) Troubleshooting information describing probable malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(8) Information describing the order and method of removing the engine and its parts and replacing parts, with any necessary precautions to be taken. Instructions for proper ground handling, crating, and shipping must also be included.

(9) A list of the tools and equipment necessary for maintenance and directions as to their method of use.

(b) *Engine Overhaul Manual or Section.* (1) Disassembly information including the order and method of disassembly for overhaul.

(2) Cleaning and inspection instructions that cover the materials and apparatus to be used and methods and precautions to be taken during overhaul. Methods of overhaul inspection must also be included.

(3) Details of all fits and clearances relevant to overhaul.

(4) Details of repair methods for worn or otherwise substandard parts and components along with the information necessary to determine when replacement is necessary.

(5) The order and method of assembly at overhaul.

(6) Instructions for testing after overhaul.

(7) Instructions for storage preparation, including any storage limits.

(8) A list of tools needed for overhaul.

A33.4 *Airworthiness Limitations Section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, inspection interval, and related procedure required for type certification. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 35—AIRWORTHINESS STANDARDS: PROPELLERS

62. By revising § 35.3, including its heading, to read as follows:

§ 35.3 Instruction manual for installing and operating the propeller.

Each applicant must prepare and make available an approved manual or manuals containing instructions for installing and operating the propeller.

63. By adding a new § 35.4 to read as follows:

§ 35.4 Instructions for continued airworthiness.

The appliant must prepare Instructions for Continued Airworthiness in accordance with Appendix A to this part that are

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acceptable to the Administrator. The instructions may be incomplete at type certification if a program exists to ensure their completion prior to delivery of the first aircraft with the propeller installed, or upon issuance of a standard certificate of airworthiness for an aircraft with the propeller installed, whichever occurs later.

64. By revising § 35.5 to read as follows:

§ 35.5 Propeller operating limitations.

Propeller operating limitations are established by the Administrator, are included in the propeller type certificate data sheet specified in § 21.41 of this chapter, and include limitations based on the operating conditions demonstrated during the tests required by this part and any other information found necessary for the safe operation of the propeller.

65. By revising the heading of § 35.23 and adding a new § 35.23(c) to read as follows:

§ 35.23 Pitch control and indication.

* * * * *

(c) Each propeller approved for installation on a turbopropeller engine must incorporate a provision for an indicator to indicate when the propeller blade angle is below the flight low pitch position. The provision must directly sense the blade position and be arranged to cause an indicator to indicate that the blade angle is below the flight low pitch position before the blade moves more than 8° below the flight low pitch stop.

66. By revising § 35.37, including its heading, to read as follows:

§ 35.37 Fatigue limit tests.

A fatigue evalution must be made and the fatigue limits determined for each metallic hub and blade, and each primary load carrying metal component of nonmetallic blades. The fatigue evaluation must include consideration of all reasonably foreseeable vibration load patterns. The fatigue limits must account for the permissible service deteriortion (such as nicks, grooves, galling, bearing wear, and variations in material properties).

67. By adding a new § 35.42 to read as follows:

§ 35.42 Blade pitch control system component test.

The following durability requirements apply to propeller blade pitch control system components:

(a) Except as provided in paragraph (b) of this section, each propeller blade pitch control system component, including governors, pitch change assemblies, pitch locks, mechanical stops, and feathering system components, must be subjected in tests to cyclic loadings that simulate the frequency and amplitude those to which the component would be subjected during 1,000 hours of propeller operation.

(b) Compliance with paragraph (a) of this section may be shown by a rational analysis based on the results of tests on similar components.

68. By adding a new Appendix A to Part 35 to read as follows:

Appendix A—Instructions for Continued Airworthiness

A35.1 *General.*

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness as required by § 35.4.

(b) The Instructions for Continued Airworthiness for each propeller must include the Instructions for Continued Airworthiness for all propeller parts. If Instructions for Continued Airworthiness are not supplied by the propeller part manufacturer for a propeller part, the Instructions for Continued Airworthiness for the propeller must include the information essential to the continued airworthiness of the propeller.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of propeller parts will be distributed.

A35.2 *Format.*

(a) The Instructions for Continued Airworthiness must be in the form of a manual or manuals as appropriate for the quantity of data to be provided.

(b) The format of the manual or manuals must provide for a practical arrangement.

A35.3 *Content.*

The contents of the manual must be prepared in the English language. The Instructions for Continued Airworthiness must contain the following sections and information:

(a) *Propeller Maintenance Section.* (1) Introduction information that includes an explanation of the propeller's features and data to the extent necessary for maintenance or preventive maintenance.

(2) A detailed description of the propeller and its systems and installations.

(3) Basic control and operation information describing how the propeller components and systems are controlled and how they operate, including any special procedures that apply.

(4) Instructions for uncrating, acceptance checking, lifting, and installing the propeller.

(5) Instructions for propeller operational checks.

(6) Scheduling information for each part of the propeller that provides the recommended periods at which it should be cleaned, adjusted, and tested, the applicable wear tolerances, and the degree of work recommended at these periods. However, the applicant may refer to an accessory, instrument, or equipment manufacturer as the source of this information if it shows that the item has an exceptionally high degree of complexity requiring specialized maintenance techniques, test equipment, or expertise. The recommended overhaul periods and necessary cross-references to the Airworthiness Limitations section of the manual must also be included. In addition, the applicant must include an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the propeller.

(7) Troubleshooting information describing probable malfunctions, how to recognize those malfunctions, and the remedial action for those malfunctions.

(8) Information describing the order and method of removing and replacing propeller parts with any necessary precautions to be taken.

(9) A list of the special tools needed for maintenance other than for overhauls.

(b) *Propeller Overhaul Section.* (1) Disassembly information including the order and method of disassembly for overhaul.

(2) Cleaning and inspection instructions that cover the materials and apparatus to be used and methods and precautions to be taken during overhaul. Methods of overhaul inspection must also be included.

(3) Details of all fits and clearances relevant to overhaul.

(4) Details of repair methods for worn or otherwise substandard parts and components along with information necessary to determine when replacement is necessary.

(5) The order and method of assembly at overhaul.

(6) Instructions for testing after overhaul.

(7) Instructions for storage preparation including any storage limits.

(8) A list of tools needed for overhaul.

A35.4 *Airworthiness Limitations Section.*

The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, inspection interval, and related procedure required for type certification. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.163 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

69. By revising the first sentence of § 43.13(a) to read as follows:

§ 43.13 Performance rules (general).

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator, except as noted in § 43.16. * * *

* * * * *

70. By revising § 43.16, including its heading, to read as follows:

§ 43.16 Airworthiness limitations.

Each person performing an inspection or other maintenance specified in an Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness shall perform the inspection or other maintenance in accordance with that section, or in accordance with operations specifications approved by the Administrator under Parts 121, 123, 127, or 135, or an inspection program approved under § 91.217(e).

PART 45—IDENTIFICATION AND REGISTRATION MARKING

71. By revising § 45.11(a) and adding a new § 45.11(c) to read as follows:

§ 45.11 General.

(a) *Aircraft and aircraft engines.* Aircraft covered under § 21.182 of this chapter must be identified, and each person who manufactures an aircraft engine under a type or production certificate shall identify that engine by means of a fireproof plate that has the information specified in § 43.13 marked on it by etching, stamping, engraving, or other approved method of fireproof marking. The identification plate for aircraft must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident. Except as provided in paragraph (c) of this section, the aircraft identification plate must be secured to the aircraft at an accessible location near an entrance, except that if it is legible to a person on the ground it may be located externally on the fuselage near the tail surfaces. For aircraft engines, the identification plate must be affixed to the engine at an accessible location, in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident.

* * * * *

(c) For manned free balloons, the identification plate prescribed in paragraph (a) of this section must be secured to the balloon envelope and must be located, if practicable, where it is legible to the operator when the balloon is inflated. In addition, the basket and heater assembly must be permanently and legibly marked with the manufacturer's name, part number (or equivalent) and serial number (or equivalent).

§ 45.13 [Amended]

72. By deleting the reference to "§ 45.11" in § 45.13(a) and inserting "§§ 45.11 (a) and (b)".

73. By revising § 45.14 to read as follows:

§ 45.14 Identification of critical components.

Each person who produces a part for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a Manufacturer's Maintenance Manual or Instructions for Continued Airworthiness shall mark that component with a part number (or equivalent) and serial number (or equivalent).

PART 91—GENERAL OPERATING AND FLIGHT RULES

74. By revising § 91.163(c) to read as follows:

§ 91.163 General.

* * * * *

(c) No person may operate an aircraft for which a manufacturer's maintenance manual or Instructions for Continued Airworthiness has been issued that contains an Airworthiness Limitations section unless the mandatory replacement times, inspection intervals, and related procedures specified in that section or alternative inspection intervals and related procedures set forth in an operations specification approved by the Administrator under Parts 121, 123, 127, or 135, or in accordance with an inspection program approved under § 91.217(e), have been complied with.

§ 91.165 [Amended]

75. By revising the last sentence of § 91.165 to read, "In addition, each owner or operator shall ensure that maintenance personnel make appropriate entries in the maintenance records indicating that the aircraft has been approved for return to service."

76. By revising § 91.173(a)(2)(i) to read as follows:

§ 91.173 Maintenance records.

(a) * * *

(2) * * *

(i) The total time in service of the airframe, each engine and each propeller.

* * * * *

77. By adding a new § 91.193(c)(4) to read as follows:

§ 91.193 Emergency equipment.

* * * * *

(c) * * *

(4) Hand fire extinguishers must be installed and secured in such a manner that they will not interfere with the safe operation of the airplane or adversely affect the safety of the crew and passengers. They must be readily accessible, and unless the locations of the fire extinguishers are obvious, their stowage provisions must be properly identified.

* * * * *

(Secs. 313(a), 601, 603, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the individual and address listed in the "For Further Information Contact" paragraph.

Issued in Washington, D.C., on August 27, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-27029 Filed 9-10-80; 8:45 am]

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Part III

Federal Communications Commission

Cable Television Syndicated Program Exclusivity Rules

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[FCC 80-443; Docket No. 20988; RM-2721; Docket No. 21284; RM-2919; RM 3324; RM-3346]

Cable Television Syndicated Program Exclusivity Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; report and Order in Dockets 20988 and 21284.

SUMMARY: Existing FCC rules limit the number of distant television signals that cable television systems may distribute to their subscribers. The Commission has concluded that these rules do not benefit the public and should be eliminated. This document relaxes the distant signal carriage restrictions. This action will promote substantial improvements in television service to the public without causing any significant risk of loss of the existing level of services provided by local television broadcast stations.

EFFECTIVE DATE: October 14, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Cable Television Bureau (202) 632-6468.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: July 22, 1980.

Released: September 11, 1980.

In the matter of Cable Television Syndicated Program Exclusivity Rules, Docket 20988, Rm-2721 and Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television, Docket 21284, Rm-2919, Rm-3324, Rm-3346.

By the Commission: Commissioners Lee, Quello and Washburn dissenting and issuing statements; Commissioners Ferris, Chairman; Fogarty and Brown issuing separate statements; Commissioner Jones concurring and issuing a statement.

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I. Summary and Introduction

Summary of Decision

1. The basic question presented in this proceeding is whether the Commission should continue in force rules that restrict the carriage of distant television broadcast signals by cable television systems. Our conclusion is that these rules do not benefit the public and should be eliminated.

2. Existing cable television signal carriage rules limit the number of distant television signals that cable television systems may distribute to their subscribers. Syndicated program exclusivity rules also require the deletion of individual programs from distant signals that are otherwise available for carriage. The rules in question are found in 47 CFR Part 76, including particularly Sections 76.59, 76.61, 76.63 and 76.151–76.161. These rules were adopted in the Commission's 1972 *Cable Television Report and Order* [1] and, although some changes in them have been made, they retain the basic form given them at that time.

3. Almost four years ago the Commission initiated a formal inquiry to review the purpose, effect, and desirability of the syndicated program exclusivity rules.[2] This was followed by a similar proceeding to review the distant signal carriage rules.[3] Detailed economic reports reviewing the functioning of these rules and their impact on the public's television service were adopted by the Commission in 1979. These *Reports* concluded that the television service received by the public would not be impaired and would in some respects be significantly improved by the elimination of these regulatory constraints.[4] Based on these findings, a *Notice of Proposed Rule Making* was issued proposing the elimination of the distant signal and syndicated program exclusivity rules.[5] The purpose of this *Notice* was to permit interested persons an opportunity to participate in the rule making process, to comment on the research and analysis presented by the Commission, and to set forth relevant information of their own relating to the rule making proposal.

4. We have now carefully reviewed the comments received. This review persuades us that the proposal was sound and should be adopted. We have also reviewed proposals submitted to us for alternative rules that would require cable television system operators to obtain individual permissions, in the form of retransmission consents, for the distant television broadcast stations carried. This proposal is we believe, essentially related to copyright considerations and is beyond the authority of the Commission to adopt. Based on the wealth of information and analysis now before us, we believe the rule changes proposed should be adopted and that this will significantly benefit the public with no undue risk of injury to the broadcast service the public now receives.

General Background

5. Commercial television broadcasting in the United States is generally recognized to be highly remunerative. It is also a field in which competition is

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[1] 36 FCC 2d 143, 37 Fed. Reg. 3252 (1972).

[2] *Notice of Inquiry in Docket 20988,* 61 FCC 2d 746, 41 Fed. Reg. 50055 (1976).

[3] *Notice of Inquiry in Docket 21284,* 65 FCC 2d 9, 42 Fed. Reg. 32825 (1977).

[4] *Report in Docket 20988,* 71 FCC 2d 951 (1979) ("Syndicated Exclusivity Report") and *Report in Docket 21284,* 71 FCC 2d 632 (1979) ("Economic Inquiry Report").

[5] *Notice of Proposed Rule Making in Dockets 20988 and 21284,* 71 FCC 2d 1004, 44 Fed. Reg. 28347 (1979).

intended to be the general rule, with each individual broadcaster left to "survive or succumb according to his ability to make his programs attractive to the public." [6]

6. Although competition is the general rule, our system of broadcasting places significant weight on the value of "localism" [7] and on the understanding that broadcast station licensees are public trustees that must serve the "public interest, convenience, and necessity" even if, in particular circumstances, that does not comport with their own immediate economic interests. [8]

7. The juxtapositon of these considerations has created a certain tension in the law as it is applied to broadcasting. Because competition is the general requirement, the Commission is not to be concerned with the effects of competition on station revenues or profits. It must be concerned, however, if there is evidence that competition is so destructive or debilitating that it results in a loss of broadcast service to the public. [9]

8. The Commission's historic concern in its regulation of the cable television industry has been that the additional viewing options made possible by the expanded channel capacity of cable systems and their ability to introduce distant signals that would not ordinarily attract viewers in the local market, introduced competition that was likely to be both inequitable and destructive. When first presented with this issue, the Commission found in the available evidence no basis for action. [10] However, in the years that followed, the potential for injury was felt to outweigh the lack of clearly defined evidence and the regulation of cable television operations was commenced. [11] Although the Commission's authority to act in this manner was not specifically set forth in the Communications Act, the Commission's general authority was found by the Supreme Court to be broad enough to authorize this regulatory activity. [12]

9. The Commission's assumption of regulatory responsibility in this area was at each step accompanied by frank admissions that the facts underlying its theoretical concerns were not fully understood. In 1965, certain regulations were applied to cable television indirectly but the Commission found it "impossible, with the data at hand, to isolate reliably the effects of CATV competition from all the other factors which operate to produce particular financial results in differing settings." [13] In 1966, the Commission adopted new rules for cable television operations, but stated, with respect to adverse impact on broadcast service, that "we cannot make that judgment on the record now before us" and that "[i]t may be that CATV, if allowed full, unfettered growth, would prove to be an excellent supplement, bringing additional service and diverse programming to millions of people in built-up areas who can afford it, without detriment to the provision of additional local broadcasting service to the entire nation. * * * It is, we think, time to get the facts * * *" [14] Again in 1972 the Commission found itself faced with conflicting evidence and again felt compelled to act in the face of inherent uncertainties and with no ability to forecast precisely how cable was likely to develop. [15] The history of our regulatory involvement with cable television is set forth in some detail in Appendix A to this document. This *Report and Order* involves a major alteration in our cable television rules and it is therefore important that the nature of the change from past policies be clearly understood so that it is evident that "prior policies and standards are being deliberately changed, not casually ignored." *Greater Boston Television Corporation v. FCC*, 444 F. 2d 841, 852 (1970). This history should also demonstrate that, because of their unique origin, the present rules may not be entitled to the benefit of the doubt sometimes accorded the *status quo*.

The Existing Rules

10. The signal carriage rules are basically of four types: Rules that mandate carriage of particular signals, rules that limit the number of distant television broadcast signals that may be carried, rules that require the deletion of particular network or syndicated programs from signals that are carried, and rules that require deletion of particular sports programs from signals that are carried.

In this proceeding we are focusing our attention only on the distant signal and syndicated program exclusivity rules. Changes in the mandatory carriage, sports blackout, and network nonduplication rules have been explicitly excluded from review in this proceeding. [16]

11. The distant signal carriage rules generally vary the number of distant signals that cable systems may carry based on the size of the television market (35 mile zone) in which the system is located. [17] Systems that are not located within a market, as that term is defined by the rules, are not subject to any limits. Those in the smaller television markets (below the 100 largest markets) may carry no distant independent or network television stations if each of the three national television networks has a local affiliate and one or more independent stations exist in the market. If there is no local independent station or one or more of the national networks do not have local affiliates, then distant station signals may be imported so that subscribers have at least one independent station signal and one station affiliated with each of the national networks.

12. Cable television systems in the 100 largest television markets are permitted to carry enough local and distant signals to provide subscribers with at least two independent television stations and one station affiliated with each of the national television networks. Moreover,

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[6] *FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 475, (1940).

[7] *Sixth Report and Order in Dockets 8736 et al.*, 41 FCC 148, 172 paras. 79 and 124 (1952).

[8] Section 309, Communications Act of 1934, as amended, 47 U.S.C. § 309; *Enbanc Programming Inquiry*, 44 FCC 2303 (1960).

[9] *FCC v. Sanders Bros. Radio Station, supra; Carroll Broadcasting Co. v. FCC*, 258 F. 2d 440 (D.C. Cir. 1958).

[10] *Report and Order in Docket 12443*, 26 FCC 403, 24 Fed. Reg. 3004 (1959).

[11] First indirectly, *Carter Mountain Transmission Corp.*, 32 FCC 459 (1962), and then directly, *Second Report and Order in Docket 14895 et al.*, 2 FCC 2d 725, 31 Fed. Reg. 4540 (1966).

[12] *U.S. v. Southwestern Cable Co.*, 392 U.S. 157 (1968).

[13] *First Report and Order in Dockets 14895 and 15233*, 38 FCC 683, 30 Fed. Reg. 6038 at paragraph 68 (1965).

[14] *Second Report and Order in Dockets 14895 et al., supra*, at paragraph 155 (1966). *See also Suburban Cable TV Co., Inc.*, 11 FCC 2d 604, 606 (1968) (separate opinion of Commissioner Loevinger).

[15] *Cable Television Report and Order, supra*. at paragraph 70. The rules adopted in 1972 were based in part on an industry "Consensus Agreement" which accounts for the lack of economic analysis of certain parts of the rules. See *The Role of Analysis in Regulatory Decisionmaking: the Case of Cable Television*, Lexington Books, 1973, page 26, where it is suggested that the parties' acceptance of the compromise was made "in a virtual vacuum."

[16] *Notice of Proposed Rule Making in Dockets 20988 and 21284, supra*, para. 5 at 1006.

[17] The terms "local" and "distant" are used loosely for purposes of this discussion. Generally speaking a local signal is one that is receivable over-the-air by television viewers and a distant signal is one that cannot be so received. The dividing line is not nearly as clear as this suggests, however, and entire proceedings have been devoted to adding greater definition to these terms. See, for example, *Report and Order in Dockets 16004 and 18052*, 53 FCC 2d 855 (1975) (involving television station contour definitions). The difficulties in defining these terms precisely are in part technical and in part a confusion over the question of whether, in a prticular situation, a technical, economic, or audience survey focus is appropriate. A continuation of the confusion over the correct definition continues in some of the comments filed in response to the *Notice* in this proceeding. These comments are addressed in detail below.

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under these rules, at least two distant independent signals may always be carried and, in the 50 largest markets, if there is no local independent station, three distant independent stations may be carried.

13. All cable television systems may also carry specialty stations (stations whose programming, on an all day basis and in prime time, is at least one-third foreign language, religious, and/or automated) and non-commercial educational stations in the absence of justified objection by local educational stations. Smaller systems (those with under 1,000 subscribers) are exempt from these limitations.[18]

14. The syndicated program exclusivity rules limit the carriage of individual programs on signals that are otherwise available for carriage under the distant signal carriage quotas. These rules apply only to cable television systems in the fifty largest and second fifty largest television markets. In their application to the fifty largest markets, they require cable television systems, at the request of local television stations, to delete all programs from distant signals that are under contract for television exhibition to local stations. The rules also permit the owners of television programs to require deletion of programs from distant signals for a period of one year after an individual program is first sold for television broadcast anywhere in the United States.

15. In the second fifty television markets, television stations that have programs under contract are also permitted by the rules to have these programs deleted from distant signals carried by cable television systems. The rights provided by the rules, however, expire at the end of specified time periods or on the occurance of a specified event: (1) for off-network series, exclusivity commences with the first showing and lasts until the completion of the first run of the series, but no longer than one year, (2) for first-run syndicated series, it commences with the first showing and runs for two years thereafter, (3) for feature films first-run non-series syndicated programs, it commences with the availability date of the program and extends for two years thereafter, and (4) for other types of programs, it commences with the purchase and continues until completion of the first run but, in no event, beyond one year.

16. These rules generally require that the distant signal programs involved be deleted regardless of when that particular program is scheduled for showing by the local market station. However, in the second fifty markets, if the distant syndicated program is broadcast in prime time it need not be deleted unless the market station seeking protection is also going to broadcast that program in prime time. The rules also permit cable television systems to substitute other distant signal programs, if they are available, in place of those that must be deleted under these rules.

17. Neither the distant signal nor the syndicated exclusivity rules, when they were adopted, were applied retroactively. That is, notwithstanding these regulations, cable systems carrying distant signals prior to 1972 were permitted to continue carriage of those signals. Moreover, programs on signals carried prior to 1972 were generally not subject to deletion under the syndicated program exclusivity rules. Both of these "grandfathering" provisions are of particular significance in the context of this proceeding because they make it possible to view the operations of a class of cable systems that are in many respects the equivalent of unregulated operations due to their operational status at the time our regulation was commenced. As will be discussed in greater detail below, this ability to observe the operations of unregulated systems is a significant aid to us in determing the impact of a more general deregulation of the cable television industry.

Origin of the Present Proceeding

18. These rules have increasingly been the subject of criticism in recent years.[19] In part this criticism is a reflection of the general disfavor into which regulations limiting competition have fallen. The preception that these rules were in need of re-evaluation, however, is also the consequence of: (1) the availability of more complete and detailed audience survey data reflecting television viewing patterns in the homes of cable television subscribers,[20] (2) the increasing financial strength of television broadcasters even in the face of increased cable television competition,[21] and (3) the resolution in 1976 of the status of cable television under the copyright laws by passage of the Copyright Revision.[22] In recognition of these changed circumstances and motivated by our own statutory responsibility to re-assess on a continuing basis the public interest value of our policies and regulations[23] we issued in November of 1976 our *Notice of Inquiry in Docket 20988, supra,* "commencing a detailed review of the rules that limit cable television carriage of syndicated programs on distant signals" and in June of 1977 our *Notice of Inquiry in Docket 21284, supra,* which commenced "a more general review of the economics of the relationship between television broadcasting and cable television."

19. In order to permit the fullest possible participation, the comment periods in each of those proceedings were extended. Additional studies

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[18] This description of the rules, it should be recognized, is somewhat oversimplified. Other provisions of the rules, for example, provide for the carriage of additional stations late at night (*Report and Order in Docket 20028,* 46 FCC 2d 446, 39 Fed. Reg. 33528 (1974)), for the carriage of additional network news programs (*Report and Order in Docket 19859,* 57 FCC 2d 68, 41 Fed. Reg. 1063 (1976)), and for the carriage of additional UHF stations (*Report and Order in Docket 20496,* 65 FCC 2d 218, 42 Fed. Reg. 36831 (1977)). Specific provision is also made for *ad hoc* variances from the rules in situations where their general application is found to be inappropriate. 47 C.F.R. § 76.7.

[19] See, for example, Staff of House Communications Subcommittee, 94th Cong. 2d Sess., *Cable Television: Promise Versus Regulatory Performance* (Subcommittee Print 1976).

[20] The national audience rating services for many years made no separate accounting for viewing in cable homes and, even after they first commenced making separate viewing data available, the widely scattered nature of cable television across the country and the relatively small number of households involved made it difficult to obtain statistically reliable samples.

[21] Annual broadcast station financial reports to the Commission reflect that, since 1972, when the existing rules were adopted, total television station revenues have increased by 183 percent. This occurred notwithstanding the fact that the cable television subscribing population increased by approximately 150 percent. During this period and controlling for inflation the profits of the average independent station rose more than tenfold.

[22] General Revision of the Copywright Law, Pub. L. 94–553, 17 U.S.C. Sections 101 *et seq.* (1976). Cable system operators historically have made use of both local and distant television broadcast signals without any direct nexus of financial responsibility either to the originating station or the creators of the programming broadcast. Questions as to the lawfulness of this situation and the appropriate policy that should be applied were debated almost from the very start of the cable industry. *See* Smith, "The Emergence of CATV: A Look at the Evolution of a Revolution," 58 *Proceedings of the IEEE* 967 (July 1970). In the late 1950's and early 1960's cable operators were charged with unfair competition, unjust enrichment, and tortious interference with contract rights—charges which the courts ultimately rejected in *Cable Vision, Inc. v. KUTV, Inc.,* 335 F.2d 348 (9th Cir., 1964) *cert. denied sub nom. Klix Corp. v. Cable Vision, Inc.* 379 U.S. 989 (1965). In the late 1960's and early 1970's, the Supreme Court found in two separate proceedings that cable television systems were not violating the 1909 Copyright Law by carrying either local or distant television broadcast signals. *Fortnightly Corporation v. United Artists Television, Inc.,* 392 U.S. 390 (1968) and *Teleprompter Corp. v. CBS, Inc.,* 415 U.S. 394 (1974). This dispute was resolved by the Congress in 1976 with the passage of the new copyright act.

[23] It should also be noted that the Commission is obliged by the decision of the D.C. Circuit Court of Appeals in *Geller v. FCC,* 610 F. 2d 973 (D.C. Cir. 1979) to reassess those of the rules which were based on the 1971 industry "Consensus Agreement" that is described in the *Cable Television Report and Order, supra.*

undertaken by the Commission's staff were placed in the record of Docket 21284 and made available for public comment and additional outside contract research was undertaken. Voluminous comments were received in response to each of these notices. Our examination of the materials filed and our own research efforts led to our *Syndicated Exclusivity* and *Economic Inquiry Reports.* Each of these *Reports* reached the conclusion that the rules under review were having negative rather than positive consequences in terms of the television service received by the public and that the rules could be eliminated without undue risk of injury to the public.

20. Based on these *Reports,* and with their findings incorporated by reference, we issued a *Notice of Proposed Rule Making* which invited public comment on the substance of each of the *Reports* as well as on the general conclusion contained therein to the effect that the Commission could proceed to eliminate these two sets of rules without incurring any considerable risk of injury to either cable or non-cable viewing members of the public.[24]

21. To obtain a fuller appreciation of those industries whose economic incentives, as tempered by regulation, have a major influence on the video services available to our society, we provided an overview of the television broadcasting, cable television, and television program production industries. *Notice,* Paras. 8–43, *supra,* at 1006–1021. We observed that the "competitive juxtaposition of these important elements of our economy's communications sector has produced numerous demands on the Congress and this Commission for the imposition of economic regulation." Para. 44, *id.* at 1020. We strongly emphasized, however, as we have on previous occasions [25] that the Commission's underlying concern in the regulation of both broadcasting and cable television is "with the quantity and quality of video and telecommunications service that the public receives" and not, as some might erroneously perceive, "with shifting or safeguarding revenues or profits, or with the success of failure of any particular firm, industry, or technology." Para. 7, *id.* at 1006.

Criteria for Evaluation

22. In the course of analyzing these rules, both in the two *Reports* and in the *Notice,* we reviewed in considerable detail the historical rationale on which the Commission had premised these regulations, and set forth Criteria on which to judge their continuing effectiveness. The restrictions historically were rationalized on one of the four following grounds:

(1) As a means of assuring the public against a net loss of television service as a consequence of cable-created audience losses which it was theorized would undermine the economic support of television stations and in the process deprive the poor and those living in areas unserved by cable or video services;

(2) As necessary to preserve the broadcast television allocations policy with its emphasis on local service;

(3) As a means of eliminating what was perceived to be the unfair means by which cable systems competed with local broadcasters; and

(4) As necessary to assure against injury to the continued production of television programming. Para. 45, *id.* at 1021.

23. In re-evaluating the facts and policies underlying the cable television distant signal and syndicated program exclusivity rules we identified three criteria by which it seemed to us appropriate to judge the effects of various policies on the welfare of consumers of video services. These three criteria, which roughly correspond with those considered and used in earlier Commission decisions involving cable television but using somewhat more precise economic terms, relate to: (1) consumer welfare, (2) distributional equity, and (3) external or spillover effects. These terms are described in some detail in our *Economic Inquiry Report, supra,* at 636–639.[26]

24. Briefly, consumer welfare is grounded in our responsibility to assure "efficient" communications service, 47 U.S.C. Sec. 151. It is reflected in our concern with assuring that policies adopted tend toward the creation of a communications system that increases the net video service supplied to the public or otherwise maximizes the value the public receives from society's overall investment in the video distribution system.

25. Distributional equity is related to the allocation between various segments of society of the costs and benefits of a particular policy. Cable television service, in contrast with broadcast service, must be paid for directly and is generally not available to residents of very low population density areas or urban centers where demand is low and construction costs are high. Thus, even if the effect of a policy change to consumers as a whole proved beneficial, some groups might be less well off as a consequence of that policy change.

26. External or spillover effects are related to our concern with localism in broadcasting and the obligations of broadcasters to inform the public. Since the true value of local news and public affairs programming may not be reflected in the number of individuals who view it or the value they place on it but rather in the value it has to our society as a whole and especially to the functioning of our democratic institutions, it may be regarded as an "externality" that needs to be accounted for in regulations since this extra or external value may not be completely accounted for by ordinary market institutions.

27. To the extent that the rules had in the past been based on a concern with "unfair" competition, we noted that this appeared to be a consideration that was coextensive with the issue of the cable industry's copyright liability. *Notice, supra,* at 1025. Moreover, we noted the statement of the Court of Appeals in *Home Box Office, Inc. v. FCC,* 567 F. 2d 9, 42 (D.C. Cir. 1977), *cert. denied* 434 U.S. 829 (1977) that "[W]e do not perceive any public benefit to be achieved by hobbling cable television to correct the sort of unfair competition alleged by the Commission."

Basis for Rulemaking Proposal

28. Comparing the facts adduced in the two inquiry proceedings with the criteria set forth for re-evaluating the rules, we concluded that "none of the four problems which these rules ostensibly address in fact exists." (footnote omitted) Para. 63, *Notice, supra,* at 1026. We concluded that the distant signal and syndicated exclusivity rules themselves caused "significant sacrifices in consumer welfare." *Id.* We found that no significant adverse consequences would befall the ability of television broadcast stations to provide local programming if the rules were eliminated and that the

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[24] In an effort to assure interested persons the fullest possible opportunity to participate in the present phase of this proceeding we extended the original time frames for the submission of comment and reply comment. *Order* adopted July 12, 1979, FCC 79–426, and provided further opportunity for comment on a new contract study undertaken at our request and deemed to be of relevance to the proceeding. The Consumer Assistance Division of the Commission's Office of Public Affairs distributed notice of the pendency of the proceeding widely to public and consumer groups with a potential interest in the outcome of the proceeding in order to promote the widest public participation in the decision process.

[25] *See, e.g., Cable Television Report and Order, Supra,* at 134 n. 32 where we stated that "We are guided by the standard of what will best serve the public interest and not by a desire to protect any industry from the impact of new technology."

[26] See also *Report in Docket 20988, supra,* at 955–956 and *Notice of Proposed Rule Making in Dockets 20988 and 21284, supra,* at 1023–1027.

likelihood of any viewers being significantly harmed from elimination of the rules was remote. *Economic Inquiry Report* at paras. 140–145, *Syndicated Exclusivity Report* at paras. 94–96. We noted that whatever effects deletion of these rules might have on program supply was derivative of the effects on television broadcasting and that the effects were found to be minimal. *Syndicated Exclusivity Report,* paras. 43, 45, 72–88 and 95. We also found no evidence to indicate that the interests of consumers of video services would be inadequately served by the "markets linking consumers with the cable, broadcasting and program production industries" if we eliminated these rules. *Notice* at para. 57. Finally, we concluded clear benefits would result from a relaxation of these rules, including "an increase in the opportunity for diversity and competition both in the economic marketplace and in the marketplace of ideas." *Economic Inquiry Report* at 143. "The benefits of our current rules are small," we said, "and . . . these benefits go mainly to broadcasters whose incomes thereby rise faster than they otherwise would. The costs of our current regulations fall on existing and potential cable subscribers, each of whom is denied some increase in freedom of choice. The costs of our present policy also fall on society as a whole, to the extent that we have inadvertently stifled some participants in the system of freedom of expression." *Id.* at para. 144. Accordingly, since we found no material benefits gained from the continuance of these rules, we issued our *Notice of Proposed Rule Making* proposing their elimination.

Alternative Rule Making Proposals

29. We also considered in our *Notice* two additional matters brought to our attention in the form of petitions for rulemaking. The first of these matters (RM–3324) was filed by the National Telecommunications and Information Administration of the United States Department of Commerce. It requested that we adopt a regulation that would compel new cable systems or cable systems expanding existing operations to obtain the consent of the originating station if they wished to distribute the non-network programs of that station. It was urged that this "retransmission consent" policy would achieve a marketplace solution to cable carriage of distant signals since such a proposal would leave distribution of this type of programming to marketplace forces instead of governmental intervention. NTIA emphasized that complete deregulation of distant signal carriage by the Commission would merely place increased emphasis on the Copyright Royalty Tribunal (a separate governmental body whose responsibilities include establishing the level of copyright fees paid by cable television systems for the carriage of distant signals).

30. We carefully examined the petition and, on balance, believed that it should be denied. We stated that to the extent that the proposal recommended that we refrain from deregulation of distant signal carriage and impose stricter syndicated exclusivity requirements on cable systems in the second fifty major television markets (also an aspect of the proposal) it involved "considerably more which appears less consistent with reliance on the marketplace." Para. 78, *id.* at 1033. Moreover, we added that to the extent the proposal favored deregulation only if accompanied by a retransmission consent policy and would continue to place distant signal carriage restrictions and syndicated program exclusivity restrictions on cable systems and their subscribers, "it is inconsistent with our conclusions, enunciated in the *Report,* clearly endorsing increased competition in the marketplace." Para. 79, *id.* at 1033–1034. As we had noted:

> a major objective of these proceedings was to determine from available economic evidence whether Commission regulation of the competition between cable and television broadcasting continued to be supportable on public interest grounds or whether a marketplace approach would produce better results for consumers of video services. The Reports adopted today indicate quite clearly that increased competition in the marketplace for video entertainment and information services would not adversely affect consumers of video service. Para. 81, *id.*

31. Further, we pointed out our "previous unsuccessful effort to implement a retransmission consent program" and that in light of this, we were "extremely reticent to forbear from proceeding on the evidence and recommendations" unless compelling evidence could be shown "that substantial injury now or in the foreseeable future would occur to the public." Para. 80, *id.* at 1034. We added that "[i]f our investigation of marketplace opportunities, deficiencies, and supplements so warrants," we were confident that we would "be able to take appropriate action at a later time." *Id.*

32. Nevertheless, we expressed our desire for "a market solution to the problems of compensating owners of programming materials" for their use by others. Para. 81, *id.* We pointed out that the retransmission consent proposal, as well as the existing compulsory license system, "prejudge the type of market institutions that can best deal with the protection of equities" and stated that our preference would be to allow the marketplace the opportunity to work and impose regulation only if it was shown that the marketplace would not work. *Id.* We therefore invited comment "on how the markets in program rights might develop, and what actions, if any, the Commission can legally take that would serve that end." *Id.* We expressed the view that "we should examine independently the retransmission consent aspect of the proposal" insofar as it was not contrary to the approach we proposed by reasons of our findings, and, accordingly, we solicited comment on it as well as "on preretransmission notification and any other way to allow the market process to work with the least amount of intervention." Para. 82, *id.* at 1035. We pointed out that our rejection of the petition on policy grounds avoided the necessity of our resolving the jurisdictional question posed by it. But to facilitate "a full discussion of what options we might have to encourage marketplace solutions in lieu of governmental regulation," we set forth some of the arguments which might lead us to believe that we do not have jurisdiction to adopt proposals such as the one embraced by the petition.

33. The other matter presented to us was a petition for rulemaking (RM–3346) from the National Association of Broadcasters which requested the Commission to commence rulemaking to consider the adoption of rules to ensure that the development of "superstations" does not result in harm to local broadcast service. We carefully examined the petition and related comments and reached the determination that no evidence existed to show that "a regulatory problem either now exists or is being fomented" which would justify a departure from our decision in *Memorandum Opinion and Order in RM–2952,* 68 FCC 2d 57 (1978), less than a year earlier, in which we declined to restrict carriage of television broadcast signals distributed to cable systems by means of satellite communication. Para. 104, 118, *id.* at 1043, 1050. We concluded that it would be inappropriate to halt the development of new video opportunities such as those created by satellite technology "unless it can be clearly shown that the detriments to the public . . . outweigh the benefits to be derived by consumers." Para. 125, *id.* at 1053.

34. In conclusion, we stated that "we have before us a wealth of information and analysis" from our *Reports* and that

we had given careful consideration to the two additional matters brought before us. Para. 126, *id.* at 1054. We reiterated our view that the distant signal carriage restrictions could be terminated "without undue risks and that the public would benefit by this action." *Id.* We noted our intention to provide interested persons "a full opportunity to subject to detailed examination all of the policy criteria, information, and economic analysis relied on." Para. 127, *id.* We pointed out that these "regulations cannot stand unless the need therefore has been documented" and, accordingly, we urged that interested persons "address themselves to supplying the evidence on which an informed decision can be made" particularly "with respect to those issues where the relevant information is uniquely in the possession of the commenting parties." *Id.*

Response to Notice of Proposed Rulemaking

35. Approximately 90 parties filed formal responses to our *Notice of Proposed Rule Making.* For purposes of responding to these comments we have divided our discussion roughly into three parts. The first relates to the question of the impact of cable television distant signal carriage on television broadcast service to the public. The second relates to the syndicated program exclusivity rules, a matter that in part relates to distant signal impact on broadcast service, in part to the impact of distant signal carriage on the supply of television broadcast programming, and in part to other concerns relating to property rights in television programming and the functioning of the copyright laws. The third involves the retransmission consent proposal, copyright concerns, and the functioning of markets for television programming. These issues are, we recognize, interwined both in the comments of various parties as well as in actual substance. This division, however, provides a useful format for discussing the extensive comments received.

Preliminary Procedural Issues

36. *Burden of Proof.* Before proceeding to discuss the substantive aspects of our proposed action and the comments received in response to it, a number of the commenting parties raise a general issue which warrants consideration. These parties urge that the Commission has in this proceeding improperly or unfairly placed or shifted the burden of proof to those persons who seek retention of distant signal carriage restrictions on cable systems. WTVC *et al.*, for example, state that we have unreasonably or unlawfully imposed a substantially higher burden of proof of persuasion on those favoring a retention of the rules which the Commission cannot cure by declaring that these interests "uniquely" possess relevant information which, if not submitted, will be taken as effective default. In a similar vein, Tribune Company says that we cannot avoid meeting the burden normally placed on a proponent of a proposed action by placing the burden on the proposal's opponent if the studies have failed to support our conclusions. KOB-TV *et al.*, express the view that since neither of the *Reports* contain an order or the equivalent of final action, any alleged attempt to treat the "injury" question as resolved or to shift the burden of proof is meaningless.

37. In *Home Box Office v. FCC, supra,* at 36, the Court stated that a "'regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist,'" quoting *City of Chicago v. FPC,* 458 F. 2d 731, 742 (D.C. 1971), *cert. denied* 405 U.S. 1074 (1972).

38. In *International Harvester Co. v. Ruckelshaus,* 478 F. 2d 615, 642–643 (D.C. Cir. 1973), the Court said:

> When certain material "lies particularly within the knowledge" of a party, he is ordinarily assigned the burden of adducing the pertinent information. This assignment of burden to a party is fully appropriate when the other party is confronted with the often-formidable task of establishing a "negative averment." *United States v. Denver & R.G.R. Co.,* 191 U.S. 84, 92 (1903).

39. In the *Economic Inquiry Report,* the *Syndicated Exclusivity Report,* and the *Notice of Proposed Rule Making* in this proceeding we have set forth in considerable detail the foundation for the rule change proposal. We recognize that the responsibility for making a reasoned decision rests with us and that our role is not to be that of a simple referee between the contesting interests. We have met our responsibility for adducing the evidence aggressively and, we believe, fairly. But it must be recognized that our resources are limited, especially in relation to the commercial parties involved in this proceeding. If publicly available information suggests certain facts and private parties contest those facts rhetorically but fail to provide data to support their argument, we believe we are justified in concluding that the absent information would not have furthered these parties' position. In our *Notice of Proposed Rule Making* we sought, with a full awareness of our responsibilities under 5 U.S.C. § 553 of the Administrative Procedure Act and applicable case law, to indicate that parties ought to assist us in meeting our burden if they expected us to reach a conclusion that would be sustainable under judicial scrutiny.

40. Recently, the level of specificity of record evidence to support agency rulemaking has been heightened through case law. The Supreme Court many years ago in *Pacific States Box & Basket Co. v. White,* 296 U.S. 176, 186 (1935) enunciated the principle that:

> Where the regulation is within the scope of authority legally delegated, presumption of the existence of facts justifying its specific exercise attaches alike to statutes, to municipal ordinances, and to orders of administrative bodies.

The Attorney General's Manual on the Administrative Procedure Act (1947) stated, in describing the rulemaking process, that:

> [F]indings of fact and conclusions of law are not necessary. Nor is there required an elaborate analysis of the rules or of the consideration upon which the rules were issued. *Id.* at 32.

41. The trend now, however, seems to be toward the requirement of a far more elaborate specification of the evidence:

> Once it was the general judicial practice to treat rules much like legislation. Once the question of the agency's statutory authority was settled, the main question was the traditional Brandeisian one: whether any set of facts could be imagined to support the rule in question. The decisions of our court for several years, as well as the Supreme Court's scrupulous review of the materials amassed by the ICC in the *Allegheny-Ludlum* rulemaking case, suggest to me that agencies are properly being held to a higher burden of justification. (footnote omitted) [27]

This is especially the case when, as here, First Amendment and national policies favoring competition coincide.[28]

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[27] Wright, "Court of Appeals Review of Federal Regulatory Agency Rulemaking." 26 Ad. Law Review 199, 207–208 (1974).

[28] *Home Box Office* v. *FCC, supra,* at n. 67. This is not to suggest that the burden of justification is unreasonably high, for as the same Court in a succeeding case of the same name stated "we may not demand complete factual support in the record for the Commission's judgment insofar as it rest[s] upon factual determinations that '[are] primarily of a judgmental or predictive nature'; for 'a forecast of the direction in which future public interest lies necessarily involves deductions based on the expert knowledge of the agency.'" (cititions omitted). *Home Box Office* v. *FCC,* 190 U.S. App. D.C. 351 (1978). As recognized by the Supreme Court, the strength of the record evidence to support an informal rulemaking action should not be confused with the statutory requirement of "burden of proof" under 5 U.S.C. § 556(d) of the Administrative Procedure Act. *American Trucking Ass'n* v. *U.S.,* 344 U.S. 298, 320 (1953): *See also U.S.* v. *Allegheny-Ludlum Steel Corp.,* 406 U.S. 742, 756–757 (1972). As to the soundness of the record evidence supporting

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42. Our intention in suggesting that parties wishing us to change our course and retain regulations or adopt alternative regulations provide us with evidence was simply to put them on notice that we would be unable to comply with our responsibilities under the law if we lacked evidence to support our conclusions, and that parties should assist us in obtaining that information if they were to obtain a positive response to their arguments. We do not believe that in doing this we have in any way improperly altered the burden of proof.

43. *Prejudgment.* In a somewhat related argument some parties have suggested that the outcome of this proceeding has been prejudged. They complain that the consultants used by the Commission had fixed views on the subject matter which were well known before they were hired, that Chairman Ferris in a speech indicted his predisposition, and that the very content of the *Notice* suggested prejudgment by its certitude. We reject categorically all of these arguments. The consultants we hired have well established reputations in the field, have a broad knowledge of it, and appeared to us to be virtually the only individuals with the required knowledge and with national reputations who were not already under contract to one of the interested parties and were available to us. No specific improper conduct on the part of any of them is alleged. The full text of the Chairman's speech seems to us to make it absolutely clear that his mind remained open for the objective consideration of the evidence. And the material in the Two *Reports* and the *Notice of Proposed Rule Making* seems to us entirely in keeping with their intended function of placing the public and interested parties on notice of the preliminary judgments reached in this matter so that responsive comments could be as focused and useful as possible.[29]

44. *Delay.* Another general procedural point raised in some of the comments concerns requests that further action in this matter be delayed pending the occurrence of various events. For example, the Motion Picture Association of America in its comments in the syndicated exclusivity inquiry urged the Commission to make no modification in the exclusivity rules "until the Copyright Royalty Tribunal is constituted and prepared to conduct the royal rate review that such modifications would require." [30] Others have urged that, until legislation is forthcoming, no further deregulatory action should be taken and that "the Commission should defer all action in this proceeding until such time as Congress has acted on the Broadcast/CATV provisions of the Communications Act Rewrite Bill currently pending before it." [31] Fisher Broadcasting also asks that the Commission "defer all action in this proceeding until such time as it has adopted and provided sufficient time to evaluate, *inter alia,* local origination requirements for cable television systems (RM-3430), recommendations of the UHF Comparability Task Force (Gen. Docket No. 78-391), opportunities for minorities and women to become television and radio owners and operators, etc. [sic]" [32]

45. In addition, we have been asked by Congressman Robert W. Kastenmeier, Chairman of the House of Representatives Subcommittee on Courts, Civil Liberties, and the Administration of Justice (the House Subcommittee with responsibility for copyright matters) to "delay taking any action which would disturb the delicate balance of copyright and communications policy until the Copyright Royalty Tribunal has been given an opportunity to carry out its 1980 review and Congress is in a position to respond, if necessary." [33] A number of similar requests were also received from other members of the Congress. [34]

46. Endemic to the cable television regulatory process is the problem of delay. Almost fifteen years ago it was proposed that new cable systems be prohibited from carrying distant signals for a period of five years "to allow time for UHF stations' growth and, perhaps, resolution of the copyright question." [35] When the cable television copyright issue was first before the Supreme Court, eight years before the Copyright Act was finally revised, the Solicitor General suggested to the Court that it "defer judicial resolution of the . . . case in order to allow a speedy completion of the pending legislative proceedings." [36] In 1972, the Commission was urged to delay implementing already adopted cable television rules until Congressional enactment of copyright legislation.[37]

47. This historical experience suggests to us that delay is not likely to either be as short as is initially anticipated or to improve the policy making processes in this difficult area. All of the evidence in this proceeding has been carefully accumulated and action seems to us already overdue. This is especially the case with respect to the syndicated program exclusivity rules which, when the *Inquiry* proceeding commenced, were said by the Commission to deserve "prompt and expeditious handling" with the Commission's consideration of the matter to be concluded by *January 1, 1978.* [38]

48. We are also required by the decision in *Geller* v. *FCC, supra,* to review those aspects of the rules that grew out of the 1972 "Consensus Agreement." And we have been reminded recently by the D.C. Circuit Court of Appeals in another context that "delay in the resolution of administrative proceedings can also deprive regulated entities, their competitors or the public of rights and economic opportunities without the due process the Constitution requires." (footnote omitted).[39] We believe our obligation to proceed with the resolution of this matter is clear. We would note, however, that even proceeding as expeditiously as we are able, the rule changes adopted will not become effective much before the time when the Copyright Royalty Tribunal's initial deliberations should be complete and that development of new cable

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the *Notice of Proposed Rule Making* in this proceeding, we believe that its evidential foundation was more than adequately detailed in the *Economic Inquiry Report,* the *Syndicated Exclusivity Report,* and the *Notice of Proposed Rule Making* itself.

[29] It should be noted that we have already issued a partial response to some of these allegations. *In the Matter of McKenna, Wilkinson & Kittner,* FCC 79-717,——FCC 2d——(1979).

[30] Motion Picture Association of America, comments in Docket 20988, April 13, 1977 at p. 8.

[31] Fisher Broadcasting Inc., comments in Dockets 20988 and 21284, March 17, 1979 at p. 2.

[32] We were also requested to hold further oral proceedings in this Docket which would in our view also have resulted in a further long delay in the resolution of this proceeding. That request has been the subject of a separate opinion. See *Memorandum Opinion and Order in Dockets 20988 and 21284,* FCC 80-442.——FCC2d——(1980).

[33] Letter of March 13, 1980.

[34] On the other hand, Congressman Van Deerlin, Chairman of the House of Representatives Subcommittee on Communications, wrote the Commission before this proceeding was even commenced, stating "Now that the Copyright Revision Act is law, I urge you not to delay in your reconsideration of the sydicated program exclusivity rules." Letter of October 21, 1976.

[35] Statement of Commissioner Kenneth A. Cox, concurring in part, and dissenting in part to the *Second Report and Order in Dockets 14895, 15233, and 15971,* 2 FCC 2d 725, 817 (1966).

[36] *See Teleprompter Corp. v. CBS,* 415 U.S. 394, n. 16 (1974).

[37] *Reconsideration of Cable Television Report and Order,* 36 FCC 2d 326, 328 (1972).

[38] *Notice of Inquiry in Docket 20988, supra,* at para. 9.

[39] *MCI Telecommunications Corp.* v. *FCC* Case No. 79-1119, slip opinion at 43 (D.C. Cir., April 2, 1980). See also *Delay in the Regulatory Process,* Senate Document No. 95—72: "Delay in the regulatory process is not merely an irritation. It can add enormous expenses for business that are eventually reflected in higher prices and increased unemployment." (p. 176).

television systems, especially in the major television markets, will occur slowly and should leave ample time for legislative consideration of the changes we are adopting.

II. The Effect of Distant Signals on Television Service to the Public

49. There are in excess of 1000 television stations and 4000 cable television systems in operation, serving together almost 74 million television households in the United States. Every year financial and programming data is filed with the Commission and audience survey information is collected by commerical audience survey organizations. This information provides the raw data from which judgments can be made and estimates created as to the existing and potential impact of cable television distant signal carriage on the television service received by the public.

50. Our *Report in Docket 21284* and our *Report in Docket 20988* represented the culmination of years of intensive research on the effect of distant signals on television service to the public. Estimates of the future are, of course, inherently uncertain. But in our *Inquiry Reports* we used the information available to us along with certain mathematical tools and with the assistance of the commenting parties sought to reduce these uncertainties to a manageable level. Various approaches to the question were used in order to increase the degree of certainty of our findings, including consideration of gross trends (TV station revenues and profits, television's share of total advertising, growth in television homes and in UHF television homes), econometric analyses of audience data, and case studies of situations intended as proxies of a potentially unregulated cable television future. We examined the supply and demand for cable television, the amount of audience that cable television diverts from local broadcast stations, and the effect that this loss in audience has on both the viability of local stations and the public service programming that they broadcast. To completely appreciate the the care with which we approached this task, the two *Inquiry Reports* and the *Notice of Proposed Rule Making* must be read in their entirety. In brief, however, our conclusion was that the vast majority of television viewers either stand to benefit or will be unaffected if the Commission's regulations regarding distant signals are relaxed.

51. As previously indicated, our discussion will be divided into three parts relating to: impact on television service to the public, the syndicated program exclusivity rules, and the retransmission consent and associated proposals. In each section we will review the substance of the findings from our *Inquiry Reports*, the comments received addressed to these findings, our response to these comments and our general conclusion with respect to each issue.

52. We turn first to the question of the impact of cable television distant signal carriage on television service to the public. The general proposition put forth in favor of distant signal regulation is that, in the absence of regulation, cable operations carrying distant signals will continue to grow, that local audiences will be attracted to cable delivered distant signals reducing the audiences of local stations which will in turn reduce the amount that advertisers are willing to pay to local stations causing the overall revenues of stations to decline. Stations will then, it is posited, reduce the amount of public service or "merit" programming they broadcast, generally reduce the quality of the service they provide, or, in the extreme, terminate operations and go dark.

53. Our economic analysis set about to test the validity of this model of what competition would be like in the absence of regulation. We resorted first to econometric and mathematical modeling techniques. That is we attempted to construct a rigorous model of the interaction of the cable and broadcast industries and, making use of many observations from the available evidence, construct, either manually or using computers, statistical models into which various assumptions could be placed for testing. The particular value of the econometric technique is that results are developed that have degrees of certainty attached to them and which indicate the influence of particular variables among many in contributing to the overall result. While these econometric techniques can be highly sophisticated and make it possible to account for a large number of variables at the same time, they are only as good as the data and the assumptions from which they are made up. As a cross-check for the econometric projections we also reviewed in detail actual case studies of markets or stations in which cable had been permitted, for various historical reasons, to grow without the limitations that are otherwise established by our regulations. The degree of confidence placed in our conclusions in making the proposals in this proceeding stems in large part from the findings of these case studies which represent in many respects an actual market test of the policies proposed in major aspect devoid of the speculations that are otherwise part of the process of projecting into the future.

54. Our *Reports* received extensive criticism from the television broadcast and television program production industries. However, as we believe our review of the evidence will demonstrate, no evidence has been presented that shows consumers will be disserved by the additional competition from cable television. Instead, the parties have attempted to shroud our conclusions in doubt by criticizing some of the analysis that we relied on. We have reviewed carefully all of the comments in the record and believe the discussion in this section will demonstrate that the criticisms are invalid or do not bear on our ultimate conclusions.

Statistical Models

55. In considering the impact of distant signal carriage on broadcast service to the public we turn first to the econometric and statistical models relating to: (1) the supply and demand for cable television service, (2) the audience impacts of distant signal carriage, and (3) the impact of audience changes on public service programming by television stations. This parallels the discussion which is found in Sections II, III, and V of our *Economic Inquiry Report*. It is important, however, to keep this discussion in proper perspective. Many of the criticisms are minor and, even if correct, not outcome determinative. Moreover, the evidence relied on most heavily in reaching our ultimate conclusion is not at all refuted: local stations have prospered despite the presence of high degrees of cable penetration and the carriage of large numbers of distant signals by the vast majority of cable systems in those markets where cable developed prior to our regulation. The parties opposing our conclusions do not address this finding but, instead, focus their comments on evidence which has less importance for our overall conclusion. Thus, the discussion in this section is weighted toward topics which never cut to the heart of the research that is presented in the *Inquiry Report*. While this framework appears to be unavoidable, we note again that this part of our discussion should be kept in the proper perspective.

56. *Supply and Demand for Cable Television*. To judge potential cable television impact on broadcast service it is necessary to have some estimate of the amount of cable television service that is likely to develop. Moreover, the effect of limiting distant signal carriage on cable demand is of particular

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importance in assessing the social costs that are imposed by our existing rules.

57. In order to obtain this information we undertook an analysis in the *Economic Inquiry Report* [40] which consisted of five major parts: (1) an historical analysis of the development of the cable television industry by size of market, (2) a summary analysis of the economics of the cable television industry, (3) a summary analysis of the demand for cable television, (4) a discussion of the necessary conditions for the viability of cable television in various kinds of markets, and (5) conclusions regarding untimate levels of cable penetration in individual markets. A brief synopsis of our findings for each of these parts is presented here.

58. Our *Report* showed that the growth of cable television has been inversely related to market size. Cable television generally serves communities with limited local television service or poor off-the-air reception. We found that two-thirds of the approximately 50 million households not now offered cable service are within the "metro" areas of the top 100 markets and 60 percent are in the metro areas of the top 50 markets alone. We concluded that for the cable television industry to match its growth of the past ten years, service must be provided to the large cities which have not yet attracted sufficient funds for construction. Whether these large cities are provided cable television service in the future will depend upon the economics of supply and demand in the cable television industry, including the effects of governmental regulation.

59. We studied the factors affecting cable system viability under various marketplace conditions because viability under various circumstances will determine the industry's future growth. The viability of cable operation is determined by its costs, such as capital costs, construction costs, and operating expenses (i.e., supply factors), and by its revenues (i.e., demand factors).

60. The demand for cable television commonly is measured by the penetration (or saturation) rate: the number of households that subscribe to cable service as a percentage of those offered service. It is important to note that the terms penetration rate, penetration level, and cable penetration often are used interchangeably. For example, we treat the penetration rate as equivalent to cable penetration, although the term, "systemwide cable penetration," actually may be the more appropriate usage. This is true because the terms penetration level and cable penetration also are used to denote the percentage of total television homes in a county or television market that subscribe to cable television (whether or not all of the television homes are offered cable service). In these cases, the more appropriate usage, to avoid confusion, may be countywide or marketwide cable penetration. Nevertheless, we believe that the appropriate meaning of these terms should be apparent from the context in which they appear.

61. A large number of factors affect cable demand—including especially the number and type of signals available over-the-air versus on cable, the reception quality of local signals, the subscription price, and the demographic characteristics of the households offered the service.[41] The extent to which these factors affect the demand for cable television has been analyzed in detail in five major econometric studies.[42] These studies find that the quantity and reception quality of the signals available over-the-air are key determinants of cable penetration. Additionally, the ultimate penetration rate for cable systems in the urban areas of the top hundred markets generally has been predicted to reach only 20 to 40 percent at the prevailing monthly rates in these areas, even with the importation of a substantial number of distant signals. These estimates are supported by current cable penetration data that show, in urban areas with good signal reception quality, systemwide cable penetration often is less than 35 percent. Or, to be conservative, these results imply that if every household in the urban areas of the top hundred markets had access to cable television, less than forty percent of all households in these areas would subscribe to the service.

62. The effect of distant signals on cable demand is particularly important in assessing the consumer welfare costs of our cable regulations. If consumer demand for distant signals is significant, our signal carriage restrictions result in large sacrifices of welfare for subscribers and potential subscribers. Most of the studies of cable demand estimate that the carriage of four distant independent signals will increase system penetration rates by at least nine percentage points on average. The effect of distant duplicating network stations on cable demand has been estimated to be similar to that of distant independents.

63. The supply of cable television also has received extensive analysis. Numerous models have been developed to determine the level of cable demand that would be required to generate enough revenues to cover system costs.[43] The conclusion from these models was that breakeven system penetration rates were in the 30 percent to 40 percent range. These estimates were for prevailing prices and for urban areas of the top hundred markets.

64. The final financial parameter for cable television operation considered here is pay cable. The advent of pay television as a service option for the cable television industry potentially can affect both the supply and demand for cable television. Currently, pay cable generally is offered as a pay channel (consisting primarily of movies) only to subscribers of the basic cable service. Only about one-third of all basic cable subscribers that have access to a pay channel subscribe to it. However, the extent to which pay cable will affect the growth of cable television cannot be precisely determined. The continued development of competing services such as multi-point distribution systems, subscription television stations, and video cassettes should have an effect on

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[40] *Report in Docket 21284, supra,* at paras. 74–96.

[41] It should be noted that many commenting parties have criticized the Commission for failing to analyze more closely the demographic characteristics of cable television households. It was believed that a more thorough evaluation of the social costs of cable television deregulation should have been performed by placing greater emphasis on the criterion of distributional equity. This criticism will be addressed more specifically below. Briefly, however, we felt it unnecessary to consider the demographic issue raised in great detail because we concluded that the risk of distributional effects resulting from the rule changes proposed is negligible.

[42] W. S. Comanor and B. M. Mitchell, "Cable Television and the Impact of Regulation," 2 *Bell Journal of Econ. and Management Sci.* 154 (1971); R. E. Park, "Prospects for Cable in the 100 Largest Television Markets," 3 *Bell Journal of Econ. and Managment Sci.* 130 (1972); Noll, Peck and McGowan, *Economic Aspects of Television Regulation* (1973); Charles River Associates, Inc., "An Analysis of the Demand for Cable Television," (1973); The John Hopkins University Center for Metropolitan Planning and Research, K. Lyall, R. Duncan, and C. DeKay, *Estimation of an Urban Cable Demand Model and Its Implication for Regulation for Major Markets* (1976).

[43] W. S. Comanor and B. M. Mitchell, "Cable Television and the Impact of Regulation," 2 *Bell Journal of Econ. and Management Sci.* 154 (1971); B. Mitchell and R. Smiley "Cable, Cities and Copyrights," 5 *Bell Jour. of Econ. and Management Sci.* 264 (1974); R. Crandall and L. Fray, "A Reexamination of the Prophecy of Doom for Cable Television," *Id.*; Noll, Peck and McGowan, *Economic Aspects of Television Regulation* (1973); Mitre Corporation, *Urban Cable Systems* (1971); Rand Corp., L. Johnson, *et al.*, *Cable Communications in the Dayton Miami Valley Area: Basic Report* (1972); The John Hopkins University Center for Metropolitan Planning and Research, *Economics of Cable Television in Urban Areas: Baltimore City* (1975); The John Hopkins University Center for Metropolitan Planning and Research, *Economic Feasibility of a Cable Systen for Cleveland* (1976); and Cable Television Information Center, *Cable Television Options for Jacksonvile* (1973).

the growth of both pay cable and the cable television industry.[44]

65. The ultimate cable penetration in an individual market will depend upon the availability of cable television service and the number of households that will subscribe when offered service. Due to the complexity of and the large variation in the factors involved, it is difficult to assess the extent to which cable television will grow to serve new areas. One factor is apparent, however: even if the demand for cable television increases to the point of surpassing the breakeven penetration rate required for new system growth, the demand for basic cable television service in the urban areas of the larger markets is generally such that not more than forty percent of the total number of households offered the service would subscribe.[45] Using this estimate, combined with the higher estimated penetration levels in other areas we concluded that the total number of cable subscribers in all markets will not be greater than about forty-eight percent of the total number of television households within the foreseeable future, even with unlimited distant signal importation.[46]

66. The Commission's analysis of the supply of and demand for cable television has not received extensive criticism. Only a handful of parties have taken exception to various parts of this section of the *Report*. We believe these comments, when properly analyzed, do not weaken our conclusions from this section that (1) the future growth of cable will be very dependent upon the ability of cable operators to offer consumers additional program choices and innovative services at attractive prices and (2) that no more than about 48 percent of the nation's television households will subscribe to cable television within the foreseeable future. In fact, the comments if anything tend to confirm our belief that the estimates arrived at were reasonable. Some of the commenting parties, in an effort to suggest that cable's impact on television broadcast service will be greater than our estimates, have suggested that we underestimated the likely growth of cable. Others, in an attempt to suggest that cable will never make a major contribution to the television service received by the public, have attempted to suggest that our estimates were too high. When the details of these comments are considered, the net result either reveals misunderstanding on the part of the commenting parties or tends to confirm the results of our earlier study.

67. For example, our prediction of an ultimate nationwide cable penetration on more than about 48 percent is criticized as being too low by Boston Broadcasters, Inc.[47] because the top 50 cable television operators currently have a 56 percent penetration. National Broadcasting Company, Inc.[48] argues similarly that cable penetration presently is 50 percent where pay cable is available and, as a result, seriously questions the reliability of the Commission's prediction. Despite our clarification of this point at n. 81 of the *Report in Docket 21284*, these criticisms demonstrate a failure to recognize the difference between systemwide cable penetration and marketwide cable penetration.[49] *Systemwide cable penetration* is defined as the number of cable subscribers to a system, as a fraction of the number of homes passed by cable by that system. *Marketwide cable penetration* is defined as the number of cable subscribers, as a fraction of the total number of television households in the entire market. The statistics furnished by the commenting parties refer to *systemwide* cable penetration. Our estimates pertain to *marketwide* cable penetration. For example, cable systems currently attract an average of about 53 percent of the homes they pass with cable.[50] But this figure *cannot* be extrapolated to the entire nation, *even if every home in the nation were passed by cable,* because two-thirds of the households currently without access to cable television are located in the "metro" areas of the top 100 television markets. The demand for cable television in these areas is significantly lower than in areas currently served by cable due to the large number of signals that is readily available without cable. Or, in other words, the aggregate systemwide cable penetration currently is as high as 53 percent only because cable television has grown to serve first the areas which have the greatest demand for its service. Therefore, if cable grows to serve the large urban areas that have not yet attracted the funds necessary for construction, the aggregate systemwide cable penetration will decrease. Thus, we find this criticism is without merit when the economic evidence is interpreted correctly.

68. The Association of Independent Television Stations, Inc., (INTV) [51] suggests that the estimate of 48 percent nationwide cable penetration must be re-evaluated in light of the cable industry's own predictions. INTV cites *Cablevision* and *Cablecast* to say that "cable industry leaders have predicated 50 percent cable penetration nationally by 1990." [52] The actual statement in *Cablevision,* however, is that "within the next three to five years, it is forecast that cable will serve 30 percent of all households in the United States and an estimated 50 percent of all homes will have cable service *available* to them." (Emphasis added).[53] The 50 percent figure refers to homes passed by cable, not subscribers to the systems. (That is, these households will have access to cable television, but will not necessarily subscribe to the service.) Similarly, not only is the citation to *Cablecast* incorrect,[54] but neither of the two issues which INTV may have been referring to can be used to validate their claim of a 50 percent nationwide penetration by 1990. The closest reference of this prediction in the two issued is that "cable operators are now beginning to realize that if they can sell additional services to, say 70 percent of their subscribers [in urban areas], and if basics are only 40 percent of homes passed, they really have 68 percent penetration. For this they will build." [55] This quotation suggests that a (basic) cable penetration of only 40 percent (of the homes passed by the system) is expected in urban areas. This suggestion corresponds with our estimate of cable demand, and contradicts INTV's claim for 50 percent nationwide cable penetration.

69. INTV also refers to the assumption by Paul Kagan Associates, Inc. that an additional 2.5 million households will subscribe to cable television every year until 1985. INTV then applies the assumption well beyond the range intended and concludes that "the

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[44] Compare the comments of Tribune Company in Dockets 20988 and 21284, September 17, 1979 where reference is made to the service MATV subscribers in apartment buildings received from MDS and STV stations as placing "Another damper on demand for cable service * * *." p. 21.

[45] See our discussion in the *Report in Docket 21284* at para. 89–92.

[46] For the complete derivation of this conclusion, see the *Report in Docket 21284* at n. 105.

[47] Comments on Boston Broadcasters, Inc. Dockets 20988 and 21284, September 17, 1979.

[48] Comments of National Broadcasting Company, Inc., Docket 20988 and 21284, September 17, 1979.

[49] Boston Broadcasters, Inc. filed supplemental comments on October 11, 1979 dealing specifically with this point. However, these comments fail to correct their previous error.

[50] *See* the *Report in Docket 21284* at para. 78.

[51] Comments of the Association of Independent Television Stations, Inc., Dockets 20988 and 21284, September 17, 1979.

[52] *Id.* at 22.

[53] *Cablevision,* "Advertising on Cable: From Madison Ave. to Main St.," October 23, 1978 at 22.

[54] INTV cites *Cablecast,* No. 188, December 18, 1978. The December 18, 1978 issue of *Cablecast* is No. 218. The issue numbered 188 is dated September 12, 1977.

[55] *Cablecast,* Paul Kagan Associates, Inc. No. 218, December 18, 1978.

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national cable penetration would exceed 55 percent in less than 15 years." [56] However, the validity of assuming a constant increase in the number of cable subscribers is highly questionable. Growth curves rarely follow this pattern over an extended time period. Instead, a logistic growth curve frequently is used to represent growth processes.[57] This reflects the fact that the most economically desirable locations for cable systems are constructed first and the fact that television viewers most desiring cable service become subscribers first.

70. Boston Broadcasters, Inc. proposes an additional argument for our 48 percent nationwide cable penetration estimate being too low in that it states, "when local stations are deprived of the best in professional sports, the more popular syndicated programming, and popular movies, more and more people will subscribe to cable in order to receive pay cable." [58] We note that the assumption guiding this argument is strikingly similar to that which the Commission relied upon in promulgating its former pay cable rules. In reviewing these rules, the Court found that "if there is any evidentiary support at all [that siphoning is real, not imagined], it is indeed scanty" [59] and as a consequence these rules were eliminated. No evidence has accumulated since the Court's statement and the elimination of the rules, nor has any such evidence been submitted in this record which suggests that such program siphoning will occur.

71. Boston Broadcasters, Inc. also claims that the estimate of 40 percent cable penetration in the metro areas of the top 100 markets is too low because recent surveys in Boston suggest that as many as 40 to 55 percent of the households offered service would subscribe. It seems to us, however, that reliance on surveys such as these should be kept to a minimum given the experience of existing cable systems. Surveys of this type often are unreliable because of the inflated expectation that people have of cable television before receiving the service, especially when pay cable television is included in the marketing package.[60] Actual experience and existing research, indeed, do suggest otherwise.[61]

72. In contrast to the above comments which suggests that cable penetration will be higher than our estimate, others say our estimate is already too high. American Broadcasting Companies, Inc. (ABC) says that "the enormous cost of wiring the nation * * * casts doubt upon achievement of even the 48 percent penetration level projected in the *Economic Inquiry Report.*" [62] It should be noted, however, that the ultimate nationwide cable penetration was estimated by the Commission to be *no more than* about 48 percent, even assuming that all households would have access to cable television. The possibility that all households would have access to cable television is extremely unlikely. Hence, the 48 percent figure represents an upper limit on nationwide cable penetration.[63] We believe this estimate provides a sufficiently conservative [64] basis from which to predict the future long-run impact of eliminating our distant signal carriage and syndicated exclusivity rules on local station audiences.

73. ABC also cites a report from the Commission's Broadcast Bureau on the information developed under the cable economic inquiry which said that "in our review of the demand for cable discussion, we find no indication that the staff performed a critical evaluation of any of the five studies." [65] Similarly, reference is made to the Broadcast Bureau's belief that the "assessment of the future of cable lacks analytical depth." [66] However, as noted in n. 80 of the *Report in Docket 21284,* a comprehensive summary and evaluation of the five studies on the demand for cable television was prepared for the Office of Telecommunications Policy (OTP), Executive Office of the President by six leading scholars in the communications field.[67] We felt this analysis was adequate, and thus determined that an additional detailed review of these studies was unnecessary.[68] Similarly, the assessment of the future growth of cable television relies heavily upon this analysis, together with the very conservative assumption that all households will be passed by cable in the future. We believe this approach provides a sufficient basis upon which to ascertain future potential levels of cable penetration for rulemaking purposes.

74. Some parties also have alleged a failure on the Commission's part to estimate the effect of pay cable on the growth of cable television. For example, Boston Broadcasters, Inc. finds that "amazingly, no consideration has been given by the Commission to the substantial effect that pay cable would clearly exert on the number of cable subscribers." [69] Similarly, INTV notes the inability of the Commission to estimate the effect of pay cable on the supply of cable television and concludes that the "estimate of 48 percent penetration in the foreseeable future appears to be nothing more than a guess." [70] To place the above criticisms into proper perspective, the Commission has found that sufficient data to determine the extent to which pay cable channels will increase the basic penetration rate are not yet available. Thus, the extent to which pay cable will affect the supply of cable television is not fully known at this time. However, no evidence concerning the effects of pay cable on the growth of cable television exists or has been presented which suggests our findings are incorrect. Pay cable, along with competitive services such as multipoint distribution systems, subscription television stations, video cassettes, low power television, and direct satellite to home broadcasting, are in the developmental stage. Any positive effect that pay cable is having on the growth of cable television in the short run is likely to be offset to some extent by competing services in the long run as these services begin to provide consumer access to services which may now be available

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[56] *Supra,* n. 51 at p. 22.

[57] *See, e.g.,* Rolla Edward Park, *Potential Impact of Cable Growth on Television Broadcasting,* the Rand Corp. R-587-FF, October 1970.

[58] *Supra,* n. 47 at 9.

[59] *Home Box Office, Inc. v. FCC, supra* at 42.

[60] *See, e.g.,* Walter S. Baer, *Cable Television: A Handbook for Decision-making,* the Rand Corp., R-1133-NSF at 44, February 1973.

[61] This is not to suggest that we would find higher penetration levels undesirable for this would suggest that cable was contributing even more than anticipated to the welfare of subscribers.

[62] Comments of American Broadcasting Companies, Inc., Docket 21284, at 37, August 3, 1979. The ABC comments in this proceeding and those of Bahia De San Francisco *et al.,* are substantially duplicative. Therefore comments attributed to ABC may also generally be attributed to Bahia De San Francisco *et al.,* throughout this discussion.

[63] For further clarification of this point, see n. 86 in the *Report in Docket 21284.*

[64] By conservative we mean a figure which tends to exaggerate the effect of cable television and thus makes any resulting impact estimate an upper bound one.

[65] Broadcast Bureau, Report on Information Developed Under the Cable Economic Inquiry, April 18, 1979 at 29.

[66] *Id.* at 32.

[67] *See* S. M. Besen, B. M. Mitchell, R. G. Noll, B. M. Owen, R. E. Park and J. N. Rosse, *Economic Policy Research on Cable Television: Assessing the Costs and Benefits of Cable Deregulation* (1976).

[68] We also attempted to avoid excessive duplication of the OTP report by focusing the summary of cable demand on factors that are relevant to this proceeding. For example, while ABC seems to believe the sensitivity of demand to price is worthy of review, we do not believe this factor is critical for determining the impact of cable television on local station audiences given that cable system operators set prices to maximize profits and not subscribers.

[69] *Supra,* n. 47.

[70] Comments of Association of Independent Television Stations, September 17, 1979 at 21.

only from cable. This marketplace response also applies to other non-broadcast services offered on cable. That is, if there is a significant consumer demand for other non-broadcast services offered on cable, we expect that these services also will be offered by competing distribution technologies. Most importantly, however, we believe we have adequately dealt with the uncertainties created by these new developments by estimating the effect of pay cable on the growth of cable television using the extremely conservative assumption that cable television will grow to pass every home in the nation. This approach provides an estimate of nationwide cable penetration that has an extremely small probability of being underestimated.[71]

75. The final area of criticism of this section of the *Report in Docket 21284* concerns the effect of additional distant independent signals on the demand for cable television. We found that distant independent signals increase the demand for cable television. While the extent of this increase is unclear, most studies estimate that the carriage of four distant independent signals will increase system penetration rates by at least nine percentage points on average. It is important to note that this increase is for system penetration rates and not county or market cable penetration. If some households in a television market do not have access to cable television, the effect of distant signals on marketwide cable penetration will be less than that on system penetration rates.

76. The National Association of Broadcasters (NAB) [72] performs its own analysis of the studies on cable demand and argues that our finding of the consensus of the effect of distant independent signals on cable demand is too high. On the other hand, Boston Broadcasters, Inc. expects that "the increase would be even greater [than the Commission estimates] in areas where the quality of television reception off-the-air is reasonably good." [73] INTV seems to believe that the extent of the increase in cable demand from additional independent signals is unclear.[74]

77. The only discussion in the comments that evaluates the findings of the studies on the demand for cable television is provided by NAB. NAB addresses five studies on cable demand, including that by Wharton Econometric Forecasting Associates which was undertaken as part of their audience model developed for this proceeding. For background in evaluating NAB's discussion, it should be noted that Noll, Peck, and McGowan present two studies of cable demand in their book by collecting data for two distinct samples.[75] One sample was chosen specifically to estimate the demand for cable television in the 100 largest markets. However, the authors found that "when this is done there is very little intersystem variation in the cable viewing options relative to over-the-air options so that the impact of added viewing options cannot be reliably estimated." [76] That is to say that in their sample of systems in the larger markets, most systems carry roughly the same number of distant signals and are faced with similar competition from local over-the-air television signals. Since there is little variation in the signals available to cable and non-cable households among large markets, it is difficult to estimate systematically the effect of additional signals. As a result, Noll, Peck and McGowan report that the overall explanatory power of this study is very low, and characterize it as having "highly inconclusive results." [77] In fact, when estimating the value that consumers derive from "free" television, an extremely important measure for the conclusions reached in their book, the authors do not rely upon this study, but rather rely upon their second study of cable demand. Resultantly, we did not include the study with highly inconclusive results among the five studies of cable demand reviewed in the *Report in Docket 21284*. Instead, we relied upon the second study performed and favored by the authors in their own work.

78. With this background, we find that in NAB's discussion of the studies of cable demand, reference is made to the study by Noll, Peck and McGowan that is not included in our review. We do not believe that any reliance can be put on this study. Hence, we find any conclusions that NAB attempts to draw from it unacceptable. Similarly NAB also criticizes our reliance on the study by Park, "Prospect for Cable in the 100 Largest Markets" [78] Because "Park's results, by his own admission, were not directly applicable to major television markets because most systems existing in 1970 were located in areas where off-the-air service was poor, due to lack of stations or bad reception." [79] This criticism also is without merit. Park characterizes his sample by saying the "model is developed using a sample of 63 cable systems located where several signals can be received over-the-air with no particular reception problem." [80] Additionally, Park says that the "levels of [off-the-air] service [in the communities served by these systems] are roughly the same as those found in most of the top 100 markets." [81] Hence, NAB's review of the Park study is in error.

79. Taking the above criticisms of NAB's review of the studies on cable demand into account, we believe that our finding of the effect of additional distant independent signals on the demand for cable television remains sound. Most studies estimate that the carriage of four distant independent signals will increase system penetration rates by at least nine percentage points on average. However, NAB contends that the Wharton study submitted with NAB's comments in response to the Commission's original *Notice of Inquiry in Docket 21284* is worthy of far more confidence than previous efforts to estimate the significance of the various factors which influence demand for cable television. For example, NAB draws upon the Wharton study to conclude that in a market with three

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[71] ABC in its comments has set forth some estimates of the cost of wiring the nation with two-way cable service. According to ABC "even assuming a very conservative household cost of $4,000, it would cost *$243 billion* to provide the presently unwired 60.8 million households with cable television service." Comments filed August 6, 1979 at 38. While these estimates are merely extrapolations from a study completed in 1968 and may not be very scientific, they do suggest why we believe our use of a 100 percent wiring assumption is extremely conservative.

[72] Comments of the National Association of Broadcasters, Dockets 20988 and 21284, September 17, 1979.

[73] *Supra*, n. 47 at 6.

[74] Although these parties differ on the facts, each uses its version to argue against changes in the rules. Thus, Boston Broadcasters, Inc. argues that the estimated effect of distant signals on cable penetration is too low because cable penetration is correlated positively with audience diversion. Hence, if the predicted cable penetration was higher, the predicted audience losses due to cable also would be higher. On the other hand, NAB argues that the effect of distant signals on cable demand is not substantial because it realizes that the major reason for allowing the importation of distant signals is the benefits that consumers derive from these signals. If there was little increase in cable penetration, NAB could argue more convincingly that distant signal importation is not in the public interest. We note, however, that NAB's argument is not very persuasive from a theoretical perspective. If consumers did not demand distant signals, cable systems would not import them. Furthermore, if no one were to watch distant signals, there would be no audience diversion from the local stations, so presumably NAB would not have cause for concern with importation of distant signals.

[75] Noll, Peck, and McGowan, *Economic Aspects of Television Regulation* (1973).

[76] *Id.* at 292.

[77] *Id.* at 293.

[78] Rolla Edward Park, "Prospects for Cable in the 100 Largest Television Markets," *3 Bell Jour. of Econ. and Management Sci.* 130 (1972).

[79] *Supra*, n. 72 at 79–80.

[80] *Supra*, n, 78 at 130.

[81] *Id.* at 136.

local independent stations in addition to three network affiliates, increasing the number of imported distant independents from 1 to 6 leads to an increase in cable penetration of 3.1 percent. NAB proceeds to conclude that "rarely will the projected increase of 3 or 4 precent fall at the critical margin of deciding whether or not to construct a cable system in a particular television market."[82] However, NAB has erroneously interpreted Wharton's treatment of cable penetration. Wharton defines cable penetration as the number of cable subscribers in a county as a fraction of the number of television households in that county.[83] This is not equivalent to systemwide cable penetration as NAB infers. Thus, NAB has made an error similar to that of INTV and other commenting parties in this proceeding as to the appropriate use of cable penetration. In this case, NAB mistakes countywide cable penetration for systemwide cable penetration. Since some homes will not have access to cable television, the effect of distant signals on countywide cable penetration will be less than that on systemwide cable penetration. Hence, Wharton's results are not necessarily inconsistent from those of the other studies of cable demand.

80. In summary, the criticisms leveled at the *Report in Docket 21284* have not persuaded us that our analysis of the supply and demand of cable television is incorrect. We continue to believe that the future growth of cable television will be dependent upon the ability of cable system operators to offer consumers additional program choices and innovative services at attractive prices. We also believe that no more than about 48 percent of the nation's television households will subscribe to cable television within the foreseeable future. We regard this estimate as sufficiently conservative to account for the possible effects of pay cable on system growth.

81. *The Impact of Distant Signals on Local Station Audiences.* Having developed some understanding of likely cable television growth patterns, the next step in our analysis in the *Economic Inquiry Report* was to obtain information on the audience behavior of cable television subscribers with access to distant signals. From this, estimates of the total local station audience impact likely to result from elimination of the distant signal carriage rules could be developed. In the *Inquiry* stage of this proceeding we were fortunate to have available a wealth of new information made available in large part due to new audience data from the audience rating services on the viewing habits of both cable and non-cable households in individual counties. Four major studies that made use of these new data were relied on heavily by the Commission. These studies were prepared by the National Cable Television Association (NCTA),[84] the Motion Picture Association of America (MPAA),[85] Wharton Econometric Forecasting Associates (WEFA) for the National Association of Broadcasters,[86] and Dr. Rolla Edward Park of the Rand Corporation under contract to the Commission.[87]

82. The NCTA, in a study of 109 stations operating in television markets with greater than 33 percent cable penetration, reported that the average audience diversion due to cable for the entire day is 8 percent, and is greatest in smaller markets. For instance, in one- and two-station markets cable diverts an average of 10 percent of audience, while in markets with three or more network stations, cable diverts an average of only 4 percent of potential audience. This difference is attributable to, in large part, the importation of the second and/or third network signal into the smaller markets. The diversion from UHF licensees was found to be one-third of that from VHF licensees because of the greater improvement in reception that cable television provides UHF stations. Additionally, since no market with greater than 33 percent cable penetration contains a local independent station, NCTA also analyzed the effect of cable on the audiences of mature UHF independents. Of the fifteen mature UHF independents for which the necessary viewing data are available, NCTA reported that cable augments the viewing of thirteen of these stations. Two UHF independents experienced an audience loss averaging 1.5 percent. We noted that the studies by NCTA do not adjust for the greater amount of television viewing by cable subscribers, nor do they estimate the effect of alternative signal carriage rules.

83. The MPAA study focused on individual counties rather than on an entire market and found that local stations lost more audience as the proportion of television households in a county subscribing to cable television increased. The audience diversion attributable to cable at a 12.5 percent cable penetration was reported to be 2.4 percent. At 50 percent cable penetration, audience diversion due to cable increased to about 15 percent.

84. The applicability of the results of the MPAA study are limited somewhat due to the aggregation of county data. MPAA aggregates all of the counties in its sample by the level of cable penetration and disregards the complement of local signals in the counties. However, the audience diversion for the local stations due to cable television is likely to differ substantially depending upon the number of local signals, even if the level of cable penetration is identical. For example, holding other factors constant, cable television diverts more audience where there is only one local signal because of the importation of a second and third network signal. Thus the applicability of the general results presented by MPAA is inadequate for assessing the effect of cable on local stations for any specific case.

85. While the above studies provided a "snap shot" view of the impact of cable television on local station audiences, the NAB–WEFA and Park studies, which were also relied on, attempted to estimate by econometric methods the effect of a *change* in the number of imported distant signals on local station audiences.

86. The NAB–WEFA study is an ambitious and comprehensive undertaking that compiles data for all counties for which viewing data are available for both cable and non-cable households. The model, however, employs a highly complex structure which increases the difficulty of analyzing simulations of the model. While we found certain flaws in the model which were reviewed in the *Economic Inquiry Report* and which we believed biased the finding that small independent stations suffer most from additional distant signals on cable, we were able to use it in terms of marketwide impacts by aggregating the predicted impacts to both independent stations and network affiliates, thereby providing one estimate for the entire market. For example, our summary of the NAB–WEFA results for large markets containing independent stations was that increasing the number of

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[82] *Supra,* n. 72 at 84.

[83] Wharton treats each county as representative of a market. Hence, countywide cable penetration is treated as analogous to marketwide cable penetration.

[84] National Cable Television Association, comments in Docket 21284, March 15, 1978.

[85] Motion Picture Association of America, reply comments in Docket 21284, June 20, 1978.

[86] National Association of Broadcasters, comments, "The Impact of Cable TV on Local Station Audience" prepared by Wharton Econometric Forecasting Associates, Docket 21284, March 15, 1978.

[87] R. E. Park, "Audience Diversion Due to Cable Television: A Statistical Analysis of New Data," the Rand Corporation, prepared for the Federal Communications Commission, January 1979. Attached as Appendix A to the *Report in Docket 21284.*

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distant independent stations from 1 to 6 would reduce local station audiences by 10 to 13 percent at a 50 percent marketwide cable penetration.

87. In small markets, where *no* adjustments to the NAB–WEFA model were made, NAB–WEFA found that increasing the number of distant signals from 1 to 6 would reduce local station audiences by 8.7 to 12.7 percent at a 52 percent marketwide cable penetration, depending upon the number of local signals. Finally, in medium-sized markets with three local stations, increasing the number of distant independent signals from 2 to 5 was predicted to decrease local station audiences only by 6.5 percent, even at the unreasonably high marketwide cable penetration of 68 percent. In neither case were the findings inconsistent with the results of the other studies in this proceeding.

88. Park, in a study done under contract to the Commission, estimated the effect of additional distant signals on local station audiences by using a simpler model based on a sample of 121 counties. He provides estimates of audience diversion due to cable under both the current signal complement permitted by the FCC rules and under relaxed signal carriage rules. The estimates for each are provided at both current and projected ultimate cable penetration levels. At current cable penetration, the incremental audience diversion from eliminating the signal carriage rules is estimated by Park to be 14 percent or less for all cases. At the projected ultimate marketwide cable penetration levels, the incremental audience diversion is estimated to be less than 20 percent in all but the smallest markets. However, we characterized Park's long-term results as being overstated, especially in small markets, because the projected ultimate cable penetrations are too high.[88] Hence, we interpreted Park's results for the long term as predicting virtually no scenario where the relaxation of the signal carriage rules will generate more than a 20 percent audience diversion. It should also be noted that we had numerous other problems with the Park model, aside from the projected levels of cable penetration, that led us to conclude that Park overestimated the effect of eliminating the signal carriage rules. These problems are important to note in assessing our conclusion of the general consensus of the impact of cable television on local station audiences. They will be discussed in detail below.

89. In conjunction with these four studies as well as the other comments received, we also analyzed the current impact of cable on local station audiences for six grandfathered markets, seven independent stations, and nineteen "worst case" broadcast stations or markets alleging harm due to cable. Audience diversion due to cable was found to be less than 10 percent in more than two-thirds of the cases analyzed. The specific findings of this study are discussed in detail below. For present purposes it is sufficient to note that the findings from the grandfathered markets contributed to our assessment of the more general statistical studies. The results of the analysis of these markets contributed heavily to our conclusions because they provide an excellent picture of the marketplace working essentially *without* signal carriage restrictions.

90. The consensus on the audience diversion due to cable television that was reached in the *Report in Docket 21284* was that:

> (a) The impact of cable television on local station audiences under current market conditions generally is less than 10 percent. This finding includes cases with extraordinarily high cable penetration and a large number of distant signals. For example, in one of the most extreme cases, Bakersfield, California, the local stations lose only between 9 and 13 percent of their potential audience due to cable, even though more than half the households in their market have access to at least seven distant signals on cable. Additionally, UHF stations, particularly UHF independents, often receive audience gains from cable television.
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> (b) The incremental audience diversion from eliminating the signal carriage rules will be less than 10 percent at all marketwide cable penetrations that are realistic in the foreseeable future for all but a few cases.

91. Our analysis of the impact of distant signals on local station audiences has received extensive criticism from the television broadcast and television program production industries. These range from specific criticisms of the Park study to the allegation that the Commission was highly selective in its use of the available research material. Each of these criticisms will be addressed separately below. Our discussion should demonstrate that the *incremental* audience diversion from eliminating the signal carriage rules will be less than 10 percent in the foreseeable future except for a very few cases. The fact that the data tell the same story in almost all cases shows the validity and robustness of the consensus that we have drawn from them.

92. Our goal throughout this proceeding has been to insure that we would have available the most accurate evidence possible from which to make a public interest determinaton. We considered this to be of particular importance in view of the fact that the stakes to consumers from the final outcome of this proceeding are so high. Many of the commenting parties devoted a large amount of their energies toward criticizing the Park study. As a preliminary matter, we must emphasize that we did not place our sole reliance, or, indeed, any overbearing emphasis on the Park study in reaching our conclusions on the impact of cable on local stations' audiences in the *Report in Docket 21284*, since it was only one of several studies that addressed this relationship. However, to alleviate any justifiable concern that might have a reasonable bearing upon the accuracy of the Commission's determination, we contracted with Dr. Park to address the criticisms of his initial study and to make certain modifications to improve it and test the validity of certain criticisms. (See Appendix B) As it turns out, our analysis shows that the additional work performed by Park acts to strengthen our previous conclusion concerning audience diversion due to cable television. Therefore, we rely, in part, upon the additional work undertaken by Park in addressing the criticisms of the television broadcasters and program producers that are relevant to this section. It should also be noted that at an earlier juncture in this proceeding we made numerous attempts to obtain modifications of the NAB–WEFA model so that it to could be relied on with greater confidence. However, the requested information was never received.

93. *The Consensus Effect.* Parties critical of our proposal, and the *Economic Inquiry Report* generally, have argued that the consensus of the studies reported was arrived at only through a misuse or misreading of the studies relied on. Thus, for example, ABC claims that "the Commission unfairly and improperly failed to give sufficient weight to studies submitted by NAB, MPAA, INTV and ABC, each of which predicted adverse impact on television broadcasting in more significant measures than the studies upon which the Commission relied."[89] The ABC Television Affiliates Association points out that Parks' results "vary tremendously from the *Economic Inquiry Report's* conclusion

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[88] In particular, Park's estimates for ultimate cable penetration are based on the assumption that every home will be passed by cable. We found this to be an unlikely possibility, especially in areas of low population density.

[89] American Broadcasting Companies, Inc., comments in Dockets 20988 and 21284, August 3, 1979 at 6.

that 'in all but the most extreme cases, the additional audience loss will be less than 10 percent in the foreseeable future' " [90] Upon reviewing the Commission's summary of the Park study, Capital City Television *et al.*, finds "the Commission's Conclusion that 'there is virtually no scenario which generates a 20 percent audience loss within the foreseeable future from relaxed signal carriage rules,' is clearly misleading." [91] The Joint Motion of the Association of Independent Television Stations *et al.*, alleges that "whereas the staff either ignored or went to great length to include material critical of NAB, MPAA, and INTV, it included virtually no criticism of either the NCTA or Park audience loss studies." [92] The National Association of Broadcasters complains of our treatment of its study, stating that we "capriciously chose to ignore critical findings of the Wharton study * * * " [93] INTV states that "since part of the Cooper study [commissioned by INTV] relied on data from the Wharton study, it too was discounted by the Commission without any discussion." Further, "there is no indication in any of the documents in this proceeding that the Commission even considered those portions of the Cooper study not relying on the Wharton data." [94]

94. As explained in the *Report in Docket 21284,* notable examples of audience studies submitted as comments in this proceeding that provided information which we consider very valuable in reassessing our cable policies and rules include those by NAB–WEFA, NCTA, and MPAA. Other comments, including those of ABC, we noted as submitting data that attempted to display the impact of cable television on local station audiences. The data provided by these comments, however, were not considered valuable for policy purposes because of the inadequacy of the analysis provided therein. The study by ABC, for example, focused primarily on the disparity in the share of viewing of local stations between cable and non-cable households. This analysis gives an entirely incomplete picture of the effect of cable on local stations because it fails to account for the relative sizes of the cable and non-cable populations.[95] Other studies, such as those of the Rocky Mountain Broadcasters Association, also appeared to us not to be usable in isolation for predictive purposes. Rather, to address the concerns in these comments, we analyzed, using a standard procedure, key economic factors of each station and/or market that was identified as being harmed by cable. Careful attention was given to the viability of these stations and, in cases of financial hardship, the extent to which cable was responsible for their financial distress. (See para. 174 below.) A similar procedure has been implemented for the comments in this round of the proceeding.

95. Additionally, while noting their limitations, the results of the studies of audience diversion by NCTA and MPAA were accepted by the Commission *in toto.* These studies generally are carefully done. And, despite ABC's claim, the results of the MPAA study are well within the bounds of audience diversion established as the consensus opinion by the Commission. For example, MPAA finds audience diversion from local stations attributable to cable television to be about 8 percent in counties with 30 percent cable penetration. Our conclusion in the *Report in Docket 21284* was that the impact of cable television on local station audiences at the present time generally is below 10 percent.[96]

96. On the other hand, the specific results of audience diversion for local independent stations predicted by the NAB–WEFA were rejected because of the inherent bias attributable to the model specification.[97] Where estimates were provided specifically for independent stations, we chose instead to employ the NAB–WEFA model to provide one estimate of audience diversion for the entire market.

97. The results of the NAB–WEFA model as to the incremental effect of additional distant signals on local independent stations were unacceptable because of: 1) the use of the "logit" equation specification, 2) estimation of the effect of increasing the number of distant independent signals from 1 to 6, instead of from a base of 2 signals as our rules currently permit for the markets analyzed, and 3) the use of unrealistically high marketwide cable penetrations.

98. To actually demonstrate the shortcomings of the NAB–WEFA study, we would have liked to compare its results to the detailed case study analysis that we performed for grandfathered markets (as we did with the Park study). We believe this comparison particularly would be enlightening if it could be undertaken for small UHF independent stations. Unfortunately, NAB–WEFA has not answered our requests for additional information. Furthermore, we have been unable to duplicate the reported results of the NAB–WEFA study.[98] In these circumstances we do not think it would be appropriate for us to employ the NAB–WEFA model to make predictions of audience diversion due to cable for the small independent stations that we analyzed in the case studies.

99. The main problem identified with the NAB–WEFA study was that it employed a "logit" equation specification for predicting audience shares under various signal complements. Our *Report* showed that employment of this equation specification resulted necessarily in a proportionately greater impact on local independent stations than network affiliates, regardless of what the actual data may have indicated.[99] Hence, we rejected the "finding" that small, independent stations suffer most of the audience losses from additional imported signals. Instead, as indicated previously, we summarized the results of the NAB–WEFA model by providing its prediction of the impact of cable on local station audiences for an entire television market, and not for its predictions of the impact on individual stations.

100. In its reply to the Commission's critique, WEFA finds that "the derivation of derivatives shown in footnote 116 (page 61) of the FCC document is correct," but "the

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[90] ABC Television Affiliates Association, comments in Dockets 20988 and 21284, September 17, 1979 at 14.

[91] Capital City Television *et al.*, comments in Dockets 20988 and 21284, September 17, 1979 at 5.

[92] Association of Independent Television Inc.; Caucus for Producers, Writers and Directors; Metromedia, Inc.; Motion Pictures Association of America, Inc.; National Association of Broadcasters; National UHF Broadcasters Association; and Screen Actors Guild; *Joint Motion for Revision of Procedures,* Dockets 21284 and 20988, June 22, 1979. The discussion provided therein has been incorporated into the comments of this proceeding by the Motion Picture Association of America.

[93] National Association of Broadcasters, comments in Docket 20988 and 21284, September 17, 1979 at 111.

[94] Association of Independent Television Stations, comments in Dockets 20988 and 21284, September 17, 1979, at 28.

[95] See also our discussion on the appropriateness of using "share data" in the Case Study Section of the *Report in Docket 21284.*

[96] For a comparison of the results of the major studies submitted in this proceeding on audience diversion, *see* the *Report in Docket 21284,* para. 116(a). *See* also Park, Appendix A, *Report in Docket 21284* at 38–48.

[97] For a detailed analysis of the NAB–WEFA predictions, *see* the *Report in Docket 21284* at para. 107 and n. 116.

[98] For example, when we employ the NAB–WEFA model, we find that the sum of individual shares predicted for each station in a market varies greatly from 100 percent. In contrast, NAB–WEFA, without explanation, reports that the predicted shares of the individual stations in a market sum to 100 percent.

[99] *See* the *Report in Docket 21284* at para. 107 and n. 116 for a more detailed demonstration of the correctness of this statement and the nature of a "logit" equation.

mathematics in footnote 116 support a conclusion exactly opposite to that given in the text of paragraph 107(i)." [100] WEFA's reasoning in reaching this conclusion is flawed. In fact, its own analysis confirms our findings. WEFA finds that "what the FCC has shown is that the percentage change in the market share (which is like a percentage change in a percentage share) increases as the market share decreases." [101] This is precisely the reason for which we reject WEFA's findings for independent stations (i.e., those stations with small market shares). Thus, the validity of our reasoning is not rejected, but agreed upon by WEFA. Furthermore, WEFA proceeds to provide numerical examples to demonstrate the validity of our criticism of the WEFA model. [102] WEFA's error in its reply is attributable to considering the absolute change in a local station's viewing share from additional distant signals rather than the percentage change. We are interested in and the NAB–WEFA model provides predictions for the latter. We find, and WEFA agrees, that this loss must necessarily be estimated to be greater for small independent stations when the logit equation specification is employed. [103] Hence, WEFA's criticism of our analysis of the NAB–WEFA's study is flawed.

101. Our *Report* also found that providing projections of audience diversion in larger markets when the number of imported signals is increased from 1 to 6 is not very helpful for policy purposes because two signals can be imported in these markets under existing FCC policies. Without explanation, WEFA contends that "the logic of [this] argument seems to be missing." [104] We feel, however, the logic of our argument is clear. The effect of relaxing the signal carriage rules in the larger markets is not equivalent to the effect of increasing the number of imported signals from a base of one. The appropriate incremental effect should be calculated from a base of two distant independent signals because we currently permit this many signals to be imported into all of the larger markets. [105]

102. WEFA also disagrees with our categorization of the market in their study with 3 network affiliates and 1 independent as a large market and therefore claims our criticisms of this simulation are not relevant. [106] However, in their original study, WEFA says that "we have considered two different local signal offerings for the *larger* market: three local network stations and one local independent . . ." [107] (Emphasis added.) Hence, in its report, WEFA categorizes its set of results for the market with 4 local stations as a larger market. Therefore, WEFA's claim in its reply is negated by its own discussion in the original study, and our criticisms of its procedure remain. [108]

103. Additionally, because it relies on the NAB–WEFA findings for the impact of cable television on local station audiences, Roger Cooper and Associates submitted an additional analysis which attempts to justify the NAB–WEFA findings. [109] For example, since our interpretation of the NAB–WEFA model is that smaller stations must necessarily be estimated to suffer greater audience losses (in percentage terms) from additional distant signals, Roger Cooper and Associates requested NAB–WEFA to run an additional simulation for a market containing an independent station with a much smaller audience share than specified previously. In comparing the results for these two cases, Roger Cooper and Associates conclude that "cable affects the local independent station in almost exactly the same way." [110] Roger Cooper and Associates bases this conclusion on the results presented in Table III of its analysis. In this table, importation of one distant independent signal on cable is calculated by Roger Cooper and Associates from NAB–WEFA's predictions to divert 38 percent of the audience from both the smaller and larger local independent stations. However, one of these calculations is arithmetically in error. The audience diversion to the stronger independent station, from a share in cable homes of 16.8 percent to a share of 12.1 percent, is 28 percent, and not 38 percent as Roger Cooper and Associates calculate. Therefore, instead of contradicting, it appears that Roger Cooper and Associates also has supplied an example supporting our criticism of the NAB–WEFA model.

104. Due to the fact that *both* of the Cooper studies [111] submitted in INTV's comments relied *exclusively* upon the NAB–WEFA results for independent stations for their estimates of audience diversion, we also rejected this analysis. [112]

105. INTV also has submitted a new study by Roger Cooper and Associates since the issuance of our *Report* that attempts to validate the results of the NAB–WEFA model. [113] Data on the shares of viewing of local independent stations in cable and non-cable households are provided for a few selected counties within the stations' service area (abstracting from the associated levels of cable penetration in the counties). We have performed a case study analysis of each of the eleven stations for which data were presented because focusing on a few select counties can provide a distorted picture of the effect of cable television on local station audiences. We found that cable television does not pose a threat to any of these stations. [See case study discussion below at paragraphs 157 to 184.]

106. NAB–WEFA has supplied some information to Roger Cooper and

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[100] *Supra*, n. 93, Exhibit H, at 1, 2.

[101] *Id.* at 4.

[102] *Id.* at 7. As documented in n. 116 of our *Report*, we believe the column entitled "ds/dx/S—logit" is the appropriate focus.

[103] It should be noted that WEFA also mistakes the Park audience model undertaken for the proceeding as a linear one, and proceeds to demonstrate that the same result holds for linear models. However, the Park model is not a linear one. For further discussion, *see* Park, Appendix A.

[104] *Supra*. n. 93, at 8.

[105] *See* 47 C.F.R., Part 76, Subpart D.

[106] This categorization is provided in the *Report in Docket 21284*, Section III, Table 2.

[107] *Supra*, n. 86 at 97.

[108] Careful analysis of WEFA's predictions for this simulation illustrates part of the problem with the model. If one distant independent signal is imported by cable, WEFA predicts that local households view the local independent.signal 30 percent more often than the distant independent signal. However, if six distant independent signals are imported, WEFA predicts that local households view the local independent signal 33 percent *less* often then *each* distant independent signal.

[109] Additional comments of Association of Independent Television Stations in Dockets 20988 and 21284, filed January 10, 1980, Attachment A.

[110] *Id.* at 13.

[111] The two studies submitted by INTV in the inquiry stage of this proceeding which were undertaken by Roger Cooper and Associates are: 1) The Effect of Cable Carriage of Distant Signals on the Audience and Revenue of Local Independent Television Stations, dated May 15, 1978; and 2) Part 2 of: The Effect of Cable Carriage of Distant Signals on the Audience and Revenue of Local Independent Telvision Stations and on Their Ability to Provide Service to the Public, dated January 31, 1979.

[112] The results of the Cooper studies are premised on the audience diversion estimates provided by NAB–WEFA. The other relationship which the Cooper results depend on concerns the revenues that local stations receive. However, since Cooper's revenue diversion estimates depend on NAB–WEFA's audience diversion estimates, they are biased. Nevertheless, Cooper's research concerning the revenues received by local stations was analyzed and we believe it is consistent with our conclusion that there is roughly a one-to-one relationship between the audience and revenue of television broadcast stations. Additionally, the estimates provided by Roger Cooper and Associates for the audience/revenue relationship of independent stations over the various day-parts have been employed by Park in his response [illegible] industry comments. (See Appendix B.) We also are aware of the study of Roger Cooper and Associates on the impact of cable television on local station audiences, by program, in San Diego and Bakersfield, submitted in the comments of Storer Broadcasting Company and McGraw Hill Broadcasting in this proceeding. We note that detailed case studies for both San Diego and Bakersfield are provided in the *Report in Docket 21284*, which constitute our response to this study.

[113] Association of Independent Television Stations, comments in Dockets 21284 and 20988, September 17, 1979, Attachment.

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Associaties concerning a simulation which is similar to the case of the independent station operating in Buffalo, N.Y., which we have analyzed in our grandfathered market study. For this simulation, the NAB–WEFA model is employed to estimate audience diversion due to cable from an independent (which, however, is UHF) station with a very small non-cable share (i.e., 5 percent) that competes with three local network affiliates.[114] The NAB–WEFA model predicts that the local independent station's audience share will decrease by 38 percent in cable households if one distant independent station is imported and will decrease by 80 percent in cable households with six distant independent stations. In the Buffalo ADI, we note that the independent station also attracts roughly a 5 percent share of the non-cable viewing in competition with three local network affiliates. Additionally, this station competes in cable households against four distant network affiliates, three strong distant VHF independent stations, and three Canadian signals. Our analysis shows, however, that the local independent station in Buffalo actually is *helped* by cable television in its local market. This evidence, which is drawn directly from the actual viewing patterns supplied by Arbitron and is not an econometric projection based on questionable techniques, contrasts sharply to NAB–WEFA's predictions.[115] Thus, we believe this evidence demonstrates further that the NAB–WEFA model is inappropriate for assessing the effect of distant signals on local independent station audiences.

107. As described previously, our *Report* summarized the Park study by providing the predictions derived by Park of the incremental audience diversion due to relaxed signal carriage rules at both present and projected ultimate cable penetrations. For example, in the long-term, Park predicts the incremental effect of eliminating the signal carriage rules to be as high as 41 percent for markets with one local VHF network affiliate. However, we discounted Park's long-term estimates because the projected ultimate cable penetrations employed to generate these estimates were overstated. For example, in markets with one local VHF network affiliate, Park projects an ultimate marketwide cable penetration of 84 percent by assuming every home will have access to cable television and by employing his earlier model on cable demand to predict cable penetration.[116] It should be noted, however, despite the fact that cable has grown to maturity in almost all one-station markets (i.e., few cable systems have applied for franchises in the past few years in these markets), and that many of the cable systems currently operating in the markets are carrying a large number of distant signals because of the grandfathering provisions of our rules, the average marketwide cable penetration in markets with one local VHF network affiliate currently is only 41 percent. Cable penetration is not expected to increase substantially in these markets because of the large areas of low population density contained therein. Thus, having discounted Park's values for projected ultimate marketwide cable penetration, we concluded that the predictions generated by Park's audience model suggest that there is virtually no scenario which generates a 20 percent audience loss within the foreseeable future from relaxed signal carriage rules.[117]

108. Capital City Television provides a list of thirty-one stations for which Park predicts a long-term incremental reduction in local station audience of 41 percent as a result of the elimination of the signal carriage rules and suggests that we have ignored his findings in this respect.[118] However, as noted, we have specifically rejected Park's long-term predictions, especially in one- and two-station markets, because the ultimate marketwide cable penetrations employed in these markets to measure the effect of cable are too high. Additionally, it should be noted that at the current level of 41 percent cable penetration for markets with one local VHF network affiliate, Park predicts only a 14 percent incremental audience diversion due to relaxed signal carriage rules. The cable penetration in these markets is not expected to increase substantially. Therefore, it is only the very few cases where cable penetration will exceed about 60 percent on a marketwide basis that Park predicts greater than 20 percent incremental audience diversion from relaxation of the signal carriage rules.

109. Our treatment of the long-term effect of the growth of the cable television industry is also found wanting by a number of the commenting parties. The Park study provides estimates of audience diversion due to cable under the current signal complement permitted by the FCC rules and under relaxed signal carriage rules. These estimates are provided at both current and projected ultimate cable penetration levels. In Table 4 of Section III of the *Report in Docket 21284*, we presented Park's predictions of the short run local station audience diversion due to relaxed signal carriage rules. The figures in this table represented the audience losses to local stations (in percentage terms) from additional distant signals at current levels of marketwide cable penetrations. These figures were derived by subtracting Park's estimates of local station audience in a deregulated market from Park's estimates of local station audience in a regulated market (both at current penetrations), and then, in order to determine the percentage loss, we divided these differences by the estimates of local station audience in a regulated market. In Table 5, to establish the upper boundary, we present Park's predictions of the long-term local station audience diversion due to relaxed signal carriage rules. The same procedure as before is employed here, except that all calculations of audience diversion are made at the projected ultimate cable penetrations. ABC claims that the audience diversion predictions in Table 5 do "not include audience losses from increased cable penetration." [119] This statement is simply untrue. In the first simulation in Table 5, for example, market cable penetration is predicted to increase from 28 percent to 37 percent *as a result* of the relaxation of the signal carriage rules.

110. Several parties disagree with our calculations of the long-term local station audience diversion due to relaxed signal carriage rules from the Park study. For example, the Joint Motion contends that the audience

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[114] Additional comments of Association of Independent Television Stations in Dockets 20988 and 21284, January 10, 1980, Attachment A.

[115] While this comparison is not perfectly valid because the independent station in Buffalo operates on a UHF frequency and the NAB–WEFA prediction is for a VHF station, the resulting disparity also is evident for other of our case studies. For example, while the VHF independent stations in Indianapolis and Seattle have much larger audience shares than the simulated 5 percent share in the NAB–WEFA example, they also are helped by cable television in their local markets.

[116] Park, *supra*.

[117] It should be noted that the conclusion of there being virtually no scenario which generates a 20 percent audience loss from relaxed signal carriage rules represents a summary interpretation of the Park audience model. That is, it accepts the estimates of audience derived from Park's estimation of an "attractiveness index" for various types of television stations as correct. However, as documented throughout the *Reports in Docket 21284 and 20988*, and explained again below, we believe that Park's audience estimation technique results in an overstatement of the true impact of cable on local station audiences.

[118] We have analyzed each of these stations in our case study analysis, *infra*. ABC makes a similar point but includes a different list of stations. ABC lists, for example, WUHQ, Battle Creek, Michigan as in a single station below top 100 market. The licensee of WUHQ in its comments, however, refers to the station as being in the 37th market.

[119] *Supra*, n. 89, at 19–20.

diversion estimates "should be based on both the increase in penetration *over time* and the impact of carrying the specified additional signals (including three distant network affiliates)." [120] (Emphasis shifted.) This is equivalent to the difference (in percentage terms) between local station audiences at current cable penetration levels with cable systems operating under the current signal carriage restrictions and local station audiences at projected ultimate cable penetration levels without signal carriage restrictions, holding all other factors constant.[121] Such an estimate includes audience diversion attributable to the growth of cable television that will occur irrespective of the elimination of the Commission's cable rules, because even if we were to retain our distant signal carriage rules, marketwide cable penetration would increase over the long run. However, audience diversion attributable to normal cable growth should not be added to that resulting from the elimination of our signal carriage restrictions in assessing the effect of the elimination of the Commission's rules. Or, in other words, the estimates for the long-term audience diversion *due to* relaxed signal carriage rules should *not* include audience diversion attributable to increases in cable penetration *not due to* relaxation of the signal carriage rules. Instead, the appropriate focus for policy purposes is the effect that a *change* in Commission *rules* will have on local station audiences. These estimates derived from the Park model are provided for the near term in Table 4 and for the long-term (i.e., in the future) in Table 5. The alternative method presented in the comments for displaying this data can also be used but is, we believe, a less appropriate focus. And, as we have indicated elsewhere, it clearly is not appropriate to hold all other factors constant when we can reasonably expect that there will be offsetting factors.

111. In summarizing the work undertaken on audience diversion due to cable television in this proceeding, we concluded that in all but the most extreme cases, the additional audience loss to local stations from the elimination of the signal carriage rules will be less than 10 percent in the foreseeable future. A number of parties, however, question the validity of this conclusion. We believe these comments reflect a misunderstanding of our conclusion. When properly interpreted, our conclusion is acknowledged to be an inference that is drawn from *all* work on audience diversion due to cable in this proceeding—NCTA, MPAA, NAB–WEFA, Park and the case studies—*after* the necessary adjustments are made to the studies.

112. Thus, for example, we summarized the Park model as predicting an incremental diversion of no more than 20 percent from relaxing the signal carriage rules. However, we provided numerous reasons and examples, aside from the chosen levels of ultimate marketwide cable penetration, that demonstrate that Park's estimates of audience diversion are overstated. Notable among these are: (1) the assumption that local stations obtain 100 percent of the non-cable local audience; (2) the assumption that the "attractiveness index" for each station does not vary with the number of signal choices. This assumption results in the estimated effect of a sixth imported independent station to be a substantial fraction of the estimated effect of the first; and (3) the failure to control for the fact that many cable systems carry more than the standard complement of distant signals permitted because of the "grandfathering" and "significantly viewed" provisions of our rules. These shortcomings of the Park model are not inconsequential. For example, Park predicts an overall audience loss due to cable of 42 to 46 percent in Palm Springs, California, under current marketplace conditions. We find the actual audience diversion in Palm Springs to be between 10 and 20 percent, depending on whether or not the increased television viewing in cable households is attributable to cable television service. Additionally, in summary form, the Park model predicts audience diversion from relaxing the signal carriage rules to be roughly 30 percent for markets comparable to Palm Springs (see Simulation 9, Table 5, *Report in Docket 21284).* Yet, most cable systems in one- and two-station markets already carry many distant signals because of the grandfathering provisions of our rules. For these reasons, in addition to the use of unreasonably high ultimate marketwide cable penetrations, it is clear that Park's estimates of the incremental audience diversion due to the elimination of the signal carriage rules are overstated.

113. Finally, the comment is made that we either ignored the NAB, MPAA, and INTV studies or went to great lengths to include material critical of them and included virtually no criticism of either the NCTA or Park audience loss studies. However, contrary to this allegation, the studies by NCTA and Park received substantial criticism in the *Report in Docket 21284* at paras. 101, 112 and 113, and notes 110, 121, and 126. Additional criticisms of the Park study are provided in the *Report in Docket 20988*. Thus, we believe, and our *Reports* give every indication, that each study and comment in this proceeding has received serious and extensive consideration. Where the results of one study are criticized, for example, the predicted effect of cable on independent stations in the NAB–WEFA study, we fully documented our reasons. Furthermore, ample opportunity has been provided to enable parties to comment not only upon our summary and analysis of the work submitted, but also on the case studies that were undertaken to scrutinize more carefully the allegations raised by the television broadcast industry. We also provided ample time for a second round of comments on the Park study, after minor adjustments were made by Park in response to industry comments. We believe our procedures in this proceeding extend well beyond the guidelines established by administrative procedural law.

114. But, what is most important to be aware of in assessing our determination of the incremental audience diversion from the elimination of our signal carriage rules is the fact that we have actual marketplace experience with local television stations operating in markets with extraordinarily high cable penetration and a large number of distant signals. In most of these cases, *total* audience diversion due to cable (including that from the large number of distant signals) is less than 10 percent. Furthermore, it is extremely rare to have the *total* audience diversion due to cable being greater than 20 percent, even in cases with extraordinarily high marketwide cable penetration and a large number of distant signals. Therefore, in conclusion, we are confident that the *incremental* audience diversion from eliminating the rules will be less than 10 percent in the foreseeable future for all but a very few cases.

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[120] *Supra*, n. 92, at 21. The Joint Motion correctly identifies an error in the characterization of simulation 3 of the Park study as markets containing 1 rather than 2 UHF independents. This error has no bearing upon our conclusions reached from the Park study, however, because the estimated effect of cable on local UHF independent station audiences is unchanged by the correction.

[121] The contention of the Joint Motion implies that the calculation should be made assuming partial equilibrium conditions. That is, all of the other things that affect local station audience, except for cable, should be held constant. We have already pointed out, however, that other factors, such as population growth, almost always act to more than offset any audience losses attributable to cable television over time. *See* Section IV of the *Report in Docket 21284.*

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115. *The Park Study.* As we pointed out earlier, the Park study done under contract to the Commission was one of several studies that we relied upon in arriving at the consensus effect of cable television on local station audiences. Since numerous criticisms of the Park study are provided in the comments, we contracted with Park to permit him an opportunity to respond to these criticisms. We have reviewed the comments on the Park study, his response to them, and the response of the parties to his response, and will discuss them as indicated below.

a. *Definition of local and distant signals.*

116. The Joint Motion questions the findings of the Commission by saying that "basic to the Economic Inquiry Report was acceptance of Dr. Rolla Park's definition of 'local' and 'distant' signals" and "that the use of [ADI] assignments in individual counties provides a distorted, skewed definition of 'local' and 'distant' stations."[122] Before addressing the merit of Park's definition, we would like to clarify, once again, that Park's study was not relied upon exclusively for our conclusion regarding audience impact. In fact, Park himself suggests that the studies be regarded as "complements rather than competitors." (*Economic Inquiry Report,* p. 755). As noted previously, we made use of four studies provided by outside parties in addition to our own staff analysis. We believe that the similarity of the results of these studies, when they are interpreted correctly, despite the use of different data and methodologies, lends credence to our reliance upon the general consensus derived from them.

117. As to the merit of Park's definition of local and distant signals, we find it acceptable. Despite the claim in the Joint Motion that "the Park methodology fails to distinguish between signals which are truly 'local' in a particular county and those which are accessible only to cable system subscribers," they fail to come up with a superior definition. In fact, an audience study submitted in this proceeding by one of the petitioners of the Joint Motion (MPAA) employed a definition of local signals which is strikingly similar to Park's.[123]

118. In an attempt to discredit Park's definition of local signals, the Joint Motion identifies several local commercial stations in Park's sample that have audience shares of zero in non-cable homes. The Joint Motion contends that a signal cannot be considered local to an area if it receives no off-the-air viewing. We, however, agree with Park in that "it is a fact of life that some stations get little or no audience in some parts of their own markets. One of the benefits of cable is that it improves reception so that these stations can attract some audience in previously dead areas."[124] Therefore, we do not believe that Park's assignments provide a distorted, skewed definition of local and distant stations. Nevertheless, we respect the contention that "although the precise impact of such errors cannot be determined [by ourselves] they are clearly significant in establishing the need for careful, objective review of the Park study in view of the Commission's reliance on the findings of this study."[125] To address this concern, Park excludes, in his revised analysis, all local stations in his sample that receive a zero share of non-cable viewing in their own market. Park's finding, after also making adjustments for other minor problems with the sample, is that "excluding these stations makes very little difference to the projections, and what difference there is, is usually in the direction of *less* diversion."[126] Thus, we believe that Park adequately has addressed the problem raised by the Joint Motion with respect to his definition of local and distant signals. Local stations with zero shares in non-cable households should remain in the sample when providing the preferred audience diversion estimates. Several parties, however, remain unsatisfied with Park's definition of local signals. MPAA, for example, advances several new problems with the definition. It identifies 13 additional counties in which a local station has a non-cable share ranging from 1 to 5 percent.[127] MPAA questions the reasonableness of these data, and, presumably, would prefer that these stations also be excluded from the analysis. We do not find this position surprising. MPAA questions the use of these data because it is precisely these stations which are helped by cable television. But, since a real effect that cable television has on some local stations is to increase the audience they receive in portions of their local markets, it would be invalid to attempt to eliminate this effect from the analysis. While there certainly can be different definitions of the term "local," and indeed there does not appear to be one definition for all purposes, we believe Park's definition to be a reasonable one which does not distort or skew his analysis and which is statistically acceptable.

b. *Day-parts.*

119. Of the five major audience studies in this proceeding, only two, NAB–WEFA and MPAA, provide detailed estimates of audience diversion from cable for all all day-parts (i.e., day, early fringe, prime time, late night). These two studies show that audience losses due to cable are greatest in the early fringe time period (*i.e.,* 4:30–7:30 p.m., Eastern Time, Monday–Friday). On the other hand, the studies by NCTA and Park, and the case studies undertaken by the Commission staff, focus primarily on the effect of cable on local station audiences over the entire day without any explicit adjustment or allowances for differences in viewer behavior in the four day-parts.

120. The broadcast industry's response to this treatment of audience diversion is that "the Commission's failure to consider Fringe Time audience losses in its major study of audience loss is a significant and prejudicial omission."[128] In an attempt to substantiate this claim, NAB submitted a modification of the previous work submitted by Charles River Associates concerning the audience/revenue relationship of television broadcast stations.[129] The results of this study suggest that the value of viewing households to local broadcast stations differs depending upon the day-part in which the viewing occurs. For example, CRA estimates that a viewing household

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[122] *Supra,* n. 92, at 12–13. The Petitioners also note our reliance upon the Park study in the *Report in Docket 20988.* On page 34 of that Report we said "we are relying upon Park's estimates (as opposed to other work on cable impact) because the total audience impact of cable for various complements of local and distant signals is readily available in his work and because we found in the *Report in Docket 21284* that his results are broadly consistent with other studies of audience impact." This statement was included simply to point out that other studies could have been used, but the results would have been similar.

[123] In its study, MPAA states that "We define 'local stations' as those stations in an ADI which collectively achieve a minimum share of 75 percent of non-cable household viewing, on a Total Day Basis." (Emphasis omitted.) Motion Picture Association of America, Reply Comments, Docket 21284, June 20, 1978 at 4. In comparison, Park required that local stations attract at least 70 percent of the total off-the-air audience in the sample counties selected from their ADI.

[124] R. E. Park; "Audience Diversion Due to Cable Television: Response to Industry Comments," the Rand Corporation, Santa Monica, California, a Rand note prepared for the Federal Communications Commission, November 1979 at 16. Attached as Appendix B.

[125] *Supra,* n. 92, at 15.

[126] Appendix C, at 17.

[127] Motion Picture Association of America, Further Comments in Dockets 20988 and 21284, January 10, 1980. MPAA also questions the shift in local market assignments for some stations in the sample resulting from Park's revision to take network non-duplication into account. We address this criticism separately below.

[128] Joint Motion, *supra,* n. 92, at 19.

[129] National Association of Broadcasters, Reply Comments in Dockets 20988 and 21284, October 17, 1979.

is worth approximately 45 percent more revenue to a network affiliate during early fringe than prime time. In comments submitted by INTV, Roger Cooper and Associates also demonstrate a skewed audience/revenue relationship for the different day-parts of independent stations.[130] In light of this belief that "impact in terms of Fringe Time is critical,"[131] we requested Park to determine whether estimates of audience diversion from cable for the entire day would differ if "worked-up" using audience survey data provided by Arbitron for each day-part. We also hoped to answer the question of whether the skewed audience/revenue relationship of television broadcast stations, in conjunction with the larger impact of cable television on local station audiences during early fringe, would cause a significant difference between the audience effect and the revenue effect of cable television on local broadcast stations over the entire day.

121. The results of Park's analysis confirmed that the impact of cable television on local stations' audiences and revenues would not change significantly if the estimates were developed from audience and revenue data for each day-part. In fact, Park finds that "audience projections are not affected by taking into account differences in diversion among different periods of the day."[132] Park also finds that "any differences between [the] revenue projections and the audience projections . . . are no larger than one percentage point. The exception is projections for independents using Charles River weights."[133] However, Park finds that the "revenue projections using Roger Cooper weights are almost the same as the audience projections."[134] In comparing these two results, it should be noted that the difference between the audience effect and the revenue effect of cable on UHF independents over the entire day when using the CRA audience/revenue estimates is due, in large part, to the perverse results generated by the CRA model. The CRA model estimates that an independent station *loses* revenue for every household watching the station during late fringe and earns approximately *fifteen times more* revenue for each viewing household during early fringe than during prime time.[135] These findings defy both logic and our general understanding of the broadcast industry. Although we previously rejected the audience diversion projections of Roger Cooper and Associates because they were derived from the NAB–WEFA model, we are inclined to rely more heavily upon the estimates of the audience/revenue relationship supplied by Roger Cooper and Associates in assessing the revenue diversion from local independent stations because these estimates were derived independently from the NAB–WEFA model and do not contain the same flaws.[136] If the results of the Cooper study of the audience/revenue relationship for independent stations are relied upon, then the impact of cable television on the audiences and revenue of local broadcast stations that is estimated from data for the individual day-parts usually is equal to, and is never more than three percentage points greater than, the impact of cable television on local station audiences that is estimated from data for the entire day. This omission seems to us to be neither significant nor prejudicial. In summary, use of audience data for the entire day is adequate for estimating the impact of cable television on local station audiences. The effect of cable on station audiences calculated from data for the entire day will be equivalent roughly to the actual effect on station revenues, just as we have previously assumed.

c. *Non-duplication protection.*

122. The Commission's rules specify that cable systems must provide "local" network affiliated stations protection, upon request, from lower priority distant stations that are simultaneously broadcasting the identical network programs.[137] In estimating the effect of cable on local station audiences, Park did not distinguish whether the distant network signals imported by the cable systems in his sample were being blacked out in accordance with our non-duplication rules. In Dr. Franklin Fisher's analysis of the Park study, submitted in the Joint Motion in this proceeding, he concludes that "one cannot tell the extent to which the reported results depend on this. Both the total audience equation and the audience share equation may be affected in any or all of their coefficients to greater or lesser extent by this problem."[138] The Park model as revised, however, explicitly takes into account non-duplication afforded to local stations. After making the necessary adjustment for stations that get protection and for stations that are blacked out to provide protection, Park finds this adjustment "does not change the audience diversion projections very much from those in my earlier report."[139] Hence, the question raised concerning the extent to which the results previously reported by Park depend on the protection afforded by our non-duplication rules has been answered. There is no significant change.

123. Nevertheless, NAB contends that the Park revision fails to provide any "indication of the effect of carriage of multiple non-simultaneous duplicate network programs."[140] Similarly, we also are aware of the contention of some parties that our non-duplication rules would be rendered ineffective if network affiliated stations were permitted to be imported from other time zones. It should be noted, however, that not one party has presented any evidence concerning the effect of non-simultaneous duplicate network programs. Nevertheless, we are fortunate to already have considerable marketplace experience with non-simultaneous or pre-released network programming.[141] Analysis of these situations leads us to believe that the public will be served best without additional restrictions on viewer choices emanating from an expansion of our

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[130] *See* n. 94, *supra*.

[131] Joint Motion, *supra*, n. 92, at 18.

[132] Attachment B, at 27.

[133] *Id.* at 22.

[134] *Id.* at 27.

[135] The finding of lost revenue during late fringe [illegible] not significantly different from zero, but the fact of an "unbiased" negative estimate remains.

[136] It should be noted that in NAB's reply to the Park revision, dated January 10, 1980, Dr. Fisher seems to argue that the CRA estimates are preferable because they are derived from an econometric study. Here, however, Roger Cooper and Associates have collected data *directly* from twelve independent stations. These stations provided the percentage distribution of their revenues over the various day-parts. With these data, there is no need for econometric modeling.

[137] For further clarification of these rules, *see* 47 CFR, Part 76, Subpart F.

[138] *Supra*, n. 92, Attachment at 15.

[139] *Supra*, n. 124, at 34. Park notes further that "if one further assumes that distant primary network signals are just as attractive as local affiliates, the projected diversion due to cable in one- and two-station markets is increased, but the projected incremental diversion due to relaxing present rules is decreased." For policy purposes, we are interested in the incremental effect of relaxing the rules. Thus, to be conservative, we prefer the estimation procedure which will overstate the incremental effect. The estimates using this procedure (See Appendix B, Tables 3 and 4) are relied upon when we assess the Park model. To this extent, Fisher's criticism of Park's further assumption is rendered moot.

[140] National Association of Broadcasters, Comments in Docket 20988 and 21284, January 10, 1980, at 15.

[141] In addition to our case study analyses in this proceeding of local television stations that are operating in competition with pre-released programming on cable television systems, see the *Second Report and Order in Docket 19995, 54 FCC 2d 229 (1975). See* also our *Report in Docket 20649, FCC 79–780 (1979).*

non-duplication rules. Finally, we must point out that these contentions address the question of the appropriate scope of our network non-duplication rules, and not our signal carriage rules. We have specifically and consistently stated that an analysis of the network non-duplication rules is beyond the scope of this proceeding.[142] We note that to the extent that parties wish to address the merits of the network non-duplication rules, a channel is available to them through petition for rulemaking.

124. Some parties also had difficulties with Park's methodology for adjusting non-duplication protection. For example, INTV asserts that "Dr. Park does not explain how he determined which stations receive non-duplication protection." [143] We note, however, that this explanation is provided by Park on page 52. [See Appendix C]. Additionally, MPAA finds "*many* instances where the blackout notations inserted by Park defy reason." [144] For example, MPAA questions "on what basis is KXII entitled to non-duplication protection [in county #17 (Bryan, Oklahoma)] while KTEN is not?" [145] This question reveals a lack of understanding of our non-duplication rules. Ardmore-Ada is a hyphenated market. The cable system in Bryan, Oklahoma is farther than 55 miles from station KTEN, Ada, but is within the 55 mile zone of protection of KXII, Ardmore. Thus KXII is entitled to protection and KTEN is not.[146]

125. MPAA also states that "*if we were asked to single out one case to illustrate the inaccuracy, unreasonableness, and prejudicial nature of the Park Study, we would rest our case on county #30* [Jackson, Alabama]." [147] (Emphasis in original.) We believe this statement demonstrates the lack of understanding with which MPAA has attacked the Park study. Therefore, we believe it useful to provide some extended discussion of the data for Jackson County. Park's designation of stations being either local or distant in his original study in this proceeding was determined by Area of Dominant Influence or ADI. Stations assigned by the Arbitron audience rating service to an ADI were considered local in all areas of that ADI. However, to avoid including counties near the fringes of an ADI, Park excluded counties from his sample in which the local stations received less that 70 percent of the non-cable viewing. Although MPAA did not provide an alternative method for defining local signals, and in its major study of audience diversion in this proceeding it employed a definition of local signals which is very similar to Park's,[148] MPAA found Park's definition to be unacceptable. Presumably, MPAA would prefer Park to have restricted the local area of a station to those areas which are even closer to the community of license. Interestingly, Park's revision of his definition of a local signal to account for non-duplication protection *did* have this effect in some cases. One such case is county #30 (Jackson, Alabama). Originally, Park considered the stations operating in Chattanooga, Tennessee to be local in Jackson County, Alabama because of the county's assignment to the Chattanooga ADI. However, since the cable system in Jackson County is within the 35 mile zone of the station in Huntsville, Alabama and these stations receive non-duplication protection against the Chattanooga stations, Park has reclassified the Huntsville stations as the local signals for this county. But, as it turns out, cable television increases substantially the audience of the Huntsville stations in Jackson County. Therefore, for this case, MPAA argues explicitly that the stations farther away from Jackson County should be designated the local stations for this county. While it demonstrates the difficulty of finding perfect definitions of local and distant signals, we find MPAA's conclusion with respect to the definitions used to be not only unreasonable, but inconsistent with their previous criticisms of the Park study.[149] In summary, we reject the commenting parties' criticisms of both Park's definition of local signals and his procedure for dealing with non-duplication protection.

126. Additionally, in its comments on the Park revision, INTV argues that the revisions altered the results significantly.[150] This argument also is without merit. Park summarizes his revision by saying "although the new estimates differ from the earlier ones in a number of ways, the resulting audience diversion projections are changed very little." [151] The appropriate comparisons are Tables 7 and 8 in the original report and Tables 3 and 4 in the revision, respectively. The difference is no greater than three percentage points for any of the simulations.

d. *Total Audience Model.*

127. The Park study estimates a total audience model and an audience share model to generate audience diversion projections. The total audience model is formulated to test the hypothesis that the increased viewing in cable versus non-cable homes is attributable to the tendency of heavier viewers to subscribe to cable television (*i.e.*, the self-selection hypothesis. If the hypothesis is true, the greater amount of viewing observed in cable versus non-cable homes is not attributable to cable television, and therefore cable has the potential to divert more audience from local stations. After testing this hypothesis, however, Park concludes that he has "not succeeded in settling the question of whether or not cable should get the credit for higher viewing in cable homes." [152] Faced with this limitation, Park proceeds to provide a range of estimates of audience diversion from cable television by making the alternative assumptions that cable gets all of and none of the credit for the higher viewing in cable homes.[153] However, Park finds that "the question of which assumption is correct (or where, in between, the truth lies), although interesting, turns out not to be too important" because "the range of values calculated by using the extreme assumptions is quite narrow, usually only two of three percentage points wide." [154]

128. Upon reviewing the Park study, Dr. Fisher finds "Park's total audience equations * * * to be very unreliable." [155] Fisher also finds that "the obviously unsatisfactory audience equation can make a substantial difference [in projections of audience diversion]." [156] As it turns out, however, the example that Fisher uses in attempting to demonstrate this substantial difference is arithmetically in error.[157] Thus, we find Fisher's criticism to be without merit.

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[142] *See, Notice of Proposed Rulemaking in Dockets 21284 and 20988,* para. 5.

[143] Additional comments of the Association of Independent Television Stations, Inc., filed in Dockets 20988 and 21284, January 10, 1980 at 4.

[144] Further comments of Motion Picture Association of America, Inc., filed in Dockets 20988 and 21284, January 10, 1980 at 9.

[145] *Id.* at 9.

[146] *See* 47 CFR, Part 76, Subpart F, Appendix C to the *First Report and Order in Docket 19995,* 52 FCC 2d 519 (1957) contains an explanation of the rules in this type of situation in diagram form.

[147] *Id.* at 10.

[148] See note 123 *supra.*

[149] Previously, for example, MPAA argued in the Joint Motion (*supra,* at n. 92) that Park disregarded the distance between the local stations and the cable systems in the sample. It was noted that the Grade B contour of KXON is at least 100 miles short of Brown County (which Park considered local to KXON).

[150] *Supra,* at n. 143, at 6–7.

[151] Park, Appendix A, *Report in Docket 21284* at 3.

[152] Park, Appendix A, *Report in Docket 21284* at 23.

[153] This procedure also was employed in our detailed case study analysis in the *Report in Docket 21284.*

[154] *Supra,* n. 124, at 23.

[155] *Supra,* n. 92 at 2.

[156] *Id.* at 11.

[157] *See* Park, *supra,* n. 124, at 28.

129. To summarize our position on this question, we continue to believe that "we can do no better than provide upper and lower bounds on the magnitude of audience diversion which has resulted from the presence of cable."[158] Hence, we rely upon both share and rating data (in a procedure identical to Park's) to reach our conclusions. For example, in our grandfathered market analysis, we found that the broadcast stations in the San Deigo television market lose approximately 1 to 4 percent of their potential audience because of cable television.[159] That is, they lose one percent if the greater amount of viewing in cable homes is attributable to cable television; four percent, if not.

e. *Signal Reception.*

130. New data on the television viewing of cable and non-cable households are available for individual counties. These data provide a substantial improvement over previously available marketwide viewing data because signal reception differences between households within each unit of observation (i.e., the county as opposed to the entire market) are reduced significantly. Even so, Dr. Fisher argues that "some stations cannot be seen in all of the county from which the data come" which "will directly affect the audience diversion estimates."[160] Fisher contends that "the results can be substantially affected."[161] We believe Park's decision on the point to be entirely reasonable. For our purposes, however, it is sufficient to note that while the Park and NAB studies choose different methods for dealing with reception differences across counties, they come out with similar results, suggesting that adjusting for receivability does *not* affect the results substantially. This conclusion is given further support by comparison of the results of the previous studies that employed marketwide viewing data, the current studies that employ county wide viewing data without adjusting for reception quality, and the study by Video Probe Index[162] which restricts the areas from which viewing data are drawn to particular communities. Clearly, the reception quality of the signals viewed off-the-air differs significantly between the households comprising each unit of observation (i.e., market, county, community) in these studies. Yet, here again, the fact that the result of these studies are broadly consistent leads us to conclude that adjusting for receivability in a study of audience behavior is not very important to the "bottom line" estimates. Hence, we find Fisher's criticism to be overstated and, as a result, we do not believe it is necessary for Park to account for receivability in his study.

131. INTV attempts to take the signal reception argument one step further by contending that "any proper measurement of audience impact due to importation of distant signals must assume equality of reception in cable and non-cable homes in order to eliminate improvement in reception as a variable."[163] We believe this contention is unreasonable. An important effect that cable television has on local stations is an improvement in their signal reception and an expansion in their coverage area. For example, in our analysis of independent stations that operate in markets with high cable penetration,[164] we found that the UHF independent stations analyzed receive audience gains from cable television within their own ADI, despite the carriage of at least 5 distant signals. Therefore, to eliminate improvement in reception is to eliminate an important effect of cable television on local station audiences from the analysis. Hence, we reject INTV's contention.

f. *The Sample.*

132. The sample for Park's study of audience behavior between cable and non-cable households was selected by the Commission staff. The primary criterion is selecting the sample was that each unit of observation (*i.e.*, each county) have consistent viewing options on cable. In this manner, the relationship between the availability of distant signals and viewer behavior could be monitored carefully. To insure this consistency of viewing options on cable, the Commission staff limited the samples to all those counties that contain only one cable system. Additionally, it was required that viewing data be available for both cable and non-cable households in each county. Finally, the sample was restricted further by excluding those cable systems (*i.e.*, counties) that provide syndicated exclusivity protection to local broadcast stations.[165] Upon receiving a sample of 166 counties from the Commission, Park excluded an additional forty-five counties located near the fringe of their markets. Local stations were required to attract at least 70 percent and actually received an average of 92 percent of the total off-the-air audience sample counties.

133. Several parties have questioned the adequacy and representativeness of the Park sample. For example, Fisher concludes that "the gain in 'cleanliness' [from restricting the sample to counties with only a single cable system] does not seem worth the sacrifice of large amounts of information and of the representativeness of the sample of counties."[166] We do not believe that the choice between selecting a sample for its cleanliness or its representativeness was an unreasonable one. In reviewing the signal carriage of cable systems for our case study analysis in the *Report in Docket 21284*, we found frequent and significant differences in the signal carriage of cable systems located within the same county. Therefore, one also may argue that the other audience studies in this proceeding suffer because of a lack in cleanliness in their samples. Indeed, if Park had chosen to expand his sample at the cost of cleanliness, the commenting parties just as easily could have criticized his judgment. It is apparent to us that there is no perfect solution to the problem. This is typical of all econometric work. Of primary importance, however, is the fact that studies employing different selection criteria for their samples come out with generally consistent results. This provides us reason to believe that the selection criteria for choosing a sample (if not purposely biased) will not influence significantly the magnitude or direction of the estimates. From our perspective of viewing all of the studies on audience diversion in the record, the cleanliness of the data for the Park study is worth its costs.

134. The Park sample also has been criticized for not having enough local independents. Park does not deny this criticism, nor the criticism that his estimation procedure will fail to properly estimate diversion from local independents. He states that "the question of whether or not independents lose a larger share of their audience than do affiliates is probably unanswerable by statistical methods until we have accumulated more experience with cable systems carrying

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[158] *Report in Docket 21284* at n. 136.

[159] *See* the *Report in Docket 21284* at Table 2-3 of Section IV.

[160] *Supra*, at n. 92, at 15, 17.

[161] *Supra*, at n. 92, at 19.

[162] See National Cable Television Association, Comments in Docket 21284, March 15, 1978, Exhibit D.

[163] *Supura*, n. 113, at 18.

[164] *Reports in Docket 21284*, Section IV.

[165] While this degree of control was not interjected explicitly into the other studies of audience diversion in this proceeding, all of the studies are roughly indicative of a marketplace functioning without syndicated exclusivity protection. (*See* the *Report in Docket 20988* at para. 56.) Thus, to the extent that distant signals do not affect adversely the television service provided by local broadcast stations, this implies that the syndicated exclusivity rules are not necessary to stem adverse consequences to consumers emanating from additional competition to local broadcast stations.

[166] *Supra*, n. 92, at 19.

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distant signals into large markets." [167] As it turns out then, both the NAB–WEFA and Park models suffer from data limitations and methodological problems in assessing the incremental effect of additional distant independent signals on local independent station audiences. Hence, our summary of the results of these studies for markets containing independent stations is restricted to the provision of only one estimate of impact for the entire market. Additionally, it should be noted that for policy purposes, we can rely more confidently on the results of our case study analysis, which reflects actual marketplace experience, in assessing the effect of cable television on independent stations than on the NAB–WEFA and Park studies.

135. Finally, in its response to the Park revision, MPAA alleges that numerous problems exist with the data for the Park study. For example, MPAA states that "in our opinion, the Park study—as initially presented and as modified—is a classic example of the failure to recognize that the conclusions arrived at from an analysis of insignificant, unreliable data are also insignificant and unreliable. The underlying problem, we believe, is the very small number of valid diaries in the Arbitron samples for the vast majority of the counties used by Park for this analysis." [168] We believe this statement reveals a lack of appreciation and understanding of statistical analysis. At first blush, we note that the number of diaries in Park's sample exceeds substantially the number of diaries that A. C. Nielsen collects for its weekly survey of total nationwide viewing patterns. Thus, without elaborate explanation, it should be obvious that "smallness" of sample size for statistical estimation does not imply inadequacy of sample size.[169] MPAA also argues that the size of the sample can affect Park's findings. However, here again, MPAA fails to consider a basic tenet of statistical analysis. That is, there always is some variation introduced by taking a sample of an entire population. But sample size affects only the statistical significance of the estimates, and not the expected value of the estimates.[170] Indeed, we note that despite the alleged scarcity of in-tab diaries, Park's estimate coefficients are estimated quite precisely in a statistical sense. Finally, we note that for sample size to affect Park's results significantly, there must be a systematic bias in measurement by Arbitron at varying sample sizes. We are not aware of any such bias.

136. MPAA also questions the accuracy of the data provided by Arbitron. For example, MPAA contends that the "inconsistencies between 'shares' and 'Net Weekly Circulation' data are so substantial and so numerous, we believe that *all* NWC figures should be eliminated from the econometric manipulation which are basic to the Park study."[171] We note, however, that Park does not employ NWC data for any of his estimates. Furthermore, given the intensive scrutiny that the data used by Park has received, we believe that the cleanliness of this data far exceeds that of most econometric analyses. Therefore, we find frivolous MPAA's "conviction that the Park study is science fiction."[172] We note, once again, that we believe our "consensus effect" is a sound conclusion derived from *all* of the available evidence *and* from the careful analysis and interpretation of that evidence.

137. *Additional Miscellaneous Comments.* A number of additional comments relating in part to the econometric studies and in part more generally to our *Economic Inquiry Report* were also received. For example, ABC criticizes us and the Park study for "assum[ing] the same availability of program product in the future, despite evidence that the siphoning of major sports and other highly attractive program product from television broadcasting to CATV is highly realistic and would greatly affect projected audience diversion and resultant revenue losses."[173] We are not aware of any persuasive "evidence" of this shift in program product taking place. And it should be noted that even if this phenomenon were to occur, it is unlikely that Park's audience diversion estimates would be affected substantially, for if it were to occur, it would not affect materially the relative attractiveness of local broadcast stations vis-a-vis distant broadcast stations because all broadcast stations presumably would be subject to the same programming shifts. The relative attractiveness of distant versus local stations is the relevant focus of the Park study. In addition, since no evidence has been presented to us which suggests that siphoning will occur, we do not believe it is appropriate for us to factor any alleged adverse effect of siphoning into our analysis of station profitability.[174] Others suggest that loosening of restrictions on broadcast signal carriage will result in decreased carriage of nonbroadcast programming and an overall decrease in diversity of program content. We find no evidence to support this view.

138. In our *Notice of Proposed Rulemaking in Dockets 21284 and 20988,* we addressed a petition from the National Association of Broadcasters requesting the Commission to commence rulemaking leading toward the adoption of rules designed to insure that local television broadcast service is not harmed by the development of superstations. We denied that petition because of the lack of any evidence that a regulatory problem exists or is being fomented. Nevertheless, INTV, in its latest comments in this proceeding, claims that "satellite distribution of signals has created unforeseen inequities that mandate retention of the rules."[175] INTV claims that "independent stations, and particularly UHF independents, are disproportionately sensitive to audience loss."[176] INTV also maintains that "satellite carriage often impacts to the superstation's detriment as well."[177] However, as in NAB's petition, the facts supporting these arguments are either missing or incorrect. For example, one of the most significant findings of the *Report in Docket 21284* was that UHF independents frequently are *helped* by cable in their local markets, even in instances where many distant signals are carried by cable. Thus if satellite carriage increases the demand for cable television it may help UHF stations. Additionally, our conclusion for audience diversion due to cable applies to the importation of television signals currently distributed by satellite as well as by other means. It is the number and

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[167] *Supra*, n. 124, at 38.

[168] Further comments of Motion Picture Association of America, January 10, 1980, Attachment at 1.

[169] MPAA notes that Park's sample includes 79 counties for which there are less than 50 in-tab diaries. In an attempt to discredit the Park study, it compares Park's sample composition which is based on Arbitron's sampling procedures for countywide viewing to the procedure employed by A. C. Nielsen for its marketwide viewing surveys. It should be noted that these Nielsen surveys are not equivalent to the Nielsen nationwide survey mentioned above. The appropriate sampling procedure for a survey will differ depending upon the population that one is trying to estimate. Indeed, MPAA's comparison of Nielsen's procedure for estimating marketwide viewing to Arbitron's procedure for estimating countywide viewing is invalid. For example, Nielsen does not report audience data for any market if the number of in-tab diaries is below 50 because such a response signifies that a relatively small proportion of the households in the survey have responded. However, this is not necessarily, nor even likely [illegible] be, the case if less than 50 diaries are returned for a county.

[170] *See, e.g.*, Mood, Graybill and Boes, *Introduction to the Theory of Statistics* (1974).

[171] *Supra*, n. 168, Attachment at 6.

[172] *Id.* at 5.

[173] *Supra*, n. 89, at 22.

[174] See *Home Box Office, Inc. v. FCC, supra*, at 42.

[175] *Supra*, n. 113, at 54.

[176] *Id.* at 54–55.

[177] *Id. at 56.*

type of distant signals that affect local station audiences and not the means by which they are imported. Furthermore, in the *Report in Docket 20988,* we concluded that it is likely that superstations will receive some measure of compensation for the audiences they attract in distant communities. Thus, satellite carriage may be beneficial, rather than detrimental, to superstations. Nevertheless, it is the public interest that is paramount here, and not financial well-being of any one particular kind of station.[178] Here again, no facts have been presented which suggest the public will be disserved by the satellite carriage of programming.

139. NAB criticizes the Commission for "its failure to consider numerous and related factors which may compound the adverse impact on broadcast service—namely, audience fragmentation due to pay television, reallocation of advertising expenditures from broadcast to cable television, and audience and advertising reduction which may result from such services as satellite to home broadcasting." [179] This proceeding addresses the effect of the distant signal carriage and syndicated exclusivity rules on television service to the public. Our methodological approach has been to ascertain the amount of audience diversion that will occur in the absence of the rules and to determine whether these losses, if any, will affect the service from television broadcast outlets. With this in mind, pay cable and other services emerging in the market are relevant to this proceeding only to the extent that they will affect television broadcast profitability. At this point we are lacking any evidence that they do.[180]

140. In addition, cable systems do not compete significantly in advertising markets. For example, even though almost one out of five households in the nation subscribed to cable television, advertising revenues for the cable television industry were less than one tenth of one percent of those of the television broadcast industry in 1978. Thus, we do not envision that the growth of cable television will compound any adverse impact that cable may have on television stations' profits by siphoning advertising revenues from broadcast stations for cable systems.

141. NAB also alleges that "the Commission has made no attempt to consider how * * * carriage of specialty stations carrying substantial amounts of syndicated programming will increase the degree of program duplication dramatically." [181] However, as noted in para. 63 of the *Report in Docket 21284,* we previously had determined that the cable carriage of specialty stations would contribute to the welfare of consumers, while not adversely affecting the ability of commerical broadcasters to provide a satisfactory level of service to the public. Moreover, our conclusion in this proceeding is that the unregulated cable carriage of syndicated programming also will act to promote the public interest. Nothing has been presented here to suggest that our decision in 1977 to permit unlimited cable carriage of specialty stations was incorrect.[182]

142. Capital City Television *et al.* finds it "curious that the Commission has so far shown little regard for these smaller market broadcasters, and instead has focused in its conclusions almost exclusively on impact on big city television stations." However, to the contrary, the work on audience diversion due to cable in this proceeding has focused in large measure on small market stations. For example, Dr. Fisher and MPAA categorize the Park sample as being geared mostly to smaller markets. NCTA analyzed all markets with greater than 33 percent cable penetration. The majority of these markets rank below one hundred. NAB–WEFA and MPAA, by analyzing most if not all counties with greater than 10 percent cable penetration, also incorporate a substantial amount of information on audience diversion due to cable in smaller television markets in their studies. Lastly, we focused on smaller television markets throughout our case study analysis. Our conclusions are directed appropriately to both big city and small market television stations.

143. One commenting party, WBOC–TV, went so far as to request "a replication study of the statistical analysis contained in the 'Economic Inquiry,' using data for the years in question supplied by Arbitron's competitor, A. C. Nielsen, Inc." [183] Replication of the statistical analysis undertaken to date in this proceeding easily could add more than another year to the termination date of this proceeding. The gain in accuracy that *might* occur certainly is not required at this point. After almost three years of study, we have been presented with no good reason to believe that Arbitron data is less reliable than Nielson data, since the estimates supplied therein are in statistical tolerance of each other. Thus, we do not find it desirable to further delay the conclusion of this proceeding in order that a very small degree of confidence might be added to its conclusions.

144. *Summary.* Our *Report in Docket 21284* concluded that the incremental audience losses to local broadcast stations from eliminating the signal carriage rules will be less than 10 percent in the foreseeable future except for the most extreme cases. This conclusion was drawn from all of the substantive work on audience diversion that was undertaken for this proceeding—NCTA, MPAA, NAB–WEFA, Park and the case studies—after necessary adjustments were made to the studies. It is important to note that no new study has been submitted which suggests this conclusion is incorrect. In fact, the majority of comments on the *Report in Docket 21284* consist of criticisms of only one of the five audience studies—the Park study. However, in the *Report,* we characterized the Park Study as overstating the effect of cable television on local station audiences and we provided numerous reasons and examples demonstrating the validity of this characterization. Our analysis essentially has been ignored. Instead, the commenting parties have submitted a large number of criticisms of the Park study attempting to establish that it understates audience diversion due to cable. These criticisms address what we have shown in this *Report and Order* to be minor problems that do not significantly affect Park's results. Our belief remains that Park overestimates the effect of cable television on local television station audiences.

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[178] We are aware, for example, that INTV requests the retention of the rule because of "unforeseen inequities." More specifically, competition from cable is said to be more keen for independent stations than for network affiliates. However, we are aware of no statutory mandate that requires us to consider the equities involved in shifting profits among firms. In fact, the U.S. Court of Appeals, District of Columbia Circuit in *Carroll Broadcasting Co. v. FCC,* 258 F. 2d 440 (D.C. Cir. 1958) concludes that "the question whether a station makes $5,000, or $10,000 or $50,000 is a matter in which the public has no interest so long as service is not adversely affected." It is clear that our mandate is to best judge that which is in the public interest. The criteria we employ to make this judgment are described in the first section of this *Report and Order.*

[179] *Supra,* n. 93, at 111.

[180] We are aware that some parties have submitted partial summaries of the data in the "Nielsen Pay Cable Report." We are unable to ascertain the effect of pay cable television on local station audiences from the data submitted. However, other studies suggest that pay cable will not affect significantly the audiences of local television stations. *See* the survey by Video Probe Index, *supra,* n. 162. *See* also *Stations KMIR-TV and KPLM-TV,* 66 FCC 2d 576 at 582–3 (1977).

[181] *Supra,* n. 93, at 143.

[182] *See* the *First Report and Order in Docket 20553,* 58 FCC 2d 442 (1976).

[183] WBOC–TV, Comments in Dockets 20988 and 21284, September 17, 1979 at 4.

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145. Additionally, several parties have attempted to obfuscate our criticisms and adjustments to the NAB–WEFA model. However, the issue here is clear and simple. WEFA's employment of a "logit" specification for its structural equations causes an inherent bias in their results because small independent stations must be predicted by the model to suffer greater percentage losses in audience from distant signals than larger stations, regardless of what the data actually may indicate. The responses to our criticisms of the NAB–WEFA model have acted to confirm, rather than contradict, this conclusion. We also have provided numerous reasons and examples demonstrating that the NAB–WEFA predictions of audiences losses to independent stations from cable television are overstated.

146. Finally, and most importantly, our detailed analysis of "grandfathered" markets and "worst case" broadcast stations has received criticism relating only to the procedure employed to determine audience diversion. However, not only did the commenting parties fail to show how our results would be changed with different methodology, but also we have found that these criticisms are invalid. (See discussion below.)

147. In summary, we believe our analysis demonstrates convincingly that (1) the data relied upon describe accurately the cable television and television broadcast industries; (2) the methodology employed is valid and has been applied properly; and (3) the conclusions are derived correctly from the available information.

148. *The Impact of Distant Signals on Public Service Programming by Local Stations.* The Commission has long been concerned about the effect the presence of cable television might have on the ability of local stations to fulfill their obligations to serve the public by providing local programming options to their viewers. Our concern has been that if cable succeeds in diverting viewers from watching the signals of local stations to those of distant ones, the resulting decline in revenues of the local stations might force these stations to reduce the public service programming that they provide.

149. Traditionally, we have attached particular importance to local public service programming because of the effect it may have in shaping the attitudes and values of citizens, in making the electorate more informed and responsible, and in contributing to greater understanding and respect among different racial and ethnic groups. Since the social benefits of this programming exceed the private benefits of the actual viewers, we have sought to assure that the public will capture these benefits and, thus, for example, the Commission has recognized the necessity for licensees to "devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest to the community served by the particular station." *Fairness Report,* 48 FCC 2d 1, 2 (1974) quoting *Report on Editoralizing,* 13 FCC 1246, 1249 (1949).

150. In this proceeding, we are interested in determining what effect the carriage of distant signals has on the ability and propensity of local broadcast stations to provide local public service programming. To measure this effect precisely would require an elaborate set of information. Unfortunately, however, a fully descriptive or accurate set of the information necessary for this determination is unavailable. Most importantly, the expense data collected from television licensees by the Commission suffer from a lack of uniformity in accounting policies.[184] Thus, the reported results for station expenses and profits cannot be relied upon in a cross-sectional econometric analysis that is undertaken for policy purposes.[185]

151. Faced with these data limitations, studies have attempted to estimate statistically the relationship between station revenue and the amount of local programming broadcast by television stations. In our *Report,* we relied most heavily on a study performed by the Commission's Broadcast Bureau which utilizes the most recent data.[186] The Broadcast Bureau finds—after accounting for such factors as the presence or absence of network affiliation, whether a station is VHF or UFH, and the number of stations competing in the market—that each additional $1 million in station revenue is associated, on average, with about 14 minutes of additional local programming per week. This finding also is supported by the studies of Drs. Crandall and Park appearing in the literature.[187] It is important to note, however, that the Broadcast Bureau has taken care to emphasize that utilizing such a model to predict the effect of changes in revenue on the quantity of local programming may not produce very reliable estimates. Since the result is derived from comparisons across stations, it is not purely applicable to the effect of a change in an individual station's revenue. Accordingly, our use of the model has been limited to providing only a rough indication of the magnitude of the relationship between revenue and public service programming. Nevertheless, the results of the model suggest that changes in revenue have small effect on the amount of public service programming that television stations broadcast.

152. To provide a rough estimate of the effect of cable television on the amount of public service programming broadcast by local stations, we applied the results of the Broadcast Bureau model to our findings in the "Grandfathered Market Analysis" of the *Report in Docket 21284.* The largest effect from cable television that we estimated for an individual station in the six grandfathered markets was a reduction in local programming of 5 minutes per week. Again, we must emphasize that this estimate should be considered only a rough approximation. Nevertheless, we believe our conclusion is correct that the effect of cable television on the amount of public service programming broadcast by television stations generally is minimal. This result is strongly supported by our other findings in the case study analysis that 1) the profits generally earned by television broadcasters enable them more than adequately to provide public service programming and 2) cable television plays a very small part in determining station profits.

153. Our analysis of the effect of cable television on the public service programming provided by local broadcast stations has not received substantial criticism. In fact, there virtually is no debate in the record concerning our finding of the effect of cable on the *amount* of public service programming by local stations. The only

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[184] *See, e.g.,* R. E. Park, *et al.* "Projecting the Growth of Television Broadcasting: Implications for Spectrum Use," prepared for the Federal Communications Commission, 1976, p. 119. The authors suggest that the substantial differentials in the reported financial results for similarly situated stations, in addition to varying accounting methods, might also be attributable to different goals and performance by station management.

[185] The reference to cross-sectional analysis is mentioned here to signify that the problem exists most severely when comparing the results of different stations. It should be noted that we rely upon the reported operating income of television stations in our case study analysis. In this analysis, however, we are comparing the results of the same station over time. This approach minimizes variations attributable to a lack of uniformity in accounting policies or management performance.

[186] FCC Broadcast Bureau, "Television Public Service Programming and Audience Diversion: An Economic Analysis" in *Report on Information Developed under the Cable Economic Inquiry,* Docket 21284, April 18, 1979.

[187] *See* Rolla Edward Park, "Television Station Performance Revenues," *Educational Broadcasting Review,* June 1971; and Robert W. Crandall, "Regulation of Television Broadcast: How Costly is the Public Interest?", *Regulation,* Jan./Feb. 1978.

criticism of our finding is that the language in the *Notice of Proposed Rulemaking in Dockets 21284 and 20988* that "substantial increases in broadcast licensee revenues produced little increase in local and merit programming, and coversely, substantial decreases in licensee revenues produce little decrease in such programming"[188] is too strong in light of our statement in the *Report in Docket 21284* that the "results should be regarded as no more than rough approximations."[189] We do not believe, however, that these two statements are inconsistent. For example, we would project that a $500,000 reduction in annual station revenue would reduce local programming 7 minutes per week. Thus a substantial decrease in station revenue would have a minimal effect on local programming. But more importantly, while we only can conclude the 7 minute estimate is a rough approximation, we can conclude with much more confidence that the effect is less than 15 minutes per week.[190] Thus, we believe our statement in the *Notice* that additional competition from cable television would not cause the supply of local and merit programming to diminish materially is valid.

154. The most serious criticisms of our analysis of the effect of cable television on the public service programming provided by local stations are the allegations of what it failed to consider. For example, NAB says, it "cannot concur that the Commission should look only to local or 'merit' programming. The service a station provides encompasses a wide variety of program types."[191] Hence, NAB contends that "a station able to allocate more money to programming can purchase better programming as well as produce better programming."[192] Similarly, because program expenditures are correlated positively to revenues, NBC argues that revenues are correlated significantly to program quality and diversity. For the same reason, ABC apparently would like us to consider the findings of the Broadcast Bureau study that local programming expenditures are related strongly to station revenues. NAB synthesizes this line of reasoning by arguing that the "importation of additional distant signals will have a negative effect on the quantity and quality of broadcast service available to the entire viewing public."[193] Before proceeding, we note that neither the NAB, nor any other party, has offered any reason for rejecting our estimate of the effect of cable television on the *quantity* of local programming provided by television broadcast stations. Additionally, we believe that NAB's argument, along with those of the other commentators addressing the effect of cable television on the quality of television programming, demonstrates a misunderstanding of the economic theory and evidence adduced in this proceeding. For example, economic theory suggests that broadcasters may actually increase expenditures for programming in response to increased competition from cable television (because it may be more profitable to do so rather than to reduce expenditures). Thus there is no reason for us to expect that the quality of television programming will decline necessarily because of additional competition. In fact, when the evidence is interpreted correctly,[194] the opposite result appears to be true in some circumstances. For example, the empirical estimates of the Broadcast Bureau study provide some evidence that the entry of an independent station into a market will cause an increase in program expenditures for the network affiliates.[195] Therefore, we find the industry's contention that additional distant signals will necessarily reduce the quality of local programming to be without merit. In any event, no evidence has been presented or uncovered in this proceeding that shows that cable television reduces or will reduce the quality of television programming broadcast by local television stations.

155. Finally, ABC has cited the Broadcast Bureau study for saying that the use of minutes of local programming may suffer from the fact that this data represents minutes of both remunerative and nonremunerative programming. However, this data limitation is of no consequence to our results because we conclude that cable television has no material adverse effect on the total amount of local programming broadcast by local stations. If cable forces a shift from nonremunerative local programming to remunerative local programming, we do not envision this effect redounding to the detriment of consumers.

156. In summary, we find that cable television does not affect materially the quantity of local programming broadcast by local television stations. Additionally, we find any claims of adverse impact from cable on the quality of television programming to be unsupported both by economic theory and by socioeconomic evidence.

157. In many respects the most important findings from our *Economic Inquiry* came from our case studies of actual markets facing cable competition. Our *Report in Docket 21284* focused upon cases for which it was perceived that cable television would have the greatest potential to affect the viability of broadcast stations: (1) grandfathered markets which are characterized by high cable penetration and a large number of distant signals; (2) independent television stations in markets with significant cable penetration and where cable systems carry a large number of distant signals and (3) "worst case" stations or markets which have alleged they are harmed by cable television.[196] Comments were filed with the Commission on behalf of 78 broadcast stations and markets—including many independent stations, UHF stations, one-station markets and two-station markets. We considered these to represent the "worst" cases since they were the stations/markets which the industry chose to call to our attention. These case study analyses formed the backbone of our finding of the effect of distant signals on the performance of local broadcasters because most of the stations analyzed were operating in an essentially unregulated marketplace.

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[188] *Supra*, at para. 60.

[189] *Supra*, at para. 138.

[190] It should be noted that the effect of revenues on local program minutes is measured very precisely in a statistical sense by the Broadcast Bureau study to be 14 minutes per week for each additional million dollars in revenues. The F statistic (a measure of variance) for the coefficient of revenue is 32.96. The standard error is about 2 minutes per week. Thus, for the example above, we can attach a 99 percent level of confidence to the statement that the effect would be no larger than 15 minutes per week, assuming the model is specified properly.

[191] *Supra*, n. 93, at 121.

[192] *1 Id.*

[193] *Id.* at 118.

[194] The evidence presented by NAB demonstrating that the revenue and expenses of broadcast stations are positively correlated by market size cannot be employed to derive any conclusions concerning the effect of additional competition on the magnitude or direction of the values of these variables. The suggestion that revenues and expenditures both will necessarily decrease in response to additional competition ignores the simultaneous interrelationship between audience, revenue, and program expenditures in determining the profit maximizing selection of programming. Revenues and program expenditures actually may increase in response to additional competition due to a new program selection mix. Additionally, NAB ignores the fact that broadcasters operating in smaller markets pay less for the *same* programs that are purchased in the larger markets. Hence, comparison of program expenditures across markets is not necessarily a good method for comparing program quality.

[195] It should be noted, however, that we cannot place much reliance on this estimate because of the inadequacy of the data. Nevertheless, this finding is supported both theoretically and empirically by the analysis of Park, *et. al., supra*, n. 184 at Appendix F.

[196] *Report in Docket 21284, supra*, at Section IV and Appendix B.

We found no evidence of debilitating economic competition due to cable television. It was our intent to supplement the more theoretical findings of earlier scholarly studies and our own econometric work with actual evidence from case studies.

158. Six broadcast markets were selected for detailed analysis based upon their high levels of cable penetration and the availability of a large number of distant signals due to the grandfathering provisions of our rules.[197] These markets provide an excellent indication of the effect of cable television on local station audiences and finances in the absence of distance signal restrictions on cable television. The markets ranged in size from the eighteenth largest (Seattle, Washington) to one of the nation's smallest (Parkersburg, West Virginia—market 199). With the high levels of cable penetration present and the large number of distant signals being imported into these markets, we expected to find some evidence of audience diversion. Our primary concern, however, was the degree of audience loss and the extent to which this loss affected the economic viability of the local stations.

159. Of the six markets analyzed, only the Palm Springs and Bakersfield stations experienced appreciable audience diversion. Cable had no major effect on the audience levels in the other four markets. San Diego experienced a very slight diversion of audience; Parkersburg realized an audience gain; and Harrisonburg/York and Seattle experienced little, if any, audience effect from cable (the impact revealed was either a modest gain or loss depending upon whether a "rating based" or "share based" analysis was used.)[198] Although Palm Springs and Bakersfield experienced diversion from cable, their overall audience levels (9 AM–midnight) did not decline during the past five years.[199] More importantly, in all of the grandfathered markets, the revenue and operating income of the local stations had increased substantially from 1972 to 1977. Ordinary growth in revenues more than offset any adverse effects from cable. Thus, whatever adverse effect that cable may have had on stations in these markets, it was not large enough to offset the effects of other factors contributing to their well-being. We stated that we expected these trends to continue.

160. Because of the concern that independent television stations, as opposed to network affiliates, might be affected most by the carriage of distant signals on cable, we analyze the effect of cable on the audiences and financial operating results of seven independent stations in five markets. These stations were selected by identifying all independent stations located in markets having 15 percent or greater cable penetration and a large number of distant signals on cable. For several reasons, these selection criteria yielded only a small sample suitable for analysis. For example, significant cable penetration must exist in a market in order to examine the effect of cable on individual local station audiences. Yet, all but two of the independent stations in the nation operate in the top 100 markets and nearly 75 percent of these stations are in the top 25 markets. Cable penetration in these large markets is generally very low. Another factor which narrowed the sample is that the cable systems within a market must carry relatively consistent distant signal complements in order for the analysis to be instructive. Also, a large number of distant signals must be imported by the cable systems to indicate the effect of cable in an unregulated market. Finally, the choice of markets was constrained by the data limitation that separate audience figures for cable homes are not always provided for many of the market counties where cable exists. With these selection criteria, only seven independent stations were found to be suitable for analysis[200]—primarily due to the fact that most independent stations are located in large markets with very low cable penetration.

161. Of the four independent VHF stations analyzed, two revealed a negative audience impact from cable and two experienced a positive effect. Of the three UHF independent stations analyzed, all revealed positive audience effects from cable, despite the carriage of at least five distant signals on cable systems in their markets. The two VHF independent stations which experienced a negative audience effect from cable were XETV, San Diego and KTVU, Oakland. Station XETV operates from Mexico and thus financial information for this station is not available to the Commission. The other station, KTVU, had substantial revenue and operating income gains over the past five years despite the presence and growth of cable. Furthermore, we found that independent VHF stations generally are very profitable. For example, the three VHF stations in our analysis, for which we had financial data, had a combined net income in 1977 of over $15 million. Thus, our study of independent stations revealed that cable is not a major negative force on the financial viability of these stations and that independent UHF stations are often helped by cable despite cable carriage of many distant signals. Although some VHF stations experienced audience diversion due to cable in these essentially unregulated markets, the substantial amounts and growth of revenue and operating income of these VHF independent stations reveals a minimal impact of cable on their overall profitability. The results of this analysis were considered indicative of the potential effect of cable on independent stations in general. For example, because all but two of the independent VHF stations in the nation operate in the top 50 markets, one would expect these stations to be financially sound. In fact, further analysis revealed this to be true. We concluded that the revenues and operating incomes of independent stations will continue to increase due to both population growth in metropolitan areas and increases in the demand for television viewer exposures.

162. We also analyzed the audience trends and operating results of 78 broadcast stations and markets which, in the *Economic Inquiry*, alleged current and/or potential adverse impact from cable television.[201] Of these, only nineteen "worst cases" were identified as warranting further, more detailed, analysis to determine the effect of cable television upon station viability. Four

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[197] Non-commercial stations were excluded from the analysis because the financial results of their operations are not reported to the Commission. Instead we performed a separate analysis of the effect of cable on non-commercial stations in Appendix C of the *Report in Docket 21284*. Comments on that analysis are examined in Appendix C of this *Report and Order*. We conclude in that study that cable television is no more likely to impact adversely on non-commercial television service to the public than it is on commercial service.

[198] For a further discussion of this distinction, see paras. 123 and 124 of the *Report in Docket 21284*.

[199] This point deserves further clarification. Loss of audience is often discussed in two different contexts. When a lower percentage of cable homes vis-a-vis non-cable homes are viewing local stations, this appropriately is considered audience diversion in the sense that the local station's total audience is less than it would otherwise be if cable were not present in the market. However, it does not necessarily follow that the station experiences an actual decline in its audience when this diversion occurs. In fact, our studies found that station audiences normally increased over the period analyzed. Thus, it is apparent that factors other than cable (e.g. population growth, programming adjustment, increased power, and improved television receivers) often act to offset the effect of cable. Conversely, there are other cases in which a station's audience was shown to be stagnant or declining, and yet cable diversion of potential audience was either not present or was not a primary factor in the decline.

[200] *See* Table 3 and Appendix B of the *Report in Docket 21284*.

[201] *See* Table 5 and Appendix B of *Report in Docket 21284*.

selection criteria were employed to identify these cases. The primary criterion was to select for further analysis all stations or markets which experienced losses or no gain in audience during the past five year period and stations which had experienced a decline in "real" revenues (price deflated based upon the 41 percent inflation rate during the 1972–1977 period).[202] These two criteria yielded a total of sixteen cases (fourteen stations and two markets) for further analysis. Two additional stations were included because of high cable penetration in their markets and because of their previous involvement with the Commission in the form of requests for special relief. Finally, a station was included because of its claim of hardship despite relatively low cable penetration in its market.

163. The effect of cable television for these nineteen "worst cases" was estimated using the same procedure employed for the grandfathered market cases. The analysis included a thorough survey of cable versus non-cable viewing patterns within each county of the ADI market. Through a weighting of the audience diversion (or gain) due to cable on a county by county basis, we were able to develop a quantitative estimate of the marketwide audience effect of cable on the local stations. The results were presented in Table 6 of the *Report* and are summarized below.

164. In four of the nineteen cases analyzed in detail, cable television acted to increase the overall viewing of local stations. There also were two cases in which cable appeared to have no effect on the audience of the local station.[203] In the remaining thirteen cases in which audience diversion from cable was present, only two instances were found in which the losses were accompanied by a decline in both "real" revenues and operating income. In each of these cases, however, the rate of growth of the stations' actual revenues was only slightly less than the rate of inflation. Moreover it is important to note that cable penetration and the number of distant signals carried by the cable systems in these markets remained relatively constant during the period, indicating some factor(s) other than cable was responsible for the decline in operating income. For example, one of these stations operates in the Idaho Falls market wherein a new network affiliate began broadcast operations in 1974. This is likely to be a very significant factor in explaining the audience and operating income decline of station KID–TV between 1973 and 1977. Therefore, we found that even in the worst cases, cable does not appear to be a major negative force on the financial situation of TV broadcasters. For example, although station KOSA, Odessa, Texas experienced an audience diversion of between 7 percent to 10 percent, this diversion of cable subscribers did not result in a decline in the station's average total audience. During the 1972–1977 period, cable penetration in the market increased from 36 percent to 50 percent; the station's 9 am to midnight audience remained constant; yet station revenues and operating income both increased by approximately 85 percent. We concluded that factors such as population growth and increased demand for television advertising make this apparent anomaly possible, and we stated that we expect these trends to continue in the foreseeable future.

165. Careful attention was given to the performance of each of the stations in our analyses. For example, a five year comparison (1972–1977) of all the relevant economic data for these stations was performed. We compared changes in cable penetration, average 9 am to midnight audience, revenues, and operating income for each station or market between 1972 and 1977. Actual audience measures of cable and non-cable viewing patterns were utilized to determine the diversion of local audiences due to the availability of cable television in the market. Additionally, we performed a detailed financial analysis of the stations/markets, including analysis of many other factors which influence performance, e.g. year operations began, local competition, and authorized power and antenna height. Finally, we carefully monitored the number of local program minutes broadcast by stations in the grandfathered markets.

166. In summary, we found in our studies of grandfathered markets, independent stations and "worst case" stations that cable television generally does not cause any appreciable diversion of local station audiences and that UHF stations, particularly those in intermixed markets, often are helped by cable television. More importantly, we found that overall audiences, "real" revenues, (i.e. revenues adjusted for inflation), and real operating incomes of local broadcast stations increased in most cases, despite the presence of cable. Our conclusion was that cable does not appear to be a major negative force on the financial situations of television broadcasters, and that the adverse effect of cable, if any, is not great enough to offset the ordinary secular growth in real incomes that the broadcast stations realize. The risk that consumers of broadcast television will be harmed by unrestricted cable carriage of broadcast signals was considered to be negligible and the existing levels of service to the public seemed secure. These case studies provided an excellent test of the effect of increased signal carriage, and they show conclusively that expanded viewing options on cable television do not work to the detriment of any group of viewers.

167. Because these studies spoke directly to the financial performance and market facts of individual stations or markets, we would have expected any errors in our analysis to be reported to us. None of the commenting parties, however, disputed the major findings of these studies—that even in the essentially unregulated markets, stations prospered. Moreover, if there were specific case studies missing that told a different story we would have expected these to be reported to us. None were. Rather, the cross-examination of this analysis fell generally into three categories: (1) apparent data inconsistencies or criticisms of methodology including the discovery of some typographical errors, (2) questions as to why certain markets or stations were chosen for analysis, and (3) perceptions that certain types of stations and markets (UHF stations, independent stations, and smaller markets) were either ignored or insufficiently addressed. Several parties questioned the use of 1976 figures for marketwide "cable TV homes" in Appendix B of the *Report* whereas 1977 figures were cited in Table 2 of the body of the *Report*. This, they stated, indicated a lack of precision in the analysis. However, as was noted in Table 2–1 of the *Report*, the impact formula used in Appendix B consists of several factors which are, of necessity, obtained from different Arbitron source books. For the formula to be useful, each factor has to be taken from the same time period or from as close a period as possible. The most current figures available for the county rating and share factors in the formula were averages from three surveys taken in May 1976, November 1976 and February 1977. The survey of "cable TV homes" which fell closest to this time period range was taken in October of 1976, and, thus, this was the figure which had to be used in

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[202] No stations or markets experienced a decline in actual revenues.

[203] This is based upon the expectation that the true audience effect of cable probably lies somewhere between the impact based upon a "share" analysis and a "rating" analysis as discussed in paras. 122 and 124 of the *Report*.

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the impact formula in Appendix B of the *Report*, even though more recent data (September 1977) were available for the number of cable TV homes in each market. In other sections of the *Report* (Table 2) we used the more recent 1977 data to display cable growth since 1972. In short, we explained the distinction in the *Report* and, in any event, it makes no significant difference in the estimated impact whether 1976 or 1977 figures are used.

168. INTV also states that the impact formula should have used ADI (area of dominant influence) audience figures in both the numerator and denominator of the formula. We have, they feel, underestimated the impact by using the loss of cable homes in the ADI in the numerator while using the station's total audience in the TSA (total survey area) as the denominator. However, Arbitron's standard measure of a station's audience is provided on the basis of TSA surveys, and it is this total audience of the station on which the Commission seeks to measure impact. To measure impact only on the ADI portion of a station's overall audience (although this portion may represent 95 percent of the total audience) would slightly overstate the estimated impact. Ideally, to measure the impact of cable television within a station's entire survey area, one would determine the diversion or gain due to cable in each county of the station's survey area. However, due to the often large number of counties within a station's TSA, overlapping TSA counties among stations, and a lack of cable viewing data for each county within a station's TSA, this would be a formidable, if not impossible, task. The closest we can come to this ideal is to measure the diversion or gain within the Area of Dominant Influence (ADI) counties as a percentage of the station's total audience. It should be noted, however, that were we able to conduct the analysis for the entire TSA, the audience diversion would likely be lower than that estimated in the *Report*, since cable normally improves the reception of a station's signal outside of its ADI.

169. INTV also criticizes the *Report* for failing to control for equality of reception in cable and non-cable homes by measuring overall impact throughout the market. That is, in distant counties of the ADI, cable may improve an ADI station's reception (and thus its viewing share in cable homes vis-a-vis non-cable homes); whereas in the closer ADI counties more diversion due to cable will occur. INTV feels that if the diversion in the closest counties were measured alone, the impact estimates would more accurately reflect potential harm. We are of the opposite opinion. It is the overall impact on a station which is important. One of the conclusions of the *Report* was that the improved reception characteristics of cable in some areas of a market can act to offset the negative effect of cable in other areas of the market. Even when a county may lie many miles distant from a station, if it is assigned to that station's ADI market (due to the viewing patterns of county residents) then the county is considered part of that market for TV advertising purposes.

170. NAB questions our use of a "sign-on to sign-off" audience figure to represent a station's total audience in the impact formula of Appendix B of the *Report*, whereas 9 AM to Midnight audience figures are used in other tables of the *Report*. As mentioned previously, all factors in the formula should be for the same period in order to be most useful. The share and rating figures in the Arbitron County Coverage books are provided in terms of the sign-on to sign-off period. Therefore, the average audience figure in the denominator of the formula also had to be expressed in these terms. In other sections of the *Report* we simply listed the more-often quoted measure of a station's average total audience—the average 9 AM to Midnight audience. Actually, it would not have made much difference whether the station's 9 AM to midnight audience or its sign on to sign off audience was used in the impact formula since there is normally little difference between the two figures. Both are used as generally representative of a station's average all-day audience. Only minor differences would have resulted by using a 9 AM to Midnight audience figure in the denominator of the formula—and the effect would have been to estimate a lower impact from cable than we predicted in the *Report*.

171. NAB also states that there are mathematical errors in the case studies which significantly affect the results. However, only one was specifically identified by NAB and, when corrected, we find an increase in the predicted cable impact by less than three-tenths of 1 percent. This error is insignificant, and on further review, we are unable to identify any mathematical errors which had any substantive effect on the results of our studies.

172. Another point raised by NAB and INTV is that the *Report* measures average audience diversion over the entire broadcast day rather than during segments of the day when impact may be more severe—such as early fringe. We recognize that there are certain day parts during which audience diversion will be more than average, and others during which diversion will be less than average. Nevertheless, for purposes of this analysis, the full day estimates provide an adequate and reasonable basis for judging the effect of cable on a station's overall audience and financial viability. The econometric analysis which attempts to provide quantitative projections of the effect of changes in signal importation deals with this issue in greater detail. See Section II.

173. INTV also seeks information as to why the six markets in the "grandfathered market" section of the *Report* were chosen for analysis. It states that there are other markets which meet our criteria of high cable penetration and a large number of imported signals; in particular the San Francisco market. We did not feel there was a need to examine every highly cabled and grandfathered market in the nation.[204] Rather, we selected a sample of six such markets which, it was felt, would provide a good cross-section for determining the impact of cable in various type markets. For example, several large markets with network and independent stations were chosen, one smaller market having all three network affiliates was selected and two of the smallest markets in the nation were chosen, each having extremely high levels of cable pentration, one being a one-station market and the other a two-station market. There was no intention to exclude any particular market from consideration. Indeed, we specifically encouraged, in the economic inquiry, all parties to submit instances and evidence of cable television's impact. In regard to not choosing the San Francisco market for analysis, we had already selected three of our six cases from the top 50 markets, and three of the six cases also were markets within the state of California. Therefore, we did not feel that including the San Francisco market would add materially to our results. It should be noted, however, that in the study of independent stations, three San Francisco stations were analyzed, two of which realized audience gains from cable in the market and all of which had experienced substantial revenue and operating income increases over the past five years. Furthermore, San Francisco market stations have, since 1973, had a 20 percent overall increase in average audience, increases in revenues of nearly 100 percent (from $62

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[204] Also, the cable systems within each market had to carry the same number and complement of imported signals for the analysis to be instructive. This lowered the number of markets to choose

million to $123 million) and increases in operating income of 140 percent (from $19 million to $46 million). During this period, cable homes have grown from 20 percent of the market to 30 percent of the market. These facts regarding the San Francisco market serve to strengthen our original conclusion that cable does not appear to have a significant impact upon broadcast station viability—even in highly cabled and grandfathered markets.

174. The Rocky Mountain Broadcasters' Association commented that the significance of two studies submitted in Docket 21284 had not been properly weighed by the Commission. One of the studies presented was by Dr. William Duhamel, President and General Manager of Duhamel Broadcasting Enterprises. The study described a methodology for computing cable audience diversion for eleven markets in the Rocky Mountain Time Zone. The methodology used is in many ways quite similar to that later used by the Commission in its *Report in Docket 21284* and, not surprisingly, yields similar impact results. Each of the eleven markets in the Duhamel study was examined in the case study section of the Commission's *Report.* The two markets which had not experienced audience gains during the past five years (all had experienced healthy revenue gains) were further analyzed to determine audience diversion due to cable television. In Cheyenne, Wyoming, the sign-on to sign-off audience diversion was estimated to be 14.5 percent and in Miles City/Glendive, Montana the diversion was estimated to be 26.1 percent. The Duhamel study produced very similar diversion estimates for these two markets. The slight difference in the two sets of estimates may result from the fact that Dr. Duhamel's analysis measures cable audience diversion as a percentage of a station's ADI audience and thus results in a somewhat higher estimate than the Commission's analysis which measures cable audience diversion as a percentage of a station's total audience from the TSA as measured by Arbitron. In short, there is no major disagreement with the Duhamel analysis, but rather with the conclusions reached. Our conclusion remains that we find no evidence that the audience diversion in these markets has resulted in a serious impact upon the revenues and financial viability of local stations and upon their ability to provide news and public interest programming. Of the eleven markets surveyed, all but two showed audience increases since 1972; all revealed increased revenues, and all had a positive operating income. The impact of cable in these highly cabled markets with many grandfathered systems has not resulted in any apparent decline in local broadcast service to non-cable households. It should be noted that the comparatively large audience impact figures which are revealed in the Rocky Mountain area should not be confused with estimates of audience impact which might result from the rule changes ordered herein. The Rocky Mountain estimates are for impact which has already occurred and been absorbed. More importantly, the magnitude of the impact is primarily the result of households in one or two station markets being offered (on cable) what the Commission has already authorized and encouraged as a minimum—access to three network stations and an independent station. Thus, any diversionary effect from additional signals would be spread among all stations being offered on the cable systems and the incremental impact upon a local network affiliate would be minimal.

175. The other study submitted by the Rocky Mountain Broadcasters Association was prepared by Mr. Joseph Sample, a past president of the Association. Mr. Sample argues that, rather than an audience loss formula, a more appropriate measure of cable television's impact in a television market is revealed by a study of gross rating points (GRP's)—as determined by advertising agencies through the use of A. C. Neilsen audience surveys. For example, an agency seeking an advertising weight of 100 gross rating points (an audience measure) in each market within the Rocky Mountain Area would first purchase time in the major markets—Denver and Salt Lake City. Then, by utilizing the Neilsen studies which reveal audience spill-in and spill-out effects among markets, the advertiser can see that some GRP's in the smaller Rocky Mountain markets will be obtained. By not having to purchase a full 100 GRP's in these smaller markets, advertisers might negotiate lower prices or even drop a market from consideration—depending upon its coverage by larger markets. Mr. Sample's description of the methods used for purchasing station time in the Rocky Mountain Time Zone may well be accurate. However, either there are other advertisers who fill the void or some other means must be used by stations to offset the effect; because we can find no evidence to suggest any decline in the revenues or operating incomes of these small market stations.

176. Finally, there were several comments which expressed the opinion that certain types of stations and markets (UHF stations, independent stations, one-station markets and two-station markets) would be most affected by the proposed rulemaking, and that this had been either ignored or insufficiently addressed in the *Report.* This is not the case. We focused considerable attention upon these types of stations.

177. In the *Economic Inquiry Report* we analyzed 98 different stations and markets. Based on the comments received in response to our *Notice of Proposed Rule Making* we have now again studied and analyzed over 100 stations and markets and find our initial conclusion again confirmed. (See Appendix D.) Eliminating the overlap in the stations and markets studied both in the *Economic Inquiry Report* and for this document, the total number of separate stations and markets analyzed is approximately one-hundred and sixty. The financial results of every station and market brought to our attention were surveyed. Our analyses included nearly every one and two-station market in the nation as well as a large number of UHF and independent stations. Five year trends of cable penetration, viewing audience, revenues and operating income were studied. Of all the "worst case" and grandfathered markets and other stations analyzed in this proceeding, we were able to identify only one instance [205] in which an actual revenue decline had occurred over the past five years—in spite of both high cable penetration and the large number of distant signals available in many of the cases surveyed. [206]

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[205] KVOS–TV, Bellingham, Washington experienced a revenue decline during the 1973–1978 period. However, this decline was primarily the result of the Canadian Tax Act of 1976 which stated, in part, that Canadian businesses could no longer write off as business expenses their advertising expenditures on American television. As KVOS–TV stated in an August 9, 1977 Letter to the Commission, "restrictive and discriminatory legislation in Canada has caused a critical erosion of our economic base. It has been necessary for us to cut our advertising rates by about 50% in order to remain in a competitive selling posture." The trend of revenue decline was reversed in 1978 when KVOS–TV experienced a revenue and operating income gain over the previous year. The station continues to remain profitable and is an economically viable business entity in spite of the effects of cable television and the recent Canadian Tax Act.

[206] There is an instance in which the presence of cable television is alleged to have brought about the change of a commerical to a non-commercial station. KTVR–TV was a network satellite station operating in La Grande, Oregon. It was sold to the State of Oregon in 1976 and now operates as an educational station. The Northeastern corner of Oregon is a very sparsely populated area of the nation which has never been able to support its own

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178. Several parties in this proceeding commented that the impact of the proposed rule changes would fall most heavily upon UHF stations, which have traditionally been the least profitable segment of the broadcasting industry. Thus, it is stated, the proposals are in conflict with previous Commission decisions to foster UHF development.

179. This concern was given considerable attention in preparing the *Report in Docket 21284*, and we found no evidence to suggest that cable television would seriously affect UHF stations. Of the several studies [207] which separately consider cable television's impact upon both UHF and VHF broadcast stations, all reveal that UHF stations experience less audience diversion from cable television than do VHF stations. In fact, in many instances, it is found that cable television generally has a positive effect on UHF station audiences. NCTA's study of mature independent UHF stations and our own study of UHF stations tend to confirm this effect. Of fifteen UHF stations analyzed by NCTA, the audiences of thirteen (87 percent) were augmented by cable television. In the *Report in Docket 21284* and in the response to comments received since the *Report*, the Commission examined the performance, over the past five years, of thirty-four UHF stations. Over 75 percent of these stations had audience increases during the period, and all experienced revenue increases. We further analyzed the cable versus non-cable viewing shares of thirteen UHF stations and found that cable augmented the viewing of ten (77 percent) of these stations using a rating-based analysis and eight stations using a share-based analysis. These results are not surprising since cable television has the effect of equalizing UHF and VHF reception thoughout the market, thus eliminating the primary aspect of the "UHF handicap." The improved viewability of the UHF station in its market offsets in varying degrees the diversionary effect of distant signals.

180. With regard to cable television's impact upon future growth in the number of UHF stations, the aforementioned findings also would indicate that the impact would be minimal. New UHF stations have in fact continued to come on the air in areas of the country, such as for example in Pennsylvania, where there is already extensive cable penetration. Additionally, a Rand Corporation paper [208] prepared by R. E. Park and Barry Fishman, *The Viability of Television Stations: Comments and Extensions*, lends evidence to this conclusion. Their econometric model predicts that the number of commercial UHF stations in the top 100 markets will approximately double by 1990. The model also provides weak evidence that cable television generally has a positive effect on UHF stations, although in each case the overall result depends upon whether the positive effect of improved reception or the negative effect of competing signals predominates.

181. Another way of looking at the facts gathered in these studies of grandfathered markets, independent stations, and "worst cases" is to examine all the markets and stations in areas where cable penetration has increased over the last five years. Of the one hundred and thirty-one cases in which cable penetration increased, only twenty-one stations experienced any audience decline, and only one (KVOS-TV, Bellingham, Washington—see note 205) had a decline in revenue and operating income. All others experienced gains in revenues and/or operating income, most of which were substantial. It is thus apparent that other factors (e.g. rate increases stimulated by the demand and supply of television advertising) almost always act to offset the effect of audience decline in those relatively few instances where it is shown to occur. This was one of the most revealing aspects of the case study analysis.

182. We noted in the *Report* that the revenues and profits of stations are likely to increase in the future and that the effects of cable competition are likely to be offset at least in part by increases in population and demand for television viewer exposures. Although some parties suggest that population will not increase, or that future revenues will not offset the effects of cable audience diversion, or that other factors will reduce revenue growth, we believe these case study analyses present a fairly clear picture of both the actual trend and the functioning of the market in the presence of high cable penetration. Population has increased during the period analyzed, station audiences have increased, and revenues and profits have grown markedly. With respect to population, we expect this trend to continue.[209] Moreover, it seems clear to us that advertiser demand is strongly correlated with overall economic activity and that it too will be increasing both because of increased population and because of rising economic activity. The increased demand for viewer exposures over the long term will translate into higher advertising rates and increased revenues.[210]

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commercial television station. When the satellite station was established in 1963, the area was heavily served by cable and also had five translator stations providing all three network signals from Spokane, Washington. The parent station of KTVR-TV (KTVB, Boise, Idaho) now operates a translator station in the La Grande area. We cannot conclude that there has been a detrimental effect on the public in this region following the assignment of KTVR-TV's license to the State of Oregon. Network signals from Spokane, Portland, or Boise are available via translator stations and in addition, a new educational station providing local/regional originations has begun operation in La Grande.

[207] Park, Rolla Edward, *Audience Diversion Due to Cable Television: A Statistical Analysis of New Data*, The Rand Corporation, R-2403-FCC, April 1979; *Audience Diversion Due to Cable Television: Data for Response to Industry Comments*, The Rand Corporation, N-1334/1—FCC, November 1979; Roger G. Noll, Merton J. Peck, and John J. McGowen, *Economic Aspects of Television Regulation*, The Brookings Institution, Washington, D.C., 1973; National Cable Television Association, *Comments*, Docket 21284, March 15, 1978; Schink and Thanawala, *The Impact of Cable TV on Local Station Audience*, Wharton EFA, Inc., Philadelphia, Pa., March 1978.

[208] This paper estimates UHF station viability, and updates the authors' previous work: *Projecting the Growth of Television Broadcasting: Implications for Spectrum Use*, Rand Corp. R-1841-FCC, 1976—a study used by the Federal Communications Commission's UHF Task Force in estimating future spectrum demand. *See also*, "An Evaluation of the Rand UHF Viable Stations Model," FCC, March 1979. A useful summary of the conclusions of this Rand study as they relate to cable television can be found in testimony of Dr. Leland L. Johnson to the Communications Subcommittee of the House of Representatives. *Cable Television Regulation Oversight: Hearings Before the Subcommittee on Communications of the Committee on Interstate and Foreign Commerce*, 94th Cong., 2d Sess. (1976) Serial No. 94-137 pp. 42-44.

[209] *See* Bureau of Census, Current Population Report; Series P-25, No. 704 (Projections of the population of the United States 1977-2050; 1977) Series II Projections. During the 1960's, the population in the United States grew by approximately 13 percent or 24 million persons. In the 1970's, the growth rate slowed to 9 percent (18 million persons). During the 1980's expectations are that the growth rate will remain at 9 percent (22 million persons). As can be seen (although the growth rate has remained stable), in absolute numbers, population will grow by more during the 1980's than it did during the 1970's. More importantly, the 26-36 year old population group (children of the 1954-64 "baby boom") is expected to increase by nearly 20 percent during the 1980's. This is a primary buying group for the durable goods advertised on television such as furniture, automobiles and appliances. Additionally, TV households are expected to grow at a faster rate than population, due to an increase in the number of single-person households. We have used the mid-range Census Bureau projections here (Series II) because they appear to be the most reasonable (see Bureau of Census, Current Population Reports, *Id.* at n. 6). However, even using the lowest growth projection (Series III), as is done by some commenting parties, significant population growth will occur during the next decade.

[210] The comment is sometimes made that secular growth in television station revenues will not overcome the audience fractionalization effects of cable because expenses as well as revenues increase over time. See, for example, John A. Dimling, Jr., "A View from the National Association of Broadcasters," in *The Role of Analysis in Regulatory Decisionmaking*, Park, Ed., Lexington Books, 1973 at 25. The short answer to this is that

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183. These conclusions appear to be widely shared not only by industry analysts and advertising agencies, but also by broadcast industry executives as reflected in their public statements. Individuals in each of these areas have recently stated that decreased audience shares will not translate into declining revenues. For example, the President of NBC has been quoted as stating that commercial television's share of the viewing audience through 1988 will remain high—close to 90 percent—and that the impact of alternative program sources would not decrease audiences, but rather would increase the number of hours each household spent watching television. He further predicted (citing an NBC study) that the growth in TV homes and multiset homes would compensate for other forms of audience diversion and that television would receive an increasing share of advertising expenditures.[211] The Vice-President and Chief Economist of CBS television has said that moderate changes in television audience shares will not change revenues until advertisers have an alternative and they will not have such an alternative during the coming decade.[212] The President of the Television Bureau of Advertising has predicted that television advertising revenues will surpass newspaper advertising revenues by the end of the decade.[213] The U.S. Department of Commerce has recently predicted that broadcasting will receive an increased share of advertising expenditures despite the increased rates charged. Advertising expenditures for radio and television are predicted to expand at a compounded annual growth rate of 14 percent for the next five years.[214]

184. In conclusion, it should be emphasized that the approximately 160 markets and stations analyzed in Docket 21284 were not randomly selected. Rather, most were brought to our attention as representing the worst instances of cable impact. They included most one and two station markets, many markets with high levels of cable penetration and a larger complement of imported signals (due to "grandfathering") than otherwise authorized, and a great many UHF and independent stations. Following the additional analyses conducted in response to the comments in Docket 21284, our basic conclusions as stated in the *Report* and in *The Notice of Proposed Rulemaking* have not changed. We feel that it is unlikely that any broadcast station will be significantly harmed by a relaxation of our carriage rules and extremely unlikely that any viewer will be significantly harmed. By contrast, the benefits of a relaxation of our distant signal restrictions are obvious: an increase in the opportunity for diversity and competition both in the economic marketplace and in the marketplace of ideas. We believe that existing levels of service to the public are secure.

Conclusions

185. Traditionally, we have been concerned that cable television, by threatening the viability of local stations, could cause a significant reduction in television broadcast service—especially for the poor and rural consumers who would not be able to purchase cable service. We were also concerned that cable television might cause a reduction in the external benefits flowing to our entire society because we felt that the additional competition from cable television could result in a decrease in the supply of local public service programming broadcast by television stations. Thus, we have acted cautiously in promulgating our cable television policies in the face of considerable uncertainty concerning the effect of cable television on local television broadcast service.

186. The information adduced in this proceeding, however, has allayed the fears we have harbored concerning the risk of loss of service to non-cable households. That risk has been found to be very small. After almost three years of intensive study, we have not found it to be the case that competition from cable television has redounded to the detriment of non-cable households. This finding is not attributable to our turning a deaf ear to the most egregious cases. To the contrary, we have analyzed approximately 160 cases, many of which have been brought to our attention as instances where the local stations suffer harm due to cable television. In the cases that we have identified as having audience declines during the 1972–1977 period, or revenue increases less than the rate of inflation, we performed further detailed analysis to determine the extent to which cable television appears to be a negative force on their financial situations and, more importantly, whether cable television threatens the local television broadcast service to non-cable households. We found that cable television is not a major negative force on the financial situation of these stations and poses little or no threat to their continued operation.

187. We also analyzed carefully six "grandfathered" markets and seven independent stations that face substantial competition from cable television because of high marketwide cable penetration and a large number of distant signals. These cases are representative of a marketplace functioning essentially without any signal carriage restrictions. We have found that competition from cable television does not appear to threaten the continued operation of the local stations in any of the cases analyzed.

188. We also inquired into the effect of cable television on the public service programming provided by local broadcast stations. Here, we were able to establish only a very weak relationship between the two. In the cases where we thought competition from cable television was most severe, we estimated only a very small reduction in the amount of local programming provided by the broadcast stations. Furthermore, we were unable to establish theoretically or empirically that cable television reduces the quality of local programming. Competition from

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revenues do rise faster than expenses. The compound annual growth rate of total broadcast revenues from 1973 to 1978 was 14.8 percent and that of expenses 13.4 percent (net income rose at a 20.3 percent compound annual rate). No reason why this trend should not continue is evident.

[211] "Television and the New Technologies," remarks by Fred Silverman to the California Broadcaster's Association, August 24, 1979.

[212] Presentation by Dr. David Blank to the Broadcast Financial Management Association's 19th Annual Conference. *Broadcasting*, September 24, 1979, p. 32. This statement attributed to Dr. Blank parallels a comment filed with the Commission by CBS some fifteen years ago which experience shows to have been quite accurate. As CBS stated: "* * * continously offsetting the effects of the rise in CATV penetration, with its depressing effect on station revenues, is the persistent rise in advertising demand for television time." "In other words, it will be only in rare cases that the rise of CATV will, in fact, be rapid enough and large enough in magnitude to cause an absolute decline in station revenues. And this is precisely why it is so hard to find actual cases of stations in which CATV growth can be related to absolute declines in station revenues." Comments of Columbia Broadcasting System, Inc., in Docket 15971, July 23, 1965 at 27, 29.

[213] *Broadcasting*, May 5, 1979, p. 114.

[214] *U.S. Industrial Outlook 1980*, U.S. Department of Commerce, Industry and Trade Administration. See also, for example, "Walking on the Sunny Side of Wall Street," (an interview with Mr. Bill Suter of Merill, Lynch, Pierce, Fenner and Smith), *Broadcasting*, January 28, 1980, p. 72; "Forecasters See A Mixed Outlook for Broadcasting in the Eighties," *Broadcasting*, September 24, 1979, p. 32; Remarks by Gene Jankowski, President of CBS/Broadcasting Group, before the Academy of Television Arts and Sciences, November 29, 1979; "Financial Impact of New Technologies: End of Golden Age?" *Television/Radio Age*, January 14, 1980, p. 66; "We'll Do Quite Well, Thank You," Rosenfield, *Broadcasting*, November 19, 1979, p. 68; "TV Ad Picture Bright," *Washington Star*, April 2, 1980, p. F–1; "Double Digit Optimism For Broadcasting Economy," *Broadcasting*, January 1, 1979, p. 40.

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distant signals may actually, in some circumstances, increase the quality of programming broadcast by local stations.

189. Intuitively, the above findings may seem somewhat surprising. Certainly, the evidence demonstrates that local broadcast stations will earn less revenues and profits if distant signals are authorized than they otherwise would have if additional distant signals were not permitted to be imported. However, television broadcast stations, including UHF independent stations which traditionally have been presented to us as the industry's weakest element, often earn substantially more than a normal return on their investments. Additionally, UHF stations in intermixed markets, which traditionally have been our greatest concern, often are helped by cable television. But, perhaps more importantly, the impact of additional distant signals on local stations will occur in a context of offsetting factors. Increases in population and the demand for advertising act to increase substantially the revenues and profits of local broadcast stations. Moreover, even if cable penetration levels were much higher than they are today, the audience losses attributable to cable television are small in relation to the yearly growth in revenues and profits that we observe for television stations. Thus, we find that the risk of loss of service to non-cable households appears to be small. It seems unlikely that poor or rural consumers will be denied television service because of additional competition from cable television. The existing levels of local public service programming provided by broadcast stations also seem secure and actually are expected to increase because of the entry of new stations into the marketplace. Therefore, the costs to non-cable households from deregulating cable television appear to be insignificant.

190. On the other hand, the benefits to existing and potential cable households from permitting the carriage of additional signals are substantial. Millions of households may be afforded not only increased viewing options, but also access to a diversity of services from cable television that presently is unavailable in their communities.

191. In summary, we believe that relaxation of our distant signal carriage restrictions will promote substantial improvements in television service to the public without causing any significant risk of loss of the existing levels of service provided by local television broadcast stations. We have found in our analysis of the evidence in this proceeding that competition from cable television has improved television service to the public and will continue to do so in the future. More specifically, in terms of the criteria for evaluation of these rules set forth, we do not believe the elimination of the rules will have undesirable distribution or external effects and we believe their elimination will promote the welfare of consumers generally.

III. The Effect of the Syndicated Exclusivity Rules on Television Service to the Public

192. Existing rules, in addition to establishing quotas on the number of distant signals that may be carried, require the deletion of particular syndicate programs from those signals that are carried, upon the request of local television stations and in some instances at the request of program producers or distributors.[215]

193. Because of their historical origin, the intended function of these rules is not as clear as it might otherwise be. This history is set forth in some detail in the *Syndicated Exclusivity Report*, (pp. 956–964) as well as more recently in *Geller v. FCC*, 610 F. 2d 973 (D.C. Cir. 1979). Compressing a somewhat complex situation down to its fundamentals, this history reveals that in 1971 the Commission was prepared to adopt a set of cable television distant signal carriage rules that contained no limitations of the type now found in the exclusivity rules. As the result of a "Consensus Agreement" between major elements of the cable television, broadcast television, and television program production industries, which the Commission adopted in order to facilitate the passage of copyright legislation, the syndicated exclusivity provisions were included in the rules. Because of the process whereby they were adopted, there was virtually no economic analysis of their functioning either by the Commission or, apparently, by the industry groups involved.[216] For this reason also there is no extended "legislative history" or other articulation of the rationale underlying the rules. In part, it appears that they were intended as a response to the fact that cable television systems operated outside of traditional program supply markets as a result of the operation of the Copyright Act of 1909,[217] creating what was viewed as unfair competition between cable television systems and television broadcast stations. In our *Syndicated Exclusivity Report* and in our *Notice of Proposed Rule Making* in this proceeding we concluded that this consideration was coextensive with the issue of copyright liability and not a reason for retaining the rules.[218] In particular, we noted the statement in *Home Box Office v. FCC*, to the effect that the Supreme Court's decision in *U.S. v. Southwestern Cable Co.*, 392 U.S. 157 (1977) "certainly does not establish that 'unfair competition' requires the general protection of broadcast television," [219] and the same Court's conclusion in *CBS Television Network Affilates Ass'n v. FCC*, that our concern over "unfair competition" was essentially based on the possibility that distant signal importation by cable systems might threaten the viability of local stations from the standpoint of allowing "debilitating economic competition" and not "so much with the 'pirating' of signals per se." [220] Nothing in the comments received provides us with any reason to alter our conclusion in this regard.

194. A more explicit rationale for the rules was set forth in the 1972 *Cable Television Report and Order* where it was said that the rules were intended "to protect local broadcasters and insure the continued supply of television programming." [221] In view of this statement, when we commenced our review of these rules in our *Notice of Inquiry in Docket 20988*, we sought information on the following questions:

—If there were no cable television syndicated program exclusivity protection for television broadcast stations, how would this effect their ability to serve the public in those areas they are licensed to serve?, and

—What effect do the syndicated exclusivity rules have on the production and availability of syndicated programming?

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[215] Generally speaking, for purposes of these rules, a syndicated program is any television broadcast program other then a network program, including series programs, feature films, and all other non-network programs. See 47 C.F.R. § 76.5 (p). The provisions of the syndicate exclusivity rules are more generally described in paragraphs 14–16 above.

[216] In view of this it is somewhat disconcerting to find parties arguing that the economic analysis which led to the adoption of the rules are as valid today as in 1972. See, for example, Motion Picture Association of America, comments in Docket 20988, March 1, 1977 at 7.

[217] 35 Stat. 1075, as amended.

[218] *Syndicated Exclusivity Report, supra,* at paras. 17, 35, 51–52. *Notice of Proposed Rule Making in Dockets 20988 and 21284, supra,* at para. 61.

[219] 567 F. 2d at 41.

[220] 555 F. 2d at 990.

[221] 36 FCC 2d at 169 (1972). More generally, it might be said that the rules were adopted to facilitate the passage of copyright legislation applicable to the cable television industry. This rationale has been the subject of litigation and, as a consequence of this litigation and the passage of copyright legislation in 1976, the Commission is now obligated to consider the continuing validity of these rules pursuant to the Court's order in *Geller v. FCC, supra.*

195. In our *Syndicated Exclusivity Report,* we responded in terms of these two concerns separately, noting, however, that the form of the rules suggests that they were principally intended as protections for program suppliers.[222] That this is so is suggested by the fact that the most extensive protections are accorded the larger market stations which presumably are less in need of protection from competition and from which program suppliers obtain the bulk of their revenues and by the provision of the rules that permits the substitution of additional (and conceivably more attractive) programs in place of those deleted.[223] That this view is correct is confirmed by some industry comments. In our *Notice of Inquiry in Docket 20988* we noted the statement of the National Association of Broadcasters that, "[i]n terms of ameliorating impact on local television stations the rules are largely meaningless." [224] Comments from ABC, state that "The important point is not fractionalization impact at all. Having decided upon the number of permissible distant independent signals, the Commission has established a permissible degree of fractionalization." [225]

196. However, because whatever impact there is on program supply from changes in these rules is derivative of the impact they have on television broadcast stations, we discussed each separately in the *Syndicated Exclusivity Report* and will do so here as well.

197. In our *Report in Docket 20988* we analyzed the effect of the syndicated exclusivity rules on television service to the public. We examined the effect of the rules on the subscribers and potential subscribers of cable television, on local television stations, and on the supply of television programming. We concluded that the public interest would be better served in the absence of the syndicated exclusivity rules for cable television systems.

198. Television broadcast and program production interests have voiced numerous objections to the findings of our *Report.* Many of the criticisms leveled at our analysis in the *Report in Docket 21284* are repeated for the analysis in the *Report in Docket 20988.* These criticisms are addressed in Section II, *infra,* and that discussion is not duplicated here. Several other criticisms are directed to the analysis which appears only in the *Report in Docket 20988.* The discussion in this section should, we believe, demonstrate that these criticisms also are without merit. Moreover, no new evidence has been submitted which contradicts our previous findings.[226] Thus we remain confident that the public will be better served without the syndicated exclusivity rules.

199. At the outset we must emphasize that the syndicated exclusivity rules impose substantial welfare costs upon the subscribers and potential subscribers of cable television service. The television programs that are blacked-out pursuant to the syndicated exclusivity rules are readily avilable at cable head-ends and can be delivered to cable subscribers at no cost. The fact that cable subscribers are denied programs when the marginal cost of receiving them is zero violates a basic efficiency criterion of modern welfare economics.[227] The resulting welfare loss to cable subscribers is substantial. Our *Report in Docket 21284* found that the demand for and the availability of cable television service by and to consumers is affected significantly by distant signals. Thus the syndicated exclusivity rules impose substantial costs upon the subscribers and potential subscribers of cable systems by restricting many of the programming alternatives on distant signals for which consumers are willing to pay.[228]

200. Several parties disagree with our conclusion that the syndicated exclusivity rules impose costs on the subscribers and potential subscribers of cable television. For example, some parties argue that the elimination of the syndicated exclusivity rules will not foster diversity because only duplicative programming will be made available to cable subscribers. Several parties also criticize our reference to an earlier proceeding before the Commission concerning television re-runs [229] where the television networks and other broadcasters presented evidence intended to demonstrate the value to the public of having alternative viewing times for the same program. NBC argues "in that proceeding, the issue was the value of repeat broadcasts for the entire viewing public not the 'very small percentage' of cable subscribers on systems presently required to comply with the rules." [230] NBC has not demonstrated, however, why repeat broadcasts are of less value to this segment of the viewing public nor why a "very small percentage" would create significant injury. Indeed, evidence suggests that consumers are willing to pay for such broadcasts.[231]

201. Fisher Broadcasting, Inc., by providing share data for the top ten primetime programs in the Seattle-Tacoma market, makes a more specific attack on our reference to the material filed in the re-run proceeding (Docket 20203). In that proceeding a number of individuals and organizations involved in the production of television programming were urging the Commission to restrict the amount of repeat or re-run programming shown on the major television networks. The

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[222] *Supra,* at p. 976–977.

[223] In addition, some of the rights created by these rules flow directly to program suppliers.

[224] *Supra,* at p. 953.

[225] American Broadcasting Companies, Inc., comments in Docket 20988, March 1, 1977 at p. 34. See also, for example, comments of Westinghouse Broadcasting Co. in Dockets 20988 and 21284, September 17, 1979: "Nor was the primary intended purpose of the rules to prevent station audience fractionalization or diversion." (p. 7). Others have made the point more bluntly. Barbara Ringer, the Register of Copyrights wrote in 1972 that the rules were "probably the most elaborate and intricate copyright provisions ever promulgated anywhere." Barbara Ringer, "Recent Cable Television Developments in the United States Involving Copyright," 3 *Performing Arts Review* No. 4, p. 581 (1972).

[226] Several comments from parties with both cable and broadcast interests, including Storer Broadcasting and the parties filing jointly with Cox Broadcasting, urge the elimination of the distant signal carriage rules but retention and simplication of the syndicated exclusivity rules. Storer Broadcasting, comments in Dockets 20988 and 21284, September 17, 1979; Cox Broadcasting Co. *et. al.* comments in Docket 20988 and 21284, September 17, 1979. No study or evidence is offered in support, however, Cox *et. al,* for example, finding it "unnecessary" and "presumptuous" to add further specific data.

[227] *See, e.g.,* Jora R. Minasian, "Television Pricing and the Theory of Public Goods," *Journal of Law and Economics,* Vol. 7 (October 1964). *See also* Noll, Peck, and McGowan, *Economic Aspects of Television Regulation* (1973).

[228] For estimates of the amount of programming on distant signals that can be blacked out pursuant to the syndicated exclusivity rules, see the *Report in Docket 20988,* at para. 59. It should be noted that we have been unable to estimate precisely the effect of the syndicated exclusivity rules on the growth of cable television. There are many factors which influence the decision whether to provide cable television service to an area. Nevertheless, the syndicated exclusivity rules reduce entrepreneurs' willingness to risk their capital to provide cable service because they reduce the expected returns from providing that service.

[229] *Report and Order in Docket 20203,* 61 FCC 2d 946 (1976).

[230] *Supra,* at n. 48 at p. 21. It should be noted that by concurring in our derivation that only 4.4 percent of all households presently can be affected by the syndicated exclusivity rules, should broadcasters fully exercise their rights, NBC lends credence to our belief that the effect of eliminating the rules on local broadcasters and program producers will be small.

[231] *See* para. 93 and n. 32 in the *Report in Docket 20988.* It should be noted that in our *Syndicated Exclusivity Report* we did not dwell at length on the costs these rules impose because we found little reason to retain them in terms of their own justification and wished to avoid, insofar as possible, any suggestion that the rules should be eliminated to "promote" cable television. What we are concerned with is the overall service the public receives.

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networks and various television station parties were defending the re-run practice. By way of illustrating why the syndicated exclusivity rules decrease significantly the welfare of cable subscribers even though the programming lost under these rules will generally be available at some time from a local television station, we made reference, in footnote 83 of our *Syndicated Exclusivity Report*, to the contention of broadcasters in the re-run proceeding that "with respect to prime-time network programs only 14 percent of the potential viewing audience actually watches a program when it is first broadcast."

202. Although Fisher Broadcasting has attacked the 14 percent figure, when carefully considered, these comments actually appear to reinforce the point made: namely, that during a single broadcast of any particular program a considerable portion of the potential audience for that program is either watching another channel or not watching television at all, and would, for that reason, find alternative viewing times for programs to be highly desirable.[232] Fisher's comments show that during January 1979 the ten most popular prime time programs in the Seattle-Tacoma market were viewed, on average, by about 32 percent of the potential audience.[233] Clearly, the average audience reached by all prime time network programs will be far below the figure for the ten most popular, the average audience for all network programs will be lower than the prime time average, and the typical syndicated program will, in any particular showing, reach even a smaller part of the whole potential audience. Thus, Fisher's comments tend to reinforce the point that a considerable portion of television households do not view a program when it is first broadcast. "Duplicative" programming can therefore offer many households true diversity. Thus, we believe that the syndicated exclusivity rules reduce both program diversity to some cable subscribers and "time diversity" to others.[234] We believe these reductions diminish significantly the welfare that subscribers and potential subscribers derive from cable television.

The Impact of Eliminating the Syndicated Exclusivity Rules on Local Stations

203. As indicated, the syndicated exclusivity rules were adopted, in part, "to protect local broadcasters." [235] Our *Report in Docket 21284* analyzed the effect of distant signals, in the absence of blackouts resulting from the application of the syndicated exclusivity rules, on television service to the public.[236] We found that protection of local stations against competition from distant signals imported by cable systems served no public interest purpose. This finding largely moots any concern that the syndicated exclusivity rules are necessary to promote the public interest by protecting the operation of local stations because the effect of the syndicated exclusivity rules on local broadcast service is a subset of the larger, encompassing effect of unregulated distant signal carriage. Nevertheless, since the effect of the syndicated exclusivity rules on program supply is derivative of the effect of the rules on local station audiences, we provided estimates of the amount of audience that is subject to shelter by the rules in order to gauge the effect of the rules on program supply.

204. To determine the effect of the syndicated exclusivity rules on local station audiences we would have liked to compare the distribution of cable viewing to distant signals for instances in which the rules were and were not in effect. By taking the difference between these two distributions we would have been able to determine directly the amount of audience that is protected by the rules. Unfortunately, the requisite data for such an exercise were unavailable. Even today it appears that syndicated exclusivity protection is not requested or provided on a wide-scale basis.

205. Our *Report*, however, established that the audience subject to shelter by the syndicated exclusivity rules is equal to a percentage of the total audience loss attributable to te absence of exclusivity protection.[237] We assumed this percentage to be equal to the percentage of all distant programming that potentially could be blacked out pursuant to the rules. Thus, if cable television diverts 10 percent of the audience of a local television station in an unregulated market (i.e., there are no distant signal carriage or syndicated exclusivity restrictions) and 40 percent of the distant programming carried by the cable systems could be blacked out pursuant to the syndicated exclusivity rules, we assumed that 4 percent of the local station's audience could be protected by the syndicated exclusivity rules. Or, stated differently, the potential impact of eliminating the rules on the local station's audience in this case is estimated to be 4 percent.

206. We employed the study by Dr. R. E. Park of the Rand Corporation to estimate the percentage of time that distant signals on cable could be blacked out pursuant to the syndicated exclusivity rules under various local market conditions.[238] Park's work is the only published article on the subject of which we are aware and his estimates are broadly consistent with those provided by various parties in this proceeding.[239] We applied Park's "black out" percentages to his estimates of audience diversion due to cable in an unregulated market [240] to determine the protection which potentially could be afforded to local stations by the syndicated exclusivity rules. Park's audience estimates were employed because the results are presented in a form which facilitates ready application of the "black out" percentages appearing in his earlier study. We took care to emphasize, however, that we believed Park's estimates of audience diversion due to cable were overstated.

207. Approaching the issue of audience diversion from the elimination of the syndicated exclusivity rules conservatively, we explored the potential impact at both current cable

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[232] The value of alternative viewing times to the public is illustrated by the home video recorder business in which consumers are making substantial investments for the principal purpose of making possible alternative television viewing times. See, for example, D. Agostino, R. Johnson, and H. Terry, "Home Video: a Report on the Status, Projected Development and Consumer Use of Videocassette Recorders and Videodisc Players," Feb. 1980: "It is clear that the principal use of the VCR to date is for time-shift viewing," p. 61. The loss of programming by virtue of these rules is a major source of complaints to the Commission from cable subscribers.

[233] *See* Fisher Broadcasting, Inc., comments in Dockets 20988 and 21284, September 17, 1979. *See also* the *Report and Order in Docket 20203*, 61 FCC 2d 946 at n. 5 of Appendix A (1976).

[234] *See also* 47 C.F.R. Part 76.151(a) which requires cable systems in the top fifty television markets to black-out for a period of one year, upon request from the copyright holder, first-run syndicated programming imported from distant markets, even if the programming is not broadcast in the local market.

[235] *Cable Television Report and Order*, 36 FCC 2d at 169 (1972).

[236] It should be noted that most of the studies of audience impact due to cable television in this proceeding measure the results of a marketplace functioning without syndicated exclusivity restrictions. *See* para. 56 of the *Report in Docket 20988.*

[237] To simplify the analysis and be conservative in terms of audience impact we assumed that no program substitutions would be made.

[238] R. E. Park, "The Exclusivity Provisions of the Federal Communications Commission's Cable Television Regulations," The Rand Corporation, June 1972.

[239] *See, e.g.*, the Comments of the National Cable Television Association in Docket 20988, March 1, 1979.

[240] R. E. Park, "Audience Diversion Due to Cable Television: A Statistical Analyses of New Data," the Rand Corporation, Prepared for the Federal Communications Commission, January 1979, attached as Appendix A to the *Report in Docket 21284.*

penetration levels and anticipated future penetration levels. Under present conditions we found that the syndicated exclusivity rules, should broadcasters *fully* exercise their rights, would protect no more than one percent of the audience for any local station.[241] In the long-term we estimated that the maximum possible audience protection from the rules for some local stations may approach nine percent. We noted, however, that this estimate was overstated because of the use of the Park audience model. The estimates for the long term also were dependent on the assumption that the grandfathering provisions of our rules would no longer be applicable. Thus we concluded that the exclusivity rules would protect much less than nine percent of the potential audience for any broadcast station in the foreseeable future.

208. This conclusion was corroborated by our findings in the **REPORT IN DOCKET 21284.** For example, in our grandfathered market analysis the largest audience loss due to cable for stations that would be able to exercise their rights to protection but for the grandfathering provisions of our rules was between 4 and 7 percent for the VHF independent station operating in San Francisco, California. The syndicated exclusivity rules could protect no more than between 2 and 4 percent of this station's potential audience if the grandfathering provisions were eliminated.[242] Similarly, if syndicated exclusivity protection were afforded to the stations in our grandfathered market analysis suffering the largest audience losses due to cable (i.e., those stations licensed to Palm Springs, California which are not entitled to protection because they operate outside the top hundred markets), the audience protected for these stations would be no more than about 1 to 2 percent.[243] It is important to note that the grandfathered markets analyzed in the *Report in Docket 21284* are extreme cases because of the high levels of marketwide cable penetration and the large number of distant signals that are imported by the cable systems. Thus, it is clear that even in the long term the syndicated exclusivity rules can afford local broadcast stations very little audience protection.

209. We concluded that the maintenance of the syndicated exclusivity rules would provide no improvement in the television service provided by local stations. We found that the level of profits for the television industry is expected to continue to increase even without any protection against distant signal importation by cable television systems and that cable television has little effect on the local public service programming provided by broadcast stations.

210. Several parties have voiced the same general criticisms of our analysis of audience diversion due to cable in the *Report in Docket 21284* to our analysis of audience diversion due to the elimination of the syndicated exclusivity rules in the *Report in Docket 20988*. For example, NAB contends that the "Commission's treatment of audience losses resulting from importation of duplicative syndicated programming is inadequate, primarily because of the Park study on which it relies is flawed and inadequate." [244] In its section on syndicated program exclusivity, INTV states that "of particular concern to INTV is the failure of the Cable Bureau to analyze impact in terms of 'fringe time'—the time period before and after prime time." [245] Capital City *et al.* argue that the long-term incremental effect of eliminating the syndicated exclusivity rules should include audience diversion due to the normal growth of cable television that is not attributable to the elimination of the rules. However, we have already shown in detail the invalidity of these general criticisms in the previous section of this *Report and Order*, and, accordingly, we do not believe it would be fruitful to reiterate that discussion here.

211. A few parties also have directed criticisms to the analysis appearing only in the *Report in Docket 20988*. For example, the Joint Motion contends that "it appears that the presentation of the basic findings of the Park Study in the Economic Inquiry Report [sic] is replete with numerous errors, which raise very serious questions as to the Commissioners' reliance on the staff summaries rather than the Park Study itself. Thus, for example, on Tables 2 and 3 in the Report (presented on pages 35 and 37), the 'percent Audience Loss' figures cited are *fractions* of the actual Park data." [246] (Emphasis in original.) We believe this criticism may have been voiced because of petitioners' inadvertently regarding the tables referred to as part of the *Economic Inquiry Report* when they are in fact found in the *Syndicated Exclusivity Report*. In any event, the parties obviously did not understand that the estimates in Tables 2 and 3 *were* meant to be fractions of the actual Park data. These tables provide estimates of the effect on local station audiences of eliminating the syndicated exclusivity rules. The Park study provides estimates of the overall audience diversion due to cable in the absence of distant signal restrictions *and* syndicated exclusivity protection. Since not all of the programming on distant signals could be blacked out pursuant to the syndicated exclusivity rules, only a fraction of the total audience diversion due to cable in an unregulated market could be protected by the rules. Thus the "serious questions" raised by the Joint Motion of the "staff summaries" represent a misunderstanding on the petitioners' part.

212. Capital City *et al.* contend that the Commission's procedure for estimating the potential effect of eliminating the syndicated exclusivity rules on local station audiences "seriously understates the actual likely impact in markets [with eight local signals] since Park has calculated the extent to which a typical distant signal is blacked out by the syndicated exclusivity rules only in markets with six or fewer local stations." [247] For example, in the *Report in Docket 21284* we reported that Park estimates that 63 percent of distant programming could be blacked out pursuant to the syndicated exclusivity rules in markets with six local stations. Since Park did not estimate the percentage of distant programming that could be blacked out in markets with eight local stations, and in the absence of other estimates for these markets, we assumed that 63 percent of the distant programming could also be blacked out in markets with eight local stations. We do not believe this assumption leads to a "serious" understatement of audience diversion. For example, even if 80 percent of the distant programming carried by cable systems in markets with eight local stations could be blacked out pursuant to the syndicated

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[241] We also showed that very little protection would be afforded to broadcast stations in the smaller markets if the rules were applicable there because of the small amount of syndicated programming purchased in these markets.

[242] This calculation is based on the estimate that 63 percent of the distant programming could be blacked out. See the *Report in Docket 20988* at para. 59.

[243] In this case we estimate that only 10 percent of the distant programming could be blacked out pursuant to the syndicated exclusivity rules. See *id.* at n. 48.

[244] *Supra*, n. 93 at p. 143.

[245] *Supra*, n. 94 at p. 34. Several parties also suggest that impact should be analyzed in terms of syndicated programming because audience diversion during syndicated programming is greater than average and the revenue/audience ratio for this programming also is greater than average. We view this suggestion as functionally equivalent to that of analyzing impact in terms of early fringe. It makes very little difference to the "bottom line" estimates of audience diversion in either case. See Section II above.

[246] *Supra, n. 92, at 24.*

[247] *Supra, n. 91, at 15.*

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exclusivity rules, our estimates in Table 2 for the near-term would increase by only one percentage point and our estimates in Table 3 for the long-term would increase at most by only two percentage points.

213. INTV alleges that "the Comments and Reply Comments filed by INTV in Docket 20988 demonstrated the need for the syndicated program exclusivity rules. The Cable Bureau did not contradict (or even respond to) INTV's arguments."[248] The theme of INTV's most substantive argument in the referenced comments was that "the syndicated program exclusivity rules are still of continued importance for the future viability of the independent television industry."[249] To substantiate its argument, INTV had presented audience data for cable and non-cable housholds in Seattle and San Francisco. INTV had contended that "these examples clearly indicate the fractionalization of audience which takes place as a result of importation of distant signals when there is no exclusivity protection. The Seattle-Tacoma and San Francisco-Oakland-San Jose markets are not atypical, and what is happening there provides an insight into what will be happening in other markets in the future as cable continues to develop."[250] We agreed with the latter statement. It is precisely the reason for which we analyzed the effect of cable television on the local independent stations in these markets.[251] This analysis constituted our response to INTV's comments. We found that cable television augments the audience of the independent station in Seattle by 3 to 5 percent and increases the audience of the two UHF independents in San Francisco by an even greater amount.[252] On the other hand, the VHF independent in San Francisco loses between 4 and 7 percent of its audience due to cable television and only a percentage of this diversion would be attributable to the absence of syndicated exclusivity protection. However, we found this station has realized tremendous growth in revenues and profits during the period for 1972 to 1977. Thus we rejected INTV's contention that the syndicated exclusivity rules were essential to the viability of independent television stations.

214. In its latest comments in this proceeding dated September 17, 1979, INTV refers to the study performed by Roger Cooper and Associates, submitted as comments by McGraw-Hill Broadcasting Company, Inc. and Storer Broadcasting Company for additional support for the proposition that some independent stations would not be able to remain viable without the ability to protect at least the portions of their schedules being duplicated by distant signals. The Cooper study allegedly demonstrates a reduction in the audiences of the Bakersfield stations of more than 69 percent. We analyzed the effect of cable television on the stations in Bakersfield in our grandfathered market analysis in the *Report in Docket 21284*. We found that while these stations may lose as much as 13 percent of their potential audience due to cable, their revenues had increased by almost $3 million from 1972 to 1977, an increase of over 100 percent. Thus we believe the contention that some stations will not remain viable without syndicated exclusivity protection is simply invalid.

215. Several parties also have advanced some unsupported theories concerning the syndicated exclusivity rules in their comments to our *Notice of Proposed Rulemaking in Dockets 21284 and 20988*. For example, NAB claims that "the lack of syndicated exclusivity protection may result in total withdrawal of syndicated programming from local broadcast exhibition."[253] This claim is without merit. Program syndicators attempt to sell their product in virtually every market regardless of the potential audience size, provided they can cover their distribution costs. Thus we find it extremely unlikely that these syndicators will not sell their products to the stations in a market because they attract at most a few percent less audience due to the absence of syndicated exclusivity protection. In fact, the stations in our grandfathered market analysis do purchase programs that are imported by cable television systems from distant markets. Additionally, syndicators often sell the same programs to stations situated in adjacent markets such as Washington, D.C. and Baltimore, Maryland, where the programs from both markets can be received readily by a large proportion of the households in these markets. Moverover, there are many sources of program supply. If one syndicator refuses to sell its products in a market, its competitors eagerly will fill the void. Thus we cannot accept the argument that syndicated exclusivity protection is essential for local stations to be able to compete in the marketplace.

216. Nor can we accept the argument advanced by several parties in this proceeding that the financial base of television is such that the industry could not survive in the absence of program exclusivity. Local stations are aware of the competition that they face and negotiate over the price of syndicated television programming accordingly. The syndicated exclusivity rules restrict competition and thereby protect the high profits that television broadcasters capture in the absence of competition. In contrast to the allegations raised in the comments, we believe that increased competition from cable television will not decimate the television broadcast industry, but rather will act to improve the performance of television broadcasters.

217. In summary there has been little criticism directed specifically to our analysis of the potential effect of eliminating the syndicated exclusivity rules on local television stations. Moreover, we found these criticisms to be without merit. Several parties also have reiterated their general criticisms of our findings of the overall effect of distant signals on local stations. These criticisms have been shown to be invalid in Section II, *infra*. It should also be noted that no new evidence has been submitted since our issuance of the *Notice of Proposed Rule Making* in this proceeding that shows our conclusion concerning audience diversion is incorrect. Therefore, we remain confident that the potential effect of eliminating the syndicated exclusivity rules on local station audiences will be minor. In the near term the loss to any local station would be no greater than about 1 percent. In the long run the

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[248] *Supra*, n. 94, at p. 36.

[249] Association of Independent Television Stations, Inc., comments in Docket 20988, March 1, 1977. INTV also claimed that: 1) syndicated program exclusivity protection was a basic tenet of the "Consensus Agreement"; and 2) the syndicated program exclusivity rules do not cause cable viewers to lose any programming, but rather, foster diversity of programming to the public. At para. 48 of the *Report in Docket 20988*, we said that we did not regard the Consensus Agreement as a reason to refrain from rules changes and INTV has made no new argument not considered at that time. In this regard, see also *Geller v. FCC*, 610 F. 2d 973 (D.C. Cir. 1979) requiring that these rules be reviewed. At paras. 69 and 91–3 the *Syndicated Exclusivity Report* we concluded that the rules adversely affect the subscribers and potential subscribers of cable systems.

[250] *Id.*, at p. 19.

[251] *See* the *Report in Docket 21284* at paras. 127–129.

[252] It is perhaps worth noting that Kaiser Broadcasting, then the licensee of KBHK–TV, one of the two UHF stations in San Francisco, in its March 7, 1977 filing in Docket 20988 (pp. 16–17) relied on the INTV filing in complaining of the adverse audience effects of cable operations without noting that the INTV data showed KBHK–TV's cable audience share to be almost triple that which it received off-the-air. In addition, the data supplied by INTV, which purported to reflect the entire San Francisco ADI, actually did not include San Francisco, Alameda County west, or Napa County north. More complete data is shown for KBHK–TV at p. 811 of the *Economic Inquiry Report*.

[253] *Supra*, n. 93, at p. 19.

effect will be greater, but in all likelihood will be considerably less, for all stations, than our theoretical worst-case projection for some stations of 9 percent. For example, our case studies suggest that the potential impact of eliminating the syndicated exclusivity rules will rarely be as large as 4 percent for any station in the foreseeable future. We have relied upon the evidence in the *Report in Docket 21284* and the analysis of Section II of this *Report and Order* to conclude that audience deversion of this magnitude will not hinder the television service provided by local broadcast stations.

The Impact of Eliminating the Syndicated Exclusivity Rules on Program Supply

218. The syndicated exclusivity rules were, as indicated above, rationalized when they were adopted not only as protections for local television broadcasters but as necessary "to insure the continued supply of television programming." [254] In the proceeding section we determined the protection that the rules afford local broadcast stations will not lead to any significant benefits for consumers in the foreseeable future. Thus, we are left in this section with the determination of the effect of the rules on program supply. It should be emphasized, however, that the effect of the rules on program supply is derivative of the effect of the rules on local broadcasters.

219. Traditionally, we have been concerned that without syndicated exclusivity protection the production of television programming would diminish. [255] We thought that if local stations would pay less for programming because of the decreased audience they would attract in competition with less proximate broadcasters and if producers were not indemnified by cable television systems for the use of their product, the economic incentive to produce original works would diminish, resulting in a reduction in the supply of programming. Thus, the syndicated exclusivity rules were adopted, in part, as a copyright remedy for the retransmission of broadcast signals by cable systems.

220. Our *Report in Docket 20988* analyzed the effect of the syndicated exclusivity rules on program supply even though we doubted the authority of this Commission to assign copyright liability for the retransmission of broadcast signals by cable television systems in the absence of debilitating economic competition to local broadcast stations. Our analysis, however, was predicated upon the applicability of the compulsory licensing system established by Congress. Thus we investigated the effect of the syndicated exclusivity rules on program supply under the auspices of compulsory licensing. A summary of those findings is presented here.

221. Our *Report in Docket 20988* found, unsurprisingly, that the price of television programming is determined by the interaction of supply and demand in the marketplace. The prices paid by television broadcast stations for programming were shown to be correlated strongly with advertisers' demand for commercial time, thus corroborating the expectation that the revenue a broadcaster anticipates for exhibiting a particular program will affect significently the price paid for the program. We determined, therefore, that the effect of the syndicated exclusivity rules on the price paid for television programming by local stations depends largely on the amount of audience that the rules protect. We had found, however, that the elimination of the rules would reduce local station audiences by no more than about 1 percent at the present time, even if all of the stations that were entitled to protection were receiving it. Thus we concluded that the elimination of the syndicated exclusivity rules would have a minimal effect on the prices paid for programming and therefore would have no perceivable effect on the supply of television programming over the near term. Or, stated differently, we concluded that the rules do not confer any present benefits on the public in the form of an expanded supply of programming.

222. Over the long term we had found that the audience protection afforded by the syndicated exclusivity rules would increase, theoretically approaching nine percent for some stations, although the likely figure would be much less. Thus we analyzed more carefully the potential effect of the rules on the supply of programming in the long run. We were unable to establish any definitive effect. For example, while local broadcasters may pay less for programming because of the reduced audience resulting from the unrestricted cable importation of distant signals, we noted that it is likely that these distant stations will pay program producers more because of their increased audience circulation. We found that total payments to producers from broadcast stations may remain unchanged or may even increase as a result of the elimination of the syndicated exclusivity rules. However, even if the elimination of the rules were to affect adversely the total payment to producers, we could not determine whether this would cause any perceivable reduction in the supply of programming in comparison to what it otherwise would have been. For one thing, the importation of distant signals by cable television plays only a very small part in determining the overall payments to producers. Our *Report* found that both the overall payments to producers and the supply of television programming will continue to increase over the long term even with the complete deregulation of cable television. Second, we were unable to establish that reduced payments to producers would affect significantly the supply of programming. We noted the divergence of scholarly thought on this matter appearing in the literature. Essentially, there is general disagreement about the extent to which lower payments to producers merely result in lower rents being paid to performers and other factor inputs. For example, some authors argue that reduced payments show up largely as reductions in rents paid to performers without adversely affecting the supply of programming to any significant degree. We were unable to test this theory empirically, however, because of the general unavailability of data on the program production industry.

223. Finally, we noted that even if the above chain of events would unravel in a manner that resulted in the supply of programming being less than what it otherwise would have been with the protection afforded by the syndicated exclusivity rules, the Copyright Revision Act of 1976 provides a mechanism to prevent any adverse reallocation of resources from the program production industry to the cable television industry from occurring. [256] Thus we were unable

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[254] *Cable Television Report and Order, supra,* p. 169.

[255] It should be noted that our authority to adopt remedial regulations in response to concerns of this nature is far from clear. In another proceeding (the TV re-run proceeding referred to above) the Commission raised questions "as to whether this subject—the welfare and viability of the program production industry and employment in it—affords a basis for Commission regulation in the public interest." *Report and Order in Docket 20203,* 61 FCC 2d 946, 950 (1976). The situation presented was found to afford no basis for action and the Commission went on to say:

> We are persuaded that it is not this Commission's province to engage in regulatory action (by rule or otherwise) with the purpose, or largely for the purpose of furthering employment or economic conditions in a particular industry or a particular part of the country. While the Communications Act terms "public interest, convenience and necessity" encompass many concepts. and their scope has grown wider with time, there is no reason to believe it extends this far. (footnote omitted). *Id.* at 950.

[256] 17 U.S.C. § 801(b)(2)(C). More generally, we noted that Congress has implemented this copyright

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to ascertain that the supply of programming would be less than what it otherwise would have been in the long term because of the elimination of the syndicated exclusivity rules.

224. Our *Report* concluded that the near-term effect of eliminating the syndicated exclusivity rules on program supply is inconsequential. We found the effect in the long term to be less determinate, but we were able to conclude confidently that the program production industry will continue to prosper and the overall supply of television programming will continue to expand.

225. The criticisms of our analysis of the effect of the elimination of the syndicated exclusivity rules on the supply of programming include no attempts to refute its results empirically. No new evidence has been submitted to contradict our findings that (1) the program production industry will continue to prosper, (2) the supply of programming will continue to expand, and (3) the elimination of the syndicated exclusivity rules will not threaten the continued supply of programming. In the previous section we demonstrated that all of the available information leads conclusively to the result that the syndicated exclusivity rules will provide very little audience protection to local broadcast stations into the foreseeable future. This evidence—alone—would seem to foreclose the possibility of any adverse effects on program supply resulting from the elimination of the syndicated exclusivity rules. Nevertheless we feel obliged to respond to some additional contentions from the comments received in some detail.

226. *Ancient Data.* Our *Report in Docket 20988* stated that the price paid for television programming by local broadcast stations is determined by the interaction of supply and demand in the marketplace. We theorized that prices are greater where advertisers; demand for commercial time is greater (i.e., in the larger markets) and provided some evidence to support this theory. The evidence consisted of the average price per broadcast episode paid by stations for syndicated services in 1968. Our conclusion from this analysis was that the revenue a broadcaster anticipates from a program strongly influences the price paid for that program. The Joint Motion's response to this analysis is that "the reliability and probative value of such ancient data merits serious exploration." [257] The Joint Motion, however, does not proffer any alternative hypotheses that the new data could be used to test. We find no dispute in the record that the revenue a broadcaster expects from exhibiting a particular program will affect significantly the price paid for that program. Thus we find the Joint Motion's contention to be without merit.

227. *Elimination of the Rules Would Be Detrimental to the Production of Syndicated Programs.* Our *Report in Docket 20988* estimated the effect of eliminating the syndicated exclusivity rules on local station audiences over the entire day. For example, we found that elimination of the rules would result in no more than about a 1 percent loss in audience for any broadcast station at the present time. Capital City *et al.*, argue that estimation of the "total average audience [loss] if the syndicated exclusivity rules are terminated is irrelevant to the question of how much particular syndicated programs will be worth to the television station and its advertisers, since specific syndicated programs broadcast by local stations will lose considerably more of their audience." Based upon this belief, Capital City *et al.*, conclude that "the Commission has drastically underestimated the potential impact to the syndicated programming industry." [258] Similarly Metromedia, Inc., argues that the elimination of the syndicated exclusivity rules would "drastically disadvantage non-network programs vis-a-vis network programs." [259] We disagree with these assessments. We believe the syndicated exclusivity rules protect the audiences of both network and non-network programming of local network-affiliated stations. For example, application of the rules often results in a substantial number of blackouts on distant signals during prime time when network-affiliated stations are broadcasting network programs.[260] This reduction in viewing options translates into increased viewing of prime time network programming. Additionally, our *Report* showed that independent stations, which broadcast mostly syndicated programs, often receive less protection from the syndicated exclusivity rules than network-affiliated stations operating in the same market. Thus, while audience data are not available to estimate the effect of the syndicated exclusivity rules on syndicated programming versus local or network programming, we do not believe the differences are large enough to alter our conclusion.[261] We are not persuaded that the elimination of the syndicated exclusivity rules will disadvantage any one particular segment of the program production industry. But, more importantly, we believe that the elimination of the rules, because of its very small effect on local station audiences and thus program producers, will benefit the subscribers and potential subscribers of cable television without subjecting non-cable households to any significant risk of loss of service.

228. *Compulsory License Fees Are Too Low.* Several parties have alleged that the compulsory licensing fees are too low and/or that the present copyright legislation is inadequate. These parties also contend that elimination of the syndicated exclusivity rules will compound this problem. Finally the parties claim there is no data to justify our belief that the compulsory licensing fees may be adjusted to enable program producers to recoup fully any losses that may occur to them as a result of the elimination of the syndicated exclusivity rules.

229. At the outset, we must establish that this Commission has no authority to invalidate the copyright solution for cable television imposed by Congress or to adjust compulsory licensing fees.[262] Any revision of the fees in light of new evidence of this nature can be made only by Congress or by the Copyright Royalty Tribunal. Moreover, it would be difficult for us to determine the appropriate level of fees. For example, Congress' goal in establishing the fees appears to have been to offset "the damage to the copyright owner" from the distribution of a program "in an area

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remedy for cable television, because of the market failure resulting from the unreasonably high level of transaction costs that cable operators would face in bargaining for programming.

[257] *Supra,* n. 92 at p. 32.

[258] *Supra,* n. 91 at 17–18.

[259] Comments of Metromedia, Dockets 20988 and 21284, September 17, 1979 at ii.

[260] *See, e.g.,* the Comments of the National Cable Television Association, Inc., Docket 20988, March 1, 1977. In the past cable systems generally have not substituted programming during blackouts because the marginal cost of program substitution exceeded the marginal revenue. *See, e.g.,* B. M. Mitchell and R. H. Smiley, "Cable, Cities, and Copyrights," 5 *Bell Journal of Econ. and Management Sci.* 264 (1974). This may change somewhat with the increased availability of broadcast signals via satellite. However, without distant signal restrictions, application of the syndicated exclusivity rules will result in blacked out channels, including during prime time.

[261] For example, in the previous section we found to be without merit the industry's claim that accounting for the difference in impact from cable television during early fringe (i.e., the period in which mostly syndicated programming is broadcast) would significantly affect our results. Moreover, the effect of the syndicated exclusivity rules on local station audiences is much less than that of unfettered distant signal carriage. Thus accounting for differences between program types in this case is even less likely to affect our results.

[262] For further discussion, *see* Section IV.

beyond which it has been licensed."[263] Congress exempted cable systems from paying for the right to carry programs purchased by the local stations and by the national networks because such carriage "does not injure the copyright owner."[264] Congress said the copyright owner contracts for these programs on the basis of receiving viewership in cable households and "is compensated accordingly."[265] However, we believe this rationale may also apply to all distant programming carried by cable systems, especially that of superstations. For example, there is no disagreement in the record that superstations presently are paying programmers for their increased circulation.[266] We cannot determine, however, whether this is a stable equilibrium because we do not know whether these stations will receive additional revenue for distant cable viewing. Thus we cannot determine whether the fees are too high or too low given our perception of Congress' goal in setting them. If distant audiences are compensated for, the fees will be too high. Nevertheless all of these factors were considered by Congress in its determination of the appropriate fee level. Thus we believe the complaints and allegations raised in the comments concerning the adequacy of the present copyright legislation for cable television have been directed to an inappropriate forum.

230. Furthermore, Congress has mandated the Copyright Royalty Tribunal to make determinations concerning the adjustment of reasonable copyright royalty fees if the syndicated exclusivity rules are changed. Any adjustments must be reasonable and the Copyright Royalty Tribunal shall consider, among other things, the economic impact of the rule change on copyright owners and users in determining the reasonableness of the fees. Thus we cannot accept the assertion that the elimination of the syndicated exclusivity rules will adversely affect copyright owners because of the inadequacy of the present fee schedule. We also do not believe any data are necessary to support our belief that owners of copyrights will not go unindemnified should a change in the syndicated exclusivity rules do "damage to the copyright owner."[267] Moreover, we do not have jurisdiction to protect program producers *per se*. Thus we find the contentions raised by the commenting parties to be without merit.

231. *Distant Cable Viewers Are Worthless.* Our *Report in Docket 20988* stated that to the extent that television stations are able to receive compensation for the audiences they attract in distant markets we expect their demand for television programming will increase, resulting in greater payments to producers. We concluded that there has been insufficient opportunity to date for the relevant markets to adjust because we are in a transitional period in the growth of superstations. NBC contends, however, that "distant viewing is of no value to local advertisers on the 'superstations' and is not considered economically significant to warrant any substantial increase in the price at which the 'superstation' sells its time."[268] Similarly, MPAA cites the *Report and Order in Docket 20487*, 57 FCC 2d 625 (1976), where the Commission said "distant cable carriage, at this time, does not generally appear to be of significant value to television stations." The reasons specified by the Commission for this conclusion were: (1) the existence of the syndicated exclusivity rules, (2) the lack of information concerning viewing in distant cable communities, (3) the likelihood that distant audiences are worthless to local advertisers, and (4) the possibility that distant signal carriage might not be adequate to reach the advertiser's target audience in the distant market.

232. Several events have occurred since 1976 which suggest a change in reasoning. For example, much better information is becoming available on the viewing of superstations in distant markets.[269] Additionally, there is some indicaton that national advertisers value highly the audience on cable systems located throughout the nation. For example, Madison Square Garden Sports Network receives a comparable, if not higher, price per viewer for commercial time than broadcast stations receive for commercial time during prime time.[270] Thus marketplace forces may dictate that national advertisers will replace local advertisers to a great extent on superstations and will pay for the added circulation in the distant markets. Whether national advertisers value audience more highly than local advertisers is an empirical question that cannot be answered yet because we are in a transitional period where both novelty and uncertainty over regulatory intervention, among other factors, have hindered the requisite adjustments in the informational and advertising markets that have occurred to date. Nevertheless, we believe it is likely that distant audiences will add revenues to television stations if our regulations permit unfettered distant signal carriage.

233. *The Requisite Data To Estimate Elasticities of Supply Has Been Collected by the Network Inquiry Staff.* Our *Report* found that even under worst-case conditions for the program production industry (*i.e.*, payments to producers actually decrease as a result of the elimination of the syndicated exclusivity rules), we could not determine the effect on program supply due to insufficient information to estimate elasticities of supply. We further noted that even with the requisite data any judgment of the effect of a change in the supply of television programming on the welfare of television viewers could be no more than conjectural. In contrast, Tribune Company assserts that the requisite data to estimate the elasticity of supply of television programming has been submitted in the Network Inquiry.[271] Tribune Company has not, however, pointed to any information provided in

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[263] Report of the House Committee on the Judiciary, Copyright Law Revision, H.R. Rep. No. 94–1476, 94th Cong., 2d Sess. 90 (1976).

[264] *Id.*

[265] *Id.*

[266] *See, e.g.*, Superstation, comments in Docket 21284, September 14, 1979. *See also* Tribune Company, comments in Dockets 20988 and 21284, September 17, 1979.

[267] The Copyright Royalty Tribunal is empowered to adjust the ratio if the Commission's rules are changed any time after April 15, 1976. It should be noted that a number of such changes have already been made (see, for example, *First Report and Order in Docket 20553*, 58 FCC 2d 442 (1976) (specialty stations) and *Report and Order in Docket 20496*, 65 FCC 2d 218 (1977) (expanded UHF carriage)), but insofar as we are aware no request for a revision of the fee structure has even been filed with the Royalty Tribunal.

[268] *Supra*, n. 48 at 15. These comments may be contrasted with those of McGraw-Hill Broadcasting (a TV station licensee) in Docket 20988, March 1, 1977, p. 20, that "It is already McGraw-Hill's experience that national and regional advertisers are beginning to view the purchase of time on the Los Angeles stations as a more efficient way to cover this large region than separate time purchases on a number of local stations." AMST would appear to agree with McGraw-Hill by suggesting that, under the retransmission consent proposals, cable systems would likely obtain consents at no cost or be paid to carry distant signals. See comments in Dockets 20988 and 21284, September 17, 1979, at 13. See also "WOR-TV's aims to improve its Image," *New York Times*, March 10, 1980, p. C17, quoting the president of RKO Television as stating that WOR-TV business was "better than it had been in years" in part because "WOR-TV is carried by satellite to cable-television systems around the country." *See also* comments of Rocky Mountain Broadcasters Association, para. 175, *supra*.

[269] *See* Nielson Station Index, *Coping with the Complexity of Cable in the 80's (1979).*

[270] *See* "Measuring Cable Audience: Systems Differ on Need for It." *Television/Radio Age* at 82, August 13, 1979, where it is reported that "MSG's average sports event reaches roughly 100,000 viewers, for which MSG's ad rate is $650 per minute. *See also id.* at 44.

[271] Tribune Company, comments in Dockets 20988 and 21284, September 17, 1979, n. 14 at 31.

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that proceeding which would dictate a change in our findings. Moreover, we are not persuaded that this information can be used to estimate elasticities of supply for policy making purposes. For one thing, information concerning first-run syndicated programming, which historically has been our major concern with respect to the syndicated exclusivity rules, is in a form suitable for analysis for only two programs. But more importantly, the elasticity of supply cannot be measured because there is no adequate method available to compare and measure the differences in quality among programs. We are aware of no information and have been cited to none that has been submitted in the Network Inquiry proceeding which contradicts our conclusion that the program production industry will continue to prosper and the supply of programming will continue to expand even with the deregulation of cable television.

234. *Dire Predictions for Program Supply Ignored.* Our *Report* concluded that the supply of television programming will continue to increase even with the elimination of the syndicated exclusivity rules. Several parties disagree with this conclusion and refer for support to a scholarly journal article on copyright liability for cable television by Besen, Manning and Mitchell which was submitted as a comment in this proceeding.[272] Specific reference is made to the belief of the authors that:

> The continuation of the FCC's exclusivity provisions will significantly diminish the potential adverse impact on program suppliers of the compulsory licensing provisions of the general revision.

MPAA claims that the Commission's "refusal to examine and weigh th[is] evidence is highly arbitrary and capricious, and raises serious questions as to the objectivity of the Commission's staff."[273]

235. Several points are noteworthy with respect to this criticism. First, the article by Besen, Mitchell and Manning was examined and weighed. The *Report in Docket 20988* describes the divergence of opinion appearing in the scholarly literature concerning the effect of reduced payments to program producers on program supply (i.e, the worst-case effect of eliminating the syndicated exclusivity rules), including specific reference to the article by Besen *et al.* Second, the conclusion of the authors of this article is based in part on the belief that "about half of the local independent's audience will be lost if two additional independent stations are imported."[274] In contrast, our analysis in the *Report in Docket 21284* has shown that UHF independent stations often are benefited and VHF independent stations sometimes are benefited by cable television within their local ADI market, even when a large number of distant signals are imported. Third, Besen *et al. make no attempt to explicate the effect of the syndicated exclusivity rules on local station audiences. Finally, the scope of the analysis by Besen et al.* is different from that of ours. A major theme in that article is that copyright holders should be able to extract the maximum economic value that cable subscribers derive from television programming and if that value is not great enough to benefit the copyright owner, the copyright owner should be able to exclude cable subscribers from the benefits of its programming. In contrast, our concern in analyzing the syndicated exclusivity rules is that the importation of programming by cable systems does not reduce the overall payments derived by program producers from television stations to the detriment of consumers, given the compulsory licensing scheme enacted by Congress. As noted above, new audience data suggests that very little or no harm will occur to local broadcast stations and therefore to program producers in the foreseeable future if the syndicated exclusivity rules are eliminated. Moreover, since the syndicated exclusivity rules act to restrict the growth of cable television and thus reduce the number of outlets to which program producers can sell their products, the rules may have the adverse effect of reducing the revenues of the program production industry.

236. Additionally, the Joint Motion interprets incorrectly the conclusion of Besen *et al.* to be necessarily in conflict with ours. Besen *et al.* conclude that the elimination of the syndicated exclusivity rules will diminish the supply of programming. The proper interpretation of this conclusion for our purposes, however, is that the authors believe, based on certain stated assumptions, that the elimination of the rules will diminish the supply of programming compared to what it otherwise would have been in the future. Our *Report in Docket 20988* showed that the supply of television programming has increased significantly from 1971 to 1977, even though syndicated exclusivity protection has been received in only a small number of cases. Furthermore, we concluded that the supply of programming will continue to increase into the foreseeable future, even with the deregulation of cable television. On the other hand, Besen *et al.* make no inferences for the *overall* supply of television programming in the future. Thus their conclusion is not necessarily inconsistent with our conclusion that if there is any impact on program supply from the elimination of the syndicated exclusivity rules, it will be manifested in a reduction in the rate of growth of program supply rather than an absolute decrease in the supply of programming.

237. *Grandfathering* Our *Notice of Proposed Rulemaking in Dockets 21284 and 20988* invited comment on the proposal that each program exhibition license in effect on April 25, 1979 be grandfathered under the existing syndicated exclusivity rules for a period of three years or until expiration of the contract, whichever occurs sooner. Our reasoning, in the *Report in Docket 20988,* was that broadcasters may receive compensation different from that anticipated at the time of negotiation of the contract. We believed that since this dislocation would be partly regulatory in nature, it may be desirable to provide a transition period by grandfathering existing program supply contracts.

238. Several parties have responded to this proposal. Broadcast interests contend that the granfathering period should be extended because contracts often run for longer than three years. In general these comments represent "votes" in favor of the proposal or an extended version of it rather than data or, in some cases, even arguments as to why it should be adopted. No comment has shown any *public* benefit in providing any grandfathering protection for existing license contracts.

239. Cable television interests, on the other hand, argue that the granfathering of existing contracts is neither necessary nor in the public interest. They cite the conclusion of the *Report in Docket 20988* that no more than about 1 percent of local station audiences will be lost due to the elimination of the syndicated exclusivity rules. A–R Telecommunications Division of Adams-Russell Company, Inc. *et al.,* argue that "this impact, which the Commission found clearly did not warrant continuation of the exclusivity rules when balanced against the benefits to the public to be gained by immediate repeal of the rules, dictates that the Commission should not institute an interim grandfathering period."

240. While we concluded that the public would be served best without the

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[272] *See* S. M. Besen, W. G. Manning, and B. M. Mitchell, "Copyright Liability for Cable Television: Compulsory Licensing and the Coase Theorem," 21 *Journal of Law and Economics* 67 (1978).

[273] Motion Picture Association of America, comments in Dockets 20988 and 21284, Sept. 17, 1979.

[274] *Supra,* at n. 272 at p. 31.

blackouts on distant signals resulting from the syndicated exclusivity rules, we felt that some transitional dislocations may result without grandfathering provisions because the contracts were written in contemplation of the existing rules. Upon reconsideration, however, we believe that the absence of any evidence suggesting that these transitional dislocations will redound to the detriment of the public forecloses us from extending the grandfathering provisions to cover existing contracts.[275] Given the absence of public benefits, the relatively small amount of audience impleicated in this issue, and the complexity and difficulty associated with the administration of these rules both for the recipients of benefits under it and for the Commission and these subject to it, we are not persuaded that the grandfathering proposal can be justified.

Conclusions

241. Our analysis of the effect of the syndicated exclusivity rules on television service to the public is similar in many respects to that of the effect of distant signals. The principal difference is that the syndicated exclusivity rules were adopted not only to protect local broadcasters but also to protect the continued supply of television programming. In both cases, however, we rely upon three well-established criteria for ascertaining the public interest: consumer welfare, distributional equity, and external effects.

242. In Section II we have shown in great detail that the protection afforded to local broadcast stations from restricting distant signal carriage on cable television systems disserves the public interest. We found the effect of distant signal carriage on the financial health of television broadcasters is small in relation to the normal growth in the industry's financial prosperity. Additionally, audience losses due to cable television were found to have little effect on the local programming of television stations. We concluded that distant signal carriage improves television service to cable subscribers without subjecting non-cable households to any significant risk of harm. Since these results were derived for the carriage of distant signals that are not subject to blackouts from application of the syndicated exclusivity rules, the results also apply to the elimination of the syndicated exclusivity rules, but with even greater force. Moreover, in view of these findings and in light of the system created in the 1976 Copyright Act for indemnifying copyright owners, we are unable to conclude that elimination of these rules will have adverse consequences for the supply of television programming the public receives. These rules serve no valid communications policy purpose.

243. On the other hand, we believe that the syndicated exclusivity rules impose significant costs upon the subscribers and potential subscribers of cable television. Therefore, by weighing both the expected costs and benefits of the rules to consumers, we conclude that the public will be served better without the syndicated exclusivity rules for cable television systems.

IV. Retransmission Consent

Background

244. As previously described briefly, cable television systems have no *direct* financial or contractual nexus or responsibility either to the television broadcasters whose signals they carry or to the creators or owners of the programs that are broadcast on these stations.

245. With passage of the Copyright Revision Act of 1976, Congress established the copyright obligations that were to govern the relationship among these parties. Under this statute cable television systems pay a percent of their gross revenues to the Register of Copyrights for the right to carry distant signals and for each distant signal or "distant signal equivalent." The fees payable are to some extent variable according to system size but the schedule for the larger systems provides roughly that 0.675 of 1 per centum of the system's gross revenues must be paid for the first distant signal, 0.425 of 1 per centum for the second, third, and fourth signals, and 0.2 of 1 per centum for the fifth and each additional signal. Each independent station is one distant signal equivalent. Each distant network or non-commercial educational station is one quarter of a distant signal equivalent. The money received by the Register of Copyrights is then distributed to the copyright owners whose works were carried by cable television systems by a separate Copyright Royalty Tribunal. In addition to disbursing the copyright fees paid by cable television systems, it is also the function of the Copyright Royalty Tribunal to alter the rate structure specified in the law, both to assure that the real constant dollar value of the royalty fee per subscriber is maintained and to assure that the fee structure remains appropriate if the rules of the Federal Communications Commission are amended to permit the carriage of additional distant television broadcast signals or to change the syndicated program exclusivity requirements.

246. With the enactment of this legislation, Congress spoke for the first time on an issue that was first raised with respect to cable television in the late 1940's, which was before the Supreme Court on two separate occasions, which engaged the attention of the Congress itself for almost twenty years, and was considered one of the most important and controversial of the issues involved in the revision of the copyright act.

247. During the period leading up to the enactment of this new law, the Courts, the Congress, and the Commission were each prevailed upon to remedy what was regarded as the problem created by the failure of cable television systems to make copyright payments or participate in the markets then existing for the sale and distribution of television programming. Action was thought necessary to promote economic efficiency in television program distribution markets, to prevent unfair competition between cable television systems and television broadcasters, to eliminate adverse impacts on the supply of television programming, and to protect property rights in creative works.

248. Although Congress has now amended the copyright law in response to these concerns, the mechanism chosen is still regarded by some as inadquate. Government, it is said, is still interfering in this process by setting copyright fees and participating in their distribution and this situation should be replaced by rules that establish a market mechanism for setting rates and for regulating the flow of distant signals.

249. That we undertake such an effort was forcefully urged on us by the National Telecommunications and Information Administration of the Department of Commerce in a rulemaking petition considered in connection with our *Notice of Proposed Rule Making* in this proceeding. Put in its starkest terms what is urged is that new cable television systems or those expanding or adding signals be permitted to do so only upon receipt of permission from the originating station and that we should adopt this proposal regardless of whether it has adverse consequences for local television broadcast service or whether it results simply in retransmission consent denials

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[275] See *FCC v. National Citizens Committee for Broadcasting*, 435 U.S. 912, n. 24 (1978). Moreover, that there will even be private injury is not something that can be assumed given the ability of cable television operators under the provision of the rules to substitute alternative programs for those deleted.

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and the cessation of cable television distant signal carriage.[276]

250. In reviewing this proposal in our *Notice of Proposed Rule Making* we noted that it had some "considerable theoretical attractiveness" para. 83, *supra* and "that a market solution to the problems of compensating owners of programming materials for their commercial use is desirable." Para. 81, *id.* We noted that:

> The existing compulsory license system substitutes regulatory judgment about the proper treatment of program rights for the normal market process that rewards holders of copyright. So, too, does the retransmission consent proposal prejudge the type of market institutions that can best deal with the protection of equities. It is argued that if broadcasters succeed in raising advertising rates to reflect distant audiences, imported stations will want to have their signals retransmitted even if no retransmission fee is paid. *Id.*

251. "The Commission's preference," we said, "would be to give markets the opportunity to work and to impose regulatory judgments on how transactions should take place only on demonstration that a private market will not work." *Id.* We also noted that the retransmission consent proposal appeared to be the functional equivalent of full copyright liability and that, in view of the recent explicit Congressional rejection of full copyright liability in its 1976 Copyright Revision Act, there were questions as to our legal authority to adopt the proposal. In order to aid us in reviewing this matter, we sought comments "on how the markets in program rights might develop, and what actions, if any, the Commission can legally take that would serve that end." *Id.*

252. The comments received in response to this invitation add very little to the store of economic information available relating to this subject. Morever, although the legal issues are briefed in considerable detail, there is little to dispel our initial doubt concerning our authority to engage in the type of regulation urged for the purposes that are urged. In fact, the continuation of this legal debate persuades us that even were there evidence of a real and immediate problem calling out for resolution, that this, among all of the regulatory tools that might be available to us, is the one most difficult to sustain because of its recent and distinct rejection by Congress. In order to demonstrate as clearly as possible that this view is correct, and not merely a retreat from responsibility in the guise of an overly narrow reading of our authority, some fairly detailed review of the arguments and history of this issue is required. For the sake of completeness, this discussion to some extent repeats that set forth in the *Notice of Proposed Rule Making.* The arguments that we ultimately find to be persuasive are twofold: (1) that this is an issue, whether labeled a matter of copyright or communications policy, that Congress considered almost *in haec verba* and chose a different path to follow, and (2) that the objectives sought by this rule—protection of program suppliers from economic injury and the preservation of existing market structures for the sale of television programming—are remote to the responsibilities assigned to this agency.

Comments

253. The principal proponent of the retransmission consent proposal continues to be the National Telecommunications and Information Administration. In fact some of the other principal commenting parties in this proceeding such as the Motion Picture Association of America and the Association of Independent Television Stations largely or entirely defer to NTIA to carry this issue. NTIA perceives the central issue before the Commission to be "how cable will develop in the major markets, rather than how it will develop in the small towns or markets" (NTIA comments, p. 7), and the critical consideration in this major-market development to be the system's importation of non-network programming. NTIA perceives the necessity for the imposition of a retransmission consent requirement in the fact that although broadcasting and cable are the two principal means for distributing non-network programming, broadcasters must negotiate directly with program producers and pay a negotiated price for program product while cable enjoys a compulsory license to carry its programming, and thus need not enter into direct negotiations or pay for it. NTIA sees this as a "skew" of the marketplace in favor of cable, which eliminating the present rules will not resolve. Indeed, NTIA argues that if the distant signal and syndicated exclusivity rules were deleted without imposing a retransmission consent requirement a number of serious "anomalies" involving exclusivity arrangements could occur.[277] To reconcile this "incompatibility" between broadcasting and cable, NTIA recommends the imposition of a retransmission consent requirement on new or expanding major-market cable systems, to "force" them to "enter the program marketplace and compete with local broadcasters for the right to distribute programs in the area served by cable." (NTIA comments, pp. 8–10). NTIA states that its retransmission consent proposal would exhibit a "rational symmetry" with other policies and processes, including the distribution system for pay cable programming, the requirement that translators, which are similar to cable, obtain rebroadcast consent from originating stations under Section 325(a) of the Communications Act, and the promotion of first-run syndicated programming. *A fortiori,* the Copyright Royalty Tribunal, "as only another government agency adjusting a government-ordained schedule," is an unsatisfactory alternative to marketplace control by retransmission consent. Although NTIA admits that it would be preferable for Congress rather than the Commission to adopt its retransmission consent proposal, NTIA notes that legislative action is not assured and therefore Commission action is appropriate.

254. With respect to the workability of its retransmission consent proposal, NTIA states that the advent of satellites, and the concomitant increase in demand for new program sources and in the number of broadcasters, nonbroadcast programming entrepreneurs, and middlemen seeking to produce them, will make retransmission consent a success now despite its failure a decade ago. Even if its prognostication were proven wrong, however, NTIA states that the marketplace answer will simply be that major-market cable will have to succeed with a service offering of enhanced reception of local signals, pay cable, and interactive services such as "Qube." On the more precise question of how its retransmission consent proposal would work in practice, NTIA suggests

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[276] As set forth in the NTIA comments in this proceeding the proposal is actually somewhat more complicated. As described therein the retransmission consent fee would be a "reasonable" one (p. 9), the Commission would supervise the operation of these rules "to police abusive practices, such as 'warehousing' " (p. 10), if necessary "either by rule or on an *ad hoc* basis" the Commission could exempt smaller, rural systems or those outside the top 100 markets (p. 7), the Commission would give "*ad hoc* consideration of station claims of substantial injury" (p. 17) and "on its own investigate serious injury claims by small market stations." (p. 21).

[277] For example, a local UHF station could obtain exclusive rights for non-network programming as against other stations in its market but not against cable systems in the market carrying the same programs on distant signals; sports entrepreneurs can similarly obtain exclusivity for league games as against local commercial and STV stations but not as against cable; and if "superstations" who are refused sales by copyright owners in attempts to control the distribution of their programs, television viewers in the superstations' home markets, as well as cable viewers, may not get the programs that are withheld.

that perhaps the distant stations would be in a position to pay program suppliers more in light of their enlarged cable audience, and recoup these expenses from advertisers, or perhaps they may charge systems a fee for securing retransmission consent for them; on the other hand, systems could establish funds from subscriber revenues for programming or the whole process could be managed by brokers. In any event, "the government does not have, and should not have a blueprint here." (NTIA comments, p. 9.)

255.NTIA would grandfather existing, non-expanding major market systems. Noting that such systems "were built upon the basis of either no copyright payment, a right twice judicially-confirmed, or of compulsory licensing under the Copyright Revision Act of 1976," NTIA states that "it would be inequitable now to change the rules for them." (NTIA comments, p. 17.) NTIA would, however, continue to enforce the syndicated exclusivity rules (with the exception of the off-network program pre-clearance requirement) against such systems in the fifty largest markets and extend them to the second fifty largest markets. If its suggested program of retransmission consent with grandfathering is not adopted, then NTIA proposes that the Commission retain the syndicated exclusivity rules for the top fifty markets and extend them fully to the second fifty as well. In so doing, NTIA emphasizes that its proposal is not premised on potential impact, but rather on accommodating the public interest and in deference to longstanding territorial exclusivity practices.

256. NTIA finds the passage of the Copyright Revision Act no bar to the adoption of its retransmission consent proposal because:

> The cable copyright provisions are a compromise, taking the situation as given at that time—small town cable. NTIA's retransmission consent proposal does not disturb that resolution. Congress did not address the future of cable in large metropolitan areas, and did not foreclose the Commission from addressing this new situation under communications policy. Requiring retransmission consent for cable's independent signals in the cities, together with the grandfathering of the existing small town cable, will provide a sound communications policy framework for cable's development in new directions as well as respect the copyright compromise Congress made in 1976 for cable as it had then evolved.

NTIA comments, p. 50. More specifically, NTIA argues that under its retransmission consent proposal it would be the broadcaster, rather than the cable operator, that would be required to secure from the copyright owner the right to distribute programs to its service area as enlarged by cable. This, NTIA asserts, is entirely consistent with the Copyright Act as well as posing no practical problems for the broadcaster. Should the broadcaster charge cable systems for expenses incurred in granting retransmission consent, NTIA views the charge as "a matter for marketplace forces" and one which the Copyright Royalty Tribunal could take account of indirectly by adjusting the compulsory license fee.

257. Nevertheless, conceding the possibility that direct negotiations and payments between cable operators and copyright owners could occur, NTIA argues that the Copyright Revision Act would still not preclude Commission adoption of a retransmission consent scheme. In support of this contention, NTIA cites the provisions of Sections 801(b)(2)(B) and (C) of the Copyright Revision Act, which provide for the adjustment of the compulsory license fee at such time as the Commission amends its distant signal, syndicated and sports program exclusivity rules,[278] and the legislative history of the Act, which indicates that this authority was granted the Copyright Royalty Tribunal because the distant signal and exclusivity rules protect the copyright owner.[279] Thus, NTIA argues that the Copyright Act specifically allows the Commission to change its rules based on communications policies even though these changes might affect the copyright royalty fees payable. NTIA further states that the legislative history of the Copyright Revision Act, and indeed the entire history of attempts to resolve the cable-copyright dilemma prior to the passage of the Copyright Revision Act, reflected the fact that the Judiciary Committees of the respective Houses of Congress conscientiously avoided any interference with the jurisdiction of the Commission over matters of communications policy in their consideration of copyright legislation.[280] Thus, NTIA concludes, the thrust of the copyright scheme is that the Copyright Royalty Tribunal defers to FCC changes in communications policy rather than that the FCC defer to the cable copyright provisions in exercising its authority over communications policy under the Communications Act. NTIA also takes direct issue with the proposition that Commission adoption of its retransmission consent proposal would require the cable system operator to negotiate directly with the copyright owner, thereby countervening the express legislative intent in adopting the compulsory license scheme in that it would be "impractical and unduly burdensome to require every cable system to negotiate with every copyright holder whose work was retransmitted by a cable system."[281] NTIA concedes that the legislative intent was clearly not to have the system operator negotiate directly with the copyright owner; however, it re-emphasizes that its proposal would only require the system to negotiate with the originating broadcaster; the originating broadcaster would negotiate directly with the copyright owner. Finally, NTIA disputes the contention in the *Notice* that retransmission consent was expressly rejected by the Congress. NTIA notes that the Commerce Committee's rejection of the Commission's 1966 legislative proposal to extend Section 325(a) of the Act to cable television does not establish any lack of Commission jurisdication to adopt its proposal, citing the Supreme Court's subsequent opinion in *United States v. Southwestern Cable Co.*, 392 U.S. 157, 170–171 (1968). Indeed, it cites the fact that the recent consideration of a retransmission consent proposal by the House Communications Subcommittee in a bill to revise the Communications Act as evidence that retransmission consent is a matter of communications, rather than copyright, policy.[282]

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[278] Section 801(b)(2)(B) provides in pertinent part:

In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by Section 111(d)(2)(B) may be adjusted to insure that the rates for the distant signal equivalents resulting from such carriage are reasonable in light of the changes effected by the amendment to such rules and regulations.

Section 801(b)(2)(C) provides in pertinent part:

In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by Section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

[279] H.R. Rep. No. 94–1476, 94th Cong., 2d Sess. 176–177.

[280] The Report of the House Judiciary Committee stated that, while it was aware of the "interplay" between the communications and copyright elements of the legislation, the Committee has carefully avoided including in the bill any provisions which might interfere with the FCC's rules or which might be characterized as affecting "communications policy." *Id.* at 89.

[281] *Id.*

[282] H.R. 3333, 96th Cong. 1st Sess. (1976). Section 453 of the bill would have precluded carriage of any signal, local or distant, without the consent of the station or the person who "controls the exclusive rights to the program involved." In the same session rewrite bills were also introduced in the Senate. Neither of these bills, S. 611 or S. 622, contained a retransmission consent proposal.

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258. NTIA finds that the Commission's jurisdiction to adopt its retransmission consent proposal as a matter of communications policy emanates from Sections 325(a), 303(g), (h), and (s) and 307(b) of the Communications Act. NTIA cites the legislative history behind Section 325(a) for the proposition that it was meant to confer on broadcasters the right to control commercial exploitation of a radio communication and that this prohibition was intended to extend to cable as well as to broadcasters.[283] NTIA also states that rebroadcast consent and copyright are two distinct legal requirements, with liabilities arising under separate statutes if one or the other is violated, and that Section 73.1207 of the Commission's rules, which implements Section 325(a), reflects communications policies such as fostering widespread communications in times of emergency and protection of privacy, and includes privately-owned non-broadcast stations and point-to-point government stations, which, like cable television, do not fall within the express language of Section 325(a) but for which consent for rebroadcast must nevertheless be secured from the Commission.

259. NTIA finds the requisite jurisdiction to apply Section 325(a) to cable television in *United States v. Southern Cable Co., supra,* and sucessor cases. Although noting that Section 325(a) was not explicitly treated in *Southwestern,* the Court generally recognized the expansive powers of the Commission to regulate interstate communications by wire and radio in holding that cable television may be regulated to the extent "reasonably ancillary to the regulation of television broadcasting," *Id.* at 178. NTIA also cites *United States v. Midwest Video Corp.,* 406 U.S. 649 (1972), for the proposition that "ancillary to broadcast" jurisdiction enunciated in *Southwestern* is not limited to preventing adverse competitive impact "but extends also to requiring CATV affirmatively to further statutory policies." 406 U.S. at 664. NTIA sees no limitation for its jurisdictional purposes in the recent decision in *FCC v. Midwest Video Corp.,* 59 L. Ed 2d 692 (1979), which vacated the Commission's access and channel capacity rules; rather NTIA finds support in its holding that the substantive provisions of the Act which delimit the obligations that can be imposed on broadcasters do not have "peculiar applicability to television broadcasting. [Their] force is not diminished by the variant technology involved in cable transmissions." 69 L. Ed. 2d at 706–7. Thus, NTIA holds that retransmission consent is reasonably ancillary not only to Section 325(a) but also to Section 303(h), which authorizes the Commission to establish areas or zones to be served by stations, Section 307(b), authorizing effective local television outlets, and Section 303(s), authorizing the promotion of UHF outlets, and Section 303(g), which empowers the Commission generally to secure "the larger and more effective use of radio." NTIA points out that satellite transmission capability and the compulsory copyright license policy present a threat to program diversity by forcing program producers to restrict the availability of their products in order to assure the continued observance of traditional territorial exclusivity. As a result, NTIA predicts that the public in some cases will be deprived of programming entirely; in others, that it will be "syphoned" to pay services; that localism and UHF development will be under-cut, and that the result would be "a skewing of the marketplace to the detriment of all." In sum, NTIA submits that its proposal is a matter of communications policy that is within the Commission's authority to adopt under the Communications Act. Indeed, NTIA contends that under the *Melody Music* doctrine [284] the Commission would be required to explain its disparate treatment of metropolitan cable systems and independent television stations should we decline to adopt NTIA's retransmission consent proposal.

260. The three television networks as well as a number of individual television licensees and licensee groups endorse the retransmission consent consept. Some of these, like WTVC *et al.* and ABC, favor retransmission consent because it will require cable to compete in the marketplace for programming. Many of the commercial broadcast commenters, including 220 Television *et al.,* Bahia de San Francisco, KTVB, Inc., and Bibb Television Inc. *et al.,* stress the fact that under the compulsory license system cable television receives a massive federal subsidy and thus competes unfairly with broadcasters.[285] 220 Television *et al.* argue that under the present compulsory license system distant signals are effectively "free goods;" they do not reflect the cost or value to the local station, the distant station, or the program supplier. ABC and others argue that this marketplace distortion is aggravated by the advent of superstations. The Association of Maximum Service Telecasters, Inc., contends that the repeal of the rules without the imposition of a retransmission consent requirement would immunize superstations as well as cable systems from competing with local broadcasters in the marketplace, thus rendering the existing program marketplace "meaningless." KOB–TV *et al.* argue that the sale of programming to superstations could destroy its sales value in individual markets thereafter, and states that since the essence of our deregulation proposal is to achieve for the public that which the unfettered marketplace can provide, repeal of the present rules without adoption of retransmission consent to create such a marketplace would be self-defeating.

261. A number of the commercial broadcasters, including KOB–TV *et al.,* Association of Maximum Service Telecasters, the National Association of Broadcasters, and Bahia de San Francisco, addressed themselves specifically to the issue of the Commission's jurisdiction subsequent to the passage of the Copyright Revision Act in 1976. All found the requisite jurisdiction, generally employing the same analysis as NTIA. KOB–TV, *et al.* and the Association of Maximum Service Telecasters argue that the Commission's authority under the Communications Act to determine that marketplace regulation of cable would be appropriate and also includes the authority to create by regulation the conditions necessary for the free market to function.

KOB–TV *et al.* and AMST also contend that Section 301(d) of the Copyright Revision Act specifically reserves the Commission's jurisdiction to adopt a retransmission consent requirement in the course of a communications policy judgment that the free market should substitute for extrinsic regulation.[286] It is argued in this respect that the Copyright Revision Act was intended to act as a "floor," that the Commission could not relieve cable systems of their obligation to make compulsory copyright payments when they do not directly or indirectly bargain for program rights. KOB–TV *et al.* maintain that it does not, however, establish a "ceiling" on what the Commission may do to achieve the purposes of the Act. They further argue that "repeal by implication," e.g., implied repeal of Section 325(a) by the subsequent passage of the Copyright Revision Act, is disfavored as a matter of law, and that the Copyright Revision Act and Section 325(a) are not repugnant as manifest by the fact that Congress carefully distinguished between matters of communications and copyright policy in enacting the 1976 Act. The Association of Maximum Service Telecasters argues that the validity of a retransmission consent requirement turns on whether it is adopted for legitimate communications policy reasons, not on whether it is incidentally similar to, overlaps, or is more onerous than the requirements of the Copyright Revision Act. Finally, KOB–TV *et al.* argue that the Commission's doubts as to its jurisdiction to adopt retransmission consent are inconsistent with its action in adopting equal employment opportunity rules for its licensees despite passage of Title VII of the Civil Rights Act. It is contended that, just as the Commission's EEO rules have been sustained despite the fact that Title VII represents a comprehensive congressional scheme for dealing with equal employment, the Commission similarly has jurisdiction under the Communications Act to restrict the benefits that would otherwise be available under the Copyright Revision Act.

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[283] *Inter alia,* NTIA cites the statement by Senator Dill on Section 28 of the Radio Act of 1927, the predecessor to present Section 325(a), that

> As to Section 28, providing that no person, firm or corporation shall rebroadcast the material broadcast by a station without that station's consent, it is I think, a very necessary provision. Otherwise, we would have a broadcasting station spending a large amount of money to prepare and present a program as a program from that station, and then under modern methods of rebroadcasting, it could be picked up and broadcast from other stations, and particularly over the wired wireless, and money charged for listening to it. . . 68 Cong. Rec 2880.

[284] *Melody Music, Inc. v. FCC,* 345 F. 2d 730 (1965).

[285] For example, the Smaller Market UHF Stations note that the entire cable industry spent $13,000,000 in compulsory license payments last year whereas the ABC network alone spent $570,000,000 for programming over the same period. 220 Television, Inc. *et al.* state that cable's royalty payment is roughly proportional to the fees television stations pay for music licenses—about 1 percent of operating revenues.

262. Finally, several of the commenters directly confront the issue of the workability of a retransmission consent requirement. The Association of Maximum Service Telecasters argues that the so-called "failure" of the Commission's very limited, experimental retransmission consent program in 1968 is not relevant to the implementation of a nationwide system in 1980, given the advent of superstations, satellites and resale carriers and strong incentives to assure its effective and economical implementation. If the proposal were adopted, it is said to be "very likely that in most cases, cable will end up paying nothing for consent, or may end up being paid to carry distant programs just as television broadcasters are paid by some of their program suppliers, most notably the major networks." The National Association of Broadcasters believes retransmission consent would work because, except where there are already exclusive contracts, program suppliers would sell rights to the highest bidder, whether it be a cable system or a broadcaster. The Association of Maximum Service Telecasters agrees, stating that cable is now so profitable program suppliers could hardly ignore it, and Metromedia, Inc. states that it is aware of two entrepreneurs prepared to act as brokers if retransmission consent were adopted. KOB–TV *et al.* cite pay cable's development as a prototype, and the Association of Maximum Service Telecasters agrees with KOB–TV *et al.* that pay cable and other nonbroadcast programming will provide a "cushion" in situations where obtaining retransmission consent proves difficult. The Post Corporation, while strongly supporting the concept of retransmission consent, states that more than simple consent should be involved. It argues that ownership of programming is the key, and to the extent that Section 325(a) fails to take the element of program ownership into account, a perplexing multitude of rules has resulted, and NTIA's retransmission consent proposal, to the extent it ignores ownership, suffers from the same defect. On the other hand, Post argues, if consent had to be sought from the program owner, marketplace forces would truly govern, and that would be the optimal approach. Finally, KOB–TV *et al.* note their preference for a regulatory rather than statutory retransmission consent scheme because of its greater flexibility.

263. Nine noncommercial television broadcast station licensees, commenting jointly also recommend the adoption of a retransmission consent requirement for all programs of public television stations if the rules on carriage of distant noncommercial stations are deleted. The licensees argue that at least in this manner they would have the opportunity to contract for exclusive rights to particular programs. They state that a retransmission consent requirement would allow a distant noncommercial station to withhold consent where it appeared that carriage of its programming would injure a local noncommercial station, and recognize that cable systems could be required to pay for use of a noncommercial station's programming. These licensees believe they are currently required to subsidize cable television operations, and assert that the Commission has jurisdiction to adopt a retransmission consent requirement.

264. The program producers that addressed the retransmission consent proposal were generally in favor of it. The Motion Picture Association of America incorporates NTIA's comments by reference. Tandem Productions, Inc. and T.A.T. Communications favor adoption of retransmission consent without grandfathering existing systems if the syndicated exclusivity rules are deleted. Tandem and T.A.T. argue that retransmission consent would afford recognition of the rights of program producers and provide them with adequate revenues to assure the continued availability and quality of program product.

265. Among the program distributors, the sports interests were particularly strong in urging the adoption of retransmission consent, arguing vigorously that it is necessary, legal, and workable. The Commissioner of Baseball and the National Football League state that the Commission failed to adequately consider the effects that elimination of the distant signal limitations would have on the supply of sports programming. It is argued that sports programming differs from other types of programming; therefore, the conclusions drawn in the *Economic Inquiry Report* are not valid as to sports programming. Baseball argues that, although the elimination of the distant signal rules and the advent of superstations will make programming generally available to more viewers, ultimately, they will deprive the American public of the amount of sports programming previously enjoyed. Importation of games into a home team's territory will threaten the latter's three sources of revenue: live gate, broadcast revenues, and "hometown fan loyalty." With unfettered importation of distant signals, Baseball fears that its weaker teams will be particularly hard hit. This would in turn result in a change in telecasting patterns, with local and regional telecasts decreasing. Baseball claims that to date technological and regulatory pressures have kept cable from saturating home teams' territories. Removal of the distant signal rules would, however, remove the "final safeguard" against the loss of large amounts of sports programming from conventional television. The National Basketball Association agrees with the thrust of these comments, but particularizes that it has two sources of revenue, its network broadcast revenues

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[286] Section 301(d) of the Copyright Revision Act provides that, "Nothing in this title annuls or limits any rights or remedies under any other Federal statute."

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(the crucial source) and local telecasts, both of which would be jeopardized by the elimination of the distant signal rules without the imposition of retransmission consent. NBA notes that its network ratings have decreased and that the value of its programming to local stations will also decrease. NBA stresses that the potential impact on its games as network television attractions is, however, the biggest threat. The National Collegiate Athletic Association also favors retransmission consent as a means of safeguarding its college teams' live gate attendance, and it, like Baseball, NFL and NBA, argues that distant signal carriage of competing games will force colleges to forego broadcasts to avoid cable retransmission and thus decrease, rather than increase, the availability of college sports to the public. Baseball emphasizes that copyright compensation does not solve the sports interests' problems with unregulated distant signal importation of competing games because the crucial issue for sports is control, not compensation. Madison Square Garden Communications Network suggests simply that retransmission consent be given consideration as a possible alternative to the present distant signal and syndicated exclusivity rules.

266. The sports interests also contend that the Commission has the requisite jurisdiction to adopt a retransmission consent proposal, at least with respect to sports, and that retransmission consent would be workable. Baseball and the NBA argue that the Copyright Revision Act does not bar Commission recognized retransmission consent as a communications rather than a copyright policy matter and, as did NTIA, also maintain that the legislative history of the Copyright Revision Act makes it clear that Congress did not intend to intrude on the Commission's prerogative to make communications policy. Baseball construes this prerogative to include the removal of any category of signals from the general compulsory licensing provisions. In any event, Baseball argues particularly that the legislative history of a predecessor bill to the Copyright Revision Act demonstrates that Congress specifically perceived cable carriage of sports programming to be a communications policy issue,[287] and that the sole reason Congress did not adopt legislation on the subject was that it thought the Commission would deal with the problem in the context of a pending rulemaking procedure.[288] Baseball also maintains that arguments that retransmission consent will not work are untenable. Baseball terms claim that broadcasters will not deal with cable systems "speculative," and argues that program suppliers, especially sports interests, will deal with cable.[289] Baseball argues that the 1968 retransmission consent experiment did not completely fail, and, given its circumscribed operation, could hardly have been expected to succeed. Although Baseball concedes that existing exclusivity contracts between broadcasters and program suppliers could inhibit cable operators' ability to secure retransmission consent, Baseball argues that this is a reason to phase in retransmission consent rather than reject it out of hand.

267. The United States Department of Justice and the United States Copyright Office have joined a number of individual cable television systems, cable television associations, common carriers, and WTBS-TV, Atlanta, in opposing Commission adoption of retransmission consent.

268. In contrast to the arguments of the proponents of retransmission consent, whose contentions stressed principally the necessity for its adoption, most of the opponents of retransmission consent urge as their principal argument the Commission's lack of jurisdiction to adopt a retransmission consent proposal subsequent to the adoption of the Copyright Revision Act. The foremost proponent of this view is the Department of Justice. The Department notes that Congress enjoys the prerogative of enacting patent and copyright legislation pursuant to Article I Sec. 8, Cl. 8 of the Constitution.[290] The Department states that Congress exercised that prerogative in 1976 in enacting the Copyright Revision Act, and in doing so it was fully aware of virtually all the arguments advanced by the proponents of retransmission consent. The Department argues that the legislative history of the Copyright Revision Act makes it clear that Congress intended the cable television industry to have a compulsory license to retransmit whatever broadcast signals the Commission's rules would allow, and that there is no credible evidence to suggest that Congress intended to allow the Commission to adopt the kind of retransmission consent proposal that the Congress itself had considered and rejected. The Department states that arguments of the proponents, that the royalties provided under the Act are inadequate and the system created too "regulatory," are properly addressed to, respectively, the Copyright Royalty Tribunal and the Congress, because the Commission's authority under the Communications Act does not extend to rewriting an Act of Congress. The comments of the Copyright Office also conclude that Congress established the compulsory license as the exclusive method for compensation of copyright owners and the Copyright Royalty Tribunal as the exclusive means whereby the rates may be adjusted.

269. A Congressional Research Service study on the Commission's jurisdiction to adopt retransmission consent rules also came to the same conclusion.[291]

270. Southern Satellite Systems, Superstation, Inc. (WTBS-TV, Atlanta), the Community Antenna Television Association, the Florida Cable Television Association, and A-R Telecommunications are among the other opponents of retransmission consent addressing the jurisdictional issue. They argue that Congress specifically declined to adopt a retransmission consent requirement, terming it "unduly burdensome," and that the legislative history of the Copyright Revision Act indicates that in adopting the compulsory language Congress struck a conscious balance between the copyright owners' right to payment with the viewer's right to receive diverse sources of programming. The opponents argue that the structure of Section 111 of the Act, viewed as a whole, outlines a comprehensive congressional scheme assigning either full copyright liability, compulsory licensing, or outright exemption in differing circumstances, and specifying the procedures to be followed in

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[287] Baseball cites the following language from the Senate Judiciary Committee Report on S. 22:

> Without prejudice to the arguments advanced [in behalf of proposals to exclude in some circumstances the carriage of organized professional sporting events from the compulsory license] . . . these issues should be left to the rulemaking process of the Federal Communications Commission, or if a statutory resolution is deemed appropriate to legislation originating in the Committee on Commerce.

S. Rep. No. 94–473, 94th Cong., 1st Sess. 80 (1975).

[288] E.g., *Notice of Proposed Rulemaking in Docket 19417*, 36 FCC 2d 641 (1972).

[289] In support of this proposition, Baseball notes that it has already negotiated a game-of-the-week package with UA-Columbia Cablevision for presentatiion on pay cable. It also notes that many clubs, exemplified by the New York Yankees and Mets and the Philadelphia Phillies, have contracted with cable systems or programming packagers to cablecast a number of their non-televised games.

[290] This clause grants power to Congress "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."*U.S. Const.*, Art I, sec. 8, cl. 8.

[291] Congressional Research Service, *FCC Jurisdiction to Require Retransmission Consent*, November 26, 1979.

obtaining a compulsory license, and therefore would allow no discretion to the Commission to effectively amend this complete statutory scheme by imposing a retransmission consent requirement in derogation of the compulsory license. Specifically, the commenters point to the legislative history of Section 801(b)(2)(B) of the Act for the proposition that Congress gave the Copyright Royalty Tribunal the authority to change the royalty fee only with respect to added signals, thereby underscoring the Congress' intent that Congress specifically recognized that the Commission could and indeed might change its distant signal rules but that the compulsory license *per se* could not be affected by amendment of the Commission's rules.[292] Florida Cable Television Association also notes that NTIA's "two-tiered" proposal of exempting certain systems from the retransmission consent requirement and allowing only these exempted systems to be governed by the compulsory license runs directly contrary to Section 111(C)(1) of the Act.[293] These parties contend that the Commission and the Congress have both consistently recognized that retransmission consent is primarily a copyright substitute rather than a matter of communications policy, and, as the proper body to act on an essentially copyright-related matter, Congress has consistently rejected it since 1960. The most recent evidence of this Congressional perception of retransmission consent as a copyright substitute was manifest in its rejection by the House and Senate Communications Subcommittees in recent Communications Act rewrite legislation.[294] As Southern Satellite Systems, Inc. argues, the Commission in 1968 recognized the copyright nature of retransmission consent in deferring to Congressional action on the cable/copyright question before adopting it.[295] Therefore, there can be no legal justification at all for imposing a retransmission consent requirement after Congress has adopted a revised copyright act that deals comprehensively with cable. Superstation, Inc. quoted testimony by Messrs. Valenti and Geller for the proposition that the instant retransmission consent proposal is simply a means of reopening the battle against cable's compulsory license before another inappropriate forum. Florida Cable Television Association and Southern Satellite Systems are among the parties who argue that retransmission consent could not come within the ambit of the Commission's "ancillary to broadcasting" jurisdiction over cable because it is designed primarily to protect the interests of the copyright owner rather than the broadcaster, and the Commission has no direct jurisdiction over program producers, how much they are paid and by whom. Moreover, to the extent retransmission consent is premised on protecting broadcasters, CATA notes that the *Economic Inquiry Report* has shown that broadcasters would not be harmed by deletion of the distant signal rules, and therefore imposition of retransmission consent would be an attempt to cure a problem that does not exist. Finally, several of the commenters note that the Commission indicated in the past that the element of "unfair competition," which its rules have been designed in varying degrees to remedy, would be remedied by Congressional adoption of a cable copyright scheme. In this regard they maintain that the compulsory copyright license adopted by Congress is not unfair in itself and concur with the Department of Justice that any claimed inadequacies were appropriately addressed to either the Congress or the Copyright Royalty Tribunal.

271. Superstation, Inc., directly addresses NTIA's arguments in support of the necessity of adopting a retransmission consent requirement. Superstation contends that NTIA's philosophical justification for its retransmission consent proposal, that cable and broadcasting are simply alternative ways of distributing television programming, is completely in error. Cable television and broadcast television are based on different economic principles, have different revenue sources, and operate in different marketplaces. Cable is a consumer product, sold at relatively low prices, and susceptible of being cancelled if it does not serve the interests of the customer. It draws its revenue directly from its subscribers. Broadcast television, on the other hand, is not "sold" at all, and derives its revenues from advertisers, many of whom would find no equally attractive alternative as an advertising outlet. Therefore, the marketplace bidding process that works for broadcast television will not work for cable television, and NTIA's "marketplace" solution is not viable. Because NTIA's "marketplace" is one which elevates the interests of copyright owners over consumers, Superstation argues that it is not responsive to consumer demands. Superstation notes that the public interest can sometimes only be served by a governmentally-induced balancing of the rights and equities of all involved, so that even if retransmission consent did obviate the need for extrinsic regulation, this fact standing alone does not prove that the public interest will be served thereby. Superstation also faults NTIA's tacit assumption that under a retransmission consent scheme copyright owners would exercise their marketplace control in a manner consistent with the public interest. Superstation terms this assumption "catastrophically unrealistic." Retransmission consent, Superstation maintains, involves not the right to fair competition, but the right to withhold program product to maximize profits. The NTIA proposal also ignores the key fact that the principal beneficiary of copyright is intended to be the public, not artists as a class, a philosophy the compulsory license embodies. Superstation sees as the "truly sinister" aspect of NTIA's retransmission consent proposal the fact that it would have the government bow out of regulating after deciding what television services the consumer should have, which is

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[292] The cited language states that

* * * the purpose of this provision is to give the Tribunal broad discretion to reconsider the royalty rates applicable to (but only to) the carriage of any additional distant signals permitted under the rules and regulations of the FCC after April 15, 1976. The present FCC rules limiting the number of distant signals that may be carried by cable systems have the effect of protecting copyright owners by restricting the amount of television broadcast programming retransmitted into distant markets. If these rules are changed in the future to allow additional carriage of television programs it is the Committee's judgment that the royalty rates paid by cable systems should be adjusted to reflect such changes.

H.R. Rep. No. 94–1476, 94th Cong., 2d Sess. 176 (1976).

[293] Section 111(c)(1) of the Copyright Revision Act provides that cable carriage of secondary transmissions "shall be subject to compulsory licensing" upon compliance with certain terms and conditions set out in that Section.

[294] See n. 282, *supra*.

[295] In its *Notice of Proposed Rulemaking and Inquiry in Docket 18397*, the Commission stated:

While we believe that we must proceed to take appropriate steps to end the unfair competition aspect * * * we are also cognizant of other important developments which we should take into account. We refer specifically to important Congressional developments in the copyright field that bear directly on the issue of unfair competition * * *

* * * As stated, we must take the above consideration into account. For, our retransmission consent proposal, while stemming from our responsibilities under the Communications Act * * * necessarily also embodies considerations like copyright in its practical applications * * *. Since Congress is considering the Copyright matter, we should afford the opportunity for Congressional resolution of the unfair competition aspect, as discussed. Such resolution would constitute the Congressional guidance sought in this important area.

15 FCC 417 at 432–33.

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infinitely worse than continuing government regulation.

272. Other parties also treat aspects of the necessity for retransmission consent. The Arizona Cable Television Association maintains that a marketplace solution will result absent retransmission consent if the rules are abolished because, as in the case of programming supplied for network distribution, program suppliers will demand and get more revenue from superstations. Superstation concurs, stating that the present operation of WTBS–TV is evidence that retransmission consent is unnecessary. No program supplier is forced to sell to WTBS–TV; and when one does, the prices for programming reflect the station's reception in distant cable homes. The Arizona Association also argues that even if either local stations or superstations are refused program product by some producers, the door would then be open for other programming by other producers. Finally, a number of the commenters, chief among them being the Copyright Office, note that it would be premature to judge that retransmission consent is necessary to remedy presumed inadequacies under the compulsory license system and the existing fee schedule. The compulsory license has been in existence for less than two years; nevertheless, the Copyright Royalty Tribunal's current royalty pool of $13,000,000 is almost 50 percent more than the amount Congress presumed the compulsory fee would garner. CATA further states that any comparison between the payment cable makes for programming under the compulsory license and the payment broadcasters make is simplistic, because cable television and broadcast television are two different businesses with two different sets of costs. Moreover, the Tribunal has not yet begun to disburse the fees, so it is impossible to judge whether the payments to producers will or will not prove adequate. Finally, it is argued that the Act provides a satisfactory mechanism for adjusting the fee, and its adequacy ought to be ascertained before a new payment scheme is superimposed.

273. Several of the commenters also spoke to the issue of the workability of a retransmission consent program. The Copyright Office states that the history of the growth of the cable industry, broadcasters' and copyright owners' response to it, and the impact of Commission regulation in the last ten years indicate that substituting retransmission consent for the compulsory license would result in "massive retransmission denials rather than consents." The Office cites the 1968 failed retransmission consent experiment and the unanimous opinion of cable, broadcast and program production interests in 1971 that retransmission consent simply would not work. The Office maintains that changes in the industry since 1968 have not been such as to make a difference. Most broadcasters would have no inducement to grant consents for retransmission of their own programming, and agreements between broadcasters and copyright owners are equally and in some cases even more restrictive on the ability of broadcasters to authorize retransmission than they were in 1968. Because "quitclaim" consents will not be sufficient, retransmission consent would unavoidably require cable systems to negotiate copyright licenses from individual copyright owners. Superstation notes that copyright owners would probably withhold consent because by doing so they could force major-market cable to effectively become all pay-cable, and pay cable would constitute a big second source of income, permitting them to maximize profits.

274. Superstation, Inc. states that retransmission consent is unworkable because an independent station in a major market can bid higher for program product than its counterpart cable system. Cable cannot increase its subscription rates the way broadcasters can increase their rate cards to cover increased costs. Superstation cites the tremendous costs for off-network series [296] and the increased profitability of major-market UHF stations. Even if cable systems combined to purchase programming they could not out-bid major-market independent stations, with the result that the only programming cable might procure would be the less desirable programming that no broadcaster bid on. Superstation maintains that no cable company, even the largest multiple system operator, could spend the sums necessary to procure a single program series, because to do so systems would price themselves out of existence. It charges that NTIA has failed to explain how the emergence of satellites would be the factor that would make retransmission consent succeed. Satellites have not changed the structure of the cable industry in relation to the broadcast industry so as to make retransmission consent viable. Even WTBS–TV, which is received in 5,000,000 homes, could not compete with independent stations in major markets that reach many more homes.

275. Superstation maintains that the ultimate result of retransmission consent will be that cable in major markets will be pay cable, and this result would come from the dictates of the program suppliers rather than from cable consumers. Superstation further states that retransmission consent will not increase program supply, but instead will virtually guarantee that the networks and the major program suppliers will control the market and operate so as to maximize profits by limiting production. Superstation also notes that program suppliers would buy up cable systems that go out of business, and thereby obtain control over both product and distribution facilities.

276. Southern Satellite Systems contends that retransmission consent would terminate its resale carrier business and destroy satellite delivery of superstations. In this respect Southern Satellite notes that the satellite's advent will not make retransmission consent successful; on the contrary, the blacking out of portions of WTBS–TV's broadcast day as a result of retransmission consent would make satellite transmission impossible. This result would be particularly unfortunate in view of the fact that satellite transmission, by making available programming suited to a multitude of interests, will allow the consumer to escape the domination of the three networks, thus serving Communications Act purposes. Similarly, United Video, Inc. and the miscellaneous common carriers argue that retransmission consent would destroy their service because of the inability of cable systems to get consent for all of a station's programs. This would, of course, represent a serious loss of program diversity to cable subscribers generally, but the burden would fall most heavily on small, independent cable systems that could not afford program-by-program negotiations.[297] Moreover, even if cable operators had some success, there would be no way technologically for the microwave common carriers to carry programs individually to systems obtaining checkerboard consents. The result, these commenters state, would be "an immediate end" to the microwave transmission of distant signals which has been an essential source of

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[296] For example, Superstation cites the fact that in 1978 alone local television stations paid approximately $200,000,000 for syndicated programming.

[297] One author has suggested that "it would cost each CATV owner at least $33,000 a year in administrative expenses to properly clear copyrighted materials." Martin H. Seiden, *Cable Television U.S.A.*, Praeger Publisher, 1972, p. 111.

programming to the industry and the public for many years.

Discussion

277. Prior to passage of the Copyright Law Revision of 1976, cable retransmission of broadcast programs did not violate the copyright law, irrespective of whether the owner of the copyright, the originating broadcaster, or any other interested person in the distribution chain had granted its consent. See *Teleprompter Corp. v. Columbia Broadcasting System, Inc.*, 415 U.S. 394 (1974); *Fortnightly Corp. v. United Artist Television, Inc.*, 392 U.S. 390 (1968). The cable retransmission was not a "performance" and therefore did not constitute an infringement of the copyright. *Id.* The 1976 Act changed that. But in making the change, Congress enacted a regulatory scheme that is fundamentally inconsistent with NTIA's retransmission consent proposal.

278. Under Section 106 [298] of the 1976 Copyright Act and the definitions in Section 101, it is clear that the owner of a program copyright has the exclusive right to authorize the transmission of that program to television audiences.[299] Section 106 also states, however, that the copyright owner's exclusive right is "[s]ubject to Sections 107 through 118." Section 501(a) establishes that anyone who violates "the exclusive rights of the copyright owner as provided by Sections 106 through 118 * * * is an infringer of the copyright." Thus, infringement can lie only where the exclusive rights are violated; and those rights are defined not only by Section 106 but also by other provisions such as Section 111.

279. Section 111(c) provides an explicit limitation on the program copyright owner's Section 106 exclusive rights and on his right to claim infringement under Section 501(a). Section 111(c)(1) says:

> Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission * * * and embodying a performance or display of a work *shall be subject to compulsory licensing* upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission. [Emphasis added.]

Section 111(d) explains that to qualify for compulsory licensing, the cable system must provide a notice and any other requested information to the Copyright Office and deposit with the Register of Copyrights a statement of account and royalty fees calculated under a statutory formula (as adjusted from time to time by the Copyright Royalty Tribunal pursuant to Section 801(b)(2)).

280. Section 111(c)(2) makes it clear that the right to a compulsory license is unavailable (and an infringement action may be brought) if the cable system's willful or repeated carriage of the particular signal "is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission" or the system failed to file the notice, statement of account, or royalty fee required by Section 111(d). Section 111(c)(3) adds that the right to a compulsory license (and the accompanying immunity from an infringement suit) is forfeited if the cable system willfully alters the commercial advertising or station announcements that accompany the broadcast of the copyrighted work.[300] Section 501(c) provides that the copyright-licensed local broadcaster, in addition to the copyright owner, has standing to sue the cable system for infringement where the cable system has failed to file the notice, statement of account, or royalty fee required by Section 111(d). If the cable system alters the primary transmission in a way forbidden by Section 111(c)(3), such as by deleting commercials, both the originating broadcaster and any local broadcaster in the area into which the cable system carries the signal, have standing to sue for infringement.

281. The foregoing regulatory scheme is inconsistent with the retransmission consent proposal in several respects. Section 111(c)(1) establishes that the cable system's retransmission of the copyrighted work "shall be subject to compulsory licensing upon compliance with" certain enumerated requirements. The copyright owner is expressly deprived of one of the usual incidents of copyright protection, i.e., the right to prevent copying or to condition copying on the payment of a royalty determined by the copyright owner. Instead, the permission to copy is "compulsory," and the "royalty" is established by Congress, subject to Copyright Royalty Tribunal adjustment. Under NTIA's proposal, the copyright owner could withhold from the originating broadcaster full authority to consent to the retransmission and, thus, reserve to the copyright owner the right to grant or deny consent. The copyright owner could not (except perhaps in what NTIA describes as "warehousing" situations) be compelled to grant retransmission permission. In reality, the cable system would no longer have the "compulsory licens[e]," which Congress granted. They copyright owner and/or the broadcaster could extract a fee or fees in excess of the royalty set by statute, thus circumventing the plain language of Section 111(d). The distribution of such fees among claimants could vary dramatically from the division of royalties which the Tribunal would make. The consensual arrangements between copyright owner, broadcaster, and cable system would be governed by state contract law and not the substantially different Federal scheme in Sections 501–510 which was carefully designed to govern copyright infringement suits and remedies.

282. There is nothing in the Committee reports accompanying the Copyright Revision Act that in any way suggests that the compulsory license was not intended to cover all cable systems or that the Copyright Royalty Tribunal was not meant to be the exclusive entity for adjusting cable copyright royalties. The House Judiciary Committee report states that "the Committee has determined to maintain the basic principle of the Senate bill [S. 22] to establish a compulsory copyright license for the retransmission of those over-the-air broadcast signals that a cable system is authorized to carry pursuant to the rules and regulations of the FCC." [301] The House Conference Committee report stated that "The Senate bill * * * created a compulsory license for any cable retranmission authorized by the Federal Communications Commission," and that the House bill retained the basic compulsory license scheme envisaged in the Senate bill.[302] With respect to the authority of the Copyright Royalty Tribunal to adjust copyright royalties, the House Judiciary Committee report clearly states that "Chapter 8 establishes a Copyright Royalty Commission for the purpose of periodically reviewing and adjusting statutory royalty rates for use of copyrighted materials pursuant to compulsory license provided in Section

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[298] The references to "section" at this point and hereafter are to Title 17 of the United States Code.

[299] Section 106 gives the copyright owner the exclusive right "to perform the copyrighted work publicly." Section 101 defines "perform * * * publicly" to include transmission and "transmit" to include broadcast and cable carriage of television programs. See also Section 111(f)'s definitions of "primary transmission" and "secondary transmission."

[300] Section 111(c)(4) imposes certain limits on the compulsory license which Section 111(c)(1) grants as to Canadian or Mexican broadcasts retransmitted by cable systems in the United States.

[301] H. Rept. No. 94–1476. 94th Cong., 2d Sess., 89.

[302] H. Rept. No. 94–1733. 94th Cong., 2d Sess., 75.

111 (secondary transmissions by cable systems) * * *" and further that "cable and copyright owners agreed to a set of standards for the adjustment or rates which the Committee in large measure has accepted."[303]

283. We have given careful consideration to the comments relating to the retransmission consent proposal in light of this statutory scheme, with particular attention to the polarization of views between NTIA and the Department of Justice, the Copyright Office, and the Congressional Research Service. Based on our analysis of the law and the facts, we find that retransmission consent is a surrogate for full copyright liability and that, because full copyright liability was considered in detail and rejected by Congress in favor of the compulsory license system, adoption of retransmission consent rules is beyond the authority of the Commission.

284. In view of our findings relating to the effects of cable television distant signal carriage on television broadcast service to the public, no appropriate evidential base and no sound policy predicate exists for the Commission to exercise its authority to adopt the retransmission consent proposal as a means of eliminating potentially destructive economic competition. In fact, neither NTIA nor the other supporters of the retransmission consent proposal generally urge it as a policy calculated to protect local television broadcast stations from the potential adverse consequences of cable television distant signal audience diversion. In *U.S. v. Southwestern Cable Co.*, 392 U.S. 157 (1968), the Supreme Court affirmed the Commission's regulatory authority over cable television, noting that "the Commission feared that CATV might, by dividing the available audiences and revenues, significantly magnify the characteristically serious financial difficulties of UHF and educational television broadcasters." (footnote omitted) It concluded, in light of this, that "there is substantial evidence that the Commission cannot 'discharge its overall responsibilities without authority over this important aspect of television service' " (citations omitted). The function of the retransmission consent proposal, at least as it is articulated by NTIA, relates not at all to these considerations that were before the Supreme Court when it affirmed our regulatory authority in the cable television field. Thus, since specific authority to adopt the proposal is not found in the Communications Act and existing precedents are inapplicable, a new theoretical justification would be required if Commission jurisdiction to adopt rules of this type were to be found.

285. We find no such justification here. NTIA cites Sections 325(a), 303(g), (h), and (s) and 307(b) of the Communications Act as authority for the adoption of the rules it proposes.[304] Section 325 is inapplicable to cable television signal carriage directly for, as the Supreme Court has stated, "CATV systems do not in fact broadcast or rebroadcast."[305] Nor do we find such authority within the other cited sections or within some authority ancillary to our regulatory responsibilities under the cited sections. The retransmission consent proposal, while it would, according to its proponents, more efficiently and equitably order the markets in which cable television system operators obtain television broadcast signals, would not and is not intended to create zones to be served by particular stations or serve to allocate stations or service equitably among the several states and communities.

286. More specifically, we find no "ancillary" authority broad enough to impose retransmission consent rules on cable television systems. As developed by the courts, Section 2(a) of the Communications Act; 47 U.S.C. 152(a), "confer[s] on the Commission a circumscribed range of power to regulate cable television * * *." *FCC v. Midwest Video Corp. (Midwest II)*, 440 U.S. 689, 696, (1979). One formulation the courts have used to describe the outer bounds of that regulatory power is the statement that the cable regulations must be "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting." *Id.* at 691, quoting *United States v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968). Those "responsibilities," of course, are set out in various provisions of the Communications Act and have been amplified in court and Commission decisions.

287. In *Southwestern Cable, supra*, the Supreme Court held "the Commission has reasonably concluded that regulatory authority over CATV is imperative if it is to perform with appropriate effectiveness" its responsibilities under Sections 303(f) and (h) and 307(b) to create "an appropriate system of local broadcasting." 392 U.S. at 174. The Court noted the Commission's Congressionally-endorsed finding that this statutory objective had "two subsidiary goals," wider use of UHF channels and encouragement of educational broadcasting. *Id.* at 174–75. The Court said "[t]he Commission has reasonably found that the achievement of each of these purposes is 'placed in jeopardy by the unregulated explosive growth of CATV' " *Id.* at 175. The Court stressed both Congressional and Commission findings that, given the then-current state of evidence, uncontrolled distant signal importation, by "dividing the available audiences and revenues," might eliminate local broadcasting service or, at least, discourage UHF and educational television development. *Id.* at 176. *Southwestern Cable*, therefore, stands for the proposition that cable's *adverse* impact on the achievement of broadcast goals may support Commission ancillary jurisdiction over cable.

288. In *United States v. Midwest Video Corp.* (*Midwest I*), 406 U.S. 649 (1972), the Supreme Court explored another aspect of the Commission's regulatory authority over cable. In upholding the requirement that cable companies originate some programming, a 4-member plurality of the Court said that the reasonably ancillary doctrine also encompassed affirmative efforts to further statutory policies, not just negative avoidance of adverse effects as exemplified in *Southwestern Cable*. 406 U.S. at 664. The plurality said that the Commission had "authority to regulate

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[303] H. Rept. No. 94–1476, 94th Cong., 2d Sess., 173.

[304] Section 325(a) states in relevant part:

* * * nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

Section 303(g) provides the Commission authority to:

Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;

Section 303(h) provides that the Commission shall:

Have authority to establish areas or zones to be served by any station;

Section 303(s) provides that the Commission shall:

Have authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adeqately receiving all frequencies allocated by the Commission to television broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public.

Section 307(b) provides that:

In considering applications for licensees, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair efficient, and equitable distribution of radio service to each of the same.

[305] *Fortnightly Corporation v. United Artists Television*, 392 U.S. 390 (1968). *See also, Report and Order on CATV and TV Repeater Services*, 26 FCC 403, 429–430 (1959).

CATV with a view not merely to protect but to promote the objectives for which the Commission had been assigned jurisdiction over broadcasting." *Id.* at 667. The particular statutory objectives involved in *Midwest I* were the goals of outlet and program diversity which the plurality traced to Sections 303(g) and 307(b) of the Act. *Id.* at 667–68.

289. The crucial concurrence in the *Midwest I* result by the Chief Justice, however, did not give any broad endorsement to the plurality's expansion of the ancillary jurisdiction doctrine. He cautioned that the program origination rule "strains the outer limits" of the Commission's jurisdiction. *Id.* at 676. He urged Congress to comprehensively reexamine the statute as it relates to cable television. *Id.* at 676. The Chief Justice did observe that "when they [i.e., cable operators] interrupt the signal and put it to their own use for profit, they take on burdens, one of which is regulation by the Commission." *Id.* at 676. He did not, however, explain how far his signal interruption rationale could be extended to give the Commission jurisdiction to affirmatively achieve traditional broadcast-related regulatory goals.

290. *Midwest II, supra,* did not resolve how far a majority of the Supreme Court would be willing to extend the *Midwest I* plurality's view of the reasonably ancillary doctrine. The Court in *Midwest II* invalidated the Commission's cable access and capacity rules, despite their affirmative promotion of the established broadcast regulatory goals of maximizing outlets for local expression and programming diversification. The Court held that the Commission's cable television jurisdiction necessarily must be limited by "reference to the provisions of the Act directly governing broadcasting * * *." 440 U.S. at 706. Since Sections 3(h) and 326 evidenced a Congressional reluctance to impose a non-discriminatory access requirement on broadcasters, the Court implied a similar limitation as to cable television operators. While it may not have been necessary to the result, the 6-member majority in *Midwest II* did appear to accept as a general proposition what it characterized as "[o]ur holding in *Midwest [I]* sustain[ing] the Commission's authority to regulate cable television with a purpose affirmatively to promote goals pursued in the regulation of television broadcasting * * *." 440 U.S. at 700.

291. Those parties urging the Commission to promulgate retransmission consent regulations identify Sections 303(g), (h), and (s), 307(b), and 325(a) as setting forth statutory policies that such regulations would affirmatively promote. They claim that under *Southwestern Cable,* as extended in *Midwest I* and *II,* the Commission has ancillary jurisdiction to regulate cable to promote those objectives.

292. As indicated in greater detail below, we believe that the transplantation of the requirements of Section 325(a) of the Communications Act into the field of cable television under a concept of regulation "reasonably ancillary" to our regulation of broadcasting would be fundamentally inconsistent with the recently adopted 1976 Copyright Act. There is no need to protect the functioning of Section 325 by creating a Commission rule paralleling the statutory requirement for television broadcasters because the Congress has protected those interests deemed to warrant protection by the adoption of the Copyright Act. We note, as discussed below, that Congress has specifically refused to adopt amendments to the Communications Act necessary to extend Section 325 to cable television. Its stated reason for rejecting these proposed amendments was that, in so doing, it would be determining questions as to the property rights in broadcast programs and that this determination was appropriately left for resolution in connection with changes in the copyright law.

293. Nor do we find authority under the "reasonably ancillary" doctrine in Section 303(h). That Section grants the Commission "authority to establish areas or zones to be served by any station." The most obvious purpose of this provision is, in conjunction with Sections 303(c)–(f), to guard against service-impairing electronic interference between stations. In addition, Section 303(h) works in conjunction with Section 307(b) to ensure the fair allocation of local broadcast service among communites. See *Southwestern Cable,* 392 U.S. at 174. That case establishes that the Commission, under the "reasonably ancillary" doctrine may regulate to prevent deleterious impact to local broadcast service. Such regulation entails use of the negative, impact-avoidance arm of the ancillary jurisdiction doctrine; and it requires substantial record support before such regulation of cable can be justified. It is difficult to comprehend, however, how Section 303(h) can provide an *affirmative* purpose of the *Midwest I* genre to justify retransmission consent regulations. Section 303(h) empowers *the Commission* to establish areas or zones of service. NTIA's retransmission consent proposal would empower *the broadcaster* to expand or retain the area or zone of service reached by programming.[306]

294. Section 303(a) empowers the Commission to "generally encourage the larger and more effective use of radio." Section 303(s) authorizes the Commission to promote UHF development. Section 307(b) requires "fair, efficient, and equitable distribution of radio service" among the states and communities. These provisions all demonstrate the importance of creating and preserving viable local service. Insofar as a retransmission consent requirement is necessary in that endeavor, the foregoing provisions provide the requisite statutory objectives for invocation of the "reasonably ancillary" doctrine. But in order to justify regulation under the "reasonably ancillary" doctrine, it is necessary to invoke more than a relevant statutory purpose. It is necessary to demonstrate a real factual nexus between the proposed regulation and that relevant statutory purpose. As this *Report and Order* demonstrates, the factual predicate or nexus is lacking. The unrestricted importation of distant non-network programming does not substantially threaten the viability of local broadcast service. This absence of likely harm, therefore, is fatal to any contention that the Commission has ancillary jurisdiction to impose a retransmission consent requirement.

295. In *Southwestern Cable,* 392 U.S. at 176–77, the Supreme Court noted that, on the then-existing state of knowledge, the deleterious consequences to local broadcast service could only be estimated. The Court was satisfied that there was "substantial evidence" of the need for regulation. *Id.* at 177. Plainly, the Court was impressed with Congressional committee and staff reports reflecting the urgency of the problem. The word "imperative" appears several times in the Court's opinion. *Id.* at 177. See also *Midwest II,* 440 U.S. at 706. On the current rulemaking record, however, after years of actual experience with cable and extensive economic anaylsis of that

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[306] The supporters of retransmission consent also seem to rely on Section 308(a). Section 308(a) says the Commission may grant permits and licenses "only upon written application therefore received by it." This provision serves the obvious purpose of guaranteeing, along with Section 308(b) and Section 309, that the licensing process is open and public. The quoted words of Section 308(a) hardly reflect a Congressional purpose of ensuring that a broadcaster's signal is kept within limited geographical confines unless and until he consents to distant carriage by cable. The provision, therefore, is not a basis for imposing retransmission consent regulations under the "reasonably ancillary" doctrine.

experience, the urgency and necessity for regulation are lacking. What was "imperative" in 1968 is no longer demonstrably so.

296. *Home Box Office, Inc. v. FCC,* 567 F. 2d 9 (D.C. Cir.), cert. denied, 434 U.S. 829 (1977), sharply illustrates that mere intuition or speculation or inadequately established factual predicates will not suffice to support an attempted exercise of "reasonably ancillary" jurisdiction over cable television. There the U.S. Court of Appeals for the District of Columbia Circuit overturned the Commission's pay cable anti-siphoning rules. The effect of those rules was "to restrict sharply the ability of cablecasters to present feature film and sports programs" as part of the cablecasters' pay service (as distinct from basic retransmission service). 567 F. 2d at 19. The Commission there did not attempt to justify its rules on the *Southwestern Cable* theory that pay cable programming would fragment audiences and undercut the financial viability of conventional local broadcast service. 567 F. 2d at 29. The Commission did contend, however, that the rules were within the Commission's jurisdiction to ensure nationwide broadcast service under Section 1, 47 U.S.C. 151. The theory was that cable itself would not be a nationwide service in the near future, but would outbid broadcasters for programming in markets where cable/broadcast competition for program supply did exist, and that this "could result in loss of broadcast television service to regions not served by cable." *Id.* at 33. The Court found this theory "unsupported in the record" and held that "the postulated loss of regional service is too speculative to support jurisdiction." *Id.* at 33.[307] In other words, the Commission's attempt to ground ancillary jurisdiction on a perceived need to protect the supply of programming to broadcasters was rejected by the Court because "the Commission has not established its jurisdiction on the record evidence before it." *Id.* at 34.

297. The *Home Box Office* court went on to explain why the anti-siphoning rules could not be affirmed under the Administrative Procedure Act, irrespective of the jurisdictional issue. The court set out as a basic ground rule that "regulational perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist." 567 F. 2d at 36. After examining the rulemaking record, the court concluded that the Commission did not have sufficient evidence that a problem did exist. The Commission had "failed to crystallize what is in fact harmful about 'siphoning.' " Moreover, the Commission was unable to identify "any comments in a voluminous record which would support its statement" that "siphoning is 'real, not imagined.' " *Id.* at 37. Indeed, the Commission had admitted it lacked a "clear picture as to the effects of subscription [including pay cable] television upon conventional broadcasting." *Id.* at 37. The court said that "if there is any evidentiary support at all, it is indeed scanty." *Id.* at 37. Nine months before the Commission promulgated its first anti-siphoning rules, the Commission justified declining to issue such rules because it lacked adequate information and needed further experience. *Id.* at 22, 37 n. 60. The court said the "Commission has not called our attention to any data which would fill the gaps in its experience identified" at the earlier time. *Id.* at 37 n. 60. The court criticized the Commission's "choice to regulate rather than allow a period of unregulated experimentation in which data could be generated that could form a predicate for informed agency action." *Id.* [308] The court added:

> In this state of affairs, where there is no evidence of any urgent need for preventive action and where approval of the Commission's position would foreclose the possibility that data could be generated in the future that could allow fully informed decisionmaking, we are disinclined to give the Commission the "benefit of the doubt" which it argues it should have. [*Id.*]

The court went on to explain that the factual record to support the regulations as pro-competitive was incomplete and that the "Commission has not documented its case" regarding the need for the rules to prevent loss of television service to the poor and to rural areas. *Id.* at 39.

298. In the present case, the rulemaking record refutes the conjecture that cable importation of distant syndicated programs will undercut any of the Commission's broadcasting regulatory goals. [309]

299. More important, however, than our inability to find authority for the Commission to adopt this proposal under established precedents, is our inability to distinguish its policy thrust from purely copyright matters with respect to which Congress has chosen a different course. A review of both the historical record and the present debate, make clear the virtual identity of the two issues, both of which relate to the allocation of property rights in television programming and the legal position of the cable television industry in the broadcast television programming supply market.

300. As we indicated in our *Notice of Proposed Rule Making,* para. 89, the initial consideration of this proposal focused on whether Section 325(a) [310] should be amended to apply to cable television systems. Section 325(a) of the Communications Act requires broadcasters that rebroadcast the signals of other stations to obtain the permission of those stations. Its function is "to protect the rights of those having property rights in programs." [311] When the issue of whether Section 325(a) should be applied to cable television operations came before the Commission, we stated:

> It may well be that Congress would desire to protect the property right of a broadcaster

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[307] The Court also rejected as unsupported two other jurisdictional bases urged by the Commission, preservation of "the overall level of public enjoyment of television entertainment" and promotion of diversity. 567 F. 2d at 162, 167.

[308] *Accord, Home Box Office, Inc. v. FCC,* 587 F. 2d 1248, 1256 (D.C. 1978) (affirming Commission decision not to regulate program exclusivity agreements between suppliers and broadcasters).

[309] The proponents of retransmission consent say that the Commission is obliged under *Melody Music Inc. v. FCC,* 345 F. 2d 730, 733 (D.C. Cir. 1965) to explain why broadcasters seeking to rebroadcast programming must obtain the originating broadcaster's prior consent, whereas cable operators do not have to seek such consent for cable retransmissions of broadcast programming. *Melody Music* has no application to the jurisdictional question here and can not be used to salvage a jurisdictional argument that is otherwise unavailing. *Melody Music* requires equal treatment, or a reasoned explanation of differential treatment of similarly situated *broadcasters.* In any event, the simple explanation for the differential treatment here is that Congress imposed Section 325(a) on broadcasters and did not impose a comparable obligation on cable operators, nor did Congress give the Commission sufficient implied (i.e., ancillary) jurisdiction to impose such an obligation. *Melody Music* obviously does not control the actions of Congress. In any case the Supreme Court stated in *Fortnightly Corporation v. United Artists Television,* 392 U.S. 390, 400–401 (1968) and reiterated in *Teleprompter Corp. v. CBS, Inc.,* 415 U.S. 394 (1974) that:

> The function of CATV systems has little in common with the function of broadcasters. CATV systems do not in fact broadcast or rebroadcast. Broadcasters select the programs to be viewed; CATV systems simply carry, without editing, whatever programs they receive. Broadcasters procure programs and propagate them to the public; CATV systems receive programs that have been released to the public and carry them by private channels to additional viewers. We hold that CATV operators, like viewers and unlike broadcasters, do not perform the programs that they receive and carry. (footnotes omitted)

While it might be argued that these are distinctions of relevance only under the copyright law, these decisions (and the 1976 Copyright Revision Act) are the explanation for the different positions of the cable and broadcast television industries in the program supply markets for which NTIA seems to be seeking an explanation.

[310] *Supra,* n. 304.

[311] *Report on Amendment of Rebroadcasting Rules,* 1 R.R. (Pt. 3) 91:1131, at 91:1134, May 15, 1952.

> as against CATV retransmission as well as against rebroadcasting. For this reason, as well as because of the competitive impact involved here, we intend to recommend to Congress that an appropriate amendment to Section 325(a) be enacted * * *
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> "* * * By other broadcasters * * * we are asked to recognize the existence of a propriety right, and to affirm it by rules; then, it is said, we would be in a position to issue 'cease and desist orders' against any CATV system rebroadcasting a signal without permission. This course of action we do not believe appropriate. This is not the forum in which the existence or nonexistence of a private property right can be adjudicated * * *" [312]

301. This legislative proposal was made to the Congress and was rejected by both the Senate and House Committees with responsibility for its consideration. The report of the House Committee stated:

> The Committee has considered the question raised by the Commission on its legislative recommendation of whether Section 325 of the Communications Act should be amended so as to prohibit transmission by CATV systems of any broadcast signals except with the express authority of the broadcast stations. In view of the pendency of copyright legislation, it is the view of the Committee that the recognition and protection of any property rights in programs broadcast by radio and television stations should more appropriately be determined within the framework of copyright legislation rather than within the framework of communications legislation. Therefore, the Committee decides against amending Section 325 * * * [313]

302. We considered the subject of retransmission consent again in the *First Report and Order in Dockets 14895 and 15233,* 38 FCC 683 (1965). There, we were requested to "construe the microwave carriage and distribution of signals by or for the benefit of CATV's as a single transaction which, in effect, constitutes 'rebroadcasting' under the existing provision of Sec. 325." *Id.* at 706 n. 37. We stated, however, that "the proposed construction is a strained one, which we are not at liberty to adopt." *Id.* In that *Report,* we recognized that cable television "stands outside of the program distribution process" and that, therefore, "the usual competitive situation" is not present. Nevertheless, we reiterated that cable television had not been found subject to the requirements of Section 325 and that Congress had not seen fit to adopt our recommendation that "restrictions on rebroadcasting embodied in Section 325 of the Communications Act should be extended to the distribution of broadcast signals by CATV's." *Id.*

303. The *Second Report and Order in Docket 14895, 15233, and 15971,* 2 FCC 2d 725 (1966) also addressed the question of retransmission consent. We stated:

> As a general approach encompassing all stations, we are proposing to the Congress that it consider the question of extending the rebroadcast concept of Section 325(a) to CATV. It may be that regulation of this nature would prove a preferable and more effective means of achieving fair recognition of the exclusivity contracts of the program marketplace.

Id. at 748. We also pointed out the "anomalies which result" from the situation in which broadcasters must negotiate for programming whereas cable systems do not and expressed our concern over how this could affect the economic base of a television station serving as an outlet for local expression for all the people in its service area. *Id.* at 778–781. We concluded, as we had earlier in Docket 12433, that we should urge Congress to consider whether a provision similar to Section 325(a) should be made applicable to cable television including whether, to what extent, and under what circumstances cable systems should be required to obtain the consent of the originating broadcast station. In suggesting this approach, we observed:

> We are not in a position to state whether a Section 325(a) approach would be effective and fully consistent with the public interest. We think that this is a matter warranting Congressional (and Commission) consideration, including such aspects as how a 'retransmission consent' requirement would function as a practical matter, whether systems in small communities should be dealt with specially, and whether grandfathering is appropriate and the nature of any such grandfathering.

Id. at 788.

304. The Commission again considered the matter in connection with its *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397,* 15 FCC 2d 417 (1968), in which the Commission itself proposed to apply such a requirement to the carriage of distant commercial stations on cable television systems in the 100 largest television markets and to those signals carried by cable systems in the smaller markets that were necessary to provide subscribers with signals beyond the three national television networks and one independent station. *Id.* at para. 39.

305. In making this proposal the Commission indicated that it would forbear acting until the Congress had an opportunity to act on pending copyright legislation which it was hoped would resolve the unfair competition aspect of the retransmission consent proposal and provide "the legislative guideline which the Commission has long sought. . . ." *Id.* at para. 39. As the Commission noted, the retransmission proposal "necessarily also embodies considerations like copyright in its practical applications." *Id.* at para. 40.

306. After considering the various comments filed relating to this proposal and having undertaken some limited experimentation with operation under it, the Commission rejected it stating "experience has indicated that it will simply not achieve our basic objectives." [314]

307. In putting forth its retransmission consent proposal in 1968 the Commission stated that cable competed "unfairly" with broadcasters "because CATV presently stands outside the competitive program distribution market," [315] and that retransmission consent was designed to eliminate this element of unfair competition "through direct application of market forces now operative as to analogous services." [316] During the course of Senate oversight hearings several months after issuance of the retransmission consent proposal, the Commission elaborated further on the copyright nature of retransmission consent. At one point in the hearings, Subcommittee Chairman MacDonald asked then-Commission Chairman Hyde whether retransmission consent is not "in essence copyright." Chairman Hyde responded that, "In operation it could have many of the characteristics of copyright, that is true." [317] Chairman MacDonald pressed further on the exact nature of retransmission consent:

> Chairman MacDonald. Would it not be fair to say that retransmission consent has to be obtained from the copyright owner?
>
> Chairman Hyde. I am certain that once this approach went into operation that the copyright owners would see to it in the arrangements they make with stations or networks that they reserved the rights to make separate arrangements with CATV, and it would bring CATV into the program market in a copyright sense, yes it would * * * what we have proposed is essentially a plan under which CATV systems would get access to programs in the same manner as

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[312] *Report and Order in Docket 12433,* 26 FCC 2d 403, 430 (1959).

[313] *Report of the House Committee on Interstate and Foreign Commerce on H.R. 13286,* H.R. Rep. No. 89–1635, 89th Cong., 2d Sess. at 11 (1966).

[314] *Cable Television Report and Order,* 36 FCC 2d 143, 165 (1972).

[315] *Notice of Proposed Rulemaking and Inquiry in Docket 18397, supra,* at 430. It should be noted that the Commission's 1968 proposal was the same as NTIA's in that it nominally would have required the cable operator to secure consent from the broadcaster rather than the copyright owner.

[316] *Id.* at 432.

[317] Hearings on FCC oversight before the House Subcommittee on Communications and Power, 91st Cong., 2d Sess., Serial No. 91–1, 59–60 (1969).

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conventional television for exhibition in the top 100 markets * * * [318]

308. A contemporary expert participant in the ongoing cable/copyright controversy in the Congress, then-Deputy Register of Copyrights George D. Cary, remarked:

> When the Commission requires the CATV system to get the permission of the imported stations before it can bring these distant signals into a major market, it seems to me that this is a device for indirectly dealing with the copyright question, because as most everybody knows, radio stations do not generally own the proprietary right in the majority of the material which they broadcast, so in effect, this means that the CATV owner must deal directly with the copyright proprietor. This conclusion is made crystal clear in the clarification of this order which the Commission issued on the 24th day of January 1969, in which it said that a quit claim type of waiver from stations was not sufficient. The CATV system is going to have to get permission from the station on a program-by-program basis to import these distant signals, which obviously means they have got to get a clearance on the usage of the copyrighted material. [319]

309. In recent hearings on copyright revision before the House Judiciary Subcommittee, the Register of Copyrights gave her assessment of the nature of retransmission consent. Noting that after legislative and judicial failure to control the copyright problem in 1967 and 1968.

> The FCC approached the problem directly through a regulatory device that was, in reality, the exact equivalent of a copyright. Immediately after the Supreme Court decision in *Fortnightly* the FCC imposed upon CATV the requirement of 'retransmission consent * * *' [O]nly a few 'retransmission consents' (i.e., copyright licenses) were granted * * * [320]

With specific reference to the NTIA retransmission consent proposal, the Register of Copyrights has testified that

> It isn't just consent from the broadcasters, the broadcaster can't give consent unless it has authority to do so from the copyright owners. It has to have a contractual right to give that consent. So in effect you are creating a copyright. If you do, however you call it, whoever does it, it is still a copyright * * * [321]

310. Perhaps the most conclusive statements on the nature of retransmission consent, however, come from NTIA's Assistant Secretary for Communications and Information, Mr. Henry Geller. In testimony before the House Communications Subcommittee, Mr. Geller adverted to the NTIA retransmission consent proposal and stated that "* * * it was always the copyright owner that was the key. The only way the station could give consent is if it bargained and obtained that from the copyright owner. Even if you go to the station and ask for retransmission consent, the only way he can give it is to go back to the copyright owner * * *"[322] In further testimony before the Senate Communications Subcommittee Mr. Geller expressed the same thought[323] and in response Chairman Hollings, ranking minority member Senator Goldwater, and Senator Cannon, identified retransmission consent as a copyright matter rather than a matter of communications policy.[324] The retransmission consent provision in H.R. 3333 was deleted. During the 1979 Copyright Hearings Subcommittee Chairman Kastenmeier made reference to H.R. 3333's retransmission consent provision:

> Earlier this year our sister House Subcommittee * * * considered legislation which would have deregulated the cable industry but at the same time imposed the equivalent of full copyright liability—retransmission consent—on cable television systems.[325]

In propounding the NTIA retransmission consent proposal to the Subcommittee, Mr. Geller testified that, "We think that the sound policy for cable's future growth, not for its past but its future, is either retransmission consent as part of Communications Act policy, or full copyright liability; if it is a matter to be considered by this Committee." [326] Chairman Kastenmeier asked a clarifying question:

> Chairman. Your main recommendation appears to be that we should subject all future growth of cable to full copyright liability or the equivalent thereof while grandfathering existing service?
>
> Mr. Geller. Yes, sir * * * [327]

311. Not only were the two issues commonly perceived to differ in name only but the legislative history of the cable copyright controversy generally, and particularly the legislative history of the Copyright Revision Act, demonstrate that Congress specifically considered the full copyright liability (retransmission consent) proposal and decided to avoid imposing on cable any copyright scheme that would require negotiations for programming on a program-by-program basis. The difficulties associated with full copyright liability were noted as early as 1965.[328]

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[318] *Id.* at 60–61.

[319] *CATV—The Fortnightly Postlude*, 16 Bull. Copyright Soc. 157, 162 (February 1969). Cary also notes that the retransmission proposal provoked a letter from Senate Judiciary Subcommittee Chairman McClellan to Chairman Hyde stating that "* * * there is a serious question concerning the jurisdiction of the Commission to impose what amounts to a requirement of copyright clearance * * *," requesting the Commission's clarification of what its future regulation of cable would be "if legislation is enacted providing for the payment of reasonable copyright fees by CATV systems, * * *" and cautioning that if a response were not forthcoming, "* * * the subcommittee would have no other alternative than to schedule a public hearing to review those aspects of the Commission's action which involve matters coming within the jurisdiction of this Subcommittee." *Id.* at 165.

[320] Hearings on Copyright Revision Before the Subcommittee on Courts, Civil Liberties, and Administration of Justice, of the House Committee on the Judiciary, 96th Cong., 1st Sess., tr. 18 (November 15, 1979) (hereinafter, "1979 Copyright Hearings").

[321] 1979 Copyright Hearings, *id.*, tr. 41.

[322] Hearings on H.R. 3333 Before the Subcommittee on Communcations of the House Interstate and Foreign Commerce Committee, tr. 38, 40. This would appear to have brought Mr. Geller into agreement with Ms. Ringer who, in her formal statement, termed retransmission consent "the exact equivalent of a copyright." *Id.* at 33.

[323] Mr. Geller stated that program consent and retransmission consent were one in the same: "* * * in order to give retransmission consent, the station has to obtain that consent from the copyright owner. So whether you call it program consent or retransmission [consent], either one, the key is the copyright owner." Hearings on S. 611 and S. 622 before the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation, 96th Cong., 1st Sess., Serial No. 96–45, at 2112.

[324] Chairman Hollings stated, with respect to retransmission consent, that " * * * what's fundamentally involved * * * is whether we have a communications problem or whether we have an industry economic matter and I think that's really what copyright is." Senator Cannon stated "* * * this is an economic problem, and not a communications problem. The whole issue here seems to be how you are going to divide up that pie. And it really isn't a communications problem at all." Chairman Hollings further stated:

> * * * with respect to the retransmission consent matter, the FCC made a study of cable and found no harm was caused by unrestricted cable signal importation. Of course, that is communications policy. On the other hand, the Copyright Act said that every cable operator should have a compulsory license and pay a fee. Now, that is copyright policy.

Id. at 2869.

[325] 1979 Copyright Hearings, *supra*, n. 314, tr. 4, emphasis added.

[326] *Id.* at 9.

[327] *Id., And see* Mr. Geller's statement, *id.* at 9–10, "* * * we are saying that when you do deal with non-network programming, which is not sold on a simultaneously basis , it is sold to particular markets, and on an exclusive basis. If the broadcaster obtains that exclusivity in the marketplace, it is there we would go to the full copyright liability or retransmission consent. They are equivalent."

[328] See Hearings on H.R. 4347, 5680, 6831 and 6835, 1st. Sess., 1965, before Subcommittee No. 3 of the House Judiciary Committee, Serial No. 8, 89th Cong. This legislation, which was the first to treat the cable copyright issue, would have imposed full copyright liability on cable systems. The then-Register of Copyright Abraham Kamenstein noted that a supplementary report prepared by the Copyright Office on cable copyright liability concluded that although the copyright owner should be compensated for use of his works by cable systems, the practical difficulties of advance clearances had to be recognized. *Id.* at 1862. The following year the House considered a second cable

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In 1969, House Subcommittee Chairman Kastenmeier noted that the process of copyright revision would continue to involve the accommodations of the legitimate interests of those who sought compensation for use of their product with the equally legitimate interests of others who need to use that product without "undue complication or cost." [329] As the Register of Copyrights subsequently stated, the fundamental principle of the Copyright Revision Act, and indeed of all copyright legislation from 1974 on, was that cable's retransmission activity should be subject to compulsory licensing with statutorily-prescribed royalties.[330]

312. The legislative history of the Copyright Revision Act plainly demonstrates that full copyright liability was specifically explored and specifically rejected by the Congress. In hearings before the House Subcommittee on H.R. 2233, testimony on the problems of full copyright liability and the preferability of compulsory licensing were expressed by both government and industry witnesses.[331] This testimony led Chairman Kastenmeier to remark at one point that the business of getting clearances and knowing what levels of rights are really being accorded may get extraordinarily difficult, particularly for users.[332] In another exchange, Committee member Herman Badillo asked Rex Bradley, then-president of the National Cable Television Association, why the Congress should establish a compulsory licensee fee for cable, instead of "[leaving] it to normal market forces to say what the payment should be?" Bradley responded by stating that, "We would like to avoid the possibility of having an unknown amount established without real control by us * * *," and noted that there is no "moderating effect of the marketplace" or "competitive forces that would keep rates reasonable."[333] Congressman Badillo further pressed his question with witnesses urging greater copyright liability, exemplified in this exchange with MPAA President Jack Valenti:

> Mr. Badillo. Yesterday, when the cable television people were here they said that it is impossible to leave the question of the fee to the normal function of the marketplace because the nature of the transmission business is such that the cable people would really be in an impossible bargaining situation. What is your reaction to that claim? Would it be possible for us merely to say that it is a copyright and then leave the question of the amount to be paid to be settled in the marketplace?
>
> Mr. Valenti. I would have to tell you that I think there would be administrative difficulties in the free play of the marketplace. That is what the compulsory license was created to avoid, such an administrative difficulty; a compulsory license covering all signals, lessening the paperwork, lessening everything.[334]

313. The Committee report accompanying the Copyright Revision Act leaves no doubt that the Congress considered the very matters that are now being argued to the Commission and that it adopted the compulsory license instead of full copyright liability:

> * * * The Committee recognizes that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose work was retransmitted by a cable system. Accordingly, the Committee has determined * * * to establish a compulsory license for the retransmission of those over-the-air broadcast signals that a cable system is authorized to carry pursuant to the rules and regulations of the FCC.[335]

314. In this compromise—between the two extremes of no copyright protection (as existed prior to 1976) and full copyright protection—Congress struck what is found to be a fair balance between the rights of copyright owners and copyright users in order to advance the paramount rights of the viewing public. Viewed in this perspective, NTIA's retransmission consent proposal, with its admitted aim of making the rights of the copyright owner paramount, is not only a copyright surrogate that is beyond our jurisdiction to adopt but also is patently inconsistent with the Congressional intent because it would "skew" the balance of interests carefully and explicitly struck by the Congress.[336]

315. Notwithstanding this compelling evidence that Congress explicitly rejected full copyright liability in favor of a compulsory licensing and government-set royalties, the supporters of NTIA's retransmission consent proposal argue that Congress in 1976 specifically reserved to the Commission full authority to make "communications policy" and that this reservation includes the impact on "copyright policy." They cite the House Judiciary Committee's statement that "the Committee has carefully avoided including in the bill any provisions which would interfere with the FCC's rules or which might be characterized as affecting 'communications policy' * * *."[337] As is apparent from the remainder of the Committee report, the Judiciary Committee wanted to avoid a time-consuming referral of the bill to the Commerce Committee, which has jurisdiction over "communications" legislation.[338] The characterization of the copyright legislation as not even "affecting" communications policy presupposes an absence of overlap between communications and copyright policy which is unrealistic and cannot have been the literal understanding and intent of the Congress. Indeed, the very same sentence that says the Committee has avoided "affecting 'communications policy'" speaks candidly of "the

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copyright scheme which would have allocated copyright liability depending on the market served; it also had "trigger" provisions whereby systems, on performance of certain acts, would incur full copyright liability. The committee report explained this differential treatment: "neither the full liability sought by the copyright interests nor the complete exemption sought by the community antenna interests would be appropriate or fair." H. Rept. No. 2237, 89th Cong. 2d Sess., 80 (1966).

[329] Kastenmeier, "Copyright Revision Revisited." *Bull. Copyright Soc.* 16 (June 1969), 269.

[330] Senate Communications Act rewrite hearings, *supra*, n. 317, at 3335.

[331] Among the government witnesses testifying were the Register of Copyrights and Mr. Keller, General Counsel of the Office of Telecommunications Policy. Both endorsed the compulsory license, with Mr. Keller emphasizing that it would afford fair compensation to the program producers while allowing cable to "grow and develop in response to the needs and demands of the public," and providing "stability and certainty where previously there had been none." 1974 Copyright revision hearings, at 109–116; 448–457 (1974).

[332] *Id.* at 115.

[333] *Id.* at 497.

[334] *Id.* at n. 2, 758.

[335] H. Rept. No. 74–1476, 94th Cong., 2d Sess., 8–9. *See also* the analysis of the rationale underlying the adoption of compulsory copyright licensing for cable television presented in the additional concurring views of Congressman Danielson, *id.* at 359–62. *And see* 2 Nimmer, Copyright, § 8.18[E], citing the Committee Report and stating that, "The compromise solution was to adopt in section III a compulsory license system whereby the cable operators are not required to obtain the consent of the copyright owners, nor to negotiate license fees, but copyright owners are entitled to be paid prescribed royalties for the secondary transmission of their works by cable television."

[336] It is worth noting that the Congress heard considerable testimony on compulsory licensing *per se* and applied it not only to cable television but also in other situations involving, for example, jukeboxes and phonorecords. Subcommittee Chairman Kastenmeier described the compulsory license mechanism as used when an industry goes from no liability to full liability, "a compromise between economic forces * * * a useful device to accommodate diverse interests in copyright, particularly when a change of liability is contemplated by the statute." 1979 Copyright Hearings *supra*, n. 314 at 109–110. The Register of Copyrights has observed that:

> We have reached the point where any new rights under the copyright law cannot be made exclusive rights. If a new technological development makes new forms of exploitation possible, compulsory licensing seems to offer the only solution. This is happening in the United States and it is happening just as much internationally. Compulsory licensing systems represent key provisions in the 1971 revisions of both the Berne and Universal Copyright Conventions, and in recent copyright laws in other countries.

Ringer, "copyright in the 1980's," 23 *Bull.* Copyright Soc. 229, 304–7 (1976).

[337] H.R. Rep. No. 94–1476, *supra*, at 89.

[338] *Id.*

copyright *and communications elements* of the legislation."[339] The key to the Committee's and the Congress' intent regarding the preemption of Commission regulatory authority to impose retransmission consent is in the emphasized language of the next sentence in the report:

> We would, therefore, caution the Federal Communications Commission, and others who make determinations concerning communications policy, not to rely upon any actions of this Committee as a basis for any significant changes in the delicate balance of regulation *in areas where Congress has not resolved the issue.* [Emphasis added.]

The next sentence identifies "pay cable regulation" and "increased use of imported distance signals" as examples of areas where Congress has not resolved the issue but left the matters to Commission regulation. But retransmission consent is not what the Committee meant by "increased use of distant signals." The Committee had in mind Section 801(b)(2)(B) which, by clear implication, leaves the Commission free "to permit the carriage by cable systems of additional television broadcast signals." But plainly the grant of a compulsory license, not subject to withdrawal by the broadcaster or the copyright owner, was an "area" where Congress *has* "resolved the issue." The same is true as to the mechanism for setting royalties. Had the Committee intended to allow the Commission freedom to undo what the legislation had created specifically and in excruciating detail, it surely would have said so.[340]

316. Nor can we find that either major market cable systems or satellite transmission of distant signals were not within the purview of Congress in adopting the Copyright Revision Act, thereby making the application of retransmission consent to major market systems or to satellite-relayed signals a matter of communications policy within the jurisdiction of this Commission to consider. Here again it is plain that both these developments were clearly foreseen—indeed had been clearly foreseen for over a decade—at the time the Copyright Revision Act was adopted. The Commission was aware of the development of major markets cable systems as long ago as 1966,[341] and of course the Commission's 1968 retransmission consent proposal was specifically premised on cable's penetration of the major markets.[342] The Supreme Court referenced cable penetration of the major markets in its 1968 decision in *U.S.* v. *Southwestern Cable Co.*[343] Congress was also aware of major market cable penetration as early as 1965[344] in the course of committee hearings on the Copyright Revision Act. During these hearings representatives of cable corporations serving major market communities, including the cable corporation that operates a cable television system in New York City, appeared to testify.[345] Finally, the Committee considered econometric studies projecting the results of various royalty fee levels specifically on major market systems. Similar evidence also definitively lays to rest any suspicion that the Congress did not intend to include satellite-relayed signals within the universe of "distant signals" for which a compulsory fee is available. As in the case of major-market cable, satellite transmission was envisioned as long ago as 1965,[346] and the fact that satellite-relayed distant signals were intended by Congress to be subject to compulsory licensing is evident from the additional concurring views of Congressman Danielson:

> Today cable is able to do more, and often does more, than merely to intercept a signal and deliver it to the subscribers' receiving set located within the local market area of the primary transmitter. With advances in the state of the art, cable systems are now able to transmit signals by cable, microwave, and satellite, almost without limit as to distance * * *. Cable now can, and does, transmit signals far beyond the local market area. In the bill we refer to these as "distant signals." Admittedly they serve the public interest.[347]

In sum, the Congress appears to have been well aware of the trends toward cable growth in the major markets making use of satellite delivered programming.

317. The sports interests filing comments in this proceeding have complained of the lack of attention given their interests and have sought to make out a case that they deserve some separate special treatment. We consider these comments here because one of the principal requests of these parties (the National Football League, the Commissioner of Baseball, the National Basketball Association, and the National Collegiate Athletic Association) is that the retransmission consent proposal be adopted.

318. We recognized in the *Notice of Proposed Rule Making* in this proceeding (para. 43) that sports provide one of the major sources of television programming. It is also obvious that there are many differences between sports and other types of television programming and between the various types of sport events that are broadcast. There are also differences between the other types of television programming of equal magnitude—between feature films and made for television product and between off-network and first-run syndicated programs. These differences,

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[339] *Id.* (emphasis added).

[340] Section 801(b)(2)(C), by implication, leaves the Commission free to change its "syndicated and sports program exclusivity" regulations. Had Congress meant to broaden that implicit authority so as to permit the imposition of retransmission consent, presumably it would have used this Section or the legislative history accompanying it to make that intent clear. Congress did nothing of the sort. Nor is there anything in the legislative history of the savings clause in Section 301(d). The relevant reports simply quote or paraphrase that clause. See, e.g., H.P. Rep. No. 94–1476, *supra,* at 133; H.R. Conf. Rep., No. 94–1733, 94th Cong., 2d Sess. at 78–9 (1976). The conference report does make clear, however, that the legislation was intended to "establish [ ] a *single* Federal system of copyright." H.R. Conf. Rep., No. 94–1733, *supra,* at 78 (emphasis added). Congress did not contemplate that the FCC could establish a second system providing copyright-equivalent protection inconsistent with the system set forth in the 1976 law.

[341] See generally *Second Report and Order in Dockets 14895, 15233, and 15971,* 2 FCC 2d 728 (1966).

[342] See generally *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397, supra.* See also *Notice of Proposed Rule Making in Docket 18894,* 23 FCC 2d 38, (1970) which lists in Appendix B the data on existing and proposed cable systems in the 50 largest television markets and *Second Report and Order in Dockets 14895, 15971, and 15233,* 2 FCC 2d 723, para. (1968) where the Commission states "Our intention has been called to the asserted intent of CATV interests to wire up 'almost all American cities—small and large' and 85 percent of all television sets—40 million homes." (footnote omitted).

[343] 392 U.S. at 159–166.

[344] In 1965 Mr. Ernest Jennes on behalf of the Association of Maximum Service Telecasters testified in the context of copyright hearings about "CATV unlimited": that is, "multichannel systems, importing distant stations [from metropolitan centers across many hundreds of miles and several states] * * * trying to mushroom into cities and towns of all sizes where reception of local and area broadcasting stations is excellent." Hearings before Subcommittee No. 3 of the House Judiciary Committee on H.R. 4347, 5680, 6381, and 6835, Serial No. 8, *supra,* n. 332 at n. 64 (pt. 2) 1225. See also *id.,* (pt. 3), 1823. The General Counsel of the National Association of Broadcasters noted pendency of cable franchises for New York, Philadelphia, Cleveland, and other large cities); and see H. Rept. No. 2237, 89th Cong. 2d Sess., (1966), 78.

[345] E.g., William J. Bresnan, President of Cable Division of Teleprompter Corp. And see statements of Rex Bradley, President of the National Cable Television Association, *id.* at 660.

[346] *See,* e.g., Hearings of H.R. 4347, 6831, 6835, *supra,* n. 322 at n. 64, (pt. 2), 1369 (Kastenmeier statement); H. Rept. 1635, 89th Cong., 2d Sess., 18 (1966) (minority views); *Final Report of the President's Task Force on Communications Policy,* chapter 5 (1968); *Notice of Proposed Rulemaking and Notice of Inquiry in Docket 18397, supra,* n. 295, at 420.

[347] Additional concurring views of Representative Danielson, H. Rept. No. 94–1476, 94th Cong., 2d Sess., 359. *And see* statement of Register of Copyrights Barbara Ringer, "[T]he legal relationship between cable television and space satellite systems was well-known and much discussed in the mid-1970's * * *." Hearings on H.R. 3333 before Subcomm. on Communications of House Comm. on Interstate and Foreign Commerce, 96th Cong., 1st Sess. at 700 (1979).

however, we do not find to be determinative for purposes of this proceeding. Thus, for example, while sports events are disadvantaged in some respects by the absence of repeat performance possibilities, they are in an advantageous position in other respects in that they are not entirely dependent for their financial success on television revenues, making the bulk of their revenues from attendance at the events themselves.

319. The argument pressed here, that sports is different and requires greater regulatory concern, is not a new one. In an earlier proceeding in which the Commission considered separate limitations on the cable carriage of sports programming, the Commission stated, summarizing the contentions of the sports interests, that:

> The argument is now put forth that sports programming is different than all other television programming and should be treated differently by the Commission's cable rules. It is argued that because sports programming is highly perishable, and because the sports industry depends heavily upon broadcast revenues for its sustenance, the public interest requires strict regulations to maintain the present pattern of distributing sports programs.[348]

The Commission found, however, that while the adoption of specific rules to cover the situation in which home games were blacked-out was appropriate,[349] there was no other basis for the separate treatment requested. Thus, we said,

> We can find no public interest rationale in terms of our national communications policies for affording sports programming additional protection against audience fragmentation. Sports is but one form of television programming, and must compete for audience with other programs provided by local television stations and cable systems. Absent convincing evidence that distant signal sports importations threaten to undermine local conventional television service, we are not prepared at this time to issue new rules to sustain the audience levels of established television broadcast stations at the expense of existing and potential cable television viewers.[44]
>
> [44] The comments contain no evidence that local sports telecasts have been curtailed because of audience fragmentation resulting from cable sports importations, or that this is likely to occur. In fact, the audience of some television stations carried as distant signals by cable systems is significantly increased by such carriage, thereby creating a potential for increased advertiser support of the programs which they broadcast.[350]

320. The situation today remains essentially the same. Aside from anecdotal instances of alleged harm from distant signal carriage[351], the sports interests have made no credible showing that the general amount of televised sports events has been or will be seriously diminished. Available data actually suggests the contrary. Using professional baseball as an example, we find that baseball's radio and television revenues generally tended to remain relatively static between 1972 and 1975, but after 1975, most teams' revenues increased markedly.[352] Moreover, professional baseball's 1979 network contracts of $200,000,000 are twice its former contracts. In 1976 total baseball attendance was 31,300,000, whereas in 1978 it had increased to 40,600,000. Even if attendance figures for the two new clubs added during that period were excluded, total attendance would be up 5.5 million. At the same time, television audiences increased 15 percent.[353] The National Basketball Association itself performed a study of cable's effect on its teams' live gates in 1975, and concluded that, "There is no direct evidence that cable or pay television carriage of competing games have adversely affected paid attendance.[354] The Commission's most recent annual report to the Congress on the effect of the anti-blackout law concluded, with respect to professional football, that live gate attendance generally appeared to be more affected by such external factors as weather conditions, caliber of the opposing team, and the home team's season record than by televising of competing games.[355] Moreover, the television audience preferred to watch home team games over other teams' games by a 5–1 margin.[356] We find no evidence indicating that the same conclusions should not apply to collegiate sports.

321. Although sports interests cite statements in the legislative history of the 1976 Copyright Act which they argue "clearly demonstrate that the Commission has the authority to exclude sports programming from the compulsory licensing provision of the Copyright Act"[357] we do not read this language as suggesting anything other than that the Commission should act within the scope of its authority if necessary for legitimate Communications Act purposes. In rejecting a proposed separate treatment of sports in the Copyright Act, the Senate Report simply stated that:

> Without prejudice to the arguments advanced in behalf of these proposals * * * these issues should be left to the rulemaking processes of the Federal Communications Commission, or if a statutory resolution is deemed appropriate to legislation originating in the Committee on Commerce.[358]

322. In sum, we do not find anything in the comments received to change the judgment arrived at in Docket 19417, *supra*, that, except for the provisions of Section 76.67, sports programming should stand on the same footing as all other programming.

323. We also find that the savings clause in Section 301(d) of the Copyright Revision Act does not eliminate the fundamental irreconcilability between the Copyright Revision and a Commission-imposed retransmission consent requirement. Normally when two statutes deal explicitly with the same subject, Congress makes clear by a repealing clause that the later statute supersedes the earlier one. On the other hand, "repeals by implication are not favored." *United States* v. *Borden Co.*, 308 U.S. 198 (1929). In the absence of an express repealer, "[w]hen there are two acts upon the same subject, the rule is to give effect to both *if possible." Id.* (emphasis added). For an implied repeal, there must be "a positive repugnancy" between the two statutes. *Id.* at 199. One common formulation of this principle is that an implied repeal will be found only to the minimum extent necessary to

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[348] *Report and Order in Docket 19417*, 54 FCC 2d 265, para. 41 (1975).

[349] 47 CFR 76.67.

[350] *Supra*, n. 348 at para. 42.

[351] Compare comments of Commissioner of Baseball, pp. 24–26, concerning certain difficulties faced by the Pittsburgh Pirates with Evan Pottack, "The Pirates: Where is Everybody," *Pittsburgh. March 1979*, p. 30 (appended as exhibit B to the October 17, 1979 comments of the NCTA); also the NBC comments of September 17, 1979 stating "WGN was told that it could not be licensed to carry the games [certain NCAA basketball games] because it was a superstation and the license could infringe on other exclusive rights" with the statement of the President of the NCAA to the House Communication Subcommittee on May 14, 1979, "The bid of WGN was $8,000; clearly not a competitive bid despite its superstation status." Examples of games allegedly not broadcast due to cable carriage are also provided in the NCAA *reply* comments. While the information provided there, some of which relates to isolated games played in 1974 and 1975, is not sufficiently detailed to reveal the precise reasons for these games not being broadcast, in the past the Association's own rules have in some circumstances counted cable carried games against the broadcast quotas permitted individual schools. Thus, the NCAA examples may be to some extent of their own creation.

[352] The Final Report of the Select Committee on Professional Sports, H. Rept. 1786, 94th Cong., 2d Sess., App. III A–2 (1977).

[353] Testimony of Gerald A. Simon, managing director, Cambridge Research Institute, 1979 Copyright hearings, *supra*, n. 314 at 149.

[354] Senate Communications Act rewrite hearings, *supra*, n. 309 at 2[illegible]50.

[355] Fifth Annual Report of the Federal Communications Commission on the Effects of Public Law 93–107, 95th Cong., 2d Sess., 1978 (committee print), 21–43.

[356] *Id.* at 5, 19.

[357] Comments of Commissioner of Baseball in Dockets 20988 and 21284, September 17, 1979 at 54.

[358] S. Rep. No. 94–473, 94th Cong., 1st Sess. 80 (1975).

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enable the later statute to "work." *E.g., Gordon* v. *New York Stock Exchange, Inc.*, 422 U.S. 659, 683, 691 (1975). Another somewhat overlapping formulation is that Congress will be found to have intended the repeal of the earlier statute if the later statute creates a comprehensive and pervasive regulatory scheme over the subject matter. *E.g., United States* v. *National Association of Securities Dealers, Inc.*, 422 U.S. 694, 734–35 (1975).

324. In the present instance, the Copyright Law Revision establishes just such a comprehensive and pervasive regulatory scheme over cable retransmissions of copyrighted programs. For that scheme to "work," any contrary regulatory authority must give way. More specifically, for the cable operator to be assured of retaining his statutory right to transmit the copyrighted programs, there cannot be a contrary FCC regulation which directly empowers a broadcaster (and indirectly empowers the copyright owner) to prevent such transmission by withholding consent. To preserve the statutory ceiling on fees, there cannot be a contrary FCC regulation which empowers the broadcaster (and, indirectly, the copyright owner) to extract greater fees.

325. The savings clause in Section 301(d), referred to above, does not alter our view that the 1976 law preempts the Commission's authority to impose a retransmission consent requirement. Any generalized savings clause must be interpreted in the context of the entire statute. Its general language cannot be intended to render those other, more specific regulatory provisions "nugatory." *Texas & Pacific R. Co.* v. *Abilene Cotton Oil Co.* 204, U.S. 426, 437, 446 (1907). Where there is "an irreconcilable conflict between the statutory scheme [of the later statute] and the persistence of . . . [rights or] remedies" under earlier enacted law, the savings clause will not prevent an implied repeal of the earlier law. *Nader* v. *Allegheny Airlines, Inc.*, 426 U.S. 290, 298–99 (1976). See, e.g., *Hughes Tool Co.* v. *Trans World Airlines, Inc.*, 409 U.S. 363, 388–89 (majority opinion), 410 (dissent) (1973); *Pan American World Airways, Inc.* v. *United States*, 371 U.S. 296, 310 (majority opinion), 321 (dissent) (1963); *Texas & Pacific R. Co.* v. *Abilene Cotton Oil Co., supra*, 204 U.S. at 446. In each of these cases the savings clause stated:

> Nothing contained in this chapter shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

This language, insofar as it applies to preexisting Federal statutes, is indistinguishable from Section 301(d) of the 1976 copyright law. The quoted language did not prevent a finding of implied repeal of the 1890 Sherman Act and the 1914 Clayton Act by the 1958 Federal Aviation Act in *Hughes Tool* and *Pan American, supra*. Consequently, the language of 301(d) does not bar a finding that the 1976 copyright law deprived the FCC of any preexisting retransmission consent authority under the Communications Act of 1934, where such authority would be irreconcilably in conflict with the 1976 law.[359]

326. We believe that the above demonstrates that the policy grounds urged to us in favor of this proposal, on careful examination, are fundamentally related to the operation of the copyright laws and that the Congress considered these issues with a full awareness not only of the developing course of the cable television industry but with a full awareness of the various public interest tradeoffs involved in the compulsory copyright licensing system. Finally, it seems clear that what we are being asked to do here is to overrule the judgment of the Congress because "the present copyright scheme is patently inadequate" and "provides only token compensation to copyright holders" (comments of ABC) or not to do so would result in "anomalies," "skew the market," or not "end Government intrusion" (comments of NTIA). Since this agency is itself a creature of Congress we do not see how we can take it upon ourselves to correct the judgments it has made and, accordingly, believe this proposal to be beyond our authority.

327. We also sought comments in our rulemaking *Notice* on other ways to facilitate the operation of these markets including means of facilitating the development of the types of information that are required for television stations to receive value for the distant cable television audiences they receive. Virtually no comments were received in response to this invitation and while we continue to hold ourselves open to suggestions of this type in the future, it appears that all that is required at this point is a certain regularity of cable carriage and the amassing collectively of sufficient audiences to make the commercial collection of information feasible. It appears that this process is now beginning to occur on its own. Accordingly, we are not proposing to take any additional action at this time.

V. Conclusion

328. The focus of our attention throughout this proceeding has been the effect of distant signal carriage on television service to the public. We have relied upon three criteria, consumer welfare, external effects, and distributional equity, to ascertain whether our rules regarding distant signal carriage are beneficial or detrimental to the public interest. These criteria, which have been developed in the field of modern welfare economics and which couch our traditional basis of regulation in more precise terms, provide a framework to test whether the benefits to consumers from our rules exceed the costs.

329. The criterion of consumer welfare reflects our responsibility to assure "efficient" communication service by seeking the industry and regulatory structure that results in the service that consumers value most highly. In addition to the benefits that accrue only to the consumers of a service, the criterion of external effects factors into the analysis the benefits from a service that flow to society as a whole. For example, public service programming by television stations may provide an important contribution to the functioning of our democratic institutions. Finally, distributional equity focuses upon whether the benefits or costs of our rules are received disproportionately by a particular group of consumers. For example, it is possible for a rule that confers greater benefits than costs upon consumers to be socially undesirable because of an adverse distributional effect upon poor or rural residents.[360]

330. We have analyzed with great care the benefits and costs to consumers of our cable television regulations. We have found that the benefits to consumers from eliminating the distant signal carriage and syndicated exclusivity rules are substantial. Or, in other words, the costs imposed upon consumers by the rules are great. The rules artificially restrict competition and thereby deny consumers services that they are willing to pay for. The rules also have the effect of restricting diversity in television programming by delaying or impeding the provision of new cable television service in many

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[359] Retransmission consent's proponents note that passage of comprehensive equal employment legislation administered by the EEOC did not deprive the FCC of concurrent jurisdiction over EEO matters. That situation is obviously distinguishable. FCC enforcement of EEO requirements *complements* and does not conflict with the EEOC's jurisdiction.

[360] For a more complete description of the criteria, *see* the *Report in Docket 21284 supra* at paras. 8–14, the *Report in Docket 20988 supra* at paras. 11–14 and the *Notice of Proposed Rulemaking in Dockets 21284 and 20988 supra* at paras. 50–53.

communities. Thus we conclude confidently that elimination of the distant signal carriage and syndicated exclusivity rules will enhance consumer welfare by promoting competition in both the economic marketplace and the marketplace of ideas.

331. Were there offsetting costs to consumers from eliminating the distant signal carriage and syndicated exclusivity rules, we would be obliged to quantify and compare both the costs and benefits, including any effects upon particular segments of our populace, and reach a judgment as to the degree of protection for local television broadcasters that is required to promote the best attainable distribution of video services. However, the evidence amassed in this proceeding demonstrates clearly that increased competition from less proximate broadcasters will not affect adversely the performance of local television broadcasters. Additionally, there is no evidence that shows that maintenance of the rules expands the supply of television programming or that elimination of the rules will threaten the continued supply of programming. Therefore we conclude that the distant signal carriage and syndicated exclusivity rules should be eliminated.

332. The factual basis of our findings is considerable. Our *Inquiry Reports* carefully examined the effect of distant signals both on the performance of local broadcasters and on the supply of television programming. In the *Report in Docket 21284* we analyzed many cases where broadcasters are operating essentially in deregulated markets because of the grandfathering provisions of our rules. We also studied every case where broadcasters claimed harm due to cable television. We monitored the financial trends of each of these stations over the most recent five year period for which we had financial data. Additionally, for the grandfathered markets and for the most extreme cases of the broadcasters claiming harm due to cable, we estimated the effect of cable television on the stations' audience and revenues to determine whether cable threatened the economic viability of the stations. Finally, we estimated the effect of cable television on the amount of local programming provided by local broadcasters. Our conclusion from this detailed analysis was that that "the effect of audience diversion on revenues, both in theory and in practice (based on the experience of those markets with extraordinarily high penetration today), simply is not sufficient to offset the general growth in demand for TV advertising except in rare cases." [361] Additionally in the *Report in Docket 20988,* having analyzed the impact of the syndicated exclusivity rules on program supply, we concluded that "the long-term financial outlook for television program production is good, with continued increases in revenues and profits expected for the industry, even with the complete deregulation of cable television." [362]

333. Despite the voluminous amount of comments we have received opposing our proposal to delete the distant signal carriage and syndicated exclusivity rules, there is no evidence in the record that shows our estimates of audience diversion due to cable television in the case studies analysis are incorrect; there is no evidence in the record disputing our finding that broadcasting revenues and profits have increased substantially; there is no debate in the record concerning our estimate of the effect of cable television on the amount of public service programming broadcast by local stations; there is no evidence contradicting our finding that the supply of programming will continue to expand even with the complete deregulation of cable television. However, in the latest round of comments, some additional stations have alleged harm due to cable television. We have carefully examined the financial results for each of these stations. We have found that cable television does not pose a threat to the economic viability of any of these stations. Therefore we affirm our conclusions that "it seems extremely unlikely that any non-cable viewers will be disadvantaged due to increased competition for television stations from cable television" [363] and that "non-cable viewers will not be disadvantaged due to the elimination of the syndicated exclusivity rules." [364] Given these findings our obligation to rescind the rules is clear.[365]

Authority for the rule amendments adopted herein is contained in the Communications Act of 1934, as amended, including Sections 2, 3, 4(i) and (j), 301, 303, 307, 308, and 309.

Accordingly, it is ordered, That effective October 14, 1980 Part 76 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix E.

It is further ordered, That the proceedings in Dockets 20988 and 21284 are terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A

History of Signal Carriage Regulation

Frontier Broadcasting

1. The Commission was initially asked to exercise jurisdiction over cable television systems in 1956. At that time thirteen television broadcasters concerned with the impact of cable carriage of broadcast signals on local television stations asked the Commission to exercise authority over cable television under the common carrier provisions of the Communications Act.[1] This was the first serious invitation we received to restrict cable competition with television broadcasting. We pointed out that, while a cable system "would, in adhering to good business practice, be governed largely by the preferences expressed by the majority of its subscribers, the ultimate final choice of signals is the sole responsibility and prerogative of the CATV operator." 26 FCC 254. Accordingly, the Commission determined that cable systems as they then operated did not fit into the statutory scheme of the Communications Act applicable to common carriers. *Id.* at 255.

Report and Order in Docket 12443

2. A similar invitation to impose common carrier regulation on cable systems was declined in our *Report and Order in Docket 12443,* 26 FCC 403, 424 (1959). We reiterated the rationale expressed in *Frontier Broadcasting* and also considered the evidence of economic impact on local television service as a basis for regulation but found such evidence to be insufficient to restrict cable television operations. *Id.* at 430.[2] On the subject of competition from cable system signal carriage as well as other auxiliary services, the *Report* stated that it "is basically the public which must determine the question, as in all broadcasting and free enterprise businesses." 26 FCC 436, para. 86. In sum, the *Report* concluded "that we do not now know of circumstances which would justify

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[361] *Report in Docket 21284* at para. 141.

[362] *Report in Docket 20988* at para. 95.

[363] *Report in Docket 21284* at para. 141.

[364] *Report in Docket 20988* at para. 96.

[365] *HBO v. FCC* 567 F. 2d 9, 42 (D.C. Cir. 1977).

[1] *Frontier Broadcasting Company v. Collier.* 24 FCC 251 (1958). *recons. denied in conjunction with. Report and Order in Docket 12443.* 26 FCC 403 (1959).

[2] The Commission stated:

> We have expressed above our inability to determine where the impact takes effect, although we recognize that it may well exist. Accordingly, we would find it impossible, from anything presented to us so far, to make the necessary finding, either in a particular situation or generally.

Id.

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limiting or prohibiting the operation of satellites or translators, or of CATV systems" and that "we do not now envision where we could find that the public interest would be disserved by affording an opportunity for choice of service and the benefits of competition and diversity of expression" from authorization of auxiliary services. Paras. 86–87, *id.* at 436–437.[3]

Carter Mountain

3. In *Carter Mountain Transmission Corp.*,[4] the Commission was presented with the question of whether economic impact to a local television station constituted a sufficient basis to deny an authorization for a common carrier microwave facility that would be used to deliver television broadcast signals to a cable systems in the station's service area. The *Report and Order in Docket 12433* had previously considered the question of whether the Commission, under sections 307(a) and 309(a) of the Communications Act, was required to consider impact on television broadcasters in granting radio facilities to common carriers for use in providing signals to a cable system. We concluded that "it is neither proper, pertinent, nor necessary for us to consider the specific lawful use which the common carrier subscriber may make of the facilities of the carrier." 26 FCC at 431–433.[5] As a consequence, cable operators sought to meet the increased consumer demand for additional and technically improved signals by requesting microwave services from communications common carriers.

4. The Commission recognized the importance of distinguishing between economic injury to a television licensee and an injury to the general public, as we had in our *Report and Order in Docket 12443*,[6] but we were concerned that the proposed microwave service to the cable systems might destroy the only local television station in the area and deprive a substantial population in the outlying rural areas of the only local outlet and of access to any other video services. We said, "[w]e will not shut our eyes to the impact upon the public service which is our ultimate concern, when it appears that the grant may serve to deprive a substantially large number of the public of a service * * *." 32 FCC at 462. While the proposed common carrier service might improve service to cable systems in the area, it did not warrant the substantial risk of loss of television service to that area. Accordingly, we believed compelling reasons justified departure from our previous position taken in 1959. *Id.* at 465. Our interest in safeguarding the welfare of off-the-air viewers in the only local broadcast service in the area did not extend, however, to denying, the subscribers of cable services the benefits of increased diversity from the availability of distant signals unnecessarily. We therefore permitted refiling of the application if it could be shown that the cable system would carry the signal of the local station without duplication of its programs by distant signals. *Id.* at 365. Thus, our concerns did not extend to the local station itself but rather to the welfare of television viewers as a whole.

Dockets 14985 and 15233

5. The Commission imposed restrictions of general application on microwave-fed cable systems' signal carriage in the *First Report and Order in Dockets 14895 and 15233*, 38 FCC 683 (1965). While we indicated that "the development of CATV and other auxiliary means for distributing the signals of assigned stations to the public (something not envisioned at the time of the sixth report and order) now makes possible the realization of some of the most important goals [of] our allocations planning," we became increasingly concerned that cable systems, "which technically, cannot be made available to many others," develop "on a fair and orderly basis" which would not prove disruptive to our television allocations policy and which would not adversely affect the distribution of video services to different segments of society. *Id.* at 698–699. While we found "it impossible, with the data at hand, to isolate reliably the effects of CATV" on television broadcast service, *Id.* at 710, we believed that our statutory responsibilities made it incumbent upon us to initiate regulatory efforts to mediate the competition between these two communications technologies to insure that there would be a healthy co-existence between cable television and television broadcasting which would prove to be beneficial, not detrimental, to the interests of the television viewing public. We believed it imperative to plan "in advance of foreseeable events, instead of waiting to react to them." *Id.* at 701. Accordingly, as minimum regulatory measures toward this end, the Commission adopted rules which required microwave-served cable systems to carry, upon request, the signals of all local television stations and to refrain from duplicating the programs of local commercial stations either simultaneously or within 15 days before or after local broadcast.[7]

6. Our reasons for imposing these requirements stemmed from the different conditions which are found in ordinary competition among broadcasters. We considered cable's duplication of programs of a local broadcast station by carrying competing distant signals, often without carrying the local station's signal, to consitute unfair or unequal competition inconsistent with what we then conceived as cable's supplementary role

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[3] Also addressed was the question whether Section 325(a) of the Communications Act was applicable to retransmissions of broadcast signals by cable systems. We recognize that "[i]t may well be that Congress would desire to protect the property right of a broadcaster" but stated that we cannot conclude "that section 325(a) in its present form includes the requirement that CATV's get the consent of the stations whose signals they carry." 26 FCC 430. The Commission was also asked "to recognize the existence of a property right, and to affirm it by rule" but in response stated that "[t]his is not the forum in which the existence or nonexistence of a private property right can be adjudicated." *Id.* We stated, however, that it would be desirable "to clarify the situation with respect to property rights" and "to place CATV under the same conditions as the broadcaster with respect to access to programs originated by other stations" and, accordingly, stated our intent to "request Congress to enact legislation requiring [cable systems to obtain the consent of the originating stations]." *Id.* at 430, 438–439.

[4] 32 FCC 459 (1962), *aff'd Carter Mountain Transmission Corp. v. FCC*, 321 F.2d 359 (D.C. Cir. 1962), *cert. denied* 375 U.S. 951 (1963).

[5] We were also asked in the same proceeding to require that microwave common carriers show that they or the cable systems they serve have the consent of the originating station whose signals they transmit. The broadcasters requesting such a requirement indicated that while a direct requirement of cable consent might be beyond the Commission's power, such a requirement could be imposed on the Commission's licensees on the basis that relaying or transmitting signals without consent constituted "piracy" and therefore reflects upon the character qualifications of the licensee. They argued that the Commission should not license facilities whose sole purpose was to engage in such activities. We rejected the contention as "without merit" and pointed out that "the matter of whether a property right exists has not been adjudicated" and that this requirement could not be imposed upon a carrier for the same reasons which we held applied to cable broadcast signal carriage. 26 FCC at 433–434.

[6] In *Report and Order in Docket 12443*, 26 FCC at 423, we pointed out "good service is shown on this record to be on occasion a result of *competition*—the competition provided by the auxiliary services." While we admitted our inability to determine from the data before us "in what situations this impact becomes serious enough to threaten a station's continued existence or serious degradation of the quality of its service," we stated that "in considering economic injury, broadcasting is a dynamic business. If one station goes under, another station, or here another form of service fulfilling many or all of the same functions, may well soon replace it." *Id.*

[7] On the same day rules for microwave-served cable systems were adopted, the Commission commenced an inquiry and rulemaking looking toward extending regulation to all cable systems. *Notice of Inquiry and Notice of Proposed Rulemaking in Docket 15971*, 1 FCC 2d 453 (1965).

to broadcasting.[8] Accordingly, the Commission adopted regulations mandating cable system carriage of local television stations in order to eliminate a "kind of barrier to competitive access" which would otherwise exist if cable systems were permitted to exclude the local station's signal from carriage. *Id.* at 703. An additional concern which prompted the adoption of this requirement was that consumers of video services not be deprived of access to a local station's signals merely because they became subscribers to a cable system. *Id.* at 703.

7. The Commission also attempted to equalize competition between cable operators and broadcasters through the adoption of program exclusivity requirements. We pointed out that "the cable system does not enter the market for programming, as would a competing broadcaster." *Id.* at 703. We noted, however, that Section 325 of the Communications Act, which forbids the rebroadcasting of any station's signal without the consent of the originating station and which in large measure allows broadcasters to obtain exclusivity against one another, had not been found applicable to cable systems. Because cable "presently stands outside of the program distribution process," we considered this situation not to be the usual competitive situation. *Id.* at 704. While we emphasized that "[w]e do not regard the patterns of exclusivity created in the existing system for the distribution of television programs as sacrosanct," we believed that cable, as a supplementary service to television broadcasting, "should at a minimum give some measure of recognition to the fundamental distribution practices that have developed in the parent industry's competitive program market." *Id.* at 705–706. While we pointed out that Section 325 was not applicable to cable retransmissions and that Congress "has not seen fit to adopt [our] recommendation" of amending Section 325 to apply to cable, we stated that "reasonable nonduplication requirements will serve, in part, to achieve the equalization of competitive conditions at which the 'rebroadcasting consent' proposal is, in large part, aimed." *Id.* at 706 n. 37.[9] Thus, we clearly did not regard prevailing exclusivity practices as immutable in declining to recognize exclusivity agreements to the extent they provided protection beyond what we considered to be reasonable at the time.

8. In adopting mandatory signal carriage and program exclusivity rules, we readily acknowledged that "the rules we adopt will not solve all problems" and that "[i]f the rules should ultimately prove unnecessary or need modification in light of the passage of time, Congressional action or other factors, they can be modified or rescinded." *Id.* at 715. Our intent was to "build up a body of experience with the practical operation of both new rules and the conditions prescribed as interim procedures by our notices in these proceedings, before considering the extension of the rules to the CATV industry as a whole." *Id.* at 687.

Dockets 14895, 15233, and 15971

9. The Commission asserted jurisdiction over all cable systems the following year in the *Second Report and Order in Dockets 14895, 15233 and 15971,* 2 FCC 2d 725 (1966). We stated that "We cannot ignore the increasing risk of adverse impact on the 'public interest in the larger and more effective use of radio' (sec. 303(g))" which accompanies the development and growth of cable television, *id.* at 728, and that "our statutory powers * * * include authority to promulgate necessary and reasonable regulations to carry out the provisions of sections 1, 307(b), and 303(s) of the act and to prevent frustration of the regulatory scheme by CATV operations, whether or not microwave facilities are used." *Id.* at 734.

10. The mandatory signal carriage and program exclusivity requirements were extended to non-microwave systems. However, the period of program exclusivity available to a broadcast licensee was reduced to same-day protection in recognition of "the valuable contribution of CATV in providing wider access to nationwide programming and a wider selection of programs on any particular day." *Id.* at 747.[10]

11. The Commission recognized, however, that program exclusivity in its previous as well as its present form provided only limited protection for syndicated programming and independent stations which were heavily dependent upon such programming. "Stated differently, the adoption of a uniform 'same day' rule will not, in our judgment, significantly affect the protection afforded as to nonnetwork or independent programming" because "[s]uch programming is not presented on a nationwide simultaneous or even nearly simultaneous basis." *Id.* at 748. The Commission concluded that "we must look elsewhere if we are to achieve effective relief" for syndicated programs and independent stations. *Id.*

12. We proposed to do so by recommending to Congress that it consider the question of extending the rebroadcasting concept of Section 325(a) to cable as a general approach encompassing all stations, and by initiating a new set of rules the principle feature of which would be a restriction that cable systems operating in the top 100 television markets could import signals only following an evidentiary hearing establishing that "such operation would be consistent with the public interest and particularly the establishment and healthy maintenance of UHF television broadcast service." *Id.* at 782.

13. We were especially concerned about the impact cable carriage of distant signals might have on UHF broadcasting and pointed out that both cable and UHF broadcasting "are entering the larger markets, most often in an effort to bring programming that is not now available in these markets" and that "the most critical question posed is how these two trends mesh in the ensuing years." *Id.* at 772. We conceded that the "plain fact is that on the record before us, it is not possible to give a definitive answer to the future growth of CATV * * * and, correspondingly, to what its impact will be upon UHF developments in these markets." *Id.* at 773. We believed that cable carriage of "big city" VHF independents carrying "expensive, attractive nonnetwork programming" might severely damage emerging independent UHF stations especially in view of our recognition that "the nonduplication provision would afford virtually no relief" to these stations. *Id.* at 775. We stated that we had a statutory obligation to insure that the development of cable would not have unacceptable distributional effects on the public and, accordingly, we proposed to "thoroughly examine the question of CATV entry upon a hearing record giving reasonable assurance that the consequences of such entry will not thwart the achievement of the congressional goals." *Id.* at 776. The major market, distant signal policy and procedure was intended to ameliorate cable's impact on television broadcast service to the public and, in some measure, redress the disparate

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[8] 38 FCC at 705.

[9] We also acknowledged the pendency of copyright suits in which program suppliers were attempting to establish their right to control the use by cable systems of signals carrying their programs but we declined to express any view as to the merit of these suits since we said they concerned matters beyond our jurisdiction. 38 FCC at 704. n. 32.

[10] Our action constituted further acknowledgment that we did not consider prevailing exclusivity practices or our program exclusivity rules to be immutable.

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competitive conditions existing between cable systems and broadcasters which stemmed from cable's operation "outside of the above program distribution process." *Id.* at 778. We believed that the case-by-case distant signal policy accompanied by the requirements carried over in modified form from the 1965 rules to be "the minimum measures * * * essential to insure that CATV continues to perform its valuably supplementary role without unduly damaging or impeding the growth of television broadcast service." *Id.* at 746.

14. While we recognized that "substantial problems affecting the public interest" could result from cable importation of distant signals into areas outside the top 100 markets, we noted that in these areas "the independent UHF (or VHF) station is much less likely to develop" and that "stations in such markets are apt to be three or less in number and network affiliated" which means that "nonduplication is effective." *Id.* at 783. We declined therefore to apply distant signal importation restrictions to these areas because we were aware "that there may be underserved areas where CATV can make its most valuable and traditional contribution." *Id.*

15. Thus, while we acknowledged the "important contribution to the public interest" which cable television performed by increasing viewing opportunities, in meeting the public's demand for good reception of multiple program choices, and in various other ways, *id.* at 781, we stated that we must "take hold of the future—to insure a situation where we or the Congress, if it chooses, can make fundamental decisions in the public interest upon the basis of adequate knowledge." *Id.* at 785. We stressed, however, "that we are not committed to the status quo—to protecting existing investment against new technological advances." *Id.* at 788. Rather, we emphasized the importance of getting the facts, *id.* at 789, and that, as we gained knowledge and experience, of revising or of terminating our procedures. *Id.* at 786.

Docket 18397

16. Experience under the new hearing approach quickly proved unsatisfactory. It was concluded that "these lengthy, complex evidentiary hearings on the economic impact issue * * * have imposed a considerable burden upon the Commission and the participating parties," and, accordingly, the decision was made to close down the burdensome major market hearings to the extent they were concerned with "impact upon the local broadcasting stations." *Id.* at 433–434.

17. Instead, the Commission proposed "to substitute a definitive policy for the evidentiary hearing procedure" by requiring cable systems within a 35-mile zone of a television station in the top 100 markets to obtain prior written permission—retransmission consent—of the originating station if they wished to import the station's signal into the market. *Notice of Proposed Rulemaking and Notice of Inquiry in Docket 18397*, 15 FCC 2d 417, 429 (1968). On balance, we found that the evidentiary hearing procedure did not serve the consuming public, its intended beneficiary. However, experience with this process indicated that cable penetration in the major markets could be significant and, accordingly, "the unfair competition of CATV" could be "a significant factor in the development or healthy maintenance of television broadcast service." *Id.* at 431. We concluded that it would be inconsistent with our responsibilities for the regulation of television broadcasting "to permit the growth of substantial CATV operations carrying distant signals in major markets until the aspect of unfair competition is eliminated." *Id.* at 434.

18. We viewed the retransmission consent proposal as a "simpler device" "permitting market forces to eliminate the unfair competition" than the "alternative of adopting detailed nonduplication requirements" for nonnetwork programs. *Id.* at 432. We also acknowledged at the time that this approach may "not be fully effective or may have drawbacks not now foreseen." *Id.* We emphasized that the "purpose of this proceeding is to obtain all such relevant information as to what regulation would best serve the public interest." *Id.*

19. While we were particularly concerned with cable carriage of distant signals in the major markets, we also expressed some concern over distant signal importation within the 35-mile zone of local stations in other markets. Although we believed that "the nonduplication requirement is effective as to network programming," we noted that "roughly 45 percent of a network affiliate's time is devoted to nonnetwork material" and that "it is this segment which is particularly vulnerable to continued fractionalization by a plethora of distant signals." *Id.* at 440. Accordingly, we also considered the possibility of limiting cable carriage to the signals of each of the network-affiliated stations and one independent for cable systems located within the 35-mile zone of a smaller market station. *Id.* For carriage of additional distant signals, retransmission consent would have to be obtained. *Id.* In all other respects, however, the program nonduplication rules were left essentially intact. We believed that our proposed rules for the smaller markets would take into account that there might well be a need for supplementary services in these areas, *id.* at 437 n. 18, but, more importantly, might "substantially alleviate potential problems in such markets and thus cut down greatly upon the need for any evidentiary hearings in this respect." *Id.* at 439.

20. Our retransmission consent proposal, without question, represented a radical and novel departure from the Commission's previously-held positions, espoused in earlier reports, that cable systems could not be made subject to the same type of requirement imposed on broadcasters under Section 325(a) of the Communications Act. While we believed it imperative to proceed toward elimination of the unfair competition element, we implicity recognized the uniqueness of the new approach by noting that there are "other important developments which we should take into account." *Id.* at 437. "We refer specifically to important Congressional developments in the copyright field that bear *directly* on this issue of unfair competition." (emphasis added) *Id.* We pointed out that "there are substantial indications * * * there will be enactment of a copyright law providing for a fair and reasonable revision as to CATV" and that "[s]uch a revision may well reflect not just copyright but also communications and antitrust policies" and "thus constitute, to a significant degree, the legislative guideline which the Commission has long sought." *Id.* at 432–433.[11] We stated that we must take these developments into account especially in view of our recognition that our retransmission consent proposal "necessarily also embodies considerations like copyright in its practical applications." *Id.* at 433. "Since Congress is considering the copyright matter, we should afford the opportunity for Congressional resolution of the unfair competition aspect, particularly since, as discussed, such resolution would constitute the Congressional guidance sought in this important area."

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[11] In the course of our discussion, we alluded to the Supreme Court's decision in *Fortnightly Corp. v. United Artists Television, Inc.*, 392 U.S. 390 (1968), which held that cable systems were not liable for copyright payment for the programs they received on broadcast signals. The rationale of that decision was extended to apply to programs on distant as well as local signals in *Teleprompter Corp. v. CBS, Inc.*, 415 U.S. 394 (1974).

Id. Accordingly, we stated our intent to refrain from taking action on our proposal "until an appropriate period is afforded to determine whether there will be congressional resolution of this crucial issue of unfair competition, with indeed congressional guidance in this whole area." *Id.*[12]

21. The retransmission consent approach did not, however, appear to be a workable alternative. In the absence both of the hoped-for Congressional guidance and of any sign that the retransmission consent proposal was succeeding, we considered a different approach in the *Second Further Notice of Proposed Rulemaking in Docket 18397–A,* 24 FCC 2d 580 (1970), under which cable systems in the top 100 markets would be permitted to carry four independent signals, in addition to local signals, but would be required to delete commercials on the distant signals and replace them with commercials provided by local stations. We indicated that the very nature of the proposal, involving commercial substitution on distant signals, required that it dovetail with copyright legislation. In so stating, we emphasized, however, that the "issue of fairness to copyright owners" is "not a matter which can be resolved by this Commission." *Id.* at 585. We expressed concern over the question whether our proposal would enable the copyright owner to be treated fairly, but stated that "[o]nly the Congress can impose what it believes to be fair compensation in the circumstances" and that "the arena for definitive resolution of the issue remains the Congress, not this agency." *Id.* We did, however, prepare an analysis demonstrating how a compulsory payment mechanism might be developed. *Id.* at Appendix A. We also pointed out that under this proposal, the "carriage and same day nonduplication requirements would continue." *Id.* at 586. We further suggested that there might be other alternatives warranting consideration such as "whether it would be useful to employ an effective nonduplication requirement for nonnetwork programming." *Id.* at 588.

22. Our interest in arriving at a suitable solution that would allow cable to deliver new video services to consumers without endangering the availability of video services to off-the-air television viewers led to our consideration of new proposals and the abandonment of our earlier approaches as means to resolving this regulatory dilemma. Accordingly, by letter of August 5, 1971, the Commission advised Congressional committees considering cable-related legislation of a new regulatory plan for cable television which, "with appropriate review by Congress," could break the regulatory impasse which had continued for almost six years and which could "provide necessary background for Congressional resolution of the copyright issue" relating to cable carriage of copyrighted materials on television broadcast signals. *Cable Television Proposals,* 31 FCC 2d 115 (1971). We stated that "our objective throughout has been to find a way of opening up cable's potential to serve the public without at the same time undermining the foundation of the existing over-the-air broadcast structure." *Id.* We determined that our retransmission consent and commercial substitution proposals "simply will not wash." *Id.* at 117. Our intention was "to break new ground, largely unexplored" which necessitated that we "proceed with caution." *Id.* at 115. We added that "further delay, in our view, would disserve the public and deny the nation tangible benefits." *Id.* While we recognized that "the continued economic health of those who create program material is crucial to both broadcasting and cable," we concluded "that copyright policy is most appropriately left to the Congress and the courts." *Id.* at 115–116. We therefore made plain that we would not continue to deprive consumers in the hope that the copyright complications engendered by a new technology might be resolved.

23. We noted that program exclusivity "is a matter that has both copyright and regulatory implications" and stated our intention "to study whether present or future considerations call for altering our existing CATV program exclusivity rules (Section 74.1103), which in effect protects only the network programming of network affiliates." *Id.* And we advised Congress that we would observe cable television's impact on local broadcast service very carefully under our proposed new regulatory plan and would take "prompt action" wherever necessary including affording adversely affected stations "effective nonnetwork nonduplication protection." *Id.* at 122. Accordingly, we did not envision any syndicated programming rules of general applicability as part of the proposed regulatory program we transmitted for Congressional review.

The 1972 Cable Television Report and Order

24. The cable television regulatory plan outlined in the Commission's transmittal letter to Congress of August 5, 1971, was subsequently adopted by the Commission in the *Cable Television Report and Order, supra,* but not without several changes. The major fundamental difference was the inclusion of rules providing exclusivity for syndicated programming which, together with the other changes, stemmed from the achievement of a "Consensus Agreement" which itself was the product of negotiations by interested parties concerning our August 5, 1971, proposal.[13] We concluded that incorporation of the new elements into our cable television program would "not disturb the basic structure of our August 5 plan" and would serve the public interest and, for these reasons, we adopted them as part of our *Cable Report and Order.* 36 FCC 2d 165–168.[14]

25. We pointed out that "the carriage of distant television broadcast signals by cable television systems has been center stage in the continuing controversy before the Commission, the Congress, and the Courts" and that in resolving the issues in this area, "our basic objective" has been "to get cable moving so that the public may receive its benefits, and to do so without jeopardizing the basic structure of over-the-air television." *Id.* at 164. We believed that this could best be accomplished by restricting the number of distant signals that a cable system may carry based on the size of the market in which it is located and the estimated ability of the market to absorb additional competition. By offering consumers of cable services an additional, but limited, number of signals, we expressed optimism that cable systems would be given the necessary impetus "to develop in the larger markets without creating an unacceptable risk of adverse impact on local television broadcast service" and, at the same time, our limitations would provide an incentive for the development of nonbroadcast services. *Id.* at 165.

26. We indicated that these signal carriage rules and policies represented

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[12] In our *Memorandum Opinion and Order in Docket 18397,* 22 FCC 2d 589 (1969), the Commission indicated that it would grant "very few requests for experimental operations" under the retransmission consent proposal and that the rules adopted in 1966, as amended by subsequent orders, governed during the pendency of the proposed rulemaking in this docket. The Commission's actions in Docket 18397 led some leading observers to refer to this interim period as a "freeze" on cable growth, particularly in the major markets. However, other commentators have suggested that the freeze actually commenced with the hearing requirement under the 1966 rules. See MacAvoy, "Memorandum on Regulatory Reform in Broadcasting," (April 2, 1976).

[13] See Consensus Agreement, Appendix D of the *Cable Television Report and Order, supra.*

[14] We also concluded that to entertain further comment in this area would serve very little purpose in terms of securing the public interest. 36 FCC 2d at 168.

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our judgment at the time "as to: (a) the amount of distant signal competition that can be introduced into particular types of markets without having adverse impact on local television service and (b) the effect of distant signal carriage on the supply of television programming." *Id.* at 168. We acknowledged that in making these judgments, "[t]he answers rest in the complex economics of, and interrelationships between, the three industries involved as well as on expectations of future developments in the industries and in the economy generally." *Id.* As we had on previous occasions, we admitted our uncertainty and our inability to forecast how cable would evolve. We decided on a "conservative, pragmatic" approach which would permit us to add to our existing program in a significant way and "evaluat[e] our experience." *Id.* at 169. In so deciding, we authorized "not four distant signals", as proposed, but a more limited number (particularly in the smaller markets), and provided the added protection of non-network program exclusivity (particularly in the larger markets where independent stations generally operate). *Id.* We also considered it "wholly wrong to halt cable development on the basis of conjecture, for example, as to its impact on UHF stations" especially in view of our determination that our approach would not have impact adverse to the public interest. *Id.* Accordingly, we established through our 1972 signal carriage rules standards of television service that vary with market size in accordance with the estimated ability of these television markets to withstand additional distant signal competition.

27. Our justification for the "additional program exclusivity rules" was that they would "protect local broadcasters" and "insure the continued supply of television programming," the latter of which, we pointed out, "is fundamental to the continued functioning of broadcast and cable television alike." *Id.* at 169.[15] We provided "the most extensive protection" "in the top 50 markets from which the bulk of program supplier revenue is derived and where these restrictions are consequently most needed to insure the continued health of the television programming industry." *Id.* [16] We added that this "protection will also assist independent stations (including many UHFs) that are very largely concentrated in these markets." *Id.* We further stated that in the second 50 television markets, syndicated exclusivity protection would afford "additional, although limited, protection to local broadcasters." *Id.*

28. The Commission declined to extend protection in markets below 100 because in these markets "the number of distant signals is very strictly limited under the rules" and because, "network programming protection is, we believe, adequate to preserve local service." *Id.*[17] Moreover, we stated that to impose syndicated exclusivity protection in these markets "would make these markets even less desirable for new cable construction" and that, in any event, such protection "is of only marginal benefit to copyright holders who derive the substantial bulk of their revenues from the top markets." *Reconsideration of the Cable Television Report and Order,* 36 FCC 2d 326, 341 (1972).

29. Our *Cable Television Report and Order, supra,* represented a comprehensive regulatory plan governing cable carriage of broadcast signals which permitted an increase in television programming available to consumers of cable services and a modicum of additional competition in the area of home video entertainment and information services. Despite an element of uncertainty, the Commission expressed a willingness to experiment with additional competition in the video services and, accordingly, the 1972 signal carriage rules constituted an important first step toward increased reliance on competition to serve consumers' interests and needs. In adopting this major cable regulatory program, including the incorporation of the syndicated exclusivity portion of the "Consensus Agreement", we emphasized that the Commission "retains full freedom, and indeed, responsibility to act as future developments warrant" and that, "as we gain experience and insight, we retain the flexibility to act accordingly—to make revisions, major or minor—and to keep pace with the future of this dynamic area of communications technology." *Id.* at 167.

Revisions in the Signal Carriage Rules Since 1972

30. As our understanding of the competitive relationship between cable television and broadcasting has increased through experience and insight, we have since 1972 cautiously but steadily eliminated restrictions on cable carriage of broadcast signals wherever it has been shown that such revisions would lead to expanding the supply of programs available to cable subscribers without simultaneously creating risks of serious harm to the welfare of off-the-air television viewers. This has led to increases in the supply of network news,[18] foreign language,[19] religious,[20] and late-night[21] programming to cable consumers and to our exempting cable systems with fewer than 1,000 subscribers from the signal importation and syndicated exclusivity restrictions.[22] By far the most significant change in our signal carriage rules was the elimination of the "leapfrogging rules" in *Report and Order in Docket 20487,* 57 FCC 2d 625 (1976), where we in essence concluded that the marketplace would secure the public interest more surely than administrative rules. This change in favor of additional diversity and in the direction of freedom of choice for consumers of video services subsequently proved to be a valuable impetus to the development of satellite distribution of broadcast programming to cable systems, a notable example of cost-reducing technology serving to increase the diversity of offerings available to consumers of video services.

The 1976 Copyright Law Revision

31. Our earlier concerns that cable systems were not subject to copyright

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[15] *But cf. Cable Television Proposals, supra,* at 115–116, where we stated that while "the continued health of those who create program material is crucial to both broadcasting and cable," "that copyright policy is most appropriately left to the Congress and the courts."

[16] *Teleprompter Corp.* v. *CBS, Inc., supra,* held, however, that the Copyright Act of 1909 did not afford copyright holders the right either to preclude or to charge royalties for the simultaneous transmission into distant markets by cable systems of a copyrighted work exhibited on a broadcast station. To the extent that the intent of the syndicated exclusivity rules was "to permit copyright holders to distribute programming in particular markets either by broadcast alone or, if they wish, by both broadcast and through distant signal carriage," as stated in our *Reconsideration, supra,* at 342, we ascribed a property right to copyright owners—the right to license a television broadcast exhibition of a copyrighted work and simultaneously to preclude its presentation in other markets through the mechanism of cable television—at a time when the existence of the right as a matter of copyright law was very much in doubt and which the Supreme Court later held did not exist under copyright law.

[17] *Cable Television Report and Order, supra* at 181.

[18] *Carriage of Network News Programs—CATV, Notice of Proposed Rulemaking in Docket 19859,* 43 FCC 2d 813 (1978); *Report and Order,* 57 FCC 2d 68 (1976).

[19] *Specialty Stations—CATV, Notice of Proposed Rulemaking in Docket 20553,* 54 FCC 2d 425 (1975); *First Report and Order,* 58 FCC 2d 442 (1976); *recons. denied,* 60 FCC 2d 661 (1976).

[20] *Id.*

[21] *Cable Late-Night Television Programming, Notice of Proposed Rulemaking in Docket 20028,* 46 FCC 2d 446 (1974); *Report and Order,* 48 FCC 2d 699 (1974); *Memorandum Opinion and Order,* 54 FCC 2d 1182 (1975).

[22] *First Report and Order in Docket 20561,* 63 FCC 2d 956 (1977); *Second Report and Order,* 68 FCC 2d 18 (1978).

liability for the retransmission of copyrighted materials on broadcast signals were ultimately addressed by Congress on October 19, 1976, when it enacted the General Revision of the Copyright Law, Pub. L. 94–553, 17 U.S.C. 101 *et seq.* (1976) (effective January 1, 1978), which redefined the rights of, and limitations upon, copyright owners in the use of their works. Among other things, the Copyright Law Revision of 1976 provided a compulsory licensing procedure applicable to the retransmission of broadcast signals. Specifically, Congress provided in Section 111(c)(1) of the new Act that:

> secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

32. Indeed, the new law reflected a Congressional judgment that it would be impractical for cable operators to negotiate copyright clearances for non-network programs on distant broadcast signals as well as a Congressional awareness that the compulsory licensing procedure in this area constituted a major departure from traditional copyright practices.[23] Thus, Congress struck a new balance between consumers and copyright owners. The copyright owner would be compensated for the adverse effects distant signal carriage of non-network programming might have on the value of copyrighted works by means of royalty payments based upon cable systems' gross revenues. On the other hand, cable subscribers would have reasonable access to copyrighted programs on distant signals carried pursuant to Commission rules, regulations, and authorizations. Accordingly, while the compulsory licensing process limits the copyright owner in setting the terms and conditions for the use of copyrighted materials presented on television broadcast signals, particularly the flexibility to market programs on a geographically-restricted basis under the new copyright law, it allows the public to benefit by the wider dissemination of works carried on television broadcast signals.

Appendix B

N–1334–FCC, November 1979

Audience Diversion Due to Cable Television: Response to Industry Comments

Rolla Edward Park

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[23] See *Report of the House Committee on the Judiciary, Copyright Law Revision, supra,* at 89:

> In general, the Committee believes that cable systems are commercial enterprises whose basic retransmission operations are based on the carriage of copyrighted program material and that copyright royalties should be paid by cable operators to the creators of such programs. The Committee recognizes, however, that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose work was retransmitted by a cable system. Accordingly, the Committee has determined to maintain the basic principle of the Senate bill to establish a compulsory copyright license for the retransmission of those over-the-air broadcast signals that a cable system is authorized to carry pursuant to the rules and regulations of the FCC.

Congress provided for a compulsory licensing mechanism in Sections 115 (mechanical royalties) and 116 (jukebox) as well as in Secton 111 concerning secondary transmissions by cable systems.

A Rand Note

prepared for the

FEDERAL COMMUNICATIONS COMMISSION

Rand
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Preface

This Note is a contribution to the Federal Communications Commission's *Inquiry into the Economic Relationship between Television Broadcasting and Cable Television,* Docket 21284. It discusses comments by representatives of the broadcasting and motion picture industries on an earlier Rand study, *Audience Diversion Due to Cable Television: A Statistical Analysis of New Data,* R–2403–FCC, April 1979. The work was performed pursuant to contract 0298 with the Federal Communications Commission.

Abstract

Analysis of broadcasting and motion picture industry criticisms of an earlier Rand report leaves unchanged the earlier report's conclusion that "* * * TV broadcasting will continue to prosper, despite increasing competition from cable." Some of the criticisms are accepted and used to produce revised projections of audience diversion due to cable. The effect of others is investigated using sensitivity analysis. Other criticisms are matters of judgment; on these, there is no reason to prefer the industry's approach to Rand's.

Acknowledgments

I appreciate helpful comments on an earlier draft by my Rand colleagues Willard Manning and Bridger Mitchell. Steven Zecola of the Federal Communications Commission also made useful comments and in addition worked hard to obtain all of the data on nonduplication protection status that I used in this study. David Nicoll of the FCC took care of administrative matters cheerfully and competently. Ethel Lang of Rand typed two versions of this Note with admirable precision, dispatch, and good humor.

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I. Introduction and Summary

A recent Rand report prepared for the Federal Communications Commission concludes that "* * * TV broadcasting will continue to prosper, despite increasing competition from cable."[1] The conclusion is based on a statistical analysis of data on cable and off-the-air television audiences.

The conclusion, and the analysis upon which it is based, have elicited critical comments from the broadcasting and motion picture industries.[2] This Note is my reply to the industry criticisms. I accept some of the criticisms and check the effect that some of the others would have on my results. None of them alters the conclusion stated in my earlier report.

Summary

In Section II, I estimate new audience share equations and apply them to simulate the effect of cable on broadcast stations' audience size. The revised estimates differ from those in my earlier report for a number of reasons, most importantly because I now distinguish between distant network signals that are blacked out on the cable to provide nonduplication protection[3] to local affiliates, and those that are not. The effect of this and the other changes is small; the revised audience diversion projections (shown in Tables 3 and 4 below) are not much changed from those in my earlier report.[4]

In Section III, I discuss six major industry criticisms of my earlier report:

- Data problems.
- Different effects in different time periods.
- Treatment of total audience.
- Distinction between stations and programs.
- Differences in off-the-air reception.
- Different effect on independents.

My new estimates in Section II avoid some of the problems. Others turn out not to be problems at all. I am able to check the sensitivity of my results to adopting the industry position on the first four criticisms and find that my results are affected very little by any of them. There is no simple way to do a sensitivity analysis of the other two criticisms, but neither is there any reason to prefer the industry-suggested approach to mine.

II. Revised Estimates of Audience Share Equations and Audience Diversion

Motivated in part by the industry comments on my earlier report (1979a), I have estimated new audience share equations and applied them to make new projections of audience diversion due to cable television. Although the new estimates differ from the earlier ones in a number of ways, the resulting audience diversion projections are changed very little.

How the Estimates Differ From the Earlier Ones

These are the ways in which the new estimates differ from the earlier ones:

- A few keypunch errors in the data have been corrected.
- Separate equations have been estimated for each portion of the television viewing day (daytime, early fringe, prime time, late fringe,[5] as well as the full broadcast day).
- I have taken account of the fact that some distant network signals are (sometimes) blacked out on the cable to protect local network stations

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[1] Park (1979a).

[2] *Joint Motion* (1979), Fisher (1979), Schink (1979), Association of Independent Television Stations (1979), Charles River Associates (1979).

[3] Defined below (p. 3).

[4] Park (1979a, Tables 7 and 8, pp. 35–36).

[5] See Appendix B for definitions.

("nonduplication protection").[6]

- The definition of local stations has been revised.

Here I discuss only these *changes* in the way the audience share equations were estimated. For a comprehensive description of the new application of the estimation method, see Park (forthcoming). For the old application, see Park (1979a).

Correction of Keypunch Errors

While getting the data ready for the new estimates, the FCC staff and I discovered and corrected a few errors:

- Three station call signs were mispunched with the result that one station looked like two different stations, one received off the air and one on the cable. Example: The cable observation for WLOX in county 10 was punched as WLDX.
- Six parent and satellite pairs were not combined in the data. Example: In county 7, data for KARD and its satellite KCKT are combined in the new data, but not in the old.
- Three affiliation codes were incorrectly punched with the result that an independent station was counted as a network affiliate. Example: KTVT in county 21, an independent station, had affiliation code 200 in the old data, indicating affiliation with CBS.

The substantive corrections have very little effect on the resulting estimates. In addition, a few other (non-substantive) errors that have no effect at all on the estimates were corrected. The corrected data are reproduced in full in a companion note (Park, 1979b).

Separate Equations for Different Parts of the Day

In (1979a), I estimated final (second-stage) equations for the full-day and prime-time time periods only. The equations for the other time periods may well be substantially different. We know, for example, that independent stations typically attract larger audience shares during the early fringe time period than they do during the rest of the day. Consequently, I now estimate final equations for all five time periods.

Nonduplication Protection

In my earlier work I made no distinction between distant network stations whose programs are blacked out on the cable when they duplicate those of a local station, and those that are never blacked out.

In fact, of course, one expects their audience shares to be quite different. Those that are blacked out should have small shares, if only because they are carried only part of the time. Those that are not blacked out should have larger shares. They compete with local stations throughout the day and may in some cases supply popular network programming that is not even carried by local stations (for example, in a two-station market).

Consequently, I distinguish between distant network stations that are blacked out and those that are not in my new estimates and estimate "attractiveness indices" (defined below) for the following station types:

NVL: local network VHF.
NUL: local network UHF.
IVL: local independent VHF.
IUL: local independent UHF.
NVD: distant network VHF blacked out.
NUD: distant network UHF blacked out.
NVDB: distant network VHF not blacked out.
NUDB: distant network UHF not blacked out.
IVD: distant independent VHF.
IUD: distant independent UHF.

Definition of Local Stations

As before, the audience share equations are estimated using observations on local stations only—all such stations in 121 counties.[7] The set of stations considered to be local is slightly different, however. Before, local stations were all those assigned to the ADI[8] market of which the county is a part, and distant stations were stations from other markets. The new definition is the same with two exceptions. Stations are counted as local if they receive nonduplication protection against some other station, and they are counted as distant if they are blacked out to provide nonduplication protection to some other station, regardless of whether the county is in their ADI or not.

Table 1 shows the number of stations (VHF and UHF combined) in the various categories. Of the 334 stations (105+216+13) that would have been counted as local network stations under the old definition, 13 are now excluded because they are sometimes blacked out. On the other hand, 14 stations previously counted as distant are now defined as local, since they receive nonduplication protection.

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[6] Nonduplication protection is available on request to stations located within 35 miles of a cable system (or within 55 miles for stations in below-100 markets). If asked to do so, the cable system must delete programs broadcast by any lower priority station, when those programs duplicate those of the requesting station. See *Cable Television Regulations*, Subpart E for details.

[7] An "observation" consists of the local station's audience share together with information on the competition (both local and distant) that it faces.

[8] Area of dominant influence, defined by ARB to be all those counties in which a market's stations attract a plurality of viewing hours.

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Table 1

COUNTS OF STATIONS OF DIFFERENT TYPES

	Network			
	Receives Nonduplication Protection	Neither Protected Nor Blacked Out	Blacked Out	Independent
Off-the-Air Viewing				
Same ADI	105	216	11	23
	NL		NDB	IL
		ND		ID
Distant ADI	14	101	95	11
Cable Viewing				
Same ADI	105	216	13	23
	NL		NDB	IL
		ND		ID
Distant ADI	14	211	173	93

NOTES: Station categories are as follows:

NL: Local network
ND: Distant network not blacked out
NDB: Distant network blacked out
IL: Local independent
ID: Distant independent

Many more distant stations are received on the cable than off the air—nearly twice as many network stations and over eight times as many independents. The distant network stations are fairly evenly divided between those that are sometimes blacked out and those that are not.

Revised Audience Share Equations

As in (1979a), I hypothesize that each station type can be assigned an attractiveness index a_i such that the audience tends to divide among available signals in proportion to $a_i/\Sigma a_i$, where the summation is over all of the available signals. I allow the attractiveness indices to differ off the air and on the cable. In particular, I expect them to be higher on the cable for local UHF stations and for all distant stations, because of improved reception on the cable. Thus the model is

$$SHR_{io}=\Sigma a_{jo}D_{ij}/\Sigma a_{jo}M_{jo}+u_{io}$$
and (1)
$$SHR_{ic}=\Sigma a_{jc}D_{ij}/\Sigma a_{jc}M_{jc}+u_{ic},$$

where the summations are over the 10 station types, D_{ij} is a dummy variable equal to 1 if the ith station is of type j and O otherwise, and M_{jo} and M_{jc} are the numbers of available signals of type j off the air and on the cable, respectively.

I estimate the audience share equations by a two-stage procedure; see Park (forthcoming) for details. First-stage nonlinear regressions (Appendix Table A.1) provide estimates of the parameters of the co-variance matrix. These are then used in a nonlinear, nondiagonally weighted regression to obtain second-stage generalized least squares estimates of the attractiveness indices (Appendix Table A.2).

The precision of the estimates can be increased by constraining the model. As before, I assume that cable increases the attractiveness of local UHF stations, both network and independent, by the same multiple, K. That is, if the off-the-air indices are a_{NUL} and a_{IUL}, the cable indices are $K(a_{NUL})$ and $K(a_{IUL})$.

In addition, I assume that being blacked out part of the time on the cable reduces the attractiveness of distant network stations, both VHF and UHF, by the same multiple, BLK. That is, if the cable indices for stations that are not blacked out are a_{NVD} and a_{NUD}, then for those that are blacked out $a_{NVDB} = BLK\ (a_{NVD})$ and $a_{NUDB} = BLK\ (a_{NUD})$.

The constrained estimates are shown in Table 2. Both the K constraint and the BLK constraint are acceptable hypotheses (using an F test at the .05 level) in all time periods.

Local UHF stations have higher indices on the cable than they do off the air, undoubtedly because reception is improved by cable. The improvement factor K is quite precisely estimated; it differs somewhat from one time period to another, ranging up to 1.45 in prime time.

Stations blacked out to provide nonduplication protection have lower indices on the cable than do stations that are not blacked out. The blackout factor BLK ranges from .40 in prime time when there is a lot of duplication to .90 in early fringe when there is very little.

The estimated attractiveness indices are for the most part in accord with prior expectations. Local stations handicapped by lack of network affiliation or by UHF transmission have lower indices than do network VHF stations; independent UHF stations, which suffer from both handicaps and which, in addition, often broadcast weaker programs than do VHF independents, have the lowest indices of all local stations.

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Table 2

SECOND STAGE CONSTRAINED AUDIENCE SHARE EQUATIONS

		Network[a]			Independent[a]							
		L	D	DB	L	D	BLK	K	$\hat{\sigma}$	$\hat{\rho}$	R_1^2	R_2^2
Full Day												
Off-the-air viewing												
	VHF	1.00	.07	.10	.57	-.25			.999	.672	.671	.440
		(b)	(1.8)	(2.8)	(3.3)	(2.4)						
	UHF	.47	.14	.19	.23	-.03						
		(10.1)	(.6)	(.9)	(4.0)	(.1)						
Cable viewing												
	VHF	1.00	.38	.19	.56	.40	.50	1.37	.460			
		(b)	(9.1)	(d)	(3.4)	(6.0)	(4.9)	(12.7)				
	UHF	.64	.16	.08	.32	.25						
		(c)	(1.4)	(d)	(c)	(3.4)						
Daytime												
Off-the-air viewing												
	VHF	1.00	.06	.10	.52	-.11			1.214	.629	.582	.353
		(b)	(1.2)	(2.4)	(2.5)	(.7)						
	UHF	.33	-.05	.32	.25	-.18						
		(6.3)	(.2)	(1.3)	(.5)							
Cable viewing												
	VHF	1.00	.30	.13	.54	.39	.44	1.41	.669			
		(b)	(6.0)	(d)	(2.4)	(4.1)	(2.9)	(8.2)				
	UHF	.46	.04	.02	.35	.26						
		(c)	(.3)	(d)	(c)	(2.5)						
Early Fringe												
Off-the-air viewing												
	VHF	1.00	.07	.10	.93	-.18			1.353	.724	.528	.336
		(b)	(1.4)	(2.1)	(3.1)	(1.3)						
	UHF	.43	-.00	.29	.47	-.09						
		(7.4)	(.0)	(1.1)	(4.4)	(.2)						
Cable viewing												
	VHF	1.00	.34	.31	1.17	.76	.90	1.22	.656			
		(b)	(5.8)	(d)	(3.5)	(5.9)	(3.8)	(9.5)				
	UHF	.53	.07	.06	.57	.54						
		(c)	(.5)	(d)	(c)	(4.0)						
Prime Time												
Off-the-air viewing												
	VHF	1.00	.06	.13	.53	-.33			.876	.512	.717	.466
		(b)	(1.6)	(3.3)	(3.7)	(3.1)						
	UHF	.58	.27	.20	.11	.16						
		(12.3)	(1.0)	(.8)	(2.6)	(.5)						
Cable viewing												
	VHF	1.00	.42	.17	.41	.30	.40	1.45	.401			
		(b)	(10.3)	(d)	(3.1)	(4.9)	(5.1)	(13.1)				
	UHF	.84	.29	.12	.15	.14						
		(c)	(2.2)	(d)	(c)	(2.1)						
Late Fringe												
Off-the-air viewing												
	VHF	1.00	.02	.12	.23	-.26			1.156	.597	.584	.322
		(b)	(.4)	(2.7)	(1.3)	(2.0)						
	UHF	.41	.39	.18	.20	-.12						
		(8.0)	(1.3)	(.7)	(2.9)	(.4)						
Cable viewing												
	VHF	1.00	.33	.19	.25	.30	.57	1.38	.751			
		(b)	(5.3)	(d)	(1.1)	(2.8)	(3.0)	(8.1)				
	UHF	.57	.09	.05	.28	.18						
		(c)	(.5)	(d)	(c)	(1.5)						

NOTES: The dependent variable is the station share of total audience during each time period. Estimated coefficients are "attractiveness indices" in equation (1). Asymptotic t-statistics are in parentheses. See Park (1979c) for a description of the nonlinear generalized least squares estimation method used, and a description of $\hat{\sigma}$, $\hat{\rho}$, R_1^2, and R_2^2

[a] L indicates local stations. D indicates distant stations not blacked out. DB indicates distant network stations blacked out to provide non-duplication protection to local stations.

[b] This coefficient is normalized to one as a reference value—not estimated.

[c] This coefficient is constrained to equal K times the corresponding off-the-air coefficient. K is an estimated multiplier.

[d] This coefficient is constrained to equal BLK times the corresponding cable coefficient for distant network stations that are not blacked out. BLK is an estimated multiplier.

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The indices for distant stations off the air do not convey much information, because they are highly reception-dependent. They depend mostly on how close out-of-market stations happen to be to our sample counties. The estimated negative indices for some such stations are anomalies, but not very important ones. I do not use these values in the application of the model. Furthermore, when I reestimated the equations with all indices constrained to be non-negative, the other coefficients changed very little (Appendix Table A.3).

Distant stations on the cable generally have smaller indices than do comparable local stations. The index for distant network VHF stations not blacked out is quite precisely estimated to be between 30 and 42 percent of that local VHF network stations in the different time periods. The index for distant independents (both VHF and UHF) tends to be about 75 percent of the index for their local counterparts. Indices for distant UHF stations on the cable are always smaller than those for comparable VHF stations, presumably reflecting less attractive programming on the UHF stations, and also perhaps residual picture quality differences even on the cable.

Revised Audience Diversion Projections

Tables 3 and 4 use the new audience share equations for the full day time period to simulate the effect of cable on local station audience in 10 hypothetical markets, clustered to represent top-50, second-50, and below-100 market conditions. For each hypothetical market, I show the effect of three different distant signal packages:

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Table 3

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 99	102-103	98- 99
				0	0	6	11	96- 97		96- 97	99-100	96- 97
				0	3	6	11	96- 96		95- 96	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 98		97- 98	102-104	97- 98
				0	0	6	16	93- 95		93- 94	97- 99	93- 95
				0	3	6	16	92- 94		92- 94	96- 97	93- 94
3	0	0	2	0	0	2	8	98- 99			101-102	98- 99
				0	0	6	8	96- 97			98- 99	96- 97
				0	3	6	8	95- 96			97- 98	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 92				90- 92
				0	3	6	20	89- 91				89- 91
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 98				96- 98
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 96	100-101			95- 97
				0	0	5	18	90- 92	94- 96			91- 93
				0	3	5	18	89- 91	93- 94			90- 91
2	0	0	0	1	0	2	24	90- 92				90- 92
				1	0	5	24	86- 88				86- 88
				1	3	5	24	85- 87				85- 87
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 99				96- 99
				0	0	4	29	89- 92				89- 92
				0	3	4	29	87- 89				87- 89
1	1	0	0	1	0	1	31	87- 89	94- 97			89- 92
				1	0	4	31	80- 82	85- 87			81- 84
				1	3	4	31	78- 80	82- 85			79- 82
1	0	0	0	2	0	1	41	77- 80				77- 80
				2	0	4	41	70- 72				70- 72
				2	3	4	41	68- 70				68- 70

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[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Table 4

LONG-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 98		95- 98	105-107	96- 99
				0	0	6	27	90- 92		90- 92	98-100	91- 93
				0	3	6	37	85- 88		85- 88	95- 98	86- 89
3	0	1	1	0	0	2	26	95- 97		94- 96	104-106	95- 97
				0	0	6	30	87- 90		87- 89	95- 98	88- 90
				0	3	6	37	82- 85		82- 85	91- 94	83- 85
3	0	0	2	0	0	2	27	93- 96			103-105	95- 97
				0	0	6	30	86- 89			94- 96	87- 90
				0	3	6	38	80- 83			89- 92	82- 84
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	84- 87				84- 87
				0	3	6	43	78- 81				78- 81
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 96				94- 96
				0	0	5	31	86- 89				86- 89
				0	3	5	41	80- 83				80- 83
2	1	0	0	0	0	2	32	90- 93	99-102			92- 95
				0	0	5	36	82- 85	90- 92			84- 86
				0	3	5	45	75- 78	83- 86			76- 79
2	0	0	0	1	0	2	48	81- 85				81- 85
				1	0	5	51	71- 74				71- 74
				1	3	5	62	62- 65				62- 65
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 99				97- 99
				0	0	4	31	89- 91				89- 91
				0	3	4	39	82- 85				82- 85
1	1	0	0	1	0	1	52	78- 82	90- 95			82- 86
				1	0	4	57	64- 68	73- 77			67- 71
				1	3	4	67	55- 59	64- 68			58- 62
1	0	0	0	2	0	1	74	59- 63				59- 63
				2	0	4	76	45- 48				45- 48
				2	3	4	83	37- 39				37- 39

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[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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- Those allowed by existing rules. This varies depending on market rank and the number of stations in the market. Neglecting specialty and noncommercial stations, the maximum numbers are three independents in top-50 markets with no independents of their own, and two networks in markets with only one local network station. The actual numbers for each hypothetical market are the first of the three distant signal lineups shown in the tables.
- A larger number of stations that might be carried if the present rules regarding independent signal carriage were relaxed. In actuality, this number will depend on the system operators' perceptions of how many new subscribers an additional distant station would attract, compared with the cost of importing the additional station. I simply assume that the number is six in top-50 markets,[9] five in the second-50 markets, and four in below-100 markets.
- All of the above plus additional stations that might be carried if rules regarding carriage of network signals were also relaxed. My assumption here is that a full complement of three duplicate distant networks would be carried in all markets in addition to those allowed by current rules.

I use attractiveness indices estimated for distant VHF stations on the cable for all distant signals.[10] To the extent that less attractive UHF stations are actually carried, my projections may tend to overstate the actual diversion due to cable.

Near-term projections for each of the resulting 30 cases are shown in Table 3, and Table 4 shows long-term projections. The near-term projections are based on present cable penetration levels in markets of each type. The long-term projections are based on (usually much higher) ultimate equilibrium penetration levels estimated in Park (1971).[11] These are in all likelihood conservative estimates of cable penetration for the market as a whole; that is, they probably overstate the penetration actually to be expected, and hence overstate the potential audience diversion due to cable. The reason is that the equation is a system penetration equation, not a market penetration equation. It explains the fraction of homes passed by cable that subscribe, not the fraction of all homes in the market. Hence to the extent that some portions of the market remain unwired, I would expect average penetration in the market as a whole to fall short of the values shown.

The projections show the audience if there is cable in the market, as a percentage of the audience if there is no cable. In all cases, I show a range of values. The lower end of the range is calculated assuming that cable does not lead to increased TV viewing—households that subscribe to cable if it exists would watch as much TV if cable did not exist. The upper end of the range assumes that cable does result in increased viewing, which partially offsets the diversion of audience to distant signals.

In the larger (three-network) markets, projected audience diversion in the near term is minimal—6 percent or less under present regulations, and 13 percent or less under the most relaxed regulations. In smaller markets (fewer than three networks), projected diversion ranges form 8 to 23 percent currently. The maximum projected diversion is 32 percent for a single station market under relaxed regulations. In all cases, UHF stations are not hurt as much by cable as are VHF stations; in some instances, they may actually be helped.

Long-term diversion patterns are similar to the short-term patterns, but the magnitudes are larger. Projected diversion ranges up to 24 percent in markets with three network stations under the most relaxed cable regulations, and much higher than that in markets with only one or two stations.

There is reason to believe that my projections substantially overstate the amount of diversion in small markets. The reasons is that the projections assume that everyone would watch local stations if there were no cable. This is a fairly good approximation in most large markets, but not in many smaller markets where stations from adjacent markets attract substantial audiences off the air. Indeed, a study by the National Cable Television Association (1978) shows that audience diversion off the air is almost as large as it is on the cable in many of the markets that it studied. On this ground, the effect of cable may be much smaller than shown in Tables 3 and 4 for many small markets.

III. Discussion of Industry Criticisms

I find the following major criticisms in the industry comments on my earlier work.

1. There are problems with the data "* * * primarily related to the 'local' versus 'distant' definition." (*Joint Motion*, pp. 12–15; also Association of Independent Television Stations, pp. 17–20).
2. Failure to consider differences in diversion during different times of the day (*Joint Motion*, pp. 17–19; Fisher, pp. 1–3; Charles River Associates, passim).
3. The total audience equation is unreliable, and the overall results are quite sensitive to how total audience is treated (Fisher, pp. 3–14).
4. Failure to distinguish between additional network *stations* and additional network *programs* (Fisher, pp. 14–15).
5. Failure to account for differences in reception quality in different parts of a county (Fisher, pp. 15–17).
6. Failure to account for differential effect of additional distant independent signals on local independents (Fisher, p. 17; also Schink, passim).

I shall discuss each of these criticisms in turn in the light of the revised estimates presented in the preceding section of this Note.

Data Problems

The *Joint Motion* (p. 14) refers to "* * * serious problems with the data for 35 of the 121 counties * * *" and then goes on to specify the "problems" in 14 of the 35. In one county, the problem is a key punch error that has been corrected in the data used for the revised estimates in this Note. In two others, the "problem" is that all reportable stations are local; the *Joint Motion* incorrectly claims that such counties contribute nothing to the analysis. In fact, they contribute to the estimates of the error covariance matrix, which plays a central role in my generalized least squares analysis.

In the 11 other listed counties, the "problem" is that one local station (or in one case, two local stations) has no off-the-air audience.[12] In the revised data, there are 15 local commercial stations (out of 358 total) in 13 counties with off-the-air NWC [13] equal to zero.[14]

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[9] This corresponds to the assumption in schink and Thanawala (1978).

[10] Specifically, I use .38 for primary network signals (which are not blacked out), .19 for duplicate network signals (which are), and .40 for independents.

[11] I assume price of cable service equals $90 per year, median family income equals $16,000 per year, and UHF set penetration equals 100 percent, all approximating current values. Color set penetration is set equal to .5, approximately the mean value in the sample used to estimate the equation, since the coefficient on the color set variable was completely insignificant in the estimated equation. For each market situation, I calculate penetration at the center of the market and penetration halfway out to the B-contour, and average the two figures to obtain the estimates shown in the table for the market as a whole.

[12] In two of these counties, the offending station is no longer considered to be local by the definition used for the revised data; see Section II above.

[13] NWC is net weekly circulation, the percent of TV households that watches the station at least once a week.

[14] The 15 stations include three VHF and six UHF network affiliates, and six UHF independents.

The *Joint Motion* seems to maintain that zero off-the-air audience is by itself reason to exclude a station from the sample. That contention is false. It is a fact of life that some stations get little or no audience in some parts of their own markets. One of the benefits of cable is that it improves reception so that these stations can attract some audience in previously dead areas.[15]

However, zero off-the-air audience *may* serve as a warning that some of these stations are not representative of the relatively close-in areas that we want to draw inferences for. To check this, I measured the approximate distance from the station's assigned city to the principal city of the county, for each of the stations with zero NWC. The results are shown in Table 5.

The *Joint Motion* singled out for special discussion KXON in county 18, 125 miles distant. There is certainly a strong case for considering this not to be typical of relatively close-in portions of a market. In contrast are the two San Francisco UHF independents which have zero reported NWC *in their home county*. There is no question but that these are local stations, and there is no reason to exclude them from the sample just because they have no off-the-air audience. In between, the question of which stations ought to be included and which excluded is a matter of judgment. The advantage of including stations (at least up through WZTV at 65 miles) is that it bolsters a sample that is in any case somewhat thin in independent stations. The advantage of excluding stations (down through WHAE at 40 miles) is that it reduces the extent to which the observations are atypical of the 35-mile zone which we are particularly interested in.

Table 5

APPROXIMATE DISTANCE FROM SAMPLE COUNTIES TO STATIONS WITH OFF-THE-AIR NWC EQUAL TO ZERO

County	Station	Type	Distance
5	KGSC	IU	0
5	KDTV	IU	0
29	WHTV	NU	30
90	KLAA	NU	30
41	WHAE	IU	40
157	KXTX	IU	45
47	WYEA	NU	50
4	KLAA	NU	55
47	WHAE	IU	65
147	WZTV	IU	65
60	KMEG	NU	70
87	WTVK	NU	70
142	KXON	NV	70
140	KXON	NV	95
18	KXON	NV	125

Anyhow, I checked the effect of excluding *all* of the stations with off-the-air NWC equal to zero, and found it to be small. In the reduced sample, there are no observations for these stations, nor are they counted among the competing stations received off-the-air.[16] The second-stage constrained share equation for the full-day time period is in Appendix Table A.4. Audience diversion projections based on these estimates are shown in Tables 6 and 7. Excluding these stations makes very little difference to the projections, and what difference there is, is usually in the direction of *less* diversion.

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[15] Thus the contention of Independent Television Stations (1979, p. 18) that the effect of cable should be measured so as to *exclude* the effect of improved reception is difficult to understand. To exclude improved reception would be to exclude an important real effect.

[16] All of them are carried and attract positive audience on the cable, so they count among competing stations on the cable.

Table 6

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION
Using Attractiveness Indices Estimated with Sample That
Excludes Local Stations with Off-the-Air NWC Equal to Zero

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 99	101-102	99-100
				0	0	6	11	96- 97		96- 97	99-100	97- 98
				0	3	6	11	96- 97		96- 97	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 99		97- 98	101-103	97- 99
				0	0	6	16	94- 95		93- 95	97- 98	94- 95
				0	3	6	16	93- 94		93- 94	96- 97	93- 94
3	0	0	2	0	0	2	8	98- 99			100-101	98- 99
				0	0	6	8	96- 97			98- 99	96- 97
				0	3	6	8	96- 96			97- 98	96- 97
3	0	0	0	0	0	3	20	94- 96				94- 96
				0	0	6	20	91- 92				91- 92
				0	3	6	20	89- 91				89- 91
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 98				96- 98
				0	0	5	17	93- 95				93- 95
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	95- 96	99-101			96- 97
				0	0	5	18	91- 93	94- 96			92- 93
				0	3	5	18	90- 91	93- 94			90- 92
2	0	0	0	1	0	2	24	91- 93				91- 93
				1	0	5	24	87- 88				87- 88
				1	3	5	24	85- 87				85- 87
Below-100 Markets												
3	0	0	0	0	0	1	29	97- 99				97- 99
				0	0	4	29	90- 92				90- 92
				0	3	4	29	88- 90				88- 90
1	1	0	0	1	0	1	31	87- 90	94- 96			89- 92
				1	0	4	31	81- 83	85- 88			82- 85
				1	3	4	31	79- 81	83- 85			80- 82
1	0	0	0	2	0	1	41	77- 80				77- 80
				2	0	4	41	70- 73				70- 73
				2	3	4	41	68- 71				68- 71

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[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Table 7

LONG-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTFNTIAL RELAXED CABLE REGULATION
Using Attractiveness Indices Estimated with Sample That
Excludes Local Stations with Off-the-Air NWC Equal to Zero

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
				Prim.	Dupl.			Network		Independent		
VHF	UHF	VHF	UHF	Net.	Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 99		96- 98	103-106	97- 99
				0	0	6	27	91- 93		90- 93	97-100	92- 94
				0	3	6	37	87- 90		86- 89	94- 97	87- 90
3	0	1	1	0	0	2	26	95- 98		94- 97	102-105	96- 98
				0	0	6	30	88- 91		88- 90	94- 97	89- 91
				0	3	6	37	83- 86		83- 85	90- 93	84- 87
3	0	0	2	0	0	2	27	94- 96			101-104	95- 98
				0	0	6	30	87- 90			93- 96	88- 91
				0	3	6	38	82- 85			88- 91	83- 86
3	0	0	0	0	0	3	30	92- 94				92- 94
				0	0	6	32	85- 88				85- 88
				0	3	6	43	79- 82				79- 82
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 97				94- 97
				0	0	5	31	87- 90				87- 90
				0	3	5	41	81- 84				81- 84
2	1	0	0	0	0	2	32	91- 94	99-101			93- 95
				0	0	5	36	83- 86	90- 93			85- 87
				0	3	5	45	76- 79	83- 87			78- 81
2	0	0	0	1	0	2	48	82- 86				82- 86
				1	0	5	51	72- 75				72- 75
				1	3	5	62	63- 67				63- 67
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 99				97- 99
				0	0	4	31	89- 92				89- 92
				0	3	4	39	83- 86				83- 86
1	1	0	0	1	0	1	52	79- 83	89- 94			83- 87
				1	0	4	57	66- 69	74- 77			69- 72
				1	3	4	67	57- 60	65- 68			60- 63
1	0	0	0	2	0	1	74	60- 64				60- 64
				2	0	4	76	46- 49				46- 49
				2	3	4	83	38- 40				38- 40

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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I cannot discuss the "problems" in the other 24 counties, since the *Joint Motion* failed to identify them.

Conclusion

Some of the data problems identified in the industry comments are not problems at all. Others are, and have been corrected. Still others may or may not be, but they make very little difference to the audience diversion projections.

Different Effects of Audience Diversion in Different Time Periods

The audience share equations in Table 2 strongly support the industry contention that shares differ significantly by day part. In particular, attractiveness indices for independent stations on the cable—VHF and UHF, local and distant—are substantially larger during the early fringe time period than they are at other times of the day. This raises two questions about my audience diversion projections in Tables 3 and 4, which are based on the full-day equation only.

1. Would the projections differ if they were based on audience diversion calculated separately for the individual day parts?

2. An excellent brief econometric study by Charles River Associates (1979) shows quite convincingly that audience during different time periods has different effects on stations' revenue. Another study using an accounting approach (Roger Cooper and Associates, undated) reaches the same conclusion.[17] If these differences were taken into account, would the effect of cable on local station *revenue* differ from its effect on local station audience?

The answer to the first question is no; composite audience diversion projections built up from the four individual time period equations[18] differ only slightly from those based directly on the full-day equation. These composite projections are in Appendix Tables A.5 and A.6.[19]

The off-the-air (0) and cable (C) shares are calculated using the equations in Table 2. Cable penetration is assumed to be .41; this corresponds to a somewhat larger fraction of audience because the fraction of homes using TV is higher in cable households than it is in off-the-air households. Hours (0) that off-the-air households watch the local station is calculated as the product of hours per week in the time period and off-the-air (0) values for share, fraction of TVH, and homes using TV. Hours (C) that cable households watch the local station is similarly calculated using corresponding cable (C) values. C_o is hours that cable households would watch the local station if they did not have cable. It is calculated in the same way as cable hours (C) except using off-the-air (0) shares. The total hours that the local station is watched if there is no cable is the sum of hours (0) and hours

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[17] The two studies differ markedly as to the relative value of the different time periods to independent stations, however. Charles River Associates concludes that audience during prime time and late fringe is of no value at all to independents; whereas Roger Cooper and Associates (who study only independents) find that these two time periods are *more* valuable than the others are.

[18] The four time periods (daytime, early fringe, prime time, and late fringe) exclude 33 weekend hours that are included in the 140 weekly hours for the full-day time period—see Appendix B. Thus, strictly speaking, the two sets of projections are not quite comparable. However, the effect of this discrepancy is certainly very small.

[19] As an example of how the calculations are done, consider the effect of cable on audience share for the station shown on the very last line of Table A.5. (The effect on share is the same as the effect on audience assuming that the self-selection hypothesis is true.) The calculations are summarized in the following table:

Period	Hours Per Week	Share		Fraction of TVH		Homes Using TV		Hours			Total Hours	
		0	C	0	C	0	C	0	C_o	C	Without Cable	With Cable
F	140.0	1.	.255	.59	.41	.287	.313	23.71	17.97	4.58	41.68	28.29
D	47.5	1.	.282	.59	.41	.210	.339	5.39	4.65	1.31	10.54	7.20
E	15.0	1.	.177	.59	.41	.414	.426	3.66	2.62	.46	6.28	4.12
P	24.5	1.	.282	.59	.41	.596	.628	8.62	6.31	1.78	14.93	10.40
L	20.0	1.	.292	.59	.41	.153	.178	1.81	1.46	.43	3.27	2.24
Composite	107.0										35.02	23.96

(C_0); total hours if there is cable is the sum of hours (0) and hours (C). These sum to 35.02 and 23.96, respectively, for the four time periods. Thus the effect of cable is to reduce local station viewing hours to 68 percent of what they would have been without cable. This is the smaller of the two composite estimates shown in Table A.5; it is just the same as the corresponding estimate based on the full-day equation in Table 3.

The answer to the second question, surprisingly, is also no; using the revenue weights estimated by Charles River Associates or Roger Cooper and Associates [20] similarly has little effect on the projections. The revenue projections based on separate time period audience diversion projections and separate values of audience in the different time periods are shown in Tables 8 and [illegible] (Charles River weights) and Tables 10 and 11 (Roger Cooper weights for independents, Charles River weights for affiliates).[21] For the most part, any differences between these revenue projections and the audience projections in Tables 3 and 4 are no larger than one percentage point. The exception is projections for UHF independents using Charles River weights. With audience as the metric, these stations were helped by cable, or at worst, hurt less than VHF stations. Their projected revenues, however, are reduced by about the same amount as are those of VHF stations. This result is, however, dependent on the choice of Charles River weights. Revenue projections using Roger Cooper weights are almost the same as the audience projections in Tables 3 and 4.

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[20] Specifically, the weights from the second equation in the table following p. 5 for network affiliates, and from the second equation in the table following p. 6 for independents, Charles River Associates (1979); and the weights for all 12 stations, Roger Cooper and Associates (undated, p. 2):

In estimating the equations, Charles River Associates added weekend hours not counted by ARB in any of the four individual time periods (see footnote above, p. 22) to the daytime time period. Again, this discrepancy in treatment certainly has only a negligible effect on my results.

[21] The calculations are a straightforward extension of those for Appendix Tables A.5 and A.6 described in the footnote above. Pursuing the example of the station on the very last line of Table A.5 (and Table 8), the calculations start where those previously described leave off:

Multiplying total hours by the Charles River Associates revenue weights gives total revenue with and without cable in existence. Summing revenue over time periods, we find that the effect of cable is to reduce local station revenue to 68 percent of what it otherwise would have been-just the same as its effect on aggregate audience.

	Charles River Associates		Roger Cooper and Associates	
Time Period	Affiliates	Independents	Affiliates	Independents
Daytime	-27.87	153.88	—	50
Early Fringe	287.70	401.51	—	121
Prime Time	198.06	27.46	—	147
Late Fringe	517.40	-174.76	—	173

Time	Total Hours		Revenue	Total Revenue	
Period	Without Cable	With Cable	Weights	Without Cable	With Cable
F	41.68	28.29	128.14	5341	3625
D	10.54	7.20	-27.87	-294	-201
E	6.28	4.12	287.70	1807	1185
P	14.93	10.40	198.06	2957	2060
L	3.27	2.24	517.40	1692	1159
Composite	35.02	23.96		6162	4203

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Table 8

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION REVENUE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION
Composite Estimates Based on Audience Share Equations for Four Time Periods and Using Charles River Associates Revenue Weights

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
				Prim.	Dupl.			Network		Independent		
VHF	UHF	VHF	UHF	Net.	Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		99- 99	100-100	99- 99
				0	0	6	11	96- 97		96- 97	97- 98	96- 97
				0	3	6	11	96- 97		96- 96	97- 97	96- 97
3	0	1	1	0	0	2	16	97- 98		98- 98	99- 99	97- 98
				0	0	6	16	94- 95		93- 94	94- 95	94- 95
				0	3	6	16	93- 94		92- 93	93- 94	93- 94
3	0	0	2	0	0	2	8	98- 99			99-100	98- 99
				0	0	6	8	96- 97			96- 97	96- 97
				0	3	6	8	96- 96			96- 96	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 92				90- 92
				0	3	6	20	89- 90				89- 90
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 97				96- 97
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 95	100-101			95- 97
				0	0	5	18	91- 92	95- 96			92- 93
				0	3	5	18	89- 91	93- 95			90- 91
2	0	0	0	1	0	2	24	91- 92				91- 92
				1	0	5	24	86- 88				86- 88
				1	3	5	24	85- 86				85- 86
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 98				96- 98
				0	0	4	29	89- 91				89- 91
				0	3	4	29	87- 89				87- 89
1	1	0	0	1	0	1	31	87- 89	95- 97			89- 91
				1	0	4	31	80- 82	86- 88			82- 84
				1	3	4	31	78- 80	83- 85			80- 82
1	0	0	0	2	0	1	41	77- 79				77- 79
				2	0	4	41	70- 72				70- 72
				2	3	4	41	68- 70				68- 70

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[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] The base (100 percent) is the revenue if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Table 9

LONG-TERM EFFECT OF CABLE ON LOCAL STATION REVENUE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Composite Estimates Based on Audience Share Equations for
Four Time Periods and Using Charles River Associates Revenue Weights

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
				Prim. Net.	Dupl. Net.	Ind.		Network		Independent		
VHF	UHF	VHF	UHF					VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 98		97- 98	99-100	97- 98
				0	0	6	27	91- 93		91- 92	92- 94	91- 93
				0	3	6	37	86- 88		86- 88	88- 90	86- 88
3	0	1	1	0	0	2	26	95- 97		96- 97	98- 99	95- 97
				0	0	6	30	88- 90		87- 89	89- 90	88- 90
				0	3	6	37	83- 85		82- 84	84- 86	83- 85
3	0	0	2	0	0	2	27	94- 96			97- 99	94- 96
				0	0	6	30	87- 89			88- 89	87- 89
				0	3	6	38	81- 83			82- 84	81- 83
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	85- 87				85- 87
				0	3	6	43	78- 80				78- 80
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 95				94- 95
				0	0	5	31	87- 89				87- 89
				0	3	5	41	80- 83				80- 83
2	1	0	0	0	0	2	32	90- 92	100-102			92- 94
				0	0	5	36	83- 85	91- 93			84- 86
				0	3	5	45	75- 77	84- 87			77- 79
2	0	0	0	1	0	2	48	81- 84				81- 84
				1	0	5	51	71- 74				71- 74
				1	3	5	62	62- 65				62- 65
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 98				97- 98
				0	0	4	31	89- 91				89- 91
				0	3	4	39	82- 85				82- 85
1	1	0	0	1	0	1	52	78- 81	91- 94			82- 86
				1	0	4	57	65- 67	75- 78			68- 71
				1	3	4	67	55- 58	66- 69			59- 62
1	0	0	0	2	0	1	74	59- 63				59- 63
				2	0	4	76	45- 48				45- 48
				2	3	4	83	37- 39				37- 39

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] The base (100 percent) is the revenue if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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Table 10

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION REVENUE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION
Composite Estimates Based on Audience Share Equations for Four Time Periods and Using Roger Cooper and Associates Revenue Weights

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 98	101-102	98- 99
				0	0	6	11	96- 97		96- 96	99- 99	96- 97
				0	3	6	11	96- 97		95- 96	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 98		96- 97	101-102	97- 98
				0	0	6	16	94- 95		93- 94	96- 97	94- 95
				0	3	6	16	93- 94		92- 93	95- 96	93- 94
3	0	0	2	0	0	2	8	98- 99			100-101	98- 99
				0	0	6	8	96- 97			98- 98	96- 97
				0	3	6	8	96- 96			97- 98	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 92				90- 92
				0	3	6	20	89- 90				89- 90
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 97				96- 97
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 95	100-101			95- 97
				0	0	5	18	91- 92	95- 96			92- 93
				0	3	5	18	89- 91	93- 95			90- 91
2	0	0	0	1	0	2	24	91- 92				91- 92
				1	0	5	24	86- 88				86- 88
				1	3	5	24	85- 86				85- 86
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 98				96- 98
				0	0	4	29	89- 91				89- 91
				0	3	4	29	87- 89				87- 89
1	1	0	0	1	0	1	31	87- 89	95- 97			89- 91
				1	0	4	31	80- 82	86- 88			82- 84
				1	3	4	31	78- 80	83- 85			80- 82
1	0	0	0	2	0	1	41	77- 79				77- 79
				2	0	4	41	70- 72				70- 72
				2	3	4	41	68- 70				68- 70

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] The base (100 percent) is the revenue if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets.

Table 11

LONG-TERM EFFECT OF CABLE ON LOCAL STATION REVENUE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Composite Estimates Based on Audience Share Equations for
Four Time Periods and Using Roger Cooper and Associates Revenue Weights

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 98		95- 96	103-105	96- 98
				0	0	6	27	91- 93		89- 91	96- 98	91- 93
				0	3	6	37	86- 88		84- 86	93- 96	86- 88
3	0	1	1	0	0	2	26	95- 97		93- 95	101-104	95- 97
				0	0	6	30	88- 90		87- 88	93- 95	88- 90
				0	3	6	37	83- 85		81- 83	89- 91	83- 85
3	0	0	2	0	0	2	27	94- 96			101-103	94- 96
				0	0	6	30	87- 89			92- 94	87- 89
				0	3	6	38	81- 83			87- 89	82- 84
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	85- 87				85- 87
				0	3	6	43	78- 80				78- 80
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 95				94- 95
				0	0	5	31	87- 89				87- 89
				0	3	5	41	80- 83				80- 83
2	1	0	0	0	0	2	32	90- 92	100-102			92- 94
				0	0	5	36	83- 85	91- 93			84- 86
				0	3	5	45	75- 77	84- 87			77- 79
2	0	0	0	1	0	2	48	81- 84				81- 84
				1	0	5	51	71- 74				71- 74
				1	3	5	62	62- 65				62- 65
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 98				97- 98
				0	0	4	31	89- 91				89- 91
				0	3	4	39	82- 85				82- 85
1	1	0	0	1	0	1	52	78- 81	91- 94			82- 86
				1	0	4	57	65- 67	75- 78			68- 71
				1	3	4	67	55- 58	66- 69			59- 62
1	0	0	0	2	0	1	74	59- 63				59- 63
				2	0	4	76	45- 48				45- 48
				2	3	4	83	37- 39				37- 39

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] The base (100 percent) is the revenue if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets.

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Conclusion

Audience projections are not affected by taking into account differences in diversion among different periods of the day. Revenue projections, which in addition take into account different values of audience during different time periods, are about the same as the audience projections, except possibly for UHF independent stations. For UHF independents, the results depend on which set of estimated revenue weights one uses. Using one set, projected revenues are reduced by cable by more than is projected audience; using the other set, projected revenue is much the same as projected audience for all types of stations.

Senstivity to Treatment of Total Audience

Most of Fisher's critique (11 out of 19 pages) is devoted to criticism of the total audience equation.[22] He concludes that the equation has so many problems that one might just as well use weighted averages for off-the-air and cable total audience instead of audience predicted by the equation. I reached the same conclusion in my earlier report, but used a different kind of average in my projections. To calculate average audience, I substituted into the total audience equation mean values for all variables except the dummy variable that distinguishes off-the-air and cable audience.

Fisher incorrectly claims (pp. 10–11) that using his averages rather than my averages can make a large difference in some markets. His "demonstration" that this is true for a two-UHF and one-UHF network station market is incorrect—*arithmetically in error.*[23] In fact, it makes almost no difference at all which averages are used. Projections based on Fisher's weighted averages and my revised audience share equation for the full day[24] are shown in Tables 12 and 13. They differ from the projections using my averages (Tables 3 and 4) by at most one percentage point.

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[22] Park (1979a, pp. 11–23).

[23] Fisher's example is cable carrying five distant independents into the second-50 market with two VHF and one UHF affiliates (1979a, Table 8, p. 36). The correct calculation for one of the VHF network affiliates, following the same format as the example in Park (1979a, pp. 31–33), is:

If there is cable: The fraction of noncable households using television is .280, and the fraction for cable households is .299 (Fisher's weighted averages). Cable penetration is .36. Therefore, total audience in noncable households is $.280 \times .64T$, and total audience in cable households is $.299 \times .36T$. A network VHF station's share of this audience is calculated using the attractiveness indices estimated in (1979a, Table 6). Its share in noncable households is $1/(2+.45)=.408$; its share in cable homes is $1/(2+.61+5 \times .32)=.238$. Thus its total audience is $.408 \times .280 \times .64T + .238 \times .299 \times .36T = .0987T$.

If there is no cable and cable does not lead to increased viewing: Of those households that would not subscribe to cable if it were offered, the fraction using television is .280. The corresponding fraction of households that would subscribe if they could is .299; these are more avid viewers, even in the absence of cable. The station attracts a .408 share of both portions of the audience, for a total of $.408 \times .280 \times .64T + .408 \times .299 \times .36T = .1170T$.

If there is no cable and cable does lead to increased TV viewing: Of those households that would not subscribe to cable if it were available, the fraction .280 is using television. The fraction for households that would subscribe is the same. They would watch more if they did subscribe, but without cable they are indistinguishable from the others. The station gets a .408 share of both portions. Its total audience is $.408 \times .280 \times .64T + .408 \times .280 \times .36T = .1142T$.

These three audience calculations are the basis for the audience diversion projection. The network VHF station's audience with cable (.0987T) is 84 percent of its audience without cable if the self-selection hypothesis is true (.1170T), and 86 percent of its audience without cable if the self-selection hypothesis is false (.1142T). Thus the correct range is from 84–86 percent using Fisher's weighted averages, compared with 84–87 percent calculated in (1979a) using my averages and 79–80 in Fisher's erroneous calculation. Similar calculations for the UHF affiliate yield a range of 92–94, compared with 92–95 in (1979a) and 84–86 in Fisher.

[24] This Note, Table 2.

Table 12

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION
Estimates Using Fisher's Weighted Average Total Audience Figures

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 99	102-103	98- 99
				0	0	6	11	96- 97		96- 97	99-100	96- 97
				0	3	6	11	96- 96		95- 96	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 98		97- 98	102-103	97- 98
				0	0	6	16	93- 94		93- 94	97- 98	94- 95
				0	3	6	16	92- 93		92- 93	96- 97	93- 94
3	0	0	2	0	0	2	8	98- 98			101-101	98- 99
				0	0	6	8	96- 97			98- 99	96- 97
				0	3	6	8	95- 96			97- 98	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 91				90- 91
				0	3	6	20	89- 90				89- 90
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 97				96- 97
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 96	100-101			95- 97
				0	0	5	18	91- 92	94- 96			91- 93
				0	3	5	18	89- 91	93- 94			90- 91
2	0	0	0	1	0	2	24	91- 92				91- 92
				1	0	5	24	86- 88				86- 88
				1	3	5	24	85- 86				85- 86
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 98				96- 98
				0	0	4	29	89- 91				89- 91
				0	3	4	29	87- 89				87- 89
1	1	0	0	1	0	1	31	87- 89	94- 96			89- 91
				1	0	4	31	80- 82	85- 87			82- 83
				1	3	4	31	78- 80	83- 84			80- 81
1	0	0	0	2	0	1	41	77- 79				77- 79
				2	0	4	41	70- 72				70- 72
				2	3	4	41	68- 70				68- 70

---

[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Table 13

LONG-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION
Estimates Using Fisher's Weighted Average Total Audience Figures

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 97		95- 97	105-107	96- 98
				0	0	6	27	90- 92		90- 92	98-100	91- 93
				0	3	6	37	85- 88		85- 87	95- 97	86- 88
3	0	1	1	0	0	2	26	95- 96		94- 96	104-106	95- 97
				0	0	6	30	88- 89		87- 89	95- 97	88- 90
				0	3	6	37	82- 85		82- 84	91- 93	83- 85
3	0	0	2	0	0	2	27	94- 95			102-104	95- 97
				0	0	6	30	87- 88			94- 96	88- 89
				0	3	6	38	81- 83			89- 91	82- 84
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	85- 87				85- 87
				0	3	6	43	78- 80				78- 80
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 95				94- 95
				0	0	5	31	87- 89				87- 89
				0	3	5	41	80- 83				80- 83
2	1	0	0	0	0	2	32	90- 92	99-101			92- 94
				0	0	5	36	82- 84	90- 92			84- 86
				0	3	5	45	75- 77	83- 86			77- 79
2	0	0	0	1	0	2	48	82- 84				82- 84
				1	0	5	51	71- 73				71- 73
				1	3	5	62	62- 65				62- 65
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 98				97- 98
				0	0	4	31	89- 91				89- 91
				0	3	4	39	83- 85				83- 85
1	1	0	0	1	0	1	52	79- 81	91- 94			82- 85
				1	0	4	57	65- 67	73- 76			67- 70
				1	3	4	67	56- 58	64- 67			58- 61
1	0	0	0	2	0	1	74	60- 63				60- 63
				2	0	4	76	45- 47				45- 47
				2	3	4	83	37- 39				37- 39

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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Conclusion

Fisher's criticism of my total audience equation is irrelevant to my projections. I use the equation only to calculate a sort of average total audience. The audience diversion projections are insensitive to whether I use my averages or Fisher's averages.

Distinction Between Network Stations and Network Programs

In my earlier study, I distinguished among distant network signals only on the basis of whether they are VHF or UHF stations. As pointed out in (1979a, p. 9), and reemphasized by Fisher (1979, pp. 14–15), this treatment may mask significant differences in the attractiveness of distant stations. I have gone part way toward correcting this problem in this Note by further distinguishing between stations that are sometimes blacked out on the cable to provide nonduplication protection to local network affiliates, and those that are not. One expects, and the results confirm, that the former are less attractive than the latter.

Some important differences may nevertheless remain unaccounted for in the new results. For example, consider a market with two local network stations. If the cable system carries only one distant station affiliated with the missing network, we would expect that station to be just about as attractive as the local stations. In contrast, if it carries three distant stations affiliated with one of the networks already represented in the market, we would expect their attractiveness indices to be much smaller, even if they were never blacked out. Even my new estimates fail to distinguish between the two situations.

Rather than complicate the model to take such differences into account (a strategy that, in my judgment, is unlikely to be productive), I ran the simulations shown in Tables 14 and 15 to see what difference this additional complication might make. For these simulations, I assume that distant primary network stations have attractiveness indices equal to one.[25] The resulting diversion projections differ from those in Tables 3 and 4 only for one- or two-station markets. In such markets, the Table 14 and 15 projections show quite a lot more diversion due to cable operating under present rules (2 to 7 percentage points more in the near term, 5 to 12 percentage points more in the long term) and somewhat more for cable operating under relaxed rules (1 to 4 near term, 3 to 6 long term). For policy purposes, however, one is perhaps most interested in the *incremental* effect of relaxing the rules, and this is projected to be *smaller* in Tables 14 and 15 than in Tables 3 and 4.

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[25] Rather than .38, which was estimated by lumping together all distant VHF affiliates not blacked out on the cable. I continue to use .19 as the index for duplicate networks on the cable, assuming that these stations are blacked out part of the time.

Table 14

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Assuming Attractiveness Index of Distant Primary Network Signals = 1.00

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 99	102-103	98- 99
				0	0	6	11	96- 97		96- 97	99-100	96- 97
				0	3	6	11	96- 96		95- 96	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 98		97- 98	102-104	97- 98
				0	0	6	16	93- 95		93- 94	97- 99	93- 95
				0	3	6	16	92- 94		92- 94	96- 97	93- 94
3	0	0	2	0	0	2	8	98- 99			101-102	98- 99
				0	0	6	8	96- 97			98- 99	96- 97
				0	3	6	8	95- 96			97- 98	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 92				90- 92
				0	3	6	20	89- 91				89- 91
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 98				96- 98
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 96	100-101			95- 97
				0	0	5	18	90- 92	94- 96			91- 93
				0	3	5	18	89- 91	93- 94			90- 91
2	0	0	0	1	0	2	24	88- 90				88- 90
				1	0	5	24	85- 86				85- 86
				1	3	5	24	84- 85				84- 85
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 99				96- 99
				0	0	4	29	89- 92				89- 92
				0	3	4	29	87- 89				87- 89
1	1	0	0	1	0	1	31	82- 85	88- 91			84- 87
				1	0	4	31	78- 80	82- 84			79- 81
				1	3	4	31	76- 79	80- 83			78- 80
1	0	0	0	2	0	1	41	70- 72				70- 72
				2	0	4	41	66- 69				66- 69
				2	3	4	41	65- 68				65- 68

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[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Table 15

LONG-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION

Assuming Attractiveness Index of Distant Primary Network Signals = 1.00

Network		Independent		Distant Stations			Cable Penetration[a]	Index of Local Station Audience[b] If Cable Exists				
								Network		Independent		
VHF	UHF	VHF	UHF	Prim. Net.	Dupl. Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 98		95- 98	105-107	96- 99
				0	0	6	27	90- 92		90- 92	98-100	91- 93
				0	3	6	37	85- 88		85- 88	95- 98	86- 89
3	0	1	1	0	0	2	26	95- 97		94- 96	104-106	95- 97
				0	0	6	30	87- 90		87- 89	95- 98	88- 90
				0	3	6	37	82- 85		82- 85	91- 94	83- 85
3	0	0	2	0	0	2	27	93- 96			103-105	95- 97
				0	0	6	30	86- 89			94- 96	87- 90
				0	3	6	38	80- 83			89- 92	82- 84
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	84- 87				84- 87
				0	3	6	43	78- 81				78- 81
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 96				94- 96
				0	0	5	31	86- 89				86- 89
				0	3	5	41	80- 83				80- 83
2	1	0	0	0	0	2	32	90- 93	99-102			92- 95
				0	0	5	36	82- 85	90- 92			84- 86
				0	3	5	45	75- 78	83- 86			76- 79
2	0	0	0	1	0	2	48	76- 80				76- 80
				1	0	5	51	68- 71				68- 71
				1	3	5	62	59- 62				59- 62
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 99				97- 99
				0	0	4	31	89- 91				89- 91
				0	3	4	39	82- 85				82- 85
1	1	0	0	1	0	1	52	72- 75	81- 85			75- 78
				1	0	4	57	61- 64	68- 72			63- 66
				1	3	4	67	52- 55	60- 63			55- 58
1	0	0	0	2	0	1	74	47- 50				47- 50
				2	0	4	76	39- 41				39- 41
				2	3	4	83	31- 34				31- 34

---

[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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Conclusion

My results in this Note distinguish between stations that are blacked out to provide nonduplication protection and those that are not. This distinction does not change the audience diversion projections very much from those in my earlier report. If one further assumes that distant primary network stations are just as attractive as local affiliates, the projected diversion due to cable in one- and two-station markets is increased, but the projected incremental diversion due to relaxing present rules is decreased.

Differences in Off-the-Air Reception

Fisher (1979, pp. 15–17) criticizes my assumption concerning off-the-air reception.[26] In (1979a) (and in this Note as well), I assume that a station that attracts any audience at all off the air in a particular county can be received anywhere in that county.[27] Fisher (1979, pp. 15–17) apparently advocates using a different, somewhat more complex, assumption, one which he previously employed in an early cable TV study (1966). He assumed that each station's NWC [28] measures the fraction of households in the county that can receive it.[29]

The histograms plotted in Fig. 1 strongly suggest that neither Fisher's assumption nor mine is perfectly correct. The histograms show the number of stations received in my sample counties, by off-the-air and cable households respectively, that have NWC falling in each 10 percent interval from 0 to 100.[30]

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[26] There is no difference between Fisher and me over cable reception. All subscribers to a particular cable system can receive all of the stations carried by that system. (Fisher mentions blackouts to provide nonduplication protection in the context of cable reception. I agree with him that it is important to distinguish between stations that are blacked out and those that are not, and I do so in this Note.)

[27] In addition, for all of my results except those in Tables 6 and 7, I further assume that 15 local stations with no off-the-air audience in the county can also be received there.

[28] Net weekly circulation, the percent of all TV households that watch the station at least once a week.

[29] Fisher further assumed that any household's ability to receive any one station is independent of its ability to receive any others. The result is that all television households in the county are divided into groups of different sizes, each of which can receive one of the possible combinations of signals. In a simple example, say there are two stations received in the county. Station A's NWC is .7, and station B's is .4. Then Fisher's assumptions imply that 28 percent of the television households can receive both A and B, 42 percent receive A but not B, 12 percent receive B but not A, and 18 percent receive neither. (These percentages are calculated as follows: $.7 \times .4 = .28$; $.7 \times (1 - .4) = .42$; $(1 - .7) \times .4 = .12$; $(1 - .7) \times (1 - .4) = .18$.)

In a formal sense, this second (independence) assumption is perfectly compatible with my treatment of reception patterns: If all TV households can (by my assumption) receive each of the stations, then all of them can receive all of the stations. (The calculation is just $1 \times 1 = 1$.)

[30] All have positive NWC except for the 15 local stations that are assumed to be receivable even though their off-the-air NWC equals zero.

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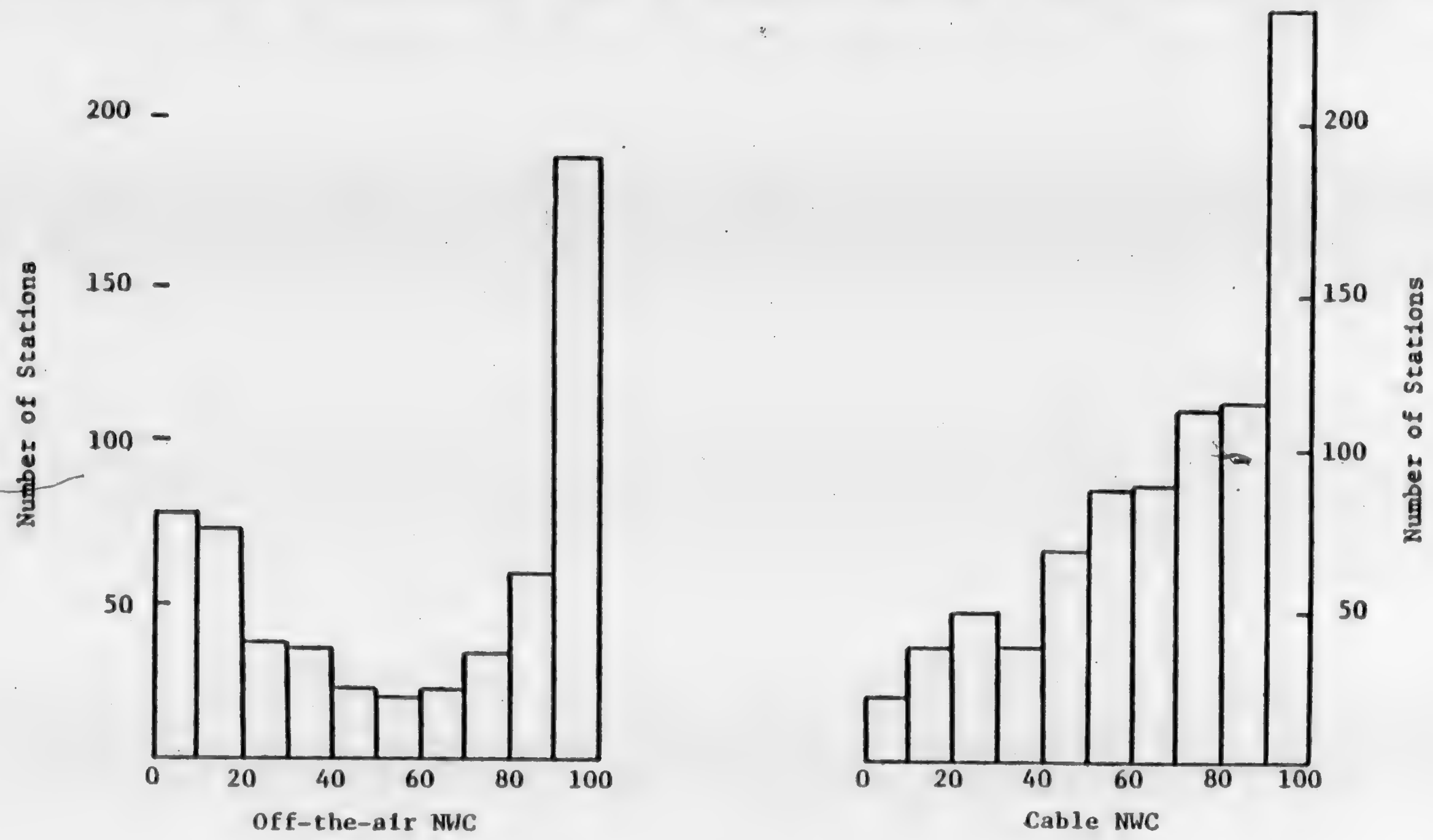

Fig. 1--Frequency count of all stations received in 121 counties by their net weekly circulation off the air and on the cable

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Fisher's assumption equates NWC and receivability. If the assumption were correct, all stations carried on the cable should have NWC equal to 100 percent in cable households, since there is no question but that they are received on the cable. They do not; there are many stations with NWC substantially smaller than 100 percent in cable households.

On the other hand, if my assumption were correct, the cable and off-the-air histograms should have the same appearance. If all stations received by anyone can be received by everyone, then only programming differences remain to account for different NWC. There is no reason to expect that the distribution of programming differs much between stations on the cable and stations received off the air, so the NWC distributions should be similar as well. They are not, implying that there are in fact off-the-air reception differences within counties.

Conclusion

I can see no reason to substitute Fisher's more complex (and necessarily unrealistic) assumption about off-the-air reception patterns within counties for my simpler (and necessarily unrealistic) assumption.

Differential Effects of Distant Signals on Independent Stations

It has been asserted that allowing cable systems to carry additional independent stations will take more audience from local independents than it will from local network affiliates. (See, for example, Schink (1979).) This may or may not be true; I know of no statistical evidence that either supports or refutes the assertion.[31]

The simulations in Schink and Thanawala (1978) *appear* to support it by showing a larger proportionate audience loss for independents than for affiliates when the number of imported independents is increased. However, as pointed out by the FCC (1979) and confirmed by Schink (1979), this is simply a result of the assumed specification of the model. The logistic transformation of the dependent variable together with the linear form of the right-hand side of the equation assure that stations with smaller initial audience shares (like independents) will suffer larger proportionate reductions in audience when imported signals increase.

My simulations in (1979a) and in this Note *appear* to refute the assertion by showing the same proportionate audience loss for all local stations when the number of imported independents is increased. However, this result is also hard wired into the model specification.[32]

$$\frac{1}{S_j}\frac{\partial S_j}{\partial n_k} = -a_k/\Sigma a_i n_i\ ,$$

I suspect that there do not yet exist data sufficient to provide a good statistical test of the assertion. So far, cable systems carrying varying numbers of distant independent stations are scarce in areas with local independent service. Certainly my data are not sufficiently rich to test the assertion, no matter how sophisticated the model fitted to them.

Conclusion

Neither my model nor Schink and Thanawala's sheds any light on the possible differential effect of imported independents on local independents. The question of whether or not independents lose a larger share of their audience than do affiliates is probably unanswerable by statistical methods until we have accumulated more experience with cable systems carrying distant signals into large markets.

Concluding Remarks

Of the six "problems" that are stressed in the industry comments on my earlier study, it appears that four (data problems, time period disaggregation, total audience, and duplicate programs) have almost no effect on my results. There is no simple way to check the effect of the other two (off-the-air reception patterns and differential effect on independents). But neither is there any evidence that would support adoption of the industry-proposed treatment instead of the equally plausible treatment I have used.

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[31] There is some *case study* evidence against the assertion to be found in the grandfathered market analysis by the FCC (1979). The effect of cable on the audience of the seven independent stations studied there (pp. 84–88) is much the same as its effect on all local stations in the six grandfathered markets that were also studied (pp. 74–84).

[32] In my model, the share of a station of type j is $S_i = a_i/\Sigma a_i n_i$, where a_i is the attractiveness index for stations of type i, n_i is the number of such stations, and the summation is over all receivable stations. The proportionate effect of increasing the number of stations of type k on station j's share is

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Appendix Tables A.1—A.6

Appendix Table A.1

FIRST STAGE AUDIENCE SHARE EQUATIONS

	Network[a]			Independent[a]			
	L	D	DB	L	D	$\hat{\sigma}$	$\hat{\rho}$
Full Day							
Off-the-air viewing							
VHF	1.00	.02	.13	.50	-.16	.992	.657
	(b)	(.5)	(2.9)	(2.8)	(1.0)		
UHF	.40	.12	.29	.23	.27		
	(8.7)	(.5)	(1.0)	(3.4)	(.6)		
Cable viewing							
VHF	1.00	.36	.20	.51	.44	.458	
	(b)	(7.6)	(5.9)	(3.0)	(4.8)		
UHF	.59	.15	.18	.23	.29		
	(10.7)	(1.0)	(.9)	(2.8)	(2.9)		
Daytime							
Off-the-air viewing							
VHF	1.00	.01	.11	.44	-.13	1.210	.621
	(b)	(.3)	(2.3)	(2.1)	(.7)		
UHF	.28	.00	.31	.25	.30		
	(5.8)	(.0)	(1.1)	(3.1)	(.5)		
Cable viewing							
VHF	1.00	.29	.14	.48	.41	.621	
	(b)	(5.1)	(3.4)	(2.1)	(3.3)		
UHF	.43	.07	-.05	.25	.34		
	(6.5)	(.4)	(.3)	(2.2)	(2.4)		
Early Fringe							
Off-the-air viewing							
VHF	1.00	.01	.10	.82	-.11	1.343	.707
	(b)	(.1)	(1.8)	(2.7)	(.6)		
UHF	.34	.02	.35	.36	.25		
	(5.9)	(.1)	(1.0)	(3.4)	(.4)		
Cable viewing							
VHF	1.00	.31	.29	1.13	.87	.652	
	(b)	(4.6)	(4.8)	(3.2)	(4.6)		
UHF	.40	.05	.14	.50	.64		
	(5.4)	(.2)	(.4)	(3.2)	(3.2)		
Prime Time							
Off-the-air viewing							
VHF	1.00	.04	.15	.49	-.19	.871	.499
	(b)	(.9)	(3.4)	(3.3)	(1.3)		
UHF	.55	.29	.27	.15	.17		
	(11.5)	(1.0)	(.9)	(2.8)	(.4)		
Cable viewing							
VHF	1.00	.43	.18	.39	.31	.400	
	(b)	(9.5)	(6.3)	(2.9)	(4.4)		
UHF	.83	.29	.23	.09	.16		
	(14.8)	(1.8)	(1.3)	(1.4)	(2.1)		
Late Fringe							
Off-the-air viewing							
VHF	1.00	-.01	.14	.23	-.18	1.151	.586
	(b)	(.2)	(2.7)	(1.3)	(1.0)		
UHF	.37	.20	.27	.19	.26		
	(7.2)	(.6)	(.9)	(2.6)	(.5)		
Cable viewing							
VHF	1.00	.34	.21	.25	.32	.750	
	(b)	(4.7)	(3.9)	(1.0)	(2.4)		
UHF	.54	.07	.06	.18	.24		
	(6.4)	(.3)	(.2)	(1.5)	(1.6)		

NOTES: The dependent variable is the station share of total audience during each time period. Estimated coefficients are "attractiveness indices" in equation (1). Asymptotic t-statistics are in parentheses. See Park (1979c) for a description of the nonlinear generalized least squares estimation method used and a description of $\hat{\sigma}$ and $\hat{\rho}$.

[a] L indicates local stations. D indicates distant stations not blacked out. DB indicates distant network stations blacked out to provide non-duplication protection to local stations.

[b] This coefficient is normalized to one as a reference value--not estimated.

Appendix Table A.2

SECOND STAGE UNCONSTRAINED AUDIENCE SHARE EQUATIONS

		Network[a]			Independent[a]	
		L	D	DB	L	D
Full Day						
Off-the-air viewing	VHF	1.00	.07	.11	.57	-.25
		(b)	(1.8)	(2.8)	(3.2)	(2.4)
	UHF	.45	.12	.23	.28	-.03
		(9.7)	(.5)	(1.0)	(4.0)	(.1)
Cable viewing	VHF	1.00	.38	.19	.56	.40
		(b)	(9.1)	(6.7)	(3.4)	(6.0)
	UHF	.65	.15	.15	.28	.25
		(12.0)	(1.1)	(1.0)	(3.5)	(3.3)
Daytime						
Off-the-air viewing	VHF	1.00	.06	.10	.52	-.11
		(b)	(1.2)	(2.4)	(2.4)	(.7)
	UHF	.31	-.02	.28	.28	-.18
		(6.4)	(.1)	(1.1)	(3.4)	(.5)
Cable viewing	VHF	1.00	.30	.14	.53	.38
		(b)	(5.9)	(3.9)	(2.4)	(4.0)
	UHF	.47	.06	-.04	.29	.27
		(2.2)	(.4)	(.2)	(2.6)	(2.5)
Early Fringe						
Off-the-air viewing	VHF	1.00	.07	.10	.92	-.18
		(b)	(1.4)	(2.1)	(3.1)	(1.3)
	UHF	.44	-.05	.36	.45	-.09
		(7.3)	(.2)	(1.1)	(4.1)	(.3)
Cable viewing	VHF	1.00	.35	.31	1.17	.76
		(b)	(5.8)	(5.9)	(3.5)	(5.9)
	UHF	.53	.02	.18	.61	.54
		(7.0)	(.1)	(.7)	(3.9)	(3.9)
Prime Time						
Off-the-air viewing	VHF	1.00	.06	.13	.51	-.33
		(b)	(1.6)	(3.3)	(3.4)	(3.1)
	UHF	.57	.24	.24	.17	.15
		(a)	(1.0)	(1.0)	(3.0)	(.5)
Cable viewing	VHF	1.00	.42	.17	.41	.29
		(b)	(10.2)	(6.7)	(3.1)	(4.9)
	UHF	.85	.27	.21	.11	.14
		(15.5)	(1.8)	(1.3)	(1.8)	(2.1)
Late Fringe						
Off-the-air viewing	VHF	1.00	.02	.12	.22	-.27
		(b)	(.4)	(2.7)	(1.3)	(2.1)
	UHF	.41	.40	.17	.21	-.12
		(7.8)	(1.2)	(.6)	(3.0)	(.4)
Cable viewing	VHF	1.00	.33	.19	.25	.29
		(b)	(5.3)	(4.3)	(1.1)	(2.8)
	UHF	.57	.09	.03	.23	.19
		(7.0)	(.5)	(.2)	(1.9)	(1.5)

NOTES: The dependent variable is the station share of total audience during each time period. Estimated coefficients are "attractiveness indices" in equation (1). Asymptotic t-statistics are in parentheses. See Park (1979c) for a description of the nonlinear generalized least squares estimation method used.

[a] L indicates local stations. D indicates distant stations not blacked out. DB indicates distant network stations blacked out to provide nonduplication protection to local stations.

[b] This coefficient is normalized to one as a reference value—not estimated.

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Appendix Table A.3

SECOND STAGE AUDIENCE SHARE EQUATIONS WITH ATTRACTIVENESS INDICES CONSTRAINED TO BE NON-NEGATIVE

		Network[a]			Independent[a]			
		L	D	DB	L	D	BLK	K
Full Day								
Off-the-air viewing								
	VHF	1.00	.08	.07	.57	.00		
		(b)	(2.1)	(2.0)	(3.4)	(e)		
	UHF	.47	.16	.21	.23	.00		
		(10.2)	(.7)	(1.0)	(4.0)	(e)		
Cable viewing								
	VHF	1.00	.38	.18	.56	.44	.46	1.37
		(b)	(9.1)	(d)	(3.4)	(6.3)	(4.8)	(12.8)
	UHF	.65	.16	.08	.32	.27		
		(c)	(1.3)	(d)	(c)	(3.5)		
Daytime								
Off-the-air viewing								
	VHF	1.00	.06	.09	.52	.00		
		(b)	(1.2)	(2.2)	(2.5)	(e)		
	UHF	.33	.00	.32	.25	.00		
		(6.8)	(e)	(1.3)	(3.3)	(e)		
Cable viewing								
	VHF	1.00	.30	.13	.54	.41	.43	1.41
		(b)	(5.9)	(d)	(2.3)	(4.2)	(2.9)	(8.2)
	UHF	.46	.05	.02	.35	.27		
		(c)	(.3)	(d)	(c)	(2.6)		
Early Fringe								
Off-the-air viewing								
	VHF	1.00	.08	.08	.93	.00		
		(b)	(1.5)	(1.7)	(3.1)	(e)		
	UHF	.44	.00	.30	.47	.00		
		(7.5)	(e)	(1.1)	(4.4)	(e)		
Cable viewing								
	VHF	1.00	.34	.30	1.17	.80	.86	1.22
		(b)	(5.8)	(d)	(3.5)	(6.1)	(3.7)	(9.6)
	UHF	.53	.06	.06	.57	.37		
		(c)	(.4)	(d)	(c)	(4.1)		
Prime Time								
Off-the-air viewing								
	VHF	1.00	.08	.09	.53	.00		
		(b)	(2.0)	(2.4)	(3.6)	(e)		
	UHF	.59	.30	.22	.11	.00		
		(12.4)	(1.2)	(.9)	(2.6)	(e)		
Cable viewing								
	VHF	1.00	.43	.16	.41	.32	.37	1.44
		(b)	(10.3)	(d)	(3.1)	(5.2)	(4.9)	(13.2)
	UHF	.85	.29	.11	.15	.15		
		(c)	(2.1)	(d)	(c)	(2.2)		
Late Fringe								
Off-the-air viewing								
	VHF	1.00	.02	.09	.23	.00		
		(b)	(.6)	(2.2)	(1.3)	(e)		
	UHF	.42	.41	.21	.20	.00		
		(8.1)	(1.3)	(.8)	(2.9)	(e)		
Cable viewing								
	VHF	1.00	.34	.18	.25	.34	.54	1.37
		(b)	(5.3)	(d)	(1.1)	(3.1)	(2.9)	(8.2)
	UHF	.57	.08	.04	.27	.21		
		(c)	(.5)	(d)	(c)	(1.7)		

NOTES: The dependent variable is the station share of total audience during each time period. Estimated coefficients are "attractiveness indices" in equation (1). Asymptotic t-statistics are in parentheses. See Park (1979c) for a description of the nonlinear generalized least squares estimation method used.

[a] L indicates local stations. D indicates distant stations not blacked out. DB indicates distant network stations blacked out to provide non-duplication protection to local stations.

[b] This coefficient is normalized to one as a reference value—not estimated.

[c] This coefficient is constrained to equal K times the corresponding off-the-air coefficient. K is an estimated multiplier.

[d] This coefficient is constrained to equal BLK times the corresponding cable coefficient for distant network stations that are not blacked out. BLK is an estimated multiplier.

[e] The non-negativity constraint is binding for this coefficient.

Appendix Table A.4

SECOND STAGE CONSTRAINTED AUDIENCE SHARE EQUATION ESTIMATED WITH SAMPLE THAT EXCLUDES LOCAL STATIONS WITH OFF-THE-AIR NWC EQUAL TO ZERO

		Network[a]			Independent[a]			
		L	D	DB	L	D	BLK	K
Full Day								
Off-the-air viewing								
	VHF	1.00	.10	.11	.61	-.26		
		(b)	(2.6)	(2.8)	(3.9)	(2.5)		
	UHF	.52	(.08)	.18	.27	-.04		
		(10.4)	(.4)	(.9)	(3.8)	(.2)		
Cable viewing								
	VHF	1.00	.39	.18	.59	.36	.47	1.30
		(b)	(9.3)	(d)	(3.5)	(5.3)	(4.8)	(12.6)
	UHF	.67	.12	.06	.35	.27		
		(c)	(1.0)	(d)	(c)	(3.5)		

NOTES: The dependent variable is the station share of total audience during the full-day time period. Estimated coefficients are "attractiveness indices" in equation (1). Asymptotic t-statistics are in parentheses. See Park (1979c) for a description of the nonlinear generalized least squares estimation method used.

[a] L indicates local stations. D indicates distant stations not blacked out. DB indicates distant network stations blacked out to provide nonduplication protection to local stations.

[b] This coefficient is normalized to one as a reference value—not estimated.

[c] This coefficient is constrained to equal K times the correspondong off-the-air coefficient. K is an estimated multiplier.

[d] This coefficient is constrained to equal BLK times the corresponding cable coefficient for distant network stations that are not blacked out. BLK is an estimated multiplier.

Appendix Table A.5

NEAR-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION:

Composite Estimates Based on Equations for Four Time Periods
(Daytime, Early Fringe, Prime Time, Late Fringe)

				Distant Stations			Cable Penetration[a]	Index of Local Stations Audience[b] If Cable Exists				
Network		Independent		Prim. Net.	Dupl. Net.	Ind.		Network		Independent		Total
VHF	UHF	VHF	UHF					VHF	UHF	VHF	UHF	
Top-50 Markets												
3	0	3	2	0	0	2	11	98- 99		98- 99	101-102	98- 99
				0	0	6	11	96- 97		96- 97	99- 99	96- 97
				0	3	6	11	96- 97		95- 96	98- 99	96- 97
3	0	1	1	0	0	2	16	97- 98		96- 98	101-102	97- 98
				0	0	6	16	94- 95		93- 94	96- 98	94- 95
				0	3	6	16	93- 94		92- 93	95- 96	93- 94
3	0	0	2	0	0	2	8	98- 99			100-101	98- 99
				0	0	6	8	96- 97			98- 98	96- 97
				0	3	6	8	96- 96			97- 98	96- 96
3	0	0	0	0	0	3	20	94- 95				94- 95
				0	0	6	20	90- 92				90- 92
				0	3	6	20	89- 91				89- 91
Second-50 Markets												
3	0	0	0	0	0	2	17	96- 98				96- 98
				0	0	5	17	93- 94				93- 94
				0	3	5	17	92- 93				92- 93
2	1	0	0	0	0	2	18	94- 96	100-102			95- 97
				0	0	5	18	91- 92	95- 97			91- 93
				0	3	5	18	89- 91	94- 95			90- 92
2	0	0	0	1	0	2	24	91- 93				91- 93
				1	0	5	24	86- 88				86- 88
				1	3	5	24	85- 87				85- 87
Below-100 Markets												
3	0	0	0	0	0	1	29	96- 99				96- 99
				0	0	4	29	90- 92				90- 92
				0	3	4	29	87- 90				87- 90
1	1	0	0	1	0	1	31	87- 89	95- 97			89- 92
				1	0	4	31	80- 82	86- 88			82- 84
				1	3	4	31	78- 80	83- 86			80- 82
1	0	0	0	2	0	1	41	77- 80				77- 80
				2	0	4	41	70- 73				70- 73
				2	3	4	41	68- 71				68- 71

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[a] Average present penetration in markets of each type. Data supplied by FCC Cable Bureau.

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

Appendix Table A.6

LONG-TERM EFFECT OF CABLE ON LOCAL STATION AUDIENCE IN REPRESENTATIVE MARKETS UNDER PRESENT AND POTENTIAL RELAXED CABLE REGULATION: Composite Estimates Based on Equations for Four Time Periods (Daytime, Early Fringe, Prime Time, Late Fringe)

				Distant Stations			Cable Penetration[a]	Index of Local Stations Audience[b] If Cable Exists				
Network		Independent		Prim.	Dupl.			Network		Independent		
VHF	UHF	VHF	UHF	Net.	Net.	Ind.		VHF	UHF	VHF	UHF	Total
Top-50 Markets												
3	0	3	2	0	0	2	25	96- 98		95- 97	103-105	96- 99
				0	0	6	27	91- 93		90- 92	96- 99	91- 93
				0	3	6	37	86- 89		85- 87	93- 96	86- 89
3	0	1	1	0	0	2	26	95- 97		94- 96	102-104	95- 97
				0	0	6	30	88- 90		87- 89	93- 95	88- 90
				0	3	6	37	83- 86		82- 84	89- 92	83- 86
3	0	0	2	0	0	2	27	94- 96			101-103	95- 97
				0	0	6	30	87- 89			92- 94	88- 90
				0	3	6	38	81- 84			87- 90	82- 85
3	0	0	0	0	0	3	30	91- 93				91- 93
				0	0	6	32	85- 87				85- 87
				0	3	6	43	78- 81				78- 81
Second-50 Markets												
3	0	0	0	0	0	2	29	94- 96				94- 96
				0	0	5	31	87- 89				87- 89
				0	3	5	41	81- 83				81- 83
2	1	0	0	0	0	2	32	90- 93	100-103			92- 94
				0	0	5	36	82- 85	91- 94			84- 87
				0	3	5	45	75- 78	85- 88			77- 80
2	0	0	0	1	0	2	48	82- 85				82- 85
				1	0	5	51	71- 74				71- 74
				1	3	5	62	63- 66				63- 66
Below-100 Markets												
3	0	0	0	0	0	1	26	97- 99				97- 99
				0	0	4	31	89- 91				89- 91
				0	3	4	39	83- 86				83- 86
1	1	0	0	1	0	1	52	78- 82	92- 95			83- 86
				1	0	4	57	64- 68	75- 78			68- 71
				1	3	4	67	56- 59	66- 70			59- 62
1	0	0	0	2	0	1	74	60- 64				60- 64
				2	0	4	76	46- 49				46- 49
				2	3	4	83	37- 40				37- 40

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[a] Eventual equilibrium penetration when the whole market is wired, calculated using equation (*) in Park (1971, p. 27).

[b] Average audience over the full broadcast day. The base (100 percent) is the audience if cable does not exist; it assumes that all the audience watches local stations in the absence of cable (that is, there are no overlapping signals from adjacent markets).

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Appendix B

DATA DESCRIPTION

Data Description

All of the data used in this study are reproduced in Park (1979b). Unless otherwise stated, the data are from the ARB (American Research Bureau) Arbitron Television 1977 County Coverage, CATV-Controlled Counties. The items included are as follows:

County

County number is arbitrarily assigned. County name and state are also shown.

Market

The number shown for the market is its rank according to ARB area of dominant influence (ADI) [33] television households (TVH). The ranking is for 1977–1978.[34] A list that translates market ranks to market names precedes the data tables. A "1" or "2" following the decimal point is arbitrarily assigned to distinguish between markets that tied in the ARB rankings.

Time Zone

The code for the time zone in which the county is located is:

1 Eastern
2 Central
3 Mountain
4 Pacific

Income

Median family income in 1969 for the county is from *County and City Data Book, 1972, A Statistical Abstract Supplement,* U.S. Department of Commerce.

COTVH

COTVH is the number of television households (in hundreds) in the county as estimated by ARB for 1977–1978.[35] Numbers are shown separately for non-cable households (0 for off the air) and for cable households (C). Cable penetration in the county (COPEN) is calculated from COTVH as C/(O+C).

SYSTVH

The number of households (in hundreds) passed by the cable television system's installed trunk and feeder cable are from FCC records. The numbers come from reports that cable systems are required to make to the FCC annually on Form 325. C indicates the number of subscribing households; 0 is the number of households passed by the cable that do not subscribe. The latter number is calculated by subtracting reported subscribers from reported homes passed. In some cases, due to definitional or reporting problems, the result is a negative number. If so, nonsubscribing households passed is set equal to zero. System penetration (SYSPEN) is calculated using SYSTVH as C/(O+C).

INTAB

INTAB households (the units here are single households, not hundreds) are those included in ARB's survey sample, reported separately for off-the-air and cable households.

LCLSHR

Local share is the share of full-day (or total) audience captured by local stations, shown separately for off-the-air and cable viewers. Counties with an off-the-air local share less than 70 are excluded from the analysis in this report.

HUT

Homes using television is (roughly) the fraction of television households that are watching telvision at any given time. It is reported separately for five different time periods or "day parts," some of which are defined differently in different time zones, as follows:

	Eastern and Pacific	Central and Mountain
TOTAL (or FULL DAY)	6:00 am–2:00 am Monday–Sunday	6:00 am–2:00 am Monday–Sunday
DAYTIME	6:00 am–4:30 pm Monday–Friday	6:00 am–3:30 pm Monday–Friday
EARLY FRINGE	4:30 pm–7:30 pm Monday–Friday	3:30 pm–6:30 pm Monday–Friday
PRIME TIME	7:30 pm–11:00 pm Monday–Sunday	6:30 pm–10:00 pm Monday–Sunday
LATE FRINGE	11:00 pm–2:00 am Monday–Friday	10:00 pm–2:00 am Monday–Friday

The fraction of homes using television is calculated from ARB reports of total hours watched as in the following example. ARB estimates that non-cable households in our County 1 watched a total of 718,800 hours per week during the TOTAL or FULL-DAY period. There are 18,100 such households; if they all had watched TV all the time, they would have watched a total of 2,534,000 hours (18,000 households times 20 possible hours per day times 7 days per week). Thus on average over the FULL-DAY period, .284 is the fraction watching TV at any given time.

Station

Call sign and channel assignment (from the Television Markets and Rankings Guide, 1977–78) are shown for each station reported to be watched in the county. In a few cases, data for parent and satellite stations are combined. Then the first letter of the call sign is replaced by an asterisk. In such cases SHAREs are combined by adding parent and satellite SHAREs, and NWCs (net weekly circulations) are combined by taking the maximum of parent and satellite NWC.

AFFIL

Affiliation codes are as follows:

1 ABC
2 CBS
3 NBC
4 Independent commerical

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[33] A market's ADI includes (with a few exceptions) all those counties within which a market's stations attract more viewers than any other market.

[34] Television Markets and Rankings Guide, 1977–78, Arbitron Television, New York.

[35] As of January 1, 1978.

5 Noncommercial

The first number in the three-digit sequence is primary affiliation; the second, if nonzero, is secondary affiliation; and the third is tertiary affiliation all of which comes from the Television Markets and Rankings Guide, 1977–78.

P

Nonduplication protection codes for network affiliates are as follows:

0 Station is blacked out to provide nonduplication protection to some other station.

1 Station is neither blacked out nor protected.

2 Station receives nonduplication protection against one or more other stations.

Nonduplication protection status was determined by the FCC staff based on an application of Subpart F of the *Cable Television Regulations*, telephone interview with cable system operators, and a review of ARB nonduplication editing proecdures. The procedure was as follows:

1. Set P = theoretical protection status per Subpart F.
2. If P is compatible with observed audience shares, stop.
3. Set P = actual protection status in 1977 as determined by talking to the system operator on the telephone.
4. If P is compatible with observed audience shares, stop.
5. Check ARB records to see if ARB was in 1977 editing their audience data as though the station had some protection status not equal to P. If so, set P = editing protection status.

MKT

MKT is the rank of the ADI market to which the station is assigned, according to the list that precedes the data tables. With a few exceptions, if the station's market is the same as the county's market, the station is counted as a local station; otherwise, it is classified as a distant station. The exceptions are:

- All stations with nonduplication protection code equal to 2 are counted as local stations, regardless of what market the county is in.
- All stations with nonduplication protection code equal to 0 are counted as distant stations, regardless of what market the county is in.

Share

Station share is the number of households watching a particular station, expressed as a percentage of households watching any station. SHARE is reported separately for each of five time periods, and separately for off-the-air and cable viewers. Shares may not add to 100 because of rounding or because some stations that are watched are not included in the ARB report (notably foreign stations and stations that individually receive very low viewing in the ARB sample).

NWC

Net weekly circulation is the percentage of households (off the air and cable separately) that watch the station at least once a week.

References

Association of Independent Television Stations, Inc.; Caucus for Producers, Writers and Directors; Metromedia, Incorporated; Motion Picture Association of America, Inc.; National Association of Broadcasters; National UHF Broadcasting Association; Screen Actors Guild. *Joint Motion for Revision of Procedures*, FCC Docket 21284, June 22, 1979. (Referred to in text as *Joint Motion*.)

Association of Independent Television Stations, *Comments*, FCC Docket 21284, September 17, 1979.

Charles River Associates, *The Value of Different Day Parts in the Audience Revenue Relationship for Local Television Stations*, Boston, September 28, 1979. (Exhibit A attached to National Association of Broadcasters (1979b).)

47 *Code of Federal Regulations*, Part 76, as amended through 1975. (Referred to in text as *Cable Television Regulations*.)

Federal Communications Commission, *Notice of Inquiry into the Economic Relationship between Television Broadcasting and Cable Television*. Docket No. 21284, Washington, D.C., June 9, 1977.

——, *Report in the Matter of Inquiry into the Economic Relationship between Television Broadcasting and Cable Television*. Docket 21284, Washington, D.C., April 1979.

Fisher, Franklin M., *Comments on the Park Audience-Diversion Model*, June 21, 1979. (Attachment to Association of Independent Television Stations, et al. (1979).)

Fisher, Franklin M., and Victor E. Ferrall, Jr., in association with David Belskey and Bridger M. Mitchell, "Community Antenna Television Systems and Local Television Station Audience," *Quarterly Journal of Economics*, May 1966.

National Association of Broadcasters, *Comments*, FCC Docket 21284, September 17, 1979.

——, *Reply Comments, FCC Docket 21284, October 17, 1979.*

National Cable Television Association, *Comments*, FCC Docket 21284, March 15, 1978.

Park, Rolla Edward, *Audience Diversion Due to Cable Television: A Statistical Analysis of New Data*, The Rand Corporation, R–2403–FCC, April 1979a.

——, *Audience Diversion Due to Cable Television: Data for Response to Industry Comments*, The Rand Corporation, N–1334/1–FCC, November 1979b.

Park, Rolla Edward, *Audience Diversion Due to Cable Television: An Application of Nonlinear, Nondiagonally Weighted Generalized Least Squares*, The Rand Corporation, P–6399, forthcoming.

——, *Prospects for Cable in the 100 Largest Television Markets*, The Rand Corporation, R–875–MF, October 1971. (Also appears in *Bell Journal of Economics and Management Science*, Spring 1972.)

Roger Cooper and Associates, *The Value of an Independent Television Station's Audience, by Broad Day-Parts*, undated. (Exhibit 3 attached to Association of Independent Television Stations (1979).)

Schink, George R., *Wharton EFA's Reply to FCC Critique of NAB–WEFA Study*, 1979. (Exhibit H attached to National Association of Broadcasters (1979a).)

Schink, George R., and Sheela Thanawala, *The Impact of Cable TV on Local Station Audience*, Wharton EFA, Inc., Philadelphia, Pa., March 1978.

Appendix C

A Case Study Analysis of Non-Commercial Television Stations in Grandfathered Markets

1. A separate analysis for non-commercial television stations was performed in the *Report in Docket 21284* because the financial results for these stations were not as readily available to the Commission, as they were for commercial stations and their sources of revenues are different from those of commercial stations. Ideally, we would like to (1) assess the economic viability of non-commercial stations by monitoring their revenues and profits over a number of years and (2) determine the impact of cable television on their economic viability. Unfortunately, we were frustrated partially in attempting to achieve either of these objectives, in part, because non-commercial stations do not routinely report their financial results to the Commission. Furthermore, not one non-commercial television station has offered us any financial data in this proceeding concerning its economic viability. Finally, we also suffer from a lack of a sound theoretical and/or empirical basis from which to determine or assess factors influencing the amount of money or the value of goods that viewers contribute to non-commercial television stations. This is true because a reduction in the number of viewing hours of non-commercial stations does not imply necessarily a reduction in viewer contributions or revenues for these stations, as it does for commercial stations. Faced with these limitations, we restricted our study of non-commercial stations to an analysis of station audience, including that of net weekly circulation audience. Overall audience trends for non-commercial

stations over the past five years were monitored. Additionally, the impact of cable television on the audiences of these stations was estimated. While we were aware that viewer contributions are only one of several sources of revenue for non-commercial stations, we felt that for cable television to threaten the economic viability of these stations, it must *at least* divert a significant amount of audience from these stations.[1]

2. Before proceeding, we note that we were able to uncover only three scholarly studies of the effect of cable television on non-commercial stations. The Carnegie Commission on the Future of Public Broadcasting reports that "by enhancing reception of television signals, and through the importation of out-of-town signals, CATV can assist in extending public broadcasting service to the public." [2] The second study by Avery, Long, and Traudt concludes that "cable subscribers are as likely, if not more so, as non-cable viewers to make voluntary contributions to their local public television stations."[3] [4] It should be noted that not one comment in this proceeding has produced any definitive findings of the effect of cable television on non-commercial television stations. Although Donald E. Agostino, in a study funded by the Corporation of Public Broadcasting, found that cable television caused "only very slight fractionization of the audience," he concludes that the impact of cable television merits further investigations.[5]

3. Our study examined seventeen non-commercial television stations in fourteen markets. Three of these markets were studied in the "Grandfathered Market Analysis" of commercial stations in the *Report in Docket 21284*. The other eleven markets, containing fourteen non-commercial station, were chosen because they also are characterized by high cable penetration, at least 30 percent in 1972, and a large number of imported signals. Our conclusion from studying these cases was that whatever adverse effect cable may have had on these stations' audiences, it generally has not been large enough to offset other factors contributing to their audience growth. Of particular significance, we found that cable television often provides audience gains to both VHF and UHF non-commercial stations within their local service area because of improvement in signal reception. It is important to note that these gains are realized by stations facing substantial competition from cable television because of extraordinarily high marketwide cable penetration and the large number of distant signals imported by the cable systems.

4. The Commission's analysis of the effect of distant signals on non-commercial television stations has been found to be unacceptable by several parties. For example, the National Association of Educational Broadcasters (NAEB) claims that there is not "the slightest indication that the Commission has more than minimally examined the effect of the deletion of its distant signal carriage and syndicated exclusivity restrictions upon public broadcasters."[6] Additionally, the Joint Motion contends that "the effect of the FCC's proposed action with respect to distant signals on non-commercial (ETV) stations is virtually ignored."[7] We disagree with these assessments. In addition to searching the literature for scholarly research and carefully examining the comments in this and in other proceedings before the Commission [8], we prepared a detailed report on the effect of distant signals on non-commercial stations which included 85 pages of economic data and analysis.[9] We believe that terms such as "virtually ignored" or "minimally examined" certainly cannot be used to describe accurately our procedure for analyzing the effect of distant signals on non-commercial stations.

5. We have directed our analysis specifically to assess the possible effect of changes in our existing rules.[10] For example, the sample for our study of non-commercial stations was chosen to include local non-commercial stations operating in markets with high cable penetration and a large number of distant commercial signals.[11] However, this is not to say, as the Joint Comments allege, that "the study fails to examine the audience impact of importation of distant non-commercial stations on the local public broadcast service." [12] Five stations in our sample also faced additional competition from the importation of distant non-commercial signals. Any negative effect of cable on these stations' audiences was found to be minimal. Therefore, while several parties found the results for these stations to be inconclusive, we disagree with these assessments. For example, the NAEB finds "the data gathered in the remaining six [sic] markets [into which distant non-commercial stations were imported] yield no positive conclusions concerning the effect of distant signal importation. Two of the markets studied showed apparent gains in "rating" and "share," two markets showed a loss in "rating" and "share," while data were unavailable in the other two markets." [13] However, the facts in our *Report* demonstrate that all five stations which face additional competition from distant non-commercial stations received gains in their NWC audience from cable television.[14] [15] Furthermore, to produce meaningful conclusions, the study is not required to show only audience gains or losses to non-commercial stations from cable television, but to identify the effect, if any, of cable television on these stations' ability to serve the

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[1] In fact, only about 15 percent of the support for public stations comes directly from television viewers as individuals.

[2] The Carnegie Commission on the Future of Public Broadcasting, *A Public Trust*, 366–367 (1979).

[3] R.K. Avery, J.F. Long, and P.J. Traudt of the Department of Communications, University of Utah, "The Effect of CATV on Awareness and Local Financial Support of a Public Television Station," March 1978, prepared for the Corporation for Public Broadcasting.

[4] We note that one party in this proceeding, Joint Comments of Nine Non-commerical Television Broadcast Stations, criticize the results of the study by Avery, Long and Traudt. This party claims that cable subscribers, having greater disposable income, tend to be the very viewers on whom public television depends most heavily for relatively large voluntary contributions. Having no data on this point, we will not attempt to estimate the validity of the criticism, nor the potential effect of this criticism, if it is valid, on the outcome of the study.

[5] *See* Donald E. Agostino, "The Cable Subscribers Viewing of Public Television: A Comparison of Public Television Use Between Broadcast Viewers and Cable Subscribers Within Selected Markets," February 1978. *See also* Agostino, Comments on Studies of the Impact of Cable Television on Audience Shares, Docket 21284, February 8, 1978.

[6] The National Association of Educational Broadcasters, Comments, Docket 21284, September 17, 1979.

[7] Association of Independent Television Stations, Inc., *et al.*, Joint Motion for Revision of Procedures, Docket 21284, June 22, 1979 at 26.

[8] We have processed numerous petitions for special relief from the cable carriage of distant non-commercial stations. *See, e.g., Cablevision Systems* 70 FCC 2d 1931 (1979).

[9] *See* Appendix C, *Report in Docket 21284.*

[10] Our rules specify that cable systems may carry any non-commercial station, in the absence of objection filed pursuant to Section 76.7 (i.e. provision for special relief) by any local non-commercial educational station or state or local educational television authority.

[11] We do not isolate specifically the effect of our syndicated exclusivity rules in the analysis of non-commercial stations because the vast majority of stations in our sample do not operate in markets receiving this protection to any significant degree. Moreover, non-commercial stations themselves exercise no rights under these rules.

[12] Joint Comments, *supra*, at n. 9, at 4.

[13] *Supra* at n. 5, at 9.

[14] For a discussion of why net weekly circulation is a more appropriate measure of the impact of cable television on non-commercial stations than "ratings" or "share," *see, e.g.*, the Comments of the Public Broadcasting Service in this proceeding, dated March 15, 1978.

[15] We have been assuming, in the special relief context, that the percentage NWC of the local non-commercial station would be reduced by 50 percent in cable households by the importation of one distant non-commercial station. *See. e.g. Norman Cable* 67 FCC 2d 1084 (1978). The evidence uncovered in this proceeding demonstrates clearly that this assumption was invalid.

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public. The overall increases in audiences that these stations generally receive, irrespective of the impact of cable television, suggests strongly that their ability to serve the public is not threatened by cable television. For instance, the largest audience loss attributable to cable for *any* station in our sample of non-commercial stations (whether or not they compete against distant non-commercial stations) is between 11 and 15 percent (depending on whether share or rating data are employed). Yet, this station has realized a 20 percent overall gain in its average 9 AM–Midnight audience over the past five years and a 110 percent increase in NWC audience over the same period. Therefore, we find that there is no indication that the service provided by local non-commercial stations is affected adversely by cable television, even in cases where distant non-commercial stations are imported.

6. NAEB also finds that "the study of non-commercial licensees measures only audience impact and not economic viability, which the Commission acknowledges is the fundamental concern of a licensee." [16] Additionally, the Joint Comments claim that "increased cable penetration is likely to decrease the absolute amounts of voluntary contributions from viewers * * * which will likely be in greater than linear relationships to increases in cable subscribership." [17] Viewer contributions are only one of several sources of revenue for non-commercial stations. In this respect public television stations are somewhat protected from whatever impacts might result from changes in contribution patterns resulting from the growth of cable television operations. For example, membership contributions and auctions accounted for only 15% of the revenues derived by public television licensees in 1976.[18] We are aware that governmental contributions under the Public Broadcasting Financing Act of 1975 and in some other situations are tied to viewer contributions. We find, however, no reason or evidence to suggest that viewer contributions to local non-commercial stations will decrease because of the importation of distant signals. Thus our analysis of audience suggests that the economic viability of non-commercial stations is not threatened by cable television. In any case, governmental funding formulas are not irrevocable and are subject to change over time. We see no reasons why governmental funding of public television would decrease because the programming from these stations is made more widely available through cable television carriage. In fact, the federal contribution to public television has increased markedly over the past decade.

7. The Joint Comments also contend that "since the value of the study depends on its data being typical, the failure to specify how the markets were selected is a serious problem that calls into question the validity of any generalization based solely on these markets." [19] We must emphasize that not only is our sample not chosen to be typical, but its value is enhanced exceedingly by the fact that it is atypical. The markets selected represent cases where there are extraordinarily high levels of cable penetration and a large number of distant signals. The sample includes the three markets of the "Grandfathered Market Analysis" which contain non-commercial stations, and all other markets with at least 30 percent cable penetration in 1972 that contain a local non-commercial station. If distant signals are to affect adversely the service provided by local non-commercial stations, it is in these markets where the effect will be seen. If there is no adverse effect in these markets, it is extremely unlikely that there will be an adverse effect from distant signals in other markets. The markets selected provide an excellent indication of the effect of cable in an unregulated market.

8. There also are several specific criticisms raised in the comments concerning our analysis of non-commercial stations. For example, the Joint Motion specifies three instances of typographical errors and also questions the use of audience figures of less than one percent. It contends that "errors of this type indicate a lack of precision that may prejudice the significance of all data reported in this Appendix, as well as the conclusions reached by the staff." [20] This contention is unfounded. For example, the computation of audience ratings below 1 percent for individual counties (rather than rounding to zero) increases the precision of the results by making use of all available viewing data for non-commercial stations. The Joint Motion interprets mistakenly our calculations for station ratings in individual counties (which turn out to be less than one percent) to be " 'symbol[s]' used by the rating services to indicate an audience level 'below minimum standards' ".[21] However, these figures are not "symbols" provided by the rating services but rather are actual viewing statistics for individual stations that are derived from our multiplication of county rating (i.e., the average percentage of homes using television in a county) by each individual station's share of total viewing in that county. Arbitron does not provide individual station ratings by county. Hence, our calculations increase the precision of the reported audience estimates. Additionally, while there are some typographical errors in the study, there is no confusion possible concerning the correct identification of the stations to which the errors apply. The correct classification of all three stations in question is highlighted both in the keynote summary table (Table I, Appendix C) and at the start of the analysis for each specific case (Item 1.A). Hence, these typographical errors are of no consequence to the conclusions reached in the *Report*.

9. The Joint Comments claims "that [a] close look [at the Yakima market] shows the study to be totally unreliable." [22] The major criticism here is that the impact from cable is analyzed and averaged over the entire ADI, rather than analyzed only for those counties which are close to the principal city of the licensee. Additionally, the parties note that the study includes no data for Yakima county, which is part of the ADI. Before addressing these comments, it should be noted that Arbitron Television does not provide viewing data for cable and non-cable households in counties where less than 10 percent of the television households subscribe to cable television. Where data are not available for a county, we extrapolate the average viewer behavior of cable subscribers in the entire market for whom data are available to the cable subscribers that are not otherwise represented in the impact measurements. In the Yakima market, extrapolation is required for only 5 percent of the total number of cable subscribers. We estimate the effect of cable on local station audiences over the entire ADI because this is the area in which the local television stations receive a preponderance of viewing. The study is designed to provide a reliable and accurate indication of the impact of cable television on local non-commercial station audiences in an essentially unregulated market. Thus, we view the criticisms raised by the Joint Comments to be without validity.

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[16] *Supra* at n. 5 at 9.

[17] *Supra* at n. 9 at 4.

[18] The Public Broadcasting Service, Comments, Docket 21284, March 15, 1978, Appendix A, Table 4.

[19] *Supra* at n. 9 at 7.

[20] *Supra* at n. 6, at 29.

[21] *Id.* at 29.

[22] *Supra* at n. 9 at 5.

10. The Joint Comments also question which systems were considered "major" and what proportion of the cable homes within a market had to receive the distant signals over cable before those signals were counted as available on cable in that market. The answer is that we selected all cable systems that served principal cities in the television markets. In this way, we are certain that at least a majority of the cable subscribers in a market have access to the signals that are listed as available on cable in that market.

11. Finally, the Joint Comments claim that other factors such as increases in UHF receiver penetration and increases in radiated power and antenna height cannot act to offset the adverse impact of cable indefinitely. The belief is that "with lower if not truly zero population growth, particularly in certain areas of the country, secular growth in the number of homes served by particular public stations will stop if not actually decline at some point." [23] It should be noted, however, that only three of the seventeen stations analyzed operate at maximum radiated power. Other factors which can also serve to increase both station audience and viewer contributions include marketing techniques such as revised program schedules. Finally, the Census Bureau predicts that population will continue to increase throughout this decade. Thus, we believe that factors leading to the overall audience growth of non-commercial stations generally will continue to offset any losses attributable to cable television into the foreseeable future.

12. In conclusion, we find that the criticisms of our analysis do not disprove our conclusion that the effect of distant signals on local non-commercial audience is minimal. Cable television usually increases the net weekly circulation of local non-commercial stations even in markets with extraordinarily high cable penetration and a large number of distant signals. In cases where there is some diversion of audience due to cable, these losses usually are more than offset by other factors which act to increase station audiences and audience size is not the sole determinant of revenues for non-commercial stations.

13. Existing rules do not limit the number of distant non-commercial educational television stations that a cable system may carry except when there is objection to such carriage by local educational stations. In those instances where there is an objection, the Commission attempts to determine, on the basis of the facts presented, whether the viewing public in the area would in fact be injured by the signal carriage proposed. [24] This relatively unrestricted carriage was authorized because, in the Commission's view, in the absence of objection, "the widest possible dissemination of educational and public television programming is clearly of public benefit and should not be restricted." [25]

14. Although there are many differences between the commercial and public stations relating to possible impacts resulting from cable distant signal carriage, we do not believe these weigh in favor of more restrictive regulation with respect to carriage of public stations. Rather, we believe that the policy of encouraging the widest possible dissemination of public television station programming should be further encouraged by a liberalization of our rules which act to restrict carriage of non-commercial stations in markets where objections are filed.

15. Because these stations are so heavily dependent on tax revenues, it seems to us that we should be especially cautious in denying citizens as much access to their output as possible. Although perhaps ultimately justifiable if necessary for the preservation of the public television system itself, it is anomalous for government, and particularly the federal government, to contribute toward the creation of a system of public television as an alternative source of diverse programming to that supplied by the commercial stations while at the same time restricting the public's access to additional sources of the programming created by the system. In recent years the public resources made available to public broadcasting have been greatly expanded [26] and while strong arguments can be made that even greater funding is necessary, [27] it seems to us that the free flow of information from this system is fundamentally desirable and that it is unlikely that cable television operations will sharply impact on public contributions to local stations, and highly unlikely that overall revenues will be significantly affected.

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[23] *Id.* at 10.

[24] For a discussion of the application of the existing rules see *Public Cable Co.* 64 FCC 2d 701 (1977), *aff'd sub nom. Colby-Bates-Bowdoin Educational Telecasting Corp. v. FCC.* 574 F. 2d 639 (1st Cir. 1978).

[25] *Cable Television Report and Order, supra,* at paragraph 95.

[26] The federal contribution, for example, increased 293% from 1970 to 1977.

[27] See *A Public Trust, the Report of the Carnegie Commission on the Future of Public Broadcasting* (1979).

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APPENDIX D

STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
WBZ (N,V) Boston, MA	6	3N,3I,4E	7	10	179	185	3			49			41
WCVB (A,V) Boston, MA	6	3N,3I,4E	7	10	145	175	21			91			268
WNAC (C,V) Boston, MA	6	3N,3I,4E	7	10	158	146	(8)			41			35
WXNE (I,U) Boston, MA	6	3N,3I,4E	7	10		9							
WSBK (I, U) Boston, Ma	6	3N,3I,4E	7	10	50	56	12			186			297
WLVI (I,U) Boston, MA	6	3N,3I,4E	7	10	39	52	33			158			(-)to(+)
BOSTON MKT. Boston, MA	6	3N,3I,4E	7	10	581	623	7	58,167	104,048	79	19,492	39,531	103
KTCM (N/A,V) Helena, MT	210	1N	41	42	1	2	100			199			50
KCRG(A,V) Cedar Rapid, IA	70	4N, 2E	7	9	22	32	45			120			85
WREX (A,V) Rockford, IL	100	3N	14	37	23	22	(4)			68			123
KODE (A,V) Joplin, MO	113	3N	20	26	18	21	17			55			109
WEHT(C,U) Evansville, IN	87	3N, 2E	7	17	21	20	(5)			139			(-)to(+)
KHQ (N,V) Spokane, WA	75	3N, 3E	20	23	31	36	16			121			724
WBTV (C,V) Charlotte, NC	34	3N,2I,4E	8	8	81	82	1			89			70
WWBT (N,V) Richmond, VA	56	4N, 3E	11	9	32	32	0			80			100
KTVE (A,V) Eldorado, AR	106	3N, 1E	16	21	12	14	17			77			33

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
WALB (N/A,V) Albany, GA	150	1N	20	30	29	31	7			80			116
WJHG(A,V)Panama City, FL	178	2N	25	26	9	14	56			33			(9)
KLTV (A/N,V) Tyler, TX	158	1N	42	47	14	19	36			88			139
WBTW(C/A,V) Florence SC	158	1N, 1E	23	28	26	28	8			94			123
KCMT(N/A,V)Alexandria, MN	152	1N, 1E	28	25	25	29	16			110			343
WWNY (C/A,V) Watertown, NY	164	1N, 2E	38	40	16	15	(6)			43			44
WDAM(N,V) Laurel, MS Hattiesburg MS	167	1N	21	21	17	18	6			108			170
KALB(N/A,V), Alex., LA	171	1N	28	37	21	19	(10)			61			37
KAIT(A,V)Jonesboro, AR	172	1N, 2E	22	29	11	17	55			128			215
KPLC (N,V) Lake Charles, LA	173	1N	12	30	11	17	55			117			160
KYCU (C/A/N/V) Cheyenne, WY	176	1N	35	47	14	13	(7)			101			89
WLUC (C/A/N,V) Marquette, MI	178	1N, 1E	48	52	16	17	6			80			157
KECC (C,V) El Centro, CA	184	2N	76	61	2	2	0			50			(-)to(-)
WLOX (A,V) Biloxi-Gulf Port, MS	183	1N, 1E	35	65	10	18	80			148			207

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
KQTV(A,V)St. Joseph, MO	181	1N	28	46	14	12	(14)			105			204
KMVT (N/A/C, V) Twin Falls, ID	195	1N	57	39	7	6	(14)			93			133
KEYC (C,V) Mankato, MN	186	1N	46	35	13	11	(15)			116			275
WABG (A,V) Greenwood Greenville, MS	192	1N, 1E	35	40	11	15	36			74			(3)
WBBJ (A,V) Jackson, TN	190	1N, 1E	29	33	10	15	50			111			75
KREX (C/A/N,V) Grand Junction CO	188	1N	36	41	5	7	40			98			124
WHSV(A,V)Harrisburg, VA	199	1N	21	31	10	11	10			65			394
KVOS(C,V)Bellingham, WA	197	1N	38	48	8	4	(50)			(25)			(77)
WBKO (A,V) Bowling Green, KY	198	1N, 1E		7	6	12	50			81			140
KTVO(A,V)Ottumwa, IA	202	1N	19	26	14	14	0			84			191
WAGM (C/A/N,V) Presque Isle, ME	201	IN, 1E	39	37	6	7	17			84			212
WSLA(C,V) Selma, AL	208	IN		38	3/	4				1829			(-)to(+)
KIVA (N,V) Farmington, NM	205	1N	46	48	1	3	200			92			(-)to(+)

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
KOAI (N,V) Flagstaff, AZ	207	1N	73	55	4	4	0			57			(11)
KNOP (N,V) North Platte, NE	209	1N, 1E	21	26	4	5	25			105			184
WBKB (C,V) Alpena, MI	211	1N, 1E		53	1/	3							
KYUS (N,V) Miles City, MT	212	2N	55	59	NA	NA	NA			76			11
WIBW (C/A,V) Topeka, KS	131	2N, 1E	23	28	28	25	(11)			78			124
KTSB (N,U) Topeka, KS	131	2N, 1E	23	28	8	10	25			154			(-)to(+)
WMAZ (C/A,V) Macon, GA	147	2N, 1E	33	40	29	28	(3)			98			150
WCWB (N, U) Macon, GA	147	2N, 1E	33	40	4	8	100			131			4829
WKTV (N,V) Utica, NY	151	2N	49	48	19	18	(5)			57			30
WUTR (N,U) Utica, NY	151	2N	49	48	5	8	60			136			(-)to(-)
WCTV (C,V) Tallahassee, FL	140	2N, 2E	27	30	28	31	11			66			60
WECA (A, U) Tallahassee, FL	140	2N, 2E	27	30	1/	6							
WTVY (C,V) Dothan AL	157	2N	21	20	24	22	(8)			114			171

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
WDHN (A,U) Dothan, AL	157	2N	21	20	3	3	0			72			18
WTOK (C/A, V) Meridian, MS	169	2N, 2E	21	26	18	20	11			76			135
WHTV (N/A,V) Meridian, MS	169	2N, 2E	21	26	3/	2	NA			2206			(-)to(+)
WFTV (A.V) Orlando, FL	40	3N, 1E	21	26	37	62	68			164			541
WBOC (C/A/N, U) Salisbury, MD	168	1N, 1E	46	58	12	14	17			78			74
WBNS (C,V) Columbus, OH	32	3N, 1E	9	25	79	77	(3)			91			139
WTHR (A,V) Indianapolis, IN	20	3N,2I,3E	11	16	61	71	16			98			195
KBHK (I,U) San Fran. CA	5	3N,8I,3E	20	30	35	45	29			247			(-)to(+)
WFLD (I,U) Chicago, IL	3	3N,5I,2E	2	3	55	120	118			130			(-)to(+)
WKBD (I,U) Detroit, MI	7	3N,3I,1E,1C	1	2	66	90	36			114			271
WKBS (I,U) Philadelphia PA	4	4N,9I,4E	15	17	62	61	(2)			167			2250
WCFT (C,U) Tuscaloosa, AL	189	1N	31	40	3	5	67			127			228
KYFL (N,V) Yuma, AZ	184	2N	76	61	3	5	67			162			(+)to(-)

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
WTVC (A,V) Chattanooga, TN	73	3N,1I,2E	7	11	30	36	20			128			227
WTVM (A,V) Columbus, GA	121	3N, 3E	18	30	28	30	7			61			79
WTVW (A,V) Evansville, IN	87	3N, 2E	7	17	28	31	11			89			153
KCBJ (A,U) Columbia, MO	139	3N	19	23	4	8	100			173			92
Billings, Mont, Market	161	2N	34	35	17	18	6			124			203
Casper/Riverton, WY	178	2N	42	55	12	11	(8)			136			235
Cheyenne, Wyoming	176	1N, (2S)	35	47	14	13	(7)			101			89
Grand Junction, Colorado	188	1N, (2S)	36	41	7	11	57			98			124
Great Falls, Montana	175	2N	30	35	16	17	6			69			155
Helena, Montana	210	1N	41	42	1	2	100			199			50
Idaho Falls, Idaho	163	3N, 1E	27	28	20	26	30	1,506	3,294	119	291	478	64
Miles City/Glendive, MT	212	2N	55	59	1	1	0			110			196
Missoula/Butte, MT	153	2N, (3S)	39	39	23	25	9			105			193
Rapid City, SD	166	2N,3E,(4S)	31	33	18	24	33			116			160
Twin Falls, Idaho	195	1N	57	39	7	6	(14)			93			133

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
KRGV (A,V) McAllen-Brownsville, TX	138	2N	30	21	13	16	23			330			242
KOMO (A,V) Seattle, WA	18	3N,1I,3E	20	23	93	103	11			123			184
KATU (A,V) Portland, OR	22	4N,1I,3E	12	14	51	72	41			138			297
WUHQ (A,U) Battle Creek, MI	39	4N, 1E	8	21	10	40	300			291			(-)to(+)
WTTV (I,V) Bloomington IN	20	3N,2I,3E	11	16	50	45	(10)			106			95
KTVB (N,V) Boise, ID	141	3N, 1E	6	7	16	17	6			118			332
WHIZ (N/A/C, U) Zanesville, OH	203	1N	54	53	5	7	40			54			80
WTOG (I,U) Tampa-St. Pete, FL	17	4N,1I,2E	10	16	24	44	83			344			699
WSIL (A,V) Harrisburg, IL	76	3N,2E,(1S)	10	18	12	19	58			92			114
KPOB (Satellite) Poplar Bluff, MO	76	3N,2E,(1S)	10	18		Included In WSIL							

Confidential Financial Data Deleted

STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
KTVR (Terminated operations in 1975, facility converted to noncommercial station) Le Grande, OR													
WOR (I,V) New York, NY	1	3N,6I,6E	5	10	105	237	126			45			69
WNEW (I,V) New York, NY	1	3N,6I,6E	5	10	273	412	51			69			102
WPIX (I,V) New York, NY	1	3N,6I,6E	5	10	168	289	72			173			1342
XETV (I,V) San Diego, CA	28	3N,1I,1E	27	37	18	21	17	4/					
KZAZ (I,V) Tucson, AZ	91	3N,1I,1E	10	12	4	5	25			90			(+)to(-)
KTVU(I,V) San Fran. CA	5	3N,8I,3E,	20	30	66	94	424			136			382
KMPH(I,U) Fresno-Tulare,CA	69	3N, 1I	8	8	7	15	114			337			2538
WFFT(I,U) Ft. Wayne, IN	98	3N, 1I	3	11	1/	14							
WHME(I,U)South Bend, IN	78	3N,1I,1E,	4	17	1/	3							

Confidential Financial Data Deleted

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STATIONS AND MARKETS WHERE POTENTIAL HARM IS ALLEGED IN COMMENTS RESPONSIVE TO THE NOTICE IN DOCKETS 20988 AND 21284

Station * /market	mkt #	local** sigs.	1973% catv pen.	1978% catv pen.	1973 9-mid aud. (000s)	1978 9-mid. aud. (000s)	% chg	1973 revs (000's)	1978 revs (000's)	% chg	1973 op. income (000's)	1978 op. income (000's)	% chg
KSTW(I,V)Seattle-Tacoma,WA	18	3N,1I,3E,	20	23	22	44	100			383			(-)to(+)
SAN FRANCISCO, CA	5	3N,8I,3E	20	30	511	613	20	62,337	123,238	98	19,072	48,875	141
WXOW(N,U)LACROSS, WI	126	3N, 1E	30	36	4	6	50			204			217
WBNW(N,V)CHARLOTTE AMALIE, VI										38			120

1/ STATION NOT IN OPERATION IN 1973

2/ SATELLITE STATION INCLUDED

3/ STATION WAS SATELLITE IN 1973; AUDIENCE NOT LISTED

4/ STATION LICENSED IN MEXICO; FINANCIAL DATA NOT AVAIABLE

*CODE
N=NBC
A=ABC
C=CBS
I=INDEP.
V=VHF
U=UHF

**CODE
N=NETWORK STATION
I=INDEPENDENT
E=EDUCATIONAL
C=CANADIAN
S=SATELLITE

Confidential Financial Data Deleted

BILLING CODE 6712-01-C

Appendix E

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 76.5 [Amended]

1. In § 76.5, paragraphs (p), (q), (r), (s), (t), (ii), (jj), and (kk) are deleted.

2. In § 76.7, paragraph (h) is revised to read as follows:

§ 76.7 Special relief.

* * * * *

(h) On a finding that the public interest so requires, the Commission may determine that a system community unit operating or proposing to operate in a community located outside the 48 contiguous states shall comply with the provisions of Subparts D, F, and G of this part in addition to the provisions thereof otherwise applicable.

* * * * *

§ 76.57 [Amended]

3. In § 76.57, paragraphs (c) and (d) are deleted.

4. In § 76.59, paragraphs (d) and (e) are deleted, and paragraphs (b) and (c) are revised to read as follows:

§ 76.59 Provisions for smaller television markets.

* * * * *

(b) In addition to the television broadcast signals carried pursuant to paragraph (a) of this section, any such community unit may carry any additional television signals.

(c) Where the community is located wholly or partially within one of the major television markets listed in § 76.51(a) and also wholly or partially within a smaller television market, the carriage provisions for the major markets shall apply.

5. In § 76.61, paragraphs (c), (d), (e), and (f) are deleted, and the caption, introductory language, and paragraph (b) are revised to read as follows:

§ 76.61 Provisions for the major television markets.

Where a system serves a community that is located in whole or in part within a major television market, that community unit shall carry television broadcast signals only in accordance with the following provisions:

* * * * *

(b) In addition to the television broadcast signals carried pursuant to paragraph (a) of this Section, any such community unit may carry any additional television signals.

* * * * *

§ 76.63 [Removed]

6. Section 76.63 is deleted.

7. In § 76.65, paragraphs (a) and (b) are deleted, the caption is amended, and paragraph (c) is redesignated paragraph (a) and is amended to read as follows:

§ 76.65 Determination of signal contours.

(a) When, for purposes of ascertaining broadcast station rights to cable carriage, reference is made to Grade B contours §§ 76.57(a), 76.59(a), and 76.61(a), such contours shall be the field intensity contours defined in § 73.683(a) of this chapter: *Provided, however,* That such rights as to signals carried or authorized for carriage on or before August 26, 1977, shall be determined by reference to the contour prediction rules adopted in the *Sixth Report and Order in Dockets 8736, 8975, 8976 and 9175,* 41 FCC 148 (1952) as amended by *Report and Order in Docket 17253,* FCC 70–345, 22 FCC 2d 354 (1970).

§§ 76.151–76.161 [Removed]

8. Sections 76.151 through 76.161 are deleted.

§ 76.305 [Amended]

9. In § 76.305, paragraph (a)(5) is deleted.

July 22, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: *Elimination of Cable Distant Signal and Syndicated Exclusivity Rules.*

By today's action, the FCC has removed the regulatory debris of a previous decade; we have thus expanded the choices that consumers will have in the future.

Both restrictions we have struck down today were conceived during a time when regulatory policy was guided by hunch as often as by facts. Unfortunately, our rules have too often served the interests of one industry at the expense of another in the well-intended but mistaken belief that they would therefore serve the communications consumers. In fact, the syndicated exclusivity rules were openly the result of a Commission-ratified compromise struck by various commercial interests without benefit of public scrutiny or comment.

Yet, as we have not confirmed, these rules, when subjected to thorough analysis, lack the slightest hint of justification in terms of the overall interest of television viewers. Cable has not and will not destroy broadcasting, as was once feared. Broadcasting profits have continued to grow at a fast pace, depite cable's rapid expansions. In fact, our staff has found that cable has in many cases improved the profitability of broadcast stations by improving the reception of an otherwise weak UHF signal.

It is also clear that removing the "protection" of exclusivity arrangements will not "destroy" the supply of program materials. This regulatory protection is in fact rarely requested by local broadcasters and would, in any event, provide a small scope of security to a relatively limited number of programs even if they were applied.

The program supply market can now develop undistorted by this artifical regulatory scheme. It will adjust to a new reality where advertising rates will reflect both the distant as well as the local viewer and the value of syndicated rights will account for viewers who can watch programs at times that are more convenient to them.

Today's action results from two changes in the FCC's regulatory approach. First, we are now commited to submitting outdated rules and innovative proposals to rigorous analysis, and to do so with the benefit of expanded public input. We have replaced regulatory intuition with regulatory analysis.

Second, we have rediscovered that the best protection of consumers is gained, not by protecting particular industries, but by increasing consumer choice. Today's action allows cable systems to provide the signals and programs for which their subscribers are willing to pay. By broadening the range of options available to television viewers, we insure that the future development of video services is responsive to their needs and not the dictates of a regulatory body.

We have also rejected a proposal forwarded by the National Telecommunications and Information Administration to substitute for our syndicated exclusivity rules a system of retransmission consent. This proposal has some theoretical appeal, although its practical application would be burdensome and could well prove to frustrate consumer choice more than even our current rules.

Whatever its appeal, however, we are without jurisdiction to implement this proposal. It is clear from the legislative history of the 1976 Copyright Revision Act that Congress considered and rejected such a plan and decided instead to adopt a system of compulsory licensing for cable. In the face of that choice, we cannot adopt a conflicting scheme.

Congress itself provides the proper forum for parties to seek to change the compensation arrangements set forth in the 1976 Act and subsequent actions of the Copyright Royalty Tribunal.

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Dissenting Statement of Commissioner Robert E. Lee in re Cable Television Signal Carriage

Free Lunch

I dissent to authorizing unlimited distant signals for CATV systems without including a syndicated exclusivity provision in the rules or at least a time for adjustment before a change in the exclusivity rules would become effective.

The majority has rationalized this decision by calling it pro-competitive. I disagree. How can this situation be competition? The broadcaster and the program supplier negotiate in the marketplace and establish a market price for the product which includes exclusivity. The CATV system takes the programming without participating in the marketplace and without any regard for the contractual rights of those who have participated. It uses this programming for its own profit.

I recognize that copyright legislation is supposed to be the solution for this problem. With syndicated exclusivity protection in our rules, it may be. As one who lived through the "Consensus Agreement," the development of our 1972 rules, and the Copyright Act, I can assure my colleagues that maintaining syndicated exclusivity was the understanding of all of the participants. It was one of the premises of the copyright legislation.

The majority say that payment for the product one uses to make a profit is not our concern, but it is. A long line of cases starting with *Southwestern Cable* clearly hold that authorizing signal carriage and establishing the ground rules for that carriage from the public interest viewpoint is the essence of the Commission's responsibility regarding CATV.[1] One aspect of our public interest concern, according to several of my colleagues, is fair play in the marketplace.[2] "Diversity" as an end in itself does not justify the Commission's disregard for a fairly functioning marketplace, particularly when that diversity is simply a matter of timing; no programming will be excluded.

I do recognize that times change and that the participants in the marketplace must adjust to change. I simply do not think that, on a warm day in July, the Commission should instantaneously change all of the ground rules governing the functioning of this marketplace and leave the participants without any time to adjust. Instead, I would have preferred to see the Commission authorize distant signals and phase out the syndicated exclusivity protection. The wiser and fairer decision in this proceeding would have been to provide a date certain in the future for the end of syndicated exclusivity protection. With knowledge of what our rules will be and of the period of time for adjustment, the parties could then renegotiate their contracts, settle the copyright issue, and establish a new marketplace environment that includes all of the participants. By allowing this period of adjustment, the Commission could extricate itself from its concerns about distant signal carriage without leaving chaos in the wake of its decision.

Because the Commission has chosen to upset the marketplace without providing for any reasonable period of adjustment, I dissent.

Dissenting Statement of FCC Commissioner James H. Quello in re Report and Order in Docket 20988 (Syndicated Exclusivity) and Docket 21284 (Distant Signal Carriage)

Over the past years in office I have more than supported cable deregulation—I have advocated it. I actively supported: the removal of the leapfrogging rules and the feature film restrictions, the waiver for the ARTEC cable system in Arlington, the deregulation of earth stations, the exemptions for smaller systems, stabilization of franchise fees and a host of other measures that I believed—and continue to believe—advanced the development of cable.

However, I strongly believe that elimination of syndicated exclusivity is inequitable, not needed, not wanted by a significant number of cable TV owners and operators, and is counter to long-term public interest.

I have dissented to the Report and Order in its entirety in order to honor specific requests from the Chairman of the Committee which deals with copyright, the upcoming Chairman of the Commerce Committee, and a number of other interested Congressmen and Senators, all of whom have urged that this Commission, before undertaking any significant revision of the distant signal restrictions or syndicated exclusivity rules, should first coordinate such steps with appropriate committees in the Congress.

Congressional leaders most involved with communications and copyright specifically requested that the FCC defer action until after the Copyright Royalty Tribunal review in September 1980. Among those writing were Congressman Robert W. Kastenmeier, Chairman of the subcommittee with copyright responsibility and oversight, and Congressman John Dingell, upcoming Chairman of the House Interstate and Foreign Commerce Committee. Four key members of the Judiciary Committee, Congressmen Moorhead, Railsback, Swift and Sawyer in a jointly signed letter stated:

> We know that Congressman Kastenmeier, Chairman of the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, stated in his March 13 letter to you on this subject, a willingness for his subcommittee to review the need for legislation in this area in the next Congress. He also stressed the importance of allowing the Tribunal the opportunity to complete its first full years of duties without changing the environment within which the affected industries must function. We would like to join in urging that the Commission postpone any significant revision of the syndicated exclusivity and distant signal rules until Congress has had the opportunity to revisit this issue with the benefit of the results of the Tribunal's first recommendations.

Other Congressional leaders who wrote letters urging deferring action were Senators Birch Bayh and Don Riegle and Congressmen Danielson and Mazzoli. I agree with their expressed concern that precipitate action could upset the delicate balance of the copyright and communications policies under the 1976 Copyright Act. The action of the majority in adopting the Report and Order flaunts the requests of these concerned congressional interests.

Aside from congressional warnings, I would have urged the retention of the syndicated exclusivity rule but would have been willing to eliminate those rules limiting distant signal importation by cable systems. As to the matter of retransmission consent, I would prefer to reserve judgment as to the legality of such requirement as well as the advisability in light of the 1976 Copyright Act.

However, I am uncomfortable with the concept of expropriating a valuable property—a television program—with neither consent from nor compensation to the owner of that property. Although the Copyright Act of 1976 purported to deal with this problem, it is widely conceded that it has utterly failed to do so in any meaningful way. My second concern is the total disregard by the majority of the contract rights of both syndicators and broadcasters and the consequences of that disregard. Where the majority tends to view the importation of syndicated programs as some kind of free lunch for viewers, experience has taught me that there is no free lunch. Producers of programs must have incentives and the virtual total loss of control of their productions after the initial sale to a broadcaster goes a long way toward eliminating the necessary incentives and creating a condition of program anarchy.

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[1] The *HBO* and *NARUC II* cases referenced by the majority deal with Commission restraints on the nonbroadcast services of CATV and, thus, have no bearing on this situation. The courts objected to FCC restrictions on CATV activities which really were competitive.

[2] Carriage of signals without any accommodation of the exclusivity rights of the broadcasters and program suppliers reminds me of the current problem pay programmers are having with the theft of their signals. My colleagues have been outraged by that situation. I don't see how this is different.

Companies in both cable and broadcasting with a larger future stake in cable rather than broadcasting urge the retention of syndicated exclusivity (Storer, Cox, GE, etc.).

The Commission's Economic Report relied upon by the majority has received widespread criticism on methodology and objectivity. Statements in the Storer filing in response to the Notice of Proposed Rulemaking are particularly significant.

> The Report's chief defect is that the outside economists retained to prepare them had previously and publicly prejudged the questions they were retained to study. In consequence their conclusions were merely expectable and can be described, at best, as seriously flawed and negligently so. This assessment is harsh but plainly correct: the Reports pick and choose among the record materials, favoring those which support the "desired" conclusions while discounting, distorting, or even ignoring those which do not. An NCTA submission on impact was accepted uncritically while a NAB submission (the Wharton Study) was not. Two Cooper studies on behalf of INTV were not even discussed in the Report; nor was the study by Professor Fisher of MIT or ABC's smaller market study.
>
> Even the Broadcast Bureau's telling critique of the economic analyses was largely ignored. Significantly, the Bureau had pointed out that they lacked analytical depth, failed to use current data, and should have employed a "more balanced appraisal."
>
> Not content with elevating selective analysis to an art form, the economists also ignored completely the question of impact during fringe time—the period of cable's greatest impact and independent television's greatest vulnerability. Moreover, they dealt with "average audience losses" in a way which recalls the six-footer drowning in a lake with an "average" depth of only three feet. The *Park* study had projected audience losses of 41% and 30% in single-station and two-station markets below the top 100, respectively, but the Economic Inquiry Report concludes that "in all but the most extreme cases the additional audience loss will be less than 10 percent in the foreseeable future." (Par. 117). The "averaging" process, of course, shrouds the true and devastating impact on at least 50 single-station markets subject to Park's predicted 41% audience diversion.
>
> In short, the economic "analyses" are objective only in the same sense that PLO might objectively analyze the Egyptian-Israeli peace treaty. And this would be apparent to a reviewing court which, although not permitted to substitute its policy judgment for that of the agency, can and does require that the agency base its rulings on a coherent record.

If a study or any evidence indicated that they syndicated exclusivity rule imposed a significant burden hampering the growth and development of cable television, I would carefully weight that factor. To the contrary, the current pace of cable growth is exploding! Broadcasters are in an almost desperate rush to get into the business.

Also, if it could be shown that the public stood to gain more than it will lose through abandonment of the rule, my choice would be clear; the public must be served. Arguments extolling the virtues of "time diversity" notwithstanding, we are abandoning an incentive for true diversity of programming—the production and distribution of programming not now available. We are simply providing more conduits for recirculation of the same material over and over again. I believe we can do better in promoting the public interest than assuring the presentation of "Bonanza" at all hours of the day and night.

During the Commission's deliberation of this issue, I considered a possible moratorium on abandonment of the rule. This course seemed attractive at first glance because it would protect existing syndication contracts for a period of time. However, I could not reconcile my fundamental concern about the inequity of unbridled use of a product by some entity which neither produced it nor purchased its use.

The Congress has recognized that the existing Copyright Law is flawed. As mentioned before, leading members of Congress who are most responsible for eliminating these flaws have asked the Commission to postpone action on both syndicated exclusivity protection and unlimited signal carriage until the Congress and the Copyright Tribunal have more opportunity to deal with the problems. I fail to understand why—despite those reasonable entreaties—the majority felt constrained to move with such unseemly haste.

Finally, I note that the television industry today is generally prospering quite admirably, and cable television continues to expand by leaps and bounds. Cable with all types of program and pay products available is now viable for major markets. It is a very desirable additional service to those consumers who can afford to pay a monthly fee. It is not a boon to the poor in the ghettos who must rely on a TV service free of additional financial requirements. I believe there is a vital public interest in both preserving a free TV service to the consumer and yet encouraging a diversified pay service to those who can afford a monthly fee. The viewing public today has the present advantage of program diversity in various forms with more options assured for the future. It seems to me that this Commission in its efforts to readjust public interest benefits must not take out of one and put into the other until the scales are completely unbalanced. In my opinion, the long-term public interest considerations in retaining syndicated exclusivity requirements are more persuasive than those elusive benefits proclaimed by the majority in the Report and Order.

I dissent to adoption of the Report and Order.

Dissenting Statement of Commissioner Abbott Washburn re Distant Signal and Syndicated Program Exclusivity Rules

Instead of acting in today's premature fashion to eliminate, posthaste, the distant signal and syndicated exclusivity rules, a more judicious approach on the part of the Commission would have been to conduct an oral argument before making final determination. The record of these proceedings is voluminous and the report itself, with accompanying appendices, exceeds 500 pages. Still, even after reviewing the record, questions persist which it would have been useful to have heard addressed by the parties before the Commission. An oral argument with give-and-take from the bench would also have given us helpful new insights into the issues.

Now, in my view, is *not* the time for the Commission to be changing the ground rules under which the 1976 Copyright Act was drafted. Congressman Kastenmeier, Chairman of the Judiciary Subcommittee, has written us, saying:

> The 1976 Copyright Act was written against the backdrop of existing communications law and regulations. * * * It is impossible to completely separate copyright law and communications policy as the Copyright Act of 1976 is now written. Therefore, I would urge the Commission to delay taking any action which would disturb the delicate balance of copyright and communications policy until the Copyright Royalty Tribunal has been given an opportunity to carry out its 1980 review and Congress is in a position to respond, if necessary.

It's all very well to say, as the item does, that this is not our business—that we're not responsible, Congress is. But meanwhile there are basic inequities here, inequities which some cable industry spokesmen themselves recognize. Cable is going through the

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revolving door on the other fellow's push. We at the FCC, in my judgment, cannot just blind our eyes to these inequities—for they have a bearing on how the communications facilities are used "in the public interest," and that's our business under the 1934 Act.

In May, at the National Cable Television Association convention, Congressman Van Deerlin, Chairman of the Subcommittee on Communications, stated that the Copyright Tribunal is not working, and predicted that "sooner rather than later, Congress will have to revise copyright policy for the cable television industry."

So Congress is doing some re-thinking. The Royalty Tribunal has not had adequate opportunity to function, and to complete its first five-year review required by the Copyright Act. Chairman Kastenmeier, Senator Riegel, Congressman Dingle and other Members of the House and Senate have urgently requested us not to act precipitously. Is this a good time, therefore, to change the ground rules? No, it is a *bad* time; and I can see no real reason for our racing to such action. As Chairman Kastenmeier in his March 13 letter to Chairman Ferris on the proposal to deregulate cable said: "We did not contemplate such a sweeping change in the regulatory structure when we drafted Pub. L. 94-533."

Contrary to the language of the Opinion and Order, the studies upon which today's action relies are *not* conclusive. For example, the item goes to great lengths to minimize the probable impact on TV stations of the elimination of syndicated exclusivity. But there is little evidence to support this contention in situations where cable penetration is 40 to 50% of TV households in a community. This cannot but have a serious diluting effect on the viewership of the local station. Many eyeballs will shift to the other signals. How many? No one knows. Yet the cable industry is predicting future market penetrations on this order of magnitude.

Finally, I am very concerned by the action of the majority in deleting the exclusivity rules without providing a transition period for those who entered into contracts in good faith reliance on our rules. These parties will now be prejudiced through no fault of their own, a result which is unjust and unfair. Instead, I would have preferred to have provided for a reasonable period of time in which existing contracts, entered into in reliance on our rules, would have remained in effect. To this end, I offered an unsuccessful motion to include language in the Order that would have provided a grace period of up to three years for the orderly phasing out of existing contracts. This would also have given the Congress needed time in which to make necessary adjustments to the Copyright Act.

In summary, I must dissent to this unnecessary and ill-timed deletion of the rules, an action which unfairly and immediately voids legal contracts made in good faith on the basis of our rules.

Separate Statement of Commissioner Joseph R. Fogarty in re Report and Order in Docket 20988 and 21284—Cable Television Syndicated Exclusivity and Signal Carriage Rules

At the commencement of this rule making proceeding,[1] I stated that the Commission's existing cable television rules and policies "assumed harm to the public interest before it materialized and placed a heavy burden of proof on new technology and additional services to show that they would not injure the status quo," and that "this regulatory approach and policy has been misguided from the standpoint of economic reality, consumer welfare, and the larger public interest." I further stated that "something more than mere conjecture or intuitive assumptions should be required before we impose regulatory constraints and burdens on one industry or technology in favor of another," and that "In an era of explosive technological innovation, the public interest is better served by regulatory deference to the marketplace and competitive forces until experience, rather than speculation, demonstrates the existence of problems or inadequacies."

The extensive record amassed in this proceeding only serves to confirm these fundamental observations. The deletion of these unnecessary and counterproductive rules is firmly premised in the public interest and this action has my complete approval and support.

Separate Statement of Commissioner Tyrone Brown re Report and Order in the Matter of Cable Television Syndicated Program Exclusivity Rules (Docket 20988)

When we issued our *Notice of Proposed Rulemaking* in this proceeding I voted enthusiastically for our proposals because I saw no basis in communications policy for continuing the syndicated exclusivity rules. The record in this proceeding has more than borne out my initial tentative conclusion.

I also voted to include in our *NPRM* a proposal providing for a transition period to ameliorate any dislocations resulting from the deletion of our rules. Given the evidence in the record, I have concluded that such a transition period is unnecessary.

The record indicates that of those cable systems subject to our rules, only 27 percent have been required to provide syndicated exclusivity protection. Other evidence demonstrates that even if all stations now entitled to program protection requested it, a maximum of 4.4 percent of all television households in the nation would be affected. This figure would rise to only 9 percent under any reasonable projection of future cable development.

In light of the minuscule impact that a change in our rules will cause, I see no need to provide for a transition period. These rules have restricted consumer choices long enough without counterveiling public interest benefit.

Separate Statement of Commissioner Anne P. Jones re Report and Order in Docket 20988 and 21284—Cable Television Syndicated Exclusivity and Signal Carriage Rules

I concur in the decision to eliminate these rules because I agree that the extensive record developed in these proceedings fails to show that they serve any valid public policy purpose. As well described in the Report and Order, the rules owe their existence to what now, with the benefit of hindsight, seems rather clearly to have been an exaggerated fear of the threat posed by cable television to television broadcasters and their ability to serve the public. The burden was therefore on those who would retain the rules to demonstrate the need or desirability for their retention in the public interest, and in my judgment this burden was not met.

The reason my vote is a concurrence is that I do not fully agree with the heavy implication in the Report and Order that for some years into the future the threat of harm to broadcast television by cable is negligible. Whether this is true depends in large measure on whether cable remains what it has been: primarily a retransmission mechanism. To the extent, however, that cable begins to realize its great potential as a mechanism for providing diverse programming, as well as myriad other services, it may be that our estimates of a maximum 48% market penetration and 10% audience diversion nationwide will prove too modest. I do not intend by this caveat to imply that if cable begins to pose a more substantial and immediate threat than the record shows it does now the Commission should respond, either at all or in any particular way. I merely say that I believe cable's threat to television broadcasting is more problematical than the language of the Report and Order seems to imply, although I fully agree that on the present record any such perceptible threat does not justify retention of these rules.

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[1] Separate Statement of Commissioner Joseph R. Fogarty, 71 FCC 2d 949-50 (1979). *See also Vanhu, Inc.*, Separate Statement of Commissioner Joseph R. Fogarty, 65 FCC 2d 991, 992 (1977).

On the matter of retransmission consent, I wish to express my agreement with the conclusion in the Report and Order as to the effect of the 1976 amendments to the Copyright Act. I have carefully considered the arguments of NTIA and others and I continue to be troubled by the argument that the compensation required under the present statutory scheme by cablecasters to program owners is unreasonably low. I have concluded, however, that, Commission authority in this area has been preempted by the statutory compulsory licensing scheme and arguments concerning the adequacy of the compensation to program owners under that scheme should be directed to the Copyright Tribunal or to Congress—and not to this agency.

[FR Doc. 80-27670 Filed 9-8-80; 8:45 am]

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federal register

Thursday
September 11, 1980

Part IV

Department of Transportation

Urban Mass Transportation Administration

Project Management Procedures for Grantees

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 658

[Docket No. 80-G]

Project Management Procedures for Grantees

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is proposing guidelines for its grant in aid recipients in the management of their projects. The purpose of these guidelines is to promote effective project management and thereby ensure the prudent use of Federal and local funds in mass transit projects.

DATE: Comments must be received on or before December 8, 1980.

ADDRESS: Comments must be submitted to UMTA Docket No. 80-G, 400 7th Street, S.W., Washington, D.C. 25090. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Timothy Wolgast, (202) 426-4011.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible.

The administration has determined that this regulation is not a significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979).

Under the DOT Order, a full evaluation is not warranted because the expected economic impact of the proposed regulation is minimal. The Circular is a compilation of existing policies, procedures, and interpretations and does not introduce any new material dealing with project management.

The provisions of OMB Circular A-95 apply to this Notice of Proposed Rulemaking. It covers the following programs as listed in the Catalog of Federal Domestic Assistance (CFDA):

20.205	Highway Research, Planning, and Construction
20.500	Urban Mass Transportation Capital Grants
20.501	U.M.T. Capital Improvement Loans
20.503	U.M.T. Managerial Training Grants
20.504	Mass Transportation Technology (R. & D. Program)
20.505	U.M.T. Technical Studies Grants
20.506	U.M.T. Demonstration Grants
20.507	U.M.T. Capital and Operating Assistance Formula Grants
20.510	U.M.T. Planning Methods Research and Development (U.T.P.S.)

Discussion of proposal: These proposed guidelines provide external project management guidance for recipients pursuant to sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964, as amended, and Title 23, sections 103(c)(4) and 142. The guidelines replace "Guidelines for Project Administration," *External Operating Manual*, Chapter III, UMTA 1000.2, Chg. 2, dated March 11, 1974. They also supersede UMTA C 2300.2, "Letter of Credit Procedures for Recipient Organizations Under the Treasury Regional Disbursing Office System," dated March 21, 1978.

The contents of the proposed document include recipient responsibilities for project supervision, project reporting requirements, amendments and budget revisions, property management, record retention, closeout procedures, suspension and termination, financial management, cost allocation plans, audits, payment procedures, and special requirements.

Recipients will be responsible for maintaining adequate internal controls in order to adequately safeguard grant funds and resources. Recipients will also be held responsible for administration of the project and compliance with terms and conditions of the grant agreement and requirements stated in these guidelines and other applicable regulations and circulars.

Those items in the proposed circular which are mandatory are indicated by the words "shall," "required," and "must." Those items which are included as suggested formats or procedures are indicated by such words as "may," "should," or "would."

In consideration of the foregoing, it is proposed that Title 49 of the Code of Federal Regulations be amended by adding a new Part 658 to read as follows:

PART 658—PROJECT MANAGEMENT GUIDELINES FOR GRANTEES

Sec.
658.1 Purpose.
658.3 Applicability.
658.5 Project management procedures for grantees.
Appendix—UMTA Circular 5010.1—UMTA Project Management Guidelines for Grantees.

Authority: 49 U.S.C. § 1601 (the Urban Mass Transportation Act of 1964, as amended); 23 U.S.C. § 103 and § 142; 42 U.S.C. § 7506; 49 CFR 1.51; OMB Circular No. A-102, (42 FR 45828); Treasury Circular 1075 (31 CFR Part 205); DOT Order 4600.1B.

§ 658.1 Purpose.

(a) This part prescribes UMTA procedures and requirements for the management of projects by recipients of Federal financial assistance under sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964, as amended, and provisions of other laws administered by the Urban Mass Transportation Administrator.

(b) This part implements the project and financial management provisions of OMB Circular A-102, with the exception of Attachment O, Procurement, and Attachment B, Bonding and Insurance, which are implemented by Part 666 of this Chapter. This part also implements the applicable provisions of Department of Transportation Order 4600.9B, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."

§ 658.3 Applicability.

(a) This part applies to all recipients of Federal financial assistance under sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964, as amended, sections 103(e)(4) and 142 of Title 23 U.S.C., and section 175 of the Clean Air Act Amendments of 1977.

§ 658.5 Project management procedures for grantees.

In accepting Federal assistance, each recipient to which this part applies agrees to adhere to the procedures and requirements of UMTA Circular 5010.1, "Project Management Procedures for Grantees," which is set out in Appendix A.

Appendix—UMTA Project Management Guidelines for Grantees (UMTA C 5010.1)

1. *Purpose.* This circular provides project management guidance for grant recipients pursuant to Sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. § 1601 *et seq.*; Sections 103(e)(4) and 142 of Title 23 U.S.C., and § 175 of the Clean Air Act Amendments of 1977, 42 U.S.C. § 7505.

2. *Cancellation.* a. "Guidelines for Project Administration," External Operating Manual (EOM), Chapter III, UMTA 1000.2, Chg. 2, dated 3-11-74.

b. UMTA C 2300.2, "Letter of Credit Procedures for Recipient Organizations Under the Treasury Regional Disbursing

Office System," dated 3–21–78 (previously issued as UMTA C 5200.1).

3. *References.* a. Office of Management and Budget (OMB) Circular A–102, "Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments," dated 9–12–77.

b. Office of Management and Budget (OMB) Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations," dated 7–30–76.

c. Sections 3, 5, 6, 8, 10 and 19 of the Urban Mass Transportation Act of 1964, as amended. 49 U.S.C. § 1601 *et seq.*

d. Title 23, United States Code. Highways.

e. Title 42, United States Code. The Public Health and Welfare.

f. "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," 42 U.S.C. § 4601 *et seq.*

g. Office of Management and Budget (OMB) Circular A–21, Revised, "Cost Principles for Educational Institutions," dated 2–26–79.

h. Federal Management Circular (FMC) 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," dated 7–18–74.

i. OMB Circular A–73, "Audit of Federal Operations and Programs," dated 3–15–78.

j. Department of the Treasury Circular 1075, 4th Revision, December, 1977.

k. Part 205, Chapter II, Title 31 CFR.

l. Chapter 2000, Part 6, Treasury Fiscal Requirements Manual.

m. UMTA C 1155.1, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipients," dated 12–30–77.

n. UMTA C 1160.1, "UMTA Guidelines for Title VI Information Specific to UMTA Programs," dated 12–30–77.

o. UMTA C 1165.1, "UMTA Interim Minority Business Enterprise Policy and Grant Requirements for Grant Recipients," dated 12–30–77.

p. UMTA C 4220.1, "Third-Part Contracting Guidelines," in final drafting.

q. UMTA C 4530.1, "Land Acquisition and Relocation Assistance Under the Urban Mass Transportation Act of 1964, as amended," 3–21–78.

r. OMB Circular A–122, "Cost Principles for Non-Profit Organizations," dated 6–27–80.

s. Department of Health and Human Services (HHS) Publication No. OASC–10, "A Guide for Local Government Agencies—Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." (Guides are also available for universities and non-profit organizations. They may be obtained from HEW Regional Offices or the Government Printing Office Washington, D.C.)

4. *Background.* This circular provides general guidance relating to project management procedures for grantees under Sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964, as amended, Sections 103(e)(4) of 142 of Title 23 of the United States Code (U.S.C.), and Section 175 of the Clean Air Act Admendments of 1977, 42 U.S.C. § 7505. These procedures are intended to assist grantees in administering UMTA-funded projects and meeting the various grant responsibilities and reporting requirements. For additional guidance on specific areas such as civil rights, relocation, cost principles, and third party contracting, refer to materials listed above in paragraph 3, References. Recipients should also be aware of the applicable environmental, elderly and handicapped, and other regulatory requirements.

Theodore C. Lutz,
Administrator.

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CHAPTER I—PROJECT ADMINISTRATION

I. Project Administration and Management

1. *Introduction.* This circular is intended to provide grantees with procedures and guidelines to be applied in administering UMTA grants, cooperative agreements, and/or loans, (hereafter collectively referred to as "grants") and addresses projects under Sections 3, 5, 6, 8, and 10 of the Urban Mass Transportation Act of 1964 as amended, Title 23 U.S.C. Sections 103(c)(4) and (142), and Section 175 of the Clean Air Act Amendments of 1977, 42 U.S.C. § 7505.

Chapter I of this circular deals with Project Administration and Management, Chapter II with Financial Management, and Chapter III with Payment Procedures. The terms grantee and recipient as used hereafter apply to all assistance recipients. The term "project" refers to the grant or cooperative agreement project described in the agreement signed by UMTA and the recipient.

2. *Notice of Project Approval.* When a project has been approved, the recipient is notified of that approval by a letter from UMTA. This letter also sets forth any special conditions under which the project is approved and transmits copies of the grant agreement and the approved project budget. Effective on the date of the approval letter, the recipient may begin to incur costs on the project. However, requisitions for Federal grant or loan funds will not be honored until the grant or loan agreement has been executed by both UMTA and the grantee. In addition, for Section 3 and Section 5 projects, a proper authorizing resolution must be received by UMTA before requisitions will be paid.

a. *Project Authority.* In general, the UMTA regional offices are the responsible UMTA authorities in project management for all projects except those under Sections 6, 10, and 11, responsibility for which remains with UMTA headquarters offices in Washington, D.C. Regional offices should be kept informed of the status of those projects for which headquarters offices are responsible.

b. *Execution of Grant Agreement.* The cognizant UMTA office will send *four* copies of the grant agreement to the recipient after project approval. The recipient should execute and date the copies in accordance with the instructions provided and return *two* of them to the appropriate UMTA office. UMTA must be advised *promptly* if the grant document cannot be executed by the recipient within 60 days.

3. *Grantee Responsibilities for Project Administration and Management.* The recipient is responsible for administration and management of the project and compliance with terms and conditions of the grant agreement and the requirements stated in this circular and other applicable circulars and regulations. It is the responsibility of the recipient to: a. Provide continuous administrative and management direction of project operations;

b. Provide, directly or by contract, adequate technical inspection and supervision by qualified professionals of all work in progress,

c. Assure conformity to grant agreements, applicable statutes, codes, ordinances, and safety standards.

d. Maintain the project work schedule developed during the first quarter of the project and constantly monitor the performance to *assure that schedules are met* and other performance goals are being achieved.

e. Keep expenditures within the latest approved project budget;

f. Assure compliance with UMTA requirements on the part of agencies, consultants, contractors, and subcontractors working under approved third party contracts or interagency agreements; and

g. Request and withdraw Federal cash only in amounts and at times as needed to make payments that are immediately due and payable.

4. *Project Reporting Requirements.* UMTA requires several types of reports in order to adequately monitor project progress. The procedures are designed to place responsibility on recipients for management of day-to-day operations of UMTA grant-supported projects.

a. *Quarterly Progress Reports.* UMTA requires quarterly progress performance reports on all projects, except Section 5 Operating. Recipients of Section 5 Operating Assistance grants need only submit a quarterly Statement of Revenues and Expenses instead of a quarterly progress report (Figure I–1 is a sample of a Statement of Revenues and Expenses). UMTA may also require other special reports or quarterly project management meetings due to the magnitude and complexity of major projects. Final project reports are required before grant closeout and are briefly discussed in paragraph I–13.

As a minimum, each quarterly performance report shall address the following, relating the narrative to individual budget line items: (1) A comparison of actual accomplishments to the objectives established for the period. Accomplishments should include items such as specifications written, bids solicited, bid protests, contracts awarded, equipment received, and equipment disposed of. For planning projects, accomplishments should include items such as major work tasks started, completed, or in progress for each budget line item; also, the percent of work completed and the percent of the budget expanded by budget line items should be included. Where possible, accomplishments (represented by quantitative data such as hours worked, units, tasks, or sections completed, etc.) should be related to expenditures for the same period. Recipients must submit an activity schedule (bar chart, critical path exhibit) by the time the first quarterly report is submitted;

(2) Reasons why objectives were not met, identifying problem areas and the planned approach to resolution of the problems;

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high cost units;

(4) Significant events affecting the project, both positively and negatively;

(5) Projected activities for the next quarter and steps anticipated in carrying them out;

(6) Changes in scope, budget, and activities since last quarter;

(7) Anticipated changes in upcoming activities whether or nor prior approval or amendments are needed; and

(8) Estimated completion dates, percent complete, and funds required for completion (not required for Section 8 projects).

Photographs, though not required, are helpful in evaluating progress on capital projects.

b. *Financial Reports.* Financial reports may either be in the form of a Financial Status Report or a Report of Federal Cash Transactions. These reports are discussed separately in Chapter II of this circular and should accompany the quarterly progress reports when submitted to UMTA.

c. *Minority Business Enterprise (MBE) Reports.* UMTA C 1165.1 contains requirements for quarterly MBE reports. Grantees may submit such reports together with the other quarterly reports described herein. See UMTA C 1165.1 for details on the MBE reports, including applicable threshold limits.

d. *Significant Events.* Between required quarterly progress reporting dates, events may occur which significantly impact the project.

Reporting shall include events which will either delay completion of the project or will otherwise impact the attainment of the project objectives or schedule. In such cases, the recipient shall inform the cognizant UMTA office as soon as possible (normally within a week) after such conditions develop. Conditions in this category include: (1) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure should convey the action taken or contemplated, and any Federal assistance needed to resolve the situation.

(2) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

e. *Report Due Dates.* Quarterly reports are to be submitted to the cognizant program office within 30 days after the end of the calendar quarter. At year-end, grantees may submit reports within 90 days of the end of the period. The original and one copy of each report should be submitted to the appropriate office. (For Section 175 grants, one copy of the report should also be sent to EPA.) Note that *payments may be withheld for failure to submit these reports on time.*

5. *Budget Revisions and Project Amendments.*—a. *General.* A grant obligates the recipient to undertake and complete the project as described in the grant agreement. The grant budget, as used in this circular, means the approved financial plan for both UMTA and recipient shares to carry out the purpose of the grant. This plan is the financial expression of the approved project. During the course of the project it may become necessary to *revise* the budget or *amend* the grant agreement.

b. *Budget Revisions.* A budget revision is defined as a transfer of funds between direct or indirect cost line items which does not affect the scope, design, or total dollar amount of the project. The approved project budget is enclosed with the project approval letter. The recipient is responsible for controlling and monitoring all project undertakings to ensure they are in accordance with the approved budget. Recipients must obtain UMTA concurrence for budget revisions if the proposed revisions meet the criteria contained in paragraph 5c below. All requests for budget revisions should be sent to the appropriate UMTA regional or headquarters office. Recipients should notify the appropriate UMTA office of all budget revisions even if no prior UMTA approval is required.

c. *Approval Requirements for Budget Revisions.* The recipient must request *prior approval* from UMTA for certain proposed budget revisions. Approval requests should be sent to the appropriate UMTA office. Requests must be made whenever: (1) The Federal share exceeds $100,000 and the cumulative amount of transfers in the proposed revision among direct cost categories exceeds or is expected to exceed ten percent of the total grant budget. No transfer is permitted which would cause UMTA funds to be used for purposes other than those specified in the grant agreement;

(2) The revision involves the transfer of amounts between indirect and direct costs;

(3) The revisions pertain to the addition, or deletion of items requiring approval in accordance with the provisions of Federal Management Circular 74–4, "Cost Principles Applicable to Grants and Contracts With State and Local Governments" or Office of Management and Budget Circular A–21, Revised, "Cost Principles for Educational Institutions." This includes equipment items; or

(4) The revision would transfer funds between construction and nonconstruction work.

d. *Budget Format.* If a revised budget is required, it should include the same overall information as the current approved project budget. It is recommended the revised budget follow a three column format: Column A, the current approved budget, Column B, the change in each line item, and Column C, the revised budget line items (Column A plus Column B). In accordance with the above, the original and two copies of a proposed revision, dated, numbered consecutively, together with an explanation of each change, should be submitted to UMTA for approval. This explanation should identify and fully explain those events which have made a budget revision necessary and their impact on the project. In cases where the recipient makes a change in the project budget which does not require prior UMTA approval under paragraph 5c above, a copy of the revised budget and an explanation should be submitted to UMTA as part of the next quarterly progress report, for information purposes only.

e. *Project Amendments.* Project amendments are required when the recipient desires to:

(1) Change the scope of the project;

(2) Alter the design of the project;

(3) Increase the amount of Federal funds; or

(4) Change administrative procedures.

These activities may be undertaken prior to the issuance of an amendment, *if approved in writing,* in advance, by UMTA.

f. *Required Documents—Amendments.* Any request to amend the grant must be submitted by letter to the appropriate UMTA regional or headquarters office. Grant amendment requests should contain an original and one copy of:

(1) A letter of request;

(2) Specific identification, explanation, and justification of the change in scope of project, design, or funding;

(3) A revised Standard Form (SF) 424 if there is a change in the grant amount or the project period;

(4) A proposed revised budget and budget form 80–RO–186, and

(5) If required, evidence of the availability of appropriate local matching funds.

Note that amendments to transfer a grantee to the letter of credit payment method do not require these documents.

g. *Other Requirements—Amendments.* Upon submission by the recipient of a proposed change, and depending on the extent of the change in scope, design, and funding being proposed, UMTA will determine whether it is necessary to hold new public hearings, prepare a new environmental impact statement, revise the annual element of the Transportation Improvement Plan (TIP), require possible local action by the planning organization, and/or submit additional documentation. Additionally, a new 13(c) certification by the U.S. Department of Labor may be required for Section 3 and Section 5 projects.

h. *Amendment Approval.* Approval of an increase in funding for a Federal grant or loan, or a change in project scope will depend upon the adequacy of the justification presented by the recipient and the availability of funds.

6. *Use and Disposition of Project Property.*—a. *Definitions.* The following definitions apply for UMTA property management standards: (1) *Real property.* Real property means land,

including land improvements, structures, and appurtenances affixed thereto, excluding movable machinery and equipment.

(2) *Personal property.* Personal property of any kind except real property. It may be tangible-having physical existence, or intangible-having no physical existence, such as patents, inventions, and copyrights.

(3) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. Recipients subject to Accounting Standards Board regulations may use the CASB standard of $500 or more per item and a useful life of two or more years.

(4) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

b. *Real Property Standards.* The following requirements concern the use and disposition of real property funded partly or wholly by UMTA: (1) Title to real property shall be vested in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the original grant as long as needed.

(2) The recipient shall obtain approval by UMTA for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

(3) When the real property is no longer needed as provided in (1) and (2) above, the recipient shall request disposition instructions from UMTA. The recipient will receive one of the following disposition instructions from UMTA: (a) The recipient may be permitted to retain title after it compensates UMTA in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The recipient may be directed to sell the property and pay UMTA an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The recipient may be directed to transfer title to the property to UMTA provided that in such cases the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the program or project to the current fair market value of the property.

c. *Federally Owned Nonexpendable Personal Property.* Title to federally owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally owned property in their custody to the Federal agency. Upon completion of the agreement, or when the property is no longer needed, the grantee shall report the property to UMTA for further agency utilization. UMTA will issue appropriate disposition instructions to the recipient after completion of the agency's review.

d. *Property Management Standards for Other Nonexpendable Property.* Nonexpendable personal property acquired entirely with local funds is the property of the recipient. Recipients are free to use and dispose of this property as they see fit unless the property is included as revenue financing for a subsequent grant. When other nonexpendable tangible property is acquired by a recipient with project funds, title shall not be taken by UMTA but shall vest in the grantee subject to the following conditions: (1) *Right to transfer title.* For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, UMTA may reserve the right to require the grantee to transfer the title to the Federal Government or to a third party named by UMTA when such third party is otherwise eligible under existing statutes. Under such conditions the property shall be appropriately identified in the grant or otherwise made known to the grantee in writing. UMTA will issue disposition insturctions within 120 calendar days after the end of the Federal support of the project for which it was acquired.

(2) If UMTA does not reserve the right to transfer title, the grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the property in connection with its other federally sponsored activities, in the following order of priority: (a) Activities sponsored by UMTA.

(b) Activities sponsored by other Federal agencies.

(3) *Shared Use.* During the time that nonexpendable personal property is used on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by UMTA; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by UMTA. User charges should be considered if appropriate.

(4) *Insurance.* For captial grants the grantees must maintain insurance/self-insurance adequate to cover facilities and/or equipment during the useful life. When the insured property is damaged or destroyed, UMTA must be reimbursed for its share of the insured claim.

e. *Disposition Standards for Other Nonexpendable Property.* When the *recipient no longer needs the property* for which it maintained title, nor uses the property in connection with its other sponsored activities, the property shall be disposed of in accordance with the following standards:

(1) For nonexpendable property with a unit acquisition cost of *less than $1,000:* The recipient may use the property for other activities without reimbursement to UMTA or sell the property and retain the proceeds.

(2) For nonexpendable personal property with a unit acquisition cost of *$1,000 or more* the recipient must request disposition instructions from UMTA. The request for instructions should include the following information: a list of the equipment to be disposed, individual dates of purchase; unit acquisition cost, current fair market value, current condition of the equipment, and proposed disposition. The UMTA project manager will issue instructions to the recipient within 120 days with regard to the following procedures: (a) If the grantee is instructed to ship the property elsewhere, the grantee will be reimbursed by the benefiting Federal agency with an amount computed by applying the percentage of the grantee's participation in the grant program to the current fair-market value of the property, plus any shipping or interim storage costs incurred.

(b) If the grantee is instructed to otherwise dispose of the property, it will be reimbursed by UMTA for such costs incurred in its disposition.

(c) If disposition instructions are not issued within 120 calendar days after reporting, the grantee must sell the property and reimburse UMTA an amount computed by applying the percentage of Federal participation in the cost of the original project or program. The grantee will be permitted to retain $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(d) The project to be credited in a disposition action is the project under which the property was purchased.

f. *Disposition Standards for Expendable Personal Property.* When the *total inventory value* of expendable personal property for which the grantee has title *exceeds $1,000* at the end or termination of the Federal grant, the recipient may retain the property for its own use or sell the property. In either case, the recipient must compensate UMTA for the Federal share in the cost. The amount of compensation is computed by applying the percentage of Federal participation in the grant to the current fair-market value of the property.

g. *Property Management Controls and Record Keeping Procedures for Nonexpendable Personal Property.* The recipient must maintain adequate control over its nonexpendable personal property. At a minimum, the recipient shall meet the following requirements: (1) Property records must be maintained accurately and provide for a description of the property, manufacturer's serial number or other identification number, acquisition date and cost, source of the property, percentage of Federal funds used in the purchase of property, location, use, and condition of the property, and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses UMTA for its share;

(2) A physical inventory of property must be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property;

(3) A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property must be investigated, fully documented, and if UMTA-owned, reported to UMTA. UMTA must be reimbursed for the Federal share of the fair market value of this property.

(4) Adequate maintenance procedures must be implemented to keep the property in good condition; and

(5) Proper sales procedures must be established for unneeded property to assure competition and the highest possible returns.

h. *Certification of Use of Project Equipment.* At the start of *each* calendar year, UMTA recipients must submit to the appropriate UMTA regional office a Certification of Use of Project Equipment. The certification is cnly for the useful life of project facilities/equipment, beginning with the date of purchase/installation of such items, and is dependent on the maintenance of an adequate property management record system. This certification should state by individual items under each grant that: (1) Equipment and facilities acquired under the grant continue to be used for the purpose for which the grant was approved;

(2) Equipment and facilities do not exceed the needs of the transit operations;

(3) None of the equipment or facilities have been sold, damaged, lost, or otherwise taken out of transit service;

(4) A physical inventory and verification has been taken at least once during the preceding two year period; and

(5) Exceptions to the above reporting items must be fully explained (e.g., the date the item was sold, buyer's name, and price paid.)

In addition, UMTA may request to examine the property or require a copy of the physical inventory of nonexpendable property be forwarded to UMTA is it is determined to be necessary or if the grantee is not submitting the annual certification.

7. *Third Party Contracting.* Third party contracts are those entered into by the recipient for the procurement of supplies, equipment, construction, and other services required to execute a grant project. Recipients must follow certain procedures to insure that these materials and services are obtained in free and open competition, prices are fair and reasonable, and are in compliance with the provisions of applicable Federal, State, and local laws. this includes affording procurement opportunities to minority business enterprises. For information on specific third party contracting standards, see OMB Circular A-102, Attachment O (UMTA is currently drafting guidelines to implement OMB Circular A-102 Procurement Standards which will shortly be released to UMTA grantees).

8. *Retention of Project Records.*—a. *Length of Retention.* Financial records, supporting documentation, statistical records, and all other records pertinent to a grant must be retained by recipients and made readily available to authorized representatives of the U.S. Department of Transportation and/or the Comptroller General of the United States for a period of three years after completion of the project, with the following qualifications: (1) If any litigation, claim, or audit is started before expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds must be retained for three years after final disposition.

(3) When records are transferred to, or maintained by UMTA, the three-year retention requirement does not apply.

b. *Retention Period.* The retention period starts on the date of submission of the final expenditure report, or on the date of submission of the annual Financial Status Report for grants that are renewed annually. Recipients desiring to substitute microfilm copies for original records should obtain prior approval from the appropriate UMTA program office.

c. *Transferring Records.* UMTA may request recipients to transfer certain records to UMTA's custody when it is determined that such records have long-term retention value. To avoid duplicate recordkeeping, UMTA may request that recipients retain records continuously needed for joint use.

9. *Special Requirements.*—a. *Hatch Act Requirements.* Chapter 15 of Title 5 of the United States Code (Hatch Act) provides that all State or local agency employees who are engaged in an activity financed by Federal Government grants or loans may not be candidates for elective office or use their positions to influence public elections. Furthermore, those State and local agencies receiving Federal assistance are prohibited from coercing their employees into making political contributions. Exceptions to the general Hatch Act prohibition do exist, such as that for persons holding elective office. State and local agencies should contact the appropriate UMTA Regional Counsel or the Office of Chief Counsel if they have any questions about the specific applicability of these provisions to their situation.

b. *Relocation Program Administration.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et. seq.*) authorizes grants for relocation

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payments to carry out an approved program for the relocation of families, individuals, businesss concerns, and non-profit organizations. When a project involves relocation or land acquisition, the grantee must submit a certification of compliance with that Act as part of the grant application.

The certification of compliance is acquired by the recipient at the local and/or State level. The grantee should refer to UMTA Circular 4530.1, "Land Acquisition and Relocation Assistance Under The Urban Mass Transportation Act of 1964, as amended" for further instructions.

c. *Housing Replacement Requirements.* No person can be displaced from his/her residence because of a project until the grantee has made decent, safe, and sanitary replacement housing available to them. Such replacement housing must be located in areas generally not less desirable with respect to public utilities and public and commercial facilities, reasonably accessible to their places of employment, at rents or prices within their financial means, and must be fair housing (i.e., open to all persons regardless of race, color, religion, sex, or national origin). No grant agreement which involves displacement will be awarded without UMTA's prior approval of a relocation plan. UMTA will not give such concurrence until it has determined that adequate replacement housing has been made available to all persons to be displaced. When relocation is involved in the project, grantees must follow instructions contained in UMTA C 4530.1. UMTA may waive these requirements at its discretion. Where State or local law conflicts with Federal law, the grantee must comply with Federal law in order to be reimbursed. Costs incurred to comply with State laws which are not expressly authorized by Federal law are not eligible project costs.

d. *Agreements—Relocation and/or Rearrangement of Utilities and Facilities.* The construction of transit systems may require the relocation and/or rearrangement of privately and publicly owned facilities. These facilities include, but are not limited to: (1) systems and physical plant for producing, transmitting or distributing communications, electricity, gas, oil, crude products, water, steam, waste, storm water, or other like substances; (2) publicly owned fire and police signal systems; and (3) railroads and streets, which directly or indirectly serve the public or any part thereof. Relocating and/or rearranging utilities and facilities necessary to accommodate an UMTA funded transit system may be considered an UMTA project activity and thereby legally eligible for funding from the UMTA share of project funds (UMTA funding). Exception to this includes those situations where State or local law expressly prohibits the financing of such by the public entity. Additional information is contained in UMTA C 4530.1.

(1) *Eligibility For UMTA Funding.* In order to qualify for UMTA funding, the recipient must execute an agreement for relocating or rearranging facilities with the entity responsible for the facilities prescribing the procedures for the relocation and/or rearrangement of the facilities for the purpose of accommodating the construction of the UMTA funded project. These agreements are distinguishable from third party contracts in that: (a) Only actual allowable, allocable, and reasonable costs are reimbursable, and no profit is allowed; and

(b) Reimbursement is limited to the amount necessary to relocate and/or rearrange the facilities to effect a condition equal to the existing utility facilities. Generally, reimbursement would not provide for greater capacity, capability, durability, efficiency or function, or other betterments. Agreements with governmental entities are further distinguishable in that "overhead" type cost are not eligibile for reimbursement from UMTA funds.

e. *Leasing Agreements—Project Equipment and Facilities.* The recipient may enter into a contract for the leasing of its project equipment and facilities with a private operator. Under this arrangement the recipient should include the following provisions in the proposed lease agreement: (1) Unless otherwise agreed to by UMTA, project equipment shall be operated by the lessee to serve the best interest and welfare of the project sponsor and the public.

(2) Lessee shall maintain project equipment at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor and/or UMTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project equipment.

(3) Title to the project equipment shall at all times remain with the recipient. Upon termination of the lease agreement or if the lessee goes out of business, the project equipment shall be returned to the project sponsor in the same condition as when it was received by the lessee, reasonable wear and tear resulting from use thereof alone excepted.

(4) Lessee shall carry proper insurance covering losses that may be incurred as a result of the operation and maintenance of project equipment, and the project sponsor shall be a named-insured upon any such insurance policies maintained by lessee. Lessee shall provide project sponsor with certificates indicating that such insurance is in effect.

f. *Advance Land Acquisition Loans.* The Urban Mass Transportation Act of 1964, as amended, authorizes UMTA to make loans to States, local public bodies, and agencies thereof to finance the acquisition of real property and interests in real property for use as right-of-ways, station sites, and related purposes. Projects funded as loans are managed similarly to grant projects with the following minor exceptions: (1) Actual construction of mass transportation facilities must begin within 10 years from the date of the loan;

(2) Loans are to be repaid at the end of the ten-year period in cash, in one lump sum of both principal and interest; and,

(3) Within the ten-year period, a loan can be converted to a capital grant.

For further information the grantee should contact the cognizant UMTA regional office.

g. *Copyrights and Rights in Data.* All "subject data" first produced in the performance of an UMTA grant is the sole property of UMTA. The recipient agrees not to assert any rights or equity and not to establish any claims to statutory copyright in such data. Except for its own internal use, the recipient may not publish or reproduce such data or authorize others to do so without the written consent of UMTA until such time as UMTA may have released such data to the public. This requirement is waived for Section 6 grants to educational institutions.

h. *Patent Rights.* All recipients must notify the appropriate UMTA office of any inventions, improvements, or discoveries conceived or actually reduced to practice by the recipient or its employees in the course of or under the terms of this contract. UMTA determines whether or not and where a patent application will be filed, as well as the disposition of all rights in such inventions, improvements and/or discoveries, including title to and rights under any patent application or patent that may be issued. The determination of UMTA on all these matters will be accepted as final, and the recipient agrees that it will be execute all documents to effect the determination.

i. *Published Reports.* The following statement must appear on the cover or title page of any published report concerning UMTA projects: "The preparation of this report has been financed in part through a grant from the U.S. Department of Transportation, Urban Mass Transportation Administration, under the Urban Mass Transportation Act of 1964, as amended."

10. *On-site Inspections.* UMTA may conduct periodic on-site inspections of projects to evaluate the effectiveness of the recipient's arrangement for supervision and inspection and to evaluate the work done on the project and adherance to the grant agreement. In addition, site visits may be made when information received from a recipient indicates an event with significant impact on the project. On-site inspections may also be made to determine whether civil rights laws, regulations, and agreements are adequately carried out. Inspection of and concurence by UMTA in project work does not relieve the recipient of its responsibilites and liabilities.

a. *UMTA Project Team.* UMTA may assign a project team from within its office to monitor projects under its authority. This team will work directly with the recipient in project monitoring, planning, development, and implementation.

b. *Quarterly Project Management Meetings.* Quarterly project management meetings may also be instituted with selected recipients. The quarterly meetings, to be held by the respective UMTA regions, in cooperation with the appropriate headquarters offices, provide construction management briefings, status/progress reports on the project, discussion of all accomplishments and problems, and site inspection if appropriate. These meetings do not replace quarterly written reports unless a specific exemption is granted by UMTA.

11. *Suspension of the Project.* If UMTA determines that the recipient has failed to comply with the terms and conditions of the grant agreement, including the civil rights requirements, UMTA will notify the recipient in writing of its intent to suspend the grant. UMTA may withhold further payments and/or prohibit the recipient from incurring additional obligations pending corrective action by the recipient or a decision to terminate the project for cause. This includes work being performed by third party contractors or consultants. Suspension will not invalidate obligations properly incurred by the grantee and concurred in by UMTA *prior* to the date of suspension and/or termination, to the extent that they are noncancellable. The recipient may appeal. The appeal is made to the appropriate UMTA regional or headquarters office. Upon receipt of the appeal, UMTA will make a decision.

12. *Termination of the Project.* A project may be terminated either for convenience or cause. a. *Termination For Cause.* UMTA may terminate the grant, in whole or in part, at any time before project completion, whenever it determines that the grantee has failed to comply with the conditions of the grant including civil rights compliance or failure to make reasonable progress. UMTA will promptly notify the recipient in writing of its intent to terminate and the reasons thereof and the effective date. The recipient may appeal. Upon receipt and evaluation of the appeal, UMTA will render its final decision on the termination of the project including the effectve date. Payments made to the recipient or recoveries by UMTA will be in accordance with the terms of the grant agreement and the legal rights and liabilities of both parties as defined in the agreement.

b. *Termination For Convenience.* UMTA or the recipient may terminate a grant in whole or in part, when both parties agree that the continuation of the project would not produce results commensurate with the further expenditure of funds. Both parties must agree upon the termination conditions, including the effective date and, in case of partial terminations, the portions to be terminated. The recipient may not incur new obligations for the terminated portion after the effective date and must cancel as many outstanding obligations as possible. UMTA will evaluate each noncancellable obligation to determine its eligibility for inclusion in project costs. Settlement will be made in accordance with the terms and conditions of the grant agreement. UMTA allows full credit to the recipient for the Federal share of the noncancellable obligations properly incurred by the recipient prior to termination.

13. *Project Closeout Procedures.* Closeout is the process by which UMTA determines that all responsibilites and work by the recipient have been completed. Grant projects should be closed out within 90 days after completion of the activity for which the project was funded. Closeout marks the last stage in the life cycle of an UMTA project. Final closeout activity will begin immediately after all costs are incurred on the project and all work activities under the project are completed and accepted by UMTA. For EPA Section 175 grants, closeout must be concurred in by EPA.

Property records must be maintained as long as the property is used by the grantee, even if the grant has been closed. Such property must be included in the certification of property.

a. *Final Financial Settlement.* Recipients must immediately notify UMTA when all project activities have been completed and all costs for these activities have been incurred. UMTA will then initiate final financial settlement of the project. Project settlement will include: (1) On-site inspection of the project by an UMTA representative, where appropriate;

(2) Preparation and submission to UMTA of the recipient's certification of project completion within 90 days of such completion. The following information is required for *all* projects and should be submitted to the appropriate program office;

(a) A final Request for Advance or Reimbursement (SF 270), if the requisition method of receiving funds is utilized, or a final Request for Payment on Letter of Credit (SF 183) if paid by Letter of Credit—*marked last requisition/request before close-out,* or a check payable to the Urban Mass Transportation Administration for the full amount of any Federal grant funds received by the grantee but unexpended (necessary adjustments to the Federal share of costs will be made during the final audit review);

(b) A list of equipment purchased for the project, identified individually by serial number or other distinguishing designation and a description of disposition, if any. The grantee must follow the procedures in Chapter I-6 for disposing of nonexpendable personal property. If applicable, an invention statement should also be submitted;

(c) A final Financial Status Report, (SF 269). Section 8 projects require a Financial Status Report only at project closeout. See Figure I-2 for an example of a completed Section 8 Financial Status Report.

(d) A Report of Federal Cash Transactions, (SF 272) if applicable;

(e) Final project budget, if different from the latest approved budget;

(f) For Section 5 Operating Assistance Grants only—a copy of a final audit report; and

(g) Other reports, such as a final progress report, if required as a condition of the grant.

b. *Adjustments to Federal Share of Costs.* Necessary adjustments to the Federal share of cost will be made after receipt and analysis of the required close-out information by the appropriate UMTA office. Final project audits will be initiated by UMTA upon receipt of the project closeout information listed in paragraph 13a(2).

c. *Final Financial Audit.* A final financial audit of the books and accounts will be arranged by the appropriate UMTA office and any audit findings settled. UMTA retains the right to recover any costs disallowed as a result of final audit. The project will be considered closed when UMTA notifies the recipient and forwards final grant payments, or when an appropriate refund of Federal grant funds has been received from the grantee and acknowledged by UMTA. This occurs after resolution of all audit findings.

Additional information on Final Audits is located in Chapter II, paragraph 6h(3).

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(SAMPLE)

STATEMENT OF REVENUES AND EXPENSES
Tonawanda Regional Transit Authority
January 1, 1977 through June 30, 1977

Expenses:			$404,400
Transportation	$150,200		
Maintenance & Equipment	95,000		
Traffic and Advertising	5,000		
Administrative & General	41,300		
Insurance and Safety	15,000		
Taxes and Rents	12,900		
Depreciation & Amortization	83,000	- (Ineligible)	
Interest	2,000	- (Contra Expense)	
Revenues:			$121,800
Passenger Farebox	$101,200	- (Revenue)	
Tokens & Transfers	2,000	- (Revenue)	
Charter Bus	14,000	- (Non-Transportation)	
Advertising	3,100	- (Local Share)	
CETA	1,300	- (Revenue)	
Interest	200	- (Contra Expense)	
Subsidies:			$155,200
City of Tonawanda	$125,000		
Revenue Sharing	10,000		
State Elderly Fares	15,200		
Contributed Services	5,000	- (Contributed Services Operating Expense & Local Share)	

Figure 1-1
Page 1 of 1

A Section 8 Project's Final Financial Status Report

FINANCIAL STATUS REPORT

(Follow instructions on the back)

1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED UMTA	2. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER PA 08-9999	OMB Approved No. 80-RO180	PAGE 1 OF 1 PAGES	
3. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code) MPO Anytown, PA 19999	4. EMPLOYER IDENTIFICATION NUMBER	5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER	6. FINAL REPORT ☒ YES ☐ NO	7. BASIS ☐ CASH ☒ ACCRUAL
8. PROJECT/GRANT PERIOD (See instructions) FROM (Month, day, year) 7-1-79	TO (Month, day, year) 6-30-80	9. PERIOD COVERED BY THIS REPORT FROM (Month, day, year) 7-1-79	TO (Month, day, year) 6-30-80	

10. STATUS OF FUNDS

PROGRAMS/FUNCTIONS/ACTIVITIES ►	(a)	(b)	(c)	(d)	(e)	(f)	TOTAL (g)	
a. Net outlays previously reported	$	$	$	$	$	$	$ 0	
b. Total outlays this report period							1,448,600	*
c. *Less:* Program income credits								
d. Net outlays this report period (Line b minus line c)								
e. Net outlays to date (Line a plus line d)								
f. *Less:* Non-Federal share of outlays								
g. Total Federal share of outlays (Line e minus line f)								
h. Total unliquidated obligations								
i. *Less:* Non-Federal share of unliquidated obligations shown on line h								
j. Federal share of unliquidated obligations								
k. Total Federal share of outlays and unliquidated obligations								
l. Total cumulative amount of Federal funds authorized								
m. Unobligated balance of Federal funds								

11. INDIRECT EXPENSE	a. TYPE OF RATE (Place "X" in appropriate box) ☐ PROVISIONAL ☐ PREDETERMINED ☐ FINAL ☒ FIXED			
	b. RATE	c. BASE	d. TOTAL AMOUNT	e. FEDERAL SHARE

12. REMARKS: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.

13. CERTIFICATION I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL William Penn	DATE REPORT SUBMITTED 8-14-80
	TYPED OR PRINTED NAME AND TITLE William Penn	TELEPHONE (Area code, number and extension)

269-101

STANDARD FORM 269 (7-76)
Prescribed by Office of Management and Budget
Cir No. A-110

* See attached "Final Project Budget"

SECTION 8

PROJECT BUDGET

PROJECT BUDGET LINE ITEM / DESCRIPTION	PROJECT COST	FINAL BUDGET	FINAL COST *
ADMINISTRATION			
1.1 MPO Secretariat	41,800	41,600	43,000
1.2 Program Monitoring and Management	87,400	87,400	85,000
1.3 Project and Program Review	9,600	9,600	9,000
SUBTOTAL	138,600	138,600	137,000
COMPREHENSIVE TRANSPORTATION PLANNING PROGRAM			
2.1. Surveillance			
1. Urban Transportation Data Requirements	8,000	10,000	11,000
2. Traffic Volume			
3. Highway Accident			
4. Transit Service	60,000	60,000	56,000
5. Transportation Attitudinal Survey	6.400	6,000	6,000
6. Environmental Impact	18,600	17,000	16,000
7. Land-Use and Socio Economic (See Element 2.2.2)			
2.2. Long-Range Element			
1. Long-Range Plan Review	64,400	64,400	65,000
2. Land-Use & Socio Economic Data Maintenance & Forecasting	33,200	33,200	33,000
3. Travel Demand Forecasting	15,400	15,400	16,000
2.3. Transportation System Management Element			
1. Traffic Sign Inventory Management System	20,000	0	0
2. Bikeway Planning Program	12,000	12,000	14,000
3. Transit Management			
1. Transit Scheduling Management Studies	36,000	46,000	47,000
2. Elderly and Handicapped Needs Studies	84,000	89,000	90,000
3. Para-Transit Program Development	37,000	42,000	43,000
2.4 Transportation Improvement Program	20,000	20,000	21,500
2.5 Prospectus, Annual Report, UPWP, Service Description Manual	46,400	46,400	45,000
2.6. Public Involvement and Information			
1. Public Involvement Effort	28,800	28,800	28,600
2. Public Informational Program	19,200	19,200	19,500
SUBTOTAL	509.400	509,400	511,000
SPECIAL AND SUPPORT ACTIVITIES			
3.1. Local Activities			
1. Aviation Master Plan Developmen Program			
2. Station Area Design and Development Studies	N/A		
3. Technical Assistance and Information Dissemination			
4. Specialized Trip Generation Studies			
5. Energy Conservation Planning Program	16,000	30,000	32,000
3.2. Regional Activities			
1. Transit Impact Study	750,000	736,000	730,000
2. Regional Transportation Communication and Liaison	12,000	12,000	12,600
3. Coordination and Review	16,000	16,000	18,400
4. Policy Development	8,000	8,000	7,000
3.3. Statewide Activities			
1. Waterports Systems			
2. Rail Plan			
SUBTOTAL	802,000	802,000	800,000
TOTAL PROJECT COST	1,450,000	1,450,000	1,448,600

*As Reported on Attached SF 269

BILLING CODE 4910-57-C

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Chapter II—Financial Management

II. Financial Management

1. *Internal Controls*

a. *General.* Recipients are responsible for establishing and maintaining an adequate system of internal controls. These controls should adequately safeguard grant funds and resources, check the accuracy and reliability of the grant accounting and financial data, promote operational efficiency, and encourage adherence to prescribed managerial policies.

b. *Accounting Survey.* Department of Transportation auditors or their designated representatives may visit the recipient shortly after project approval to inspect the recipient's system of internal controls and accounting procedures. Auditors will check for the types of internal and financial control standards located in paragraphs 1c and 1d below (additional information on audits is contained in paragraph 6). Ordinarily, these field visits will be limited to new recipients administering large, complex projects or recipients who have encountered difficulties in administering previous UMTA projects. Soon after completing an inspection, the Office of Inspector General (OIG) issues to the appropriate UMTA program office a report on the results of the field review. The cognizant UMTA office will provide copies of the report to the recipient and will initiate actions necessary to correct reported deficiencies.

c. *Internal Control Standards.* The internal controls comprise a well-documented, organized operating system (policies, structure, division of staff functions, procedures, staff qualifications, etc.) designed to provide the recipient with effective financial and operational control over all aspects of its grant projects. The following are elements of an adequate system of internal control:

(1) The recipient's operating policies should be clearly stated, systematically communicated throughout the organization, conform with applicable laws and external regulations and policies, and promote execution of authorized activities effectively, efficiently and economically.

(2) An organizational structure should define and assign responsibility for performance of all duties necessary to carry out project functions.

(3) Responsibility for assigned duties and functions of the recipient should be classified according to authorization, performance, recordkeeping, custody of resources, and review, to provide proper internal checks on performance and to prevent unauthorized, fraudulent, or irregular acts.

(4) The performance of all duties and functions of recipient personnel should be properly supervised. All performance should be subject to adequate review under an effective internal audit and management review program: to determine whether performance is effective and efficient; to assure that economical management policies are adhered to, that applicable laws, regulations, and grant conditions are obeyed; that unauthorized, fraudulent, or irregular transactions or activities are prevented, and to determine the fiscal integrity of financial transactions and reports.

(5) Qualifications of officials and other personnel as to education, training, experience, competence, and integrity should be appropriate for the responsibilities, duties, and functions assigned to them.

(6) All grantee personnel should be fully aware of assigned responsibilities and understand the nature and consequence of performance. Each person should be held fully accountable for the honest and efficient discharge of duties and functions including, where applicable, the custody and administration of funds, property, and compliance with grant regulations and legal requirements.

(7) A system of forward planning embracing all phases of the recipient's operation should be developed to determine and justify financial, property, and personnel requirements, and to carry out project operations effectively, efficiently, and economically.

(8) Recipients using Letter of Credit or receiving advances by Treasury check should determine their disbursing patterns and mail time so that cash withdrawals can be timed as closely as possible to actual cash disbursements. Recipients should also ensure that requirements for maintaining minimum cash balances are met (see Chapter III).

(9) An adequate system of authorization, recordkeeping, and transaction coding procedures should be designed by the recipient to insure compliance with applicable laws, regulations, and internal management policies. This system should prevent illegal or unauthorized transactions and provide proper accounting records for the expenditure of grant funds.

(10) An adequate and efficient operating information system should provide prompt, essential, and reliable operating and financial data to those officials responsible for making decisions or reviewing performance.

(11) Effective procedures should be implemented to ensure that needed goods and services are acquired at the lowest possible cost; goods and services paid for are actually received; quality, quantity, and prices are in accordance with applicable contracts or other authorization by grantee officials; and such authorizations are consistent with applicable statutes, regulations, policies, and grant conditions.

(12) All funds, property, and other resources for which grantees are responsible shall be appropriately safeguarded and periodically inventoried to prevent misuse, unwarranted waste, deterioration, destruction, or misappropriation.

d. *Financial Management System.* The recipient should establish and maintain an adequate financial management system. This system should:

(1) Supply accurate, current, and complete disclosures of financial results of each project in accordance with UMTA reporting requirements (see Chapter I, paragraph 4);

(2) Contain records which adequately identify the source and application of funds. These records should include information pertaining to contract awards and authorizations (grant, procurement, and loan), obligations, unobligated balances, assets, liabilities, outlays, costs, and income;

(3) Provide effective control and accountability of all funds, property, and other assets. Recipients should adequately safeguard these assets and assure that they are used solely for authorized project purposes;

(4) Be capable of providing comparisons of actual and budgeted amounts for each project activity; i.e., budget line item; provide financial data necessary for efficient and economic planning, control, measurement, and evaluation of all project activities; and permit preparation of summaries and reports using line items included in the approved budget;

(5) Provide for procedures to determine whether costs are reasonable, allowable, and allocable in accordance with provisions of Federal Management Circular (FMC) 74-4, OMB Circular A-21, Revised, or OMB Circular A-122, as appropriate; and

(6) Maintain accounting records supported by source documentation for each entry.

2. *Cost Allocation Plan/Indirect Cost Proposal*

a. *Definitions.* Under federally funded grant programs, recipients may incur costs of both a direct and indirect nature. Direct costs are those that can be identified specifically with a particular project.

These costs may be charged directly to a grant project. Indirect costs are those:

(1) Incurred for a common or joint purpose benefiting more than one cost objective, and

(2) Not readily assignable to the cost objectives specifically benefits, without effort disproportionate to the results achieved.

The term "indirect costs" applies to costs incurred by other offices within the recipient organization in supplying goods, services, and facilities to the recipient. Examples of indirect costs are operation and maintenance of buildings and expenses of department heads and their immediate staff. Principles and standards for determining costs applicable to grants and contracts with State and local governments (instrumentalities thereof and public bodies) are presented in FMC 74–4, OMB Circular A–21, Revised, or OMB Circular A–122, and the appropriate Department of Health and Human Services publications. Appendix 1 of this circular consists of questions and answers regarding cost allocation plans. These questions are excerpted from HHS brochure OASC–10. This brochure also contains sample formats for cost allocation plans.

b. *Types of Plans.* There are two types of cost allocation plans. The first plan covers distribution of costs of support services provided to local government agencies and is referred to as a consolidated local government-wide cost allocation plan. The second plan covers distribution of costs within an individual recipient or contractor agency, including costs of services allocated to it under the *consolidated local government-wide cost allocation plan,* for all work performed by that agency. This second type of plan is commonly referred to as an *indirect cost proposal.* Sample plans are described in Appendix 2.

c. *Preparation of Plan.* A cost allocation plan must be developed annually by local government agencies that intend to seek UMTA reimbursement for indirect costs. The plan is subject to audit by the Federal Government to determine that:

(1) All activities of local government departments have been considered;

(2) Distribution of indirect costs is based on a method(s) reasonably indicative of the amount of services provided,

(3) Services provided are necessary for successful conduct of Federal programs;

(4) Level of costs incurred are reasonable,

(5) Costs for central local government services are charged in conformance with local government-wide cost allocation plan, and

(6) Costs claimed are allowable in accordance with FMC 74–4, OMB Circular A–21, Revised, or OMB Circular A–122;

Plans supporting the distribtion of joint costs incurred by recipient must be retained by them and made available for audit review. Four steps are basic in preparing a cost allocation plan:

(1) Identifying costs of each type of service to be claimed;

(2) Determining the method for allocating each type of service cost of users;

(3) Mathematically allocating these costs to users, and

(4) Summarizing amounts allocating if using a single, formal, comprehensive local government-wide plan.

d. *General Requirements.* Cost allocation plans must be submitted to the "cognizant" or "lead" Federal agency for review and approval. Cognizance is generally assigned to the Federal agency having the greatest dollar involvement with a grantee orgnaization within a given State or locality. If UMTA is the cognizant agency, cost allocation plans should be sent to the appropriate UMTA regional office. Plans will be forwarded by the regional office to the Office of Inspector General for review and comment. A cost allocation plan is required to support the distribution of administrative costs related to the grant program. Such costs could be either direct or indirect. All costs in the plan must be supported by formal accounting records to substantiate the propriety of eventual charges. The allocation plan of the recipient should cover all applicable costs. It should also cover costs allocated under plans of other agencies or organizational units which are to be included in the costs of other Federally sponsored programs. To the extent feasible, cost allocation plans of all agencies rendering services to the recipient should be presented in a single document. Whether or nor UMTA is the cognizant agency, an approved cost allocation must accompany the grant application if the recipient intends to charge indirect costs to the project. The cost allocation plan should contain but need not be limited to the following:

(1) The nature and extent of services provided and their relevance to Federally sponsored programs;

(2) Items of expense to be included;

(3) Methods to be used in distributing cost; and

(4) Appropriate civil rights data. (Format for MBE programs is described in UMTA C 1165.1, Attachment C. A similar format should be used for EEO cost allocation plans.)

Costs covered by the plan may be charged to the project upon approval of the plan. A revised cost allocation plan must be submitted to the lead agency when the estimated cost is expected to exceed the previously approved plan by more than 10 percent.

e. *Specific Requirements.* The cost allocation plan should contain, but not necessarily be limited to, the following:

(1) Individual position or group classifications for direct staff services,

(2) The annual salary rate or salary range for each position classification with estimated average salary charged to the project for each rate;

(3) The estimated period services as provided by each position classification, estimated percentage of time each position will devote to the project, and the estimated cost of each;

(4) The nature and extent of services provided by each position classification;

(5) Details of other direct charges including the nature of charges and estimated costs; and

(6) All categories of indirect costs, proposed methods, and the basis for allocating them to the project, total indirect costs, and the estimated amount to be charged to the project.

It is important to note that although personnel services should be estimated on a percentage-of-time basis for planning purposes, only *actual time charged* to the project as supported by adequate time sheets will be eligible for reimbursement.

f. *Review of a Plan.* UMTA, when the cognizant Federal agency, will be responsible for review and acceptance of plans required under this circular. Recipients' allocation plans must be approved by UMTA before costs covered by the plan can be requisitioned under the project.

Once a review has been conducted by UMTA, it is expected that Federal auditors will be able to reach an agreement with the local government agency on any findings. If a local government disagrees with the auditor's findings, it is then the responsibility of UMTA to act as the negotiating agency for the Federal Government, and to resolve differences in coordination with other Federal agencies.

Whenever UMTA or any lead agency gives prior approval to a government-wide cost allocation plan or indirect cost proposal, such approval is formalized, distributed to all interested Federal agencies, and applicable to all

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Federal grants in accordance with FMC 74-4.

3. Cost Standards

a. *General.* Recipients must follow the guidelines contained in FMC 74-4 "Cost Principles Applicable to Grants and Contracts with State and Local Governments", OMB Circular A-21, Revised "Cost Principles for Educational Institutions", or A-122, "Cost Principles for Nonprofit Organizations" in determining whether project costs are allowable or unallowable. Project costs should specifically relate to the purpose of the grant agreement and the latest approved project budget. Care should be exercised when incurring costs to ensure that all expenditures meet the criteria of eligible costs. Failure to exercise proper discretion may result in expenditures for which use of project funds cannot be authorized.

b. *Allowable Costs.* The following section briefly outlines the criteria which enables project costs to be classified as allowable. More specific guidelines can be found in FMC 74-4, A-21, or A-122, as needed. To be allowable under a grant program, costs must meet the following general criteria:

(1) Be necessary and reasonable for proper and efficient administration of the grant program, be allocable under these principles, and, except as specifically provided in this circular, not be a general expense required to carry out the overall responsibilities of State or local governments;

(2) Be authorized or not prohibited under State or local laws or regulations;

(3) Conform to any limitation or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items;

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which recipient is a part;

(5) Be treated consistently through application of generally accepted accounting principles appropriate to the circumstances;

(6) Not be allocable to or included as a cost of any other Federally financed program in either current or prior periods; and

(7) Be net of all applicable credits.

For information on specific cost standards, see Appendix 3 of this circular.

4. Program Income

a. *General.* Program income is the gross income earned by the recipient from project activities. These earnings *exclude interest* earned on advances (see paragraph III-1) and may include income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights. All project income earned during the grant period may be retained by the recipient, and, according to the grant agreement, is generally deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

b. *Supporting Documentation.* Recipients must maintain records to permit full accounting of all program income. This includes a record of the source, purpose, and amount of all program income as well as a duplicate validated deposit slip for each receipt and currently posted accounting records.

5. Financial Reporting Requirements

a. *General.* Except for Sections 8 and 175 grants, UMTA utilizes two standard financial reporting forms, the Financial Status Report (SF 269) and the Report of Federal Cash Transactions (SF 272), to monitor project funds. This is required by the Office of Management and Budget and is specified in Attachment H, OMB Circulars A-102 and A-110. Note that *payment can be withheld for failure to submit either financial or narrative reports in a timely manner.*

b. *Disclosure Criteria.* The following criteria are basic to full disclosure in financial reports by recipients:

(1) All essential financial facts relating to the scope and purpose of each financial report and applicable reporting period should be completely and clearly displayed in the reports.

(2) Reported financial data should be accurate and timely. The requirement for accuracy does not rule out inclusion of reasonable estimates when precise measurement is impractical, uneconomical, unnecessary, or conducive to delay.

(3) Financial reports should be based on the required supporting documentation maintained under an adequate accounting system that produces information which objectively discloses financial aspects of events or transactions.

(4) Financial data reported should be derived from accounts that are maintained on a consistent, periodic basis, material changes in accounting policies or methods and their effect must be clearly explained.

(5) Reporting terminology used in financial reports to UMTA should be consistent with receipt and expense classifications included in the latest approved project budget.

c. *Financial Status Report (SF 269).*

(1) For all but Section 8 and Section 175 grants, recipients must submit an original and one copy of the SF 269 to report the status of funds on all nonconstruction and construction projects when the recipient receives payment through the Letter of Credit or by reimbursement. Financial Status Report forms can be obtained from the cognizant UMTA regional office. The SF 269 should be prepared on an accrual basis.

(2) A Financial Status Report bearing an original signature should be submitted quarterly, no later than 30 days after the end of each calendar quarter, 90 days after the end of each year, to the appropriate UMTA office. Reports are required every quarter until the project has been completed. A narrative progress report should accompany the SF 269 so that project expenditures and programs can be analyzed concurrently. A completed sample copy of the SF 269 is included as Figure II-1. The report should be prepared by budget line item code, except for Section 5 operating projects, which should be reported by budget line item since not all line items have codes. Instructions for completing the form are provided on the reverse side of the form.

d. *Report of Federal Cash Transactions (SF 272).*

(1) Recipients must complete and submit this report if they receive funds in advance by direct Treasury check. *Grantees that are paid by UMTA Letters of Credit do not use this form.* Instructions for completing the SF 272 are found on the reverse side of the form. Note that recipients should estimate in the "remarks" block, the amount of *Federal* funds that will be required during each month of the ensuing quarter for each project involved. This information is needed to plan Federal cash outlays. Copies of the SF 272 can be obtained from the cognizant UMTA regional office.

(2) The recipient submits the SF 272 (one copy with original signature) to the appropriate UMTA regional or headquarters office 15 working days following the end of each quarter. Recipients requesting advances under $10,000 per month may be waived from this requirement by the UMTA program office if the program manager determines that the information provided on the SF 269 is sufficient to monitor the project. Recipients receiving over $1 million per year may be required to submit this report monthly. The UMTA program manager determines whether this report will be submitted. A sample copy of the SF 272 is included as Figure II-2.

6. *Audit.*

a. *Introduction.* OMB Circular A-102, Attachment P establishes audit requirements for State and local governments that receive Federal Assistance. It provides for independent audits of financial operations. UMTA grant recipients will be audited on an organization-wide basis rather than on a grant-by-grant basis. The overall purpose of the audits is to determine whether:

(1) Financial operations are conducted properly,

(2) The financial statements are presented fairly;

(3) The organization has complied with laws and regulations affecting the expenditure of federal funds;

(4) Internal procedures have been established to meet the objectives of federally assisted programs; and

(5) Financial reports to the Federal Government contain accurate and reliable information.

b. *Audit Contents.* Organization-wide audits will include, as a minimum, an examination of the system of internal control (see paragraph II–1 above), the systems established to ensure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and the financial statements and reports of recipient organizations. The audit will be used to determine whether:

(1) There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities;

(2) The financial statements are presented fairly in accordance with generally accepted accounting principles;

(3) The Federal financial reports (including Financial Status Reports, Cash Reports, and claims for advances and reimbursements) contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements and Attachment H of OMB Circulars A–102 or A–110;

(4) Federal funds are being expended in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

c. *Audit Frequency.* Audits will usually be performed annually, but not less frequently than every two years. While Attachment P does not limit UMTA's authority to audit recipients, if independent audits arranged by recipients meet Attachment P requirements, UMTA will rely on them. Any additional audit work will then build on the audit work already done.

d. *Audit Standards.* Audits shall be made in accordance with the GAO "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," any OMB-approved compliance supplements, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

e. *Testing Cost Eligibility.* A representative sample of costs shall be tested to determine whether they:

(1) Are necessary and reasonable for the proper administration of the program;

(2) Conform to any limitations or exclusions in the award;

(3) Were given consistent accounting treatment and applied uniformly to both federally assisted and other activities of the recipient;

(4) Were net of applicable credits;

(5) Did not include costs properly chargeable to other federally assisted programs;

(6) Were properly recorded (i.e., correct amount, date) and supported by source documentation;

(7) Were approved in advance, if subject to prior approval in accordance with FMC 74–4, A–21, or A–122;

(8) Were incurred in accordance with competitive purchasing procedures, if covered by Attachment 0 of OMB Circular A–102; and

(9) Were allocated equitably to benefiting activities, including non-Federal activities.

f. *Irregularities.* If auditors become aware of irregularities in the recipient organization, the auditor must immediately notify both UMTA and recipient management officials. Irregularities include falsification of records, misappropriation of funds, and conflicts of interest.

g. *Audit Report Contents.* Audit reports shall include:

(1) Financial statements, including footnotes, of the recipient organization.

(2) The auditors' comments on the financial statements, which should:

(a) Identify the statements examined, and the period covered.

(b) Identify the various programs under which the organization received Federal funds, and the amount of the awards received.

(c) State that the audit was done in accordance with the standards in paragraph d; and

(d) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting prinicples. If an unqualified opinion cannot be expressed, state the nature of the qualification.

(3) The auditors' comments on compliance and internal control, which should:

(a) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses,

(b) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports, and

(c) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.

(4) Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement of Federal Agencies.

(5) Comments on corrective action taken or planned by the recipient.

h. *Retention of Work Papers and Reports.* Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the cognizant agency of the need to extend the retention period. The audit work papers shall be made available upon request to UMTA and the General Accounting Office or its designees.

i. *UMTA Responsibilities.* UMTA is responsible to:

(1) Obtain or make quality assessment reviews of the work of non-Federal audit organizations and provide the results to other interested audit agencies. (If a non-Federal audit organization is responsible for audits of recipients that have different cognizant audit agencies, a single quality assessment review should be arranged.)

(2) Assure that all audit reports of recipients that affect federally assisted programs are received, reviewed, and distributed to appropriate Federal audit officials. These officials will be responsible for distributing audit reports to their program officials.

(3) Whenever significant inadequacies in an audit are disclosed, the recipient organization will be advised and the auditor will be called upon to take corrective action. If corrective action is not taken, UMTA shall notify the recipient organization and other Federal awarding agencies of the facts and its recommendations. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies.

(4) Assure that satisfactory audit coverage is provided in a timely manner and in accordance with the provisions of OMB Circular A–102, Attachment P.

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(5) Provide technical advice and act as a liaison between Federal agencies, independent auditors, and recipient organizations.

(6) Maintain a follow-up system on audit findings and investigative matters to assure that audit findings are received.

(7) Inform other affected audit agencies of irregularities uncovered. The audit agencies, in turn, shall inform all appropriate officials in their agencies. State or local government law enforcement and prosecuting authorities shall also be informed of irregularities within their jurisdiction.

j. *Third Party Contract Audits.*

(1) *Responsibility for Audit.* In monitoring third party contracts to ensure that the project is carried out in a sound, economical, and efficient manner, certain specific financial reviews should be made by professionals either within the recipient organization but independent of the actual project office or by outside auditors. The need for and nature of these reviews depends on the type and amount of third party contract(s) involved.

(2) *Procedures for Audit.*

(a) *Outside Audit Services.* Many UMTA recipients assign proposal evaluation and contract monitoring duties to their own auditors or financial management personnel. However, some recipients do not employ individuals qualified to make these required reviews internally and therefore, must obtain these services elsewhere. Two ready sources for audit services are qualified independent accounting firms and contract auditors from agencies and departments of the Federal Government. For example, the Defense Contract Audit Agency (DCAA) maintains a continuing audit function at certain contractor locations which receive Department of Defense contracts. DCAA also accommodates casual audit requests from non-Defense agencies for audits at other locations where the overall Government interest and effectiveness so dictate.

(b) *Costs.* costs of third party audit surveillance and proposal evaluation are eligible for reimbursement by UMTA so long as they are included in the project budget. UMTA recommends that recipients seek guidance from the cognizant Federal auditor in regard to audit contract agreements.

(c) *Use of Outside Audit Services.* Recipient requests to obtain outside audit sources to review and monitor third party contracts should be forwarded to the cognizant Federal auditor along with a copy of the proposed contract-agreement and a detailed description of the work to be performed. The Federal auditor reviews requests for outside assistance in light of the type of contract proposed and amount of project funds involved. Furthermore, the Federal auditor determines whether a Federal contract audit organization could be used instead of an independent public accountant (IPA).

(d) *Use of Independent Accountants.* When an independent accountant is used, recipients apply standard procedures for third party contracts. A complete package must be submitted to appropriate UMTA regional offices showing proposed audit coverage, billing rates by labor classification, and the proposed form of contract between the recipient and the IPA.

(3) *Payment for Outside Audit Services.*

(a) *General.* If another Federal agency is to be used, UMTA makes the necessary arrangements for conducting reviews. UMTA pays the total cost of the audit for recipients and records this payment in its project accounting records by assigning a unique requisition number and reducing the undisbursed grant balance by the total audit cost.

(b) *Reimbursement Procedures.* UMTA sends an "Audit Payment Notification and Certification" letter to inform recipients of the amount of cost for audit services. Because UMTA pays the total cost of this audit, *under the requisition method,* the letter instructs recipients to include the total amount of audit costs on the next requisition for payment as a cost incurred and as a Federal disbursement.

A copy of the letter signed by the recipient certifying that total audit costs have been recorded as a Federal disbursement in the recipient's records must accompany the next requisition submitted to UMTA. *Under the Letter of Credit method,* recipients must certify that total audit costs have been recorded both as a Federal disbursement and as a project cost for which the recipient did not make a disbursement. Recipients must then disburse their own funds to bring their portion of project support to the level set forth in the grant contract. Recipients must not include the amount in a request for Letter of Credit payment (SF 183) since UMTA is paying for the audit. The amount is shown as a disbursement (Federal share only) and advance received (100%) on the SF 183.

BILLING CODE 4910-57-M

FINANCIAL STATUS REPORT

(Follow instructions on the back)

1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED: UMTA

2. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER: NY-03-0315

OMB Approved No. 80-R0180

PAGE 1 OF 1 PAGES

3. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code)

Tonawanda Transit Authority
367 Tremont Street
Tonawanda, New York 14120

4. EMPLOYER IDENTIFICATION NUMBER:

5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER:

6. FINAL REPORT ☐ YES ☒ NO

7. BASIS ☐ CASH ☒ ACCRUAL

8. PROJECT/GRANT PERIOD (See instructions) FROM (Month, day, year) 1-1-78 TO (Month, day, year) 9-30-80

9. PERIOD COVERED BY THIS REPORT FROM (Month, day, year) 10-1-78 TO (Month, day, year) 12-31-78

10. STATUS OF FUNDS

PROGRAMS/FUNCTIONS/ACTIVITIES ►	(a) 10.10.10	(b) 10.10.15	(c) 10.23.16	(d) 10.26.17	(e) 10.28.15	(f)	TOTAL (g)
a. Net outlays previously reported	$ 5,000	$ 6,000	$ 14,000	$ 3,000	$ 8,000	$	$ 36,000
b. Total outlays this report period	1,000	2,000	2,000	2,000	2,000		9,000
c. *Less:* Program income credits	N/A	N/A	N/A	N/A	N/A		-0-
d. Net outlays this report period *(Line b minus line c)*	1,000	2,000	2,000	2,000	2,000		9,000
e. Net outlays to date *(Line a plus line d)*	6,000	8,000	16,000	5,000	10,000		45,000
f. *Less:* Non-Federal share of outlays	1,000	1,000	2,000	1,000	2,000		7,000
g. Total Federal share of outlays *(Line e minus line f)*	5,000	7,000	14,000	4,000	8,000		38,000
h. Total unliquidated obligations	5,000	7,000	10,000	6,000	3,000		31,000
i. *Less:* Non-Federal share of unliquidated obligations shown on line h	1,000	2,000	2,000	1,000	500		6,500
j. Federal share of unliquidated obligations	4,000	5,000	8,000	5,000	2,500		24,500
k. Total Federal share of outlays and unliquidated obligations	9,000	12,000	22,000	9,000	10,500		62,500
l. Total cumulative amount of Federal funds authorized	12,000	20,000	24,000	11,000	13,000		80,000
m. Unobligated balance of Federal funds	3,000	8,000	2,000	2,000	2,500		17,500

11. INDIRECT EXPENSE

a. TYPE OF RATE *(Place "X" in appropriate box)* ☐ PROVISIONAL ☐ PREDETERMINED ☐ FINAL ☐ FIXED

b. RATE	c. BASE	d. TOTAL AMOUNT	e. FEDERAL SHARE

12. REMARKS: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.

13. CERTIFICATION

I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL:

DATE REPORT SUBMITTED: 1-5-79

TYPED OR PRINTED NAME AND TITLE: James W. Bradle Assist. Gen. Manager

TELEPHONE (Area code, number and extension): (703) 472-5800

269-101

STANDARD FORM 269 (7-76)
Prescribed by Office of Management and Budget Cir. No. A-110

SAMPLE

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

Item	*Entry*
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (institution) code, if required by the Federal sponsoring agency.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an *accrued* expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.
10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are: Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10j	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i.
10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
10m	Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l.
11b	Enter rate in effect during the reporting period.
11c	Enter amount of the base to which the rate was applied.
11d	Enter total amount of indirect cost charged during the report period.
11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

FEDERAL CASH TRANSACTIONS REPORT

(See instructions on the back. If report is for more than one grant or assistance agreement, attach completed Standard Form 272-A.)

Approved by Office of Management and Budget No 80-RO182

1. Federal sponsoring agency and organizational element to which this report is submitted: UMTA

2. RECIPIENT ORGANIZATION

Name: Tonawanda Transit Authority
Number and Street: 367 Tremont Street
Tonawanda, New York 14120
City, State and ZIP Code: SAMPLE

3. FEDERAL EMPLOYER IDENTIFICATION NO. ▶

4. Federal grant or other identification number: NY-03-0315

5. Recipient's account number or identifying number:

6. Letter of credit number: N/A

7. Last payment voucher number:

Give total number for this period

8. Payment Vouchers credited to your account:

9. Treasury checks received (*whether or not deposited*): 4

10. PERIOD COVERED BY THIS REPORT

FROM (*month, day, year*): 10-1-78
TO (*month, day year*): 12-31-78

11. STATUS OF FEDERAL CASH *(See specific instructions on the back)*	a. Cash on hand beginning of reporting period	$ 1,155
	b. Letter of credit withdrawals	N/A
	c. Treasury check payments	40,160
	d. Total receipts (*Sum of lines b and c*)	40,160
	e. Total cash available (*Sum of lines a and d*)	41,315
	f. Gross disbursements	40,852
	g. Federal share of program income	642
	h. Net disbursements (*Line f minus line g*)	40,210
	i. Adjustments of prior periods	-0-
	j. Cash on hand end of period	$ 1,105

12. THE AMOUNT SHOWN ON LINE 11J, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING *Days*	13. OTHER INFORMATION	
	a. Interest income	$ -0-
	b. Advances to subgrantees or subcontractors	$ -0-

14. REMARKS (*Attach additional sheets of plain paper, if more space is required*)

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement

AUTHORIZED CERTIFYING OFFICIAL

SIGNATURE: John L Wins

DATE REPORT SUBMITTED: 1-5-79

TYPED OR PRINTED NAME AND TITLE: John L. Wins Assistant General Manager

TELEPHONE (Area Code) 703 (Number) 472-1345 (Extension) 5800

THIS SPACE FOR AGENCY USE

272-101

STANDARD FORM 272 (7-76)
Prescribed by Office of Management and Budget
Cir. No. A-110

V 45 SE 11 80 UMI

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 8, 9, 10, 11d, 11e, 11h, and 15 are self explanatory, specific instructions for other items are as follows:

Item	*Entry*
3	Enter employer identification number assigned by the U.S. Internal Revenue Service or the FICE (institution) code. If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272–A, Report of Federal Cash Transactions—Continued; otherwise:
4	Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency.
5	This space reserved for an account number or other identifying number that may be assigned by the recipient.
6	Enter the letter of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank.
7	Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account.
11a	Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks.
11b	Enter total amount of Federal funds received through payment vouchers (Form TUS 5401) that were credited to your account during the reporting period.
11c	Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited.
11h	Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors, the gross amount of direct salaries and wages, including the employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs.
11g	Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement.
11i	Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required.
11j	Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i).
12	Enter the estimated number of days until the cash on hand, shown on line 11j, will be expended. If more than three days cash reqirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or other reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances.
13a	Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not remitted to the Federal sponsoring agency for over 60 days, explain under "Remarks." Do not report interest earned on advances to States.
13b	Enter amount of advance to secondary recipients included in item 11h.
14	In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required.

FEDERAL CASH TRANSACTIONS REPORT
CONTINUATION

(This form is completed and attached to Standard Form 272 only when reporting more than one grant or assistance agreement.)

Approved by Office of Management and Budget No. 80-RO182

1. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

2. RECIPIENT ORGANIZATION *(Give name only as shown in item 2, SF 272)*

3. PERIOD COVERED BY THIS REPORT *(As shown on SF 272)*

FROM *(month, day, year)* TO *(Month, day, year)*

4. List information below for each grant or other agreement covered by this report. Use additional forms if more space is required.

FEDERAL GRANT OR OTHER IDENTIFICATION NUMBER *(Show a subdivision by other identifying numbers if required by the Federal Sponsoring Agency)* (a)	RECIPIENT ACCOUNT NUMBER OR OTHER IDENTIFYING NUMBER (b)	FEDERAL SHARE OF NET DISBURSEMENTS	
		NET DISBURSEMENTS *(Gross disbursements less program income received)* FOR REPORTING PERIOD (c)	CUMULATIVE NET DISBURSEMENTS (d)
		$	$
5. TOTALS *(Should correspond with amounts shown on SF 272 as follows: column (c) the same as line 11h; column (d) the sum of lines 11h and 11i of this SF 272 and cumulative disbursements shown on last report. Attach explanation of any differences.)*		$	$

272-201

STANDARD FORM 272-A (9-76)
Prescribed by Office of Management and Budget
CIR NO. A-110

BILLING CODE 4910-57-C

V 45 SE 11 1980 UMI

Chapter III—Payment Procedures

III. Payment Procedures

1. General

a. *Payment Methods.* UMTA uses three methods in making cash payments to grantees:

(1) Letter of Credit (LOC).

(2) Advance by Treasury check.

(3) Reimbursement by Treasury check.

Under the first two methods, UMTA provides cash advances to grantees before cach outlays are actually made. Under the third method, UMTA reimburses grantees for work already performed and financed with their own working capital.

The Department of the Treasury prescribes regulations governing advances (payments) to recipients for financing operations under Federal grant and other programs. These regulations require that cash advances to a recipient must be limited to the minimum amounts needed and must be timed so as to be in accord only with the actual, immediate cash requirements of the recipient in carrying out the approved project. The timing and amount of cash advances must be as close as administratively feasible to the actual disbursements by the recipient for direct project costs and the proportionate share of allowable indirect costs.

b. *Restrictions.* No UMTA grant program may:

(1) Require physical segregation of cash depositories for Federal grant funds which are provided to a recipient; or

(2) Establish any eligibility requirements for cash depositories in which Federal grant funds are deposited by recipients, with the exception of the following cases:

(a) Any monies advanced to a recipient which are subject to the control or regulation of the United States or any of its officers, agents, or employees (public funds as defined in Treasury Circular No. 176, as amended) must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC must be collaterally secured.

(b) Consistent with the national goal of expanding the opportunities for minority business enterprises, recipients and subgrantees shall be encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230.

c. *Interest Income.* Under the Department of Treasury regulations, recipients are not permitted to retain Federal cash in large amounts for long periods of time. UMTA requires recipients to remit all income earned on advances of Federal funds, except interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577).

2. Letter of Credit Payment Method (LOC).

a. *Objectives.*

(1) To provide funds to a recipient organization (grantee) promptly in an amount to meet the immediate cash disbursement need; and

(2) To preclude the withdrawal of funds from the U.S. Treasury any sooner than absolutely necessary to meet the disbursements of the grantee or the sub-grantees/third party contractors.

b. *Policy.*

(1) A recipient organization is required to limit and time withdrawals under the LOC to minimum amounts needed to meet the actual, *immediate* cash disbursement requirements in carrying out the approved grant. The timing and amount of withdrawls must be as close as is administratively feasible to the actual disbursements made by the recipient organization for the Federal share of direct and allowable indirect grant costs. The recipient organization is authorized to make a withdrawal only on a *"cash basis"*, which is the amount being paid out for bills and invoices that have been received and are due for payment, and not on an "accrued expenditure" basis—the receipt of goods or services for which payment may not yet be due.

(2) Cash payments made by the recipient to secondary recipients must conform to the same standards of timing and amount as apply to payments by UMTA to recipients, including the furnishing of reports of cash disbursements and balances.

(3) Primary recipient organizations must develop procedures whereby secondary recipient organizations can obtain funds from the primary recipient organization as needed for disbursement.

(4) Recipients must use LOC funding method on all projects when the following three conditions exist:

(a) There is or will be a continuing relationship between a recipient and UMTA for at least a 12-month period and the total amount of advances to be received within that period from UMTA is at least $120,000.

(b) The recipient has established or demonstrated to UMTA the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the recipient, *and*

(c) The grantee's financial management system meets the standards for fund control and accountability prescribed in Chapter II of this circular.

c. *Procedures to Apply for Letter of Credit.* Following is a brief outline of the LOC procedures under the U.S. Treasury Regional Disbursing Office (RDO) System. Additional information is available in Treasury Circular No. 1075.

(1) The cognizant headquarters or regional office, in concert with the Office of Inspector General, makes a determination that a recipient organization should be funded through the LOC technique and sends the recipient organization Standard Form 1194, Authorized Signature Card for Payment Voucher on Letter of Credit (see Figures III-1 and III-2).

(2) The recipient organization completes and returns three original SFs 1194, including a Signatory Authorization and Certification, and the Designation of Depository, if desired, to the appropriate regional office.

(3) UMTA reviews the completed SF 1194 and, when approved, forwards the original to the appropriate RDO.

(4) UMTA prepares SF 1193A, Letter or Credit, in duplicate. The original is transmitted to the appropriate RDO and the duplicate is forwarded to the recipient organization.

(5) Upon approval of the LOC, UMTA forwards a letter to the grantee specifying drawdowns allowed by project number.

(6) UMTA furnishes the recipient organization a supply of SF 183s, Request for Payment on Letter of Credit and Status of Funds Report (Contact the appropriate regional or headquarters program office).

(7) Following the effective date of the LOC, the recipient organization executes and submits SF 183 to the appropriate RDO in order to receive grant funds to meet immediate cash disbursement needs and forwards a copy to the appropriate UMTA office.

(8) The RDO mails a Treasury check directly to the recipient organization or to the depository designated by the recipient organization for credit to its account.

(9) The Request for Payment on LOC ordinarily must be drawn:

(a) not more frequently than once daily; and

(b) in an amount no less than $5,000 but no more than $5,000,000, unless so stated on the LOC.

(10) In the event a recipient organization receiving funds by a LOC demonstrates an unwillingness or inability to establish procedures to minimize the time elapsing between the withdrawal of funds under the LOC and the disbursement of such funds, UMTA may cancel the LOC to the extent of the undisbursed balance not obligated in good faith in execution of the Federal project as authorized, and require the recipient organization to finance its operations with its own working capital.

(11) While UMTA encourages the issuance of consolidated LOCs by grantee rather than by individual grant, this may not always be administratively feasible. This may occur when a recipient has grants administered by both regional and headquarters offices. The decision as to the number of LOCs issued will be made by the UMTA program offices involved.

d. *Recipient Organization Requirements.*

(1) *Authorized Signature Cards.* SF 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit, must contain the signature of the individuals authorized by the recipient organization to sign SF 183's. The number of individuals so authorized should be between two and six. The recipient organization must submit three original Standard Forms 1194 to the appropriate UMTA office. An illustration and instructions for completing SF 1194 are shown in Figure III–1.

The RDO accepts only the signatures of persons named on the current signature card on file. A recipient organization must, therefore, immediately submit to the appropriate regional office new signature cards whenever there is an addition or deletion in the persons authorized to sign SF 183s. A superseding signature card is not required for any change in the title or position of a person so authorized if the person's authority to sign Standard Form 183 remains unchanged.

(2) *Designation of Depositor.* U.S. Treasury checks may be mailed directly to a depository designated and authorized by the recipient for credit to the recipient's bank account. In order to adopt this provision, the recipient must complete Section I and forward the Designation of Depository for Direct Deposit of Grant Funds to the depository for completion of Section II of the form. After the form is fully completed, the recipient must forward the original and one copy to the appropriate regional office. An illustration and instructions for completing this format are shown in Figure III–2.

The recipient organization must execute a power of attorney only when the depository requires such an authorization in order to receive checks directly from the U.S. Treasury Department for credit to the recipient's bank account. The recipient must execute a new designation whenever changes in the account number or depository are made.

(3) *Request for Payment on Letter of Credit (SF 183).* The recipient organization must execute an SF 183, Request for Payment on Letter of Credit and Status of Funds Report, each time funds are needed to meet current cash disbursement needs. An illustration and instructions for completing this form are shown in Figure III–3.

Note.—UMTA grantees may not use TFS form 5401 to request payment under letter of credit. This form is only used when a grantee is paid by a Federal Reserve Bank. UMTA grantees are paid by Teasury Regional Disbursing Offices, which require the SF 183.

(4) *Distribution of SF 183.* The recipient organization must distribute the executed SF 183 as follows:

(a) *Original, Duplicate, and Quintuplicate:* Mail *directly* to the Treasury Regional Disbursing Office shown on the recipient's copy of SF 1193A. (The RDO prepares and mails the Treasury check to the recipient organization or the recipient organization's depository).

(b) *Triplicate.* At the same time, mail *directly* to the appropriate UMTA regional or headquarters program office, *not* to the UMTA address on the SF 183.

(c) *Quadruplicate.* Retained by the recipient organization for its files.

It is recommended that recipients use *original* sets of SF 183's. These can be obtained from all UMTA regional offices. Some Treasury RDO's *may* accept copies; however the SF 183 instructions call for an *original* to be sent to the RDO.

(5) *Planning Letter of Credit Withdrawals.* The recipient organization must exercise sound financial judgment and planning to insure that the requirements for maintaining minimum cash balances are met. In preparing the SF 183, careful consideration of the timing of payments to contractors is required in order to determine when funds are needed. Consideration of mail time required for transmission of SF 183 to the RDO and for transmission of the Treasury check to the recipient organization or its depository, also is necessary.

For example, if $20,000 is needed on the fifteenth of the month in order to provide funds to a contractor to meet the terms of the contract, and normal mail time from the date the SF 183 is submitted to the date the Treasury check is received by the depository or the recipient organization is seven days, then on approximately the eighth of the month the recipient organization should mail the SF 183 to the RDO.

Once the LOC system has been in operation a short time, the recipient organization should have determined its disbursing pattern and calculated mail time so that withdrawals can be timed as close as possible to actual cash disbursements. Cash controls must be maintained by the recipient on a current basis so that cash balances do not exceed the *immediate* needs for the recipient organization's disbursements. Recipients may *not* draw down cash which will not be used for two or more weeks after receipt. Cash *must* be dispersed within three days.

An illustration and instructions for completing a suggested Federal Cash Control Register are shown in Figure III–4. If properly maintained, the cash control register provides the information necessary for completing Section II of an SF 183. Please note that the Federal Cash Control Register is maintained on a "fiscal year-to-date" basis, and not an "inception-to-date" basis.

e. *Deficient or Rejected SF 183.*

(1) *Deficient SF 183.* If a deficiency on the SF 183 is detected, a deficiency notice will be issued. A deficient SF 183 is not ordinarily rejected. However, repeated deficiencies of a similar nature by the same recipient organization may be cause for rejection with UMTA's concurrence. The following are reasons for the issuance of deficiency notices:

(a) There is a difference between the name and address information of the drawer on the SF 183 and the name and address of the drawer on the related SF 1193A;

(b) The address of the payee on the SF 183 is different from the address of the payee on the related SF 1193A;

(c) The Federal program agency approved payment, but other information on the SF 183 was incomplete or inaccurate;

(d) The cents are left off the amounts in Section I, II, and/or III;

(e) The Amount Requested in Section I is less than $5,000 and is not the final drawdown on the available balance; and

(f) The signature(s) of the official(s) authorized to certify request for payment differs slightly (example: using first two initials and last name instead of the full signature) from the signature(s) on the SF 1194 but otherwise compares favorably, and the Treasury disbursing office approves payment.

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(2) *Rejection of SF–183.* The SF 183 will also be examined for errors, deficiencies, or omissions of a more severe nature which may necessitate the rejection of the request. There are definitive reasons for the rejection of an SF 183 and the Treasury disbursing office will contact UMTA prior to any rejection. The reasons for rejection are:

(a) An unauthorized or invalid signature, (erasures, painting over with correction fluid, or tape overs are unacceptable.)

(b) The amount requested in Section I is greater than the available balance;

(c) The name of the payee to whom the check is to be issued is not identical to the name of the payee shown in the "Treasury Checks To Be Made Payable To:" block of the related SF 1193A;

(d) The "Amount Requested" block in Section I is left blank, erased, painted over with correction fluid, or taped over;

(e) Discrepancies exist elsewhere on the SF 183 and the Treasury disbursing office cannot obtain correction information from the Federal program agency and/or its own file;

(f) The amount requested is more than $5,000,000 and UMTA has not provided an amendment to the related LOC authorizing drawdowns of more than $5,000,000;

(g) There are excessive funds in the hands of the recipient organization as determined by Treasury and/or UMTA; and

(h) A written request has been received from UMTA to withhold payment for a reason other than those listed above. The Director, Office of Accounting, must provide signed written confirmation of this request.

f. *Excessive or Premature Withdrawals.* When excessive cash is being held by recipients, UMTA must request a refund of the excessive cash and, if the recipient is not a State government or an instrumentality of the State, the interest earned on those funds. The only exceptions to the requirement for prompt refunding are when the funds involved:

(1) Will be disbursed by the recipient organization within *seven* calendar days, or

(2) Are less than $10,000 and will be disbursed within 30 calendar days.

Excess cash for a project under the LOC may *not* be used for another project, even if it is under the LOC. The excess cash *must be returned* as stated above.

These exceptions to the requirement for prompt refunding should *not* be construed as approval for a recipient organization to maintain excessive funds. They are applicable *only* to excessive amounts of funds which are erroneously drawn.

The return of funds is accomplished as follows:

(1) UMTA requests the recipient to remit the excessive cash and any interest to UMTA by a check made payable to the Urban Mass Transportation Administration. If a single check is used to remit both the premature withdrawal and the interest, the amount attributable to each must be separately identified.

The check(s) must be mailed to the Office of Accounting, UAD–20, and must be accompanied by a memorandum explaining the purpose of the check(s) and identifying the project number. A copy of the check and the memorandum should be sent to the appropriate regional or program office.

(2) The recipient must record that portion of the remittance representing the amount prematurely withdrawn (excluding interest) as a disbursement on line 5 ("Less: Actual Disbursements, Fiscal Year to Date") on subsequent requests for payment.

(3) UMTA will authorize an increase in the recipient's LOC in the amount of the premature withdrawal only.

g. *Revocation of LOC.* A LOC will be revoked when it has been determined that the recipient organization has demonstrated an unwillingness or inability to establish procedures to withdraw only those amounts necessary to meet current disbursement needs and to time withdrawals as closely as possible to the actual cash disbursements. The amount authorized under the LOC credit will be decreased to the amount withdrawn plus the amount already obligated in good faith in executing the Federal project as authorized. Once this remaining balance has been withdrawn, the LOC will be revoked.

3. Advance by Treasury Check

a. Recipients that do not qualify for LOC's may still receive advances by Treasury check if certain conditions are met. Recipients may recieve cash payments upon request to UMTA before cash outlays are made, or according to a predetermined payment schedule before payments are made by the recipient. This advance funding method will be used when the following conditions exist:

(1) Annual advances to a recipient aggregate to less than $120,000, or there will not be a continuing relationship for at least one year between UMTA and the grantee.

(2) The recipient has established or demonstrated to UMTA a willingness and ability to establish procedures minimizing the time elapsing between a transfer of funds and their disbursement by the recipient.

(3) The recipient's financial management system meets the standards for fund control and accountability prescribed in Chapter II of this circular.

b. Cash advances will be limited to the minimum amount needed, and timed to meet the *actual, immediate cash requirements* of grantees in carrying out the purposes of approved programs or projects. The timing and amount of cash advances should be as close as is administratively feasible to actual disbursements by recipients for direct program costs and for proportionate shares of allowable indirect costs. For example, if disbursements are made by a recipient on a monthly, biweekly, or any other regular cycle, and the amounts involved would so warrant, issuance of advance Treasury checks should be timed accordingly.

c. Funds are requested by preparing the Request For Advance or Reimbursement, SF 270 (See paragraph 5 below for details).

4. Reimbursement by Treasury Check

When a recipient receiving cash advances has demonstrated to UMTA an unwillingness or inability to establish procedures to minimize the time lag between cash advances and disbursement thereof, UMTA, unless prohibited by the statutes governing the program(s) in question, will terminate advance financing and require the recipient to finance it with its own working capital. Payments to the recipient are then made by Treasury check to reimburse the recipient for cash actually disbursed. A Request for Advance or Reimbursement is submitted to UMTA for this purpose (see paragraph 5 below).

5. Request for Advance or Reimbursement (SF 270)

a. *General.* Recipients submit this form to receive payment for all projects when LOC is not used. Copies of the SF 270 can be acquired from the appropriate regional office. No other documentation need accompany this form. An original and two copies should be sent to the cognizant UMTA office.

b. *Instructions.* Instructions for completing an SF 270 are printed on its reverse side. In addition, the following instructions should assist recipients in completing this form (see Figure III–5).

(1) Only the total columns on this form should be completed. In addition, all figures may be rounded to the nearest dollar, i.e., amounts of $.50 or over should be rounded to the higher dollar

and amounts under $.50 should be rounded to the lower dollar. For example: if the non-Federal share is computed to be $2,572.70, the amount reported should be $2,573.

(2) *Block #5*—All requisitions should be numbered consecutively beginning with #1 as the first requisition.

(3) *Block #8*—The first requisition covers the date of the grant approval letter through the end of the period for which reimbursement is requested. When a requisition requests reimbursement only, this "ending" date will be the same date which outlays are reported on line 11a of this form. If reimbursement and/or an advance is being requested, the "ending" date should reflect the period through which the advance funds are needed.

All requisition report periods should run consecutively. For example, if a requisition is submitted for the period 1/1/80 to 3/31/80, the next requisition will begin from 4/1/80.

(4) *Block #9*—The name of the recipient organization should be exactly as indicated on the grant contract.

(5) *Block #11*—Line A—The "as of" date should be the date for which the recipient has actual costs recorded. This date should be the same as the "to" date in Block #8 unless the recipient is requesting an advance.

Line B—Represents investment income, proceeds from the sale of equipment, or rental income.

Line D—Represents the estimated expenditures for the advance period, both UMTA share and local share.

Line F—⅓ or 20% of line E, depending on the funding ratio for a particular project. If anything other than these percentages, the reasons should be specified.

Line G—⅔ or 80% of line E, depending on the funding ratio for a particular project.

Line H—Total of previous requisiton(s) *submitted*. This line should not represent actual checks received because the recipient may have submitted a requisition which is in the process of being paid. Requisition #1 on this line should be zero.

Note that recipients should only complete the "total" column of Block #11, unless the grant award letter or grant agreement specified that there is more than one funding source supporting the project. In such cases, separate columns should be utilized for each funding source.

c. *Review of the SF 270.* Each SF 270 for funds will be reviewed in light of the periodic progress reports and financial reports required for that project. Changes requiring grant amendments or prior approval of a budget revision must be approved before funds for these changes are requisitioned (see Chapter I, paragraph 5).

6. Excessive Payments (Overpayments) to Grantees

a. UMTA project managers will be alert to any information which may evidence a potential overpayment or other amounts due UMTA. The following are possible reasons for payments becoming due UMTA:

(1) insufficient non-Federal funds to match Federal payments,

(2) the sale of project equipment, or

(3) excessive Federal funds in the project account.

Such payments must be made promptly to UMTA. The grantee is instructed to:

(1) Make checks payable to "Urban Mass Transportation Administration";

(2) Mail checks to: Office of Accounting, UAD-20, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590.

(3) Specify applicable project number(s) on the check,

(4) Provide written explanation as to purpose of payment, and

(5) Send copy of the check and the explanatory letter to the appropriate program office.

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URBAN MASS TRANSPORTATION ADMINISTRATION
LETTER OF CREDIT - TREASURY RDO SYSTEM
DESIGNATION OF DEPOSITORY FOR DIRECT DEPOSIT OF GRANT FUNDS

Section I (To be completed by recipient organization)

Name of Project: ________________ (1) ________________

The ________________ (2) ________________

has been designated as the depository for all funds to be received directly from grant (project) number(s) ________ (3) ________ executed with the Urban Mass Transportation Administration for deposit to

________________ (4) ________________
(Account Name and Number)

________ (5) ________
(Name)

________ (6) ________
(Address and Zip Code)

________ (7) ________
(Title of Executive Officer)

________ (8) ________
(Signature of Executive Officer)

________ (9) ________
(Date)

Section II (To be completed by the depository)

The account identified in Section I has been established with the bank. All necessary documentation, including a power of attorney when necesary, which legally enables this depository to receive U.S. Government checks directly from the U.S. Treasury Department for deposit to

________________ (10) ________________ without the payee's
(Account Name and Number)

endorsement have been received and are in the depository's custody.

________ (11) ________
(Name of Bank)

________ (12) ________
(Address and Zip Code where checks should be mailed)

(13) The Depository is a minority-owned bank participating in the Federal Minority Bank Deposit Program? Yes___ No___

The Depository hereby agrees to immediately notify the Recipient Organization when a deposit is made in the above account.

________ (14) ________
(Title of Authorized Bank Officer)

________ (15) ________
(Signature of Authorized Bank Officer)

____ (16) ____
(Date)

URBAN MASS TRANSPORTATION ADMINISTRATION
LETTER OF CREDIT - TREASURY RDO SYSTEM
INSTRUCTIONS FOR DESIGNATION OF DEPOSITORY FORMAT

NOTE: This form is not necessary if the recipient organization chooses to receive the check directly from Treasury. This form is not supplied. Each recipient organization must type an original and two copies as illustrated.

Block Number

1. Enter as provided by the UMTA program officer.
2. Enter name, address and ZIP code of depository designated to receive Treasury checks.
3. Enter project number(s) -- use supplemental sheet if necessary.
4. Enter name of recipient organization's bank account and number.
5. Enter name of recipient organization.
6. Enter complete address of recipient organization.
7. Enter title of Executive Officer for recipient organization.
8. Signature of Executive Officer for recipient organization (person who signed grant agreement).
9. Enter date form signed by Executive Officer for recipient organization.
10. Enter name and account number of recipient organization's bank account.
11. Enter name of recipient organization's bank.
12. Enter complete address of recipient organization's bank where Treasury checks are to be mailed.
13. Enter title of authorized bank officer for recipient organization's bank.
14. Enter signature of authorized bank officer for recipient organization's bank.
15. Enter date form signed by authorized bank or Treasury Officer for recipient organization's bank.

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SAMPLE OF STANDARD FORM 1194

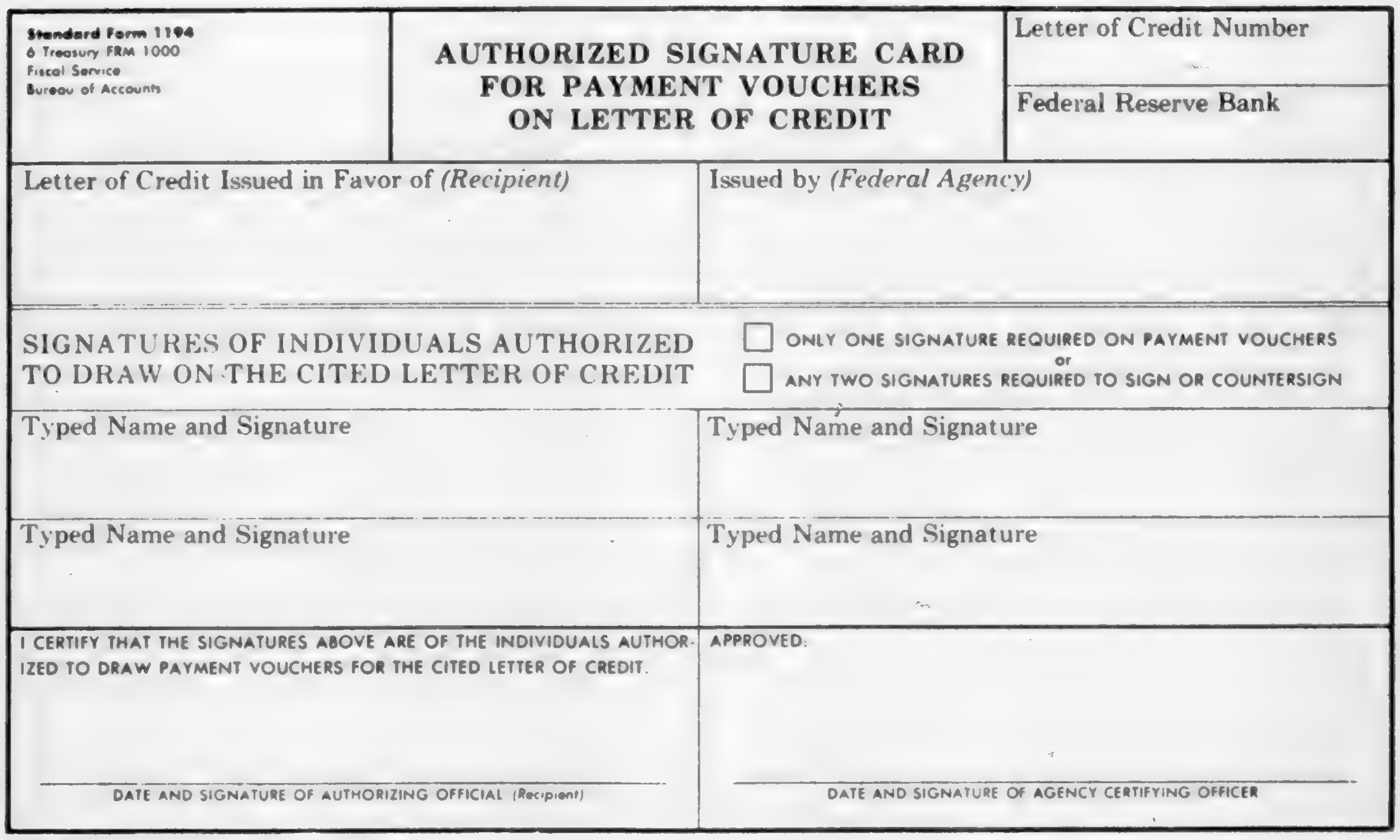

Standard Form 1194
6 Treasury FRM 1000
Fiscal Service
Bureau of Accounts

AUTHORIZED SIGNATURE CARD FOR PAYMENT VOUCHERS ON LETTER OF CREDIT

Letter of Credit Number

Federal Reserve Bank

Letter of Credit Issued in Favor of *(Recipient)*	Issued by *(Federal Agency)*
SIGNATURES OF INDIVIDUALS AUTHORIZED TO DRAW ON THE CITED LETTER OF CREDIT	☐ ONLY ONE SIGNATURE REQUIRED ON PAYMENT VOUCHERS or ☐ ANY TWO SIGNATURES REQUIRED TO SIGN OR COUNTERSIGN
Typed Name and Signature	Typed Name and Signature
Typed Name and Signature	Typed Name and Signature
I CERTIFY THAT THE SIGNATURES ABOVE ARE OF THE INDIVIDUALS AUTHORIZED TO DRAW PAYMENT VOUCHERS FOR THE CITED LETTER OF CREDIT. DATE AND SIGNATURE OF AUTHORIZING OFFICIAL *(Recipient)*	APPROVED: DATE AND SIGNATURE OF AGENCY CERTIFYING OFFICER

1194-101

PREPARATION OF SF 1194

NOTE: 1. In preparing the SF 1194, Authorized Signature Card For Payment Vouchers on Letter of Credit if a mistake is made or a change is necessary, a new SF 1194 must be prepared because erasures or corrections of any kind are not acceptable.

2. When a new SF 1194 is being submitted to reflect a name change or addition of any individual authorized to withdraw on a LOC, allow at least 10 days for processing the SF 1194 before submitting a Request for Payment on Letter of Credit and Status of Funds Report, SF 183.

Block Number	Explanation
1.	Leave blank--to be completed by UMTA.
2.	Line through the words "Federal Reserve Bank" and enter the name of the Treasury Regional Disbursing Office servicing and recipient organization.
3.	Enter the name and address of the recipient organization. If additional space is required, use the reverse side of the form.
4	Enter "Urban Mass Transportation Administration' plus the address an eight-digit accounting station symbol. UMTA's eight-digit accounting station symbol is 69-08-8701. The address is: UMTA, Office of Accounting, UAD-20, 400 7th Street, S.W., Washington, D.C. 20590.
5.	Leave blank.
6.	Enter an "X". (All SF 183 for withdrawals against a letter of credit must be countersigned).

Preparation of Standard Form 1194: (cont'd)

Block Number	Explanation
7.	Enter the typed names and the signatures of officials of the recipient organization authorized to execute SF 183, Request for Payment on Letter of Credit and Status of Funds Report. Cross out any of these blocks that are not used.
8.	Enter the date, typed name, title and the signature of the recipient organization's official who is authorized to certify the authenticity of the signature of individuals authorized to execute SF 183.
9.	Leave Blank -- to be completed by UMTA.

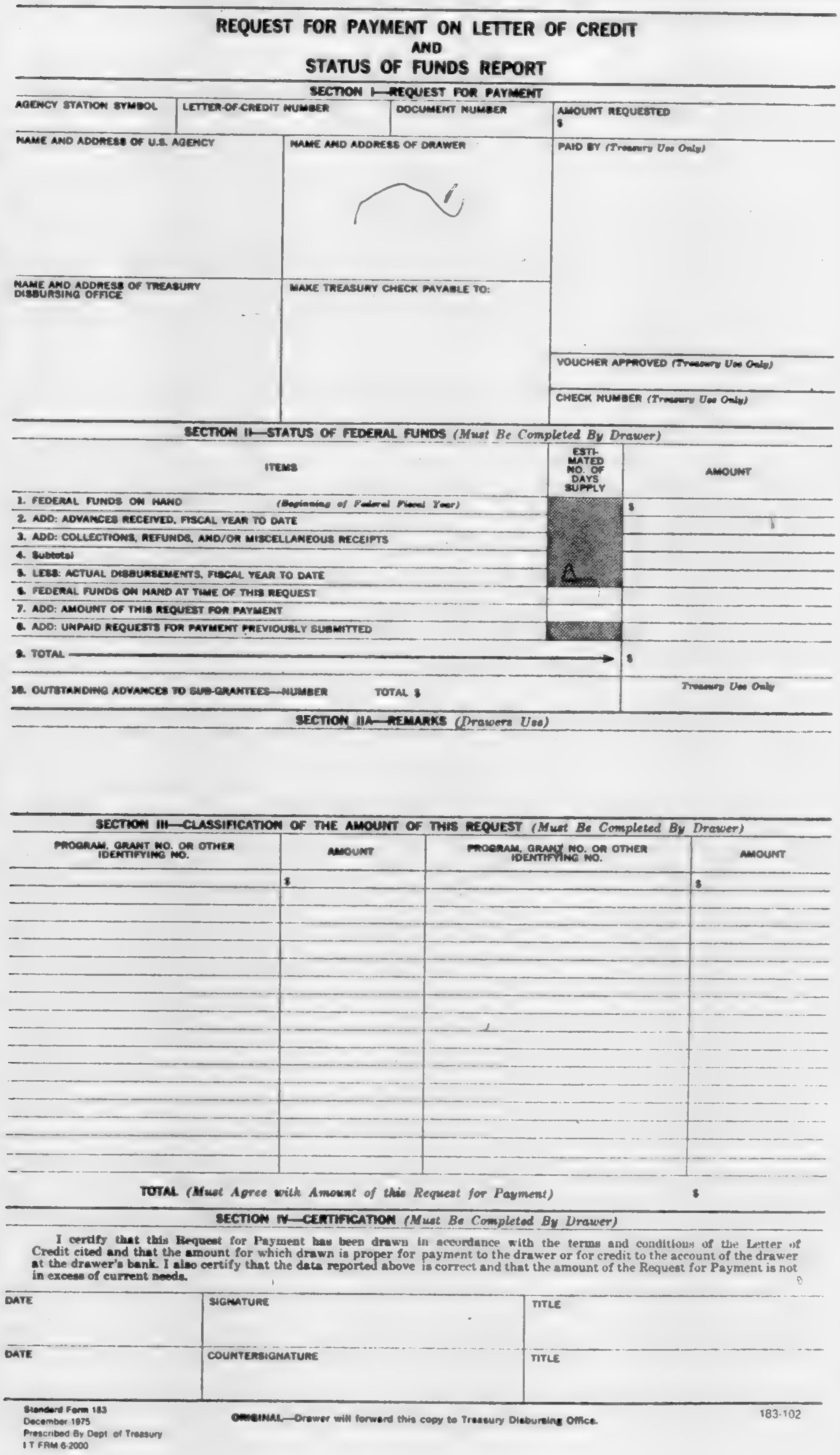

REQUEST FOR PAYMENT ON LETTER OF CREDIT
AND
STATUS OF FUNDS REPORT

SECTION I—REQUEST FOR PAYMENT

AGENCY STATION SYMBOL	LETTER-OF-CREDIT NUMBER	DOCUMENT NUMBER	AMOUNT REQUESTED $

NAME AND ADDRESS OF U.S. AGENCY	NAME AND ADDRESS OF DRAWER	PAID BY *(Treasury Use Only)*
NAME AND ADDRESS OF TREASURY DISBURSING OFFICE	MAKE TREASURY CHECK PAYABLE TO:	VOUCHER APPROVED *(Treasury Use Only)* CHECK NUMBER *(Treasury Use Only)*

SECTION II—STATUS OF FEDERAL FUNDS *(Must Be Completed By Drawer)*

ITEMS	ESTIMATED NO. OF DAYS SUPPLY	AMOUNT
1. FEDERAL FUNDS ON HAND *(Beginning of Federal Fiscal Year)*	▨	$
2. ADD: ADVANCES RECEIVED, FISCAL YEAR TO DATE	▨	
3. ADD: COLLECTIONS, REFUNDS, AND/OR MISCELLANEOUS RECEIPTS	▨	
4. Subtotal	▨	
5. LESS: ACTUAL DISBURSEMENTS, FISCAL YEAR TO DATE	▨	
6. FEDERAL FUNDS ON HAND AT TIME OF THIS REQUEST		
7. ADD: AMOUNT OF THIS REQUEST FOR PAYMENT		
8. ADD: UNPAID REQUESTS FOR PAYMENT PREVIOUSLY SUBMITTED	▨	
9. TOTAL ⟶		$
10. OUTSTANDING ADVANCES TO SUB-GRANTEES—NUMBER TOTAL $		*Treasury Use Only*

SECTION IIA—REMARKS *(Drawers Use)*

SECTION III—CLASSIFICATION OF THE AMOUNT OF THIS REQUEST *(Must Be Completed By Drawer)*

PROGRAM, GRANT NO. OR OTHER IDENTIFYING NO.	AMOUNT	PROGRAM, GRANT NO. OR OTHER IDENTIFYING NO.	AMOUNT
	$		$

TOTAL *(Must Agree with Amount of this Request for Payment)* $

SECTION IV—CERTIFICATION *(Must Be Completed By Drawer)*

I certify that this Request for Payment has been drawn in accordance with the terms and conditions of the Letter of Credit cited and that the amount for which drawn is proper for payment to the drawer or for credit to the account of the drawer at the drawer's bank. I also certify that the data reported above is correct and that the amount of the Request for Payment is not in excess of current needs.

DATE	SIGNATURE	TITLE
DATE	COUNTERSIGNATURE	TITLE

Standard Form 183
December 1975
Prescribed By Dept. of Treasury
I T FRM 6-2000

ORIGINAL.—Drawer will forward this copy to Treasury Disbursing Office.

183-102

INSTRUCTIONS FOR PREPARING AND DISTRIBUTING AN SF 183 REQUEST FOR PAYMENT ON LOC AND STATUS OF FUNDS REPORT

NOTICE TO DRAWER

SF 183 is shown on Page 1 of Figure III-3. Extreme care must be exercised to prepare an SF 183 correctly and completely in order for the appropriate Treasury Regional Disbursing Office to process the request for payment without delay. If a recipient repeatedly fails to prepare the SF 183 correctly and completely, the Treasury Regional Disbursing Office may reject future requests for payment.

Withdrawals on the LOC must be made only in amounts necessary to meet current disbursement needs. Such withdrawals ordinarily must be made not more frequently than once daily, in amounts no less than $5,000 but no more than $5,000,000 unless so stated on the LOC.

All Dollar Amounts Which Are Entered On the SF 183 Must Be Shown To Two Places Past The Decimal. Example $25,000.00

SECTION 1 - REQUEST FOR PAYMENT

Block
Number

1. Agency Station Symbol. Enter the eight digit agency station symbol, 69-08-8701, (also appears on the SF 1193A Letter of Credit).

2. Letter-of-Credit Number. Enter the eight digit Letter-of-Credit number which appears on your related LOC.

Block
Number

3. Document Number. Enter the appropriate document number. For each LOC, the document number of the first SF 183 must begin with "001", and each SF 183 prepared thereafter for each letter of credit must progress in consecutive ascending order. Alphabetical designations must not be used as part of the document number. Amendments to the LOC must not interrupt the progression of the number assigned to the Requests for Payment by the drawer.

4. Amount Requested. Enter the total amount of this request for payment which must be the same as the amount requested on line 7 of Section II and the total in Section III.

5. Name and Address of U.S. Agency. Enter the name and address of the Federal "Issuing Agency" which apears on your related LOC.

6. Name and Address of Drawer. Enter the name and address of the recipient organization (drawer). This information must be identical to that entered in the "In Favor Of" block on your related LOC.

7. Name and Address of Treasury Disbursing Office. Enter the name and address of the Treasury disbursing center or Treasury regional office which appears on your related LOC.

8. Make Treasury Check Payable To. Enter the information exactly as it appears in the "Treasury Checks to be Made Payable To:" block on your related LOC.

SECTION II - STATUS OF FEDERAL FUNDS

Block
Number

1. Federal Funds on Hand. Enter the total amount of undisbursed Federal funds received under this LOC which were in the hands of the recipient organization (drawer) on the first day of the current Federal fiscal year. This amount includes all Federal funds on deposit with a commercial bank or maintained as imprest funds and received but undeposited Treasury checks.

2. Advances Received, Fiscal Year to Date. Enter the total amount of all Federal funds received under this letter of credit during the current Federal fiscal year to date.

3. Collections, Refunds, and/or Miscellaneous Receipts. Enter the total amount of all collections, refunds, and/or miscellaneous receipts of funds received during the current Federal fiscal year to date. Examples of items to be included in this amount are:

    a. Cumulative Federal funds advanced to a secondary recipient organization and, subsequently, determined to be in excess of immediate disbursement needs, which have been returned to the primary recipient during the current Federal fiscal year.

    b. Cumulative Federal share of proceeds from the sale of real property, personal property, and/or services received during the current Federal fiscal year which are available to the primary recipient to pay the cost of any approved program activity.

c. Cumulative interest earned during the current Federal fiscal year on Federal funds withdrawn from this LOC prior to actual disbursement needs of the recipient organization. In Section II A - Remarks, indicate the amount of such interest and whether that amount has been remitted to UMTA.

4. Subtotal. Enter the sum of the amounts reported on lines 1, 2, and 3 of Section II.

5. Actual Disbursements, Fiscal Year to Date. Enter the total amount of actual cash disbursements of Federal Project funds during the current Federal fiscal year to date. Any interest earned on funds prematurely withdrawn from this LOC and returned to UMTA must be included in the amount shown on this line.

6a. Federal Funds on Hand at Time of This Request. Enter the amount reported on Line 4 minus the amount reported on Line 5.

6b. Estimated Number of Days Supply. Enter the estimated number of workdays until the amount reported on Line 6a will be disbursed. The estimate includes the day on which the funds will be disbursed. For example, if the request for payment is prepared on a Tuesday and the recipient organization expects to disburse the Federal funds on hand on the same day it is preparing the request for payment, this represents a zero day supply of Federal funds.

7a. Amount of This Request for Payment. Enter the total amount of this request for payment, which must be the same as the amount requested in Section I and the total in Section III.

7b. Estimated Number of Days Supply. Enter the estimated number of workdays from the estimated day of receipt until the amount reported on Line 7a will be disbursed. This estimate includes the expected day of receipt but does not include the day of disbursement. For

V 45 SE 11 80 UMI

example, if the recipient expects to receive the Federal funds requested on a Friday and disburse these funds on Monday of the following week, this represents a one day supply of Federal funds assuming Saturday and Sunday are not work days.

8. Unpaid Requests for Payment Previously Submitted. Enter the total amount of the request(s) for payment which have been submitted to the RDO but for which the recipient organization has not yet received payment. Do not include the amounts of rejected Requests for Payment.

9. Total. Enter the sum of the amounts reported on Lines 6, 7 and 8.

10a. Outstanding Advances to Sub-Recipients - Total $. Enter the difference between the total amount of Federal funds advanced to secondary recipient(s) and the total amount of Federal funds disbursed by secondary recipient(s).

10b. Outstanding Advances to Sub-Recipients - Number. Enter the number of recipients maintaining the outstanding balances reported on Line 10a of this request for payment as "Outstanding Advances to Sub-Recipients". If there are no secondary recipients involved, "N.A." must be entered for non-applicable.

SECTION II A - REMARKS

The recipient organization (drawer) should enter any additional explanation, related to Section II - Status of Federal Funds, deemed appropriate. This includes the date through which funds are requested, the purpose of the request and if a final payment for a particular project.

SECTION III - CLASSIFICATION OF THE AMOUNT OF THIS REQUEST

Since a request for payment may include funds for more than one grant or project, it is extremely important that Section III be properly completed to show the amount of the request for payment applicable to each grant or project. Therefore, for each grant or project for which funds are being requested, enter the appropriate project number, fund code, and the amount of funds requested for each project.

The total of this section must be the same as the "Amount Requested" under Section I and the "Amount of This Request for Payment" under Section II.

SECTION IV - CERTIFICATION

Block
Number

1. Date. Enter the date(s) this SF 183 is certified.

2. Signature and Countersignature. Two of the designated officials of the recipient organization authorized to certify requests for payment on the SF 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit, on file with the Treasury disbursing center or Treasury regional office servicing the related LOC shall affix their signatures. These signatures must be identical to those on the current SF 1194.

3. Title. Enter the titles of the designated officials of the recipient organization certifying this SF 183.

11. Distribution of the Form.

NOTE: FORWARDING POINTS ARE PRINTED ON THE BOTTOM OF EACH COPY.

1. Original, Duplicate and Quintuplicate. Forward to the Treasury disbursing center or Treasury regional office servicing the related LOC.

2. Triplicate. At the same time the recipient organization mails the designated copies in 1. above to the appropriate Treasury RDO, the triplicate copy must be sent to the UMTA regional or headquarters office (Do not send the triplicate copy to the Office of Accounting which is shown in the "Issuing Agency" block on your Letter of Credit, SF 1193A.)

3. Quadruplicate. Retained by the recipient organization (drawer).

FEDERAL CASH CONTROL REGISTER														
REQUEST FOR PAYMENT SUBMITTED				U.S. TREASURY CHECKS RECEIVED			COLLECTIONS, REFUNDS, AND/OR MISCELLANEOUS RECEIPTS			DISBURSEMENTS			BALANCE OF FEDERAL CASH ON HAND	
DOCUMENT NUMBER SF 183	DATE OF REQUEST	AMOUNT REQUESTED	AMOUNT FY TO DATE	DATE DEPOSITED	CHECK AMOUNT	AMOUNT FY TO DATE	DATE DEPOSITED	CHECK AMOUNT	AMOUNT FY TO DATE	DATE DIS-BURSED	AMOUNT	AMOUNT FY TO DATE	DATE	AMOUNT
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
						POST CUMULATIVE AMOUNT ON LINE 2 OF SF 183			POST CUMULATIVE AMOUNT ON LINE 3 OF SF 183			POST CUMULATIVE AMOUNT ON LINE 5 OF SF 183		

PREPARATION OF FEDERAL CASH CONTROL REGISTER

Column Number	Instructions
1.	Enter the document number from SF 183.
2.	Enter date of request from SF 183.
3.	Enter amount requested as shown on line 7 of SF 183.
4.	Self-explanatory.
5.	Enter date Treasury check deposited as shown on notification received from bank.
6.	Enter amount of Treasury check from notification received from bank.
7.	Self-explanatory.
8.	Enter date of deposit.
9.	Enter amount of deposit.
10.	Self-explanatory.
11.	Enter date funds disbursed to payee by recipient organization.
12.	Enter amount disbursed to payee by recipient organization.
13.	Self-explanatory.
14.	Enter the date of the last entry in either column (5), (8) or (11) which causes a change in the balance in column (15).
15.	Enter amount obtained by subtracting cumulative total in column (13) from the cumulative total in column (7) plus column (10).

V45 SE 11 80 UMI

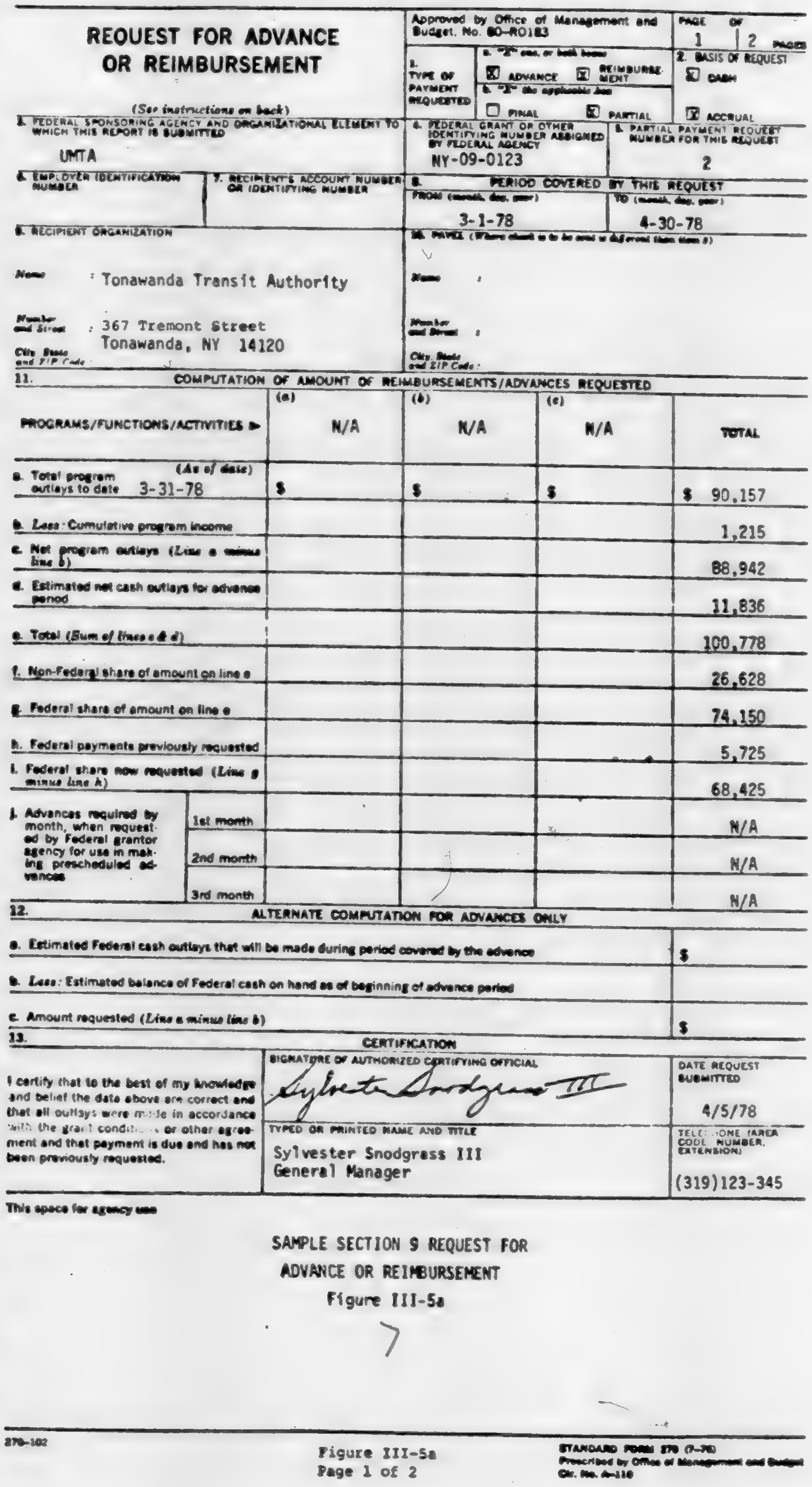

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0183

PAGE 1 OF 2 PAGES

1. TYPE OF PAYMENT REQUESTED
a. "X" one, or both boxes: ☒ ADVANCE ☒ REIMBURSEMENT
b. "X" the applicable box: ☐ FINAL ☒ PARTIAL

2. BASIS OF REQUEST: ☒ CASH ☒ ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED: UMTA

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY: NY-09-0123

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST: 2

6. EMPLOYER IDENTIFICATION NUMBER:

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER:

8. PERIOD COVERED BY THIS REQUEST
FROM (month, day, year): 3-1-78
TO (month, day, year): 4-30-78

9. RECIPIENT ORGANIZATION
Name : Tonawanda Transit Authority
Number and Street : 367 Tremont Street
City State and ZIP Code : Tonawanda, NY 14120

10. PAYEE (Where check is to be sent if different than item 9)
Name :
Number and Street :
City, State and ZIP Code :

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ►		(a) N/A	(b) N/A	(c) N/A	TOTAL
a. Total program outlays to date (As of date) 3-31-78		$	$	$	$ 90,157
b. *Less*: Cumulative program income					1,215
c. Net program outlays (*Line a minus line b*)					88,942
d. Estimated net cash outlays for advance period					11,836
e. Total (*Sum of lines c & d*)					100,778
f. Non-Federal share of amount on line e					26,628
g. Federal share of amount on line e					74,150
h. Federal payments previously requested					5,725
i. Federal share now requested (*Line g minus line h*)					68,425
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month				N/A
	2nd month				N/A
	3rd month				N/A

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. *Less*: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (*Line a minus line b*)	$

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL: Sylvester Snodgrass III

DATE REQUEST SUBMITTED: 4/5/78

TYPED OR PRINTED NAME AND TITLE: Sylvester Snodgrass III
General Manager

TELEPHONE (AREA CODE, NUMBER, EXTENSION): (319)123-345

This space for agency use

SAMPLE SECTION 9 REQUEST FOR
ADVANCE OR REIMBURSEMENT
Figure III-5a

7

270-102

Figure III-5a
Page 1 of 2

STANDARD FORM 270 (7-76)
Prescribed by Office of Management and Budget
Cir. No. A-110

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

STANDARD FORM 270 BACK (7-76)

☆GPO: 1977—[illegible]

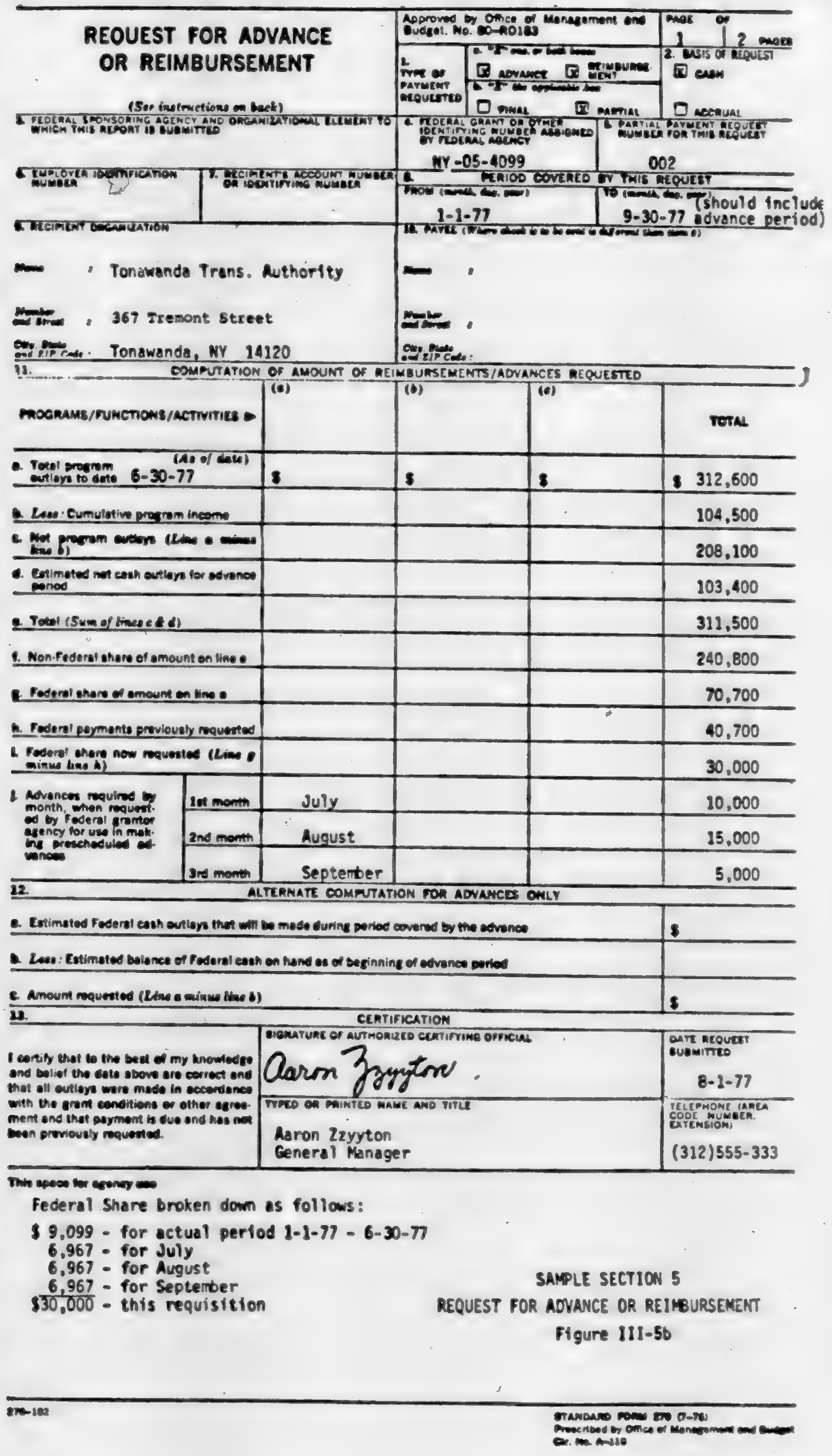

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0183

PAGE 1 OF 2 PAGES

1. TYPE OF PAYMENT REQUESTED
a. "X" one, or both boxes: ☒ ADVANCE ☒ REIMBURSEMENT
b. "X" the applicable box: ☐ FINAL ☒ PARTIAL

2. BASIS OF REQUEST: ☒ CASH ☐ ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY: NY-05-4099

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST: 002

6. EMPLOYER IDENTIFICATION NUMBER

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST
FROM (month, day, year): 1-1-77
TO (month, day, year): 9-30-77 (should include advance period)

9. RECIPIENT ORGANIZATION
Name: Tonawanda Trans. Authority
Number and Street: 367 Tremont Street
City, State and ZIP Code: Tonawanda, NY 14120

10. PAYEE (Where check is to be sent if different than item 9)
Name:
Number and Street:
City, State and ZIP Code:

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ►		(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date) 6-30-77		$	$	$	$ 312,600
b. *Less*: Cumulative program income					104,500
c. Net program outlays (*Line a minus line b*)					208,100
d. Estimated net cash outlays for advance period					103,400
e. Total (*Sum of lines c & d*)					311,500
f. Non-Federal share of amount on line e					240,800
g. Federal share of amount on line e					70,700
h. Federal payments previously requested					40,700
i. Federal share now requested (*Line g minus line h*)					30,000
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month	July			10,000
	2nd month	August			15,000
	3rd month	September			5,000

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. *Less*: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (*Line a minus line b*)	$

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL: Aaron Zzyyton

DATE REQUEST SUBMITTED: 8-1-77

TYPED OR PRINTED NAME AND TITLE:
Aaron Zzyyton
General Manager

TELEPHONE (AREA CODE, NUMBER, EXTENSION): (312)555-333

This space for agency use

Federal Share broken down as follows:

$ 9,099 - for actual period 1-1-77 - 6-30-77
6,967 - for July
6,967 - for August
6,967 - for September
$30,000 - this requisition

SAMPLE SECTION 5
REQUEST FOR ADVANCE OR REIMBURSEMENT
Figure III-5b

270-102

STANDARD FORM 270 (7-76)
Prescribed by Office of Management and Budget
Cir. No. A-110

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on/a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

Appendix I—Questions and Answers on Cost Allocation Plans

Questions and Answers on Cost Allocation Plans

A. Application of Principles

Q. Is Federal Management Circular 74-4 Mandatory for use by both States and local governments?

A. Yes. Paragraph A-3 of Attachment A to the Circular states that the principles will be applied by all Federal agnecies in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to FMC 73-8, and (b) publicly owned hospitals and other providers of medical care subject to requirements promulgated by the sponsoring Federal agencies.

Q. Federal Management Circular 74-4 states that it does not apply to grants and contracts with (a) publicly financed educational institutions subject to Federal Management Circular 73-8 and (b) publicly owned hospitals and other providers of medical care subject to requirements promulgated by the sponsoring Federal agencies. What is the intent of this statement and how does it affect the reimbursement of costs?

A. Federal cost principles are designed to be compatible with the organizational structure, accounting systems and programs conducted by specific types of organizations which perform Federal grants and contracts. FMC 74-4 was designed to be compatible with the type of operations conducted by State and local government. The organization and operations of colleges and universities and hospitals differ markedly from that of State and local governments and hence, there are special cost principles for them (FMC 73-8 for colleges and universities and the Medicare/Medicaid/HEW research cost principles for hospitals). These principles recognize State and local central service costs and departmental indirect costs allocable under the procedures of FMC 74-4.

Q. Will the indirect costs arrived at by the application of the indirect cost rate percentage be reimbursed to State and local governments?

A. The indirect costs which are determined to be associated with Federal programs in accordance with the procedures in FMC 74-4 will be recognized as part of the total cost of the Federal projects, except where restricted or prohibited by law. The extent to which such costs are reimbursed is a matter for determination between the Federal awarding agency and the recipient State or local unit of government.

B. Federal Cognizance

Q. What Federal agency will be responsible for determining and reassigning negotiation and audit cognizance for State and local agencies under FMC 74-4?

A. The Office of Management and Budget working in cooperation with the other Federal departments and agencies is responsible for determining and reassigning negotiation and audit cognizance for State and local agencies.

Q. May another Federal agency question the costs included in a central service cost allocation plan submitted to and approved by a cognizant Federal agency?

A. Cognizant Federal agencies will coordinate the approval of central service plans with the other Federal agencies affected. Accordingly, Federal agencies will accept as part of the costs of a particular State or local government agency, those costs represented as central service costs provided they are in accord with the amounts set out in the negotiation agreement signed by representatives of the State or local government and the cognizant Federal agency.

Q. Will an indirect cost rate(s) established for a State or local department by a cognizant Federal agency by accepted by other Federal agencies that have active programs with the same State department?

A. Federal agencies have determined which Federal agency will have negotiation responsibility at State and local departments where more than one Federal agency has active programs. Generally, the Federal agency with the predominant interest in terms of program dollars will be the cognizant Federal agency. This means, for example, that the Department of Health, Education and Welfare will determine indirect cost rates at State and local departments where the Department has the predominant dollar interest. The rates negotiated by the Department will be accepted by all Federal agencies that also have programs at these same State and local departments. In making such determinations the cognizant Federal agency will coordinate its activities with the other Federal agencies affected to the extent deemed necessary prior to reaching an agreement with the State or local department concerned.

Q. Which Federal agency will be responsible for the audit of costs of programs administered by State and local governments under grants from and contracts with the Federal Government?

A. The Department of Health, Education, and Welfare will be responsible for the audit of costs resulting from a State central service cost allocation plan, the results of which will be accepted by other Federal agencies. The Federal agency that has negotiation cognizance for indirect cost proposals at the State or local department level will also be cognizant for audit of these costs. That Federal agency that has the preponderance of dollar activity within a city, county or other subdivision will be cognizant for both audit and negotiation of local central service cost allocation plans. However, changes in cognizance may be required from time to time in Federal agency assignments as material changes in preponderance of Federal dollar activity occur.

Q. Where can State and local governments receive additional information or clarification on the implementation of FMC 74-4?

A. States and local governments should contact the Federal agency that has been assigned cognizance for either central service cost allocation plans or individual government department indirect cost proposals.

C. Definitions

Q. To what does the expression "cost allocation plan" refer?

A. A cost allocation plan refers to a document that identifies, accumulates, and distributes allowable costs to grants and contracts and identifies the procedures used in making such distribution. It refers to both the central service cost allocation plan which is used to allocate the costs of central government services to benefiting government departments, and the indirect cost proposals of those departments or units performing grants and contracts.

Q. What is an indirect cost rate?

A. An indirect cost rate is the ratio of an organization's indirect costs to some element of its direct costs, e.g., direct salaries and wages. Once determined, the rate is used to compute grantee indirect cost entitlement. The entitlement is accomplished by multiplying the indirect cost rate by the direct salaries and wages charged to a grant or contract. An indirect cost rate is the net product of an indirect cost proposal.

D. Preparation and Use of Plans

Q. Who is responsible for the preparation of State and local central service cost allocation plans and indirect cost proposals?

A. It is the responsibility of each State and local government to prepare timely central service plans and indirect cost proposals where indirect cost reimbursement is sought.

Q. Are there any critical areas that State and local governments should give particular emphasis to in the development of a central service cost allocation plan and in the preparation of individual indirect cost proposals?

A. State and local governments must be especially alert to inconsistent costing practices, i.e., the treating of a type of expense such as occupancy or fringe benefits as both a direct and indirect cost. Inconsistent costing invariably results in disallowed claims.

Q. Must the indirect cost proposal or the central service cost allocation plan be prepared centrally for each State or local department performing under Federal grant programs?

A. There is no requirement that an indirect cost proposal be prepared by an designated State or local government organization. Proposals may be prepared by each of the government departments performing under Federal grants or they may be prepared in a central office. However, while the State or local central service cost allocation plan need not be prepared centrally, it must be prepared as a single document.

Q. Must a State or local government prepare a central service cost allocation plan?

A. The preparation of a central service cost allocation plan is only required where a State or local government wishes to recover the costs of central services that benefit Federal programs conducted in or by State or local government departments. A State or local central service cost allocation plan is not required if a State or local government elects not to make a claim for recovery of central service type costs against Federal awards.

Q. How will a central service plan be used?

A. The central service plan is used to distribute allowable central service costs to each of the individual government departments benefited, in order that they might include them in their indirect cost proposal.

Q. How will the State or local government, and other Federal agencies, be notified of cost allocation plans that have been submitted and approved?

A. The cognizant Federal agency will reduce to writing, in the form of a negotiation agreement, the results of the negotiation it has concluded with State or local authorities. The agreement will be signed by representatives of both the cognizant Federal agency and the State or local government and will be distributed to other Federal agencies by the Department of Health, Education, and Welfare. A negotiated agreement will be issued for the fiscal years affected and will include amounts or percentages that have been agreed to as allowable for inclusion in the various State or local departments' indirect cost proposals.

Q. Do small cities or counties with a minimal amount of Federal Government activity have to prepare a central service cost allocation plan?

A. Small cities and counties who feel that the preparation of a central service cost allocation plan under the regular method is burdensome, may elect to establish their costs under a method that combines both the central service cost allocation plan and indirect cost proposals. This method however, results in less cost recovery than would likely result using the regular method, so cities and counties will have to determine whether this approach is suited to their needs. The method is illustrated in Section V, Appendix 1, Exhibit F.

Q. How will the Federal Government assure itself that central service cost allocation plans and indirect cost proposals that have been submitted have been properly prepared?

A. The Federal Government will review each central service cost allocation plan and indirect cost proposal submitted to assure itself that the plans and proposals have been prepared properly. Authorized State or local government representatives will be required to certify to the correctness of the cost allocation plans.

Q. The sample formats illustrate one method of computing a central service cost allocation plan, four methods for computing an indirect cost rate and one method of computing a consolidated local central service cost allocation plan and indirect cost proposal. Are State and local governments restricted to these basic methods?

A. States and local governments should use the cost allocation plans in the sample formats. A format materially different than that shown in the samples may be used only if prior approval is obtained from the cognizant Federal agency. Less detail than that shown in the sample format for the central service plans will not be acceptable. Federal agencies will recognize any of the four sample indirect cost proposal formats as long as the format selected gives effect to statutory requirements of the various Federal programs performed in the proposing department. However, it is recognized that differences in government laws, accounting systems, and policy directives may require deviations from the recommended format in some instances. Deviations will be considered if they conform with generally accepted cost accounting principles, do not conflict with Section C., Attachment A. of FMC 74–4 and are approved by the cognizant government agency. A State for local government need not use the same format for all State or local government departments but may elect the format which in each case is most appropriate to the department.

E. Specific Items of Cost

Q. Attachment B, Section C. of the circular identifies costs that are allowable with approval of the grantor agency. Is approval necessary when the State or local government treats these costs as indirect costs?

A. To the extent that costs in Attachment B, Section C. of the Circular are treated as indirect costs by a State or local government, negotiation of the indirect cost proposal(s) by the responsible Federal agency shall constitute approval of the Section C costs included in the proposal. Where Section C costs are to be treated as direct program costs, necessary approval must be obtained from the Federal department or agency which awarded the grant or contract.

Q. FMC 74–4 states that when the depreciation method of compensation for the use of buildings, capital improvements, and equipment is followed, any method of computing depreciation may be used. How will Federal agencies interpret this?

A. Depreciation is intended to spread the cost of an asset over its useful life. With rare exceptions, the depreciation of assets owned by States and localities occurs at approximately the same rate throughout their life. Thus, the straight line method of depreciation is always used for general purpose buildings and equipment and is used almost exclusively for all other assets.

Q. Are there any exceptions to the general rule that the computation of depreciation or use allowance will be based on acquisition cost?

A. There is one exception to this general rule and it applies only in the special case of donated assets. Depreciation or use charge will be recognized on the fair market value at the time of acquisition of the donated asset.

Q. The circular states that acquisition cost may be based on a reasonable estimate if actual cost records have not been maintained. Are there any guidelines on what will be accepted as a reasonable estimate if actual cost records have not been maintained?

A. There are no definitive guidelines on what will be accepted as a reasonable estimate in lieu of actual cost records. However, if in the opinion of the cognizant Federal agency, depreciation or use charges based on estimated acquisition costs are material in amount, the Federal agency may require that acquisition cost be based on an estimate performed by independent and professional appraisers or by other similar independent valuations. States and local governments should seek assistance from their cognizant Federal agency in developing an alternative method where actual cost records have not been maintained.

Q. May charges to Federal programs be based on such factors as replacement costs, commerical catalog prices or comparable commercial billing rates?

A. No. Charges to Federal programs must be based on costs actually incurred.

Q. Attachment B, section D.8 of FMC 74–4 states that legislative expenses are unallowable. Does this prohibit the recovery of the costs of legislative auditors?

A. To the extent that legislative auditors conduct regularly scheduled cost postaudits of government departments that perform Federal grants and contracts, and the Federal agreements benefit from the incurrence of this cost, then the cost is allowable. Audits conducted for investigative purposes or pursuant to data gathering for appropriation hearings are not allowable.

Q. Some grant programs are awarded to the office of the Governor of a State, to the chief executive of a political subdivision, the county supervisor, city council, school board or other similar type body. Are these grants precluded from recovering indirect costs under the circular?

A. The general expenses required to carry out the overall responsibilities of these offices are unallowable. Attachment B, Section D.6, of the Circular identifies them as a general expense of Government and therefore an unallowable cost. However, if special indentifiable expenses were incurred to satisfy a Federal grant or contract requirement, they would be allowed if they otherwise met the standards of allowability provided in the Circular.

F. Other

Q. How can a grantee distinguish between a direct cost and an indirect cost?

A. There is no universal rule for classifying costs as direct or indirect. Generally speaking, a direct cost is one that is incurred specifically for one activity. Indirect costs are if a more general nature and are incurred for the benefit of several activities. Consequently, some allocation technique must be used to distribute these indirect costs to the several direct functions benefited. Once a grantee makes an election and treats a given cost as direct or indirect it must apply that treatment consistently and may not change during the fiscal year.

Q. Is it permissible to allocate costs (either directly or indirectly) on the basis of revenue or on the basis of funds available under Federal grants or contracts?

A. No. The allocation of costs by either of these methods is unacceptable. Cost must be allocated on the basis of services rendered or goods provided to Federal grants or contracts.

Q. Should a cost allocation plan be submitted with a grant or contract project application?

A. A plan should not be submitted with a grant or contract project application. Space is provided on most applications for the approved indirect cost rate and the identification of the cognizant Federal agency.

Q. Does the circular have any effect on "cost sharing" or on "matching" requirements?

A. The Circular does not change any "Cost Sharing" or "Matching" requirements. It does provide a means of identifying total program costs for use in meeting those requirements.

Q. Program income represents earnings by the grantee realized from the grant-supported activities as a result of the grant. How should State and local units of Government treat program income?

A. State and local units of government should treat program income in accordance with awarding agency regulations implementing FMC 74–7 (formerly OMB Circular A–102).

Appendix II—Sample Cost Allocation Plans

A. Central Service Cost Allocation Plan Description

This is a sample illustration of a central service cost allocation plan. It consists of:

Exhibit A-Summary of Allocated Central Service Costs. This exhibit shows each central service, and the attendant costs, which benefit Federal grants and contracts and for which a State or local government wishes to make a claim. This exhibit must be supported by detailed schedules comparable to A.1–A.3 for each included central service.

Schedule A-1-Allocation of Costs, Personnel Department. The personnel department has been selected as an illustrative central service. This schedule shows those State organizations to which the personnel department provides services and the allocation of its costs to those organizations. This schedule is supported by Schedules A–2 and A–3.

Schedule A–2-Costs to be Allocated, Personnel Department. This schedule shows the composition of the costs of the personnel department as contained in official financial or budget statements and a reconciliation of those costs with the amount allocated in Schedule A–1.

Schedule A–3-Statement of Function and Benefit, Personnel Department. This schedule is a narrative description of the activities conducted by the personnel department, their necessity (benefits) to the successful performance of federally supported programs, a description of the base(s) selected to distribute the costs of those activities to the organizations to which services are rendered and the rationale or the base(s) selected.

Exhibit A–1—Summary of Central Services Billed. It is common practice for central service departments to bill those organizations to which they render services for the cost of those services. This Exhibit illustrates the services billed to organizations conducting Federal grants and contracts, the costs included in the billing, the methodology for computing the billing rate, etc.

Amounts allocated to the operating departments from the central service cost allocation plan in Exhibits A and A–1, are carried forward to Exhibits B, C, D, and E, which illustrate various sample formats for an indirect cost rate proposal.

Only a few of the many possible central services have been shown in Exhibit A and only one central service department is shown in the accompanying Schedules A–1 through A–3. A central service cost allocation plan may include any other services and their attendant costs which are allowable under FMC 74–4 and for which documentation can be provided. Each type of cost claimed should be supported by appropriate schedules and other documentation sufficient to provide a reasonable basis for evaluation and acceptance.

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EXHIBIT A

SAMPLE FORMAT

CENTRAL SERVICE COST ALLOCATION PLAN*
SUMMARY OF ALLOCATED CENTRAL SERVICE COSTS
FOR THE FISCAL YEAR ENDED JUNE 30, 19--

Department/Operating Unit	Central Service Organizations				Total Allocated
	Personnel(a)	Accounting	Purchasing	Audit	Costs(b)
Health	$ 9,945	$ 20,145	$ 3,412	$ 1,675	$ 35,177
Environmental Services	8,907	21,622	2,221	1,221	33,971
Social Services	3,187	7,984	896	645	12,712
Highway	15,132	42,855	6,751	6,227	70,965
Police	29,848	51,960	9,475	11,421	102,704
Fire	24,873	49,743	9,997	14,526	99,139
Other Departments	57,048	187,608	21,431	18,645	284,741
TOTALS	$148,940	$381,917	$54,183	$54,369	$639,409

(a) Allocated amounts shown are from Schedule A-1. In an actual plan, the remaining service departments would similarly need to be supported by separate schedules showing the computation of the allocated amounts.

(b) These amounts are includable in the indirect cost propsals of the individual operating Departments/units. See Exhibits B, C, C, and E.

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*This is a sample only and hence, is brief and simple. In practice, a State of local government may wish to claim more or less activities as charges to Federally supported programs and this Exhibit and its supporting schedules would need to be modified accordingly.

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Appendix II—Sample Cost Allocation Plans

Exhibit A-1

Sample Format[*]

Central Service Cost Allocation Plan, Summary of Central Services Billed to User Organizations

Motor Pool.—The (State or local government) operates a central motor pool which makes cars, trucks, and buses available to user departments. User-departments are billed for each mile driven: cars—15 cents per mile, trucks—25 cents per mile, and buses—30 cents per mile. The basis for the charge is the most recent study of cost per mile driven, performed by the internal audit staff. Any over or under recovery is applied to the next year's expected expenditures and is included in that year's billing rate. The costs included are salaries and wages and fringe benefits of motor pool personnel, their travel, supplies and parts and use charges for equipment and buildings and vehicles determined in accordance with FMC 74-4.

Data Processing.—The State (or local government) operates a central computer center consisting of an IBM System 370/115, and Control Data 3100 and Cyber 70 series configuration. The center provides both regular continuing and special job computer support to most operating and staff departments. Billings for services are made to user organizations based on a standard price schedule. The price schedule is related to and designed to recover the costs of various types of jobs on each system. It is revised quarterly and audited annually by the internal audit department. Profits or losses are carried forward and used to adjust price schedules of ensuing quarterly billing rates. Costs consist of salaries and wages and fringe benefits of center personnel, supplies, maintenance and utilities, and straight line depreciation of equipment based on a fifteen-year life.

Long Distance.—All long distance telephone calls are placed through a central switchboard telephone and are billed to the organizations making the call.

Notes.—If a direct billing mechanism is used by the government, then all users must be billed. Billing of selected departments and allocation of residual amounts through the cost allocation plan to remaining departments results in inequitable costing and is not acceptable. However, if all users are billed, residual amounts may be allocated through the allocation plan provided they are not material and the allocation base is equitable.

A detailed breakdown of costs is not normally required as part of this exhibit. However, the submitting State or local government must have and make available to the Federal cognizant agency such cost and revenue breakdowns, utilization records and other information as is necessary to permit a reasonable assessment of the costs incurred and charges made.

Schedule A-2; Sample Format[1]

[Central service cost allocation plan costs to be allocated, personnel department for the fiscal year ended September 30, 19—]

Salaries and wages		$140,000
Fringe benefits		16,000
Supplies		8,000
Travel		7,012
Maintenance and janitorial services		7,928
Capital outlay		7,561
		186,501
Less: Unallowable costs, capital outlay	$7,561	
Costs chargeable to Federal grant[2]	30,000	37,561
Total costs to be allocated on schedule A-1		[3] 148,940

[1] This is a sample only and hence, is brief and simple. In practice, this schedule should be sufficiently detailed to show the costs of major activities, branches, etc. of the personnel departments in a manner permitting a reasonable assessment of the costs claimed against Federal programs.

[2] Represents charges to a Federal grant awarded to assist the State or local government to improve its personnel system. If a supporting agency received an award from the Federal Government, all costs incurred in connection with the award (including any costs that are required for matching or cost sharing) must be eliminated prior to the distribution of the supporting agency's costs to the user departments or agencies.

[3] The costs allocated must be reconciled to appropriate financial documents, either financial statements, budgets or a combination of both. In this example the government's base data was cost incurred for its most recent fiscal year.

Schedule A-3.—Sample Format[4]

Central Service Cost Allocation Plan Statement of Functional and Benefit, Personnel Department for the Fiscal Year Ended September 30, 19—

The personnel department is responsible for overall administration of the Civil Service program. This includes recruiting, interviewing, testing and referring potential candidates for the more then 2,000 municipal jobs.

The personnel department administers the classifications and salary programs and is responsible for recommending personnel policies and procedures to the Civil Service Commission for approval.

The department is involved in the design of the various employee benefit programs. After installation, the department reviews and maintains the records on these programs.

Active and inactive personnel records are maintained on all municipal employees.

The personnel department is responsible for maintaining the safety program (including workmen's compensation and injury level) and the city training programs.

Sample Cost Allocation Plans

B. Consolidated Cost Allocation Plan Description

This illustrates the consolidated cost allocation plan. The plan may be used only by local governments. This method is used in lieu of the central service cost allocation plan and department/agency indirect cost proposals. The advantage of this method to local governments is that it is simple and does not require the use of complex cost schedules to support cost allocations. However, the use of this method entails the acceptance of certain conditions which may result in less total recovery of indirect type costs to a local government. If the following conditions are recognized and accepted, a local government may opt to use the method:

a. Only indirect costs of certain central services will be accepted for allocation. The only central services includable under this method are those that demonstrably benefit Federally supported programs and which would have been allocated to Federal awards had the regular methods illustrated in Exhibits A and B through E (in OASC-10) been used.

b. Central service costs which do not qualify under a. above must be added to the base used to develop the indirect cost rate.

c. All costs of all local departments and agencies (excluding the costs in a. above) must be included in the base used to develop the indirect cost rate except for unallowable items such as interest expense and items that tend to distort the rate computation, such as major subcontracts and items of capital equipment. Indirect type costs incurred at the local department or agency level, including divisional indirect costs, cannot be proposed as indirect costs but must be treated as a base cost in developing the indirect cost rate.

d. Indirect type costs incurred at any level of government may not be charged to a Federally supported program as a direct cost; e.g., accounting, purchasing, personnel. However, direct charges such as motor pool, reproduction, communications, etc. will be allowed if (1) they are so identified on the consolidated central service plan, and (2) the grantee's system normally provides for directly assessing its departments and agencies for the use of these services using pricing or fee schedules designed to recover the actual costs of services used.

(1) Expenditures not allowable consist of capital expenditures, contracted construction and flow-through monies, etc. These items are excluded from the computation because their inclusion would distort the assessment of indirect costs.

(2) In this illustration, the Treasurer's and Comptroller's office each conduct both direct and indirect activities. For example, the taxing function is contained in both offices (assessing, billing, collecting, etc.).

(3) Costs of the Mayor's Office and the City Council are stipulated in FMC-74-4 as costs of general government and hence, are unallowable as indirect costs; however, these functions benefit from those costs classified as allowable indirect costs and must be included in the base used to calculate the indirect cost rate.

(4) The indirect cost base consists of the costs of all the functions and activities of local governments except (i) central services benefiting Federal programs and (ii) expenditures not allowable. Thus, in this method, costs such as the salaries of department and division heads, secretaries, administrative supplies, etc. which could be treated as indirect cost under other methods, must be treated as direct costs and may not be charged to Federal programs as either indirect or direct costs.

Suggested Bases for Cost Distribution

Following are suggested bases for distributing joint costs of central-type

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[*] This is a sample only, and hence, is brief and simple. In practice, the number and types of services billed may be greater than shown here and may require more extensive description and explanation.

[4] This is a sample only and hence, is brief and simple. In practice, this schedule should be sufficiently detailed to provide narrative explanations of the functions and benefits associated with the costs being allocated.

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services to local government departments or agencies and to projects and programs utilizing these services. The suggested bases are not mandatory for use if they are not suitable for the particular services involved. Any method of distribution can be used which will produce an equitable distribution of cost. In selecting one method over another, consideration should be given to the additional effort required to achieve a greater degree of accuracy. Consideration should also be given to UMTA-specific requirements.

Type of service	Suggested bases for allocation
Accounting	Number of transactions processed.
Auditing	Direct audit hours.
Budgeting	Direct hours of identifiable services of employees of central budget.
Buildings lease management	Number of leases.
Data processing	System usage.
Disbursing service	Number of checks or warrants issued.
Employees retirement system administration.	Number of employees contributing.
Insurance management service.	Dollar value of insurance premiums.
Legal services	Direct hours.
Mail and messenger service	Number of documents handled or employees served.
Motor pool costs including automotive management.	Miles driven and/or days used.
Office machines and equipment maintenance repairs.	Direct hours.
Office space use and related costs (heat, light, janitor services, etc.).	Sq. ft. of space occupied.
Organization and management services.	Direct hours.
Payroll services	Number of employees.
Personnel administration	Number of employees.
Printing and reproduction	Direct hours, job basis, pages printed, etc.
Procurement service	Number of transactions processed.
Local telephone	Number of telephone instruments.
Health services	Number of employees.
Fidelity bonding program	Employees subject to bond or penalty amounts.

Appendix III—Allowable Costs

Allowable Costs

The following four sections describe allowable costs for Capital Grant and Loan projects, Section 5 Operating Assistance projects, Section 8 Technical Study projects, Interstate Substitution projects, FAUS projects, and section 175 projects. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable. Determination of allowability in each case should be based on treatment of standards provided for similar or related items of cost. For other projects, refer to the appropriate Federal Management or OMB Circulars. If any problems arise, contact the appropriate UMTA regional or headquarters office.

1. *Capital Grant and Loan Projects.*

a. *Allowable Costs.*

(1) *Accounting.* The cost of maintaining accounting and other information systems required for management of the project is allowable. This includes costs incurred by central service agencies for these purposes and for personal services provided by recipient employees. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

(2) *Advertising.* Advertising media may include newspapers, magazines, radio and television programs, direct mail, and trade papers. The advertising costs allowable are those which are solely for:

(a) Recruitment of personnel required for the project;

(b) Solicitation of bids for procurement of goods and services required for the project;

(c) Disposal of scrap or surplus materials acquired in the performance of the grant agreement or replaced under provisions of the grant agreement; or

(d) Other purposes specifically provided for in the grant agreement and approved project budget.

(3) *Audit Service.* The cost of audits necessary for administration and management of functions related to UMTA projects is allowable and may include the cost of third-party audit surveillance and proposal evaluation.

(4) *Bonding.* Costs of premiums on bonds covering grantee employees who have responsibility for project funds and who would not otherwise be bonded or whose bond coverage had to be increased are allowable.

(5) *Budgeting.* Costs incurred for execution and revisions of approved project budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government administration. However, where employees of the central budget office actively participate in the project budget process, the cost of identifiable services is allowable.

(6) *Building Lease Management.* The administrative cost for lease management for project property which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

(7) *Central Stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for UMTA projects is allowable.

(8) *Communications.* Costs incurred for local telephone centers, postage, messenger service, and similar services for employees whose time is charged to an UMTA project may be allocated in the same ratio as the amount of time each employee devotes to the project. The basis for allocation must be included in the recipient's cost allocation plan. Long distance telephone service, telegraph, teletype service, wide-area telephones service (WATS), and telpak (tie lines) are allowable if supported by logs showing party contacted and purpose or in accordance with a predetermined cost allocation plan.

(9) *Compensation For Personal Services.*

(a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (see paragraph 1a(11)). The costs of such compensation are allowable to the extent that total compensation for individual recipient employees: (1) is reasonable for the services rendered, (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements where applicable, and (3) is determined and supported as provided in paragraph 1a(9)(b). Compensation for employees engaged in Federally assisted activities will be considered reasonable if it is consistent with pay for similar work in other activities of the State or local government. In cases where the kinds of employees required for the UMTA assisted activities are not found in other activities of the State or local government, compensation will be considered reasonable if it is comparable to pay for similar work in the labor market in which the grantee competes for the type of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness. Recipients' files must reflect this information.

(b) *Payroll and Distribution of Time.* Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, must be based on payrolls documented and approved in accordance with generally accepted practices of State or local agencies. Payroll costs charged to the project must be supported by time and attendance or equivalent records for individual employees. (See sample time sheet format, Appendix 3A. Any recipient may use this time sheet, but it should be used by Section 8 recipients.) These records must be certified by the employees' supervisors. Failure to properly document payroll charges will result in cost being unallowable. Salaries and wages of employees chargeable to more than one project or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

(10) *Disbursing Service.* Cost of disbursing project funds by the Treasurer or other designated officer is allowable. Disbursing services cover processing of checks or warrants from preparation to redemption, including necessary records of accountability and reconciliation of records with related cash amounts.

(11) *Employee Fringe Benefits.* Costs identified under (a) and (b) below are allowable to the extent that total compensation for employees is reasonable as defined in paragraph 1a(9)(b).

(a) Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as annual leave, court leave, and military leave, if they are: (1) provided pursuant to an approved leave system, and (2) the cost is equitably allocated to all related activities, including the project.

(b) Employee benefits which may include employer's contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, worker's compensation insurance, pension plans, and severance pay, provided the benefits are granted under approved plans and are distributed equitably to the project(s) and other activities.

(12) *Employee Morale, Health, and Welfare Costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and pay-related expenses incurred in accordance with general State or local policy are allowable. These costs are considered supporting services costs. Income generated from these activities will be offset against expenses.

(13) *Equal Employment Opportunity.* Equal Employment Opportunity costs resulting from meeting the requirements of UMTA 1155.1, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipients," are allowable project expenses.

(14) *Minority Business Enterprise (MBE).* MBE costs resulting from meeting the requirements of UMTA C 1165.1, "UMTA Interim Minority Business Enterprise Policy and Grant Requirements for Grant Recipients," are eligible project expenses.

(15) *Legal Expenses.* The cost of legal expenses required for administering a project is allowable. Legal services furnished by the chief legal officer of a State or local government, or his staff, solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

(16) *Materials and Supplies.* The cost of office materials and supplies necessary to carry out projects is allowable. Purchases made specifically for the project should be charged at actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the recipient. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are an allowable part of material cost.

(17) *Payroll Preparation.* The cost of preparing payrolls and maintaining necessary related wage records for employees assigned to the project(s) is allowable.

(18) *Printing and Reproduction.* The cost of printing and reproduction services necessary for project administration, including but not limited to, forms, reports, manuals, and informational literature, is allowable. Publication costs of reports or other media relating to project accomplishments or results are allowable when provided for in the grant agreement.

(19) *Procurement Service.* Cost of procurement services, including solicitation of bids, preparation, and award of contracts, and all phases of contract administration in providing goods, facilities, and services for the project are allowable.

(20) *Taxes.* In general, project-related taxes, or payments made instead of taxes, which the recipient is legally required to pay are allowable.

(21) *Transportation.* Project-related costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

(22) *Travel.* Travel costs are allowable for transportaton, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant project. Costs may be charged on an actual basis, or a per diem or mileage basis instead of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodation and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available. All foreign and out-of-state travel, except for travel between states in a multi-state urbanized area, must be specifically approved by UMTA in advance. This also includes travel to conferences. Travel expenditures must be supported by evidence showing that travel costs were properly authorized. Travel approval requests should include person(s) name and title, purpose, duration, and estimated cost of travel.

b. *Costs Allowable With Prior UMTA Approval.*

(1) *Advisory Councils.* Costs incurred by State advisory councils or committees established pursuant to UMTA requirements to carry out grant projects are allowable. Costs incurred by similar organizations are allowable when provided for in the grant agreement. Currently, UMTA does not require that advisory councils be established to carry out *capital grant projects.*

(2) *Automatic Data Processing.* The cost of data processing services is allowable. This cost may include rental of equipment. Acquisition of automatic data processing equipment or software by purchase, rental-purchase agreement or other method of purchase, is allowable only upon prior approval by UMTA.

(3) *Building Space and Related Facilities.* The cost of space in privately or publicly-owned buildings used to benefit the project is allowable subject to conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for project usage may not be charged to the project for periods of non-occupancy, without UMTA authorization. Space procurement costs must be substantiated by a rental or lease agreement which includes the following items:

- Description of space to be leased
- Purpose for which it is to be used
- Period of lease (limited to grant period)
- Options to renew lease
- Utilities, insurance, and other services to be furnished to lessee
- Rate of rental
- Method and time of payment
- Other conditions required of lessor or lessee (recipient)
- Signatures of both parties and witnesses.

(a) *Rental Cost.* The rental cost of space in a publicly or privately-owned building is allowable.

(b) *Maintenance and Operation.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, and normal repairs and alterations is allowable if it is not included in rental or other charges for space.

(c) *Rearrangements and Alterations.* Costs incurred for rearrangement and alteration of facilities required specifically for a UMTA project or those that materially increase the value of the useful life of the facilities, are allowable when specifically approved by UMTA.

(d) *Occupancy of Space Under Rental-Purchase or a Lease With Option to Purchase Agreement.* The cost of space procured under such arrangements is allowable if specifically approved by UMTA.

(4) *Consultants and Contract Services.* The cost of approved consultants and experts rendering professional and technical services is allowable. This includes accounting, legal assistance, and services rendered by other qualified individuals or organizations.

(5) *Insurance and Indemnification.* A description of insurance coverage and indemnification must be included in the recipient's cost allocation plan. Insurance for capital grant projects is usually the responsibility of third party contractors. The following insurance costs are allowable:

(a) Costs of insurance required or approved and maintained pursuant to the grant agreement are allowable.

(b) Costs of other insurance in connection with the general conduct of project activities are allowable subject to the following limitations:

1. Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

2. Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that UMTA has specifically required or approved such costs.

3. Costs insuring project purchased equipment are unallowable for *capital* grants, but may be allowable for other projects.

(c) Contributions to a reserve for a self-insurance program approved by UMTA are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

(d) Actual losses which could have been covered by permissible insurance (through an approved self insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

(e) *Indemnification* includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the recipient only to the extent expressly provided for in the grant agreement, except as provided in (d) above.

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(6) *Maintenance and Repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable under the following two conditions:

(a) The property is necessary to accomplish the purpose of an UMTA project, and

(b) The costs are occasioned by usage of the property to accomplish an UMTA project or a portion thereof.

(7) *Motor Pools.* The costs of a service organization which provide automobiles to the grantee at a mileage or fixed rate and/or provide vehicle maintenance, inspection, and repair services are allowable. The purchase cost of vehicles is unallowable as a factor in determining motor pool cost.

(8) *Personnel Administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for UMTA projects are allowable.

(9) *Training and Education.* The cost of in-service training, customarily provided for grantee employee development which directly or indirectly benefits the UMTA project(s) is allowable, if specifically approved by UMTA. Out-of-service training involving extended periods of time is allowable only when specifically approved by UMTA. To be allowable, the costs must be included in the estimated costs of acquiring the capital assets.

c. *Unallowable Costs.*

(1) *Bad Debts.* Losses arising from uncollectable accounts and other claims, and related costs, are unallowable. Bad debt costs may offset an applicable credit if the claim had been previously considered as an applicable credit reducing net project cost.

(2) *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable unless specifically allowed by UMTA.

(3) *Contributions and Donations.* Unallowable.

(4) *Depreciation and Use Allowances.* Unallowable.

(5) *Entertainment.* Costs of amusements, social activities, and incidental costs such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

(6) *Fines and Penalties.* Costs resulting from violations of, or failure to comply with, Federal, State, and local laws and regulations are unallowable.

(7) *Governor's Expenses.* Salaries and expenses of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable. The salary of the recipient's general manager or executive director is also unallowable.

(8) *Interest and Other Financial Costs.* Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in their connection are unallowable.

(9) *Legislative Expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

(10) *Management Studies.* Unallowable under capital grant projects.

(11) *Memberships, Subscriptions, and Professional Activities.* Unallowable under capital grant projects.

(12) *Preapproval Costs.* Costs incurred prior to the effective date of project approval are not allowable unless specifically approved by UMTA through a "Letter of No Prejudice."

(13) *Proposal Costs.* Costs of preparing proposals on potential Federal Government grant agreements are unallowable.

(14) *Underrecovery of Costs Under Grant Agreements.* Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

2. *Operating Assistance Grants.* Information on allowable costs for Section 5 Operating Assistance Grants can be found in UMTA C 9050.1, "Application Instructions for Section 5 Operating Assistance Projects."

3. *Section 8—Technical Grants.*

a. Recipients shall follow the principles of FMC 74–4 in determining allowable costs under Section 8 Technical Study grants with the following qualifications:

(1) *Travel*—Costs for travel are allowable if the travel specifically relates to an approved project activity included in the grant contract. Recipients' must obtain approval from UMTA for all foreign travel, to conferences, and all out-of-state-travel except that in a multi-state urbanized area.

(2) *Equipment*—Recipients must obtain prior approval from UMTA before purchasing equipment.

4. *Section 10—Training Grants*

Under Section 10 training grants, UMTA will allow costs incurred by grantees in the following categories:

a. Salary and benefits actually paid by recipients to employees engaged in training activities.

b. Transportation and moving expenses directly related to training paid by recipients.

c. Training and educational expenses paid by recipients, including tuition, fees, and books.

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NAME ______________________ TIME REPORT FOR MONTH OF ______________
TITLE ______________________ HOURLY RATE $______________________

RECAP

PROJECT NUMBER & SPONSOR	TASK # OR DESCRIPTION	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	TOTAL HOURS	SPON- SOR	DIRECT HOURS	HOURLY RATE	TOTAL COST
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(49 U.S.C. 1601; 23 U.S.C. 103 and 142; 42 U.S.C. 7505; 49 CFR 1.51; OMB Circular A-102; Treasury Circular 1075; DOT Order 4600.9B)

Dated: August 21, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-27099 Filed 9-10-80; 8:45 am]

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federal register

Thursday
September 11, 1980

Part V

Office of the Federal Inspector for the Alaska Natural Gas Transportation System and Equal Employment Opportunity Commission

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Equal Opportunity Regulations; Affirmative Action Plans; Employment Discrimination Memorandum of Understanding; and Employee Standards of Conduct

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OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1534

Enforcement Procedures for Equal Opportunity Regulations

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed rules institute procedures by which the Office of the Federal Inspector (OFI) will enforce existing equal opportunity regulations applicable to the Alaska Natural Gas Transportation System (ANGTS) issued by the Department of Interior at 43 CFR Part 34. They detail OFI compliance review, complaint investigation, conciliation, and administrative and judicial enforcement, relative both to employment discrimination and to affirmative action plans for employment and contracting.

DATE: Comments should be submitted by October 10, 1980.

ADDRESS: Comments should be in writing and sent to Ms. Mary Settle, Office of the Federal Inspector, Room 2413, Post Office Building, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

Mr. John Alexander, Director, Equal Employment Opportunity, Minority Business Enterprise, Office of the Federal Inspector (ANGTS), Room 2413, Post Office Building, 1200 Pennsylvania Ave., NW., Washington, D.C. 20044, (202) 275–1157.

Mr. Ned Hengerer, General Counsel, Office of the Federal Inspector (ANGTS), Room 2413, Post Office Building, 1200 Pennsylvania Ave., NW., Washington, D.C. 20044, (202) 275–1144.

SUPPLEMENTARY INFORMATION:

I. Background

Section 17 of the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. Section 719o, and Condition 11 of the President's *Decision* and *Report to Congress on the Alaska Natural Gas Transportation System (Decision)*, approved by H. J. Res. 621, Pub. L. 95–158 (1977), mandate that Federal agencies—by conditioning the various ANGTS permits and other approvals—assure affirmative action against discrimination for employment and contracting on ANGTS. ON May 12, 1980, these agencies (through the Department of the Interior) published final rules to meet this statutory mandate, enforcement of which was left to the Federal Inspector. 43 CFR Part 34; 45 FR 31095.

Paragraph 34.10(d) of these equal opportunity regulations provides for the OFI to establish enforcement procedures, which will be incorporated as an amendment to these regulations. The proposed rule issued today by the OFI constitutes such enforcement procedures. These procedures will appear as a new Part 1534 in Title 10 of the Code of Federal Regulations. Because the OFI is promulgating these procedures, they must appear in the OFI's own regulations, which are codified at 10 CFR Chapter 15. Nevertheless, upon publication of the final enforcement procedures, the Department of the Interior will then reprint the OFI's Part 1534 in 43 CFR Part 34.

II. General

A. *Coordinated with analogous procedures.* In establishing these proposed enforcement procedures, the OFI followed the mandate of paragraph 34.10(d)(1) of the existing ANGTS regulations and started with the compliant procedures of the Department of Energy (DOE) to deal with violations of Title VI of the Civil Rights Act, relative to Federal financial assistance (10 CFR Part 1040; 45 FR 40514, May 13, 1980). The new Part 1534 does include the aspects of the DOE procedures summarized in paragraphs 34.10(d)(2) through (5). Moreover, the new Part 1534 assimilates other aspects of the DOE procedures. Nevertheless, as explained below the OFI has found that wholesale adoption of the DOE procedures is inappropriate. But, until the final regulations have been issued, the OFI will use the DOE procedures if enforcement becomes necessary.

In the first place the Federal grants program administered by DOE is far different from the OFI's field-level regulatory and enforcement mission; for example, DOE's main sanction, temination of financial assistance, must be preceded by an agency hearing on the record, as per Section 602 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d–1. Secondly, the OFI's enforcement procedures should be similar to those of DOE only "to the extent consistent with ANGTA." Accordingly, the OFI declines to follow those aspects of DOE's Part 1040 regulations which would either impair expeditious completion of ANGTS (as otherwise mandated by Section 9 of ANGTA) or undercut the OFI's existing enforcement provisions (as provided in Section 11 of ANGTA and in Reorganization Plan No. 1 of 1979).

In the process of establishing the proposed enforcement procedures, the OFI likewise studied the relevant procedures of, and solicited comments from, other Federal agencies engaged in equal opportunity enforcement: the Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), and the Civil Rights Division of the U.S. Department of Justice. Again, the OFI has utilized their procedures and policies where analogous to the specific facts underlying ANGTS and its related equal opportunity program.

B. *Policy on public access to the enforcement process.* While not codified here in the enforcement regulations, the OFI states a general policy to accord the maximum public access to information which it has received in conjunction with its overall role of administering the Part 34 regulations, of course within relevant legal parameters. The specifics of this public access—including the protection to be accorded "sensitive" information, such as critical procurement data, and the procedures for processing FOIA requests—are to be delineated in omnibus information regulations (future 10 CFR Part 1504) presently being promulgated. The policy announced at this time merely means that, to the extent there is discretion to disclose information about compliance with the Part 34 regulations, the OFI will lean towards disclosure when competitive injury is unlikely. The equal opportunity program for ANGTS must have public confidence, which flows from public access.

III. Section-by-Section Analysis

A. Section 1534.1 is merely introductory. It outlines briefly how the enforcement procedures are structured in Part 1534. Essentially, the initial stages of compliance review and complaint investigation are conducted under separate procedures, §§ 1534.2 and 1534.3, respectively. But the subsequent procedures for both compliance review and complaint investigation are treated the same. Thus, attempts at conciliation and OFI preliminary and final determinations on compliance appear in § 1534.4, while the more formal enforcement actions (civil suit for fines or injunction, and compliance orders and work stoppage) appear in § 1534.5.

B. Section 1534.2 sets out the initial stage of compliance review, already required by paragraph 34.10(a)(1) of the existing ANGTS regulations. To begin with, the OFI will select ANGTS recipients, contractors, and subcontractors for initial periodic review. The basis for this selection is left to the OFI, but most likely every recipient, contractor, and subcontractor will be selected for review annually. The initial periodic review, which will then occur, generally corresponds to DOE paragraph 1040.101(b), except for the following.

First, the OFI reserves the opportunity for on-site review. Unlike formal on-site review found below in paragraph 1534.4(b), with its 15 day notice, initial on-site review is merely to spot check for compliance. Thus, like on-site monitoring for environmental protection or pipeline integrity, for example, there is no advance notice. Second, the corresponding DOE provision is written in terms of "selection for review," which should not be confused with OFI selection for initial review mentioned immediately above. These differences reflect the different roles of the OFI and DOE, as single project regulator versus administrator of many Federal financial grants.

If the OFI then has reasonable cause to find noncompliance, it will notify the recipient, contractor, or subcontractor by letter of a subsequent and more intensive on-site review, which is conducted under paragraphs 1534.4(b) and 1534.4(c), as described below. But, if the OFI finds compliance, it will so certify. That certification—in line with the direction to the OFI given in paragraph 34.10(d)(4) of the existing ANGTS regulations—is not binding if the full facts were unknown during the initial periodic review. This caveat does not, however, allow the OFI to cure its own initial oversight. Instead, it only applies when the OFI should not be expected to have uncovered the relevant facts indicating noncompliance, as would occur if those facts were consciously withheld.

C. Section 1534.3 sets out the initial stage of complaint investigation. It generally corresponds to the related DOE provision, paragraph 1040.104(1).

This new Section notes first that all employment discrimination complaints, except for those possible few against employers with less than fifteen employees, will be handled by the Equal Employment Opportunity Commission (EEOC) through the Memorandum of Understanding (MOU) between the two agencies. The EEOC neither has jurisdiction over complaints against these very small employers (42 U.S.C. Section 2000e(b)), nor does it desire to handle those complaints. There is provision, however, for OFI conciliation and even formal enforcement actions in certain limited types of cases handled by EEOC under the MOU. This MOU has been prepared and will be published in the **Federal Register** for public comment before being signed into effect.

For complaints alleging both employment discrimination and violation of an approved affirmative action plan, the former allegation will be processed under the MOU and the latter allegation by the OFI under these Part 1534 procedures. The interagency reporting and information sharing provisions of the MOU will enable both agencies to coordinate their respective investigations of such dual complaints.

As a practical matter, the OFI will probably not handle many complaints. As noted above, most employment discrimination complaints will be handled by EEOC. As for complaints related to approved affirmative action plans, noncompliance should be readily revealed through the ongoing compliance review intiated under § 1534.2, in light of the quantitative nature of the goals and timetables, which form the basis of the affirmative action plans. And to the extent that dual complaints allege without any basis violation of affirmative action plans, the OFI will summarily reject these complaints.

Nonetheless, the OFI will initiate investigations of all complaints (to be handled under these Part 1534 regulations) within 35 days of receipt, by sending the recipient, contractor, or subcontractor a copy of the complaint and a letter stating that an investigation has been initiated. For complaints just against a contractor and/or subcontractor, the OFI will also forward a copy of the complaint and notice to the corresponding recipient. In this fashion the recipient can assist in ascertaining the facts. The specifics of the letter and the investigation itself are set forth in § 1534.4, as discussed next.

D. Section 1534.4 continues the process initiated both during compliance review, under § 1534.2, and during complaint investigation, under § 1534.3. It sets out procedures for determining compliance or noncompliance and for pursuing conciliation and voluntary compliance. These procedures generally follow the corresponding DOE provisions, paragraphs 1040.101(c)–(g) and 1040.104(c) (3)–(5). However, in recognition of the statutory mandate to expedite this project, the schedule for some of the procedures have been shortened.

Paragraph 1534.4(b) sets out the contents of the notice of formal on-site review and/or investigation, including data requests, practices to be reviewed, and opportunity to respond in writing. The formal on-site review or investigation will commence fifteen days after notice. While shorter than DOE's thirty day notice, it is sufficient. In particular, there might already have been an informal on-site review (paragraph 1534.2(a)) as part of the initial stage of compliance review; thus, the recipient, contractor, or subcontractor will be on actual notice well in advance of this notice of formal on-site review.

Paragraph 1534.4(c) then sets out the preliminary finding process. The preliminary finding will be written and sent to the recipient, contractor, or subcontractor within thirty days of the OFI completing the formal on-site review or investigation. When the preliminary finding is noncompliance, the OFI will also recommend means for voluntary compliance and afford twenty days for negotiations.

While DOE requires its preliminary finding within 90 days of arriving for on-site review (paragraph 1040.101(d)) or initiating investigation (paragraph 1040.104(c)(3)), the timing of the OFI provision should normally be shorter. While no specific time is set for completing formal on-site review, the preliminary finding will follow within thirty days of completion of that review.

In cases where a contractor or subcontractor alone is under review or investigation, the preliminary finding will also be sent to the corresponding recipient, notifying the recipient of its enforceable obligation to assist the OFI in achieving voluntary compliance. "Assist" means more than merely telling its contractor or subcontractor to

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comply. To the extent that the OFI can seek conciliation, so can and should the recipient. In promulgating the Part 34 regulations, the Federal agencies were clear that the recipients, as ANGTS sponsors, were responsible for more than their own direct employment and contracting:

> The project sponsors and the Federal Inspector then must insure that each contractor and subcontractor shares in the obligation to achieve the goals. This is accomplished by including the goals in all bid specifications just like other elements of the design. 45 FR 31096 (May 12, 1980).

In this light the recipients should be forming their contracts to assure that they can meet this obligation.

This obligation to "assist" the OFI only applies during the voluntary compliance context. When the OFI is attempting conciliation of an EEOC-processed employment discrimination complaint as per the MOU and paragraph 1534.3(a)(2), however, the recipient will not be asked to "assist," due to restrictions under Title VII of the Civil Rights Act.

Paragraph 1534.4(d) sets out the process for a final determination of noncompliance. It will be made in writing within forty-five days—as opposed to sixty days in the DOE regulations—of notice of preliminary finding, and will be made when conciliation has failed or the preliminary finding has not been shown to be false. The final determination will detail the violation itself, the basis for the finding, and final remedial recommendations.

Paragraph 1534.4(e) gives the noncompliant recipient, contractor, or subcontractor ten more days after final determination to adopt the aforementioned remedial recommendations, so as to comply voluntarily. And when there is voluntary compliance, paragraph 1534.4(f) details the necessary form of the compliance agreement.

E. Section 1534.5 governs actual enforcement, once conciliation has failed and a final determination has been issued but not satisfied within ten days of issuance. It also governs OFI enforcement under the MOU with EEOC, as explained in paragraph 1534.3(a)(2).

Paragraph 1534.5(b) notes that the primary means of enforcement is immediate commencement of civil action. Possible remedies and venue are set forth in Section 11(c) of ANGTA: Temporary or permanent injunction and civil fines of up to $25,000 per day, along with ancillary relief, will be sought in the Federal District Court where the defendant is located, resides, or does business.

This immediate recourse to judicial enforcement diverges from the DOE procedures, which first afford an agency hearing on the record. 10 CFR Subpart H. But, as recognized in paragraph 34.10(d)(1) of the existing ANGTS regulations, the OFI need follow the DOE example only "to the extent consistent with ANGTA." In this area Section 11(a)(2) of the ANGTA explicitly authorizes such direct judicial enforcement in lieu of first going through further agency proceedings. And the OFI's final determination of noncompliance, rendered under paragraph 1534.4(d), constitutes the type of agency determination of violation which can trigger immediate civil action in Federal District Court.

Moreover, in order to impose its sanctions of terminating or withholding Federal financial assistance, DOE must first provide an agency hearing on the record. Section 602 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d–1. While Section 17 of ANGTA generally looks to Title VI of the Civil Rights Act as a model, Section 11 of ANGTA, which is dispositive on this point, does not in and of itself require an agency hearing on the record.

Of course, by going immediately from the final determination to judicial enforcement, the OFI recognizes that the District Court will most likely entertain motions for full litigation *de novo* on the violation. As such, an OFI hearing on the record is not required under the Administrative Procedures Act, 5 U.S.C. Section 554(a)(1).

Judicial enforcement under paragraph 1534.5(b) will involve the Civil Rights Division of the Department of Justice and the OFI General Counsel. The details of that relationship have not yet been made final.

Paragraph 1534.5(c) provides an alternate means of enforcement to immediate civil action. The OFI anticipates that this provision will never have to be utilized, but its availability must be noted. For large-scale, blatant violations of approved affirmative action plans (an eventuality which is purely theoretical and, in light of the sponsor's good faith efforts to date, most unlikely), the OFI might act to stop work, but only on the specific ANGTS activity at issue, until compliance is assured.

A stop work order is obviously a matter of last resort, and would only be triggered if the violation found in the final determination threatened to undermine the overall equal opportunity goals underlying Section 17 of ANGTA and these Part 34 regulations. The statutory mandate to expedite ANGTS weighs against taking this avenue of enforcement, unless and only if a recipient, contractor, or subcontractor so disregards its affirmative action plan as to jeopardize the explicit Congressional mandate of Section 17 of ANGTA itself.

The OFI's authority to stop work flows from two basic sources: the respective FERC certificates of public convenience and necessity for the ANGTS sponsors (*Northwest Alaskan Pipeline Company, et al.,* Docket Nos. CP78–123, *et al.,* order attaching conditions issued February 26, 1980, condition (C), p. 10; and orders adopting conditions implementing Section 17 of ANGTA, issued May 8, 1980, and June 20, 1980); and the stipulations (Section 1.17) attached to the grants of right-of-way for ANGTS to cross Federal lands (issued by the U.S. Department of the Interior under Section 28 of the Mineral Leasing Act). Of course, because DOE lacks this authority, its Part 1040 regulations have no corresponding provision.

The OFI will, nevertheless, diverge from stop work practice normally associated with environmental, pipeline integrity, or safety violations. Instead of issuing a stop work order immediately, the OFI will first proceed administratively to issue a compliance order, under Section 11(a) of ANGTA, before stopping work. Again, the OFI recognizes that work stoppage in this context is unusual, and thus employes unusual procedures to assure that work stoppage is absolutely necessary.

The compliance order process starts with a show cause order, which the respondent recipient, contractor, or subcontractor must rebut. An informal conference is then convened by the Director of the OFI Office of Equal Employment Opportunity/Minority Business Enterprise within ten days. The respondent can present oral argument and documentary support. The Director will render a recommended decision, unless he or she finds material facts in issue, in which case the Director must set the matter for a hearing on the record.

While a hearing on the record is potentially available, it might be unnecessary. Because this whole compliance order/stop work procedure is limited to affirmative action plan violations of an egregious and substantial nature, the facts could well be stipulated. Clearly, failure to meet the goals and timetables is readily quantified by inspection and testing, which under the Administrative Procedures Act justifies proceeding without an agency hearing. 5 U.S.C. Section 554(a)(3). In any event the Director will have to assess the respondent's rebuttal case (trying to justify failure to meet the goals and timetables) to determine if material facts are at issue.

The General Counsel will preside over any hearing on the record under paragraph 1534.5(c)92)(ii) and will render a recommended decision. The Federal Inspector has designated this official, as permitted by law. 5 U.S.C. Section 556(b); Section 15(a) of the Natural Gas Act, 15 U.S.C. Section 717n; and Section 102(d) of Reorganization Plan No. 1 of 1979. The General Counsel will conduct any hearing in an impartial manner, following the pertinent legal constraints, including Section 1-107 of Executive Order 12142 of June 21, 1979, 44 FR 36927 (June 25, 1979).

Because recourse to paragraph 1534.5(c) is unlikely to begin with and in any event would not occur for some time, the OFI has not at this time delineated the specific hearing procedures, other than to note that oral and written evidence can be presented, subject to cross-examination. The specifics will be set forth in the near future as the OFI establishes agency-wide procedures, to appear at 10 CFR Part 1508.

Once the Director or General Counsel, as the case may be, has issued a recommended decision, the parties have ten days to file briefs on that decision. The Federal Inspector or his delegate will then issue a final decision, normally within twenty days of the briefs being filed.

If the final decision is to issue the compliance order, the Federal Inspector or delegate will allow the respondent only ten more days to comply before stopping work. While Section 11(b) of ANGTA allows the OFI to set the time for compliance up to thirty days, any violation under paragraph 1534.5(c) would by definition be so serious as to warrant this shorter time, especially in light of the numerous prior opportunities for conciliation under Section 1534.4.

Any compliance order issued under paragraph 1534.5(c) constitutes final OFI action, as per Section 10 of ANGTA and Section 202(a) of the Reorganization Plan. Moreover, the OFI will isolate and quantify any cost escalation attributed to such a stop work order. Then, in the subsequent context of ANGTS sponsor rate base formation, the OFI may follow the necessary procedures to treat such cost escalation, attributable to the sponsors' noncompliance, as an "imprudent expenditure." To the extent that a contractor or subcontractor alone is subject to the compliance order and work stoppage, the "prudence" of the sponsors' expenditures is not at issue. But the sponsors will no doubt have taken the necessary contractual steps to assure that the noncompliant contractor or subcontractor is not, in the first instance, compensated for that cost escalation attributed to the egregious violation and related work stoppage.

IV. Conclusion

The OFI is requesting public comments on any provision of these proposed enforcement procedures. Because the OFI will be issued the final rule on these enforcement procedures (after reviewing the public comments) as a final agency action pursuant to Section 9 of ANGTA, all interested persons are urged to comment now.

Note.—These proposed enforcement regulations do not constitute a significant rule, requiring regulatory analysis under Executive Order 12044. Nor do the requirements of 42 U.S.C. Section 4332(2)(c) apply.

Under authority of Sections 9 and 17 of ANGTA, 15 U.S.C. Sections 719 g and o; 43 CFR Section 34.10(d); and Sections 102 and 202 of Reorganization Plan No. 1 of 1979, the OFI is now proposing to amend Title 10 of the Code of Federal Regulations by adding a new Part 1534, as set forth below.

Dated: September 5, 1980.

John T. Rhett,

Federal Inspector.

PART 1534—ENFORCEMENT PROCEDURES FOR REGULATIONS REQUIRING EQUAL OPPORTUNITY DURING PLANNING, CONSTRUCTION, AND INITIAL OPERATION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec.

1534.1 General.
1534.2 Initial stage of compliance review.
1534.3 Initial stage of complaint investigation.
1534.4 Procedures for determination of compliance or noncompliance and for conciliation.
1534.5 Enforcement procedures.

Authority. Sec. 9 and 17 of ANGTA, 15 U.S.C. 719g and o; 43 CFR 34.10(d); and Secs. 102 and 202 of Reorganization Plan No. 1 of 1979.

§ 1534.1 General.

(a) Pursuant to paragraph 34.10(d) of the underlying regulations (43 CFR Part 34) and to Section 9 of ANGTA, the OFI has established in this Part procedures for enforcing Section 17 of ANGTA, Condition 11 of the President's *Decision*, and all implementing rules, regulations, orders, and actions taken thereunder (referred to throughout this Part collectively as "these regulations").

(1) Section 1534.2 describes how the OFI will conduct the initial stage of compliance review.

(2) Section 1534.3 describes how the OFI will conduct the initial stage of investigating complaints that these regulations have been violated.

(3) Section 1534.4 describes the subsequent procedures for determining compliance or noncompliance, including preliminary findings and final determinations, and for pursuing conciliation and voluntary compliance, which are the same for both compliance review and also complaint investigation.

(4) Section 1534.5 describes how the OFI will enforce these regulations once it has made a final determination that a recipient, contractor, or subcontractor is not in compliance.

(b) The time limitations imposed by this Part on the OFI and all parties to enforcement are binding, unless for good cause shown the OFI determines that an extension would be in the public interest.

§ 1534.2 Initial stage of compliance review.

(a) The OFI will conduct initial periodic review (including possible spot on-site review) of selected recipients, contractors, and subcontractors to determine compliance with these regulations.

(b) If, based on the initial periodic review conducted under paragraph (a) of this section, the OFI has reasonable cause to believe that these regulations are not being complied with, it will notify the respective recipient, contractor, or subcontractor by letter of a subsequent and formal on-site review, to be conducted after 15 calendar days of that notice. For formal on-site review just involving a contractor and/or subcontractor, the OFI will also forward a copy of the letter of on-site review to the corresponding recipient.

(c) The contents of such a letter giving notice of the subsequent on-site review, issued under paragraph (b) of this section, as well as the remaining procedures for compliance review, are detailed below in § 1534.4.

(d) After completion of initial periodic compliance review, the OFI will certify when a recipient, contractor, or subcontractor is found to be complying with these regulations. This certification of compliance does not, however, preclude a later determination of noncompliance, but only under the following circumstances:

(1) In light of new or additional information which the OFI should not reasonably be expected to possess, the full facts were unknown during the compliance review; or

(2) The OFI subsequently finds noncompliance for a later time period,

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not the subject of the current initial periodic review.

§ 1534.3 Initial stage of complaint investigation.

(a) Complaints alleging violation of these regulations, in the nature of employment discrimination, will be handled by the Equal Employment Opportunity Commission (EEOC) with OFI coordination, pursuant to the Memorandum of Understanding informally agreed to and, after public comment, planned to be signed into effect by the two agencies.

(1) All complaints alleging employment discrimination will be processed by EEOC, except for complaints against employers having less than fifteen employees, which will be subject to paragraph 1534.3(b) immediately below.

(2) Under the MOU the OFI may become involved in two specific aspects of employment discrimination proceedings handled by the EEOC. First, if the EEOC is unable to resolve a violation by conciliation, the OFI may then attempt such conciliation. Second, when EEOC and OFI efforts at conciliation have failed and the EEOC has subsequently taken enforcement action under Title VII of the Civil rights Act, the OFI, after consultation with the EEOC, may also pursue its own enforcement action, under § 1534.5.

(b) For all other complaints alleging violation of these regulations, the OFI will, within 35 calendar days of receipt, notify the pertinent recipient, contractor, or subcontractor by letter (appended to which will be a copy of the complaint) of the initiation of an investigation. for complaints just against a contractor and/or subcontractor, the OFI will also forward a copy of the complaint and notice to the corresponding recipient. At the same time the OFI will notify the complainant of this action and the procedures to be followed. Complaints to be investigated by the OFI must be in writing and contain the following;

(1) Name, address, and telephone number of the complainant;

(2) Name and address of the recipient, contractor, or subcontractor charged by the complainant;

(3) Description of the acts alleged to violate these regulations; and

(4) Any other pertinent information.

(c) The contents of the letter initiating investigation, issued under paragraph (b) of this section, as well as the remaining procedures for complaint investigation, are detailed in Section 1534.4 immediately below.

§ 1534.4 Procedures for determining compliance or noncompliance and for conciliation charges.

(a) This Section governs how the OFI will process cases of possible non-compliance, whether generated through compliance review or complaint investigation, initiated under §§ 1534.2 and 1534.3 respectively.

(b) Upon finding reasonable cause to believe that there is noncompliance, during compliance review, or upon initiating investigation, after receipt of a complaint, the OFI will first notify the potentially noncompliant recipient, contractor, or subcontractor of the following:

(1) A request for pertinent information and data;

(2) A statement of the practices to be reviewed, and the programs or activities affected by the compliance review or complaint investigation;

(3) An opportunity to respond in writing

(i) To explain, support, or otherwise address the practices to be reviewed or

(ii) To rebut or deny the allegations made in the complaint; and

(4) The schedule for review or investigation, including formal on-site review or investigation to commence 15 calendar days after the notice.

(c) Within 30 calendar days of completion of the formal on-site review or investigation (which itself will be conducted expeditiously by the OFI but under no set timetable), conducted as per paragraph (b)(4) of this section, the OFI will notify the pertinent recipient, contractor, or subcontractor in writing of:

(1) Preliminary findings as to compliance or noncompliance;

(2) Where appropriate, recommendations for achieving voluntary compliance;

(3) The opportunity to request that the OFI engage in voluntary compliance negotiations (to be completed within 20 calendar days of this written notice) prior to a final determination of compliance or noncompliance; and

(4) Where a contractor or subcontractor alone appears to be in possible noncompliance, the obligation on the part of the appropriate recipient (after notice of the preliminary finding directed to the contractor or subcontractor) to assist the OFI in achieving voluntary compliance, failure for which may also be processed through these procedures to determine noncompliance with these regulations.

(d) The OFI will render a final determination as to compliance or noncompliance within 45 calendar days of notice given under paragraph (c) of this section.

(1) A final determination of noncompliance will be made in the following situations:

(i) The preliminary recommendation for voluntary compliance is not followed;

(ii) Voluntary compliance is not secured; or

(iii) The preliminary finding of noncompliance is not shown to be false.

(2) A final determination of noncompliance will contain the following provisions:

(i) A statement with specificity of how the recipient, contractor, or subcontractor has violated these regulations;

(ii) A detailed basis for this finding of noncompliance, including how the recipient, contractor, or subcontractor failed to follow the recommendations contained in the OFI's preliminary finding, rendered pursuant to paragraph (c) of this section; and

(iii) Final recommendations on remedial actions to bring the recipient, contractor, or subcontractor into compliance.

(e) Where a final determination of noncompliance has been made under paragraph (d) of this section, the OFI will so advise the pertinent recipient, contractor, or subcontractor in writing, giving an additional 10 calendar days in which to comply voluntarily. If the recipient, contractor, or subcontractor has not so complied, the OFI will institute enforcement proceedings under § 1534.5 of this Part.

(f) All voluntary compliance agreements, whether formed under paragraphs (c)(3) or (e) of this section, will have the following features:

(1) The agreement shall

(i) Be in writing;

(ii) Be signed by an authorized official of the recipient, contractor, or subcontractor and by the OFI designated official;

(iii) Contain commitments regarding the precise remedial action to be taken and the dates for completion of those remedial actions, and, in the case of a complaint investigation, contain commitments to eliminate all discriminatory conditions; and

(iv) Include a provision that breach of the agreement may result in further enforcement actions by the OFI.

(2) Upon execution of the agreement, the OFI will certify compliance, conditioned upon

(i) Performance of the commitments given under paragraph (f)(1)(iii) of this section, and

(ii) The full facts being known at the time the agreement was executed.

(g) In the case of complaints, the OFI will notify the complainant of actions taken, including

(1) Final determination of noncompliance, and subsequent enforcement efforts;

(2) Finding of compliance;

(3) Achieving voluntary compliance through conciliation; or

(4) Closing the investigation due to complainant's failure to cooperate or provide necessary information.

§ 1534.5 Enforcement procedures.

(a) The OFI will act pursuant to this Section when it has rendered a final determination of noncompliance, under § 1534.4(d), and the noncomplaint recipient, contractor, or subcontractor has failed to comply voluntarily within 10 days thereafter, under § 1534.4(e). In addition, the OFI will act pursuant to this Section when acting against certain employment discrimination, based on determinations of the EEOC, as per § 1534.3(a)(2).

(b) Except as provided in paragraph (c) of this section, the OFI will seek judicial enforcement in the United States District Court having venue, seeking appropriate injunctive and civil fine relief, as provided in § 34.11(b) of the Part 34 regulations. Such civil action will be commenced following consultation and coordination between the OFI General Counsel and the Civil Rights Division of the Department of Justice.

(c) In the event that the OFI finds, as part of its final determination made under § 1534.4(d), that a recipient, contractor, or subcontractor has so consistently and substantially failed to meet its approved affirmative action plan that the overall equal opportunity goals of Section 17 of ANCTA and the Part 34 regulations are in jeopardy, the OFI may issue a compliance order stopping work on the particular ANGTS activity until compliance is assured. The procedures for issuing such a compliance order entails the following:

(1) Within 10 calendar days of the final determination of noncompliance and related 10-day compliance period (as defined in paragraph (a) of this section, the OFI will issue a show cause order why the noncompliant recipient, contractor, or subcontractor should not immediately be subject to a compliance order and work stoppage. The show cause order will contain the following:

(i) A summary of the final determination of noncompliance;

(ii) A statement of the recipient, contractor, or subcontractor's subsequent failure to achieve voluntary compliance;

(iii) A statement explaining why the violation of the approved affirmative action plan is so serious as to warrant work stoppage; and

(iv) Notice that the OFI will hold an informal conference within 10 calendar days.

(2) The noncompliant recipient, contractor, or subcontractor must present oral argument and documentary support in rebuttal at this informal conference.

(i) If the Director of the OFI Office of Equal Opportunity/Minority Business Enterprise or designee, who will preside over the informal conference, concludes that there are no material facts in issue, he or she will render in writing a recommended decision on the compliance order within 15 calendar days of the close of the informal conference.

(ii) If the Director or designee concludes, however, that there are material facts in issue which cannot be ascertained without a hearing on the record, he or she will set the proceeding for hearing.

(A) The General Counsel of the OFI or designee will preside over and conduct any such hearing on the record, under procedures established by the OFI for similar proceedings. 10 CFR Part 1508.

(B) Following the presentation of oral and written evidence, an opportunity for cross-examination, and the filing of briefs, the General Counsel will render in writing a recommended decision on the compliance order within 15 calendar days of the close of the hearing.

(3) The Federal Inspector or delegate will render a final decision on the compliance order. The following process will be employed.

(i) Within 10 calendar days of issuance of a recommended decision, under either paragraph (c)(2)(i) or (c)(2)(ii) of this section, the respondent recipient, contractor, or subcontractor and, in the case of a complaint investigation, the complainant shall file a brief agreeing with or contesting the recommended decisions.

(ii) Except when the record is unduly voluminous and complex, the Federal Inspector or delegate will issue in writing a final decision within 20 days of receiving the briefs.

(iii) When the final decision is to issue a compliance order and to stop work, the Federal Inspector or delegate will institute the prescribed sanctions, unless the respondent has complied within 10 calendar days of the compliance order.

[FR Doc. 80-27862 Filed 9-10-80; 8:45 am]

BILLING CODE 6820-AW-M

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OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Affirmative Action Plans; Extension of Time

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of the Office of the Federal Inspector's extension of time to approve affirmative action plans.

SUMMARY: On May 12, 1980, the final rules governing "Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System" became effective (45 FR 31095). Section 34.8(a)(1) of the rules provides that the applicants' affirmative action plans must be approved by the Federal Inspector within one hundred twenty days after the rules became effective. Consequently, according to the time limit established by the rules, the applicants' plans should be approved by September 9, 1980.

On August 11, 1980, the sponsors of the project, Alaskan Northwest Natural Gas Transportation Company, Northern Border Pipeline Company and Pacific Gas Transmission Company (Sponsors) submitted their affirmative action plans to the Federal Inspector for approval pursuant to the rules. After completion of its initial review the Office of the Federal Inspector has determined that additional time is required to ascertain whether the plans as submitted conform to the rules.

FOR FURTHER INFORMATION CONTACT: John Alexander, Office of the Federal Inspector, Alaska Natural Gas Transportation System, Room 2413, Post Office Building, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20044. Telephone: 202/275-1157.

Section 34.8(d) of the rules requires that the Sponsors provide the Federal Inspector with sufficient information to ascertain whether the respective affirmative action plans are adequate. On August 11, 1980, the Sponsors submitted their affirmative action plans to the Federal Inspector for approval.

After initial review, the Office of the Federal Inspector finds that it cannot approve or disapprove the plans by September 9, 1980. Consequently, we will require additional time to ascertain whether the plans as submitted are adequate. The additional time for review is necessitated by the voluminous nature of the submittals and the complex issues presented therein.

The Office of the Federal Inspector is currently reviewing the respective plans carefully to insure that they are adequate, and if found to be inadequate, to develop appropriate curative measures. The Office of the Federal Inspector will conduct its review expeditiously and respond as soon as possible.

Dated: September 5, 1980.

John T. Rhett,

Federal Inspector.

[FR Doc. 80-27863 Filed 9-10-80; 8:45 am]

BILLING CODE 6820-AW-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Proposed Memorandum of Understanding Regarding Employment Discrimination

AGENCY: Equal Employment Opportunity Commission and Office of the Federal Inspector.

ACTION: Proposed notice.

SUMMARY: This document sets forth a proposed Memorandum of Understanding between the Equal Employment Opportunity Commission (EEOC) and the Office of the Federal Inspector (OFI) of the Alaska Natural Gas Transportation System (ANGTS). Both agencies have equal employment opportunity responsibilities and wish to administer these responsibilitites in a manner that promotes efficiency and eliminates conflict, competition, duplication and inconsistency in the operation of their programs.

DATES: Comments on the proposed Memorandum of Understanding must be received on or before October 14, 1980.

ADDRESS: Comments may be sent to: Treva I. McCall, Acting Executive Officer, Executive Secretariat, Office of Policy Implementation, Room 4096M, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, D.C. 20506.

Copies of comments will be available for public inspection in the Library, EEOC 2401 "E" Street, N.W., Washington, D.C. 20506 during normal business hours until such time as the two agencies adopt a final agreement.

FOR FURTHER INFORMATION CONTACT:

Francesta E. Farmer, Director, Office of Interagency Coordination, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Room 2534, Washington, D.C. 20506. Area Code (202) 653-5490

or;

John Alexander, Director, Office of Equal Employment Opportunity and Minority Business Enterprise, Alaska Natural Gas Transportation System, Room 2413, Post Office Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20044. Area Code (202) 275-1157.

SUPPLEMENTARY INFORMATION: The EEOC and the OFI have concurrent jurisdiction over claims of employment discrimination on the basis of race, color, religion, sex, and national origin in the construction of the Alaska Natural Gas Transportation System (ANGTS). The sources of the OFI's jursisdiction are Section 17 of the Alaska Natural Gas Transportation Act of 1976 and Condition 11 of the *President's Decision and Report to Congress on the ANGTS.* The principal source of EEOC's jurisdiction is Title VII of the Civil Rights Act of 1964.

The OFI was created by Reorganization Plan No. 1 of 1979 and will be abolished one year after the initial operation of ANGTS. It plans to maximize its efforts in implementation of its affirmative action program requirements. See 45 FR 31095 (May 12, 1980), to appear at 43 CFR Part 34. So that the OFI may devote most of its resources to affirmative action and in order to take advantage of the EEOC's expertise in processing charges of discrimination, the OFI and the EEOC proposes a Memorandum of Understanding.

Under the Memorandum, a complaint of employment discrimination filed with the OFI against an ANGTS-related person (a project sponsor, contractor, subcontractor, employment agency or union, etc.) which alleges violations of both Section 17 and Title VII will be deemed a charge filed jointly with the OFI and the EEOC. For purposes of determining timeliness of the charge under Title VII, the date that the matter was received by the OFI will be deemed the date it was received by the EEOC. EEOC (or a State Fair Employment Practice Commission to which EEOC defers charges) will investigate the charge.

Where EEOC finds reasonable cause to credit the allegations of a charge, it will attempt to resolve the charge by means of conciliation. Where it appears that conciliation may be unsuccessful, EEOC will notify the OFI and the OFI may attempt to conciliate the matter. If the matter is resolved to the satisfaction of both agencies, the agreement will be reduced to writing and signed by the parties and by both agencies. If the matter is not resolved, EEOC will take such further action as provided by Title VII and EEOC's procedural regulations. Where the EEOC has acted upon a charge without achieving a conciliation agreement, the OPFI may take action on the charge pursuant to Section 11 of ANGTA after consulting with the EEOC.

The EEOC and the OFI will share information relating to charges of disciminiation. The OFI will honor the confidentiality provisions of Title VII, where EEOC provides to the OFI information which is confidential under Title VII. The Memorandum also provides for liaison and monitoring of implementation of the agreement.

By means of this agreement, both agencies hope to maximize their efforts and to mimimize duplication and inconsistencies in their respective programs as required by Executive Order 12067.

The agencies invite public comment on all aspects of this proposed agreement.

Signed at Washington, D.C. this 5th day of September 1980.

Approved and accepted for the Equal Employment Opportunity Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

Approved and accepted for the Office of the Federal Inspector for the Alaska Natual Gas Transportation System.

John T. Rhett, Jr.,

Federal Inspector, Alaska Natual Gas Transportation System.

Memorandum of Understanding

This Memorandum of Understanding between the Office of the Federal Inspector (OFI) and the Equal Employment Opportunity Commission (EEOC) is being implemented to further the objectives of both agencies in assuring against employment discrimination during the construction of the Alaska Natural Gas Transportation System (ANGTS). According to Reoganization Plan No. 1 of 1979, the OFI has exclusive responsibility for enforcement of Section 17 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), Condition No. 11 of the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (the President's *Decision*), the regulations (45 FR 31095 (May 12, 1980): to appear at 43 CFR Part 34) and terms and conditions established pursuant to Section 17 and Condition 11, and all other Federal statutes which related in any manner to the pre-construction, construction, and initial operation of ANGTS.

The EEOC, pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec. 2000e, is responsible for the elimination of discriminatory employment policies and practices at employment units. It has adopted guidelines, rules and procedures designed to assure equal employment opportunites to all persons without regard *inter alia* to their race, color, religion, national origin, or sex. In addition, the EEOC has jurisdiction over complaints alleging violations of the Equal Pay Act of 1963, 29 U.S.C. Sec. 209(d) and the Age Discrimination in Employment Act, 29 U.S.C. Sec. 621.

I. Exchange of Information

The EEOC and OFI shall make available to appropriate officials from the other agency certain information which may assist each agency in carrying out its responsibilities. This information will relate to the employment policies and practices of the ANGTS sponsors, contractors, sub-contractors or other ANGTS-related persons, including corporations, associations, firms, partnerships, joint stock companies, labor unions, employment agencies and individuals. Such information shall include, but shall not necessarily be limited to, affirmative action programs, annual employment reports, complaints, investigative files, conciliation of compliance ageements, and compliance review reports and files.[1] Additionally, the EEOC will send to OFI *quarterly reports* to keept the OFI informed of all charges against ANGTS related persons. With respect to all information obtained by the OFI from the EEOC, the OFI agrees to preserve the confidentiality, as provided in Sections 706(b) and 709(e), the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e–5(b) and 2000e–8(e).

All requests to the OFI by Third Parties for information concerning charges of employment discrimination being processed by EEOC shall be coordinated by the OFI with the General Counsel of the EEOC or his designee before a response is made. Except as otherwise provided by law, the OFI will not disclose information about charges or information contained in, or derived from, EEOC's charge files without the approval of the General Counsel of the EEOC or his designee.

II. Complaint Procedures

The statutory standard governing employment discrimination for ANGTS is substantially similar under the respective legal authorities of the OFI and the EEOC. Thus, while there are certain differences in terms of coverage, sanctions, and procedures, most instances of employment discrimination would be actionable for either the OFI or the EEOC. The EEOC and OFI share the common goal of assuring against discriminatory employment policies and practices during the pre-construction, construction and the initial operation of ANGTS. In pursuit of this common goal, and to promote efficiency and to eliminate potential conflict and duplication, the EEOC and OFI hereby agree as follows:

A. Filing discrimination complaints. Complaints of employment discrimination against ANGTS related persons received by the OFI shall be deemed charges filed jointly with EEOC and the OFI. For the purpose of determining the timeliness of the charge under Title VII of the Civil Rights Act of 1964, the date that the matter was received by the OFI shall be deemed the date it was received by EEOC.

B. Processing discrimination complaints. If an individual files with either the EEOC or the OFI a charge alleging discrimination in employment by an ANGTS related person, the EEOC and the OFI will proceed as follows:

(1) The agency receiving the complaint shall:

(a) Date stamp each complaint;

(b) Notify the complainant of its receipt; and

(c) Notify the ANGTS respondent(s) named in the complaint that such a complaint has been received, and, in the event that the complaint is forwarded by the receiving agency to the other, so notify both the complainant and the ANGTS respondent. In every instance, the OFI and the EEOC will inform each other of ANGTS complaints initially received.

(2) If the EEOC receives a discrimination complaint which does not fall within the jurisdiction of either the EEOC or a State or local agency to which the EEOC must defer pursuant to Section 706 of the Civil Rights Act of 1964, the EEOC shall forward the complaint to the OFI. The OFI shall process such complaints in accordance with its own rules, policies and procedures. Upon request, the EEOC shall provide technical advice and guidance to the OFI in its investigation of such complaint.

(3) If the OFI receives an employment discrimination complaint which does not fall within the jurisdiction of the OFI as prescribed by ANGTA, the President's *Decision*, and Reorganization Plan No. 1 of 1979, the OFI shall forward it to the EEOC or the appropriate section 706 agency. The EEOC or the Section 706 agency shall process such complaints according to its normal procedures. An example of a complaint contemplated by this subsection is one which alleges a violation of the Age Discrimination in Employment Act.

(4) If the EEOC or the OFI receives a discrimination complaint which falls within the jurisdiction of both the EEOC and the OFI, the complaint shall be processed by the EEOC or the Section 706 agency according to its normal procedures, except as provided below in Section C.

C. Action on discrimination complaints. (1) The EEOC will notify the OFI by letter of all reasonable cause determinations on discrimination charges involving an ANGTS respondent and, upon specific request, will provide the OFI with any additional information regarding the determination. However, nothing herein is intended to prevent an ANGTS respondent from entering into conciliation agreement with EEOC, if the ANGTS respondent so desires.

(2) When the EEOC determines that an ANGTS respondent is in violation of employment discrimination laws, but appears unable to resolve the matter by conciliation, it shall so notify the OFI. In those cases

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[1] It is the intent of the OFI and the EEOC to exchange information relevant to matters of concurrent jurisdiction. Therefore, the example, the EEOC will not provide the OFI with information relating to claims of age discrimination. The OFI will not provide EEOC with information relating to its minority and female business enterprise programs.

processed under Section B(4) of the Memorandum of Understanding, the OFI may then attempt to resolve the matter by conciliation. EEOC shall allow the OFI a reasonable time to attempt such conciliation. If the OFI's conciliation efforts resolve the matter to the satisfaction of the OFI and the EEOC, the terms of the agreement shall be reduced to writing and signed by the designated representatives of both agencies.

(3) If the OFI and the EEOC's efforts are unable to resolve the matter, the EEOC shall notify the parties that conciliation has failed and take such further steps as provided by Title VII of the Civil Rights Act and by EEOC's procedural regulations.

(4) For those cases of employment discrimination acted upon by EEOC under Subsection C(3) immediately above, the OFI shall consult with the EEOC before taking further actions as deemed appropriate by the OFI pursuant to the OFI's enforcement authorities (Section 11 of the ANGTA and Section 102(h)(1) of the Reorganization Plan).

III. Liaison an Monitoring

To provide for more effective and complete exchange of information, so that both agencies will be utilized to the maximum effectiveness in the public interest, each agency will designate a liaison officer to serve as the primary source of contact. These liaison officers will be responsible for currently informing each other of proposed proceedings and of internal developments in areas of joint concern, to the extent permitted by law. Additionally, the parties shall conduct reviews of the implementation of this agreement to assure proper effectuation. In this regard, liaison meetings between appropriate senior officials of both agencies (to exchange views on matters of common interest and responsibility) shall be held from time to time, as determined by such liaison officers to be necessary.

Designated liaison officers:

(a) Equal Employment Opportunity Commission—The Executive Director or his designee.

(b) The Office of the Federal Inspector—The EEO/MBE Director or his designee.

IV. Amendment and Termination

This agreement, when signed by both parties, shall continue in effect. It may be modified by or expanded with the mutual consent of both parties, or it may be terminated by either party upon thirty (30) days' advance written notice. As provided in Section 203(a) of the Reorganization Plan No. 1 of 1979, however, this agreement shall not exceed the first anniversary of the date of the initial operation of ANGTS or the abolishment of the Office of the Federal Inspector on that date. All cases filed with, and in the processing, investigation or resolution stages with EEOC will continue to be the responsibility of the EEOC.

Approved and accepted for the Equal Employment Opportunity Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

Approved and accepted for the Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

John T. Rhett, Jr.

Federal Inspector, Alaska Natural Gas Transportation System.

[FR Doc. 80-27864 Filed 9-10-80; [illegible]:45 am]

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OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1506

Employee Standards of Conduct

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Final rule.

SUMMARY: These rules institute employee standards of conduct to fulfill the requirements of Section 1-108 of Executive Order 12142 and of Title II of the Ethics in Government Act of 1978. Section 1-108 of Executive Order 12142 requires the Federal Inspector to issue standards of conduct, pursuant to Executive Order 11222, for the Office of the Federal Inspector. Title II of the Ethics in Government Act requires certain high-ranking Executive branch employees to disclose their financial interests publicly.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward W. Hengerer, General Counsel, Office of the Federal Inspector, ANGTS, Room 2418, Post Office Building, 1200 Pennsylvania Avenue, Washington, D.C. 20044, (202) 275-1100.

SUPPLEMENTARY INFORMATION: Because these rules fall within the exceptions of 5 U.S.C. 553(a)(2) and (b)(B) (as relating to agency management and personnel and as rules of agency procedure and practice), the normal requirements of notice and comment do not apply to them. Therefore, these rules are being promulgated as final and are effective immediately.

The Office of the Federal Inspector has determined that these rules are not "significant regulations" and do not require a regulatory analysis under Executive Order 12044.

Dated: September 5, 1980.

John T. Rhett,

Federal Inspector.

For the reasons set out above, the Federal Inspector hereby amends Title 10 of the Code of Federal Regulations by adding a new part, Part 1506, to read as follows:

PART 1506—EMPLOYEE STANDARDS OF CONDUCT

Subpart A—General Provisions; Notice to Employees; Advisory Service

Sec.
1506.101 Purpose.
1506.102 Authority.
1503.103 Definitions.
1506.104 Coverage.
1506.105 Notice to employees.
1506.106 Interpretation and advisory service.

Subpart B—Rules of Conduct for Employees

1506.201 Generally prohibited conduct.
1506.202 Acceptance and solicitation of gifts, entertainment, and favors.
1506.203 Acceptance of reimbursement for official travel.
1506.204 Reimbursement of project sponsors for logistical support
1506.205 Outside employment.
1506.206 Acceptance of honoraria.
1506.207 Prohibited financial interests.
1506.208 Use of Government property.
1506.209 Misuse of information.
1506.210 Indebtedness.
1506.211 Gambling, betting, and lotteries.
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Authority: E.O. 11222, 3 CFR, 1964-1965 Comp., p. 306; E.O. 12142, 44 FR 36927; 5 CFR 735.104; Pub. L. 95-521, as amended by Pub. L. 96-19.

PART 1506—EMPLOYEE STANDARDS OF CONDUCT

Subpart A—General Provisions; Notice to Employees; Advisory Service

§ 1506.101 Purpose.

It is the purpose of these regulations to set high ethical standards of conduct for employees of the Office of the Federal Inspector (OFI). The OFI is a unique agency in a number of conduct-related ways, stemming mainly from its character as a project-specific agency. The OFI is charged with expediting the regulatory processes involved in the construction of a single pipeline system designed to transport Alaska Natural Gas to the contiguous states. Thus, OFI employees deal closely with the sponsors of, and governmental bodies involved in, just one project. On the first anniversary of the completion of the project, the OFI will cease to exist. These regulations reflect the unique charter of this project-specific agency.

§ 1506.102 Authority.

These regulations are promulgated pursuant to Executive Orders 11222, 11590 and 12142, to Section 7(a)(5) of the Alaska Natural Gas Transportation Act,

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to the Ethics in Government Act of 1978, and to implementing regulations of the Office of Government Ethics (OGE).

§ 1506.103 Definitions.

In these regulations:

(a) "Employee" means an officer or employee of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

(b) "Honorarium" means a payment of money or anything of value received by an officer or employee of the Federal Government, if accepted as consideration or as a fee for an appearance, speech, or article.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other group, organization or institution.

(d) "Special Government employee" means an officer or employee of the OFI who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(e) "Project sponsor" means one of the persons designated to construct and operate a portion of the Alaska Natural Gas Transportation system.

(f) "Logistics agreement" means an agreement negotiated with a project sponsor governing the provision to OFI field employees of food, lodging, transportation, and medical and office facilities by the project sponsor. Logistics agreements are entered into because of the scarcity of such facilities in remote areas along the project route.

§ 1506.104 Coverage.

(a) The provisions of Subpart A of this part apply to all regular employees and all special Government employees.

(b) The provisions of Subpart B of this part apply to all regular employees.

(c) The provisions of Subpart C of this part apply to all senior Executive Service employees, both special and regular, and to the Federal Inspector.

(d) The provisions of Subpart D of this part apply to those regular employees who meet the criteria set forth in the first section of that subpart, § 1506.401.

(e) The provisions of Subpart E of this part apply to all special Government employees.

(f) The provisions of Subpart F of this part apply to special Government employees who are paid at a rate equivalent to GS-16 or above.

(g) The provisions of Subpart G of this part apply to those special Government employees who meet the criteria set forth in the first section of that subpart, § 1506.701.

§ 1506.105 Notice to employees.

(a) Each employee and special Government employee shall be furnished a copy of these regulations within 90 days of their effective date.

(b) Each new employee and special Government employee shall be furnished a copy of these regulations at the time of his or her entrance on duty.

(c) Thereafter, each employee and special Government employee shall be reminded of these regulations once a year and shall be informed on a timely basis of any changes in these regulations.

(d) The agency ethics officers shall have copies of all pertinent laws, executive orders, OFI regulations and OGE regulations available for review by employees and special Government employees.

§ 1506.106 Interpretation and advisory service.

(a) There shall be an advisory service which will furnish interpretations and advice to employees and to special Government employees on questions which they may have concerning these regulations.

(d) The General Counsel of the OFI shall be the Designated Agency Ethics Officer (ethics officer). The ethics officer shall coordinate the agency's counseling and interpretation services and serve as the OFI designee to the OGE on appropriate matters.

(c) The Federal Inspector and the General Counsel shall appoint such deputy ethics officers as they deem necessary.

(d) Each employee and special Government employee shall be informed of the availability of the advisory service within 90 days after these regulations become effective. New employees, both special and regular, shall be informed about this service upon entrance on duty.

(e) Any employee or special Government employee who has a question about the application of these regulations has a duty to consult the ethics officer or deputy officer concerning the question.

Subpart B—Rules of Conduct for Employees

§ 1506.201 Generally prohibited conduct.

An employee shall avoid any action which might result in or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1506.202 Acceptance and solicitation of gifts, entertainment, and favors.

(a) Apart from the exceptions listed in paragraph (b) of this section, an employee shall neither solicit nor accept any gift, gratuity, favor, entertainment, loan, or any thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual business or financial relations with the OFI;

(2) Is regulated by the OFI; or

(3) Has interests that may be substantially affected by the performance of the employee's official duty.

(b) Exceptions to the prohibitions of paragraph (a) of this section are:

(1) An employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting when, and only when, it is impracticable to pay for the food or refreshments, and

(2) An employee may accept unsolicited promotional materials, such as pens, pencils, note pads, and calendars which are of nominal value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself. However, this paragraph does not prohibit a voluntary gift of nominal value on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress, as provided in 5 U.S.C. 7342. A copy of 5 U.S.C. 7342 may be obtained from the ethics officer or his deputy. Employees who are contemplating acceptance of a gift from a foreign government should familiarize themselves with this provision of law.

§ 1506.203 Acceptance of reimbursement for official travel.

(a) Subject to the exceptions listed in paragraph (b) of this section, an employee may be reimbursed for his official travel expenses only by the OFI.

(b) There are the following statutory exceptions to paragraph (a) of this section:

(1) Contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings, may be made to and accepted by an employee, without regard to section 209 of title 18, if the contributions, awards, and payments are made by an organization determined by the Secretary of the Treasury to be an organization described by section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26. (5 U.S.C. 4111).

(2) An employee may accept reimbursement of expenses related to being detailed to State and local governments or to universities (5 U.S.C. 3371).

(3) If and when the Secretary of State assigns an employee to a foreign government, the employee may accept, with the approval of the OFI, reimbursement for his or her pay and allowances (22 U.S.C. 1451).

(4) If and when an employee is detailed to a public international organization in which the United States participates, the OFI may accept reimbursement for the detailed employee's pay, travel expenses, and allowances (5 U.S.C. 3343).

§ 1506.204 OFI's reimbursement of project sponsors for logistical support.

(a) Because of the limited travel, lodging, medical, and office facilities along the route of the project in Alaska, employees in the field will be relying upon the logistical support of the project sponsor. Normally, all logistical support provided by the project sponsor will be provided in accordance with the "logistics support agreement" between the sponsor and the OFI. Under the terms of this agreement, OFI will reimburse the sponsor for this support.

(b) If it is necessary for an employee to rely upon logistic support of the sponsor or other person which is not within the scope of the "logistics support agreement," the employee shall notify the ethics officer or the Federal Inspector as soon as practicable.

(c) The employee may accept the logistics support which is beyond the scope of the "logistics support agreement" only if the Federal Inspector determines that such acceptance facilitates the conduct of official business and is in the best interest of the Government.

§ 1506.205 Outside employment.

(a) An employee shall not engage in outside employment or other outside activity which is incompatible with the full and proper discharge of the duties and responsibilities of his or her Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his or her mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing which is not prohibited by law, Executive Order, OGE regulations, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing which depends on information obtained as a result of his or her Government employment, except when that information has been made available to the general public or will be made available on request. An employee also shall not accept an honorarium for any consultation, writing, speech, lecture, or appearance, the subject matter of which draws substantially on official data or ideas which have not become part of the body of public information.

(d) The Federal Inspector may not have, in any calendar year, outside earned income which is in excess of fifteen percent of his Government compensation (Pub. L. 95–521, as amended, Section 210).

(e) Any employee engaged in outside paid employment on a substantially regular basis shall notify his or her supervisor, who in turn will evaluate the continuation of such outside employment relative to paragraph (a) of this section.

§ 1506.206 Acceptance of honoraria.

(a) No employee shall accept an honorarium for any consultation, writing, speech, lecture, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the OFI.

(b) No employee shall accept an honorarium for any consultation, writing, speech, lecture, or appearance which he performs while on duty.

(c) No employee shall accept an honorarium of more than $2,000 for any appearance, speech, or article, or accept honoraria aggregating more than $25,000 in any calendar year (2 U.S.C. 441i).

(d) No employee shall accept an honorarium from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the OFI;

(2) Conducts operations or activities which are regulated by the OFI; or

(3) Has interests which may be substantially affected by the performance or nonperformance of his official duty.

§ 1506.207 Prohibited financial interests.

(a) No employee shall have a financial interest that conflicts substantially, or appears to conflict substantially, with his or her Government duties and responsibilities.

(b) As applied, paragraph (a) of this section requires that no employee shall own securities of any company (or its parent or affiliate):

(1) Which initially owns and produces gas to be transported through the Alaska Natural Gas Transportation System (the system);

(2) Which "first purchases" gas to be transported through the system;

(3) Which is involved in the ownership of the system; or

(4) Which is very substantially involved by contract in the construction or design of the system.

(c) A list of the companies whose securities are prohibited under the criteria of paragraph (b) of this section shall be issued to each employee upon entrance on duty. A list of these companies shall be distributed to all employees annually and whenever change in circumstances requires modification of the list.

(d) In addition to the specific companies (meeting the criteria in paragraph (b) of this section and listed according to paragraph (c) of this section), there are other categories of companies to which the prohibition in paragraph (a) of this section may or may not apply. Employees should consider the following factors:

(1) Ownership of the securities of other oil and gas companies is not at present prohibited. Employees are advised, however, that, if such other companies become involved in either the system or ownership of gas to be transported through the system, ownership of the securities of those companies will, at that time, become prohibited.

(2) As a general rule, the securities of those companies supplying goods or services for the planning or construction of the system are not prohibited from ownership by employees. Nevertheless, certain of those companies could supply such a large share of goods or services for the system that employees also may not own their securities.

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(3) Employees shall not own the securities of companies described in this subsection *only if and when* a specific company is included in the prohibited securities list provided in accordance with paragraph (c) of this section.

(e) If employees have any questions or doubts regarding the ownership of securities, they should contact the ethics officer for advice.

(f) An employee may seek a waiver of the prohibitions imposed by paragraphs (a) and (b) of this section for a particular financial interest. In order to obtain such a waiver, an employee must fully disclose his financial interest to the ethics officer and to the Federal Inspector. If the ethics officer and the Federal Inspector determine that the disclosed financial interest is not so substantial as to be likely to affect the integrity of the employee's Government services, they may grant a waiver.

(g) The prohibitions of paragraphs (a) and (b) of this section do not apply to mutual funds (unless investing primarily in oil and gas securities) and investments in mutual savings banks. Further, if an employee has continued to participate in a bona fide pension, retirement, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization or which he is a former employee, that financial interest is exempted from the prohibitions of paragraphs (a) and (b) of this section, except when the welfare or benefit plan is a profit-sharing or stock-bonus plan.

§ 1506.208 Use of Government property.

No employee shall use, or allow the use of, government property for any activity which is not officially approved. An employee has a positive duty to protect and conserve Government property which has been issued or entrusted to him.

§ 1506.209 Misuse of information.

No employee shall use, or allow the use of, official information obtained through his Government employment which has not been made available to the general public or would not be made available to the public on request.

§ 1506.210 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as Federal, State or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as the employee's employer. In the event of dispute between an employee and an alleged creditor, this section does not require the OFI to determine the validity or amount of the disputed debt.

§ 1506.211 Gambling, betting, and lotteries.

No employee shall participate in any gambling activity while on Government property or while on duty for the Government. However, organizations composed of Federal employees may conduct fund-raising activities in accordance with procedures approved by the Federal Inspector (Executive Order 10927).

§ 1506.212 General conduct prejudicial to the Government.

No employee shall engage in criminal, infamous, dishonest or disgraceful conduct, or other conduct prejudicial to the government.

§ 1506.213 Miscellaneous statutory provisions.

Each employee shall acquaint himself with the following statutory provisions which relate to Federal employee conduct. Copies, explanations, and interpretations of these provisions may be obtained from the ethics officer or his deputy.

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibition against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failure to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against certain political activities in the "Hatch Act" (5 U.S.C. 7324–7327 and 18 U.S.C. 602, 603, 607, and 608).

(p) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Public Financial Disclosure Requirements for Employees

§ 1506.301 Employees subject to public financial disclosure requirements.

(a) Every employee whose position is classified as GS–16 or above or who is paid at an equivalent rate in the Senior Executive Service shall annually file an "Executive Personnel Financial Disclosure Report" (referred to as a "278 form") for public financial disclosure.

(b) Every schedule C employee who is paid at a rate below GS–16 shall file a 278 form annually, unless specifically excepted from the requirement, in accordance with OGE procedure, as having no role in advising or making policy determinations concerning agency programs or policies.

(c) The OFI ethics officer shall file a 278 form annually.

§ 1506.302 When to file 278 form.

(a) Except as described in paragraph (b) of this section, all employees who are required by virtue of their position to file a 278 form shall file the form within thirty days of their entrance into that position.

(b) A new entrant to a 278 position does not need to file a 278 form within 30 days of entrance upon duty:

(1) If the entrant has just left a position for which he was required to file a 278 form; or

(2) If the entrant has already filed a 278 form as a nominee or candidate for the position.

(c) Thereafter, every employee who performs the duties of a 278 position for more than 60 days of any calendar year shall file a 278 form for that year by May 15 of the succeeding year.

(d) Within thirty days after the termination of employment in a 278 position, a terminated employee shall file a 278 form for the year of termination. However, if an employee terminates one 278 position but assumes another 278 position (either at OFI or in other Federal employment) within 30 days of termination, no report is required by this subsection.

(e) The ethics officer may, for good cause shown, grant to any employee or class of employees an extension of up to 45 days. The OGE may, for good cause shown, grant an additional extension of up to 45 days. The employee shall set forth specific reasons for the additional extension request and shall submit these reasons to the ethics officer. The ethics officer will forward the request and comments on it to the OGE.

§ 1506.303 Where to file 278 form.

(a) Employees who are required to file 278 forms shall file them with the ethics officer.

(b) The ethics officer shall transmit the 278 form of the Federal Inspector and the ethics officer's 278 form to the Director of the OGE. Prior to transmitting these forms, the ethics officer shall review the 278 form of the Federal Inspector and shall ensure that ethics officer's 278 form is reviewed by the Federal Inspector.

§ 1506.304 Procedure for completing 278 form.

Each 278 form shall be filled out entirely and in accordance with its instructions. If questions arise while filling out his or her form, an employee should consult the ethics officer. The ethics officer shall in turn make available the OGE regulations implementing Title II of the Ethics in Government Act.

§ 1506.305 Special rules for completing 278 form.

Employees who are required to submit 278 forms should acquaint themselves with the special rules set forth in the regulations of the Office of Government Ethics at 5 C.F.R. 734.303. Copies and interpretations of these provisions may be obtained from the ethics officer. Employees should note that they may request a waiver of the reporting requirement for certain personal gifts.

§ 1506.306 Special rules for reporting trust interests and assets.

(a) Subject to the exceptions of paragraph (b) of this section, employees required to submit 278 forms shall report trust interests and assets which have a value in excess of $1,000.

(b) The reporting requirement of paragraph (a) of this section does not apply when an employee is the beneficiary of:

(1) A "qualified blind trust,"

(2) A "qualified diversified trust," or

(3) An "excepted trust."

(c) The trusts provided in paragraph (b) of this section are approved in the following manner:

(1) A "qualified blind trust" is a trust certified as approved by the Director of the Office of Government Ethics as meeting the requirements of Section 202(f)(3) of the Ethics in Government Act and implementing regulations.

(2) A "qualified diversified trust" is a trust certified as approved by the Director of the Office of Government Ethics, in concurrence with the Attorney General, as meeting the requirements of Section 202(f)(4)(B) of the Ethics in Government Act and implementing regulations.

(3) An "excepted trust" is one which was not created directly by the employee, his spouse, or his dependent child, and the holdings or sources of income of which are not known to the employee, his spouse, or his dependent child. An excepted trust requires no certification or approval.

(d) An employee who wishes to create a qualified blind trust or (in the case of the Federal Inspector) a qualified diversified trust should consult with the ethics officer, who shall refer the employee to the OGE.

(e) Employees who create, maintain, or dissolve either a qualified blind trust or a qualified diversified trust shall familiarize themselves with the special filing requirements for those actions. Employees may obtain copies and interpretations of those requirements (5 CFR 734.407) from the ethics officer.

(f) Assets in all types of trusts, except a qualified diversified trust of the Federal Inspector, shall be considered financial interests until the employee is notified by the trustee that the assets have been disposed of or have a value of less than $1,000. As such, all trust assets, except those in qualified diversified trusts, shall be subject to the financial interest restrictions of § 1506.207 of Section 208 of Title 18 of the United States Code, and of any other Federal conflict of interest statutes or regulations.

§ 1506.307 Custody of completed 278 forms.

(a) Any completed 278 form filed with the ethics officer or transmitted to the Director, Office of Government Ethics, pursuant to this subpart, shall be retained by the OFI or the Office of Government Ethics, or both, as the case may be. Such completed forms shall be made available to the public for a period of six years after receipt of the report. After this six-year period, the form shall be destroyed, unless needed in an ongoing investigation. In the case of an individual who filed a 278 form as a nominee to a position requiring Senate confirmation and who was not subsequently confirmed by the Senate, his or her form shall be destroyed one year after he or she is no longer under consideration by the Senate, unless it is needed in an ongoing investigation.

(b) Copies of all qualified trust agreements, the list of assets initially placed in such trusts, and all other publicly available documents relating to such trusts shall be retained until the periods for retention of all other forms have lapsed.

§ 1506.308 Public access to completed 278 forms.

Within fifteen days after any completed form is actually received by the ethics officer, the ethics officer shall permit inspection of such report by, or furnish a copy to, any person who makes a written application which:

(a) States the applicant's name, occupation, and address,

(b) States the name and address of any other person or organization on whose behalf the request is made, and

(c) States that the applicant is aware of the restrictions on the obtaining and the use of the report.

§ 1506.309 Review of completed 278 forms and remedial action.

(a) The reviewing official (the ethics officer, except for the ethics officer's form, which the Federal Inspector shall review) shall review each 278 form to determine that it complies with all applicable law.

(b) Upon determining that the employee is in compliance with all applicable law, the reviewing official shall sign and date the completed form.

(c) If the reviewing official believes that additional information is necessary, such information shall be requested. The employee of whom this request is made shall be afforded a reasonable opportunity to respond.

§ 1506.310 Procedure after review of additional information.

(a) If, after reviewing the additional information, the reviewing official concludes that the employee is in compliance with applicable law, the reviewing official shall sign and date the completed form and so notify the employee.

(b) If, after reviewing the additional information, the reviewing official concludes that the employee is not in compliance with applicable law, the reviewing official shall:

(1) Notify the employee of that opinion,

(2) Afford the employee an opportunity for personal consulation, if practicable,

(3) Determine what remedial action should be taken to bring the employee into compliance, and

(4) Notify the employee in writing of the remedial action required, indicating a date by which such action should be taken.

(c) Remedial steps may include:

(1) Divestiture of a conflicting interest,

(2) Restitution,

(3) Establishment of a qualified blind trust, or

(4) Request for an exemption under 18 U.S.C. 208(b).

(d) If the employee complies with the suggested remedial steps, the reviewing official shall so indicate in the "comments" section of the form, and shall sign and date it.

§ 1506.311 Procedure upon employee's refusal to comply.

(a) If the employee does not comply with the remedial steps suggested pursuant to § 1506.310, the reviewing official shall notify the OGE and refer the matter for approporiate action to:

(1) The President, if the non-complying employee is the Federal Inspector, or

(2) The Federal Inspector, concerning all other employees.

(b) Appropriate action may include:

(1) Any of the remedial steps listed in paragraph (c) of § 1506.310,

(2) Removal,

(3) Suspension,

(4) Reduction in grade, or

(5) Reduction in pay.

§ 1506.312 Advisory opinions and situation lists.

Employees may consult the ethics officer to inquire:

(a) About advisory opinions rendered by the Director of the OGE, and

(b) About lists of circumstances and situations which have resulted in non-compliance with ethics laws. These lists, as they are published, will be furnished to all employees who are required to file 278 forms.

§ 1506.313 Penalities for failure to file or falsifying 278 forms.

(a) *Referral of cases.* The Federal Inspector or the Director, Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual who, the appropriate officer has reasonable cause to believe, has willfully failed to file a report, or has willfully falsified or willfully, failed to file information required to be reported.

(b) *Civil Action:* The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information which such individual is required to report pursuant to this subpart. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $5,000.

(c) *Administrative remedies.* The President, the Director, Office of Government Ethics, or the Federal Inspector, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to file information required to be reported. Such action includes adverse action under 5 CFR Part 752.

§ 1506.314 Penalties for non-compliance with the special filing requirements for qualified trust.

(a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of 5 CFR 734.407 (a) or (b). The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $5,000.

(b) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates those provisions. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $1,000.

Subpart D—Confidential Disclosure Requirements for Employees

§ 1506.401 Employees required to submit confidential statements of employment and financial interests.

(a) Unless subject to the public financial disclosure requirements of Subpart C of this part or unless exempted under paragraph (b) of this section, those employees required to file confidential statements are:

(1) Employees classified as GS–13 or above, or at an equivalent pay level, who the ethics officer or the FI determines are in positions which require them to make a Government decision or take a Government action in regard to

(i) Contracting or procurement,

(ii) Regulating or aduiting private or other non-Federal enterprise, or

(iii) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise;

(2) Employees classified as GS–13 or above, or at an equivalent level of pay, who are in positions which entail duties and responsibilities which require them to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation; and

(3) Employees cl[illegible]ied below GS–13, or at an equivalen[illegible]te of pay, who are in positions which otherwise meet the criteria in paragraph (a) (1) or (2) of this section, when the requirement that they file has been specifically justified and for which approval has been given by the OGE.

(b) An employee in a position that meets the criteria in paragraph (a) of this section may be excluded from the reporting requirement when the ethics officer determines that:

(1) The duties of his or her position are such that the likelihood of involvement in a conflicts-of-interest situation is remote;

(2) The duties of his or her position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over him or her; or

(3) The use of an existing or alternative procedure is adequate to prevent possible conflicts-of-interest.

(c) The ethics officer shall maintain a list of positions for which a confidential statement is required and shall notify the employees in those positions of the reporting requirement

§ 1506.402 Time and place for submission of confidential statements.

An employee required to submit a confidential statement shall submit it to the ethics officer:

(a) Within ninety days of the date on which these regulations become effective, or

(b) Within thirty days after his or her entrance on duty, but not earlier than ninety days after these regulations become effective.

§ 1506.403 Supplementary statements.

Changes in, or additions to, the information contained in an employee's confidential statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year, except when the OGE authorizes a different date. If no changes

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or additions occur, a negative report is required.

§ 1506.404 Interests of employee's relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

§ 1506.405 Information not known by employees.

If any information required to be included in a statement of employment and financial interest or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 1506.406 Information not required.

This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 1506.407 Confidential custody of reports.

The ethics officer shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, he shall designate which employees are authorized to review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement, except to carry out the purposes of these regulations. The OFI will not disclose information from a statement, except as the Office of Government Ethics or the Federal Inspector may determine for good cause shown.

§ 1506.408 Employee's complaint on filing.

Any employee who feels that he or she has been unjustly required to file a confidential statement shall be afforded an opportunity for review of that requirement through the OFI's grievance procedure. Any employee who wishes to be afforded that opportunity shall consult the ethics officer concerning the proper procedure.

§ 1506.409 Review of reports and remedial action.

(a) The ethics officer shall review each confidential statement of employment and financial interests. Upon determining that the employee is in compliance with applicable laws and regulations, the ethics officer shall sign and date the report.

(b) If the ethics officer believes that additional information is necessary, such information shall be requested. The employee of whom this request is made shall be afforded a reasonable opportunity to respond.

§ 1506.410 Procedure after review of additional information.

(a) If, after reviewing the additional information, the ethics officer concludes that the employee is in compliance with applicable law, the ethics officer shall sign and date the report and so nofify the employee.

(b) If, after reviewing the additional information, the ethics officer concludes that the employee is not in compliance with applicable law, the ethics officer shall:

(1) Notify the employee of that opinion,

(2) Afford the employee an opportunity for personal consultation, if practicable,

(3) Determine what remedial action should be taken to bring the employee into compliance, and

(4) Notify the employee in writing of the remedial action required, indicating a date by which such action should be taken.

(c) Remedial steps may include:

(1) Divestiture of a conflicting interest,

(2) Restitution,

(3) Establishment of a qualified blind trust, or

(4) Request for an exemption under 18 U.S.C. 208(b).

(d) If the employee complies with the suggested remedial steps, the ethics officer shall sign and date the report.

§ 1506.411 Procedure upon employee's refusal to comply.

(a) If the employee does not comply with the suggested remedial steps, the ethics officer shall refer the matter for appropriate action to the Federal Inspector.

(b) Appropriate action may include:

(1) Any of the remedial steps listed in paragraph (c) of § 1506.410,

(2) Removal,

(3) Suspension,

(4) Reduction in grade, or

(5) Reduction in pay.

(c) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable law.

Subpart E—Rules of Conduct for Special Government Employees

§ 1506.501 Applicability.

The provisions of this subpart apply to all special Government employees, as defined in § 1506.103 of these regulations.

§ 1506.502 Use of Government employment.

No special Government employee shall use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for him or herself or another person, particularly one with whom he or she has family, business, or financial ties.

§ 1506.503 Use of inside information.

(a) No special Government employee shall, either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, use inside information, obtained as a result of his or her Government employment, for private gain for him or herself or another person, particularly one with whom he or she has family, business, or financial ties. For the purpose of this section, "inside information" means information, obtained under Government authority, which has not become part of the body of public information.

(b) No special Government employee shall, either for or without compensation, engage in teaching, lecturing, or writing that depends on information obtained as a result of his or her OFI employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest.

§ 1506.504 Coercion.

No special Government employee shall use his or her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to him or herself or another person, particularly

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one with whom he or she has family, business, or financial ties.

§ 1506.505 Gifts, entertainment, and favors.

(a) Apart from the exceptions listed in paragraph (b) of this section, no special Government employee shall solicit or accept for him or herself or anyone else any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual business or financial relations with OFI,

(2) Is regulated by OFI, or

(3) Has interests that may be substantially affected by the special Government employee's performance of his Government duty.

(b) Exceptions to the prohibitions of paragraph (a) of this section are:

(1) A special Government employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting when, and only when, it is impracticable to pay for the food or refreshments (that is, when the special Government employee is unable to ascertain either the price of the food or refreshments or an appropriate person to pay for the food or refreshments), and

(2) A special Government employee may accept unsolicited promotional materials, such as pens, pencils, note pads, and calendars which are of nominal value.

§ 1506.506 Prohibited financial interests.

(a) No special Government employee shall have a financial interest that conflicts substantially with his or her Government duties and responsibilities.

(b) As applied, paragraph (a) of this section requires that no special Government employee shall own securities of any company (or its parent or affiliate):

(1) Which initially owns and produces gas to be transported through the Alaska Natural Gas Transportation System (the system);

(2) Which first purchases gas to be transported through the system;

(3) Which is involved in the ownership of the system; or

(4) Which is very substantially involved by contract in the construction or the design of the system.

(c) A list of the companies whose securities are prohibited under the criteria of paragraph (b) of this section shall be issued to each special Government employee upon entrance on duty. A list of these companies shall be distributed to all special Government employees annually and whenever change in circumstances requires modification of the list.

(d) In addition to the specific companies (meeting the criteria in paragraph (b) of this section and listed according to paragraph (c) of this section), there are other categories of companies to which the prohibition in paragraph (a) of this section may or may not apply. Special Government employees should consider the following factors:

(1) Ownership of the securities of other oil and gas companies is not at present prohibited. Special Government employees are advised, however, that if such other companies become involved in either the system or ownership of gas to be transported through the system, ownership of the securities of those companies will, at that time, become prohibited.

(2) As a general rule, the securities of those companies supplying goods or services for the planning or construction of the system are not prohibited from ownership by special Government employees. Nevertheless, certain of these companies could supply such a large share of goods or services for the system that special Government employees also may not own their securities.

(3) Special Government employees shall not own the securities of companies described in this subsection *only if and when* a specific company is included in the prohibited securities list provided in accordance with paragraph (c) of this section.

(e) If special Government employees have any questions or doubts regarding the ownership of securities, they should contact the ethics officer for advice.

(f) A special Government employee may obtain a waiver of the prohibitions, imposed by paragraphs (a) and (b) of this section, for a particular financial interest. In order to obtain a waiver, a special Government employee must fully disclose his financial interest to the ethics officer and to the Federal Inspector. If the ethics officer and the Federal Inspector determine that the disclosed financial interest is not so substantial as to be likely to affect the integrity of the special Government employee's services, they may grant a waiver.

(g) The prohibitions of paragraphs (a) and (b) of this section do not apply to mutual funds and investments in mutual savings banks. Further, if a special Government employee has continued to participate in a bona fide pension, retirement, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization of which he is a former employee, that financial interest is exempted from the prohibitions of paragraphs (a) and (b) of this section, except when the welfare or benefit plan is a profit-sharing or stock-bonus plan.

§ 1506.507 Miscellaneous statutory provisions.

Each special Government employee shall acquaint him or herself with the following statutory provisions which relate to Federal employee conduct. Copies, explanations, and interpretations of these provisions may be obtained from the ethics officer or his deputy.

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service".

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the special Government employee concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibition against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failure to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against certain political activities in the "Hatch Act" (5 U.S.C. 7324–7327 and 18 U.S.C. 602, 603, 607, and 608).

(p) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart F—Public Financial Disclosure Requirements for Special Government Employees.

§ 1506.601 Special Government employees subject to public financial disclosure requirements.

Every special Government employee whose position is classified at GS–16 or above or who is paid at an equivalent rate shall annually file a 278 form, the public financial disclosure form.

§ 1506.602 Applicability of subpart C to special Government employees.

All of the provisions in Subpart C, concerning public financial disclosure by regular employees, shall apply equally to special Government employees. Therefore, every special Government employee who must file a public financial disclosure statement should familiarize him or herself with that subpart and look to it for guidance in meeting his or her public financial disclosure obligations.

§ 1506.603 Exception for special Government employees who are employed for less than sixty days.

(a) A special Government employee who must otherwise file a 278 form may be excepted from this obligation if, as determined by the ethics officer, the special Government employee is not reasonably expected to perform the duties of his or her office or position for more than sixty days in a calendar year.

(b) Notwithstanding paragraph (a) of this section, a special Government employee who is subject to public financial disclosure requirements and actually performs the duties of his or her position for more than sixty days in a calendar year shall file a 278 form within fifteen days after the sixty-first day of such employment, unless excepted under § 1506.604.

§ 1506.604 Special waiver of public disclosure requirement for special Government employees.

(a) In unusual circumstances, the Director, Office of Government Ethics, may grant a request for a waiver of any reporting requirement otherwise applicable for an individual who is reasonably expected to perform, or has performed, the duties of his of her office or position for less than one hundred and thirty days in a calendar year, but only if the Director determines that:

(1) Such individual is a special Government employee,

(2) Such individual is able to provide services specially needed by the Government,

(3) It is unlikely that the individual's outside employment or financial interests will create a conflict of interests, and

(4) Public financial disclosure by such individual is not necessary under the circumstances.

(b) In requesting a waiver pursuant to paragraph (a) of this section, the procedures of the OGE (5 CFR 734.205) shall be followed.

Subpart G—Confidential Disclosure By Special Government Employees

§ 1506.701 Special Government employees required to submit confidential statements of employment and financial interests.

(a) Unless subject to the public financial disclosure requirements of Subpart E of this part or unless exempted under paragraph (b) of this section, every special Government employee shall submit a confidential statement of employment and financial interests.

(b) The requirement of paragraph (a) of this section may be waived for a special Government employee who is neither a consultant nor an expert and whose duties are such that disclosure of interests is not necessary to protect Government integrity. For the purpose of this subsection, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual.

§ 1506.702 Time and place for submission of confidential statements.

Confidential statements of employment and financial interests shall be submitted to the OFI ethics officer not later than the commencement of employment of the special Government employee. Special Government employees shall keep their statements current throughout their employment with the agency by the submission of supplementary statements.

§ 1506.703 Custody and review of confidential statements; remedial action.

The confidential statements of employment and financial interests filed by special Government employees shall be kept in custody and reviewed in the same manner as are the confidential statements of regular employees. Special Government employees shall be afforded the same procedural safeguards as are regular employees in any remedial action taken against them.

John T. Rhett,

Federal Inspector.

[FR Doc. 80–27865 Filed 9–10–80; 8:45 am]

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federal register

Thursday
September 11, 1980

Part VI

Department of Education

Office of Bilingual Education and Minority Language Affairs

Transition Program for Refugee Children

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DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Language Affairs

45 CFR Part 122b

Transition Program for Refugee Children

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Secretary of Education proposes regulations to implement the Transition Program for Refugee Children under the authority of the Refugee Act of 1980 (Pub. L. 96–212). This program provides assistance to meet the special educational needs of refugee children and to enhance their transition into American society.

DATES: Comments on these proposed regulations must be received on or before October 27, 1980.

ADDRESSES: Written comments should be addressed to Dr. Josue Gonzalez, U.S. Department of Education, 400 Maryland Avenue, S.W., 421 Reporters Building, Washington, D.C., 20202. Telephone: (202) 245–2600.

SUPPLEMENTARY INFORMATION:

Background

In addition to providing services to help refugee children make the transition into American society through formal schooling in the United States, this program is designed to provide more uniform Federal assistance for educational services for all refugees entering this country. To help achieve this goal, Congress has recently enacted the Refugee Act of 1980 to provide transitional assistance to refugees in the United States and uniform provisions for the effective resettlement and absorption of those refugees who are admitted. (Section 101 of the Immigration and Nationality Act as amended by the Refugee Act of 1980).

From preliminary discussions with school personnel, it seems that local educational agencies (LEAs) with large concentrations of eligible refugee children prefer to apply directly to the Federal Government for assistance. Representatives of these LEAs comment that direct grants are preferable because the funds are distributed faster and the program operates more efficiently because they do no have to work through an intermediary, the State educational agency (SEA). Representatives of these LEAs have also suggested that if direct grants were awarded to LEAs with concentration of eligible children, the SEA could better focus its efforts on meeting the needs in the rest of the State. LEAs with large concentrations of eligible children have complained that they receive the same level of attention and technical assistance as an LEA with very few children. They believes that direct grants will help correct the perceived imbalance.

On the other hand, representatives from SEAs believe that they are, and must continue to be, central actors in the Federal-State-local partnership. They believe that the needs of all eligible children in the State should be considered equally and that a centralized administration structure ensures this consideration. In addition, SEA representatives believe that the SEA can monitor and enforce the provisions of law and this program more efficiently and economically than the Federal Government. They comment that more efficient and economic program operation could direct more dollars and services to benefit refugee children.

In an effort to meet most effectively the requirements of the Act and the needs of both SEAs and LEAs, two types of State-administered formula grant projects are proposed:

(1) Under the State-administered subgrant project, SEAs award subgrants to LEAs with high concentrations or proportions of eligible children. The amount of each LEA subgrant is determined by applying the same weighting formula used to determine the amount of the total State grant. The Secretary invites comments on whether the LEAs should be required to develop comprehensive applications and compete for subgrants according to the provisions in § 122b.31. Under these provisions the amount of funds would be determined according to the per capita formula in § 122b.33 and increased or decreased according to the quality of the plan to serve refugee children.

(2) Under a State-administered direct services project, SEAs compete for funds to serve those eligible children who are not enrolled in an LEA receiving a State-administered formula subgrant. SEAs may arrange for, or provide direct services to these children. The Secretary particularly invites comments on whether LEAs that do not enroll sufficient numbers of refugee children to meet the eligibility criteria established for State-administered subgrants, should be eligible to receive a subgrant under a direct services project.

The amount of funds for each type of State-administered program will depend on the number of children in each of the two categories above. For example, if 80 percent of the children are enrolled in LEAs that receive subgrants, then 80 percent of the funds will be obligated through the State-administered subgrant program. The remaining 20 percent will assist State-administered direct services projects.

Section 412(d)(1) of the Act requires that funds must be used to provide "special educational services to refugee children in elementary and secondary schools where a demonstrated need has been shown." Experience with refugee children indicates that: (1) the lack of proficiency with the English language is the greatest barrier to a successful transition to school; (2) their special educational needs lessen over time; (3) older children (in secondary schools) seem to require longer, more intensive training to become proficient in English than younger children (in elementary schools); and (4) schools with concentrations of refugee children have greater needs than schools with fewer refugee children. Considering the above factors, the Secretary proposes to use a weighting formula to ensure that assistance is provided to schools where the greatest need exists. The formula gives greater weight (and more dollars) on behalf of eligible children who have arrived in this country more recently and who are enrolled in secondary schools. The Secretary particularly invites public comment on the formula, the exact weights, and whether the weights should be adjusted on an annual basis by publishing a notice in the **Federal Register.**

Because children are categorized according to enrollment in "elementary" or "secondary" grades, the Secretary wishes to receive comments on the advisability of establishing a uniform definition of these terms for purposes of this program only. The Secretary is considering defining "elementary" as including children in grades K–6 and "secondary" as including children in grades 7–12.

Finally, the Secretary may increase the amount of the formula grant to LEAs with a high proportion (over 4 percent refugee enrollment) but a low numerical concentration (under 40 eligible children) to bring the LEA funding level up to a minimum amount necessary to effectively provide special educational services to refugee children. It is expected that only small LEAs (those enrolling 1,000 or fewer children in total) will fall into this category.

Eligible Applicants

The Secretary believes that State and local educational agencies are uniquely qualified to provide needed special educational services to eligible refugee children. In addition, the Secretary believes the SEAs are in the best position to ensure that high quality programs are established and maintained throughout the State. As a result, to comply with the provision of the Act that requires grants to be made to those agencies which the appropriate administering official determines best perform through the SEA and to limit applicant eligibility to SEAs.

Focus on English Language Instruction

Funds under this program shall primarily provide for special English language instruction. The lack of proficiency in English is regarded as the greatest barrier to the successful transition of refugees into the maintstream of American life. Although inservice training and guidance and counseling services are allowed under these regulations, the Secretary wishes to emphasize the importance of gaining proficiency in English. As a result, the Secretary may establish limits on the proportional amount of any grant or subgrant that may be used for purposes other than English language instruction. The Secretary invites comment on the procedures for announcing these limits, if any, by publishing an annual notice in the **Federal Register.**

Discretionary Grants for Development and Dissemination Projects

The Secretary may reserve an amount of each year's appropriation (approximately 5 percent) for projects of national significance to meet the special educational needs of refugee children. This program provides grants or contracts for projects such as curriculum development, national or regional bilingual instructional material centers, or evaluation. SEAs, LEAs, institutions of higher education, and other public or private nonprofit organizations may apply for these projects. These proposed regulations list the types of projects the Secretary may fund and identify selection criteria the Secretary uses to review applications. The Secretary invites comments on both types of projects by publishing an annual notice in the **Federal Register.**

Serving Eligible Children in Private Schools

These proposed regulations require that eligible children enrolled in nonprofit private schools be given the opportunity to receive appropriate services.

Serving Cuban and Haitian Immigrant Children

The Secretary of Education invites comments on the advisability of administering a program of educational services for Cuban and Haitian immigrant children that would be identical to the Transition Program for Refugee Children. Many Cuban and Haitian children who entered the United States during the spring and summer of 1980 are not considered refugees. Therefore, they are not eligible for services under the Transition Program. However, the Secretary may provide a separate program of identical services (under the Secretary's Discretionary Authority, Section 303 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561) by changing the definition of "eligible child" to include these Cuban and Haitian immigrant children.

The reporting requirements contained in these proposed rules are subject to clearance by the OMB under the Federal Reports Act of 1942. The Department intends to submit these reporting requirements to the Director of the Office Management and Budget for clearance. The Department will inform affected educational agencies when OMB has cleared the requirements. The requirements shall not be effective until this clearance has been received.

Invitation To Comment

Interested parties are invited to submit comments and recommendations on these proposed regulations. Written comments must be sent to Dr. Josue Gonzalez, 400 Maryland Avenue, S.W. (Room 421 Reporters Building), Washington, D.C. 20202. Telephone (202) 245–2600. All comments received on or before 45 days after publication of these proposed regulations will be considered.

Comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in Room 421 Reporters Building, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except on Federal holidays.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive section of the proposed regulations.

(Catalog of Federal Domestic Assistance Number—not assigned yet)

Dated: August 7, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Dated: September 5, 1980.

Nathan J. Stark,

Acting Secretary of Health and Human Services.

The Secretary adds a new Part 122b to the Code of Federal Regulations as follows:

PART 122b—TRANSITION PROGRAM FOR REFUGEE CHILDREN

Subpart A—General

Sec.

122b.1 What is the transition program for refugee children?
122b.2 Who is eligible to apply for financial assistance?
122b.3 What regulations apply to this program?
122b.4 What definitions apply to this program?

Subpart B—What Kind of Projects Are Assisted Under This Program?

122b.10 What are the two types of State-administered projects?
122b.11 What is a development and dissemination project?

Subpart C—How To Apply for a Grant or Subgrant?

122b.20 What are the application requirements for both types of State-administered projects?
122b.21 What are the application requirements for development and dissemination projects?
122b.22 What are the application requirements for a subgrant under a State-administered subgrant project?

Subpart D—How is a Grant or Subgrant Made?

122b.30 How is a grant for a State-administered subgrant project made?
122b.31 How is a grant for a State-administered direct services project made?
122b.32 How is a subgrant under a State-administered subgrant project made?
122b.33 What formula will be used to distribute funds under both types of State-administered projects?
122b.34 What criteria does the Secretary use to select development and dissemination projects?

Subpart E—What Conditions Must Be Met by a Grantee?

122b.40 What are the restrictions on costs a grant or subgrant may support?
122b.41 To what extent must a grantee or subgrantee provide an opportunity for eligible private school students to participate in a project?

Authority: The Immigration and Nationality Act as amended by the Refugee Act of 1980, Pub. L. 96–212.

Subpart A—General

§ 122b.1 What is the transition program for refugee children?

The program provides Federal financial assistance for the development and implementation of State-administered subgrant projects, State-administered direct service projects, and discretionary development and demonstration projects to provide educational services to meet the special educational needs of eligible refugee children who are enrolled in public and nonprofit private elementary or secondary schools.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended)

§ 122b.2 Who is eligible to apply for financial assistance?

(a) *Direct grants.* The following are eligible to apply for direct grants:

(1) For State-administered projects, only State educational agencies (SEAs).

(2) For development and dissemination projects, SEAs, local educational agencies (LEAs), institutions of higher education (IHEs), and other nonprofit private or public agencies and organizations.

(b)(1) *Subgrants under a State-administered subgrant project.* Only an LEA or consortium of LEAs meeting *either* of the requirements in paragraph (b)(1)(i) or (ii) of this section may apply to the State for subgrants under the State-administered program:

(i) *Concentration.* At least 40 eligible children are enrolled in public and private nonprofit schools in the area served by the LEA or consortium of LEAs.

(ii) *Proportion.* The eligible children enrolled in public and private nonprofit elementary and secondary schools in the entire area served by the LEA or consortium of LEAs comprise at least 1 percent of the total enrollment in that area.

(2) For purposes of determining eligibility to apply under paragraphs (b)(1)(i) or (ii) of this section, an LEA or each LEA in an applicant consortium, counts the number of eligible children according to the requirements of § 122b.20(c) of this part.

(c) *Subgrants, contracts, or cooperative arrangements under a State-administered direct services project.* Public and private nonprofit agencies, organizations, and institutions (including IHEs) are eligible to apply.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended)

§ 122b.3 What regulations apply to this program?

(a) The following regulations apply to this program:

(1) The regulations in this Part 122b.

(2) Except as otherwise provided in this part (122b), the provisions of the Education Division General Administrative Regulations (EDGAR) 45 CFR Part 100a (Direct Grant Programs), Part 100b (State-Administered Programs), and Part 100c (Definitions).

(b) 45 CFR 100b.105 (Governor's review of plan) does not apply.

(20 U.S.C. 3474(a))

§ 122b.4 What definitions apply to this program?

(a) The following definitions are specific to these regulations:

"Act" means the Refugee Act of 1980 (Pub. L. 96–212), as amended.

"Eligible children" means children who are—

(1) Admitted into the United States as refugees under the authority of the Immigration and Nationality Act §§ 203(a)(7) (repealed), 207 (repealed), 208 [8 U.S.C. §§ 1153(a)(7) (repealed), 1157 (repealed), 1158]; or

(2) Paroled into the United States as refugees under the authority of the Immigration and Nationality Act § 212(d)(5) [8 U.S.C. 1182(5)]; or

(3) Allowed to remain in the United States as refugees because their deportation has been withheld under the authority of the Immigration and Nationality Act § 243(h) [8 U.S.C. 1253(h)]; or

(4) Granted asylum in the United States as refugees under the authority of 8 CFR Part 108; or

(5) Admitted into the United States under the authority of the refugee Act of 1980, Pub. L. 96–212; and

(6) Who are within the age limits for which the applicable State is required or permitted under State law to provide free public elementary and secondary school education for students in kindergarten through grade 12.

"State" means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b) The following definitions in EDGAR (45 CFR Part 100c) apply to these regulations:

Applicant
Application
Award
Budget
Local educational agency (LEA)
Nonprofit
Private
Project
State educational agency (SEA)

(20 U.S.C. 3474(a))

(c) The following definitions in the Elementary and Secondary Education Act of 1965, as amended, apply to these regulations:

Construction
Elementary school
Secondary school

(20 U.S.C. 3474(a))

Subpart B—What Kind of Projects Are Assisted Under This Program?

§ 122b.10 What are the two types of State-administered projects?

(a) *Subgrant projects.* Under a State-administered project an SEA provides subgrants to each eligible LEA in the State.

(1) Subgrants shall primarily be used to provide special English language instruction and bilingual materials. This may include programs such as bilingual education, English as a second language, or English for speakers of other languages.

(2) In addition, subgrants may be used to provide—

(i) Inservice training for educational personnel who work with eligible children;

(ii) Counseling and guidance services to eligible children including referral to appropriate social service and health agencies; and

(iii) Testing to determine the educational needs of eligible children.

(b) *Direct service projects.* Through cooperative arrangements, contracts, or subgrants an SEA arranges for, or provides, direct services to LEAs that do not receive subgrants. These services must focus primarily on English language instruction and may include technical assistance, itinerant consultants, teachers, or aides, inservice training, or coordination with local and State social service and health programs that also serve eligible children and their parents.

(Section 412(a)(1)(B); 412(a)(6)(B); 412(d)(1) of the Immigration and Nationality Act, as amended)

§ 122b.11 What is a development and dissemination project?

(a) Development and dissemination projects—

(1) Develop innovative methods, strategies, curricula, instructional materials, instructional programs, personnel development, or other techniques to meet the special educational needs of eligible children in general or of eligible children from particular areas of the world;

(2) Examine the extent to which various projects effectively meet the special educational needs of eligible children; or

(3) Disseminate, through national or regional centers, curriculum materials or exemplary practices that meet the special educational needs of eligible children.

(b) The Secretary may, through a notice published in the **Federal Register**, select specific activities for funding from among those listed in paragraph (a) of this section to respond to the changing national needs for educating eligible children in general or for educating eligible children from particular areas of the world.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

Subpart C—How To Apply for a Grant or Subgrant

§ 122b.20 What are the application requirements for grants under both types of State-administered projects?

(a) *Subgrant project.* An applicant (SEA) for a State-administered subgrant project shall submit an application containing all of the following:

(1) The information required by the Secretary in the application notice published in the **Federal Register**.

(2) The information required in the application package.

(3) A brief description of the objectives of the project, including a description of the applicant's ability to perform the services specified in the application.

(4) An assurance that subgrant awards to LEAs or a consortium of LEA's who are eligible under § 122b.2(b) will be made within 60 days of the receipt of the grant award.

(b) *Direct services project.* In addition to the information required in paragraph (a) of this section, the application—in a separate section of the application—shall address the criteria in § 122b.31(c), providing a clear description of the services the SEA provides to LEAs that enroll eligible children but do not receive a subgrant under the subgrant projects in paragraph (a) of this section.

(c) *Child count.* The application must also report the following:

(1) The number of eligible children, identified by country of origin, enrolled in each LEA, on a date specified by the Secretary through a notice published in the **Federal Register**, in both public and nonprofit private schools in the area served by the applicant who have been admitted into the United States—

(i) less than 1 year;

(ii) 1 to 2 years;

(iii) 2 to 3 years;

(iv) 3 to 4 years; or

(v) more than 4 years.

Note.—The child count may not include estimates of the number of eligible refugee children who are not enrolled in any school on the child count date, but are expected to enroll in the future.

(2) For each category in paragraph (c)(1) of this section, the number of children enrolled at the elementary school level and the number enrolled at the secondary school level.

(Section 412(a)(4) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.21 What are the application requirements for development and dissemination projects?

An applicant for a development and dissemination project grant must address the following:

(a) An effective management plan that ensures proper and efficient administration of the project.

(b) A clear description of—

(1) The objectives of the project; and

(2) The methods, techniques, or practices that will be used to meet the stated objectives.

(c) A clear description of how the applicant will use its resources and project personnel to achieve the stated objectives.

(d) A clear description of the budget for the project. This description must show that costs are reasonable in relation to the objectives of the project and can adequately support project activities.

(e) A description of the applicant's ability to meet the objectives of the proposed project.

(Section 412(a)(4) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.22 What are the application requirements for a subgrant under a State-administered subgrant project?

(a) An applicant for a subgrant (LEA) under a State-administered subgrant project shall submit an application containing the information required by the SEA contained in the SEA's application for a State-administered subject subgrant project.

(b) LEAs desiring to apply as a consortium must notify the SEA of their intent to apply as a consortium at the same time that they submit their child count report to the SEA.

(20 U.S.C. 3474(a))

Subpart D—How Is a Grant or Subgrant Made?

§ 122b.30 How is a grant for a State-administered subgrant project made?

(a) The Secretary reviews each application to ensure that the objectives are reasonable and that the applicant is able to provide the services described.

(b) The amount of a grant for a State-administered subgrant project depends on three factors:

(1) The number of eligible children enrolled in eligible LEAs in the State who will be served by the project.

(2) How recently the eligible children entered the United States.

(3) The grade placement of eligible children in school.

(c) The Secretary uses a formula to award grants to the SEA by weighting the factors in paragraph (b) (2) and (3) of this section and multiplying by the number of children counted in (b)(1). (§ 122b.33 describes the formula.)

(Section 412(a)(4) of the Immigration and Nationality Act, as amended)

§ 122b.31 How is a grant for a State-administered direct services project made?

(a) The amount of a grant for a State-administered direct services project depends on two factors:

(1) The number of eligible children enrolled in LEAs in the State that are not assisted through State-administered subgrants weighted according to the procedure in § 122b.30(b).

(2) The quality of the SEA's plan to arrange for, or provide, direct services to LEAs that do not receive State-administered subgrants.

(b) The amount of the SEA grant for a direct services project is estimated by the formula in § 122b.33 and is increased or decreased according to the quality of the SEA's application to provide direct services.

(c) The Secretary uses the following criteria to evaluate the quality of the SEA's application.

(3) *Plan of operation and coordination.* (30 points)

The Secretary looks for information that shows an effective plan of management that ensures—

(i) Proper and efficient administration of the project; and

(ii) Effective and close coordination by the applicant with other Federal, State, and local programs that serve refugee or bilingual children.

(2) *Budget and cost effectiveness.* (10 points)

The Secretary looks for information that shows that the project has an adequate budget and is cost effective.

(3) *Evaluation plan.* (10 points)

The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce quantifiable data.

(4) *Adequacy of resources.* (20 points)

The Secretary looks for information that shows that the applicant plans to devote adequate resources to the project.

(5) *Problem addressed. (30 points)*

The Secretary looks for information that shows the extent to which—

(i) The educational problems of eligible children are met; and

(ii) The project addresses needs that cannot be, or are not being, effectively addressed by State or local efforts.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.32 How is a subgrant under a State-administered subgrant project made?

(a) After subtracting the funds used for State-administration, the SEA shall subgrant all remaining funds—at least 95 percent of the total grant—to eligible LEAs.

(b)(1) The amount each LEA receives is determined by the Secretary using the formula in § 122b.33 of this part.

(2)(i) The Secretary increase by up to 100 percent the amount that an LEA receives under the formula in § 122b.33 if more than 4 percent of the enrollment, in the public and private nonprofit elementary and secondary schools in the area served by the LEA, consists of eligible children and if the LEA or consortium of LEAs does not qualify because of a "concentration" of eligible children under § 122b.2(b)(1)(i) of this part.

(ii) The Secretary adjusts the amount of a grant using the procedures in paragraph (b)(2)(i) of this section if adjustment is necessary to ensure that LEAs with high proportions but low concentrations of refuge children receive enough funds to provide meaningful special educational services to these children.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.33 What formula will be used to distribute funds under both types of State-administered projects?

(a)(1) The most weight will be given to eligible children who have been admitted into the United States for less than one year on the date the child count was made.

(2) Eligible children in paragraph (a)(1) of this section enrolled in elementary and secondary grades will be weighted equally.

(b)(1) Less weight will be given for eligible children who have been admitted into the United States for more than one year on the date the child count was made.

(2) Eligible children in paragraph (b)(1) of this section enrolled in secondary schools will be given more weight than eligible children enrolled in elementary schools.

(c)(1) The Secretary uses the weighting factors in paragraph (d) of this section.

(2) The Secretary may increase or decrease any weighting factor by one or two points on an annual basis to respond to changing needs of eligible refugee children.

(3) The Secretary announces the weighting factors each year through publication of a Notice in the **Federal Register.**

(d) Weighting factors for the fund distribution formula are presented in the following table:

Recency of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	7	9
2 to 3	4	7
3 to 4	1	4
More than 4	0	1

(e) To determine the amount of a grant—

(1) The applicant's child count for each recency of arrival category is multiplied by the weighting factor for that category;

(2) The products for each category are added; and

(3) The sum of the products are multiplied by the weighted per pupil allocation.

Example: The following table presents a computation for a hypothetical LEA based on the weighting factors in paragraph (d) of this section:

Recency of arrival in the United States (in years)	a Number of eligible children	b Sample weighting factor	Product of col. a times b
Enrolled in Elementary Grades			
0 to 1	10	10	100
1 to 2	10	7	70
2 to 3	5	4	20
3 to 4	0	1	0
More than 4	0	0	0
Enrolled in Secondary Grades			
0 to 1	10	10	100
1 to 2	10	9	90
2 to 3	5	7	35
3 to 4	0	4	0
More than 4	0	1	0
Total	50		415

(4) In the example above, if the weighted per pupil allocation is $50, the grant award would be $20,750. As an example of how much would be paid on behalf of an individual student, if the weighted per pupil allocation is $50, the payment for a student who has been in this country less than a year would be $500; for a secondary grade student who has been in this country between 3 and 4 years, the payment would be $200.

(Section 412(d) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.34 What criteria does the Secretary use to select development and dissemination projects?

The Secretary uses the following selection criteria. The relative importance of each criterion is indicated next to the heading of that criterion.

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (7 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (2) (i) and (ii) plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

Note.—The qualifications of project personnel should relate to the population served by the project. For example, when reviewing projects that serve Indochinese refugee children, the Secretary looks for project personnel who have extensive experience or expertise in the culture and language of Indochinese populations.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (4 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (Cross-reference—See 45 CFR 100a.590 Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objectives and produce that are quantifiable.

(e) *Adequacy of resources.* (4 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to denote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Problems addressed.* (20 points)

(1) The Secretary looks for information that shows the extent to which educational problems of national significance are addressed by the project.

(2) The Secretary looks for information that shows the extent to which the project addresses needs that cannot be, or are not being, effectively addressed by State or local efforts.

(g) *Innovativeness.* (20 points)

The Secretary looks for information that shows the extent to which the project involves techniques that are new nationally but that build on current knowledge and research.

(h) *Scope.* (10 points)

The Secretary looks for information that shows the extent to which the applicant proposes a project that—

(1) Is national or regional in scope; and

(2) Provides services or is likely to improve educational programs for eligible children throughout the area served.

(20 U.S.C. 3474(a))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 122b.40 What are the restrictions on costs a grant or subgrant may support?

(a) Funds may not be used under this Transition Program for—

(1) Construction, repair, remodeling, or alteration of facilities or sites;

(2) Payments of stipends to participants in inservice training or other workshops including costs of participant travel, meals, or lodging associated with this training; or

(3) Payments for the provision of health or social services.

(b)(1) No more than 15 percent of a grant or subgrant may be used for costs of inservice training and guidance and counseling services described in § 122b.10(a)(2)(i), (ii) and (b).

(2)(i) In a given year, the Secretary may increase or decrease the 15 percent limit in paragraph (b)(1) of this section, if the Secretary determines that the need for these services is proportionately greater or less than the need to provide for special English language instruction.

(ii) To make this determination, the Secretary considers evaluations of ongoing projects under this program, and recommendations from persons experienced in refugee educational needs.

(iii) The Secretary announces any change in the 15 percent limit through publication of a notice in the **Federal Register**.

(c) Allowable costs are subject to the applicable cost principles in 45 CFR Part 74.

(d)(1) An SEA may use 5 percent of the total funds it receives under the State-administered subgrant project for proper and efficient administration.

(2) The total amount of funds used for costs in paragraph (d)(1) of this section may not exceed $200,000.

(3) The Secretary determines the amount of funds an SEA uses for administration of a direct services project on a case-by-case basis.

(e) An SEA may not provide a subgrant to any LEA or consortium of LEAs not meeting the eligibility criteria in § 122b.2(b) of this part.

(Section 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 122b.41 To what extent must a grantee or subgrantee provide an opportunity for eligible private school students to participate in a project?

If the grantee or subgrantee is an SEA or LEA, the grantee or subgrantee shall provide opportunities for nonprofit private school children to participate in the project. EDGAR establishes the rules for this participation.

(Cross-reference—See 45 CFR 100a.650 Participation of students enrolled in private schools)

(20 U.S.C. 3474(a))

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Thursday
September 11, 1980

Part VII

Department of Housing and Urban Development

Condominium Ownership Mortgage Insurance; Existing Multifamily Housing Demonstration

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner; Office of Assistant Secretary for Policy Development and Research

24 CFR Parts 221, 234, and 235

[Docket No. R-80-858]

Condominium Ownership Mortgage Insurance—Existing Multifamily Housing Demonstration

AGENCY: U.S. Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: The Department of Housing and Urban Development, under its Title V research authorities, in conducting a Demonstration to develop and test new and improved mechanisms for the purchase and/or refinancing of existing multifamily housing projects, to help preserve such projects for continued occupancy by low, moderate, and middle income families. This regulation is in support of that Demonstration. It implements the policy and authority of Section 223(f) of the National Housing Act, as amended, pursuant to Section 234 to permit condominium conversions of existing multifamily projects as a part of the Demonstration. Parts 221 and 235 are also amended, to permit their use in support of this new application of the Section 234 authority. This will permit the insurance of mortgage loans made in connection with the purchase or refinancing of existing, conventionally-financed, multifamily, rental projects, for the purpose of converting them to condominium ownership. It will also permit Section 235 mortgage interest subsidies, in such conversions, for the single-family condominium unit mortgages, where needed to allow low and moderate income families to remain in units they had rented before the conversion.

The Demonstration is limited to a total of not more than thirty (30) projects located in not more than six (6) metropolitan areas of the country. Projects will be selected from applications which meet the purposes of the Demonstration to test a range of alternate financing mechanisms, under varying project and tenant circumstances, and from different locales, and which also meet requirements for project quality, underwriting soundness, and fairness of conversion price to the existing occupants. This rule supports only one alternative of the Demonstration. Alternatives involving amendments to other Parts of the Regulations are being published separately. Administrative procedures for the Demonstration, and invitations to submit applications to it, will appear as Notices in subsequent issues of the **Federal Register.**

EFFECTIVE DATE: October 14, 1980. Comments due: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Michael A. Stegman, Deputy Assistant Secretary for Research, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-5561, or Alexander J. Pires, Deputy Assistant Secretary for Multifamily Housing, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-6495. The telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Demonstration will test a number of alternative purchase or refinancing mechanisms for existing multifamily housing. Among them is the implementation of the authority of Section 223(f), together with Section 235 interest subsidies where needed, to expand Section 234, condominium-ownership opportunities for those with low and moderate incomes. Section 221 will also be made available for the blanket project mortgages for the condominiums, because of its greater responsiveness to the needs of low and moderate income families. The availability of this package of condominium ownership mortgage insurance and interest subsidies will offer tenants who could not otherwise afford the purchase of a condominium the advantages of long term financing, feasible down payment requirements, and moderate monthly payments. Under existing regulations, the opportunities for condominium ownership have principally been available with new construction and substantial rehabilitation, and under project mortgages previously insured by the FHA. By this Interim Rule, the Department will test the usefulness of extending condominium homeownership opportunities to the thousands of conventionally-financed, multifamily dwelling units whose owners are interested in conversion but have lacked the means by which they could make their satisfactorily maintained structures available for purchase by existing tenants of low, moderate, or middle income. Such refinancing is also seen as a possible additional tool to permit tenants-in-residence to remain in neighborhoods experiencing upgrading and displacement.

The Notice of Invitation for Applications for this segment of the Demonstration will include selection factors which indicate a preference for projects in which the displacement of existing tenants is minimized and relocation assistance is available to those tenants who choose not to remain after conversion.

The Secretary has determined that prior notice and public procedure are not necessary, are contrary to the public interest, and good cause exists for making this regulation effective as soon as possible because: (1) HUD standards for condominium ownership and single-family mortgage interest subsidies are well established, and those standards will be applied in this Demonstration; (2) the use of Section 223(f) has been effectively demonstrated with a related multifamily program; (3) the legislative direction, as set forth in a House Report in connection with refinancing (H.R. Rep. No. 96-658, 96th Congress, 1st Session 21-34, 1979) clearly encourages the Demonstration; and (4) the application of this rule will only be for a limited number of demonstration projects. The Department has determined that an Environmental Impact Statement is not required with respect to this Interim Rule. A copy of the Environmental Finding of Inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

This rule was listed as item number S-5-79 on the Department's semi-annual agenda of significant rules, pursuant to Executive Order 12044. The effective date shall be October 14, 1980.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

I. Accordingly, Part 234 is amended as shown below.

Subpart A—Eligibility Requirements—Individually Owned Units

1. The Table of Contents is amended to include a new section numbered 234.69a, and titled "Eligibility of Mortgages for Individually Owned Condominium Units for Existing Multifamily Housing Demonstration"

2. The following new section is added and designated as § 234.69a:

§ 234.69a Eligibility of mortgages for individually owned condominium units for existing multifamily housing demonstration.

(a) *Eligibility.* Mortgages for individually owned condominium units in a project that has been designated to be part of the Existing Multifamily

Housing Demonstration may be insured under this Part.

(b) *Pre-Commitment Approval.* Before a commitment to insure a mortgage pursuant to this section can be issued by the Manager of the appropriate HUD office, written approval shall be given by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner, or their central office designees. To speed processing, such approval may be given for groups of commitments in the same project, provided that separate and individual approval is given for any application for which a Demonstration Waiver has been sought under paragraph (c) of this section.

(c) *Demonstration Waivers.* Non-statutory, prospective requirements for individual units insured under this section may be waived, modified, or added to, upon a joint finding by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner that it is necessary or appropriate to do so in a particular instance or instances to serve the purposes of the Existing Multifamily Housing Demonstration. Notice of any such waivers, modifications, or additions shall be published in the **Federal Register.**

(d) *Sunset Provision.* Authority to insure mortgages under this section shall expire on March 15, 1984, or upon endorsement of the last individual unit mortgage of the last project in the Demonstration, whichever occurs sooner.

Subpart C—Eligibility Requirements—Projects—Conversion Individual Sales Units

1. The Table of Contents is amended to include a new Section numbered 234.538, and titled "Eligibility of Condominium Mortgages for Existing Multifamily Housing Demonstration"

2. The following new section is added and designated § 234.538:

§ 234.538 Eligibility of condominium ownership mortgages for existing multifamily housing demonstration.

(a) *Eligibility:* Notwithstanding the generally applicable requirement that mortgages insured under this Part be limited to projects to be constructed or substantially rehabilitated after commitment for mortgage insurance, the exception of § 207.32a of this title to mortgages insured under Section 234 of the National Housing Act, set forth in § 234.501, is not applicable to an existing multifamily housing project that has been designated to be part of the Existing Multifamily Housing Demonstration.

The blanket mortgages for Demonstration projects may be insured in accordance with the alternative in this part, per the exception noted above, or in accordance with § 221.560c of this title. A single-family unit mortgage insured pursuant to § 234.69a shall meet all other requirements for condominium ownership insured pursuant to this Subpart, or, where mortgage interest subsidies are made available, the superseding provisions of Part 235 of this title. However, there may also be waivers, modifications, or additions to the above requirements to accommodate the purposes of the Demonstration, as provided under paragraph (e) of this section.

(b) *Limited Applicability.* The number of projects which may be insured under this or any other section, as part of the Demonstration, shall be limited to a total of not more than thirty (30) projects, located in not more than six (6) metropolitan areas of the country.

(c) *Pre-Commitment Approval.* Before a commitment to insure a mortgage pursuant to this section can be issued by the Manager of the appropriate HUD office, the application shall be reviewed and written approval given by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner, or their central office designees.

(d) *Administrative Procedures for Demonstration.* Notice(s) will be published in the **Federal Register** concerning the administrative procedures for the Demonstration, including, but not limited to: invitation to submit applications, eligibility, processing standards, underwriting criteria, and other requirements of the Demonstration.

(e) *Demonstration Waivers.* Non-statutory, prospective requirements for projects or mortgages insured or otherwise assisted under this section may be waived, modified, or added to, upon a joint finding by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner that it is necessary or appropriate to do so in a particular instance or instances to serve the purposes of the Existing Multifamily Housing Demonstration. Notice of any such waivers, modifications, or additions shall be published in the **Federal Register.**

(f) *Sunset provision.* Authority to insure mortgages under this section shall expire on March 15, 1984, or upon endorsement of the thirtieth project in the Demonstration, as stated in paragraph (b) of this section, whichever occurs sooner.

PART 221—LOW-COST AND MODERATE-INCOME MORTGAGE INSURANCE

II. Accordingly, Part 221 is amended as shown below.

Subpart C—Eligibility Requirements—Moderate Income Projects

1. The Table of Contents is amended to include a new Section numbered 221.560c, and titled "Eligibility of Condominium Blanket Mortgages for Existing Multifamily Housing Demonstration."

2. The following new section is added and designated as § 221.560c:

§ 221.560c Eligibility of condominium blanket mortgages for existing multifamily housing demonstration.

(a) *Eligibility.* Notwithstanding the generally applicable requirement that mortgages insured under this Part be limited to projects to be constructed or substantially rehabilitated after commitment for mortgage insurance, a blanket mortgage executed in connection with the purchase or refinancing for condominium ownership of an existing multifamly housing project that has been designated to be part of the Existing Multifamily Housing Demonstration may be insured under this part pursuant to Section 223(f) of the Act. A mortgage insured under this section shall meet all other requirements of this part, except for such waivers or modifications as may be made to accommodate the purposes of the Demonstration under § 221.560c(c) below.

(b) *Limited Applicability.* The number of projects which may be insured under this or any other section, as part of the Demonstration, shall be limited to a total of not more than thirty (30) projects, located in not more than six (6) metropolitan areas of the country.

(c) *Demonstration Waivers.* Non-statutory, prospective requirements for projects insured under this section may be waived, modified, or added to, upon a joint finding by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner that it is necessary or appropriate to do so in a particular instance or instances to serve the purposes of the Existing Multifamily Housing Demonstration. Notice of any such waivers, modifications, or additions shall be published in the **Federal Register.**

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(d) *Sunset Provision.* Authority to insure mortgages under this section shall expire on March 15, 1984, or upon endorsement of the thirtieth project in the Demonstration, per § 221.560c(b) above, whichever occurs sooner.

PART 235—MORTGAGE INSURANCE AND ASSISTANT PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

III. Accordingly, Part 235 is amended as shown below.

Subpart A—Eligibility Requirements—Homes for Lower Income Families

1. The Table of Contents is amended to include a new section numbered 235.15d, and titled "Eligibility of Condominium Mortgage Assistance Payments for Existing Multifamily Housing Demonstration."

2. The following new section is added and designated as § 235.15d:

§ 235.15d Eligibility of condominium mortgage assistance payments for existing multifamily housing demonstration.

(a) *Eligibility.* Notwithstanding any other provisions of this Part, existing multifamily housing projects which have been designated to be part of the Existing Multifamily Housing Demonstration, and which are further designated for condominium conversion, under part 234, § 234.538, may have converted single-family dwelling units which are eligible for monthly mortgage assistance payments, provided the mortgagors are otherwise eligible under assistance provisions set forth in this part, and subject to the limitations provided under paragraph (b) of this section.

(b) *Limited Applicability.* Condominium unit monthly mortgage assistance payments, pursuant to this section, shall be limited to those Demonstration project post-conversion dwelling units which are occupied by an eligible mortgagor who had been a tenant of the project for at least six (6) months immediately prior to converison, or by an eligible mortgagor who is about to be, or who has recently been, displaced by conversion from a dwelling in the immediate, contiguous neighborhood of the Demonstration project.

(c) *Demonstration Waivers.* Non-statutory, prospective requirements pertaining to assistance provided under this section may be waived, modified, or added to, upon a joint finding by the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Housing/Federal Housing Commissioner that it is necessary or appropriate to do so in a particular instance or instances to serve the purposes of the Existing Multifamily Housing Demonstration. Notice of any such waiver, modifications, or additions shall be published in the **Federal Register.**

(d) *Sunset Provision.* Authority to provide assistance under this section shall expire on March 15, 1984, or upon execution of the last contract for assistance payments in the last project in the Demonstration, whichever occurs sooner.

(Title V of Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 *et seq.*); Sec. 223(f) of National Housing Act (12 U.S.C. 1715n(f)); Sec. 7(d) of Department of HUD Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., August 18, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing/Federal Housing Commissioner.

Donna E. Shalala,

Assistant Secretary for Policy Development and Research.

[FR Doc. 80-28079 Filed 9-10-80; 8:45 am]

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federal register

Thursday
September 11, 1980

Part VIII

Department of Housing and Urban Development

Annual Contributions for Operating Subsidy; Performance Funding System

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 890

[Docket No. R-80-814]

Annual Contributions for Operating Subsidy; Performance Funding System

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: HUD is issuing a Final Rule amending 24 CFR Part 890 establishing a new procedure for the calculation of the allowable utilities consumption level used in the Performance Funding System (PFS). The new procedure provides a method of adjusting the Public Housing Agency's (PHA's) level of utilities consumption based upon a comparison of average annual heating degree days over a period of 30 years (1941–1970) with the heating degree days of a Fixed Base Period.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Milton Slifkin, Financial Management Procedures Branch, Office of Public Housing, HUD, 451 7th Street SW, Washington, D.C. 20410, (202) 426–0744 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department published on September 6, 1977 (42 FR 44550) an Interim Rule dealing with the Utilities Base Consumption Period (Base Period) used to calculate the Utilities Expense Level (UEL) for Public Housing Agency (PHA) fiscal years beginning on or after July 1, 1977. The Interim Rule amended HUD policy which provided that the UEL would be calculated by using the average consumption over a rolling 36-month period ending six months prior to the PHA's requested Budget Year. However, due to the severely cold winter of 1976–1977, HUD determined that it would be improper to include the impact of that winter in the utilities Base Period because of its disproportionate effect on the UEL. Therefore, the Interim Rule, published September 6, 1977, stated that the Base Period for PHA fiscal years beginning July 1, 1977, and thereafter would exclude that winter.

HUD stated in the preamble to the Interim Rule that it anticipated the introduction of an additional adjustment, dependent upon fund availability, which would be applied to the Fixed Base Period as defined in the Interim Rule.

On May 27, 1980, HUD published a proposed rule (45 FR 35776) revising the Interim Rule and establishing a 30-Year Heating Degree Day System (30–HDDS), which includes the additional adjustment. The purpose of this adjustment is to develop an allowable utilities consumption level based upon a long-term period which reflects more closely a normal level of consumption, and to provide PHAs with a stable projection of utility consumption. This adjustment (Change Factor) is based on the ratio of the average annual heating degree days (HDD) for the 30-year period from 1941 through 1970 to the HDD of the PHA's Fixed Base Period (30-year average HDD divided by the Fixed Base Period average HDD). No PHA will be required to use a Change Factor of less than 1.000. All Change Factors less than 1.000 have been rounded to 1.000 by HUD. The 30-year period is considered to be sufficiently long so as to level out any abnormalities that may have occurred in a particular year(s).

The proposed rule also revised the percentages by which HUD and PHAs share the funding responsibilities for excess utilities consumption and the benefits of the savings of utilities consumption. Under the proposed rule, HUD and PHAs would share equally in any excess cost and also in any savings. The sharing would be 50 percent each. The previous consumption adjustments were shared 75 percent by HUD and 25 percent by PHAs.

Comments on the proposed rule were invited until July 28, 1980. Comments were received from seven organizations. Each comment was carefully considered. The following is a summary of the principal comments received:

1. Four comments addressed the change in the percentage by which excess or under consumption is adjusted. The percentage was changed from the previous 75/25 to 50/50 cost sharing between HUD and the PHA. The general theme of the comments was that the PHAs have little or no control over excessive usage and, therefore, should not have to share in the cost incurred due to excess consumption. The Department believes the change in the adjustment percentage is justified in light of the National policy to conserve energy. PHAs have the greatest opportunities to effectuate reductions in the use of utilities and to encourage tenants to do the same. The Department believes that a 50/50 sharing will discourage excessive usage and will provide a greater incentive for savings and promote national conservation objectives.

2. It was suggested that the dollar value of the savings of utilities consumption that would be shared by HUD should be made available to the conserving PHA to be used to fund costs beyond its control. At the present time, these funds could not be so used because they are now utilized to fund regular operating subsidy eligibility. However, if sufficient savings were experienced by PHAs and the portion of the savings shared by HUD resulted in operating subsidy funds in excess of HUD's other subsidy needs in any fiscal year, this excess would be used on a national basis in accordance with Section 890.108(d) of the PFS regulations for payment of costs beyond the control of the PHAs.

3. One commenter requested that the consumption of non-heating utilities of the Fixed Base Period be updated and adjusted by a Change Factor. This approach had been considered by the Department prior to the publishing of the Proposed Rule. It was decided that because of the wide diversity in energy usage, it would not be feasible to develop one general system that would be applicable to the entire program. More importantly, it was determined that the amount of increase in the use of non-heating utilities was generally a relatively minor amount that the Department felt could be offset by energy conservation efforts.

4. One commenter suggested that the 30-Year Heating Degree Day System be made retroactive to the start of the Performance Funding System. This suggestion cannot be accommodated because the Department is without a sufficient authorization of funds to do so, and it is not believed to be in the best interest of the national economy to request such funds.

5. It was suggested that some consideration be given to non-heating utilities that are used by tenants for heating purposes when the PHA heating system does not provide adequate heat (e.g., when electric heaters are used to augment a gas heating system). There is no general pattern to such usage, and it would be impossible to develop a system to recognize this type of usage.

6. One commenter thought the Proposed Rule was unfair to those PHAs that provide air conditioning. This would only be true if the summers of the Fixed Base Periods were abnormally cool. We have no data to support this, and we believe those summers to have been generally representative of normal summer weather conditions experienced by most PHAs. A review of this situation will be initiated by the Department.

The Proposed Rule indicated that the 30-Year Heating Degree Day System would be applicable first to PHA fiscal years beginning January 1, 1980 and thereafter. In addition, the 50/50 adjustment would be applicable first to utility adjustments submitted for PHA fiscal years ending December 31, 1980, March 31, 1981, June 30, 1981 and September 30, 1981, and thereafter. In light of the severe financial situation facing the Department, which has been caused by unprecedented and unforeseen increases in the cost of energy, it has been decided to make the following changes in the implementation of the 30-HDDS:

1. The 30-HDDS will be applicable first to PHA fiscal years beginning January 1, 1981, April 1, 1981, July 1, 1981, and October 1, 1981, and thereafter. If implemented one year sooner, as originally intended, it would exacerbate the funding problems already facing the Department and the PHAs.

2. In conjunction with the one-year delay in implementing the 30-HDDS, the 50/50 adjustment (in lieu of the 75/25 adjustment) will be applicable first to utility adjustments submitted for PHA fiscal years ending December 31, 1981, March 31, 1982, June 30, 1982 and September 30, 1982, and therafter.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

This rule is listed as item number H–59–78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, 24 CFR Part 890 is amended to read as follows:

1. Section 890.102 is amended to add the following definitions:

§ 890.102 Definitions.

* * * * *

(t) *Fixed Base Period.* The period of time, prescribed in § 890.107(c)(1), used to determine the Utilities Consumption Level used to compute the allowable Utilities Expense Level.

(u) *Change Factor.* The ratio of the average annual heating degree days (HDD) for the 30-year period from 1941 through 1970 to the average annual HDD of the PHA's Fixed Base Period. (30 year average HDD ÷ Fixed Base Period average HDD).

* * * * *

2. Section 890.107 is revised to read as follows:

§ 890.107 Computation of Utilities Expense Level.

(a) *General.* In recognition of the rapid rises which occur in utilities costs and the wide diversity among PHAs as to types of utilities services used, as well as allocation of Utilities costs between PHAs and tenants, and the fact that utilities rates charged by suppliers are beyond the control of the PHA, the PFS treats utilities expenses separately from other PHA expenses. Utilities expenses are excluded from the PHA's Allowable Expense Level. The PFS computes the amount of operating subsidy for Utilities cost based upon a calculated utilities expense of each PHA. The PHA's Utilities Expense Level for the Requested Budget Year shall be computed by multiplying the average Utilities Consumption Level per unit per month for each utility, determined as provided in paragraphs (c) and (d) of this section, by the projected utility rate determined as provided in paragraph (b) of this section.

(b) *Utilities rates.* The current applicable rates in effect at the time the Operating Budget is submitted to HUD will be used as the utilities rates for the Requested Budget Year, except that, when the appropriate utility commission has, prior to the date of submission of the Operating Budget to HUD, approved and published rate increases to be applicable during the Requested Budget Year, the future approved rates may be used as the utilities rates for the entire Requested Budget Year.

(c) *Computation of Utilities Consumption Level.* The Utilities Consumption Level used to compute the Utilities Expense Level of a PHA for the Requested Budget Year will be based upon the availability of consumption data. For project utilities where consumption data is available for the entire Fixed Base Period, the computation will be in accordance with paragraph (c)(1) of this section. For project utilities (other than New Projects) where the consumption data is not available for the entire Fixed Base Period, the computation will be in accordance with paragraph (c)(2) of this section. For New Projects, the computation will be in accordance with paragraph (c)(3) of this section. The Utilities Consumption Level for all of a PHA's projects is the sum of the amounts determined under paragraphs (c)(1), (2) and (3) of this section.

(1) Fixed Base Period System. For project utilities with consumption data for the entire Fixed Base Period, the Utilities Consumption Level is the average amount consumed per unit per month during the Fixed Base Period, adjusted in accordance with paragraph (d) of this section. This adjusted amount shall be the Utilities Consumption Level for all PHA fiscal years beginning January 1, 1981 and for all future fiscal years therafter, until superseded by HUD. For PHA fiscal years beginning July 1, 1977, and therafter, such Fixed Base Period shall be the respective 36-month periods given below:

PHA fiscal years		Fixed base period	
Beginning	Ending	Begins	Ends
July 1	June 30	Jan. 1, 1973.	Dec. 31, 1975.
Oct. 1	Sept. 30	Apr. 1, 1973.	Mar. 31, 1976.
Jan. 1	Dec. 31	July 1, 1973.	June 30, 1976.
Apr. 1	Mar. 31	Oct. 1, 1973.	Sept. 30, 1976.

(2) Alternative methods where data is not available for the entire Fixed Base Period:

(i) If the PHA has not maintained or cannot recapture consumption data regarding a particular utility from its records for the whole Fixed Base Period mentioned in paragraph (c)(1) of this section, it shall submit consumption data for that utility for the last 24 months of its Fixed Base Period to the HUD Field Office for approval. If this is not possible, it shall submit consumption data for the last 12 months of its Fixed Base Period. The PHA also shall submit a written explanation of the reasons that data for the whole Fixed Base Period is unavailable.

(ii) If a PHA has not maintained or cannot recapture consumption data for a utility for the specified Fixed Base Period of 36, 24, or 12 months, comparable consumption for the greatest of either 36, 24, or 12 months, as available, shall be used for the utility for which the data is lacking. The comparable consumption shall be estimated based upon the consumption experienced during the allowable Fixed Base Period of comparable project(s) with comparable utility delivery systems and occupancy.

(iii) If a PHA does not obtain the consumption data for the Fixed Base Period or for 12 or 24 months of the Fixed Base Period, either for its own project(s) or by using comparable consumption data, the actual PUM utility expenses stated in paragraph (e) of this section shall be used as the Utilities Expense Level and no Change Factor shall be applied.

(3) Computation of Utilities Consumption Levels for New Projects.

(i) A New Project for the purpose of establishing the Fixed Base Period and the allowable Utilities Expense Level is

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defined as either: (A) A project which had not been in operation during the entire Fixed Base Period, or a project which enters management after the Fixed Base Period and prior to the end of the Requested Budget Year; or (B) a project which during or after the Fixed Base Period, has experienced conversion from one energy source to another; interruptible service; deprogrammed units; a switch from tenant-supplied to PHA-supplied utilities; or a switch from PHA-supplied to tenant-supplied utilities.

(ii) The actual consumption of New Projects shall be determined so as not to distort the Fixed Base Period in accordance with a method prescribed by HUD.

(d) *Adjustment to utilities used for heating.* For project utilities with consumption data for the entire Fixed Base Period, and for New Projects, consumption of utilities used for heating shall be adjusted by a Change Factor as follows:

(1) Adjustement of the Fixed Base Period data.

(i) Use of Change Factors. A Change Factor has been developed which indicates the relationship of the average annual heating degree days for the 30-year period from 1941 through 1970 to the average annual heating degree days for the PHA Fixed Base Period. This Change Factor is to be used to establish an allowable Utilities Consumption Level based upon a long-term period which reflects closely a representative winter's consumption. The 30-year period is considered to be sufficiently long so as to level out any abnormalities that may have occurred in a particular year(s). The Change Factors have been developed by the National Climatic Center of the Department of Commerce for each established standard weather division of the country, by PHA fiscal year. Change Factors will be supplied by HUD to the PHAs. The larger the Change Factor, the greater the difference between the heating degree days of the Fixed Base Period and the 30-year period. The Change Factor is greater than 1.000, when average annual heating degree days of the 30-year period are greater than the average annual heating degree days of the Fixed Base Period. When the Change Factor is greater than 1.000, the average of the weather experienced during the 30-year period was colder than that experienced during the Fixed Base Period. An example of the effect of the Change Factor on the Fixed Base Period consumption is:

Assume:
30-year period average annual heating degree days—4,000
Fixed Base period average annual heating degree days—3,800
Fixed Base period average annual consumption for heating purposes—1,000 gallons
Results:
Change Factor is (4,000 ÷ 3,800)—1.050
Adjusted Fixed Base period average annual consumption for heating purposes (1,000 × 1.050)—1,050 gallons

(ii) PHA fiscal years affected. The Change Factor shall be used to compute the allowable Utilities Consumption Level submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1981, April 1, 1981, July 1, 1981, and October 1, 1981, and thereafter.

(iii) Application of Change Factor to consumption of the Fixed Base Period. The Change Factor is to be applied only to the consumption readings of meters of utilities, or gallons of oil, or tons of coal used for the purpose of generating heat for dwelling units and other PHA associated buildings. The Change Factor shall not be applied to the consumption readings of meters of utilities not used for the purpose of generating heat; e.g., water and sewer or electricity used solely for non-heating purposes. The Change Factor shall be applied to the total consumption reading of meters of utilities, or gallons, or oil, or tons of coal used for heating even though the same meter or same energy source is used for other purposes; e.g., heating and cooking gas usage metered on the same meter or oil used for space heating and also heating of water. Such consumption for each 12 month period of the Fixed Base Period shall be adjusted by the Change Factor. The adjusted consumption for each year shall be totalled. These totals then will be averaged. The consumption readings of meters of utilities not used for heating (not adjusted by the Change Factor) shall be included in the total consumption.

Example Showing Application of Change Factor

	Base year		
	1st	2d	3d
Gas meters used for heatings:			
No. 1234 (in therms)	15,000	18,000	17,000
No. 2345	10,000	12,000	11,000
Subtotal	25,000	30,000	28,000
Change factor (HUD supplied)	×1.050	×1.050	×1.050
	26,250	31,500	29,400
Gas meters not used for heating: No. 3456	2,500	2,600	2,650
Total adjusted allowable gas consumption level	28,750	34,100	32,050

No PHA will be required to use a Change Factor of less than 1.000. All Change Factors of less than 1.000 have been rounded to 1.000 in the HUD publication of Change Factors. A PHA with a Change Factor of 1.000 shall, of course, reflect no change. Change Factors are listed by county. If a PHA manages units in more than one county and those counties have different Change Factors, the above calculation shall be done considering the units in each county and each county's assigned Change Factor. If a PHA manages units in an independent city not within the jurisdiction of a county, it shall: (A) If surrounded by one county, use that county's Change Factor; or (B) If surrounded by more than one county, use the average of the Change Factors of the contiguous counties.

(iv) Continuous use of adjusted Fixed Base Period. Once the PHA has determined, and HUD has approved, the allowable Utilities Consumption Level for the Fixed Base Period after application of the Change Factor, the adjusted Fixed Base Period Consumption will represent the allowable Utilities consumption Level, excluding New Projects, for PHA Fiscal Years beginning January 1, 1981, and thereafter. This adjusted Fixed Base Period Utilities Consumption Level shall be used by the PHA until it is notified otherwise by HUD, except for New Projects. If a project subsequently becomes a New Project, a calculation of the allowable Utilities Consumption Level for New Projects shall be submitted by the PHA.

(2) Adjusted Consumption for New Projects.

(i) Use of Change Factor. For New Projects, the PHA shall apply the Change Factor to the HUD approved consumption level of utilities used for heating.

(ii) PHA fiscal years affected. The Change Factor shall be used to compute the allowable Utilities Consumption Level submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1981, and thereafter.

(iii) Application of Change Factor to Consumption of New Projects. The annual allowable Utilities Consumption Level for New Projects shall be adjusted by applying the Change Factor to the estimated consumption where the utility is used for heating in part or in total. This consumption shall be from a comparable project during the permissible Fixed Base Period. The consumption of utilities not used for heating shall not be adjusted, but the estimated annual consumption based upon data from a comparable project during the permissible Fixed Base Period shall be added to the adjusted consumption.

(iv) Continuous use of adjusted consumption. Once the PHA has determined, and HUD has approved, the allowable Utilities Consumption Level for New Projects, after application of the Change Factor, this level will not change and will represent the allowable level, except for additional New Projects. If there are additional New Projects, a recalculation of the allowable Utilities Consumption Level for New Projects shall be submitted by the PHA. This recalculation shall, however, be consistent with comparable consumption of comparable projects during the permissible Fixed Base Period. The Change Factor shall be applied to the recalculated level.

(e) *Utilities Expense level where consumption data is unavailable.* If a PHA does not obtain the consumption data for the entire Fixed Base Period, or for 12 or 24 months of the Fixed Base Period, either for its own project(s) or by using comparable consumption data as required in paragraph (c)(2) of this section, it shall request HUD Field Office approval to use actual per unit per month (PUM) utility expenses. These expenses shall exclude Utilities Labor and Other Utilities Expenses. The actual PUM utility expenses shall be taken from the year-end Statement of Operating Receipts and Expenditures, Form HUD-52599, for the PHA Fiscal Years ending on December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. No Change Factor shall be applied to actual PUM utility expenses, and subsequent adjustments regarding such utility or utilities will not be approved for a budget year for which the utility expense level is established based upon said actuals.

(f) *Adjustments.* PHAs shall request adjustments of Utilities Expense Levels in accordance with § 890.110(c), which requires an adjustment based upon a comparison of actual experience to the estimated level. If the actual consumption exceeds the estimated level, HUD would pay 50 percent of the excess and the PHA would pay 50 percent. If consumption is less than the estimated level, HUD would recapture 50 percent of the savings and the PHA would keep 50 percent. One hundred percent adjustment would be allowed for increases or decreases in utilities cost rates.

(3) Sections 890.110(c)(3) and (4) are revised to read as follows:

§ 890.110 Request for adjustment.

* * * * *

(c) * * *

(3) Fifty percent of any decrease in Utilities Expense Level due to decreased consumption will be retained by the PHA; 50 percent will be offset by HUD against subsequent payments of operating subsidy. The 50/50 adjustment is first applicable to utility adjustments submitted for PHA fiscal years ending December 31, 1981, March 31, 1982, June 30, 1982 and September 30, 1982, and thereafter.

(4) An increase in Utilities Expense Level due to increased consumption will be fully funded by residual receipts after provision for reserves, if available; if not available and if the increase would result in a reduction of the operating reserve below the authorized maximum, 50 percent of the amount of the reduction below such maximum will be funded by increased operating subsidy payments, subject to the availability of funds, if such excess utility consumption was due to causes which were beyond the control of the PHA. The 50/50 adjustment is first applicable to utility adjustments submitted for PHA fiscal years ending December 31, 1981, March 31, 1982, June 30, 1982 and September 30, 1982, and thereafter.

* * * * *

(U.S. Housing Act of 1937, 42 U.S.C. 1437 et seq. sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. September 5, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-28059 Filed 9-10-80; 8:45 am]

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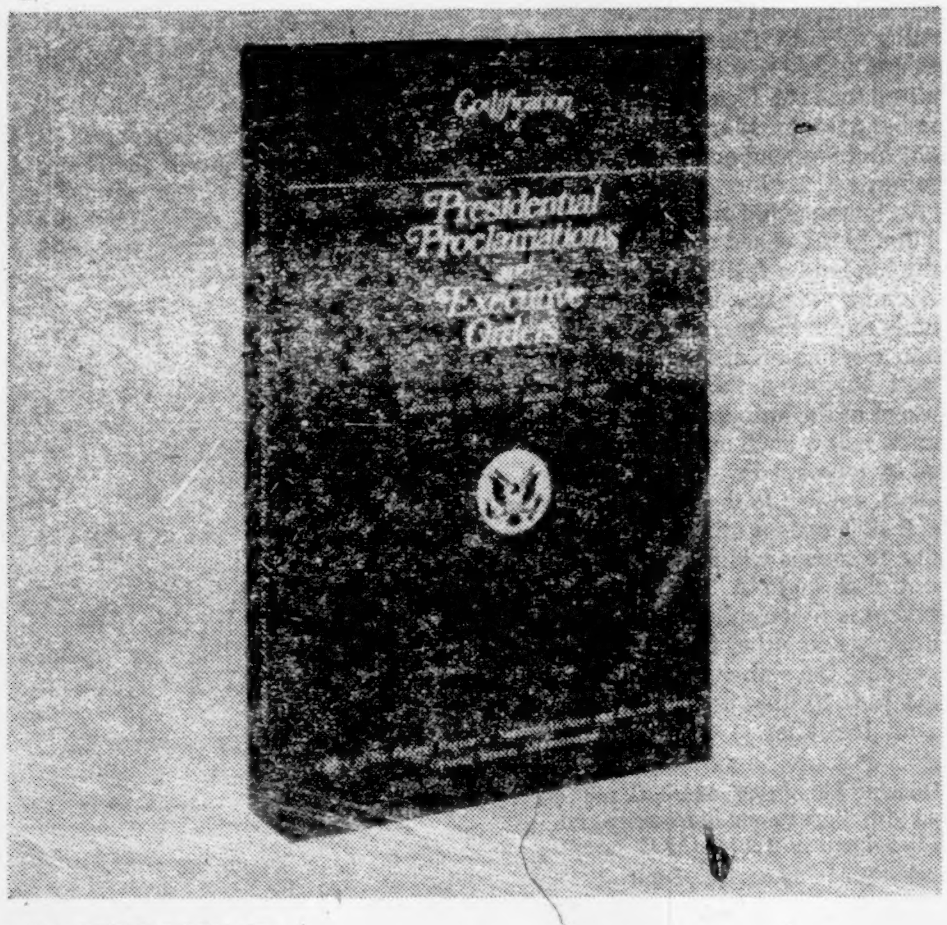

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